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PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

SENATE—*Wednesday, June 5, 1991*

(Legislative day of Monday, June 3, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Come now, and let us reason together, saith the Lord: though your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.—Isaiah 1:18.

Loving Father in Heaven, we thank You for this gracious assurance from the prophet Isaiah that You are a forgiver of sins rather than one who condemns. We thank You for Your appeal to reason rather than emotion—that forgiveness and cleansing are the rational approach of the God of the Bible to sinners.

Dear Father, help us to see that the problem is not that we sin but that we will not turn to You in confession to receive forgiveness and cleansing. Teach us the reasonableness of confession. Help us refrain from hiding our sins rather than coming to You in confidence, knowing that You will remove our sins from us and free us from guilt which is so inwardly destructive and enervating.

We pray in His name who loved us and gave Himself for us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 5, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is now recognized.

THE SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time reserved for the two leaders, there will be a period for the transaction of routine morning business not to extend beyond 10 a.m., during which Senators may speak for up to 5 minutes each.

When morning business closes at 10 a.m., the Senate will resume consideration of S. 173, the modified final judgment bill. This bill has been pending since Monday afternoon.

Yesterday, the chairman of the Commerce Committee and manager of the bill encouraged Senators who have indicated an intention to offer amendments to the bill to come to the floor and offer those amendments for debate and disposition. I want now to reiterate what the chairman and manager has stated and to urge all Senators to come to the Senate floor if they want to offer an amendment and to offer the amendment so that we can proceed with consideration of and disposition of this bill.

It is my hope and my expectation that the Senate can complete action on this legislation today. This will have been the third day of consideration. Therefore, Mr. President, Senators should be aware that as amendments are offered and debated during the day rollcall votes may occur at any time.

Upon the completion of this bill, it is my hope we can proceed to the surface transportation bill. That is a very important comprehensive measure, reported out by a large majority of the Environment and Public Works Committee. It affects every State in a very direct way. I know there will be a number of Senators who will want to address the subject both during debate and amendments. I hope we can get to that bill as soon as possible.

Thereafter, it is my intention to proceed to crime legislation. I hope we can get to that by sometime during next week.

So the schedule for the next several days will be to complete action on the modified final judgment bill, hopefully today; to move as promptly as we can to the surface transportation bill, and as soon as we can complete action on that to move to crime legislation. I am talking now about the period of the remainder of this week and next week to consider such measures.

Senators should be aware that both the surface transportation and crime bills are likely to attract a large number of amendments and a large number of votes, so Senators should prepare for that eventuality and adjust their schedules accordingly.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the time of the distinguished Republican leader.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE COMMUNICATIONS COMPETITIVENESS AND INFRASTRUCTURE MODERNIZATION ACT OF 1991—S. 1200

Mr. BURNS. Mr. President, it seems in this Congress we are highlighting some policy being discussed not only on the manufacturing bill, S. 173, before this body now, to take control and revamp our policy as far as telecommunications are concerned.

Mr. President, I rise today to introduce, along with Senators GORE and DOLE, S. 1200. It is called the Communications Competitiveness and Infrastructure Modernization Act of 1991. This is designed to advance the national interest by promoting and encouraging the more rapid deployment and development of nationwide, advanced broadband communications networks by the year 2015.

S. 1200 presents a powerful vision of harnessing the convergence of video, telephone, and other services in a nationwide broadband communications system. The bill, by creating a structure for the early deployment of broadband communications systems, is designed to move America forward into the information age of the 21st century.

A broadband communications infrastructure will be every American's tool of personal emancipation, will generate a quantum increase in America—freedom of speech, freedom of choice, freedom of ideas. This will allow Americans to recapture and expand upon the democratic tradition and community spirit of the early years of this great Nation by freeing Americans from the constraints of space and time and will allow civic and economic participation for all members of this great Republic.

Mr. President, the U.S. economy is becoming increasingly dependent on the provision of services that require efficient distribution and dissemination of information. Over 50 percent of all U.S. workers are currently employed in information intensive service industries that are heavily reliant on communications.

Even traditional manufacturing firms increasingly depend on the swift movement of information from headquarters to factories to distribution points to customers in order to remain competitive with their domestic and foreign rivals.

This transformation has heightened the importance of communications to the Nation's economic and social welfare. Communications infrastructure will be as important in the future to the information economy as the transportation infrastructure has been to the industrial economy.

It is, therefore, essential that the United States have a nationwide, broadband communications infrastructure capable of satisfying the information handling needs of our citizens, now and in the future.

The more rapid deployment of a broadband communications infrastructure will stimulate the development of American technology for domestic use and for export abroad and will help ensure that the United States is not forced to import broadband communications systems and export the jobs to develop and manufacture the related technology. Such networks will enhance the ability of all-sized businesses to compete on a nationwide and global basis, thus ensuring America's place as an economic world leader.

Such an infrastructure will improve the ability to transfer information-intensive business tasks to rural areas, which are much in need of economic stimulation; will reduce personal and business travel through video conferencing, enabling employees to work at home and easing congestion in urban areas; and reducing the United States' reliance on foreign sources of oil; and will bring educational opportunities to children and adults in all areas of the country through two-way interactive video education and training.

Such an infrastructure also will improve access to affordable health care through the transmission of medical imaging and diagnostics; will enable the elderly, through daily monitoring of their well-being, to remain at home longer rather than being prematurely forced into a medical care facility; and will permit disabled Americans, and individuals who are for one reason or another bound to the home, to actively participate in the work force.

A broadband communications infrastructure will be every American's tool of personal emancipation; will generate a quantum increase in American's freedom of speech, freedom of choice, and freedom of ideas; will allow Americans to recapture, yet expand upon, the democratic tradition and community spirit of the early years of this great Nation; and by freeing American's from the constraints of space and time will allow civic and economic participation for all members of the Republic.

A nationwide, broadband communications system available to all Americans by the year 2015 will, in short, propel America into the information age of the 21st century by making our domestic economy robust through the availability of advanced communications technologies and services to all businesses, by ensuring America's position in the global information economy remains unrivaled, and by securing for our citizens a quality of life unparalleled in our previous history.

II. ECONOMIC COMPETITIVENESS

The more rapid deployment of a broadband communications infrastructure to every business, educational and health care institution, and home in America will fundamentally improve the U.S. international competitiveness in the information age. Our foreign competitors in the Pacific rim and European Community are marshaling their resources and pushing ahead aggressively with communications infrastructure modernization with the expectation that their massive investments will be recovered by selling the related technology abroad.

If the United States, and States like my home State of Montana, can develop a superior broadband communications infrastructure, they will be in an excellent position to compete globally for new industry. Our ability to build and grow this broadband network will be the deciding factor as to how we survive and, hopefully, prosper in the 21st century.

National broadband networks and telecommunications infrastructure goes to the heart of our Nation's ability to compete, in the future, in global markets.

Other countries are making substantial investments in their communications networks with the expectation that those investments will be recovered by selling the related technology abroad. Our Nation must be competitive or risk importing the technology and exporting the jobs.

Japan, through a national public policy discussion and decision that took place 10 years ago, designated telecommunications as the key, strategic industry for the 21st century. This emphasis on telecommunications as a strategic industry calls for Japan to spend $240 billion over the next 10 years.

Much of Japan's multibillion dollar investment is targeted to export markets—the United States, in particular. By the year 2015, the Japanese Government plans to have every Japanese business, home, and institution served by broadband communications technology. The Japanese Government estimates that by the year 2020 fully one-third of Japan's gross national product will be generated through its broadband communications network.

Mr. President, this is the reason for this legislation. It is just what we have drawn up here. This legislation forces us into a situation where by 2015, we can be on level terms with our competitors. Right now, with current policy, it is estimated that we will not be in a competitive position until 2040 under present policy. That is why we have to change.

The French, whose telecommunications system was once the laughing stock of the Western World, have developed the largest and most successful video text system in the world—the

Minitel system. The French introduced Minitel in 1985. By October of last year, more than 4½ million terminals were in operation, offering more than 11,000 information services including personal financial management, computerized catalog shopping and hotel and airline reservations. In France, more than 30 percent of the working population has access to a Minitel terminal at the home or office.

In Great Britain, the British Government recently announced that it would pursue wide-ranging deregulation of its nation's telecommunications industry, including erasing most of the legal restrictions separating the telephone and cable television industries. The British Government intends to allow largely unrestricted access to the local, long distance and international service markets. This proposal makes the United Kingdom the most open telecommunications market in the world, including the United States.

The approval of these recommendations lets the United Kingdom in effect, leapfrog the United States in progressive regulatory actions. The impact of this procompetitive communications policy is already paying handsome dividends. Many American telephone companies are investing in startup cable television franchises.

Our great Nation must not be a latecomer to the world information revolution. S. 1200 is specifically designed to ensure that we are ahead of the curve by removing obstacles to U.S. competitiveness.

While our competitors marshal their resources, the U.S. telecommunications industry is mired in a regulatory and legal quagmire that often discourages investment in new technology and stunts innovation. Why is this happening? Why are we allowing it to happen?

The answers can be found in our public telecommunications policy. Or more precisely, our lack of a clear and forward-looking public policy.

Nations, like Japan, France, and England, our economic competitors, believe that telecommunications infrastructure is critical to their country's economic future. The United States, on the other hand, has not reached anything close to a consensus. We are still arguing at the starting line.

If those nations are moving forward, surely we have to, also. What are the possibilities for broadband networks? Nobody really knows how big the market is; who will use it. Some imaginative and innovative entrepreneur may use it in ways that we have not even dreamed of yet. But as long as our policy is in place, those entrepreneurial young people and people with imaginations will not have a chance.

III. QUALITY OF LIFE

But there is more to all this than just meeting the competitiveness challenge on the international playing field. My vision in S. 1200 also promises to enhance the quality of life for American citizens here at home. All Americans deserve to have access to information, and broadband communications networks both wire-based and wireless—will make that information available.

Information can improve our way of life. It can empower individuals to succeed.

What are some of the possibilities of broadband networks envisioned by S. 1200?

The shortage of doctors and health care professionals in rural areas could be overcome. Health care facilities in smaller towns could hook up with hospitals in larger towns and take advantage of their equipment and expertise. Preliminary examinations could be carried out without patients having to travel hundreds of miles each way.

Our schools could access any library in the United States or the world and have guest teachers via a two-way interactive audio and visual network. This would give America's children unlimited opportunities to learn. For large, rural States like Montana, and for inner-city school systems struggling with limited resources, the impact on education could be dramatic.

A broadband network would also be important to elderly Americans, like my parents, who are both in their eighties and who will soon celebrate their 60th wedding anniversary. They could stay in their homes longer if they had the ability to monitor their well-being on a daily basis—which is something a broadband network can make possible—rather than being prematurely forced into a medical care facility or nursing home. An additional year or two in their own home would mean a lot to them.

And think of the imapct of a broadband network on jobs. An engineer or stockbroker could live in any city, town, or rural community in this country and still work anywhere in the world via a broadband network. In Montana, many of our graduating seniors want to stay in our beautiful State where the skies are blue, the water is crisp, the air is healthy, and the quality of life is good. But they are forced to leave the State to find jobs. We need to keep our best and brightest at home.

Data processing or telemarketing jobs could be relocated to areas where the cost of living is lower and the people are hard working and well-educated. There's a vast, untapped work force out there, all we have to do is reach out and touch them through broadband networks.

Underprivileged Americans living in the inner cities would be able to tap into vast resources of information via fiber optics. This would help to further open the door of opportunity.

Handicapped Americans and individuals who are for one reason or another bound to the home could actively participate in our work force via broadband networks.

These are but just a few examples of the how broadband networks and S. 1200 could enhance the lives of all Americans. The possibilities are limited only by the human mind.

For instance, workers in the Washington area are fast becoming the Nation's leading telecommuters. Many Washington employers are seeing advantages to letting employees work outside the confines of the corporate office.

To meet the challenges of congestion in urban areas, not to mention U.S. reliance on foreign sources of oil, we must look at telecommuting. Our highways of the future will not be made of concrete and steel but of glass and spectrum. We will not travel in cars, but on bits of pulsating light. It will not take us hours or days to travel around the world, only a second.

Along with millions of others who commute to and from our Nation's Capital, I know the meaning of the word congestion. I like to call I-395, which I drive each day, the world's largest parking lot.

In addition to those that are employed elsewhere but work at home—the true telecommunters—there are a growing number of people whose home is their place of employment. In 1989, there were 14.6 home-based businesses. By 1995, the number is expected to grow to 21 million. More and more of these home-based businesses are communications-intensive, relying on PC's with modems, fax machines, 800 numbers, etc. This strongly suggests to me that by 2015 home users will demand and need a lot more than just plain old telephone service [POTS].

The advent of broadband networks as envisioned in S. 1200 will make it possible for people from every corner of this nation to plug into super computers and an unlimited information network around the world. Our highways of the future should include our telecommunications infrastructure.

Workers will travel to work on information highways instead of our traditional highways. The cars on these information highways will be bits of information which can travel anywhere in the world instantly. These highways will be clean, instantaneous and permit Americans to live where they please. With the advent of broadband networks, our traditional highways will be less congested, we'll save on fuel consumption, and we'll reduce the release of automobile pollutants into the environment.

Think of it, a stockbroker could live in Circle, MT, with a population of 931, and be in instant contact with anyone, anywhere, anyway. That person won't have to burn thousands of gallons of fossil fuel each year to drive to and from work. We don't have to invest billions of dollars for a mass transit system to move that person around. And, best of all that person will be able to live and work in rural America.

For the first time in the history of this country, people are moving to rural areas and away from cities and suburban areas. One estimate is that by 2010, between one-third and one-half of the middle class in America will live outside metropolitan and suburban areas. Of course, jobs are moving as well, and the communications infrastructure must be there to support them.

The same is true for underprivileged Americans living in the inner city. They may not have the income or ability to travel the world, but the world can be brought to them via these information highways.

IV. CONCLUSION

Yes, the vision I have is indeed a grand one. And it can happen without investing huge amounts of government money. Money that we don't have. Our telecommunications industry is willing to invest in the necessary infrastructure to make it possible. We as Members of Congress only need to update our telecommunications policy to make what's possible a reality. We need broadbased agreement on cohesive communications public policy goals. S. 1200 is a good faith effort to do just that.

As a member of both the Senate Commerce, Science, and Transportation Committee and the Senate Energy and Natural Resources Committee, it is my goal during this session of Congress to enact legislation that will make the United States the world leader in the information age. In addition to S. 1200, I added a telecommuting amendment to the national energy strategy bill, and I plan to offer a tax bill which will create communications infrastructure enterprise zones.

If we wait until the middle of the next century to complete the Nation's broadband networks; the world will have passed us by and taken much of our economy with it.

The challenge facing regulators and legislators is how to provide the necessary incentives for upgrading the infrastructure while at the same time preserving universal service.

We do not need to mortgage our future; but we do need to invest in it. We must encourage competition among our telecommunications companies to invest and reinvest in this country, ways that will still ensure affordable basic service, so that the average family can afford these marvelous 21st-century opportunities for human growth and consequent human fulfillment and prosperity.

I look forward to working with each of my colleagues in making this vision a reality with passage of S. 1200.

Mr. President, let me take this opportunity to personally thank Senator GORE for his leadership and foresight in pursuing a vision for an information rich America.

I look forward to working closely with Senator GORE, Minority Leader DOLE and all of the cosponsors of this measure.

Mr. President, I ask unanimous consent that a summary of the bill and a copy of the bill be printed immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY COMMUNICATIONS COMPETITIVENESS AND INFRASTRUCTURE MODERNIZATION ACT OF 1991

The following is a description of the major provisions of the new Burns/Gore bill:

The bill sets a new national goal in the Communications Act that by the year 2015 the United States establish an advanced, interactive, interoperable, broadband communications system available to all homes, businesses, educational institutions, health care organizations, and other users. The year 2015 was selected as the goal because that is the same date which the Japanese have targeted for completion of their fiber optic network. The Japanese government estimates that by the year 2020 fully one-third of Japan's GNP will be generated through its broadband communications system. A nationwide, advanced broadband communications system available to all Americans by 2015 will propel America into the Information Age of the 21st Century by:

(1) Making our domestic economy robust through the availability of advanced communications technologies and services to all businesses;

(2) Ensuring that the United States is not forced to import broadband systems and related technology and export the jobs to develop and manufacture these systems;

(3) Providing a broad range of new educational opportunities for students of all ages;

(4) Delivering better health care and services, especially in rural areas and at home;

(5) Enabling handicapped Americans and other employees to work at home through telecommuting; and

(6) Securing for our citizens a quality of life unparalleled in our previous history.

In order to achieve the 2015 goal, telephone companies will be required to submit a construction and deployment plan with the State regulatory commission in each State. The plan shall include:

(1) A schedule for completion of the system by 2015;

(2) A description of the technology to be employed;

(3) Estimates of costs for new construction; and

(4) The pace of retirement of plant which will be displaced by the broadband communications system.

The plan must provide for early deployment of broadband technology to educational institutions, health care facilities and small businesses. The plan must also provide for deployment to less densely populated areas and economically disadvantaged areas at a rate reasonably related to the rate of deployment in more populous and affluent areas.

The State commission then has one year to act on the plan. After the State commission acts, the FCC will review the plan to certify compliance with the national goals and objectives of the Burns/Gore bill.

Telephone companies will initially be precluded from engaging in any content control, ownership or generation of video programming—only common carrier, "video dial tone" service will be permitted. "Video dial tone" service will be defined to include:

(1) Transport of video signals;

(2) Broadband video gateways to ease access between programmers and subscribers;

(3) Standard and customized menus and other navigational aides;

(4) Standard and customized video storage and forwarding services;

(5) Billing and collection services;

(6) Network management, including service ordering, installation and maintenance, testing, repair, and directory information services;

(7) Advertising and marketing the video dial tone to subscribers;

(8) Other ancillary services and functions designed to improve the access to and utility of video programming, so long as they are outside actual content control or ownership;

(9) No local cable franchise requirement for the telco or for a programmer providing fewer than 10 channels of programming.

Then, only after the State commission renders a final determination regarding the plan and the FCC certifies the plan, telephone companies are permitted to license, package, own and produce video programming subject to the following strict regulatory safeguards designed to deal quite specifically with alleged anti-competitive activity:

(1) 25 percent channel limitation (75 percent of channels on a common carrier, "video dial tone" basis with guaranteed access to all third party programmers);

(2) Separate video programming subsidiary, clearly delineating programming business from the regulated telephone business, to ease auditing and to prevent cross-subsidization;

(3) Local cable franchise and all other regulatory constraints faced by cable industry;

(4) Cross subsidization prohibition and cost allocation rules to protect telephone ratepayers and competitors;

(5) Buyout prohibition to preclude telco from monopolizing cable service;

(6) Joint marketing prohibition to prevent telephone company from favoring its subsidiary's programming;

(7) Federal right of access to telco poles/conduits for cable industry and other competitors;

(8) Free carriage for broadcasters; and

(9) "Death penalty", i.e., divestiture of separate video programming subsidiary, for willful violation of any safeguard.

Cable operators are encouraged to provide basic telephone service and personal communications services (PCS) in competition with telephone companies so long as the cable operator obtains authorization from the appropriate state regulatory authorities. This is included as a matter of simple fairness and as a mechanism to further open all communications markets to competition.

The Communications Act is amended to specifically establish a policy to permit multiple uses of communications technologies and to eliminate restrictions on communications technologies to single lines-of-business. This policy is strongly supported by FCC Chairman Al Sikes.

The Commission is instructed to develop rules and procedures for coordinated communications infrastructure planning—most importantly, those actions necessary to ensure the interconnectability and interoperability between communications networks.

The rural exemption which allows telephone companies to provide cable service in certain rural areas is increased to areas of 10,000 population (from the current level of 2500). The FCC is required to complete a proceeding within one year to review the state of video programming and information services provision in rural areas to ensure that rural America is not left behind in the Information Age.

S. 1200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Communications Competitiveness and Infrastructure Modernization Act of 1991".

TITLE I—COMMUNICATIONS INFRASTRUCTURE MODERNIZATION POLICY FINDINGS

SEC. 101. The Congress makes the following findings:

(1) The United States economy is becoming increasingly dependent on the provision of services that require efficient distribution and dissemination of information.

(2) Over 50 percent of all United States workers are currently employed in information intensive service industries that are heavily reliant on communications.

(3) Even traditional manufacturing firms increasingly depend on the swift movement of information from headquarters to factories to distribution points to customers in order to remain competitive with their domestic and foreign rivals.

(4) This transformation has heightened the importance of communications to the Nation's economic and social welfare.

(5) Communications infrastructure will be as important in the future to the information economy as the transportation infrastructure has been to the industrial economy.

(6) It is, therefore, essential that the United States have a nationwide, advanced, interactive, interoperable, broadband communications infrastructure capable of satisfying the information handling needs of our citizens, now and in the future.

(7) The more rapid deployment of a nationwide, advanced, interactive, interoperable, broadband communications infrastructure to every business, educational and health care institution, and home in America will fundamentally improve the international competitiveness of the United States in the Information Age by bringing new and different services and products which will improve our national productivity and our quality of life.

(8) Foreign competitors in the Pacific Rim and European Community are marshalling their resources and pushing ahead aggressively with communications infrastructure modernization, with the expectation that their massive investments will be recovered by selling the related technology abroad.

(9) By the year 2015, the Japanese Government plans to have every Japanese business, home, and institution served by broadband communications technology, whereas in the United States—given current public policy—it is estimated that it will take until 2030 or 2040 to achieve the same result.

(10) The Japanese Government estimates that by the year 2020 fully one-third of Japan's Gross National Product will be generated through its broadband communications infrastructure.

(11) The more rapid deployment of a broadband communications infrastructure will stimulate the development of American technology for domestic use and for export abroad and will help ensure that the United States is not forced to import braodband communications systems and related technology and export the jobs to develop and manufacture these systems.

(12) Such an infrastructure will improve the ability to transfer information-intensive business tasks to rural areas, which are much in need of economic stimulation; will reduce personal and business travel through at-home or business video conferencing, thereby enabling employees to work at home and reducing congestion in urban areas and the reliance by the United States on foreign sources of oil; and will bring educational opportunities to children and adults in all areas of the Nation through two-way interactive video education and training.

(13) Such an infrastructure also will improve access to affordable health care through the transmission of medical imaging and diagnostics; will enable the elderly, through daily monitoring of their well-being, to remain at home longer rather than being prematurely forced into a medical care facility; and will permit disabled Americans, and individuals who are for one reason or another bound to the home, to actively participate in the workforce.

(14) A broadband communications infrastructure will be every American's tool of personal emancipation; will generate a quantum increase in Americans' freedom of speech, freedom of choice, and freedom of ideas; will allow Americans to recapture, yet expand upon, the democratic tradition and community spirit of the early years of this nation; and by freeing Americans from the constraints of space and time will allow civic and economic participation for all members of the republic.

(15) Such an infrastructure available to all Americans by the year 2015 will, in short, propel the United States into the Information Age of the twenty-first Century by making our domestic economy robust through the availability of advanced communications technologies and services to all businesses, by ensuring that the position of the United States in the global information economy remains unrivaled, and by securing for our citizens a quality of life unparalleled in our previous history.

THE NEW NATIONAL GOAL

SEC. 102. Section 1 of the Communications Act of 1934 (47 U.S.C. 151) is amended by inserting immediately after "at reasonable charges," the following: "for the purpose of establishing a nationwide, advanced, interactive, interoperable, broadband communications system available to all people, businesses, services, organizations, and households on or before the year 2015,".

BROADBAND COMMUNICATIONS SYSTEM IMPLEMENTATION PLAN

SEC. 103. Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"BROADBAND COMMUNICATIONS SYSTEM IMPLEMENTATION PLAN

"SEC. 9. (a) In order to achieve the goal of a nationwide, advanced, interactive, interoperable, broadband communications system, as provided in section 1, each local exchange carrier shall prepare and carry out a broadband communications system implementation plan for the States in which such carrier operates.

"(b) To accomplish the purposes of this section, the Commission shall, within sixty days after the date of enactment of this section, convene a Joint Board under section 410(a) to recommend the rules and regulations governing such broadband communications system implementation plan. The Joint Board shall make its recommendation to the Commission within one year after the date of enactment of this section, and the Commission shall thereafter issue final rules and regulations within sixty days after receipt of the recommendations of the Joint Board.

"(c)(1) Each local exchange carrier shall prepare its broadband communications system implementation plan in accordance with this section and the final rules and regulations issued by the Commission under subsection (b). Such plan shall, within one year after the date of issuance of such final rules and regulations, be filed with each State in which such carrier operates, by submitting the plan to the regulatory agency of such State with jurisdiction over the operations of such carrier or, in the absence of such a regulatory agency, a State agency designated by the Governor of such State. Submission of the plan shall not be construed to subject such carrier to State regulation if such carrier is not subject to such regulation on the date of enactment of this section.

"(2) Such plan shall include but not be limited to the schedule for implementation, a description of the technology to be employed, estimates of costs for new construction, a description of the methods to be used to recover costs, and the time schedule for replacement of facilities to be displaced.

"(3) Such plan shall give priority consideration to accelerated deployment of an advanced, interactive, interoperable, broadband communications system for—

"(A) educational institutions;

"(B) health care facilities; and

"(C) small businesses.

"(4) In order to ensure that deployment of a broadband communications system in economically disadvantaged and less densely populated areas is not unreasonably deferred in relation to the overall pace of system construction, such plan shall set a rate of deployment in those areas which is reasonably related to the rate of deployment in affluent and populous portions of such local exchange carrier's service area.

"(e) States shall approve, disapprove, or require modifications to the plan within a reasonable period of time, not to exceed two years after the date of issuance of final rules and regulations under subsection (b). States may only disapprove plans after finding that the plan is not in the public interest.

"(f) Following final action (including any disapproval) by the affected States under subsection (e), such plan shall be submitted to the Commission for review and certification, not later than three years after the issuance of final rules and regulations under subsection (b), that the plan is consistent with the objectives of section 1 and the provisions of sections 9 and 10 of this Act. If a State has not taken final action on such plan within two years after such date of issuance, such carrier may file the plan for such review and certification by the Commission.

"(g) The affected States and the Commission shall periodically review the progress of a carrier in effectuating under this section its broadband communications implementation plan, once such States and the Commission have taken final action on the plan under this section.

"(h) In the event of willful and knowing failure of a local exchange carrier to make substantial progress in preparing or revising such a plan or toward achieving the goals of a plan that has received final action under this section, the affected States and Commission may impose sanctions and penalties that are necessary to ensure future compliance with the obligations undertaken pursuant to the plan. Such sanctions and penalties may include, but not be limited to, the suspension of the right to engage in the provision of video programming provided for in section 613(b)(3) and part V of title VI.

"(i) Any information contained in a plan prepared under this section that is specific to customers, groups of customers, or specific transmission facilities shall be for the sole and proprietary use of the affected States and the Commission. Such information shall not be disclosed by any such State or the Commission, or any other person, without the express permission of the carrier preparing the plan.".

COMMUNICATIONS INFRASTRUCTURE PLANNING

SEC. 104. Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.), as amended by section 103 of this Act, is further amended by adding at the end the following new section:

"COMMUNICATIONS INFRASTRUCTURE PLANNING

"SEC. 10. (a) Notwithstanding any other provision of law, and in order to improve and foster the continued development of a nationwide communications infrastructure and to assure the broad availability of information services, the Commission shall prescribe rules and regulations establishing procedures for local exchange carriers to ensure that—

"(1) there will be coordinated network planning by local exchange carriers sufficient to ensure interconnectability and interoperability among communications networks;

"(2) standards for the telephone exchange service networks of local exchange carriers are developed by appropriate standard-setting bodies; and

"(3) local exchange carriers providing telephone exchange service in the same area of interest shall provide timely information, to other such carriers in the same area of interest, on the deployment of communications equipment that will affect changes in interconnectability or interoperability among communications networks.

"(b) Local exchange carriers shall not be required to share information with carriers with whom they directly compete except as may be necessary to meet interconnection and interoperability requirements.

"(c) A local exchange carrier which is the recipient of any information described in subsection (a) shall use it only for its own exchange network and service planning and not disclose it to any person other than a local exchange carrier in the same area of interest.".

LOCAL EXCHANGE CARRIER DEFINED

SEC. 105. Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end the following new subsection:

"(hh) 'local exchange carrier' means a carrier which is required upon request to provide under tariff both businesses and residences with two-way communications by means of a comprehensive network which interconnects subscribers within a geographic area.".

TITLE II—REGULATORY CHANGES TO PROMOTE EFFICIENT MULTIPLE USES OF COMMUNICATIONS TECHNOLOGIES

FINDINGS

SEC. 201. The Congress makes the following findings:

(1) Domestic deployment of emerging communications technologies by competitive private enterprise is hampered by numerous legislative, regulatory, and judicial restrictions.

(2) Federal and State regulatory restrictions on the efficient deployment of technologies that are capable of supporting multiple uses threaten to retard development of new and underutilized communications technologies in the United States.

(3) Difficulties in deploying new communications technologies result in making unavailable to Americans competitive communications options which impact directly on economic well-being and quality of life.

(4) It is essential to ensure the creation of a regulatory and business environment that stimulates greater and more rapid availability of, access to, investment in, and use of emerging communications technologies and promote and encourage the more rapid development and deployment of an advanced, interactive, interoperable, broadband communications system by the year 2015.

POLICY TO PROMOTE EFFICIENT MULTIPLE USE OF COMMUNICATIONS TECHNOLOGIES

SEC. 202. Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.), as amended by sections 103 and 104 of this Act, is further amended by adding at the end the following new section:

"MULTIPLE USES OF COMMUNICATIONS TECHNOLOGIES

"SEC. 11. (a) It shall be the policy of the United States—

"(1) to promote the deployment of communications technologies in a manner that will secure communications services for the public at a reasonable cost;

"(2) to obtain substantial progress toward the goal stated in paragraph (1) by permitting efficient multiple uses of communications technologies and avoiding restrictions of communications technologies to single lines-of-services;

"(3) to eliminate outdated or unnecessary obstacles to efficient multiple uses of communications technologies to permit more economical, higher-load use of already deployed facilities and thereby decrease costs to the public; and

"(4) to foster the maximum efficient use of communications facilities, consistent with the public interest, by minimizing regulatory or other obstructions to efficient multiple uses of communications technologies by such facilities.

"(b) The Commission shall conduct, on request or on its own initiative, such rulemaking proceedings as are necessary to implement the policy established by subsection (a).

"(c)(1) In any proceeding under subsection (b) to remove an obstruction to efficient multiple uses of technologies, the Commission—

"(A) shall include rules and regulations that waive or modify any regulatory or other obstruction to such uses by any communications facility unless the Commission determines, by preponderance of the evidence, that the waiver or modification is inconsistent with the public interest; and

"(B) may prescribe such rules and regulations as may be necessary—

"(i) to ensure the universal availability of basic communications services at just and reasonable rates;

"(ii) to prevent unfair competition and promote effective competition in the delivery of communications and information services; and

"(iii) to promote diversity of viewpoints and guard against undue concentrations of economic power; and

"(iv) to otherwise protect the public interest in the delivery of such services.

"(2) To the extent required for purposes of paragraph (1) and notwithstanding any other provision of this Act, the Commission may by rules and regulations require—

"(A) cost accounting standards and requirements, including audits;

"(B) structural or nonstructural separations or other safeguards;

"(C) nondiscriminatory access to essential facilities, services, or products;

"(D) procurement standards or procedures; and

"(E) such other procedures or requirements as are necessary to protect the public interest, convenience, and necessity, consistent with the policy of this section.

"(d) Nothing in this section shall be construed to change the balance between the Federal and State regulatory authorities with respect to multiple uses of communications technologies, as in effect on the date of enactment of this section.".

TITLE III—MODIFICATION OF IMPEDIMENTS TO CONVERGENCE OF TELEPHONE AND VIDEO TECHNOLOGIES

FINDINGS

SEC. 301. (a) The Congress makes the following findings:

(1) There should be the widest possible dissemination of information from diverse sources.

(2) Advanced broadband facilities should be widely available throughout the Nation for interactive access to information not later than the year 2015.

(3) Freed from unnecessary and counterproductive statutory, regulatory, and judicial barriers, local exchange carriers and cable television companies could better serve their customers, and collectively the Nation, through the accelerated deployment of advanced broadband distribution systems, including but not limited to fiber optics, digital broadband switching, digital compression technology, and other new technologies.

(4) Among the governmental actions which may be necessary to promote such an environment and provide an effective incentive to complete a nationwide, advanced, interactive, broadband communications system is the modification of current restrictions on—

(A) the provision of video programming by local exchange carriers; and

(B) if regulatory parity exists between cable television systems and local exchange carriers, the provision of telecommunications and other services by cable television companies.

(5) Consumers will benefit from the competition which could occur if local exchange carriers are permitted to provide video programming, and cable television companies to provide telecommunications service, subject to appropriate safeguards.

(6) Such competition also will stimulate innovative two-way interactive multimedia services with applications for education, health care, and information exchange.

(7) Competition in the provision of video programming and telecommunications services by local exchange carriers and cable television companies will accelerate the development of modern video networks and technology.

(8) Competition in the provision of video programming and telecommunications services will strengthen the competitiveness of the United States in world markets by stimulating innovation.

(9) Competition will help to ensure that video programming, telecommunications services, and advanced communications services are made available in all areas of the country and to all consumers, rural and urban, rich and poor.

(10) The ability of local exchange carriers and cable television companies to create new video programming and telecommunications services will expand consumer choice and accelerate the deployment of modern broadband networks.

(11) The creation of video gateway services will guarantee access for video programming and ensure diversity.

DEFINITIONS

SEC. 302. Section 602 of the Communications Act of 1934 (47 U.S.C. 552) is amended by striking "and" at the end of paragraph (15), by striking paragraph (16), and by adding at the end the following new paragraphs:

"(16) the term 'affiliated video programming' means any video programming which is owned or controlled by the separate video programming subsidiary of a local exchange carrier which distributes such video programming directly to subscribers;

"(17) the term 'rural area' means a geographic area that does not include either—

"(A) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

"(B) any territory, incorporated or unincorporated, included in an urbanized area;

"(18) the term 'video programming' means programming provided by, or generally considered comparable to programming provided by, a television broadcast station; except that such term includes neither video gateway services nor video transmission services;

"(19) the term 'video gateway services' means broadband services to providers of video programming or to subscribers which has the capability to improve ease of access to or utility of video programming; such term includes but is not limited to the provision of protocol, code and format conversions, storage services, and services facilitating subscriber interaction with information, including selection of video programming; and

"(20) the term 'video transmission services' means services that furnish to a provider of video programming the capability to access subscribers, or that furnish to a subscriber the capability to access a provider of video programming, which capability may be offered over any physical or radio media, or on a switched or unswitched basis, and may be furnished through the long-term lease of bulk facilities, through the long-term or occasional use of shared facilities, or through other means; such term includes services normally and traditionally adjunct to common carrier services, including billing and collection, service ordering, installation, maintenance, testing, repair, and directory information services, if associated with the furnishing of such capability.".

OWNERSHIP RESTRICTION MODIFICATION

SEC. 303. (a) Section 613(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended to read as follows:

"(b)(1) It shall be unlawful for any local exchange carrier, subject in whole or in part to title II of this Act, to provide video programming in its local exchange service area except as provided in paragraphs (2) through (5) of this subsection and in part V and other provisions of this title.

"(2) If the public network of a local exchange carrier, subject in whole or in part to title II of this Act, has the capability to transmit video programming directly to its subscribers, if such local exchange carrier has no editorial control over, ownership interest in, or other involvement in the content of such video programming, and if such capability is offered to providers of video programming on a common carrier basis, including nondiscriminatory access, neither the local exchange carrier nor any person who provides less than 10 channels of such video programming shall be required to have a franchise. Nothing in this subsection shall be construed to prohibit a local exchange carrier from providing video transmission services, video gateway services, and ancillary services and functions, as long as the local exchange carrier does not control or own the video programming. A local exchange carrier shall also be permitted to advertise and market video gateway services.

"(3) A local exchange carrier may own or control video programming only if—

"(A) the Commission certifies that the broadband communications system implementation plan required under section 9 will achieve the objectives of section 1 and complies with this section and sections 9 and 10 of this Act; and

"(B) the Commission certifies that such local exchange carrier has filed a complete compliance plan that commits such carrier to full compliance with the requirements of part V of this title.

"(4) This subsection does not apply to a local exchange carrier to the extent such carrier provides local exchange service in any rural area, but this paragraph shall not be construed as relieving such carrier from the requirement to comply with section 9 concerning broadband communications system implementation plans.

"(5) In those areas where a local exchange carrier offers video gateway services, if no video programmer subscribes to such services, the Commission may, on petition for waiver, waive the applicability of paragraphs (1) and (2) so that the local exchange carrier involved may arrange for video programming to be provided by an affiliate, which would subscribe to such video gateway service and pay the tariffed rates. Any such waiver shall be granted by the Commission upon a finding that the issuance of such waiver is justified by the particular circumstances demonstrated by the petitioner, taking into account the policy of this subsection.".

(b) Title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

"PART V—SAFEGUARDS FOR CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES

"SEPARATE VIDEO SUBSIDIARY

"SEC. 651. (a) A local exchange carrier shall not own or control video programming to be distributed over its local exchange service area unless such video programming is owned or controlled through an affiliated video programming subsidiary that is separate from such carrier.

"(b) An affiliated video programming subsidiary of a local exchange carrier shall—

"(1) maintain books, records, and accounts separate from such carrier which identify all transactions with such carrier;

"(2) carry out directly (or through any nonaffiliate or any other subsidiary of such carrier) its own marketing and sales except that institutional advertising carried out by such carrier shall be permitted so long as each party bears its pro rata share of the costs, except as provided for under section 613(b)(2); and

"(3) not own real or personal property in common with such carrier.

"(c) Any contract, agreement, arrangement, joint venture, partnership, or other manner of conducting business, between a local exchange carrier and an affiliated video programming subsidiary, providing for—

"(1) the sale, exchange, or leasing of property between such subsidiary and such affiliated carrier;

"(2) the loan of money or other extension of credit between such subsidiary and such affiliated carrier or between such subsidiary and a third party directly or indirectly guaranteed by such affiliated carrier;

"(3) the furnishing of goods between such subsidiary and such affiliated carrier; or

"(4) the transfer to or use by such subsidiary for its benefit of any assets of such affiliated carrier,

shall be pursuant to regulation prescribed by the Commission, shall be on a fully compensatory and auditable basis, shall be without cost to the ratepayer of the local exchange carrier, and shall be in compliance with rules established by the Commission which will be sufficient to enable the Commission to assess the compliance of any transaction.

"PROHIBITION OF CROSS-SUBSIDIZATION

"SEC. 652. A local exchange carrier shall not engage in any practice (including but not limited to the improper assignment of costs) which is prohibited by the Commission or by a State in order to prevent the subsidization of its affiliated video programming subsidiary.

"PROVISION OF VIDEO PROGRAMMING BY TELEPHONE EXCHANGE COMPANIES

"SEC. 653. (a) Upon certification by the Commission that a local exchange carrier's broadband communications system implementation plan required under section 9 achieves the objectives of section 1 and complies with sections 9 and 10 of this Act, and that such local exchange carrier has filed a complete compliance plan in accordance with section 613(b)(3)(B), such local exchange carrier shall be authorized to distribute its affiliated video programming over the broadband communications system in an amount not to exceed 25 percent of the equipped capacity of its video gateway services.

"(b) Notwithstanding any law, regulation, or order which was enacted, promulgated, or entered prior to the date of enactment of this part, the local exchange carrier or an affiliate may own and operate the facilities for transmission, reception, and processing of video programming signals at any of its distribution locations so long as it contracts with any authorized carrier for any interexchange connections to, between, and among such locations.

"(c) The Commission shall, not later than two years after the date of enactment of this part and every two years thereafter—

"(1) evaluate the effect of subsection (a) on the video programming and distribution marketplace, including but not limited to the effect of such subsection on competition in the marketplace; and

"(2) on the basis of that evaluation, make recommendations to Congress concerning appropriate modifications, if any, to such subsection.

"VIDEO GATEWAY SERVICES

"SEC. 654. Any local exchange carrier which distributes its affiliated video programming over a broadband communications system in its local exchange service area shall provide video gateway services. The Commission, together with the States, shall establish the rates, terms, and conditions for access to such video gateway services; except that such local exchange carrier, in providing access to such video gateway services, shall be prohibited from discriminating in favor of its affiliated video programming, except on the same terms available to non-affiliated programmers.

"PROHIBITION ON BUYOUTS

"SEC. 655. No local exchange carrier, nor any entity owned by or under common ownership or control with such carrier, may obtain control, by purchase or otherwise, over any cable system which is located within its local exchange service area and is owned by an unaffiliated person.

"POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY

"SEC. 656. (a) Any local exchange carrier which distributes its affiliated video programming in its local exchange service area shall demonstrate to the Commission that it makes available to one or more unaffiliated cable operators, within the limits of technical feasibility, attachment rights to any pole, duct, conduit, or right-of-way which is owned by the local exchange carrier within its service area.

"(b) The showing required by subsection (a) shall be deemed to have been made if an unaffiliated cable operator currently has obtained the attachment rights described in subsection (a).

"(c) Nothing in this section shall affect the authority of the Commission or the States to regulate the rates, terms, and conditions for pole attachments as provided for in section 224.

"MARKETING AND SELLING OF VIDEO PROGRAMMING

"SEC. 657. Notwithstanding any provision of this part or any rule or regulation prescribed by the Commission under this part, all marketing and selling of the affiliated video programming of a local exchange carrier shall be carried out by the carrier's affiliated video programming subsidiary.

"CUSTOMER PROTECTION

"SEC. 658. (a) The Commission shall, within 180 days after the date of enactment of this part, convene a Federal-State Joint Board under the provisions of section 410(c) for the purpose of establishing the practices, classifications, and regulations as may be necessary to ensure proper jurisdictional separation and allocation of the costs of providing broadband services, including video transmission service.

"(b) The Commission, with respect to interstate switched access service, and the States, with respect to local exchange service and intrastate switched service, shall within one year after the date of enactment of this part establish rules and regulations as may be necessary to ensure that no customer pays more for such services than would have been the case if the carrier providing such services to such customer was not also providing video programming.

"(c) Nothing in this section shall be construed to limit or supersede the authority of any State or the Commission with respect to the allocation of costs associated with intrastate or interstate communication services.

"REQUIREMENT FOR FREE CARRIAGE OF LOCAL BROADCAST SIGNALS

"SEC. 659. (a) Notwithstanding any other provision of this subsection, a local exchange carrier that distributes its affiliated video programming in its local exchange service area may not charge a local broadcast station as defined by rules and regulations of the Commission, for making available its signal to subscribers.

"(b) Capacity provided to satisfy the requirements of this subsection shall not constitute the provision of affiliated video programming and, therefore, shall not be counted against the equipped capacity limitation imposed on affiliated video programming under section 653(a).

"RURAL AREA EXEMPTION

"SEC. 660. The requirements of this part shall not apply to video programming provided in a rural area by a carrier that provides local exchange service in the same area.

"EFFECT ON CERTAIN ANTITRUST RESTRICTIONS

"SEC. 661. Except as provided in section 653(b), nothing in this part shall be construed to permit any local exchange carrier to have any ownership interest in any video programming provided to subscribers, if such local exchange carrier is otherwise prohibited under the antitrust laws of the United States from owning such an interest.

"PENALTIES

"SEC. 662. (a) If the Commission finds, after notice and opportunity for hearing, including the oral examination and cross-examination of witnesses, that any local exchange carrier has willfully and knowingly violated any provision of this part, the Commission shall assess fines and penalties pursuant to title V of this Act.

"(b) If the Commission finds, after notice and opportunity for hearing, including the oral examination and cross-examination of witnesses, that a local exchange carrier has engaged in a consistent pattern of willfully and knowingly violating a provision or provisions of this part, the Commission shall order such carrier to divest itself of any ownership in, or control over, its affiliated video programming subsidiary.

"ENFORCEMENT ACTION TIME FRAME

"SEC. 663. The Commission shall process, analyze, and take appropriate enforcement action within 180 days after receipt of complaints filed concerning violations of any provision of this part.

"FRANCHISES

"SEC. 664. Any local exchange carrier that distributes its affiliated video programming in its local exchange service area pursuant to section 613(b) shall be subject to those franchise and franchise-related requirements that a cable television franchising authority deems appropriate, including but not limited to franchise fees, customer service standards, and requirements for public, educational, and governmental access channel capacity and facilities. Nothing in this section shall be construed to limit the authority of cable television franchising authorities under this title.".

MULTIPLE CABLE FRANCHISES

SEC. 305. (a) Section 621(a)(1) of Communications Act of 1934 (47 U.S.C. 541(a)(1)) is amended—

(1) by striking "1 or more"; and

(2) by adding at the end the following: "A franchising authority shall not, in awarding franchises within its jurisdiction, unreasonably refuse to award additional franchises because of the previous award of a franchise to another cable operator. For purposes of this paragraph, refusal to award a second franchise shall not be unreasonable if, for example, such refusal is on the ground (A) of technical infeasibility; (B) of inadequate assurance that the cable operator will provide the public adequate public, educational, and governmental access channel capacity and facilities; (C) that such award would interfere with the right of the franchising authority to deny renewal; or (D) of inadequate assurance that the cable operator has the financial qualifications to provide cable service. Nothing in this title shall be construed to authorize franchising authorities to award exclusive franchises for any geographic area to any cable operator. Nothing in this subsection shall be construed as limiting the authority of local municipalities to assess fees or taxes for access to public rights-of-way.".

(b) Section 635(a) of the Communications Act of 1934 (47 U.S.C. 555(a)) is amended by inserting "621(a)(1)," immediately after "section".

FEDERAL COMMUNICATIONS COMMISSION STUDIES

SEC. 306. (a) Within two years after the date of enactment of this Act, the Federal Communications Commission shall initiate a proceeding, and within three years after such date of enactment shall submit to Congress a report, regarding the state of competition and consumer choice in the delivery of video programming and telephone services. The report shall include, but not be limited to, an assessment of the extent to which the provisions of this Act (including amendments made by this Act to the Communications Act of 1934) have—

(1) increased competition and consumer choice among providers of video programming, including cable operators; and

(2) enabled telephone common carriers to increase competition among providers of video transmission services, including themselves and cable operators.

The report shall include such legislative recommendations as the Commission considers appropriate.

(b) The Federal Communications Commission shall, within one year after the date of enactment of this Act, complete a proceeding to review the definition of the term "rural area" which is the basis for the rural area exemption in part V of the Communications Act of 1934, as added by section 30 of this Act, and to determine how to ensure that all areas of the country have access to broadband multichannel video programming as soon as possible.

THE COMMUNICATIONS COMPETITIVENESS AND INFRASTRUCTURE MODERNIZATION ACT OF 1991—S. 1200

Mr. DOLE. Mr. President, I am pleased to join Senator CONRAD BURNS in cosponsoring the Communications Competitiveness and Infrastructure Modernization Act of 1991.

There's no doubt about it, communications technology is vital to America's future. This bill is a visionary yet realistic plan to establish an advanced, interactive, broadband communications system in the United States by the year 2015.

The benefits of such a system are potentially limitless. Those of us from rural States know how badly those benefits are needed. Rural areas in Kansas face crises in keeping communities together, due in part to the decreasing availability of quality health care, and educational opportunities. This bill promises to help.

The latest health care becomes widely available at lower cost through technologies such as medical imaging and diagnostics. Education becomes available at lower cost through interactive video technologies. And businesses operate more efficiently exchanging larger quantities of information at greater speeds and lower cost. In short, all America prospers.

Thus, as this legislation helps thrust America as a nation into the information age, it also assures that individual Americans will not be left behind. A high school student in western Kansas will have access to the Nation's finest libraries and information services. An ailing senior citizen in the same community can be monitored at home using remote diagnostic technologies, rather than being admitted—at great expense—to a distant urban medical care facility. And disabled Americans can be mainstreamed into the workforce more quickly, more effectively, and into a wider range of jobs, with the help of these technology networks.

Finally, a word about what this bill is not. It is not a telco bill. It is not a cable bill. Rather, it is a bill to bring the information age to all Americans who wish to participate.

I applaud the foresight and leadership of Senator BURNS on this legislation and urge the Senate to match Senator BURNS' effort in working toward its passage.

The PRESIDING OFFICER (Mr. FORD). The Senator from Wisconsin is recognized.

DEMOCRATIC HEALTH REFORM PACKAGE

Mr. KOHL. Mr. President, this morning I would like to briefly commend my colleagues, who have worked so hard in crafting the comprehensive health care reform bill to be introduced today.

We need not repeat the numbers of underserved. We know them. We need not repeat statistics on the benefits of prevention—we are paying dearly for those past failures. We need not repeat health cost inflation figures. Nor the tragic stories about citizens young and old who have been denied access to quality care. Each of us has heard those numbers and those stories in hundreds of ways.

The problem is real. Our health care system is in crisis. And we have a responsibility to lead the Nation out of that crisis.

Our colleagues from West Virginia, Massachusetts, Maine, and Michigan—among others—have met the challenge in offering this blueprint for national health care reform. It is a commendable and meritorious plan. It offers hope and answers to questions of universal access, quality, and cost.

I believe we are faced with a real opportunity here and I hope we do not let it pass. We have had similar chances in the past—in the late 1960's and early 1970's when President Nixon offered the Nation a plan for employment based health care; in the late 1970's when President Carter, through Secretary Califano, offered a comprehensive employment based plan that also included Medicaid reforms. For various reasons, we let those opportunities pass us by. It has cost us dearly.

I believe it will be easy for each of us to sit back and critique this package. Surely each of us—and each of our constituencies—can find fault with one aspect or another. I hope we resist that easy path for it will take us nowhere once again. Those who have not been close to the drafting of this legislation have an obligation to study it carefully. We need to go back to our States and talk to our people about it. But, we have a responsibility to study and consider it from a positive perspective. And that is what I intend to do.

I thank our colleagues and their staffs who have worked so hard for so many months and years to bring us to this new threshold.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

REVISED CONGRESSIONAL BUDGET OFFICE COST ESTIMATE OF S. 210, THE COMPREHENSIVE URANIUM ACT OF 1991

Mr. JOHNSTON. Mr. President, on May 23, 1991, I submitted on behalf of the Committee on Energy and Natural Resources Senate Report 102–63, to accompany S. 210, the Comprehensive Uranium Act of 1991. Included in the report was a May 10, 1991, letter from the Congressional Budget Office that estimated the cost of the bill.

In its May 10 letter, CBO concluded that certain provisions of the bill as originally approved by the Committee would have resulted in direct spending during fiscal years 1992 through 1996.

As explained in Senate Report 102–63, the Committee on Energy and Natural Resources amended S. 210 on May 22, 1991, to remove the direct spending identified by CBO from the bill.

Accordingly, CBO revised its cost estimate. In a May 31, 1991, letter, CBO stated that S. 210 as amended and reported "would not affect direct spending over the next 5 years, and would not be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985."

I ask unanimous consent that CBO's revised cost estimate for S. 210 be printed in the RECORD in its entirety.

There being no objection, the estimate was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 31, 1991.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 210, the Comprehensive Uranium Act of 1991, as amended by the Senate Committee on Energy and Natural Resources on May 22, 1991. This bill, as amended, would not affect direct spending over the next five years, and would not be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

COST ESTIMATE

MAY 31, 1991.

1. Bill number: S. 210.

2. Bill title: Comprehensive Uranium Act of 1991.

3. Bill status: As amended by the Senate Committee on Energy and Natural Resources, May 22, 1991.

4. Bill purpose: S. 210 would reorganize the government's uranium enrichment enterprise and assist the domestic uranium industry.

Title I would establish a wholly owned government corporation to replace the existing Department of Energy (DOE) program for providing uranium enrichment services to commercial nuclear powerplants and to government defense and research programs. Key features of the proposed corporation are summarized below. This bill would:

Set the corporation's initial debt at $364 million, payable with interest to the Treasury over a period of 20 years. Payment of the $364 million debt would constitute all of the recovery of past costs associated with the uranium enrichment program. By contrast, the General Accounting Office (GAO) estimates that unrecovered federal costs for uranium enrichment now total about $11 billion.

Provide the uranium enrichment corporation with up to $2.5 billion in borrowing authority, but would not allow the corporation to borrow from the Treasury's Federal Financing Bank. The corporation would fund its spending through a combination of its revenues and borrowing from the public. Under current law, the Congress provides an annual appropriation to fund the DOE program.

Provide that the proposed corporation be managed by an Administrator and a corporate board, both appointed by the President. The Secretary of Energy would have general supervision over the Administrator for health, safety, environment, and national security concerns.

Transfer current DOE production facilities for uranium enrichment to the corporation. The corporation would then issue capital stock to the Treasury to represent the book value of assets transferred.

Require the corporation to set prices to (1) recover its initial debt; (2) pay for its costs of service; (3) recover costs of decontamination and decommissioning; and (4) provide a "normal business" profit—to be paid in dividends to the Treasury.

Exempt the corporation from sequestration under the Balanced Budget Act (Gramm-Rudman-Hollings). With the exception of initial set-up costs, the corporation's spending would not be subject to annual appropriations.

Title I also would establish a fund for the decontamination and decommissioning (D&D) of the government's uranium enrichment facilities.

Title II contains provisions that would assist and attempt to revitalize the domestic uranium industry by:

Establishing a program that could lead to increased purchases of domestic uranium by nuclear utilities;

Establishing a national strategic uranium reserve (consisting of uranium stocks currently held by the the U.S. government);

Directing the Secretary of Energy to encourage the use and export of domestic uranium;

Requiring the federal government to purchase only domestic uranium for defense needs; and

Establishing a program for partial reimbursement, by the federal government, of remedial action at active uranium and thorium processing sites. The bill authorizes $300 million for this purpose.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
AUTHORIZATIONS					
Corporation Setup costs:					
Estimated authorization level	5	—	—	—	—
Estimated outlays	3	2	—	—	—
Remedial action at uranium and thorium processing sites:					
Authorization level	300	—	—	—	—
Estimated outlays	—	25	50	50	75

The costs of this bill fall within budget function 270.

BASIS OF ESTIMATE

Title I

The major potential short-term budget impact of the bill would result from the creation of a new Uranium Enrichment Corporation, which would carry out functions currently performed by the Department of Energy (DOE). The bill would authorize such sums as necessary to pay the costs of setting up the corporation. Except for these initial expenses, the new corporation's spending would not be subject to annual appropriation. Once it is established, the corporation would have the authority to spend any funds obtained from the sale of enriched uranium or through borrowing from the public. For the 1992-1996 period, CBO estimates that the corporation would spend an average of $1.5 billion to $1.6 billion a year and take in similar amounts in annual commercial receipts; net outlays—excluding intragovernmental transactions—would be about $50 million in fiscal year 1992 and about $125 million over the 1992-1996 period. The corporation would also provide enrichment services for government programs, primarily for defense activities. Receipts from these intragovernmental sales would total about $130 million in 1992 and slightly higher amounts in subsequent years. The annual totals of commercial and government receipts for enrichment services are likely to be greater than gross spending on uranium enrichment activities over the 1992-1996 period. Hence, net spending by the corporation would be negative over the next five years. Some of the corporation's receipts, however, would be offset by spending in other programs (primarily defense), specifically for the purchase of those enrichment services.

Whether the proposed change in the uranium enrichment program would significantly affect the government's net spending over the next five years depends on what appropriations would otherwise be. Spending plans for uranium enrichment are particularly uncertain because of potentially large increases in the program's costs for power, environmental cleanup activities and new enrichment facilities.

Nevertheless, it is possible that spending on enrichment under the bill would exceed that under current law because the enrichment program no longer would have to compete with other federal programs for appropriations and because it would have to bear certain costs that are not required under current law. For example, CBO estimates that setting up the corporation would require up to $5 million in administrative and legal costs. The bill would authorize the appropriation of such sums as necessary to meet these set-up costs. The bill also would require the corporation to make payments to states, in lieu of taxes, beginning in fiscal year 1997. We estimate that these payments would total $5 million to $15 million per year, starting in 1997.

Use of Corporation Borrowing Authority

On average, projected spending would remain below or close to the total of estimated corporation receipts (commercial and government sales) for the 1992-1996 period. Hence, CBO does not estimate that the corporation would use any of its $2.5 billion borrowing authority in the near term—except perhaps for some short-term borrowing to meet cash-flow requirements. Long-term borrowing would become more likely if and when the corporation builds new enrichment facilities, depending on whether new technology and market demand warrant an expansion of enrichment capacity. Initial spending for construction of a new enrichment plant could begin before 1996, but would not be completed until the late 1990s. This estimate does not assume any such spending in excess of that which would have been spent from appropriated funds under current law.

Decontamination and Decommissioning (D&D)

The bill would establish a fund for the eventual decontamination and decommissioning of uranium enrichment facilities. The three principal facilities are the production plants in Paducah, Kentucky; Portsmouth, Ohio; and Oak Ridge, Tennessee. (The Oak Ridge plant is no longer in active service, but DOE has not conducted any major D&D work for the plant.) Costs to complete D&D will probably total considerably more than $1 billion, in 1991 dollars, per facility. Based on information provided by DOE, CBO does not estimate any significant spending on D&D activities during the 1992-1996 period. In fact, most of the eventual D&D spending will probably take place after the year 2000.

The corporation would have to set aside, from its receipts, at least 50 percent of estimated total D&D costs by the year 2000. CBO does not estimate any change in commercial receipts over the 1992-1996 period, as a result of this D&D set-aside provision. Intra-governmental enrichment receipts could increase under the bill, but any such changes would have no net budget impact because these receipts are exactly offset by spending in defense and other nuclear materials programs. The D&D set-aside provision could affect pricing of commercial enrichment services after 1996, when most new contracts would be agreed to.

Title II

The provisions of Title II would result in $300 million of additional spending, indexed to inflation and subject to appropriations, to fund remedial actions at uranium and thorium processing facilities. Assuming appropriations of the authorized funds, CBO estimates that about $200 million would be spent during the 1992-1996 period, with the remaining funds spent after 1996. This estimate is based on information provided by the Nuclear Regulatory Commission's Denver field office, which monitors uranium site plans and cleanup activities. Estimated spending for remedial action over the 1992-1996 period is shown under "Authorizations" in the table.

CBO estimates that other provisions of Title II would have no significant impact on the budget over the 1992-1996 period.

6. Pay-as-you-go Considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Because the uranium enrichment corporation would not require annual appropriations, any spending it conducts would be direct spending, and any corporation receipts would reduce direct spending. Although all net spending by the corporation would be direct spending, CBO believes that only new spending should be counted for pay-as-you-go procedures. The only new spending estimated for this bill consists of payments to states, which would not begin until 1997 and corporation set-up costs, which are subject to appropriations. Therefore, CBO does not estimate any pay-as-you-go effects.

7. Estimated cost to State and local governments: Under Title I, both Kentucky and Ohio are likely to receive federal payments in lieu of state and local taxes for facilities operated by the proposed uranium enrichment corporation. Under the bill as amended, however, these payments would not begin until 1977. The corporation would determine the amount of any such payments. Potential payments would depend on estimates of the corporation's annual net income and the value of the corporation's property. Based on tax information provided by the two states, CBO estimates that payments could total between $5 million and $15 million per year, beginning in fiscal year 1977.

8. Estimate comparison: None.

9. Previous estimate: On May 10, 1991, CBO prepared a cost estimate of S. 210, as ordered reported by the Senate Committee on Energy and Natural Resources on April 23, 1991. The April 23 version of the bill would have required the uranium enrichment corporation to begin making payments to states, in lieu of taxes, in fiscal year 1992, while the bill as amended by the Committee on May 22 would delay the start of such payments until 1997. The May 22 version of the bill also would make funding for the costs of setting up the corporation subject to appropriations. This condition was not contained in the April 23 version of S. 210.

10. Estimate prepared by: Pete Fontaine (226-2860)

11. Estimate approved by:

JAMES L. BLUM,
Assistant Director,
for Budget Analysis.

REPEAL OF THE 10-PERCENT LUXURY TAX ON BOATS—S. 649

Mr. KASTEN. Mr. President, last year I vigorously opposed the budget summit agreement because it included over $165 billion in new taxes. I believe this tax increase has contributed to the current recession. Among the most damaging of these taxes was the 10-percent luxury tax on boats costing more than $100,000. While this tax was designed to somehow punish rich people, it is in fact putting thousands of middle-class workers in the unemployment lines. It is a classic example of how tax increases imposed by Washington end up destroying jobs in communities across the Nation.

One of the great ironies here is that the tax will end up costing the Government far more than it will raise. Initially the National Marine Manufacturers Association estimated the tax would cost 8,000 jobs in the boating industry, now that figure has been revised upward to 18,000. In addition to the pain caused to the workers, the Government is a big loser in tax receipts. Each lost job costs the Government income tax and payroll tax receipts, it also increases unemployment payouts. In addition, the boating industry is now in such bad shape that many boat manufacturers are closing their plants. This also costs the Government money in lost business tax receipts. In addition, there is the administrative cost to both the Government and the private sector in complying with a tax that will generate tremendous paperwork.

In Wisconsin, the luxury tax is doing tremendous damage to our boating industry. Carver Boat Co. in Pulaski, was forced to declare bankruptcy in April and is now working toward a comeback under new ownership. Brunswick Corp., which manufactures boat motors has been forced to lay off workers. Skipperliner Industries, a boat builder in La Crosse, has sold only one boat subject to the tax since it went into effect in January. Cruisers, Inc., in Oconto, is in serious trouble due to the tax.

Nationwide sales of recreational boats have declined more than 40 percent over the past 2 years and employment in the industry has declined from roughly 600,000 to approximately 400,000. This fact alone demonstrates that absolutely no research was done before this tax was proposed and approved. The worst possible policy for an industry already hit hard by recession would be to add an additional 10-percent excise tax on top of the product. The only solution now is for Congress to admit that this tax makes no sense and to immediately repeal it. I have joined as a cosponsor of S. 649, which would repeal the tax and I urge all of my colleagues in the Senate to join me as a cosponsor.

I ask unanimous consent that articles on this topic by James Taylor, chairman of the National Marine Manufacturers Association, and by Mike Royko, a syndicated columnist, be entered into the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 23, 1991]

LUXURY TAX SINKS U.S. BOATING INDUSTRY

(By James W. Taylor)

A simple ceremony during the Miami Boat Show this winter illustrates why the Bahamian government has a better grasp of simple economic theory than does our own. Prime Minister Sir Lynden Pindling used the backdrop of the world's largest boat show to announce that the Bahamas would be reducing boat taxes to less than 1% of a vessel's value and accelerating marina development. Sir Lynden's motive was straightforward: to lure American boaters, draw boat sales and service to the islands and, in turn, creat jobs.

Sir Lynden's action came less than two months after imposition in the U.S. of a 10% excise tax on that part of a new pleasure boat's price tag that exceeds $100,000. While that will make it better in the Bahamas for those who wish to buy and slip their boats there—and for people looking for work there—it will further eliminate jobs in the U.S. boating industry.

In fact, the blood is already running here. Because of local labor sensitivities and fear that their names in the media will further jeopardize sales, many boat builders won't go on record to explain how hurtful the tax is. But one major builder confides he has cut $100,000-plus production to custom orders only and given more than 450 workers layoff notices. A household name in sport-fishing yachts has closed its Southern plant, forcing 600 people out of work. The tax is cited regularly by those entering bankruptcy proceedings.

In Florida, the nation's top boat-building state, the Labor Department estimates that builders alone laid off 5,000 of 18,800 workers by the end of 1990. Marine retailers, original equipment manufacturers, and services allied to boating, such as lending, insurance and publishing, are feeling the ripple effects. Are all of these job losses directly the result of the excise tax? No. But the new tax deepens our industry's woes.

The boat tax and other so-called luxury taxes on jewelry, furs, private aircraft and high-ticket autos were originally included in the budget reconciliation game as a swap for the capital gains tax cut for the "rich" that never happened. Worse for all taxpayers, the Joint Committee on Taxation of the U.S. Congress has released an estimate of collections showing only $3 million attributable to boats in 1991.

In an interview, Peter K. Scott, a partner at Coopers & Lybrand and former general counsel to the IRS, stated: "The revenue gains from the luxury tax are illusory; businesses and the IRS will spend two or three times more to comply with and collect it than the small amount of revenue it raises. This is the ultimate in bad tax policy." Fred Goldberg Jr., commissioner of internal revenue, has been quoted saying he has no estimate of the cost of collecting the new taxes and questions whether the revenues collected are worth the burden to the IRS and the taxpayer.

Before you dismiss this issue as parochial, consider what consequences an arbitrary 10% price hike on shoreside condominiums, backyard pools. European travel, wide-screen televisions, season pro football tickets or a host of other "luxury" goods and services might have. The excise tax on boats set a dangerous precedent.

Price points affect boat sales, just as they affect refrigerator and clothing sales. Pleasure boats are affected by a price elasticity of two, according to industry pricing and marketing studies and as illustrated by the experience of two European nations. Lawmakers in Britain and Italy found that boat sales decreased by double the percentage amount of the excise taxes they levied and tax revenues decreased. Subsequently, Britain withdrew the tax and Italy reduced it significantly. In the U.S., this means we could expect sales of affected boats to be depressed 20%.

The National Marine Manufacturers Association estimates that 10,000 to 15,000 boats will be affectd by the tax and that 6,000 to 8,000 workers will lose their jobs this year. Those workers pay more than $30 million in federal income taxes annually.

America's boating industry is one of few U.S. manufacturing industries that maintains a net trade surplus—$239.4 million in 1989, the latest year available. U.S.-built recreational boats are highly regarded in all world markets and in demand in countries, such as Japan and Germany, where insistence on quality is high. The new excise tax, while not collected on exported goods, lowers domestic demand and volume, thus reducing American boatbuilder productivity. It will directly jeopardize our competitiveness with trading partners and could ultimately sacrifice the boating trade surplus, which is an economic benefit shared by all Americans.

The boating industry has found members in Congress who recognize the folly of the boat tax. Sens. John Breaux (D., La.), John Chafee (R., R.I.) and Claiborne Pell (D., R.I.) and Reps. Clay Shaw (R., Fla.) and David Bonior (D., Mich.) have cosponsord bills in their respective chambers to repeal the excise tax on boats.

For businessmen now unaffected by an excise tax burden, helping these bills succeed might be the best insurance to keep matters that way.

[From The Washington Times]

CONGRESS MISSES THE BOAT ON TAXES

(by Mike Royko)

It seemed like a smart idea to congressmen at the time. In fact, it's always a clever political move, although not very original: Soak the rich. Let fat cats pay more tax because they can affort it.

And what better symbol of self-indulgent wealth than The Yacht? Yeah, look at those rich swells, in their fancy yachting whites, lounging in a harbor, guzzling gin and tonic while decent, hard-working folk can't afford a rowboat.

Nobody ever lost an election by boldly standing up to rich and pampered yachtsmen.

So Congress last year showed its concern for the middle class by enacting a special 10 percent tax on certian luxury items, including boats that cost more than $100,000.

They were in such a hurry to granstand that they didn't bother to hold hearings, get opinions from the boating industry or talk to economists.

If they had, they might have been told what would happen. And they wouldn't be feeling as stupid as they are right now.

It didn't occur to them that somebody considering a $300,000 boat might say: "Let's see, in this state I have to add about $20,000 in sales tax. Now they want me to pay another $20,000 in federal taxes? so that's $40,00 more. And since I'm going to finance the deal, I'm also going to be paying interest on that $40,000. Hey, forget it. I'll buy a good used boat instead, or maybe I'll just charter one."

It seems that a lot of potential boat buyers thought that way. That shouldn't have been a surprise. Not every big-boat buyer is a Rockefeller. Many are successful small businessmen, lawyers, doctors, and the boat is the big payoff of their professional lives. For some, it takes the place of the weekend house on a lake or in the country. Others use boats as retirement homes.

In a way, it was like slapping a 10 percent tax on any lake or beach house, weekend farm or other second home that costs more than $100,000.

But Rep. Dan Rostenkowski, Illinois Democrat and chairman of the House Ways and Means Committee, and those other creative minds wanted to show voters that they weren't afraid to soak the rich, even if the tax caused some fat cat financial pain.

And cause pain it has. But to the rich? Nah. Hardly any at all. The super-rich already have their yachts or can buy them in another country that isn't tax-goofy.

What Congress managed to do was put thousands of people out of work, close some small businesses and deprive the Treasury of taxes that these thousands of working stiffs would have otherwise been paying.

Apparently Congress didn't know that boats are built by people. That's not surprising, since congressmen don't build anything. Mostly, they babble. Just watch C-Span.

But it's true. Boats are put together by craftsmen. The bigger and more luxurious the boats, the more skill and time are required.

When the tax took effect, right on top of a recession, people stopped buying, and the luxury boat business sank.

Boat companies had to lay off workers. The National Marine Manufacturers Association estimates that more than 19,000 jobs will be lost this year because of the tax.

Nobody knows how many of those 19,000 people will stay unemployed or find lesser jobs. But the association estimates that without incomes, they will be paying at least $30 million less in income tax. Maybe as much as $60 million.

Some boat companies, especially small, family-run operations, went out of business. For example, David Walters, 49, has been building quality yachts in Rhode Island for 20 years. He sold about six boats a year, ranging in price from $300,000 to $600,000. He employed 40 people.

He had to close down. His 40 workers lost their jobs. Now he's in Florida, selling used boats, which aren't taxed, on commission.

"People are upset about this tax. They're not going to give 10 percent to the government, especially as a tax that doesn't apply to other recreations. Congress isolated a very small group. It looked fashionable, going after people who build boats that are being penalized.

"At the time I left New England, they had wiped out three of seven builders in my area. And the ones remaining are hanging on by their fingernails.

"Congress made a terrible mistake. This tax is revenue negative and put a lot of people out of work. I lost everything. I worked 60 and 70 hours a week, and everything I've built is gone. I could have stayed in business if they didn't have that tax."

And there is the ripple effect. The thousands of people who lose their jobs stop spending, and that hurts local merchants. The suppliers to the boat companies sell less, so they lay off workers, who pay less tax and spend less. And on and on it goes.

To show you how smart Congress is, this country's private boat industry is—or maybe was—the world's leader. It exported American boats. Well, maybe the Japanese will fill that gap.

And how much revenue has the boat tax brought to the federal government? Economists aren't sure, but they say it's possible that the cost of collecting it is wiping out what is being collected.

That means Congress came up with a tax that loses money, has wiped out thousands of jobs and deprives the Treasury of millions in income tax dollars. Not to mention the misery that comes with being tossed out of work or losing a business.

This is just another of many reasons congressmen should always sit up straight in their chairs. If they tilt their heads to the side, their brains might fall out of their ears.

TOBACCO RESEARCH UNCOVERS MANY HEALTH USES

Mr. HELMS. Mr. President, last month in the Senate, another in a long line of legislative attacks against tobacco was introduced.

It is becoming increasingly popular and politically safe for self-righteous Members to come to the Senate floor and deliver endless diatribes about the evils of tobacco and smoking. Never mind the thousands of small, family farmers who rely upon tobacco for their livelihoods. Never mind the many billions of dollars generated for the Federal Treasury through taxes on tobacco. And most importantly, never mind that those preaching the elimination of tobacco have no tobacco farmers in their States and, therefore, have no constituents affected.

As long as the cameras roll and the newspapers carry the story, tobacco will continue to be a whipping boy for zealous antismokers.

Mr. President, I read in the May 19 edition of the Charlotte Observer an article which I hope will convince some of my colleagues that tobacco has a benefit to society at large and can be politically safe. The article reports on the scientists across the Nation who are becoming increasingly interested in the different uses of tobacco.

Some of my colleagues may be pleasantly surprised to learn what may be in tobacco's future.

Mr. President, I ask unanimous consent that the article from the Charlotte Observer concerning tobacco research be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RESEARCH ON TOBACCO TURNS UP HEALTHY USES, FROM DRUGS TO COLOGNE

(By Donna Shaw)

Who says North Carolina's No. 1 cash crop can't be politically correct?

For those who thought tobacco was socially unacceptable in any form, you should know that in labs across the country, scientists are devising innovative—even healthy—uses for tobacco.

Among the products that can be derived from the plant, researchers say, are high-quality proteins, fat substitutes and melanin, a natural pigment that protects the skin from ultraviolent radiation.

A California company is even field-testing a tobacco that contains proteins for potent anti-cancer drugs.

"The irony of that should not be lost on anybody," says Walker Merryman, vice president of the Tobacco Institute, a trade group of cigarette manufacturers.

Such research is important to North Carolina, where tobacco is a $6 billion-a-year industry, employing more than 100,000 workers and manufacturing 60% of the nation's cigarettes. Farms in 89 of the state's 100 counties produced 628 million pounds of the crop last year.

The problem with many of recent tobacco experiments has been translating them into commercial products.

Now, DNA Plant Technology Corp. of Cinnaminson, N.J., is on the brink of doing just that.

DNAP, as the agricultural bioltechnology firm is known, this month received a patent on a new variety of tobacco plant that produces high levels of a scarce chemical called sclareol.

Sclareol can be used in deodorants, aftershave lotions and colognes in place of animal-derived musk, and in food as a flavor enhancer. DNAP officials say the chemical has become increasingly scarce and costly because of the elimination of animal sources of musk and the difficulty in growing other plant sources of sclareol.

"The real breakthrough is that this is a valuable chemical that has been known for a long time," said Robert Whitaker, DNAP's managing director of research. "And this is the first time anyone has found a way to produce a steady source of it from plants."

DNAP's tobacco plant, a wild species called "cotiana glutinosa," was modified using somoclonal variation, a technique in which plant cells are cultured in dishes and the variants containing the most sclareol are used to grow new plants. The new variety contains more than 20 times as much sclareol as any other plant, according to DNAP.

Tobacco-derived sclareol also will be much less expensive than current sources, because of the quantity and because tobacco grows quickly. It can be harvested as many as three times a year, Whitaker said.

COMMERCIAL USE IN 1992?

DNAP started working on the tobacco project in 1984, after a client asked the company to find a reliable plant source of sclareol.

So far, the company has grown its tobacco in 1-acre plots, but larger-scale trials are being conducted this year. By the end of the year. Whitaker said, researchers should have a better idea of cost and yield per acre. He said tobacco-derived sclareol should be commercially available next year.

Current market demand for the chemical probably could be met with 1,000 acres of tobacco per year, Whitaker said.

"But our feeling is that if a steady, reliable source was there the market could easily double," he added.

DNAP already has some prospective customers for its new product. Whitaker said flavor and fragrance manufacturers would be the primary buyers.

Besides replacing animal-derived musk, Whitaker said, sclareol is particularly useful in ridding artificial sweeteners of their bitter aftertaste.

"It gives you a better, more rounded flavor," he said.

OTHER CHEMICALS ABOUND

DNAP's process also opens up the possibility that other commercially valuable chemicals can be derived from tobacco grown for its sclareol. Tobacco, said Whitaker, contains more than 4,000 organic chemicals.

Biosource Genetics Corp. of Vacaville, Calif., has modified tobacco to produce melanin and proteins used in the cancer drugs interferon and interleukin 2.

Scientists in the United States and Europe also have been trying to develop a profitable method of extracting high-quality protein from tobacco.

At the University of Kentucky, for example, plant pathologist Shuh Sheen has harvested tobacco proteins that he says could be converted into fat substitutes and nutrient supplements. Tobacco protein is better than soy protein because it contains all 20 of the amino acids important to humans, he says.

"The problem was, the economics never made sense," Whitaker said. "Now, with more than one chemical (to be extracted), it will."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The PRESIDING OFFICER. The clerk will report the pending business, which is S. 173.

The assistant legislative clerk read as follows:

A bill (S. 173) to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, in working out on yesterday the so-called rural amendment, where we certainly got away from the operations language in the original amendment so there would be no veto, so that we would also require that, in other words, so long as they would be making a profit.

The original amendment, I should point out, the amendment of the Senator from South Dakota, had a veto by the rural telephone companies over the operations of the Bell Cos. It also contained a provision in there that the Bell Cos. had to continue to sell to the rural companies irrespective of whether they had discontinued that particular equipment and moved on to more advanced equipment, and continue to sell it to them even at a loss.

We did away with those things, obviously, and got together with the distinguished Senator from South Dakota. I think we have now a good, strong amendment whereby the bigs will not gobble up the smalls; whereby there will be planning; whereby we will be adhering, in a sense, to the admonition of the Office of Technology Assessment, where they said with better planning with the small, rural entities by the larger Bell Cos., that you could get advanced and better services in the rural areas. And that was the intent, I would say, I guess, of all 100 Senators.

However, an atmosphere develops here where now for 2 days they continue to talk about amendments. I am going to have to revert to my old days in the State legislature: You either brought your amendments up or we moved on, and we would just have to get to third reading.

The reason I am making these comments now—I am checking where they say they have certain antitrust language. I am prepared to put up certain antitrust language. If there is any clarification necessary—I do not think so—I have the language that has been used in several other statutes. The precedent is set. There is no intent in this bill.

We did not just bring up this bill yesterday. This bill has been worked on diligently for the last 3 years by all facets and all lawyers and all talents and all abilities.

It is very cautiously and deliberately drawn, with a balance in there to make certain that the Bell Cos. are allowed to manufacture through wholly-owned subsidiaries, entirely separated, without any cross-subsidization, with notification, restricted kind of self-dealings and everything else and, with respect to antitrust—even when we got to the planning, and that is what induced my comments here this morning initially—we said in conformance with the antitrust laws.

Some still think maybe that is not sufficient. They want to rewrite the bill, "provided however," "provided however." We are prepared to try to table those amendments but they do not come with the amendments. We understand there is one with domestic content. The intent is clear. Competition in the world market and everything else, all has domestic content in there. We certainly did not put this bill in for foreign manufacturers. That is where they are. We are trying to bring them back home. There is no doubt about what the intent is here, in this particular bill.

So those who want them to continue to manufacture overseas and everything else about domestic content, let them bring their amendment, or this particular Senator is really encouraged, after 2 days and none of the amendments coming, to just put up the amendment and move to table my own amendment and move on. The Senate has to get on with its business.

Maybe an atmosphere has developed where some think we are wheeling and dealing and ready to accept. We are not being hard headed. We are willing to talk; but in the context of not accepting, it is after due and deliberate consideration. This bill has been worked and worked and worked over and all the caveats are in there. It is a well-balanced bill. It has bipartisan support—strong support on all sides because it has been worked and we have taken care of these misgivings that some could have had. The intent is clear. We are ready to move.

I am checking with the other side of the aisle to see if I cannot just go ahead with the amendment that is rumored, bring it up myself and move to table my own amendment and move on to third reading so no one can complain they did not even get consideration. We are going to get consideration here shortly.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I respect the diligent efforts on the part of the manager of the bill to pass this legislation. I spoke to the bill shortly after it came to the floor and indicated I had some concerns both from the consumer standpoint as well as from the question of domestic content, the question of whether or not we would be losing jobs rather than making jobs. I was prepared to come here yesterday with a rather fulsome speech. I thought it was a pretty good speech I was going to make. But the fact is some Members on the other side of the aisle saw fit to bring up their position with respect to the civil rights bill, which they certainly had a right to do. But that consumed about an hour and a half of time. Then there was considerable discussion concerning the rural amendment, a matter with respect to which I was not directly involved. And I am over here this morning prepared to address myself to the subject and have already had discussions with the manager of the bill.

It is my understanding, and I said to him I was prepared to go forward, but I was prepared to explore the possibility of accepting or discussing some amendments. The last I had spoken with my friend from South Carolina, the understanding was his representatives and mine were going to sit down and meet. I guess his representatives and mine are sitting back there ready to see if they can work out these matters. If they are able to do so, I think it will accelerate the process greatly. We are ready; they are ready to negotiate.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that I may proceed for 5 or so minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRIFT NET FISHING

Mr. GORTON. Mr. President, time and again, this Senator has urged the administration and the Senate to take action to end the deplorable practice of drift net fishing. During the last couple of years, this fishing practice has gone from a scourge few people knew about to one recognized by the world community as so destructive that it must cease totally and immediately.

I am heartened by the U.N. resolution to end this practice by June 30, 1992. I was proud to work with Senators STEVENS and PACKWOOD last year in incorporating new antidrift net amendments in the Magnuson Act. I am also pleased to be a cosponsor of Senator PACKWOOD's bill, S. 884, the Drift Net Moratorium Enforcement Act. This bill, which I predict will be passed by the Senate this year, would require the President, on January 1, 1992, to certify any country which has not notified the United States of its intention to stop drift net fishing by June 30, 1992. If a country is certified, then the President is authorized under the Pelly amendment, to ban the import of fish or fish products from that country. In addition, it gives the President the authority to invoke a wide array of sanctions against a country that continues to violate the moratorium after June 30 of next year.

Unfortunately, Mr. President, not everyone is getting the message that the world community is demanding a ban on drift net fishing. I have just received evidence that on May 13 of this year, a National Marine Fisheries Service agent accompanied Canadian Maritime Forces on a high seas drift net patrol utilizing a high-technology Canadian P-3 aircraft. Over 4 days, the patrol covered nearly 750,000 square miles of high seas areas and 10,000 miles of flight legs. This patrol detected in position 40 41'N/164 32E a vessel of the People's Republic of China. This citing is especially noteworthy because it is the first instance that a Chinese vessel has ever been documented conducting drift net fishing activities. It was seen in an area where numerous other high seas drift net vessels have been sighted illegally fishing for salmon and steelhead since April of this year. This vessel was flying a People's Republic of China national flag, displayed a large red star on both smoke stacks, and had a large high seas drift net clearly visible on its deck and ready to set in the water. The vessel's name was determined to be the Luo Ling No. 3.

Mr. President, today I am sending letters to the National Marine Fisheries Service, the Coast Guard, and the Department of State, which has been very reluctant to report this violation, demanding that each of them investigate and pursue this matter aggressively.

I welcome my colleagues' support for this action. Working together with Senators PACKWOOD, STEVENS, and I may say the chairman of the Commerce Committee, who is here managing the current bill, and other colleagues in the Senate who understand the importance of this issue, we will attempt to convince the administration, and the drift netting nations of the world, that this deplorable practice must end.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Washington, and I hope we can move on that important matter, a matter of concern to all of us.

FLOOR PRIVILEGES

Mr. GORTON. Mr. President, I ask unanimous consent that Keith Krehbiel, the congressional fellow on the staff of the Republican leader, be given privileges of the floor during consideration and votes on S. 173.

The PRESIDING OFFICER. Without objection, it is so ordered.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, so colleagues will know with respect to the Simon amendment, I understand that they are now finalizing the language of the Simon amendment. The Simon amendment goes to the heart of the issue concerning audit of the RBOC's. Under his amendment, there is a requirement that the FCC establish the rules and regulations and conduct audits of the RBOC's and their Affiliates as well.

I understand the distinguished Senator from Ohio on the matter of the engaging with the collaboration under that section F. A Bell Telephone Co. and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment of telecommunications equipment during the design and development of hardware, software, or a combination thereof. That does not violate the prohibition against cross-subsidization, and it does not repeal the antitrust provisions relative to this particular act.

We would go along with that phrase if it says also consistent with the provisions prohibiting any cross-subsidization by the Bell Cos. with their particular affiliates.

We also would work with Senator SIMON to resolve the issue concerning States audit authority. As now under the law the States have not only that volition but they have that responsibility from time to time to carry out audits of the RBOC's. I imagine that 25 percent of the Bell Cos. business would be in the interstate arena and as a result audited at the Federal level by the Federal Communications Commission. The remaining 75 percent of the Bell Cos. business is regulated at the State level as intrastate and the local public service commissions there would be responsible for the audits.

It is the intent, as I understand, of the Senator from Illinois, that his amendment will require States to oversee audits of the RBOC's. These audits shall be conducted by an independent auditor selected by the local commission, and we are working out the specific language on the issue of access to the books and records of the RBOC's and their affiliates. Of course, you cannot do an audit unless you have the books.

We do have some reservations on the issue of giving access to RBOC's financial information about giving the States the right to look at the books anytime, for any or no reason. RBOC's could find themselves being audited all the time, at every level. We want to make sure that is carried on in a judicious fashion and with probable cause—not just being overregulated—auditors in the RBO offices around the clock all the time. I hope when both sides clear the language we will be ready to go.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 283

Mr. INOUYE. Mr. President, I rise on behalf of Senators DODD, LIEBERMAN, AKAKA, WELLSTONE, and myself, to offer an amendment to S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act. The purpose of my amendment is to strengthen the safeguards against self-dealing by the Bell Telephone Cos. This amendment will ensure that the telecommunications equipment market remains competitive by: First, ensuring other manufacturers continue to have an opportunity to sell equipment to the Bell Cos., and second, requiring that Bell manufacturing affiliates sell equipment to other users.

My amendment addresses the most serious issue raised by this legislation, namely the ability and incentive of the Bell Telephone Cos., which are local monopolies, to purchase equipment from their affiliated manufacturers and joint ventures to the detriment of consumers and competitors. This ability to leverage their control over the local bottleneck poses two dangers.

First, there is a danger that by purchasing from themselves they will do so without regard to the quality or price of the product. This in turn increases rates to local residences and businesses beyond those which would exist in a competitive local exchange setting. Cross-subsidies from monopoly services end up supporting less than competitive enterprises.

The other danger confronts the Bell manufacturing affiliate's competitors, who are forced to compete against a subsidized and favored venture rather than in an open market. Favoritism could take many forms: Sharing advanced network information, standards, marketing and other information; personnel exchanges; or even outright bias in procurement. This amendment does not bar self-dealing entirely.

This amendment recognizes that each Bell Co. which intends to manufacture telephone equipment must submit to and receive FCC approval of a plan ensuring that: First, each Bell Telephone Co. that engages in manufacturing will purchase a majority of its equipment from unaffiliated firms; second, each Bell manufacturing affiliate must sell at least 20 percent of its equipment to unaffiliated companies; third, personnel of the Bell manufacturing affiliates will not participate in formulating or developing generic or specific equipment requirements and standards, or obtain advance notice of such requirements; and fourth, unaffiliated firms have the same opportunity as the Bell manufacturing affiliates to prepare and submit proposals to sell equipment to the Bell Telephone Cos. and have their equipment evaluated on their merits.

The restrictions imposed by this amendment are of limited duration. The FCC must repeal these restrictions upon a finding that there is effective competition in the local exchange service. Under this amendment, effective competition exists when a majority of the residential and business subscribers have access to local telephone service provided by an unaffiliated firm; and a substantial amount of such subscribers actually subscribe to an unaffiliated firm's services.

Finally, this amendment requires the FCC to report to Congress on the state of competition in local telephone markets, the prospects for the development of competition, and the particular regulatory, technical, and financial barriers to the creation and maintenance of competition. By providing objective standards to judge the behavior of the Bell Telephone Cos. and their affiliates, we prevent the Bells from foreclosing their market to unrelated vendors.

Further, we provide a benchmark to measure the competitiveness of Bell and non-Bell manufacturers. If Bell manufacturing affiliates are unable to sell a substantial fraction of their products to independent third parties, then one might justifiably wonder whether they are truly economically viable in a free market environment, or subsisting on the local exchange monopoly.

This amendment is a reasonable compromise which meets the objections of those who fear that the Bell Co. will engage in cross-subsidies or self-dealing at the public's expense. This amendment provides an additional layer of protection for consumers, consumer advocates, mass media, and competitors.

Mr. President, if I may submit an inquiry to my chairman. I realize he has worked most diligently for a long period on this measure. But, as he knows, I sincerely believe this measure raises some very serious issues which I believe must be addressed. If he would give this amendment his serious consideration if and when we do go into conference, I am prepared to withdraw this amendment and do not wish to prolong this proceeding.

Mr. HOLLINGS. Mr. President, I want to give the distinguished Senator from Hawaii that assurance he requires and requests.

The Senator from Hawaii and the Senator from South Carolina have a similar interest with respect to self-dealing. S. 173, as a result, prohibits the RBOC's from manufacturing in conjunction with one another, they also must have separate financial records and keep their books of accounts of manufacturing activities separate entirely from their telephone company and they must file all of this information publicly.

They cannot perform sales, advertising, installation, production, or maintenance operations for an affiliate. The RBOC must provide opportunities to other manufacturers to sell to the telephone company that are comparable to the opportunities they provide RBOC affiliates and the RBOC may only purchase the equipment from its affiliate at the open market price.

The bill also contains provisions prohibiting cross-subsidization, limiting the equity ownership of the affiliate, and prohibiting the affiliate from incurring debt from the RBOC itself. We think we have the RBOC's manufacturing affiliate pretty well fenced off from the telephone company.

What happens, if you really get an amendment to limit self-dealing to 50 percent or less, which would require the Bell Co. to obtain the majority of its the equipment from unaffiliated firms, you are really going to stultify the incentive that we are trying to obtain—that is to allow the RBOC's to get into research and into development and into manufacture and stay, as we have said, on the cutting edge of telecommunications technology for the benefit of the consumer.

We think this is a consumer bill. I know the Senator thinks his amendment is a consumer amendment. It could be that in conference we could study it and we could make some adjustment, and I would be glad to look at it in that light.

I must, as a caveat, state in a sort of bottom line fashion, that no self-dealing limitations are required of those foreign companies who have taken over the market. It took me over an hour to list their activities, their purchases, their permeation of the telecommunications research and development in this country. These foreign companies manufacture here in this country. You and I think we have an FCC, and we have some little domestic companies over here with some money and we think we are going to control them and we are going to keep free markets. Meanwhile, the foreigners are going to take over our market right under our noses.

You see, that is the fundamental intent here, that the Bell Cos. should be able to buy the equipment they manufacture. But it has to be done on an even-Steven basis, all aboveboard, with no special pricing or anything else of that kind.

We would be delighted to look at that idea in conference.

Mr. INOUYE. Mr. President, I am most assured by that commitment, and with that commitment and assurance, I will withdraw my amendment.

But before I do, I ask unanimous consent that Senator METZENBAUM be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. DODD. Mr. President, I rise in support of the Inouye-Dodd effort to increase the safeguards against self-dealing in S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, and to ensure an open and competitive market in telecommunications equipment.

First, I must compliment Senator HOLLINGS and the Commerce Committee on giving this issue and telecommunications policy, in general, such serious consideration. It is common sense that our ability to achieve is directly related to our ability to communicate—this is as true for a person as for a nation. And this is why defining a telecommunications policy for our Nation is critical and why I commend the chairman and the committee for their work in this area.

However, I remain concerned this bill has insufficient safeguards to assure the desirable goal of the sponsors. One need not go back to the strong case made against MaBell, which brought on the divestiture of AT&T, to locate cases of abuse. Just in the past few years, both NYNEX and U.S. West were found in court to have engaged in anticompetitive behavior. The NYNEX case strikes very close to home in this debate, as NYNEX was caught paying inflated prices to an unregulated manufacturing subsidiary and passing on these costs to their local ratepayers.

I am seriously concerned that this bill, while it does contain important safeguards, does not go far enough to protect ratepayers, other consumers, and manufacturers.

As currently constructed, the potential for abuse remains too great. While the Regional Bell Cos. maintain monopoly control over local telephone service, opportunities and, indeed, incentives exist for them to frustrate and impede competition. For instance, timely information is essential to a competitive manufacturer, if a regional Bell Co. released technical information to its subsidiary directly and then later to the Federal Communications Commission, the delay would disadvantage other manufacturers. There is also the potential for other abuses such as cross subsidization. These effects may not be intended in this measure, but as they would provide a competitive advantage and a greater profit at the expense of captive local ratepayers, we must consider how to lessen the potential for such abuses.

We also owe the current telecommunications manufacturers this extra consideration. Except for AT&T, this industry was nonexistent 10 years ago. Today, however, Bell Communications Research, the joint research arm of the 7 regional companies, lists 9,000 suppliers of products to the Bell systems. While there is a trade deficit in this industry, it is declining—it dropped from $1.8 billion in 1989 to $800 million in 1990. In Connecticut alone, several thousand workers are employed in this field and it is a growing number. Just last week, I was in Middlebury and visited a company which has grown from a small 1-man operation to an enterprise which employs over 1,700 individuals in manufacturing switches for shipment around the United States and the world. This company and others like it are not concerned about competition; they are concerned about the establishment of an unfair playing field with the enactment of this measure.

The amendment, which we are now considering, would eliminate the likelihood of such abuses, but at the same time it would preserve the potential benefits of the entrance of the regional Bell Operating Cos. into research, development, and manufacturing—the benefits to the Regional Bell Cos. as well as to the industry and country as a whole. It would allow the Bells' manufacturing affiliates to participate and compete in the world market and in other domestic markets, but disallow it from selling solely to itself and from being its own sole equipment provider.

This provision would ensure that there is fair competition among manufacturers, including the Bell affiliates, to provide the local Bell Telephone Cos. with the best product at the least cost. Thereby, manufacturers, ratepayers, and the Bell Cos. themselves would be ensured of the benefits of a fair marketplace.

Mr. President, while I am disappointed that this amendment will not be included in this bill at this time, I appreciate Senator HOLLINGS' commitment to give this amendment, and the concerns which it addresses, his serious consideration in the conference on this bill.

The PRESIDING OFFICER. The clerk will report the amendment, and then the amendment will be withdrawn.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself, Mr. DODD, Mr. LIEBERMAN, Mr. AKAKA, Mr. WELLSTONE, and Mr. METZENBAUM, proposes an amendment numbered 283.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

"SEC. 228. (a) The Commission shall prescribe regulations requiring that any Bell Telephone Company that has an affiliate engaging in any manufacturing authorized by section 227(a) shall—

"(1) not engage in manufacturing until it has filed and received Commission approval of a plan that ensures—

That the personnel of the Bell Company affiliates that are engaged in the manufacturing of telecommunications equipment will not participate in the formulation of generic or specific requirements for any such equipment that the Bell Telephone Company will purchase and will not obtain notice of such requirements in advance of unaffiliated firms, and

That unaffiliated firms have the same opportunity as the Bell Telephone Company and its affiliates to prepare and submit proposals and quotes for telecommunications equipment to be purchased by the Bell Telephone Company and have that equipment evaluated on the merits;

"(2) purchase from unaffiliated firms at least a majority of each type of telecommunications equipment that is comparable to types of equipment manufactured by the Bell Telephone Company or its affiliate; and

"(3) sell, either directly or through its affiliate, to unaffiliated firms a substantial amount of telecommunications equipment manufactured by the Bell Telephone Company or its affiliate.

"(b)(1) Within 180 days after the date of enactment of this Act, the Commission shall adopt regulations defining the requirements in subsection (a), including a regulation defining the term "substantial" as an amount not less than 20 percent. The Commission may not alter the definition of the term "substantial" for five years from the date of enactment of this Act.

"(2) The FCC shall repeal the regulations adopted pursuant to subsection (a) when it determines that the Bell Telephone Company faces effective competition in providing local exchange service. The term "effective competition" shall mean that a majority of the residential subscribers and a majority of the business subscribers in the service area have access to local telephone service provided by an unaffiliated firm and that a substantial amount of residential subscribers and a substantial amount of business subscribers actually subscribe to the services of the unaffiliated firm.

"(3) Within one year of the date of enactment of this Act, the Commission shall report to the Congress on the state of competition in local telephone markets, the prospects for the development of competition, and the particular regulatory, technical, and financial barriers to the creation and maintenance of competition."

Mr. INOUYE. Mr. President, I ask that my amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 283) was withdrawn.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I will be glad to yield to our distinguished colleague from Ohio. I know we have been negotiating. In talking with the comanager of the bill on the Republican side, our ranking member, Senator DANFORTH, he is prepared and I am prepared to move to third reading.

We do not want to be precipitous. They talk about negotiations but I know the staff of our committee has been talking to the staff of the Senator from Ohio, the Senator from Illinois, and other Senators for weeks on end. We are still talking. We are waiting for telephone calls to come. I know the distinguished Senator can keep us engaged, I should say, for the rest of the afternoon and the evening.

But I say let us be engaged or let us move to third reading. Everybody should know that negotiations as far as this Senator is concerned are terminated. Let them offer their amendments, and we will get a better understanding than we are from the negotiations.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I have noticed a certain sluggishness in the process of this legislation. I know it has been on the floor since Monday. It is now afternoon on Wednesday. I believe that during that period of time one amendment has been offered and has been accepted. There have been various rumors about the possibility of other amendments. But they really have been only rumors. I am told that a Senator is headed toward the floor to offer an amendment. That would be fine. But I came to the floor about an hour or so ago and suggested to Senator HOLLINGS that perhaps the time had come to go to third reading. If nothing happens on a bill, we do not wait around forever.

So I encourage my chairman to proceed to third reading at a very early date. I think that if the bill just keeps alive forever, it will start attracting all kinds of extraneous amendments. This is an important bill. It is an important public issue, and it deserves to be attended to.

Mr. HOLLINGS. Mr. President, I appreciate the remarks of our distinguished colleague from Missouri. As I understand it, there are two amendments that are prepared and cleared on this side—one by Senator METZENBAUM, one by Senator SIMON. They must be cleared of course on the side of the Senator from Missouri. I hope we can see whether they would be cleared and, if not, of course the amendments would be offered. We will see what happens.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, let me first say I have had conversations with the manager of the bill, and Senator HOLLINGS has gone to great lengths in order to attempt to accommodate the Senator from New York. I thank him for his attempt at seeing if we could not have the amendment, which I am going to propose, which deals with Syrian participation in the forthcoming parade honoring the brave young men and women who served in Operation Desert Storm and Desert Shield.

That parade is going to take place this Saturday in Washington. That parade is going to involve the use of some $3 million worth of taxpayers' dollars. One of the terrible things that will be taking place in that parade is the flying of the colors of Syria. We are going to have a U.S. serviceman carrying those colors. I am going to talk about that as we go along.

The Senator who is managing this bill so ably and has spent so much time and effort here attempted to accommodate this Senator by asking if we could have a freestanding sense-of-the-Senate resolution being considered—and I want him to know I am deeply appreciative of that, and I attempted to see if we could do this.

As a matter of fact, I believe the leadership on our side has cleared this amendment for consideration and I want you to know it is bipartisan in nature.

Let me say, I think we could get just about all the Senators to come on this, including the President of the Senate who is now sitting. Let me tell you who we have on it. We have Senator DECONCINI, Senator GRASSLEY, Senator MACK, Senator MURKOWSKI, Senator LIEBERMAN, Senator LAUTENBERG, Senator HELMS, and Senator MOYNIHAN, as well as the Senator from Alabama, Senator SHELBY. So it is bipartisan.

This is something I think should be bipartisan, and I am sorry we have to offer it to this legislation. The only reason we have to do that is because we could not—and I want it to be known that my good friend, dear friend, Senator HOLLINGS, really attempted, starting last evening, to see if we could not clear a spot. And he agreed to suspend business so we could consider this freestanding and not encumber the important legislation before the Senate now and which the Commerce Committee has voted out overwhelmingly and which the Senator is looking to conclude.

AMENDMENT NO. 284

(Purpose: To express the sense of the Senate regarding the victory parade in Washington, District of Columbia, scheduled for June 8, 1991)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. DECONCINI, Mr. GRASSLEY, Mr. MACK, Mr. MURKOWSKI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. HELMS, Mr. MOYNIHAN, and Mr. SHELBY proposes an amendment numbered 284.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE REGARDING THE NATIONAL VICTORY PARADE FOR THE PERSIAN GULF WAR.

It is the sense of the Senate that any country—

(1) for which United States assistance is being withheld from obligation and expenditure pursuant to section 481(h)(5) of the Foreign Assistance Act of 1961; or

(2) which is listed by the Secretary of State under section 40(d) of the Arms Export Control Act or section 6(j) of the Export Administration Act of 1979 as a country the government of which has repeatedly provided support for acts of international terrorism,

should not be represented, either by diplomatic, military, or political officials, or by national images or symbols, at the victory parade scheduled to be held in Washington, District of Columbia, on June 8, 1991, to celebrate the liberation of Kuwait and the victory of the United Nations coalition forces over Iraq.

Mr. D'AMATO. Mr. President, what more grotesque an image could greet the grieving survivors of the victims of the bombing of the Marine barracks in Beirut in 1983 and of Pan Am Flight 103 in 1988 than a United States serviceman, perhaps even a marine, carrying the Syrian flag down Constitution Avenue as the Syrian Ambassador sits proudly in the reviewing stand?

Mr. President, the inclusion of Syria in the victory parade, a nation directly responsible for more American deaths than those lost in the recent war, is an outrage.

Why were the Syrians invited?

What about the Assad government? It is a government known to harbor and train a wide spectrum of terrorist groups, including those thought responsible for the bombing of the Marine barracks in Beirut and Pan Am 103. They control the Bekaa Valley. The Bekaa Valley is one of the havens for narcotics production and drug trafficking, one of the areas in which more poison is sent out to the world and to this Nation.

The Government of Syria, the Assad government, is guilty of every kind of human rights violation, including torture, which is routine. It is absolutely a government that will tolerate no opposition. It has wiped out its opposition. It has used tanks, artillery shells, and cyanide gas. It is a government that has employed none other than Alois Brunner, who was a key Eichmann aid personally responsible for the deportation of tens of thousands of Jews to death camps, and he is consultant to the Syrian security forces.

What the Syrians have done and are doing at the present time in Lebanon is unconscionable. The slaughter of the innocent, the slaughter of the Christians, and of the Christian community is something that continues.

Mr. President, that we would be associated with such a regime, no matter what the political change, is difficult if not horrifying. For that reason, I will offer an amendment that prohibits Syrian representation "either by diplomatic, military, or political figures or national images or symbols, at the victory parade to be held in Washington, DC on June 8, 1991, to celebrate the liberation of Kuwait and the victory of the U.N. coalition forces over Iraq."

There is no possible justification for cuddling up to a killer with American blood on his hands. It is wrong. It is dangerous. If this policy of cozying up to Assad persists, it is one we will long come to regret.

Mr. President, our President put together a coalition and in that coalition maybe we did not have the kinds of choices we would like to, and in the real world sometimes we have to work with killers, we have to work with dictators, we have to work with torturers. That is what Hafez Assad is. And I am not going to be critical of the fact that when that coalition and when our troops were there it may have been necessary for the coalition to be able to maximize its effectiveness to include the Syrians.

But for us to now pay tribute to their nation, to their leader, to their dictator, someone who is a killer, someone who is an international terrorist, someone who our own State Department lists as it relates to the continuance of harboring terrorists, someone who our State Department and Commerce Department lists in terms of drug trafficking, so that on two accounts we find he continues drug trafficking, we find he continues—and I am talking about Hafez Assad, the leader of Syria—he continues to harbor terrorists—on two fundamental accounts he has failed.

As it relates to his present record, there are some who say, well, he is changing. I would say the leopard does not change his spots, and Assad has not changed., There are 4,500 Syrian Jews who are held prisoners, who are used as pawns, who seek to emigrate out, but who are not allowed to leave.

Why would we want to see the Syrian flag carried by an American in this tribute to the coalition victory when indeed Syria and Assad flies in the face of everything that victory was about? That victory was about overcoming evil, about freeing a country, about seeing to it those who would use their force will not be permitted to do that because they are stronger or have better arms.

That victory was a noble one. That victory was achieved at the cost of many lives. Yes, there were fewer casualties than people thought, but there was American blood spilled.

How is it that we would pay honor and tribute to a nation that is ruled by someone who is responsible for hundreds and hundreds and hundreds of American deaths; whose terrorist activities have led to the killing of American marines in Lebanon; whose terrorists activities have led to the deaths of innocent people on Pan Am 103 by the harboring of these various terrorists groups, and they continue to do so; who at the highest levels of his government is deeply involved in drug trafficking and providing protection for those drug traffickers?

How is it now that we would humiliate the American public—and I say that with all sense of recognizing the seriousness of this statement—that we would humble the United States of America by allowing the Syrian barbarian flag—because that is what it represents when Hafez Assad, the dictator, is in charge—to come parading down Constitution Avenue?

I take strong exception to it, and for that reason I have introduced this amendment. I wish we could find a better vehicle because I feel very strongly that we may not get a true test as it relates to what the sentiment of this great body is. This great body should be repulsed by the idea that in any way we would give any respect whatsoever to Syria, to what it stands for, and particularly the man who runs that country, that brutal dictator, Hafez Assad.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I want to deal openly with my distinguished colleague, for whom I have the greatest respect. Senator D'AMATO and I have become good friends here in the U.S. Senate. He came to me last evening. We checked on both sides of the aisle. There were objections on the Democratic side because I said I cannot allow this particular amendment on this bill. It is in the context of trying to develop a discipline.

I know it might not appear this way to the Chair, but I am beginning to see light. I believe I have a bunch of Westmorelands around me. We have had light at the end of the tunnel for 3 days around here. But we do have two amendments worked out with Senator METZENBAUM; one with Senator SIMON. They are being checked now on the other side of the aisle, and momentarily we will agree on those amendments.

But in accordance with what I conferred and related to my good colleague, I said I am not going to break this discipline. We have it going here now, and we are not going to start a debate on this matter, although I have the highest respect for him.

So I move to table the amendment, and I ask for the yeas and nays.

Mr. D'AMATO. I wonder if my colleague will withhold his motion to table just for a moment.

Mr. HOLLINGS. I withhold just for a moment.

Mr. D'AMATO. I suggest the absence of a quorum.

Mr. HOLLINGS. If we are going to get everybody here to talk, that is what I am trying to forestall, the talking.

Mr. D'AMATO. It is not for that purpose.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I have conferred with my colleague from New York, the author of this particular amendment. The concern of the Senator from South Carolina was that we would not get into an extended debate, because this could be an issue and it could be well debated. That is why I was prepared to move to table.

It does not look like it will develop in that fashion. Senators are now being notified that we will have an up or down vote here at 1 o'clock, I think that is the understanding, without any request being made.

Mr. President, I ask unanimous consent that we give the Senator from New York an up or down vote on his amendment at 1 o'clock, and that no second-degree amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I wish to thank my good friend, the distinguished Senator from South Carolina, for the manner in which he has really afforded us an opportunity to be heard on this issue.

I publicly thank him for what he attempted to do last night, and what he has done today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER. I thank the Chair.

Mr. GRASSLEY. Mr. President, as an original cosponsor, I rise in strong support of Senate amendment 284.

June 8 is the day that our Nation gives its heartfelt "thank you" to men and women who so courageously served in Operation Desert Storm. The celebration will be the largest parade held in decades.

There is no room in our celebration for Syria, a country on our lists of terrorists and drug traffickers.

In fact, Syria's contribution to Desert Storm included: The invasion of Lebanon—and the de facto annexation of it; and the receipt of a billion dollars, with which they used to purchase weapons.

More Americans have died at the hands of Syrian-sponsored terrorism than died in all of Desert Shield and Storm. Here are some more facts about Syria:

Evidence indicates Syrian complicity in the terrorist attack on the Marine barracks in 1983.

Today, the perpetrator of Pan Am 103 safely and freely finds shelter in Syria.

Twenty percent of the heroin found in the United States comes from Syria and Syrian-controlled Lebanon.

Neither Syrian flags, nor officials, nor troops, should be a part of our victory celebration.

On Saturday, we will salute our troops—and we will salute all Americans who have given and sacrificed for our country. The memory of the victims of terrorism, who were killed because they were Americans, must not be marred.

Mr. PELL. Mr. President, I cannot support the amendment of my colleague from New York [Mr. D'AMATO], and from Arizona [Mr. DECONCINI]. I agree that President Assad and his government have committed serious human rights abuses, most notably in the slaughter of the opposition in the city of Hama, and I am gravely concerned by past, and possibly ongoing, Syrian support for international terrorism.

However, we are not honoring the Government of Syria in the parade Saturday. If we were in the business of honoring governments, quite frankly I would have reservations about including the flags from some other countries. For example, neither Saudi Arabia, nor for that matter Kuwait, have had a sterling human rights record.

We are honoring the men and women who fought as part of the allied coalition to defeat Iraqi aggression. Syrian soldiers were part of that coalition and many fought courageously in that effort. Some also died.

This amendment may make us feel good but it will accomplish nothing. Indeed, it could be counterproductive. Our Secretary of State is engaged in sensitive negotiations which include Syria. This could further reduce the likelihood of any progress. I would not be necessarily opposed to an anti-Assad amendment that accomplished some greater objective: For example, an amendment linking our relations with Syria to progress on human rights, the peace process, or terrorism.

This amendment will accomplish none of these things. It is merely a gratuitous insult. We were not too proud to fight shoulder to shoulder with the Syrian soldiers. We should not now be ungracious.

Mr. LEVIN. Mr. President, Syria should not be invited to participate in the Washington Victory Parade, which will take place this weekend. Syria's support of international terrorism, its occupation of Lebanon, and its unremitting hostility to Israel are too much at odds with our national interests and our sense of morality for it to be officially part of this victory celebration.

I am voting for the D'Amato amendment to the extent that it sends this signal regarding official Syrian participation. However, I am troubled by the very broad language of the amendment, which if binding could infringe on the first amendment rights of peaceful spectators to the parade who might, for example, hold up a Syrian flag. If the language of the amendment were binding and still as broad as is contained in the current amendment, I would have voted against it for that reason.

The Washington Victory Parade is not only a celebration of the successful completion of Operation Desert Storm, but also a celebration of our Nation's democratic values. We should honor those values in the process of honoring those who fought for them.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Colorado [Mr. WIRTH] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 92, nays 6, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—92

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NAYS—6

Bingaman
Chafee
Jeffords
Pell
Simon
Wellstone

NOT VOTING—2

Pryor
Wirth

So the amendment (No. 284) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REGARDING PRESSLER AMENDMENT TO S. 173

Mr. DOLE. Mr. President, I would like to take a moment to congratulate my colleague from South Dakota, Senator PRESSLER, on what he was able to achieve last night on his amendment to S. 173.

That amendment, adopted unanimously, represents the culmination of difficult negotiations on a subject that most of us find pretty complex. Senator PRESSLER's staff worked with Commerce Committee staff, representatives of the U.S. Telephone Association, and my own staff in attempting to reach an agreement that would preserve the rights of rural telephone customers without hamstringing innovation by the Bell Cos. Not an easy task, but the result produced by the Senator's efforts come about as close as I think we can get. Needless to say, I am very pleased to be a cosponsor of his amendment.

Those of us, like Senator PRESSLER and myself, who are from rural States are keenly aware of the vital role played by the rural independent telephone companies and cooperatives. They are the lifeline of rural America to the information age; without them, universal service would be an impossibility.

This amendment ensures that, if S. 173 becomes law, rural customers will have access at reasonable rates to the newest telecommunications and information products and services. It gives the rural companies a seat at the table in planning network development; provides for access, at nondiscriminatory prices, to software and hardware technology; and gives a local telephone company the right to sue in Federal court to remedy violations of these rights.

Mr. President, those of us who support S. 173 do so because we believe that it will help take us into the future of telecommunications. But the future belongs to all Americans. This amendment will help assure that. Thank you Mr. President.

Mr. ADAMS. Mr. President, as an original cosponsor of S. 173, the Telecommunication Equipment Research and Manufacturing Competition Act of 1991, I would like to explain what drew me to this legislation and why I believe we should support this bill.

The legislation before us addresses a sector critical to U.S. competitiveness in the global economy: information systems and telecommunications technology. All of us are concerned about the threat our industries face from foreign government subsidies to their telecommunications and other industries. Such practices give our foreign competitors an unfair advantage in third country markets and distort competition in our own open, domestic market.

S. 173 is an important step in the development of a computer-based technology, which has already revolutionized domestic and international markets. In an era of rapid technological advancement and an increasingly global economy, we cannot afford to delegate more than we already have of one of the most promising segments of our economy, the manufacture of telecommunications equipment, to factories abroad.

This legislation holds great importance for workers in the telecommunications equipment industry, where the Commerce Department has projected a slight decline in employment over the next 5 years. The provisions of S. 173 should help stem this decline, and will hopefully reverse it.

The findings in the committee report on S. 173 should be a call-to-arms. The report notes:

> A large, worldwide market share is becoming increasingly important to the development of new technologies because of the heavy research and development costs that are necessary to develop state-of-the-art technology. Unless the United States takes a more active role in permitting its companies to compete fully in these international markets, the United States faces the possibility that it will be shut out of the world market altogether.

Similarly, a report by the United States Commerce Department found that, "Comparison of various measures of technology innovation and productivity in the telecommunication industry suggest a general trend of declining United States competitiveness relative to certain of its major trading partners, particularly Japan."

Lifting the manufacturing restriction will help United States compete in several ways. First, the Bell Cos. would have the incentive to increase their spending on research and development. There's little incentive today because of the manufacturing restriction.

Second, the Bell Cos. have a vast reservoir of knowledge about telecommunication networks and the telecommunications marketplace. Today, that experience is a vastly under-used resource. Not only are the Bell Cos. prohibited from competing in the manufacturing area, but they are seriously limited in their ability to collaborate with independent manufacturers.

Third, this legislation would allow the Bell Cos. not only to collaborate with other manufacturers, but to invest in them as well. Currently, entrepreneurs and small, startup companies cannot go to the Bell Cos. for funding because of the MFJ—the modified final judgment—restriction. Where do the small startup companies go? Some of them, unfortunately, have no choice but to turn to foreign-based investors.

Especially in the last decade, we have seen our ideas and inventions, such as VCR's, exploited by manufacturers aboard. The pattern of foreign companies applying technology we have developed to manufacture new products is expanding in the telecommunications field. The bill before us today will help stop this trend by allowing American companies to do what they do best—invent, market, and produce. Without this legislation, our large and growing domestic market will be exploited increasingly by foreign manufacturers.

S. 173 will assure that we maintain a strong national economic base in the information and telecommunications manufacturing sector. It will promote our technological know-how. It will help our industry create the jobs and products to keep the United States in the forefront of this key advanced technology sector. I urge my colleagues to join in supporting this bill.

Mr. HOLLINGS. Mr. President, momentarily the distinguished Senator from Alabama will address the Senate relative to the bill.

We have been working out two amendments—one by the distinguished Senator from Ohio [Mr. METZENBAUM] and one by the Senator from Illinois [Mr. SIMON]. I am afraid I will have to move to table one of the Metzenbaum amendments.

But I want colleagues to know we will bring this thing to a head here shortly. I hope we can get rid of it momentarily.

If there are other amendments, domestic content or otherwise, we will have to deal with them if they come. But that is where we are right now.

Mr. President, I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I rise today in support of S. 173, the Telecommunications Research and Manufacturing Act of 1991.

I would like to commend my distinguished colleague, Senator HOLLINGS, for his leadership on this issue both in the 101st and 102nd sessions of Congress. I am a cosponsor of S. 173. This is a bipartisan bill and I believe that it will be the foundation for the much-needed revival of American competitiveness in the telecommunications industry.

Regional Bell Operating Cos. [RBOC's] have been operating under the restraints of modified final judgment [MFJ], the consent degree that broke up the Bell System, since 1982. The AT&T breakup resolved years of controversy over how the company exercised its Government-sanctioned telephone service monopoly. As a result of the MFJ consent decree, the seven regional Bell Operating Cos. are allowed to offer local telephone services, but are prohibited from manufacturing telecommunications equipment and offering long distance and information services.

At the time, the Justice Department reasoned that ratepayers and Bell's competitors would be negatively impacted by the RBOC's control over local telephone service. It was the Department's contention that to avoid these perceived potential abuses, Bell Operating Cos. must be kept out of competitive markets.

While barring baby Bells from these activities was supposed to avoid monopolies similar to that of AT&T, what in fact has resulted is a monopoly of the Federal court system over U.S. telecommunications policy. S. 173 would reestablish the role of Congress in determining our Nation's telecommunications policies.

The MFJ has denied the United States the benefits of a competitive market. Since the consent decree resulting in the divestiture of AT&T, U.S. competitiveness has suffered tremendously.

For example: Over $3 billion in U.S. telecommunications assets are now owned by non-U.S. interests. This figure is up from about $200 million in 1985.

More than 70 U.S. telecommunications and high-technology companies are currently under Japanese and European ownership.

In 1980, 58 percent of worldwide telecommunications patents were issued to the United States. That figure dropped to 46 percent in 1989. Meanwhile, the Japanese share of these patents rose from 18 to 33 percent.

Members of this body often urge their constituents to "buy American." However, we would do well to remember that each time one of us uses or buys a telephone, it was manufactured overseas. All telephone sets and a third of all telephone processing equipment are manufactured overseas.

It is no wonder that the U.S. balance of trade in telecommunications is on a downward spiral. Department of Commerce estimates reveal that this deficit could amount to as much as $7 billion by 1995, if we continue our current policy with regard to Bell Operating Cos.

Bell operating companies control more than half of this country's telecommunications assets. Yet, through the MFJ, these firms, with almost $200 billion in assets, have been stifled and the United States has denied itself a tremendous technological resource by restricting Bell Operating Cos. from participating in technologies that are transforming the world economy. This legislation will bring the United States back to the cutting edge in the telecommunications industry.

Mr. President, I think that the facts clearly show that foreign competitors, many with the backing of their governments, have taken the lead and are benefiting from the United States' restrictive telecommunications policy. Countries like Japan, France, and Germany are now in positions to overtake the U.S. telecommunications industry, which historically was a leader in the development and availability of telecommunication technology. By removing manufacturing restrictions and permitting Bell Cos. access to the market, S. 173 sets the stage to bring the U.S. telecommunications industry back to a position of technological leadership and competitiveness.

Consumers will greatly benefit from the passage of S. 173. By removing the restrictions on Bell Operating Cos., we open the door for U.S. citizens to enjoy telecommunications products and services already in use by citizens and businesses of other countries.

U.S. telecommunications companies continue to reduce their manufacturing operations. However, S. 173 presents us with the opportunity to bring some stability to the industry and begin the recovery of many of the over 60,000 U.S. manufacturing jobs lost with the implementation of the court decree.

The need for and benefits of competition to revive the U.S. telecommunications industry cannot be ignored. However, I share concerns that competition be fair. S. 173 contains a number of safeguards against anticompetitive actions with respect to RBOC's manufacturing activities.

The legislation prohibits the cross-subsidization of manufacturing by local telephone service and requires RBOC's to purchase equipment only from their manufacturing affiliates at the open market price. Bell Cos. must manufacture out of affiliates that are separate from the telephone company and are required to disclose information about their network to all manufacturers immediately upon making that information available to their manufacturing affiliates.

Also, the Federal Communications Commission [FCC] now has in place stronger regulations to protect against cross-subsidization, discrimination against other telephone companies, and preferential treatment to Bell Cos. in the sales of equipment by their manufacturing affiliates.

The effort to lift the manufacturing ban on Bell Cos. is supported by the FCC and the Departments of Justice and Commerce. Furthermore, in reviewing the history of the consent decree, it is my understanding that all parties involved in the divestiture settlement, including AT&T, agreed that the MFJ restrictions should be removed as soon as it was determined by the Department of Justice that they are no longer necessary to protect competition. However, for reasons I do not understand, there are still those who oppose S. 173.

Mr. President, I agree with Senator HOLLINGS that removing manufacturing restrictions on Bell Operating Cos. is fundamental to the issue of American competitiveness. We must allow Bells to compete, otherwise the United States will be the runt in a world that telecommunications technology is transforming into a global community.

We cannot let that happen.

Mr. President, I yield.

Mr. DECONCINI. Mr. President, I rise in support of S. 173, and commend my distinguished colleague from South Carolina for his leadership in this area and so many others affecting our Nation's telecommunications policy. However, I would like to receive his assistance in clarifying the legislation's intent, as reflected in the report language.

I am particularly interested in assuring that the needs of education are addressed in our work on S. 173. We are all concerned about our Nation's education system, and want to offer our support to professional educators in the difficult and important work that they do.

As my distinguished colleague is aware, schools and other educational institutions would receive great benefit from expanded telecommunications services. If the Bells offer the proper equipment and services, students will have access to electronic research sources from around the world, and educators will be able to improve teaching strategies through communications with their professional peers. Specialized courses will be offered in the home as well as rural and other communities.

In light of this potential, I would hope that the Bell Cos. will devote attention and resources directly to education.

The report encourages the "BOC's * * * to focus their resources on developing access solutions to the public network for all people. * * *.

Mr. Chairman, do I understand the report correctly to be referring to public institutions, especially schools, along with "all people?"

Mr. HOLLINGS. I appreciate the comments of my colleague from Arizona. He is in fact correct, and the intent of our committee is to assure that the needs of education and other public institutions are addressed by the public telephone network.

We intend the legislation to encourage the Regional Bell Cos. to focus resources to develop access solutions, equipment, and services for use by schools and other education institutions. In order to accomplish this, it is our firm expectation that the Regional Bell Operating Cos. will increase their investment in research and development for the public network, and for education services in particular.

Our plans are for the Commerce Committee to exercise continuing oversight of S. 173, in order to evaluate progress made towards these goals.

Mr. DECONCINI. I thank my colleague from South Carolina for his clarification. I am now confident of the bill's intent. I think that educators and others will be pleased to know that this excellent legislation will provide appropriate incentives for the Bell Cos. to serve our Nation's educational infrastructure.

I note that the Senate Commerce Committee report accompanying S. 173 contains on pages 18 and 19 the following language:

> In entering the manufacturing market, the BOCs should seek to accommodate the alternate access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech and interpretation of information. The BOCs are encouraged to focus resources on developing access solutions to the public network for people, including those with disabilities.

As I understand S. 173, then, its goal is both to increase our Nation's competitiveness and to encourage the BOC's to apply their new authority to develop access solutions to the public network for people with disabilities. Is my understanding correct, Mr. Chairman?

Mr. HOLLINGS. The Senator is correct. We understand that the public switch telephone network is the primary means of access for the average citizen to basic and enhanced telecommunication services. We believe that the new authority to be granted by S. 173 will be used by the BOC's to engage in product development aimed at improving the network and, therefore, the means of access for people with disabilities and functional limitations.

Mr. DECONCINI. As the Senator from South Carolina is well aware, Congress recently enacted the Americans With Disabilities Act [ADA]. Title IV of that act creates dual-party relay services nationwide by adding a new section 225 to the 1934 Communications Act. New section 225(a)(2) requires the FCC to encourage the use of advanced technology, as appropriate. I would hope that the manufacturing capabilities to be permitted by the BOC's under the pending legislation would be applied not only to implement better and faster relays, but in time, to allow persons with disabilities even better access to telecommunications, perhaps even obviating the need for relays.

Mr. HOLLINGS. That is certainly my hope as well, and I would expect that the Commerce Committee would from time to time conduct oversight of the BOC's to determine the extent to which they in fact apply their new authority to achieving these goals.

Mr. DECONCINI. Insofar as title IV of the ADA applies to all common carriers, I would hope that the intent of Congress as expressed in the pending legislation and as explained in the committee report quoted above would clearly establish that it is national policy that common carriers make their best efforts to use advanced technologies such as speech synthesis and, as it develops, speech recognition, to make the full range of telecommunications products and services accessible to persons with disabilities.

Mr. HOLLINGS. It is indeed, Senator, and I thank the Senator for making these points. It is these benefits that make enactment of S. 173 important to consumers.

AMENDMENT NO. 285

(Purpose: To increase the penalty for failure to maintain certain records)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 285.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. 4. ADDITIONAL AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 220(d) of the Communications Act of 1934 (47 U.S.C. 220(d)) is amended by deleting "$6,000" and inserting in lieu thereof "$10,000".

Mr. PRESSLER. Mr. President, I want to explain this amendment briefly. The amendment would provide for an increase in the fine for a violation of the Communications Act by any telephone company that fails or refuses to keep accounts, records, and memoranda on the books in the manner prescribed by the Federal Communications Commission.

This amendment is intended to give Federal regulators the additional tool they need to assure that any telephone company will keep the records regulators need to protect the interests of ratepayers.

Also, I think it should be a signal to some of our telephone companies to be more open about some of these matters. I was talking with a reporter from one of the papers, and he said he had made an inquiry about a consent decree violation was sent several boxes of papers, which did not answer the question.

I hope our large companies will be open to Members of Congress and the public when there is a violation of the law, and even when there is not. But there has come to be a practice of obfuscating the facts with boxes and cartons of papers rather than writing a clear one- or two-page letter or answer. And in the whole regulatory area, I have had the feeling that some telephone companies have been unnecessarily nonresponsive. That is just a general statement.

I hope this amendment sends a signal to those companies and individuals to be more open with inquiries about their business. This amendment provides for a $4,000 increase in the fine for companies who fail to keep records in the manner prescribed by the FCC. This is a clear signal that Congress is very serious that companies are to do their business in a proper, honest, fair way. My minority views filed in the Commerce Committee report on this legislation further explain my views on this matter.

I ask unanimous consent that my minority views follow my remarks.

Mr. President, I urge the adoption of the amendment.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

MINORITY VIEWS OF MR. PRESSLER

I share Chairman Hollings' goal to increase American innovation and growth in the telecommunications equipment industry, and applaud his leadership on this key issue. This legislation passed the committee by voice vote last year.

At that time, though, a number of consumer groups, senior citizens, small business organizations, and state regulators voiced concern that, because of the lack of adequate anti-competitive safeguards, some companies may abuse the freedom this legislation would give them. These groups were concerned that a BOC could use its control of the local phone market to gain an unfair advantage when it enters an unregulated line of business. They argued that higher residential telephone rates could result from a BOC's decision to underwrite with ratepayer supported capital and personnel the expenses of launching its unregulated business ventures. These groups were concerned that consumers and competitors could be harmed by having to compete against products subsidized by ratepayer funds. And detection of these practices could be made very difficult by informal agreements and "creative accounting" of huge corporations who could bury ratepayer subsidization in the books, even with the separate subsidiary and other protection devices incorporated in this bill.

These groups and individuals argued that telephone companies are a unique business. My understanding of this aspect of their concern was best summarized by U.S. District Court Judge Harold Greene's comment that:

"To the extent that these companies perceive their new unregulated businesses as more exciting and more profitable than the provision of local telephone service—as they obviously do—it is inevitable that their managerial talents and financial resources will be diverted."

They point out that because telephone companies control the local telephone exchanges and are guaranteed a rate-regulated income, they have access to ratepayer funded capital and possess the market power to use against their competitors in unregulated lines of businesses. This concern is predicated on the belief that a company could effectively hide prohibited practices through informal agreements, creative accounting, or other methods.

Last year I did not object to this legislation. At that time I was not personally aware of any systematic evidence of violations or of deliberate efforts to undermine efforts to investigate ratepayer impact issues related to this legislation. However, I became concerned when I read subsequent press reports of a DOJ investigation into consent decree violations by US West, which serves my constituents in South Dakota. The investigation led to the assessment of a record $10 million fine against US West for engaging in anticompetitive behavior, providing information services prohibited by the consent decree, and violating the consent decree's ban on manufacturing telecommunications equipment. Part of the agreement was to drop the investigation of these and other activities under question. Because of the importance the US West case had to my state, and because of its relevance to this legislation, I tried to obtain more information as to how these practices could affect ratepayers in my state.

The nature of US West's record keeping make it impossible for regulators or government officials to prove or disprove with certainty whether violations occurred. A DOJ memorandum filed in Judge Harold Greene's U.S. District Court warned US West that: "[US West's] admitted history of noncompliance will provide a substantial basis for finding that any similar additional conduct is 'willful' and hence actionable as criminal contempt of the decree."

As a practical matter it is clear that a company of this size can frustrate legitimate investigative efforts, as I have recently learned first hand. I hold no great hope that any regulatory agency will have any better luck at receiving definitive answers in the future if US West continues its present practice of apparent stonewalling.

Because the majority of my constitutents are US West ratepayers, this case is of particular concern to me. Although DOJ wisely and admirably stipulated that the $10 million fine should come out of shareholder funds rather than ratepayers, even they acknowledged that the fungibility of money makes it impossible to insulate the consumer from paying the ultimate tab.

In addition to the potential consumer impact of the fine, I raised concerns about the ratepayer impact of US West's actions to the extent that telephone company funds, which are generated by the ratepayers, are being used to develop, market, and operate these theoretically unrelated businesses. During questioning at the Senate hearings, Mr. James Rill, Assistant Attorney General, Anti-trust Division, DOJ, indicated his confidence that US West telephone companies and their employees had engaged in the activities involved in the violation of the consent decree, but had no basis on which to estimate the magnitude of ratepayer impact related to the 13 activities in question. Only US West could answer this question definitely.

I think it is important to ascertain the amount of ratepayer resources directed towards these activities. Not only would such resource diversion put ratepayer service and funds at risk, but it also would put competitors at an unfair disadvantage. And as Judge Greene notes, it can distract them from their primary mission of providing and improving basic telephone service. I contacted DOJ and the FCC to ascertain background information on this matter, and asked US West to supply information on the extent to which ratepayer funds were used in connection with the development, operations, marketing, etc., related to these activities. Understandably, neither the FCC or the DOJ are able to answer the ratepayer impact question without complete information from US West.

Despite my repeated attempts to obtain answers from US West, they responded by altogether ignoring or redefining the questions as to how much ratepayer funding was used to launch and operate the practices questioned in the DOJ lawsuit. At best their response can be characterized as avoiding the question; at worst it was disingenuous and misleading. For example, US West in an initial response sent to my office five boxes of paper with no organization or information describing the contents. In subsequent letters it misrepresented staff telephone conversations and later simply redefined the question so narrowly as to be—as one consumer advocate put it —"an insult to our intelligence." Further inquiries on basic information as to how much telephone company staff time and resources were invested in developing and marketing the 13 activities questioned by DOJ were answered with "we couldn't provide that type of information." Yet US West went to great pains to provide spontaneously, in writing, exactly how many hours and employees it claims to have devoted to my simple, straightforward request for information. So I find it hard to understand how a business so efficient at recordkeeping in one area is so incapable of keeping track of how it spends ratepayers' resources. This uncooperative non-response makes it impossible to determine the ratepayer impact of US West actions, and gives me great concern that an unwilling corporation of this magnitude cannot be monitored sufficiently to protect its ratepayers from the abuses mentioned by consumer groups, seniors, small businesses, and others.

I am beginning to understand the frustration Judge Greene expressed in the earlier stages of this case when he noted that: "US West has been engaged in a systematic and calculated effort to frustrate the Justice Department's legitimate demands for information, frequently by patently frivolous and usually dilatory maneuvers."

I commend the Chairman for his efforts to include safeguards in this legislation in hopes they will prevent actions similar to those US West has undertaken. The US West experience, however, leads me to wonder whether those legislative safeguards can prevent such a huge corporation from using its local monopoly to compete unfairly, and from juggling and confusing its book work so as to make it impossible for any regulatory agency or watchdog group to adequately protect consumers. Virtually every group we contacted regarding this case voiced the unanimous opinion that US West's response not only avoided the question but was carefully crafted to avoid supplying any meaningful information from which to conduct an independent analysis using realistic definitions and relevant data.

The bottom line here is trust and corporate accountability. My experience with most telephone companies would generally lead me to give them the benefit of the doubt, as I have done in the past. I have found the vast majority to be straightforward in their dealings. I still hope US West will be more directly responsive in the future. But my first priority is to my constituents, and they are monopoly bound to US West. My vote against this bill in Committee was based in large part on my disappointment with US West's dilatory tactics and misrepresentations to date. Like Judge Greene I have felt frustrated, in attempts to get straight answers to the questions asked. US West is our largest single telephone company, with monopoly control over most of my State. Its actions have a profound impact on the vast majority of my constituents. I will continue in my attempt to get a straight answer to my inquiry. Pending the outcome of that process, I will reserve judgment with respect to future votes on this legislation. I agree with Senator Hollings desire to move this technology forward. But we must take care to protect consumers, seniors, and small businesses in the proces. I hope we can do so. But for the time being, I must reluctantly voice my opposition to this legislation based on this particular case which affects my State so profoundly.

Mr. HOLLINGS. The amendment has been cleared on this side, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 285) was agreed to.

Mr. PRESSLER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 286

(Purpose: To require independent annual audits of Bell Telephone Co., and to require the Federal Communications Commission to review and analyze such audits and report its findings to Congress)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 286.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, between lines 2 and 3, insert the following new subsection:

"(k)(1) A Bell Telephone Company that manufactures or provides telecommunications equipment or manufactures customer premises equipment through an affiliate shall obtain and pay for an annual audit conducted by an independent auditor selected by and working at the direction of the State Commission of each State in which such Company provides local exchange service, to determine whether such Company has complied with this section and the regulations promulgated under this section, and particularly whether the Company has complied with the separate accounting requirements under subsection (c)(1).

"(2) The auditor described in paragraph (1) shall submit the results of such audit to the Commission and to the State Commission of each State in which the Company provides telephone exchange service. Any party may submit comments on the final audit report.

"(3) The audit required under paragraph (1) shall be conducted in accordance with procedures established by regulation by the State Commission of the State in which such Company provides local exchange service, including requirements that—

"(A) the independent auditors performing such audits are rotated to ensure their independence; and

"(B) each audit submitted to the Commission and to the State Commission is certified by the auditor responsible for conducting the audit.

"(4) The Commission shall periodically review and analyze the audits submitted to it under this subsection, and shall provide to the Congress every 2 years—

"(A) a report of its findings on the compliance of the Bell Telephone Companies with this section and the regulations promulgated hereunder, and

"(B) an analysis of the impact of such regulations on the affordability of local telephone exchange service.

"(5) For purposes of conducting audits and reviews under this subsection, an independent auditor, the Commission, and the State Commission shall have access to the financial accounts and records of each Bell Telephone Company and those of its affiliates (including affiliates described in paragraphs (6) and (7) of subsection (c)) necessary to verify transactions conducted with such Bell Telephone Company that are relevant to the specific activities permitted under this section and that are necessary to the state's regulation of telephone rates. Each State Commission shall implement appropriate processes to ensure the protection of any proprietary information submitted to it under this section.

Mr. SIMON. Mr. President, I am pleased to say we have modified the language in this amendment a little as originally drafted, and I believe it is acceptable to all sides.

This amendment calls for an audit by the State regulatory bodies to see that we are complying with the law and that there be a report of the FCC to Congress. It is a protection for consumers. It is a way of making sure the law is being complied with.

I know of no opposition, and I hope the amendment will be accepted.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Illinois for this improvement to the bill.What you have in this amendment, in essence, is clear intent of the Congress that the Bell Cos. should be audited. This is quite obvious in light of the track record that brought about the modification of final judgment in 1984.

The Federal Communications Commission tried to audit the monolith AT&T, and by the time we would catch up with an audit and get an order, it would be obsolete or unable to be enforced. And we got into an antitrust case which resulted in the breakup of

AT&T by the court itself in the modification final judgment.

In this light, 20 percent of the Bell Cos.' business is interstate business and 80 percent is intrastate. The FCC can audit only the interstate business and the states can only audit the intrastate business.

The Senator from Illinois says let us clarify that the States shall conduct audits and have access to the books and records of the telephone company itself and have access to the affiliates themselves, who do business with the Bell Telephone Co. This will ensure it will be a true, comprehensive, effective audit.

So it has been cleared on this side, and I thank my distinguished colleague for his offering it, and I will support the amendment.

Mr. SIMON. I thank the distinguished Senator from South Carolina. Let me add that Senator DECONCINI is a cosponsor of this amendment. I should have added that.

Mr. HOLLINGS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 286) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, the senior Senator from Ohio is presently approaching the floor. I think we have two amendments worked out with the Senator. We will clear those on both sides of the aisle now, and I think they are to be cleared. It will save us a good bit of time. They are worthy amendments.

The Senator from Ohio is here. After these amendments, the Senator from Pennsylvania [Mr. SPECTER] will want to be heard on the bill. There could be a couple other amendments. I will be conferring with the distinguished Senator from Ohio on that, to see whether we have something we can accept.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 287

(Purpose: To add a provision on the application of the antitrust laws)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 287.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following new section:

SEC. 4. APPLICATION OF ANTITRUST LAWS.

Nothing in this Act shall be deemed to alter the application of federal and state antitrust laws as interpreted by the respective court.

Mr. METZENBAUM. Mr. President, it is my understanding that this amendment is acceptable to both managers of the bill. It is very simple. It spells out specifically that, "Nothing in the Act shall be deemed to alter the application of Federal and State antitrust laws as interpreted by the respective courts." It is my understanding it is acceptable to the managers and, if so, we can proceed.

Mr. HOLLINGS. Mr. President, the amendment has been cleared on both sides of the aisle, and we would be delighted to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 287) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 288

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 288.

On page 11, line 3, strike "equipment." and insert in lieu thereof "equipment, consistent with subsection (e)(2).".

Mr. METZENBAUM. Mr. President, there is some question as to whether one portion of the bill was limiting the application of another portion of the bill having to do with the subsidization of manufacturing affiliates, and this clarifies that. I am quite sure the amendment is acceptable to the managers of the bill.

Mr. HOLLINGS. Mr. President, the distinguished Senator is correct. On the previous page, subsection 2 forbids the cross-subsidization by a manufacturing affiliate with the Bell Co. This amendment reiterates exactly that prohibition, which is the intent. The distinguished Senator wanted to make it absolutely clear. We accept the amendment. It has been cleared.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 288) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 289

(Purpose: To provide the Federal Communications Commission and State utility commissions with access to information concerning transactions between a Bell Telephone Company and its manufacturing affiliates)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 289.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 3, strike lines 14 through 24 and insert the following:

"(1)(A) such manufacturing affiliate shall maintain books, records, and accounts separate from its affiliated Bell Telephone Company, that identify all transactions between the manufacturing affiliate and its affiliated Bell Telephone Company.

"(B) the Commission and the State Commissions that exercise regulatory authority over any Bell Telephone Company affiliated with such manufacturing affiliate, shall have access to the books, records, and accounts required to be prepared under subparagraph (A), and

"(C) such manufacturing affiliate shall, even if it is not a publicly held corporation, prepare financial statements which are in compliance with Federal financial reporting requirements for publicly held corporations, and file such statements with the Commission and the State Commissions that exercise regulatory over any Bell Telephone Company affiliate with such manufacturing affiliate, and make such statements available for public inspection;

Mr. METZENBAUM. Mr. President, this is a significant amendment. It has to do with State access to the records of the Baby Bells. It is designed to provide both the FCC and the State utility commissions with access to the books and records of a Bell manufacturing affiliate.

Absent this amendment, the State regulators would not have that authority and of course it is applicable only to the State regulators having that authority within their respective jurisdictions.

The access is essential so regulators can assure a proper allocation of costs between the Bell Telephone Cos. and their manufacturing affiliates. I am frank to say that I have my doubts about whether regulators can ever come close to preventing all cross subsidies. But at the very least, this amendment will help them in that direction because both the FCC and State regulators would have access to the books and records that would help them accomplish that task.

It is all this amendment is designed to do. It is all it will do. It is my understanding the amendment is acceptable to the managers of the bill.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. The amendment of the distinguished Senator from Ohio is well taken. There are no hidden balls, or tricks, or otherwise. The intent of the Senator from Ohio is the same as that of the Senator from South Carolina, that we do have audits and we have them as we stated in the Simon amendment, both at the Federal and State level. You cannot get a valid audit unless you have access to the books. I thought it was a given. The distinguished Senator from Ohio wants to make sure of it and we have worked this amendment out. It has been cleared on both sides. I am glad to support the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

So the amendment (No. 289) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, the Senator from Ohio does not intend to offer any additional amendments. I considered doing so. I very strongly support the Inouye amendment. Senator INOUYE saw fit to withdraw it, and understandably so. I am not in favor of this bill. I think our amendments make it a better bill than it was, but I still have concerns about the Baby Bells getting into the manufacturing business.

I am concerned it will have a negative impact upon the consumers of this country and will increase their costs. I am concerned that, in a sense, we are going back and undoing the restrictions that we had originally placed on AT&T through the courts requiring the breakup. Only now each of the Baby Bells is a multibillion-dollar corporation on its own and they want to get into the manufacturing business. I do not think that will help the consumer of this country.

I have further concerns about the domestic content provisions, and whether or not there will be jobs protected here in this country. I know I am in disagreement with my colleague from South Carolina on this point.

On the 40-percent provision contained in the bill, I think it is drafted in such a manner it will be very difficult to provide any assurances that there will not be more product manufactured overseas than domestically. But I think—I know the House of Representatives intends to give serious and full consideration to this legislation.

I can count. I know my colleague from South Carolina has substantial support in this body. I am hopeful there will be further considerable improvement made in the House when it gets to that body. I will not vote for this bill. I do not think it is good legislation but I do not intend to delay its coming to a vote for final passage on the floor of the Senate and then hopefully we will see it come back in a more improved form from the conference committee.

I want to express thanks for the cooperation and courtesy accorded me by the Senate from South Carolina. We happen to be in disagreement on the general thrust of this bill but he certainly always conducts himself in a gentlemanly way and it has been a privilege to work with him.

Mr. HOLLINGS. It has been my pleasure to work with the Senator from Ohio. I think we have saved a good bit of time. I think we have done it in a deliberate fashion. I think the staff of the Senator from Ohio and our own staff the committee. I am sorry he cannot support the bill but I really think it is because of any political persuasion on my part that I have the votes. I think the bill has the votes. I really do think this is a consumers' bill.

There is no question in my mind we are looking at a problem. We have tried, under the so-called manufacturing restriction and, with the approach, while we have a multiplicity of all kinds of designs and developments, it has all been foreign, to the injury of our own United States of America.

We have seen this happen now in basic industries such as textiles where you have to put in a bill to guarantee the foreign manufacturer the majority of the business. No one does that out of goodness of his heart, but that is how desperate we have become with steel, with textiles, and electronics; you can go down the list, hand tools, machine tools, and otherwise.

So, I think we really are looking out for consumers, and if I did not feel that strongly about it—I am not looking out for the Bell Cos., they are richer than the Senator from Ohio and the Senator from South Carolina. They are more than capable of taking care of themselves and they are publicly regulated entities and they are doing extremely well.

My problem is they are doing extremely well in downtown London, and in downtown Budapest, and in downtown Wellington, New Zealand, and in Mexico City, and Buenos Aires, and not in Charleston, SC. I am trying to bring them home.

On the audit amendment adopted earlier with the Senator from Illinois, it is important that we protect the proprietary information of the Bell Cos.' manufacturing affiliates.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, the three amendments I have offered which have been accepted by the Senator from South Carolina will improve the bill and provide consumers with a greater measure of protection against potential monopoly abuses. The language in section 227(f) of the bill, which suggests that ratepayer resources could be used to finance a Bell manufacturing affiliate's product development activity, has been amended to clarify that it is not intended to permit cross subsidy. Section 227(c)(1) has been amended to provide that each State regulatory commission has access to the books and records of a Bell manufacturing company affiliated with a Bell telephone company within its jurisdiction. State regulators must have access to the manufacturing company's books and records in order to help prevent harm to ratepayers.

Finally, the bill has been amended to make it clear that the Bells remain fully subject to the antitrust laws. The Bells, the sponsors of the legislation and the Justice Department all agree that this legislation does not grant the Bells any exemption under the antitrust laws. Stephen Shapiro, the Bells' antitrust lawyer, testified before my Antitrust Subcommittee that:

> Relief from the manufacturing restriction does not, of course, imply any immunity from regulation or judicial supervision. . . . The Bell Cos. would be subject to the full range of civil and criminal remedies should they engage in anticompetitive practices.

This amendment merely codifies that understanding.

While these amendments have improved the bill, I still cannot support it. The question posed by this bill is whether or not the seven regional telephone monopolies known as the Baby Bells, whose combined annual revenues amount to over $70 billion, ought to be allowed to manufacture the equipment which is used in their local telephone networks.

While this may be a complicated issue, it is of critical importance to anyone who pays a telephone bill every month. The cost and quality of the switching and transmission equipment used in the local telephone network has a direct and significant impact upon the telephone rates paid by consumers.

The Baby Bells currently are forbidden from making telephone network equipment because history has demonstrated that consumers get hurt whenever the local phone monopolies can make the equipment which is used in their telephone networks. The harm occurs because the phone companies can simply buy equipment from themselves at inflated prices and shift excess costs into consumers. History has shown that it is almost impossible for regulators to prevent such monopoly abuses.

But the bill on the floor today asks us to forget history. We are asked to forget the fact that on four different occasions in this century—1913, 1925, 1949, and 1974—the Bell Cos. abuse of their local telephone monopolies has prompted serious antitrust challenges from the Government. We are asked to forget the fact that in each instance, the monopoly power over local telephone service was used to hurt consumers and stifle competition in related markets. And we are asked to forget the fact that regulation has rarely been able to control such monopoly abuses.

The central premise of this bill is that the best thing the Senate can do for both consumers and competitors in the telecommunications business is to allow seven regional monopolies to get into the business of making telephone network equipment.

I don't share that view, Mr. President. I think the Baby Bells are doing just fine right now. These are companies that average about $10 billion apiece in annual revenues; and they are guaranteed at least a 11-14 percent return on their local phone business, which is still their major business. In other words, the only parties that are certain to benefit from this legislation are multibillion-dollar monopolies that are guaranteed an annual profit.

What about consumers. That's why every major consumer group in the country, all the State utility consumer advocates, and the AARP, all oppose this legislation.

Mr. President, this bill should be judged according to a simple standard: Based upon our understanding of history, monopoly behavior, and the effectiveness of regulatory oversight in the telephone industry, is this bill likely to help or hurt both consumers and competition?

I think the answer is that it will hurt both consumers and competition. And I want to outline for the Senate the basis for my conclusion.

At the outset, let me explain the key principle which I believe should guide analysis of this bill. Legislation and policy involving telephone network equipment should encourage the Bell Telephone Cos. to buy the highest quality equipment at the lowest posible price. The reason for this is simple: Ratepayers—that is, consumers—ultimately pay the costs of the network equipment purchased by the local phone companies. If those companies are purchasing the best possible equipment at the lowest possible price, then telephone rates should not be artificially high and competition should be protected. But if public policy provides the local telephone monopolies with the opportunity to purchase equipment at inflated prices, then both consumers and competition will be hurt.

That's why the phone company was broken up in the first place. When AT&T provided both long-distance and local phone service to nearly the entire Nation, it purchased virtually all of the equipment used in the phone network from its equipment manufacturing subsidiary, Western Electric. In the antitrust case that led to divestiture, the Government showed that AT&T's local telephone subsidiaries bought from Western Electric, even when competing manufacturers made better quality equipment at a lower price. The evidence also showed that AT&T's local phone companies provided Western Electric with preferential access to key information about the equipment needs of the local exchange networks. In addition, Judge Greene concluded that AT&T's manufacturing affiliate was being improperly subsidized by the Bell System's telephone ratepayers.

That kind of self-dealing and cross-subsidization hurt both consumers and competition. Regulators were powerless to control such monopoly abuses. Separating the local phone monopolies from long-distance and manufacturing proved to be the only effective means of preventing further harm to consumers and competition. That's what Judge Greene did in 1982. And that is what this bill is trying to undo.

The bottom line is that the phone company was broken up because, in Judge Greene's words:

> A combination of vertical integration and rate-of-return regulation has tended to generate decisions by the operating companies to purchase equipment produced by Western Electric that is more expensive or of lesser quality than that manufactured by the general trade.

Let's be clear. If we adopt the bill before us today, we will reinstate the same combination of vertical integration and local service regulation that led to antitrust abuses in the telephone business.

Mr. President, I have not been happy with some of the after-effects of divestiture. In some critical ways, consumers are worse off: Local rates have risen, phone bills are confusing and customer service has suffered. Meanwhile, the Baby Bells have created dozens of new subsidiaries for ventures into unregulated markets. Judge Greene has stated that this diversification "is bound to diminish their management's interest in and attention to the local telephone business." He also has suggested that the postdivestiture rise in local phone rates may be partly due to "the diversion of ratepayers' moneys to finance the Bells' ambitions to become full-fledged players in conglomerate America."

Regardless of what caused the rise in local phone rates, those increases have not been good for consumers. On the other hand, divestiture has provided some benefits: Long distance rates have fallen, thousands of small businesses have entered the equipment market, and many new products have been introduced.

While divestiture has brought about many changes, one critical fact remains the same: Local telephone service is still a monopoly. Consumers and small businesses make all their calls through one local phone company. Long-distance carriers like AT&T, MCI, and SPRINT still rely on the local network for the initiation and completion of almost all long-distance calls. And big business relies on the local phone network to transport information which is critical to domestic and foreign commerce.

In short, the local telephone monopoly is still the critical factor for the average American. It is true that there are seven regional monopolies providing local telephone service, instead of only one national monopoly. But the incentive and ability to leverage that monopoly power has not necessarily diminished, simply because there are now seven regional monopolies, rather than just one national monopoly.

Indeed, since divestiture, the Bells have shown themselves to be capable of leveraging their monopolies in harmful ways. In February, U.S. West agreed to pay $10 million for 4 violations of the consent decree; another 9 violations were dropped. Last year, NYNEX paid a $1.4 million fine after it was found to have inflated the purchase price of office equipment and supplies which it bought from one of its unregulated subsidiaries. The excess costs were passed onto NYNEX's telephone ratepayers. The overcharges in that case totaled

$118 million. Last year, Bell Atlantic agreed to pay $42 million to settle charges that it engaged in deceptive marketing practices designed to make Pennsylvania ratepayers buy more services than they wanted or needed. And the Ohio consumers counsel, along with other Midwest consumer advocates, reported that Ameritech improperly charged ratepayers for millions of dollars in lobbying, advertising, and promotional expenses. So, Mr. President, the Baby Bells have used their monopoly power to hurt both consumers and competition. My concern is that this legislation will give them more opportunities to do so.

Mr. President, let's look at the practical impact of this bill on the real world. If the Bells are allowed to make the equipment which is used in their phone networks, they are going to buy most or all of their equipment from themselves. That's not just my view, Mr. President. It is a view shared by the Department of Justice, Judge Greene, the D.C. Circuit Court of Appeals and antitrust experts from across the spectrum. Let me read to you an excerpt from last year's decision on the consent decree by the D.C. Circuit Court of Appeals.

> The Department of Justice makes the significant concession that any Bell Operating Co. that chooses to manufacture central office switches, either unilaterally or through a joint venture, will buy all (or nearly all) of its requirements from the affiliated producer—thereby foreclosing a certain portion of the market, regardless of whether or not there are economies to be gained from such integration.

So the Justice Department, which supports this bill, concedes that there will be considerable self-dealing if the Bells are allowed into the manufacturing of equipment. And of course they would have to make that concession. Any practical person would recognize that if you have a choice between buying your equipment from yourself and buying them from someone else, you buy from yourself. You do that because you have got to maximize profits for your company and your shareholders.

While the Justice Department recognizes that there will be self-dealing, they are less concerned about the consequences of such conduct, and believe that self-dealing abuses can be effectively policed. Their view is not shared by other antitrust experts around the country. Prof. Phillip Areeda of Harvard, who is perhaps the leading antitrust expert in the country, has written about the consequences of self-dealing. He has stated that:

> Each Bell monopoly is likely to purchase its own equipment rather than better or cheaper equipment made by others. A regulated monopoly has powerful incentives to purchase from itself, even if better and cheaper equipment is available elsewhere, and regulatory safeguards are likely to be ineffective to prevent it. * * * It follows that society would not receive the benefits of the lowest price or the most advanced and reliable equipment. Hence, consumers would be exploited through higher prices and worse equipment * * *. Costs are likely to be higher, quality and innovation lower, and prices higher. The root cause is self-dealing with little regard for price or quality. Self-dealing provides a guaranteed market that dulls competitive pressures toward innovation, high quality, low costs and prices.

Robert Bork, whose views on antitrust in general and vertical integration in particular are almost totally different from mine, agrees that allowing the Bells into manufacturing "would injure both competition in the markets the Bells enter and the ratepayers in the telephone service markets over which the bells have monopoly control." Judge Bork has written that the injuries would ensue because the Bells—

> Simply would claim that their affiliated manufacturers made products superior to those of other manufacturers, regardless of their actual quality, and would refuse to purchase anything else. Although the equipment might cost more, they could pass the expense onto ratepayers.

Mr. President, the concern about self-dealing abuses arises because it is exactly what has happened in the past whenever one company has been both an equipment manufacturer and a monopoly provider of phone service.

Prior to divestiture, the Bell Operating Cos. bought virtually all of their equipment from Western Electric, even when, as Judge Greene put it, "A general trade product was cheaper or of better quality * * *." Similarly Bell Operating Co. purchasing officials were encouraged—

> To wait until a Western [Electric] product comparable to the desired general trade equipment was available, and they were required to provide detailed justification for general trade purchases which were not necessary for the purchase of Western equipment.

GTE, which has local phone monopolies scattered around the Nation, also engaged in self-dealing abuses when it manufactured telephone equipment. The Bells submitted testimony to a hearing held by my Antitrust Subcommittee in which they argued that Congress should look at how GTE behaved when it was involved in equipment manufacturing. But the fact is that GTE did engage in anticompetitive and anticonsumer self-dealing when they were in the equipment business. In fact, they were found guilty of violating the antitrust laws.

The judge in the GTE case stated that—

> GTE has actually used its vertical structure to irrevocably foreclose its full market share by taking every means to exclude any chance, howsoever small, of any portion of it being served by competitor manufacturers no matter how superior their products, services or prices.

The judge also stated that:

> GTE's conduct in its in-house dealings manifests an objective to maximize its profits.

The judge went on to state that:

> The single most alarming aspect of GTE's vertical integration and resultant in-house dealing is the use of its monopoly leverage in the telephone operating market to foreclose competition in the telecommunications equipment industry. GTE has betrayed its public trust * * *".

If the Bells believe that GTE's conduct provides guidance as to how S. 173 will affect the manufacturing market, then Senators ought to ask themselves whether it is a good idea to pass this legislation.

The NYNEX procurement scandal, which was finally blown open last year, demonstrates that the Baby Bells are just as inclined to self-deal as was GTE and the old AT&T. In that case, NYNEX established a purchasing subsidiary—Material Enterprises Co.—known as MECO, which was set up to buy office equipment and supplies and perform other purchasing and service functions for the NYNEX operating companies. NYNEX corporate policy dictated that the local phone companies should use MECO as often as possible, even though it meant paying inflated prices for the supplies and services that MECO provided. As I mentioned earlier, the overcharges in that case amounted to $118 million.

In each of the examples I have cited—NYNEX, GTE, and AT&T—there were internal company policies and rules which encouraged self-dealing by the local phone companies, even if it meant that consumers would be paying higher phone rates. It is extremely difficult for regulators, no matter how conscientious, to police internal corporate policies, in order to prevent the adoption, either formally or informally, of rules and policies designed to encourage self-dealing.

Now there are some who claim that the NYNEX scandal shows that regulators are capable of policing self-dealing abuses. But the fact is that the NYNEX scandal was not uncovered by regulators, but came to light only after news reports first appeared in the Boston Globe. The news reports were based on information provided by a whistleblower who was subsequently fired by NYNEX. Robert Abrams, the New York attorney general, stated that NYNEX officials "resisted us every inch of the way" while his office was trying to gather information about the procurement scandal. And Peter Bradford, the chairman of the New York Public Service Commission—the State regulatory agency which has made a valiant effort to grapple with this matter—testified before my Antitrust Subcommittee that no one should take comfort over the fact that NYNEX ultimately was caught. Chairman Bradford stated:

> I think you could never hope to fully police the kinds of difficulties that arise when you link a competitive enterprise of the size and scale of manufacturing in the telecommunications industry with a monopoly bottleneck group of customers. Until either competition

erodes that monopoly or sufficient safeguards are in place to really assure the independence of the operating company decisionmaker—safeguards that are not in this legislation—I don't think any regulator, in good conscience could tell you that this was a policeable marketplace.

So, Mr. President, experience tells us that if you link manufacturing with monopoly phone service, you will see self-dealing abuses, and the regulators will have difficulty preventing the problem.

The danger for consumers is that self-dealing will lead to higher phone rates. Every major consumer group in the country opposes this bill because of their concerns that if the Bells buy equipment from themselves, rates will go up.

Rates can rise in one of two ways. First, the Bells can simply buy from themselves at inflated prices and pass the costs on to their ratepayers. Because a switch is a highly complicated piece of equipment—and can be customized to meet the particular needs of an operating company—it is difficult for regulators to determine whether the Bells will have paid too much.

Alternatively, the Bells can force ratepayers to bear an excessive share of the costs associated with their manufacturing business. Each Baby Bell is a diversified holding company, with both regulated and unregulated businesses. The holding company incurs substantial joint costs, and it has powerful incentives to saddle ratepayers with an excess share of those costs. As more costs are loaded onto the rate base, phone bills rise in order to ensure that the operating companies receive their guaranteed rate of return. Regulators are supposed to disallow excessive cost-shifting onto the rate base. Unfortunately, they have never been able to track costs accurately. The last time the GAO looked at the FCC's ability to control cross-subsidy—back in 1987—it concluded that the Commission could not do the job. The GAO found that:

> The level of oversight FCC is prepared to provide will not provide telephone ratepayers or competitors positive assurance that FCC cost allocation rules and procedures are properly controlling cross-subsidy.

The holding company structure of the Baby Bells makes the task of tracking costs that much harder. For example, a staff report by the California Public Utilities Commission states that:

> The operations and methods of Pacific Telesis bring to life the worst nightmares of regulators. There appears to be no advantage to the holding company structure except to the unregulated businesses of Pacific Telesis, which are cross-subsidized at every turn by Pacific Bell.

The bottom line is that consumers risk having to pay higher phone rates if the Bells are allowed into manufacturing.

Now what about the impact on the marketplace? Judge Greene believes that all of the Baby Bells will engage in self-dealing, thereby foreclosing competition in up to 70 percent of the equipment manufacturing market. The Justice Department has estimated that 5 to 15 percent of the competition in the telecommunications equipment manufacturing market will be foreclosed. The D.C. Circuit Court of Appeals, noting these differing estimates, stated that "there seems to be no dispute that some substantial portion of the equipment market will be foreclosed."

Reduced competition raises the threat of higher prices and lower quality goods. The threat of foreclosure also would have an adverse impact on non-Bell purchasers of telecommunications equipment—about 30 percent of the market. The loss of independent suppliers would hurt non-Bell purchasers of telecommunications equipment because the Bells, with a guaranteed market to supply, would not be subject to the same competitive pressures as are independent suppliers.

So look what we have, Mr. President: If this bill passes most of the Bell sector of the network equipment market will be foreclosed by self-dealing. Meanwhile, the non-Bell sector of the market—in which companies like MCI, American Express, and others purchase telecommunications equipment—will be hurt because the market is likely to be dominated by self-dealing monopolies, which could raise prices and reduce competition.

Besides simply buying from themselves at inflated prices or saddling ratepayers with excessive costs, there are other methods by which the Bells could threaten competition and hurt consumers. They could design their phone networks in a manner that would, in the words of Judge Bork, "make their systems incompatible with equipment made by other manufacturers."

The Bells could inhibit competition by providing their manufacturing affiliates with advance notice of upcoming equipment needs or changes in the design of the local exchange network. This head start would give them a critical advantage over other equipment manufacturers. Again, this is not a hypothetical concern, but was one of the factors in the Government's original antitrust suit against AT&T. Judge Greene noted that prior to the decree, Western Electric was frequently granted:

> Premature and otherwise preferential access to necessary technical data, compatibility standards, and other information about the operating companies' needs and requirements and the evolving characteristics of the local exchange. The delays encountered in these respects by Western Electric's competitors frequently made it difficult, if not impossible for them to compete for operating company business.

Now Mr. President, there are safeguards in S. 173 which are designed to prevent the Bells from engaging in anticompetitive and anticonsumer behavior. But these safeguards are not strong enough to ensure that consumers will be protected.

For example, a provision in S. 173 which requires the FCC to issue regulations to prevent the Bells from giving their manufacturing affiliates preferential access to information about changes in network design and equipment needs of the Bell Operating Cos. It's a well-intentioned provision. But the fact is that there is no practical way to enforce it. Think about what would happen if a phone company engineer, either accidentally or intentionally, discloses information about future equipment needs to the manufacturing subsidiary. Is he going to immediately tell the phone company that they have got to drop everything and run down to the FCC to file that information? Mr. President, an FCC regulation is simply not going to prevent personnel from the operating companies from discussing future equipment needs with employees from the manufacturing affiliates.

Finally, Mr. President, let me just say a word about the domestic content provision contained in the bill. It is a domestic content provision in name only. The provision places no limits on the ability of the Bell Co. to use intellectual property created outside the United States. So under the bill, the Bells could conceivably do much, if not all of their research and design activities overseas.

The heart of the provision is a requirement that the Bells must use American-made parts in all the equipment which they manufacture. But there is an exception to this provision which practically swallows the rule. If the Bells cannot find the components here in the United States at a reasonable price, they can use foreign parts.

Now the bill does say that the cost of the foreign-made components may not exceed 40 percent of the revenue generated from the sale of equipment. But componentry costs almost never exceed 40 percent of the cost of most network equipment products, let alone their sales revenue. So the Bells could use all foreign-made parts and still meet the 40 percent test that is in the bill.

The bill does say that the componentry percentage figure must be adjusted yearly to correspond to the average for the entire industry. But that doesn't guarantee the use of more American-made components, because equipment sales by foreign firms will be included in the calculation. Indeed, the inclusion of sales by foreign firm might even raise the ceiling, since their products will be made entirely with foreign parts.

Moreover, the bill says that the Commission shall adjust the percentage figure after consulting with the Secretary of Commerce. It is my understanding that both the Commission and the Secretary of Commerce do not support the domestic content provision. If they are included to relax the application of this provision, this language would seem to give them ample leeway to do so. So as a practical matter, this provision is not going to limit the Bells' use of foreign-made parts.

Mr. President, the bottom line on S. 173 is this: The benefits are at best speculative and, at worst, illusory. Meanwhile, the risks to consumers and competition are too great. Some of that risk can be alleviated if the bill is amended, but in my judgment, this legislation should not go forward. Accordingly, I will note "no."

Mr. President, I commend the Senator from South Carolina's staff and my own staff. It was not an easy negotiation. They have been involved for several days. They have been very cooperative. My own staff has been extremely involved, knowing full well what the situation was here on the floor, trying to do what this Senator wanted done. And the staff of the Senator from South Carolina was certainly trying to do what their Senator wanted done. I think all of them have acquitted themselves admirably and I am grateful the Senate has such able young people on our staffs and working for us.

Mr. President, having said that, I have nothing further to say.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who seeks recognition? Are there further amendments?

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. LIEBERMAN). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. SEYMOUR. I thank the Chair.

(The remarks of Mr. SEYMOUR pertaining to the introduction of S. 1225 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SEYMOUR. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I want to clarify one point that is currently left somewhat unclear in the committee report regarding Bellcore, the Bell Co.'s joint research center, when the committee reported S. 173 it was the intention of the committee not to change the legal status of Bellcore in any way. Bellcore will have the same authority to work with any manufacturer, including Bell Co. manufacturing affiliates, after the bill is passed as Bellcore has today.

To the extent that Bellcore talks with manufacturers today, for instance, it may continue to talk to manufacturers, including the newly created Bell Co.'s manufacturing affiliates, after this bill is passed. This bill, however, grants no new authority to Bellcore.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. I ask unanimous consent that I might proceed for up to 10 minutes as though in morning business.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

Mr. DURENBERGER. I thank the Chair.

NATIONAL HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, let me first thank the managers of this bill for the opportunity to take this time to congratulate my colleagues in this body, especially those from Maine, Massachusetts, and West Virginia—Democratic Senators MITCHELL, KENNEDY, and ROCKEFELLER—on the occasion of the introduction of their landmark legislation on health care reform.

Regardless of the shortcomings of this particular proposal—and I believe there are several—this event today is a very major milestone on the road to urgently needed health care reform in America. It literally is a first.

Today, we have on the table a serious proposal for the national reform of health care which is as close to comprehensive as anything we have seen. For want of a better alternative, this bill sets the agenda for the Congress. It begins the long and difficult process of health care reform.

Because we all tend to focus on the day-to-day challenges around here, we often cannot take in the longer view of legislation. For our colleague, Senator KENNEDY, this is not a 1-day event. It is yet another step in a 30-year effort to bring access to health care to all Americans. This is not an issue to him; it is a passion, and I commend him for that.

I also want to commend the other key players in this proposal who are, relative to our colleagues from Massachusetts, new kids on the block. It has been my privilege to have served with both GEORGE MITCHELL and JAY ROCKEFELLER on the Medicare Subcommittee of the Senate Finance Committee as long as they have been in the Senate. GEORGE and JAY epitomize Senators of the modern era. They are both good listeners and serious thinkers, and they have an ability to push through the complexities of the issues that we face to reach far-reaching solutions.

I commend them for that effort and the efforts they have made over the last several years to understand and master the health field and for much good policy which they now lay before us. JAY ROCKEFELLER, I must say, also made physician payment reform a reality and made the Pepper Commission work.

Democrats and Republicans in the Congress have been working on changes in the way America pays for health care since I arrived here in 1979 to meet the specter of something called hospital cost containment. There can be no question that America must change the way we produce, the way we well, and the way we buy medical services.

Just as health is a basic issue to every person, it is a fundamental issue for every business, every institution, and every level of Government in America. Like a person with very high blood pressure, each institution of our society today is threatened with an explosive increase in medical costs. This year American health expenditures will be $750 billion. By the turn of the century—only 8½ years from now—that amount will have tripled, to over $2 trillion. Can employers afford three times their current health care costs? Can Government? Can individuals and families? Of course not.

We have 31 million Americans who have no health insurance at all, with millions more soon to join the ranks because of cost increases. We have major sectors of our society—in rural and urban areas—grossly underserved. Change is urgently needed.

I commend my colleagues for laying this proposal on the table.

As I look over the proposal, I see a number of very necessary reforms which have been discussed in the Finance Committee and in the Pepper Commission. The bill is a great improvement on the Pepper Commission final report because it begins to address a major gap in the document—cost containment.

I wish to thank the sponsors for including a number of proposals which I have just put forward over the last several years, and I am especially pleased to see a small business insurance reform component which I have been working on since March of last year and on which I have introduced S. 700, the American Health Security Act.

But, Mr. President, before I sound any more like a cosponsor of this proposal, which I am not, there are several flaws which will cause this bill to fall short of its own ambitious goals. This afternoon I will mention just four.

First, introducing a bill without any financing to it is like wrapping up an empty box and putting it under the Christmas tree. It is designed to disappoint. One of the lessons we were supposed to have learned from the 1980's is that government should not promise for what it cannot pay, or is unwilling to pay.

Unfortunately, this bill falls into that trap. The bill is quite explicit about what we will do for the American people and silent on how they will pay for it. It proposes $6 to $8 billion in Medicaid changes. From where is that money going to come? It proposes a payroll tax on businesses that do not choose to provide insurance. How big will that be—10 percent, 15, 20? This legislation gives no answers. The failure of the sponsors to agree upon a financing mechanism even among themselves does belie the so-called comprehensive nature of the bill.

Second, by relying on employer mandates to solve the uninsured problem, the bill prescribes a treatment that has already failed clinical trials in the State of Massachusetts. There is a major problem of the working uninsured—people who have jobs but cannot get insurance in the workplace. But the problem is not that their employers—mostly small businesses—will not provide insurance; it is simply that their employers cannot.

Finding and keeping affordable insurance in the current cost spiral has been nearly impossible, and to add a mandate to buy insurance in this situation is simply to mandate bankruptcies.

The bill requires employers to either provide a health plan for their employees or pay into a State insurance fund; in other words, "play or pay." The eventual result will be employers abandoning their responsibility to insure workers and dumping them into a huge State system. In other words, we will get a Canadian system by the installment plan.

But the greatest unfairness in this mandate is it treats all employers and all businesses as though they were the same; it ignores differences which are crucial to how these employers make their health care decisions, even the decision to play or pay.

There are differences between employers located in urban and those in rural areas, different kinds of businesses—manufacturers, service industry—the kind of business that can pass on these costs on goods and services and those that cannot. There are differences between the coastal areas of this country and its heartland. To say these disparities do not exist guarantees bad policy outcomes.

The third flaw in this bill is that it leaves totally unreformed $100 billion a year in Federal health spending on the tax side of the ledger. There is a very large hole in the Nation's health bucket that simply must be plugged if we are going to get the kind of efficiency we need in this system. Every year, we hand out $100 billion in tax benefits—or the taxpayers do—for health expenditures, and the American people get no better system for it.

We subsidize the average lawyer in this city about $2,000 a year for his health insurance, a tax subsidy paid for by farmers in Minnesota who do not get that kind of subsidy and have to pay twice as much for their premiums without the benefit of a deduction.

Fourth, I am sure the sponsors would also agree that even passage of their bill today would not nearly finish the job of health reform. We still have to deal with Medicare restructuring and optional services for long-term care. We have to deal with the medical arms race in this country which is raising costs by 11, 12 percent a year. We have to deal with restoring individual resonsibility and changing the wasteful way in which health care is currently delivered in this country. This is the real key to cost containment in America today, changing the way people access health care and changing the way medicine is practiced.

I would suggest that if every health professional in America practiced as part of a Mayo Clinic we would double quality assurance in America, and I know we would cut the costs by at least a third.

The majority leader, Senator MITCHELL, in his statement said this is a "comprehensive bill to reform the Nation's health system to provide access to affordable health care for all Americans."

But without the details of the financing, without a sustainable solution to the uninsured problem, without a tax component or reform in other major areas, this bill will have trouble living up to that reputation.

Mr. President, the process of health reform will be a long and difficult one. Changing how 13 percent of the GNP in this country operates when it is operating in a drug company over here and in a small town clinic over there, is a huge challenge. But we have to start some place. And some place is the bill our colleagues, Senators KENNEDY, MITCHELL, and ROCKEFELLER, have put before us.

I commend them for their leadership and for the correct choices they have made, and I look forward to working with them in the areas—and there are many—where we will have disagreements.

This will be a long journey—10 years' worth of work perhaps. But we cannot get there unless we get started.

Credit belongs to those Senators today. Because of their efforts, we are finally underway.

Mr. President, I suggest the absence of a quorum.

I yield the floor.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. KERREY. Mr. President, I rise to state my support for S. 173, and in particular I want to call my colleagues' attention to what I think is an extraordinary accomplishment on the part of the distinguished senior Senator from South Carolina, who has fought this battle long and hard. I am very grateful he has been willing to do it.

There has been a considerable amount of opposition, persuasive arguments on the other side, and I suspect we are rather close now to passing this piece of legislation.

I have had a great deal of interest in telecommunications for some time. I was chairman of the National Governors Association's Task Force on Telecommunications Policy and, as a consequence of that, we took some regulatory action while I was Governor. And the object of the deregulation action was to try to encourage the local phone companies to invest more in communications technology.

The jury is still out as to whether or not that will occur.

I am pleased with some of the action that has occurred, and not so pleased with some others.

Mr. President, I believe this is an appropriate legislative response to an inappropriate judicial situation. Since Federal District Judge Harold Greene's modified final judgment on the breakup of AT&T went into effect in 1984, the RBOC's have been barred from manufacturing telecommunications equipment. The RBOC's created in that divestiture, and as a part of that divestiture agreement and the consent decree, as a consequence were not allowed to get into the business of manufacturing telecommunications equipment.

This edict on the part of Judge Greene—in fact, a consent decree signed between the U.S. Government and AT&T—was targeted toward legitimate ends. That end is to protect the consumer from unduly high phone bills and shielding other telecommunications firms from unfair competition.

I emphasize this is a legitimate regulatory objective. These are still companies with highly monopolistic characteristics particularly deserving of regulation.

The result has been one of unelected judicial officials now doing more than perhaps any elected official to shape America's telecommunications policy. And the result has been a restriction of the RBOC's that is broader than needed to protect wallets of American consumers and the competitive interests of American manufacturers.

I believe the sponsor of the bill, as I have indicated earlier, the distinguished Senator from South Carolina [Mr. HOLLINGS], has done a tremendous job, an admirable job in crafting this legislation in a way that balances the various interests, the various conflicting interests.

It erects quite concrete barriers to prevent the RBOC's from using their regional monopolies over the phone service to cross-subsidize their manufacturing operations, and to that end I believe the amendments offered by the distinguished Senator from Ohio improve the extent to which we will be able to monitor and prevent that cross-subsidization.

Further, the legislation takes steps to ensure the RBOC's will reenter the manufacturing competition on a playing field that will remain level. It includes measures that will enhance America's position in global trade.

For these reasons I plan to vote in favor of this bill. But for other reasons I will vote for the bill with some regret. What I regret is simply this: America's elected leadership, in particular the administration, is doing so little to set and achieve a bold and broad-reaching telecommunications vision for our Nation's future.

All of us in political life, any who have been in business, understand automatically the power of modern telecommunications.

There can be no doubt that the nature of our telecommunications system in the next century will shape America's destiny as powerfully as our rail, water, and highway systems have done over the past two centuries. If we took the right steps today, we could begin to revolutionize every aspect of our lives: The way we educate our children, the way we obtain our health care, and the way we do our jobs. I have seen some of those possibilities demonstrated already in some of the Nebraska schools.

Mr. President, it is very exciting. One portrait of what we can achieve was recently painted by George Gilder in the Harvard Business Review. Mr. President, the article is too long for inclusion in the RECORD, but I recommend it to my colleagues.

Mr. Gilder presents to us a rather exciting proposal. It is one that has a considerable amount of risk attached to it, as well. But the proposal, Mr. President, says that what is missing in the United States is the infrastructure; not the high-end infrastructure, but the infrastructure that connects the American home and family to that high-speed network that we generally use with long-distance phone systems.

That pared copper line that connects every American home and most of America's businesses with our phone system is the greatest barrier, I believe, not only to our being able to develop a fully integrated information system in our country, but in seeing that marketplace, information marketplace, explode and grow even more rapidly than it has in the 1980's.

What Mr. Gilder proposes is that we are simply not regulating for the right objective; we have not taken into account changing technology and what that technology has done for us. It has given us the opportunity to refashion our laws, not without some risk.

I assume Butler Aviation, both at National and Dulles, is doing a lot of business this week. I assume there is a lot of heavy iron coming in trying to influence our vote. I have seen a considerable amount of evidence of that out in the rotunda. There will be a lot more heavy iron in town if we were, in my judgment, to consider that what Mr. Gilder is saying is, in fact, correct. That is this, Mr. President: What we have done is we have assumed that there is a shortage of airwave space, and that that shortage has created problems for new technologies as they come into the marketplace.

But what Mr. Gilder is saying is there is no shortage of air space. In fact, what we have done is we have lost sight of what the change in technology has done for us. It has done this, Mr. President: It has given us the potential of saying that the lines that we currently regulate and reserve for telephones should be used for video, and the air space that we currently reserve for broadcasts and other, such as cable, that that air space should be reserved for voice communication, for telephone.

It is a tremendous underlying assumption, Mr. President. If what Mr. Gilder is proposing is true, then we need to do much more than simply pass this piece of legislation. We are going to need to provide controversy in the industry out there that will be enormous. If what Mr. Gilder is saying about the potential economic growth as a consequence of this change is correct, it will be worth the battle.

Today, I believe we are doing little to imagine and create a telecommunications future that serves the public's interest, a system that is intentional rather than accidental.

I must call my colleagues' attention to the fine work that has been done by the distinguished Senator from South Carolina. I have heard him talk about the need to challenge our regulatory environment and describe our future.

I have heard the distinguished Senator from Tennessee, at length, describe what we as policymakers need to consider, if we are going to draft our laws correctly.

In the Sunday New York Times, there was an article about the Chairman of the Federal Communications Commission, Alfred Sikes, and his views were expressed in this article.

I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KERREY. Chairman Sikes' statements in this article reveal an understanding on this issue that is deep, rare, and admirable. They indicate that he is visualizing a way to transform how we use telecommunications in America, and then using regulatory policy to achieve that vision. That is the right way to use regulatory policy.

Today, unfortunately, we are too often regulating backward. We set rules for some piece of the telecommunications market, and we determine how those rules are going to work, without first deciding what ends we want those miracles of electronics to serve.

Mr. Sikes seems to have an admirably broad vision, but Mr. Sikes is an appointed official. An appointed official can only do so much to educate and lead the public toward an overall set of goals.

So I find myself asking, Mr. President, what and where is the vision of President Bush who appointed Mr. Sikes? Recently, we witnessed how much the President can achieve when he focuses the Nation's sights on a long-term view.

When Congress was discussing and deliberating whether to give the administration fast-track authority in our trade negotiations, the President aggressively argued that we must look at the longrun benefits of free trade. He painted a broad and persuasive picture of the benefits that would ultimately flow to our Nation if we pressed our trading partners for lower barriers.

This is precisely the kind of executive leadership our Nation needs on telecommunications. We need leadership to mobilize public opinion around the very large investments that will be necessary to link each of America's homes and businesses to a digital network, leadership that will transform the way Americans think about the possibilities of telecommunications; so that they see it as an electronic door to stimulating opportunities, not just as an electric babysitter for bored children.

Mr. President, I must point out, as I am sure the distinguished occupant of the chair knows, and all of us in politics know, that television has tremendous power. We talk often about its power in electing representatives, not only to this body, but to State bodies as well.

Mr. President, this most powerful of technology tools, perhaps the most powerful of the 20th century, is being applied in such a tremendously good fashion in the marketplace and by the marketplace.

Mr. President, I would rather my 14- and 16-year-old children not watch television. That is how good a job they are doing. I find the nature of mass media today to be such that I would prefer that my own children not be exposed to it.

Something is wrong and, again, I urge my colleagues to have a look at Mr. Gilder's article. It appears in this month's Harvard Business Review.

Mr. Gilder describes what is possible. He says, "A mass medium is inherently coarse and vulgar." I certainly agree with that. "It has to deny the uniqueness of human beings, their brains, and appeal to their glands and propagate a culture that degrades rather than inspires."

Mr. President, of all the things I believe we have before us with telecommunication, I believe we have the possibility—if we see what it can do for us and are willing to fight the kind of battles that the distinguished Senator from South Carolina is fighting with S. 173, if we are willing to fight those kinds of battles, we can give our children something other than what they currently have. And rather than worrying about what happens when they turn on the television set, we can be excited about what happens when they come into contact with the work station in our homes.

I will vote for S. 173. I applaud the work of the distinguished Senator from South Carolina.

I yield the floor.

EXHIBIT 1

[From the New York Times, June 2, 1991]

PURSUING AL SIKES' GRAND AGENDA

(By Edmund L. Andrews)

WASHINGTON.—By any measure, Alfred C. Sikes has a bold blueprint, and he is in a hurry to put it in place.

As chairman of the Federal Communications Commission, he sees a world in which people could use satellites and high-speed fiber-optic communication lines to take college courses at home, have television sets double as multimedia computer work stations, use communication networks to transmit the contents of an entire library in seconds and track down a person anywhere on the globe to deliver the data.

To speed these developments, the 51-year-old Mr. Sikes has embraced a sweeping agenda to overhaul communications policy in the United States and in the process put companies on equal footing with those in Europe and Japan. He wants to free up space on the crowded airwaves for advanced new services, from pocket-sized radio telephones to interactive television and satellite messaging. He is also pressing to end the practice of assigning valuable licenses through lotteries, a practice he said has allowed speculators to earn huge profits by simply reselling licenses, and is pushing for authority to award licenses through auctions. He is also bent on spurring competition by knocking down regulatory barriers that now segregate services into isolated fiefdoms for telephones, cellular service, cable television and broadcasting. He is pressing for legislation to lift key restrictions on the Bell telephone companies while forcing them to open their networks to new rivals.

"For decades, the United States has been the world's Gulliver," he remarked recently in his corner office overlooking downtown Washington. "We assumed we were better. Now, it's quite clear the international competition is fierce. There is hardly an area in which we are competitively engaged in which we are not in a fight for our lives."

But some experts contend that Mr. Sikes's blueprint is itself in danger of being tied up in Lilliputian knots. Democrats in Congress are resisting moves to relax telecommunications rules in several areas; state regulators and corporate opponents have already won court decisions that have stalled F.C.C. moves to ease regulations on both American Telephone and Telegraph and the Bell companies.

Closer to home, the agency's five-member commission faces an onslaught from special-interest groups and is itself driven by dissension and turf battles.

VOTED DOWN ON RERUNS

The weight of all these obstacles was brought into stark relief in April, when Mr. Sikes suddenly found himself outmaneuvered and outvoted by three commission members on the hotly contested issue of lifting rules that bar television networks from owning rerun rights to programs. Mr. Sikes had argued fervently that the restrictions were outdated, but commissioners Andrew C. Barrett, Sherrie P. Marshall and Ervin S. Duggan pushed through a measure that retained many restrictions and even added new ones.

It was a blow to Mr. Sikes and raised questions about his ability to coax the commission into a policy-making consensus. "We have an F.C.C. subject to a lot of internal disagreement and therefore subject to a lot of disparate lobbying at a time when we really need a coherent policy," said Allen Hammond, director of the Communications Media Center at New York Law School. "Simply looking at decisions as a way to appease one interest group or another is not going to work."

Others are more sanguine. "I think this issue was unusual," said Richard Wiley, a lawyer and former F.C.C. chairman. "I think Al will be successful."

The commission faces daunting political pressures brought about in part by rapid advances in technology and growing competition. Cable television companies want to use their networks to carry telephone calls and data. Mobile radio systems for car and truck fleets are being adapted with new digital technology to compete with cellular telephones. Local telephone companies are losing business as corporate customers rely more heavily on private satellite networks and alternative carriers that offer low-cost fiber-optic circuits.

But any attempts to change the rules provokes intense opposition. Radio stations, for example, are fighting proposals by several new companies that want to use digital technology to broadcast high-fidelity music over satellite. Long-distance carriers like MCI Communications and US Sprint are trying to block moves that would liberalize pricing for A.T.&.T. And A.T.&.T. is fighting legislation, supported by Mr. Sikes, that would allow the regional Bell companies to manufacture equipment.

"Today's communications laws and industry lobbyists have combined to form the equivalent of their own Army Corps of Engineers," Mr. Sikes said in a recent speech. "Much like the corps' penchant for damming free-flowing streams, today's communications lobbies too often lock a stream of ideas and innovations.

More than most of his predecessors, Mr. Sikes brought with him an unusually detailed game plan when he assumed office 22 months ago. He has served from 1986 to 1989 as head of the Commerce Department's National Telecommunications and Information Administration, which sets communications policy for the executive branch. While there, Mr. Sikes produced a massive analysis of trends and policy prescriptions that guides much of his agenda today.

Like many other Republicans, Mr. Sikes is a strong advocate of eliminating regulations whenever possible. But he has not taken an entirely laissez-faire approach, showing a willingness instead to use government force to pry open markets for new competitors. Last month, for example, the F.C.C. proposed forcing local telephone companies to let new competing local carriers plug directly into their networks. In effect, the rivals would have the right to set up operations at telephone company switching stations, a remarkably intrusive act.

Indeed, Mr. Sikes seems to be more of a moderate than his two predecessors, who pursued deregulation with almost fanatical zeal. In March, for example, the F.C.C. proposed tough new rules to combat fraud and deceit by companies that provide information services over "900" telephone numbers. And next month, the commission is expected to adopt rules that give local governments somewhat more authority to roll back prices of cable television.

THE BIG INITIATIVES

The Missouri Republican has already pushed through a number of important initiatives, including more flexible pricing rules for both A.T.&.T. and the Bell companies. The commission has also moved to push down the arbitrarily high rates that foreign telephone companies charge for connecting international calls. And Mr. Sikes won approval for one of his pet issues, giving a "pioneer's preference" in the licensing process to companies that introduce important new technologies.

In a city of prickly political egoes, Mr. Sikes practices an earnest courtliness and seems uncomfortable with soaring rhetoric, glad-handing and back-office intrigue. when confronted with the certainty of defeat, as he was on the issue of rerun rights, he seemed content to quietly stick to his guns. "It just isn't true that I've been humiliated," he remarked at one point. "Humiliation is when you've been forced to compromise on your principles, and I haven't done that."

This quiet profile has helped him smooth relations with Congressionoal Democrats, who still seethe at the memory of what they consider were heavy-handed predecessors, Mark Fowler and Dennis R. Patrick.

Mr. Sikes will need the Democrats' support in untangling the snarl of issues. The biggest and most complex is finding space in the crowded radio spectrum for services based on new technologies. Assigning frequencies to them will squeeze out existing users. Yet at least a dozen new services are now pending before the commission, and more are on the way.

Congress now appears likely to approve legislation that would shift a significant chunk of the spectrum from government to commercial use, which the F.C.C. could then allocate to some of these new technologies. In addition, however, Mr. Sikes is trying to create an extra "spectrum reserve" by identifying commercial uses that can be crammed into smaller channels or be shifted to wirebased transmission systems.

Even if it got that far, the F.C.C. would still face the contentious question of which new technologies to endorse and how to award the licenses. Mr. Sikes and the Bush Administration want to auction licenses through competitive bidding, which they contend is simpler and more rational than either lotteries or the traditional comparative hearings. But Democrats are pushing hard for comparative hearings, arguing that auctions will favor large corporations over smaller innovative companies.

WHAT'S AHEAD

Separately, Mr. Sikes is now pressing at least a half-dozen other initiatives. Among them:

Relaxing and perhaps repealing rules limiting the number of radio and television stations a single company can own. Currently, a company can own no more than 12 AM stations, 12 FM stations and 12 television stations. Last month, the F.C.C. formally proposed relaxing the rules for radio, and it is expected to ask for opinions about television in a month or two.

Mr. Sikes contends that broadcasters are under growing pressure from cable television, direct-broadcast satellites and other technologies, and need as much flexibility as possible. But there are rumblings, particularly from Representative John Dingell, Democrat of Michigan and chairman of the powerful House Energy and Commerce Committee.

Streamlining rate-setting rules for A.T.&T. long-distance services. A.T.&T., a "dominant carrier," must obtain Federal approval for all its prices and its rates must apply equally to all customers. That has made it difficult to compete against MCI and Sprint in offering low prices for complex packages of services tailored to large corporations. MCI and Sprint have won support in fighting A.T.&T. from Mr. Dingell and others.

Selecting a broadcast standard for high-definition television. The F.C.C. is overseeing tests of six rival systems and says it will pick a winner by mid-1993.

To avoid making conventional television sets obsolete, Mr. Sikes insisted that competitors produce a system capable of transmitting over ordinary television channels. Some experts complained initially that true high-definition television consumed so much radiowave frequency "bandwidth" that it could only be broadcast by satellites. But several of the six systems to be tested this year and next say they can transmit programs entirely in digital code over a standard television channel. These systems could easily evolve into interactive computers once high-capacity fiber-optic lines reach individual homes early in the next century.

Deciding on technical standards for wireless "personal communication networks"—extremely lightweight, low-powered telephones that relay signals through small radio towers, like those used in cellular telephone systems, located close to each other. Forty-six companies have received experimental licenses in the last year, including several cable television companies that hope to use their networks to link the radio antennas into a system reaching as many locations as today's telephone companies. No decision is expected for several years, however.

Deciding on technical standards for digital radio. Several companies have proposed systems that would transmit music with the sound quality of compact discs. The National Association of Broadcasters has endorsed a system developed in Europe that transmits over ordinary radio frequencies. But several small companies have asked to transmit programming nationwide by satellite.

Opinions differ on whether Mr. Sikes can muster support both in Congress and among his fellow commissioners to forge clear policies. His commissioners have privately complained that the chairman treats them like employees and that he presents imminent actions as faits accompli. "That's a canard," he responds testily, arguing that the agency's top staff is usually available to brief commissioners about issues.

PROBLEMS WITH POWER

The tensions stem in part from various power struggles between Mr. Sikes and the other commissioners. Mr. Sikes competed for the chairman's post against Ms. Marshall, who worked for James A. Baker when he was Treasury Secretary and who coordinated President Bush's unsuccessful effort to name former Senator John Tower as Secretary of Defense.

Some industry experts contend that Mr. Sike's hand will grow stronger next year when Ms. Marshall's term expires. Mr. Sikes points out that he has been forced to dissent on only one issue since taking office. "I think he's going to do quite well," said Mr. Wiley, F.C.C. chairman until 1977.

Added Mr. Patrick, Mr. Wiley's successor: "Part of the problem here is that the process of decision-making in a democratic institution is a very messy and inherently controversial process. It's not always obvious what to do."

Mr. HOLLINGS. Mr. President, I thank my colleague from Nebraska for his very generous comments. I want to emphasize to all Senators that his is one of the more meaningful statements in this entire debate, and his comments are right on the mark.

It is not surprising since the distinguished Senator, as has been noted, chaired the Governors Conference on the Telecommunications Task Force. He has kept up and led the way in the U.S. Senate.

We appreciate very much his support, and we value very much his suggestions. I too am concerned about what we see on television and ensuring that the communications industry is competitive.

We thank the Senator for his comments and his support.

The PRESIDING OFFICER. The Senator from Utah, Mr. HATCH.

Mr. HATCH. Mr. President, I ask unanimous consent that my remarks be considered as in morning business.

The PRESIDING OFFICER. Without objection, it so ordered.

HEALTH CARE

Mr. HATCH. Mr. President, I have been interested that the majority leader is talking in terms of a Democrat health care plan for America. And from what I understand about the plan, I would like to just say a few words about it because I think it is very important that this debate begin.

I believe that health care is one of the two or three top issues in the minds of everybody in our country today. There is no question we are in trouble. Health care costs are rising at an annual 12.5 percent of the gross national product rate. That is too fast and too much. Compared to any other country in the world, we spend more per capita than any country in the world. Something has to be done. I do not think this administration or anybody else can stand back and say we want to do it in a leisurely pace. Health care costs are going to 18 percent unless we find some way of containing the escalation of those costs.

Having said all that and having also indicated that I am pleased that the majority leader and my fellow colleagues on the other side are willing to do something in this area, I am pleased that they will file a bill that will begin the debate and will begin discussion and will cause people to sit down and consider these very delicate and important, complex matters.

Having said all that, I would like to say a few things about the bill itself that I have been led to believe is to be filed by my friends on the other side.

One thing that I have great difficulty with is employer mandates. As I understand it, the Democrats' bill would have an employer mandate because if an employer did not provide health insurance that employer would have to pay an 8 percent payroll tax into a public program.

The thing that bothers me about that is there is too much of that attitude in this body. The typical Democratic Party solution is the always-make-somebody-else-pay-for-it or always-make-someone-else-do-it approach. Spend somebody else's money. This will cost at least $30 billion. And whose money? It has to be the American workers. You can say we will just have American business pay for it. Ultimately that is taken out of the hide of the workers of America.

Our employer-based health insurance system is a historical accident that is in part responsible for our current health care mess. As health care costs have increased, many employers have found they cannot offer health care benefits and stay in business. Most employers offer health insurance, if they can afford it.

Mandates on employers limit both employers' and employees' flexibility, damper their creativity, and, in the case of health insurance, may threaten their very survival. It is particularly disconcerting that the pay-or-play mandate will fall hardest on employers who offer entry-level jobs—the very jobs that we need in this country to enhance family and societal stability in high-risk situations. Often those entry-level jobs are part-time or a second job or spousal employment. These kinds of employees often choose not to be covered by health insurance. The Democrat approach, or pay-or-play, will provide them something that they may not need or may not want, in fact probably will not want, and perhaps at the expense of having no job at all.

It is clear that many of these employers are on a thin margin. An 8-percent increase in their taxes—essentially applied to their gross receipts, since their expenses are heavily payroll and they have no profit—could drive them out of business. As small employers fail, so does most of our job creation capacity. Everybody knows that the largest part of small business' expense happens to be with payroll. If you have a tax of 8 percent of payroll, you are disproportionately hitting small business where it hurts.

In reality, this pay-or-play approach is a mandate on the backs of American workers. What they get is a loss of jobs, loss of flexibility, and loss of wages. Before we mandate new expenses on the backs of American workers, we better get health care costs under control.

I would like to spend a minute or two on the national expenditure targets. The Mitchell plan sets "voluntary spending targets" for health care spending. If spending exceeds a specified amount, certain rate regulations are likely to go into place. This is rate regulation pure and simple. It is also a gutless Federal Government approach to rationing from the worst possible position—centrally, "on high."

Hospital costs in rate-regulated States have increased faster than the national average and much faster than in nonregulated States. Medicare physician expenditure targets, the RBRVS, have led to increased costs because of volume phenomena. All this has led to more proposed regulation.

Rate regulation ignores the only proven way to control costs, and that is the market. Rate regulation tends to freeze inequities as they currently exist, and there are plenty of them. Current inequities include no access to health care for over 30 million of our citizens, while many of them overconsume, driving up costs. Who is to say how much we should spend on health care? That should depend on individual freedom of choice as long as market incentives are not distorted. Expenditure targets would ration care from on-high while leaving horrible distortion in our centrally planned health care system if that is what we opt to go for under this particular plan.

Why cannot my colleagues who are sponsoring this bill learn a lesson from Eastern Europe and the Soviet Union? Regulation does not work. Unencumbering the market does work. And the approach of those who are filing this bill is once again more encumbrances. I wonder if my democratic colleagues have ever wondered why no innovations in health care have emerged from socialist countries.

I have problems with mandated benefit packages. The Mitchell plan would either define a set benefit plan or have a Federal board do it. Thus my colleagues who are sponsors of this bill seem to accept that over 700 State mandated benefits have contributed to our current problems. But they again insist on mandating highly specific benefit packages, which will be very costly for employers and employees. They will have to pay for this while giving little or no flexibility to employees. What is the difference between State and Federal mandates?

Mandated benefits increase cost, decrease insurer flexibility to custom tailor insurance packages, and remove individual freedom of choice. As a nation of individuals, we thrive on our diversity. One-size-fits-all solutions are inappropriate for us; most important, they will not improve our collective health, but they will increase our costs.

Let us let the market define benefit packages which individuals, exercising free choice, can choose among. Let us give them the choice. Let us not have government bureaucrats or ourselves define those packages. The market will work to provide appropriate benefits at a minimum cost if we let it. I do not know one American who cannot tell me what he or she needs when it comes to health care.

Now, this pay-or-play system bothers me a great deal. As usual, those who support this type of approach cannot pay for the program, except on the backs of employers and American workers. They will not constrain the overconsumption which results from overinsurance. They will not make individuals responsible for their own health care choices. They prefer to build inefficient bureaucratic regulatory mechanisms which always, in every case, increase costs.

They contend that a single payor claims system will save money. They tried that as a public program in Massachusetts. Administrative costs were 30 percent. They created the mess in Massachusetts. Why cannot they learn from it?

Let me just say this. I have said some fairly crusty things about the Mitchell plan, or the plan of our friends on the other side of the aisle. But I also want to say that they have done the country a service in filing something because there are some good things in their plan. Based upon what I know about the Democrat plan I would say this: The Democrats have adopted several of the ideas that Senator KENNEDY and I have been working on for years. We have been talking about them for years. We put them in various bills, and so forth. They now seem to admit that the liability crisis exists in settings other than the community health centers. We can work together on medical liability reform, and I commend my colleagues and particularly Senators MITCHELL and KENNEDY, and others on the other side, who have acknowledged this and who agree that this is something that just has to happen. It has to happen.

We agree that new initiatives in statewide quality assurance activities are essential. I think that is a good point in their program.

We can work together to establish and publish standardized cost and quality data for each provider on a State-by-State basis.

We agree that State-mandated benefit laws and restrictions on managed care must be preempted.

We can come to an agreement on the reform of the small group health insurance market.

We can work together, as we have in the past, to develop practice standards based on excellent medical outcomes research.

We will continue to work toward expansion of Medicaid, including increased eligibility and improved reimbursement schedules.

We can jointly develop increased emphasis on preventive health approaches. I think all of those are important.

The fundamental disorder in our current health care system is high costs, which are getting higher every minute. Inflation in health care has been 2 to 3 times the basic inflation rate almost four times, as a matter of fact, last year. And, in some sectors of the industry, health insurance premiums, for instance, costs have increased 20 percent over the last year.

Increased costs have many derivatives. Access to the system is limited. Wise preventive approaches are squeezed out. Health manpower is distorted in terms of specialties chosen and geographic distribution of practice location. Care is often delayed until a time when outcome has worsened and costs are higher. Underfunded public programs increase their cost-shifting to other payers, further driving up costs.

We cannot increase access until we control costs.

The most important mechanism for controlling costs is to make individuals more responsible for their own health care, including their health care spending. All sectors of the health industry—employers, insurers, providers, professionals—must take responsibility for restraining costs. And, the government must make sure that there are proper incentives for cost constraint by all of these sectors, and do its part in funding safety-net programs.

My proposal would:

No. 1, require publication of quality measures and costs of health care by specific unit of service, for all providers and professionals in each State. A prudent consumer cannot make informed shopping decisions if they do not have information about quality and cost. I reject a utility or rate regulation model, because they do not work.

No. 2, provide grants to and expand programs in medical outcome research in order to catalyze development of medical practice guidelines. Practice patterns vary substantially often even within a small geographic area. Practice patterns are often professional whims, not proven effective mechanisms. With research data driven practice standards, remibursement would be limited to only appropriate care and not to individual whim.

No. 3, cap the existing deductibility of employer provided health insurance costs at probably around $3,000, which would generate $21 billion in savings to the taxpayers and $3,600 would generate $16 billion. Overconsumption of unneeded care is encouraged by the perception that health care is prepared and free. Capping the deduction would make individuals more aware of and responsible for their own health care costs.

No. 4, we would pass a very similar medical liability reform bill, but it would have more teeth than what the approach is going to be in the Mitchell proposal.

No. 5, preemption of State-mandated benefits laws and of State restrictions on managed care. States would define a basic health insurance premium amount within which insurers could compete by defining various benefit packages.

Let the insurers do it and let the people buy what they need. Do not have mandated State mandates that literally no State legislator can fight against.

The State-defined amount would limit State tax deductibility; regardless of a State's defined amount, Federal deductibility would be limited.

No. 6, encourage development of consolidated claims management and claims payment mechanisms on a State or regional basis. Current administrative costs of our pluralistic system may approximate 30 percent of all health insurance costs. This could be substantially reduced by consolidation, saving perhaps as much as $60 billion per year. Consolidation does not mean rate regulation or an all payers system.

No. 7, small group health insurance market reform is essential. Make health insurance a guaranteed issue for all employees and employers, regardless of size, and moderate the currently outrageous costs for small employers.

No. 8, develop new provider and professional cost containment and quality assurance mechanisms within States through grants to States.

No. 9, increased emphasis on prevention. Individual responsibility plus employer incentives to offer work place health education and maintenance activities, I think, is essential.

The above cost containment-restraint-rollback mechanisms should be allowed to work for 10 years. If universal access has not been achieved after all the reforms the industry has requested have been in effect for 10 years, a penalty will be assessed on all sectors of the industry to provide funding for a public program for the uninsured.

The Federal Government must also do its part. Everyone must share the pain. The Federal programs must stop passing their costs onto the States with Medicaid, onto providers through inadequate reimbursement levels, and onto the private sector through cost shifting. We will federalize Medicaid and refocus it on poor women and children by decanting reponsibility for the elderly to Medicare and for the disabled to a new Federal program. The new Medicaid Program will increase to at least 115 percent of poverty, and improve reimbursement rates to Medicare levels.

The costs of federalized Medicaid can be met through the $20 billion savings from the tax cap on employer deductibility and through the savings from medical liability reform.

The States must also do their part. Each State will be required to design and fund a catastrophic insurance program, individualized for the uniqueness of each State. Having responsibility for catastrophic coverage fall to the States will keep resource allocation decisions, that is, rationing, properly decentralized. It will also require regional cost-demographic distortions be dealt with at the local level and not cost shifted to a national level. Utah should not have to help Massachusetts pay for its excesses, nor should Massachusetts have to help Utah pay for its excesses, although I do not think there are many excesses in the State of Utah.

Mr. President, these are just broad outlines but, nevertheless, outlines that we have been working on for years and outlines that I think would help to bring us to an affordable national health system that would really work.

I have the same problems with the mandates and the other things that I have discussed regarding the Mitchell plan, but again I want to commend the majority leader for having the guts to file a plan and to get this particular issue started and to bring it into the public debate and to see what we can do, hopefully, ultimately to have a bipartisan approach to this subject.

I also want to pay particular tribute to my friend, JOHN CHAFEE, on our side, who has worked long and hard to try and come up with various approaches that will work from a bipartisan national health approach. I hope that before it is all said and done we will be able to do that.

Mr. President, I yield the floor.

(Mr. WELLSTONE assumed the chair.)

Mr. HOLLINGS. Mr. President, it is my understanding that my distinguished colleague from Rhode Island would like to address the Senate respecting health care and we will yield, as if in morning business, for 10 minutes.

My problem, Mr. President, is I do not want word to go out that we are going into other matters. We went into China lectures yesterday, the civil rights lectures, the health care lectures. Now we have said we should not have a flag by the Bell Operating Cos. of Syria or, at least, the Bell Operating Cos. should not operate in Syria.

The truth of the matter is that we have completed all amendments. I heard there was a head count going on preparatory to an amendment. I heard that at 12 noon and it has taken 3 hours to get that head count and we still do not have our amendment. The best way to get a head count is to present the amendment, if they will present the amendment. Otherwise, we are going to be moving toward third reading. We are not going to sit here all afternoon listening to lectures on matters unrelated to this bill.

The Senate has terribly important business. I know the Senator from Rhode Island has some important comments to make, but the Senator from Pennsylvania has been waiting to debate on the bill.

Mr. CHAFEE. Mr. President, first of all I want to thank the distinguished manager of the bill for giving me this time.

Before I start, I thank the distinguished Senator from Utah, who made some very cogent comments on the Democratic proposals, for some suggestions that he has, and that, also, I have. We have been working together on this.

Also, I thank the distinguished senior Senator from Pennsylvania for allowing me to interrupt him at this time.

THE DEMOCRATIC PROPOSAL ON HEALTH-CARE REFORM

Mr. CHAFEE. Mr. President, today a group of Democratic Senators is introducing a bill to expand access to health insurance to all Americans. I applaud their efforts in this area, and believe some of their proposals represent a strong step forward. However, I also have concerns about the direction they have taken, and would like to address some of the details of the proposal.

Before I do that, I would like to express some general thoughts. I strongly believe that we must significantly improve our health care system in the United States. Our costs are spiraling out of control, our health status—especially among children—is not improving, and too many Americans are without access to affordable and appropriate health care. As a veteran in this area, however, I know that it is much easier to make that statement than it is to gather a large enough consensus to solve the problem. Throughout the 1970's and 1980's, calls for comprehensive health care reform came in cycles. We all had proposals which we felt would solve the problem. Leaders dug their heels in and insisted that they had the best approach. We got nowhere.

We are now in another such cycle. If history is a teacher, surely we can learn from our mistakes.

We have another chance now, and I hope we will not let it slip through our fingers for political reasons. Many Republicans in the Senate agree, and in July of last year formed a Republican Health Care Task Force to study this issue. I have the privilege to be chairman of this task force. There are 32 members. Many of us have been working to pull together proposals that we believe have a chance of becoming law. In this process, many of us have had to compromise our desire to attack the whole system in one fell swoop. We are developing a package which we believe will move us significantly forward, even though it may not solve all of our problems.

Many areas of our Nation are experiencing severe recessions. We are facing a tremendous Federal deficit. Mandated employer coverage of health insurance will be vigorously opposed by small business. Neither Federal and State governments nor businesses are prepared to significantly increase health care spending.

Yet, a number of Members of Congress and interest groups insist that the time has come to enact a national health plan which would guarantee that everyone has health care insurance coverage. The bill my Democratic colleagues have introduced may promise health insurance to all Americans, but it does not have much of a chance of passage. No such proposal will pass without the support of some Republicans and a majority of Democrats in Congress and without the Bush adminstration's support. Neither are prepared to endorse such a plan. There is no broad support for this approach, inside or outside the beltway. Small business, and even some larger businesses will not support this proposal. Yet, we have momentum for change, and I believe that we should take advantage of it.

It is critical that we move forward on health care reform in the next 18 months. There are Americans who are at risk because they do not have access to health care services. I hope that the Democrats will not allow the temptation of using this as a campaign issue to take priority over passing something that will at least move us closer to a goal we all share—ensuring that all Americans have access to health care services.

The Democrats have addressed the growth of health care costs through encouraging managed care plans, preempting health benefits currently mandated by the States, encouraging the use of single claim forms to lower administrative costs, and reforming the insurance market's treatment of small business. We have discussed all of these ideas on a bipartisan basis for the past 18 months, and I am glad to see them party to this package.

They also have at least acknowledged that solving our health care access problem can not be accomplished solely through health insurance expansion. They have adopted an idea I have promoted—to significantly expand community health centers which provide needed care in medically underserved areas.

What about the other provisions included in the proposal?

Clearly the "pay or play" component of this proposal is a rerun of the Pepper commission recommendations. I have strong concerns about the ability of employers to comply with the requirement that they offer health insurance to all full-time employees or pay a very large surtax. Until we make significant reforms in the insurance market for small business and institute real cost containment measures—and they are proven effective—there is no guarantee that health insurance costs will be lowered enough to be affordable to all small businesses.

I question whether in our current economic situation it is wise to impose significant costs—either through insurance premiums or a payroll tax of 8 percent—on our business community. Can we really afford to take the risk that those small businesses which are operating on the margin now will be forced out of business? After all, businesses with less than 100 employees employ 46 percent of American workers.

It also concerns me that one of the most critical health care costs—medical liability—is not adequately addressed in this proposal. The proposal would provide grants to States to experiment with alternatives to our tort system. While grants could be a small useful component to medical liability reform, simply throwing grant dollars to a State will do little to encourage development of alternative dispute resolution systems and urge plaintiffs and defendants to use them. The cost of medical liability—including premiums and defensive medicine—accounts for about $12 to $14 billion per year.

The proposal also includes an entirely new public program. However, there is a requirement that all individuals be covered, and the States will be required to pay a significant share of the cost. Unless they significantly increase Federal matching funds to States, a costly proposition, this could be a real problem for the many States which are already facing severe budget problems.

Now, it is easy to criticize a proposal. My response to critics is generally, Do you have any better ideas? In this case the answer is "yes," I think some of us do.

As I mentioned earlier, in the Republican Health Care Task Force our goal has been to pull together a proposal that may not offer all things to all people, but that is reasonable and has a chance of getting beyond the rhetorical stage—in other words, policy over politics.

We are looking at ways to encourage employers to provide health insurance coverage to their employees. This could be done by making insurance more affordable to small businesses. We are discussing providing incentives for small businesses to form purchasing groups so they can gain market strength to negotiate more effectively with insurance companies.

We are looking at reforms in insurance market practices which make it difficult for small employers to provide coverage to their employees. Such practices include underwriting and rate setting policies, which exclude high-risk individuals or groups.

We are discussing development of a model benefits package, which could be used to allow employers to offer lower-cost benefit packages. In order to do this, we would have to preempt State mandated benefits which can significantly increase the cost of health care insurance. These mandates range from in-vitro fertilization to treatment for hair loss.

If we are going to control costs within our system, we must examine current Federal expenditures on health care. When we think of health care entitlement programs, we think of Medicare and Medicaid. There is, however, another significant Federal health care entitlement program. I am referring to the treatment of health care benefits under the Tax Code. This loss of revenue to the Federal Treasury amounts to almost $40 billion annually, and is the third largest Federal expenditure on health care, behind Medicare and Medicaid.

Under current law, all employer contributions to an employee health insurance plan are excluded from the employee's taxable income. An individual who does not receive employer-based insurance not only will pay more for insurance because he is purchasing it outside of a group, but also will pay for it with after-tax dollars. Thus, we are subsidizing health care for a significant number of upper- and middle-income individuals. Workers in businesses that do not provide insurance, usually low-wage workers in the service industry or seasonal workers, do not receive this subsidy.

We are examining the placement of a cap on the deductibility of very generous employer provided plan, given that so many in our society have no health care whatsoever.

We are looking at expanding the deductibility of health costs to those who purchase insurance outside of an employer group, as well as to those who are self-employed. Another method of expanding access to both insurance and services is through the use of credits for low-income families and small businesses which is a proposal we are examining.

We are also considering changes which will help control the spiraling cost of health care, such as preempting State laws which create obstacles to managed care arrangements. Another issue we will address through significant reform is medical liability. Health care providers are paying outrageous premiums, and are practicing defensive medicine to ensure they have the ability to defend against a negligence suit.

We are also looking at increasing the availability of health care services for low-income individuals who do not have access to employer-based coverage. I and a number of my Republican colleagues have introduced legislation which will increase access to critical health care services for individuals living in medically underserved areas. All too often, we as policymakers forget that just giving someone a Medicaid card, or private insurance for that matter, does not necessarily guarantee access to health care.

In both rural and inner-city areas there are shortages of qualified medical personnel. In addition, there are shortages of health professionals who will accept Medicaid patients. Community health centers are one solution to our health care delivery problems. They provide cost-efficient high quality primary and preventive care services to the uninsured, as well as persons with Medicare, Medicaid, or private coverage. We are looking at a significant increase in the funding available to these centers.

We are also considering proposals to give States increased ability to enact statewide health care reforms. This could help us to determine what strategies we should pursue on a Federal level. Only through experimentation such as this can we best determine how to address most effectively, deficiencies in our health care system.

I will be the first to admit that these proposals will not solve all our problems. I would like to go further. It is easy to support providing health insurance coverage for all Americans. It is easy to say that we should create a new public program for all uninsured individuals. It is easy to point to Canada, West Germany, and Sweden and say, "If they can do it, so can we."

Simply put, we have neither the support nor the resources to enact such proposals. The harsh reality is that there is no consensus on what radical reform should include, and how it should be paid for. The Democrats can't agree, and neither can the Republicans. The business community cannot agree, nor can consumer groups, nor can health care providers.

We can make significant strides toward what may one day be a radical change in our health care system—not by revolution, but by evolution.

It is my hope that once the bill is introduced, the Democrats will go back to the drawing board with us and try to develop an approach to this critical problem that really can be enacted. Clearly, nothing will pass that does not have the support of business, conservative Democrats, Republicans, and the President.

Mr. SPECTER. Mr. President, I have been waiting on the floor to address the pending legislation, Senate bill 173, but before doing so, I will take just a moment to congratulate my distinguished colleague from Rhode Island, Senator CHAFEE, for his outstanding work as chairman of the Republican Task Force on Health Care. I similarly compliment the Democratic Members who have offered health care legislation. It is an extraordinarily complex problem. As I traveled my State extensively, it is an issue I hear raised as much if not more than any other.

With some $660 billion or 12 percent of the gross national product being allocated to health care, we still find millions of Americans not covered. It is an issue which has to be addressed. We have to find a policy that we can pay for.

As Senator CHAFEE noted, I have been working with him on the task force, and it is an issue which must command considerable attention by the Congress of the United States and by the administration.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, as I have noted, I have been on the floor for a good part of the afternoon to speak about the pending legislation.

At the outset, I compliment the distinguished Senator from South Carolina [Mr. HOLLINGS] and the ranking Republican on the Commerce Committee, Senator DANFORTH, as well as other members of the committee. I note the very substantial majority of the committee who are supporting this bill. I note also the very cogent dissenting views of Senator INOUYE and the cogent dissenting views of Senator PRESSLER.

The issue has a very profound impact on the Nation and a special impact on Pennsylvania where there are thousands, really tens of thousands employed by both Bell and by AT&T whose jobs may be on the line by this legislation.

I have visited the AT&T facilities in Allentown, Reading, and the Bell facilities in Philadelphia and I have had extensive discussions with the management of both companies and also with the employees on this issue.

The Judiciary Committee on which I serve had a cross-reference hearing, taking jurisdiction from the Commerce Committee, which has primary jurisdiction, and I participated in that lengthy hearing and participated in the questioning of both AT&T witnesses and Bell witnesses and asked a series of questions as to what the effect of this bill would be in view of the contradictory claims by both of the principal parties.

Both claimed that their positions were pro-consumer; both claimed that their positions would increase competitiveness; both claimed that their positions would have a significant impact on the international trade deficit; both claimed that their positions would yield more jobs.

I then asked for statistical data, hard evidence, on those questions and got very little in a concrete way to shed light and to make a factual determination as to which side was correct.

What I have seen, Mr. President, is that the conclusions are speculative as to what the impact will be whether you maintain the current prohibition on the regional Bells for manufacturing equipment or not.

In the course of the past several days, I have had extensive meetings with representatives on both sides of this legislation; yesterday, with representatives of the regional Bells. I also met with representatives of AT&T and talked with them again today.

After considering the matter at very substantial length, my conclusion is that Congress should not disturb the judgment of the U.S. District Court for the District of Columbia which has been affirmed by the Court of Appeals for the District of Columbia and where certiorari has been denied by the Supreme Court of the United States which leaves, in effect, the district court's opinion.

Mr. President, I have been asked by AT&T to offer an amendment which might provide a compromise, and I had discussed the substance of that amendment with representatives of the regional Bells and had concluded that it was not going to work out to something that would be agreed to.

I ultimately decided not to offer the amendment. A similar amendment was offered by Senator INOUYE of Hawaii, but I decided not to because the complexities of the amendment led me to the same conclusion I had about the underlying bill, and, that is, that the status quo was represented by what Judge Greene had to say was the most persuasive line of reasoning and incorporation of evidence we had seen.

Senator SIMON, who is on the Judiciary Committee, a committee on which I serve, wrote to Judge Greene dated May 21, 1991, and asked Judge Greene for his views on Senate bill 173. Judge Greene then replied by a letter dated May 29, 1991.

Mr. President, I ask unanimous consent that Senator SIMON's letter and Judge Greene's letter appear at the conclusion of my statement today so that those who will review the CONGRESSIONAL RECORD will see the full context of Judge Greene's views.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. SPECTER. Mr. President, Judge Greene starts by raising a question as to the restrictions of the canons of ethics, judicial ethics, and then states that he is going to not comment directly on S. 173 but give his summary of what he has decided in the case which amounts to about the same thing. And, obviously, I am not going to get involved in any discussion about the propriety of what Judge Greene has had to say. But it is on the record. I think it is worthy of our consideration today. Certainly, that is, at least, my view.

Judge Greene noted that his opinion was affirmed by the D.C. Circuit Court and that the Supreme Court of the United States let that decision stand by denying certiorari which I should say, parenthetically, does not mean that the Supreme Court necessarily agrees with the circuit court but that they decided not to disturb the views.

Judge Greene then takes up the question of cross-subsidication which is a very important issue as to whether if you allow Bell to manufacture equipment that is going to have the practical effect of having Bell allocate some cost to the ratepayers on telephone service which really ought to be for the equipment produced. That is not done when you have AT&T or other manufacturers make the equipment and sell it to Bell and then Bell charges only for the service which is rendered.

This is what Judge Greene had to say about this subject on page 2 of his letter to Senator SIMON. He noted that in the prior practice before there was a breakup of AT&T that:

> * * * the companies subsidized the prices of equipment with revenues from their regulated monopoly services. The court further concluded that, largely because of size, power, and complexity of the Bell System, regulation by federal and state bodies had consistently been, and would in the future be, ineffective.

Judge Greene then noted:

> * * * these Regional Companies have the same abilities and incentives for anticompetitive conduct that they had possessed prior to the break-up.

Judge Greene then took up the subject of a relationship of the regional company's entry into the manufacturing market and the antitrust laws and dealt with the question of self-dealing, which is a very important question, and said, in part, at page 3:

> * * * if the manufacturing restriction were removed, "each of the Regional Companies would satisfy all or nearly all of its equipment needs from its own manufacturing affiliate."

He then noted in a footnote the court of appeals' agreement with his opinion on this subject with the following language which appears at page 3 of Judge Greene's letter to Senator SIMON:

> When the 1987 opinion reached the court of appeals, that tribunal agreed that "the possibility of self-dealing bias in the telecommunications equipment markets poses dangers to competition that do not exist in the other markets—

He goes on to say:

> if combined with cross-subsidization, would appear to allow the [Regional Companies], in effect, to raise prices (and therefore exercise a form of market power) in the foreclosed sectors of the equipment market by disguising inflated equipment prices as costs in the local exchange markets * * *.

The court of appeals goes on to comment that there is nowhere an explanation "why any significant amount of cross-subsidization that, in practical terms, enables"—again referring to the regional companies—"to charge higher prices for the equipment it produces would not be akin to an exercise of market power that would impede competition in the telecommunications market."

I am very concerned, Mr. President, after noting Judge Greene's comments about this cross-subsidy and the increased prices to the consumer and the finding which is upheld by the court of appeals in a context where there is much greater analysis and deliberation than is possible, I think, in our legislative context, at least possible for this Senator. Because of the length of the letter, I am not going to read some portions I had intended to read, Mr. President, but I would like to focus on page 5 of Judge Greene's letter to Senator SIMON where under the category of "Effect on Competition," Judge Greene points out that:

> Regarding the practical effect of a removal of the manufacturing restriction, the court concluded that such a removal would be counterproductive for a "flourishing, broad-based, innovative industry would be cut back to become one dominated by a small number of muscle-bound giants * * *."
>
> The Department of Justice, while supporting the Regional Companies' request for relief, acknowledged that "removal of the restriction will be followed by the displacement of many of the competitors, postulating that increasing concentration in the equipment markets is inevitable."

Judge Greene went on to say:

> The court characterized this Justice Department review as contemplating with "remarkable equanimity for an antitrust enforcement agency, the ready destruction of many high-quality firms providing high-quality goods that have emerged since divestiture, and that are performing important service to the economy."

The basic thrust by the proponents of S. 173 has been that competition will release innovation. But at least the findings of Judge Greene, affirmed by the court of appeals, are precisely to the contrary.

Judge Greene then took up the important subject of "Effect On Innovation" and made the following observations:

> With respect to the question of innovation of the telecommunications equipment markets, the court noted that since the breakup of the Bell System * * * there has been a flowering of research, development, innovation, introduction of new products, and quality assurance; new firms have entered the market; prices of equipment have declined dramatically * * * and competition flourishes in a market that had seen relatively little of it before. The equipment market now consists of six or eight very large firms, 100 to 200 medium-sized firms, and hundreds of still smaller, vigorous, and inventive firms.
>
> If the restriction were removed, there would be a serious risk of return to conditions of anticompetitive activity, concentration of the telecommunications equipment market in few hands, monopolistic pricing, and a relatively sluggish pace of innovation.

Mr. President, I find that conclusion very strong and thus I think this bill would be very anticompetitive if Judge Greene is correct. Again, his analysis is much more extensive. He has sat on this case since 1979. Again, his conclusions have been affirmed by the circuit court of appeals.

Very briefly, Mr. President, because of the passage of time—and other colleagues are on the floor—under the heading "Foreign Domination of the Industry," Judge Greene wrote:

> In that respect the court cited a report of the National Telecommunications and Information Administration of the Department of Commerce, which noted that "the most plausible scenario in at least one telecommunications market is that, in the event of a removal of the decree restriction on manufacturing, the Regional Companies will join forces with mammoth manufacturing empires, most likely foreign, and that this will pose a substantial risk of destruction of the U.S. central office equipment manufacturing industry."

Mr. President, it may be that conclusion would be tempered by the "Buy American" provisions, but the innovative construction or development of conglomerations or joint ventures is something that cannot be anticipated by any legislation in its fullest extent.

Judge Greene concluded by saying:

> In summary, it was on the basis of the considerations discussed above and at greater length in the 1987 opinion itself that the court concluded that removal of the manufacturing restriction could be expected to be followed by (1) a recurrence of the anticompetitive conduct of the local Operating Companies operating under the aegis of the Regional Companies; (2) the displacement of most independent manufacturers of telecommunications equipment; (3) a marked reduction in competition in the market and hence a sharp reversal of recent trends which have witnessed decreases in price; (4) a slowdown in product innovation; and (5) domination of the domestic market by large foreign suppliers.

In the absence, Mr. President, of countervailing evidence and a judgment to the contrary, my own view is that significant weight ought to be attached to Judge Greene's opinion.

What we have in essence here is a breakup of AT&T and the Bell Systems, and the judge made a determination about what was fair as between the Bell Cos. and AT&T and the court made a determination about what would produce competition, what would be helpful to the consumers, and what would be fair and just under the antitrust laws. His conclusions were taken on appeal and were affirmed by the appellate court and let stand by the Supreme Court of the United States.

In my judgment, that is the greatest weight to be followed on the legislative judgment here today.

Mr. President, I had passed on these concerns to Bell Atlantic, which is a constituent of mine in Pennsylvania. They get my checks for telephone bills both in Pennsylvania and the District of Columbia. As a matter of fairness, I want to make a part of the RECORD the response by Mr. Robert A. Levetown, vice chairman of the Bell Atlantic. I met with him yesterday, as well as Mr. Raymond Smith, the president of the Bell Atlantic, whose office is in Philadelphia.

Mr. Levetown makes the point in a letter and in certain extracts from Judge Greene's speeches that Judge Greene himself acknowledges it is a matter for the Congress. Mr. Levetown points out:

> Yesterday you raised the issue of the appropriateness of Congress intervening to alter the rules of the telecommunications industry that are now controlled by a judicial decree.

Mr. President, I ask unanimous consent that Mr. Levetown's full letter be made a part of the RECORD following my presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. It is not precisely accurate that I raised a question of appropriateness of Congress to intervene. Congress has full authority to make a change in what the court has done here. The laws are the laws of the Congress. We have the full authority to modify what Judge Greene has done. We have the full authority to modify any statute as long as it conforms to the Constitution of the United States. We can repeal the antitrust laws if we choose to do so.

My point is on the basis of the record I see, considering the exhaustive and able work of the Commerce Committee, that the bulk of the evidence, the weight of the evidence, and the weight of the judgment I think lies with what Judge Greene has concluded and the appellate courts have upheld.

Mr. President, I ask unanimous consent that an extract of Judge Greene's speech at the Brookings Institution, dated December 4, 1985, an extract of Judge Green's speech at Hastings College of Law, dated April 17, 1987, and an extract of Judge Green's speech to CFA dated October 23, 1986, regarding the so-called Dole bill, all be included in the RECORD at the conclusion of my presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SPECTER. Mr. President, without reading them, the essence of what Judge Greene had to say is that it is up to the Congress. Judge Greene has exercised the authority which he has in the absence of any legislation.

When I take a look at this entire record, it is my view the Congress should not disturb the conclusions which the courts have made considering the underlying evidentiary base, the facts, and considering the conclusions.

This is obviously not an easy matter. I know that in expressing my opposition to Senate bill 173 there will be many disappointed constituents. Representing a State like Pennsylvania, Mr. President, if you take up questions like abortion, for example, there are 6 million of my 12 million constituents lined up on one side, and 6 million on the other. The vote immediately makes 6 million enemies, and 6 million who agree with my position. Customarily, they say, well what alternative does the Senator have? He just did what was appropriate.

I do not have 6 million constituents on each side of this issue. But there are perhaps as many as 22,000 Bell employees on one side, and as many as 15,000 AT&T employees on the other side, and many others. It is not an easy matter. I criticized the desputes my two sons had. Occasionally, you have to get involved.

Obviously, this matter is coming up for a vote. But as I have outlined, I have considered it at great length, visited the facilities from both sides, and talked to the officials right up until early this afternoon.

As I look at this record in very substantial detail I conclude that the decree ought not be altered; that the Bell Co. have adequate recourse to go back to Judge Greene, that the prohibition against manufacturing will end under his decree at a time when there is competition with the Bell Operating Systems; and that that is the preferable course.

I thank the Chair. I yield the floor.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 21, 1991.

Judge HAROLD H. GREENE,
U.S. Courthouse, Washington, DC.

DEAR JUDGE GREENE: As I am sure you know, Congress is now considering legislation, S. 173, to remove the manufacturing restrictions on the Regional Bell Operating Companies. Today the Antitrust, Monopolies and Business Rights Subcommittee on which I serve held a hearing on this and the full Senate may consider this legislation shortly. Given your obvious expertise in this subject, I would very much appreciate knowing your views on S. 173. I have enclosed a copy of the bill and the Committee report for your convenience. I appreciate your assistance on this matter.

My best wishes.

Cordially,

PAUL SIMON,
U.S. Senator.

U.S. DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA,
Washington, DC, May 29, 1991.

Hon. PAUL SIMON,
United States Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SIMON, Thank you for your letter of May 21, 1991, which requests my views on S. 173, a bill to remove the manufacturing restrictions on the Regional Bell Companies. While it is not at all clear that the Canons of Judicial Ethics prohibit me from expressing my opinion on the desirability of the enactment of S. 173, I have concluded that, in view of the possibility of further litigation on the manufacturing restriction parallelling in some respects the issues presently before the United States Senate, commenting on the bill could create the appearance of impropriety. In order to avoid any question in that regard, I have decided not to comment directly on S. 173. I have also concluded, however, that there is no reason why, in response to a request from a member of the Antitrust, Monopolies and Business Rights Subcommittee of the Committee on the Judiciary of the United States Senate, I could not render assistance to the Subcommittee by calling your attention to pertinent parts of published opinions in my court on the subject under the Subcommittee's consideration. I am accordingly doing so in this letter.

On September 10, 1987, I issued an opinion in the AT&T Antitrust case which deals in significant part with the restriction imposed on the Regional Companies with respect to the manufacture of telecommunications products and customer premises equipment. That opinion is reported as *United States* v. *Western Electric Co.*, 673 F. Supp. 525 (D.D.C. 1987), and insofar as the manufacturing restriction is concerned, the rulings of my court were affirmed by the Court of Appeals for the District of Columbia Circuit on April 3, 1990. *United States* v. *Western Electric Co.* 900

F.2d 283 (D.C. Cir. 1990), certiorari denied, —— U.S. —— (1990).

For your convenience, I am pleased herewith to summarize some of the principal points of the 1987 ruling on the manufacturing restriction, under five headings, as follows: (1) history and background of the adoption of the restriction; (2) relationship between the antitrust laws and Regional Company entry into the manufacturing market; (3) effect of such an entry upon the telecommunications manufacturing industry; (4) effect of such an entry upon product innovation and the availability to the public of new products at reasonable prices; and (5) effect of the removal of the restriction upon the domestic manufacturing industry.

1. HISTORY AND BACKGROUND

The restriction on manufacturing was incorporated in the consent decree which ended the AT&T lawsuit on the basis of evidence adduced in the course of an eleven-month trial in this court indicating that the Bell System had "improperly monopolized the market for telecommunications equipment, in that its local Operating Companies purchased such equipment primarily from Western Electric Company, the System's manufacturing affiliate, and 'engaged in systematic efforts to disadvantage outside suppliers.'" 673 F. Supp. at 552.

The court found upon consideration of the evidence that the local Operating Companies, which accounted for over eighty percent of the nation's central office switching and transmission equipment purchases, had engaged in three general types of anticompetitive conduct: first, the companies purchased Western Electric equipment even when these products were more expensive or of lesser quality than alternative goods available from independent vendors; second, the companies discriminated in the dissemination of information and design by granting Western Electric premature and otherwise preferential access to technical data, compatibility standards, and other necessary information; and third, the companies subsidized the prices of equipment with revenues from their regulated monopoly services. The court further concluded that, largely because of the size, power, and complexity of the Bell System, regulation by federal and state bodies had consistently been, and would in the future be, ineffective. 673 F. Supp. at 530–31, 554, 569–71. As a result of divestiture, control over the twenty-two local Operating Companies transferred to the seven Regional Companies; and these Regional Companies have the same abilities and incentives for anticompetitive conduct that they had possessed prior to the break-up.

It was basically for these reasons that the court determined in 1982 that the Department of Justice's proposal for the adoption of the manufacturing restriction on the Regional Companies was justified under the antitrust laws and was in the public interest. The restriction was accordingly included in the court's approval of the consent decree submitted by the parties to the litigation.

2. RELATIONSHIP OF A REGIONAL COMPANY ENTRY INTO THE MANUFACTURING MARKET AND THE ANTITRUST LAWS

In 1987, three years after the manufacturing restriction had become effective, the Regional Companies, with the support of the Department of Justice, requested that the restriction be removed. However, in its opinion issued that year, the court concluded, following a detailed examination of the issue, that there was no basis for such a removal, and that, to the contrary, under the antitrust laws and the court decree, the restriction had to be maintained. Even the Department of Justice acknowledged, and this court found, that if the manufacturing restriction were removed, "each of the Regional Companies would satisfy all or nearly all of its equipment needs from its own manufacturing affiliate." 673 F. Supp. at 556.[1] The court also found on the basis of the evidence that other serious antitrust concerns would be raised by an entry of the Regional Companies into the equipment markets, both as a result of leveraging of the regulated monopolies into a related but unregulated market, and because of the unquestionable dominance of the Regional Companies in their particular regions. 673 F. Supp. at 556–57.

The court further concluded, based on evidence from a number of experts, including experts proffered by the Department of Justice, that the Regional Companies retained the same "bottlenecks" they had controlled when they were still part of the Bell System. More specifically, the evidence demonstrated that, to reach the ultimate telephone subscribers, over ninety-nine percent of all telephone traffic had to pass through the Regional Companies' local switches and circuits at some point in its journey, and that possession of these pressure points gave the companies an unsurpassed opportunity for anticompetitive action. Here, too, the Department of Justice conceded that "only one-tenth of one percent of [long distance] traffic volume, generated by one customer out of one million, is carried through non-Regional Company facilities to reach a [long distance] carrier * * * [and that] only twenty-four customers in the United States * * * managed to deliver their interexchange traffic directly to their interexchange carriers, bypassing the Regional Companies." 673 F. Supp. at 540.

Based upon this factual background, the 1987 opinion noted that the local bottleneck monopolies retained by the Regional Companies following the AT&T divestiture were a central feature of their domination of the market for telecommunications products and customer premises equipment, and it further concluded that the incentive and ability to act anticompetitively had not been significantly altered by the division of the Bell System into seven Regional Companies, by Federal Communications Commission regulation, or by any other factor. 673 F. Supp. at 552.

On the question of the efficacy of FCC regulation to prevent anticompetitive activities by the Regional Companies, the court cited the opinions of a number of experts, including the chiefs of the FCC's own Common Carrier Bureau, who reported on the futility of such regulation then or in the future, in view of the size and complexity of the Regional Companies and their ability to combat regulatory efforts with funds extracted from the ratepayers. 673 F. Supp. at 531.

3. EFFECT ON COMPETITION

Regarding the practical effect of a removal of the manufacturing restriction, the court concluded that such a removal would be counterproductive, for a "flourishing, broad-based, innovative industry would be cut back to become one dominated by a small number of muscle-bound giants* * *." The Department of Justice, while supporting the Regional Companies' request for relief, acknowledged that "removal of the restriction will be followed by the displacement of many of the competitors, postulating that increasing concentration in the equipment markets is inevitable." 673 F. Supp. at 561. The court characterized this Justice Department view as contemplating with "remarkable equanimity for an antitrust enforcement agency, the ready destruction of many high-quality firms providing high quality goods that have emerged since divestiture, and that are performing important service to the economy." 673 F. Supp. at 561.

4. EFFECT ON INNOVATION

With respect to the question of innovation in the telecommunications equipment markets, the court noted that since the break-up of the Bell system—

"* * *there has been a flowering of research, development, innovation, introduction of new products, and quality assurance: new firms have entered the market; prices of equipment have declined dramatically * * * and competition flourishes in a market that had seen relatively little of it before. The equipment market now consists of six or eight very large firms, one to two hundred medium-sized firms, and hundreds of still smaller, vigorous, and inventive firms* * *.

"If the restriction were removed, there would be a serious risk of return to conditions of anticompetitive activity, concentration of the telecommunications equipment market in few hands, monopolistic pricing, and a relatively sluggish pace of innovation. According to a distinguished outside observer, the Regional Companies would then become 'central vigorous players in the equipment market, buying many of the smaller [firms], integrating services and equipment sales, and developing into seven smaller versions of what once was AT&T.'" 673 F. Supp. at 560 (footnotes omitted).

The court went on to point out with regard to innovation more specifically of direct use to consumers, that, while prior to the advent and pressure of competition in the telecommunications manufacturing markets, in 1984 relatively little innovation of use to consumers had emerged. This was so notwithstanding the presence within the Bell System of the excellent and prestigious Bell Laboratories research arm. However, subsequent to the emergence of competition in 1984

"* * *there [were in 1987] on the market at reasonable prices such by now commonplace features as residential telephones that are able to memorize dozens or hundreds of different phone numbers; telephones that repeat the last number called until it is no longer busy; cellular phones for business and emergency use; cordless phones; instruments that can be instructed by voice (e.g., in an automobile) to call a certain individual, office, or number; and many others.

"Parallel with the development of equipment that provides greater accessibility to the telephone user, devices are being produced and marketed that, in a sense, operate in the opposite direction: some of them display the caller's number before the receiver has been lifted; others provide a distinctive ring when a call is received from a number previously designated as worthy of priority consideration; still others automatically block calls from persons with whom the phone's owner does not wish to speak. For the first time since the invention of the telephone, these devices are returning control to the instrument's owner from every salesman, unwelcome relative, or even crackpot who may decide to call at any hour of the day or night.

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[1] When the 1987 opinion reached the Court of Appeals, that tribunal agreed that "the possibility of self-dealing bias in the telecommunications equipment markets poses dangers to competition that do not exist in the other markets the [Regional Companies] seek to enter . . . [Foreclosure by these companies of a large portion of the equipment markets], if combined with cross-subsidization, would appear to allow the [Regional Companies], in effect, to raise prices (and therefore exercise a form of market power) in the foreclosed sectors of the equipment market by disguising inflated equipment prices as costs in the local exchange market * * * [The Department of Justice and the Regional Companies] nowhere explain * * * why any significant amount of cross-subsidization that, in practical terms, enables the [Regional Companies] to charge higher prices for the equipment it produces would not be akin to an exercise of market power that would impede competition in the telecommunications market." 900 F.2d at 303.

"It is surely not a coincidence that these features, and many more, have become available since the Bell monopoly was ended by divestiture and competition began to reign in the telecommunications marketplace." 673 F. Supp. at 601 n.330.

5. FOREIGN DOMINATION OF THE INDUSTRY

The court also considered and discussed the effect of a removal of the manufacturing restriction on the international competitiveness of the American telecommunications industry and the employment opportunities of American workers. In that respect, the court cited a report of the National Telecommunications and Information Administration of the Department of Commerce (NTIA), which noted that "the most plausible scenario in at least one telecommunications market is that, in the event of a removal of the decree restriction on manufacturing, the Regional Companies will join forces with mammoth manufacturing empires, most likely foreign, and that this will pose a substantial risk of destruction of the United States central office equipment manufacturing industry." NTIA Trade Report at 125-26. 673 F. Supp. at 561-62 (footnotes omitted). And the court continued on this topic:

"These predictions are plausible. [A survey by the government's expert] has found that affiliations between central office switch manufacturers and telephone service companies have tended to develop around the world wherever structural restraints are absent * * * This is not surprising. Manufacturers have strong incentives to seek market share "guarantees" in the form of an affiliation with large exchange service providers such as the Regional Companies; and these companies, in turn are attracted by the acquisition of expertise and, more importantly, the minimization of risk embodied in partnerships with huge manufacturers with ample capital.

"Because of their size, capital, and assured source of income from the ratepayer-supported telephone affiliates of the Regional Companies, these international giants will have the market power to adjust price almost at will to achieve market share, to the inevitable detriment of independent domestic producers. In short, the effect of the Justice Department's scenario is likely to be the displacement of small, efficient American firms by a few huge syndicates composed of foreign company and Regional Company components whose survival and domination in this environment will have been achieved by factors unrelated to efficiency or quality of performance." 673 F. Supp. at 562.

In summary, it was on the basis of the considerations discussed above and at greater length in the 1987 opinion itself (a copy of which is attached hereto) that the court concluded that removal of the manufacturing restriction could be expected to be followed by (1) a recurrence of the anticompetitive conduct of the local Operating Companies operating under the aegis of the Regional Companies; (2) the displacement of most independent manufacturers of telecommunications equipment; (3) a marked reduction in competition in the market and hence a sharp reversal of recent trends which have witnessed decreases in price; (4) a slowdown in product innovation; and (5) domination of the domestic market by large foreign suppliers. In view of these conclusions the court declared that no justification existed for removing the antitrust decree's restriction on manufacturing.

Finally, I wish to advise you that no evidence has come to my attention in the last three and one-half years that would cast doubt on the findings and conclusions stated in the September 10, 1987 opinion or call for their repudiation.

I hope that this summary has been helpful to you and the Subcommittee.

Very truly yours,

HAROLD H. GREENE.

EXHIBIT 2

BELL ATLANTIC CORP.,
Arlington, VA, June 5, 1991.

Hon. ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: yesterday, you raised the issue of the appropriateness of Congress intervening to alter the rules for the telecommunications industry that are now controlled by a judicial decree.

Congress, of course, often changes the results reached by judicial decision. The current civil rights legislation is an example of a current effort in that direction.

But, more to the point, Judge Greene himself has often said that he does not relish the central role he has come to play in the telecommunications industry—that was a role for Congress—but Congress refused to act!

In short, Judge Greene has claimed that the antitrust case was thrust upon him by Congressional inaction and that he continues to have to umpire this industry because Congress cannot reach a consensus on policy.

Excerpts to this effect from a few of Judge Greene's speeches are attached.

Thank you, by the way, for making yourself available yesterday for the discussion of this important matter with Ray Smith and me.

With best regards,

BOB LEVETOWN.
Vice Chairman.

EXHIBIT 3

EXCERPTS OF SPEECHES

GREENE SPEECH, BROOKINGS INSTITUTION, DECEMBER 4, 1985

In addition to their legitimate role in constitutional adjudication, the principal obligation of the federal courts is to interpret and enforce statutes enacted by the Congress. The Congress sometimes enacts laws which are less than precise, and on occasion it fails to address difficult and controversial problems, particularly those which are at the margins of public laws, preferring to leave them to later adjudication by the courts. And finally, of course, political currents and cross-currents sometimes make it impossible for the Congress to act.

The AT&T case may be an example of such a situation. How did it come about, it is often asked, that a single member of the judiciary has come to wield so great an influence on telecommunications, a basic American industry? Wouldn't it have been more consistent with American constitutional and political traditions if the basic policy decisions had been made by the Congress?

I agree with these critics. As a matter of constitutional theory, an undertaking as driven by policy as the restructuring of the nation's telecommunications industry would most appropriately have been directed by the political branches, not the courts. Yet when we look at the problem closely we find that it is these branches which, by action or inaction, have thrust the courts into their present role.

GREENE SPEECH, HASTINGS COLLEGE OF LAW, APRIL 17, 1987

Second, there has been a great deal of comment, in the media and otherwise, about the incongruity of a restructuring of the nation's telecommunications industry by the decree of a single federal judge, and the suggestion is quite often made that so important a decision should have been reserved to the Congress. In theory, these critics are certainly correct; national policy is most appropriately made by the elected representative of the people. But the Congress, in spite of much debate and committee consideration, was unable to agree on what should be done either about AT&T or about the industry of which it is a part.

That failure of course does not vest a court with jurisdiction where none otherwise exists. But the fact is that a lawsuit, brought by the Attorney General on behalf of the United States, was already pending in court under a law of unimpeachable validity enacted by the Congress and never repealed. Indeed, considerable pressures were brought to bear on the Department of Justice to dismiss the suit, and President Reagan himself presided over at least one conference where this course of action was discussed. But to no avail; the action was resolutely pursued by the government's lawyers.

GREENE SPEECH TO CFA, OCTOBER 23, 1986, REGARDING THE "DOLE BILL" WHICH WOULD HAVE TRANSFERRED JURISDICTION OVER THE MFJ TO THE FCC

As you know, congressional committees have considered legislative proposals to transfer jurisdiction over the interpretation and enforcement of the AT&T decree from the courts to the Federal Communications Commission. In a democratic society, it is quite properly the elected legislature that lays down policy; telecommunications policy is no exception; and congressional consideration of this subject is therefore to be warmly welcomed. During the period when bills to carry out transfer proposals were pending in Congress, I did not comment at all on this subject. Obviously I will still not speak in any way to the legality of such proposals, nor would I even now comment on the details of the bills that were pending in the last Congress. However, having become somewhat acquainted with telecommunications during the last few years, I want to share with you my views on the general subject of a transfer of jurisdiction.

My feelings on such a transfer are mixed. Considering only my own interests and convenience, I would greatly welcome being relieved of this work. The task of interpreting and enforcing the decree usually does not require a great deal of novel or complicated legal reasoning and writing, and much of it is technical without being intellectually challenging.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

CALLER ID

Mr. KOHL. Mr. President, today we are considering an issue of great importance to the telecommunications industry—allowing the RBOC's to manufacture equipment. But I would like to discuss for a moment another telecommunications issue, Caller ID.

As some of you may know, Caller ID is the technology that allows a telephone call recipient to see the phone number of an incoming call on a small display screen attached to the telephone. Caller ID is spreading rapidly—it is being offered in Maryland, Virginia, and the District of Columbia, and there are plans to expand it to many more States.

In my mind, Caller ID is a welcome development. It can help us screen our calls and ultimately enhance our privacy.

But in what form should it spread? Should there be forced Caller ID, in which a phone company requires our phone numbers to be displayed every time we make a call—even if we have an unlisted number? Or should there be voluntary Caller ID, in which consumers decide when it's appropriate to give out their numbers? Since a call recipient can easily obtain the caller's address with his or her phone number, mandatory disclosure means revealing where you live—whether or not you want someone else to know.

Forced Caller ID violates our fundamental right to privacy. Do we not have the right to call a crisis hotline, or a Senator's office, or even the IRS to ask for help without saying who we are? And why should the phone company compel us to identify ourselves when we call a business for information? Such disclosure does not even seem logical: After all, if a stranger came up to you on the street and asked you for your home phone number, would you give it to him? Of course not.

There are even times when forced Caller ID is dangerous. Undercover officers sometimes call drug dealers from precincts to arrange buys. If a target recognizes where the call came from, it could scuttle the bust—or, worse, result in the death of an agent. Battered women often taken refuge with friends but call home to check on things. They should not be compelled to tell their abusing husbands where they are staying.

We know of other dangerous situations, but the point is this: Phone companies cannot determine when it is safe to reveal our numbers and addresses. There are just too many variables the phone company cannot foresee.

The answer is to allow consumers to retain their freedom of choice. Let them dial a few digits on the phone when they want to make private calls. With this per-call blocking option, people can display their numbers when calling friends and family—and they can keep their numbers confidential when they need to do so.

A growing number of phone companies have recognized the importance of protecting a caller's right to privacy. But I introduced the Telephone Privacy Act of 1991 in order to ensure that all telephone customers retain this crucial freedom of choice.

My bill is simple, effective, and straightforward. It would require phone companies that offer Caller ID to give callers the option of blocking the display of their telephone numbers or any other individually identifying information—without charge. In this way, the bill would balance the privacy interests of both callers and recipients.

The proposal makes sense for several important reasons. First, the new technologies that are available with Caller ID give us the ability to stop harassing phone callers without in any way undermining the privacy of law-abiding citizens: Callers can use Call Trace, Call Return, and Call Block to foil their assailants. For example, Call Trace lets the victim of a harassing phone call automatically send the number of the harasser to the authorities after hanging up—merely by dialing a three-digit code.

Though a few telephone companies would like to promote Caller ID as a way of reducing obscene phone calls, this approach is ultimately deceptive. Simply put, these new technologies work even if a caller uses blocking. So it turns out that we have the ability to protect victims and privacy at the same time.

Second, before we go any further with Caller ID, we have got to make sure that it is legal. Last summer, a Pennsylvania court ruled that Caller ID violates that State's constitution and its wiretap statute—which is almost identical to the Federal version. My proposal would resolve the ambiguities in our Federal laws, ensure the legality of Caller ID, and establish a uniform national privacy policy in this area.

There is one more reason to pass this legislation—blocking already exists for the wealthy. A new 900 service allows people to make private calls for a few dollars a minute. That is wrong. Blocking is a matter of equity as well as privacy: I believe phone companies should make it available to everyone—rich and poor.

The widespread support for this proposal underscores its commonsense approach. All around the country telephone companies are opting for blocking, or State PUC's are requiring it. And here in Washington a consensus is developing that Caller ID with blocking strikes the proper balance between telephone callers and recipients alike.

Mr. President, I had originally considered offering this legislation as an amendment to S. 173. However, since my measure will soon be marked up by the Judiciary Committee, I have decided to allow it to come to the floor in the normal course of business. When that happens, I hope my colleagues will join consumer advocates, privacy experts, and law enforcement groups in enacting this legislation and making privacy protection a reality for all Americans.

Thank you, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

AMENDMENT NO. 290

(Purpose: To foster economic growth and strengthen American international competitiveness by striking the domestic content requirement)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 290.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, beginning with line 10, strike out all through line 17 on page 7.

Mr. GRAMM. Mr. President, I am willing to agree to a time limit. I have discussed it briefly with the distinguished chairman of the committee. Perhaps I could yield to him and let him propound a time agreement which will be 15 minutes on each side, at the end of which the distinguished chairman will move to table the amendment.

Mr. HOLLINGS. Very good. I appreciate the Senator from Texas agreeing to a time agreement. There will be no second-degree amendments and the understanding is we will move to table the amendment at that time and have the yeas and nays. Will that be all right?

Mr. GRAMM. That will be all right.

UNANIMOUS-CONSENT AGREEMENT

Mr. HOLLINGS. I ask unanimous consent, Mr. President, there be 30 minutes equally divided on the Gramm amendment and controlled on the Gramm amendment; that no amendments be in order to the amendment, or to the language proposed to be stricken; that when all time is used or yielded back, the motion to table be made by the Senator from South Carolina. If that unanimous-consent request is agreed to, then I will ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. HOLLINGS. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

This is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I thank my colleague.

Mr. GRAMM. Mr. President, the amendment I have offered is a very simple and straightforward amendment. It reaches to the very heart of American trade policy. The questions it addresses are: Can we promote American interests by trying to build walls around America, by trying to force American companies, against their will, to buy American products and in the process, by Government mandate, dictate how private industry is to be run? Should we enact Federal mandates that lower American efficiency and lower American competitiveness, or can we better promote American interests by trying to become more competitive?

Mr. President, I do not think we have to have a long debate on this subject. I think we are roughly divided along philosophical and partisan lines on this issue.

I might also say, Mr. President, that it is with great sadness that I recognize the majority of the votes on this issue often fall on the side which is not enlightened, at least as I would define it, in terms of what is best for America's interest.

Here is basically the problem, Mr. President. What this bill says is that the Regional Bell Companies will be allowed to manufacture telecommunications equipment but will not be allowed to engage in any joint ventures with other such companies. They will be limited in terms of the final value of the product they put on the market. No more than 40 percent of that value can be of foreign content.

Mr. President, all of us want American products to entail American content. The question is, however, whether or not we want to take an action that flies in the face of everything that for two decades we have tried to get other countries to stop doing.

Our Trade Representative today is involved in the process of trying to get other countries to stop exactly the kind of action we are about to vote to impose here in America. We have spent 20 years trying to assault and beat back domestic content provisions in other countries. We have tried to open markets to American products and, quite frankly, in my opinion, we have picked the wrong area to try to play this protectionist game.

I remind my colleagues that the United States has made great progress in telecommunications. Proof of our progress is that in 1988 we had a trade deficit in telecommunications equipment of $2.61 billion. Since then we have become substantially more competitive. Our exports have grown very rapidly and, as a result, we are now approaching a balance of trade where in 1990 we had only $790 million of deficit.

Also, Mr. President, the area where we are very competitive, where we had a trade surplus of $1.28 billion in 1990, is the high-technology end of the business: Network and transmission equipment.

Now, Mr. President, at the very time that we are seeing our market penetration abroad growing by 25 percent a year, when we are seeing imports grow by only 2 percent a year, when we have closed the trade gap, and when in the high-technology end of the business we now have a $1.28 billion surplus, why do we want to pick this industry to say we want domestic content. Therefore, by implication we are saying to our trading partners that since we are practicing domestic content, we would expect you to do it too.

Mr. President, this provision is the worst sort of legislation because it is a deal cut by business and labor, basically, to the exclusion of the interests of the working men and women of America, to the consumers of America, and to broadly defined American interests.

This agreement is clearly in violation of what we are trying to achieve in our trade negotiations. It is an agreement that could violate the GATT. It is moving the Nation in the wrong direction.

What I have proposed is simply that we strike this provision and move on the underlying bill, which deals with trying to allow more competitors to manufacture telecommunications equipment.

Further, Mr. President, this provision is not going to foster the adoption of this bill. The President has said in the clearest possible terms that if this domestic content provision, which clearly is in opposition to everything we are trying to do in the world on the trade issue, is part of this bill, he is going to veto this bill.

So I say to those who want to see this bill adopted, let us strip out this measure which does not belong in this bill, which is a totally anticompetitive provision, which represents a peculiar action by Government that tells a private industry what it can and cannot do in terms of trying to be competitive, and let us pass a bill which the President can sign.

Mr. President, the issue is very clear. Domestic content is a seductive kind of proposal.

The problem is, this proposal would not work. We cannot build a wall around America. We are the world's largest exporter. Every time we try to get into this protectionist mode, we encourage other countries to keep their markets closed and to refuse to open those markets to America's products. You cannot have it both ways. We cannot be the fundamental force in the world in trying to promote more trade openness and at the same time expand protectionist measures here in our own country.

Mr. President, I know that this bill has long-term escape clauses. I know it requires the Federal Communications Commission and the Department of Commerce to analyze foreign content in the telecommunications industry, and over a period of time make adjustments in the domestic content requirement. But the bottom line is this provision could violate the GATT. It flies in the face of everything we are trying to do on trade policy. It is protectionism, pure and simple.

I urge my colleagues to support this amendment and avoid a Presidential veto. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the Senator is so enlightened he is blinded. The fact is that he is just running at one little provision of the bill. The entire bill is intended to bring about competitiveness. His amendment does not address the real world in which we live. We are not in an economics 101 class with the so-called comparative advantage argument of free trade. We are in the real world, where we have been losing our shirts.

In Communications Daily today, June 5, it is reported that AT&T CEO Robert Allen will be in Guadalajara, Mexico, July 24, 1991, to dedicate AT&T's new answering machine plant. Whoopee. There goes another one—thousands of jobs lost.

A communications report of the Finance Committee, I think, reported some 60,000 jobs have been lost since divestiture and the 1984 MFJ decision. This entire bill is intended to promote competitiveness and improve the environment in which we live.

When you come to what they may be trying to do with this free-trade policy, I have been around here 25 years, and we keep going in the wrong direction with this free-trade policy. I have listened to the Tokyo round. Now I am listening to the Uruguay round and the fast track Mexico. I have the OECD report, the Organization of Economic Community Development, and Canada—like all of the countries on this list, has domestic content provisions; France, Germany, Japan, Sweden, United Kingdom, all of them have some form of domestic content provisions going right down the list.

In fact, President Bush, in his letter in March of last year to the Senate majority leaders and Republican leaders and the chairman and ranking member of the Finance Committee, talking about the directive of EEC, says that the directive mandates nondiscriminatory transport tendering to all producers who are at least 50-percent EEC origin.

That is how we are trying to compete. We have tried to set the example, and set the example for 45 years, even taxing ourselves with the Marshal plan and sending over our technology. Then our nationals became multinationals, and they got together with the bank and the Trilateral Commission, and they fleeced us all. We have lost the industrial backbone of the country.

The exports the Senator talks about are being made up by Siemens, Fujitsu, Northern Telecom, Ericsson—we went down the list which we included in yesterday's RECORD.

We are being invaded like fleas on a dog, just taking over at every turn. That is what they are exporting, and we are losing the jobs. So the entire bill is to, yes, manufacture in the United States of America.

Now, if you want to continue the manufacture beyond the United States of America, throw the bill away. Forget about the bill. It is not a little technical requirement.

This bill is reasonable. What was the reason? The reason was to recognize the fact of life that a lot of these parts you cannot get any longer in the United States. Western Electric makes all of their telephones now in downtown Singapore. We have been there and seen that. Thousands of jobs are gone.

The Senator says that U.S. workers—8½ million people unemployed—will hinder the ability of the Bell Operating Cos. to compete.

And exports means manufactured here. If you want to get manufacturing here, say so. That is what we want; that is why the domestic content provision is here.

If the other countries change then we can change—my theory of competition is if you raise a barrier against a barrier, then you can remove them both. But fleecing, causing a special relationship—look at the example we set. We are not in charge. Our clock is being cleaned every day. It has to stop. Here we have the wealth of the seven Bell Operating Cos. being forced to invest overseas at the same time we are looking in the Budget Committee for investment in this country. And the Bell Cos., like many other companies, cannot manufacture abroad because of the barriers in those countries.

Mr. President, I reserve the remainder of my time. How much time do I have?

The PRESIDING OFFICER. The Senator has 9 minutes, 25 seconds.

Mr. HOLLINGS. I yield to the distinguished ranking member.

Mr. DANFORTH. Mr. President, as always, the Senator from Texas has made a very persuasive case and he sets forth an excellent philosophical argument, one with which I would normally agree. I have told my chairman, Senator HOLLINGS, that as a general principle, I hate the idea of domestic content requirements. I think that is a matter of bad policy and bad trade policy. The problem is trying to match philosophy with the practical realities of the case. Unfortunately, the two clash in this instance.

That clash is recognized by statements made by both the Reagan administration and the Bush administration. In 1987, during the Reagan administration, the Commerce Department said that if the Bell Operating Cos. were to diversify into electronic or digital switch manufacturing, it would almost certainly undertake a joint venture with a foreign-based firm. Then the Commerce Department concluded that such joint venturing would likely cause—these are the words used—"significant harm to American competitive technology and trade positions, and can pose the threat of destroying this country's indigenous central office equipment manufacturing capacity." That is the language used by the U.S. Department of Commerce during the Reagan administration.

During the Bush administration, the Department of Labor, in a staff study, estimated that 18,000 to 27,000 U.S. jobs could be lost if the manufacturing restriction were lifted, and noted that this number does not include potential adverse effects on employment in research and development functions which might be transferred abroad through Bell Operating Co. joint ventures with foreign manufacturers.

That is the reality.

Mr. President, my hope would be that somehow between now and when this bill is submitted to the President for his action that there could be some way of working out this problem. I think that there is a middle ground, perhaps one that tracks the concepts of the 1988 Trade Act, which conditioned access to our markets on reciprocal access to the markets of the other countries. That kind of approach, to me, is better than a domestic-content approach. But to take the philosophical approach, that I commend Senator GRAMM for. In and of itself, without any way to cushion the blow, that is going to cause a very serious adverse effect on American industry and on American jobs. For that reason, I will support my chairman in voting to table the Gramm amendment.

Mr. GRAMM. Mr. President, I yield 5 minutes to the distinguished Republican leader.

Mr. DOLE. Mr. President, I rise in support of the Gramm amendment, and ask that I be made a cosponsor of the amendment.

The PRESIDNG OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I rise in support of the Gramm amendment to strike the domestic content requirements from S. 173.

Let me first say plainly, Mr. President: I support S. 173. I am fully in favor of increased competition in telephone and other communications technologies—competition that will bring new products, new services at lower prices to consumers. I support freeing up America's telecommunications resources to compete more effectively in the world market.

Some here today may remember when, a number of years ago, this Senator introduced legislation to transfer jurisdiction over the telephone industry from Judge Greene's courtroom to the FCC.

That bill was not intended so much as a criticism of Judge Greene—in my view, an able and hardworking jurist, diligently applying the antitrust law—as an effort to bring the formulation of America's telecommunications policy out of the courts and back where it belongs—in the hands of the agency with expertise, overseen by the Congress.

That bill generated a lot of opposition, Mr. President, opposition from some powerful interests with a large stake in the status quo. So I want to congratulate Senator HOLLINGS on his leadership in getting at least a partial MFJ bill to the floor. I know some of the obstacles Senator DANFORTH and others have faced; believe me, I have been there.

Having said that, however, I find it ironic that this bill, a principal purpose of which is to make our communications industry more competitive, contains highly anticompetitive domestic content restrictions. What the bill gives with one hand, it takes away with the other.

The provisions which would be stricken under the Gramm amendment would:

Single out the Bell's affiliates, imposing restrictions not binding on their competitors;

Undermine current U.S. trade negotiations with the European Community and other trading partners;

Ultimately result in higher prices to consumers.

First, the bill's restrictions on imported components would apply only to the Bell manufacturing affiliates. Other manufacturers—Northern Telecom of Canada, the various Japanese and European companies, and the dominant American manufacturer, AT&T—can all buy components without restriction from any source, and thus manufacture at the most efficient cost; only the Bells are handcuffed. Does this make sense? Is this fair? Will it save jobs?

Hardly, Mr. President. AT&T now joint ventures with foreign manufacturers in 15 countries and imports products into the United States, while here at home it has closed down 6 plants and reduced activity at others. Yet this bill leaves that alone, while hamstringing the Bells from competing on equal terms. At such disadvantage, it is hard to see how the Bells could compete and grow. And growth means jobs.

Second, this portion of the bill would seriously undercut the U.S. position in several market-opening efforts presently being negotiated. The EC and Canada have already threatened to challenge this provision in international tribunals. An adverse finding would result in retaliation against our exports. Our trade negotiators are working to open foreign markets and are presently involved in sensitive negotiations to promote trade agreements and reduce barriers to our imports everywhere—and here we are, Mr. President, sending the opposite signal and inviting the label of protectionist.

The President's advisors say he cannot sign such a bill. I ask unanimous consent to have reprinted in the RECORD a copy of a letter from Secretary Brady, Ambassador Hills, Secretary Mosbacher, and others.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, DC, May 30, 1991.

Hon. BOB DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: The Administration wishes to affirm its strong support for legislation that would lift the manufacturing restrictions currently placed on Regional Bell Operating Companies (RBOCs), and we applaud your efforts on behalf of this objective. As the Administration has previously testified, we believe that this objective of S. 173 represents sound economic policy that would promote competition, increase U.S. research and development, and open up additional investment opportunities in telecommunications in the United States. Unfortunately, S. 173 also contains other provisions—in particular, the domestic content and local manufacturing requirements—that would undermine important international trade objectives and detract substantially from the bill's own stated objectives. If these provisions are not removed from S. 173, the President's senior advisers will recommend that he veto the bill.

As you have recognized, the RBOCs represent a very significant U.S. resource that could be applied to the advancement of U.S. telecommunications and related high-technology endeavors. Their assets, in the aggregate, represent a major component of the country's telecommunications base. We believe these resources should be freed to better serve the American public by being permitted to participate in the manufacture of customer premises and telecommunications equipment. Among other benefits, elimination of the manufacturing restriction will help promote increased telecommunications research and development in the United States, which may also have a beneficial effect on related infrastructure development. By enhancing their development of new technologies, the legislation would also greatly promote the international competitiveness of U.S. industry.

Given our agreement on the many benefits of lifting the manufacturing restrictions, we regret that we are unable to support S. 173 as currently drafted. The Administration opposes on a number of grounds the local content and domestic manufacturing requirements of S. 173.

First, since such requirements serve to discourage certain imports—components in certain cases, finished products in others—they distort trade. Private companies that would otherwise make purchasing decisions on sound economic and technical grounds instead will be forced to procure and produce equipment on the basis of government fiat. In addition, the Bell companies—with their new-found ability to manufacture—may find themselves at a competitive disadvantage vis-a-vis other telecommunications equipment manufacturers, who are not required to adhere to local content and local manufacturing restrictions.

Second, the imposition of local content/manufacturing requirements for the Bell companies creates serious questions for existing U.S. international obligations. The United States' trading partners could raise complaints under the General Agreement on Tariffs and Trade (GATT), the U.S.-Canada Free Trade Agreement, and numerous treaties of Friendship, Commerce, and Navigation. Certain of our trading partners have already made it clear that they would challenge the local content measure in international fora. A GATT finding that the United States had violated its obligations could lead to potentially costly retaliation against U.S. exports. This could put in jeopardy our trade surplus in telecommunications with the EC (in 1990 we exported to the EC $1.4 billion in telecommunications equipment while we imported form them just $361 million).

Third, local content/manufacturing requirements would also seriously undermine U.S. positions in ongoing Uruguay Round negotiations, which are intended to open foreign markets to U.S. goods and services. In the GATT Government Procurement Code negotiations, a cornerstone of U.S. negotiating objectives under the 1988 Trade Act, the United States has maintained that private companies, like the RBOCs, procure competitively and thus need not be subject to procedures like those of the Code. The local content/manufacturing provisions would be viewed as inconsistent with this position. If we fail to achieve a positive result in these negotiations, U.S. suppliers of telecommunications equipment and services—including the Bell companies under S. 173—will be shut out of many foreign markets. The EC's government procurement market for telecommunications equipment, with an estimated value of tens of billions of dollars, will remain closed to U.S. providers absent a new GATT agreement.

Local content/manufacturing provisions are also inconsistent with U.S. efforts in the GATT to discipline and eliminate trade-related investment measures (TRIMs). We have placed a high priority in the Uruguay Round on the achievement of discipline in countries' use of TRIMs, such as local content and domestic manufacturing requirements. Approval of such restrictions as part of S. 173 would create serious problems for the TRIMs negotiations.

Fourth, the restrictions contained in S. 173 are more likely to cost U.S. jobs in the telecommunications industry, not save them. Any weakness in the U.S. competitive position in telecommunications equipment falls in the low end of the market, such as in the production of inexpensive telephones, where technological advantage is not crucial. The restrictions contained in S. 173 would have little effect on U.S. trade and employment in the low end of the market because the RBOCs are unlikely to concentrate their manufacturing efforts on it.

The strength of the U.S. competitive position in telecommunications equipment lies in the higher end of the market, where technological know-how is decisive, and where the United States had a $1.3 billion trade surplus in 1990 (in network and transmission equipment). The restrictions contained in S. 173 will hinder the ability of the RBOCs to compete in this part of the market, and may impede their ability to contribute to the ongoing expansion of exports and export-related employment associated with these products.

The Administration also has deep reservations about the bill's flat prohibition on joint ventures among the RBOCs. The RBOCs should be subject to ordinary antitrust principles, which permit procompetitive joint venture arrangements, but prohibit those that would harm competition.

The administration supports the primary objective of S. 173. Unfortunately, the Administration cannot support the bill with its provisions on local content and domestic manufacturing.

Sincerely,

Nicholas F. Brady, Secretary of the Treasury; Lynn Martin, Secretary of Labor; Lawrence S. Eagleburger, Acting Secretary of State; Robert A. Mosbacher, Secretary of Commerce; Carla A. Hills, U.S. Trade Representative.

Mr. DOLE. Finally, if one thing is clear, it is that import restrictions mean less efficiency, less choice, and less competition for producers. We know who pays the price for that, Mr. President. Consumers do. Less real competition means higher prices for everyone.

So I urge my colleagues to vote with Senator GRAMM to strike this provision. It is not a vote against this bill.

I am not certain. I had intended to vote for the bill. I am not certain what will happen. I do not think we will prevail. I assume Senator HOLLINGS has the votes to table the Gramm amendment, but I want a bill the President can sign. Maybe there is some way, if we do not prevail here. At least by making a record there will be some incentive in the conference, if it reaches a conference, where the conferees, Senator HOLLINGS, Senator DANFORTH, and others, can figure out some middle ground.

But in the interim, Mr. President, I certainly strongly support the amendment by the distinguished Senator from Texas.

Mr. HOLLINGS. Mr. President, this particular request has been cleared with the distinguished minority leader. I ask unanimous consent that upon disposition of the Gramm amendment, the Senate, without any intervening action or debate proceed, to vote on the passage of S. 173.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I understand my colleague only has 2 minutes left. I have 6?

The PRESIDING OFFICER. The Senator is correct. The Senator has just under 6 minutes.

Mr. HOLLINGS. I yield 2 minutes to the Senator from Colorado, even though he is against it.

Mr. BROWN. Mr. President, let me express my thanks to the distinguished Senator from South Carolina for his kindness, even though I may be misguided on this particular amendment. I appreciate his consideration.

I rise simply to propround a question to the distinguished Senator from South Carolina. The Senator, I thought in a very articulate fashion, pointed out that a number of countries around the world do have what we would call domestic content requirements. The paper that the Senator was referring to indicates that Sweden, West Germany, France, Canada, and a number of the Eastern European countries have similar provisions.

My question to the distinguished Senator would be this: He has indicated concern about elimination of the domestic content provision in circumstances involving countries which maintain domestic content requirements. Would the Senator have a different feeling when dealing with countries that do not have a domestic content provision? In other words, would he be receptive to looking at having the domestic content provision apply only to those countries that have the same kind of treatment accorded our products, but be willing to look at waiving that domestic content provision when we are trying to trade with countries that do not have any domestic content provision of their own?

Mr. HOLLINGS. No. The predominant countries in this particular communications market are the countries from the OECD. They are the principals in telecommunications. And they are the ones that are cleaning our clock, taking our industry away from us. If the picture cleared some years from now, I would look at the real life situation.

I do not want to confuse the point here—the thrust of this bill, entire thrust of this bill is to get manufacturing here back home in the United States.

AT&T closed down or reduced its work force at 33 manufacturing plants since 1984, with a loss of 60,000 jobs. Of course, we have been forbidden under law to allow the Bell Cos. to create any of those manufacturing jobs. That is my problem.

I am not trying to have fair play with anybody right now. I am trying to survive. That is what I am trying to do. We are in an economic war, and I think we are going to have to fight like the dickens to survive, and that is the guts of this bill. If you want to gut the bill, then you would vote with the Senator from Texas.

Mr. BROWN. I appreciate the distinguished Senator's answer. He is very forthright and an eloquent spokesman for his point of view.

This Senator believes that it is a mistake to impose domestic content provisions on countries that do not have domestic content provisions of their own. If we are fighting for fair trade, it seems to me that the Senator from Texas has a sound point.

I thank the Senator.

Mr. HOLLINGS. I reserve the remainder of my time.

Mr. GRAMM. Mr. President, our dear colleague from South Carolina talks about the Marshall plan, but let me remind my colleagues that the aid provided by the Marshall plan really was a little lighter fluid. It was trade with Western Europe that rebuilt Europe, that helped build the economies of Japan and Korea, that helped create a wealth creation machine worldwide, that tore down the Berlin Wall, and that today has us on the verge of winning the cold war.

Mr. President, I find it amazing that we are here trying to pass a law to make people invest in America, when for the last 10 years America has had more foreign investment than any other country in the world. In fact, foreigners have knocked down our door trying to get here, and often we hear people on this floor denouncing foreigners for wanting to invest in America.

Mr. President, a free society does not prosper by enacting laws that force people to make economic decisions they otherwise would not want to make. If we are going to be competitive, we are going to have to compete. We cannot build a wall around the greatest trading nation in the world.

Finally, if Senators need a noneconomic reason to vote for this amendment, it says to Ma Bell, you can invest abroad, you can buy foreign content, you can produce telecommunications equipment, and you can sell it. It says to Regional Bell Cos., you cannot do it. I hope my colleagues remember the equal protection clause under the 14th amendment of the Constitution. The Constitution says that persons—and that includes corporations—must have equal protection under the law.

This provision, in my opinion, is totally unconstitutional. You cannot have some companies treated by one set of rules in a market, and other companies that are treated by another set of rules under Federal statute, without violating the equal protection clause of the Constitution.

So I do not doubt the sincerity of my colleague from South Carolina, but I think he is absolutely wrong on this, and everything he is saying and doing is counterproductive to what we are trying to achieve.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. Mr. President, if the Senator was correct about the equal protection clause, then the Bell Cos. have the sorriest constitutional lawyers in the world, because they have been trying to get out. They are the ones that everybody discriminated against, they are the ones that have been required to what? Invest overseas and not invest here.

Let the companies do what they want to do. That is exactly the bill itself. The Bell Cos. want to produce here. They want this domestic content provision. They have agreed to this provision. They understand it is not good business to be doing all this overseas while we have 8½ million unemployed in America. They are public service companies, depending on the public support. As a result, they have a hard time explaining that they cannot even do this right here. It is an artificial thing.

I wish he were right that a domestic content provision was unconstitutional, because then no one would have had domestic content and you would have had a bare bill at this particular time. Protectionism built Europe. They have had domestic content provisions since the word go in Europe. Protectionism built Japan in the Pacific Rim. Before I can sell a textile in downtown Korea, I have to get permission from the textile industry in Korea. You cannot get licensed in Japan. You can go right on down the list.

So they have practiced protectionism. We tried to set the example. We have been the high-wire boys and the little fellows with the Christian ethnic and the Golden rule. That does not wash in the international market. You have to have not fair, but competitive trade. What works are the same domestic practices that, in essence, built this industrial giant, the United States of America.

We are not investing in research and development, Mr. President, because it does not pay to do so. The Bell Cos. cannot manufacture. We are losing out in the industries that are on the cutting edge of technology, and as a result, the consumers of America are losing out on fine advanced services. It does not pay to even produce it here.

That is a sad, terrible situation. The Senator knows his suggestion would gut the bill. The administration has been toying around for a full day on this. They have been taking head counts and bringing all the pressure and everything else in the world on Senators to offer a new kind of restriction. That is a last gasp of trying to kill the bill.

If you are for America, for Joe-Six-Pack in Texas—the Senator has taught me all about old Joe-Six-Pack down in Texas—then vote for Joe-Six-Pack to have a job, and for building America, so he does not have to go abroad to make a living. I yield the remainder of my time.

I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 290 offered by the Senator from Texas.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—64

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Thurmond
Wellstone
Wofford

NAYS—32

Bond
Bradley
Brown
Coats
Cochran
Craig
D'Amato
Dole
Domenici
Durenberger
Garn
Gramm
Grassley
Hatch
Hatfield
Kerrey
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Symms
Wallop
Warner

NOT VOTING—4

Chafee
Harkin
Pryor
Wirth

So the motion to lay on the table the amendment (No. 290) was agreed to.

Mr. COCHRAN. Mr. President, I am an original cosponsor of this legislation, and I am hopeful the Senate will approve it.

This bill will remove the restriction on manufacturing by Regional Bell Operating Cos. This manufacturing restriction has allowed much of the industry's intellectual property and manufacturing capacity to be purchased by overseas competitors who operate under no similar restriction.

Removal of this manufacturing restriction will provide an incentive to the Regional Bell Cos. to increase their spending on research and development. This is essential if American firms are to be competitive in today's rapidly changing communications industries and meet the challenges posed by unrestricted foreign competitors.

I urge the Senate to pass this bill.

Mr. ADAMS. Mr. President, as an original cosponsor of S. 173, the Telecommunication Equipment Research and Manufacturing Competition Act of 1991, I strongly support this bill. I believe the Gramm amendment would totally undermine the purpose of this legislation.

The legislation before us addresses a sector critical to U.S. competitiveness in the global economy: Information systems and telecommunications technology. All of us are concerned about the threat our industries face from foreign government subsidies to their telecommunications and other industries. Those practices give our foreign competitors an unfair advantage in third country markets and distort competition in our own open, domestic market.

We cannot afford to lose more than we already have of one of the most promising segments of our economy, the manufacture of telecommunications equipment.

This legislation is critically important to workers in the telecommunications equipment industry, where the Commerce Department has projected a slight decline in employment over the next 5 years.

The provisions of S. 173 should help stem this decline, and will hopefully reverse it. But we will only see a greater loss of jobs if we go along with the Gramm amendment.

Lifting the manufacturing restriction will help our Nation compete in several ways. First, the Bell Cos. would have the incentive to increase their spending on research and development.

Second, the bill would enable the Bell Cos. to tap into a vast underutilized reservoir of knowledge about telecommunication networks and the telecommunications marketplace.

Third, this legislation would allow the Bell Cos. not only to collaborate with other manufacturers, but to invest in them as well.

Unfortunately, some small startup companies have no choice but to turn to foreign-based investors.

Consider what has occurred in the last decade. We have seen our ideas and inventions, such as VCR's, exploited by manufacturers abroad. The pattern of foreign companies applying technology we have developed to manufacture new products is expanding in the telecommunications field. The bill before us today will help stop this trend by allowing American companies to do what they do best—invent, market and produce. Without this legislation, our large and growing domestic market will be exploited increasingly by foreign manufacturers.

S. 173 will assure that we maintain a strong national economic base in the information and telecommunications manufacturing sector. It will promote our technological know-how. It will help our industry create the jobs and products to keep the United States in the forefront of this key advanced technology sector.

I urge my colleagues to join in supporting this bill.

Mr. THURMOND. Mr. President, I rise today in support of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991. As my distinguished colleagues are aware, this legislation removes the manufacturing restriction imposed on the Bell Operating Co. pursuant to the modified final judgment. That consent agreement was entered into in August 1982 by AT&T and the Department of Justice, and accepted by Judge Harold Greene of the Federal District Court for the District of Columbia, in settlement of an antitrust suit filed by the Department of Justice. The remaining restrictions in the MFJ are not affected by this legislation.

Mr. President, in my view, issues concerning the telecommunications industry are among the most important that the Senate will face in this Congress. These issues affect not only the telecommunications industry itself, but innumerable other industries and services that are dependent on the telecommunications industry for their growth and development. If this legislation does nothing else, it will have forced this distinguished body to focus on how critically important this industry is to our technological development as a nation, and to our ever important competitive position on the international stage.

Having said that, Mr. President, let me make clear that I did not reach my decision to support this legislation easily. There is little doubt that S. 173 raises difficult issues concerning telecommunications policy and our antitrust laws. There is also little doubt that this legislation raises legitimate concerns about the legislature's relationship with the judiciary and whether litigants can, and should, change their forum every time they are faced with unwanted prohibitions.

Mr. President, in 1981, before the breakup of AT&T, I supported proposals to lift some of the regulatory restrictions under which AT&T then operated. At that time, I made clear that my support was premised on the acceptance of certain amendments that addressed legitimate anticompetitive concerns. My support of S. 173 is likewise premised on antitrust protections.

On balance, Mr. President, I believe that we improve competition in the telecommunications industry if we lift the manufacturing restrictions on the Bell Operating Co. and allow them to compete with the other telecommunications manufacturers. While we must not ignore the legitimate antitrust concerns that are raised because of the monopoly that exists in the local exchanges, I am persuaded that the safeguards that are contained in this legislation should provide adequate protection to those companies that will compete with the BOC's.

Mr. President, it is my view, that no matter which way we proceed on S. 173, there are no guarantees. There are no assurances that S. 173 will work perfectly. However, I believe that the responsible regulatory bodies—the Federal Communications Commission and the various State commissions, as well as the Federal and State antitrust enforcement agencies—will insure that the type of conduct that brought about the MFJ in the first place, will not be repeated. In fact, these agencies and the Bell Operating Cos. themselves, should be duly warned that if anticompetitive conduct rears its head, this Senator will be back before this body with whatever legislation is needed to correct the situation.

The alternative to this legislation, Mr. President, would be retaining the status quo. This also provides no assurances. There is no conclusive proof that if we defeat this legislation we will retain the competitive edge in telecommunications technology that is so important to our industrial standing worldwide. There is also no conclusive proof that consumers will benefit from lower rates and a wider variety of products.

In the end, Mr. President, it comes down to a balancing of interests and protections. In my view, such balancing tips the scales in favor of this legislation, and, therefore, I will support and vote for passage of S. 173.

Mr. BRADLEY. Mr. President, I wish to take this opportunity to correct some erroneous information that may have been communicated in the course of remarks on S. 173 today.

The suggestion made today that AT&T may have sold some portion of Bell Laboratories is completely false. I have been assured by AT&T representatives that no portion of AT&T Bell Labs has been sold to any company, domestic or foreign, and no such sale is contemplated.

More than any other single institution, AT&T Bell Laboratories has helped weave the technological fabric of modern society.

It is the birthplace of the transistor, laser, solar cell, light-emitting diode, digital switching, communications satellite, electrical digital computer, cellular mobile radio, long-distance TV transmission, artificial larynx, sound motion pictures, and stereo recording as well as many major contributions to the telecommunications network. It has more than 22,000 patents, averaging one per day since the company's founding in 1925.

The mission of AT&T Bell Laboratories is to design and develop the information movement and management products, systems, and services needed by AT&T, to provide the technology base for AT&T's future business, to search for new scientific knowledge, and to apply sound R&D techniques to AT&T's manufacturing facilities.

To accomplish this mission, Bell Laboratories currently has some 29,000 employees in 8 States and 9 foreign countries. About 4,000 hold doctoral degrees in 19 disciplines.

At the time the AT&T divestiture occurred, AT&T pledged not to undercut its long tradition of commitment to research at Bell Labs. AT&T has more than lived up to that commitment. Although AT&T overall has had to cut back on the number of people it employs and has undergone considerable reorganization since divestiture, it has increased rather than decreased its researchers and funding at Bell Labs.

At divestiture, on January 1, 1984, AT&T Bell Laboratories employed 19,300 people and had an annual budget of $1.9 billion. On December 31, 1990, Bell Labs employed 22,200 people directly, and its budget for last year was $2.9 billion. In addition, another 8,000 people at AT&T were engaged in closely related research work.

Early in 1991, Bell Labs researchers set two world records for the shortest and fastest laser light pulses. The laser generates 350 billion pulses a second, each one shorter than one trillionth of a second. The fastest commercial system today generates 2½ billion pulses a second.

Other Bell Labs scientists have demonstrated the world's first digital optical processor, an experimental machine that carries out information processing with light rather than electricity. The processor is a major advance toward an optical computer that could eventually be one thousand times faster than today's best machines.

Mr. President, I am proud to say that AT&T Bell Laboratories remains a premier research institution in New Jersey, in the United States, and in the world.

Mr. CRAIG. Mr. President, I rise to support S. 173, the Telecommunications Equipment Research and Manufacturing Act of 1991, which will effectively lift the manufacturing restrictions imposed on the seven Regional Bell Operating Cos. created by the AT&T divestiture.

The manufacturing restriction has kept the Bell Cos. from playing a role in the development of technology and the production of telecommunications equipment. In an era when technology is rapidly evolving, this kind of restriction simply cuts our competitive edge with foreign producers. Maintaining the manufacturing restriction will only push our communications products industry farther behind the rest of the world.

Communications technology has great potential for improving the future of rural States, affecting rural life in a variety of ways, from education to health care delivery. Rural America deserves to enjoy the benefits of these developments.

S. 173 will open up more of these opportunities by allowing some of the experts in the field more flexibility to research, develop, and manufacture these high-technology products. S. 173 will establish a telecommunications policy that will generate new jobs for American workers and new telecommunications products and services for American consumers.

Opponents of this legislation have argued that the bill would allow the Bell Cos. to revert to predivestiture monopolistic practices. It has been asserted that this legislation will allow the Bell Cos. to abuse their telephone franchises, harming competitors and telephone ratepayers by using telephone service revenues to subsidize research and development. Mr. President, S. 173 contains safeguards to prevent this sort of abuse.

The legislation prevents the Bells from manufacturing in affiliation with other Bell Cos. This ensures that the seven Bells are in competition with each other. The bill also requires manufacturing operations to remain separate from the telephone operations to prevent cross subsidization. Minimum requirements constituting separation are outlined in the legislation.

S. 173 also requires that 10 percent of the manufacturing affiliate must be made available on the open market to outside investors. It requires the manufacturing affiliate to sell its equipment to other telephone companies at the same price, without discrimination on terms and conditions.

Mr. President, I have read the Commerce, Science, and Transportation Committee's report on S. 173 very carefully. The safeguards contained in the legislation are clearly outlined in the report.

Mr. President, I can understand the initial concerns and fears some may have with the changes this legislation would make by lifting the manufacturing restrictions imposed on the seven Bell Cos. However, if one looks at the changes that have occurred in the industry, the competitive base that now exists, and the clearly defined safeguards in the legislation, I am sure that these fears would be dispelled. As a cosponsor of S. 173, I hope that my fellow colleagues will read the legislation and committee report carefully, and support this timely, important legislation.

Mr. PACKWOOD. Mr. President, I rise today to support the goals of S. 173—to promote U.S. competitiveness in global telecommunications markets and to preserve U.S. leadership in developing innovative telecommunications technologies. These are laudable goals, and ones the U.S. Senate should seek to achieve. S. 173 moves us in the right direction.

Mr. President, I come to this debate with a lot of history on this issue. I was chairman of the Commerce Commitee when the Senate passed S. 898—a bill which, at the time, was the most comprehensive proposal for change in the communications laws in almost 50 years. Many of the participants in this debate today were active in that discussion.

Ten years have passed, and the telecommunications industry looks substantially different. We considered S. 898 before the divestiture of AT&T. The Bell Operating Cos. did not exist as separate entities. In spite of these changes, many of the issues have not changed.

The basic question is: Should we allow seven of the biggest, most knowledgeable telecommunications companies in the country to manufacture equipment? I believe the answer to that question is yes.

Clearly, we must ensure the Bell Operating Cos. do not use their monopoly power to gain some advantage in the competitive manufacturing arena. We also must ensure the small, rural telephone companies are treated fairly. Finally, and most importantly, we must ensure the consumer, the local ratepayer, does not pay for the entry of the BOC's into manufacturing.

S. 173 contains safeguards to help protect against these abuses. There may be other safeguards that could be added that would not so hamstring the BOC's as to make the bill meaningless. We should consider such safeguards as this bill moves forward through the House and through conference.

Mr. President, although I support the thrust of S. 173, I must raise strong objections to the so-called domestic content provisions. This provision requires that all manufacturing for sale in the United States be performed domestically, and arbitrarily limits the use of non-U.S. components to a certain percent of the sales revenue from the manufactured equipment.

This represents exactly the wrong policy at the wrong time. At a time when U.S. telecommunications exports have been increasing, this provision would invite our foreign trading partners to take retaliatory action and close their doors to U.S.-manufactured goods. At a time when we are trying to negotiate market-opening commitments in the Uruguay round, this provision, if enacted, would seriously undermine those negotiations.

The provision would not create jobs in the United States. In the long run, it would have the opposite effect, because U.S. companies would be less competitive if they are forced to use components they would not otherwise use. The consumer would suffer as well, in the form of higher prices.

Finally, the domestic content provision would violate existing U.S. international obligations under the GATT and under virtually every other U.S. trade agreement.

Mr. President, in spite of my opposition to the domestic content provision, I plan to support S. 173. It is my hope, however, that as the bill moves through the House and through conference, it will be amended to take care of my concerns about this provision.

Mr. LAUTENBERG. Mr. President, I rise in opposition to S. 173.

Mr. President, let me begin by saying that I support the general goal of this legislation—to preserve America's telecommunications leadership and to promote American jobs. I applaud the distinguished chairman of the Commerce Committee, Senator HOLLINGS, for his commitment to increasing American competitiveness.

The issues before us have often been portrayed as a fight between two large corporate interests—the Regional Bell Operating Cos. on one side, and AT&T on the other. Mr. President, what is at stake is much more than that. The issue is how to assure that America has the best telecommunications system in the world. The issue is how to assure that America keeps its lead in the design, development, and manufacturing of telecommunications equipment and the design, development, and provision of telecommunications services. That leadership means jobs for Americans. That leadership means benefits for our economy as a whole.

The future of our telecommunications industry affects not only the companies in the industry itself, it affects the future of every American company that relies upon our telecommunications system. In the information age, our telecommunications system is as much a part of our infrastructure as our roads, rails, airways, and waterways. Our economic productivity and our competitiveness, depends in significant part on our ability to process, to convey, and to share information efficiently.

The telecommunications industry is an especially important one in my State. The Nation's leading telecommunications research and development facilities, Bell Labs and Bellcore, are located in my State. So are tens of thousands of other employees of AT&T, New Jersey Bell, and other telecommunications manufacturers and service companies.

I agree that we need to promote competition in telecommunications. Competition brings innovation, and innovation brings efficiencies. Innovation means better products, more sales, and more jobs.

On its face, this bill seems to promote competition, by increasing the number of competitors.

However, Mr. President, more competitors does not necessarily mean more competition. Particularly when some of those competitors are monopolies. And that's the nub of the problem.

Almost by definition, monopolies are immune from many of the constraints of a free market. So when they take this immunity and move into a competitive market, real concerns are raised. Concerns about fairness to the monopolies' consumers. Concerns about fairness to the monopolies' competitors, and concerns about maintaining competition in the industry.

These concerns are based largely on the threats of anticompetitive self-dealing, and cross-subsidization.

Of course, the bill does contain provisions that are designed to prevent these abuses. But I am not convinced that these assurances are adequate.

Take, for example, the bill's provisions on self-dealing. The legislation says that a Bell Telephone Co. is supposed to provide unaffiliated manufacturers with comparable opportunities to sell it equipment, and may only purchase at the open market price.

The language is simple and straightforward, Mr. President. But applying it to the real world of business will be extremely difficult.

First, there may be no benchmark—no standard of comparison—by which to determine an open market price. For example, if a manufacturing affiliate sells all of its equipment to its parent, there could be no open market. And without an open market, with a range of similar prices, there can be no open market price.

Compounding matters, manufacturing affiliates will often develop equipment that is customized to fit the unique needs of its parent. So not only will there be no outside sales by which to determine similar prices, there may be no products at all on the market that are similar.

Under these circumstances, it could be virtually impossible for the FCC to determine whether the price paid to an affiliate represents the open market price, or whether the transaction amounts to improper self-dealing.

Mr. President, just for the sake of argument, let us say that the FCC can find similar products with similar prices, and so can ascertain an open market price. It's still going to be extremely difficult for the Commission to adequately police self-dealing abuses.

For one thing, it could take an army of FCC personnel to identify violations and adjudicate complaints. Yet GAO indicated that the FCC has the resources to fully audit each major telephone company only once every 16 years.

Mr. President, every year, the RBOC's enter into thousands of equipment transactions. Even if a small portion of these were taken to the FCC, the Commission would lack the resources to deal with them. And, given the tight budgetary constraints we now face, I just don't think it's realistic to expect that they'll have substantially greater resources any time soon.

Also, even if it were possible to identify abuses, and even if the Commission is provided with a huge increase in personnel, it's still not clear that the bill provides an adequate remedy to the self-dealing problem. Under the bill, the FCC would act on self-dealing claims only after the fact—that is, after an RBOC has failed to buy a product from a competitor. By the time the competitor brings a claim to the FCC, and a decision is rendered, the competitor and other manufacturers may be out of business.

Mr. President, the point is not lack of faith in the people who run the RBOC's. To the contrary. Speaking at least of the people I know in New Jersey, these are some of the most honorable corporate citizens I know. The problem is with the inadequacy of FCC and State regulation in such a complex, difficult area.

Mr. President, AT&T was broken up not because it was a dishonest company. It was broken up because the structure of the market—namely, AT&T's dominance as a monopoly—created incentives for anticompetitive activity resulting in unfairness to telephone users and to other competitors. And it was widely believed that, without changing the very structure of the company, regulation could not do the job.

I realize that times have changed, and now instead of one giant company we have seven. But so long as the RBOC's can take advantage of their continuing monopoly over local telephone service, many of the same concerns that led to divestiture still apply.

After all, if the RBOC's all bought from themselves, they could choke off competition for 70 percent of the domestic market for high-technology telecommunications equipment. If that happened, R&D at other equipment manufacturers, such as that conducted at Bell Labs in New Jersey, would probably be cut substantially. In fact, if the bill is enacted in its present form, just the risk of a closed market could lead to a significant reduction in R&D among the RBOC's competitors.

The end result could be fewer U.S. jobs, lower quality products for American consumers, and American businesses, and reduced U.S. competitiveness.

Mr. President, it is clear to me that I am in a minority. This bill is going to pass the Senate.

But, it is my hope that it will be improved in the House. It is my hope that if the RBOC's are given legal authority to enter manufacturing, they will do so in a way that preserves open and competitive markets. It is my hope that their operating companies will choose equipment on the basis of what can best serve the needs of their customers.

But, Mr. President, without adequate assurances built into the statute, I feel compelled to vote against the bill.

Mr. DURENBERGER. Mr. President, the proposal which my colleagues and I are considering today, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991, will inaugurate a new era for the telecommunications industry in the United States. Because this industry and the services it provides are such an integral part of business operations and in the lives of consumers, the benefits of this bill will ripple throughout all aspects of American life. In my judgment, S. 173 will expand the services enjoyed by consumers and ensure the leading position for the American telecommunications industry.

Fundamentally, S. 173 is an issue of competitiveness. It is not about undoing the divestiture of AT&T and the antitrust provisions of the modified final judgment. In the course of the court-ordered divestiture, the potential of seven world-class manufacturers has been thoroughly squelched. This should not have been the case. S. 173 will help to realize the stifled potential of the Bell Operating Cos., while preserving the protections established in the modified final judgment.

As important as divestiture and the MFJ is to fairness and competition in the marketplace, we cannot permit the fear of unfair competition to paralyze progress in the U.S. telecommunications industry. While the court's role in the divestiture of AT&T must not be lightly dismissed, we must remember that it was charged to prevent unfair competition, not protection from competition, within this critical industry.

The passage of S. 173 stands to offer a multitude of blessings and benefits for American consumers, for American businesses, and for our national competitiveness in the world marketplace. Permitting the Bell Operating Cos. to conduct research and development, as well as to manufacture telecommunications equipment, will permit the development of new and innovative services and provide a new source of leadership and innovation in the world marketplace.

Of course, unleashing such power is not without risks. Important segments of American society who have a stake in the telecommunications industry—consumers, smaller telephone companies and manufacturers—have legitimate concerns which deserve to be addressed. Adequate safeguards and regulatory authority must be included with this proposal to ensure that consumers do not suffer from increased costs and that smaller manufacturers do not suffer from unfair competition.

The superior resources of the Bell Operating Cos. must be kept in proper check so that S. 173 creates seven more competitors, not just seven mega-manufacturers. Existing producers must not be shut out of the marketplace through widespread self-dealing. They must have the opportunity to work in concert with the operating companies and the new manufacturers of equipment to develop an enhanced and nationally integrated telecommunications system.

Providers of services, including smaller telephone companies and cooperatives, ought to be protected from the risks of uncompetitive pricing and inaccessible, but nonproprietary, design specifications between the Bell Operation Cos. and their new manufacturing entities.

In my judgment, these concerns have been effectively addressed. Thanks to the efforts of Senators HOLLINGS, DANFORTH, AND PRESSLER, I believe the amendment adopted yesterday strikes the balance necessary to safeguard against unfair competition for small telephone companies and small manufacturers. The Pressler amendment ensures that small manufacturers and telephone companies will be able to play a part in the building of this Nation's new telecommunications system. Under this amendment, design specifications must be shared among producers and carriers. Self-dealing protections will guarantee that non-Bell manufacturers will continue to have access to markets. New and enhanced FCC and State regulations will protect against unfair financial relationships between the Bell Operating Cos. and their new manufacturing entities.

I am pleased to support S. 173 and the efforts of my colleagues to ensure that America is the leader of the telecommunications industry from the very beginning of the 21st century.

Mr. LEVIN. Mr. President, the legislation we are considering today is about the future. The future of technology and telecommunications is exciting and great things appear on the horizon that will benefit society if sufficient investments are made in innovation and human resources. By lifting the manufacturing restrictions placed on the Regional Bell Operating Cos. [RBOC's] we seek to bring that future a little closer to the present and to do it in a way that benefits both American workers and consumers.

This bill is a particularly difficult one because we are projecting likelihoods, not certainties. S. 173 will require the RBOC's separate affiliates, if they choose to form them, to manufacture in the United States. There is also a provision in this bill that requires the RBOC's manufacturing affiliates to purchase component parts in the United States. There is an exception to that latter rule stating that the affiliate may purchase parts from outside the United States if it has, after making a good faith effort, been unable to obtain equivalent component parts domestically. It is then and only then that the affiliate may purchase up to a certain percentage of foreign parts. This should have a positive impact on the total market share controlled by U.S. firms. This means there should be gain of new jobs, new jobs creating products that should improve our balance of trade and stimulate the domestic economy. It is this potential for new American jobs that is the clearest reason for passing this legislation. We have seen our manufacturing sector erode in recent years as a result of foreign competition often unfair in a number of respects. This legislation will foster the creation of jobs in an area with enormous potential for the future. While it is argued, on the other hand, that dislocation and job losses may occur due to increased competition and the entrance of large manufacturers into a field of generally smaller firms, on balance, I believe it likely that more American jobs will be created in the telecommunication area by this bill than without it.

In addition to the likely benefit in terms of American jobs, with the entry of new, capable manufacturers into the market there is the prospect that consumers of telecommunications products and services could see prices that are reflective of increased competition. If each of the seven RBOC's enter manufacturing there will be the potential for an infusion of expertise and innovation into the marketplace. This legislation authorizes the Federal Communications Commission [FCC] to promulgate regulations to prevent the free market from being distorted by anticompetitive behavior by the RBOC's. If, however, the FCC does not effectively enforce the regulations which S. 173 requires them to promulgate to prevent self-dealing, collusion, and discriminatory pricing, or if competition does not evolve, there exists the possibility that consumers will not see the benefits of increased competition. But, the safeguards in S. 173 should act as a deterrent to any RBOC that might consider engaging in any of these activities.

This legislation offers the real possibility for the stiulation of the creative process in a competitive market by allowing the RBOC's to be involved in the design and development phase of manufacturing. The current language of the modified final judgment and the court's interpretation of it creates obstacles to effective research and development of new telecommunications products and software. Innovation cannot take place efficiently under these conditions and this results in lost opportunities for jobs and new products. Here are two examples of how S. 173 would improve the chances that our Nation will enter the 21st century with a telecommunications system worthy of one of the most technologically advanced societies in the world, and do it with a positive balance of trade.

Under the current manufacturing ban, manufacturers who would like to produce a product for a telephone network cannot work closely with the RBOC's on the testing of the product within the network in a completely free and open manner. The relationship must proceed in a trail-and-error fashion. The Commerce Committee's report details the inefficient development process in the following way:

> If a manufacturer tests a piece of equipment on the BOC network, BOC engineers can tell the manufacturer that the product does not work, but they cannot tell the manufacturer why the product does not work or how to fix it. The manufacturer must return to its own shop and try again, with no idea what the problem is. Such a manufacturer must continue in the "trial-and-error" fashion until the manufacturer discovers the problem or abandons the effort completely.

Without a free exchange of scientific and logistical data between parties seeking to develop new products, creativity is stifled.

A second example of how creativity is stifled by the manufacturing ban is the prohibition on innovation from within the RBOC. Currently, if a researcher or employee of one of the RBOC's has an idea to create a product, which may or may not be commercially attractive to manufacturers, there is no simple and cost-effective method to formulate the specifics so as to bring it to market. For instance, assume one of the RBOC's has an employee who has a proposal for a digital central process unit [CPU] that would reconfigure transmitted frequencies or voices to suit the hearing pattern of the recipient, making it possible to compensate for a specific type of hearing loss or impairment. Such a product or service would allow certain individuals to have greater access to the communications network. The profitability of the product is certainly of interest to the RBOC in question, though its interest may primarily be in stimulating network usage and not necessarily focused on that product's profit margin. But, the RBOC's provision of sufficiently detailed technical specifications to an outside manufacturer in order to make this product would most likely be a violation of the modified final judgment. Under the bill we are considering, the RBOC will be allowed to develop this technology and manufacture this product through its own affiliate, or another contractor. The net result could be making available to consumers a product that might not otherwise be generated as a result of current production arrangements.

Allowing greater interaction between the RBOC's and manufacturers, whether it be the RBOC's own affiliates or not, is not without possible antitrust implications. This issue was an integral part of the original decision to separate AT&T from it's wholly owned manufacturing subsidiary, Western Electric. The fear that the RBOC's will engage in preferential dealing with their individual affiliates to the exclusion of other manufacturers has been aired by several parties. But the bill's safeguards should provide adequate protections against such an event.

Predicting the future accurately is not always easy. But sometimes we need to test the edges of the envelope if we are going to create the future that we want. Removing some restrictions on the RBOC's should help keep the United States at the forefront of the technological changes that have created the new information age. This should create more American jobs, better and lower cost products, and improved quality of life. Should these predictions not come true and the RBOC's do not live up to the intentions they have stated or to the safeguards presented in the bill, Congress will be in a position to reenter the issue and act on the then existing conditions in the public interest.

Mr. LEAHY. Mr. President, technological advancements in our ability to transmit information have been breathtaking in recent years and it is probably safe to say that this is only the beginning. Nor is it only technology that is changing—the structure of the industry itself has undergone a profound transformation since the breakup of AT&T in 1984. That breakup resulted in the development of a vibrantly competitive manufacturing market with thousands of new companies getting into the business. It led as well to healthy competition in long distance and to a burgeoning and competitive market in information services.

The bill before us today, by lifting the manufacturing restriction and allowing the baby Bells, through separate affiliates, to enter manufacturing, will increase that competition.

I have always supported measures to increase our international competitiveness and enhance our technological base. At the same time, I think the dangers of cross-subsidies and self-dealing are very real. The baby Bells will inevitably have an incentive to buy from their own manufacturing subsidiaries to the exclusion of independent competitors. They will also have an incentive to maximize the costs allocated to themselves—since those costs can be passed on to the ratepayers—while minimizing the costs allocated to their manufacturing subsidiaries. The result of such behavior would be to injure consumers and independent competitors alike.

I do believe, however, that these dangers have been diminished by the safeguards built into the bill and those added by the amendments we have adopted in the last 2 days. These safeguards will, among other things, protect rural phone companies, require States to audit the manufacturing affiliates of the regional Bells and guarantee access to their books.

I will be frank in saying that I looked forward to supporting Senator INOUYE's amendment, which he withdrew. That amendment would have put reasonable limits on the degree to which the regional Bells can purchase from their own subsidiaries. But I am pleased by Senator HOLLINGS' assurance that he will consider Senator INOUYE's ideas on limiting self-dealing when it comes time to conference this bill with the House.

Let me add one other point. Since S. 173 was introduced, many businesses and consumer groups have visited me to express their concern that it would be only the first in a series of bills to overturn all of the line-of-business restrictions placed on the regional Bells by the modified final judgment.

I want to make it very clear that as far as I am concerned, this bill is not the camel's nose under the tent when it comes to long-distance or information services.

I am particularly concerned about the implications of lifting the restriction on information services. Of course, there will be ample time to consider that issue if it ever comes before us. But nothing in my support of this manufacturing bill today should be construed as indicating support for the lifting of any other restriction.

Mr. President, in closing, let me say that, assuming this legislation is enacted into law, I will be watching the development of telecommunications manufacturing with great interest. The regional Bells have made broad representations in supporting this bill. They have assured us that letting them into manufacturing will increase American competitiveness and benefit American consumers. They have promised that they will not engage in cross-subsidization or unfair self-dealing. It is up to the FCC and the Congress to hold them to their word.

Mr. DODD. Mr. President, regretfully, I rise today in opposition to passage of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991.

The goals of this measure are admirable and ones that I fully support. Our competitiveness overseas is an issue vital to the health of our economy—and especially in the field of telecommunications which is one of the keys to future growth in this the information age. In this regard, figures showing a trade deficit in telecommunications equipment are certainly alarming, when our dominance in the industry was unchallenged just a decade ago. We must look closely at current policy which prevents nearly 50 percent of our telecommunications industry from participating in product development and manufacturing and I compliment the chairman and the Commerce Committee for their thoughtful work in this area.

Earlier today, Senator INOUYE and I offered an amendment that I believe would have added some important safeguards to this bill and, although our amendment was not adopted, I am hopeful that the specific issues addressed in our amendment will be considered as this bill proceeds. As this bill is however, I am concerned that the safeguards it includes do not go far enough to lessen the opportunities and incentives for the Bell Co. to engage in anticompetitive behavior in these manufacturing enterprises at the expense of ratepayers, other consumers and manufacturers.

The record of anticompetitive behavior in this industry is difficult to ignore when considering this issue. The original divestiture of AT&T was brought on by some of the worst antitrust abuses in our history. More recently, the U.S. West and NYNEX scandals were on front pages around the country. It is unclear that this bill will do enough to discourage such behavior in the future.

I am pleased that the Simon and Metzenbaum amendments were adopted earlier. I believe that, in improving the regulatory safeguards in this bill, these changes go a long way to ensure that local ratepayers and other consumers will be shielded from the costs of any anticompetitive behavior.

However, the potential for self-dealing abuses remains. While the Regional Bell Co. maintain monopoly control over local telephone service, opportunities and incentives exist for them to frustrate and impede competition.

Our telecommunications manufacturing industry has grown during the last 10 years and has brought to us a plethora of new products—everything from network switches to consumer services such as call waiting and caller ID. This is not a weak industry—its exports are increasing and are daily gaining on the trade deficit. As I said earlier in this debate, this vibrant industry is not concerned about new competition; it is concerned about the potential for the establishment of an unfair playing field with the enactment of this measure.

In this regard, I am pleased that the potential for self-dealing will be looked at closely in conference and am hopeful that measures such as those suggested by Senator INOUYE and I will be included in the conference report. I am hopeful that, at that time, I will be able to support a measure that ensures a fair market and establishes a system that produces the best products at the least cost. In a competitive market, ratepayers, other consumers, the manufacturing industry, our international competitiveness and the Bells themselves will all benefit. However, until a competitive market can be guaranteed, the risks to consumers, to manufacturers and to the industry are too great.

Mr. President, I urge the rejection of this bill.

Mr. HARKIN. Mr. President, I rise to express concern about S. 173.

The telecommunications and information industries are enormously important to our Nation's economy because they play an increasingly important role in the lives of our citizens, both at work and in the home. The enactment of S. 173 would undoubtedly influence the evolution of these industries for many years to come. The bill thus warrants careful scrutiny.

It is important to remember that the modified final judgment is the product of two major government suits involving decades of alleged antitrust violations by the former components of the Bell System. The manufacturing restriction was imposed on the Bell Cos. because they maintained the local telephone monopolies when AT&T broke up in 1984. Divestiture was costly and disruptive, but many think it was worth the benefits that resulted from increased competition in equipment manufacturing and in long distance telephone services. In those two areas, prices are down, quality is up and consumer choices have expanded.

The question which must be addressed is whether removing the manufacturing restriction will increase competition, or reduce it. According to Bell Communications Research, the joint research arm of the 7 regional companies, there are now 9,000 suppliers of products to the Bell System, a remarkable increase over the 2,000 which existed in 1984. But would S. 173 simply add seven major new players to the market or allow for the displacement of already existing compeition? If the latter is true, then I can't help but be concerned.

If the Bell Cos. are allowed to manufacture the big ticket telecommunications equipment necessary to operate their networks, they would almost certainly buy from their own manufacturing affiliates thus excluding other suppliers in the marketplace. By having ownership interests in their suppliers, the Bell Cos. would have the opportunity and the incentive to charge themselves higher prices for the equipment, passing on the extra charges on to their captive ratepayers. In the end, it is these ratepayers who are forced to fund the local telephone monopoly becuase they only have one telephone service form which to choose. A system such as this would inevitably lead to higher rates for consumers.

I'm also concerned about institutional questions embodied in this bill. Congress often changes rules of decision by amending the law on which a court decision is based; but amending judicial consent decrees, especially where, as here, we are not touching the statute on which the decree is based, is highly unusual. I am worried that Congress may be setting a bad precedent by amending judicial consent decrees under these conditions. Most of us have only a passing familiarity with the evidence in U.S. versus AT&T, and I doubt that any of us had read the court rulings that we would be overturning with this statute. Should the disposition of antitrust litigation, based on our Nation's most venerable trade regulation statute, the Sherman Act, and abundant specific evidence of anticompetitive conduct, really be second-guessed in a forum that has not carefully reviewed the record?

Mr. President, communications equipment shipments grew at a rapid pace during the 1980's and today the telecommunications manufacturing industry in America is healthy, vibrant, and still growing. Many industry experts attribute the success of telecommunications in America to the industry structure that was put in place by the 1982 antitrust decree. Mr. President, I think is is very unwise to turn back the clock now by passing bad legislation when we have a strong and growing industry.

Mr. RIEGLE. Mr. President, I rise today as a cosponsor of S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act of 1991.

Our great challenge as a nation is to rebuild our industrial base so all citizens can obtain quality jobs. In order to do this we must save more, invest more, become better educated and more productive, and increase our technological base. Lifting the manufacturing restrictions on the Bell Cos. has the potential to both improve our technological base to meet the needs of the next century and improve our industrial base by investing in and creating more manufacturing jobs at home.

In the 7 years since the modified final judgment placed manufacturing restrictions on Bell Cos., our trade position in the field of telecommunications has declined rapidly. Shortly before the MFJ, we had a surplus in telecommunications trade. Last year—a year in which there was some improvement—we had a telecommunications trade deficit of about $800 million. Since 1984, our cumulative telecommunications trade deficit has exceeded $15 billion.

Our own trade position may be worse than an initial look would lead us to believe. A significant quantity of the components in American manufactured telecommunications goods were produced abroad. In addition, much of the export value attributed to the United States comes from foreign owned companies that have plants in the United States. And the trend toward foreign ownership of telecommunications companies in the United States has accelerated: dozens of U.S. manufacturers have been bought by foreign manufacturers since the manufacturing restrictions were put in place. While we should not complain that foreign-owned companies are manufacturing and investing in the United States, we would be in a much better position if more U.S. manufacturers were owned by U.S. entities.

While our trade deficit continues to grow, our foreign competitors have ratcheted up their ability to compete in telecommunications. Japanese firms have dramatically increased their spending in research and development over the past decade. And this new push comes as if the Japanese telecommunications industry were not already doing well. Far from it: Japan had a $22 billion surplus with the United States in telecommunications, computers, and electronics last year.

The trade figures I have cited are not some abstract figure on a ledger sheet—they represent lost jobs and lost opportunities for American workers. Since 1984, 60,000 telecommunications manufacturing jobs have been sent abroad. In my State, Michigan Bell has lost half of its workforce and the Communications Workers of America has seen its membership dwindle over this period.

The jobs that are being lost are high-quality jobs that enable workers to own homes and send their children to college. Too often for the workers who lose their jobs and for workers who never had the opportunity to get these good jobs, the alternatives are far less attractive—mostly in lower paying areas in which their skills will be underutilized. Many of the problems we have as a society—crime, drug abuse, racism—are made worse when the number of good jobs shrinks. And we will continue to see these American jobs move to Mexico, or China or Japan, or some other country unless we do something to turn this around.

The manufacturing restriction on the Bell Cos. currently in place prevents us from putting our best team on the field; and in our extremely competitive world, that means that we will lose games that we should win. We simply cannot continue to afford to leave major players out of our lineup.

The Bell Cos. have a great deal of expertise in telecommunications. The seven Regional Bell Operating Cos. employ 2 percent of all American workers and have annual revenues of $77 billion. It's time we allowed them to get back into the business of producing telecommunications equipment.

At the same time that the manufacturing restrictions are lifted, there must be safeguards to ensure that consumers will not be hurt and that competitive U.S. manufacturers retain fair access to markets. The bill contains a series of provisions designed to prevent abuses such as cross-subsidization and self-dealing. The FCC has the duty to enforce these provisions and they must be rought in doing so.

Lifting the manufacturing restrictions should mean not that market share is simply moved from one U.S. company to another—it must mean that jobs are created here and that they remain here. Tough domestic content provisions are vital to ensuring that the United States regain its leadership in telecommunications. The bill requires that the Bell Co. conduct all of their manufacturing in the United States.

Yet despite the fact that the domestic content provisions are supported by both the Bell Co. and the Communications Workers of America, members of the President's Cabinet have indicated that they will recommend a veto of this bill if it contains any domestic content provision.

It is unfortunate that the administration is taking this view—but it is not surprising. For 11 years, we have seen administrations sit and watch while American jobs have moved overseas and left American workers worse off. The legislation we have on the floor today is designed to improve U.S. competitiveness with domestic content provisions that ensure that jobs stay in the United States. It is my hope that should this bill reach the President with a domestic content provision in it, he will ignore the advice of members of his cabinet and sign a bill that creates and keeps jobs at home.

I urge my colleagues to support this bill and I thank the distinguished chairman of the Commerce Committee for the leadership he has shown in this matter.

Mr. BIDEN. Mr. President, I rise for a brief statement on S. 173, the Telecommunications Equipment Research and Manufacturing Act of 1991. The legislation, introduced by my very good friend and the chairman of the Commerce Committee, Senator HOLLINGS, would allow the Bell Operating Cos. [BOC's] to manufacture telecommunications equipment, one of three lines of business from which they are currently precluded by the modified final judgment of the AT&T consent decree.

This legislation has many benefits, and Senator HOLLINGS has worked long and hard in producing a fine product. His efforts to make U.S. companies more competitive internationally and at the same time protect American workers are to be commended.

In the end, my vote on S. 173 is a very close call. But I must do what I believe is in the consumers' best interest—and that is to vote against the legislation.

My principal concern relates to the issue of cross-subsidization.

My concern is that a BOC will create a manufacturing subsidiary, which would then customize its product as to meet the special needs of the BOC. The BOC would then provide "comparable" opportunities to other manufacturers to sell to it as S. 173 requires, but the BOC would buy most of its equipment from its own subsidiary anyway—arguing that it is customized to suit its needs. The BOC would then pay inflated prices for the equipment, with those inflated equipment costs passed on to telephone customers in the form of higher rates. In this way, consumers of local telephone service would subsidize a BOC's manufacturing subsidiary.

While S. 173 does contain some safeguards on cross-subsidization, I do not believe that they are adequate. Thus, I will vote against this bill today. If, however, the issue of cross-subsidization is addressed in conference by an amendment limiting the ability of the BOC's to engage in self-dealing, I reserve the right to vote for the bill at that time. Given the benefits the bill does offer, I sincerely hope that the issue of self-dealing can be resolved in conference.

AMENDMENT 282

Mr. SASSER. Mr. President, I am pleased at the action of the Senate last night in adopting the amendment of my colleague from South Dakota, Mr. PRESSLER.

I am a cosponsor of this amendment, which I believe will offer a valuable measure of protection for our rural telephone companies. A modern, state-of-the-art telephone network is critical for rural America—critical for development, critical for education, critical for health.

Access to highly advanced telecommunications facilities is essential for a community to attract industry. More and more business is driven by access to information. Companies require access to visual transmission and the capacity to use and send sophisticated engineering and technological information.

A company in my State of Tennessee can communicate as easily today with Paris, France, as it could with Paris, TN, 25 to 30 years ago. And unless a telephone company can offer that kind of telecommunications capacity the local community will not be able to attract business and jobs.

In the same way, a top-notch telecommunications system offers rural communities access to educational opportunities that would otherwise be closed to them. Many of the communities in my State simply cannot afford to offer many advanced, highly specialized courses. They cannot afford to dedicate a teacher salary to one narrow area.

Through modern two-way visual and voice communications, several school systems can pool their resources and hire one teacher or obtain access to university professors. There will be major advancements in this area in the near future and I want to assure that rural Tennessee and rural America share in that future.

Medicine is another area which is becoming more and more dependent on technology and telecommunications. Communities which in the past were lucky to have a doctor at all now send data on their difficult cases to specialists and university hospitals. They can consult with top specialists, not by trying to describe symptoms, but by sharing the actual test results. This allows them to offer a level of care undreamed of even a few years ago.

Mr. President, I've lived in rural America. I remember when electricity came to parts of my State. The next generation of telecommunications technology will be as basic and essential as electricity was then. Our amendment will ensure that rural areas are part of that telecommunications revolution.

First of all, it requires the Bell Cos. to make software and equipment available to other telephone companies on a nondiscriminatory basis. This is particularly important in the area of software, which is rapidly becoming the key in telecommunications. All too often prior to divestiture, rural telephone companies had difficulty in obtaining access to equipment. We must ensure that doesn't happen again.

Second, our amendment requires the Bell Cos. to continue to make equipment available as long as reasonable demand exists. The equipment used by small companies is often not as profitable for manufacturers as are larger systems. A manufacturer seeking to trim his product line might be tempted to drop equipment vital to rural telephone companies. Our amendment will prevent that.

Third, the amendment requires the Bell Co. to engage in joint network planning. Small telephone companies need to be involved in the planning process to ensure that the national telephone network is accessible to all.

Finally, our amendment allows independent companies to go to court to enforce the safeguards contained in the bill. This is a critical part of the amendment. I must say I have not been impressed with the FCC's sensitivity to rural and other independent telephone companies' past complaints about refusals to provide equipment. This part of the amendment will allow these small telephone companies to obtain effective relief.

So, Mr. President, it was a pleasure to work with the Senator from South Dakota [Mr. PRESSLER] on this amendment. He is to be commended for offering it, and I thank the managers of the bill for accepting it.

ENFORCEMENT OF DOMESTIC CONTENT

Mr. RIEGLE. Mr. President, I would like to clarify a couple points about the enforcement of the domestic content provisions. In particular, I would like to ask the distinguished chairman of the Commerce Committee, the sponsor of the Telecommunications Equipment Research and Manufacturing Competition Act of 1991 and whether it is the intent of the committee that the certification required under section 227 (c)(3)(C)(i) be made available to the public in a timely manner. This provision requires manufacturing affiliates to certify that a good faith effort was made to obtain equivalent parts manufactured in the United States at reasonable prices, terms, and conditions.

Mr. HOLLINGS. The Senator is correct. It is the intent of the committee to compel the Federal Communications Commission to make these certifications available to the public in a timely manner.

Mr. RIEGLE. I believe that American firms should have real opportunities to prove that they can provide parts to manufacturing affiliates at reasonable prices, terms, and conditions, Therefore, I would also like to ask the distinguished chairman of the Commerce Committee whether it is the intent of the committee that the requirements under section 227 (c)(3)(D)(i) and section 227 (c)(3)(D)(ii) be fulfilled in a timely matter.

Mr. HOLLINGS. The Senator is also correct. It is the intent of the committee that the Federal Communications Commission fulfill its duty in a timely manner to determine whether manufacturing affiliates have made a good faith effort to obtain equivalent component parts manufactured in the United States at reasonable prices, terms, and conditions. It is also the intent of the committee that the Federal Communications Commission fulfill its duty in a timely manner to determine whether or not manufacturing affiliates have met the requirement that the percentage of components manufactured outside the United States does not exceed the limits called for in the legislation. Further, it is the intent of the committee that the Federal Communications Commission rule in a timely manner on complaints filed by suppliers claiming to have been damaged because a manufacturing affiliate failed to make a good faith effort to obtain equivalent parts manufactured in the United States at reasonable prices, terms, and conditions.

Mr. RIEGLE. I thank my distinguished colleague for these clarifications and for his leadership on this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question occurs on the passage of the bill, as amended. The yeas and nays have not yet been ordered.

Mr. HOLLINGS. They have. I asked for the yeas and nays. I think they have been.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Colorado [Mr. WIRTH] are necessarily absent. I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 71, nays 24, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—71

Adams
Baucus
Bentsen
Bingaman
Boren
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gore
Gorton
Graham
Grassley
Hatch
Heflin
Helms
Hollings
Jeffords
Johnston
Kassebaum
Kasten
Kerrey
Kerry
Kohl
Leahy
Levin
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Murkowski
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Warner
Wellstone

NAYS—24

Akaka
Biden
Bond
Bradley
Cranston
Dixon
Dodd
Dole
Glenn
Gramm
Hatfield
Inouye
Lautenberg
Lieberman
Metzenbaum
Moynihan
Nickles
Pressler
Sasser
Seymour
Simon
Specter
Wallop
Wofford

NOT VOTING—5

Chafee
Harkin
Kennedy
Pryor
Wirth

So the bill (S. 173), as amended, was passed as follows:

S. 173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Equipment Research and Manufacturing Competition Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that the continued economic growth and the international competitiveness of American industry would be assisted by permitting the Bell Telephone Companies, through their affiliates, to manufacture (including design, development, and fabrication) telecommunications equipment and customer premises equipment, and to engage in research with respect to such equipment.

SEC. 3. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"REGULATION OF MANUFACTURING BY BELL TELEPHONE COMPANIES

"SEC. 227. (a) Subject to the requirements of this section and the regulations prescribed thereunder, a Bell Telephone Company, through an affiliate of that Company, notwithstanding any restriction or obligation imposed before the date of enactment of this section pursuant to the Modification of Final Judgment on the lines of business in which a Bell Telephone Company may engage, may manufacture and provide telecommunications equipment and manufacture customer premises equipment, except that neither a Bell Telephone Company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell Telephone Company not so affiliated or any of its affiliates.

"(b) Any manufacturing or provision authorized under subsection (a) shall be conducted only through an affiliate (hereafter in this section referred to as a 'manufacturing affiliate') that is separate from any Bell Telephone Company.

"(c) The Commission shall prescribe regulations to ensure that—

"(1)(A) such manufacturing affiliate shall maintain books, records, and accounts separate from its affiliated Bell Telephone Company, that identify all transactions between the manufacturing affiliate and its affiliated Bell Telephone Company;

"(B) the Commission and the State Commissions that exercise regulatory authority over any Bell Telephone Company affiliated with such manufacturing affiliate, shall have access to the books, records, and accounts required to be prepared under subparagraph (A); and

"(C) such manufacturing affiliate shall, even if it is not a publicly held corporation, prepare financial statements which are in compliance with Federal financial reporting requirements for publicly held corporations, and file such statements with the Commission and the State Commissions that exercise regulatory authority over any Bell Telephone Company affiliated with such manufacturing affiliate, and make such statements available for public inspection;

"(2) consistent with the provisions of this section, neither a Bell Telephone Company nor any of its nonmanufacturing affiliates shall perform sales, advertising, installation, production, or maintenance operations for a manufacturing affiliate; except that institutional advertising, of a type not related to specific telecommunications equipment, carried out by the Bell Telephone Company or its affiliates shall be permitted if each party pays its pro rata share;

"(3)(A) such manufacturing affiliate shall conduct all of its manufacturing within the United States and, except as otherwise provided in this paragraph, all component parts of customer premises equipment manufactured by such affiliate, and all component parts of telecommunications equipment manufactured by such affiliate, shall have been manufactured within the United States;

"(B) such affiliate may use component parts manufactured outside the United States if—

"(i) such affiliate first makes a good faith effort to obtain equivalent component parts manufactured within the United States at reasonable prices, terms, and conditions; and

"(ii) for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate in any calendar year, the cost of the components manufactured outside the United States contained in the equipment does not exceed 40 percent of the sales revenue derived from such equipment;

"(C) any such affiliate that uses component parts manufactured outside the United States in the manufacture of telecommunications equipment and customer premises equipment within the United States shall—

"(i) certify to the Commission that a good faith effort was made to obtain equivalent parts manufactured within the United States at reasonable prices, terms, and conditions, which certification shall be filed on a quarterly basis with the Commission and list component parts, by type, manufactured outside the United States; and

"(ii) certify to the Commission on an annual basis that for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate in the previous calendar year, the cost of the components manufactured outside the United States contained in such equipment did not exceed the percentage specified in subparagraph (B)(ii) or adjusted in accordance with subparagraph (G);

"(D)(i) if the Commission determines, after reviewing the certification required in subparagraph (C)(i), that such affiliate failed to make the good faith effort required in subparagraph (B)(i) or, after reviewing the certification required in subparagraph (C)(ii), that such affiliate has exceeded the percentage specified in subparagraph (B)(ii), the Commission may impose penalties or forfeitures as provided for in title V of this Act;

"(ii) any supplier claiming to be damaged because a manufacturing affiliate failed to make the good faith effort required in subparagraph (B)(i) may make complaint to the Commission as provided for in section 208 of this Act, or may bring suit for the recovery of actual damages for which such supplier claims such affiliate may be liable under the provisions of this Act in any district court of the United States of competent jurisdiction;

"(E) the Commission, in consultation with the Secretary of Commerce, shall, on an annual basis, determine the cost of component parts manufactured outside the United States contained in all telecommunications equipment and customer premises equipment sold in the United States as a percentage of the revenues from sales of such equipment in the previous calendar year;

"(F) a manufacturing affiliate may use intellectual property created outside the United States in the manufacture of telecommunications equipment and customer premises equipment in the United States;

"(G) the Commission may not waive or alter the requirements of this subsection, except that the Commission, on an annual basis, shall adjust the percentage specified in subparagraph (B)(ii) to the percentage determined by the Commission, in consultation with the Secretary of Commerce, as directed in subparagraph (E);

"(4) no more than 90 percent of the equity of such manufacturing affiliate shall be owned by its affiliated Bell Telephone Company and any affiliates of that Bell Telephone Company;

"(5) any debt incurred by such manufacturing affiliate may not be issued by its affiliates, and such manufacturing affiliate shall be prohibited from incurring debt in a manner that would permit a creditor, on default, to have recourse to the assets of its affiliated Bell Telephone Company's telecommunications services business;

"(6) such manufacturing affiliate shall not be required to operate separately from the other affiliates of its affiliated Bell Telephone Company;

"(7) if an affiliate of a Bell Telephone Company becomes affiliated with a manufacturing entity, such affiliate shall be treated as a manufacturing affiliate of that Bell Telephone Company within the meaning of subsection (b) and shall comply with the requirements of this section;

"(8) such manufacturing affiliate shall make available, without discrimination or self-preference as to price, delivery, terms, or conditions, to all regulated local telephone exchange carriers, for use with the public telecommunications network, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured by such affiliate so long as each such purchasing carrier—

"(A) does not either manufacture telecommunications equipment, or have a manufacturing affiliate which manufactures telecommunications equipment, or

"(B) agrees to make available, to the Bell Telephone Company affiliated with such manufacturing affiliate or any of the regulated local exchange telephone carrier affiliates of such Company, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades manufactured for use with the public telecommunications network by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated;

"(9)(A) such manufacturing affiliate shall not discontinue or restrict sales to other regulated local telephone exchange carriers of any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, that such affiliate manufactures for sale as long as there is reasonable demand for the equipment by such carriers; except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit, under a marginal cost standard implemented by the Commission, on the sale of such equipment;

"(B) in reaching a determination as to the existence of reasonable demand as referred to in subparagraph (A), the Commission shall within sixty days consider—

"(i) whether the continued manufacture of the equipment will be profitable;

"(ii) whether the equipment is functionally or technologically obsolete;

"(iii) whether the components necessary to manufacture the equipment continue to be available;

"(iv) whether alternatives to the equipment are available in the market; and

"(v) such other factors as the Commission deems necessary and proper;

"(10) Bell Telephone Companies shall, consistent with the antitrust laws, engage in joint network planning and design with other regulated local telephone exchange carriers operating in the same area of interest; except that no participant in such planning shall delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment; and

"(11) Bell Telephone Companies shall provide, to other regulated local telephone exchange carriers operating in the same area of interest, timely information on the planned deployment of telecommunications equipment, including software integral to such telecommunications equipment, including upgrades;

"(d)(1) The Commission shall prescribe regulations to require that each Bell Telephone Company shall maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Such regulations shall require each such Company to report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) A Bell Telephone Company shall not disclose to any of its affiliates any information required to be filed under paragraph (1) unless that information is immediately so filed.

"(3) The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers in competition with a Bell Telephone Company's manufacturing affiliate have ready and equal access to the information required for such competition that such Company makes available to its manufacturing affiliate.

"(e) The Commission shall prescribe regulations requiring that any Bell Telephone Company which has an affiliate that engages in any manufacturing authorized by subsection (a) shall—

"(1) provide, to other manufacturers of telecommunications equipment and customer premises equipment, opportunities to sell such equipment to such Bell Telephone Company which are comparable to the opportunities which such Company provides to its affiliates;

"(2) not subsidize its manufacturing affiliate with revenues from its regulated telecommunications services; and

"(3) only purchase equipment from its manufacturing affiliate at the open market price.

"(f) A Bell Telephone Company and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof relating to such equipment, consistent with subsection (e)(2).

"(g) The Commission may prescribe such additional rules and regulations as the Commission determines necessary to carry out the provisions of this section.

"(h)(1) For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell Telephone Company as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(2) Any regulated local telephone exchange carrier injured by an act or omission of a Bell Telephone Company or its manufacturing affiliate which violates the requirements of paragraph (8) or (9) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 through 209.

"(i) The authority of the Commission to prescribe regulations to carry out this section is effective on the date of enactment of this section. The Commission shall prescribe such regulations within one hundred and eighty days after such date of enactment, and the authority to engage in the manufacturing authorized in subsection (a) shall not take effect until regulations prescribed by the Commission under subsections (c), (d), and (e) are in effect.

"(j) Nothing in this section shall prohibit any Bell Telephone Company from engaging, directly or through any affiliate, in any manufacturing activity in which any Company or affiliate was authorized to engage on the date of enactment of this section.

"(k)(1) A Bell Telephone Company that manufactures or provides telecommunications equipment or manufactures customer premises equipment through an affiliate shall obtain and pay for an annual audit conducted by an independent auditor selected by and working at the direction of the State Commission of each State in which such Company provides local exchange service, to determine whether such Company has complied with this section and the regulations promulgated under this section, and particularly whether the Company has complied with the separate accounting requirements under subsection (c)(1).

"(2) The auditor described in paragraph (1) shall submit the results of such audit to the Commission and to the State Commission of each State in which the Company provides telephone exchange service. Any party may submit comments on the final audit report.

"(3) The audit required under paragraph (1) shall be conducted in accordance with procedures established by regulation by the State Commission of the State in which such Company provides local exchange service, including requirements that—

"(A) the independent auditors performing such audits are rotated to ensure their independence; and

"(B) each audit submitted to the Commission and to the State Commission is certified by the auditor responsible for conducting the audit.

"(4) The Commission shall periodically review and analyze the audits submitted to it under this subsection, and shall provide to the Congress every 2 years—

"(A) a report of its findings on the compliance of the Bell Telephone Companies with this section and the regulations promulgated hereunder; and

"(B) an analysis of the impact of such regulations on the affordability of local telephone exchange service.

"(5) For purposes of conducting audits and reviews under this subsection, an independent auditor, the Commission, and the State Commission shall have access to the financial accounts and records of each Bell Telephone Company and those of its affiliates (including affiliates described in paragraphs (6) and (7) of subsection (c)) necessary to verify transactions conducted with such Bell Telephone Company that are relevant to the specific activities permitted under this section and that are necessary to the State's regulation of telephone rates. Each State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

"(l) As used in this section:

"(1) The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership with a Bell Telephone Company. Such term includes any organization or entity (A) in which a Bell Telephone Company and any of its affiliates have an equity interest of greater than 10 percent, or a management interest of greater than 10 percent, or (B) in which a Bell Telephone Company and any of its affiliates have any other significant financial interest.

"(2) The term 'Bell Telephone Company' means those companies listed in appendix A of the Modification of Final Judgment, and includes any successor or assign of any such company, but does not include any affiliate of any such company.

"(3) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(4) The term 'manufacturing' has the same meaning as such term has in the Modification of Final Judgment as interpreted in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia) (filed December 3, 1987).

"(5) The term 'Modification of Final Judgment' means the decree entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia).

"(6) The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(7) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.

"(8) The term 'telecommunications service' means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities.".

SEC. 4. ADDITIONAL AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 220(d) of the Communications Act of 1934 (47 U.S.C. 220(d)) is amended by deleting "$6,000" and inserting in lieu thereof "$10,000".

SEC. 5. APPLICATION OF ANTITRUST LAWS.

Nothing in this Act shall be deemed to alter the application of Federal and State antitrust laws as interpreted by the respective courts

TITLE I—GENERAL PROVISIONS

SEC. 101. SENSE OF THE SENATE REGARDING THE NATIONAL VICTORY PARADE FOR THE PERSIAN GULF WAR.

It is the sense of the Senate that any country—

(1) for which United States' assistance is being withheld from obligation and expenditure pursuant to section 481(h)(5) of the Foreign Assistance Act of 1961; or

(2) which is listed by the Secretary of State under section 40(d) of the Arms Export Control Act or section 6(j) of the Export Administration Act of 1979 as a country the government of which has repeatedly provided support for acts of international terrorism,

should not be represented, either by diplomatic, military, or political officials, or by national images or symbols, at the victory parade scheduled to be held in Washington, District of Columbia on June 8, 1991, to celebrate the liberation of Kuwait and the victory of the United Nations coalition forces over Iraq.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I take this opportunity to thank our distinguished staff. I can tell you they have worked around the clock and done yeomen's work, John Windhousen, Toni Cook, Linda Morgan, Jim Drewry, Loretta Dunn, and Kevin Curtin, the whole Commerce Committee staff over there, plus my own staff.

I want to thank our distinguished counterpart and former chairman, the distinguished Senator from Missouri [Mr. DANFORTH], Walter McCormick, of his staff, and others. We have had a bipartisan effort, as is obvious from the vote.

Mr. DANFORTH. Mr. President, I simply want to express my appreciation for the work of our chairman, Senator HOLLINGS. This has been a remarkable accomplishment. Many people have said for a number of years that we have to do something about the present state of affairs in our telephone industry where a Federal judge basically makes the decisions. We have now moved in the direction of Congress taking over the decisionmaking, which is exactly what should be the case.

This is a major accomplishment. I think that we are going to have some difficulties with the administration, and, hopefully, there can be some room for give with respect to the domestic-content provision.

I supported my chairman in this connection. I intend to continue to work with him as the bill progresses, and my hope is that we can end up with something that the President would be willing to sign.

MORNING BUSINESS

Mr. HOLLINGS. Mr. President, on behalf of the leadership, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACCESS TO HEALTH CARE FOR ALL AMERICANS

Mr. KENNEDY. Mr. President, on a matter which was addressed earlier today by the majority leader and a group of Senators in advancing the cause of access to health care and effective cost containment, I noticed during the afternoon that there were negative comments from some of our colleagues about what I consider to be an excellent proposal that has now been introduced.

The majority leader indicated that it represented the joint effort of a number of Senators, building on the work that has been done by Members on both sides of the aisle, and he indicated during the course of his press conference that he was eager to work with all of those in this body and outside this body who are concerned, as he is, with the increasing costs in our health care systems.

We are facing a health care crisis. Health care is the fastest growing failing business in America. In 1970, the United States was spending $65 billion on health care. Now we are spending $650 billion a year. The best estimate is it will be $1 trillion 500 billion by the year 2000.

The time has come, Mr. President, for action. This public policy issue has been studied to death. Real people are hurting. The 10 million children in our society who have no coverage are hurting. Millions of workers without coverage are hurting. They work hard every day, 40 hours a week, 52 weeks of the year, and have no health insurance coverage. They're playing Russian roulette with their health. They are hurting. Sixty million more Americans have health insurance that even the Reagan administration said was inadequate. Approximately 100 million of our fellow citizens in this country of 250 million have inadequate coverage or no coverage at all.

Employers are paying too much today because they are also paying the bills for those who have no coverage. They're paying in the form of higher premiums, because other firms refuse to provide coverage. Workers in plants and factories all over this country are effectively paying the bill for charity care for other workers who are not covered.

We face increasing problems in dealing with AIDS and substance abuse, not just in urban areas, but in rural areas, as well. Our whole health care system is in a state of crisis. We do not have time to keep studying the issue and keep refusing to deal with it.

Senior citizens were hurting in the Depression, and with Franklin Roosevelt's leadership, we adopted Social Security. We did not wait for the various States to try to deal with that problem. In the 1960's, when we adopted Medicare, we were not saying: Let us wait to see what the States do. We had national leadership to deal with the problem. We need the same sort of leadership now.

Mr. President, I again want to say how important today has been for this institution. The majority leader took the responsibility and advanced the debate on health care. I commend his assurance that he will make every effort to see that we are able to debate this issue and achieve the action we need.

I hope this time when we debate it, and when some Senators find reason to oppose it, they will have the decency not to use the Capitol health facilities or go out to Walter Reed Army Hospital or Bethesda Naval Hospital. I hope they will not be so hypocritical as to say "no" to the American people, and then continue to use these Federal facilities we make available for ourselves.

It is the height of hypocrisy. If they are not going to vote for decent health care for the American people, they should not take advantage of it themselves. I think the American people will be watching, and watching very closely, what we are doing, and what we are failing to do.

Those who have worked so hard to advance the debate and discussion should be commended, and I welcome, the constructive attitude suggested by a number of our colleagues about the desire to work together. If this movement had not taken place now on this issue, another Congress could have gone past without the opportunity for full-fledged debate and action.

I know the majority leader is interested in working with our colleagues on this side of the aisle and the other side of the aisle. Many of us have been very much involved in the discussion of health policy over a long period of time. The time is fast moving by, and the time for action is now. I am very hopeful that in this Congress we will be able to take the kind of action necessary to deal with this issue. It is of enormous importance to the American people.

CIVIL RIGHTS

Mr. KENNEDY. Mr. President, the House of Representatives today passed the civil rights bill with the same broad, bipartisan majority as last year. I commend the House for its action, but I deplore the bitterness and the charges and counter-charges that have tarnished the debate and obscured the real issues on this essential measure.

There is still time to find common ground on the two critical issues that have divided us for the past year. Both sides agree that women and religious minorities do not have adequate remedies for intentional job discrimination.

Both sides agree that the Supreme Court's decision in the Wards Cove case should be overruled. The distance between us is actually much less than the overheated rhetoric of this debate would suggest.

For months, the debate has focused on one word—"quotas." I oppose quotas, and so does everyone else who favors this bill. Quotas are illegal today, and they will remain illegal after a civil rights bill is enacted.

For many years, the cause of equal justice for all has enjoyed broad bipartisan support in Congress and in this country. The landmark Civil Rights Act of 1964 would never have been enacted without the leadership of Everett Dirksen and Hubert Humphrey.

The landmark Americans with Disabilities Act would not have been enacted in 1990 without the leadership of Lowell Weicker, DAVID DURENBERGER, and TOM HARKIN.

Over the past year, I have enjoyed working closely with Senator JEFFORDS of Vermont to achieve a fair civil rights bill.

I particularly commend Senator DANFORTH for his efforts this year. Recently, Senator DANFORTH advanced the debate and discussion with his series of recommendations.

His proposals are constructive, and many of their features deserve serious consideration. Other provisions, however, fall short of providing the full protection against job discrimination that all working Americans deserve.

I look forward to working with him and with many other Senators in the days ahead to agree on a civil rights bill that everyone in this body can support and that the President can sign. There is still time to reach a civil rights compromise that will bring us together, not drive us apart.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,272d day that Terry Anderson has been held captive in Lebanon.

RHODE ISLAND GENERAL ASSEMBLY PASSES LEGISLATION ON LIBERIA

Mr. PELL. Mr. President, the civil war in Liberia has been devastating. All of us have been deeply moved by the reports of violence, death, and destruction resulting from the conflict. As a cosponsor of the Liberian Relief, Rehabilitation, and Reconstruction Act of 1991, introduced by Senator KENNEDY earlier this year, I believe that the United States has a responsibility to help Liberia rebuild as it moves toward reconciliation.

One outgrowth of the strife in Liberia is especially troubling: The status of Liberians residing in the United States. Countless Liberians, many of whom reside in my home State of Rhode Island, have been displaced because of the fighting. This aspect of the Liberian crisis has been effectively characterized in a resolution passed by the Rhode Island General Assembly last month. The resolution, introduced by State representatives Newsome, Lamb, Dumas, Barone, and Rickman, notes the grave situation in Liberia and calls for increased cooperation between the Federal and State governments to alleviate the Liberian national crisis. I believe the resolution makes an extremely important contribution to United States policy on Liberia. I commend the Rhode Island legislators for their efforts, and I support them fully.

Mr. President, I ask unanimous consent that the full text of the resolution be printed in the RECORD at this point.

There being no objection, the assembly resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION—STATE OF RHODE ISLAND

Whereas it is acknowledged that a civil war of horrific proportions is now being waged in the West African nation of Liberia; and

Whereas that conflict has caused widespread misery, death and destruction, where approximately half the 2.5 million Liberian population has been displaced inside the country, and another 760,000 have sought refuge in the neighboring countries of Ivory Coast, Sierra Leone, Guinea, Ghana, Mali and Nigeria; and

Whereas over 7,000 Liberian nationals have found temporary refuge in Rhode Island—where more Liberians reside than in any other state—in part because there exists an excellent support network of extended families and friends; and

Whereas Liberia was settled in 1822 by freed American slaves and many of its major cities are named after past United States presidents (the capital city is Monrovia); and

Whereas it is the policy of the State of Rhode Island to acknowledge our historical ties to Liberia and to welcome those Liberian nationals who are seeking refuge here until a lasting peace is restored; now, therefore, be it

Resolved, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby declares it to be the policy of the State of Rhode Island to cooperate fully with our federal government in relocating displaced Liberians to this state, and to assist in every way possible with the reunification of families; and be it further

Resolved, That we call upon the United States Congress to review its immigration laws with a view toward expressing maximum sympathy and humanitarian support for Liberians who have been temporarily displaced by the civil war; and be it further

Resolved, That this House of Representatives and people of Rhode Island welcome additional Liberians who are seeking entry to the United States as tourists, students and/or refugees and call upon the Congress to clarify its immigration laws to allow for the increased entry of those Liberians deemed most vulnerable—namely, Liberian women under 40 with minor children, seniors over 55, and those seeking official political asylum; and be it further

Resolved, That we call upon Rhode Island educational institutions to cooperate by enrolling a limited number of Liberian students on "good faith" for the academic year 1991–92 in situations where transcripts are not available but where there is demonstrated interests and capability in continuing their formal studies in the United States; and be it further

Resolved, That we call upon all media to be sensitive to our state's Liberian population and its needs for frequent and regular news coverage of events inside Liberia and throughout the West African region, including first-hand reporting whenever possible; and be it further

Resolved, That we join with other concerned people around the world in praying and working for an end to civil war in Liberia so that Liberians can prepare to return to their country and begin the long, arduous task of healing and rebuilding their nation; and be it further

Resolved, That the Secretary of State be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the President of the United States, the Rhode Island delegation to the United States Congress, the United States Department of State, the United States Immigration and Naturalization Service, and all statewide media outlets.

GANGS

Mr. DECONCINI. Mr. President, I rise today to address an issue which is of growing concern to communities across the Nation. During the past month, my home State of Arizona has experienced first hand the violence which has become symptomatic of the growing problem of gangs in this country. There were three separate incidents of freeway shootings involving known gang members, one resulting in the tragic death of a young pregnant woman and her unborn child. While Los Angeles and New York have long struggled to control the impact of gang-related crime, it is obvious that the problem of gangs is not confined to those areas. As rival gangs have struggled for control of limited turf, they will seek to expand their power elsewhere.

According to a 1990 survey conducted by the Arizona Criminal Justice Commission, there were over 5,000 gang members identified by Arizona law enforcement agencies. Even more disturbing is the growing influence of gangs among Arizona high school students. Over half of the students—53 percent—reported an awareness of gangs in their schools, and 56 percent reported being personally acquainted with members of a gang. Based on the number of students who expressed an interest in joining a gang, there are 11,000 potential gang members in Arizona high schools. That figure becomes even more alarming when you consider that the survey does not account for high-risk youth who have already dropped out of school.

Recently, I met with the members of an ad hoc gang task force which was formed to deal with the problem of increased gang activity in the Phoenix area. Comprised of State, local, and Federal law enforcement officials, the task force shared with me their views on what could be done to stem the growth of gang-related crime in the Phoenix area. Their recommendations contained few surprises.

In the short term, what is needed is a strong commitment to providing law enforcement with the resources necessary to increase patrols in areas with high gang activity, and to respond to the soaring incidence of robbery, auto theft, and assaults. Last year, the city of Phoenix police department initiated Operation Safe Streets, a 3-month enforcement program which concentrated on immediate followup on reports of active street-gang activity. Significantly, from June to August 1990, there was a marked decrease in the number of gang-related reports, drive-by shootings, and aggravated assaults. Had we the resources available to expand this program year round, and to other neighboring police departments, perhaps we could put the gang leaders out of business.

The source of the gang problem, however, goes beyond the ability of our police departments to arrest known gang members. It goes back to those 11,000 potential gang members in our schools. What we need is the combined leadership of our government and our communities to make sure that those young people are not lured into the dangerous and violent world of gangs. Perhaps we do not care to acknowledge our failings in providing for the educational, health, and economic needs of impoverished youths who are at risk of becoming involved in gangs. Perhaps we do not care to admit that it will take dollars to invest in the future of these youths. But as the Mesa Tribune stated in its June 1, 1991, editorial, we can "pay now or pay later." If we can invest now in expanding the outreach and prevention programs that have yielded such positive results in keeping children off the streets, perhaps we can be spared the expense of prosecuting and incarcerating those same children when they are adults.

If we are to arrive at a solution to the gang problem in Arizona and throughout this country, it will be through the cooperation of our elected representatives, law enforcement officials, educators, and community leaders. As we have seen in our continued efforts to fight the war on drugs, results can be achieved. But it will take commitment and diligence before we can reclaim our streets, our neighborhoods, and more importantly, our children, from the disruptive influence of gangs.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS and Mr. CONRAD pertaining to the introduction of S. 1226 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

BUDGET OF THE DISTRICT OF COLUMBIA—MESSAGE FROM THE PRESIDENT—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying document; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the District of Columbia Self-Government and Governmental Reorganization Act, I am transmitting the District of Columbia Government's 1992 budget request and 1991 budget supplemental request.

The District of Columbia Government has submitted three alternative 1992 budget requests. The *first alternative* is for $3,083 million in 1992 and includes a Federal payment of $425 million, which is the currently authorized level. The *second alternative* is for $3,142 million and includes a Federal payment of $484 million, which is the amount contained in the 1992 Federal budget. The *third alternative* is for $3,288 million, which includes a Federal payment of $631 million, the amount requested by the D.C. Mayor and City Council. My transmittal of this District budget, as required by law, does not represent an endorsement of its contents.

There are two specific issues to which I would direct your attention. First, I encourage you to continue the abortion funding policy enacted in the District's 1989, 1990, and 1991 appropriations laws. The Congress should continue to prohibit the use of both Federal and congressionally appropriated local funds for abortions, except when the life of the mother would be endangered if the fetus were carried to term.

Second, the 1992 budget proposes to modify and make permanent the 1990 pilot project that requires the District of Columbia to charge Federal establishments directly for water and sewer services. Inappropriate charges and excessive usage have been eliminated through this pilot project. Taxpayers have been relieved of the burden of paying water bills totaling over $4 million for non-Federal entities. Further reductions of 6-10 percent in Federal appropriations for water and sewer services have also been realized because non-appropriated, self-financing entities are now required to pay for the services they receive.

GEORGE BUSH.

THE WHITE HOUSE, *June 5, 1991*.

MESSAGES FROM THE HOUSE

At 12 noon, a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 476. An act to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes;

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD;

H.R. 1323. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes;

H.R. 1642. An act to establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes;

H.R. 2312. An act to make certain technical and conforming amendments to the Follow Through Act and the Head Start Transition Project Act; and

H.R. 2313. An act to amend the School Dropout Demonstration Assistance Act of 1988 to extend authorization for appropriations through fiscal year 1993, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 476. An act to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 990. An act to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD; to the Committee on Energy and Natural Resources.

H.R. 1323. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1642. An act to establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1220. A bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes (Rept. No. 102-72).

• Mr. JOHNSTON. Mr. President, I am very pleased to inform the Senate that today I have reported the National Energy Security Act of 1991 (S. 1220). The Committee on Energy and Natural Resources ordered the legislation reported May 23 by a 17-3 vote. I believe this bill is the most comprehensive energy policy legislation ever presented to the Senate. I was pleased to see that this measure was included by the majority leader on his list of the bills that may be considered by the Senate this month.

In view of the intense interest in this legislation, I ask that the text of the bill be printed in the RECORD.

That this Act may be referred to as the "National Energy Security Act of 1991".

TABLE OF CONTENTS

Sec. 1. Table of contents and short title.

TITLE I—FINDINGS AND PURPOSES

Subtitle A—Findings and Purposes

Sec. 1101. Findings.
Sec. 1102. Purposes.

Subtitle B—Goals, Least-Cost Energy Strategy, and Director of Climate Protection

Sec. 1201. Goals and policies.
Sec. 1202. Least-cost energy strategy.
Sec. 1203. Director of Climate Protection.
Sec. 1204. Repeal.

TITLE II—DEFINITIONS

Sec. 2101. Definitions.

TITLE III—CORPORATE AVERAGE FUEL ECONOMY

Sec. 3101. Short title.
Sec. 3102. Definitions.
Sec. 3103. Average fuel economy standards for passenger automobiles.
Sec. 3104. Average fuel economy standards for light trucks.
Sec. 3105. Exemptions for manufacturers of limited numbers of passenger automobiles.
Sec. 3106. Calculation of average fuel economy standards for individual manufacturers.
Sec. 3107. Determination of maximum feasible average fuel economy.
Sec. 3108. Amendment of standards.
Sec. 3109. Proceedings.
Sec. 3110. Credit trading.
Sec. 3111. Calculation of fuel economy for light trucks.
Sec. 3112. Airbag credit for small passenger automobiles.
Sec. 3113. Explanatory booklet distributed by Secretary of Energy.
Sec. 3114. Excessive fuel consumption fee.
Sec. 3115. Amount of the excessive fuel consumption fee.
Sec. 3116. Establishment of the Excessive Fuel Consumption Fund.
Sec. 3117. Scrappage of older vehicles.
Sec. 3118. Technical and conforming amendments.

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A—Alternative Fuel Fleets

Sec. 4101. Definitions.
Sec. 4102. Federal fleets.
Sec. 4103. State fleets.
Sec. 4104. Private and municipal fleets.
Sec. 4105. Rules of general applicability.
Sec. 4106. Exemptions.
Sec. 4107. Vehicle conversions.
Sec. 4108. Credits.
Sec. 4109. Reports.
Sec. 4110. Enforcement.
Sec. 4111. Implementation.

Subtitle B—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure Development, and Conforming Amendments

PART A—ELECTRIC AND ELECTRIC-HYBRID VEHICLE DEMONSTRATION

Sec. 4201. Short title.
Sec. 4202. Definitions.
Sec. 4203. Program and solicitation.
Sec. 4204. Selection of proposals.
Sec. 4205. Discount payments to users.
Sec. 4206. Cost-sharing.
Sec. 4207. Reports to Congress.
Sec. 4208. Authorization.

PART B—ELECTRIC AND ELECTRIC-HYBRID VEHICLE INFRASTRUCTURE DEVELOPMENT

Sec. 4211. Short title.
Sec. 4212. Definitions.
Sec. 4213. Data acquisition to support infrastructure development and markets for use of electric vehicles and electric-hybrid vehicles.
Sec. 4214. State infrastructure development plans.
Sec. 4215. Electric utility and other industry infrastructure development projects.
Sec. 4216. Cost-sharing.
Sec. 4217. Compliance with existing law.
Sec. 4218. Authorization.

PART C—AMENDMENT TO THE ALTERNATIVE MOTOR FUELS ACT

Sec. 4221. Amendments to the Energy Policy and Conservation Act.
Sec. 4222. Amendments to the Motor Vehicle Information and Cost Saving Act.

Subtitle C—Alternative Fuels

Sec. 4301. Short title.
Sec. 4302. Findings.
Sec. 4303. Purposes.
Sec. 4304. Definitions.
Sec. 4305. Replacement and alternative fuel program.
Sec. 4306. Alternative fuel demand estimates.
Sec. 4307. Voluntary supply commitments.
Sec. 4308. Secretarial authority.
Sec. 4309. Authorization.

Subtitle D—Mass Transit and Training

Sec. 4401. Mass transit.
Sec. 4402. Training program.

TITLE V—RENEWABLE ENERGY

Subtitle A—CORECT and COEECT

Sec. 5101. Duties of CORECT and COEECT.

Sec. 5102. Information and technical program.
Sec. 5103. Comprehensive energy technology evaluation.
Sec. 5104. Conforming amendment.

Subtitle B—Renewable Energy Initiatives

Sec. 5201. Renewable energy development, technology export, training and commercialization.
Sec. 5202. Report on waste minimization technologies in industry.
Sec. 5203. Amendments to the Energy Policy and Conservation Act.
Sec. 5204. Spark M. Matsunaga Renewable Energy and Ocean Technology Center.
Sec. 5205. Renewable energy technical achievement award.

Subtitle C—Hydropower

Sec. 5301. Streamlining of Federal Power Act regulation.
Sec. 5302. State licensing jurisdiction over small projects.
Sec. 5303. Improvement at existing Federal facilities.
Sec. 5304. Water conservation and energy production.
Sec. 5305. Projects on fresh waters in the State of Hawaii.
Sec. 5306. Certain projects in the State of Alaska.
Sec. 5307. Extension of time limitation for certain projects in Arkansas.

TITLE VI—ENERGY EFFICIENCY

Subtitle A—Industrial, Commercial and Residential

Sec. 6101. Building energy efficiency codes.
Sec. 6102. Residential energy efficiency ratings and mortgages.
Sec. 6103. Manufactured housing energy efficiency.
Sec. 6104. Improving efficiency in energy intensive industries.
Sec. 6105. Report.
Sec. 6106. Voluntary guidelines for industrial plants.
Sec. 6107. Energy efficiency labeling for windows and window systems.
Sec. 6108. Energy efficiency information.
Sec. 6109. Energy efficiency labeling for lamp and luminaires.
Sec. 6110. Commercial and industrial equipment standards.
Sec. 6111. Energy efficiency of showerheads.

Subtitle B—Federal Energy Management

Sec. 6201. Federal energy management amendments.
Sec. 6202. Plan regarding demonstration of new technology.
Sec. 6203. Study of Federal purchasing power.

Subtitle C—Utilities

Sec. 6301. Encouragement of investments in conservation and energy efficiency resources and study of certain state ratemaking policies.
Sec. 6302. Conservation grants to state regulatory authorities.
Sec. 6303. Integrated resource planning by customer of power marketing administrations.
Sec. 6304. Tennessee Valley Authority. Integrated resource planning and implementation.

Subtitle D—Used Oil Energy Production

Sec. 6401. Purpose.
Sec. 6402. Requirements for energy production from used oil.
Sec. 6403. Listing or identification of used oil.
Sec. 6404. Sunset provision.

Subtitle E—State, Local, Insular and Tribal Energy Assistance

Sec. 6501. Insular areas energy assistance program.
Sec. 6502. State buildings energy incentive fund.
Sec. 6503. Private sector investments in low income weatherization.
Sec. 6504. Training of building designers and contractors.
Sec. 6505. Energy education and teacher training.
Sec. 6506. Tribal government energy assistance program.
Sec. 6507. State energy conservation plan requirement.

Subtitle F—LIHEAP Options Pilot Program

Sec. 6601. Short title.
Sec. 6602. Study.
Sec. 6603. Authority for pilot programs.
Sec. 6604. Definitions.

TITLE VII—OIL AND GAS LEASING IN THE ARCTIC NATIONAL WILDLIFE REFUGE

Subtitle A—Statement of Purpose and Definitions

Sec. 7101. Purpose and policy.
Sec. 7102. Definitions.

Subtitle B—Congressional Determination of Compatibility

Sec. 7201. Congressional Determination.

Subtitle C—Coastal Plain Competitive Leasing Program

Sec. 7301. Leasing program for lands within the coastal plain.
Sec. 7302. Rules and regulations.
Sec. 7303. Adequacy of the Department of the Interior's legislative environmental impact statement.
Sec. 7304. Lease sales.
Sec. 7305. Grant of leases by the Secretary.
Sec. 7306. Lease terms and conditions.
Sec. 7307. Exploration and development and production plans.
Sec. 7308. Bonding requirements.
Sec. 7309. Lease suspension.
Sec. 7310. Lease cancellation.
Sec. 7311. Assignment or subletting of leases.
Sec. 7312. Relinquishment.
Sec. 7313. Unitization.
Sec. 7314. Oil and gas information.
Sec. 7315. Remedies and penalties.
Sec. 7316. Expedited judicial review.
Sec. 7317. Annual report to Congress.
Sec. 7318. Interests of the Inupiat Eskimo People.

Subtitle D—Coastal Plain Environmental Protection

Sec. 7401. No significant adverse effect standard to govern authorized Coastal Plain activities.
Sec. 7402. Regulations to protect the Coastal Plain's fish and wildlife resources, subsistence users, and the environment.
Sec. 7403. Sadlerochit Spring special area.
Sec. 7404. Facility consolidation planning.
Sec. 7405. Rights-of-way across the Coastal Plain.
Sec. 7406. Environmental studies.
Sec. 7407. Enforcement of safety and environmental regulations.
Sec. 7408. Funding for environmental monitoring and enforcement.

Subtitle E—Land Reclamation and Reclamation Liability Fund

Sec. 7501. Land reclamation.
Sec. 7502. Standard to govern land reclamation.
Sec. 7503. Coastal Plain Liability and Reclamation Fund.

Subtitle F—Disposition of Oil and Gas Revenues

Sec. 7601. Distribution of revenues.
Sec. 7602. Energy Security Fund.
Sec. 7603. Funding for arctic research programs.

Subtitle G—Export Restrictions

Sec. 7701. Crude oil export restrictions.

Subtitle H—Outer Continental Shelf Leasing Moratoria

Sec. 7801. Prohibition of leasing and preleasing activity.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

Sec. 8101. Short title.
Sec. 8102. Findings, purposes, and definitions.
Sec. 8103. Program, goals, and plan.
Sec. 8104. Commercialization of advanced light water reactor technology.
Sec. 8105. Prototype demonstration of advanced nuclear reactor technology.
Sec. 8106. Authorization.

TITLE IX—NUCLEAR REACTOR LICENSING

Sec. 9101. Short title.
Sec. 9102. Combined licenses.
Sec. 9103. Post-construction hearings on combined licenses.
Sec. 9104. Rulemaking.
Sec. 9105. Amendment of a combined license pending a hearing.
Sec. 9106. Conforming amendment.
Sec. 9107. Effect on pending proceedings.

TITLE X—URANIUM

Subtitle A—Uranium Enrichment

Sec. 10101. Short title.
Sec. 10102. Deletion of section 161v.
Sec. 10103. Redirection of the uranium enrichment enterprise of the United States.
Sec. 10104. Treatment of the Corporation as being privately owned for purposes of the applicability of environmental and occupational safety laws.
Sec. 10105. Miscellaneous provisions.
Sec. 10106. Limitation on expenditures.
Sec. 10107. Severability.
Sec. 10108. Effective date.
Sec. 10109. Payment of cost of transfer.

Subtitle B—Uranium

Part 1—Short Title, Findings and Purpose, Definitions

Sec. 10211. Short title.
Sec. 10212. Findings and purpose.
Sec. 10213. Definitions.

Part 2—Uranium Revitalization

Sec. 10221. Voluntary overfeed program.
Sec. 10222. National Strategic Uranium Reserve.
Sec. 10223. Responsibility for the industry.
Sec. 10224. Government uranium purchases.
Sec. 10225. Secretary's authority to make regulations.

Part 3—Remedial Action for Active Processing Sites

Sec. 10231. Remedial action program.
Sec. 10232. Regulations.
Sec. 10233. Authorization.

Part 4—Imports of Uranium, Enriched Uranium, and Uranium Enrichment Services

Sec. 10241. Findings and purposes.
Sec. 10242. Definitions.
Sec. 10243. United States International Trade Commission investigation.

Sec. 10244. Uranium purchase reports.
Sec. 10245. Regulatory treatment of uranium purchases.
Sec. 10246. United States purchase of enriched uranium.

TITLE XI—NATURAL GAS

Sec. 11101. Optional certificate procedures.
Sec. 11102. Transportation of natural gas under the NGPA.
Sec. 11103. NEPA compliance.
Sec. 11104. Rates and charges.
Sec. 11105. Utilization of rulemaking procedures.
Sec. 11106. Review of commission orders.
Sec. 11107. Limited antitrust relief for independent gas producer cooperatives.
Sec. 11108. Vehicular natural gas jurisdiction.
Sec. 11109. Streamlined certificate procedures.
Sec. 11110. Gas delivery interconnection.
Sec. 11111. Deregulation of pipeline sales of natural gas.
Sec. 11112. Commission policy making.

TITLE XII—OUTER CONTINENTAL SHELF

Sec. 12101. Coastal State and community Outer Continental Shelf impact assistance.
Sec. 12102. Report on the availability of the Outer Continental Shelf for leasing.

TITLE XIII—RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION ACTIVITIES

Sec. 13101. Energy research, development, demonstration, and commercialization priorities.
Sec. 13102. Management plan.
Sec. 13103. Natural gas end-use technologies.
Sec. 13104. Natural gas supply enhancement.
Sec. 13105. High efficiency heat engines.
Sec. 13106. Oil shale research and development.
Sec. 13107. Western oil shale research and development.
Sec. 13108. High-temperature superconducting electric power system.
Sec. 13109. Renewable energy research and development.
Sec. 13110. Energy efficiency research and development.
Sec. 13111. Natural gas and electric heating and cooling technologies.
Sec. 13112. Fusion.
Sec. 13113. Electric vehicle, electric-hybrid vehicle, and associated equipment research and development.
Sec. 13114. Advanced oil recovery research, development and demonstration.
Sec. 13115. Tar sands.
Sec. 13116. Telecommuting study.
Sec. 13117. Study of minimization of nuclear waste.
Sec. 13118. Nuclear waste management plan.
Sec. 13119. Math and science education program.

TITLE XIV—COAL, COAL TECHNOLOGY, AND ELECTRICITY

Subtitle A—Coal and Coal Technology

Sec. 14101. Coal research, development and demonstration program.
Sec. 14102. Non-fuel use of coal.
Sec. 14103. Coal refining program.
Sec. 14104. Underground coal gasification.
Sec. 14105. Low rank coal research and development.
Sec. 14106. Magnetohydrodynamics.
Sec. 14107. Coal fired locomotives.
Sec. 14108. Coal exports.
Sec. 14109. Clean Coal Technology Export Coordinating Council.
Sec. 14110. Coal fuel mixtures.
Sec. 14111. National clearing house.
Sec. 14112. Study of utilization of coal combustion byproducts.
Sec. 14113. Establishment of data base and study of coal transportation rates.

Subtitle B—Electricity

Sec. 14201. Applicability of new source review to existing electric utility steam generating units.
Sec. 14202. Excess capacity study.
Sec. 14203. Calculation of avoided cost.
Sec. 14204. Clean coal technology regulatory incentives.

TITLE XV—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

Sec. 15101. Exempt wholesale generators.
Sec. 15102. Ownership of exempt wholesale generators and qualifying facilities.
Sec. 15103. Prevention of stranded investment.
Sec. 15104. Prevention of sham wholesale transactions.
Sec. 15105. Protection against abuse of affiliate relationships.
Sec. 15106. State authority.
Sec. 15107. State consideration of the effects of power purchases on utility cost of capital; consideration of the effects of leveraged capital structures on the reliability of wholesale power sellers; and consideration of adequate fuel supplies.
Sec. 15108. State commission access to EWG books and records.

TITLE XVI—STRATEGIC PETROLEUM RESERVE

Sec. 16101. Oil security protection.

TITLE I—FINDINGS AND PURPOSES

Subtitle A—Findings and Purposes

SEC. 1101. FINDINGS.—The Congress finds that—

(1) the achievement of energy security for the United States is essential to the health of the national economy and the maintenance of national security;

(2) as an energy-rich country that nonetheless depends on oil imports for an increasing share of oil use, United States energy security requires that the Nation reduce oil consumption, maximize domestic oil production, and particularly for transportation purposes, encourage use of energy sources other than oil; and

(3) this can be accomplished with no significant adverse effect on the environment, and will stimulate economic growth, improve the competitiveness of United States industry in the global market, and reduce the possibility of global climate change.

SEC. 1102. PURPOSES—The purposes of this Act are to—

(1) slow the nation's increasing dependence on imported oil over the short-term, and in the long-term significantly reduce that dependence;

(2) reduce the consumption of oil in the transportation sector, and encourage development and use of alternative energy sources, particularly for transportation;

(3) encourage development and deployment of renewable energy sources in the United States and on an international basis in lesser-developed countries;

(4) streamline the hydroelectric licensing process and encourage hydroelectric development at Federal dams;

(5) encourage more efficient use of energy throughout the economy, including improvements in the industrial, commercial and residential sectors, increasing energy efficiency in Federal energy management, and encouraging more efficient energy use by electric utilities;

(6) provide for oil and gas exploration, production, and development in the Arctic National Wildlife Refuge in Alaska in an environmentally sound manner;

(7) encourage the production and use of nuclear power by providing for the commercialization of advanced nuclear reactor technologies and improving the nuclear reactor licensing process;

(8) enhance the competitive position of the Federal uranium enrichment enterprise;

(9) encourage increased utilization of natural gas and other domestic energy resources to displace imported oil and meet domestic energy demand in a manner consistent with environmental values;

(10) encourage the development of domestic energy resources on the Outer Continental Shelf;

(11) establish priorities for Federal energy research, development, demonstration, and commercialization;

(12) encourage enhanced oil and gas recovery from known and producing domestic reserves;

(13) enhance the role of coal and clean coal technology in meeting the Nation's energy needs;

(14) foster competition in the electric utility industry; and

(15) provide enhanced oil security protection through the Strategic Petroleum Reserve.

Subtitle B—Goals, Least-Cost Energy Strategy, and Director of Climate Protection

SEC. 1201. GOALS AND POLICIES.—(a) GOALS.—The goals of this subtitle are to—

(1) investigate the feasibility and economic, energy, social, environmental and competitive implications of the stabilization of the generation of carbon dioxide and other greenhouse gases in the United States;

(2) assess the feasibility of further limiting, or reducing, the generation of carbon dioxide and other greenhouse gases not controlled by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

(3) investigate the feasibility and economic, energy, social, and environmental implications of achieving a 20 percent reduction in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(4) investigate the feasibility and economic, energy, social, and environmental implications of stabilizing carbon dioxide emissions by the year 2005; and

(5) evaluate the potential social, economic, energy, and environmental implications of implementing the policies mentioned in paragraphs (1), (2), (3), and (4) in order to enable the United States to comply with any obligations under an international global climate change framework convention or agreement.

(b) POLICIES.—The least-cost energy strategy under section 1202 shall evaluate the economic, energy, social, environmental, technical, and competitive impacts of the implementation of policies to be considered in section 1201(a) that include, but are not limited to, policies that:

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of carbon dioxide and other greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without carbon dioxide and other greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(c) CHLOROFLUOROCARBONS.—The reduction of the generation of chlorofluorocarbons shall be in accordance with the provisions of the Montreal Protocol, unless subsequent Federal legislation is enacted establishing new guidelines for the reduction or elimination of the use of chlorofluorocarbons.

(d) FRAMEWORK CONVENTION.—In order to promote international cooperation in addressing potential global climate change, it is the goal of the United States to establish by 1992, an international framework convention on global climate change through the activities of the Negotiating Committee for a Framework Convention of the United Nations International Environmental Program and the World Meteorological Organization and to secure the commitment of the community of nations to such convention.

SEC. 1202. LEAST-COST ENERGY STRATEGY.—(a) STRATEGY.—The first National Energy Policy Plan (the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and submitted by the President to Congress after the date of the enactment of this Act, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary.

(b) PRIORITIES.—(1) The least-cost energy strategy shall identify Federal priorities for the encouragement of the use of energy and energy efficiency resources. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, and environmental consequences of his choices. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(A) the energy production, utilization, and conservation objectives of the Plan; and

(B) the stabilization and eventual reductions in the generation of carbon dioxide and other greenhouse gases mentioned in section 1201(a).

(2) The least-cost energy strategy shall include—

(A) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, and utilization of such resources, including—

(i) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency in production, transportation, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(iii) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, and hydropower.

(B) a proposed two-year program for assuring adequate supplies of energy and energy efficiency resources under paragraph (1), and an identification of actions that can be undertaken within existing Federal authority; and

(C) recommendations for any new Federal authority needed to achieve the purposes of this Act.

(c) SECRETARIAL CONSIDERATION.—(1) In developing the least-cost energy strategy, the Secretary shall give full consideration to:

(A) the relative costs of energy and energy efficiency resources based upon a comparison of the estimated system costs of other similarly reliable and available resources; and

(B) the economic, energy, social and environmental consequences resulting from the establishment of any particular order of Federal priority.

(2) System costs under paragraph (1) are all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(3) When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever its estimated system cost is equal to the estimated system cost of the energy resource.

SEC. 1203. DIRECTOR OF CLIMATE PROTECTION.—(a) APPOINTMENT.—Within six months after the date of the enactment of this Act, the Secretary shall appoint within the Department, a Director of Climate Protection (the "Director"). The Director shall:

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change;

(2) monitor domestic and international policies for their effects on the generation of carbon dioxide and other greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Departmental programs.

(b) Beginning 18 months after the date of the enactment of this Act, and annually thereafter, the Director shall participate in the formulation of the least-cost energy strategy under section 1202, research, and development, priorities under section 13101, and the management plan under section 13102.

SEC. 1204. REPEAL.—Title III of the Energy Security Act (42 U.S.C. 7361, et. seq.) is hereby repealed.

TITLE II—DEFINITIONS

SEC. 2101. DEFINITIONS.—As used in this Act the term—

(a) "Secretary" means the Secretary of Energy, unless otherwise provided;

(b) "joint venture" means any agreement entered into under this Act by the Secretary with more than one or a consortium of non-Federal persons (including a joint venture under the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.)) for cost-shared research, development, or demonstration of technologies, but does not include procurement contracts, grant agreements, or cooperative agreements as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code, and joint ventures authorized herein shall be conducted in accordance with the procedures and requirements of paragraphs (b)(1), (b)(2) and (b)(5) of section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. No. 101-218);

(c) "non-Federal person" has the same meaning as set forth in subsection (3) of section 3 of the Renewable Energy and Energy Efficiency Technology Competiveness Act of 1989 (Pub. L. No. 101-218); and

(d) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union.

TITLE III—CORPORATE AVERAGE FUEL ECONOMY

SEC. 3101. SHORT TITLE.—This title may be cited as the "Motor Vehicle Fuel Efficiency Act of 1991".

SEC. 3102. DEFINITIONS.—Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended by adding at the end the following new paragraphs:

"(15) The term 'light truck' means an automobile other than a passenger automobile.

"(16) The term 'vehicle class' means (i) all passenger automobiles; (ii) all light trucks; or (iii) a class of light trucks as determined by the Secretary of Transportation under section 502(b)(4).".

SEC. 3103. AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES.—Section 502(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)) is amended by striking subsection (a) and inserting the following:

"(a)(1) Except as otherwise provided in subsection (c), the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1984 shall not be less than the number of miles per gallon established for such model year under the following table:

"Average fuel economy standard

"Model year	
"1985 through 1995	27.5 miles per gallon.
"1996 through 2001	Determined by the Secretary under paragraph (2)(A).
"2002 and thereafter	Determined by the Secretary under paragraph (2)(B).

"(2) Not later than July 1, 1992, the Secretary shall prescribe, by rule, for each manufacturer of passenger automobiles, average fuel economy standards for—

"(A) passenger automobiles manufactured by such manufacturer in model years 1996 through 2001; and

"(B) passenger automobiles manufactured by such manufacturer in model years 2002 and thereafter.

"(3) The average fuel economy standard prescribed by the Secretary for any manufacturer under paragraph (2)(A) or (B) shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for such manufacturer as determined under subsection (d).".

SEC. 3104. AVERAGE FUEL ECONOMY STANDARDS FOR LIGHT TRUCKS.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (b) and inserting the following:

"(b)(1) The Secretary shall, by rule, prescribe average fuel economy standards for light trucks which are manufactured by any manufacturer in each model year before model year 1996. Such standards shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shal be prescribed at least 18 months prior to th beginning of such model year.

"(2) Not later than July 1, 1992, the Secretary shall prescribe, by rule, for each manufacturer of light trucks, average fuel economy standards for—

"(A) light trucks manufactured by such manufacturer in model years 1996 through 2001; and

"(B) light trucks manufactured by such manufacturer in model years 2002 and thereafter.

"(3) The average fuel economy standard prescribed by the Secretary for any manufacturer under paragraph (2)(A) or (B) shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for such manufacturer as determined under subsection (d).

"(4) Any rule prescribed by the Secretary under this subsection may provide for separate standards for different classes of light trucks (as determined by the Secretary).".

SEC. 3105. EXEMPTIONS FOR MANUFACTURERS OF LIMITED NUMBERS OF PASSENGER AUTOMOBILES.—Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)(1)) is amended by inserting "for any model year prior to model year 1996" immediately before the period at the end of the first sentence.

SEC. 3106. CALCULATION OF AVERAGE FUEL ECONOMY STANDARDS FOR INDIVIDUAL MANUFACTURERS.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (d) and inserting the following:

"(d)(1) The Secretary shall determine the maximum feasible average fuel economy achievable for passenger automobiles, light trucks, or class of light trucks manufactured by any manufacturer (i) during model year 1996 through 2001 and (ii) during model year 2002 and thereafter by—

"(A) determining, in accordance with subsection (e)(2), the maximum feasible average fuel economy (in miles per gallon) of all automobiles of such vehicle class manufactured by all manufacturers during such period;

"(B) calculating the percentage increase in the average fuel economy of all automobiles of such vehicle class that the maximum feasible average fuel economy determined in paragraph (1) represents compared to the average fuel economy of all automobiles of such vehicle class manufactured in model year 1990 as determined in accordance with section 503; and

"(C) increasing the average fuel economy of automobiles of such vehicle class manufactured by such manufacturer in model year 1990 by the percentage increase calculated in accordance with paragraph (2).

"(2) The Secretary may apply different percentage increases to different vehicle classes, but shall apply the same percentage increase calculated under paragraph (1)(B) to all manufacturers of automobiles of such vehicle class.".

SEC. 3107. DETERMINATION OF MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (e) and inserting the following:

"(e)(1) For purposes of subsections (a)(1), (b)(1), and (c), in determining maximum feasible average fuel economy, the Secretary shall consider—

"(A) technological feasibility;

"(B) economic practicability;

"(C) the effect of other Federal motor vehicle standards on fuel economy; and

"(D) the need of the Nation to conserve energy.

"(2) For purposes of subsections (a)(2) and (3), (b)(2) and (3), and (d), in determining the maximum feasible average fuel economy of all passenger automobiles, light trucks, or a class of light trucks, as the case may be, manufactured by all manufacturers during (i) model years 1996 through 2001 or (ii) model year 2002 and thereafter, the Secretary shall assume that, taken as a whole, the population of automobiles of such vehicle class manufactured by all manufacturers during such model year—

"(A) uses all fuel-saving technologies and designs that are capable of being commercialized by the appropriate period, considering—

"(i) the time at which improved or new technologies and designs could be introduced and the rates at which they might penetrate the market under existing industrial capabilities; and

"(ii) any technical, financial, regulatory, organizational, and marketing limitations to deploying improved or new technologies by such period;

"(B)(i) with respect to passenger automobiles, attains the same performance level (measured by the product of torque and axle ratio divided by curb weight) as passenger automobiles manufactured in model year 1990, taken as a whole; and

"(ii) with respect to light trucks or class thereof, attains performance levels and utility comparable to such class manufactured in model year 1990;

"(C) reflects the same size mix and interior volume as automobiles of such model type manufactured in model year 1990, taken as a whole;

"(D) meets all applicable emission standards; and

"(E) meets all applicable automobile safety standards.".

SEC. 3108. AMENDMENT OF STANDARDS.—Section 502(f) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(f)) is amended—

(1) by striking "subsection (a)(3)" and inserting "subsection (a)(2)" each place it appears; and

(2) by striking "if required by paragraph (4) of subsection (a)," in paragraph (2)(B).

SEC. 3109. PROCEEDINGS.—Section 502(h) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(h)) is amended by striking "Proceedings under subsection (a)(4) or (d)" and inserting "Any proceeding to promulgate or amend a rule under this section".

SEC. 3110. CREDIT TRADING.—(a) CARRYING FORWARD CREDITS.—Section 502(l)(1)(B)(ii) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(l)(1)(B)(ii)) is amended to read as follows:

"(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer—

"(I) for any three consecutive model years immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard with respect to credits earned for exceeding average fuel economy standards for model years prior to 1996; and

"(II) until used with respect to credits earned for exceeding average fuel economy standards for model years 1996 and thereafter.".

(b) TRANSFERRING CREDITS.—Section 502(l) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(l)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) Credits under this subsection may be transferred among manufacturers and among vehicle classes of a manufacturer in accordance with rules issued by the Secretary under paragraph (4)."; and

(2) by redesignating paragraph (4) as paragraph (4)(A) and inserting at the end the following new subparagraph:

"(B) Not later than 24 months after the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall issue rules implementing the credit trading system authorized by paragraph (4).".

(c) CONFORMING AMENDMENTS.—Section 502(l) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(l)) is amended further—

(1) by striking "automobiles which are not passenger automobiles" and inserting "light trucks" in paragraph (2); and

(2) by striking "class of automobiles" and inserting "light trucks" in paragraph (2).

SEC. 3111. CALCULATION OF FUEL ECONOMY FOR LIGHT TRUCKS.—Section 503(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(2)) is amended by adding before the period the following:

"that are based upon the method required by this section for calculation of average fuel economy of passenger automobiles".

SEC. 3112. AIRBAG CREDIT FOR SMALL PASSENGER AUTOMOBILES.—(a) AIRBAG CREDIT.—Section 503 (a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)) is amended—

(1) in paragraph (1) by inserting ", subject to paragraph (4)," immediately before "be calculated"; and

(2) by adding at the end the following new paragraph:

"(4)(A) If a manufacturer manufactures small passenger automobiles which comply with Federal Motor Vehicle Safety Standard Number 208 by means of airbags for the driver seating position only or for both the driver and front seat outboard seating positions, average fuel economy for purposes of section 502 (a) and (c) shall be calculated as provided under subsection (a)(1), except that in the calculation of the sum of terms under subsection (a)(1)(B) the term applicable to any model type of small passenger automobile for which there are automobiles so equipped with airbags shall be determined by adding—

"(i) the fraction that is created by dividing the number of small passenger automobiles of such model type that are equipped with airbags for the driver seating position only, by 105 percent of the fuel economy measured for such model type,

"(ii) the fraction that is created by dividing the number of small passenger automobiles of such model type that are equipped with airbags for both the driver and outboard front seating positions, by 110 percent of the fuel economy measured for such model type, and

"(iii) the fraction that is created by dividing the number of small passenger automobiles of such model type that are not so equipped, by the fuel economy measured for such model type.

"(B) For purposes of this paragraph, the term 'small passenger automobile' means a passenger automobile (i) with a wheel base of less than 100 inches, or with a curb weight of 2,750 pounds or less, and (ii) whose measured fuel economy is at least 35 miles per gallon.".

(b) CONFORMING AMENDMENT.—Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) as amended by section 3107 of this Act is amended further by adding at the end the following new paragraph:

"(3) In determining maximum feasible average fuel economy, the Secretary shall not consider the alternative calculation for airbag-equipped passenger automobiles under section 503(a)(4).".

SEC. 3113. EXPLANATORY BOOKLET DISTRIBUTED BY SECRETARY OF ENERGY.—(a) MINIMUM NUMBER OF COPIES DISTRIBUTED.—Paragraph (1) of section 506(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new sentence:

"During the 12-month period beginning on the first day of the first month after the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary of Energy shall distribute no less than 100 booklets each year to each dealer and shall distribute as many in addition to 100 booklets as are reasonably requested by dealers from time to time.".

(b) TECHNICAL AMENDMENTS.—(1) Section 506(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)(1)) is amended further by striking "Administrator of the Federal Energy Administration" and inserting "Secretary of Energy".

(2) Section 506(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(e)) is amended by striking "Federal Energy Administrator" and inserting "Secretary of Energy".

SEC. 3114. EXCESSIVE FUEL CONSUMPTION FEE.—The Motor Vehicle Information and Cost Savings Act is amended by striking section 507 (15 U.S.C. 2007) and inserting the following:

"EXCESSIVE FUEL CONSUMPTION FEE

"SEC. 507. (a) If the average fuel economy calculations reported by the EPA Administrator to the Secretary under section 503(d) indicate that the average fuel economy of any manufacturer does not meet the applicable average fuel economy standards established under section 502(a), (b), or (c), the Secretary shall assess the manufacturer an excessive fuel consumption fee in an amount determined under section 508.

"(b) The amount of the fee shall be assessed by the Secretary by written notice.

"(c) (1) Not later than 30 days after a determination by the Secretary under subsection (a) that a manufacturer has failed to meet any applicable average fuel economy standard under section 502, such manufacturer may apply to the Federal Trade Commission for a certification under this subsection. If the manufacturer shows and the Federal Trade Commission determines that reduction of the fee which the Secretary shall otherwise assess is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such fee is assessed, the Commission shall so certify. The certification shall specify the maximum amount that such fee may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this subsection not later than 90 days after the application is filed with the Commission. A proceeding under this subsection shall not have the effect of delaying the manufacturer's liability under this section for a fee for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this subsection becomes final shall be paid to the court in which the fee is collected, and shall (except as otherwise provided in paragraph (2)) be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(2) Whenever a fee has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (1), and the Secretary subsequently determines to reduce such fee pursuant to section 508(c), the Secretary shall direct the court to remit the appropriate amount of the fee to such manufacturer.

"(d)(1) Any manufacturer assessed a fee under this section may obtain review of a determination (i) of the Secretary to assess such fee or (ii) of the Federal Trade Commission under subsection (c) in the United States Court of Appeals for the District of Columbia Circuit, or for any circuit wherein the manufacturer resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any manufacturer fails to pay a fee after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order assessing the fee shall not be subject to review.

"(e) A claim of the United States for a fee assessed against a manufacturer under this section shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to subsection (d)).".

SEC. 3115. AMOUNT OF THE EXCESSIVE FUEL CONSUMPTION FEE.—Subsections (a), (b), (c), and (d) of section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(a)-(d)) are amended to read:

"AMOUNT OF THE EXCESSIVE FUEL CONSUMPTION FEE

"SEC. 508. (a)(1) The Secretary shall determine the amount of the excessive fuel consumption fee to be assessed under section 507 with respect to passenger automobiles manufactured in any model year by multiplying the base fee provided in subsection (b) by (i) the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502(a) or (c), multiplied by the number of passenger automobiles manufactured by such manufacturer during such model year, reduced (at the election of the manufacturer) by (ii) credits available under section 502(l) for such model year.

"(2) The Secretary shall determine the amount of the excessive fuel consumption fee to be assessed under section 507 with respect to light trucks manufactured in any model year by multiplying the base fee provided in subsection (b) by (i) the number of tenths of a mile per gallon by which the applicable average fuel economy standard exceeds the average fuel economy of the light trucks manufactured by such manufacturer during such model year, multiplied by the number of light trucks to which such standard applies manufactured by such manufacturer during such model year, reduced (at the election of the manufacturer) by (ii) credits available under section 502(l) for such model year.

"(b) For purposes of calculating the amount of any civil penalty under this section, the amount of the base fee shall be—

"For model years:	
"Prior to 1993	$5.00
"1993	$10.00
"1996	$20.00
"1997 and thereafter	The amount of the fee applicable in the prior model year as adjusted in accordance with the annual implicit price deflator for the gross national product during such model year.

"(c) The Secretary shall have the discretion to reduce the amount of the fee calculated under this section only to the extent—

"(1) necessary to prevent the insolvency or bankruptcy of the manufacturer,

"(2) such manufacturer shows that its failure to meet the standards of section 502 resulted from an act of God, a strike, or a fire, or

"(3) the Federal Trade Commission has certified that reduction of such fee is necessary to prevent a substantial lessening of competition, as determined under section 507(c).

"(d)(1)(A) The Secretary shall, by rule in accordance with the provisions of this subsection and subsection (e), substitute a higher amount for the amount of the base fee which would be used to calculate the fee under subsection (a) in the absence of such rule, if the Secretary finds that—

"(i) the additional amount of the fee which may be imposed under such rule will result in, or substantially further, substantial energy conservation for automobiles in future model years for which such higher fee may be imposed; and

"(ii) subject to subparagraph (B), such additional amount of fee will not result in substantial deleterious impacts on the economy of the United States or any State or region of any State.

"(B) Any findings under subparagraph (A)(ii) may be made only if the Secretary finds that it is likely that—

"(i) such additional amount of fee will not cause a significant increase in unemployment in any State or region thereof;

"(ii) such additional amount will not adversely affect competition; and

"(iii) such additional amount will not cause a significant increase in automobile imports.

"(2) Any rule under paragraph (1) may not provide that the amount per tenth of a mile per gallon used to calculate the fee under subsection (a) be less than the base fee or more than twice the base fee provided by subsection (b).".

SEC. 3116. ESTABLISHMENT OF THE EXCESSIVE FUEL CONSUMPTION FUND.—Section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008) is amended further by adding at the end the following new subsection:

"(f)(1) There is hereby established in the Treasury of the United States a separate fund, to be known as the Excessive Fuel Consumption Fund. The Fund shall consist of all fees collected by the Secretary under this section.

"(2) Subject to appropriation, the Secretary of Energy may make expenditures from the Fund for purposes of—

"(A) providing financial assistance to the States in accordance with section 514; and

"(B) funding other energy conservation programs, to the extent that the amount available in the Fund exceeds the amount needed under subparagraph (A).

"(3) The Secretary of the Treasury shall hold the Fund and, after consulting with the Secretary of Transportation and the Secretary of Energy, shall report annually to the Congress on the financial condition and operations of the Fund during the preceding fiscal year. The budget of the Fund shall be included in the Budget of the United States Government.".

SEC. 3117. SCRAPPAGE OF OLDER VEHICLES.—The Motor Vehicle Information and Cost Savings Act is amended further by adding at the end thereof the following new section:

"SCRAPPAGE OF OLDER VEHICLES

"SEC. 514. (a) The Secretary of Energy shall provide financial assistance to State programs encouraging the voluntary removal from use and the marketplace pre-1980 model year automobiles.

"(b)(1) Within 180 days after the enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary of Energy, after consulting with the EPA Administrator, shall adopt rules necessary to review and approve State programs that qualify for financial assistance under subsection (a).

"(2) Any rules adopted by the Secretary of Energy under paragraph (1) shall require that to qualify for Federal assistance under subsection (a) at least 50 percent of the cost of the program be paid for from State or private funds.

"(c) The Secretary of Energy is authorized, subject to appropriation, to make expenditures from the Excessive Fuel Consumption Fund for purposes of this section.".

SEC. 3118. TECHNICAL AND CONFORMING AMENDMENTS.—(a) DESIGNATION OF THE EPA ADMINISTRATOR.—Section 502 (g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1) is amended by striking "Environmental Protection Agency" and inserting "EPA".

(b) ELIMINATION OF THE SECRETARY'S ADJUSTMENT AUTHORITY.—Section 502(l)(1)(B) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002 (l)(1)(B)) is amended by striking "any adjustment under subsection (d) or".

(c) DESIGNATION OF THE ENERGY AND COMMERCE COMMITTEE.—Section 503(b)(3)(D)(ii)(II) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(D)(ii)(II)) is amended by striking "Interstate and Foreign Commerce" and inserting "Energy and Commerce".

(d) LEGISLATIVE VETO.—Section 504(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2004(a)) is amended by striking "(or in the case of an amendment submitted to each House of the Congress under section 502(a)(4), at any time prior to 60 days after the expiration of the 60-day period specified in section 502(a)(5))".

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A—Alternative Fuel Fleets

SEC. 4101. DEFINITIONS.—For the purposes of this subtitle—

(1) "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; and electricity;

(2) "alternative fuel vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel; or

(B) is a flexi-fueled vehicle;

(3) "diesel truck" means a truck that has a gross vehicle weight over 8,500 pounds and under 26,000 pounds and is powered by diesel fuel;

(4) "Federal agency" means any executive department, military department, government corporation, independent establishment, executive agency, the United States Postal Service, the Congress, and the courts of the United States;

(5) "fleet" means a number of motor vehicles that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a Federal agency, State, or person. This term does not include—

(A) motor vehicles held for daily lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement vehicles;

(E) emergency vehicles;

(F) military vehicles that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) non-road vehicles, including farm and construction vehicles; or

(H) vehicles that under normal operations are garaged at a personal residence at night;

(6) "flexi-fueled vehicle" means a motor vehicle that can operate on alternative and non-alternative fuel;

(7) "motor vehicle" means—

(A) any four-wheel passenger automobile, as the term "passenger automobile" is defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2));

(B) any truck with a gross vehicle weight up to 26,000 pounds, including "light trucks," as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15)) and "diesel trucks" as defined in this section;

(C) and any bus designed to transport more than ten persons;

(8) "person" means—

(A) any individual, corporation, partnership, or association;

(B) any municipality or political subdivision of a State;

(9) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more; and

(B) at least 50 motor vehicles within the United States; and

(10) "State" means a State, any agency of a State (but not a municipality or political subdivision of a State), or the District of Columbia.

SEC. 4102. FEDERAL FLEETS.—(a) PURCHASE REQUIREMENTS.—When any Federal agency purchases, leases, or otherwise acquires vehicles for a Federal fleet, in the years specified in this section, the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

(1) in 1995, 10 percent;

(2) in 1996, 15 percent;

(3) in 1997, 25 percent;

(4) in 1998, 50 percent;

(5) in 1999, 75 percent; and

(6) in 2000 and each year thereafter, 90 percent.

(b) PROGRAM COORDINATION.—The Secretary shall work with the Administrator of General Services and the head of each Federal agency to plan effective coordination and cooperation by Federal agencies in the purchase, use, and refueling of alternative fuel vehicles acquired under this section or other provisions of law.

(c) REFUELING.—The Administrator of General Services shall, to the maximum extent practicable, arrange for the fueling of alternative fuel vehicles acquired under this section at commercial fueling facilities that are open to the public and offer alternative fuels for sale to the public.

(d) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491), the Administrator of General Services shall not include the incremental costs of alternative fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator determines that appropriations provided pursuant to this section are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional vehicles.

(e) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this section shall be applicable only—

(1) to the portion of the cost of acquisition, maintenance, and operation of vehicles acquired under this paragraph which exceeds the cost of acquisition, maintenance, and operation of comparable conventional vehicles;

(2) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional vehicles; and

(3) to the portion of the costs of acquisition of alternative fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional vehicles.

(f) VEHICLE COSTS.—The incremental cost of vehicles acquired under this section over the cost of comparable conventional vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

(g) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this section shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756).

SEC. 4103. STATE FLEETS.—When any State that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires motor vehicles for use in a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1995, 10 percent;

(2) in 1996, 15 percent;

(3) in 1997, 25 percent;

(4) in 1998, 50 percent;

(5) in 1999, 75 percent; and

(6) in 2000 and each year thereafter, 90 percent.

SEC. 4104. PRIVATE AND MUNICIPAL FLEETS.—When any covered person that owns, operates, leases, or otherwise controls at least 50 motor vehicles purchases, leases, or otherwise acquires vehicles for a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of Census, with a 1980 population of 250,000 or more, the following percentage of the vehicles purchased, leased, or otherwise acquired for such fleet in the years specified shall be alternative fuel vehicles—

(1) in 1998, 30 percent;

(2) in 1999, 50 percent; and

(3) in 2000 and each year thereafter, 70 percent.

SEC. 4105. RULES OF GENERAL APPLICABILITY.—(a) TREATMENT OF FRACTIONS.—If the number of vehicles purchased, leased, or otherwise acquired by a Federal agency, State, or covered person in any year when multiplied by the percentage specified in section 4102, 4103, or 4104 contains a fraction, the number of vehicles required to be alternative fuel vehicles shall be increased to the next whole number.

(b) FUEL USE REQUIREMENT.—The vehicles purchased pursuant to section 4102, 4103, or 4104 shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(c) DIESEL TRUCKS.—Any Federal agency, State, or covered person that operates a fleet that is subject to the requirements of section 4102, 4103, or 4104, respectively, and contains one or more diesel trucks may purchase, lease, or otherwise acquire diesel trucks after 1994 in proportion (relative to the total number of motor vehicles) to the number of diesel trucks in the agency, State, or person's fleet that is subject to the requirements of section 4102, 4103, or 4104 on the date of enactment of this subtitle, notwithstanding such sections.

(d) DELAYED PURCHASE OPTION.—Any covered person subject to section 4104 may postpone the acquisition of alternative fuel vehicles required to be acquired in 1998 and 1999, but after 1999, such person may only acquire alternative fuel vehicles until such person acquires a cumulative number of such vehicles which exceeds 150 percent of the cumulative number of alternative fuel vehicle purchases that would have been needed to meet the 1998 and 1999 requirements of section 4104. Such acquisitions shall be in addition to any acquisition requirements under section 4104 for years after 1999.

SEC. 4106. EXEMPTIONS.—(a) VEHICLE AND FUEL AVAILABILITY.—The Secretary shall exempt any Federal agency, State, or covered person from the requirements of section 4102, 4103, or 4104, respectively, in whole or in part, if the Secretary determines that:

(1) alternative fuel vehicles meeting the requirements of such Federal agency, State, or person are not available for purchase, lease, or acquisition by other means; or

(2)(A) commercial alternative fuel refueling facilities are not available to the Federal agency, State, or person in the area in which the vehicles are operated; and

(B) providing an alternative fuel refueling facility for such agency, State, or person's alternative fuel vehicles would be economically impracticable.

(b) DURATION OF EXEMPTIONS.—An exemption granted by the Secretary under subsection (a) shall be for an initial period of no more than 12 months and shall be renewable for additional periods of no more than 12 months.

SEC. 4107. VEHICLE CONVERSIONS.—The requirements of sections 4102, 4103, and 4104 may be met through the conversion of existing or new gasoline or diesel-powered vehicles to alternative fuel vehicles. For purposes of such sections, the conversion of a vehicle to an alternative fuel vehicle shall be treated as the purchase of an alternative fuel vehicle. Nothing in this subtitle shall be construed to require any Federal agency, State, or covered person to convert existing or new gasoline or diesel-powered vehicles to alternative fuel vehicles or to purchase converted vehicles.

SEC. 4108. CREDITS.—(a) IN GENERAL.—The Secretary shall allocate a credit to a State or covered person that is subject to the requirements of section 4103 or 4104, respectively, if that State or person purchases an alternative fuel vehicle in excess of the number that State or person is required to purchase under section 4103 or 4104 or purchases an alternative fuel vehicle before the date that State or person is required to purchase an alternative fuel vehicle under such section.

(b) ALLOCATION.—In allocating credits under subsection (a), the Secretary shall allocate one credit for each alternative fuel vehicle the State or covered person purchases that exceeds the number of alternative fuel vehicles that State or person is required to purchase under section 4103 or 4104 or that is purchased before the date that State or person is required to purchase an alternative fuel vehicle under such section. In the event that a vehicle is purchased before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is purchased before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier purchased vehicle.

(c) USE OF CREDITS.—At the request of a State or covered person allocated a credit under this section, the Secretary shall treat the credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by that State or person when determining whether that State or person has complied with this subtitle in the year designated. A credit may be counted toward compliance for only one year.

(d) TRANSFERABILITY.—A State or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another State or person who is required to comply with this subtitle. At the request of the State or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by the State or person to whom the credit is transferred when determining whether that State or person has complied with this subtitle in the year designated. A transferred credit may be counted toward compliance for only one year.

SEC. 4109. REPORTS.—The Secretary may require a Federal agency, State, or covered person to file with the Secretary the reports the Secretary determines necessary to implement this subtitle.

SEC. 4110. ENFORCEMENT.—(a) CIVIL PENALTIES.—A State or covered person who violates a requirement or prohibition of section 4103 or 4104, respectively, or 4105(b) is subject to a civil penalty of not more than $2,500 per violation. Each month in which a violation occurs constitutes a separate violation, unless the violator establishes that the vehicle necessary to comply with this subtitle could not be purchased, leased, or otherwise acquired in that month. The first month of a violation of the yearly acquisition requirements of section 4103 or 4104 is the month in which a State or person purchases, leases, or otherwise acquires vehicles that result in noncompliance with the yearly alternative fuel vehicle purchase requirement under that section. Each month in which compliance has not been achieved after the first month is a separate violation.

(b) CIVIL ACTIONS.—The Secretary may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess and recover any civil penalty under subsection (a) of this section. An action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business. The court in which the action has been brought may restrain a violation, require compliance, assess a civil penalty, collect any noncompliance assessment and nonpayment penalty owed the United States, and award any other appropriate relief. In such an action, subpoenaes for witnesses who are required to attend a district court in any district may run into any other district.

(c) MITIGATION OF PENALTIES.—In the determining the amount of a penalty to be assessed under this section, the court shall take into consideration, in addition to other factors justice may require, the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

SEC. 4111. IMPLEMENTATION.—(a) REGULATIONS.—Within 180 days after the date of enactment of this subtitle the Secretary shall issue regulations to implement this subtitle. Such regulations shall include measures to ensure that Federal agencies, States, and covered persons comply with the requirements of sections 4102, 4103, and 4104, respectively, and the criteria by which the Secretary will determine whether to exempt agencies, States, and covered persons from such requirements under section 4105.

(b) DELEGATION TO STATES.—The Secretary may delegate the administration and enforcement of this subtitle within any State to the Governor of such State if—

(1) the Governor certifies that the State has a program to administer and enforce the subtitle; and

(2) the Secretary finds that the State program is in accordance with the requirements of the subtitle.

(c) FINANCIAL ASSISTANCE.—There is authorized to be appropriated not more than $20,000,000 to remain available until expended for purposes of providing financial assistance to States to which the Secretary delegates administration and enforcement of this subtitle.

SUBTITLE B—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure, Development, and Conforming Amendments

Part A—Electric and Electric-Hybrid Vehicle Demonstration

SEC. 4201. SHORT TITLE.—This part may be cited as the "Electric and Electric-Hybrid Vehicle Demonstration Act".

SEC. 4202. DEFINITIONS.—For the purposes of this part, the term—

(1) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the non-electric source of power in such vehicles;

(2) "comparable conventionally-fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an electric vehicle or electric hybrid vehicle, as determined by the Secretary;

(3) "discount payment" means that discount from the electric vehicle suggested retail price provided to the user of an electric vehicle or electric-hybrid vehicle as determined pursuant to section 4205 of this part;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current;

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power;

(6) "electric vehicle suggested retail price" or "electric-hybrid vehicle suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicles) of an electric vehicle or electric-hybrid vehicle set forth in a cooperative agreement under section 4203(b), not adjusted to reflect any discount payment that may be available under this part;

(7) "eligible metropolitan area" means—

(A) any ozone non-attainment area classified under subpart 2 of part D of Title I of the Clean Air Act, as amended, as Serious, Severe, or Extreme as of the date of enactment of this part;

(B) any carbon monoxide nonattainment area with a carbon monoxide design value at or above 16.0 parts per million based on data available as of the date of enactment of this part, but does not include carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide exceedences; or

(C) any other metropolitan statistical area with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this part;

(8) "manufacturer" means a person or entity that produces an electric vehicle or electric-hybrid vehicle and is capable, if determined to be by the Secretary, of providing service and parts for such vehicle for a period of five years or more;

(9) "proposer" means a person or entity that submits a proposal to conduct a demonstration project under the program authorized by this part and may include a unit of State or local government;

(10) "retail price differential" means the difference between the comparable conventionally-fueled vehicle suggested retail price and the electric vehicle or electric-hybrid vehicle suggested retail price;

(11) "suggested retail price" means the price (including any additions to the price of such vehicle added as a result of delivery to the point of use of such vehicle) of a commercially available conventionally-fueled vehicle, as determined by the manufacturer's established retail price, not adjusted to reflect any reductions in such price discounts that may be available; and

(12) "user" means a person or entity that purchases or leases an electric vehicle or electric-hybrid vehicle, including fleet operators.

SEC. 4203. PROGRAM AND SOLICITATION.—(a) PROGRAM.—The Secretary shall conduct a program to demonstrate electric vehicles, electric-hybrid vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, vehicle manufacturers, the electric utility industry, and such other persons as the Secretary deems appropriate. Such program shall be structured to evaluate the performance of such vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure for electric and electric-hybrid vehicle commercialization.

(b) SOLICITATION.—(1) Not later than one year after the date of enactment of this part, the Secretary shall solicit proposals to demonstrate electric vehicles, electric-hybrid vehicles or such vehicles and associated equipment in one or more eligible metropolitan areas.

(2) The solicitation shall require the proposer to include in the proposal a description of the proposal including the manufacturer or manufacturers of the electric or electric-hybrid vehicles; the intended users of the vehicles; the eligible metropolitan area or areas involved; the number of vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the retail price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; and any other information the Secretary requires to make selections under section 4204. If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric vehicles, electric-hybrid vehicles or associated equipment.

(c) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out the purposes of this part.

SEC. 4204. SELECTION OF PROPOSALS.—(a) SELECTION.—(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce and the Administrator of the Environmental Protection Agency, may, not later than 120 days after receipt of proposals under section 4203, select at least one, but not more than ten, proposals for negotiation of cooperative agreements to receive financial assistance under section 4205.

(2) Any proposal selected for negotiation under paragraph (1) must satisfy the limitations set forth in section 4205(c).

(3) If the Secretary intends to enter into four or more cooperative agreements, at least one such cooperative agreement shall be for a demonstration project located in an eligible metropolitan area referred to in section 4202(7)(C) and which is not located in a nonattainment area referred to in sections 4202(7)(A) or (B).

(b) CONSIDERATION.—In selecting a proposal and in negotiating a cooperative agreement under this section, the Secretary shall consider—

(1) the ability of a proposer to undertake and complete the proposed demonstration project;

(2) the ability of a manufacturer, directly or indirectly, or in combination with the proposer, to develop, assist in the demonstration of, manufacture, distribute, sell or lease and provide service for, including the ability to provide warranties and to assure the availability of all parts, those electric vehicles or electric-hybrid vehicles that are proposed to be included in the demonstration project;

(3) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project is to be undertaken when compared with other proposals or other selected demonstration projects;

(4) the long-term technical and competitive viability of the electric and electric-hybrid vehicle, and the ability of the manufacturer of such vehicles to make and incorporate subsequent advancements, cost reductions, modifications, and technology improvements;

(5) the electric vehicle or electric-hybrid vehicle suggested retail price of the vehicles to be included in the demonstration project, the comparable conventionally-fueled vehicle suggested retail price, the proposed discount payment, and in the case of a demonstration project that includes a lease arrangement, the terms of such arrangement for the vehicle or associated equipment;

(6) the extent of involvement of State or local government and other persons in the demonstration project;

(7) whether the involvement of State or local government or other persons in the demonstration project (A) will permit a reduction of the Federal cost share per vehicle or (B) will otherwise be used to leverage the Federal contribution to be provided among a greater number of vehicles; and

(8) other criteria as the Secretary deems appropriate.

(c) CONDITIONS.—The Secretary shall include in any cooperative agreement under this section provisions intended to assure that—

(1) the vehicle or vehicles will be used primarily in the eligible metropolitan area or areas identified in the proposal and set forth in the final agreement made with the Secretary;

(2) the number of vehicles to be included in the demonstration project shall be no less than 50 vehicles, except that the Secretary—

(A) may select and enter into a cooperative agreement for a demonstration project with fewer than 50 vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity of the proposals selected and that an adequate demonstration to accelerate the development and use of vehicles can be undertaken with fewer than 50 vehicles; and

(B) may permit a group of such vehicles to be used in an area outside such eligible metropolitan area or areas identified in such proposal if the Secretary determines that such proposal would further the purposes of this part.

(3) as a part of the demonstration project, the proposer shall seek to obtain from the user or users of the vehicles and to provide to the manufacturer information regarding operation, maintenance, and useability of the vehicle for five years after purchase or during the lease period; and

(4) the proposer shall provide such information regarding operation, maintenance and use of vehicles as the Secretary may request during the period of the demonstration project.

(d) ADDITIONAL DEMONSTRATIONS.—The Secretary may enter into more than ten cooperative agreements under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

SEC. 4205. DISCOUNT PAYMENTS TO USERS.—(a) CERTIFICATION.—The Secretary shall provide a discount payment to a proposer for reimbursement of the discount provided to the user, if the proposer certifies to the Secretary, in such form and in such manner and time as may be required by the Secretary, that—

(1) the electric vehicle or electric-hybrid vehicle has been purchased or leased by a user in accordance with the terms and conditions of the cooperative agreement referred to in section 4204; and

(2) the proposer has provided to the user a discount payment from the electric vehicle or electric-hybrid vehicle suggested retail price in accordance with the terms and conditions for the discount payment in the cooperative agreement under section 4204.

(b) PAYMENT.—Not later than 30 days after receipt from the proposer of certification that the Secretary determines satisfies subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment.

(c)(1) RESTRICTIONS ON DISCOUNT PAYMENTS.—The discount payment shall be no greater than the retail price differential or the price of the comparable conventionally-fueled vehicle, whichever is the lesser.

(2) The actual purchase price of the vehicle, adjusted to reflect the discount payment and any additional reduction in the actual purchase price of the vehicle that may result from contributions to a purchase price reduction provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally-fueled vehicle.

(3) The maximum Federal share of the discount payment that may be provided to reimburse a proposer for a discount payment provided to a user shall be no greater than $10,000 per electric vehicle or electric-hybrid vehicle.

(4) The aggregate discount payments paid to a proposer under this part may not exceed $3,000,000.

(d) LEASE AGREEMENTS.—For purposes of the discount payment, in the case of an electric vehicle or electric-hybrid vehicle included in a demonstration project that is the subject of a lease agreement, the Secretary shall provide a rebate in accordance with the terms of the cooperative agreement.

SEC. 4206. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

Sec. 4207. REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the United States Senate and the United States House of Representatives on the progress being made, through the cooperative agreements under this part, to accelerate the development and use of electric vehicles and electric-hybrid vehicles.

SEC. 4208. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993 and 1994 such sums as may be necessary to carry out the purposes of this part, to remain available until expended.

PART B—ELECTRIC AND ELECTRIC-HYBRID VEHICLE INFRASTRUCTURE DEVELOPMENT

SEC. 4211. SHORT TITLE.—This part may be cited as the "Electric Vehicle and Electric-Hybrid Infrastructure Development Act".

SEC. 4212. DEFINITIONS.—For purposes of this part, the term—

(1) "infrastructure" includes, but is not limited to, those support and maintenance services and facilities, electricity delivery mechanisms and methods, treatment of investment in electric vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling and disposal, that may be required to enable electric utilities, automobile manufacturers and others, to support the operation, maintenance and utilization of electric vehicles, electric-hybrid vehicles, and associated equipment;

(2) "non-Federal person" means an entity not part of the Federal Government that is organized under the laws of the United States and located in the United States, the controlling interest (as defined by the Secretary) of which is held by United States nationals or permanent resident aliens, including—

(A) a for-profit business;

(B) a private foundation;

(C) a nonprofit organization such as a university;

(D) a trade or professional society; and

(E) a unit of State or local government.

(3) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electrical energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, the non-electric source of energy;

(4) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

(5) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current but also relies on a non-electrical source of power.

SEC. 4213. DATA ACQUISITION TO SUPPORT INFRASTRUCTURE DEVELOPMENT AND MARKETS FOR USE OF ELECTRIC VEHICLES AND ELECTRIC-HYBRID VEHICLES.—(a) General.—Not later than 180 days after the date of enactment of this part, the Secretary, in consultation with appropriate State, regional and local authorities, shall establish a program for the collection and dissemination of information and data which would be useful to persons seeking to manufacture, sell, lease, own or operate electric vehicles and electric-hybrid vehicles. Such information and data—

(1) shall be sufficient to evaluate—

(A) the degree to which the availability of energy and fuel supplies may constrain the introduction of electric vehicles or electric-hybrid vehicles; and

(B) the electric vehicle or electric-hybrid vehicle trips made daily, miles driven per trip, projections as to the number of trips that could be accomplished in combination with mass transit so as to conserve energy; and

(2) may include other appropriate demographic and consumer preferences information necessary to make the evaluation under paragraph (1).

(b) CONSULTATION BY THE SECRETARY.—The Secretary shall consult with interested persons including, but not limited to, vehicle manufacturers, fleet operators, public utilities and State or local governmental entities, to determine the types of information and data to be collected and analyzed pursuant to the program authorized by subsection (a).

SEC. 4214. STATE INFRASTRUCTURE DEVELOPMENT PLANS.—(a) GUIDELINES.—(1) Within 180 days after the date of enactment of this part, the Secretary shall issue guidelines for use by States and local governmental entities to develop comprehensive infrastructure plans to support the deployment of electric vehicles and electric-hybrid vehicles. Such guidelines shall include sufficient information to help States to evaluate—

(A) the availability of the necessary infrastructure to provide electricity and other forms of energy in the quantities and at the locations required to support operation of electric vehicles or electric-hybrid vehicles;

(B) the development of electric vehicle and electric-hybrid vehicle incentives and implementation programs designed to accelerate the introduction and use of such vehicles; and

(C) such studies that may be conducted or information that may be acquired with respect to how the production, development, or use of electric vehicles and electric-hybrid vehicles are likely to affect the more efficient use of energy resources and thereby enhance national energy security.

(2) Such guidelines also shall address the development, modification, and implementation of State infrastructure plans and shall describe those program elements, as described in subsection (c) to be addressed in such plans.

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall offer the Governor of each State, within 120 days of the date of issuance of the guidelines under subsection (a), the opportunity to request technical and financial assistance under subsection (c) for the formulation of a comprehensive infrastructure plan for such State in conformance with the guidelines issued under subsection (a). Such request shall include a determination by the Governor that—

(A) electricity and other forms of energy are likely to be available in sufficient quantities to support the introduction of electric vehicles and electric-hybrid vehicles in such State; and

(B) the introduction of electric vehicles or electric-hybrid vehicles in such State is feasible.

(2)(A) If the Secretary is satisfied that the determination of a Governor under paragraph (1) is consistent with the purposes of this part, the Secretary shall offer the Governor of such State the opportunity to submit, within 180 days after submission of the determination under paragraph (1), a comprehensive infrastructure plan for approval under subsection (c)(2).

(B) Any plan developed under subparagraph (A) shall be developed in consultation with local governmental entities and shall include—

(i) the anticipated number and schedule for introduction of electric vehicles or electric-hybrid vehicles in such State;

(ii) provisions intended to ensure that electricity and other forms of energy will be available in sufficient quantities to support the anticipated quantities and schedule for introduction of electric vehicles or electric-hybrid vehicles;

(iii) provisions designed to assure the progress toward, and achievement of, the goal of introducing substantial numbers of electric vehicles and electric-hybrid vehicles in such State by the year 2001;

(iv) a detailed description of the requirements, including the estimated cost of implementation, of the infrastructure plan; and

(v) an assessment of whether accomplishing any of the goals in this subsection would require amendment to State law or regulation.

(c) TECHNICAL AND FINANCIAL ASSISTANCE.—(1) Upon request of the Governor of any State who has submitted the assessment and made the determination under subsection (b), the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to electric vehicles and electric-hybrid vehicles;

(B) financial assistance for the purpose of the development of such plan; and

(C) financial assistance for the purpose of the implementation of such plan as approved by the Secretary pursuant to this section.

(2) In determining whether to approve a State infrastructure plan submitted under subsection (b)(2), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this section, the Secretary shall consider:

(A) energy and environmental-related impacts of introduction and use of electric vehicles or electric-hybrid vehicles included in the proposed infrastructure plan;

(B) the availability of electricity and other forms of energy required to support varying numbers of electric vehicles or electric-hybrid vehicles;

(C) the number of electric vehicles or electric-hybrid vehicles likely to be introduced by the year 2001 and the availability of electricity and other fuels resulting from successful implementation of the plan; and

(D) such other factors as the Secretary considers appropriate.

(d) REPORT.—The Secretary shall report annually to the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this part.

SEC. 4215. ELECTRIC UTILITY AND OTHER INDUSTRY INFRASTRUCTURE DEVELOPMENT PROJECTS.—(a) GENERAL.—The Secretary shall undertake cooperative agreements with one or more non-Federal persons, including fleet operators, to provide the infrastructure necessary to support the use of electric vehicles or electric-hybrid vehicles.

(b) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, to carry out the purposes of this section.

(2) Within 180 days after proposals have been solicited, the Secretary shall select from among those proposals submitted under this section and thereafter enter into negotiations. If, after negotiation, the Secretary determines that a proposal meets the purposes of this section, he may enter into a cooperative agreement with the non-Federal person submitting such proposal.

(3) The Secretary shall undertake no more than five cooperative agreements under this section. The proposals to be selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(4) The aggregate Federal financial assistance for each cooperative agreement under this part may not exceed $3,000,000.

(c) PROPOSALS.—The infrastructure proposals under this section may address—

(1) the addition to existing facilities of the capability to service electric or electric-hybrid vehicles, and to provide or service associated equipment, as well as the installation of charging facilities where such service might be required for the use and operation of electric vehicles or electric-hybrid vehicles;

(2) the feasibility of designing rate structures, rate levels, ratemaking procedures, billing systems and financing methods, related to investment by electric utilities in infrastructure capital-related expenditures and public information programs conducted by electric utilities regarding use of electricity, the conservation of electric energy and the use of electric vehicles or electric-hybrid vehicles;

(3) the development of associated safety and health procedures; and

(4) such other requirements as the Secretary considers necessary in order to address the infrastructure needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric vehicles or electric-hybrid vehicles.

SEC. 4216. COST-SHARING.—(a) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreements under this part, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(b) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under subsection (a) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this part.

SEC. 4217. COMPLIANCE WITH EXISTING LAW.—Nothing in this part shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this part, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

SEC. 4218. AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this part.

PART C—AMENDMENT TO THE ALTERNATIVE MOTOR FUELS ACT

SEC. 4221. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—(a) Section 400AA(a) of the Energy Policy and Conservation Act (Pub. L. No. 94-163; 42 U.S.C. 6374 (a)(1)) is amended by striking out "or natural gas dual energy vehicles." and inserting in lieu thereof "natural gas dual energy vehicles, electric vehicles, or electric-hybrid vehicles.".

(b) Section 400AA(g) of the Energy Policy and Conservation Act (Pub. L. No. 94-163; 42 U.S.C. 6374 (g)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(7) the term 'natural gas' includes liquified petroleum gas, including propane;

"(8) the term 'electric vehicle' means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current; and

"(9) 'electric-hybrid vehicle' means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power.".

(c) Section 400AA(i) of the Energy Policy and Conservation Act (42 U.S.C. 6374(i)) is amended by adding at the end thereof the following new paragraph:

"(3) For the purposes of this section, there is authorized to be appropriated for the fiscal years 1994, 1995, and 1996 such sums as may be necessary to carry out the provisions of this section.".

SEC. 4222. AMENDMENTS TO THE MOTOR VEHICLE INFORMATION AND COST SAVING ACT.—(a) Section 513(c) of the Motor Vehicle Information and Cost Savings Act (Pub. L. No. 92-513; 15 U.S.C. 2013(c)) is amended in the first sentence by inserting after "natural gas" each place it occurs the parenthetical "(including liquefied petroleum gas)".

(b) Section 513(d) of said Act (Pub. L. No. 92-513; 15 U.S.C. 2013(d)) is amended by inserting after "natural gas" the first time it occurs the following parenthetical, "(including liquefied petroleum gas)".

Subtitle C—Alternative Fuels

SEC. 4301. SHORT TITLE.—This subtitle may be cited as the "Replacement and Alternative Fuels Act of 1991".

SEC. 4302. FINDINGS.—The Congress finds and declares that—

(1) United States national security demands that we reduce our dependency on imported oil;

(2) domestic resources are available to substantially reduce our dependency on imported oil;

(3) the transportation sector, currently 95 percent dependent on oil, accounts for more than 60 percent of our national oil consumption;

(4) a comprehensive energy program, including the stimulation of the production and use of automobiles capable of using alternative fuels, is needed to reduce pollution as well as reduce our dependency on imported oil;

(5) such program should be designed to create a positive impact on the economy, our national trade balance, and our national budget; and

(6) such program should allow market forces, within appropriate environmental parameters, to affect the selection of replacement or alternative fuels.

SEC. 4303. PURPOSES.—The purposes of this subtitle are to—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit;

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

SEC. 4304. DEFINITIONS.—For purposes of this subtitle—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alcohol" means methanol, ethanol, or other alcohol that are suitable for use by themselves or in combination with other fuels as a motor fuel;

(3) the term "conventional petroleum" means imported or domestic petroleum derived from oil wells, including stripper wells;

(4) the term "domestic" means derived from resources within the 50 States, the territories of the United States, or Canada;

(5) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle, as the term "motor vehicle" is defined in section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(6) the term "alternative fuel" means a motor fuel not designed to be mixed with gasoline, including liquefied petroleum gas, natural gas, "neat" alcohol, hydrogen, coal-derived liquid fuels, and electricity;

(7) the term "replacement fuel" means a motor fuel capable of mixing with gasoline, including alcohol and ethers or products derived from alcohol;

(8) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A); and

(9) the term "provider" means—

(A) any person engaged in the refining of crude oil to produce motor fuel;

(B) any importer of motor fuel;

(C) any person engaged in the transportation and sale of natural gas or liquefied petroleum gas for use as a motor fuel;

(D) any person engaged in the production of alcohol or hydrogen for sale and use as a motor fuel; and

(E) any utility engaged in the generation and sale to the public of electricity.

SEC. 4305. REPLACEMENT AND ALTERNATIVE FUEL PROGRAM.—(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use of domestically produced replacement and alternative fuels. Such program shall promote the replacement of conventional petroleum motor fuels with replacement and alternative fuels to the maximum extent practicable. Such program shall, to the extent practicable, seek to ensure the availability of those replacement and alternative fuels that will have the greatest impact in improving air quality in urban areas, along transportation corridors, and nationwide.

(b) DEVELOPMENT PLAN.—Under the program established under subsection (a), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of appropriate agencies, shall review appropriate information and—

(1) estimate the production capacity in the United States for replacement fuel and alternative fuel needed to implement the provisions of this subtitle;

(2) determine the technical and economic feasibility of producing in the United States sufficient replacement fuels and alternative fuels, by the calendar year 2010 to replace 30 percent or more, on an energy equivalent basis, of the projected consumption of motor fuel in the United States for that year;

(3) assess the suitability and cost-effectiveness of raw materials, other than conventional petroleum, for the production in the United States of replacement and alternative fuels;

(4) assess the suitability and cost-effectiveness of the means and methods of developing and encouraging the production, distribution, and use of replacement and alternative fuels; and

(5) identify ways to encourage the development of reliable replacement fuel and alternative fuel industries in the United States, and the technical, economic, and institutional barriers to such development.

SEC. 4306. ALTERNATIVE FUEL DEMAND ESTIMATES.—(a) ANNUAL ESTIMATES.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary, in consultation with the Administrator and appropriate State and Federal officials, shall estimate—

(1) the number of each type of alternative fuel vehicles likely to be in use in the United States during the following calendar year;

(2) the probable geographic distribution of such vehicles; and

(3) the amount of each type of alternative fuel that is needed to fuel such number of vehicles.

(b) PROVIDER CERTIFICATIONS.—Not later than October 1, 1994, and not later than October 1 of each year thereafter, the Secretary shall require providers of domestic replacement and alternative fuels to certify to the Secretary the amount of each type of replacement and alternative fuel that such provider plans to produce.

SEC. 4307. VOLUNTARY SUPPLY COMMITMENTS.—The Secretary shall undertake to obtain commitments from providers of domestic replacement and alternative fuels to produce and offer for sale to the public sufficient amounts of domestic replacement and alternative fuels to meet the needs of vehicles requiring such fuels.

SEC. 4308. SECRETARIAL AUTHORITY.—(a) NOTIFICATION OF CONGRESS.—In the event that the Secretary determines under this subtitle that the amount of replacement and alternative fuels available in any area of the United States is insufficient to meet public demand and the Secretary is unable to obtain voluntary commitments under section 4307 to supply such demand, the Secretary shall provide written notice to Congress.

(b) SUBMITTAL OF PLAN.—Not later than 30 days after submitting notice under subsection (a), the Secretary shall submit a plan setting forth the actions the Secretary may take to require providers of motor fuels to make available to the public adequate domestic supplies of the replacement or alternative fuel of which there is a shortage. In developing any such plan, the Secretary shall consult with providers of motor fuels to consider alternative means of securing adequate supplies of such fuel and shall give providers an opportunity to comment on any specific proposed requirements to make such fuel available.

(c) IMPLEMENTATION OF PLAN.—The Secretary may implement a plan under subsection (b) 60 calendar days after it has been submitted to Congress in accordance with this section.

(d) PERSONS SUBJECT TO REQUIREMENT.—In exercising the authority under this section, the Secretary shall impose the requirement of providing the required amount of replacement or alternative fuel proportionately on all appropriate providers of motor fuels in a fair and equitable manner.

SEC. 4309. AUTHORIZATION.—There is authorized to be appropriated to the Secretary to carry out this subtitle not to exceed $10,000,000 for each of the fiscal years 1992 through 1996.

Subtitle D—Mass Transit and Training

SEC. 4401. MASS TRANSIT PROGRAM.—(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with this Act and the Alternative Motor Fuels Act of 1988 (Pub. L. No. 100-494), enter into cooperative agreements and joint ventures proposed by municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b) COST-SHARE.—(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government entity agrees to provide at least 25 percent of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 4402. TRAINING PROGRAM.—(a) PROGRAM.—The Secretary of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) CONSISTENCY.—The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Pub. L. No. 100-494).

(d) AUTHORIZATION.—There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

TITLE V—RENEWABLE ENERGY

Subtitle A—CORECT AND COEECT

SEC. 5101. DUTIES OF CORECT AND COEECT.—Section 256 of Part B of Title II of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended by striking subsection (d) and inserting the following in lieu thereof:

"(d)(1) DUTIES.—There shall be established two interagency working groups (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT)). These interagency working groups shall, in consultation with the representative industry groups and relevant agency heads, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and technologies, respectively. The Secretary of Energy shall chair each group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working groups, with or without reimbursement, as may be necessary to carry out their functions and undertake other actions or activities, consistent with existing laws and regulation, as, in the judgement of the Secretary, may be necessary to achieve the purposes of this section.

"(2)(A) ADDITIONAL DUTIES OF CORECT.—CORECT, through its member agencies, shall promote the development and application in lesser-developed countries of renewable energy resource products and technologies that—

"(i) promote the use of hybrid fossil-renewable energy systems;

"(ii) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, windpower, small-scale hydropower, solar, geothermal and other renewable energy resource technologies; and

"(iii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and cost-effective renewable energy resource technologies.

"(B) In addition, CORECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of renewable energy resource technologies, to export their products and technologies;

"(ii) provide staffing to support the authority and responsibilities described in this section;

"(iii) provide technical and financial support for the establishment and sponsorship by United States' firms of training programs, workshops, and other educational programs on renewable energy technologies for representatives of lesser-developed countries and their firms; and

"(iv) augment budgets for the trade and development programs of the member agencies of the Council in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy resource technologies.

"(3)(A) ADDITIONAL DUTIES OF COEECT.—COEECT, through its member agencies, shall promote the development and application in lesser-developed countries of energy efficiency resource products and technologies that—

"(i) reduce dependence on unreliable sources of energy by encouraging the use of energy efficiency resource products and technologies; and

"(ii) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical energy efficiency resource products and technologies including services.

"(B) In addition, COEECT shall:

"(i) explore mechanisms for assisting domestic manufacturers, particularly small business manufacturers, of energy efficiency resource products and technologies, to export their products and services; and

"(ii) provide staffing to support the authority and responsibilities described in this section.

"(3) TRAINING AND ASSISTANCE.—In furthering the purposes of this section, CORECT and COEECT shall, through their member agencies,—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial and technical assistance to nonprofit institutions that support the export and marketing efforts of domestic renewable energy and energy efficiency service companies, and develop environmentally responsible renewable energy and energy efficiency projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit;

"(D) provide assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States, and such other personnel as the Council deems appropriate, in order to provide information about renewable energy and energy efficiency products and technologies to foreign governments or other potential project sponsors;

"(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(5) OUTREACH.—CORECT and COEECT, through their member agencies, may establish renewable energy and energy efficiency industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning renewable energy and energy efficiency products, technologies and industries of the United States to territories, foreign governments, industries, and other entities.".

SEC. 5102. INFORMATION AND TECHNICAL PROGRAM.—Section 256(c)(2)(D) of Part B of Title II of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended by adding after clause (ii) the following new clause:

"and (iii) information on the specific renewable energy and energy efficiency technology needs of lesser-developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource products, processes and technologies, and the status of ongoing technology assistance programs shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.".

SEC. 5103. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.—Section 256 of Part B of Title II of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended by striking subsections (g) and (h) and inserting in lieu thereof subsections (g) and (h) as follows:

"(g)(1) Not later than June 1, 1992, and biennially thereafter, the Secretary, in consultation with member agencies, shall prepare and submit to Congress a report evaluating the range of energy efficiency and renewable energy resource technologies available to meet the energy needs of lesser-developed countries. This report also shall provide information on the specific energy and energy conservation needs of lesser-developed countries, an inventory of United States products and technologies available to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy and energy efficiency programs.

"(2) The report should also include an evaluation of current renewable energy and energy efficiency resource technology export efforts, their success in meeting program objectives, and recommendations for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy and energy efficiency resources and technologies in lesser-developed countries;

"(B) given the credit and capital restrictions for meeting energy demands in the lesser-developed countries, focus on technologies that are both appropriate and cost-effective;

"(C) assist lesser-developed countries in meeting their existing energy needs rather than creating new needs, in order to ensure immediate income-generating and timely use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local energy resource needs;

"(E) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country nongovernmental organizations and project technical personnel;

"(G) provide mechanisms for assisting United States manufacturers, particularly smaller manufacturers, of energy efficiency and renewable energy resource technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives, such as shared savings contracts, loan guarantees, and tax incentives, to promote technology transfer to lesser-developed countries.

"(h) AUTHORIZATION.—(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated to the Secretary for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.".

SEC. 5104. CONFORMING AMENDMENT.—Section 203(a) of the Department of Energy Organization Act (Pub. L. No. 95-91; 42 U.S.C. 7133) is amended by adding a new paragraph (12) at the end thereof:

"(12) the export and promotion to lesser-developed countries of domestic energy resource technologies and products, including renewable energy, energy efficiency, and clean coal technologies, and the development of policies and programs designed to enhance the knowledge of foreign governments and companies, and relevant international lending institutions regarding domestic energy resource technologies and products.".

SUBTITLE B—RENEWABLE ENERGY INITIATIVES

SEC. 5201. RENEWABLE ENERGY DEVELOPMENT, TECHNOLOGY EXPORT TRAINING, AND COMMERCIALIZATION.—(a) JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT AND TECHNOLOGY EXPORT TRAINING.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. No. 101-218) is amended by adding new subsections (f), (g), and (h) as follows:

"(f) ADDITIONAL JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT.—

"(1) OIL DISPLACEMENT BY BIOFUELS ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of biofuels energy systems technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the development of biofuels energy systems for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of this paragraph.

"(2) OIL DISPLACEMENT BY HIGH TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of high-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of high-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(3) OIL DISPLACEMENT BY LOW-TEMPERATURE GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of low-temperature geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purposes of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of low-temperature geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(4) OIL DISPLACEMENT BY SOLAR WATER HEATING.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of solar water heating technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for solar water heating for commercial application in institutional water heating and process heat uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(5) DIESEL FUEL OIL DISPLACEMENT BY PHOTOVOLTAIC AND WIND ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of photovoltaic and wind energy systems in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for photovoltaic and wind energy systems for commercial application in electric power generation uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(6) DIESEL FUEL OIL DISPLACEMENT BY DIRECT COMBUSTION OR GASIFICATION OF BIOMASS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of technologies for the direct combustion or gasification of biomass in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for direct combustion or gasification of biomass, including waste wood, for industrial process heat and electric power generation for commercial application in uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(7) OIL DISPLACEMENT BY FUEL CELLS TECHNOLOGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of fuel cells technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(g) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY EXPORT TRAINING.—

"(1) The Secretary shall solicit proposals for and provide financial assistance to at least two joint ventures for the training of individuals from lesser-developed countries at a location or locations in the United States, at least one of which shall be in the operation and maintenance of renewable energy equipment and at least one of which shall be in the operation and maintenance of energy efficiency equipment, in accordance with the provisions of this subsection.

"(2) The purpose of joint ventures supported under this subsection shall be to train individuals, including engineers and other professionals, in the operation and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping and the production of electric power in remote areas, in order to enhance the prospects that such equipment can be used to displace the use of diesel fuel oil in developing countries.

"(3) There is authorized to be appropriated to the Secretary not to exceed $6,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.

"(h) UTILITY-SCALE PHOTOVOLTAIC JOINT VENTURES.—

"(1) The Secretary shall solicit proposals and provide financial assistance for at least one joint venture for a utility-scale photovoltaic project of at least ten megawatts.

"(2) In general, the goals of joint ventures under this subsection shall include—

"(A) the integration of photovoltaics in approaches to the transmission and delivery systems;

"(B) the development of cost-saving adjuncts to utility delivery such as sub-station upgrades, peak power, and large-scale voltage line augmentation; and

"(C) the incorporation of new photovoltaic innovations into standard utility rate-making practices.

"(3) Joint ventures supported under this subsection may include participants that are considered to be end-users of the technology such as rural electric cooperatives, public utilities, investor-owned utilities, and independent power producers.

"(4) In selecting joint ventures for support under this subsection, the Secretary shall consider giving preference to proposals for projects that would be located in States where State law would allow inclusion of the project in the rate base or would otherwise allow for favorable regulatory treatment or return on investment.

"(5) There is authorized to be appropriated to the Secretary not to exceed $9,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this subsection.".

(b) CONFORMING AMENDMENTS.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. No. 101-218) is amended as follows:

(1) By replacing the phrase "subsection (c)" with the phrase "subsections (c), (f), (g) and (h)" in the first sentence of paragraph (b)(1).

(2) By substituting a new paragraph (4) of subsection (b) to read as follows:

"(4) DRAFT SOLICITATIONS AND PUBLIC COMMENT.—The Secretary shall issue a draft solicitation for joint ventures under subsection (c) by September 30, 1990 and a draft solicitation for joint ventures under subsections (f), (g), and (h) by September 30, 1992. After any such draft solicitation has been issued, the Secretary shall provide for a period of public comment before the issuance of a final solicitation.".

(3) By striking the phrase "subsection (c)" everywhere it appears in subsection (d) and replacing it with "subsections (c) or (f), (g), and (h)".

(c) RENEWABLE ENERGY COMMERCIALIZATION.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. No. 101-218) is amended by adding at the end the following new section:

"SEC. 11. COMMERCIALIZATION.—

"(a) DEFINITIONS.—For the purposes of this section the term—

"(1) 'qualified borrower' means an enterprise, that engages in the production and sale of electricity, thermal energy or other forms of energy using a renewable energy technology, or a manufacturer of renewable energy equipment who wishes to finance improvements in, or expansion of, facilities for the manufacture of renewable energy technologies;

"(2) 'renewable energy technology', with respect to a participant in any provision under this section, means any technology that produces, or uses as its principal energy source, biomass, geothermal, photovoltaic, wind, or solar thermal (including solar water heating, solar industrial process preheat, and solar industrial process heat); and

"(3) 'Federal share' means that portion of the interest on a loan financed by a private lender that is paid by the Federal Government, subject to subsection (b).

"(b) BUY DOWN AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with private lenders to pay the Federal share of the interest on loans made to qualified borrowers for the purpose of financing the manufacture, construction or acquisition of equipment that principally utilizes a renewable energy technology. Buy down agreements entered into by the Secretary, may be implemented either directly through private lenders for Federal facilities or indirectly through an appropriate State energy office.

"(2) RESTRICTION.—Interest rate buy down agreements under this section shall not apply to projects where electricity is sold to electric utilities under section 210 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. No. 95-617).

"(3) FEDERAL SHARE.—The Federal share of interest on a loan shall be determined by the Secretary on the basis of—

"(A) the need of the borrower for the assistance;

"(B) the degree to which financing of the project will assist in the regional diversification and commercialization of renewable energy resources in the United States; and

"(C) the achievement of the purposes and goals of this section.

"(4) LOAN TERMS.—The Secretary may enter into an agreement under paragraph (1) to pay the Federal share of interest on not less than ten separate loans that—

"(A)(i) have a principal amount of at least $250,000 and less than $1,000,000 and have a maturity of not less than 15 years; or

"(ii) have a principal amount of at least $1,000,000, and have a maturity of not less than 20 years;

"(B) carry an interest rate no greater than five percent above the prime rate or at an interest rate that the Secretary determines to be reasonable; and

"(C) contain such other terms and conditions that the Secretary deems appropriate.

"(c) REPORT.—Not later than two years after the date of enactment of this section and annually thereafter, the Secretary shall report to Congress on the projects funded under this section and the progress being made toward accomplishing the goals and purposes of this section.

"(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary for fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.".

SEC. 5202. REPORT ON WASTE MINIMIZATION TECHNOLOGIES IN INDUSTRY. (a) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report evaluating opportunities to minimize waste outputs from production processes in industries in the United States.

(b) CONTENTS.—The report required by this section shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected time-frames for their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or state regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary deems necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

SEC. 5203. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 362(d) of the Energy Policy and Conservation Act (Pub. L. No. 94-163; 42 U.S.C. 6322(d)) is amended by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively, and adding a new paragraph (12) as follows:

"(12) support for pre-feasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;".

SEC. 5204. SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER.—(a) FINDINGS.—The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a long-standing champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transportation fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) PURPOSE.—It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) ESTABLISHMENT.—The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (referred to as the "Center").

(d) ADMINISTRATION.—(1) Not later than 180 days after the date of enactment of this section, the Secretary shall seek to enter into a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) ACTIVITIES.—The Center may carry out research, development, and technology transfer activities on—

(1) solar and renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean resource concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) MATCHING FUNDS.—To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $3,000,000 for fiscal year 1992, $4,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, and such sums as are necessary thereafter for the purposes of this section.

SEC. 5205. RENEWABLE ENERGY TECHNICAL ACHIEVEMENT AWARD.—(a) PROGRAM.—Within one year after the date of enactment of this Act, the Secretary, in consultation with the National Academy of Sciences, shall establish a program to reward outstanding achievement in each of the following technologies: solar thermal, photovoltaics, wind, biomass, geothermal, and such other renewable energy technologies as the Secretary deems appropriate.

(b) TECHNICAL ACHIEVEMENT MILESTONES.—The Secretary, in consultation with the National Academy of Sciences, shall establish a milestone for technical achievement for the year 2010 for each technology listed in subsection (a). The Secretary shall also establish criteria necessary to determine whether the technical achievement milestones have been met. Such criteria shall include:

(1) the cost of power delivered under each technology;

(2) the efficiency of each technology's energy conversion;

(3) the potential for large-scale commercial production; and

(4) such other criteria as the Secretary deems appropriate.

(c) AWARD.—The Secretary, in consultation with the National Academy of Sciences, shall award up to $5,000,000 in each renewable energy technology category to the first person who is a United States citizen and has been determined by the Secretary to have met the technical achievement milestones described under subsection (b).

(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section.

Subtitle C—Hydropower

SEC. 5301. STREAMLINING OF FEDERAL POWER ACT REGULATION.—The Federal Power Act, as amended, (16 U.S.C. 791a et seq.) is further amended by:

"(a) striking in section 4(e) the following:

", and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation"

and inserting the following in lieu thereof:

"and in the case of a Government dam shall be subject to and contain such conditions as the Secretary of the department under whose supervision such Government dam falls shall deem necessary to ensure that the license will not interfere or be inconsistent with the authorized purposes for which such Government dam was created and shall not detract from all lawful obligations of the Secretary of jurisdiction, including operation and maintenance, relating to such Government dam in accordance with contractual or other arrangements and in a manner which ensures the protection, preservation and safety of the public welfare: *Provided further*, That licenses issued for projects located in whole or in part on an Indian reservation shall be subject to and contain such conditions as the Secretary of the Interior shall deem necessary for the adequate protection and utilization of such Indian reservation";

(b) striking "(2)" in section 10(j)(1) and inserting "(3)" in lieu thereof;

(c) striking everything after paragraph (1) in section 10(j) and inserting the following new paragraphs in lieu thereof:

"(2) With respect to a project located in part or in whole within a reservation, other than an Indian reservation, and not located at a Government dam, a license issued under this part shall include conditions for the protection and utilization of such reservation. Subject to paragraph (3), such conditions shall be based on recommendations received from the Secretary under whose supervision such reservation falls.

"(3) Whenever the Commission believes that any recommendation referred to in paragraphs (1) or (2) may be inconsistent with the purposes and requirements of this part or other applicable law, the Commission and the relevant agencies or Secretaries referred to in paragraphs (1) and (2) shall attempt to resolve any such inconsistency, giving due weight to the recommendations, expertise and statutory responsibilities of such agencies or Secretaries. If, after such attempt, the Commission does not adopt in whole or in part a recommendation of any such agency or Secretary, the Commission shall publish each of the following findings (together with a statement of the basis for each of the findings):

"(A) A finding that adoption of such recommendation is inconsistent with the purposes and requirements of this part or with other applicable provisions of law.

"(B) A finding that the conditions selected by the Commission comply with the requirements of paragraph (1) or (2) as appropriate.";

(d) striking subsection (i) in section 10 and relettering the subsections accordingly;

(e) in section 4 inserting ", and for the purposes of subsections (h) and (i), the Commission shall" after "empowered" and inserting the following after subsection (g):

"(h) Establish procedures that, to the extent practicable, provide for the earliest identification and performance of all studies and analyses required to be performed in conjunction with an application for a license under this part.

"(i)(1) Coordinate a single, consolidated review, including review under the National Environmental Policy Act of 1969, of a project which is the subject of an application for a license under this part, by all Federal agencies, State agencies and affected Indian tribes interested in the project that is the subject of the application. The Commission shall give reasonable notice of the application and the consolidated review to all Federal agencies, State agencies and affected Indian tribes that may be interested in the project that is the subject of the application. The Commission shall be the lead agency for purposes of compliance with the National Environmental Policy Act of 1969. A review under the National Environmental Policy Act of 1969 completed by the Commission as part of this consolidated review shall be the only documentation needed by an agency to satisfy the requirements of the National Environmental Policy Act of 1969 for the project subject to the review. The Commission's decision concerning issuance of a license and the terms, conditions and prescriptions of the license shall take into account the results of the consolidated review. An agency's decision concerning its recommendations, terms, conditions and prescriptions for the license and any approvals within its authority related to the project shall take into account the results of the consolidated review. The Commission may establish reasonable time limits for submission of recommendations, terms, conditions, prescriptions and reports by a Federal agency, State agency or Indian tribe as part of the consolidated review. If an agency does not meet the Commission's time limitations, the Commission may continue to process and to take any appropriate action on the application.

"(2) Where environmental documents are prepared in connection with an application for a license under this part, the Commission shall permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant to prepare such environmental document. The contractor shall be chosen by the Commission in its sole discretion. The Commission shall establish procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.".

SEC. 5302. STATE LICENSING JURISDICTION OVER SMALL PROJECTS.—The Federal Power Act, as amended, (16 U.S.C. 791a et seq.) is further amended by adding the following at the end of section 23:

"(c) In the case of any project works: (1) that are not part of a project licensed under this Act prior to the date of enactment of this subsection; (2) for which a license application has not been accepted for filing by the Commission prior to the date of enactment of this subsection (unless such application is withdrawn at the election of the applicant); (3) having a power production capacity of 5000 kilowatts or less; (4) located entirely within the boundaries of a single State; and (5) not located in whole or in part on any Indian reservation, unit of the National Park System, component of the Wild and Scenic Rivers System or segment of a river designated for study for potential addition to such system, the State in which such project works are located shall have the exclusive authority to authorize such project works under State law, in lieu of licensing by the Commission under the otherwise applicable provisions of this Part, effective upon the date on which the Governor of the State notifies the Secretary of Energy that the State has assessed its river resources in a comprehensive way and has in place a process for regulating such projects which gives appropriate consideration to the improvement or development of the State's waterways for the use or benefit of intrastate, interstate, or foreign commerce, for the improvement and use of waterpower development, for the adequate protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds), and for other beneficial public uses, including irrigation, flood control, water supply, recreational and other purposes, and Indian rights, if applicable.

"(d) In the case of a project that would be subject to authorization by a State under subsection (c) but for the fact that the project has been licensed by the Commission prior to the enactment of subsection (c), the licensee of such project may in its discretion elect to make the project subject to the authorizing authority of the State.

"(e) With respect to projects located in whole or in part on Federal lands, State authorizations for project works pursuant to subsection (c) of this section shall be subject to the approval of the Secretary having jurisdiction with respect to such lands and subject to such terms and conditions as the Secretary may prescribe.

"(f) Nothing in subsection (c) shall preempt the application of Federal environmental, natural, or cultural resources protection laws according to their terms.".

SEC. 5303. IMPROVEMENT AT EXISTING FEDERAL FACILITIES.—(a) STUDIES OF OPPORTUNITIES FOR INCREASED HYDROELECTRIC GENERATION.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform studies of cost effective opportunities to increase hydropower production at existing Federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within two years after the date of enactment of this Act and transmitted to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural, or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs of such measures.

(b) EXCEPTION FOR PREVIOUS STUDIES.—In those cases where studies of the type required by this section have been prepared by any agency of the United States and published within the ten years prior to the date of enactment of this Act, the Secretary may choose not to perform new studies but incorporate the information developed by such studies into the study reports required by this section.

(c) AUTHORIZATION.—There is authorized to be appropriated in each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 5304. WATER CONSERVATION AND ENERGY PRODUCTION.—(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

(1) an analysis of the technical, environmental, and economic feasibility of reducing the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

(c) CONSTRUCTION.—Upon a finding of feasibility by the Secretary of the Interior, and agreement with the affected Power Marketing Administrator, and the expiration of 90 days during which the feasibility investigation related thereto has lain before the Congress, the Secretary of the Interior, acting pursuant to the Federal reclamation laws, is authorized to construct, operate and maintain the water conservation features described by and justified in the feasibility investigations prepared pursuant to subsection (a) of this section.

(d) FINANCING.—Revenues received by the respective Federal Power Marketing Administrators from the marketing of hydroelectric energy made available as a result of the water conservation activities undertaken pursuant to this section shall be disposed of by the respective Federal Power Marketing Administrators pursuant to applicable Federal power marketing law.

(e) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

SEC. 5305. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.—(a) GENERAL LICENSING AUTHORITY.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii), or upon".

(b) MANDATORY LICENSING AUTHORITY.—Section 23(b) of the Federal Power Act (16 U.S.C. 817(b)) is amended by striking "United States, or upon" and inserting "United States (except fresh waters in the State of Hawaii), or upon".

SEC. 5306. CERTAIN PROJECTS IN THE STATE OF ALASKA.—The following projects located entirely within the State of Alaska are removed from jurisdiction of the Federal Energy Regulatory Commission and all applicable laws and regulations relating to such jurisdiction:

(1) a project located at Sitka, Alaska, with application number UL89-08-000; and

(2) a project located at Juneau, Alaska, with preliminary permit number 10681-000.

SEC. 5307. EXTENSION OF TIME LIMITATIONS FOR CERTAIN PROJECTS IN ARKANSAS.—(a) AUTHORIZATION OF EXTENSIONS. Notwithstanding the time limitations of section 13 of the Federal Power Act, (16 U.S.C. 806) the Federal Energy Regulatory Commission upon the request of the licensee for FERC Projects Nos. 3033 and 3034 (and after reasonable notice) is authorized in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend—

(1) until August 10, 1994 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999 the time required for completion of construction of such project; and

(2) until August 10, 1996 the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001 the time required for completion of construction of such project.

(b) TERMINATION OF AUTHORIZATION FOR EXTENSIONS.—The authorization for issuing extensions shall terminate three years after the date of enactment of this Act. The Commission to facilitate requests under this section may consolidate such requests.

TITLE VI—ENERGY EFFICIENCY

Subtitle A.—Industrial, Commercial and Residential

SEC. 6101. BUILDING ENERGY EFFICIENCY CODES.—(a) ESTABLISHMENT OF CODES.—Title III of the Energy Conservation and Production Act (Pub. L. No. 94-385), as amended, is amended by—

(1) amending section 303 by—

(A) striking paragraph (9),

(B) renumbering the subsequent paragraphs, and

(C) adding at the end the following new paragraphs—

"(13) the term "Federal building energy code" means an energy consumption goal to be met without specification of the methods, materials, or equipment to be employed in achieving that goal, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term "industry voluntary building energy code" means a building energy code developed and updated through an industry process, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; or other appropriate organizations."; and

(2) striking sections 304, 306, 308, 309, 310, and 311 and their captions and inserting the following in lieu thereof—

"FEDERAL BUILDING ENERGY CODE

"SEC. 304. (a) Within two years of enactment of the National Energy Security Act of 1991, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Association of Home Builders; the Illuminating Engineering Society; the American Institute of Architects; and the National Conference of States on Building Codes and Standards, shall issue by rule a Federal building energy code that assures the inclusion in Federal buildings of all energy efficiency measures that are technologically feasible and economically justified. This code shall become effective no earlier than six months and no later than two years after issued.

"(b) The Federal building energy code shall—

"(1) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of the industry voluntary building energy code, and

"(2) include a method of compliance that uses the same format as that used by the industry voluntary building energy code.

"(c) The Secretary shall identify and describe the basis for any substantive difference between the Federal building energy code and the industry voluntary building energy code.

"(d) Interim energy performance standards for new Federal residential and commercial buildings issued by the Secretary under this title as it existed before enactment of the National Energy Security Act of 1991 shall remain in effect until the head of a Federal agency required to adopt procedures under section 305(a) adopts those procedures.

"FEDERAL COMPLIANCE

"SEC. 305. (a) The head of each Federal agency shall adopt procedures necessary to assure that new Federal residential or commercial buildings meet or exceed the Federal building energy code.

"(b) The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the Federal building energy code.

"(c) The head of each Federal agency that guarantees a mortgage for constructing a new building shall adopt the procedures necessary to assure that the building meets or exceeds the Federal building energy code.

"SUPPORT FOR INDUSTRY VOLUNTARY BUILDING ENERGY CODE

"SEC. 306. (a) Within one year of the enactment of the National Energy Security Act of 1991, the Secretary, after consulting with appropriate Federal agencies; the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-conditioning Engineers; the National Conference of States on Building Codes and Standards; and any other appropriate building codes and standards organization, shall support the upgrading of an industry voluntary building energy code for new residential and commercial buildings. The support shall include—

"(1) a compilation of data and other information regarding building energy efficiency codes in the possession of the Federal government, State and local governments, and industry organizations;

"(2) assistance in improving the technical basis for the energy code;

"(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in the code; and

"(4) development of interim energy performance standards for new non-Federal residential buildings.

"(b) The Secretary, in consultation with the appropriate Federal agencies, shall periodically review the technical and economic basis of the industry voluntary building energy code. Based upon ongoing research activities and a review of appropriate industry energy standards, the Secretary shall—

"(1) recommend amendments to the industry voluntary building energy code,

"(2) seek adoption of all technically feasible and economically justified energy efficiency measures, and

"(3) participate otherwise in any industry process for review and modification of the industry voluntary building energy code.

"ADOPTION INCENTIVES

"SEC. 307. (a) STATE REPORT.—Within two years of the enactment of the National Energy Security Act of 1991, each State shall submit a report to the Secretary on the type and status of, and compliance and enforcement procedures for building energy codes used within the State, including a list of the units of general purpose local government within the State that identifies which, if any, have adopted building energy codes.

"(b) AVAILABILITY OF INCENTIVE FUNDING.—If the Secretary certifies that a state or any units of general purpose local government which have jurisdiction regarding energy building codes, has adopted building energy codes at least as stringent as those of the industry voluntary energy building codes, then the Secretary shall provide incentive funding to that State or such units of general purpose local government to fund activities to further promote the adoption and implementation of the industry voluntary energy building codes. Such incentive funds shall be allocated from funds made available under subsection (c), on the basis of the average number of residential housing starts within such State or unit of general purpose local government during the previous three years. The Secretary may use up to five percent of the funds made available under subsection (c) for administration of activities conducted pursuant to this section.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to provide incentive funding to the States pursuant to this section.

"TECHNICAL ASSISTANCE

"SEC. 308. The Secretary may provide technical assistance to States, units of general purpose local government, and other appropriate organizations to promote the adoption and implementation of the voluntary energy building codes or to otherwise promote the design and construction of energy efficient buildings.

"REPORTS

"SEC. 309. The Secretary, in consultation with the appropriate Federal agencies, shall report annually to Congress on activities conducted pursuant to this title including:

"(1) the recommendations made regarding the prevailing industry voluntary building energy code under section 304(c);

"(2) a State-by-State summary of progress made in the adoption and implementation of the voluntary energy building codes or more stringent codes; and

"(3) recommendations to Congress on opportunities to further promote energy efficiency and other purposes of this part.

"(b) CONFORMING AMENDMENT.—The Table of Contents of the Energy Conservation and Production Act (Pub. L. No. 94-385) is amended by striking the items relating to sections 304, 306, 308, and 309, and inserting in lieu thereof the following—

"Sec. 304. Federal building energy code.
"Sec. 305. Federal compliance.
"Sec. 306. Support for industry voluntary building energy code.
"Sec. 307. Adoption incentives.
"Sec. 308. Technical Assistance.
"Sec. 309. Reports.".

SEC. 6102. RESIDENTIAL ENERGY EFFICIENCY RATINGS AND MORTGAGES.—

(a) RATINGS.—Title II of the National Energy Conservation Policy Act (NECPA)(Pub. L. No. 96-619) is amended by adding a new Part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) Within 18 months of the date of enactment of the National Energy Security Act of 1991, the Secretary, in consultation with the Secretary of Housing and Urban Development and other appropriate institutions, shall, by rule, promulgate voluntary guidelines that may be used by State and local governments, utilities, builders and others, that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The voluntary guidelines under subsection (a) shall:

"(1) provide for a uniform rating scale of the efficiency with which any residential building uses energy on an annual basis;

"(2) provide that such rating shall take into account local climate conditions and construction practices, and does not discriminate among fuel types, except that solar energy collected on-site shall be credited toward the energy efficiency rating of such building;

"(3) provide that all residential buildings can receive a rating at the time of sale;

"(4) provide that the rating is prominently communicated to potential buyers and renters; and

"(5) provide that the rating system is consistent with, and supportive of, the uniform plan for energy efficient mortgages developed pursuant to Section 946 of the Cranston-Gonzales National Affordable Housing Act (Pub. L. No. 101-625).

"SEC. 272. TECHNICAL ASSISTANCE.

"Within 18 months after the date of the enactment of the National Energy Security Act of 1991, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of residential energy efficiency rating systems based on the voluntary guidelines promulgated under this part.

"SEC. 273. AUTHORIZATION.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.".

(b) CONFORMING AMENDMENT.—The National Energy Conservation Policy Act (Pub. L. No. 95-619) is further amended by adding in the Table of Contents at the end of title II, the following items:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Rating guidelines.
"Sec. 272. Technical assistance.
"Sec. 273. Authorization.".

(c) ENERGY EFFICIENCY MORTGAGES.—The Cranston-Gonzalez National Affordable Housing Act (Pub. L. No. 101-625) is amended as follows:

(1) At the end of section 104 add the following new definition:

"(24) The term "energy efficient mortgage" means a mortgage which provides financial incentives for the purchase of energy efficient homes, or which provides financial incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage."

(2) In section 946 make the following amendments:

(A) In subsection (a) strike the words "mortgage financing incentives for energy efficiency" and insert in lieu thereof "energy efficient mortgages";

(B) at the end of subsection (a) add the following new sentence:

"The plan shall be consistent with and mutually supportive of the Federal building energy code and the residential energy efficiency rating voluntary guidelines to be developed by the Secretary of Energy pursuant to the National Energy Security Act of 1991.".

(C) in subsection (b) after the word "include" add the words "but not be limited to";

(D) at the end of subsection (b) add the following new sentence:

"The Task Force shall determine whether a notification of the availability of energy efficient mortgages to potential home purchasers would promote energy efficiency in residential buildings, and if so, then the Task Force shall recommend appropriate notification guidelines, and member agencies are authorized to implement such guidelines.".

Sec. 6103. Manufactured Housing Energy Efficiency.—(a) AMENDMENTS TO CRANSTON-GONZALEZ.—Section 943 of the Cranston-Gonzalez National Affordable Housing Act, (Pub. L. No. 101-625), is amended by—

(1) striking the phrase "thermal insulation, energy efficiency" in subparagraph (d)(1)(D); and

(2) inserting a new subparagraph (E) as follows, and relettering the existing subparagraphs accordingly:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy efficiency applicable to manufactured housing;".

(b) DUTIES OF THE SECRETARY.—The Secretary shall assess the energy performance of manufactured housing and make recommendations to the Commission established under section 943 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. No. 101-625) regarding thermal insulation and energy efficiency improvements applicable to manufactured housing which are technically feasible and economically justified. The Secretary shall also test the performance and determine the cost-effectiveness of manufactured housing constructed to the standards established under such section.

SEC. 6104. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.—(a) SECRETARIAL ACTION.—The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Pub. L. No. 93-577) and other applicable laws, shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

(c) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, to carry out the purposes of this section.

SEC. 6105. REPORT.—The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of enactment of this Act, and every three years thereafter through the year 2004, a report setting forth energy efficiency policy options that would both decrease domestic oil consumption and overall domestic energy consumption by one, two, three, and four percent, per-year per-unit of GNP, through the year 2005, below the projected consumption for 2005. The Secretary shall evaluate, describe and rank these policy options according to their cost-effectiveness and their feasibility of implementation.

SEC. 6106. VOLUNTARY GUIDELINES FOR INDUSTRIAL PLANTS—(a) VOLUNTARY GUIDELINES FOR ENERGY EFFICIENCY AUDITING AND INSULATING.—Within one year after the date of enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATION AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) ANNUAL REPORT.—The Secretary shall report annually to Congress on activities conducted pursuant to this section, including an evaluation of the effectiveness of these guidelines, and the responsiveness of the industrial sector to these guidelines.

(d) AUTHORIZATION.—There is authorized to be appropriated $750,000 annually to carry out the purposes of this section.

SEC. 6107. Energy Efficiency Labeling for Windows and Window Systems.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, the Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a voluntary national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of the enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (hereinafter in this title referred to as EPCA) (Pub. L. No. 94-163).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules under section 324 of EPCA for the rating program established pursuant to either subsection (a) or (b) of this section, unless the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of EPCA, windows and window systems shall be considered covered products under section 322 of such Act unless excluded by the Commission pursuant to subsection (c) of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6108. ENERGY EFFICIENCY INFORMATION.—(a) DATA ON ENERGY EFFICIENCY.—Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (Pub. L. No. 93-275), and after consulting with State and Federal energy officials, representatives of energy-using classes and sectors, and representatives of energy policy public-interest or research organizations, the Administrator of the Energy Information Administration shall expand the scope and frequency of the data it collects and reports on energy use in the United States with the objective of significantly improving the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs. The Administrator shall take into account reporting burdens and the protection of proprietary information as required by law. In expanding the collection of such data to meet this objective, the Administrator shall consider—

(1) expanding data collection to include energy intensive sectors not presently covered in Energy Information Administration surveys;

(2) increasing the frequency with which the Energy Information Administration conducts end-use energy surveys among households, commercial buildings, and manufacturing;

(3) expanding the survey instruments to include questions regarding participation in government and utility conservation programs, the energy efficiency of existing stocks of equipment and structures, and recent changes in the technical efficiency and operating practices that affect energy use;

(4) expanding the time period for which fuel-use data is collected from individual survey respondents;

(5) expanding the sample sizes for fuel-use surveys in order to improve the accuracy of subgroups of energy users;

(6) expanding the scope and frequency of data collection on the energy efficiency and load-management programs operated by electric and gas utilities; and

(7) establishment of reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries.

(b) ANNUAL REPORT.—The Administrator shall report annually to Congress on the energy efficiency in classes and sectors of the economy and on any data resulting from this section.

(c) REPORT ON INDUSTRIAL REPORTING AND VOLUNTARY TARGETS.—Not later than one year after the date of enactment of this Act the Administrator shall report to Congress on the conclusions of the Administrator's consideration of establishing reporting requirements and voluntary energy efficiency improvement targets pursuant to paragraph (a)(7) of this section, including an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and including recommendations by the Administrator on proposals or activities to improve energy efficiency in energy intensive industries.

SEC. 6109. ENERGY EFFICIENCY LABELING FOR LAMPS AND LUMINAIRES.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, and in consultation with the National Electric Manufacturers Association, industry representatives, and other appropriate organizations, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program for lamps and luminaires. Such program shall set forth information and specifications that will enable purchasers of lamps and luminaires to make informed decisions among the energy efficiency and cost of alternative lamps and luminaires.

(b) SECRETARIAL ACTION.—If a national energy efficiency rating and labeling program consistent with the objectives of subsection (a) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program for lamps and luminaires under section 323 of EPCA (Pub. L. No. 94-163).

(c) Federal Trade Commission Rules.—The Federal Trade Commission shall prescribe labeling rules under section 324 of EPCA for lamps and luminaires, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of lamp or luminaire (or class thereof).

(d) Covered Products.—For purposes of sections 323 and 324 of EPCA, lamps and luminaires shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c) of this section.

(e) Authorization.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Sec. 6110.—Commercial and Industrial Equipment Standards.—Title III, Part C, of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended by adding the following new section 344A:

"Sec. 344a—(a) Definitions.—For the purposes of this section:

"(1) the term 'lamp' means incandescent, fluorescent and high intensity discharge lamps;

"(2) the term 'small commercial package air conditioning and heating equipment' means air-cooled, and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity); and

"(3) the term 'large commercial package air conditioning and heating equipment' means air-cooled, and electrically operated unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity)."

"(4) the term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.

"(b) Initial Determinations.—The Secretary shall, within 12 months after the date of enactment of the National Energy Security Act of 1991, determine, with respect to: lamps, small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment; and utility distribution transformers; whether—

"(1) it is practicable to classify such products into types and to prescribe test procedures to measure energy use, energy efficiency, or estimated annual operating cost during a representative average use cycle or period of use which are not unduly burdensome to conduct; and

"(2) it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance, for those products which the Secretary has determined under paragraph (1) that it is practicable to classify and prescribe test procedures.

"(c) Test Procedures.—The Secretary shall, within 18 months after the date of enactment of the National Energy Security Act of 1991, prescribe test procedures for those lamps, small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and utility distribution transformers for which he has determined under subsection (b) that classification into types and testing procedures are practicable and that it is likely that energy efficiency standards would result in significant energy savings, without a reduction in performance. In establishing these test procedures, the Secretary shall use existing and generally accepted industry testing procedures when practicable and consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. For small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment for which the Secretary establishes test procedures pursuant to this section, such test procedures shall be consistent with those generally accepted industry testing procedures or rating procedures, if any, developed by the Air Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers as in effect on the date of the enactment of the National Energy Security Act of 1991. If such an industry test procedure or rating procedure for such small commercial package air conditioning and heating equipment or large commercial package air conditioning and heating equipment is subsequently amended the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that to do so would not meet the purposes and criteria of this section with respect to the product. If the Secretary issues a rule containing such a determination the rule may establish an amended test procedure for such product that meets the purposes and criteria of this section with respect to that product.

"(d) Classification and Standards.—(1) The Secretary, for those products for which test procedures have been prescribed under subsection (c), shall, within 18 months thereafter:

"(A) determine types (or classes) for lamps, small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and utility distribution transformers; and

"(B) develop energy conservation standards for each type (or class) of lamps, small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and utility distribution transformers for which such standards would be technologically feasible and economically justified. Except as provided in subsections (d)(3)(B) and (d)(3)(C) of this section, such standards shall become effective no less than 18 months and no more than 3 years after development of such standards.

"(2) In establishing these standards, the Secretary shall take into consideration the criteria contained in sections 325(1) and (m) of this Act.

"(3)(A) In establishing these standards, the Secretary shall first review existing and generally accepted industry voluntary energy efficiency standards for these products, if any, to determine whether the adoption of industry standards would be consistent with the objective of increasing energy efficiency to the extent technically feasible and economically justified. In which case, the Secretary shall adopt such industry standards.

"(B) For small package air conditioning and heating equipment for which the Secretary establishes standards pursuant to this section, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1994. Such standards levels shall be as follows:

"(i) The minimum seasonal energy efficiency ratio of three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0 for products manufactured on or after January 1, 1994.

"(ii) The minimum seasonal energy efficiency ratio of three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7 for products manufactured on or after January 1, 1994.

"(iii) The minimum energy efficiency ratio of central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees Fahrenheit, dry bulb (F db)) for products manufactured on or after January 1, 1994.

"(iv) The minimum heating seasonal performance factor of three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8 for products manufactured on or after January 1, 1994.

"(v) The minimum heating seasonal performance factor of three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6 for products manufactured on or after January 1, 1994.

"(vi) The minimum coefficient of performance in the heating mode of central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db) for products manufactured on or after January 1, 1994.

"(C) For large package air conditioning and heating equipment for which the Secretary establishes standards pursuant to this section, the Secretary shall establish such standards at the standard levels set forth for such products in ASHRAE/IES Standard 90.1 as in effect on the date of enactment of this Act. Such standards shall become effective for such products manufactured on or after January 1, 1995. Such standard levels shall be as follows:

"(i) The minimum energy efficiency ratio of central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db) for products manufactured on or after January 1, 1995.

"(ii) The minimum coefficient of performance in the heating mode of central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9 for products manufactured on or after January 1, 1995.

"(D) If ASHRAE/IES Standard 90.1 as in effect on the date of enactment of the National Energy Security Act of 1991 is subsequently amended with respect to any small commercial package air conditioning and heating equipment or large commercial package air conditioning and heating equipment for which the Secretary establishes standards pursuant to this section, then the Secretary shall amend the standard for that product to the level in the amended ASHRAE/IES Standard 90.1 unless he determines by rule published in the Federal Register, supported by clear and convincing evidence, that adoption of the level in the amended ASHRAE/IES Standard 90.1 would not meet the purposes and criteria of this section with respect to such product. If the Secretary issues a rule containing such a determination, the rule may establish an amended standard for such product that meets the purposes and criteria of this section with respect to that product. A standard as amended by the Secretary under this subsection shall become effective for products manufactured on or after a date which is four years after the effective date of the relevant standard in amended ASHRAE/IES Standard 90.1, except that an amended standard issued by the Secretary pursuant to a rule under this subparagraph (d)(3)(C) shall become effective for products manufactured on or after a date which is four years after the date the rule is published in the Federal Register.

"(4) These standards shall, upon their effective date, preempt any state or local regulation concerning the energy efficiency or energy use of such products.

"(5) Except as provided in subparagraphs (d)(3)(B) through (D), the Secretary shall periodically, but at least every five years, review and update any standards established pursuant to this section, and shall reevaluate whether standards are justified for those products for which standards were not adopted.

"(e) Labeling.—(1) The Federal Trade Commission shall, within twelve months after the date on which a test procedure is prescribed by the Secretary for a product (or class thereof) under subsection (c), prescribe a labeling rule for the product (or class thereof), except to the extent that, with respect to a product (or class thereof) the Commission determines that a labeling rule is not economically or technically feasible, would not result in significant energy savings and is not necessary for informational purposes.

"(2) If the Commission determines that labeling is not necessary under paragraph (1) and the Secretary prescribes standards under subsection (d), then the Commission, within twelve months after the date on which a standard is prescribed by the Secretary, shall prescribe a labeling rule designed solely to facilitate enforcement of the requirements of this section and other applicable provisions of law. A labeling rule for small commercial package air conditioning and heating equipment and large commercial package air conditioning and heating equipment shall be designed solely to facilitate enforcement of the regulations of this section and other applicable provisions of law.

"(f) Requirement of Manufacturers.—For the purpose of requirements of this Act, manufacturers and private labelers are subject to the requirements of section 326 of this Act.

"(g) Enforcement.—After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(1) each product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of this Act a new covered product to which a rule under section 324 of this Act applies; and

"(2) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product manufactured after this date which is not in conformity with the applicable energy conservation standard prescribed for the product (or class thereof) under subsection (d). For purposes of section 333 of this Act, this paragraph shall be considered to be a part of section 332 of this Act.

"(h) Energy Efficiency Labeling for Commercial Office Equipment.—(1) Development of Program.—Not later than one year after the date of enactment of the National Energy Security Act of 1991, and after consulting with appropriate industry representatives, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy efficiency rating and labeling program including any necessary test procedures for commercial office equipment that is widely used and for which there is a potential for significant energy savings. The program shall set forth information and specifications that will enable purchasers of office equipment to make informed decisions about the energy efficiency and costs of alternative commercial office equipment.

"(2) Secretarial Action.—If a national energy efficiency rating and labeling program consistent with the objectives of paragraph (1) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, after consulting with the National Institute of Standards and Technology, prescribe, within one year, test procedures for such commercial office equipment under section 323 of this Act.

"(3) Federal Trade Commission Rules.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules under section 324 of this Act for commercial office equipment, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to commercial office equipment (or class thereof).

"(4) Covered Products.—For purposes of sections 323 and 324 of this Act, commercial office equipment shall be considered covered products under section 322 of this Act unless excluded by the Commission pursuant to subsection (c).

"(5) Authorization.—There is authorized to be appropriated to the Secretary such sums as are necessary to carry out the purposes of this section.

"(i) Study of Utility Distribution Transformers.—

"(1) Not later than 18 months after the date of the enactment of the National Energy Security Act of 1991, the Secretary shall evaluate the practicability and cost-effectiveness and potential energy savings of replacing or upgrading existing utility distribution transformers during routine maintenance.

"(2) The Secretary shall report the findings of his evaluation to Congress with recommendations on how such energy savings, if any, could be achieved.".

Sec. 6111. Energy Efficiency of Showerheads.—(a) Statement of Purpose.—Section 2 of EPCA (Pub. L. No. 94-163) is amended by—

(1) striking "and" at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting "; and"; and

(3) adding at the end thereof the following new paragraph:

"(8) to conserve energy and water by improving the water efficiency of showerheads.".

(b) Definitions.—Section 321(a) of EPCA (Pub. L. No. 94-163), is amended by adding at the end thereof the following new paragraph:

"(30) the term 'total water use' means the quantity of water directly used by a showerhead, determined in accordance with test procedures under section 323.".

(c) Coverage.—Section 322(a) of EPCA (Pub. L. No. 94-163), is amended by—

(1) redesignating paragraph (14) as paragraph (15); and

(2) inserting after paragraph (13) the following new paragraph:

"(14) Showerheads, except safety shower showerheads.".

(d) Test Procedures.—Section 323(b)(3) of EPCA is amended by striking "or estimated annual operating cost" and inserting "estimated annual operating cost, or, in the case of showerheads, total water use, in accordance with applicable American National Standards Institute (ANSI) flow rate standards.".

(e) Labeling.—Section 324 of EPCA (Pub. L. No. 94-163), is amended—

(1) in subsection (a)(2) by adding at the end thereof the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (14) of section 322(a), requiring that a label state whether the product meets the standards under section 325(i), in accordance with American National Standards Institute (ANSI) marking and labeling requirements.";

(2) in subsection (a)(3) by striking "paragraph (14)" and inserting "paragraph (15)";

(3) in subsection (b)(1)(B) by striking "paragraph (14)" and inserting "paragraph (15)";

(4) in subsection (b)(3) by striking "paragraph (14)" and inserting "paragraph (15)"; and

(5) in subsection (b)(5) by striking "paragraph (14)" and inserting "paragraph (15)".

(f) Standards.—Section 325 of EPCA (Pub. L. No. 94-163), is amended—

(1) by redesignating subsections (i), (j), (k), (l), (m), (n), (o), (p), and (q) as subsections (j), (k), (l), (m), (n), (o), (p), (q), and (r), respectively; and

(2) by inserting after subsection (h) the following new subsection:

"(i) Standards for Showerheads.—(1) For a showerhead manufactured on or after July 1, 1992, the standard shall be one that ensures the maintenance of public health and safety, allowing a maximum rate of water use of—

"(A) 2.5 gallons per minute, when measured at a flowing water pressure of 80 pounds per square inch; or

"(B) if before March 1, 1992, the American National Standards Institute (ANSI) publishes an amended standard for showerheads prescribing a maximum rate of water use that is less than the rate prescribed by the ANSI standard in effect on the date of enactment of the National Energy Security Act of 1991, the rate prescribed in the amended standard becomes effective.

"(2)(A) If, after July 1, 1992, ANSI publishes an amended standard different from that in effect pursuant to paragraph (1), the Secretary, not later than 180 days after publication of the amended standard, shall publish a notice of the amended standard, and, subject to subparagraph (B), the amended standard shall be in effect for showerheads manufactured on or after the date that is 90 days after the date of the notice.

"(B) The Secretary may not prescribe an amended standard that increases the maximum rate of water use of showerheads over the rate allowed by the standard established under paragraph (1), unless the Secretary determines that it is in the interest of public health and safety.

(g) EFFECT ON OTHER LAW.—Section 327 of EPCA (Pub. L. No. 94-163), is amended—

(1) in subsection (c)—

(A) by striking "or energy use of such covered product" and inserting "energy use or total water use of the covered product";

(B) by striking "or" at the end of paragraph (2);

(C) by striking the period at the end of paragraph (3) and inserting "; or"; and

(D) by adding at the end thereof the following new paragraph:

"(4) is a State, regional, or local regulation that establishes flow rate requirements for showerheads that was prescribed or enacted before June 15, 1991."; and

(2) by adding at the end thereof the following new subsection:

"(h) LABELING OF SHOWERHEADS.—No State, regional, or local regulation concerning the labeling of showerheads shall be effective on or after the date that the Commission prescribes a label for showerheads pursuant to section 324(a)(2)(C).".

Subtitle B.—Federal Energy Management.

SEC. 6201. FEDERAL ENERGY MANAGEMENT AMENDMENTS.—Part 3 of Title V of the National Energy Conservation Policy Act (NECPA) (Pub. L. No. 95-619), as amended, is further amended as follows:

(a) In section 543—(1) Strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. Within two years after the date of enactment of the National Energy Security Act of 1991, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, or the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following:

"The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Security Act of 1991, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VIII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)":

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in Section 544, and".

(b) In section 544—

(1) strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof:

"agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government leased space constructed after January 1, 1994, shall meet model Federal energy conservation performance standards for new commercial buildings promulgated pursuant to Section 304 of the Energy Conservation and Production Act (Pub. L. No. 94-385).".

(c) In section 545.—add after the word "measures" the following: "as needed to meet the requirements of section 543.".

(d) In section 546—strike subsection (b) and insert in lieu thereof the following:

"(b) IMPLEMENTATION.—To facilitate the financing of energy conservation measures, each Federal agency shall promote the use of contracts authorized by title VIII of this Act (42 U.S.C. 8287 et seq.). The Secretary, in consultation with the Secretary of Defense and the Administrator of the General Services Administration, within six months after the date of the enactment of the National Energy Security Act of 1991, shall develop appropriate procedures and methods for use by Federal agencies to select energy service contractors that will achieve the intent of this section in a cost-effective manner. Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection of energy service contractors by each Federal agency.".

(e) In section 548—

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following:

"In addition to the plan required to be submitted to the Secretary pursuant to section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

(f) At the end of Part 3—add the following new sections:

"SEC. 552. UTILITY INCENTIVE PROGRAMS.—Federal agencies are permitted and encouraged to participate in programs conducted by any gas or electric utility for the management of energy demand or for energy conservation in Federally owned or leased facilities. Federal agencies may accept incentives designed to encourage energy demand management or energy conservation, generally available from any such utility to its customers, to adopt technologies and practices that are determined to be cost-effective.

"SEC. 553. SHARED ENERGY SAVINGS.—(a) The Secretary shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts and will reduce the administrative effort and cost on the part of the government as well as the private customers.

"(b)(1) In carrying out subsection (a), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing shared energy savings contracting;

"(B) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

"(C) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

"(D) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the project.

"(2) In carrying out subsection (a), the Secretary may also provide for the direct negotiation by departments, agencies, and instrumentalities, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

"SEC. 554. FEDERAL PRODUCT SCHEDULE.—Not later than two years after the date of enactment of the National Energy Security Act of 1991, the Administrator of the General Services Administration, in consultation with the Secretary, shall conduct an analysis of significant energy consuming products in the Federal product schedule and develop and implement a method to identify those products which offer cost-effective opportunities to reduce energy consumption and costs. The Administrator shall also issue guidelines for users of the Federal Product Schedule to encourage the purchase of identified energy efficient models.

"SEC. 555. PURCHASE OF FEDERAL VEHICLES.—The Administrator of the General Services Administration, through the Automotive Commodity Center, in evaluating and accepting bids for the purchase of passenger vehicles and light trucks to meet specified requirements, shall consider the fuel efficiency of the passenger vehicles and light trucks offered in the bid, and the probable fuel and cost savings to the Federal Government over the expected term of Federal use of such passenger vehicles and light trucks.

"SEC. 556. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.—(a) IN GENERAL.—Not later than one year after the date of enactment of the National Energy Security Act of 1991, the Secretary shall establish guidelines for the transfer of up to $1 million per project to encourage any Federal agency to undertake energy efficiency projects in Federally owned facilities.

"(b) PROJECT SELECTION.—The Secretary shall establish procedures for the receipt of proposals under this section. The Secretary shall consider the following factors in determining whether to provide funding under subsection (a):

"(1) the cost-effectiveness of the project;

"(2) the proportion of energy and cost savings anticipated to the Federal Government;

"(3) the amount of funding committed to the project by the agency requesting financial assistance;

"(4) the extent that a proposal leverages financing from other non-Federal sources; and

"(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(c) REPORTS.—The Secretary shall report annually to Congress, in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include the projects funded and the projected energy and cost savings from installed measures.

"(d) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated, and to remain available until expended, not more than $50 million.

"SEC. 557. FINANCIAL INCENTIVE PROGRAM FOR FACILITY ENERGY MANAGERS.—(1) The Secretary shall establish a financial bonus program, not to exceed $5,000 per award, to reward facility energy managers for outstanding energy savings in Federal agencies.

"(2) Not later than June 1, 1992, the Secretary shall issue procedures for the establishment of a bonus program, including the criteria to be used in selecting outstanding facility energy managers. Such criteria shall include, but not be limited to, evident success in generating utility incentives and shared energy saving contracts and, the amount of energy saved by conservation and energy efficiency projects.

"(3) Each year the Secretary shall publish and disseminate to Federal agencies a report highlighting the achievements of bonus award winners.

"(4) There is authorized to be appropriated to carry out this subsection not more than $250,000 for each of the fiscal years 1992, 1993, and 1994.".

(g) CONFORMING AMENDMENT.—The National Energy Conservation Policy Act (Pub. L. No. 95-619) is further amended by adding in the Table of Contents at the end of title V, part 3, the following items:

"Sec. 552. Utility incentive programs.
"Sec. 553. Shared energy savings.
"Sec. 554. Federal product schedule.
"Sec. 555. Purchase of Federal vehicles.
"Sec. 556. Federal energy efficiency projects funding.
"Sec. 557. Financial incentive program for facility energy managers.".

SEC. 6202. PLAN REGARDING DEMONSTRATION OF NEW TECHNOLOGY.—(a) PLAN.—Within one year after the date of the enactment of this Act, the Secretary shall submit a plan to Congress for the demonstration in Federally owned facilities of energy efficiency and renewable energy technologies. The technologies shall be those technologies, as determined by the Secretary, that are ready for commercial demonstration. The plan shall include:

(1) a listing of those technologies with specific candidate sites for the demonstration;

(2) the energy, environmental, cost savings or other expected benefits;

(3) a timetable for implementation; and

(4) a process for evaluation of the performance of the technologies.

(b) UPDATE.—The plan shall be updated every two years.

SEC. 6203. STUDY OF FEDERAL PURCHASING POWER.—(a) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency.

(b) REPORT.—The Secretary shall report to Congress on the results of the study within two years of the date of the enactment of this Act.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SUBTITLE C—UTILITIES

SEC. 6301. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES AND STUDY OF CERTAIN STATE RATEMAKING POLICIES.—(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (Pub. L. No. 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(7) ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES.—

"(A) The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources and other demand side management measures are at least as profitable, taking into account income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generating equipment.

"(B)(i) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility is encouraged to make investments and expenditures for all cost-effective improvements in the energy efficiency of power generation, transmission and distribution.

"(ii) For purposes of meeting the standard provided in clause (i) of this subparagraph, each State regulatory authority shall consider the disincentives caused by existing ratemaking policies, as well as incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution technologies.

"(C)(i) Each State regulatory authority shall require each electric utility for which it has ratemaking authority to employ a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(ii) All plans or filings before a State regulatory authority to meet the requirements of clause (i) of this subparagraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

"(iii) For purposes of clause (i) of this subparagraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

"(D) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1991.".

(b) REPORT.—Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities require or permit rates charged by an electric utility to reflect least-cost planning;

(2) an evaluation by the Secretary of whether, and to what extent, least-cost planning is likely to result in:

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) an evaluation by the Secretary of whether, and to what extent, ratemaking methodologies implementing least-cost planning adequately take into account the impact of such measures on electric utilities' costs, operations, and rate of return on investment.

(c) DEFINITION.—For purposes of subsection (b), the term "least-cost planning" means any standard, regulation, practice, or policy by which a State regulatory authority considers, or requires a State regulated electric utility to consider or implement, a plan for action (including, but not limited to, the construction of or purchase of electric energy from new generation facilities and investment in or expenditures for conservation, energy efficiency resources, or other demand-side management measures) to be taken by a State regulated electric utility for purposes of providing adequate and reliable service to its electric customers with the incurrence of lowest costs by such utility and its customers.

SEC. 6302. CONSERVATION GRANTS TO STATE REGULATORY AUTHORITIES.—(a) CONSERVATION GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $500,000 per authority, for purposes of encouraging the consideration of conservation, energy efficiency resources and other demand side management measures as a mechanism for modifying future electricity demand.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c) SECRETARIAL ACTION.—In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority:

(1) to consider implementation of the ratemaking standard established in section 111(d)(7) of the Public Utility Regulatory Policies Act of 1978; and

(2) to achieve the purposes of this section.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) RULES.—The Secretary may prescribe such rules as may be necessary or appropriate for carrying out the provisions of this section.

(f) DEFINITIONS.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as defined in section 3 of the Public Utility Regulatory Policies Act of 1978.

(g) AUTHORIZATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 6303. INTEGRATED RESOURCE PLANNING BY CUSTOMERS OF POWER MARKETING ADMINISTRATIONS.—(a) IN GENERAL.—Within six months after the date of enactment of this Act, the Southwestern Power Administration and the Southeastern Power Administration (hereinafter PMAs) shall each initiate a proceeding for purposes of considering the adoption of a requirement that each long-term firm power service contract entered into or amended subsequent to one year from the date of enactment of this Act between a nonregulated electric utility and such PMA contain an article requiring such utility to develop and implement to the extent practicable an integrated resource planning program. For purposes of this section—

(1) A "long-term firm power service contract" shall mean any contract for the sale by a PMA of firm capacity, with or without energy, which is to be delivered over a period of more than one year;

(2) The term "non-regulated electric utility" shall have the same meaning as provided in section 3(9) of the Public Utility Regulatory Policies Act of 1978. In the case of a contract between a PMA and a joint action agency or similar entity, the term shall include the entity's distribution or user members; and

(3)(A) An "integrated resource planning program" shall be one under which a nonregulated utility engages in a planning and selection process for new energy resources that evaluates the full range of alternatives, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk, and shall treat demand and supply resources on a consistent and integrated basis.

(B) For purposes of this paragraph, the term "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(b) CONSIDERATIONS.—As part of a proceeding under subsection (a), each PMA shall consider a requirement that each contract article referred to in subsection (a) shall:

(1) require the nonregulated electric utility to establish an integrated resource planning program with specific goals;

(2) contain time schedules for meeting program goals and delineate actions to be taken in the event such goals are not met. Such actions may provide (A) for suspension of capacity and energy deliveries that would otherwise be supplied to the nonregulated electric utility under such contract, (B) for liquidated damages, and (C) for termination of such contract if compliance is not achieved within the period stated in such contract; and

(3) provide for review and modification of such program by the nonregulated utility every three years.

(c) PROCEDURES.—A proceeding under subsection (a) shall be conducted in accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Nothing in this section shall require a PMA to adopt either in whole or in part the requirements for contract articles described in subsections (a) and (b). To the extent that a PMA decides to adopt in whole or in part such requirements in a proceeding under subsection (a), it shall promulgate regulations implementing such requirements as part of the same proceeding.

(d) DETERMINATIONS.—If the Secretary determines that a PMA has conducted or is in the process of conducting, as of the date of enactment of this section, a proceeding that meets the requirements of this section, such PMA shall not be required to initiate a new proceeding, and the requirements of this section shall be deemed satisfied with respect to such PMA.

(e) EXCEPTION.—Nothing in this section shall authorize a PMA to require an article as described in subsection (b) of this section in a utility's long-term firm power services contract if any Federal agency requires such utility to prepare an integrated resource planning program.

SEC. 6304. TENNESSEE VALLEY AUTHORITY INTEGRATED RESOURCE PLANNING AND IMPLEMENTATION.—(a) IN GENERAL.—In the exercise of its functions the Tennessee Valley Authority shall employ an integrated resource planning program.

(b) DEFINITIONS.—For the purposes of this section the term: (1) "integrated resource planning program" shall be a program under which the Tennessee Valley Authority engages in a planning and selection process for new energy resources that evaluates the full range of existing and incremental resources, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis; and (2) "system cost" shall mean all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) ASSISTANCE TO DISTRIBUTORS.—The Tennessee Valley Authority shall implement the provisions of this section in cooperation with its distributors and shall provide appropriate assistance to them. Such assistance may include publications, workshops, conferences, one-on-one assistance, equipment loans, technology-assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy-efficiency and renewable energy options and programs to customers.

(d) PUBLIC COMMENT.—Prior to the selection and addition of major new energy resources on the TVA system, TVA shall provide the public an opportunity for review and comment in the selection process.

Subtitle D.—Used Oil Energy Production

SEC. 6401. PURPOSE.—The purpose of this subtitle is to promote the refining, re-refining and reprocessing of used lubricating oil into fuels and other petroleum products.

SEC. 6402. REQUIREMENTS FOR ENERGY PRODUCTION FROM USED OIL.—Section 383 of the Energy Policy and Conservation Act (EPCA) (Pub. L. No. 94-163) is amended—

(a) in subsection (c) by—

(1) striking "As soon as practicable after the date of enactment of this Act" and inserting "Not less than 15 months after the date of enactment of the National Energy Security Act of 1991"; and

(2) striking "National Bureau of Standards" each place it appears and inserting "National Institute of Standards and Technology"; and (b) by adding at the end thereof the following new subsection:

"(g) MARKET INCENTIVES FOR THE REUSE OF USED OIL.

"(1) REQUIREMENTS.—(A) Beginning not later than 18 months after the date of the enactment of the National Energy Security Act of 1991, a producer or importer of 100,000 gallons or more per year of lubricating oil shall each year either refine, re-refine, or reprocess into petroleum products, including fuels, using a method described in subparagraph (B), an amount of used oil equal to at least that amount of oil determined by—

"(i) multiplying the lubricating oil produced or imported that year by such person, by

"(ii) the percentage established by the Secretary under paragraph (2).

"(B) A producer or importer of lubricating oil may comply with this paragraph by—

"(i) refining, re-refining, or reprocessing used oil for purposes of producing petroleum products, including fuels; or

"(ii) purchasing credits under the credit system established pursuant to paragraph (3).

"(2) ESTABLISHMENT OF REUSE PERCENTAGE.—The Secretary shall establish, on an annual basis, a percentage for use under paragraph (1). The percentage applicable during the first year that the requirement established by paragraph (1) is in effect, shall be a percentage that is equal to the reuse rate for lubricating oil that exists on the date of the enactment of the National Energy Security Act of 1991. Such rate shall be determined by using data for the most recent year for which data are available. Through the year 2000, the percentage shall be an additional two percentage points higher than the actual percentage for the previous year as determined by the Secretary.

"(3) REGULATIONS.—(A) IN GENERAL.—Not later than 18 months after the date of the enactment of the National Energy Security Act of 1991, the Secretary shall promulgate regulations to implement these requirements. These regulations shall cover:

"(i) producers or importers of lubricating oil;

"(ii) generators or collectors of used oil;

"(iii) a system, including permits, by which refiners, re-refiners and reprocessors of used oil may create credits which may be purchased by producers and importers of lubricating oil for the purpose of complying with subparagraph (1)(B);

"(iv) enforcement;

"(v) record-keeping;

"(vi) any other requirement which the Secretary considers necessary for administering the program set forth by this subsection; and

"(vii) prohibitions on the mixing of used oil with hazardous wastes or other physical or chemical impurities not associated with its use as a lubricating oil, and the creation of credits from such mixed used oil.

"(B) Exemptions.

"(i) This subsection shall not apply to a facility:

"(aa) that is classified as an S.I.C. number 2911 facility under the Office of Management and Budget Standard Classification Manual and that refines used oil into fuel or other petroleum products, the amount of which is equal to no more than the amount of used oil that the owner of the facility is required to refine or otherwise reuse under paragraph (1)(A).

"(bb) that is classified as an S.I.C. number 2899, or S.I.C. number 2992 facility under the Office of Management and Budget Standard Classification Manual and that compounds or blends lubricating base oil into finished lubricant products as its principal activity, provided that such facility has a contract to reprocess a customer's used lubricant, and does not take title to such lubricant, and such reprocessed lubricant product is returned to the customer.

"(ii) This subsection shall not apply to used oil that is generated on-site for on-site energy production activities, including storage, use, and transportation, carried out at a facility that is classified as an S.I.C. number 4911 facility under the Office of Management and Budget Standard Classification Manual.

"(iii) The Secretary shall promulgate regulations establishing requirements for exempt refineries that refine used oil. The regulations shall cover record-keeping, testing, and such other matters as the Secretary determines are necessary and appropriate for refining used oil at exempt refineries.

"(4) DEFINITIONS.—For purposes of this subsection, the term:

"(A) 'credit' means a legal record of used oil refined, re-refined or reprocessed in accordance with this subsection for purposes of complying with paragraph (1);

"(B) 'producer' with respect to lubricating oil means any person who produces a lubricant base stock from crude oil. Such production does not include the re-refining of used oil;

"(C) 'importer' with respect to lubricating oil means any person who imports a lubricant base stock or lubricating oil, except for lubricating oil contained in transportation vehicles or other machinery;

"(D) 'lubricant base stock' means oil from which lubricating oil is made after introduction of additives;

"(E) 'generator' and 'collector' mean any person who collects, stores, accumulates, or otherwise generates used oil. Such terms do not include an individual who generates used oil by removing such oil from the engine of a light duty motor vehicle or household appliance owned by that individual;

"(F) 're-refiner' and 'reprocesser' mean any person who produces lubricating oils, fuels, or other petroleum products through the processing of used oil; and

"(G) 'refiner' means any owner or operator of a facility that is classified as an S.I.C. 2911 facility under the Office of Management and Budget Standard Classification Manual.

"(5) AUTHORIZATIONS.—(A) There is authorized to be appropriated to the Secretary of Energy $2,000,000 to carry out this subsection.

"(B) There is authorized to be appropriated to the Secretary of Commerce for use by the National Institute of Standards and Technology $3,000,000 to carry out its responsibilities under this section.

"(6) REPORT.—One year after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit a report to the House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate on the implementation and operation of this subsection.".

SEC. 6403. LISTING OR IDENTIFICATION OF USED OIL.—Section 3001 of the Solid Waste Disposal Act is amended by adding at the end the following:

"(j) USED OIL.—Notwithstanding this Act or any other provision of law, the Administrator shall not list or identify used oil as a hazardous waste under this subtitle, nor shall used oil otherwise be deemed to be a hazardous waste under this subtitle."

SEC. 6404. SUNSET PROVISION.—The provisions of this subtitle expire five years after the date of enactment of this Act.

Subtitle E.—State, Local Insular, and Tribal Energy Assistance

SEC. 6501. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—(1) The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (Pub. L. No. 93-577), may grant financial assistance to Insular area governments or private sector persons working in cooperation with Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular areas on imported fuels and promote development in the Insular areas.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy institutions.

(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to development or the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) DEFINITIONS.—For the purpose of this section, the term—

(1) "Insular area government" means American Samoa government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands; and

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (Pub. L. No. 96-597, as amended).

"SEC. 6502. STATE BUILDINGS ENERGY INCENTIVE FUND.—Title III, Part D, of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended as follows:

(a) Designate the existing text of subsection 365(f) as paragraph (1) and insert the following new paragraph (2):

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated such sums as may be necessary, to remain available until expended, to carry out the purposes of section 363(f)."; and

(b) at the end of section 363 add the following new subsection (f):

"(f) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within the State, then beginning in fiscal year 1993, the Secretary may allocate funds appropriated pursuant to section 365(f)(2) to provide up to $1,000,000 to such State for deposit into a state revolving fund designed to finance energy efficiency improvements in State and local government buildings in such State. In making this determination the Secretary shall consider whether:

"(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, have adopted building codes at least as stringent as the industry voluntary building energy code as defined under Title III of this Act;

"(2) such State has a program to finance energy efficiency improvement projects in State and local government facilities and buildings that includes a revolving fund to finance such projects; and

"(3) such State has raised funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions, sufficient to provide at least 75 percent of the total funds provided for deposit into such revolving fund.".

SEC. 6503. PRIVATE SECTOR INVESTMENTS IN LOW INCOME WEATHERIZATION.—Title IV of the Energy Conservation and Production Act (ECPA) (Pub. L. No. 94-385) is amended by adding the following new sections 414A and 414B:

"SEC. 414A. PRIVATE SECTOR INVESTMENTS.

"(a) IN GENERAL.—The Secretary shall provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title to pay for the costs of the development and the initial implementation of partnerships, agreements or other arrangements with utilities, private sector interests or other institutions, pursuant to which financial assistance would be made available to make energy conservation improvements in low income housing. Financial assistance provided by the Secretary under this section may be used for the negotiation of partnerships, agreements and other arrangements; the presentation of arguments before State or local agencies; expert advice on the development of partnerships, agreements and other arrangements; or other activities reasonably associated with the development and initial implementation of such arrangements.

"(b) CONDITIONS.—Financial assistance provided under this section to institutions other than States shall, to the extent practicable, coincide with the timing of awards such institutions are receiving under sections 413 or 414 of this title. No less than 80 percent of the funds awarded under this section shall be provided to entities other than states. Recipients of assistance under this section shall have up to three years to carry out projects undertaken with such assistance.

"(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"SEC. 414B. TECHNICAL TRANSFER GRANTS.

"(a) IN GENERAL.—The Secretary may provide financial assistance to recipients of Federal financial assistance or financial assistance from States pursuant to sections 413 and 414 of this title for the purpose of: evaluating technical and management measures which increase program and/or private entity performance in weatherizing low income housing; producing technical information for use by persons involved in weatherizing low income housing; exchanging information; and conducting training programs for persons involved in weatherizing low income housing. No less than 50 percent of the funds granted under this section shall be provided to entities other than states. Recipients of technical transfer grants may assign all or part of work under the grants to non-profit entities.

"(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 6504. TRAINING OF BUILDING DESIGNERS AND CONTRACTORS.—Section 362 of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended by adding the following new paragraph at the end of subsection (d):

"(15) programs to provide training and education to building designers and contractors involved in building design or in the sale, installation and maintenance of energy systems and equipment. Such programs shall (A) enlist appropriate trade and professional organizations in the development and financing of this program; and (B) shall also include training workshops, practice manuals, and testing for each area of energy efficiency technology. Designers and contractors who have successfully completed a training course operated pursuant to this section shall be presented a certificate of completion at the end of such course.

SEC. 6505. ENERGY EDUCATION AND TEACHER TRAINING.—Section 363 of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended by adding the following new subsection:

"(f) ENERGY EDUCATION GRANTS.—(1) The Secretary shall provide competitive grants to supplement state program activities conducted pursuant to section 362(d)(4) to support projects designed to increase public awareness and understanding of energy issues, or to train educators to use existing energy related information for teaching purposes. The Federal contribution toward such projects may not exceed 75 percent of their total cost.

"(2) There is authorized to be appropriated such sums as may be necessary to implement the provisions of this section.".

SEC. 6506. TRIBAL GOVERNMENT ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act (Pub. L. No. 93-577), may grant financial assistance to tribal governments, or private sector persons working in cooperation with tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects on tribal lands. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial or management issues identified by the applicants for such grants.

(b) CONDITIONS.—Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

(c) CONSIDERATIONS.—In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to development or the quality of the environment of the affected tribal lands; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

(d) COST-SHARE.—The Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

(e) DEFINITION.—For the purposes of this Section, the term "tribal government" shall include Native Alaskan governments.

SEC. 6507. STATE ENERGY CONSERVATION PLAN REQUIREMENT.—Section 362 (c)(5) of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended by striking the semicolon and the word 'and' and inserting in lieu thereof the following:

'and to turn such vehicle left from a one-way street onto a one-way street at a red stop light after stopping; and'."

Subtitle F—LIHEAP Options Pilot Program

SEC. 6601. SHORT TITLE.—This subtitle may be cited as the "Energy Options Study Act of 1991."

SEC. 6602. STUDY.—(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall conduct a study of the potential use of LIHEAP funds to purchase futures or options contracts for fuel through registered commodities brokers.

(1) The study shall examine any potential advantages of the use of such funds including—

(A) protection for Federal, State and local government entities which provide low-income fuel assistance from unanticipated surges in the price of fuel for residential use;

(B) more efficient use of such funds; and

(C) more fuel assistance for low-income persons without an increase in Federal expenditures.

(2) The study shall examine any potential disadvantages of the use of such funds including reduction in funds available for fuel assistance, and waste, fraud, or abuse.

(3) The study shall further examine—

(A) the extent to which new authority would be needed for the use of such funds;

(B) the extent to which the use of such funds would conflict with existing law governing the Federal budget;

(C) the extent to which the use of futures and options on futures could provide effective protection for consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk for residential use) from unanticipated surges in the price of fuel; and

(D) how government entities and consumer cooperatives or other organizations referred to in subparagraph (C) of this section could be educated in the prudent use of futures and options on futures to maximize their purchasing effectiveness and protect themselves against unanticipated surges in the price of fuel for residential use.

(b) REPORT.—The Secretary, no later than 12 months after the date of enactment of this Act, shall transmit the study required in this section to the Committee on Labor and Human Resources of the United States Senate, the Committee on Energy and Natural Resources of the United States Senate, and the United States House of Representatives.

SEC. 6603. AUTHORITY FOR PILOT PROGRAMS.—(a) PILOT PROGRAM.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program in cooperation with one or more governmental or tribal recipients of funds in which the recipient uses futures and options on futures in its fuel assistance program with the advice of the Secretary.

(b) EDUCATION.—The Secretary, in consultation with the Secretary of Energy, may conduct a pilot program to educate governmental entities and consumer cooperatives or other organizations referred to in subparagraph (a)(3)(C) of section 6602 of this subtitle on the prudent and effective use of futures and options on futures to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(c) AUTHORIZATION.—There is authorized to be appropriated for fiscal years 1992, 1993, and 1994, such sums as may be necessary to carry out the purposes of this section.

SEC. 6604. DEFINITIONS.—For purposes of this subtitle the terms—

(1) "Secretary" means the Secretary of Health and Human Services.

(2) "LIHEAP funds" means funds appropriated under the Low-Income Energy Assistance Act of 1981 (Pub. L. No. 97-35; 42 U.S.C. 8621 *et. seq.*)."

TITLE VII—OIL AND GAS LEASING IN THE ARCTIC NATIONAL WILDLIFE REFUGE

Subtitle A—Statement of Purpose and Definitions

SEC. 7101. PURPOSE AND POLICY.—The Congress hereby declares that it is the purpose and policy of this title—

(a) to authorize competitive oil and gas leasing and development to proceed on the Coastal Plain in a manner consistent with protection of the environment, maintenance of fish and wildlife and their habitat, and the interests of the area's subsistence users; and

(b) to provide a new source of funding for energy related programs and projects designed to enhance the Nation's energy security and reduce dependence on imported oil.

SEC. 7102. DEFINITIONS.—When used in this title the term—

(a) "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)) comprising approximately one million five hundred forty-nine thousand acres; and

(b) "Secretary" means the Secretary of the Interior or the Secretary's designee.

Subtitle B—Congressional Determination of Compatibility

SEC. 7201.—CONGRESSIONAL DETERMINATION.—Congress hereby determines that oil and gas activities authorized and conducted on the Coastal Plain pursuant to this title so as to result in no significant adverse effect on fish and wildlife, their habitat, and the environment, shall be deemed to be compatible with the major purposes for which the Arctic National Wildlife Refuge was established and no further findings or determinations of compatibility by the Secretary under the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd(d)(1)(A)) are required to implement this Congressional determination.

Subtitle C—Coastal Plain Competitive Leasing Program

SEC. 7301. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) The Congress hereby authorizes and directs the Secretary and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain. Activities pursuant to such program shall be undertaken:

(1) in accordance with the standards for protection of the environment as required by subtitle D of this title; and

(2) in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.

(b) This title shall be the sole authority for leasing on the Coastal Plain.

(c) The Coastal Plain shall be considered "Federal land" for the purposes of the Federal Oil and Gas Royalty Management Act of 1982 (Pub. L. No. 97-451, as amended; 30 U.S.C. 170 *et seq.*).

SEC. 7302. RULES AND REGULATIONS.

(a) PROMULGATION.—The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this title, including rules and regulations relating to protection of the environment of the Coastal Plain, as required by subtitle D of this title. Such rules and regulations shall be promulgated within nine months after the date of enactment of this title and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this title and all operations on the Coastal Plain related to the exploration, development and production of oil and gas.

(b) CONSIDERATION OF VIEWS AND CONSULTATION.—In the formulation and promulgation of rules and regulations under this title, the Secretary shall request and give due consideration to the views of appropriate officials of the State of Alaska and the Government of Canada. The Secretary shall also consult with the Environmental Protection Agency and the Army Corps of Engineers in developing rules and regulations relating to the environment.

(c) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 7303. ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.

(a) IN GENERAL.—The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142), and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), is hereby found by the Congress to be adequate to satisfy the legal requirements under the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title prior to conducting the first lease sale.

(b) APPLICABILITY OF NEPA.—Except as provided in subsection (a) of this section, nothing in this title shall be considered or construed as otherwise limiting or affecting in any way the applicability of section 102(2)(C) of the National Environmental Policy Act of 1969 to all phases of oil and gas leasing, exploration, development and production and related activities conducted under or associated with the leasing program authorized by this title, nor shall anything in this title be considered or construed as in any way limiting or affecting the applicability of any other Federal or State law relating to the protection of the environment.

SEC. 7304. LEASE SALES.

(a) ELIGIBILITY.—Lands may be leased pursuant to the provisions of this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. 181).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion from, a lease sale;

(2) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale;

(3) review by the State of Alaska and local governments in Alaska which may be impacted by the proposed leasing; and

(4) periodic consultation with the State of Alaska and local governments in Alaska, oil and gas lessees, and representatives of other individuals or organizations engaged in activity in or on the Coastal Plain including those involved in subsistence uses and recreational activities.

(c) LEASE SALES ON COASTAL PLAIN.—The Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall, consistent with the requirements set forth in subtitle D of this title, offer for lease those acres receiving the greatest number of nominations, but not to exceed a total of three hundred thousand acres. If the total acreage nominated is less than three hundred thousand acres, he shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. Thereafter, no more than three hundred thousand acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within eighteen months of the issuance of final regulations by the Secretary. The second lease sale shall be held thirty-six months after the initial sale, with additional sales conducted every twenty-four months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

(d) EXCLUSION OF ENVIRONMENTALLY SENSITIVE AREAS.—Areas of the Coastal Plain deemed by the Secretary to be of particular environmental sensitivity may be excluded from leasing by the Secretary. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives ninety days in advance of excluding any such areas from leasing. If the Secretary later determines that exploration, development, or production will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, the Secretary shall, consistent with the provisions of subsection (c) of this section, offer such lands for leasing.

SEC. 7305. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive cash bonus bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

(b) COMPLIANCE WITH PRIOR LEASE REQUIREMENTS.—The Secretary shall not issue a lease or leases or approve the assignment or sublease of any lease or leases under the terms of this title to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, during any period in which, as determined by the Secretary, such entity has failed or refused to comply in any material respect with the reclamation requirements and other standards established for any prior oil and gas lease to which such requirements and standards applied under this or any other Federal law. Prior to making such determination with respect to any such entity the Secretary shall provide such entity with adequate notification and an opportunity to comply with such reclamation requirements and other standards and shall consider whether any administrative or judicial appeal is pending. Once the entity has complied with the reclamation requirement or other standard concerned, the Secretary may issue an oil and gas lease to the entity under this title.

(c) Antitrust Review.—(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid or the imposition of terms or conditions on any lease, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease would create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

(A) refuse to accept an otherwise qualified bid for such lease, or refuse to issue such lease, notwithstanding subsection (a) of this section; or

(B) modify or impose terms or conditions on the lease, consistent with advice provided by the Attorney General.

(4) The Secretary may issue a lease notwithstanding adverse advice from the Attorney General, or refuse to impose recommended terms or conditions, if the Secretary makes specific findings that approval of the lease is necessary to carry out the purposes of this title, that approval is consistent with the public interest, and that there are no reasonably available alternatives that would have significantly less anticompetitive effects. In such event, the Secretary must notify the lessee and the Attorney General of such findings.

(5) Nothing in this subsection shall restrict the authority of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

(d) Secretary's Approval for Sale, Exchange, Assignment, or Other Transfer of Leases.—No lease issued under this title may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

(e) No Antitrust Immunity or Defenses.—Nothing in this title shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(f) Definitions.—As used in this section, the term—

(1) "antitrust review" shall be deemed an "antitrust investigation" for the purposes of the Antitrust Civil Process Act (15 U.S.C. 1311); and

(2) "antitrust laws" means those Acts set forth in section 1 of the Clayton Act, 15 U.S.C. 12, as amended.

SEC. 7306. LEASE TERMS AND CONDITIONS.

An oil and gas lease issued pursuant to this title shall—

(a) be for a tract consisting of a compact area not to exceed two thousand five hundred sixty acres, or four surveyed or protracted sections, whichever is larger, which shall be as compact in form as possible: *Provided*, That the Secretary is authorized to lease on a case-by-case basis units of up to three thousand eight hundred forty acres when necessary to consolidate partial tracts adjacent to the external boundaries of the Coastal Plain;

(b) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(c) require the payment of royalty as provided for in section 7305 of this title;

(d) require approval of an exploration plan, as provided for in section 7307 of this title;

(e) require approval of a development and production plan, as required in section 7307 of this title;

(f) require posting of bond required by section 7308 of this title;

(g) provide for the suspension of the lease during the initial lease term or thereafter pursuant to section 7309 of this title;

(h) provide for the cancellation of the lease during the initial lease term or thereafter pursuant to section 7310 of this title;

(i) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by subtitle D of this title;

(j) forbid the flaring of natural gas from any well unless the Secretary finds that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations;

(k) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

(l) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued thereunder.

SEC. 7307. EXPLORATION AND DEVELOPMENT AND PRODUCTION PLANS.

(a) Exploration Plans.—All exploration activities pursuant to any lease issued or maintained under this title shall be conducted in accordance with an approved exploration plan or an approved revision of such plan. Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this title, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if the Secretary finds that such plan is consistent with the provisions of this title and other applicable law.

(b) Oil and Gas Development and Production Plans.—All development and production pursuant to a lease issued or maintained pursuant to this title shall be conducted in accordance with an approved development and production plan. Prior to commencing development or production pursuant to any oil and gas lease issued or maintained under this title, the holder thereof shall submit a development and production plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if the Secretary finds that such plan is consistent with the provisions of this title and other applicable law.

(c) Requirements Applicable to Exploration Plans and Development and Production Plans.—Exploration plans and development and production plans shall include where applicable—

(1) the names and legal addresses of the following persons: the operator, contractors, subcontractors and the owners or lessees other than the operator;

(2) a map or maps showing: (A) the location of a point of reference selected by the operator within the area covered by the plan of operations showing, in relation to that point, existing and proposed access routes or roads within the area, the boundaries of proposed surface disturbance and location of all survey lines; (B) the location of proposed drilling sites, wellsite layout, and all surface facilities; (C) sources of construction materials within the area including but not limited to gravel; and (D) the location of ancillary facilities including but not limited to camps, sanitary facilities, water supply, disposal facilities, pipelines, fuel storage facilities, storage facilities, base of operations, and airstrips. A point of reference selected by the operator within the area of operations shall be marked with a ground monument;

(3) a description of: (A) all surface and ancillary facilities, including but not limited to camps, sanitary facilities, water supply, disposal facilities, pipelines, fuel storage facilities, storage facilities, base of operations, and airstrips; and (B) the major equipment to be used in the operations, including but not limited to equipment and methods for the transport of all waters used in or produced by operations, and of the proposed method of transporting such equipment within the area covered by the plan of operations including to and from the site;

(4) an estimated schedule for any phase of operations of which review by the Secretary is sought and the anticipated date of operation completion;

(5) the nature and extent of proposed operations;

(6) plans for reclamation, including:

(A) the anticipated reclamation work to be performed;

(B) a proposed schedule of reclamation activities to be performed; and

(C) a detailed estimate of reclamation costs;

(7) methods for disposal of all wastes and hazardous and toxic substances;

(8) an affidavit stating that the operations planned will be in compliance with all applicable Federal, State, and local laws and regulations;

(9) contingency plans in case of spills, leaks, or other accidents; and

(10) such additional information as may be required by the Secretary to ensure that the proposed activities are consistent with this title, as well as other applicable Federal and State environmental laws.

(d) Procedures for Plan Approval.—(1) After an exploration or development and production plan is submitted for approval, the Secretary shall promptly publish notice of the submission and availability of the text of the proposed plan in the Federal Register and a newspaper of general circulation in the State of Alaska and provide an opportunity for written public comment.

(2) Within one hundred twenty days after receiving an exploration or development and production plan, the Secretary shall determine, after taking into account any comment received under paragraph (1) of this subsection, whether the activities proposed in the plan are consistent with this title and other applicable provisions of Federal and State law. If that determination is in the affirmative, the Secretary shall return the plan along with a statement of any modifications necessary for its approval. The Secretary, as a condition of approving any plan under this section—

(A) may require modifications to the plan that the Secretary considers necessary or appropriate to make it consistent with this title and other applicable law. The Secretary shall assess reasonable fees or charges for the reimbursement of all necessary and reasonable research, administrative, monitoring, enforcement, and reporting costs associated with reviewing the plan and monitoring its implementation; and

(B) shall require such periodic reports regarding the carrying out of the drilling and related activities as may be necessary or appropriate for purposes of determining the extent to which the plan is being complied with and the effectiveness of the plan in ensuring that the drilling and related activities are consistent with this title and other applicable provisions of Federal and State law.

(e) MODIFICATION OF PLANS.—If at any time while activities are being carried out under a plan approved under this section, the Secretary, on the basis of available information, determines that the continuation of any particular activity under the plan is likely to result in a significant adverse effect on fish or wildlife, their habitat, or the environment, the Secretary, after consultation with the lessee shall—

(1) make modifications to part or all of the plan as necessary or appropriate to avoid the significant adverse effect;

(2) temporarily suspend part or all of the drilling or related activity under the plan for such time as the Secretary considers necessary or appropriate to avoid such significant adverse effect; or

(3) terminate and cancel the plan where actions under paragraphs (1) or (2) will not avoid the significant adverse effect.

SEC. 7308. BONDING REQUIREMENTS.

(a) REQUIREMENT FOR BOND, SURETY, OR OTHER FINANCIAL ARRANGEMENT.—The Secretary shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Such bond, surety, or financial arrangement is in addition to and not in lieu of any bond, surety, or financial arrangement required by any other regulatory authority or required by any other provision of law.

(b) AMOUNT OF BOND, SURETY, OR OTHER FINANCIAL ARRANGEMENT.—The bond, surety, or financial arrangement shall be in an amount:

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) an amount set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities.

(c) ADJUSTMENT OF BOND TO CONFORM TO REVISED PLAN.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety, or other financial arrangement to conform to such modified plan.

(d) DURATION OF BOND, SURETY, OR OTHER FINANCIAL ARRANGEMENT.—The responsibility and liability of the lessee and its surety under the bond, surety, or other financial arrangement shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

(e) TERMINATION OF LIABILITY.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety, or other financial arrangement has been terminated.

SEC. 7309. LEASE SUSPENSION.

The Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this title: (1) in the interest of conservation of the resource; (2) where there is no available system to transport the resource; or (3) where there is a threat of a significant adverse effect upon fish or wildlife, their habitat or the environment. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto.

SEC. 7310. LEASE CANCELLATION.

(a) CANCELLATION OF NONPRODUCING LEASE.—Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this title, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this title, such lease may be canceled by the Secretary if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address.

(b) CANCELLATION OF PRODUCING LEASE.—Whenever the owner of any producing lease fails to comply with any of the provisions of this title, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this title, such lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this title.

(c) ADDITIONAL PROVISIONS.—(1) In addition to the authority for lease cancellation provided for by subsections (a) and (b) of this section, any lease may be canceled at any time, if the Secretary determines, after a hearing, that—

(A) continued activity pursuant to such lease is likely to result in a significant adverse effect to fish or wildlife, their habitat, or the environment, or is likely to result in serious harm or damage to human life, to property, or to the national security or defense; and

(B) the likelihood of a significant adverse effect will not disappear within a reasonable period of time or the threat of harm or damage will not disappear or decrease to any acceptable extent within a reasonable period of time.

(2) Such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease term continuously for a period of five years, or for a lesser period upon request of the lessee.

(3) Cancellation under this subsection shall entitle the lessee to receive such compensation as the lessee demonstrates to the Secretary to be equal to the lesser of (A) the fair market value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including the costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill or spill of other hazardous or toxic materials, fines, damages, penalties, or removal costs assessed pursuant to section 7315 of this title or other State or Federal environmental laws, any fees paid pursuant to section 7503 of this title, and all other costs reasonably anticipated on the lease; or (B) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee (exclusive of any fines, damages, penalties, or removal costs assessed pursuant to section 7315 of this title or other State or Federal environmental laws, and any fees paid pursuant to section 7503 of this title) after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement).

(d) EFFECT OF CANCELLATION ON RECLAMATION OBLIGATIONS.—Cancellation of a lease under this section shall in no way release the owner of the lease from the obligation to provide for reclamation of the lease site.

SEC. 7311. ASSIGNMENT OR SUBLETTING OF LEASES.

No lease issued under the authority of this title shall be assigned or sublet, except with the consent of the Secretary.

SEC. 7312. RELINQUISHMENT.

The lessee may, at the discretion of the Secretary, be permitted at any time to make written relinquishment of all rights under any lease issued pursuant to this title. The Secretary shall accept the relinquishment by the lessee of any lease issued under this title where there has not been surface disturbance on the lands covered by the lease.

SEC. 7313. UNITIZATION.

For the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require to the greatest extent practicable, that lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof. The Secretary is also authorized and directed to enter into such agreements as are necessary or appropriate for the protection of the United States against drainage.

SEC. 7314. OIL AND GAS INFORMATION.

(a) IN GENERAL.—(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this title shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(2) If interpreted information provided pursuant to paragraph (1) of this subsection is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of the use or of reliance upon such interpreted information.

(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1) of this subsection—

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information;

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) REGULATIONS.—The Secretary shall prescribe regulations to: (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and (2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 7315. REMEDIES AND PENALTIES.

(a) IN GENERAL.—Except as provided in section 7316 of this title, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with, any lease issued under this title. Proceedings may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located.

(b) ACTIONS FOR RELIEF.—At the request of the Secretary, the Attorney General or a United States Attorney shall institute a civil action in the district court of the United States for the district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located, for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this title, any regulation or order issued under this title, or any term of a lease issued pursuant to this title.

(c) CIVIL PENALTIES.—If any person fails to comply with any provision of this title, or any term of a lease issued pursuant to this title, or any regulation or order issued under this title, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

(d) CRIMINAL PENALTIES.—Any person who knowingly and willfully: (1) violates any provision of this title, any term of a lease issued pursuant to this title, or any regulation or order issued under the authority of this title designed to protect health, safety, or the environment or conserve natural resources; (2) makes any false statement, representation, or certification in any application, record, report or other document filed or required to be maintained under this title; (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this title; or (4) reveals any data or information required to be kept confidential by this title, shall, upon conviction, be punished by a fine pursuant to Title 18 of the United States Code, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

(e) LIABILITY OF CORPORATE OFFICERS AND AGENTS FOR VIOLATIONS BY CORPORATION.—Whenever a corporation or other entity is subject to prosecution under subsection (d) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (d) of this section.

(f) CONCURRENT AND CUMULATIVE NATURE OF PENALTIES.—The remedies and penalties prescribed in this title shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this title shall be in addition to any other remedies and penalties afforded by any other law or regulation.

(g) REMOVAL COSTS AND LIABILITY FOR DAMAGES.—Notwithstanding any other provision of law, if any discharge or substantial threat of discharge of oil, hazardous or toxic substances, or any other pollutant has occurred in any area of the Coastal Plain or adjacent waters, each responsible party shall be jointly, severally, and strictly liable for the removal costs and damages specified in this subsection that result from such incident. The Secretary shall make a determination with respect to such liability after notice to the responsible party and an opportunity for hearing. Upon failure of the responsible party adequately to control and remove the discharge or threat, the Secretary, in cooperation with other Federal, State, or local agencies, or in cooperation with the responsible party, or both, shall have the right to accomplish the control and removal at the expense of the responsible party. Funds contained in the Coastal Plain Liability and Reclamation Fund, provided for by section 7503 of this title, may be used to accomplish such control and removal until such time as sufficient funds can be recovered from the responsible party. The removal costs and damages referred to in this subsection are the following—

(1) all necessary removal costs as determined by the Secretary;

(2) damages for injury to, destruction of, loss of, and reclamation of natural resources, including the reasonable costs of assessing such injury, destruction, loss or reclamation; and

(3) damages for economic loss resulting from injury to, or destruction of, real or personal property or natural resources, and loss of subsistence use of natural resources by local residents. Nothing in this section shall affect or limit the applicability of any other provision of law relating to the discharge of oil, hazardous or toxic substances, or any other pollutant.

SEC. 7316. EXPEDITED JUDICIAL REVIEW.

Any complaint filed seeking judicial review of an action of the Secretary in promulgating any regulation under this title may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within ninety days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any other actions of the Secretary under this title may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Action of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 7317. ANNUAL REPORT TO CONGRESS.

On March 1st of each year following the date of enactment of this title, the Secretary shall prepare and submit to the Congress an annual report on the leasing program authorized by this title.

SEC. 7318. INTERESTS OF THE INUPIAT ESKIMO PEOPLE.

(a) OUTSIDE OF THE COASTAL PLAIN.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) insofar as they have application to lands or interests therein owned by the Inupiat Eskimo people within the Arctic National Wildlife Refuge, but outside the Coastal Plain, are hereby repealed.

(b) WITHIN THE COASTAL PLAIN.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) insofar as they have application to lands or interests therein owned by the Inupiat Eskimo people within the Coastal Plain are hereby repealed as of the day after the first lease sale is held pursuant to this title. With respect to the lands and interests therein described in this subsection, no exploratory drilling activities shall be authorized until the day after such lease sale.

(c) APPLICABILITY OF ENVIRONMENTAL REGULATIONS.—The substantive provisions of the final regulations issued pursuant to this title which establish environmental stipulations, terms and conditions for oil and gas leasing on the Coastal Plain shall apply to the exploration and development of all subsurface property interests owned by the Inupiat Eskimo people within the Arctic National Wildlife Refuge: *Provided*, That prior to issuance of such regulations, oil and gas exploration and development activities on the land and interests therein described in subsection (a), shall be governed by the stipulations set forth in Appendix 2 of the August 9, 1983 agreement between the Arctic Slope Regional Corporation and the United States.

(d) LITIGATION OF CLAIMS.—Any claims for money damages or other available relief brought by Arctic Slope Regional Corporation or Kaktovik Inupiat Corporation alleging that the provisions of this title constitute a taking of contract or property rights under the Fifth Amendment to the Constitution of the United States may be brought within 120 days of its enactment. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceedings in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any claim whether in a proceeding instituted prior to or on or after the date of enactment of this title. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

Subtitle D—Coastal Plain Environment Protection

SEC. 7401. NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.

(a) IN GENERAL.—The Secretary shall administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, and that shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a mitigation plan be implemented to avoid, minimize and compensate (in that order and to the extent practicable) any significant adverse effect assessed under paragraph (1) of this subsection; and

(3) the development of the mitigation plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

SEC. 7402. REGULATIONS TO PROTECT THE COASTAL PLAIN'S FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.

(a) IN GENERAL.—Prior to implementing the leasing program authorized by subtitle C of this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken in the Coastal Plain authorized by this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(b) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program authorized by subtitle C of this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require:

(1) as a minimum, the safety and environmental mitigation measures set forth in items one through twenty-nine (1 through 29) at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain;

(2) seasonal limitations on exploration, development and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning and migration;

(3) that exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 and that exploration activities will be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods: *Provided*, That such exploration activities may be permitted at other times if the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year and he finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain;

(4) design safety and construction standards for all pipelines and any access and service roads that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges and other structural devices;

(5) prohibitions on public access and use on all pipeline access and service roads;

(6) stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures and equipment upon completion of oil and gas production operations: *Provided*, That the Secretary may exempt from the requirements of this paragraph those facilities, structures or equipment which the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and which are donated to the United States for that purpose;

(7) appropriate prohibitions or restrictions on access by all modes of transportation;

(8) appropriate prohibitions or restrictions on sand and gravel extraction;

(9) consolidation of facility siting;

(10) appropriate prohibitions or restrictions on use of explosives;

(11) avoidance, to the extent practicable, of springs, streams and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling;

(12) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(13) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, in accordance with applicable Federal and State environmental law;

(14) fuel storage and oil spill contingency planning;

(15) research, monitoring and reporting requirements;

(16) field crew environmental briefings;

(17) avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users;

(18) compliance with applicable air and water quality standards;

(19) appropriate seasonal and safety zone designations around well sites within which subsistence hunting and trapping would be limited;

(20) reasonable stipulations for protection of cultural and archeological resources; and

(21) all other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(c) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider:

(1) the environmental protection standards which governed the initial Coastal Plain seismic exploration program (50 C.F.R. 37.31–33);

(2) the land use stipulations for exploratory drilling on the KIC-ASRC private lands which are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States; and

(3) the operational stipulations for Koniag ANWR Interest lands contained in the draft Agreement between Koniag, Inc. and the United States of America on file with the Secretary on December 1, 1987.

SEC. 7403. SADLEROCHIT SPRING SPECIAL AREA.

(a) DESIGNATION AS SPECIAL AREA.—(1) The Sadlerochit Spring area, comprising approximately four thousand acres as depicted on the map referenced in section 7102 of this title, is hereby designated to be a Special Area. Such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(2) Pursuant to subsection (d) of section 7304 of this title, the Secretary may exclude the Sadlerochit Spring Special Area from leasing.

(3) In the event that the Secretary leases the Sadlerochit Spring Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(b) DESIGNATION OF OTHER AREAS.—The Secretary is authorized to designate other areas of the Coastal Plain as Special Areas if the Secretary determines that they are of unique character and interest so as to require such special protection. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of the Secretary's intent to designate such areas ninety days in advance of making such designations. Any such areas designated as Special Areas shall be managed in accordance with the standards set forth in subsection (a) of this section.

SEC. 7404. FACILITY CONSOLIDATION PLANNING.

(a) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of

Coastal Plain oil and gas resources. This plan shall have the following objectives:

(1) avoiding unnecessary duplication of facilities and activities;

(2) encouraging consolidation of common facilities and activities;

(3) locating or confining facilities and activities to areas which will minimize impact on fish and wildlife, their habitat, and the environment;

(4) utilizing existing facilities wherever practicable; and

(5) enhancing compatibility between wildlife values and development activities.

(b) SUPPLEMENT TO ANILCA CONSERVATION PLANS.—The plan prepared under this section shall supplement any comprehensive conservation plan prepared pursuant to the requirements of section 304(g) of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2394).

SEC. 7405. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.—Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized to grant under section 28 of the Mineral Leasing Act (30 U.S.C. 185) rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued pursuant to this title shall include provisions regarding the granting of rights-of-way across the Coastal Plain.

SEC. 7406. ENVIRONMENTAL STUDIES.—In addition to any other environmental studies required by law, subsequent to exploring or developing of any area or region of the Coastal Plain, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary, and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide information which can be used for comparison with any previously-collected data for the purpose of identifying any effects on fish or wildlife and their habitat and any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such effects or changes.

SEC. 7407. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS.—(A) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this title.

(b) RESPONSIBILITIES OF HOLDERS OF LEASE.—It shall be the responsibility of any holder of a lease under this title to—

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, and the environment of, the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this title to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ONSITE INSPECTION OF FACILITIES.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this title or such provisions contained in any lease issued pursuant to this title to assure compliance with such environmental or safety regulations; and

(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.

SEC. 7408. FUNDING FOR ENVIRONMENTAL MONITORING AND ENFORCEMENT.—Beginning with the first full fiscal year following the first lease sale pursuant to section 7304 of this title, and continuing annually thereafter until the tenth full fiscal year after oil and gas exploration, production and development activities on the Coastal Plain have ceased, there is hereby authorized to be appropriated to the Administrator of the Environmental Protection Agency (Administrator) the sum of $5,000,000. The Administrator shall distribute annually to the State of Alaska not less than 25 percent of such amount. These moneys shall be used for activities, or in support of activities, within the State of Alaska by the Environmental Protection Agency and the State of Alaska for monitoring compliance with, and enforcing, all Federal environmental laws within their jurisdiction applicable to oil and gas exploration, development and production under this title, and monitoring compliance with, and enforcing, all such laws, with respect to owners, operators, and other persons having business in connection with leases granted pursuant to this title. For purposes of this section, all such Federal environmental laws shall include, but are not limited to, the Clean Air Act (42 U.S.C. 7401-7642), the Solid Waste Disposal Act (42 U.S.C. 6901-6987); the Federal Water Pollution Control Act (33 U.S.C. 1251-1376); the Comprehensive Environmental Response, Compensation, and Liability Act (26 U.S.C. 4611 et seq. and 42 U.S.C. 9601-9675); and the Safe Drinking Water Act (42 U.S.C. 300f-300j-9). The Administrator and the State of Alaska shall enter into a cooperative agreement to coordinate their responsibilities under this section. The Administrator shall consult with the U.S. Department of Transportation and the State of Alaska on the appropriate role of the State of Alaska in monitoring and enforcing the Hazardous Materials Transportation Act (49 App. U.S.C. 1801-1814). The Administrator shall submit annually a report to the Congress on the amount of funds expended and activities carried out pursuant to this section.

Subtitle E—Land Reclamation and Reclamation Liability Fund

SEC. 7501. LAND RECLAMATION.—The holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, or transportation activities on a lease within the Coastal Plain. The holder of a lease shall also be responsible for conducting any land reclamation required as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents. The holder of a lease may not delegate or convey, by contract or otherwise, this responsibility and liability to another party without the express written approval of the Secretary.

SEC. 7502. STANDARD TO GOVERN LAND RECLAMATION.—The standard to govern the reclamation of lands required to be reclaimed under this title, following their temporary disturbance or upon the conclusion of their use or prolonged commercial production of oil and gas and related activities, shall be reclamation and restoration to a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary; except that in the case of roads, drill pads and other gravel-foundation structures, reclamation and restoration shall be to a condition as closely approximating the original condition of such lands as is feasible using the best commercially available technology. Reclamation of lands shall be conducted in a manner that will not itself impair or cause significant adverse effects on fish or wildlife, their habitat, or the environment.

SEC. 7503. COASTAL PLAIN LIABILITY AND RECLAMATION FUND.

(a) ESTABLISHMENT.—Within six months of a commercial discovery within the Coastal Plain, the Coastal Plain Liability and Reclamation Fund (the "Reclamation Fund") is hereby directed to be established by the Secretary.

(b) COLLECTION OF FEES.—The Secretary shall collect from the operator a fee of 5 cents per barrel on commercially produced crude oil or natural gas liquids from the Coastal Plain at the time and point where such crude oil or natural gas liquids first leave the Coastal Plain. The collection of the fee shall cease when $50,000,000 has been accumulated in the Reclamation Fund, and it shall be resumed at any time that the accumulation of revenue in the Reclamation Fund falls below $45,000,000.

(c) INVESTMENT OF FUND MONEYS.—All revenues collected under subsection (b) shall be paid into the Reclamation Fund. The reasonable costs of administration of the Reclamation Fund shall be paid from the revenues in the Reclamation Fund. All sums not needed for administration of the Reclamation Fund or making authorized payments out of the Reclamation Fund shall be invested by the Secretary of the Treasury, at the request of the Secretary, in public debt securities with maturities suitable to the needs of the Reclamation Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Income from such securities shall be added to the principal of the Reclamation Fund.

(d) USE OF FUND MONEYS.—The revenues in the Reclamation Fund shall be available, to the extent provided in annual appropriations acts and with the approval of the Secretary, for the following purposes:

(1) to compensate promptly any person or entity, public or private, for any damages caused by oil and gas exploration, development and production activities on or in the vicinity of the Coastal Plain;

(2) to reclaim any area of the Coastal Plain not reclaimed in accordance with the standard set forth in section 7502 of this title, by the operator or the holder of a lease or leases;

(3) up to $15,000,000 annually to reclaim and restore:

(A) any area of the Arctic National Wildlife Refuge or other North Slope Federal lands affected by past and future oil and gas exploration, development, or production; and

(B) North Slope non-Federal lands affected by future exploration, development, or production on the Coastal Plain, which are not reclaimed and restored in accordance with applicable Federal and State law;

(4) up to $2,000,000 annually to the Director of the Fish and Wildlife Service to monitor and conduct research on fish and wildlife species which utilize the land and water resources of the Coastal Plain; and

(5) to reclaim at the conclusion of the period of exploration, development and production, any area of the Coastal Plain and related lands which have not been properly reclaimed by the operator or lease holder.

(e) RECOVERY OF FUNDS.—The United States shall have legal recourse against any party or entity who is responsible for the reclamation of any area within the Coastal Plain, to recover any funds expended under paragraphs (1), (2), (3) and (5) of this subsection due to a failure by the responsible party to reclaim such area as required by this title: *Provided*, That such right of recovery shall not be available against any Alaska Natives conducting traditional subsistence use activities. Any funds so recovered shall be deposited in the Reclamation Fund.

(f) TERMINATION OF FUND.—Any moneys remaining in the Reclamation Fund fifty years after the period of active oil and gas exploration, development, production and reclamation has been concluded in the Coastal Plain shall be paid into the general fund of the United States Treasury.

Subtitle F—Disposition of Oil and Gas Revenues

SEC. 7601. DISTRIBUTION OF REVENUES.

Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees (other than those collected pursuant to section 7307(d)(2)(A) or section 7503(b) of this title), interest charges or other income derived from the leasing of oil and gas resources within the Arctic National Wildlife Refuge, Alaska shall be distributed as follows:

(a) 50 per centum to the State of Alaska; and

(b) 50 per centum to the United States.

SEC. 7602. ENERGY SECURITY FUND.

(a) IN GENERAL.—(1) Revenues distributed to the United States pursuant to subsection 7601(b) of this title shall be deposited into a special account in the Treasury which shall be known as the Energy Security Fund. Revenues deposited in the Energy Security Fund may be expended solely for the purposes and in the manner provided for in this subtitle. Funds credited to the Energy Security Fund shall remain available until expended.

(2) The Secretary of the Treasury shall invest funds credited to the Energy Security Fund in public debt securities with maturities suitable to the needs of the Energy Security Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Income from such securities shall be added to the principal of the Energy Security Fund.

(b) ENERGY SECURITY PROJECTS LIST.—(1) Not later than 30 days after the date of enactment of this title, the Secretary of Energy shall initiate a process to identify and prepare a list, in descending order of priority, of energy-related projects or programs to enhance the Nation's energy security and reduce dependence on imported oil (hereinafter in this subtitle referred to as "the list"). In preparing the list, the Secretary of Energy shall consult with such governmental or non-governmental entities or individuals as the Secretary deems necessary.

(2) Following notice and comment, the initial list shall be transmitted to the Congress as part of the first budget submitted by the President following the initial deposit of funds in the Energy Security Fund.

(3) Thereafter, annual revisions of the list shall be prepared and transmitted in accordance with paragraph 2.

(c) PROJECTS.—The list shall consist of specific projects or programs (including an estimate of the costs thereof) identified by the Secretary of Energy relating to: energy efficiency and conservation, energy efficiency in transportation, energy research, development demonstration and commercialization; fossil energy, including clean coal technology and oil and gas extraction, electrical energy transmission and generation; and renewable energy resources, such as solar, geothermal, and hydroelectric power.

(d) CONSIDERATIONS.—In identifying projects or programs for inclusion on the list, the Secretary of Energy shall give special consideration to those which—

(1) minimize or reduce reliance on imported oil;

(2) reduce energy costs to consumers;

(3) enhance reliability of energy supplies and national security;

(4) foster the commercialization of new energy technologies;

(5) increase the efficient use of nonrenewable resources such as coal, natural gas, and oil;

(6) have the least potential social costs and adverse impacts on the environment; and

(7) enhance the diversification of the Nation's domestic energy supply.

(e) NOTIFICATION.—The Secretary of the Treasury shall notify the Congress and the Secretary of Energy on an annual basis as to the amounts available for allocation from the Energy Security Fund.

(f) AUTHORIZATION OF APPROPRIATIONS.—Beginning with the first full fiscal year after funds are initially deposited into the Energy Security Fund pursuant to subsection (b), there are hereby authorized to be appropriated from the Energy Security Fund, such sums as may be necessary to carry out projects identified on the list.

SEC. 7603. FUNDING FOR ARCTIC RESEARCH PROGRAMS.

(a) IN GENERAL.—There is hereby authorized to be appropriated from the Energy Security Fund, for a period of five fiscal years commencing with the first full fiscal year after funds are initially deposited in the Energy Security Fund, not to exceed $20,000,000 annually to be used to fund high priority arctic research projects and programs related to, among other things, understanding the long and short term effects of energy development and production activities on the arctic environment. To be eligible for funding under this section, the project or program must be identified in accordance with subsection (b).

(b) ARCTIC RESEARCH PROJECTS LIST.—(1) Not later than two years after the date of enactment of this title, the Chairman of the Interagency Arctic Research Policy Committee shall, with the concurrence of the Arctic Research Commission, prepare a list of arctic research projects and programs as described in subsection (a) which will be eligible for funding under this section.

(2) The list referred to in paragraph (1) shall be transmitted to the Congress as part of the first budget submitted by the President following the initial deposit of funds in the Energy Security Fund. Thereafter, revisions of the list shall be prepared in accordance with paragraph (1) and transmitted to the Congress as part of the President's budget submission.

Subtitle G—Export Restrictions

SEC. 7701. CRUDE OIL EXPORT RESTRICTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no crude oil produced from lands in the Coastal Plain (except any such crude oil which (1) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in subsection (b)(1)(B) of this section, (2) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States, or (3) is transported to Canada, to be consumed therein, in amounts not to exceed an annual average of 50,000 barrels per day, in addition to exports under paragraphs (1) and (2), except that any ocean transportation of such oil shall be by vessels documented under section 12106 of title 46, United States Code) may be exported from the United States, or any of its territories and possessions, subject to subsection (b) of this section.

(b) EXCEPTIONS.—Crude oil subject to the prohibition contained in subsection (a) may be exported only if—

(1) the President so recommends to the Congress after making and publishing express findings that exports of such crude oil, including exchanges—

(A) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(B) will, within 3 months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil in the absence of such an export or exchange, and (II) not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil;

(C) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(D) are clearly necessary to protect the national interest; and

(E) are in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.); and

(2) the President includes such findings in his recommendation to the Congress, and the Congress, within 60 days after receiving that recommendation, agrees to a joint resolution which approves such exports on the basis of those findings, and which is thereafter enacted into law.

(c) EXPORT AGREEMENTS.—Notwithstanding any other provision of this section or any other provision of law, the President may export oil produced from lands in the Coastal Plain to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such Nation before June 25, 1979, or to meet obligations of the United States under the International Energy Program in accordance with voluntary agreements or plans of action under section 252 of the Energy Policy and Conservation Act.

Subtitle H—Outer Continental Shelf Leasing Moratoria

SEC. 7801. PROHIBITION OF LEASING AND PRELEASING ACTIVITY.

The Secretary shall not prepare for or conduct any preleasing or leasing activity under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), with respect to the area seaward from the State of California and the State of New Jersey until after January 1, 2000.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

SEC. 8101. SHORT TITLE.—This title may be cited as the "Civilian Advanced Nuclear Reactor Commercialization Act of 1991.".

SEC. 8102. FINDINGS, PURPOSES, AND DEFINITIONS.—(a) FINDINGS.—Congress finds that—

(1) energy generated from nuclear fission now supplants the burning of fossil fuels in an economical fashion and contributes substantially to safe and reliable supplies of electricity while reducing the rate and scope of environmental pollution and reducing dependence on foreign energy sources; and

(2) it is in the national interest for the Federal Government to provide leadership in encouraging advanced nuclear reactor technologies so that such technologies may be adopted as needed.

(b) PURPOSES.—The purposes of this title are to—

(1) require the Secretary to carry out the Department's civilian nuclear programs in a way that will lead toward commercialization of advanced nuclear reactor technologies; and

(2) authorize such activities to ensure the timely availability of advanced nuclear reactor technologies, including technologies that utilize standardized designs or exhibit passive safety features.

(c) DEFINITIONS.—For purposes of this title, the term—

(1) "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized, passively-safe reactors, for the generation of commercial electric power from nuclear fission;

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission.

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "Department" means the Department of Energy;

(4) "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(5) "certification" means approval by the Commission of a standardized design for a nuclear power plant.

SEC. 8103. PROGRAM, GOALS, AND PLAN.—(a) PROGRAM.—The Secretary shall carry out a comprehensive program in accordance with the provisions of this title to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost-effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, including consideration of the impact on the rate and scope of global climate change;

(2) utilize modular construction techniques;

(3) facilitate design, licensing, construction, and operation of a nuclear power plant using a standardized design;

(4) exhibit enhanced safety features; and

(5) incorporate features that advance the objectives of the Nuclear Nonproliferation Act by discouraging diversion of fissile material for use in nuclear weapons.

(b) GOALS.—(1) The program authorized under subsection (a) shall be designed to accomplish the following goals—

(A) completion of necessary research and development and first-of-a-kind engineering on advanced light water reactor technologies that will support commercialization of these technologies by 1995;

(B) development and submission for certification by the Commission by 1995 of completed standardized designs for advanced light water reactor technologies that the Secretary determines exhibit some or all of the characteristics set forth in subsection (a);

(C) completion of necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology that will support selection in 1996 of one or both of these two technologies, as appropriate, for prototype demonstration pursuant to section 8105; and

(D) commercialization of advanced reactor technologies capable of providing commercial electric power to a utility grid as soon as practicable but no later than the year 2010.

(2) The program authorized under subsection (a) shall be carried out to the maximum extent possible through cost-shared programs with the private sector.

(c) PROGRAM PLAN.—(1) Within 90 days after the date of enactment of this title, the Secretary shall prepare and submit to Congress a detailed five-year program plan to carry out the purposes of this title. The plan shall include schedule milestones, Federal funding requirements, and requirements for private sector cost-sharing necessary for meeting the goals of subsection (b).

(2) In preparing the plan, the Secretary shall take into consideration—

(A) the need for, and the potential for adoption in the future by electric utilities or other entities, of advanced nuclear reactor technologies that are available or under development for the generation of energy from nuclear fission;

(B) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of these advanced nuclear reactor technologies when they may be needed;

(C) how the Federal Government can work most effectively in cooperation with the private sector toward accomplishment of the goals laid out in subsection (b); and

(D) potential alternative funding sources for carrying out the purposes of this title.

(3) The plan under this section shall be updated annually, if necessary, to reflect any schedule slippage, funding shortfalls, or other circumstances that might impact the ability of the Secretary to fulfill the goals outlined in subsection (b).

(4) In preparing the plan required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

SEC. 8104. COMMERCIALIZATION OF ADVANCED LIGHT WATER REACTOR TECHNOLOGY.—(a) CERTIFICATION OF DESIGNS.—In order to achieve the goal of certification of completed standardized designs by the Commission by 1995 as set forth in section 8103(b), the Secretary—

(1) shall conduct a program of technical and financial assistance to encourage the development and submission for certification of advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of calendar year 1995;

(2) may enter into cooperative agreements with one or more private parties who agree to seek certification by the Commission of advanced light water reactor designs which further the purposes of section 8103(a); and

(3) may support through cost-shared agreements the engineering and research and development necessary to achieve certification of advanced light water reactor designs which further the purposes of section 8103(a).

(b) SECRETARY'S REPORT TO CONGRESS.—The Secretary shall transmit to Congress with its annual budget request a report describing progress in implementing this section and plans for the current and subsequent fiscal years.

(c) REPORT TO CONGRESS FROM THE COMMISSION.—The Commission shall transmit to Congress with its annual budget request a report describing progress in the certification of standardized advanced light water reactor designs, plans for the current and subsequent fiscal years, and resource requirements necessary to comply with the schedules established by the Commission.

SEC. 8105. PROTOTYPE DEMONSTRATION OF ADVANCED NUCLEAR REACTOR TECHNOLOGY.—(a) SOLICITATION OF PROPOSALS.—(1) Within three years after the date of enactment of this title, the Secretary shall solicit proposals to carry out the preliminary engineering design of one or more prototype advanced nuclear reactor technologies (other than an advanced light water reactor) necessary to support a decision on whether to recommend construction of a full-scale prototype demonstration utilizing such a technology to achieve the purposes of this title.

(2) The engineering design proposals under paragraph (1) shall be for prototype advanced nuclear reactors that—

(A) to the maximum extent practicable, exhibit the characteristics set forth in section 8103(a); and

(B) are of sufficient size to address the requirements for certification by the Commission of a completed standardized design for an advanced nuclear reactor technology.

(b) RECOMMENDATION.—(1) No later than January 31, 1996, the Secretary shall make a recommendation to Congress on whether to build one or more full-scale prototype demonstration reactors utilizing advanced nuclear technology developed by the Department under the program authorized by this title.

(2) Any recommendation to build a prototype demonstration reactor shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on schedule milestones for licensing, construction, and operation; and

(C) estimate the funding requirements and specify the extent and nature of anticipated non-federal support which shall be not less than 50 percent of the costs of such demonstration.

(3) As part of the recommendation required under this section, the Secretary shall also submit to Congress any recommended changes in Federal statute or regulations that would improve the prospects of success-

ful and timely licensing of any prototype demonstration reactor.

(c) SELECTION OF TECHNOLOGY.—Any technology selected by the Secretary for recommendation for prototype demonstration shall to the maximum extent possible exhibit the characteristics set forth in section 8103(a).

(d) OPPORTUNITY FOR PUBLIC COMMENT.—In developing the recommendation required under this section, the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Commission and other interested parties.

(e) SOLICITATION OF PROPOSALS FOR DEMONSTRATION.—At any time after 180 calendar days after submission of the recommendation to Congress required under subsection (b), the Secretary, subject to appropriations, may solicit proposals to implement the recommendation.

SEC. 8106. AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this title.

TITLE IX—NUCLEAR REACTOR LICENSING

SEC. 9101. SHORT TITLE.—This title may be cited as the "Nuclear Reactor Licensing Act of 1991.".

SEC. 9102. COMBINED LICENSES.—Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by—

(1) adding "and Operating Licenses" after "Permits" in the catchline;

(2) adding a subsection designator "a." before "All"; and,

(3) adding the following new subsection:

"b. After holding a public hearing under section 189a.(1)(A) of this Act, the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall satisfy itself that the prescribed acceptance criteria are met.".

SEC. 9103. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.—Section 189a.(1) of the Atomic Energy Act of 1954 is amended by:

(1) adding a subparagraph designator "(A)" before "In" and

(2) adding the following new subparagraph:

"(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 185b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under this subparagraph shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under this subparagraph, the Commission expeditiously shall either deny or grant the request. If a hearing is held, commencement of plant operation shall not be delayed pending a decision unless the Commission determines, after considering petitioners' prima facie showing and any answers thereto, that petitioners are likely to succeed on the merits and that there will not be reasonable assurance of adequate protection of the public health and safety.

"(iv) A hearing under this subparagraph shall be informal, but parties shall be allowed to offer evidence, under oath or affirmation. Discovery and cross-examination of witnesses shall not be permitted, unless the Commission determines that discovery, cross-examination, or other procedure is necessary to the resolution of a substantial dispute of material fact.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 120 days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 9104. RULEMAKING.—The Nuclear Regulatory Commission shall propose regulations implementing this title within one year of the date of enactment of this Act.

SEC. 9105. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.—Section 189a. (2) of the Atomic Energy Act of 1954 is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 9106. CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by amending the item relating to section 185 to read as follows: "Sec. 185. Construction Permits and Operating Licenses."

SEC. 9107. EFFECT ON PENDING PROCEEDINGS.—The provisions of this title apply to all proceedings involving a combined license for which an application was filed after May 8, 1991.

TITLE X—URANIUM

Subtitle A—Uranium Enrichment

SEC. 10101. SHORT TITLE—This subtitle may be cited as the "Uranium Enrichment Act of 1991."

SEC. 10102. DELETION OF SECTION 161v.—Section 161v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 10103. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

(a) inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY"; and

(b) adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101–9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

"a. to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"b. to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"c. to market and sell enriched uranium and uranium enrichment and related services to—

"(1) the Department for governmental purposes; and

"(2) qualified domestic and foreign persons;

"d. to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"e. to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"f. to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"g. to maintain a reliable and economical domestic source of enrichment services;

"h. to conduct its activities in a manner consistent with the health and safety of the public;

"i. to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"j. to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; Provided, that advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly-owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the Judgment Appropriation (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided in section 1404, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; Provided, however, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503 d., except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506 c. and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"a. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility.

"b. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"c. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"d. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504 b. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504 b. during their term of employment, regardless of any recommendation received or not received under this title.

"e. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"f. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"g. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"h. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"i. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"j. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"a. Officers and employees of the Corporation shall be officers and employees of the United States.

"b. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code; *Provided*, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503 d. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"c. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (5 U.S.C. chapter 83, subchapter III) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (5 U.S.C. chapter 84). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"d. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"e. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"f. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"g. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as "AVLIS", technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: Provided, however, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection a., amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505 a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: Provided, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than 90 days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such terms appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152 or 153 b.(1) of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c.(1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b.(1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility under section 183 of title 35, United States Code with respect to secrecy orders imposed under section 181 of such title.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection a. that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection b., the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection a. As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed beginning in fiscal year 1997 to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all state and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. Beginning in fiscal year 1997, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1997.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1–7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12–27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8–9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT.—

"a. Three years after enactment of this title, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection a., the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT.—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United Statesan account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402 j., such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection b.(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 10104. TREATMENT OF THE CORPORATION AS BEING PRIVATELY OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this subtitle, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 10105. MISCELLANEOUS PROVISIONS.—(a) AMENDMENT OF GOVERNMENT CORPORATIONS CONTROL ACT.—Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) OWNERSHIP OF ENRICHMENT PLANTS.—In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) TERMINATION OF AUTHORITY OF THE DEPARTMENT OF ENERGY.—In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) EXEMPTION FROM DEFENSE NUCLEAR FACILITIES SAFETY BOARD OVERSIGHT.—The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) EXEMPTION FROM GRAMM-RUDMAN-HOLLINGS ACT.—Subsection 905(g)(1) of Title 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) REPEAL OF PROHIBITION ON CONSIDERATION OF PRIVATIZATION.—Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Pub. L. No. 100-202, is repealed.

SEC. 10106. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 10107. SEVERABILITY.—If any provision of this subtitle, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this title, or the application of the same shall not be thereby affected.

SEC. 10108. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this subtitle shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this title; Provided, however, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 a. of the Atomic Energy Act of 1954, as amended by this title.

SEC. 10109. PAYMENT OF COST OF TRANSFER.—(a) PAYMENT SUBJECT TO APPROPRIATION.—Notwithstanding section 1401j. of the Atomic Energy Act of 1954 as amended by section 10103 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

Subtitle B—Uranium

PART 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

SEC. 10211. SHORT TITLE.—This subtitle may be cited as the "Uranium Security and Tailings Reclamation Act of 1991."

SEC. 10212. FINDINGS AND PURPOSE.—(a) FINDINGS.—The Congress finds for purposes of this subtitle that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing Nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942)—

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of parts 2 and 3 of this subtitle to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 10213. DEFINITIONS.—For purposes of this subtitle—(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of Title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

PART 2—URANIUM REVITALIZATION

SEC. 10221. VOLUNTARY OVERFEED PROGRAM.—(a) ESTABLISHMENT.—The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) FINANCIAL INCENTIVE.—The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) ADDITIONAL PARTICIPATION.—In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) USE OF DOMESTIC URANIUM.—An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this title or domestic uranium actually produced by a domestic uranium producer before the enactment of this title and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) IMPLEMENTATION.—Within ninety days of the date of enactment of this title, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 10222. NATIONAL STRATEGIC URANIUM RESERVE.—There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this title, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this title shall be restricted to military purposes.

SEC. 10223. RESPONSIBILITY FOR THE INDUSTRY.—(a) CONTINUING SECRETARIAL RESPONSIBILITY.—The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: Provided, however, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 10224. GOVERNMENT URANIUM PURCHASES.—(a) USE OF DOMESTIC URANIUM.—After the date of enactment of this title, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: Provided, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this title.

(b) TVA EXEMPTION.—Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 10225. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.—The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

PART 3—REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

SEC. 10231. REMEDIAL ACTION PROGRAM.—(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 10232 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B) and (C) shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—*Provided however*, That (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 10233, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 10232. REGULATIONS.—The Secretary shall issue regulations governing reimbursement under section 10231. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 10231.

SEC. 10233. AUTHORIZATION.—There is authorized to be appropriated for purposes of this part not more than $300,000,000 increased annually as provided in section 10231 based upon an inflation index as determined by the Secretary.

PART 4—IMPORTS OF URANIUM, ENRICHED URANIUM, AND URANIUM ENRICHMENT SERVICES

SEC. 10241. FINDINGS AND PURPOSES.—(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this part are to—

(1) determine whether any uranium or enriched uranium is being exported by non-market economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 10242. DEFINITIONS.—For purposes of this part, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 10243. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.—(a) INVESTIGATION.—Within sixty days after the date of enactment of this part, the United States International Trade Commission shall initiate an investigation to determine—

(1) the quantities of uranium or enriched uranium being exported from non-market economy countries;

(2) the amount and nature of uranium enrichment services being offered by non-market economy countries; and

(3) whether such uranium, enriched uranium or enrichment services are being offered at prices which represent less than the cost of producing such uranium or enriched uranium or providing such uranium enrichment services.

(b) COOPERATION.—The Secretary, the Administrator, and the Secretary of Commerce shall cooperate fully with the International Trade Commission in the investigation and shall furnish them all records, analyses and information in their possession regarding the production costs, sales costs and exports of uranium and enriched uranium, or the provision of uranium enrichment services, by non-market economy countries.

(c) REPORT.—(1) Within one year after the date of enactment of this part and annually thereafter, the International Trade Commission shall furnish a report containing the results of the investigation and its determination under paragraph (a)(3) to the President, for the use of the Secretary and Secretary of Commerce, and the Congress.

(2) If the International Trade Commission determines that any non-market economy country is exporting uranium or enriched uranium, or providing enrichment services, at prices which represent less than the cost of production, the President, or his designee, within 120 days of receipt of the report from the International Trade Commission, shall transmit to the Congress a report on what actions are being taken by the Federal Government to discourage or end such pricing practices, including the status of any negotiations with such country to end such pricing practices.

(d) CONFIDENTIALITY.—The International Trade Commission shall take such steps as, in its judgment, are necessary, including the classification of information, to assure appropriate protection of any confidential information.

SEC. 10244. URANIUM PURCHASE REPORTS.—(a) ANNUAL REPORTS.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) COUNTRY OF ORIGIN.—For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined, or

(2) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 10245. REGULATORY TREATMENT OF URANIUM PURCHASES.—(a) ENCOURAGEMENT.—The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this part, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater that the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) REPORT.—Within one year of the date of enactment of this part, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this part.

(c) DEFINITION OF NON-AFFILIATE.—As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 10246. UNITED STATES PURCHASE OF ENRICHED URANIUM.—(a) AUTHORIZATION.—Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce productions costs and maintain competitive prices.

(b) USE OF URANIUM.—If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

TITLE XI—NATURAL GAS

SEC. 11101. OPTIONAL CERTIFICATE PROCEDURES.—(a) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—Section 7 of the Natural Gas Act, (15 U.S.C. 717f) is amended—

(1) by adding a new subparagraph (c)(1)(G) as follows—

"(G) Upon application the Commission shall issue a certificate of public convenience and necessity for the construction, extension and operation of facilities for the transportation or sale of natural gas without requiring a hearing or further proof that the public convenience and necessity would be served by those facilities; *Provided*, That, subject to the provisions of subsection (k) of this section, the requirements of subsections (i) and (j) of this section are met. Such a certificate shall be non-exclusive and non-prejudicial to any other authorization under the Natural Gas Act or the Natural Gas Policy Act of 1978.";

(2) by adding the following three subsections after subsection (h)—

"(i) For the purposes of subparagraph (c)(1)(G) of this section—

"(1) The Commission shall issue a certificate of public convenience and necessity only if it finds that the construction, extension and operation of facilities shall not impair any certificate holder's ability to render adequate service to its customers, and only if, in addition to any other terms the Commission may attach, the following terms and conditions are attached to such certificate to satisfy the following requirements—

"(A) No costs or expenses incurred in relation to the construction, extension and operation of facilities, or the sale of such facilities, covered by a certificate issued pursuant to subparagraph (c)(1)(G) of this section may be included in the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(B) The holder of a certificate issued pursuant to subparagraph (c)(1)(G) of this section shall not be required to credit any revenues received in relation to providing service under such certificate, or the sale of facilities authorized under such certificate, when determining the rates and charges of any other rate schedule filed with the Commission under this Act or the Natural Gas Policy Act of 1978.

"(C) Notwithstanding section 15(a) of this Act, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall not participate in any proceedings (other than those it may subsequently initiate) for the construction, extension or operation of facilities that would serve the same market served by the facilities authorized by the holder's certificate issued under subparagraph (c)(1)(G) of this section.

"(D) Under such rules and regulations as the Commission may prescribe, the holder of a certificate issued under subparagraph (c)(1)(G) of this section shall file with the Commission within such time and in such form as the Commission may prescribe, and shall keep open in convenient form and place for public inspection, copies of all agreements required to be filed with the Commission pursuant to subsection (j) of this section.

"(E) The holder of a certificate issued under subparagraph (c)(1)(G) of this section shall maintain a separate system of books, accounts and records for the facilities and services authorized under such certificate.

"(2) The Commission shall assure that all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section are negotiated at arms length.

"(3) The Commission shall provide reasonable public notice of the application for the issuance of a certificate of public convenience and necessity pursuant to subparagraph (c)(1)(G) of this section.

"(j) For purposes of subparagraph (c)(1)(G) of this section—

"(1) Not later than 60 days prior to the commencement of transportation or sales service pursuant to a certificate issued under subparagraph (c)(1)(G) of this section, or at such time as the Commission may find necessary and reasonable, the certificate holder shall file with the Commission copies of all agreements between the certificate holder and all persons, including affiliates of the certificate holder, contracting for transportation or sales service utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section. Subsequent to the commencement of transportation or sales service utilizing facilities operated under a certificate issued under subparagraph (c)(1)(G) of this section, the certificate holder shall file with the Commission not later than ten days prior to the initiation of any new service utilizing facilities authorized under such certificate a copy of any new or amended agreement entered into by the certificate holder and any person, including any affiliate of the certificate holder, contracting for transportation or sales service utilizing facilities authorized under such certificate. The Commission shall keep and make available for public inspection all agreements required to be filed with the Commission pursuant to this paragraph.

"(2) The rates, charges, classifications or practices for the transportation or sale of natural gas contained in the agreements filed with the Commission pursuant to paragraph (j)(1) of this section shall be presumed to be just and reasonable. If, however, the Commission, after a hearing held upon the petition of a person who has made a bona-fide offer to enter into a contract, or who has entered into a contract, for the transportation or sale of natural gas utilizing facilities authorized in a certificate issued under subparagraph (c)(1)(G) of this section, finds that the failure to provide a requested rate, charge, classification, or practice in connection with the requested transportation or sale of natural gas through facilities constructed, extended or operated under a certificate issued under subparagraph (c)(1)(G) of this section is unjust, unreasonable, unduly discriminatory or preferential, the Commission, considering all relevant factors, shall determine the rates, charges, classification or practices which are not unjust, unreasonable, unduly discriminatory or preferential to be observed and in force with respect to the transportation or sale of natural gas to be provided to the petitioner, and shall fix the same by order; *Provided*, That the Commission may not order the requested service to the extent that it finds that capacity is not available. Unless the Commission issues a final order on a petition filed pursuant to this paragraph within one hundred and twenty days after it is filed, such petition shall be deemed denied.

"(k) In any case where a certificate providing for construction or extension of facilities under subparagraph (c)(1)(G) of this section is opposed by a local distribution company on grounds that such certificate would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for a hearing on the record and shall decide by final order on rehearing issued within 90 days of the filing of such opposition whether such construction or extension of facilities pursuant to the certificate would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction or extension of facilities would result in the displacement of a sale or transportation service being provided by such local distribution company, the application for a certificate of public convenience and necessity filed pursuant to subparagraph (c)(1)(G) of this section shall, at the option of the applicant, be deemed filed for consideration pursuant to subparagraph (c)(1)(A) of this section. For purposes of this subsection, the term "local distribution company" shall have the same meaning as in section 2(17) of the Natural Gas Policy Act of 1978, and a holder of a service area determination under section 7(f) of this Act shall be considered a local distribution company."; and

(3) by adding at the end of subsection (b) the following: "This subsection does not apply to any facility or service certificated pursuant to subparagraph (c)(1)(G) of this section.".

(b) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 4 PROCEDURES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (e)—

"(f) Subsections (c), (d) and (e) of this section do not apply to the transportation or sale of natural gas through facilities authorized by a certificate of public convenience and necessity issued under section 7(c)(1)(G) of this Act.".

(c) NON-APPLICABILITY OF NATURAL GAS ACT SECTION 5 PROCEDURES.—Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by adding the following after the period:

"This subsection does not apply to any rate, charge, classification or practice by a natural-gas company in connection with the transportation or sale of natural gas through facilities authorized by a certificate issued under section 7(c)(1)(G) of this Act.".

SEC. 11102. TRANSPORTATION OF NATURAL GAS UNDER THE NGPA.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended by—

(a) striking "AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION" and inserting in lieu thereof "AUTHORIZATION OF CERTAIN SALES, TRANSPORTATION AND CONSTRUCTION";

(b) striking "Commission Approval of Transportation" and inserting in lieu thereof "Commission Approval of Transportation and Construction";

(c) striking paragraph (a)(1), and inserting in lieu thereof the following:

"(1) INTERSTATE PIPELINES.—

"(A) IN GENERAL.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of—

"(i) any intrastate pipeline,

"(ii) any local distribution company, or

"(iii) any other person including the interstate pipeline itself.

"(B) JUST AND REASONABLE RATES.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

"(C) NON-DISCRIMINATORY TRANSPORTATION.—Any transportation authorized under subparagraph (A) shall not be unjust, unreasonable, unduly discriminatory or preferential (within the meaning of the Natural Gas Act).

"(D) CONSTRUCTION.—Upon sixty days notification to the affected state commission, an interstate pipeline may construct facilities for transportation service provided under this subsection: *Provided*, That construction under this subsection shall not occur in the event such construction would result in the displacement of a sale or transportation service being provided by a local distribution company, unless such local distribution company consents thereto. In any case where such construction is opposed by a local distribution company on grounds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the Commission shall promptly set the matter for hearing on the record and shall decide by a final order on rehearing issued within 90 days of the filing of such opposition whether the construction would displace a sale or transportation service being provided by such local distribution company. If the Commission finds that such construction would result in the displacement of a sale or transportation service being provided by such local distribution company, the interstate pipeline may file an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act for authority to construct or extend such facilities. Activities authorized under this paragraph are not subject to State regulation. For purposes of this subparagraph, a holder of a service area determination under section 7(f) of the Natural Gas Act shall be considered a local distribution company." and by

(d) striking subparagraph (a)(2)(A), and inserting in lieu thereof the following:

"(A) IN GENERAL.—The commission may, by rule or order, authorize any intrastate pipeline to transport natural gas on behalf of—

"(i) any interstate pipeline,

"(ii) any local distribution company served by an interstate pipeline, or

"(iii) any other person, including the intrastate pipeline itself, in interstate commerce (within the meaning of the Natural Gas Act).".

SEC. 11103. NEPA COMPLIANCE.—(a) MAJOR FEDERAL ACTION.—Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) is amended by adding the following after paragraph (2):

"(3)(A) For purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable environmental laws, the authorization of construction of facilities by issuance of a certificate of public convenience and necessity by the Commission is the only Federal action that may be considered a major Federal action requiring a detailed statement on the environmental impact of the proposed action in connection with the construction or extension of facilities. The Commission may set reasonable time limits for consultation with the other Federal and State agencies and departments which participate in the review of a proposed facility, and may set reasonable time limits for those agencies and departments to complete their review and submit comments to the Commission.

"(B) Where environmental documents are prepared in connection with applications for authority to construct, extend or operate facilities under this Act, the Commission shall permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant to prepare such environmental document. The Commission shall permit the applicant to select a contractor, consultant or other person from among a list of such individuals or companies determined by the Commission to be qualified to do such work. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

"(C) Where an environmental assessment is prepared in connection with applications for authority to construct, extend or operate facilities under this Act, the Commission shall permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission shall allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

"(D) The Commission shall not infer any control or responsibility over nonjurisdictional activities for purposes of carrying out its environmental responsibilities under the National Environmental Policy Act of 1969.".

(b) COMMUNICATIONS WITH THE COMMISSION.—The Federal Energy Regulatory Commission, within 12 months of the date of enactment of this Act, shall amend its rules governing ex parte communications to clarify that the prohibitions contained in such rules do not apply to communications between the Commission's environmental advisory staff and other Federal and State agencies that are cooperating agencies for purposes of compliance with title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331-35); *Provided*, That an accurate public record of all such communications shall be kept and made available, and any party to the proceeding with respect to which such communication was made may respond in writing to such communication.

SEC. 11104. RATES AND CHARGES.—(a) NOTICE OF CHANGES.—The first and third sentences of section 4(d) of the Natural Gas Act (17 U.S.C. 717c(d)) are amended by striking "thirty days' notice" and inserting in lieu thereof "sixty days' notice".

(b) JOINT RATES.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following subsection after subsection (f), added by this title—

"(g) Under such rules and regulations as the Commission may prescribe to preclude anticompetitive conduct, natural-gas companies may jointly file with the Commission rates for the sequential transportation of natural gas through their facilities.".

(c) GAS RESEARCH INSTITUTE SURCHARGE.—

(1) Nothing in this Act amends or modifies the Federal Energy Regulatory Commission's authority to allow recovery, in advance, of expenditures for research, development and demonstration expenses by natural-gas companies for projects in the areas of exploration, production, transmission, distribution and use of natural gas.

(2) The Federal Energy Regulatory Commission is authorized pursuant to section 4 of the Natural Gas Act to allow recovery, in advance, of expenses by natural-gas companies for research, development and demonstration activities by the Gas Research Institute for projects on the use of natural gas in motor vehicles and on the use of natural gas to control emissions from the combustion of other fuels; *Provided*, That the Commission finds that the benefits, including environmental benefits, to both existing and future ratepayers resulting from such activities exceed all direct costs to both existing and future ratepayers.

(d) REPORTS TO CONGRESS.—

(1) REPORTS BY THE FERC.—Within six months of the date of enactment of this Act, the Federal Energy Regulatory Commission shall report to the Senate Committee on Energy and Natural Resources and the House of Representatives on the following—

(A) NATURAL GAS TRANSPORTATION.—The goals, objectives and results of the Commission's program for open access transportation of natural gas, the schedule for the program's complete implementation, and the Commission's criteria for—

(i) rate design reform;

(ii) comparability of service;

(iii) authorizing pipeline abandonment and defining pipeline service obligation; and

(iv) treatment of gas purchase contract buyout and buydown costs.

(B) PIPELINE MERCHANT FUNCTION.—The Commission's regulation under the Natural Gas Act (15 U.S.C. 717-17v) of interstate pipeline sale for resale activities (the merchant function) including—

(i) the implementation of gas inventory charges and the as-billed recovery of producer demand charges; and

(ii) the criteria for finding that market-based rates for interstate pipeline sales for resale can be deemed to be just and reasonable in circumstances where such sales are made in workably competitive markets, and given such a finding, the criteria for finding that profits and losses occasioned by such sales for resale should not be taken into account in setting the seller's rates for other services.

(C) NATURAL GAS RATEMAKING.—The Commission's criteria for establishing just and reasonable rates under section 4 of the Natural Gas Act—

(i) where the Commission finds that workable competition exists and comparable third-party transportation exist, including criteria for the establishment of market-based rates;

(ii) on a basis other than historical cost, including the criteria for incentive rates; and

(iii) to ensure that all throughput, under both long-term and short-term arrangements, is taken into account in the Commission's determination of used and useful plant for purposes of possible inclusion in rate base.

(e) NATURAL GAS IMPORTS.—

(1) TRANSFER OF AUTHORITY.—Within thirty days of the date of enactment of this Act, the Secretary of Energy shall issue an order delegating to the Federal Energy Regulatory Commission authority to administer the provisions of section 3 of the Natural Gas Act (15 U.S.C. 717b).

(2) NATURAL GAS ACT AMENDMENT.—Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding the following at the end of the section: "The Commission shall condition any import authorization pursuant to this section to redress any anti-competitive impacts on United States' natural gas producers including, but not limited to, competitive disparities resulting from different rate designs applied to the pipeline transportation of domestic natural gas and the pipeline transportation of imported natural gas.".

(3) REPORT BY THE DEPARTMENT OF JUSTICE.—Within six months of the date of enactment of this Act, the Department of Justice, in consultation with the Department of Energy, the Federal Energy Regulatory Commission and the Office of the United States Trade Representative, shall report to the Senate Committee on Energy and Natural Resources and the House of Representatives regarding the authority of the Department of Energy and the Federal Energy Regulatory Commission under applicable law to address and remedy regulatory advantages that may be conferred on imported natural gas.

SEC. 11105. UTILIZATION OF RULEMAKING PROCEDURES.—The first sentence of section 403(c) of the Department of Energy Organization Act (42 U.S.C. 7173(c)) is amended to read as follows: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or to the establishment of rates and charges, the issuance of a certificate of public convenience and necessity, or the abandonment of facilities and services under the Natural Gas Act may be conducted by rulemaking procedures.".

SEC. 11106. REVIEW OF COMMISSION ORDERS.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) REHEARING.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 19(b) of the Natural Gas Act (15 U.S.C. 717r(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(b) NATURAL GAS POLICY ACT AMENDMENTS.—

(1) REHEARING.—Section 506(a)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(a)(2)) is amended by striking "Unless the Commission acts upon such application for rehearing within 30 days after it is filed, such application shall be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within 60 days after it is filed, such application shall be deemed denied: *Provided*, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 506(a)(4) of the Natural Gas Policy Act (15 U.S.C. 3416(a)(4)) is amended by striking the first three sentences and inserting the following in lieu thereof: "Any person who is a party to a proceeding under this Act aggrieved by any final order issued by the Commission in such proceeding may obtain review of such order in the United States Court of Appeals for any circuit in which the party to which such order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. Review shall be obtained by filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 30 days after the final action of the Commission on the application for rehearing required under paragraph (2). The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(c) FEDERAL POWER ACT AMENDMENTS.—

(1) REHEARING.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: Provided, That the Commission may, for good cause, extend the period for rehearing an additional ninety days or, in the case of a rulemaking proceeding, an additional one hundred and twenty days.".

(2) COURT REVIEW.—Section 313(b) of the Federal Power Act (16 U.S.C. 825l(b)) is amended by striking the first and second sentences and inserting the following in lieu thereof: "Any party to a proceeding under this Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the Circuit Court of Appeals of the United States for any circuit wherein the licensee or public utility to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

SEC. 11107. LIMITED ANTITRUST RELIEF FOR INDEPENDENT GAS PRODUCER COOPERATIVES.—(a) DEFINITIONS. For the purposes of this section, the term—

(1) "antitrust laws" shall mean the Federal laws defined in section 2(37) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(37));

(2) "independent producer" means any person whose natural gas production does not exceed 6 million cubic feet per day: *Provided*, That any person who is an interstate pipeline, intrastate pipeline or local distribution company, as defined in sections 2(15), (16), and (17) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301(15),(16),(17)), or who is an affiliate of such person, as defined in section 2(27) of the Natural Gas Policy Act of 1978, (15 U.S.C. 3301(27)), may not be considered an independent producer for the purposes of this section; and

(3) "independent producer cooperative" shall mean any group of independent producers formed and operated for the purpose of pooling natural gas to enable the cooperative members to bargain effectively for the sale of the natural gas to any person: *Provided*, That such group is not formed or operated for the purpose of raising prices.

(b) LIMITED ANTITRUST RELIEF.

(1) In any civil action under the antitrust laws, the formation or operation of an independent producer cooperative shall not be deemed illegal per se, but shall be illegal only if the anticompetitive effects substantially outweigh the procompetitive effects.

(2) Nothing in this section shall affect the ability of the United States, any State or a private party to obtain an injunction against an independent producer cooperative for conduct that is proven to be illegal under the standard set forth in paragraph (1).

(c) SCOPE.—Nothing in this section shall be construed to make it unlawful for an operator or working interest owner of a well, lease, field, plant or producing unit to market, on behalf of other working interest and royalty owners, the natural gas produced from such well, lease, field, plant or producing unit.

SEC. 11108. VEHICULAR NATURAL GAS JURISDICTION.—(a) NATURAL GAS ACT AMENDMENTS.—

(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended to add the following after subsection (c)—

"(d) The provisions of this Act shall not apply to any person by reason of, or with respect to, any sale or transportation of Vehicular Natural Gas if such person is (i) not otherwise a natural-gas company, or (ii) primarily subject to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of Vehicular Natural Gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended to add the following after subsection (9)—

"(10) 'Vehicular Natural Gas' means natural gas that is ultimately used as a fuel in a motor vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation of natural gas in closed containers, or the sale of natural gas, by any person who is not otherwise a public utility to any person for use by such person as a fuel in a vehicle shall not be deemed to be a transportation or sale of natural gas within the meaning of any State law, regulation or order in effect prior to January 1, 1989. The provisions of this section shall not apply to any State law, regulation or order that protects the public safety.

(c) NON-APPLICABILITY OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—

(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(4)) ("Act") solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Act (15 U.S.C. 79k(b)(1)), a company registered under such Act solely by reason of direct or indirect ownership of voting securities of one or more gas utility companies, or any subsidiary of such company, may acquire or retain, in any geographic area, any interest in any company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, installation, servicing, or financing of equipment related to the sale or consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Act (15 U.S.C. 79c) such company is exempt from registration.

(4) "Vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a motor vehicle.

SEC. 11109. STREAMLINED CERTIFICATE PROCEDURES.—(a) Unopposed Applications.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by:

(1) redesignating subparagraph (B) as subparagraph (C); and

(2) inserting after subparagraph (A) the following new subparagraph:

"(B) In any case not described in the proviso of subparagraph (A), the Commission shall file notice in the Federal Register of the proposed certificate of public convenience and necessity as soon as the required information in connection therewith has been received by the Commission. If no party has filed a protest or objection in response to such notice within 60 days after publication of such notice, the certificate of public convenience and necessity shall be deemed to be issued: Provided, That notwithstanding the filing of a protest or objection a certificate shall be deemed issued if all protests and objections are withdrawn.".

(b) EXPEDITED PROCEDURE FOR PROTESTS.—Within 90 days of the date of enactment of this Act, the Commission shall institute a rulemaking to establish a procedure for dealing expeditiously with protests which do not raise material issues of fact necessitating an evidentiary hearing.

(c) CERTIFICATE NOT REQUIRED FOR REPLACEMENT FACILITIES.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) The term 'facilities' as used in this subsection shall exclude facilities which constitute the replacement or repair of existing facilities which have or will soon become physically deteriorated or obsolete to the extent that replacement is deemed advisable, provided (1) that such replacement or repair does not result in a reduction or abandonment of service by means of such facilities, (2) that such replacement or repair has substantially equivalent designed delivery capacity as the particular facilities being replaced or repaired, and (3) that the cost of such replacement or repair shall not exceed $20 million dollars per project, as adjusted pursuant to the Implicit Price Deflator for GNP. Nothing herein shall preclude a natural-gas company from repairing or replacing facilities as may be necessary to meet the requirements of the Natural Gas Pipeline Safety Act of 1968.".

(d) CONCLUSIVE EVIDENCE OF NEED.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(E) In such hearing under subparagraph (C), proof of binding contractual commitments by bona fide shippers for firm natural gas service to be rendered utilizing the facilities proposed to be constructed or extended shall be conclusive evidence of the need for such proposed service and facilities, and shall be sufficient to dismiss any claim of mutual exclusivity by another applicant.".

(e) PHASED CERTIFICATE PROCEDURES.—Section 7(c)(1) of the Natural Gas Act (15 U.S.C. 717f(c)(1)) is amended by adding at the end thereof the following new subparagraph:

"(F) In such hearing under subparagraph (C), the Commission, where appropriate, may phase its consideration of issues raised in connection with the application and may issue an initial order containing preliminary findings with respect to such issues. Notwithstanding the preliminary findings in such initial order, the issuance of a certificate of public convenience and necessity will be subject to a final order based upon the complete record of the hearing under subparagraph (C).".

SEC. 11110. GAS DELIVERY INTERCONNECTION.—Section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a)) is amended by—

(a) redesignating subsection (a) as paragraph (a)(1); and

(b) inserting at the end the following new paragraph—

"(2) Upon the petition of any person, the Commission by order may direct an interstate pipeline as defined in section (2)(15) of the Natural Gas Policy Act of 1978, for the sole purpose of receiving natural gas from the petitioner, to establish, at petitioner's expense, and upon such reasonable terms as the Commission may prescribe, physical connection of the interstate pipeline's transportation facilities with the petitioner's production or gathering facilities, the petitioner's intrastate pipeline as defined in section 2(16) of the Natural Gas Policy Act of 1978 (limited to the production area as defined by the Commission), or the petitioner's pipeline certificated pursuant to subparagraph (c)(1)(G) of this section (limited to the production area as defined by the Commission); Provided, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel an interstate pipeline to establish physical connection when to do so would impair its ability to render adequate service to its customers.".

SEC. 11111. DEREGULATION OF PIPELINE SALES OF NATURAL GAS.—Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following after subsection (g), as added by this title—

"(h) After a hearing held upon the application of a natural-gas company, if the Commission finds that the natural-gas company provides transportation for natural gas owned by any other person comparable to the transportation provided by the natural-gas company for natural gas that it sells for resale and finds that the market that the natural-gas company is authorized to serve is competitive, the Commission may issue an order finding that the natural gas cost component of rates and charges made, demanded, or received by the natural-gas company for the sale for resale of natural gas are exempt from the jurisdiction of the Commission under this Act.".

SEC. 11112. COMMISSION POLICY MAKING.—Section 401 of the Department of Energy Organization Act (42 U.S.C. 7171) is amended by adding the following after subsection (j)—

"(k) For the purposes of this Act or any other Act, discussions by all members of the Commission on matters of general policy shall not be considered a meeting.".

TITLE XII—OUTER CONTINENTAL SHELF

SEC. 12101. COASTAL STATE AND COMMUNITY OUTER CONTINENTAL SHELF IMPACT ASSISTANCE.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331–1356) is amended by designating the existing provisions as Title I and adding a new Title II at the end thereof as follows:

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Coastal State and Community Outer Continental Shelf Impact Assistance Act'.

"SEC. 202. DEFINITIONS.

"For purposes of this title the term—

"(1) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, or the Gulf of Mexico;

"(2) "coast line" has the meaning given such term under the Submerged Lands Act (43 U.S.C. 1301 *et seq.*);

"(3) "Secretary" means the Secretary of the Interior; and

"(4) "new revenues" means:

(A) all bonuses paid as a result of lease sales conducted pursuant to the Outer Continental Shelf Lands Act on or after February 5, 1991;

(B) all rents and other moneys other than royalties payable to the Secretary on or after February 5, 1991, related to a lease issued pursuant to the Outer Continental Shelf Lands Act; and

(C) all royalties attributable to a well or mining operation from which production commenced on or after February 5, 1991, and payable to the Secretary under the Outer Continental Shelf Lands Act;

plus interest thereon.

"SEC. 203. COASTAL STATE AND COMMUNITY OUTER CONTINENTAL SHELF IMPACT ASSISTANCE FUND.

"(a) ESTABLISHMENT.—There is established an interest bearing special account in the Treasury of the United States to be known as the Coastal State and Community Outer Continental Shelf Impact Assistance Fund (hereinafter in this Act referred to as "the Fund"). All payments made by the Secretary to carry out the provisions of this title shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this title shall be kept on deposit or invested in obligations of, or guaranteed by, the United States. The Fund shall be available to the Secretary without fiscal year limitation as a special account for the purposes of carrying out this title.

"(b) PAYMENTS TO FUND.—Beginning in fiscal year 1992, the Secretary shall pay into the Fund not later than 60 days after the end of the preceding fiscal year, an amount equal to 37.5 percent of all new revenues, as defined herein, derived during the preceding fiscal year which are attributable to an Outer Continental Shelf lease any part of which is within 200 geographical miles of the coast line.

"SEC. 204. DISPOSITION OF FUND.

"(a) STATE IMPACT ASSISTANCE.—(1) Subject to appropriation, the Secretary shall transmit to the coastal State annually the revenues payable to such coastal State pursuant to this title, plus interest thereon.

"(2) Subject to paragraph (3), the amounts to be paid to coastal States under this subsection shall be, with respect to any such State for any fiscal year, the sum of the amounts calculated, with respect to such State, pursuant to subparagraphs (A), (B), and (C):

"(A) An amount which bears, to one-half of the amount appropriated for such fiscal year, the same ratio that the amount of Outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of Outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

"(B) An amount which bears, to one-quarter of the amount appropriated for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the Outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the Outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears, to one-quarter of the amount appropriated for such fiscal year, the same ratio that the volume of oil and natural gas produced from Outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all Outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the coastal States in such year.

"(3)(A)(i) After making the calculations required under paragraph (2) for any fiscal year, the Secretary shall—

"(I) with respect to any coastal State which, based on such calculations, would receive an amount which is less than 2 per centum of the amount appropriated for such fiscal year, increase the amount payable to such coastal State to 2 per centum of such appropriated amount; and

"(II) with respect to any coastal State which, in such fiscal year, would not receive a payment under paragraph (2), make a payment to such coastal State in an amount equal to 2 per centum of the total amount appropriated for making payments to all States under paragraph (2) in such fiscal year if any other coastal State in the same region will receive a payment under such paragraph in fiscal year, except that a coastal State shall not receive a payment under this clause unless the Secretary determines that it is being or will be impacted by activities conducted pursuant to a lease issued pursuant to the Outer Continental Shelf Lands Act.

"(ii) For purposes of this subparagraph—

"(I) the States of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia, (the Atlantic coastal states) shall constitute one 'region';

"(II) the States of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one 'region';

"(III) the States of California, Hawaii, Oregon, and Washington (the Pacific coastal states) shall constitute one 'region'; and

"(IV) the State of Alaska shall constitute one 'region'.

"(B) If, after the calculations required under subparagraph (A), the total amount of funds appropriated for making payments to coastal states in any fiscal year pursuant to this subsection is less than the total amount of payments payable to all coastal states in such fiscal year, there shall be deducted from the amount payable to each coastal State which will receive more than 2 per centum of the amount of funds so appropriated an amount equal to the product of—

"(i) the amount by which the total amount of payments payable to all coastal states in such fiscal year exceeds the total amount of funds appropriated for making such payments; multiplied by

"(ii) a fraction, the numerator of which is the amount of payments payable to such coastal State in such fiscal year reduced by an amount equal to 2 per centum of the total amount appropriated for such fiscal year and the denominator of which is the total amount of payments payable to coastal states which, in such fiscal year, will receive more than 2 per centum of the amount of funds so appropriated, reduced by an amount equal to the product of 2 per centum of the total amount appropriated for such fiscal year multiplied by the number of such coastal states.

"(C)(i) If, after the calculations required under subparagraph (B) for any fiscal year, any coastal state would receive an amount which is greater than 37.5 per centum of the amount appropriated for such fiscal year, the Secretary shall reduce the amount payable to such coastal state to 37.5 per centum of such appropriated amount.

"(ii) Any amount not payable to a coastal state in a fiscal year due to a reduction under clause (i) shall be payable proportionately to all coastal states which are to receive more than 2 per centum and less than 37.5 per centum of the amount appropriated for such fiscal year, except that in no event shall any coastal state receive more than an additional 3 per centum of such appropriated amount under this clause.

"(iii) For purposes of this subparagraph, the term "payable proportionately" means payment in any fiscal year in accordance with the provisions of paragraph (2), except that in making calculations under such paragraph the Secretary shall only include those coastal states which are to receive more than 2 per centum and less than 37.5 per centum of the amount appropriated for such fiscal year.

"(4) For purposes of making calculations under paragraph (2), Outer Continental Shelf acreage is adjacent to a particular coastal State if such acreage lies on that State's side of the extended lateral seaward boundaries of such State. The extended lateral seaward boundaries of a coastal State shall be determined as follows:

"(A) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(B) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.

"(C) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(b) County and Community Impact Assistance.—The revenues paid by the Secretary to a coastal State under subsection (a) shall be used by such state and its subdivisions, as the legislature of the state may direct, giving priority to those subdivisions of the state socially, environmentally, or economically impacted by development of minerals on the Outer Continental Shelf, for (i) planning, (ii) construction and maintenance of public facilities, (iii) environmental activities, and (iv) provision of public services.

"SEC. 205. RELATIONSHIP TO OTHER LAW.

"The payment of funds pursuant to this title shall be in addition to any payments made to a State under any other provision of this Act or any other provision of law.".

Sec. 12102. Report on the Availability of the Outer Continental Shelf for Leasing.—(a) Report to Congress.—Within six months after the date of enactment of this Act, the President shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate containing the President's recommendations and findings regarding the availability of areas of the Outer Continental Shelf for oil and gas leasing, development and production.

(b) Report Contents.—Such report shall contain but not be limited to the following findings and information:

(1) oil and gas production potential on the Outer Continental Shelf by region;

(2) historical data regarding oil and gas production on the Outer Continental Shelf by region;

(3) the extent to which production from areas of the Outer Continental Shelf currently under (A) moratoria as a result of the decision of the President announced June 26, 1990, or (B) legislative moratoria would reduce United States dependence on oil from the Middle East and on oil produced by members of the Organization of Petroleum Exporting Countries;

(4) a comparison by Outer Continental Shelf region and on a national basis of the number of oil spills and amount of spilled oil resulting from Outer Continental Shelf production and the number of oil spills and amount of spilled oil caused by vessels transporting imported oil to the United States;

(5) an estimate by region and on a national basis of the net change in the oil spill risk as imports of oil decrease in response to production from new leases on the Outer Continental Shelf;

(6) at least one proposal for an alternative to the current Outer Continental Shelf process that would provide for a staged requirement for environmental information and public comment thereon at critical points in the leasing process and during the post-leasing exploration and development phases. Any such proposal shall assume that a potential lessee will be offered full rights to exploration and development at the time of lease sale subject to cancellation. Any proposal under this paragraph shall specify the criteria to be used for cancellation based on environmental considerations;

(7) an analysis of the compensation criteria for OCS lease cancellation under current law, recommended changes thereto, and recommendations for any changes in such compensation under any proposal under paragraph (6); and

(8) identification of gas prone areas under administrative or legislative moratoria.

TITLE XIII—RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION ACTIVITIES

Sec. 13101. Energy Research, Development, Demonstration, and Commercialization Priorities.—The Secretary shall establish priorities for research, development, demonstration, and commercialization activities. These priorities shall include consideration of the following criteria—

(1) the potential to increase the Nation's energy independence and thus reduce reliance on imported oil;

(2) the projected cost-effectiveness of the energy or energy efficiency resource to be produced or saved, including an evaluation of the likelihood of the activities contributing to the achievement of commercialization of new energy technologies;

(3) the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(4) the national security impact of the energy produced or saved, including its projected contribution to the reduction of oil imports and to the diversity of the domestic energy resource mix;

(5) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing

or maintaining technological leadership in the area of energy and energy efficiency resource technologies, including, but not limited to, solar, fuel cells, fusion, superconductivity, nuclear fission, electric power, clean coal technologies, oil shale, oil and natural gas recovery and utilization, and hydrogen;

(6) the contribution of a given activity to fundamental scientific knowledge;

(7) the anticipated impact of the results of activities on targeted industries and industrial and manufacturing processes; and

(8) the contribution to United States competitiveness.

SEC. 13102. MANAGEMENT PLAN.—(a) PLAN PREPARATION.—The Secretary, in consultation with the Energy Advisory Board to the Secretary, shall prepare a management plan for the conduct of research, development, demonstration, and commercialization of energy technologies that is consistent with the purposes of this Act and guided by the priorities set forth in section 13101.

(b) PROPOSALS.—The management plan under subsection (a) shall contain proposals for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of contingency energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness;

(c) PLAN SUBMISSION.—Within one year after the date of enactment of this section, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially at the time of submittal of the President's annual budget submission to the Congress.

SEC. 13103. NATURAL GAS END-USE TECHNOLOGIES.—(a) PROGRAM.—The Secretary shall carry out a program to promote the development and commercialization of new and advanced natural gas utilization technologies including, but not limited to, the following areas—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, natural gas heating and cooling, cogeneration, and cofiring natural gas with coal and waste fuels;

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers and on-site storage at major energy consuming facilities;

(3) transportation fuel alternatives and emissions controls including natural gas vehicle commercialization and infrastructure development (including home and commercial compressors for natural gas vehicles) and advanced engines and propulsion concepts; and

(4) electrochemical energy conversion including the commercialization of molten carbonate fuel cells and phosphoric acid fuel cells and the development of advanced natural gas-fired fuel cell technologies.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13104. NATURAL GAS SUPPLY ENHANCEMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research, development and demonstration to increase the recoverable natural gas resource base including, but not limited to, the following areas—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) economic recovery of unconventional natural gas resources, including gas from tight sands, eastern shales, and gas from less permeable formations, coal-bed methane and geopressurized reservoirs;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall solicit proposals and may enter into cooperative agreements under this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of this section.

SEC. 13105. HIGH EFFICIENCY HEAT ENGINES.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, demonstration, and commercialization on high efficiency heat engines, emphasizing advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and automotive power generation, such as—

(1) advanced combined cycle turbines;

(2) steam-injected gas turbines; and

(3) intercooled steam-injected gas turbines.

(b) JOINT VENTURES.—The Secretary may enter into joint ventures with appropriate parties to construct and demonstrate high efficiency heat engines.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13106. OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—(1) The Secretary shall carry out a research and development program on oil shale that includes applied research on eastern oil shale, in cooperation with universities and the private sector, that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized in this section, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are now engaged in research on eastern oil shale retorting and associated processes.

(b) COST-SHARING.—The program carried out under this section shall be cost-shared with universities and the private sector to the maximum extent possible.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13107. WESTERN OIL SHALE RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall carry out a program of research on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13108. HIGH-TEMPERATURE SUPERCONDUCTING ELECTRIC POWER SYSTEM.—(a) PROGRAM.—The Secretary shall carry out a program of research, development, and demonstration of a high-temperature superconducting electric power system. Elements of the program shall include, but are not limited to, the following—

(1) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system, such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(2) development of prototypes based on high-temperature superconducting wire and refrigeration systems using cryocoolers or liquid cryogens such as nitrogen, with such prototype wires operating at temperatures between 20 degrees Kelvin and 77 degrees Kelvin (−423 degrees Fahrenheit and -320 degrees Fahrenheit), or higher if material developments permit; and

(3) development of prototypes that are of sufficient operational capabilities to demonstrate the technology application and facilitate dual-use application in both the civilian commercial sector and the defense sector.

(b) COOPERATIVE AGREEMENTS.—In order to carry out the programs under this section, the Secretary shall solicit proposals and may enter into cooperative agreements under this section. The Secretary is also encouraged to expedite government, industry, and university collaborative agreements under existing mechanisms at the Department of Energy, in coordination with other Federal agencies.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13109. RENEWABLE ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 4(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Pub. L. No. 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.

"Each of the President's annual budget requests submitted to Congress after the date of enactment of this Act shall include as separate line items each of the categories of renewable energy programs described in this subsection.".

SEC. 13110. ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT PROGRAMS.—Section 5 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (Pub. L. No. 101-218) is amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) such sums as may be necessary for fiscal year 1992;

"(2) such sums as may be necessary for fiscal year 1993; and

"(3) such sums as may be necessary for fiscal year 1994.".

SEC. 13111. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.—(a) PROGRAM.—(1) The Secretary shall expand the program of research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including absorption heat pumps and engine-driven heat pumps.

(3) The electric heating and cooling program shall increase research on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electrically driven HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons, including HCFC-22.

(b) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 13112. FUSION.—(a) PROGRAM.—The Secretary shall carry out a research, development, and demonstration program on fusion energy that is structured in a way that will lead to commercial demonstration of the technological feasibility of fusion energy for the production of electricity after the year 2010.

(b) COMPREHENSIVE MANAGEMENT PLAN.—(1) Within 180 days after the date of enactment of this section, the Secretary shall prepare a comprehensive management plan for research, development, and demonstration of fusion energy, including milestones and schedules for technology development and estimates of budget and program management resource requirements.

(2) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should make efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(3) The plan shall also evaluate to what extent university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13113. ELECTRIC VEHICLE, ELECTRIC-HYBRID VEHICLE, AND ASSOCIATED EQUIPMENT RESEARCH AND DEVELOPMENT.—(a) GENERAL.—The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920), a research and development program on electric vehicles, electric-hybrid vehicles, and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, the automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) COOPERATIVE AGREEMENTS.—The Secretary, consistent with the comprehensive plan under subsection (c), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric vehicle range improvement and light-weight body structures for electric vehicle weight reduction; and

(2) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight for electric vehicle application.

(c) COMPREHENSIVE PLAN.—(1) The Secretary shall prepare a comprehensive five-year program plan for carrying out the purposes of this section. Such program plan shall be updated annually for a period of not less than ten years after the date of enactment of this Act.

(2) The program plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric vehicle and electric-hybrid vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary deems appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric vehicles and electric-hybrid vehicles, including advanced battery technology;

(B) the program elements, management structure, and activities, including program responsibilities of individual agencies and departments;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the plan for each of the participating agencies or departments;

(E) a description of the methods of technology transfer;

(F) the proposed participation by non-Federal entities in the planning and implementation of the plan; and

(G) such other information as the Secretary deems appropriate.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit the comprehensive program plan to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such plan shall be updated annually as specified in subsection (c)(1).

(d) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (b).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (b) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric vehicles or electric-hybrid vehicles and associated equipment.

(e) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(f) DEPLOYMENT.—(1) The Secretary shall conduct a program designed to accelerate deployment of advanced energy storage systems, including advanced battery technologies, for use with electric vehicles and electric-hybrid vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced energy storage systems, including advanced battery technologies, electric vehicle technologies and electric-hybrid technologies and their commercial capability; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies. The information exchange program may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

(g) COMPLIANCE WITH EXISTING LAW.—Nothing in this section shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(h) DEFINITIONS.—For purposes of this section, the term—

(1) "advanced battery" means an electrochemical storage device, including fuel cells, and associated technology necessary to charge, discharge, recharge or regenerate such electro-chemical storage device, for use as a source of power for an electric vehicle, an electric-hybrid vehicles, and any other associated equipment of an electric vehicle;

(2) "associated equipment" means that equipment necessary for the regeneration, refueling or recharging of batteries or other forms of electric energy used to power an electric vehicle and, in the case of electric-hybrid vehicles, that equipment necessary for the application or use of the non-electric source of power in such vehicles;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current; and

(4) "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electrical source of power.

(i) AUTHORIZATION.—There is authorized to be appropriated to the Secretary (in addition to any amounts made available pursuant to other law) for each of the fiscal years 1992, 1993, and 1994 such sums as may be necessary to carry out the purposes of this section.

SEC. 13114. ADVANCED OIL RECOVERY RESEARCH, DEVELOPMENT AND DEMONSTRATION.—(a) PROGRAM.—The Secretary shall carry out a national program of research, development and demonstration to increase the economic recoverability of domestic oil resources. Such program shall address both advanced secondary oil recovery and tertiary oil recovery and shall include but not be limited to the following areas—

(1) transfer of proven recovery technologies to producers and operators of wells that would otherwise be likely to be abandoned in the near term due to declining production;

(2) development, field testing, and transfer of recovery technologies to operators of wells in high priority reservoirs ranked primarily on the basis of oil recovery potential and risk of abandonment; and

(3) the identification and development of new recovery techniques.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with producers, service companies, and technical support organizations for field demonstration projects to be undertaken on a cost-shared basis under this section.

(c) COST-SHARING—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 13115. TAR SANDS.—(a) POLICY.—It is the policy of the United States to promote the development and production, by all means consistent with sound engineering and environmental practices, of deposits of tar sands.

(b) DEFINITION.—The term "tar sand" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either: (1) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or (2) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(c) STUDY.—The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within one year from the date of enactment of this Act. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sands sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the purposes of this section.

SEC. 13116. TELECOMMUTING STUDY.—(a) STUDY.—The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) This study shall be completed no more than 180 days after the date of enactment of this Act. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than 60 days after completion of this study.

SEC. 13117. STUDY OF MINIMIZATION OF NUCLEAR WASTE.—(a) STUDY.—The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of viability of existing technologies for this purpose and an assessment of the extent of research and development required for new technologies.

(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13118.—NUCLEAR WASTE MANAGEMENT PLAN.—(a) PREPARATION AND SUBMISSION OF REPORT.—The Secretary, in consultation with the Nuclear Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (Pub. L. No. 97-425; 42 U.S.C.10101 *et seq.*) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of enactment of this Act. The Secretary shall prepare this report for submission to the President and the Congress within a year after the date of enactment of this Act. The report shall examine any new relevant issues related to management of spent fuel and high-level nuclear waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent fuel or high-level waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

(b) OPPORTUNITY FOR PUBLIC COMMENT.—In preparation of the report required under subsection (a), the Secretary shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 13119. MATH AND SCIENCE EDUCATION PROGRAM.—(a) PROGRAM.—The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 417A through 417F of Pub. L. No. 89-329, as amended (20 U.S.C. 1070d through 1070d-1d).

(b) PURPOSE.—(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 417A of Pub. L. No. 89-329, as amended (20 U.S.C. 1070d-d), in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) SUPPORT.—(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activities under this section with the Secretary of Education and the Secretary.

(d) COOPERATION WITH QUALIFIED ENTITIES.—The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) REPORT.—Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) The progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) EFFECT ON EXISTING PROGRAMS.—The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) DEFINITION.—For purposes of this section, the term "qualified entity" means a non-profit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE XIV—COAL, COAL TECHNOLOGY AND ELECTRICITY

Subtitle A—Coal and Coal Technology

SEC. 14101. COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) ESTABLISHMENT.—(1) The secretary, in consultation with the National Coal Council and other representatives of the public as the Secretary deems necessary, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901–5920), conduct a research, development, and demonstration program within the Department of Energy for advanced coal-based technologies with the goals and objectives of—

(A) achieving the control of sulfur oxides, oxides of nitrogen, or air toxics at levels of proficiency greater than currently available commercial technology;

(B) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(C) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels; and

(D) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost-sharing participation.

(2) The coal technology development program shall also be designed to assure the timely development of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to assure the availability for commercial use of such technologies by the year 2010. As part of such program, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to the Clean Coal Program established by Pub. L. 98-473 and is authorized to carry out such additional solicitations.

(b) REPORT.—Within two hundred and forty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding advanced coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the program established by this section;

(3) recommendations, if any, regarding the manner in which the cost-sharing demonstrations conducted pursuant to the Clean Coal Program established by Pub. L. No. 98-473 might be modified and extended in order to assure the timely demonstrations of advanced coal-based technologies by the year 2010 and assure that the goals established by this section are achieved; and

(4) a detailed plan for conducting the research, development and demonstration program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan.

(c) ANNUAL REPORT.—Within twelve months after submittal of the report described in subsection (b) of this section, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, and demonstration activities undertaken to carry out the program required by this section.

(d) DEFINITION.—As used in this section, the term "advanced coal-based technologies" means, but is not limited to, the following—

(1) advanced integrated gasification combined cycle;

(2) pressurized fluidized bed combustion technology capable of achieving higher thermal conversion efficiency than can be achieved through ongoing demonstration projects;

(3) direct and indirect coal-fired turbines;

(4) coal refining processes, including coke production, capable of (A) efficiently producing or utilizing the energy contained in coal and coal byproducts, (B) upgrading gaseous, liquid and solid coal byproducts into products with higher economic value, and (C) utilizing the products and byproducts of such processes;

(5) magnetohydrodynamics;

(6) molten carbonate and solid oxide fuel cells;

(7) cofiring coal with non-coal fuels including natural gas;

(8) coal liquefaction processes; and

(9) other coal-based technologies or processes or systems that are capable of achieving thermal conversion efficiencies equal to or greater than fifty percent.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14102. NON-FUEL USE OF COAL.—(a) PLAN.—Not later than one hundred and twenty days after the date of enactment of this Act, the Secretary shall submit to Congress a plan for research, development, and demonstration with respect to technologies for non-fuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) JOINT VENTURES.—As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for non-fuel uses of coal.

(c) PLAN CONTENTS.—The plan under subsection (a) shall address and evaluate—

(1) the known and potential products and processes for the use of coal for products in the chemical, utility, fuel, steel, and carbon-based materials industries;

(2) the costs, benefits and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of the refining of coal and coal byproducts to produce non-fuel products;

(4) the economics of co-production of products from coal in conjunction with production of electric power, thermal energy, and fuel;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of research results produced by the research program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with non-fuel use of coal.

(d) RESEARCH AND DEVELOPMENT.—The Secretary shall conduct a program of research and development under the plan under subsection (a).

(e) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance for a research project under this section to the extent the Secretary finds that such project—

(1) furthers achievement of the goals and purposes of this Act;

(2) offers promise for commercial application; and

(3) has a reasonable prospect of support in at least 50 percent of its direct costs from non-Federal funds.

(f) CONSULTATION.—In preparing the plan and carrying out research under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

(g) AUTHORIZATION.—There is authorized to be appropriated a total of $20,000,000 for fiscal years 1992 through 1994 to carry out the purposes of this section.

SEC. 14103. COAL REFINING PROGRAM.—(a) PROGRAM.—The Secretary, in consultation with the National Coal Council, shall, in accordance with the Federal NonNuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920), conduct a research, development, demonstration, and commercialization program for coal refining technologies, including technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals and lignites to produce clean-burning transportation fuels, or compliance boiler fuels, or both, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, either alone or along with electricity, more economically and efficiently than can be produced utilizing currently available commercial technology. The goals of the coal refining technology development program shall be designed to assure—

(1) the timely development of technologies, including direct and indirect liquefaction processes and other energy production processes or systems to produce coal-derived fuels and coproducts;

(2) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(3) reduction in the cost of producing such coal-derived fuels and coproducts;

(4) the control of emissions from the combustion of coal-derived fuels, and;

(5) the availability for commercial use of such technologies by the year 2000.

(b) REPORT AND PLAN.—Within one hundred and twenty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of ongoing research and development activities regarding coal refining technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a detailed plan for conducting the research, development, demonstration, and commercialization program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized; and

(B) the technical milestones to be achieved with respect to each of the coal refining technologies included in the plan;

(c) DEMONSTRATION PROJECTS.—Within twelve months after the submittal of the report described in subsection (b) of this section, the Secretary shall solicit proposals from appropriate parties and may thereafter enter into agreements with such parties to undertake commercial scale demonstration projects of coal refining processes. In designing the solicitation under this subsection, and taking into consideration the goals of subsection (a) of this section, the Secretary shall—

(1) establish technology classes for the various coal refining processes;

(2) enter into agreements for the construction of not more than one project per technology class, but in no event less than two commercial scale projects for the program in total;

(3) require that each project has a reasonable prospect of commencing operation by January 1, 2000.

(d) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(e) ANNUAL REPORT.—Within twelve months after the date of enactment of this Act, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of coal refining technologies and the research, development, demonstration, and commercialization activities undertaken to carry out the program required by this section.

(f) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14104. UNDERGROUND COAL GASIFICATION.—(a) PROGRAM.—The Secretary shall conduct a research, development, and demonstration program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) DEMONSTRATION PROJECTS.—As part of the program authorized in subsection (a), the Secretary shall solicit proposals for at least one demonstration project of underground coal gasification technology and may provide financial assistance for any project that has a reasonable expectation to fulfill the goal and objective of subsection (a).

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14105. LOW-RANK COAL RESEARCH AND DEVELOPMENT.—(a) PROGRAM.—The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties of lignites and sub-bituminous coals, including, but not limited to the following areas—

(1) high value-added carbon products;

(2) fuel cell applications;

(3) emissions control and combustion efficiencies;

(4) coal water fuels and underground coal gasification;

(5) distillates; and

(6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

(b) IMPLEMENTATION.—In carrying out this program, the Secretary shall enter into contracts, cooperative agreements and jointly sponsored research programs with, and provide grants to, qualified persons and use any other means deemed appropriate by the Secretary.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14106. MAGNETOHYDRODYNAMICS.—(a) PROGRAM.—The Secretary shall carry out a proof-of-concept program in magnetohydrodynamics. The purpose of this program shall be to prove the adequacy of the engineering and design information required to successfully design, construct, and operate an MHD retrofit plant based upon conceptual designs of a "MHD Retrofit System to a Coal Fired Generating Plant," which have been completed under Department of Energy contracts.

(b) SOLICITATION OF PROPOSALS.—In order to carry out the program authorized in subsection (a), the Secretary shall solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

(c) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration project under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(2) The Secretary may reduce the amount of costs required to be provided by any non-Federal person under paragraph (1) upon application if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(d) EXTENSION OF PROGRAM.—The Secretary may extend if necessary the completion date for the proof-of-concept program to September 30, 1995.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14107. COAL FIRED LOCOMOTIVES.—(a) The Secretary shall conduct a research, development, and demonstration program for utilizing "ultra-clean coal-water slurry" in diesel locomotive engines. The program shall address, but not be limited to, the following—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) the testing of low-Btu highly reactive fuels;

(5) fuel delivery and storage systems requirements; and

(6) other infrastructure required to support commercial deployment.

(b) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14108. COAL EXPORTS.—(a) PLAN.—Within one hundred and eighty days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the United States Trade Representative, shall submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for expanding the export of United States coal.

(b) PLAN CONTENTS.—Such plan shall include—

(1) identification of the location, size and projected growth in potential foreign markets for coal produced in the United States;

(2) identification by country of the existence of barriers to United States coal exports, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other non-tariff barriers;

(3) recommendations and an action plan for addressing any such barriers;

(4) an evaluation of existing United States infrastructure, and any new infrastructure requirements within the United States to support an expansion of United States coal exports, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) identification of opportunities for blending United States coal exports with coal indigenous to the importing country to enhance energy efficiency and environmental performance.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14109. CLEAN COAL TECHNOLOGY EXPORT COORDINATING COUNCIL.—(a) ESTABLISHMENT.—There shall be established a Clean Coal Technology Export Coordinating Council (hereinafter "Council") which shall seek to facilitate and expand the export and use of clean coal technologies. The Council shall place a priority on the export and use of clean coal technologies in lesser-developed countries.

(b) MEMBERSHIP.—The Council shall consist of the Secretary, who shall serve as its chairperson, the Secretary of Commerce, the Secretary of State (including a designee from each of the Agency for International Development and the Trade and Development Program), the Administrator of the Environmental Protection Agency, the Secretary of the Treasury, the President and Chairman of the Export-Import Bank and the President and Chief Executive Officer of the Overseas Private Investment Corporation.

(c) CONSULTATION.—In undertaking its responsibilities, the Council shall consult with representatives from the United States coal industry, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies, and other appropriate interested members of the public.

(d) DUTIES.—In furthering the purposes of this section, the Council shall, through the Department and other member agencies, exercise such authorities as may be available to it to—

(1) facilitate the establishment of technical training for the consideration, planning, construction and operation of clean coal technologies by local users and international development personnel;

(2) cause to be established within existing departments and agencies financial assistance programs, including grants, loan guarantees, and no interest and low-interest loans, to support pre-feasibility and feasibility studies for projects that will utilize clean coal technologies and loan guarantee programs, grants, and no interest and low-interest loans, designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and execute programs, including the establishment of financial incentives, to encourage and support private sector efforts to export clean coal technologies that are developed, manufactured or controlled by United States firms;

(4) encourage the training and understanding of clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops and other educational programs sponsored by United States firms;

(5) educate loan officers of the World Bank and other international lending institutions, commercial and energy attaches at embassies of the United States, and such other personnel as the Council deems appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technologies;

(6) augment budgets for trade and development programs supported by member agencies of the Council for the purpose of supporting financially pre-feasibility or feasibility studies for projects that will utilize clean coal technologies;

(7) review ongoing clean coal technology projects and review and approve planned clean coal technology projects, which are sponsored abroad by any Federal Government agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(8) coordinate the activities of the member agencies of the Council in order to assure that policies of the Council are implemented in a timely fashion; and

(9) undertake such other actions or activities, consistent with existing law and regulations, as may, in the judgment of the Secretary, be necessary to achieve the purposes of this section.

(e) DATA AND INFORMATION.—The Council shall be responsible for the development of a comprehensive data base and information dissemination system relating to the availability of clean coal technologies and an ongoing assessment of the potential need for such technologies particularly in lesser developed countries. The Council shall provide a country-by-country assessment of the potential for the use of clean coal technology. Such assessment shall include an analysis of the financing requirements to install such clean coal technology and whether such clean coal project is dependent upon foreign financial assistance, the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology, the priority of environmental considerations in the selection of the electric generating technology and the technical competence of those entities likely to be involved in the planning and operation of the electric generating facility. The Council shall make such information available to industry, Federal and international financing organizations, non-governmental organizations, officials in countries where such clean coal technologies might be utilized and such others as the Council deems necessary. In developing this data base and ongoing assessment, the Council shall consult with the Committee on Renewable Energy Commerce and Trade.

(f) PLAN.—Within one hundred and eighty days after the Secretary submits the report to the Congress as required by section 409 of Pub. L. No. 101–549, the Council, in consultation with those persons referenced in subsection (c) of this section, shall provide to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Pub. L. No. 101–549. As a part of the plan required by this subsection, the Secretary shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of pre-feasibility and feasibility studies and projects that would utilize a clean coal technology in lesser developed countries.

(g) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14110. COAL FUEL MIXTURES.—Within one year following the date of enactment of this Act, the Secretary shall submit a report to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 14111. NATIONAL CLEARING HOUSE.—(a) ESTABLISHMENT OF CLEARING HOUSE.—(1) The Secretary shall establish a national clearing house for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In establishing a clearing house pursuant this section, the Secretary shall, among other things;

(A) collect information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminate to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this provision;

(C) maintain a complete library of technology publications and treatises relating to technology information and data collected pursuant to this provision;

(D) organize and conduct seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gather information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translate into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encourage, during the testing of technologies, the use of coal from a variety of domestic sources, and collect or develop, or both, complete listings of test results using coals from all sources;

(H) establish and maintain an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conduct economic modeling for feasibility of projects.

(3) INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may select two institutions of higher education to manage and coordinate the clearing house activities. In selecting such institutions, one shall be located in a western coal producing state and one shall be located in an eastern coal producing state.

(b) GRANTS.—In carrying out the provisions of this section, the Secretary may enter into agreements with, and make grants to, the two institutions of higher education selected pursuant to paragraph (3) of subsection (a). Any such grant may be made at such time or times, in such amount, and subject to such terms and conditions as the Secretary may prescribe.

(c) COORDINATION WITH OTHER FEDERAL ENTITIES.—In carrying out the provisions of this section, the Secretary shall, from time to time, consult and coordinate his activities with other appropriate Federal departments, agencies and instrumentalities. All Federal departments, agencies, and instrumentalities shall cooperate to the fullest extent possible with the Secretary to enable him to carry out the provisions of this section.

(d) FUNDING FROM NON-FEDERAL SOURCES.—The Secretary may solicit and accept donations from non-Federal sources to assist in defraying expenses incurred in carrying out the provisions of this section.

(e) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 14112. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.—(a) DEFINITIONS.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials. When utilized as a product, as an ingredient thereof, or as a raw material, or when handled, transported or stockpiled for such utilization, these byproducts are considered product materials.

(b) FINDINGS.—With respect to utilization of coal combustion byproducts, the Congress makes the following findings.

(1) Coal combustion byproducts have commercial applications, including construction of bridges, highways, airports, dams, tunnels, buildings, reclamation projects, and numerous other technically proven commercial applications.

(2) The Environmental Protection Agency has reported to Congress that utilization of coal combustion byproducts has been done in an environmentally safe manner.

(3) The use of coal combustion byproducts in an environmentally safe manner is beneficial to society in the following respects—

(A) It conserves energy since these materials are byproducts of the combustion process, require no additional energy to produce, and thus conserve the energy necessary to extract and produce virgin materials;

(B) It conserves natural resources by substituting for virgin materials such as sand, gravel and soil;

(C) It lowers electricity costs to ratepayers by producing revenues from the sale of the byproducts and by avoiding disposal costs;

(D) It conserves land resources by avoiding the need for disposal facilities; and

(E) It provides superior quality construction materials at lower cost.

(4) The Federal and State governments are in a position to encourage the utilization of coal combustion byproducts.

(c) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State or local level, that may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

(2) Not later than 12 months after the date of enactment of this Act, the Secretary shall submit a report to Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for actions to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in (A) bridge and highway construction, (B) stabilizing wastes, and (C) procurement by departments and agencies of the Federal Government, by State and local governments, and in federally funded or federally subsidized procurement by the private sector.

SEC. 14113. ESTABLISHMENT OF DATA BASE AND STUDY OF COAL TRANSPORTATION RATES.—(a) ESTABLISHMENT OF DATA BASE.—The Secretary shall establish a data base containing, to the maximum extent practicable, all transportation rates for rail, pipeline, truck, conveyor belt, barge and other modes of transporting domestic coal during the period January 1, 1988 through December 31, 1997. The confidentiality of contract rates shall be preserved and public access to the data base shall be provided under appropriate terms and conditions that protect the confidentiality of specific contract rates.

(b) STUDY OF COAL TRANSPORTATION RATES.—The Secretary shall study the rates and distribution patterns of domestic coal to determine the impact of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (Pub. L. No. 101-549) and other Federal policies on such rates and distribution patterns. The study shall consider, among other factors—

(1) the extent to which coal transportation rate increases occur as a result of the enactment of the Clean Air Act and other Federal policies;

(2) any increases or decreases in the revenue to variable cost ratios of railroad coal transportation rates during the period of the study and the percentage of the delivered price of coal to electric generating facilities that is attributable to coal transportation rates, during this period;

(3) any changes in the distribution patterns of coal among the various regions of the Nation during the study period; and

(4) any electricity rate increases or decreases in the various regions of the Nation during the period of study that are attributable to coal transportation costs.

(c) REPORTS TO CONGRESS.—The Secretary shall submit an interim report to Congress on January 1, 1993, and a final report to Congress, together with any recommendations, on January 1, 1995. The Secretary shall submit an additional report to Congress, with recommendations, on January 1, 1998. The Administrator of the Energy Information Administration and the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission shall cooperate fully with the Secretary in the development of the data base and studies authorized by this section.

Subtitle B—Electricity

SEC. 14201. APPLICABILITY OF NEW SOURCE REVIEW TO EXISTING ELECTRIC UTILITY STEAM GENERATING UNITS.—(a) APPLICABILITY OF NEW SOURCE PERFORMANCE STANDARDS.—For purposes of the Clean Air Act, no physical change, or change in the method of operation, at an existing electric utility steam generating unit shall be treated as a modification for purposes of section 111 of such Act, provided such change does not increase the maximum hourly emissions of any pollutant regulated under that section above the maximum hourly emissions achievable at that unit during the last five years of operation prior to the change.

(b) POLLUTION CONTROL PROJECTS.—For purposes of the Clean Air Act, the addition, replacement or utilization of any pollution control project at an existing electric utility steam generating unit primarily for purposes of reducing emissions shall not be considered a physical change or change in method of operation for purposes of section 111, Part C or Part D of such Act. For purposes of this subsection, 'pollution control project' includes, but is not limited to, any:

(1) sulfur dioxide control technology, nitrogen oxide control system, or particulate control technology (including clean coal technology); or

(2) temporary or permanent conversions to lower sulfur content fuels, including physical and operational changes necessary to accommodate the utilization of such fuels.

(c) OTHER PROJECTS.—For purposes of the Clean Air Act, except for an existing electric utility steam generating unit that is subject to the provisions of subsection (b), no physical change, or change in the method of operation, at an existing electric utility steam generating unit shall be treated as a modification for purposes of Part C or Part D of such Act for a pollutant, provided that such change does not result in a significant net increase in representative actual annual emissions of a regulated pollutant during normal operations at the source in the case of Part C and of a criteria pollutant in the case of Part D. In projecting future annual emissions based on any increased capacity utilization, the Administrator shall exclude that portion of the increased rate of utilization, if any, due to factors unrelated to the physical or operational change, including an increase in projected capacity utilization equal to the rate of electricity demand growth for the utility system as a whole.

(d) MAXIMUM ACHIEVABLE CAPACITY.—Subsections (a), (b) and (c) of this section shall not apply to any physical change, or change in the method of operation, at an existing electric utility steam generating unit if such change results in an increase in the unit's maximum achievable capacity above the maximum capacity achievable at that unit during the last five years of operation prior to the change or other such period demonstrated by the permittee to be more representative.

(e) RECONSTRUCTION.—Subsection (a) shall not apply to any physical change, or change in the method of operation, at an existing electric utility steam generating unit if the fixed capital cost of such change or replacement of components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility.

(f) NITROGEN OXIDE CONTROL REQUIREMENTS.—

(1) For purposes of the Clean Air Act, any modification, as defined in section 169(2)(C) of such Act, at an existing electric utility steam generating unit subject to section 165 of such Act shall be deemed to satisfy the technology requirements of section 165(a)(4) for nitrogen oxides if it meets the following:

(A) For a unit subject to a requirement promulgated pursuant to section 407 of the Clean Air Act, immediately following the modification, the unit shall be required to meet the nitrogen oxide emission limitation specified for that boiler type pursuant to section 407. In the event that the modification precedes the establishment of nitrogen oxides emissions limitations for that boiler type pursuant to section 407, the unit shall be required to meet the applicable emission limitation upon the date required by the regulation.

(B) For an existing electric utility steam generating unit not subject to section 407, immediately following the modification, the unit shall be required to meet the nitrogen oxide limit equivalent to the limit achievable using "low-NOx burners".

(2) Any state or local permitting authority shall retain the right to impose more stringent limitations for control of nitrogen oxides.

(g) Nothing in this section shall authorize an increase in emissions which causes or contributes to a violation of a national ambient air quality standard, PSD increment, or visibility limitation.

SEC. 14202. EXCESS CAPACITY STUDY.—The Secretary shall study and report to Congress by June 30, 1992, on any physical impediments to the transfer of excess electrical energy from regions of the country having surpluses to regions of the country having shortages and the reasons therefor.

SEC. 14203. CALCULATION OF AVOIDED COST.—Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. No. 95-617) requires a state regulatory authority or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Pub. L. No. 98-473 as an incremental cost of alternative electric energy.

SEC. 14204. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.—(a) DEFINITION.—For purposes of this section, the term "clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

(b) FEDERAL RATE INCENTIVES.—(1) Within 24 months after enactment of this section, the Federal Energy Regulatory Commission shall complete a rulemaking to establish a demonstration program for regulatory incentives to promote the development of clean coal technologies and other innovative control technologies that limit power plant emissions. The regulatory incentives shall include—

(A) establishment of an incentive rate of return for clean coal or other innovative emission control technologies that recognizes their inherent risk; and

(B) allowance of a ten- to twenty-year amortization period to recover the capital costs of a clean coal or other innovative emission control technology.

(2) The Federal Energy Regulatory Commission demonstration program is subject to the following—

(A) the program initially will have a five-year life;

(B) the program will cover no more than four units in each technology class; and

(C) the technology classes eligible for the program should be reasonably likely to realize significant cost reductions when employed.

(3) At the end of the five-year demonstration program, the Federal Energy Regulatory Commission shall review the merits of the program and determine whether it should be extended or made permanent.

(c) FERC PREAPPROVAL OF PRUDENCE FOR CLEAN COAL TECHNOLOGY COSTS.—The Federal Energy Regulatory Commission shall establish a process for negotiating with potential developers of clean coal technology or other innovative control technology projects to agree upon cost caps for future projects and preapproval of the prudency of expenses for those projects if the expenses fall within the agreed-upon cap.

(d) PRIORITY FOR UNITS LOCATED IN STATES WITH INCENTIVE PROGRAMS.—To the extent practicable, the Federal Energy Regulatory Commission shall, in the selection of units which will be provided incentive rate treatment under subsections (b) or (c), give priority to units located in states where—

(1) the State regulatory commission with jurisdiction over the retail rates of the utility seeking such incentive rate treatment has approved comparable incentives for inclusion in the utility's retail rates, or, if the utility makes no retail sales, where comparable retail rate treatment has been approved for other utilities which make retail sales in the state or states in which the wholesale customers of the utility seeking such incentive rate treatment are located; and

(2) the State regulatory commission accords, to the extent relevant and within its jurisdiction, similar incentives to noninvestor-owned utilities on a basis no less favorable than that accorded to investor-owned utilities within its jurisdiction.

(e) ENCOURAGEMENT OF STATE INCENTIVE PROGRAMS.—(1) Because the use of clean coal technologies is in the Nation's interest, States, including their agencies and political subdivisions which regulate public utility rates and charges, are encouraged to provide additional incentives for their implementation. Those incentives may include, but are not limited to—

(A) preapproval of recovery of capital costs and other expenses, within reasonable bounds agreed upon before project construction;

(B) elimination of retroactive 'used and useful' reviews for clean coal technologies;

(C) rapid amortization of clean coal technology expenditures; and

(D) immediate recovery of a portion of clean coal technology expenses through a fuel adjustment clause or by some other method.

(2) REPORT OF THE SECRETARY.—(A) Within one year after the date of enactment of this Act, the Secretary shall report to Congress on his progress in encouraging State regulatory authorities to provide regulatory incentives to utilities to invest in clean coal technologies. Such report shall include detailed information on programs initiated by the Department of Energy to encourage such State action and shall describe any regulatory incentives that have been adopted by States as a result of actions taken by the Secretary.

(B) The report required under subparagraph (A) shall also include recommendations, if any, on further action that could be taken by the Department of Energy, other Federal agencies, or the Congress in order to encourage State regulatory authorities to provide regulatory incentives.

TITLE XV—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

Sec. 15101. EXEMPT WHOLESALE GENERATORS.

(a) DEFINITIONS.—For purposes of this title, the term—

(1) "exempt wholesale generator" means any person who:

(A) is engaged directly, or indirectly through one or more affiliates of such person, as defined under section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (15 U.S.C.79b(a)(11)(B)), exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale, but such term excludes an affiliate of a registered holding company which was in existence as of the date of enactment of this title, unless the Commission has consented to such affiliate being an exempt wholesale generator; and (B) provides notice to the Commission, in such form as the Commission may prescribe, that such person is an exempt wholesale generator;

(2) "eligible facility" means a facility, wheresoever located, used for the generation of electric energy exclusively for sale at wholesale, including inter-connecting transmission facilities necessary to effect such sale at wholesale, but shall exclude any facility for which consent is required under subsection (c) if such consent has not been obtained. For purposes of this definition, the term "facility" shall include a portion of a facility and shall include a facility the construction of which has not been commenced or completed;

(3) "sale of electric energy at wholesale" shall have the same meaning as provided in section 201(d) of the Federal Power Act, as amended (16 U.S.C. 824(d));

(4) "retail rates and charges" means rates and charges for the sale of electric energy directly to consumers;

(5) "Commission" means the Securities and Exchange Commission; and

(6) "the Act" means the Public Utility Holding Company Act of 1935, as amended (15 U.S.C. 79 et seq.).

(b) Applicability of Definitions in PUHCA.—All of the terms used in this title and defined in the Act shall have the same meanings as defined therein.

(c) State Consent for Eligible Facilities.—If a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State as of the date of enactment of this title, in order for the facility to be considered an eligible facility consent must be obtained from every State commission having jurisdiction over any such rate or charge: *Provided*, That in the case of such a rate or charge which is a rate or charge of an affiliate of a registered holding company: (1) consent with respect to the facility in question shall be required from every State commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company; and (2) the approval of the Commission under the Act shall not be required for the transfer of the facility to an exempt wholesale generator.

(d) Exemption of EWGS From PUHCA.—An exempt wholesale generator shall not be considered an electric utility company under section 2(a)(3) of the Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, shall be exempt from all provisions of the Act.

(e) Ownership of EWGS by Exempt Holding Companies.—Notwithstanding any provision of the Act, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under the Act to acquire and maintain an interest in the business of one or more exempt wholesale generators.

(f) Ownership of EWGS by Registered Holding Companies.—Notwithstanding any provision of the Act and the Commission's jurisdiction as provided under subsection (g) of this section, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under the Act), to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

(g) Financing and Other Relationships Between EWGS and Registered Holding Companies.—The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (f) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under the Act; *Provided*, That:

(1) section 11 of the Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

(2) the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate to the operations of an integrated public utility system;

(3) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or (B) the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding company system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, unless the Commission first finds that the issue or sale of such security, or the making of the guarantee, would have a substantial adverse impact on the financial integrity of the registered holding company system;

(4) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator, or (B) other transactions by such registered holding company or by its subsidiaries other than with respect to exempt wholesale generators, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator upon the registered holding company system, unless the approval of the issue or sale or other transaction, together with the effect of such capitalization and earnings, would have a substantial adverse impact on the financial integrity of the registered holding company system; and

(5) the Commission shall make its decision under paragraph (3) to approve or disapprove the issue or sale of a security or the guarantee of a security within 120 days of the filing of a declaration concerning such issue, sale or guarantee.

SEC. 15102. OWNERSHIP OF EXEMPT WHOLESALE GENERATORS AND QUALIFYING FACILITIES.

The ownership by a person of one or more exempt wholesale generators shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and 3(18)(B)(ii) of the Federal Power Act, as amended (16 U.S.C. 796 (17)(C)(ii) and 796(18)(B)(ii)).

SEC. 15103. PREVENTION OF STRANDED INVESTMENT.

The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if such sale of electric energy would result in a State commission not permitting such purchaser to recover in retail rates and charges any portion of its capital investment in an electric generation facility:

(a) which facility was under construction as of the date of enactment of this section; or

(b) upon which portion such purchaser has previously been permitted to earn a rate of return in retail rates and charges subject to such State commission's jurisdiction.

SEC. 15104. PREVENTION OF SHAM WHOLESALE TRANSACTIONS.

The Federal Energy Regulatory Commission shall not approve a rate or charge for the sale of electric energy at wholesale by an exempt wholesale generator if:

(a) such electric energy would be resold by the purchaser to any electric consumer; and

(b) the purchaser: (1) is not a municipal electric system, state power authority, electric power cooperative or a public utility under State law; or (2) would not utilize transmission or distribution facilities owned by such purchaser to deliver all such electric energy to such electric consumer.

SEC. 15105. PROTECTION AGAINST ABUSE OF AFFILIATE RELATIONSHIPS.

A rate or charge for the sale of electric energy at wholesale in interstate commerce by an exempt wholesale generator shall not be considered just and reasonable within the meanings of sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d and 824e) if the rate or charge allows the exempt wholesale generator to receive undue advantage resulting from the fact that the purchaser of such electric energy is an affiliate or associate company of such exempt wholesale generator.

SEC. 15106. STATE AUTHORITY.

Section 209 of the Federal Power Act (16 U.S.C. 824h) is amended by adding at the end the following new subsection:

"(d)(1) Except as set forth in paragraph (2), nothing in this Act shall limit the authority of a State commission in accordance with State law to allow or disallow on grounds of prudence or imprudence the inclusion of the costs of electric energy purchased at wholesale in retail rates subject to such State commission's jurisdiction; *Provided*, That at the request of a utility which has been offered a sale of electric energy at wholesale from an exempt wholesale generator, any State commission with jurisdiction over the retail rates of such utility shall determine the prudence or imprudence of the utility's proposed action with regard to the offer in advance of the effective date of the action, and such determination shall be binding upon the State commission for purposes of the inclusion in retail rates.

"(2) An order by the Commission accepting or establishing as just and reasonable the terms of an agreement for the sale and purchase or interchange of electric energy among affiliates of a registered holding company shall preempt the authority of any State commission to determine the prudence of any purchase of electric energy pursuant to that agreement.

"(3) Paragraph (2) shall not apply to: (A) the purchase of electric energy at wholesale by an affiliate of a registered holding company from an exempt wholesale generator; or (B) the purchase of electric energy at wholesale by an affiliate of a registered holding company from a person other than an exempt wholesale generator when the economic substance of such purchase amounts to an indirect purchase of electric energy from an exempt wholesale generator. For purposes of this subsection (d), energy purchased by an affiliate of a registered holding company as a result of the operation of an integrated holding company shall not be deemed to be an indirect purchase of electric energy from an exempt wholesale generator.

"(4) For purposes of this subsection the term—

"(A) 'exempt wholesale generator' has the same meaning as provided in Title XV of the National Energy Security Act of 1991;

"(B) 'affiliate' and 'registered holding company' have the same meanings as provided in the Public Utility Holding Company Act of 1935;

"(C) 'purchase of electric energy at wholesale' means a purchase of electric energy by any person for resale; and

"(D) 'retail rates' means rates and charges for the sale of electric energy to consumers.".

SEC. 15107. STATE CONSIDERATION OF THE EFFECTS OF POWER PURCHASES ON UTILITY COST OF CAPITAL; CONSIDERATION OF THE EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND CONSIDERATION OF ADEQUATE FUEL SUPPLIES.

The Public Utility Regulatory Policies Act of 1978 (Pub. L. No. 95-617), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(8) Consideration of the Effects of Wholesale Power Purchases on Utility Cost of Capital; Effects of Leveraged Capital Structures on the Reliability of Wholesale Power Sellers; and Assurance of Adequate Fuel Supplies.—

"(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting incremental electric demand, such authority shall:

"(i) perform a general evaluation of the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities;

"(ii) perform a general evaluation of any negative or positive effects on the reliability of electric service provided by such utilities that may result from purchases of long term wholesale power supplies from sellers that have capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities;

"(iii) consider whether the use by exempt wholesale generators (as defined in Title XV of the National Energy Security Act of 1991) of capital structures employing less than 35 percent equity threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

"(iv) implement procedures for the advance approval or disapproval of the purchase of a particular long term wholesale power supply which procedures reflect the results of evaluations under clauses (i), (ii) and (iii) ; and

"(v) require as a condition for the approval of the purchase of a particular long term wholesale power supply that the seller have, and continue to have, access to sources of fuel on terms and conditions adequate to provide reasonable assurance of the seller's ability to perform its obligations under the terms of the contract for the sale of such power supply.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1991.".

SEC. 15108. STATE COMMISSION ACCESS TO EWG BOOKS AND RECORDS.

(a) REQUIREMENT TO PROVIDE BOOKS AND RECORDS.—Before commencing any sale of electric energy to an electric utility company, an exempt wholesale generator shall make available to each affected State commission relevant financial and other records of the exempt wholesale generator. The records to be provided hereunder shall be specified by the affected State commission and may include: (1) all books and records which the exempt wholesale generator would be required to furnish under State law if such company were an electric utility company making retail sales subject to the jurisdiction of such affected State commission; (2) all contracts to which the exempt wholesale generator is a party relating to the financing, construction or operation of eligible facilities used to produce electric energy sold or to be sold by such exempt wholesale generator; and (3) any other records or information relevant to the exercise of such affected State commission's authority; *Provided*, That nothing in this section shall require an exempt wholesale generator to provide the records or information of any person other than such exempt wholesale generator. All records and information provided hereunder shall be open to public inspection, and shall be subject to subpoena and other process of law, to the same extent and in the same manner as comparable records and information of electric utility companies under applicable law; *Provided further*, That trade secrets and other sensitive commercial information shall be exempt from public disclosure or disclosure to potential competitors of such exempt wholesale generator by an affected State commission and shall not be provided to a State commission unless such commission has in place procedures for protecting the confidentiality of such information.

(b) AFFECTED STATE COMMISSION.—For purposes of this section, with respect to a particular exempt wholesale generator an "affected State commission" means any State commission:

(1) having authority over the retail rates of an electric utility company to which such exempt wholesale generator sells electric energy;

(2) having authority over the retail rates of an electric utility company which is an affiliate of such exempt wholesale generator; or

(3) having authority over the retail rates of an electric utility company which is an associate company of such exempt wholesale generator and which is a subsidiary company of a holding company that is exempt under section 3 of the Act.

(c) NONPREEMPTION OF STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of records and other information.

TITLE XVI—STRATEGIC PETROLEUM RESERVE

SEC. 16101. OIL SECURITY PROTECTION.—(a) Title I of the Energy Policy and Conservation Act (Pub. L. No. 94-163; 42 U.S.C. 6201) is amended—

(1) in section 152, by striking "and Part C" and inserting in lieu thereof ", Part C, and Part D" in the material preceding paragraph (1);

(2) by redesignating Part D as Part E;

(3) by redesignating section 181 as section 191; and

(4) by adding the following new part after Part C:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"SHORT TITLE

"SEC. 181.—This part may be cited as the 'Strategic Petroleum Reserve Enhancement Act of 1991'.

"PURPOSES

"SEC. 182.—The purposes of this part are to—

"(1) complete, at the earliest practicable date, storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve;

"(2) facilitate progress, as rapidly as practicable, toward establishment of a one billion barrel Strategic Petroleum Reserve;

"(3) authorize establishment of a Defense Petroleum Inventory of at least ten million barrels of petroleum products;

"(4) initiate, at the earliest practicable date, the acquisition of petroleum product pursuant to section 171 of the Energy Policy and Conservation Act of 1990;

"(5) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(6) provide the President with broad and flexible authority to achieve these objectives.

"COMPLETION OF 750 MILLION BARREL RESERVE

"SEC. 183.—(a) The President shall initiate such actions as are necessary to complete storage of seven hundred and fifty million barrels of petroleum products in the Strategic Petroleum Reserve at the earliest practicable time. Such actions may include the alternatives in section 185.

"ENLARGEMENT OF RESERVE BEYOND 750 MILLION BARRELS

"SEC. 184.—The President shall initiate such actions as are necessary to enlarge the Strategic Petroleum Reserve to one billion barrels as rapidly as possible. Such actions may include—

"(1) either of the alternatives described in section 185; and

"(2) the contracting for petroleum products for storage in facilities not owned by the United States.

"ACQUISITION OF PETROLEUM PRODUCTS

"SEC. 185.—(a) The President, acting through the Secretary of Energy, may—

"(1) acquire by purchase, exchange, or other arrangement, from one or more foreign governments, without the necessity for competitive procurement, petroleum products for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory; and

"(2) contract, without regard to sections 171(b)(2)(B) and 173 of the Energy Policy and Conservation Act (42 U.S.C. 6349(b)(2)(B)), or to the restrictions which Pub. L. No. 101-512 imposes on the leasing of crude oil, for storage in the Strategic Petroleum Reserve or the Defense Petroleum Inventory of petroleum products owned by one or more foreign governments.

"(b) The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out those activities, in advance of the receipt of petroleum products.

"(c) For the purpose of this part, the term "foreign government" means a foreign government, a foreign State-owned oil company, or an agent of either.".

(b) Part B of title I of the Energy Policy and Conservation Act (Pub. L. No. 94-163; 42 U.S.C. 6215 et seq.) is amended by adding after section 167 the following new section:

"DEFENSE PETROLEUM INVENTORY

"SEC. 168. (a) Notwithstanding any other provision of this part, the Secretary may—

"(1) acquire or construct, operate and maintain storage and facilities associated with a Defense Petroleum Inventory of at least ten million barrels of crude oil to meet petroleum product requirements of the Department of Defense; and

"(2) acquire and store crude oil therein.

"(b)(1) The acquisition and storage of crude oil in the Defense Petroleum Inventory shall be in addition to any acquisition or storage of crude oil for the Strategic Petroleum Reserve required by any other law, and crude oil acquired and stored under this section shall not be counted as part of the Strategic Petroleum Reserve.

"(2) In carrying out the functions authorized by this section, the Secretary may exercise any authority available under this part.

"(c)(1) Notwithstanding any other provision of this part, upon the request of the Secretary of Defense, crude oil acquired for or dedicated by the Defense Petroleum Inventory shall be drawn down and distributed by the Secretary to, or on behalf of, the Department of Defense for use, sale, or exchange. Crude oil in the Defense Petroleum Inventory may be drawn down and distributed, used, sold, or exchanged, without regard to—

"(A) whether the crude oil has been commingled with petroleum products of the Strategic Petroleum Reserve;

"(B) the requirements of this part concerning drawdown of the Strategic Petroleum Reserve; or

"(C) otherwise applicable Federal contracting statutes and regulations.

"(2) The Secretary of Energy shall exercise the authority provided by this subsection in a manner which does not adversely affect drawdown of the Strategic Petroleum Reserve.

"(d) Upon the request of the Secretary of Defense, and subject to the availability of funds from the Department of Defense, the Secretary shall acquire and store in the Defense Petroleum Inventory crude oil to replace crude oil drawn down under subsection (c).

"(e) An amendment to the Strategic Petroleum Reserve Plan relating to the exercise of this authority shall not be required.

"(f) The Department of Defense shall reimburse the Secretary of Energy for—

"(1) all costs of acquiring and storing crude oil in the Defense Petroleum Inventory, including the cost of associated facilities construction;

"(2) drawdown and distribution services provided under this section, in amounts that the Secretary determines to be reasonable; and

"(3) all costs of acquiring crude oil for the Strategic Petroleum Reserve to replace crude oil drawn down and distributed under subsection (c).

"(g) Crude oil acquired for the Defense Petroleum Inventory under subsection (a) shall be transferred to the Strategic Petroleum Reserve, pursuant to subsection (f)(3), in reimbursement on a barrel-for-barrel basis for the cost of replacement petroleum products acquired for the Strategic Petroleum Reserve.".

(c) The table of contents of the Energy Policy and Conservation Act (Pub. L. No. 94-163) is amended—

(1) by inserting after the item for section 167 the following item:

"Sec. 168. Defense Petroleum Inventory.";

(2) by inserting at the end of the items for Part C of

Title I the following items:

"PART D—ADDITIONAL OIL SECURITY PROTECTION

"Sec. 181. Short Title.
"Sec. 182. Purposes.
"Sec. 183. Completion of 750 million Barrel Reserve.
"Sec. 184. Enlargement of Reserve Beyond 750 million Barrels.
"Sec. 185. Acquisition of Petroleum Products.";

(3) by redesignating Part D in the items for title I as Part E; and

(4) by redesignating the item for section 181 as the item for section 191.●

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 1992" (Rept. No. 102-73).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON:

S. 1220. A bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes; from the Committee on Energy and Natural Resources.

By Mr. BENTSEN:

S. 1221. A bill to modify the flood control project for Clear Creek, TX, to direct the Secretary of the Army to remove a railroad bridge, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BIDEN:

S. 1222. A bill to amend the provisions of the Higher Education Act of 1965 relating to treatment by campus officials of sexual assault victims; to the Committee on Labor and Human Resources.

By Mr. BRYAN:

S. 1223. A bill to regulate certain marketing activities engaged in on the premises of federally insured depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERRY:

S. 1224. A bill to amend the Urban Mass Transportation Act of 1964 to authorize appropriations to assist compliance with the transit provisions of the Americans with Disabilities Act of 1990; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SEYMOUR (for himself and Mr. CRANSTON):

S. 1225. A bill to designate certain lands in California as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS (for himself, Mr. CONRAD, Mr. BURNS, Mr. COHEN, and Mr. GORTON):

S. 1226. A bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program; to the Committee on Environment and Public Works.

By Mr. MITCHELL (for himself, Mr. KENNEDY, Mr. RIEGLE, and Mr. ROCKEFELLER):

S. 1227. A bill to amend the Public Health Service Act, the Social Security Act, and the Internal Revenue Code of 1986 to provide affordable health care of all Americans, to reduce health care costs, and for other purposes; ordered held at the desk.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 1221. A bill to modify the flood control project for Clear Creek, TX, to direct the Secretary of the Army to remove a railroad bridge, and for other purposes; to the Committee on Environment and Public Works.

IMPROVING BOATING SAFETY ON CLEAR CREEK, TX

● Mr. BENTSEN. Mr. President, today I introduce a bill that improves boating safety in one of America's foremost areas for pleasure boaters by directing removal of a hazardous railroad swing bridge. This bill modifies the terms of the Clear Creek Federal flood control project to allow the Corps of Engineers to remove the bridge that crosses Clear Creek Channel at its outlet into Galveston Bay.

Boat traffic has grown considerably in the Clear Creek Channel area in the past several years. With this increase, a swing bridge belonging to the Southern Pacific Transportation Co. has posed many dangers for boaters of the area. This bill will provide a working agreement between the Corps of Engineers and Southern Pacific that will assure removal of the bridge at Seabrook.

The Galveston District office of the Corps of Engineers and the Southern Pacific Transportation Co. have been working together for over a year in an effort to work out an agreement for the removal of the bridge. Last year, a proposal was submitted by the district office to corps' headquarters in Washington; however, headquarters rejected it. This bill modifies the terms of the Clear Creek project based on the proposed agreement by the Galveston District office. Specifically, the Secretary of the Army is directed to remove the swing bridge at Federal expense. Before the Federal Government incurs this cost, Southern Pacific will have to agree, in writing, to various terms designed to protect Federal interests. Under current law, the Federal Government could be obligated to build a second railroad bridge over a second outlet. This bill will provide that in return for the Federal Government incurring the cost of removing the bridge, the Government is relieved of any responsibility it may have to build a railroad bridge for Southern Pacific over the proposed second outlet channel.

Estimates have been made that the cost of removing the swing bridge is comparable to the cost of building a bridge over the second outlet channel. Under the arrangement outlined by the bill, the Government should not incur any added net costs. Also, the cost of removal will be offset by the bridge's salvage value.

Mr. President, this bill provides each party involved a much better situation in the end. Boaters will enjoy a safer area, the Government will avoid the expense of building a railroad bridge over the second outlet channel, and Southern Pacific will obtain help in removing a serious navigational hazard.•

By Mr. BIDEN:

S. 1222. A bill to amend the provisions of the Higher Education Act of 1965 relating to treatment by campus officials of sexual assult victims; to the Committee on Labor and Human Resources.

CAMPUS SEXUAL ASSAULT VICTIMS' BILL OF RIGHTS ACT

• Mr. BIDEN. Mr. President, I rise today to introduce the Campus Sexual Assault Victims' Bill of Rights Act of 1991, a compansion bill to H.R. 2363, recently introduced by Congressman JIM RAMSTAD and 51 of his colleagues in the House.

It is sad, but true, that our colleges and universities are no longer idyllic oases of learning. Violent crime is ravaging our campuses.

Young women on campus are often at the greatest risk: Experts estimate that one out of every four college women will be attacked by a rapist before they graduate; one in seven will be raped.

Simply stated, the brutal reality is that:

More women will be raped this school year than will be struck by any other major crime. If the number of these crimes stuns, the treatment often suffered by the young victims should shock all of us.

The vast majority of campus rape victims suffer in silence: Less than 5 percent of them report the crime to the police or campus authorities.

Most campus rape victims are left in the dark about their rights: Indeed, many victims don't even know whether they will be sitting in class with their attacker the very next day.

And, saddest of all, many campus rape victims who try to speak out, are never even heard: A Student recently testified before the Judiciary Committe that when she tried to report her assault to campus authorities, the campus counselor did not condemn the attacker—instead, the victim was told to "keep her grades up" so that she could transfer to another school.

Given such treatment, it is not surprising that so many young women drop out of school after sexual attack.

In a society that says it values education so highly, it is shameful that young women are dropping out of college because of physical violence.

The bill I introduce today—the Campus Sexual Assault Victims Bill of Rights Act—takes aim at the problem by empowering its victims. The legislation requires that federally funded colleges and universities accord sexual assault victims the rights, the respect, and the services they are due.

The bill lists 10 basic rights including the following:

The right to be free from pressure by college authorities not to report the crime to campus officials or local police;

The right to counseling, alternative housing, and transfer of classes upon the victim's request; and—

The right to be free from suggestions by campus authorities that survivors are responsible for their assault, contributorily negligent or assumed the risk of the assault.

I applaud Congressman JIM RAMSTAD for introducing this fine piece of legislation in the House of Representatives. And I applaud Howard and Connie Cleary—a courageous couple—for calling our attention to this problem and pushing for a solution.

With all of our efforts, the efforts of Republicans and Democrats, in the House and in the Senate, we will change the attitudes of colleges towards crime, and we will provide the help campus crime survivors desperately need.•

By Mr. BRYAN:

S. 1223. A bill to regulate certain marketing activities engaged in on the premises of federally insured depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSITOR PROTECTION AND ANTI-FRAUD ACT

• Mr. BRYAN. Mr. President, I am introducing today the Depositor Protection and Anti-Fraud Act of 1991. This legislation would prohibit federally insured institutions from selling their own debt securities or the stock of an affiliate in their lobbies. This is a long overdue step needed to protect the public from erroneously believing that these securities are covered by Federal deposit insurance.

Banks, thrifts, and credit unions carry logos on their doors that proclaim each depositor is insured to $100,000 and that this pledge is backed by the full faith and credit of the U.S. Government. Yet these institutions may now sell uninsured financial instruments to unsuspecting consumers.

One of the most tragic aspects of the savings and loan scandal is that some thrifts sold junk bonds to unsuspecting depositors. Many of these people were elderly retirees who placed their life savings in these now worthless bonds because they mistakenly thought that they were insured.

In the one case of Lincoln Savings/American Continental, 23,000 individuals lost over $300 million. In the case of Mabel Dickson of Cahokia, IL, she invested her entire life savings—$229,000—in Germania bank notes only to find out later they were not insured. Mrs. Dickson is a 64-year-old widow suffering from lymph node cancer and has no health insurance.

I introduced similar legislation during the 101st Congress, and it was cosponsored by a majority of the Democrats and Republicans on the Senate Banking Committee. The Senate passed the legislation as part of S. 566, the National Affordable Housing Act—Public Law 101-625—but it was not included in the conference agreement.

I am optimistic that we can put this potential for abuse behind us. When individuals walk into federally insured institutions, they should not have to worry that their life savings are at risk.•

By Mr. KERRY:

S. 1224. A bill to amend the Urban Mass Transportation Act of 1964 to authorize appropriations to assist compliance with the transit provisions of the Americans With Disabilities Act of 1990; to the Committee on Banking, Housing, and Urban Affairs.

ACCESSIBLE TRANSPORTATION ACTION ACT

Mr. KERRY. Mr. President, I rise today to introduce the Accessible Transportation Act of 1991; legislation designed to improve transportation services to individuals with disabilities.

Almost 1 year ago, the 101st Congress enacted the Americans With Disabilities Act of 1991. I was an active supporter of that legislation and tremendously pleased by its passage into law. By virtue of the ADA, we have ensured that no American is denied access to transportation, buildings, and other necessary activities which are essential to the conduct of life. The ADA is the guarantee for full equality for all Americans regardless of the challenges their disabilities present.

The ADA prohibits discrimination against people with disabilities in transportation and other important aspects of daily life. It is the implementation of the ADA, however, that will create opportunities for people with disabilities in our society. ADA's implementation is a job for all of us. Businesses, educational institutions, State and local governments and their agencies, the independent sector, and the U.S. Congress all have a role to play to ensure that this implementation occurs with maximum success and minimum delay.

The legislation I am introducing today stems from work already carried out by the National Easter Seal Society, an organization very familiar to every Member of this body. Some 3 years prior to the passage of the ADA, Easter Seals established "Project ACTION"—Accessible Community Transportation In Our Nation. Project ACTION itself is a product of an effective partnership between Easter Seals, the Congress, and the Urban Mass Transportation Administration. During fiscal years 1988, 1989, and 1990, the Congress appropriated $3 million to Easter Seals to undertake a national program of research, demonstrations, and technical assistance to provide new solutions to the problems of providing transportation for persons with disabilities.

Easter Seals created Project ACTION to administer this program, under a cooperative agreement with UMTA. Since then, Project ACTION has provided excellent service to the Nation. It has sponsored breakthrough research on our needs in this area, and provided technical assistance to hundreds of communities across the country that are diligently working to improve transportation for persons with disabilities. Most significantly, the project has sponsored more than two dozen demonstration projects around the country. These are not paper studies or academic research. These demonstrations represent a coming together of the disability and transit communities to achieve real world results which can then be transferred to other communities.

And, importantly, these demonstrations cover the full range of needs in the field of transportation of persons with disabilities: Training of drivers, marketing, development and application of technology, and many other areas.

In fact, in my own State of Massachusetts we have three successful projects funded through Project ACTION. The Massachusetts Bay Transportation Authority received a grant to develop a program on emergency evacuation procedures for people with disabilities who use rapid transit systems.

The Massachusetts coalition of citizens with disabilities is conducting the interregion travel initiative project which will increase the use of statewide intercity transportation systems developed in Massachusetts through marketing, outreach, and training programs. And a group in Waltham is developing plans using the Massachusetts Water Shuttle to help individuals with disabilities access public transportation facilities.

Mr. President, now that the ADA has been passed, the demand for the resources and services, that Project ACTION is providing to transit authorities and organizations representing persons with disabilities has grown immense.

Mr. President, that is the principal purpose of the Accessible Transportation Action Act of 1991. In this critical year when ADA is being implemented at the same time that the Nation's surface transportation laws are being revised, now is the time to incorporate a cooperative program between the transit and disability communities similar to Project ACTION, as a permanent resource and tool to assist communities in improving their transportation systems for persons with disabilities. That would be accomplished by the legislation I am introducing today.

The Accessible Transportation Action Act of 1991, is an amendment to the Urban Mass Transportation Act and would allocate $2 million annually of UMTA research and development grants for cooperative programs, a sound investment in meeting the needs for ADA implementation assistance across the country.

What will the legislation accomplish? It is my expectation based on what Project ACTION has already achieved, that under a continued and expanded cooperative program, we will see: First, ongoing demonstration programs to show practical ways to overcome barriers to transportation accessibility; second, support of future innovations, especially in the area of technology development; third, technical assistance on general accessibility issues to transit authorities and consumers, including onsite technical assistance; and fourth, information dissemination and sharing.

Mr. President, my colleagues on the Committee on Banking, Housing, and Urban Affairs are hard at work on reauthorizing the Urban Mass Transportation Program. I particularly commend the senior Senator from California, Senator CRANSTON, for his work in this area this year and through the last 23 years. I look forward to working under his leadership to help make this proposal an important part of the overall reauthorization package.

Mr. President, just as we needed the ADA, we now need the Accessible Transportation Act of 1991. It will provide the needed assistance in helping communities with the implementation of the Americans With Disabilities Act.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accessible Transportation Action Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) assuring access to transportation is critical to promoting maximum independence and achieving meaningful integration for persons with disabilities;

(2) the number of individuals with disabilities who need special assistance in transportation has increased from approximately 9,000,000 to more than 11,000,000 persons nationally in the past decade;

(3) currently only 40 percent of existing fixed route vehicles used for public transportation are accessible to persons with disabilities;

(4) many transit systems have not been able to meet successfully the accessibility needs of persons with disabilities;

(5) with the passage of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), transit systems nationwide are struggling to implement effectively the new requirements of the law;

(6) in fiscal years 1988 through 1990, the Urban Mass Transportation Administration funded a successful cooperative agreement to improve relations between transit and disability communities nationwide and to develop new tools and techniques to improve transportation services to citizens with disabilities;

(7) further funding is vital to assist transit systems working cooperatively with disability organizations to improve transportation services for individuals with disabilities and implement the transit provisions of the Americans with Disabilities Act of 1990; and

(8) recent successful demonstration programs to assist individuals with disabilities in achieving access to transportation systems should be continued until the need has been met.

SEC. 3 AUTHORIZATION OF APPROPRIATIONS FOR ASSISTING COMPLIANCE WITH THE TRANSIT PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT.

Section 16 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1612) is amended by adding at the end the following:

"(f) COMPLIANCE WITH ADA.—Of the amounts made available for grants and loans under this subsection, the Secretary shall make available not less than $2,000,000 per year for fiscal years 1992, 1993, 1994, 1995, and 1996 to assist transit providers in achieving compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through the following means:

"(1) Technical assistance.

"(2) Ongoing and new demonstration programs.

"(3) Research and Development.

"(4) Public Education.

"(5) Technological innovations.

To the extent practicable, the Secretary shall carry out this subsection through contracts with national nonprofit organizations which serve persons with disabilities and have demonstrated a capacity to conduct these activities.".

By Mr. SEYMOUR (for himself and Mr. CRANSTON):

S. 1225. A bill to designate certain lands in California as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

DESIGNATION OF CERTAIN CALIFORNIA LANDS AS WILDERNESS

Mr. SEYMOUR. Mr. President, today I am introducing a bill to designate 398,800 acres of the Los Padres National Forest as wilderness. The notion of further wilderness designation in the Los Padres National Forest is not new. Senators WILSON and CRANSTON, along with Congressman LAGOMARSINO have all previously introduced measures to assure the protection of the region's forest and streams.

Until today, though, no consensus had been reached on such legislation. Competing measures in both the Senate and the House had prevented some of Los Padres' most distinctive and delicated natural areas from receiving the permament protection they required.

Today that has all changed. Today, Mr. President, I am pleased to announce that Senator CRANSTON and I have joined together in offering legislation that will not only assure the protection of the important natural assets found in the Los Padres National Forest, but also will ensure that the public will continue to have access to enjoy these wonders.

Our bill creates seven new wilderness areas within the forest. The Sespe Wilderness will total 220,500 acres; the Matilija—30,000, San Rafael—43,000, Garcia—14,600, Chumash—38,200, Ventana—38,000, and Silver Peak—14,500.

Also included in the legislation are seven rivers that run through the forest. A full 33 miles of Sisquoc River and 18.9 miles of Big Sur are designated as wild and scenic. Forty nine miles of the Piru Creek, 23 miles of the Little Sur River, 16 miles of the Matilija Creek, and 11 miles of the Lopez are all to be studied for designation.

Although the bill covers over 150 miles of rivers, and designates almost 400,000 acres of wilderness, one issue remains to be solved. The issue involves the designation of the Sespe Creek as wild and scenic. While there is agreement that the vast majority of the Sespe should receive protection under the Wild and Scenic Rivers Act, I have not been convinced that all 55 miles of the Creek should be placed into the system.

I have agreed to keep my mind open on this issue. And in the same spirit of cooperation that has led to the joint introduction of this bill, I am certain that after hearings have been held on the measure, a solution to the challenge of protecting the Sespe Creek can and will be found.

Mr. President, I would like to take this opportunity to thank Congressman LAGOMARSINO and Senator CRANSTON for their diligent work on the protection of the Los Padres National Forest. I am hopeful that by combining our efforts this vital wilderness bill will become law.

By Mr. JEFFORDS (for himself, Mr. CONRAD, Mr. BURNS, Mr. COHEN, and Mr. GORTON):

S. 1226. A bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program; to the Committee on Environment and Public Works.

SMALL TOWN ENVIRONMENTAL PLANNING ACT

Mr. JEFFORDS. Mr. President, small towns of Vermont and others in this country are beginning to crumble under the weight of many Federal environmental mandates. Let me give you an example. We have a little town, Grand Isle, in the State of Vermont that has some 68 people. It is located in the pristine areas of Lake Champlain, yet under the law it must immediately start considering the construction of a water purification plant as well as a landfill. It has the most pure water you can imagine coming from those pristine areas of Lake Champlain. There is no problem with it. The State says there will not be a problem with it, yet they are required to build a filtration plant as well as waste disposal facilities.

What we need, Mr. President, is a logical planning procedure which will allow towns to be able to do this in a manner that they can afford, to comply with all regulations. Thus, Mr. President, I intend to introduce a bill today on behalf of myself, Senator CONRAD, Senator BURNS, Senator COHEN, and Senator GORTON to try to bring some order out of this chaos which is going to be wreaked upon our towns and communities.

I have discussed this with Administrator Riley, and they are concerned about this problem also. They are planning to come forward with a book of regulations which the little towns must meet. They say it will probably be about 6 inches thick.

What we are trying to do with the bill we are introducing today, which we call the Small Town Environmental Planning Act, is to help small communities reach full compliance with Federal requirements. The main points of our proposal are as follows: We believe our small towns want to comply. They lack only the resources and the time. S. 729 helps provide the resources. We help provide the time.

Our bill establishes a voluntary planning program. No small town is obligated to participate in this program.

Second, if a small town agrees to participate, they can help shield themselves from liability. We believe the limited resources small towns have should go toward environmental compliance, not toward lawyers' fees.

Third, no State laws are preempted. Our bill simply creates the flexibility at the Federal level. We are giving the States the ability to help their towns reach full compliance.

Fourth, the EPA helps in this endeavor by publishing an easy-to-understand compilation of Federal requirements.

Fifth, EPA publishes guidelines to help small towns prioritize their activities so as to achieve the greatest environmental benefit with their available funds.

Sixth, no requirements are waived. Instead, we recognize our small towns cannot do everything at once. This program lets them set up an organized plan for achieving compliance as fast as they can.

We could just let nature take its course, but where would it lead us? It would lead us to EPA or States suing their small towns, setting up administrative orders, and basically spending scarce Federal funds to reach the same goal. Let us let our small towns avoid this expense and begin a rational program for reaching full compliance.

Certainly we hope that Senators will join with us.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Town Environmental Planning Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Small communities do not have sufficient resources to assure compliance with environmental laws.

(2) Insufficient amounts of Federal, State, and local resources are available for funding environmental compliance activities in small communities in the near future.

(3) Small communities lack the legal authority to adjust compliance deadlines to match the availability of resources to environmental compliance activities.

(4) A system that would allow small communities to prioritize environmental compliance activities in order to maximize environmental benefits derived from available funding would have a positive effect on the environment.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To allow small communities a degree of flexibility in meeting regulatory deadlines appropriate to the level of available financial resources to maximize benefits to human health and the environment.

(2) To establish a Federal program to ensure that small communities are meeting requirements under Federal environmental laws in an expeditious manner.

(3) To create flexibility with respect to Federal requirements under certain environmental laws so that States may have the ability to provide flexibility in State requirements with respect to related State laws.

SEC. 3. ESTABLISHMENT OF SMALL COMMUNITY ENVIRONMENTAL COMPLIANCE PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency (hereafter in this Act referred to as the "Administrator") shall establish a program of small community environmental compliance planning for facilities that are owned, operated, or under contract with a small community, or with respect to which an environmental compliance activity is dependent on a facility owned, operated, or under contract with a small community (as defined and determined by the Administrator).

(b) CONDITIONS OF PARTICIPATION IN PLANNING ACTIVITIES.—(1) Participation in the small community environmental compliance planning activities described in this section by a small community, or by a State, acting on the part of a small community, shall—

(A) be voluntary; and

(B) not be construed so as to authorize the preemption of any State law or the law of any political subdivision of a State.

(2) A small community may not participate in the environmental compliance planning activities under this program if the Administrator determines that participation would result in a violation of a State law or the law of a political subdivision of the State.

(c) IDENTIFICATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Administrator shall publish a list of requirements under the Acts described in paragraph (2) (and the regulations promulgated pursuant to such Acts) that shall be addressed in a small community environmental compliance plan. Not less than annually, the Administrator shall review such list and make such additions and deletions as the Administrator determines to be appropriate.

(2) The laws described in this paragraph are the following:

(A) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) The Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001 et seq.).

(C) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

(D) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(E) The Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(F) The Clean Air Act (42 U.S.C. 7401 et seq.).

(G) The Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(d) GUIDELINES FOR PRIORITIZATION.—(1) Not later than 9 months after the date of the enactment of this Act, the Administrator shall publish guidelines for the use by a small community or State responsible for the development of a small community compliance plan.

(2) In developing the guidelines described in paragraph (1), the Administrator shall—

(A) identify priority requirements that have the most significant impact on human health and the environment; and

(B) develop a recommended model for small communities to employ in prioritizing the scheduling of environmental compliance activities related to facilities described in subsection (a).

(e) PLAN REQUIREMENTS.—(1)(A) Not later than 12 months after the date of the enactment of this Act, the Administrator shall promulgate regulations that specify requirements for the form, content, and manner of submission of a small community environmental compliance plan.

(B)(i) In promulgating the regulations under this paragraph, the Administrator shall, to the extent practicable, ensure that the appropriate official of any small community (or of the State, acting on the part of the small community) is able to prepare such small community environmental compliance plan with a minimal amount of technical assistance.

(ii) In promulgating the regulations under this paragraph, the Administrator shall require a format for the small community environmental compliance plan that, in most cases, could be completed using 20 single-spaced typewritten pages. Notwithstanding the preceding sentence, at the option of a preparer acting on the part of a small community, the small community environmental compliance plan may exceed 20 single-spaced typewritten pages in length.

(2) At a minimum, the regulations promulgated under this subsection shall require that a small community environmental compliance plan shall—

(A) identify areas of environmental regulation related to the Acts described in subsection (c)(2) with respect to which appropriate officials of the small community (or the State, acting on the part of the small community) determines there are significant problems in achieving compliance within the implementation schedules provided under such Acts;

(B) identify general areas of environmental noncompliance with the implementation schedules described under subparagraph (A); and

(C) with respect to each treatment or disposal facility owned, operated, or under contract with a small community, estimate the aggregate amount of user fees necessary for the financing of the environmental compliance activities described in this section at the facility, and assess the ability of the residents of the small community to pay such user fees.

(f) PLAN PREPARATION.—(1) Except as provided in paragraph (2), not later than 9 months after the date of issuance of the plan requirements described in subsection (c), each small community participating in the small community planning program established under this section shall prepare a small community environmental compliance plan in accordance with the plan requirements described in subsection (d).

(2)(A) If the Governor of a State determines that a small community that elects to participate in the small community environmental compliance planning program does not have sufficient resources to prepare a small community environmental compliance plan, the Governor shall authorize the appropriate State agency to develop a small community environmental compliance plan for the small community.

(B) An official with appropriate authorization of a small community (as determined by the Administrator) may request the Governor of a State to prepare a small community environmental compliance plan on the part of the small community (regardless of the level of resources available to such small community), and upon approval of such request by the Governor, the State may prepare the plan.

(3)(A) Except as provided in subparagraph (B), in preparing a small community environmental compliance plan, a small community (or the State) shall apply the guidelines issued under subsection (d) and meet the plan requirements described in subsection (e).

(B) A small community environmental compliance plan may depart from the recommended model of prioritizing the scheduling of environmental compliance activities described in the guidelines issued under subsection (d), if the preparer of the plan demonstrates, to the satisfaction of the Administrator, that there is a significant need to deviate from the recommended model because the model is not appropriate to meet the needs of the small community on the basis of any of the following factors:

(i) Local environmental conditions.

(ii) Economic considerations.

(iii) The availability of State or Federal funding.

(iv) Other factors that the Administrator determines to be significant.

(4) The Administrator shall review each small community environmental compliance plan prior to approval, and may require modifications in a plan prior to approval.

(5) Notwithstanding any other provision of law, a small community that submits a small community environmental compliance plan to the Administrator pursuant to the requirements of subsection (f) of this section, shall be granted interim status and shall be treated as having an approved small community compliance plan in effect until such time as the Administrator makes a final disposition on the approval or disapproval of the plan.

(6) Upon the approval of the small community environmental compliance plan by the Administrator, the small community (or the State acting on the part of the small community) shall implement the plan in accordance with the requirements of this Act.

(7) At any time after the approval and implementation of the small community environmental compliance plan, the Administrator may require, in accordance with regulations that the Administrator shall promulgate, that a small community make such revisions to the plan as the Administrator determines to be appropriate.

(8) At any time after the approval and implementation of the small community environmental compliance plan, the preparer of the plan may submit written revisions to the Administrator for approval. The Administrator may approve the revisions if the preparer demonstrates, to the satisfaction of the Administrator, that recent statutory and regulatory developments warrant a change in the scheduling of environmental compliance activities; or that changing conditions in the small community otherwise warrant a revision of the small community environmental compliance plan.

(g) REQUIREMENTS FOR REGULATIONS.—In promulgating regulations under this section, the Administrator shall—

(A) use language that is easily understandable to the reader; and

(B) take into consideration any economic burden that any such regulation imposes on small communities.

(h) REGULATORY WAIVERS.—(1) The Administrator shall periodically review the regulations identified pursuant to subsection (c)(1), and shall identity those regulations with respect to which the Administrator determines that a waiver mechanism for small communities is appropriate.

(2) The Administrator shall, by regulation, provide for a mechanism under which a small community may apply for a waiver with respect to any regulation identified by the Administrator under paragraph (1). In the case where a small community demonstrates, to the satisfaction of the Administrator, that compliance with the regulation is not necessary to protect human health and the environment, the Administrator shall waive the

requirements of the regulation. In issuing the waiver, the Administrator may attach such conditions to the waiver as the Administrator determines to be necessary to protect human health and the environment.

(i) Outreach and Technical Assistance.—(1) In addition to publishing the regulations promulgated under this section in the Federal Register, the Administrator shall, as part of the program under this section, implement a program to notify small communities of the regulations through methods that the Administrator determines to be effective to provide information to the greatest number of small communities, including any of the following:

(A) Newspapers and other periodicals.

(B) Other news media.

(C) Trade associations and other associations that the Administrator determines to be appropriate.

(D) Other methods that the Administrator determines to be appropriate.

(2) The Administrator shall, as part of the program under this section, develop and implement a program to provide technical assistance to small communities in preparing small community environmental compliance plans.

SEC. 4. ADMINISTRATION OF PLAN.

(a) Availability of Plan.—Upon approval by the Administrator of the small community environmental compliance plan, the small community (or the State acting on the part of the small community) shall deposit a copy of the small community plan—

(1) in the department or agency responsible for the administration of the plan; and

(2) in each facility (as described in subsection (a)) subject to a provision of the plan or in the office of the owner or operator of such facility, or an authorized representative of the owner or operator.

SEC. 5. ENFORCEMENT.

(a) Waiver Authority.—(1) Subject to sections 3(b) and 6 of this Act, and notwithstanding any other provision of law, with respect to each small community with an environmental compliance plan approved by the Administrator or granted interim status under section 3(f)(5), the Administrator shall waive any requirement described in section 3(a) if the Administrator determines that such waiver is necessary to carry out the provisions of the plan.

(2) Notwithstanding any other provision of law, no citizen suit may be brought to enforce a provision of law in the case where the Administrator waives the provision to carry out the provisions of a small community environmental compliance plan.

(b) Penalties.—(1) Notwithstanding any other provision of law, the Administrator shall, by regulation, provide for procedures for the assessment of an administrative penalty against any facility that fails to meet an environmental compliance requirement described in a small community environmental compliance plan. The Administrator shall promulgate regulations to account for each day of violation of the requirement of the small community environmental compliance plan. The amount of any penalty under this subsection and the manner of assessment of the penalty shall be determined by the Administrator. In making the determination, the Administrator shall provide for the assessment in a manner substantially similar to the assessment of a penalty for any related provision of law waived by the Administrator.

(2) Notwithstanding any other provision of law, the Administrator may bring an action in a United States district court of appropriate jurisdiction for a judicial assessment in an amount determined by the court to be substantially similar to the amount of any penalty under any related provision of law waived by the Administrator.

SEC. 6. STATUTORY CONSTRUCTION.

Nothing in this Act shall be construed so as to preempt any State or political subdivision of a State from enforcing additional limitations and requirements under the laws (including regulations) of the State or the political subdivision of the State.

SEC. 7. DEFINITIONS.

For the purposes of this Act, the term—

(A) "environmental compliance activity" includes any planning, design, construction, management, training, or other activity conducted by a permittee to achieve compliance with a requirement described in section 3(a); and

(B) the term "small community" means an incorporated or unincorporated community (as defined by the Administrator) with a population of less than 5,000 individuals.

Mr. JEFFORDS. I am happy to yield to the Senator from North Dakota if he so desires.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise today to join my colleague, Senator Jeffords, in introducing the Small Town Environmental Planning Act of 1991. This bill will help small communities meet important environmental requirements. This bill is a logical complement to legislation introduced by my colleague, the senior Senator from North Dakota, and the chairman of the Environment and Public Works Committee, Senator Burdick. His bill recognizes the serious problems small communities have with the environmental mandate by providing them with loans to finance environmental facilities.

This bill provides the other crucial components—flexibility and prioritization. Small towns are literally being crushed under the weight of Federal requirements. This is especially true in rural States like North Dakota and South Dakota, the home State of the occupant of the chair. This year I wrote to the mayors of all of the towns in North Dakota to ask them their highest priority for legislation this year. Meeting Federal environmental regulations topped their list of concerns.

Community after community wrote to me desperate for some assistance in meeting all the requirements they see coming their way. EPA has found that small towns already pay more per capita than larger cities for drinking water, sewage treatment, and solid waste disposal, while the average per capita income in those towns is below the national average. EPA concluded that small towns are those most likely to face problems in implementing changes called for in these new environmental regulations.

Mr. President, most officials in my State of North Dakota do not know how they will afford the cost of compliance. Some are already at the limit of borrowing ability and cannot afford the improvements already required. New regulations will simply increase the burden. With the very limited tax base and higher costs already, they have nowhere to turn, yet we seem to have new requirements that we send their way almost on a monthly basis.

This bill will allow small communities to work with the appropriate agencies to prioritize their needs along with their ability to raise the necessary funds. Communities will not be exempt from the important requirements for safe drinking water and landfills. They will meet the requirements in a priority manner, in a way that will take the health and safety of the community into account first.

Small communities do not want to shirk their responsibility to environmental regulations. They simply want to have a realistic, sensible approach to the various requirements.

This bill will allow them that opportunity. I hope my colleagues will support this bill.

I want to thank and commend my colleague, Senator Jeffords, for his very strong leadership on this issue. The small towns of my State are crying out for this kind of relief, Mr. President. I hope we can expeditiously consider it, pass it, and make it a reality.

I thank the Chair. I yield the floor.

Mr. JEFFORDS. I thank the Senator for his words and for his activities. I hope working together we solve the problems.

Mr. COHEN. Mr. President, I am very pleased to be joining Senators Jeffords and Conrad in introducing legislation, the Small Town Environmental Planning [STEP] Act, that will help alleviate the enormous financial burdens facing small communities as they attempt to meet the requirements of various Federal environmental statutes.

The STEP Act will allow small communities, those with populations under 5,000, to participate in a program establishing a compliance schedule that reflects each community's needs and its ability to pay the costs of these Federal requirements. As a participant of the compliance program, the community would set its own priorities using guidelines established by the Environmental Protection Agency. Schedules for meeting the Federal requirements would be established and would be the operative plan governing compliance with Federal law. The deadlines that present so many difficulties for small towns would be rolled back according to the new compliance schedules, affording these communities more time to pay for the costs of compliance.

I believe this legislation is crucial to small communities, which are finding it very difficult to provide essential services while facing deadlines for compliance with Federal environmental laws. The costs for compliance are astounding for many small towns and water systems, which do not have access to the resources that will help reduce the financial burden of compliance. For example, estimates of the cost of new requirements under the Safe Drinking Water Act for communities with fewer than 3,300 users is $5 billion. In Wilton, ME, a community of about 3,500 with only 900 water users, the costs of complying with the Safe Drinking Water Act are $2.7 million. The town of Andover, ME, with only 135 water users, must pay $880,000 to comply with the act.

These costs are difficult enough to absorb on their own, but they are exacerbated by costs imposed by other laws, including the Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Superfund Amendments and Reauthorization Act, and other laws.

To assist towns in meeting these requirements, a few Federal loan and grant programs exists, but they are limited and cannot serve all needs. There are loans available through the State revolving loan funds established in the Clean Water Act of 1987, and there are grants and loans available through the water and sewer program administered by the Farmers Home Administration. I have supported increased funding for these programs in the past, and in recent years Congress has approved those increases, but the $500 million in loans and $300 million in grants for the program nationwide does not come close to meeting the needs of many small towns. Maine alone needs $500 million to comply with the Safe Drinking Water Act and $1 billion to comply with the Clean Water Act's storm water separation requirements. In addition, an estimated 20 communities in Maine still discharge untreated sewage into the State's waters; it will take $50 million to outfit these towns with primary sewage treatment facilities.

Available loan programs are clearly inadequate, and there is no indication that this situation will be alleviated soon. In any case, loan programs still require the expenditure of significant amounts of money by the communities, with ratepayers facing enormous increases in water and sewer rates.

The Small Town Environmental Planning Act will bring a bit more reason to this process, by establishing a priority system rather than burdening the towns all at once with mandate after mandate. I do not believe we should repeal these laws, or exempt towns from meeting their requirements because of cost. The elimination of contamination in our drinking water is a laudable goal, as is the reduction of pollution in our rivers, lakes, and oceans.

However, we must recognize the hardships confronting communities and their residents, who are now facing reductions in general assistance, fuel assistance, library hours, fire protection services, and other programs at the same time that they must spend thousands and sometimes millions of dollars to address problems associated with drinking water contamination and sewage treatment.

I wish there was a way we could help all communities facing these problems, not just those under 5,000 in population. However, I certainly understand the need to establish a reasonable cutoff point at this time in order to set up a workable program, and in Maine this standard will cover about 90 percent of Maine's communities. I will continue to work on solutions to the financial burdens faced by Maine's larger communities in the hope of devising a reasonable approach to compliance with Federal environmental laws.

I believe Maine's small communities and their residents will benefit significantly from the provisions of the STEP Act. A priority sysem needs to be established so that the most important work is accomplished first. Towns will still have to comply with the laws that have been enacted to address serious water, sewer, toxic waste, and other problems. However, ratepayers—especially the elderly and poor—will not be too heavily burdened with increased costs under this legislation. A more reasonable and gradual approach to compliance will relieve these citizens from the burden of immediate rate increases of 50 percent, 100 percent, and more.

Senators JEFFORDS and CONRAD are to be commended for their initiative on this issue. I am joining them in their effort because I believe small towns need some real assistance in dealing with the many requirements they face now and will continue to face in the future. This legislation is a starting point for discussion on this issue, and we welcome all comments in an effort to provide the best solution to this difficult problem.

I hope this legislation will receive the attention it deserves in the Senate, and I commend it to my colleagues for their consideration.

By Mr. MITCHELL (for himself, Mr. KENNEDY, Mr. RIEGLE, and Mr. ROCKEFELLER):

S. 1227. A bill to amend the Public Health Service Act, the Social Security Act, and the Internal Revenue Code of 1986 to provide affordable health care of all Americans, to reduce health care costs, and for other purposes; by unanimous consent ordered held at the desk until the close of business on June 7, 1991.

HEALTHAMERICA: AFFORDABLE HEALTH CARE FOR ALL AMERICANS ACT

Mr. MITCHELL. Mr. President, today I join with a number of my colleagues to introduce comprehensive legislation to reform the Nation's health care system to assure access to affordable health care for all Americans.

This legislation is the culmination of nearly 2 years of work by the Senate working group on the uninsured, and reflects input from a wide range of interest groups including health-care providers, insurers, consumer groups, the States, and many others.

Access to affordable, quality health care should be a right for all Americans, not merely a luxury for those who have the economic means to purchase health insurance. As many as 37 million Americans have no health care coverage, and millions more have insurance coverage which is inadequate to protect them against the costs of serious illness.

Furthermore, the rising cost of health insurance threatens coverage for all who are currently insured. The Department of Labor estimates that nearly 1 million Americans lose their health insurance coverage each year, often because their employers drop coverage because of the rising costs of premiums, or because insurers refuse to cover persons with preexisting conditions.

The problem of the uninsured is not principally a problem of the poor; the Office of Management and Budget estimates that 70 percent of the uninsured are above the poverty level.

Nor is the lack of health insurance coverage principally a problem of the unemployed—two-thirds of the uninsured are working persons or their dependents whose jobs do not provide what was once considered a routine benefit—health insurance.

One-third of the uninsured are children—one of four children in the United States has no health insurance. If we ignore the health care of our children now, it will cost us more to deal with the effects later.

The underlying crisis in our Nation's health care system is the rapidly rising cost which is eroding the very foundation of the system for all Americans, regardless of income.

Clearly, the tremendous amount of money our Nation is spending on health care is not buying quality health care for all Americans. We must find a way to bring health care costs under control or we risk adding millions more to the rolls of the uninsured, and ultimately face a total collapse of the health care system.

In 1990, the United States spent $671 billion on health care, approximately 12.2 percent of gross national product, up from 11.6 percent—$604 billion—in 1989. Real per capita health expenditures have not only risen dramatically in the United States, they have also far exceeded the per capita expenditures of all other industrialized nations.

The United States per capita spending on health is approximately one-third higher than Canada's, double the spending of Japan and the former West Germany, and three times the amount spent in the United Kingdom.

Yet, in spite of the amount of GNP spent on health care and our Nation's advances in medical treatment and technology, our health outcomes compare poorly with many other industrialized nations. When the United States is compared with Canada in health status, the Canadians fare better in lower infant mortality rates, lower maternal mortality rates, lower mortality rates for low-risk and moderate-risk surgery, and higher life expectancy for both men and women.

It is not enough that we find a way to add those who are uninsured to the existing health care system. We must make fundamental reform in that system including effective cost containment efforts and insurance market reform.

I believe we must build upon the existing public-private health care system which asks employers to share the responsibility of providing access to health care for their employees and their dependents.

Currently that burden is not shared equitably by all employers. While it is often difficult for small businesses to provide health coverage to their employees and their dependents, most already do so. Health insurance coverage is offered by 80 percent of businesses with 25 or fewer employees; coverage is offered in 46 percent of businesses with 10 or fewer employees.

Unfortunately it has become more difficult and more expensive for small business to insure their employees. If we are going to expect small business to provide health coverage to their employees, we must make it more affordable to do so.

The legislation we are introducing today will require all employers to either provide private health insurance to their employees or contribute to a public program which will provide coverage. This "play or pay" model will be phased-in over a 5 year period in an effort to give small employers an opportunity to adjust to the new requirement.

Businesses with employees between 25 to 100 will be required to play or pay after 4 years of the bill's enactment if fewer than 75 percent of employees in small businesses not previously insured are not covered. This requirement also applies to firms with fewer than 25 employees after 5 years.

The legislation also includes a number of provisions which are intended to provide financial assistance to small businesses in the form of tax credits to help them adjust to the new requirements.

Small businesses with fewer than 60 employees would be provided with a 25-percent credit on the first $3,000 of health insurance expenses for each full-time employee with an income under $20,000, except for high-profit firms. The 25-percent tax credit would be in addition to the deduction currently available for the cost of such insurance.

The bill also increases the tax deduction for self-employed firms from 25 to 100 percent for the cost of health insurance. New businesses will be given a grace period of 2 years with no play or pay requirement. In the third year, new businesses will pay one-half of the payroll contribution.

Small businesses that have not previously provided coverage will be allowed to use Medicare reimbursement rules for the first 5 years. Medicare rules will result in lower costs to businesses purchasing private insurance for their employees.

In addition, this legislation includes a provision to reform the small group insurance market. This reform is critical to small businesses who currently cannot afford insurance or whose employees are excluded from coverage because of preexisting conditions.

The insurance market reform provisions will provide for the continued regulation of health insurance by States within new, Federal standards. The Federal standards are designed to remove barriers to access to group health insurance, promote equity in insurance premiums, and improve the affordability of coverage for small employers.

While this legislation places significant responsibility on employers to expand access to health insurance through the workplace, it recognizes that the Federal and State governments must share the burden in reforming the health care system and assuring access to care for all of our citizens. Even under the best case scenario, not all Americans will have access to employer-based health insurance.

Therefore, our legislation also reforms and expands the existing public program. A new public program called AmeriCare, will replace the existing Medicaid Program for all services except long-term care. All persons who are not eligible for employer-based health insurance will be eligible to receive health benefits through AmeriCare.

AmeriCare is a dramatically new public program. Federal standards will be set for eligibility, benefits, and reimbursement. Traditional categorical eligibility and income requirements for eligibility under Medicaid will be eliminated under AmeriCare.

Benefits under AmeriCare will be identical to those provided in the employer-based basic benefit package. Persons with incomes below 100 percent of poverty will have their out-of-pocket costs completely subsidized by the Federal Government. Persons with incomes between 100 to 200 percent will have out-of-pocket costs subsidized on a sliding scale.

Most importantly, provider reimbursement rates will be set using Medicare rules. This improvement in reimbursement will eliminate the problem of access to providers currently faced by Medicaid beneficiaries.

We propose that AmeriCare be jointly financed by the Federal and State governments with administration at the State level. Because we are concerned about the financial burdens faced by many States, our proposal includes an enhanced Federal match for AmeriCare, to be phased-out after 5 years.

While this legislation is primarily intended to assure access to health care for all Americans by assuring each person a means of payment for care, we are aware some persons with health insurance coverage may not have access to a delivery system, particularly in rural or urban underserved areas.

In an effort to respond to this problem, we have included a provision to expand the Community Health Centers system throughout the United States, which includes both rural and urban centers. While this expansion does not fully address the problems with the current health-care delivery system, it is an attempt to recognize the problem and begin to improve access to health-care providers for persons in medically underserved areas.

If this legislation is to accomplish our goal of providing quality, affordable health care for all Americans it must have as its underlying foundation meaningful cost containment. The cost containment provisions included in this bill are intended to put in place a structure which will result in significant reductions in the rate of increases throughout the system.

Over the last decade a variety of cost containment strategies have been attempted by both the government and private sectors. These strategies have had mixed results, but overall there appears to have been little impact on the growth in total health spending.

In the development of this legislation, we have evaluated these cost containment strategies and have sought additional ones. It is important that we look at the entire health care system—at both the price and volume of services. In the past, controlling costs in one segment of the health-care market has often meant cost shifting to other payers.

Our legislation includes the establishment of a National Health Care Expenditure Board, designed as an independent agency which establishes voluntary annual goals for national health care expenditure totals and convenes negotiations between purchasers and providers of care.

Working in conjunction with the National Health Care Expenditure Board, each State will be required to establish a State consortium, which must enroll insurers with a small share of the market for the purpose of reducing administrative costs. State consortia may add optional functions including negotiating rates for providers and allocation of capital, among other functions; within the overall annual goal set by the National Health Care Expenditure Board.

In our effort to contain health-care costs, we must have better information about what we as a nation want to pay for. We must assure that each dollar spent gives us its best return. I believe that we can get more value for the over $600 billion we spend each year on health care.

It is estimated that between 10 to 30 percent of treatment for illnesses provided by physicians is either unnecessary or ineffective.

We believe that the outcomes research initiatives being conducted through the Agency for Health Care Policy and Research, will improve the quality of care while reducing or eliminating unnecessary or ineffective treatments. Therefore, our legislation includes an expanded effort for outcomes research and the development of practice guidelines.

Similarly, we must evaluate new and existing technology in the same way if we are going to control the rapidly escalating costs of MRI's, CT Scans, and other revolutionary technologies in medicine.

Our bill includes an expanded effort in technology assessment through the Office of Technology Assessment and with Federal grants to private entities to encourage research in the private sector. The information gathered through the improved technology assessment would be taken into consideration by both public and private payers in setting reimbursement for technology and making decisions about coverage.

The legislation also includes managed care initiatives in both the private sector and in AmeriCare.

While there are different estimates as to the extent of the problem—we are convinced that the administrative costs of the existing private health care industry are excessive. We believe that cost savings can and must be achieved in this area and have therefore, included a provision to require the Secretary of Health and Human Resources to collect, analyze and disseminate data and move toward uniform billing and electronic claims processing.

Our Nation's health care system is on the critical list. If we do not work together in good faith to control the soaring costs of care and to provide access to care for millions of Americans now uncovered, we will all fall victim to the collapse of the system.

Reforming the health care system will be difficult. While most believe there is a serious problem, few can agree on the solution. A perfect solution does not exist. Some argue that the United States should adopt a Canadian model. Others argue that tax incentives to businesses with no requirement to provide coverage is the answer.

The legislation we are introducing today represents a compromise between those two views, keeping in mind our own traditions and values as Americans. A new health care system for our Nation must be developed based on our own needs, history and traditions. Every nation with comprehensive health care for all of its citizens has developed a system over time which is unique to that nation. These systems have evolved as our system must evolve.

I believe the time to act is now. Health care reform is critical if we are going to assure that all Americans are ready for the challenges of the 21st century. Children must be healthy and alert in order to learn. As our citizens live longer we must assure that their health is good and their lives are productive.

I look forward to working with my colleagues in the Congress to enact meaningful health care reform in this Congress. I challenge the Bush administration to work with the Congress to accomplish this goal which is vital for the future of our nation.

I ask unanimous consent that a summary of the bill, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "HealthAmerica: Affordable Health Care for All Americans Act".

(b) REFERENCE TO ACT.—Hereafter this Act may be referred to as the "HealthAmerica Act".

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

Sec. 101. Basic health benefits for employees and their families.
Sec. 102. Obligation to secure health insurance.

TITLE II—REQUIREMENTS FOR HEALTH BENEFIT PLANS

Sec. 201. Requirements for health benefit plans.

TITLE III—SPECIAL ASSISTANCE FOR SMALL AND MEDIUM-SIZED BUSINESS

Sec. 301. Preemption of State mandated benefit laws.

Subtitle A—Reform of Small Group Insurance

Sec. 311. Group health insurance standards.

Subtitle B—Tax Equity for Small and Medium-Sized Businesses

Sec. 321. Deductible health coverage provisions.
Sec. 322. Excise tax for violation of health benefit plan requirements.

Subtitle C—Opportunity for Voluntary Provision of Coverage

Sec. 331. Medium-sized employers.
Sec. 332. Measurement surveys.
Sec. 333. Small employers.
Sec. 334. Failure to make surveys.

Subtitle D—Small Business Tax Credit

Sec. 341. Allowance of a credit for small and medium-sized business group health plan expenditures.

Subtitle E—Additional Assistance to Small and Medium-Sized Businesses

Sec. 351. Opportunity to buy coverage at medicare rates.
Sec. 352. Special provisions for new small businesses.
Sec. 353. Small and medium-sized business advisory committee.

TITLE IV—REDUCING HEALTH CARE COST INFLATION

Subtitle A—Outcomes Research and Practice Guideline Development and Dissemination

Sec. 401. Initial guidelines and standards.
Sec. 402. Amendments to the Social Security Act.

Subtitle B—Federal Health Expenditure Board

Sec. 411. Federal Health Expenditure Board.

Subtitle C—State Purchasing Consortia

Sec. 421. State purchasing consortia.

Subtitle D—Cost Control Grant Program

Sec. 431. Cost Control Grant Program.

Subtitle E—Malpractice Reform

Sec. 441. Malpractice reform.
Sec. 442. Study of medical malpractice.

Subtitle F—Reducing the Administrative Cost of Assuring Appropriate Utilization of Health Care Services and Improving the Quality of Health Care Services

Sec. 451. Establishment of a quality improvement board.

Subtitle G—Use of Practice Guidelines in Federal Health Insurance and Service Programs

Sec. 461. Use of practice guidelines in Federal health insurance and service programs.

Subtitle H—National Standards for the Promotion of Managed Care

Sec. 471. National standards for the promotion of managed care.

Subtitle I—Expansion of Technology Assessment

Sec. 481. Expansion of technology assessment.

TITLE V—CONTRIBUTION TO PUBLIC PLAN BY EMPLOYERS NOT PROVIDING HEALTH COVERAGE

Sec. 501. Contribution by employers not providing required private health benefit plans.

TITLE VI—ASSURING PROVISION OF HEALTH BENEFITS TO ALL AMERICANS

Sec. 601. Establishment of AmeriCare.

TITLE VII—DEVELOPMENT OF HEALTH SERVICE CAPACITY

Sec. 701. Grants for expansion of availability of primary care services.

TITLE VIII—EFFECTIVE DATE

Sec. 801. Effective date.

Sec. 802. Policy respecting additional benefits.

TITLE I—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 101. BASIC HEALTH BENEFITS FOR EMPLOYEES AND THEIR FAMILIES.

(a) REQUIREMENT.—The Public Health Service Act is amended—

(1) by redesignating title XXVII (42 U.S.C. 300cc et seq.) as title XXVIII; and

(2) by inserting after title XXVI the following new title:

"TITLE XXVII—BASIC HEALTH BENEFITS FOR EMPLOYEES AND THEIR FAMILIES

"PART A—REQUIREMENTS OF HEALTH BENEFITS

"SEC. 2701. HEALTH BENEFITS.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Except as provided in part B, each employer shall—

"(A) enroll each of its employees (other than part-time employees) and their families in a health benefit plan in accordance with part B; or

"(B) make a contribution under title V of the HealthAmerica Act, for the coverage for such employees and their families under the public health insurance plan established under title XXI of the Social Security Act.

"(2) PART-TIME EMPLOYEES.—In meeting the requirements of paragraph (1) with respect to part-time employees, an employer may, except as provided in part B—

"(A) enroll all of its part-time employees and their families as required under paragraph (1)(A); or

"(B) make a contribution to the public health insurance plan referred to in paragraph (1)(B) on behalf of all such employees.

"(3) LIMITATION.—An employer providing health insurance coverage for pregnancy-related services and for services for children in the 1-year period prior to the date of enactment of this section may not terminate coverage for such services or reduce the financial contribution provided for the cost of coverage for such services prior to the time such employer is required to provide or contribute to coverage under paragraph (1).

"(b) COORDINATION WITH PUBLIC HEALTH INSURANCE PLAN.—An employer making a contribution for coverage under the public health insurance plan as provided for in subsection (a)(1)(B) shall follow such procedures as the Secretary may prescribe to facilitate the enrollment of its employees in such public health insurance plan. Such procedures shall include—

"(1) the distribution of enrollment forms and information to employees;

"(2) notifying in writing each employee of the availability of premium and cost-sharing subsidies for low-income families;

"(3) notifying the State in which an employee resides concerning the identity of an employee on behalf of whom a contribution is being made;

"(4) submitting enrollment forms and information to the State agency administering the public health insurance plan established under title XXI of the Social Security Act on behalf of the employee and the employee's family, if required by the State in which the employee resides;

"(5) withholding, in the form of payroll deductions, an employee's share of the public health insurance plan premium and submitting such withholding to the administering State agency on behalf of the employee, if required by the State in which the employee resides; and

"(6) notifying the appropriate administering State agency of the public health insurance plan when an employee ceases to be an employee.

"(c) ENFORCEMENT.—Any employer that does not comply with subsections (a) and (b) shall be subject to section 2732.

"(d) DEFINITIONS.—The terms used in this section shall have the meanings prescribed for such terms by section 2713.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 2701 through 2714 of the Public Health Service Act (42 U.S.C. 300cc through 300cc-15) are redesignated as sections 2801 through 2814, respectively.

(2)(A) Sections 465(f) and 497 of such Act (42 U.S.C. 286(f) and 289(f)) are amended by striking out "2701" each place that such appears and inserting in lieu thereof "2801".

(B) Section 305(i) of such Act (42 U.S.C. 242c(i)) is amended by striking out "2711" each place such appears and inserting in lieu thereof "2811".

SEC. 102. OBLIGATION TO SECURE HEALTH INSURANCE.

(a) FEDERAL PROGRAMS.—Beginning with the seventh full year after the date of enactment of this Act, to be eligible for benefits under a Federal program, an individual seeking benefits under such program shall certify to the administrator of such program that such individual and the dependents of such individual possess health insurance coverage that meets the applicable minimum standards under this Act.

(b) INTERNAL REVENUE EXEMPTIONS.—To be eligible to claim the exemption amount to which an individual is entitled under section 151 of the Internal Revenue Code of 1986, such individual shall certify, as part of the personal income tax return filed by such individual with the Internal Revenue Service, that such individual is covered under a health insurance plan that meets the applicable minimum standards under this Act. A parent shall make such certification on behalf of a dependent child.

TITLE II—REQUIREMENTS FOR HEALTH BENEFIT PLANS

SEC. 201. REQUIREMENTS FOR HEALTH BENEFIT PLANS.

Title XXVII of the Public Health Service Act (as added by section 101) is amended by adding at the end thereof the following new part:

"PART B—REQUIREMENTS FOR HEALTH BENEFIT PLANS

"Subpart 1—Requirement and Definitions

"SEC. 2711. REQUIREMENT TO ENROLL EMPLOYEES AND FAMILIES.

"(a) IN GENERAL.—This part shall apply to employers required to enroll employees and their families in health benefit plans under section 2701(a).

"(b) TYPES OF PLANS PERMITTED.—Except as required under chapter 2 of subtitle A of title III of the HealthAmerica Act (relating to small and medium-sized business insurance), an employer may meet the requirements of this part by means of enrollment in any health benefit plan.

"(c) EXCEPTION FOR EMPLOYERS IN HAWAII.—Employers that have employees in the State of Hawaii shall be exempt from the requirements of this part with respect to such employees, for so long as the Hawaii Prepaid Health Care Act (Hawaii Rev. Stat. Chapter 393) remains in effect. This subsection shall not apply if the proportion of the population with health care coverage provided under such Act that is at least actuarially equivalent to the coverage required under this title is, or becomes, less than that required to be provided in other States under this title or the HealthAmerica Act.

"SEC. 2712. COVERAGE OF EMPLOYEES AND FAMILY MEMBERS.

"(a) REQUIREMENT.—Except as permitted under subsections (b) and (d) and section 2723(c)—

"(1) the enrollment of an employee in a health benefit plan under this part shall include the enrollment of the family of such employee in the plan; and

"(2) the enrollment of an employee or the family of an employee in a health benefit plan may not be waived by the employee.

"(b) EXCEPTIONS TO AVOID DUPLICATE FAMILY COVERAGE.—

"(1) SPOUSE OR PARENT EMPLOYED.—An employee may waive enrollment in a health benefit plan under this part for the spouse or a child of the employee but only for such period as the employee demonstrates that such spouse or child, respectively, is actually covered under a health benefit plan.

"(2) CHILD EMPLOYED.—A child who is employed (or a parent on behalf of the child) may waive enrollment in a health benefit plan provided by the employer of such child during any period in which the child otherwise is covered under a health benefit plan.

"(c) NONDISCRIMINATION BASED ON FAMILY STATUS.—An employer shall not fail or refuse to hire, and shall not discharge or otherwise discriminate against, any individual because the individual has a spouse or child that would be required under this part to be enrolled by such employer in a health benefit plan.

"(d) WAIVER IN CASE OF MULTIPLE EMPLOYERS.—In the case of an individual who is an employee with respect to more than one employer and who is required to enroll in a health benefit plan, such employee may waive enrollment in the health benefit plan of any such employer, but only if such employee is, and certifies to the employer that such employee is, enrolled in the health benefit plan of one employer.

"SEC. 2713. DEFINITIONS.

"(a) IN GENERAL.—Unless otherwise specifically provided, as used in this title:

"(1) CHILD.—The term 'child' means, with respect to an employee, an individual—

"(A) who—

"(i) is under 19 years of age;

"(ii) is under 23 years of age and a full-time student; or

"(iii) is an unmarried, dependent child, regardless of age, who is incapable of self-support as a result of a mental or physical disability that existed prior to the individual reaching 22 years of age; and

"(B)(i) who is the biological, adopted, or foster child of the employee or the spouse of the employee, or of the dependent child of the employee or the spouse of the employee;

"(ii) who is the legal ward of the employee or the spouse of the employee; or

"(iii) with respect to whom the employee or spouse of the employee, stands in loco parentis during the course of an adoption application.

"(2) EMPLOYEE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'employee' means, with respect to an employer, an individual who normally performs at least 1 hour of service per week for that employer.

"(B) HANDICAPPED WORKERS.—The term 'employee' does not include an individual described in section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)).

"(C) CERTAIN EMPLOYEES.—The term 'employee' means, with respect to an employer described in section 3(37) of the Employee

Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)), an individual who performs—

"(i) 17.5 hours or more of service per week for the employer; or

"(ii) an equivalent amount of service during a 1-, 3-, or 6-month period for the employer, as determined under regulations issued by the Secretary.

"(D) LESS-THAN-FULL-TIME EMPLOYEE DEFINED.—The term 'less-than-full-time employee' means, with respect to an employer, an employee who normally performs on a monthly basis less than 25 hours of service per week but more than 17.5 hours per week for that employer.

"(E) CONSULTANTS AND CONTRACTORS.—The term 'employee' shall include an individual who is a consultant or independent contractor of an employer if the Secretary determines that the consulting arrangement or contract was entered into to avoid the requirements of this part.

"(F) PART-TIME EMPLOYEE.—The term 'part-time employee' means, with respect to an employer, an individual who normally performs on a monthly basis—

"(i) less than 17.5 hours per week; and

"(ii) 1 hour or more per week for that employer.

"(3) EMPLOYER.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'employer' means—

"(i) an entity that is required to pay the individuals it employs the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) (or would be required to pay such wage but for the dollar volume standards prescribed in section 3(s) of such Act (29 U.S.C. 203(s)) or the exemptions prescribed in section 13(a) of such Act (29 U.S.C. 213(a)); and

"(ii) any State or political subdivision thereof, or any agency or instrumentality thereof; but such term does not include the Federal Government or a subdivision thereof.

"(B) OWNER-OPERATORS.—An owner-operator of a business shall be considered to be both an employer and employee with respect to himself or herself if the owner-operator has one or more other employees.

"(C) SMALL AND MEDIUM-SIZED EMPLOYERS.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs fewer than 25 employees during the calendar year, and the term 'medium-sized employer' means, with respect to a calendar year, an employer that normally employs 25 or more employees, but not more than 100 employees, during the calendar year.

"(D) APPLICATION OF CONTROLLED GROUP RULES.—Section 607(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(4)) shall apply in the determination under this part of whether an employer is a small or medium-sized employer and the number of employees an employer normally employs.

"(E) FAMILY FARMERS.—

"(i) PRICE SUPPORT GREATER THAN 70 PERCENT OF PARITY.—The term 'employer' shall not include the owner or operator of a family farm unless the level of agricultural prices, or the minimum level of agricultural price support provided by the Secretary of Agriculture for loans and purchases, for the major commodity produced on the farm is equal to or greater than 70 percent of the parity price of the commodity as maintained by the Secretary during the preceding 2 crop years.

"(ii) PRICE SUPPORT LESS THAN 70 PERCENT OF PARITY.—Owners and operators of a family farm who do not receive minimum agricultural price support through loans and purchases that is equal to or greater than 70 percent of parity for the major commodity produced on the farm from the Secretary of Agriculture for the preceding crop year shall be included within the definition of the term 'employer' only if, based on a national referendum conducted by the Secretary of Agriculture, a majority of the owners and operators vote in favor of mandatory participation in the small business insurance program provided by part C and the HealthAmerica Act.

"(iii) NO COVERED EMPLOYEES.—Owners and operators of family farms with no employees required to be enrolled in health benefit plans under this part, shall be included in the definition of 'employee' under this part if, based on a national referendum conducted by the Secretary of Agriculture, a majority of farmers in the commodity group vote in favor of mandatory participation in the small business insurance program provided by part C and the HealthAmerica Act.

"(iv) DEFINITION OF FAMILY FARM.—As used in this subparagraph, the term 'family farm' means a farm with respect to which—

"(I) the operator or the family of the operator, or both (or, if the operator is a cooperative, corporation, partnership, or joint operation, the members, stockholders, partners, or joint operators, respectively) devote a substantial amount of time daily to the management or operation of the farm;

"(II) a majority of the hours of labor required annually for the (farm and nonfarm) enterprise of the farm is provided by the operator or the family of the operator, or both (or, if the operator is a cooperative, corporation, partnership, or joint operation, by the members, stockholders, partners, or joint operators, respectively, and the families of such individuals); and

"(III) the value of the gross annual sales of agricultural commodities produced on the farm is not more than $750,000.

"(4) FAMILY AND FAMILY MEMBER.—The terms 'family' and 'family member' mean, with respect to an employee, the spouse and children of the employee.

"(5) HEALTH BENEFIT PLAN.—The term 'health benefit plan' means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) that—

"(A) provides medical care to participants or beneficiaries directly or through insurance, reimbursement, or otherwise; and

"(B) meets the requirements of section 2721.

"(6) INSURER.—The term 'insurer' means an entity qualified under the laws of a State to offer insurance or provide health benefits in that State.

"(7) MANAGED CARE.—

"(A) MANAGED CARE ENTITY.—The term 'managed care entity' means an insurer, health maintenance organization, preferred provider organization, dental plan organization, or other entity licensed to do business in a State, that markets managed care plans to groups or individuals or an employer, labor union or other State licensed entity that provides managed care plans for its employees or members.

"(B) MANAGED CARE PLAN.—The term 'managed care plan' means a health benefit plan—

"(i) in which the insurer—

"(I) utilizes explicit standards for the selection and recertification of participating providers;

"(II) has organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services, which program (aa) stresses health outcomes, and (bb) provides review by physicians and other health professionals of the process followed in the provision of health services; and

"(III) contains significant incentives to use the participating providers and procedures provided for by the plan; and

"(ii) which, if it limits coverage of services to those provided by participating providers or permits deductibles and coinsurance with respect to basic health services provided by persons who are not participating providers which are in excess of those permitted under health benefit plans—

"(I) has a sufficient number and distribution of participating providers to assure that all covered items and services are (aa) available and accessible to each enrollee, within the area served by the plan, with reasonable promptness and in a manner which assures continuity, and (bb) when medically necessary, available and accessible twenty-four hours a day and seven days a week; and

"(II) provides benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition.

"(C) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, health maintenance organization, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient enrolled in a managed care plan.

"(D) UTILIZATION REVIEW.—The term 'utilization review' means a program for reviewing the necessity and appropriateness of health care services provided or proposed to be provided to a patient.

"(8) MENTAL DISORDER.—The term 'mental disorder' has the same meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(9) NONGOVERNMENTAL EMPLOYER.—The term 'nongovernmental employer' means an employer not described in paragraph (3)(A)(ii).

"(10) PHYSICIAN SERVICES.—The term 'physician services' means professional medical services lawfully provided by a physician under State medical practice acts, and includes professional services provided by a dentist, licensed advanced-practice nurse, optometrist, podiatrist, or chiropractor acting within the scope of their practices (as determined under State law) if such services would be treated as physician services if furnished by a physician, except as provided in section 2722(e).

"(11) STATE.—

"(A) IN GENERAL.—The term 'State' means each of the several States and the District of Columbia.

"(B) ELECTION.—If the Governor of the Commonwealth of Puerto Rico or of any territory of the United States certifies to the President that Puerto Rico or such territory has enacted legislation stating that Puerto Rico or such territory desires to be included under the provisions of this Act, Puerto Rico or such territory shall be included under the definition of State for the purposes of this part beginning with January 1 of the first calendar year which begins later than 90 days after the President receives such notification.

"Subpart 2—Requirements for Health Benefit Plans

"SEC. 2721. GENERAL REQUIREMENTS; PERMITTING ACTUARIALLY EQUIVALENT PLANS.

"(a) GENERAL REQUIREMENTS.—Subject to subsections (b) and (c), in order for a health benefit plan to meet the requirements of this section, such plan shall—

"(1) provide benefits for items and services in accordance with section 2722;

"(2) provide coverage of employees and family enrolled in the plan in accordance with section 2723; and

"(3) provide for premiums, deductibles, copayments, and coinsurance in accordance with section 2724.

"(b) ACTUARIALLY EQUIVALENT PLANS PERMITTED.—

"(1) VARIATIONS IN PREMIUMS, DEDUCTIBLES, AND COST-SHARING.—A health benefit plan shall meet the requirements of this section, notwithstanding that such plan does not meet one or more of the requirements of section 2724 (relating to premiums, deductibles, copayments, coinsurance, and limit on out-of-pocket expenses) if the actuarial value of benefits provided under the plan (as defined in paragraph (8)) is not less than the equivalent of the actuarial value of benefits provided under the plan that would have applied if the plan met the requirements described in subsection (a).

"(2) MINIMUM REQUIREMENTS.—Nothing in this subsection shall be construed as not requiring each plan—

"(A) to meet the requirements of section 2723; or

"(B) to establish a limit on out-of-pocket expenses under section 2724(d), except that this subparagraph shall not be construed to require the establishment of the out-of-pocket limit described in section 2724(d)(5)(B).

"(3) MENTAL HEALTH BENEFITS.—Notwithstanding any other provision of this part or of the Health America Act, a health benefit plan may meet the requirements of section 2722(a)(6) by including payment for any reasonable combination of benefits described in subparagraphs (A) and (B) of such section if the plan includes payment for—

"(A) benefits the value of which is at least actuarially equivalent to the value of the benefits for which payment is otherwise required under such subparagraphs; and

"(B) both types of benefits described in each such subparagraph.

"(4) ADVISORY BOARD.—

"(A) ESTABLISHMENT.—The Secretary shall establish an Advisory Board to provide advice to the Secretary concerning the development of actuarial equivalency standards and such other matters relating to the administration of this part as the Secretary or the Board considers appropriate.

"(B) MEMBERSHIP.—The Advisory Board shall consist of 15 members appointed by the Secretary, of whom—

"(i) four members shall be representatives of employers, who shall be experienced in the administration of and knowledgeable about health insurance and actively engaged in the management or design of health insurance programs, of which—

"(I) two members shall be representatives of large businesses, as determined by the Secretary; and

"(II) two members shall be representatives of small and medium-sized businesses;

"(ii) two members shall be representatives of labor organizations, who shall possess qualifications of the type required for representatives under clause (i);

"(iii) four members shall be representatives of the insurance industry, at least one of whom shall be knowledgeable about small group policies;

"(iv) two members shall be actuaries, who shall be experienced in the administration of and knowledgeable about health insurance programs; and

"(v) three members shall be representatives of consumers not described in clauses (i) through (iv).

"(C) TERMS.—Each member of the Advisory Board shall serve for a term of 4 years, except that members initially appointed shall serve for staggered terms, as designated by the Secretary. A member may serve on the Board after the expiration of the term of the member until a successor has taken office as a member of the Board.

"(D) COMPENSATION.—The members of the Advisory Board may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, while away from their homes or regular places of business, for each day (including travel time) during which they are attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Board.

"(E) DEVELOPMENT OF ACTUARIAL EQUIVALENCY VARIATIONS.—Not later than 6 months before the effective date of this part, the Advisory Board shall develop and transmit to the Secretary—

"(i) at least three model health plans each with an actuarial value of benefits that is equivalent to the actuarial value of benefits of a basic plan (as defined in paragraph (9));

"(ii) a table of actuarial equivalency describing permitted expansions in covered services and variations in copayments, deductibles, limits on out-of-pocket expenses, and an employer's share of the premium or premiums under a health plan, as a percentage increase or decrease in the actuarial value of the basic plan, with the table describing as many expansions and variations as practicable in order to facilitate compliance with this section; and

"(iii) recommendations for procedures to facilitate the process by which an employer may certify actuarial equivalency for plan variations not provided in the model health plans or the table of actuarial equivalency and for the certification of multiple plans offered by the same employer.

"(F) REVIEW OF CHANGES.—The Advisory Board shall review proposed changes to the basic benefit package required of health benefit plans and transmit a cost benefit analysis of such changes, along with recommendations, to the appropriate committees of Congress and the Secretary.

"(5) TABLE OF ACTUARIAL EQUIVALENCY.—The Secretary shall publish, at least 3 months prior to the effective date of this part, a table that specifies the percentage increase or decrease in the actuarial value of benefits under a health benefit plan providing only the required benefits that would result from variations in covered services, copayments, deductibles, limits on out-of-pocket expenses, an employer's share of the premium or premiums under a health benefit plan, or any combination thereof. The table shall describe as many variations as feasible. In developing the table, the Secretary shall consider the recommendations of the Advisory Board established under paragraph (4).

"(6) COMPLIANCE WITH FIDUCIARY DUTIES.—In the case of health benefit plan variations for which relative actuarial values are not expressly provided for in the table published under paragraph (5) or in the case of variations in which one or more elements of covered services, copayments, deductibles, and limits on out-of-pocket expenses are given a relative actuarial value by the plan administrator that is different from that provided by such table, the plan shall not be considered out of compliance with this section—

"(A) if, under a process consistent with the duties of a fiduciary under part 4 of title I of the Employee Retirement Income Security Act of 1974, it is established that, and an actuary meeting credentials established by the American Academy of Actuaries or by the Secretary has certified that, the actuarial value of the benefits of the plan is at least equivalent to the actuarial value of the benefits of a basic plan; and

"(B) until and unless the Secretary has determined that such variations are not in compliance with the requirements of this section.

"(7) MULTIPLE PLANS.—In the case of an employer that has a health benefit plan that meets the requirements of paragraph (6)(A) or is otherwise determined to have an actuarial value of benefits that is at least equivalent to the actuarial value of a basic plan, the Secretary shall establish by regulation streamlined procedures for the approval of additional health benefit plans the actuarial value of the benefits of which is at least equivalent to the actuarial value of the benefits of the approved health benefit plan.

"(8) ACTUARIAL VALUE OF BENEFITS DEFINED.—For purposes of this subsection, the "actuarial value of benefits" of a plan is the amount by which the total of the amounts payable as benefits under the plan exceeds the amount of the premiums, deductibles, copayments, and coinsurance payable by the employee under the plan, as determined on an actuarial basis per enrollee for a plan year.

"(9) BASIC PLAN DEFINED.—For purposes of this subsection, the term 'basic plan' means a health benefit plan that only provides the basic benefits required under this part.

"SEC. 2722. REQUIREMENTS RELATING TO COVERED ITEMS AND SERVICES.

"(a) IN GENERAL.—Except as otherwise provided in this section, a health benefit plan shall include payment for—

"(1) inpatient and outpatient hospital care, except that treatment for a mental disorder is subject to the special limitations described in paragraph (6)(A);

"(2) inpatient and outpatient physician services, except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in paragraph (6)(B);

"(3) diagnostic tests;

"(4) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(5) preventive services, limited to—

"(A) well child care;

"(B) pap smears; and

"(C) mammograms; and

"(6)(A) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care according to a ratio established by the Secretary; and

"(B) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(i) is a physician; or

"(ii) meets the standards of subsection (g)(2)(B) and is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services.

"(b) EXCEPTIONS.—Subsection (a) shall not be construed as requiring a plan to include payment for—

"(1) items and services that are not medically necessary;

"(2) routine physical examinations or preventive care (other than care and services described in paragraphs (4) and (5) of subsection (a); or

"(3) experimental services and procedures, except that this paragraph shall not apply to routine medical costs associated with peer-reviewed and approved protocols conducted in connection with peer-reviewed and approved research programs, pursuant to standards established by the Secretary.

"(c) AMOUNT, SCOPE, AND DURATION OF CERTAIN BENEFITS.—Except as provided in subsection (b), a health benefit plan shall place no limits on the amount, scope, or duration of benefits described in paragraphs (1) through (3) of subsection (a).

"(d) AMOUNT, SCOPE, AND DURATION OF PREVENTIVE SERVICES.—A health benefit plan may limit the amount, scope, and duration of preventive services described in subsection (a)(5) pursuant to regulations of the Secretary specifying the amount, scope, and duration of such care. The Secretary shall develop such regulations after consultation with appropriate medical experts.

"(e) LIMITATIONS.—

"(1) PANELS AND MANAGED CARE SYSTEMS.—Nothing in this title or the HealthAmerica Act, shall prohibit a health benefit plan from providing benefits for the items and services described in this section through a managed care system, and from selecting particular health care providers or types, classes, or categories of health care providers to participate in such managed care system. Such managed care system shall provide, in accordance with regulations issued by the Secretary, reasonable access to care by plan enrollees.

"(2) DIFFERENT LEVELS OF PAYMENTS.—Nothing in this title or the HealthAmerica Act, shall prohibit a health benefit plan from establishing a different level of payments for reimbursement for different health care providers furnishing the benefits for the items and services described in this section.

"(3) HEALTH CARE PROVIDERS.—Nothing in this title or the HealthAmerica Act, shall be construed to require a health benefit plan to utilize any health care provider (or type, class, or category of health care provider) to provide benefits for the items and services described in this section that were provided by the plan before the effective date of this part, other than the health care providers being utilized by the health benefit plan on such effective date, except that this paragraph shall not apply to duly licensed or certified clinical psychologists (acting within the scope of State law) after the end of the 5-year period beginning on the effective date of this part. This paragraph shall not apply to plans offered under part C.

"(4) DENIAL OF PAYMENT TO EXCLUDED PROVIDERS.—Nothing in this title or the HealthAmerica Act, shall require a health benefit plan to make payment to any health care provider that is excluded from participation in any Federal health care program.

"(f) BASIS OF PAYMENT MAY DIFFER FROM ACTUAL CHARGES.—The requirement of payment for services described in subsection (a) shall not prevent an employer from establishing a fee schedule or other basis of payment that is different from actual charges, but only if such fee schedule or other basis provides, pursuant to regulations of the Secretary, for payment at a level sufficient to achieve adequate access to services covered by the plan without additional out-of-pocket expenses for the covered service (but for copayments and deductibles permitted under section 2724).

"(g) MENTAL HEALTH CARE.—

"(1) INPATIENT CARE.—Subject to the provisions of subsection (e), inpatient hospital care described in subsection (a)(6)(A) shall include reimbursement for professional care provided to the individual while the individual is receiving such inpatient care, by a physician or duly licensed or certified clinical psychologist operating within the scope of practice of the physician or psychologist, as determined appropriate under State law. Nothing in this subsection shall be construed to modify hospital practices with regard to scope of practice, admitting privileges, or billing arrangements.

"(2) OUTPATIENT CARE.—

"(A) USE OF PROVIDERS.—Subject to the provisions of subsection (e), a health benefit plan that provided benefits with respect to outpatient psychotherapy described in subsection (a)(6)(B) prior to January 1, 1991, shall not be required under such subsection to provide benefits for outpatient psychotherapy provided by any health care provider (or type, class, or category of health care provider) described in subsection (a)(6)(B)(ii), other than duly licensed or certified clinical psychologists and health care providers being utilized by the plan on January 1, 1991. This subparagraph shall not apply to plans offered under part C.

"(B) STANDARDS FOR CERTAIN PROVIDERS.—The Secretary shall establish standards that providers referred to in subsection (a)(6)(B)(ii) must meet to be eligible for payment under a health benefit plan and such standards shall require that such providers have training and education equivalent to a licensed clinical social worker (as defined in title XVIII of the Social Security Act).

"(h) STUDIES.—

"(1) SERVICES.—The Secretary shall periodically review the appropriateness of the preventive services required to be covered under this section and prepare and submit to the appropriate committees of Congress a report concerning any recommendations for changes in the list of such services that are required to be covered.

"(2) COVERAGE FOR CERTAIN SERVICES.—Not later than 1 year after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the cost-effectiveness and desirability of coverage of colorectal cancer screening, prostate cancer screening, osteoporosis screening, and outpatient prescription drugs.

"SEC. 2723. REQUIREMENTS RELATING TO TIMING OF COVERAGE AND PROHIBITION OF PREEXISTING CONDITION LIMITATIONS.

"(a) DATE OF INITIAL COVERAGE.—In the case of an employee (and family members) enrolled under a health benefit plan provided by an employer, the coverage under the plan shall begin not later than the latest of the following:

"(1) 30 days after the date on which the employee first performs an hour of service as an employee of that employer, or in a case where an employer does not provide immediate coverage under the plan, on the day on which an employee who has performed an hour of service for the employer agrees to pay 100 percent of the normal employer and employee premium for the period prior to the normal beginning of coverage under the plan. The employer shall notify the employee on the first day on which the employee first performs an hour of service for the employer of the rights of the employee under this subsection.

"(2) The first day on which the employer is required to meet the requirements of this part.

"(3) In the case of an employer described in section 2713(a)(2)(C)—

"(A) 90 days after the date on which the employee first performs an hour of plan-covered service as an employee of the employer, except that if the initial waiting period is greater than 30 days, coverage under the plan shall continue for an equivalent period after the last day on which the employee performs an hour of plan-covered service as an employee of the employer; or

"(B) 180 days after the date on which the employee first performs an hour of plan-covered service, except that if the initial waiting period is greater than 30 days, coverage under the plan shall continue for an equivalent period after the last day on which the employee performs an hour of plan-covered service.

"(4) Subject to section 2712(b), in the case of a child, coverage applies for any period during which the employee, who is the parent of the child, is covered.

"(b) PROHIBITION OF PREEXISTING CONDITION PROVISIONS.—A health benefit plan shall not exclude or otherwise limit any individual from coverage under the plan on the basis that the individual has (or at any time has had) any disease, disorder, or condition.

"(c) RIGHT TO WAIVE ENROLLMENT.—

"(1) LESS-THAN-FULL-TIME OR PART-TIME EMPLOYEES WITH INCREASED PREMIUMS.—In the case of a less-than-full-time or part-time employee who is subject to, and is charged, an increased premium under section 2724(b)(5), the employee may, notwithstanding any other provision of this part, waive enrollment under this part. Such waiver shall be exercised in such form and manner as the Secretary shall specify and shall terminate on the date the employee is no longer being subject to, and charged, such an increased premium.

"(2) EMPLOYER CONTRIBUTION TO PUBLIC HEALTH INSURANCE PLAN.—In the case of a less-than-full-time or part-time employee who waives enrollment under paragraph (1), the employer shall, in a manner required by the Secretary, make a payment under title V of the HealthAmerica Act equal to the minimum amount the employer would have made towards the actuarial cost of coverage of the employee if the employee had not waived such enrollment.

"(d) CONTINUED COVERAGE.—If an employee's coverage or coverage for the family members of an employee would normally terminate during a period of hospitalization, such coverage shall continue until the employee or family member is discharged from the hospital.

"SEC. 2724. REQUIREMENTS RELATING TO PREMIUMS, DEDUCTIBLES, COPAYMENTS, COINSURANCE, AND LIMIT ON OUT-OF-POCKET EXPENSES.

"(a) ENROLLEE COST-SHARING PERMITTED.—A health benefit plan may require an enrollee to pay for premiums, deductibles, copayments, and coinsurance amounts for coverage under the plan, but only if such premiums, deductibles, copayments, and coinsurance do not exceed the limitations imposed under this section.

"(b) LIMITATION ON PREMIUMS.—

"(1) MONTHLY PREMIUM LIMITED TO 20 PERCENT OF ACTUARIAL RATE.—

"(A) IN GENERAL.—Subject to paragraphs (4) and (5), a health benefit plan shall not require an employee to pay a premium—

"(i) for coverage for a period of longer than one month; or

"(ii) the amount of which on a monthly basis exceeds 20 percent of the monthly actuarial rate defined under subparagraph (B).

"(B) MONTHLY ACTUARIAL RATE DEFINED.—For purposes of this subsection, the term 'monthly actuarial rate' means, with respect to a health benefit plan in a plan year, the average monthly per enrollee amount that the employer providing the plan estimates, based on actuarial calculations conducted in conformity with requirements established by the Secretary, for enrollees under the plan during the year, would be necessary to pay for the total benefits required under the plan (including administrative costs for the provision of such benefits and an appropriate amount for a contingency margin) during the year.

"(C) APPLICATION ON BASIS OF FAMILY STATUS.—For purposes of this paragraph, a health benefits plan may provide for the premium to be applied, and the monthly actuarial rate to be computed—

"(i) separately for employees who have family members covered under the plan and for employees who do not have family members covered under the plan; and

"(ii) with respect to employees with such covered family members, separately—

"(I) for employees who have a covered spouse and one or more covered children;

"(II) for employees who have a covered spouse but no covered children; and

"(III) for employees who do not have a covered spouse but have one or more covered children.

"(D) ADJUSTMENT FOR COVERED SPOUSE WITH OTHER COVERAGE.—For purposes of this paragraph, if a health benefit plan charges an employee for a share of the premium, the plan shall establish a separate premium category (or categories) for family coverage in the case of a covered spouse who is receiving primary health insurance coverage from another health benefit plan. The premium for such categories shall be established based on actual or projected plan experience or according to a formula established by the Secretary, and shall take into account the reduction in health insurance costs resulting from such coverage.

"(E) ADJUSTMENT OF PREMIUMS FOR EMPLOYED RETIREES UNDER HEALTH BENEFIT PLANS.—If an employer provides a health benefit plan with respect to retirees and the plan charges a retiree for a share of the premium of the plan, in the case of such a retiree who is enrolled as an employee (or dependent) under another health benefit plan under this part, the health benefit plan with respect to the retiree shall provide for an adjustment of the amount of the premium paid by the retiree to take into account the reduction in health insurance costs resulting from such coverage.

"(2) PAYMENT OF PREMIUMS.—An employee enrolled under a health benefit plan is liable for payment of premiums required under that plan in accordance with this subsection.

"(3) WITHHOLDING PERMITTED.—No provision of State law shall prevent an employer of an employee enrolled under a health benefit plan established under this part from withholding the amount of any premium due by the employee from the payroll of the employee.

"(4) SPECIAL RULE FOR LESS-THAN-FULL-TIME EMPLOYEES.—In the case of a less-than-full-time employee (as defined in section 2713(3)(D)), a health benefit plan may require the employee to pay a premium the amount of which (on a monthly basis) does not exceed—

"(A) 100 percent, minus

"(B) 80 percent, multiplied by the ratio of—

"(i) the average number of hours per week the employee is normally employed by the employer in the calendar quarter; to

"(ii) 25,

of the monthly actuarial rate (as defined in paragraph (1)(B)).

"(5) PART-TIME EMPLOYEES.—In the case of a part-time employee, a health benefit plan may require the employee to pay a premium amount that does not exceed 50 percent of the monthly actuarial rate (as defined in paragraph (1)(B)).

"(c) LIMITATION ON DEDUCTIBLES.—

"(1) IN GENERAL.—Except as permitted under paragraph (2), a health benefit plan shall not provide, for benefits provided in any plan year, for a deductible amount that exceeds—

"(A) with respect to benefits payable for items and services furnished to any employee with no family member enrolled under the plan, for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the effective date of this Act, $250; or

"(ii) for a subsequent calendar year, the limitation of deductions specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(B) with respect to benefits payable for items and services furnished to any employee with a family member enrolled under the plan, for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the effective date of this part, $250 per family member and $500 per family; or

"(ii) for a subsequent calendar year, the limitation of deductions specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation of deductions computed under subparagraph (A)(ii) or (B)(ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(2) WAGE-RELATED DEDUCTIBLE.—A health benefit plan may provide for any other deductible amount instead of the limitations under—

"(A) paragraph (1)(A), if such amount does not exceed (on an annualized basis) 1 percent of the total wages paid to the employee in the plan year; or

"(B) paragraph (1)(B), if such amount does not exceed (on an annualized basis) 1 percent per family member or 2 percent per family of the total wages paid to the employee in the plan year.

"(d) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(1) IN GENERAL.—Subject to paragraphs (2) through (4), a health benefit plan shall not—

"(A) require the payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 20 percent of the cost of the item or service; or

"(B) require the payment of any copayment or coinsurance for items and services required under section 2722 to be furnished in a plan year for an employee after the employee has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in paragraph (5)(B)).

"(2) EXCEPTION FOR PREFERRED PROVIDERS.—If a health benefit plan establishes reasonable classifications of participating and nonparticipating providers of items and services, the plan may require payments in excess of the amount permitted under paragraph (1) in the case of items and services furnished by nonparticipating providers.

"(3) EXCEPTION FOR IMPROPER UTILIZATION.—A health benefit plan may provide for copayment or coinsurance in excess of the amount permitted under paragraph (1) for any item or service that an individual obtains without complying with any reasonable procedures established by the plan to ensure the efficient and appropriate utilization of covered services.

"(4) MENTAL HEALTH CARE.—In the case of care provided under section 2722(a)(6)(B), a health benefit plan shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this part in an amount that exceeds 50 percent of the cost of the item or service.

"(5) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(A) OUT-OF-POCKET EXPENSES DEFINED.—As used in this section, the term 'out-of-pocket expenses' means, with respect to an employee in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the employee and family covered under the plan.

"(B) OUT-OF-POCKET LIMIT DEFINED.—As used in this section and except as provided in subparagraph (C), the term 'out-of-pocket limit' means for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the effective date of this part, $3,000; or

"(ii) for a subsequent calendar year, the out-of-pocket limit specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the out-of-pocket limit computed under clause (ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(C) ALTERNATIVE OUT-OF-POCKET LIMIT.—A health benefit plan may provide for an out-of-pocket limit other than that defined in subparagraph (B) if, for a plan year with respect to an employee and the family of the employee, the limit does not exceed (on an annualized basis) 10 percent of the total wages paid to the employee in the plan year.

"SEC. 2725. ENROLLEE PROTECTION.

"(a) ADMINISTRATION.—

"(1) INSURANCE COMMISSIONER.—The requirements and standards established under this section shall be administered in a State by the insurance commissioner of that State, or by any other State agency, as designated by the chief executive officer of the State.

"(2) NONCOMPLIANCE.—If the State fails to comply with the requirements of paragraph (1), or, in the judgment of the Secretary, fails to adequately perform the administrative functions required under such paragraph, the Secretary shall assume the administrative responsibilities and duties required under such paragraph in that State.

"(b) Informational Requirement.—

"(1) Summary of health plan.—

"(A) Requirement.—Not later than 30 days after the date on which the coverage of an employee under a health benefit plan under this part begins, the employer of such employee shall provide the employee with a copy of the health benefit plan and a summary of such plan in accordance with subparagraph (B).

"(B) Contents.—The plan and summary provided under subparagraph (A) shall be written in a manner reasonably assumed to be understandable by the average individual. Such summary and plan shall be sufficiently accurate and comprehensive to reasonably apprise individuals of their rights and obligations under the plan.

"(2) Availability of subsidy.—Not later than 30 days after the date on which coverage of an employee under a health benefit plan under this part begins, the employer shall notify the employee of the availability of low-income subsidies for employees, through the public health insurance plan established under title XXI of the Social Security Act, to cover all or part of the cost of the employee's share of the premium for such health benefit plan and of any cost-sharing under such plan. Such notification shall be provided in such form as the Secretary shall require.

"(3) Changes in plan.—An employee shall be notified in writing of any changes in the terms of their health benefit plan, not less than 30 days in advance of the implementation of such changes.

"(4) Failure to pay premiums.—With respect to a health benefit plan, the insurer issuing such plan shall notify the employee and the Secretary of the failure of the employer to make timely premium payments on behalf of the employee and the employee's family members as required under such plan. Such notification shall be provided not less that 30 days prior to any termination of coverage by the insurer as the result of such nonpayment of premiums.

"(5) Financial Statement.—An employee shall be entitled to receive, on request, a copy of the most recent financial statement prepared for the health benefit plan under which such employee is covered. An employee shall be entitled to no more than one such request during each 1-year period.

"(6) Availability of Information.—

"(A) Filing with secretary and provision to states.—A copy of each health benefit plan provided under this part, and any additional information prepared under this subsection concerning such plans, shall be filed with the Secretary who shall make such information available to the State or States in which the employees eligible for benefits under such plans are employed.

"(B) Provision to employees.—Employees not receiving the information required under this subsection may request such information from the State, or, if the program in such State is administered by the Secretary, from the Secretary.

"(c) Standards and Technical Assistance.—

"(1) Model plans and summaries.—Not later than 9 months after the date of enactment of this part, the Secretary shall establish and make available model language for health benefit plans and the summaries of such plans.

"(2) Plan information.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate regulations that describe the health benefit plan information that shall be provided to employees under this section, that shall include—

"(A) the name and address of the administrator of the plan;

"(B) the requirements of the plan with respect to eligibility;

"(C) the benefits to be provided under the plan;

"(D) the procedures for filing claims for benefits under the plan;

"(E) the procedures for appealing the denial of any claim filed under the plan; and

"(F) other information determined appropriate by the Secretary.

"(d) Right to Assistance.—

"(1) Designation of individual.—Each health benefit plan provided under this part shall designate an appropriate individual or individuals who shall be available to answer questions concerning the plan or the applicable plan requirements.

"(2) Timely response.—Employees shall have the right to receive a timely written response to any questions that such employees may submit concerning their rights under the health benefits plan. Employees shall be able to rely on such written responses.

"(3) Assistance by administering authority.—The authority designated under subsection (a) shall provide assistance to employees in that State with respect to their rights under such plans and under Federal or State law.

"(e) Right to Review Denied Claims.—

"(1) Notice.—An administrator under a health benefit plan under this part shall provide an employee with written notice concerning the denial of a claim submitted by such employee. Such notice shall include the reasons for such denial.

"(2) Process for review.—Each health benefit plan provided under this part shall utilize a fair process for the timely review of claims denied under such plan.

"(3) Claim for care needed for life-threatening illness.—In cases in which the failure to provide health care promptly would be life-threatening or result in a risk of permanent disability, the beneficiary under the health benefit plan shall be entitled to a decision as to whether care will be provided under such plan not later than 1 day after supplying the insurer with all requested information. In the event of a denial of coverage for such care, the beneficiary shall be entitled to an expedited review of an appeal of such denial within 5 days.

"(4) Appeals.—Individuals shall be entitled to appeal the denial of a claim submitted by such individual to the authority administering the requirements and standards under subsection (a). The Secretary shall promulgate regulations establishing procedures to be utilized for appealing denials of claims under a health benefit plan under this part that are similar to the procedures established under title XVIII of the Social Security Act for appealing denials of claims under such title XVIII, including the right to a trial de novo.

"(f) Right to Choice.—

"(1) Nonmanaged care plans.—An employer may offer its employees a nonmanaged care plan that meets the requirements of this part as well as a managed care plan.

"(2) Use of providers.—If a nonmanaged care plan is not offered by an employer, the managed care plan or plans offered by such employer shall permit the utilization of providers not participating in the plan for services otherwise covered under the plan. If an employee elects to utilize such out-of-plan providers, the plan may provide for cost sharing that shall not exceed 200 percent of the normal cost-sharing imposed under the plan or 200 percent of the cost-sharing permitted under the minimum plan established under this part, whichever is greater.

"(g) Right to Confidentiality of Medical Records.—Health benefit plans under this title shall provide for the confidentiality of any medical records released under such plan.

"Subpart 3—Regulations and Enforcement

"SEC. 2731. REGULATIONS.

"(a) Proposed Rules.—Not later than 4 months after the date of enactment of this part, the Secretary shall publish in the Federal Register a notice of proposed rulemaking to carry out this part.

"(b) Final Rules.—Not later than 9 months after the date of enactment of this part, the Secretary shall promulgate final rules to carry out this part. Such notice and final rules shall be made in accordance with section 553 of title 5, United States Code.

"(c) Effect of Failure To Promulgate Rules.—The failure of the Secretary to promulgate final rules under this part shall not relieve any person or entity to which the provisions of this part apply of any obligations under this part.

"SEC. 2732. ENFORCEMENT.

"(a) Civil Money Penalty Against Private Employers.—

"(1) 15 Percent of total wages.—Any employer that does not comply with section 2712(c) or the requirements of section 2701(a) in any calendar year shall be subject to a civil penalty of not more than 15 percent of the total amount of the expenditures of the employer for wages for employees in that year.

"(2) Investigations.—The Secretary may conduct investigations under this section. In conducting such investigations, the Secretary—

"(A) shall have reasonable access to examine evidence of any person or entity being investigated; and

"(B) may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place.

"(3) Assessment procedure.—A civil money penalty under this subsection shall be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court. The Secretary shall not assess such a penalty on an employer until the employer has been given notice and an opportunity for a hearing on such charge.

"(4) Amount of penalty.—In determining the amount of the penalty, or the amount agreed on in settlement, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification of noncompliance by the Secretary.

"(5) Judicial review.—In any civil action brought to review the assessment of such a penalty or to collect such a penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of the penalty, unless in a prior action such a trial de novo was held on the assessment.

"(6) Use of amounts collected.—Civil money penalties collected under this subsection shall be credited to the account maintained to provide health benefits under the program established under title XXI of the Social Security Act.

"(b) LIABILITY TO INDIVIDUALS FOR DAMAGES.—Any employer that knowingly does not comply with section 2712(c) or the requirements of section 2701(a) shall be liable for damages (including health care costs incurred) to the employee or the family of the employee resulting from such failure to comply. Such an employee or family member may bring a civil action to recover damages resulting from an employers failure to comply with such requirements.".

TITLE III—SPECIAL ASSISTANCE FOR SMALL AND MEDIUM-SIZED BUSINESSES

SEC. 301. PREEMPTION OF STATE MANDATED BENEFIT LAWS.

(a) IN GENERAL.—Section 514(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(2)) is amended—

(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) Nothing in subparagraph (A) shall be construed to exempt from subsection (a) any provision of the law of any State to the extent that such provision regulates, or otherwise provides any requirement relating to, the benefits to be provided under contracts or policies of insurance issued to or under a health benefit plan under part B of title XXVII of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 3 of such Act (29 U.S.C. 1002(1)) is amended by adding at the end thereof the following new sentence: "Such terms include a health benefit plan established in accordance with part B of title XXVII of the Public Health Service Act.".

Subtitle A—Reform of Small Group Insurance

SEC. 311. GROUP HEALTH INSURANCE STANDARDS.

(a) PUBLIC HEALTH SERVICE ACT.—Title XXVII of the Public Health Service Act (as added under section 101 and amended by section 201) is further amended by adding at the end thereof the following new part:

"PART C—GROUP HEALTH INSURANCE STANDARDS

"Subpart 1—General Standards; Definitions

"SEC. 2741. APPLICATION OF REQUIREMENTS TO HEALTH BENEFIT PLANS.

"(a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—

"(1) IN GENERAL.—No health benefit plan may be issued in a State on or after the effective date specified in subsection (c) (and no new contract may be offered under such plan with respect to any small employer beginning on or after such effective date) unless—

"(A) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of the applicable standards established under section 2742 (to carry out the requirements of this part) and that meets the requirements of section 2742(b) by such effective date, or

"(B) if the State has not established such a program, the plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the applicable standards established under section 2742 by such effective date.

"(2) PLAN DISAPPROVED UNDER LOOK-BEHIND AUTHORITY.—If the Secretary determines, under section 2742(c), that a health benefit plan does not meet the applicable requirements of this part on or after such effective date, regardless of whether or not the State has taken any action with respect to such noncompliance, no new contracts may be offered to small employers under the plan on or after the date of the determination.

"(b) SANCTIONS.—

"(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

"(A) for individuals and entities to file written, signed complaints with the Secretary respecting potential violations of the requirements of this part;

"(B) for the investigation of those complaints which have a substantial probability of validity; and

"(C) for the investigation of such other violations of the requirements of this part as the Secretary determines to be appropriate.

"(2) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

"(A) agents of the Secretary and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated; and

"(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this subsection and upon application of the Secretary, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(3) HEARING.—

"(A) IN GENERAL.—Before imposing an order described in paragraph (4) against a carrier under this subsection for a violation of the requirements of this part, the Secretary shall provide the carrier with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary) of the date of the notice, a hearing respecting the violation.

"(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order.

"(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a carrier named in the complaint has violated the requirements of this part, the administrative law judge shall state the findings of fact and issue and cause to be served on such carrier an order described in paragraph (4).

"(4) ENFORCEMENT AND CIVIL MONEY PENALTY.—

"(A) ENFORCEMENT.—Subject to the provisions of this paragraph, an order issued under this subsection—

"(i) shall require the carrier—

"(I) to cease and desist from such violations; and

"(II) to pay a civil penalty as required in paragraph (9); and

"(ii) may require the carrier to take such other corrective action as is appropriate.

"(B) CORRECTIONS WITHIN 30 DAYS.—No order shall be imposed under this subsection by reason of any violation if the carrier establishes to the satisfaction of the Secretary that—

"(i) such violation was due to reasonable cause and not to willful neglect; and

"(ii) such violation is corrected within the 30-day period beginning on earliest date the carrier knew, or exercising reasonable diligence could have known, that such a violation was occurring.

"(C) WAIVER BY SECRETARY.—In the case of a violation which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the civil money penalty imposed by paragraph (9) to the extent that payment of such penalty would be grossly excessive relative to the violation involved and to the need for deterrence of violations.

"(5) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge under this subsection shall become the final agency decision and order of the Secretary unless, within 30 days, the Secretary modifies or vacates the decision and order, in which case the decision and order of the Secretary shall become a final order under this subsection.

"(6) JUDICIAL REVIEW.—A carrier adversely affected by a final order issued under this subsection may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(7) ENFORCEMENT OF ORDERS.—If a carrier fails to comply with a final order issued under this section against the carrier, the Secretary shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(8) USE OF AMOUNTS COLLECTED.—Civil money penalties collected under this subsection shall be credited to the AmeriCare Trust Fund.

"(9) AMOUNT OF CIVIL MONEY PENALTY.—The amount of any civil money penalty imposed under this subsection shall not exceed $25,000 for each carrier with respect to which a violation occurs. Such amount may take into account the penalties imposed by a State with respect to the same such violation.

"(10) NOTICE TO CARRIER IN THE CASE OF INSURED PLANS.—As part of any order issued under this subsection in the case of a health benefit plan, the order shall require that notice be provided to the carrier of the findings in the order.

"(11) LOSS OF STATUS AS A HEALTH BENEFIT PLAN.—If a carrier is not in compliance with subsection (a) and is not determined to have come into compliance with the applicable standards within 30 days after the date of the initial determination of such a violation, such carrier shall be subject to the provisions of this subsection.

"(c) EFFECTIVE DATE.—The effective date specified in this subsection is January 1 of the third full year that begins after the date of the enactment of this subpart.

"SEC. 2742. ESTABLISHMENT OF STANDARDS.

"(a) ESTABLISHMENT OF STANDARDS.—

"(1) NAIC.—The Secretary shall request the NAIC—

"(A) to develop specific standards, in the form of a model Act and model regulations, to implement the requirements of this part; and

"(B) to report to the Secretary on such development;

by not later than October 1 of the year following the year in which this part is enacted. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of this part, such standards shall be the standards applied under section 2741.

"(2) SECRETARY.—If the NAIC fails to develop and report on such standards by such date or the Secretary finds that such standards do not implement the requirements of this part, the Secretary shall develop and publish, by not later than November 15 of the year following the year in which this part is enacted, such standards. Such standards shall then be the standards applied under section 2741.

"(b) ADDITIONAL ELEMENTS OF REGULATORY PROGRAMS.—

"(1) IN GENERAL.—A State regulatory program shall include the following:

"(A) The enforcement under the program—

"(i) shall be designed in a manner so as to secure compliance with the standards within 30 days after the date of a finding of noncompliance with such standards; and

"(ii) shall provide for notice to the Secretary in cases where such compliance is not secured within such 30-day period.

"(B) A toll-free telephone number which provides—

"(i) for a system for the receipt and disposition of consumer complaints or inquiries regarding compliance of health benefit plans with the requirements of this part; and

"(ii) information to small employers and consumers about carriers that offer health benefit plans in the area covered by the regulatory authority.

Such system shall provide for the recording of consumer complaints in accordance with a uniform methodology developed by the NAIC and recognized by the Secretary.

"(2) SECRETARIAL AUTHORITY.—In the case of a State without a regulatory program approved under subsection (a), the Secretary shall provide for the establishment of the toll-free telephone information and complaint system described in paragraph (1).

"(c) SECRETARIAL REVIEW.—

"(1) PERIODIC REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet the standards referred to in subsection (a) and the requirements of subsection (b). If the Secretary finds that a State regulatory program no longer meets such standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the Secretary shall assume responsibility under section 2741(a)(1)(B) with respect to plans in the State.

"(2) LOOK-BEHIND AUTHORITY.—In the case of a State with a regulatory program found by the Secretary to meet the standards and requirements under this part, the Secretary nonetheless is authorized to determine whether or not health benefit plans offered by carriers in the State have failed to comply with the applicable requirements of this part.

"(d) GAO AUDITS.—The Comptroller General shall conduct periodic audits on a sample of State regulatory programs to determine their compliance with the requirements of this section. The Comptroller General shall report to the Secretary and Congress on the findings in such audits.

"SEC. 2743. TRANSITIONAL REQUIREMENTS APPLICABLE TO ALL HEALTH BENEFIT PLANS ISSUED TO SMALL EMPLOYERS.

"(a) APPLICATION.—The requirements of this section shall apply only to health benefit plans offered to small employers during the period that begins on the effective date of this part and ends in the case of a small employer, on the date that begins the fifth full year after the date of enactment of this part.

"(b) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), health benefit plans offered to small employers by carriers may not deny, limit, or condition the coverage under (or benefits of) the plan with respect to basic health services based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, health benefit plans provided to small employers by carriers may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months.

"(B) NONAPPLICATION TO NEWBORNS AND SUNSET OF PREEXISTING CONDITION EXCLUSIONS FOR BASIC HEALTH SERVICES.—The exclusion of coverage permitted under subparagraph (A) shall not apply to—

"(i) services furnished to newborns, or

"(ii) basic health services furnished on or after July 1 of the sixth full year beginning after the date of the enactment of this part.

"(C) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health benefit plan issued to a small employer by a carrier shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health benefit plan issued to a small employer by a carrier which provides the same or substantially similar benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health benefit plan issued to a small employer by a carrier, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage, except that such term does not include a condition which was first diagnosed or treated during a period of continuous coverage.

"(iii) STANDARDS FOR SIMILAR BENEFITS.—The standards established under section 2742 shall establish such criteria for determining if benefits are substantially similar as may be necessary to carry out this subparagraph.

"(c) PERMITTING COVERAGE DURING WAITING PERIOD.—

"(1) IN GENERAL.—If a health benefit plan issued to a small employer by a carrier imposes a waiting period before an eligible individual may be covered under the plan, the plan—

"(A) must make available to the individual coverage (including coverage of dependents) equivalent to the coverage available to the employee upon the completion of any applicable waiting period; and

"(B) may not impose for such coverage charges that exceed the cost under the plan of providing such coverage with respect to the employee if such waiting period did not apply.

Nothing in this paragraph shall be construed as requiring a health benefit plan issued to a small employer by a carrier to make coverage available to an individual who no longer has an employment relationship (or who is the spouse or dependent of such an individual) with respect to the plan.

"(2) ELIGIBLE INDIVIDUAL DEFINED.—In paragraph (1), the term 'eligible individual' means, with respect to a health benefit plan, an individual who, but for a waiting period, would be eligible for immediate coverage under the plan.

"SEC. 2744. DEFINITIONS.

"(a) HEALTH BENEFIT PLAN AND OTHER DEFINITIONS RELATING TO HEALTH PLANS.—As used in this part:

"(1) HEALTH BENEFIT PLAN.—The term 'health benefit plan' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1964), or any other health insurance arrangement, and includes an employment-related reinsurance plan (as defined in paragraph (3)), but does not include—

"(A) accident-only, credit, dental, or disability income insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) worker's compensation or similar insurance, or

"(D) automobile medical-payment insurance;

that is offered by a carrier.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs fewer than 100 employees during the calendar year.

"(3) MANAGED CARE PLAN.—The term 'managed care plan' has the same meaning given such term by section 2713(7).

"(4) REINSURANCE PLAN.—The term 'reinsurance plan' means any reinsurance or similar mechanism that underwrites a portion of the risk for a health benefit plan, if the mechanism is offered directly to a small employer.

"(5) SELF-INSURED HEALTH BENEFIT PLAN.—The term 'self-insured health benefit plan' means a health benefit plan in which the small employer or employment-related group assumes the underwriting risk for the plan (whether or not there is any reinsurance or similar mechanism to underwrite a portion of that risk).

"(b) CARRIER; HEALTH MAINTENANCE ORGANIZATION; AND OTHER DEFINITIONS RELATING TO CARRIERS.—As used in this part:

"(1) CARRIER.—The term 'carrier' means any person that offers a health benefit plan, whether through insurance or otherwise, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, a self-insurer carrier, a reinsurance carrier, and a multiple small employer welfare arrangement (a combination of small employers associated for the purpose of providing health benefit plan coverage for their employees).

"(2) EMPLOYER CARRIER.—The term 'employer carrier'—

"(A) means any carrier which offers health benefit plans, and

"(B) includes (unless the context otherwise requires)—

"(i) a self-insurer carrier offering such a plan, or

"(ii) a reinsurance carrier offering a health benefit plan that is an reinsurance plan.

"(3) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' has the meaning given the term 'eligible organization' in section 1876(b) of the Social Security Act.

"(4) REINSURANCE CARRIER.—The term 'reinsurance carrier' means the entity assuming responsibility for underwriting under an employment-related reinsurance plan, but does not include a carrier insofar as it directly offers a health benefit plan.

"(5) SELF-INSURER CARRIER.—The term 'self-insurer carrier' means a carrier that is not a licensed insurance company, a prepaid hospital or medical service plan, or a health maintenance organization, that offers a health benefit plan directly with respect to an employment-related group.

"(c) GENERAL DEFINITIONS.—As used in this part:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means, with respect to a health benefit plan offered in a State, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance, or, if the Secretary is exercising authority under section 2741(a)(1)(B) in the State, the Secretary.

"(2) BLOCK OF BUSINESS.—The term 'block of business' means all, or a distinct grouping of, small employers as shown on the records of the small employer carrier, if established consistent with section 2752(b)(3).

"(3) COMMUNITY.—The term 'community' means a geographic area designated by the Secretary as—

"(A) encompassing one or more adjacent metropolitan statistical areas; or

"(B) the remaining area within each State (that is not designated within any community under subparagraph (A));

except that the Secretary may designate an entire State as a community if such a designation would better carry out the purposes of this part. The Secretary from time to time may change the boundaries of communities designated under subparagraph (A) or (B) for such purposes. There shall be no administrative or judicial review of the designation of communities under this subsection.

"(4) FULL-TIME EMPLOYEE.—The term 'full-time employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 25 hours of service per week for that employer.

"(5) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(6) REFERENCE PREMIUM RATE.—The term 'reference premium rate' means, for each block of business for a rating period in a community, the lowest premium rate charged or which could have been charged by the small employer carrier to small employers in that block under a rating system for that block of business in the community for health benefit plans with the same or similar coverage. The reference premium rate is determined without regard to any adjustment for age or sex described in section 2752(c) and without regard to any adjustment effected under section 2752(d).

"(7) STATE.—The term 'State' means the 50 States and the District of Columbia.

"Subpart 2—Small Employer Health Insurance Reform

"SEC. 2751. ENROLLMENT PRACTICE AND GUARANTEED RENEWABILITY REQUIREMENTS FOR HEALTH BENEFIT PLANS ISSUED TO SMALL EMPLOYERS.

"(a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—

"(1) IN GENERAL.—Each carrier (as defined in section 2744(b)(1)) shall register with the applicable regulatory authority for each State in which it issues or offers a health benefit plan to small employers.

"(2) NO PREEMPTION OF STATE INFORMATION REQUIREMENTS.—Nothing in paragraph (1) shall be construed as preventing the applicable regulatory authority from requiring, in the case of carriers that are not self-insurance carriers, such additional information in conjunction with, or apart from, the registration required under paragraph (1) as the applicable regulatory authority may be authorized to require under State law.

"(b) GUARANTEED ISSUE.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a carrier that offers a health benefit plan (including a reinsurance plan) to small employers located in a community must offer the same plan to any other small employer located in the community.

"(2) TREATMENT OF HEALTH MAINTENANCE ORGANIZATIONS.—

"(A) GEOGRAPHIC LIMITATIONS.—A health maintenance organization may deny coverage under a health benefit plan to a small employer whose employees are located outside the service area of the organization, but only if such denial is applied uniformly without regard to health status or insurability.

"(B) SIZE LIMITS.—A health maintenance organization may apply to the applicable regulatory authority to cease enrolling new small employer groups in its health benefit plan (or in a geographic area served by the plan) if it can demonstrate that its financial or administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups) will be impaired if it is required to enroll new groups.

"(3) GROUNDS FOR REFUSAL TO ISSUE OR RENEW.—

"(A) IN GENERAL.—A carrier may refuse to issue or renew or terminate a health benefit plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation, and

"(iii) failure to meet minimum participation rates (consistent with subparagraph (B)).

"(B) MINIMUM PARTICIPATION RATES.—A carrier may require, within the transition period described in section 2743(a), with respect to a health benefit plan, that a minimum percentage of full-time, permanent employees eligible to enroll under the plan be enrolled, so long as such percentage is enforced uniformly for all employment groups of comparable size.

"(c) MINIMUM PLAN PERIOD.—A carrier may not offer to, or issue with respect to, a small employer a health benefit plan with a term of less than 12 months.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—

"(A) GENERAL RULE.—Subject to the succeeding provisions of this subsection, a carrier shall ensure that a health benefit plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for the reasons specified in subsection (a)(3)(A) or under subparagraph (B).

"(B) TERMINATION OF BLOCK OF BUSINESS.—A carrier need not renew a health benefit plan with respect to such a small employer if the carrier—

"(i) is terminating the block of business that includes the plan; and

"(ii) provides notice to the small employer covered under the plan of such termination at least 90 days before the date of expiration of the plan.

In the case of such a termination, the carrier may not provide for issuance of any health benefit plan in any block of business during the 5-year period beginning on the date of termination of such block of business.

"(C) CONSTRUCTION RESPECTING ADDITIONAL STATE DISCLOSURE REQUIREMENTS.—Subparagraph (B)(ii) shall not be construed as preventing the applicable regulatory authority from specifying the information to be included in the notice under such subparagraph or in requiring such notice to be provided at an earlier date.

"(2) NOTICE AND SPECIFICATION OF RATES AND ADMINISTRATIVE CHANGES.—

"(A) NOTICE.—A carrier offering health benefit plans to small employers shall provide for notice, at least 30 days before the date of expiration of the health benefit plan, of the terms for renewal of the plan. Except with respect to rates and administrative changes, the terms of renewal (including benefits) shall be the same as the terms of issuance.

"(B) RENEWAL RATES SAME AS ISSUANCE RATES.—The carrier may change the terms for such renewal, but the premium rates charged with respect to such renewal shall be the same as that for a new issue.

"(C) RATES CANNOT CHANGE MORE OFTEN THAN MONTHLY.—

"(i) IN GENERAL.—A carrier may not change the premium rates established with respect to health benefit plans offered for any block of business more often than monthly.

"(ii) APPLICATION OF NEW RATES.—A carrier that offers health benefit plans to small employers which becomes effective in a month, shall ensure that the premium rates established under clause (i) for that month shall apply to all months during the 12-month period beginning with that month. In the case of a plan renewal which is effective for a 12-month period beginning with a month, the premium rates established under clause (i) with respect to that month shall apply to all months during 12-month renewal period.

"(3) PERIOD OF RENEWAL.—The period of renewal of each health benefit plan offered by a carrier to a small employer shall be for a period of not less than 12 months.

"SEC. 2752. RATING PRACTICES FOR HEALTH BENEFIT PLANS OFFERED TO SMALL EMPLOYERS.

"(a) COHESIVE RATING SYSTEM AND ACTUARIAL CERTIFICATION.—

"(1) IN GENERAL.—The premiums (including reference premium rate, as defined in section 2744(c)(6), age adjustments under subsection (c), and reductions provided under subsection (d)) for all health benefit plans offered to small employers by carriers shall—

"(A) be established based on a single cohesive rating system which is applied consistently for all small employer groups and is designed not to treat groups, after the second effective year (as defined in subsection (f)), differently based on health status or risk status; and

"(B) be actuarially certified annually.

"(2) ACTUARIAL CERTIFIED DEFINED.—For purposes of paragraph (1)(B), a health benefit plan is considered to be 'actuarially certified' if there is a written statement, by a member of the American Academy of Actuaries or other individual acceptable to the applicable regulatory authority that a carrier is in compliance with this section, based upon the individual's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the carrier in establishing premium rates for applicable health benefit plans.

"(b) USE OF COMMUNITY-RATING.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (c):

"(A) COMMUNITY RATING WITHIN A BLOCK OF BUSINESS.—The reference premium rate charged for health benefit plans offered with similar benefits to small employers in a community within a block of business for a type of family enrollment (described in subsection (e)) shall be the same for all small employers.

"(B) LIMITING VARIATION ON REFERENCE PREMIUM RATES AMONG BLOCKS OF BUSINESS.—

"(i) IN GENERAL.—Except as provided in clause (iii), the reference premium rate charged for health benefit plans offered with similar benefits to small employers in any community for a type of family enrollment for the most expensive block of business shall not exceed 120 percent of such rate charged for such plan for the same type of family enrollment for the least expensive block of business.

"(ii) ROLE OF REGULATORY AUTHORITY.—An applicable regulatory authority that is a State may reduce or eliminate the percent variation otherwise permitted under clause (i).

"(iii) EXCEPTION.—Clause (i) shall not apply to health benefit plans offered by carriers to small employers in a block of business—

"(I) if the block is one for which the carrier does not reject, and never has rejected, small employers included within the definition of small employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis,

"(II) the carrier does not involuntarily transfer, and never has involuntarily transferred, a health benefit plan into or out of the block of business, and

"(III) that block of business was available for purchase as of the date of the enactment of this part.

"(2) TRANSITION.—Notwithstanding paragraph (1)—

"(A) during the first effective year (as defined in subsection (f)), the premium rate under a health benefit plan issued by a carrier to any small employer may be as much as, but may not exceed, 150 percent of the reference premium rate for such plans in the same community for similar benefits in the same block of business; or

"(B) during the second effective year, the premium rate under such a policy for any small employer may be as much as, but may not exceed, 122 percent of the reference premium rate for such plans in the same community for similar benefits in the same block of business.

"(3) ESTABLISHMENT OF BLOCKS OF BUSINESS.—For the purpose of establishing premiums for small employer health benefit plans with similar coverage, the carrier may establish blocks of business based only on one or more of the following characteristics:

"(A) Plans that are marketed by clearly different sales forces.

"(B) Plans that have been acquired from another carrier as a distinct group.

"(C) Plans that are managed care plans.

"(D) Plans within another distinct group, if the applicable regulatory authority finds that establishment of such a group will enhance the efficiency and fairness of the small employer insurance marketplace.

"(c) ADJUSTMENTS TO COMMUNITY-RATING.—

"(1) IN GENERAL.—Subject to paragraph (2), a health benefit plan offered by a carrier to a small employer may provide for an adjustment to the reference premium rate based on the age and gender of covered individuals. Any such adjustment shall be applied by the carrier consistently to all small employers, except that gender adjustments may only be made during the transition period.

"(2) LIMITATION ON ADJUSTMENT.—

"(A) IN GENERAL.—The adjustment under paragraph (1) may not result, with respect to health benefit plans with similar benefits offered by carriers to small employers in the same block of business in a community, in a premium rate for the most expensive age group exceeding the applicable percent (as defined in subparagraph (B)) of the premium rate for the least expensive age group.

"(B) APPLICABLE PERCENT DEFINED.—In subparagraph (A) but subject to subparagraph (C), the term 'applicable percent' means—

"(i) for the first effective year (as defined in subsection (f)), 200 percent,

"(ii) for the second effective year, 150 percent, and

"(iii) for any subsequent year, 110 percent.

"(C) ROLE OF REGULATORY AUTHORITY.—An applicable regulatory authority that is a State may reduce or eliminate the applicable percent otherwise applied.

"(d) ADJUSTMENT IN RATES PERMITTED IN CASE OF MEDICARE REIMBURSEMENT ELECTION.—A health benefit plan offered by a carrier to a small employer may compute premiums based upon a percentage of the reference premium rate otherwise applicable if the small employer to which the plan is being offered makes the reimbursement election described in section 2744. Any such adjustment shall be applied consistently to all small employers.

"(e) TYPES OF FAMILY ENROLLMENT.—Each health benefit plan offered by a carrier to a small employer shall permit enrollment of (and shall compute premiums separately for) individuals based on each of the following beneficiary classes:

"(1) 1 adult.

"(2) A married couple without children.

"(3) 1 adult and 1 child.

"(4) A married couple with 1 or more children, or 1 adult with 2 or more children.

"(f) EFFECTIVE YEARS DEFINED.—In this section, the terms 'first effective year' and 'second effective year' mean the third and fourth full years beginning after the date of the enactment of this part.

"(g) EXCEPTION FOR SELF-INSURED CARRIERS.—The requirements of this section shall apply to reinsurance carriers and health benefit plans offered by such carriers to small employers.

"SEC. 2753. BASIC BENEFIT PACKAGE FOR HEALTH BENEFIT PLANS OFFERED TO SMALL EMPLOYERS.

"(a) IN GENERAL.—

"(1) BENEFITS AND COST-SHARING IN HEALTH BENEFIT PLANS.—Except as provided in paragraph (2) and in section 2743(a), no health benefit plan offered by carriers to small employers may be issued to a small employer unless—

"(A) the plan provides for benefits for all basic health services as defined in part B;

"(B) the plan does not impose cost-sharing with respect to basic health services in excess of the deductibles and coinsurance permitted under part B respect to such services; and

"(C) the carrier makes available to the small employer a health benefit plan that, subject to paragraph (2)(C), only provides the benefits for basic health services and the maximum cost-sharing consistent with subparagraphs (A) and (B).

"(2) EXCEPTIONS.—

"(A) REQUIRED OFFERING DOES NOT APPLY TO HMO'S.—Paragraph (1)(C) shall not apply to a health maintenance organization.

"(B) ADDITIONAL, OPTIONAL MINIMUM SERVICES.—In meeting the requirement of paragraph (1)(C), a health benefit plan offered by a carrier to a small employer may include such additional items and services as the carrier can demonstrate to the satisfaction of the applicable regulatory authority that inclusion of such items and services will facilitate appropriate hospital discharges or avoid unnecessary hospitalization.

"(b) MANAGED CARE OPTION.—If a carrier (other than a health maintenance organization or reinsurance carrier) offers health benefit plans to an employer that is not a small employer, in a community a health benefit plan that is a managed care plan, the carrier must make available to small employers in the community a health benefit plan that is such a managed care plan.

"(c) EXCEPTION FOR REINSURANCE CARRIERS AND PLANS.—The requirements of this section shall not apply to reinsurance carriers and reinsurance plans.

"(d) STANDARDIZATION OF BENEFIT PACKAGES.—The NAIC shall develop a model to standardize benefits to be made available under health benefit plans offered by carriers to small employers in order to promote consumer understanding and comparison among such plans.

"SEC. 2754. TIME-LIMITED MEDICARE REIMBURSEMENT OPTION FOR HEALTH BENEFIT PLANS OFFERED TO SMALL EMPLOYERS NOT PREVIOUSLY OFFERING INSURANCE COVERAGE.

"(a) OPTION MUST BE OFFERED.—Each carrier offering a health benefit plan to small employers meeting the requirements of section 351(a) of the HealthAmerica Act shall offer the small employer the option of having payment under the plan made for basic health benefits at rates no higher than the payment rates established under part B for such services. The provisions of section 1848(g)(3) of the Social Security Act shall not be considered to apply under this subsection.

"(b) APPLICATION OF MEDICARE BILLING LIMITATIONS.—In the case of a small employer that elects the option offered under subsection (a) with respect to a health benefit plan, the limitations on charges that may be made under medicare shall apply to individuals receiving benefits under the plan.

"(c) EXCEPTION FOR REINSURANCE PLAN.—Subsection (a) shall not apply to reinsurance plans.

"SEC. 2755. MISCELLANEOUS DISCLOSURE AND RECORD-KEEPING REQUIREMENTS FOR HEALTH BENEFIT PLANS OFFERED TO SMALL EMPLOYERS.

"(a) DISCLOSURE.—

"(1) GENERAL DISCLOSURE.—Each carrier offering health benefit plans to small employers shall disclose to each small employer before issuing such a plan the following:

"(A) The availability (pursuant to the requirement of section 2753(a)(1)(C)) of a plan including only basic benefits.

"(B) Whether any plan that is a managed care plan or provides for a utilization review program, or both, is available, as required under section 2753(b).

"(C) The option of electing the reimbursement rules, as required under section 2754.

"(D) The limits, imposed under section 2752, on the premiums permitted to be charged for such plans.

"(E) The rights of guaranteed issue and renewability provided under section 2751.

Such disclosure shall be in addition to any disclosure required generally of health benefit plans under part B.

"(2) SPECIFIC DISCLOSURE UPON REQUEST.—Each carrier offering health benefit plans to small employers shall disclose to small employer, upon request, information concerning the blocks of business established with respect to such plans and the applicable premiums for such plans.

"(3) STANDARD FORMAT.—The disclosure under paragraph (1) shall be made in a uniform format established by the Secretary, after consultation with the NAIC.

"(4) EXCEPTIONS.—Paragraph (1) (other than subparagraphs (D) and (E)) shall not apply to a reinsurance carrier with respect to a reinsurance plan.

"(b) INFORMATION FILED WITH APPLICABLE REGULATORY AUTHORITY.—

"(1) IN GENERAL.—Each carrier offering health benefit plans to small employers shall disclose to the applicable regulatory authority, in a manner specified by the Secretary, information concerning—

"(1) blocks of business established; and

"(2) applicable premiums for health benefit plans.

"(2) ADDITIONAL INFORMATION.—Nothing in this subsection shall be construed as limiting the information which an applicable regulatory authority may require to be reported by carriers.

"SEC. 2756. NONAPPLICATION IN PUERTO RICO AND THE TERRITORIES.

"This subpart shall not apply outside the 50 States or the District of Columbia.

"Subpart 3—Encouraging Development of Reinsurance Systems

"SEC. 2758. ENCOURAGING DEVELOPMENT OF REINSURANCE SYSTEMS.

"(a) DEVELOPMENT OF MODELS.—

"(1) IN GENERAL.—Not later than October 1 of the year following the year in which this part is enacted, the NAIC shall develop several models of legislation for the enactment of reinsurance systems that may be used by States with respect to health insurance policies (including health benefit plans offered to small employers).

"(2) SPECIFIC MODELS.—Such models shall include at least 1 of each of the following 3 models:

"(A) A model providing for voluntary participation by insurers.

"(B) A model providing for insurer participation on a retrospective basis.

"(C) A model providing for the case management of services for individual claims or groups which are reinsured through the system.

"(3) TERMS OF MODELS.—Each of the models—

"(A) shall be consistent with the provisions of this part (including those relating to community-rated premiums), and

"(B) shall include deductibles and coinsurance which—

"(i) limit the amount of risk ceded to the reinsurance system; and

"(ii) encourage insurers to manage health care costs.

"(b) PROTECTION OF HEALTH MAINTENANCE ORGANIZATIONS UNDER REINSURANCE SYSTEMS.—No State may establish or enforce a reinsurance system with respect to health insurance policies unless the system provides for an adjustment in reinsurance premiums (or, in the event of losses to the system, assessments) charged to health maintenance organizations that takes into account—

"(1) the higher premiums charged by such organizations due to the greater coverage provided by such organizations as required by law,

"(2) the limitations under title XIII on the amount of risk which such an organization can reinsure, and

"(3) the ability of such organizations to manage risk internally.

"(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this part.".

(b) SOCIAL SECURITY ACT.—The Social Security Act is amended by inserting after title XII the following new title:

"TITLE XIII—GROUP HEALTH INSURANCE STANDARDS

"PART A—GENERAL STANDARDS; DEFINITIONS

"APPLICATION OF REQUIREMENTS TO HEALTH BENEFIT PLANS

"SEC. 1301. (a) PLAN UNDER STATE REGULATORY PROGRAM OR CERTIFIED BY THE SECRETARY.—

"(1) IN GENERAL.—No health benefit plan may be issued in a State on or after the effective date specified in subsection (c) (and no new contract may be offered under such plan with respect to any small employer beginning on or after such effective date) unless—

"(A) the Secretary determines that the State has established a regulatory program that provides for the application and enforcement of the applicable standards established under section 1302 (to carry out the requirements of this title) and that meets the requirements of section 1302(b) by such effective date, or

"(B) if the State has not established such a program, the plan has been certified by the Secretary (in accordance with such procedures as the Secretary establishes) as meeting the applicable standards established under section 1302 by such effective date.

"(2) PLAN DISAPPROVED UNDER LOOK-BEHIND AUTHORITY.—If the Secretary determines, under section 1302(c), that a health benefit plan does not meet the applicable requirements of this title on or after such effective date, regardless of whether or not the State has taken any action with respect to such noncompliance, no new contracts may be offered to small employers under the plan on or after the date of the determination.

"(b) SANCTIONS.—

"(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

"(A) for individuals and entities to file written, signed complaints with the Secretary respecting potential violations of the requirements of this title;

"(B) for the investigation of those complaints which have a substantial probability of validity; and

"(C) for the investigation of such other violations of the requirements of this title as the Secretary determines to be appropriate.

"(2) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

"(A) agents of the Secretary and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated; and

"(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this section and upon application of the Secretary, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(3) HEARING.—

"(A) IN GENERAL.—Before imposing an order described in paragraph (4) against a carrier under this subsection for a violation of the requirements of this title, the Secretary shall provide the carrier with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary) of the date of the notice, a hearing respecting the violation.

"(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge under section 201. If no hearing is so requested, the Secretary's imposition of the order shall constitute a final and unappealable order.

"(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a carrier named in the complaint has violated the requirements of this title, the administrative law judge shall state the findings of fact and issue and cause to be served on such carrier an order described in paragraph (4).

"(4) ENFORCEMENT AND CIVIL MONEY PENALTY.—

"(A) ENFORCEMENT.—Subject to the provisions of this paragraph, an order issued under this subsection—

"(i) shall require the carrier—

"(I) to cease and desist from such violations; and

"(II) to pay a civil penalty as required in paragraph (9); and

"(ii) may require the carrier to take such other corrective action as is appropriate.

"(B) CORRECTIONS WITHIN 30 DAYS.—No order shall be imposed under this subsection by reason of any violation if the carrier establishes to the satisfaction of the Secretary that—

"(i) such violation was due to reasonable cause and not to willful neglect; and

"(ii) such violation is corrected within the 30-day period beginning on earliest date the carrier knew, or exercising reasonable diligence could have known, that such a violation was occurring.

"(C) WAIVER BY SECRETARY.—In the case of a violation which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the civil money penalty imposed by paragraph (9) to the extent that payment of such penalty would be grossly excessive relative to the violation involved and to the need for deterrence of violations.

"(5) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge under this subsection shall become the final agency decision and order of the Secretary unless, within 30 days, the Secretary modifies or vacates the decision and order, in which case the decision and order of the Secretary shall become a final order under this subsection.

"(6) JUDICIAL REVIEW.—A carrier adversely affected by a final order issued under this subsection may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(7) ENFORCEMENT OF ORDERS.—If a carrier fails to comply with a final order issued under this section against the carrier, the Secretary shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(8) USE OF AMOUNTS COLLECTED.—Civil money penalties collected under this subsection shall be credited to the AmeriCare Trust Fund.

"(9) AMOUNT OF CIVIL MONEY PENALTY.—The amount of any civil money penalty imposed under this subsection shall not exceed $25,000 for each carrier with respect to which a violation occurs. Such amount may take into account the penalties imposed by a State with respect to the same such violation.

"(10) NOTICE TO CARRIER IN THE CASE OF INSURED PLANS.—As part of any order issued under this subsection in the case of a health benefit plan, the order shall require that notice be provided to the carrier of the findings in the order.

"(11) LOSS OF STATUS AS A HEALTH BENEFIT PLAN.—If a carrier is not in compliance with subsection (a) and is not determined to have come into compliance with the applicable standards within 6 months after the date of the initial determination of such a violation, such carrier shall be subject to the provision of this subsection.

"(12) EXCISE TAX.—A carrier that is not in compliance with subsection (a) shall be subject to the tax described in section 4980C of the Internal Revenue Code of 1986.

"(c) EFFECTIVE DATE.—The effective date specified in this subsection is January 1 of the third full year that begins after the date of the enactment of this part.

"ESTABLISHMENT OF STANDARDS

"SEC. 1302. (a) ESTABLISHMENT OF STANDARDS.—

"(1) NAIC.—The Secretary shall request the NAIC—

"(A) to develop specific standards, in the form of a model Act and model regulations, to implement the requirements of this title; and

"(B) to report to the Secretary on such development;

by not later than October 1 of the year following the year in which this title is enacted. If the NAIC develops such standards within such period and the Secretary finds that such standards implement the requirements of this title, such standards shall be the standards applied under section 1301.

"(2) SECRETARY.—If the NAIC fails to develop and report on such standards by such date or the Secretary finds that such standards do not implement the requirements of this title, the Secretary shall develop and publish, by not later than November 15 of the year following the year in which this title is enacted, such standards. Such standards shall then be the standards applied under section 1301.

"(b) ADDITIONAL ELEMENTS OF REGULATORY PROGRAMS.—

"(1) IN GENERAL.—A State regulatory program shall include the following:

"(A) The enforcement under the program—

"(i) shall be designed in a manner so as to secure compliance with the standards within 30 days after the date of a finding of noncompliance with such standards; and

"(ii) shall provide for notice to the Secretary in cases where such compliance is not secured within such 30-day period.

"(B) A toll-free telephone number which provides—

"(i) for a system for the receipt and disposition of consumer complaints or inquiries regarding compliance of health benefit plans with the requirements of this title; and

"(ii) information to small employers and consumers about carriers that offer health benefit plans in the area covered by the regulatory authority.

Such system shall provide for the recording of consumer complaints in accordance with a uniform methodology developed by the NAIC and recognized by the Secretary.

"(2) SECRETARIAL AUTHORITY.—In the case of a State without a regulatory program approved under subsection (a), the Secretary shall provide for the establishment of the toll-free telephone information and complaint system described in paragraph (1).

"(c) SECRETARIAL REVIEW.—

"(1) PERIODIC REVIEW OF STATE REGULATORY PROGRAMS.—The Secretary periodically shall review State regulatory programs to determine if they continue to meet the standards referred to in subsection (a) and the requirements of subsection (b). If the Secretary finds that a State regulatory program no longer meets such standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the Secretary shall assume responsibility under section 1301(a)(1)(B) with respect to plans in the State.

"(2) LOOK-BEHIND AUTHORITY.—In the case of a State with a regulatory program found by the Secretary to meet the standards and requirements under this title, the Secretary nonetheless is authorized to determine whether or not health benefit plans offered by carriers in the State have failed to comply with the applicable requirements of this title.

"(d) GAO AUDITS.—The Comptroller General shall conduct periodic audits on a sample of State regulatory programs to determine their compliance with the requirements of this section. The Comptroller General shall report to the Secretary and Congress on the findings in such audits.

"TRANSITIONAL REQUIREMENTS APPLICABLE TO ALL HEALTH BENEFIT PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 1303. (a) APPLICATION.—The requirements of this section shall apply only to health benefit plans offered to small employers during the period that begins on the effective date of this title and ends in the case of a small employer, on the date that begins the fifth full year after the date of enactment of this title.

"(b) NO DISCRIMINATION BASED ON HEALTH STATUS FOR CERTAIN SERVICES.—

"(1) IN GENERAL.—Except as provided under paragraph (2), health benefit plans offered to small employers by carriers may not deny, limit, or condition the coverage under (or benefits of) the plan with respect to basic health services based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(2) TREATMENT OF PREEXISTING CONDITION EXCLUSIONS FOR ALL SERVICES.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, health benefit plans provided to small employers by carriers may exclude coverage with respect to services related to treatment of a preexisting condition, but the period of such exclusion may not exceed 6 months.

"(B) NONAPPLICATION TO NEWBORNS AND SUNSET OF PREEXISTING CONDITION EXCLUSIONS FOR BASIC HEALTH SERVICES.—The exclusion of coverage permitted under subparagraph (A) shall not apply to—

"(i) services furnished to newborns, or

"(ii) basic health services furnished on or after July 1 of the sixth full year beginning after the date of the enactment of this title.

"(C) CREDITING OF PREVIOUS COVERAGE.—

"(i) IN GENERAL.—A health benefit plan issued to a small employer by a carrier shall provide that if an individual under such plan is in a period of continuous coverage (as defined in clause (ii)(I)) with respect to particular services as of the date of initial coverage under such plan, any period of exclusion of coverage with respect to a preexisting condition for such services or type of services shall be reduced by 1 month for each month in the period of continuous coverage.

"(ii) DEFINITIONS.—As used in this subparagraph:

"(I) PERIOD OF CONTINUOUS COVERAGE.—The term 'period of continuous coverage' means, with respect to particular services, the period beginning on the date an individual is enrolled under a health benefit plan issued to a small employer by a carrier which provides the same or substantially similar benefits with respect to such services and ends on the date the individual is not so enrolled for a continuous period of more than 3 months.

"(II) PREEXISTING CONDITION.—The term 'preexisting condition' means, with respect to coverage under a health benefit plan issued to a small employer by a carrier, a condition which has been diagnosed or treated during the 3-month period ending on the day before the first date of such coverage, except that such term does not include a condition which was first diagnosed or treated during a period of continuous coverage.

"(iii) STANDARDS FOR SIMILAR BENEFITS.—The standards established under section 1302 shall establish such criteria for determining if benefits are substantially similar as may be necessary to carry out this subparagraph.

"(c) PERMITTING COVERAGE DURING WAITING PERIOD.—

"(1) IN GENERAL.—If a health benefit plan issued to a small employer by a carrier imposes a waiting period before an eligible individual may be covered under the plan, the plan—

"(A) must make available to the individual coverage (including coverage of dependents) equivalent to the coverage available to the employee upon the completion of any applicable waiting period; and

"(B) may not impose for such coverage charges that exceed the cost under the plan of providing such coverage with respect to the employee if such waiting period did not apply.

Nothing in this paragraph shall be construed as requiring a health benefit plan issued to a small employer by a carrier to make coverage available to an individual who no longer has an employment relationship (or who is the spouse or dependent of such an individual) with respect to the plan.

"(2) ELIGIBLE INDIVIDUAL DEFINED.—In paragraph (1), the term 'eligible individual' means, with respect to a health benefit plan, an individual who, but for a waiting period, would be eligible for immediate coverage under the plan.

"DEFINITIONS

"SEC. 1304. (a) HEALTH PLAN AND OTHER DEFINITIONS RELATING TO HEALTH PLANS.—As used in this title:

"(1) HEALTH BENEFIT PLAN.—The term 'health benefit plan' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1964), or any other health insurance arrangement, and includes an employment-related reinsurance plan (as defined in paragraph (3)), but does not include—

"(A) accident-only, credit, dental, or disability income insurance,

"(B) coverage issued as a supplement to liability insurance,

"(C) worker's compensation or similar insurance, or

"(D) automobile medical-payment insurance;

that is offered by a carrier.

"(2) SMALL EMPLOYER.—The term 'small employer' means, with respect to a calendar year, an employer that normally employs fewer than 100 employees on during the calendar year.

"(3) MANAGED CARE PLAN.—The term 'managed care plan' has the same meaning given such term by section 2108(a)(6).

"(4) REINSURANCE PLAN.—The term 'reinsurance plan' means any reinsurance or similar mechanism that underwrites a portion of the risk for a health benefit plan, if the mechanism is offered directly to a small employer.

"(5) SELF-INSURED HEALTH BENEFIT PLAN.—The term 'self-insured health benefit plan' means a health benefit plan in which the small employer or employment-related group assumes the underwriting risk for the plan (whether or not there is any reinsurance or similar mechanism to underwrite a portion of that risk).

"(b) CARRIER; HEALTH MAINTENANCE ORGANIZATION; AND OTHER DEFINITIONS RELATING TO CARRIERS.—As used in this title:

"(1) CARRIER.—The term 'carrier' means any person that offers a health benefit plan, whether through insurance or otherwise, including a licensed insurance company, a prepaid hospital or medical service plan, a health maintenance organization, a self-insurer carrier, a reinsurance carrier, and a multiple small employer welfare arrangement (a combination of small employers associated for the purpose of providing health benefit plan coverage for their employees).

"(2) EMPLOYER CARRIER.—The term 'employer carrier'—

"(A) means any carrier which offers health benefit plans, and

"(B) includes (unless the context otherwise requires)—

"(i) a self-insurer carrier offering such a plan, or

"(ii) a reinsurance carrier offering a health benefit plan that is a reinsurance plan.

"(3) HEALTH MAINTENANCE ORGANIZATION.—The term 'health maintenance organization' has the meaning given the term 'eligible organization' in section 1876(b).

"(4) REINSURANCE CARRIER.—The term 'reinsurance carrier' means the entity assuming responsibility for underwriting under an employment-related reinsurance plan, but does not include a carrier insofar as it directly offers a health benefit plan.

"(5) SELF-INSURER CARRIER.—The term 'self-insurer carrier' means a carrier that is not a licensed insurance company, a prepaid hospital or medical service plan, or a health maintenance organization, that offers a health benefit plan directly with respect to an employment-related group.

"(c) GENERAL DEFINITIONS.—As used in this title:

"(1) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means, with respect to a health benefit plan offered in a State, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance, or, if the Secretary is exercising authority under section 1301(a)(1)(B) in the State, the Secretary.

"(2) BLOCK OF BUSINESS.—The term 'block of business' means all, or a distinct grouping of, small employers as shown on the records of the small employer carrier, if established consistent with section 1312(b)(3).

"(3) COMMUNITY.—The term 'community' means a geographic area designated by the Secretary as—

"(A) encompassing one or more adjacent metropolitan statistical areas; or

"(B) the remaining area within each State (that is not designated within any community under subparagraph (A));

except that the Secretary may designate an entire State as a community if such a designation would better carry out the purposes of this title. The Secretary from time to time may change the boundaries of communities designated under subparagraph (A) or (B) for such purposes. There shall be no administrative or judicial review of the designation of communities under this subsection.

"(4) FULL-TIME EMPLOYEE.—The term 'full-time employee' means, with respect to an employer, an employee who normally performs on a monthly basis at least 25 hours of service per week for that employer.

"(5) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.

"(6) REFERENCE PREMIUM RATE.—The term 'reference premium rate' means, for each block of business for a rating period in a community, the lowest premium rate charged or which could have been charged by the small employer carrier to small employers in that block under a rating system for that block of business in the community for health benefit plans with the same or similar coverage. The reference premium rate is determined without regard to any adjustment for age or sex described in section 1312(c) and without regard to any adjustment effected under section 1312(d).

"(7) STATE.—The term 'State' means the 50 States and the District of Columbia.

"PART B—SMALL EMPLOYER HEALTH INSURANCE REFORM

"ENROLLMENT PRACTICE AND GUARANTEED RENEWABILITY REQUIREMENTS FOR HEALTH BENEFIT PLANS ISSUED TO SMALL EMPLOYERS

"SEC. 1311. (a) REGISTRATION WITH APPLICABLE REGULATORY AUTHORITY.—

"(1) IN GENERAL.—Each carrier (as defined in section 1304(b)(1)) shall register with the applicable regulatory authority for each State in which it issues or offers a health benefit plans to small employers.

"(2) NO PREEMPTION OF STATE INFORMATION REQUIREMENTS.—Nothing in paragraph (1) shall be construed as preventing the applicable regulatory authority from requiring, in the case of carriers that are not self-insurance carriers, such additional information in conjunction with, or apart from, the registration required under paragraph (1) as the applicable regulatory authority may be authorized to require under State law.

"(b) GUARANTEED ISSUE.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, a carrier that offers a health benefit plan (including a reinsurance plan) to small employers located in a community must offer the same plan to any other small employer located in the community.

"(2) TREATMENT OF HEALTH MAINTENANCE ORGANIZATIONS.—

"(A) GEOGRAPHIC LIMITATIONS.—A health maintenance organization may deny coverage under a health benefit plan to a small employer whose employees are located outside the service area of the organization, but only if such denial is applied uniformly without regard to health status or insurability.

"(B) SIZE LIMITS.—A health maintenance organization may apply to the applicable regulatory authority to cease enrolling new small employer groups in its health benefit plan (or in a geographic area served by the plan) if it can demonstrate that its financial or administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups) will be impaired if it is required to enroll new groups.

"(3) GROUNDS FOR REFUSAL TO ISSUE OR RENEW.—

"(A) IN GENERAL.—A carrier may refuse to issue or renew or terminate a health benefit plan under this part only for—

"(i) nonpayment of premiums,

"(ii) fraud or misrepresentation, and

"(iii) failure to meet minimum participation rates (consistent with subparagraph (B)).

"(B) MINIMUM PARTICIPATION RATES.—A carrier may require, within the transition period described in section 1303(a), with respect to a health benefit plan, that a minimum percentage of full-time, permanent employees eligible to enroll under the plan be enrolled, so long as such percentage is enforced uniformly for all employment groups of comparable size.

"(c) MINIMUM PLAN PERIOD.—A carrier may not offer to, or issue with respect to, a small employer a health benefit plan with a term of less than 12 months.

"(d) GUARANTEED RENEWABILITY.—

"(1) IN GENERAL.—

"(A) GENERAL RULE.—Subject to the succeeding provisions of this subsection, a carrier shall ensure that a health benefit plan issued to a small employer be renewed, at the option of the small employer, unless the plan is terminated for the reasons specified in subsection (a)(3)(A) or under subparagraph (B).

"(B) TERMINATION OF BLOCK OF BUSINESS.—A carrier need not renew a health benefit plan with respect to such a small employer if the carrier—

"(i) is terminating the block of business that includes the plan; and

"(ii) provides notice to the small employer covered under the plan of such termination at least 90 days before the date of expiration of the plan.

In the case of such a termination, the carrier may not provide for issuance of any health benefit plan in any block of business during the 5-year period beginning on the date of termination of such block of business.

"(C) CONSTRUCTION RESPECTING ADDITIONAL STATE DISCLOSURE REQUIREMENTS.—Subparagraph (B)(ii) shall not be construed as preventing the applicable regulatory authority from specifying the information to be included in the notice under such subparagraph or in requiring such notice to be provided at an earlier date.

"(2) NOTICE AND SPECIFICATION OF RATES AND ADMINISTRATIVE CHANGES.—

"(A) NOTICE.—A carrier offering health benefit plans to small employers shall provide for notice, at least 30 days before the date of expiration of the health benefit plan, of the terms for renewal of the plan. Except with respect to rates and administrative changes, the terms of renewal (including benefits) shall be the same as the terms of issuance.

"(B) RENEWAL RATES SAME AS ISSUANCE RATES.—The carrier may change the terms for such renewal, but the premium rates charged with respect to such renewal shall be the same as that for a new issue.

"(C) RATES CANNOT CHANGE MORE OFTEN THAN MONTHLY.—

"(i) IN GENERAL.—A carrier may not change the premium rates established with respect to health benefit plans offered for any block of business more often than monthly.

"(ii) APPLICATION OF NEW RATES.—A carrier that offers health benefit plans to small employers which becomes effective in a month, shall ensure that the premium rates established under clause (i) for that month shall apply to all months during the 12-month period beginning with that month. In the case of a plan renewal which is effective for a 12-month period beginning with a month, the premium rates established under clause (i) with respect to that month shall apply to all months during 12-month renewal period.

"(3) PERIOD OF RENEWAL.—The period of renewal of each health benefit plan offered by a carrier to a small employer shall be for a period of not less than 12 months.

"RATING PRACTICES FOR HEALTH BENEFIT PLANS OFFERED TO SMALL EMPLOYERS

"SEC. 1312. (a) COHESIVE RATING SYSTEM AND ACTURIAL CERTIFICATION.—

"(1) IN GENERAL.—The premiums (including reference premium rate, as defined in section 1304(c)(6), age adjustments under subsection (c), and reductions provided under subsection (d)) for all health benefit plans offered to small employers by carriers shall—

"(A) be established based on a single cohesive rating system which is applied consistently for all small employer groups and is designed not to treat groups, after the second effective year (as defined in subsection (f)), differently based on health status or risk status; and

"(B) be actuarially certified annually.

"(2) ACTUARIAL CERTIFIED DEFINED.—For purposes of paragraph (1)(B), a health benefit plan is considered to be 'actuarially certified' if there is a written statement, by a member of the American Academy of Actuaries or other individual acceptable to the applicable regulatory authority that a carrier is in compliance with this section, based upon the individual's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the carrier in establishing premium rates for applicable health benefit plans.

"(b) USE OF COMMUNITY-RATING.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (c):

"(A) COMMUNITY RATING WITHIN A BLOCK OF BUSINESS.—The reference premium rate charged for health benefit plans offered with similar benefits to small employers in a community within a block of business for a type of family enrollment (described in subsection (e)) shall be the same for all small employers.

"(B) LIMITING VARIATION ON REFERENCE PREMIUM RATES AMONG BLOCKS OF BUSINESS.—

"(i) IN GENERAL.—Except as provided in clause (iii), the reference premium rate charged for health benefit plans offered with similar benefits to small employers in any community for a type of family enrollment for the most expensive block of business shall not exceed 120 percent of such rate charged for such plan for the same type of family enrollment for the least expensive block of business.

"(ii) ROLE OF REGULATORY AUTHORITY.—An applicable regulatory authority that is a State may reduce or eliminate the percent variation otherwise permitted under clause (i).

"(iii) EXCEPTION.—Clause (i) shall not apply to health benefit plans offered by carriers to small employers in a block of business—

"(I) if the block is one for which the carrier does not reject, and never has rejected, small employers included within the definition of small employers eligible for the block of business or otherwise eligible employees and dependents who enroll on a timely basis,

"(II) the carrier does not involuntarily transfer, and never has involuntarily transferred, a health benefit plan into or out of the block of business, and

"(III) that block of business was available for purchase as of the date of the enactment of this title.

"(2) TRANSITION.—Notwithstanding paragraph (1)—

"(A) during the first effective year (as defined in subsection (f)), the premium rate under a health benefit plan issued by a carrier to any small employer may be as much as, but may not exceed, 150 percent of the reference premium rate for such plans in the same community for similar benefits in the same block of business; or

"(B) during the second effective year, the premium rate under such a policy for any small employer may be as much as, but may not exceed, 122 percent of the reference premium rate for such plans in the same community for similar benefits in the same block of business.

"(3) ESTABLISHMENT OF BLOCKS OF BUSINESS.—For the purpose of establishing premiums for small employer health benefit plans with similar coverage, the carrier may establish blocks of business based only on one or more of the following characteristics:

"(A) Plans that are marketed by clearly different sales forces.

"(B) Plans that have been acquired from another carrier as a distinct group.

"(C) Plans that are managed care plans.

"(D) Plans within another distinct group, if the applicable regulatory authority finds that establishment of such a group will enhance the efficiency and fairness of the small employer insurance marketplace.

"(c) ADJUSTMENTS TO COMMUNITY-RATING.—

"(1) IN GENERAL.—Subject to paragraph (2), a health benefit plan offered by a carrier to a small employer may provide for an adjustment to the reference premium rate based on the age and gender of covered individuals. Any such adjustment shall be applied by the carrier consistently to all small employers, except that adjustment based on gender may only be made during the transition period.

"(2) LIMITATION ON ADJUSTMENT.—

"(A) IN GENERAL.—The adjustment under paragraph (1) may not result, with respect to health benefit plans with similar benefits offered by carriers to small employers in the same block of business in a community, in a premium rate for the most expensive age group exceeding the applicable percent (as defined in subparagraph (B)) of the premium rate for the least expensive age group.

"(B) APPLICABLE PERCENT DEFINED.—In subparagraph (A) but subject to subparagraph (C), the term 'applicable percent' means—

"(i) for the first effective year (as defined in subsection (f)) 200 percent,

"(ii) for the second effective year, 150 percent, and

"(iii) for any subsequent year, 110 percent.

"(C) ROLE OF REGULATORY AUTHORITY.—An applicable regulatory authority that is a State may reduce or eliminate the applicable percent otherwise applied.

"(d) ADJUSTMENT IN RATES PERMITTED IN CASE OF MEDICARE REIMBURSEMENT ELECTION.—A health benefit plan offered by a carrier to a small employer may compute premiums based upon a percentage of the reference premium rate otherwise applicable if the small employer to which the plan is being offered makes the reimbursement election described in section 1314. Any such adjustment shall be applied consistently to all small employers.

"(e) TYPES OF FAMILY ENROLLMENT.—Each health benefit plan offered by a carrier to a small employer shall permit enrollment of (and shall compute premiums separately for) individuals based on each of the following beneficiary classes:

"(1) 1 adult.

"(2) A married couple without children.

"(3) 1 adult and 1 child.

"(4) A married couple with 1 or more children, or 1 adult with 2 or more children.

"(f) EFFECTIVE YEARS DEFINED.—In this section, the terms 'first effective year' and 'second effective year' mean the third and fourth full years beginning after the date of the enactment of this part.

"(g) EXCEPTION FOR SELF-INSURED CARRIERS.—The requirements of this section shall apply to reinsurance carriers and health benefit plans offered by such carriers to small employers.

"BASIC BENEFIT PACKAGE FOR HEALTH BENEFIT PLANS OFFERED TO SMALL EMPLOYERS

"SEC. 1313. (a) IN GENERAL.—

"(1) BENEFITS AND COST-SHARING IN HEALTH BENEFIT PLANS.—Except as provided in paragraph (2) and in section 1303(a), no health benefit plan offered by carriers to small employers may be issued to a small employer unless—

"(A) the plan provides for benefits for all basic health services as defined in section 1182(1);

"(B) the plan does not impose cost-sharing with respect to basic health services in excess of the deductibles and coinsurance permitted under section 2103 with respect to such services; and

"(C) the carrier makes available to the small employer a health benefit plan that, subject to paragraph (2)(C), only provides the benefits for basic health services and the maximum cost-sharing consistent with subparagraphs (A) and (B).

"(2) EXCEPTIONS.—

"(A) REQUIRED OFFERING DOES NOT APPLY TO HMO'S.—Paragraph (1)(C) shall not apply to a health maintenance organization.

"(B) ADDITIONAL, OPTIONAL MINIMUM SERVICES.—In meeting the requirement of paragraph (1)(C), a health benefit plan offered by a carrier to a small employer may include such additional items and services as the carrier can demonstrate to the satisfaction of the applicable regulatory authority that inclusion of such items and services will facilitate appropriate hospital discharges or avoid unnecessary hospitalization.

"(b) MANAGED CARE OPTION.—If a carrier (other than a health maintenance organization or reinsurance carrier) offers health benefit plans to employers that are not small employers, in a community a health benefit plan that is a managed care plan, the carrier must make available to small employers in the community a health benefit plan that is such a managed care plan .

"(c) EXCEPTION FOR REINSURANCE CARRIERS AND PLANS.—The requirements of this section shall not apply to reinsurance carriers and reinsurance plans.

"(d) STANDARDIZATION OF BENEFIT PACKAGES.—The NAIC shall develop a model to standardize benefits to be made available under health benefit plans offered by carriers to small employers in order to promote consumer understanding and comparison among such plans.

"TIME-LIMITED MEDICARE REIMBURSEMENT OPTION FOR HEALTH BENEFIT PLANS OFFERED TO SMALL EMPLOYERS NOT PREVIOUSLY OFFERING INSURANCE COVERAGE

"SEC. 1314. (a) OPTION MUST BE OFFERED.—Each carrier offering a health benefit plan to small employers meeting the requirements of section 351(a) of the HealthAmerica Act shall offer the small employer the option of having payment under the plan made for basic health services at rates no higher than the payment rates established under title XVIII for such benefits. The provisions of section 1848(g)(3) shall not be considered to apply under this subsection.

"(b) APPLICATION OF MEDICARE BILLING LIMITATIONS.—In the case of a small employer that elects the option offered under subsection (a) with respect to a health benefit plan, the limitations on charges that may be made under medicare shall apply to individuals receiving benefits under the plan. The sanctions imposed under the medicare program (and title XI), including exclusion under such program and the imposition of civil money penalties for violations of such limitations, apply to violations of the limitations imposed under this subsection.

"(c) EXCEPTION FOR REINSURANCE PLAN.—Subsection (a) shall not apply to reinsurance plans.

"MISCELLANEOUS DISCLOSURE AND RECORDKEEPING REQUIREMENTS FOR HEALTH BENEFIT PLANS OFFERED TO SMALL EMPLOYERS

"SEC. 1315. (a) DISCLOSURE.—

"(1) GENERAL DISCLOSURE.—Each carrier offering health benefit plans to small employers shall disclose to each small employer before issuing such a plan the following:

"(A) The availability (pursuant to the requirement of section 1313(a)(1)(C)) of a plan including only basic benefits.

"(B) Whether any plan that is a managed care plan or provides for a utilization review program, or both, is available, as required under section 1313(b).

"(C) The option of electing the reimbursement rules, as required under section 1314.

"(D) The limits, imposed under section 1312, on the premiums permitted to be charged for such plans.

"(E) The rights of guaranteed issue and renewability provided under section 1311.

Such disclosure shall be in addition to any disclosure required generally of health benefit plans under section 2725 of the Public Health Service Act.

"(2) SPECIFIC DISCLOSURE UPON REQUEST.—Each carrier offering health benefit plans to small employers shall disclose to small employer, upon request, information concerning the blocks of business established with respect to such plans and the applicable premiums for such plans.

"(3) STANDARD FORMAT.—The disclosure under paragraph (1) shall be made in a uniform format established by the Secretary, after consultation with the NAIC.

"(4) EXCEPTIONS.—Paragraph (1) (other than subparagraphs (D) and (E)) shall not apply to a reinsurance carrier with respect to a reinsurance plan.

"(b) INFORMATION FILED WITH APPLICABLE REGULATORY AUTHORITY.—

"(1) IN GENERAL.—Each carrier offering health benefit plans to small employers shall disclose to the applicable regulatory authority, in a manner specified by the Secretary, information concerning—

"(1) blocks of business established; and

"(2) applicable premiums for health benefit plans.

"(2) ADDITIONAL INFORMATION.—Nothing in this subsection shall be construed as limiting the information which an applicable regulatory authority may require to be reported by carriers.

"NONAPPLICATION IN PUERTO RICO AND THE TERRITORIES

"SEC. 1316. This part shall not apply outside the 50 States or the District of Columbia.

"PART C—ENCOURAGING DEVELOPMENT OF REINSURANCE SYSTEMS

"ENCOURAGING DEVELOPMENT OF REINSURANCE SYSTEMS

"SEC. 1321. (a) DEVELOPMENT OF MODELS.—

"(1) IN GENERAL.—Not later than October 1 of the year following the year in which this title is enacted, the NAIC shall develop several models of legislation for the enactment of reinsurance systems that may be used by States with respect to health insurance policies (including health benefit plans offered to small employers).

"(2) SPECIFIC MODELS.—Such models shall include at least 1 of each of the following 3 models:

"(A) A model providing for voluntary participation by insurers.

"(B) A model providing for insurer participation on a retrospective basis.

"(C) A model providing for the case management of services for individual claims or groups which are reinsured through the system.

"(3) TERMS OF MODELS.—Each of the models—

"(A) shall be consistent with the provisions of this title (including those relating to community-rated premiums), and

"(B) shall include deductibles and coinsurance which—

"(i) limit the amount of risk ceded to the reinsurance system; and

"(ii) encourage insurers to manage health care costs.

"(b) PROTECTION OF HEALTH MAINTENANCE ORGANIZATIONS UNDER REINSURANCE SYSTEMS.—No State may establish or enforce a reinsurance system with respect to health insurance policies unless the system provides for an adjustment in reinsurance premiums (or, in the event of losses to the system, assessments) charged to health maintenance organizations that takes into account—

"(1) the higher premiums charged by such organizations due to the greater coverage provided by such organizations as required by law,

"(2) the limitations under title XIII of the Public Health Service Act on the amount of risk which such an organization can reinsure, and

"(3) the ability of such organizations to manage risk internally.

"(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this title.".

Subtitle B—Tax Equity for Small and Medium-Sized Business

SEC. 321. DEDUCTIBLE HEALTH COVERAGE PROVISIONS.

(a) INCREASE IN DEDUCTIBLE HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS WITHOUT EMPLOYEES.—

(1) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking out "25 percent" and all that follows and inserting in lieu thereof "100 percent of—

"(A) the cost of the lowest cost plan meeting the requirements of the subtitle A of title III of the HealthAmerica Act available in the geographic area in which the individual resides or conducts business, or

"(B) if such individual is enrolled in AmeriCare, the cost of AmeriCare,

paid during the taxable year for the taxpayer, his spouse, and dependents.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning in the third full calendar year after the date of enactment of this Act.

(b) DEDUCTION ALLOWABLE FOR CERTAIN GROUP HEALTH PLAN CONTRIBUTIONS BY SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) (relating to special rules for health insurance costs of self-employed individuals) the following new subsection:

"(m) DEDUCTION ALLOWABLE FOR CERTAIN GROUP HEALTH PLAN CONTRIBUTIONS FOR THE BENEFIT OF SELF-EMPLOYED INDIVIDUALS.—

"(1) IN GENERAL.—For purposes of this section and sections 212, 104, 105, and 106, in the case of a qualified group health plan which provides medical care benefits for any self-employed individual—

"(A) such individual shall be treated as an employee,

"(B) the employer of such individual shall be the person treated as the employer under section 301(c)(4), and

"(C) contributions to such plan for medical benefits for such individual shall be treated as meeting the requirements of subsection (a) and section 212 to the extent such contributions during the taxable year do not exceed the lowest per employee contribution for employees working 25 hours a week or more to the plan made by the employer during such year.

"(2) DEDUCTION CANNOT EXCEED TAXABLE INCOME FROM ACTIVITY.—The deduction allowed to any individual by reason of this subsection for any taxable year shall not exceed the portion of the taxable income of such individual (determined without regard to this subsection) for such year which is allocable or apportionable to such individual's interest in the employer.

"(3) QUALIFIED GROUP HEALTH PLAN.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified group health plan' means, with respect to any self-employed individual, any group health plan (as defined in section 5000(b)(1)) of an employer if—

"(i) such plan is not a self-insured plan, and

"(ii) such plan meets the requirements of subparagraphs (B) and (C).

"(B) ONE-HALF OF PARTICIPANTS MUST BE EMPLOYEES WHO ARE NOT SELF-EMPLOYED INDIVIDUALS OR EMPLOYEE FAMILY MEMBERS OF SUCH INDIVIDUALS.—

"(i) IN GENERAL.—A plan meets the requirements of this subparagraph with respect to any self-employed individual only if at least half of the participants in the plan (on each day of the taxable year of such individual) are employees who are not—

"(I) self-employed individuals to whom a deduction is allowable by reason of this subsection with respect to contributions to such plan, or

"(II) family members of any self-employed individual described in subclause (I).

"(ii) FAMILY MEMBER.—For purposes of clause (i), the term 'family member' means, with respect to an individual, such individual's brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

"(C) SELF-INSURED PLAN.—The term 'self-insured plan' means any plan under which medical care benefits are not provided under a policy of accident and health insurance.

"(4) LOWEST PER EMPLOYEE CONTRIBUTION.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'lowest per employee contribution' means, with respect to any taxable year of a self-employed individual, the smallest contribution made by the employer during such taxable year to the plan with respect to any employee—

"(i) who is not a self-employed individual,

"(ii) with respect to whom a contribution to the plan was made during such year, and

"(iii) who is in the same category of coverage as the self-employed individual.

"(B) CATEGORIES OF COVERAGE.—For purposes of subparagraph (A), the categories of coverage are—

"(i) self only, and

"(ii) self and family.

"(C) SELF-EMPLOYED INDIVIDUALS WHO ARE PARTICIPANTS FOR LESS THAN ENTIRE TAXABLE YEAR.—In the case of a self-employed individual who is a participant in the plan for less than the entire taxable year, the lowest per employee contribution applicable to such individual shall be the same portion of amount determined under subparagraph (A) as the portion of the taxable year during which such individual was a participant in the plan bears to the entire taxable year.

"(D) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) only contributions for coverage during the taxable year shall be taken into account, and

"(ii) the contributions with respect to any employee who is not a participant in the plan for the entire taxable year shall be determined on an annualized basis.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-EMPLOYED INDIVIDUAL.—The term 'self-employed individual' has the meaning given such term by section 301(c)(1)(B).

"(B) MEDICAL CARE BENEFITS.—The term 'medical care benefits' means, with respect to any self-employed individual, compensation for the medical care (as defined in section 213(d)) of such individual, the spouse of such individual, and dependents of such individual.

"(C) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152. Any child to whom section 152(e) applies shall be treated as a dependent of both parents.

"(6) SPECIAL RULES.—

"(A) COORDINATION WITH SECTION 213.—Any amount allowed as a deduction by reason of this subsection shall not be treated as an amount paid for medical care under section 213.

"(B) AGGREGATION OF EMPLOYER PLANS.—If any self-employed individual is a participant in 2 or more qualified group health plans of the employer, all such plans shall be treated as 1 plan for purposes of this subsection.".

(2) TECHNICAL AMENDMENT.—Subsection (g) of section 105 of the Internal Revenue Code of 1986 (relating to self-employed individual not considered an employee) is amended by striking out "For purposes of this section" and inserting in lieu thereof "Except as provided in section 162(m)(1), for purposes of this section".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning in the third full year after the date of enactment of this Act.

SEC. 322. EXCISE TAX FOR VIOLATION OF HEALTH BENEFIT PLAN REQUIREMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980C. VIOLATION OF HEALTH BENEFIT PLAN REQUIREMENTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on an entity's violation of subsection (a) of section 1301 of the Social Security Act. The determination of whether there has been such a violation shall be made by the Secretary of Health and Human Services under such section.

"(b) AMOUNT OF TAX.—The tax imposed by subsection (a) shall be equal to 25 percent of the amounts received by the entity (during the period such a violation persists) for providing any health plan for all blocks of business in all communities.

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by the entity.

"(d) EXCEPTIONS.—

"(1) CORRECTIONS WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) by reason of any violation if—

"(A) such violation was due to reasonable cause and not to willful neglect, and

"(B) such violation is corrected within the 30-day period beginning on earliest date the entity knew, or exercising reasonable diligence could have known, that such a violation was occurring.

"(2) WAIVER BY SECRETARY.—In the case of a violation which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of such tax would be excessive relative to the violation involved.

"(e) DEFINITIONS.—For purposes of this section, the definitions in title XXIII of the Social Security Act shall apply under this section.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end thereof the following new item:

"Sec. 4980C. Violation of health plan requirements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1 of the 4th year beginning after the date of the enactment of this Act.

Subtitle C—Opportunity for Voluntary Provision of Coverage

SEC. 331. MEDIUM-SIZED EMPLOYERS.

(a) EMPLOYERS WITH BETWEEN 25 AND 100 EMPLOYEES.—

(1) IN GENERAL.—No medium-sized employer shall be required to provide a health benefit plan under section 2701 of the Public Health Service Act or make a contribution in lieu of coverage under title V of this Act until the fifth calendar year after the date of enactment of this Act.

(2) APPLICATION OF REQUIREMENTS.—If, during the fourth calendar year after the date of enactment of this Act, the Secretary finds that the total number of employees, excluding part-time employees, of all such employers that have no employment-based health insurance coverage provided through the employers of such employees has been reduced to 25 percent or less of the number of such uninsured employees that existed during the calendar year in which this Act was enacted, the requirement to provide coverage or make a contribution under title V shall apply to employers described in paragraph (1).

(3) PERCENTAGES DURING SUBSEQUENT YEARS.—An employer described in paragraph (1) shall provide the health benefits coverage under this Act, or an amendment made by this Act, or make a contribution under title V if the percentage of the uninsured employees during the fifth calendar year or any subsequent calendar year after the date of the enactment of this Act is more than the 25 percent level described in paragraph (2).

(b) UNINSURED EMPLOYEES.—

(1) YEAR OF ENACTMENT.—For purposes of subsection (a), employees shall be considered uninsured during the calendar year in which this Act is enacted if such employees are not covered under any employment-based health insurance coverage provided through their employer.

(2) FOURTH YEAR.—For purposes of subsection (a), employees shall be considered uninsured during the fourth calendar year after the date of the enactment of this Act if such employees are not covered under any employment-based health insurance coverage provided through their employer that meets the requirements of this Act and the amendments made by this Act.

SEC. 332. MEASUREMENT SURVEYS.

(a) ANNOUNCEMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall publish in the Federal Register an announcement of the survey or surveys to be used by such Secretary in the coverage level of employees described in section 331, and the criteria that will be used to determine such level.

(b) CRITERIA.—The announcement of criteria under subsection (a) shall include a determination, based on the availability of the most reliable survey data available, as to whether the determination of the coverage level shall be based on a measurement of insurance coverage at a point in time or during the course of all or part of a calendar year.

(c) APPLICATION OF ACT.—If the percentage of uninsured employees in the fourth calendar year after the date of the enactment of this Act is equal to or less than the 25 percent level described in section 331(a), the Secretary shall repeat the measurement of such coverage level annually and if, in any calendar year, the Secretary does not find that the number of employees who do not have employer provided health insurance coverage is equal to or less than such 25 percent level, the requirements of this Act or section 2701 of the Public Health Service Act shall apply to all employers described in section 331(a).

SEC. 333. SMALL EMPLOYERS.

Sections 331 and 332 shall apply to small employers, except that the requirement to provide coverage or make a contribution in lieu of coverage under title V shall not be applied until the sixth calendar year after the date of enactment of this Act, and the Secretary shall make the determinations required under such sections to be made in the fourth calendar year, in the fifth calendar year after the date of enactment of this Act.

SEC. 334. FAILURE TO MAKE SURVEYS.

The failure of the Secretary to make the surveys required under this subtitle shall not relieve an employer of the obligation of such employer to provide coverage or make a contribution in lieu of coverage absent a finding by the Secretary that the coverage target has been met.

Subtitle D—Small Business Tax Credit

SEC. 341. ALLOWANCE OF A CREDIT FOR SMALL AND MEDIUM-SIZED BUSINESS GROUP HEALTH PLAN EXPENDITURES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting at the end thereof the following new section:

"SEC. 45. SMALL BUSINESS GROUP HEALTH PLAN EXPENDITURES.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, in the case of an eligible small business, the amount of the qualified group health plan credit for the taxable year shall be an amount equal to the applicable percentage of the qualified group health plan expenditures for such taxable year.

"(2) APPLICABLE PERCENTAGE DEFINED.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable percentage' means 25 percent reduced (but not below 0 percent) by 5 percent for—

"(i) each employee of the eligible small business in excess of 40, or

"(ii) each .1 by which the expanded profit ratio of such business exceeds 1.

"(B) COORDINATION OF MULTIPLE PHASE-OUTS.—If an eligible small business is subject to subparagraphs (A)(i) and (A)(ii), the applicable percentage shall be determined by multiplying the resulting applicable percentage under subparagraph (A)(i) (expressed as a percentage of the credit remaining) by such applicable percentage under subparagraph (A)(ii).

"(C) EXPANDED PROFIT RATIO.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'expanded profit ratio' means the expanded profit of the eligible small business for the taxable year divided by the qualified group health plan expenditures of such business for such year.

"(ii) EXPANDED PROFIT.—For purposes of clause (i), the term 'expanded profit' means the sum of—

"(I) the taxable income of the eligible small business,

"(II) the amount of earned income exceeding the applicable contribution base (as defined in section 3121(x)(1)) for each 5-percent owner of such business, plus

"(III) the total amount of interest and dividends distributed to all owners of such business.

"(b) QUALIFIED GROUP HEALTH PLAN EXPENDITURES; ELIGIBLE SMALL BUSINESS.—For purposes of this section—

"(1) QUALIFIED GROUP HEALTH PLAN EXPENDITURES.—

"(A) IN GENERAL.—The term 'qualified group health plan expenditures' means the aggregate amount of expenditures paid or incurred by the eligible small business for the taxable year for coverage of its employees under a group health plan (as defined in section 5000(b)(1)) which is a health benefit plan (as defined in section 2713(a)(5) of the Public Health Service Act to the extent such expenditures do not exceed $3,000 for each employee, reduced (but not below zero) by 5 percent for each $250 (or fraction thereof) by which the amount of wages paid to such employee by the eligible small business in such taxable year exceeds $15,000.

"(B) LIMIT INDEXED.—In the case of any taxable year beginning in a calendar year after the effective date of this section, the $3,000 amount in subparagraph (A) shall be increased by an amount equal to

"(i) such amount, multiplied by

"(ii) the increase (if any) in the wage index for such calendar year.

"(2) ELIGIBLE SMALL BUSINESS.—

"(A) IN GENERAL.—The term 'eligible small business' means any person which, on an average business day during the preceding taxable year, had no more than 60 employees.

"(B) AGGREGATION RULES.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person.

"(C) EMPLOYEE.—The term 'employee'—

"(i) shall include a self-employed individual as defined in section 401(c)(1), but

"(ii) shall not include an employee who works less than 25 hours per week.

"(c) COORDINATION WITH DEDUCTION.—Any deduction allowable under this chapter for any qualified group health plan expenditures shall be in addition to any credit under section 38 attributable to such expenditures.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of such Code is amended—

(A) by striking "plus" at the end of paragraph (6),

(B) by striking "plus" at the end of paragraph (7), and inserting a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(8) the small business group health plan expenditures credit determined under section 45.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44 the following new item:

"Sec. 45. Small business group health plan expenditures."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning in the third full calendar year after the date of the enactment of this Act.

Subtitle E—Additional Assistance to Small and Medium-Sized Businesses

SEC. 351. OPPORTUNITY TO BUY COVERAGE AT MEDICARE RATES.

(a) ELIGIBILITY.—Businesses with fewer than 100 employees that have not provided coverage to their employees in the calendar year preceding the date of enactment of this Act shall be eligible to buy private health insurance coverage from a small or medium-sized business insurer under which providers of health care services are paid at rules based on Medicare rates as provided for in part C of title XXVII of the Public Health Service Act and title XIII of the Social Security Act, for a period of not to exceed 5 years.

(b) DEFINITION.—As used in this section the term "not provided coverage in the calendar year preceding the date of enactment of this Act" means, with respect to a business, that less than 25 percent of employees working more than 17.5 hours per week for the business received coverage from the business in each of the years.

SEC. 352. SPECIAL PROVISION FOR NEW SMALL BUSINESSES.

In the case of a small employer that normally employs 24 or fewer employees during a year, and that has been an employer for not more than 3 years, such employer shall not be required to provide coverage under this Act or the amendment made by this Act or make a contribution in lieu of coverage under title V for the first two years in which the employer has been an employer. Such employer shall be permitted to meet the requirements of part B of title XXVII of the Public Health Service Act by making a contribution at a rate that is ½ of the rate that would otherwise be required to be paid under this Act.

SEC. 353. SMALL AND MEDIUM-SIZED BUSINESS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary shall establish a small and medium-sized business advisory committee (hereafter referred to in this section as the "committee") that shall provide advice to such Secretary and to the appropriate committees of Congress concerning all provisions of this Act that relate to small and medium-sized businesses.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Secretary shall jointly appoint individuals to serve on the committee, of which—

(A) seven individuals shall be representatives of small or medium-sized businesses;

(B) two individuals shall be representatives of employees of small or medium-sized businesses;

(C) two individuals shall be knowledgeable concerning the small and medium-sized business insurance market; and

(D) two individuals shall be members of the general public.

(2) SMALL AND MEDIUM-SIZED BUSINESS REPRESENTATIVES.—Individuals appointed under paragraph (1)(A) shall—

(A) be selected from geographically diverse regions of the country;

(B) include at least one representative of small or medium-sized businesses that are located in rural areas and one representative of small or medium-sized businesses located in urban areas;

(C) include at least one individual who represents the concerns of minority businesses; and

(D) represent a diversity of businesses.

(3) CHAIRPERSON.—The members of the committee shall elect an individual to serve as chairperson.

(4) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the committee appointed under paragraph (1) shall receive compensation for each day (including travel time) engaged in carrying out the duties of the committee. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

(5) STAFF.—The Secretary shall provide to the committee such staff, information, and other assistance as may be necessary to carry out the duties of the committee.

(6) REGULATIONS.—The Secretary shall promulgate regulations that prescribe the terms to be served by the members of the committee, the procedure for filling vacancies on the committee, and the procedure for holding and administering meetings.

(c) DUTIES.—The committee shall—

(1) perform the advisory functions as described in subsection (a);

(2) analyze the impact of the implementation of this Act and the amendments made by this Act on small and medium-sized businesses and make recommendations to the Secretary and the appropriate committees of Congress concerning appropriate modifications to such Act;

(3) review and provide comments concerning the regulations promulgated pursuant to this Act that impact on small and medium-sized businesses;

(4) monitor the effectiveness of the small insurer reform program established under subtitle A, and make recommendations to the Secretary and the appropriate committees of Congress concerning appropriate modifications in such program;

(5) serve as a channel of communication between the Secretary and the small and medium-sized business communities; and

(6) perform such other functions as the Secretary considers appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE IV—REDUCING HEALTH CARE COST INFLATION

Subtitle A—Outcomes Research and Practice Guideline Development and Dissemination

SEC. 401. INITIAL GUIDELINES AND STANDARDS.

Subsection (d) of section 912 of the Public Health Service Act (as added by section 6103(a) of Public Law 101-239) is amended to read as follows:

"(d) INITIAL GUIDELINES AND STANDARDS.—

"(1) IN GENERAL.—Not later than January 1, 1992, the Administrator shall assure the development of an initial set of guidelines as described in subsection (a)(1) that shall include not less than three clinical treatments or conditions that—

"(A) account for a significant portion of national health expenditures;

"(B) have a significant variation in the frequency or the type of treatment provided; or

"(C) otherwise meet the needs and priorities described in this section.

"(2) MENTAL HEALTH SERVICES.—The Administrator, in consultation with the National Institute of Mental Health and mental health providers, shall develop outcomes research and practice parameters for mental health services, including at least the diagnosis and treatment of childhood attention deficit disorders and manic depression.".

SEC. 402. AMENDMENTS TO THE SOCIAL SECURITY ACT.

Section 1142(i) of the Social Security Act (as added by section 6103(b) of Public Law 101-239) is amended—

(1) in paragraph (1), to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $125,000,000 for fiscal year 1991;

"(B) $175,000,000 for fiscal year 1992;

"(C) $225,000,000 for fiscal year 1993; and

"(D) $275,000,000 for fiscal year 1994."; and

(2) in paragraph (2), by striking out "75 percent" and inserting in lieu thereof "50 percent".

Subtitle B—Federal Health Expenditure Board

SEC. 411. FEDERAL HEALTH EXPENDITURE BOARD.

(a) PUBLIC HEALTH SERVICE ACT.—Title XXVII of the Public Health Service Act (as added under section 101 and amended by section 201 and 311) is further amended by adding at the end thereof the following new part:

"PART D—FEDERAL HEALTH EXPENDITURE BOARD

"SEC. 2761. ESTABLISHMENT AND MEMBERSHIP.

"(a) ESTABLISHMENT.—There is established as an independent agency in the executive branch a Federal Health Expenditure Board (hereafter referred to in this part as the 'Board').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—

"(A) APPOINTMENT.—The Board shall be composed of 11 members to be appointed by the President, by and with the advice and consent of the Senate.

"(B) EX OFFICIO MEMBERS.—The Secretary, the Chairman of the Prospective Payment Assessment Commission and the Chairman of the Physician Payment Review Commission shall serve as ex officio members of the Board.

"(2) REPRESENTATION.—In appointing members to the Board under paragraph (1)(A), the President shall ensure that—

"(A) the interests of health care providers and purchasers are fairly represented; and

"(B) a majority of the members of the Board are experts in health care issues and fairly represent the interests of the general public in having access to quality and affordable health care.

"(3) CHAIRPERSON.—The President shall appoint a member appointed under paragraph (1)(A) to serve as the Chairperson of the Board.

"(4) TERMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the members of the Board appointed under paragraph (1)(A) shall serve for terms of 7 years. Such members may be reappointed.

"(B) INITIAL MEMBERS.—Of the initial members of the Board appointed under paragraph (1)(A)—

"(i) three shall be appointed for a term of 2 years;

"(ii) three shall be appointed for a term of 4 years;

"(iii) three shall be appointed for a term of 6 years; and

"(iv) two shall be appointed for a term of 7 years;

as designated by the President at the time of appointment.

"(5) VACANCIES.—Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(6) QUORUM.—Six members of the Board appointed under paragraph (1)(A) shall constitute a quorum for purposes of conducting the business of the Board, but a lesser number may meet to hold hearings.

"(7) MEETINGS.—The Board shall meet at the call of the Chairperson, or upon motion by not less than six of the members of the Board appointed under paragraph (1)(A), to conduct the business of the Board.

"SEC. 2762. FUNCTIONS AND DUTIES OF THE BOARD.

"(a) IN GENERAL.—The Board shall—

"(1) develop national health care expenditure, access and quality goals;

"(2) convene and oversee negotiations between health care providers and purchasers to develop payment rates and perform other activities necessary to achieve expenditure goals developed under paragraph (1);

"(3) establish recommended payment levels and other recommended measures that may include increased utilization of managed care, increased utilization of alternatives to institutionalization, and procedures for the allocation and limitation of capital investment necessary to achieve health care expenditure, quality and access targets subsequent to the conclusion of required negotiations;

"(4) develop goals for States and regions that are consistent with national goals established under paragraph (1);

"(5) prepare and submit, to the President, the appropriate committees of Congress and to the general public, an annual report concerning the success in achieving the goals established under paragraph (1), together with such recommendations as the Board considers appropriate to further the objectives of providing access to affordable, quality health care;

"(6) establish uniform billing and claim forms and mandatory reporting requirements to—

"(A) measure the success in meeting the goals established under paragraph (1);

"(B) permit the Board, to the extent practicable, to analyze data acquired under such reporting requirements for individual providers to assist purchasers and consumers in evaluating the quality and cost of care offered by different providers; and

"(C) reduce the administrative cost of the health care system;

"(7) recommend rates, budgets and such other measures as may be appropriate and consistent with expenditure goals developed by negotiators or the Board under this part to assure access to quality affordable health care under Federal health insurance programs and programs under which the Federal Government enters into contracts for the delivery of health care;

"(8) conduct studies, issue reports, and gather and disseminate data to the Congress, the President and the general public, to contribute to the objective of providing access to high-quality affordable health care;

"(9) cooperate with State-based consortium established under section 2781; and

"(10) carry out any other activities determined by the Board to be necessary to further the goal of making available affordable, accessible, high quality health care in the United States.

"(b) PERSONNEL, SERVICES, REGULATIONS.—The Board may, for the purpose of performing its duties and carrying out its functions under this part—

"(1) employ such personnel as it considers necessary to perform administrative, clerical, technical and other duties;

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable; and

"(3) prescribe regulations necessary to carry out the functions and duties of the Board under this part.

"SEC. 2763. DEVELOPMENT OF NATIONAL HEALTH CARE EXPENDITURE, ACCESS, AND QUALITY GOALS.

"(a) EXPENDITURE GOALS.—

"(1) IN GENERAL.—The Board shall, to the extent practicable, develop national expenditure goals under section 2762(a)(1) applicable to the total amount to be expended in the United States for health care. To the extent practicable, such goals shall contain a separate expenditure breakdown for—

"(A) hospital services;

"(B) physician services;

"(C) laboratory services;

"(D) pharmaceutical products;

"(E) durable medical equipment; and

"(F) such other health services or sectors, including subdivisions of the sectors described in this paragraph, other than long-term care services, as the Board determines appropriate.

"(2) CONSIDERATIONS.—In developing expenditure goals under paragraph (1), the Board shall take into consideration—

"(A) the aging of the population and such other factors as may affect the demand for health care in the future;

"(B) general inflation factors and the costs related to inflation in labor and other inputs used to produce health services;

"(C) technological advances that may increase or decrease health care costs;

"(D) appropriate improvements in health care productivity;

"(E) feasible reductions in unnecessary health care;

"(F) the need to assure that all sectors of the population have adequate access to health care services;

"(G) the impact and availability of such goals on the quality of health care; and

"(H) such other factors as the Board determines appropriate.

"(b) Quality goals.—

"(1) Development.—The Board shall, to the extent practicable, develop national goals under section 2762(a)(1) for improving the quality of the health care system of the United States. Such goals shall include recommendations for improving the quality of health care provided in the United States and establish a system of measuring the progress made in achieving such goals.

"(2) Data and studies.—The Board shall collect such data and conduct such studies as may be necessary to carry out paragraph (1).

"(c) Access goals.—

"(1) Development.—The Board shall, to the extent practicable, develop national goals under section 2762(a)(1) for improving access to the health care system for all Americans. Such goals shall include recommendations for achieving such goals and establish a system of measuring progress made in achieving such goals.

"(2) Data and studies.—The Board shall collect such data and conduct such studies as may be necessary to carry out paragraph (1).

"(d) State and Regional Goals.—In carrying out its functions under this section, the Board shall develop separate goals for each State and region, based on an adjustment of the national goals, to reflect the demographic characteristics and other relevant characteristics of such States and regions.

"(e) Timing.—The Board shall, not later than June 30 of each year, develop preliminary goals under this section and, not later than December 1 of each year, develop final goals and the recommended payment rates and other measures necessary to achieve such goals.

"SEC. 2764. HEALTH CARE PROVIDER AND PURCHASER NEGOTIATIONS.

"(a) Requirement of Negotiations to Achieve Goals.—The Board shall convene appropriate representatives of health care providers and purchasers recognized or appointed as negotiators under section 2765 to negotiate concerning terms and conditions related to the provision of health care to achieve the expenditure goals developed under section 2763(a). The Board shall adopt a negotiating process that shall be followed by such negotiators.

"(b) Obligation to Bargain in Good Faith.—It shall be the obligation of negotiators participating in negotiations under subsection (a) to bargain in good faith and consistent with the processes established by the Board.

"(c) Time for Negotiations.—The negotiations required under subsection (a) shall be commenced not later than July 1, and shall be completed not later than September 31, of each year unless such time period is extended by the Board.

"(d) Sectors for Negotiations.—The Board shall require negotiations under subsection (a) for the achievement of the expenditure goals for physician and hospital care. The Board may require that negotiations also be convened under such subsection concerning other health care sectors of the type referred to in section 2763(a)(1), including subdivisions of sectors, to the extent determined to be appropriate and feasible by the Board.

"(e) Content of Negotiations.—

"(1) In general.—Negotiators participating in negotiations under subsection (a) shall attempt to agree on recommendations to be submitted to the Board concerning a health care payment system and uniform payment rates, together with other appropriate recommendations for achieving the expenditure goals developed under section 2763(a).

"(2) Achievement of goals.—In developing recommendations under paragraph (1), the negotiators shall attempt to ensure that such recommended payment system, payment rates, and other recommended measures will, if implemented, will result in the achievement of the expenditure goals developed under section 2763(a).

"SEC. 2765. NEGOTIATION REQUIREMENTS.

"(a) Negotiation by Sector.—In each sector selected by the Board under section 2764(d) as a sector in which negotiations shall be conducted, negotiators representing providers of health care and purchasers of health care shall be selected in accordance with this section. The Board shall determine which individuals, organizations, and institutions are eligible for representation as providers or purchasers in each sector.

"(b) Health Care Providers.—

"(1) In general.—

"(A) Petition.—An organization (through a representative of such organization) or an individual that desires to be a negotiator on behalf of health care providers under this section shall submit a petition requesting such to the Board. Such petition shall include any authorizations of representation that such organization or individual has received on behalf of health care providers, in such form and meeting such requirements as the Board may require.

"(B) General approval.—An organization or individual submitting a petition under subparagraph (A) that contains authorizations of representation from not less than 25 percent of the health care providers in a sector, as determined by the Board, shall be approved by the Board as a negotiator for providers with respect to that sector.

"(C) Exclusive negotiator.—An organization or individual submitting a petition under subparagraph (A) that contains authorizations of representation from not less than 50 percent of the health care providers in a sector, as determined by the Board, shall be approved by the Board as the exclusive negotiator for providers with respect to that sector.

"(D) Appointment.—If no organization or individual submits a petition under subparagraph (A) that contains authorizations of representation from 25 percent or more of the health care providers in a sector, as determined by the Board, the Board shall—

"(i) appoint a negotiator or negotiators to represent such providers; or

"(ii) establish an election procedure for the election of a negotiator or negotiators for such providers.

"(2) Institutional sectors.—In the case of a health care sector in which health care services are delivered primarily through institutions or organizations, the Board shall establish a procedure to select negotiators to represent such institutions and organizations that is based on a weighted designation of all such institutions and organizations after consideration of the revenues or number of patients served by such institutions or organizations or based on such other measure as the Board determines appropriate.

"(c) Purchasers.—

"(1) In general.—

"(A) Petition.—An organization (through a representative of such organization) or an individual that desires to be a negotiator on behalf of health care purchasers under this section shall submit a petition requesting such to the Board. Such petition shall include any authorizations of representation that such organization or individual has received on behalf of health care purchasers.

"(B) General approval.—An organization or individual submitting a petition under subparagraph (A) that contains authorizations of representation from not less than 25 percent of the health care purchasers in a sector, as determined by the Board, shall be approved by the Board as a negotiator for purchasers with respect to that sector.

"(C) Exclusive negotiator.—An organization or individual submitting a petition under subparagraph (A) that contains authorizations of representation from not less than 50 percent of the health care purchasers in a sector, as determined by the Board, shall be approved by the Board as the exclusive negotiator for purchasers with respect to that sector.

"(D) Appointment.—If no organization or individual submits a petition under subparagraph (A) that contains authorizations of representation from 25 percent or more of the health care purchasers in a sector, as determined by the Board, the Board shall—

"(i) appoint a negotiator or negotiators to represent such purchasers; or

"(ii) establish an election procedure for the election of a negotiator or negotiators for such purchasers.

"(2) Determinations.—If the Board designates employment-based health benefit plans as all or some of the purchasers entitled to be represented in negotiations for a sector, the Board shall establish a procedure for determining whether the 25 percent or 50 percent requirements are met for purposes of subparagraphs (B) and (C) of paragraph (1), based on a weighted designation that considers the number of individuals covered by the health benefits plan of the purchaser, the total expenditures under such plans, or such other measure as the Board determines appropriate. In the case of health benefit plans provided pursuant to a collective bargaining agreement, for purposes of the weighted designation, 50 percent of the costs of or individuals covered under such plan shall be assigned to the union and 50 percent to the appropriate employer or employers. If the Board designates other categories of purchasers, a similar procedure shall be utilized.

"(d) Continued Approval as Negotiators, Limitation.—

"(1) Establishment of procedures.—The Board shall establish procedures for the withdrawal of approvals granted to organizations or individuals under subsections (b)(1) or (c)(1).

"(2) Exclusive negotiators.—

"(A) Petition for initiation of procedures.—The Board may initiate procedures under paragraph (1) to withdraw the approval of an exclusive negotiator under subsection (b)(1)(C) or (c)(1)(C), if not less than 30 percent of the health care providers or purchasers in the appropriate sector file a petition with the Board for such withdrawal.

"(B) Vote on withdrawal.—If the Board determines that a petition received under subparagraph (A) is valid, the Board shall arrange for a vote to take place among the appropriate purchasers or providers to determine whether to withdraw the approval that is the subject of such petition. If in excess of 50 percent of such providers or purchasers vote to withdraw such approval, the Board shall certify that such approval is withdrawn and initiate procedures to select a new negotiator or negotiators.

"(3) LIMITATION AND ELECTION.—

"(A) LIMITATION.—With respect to a sector in which no exclusive negotiator has been approved under subsection (b)(1)(C) or (c)(1)(C), the Board may not grant approvals to organizations and individuals under paragraph (1)(B) of each such subsection, as applicable, in a manner that would result in the approval of individuals and organizations representing in excess of 100 percent of the purchasers or providers.

"(B) ELECTION.—In the event that petitions are received (whether or not approvals have previously been granted) under subsection (b)(1)(B) or (c)(1)(C), from organizations or individuals cumulatively representing in excess of 100 percent of the purchasers or providers in a sector the Board shall conduct an election among such qualified organizations or individuals to determine which such organizations and individuals will be approved or have their approval continued.

"(4) PERIOD OF DESIGNATION.—No organization or individual shall be a negotiator or an exclusive negotiator for more than a 5-year period without being recertified as a negotiator or exclusive negotiator in the same manner as the original designation was made under this section.

"(5) TIMING.—Any vote or election held under this subsection to determine the negotiators for a particular year, shall be completed prior to June 30 of that year. Votes or elections completed after such date shall apply to the negotiations for the following year.

"SEC. 2766. REQUIREMENTS FOR RECOMMENDED PAYMENT SYSTEMS AND RATES.

"(a) HOSPITALS.—

"(1) NEGOTIATED AGREEMENT.—A payment system for hospitals that is recommended in an agreement negotiated pursuant to section 2767 shall be based on the hospital payment system established under title XVIII of the Social Security Act, except that the Board may approve or adopt an alternative payment system.

"(2) ALTERNATIVE PAYMENT SYSTEM.—An alternative payment system approved or adopted under paragraph (1) shall provide for the adjustment of payment rates to reflect the differences in costs between different types of hospitals to the extent that such costs represent appropriate differences in the costs of delivering care efficiently and effectively in different types of hospitals or are necessary to achieve other public policy objectives, as determined by the Board. Such a payment system shall reflect geographic differences in labor and to the extent feasible, other input costs, capital and other needs to maintain adequate access to care and quality of care. To the extent desirable and feasible, the negotiators shall recommend, and the Board shall approve, special treatment for managed care programs.

"(b) PHYSICIANS.—

"(1) NEGOTIATED AGREEMENT.—A payment system for physicians that is recommended in an agreement negotiated pursuant to section 2767 shall be based on the physician payment system established under title XVIII of the Social Security Act, except that the Board may approve or adopt an alternative payment system.

"(2) ALTERNATIVE PAYMENT SYSTEM.—An alternative payment system approved or adopted under paragraph (1) shall reflect geographic differences in practice costs insofar as those differences reflect the cost of economical and efficient provision of quality care, and shall promote an appropriate distribution of primary and specialty care. To the extent desirable and feasible, the negotiators shall recommend, and the Board shall approve, special treatment for managed care programs.

"SEC. 2767. OUTCOME OF NEGOTIATIONS, AGREEMENTS.

"(a) AGREEMENT.—If a majority of the negotiators (in the case of multiple negotiators) for the providers and a majority of the negotiators (in the case of multiple negotiators) for the purchasers, for a particular sector, agree to recommend a proposal under this part to the Board, such proposal shall be considered to have been agreed to by the negotiators.

"(b) BINDING NATURE OF AGREEMENTS.—If a negotiated agreement is reached, pursuant to subsection (a), concerning a health services rate structure, or concerning any other matter that would lead to the achievement of the goals developed by the Board under section 2763, or an alternative goal accepted by the Board under subsection (c), and such agreement, in the judgment of the Board, will lead to the achievement of such goals, the Board shall promulgate regulations implementing such rates and other matters and such rates and other matters shall be binding on providers and purchasers in the sector to which such agreement applies.

"(c) AGREEMENT ON DIFFERENT GOAL.—If the negotiators reach an agreement, pursuant to subsection (a), concerning a goal that is different than a goal that has been developed by the Board under section 2763, the Board shall adopt such agreed upon goal if the Board determines that it would be in the best interest of the general public to adopt such goal. The Board, on a rejection of such alternative agreed upon goal, may request that the negotiators attempt to reach a negotiated agreement concerning the original goal under section 2763, and such other measures to achieve such original goal, and may promulgate regulations recommending rates and other matters to achieve the original goal.

"(d) EFFECT OF NO AGREEMENT.—

"(1) IN GENERAL.—If the negotiators for a particular sector fail to reach a negotiated agreement, pursuant to subsection (a), concerning a goal established under section 2763, the Board shall promulgate regulations recommending advisory rates and other matters necessary to achieve such goals. Such advisory rates and other matters shall not be binding on health care providers and purchasers.

"(2) CONSTRUCTION.—Notwithstanding any other provision of law, health care purchasers may combine for the purpose of agreeing to pay health care providers for services at rates recommended pursuant to paragraph (1). Notwithstanding any other provision of law, health care providers may combine for the purpose of agreeing to charge for services at rates recommended pursuant to paragraph (1).

"(e) TECHNICAL ASSISTANCE.—The Board shall provide technical assistance to negotiators, including estimates of the effect on expenditure goals of alternative proposals and estimates of utilization changes that can be expected under different proposals. The Board may recommend a proposal to achieve expenditure goals for the consideration of the negotiators. The Board may make available professional mediation and conciliation services to the negotiators.

"SEC. 2768. ENFORCEMENT.

"(a) IN GENERAL.—A health care provider assessing rates other than those required under regulations promulgated by the Board under this part, or failing to comply in any other manner with such regulations, or a health care purchaser paying rates other than those required under such regulations, except in the case of an alternative rate or method established under subsections (a)(2) and (b)(2) of section 2766, shall—

"(1) be ineligible for any assistance under this Act; and

"(2) be liable to the United States for a civil penalty for such failure in an amount not to exceed $50,000 in the case of an individual and $500,000 in the case of an organization, as provided for in subsection (b).

"(b) CIVIL ACTIONS.—

"(1) IN GENERAL.—A civil penalty under subsection (a)(2) shall be assessed by the Board on a health care provider or purchaser by an order made on the record after an opportunity for a hearing on any disputed issues of material fact and the amount of the penalty. In the course of any investigation or hearing under this paragraph, the Board or its designees may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(2) AMOUNT.—In determining the amount of a civil penalty under paragraph (1), the Board shall take into account the nature, circumstances, extent, and gravity of the act subject to penalty, the ability to pay, the effect on the ability to continue to do business, any history of prior, similar acts, and such other matters as the Board determines appropriate.

"(3) LIMITATION ON ACTIONS.—The Board may not initiate an action under this subsection with respect to any noncompliance described in subsection (a) that occurred before the date of the enactment of this section.

"(c) INJUNCTIVE RELIEF.—The Board shall have the power, upon the initiation of an action regarding noncompliance with a provision of this part, to petition any United States district court, within any district wherein such noncompliance is alleged to have occurred, for appropriate temporary injunctive relief. Upon the filing of any such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant the Board such temporary injunctive relief as the court determines to be appropriate.

"(d) JUDICIAL REVIEW.—Any health care provider or purchaser that is the subject of an adverse decision under subsection (b)(1) or subsection (c) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the provider or purchaser resides, by filing in such court (within 60 days following the date the purchaser or provider is notified of the decision of the Board) a petition requesting that the decision be modified or set aside.

"SEC. 2769. OTHER GOVERNMENT PROGRAMS.

"The Board shall promulgate regulations recommending advisory rates and other matters necessary to achieve the goals established under section 1172 for all Federal programs (other than the program under titles XVIII, XIX and XXI of the Social Security Act) that reimburse providers on a fee, charge, or cost basis or charge third-party providers on such basis. Such nonbinding rates shall be consistent with the rates promulgated by the Board under sections 1176 and 1178, except that Federal payments resulting from such rates shall be no greater than such payments would have been if determined without regard to this section through the fifth full fiscal year after the date of enactment of this section.

"SEC. 2770. ROLE OF STATES.

"(a) ALTERNATIVE SYSTEMS, ETC.—A State consortia established under section 2781 may, with the approval of the Board, establish an alternative payment system, rates, and methods for achieving goals developed by the Board under section 2763.

"(b) APPROVAL.—The Board shall approve alternative payment systems, rates, and methods under subsection (a) if Board determines that such alternative systems, rates, or methods would result in a level of health care expenditures in the State that achieves the national goals developed under section 2763, adjusted to the State level. If the Board determines that such national goals would not be achieved through the proposed alternative systems, rates or methods, the rates or other matters that apply to the State under regulations promulgated by the Board shall remain binding in the State. Such Board approval is only necessary where binding payment systems, rates and methods are not promulgated under a negotiated agreement.

"(c) STANDARD FOR DETERMINATION.—In making a determination under subsection (b), the Board shall consider the effect of the alternative systems, rates or methods, with respect to the goals established under section 2763, on the State as a whole rather than on particular health care sectors in the State.

"SEC. 2771. UNIFORM BILLING AND MANDATORY REPORTING.

"(a) IN GENERAL.—The Board shall establish a system of uniform billing and reporting, as required under subsection (c), that will enable the Board to determine the progress made in meeting the goals established under section 2763, to provide information for health care providers and purchasers to assist such providers and purchasers in providing and obtaining efficiently provided quality health care, and to reduce administrative costs of the health care system.

"(b) GENERAL REPORTING AND DATA REQUIREMENTS.—The Board shall—

"(1) develop a computerized system for the collection, analysis, and dissemination of data required to be collected under this part;

"(2) establish one or more uniform claims and billing form as required in subsection (c)(2) to be utilized by all data sources and providers;

"(3) audit information provided by health care providers on a sample basis or in situations where there exists reasonable cause for such an audit; and

"(4) issue public reports concerning health care costs and the effectiveness of the health care provided by health care providers.

"(c) DATA COLLECTION.—

"(1) IN GENERAL.—Data sources shall submit to the Board, on the request of the Board, all data required to be submitted under this part in accordance with the uniform submission formats, coding systems, and other technical specifications established by the Board to assure that such incoming data is substantially valid, consistent, compatible and manageable.

"(2) UNIFORM CLAIMS AND BILLING FORMS.—Data shall be collected by the Board through the use of one or more Federal Uniform Claims and Billing Forms developed by the Board and utilized by providers and purchasers of health care that shall, at a minimum, include—

"(A) a uniform patient identifier;

"(B) the date of birth of the patient;

"(C) the gender of the patient;

"(D) the ZIP Code of the patient;

"(E) the date of admission of the patient for inpatient hospital services;

"(F) the date of discharge of the patient referred to in subparagraph (E);

"(G) the principal and secondary diagnoses of the patient;

"(H) the principal and secondary procedures to be followed in treating the patient;

"(I) a uniform health care facility identifier;

"(J) uniform identifiers of physicians and treating the patient;

"(K) for services provided in an inpatient setting, the total charges of the health care facility treating the patient, segregated into major categories determined appropriate by the Board;

"(L) the amounts of actual payments made to the treating health care facility;

"(M) the amounts of the charges of each physician or professional rendering service to the patient;

"(N) the services provided in an inpatient setting;

"(O) the amounts of actual payments made to each physician or professional rendering service to the patient;

"(P) a uniform identifier of the primary payor;

"(Q) the ZIP Code of the facility where service is rendered to the patient;

"(R) the patient discharge status; and

"(S) such other material as the Board determines necessary or useful to carry out the duties of the Board or to provide adequate information to purchasers of health care to assist such purchasers in appropriately paying for services.

"(3) MEASURE OF SERVICE EFFECTIVENESS.—

"(A) DEVELOPMENT OF METHODOLOGY.—To the extent practical and as rapidly as feasible, the Secretary shall develop and implement a methodology or methodologies that will measure the effectiveness of the health care service provided by health care providers.

"(B) INCLUSION IN UNIFORM BILLING FORM.—To the extent practical and as rapidly as feasible, the Secretary shall include in the uniform claims and billing forms or in other data collection instruments established under subsection (b) data necessary to provide the Secretary with information concerning each service provided by health care providers that is sufficient to enable the Secretary to analyze the quality, cost, and service effectiveness of the provider.

"(4) ADDITIONAL DATA.—The Board may collect additional data, including audited annual financial reports of all hospitals and ambulatory service facilities, medicare cost reports, information on capital expenditures, and any other data that the Board determines necessary to carry out its responsibilities under this part.

"(5) RECOMMENDATIONS.—The Board shall make recommendations to the committees of Congress, the President, and the insurance industry concerning methods to reduce the cost and burden of duplication or excessive reporting requirements imposed on health care providers.

"(d) REPORTS.—

"(1) IN GENERAL.—The Board, not less than once each calendar year, shall for every health care provider for which sufficient data is available, prepare and make available reports that shall, to the extent practicable and scientifically valid, contain data in a form that will provide the most useful information to purchasers of health care services regarding such providers to enable such purchasers to compare providers on the basis of cost and quality.

"(2) AVAILABILITY.—The Secretary shall advertise and make available all reports prepared under paragraph (1) to the general public, including any dissents submitted by health care providers.

"(3) RECOMMENDATIONS.—The Board shall make recommendations to the appropriate committees of Congress, the President, and the insurance industry concerning methods to reduce the cost and burden of duplicative or excessive reporting requirements imposed on health care providers.

"(e) DEFINITION.—As used in this section, the term 'data sources' means classes of entities and individuals that the Board designates as data sources.

"SEC. 2772. ANNUAL REPORTS.

"Not later than June 30 of each year, the Board shall prepare and submit to the President, the appropriate committees of Congress and the general public, a report concerning the success in attaining expenditure, access, and quality goals developed under section 2763, and containing recommendations for additional measures, if any, that the Board determines are necessary to achieve such goals.

"SEC. 2773. DEFINITIONS.

"As used in this part:

"(1) PROVIDER.—The term 'provider' means a physician, hospital, health maintenance organization, pharmacy, laboratory, or other provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient enrolled in a managed care plan.

"(2) PURCHASER.—The term 'purchaser' means an entity that pays for the services of providers, including in the case of a health benefit plan provided pursuant to a collective bargaining agreement, the labor union that has negotiated for such plan on behalf of employees shall be considered to be a purchaser.

"SEC. 2774. EFFECTIVE DATES.

"The Board shall develop the goals under section 2763 for each calendar year beginning not later than the second full calendar year after the date of enactment of this part. The Board shall establish the negotiating procedures required under section 2714(a) for each calendar year beginning not later than the third calendar year after the date of enactment of this part.".

(b) SOCIAL SECURITY ACT.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new part:

"PART C—FEDERAL HEALTH EXPENDITURE BOARD

"FUNCTIONS AND DUTIES OF THE FEDERAL HEALTH EXPENDITURE BOARD

"SEC. 1171. (a) IN GENERAL.—The Federal Health Expenditure Board (hereafter in this part referred to as the 'Board') shall—

"(1) develop national health care expenditure, access and quality goals;

"(2) convene and oversee negotiations between health care providers and purchasers to develop payment rates and perform other activities necessary to achieve expenditure goals developed under paragraph (1);

"(3) establish recommended payment levels and other recommended measures that may include increased utilization of managed care, increased utilization of alternatives to institutionalization, and procedures for the allocation and limitation of capital investment necessary to achieve health care expenditure, quality, and access targets subsequent to the conclusion of required negotiations;

"(4) develop goals for States and regions that are consistent with national goals established under paragraph (1);

"(5) prepare and submit, to the President, the appropriate committees of Congress and to the general public, an annual report concerning the success in achieving the goals established under paragraph (1), together with such recommendations as the Board considers appropriate to further the objectives of providing access to affordable, quality health care;

"(6) establish uniform billing and claims forms and mandatory reporting requirements to—

"(A) measure the success in meeting the goals established under paragraph (1);

"(B) permit the Board, to the extent practicable, to analyze data acquired under such reporting requirements for individual providers to assist purchasers and consumers in evaluating the quality and cost of care offered by different providers; and

"(C) reduce the administrative cost of the health care system;

"(7) recommend rates, budgets, and such other measures as may be appropriate and consistent with expenditure goals developed by negotiators or the Board under this part to assure access to quality affordable health care under Federal health insurance programs and programs under which the Federal Government enters into contracts for the delivery of health care;

"(8) conduct studies, issue reports, and gather and disseminate data to the Congress, the President, and the general public, to contribute to the objective of providing access to high-quality affordable health care;

"(9) cooperate with State-based consortium described under part D of this title; and

"(10) carry out any other activities determined by the Board to be necessary to further the goal of making available affordable, accessible, high quality health care in the United States.

"(b) PERSONNEL, SERVICES, REGULATIONS.—The Board may, for the purpose of performing its duties and carrying out its functions under this part—

"(1) employ such personnel as it considers necessary to perform administrative, clerical, technical and other duties;

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable; and

"(3) prescribe regulations necessary to carry out the functions and duties of the Board under this part.

"DEVELOPMENT OF NATIONAL HEALTH CARE EXPENDITURE, ACCESS, AND QUALITY GOALS

"SEC. 1172. (a) EXPENDITURE GOALS.—

"(1) IN GENERAL.—The Board shall, to the extent practicable, develop national expenditure goals under section 1171(a)(1) applicable to the total amount to be expended in the United States for health care. To the extent practicable, such goals shall contain a separate expenditure breakdown for—

"(A) hospital services;

"(B) physician services;

"(C) laboratory services;

"(D) pharmaceutical products;

"(E) durable medical equipment; and

"(F) such other health services or sectors, including subdivisions of the sectors described in this paragraph, other than long-term care services, as the Board determines appropriate.

"(2) CONSIDERATIONS.—In developing expenditure goals under paragraph (1), the Board shall take into consideration—

"(A) the aging of the population and such other factors as may affect the demand for health care in the future;

"(B) general inflation factors and the costs related to inflation in labor and other inputs used to produce health services;

"(C) technological advances that may increase or decrease health care costs;

"(D) appropriate improvements in health care productivity;

"(E) feasible reductions in unnecessary health care;

"(F) the need to assure that all sectors of the population have adequate access to health care services;

"(G) the impact of such goals on the quality and availability of health care; and

"(E) such other factors as the Board determines appropriate.

"(b) QUALITY GOALS.—

"(1) DEVELOPMENT.—The Board shall, to the extent practicable, develop national goals under section 1171(a)(1) for improving the quality of the health care system of the United States. Such goals shall include recommendations for improving the quality of health care provided in the United States and establish a system of measuring the progress made in achieving such goals.

"(2) DATA AND STUDIES.—The Board shall collect such data and conduct such studies as may be necessary to carry out paragraph (1).

"(c) ACCESS GOALS.—

"(1) DEVELOPMENT.—The Board shall, to the extent practicable, develop national goals under section 1171(a)(1) for improving access to the health care system for all Americans. Such goals shall include recommendations for achieving such goals and establish a system of measuring progress made in achieving such goals.

"(2) DATA AND STUDIES.—The Board shall collect such data and conduct such studies as may be necessary to carry out paragraph (1).

"(d) STATE AND REGIONAL GOALS.—In carrying out its functions under this section, the Board shall develop separate goals for each State and region, based on an adjustment of the national goals, to reflect the demographic characteristics and other relevant characteristics of such States and regions.

"(e) TIMING.—The Board shall, no later than June 30 of each year, develop preliminary goals under this section and, not later than December 1 of each year, develop final goals and the recommended payment rates and other measures necessary to achieve such goals.

"HEALTH CARE PROVIDER AND PURCHASER NEGOTIATIONS

"SEC. 1173. (a) REQUIREMENT OF NEGOTIATIONS TO ACHIEVE GOALS.—The Board shall convene appropriate representatives of health care providers and purchasers recognized or appointed as negotiators under section 1174 to negotiate concerning terms and conditions related to the provision of health care to achieve the expenditure goals developed under section 1172(a). The Board shall adopt a negotiating process that shall be followed by such negotiators.

"(b) OBLIGATION TO BARGAIN IN GOOD FAITH.—It shall be the obligation of negotiators participating in negotiations under subsection (a) to bargain in good faith and consistent with the processes established by the Board.

"(c) TIME FOR NEGOTIATIONS.—The negotiations required under subsection (a) shall be commenced not later than July 1, and shall be completed not later than September 31, of each year unless such time period is extended by the Board.

"(d) SECTORS FOR NEGOTIATIONS.—The Board shall require negotiations under subsection (a) for the achievement of the expenditure goals for physician and hospital care. The Board may require that negotiations also be convened under such subsection concerning other health care sectors of the type referred to in section 1172(a)(1), including subdivisions of sectors, to the extent determined to be appropriate and feasible by the Board.

"(e) CONTENT OF NEGOTIATIONS.—

"(1) IN GENERAL.—Negotiators participating in negotiations under subsection (a) shall attempt to agree on recommendations to be submitted to the Board concerning a health care payment system and uniform payment rates, together with other appropriate recommendations for achieving the expenditure goals developed under section 1172(a).

"(2) ACHIEVEMENT OF GOALS.—In developing recommendations under paragraph (1), the negotiators shall attempt to ensure that such recommended payment system, payment rates, and other recommended measures will, if implemented, will result in the achievement of the expenditure goals developed under section 1172(a).

"NEGOTIATION REQUIREMENTS

"SEC. 1174. (a) NEGOTIATION BY SECTOR.—In each sector selected by the Board under section 1173(d) as a sector in which negotiations shall be conducted, negotiators representing providers of health care and purchasers of health care shall be selected in accordance with this section. The Board shall determine which individuals, organizations, and institutions are eligible for representation as providers or purchasers in each sector.

"(b) HEALTH CARE PROVIDERS.—

"(1) IN GENERAL.—

"(A) PETITION.—An organization (through a representative of such organization) or an individual that desires to be a negotiator on behalf of health care providers under this section shall submit a petition requesting such to the Board. Such petition shall include any authorizations of representation that such organization or individual has received on behalf of health care providers, in such form and meeting such requirements as the Board may require.

"(B) GENERAL APPROVAL.—An organization or individual submitting a petition under subparagraph (A) that contains authorizations of representation from not less than 25 percent of the health care providers in a sector, as determined by the Board, shall be approved by the Board as a negotiator for providers with respect to that sector.

"(C) EXCLUSIVE NEGOTIATOR.—An organization or individual submitting a petition under subparagraph (A) that contains authorizations of representation from not less than 50 percent of the health care providers in a sector, as determined by the Board, shall be approved by the Board as the exclusive negotiator for providers with respect to that sector.

"(D) APPOINTMENT.—If no organization or individual submits a petition under subparagraph (A) that contains authorizations of representation from 25 percent or more of the health care providers in a sector, as determined by the Board, the Board shall—

"(i) appoint a negotiator or negotiators to represent such providers; or

"(ii) establish an election procedure for the election of a negotiator or negotiators for such providers.

"(2) INSTITUTIONAL SECTORS.—In the case of a health care sector in which health care services are delivered primarily through institutions or organizations, the Board shall establish a procedure to select negotiators to represent such institutions and organizations that is based on a weighted designation of all such institutions and organizations after consideration of the revenues or number of patients served by such institutions or organizations or based on such other measure as the Board determines appropriate.

"(c) PURCHASERS.—

"(1) IN GENERAL.—

"(A) PETITION.—An organization (through a representative of such organization) or an individual that desires to be a negotiator on behalf of health care purchasers under this section shall submit a petition requesting such to the Board. Such petition shall include any authorizations of representation that such organization or individual has received on behalf of health care purchasers.

"(B) GENERAL APPROVAL.—An organization or individual submitting a petition under subparagraph (A) that contains authorizations of representation from not less than 25 percent of the health care purchasers in a sector, as determined by the Board, shall be approved by the Board as a negotiator for purchasers with respect to that sector.

"(C) EXCLUSIVE NEGOTIATOR.—An organization or individual submitting a petition under subparagraph (A) that contains authorizations of representation from not less than 50 percent of the health care purchasers in a sector, as determined by the Board, shall be approved by the Board as the exclusive negotiator for purchasers with respect to that sector.

"(D) APPOINTMENT.—If no organization or individual submits a petition under subparagraph (A) that contains authorizations of representation from 25 percent or more of the health care purchasers in a sector, as determined by the Board, the Board shall—

"(i) appoint a negotiator or negotiators to represent such purchasers; or

"(ii) establish an election procedure for the election of a negotiator or negotiators for such purchasers.

"(2) DETERMINATIONS.—If the Board designates employment-based health benefit plans as all or some of the purchasers entitled to be represented in negotiations for a sector, the Board shall establish a procedure for determining whether the 25 percent or 50 percent requirements are met for purposes of subparagraphs (B) and (C) of paragraph (1), based on a weighted designation that considers the number of individuals covered by the health benefits plan of the purchaser, the total expenditures under such plans, or such other measure as the Boards determines appropriate. In the case of health benefit plans provided pursuant to a collective bargaining agreement, for purposes of the weighted designation, 50 percent of the costs of or individuals covered under such plan shall be assigned to the union and 50 percent to the appropriate employer or employers. If the Board designates other categories of purchasers, a similar procedure shall be utilized.

"(d) CONTINUED APPROVAL AS NEGOTIATORS, LIMITATION.—

"(1) ESTABLISHMENT OF PROCEDURES.—The Board shall establish procedures for the withdrawal of approvals granted to organizations or individuals under subsections (b)(1) or (c)(1).

"(2) EXCLUSIVE NEGOTIATORS.—

"(A) PETITION FOR INITIATION OF PROCEDURES.—The Board may initiate procedures under paragraph (1) to withdraw the approval of an exclusive negotiator under subsection (b)(1)(C) or (c)(1)(C), if not less than 30 percent of the health care providers or purchasers in the appropriate sector file a petition with the Board for such withdrawal.

"(B) VOTE ON WITHDRAWAL.—If the Board determines that a petition received under subparagraph (A) is valid, the Board shall arrange for a vote to take place among the appropriate purchasers or providers to determine whether to withdraw the approval that is the subject of such petition. If in excess of 50 percent of such providers or purchasers vote to withdraw such approval, the Board shall certify that such approval is withdrawn and initiate procedures to select a new negotiator or negotiators.

"(3) LIMITATION AND ELECTION.—

"(A) LIMITATION.—With respect to a sector in which no exclusive negotiator has been approved under subsection (b)(1)(C) or (c)(1)(C), the Board may not grant approvals to organizations and individuals under paragraph (1)(B) of each such subsection, as applicable, in a manner that would result in the approval of individuals and organizations representing in excess of 100 percent of the purchasers or providers.

"(B) ELECTION.—In the event that petitions are received (whether or not approvals have previously been granted) under subsection (b)(1)(B) or (c)(1)(C), from organizations or individuals cumulatively representing in excess of 100 percent of the purchasers or providers in a sector the Board shall conduct an election among such qualified organizations or individuals to determine which such organizations and individuals will be approved or have their approval continued.

"(4) PERIOD OF DESIGNATION.—No organization or individual shall be a negotiator or an exclusive negotiator for more than a 5-year period without being recertified as a negotiator or exclusive negotiator in the same manner as the original designation was made under this section.

"(5) TIMING.—Any vote or election held under this subsection to determine the negotiators for a particular year, shall be completed prior to June 30 of that year. Votes or elections completed after such date shall apply to the negotiations for the following year.

"REQUIREMENTS FOR RECOMMENDED PAYMENT SYSTEMS AND RATES

"SEC. 1175. (a) HOSPITALS.—

"(1) NEGOTIATED AGREEMENT.—A payment system for hospitals that is recommended in an agreement negotiated pursuant to section 1176 shall be based on the hospital payment system established under title XVIII of this Act, except that the Board may approve or adopt an alternative payment system.

"(2) ALTERNATIVE PAYMENT SYSTEM.—An alternative payment system approved or adopted under paragraph (1) shall provide for the adjustment of payment rates to reflect the differences in costs between different types of hospitals to the extent that such costs represent appropriate differences in the costs of delivering care efficiently and effectively in different types of hospitals or are necessary to achieve other public policy objectives, as determined by the Board. Such a payment system shall reflect geographic differences in labor and to the extent feasible, other input costs, capital and other needs to maintain adequate access to care and quality of care. To the extent desirable and feasible, the negotiators shall recommend, and the Board shall approve, special treatment for managed care programs.

"(b) PHYSICIANS.—

"(1) NEGOTIATED AGREEMENT.—A payment system for physicians that is recommended in an agreement negotiated pursuant to section 1176 shall be based on the physician payment system established under title XVIII of this Act, except that the Board may approve or adopt an alternative payment system.

"(2) ALTERNATIVE PAYMENT SYSTEM.—An alternative payment system approved or adopted under paragraph (1) shall reflect geographic differences in practice costs insofar as those differences reflect the cost of economical and efficient provision of quality care, and shall promote an appropriate distribution of primary and specialty care. To the extent desirable and feasible, the negotiators shall recommend, and the the Board shall approve, special treatment for managed care programs.

"OUTCOME OF NEGOTIATIONS, AGREEMENTS

"SEC. 1176. (a) AGREEMENT.—If a majority of the negotiators (in the case of multiple negotiators) for the providers and a majority of the negotiators (in the case of multiple negotiators) for the purchasers, for a particular sector, agree to recommend a proposal under this part to the Board, such proposal shall be considered to have been agreed to by the negotiators.

"(b) BINDING NATURE OF AGREEMENTS.—If a negotiated agreement is reached, pursuant to subsection (a), concerning a health services rate structure, or concerning any other matter that would lead to the achievement of the goals developed by the Board under section 1172, or an alternative goal accepted by the Board under subsection (c), and such agreement, in the judgment of the Board, will lead to the achievement of such goals, the Board shall promulgate regulations implementing such rates and other matters and such rates and other matters shall be binding on providers and purchasers in the sector to which such agreement applies.

"(c) AGREEMENT ON DIFFERENT GOAL.—If the negotiators reach an agreement, pursuant to subsection (a), concerning a goal that is different than a goal that has been developed by the Board under section 1172, the Board shall adopt such agreed upon goal if the Board determines that it would be in the best interest of the general public to adopt such goal. The Board, on a rejection of such alternative agreed upon goal, may request that the negotiators attempt to reach a negotiated agreement concerning the original goal under section 1172, and such other measures to achieve such original goal, and may promulgate regulations recommending rates and other matters to achieve the original goal.

"(d) EFFECT OF NO AGREEMENT.—

"(1) IN GENERAL.—If the negotiators for a particular sector fail to reach a negotiated agreement, pursuant to subsection (a), concerning a goal established under section 1172, the Board shall promulgate regulations recommending advisory rates and other matters necessary to achieve such goals. Such advisory rates and other matters shall not be binding on health care providers and purchasers.

"(2) CONSTRUCTION.—Notwithstanding any other provision of law, health care purchasers may combine for the purpose of agreeing to pay health care providers for services at rates recommended pursuant to paragraph (1).

"(e) TECHNICAL ASSISTANCE.—The Board shall provide technical assistance to negotiators, including estimates of the effect on expenditure goals of alternative proposals and estimates of utilization changes that can be expected under different proposals. The

Board may recommend a proposal to achieve expenditure goals for the consideration of the negotiators. The Board may make available professional mediation and conciliation services to the negotiators.

"ENFORCEMENT

"SEC. 1177. (a) IN GENERAL.—A health care provider assessing rates other than those required under regulations promulgated by the Board under this part, or failing to comply in any other manner with such regulations, or a health care purchaser paying rates other than those required under such regulations, except in the case of an alternative rate or method established under subsections (a)(2) and (b)(2) of section 1175, shall—

"(1) be ineligible for any assistance under this Act; and

"(2) be liable to the United States for a civil penalty for such failure in an amount not to exceed $50,000 in the case of an individual and $500,000 in the case of an organization, as provided for in subsection (b).

"(b) CIVIL ACTIONS.—

"(1) IN GENERAL.—A civil penalty under subsection (a)(2) shall be assessed by the Board on a health care provider or purchaser by an order made on the record after an opportunity for a Board hearing on any disputed issues of material fact and the amount of the penalty. In the course of any investigation or hearing under this paragraph, the Board or its designees may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(2) AMOUNT.—In determining the amount of a civil penalty under paragraph (1), the Board shall take into account the nature, circumstances, extent, and gravity of the act subject to penalty, the ability to pay, the effect on the ability to continue to do business, any history of prior, similar acts, and such other matters as the Board determines appropriate.

"(3) LIMITATION ON ACTIONS.—The Board may not initiate an action under this subsection with respect to any noncompliance described in subsection (a) that occurred before the date of the enactment of this section.

"(c) INJUNCTIVE RELIEF.—The Board shall have the power, upon the initiation of an action regarding noncompliance with a provision of this part, to petition any United States district court, within any district wherein such noncompliance is alleged to have occurred, for appropriate temporary injunctive relief. Upon the filing of any such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant the Board such temporary injunctive relief as the court determines to be appropriate.

"(d) JUDICIAL REVIEW.—Any health care provider or purchaser that is the subject of an adverse decision under subsection (b)(1) or subsection (c) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the provider or purchaser resides, by filing in such court (within 60 days following the date the purchaser or provider is notified of the decision of the Board) a petition requesting that the decision be modified or set aside.

"ROLE OF STATES

"SEC. 1178. (a) ALTERNATIVE SYSTEMS, ETC.—A State consortia described in part D of this title may, with the approval of the Board, establish an alternative payment system, rates, and methods for achieving goals developed by the Board under section 1172.

"(b) APPROVAL.—The Board shall approve alternative payment systems, rates, and methods under subsection (a) if Board determines that such alternative systems, rates, or methods would result in a level of health care expenditures in the State that achieves the national goals developed under section 1172, adjusted to the State level. If the Board determines that such national goals would not be achieved through the proposed alternative systems, rates or methods, the rates or other matters that apply to the State under regulations promulgated by the Board shall remain binding in the State. Such Board approval is only necessary where binding payment systems, rates and methods are not promulgated under a negotiated agreement.

"(c) STANDARD FOR DETERMINATION.—In making a determination under subsection (b), the Board shall consider the effect of the alternative systems, rates or methods, with respect to the goals established under section 1172, on the State as a whole rather than on particular health care sectors in the State.

"OTHER GOVERNMENT PROGRAMS

"SEC. 1179. The Board shall promulgate regulations recommending advisory rates and other matters necessary to achieve the goals established under section 1172 for all Federal programs (other than the program under title XVIII of this Act) that reimburse providers on a fee, charge, or cost basis or charge third-party providers on such basis. Such nonbinding rates shall be consistent with the rates promulgated by the Board under sections 1176 and 1178, except that Federal payments resulting from such rates shall be no greater than such payments would have been if determined without regard to this section through the fifth full fiscal year after the date of enactment of this section.

"UNIFORM BILLING AND MANDATORY REPORTING

"SEC. 1180. (a) IN GENERAL.—The Board shall establish a system of uniform billing and reporting, as required under subsection (c), that will enable the Board to determine the progress made in meeting the goals established under section 1172, to provide information for health care providers and purchasers to assist such providers and purchasers in providing and obtaining efficiently provided quality health care, and to reduce administrative costs of the health care system.

"(b) GENERAL REPORTING AND DATA REQUIREMENTS.—The Board shall—

"(1) develop a computerized system for the collection, analysis, and dissemination of data required to be collected under this part;

"(2) establish one or more uniform claims and billing form as required in subsection (c)(2) to be utilized by all data sources and providers;

"(3) audit information provided by health care providers on a sample basis or in situations where there exists reasonable cause for such an audit; and

"(4) issue public reports concerning health care costs and the effectiveness of the health care provided by health care providers.

"(c) DATA COLLECTION.—

"(1) IN GENERAL.—Data sources shall submit to the Board, on the request of the Board, all data required to be submitted under this part in accordance with the uniform submission formats, coding systems, and other technical specifications established by the Board to assure that such incoming data is substantially valid, consistent, compatible and manageable.

"(2) UNIFORM CLAIMS AND BILLING FORMS.—Data shall be collected by the Board through the use of one or more Federal Uniform Claims and Billing Forms developed by the Board and utilized by providers and purchasers of health care that shall, at a minimum, include—

"(A) a uniform patient identifier;

"(B) the date of birth of the patient;

"(C) the gender of the patient;

"(D) the ZIP Code of the patient;

"(E) the date of admission of the patient for inpatient hospital services;

"(F) the date of discharge of the patient referred to in subparagraph (E);

"(G) the principal and secondary diagnoses of the patient;

"(H) the principal and secondary procedures to be followed in treating the patient;

"(I) a uniform health care facility identifier;

"(J) uniform identifiers of physicians treating the patient;

"(K) for services provided in an inpatient setting, the total charges of the health care facility treating the patient, segregated into major categories determined appropriate by the Board;

"(L) the amounts of actual payments made to the treating health care facility;

"(M) the amounts of the charges of each physician or professional rendering service to the patient;

"(N) the services provided in an inpatient setting;

"(O) the amounts of actual payments made to each physician or professional rendering service to the patient;

"(P) a uniform identifier of the primary payor;

"(Q) the ZIP Code of the facility where service is rendered to the patient;

"(R) the patient discharge status; and

"(S) such other material as the Board determines necessary or useful to carry out the duties of the Board or to provide adequate information to purchasers of health care to assist such purchasers in appropriately paying for services.

"(3) MEASURE OF SERVICE EFFECTIVENESS.—

"(A) DEVELOPMENT OF METHODOLOGY.—To the extent practical and as rapidly as feasible, the Secretary shall develop and implement a methodology or methodologies that will measure the effectiveness of the health care service provided by health care providers.

"(B) INCLUSION IN UNIFORM BILLING FORM.—To the extent practical and as rapidly as feasible, the Secretary shall include in the uniform claims and billing forms or in other data collection instruments established under subsection (b) data necessary to provide the Secretary with information concerning each service provided by health care providers that is sufficient to enable the Secretary to analyze the quality, cost, and service effectiveness of the provider.

"(4) ADDITIONAL DATA.—The Board may collect additional data, including audited annual financial reports of all hospitals and ambulatory service facilities, medicare cost reports, information on capital expenditures, and any other data that the Board determines necessary to carry out its responsibilities under this part.

"(5) RECOMMENDATIONS.—The Board shall make recommendations to the committees of Congress, the President, and the insurance industry concerning methods to reduce the cost and burden of duplication or excessive reporting requirements imposed on health care providers.

"(d) Reports.—

"(1) In general.—The Board, not less than once each calendar year, shall for every health care provider for which sufficient data is available, prepare and make available reports that shall, to the extent practicable and scientifically valid, contain data in a form that will provide the most useful information to purchasers of health care services regarding such providers to enable such purchasers to compare providers on the basis of cost and quality.

"(2) Availability.—The Secretary shall advertise and make available all reports prepared under paragraph (1) to the general public, including any dissents submitted by health care providers.

"(3) Recommendations.—The Board shall make recommendations to the appropriate committees of Congress, the President, and the insurance industry concerning methods to reduce the cost and burden of duplicative or excessive reporting requirements imposed on health care providers.

"(e) Definition.—As used in this section, the term 'data sources' means classes of entities and individuals that the Board designates as data sources.

"ANNUAL REPORTS

"Sec. 1181. Not later than June 30 of each year, the Board shall prepare and submit to the President, the appropriate committees of Congress and the general public, a report concerning the success in attaining expenditure, access, and quality goals developed under section 1172, and containing recommendations for additional measures, if any, that the Board determines are necessary to achieve such goals.

"DEFINITIONS

"Sec. 1182. As used in this part:

"(1) Health benefit plan.—The term 'health benefit plan' means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) that—

"(A) provides medical care to participants or beneficiaries directly or through insurance, reimbursement, or otherwise; and

"(B) meets the requirements of section 2721 of the Public Health Service Act.

Such term shall include a small business health benefits plan, as defined in section 2713(11) of such Act.

"(2) Managed care plan.—The term 'managed care plan' has the meaning given such term by section 2108(a)(6).

"(3) Provider.—The term 'provider' means a physician, hospital, health maintenance organization, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient enrolled in a managed care plan.

"(4) Purchaser.—The term 'purchaser' means an entity that pays for services of providers, including in the case of a health benefit plan provided pursuant to a collective bargaining agreement, the labor union that has negotiated for such plan on behalf of employees shall be considered to be a purchaser.

"EFFECTIVE DATES

"Sec. 1183. The Board shall develop the goals under section 1172 for each calendar year beginning not later than the second full calendar year after the date of the enactment of this part. The Board shall establish the negotiating procedures required under section 1173(a) for each calendar year beginning not later than the third calendar year after the date of the enactment of this part.".

(c) Conforming Amendments.—

(1) Compensation, level III.—Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Members, Federal Health Expenditure Board.".

(2) Compensation, level IV.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Members, Federal Health Expenditure Board.".

(d) Medicare.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

"FEDERAL HEALTH EXPENDITURE BOARD

"Sec. 1893. (a) Hospital services.—Notwithstanding any other provision of this title, in the second full fiscal year after the date of enactment of this section and annually thereafter, the Federal Health Expenditure Board (hereafter in this section referred to as the 'Board') shall, with due regard to the recommendations of the Prospective Payment Assessment Commission, recommend—

"(1) the update factor for the DRG prospective payment rates provided in section 1886(d);

"(2) the DRG recalibration;

"(3) the update factor for excluded hospitals; and

"(4) such other matters relating to reimbursement under this title as the Board shall elect.

In making such recommendations to the Congress, the Board shall also make recommendations for modifications of the prospective payment system under this title. In recommending the update factor for DRG prospective payment rates and for excluded hospitals, the Board shall seek to maintain parity in increases in payment rates with other purchasers of health care services, and, shall over time, seek to achieve comparability in such rates. Such recommendations shall not result in Federal payments greater than such payments would have been if determined without regard to this section through the fifth full fiscal year after the date of enactment of this section.

"(b) Physician services.—Notwithstanding any other provision of this title, in the second full fiscal year after the date of enactment of this section and annually thereafter, the Board shall, with due regard to the recommendations of the Physician Payment Review Commission, recommend—

"(1) appropriate modifications of the resource based relative value schedule provided for in section 1848;

"(2) volume performance standards provided for in section 1848(f);

"(3) updates in the conversion factor, consistent with the volume performance standards, provided in section 1848(d);

"(4) revisions of the geographical adjustment factors provided in section 1848(e); and

"(5) such other matters relating to reimbursement under this title as the Board shall elect.

In making such recommendations to the Congress, the Board shall also make recommendations for modifications of the physician payment system under this title. In making the recommendations described in paragraphs (1), (2), (3), and (4), the Board shall seek to maintain parity in increases in payment rates with other purchasers of health care services, and shall, over time, seek to achieve comparability in such rates. Such recommendations shall not result in Federal payments greater than such payments would have been if determined without regard to this section through the fifth full fiscal year after the date of enactment of this section.".

Subtitle C—State Purchasing Consortia

SEC. 421. STATE PURCHASING CONSORTIA

(a) Public Health Service Act.—Title XXVII of the Public Health Service Act (as added by section 101 and amended by sections 201, 311 and 411) is further amended by adding at the end thereof the following new part:

"PART E—STATE PURCHASING CONSORTIA

"SEC. 2781. STATE PURCHASING CONSORTIA.

"(a) Requirement.—

"(1) Establishment by State.—Not later than 1 year after the date of enactment of this part, or the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this part, whichever is later, the State shall establish a State Consortium (hereafter referred to in this section as the 'consortium') which may be a public or nonprofit private entity, or be a member of a Regional Consortium in accordance with subsection (f), that shall carry out the activities described in subsection (d).

"(2) Establishment by Secretary.—If a State fails to establish a State consortium as required under paragraph (1), the Secretary shall develop and implement a State consortium for such State.

"(b) Board of Directors and Membership.—

"(1) Board of Directors.—

"(A) In general.—A consortium shall be managed by a board of directors who shall be appointed and serve in accordance with guidelines and regulations developed by the State.

"(B) Mandatory functions.—The guidelines and regulations developed under subparagraph (A) shall ensure that, for purposes of carrying out the mandatory functions under subsection (d)(1), the board of directors will be composed of insurers, providers and consumers.

"(C) Optional functions.—The guidelines and regulations developed under subparagraph (A) shall ensure that, for purposes of carrying out the optional functions under subsection (d)(2), the board of directors will be composed of individuals who represent the balanced interests of all interested parties.

"(2) Membership in consortium.—All providers and purchasers of health insurance and health care in the State, including business, labor, and consumer organizations, shall be eligible to become members of the consortium in such State.

"(c) Application and Plan, Grants and Technical Assistance.—

"(1) Application and plan.—

"(A) Requirement.—Prior to the establishment of the State consortium, the State shall prepare and submit to the Secretary for approval, an application in such form and containing such information as the Secretary may require, including the plan described in subparagraph (B).

"(B) Plan.—As part of the application submitted under subparagraph (A), the State shall prepare a plan that shall outline the form of the State consortium and that shall include a description—

"(i) of the guidelines applicable to the appointment and service of the board of directors of the consortium;

"(ii) of the manner in which the State will solicit membership for the consortium;

"(iii) of the manner in which the consortium will perform the mandatory functions under subsection (d)(1);

"(iv) of the optional functions that the consortium will perform under subsection (d)(2); and

"(v) of any other information that the Secretary determines appropriate.

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award a grant to each State to assist the State in paying the costs associated with the establishment and initial operation of the State consortium.

"(B) AMOUNTS.—Not less than $150,000 shall be provided to each State under a grant awarded under this subparagraph (A), except that additional amounts may be provided to a State if the Secretary determines, based on an application that is submitted by the State for such amounts, that such amounts are needed to help defray the costs associated with optional functions provided by the consortium under the State plan submitted under paragraph (1)(B).

"(C) PLANNING FUNCTIONS.—Except as provided in subparagraph (B), amounts provided under grants awarded under this paragraph shall be utilized for planning functions only.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States in setting up the State consortia.

"(d) FUNCTIONS OF CONSORTIUM.—

"(1) MANDATORY FUNCTIONS.—The State consortium shall—

"(A) enroll all small share health insurance companies in the State as members of the consortium for insurers, purchasers and providers;

"(B) establish a claim payment fund and procedures for the payment, by the consortium on behalf of its enrollees, of valid claims submitted by providers or enrollees to the consortium, such fund to be capitalized through public and private contributions and assessments made by the consortium on such enrollees to reflect amounts paid from such fund on behalf of each such enrollee;

"(C) develop, in consultation and with the assistance of the Secretary and consistent with the program established under part D, and employ uniform billing and claim form and procedures for providers of health services covered by enrollees, and for individuals submitting claims directly to the consortium;

"(D) further attempt to reduce administrative costs and burdens on enrollees and providers of health services, through—

"(i) the maintenance of a staff to explain claims procedures (that shall be consistent with claims procedures adopted under title XVIII of the Social Security Act) to providers and enrollees and to provide such other services as may assist providers in receiving reimbursement promptly and at the lowest possible cost;

"(ii) establish, to the maximum extent practicable, a paperless processing system to permit providers to submit claims electronically to the consortium;

"(iii) establish, to the maximum extent practicable, the use of 'smart cards' or other electronic methods for immediate verification by providers of an individuals' health insurance coverage;

"(iv) encouraging providers to submit claims directly to the consortium on behalf of enrollees; and

"(v) the conduct of appropriate utilization reviews;

"(E) carry out any other activities determined appropriate by the Secretary; and

"(F) cooperate with the Federal Health Expenditure Board established under part D.

"(2) OPTIONAL FUNCTIONS.—The State consortium may—

"(A) permit insurers with a large share of the market in a State to participate in the consortium;

"(B) convene negotiations with health care providers and purchasers and others, as appropriate, concerning the availability of health care services, coverage and reimbursement levels for such services, and claim submission and payment procedures (activities undertaken as a result of such negotiations shall be exempt from Federal antitrust laws if such activities are authorized by the State);

"(C) develop procedures for—

"(i) the allocation of capital among health care providers to encourage an adequate and efficient level and distribution of health care resources;

"(ii) encouraging a rational distribution of health care providers; and

"(iii) encouraging the development of managed care;

"(D) the collection and dissemination of data through a Statewide data organization that is accessible to all interested parties in the State in order to facilitate appropriate decisions by consumers and to encourage efficient behavior by providers;

"(E) coordinate with entities responsible for assuring the quality of health care provided within the State; and

"(F) carry out any other activities that are contained within the State plan and approved by the Secretary and that are designed to improve the quality of health care, access to such care, and to control the costs of such care.

"(3) APPLICABILITY OF CONSUMER PROTECTION LAWS.—Notwithstanding any other provision of law, the provisions of the Consumer Product Safety Act and other Federal consumer protection laws shall apply to the functions carried out under paragraph (1).

"(4) MANAGED CARE.—This subsection shall not be construed as limiting the ability of a managed care plan to select providers eligible to perform services under the plan, or to establish reasonable procedures to be followed by providers participating in the plan, to assure the provision of cost-effective, quality services.

"(5) SMALL SHARE HEALTH INSURANCE COMPANIES.—As used in this subsection, the term 'small share health insurance companies' shall include entities determined appropriate by the Secretary. In making such determination, the Secretary shall seek to minimize the number of sources reimbursing providers directly in the State but shall permit insurers with a market share that is large enough to sufficiently achieve the economies of scale sought through the consortium, to remain independent of the consortium, to the extent that permitting such separate payment sources would not dilute the purpose of the consortium.

"(e) DATA AND INFORMATION.—A State consortium shall collect or provide for the collection of data and information concerning the operations of the consortium and shall provide such data and information to the Secretary on an annual basis.

"(f) REGIONAL CONSORTIUM.—States may enter into an agreement for the establishment of a regional consortium that shall have jurisdiction over all States that are parties to such agreement and that shall be subject to the provisions of this section as if such consortium were established by a single State.

"(g) ENFORCEMENT.—A State that fails to comply with the requirements of this section shall be ineligible to receive assistance made available under this Act.

"(h) STUDY.—Not later than 3 years after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress, a report that shall contain the results of a study conducted by the Secretary concerning the State consortia system established under this section, and whether such consortia are effective in containing health care costs, in expanding the availability of access to such care, and in protecting and enhancing the quality of such care.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

(b) SOCIAL SECURITY ACT.—Title XI of the Social Security Act (as amended by section 411) is further amended by adding at the end thereof the following new part:

"PART D—STATE PURCHASING CONSORTIA

"STATE PURCHASING CONSORTIA

"SEC. 1191. (a) MEMBERSHIP IN CONSORTIUM.—

"(1) IN GENERAL.—A State may, with the approval of the Secretary, require that the providers operating under the programs conducted under titles XVIII, XIX, and XXI of this Act in the State, participate in the State consortium for purposes of claims processing and for such other purposes as the Secretary may approve, in the least restrictive manner practicable.

"(2) WAIVERS.—With respect to a State requirement under paragraph (1) that providers under titles XVIII, XIX, and XXI of this Act participate in the consortium, the Secretary may waive such requirement on the request of such a provider, if the Secretary determines, on a budget neutral basis, that such waiver is necessary to protect the access of the beneficiaries of such provider to care provided by such provider, and that such waiver will promote the cost effective delivery of services.

"(b) FUNCTIONS OF CONSORTIUM.—

"(1) MANDATORY FUNCTIONS.—The State consortium shall—

"(A) enroll all small share health insurance companies in the State as members of the consortium for insurers, purchasers and providers;

"(B) establish a claim payment fund and procedures for the payment, by the consortium on behalf of it's enrollees, of valid claims submitted by providers or enrollees to the consortium, such fund to be capitalized through public and private contributions and assessments made by the consortium on such enrollees to reflect amounts paid from such fund on behalf of each such enrollee;

"(C) develop, in consultation and with the assistance of the Secretary and consistent with the program established under part C, and employ uniform billing claim forms and procedures for providers of health services covered by enrollees, and for individuals submitting claims directly to the consortium;

"(D) further attempt to reduce administrative costs and burdens on enrollees and providers of health services, through—

"(i) the maintenance of a staff to explain claims procedures (that shall be consistent with claims procedures adopted under title XVIII of this Act) to providers and enrollees and to provide such other services as may assist providers in receiving reimbursement promptly and at the lowest possible cost;

"(ii) establish, to the maximum extent practicable, a paperless processing system to permit providers to submit claims electronically to the consortium;

"(iii) establish, to the maximum extent practicable, the use of 'smart cards' or other electronic methods for immediate verification by providers of an individual's health insurance coverage;

"(iv) encouraging providers to submit claims directly to the consortium on behalf of enrollees; and

"(v) the conduct of appropriate utilization reviews;

"(E) carry out any other activities determined appropriate by the Secretary; and

"(F) cooperate with the Federal Health Expenditure Board.

"(2) OPTIONAL FUNCTIONS.—The State consortium may—

"(A) permit insurers with a large share of the market in a State to participate in the consortium;

"(B) convene negotiations with health care providers and purchasers and others, as appropriate, concerning the availability of health care services, coverage and reimbursement levels for such services, and claim submission and payment procedures (activities undertaken as a result of such negotiations shall be exempt from Federal antitrust laws if such activities are authorized by the State);

"(C) develop procedures for—

"(i) the allocation of capital among health care providers to encourage an adequate and efficient level and distribution of health care resources;

"(ii) encouraging a rational distribution of health care providers; and

"(iii) encouraging the development of managed care;

"(D) the collection and dissemination of data through a Statewide data organization that is accessible to all interested parties in the State in order to facilitate appropriate decisions by consumers and to encourage efficient behavior by providers;

"(E) coordinate with entities responsible for assuring the quality of health care provided within the State; and

"(F) carry out any other activities that are contained within the State plan and approved by the Secretary and that are designed to improve the quality of health care, access to such care, and to control the costs of such care.

"(3) APPLICABILITY OF CONSUMER PROTECTION LAWS.—Notwithstanding any other provision of law, the provisions of the Consumer Product Safety Act and other Federal consumer protection laws shall apply to the functions carried out under paragraph (1).

"(4) MANAGED CARE.—This subsection shall not be construed as limiting the ability of a managed care plan to select providers eligible to perform services under the plan, or to establish reasonable procedures to be followed by providers participating in the plan, to assure the provision of cost-effective, quality services.

"(5) SMALL SHARE HEALTH INSURANCE COMPANIES.—As used in this subsection, the term 'small share health insurance companies' shall include entities determined appropriate by the Secretary. In making such determination, the Secretary shall seek to minimize the number of sources reimbursing providers directly in the State but shall permit insurers with a market share that is large enough to sufficiently achieve the economies of scale sought through the consortium, to remain independent of the consortium, to the extent that permitting such separate payment sources would not dilute the purpose of the consortium.

"(c) DATA AND INFORMATION.—A State consortium shall collect or provide for the collection of data and information concerning the operations of the consortium and shall provide such data and information to the Secretary on an annual basis.

"(d) REGIONAL CONSORTIUM.—States may enter into an agreement for the establishment of a regional consortium that shall have jurisdiction over all States that are parties to such agreement and that shall be subject to the provisions of this section as if such consortium were established by a single State.

"(e) ENFORCEMENT.—A State that fails to comply with the requirements of this section shall be ineligible to receive payments under section 2109 of this Act.".

Subtitle D—Cost Control Grant Program

SEC. 431. COST CONTROL GRANT PROGRAM.

Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 905. COST CONTROL GRANT PROGRAM.

"(a) IN GENERAL.—The Administrator may award grants and enter into contracts with States, public entities, insurers, health plan administrators, businesses, labor unions, non-profit organizations, and researchers for the development, demonstration, and evaluation of innovative methods for reducing health care costs.

"(b) APPLICATION.—To be eligible for a grant or contract under subsection (a), an entity of the type described in such subsection shall prepare and submit, to the Administrator, an application at such time, in such form, and containing such information as the Administrator shall require.

"(c) PREFERENCES.—In awarding grants or entering into contracts under subsection (a), the Administrator shall give a preference to entities submitting applications under subsection (b) that propose to implement projects, with assistance provided under this section, with the potential to develop programs that could have a significant impact on overall national health care costs.

"(d) CLEARINGHOUSE.—

"(1) ESTABLISHMENT.—The Administrator shall establish a clearinghouse, and undertake such other activities as may be necessary, to disseminate information concerning successful health care cost control methods and to provide technical assistance in the implementation of such methods.

"(2) OPERATION.—The Administrator may reserve not to exceed 10 percent of the amount appropriated under subsection (g) in each fiscal year for the operation of the clearinghouse, the dissemination of information, and the provision of technical assistance under paragraph (1).

"(e) CONSULTATION.—In developing the procedures for awarding grants under this section, the Secretary shall consult with the Federal Health Expenditure Board established under part D of title XXVII.

"(f) MATCHING REQUIREMENT.—In the case of a grant awarded for the conduct of a demonstration program that will provide a direct benefit to the grantee, the Administrator shall not award such grant unless the grantee agrees to provide additional amounts for such program equal to not less than 25 percent of the amount of the grant. Such additional amounts may be in cash or in kind.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary in each of the fiscal years 1992 through 1994.".

Subtitle E—Malpractice Reform

SEC. 441. MALPRACTICE REFORM.

Part A of title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) as amended by section 431 is further amended by adding at the end thereof the following new section:

"SEC. 906. MALPRACTICE REFORM.

"(a) IN GENERAL.—The Administrator may award grants to States for the development and implementation of programs for medical malpractice reforms. Programs receiving such grants shall include efforts to develop alternative methods to resolve liability disputes that fairly protect the interests of all parties involved and may include an appropriate role for the use of medical practice guidelines. No grant shall be awarded that is inconsistent with the goal of—

"(1) reducing excessive health care costs;

"(2) reducing unnecessary or ineffective medical care;

"(3) improving access to quality health care;

"(4) ensuring fair and adequate compensation for and review of injuries arising from medical negligence;

"(5) ensuring reasonable insurance rating and premium setting practices; and

"(6) improving patient protections, disciplinary standards for health care professionals, and the effectiveness of State medical boards.

"(b) TYPES OF GRANTS.—A grant awarded under subsection (a) shall be either—

"(1) a planning grant, to assist the grantee in the development of a program under this section that shall be for a period of not to exceed two years; or

"(2) an operational grant, to assist the grantee in operation and evaluation of the new program referred to in paragraph (1), that shall be for a period of not to exceed five years.

"(c) REQUIREMENT.—An operational grant under subsection (b)(2) shall include a requirement that an evaluation, approved by the Administrator as being adequate, is conducted to determine the effectiveness of the program for which the grant is utilized. A final report on the results of the evaluation shall be prepared and submitted to the Administrator.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 442. STUDY OF MEDICAL MALPRACTICE.

(a) CONTRACT.—The Secretary shall enter into a contract with the Institute of Medicine, or with a similar independent entity, for the collection and analysis of data and issues, by a group of representatives of interested parties and experts, related to—

(1) ineffective or unnecessary medical testing and practices;

(2) the occurrence of malpractice and malpractice awards (including the number of claims filed and the number of findings of negligence);

(3) the adequacy of existing health care provider licensing and disciplining procedures in preventing malpractice;

(4) the reasonableness of malpractice insurance premiums and rate-setting practices; and

(5) any other issues relevant to the adequacy of current medical practices, of compensation for injuries resulting from medical malpractice, and the impact of legal liability on medical practices.

(b) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Institute or entity referred to in subsection (a) shall make available to the Secretary, the appropriate committees of Congress, the appropriate State officials, and to the general public, a report containing the recommendations of the Institute or entity for any desirable medical malpractice reforms.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle F—Reducing the Administrative Cost of Assuring Appropriate Utilization of Health Care Services and Improving the Quality of Health Care Services

SEC. 451. ESTABLISHMENT OF A QUALITY IMPROVEMENT BOARD.

(a) PUBLIC HEALTH SERVICE ACT.—Title XXVII of the Public Health Service Act (as added by section 101 and amended by sections 201, 311, 411, and 421) is further amended by adding at the end thereof the following new part:

"PART F—ESTABLISHMENT OF A QUALITY IMPROVEMENT BOARD

"SEC. 2785. ESTABLISHMENT OF A QUALITY IMPROVEMENT BOARD.

"(a) CONTRACT.—The Secretary shall enter into a contract with an entity in each State (such entity shall hereafter be referred to in this section as the 'quality improvement board') to review the quality of health care provided by health care professionals and institutions in each such State and to establish mechanisms to encourage continuous quality improvement.

"(b) BOARD OF DIRECTORS.—

"(1) REQUIREMENT.—The quality improvement board shall, in accordance with Federal guidelines and regulations and in accordance with the requirements of the contract entered into under subsection (a), be managed by a board of directors.

"(2) MEMBERSHIP.—The board of directors required under paragraph (1) shall consist of 15 members, of whom—

"(A) seven members shall be representatives of health care providers, including individuals of recognized excellence in the development, application, and evaluation of health care services, procedures, and technologies;

"(B) four members shall be representatives of insurers and purchasers of health care services; and

"(C) four members shall be health care service researchers and consumers.

"(3) DUTIES.—The board of directors shall adopt policies for the quality improvement board, approve the budget of the quality improvement board, appoint the executive director of the quality improvement board, and shall assume such other duties as the Secretary may prescribe or the board of directors shall determine to be necessary to the proper functioning of the quality improvement board.

"(c) DUTIES OF THE QUALITY IMPROVEMENT BOARD.—

"(1) GUIDELINES.—

"(A) REQUIREMENT.—The quality improvement board shall adopt guidelines for appropriate medical practice and for recommended measures to be taken by providers to improve the quality of care.

"(B) CONTENTS.—Guidelines adopted under subparagraph (A) shall include those of the type developed under the authority of section 912 and such guidelines as the Secretary may specify, and may include additional guidelines developed by professional societies or other appropriately qualified bodies or individuals.

"(2) RECOMMENDED MEASURES.—In cooperation with appropriate professional bodies, associations, and the Joint Commission on Accreditation of Hospitals, the quality improvement board shall recommend measures for continuous quality improvement to be adopted by health care professionals and institutions. Such measures shall include measures specified by the Secretary, appropriate continuing medical education and, for health care institutions, internal quality improvement procedures.

"(3) CERTIFICATION OF PROVIDERS.—The quality improvement board shall periodically review the performance of health care service providers and, based on—

"(A) the conformity of the practice of the provider with the guidelines developed by the board;

"(B) such measures of health care outcomes as may be scientifically valid and adopted by the board;

"(C) adoption by the provider of the measures for continuous quality improvement recommended by the board; and

"(D) such other factors as the board or the Secretary may prescribe; and

may certify a health care provider as an outstanding provider for the purpose of this section.

"(4) LIMITATION ON CERTIFICATION.—A certification under paragraph (3) shall be examined periodically by the quality improvement board to determine if continued certification is appropriate. The quality improvement board may suspend the certification of a provider at any time. At the request of a health plan, insurance company or State agency, the board must reconsider the certification of a provider.

"(5) DATA COLLECTION.—The quality improvement board shall collect and review such data and conduct such inspections and evaluations as are necessary to enable the board to carry out its duties. At the request of the board, insurers shall provide the board with any data collected in the normal course of business as the board determines necessary to perform its duties. The data collected by the Federal Health Expenditure Board under part D and the data collected by the State consortia under part E shall be made available to the board.

"(d) RESTRICTION ON LIMITATION OF PAYMENT FOR SERVICES PERFORMED BY OUTSTANDING PROVIDERS.—A health benefit plan may not deny payment for any service performed or ordered by a provider certified as outstanding under subsection (c)(3) during the period of such certification for any reason other than noncoverage of the provided service under the plan. The plan may not deny coverage on the basis that the service is not medically necessary. Nothing in this subsection shall be construed to prohibit a plan from paying for services performed or ordered by such provider at its normal reimbursement rates.

"(e) RECERTIFICATION AND SUSPENSION OF CERTIFICATION.—A provider certified as outstanding under subsection (c)(3) shall be recertified periodically by the quality improvement board unless the board acts to suspend such certification. Such suspensions, at the request of the provider shall be reconsidered.

"(f) EXCEPTION FOR MANAGED CARE PLANS.—Nothing in this section shall be construed to limit the ability of a managed care plan to choose providers eligible to perform services under the plan or to establish reasonable procedures to be followed by providers participating in the plan in order to assure cost-effective, quality services.

"(g) PLANNING GRANTS.—To facilitate the establishment of a quality improvement board in each State, the Secretary may award planning grants, in amounts that shall not exceed $200,000 for each State, to private, non-profit or public entities, for the planning, development and implementation of the board and the programs undertaken by the board.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this section.".

(b) SOCIAL SECURITY ACT.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) as amended by sections 411 and 421, is further amended by adding at the end thereof the following new part:

"PART E—ESTABLISHMENT OF A QUALITY IMPROVEMENT BOARD

"ESTABLISHMENT OF A QUALITY IMPROVEMENT BOARD

"SEC. 1195. (a) DUTIES OF THE QUALITY IMPROVEMENT BOARD.—

"(1) GUIDELINES.—

"(A) REQUIREMENT.—The quality improvement board for a State established under section 451(a) of the HealthAmerica Act (hereafter referred to as the 'quality improvement board') shall adopt guidelines for appropriate medical practice and for recommended measures to be taken by providers to improve the quality of care.

"(B) CONTENTS.—Guidelines adopted under subparagraph (A) shall include such guidelines as the Secretary may specify, and may include additional guidelines developed by professional societies or other appropriately qualified bodies or individuals.

"(2) RECOMMENDED MEASURES.—In cooperation with appropriate professional bodies, associations, and the Joint Commission on Accreditation of Hospitals, the quality improvement board shall recommend measures for continuous quality improvement to be adopted by health care professionals and institutions. Such measures shall include measures specified by the Secretary, appropriate continuing medical education and, for health care institutions, internal quality improvement procedures.

"(3) CERTIFICATION OF PROVIDERS.—The quality improvement board shall periodically review the performance of health care service providers and, based on—

"(A) the conformity of the practice of the provider with the guidelines developed by the board;

"(B) such measures of health care outcomes as may be scientifically valid and adopted by the board;

"(C) adoption by the provider of the measures for continuous quality improvement recommended by the board; and

"(D) such other factors as the board or the Secretary may prescribe; and

may certify a health care provider as an outstanding provider for the purpose of this section.

"(4) LIMITATION ON CERTIFICATION.—A certification under paragraph (3) shall be examined periodically by the quality improvement board to determine if continued certification is appropriate. The quality improvement board may suspend the certification of a provider at any time. At the request of a health plan, insurance company or State agency, the board must reconsider the certification of a provider.

"(5) DATA COLLECTION.—The quality improvement board shall collect and review such data and conduct such inspections and evaluations as are necessary to enable the board to carry out its duties. At the request of the board, insurers shall provide the board with any data collected in the normal course of business as the board determines necessary to perform its duties. The data collected by the Federal Health Expenditure Board under part C and the data collected by the State consortium under part D of title XI shall be made available to the board.

"(b) RESTRICTION ON LIMITATION OF PAYMENT FOR SERVICES PERFORMED BY OUTSTANDING PROVIDERS.—A health benefit plan may not deny payment for any service performed or ordered by a provider certified as outstanding under subsection (a)(3) during the period of such certification for any reason other than noncoverage of the provided service under the plan. The plan may not deny coverage on the basis that the service is not medically necessary. Nothing in this subsection shall be construed to prohibit a plan from paying for services performed or ordered by such provider at its normal reimbursement rates.

"(c) RECERTIFICATION AND SUSPENSION OF CERTIFICATION.—A provider certified as outstanding under subsection (a)(3) shall be recertified periodically by the quality improvement board unless the board acts to suspend such certification. Such suspensions, at the request of a provider, shall be reconsidered.

"(d) EXCEPTION FOR MANAGED CARE PLANS.—Nothing in this section shall be construed to limit the ability of a managed care plan to choose providers eligible to perform services under the plan or to establish reasonable procedures to be followed by providers participating in the plan in order to assure cost-effective, quality services.

"(e) PLANNING GRANTS.—To facilitate the establishment of a quality improvement board in each State, the Secretary may award planning grants, in amounts that shall not exceed $200,000 for each State, to private, non-profit or public entities, for the planning, development and implementation of the board and the programs undertaken by the board.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this section.".

Subtitle G—Use of Practice Guidelines in Federal Health Insurance and Service Programs

SEC. 461. USE OF PRACTICE GUIDELINES IN FEDERAL HEALTH INSURANCE AND SERVICE PROGRAMS.

Guidelines developed under the authority of section 912 of the Public Health Service Act (42 U.S.C. 299b-1) shall, to the extent practical and effective, be utilized in Federal health insurance programs as utilization review screens and as practice guidelines in Federal programs providing health care services either directly or through grantees.

Subtitle H—National Standards for the Promotion of Managed Care

SEC. 471. NATIONAL STANDARDS FOR THE PROMOTION OF MANAGED CARE.

Title XXVII of the Public Health Service Act (as added by section 101 and amended by sections 201, 311, 411, 421 and 451) is further amended by adding at the end thereof the following new part:

"PART G—NATIONAL STANDARDS FOR THE PROMOTION OF MANAGED CARE

"SEC. 2791. NATIONAL STANDARDS.

"(a) PROHIBITIONS.—No requirement of any State insurance, health care or any other law or regulation shall—

"(1) prohibit a managed care plan from freely selecting the health care providers, or the type of health care providers in a locale, as the participating providers; or

"(2) limit the ability of a managed care entity to negotiate, enter into contracts or establish alternative rates or forms of payment for participating providers, or to require or provide incentives that promote the use of participating providers.

"(b) UTILIZATION REVIEW SERVICES.—Notwithstanding any State law, an insurer or other person or entity may offer utilization review services in any State if such insurer, person or entity has established—

"(1) a procedure that adequately evaluates the necessity and appropriateness of the proposed or delivered health care services;

"(2) a procedure that permits patients and providers to appeal any adverse decisions by the person or entity performing the utilization review services, as provided for in section 2725;

"(3) a procedure that ensures that the person or entity providing the utilization review services is reasonably accessible (five days each week during normal business hours and, where necessary, at other appropriate times) to patients and providers; and

"(4) a procedure that ensures that all applicable Federal and State laws that are designed to protect the confidentiality of individual medical records are followed.

"SEC. 2792. FAVORABLE TREATMENT OF MANAGED CARE PLANS.

"(a) MANAGED CARE PLAN DEFINED.—

"(1) DEFINED.—As used in this part, the term 'managed care plan' has the same meaning given such term in section 2713(7).

"(2) DETERMINATION OF MANAGED CARE PLANS.—In the case of a health benefit plan that is offered by an entity, that is not a self-insured entity, that is subject to regulation by an applicable regulatory authority (as defined in section 2744(c)), consistent with procedures established by the Secretary in consultation with such authorities, such authorities shall be responsible for certifying for purposes of this part and the Social Security Act whether the health benefit plan is a managed care plan. In the case of self-insured entities, the Secretary shall be responsible for providing such certification.

"(b) CONDITION OF STATE FUNDING.—

"(1) IN GENERAL.—No amounts shall be made available under this Act to a State in any fiscal year (beginning with the first fiscal year beginning after the date of the enactment of this section) unless the State is in compliance with subsection (a).

"(2) DEEMED ELECTION; IMPLIED PREEMPTION.—

"(A) IN GENERAL.—A State is deemed to have elected subsection (a) to be in effect in the State as of the beginning of a fiscal year, unless the chief executive officer of a State indicates in writing that the State will not comply with this section. Such an election shall have the effect of preempting the establishment or enforcement of any State law that is in violation of subsection (a).

"(B) CHANGES.—A State is deemed not to have such an election in effect as of the date the Secretary determines that the State is enforcing any law or regulation in violation of subsection (a).

"(c) LIMITATION ON RESTRICTIONS ON MANAGED CARE PLANS.—In order to comply with the requirements of this subsection, a State may not by law or regulation prohibit or unreasonably limit any of the following:

"(1) A State may not prohibit or limit a managed care plan from including incentives for enrollees to use the services of participating providers.

"(2) A State may not prohibit or limit a managed care plan from limiting coverage of services to those provided by a participating provider.

"(3)(A) Subject to subparagraph (B), a State may not prohibit or limit the negotiation of rates and forms of payments for providers under a managed care plan.

"(B) Subparagraph (A) shall not apply where the amount of payments with respect to a block of services or providers is established under a Statewide system applicable to all non-Federal payors with respect to such services or providers.

"(4) A State may not prohibit or limit a managed care plan from limiting the number of participating providers.

"(5) A State may not prohibit or limit a managed care plan from requiring that services be provided (or authorized) by a primary care physician selected by the enrollee from a list of available participating providers.

"(d) ADDITIONAL DEFINITIONS.—In this part, the definitions contained in sections 2713 shall also apply.

"SEC. 2793. FAVORABLE TREATMENT OF UTILIZATION REVIEW PROGRAMS.

"(a) PREEMPTION OF STATE LAWS RESTRICTING UTILIZATION REVIEW PROGRAMS THAT MEET FEDERAL STANDARDS.—In the case of a health benefit plan that includes a utilization review program, no State law or regulation shall prohibit or regulate activities under such program, except insofar as such law or regulation is consistent with the standards established under subsection (b).

"(b) ESTABLISHMENT OF STANDARDS FOR UTILIZATION REVIEW PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall provide, by regulation, for the establishment of Federal standards for utilization review programs of health benefit plans. Such standards shall be designed to assure, within a plan, the cost-effective and medically appropriate use of services.

"(2) CONTENTS OF STANDARDS.—Such standards shall be established with respect to at least each of the following aspects of utilization review programs:

"(A) The qualification of those who may perform utilization review activities.

"(B) The standards to be applied in performing utilization review.

"(C) The timeliness in which utilization review determinations are to be made.

"(D) An appeals process which provides a fair opportunity for individuals adversely affected by a utilization review determination to have such a determination reviewed.

"(E) Protection for the confidentiality of individually-identifiable information used in the process.

"(3) USE OF GUIDELINES.—Such standards shall, to the maximum extent feasible, be consistent with practice guidelines developed by the Agency for Health Care Policy and Research.

"(4) DEADLINE.—Standards shall first be established under this subsection by not later than 2 years after the date of the enactment of this part. The Secretary may revise the standards from time to time as required to assure, within health benefit plans, the cost-effective and medically appropriate use of services.

"(c) UTILIZATION REVIEW PROGRAM DEFINED.—In this section, the term 'utilization review program' means a system of reviewing the medical necessity and appropriateness of patient services (which may include inpatient and outpatient services) using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.".

Subtitle I—Expansion of Technology Assessment

SEC. 481. EXPANSION OF TECHNOLOGY ASSESSMENT.

Section 904 of the Public Health Service Act (42 U.S.C. 299a-2) is amended by adding at the end thereof the following new subsections:

"(e) EXPANSION OF EFFORTS.—In carrying out section 901(b) through subsection (a), the Administrator shall focus on expanding and applying appropriate assessments of existing health care technologies. Such expansion shall be achieved in part, through an evaluation of health services provided to individuals through publicly and privately funded sources.

"(f) PUBLIC-PRIVATE PARTNERSHIPS.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program under which the Administrator shall enter into contracts or cooperative agreements with eligible entities for the establishment of public-private partnerships to undertake technology assessment and related activities in the private sector.

"(2) ELIGIBLE ENTITIES.—Entities eligible to receive a contract or agreement under paragraph (1), shall include academic medical centers, research institutions, or a consortia of appropriate entities established for the purposes of conducting technology assessment.

"(3) APPLICATION.—To be eligible to receive a contract or agreement under paragraph (1), an entity shall prepare and submit to the Administrator an application, at such time, in such form, and containing such information as the Administrator may require.".

TITLE V—CONTRIBUTION BY EMPLOYERS NOT PROVIDING PRIVATE HEALTH COVERAGE

SEC. 501. CONTRIBUTION BY EMPLOYERS NOT PROVIDING PRIVATE HEALTH BENEFIT PLANS.

(a) IN GENERAL.—Subtitle C of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new chapter:

"CHAPTER 26—CONTRIBUTION BY EMPLOYERS NOT PROVIDING PRIVATE HEALTH BENEFIT PLANS

"Sec. 3601. Contribution by employers not providing private health benefit plans.

"SEC. 3601. CONTRIBUTION BY EMPLOYERS NOT PROVIDING PRIVATE HEALTH BENEFIT PLANS.

"(a) CONTRIBUTION.—If an employer to whom part B of title XXVII or section 2701(a) of the Public Health Service Act applies elects to have this chapter apply, there is hereby imposed on such employer for each payroll period a contribution requirement in the amount determined under subsection (b).

"(b) AMOUNT OF CONTRIBUTION.—

"(1) IN GENERAL.—The amount of the contribution required by subsection (a) for any payroll period shall be equal to the applicable percentage of wages (50 percent of wages in the case of an employer described in section 352 of the HealthAmerica Act) paid during such period to employees with respect to whom the employer is required (without regard to the election under this section) to provide health insurance coverage under part B of title XXVII of the Public Health Service Act.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The applicable percentage for any calendar year shall be the percentage established under this paragraph for such calendar year by the Secretary of Health and Human Services at the lowest level consistent with maintaining a fair balance between public and private health insurance coverage for employees employed by employers not currently offering health insurance coverage.

"(B) FAIR BALANCE.—For purposes of subparagraph (A), the term 'fair balance' means, with respect to a year, a balance calculated based on the estimated cost of a fully implemented health insurance plan in that year, and would, if such plan were fully implemented and in effect, result in a ratio between coverage of such employees under the public health insurance plan under title XXI of the Social Security Act and under a health benefit plan under part B of title II of the Public Health Service Act that is not disproportionate.

"(C) NOT DISPROPORTIONATE.—For purposes of subparagraph (B), the term 'not disproportionate' means a ratio of not greater than 65 percent to 35 percent in comparing coverage under such public health insurance plan to such health benefit plans for a year.

"(3) WAGES.—For purposes of this subsection, the term 'wages' has the meaning given such term by section 3121(a), without regard to any limitation by reference to the contribution and benefit base under section 230 of the Social Security Act.

"(c) PAYROLL PERIOD.—For purposes of this section, the term 'payroll period' has the meaning given such term by section 3401(b).

"(d) ADMINISTRATION.—For purposes of this title, the contribution required by subsection (a) shall be treated in the same manner as the tax imposed by section 3111(a).".

(b) CONFORMING AMENDMENTS.—The table of chapters for subtitle C of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Chapter 26. Contribution in lieu of employer coverage.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payroll periods beginning on or after the effective date of this Act.

TITLE VI—ASSURING PROVISION OF HEALTH BENEFITS TO ALL AMERICANS

SEC. 601. ESTABLISHMENT OF AMERICARE.

(a) IN GENERAL.—The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE XXI—AMERICARE

"TABLE OF CONTENTS OF TITLE

"Sec. 2101. State requirements for participation in AmeriCare.
"Sec. 2102. Basic health benefits.
"Sec. 2103. Cost-sharing provisions.
"Sec. 2104. Supplemental payments.
"Sec. 2105. Health care providers.
"Sec. 2106. Quality and cost-effective care measures.
"Sec. 2107. Administration.
"Sec. 2108. Definitions and special rules.
"Sec. 2109. Payments to States.
"Sec. 2110. AmeriCare trust fund.

"STATE REQUIREMENTS FOR PARTICIPATION IN AMERICARE

"SEC. 2101. (a) IN GENERAL.—A State must—

"(1) provide either for the establishment or designation of a single State agency (other than the agency established or designated under section 1902 of this Act) to administer or supervise the administration of AmeriCare;

"(2) provide basic health benefits described in section 2102, subject to cost-sharing provisions under section 2103—

"(A) to any child or pregnant woman who is not otherwise covered under a nongovernmental health insurance policy, plan, or program beginning on the first day of the second full calendar year after the date of the enactment of this title;

"(B) to any employee or family member with respect to whom an employer makes a contribution under title V of the HealthAmerica Act beginning on the first day of the second full calendar year after the date of the enactment of this title; and

"(C) to any individual not covered under a health benefit plan under title II of such Act, beginning on the first day of the fifth full calendar year after the effective date described in subparagraph (A);

"(3) provide at least monthly supplemental payments for premiums, deductibles, and other cost-sharing charged to individuals and families as provided under section 2104;

"(4) provide a clear, simple explanation of the basic health benefits and supplemental payments available under AmeriCare through public announcements, mailings, and any other suitable means;

"(5) provide enrollment in AmeriCare as described in subsection (b);

"(6) to the extent required by the Secretary, provide basic health benefits or supplemental payments under AmeriCare to individuals who are—

"(A) residents of the State but are absent therefrom,

"(B) temporarily located in the State but are not permanent residents of any State; or

"(C) formerly residents of the State but are currently United States citizens permanently residing in a country which has reciprocity agreements with the United States;

"(7) provide to any individual covered under a health benefit plan under title II of the HealthAmerica Act, or any employer of such individual, the opportunity to purchase (or have purchased for such individual by the individual's employer) AmeriCare benefits described in section 2102(a)(7) at a separate actuarial premium rate determined by the State and subject to such other cost-sharing provisions as the plan under such title II provides for other benefits under such plan;

"(8) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for coverage under AmeriCare is denied or is not acted upon with reasonable promptness, under rules described in section 2107(b);

"(9) meet the requirements of—

"(A) paragraphs (4), (6), (7), (11), (19), (27), (45), (46), (48), and (49) of section 1902(a),

"(B) subsections (b) and (g) of section 1902, and

"(C) section 1907,

in the same manner as they apply to title XIX of this Act;

"(10) meet the requirements of section 2105 and 2106(c);

"(11) provide that AmeriCare shall be in effect in all political subdivisions of the State, and if administered by such subdivisions, be mandatory upon such subdivisions;

"(12) provide for financial participation by the State equal to the non-Federal share of the expenditures under AmeriCare with respect to which payments under section 2109 are authorized by this title;

"(13) meet any other requirements of this title; and

"(14) in order to insure compliance with this title and to receive the Federal share under section 2109, submit to the Secretary a plan that meets the requirements of this subsection and is subject to rules similar to the rules of section 1904.

"(b) ELIGIBILITY FOR BASIC HEALTH BENEFITS.—

"(1) In general.—Subject to the provisions of paragraphs (2) and (6) of subsection (a), each individual not otherwise covered under a health benefit plan under title II of the HealthAmerica Act is entitled to basic health benefits under AmeriCare.

"(2) Period of coverage.—

"(A) General rule.—Upon notification of the approval of an application submitted by any individual (or a guardian or representative of such individual), Ameri-Care coverage of the applicant begins on the date of such application.

"(B) Failure to make timely notification.—If the State fails to notify the applicant of the applicant's ineligibility within 1 month of the date of the application, Ameri Care coverage shall apply during the period beginning on the date the individual submitted the application and ending on the date the State notifies such individual of such ineligibility.

"(C) Employer's continuation coverage.—Coverage under AmeriCare shall not apply for services provided during a period of hospitalization that begins prior to the date specified in subparagraph (A) or (B) with respect to an individual whose enrollment in an employer-based health plan terminated during such period of hospitalization.

"(D) Guaranteed minimum eligibility period.—An individual who is determined in a month to be eligible for benefits under AmeriCare shall remain eligible for coverage for a period of not less than 1 year, unless otherwise covered under a health benefit plan under title II of the Health America Act.

"(3) Application forms.—Each State plan shall use a standard Federal application which shall be as simple in form as possible and understandable to the average individual and require attachment of such documentation as deemed necessary by the Secretary in order to insure eligibility.

"(4) Enrollment Process.—

"(A) In general.—Each State shall provide for the receipt of AmeriCare applications—

"(i) by mail; and

"(ii) at locations broadly available to the general public, including locations that serve large numbers of indigent individuals (as defined and determined by the Secretary).

"(B) Employer assistance.—

"(i) In general.—Any employer who contributes under title V of the HealthAmerica Act in lieu of providing a health benefit plan under title II of such Act shall notify the State of the identities of all employees of that State and shall provide such employees with AmeriCare applications.

"(ii) Change in status notification.—Any employer shall notify the State of—

"(I) the identities of any employees of that State who become eligible for AmeriCare as the result of changes in employment status; and

"(II) the identities of any individuals (including members of the families of such individuals) who become covered under a health benefit plan under title II of the HealthAmerica Act and who were covered under AmeriCare in such State.

Each employer shall provide employees described in subclause (I) with AmeriCare applications.

"(iii) Collection of premiums.—

"(I) In general.—Each State may require that employers collect AmeriCare premiums on behalf of the employees of such employer.

"(II) Failure to pay premiums.—If a State plan includes the requirement described in subclause (I), the State shall notify the employee and the Secretary of the failure of the employer to make timely premium payments on behalf of the employee and the employee's family members as required under such plan. Such notification shall be provided not less that 30 days prior to any termination of coverage by the State as the result of such nonpayment of premiums.

"(5) Enrollment periods.—

"(A) In general.—Except as provided in this paragraph, any individual may enroll in AmeriCare—

"(i) during an annual open enrollment period (of not less than 1 month) established by the Secretary; and

"(ii) during such other periods (including upon loss of coverage under a health benefit plan under title II of the HealthAmerica Act) as the Secretary shall require in regulations.

"(B) For under-poverty families.—In the case of an individual who is determined to be a member of an under-poverty family, the individual may enroll in AmeriCare at any time.

"(C) Phase-in periods.—In the case of any individual who first becomes eligible for benefits under AmeriCare in a calendar year described in subsection (a)(2), the period of enrollment shall continue for the entire calendar year.

"(6) AmeriCare card.—The State shall issue an AmeriCare card which may be used for purposes of identification and processing of claims under AmeriCare. AmeriCare cards shall identify (as appropriate) if the individual is eligible for special eligibility benefits.

"BASIC HEALTH BENEFITS

"Sec. 2102. (a) General Benefits.—Benefits under this section with respect to all individuals shall include—

"(1) inpatient and outpatient hospital care, except that treatment for a mental disorder is subject to the special limitations described in paragraph (6)(A);

"(2) inpatient and outpatient physician services, except that psychotherapy or counseling for a mental disorder is subject to the special limitations described in paragraph (6)(B);

'(3) diagnostic tests;

"(4) prenatal care and well-baby care provided to children who are 1 year of age or younger;

"(5) preventive services, limited to—

"(A) well child care;

"(B) pap smears; and

"(C) mammograms; and

"(6)(A) inpatient hospital care for a mental disorder for not less than 45 days per year, except that days of partial hospitalization or residential care may be substituted for days of inpatient care according to a ratio established by the Secretary; and

"(B) outpatient psychotherapy and counseling for a mental disorder for not less than 20 visits per year provided by a provider who is acting within the scope of State law and who—

"(i) is a physician; or

"(ii) meets the standards of subsection (e)(2) and is a duly licensed or certified clinical psychologist or a duly licensed or certified clinical social worker, a duly licensed or certified equivalent mental health professional, or a clinic or center providing duly licensed or certified mental health services; and

"(7) items and services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnosis, and treatment for children under the age of 21).

(b) Exceptions.—Subsection (a) shall not be construed as requiring a plan for AmeriCare to include payment for—

(1) items and services that are not medically necessary as determined under rules similar to rules under title XVIII of this Act;

(2) routine physical examinations or preventive care (other than care and services described in paragraphs (4), (5), and (7) of subsection (a); or

(3) experimental services and procedures as determined under rules similar to rules under title XVIII of this Act.

(c) Amount, Scope, and Duration of Certain Benefits.—Except as provided in subsection (b), AmeriCare shall place no limits on the amount, scope, or duration of benefits described in paragraphs (1) through (3) of subsection (a).

(d) Amount, Scope, and Duration of Preventive Services.—AmeriCare may limit the preventive services described in subsection (a)(5) pursuant to regulations of the Secretary specifying the content and periodicity of such care. The Secretary shall develop such regulations after consultation with appropriate medical experts.

(e) Mental Health Care.—

(1) Inpatient care.—Inpatient hospital care described in subsection (a)(6)(A) shall include reimbursement for professional care provided to the individual while the individual is receiving such inpatient care, by a physician or duly licensed or certified clinical psychologist operating within the scope of practice of the physician or psychologist, as determined appropriate under State law. Nothing in this subsection shall be construed to modify hospital practices with regard to scope of practice, admitting privileges, or billing arrangements.

(2) Standards for certain providers of outpatient care.—The Secretary shall establish standards that providers referred to in subsection (a)(6)(B)(ii) must meet to be eligible for payment under AmeriCare.

"(f) Enhanced Benefits.—Basic health benefits under this section with respect to special eligibility individuals shall include medical assistance, not otherwise described in subsection (a), in the State's plan under title XIX of this Act, other than medical assistance described in paragraphs (4)(A), (7), (14), and (18) of section 1905(a).

"(g) Additional Benefits.—As part of AmeriCare, a State may provide for the coverage of health benefits in addition to the basic health benefits described in the preceding subsections of this section, on the condition that the State shall not receive any Federal payment for such additional coverage.

"COST-SHARING PROVISIONS

"Sec. 2103. (a) In General.—Except as provided in subsection (b), each State that provides AmeriCare shall provide for cost-sharing as follows:

"(1) Under-poverty families.—With respect to an individual who is a member of an under-poverty family, AmeriCare may not impose any premiums, deductibles or other cost-sharing on such individual.

"(2) Near-poverty families.—

"(A) In general.—Subject to subparagraph (C), with respect to an individual who is a member of a near-poverty family that receives benefits under AmeriCare, the amount of the monthly AmeriCare premium for such individual shall be the applicable percentage of the monthly actuarial rate of such State.

"(B) Applicable percentage.—For the purposes of this paragraph, the term 'applicable percentage' means 2 percentage points for each 10 percentage point bracket (or any portion thereof) such family's income equals or exceeds the income official poverty line (as defined by the Office of Management and

Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(C) LIMITATION.—The aggregate amount of any AmeriCare premiums imposed on the family of the individual under this paragraph for any calendar year shall not exceed an amount equal to 3 percent of the family income.

"(D) ADDITIONAL COST SHARING LIMITATION.—

"(i) IN GENERAL.—With respect to any individual who is a member of a near-poverty family that receives benefits under AmeriCare, such individual shall, in addition to the AmeriCare premium described in this paragraph, pay the applicable percentage of any AmeriCare deductible or other cost-sharing.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means 10 percentage points for each 10 percentage point bracket (or any portion thereof) such family's income equals or exceeds 110 percent of such income official poverty line.

"(3) OTHER FAMILIES.—

"(A) IN GENERAL.—Subject to subparagraph (C), with respect to an individual who is a member of a family that receives benefits under AmeriCare and whose income equals or exceeds an income level that is 200 percent of the income official poverty line (as described in paragraph (2)(B)), the amount of the monthly AmeriCare premium for such individual shall be the monthly actuarial rate of such State.

"(B) LIMITATION.—The aggregate amount of any AmeriCare premiums imposed on the family of the individual under this paragraph for any calendar year shall not exceed an amount equal to—

"(i) in the case of a family whose income equals or exceeds 200 percent of such income official poverty line but is less than 250 percent of such income official poverty line, 3.5 percent of the family income,

"(ii) in the case of a family whose income equals or exceeds 250 percent of such income official poverty line but is less than 325 percent of such income official poverty line, 4 percent of the family income, and

"(ii) in the case of a family whose income equals or exceeds 325 percent of such income official poverty line but is less than 400 percent of such income official poverty line, 5 percent of the family income.

"(C) With respect to any individual who is a member of a family described in this paragraph that receives benefits under AmeriCare, such individual shall, in addition to the AmeriCare premium described in this paragraph, pay 100 percent of any AmeriCare deductible or other cost-sharing.

"(4) PHASE-IN COVERAGE FOR CHILDREN.—With respect to any family described in this subsection, the children of which are the only individuals eligible for coverage under AmeriCare, the percentages described in paragraphs (2)(C) and (3)(B) shall be reduced by two-thirds.

"(b) MONTHLY AMERICARE PREMIUM FOR EMPLOYED INDIVIDUALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State plan for AmeriCare shall require an individual whose employer makes a contribution under title V of the HealthAmerica Act in lieu of providing a health benefit plan under title II of such Act to pay an AmeriCare premium equal to the lesser of—

"(A) coverage under AmeriCare for such individual for a period of one month; or

"(B) 20 percent of the monthly actuarial rate of such State.

"(2) With respect to any part-time employee who is a member of a family that receives benefits under AmeriCare and whose income equals or exceeds an income level that is 200 percent of the income official poverty line (as described in subsection (a)(2)(B)) and whose employer makes a contribution under title V of the HealthAmerica Act, the amount of any AmeriCare premium imposed on such employee shall be 50 percent of the amount determined under paragraph (1).

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) MONTHLY ACTUARIAL RATE DEFINED.—

"(A) IN GENERAL.—For purposes of this section, the term 'monthly actuarial rate' means, with respect to AmeriCare in a plan year, the average monthly per enrollee amount that the State estimates, based on actuarial calculations conducted in conformity with requirements established by the Secretary, for enrollees under AmeriCare during the year, would be necessary to pay for the total benefits required under the State plan for AmeriCare (including administrative costs for the provision of such benefits and an appropriate amount for a contingency margin) during the year.

"(B) SPECIAL RULE.—With respect to any State plan for AmeriCare, for any period ending before the date described in section 2101(a)(2)(C), the monthly actuarial rate shall be calculated as if all eligible children in such State participate in such plan.

"(2) APPLICATION ON BASIS OF FAMILY STATUS.—For purposes of this section, a State plan for AmeriCare may provide for the AmeriCare premium to be applied, and the monthly actuarial rate to be computed—

"(A) separately for individuals who have family members covered under AmeriCare and for individuals who do not have family members covered under the AmeriCare; and

"(B) with respect to individuals with such covered family members, separately—

"(i) for individuals who have a covered spouse and one or more covered children;

"(ii) for individuals who have a covered spouse but no covered children; and

"(iii) for individuals who do not have a covered spouse but have one or more covered children.

"(3) ADJUSTMENT FOR COVERED SPOUSE WITH OTHER COVERAGE.—For purposes of this section, if a State plan for AmeriCare charges an individual for a share of the AmeriCare premium, the plan shall establish a separate AmeriCare premium category (or categories) for family coverage in the case of a covered spouse who is receiving primary health insurance coverage from another health benefit plan. The AmeriCare premium for such categories shall be established based on actual or projected plan experience or according to a formula established by the Secretary, and shall take into account the reduction in health insurance costs resulting from such coverage.

"(d) AMERICARE DEDUCTIBLE OR OTHER COST-SHARING.—

"(1) IN GENERAL.—For purposes of this title, the term 'AmeriCare deductible or other cost-sharing' means any deductible, copayment, or coinsurance established by the State plan for AmeriCare as determined under paragraphs (2) and (3) of this subsection.

"(2) LIMITATION ON DEDUCTIBLES.—A State plan for AmeriCare shall not provide, for benefits provided in any plan year, for a deductible amount that exceeds—

"(A) with respect to benefits payable for items and services furnished to any individual with no family member enrolled under AmeriCare, for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the effective date of this title, $250; or

"(ii) for a subsequent calendar year, the limitation of deductions specified in clause (i) for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

"(B) with respect to benefits payable for items and services furnished to any individual with a family member enrolled under AmeriCare, for a plan year beginning in—

"(i) the first calendar year that begins more than 1 year after the effective date of this title, $250 per family member and $500 per family; or

"(ii) for a subsequent calendar year, the limitation of deductions specified in clause (i) for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limitation of deductions computed under subparagraph (A)(ii) or (B)(ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"(3) LIMITATION ON COPAYMENTS AND COINSURANCE.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (D), a State plan for AmeriCare shall not—

"(i) require the payment of any copayment or coinsurance for an item or service for which coverage is provided under section 2102(g) in an amount that exceeds 20 percent of the cost of the item or service; or

"(ii) require the payment of any copayment or coinsurance for items and services required under section 2102 (other than subsection (g)) to be furnished in a plan year for an individual after the individual has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit (as defined in subparagraph (E)(ii)).

"(B) EXCEPTION FOR PREFERRED PROVIDERS.—If a State plan for AmeriCare establishes reasonable classifications of participating and nonparticipating providers of items and services, the plan may require payments in excess of the amount permitted under subparagraph (A) in the case of items and services furnished by nonparticipating providers.

"(C) EXCEPTION FOR IMPROPER UTILIZATION.—A State plan for AmeriCare may provide for copayment or coinsurance in excess of the amount permitted under subparagraph (A) for any item or service that an individual obtains without complying with any reasonable procedures established by the plan to ensure the efficient and appropriate utilization of covered services.

"(D) MENTAL HEALTH CARE.—In the case of care provided under section 2102(a)(6)(B), a State plan for AmeriCare shall not require payment of any copayment or coinsurance for an item or service for which coverage is required by this title in an amount that exceeds 50 percent of the cost of the item or service.

"(E) LIMIT ON OUT-OF-POCKET EXPENSES.—

"(i) OUT-OF-POCKET EXPENSES DEFINED.—For purposes of this paragraph, the term 'out-of-pocket expenses' means, with respect to an individual in a plan year, amounts payable under AmeriCare as deductibles and coinsurance with respect to items and services provided under AmeriCare and furnished in the plan year on behalf of the individual and family covered under AmeriCare.

"(ii) OUT-OF-POCKET LIMIT DEFINED.—For purposes of this paragraph, the term 'out-of-pocket limit' means for a plan year beginning in—

"(I) the first calendar year that begins more than 1 year after the effective date of this title, $3,000; or

"(II) for a subsequent calendar year, the out-of-pocket limit specified in subclause (I) for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the out-of-pocket limit computed under subclause (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

"SUPPLEMENTAL PAYMENTS

"SEC. 2104. (a) IN GENERAL.—Except as provided in this section, an individual who is enrolled in a health benefit plan under title II of the HealthAmerica Act is not entitled to benefits under AmeriCare.

"(b) ASSISTANCE FOR UNDER-POVERTY FAMILIES.—In the case of an individual described in subsection (a) or an individual whose employer makes a contribution under title V of the HealthAmerica Act in lieu of providing a health benefit plan under title II of such Act, who is a member of an under-poverty family, AmeriCare shall provide for payment of—

"(1) any premiums charged the individual for the applicable category of coverage under the employer's health benefit plan or AmeriCare in which the individual is enrolled, except that AmeriCare is not required to pay for such amount of a premium as exceeds the lowest premium which would be charged the individual for the applicable category of coverage under any health benefit plan offered the individual under title II of the HealthAmerica Act or AmeriCare, as the case may be; and

"(2) deductibles and other cost-sharing imposed on the individual under the employer's health benefit plan or AmeriCare, but only with respect to the basic benefits required under such a plan under such title II or AmeriCare, as the case may be.

"(c) ASSISTANCE FOR NEAR-POVERTY FAMILIES.—

"(1) IN GENERAL.—In the case of an individual described in subsection (a) or an individual whose employer makes a contribution under title V of the HealthAmerica Act in lieu of providing a health benefit plan under title II of such Act, who is a member of a near-poverty family, AmeriCare shall provide for payment of the applicable premium percentage of any premiums charged the individual for the applicable category of coverage under the employer's health benefit plan or AmeriCare in which the individual is enrolled, except that AmeriCare is not required to pay for such amount of a premium as exceeds the lowest premium which would be charged the individual for the applicable category of coverage under any health benefit plan offered the individual under title II of the HealthAmerica Act or AmeriCare, as the case may be.

"(2) APPLICABLE PREMIUM PERCENTAGE.—For purposes of paragraph (1)(A), the term 'applicable premium percentage' means 20 percent reduced (but not below 2 percent) by 2 percentage points for each 10 percentage point bracket (or portion thereof) such family's income equals or exceeds 110 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(d) APPLICATION FOR ASSISTANCE.—The State plan for AmeriCare shall use a standard Federal application which shall be as simple in form as possible and understandable to the average individual and require attachment of such documentation as deemed necessary by the Secretary in order to insure eligibility. Such application shall be available to any employee as provided in section 2107(b), may be filed at any time, and shall initiate coverage under the rules similar to the rules of subparagraphs (A) and (B) of section 2101(b)(2).

"(e) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—The State plan shall provide that upon the initiation of coverage under this section, an individual shall receive advanced payment of supplemental premium payments for the calendar year from AmeriCare, or in the case of an individual enrolled in AmeriCare, a reduction in the annual AmeriCare premium.

"(2) REQUIREMENT FOR FILING OF INCOME STATEMENT.—In the case of a family which is receiving supplemental premium payments (or a reduction in AmeriCare premiums) under this section for any month in a year, a member of the family shall file with the State, by not later than April 15 of the following year, a statement that verifies the family's total family income for the taxable year ending during the previous year. Such a statement shall provide information necessary to determine the family income during the year and the number of family members in the family as of the last day of the year.

"(3) RECONCILIATION OF PREMIUM ASSISTANCE BASED ON ACTUAL INCOME.—Based on and using the income reported in the statement filed under paragraph (2) with respect to a family or individual, the State shall compute the amount of assistance that should have been provided under this section with respect to premiums for the family in the year involved. If the amount of such assistance computed is—

"(A) greater than the amount of premium assistance provided, the State shall provide for payment (directly or through a credit against future premiums owed) to the family or individual involved of an amount equal to the amount of the deficit, or

"(B) less than the amount of assistance provided, the State shall require the family or individual to pay (directly or through an increase in future premiums owed) to the State (to the credit of the program under this title) an amount equal to the amount of the excess payment.

"(4) DISQUALIFICATION FOR FAILURE TO FILE.—In the case of any family that is required to file an information statement under paragraph (2) in a year and that fails to file such a statement by the deadline specified in such paragraph, no member of the family shall be eligible for assistance under this section after May 1 of such year. The State shall waive the application of this paragraph if the family establishes, to the satisfaction of the State, good cause for the failure to file the statement on a timely basis.

"(5) PENALTIES FOR FALSE INFORMATION.—Any individual that provides false information in a statement under paragraph (2) is subject to a criminal penalty to the same extent as a criminal penalty may be imposed under section 1128B(a) with respect to a person described in clause (ii) of such section.

"(6) NOTICE OF REQUIREMENT.—The State shall provide for written notice, in March of each year, of the requirement of paragraph (2) to each family which received assistance under this section in any month during the preceding year and to which such requirement applies.

"(7) TRANSMITTAL OF INFORMATION.—The Secretary of the Treasury shall transmit annually to the State such information relating to the total income of individuals for the taxable year ending in the previous year as may be necessary to verify the reconciliation of assistance under this subsection.

"(f) PAYMENT OF OTHER COST-SHARING CLAIMS.—The State plan shall provide that each individual subject to coverage under this section or the health care provider rendering the service shall file claims for the supplemental payment of deductibles and other cost-sharing imposed on such individual under the employer's health benefit plan or AmeriCare, and the State shall make such payments at the option of the individual, to such individual or the health care provider.

"HEALTH CARE PROVIDERS

"SEC. 2105. (a) USE OF MEDICARE PAYMENT RULES.—

"(1) IN GENERAL.—Except as provided in subsections (b) and (c)—

"(A) payment of benefits under the State plan for AmeriCare shall be made in the same amounts and on the same basis as payment may be made with respect to such benefits under title XVIII of this Act, and

"(B) the provisions of sections 1814, 1815, 1833, 1834(c) (other than paragraphs (1)(A) (2)), 1835, 1842, 1848, 1886, 1887 shall apply to payment of benefits (and provision of services and charges thereon) under this title in the same manner as such provisions apply to benefits, services, and charges under title XVIII of this Act.

"(2) IDENTIFICATION OF COMPARABLE PAYMENT METHODS FOR NEW SERVICES.—In the case of services for which there is not a payment basis established under title XVIII of this Act, the Secretary shall establish payment rules that are similar to the payment rules for similar services under such title.

"(3) ADJUSTMENT OF MEDICARE PAYMENT RATES.—

"(A) IN GENERAL.—For purposes of payment for inpatient hospital services, physicians' services, and other services under this title for which payment rates are established under title XVIII of this Act, the Secretary shall adjust the payment rates otherwise established under such title XVIII to take into account differences between the population served under that title and the population served by the State plan or enrolled under health benefit plans under title II of the HealthAmerica Act and such other appropriate factors (such as the special circumstances of hospitals the inpatients of which are predominantly children) as the Secretary deems appropriate.

"(B) CONSULTATION.—In making adjustments under subparagraph (A), the Secretary shall consult with the Prospective Payment Assessment Commission with respect to inpatient hospital services and with the Physician Payment Review Commission with respect to physicians' services.

"(b) ALTERNATIVE METHODS.—In issuing regulations to establish national reimbursement levels under this section, a State may provide for alternative payment systems that apply rates and methodologies that are not employed in the Federal guidelines described in subsection (a) if such State meets in the aggregate for all health care providers in such State the requirements for national reimbursement levels described in this section.

"(c) PHASE-IN OF MEDICARE RATES.—In lieu of the rates established under the rules described in subsection (a) or (b), the payment of benefits under the State plan for AmeriCare shall be made in the same amounts and on the same basis as payment may be made with respect to comparable medical assistance under title XIX of this Act, and the provisions of such title shall apply to payment of benefits (and provision of services and charges thereon) under this title in the same manner as such provisions apply to payment of comparable medical assistance under title XIX of this Act, except as follows:

"(1) With respect to prenatal and child delivery benefits and infant care benefits—

"(A) 50 percent of the rate differential beginning on the first day of the third full calendar year after the date of the enactment of this title

"(B) 100 percent of the rate differential beginning on the first day of the fourth full calendar year after the date of the enactment of this title.

"(2) With respect to benefits described in section 2102(a)(7) and children outpatient and pediatric hospitalization benefits—

"(A) 50 percent of the rate differential beginning on the first day of the fifth full calendar year after the date of the enactment of this title

"(B) 100 percent of the rate differential beginning on the first day of the sixth full calendar year after the date of the enactment of this title.

"(3) With respect to all other benefits described in section 2102—

"(A) 50 percent of the rate differential beginning on the first day of the seventh full calendar year after the date of the enactment of this title

"(B) 100 percent of the rate differential beginning on the first day of the eighth full calendar year after the date of the enactment of this title.

For purposes of this subsection, the term 'rate differential' means with respect to each benefit the difference between the reimbursement rate as determined under subsection (a) or (b) and the reimbursement rate for comparable medical assistance determined under subsection (c).

"(d) NO JUDICIAL OR ADMINISTRATION REVIEW.—There shall be no administrative or judicial review of the payment rates or rules under this section (including adjustments made under this section).

"(e) UNIFORM CLAIMS AND BILLING FORM.—Each State plan shall require the use of any Federal Uniform Claims and Billing Form developed by the Federal Health Expenditure Board under section 1180(b). Additional information may be required by the State plan if approved by the Secretary.

"(f) UNIFORM IDENTIFICATION SYSTEM.—Each State plan shall require each health care provider to use the identification number (if any) such provider uses in furnishing services for which payment is made under title XVIII of this Act or such other identification number specified by the Secretary.

"(g) MULTI-STATE PROVIDERS.—Each State plan shall allow health care providers participating in AmeriCare to participate under any other State plan for AmeriCare.

"QUALITY AND COST-EFFECTIVE CARE MEASURES

"SEC. 2106. (a) APPLICATION OF PEER REVIEW ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall ensure that the quality control and peer review activities described in section 1165 are conducted in the manner prescribed in such section.

"(2) ADDITIONAL CRITERIA.—The Administrator of the Agency for Health Care Policy and Research shall, on an annual basis, and as otherwise determined by the Secretary, advise the Secretary concerning the incorporation of patient outcome measures and practice parameters with respect to care and services furnished under this title in conjunction with the quality control and peer review activities described in paragraph (1) of this subsection.

"(b) ALTERNATIVE DELIVERY AND ADMINISTRATIVE SYSTEMS.—A State may enter into a contract with a private entity or insurer or a State consortium (described under part D of title XI of this Act) to design and implement innovative systems of health care delivery and administrative systems that meet the standards of this title.

"(c) MANAGED CARE.—

"(1) IN GENERAL.—Each State plan shall, as part of AmeriCare, provide for managed care plans in accordance with the requirements of this subsection.

"(2) REQUIREMENTS.—In providing for managed care plans under this subsection, a State shall ensure that—

"(A) managed care plans are, to the extent practicable, selected through a competitive selection process;

"(B) an eligible individual under this title has an option to enroll in any of the managed care plans selected by the State offered by any qualified health care provider (as defined and determined by the Secretary);

"(C) an eligible individual who is receiving benefits under a managed care plan, may, not less often than annually, and without cause, exercise the option to discontinue receiving benefits under the managed care plan and receive coverage under an alternative plan under AmeriCare;

"(D) any arrangements for incentive payments for physicians under a managed care plan must comply with requirements for the provision of quality care that the Secretary shall prescribe by regulation, taking into account, at a minimum, quality care guidelines under title XVIII of this Act; and

"(E) a managed care plan shall provide for a system of rate assessment and adjustment that minimizes risk selection and segmentation (as defined and determined by the Secretary).

"(3) REGULATIONS.—The Secretary shall, not more than 180 days after the date of the enactment of this title, develop and establish by regulation, standards to ensure the quality of care under managed care plans under AmeriCare.

"(e) COST CONTAINMENT DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish various demonstration projects to enable the States that submit an approved application, to implement cost management initiatives that promote the effective furnishing of care under this title. Such cost management initiatives shall include:

"(A) Programs for contracting with community-based providers (as defined by the Secretary).

"(B) Financial incentives to encourage the delivery of high quality, cost effective managed care under subsection (d) of this section, including enhanced payment rates to States with a high percentage of individuals enrolled in managed care plans, to the degree such enrollment results in reduced Federal expenditures.

"(C) Case management, including casefinding and the coordination of social and support services.

"(D) Financial incentives to encourage outreach programs.

"(E) Financial incentives to encourage the use of cost-effective services.

"(F) Measures to encourage an awareness of the costs associated with medical care, including nominal copayments (as determined by the Secretary) and the advantages of preventive care and other cost-effective types of care.

The Secretary shall require each State that submits an approved application to develop plans for conducting a demonstration project under this paragraph, in accordance with requirements that the Secretary shall establish by regulation.

"(2) ENHANCED COVERAGE DEMONSTRATION PROJECTS.—The Secretary may by waiver provide that a State plan for AmeriCare may include as benefits under such plan payment for all or part of the cost of services described in section 1915(c) (other than paragraph (3) thereof).

"ADMINISTRATION

"SEC. 2107. (a) ADMINISTRATION.—

"(1) IN GENERAL.—Subject to paragraph (3), each State shall provide for administration of this title in the same manner as it provides for administration of the plan established under section 1902(a) of this Act. In the administration of this title, the State agency designated under section 2101(a)(1) may delegate or contract with other public or private entities for the administration of the plan for AmeriCare.

"(2) NOTIFICATION OF AMERICARE; APPLICATION PROCESSING.—Any State that submits an application approved by the Secretary may contract with private entities or a State agency other than the agency designated under section 2101(a)(1) to provide notification of AmeriCare to the residents of the State and process and review applications as required under section 2101(a)(6), and sections 2101(b) and 2104(d), respectively.

"(3) ELECTION.—A State, with such notice to the Secretary as the Secretary may require, may elect to have this title (insofar as it provides benefits with respect to individuals under section 2101(a)(2)) administered with respect to that State by the Secretary (or by such agent as the Secretary may designate). The Secretary may not accept such an election unless the State provides assurances satisfactory to the Secretary that the State will make payments to the Secretary toward the cost of implementing this title in the same amounts and at the same time as the State would make payments under this title but for the fact of such an election.

"(4) MULTI-STATE PROGRAMS.—Subject to the approval of the Secretary, any State may submit a joint plan for AmeriCare along with 1 or more other States to implement a regional administration of 1 plan for AmeriCare.

"(5) DATA COLLECTION.—Each State shall submit to the Secretary (in such form and manner as the Secretary determines) for collection and analysis—

"(A) aggregate and per enrollee expenditures for each benefit covered under AmeriCare, including categorization by age, race, sex, and income level; and

"(B) uniform claims collection (by computer) that provide data to assist in the assessment of the amount, type, quality, and location of health care furnished through AmeriCare.

"(b) RIGHT TO REVIEW DENIED CLAIMS.—

"(1) NOTICE.—Each State plan for AmeriCare shall require that the State agency shall provide an individual with written notice concerning the denial of a claim submitted by such individual. Such notice shall include the reasons for such denial.

"(2) PROCESS FOR REVIEW.—Each State plan for AmeriCare shall utilize a fair process for the timely review of claims denied under such plan.

"(3) CLAIM FOR CARE NEEDED FOR LIFE-THREATENING ILLNESS.—In cases in which the failure to provide health care promptly would be life-threatening or result in a risk of permanent disability, the AmeriCare beneficiary shall be entitled to a decision as to whether care will be provided under AmeriCare not later than 1 day after supplying the State with all requested information. In the event of a denial of coverage for such care, the beneficiary shall be entitled to an expedited review of an appeal of such denial within 5 days.

"(4) APPEALS.—Individuals shall be entitled to appeal the denial of a claim submitted by such individual to the State agency. The Secretary shall promulgate regulations establishing procedures to be utilized for appealing denials of claims under AmeriCare that are similar to the procedures established under title XVIII of this Act for appealing denials of claims under such title XVIII, including the right to a trial de novo.

"(c) ADMINISTRATIVE REGULATIONS.—

"(1) INCOME DETERMINATION.—The Secretary and the States shall develop and promulgate by regulation a system for the certifying of income and the reporting of changes of income by individuals within an appropriate period of time for the purposes of determining the amount of any premiums and copayments under section 2103 and the eligibility for supplemental payments of deductibles and other cost-sharing under section 2104, including the use of the social security identification number in tracking such changes and verifying the information at least biannually. Such system shall include rules similar to the rules described in paragraphs (2) through (7) of section 2104(e), including a method for making adjustments for any overpayments or underpayments of such premiums, copayments, and supplemental payments.

"(2) NOTICE OF SUPPLEMENTAL PAYMENTS.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Treasury, shall, by regulation, require that each employer—

"(i) provide written notification forms to each employee outlining the availability of supplemental payments under AmeriCare in the State in which such employee resides as described in section 2104;

"(ii) coordinate the distribution of standard Federal application forms described in section 2104(d) in conjunction with the provision of written notification under paragraph (1);

"(iii) carry out the requirements of clauses (i) and (ii) without regard to the level of income of any employee.

"(B) CONTENTS OF NOTICE.—In promulgating the regulations described in subparagraph (A), the Secretary shall require the following information to be supplied in the written notification:

"(i) Information relating to the availability of supplemental payments on the basis of family income and size (prepared to coordinate with tax filing units or census information).

"(ii) Information concerning the amount of monthly supplemental payments.

"(c) FAILURE TO PRESCRIBE REGULATIONS.—The failure of the Secretary to prescribe any regulations under this title shall not relieve a State of any responsibility for complying with this title.

"DEFINITIONS AND SPECIAL RULES

"SEC. 2108. (a) DEFINITIONS.—As used in this title:

"(1) CHILD.—The term 'child' means an individual who—

"(A) is under 19 years of age;

"(B) is under 23 years of age and a full-time student; or

"(C) is, regardless of age, unmarried, dependent, and incapable of self-support as a result of a mental or physical disability that existed prior to the individual reaching 22 years of age.

"(2) EMPLOYEE.—The term 'employee' has the meaning given such term under section 2713(a)(2) of the Public Health Service Act.

"(3) EMPLOYER.—The term 'employer' has the meaning given such term under section 2713(a)(3) of the Public Health Service Act.

"(4) FAMILY.—The term 'family' means an individual, and any spouse or child of an individual. In determining if any individual is a child of another individual, rules similar to the rules of section 152(b)(2) of the Internal Revenue Code of 1986 shall apply.

"(5) HEALTH CARE PROVIDER.—The term 'health care provider' means any entity or person eligible to receive payments under titles XVIII and XIX of this Act.

"(6) MANAGED CARE PLAN.—

"(A) MANAGED CARE PLAN.—The term 'managed care plan' means a health benefit plan (as defined in section 1182(1)—

"(i) in which the insurer—

"(I) utilizes explicit standards for the selection and recertification of participating providers;

"(II) has organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services, which program (aa) stresses health outcomes, and (bb) provides review by physicians and other health professionals of the process followed in the provision of health services; and

"(III) contains significant incentives to use the participating providers and procedures provided for by the plan; and

"(ii) which, if it limits coverage of services to those provided by participating providers or permits deductibles and coinsurance with respect to basic health services provided by persons who are not participating providers which are in excess of those permitted under health benefit plans—

"(I) has a sufficient number and distribution of participating providers to assure that all covered items and services are (aa) available and accessible to each enrollee, within the area served by the plan, with reasonable promptness and in a manner which assures continuity, and (bb) when medically necessary, available and accessible twenty-four hours a day and seven days a week; and

"(II) provides benefits for covered items and services not furnished by participating providers if the items and services are medically necessary and immediately required because of an unforeseen illness, injury, or condition.

"(B) MANAGED CARE ENTITY.—The term 'managed care entity' means an insurer, health maintenance organization, preferred provider organization, dental plan organization, or other entity licensed to do business in a State, that markets managed care plans to groups or individuals or an employer, labor union, or other State licensed entity that provides managed care plans for its employees or members.

"(C) PARTICIPATING PROVIDER.—The term 'participating provider' means a physician, hospital, health maintenance organization, pharmacy, laboratory, or other appropriately licensed provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient enrolled in a managed care plan.

"(D) UTILIZATION REVIEW.—The term 'utilization review' means a program for reviewing the necessity and appropriateness of health care services provided or proposed to be provided to a patient.

"(7) MENTAL DISORDER.—The term 'mental disorder' has the same meaning given such term in the International Classification of Diseases, 9th Revision, Clinical Modification.

"(8) NEAR-POVERTY FAMILY.—The term 'near-poverty family' means a family whose income equals or exceeds 100 percent of the income official poverty line (as described in paragraph (1)), but is less than 200 percent of such income official poverty line.

"(9) PART-TIME EMPLOYEE.—The term 'part-time employee' has the meaning given such term under section 2713(a)(2)(G) of the Public Health Service Act.

"(10) SPECIAL ELIGIBILITY INDIVIDUALS.—The term 'special eligibility individual' means an individual who on the date of application for benefits under AmeriCare is—

"(A) a member of an under-poverty family; or

"(B) would have qualified for assistance under title IV of this Act or for medical assistance in the State of the individual's residence under title XIX of this Act (as in effect on the date of the enactment of this title);

"(C) or both.

"(11) STATE.—The term 'State' means the 50 States and the District of Columbia.

"(12) UNDER-POVERTY FAMILY.—The term 'under-poverty family' means a family whose income is less than 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(b) DETERMINATIONS OF INCOME.—For the purposes of this title—

"(1) In general.—The term 'income' means—

"(A) adjusted gross income (as defined in section 62(a) of the Internal Revenue Code of 1986), determined without the application of paragraphs (6) and (7) of such section and without the application of section 162(l) of such Code, plus

"(B) the amount of social security benefits (described in section 86(d) of such Code) which is not includable in gross income under section 86 of such Code.

"(2) FAMILY INCOME.—The term 'family income' means, with respect to an individual, the sum of the income for the individual and all the other family members.

"(3) FAMILY SIZE.—The family size to be applied under this title, with respect to family income, is the number of individuals included in the family for purposes of coverage of basic health benefits under AmeriCare or under a health benefit plan (as the case may be).

"(4) TIMING OF DETERMINATION.—Income shall be determined in accordance with one of the following methods, at the option of the applicant, for coverage under this title:

"(A) Multiplying by a factor of 4 the family income of the applicant for the 3-month period immediately preceding the month in which the application for coverage under this title is made.

"(B) Determining the family income of the applicant for the month in which the application for such coverage is made.

"PAYMENT TO STATES

"SEC. 2109. (a) IN GENERAL.—The Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing January 1, 1992—

"(1) an amount equal to the Federal insurance assistance percentage of the total amount expended during such quarter for benefits and supplemental payments under the State plan; plus

"(2) an amount equal to the administrative percentage of so much of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

"(b) FEDERAL INSURANCE ASSISTANCE PERCENTAGE.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the Federal insurance assistance percentage for any State shall be 100 percent less the State percentage.

"(2) STATE PERCENTAGE.—The State percentage for any State shall be equal to—

"(A) the State percentage determined under section 1905(b), minus

"(B) the applicable percentage of such State percentage.

"(c) ADMINISTRATIVE PERCENTAGE.—For purposes of subsection (a)(2), the administrative percentage for any State shall be—

"(1) 50 percent, plus

"(2) the applicable percentage of 50 percent.

"(d) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means in the case of each quarter in the following full calendar years beginning after the date of the enactment of this title, the following percentage:

"Calendar year:	Applicable Percentage:
2nd	20
3rd	20
4th	15
5th	10
6th	5.

"AMERICARE TRUST FUND

"SEC. 2110. (a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'AmeriCare Trust Fund' (hereafter in this section referred to as the 'Fund'), consisting of such gifts and bequests as may be made and such amounts as may be credited to the Fund under this section.

"(b) TRANSFERS TO FUND.—

"(1) IN GENERAL.—There are hereby appropriated to the Fund amounts equivalent to the net revenues received in the Treasury from—

"(A) contributions required by section 3601 of the Internal Revenue Code of 1986,

"(B) contributions made under section 2723(c)(2) of the Public Health Service Act,

"(C) AmeriCare premiums (as defined in section 2104(6)) collected by employers on behalf of employees, and

"(D) penalties collected under section 2732 of the Public Health Service Act.

"(2) TRANSFERS BASED ON ESTIMATES.—The amounts appropriated by subparagraphs (A), (B), and (C) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the amounts, specified in such subparagraphs, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the amounts specified in such subparagraphs.

"(c) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Fund such additional sums as may be required to make expenditures referred to in subsection (d).

"(d) EXPENDITURES FROM FUND.—

"(1) IN GENERAL.—For the purpose of establishing a public program to provide health insurance coverage to be known as 'AmeriCare', there are authorized and appropriated for each fiscal year from the Fund a sum sufficient to carry out the purpose of this title. The sums made available under this paragraph shall be used for making payments under section 2109 to States that have submitted, and had approved by the Secretary, a State plan for AmeriCare.

"(2) ALLOCATIONS.—Amounts described in subsection (b)(1) shall be allotted to each State under paragraph (1) on the basis of amounts received in the Fund with respect to employees residing in such State.

"(3) ADDITIONAL FUNDS FOR ADMINISTRATIVE EXPENSES.—Amounts in the Fund shall be available, as provided in appropriation Acts, for the expenses of the Health Care Financing Administration or any other Federal agency designated by the Secretary in administering the provisions of this title.

"(e) INCORPORATION OF TRUST FUND PROVISIONS.—The provisions of subsections (b) through (i) of section 1841, as in effect on the day before the date of the enactment of this title, shall apply to the Fund in the same manner as such provisions apply to the Federal Supplemental Medical Insurance Trust Fund, except that any reference to the Secretary of Health and Human Services or the Administrator of the Health Care Financing Administration shall be deemed a reference to the Secretary of Health and Human Services.".

(b) ADMINISTRATIVE AND JUDICIAL REVIEW OF CERTAIN ADMINISTRATIVE DETERMINATIONS.—Section 1116 of the Social Security Act (42 U.S.C. 1316) is amended—

(1) by striking "or XIX" each place it appears and inserting "XIX, or XXI", and

(2) by striking "or 1904" in subsection (a)(3) and inserting "1904, or 2101(a)(14)".

(c) UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"REVIEW OF AMERICARE UNDER TITLE XXI.

"SEC. 1165. (a) REVIEW OF AMERICARE UNDER TITLE XXI.—The Secretary shall provide, by regulation, for reviews of the programs under title XXI of this Act by utilization and quality control peer review organizations to be carried out in a similar manner as provided under this part for review of programs under title XVIII of this Act.".

"(b) CLINICAL PRACTICE GUIDELINES.—In providing for the review of programs under title XXI of this Act as described in subsection (a), the Secretary shall, in consultation with recognized experts in the field of utilization and quality control review, ensure that, to the extent practicable, the reviews conducted under this section take into consideration clinical practice guidelines, (including guidelines for clinical practice and other standards developed by the Advisory Council for Health Care Policy, Research, and Evaluation pursuant to section 921 of the Public Health Service Act (42 U.S.C. 299b-1)).".

(d) CALCULATION OF FEDERAL INSURANCE ASSISTANCE PERCENTAGE APPLICABLE TO TITLE XXI.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary"), in consultation with the chief executives of the States, shall develop recommendations for the calculation of a specific Federal insurance assistance percentage applicable to coverage furnished under title XXI of the Social Security Act (as added by this Act). In a recommended formula for the determination of such Federal insurance assistance percentage, the Secretary shall consider factors related to the following:

(A) Levels of employment.

(B) The population of individuals covered under AmeriCare under such title XXI.

(C) Poverty levels.

(D) Economic conditions.

(E) The distribution of urban and rural populations.

(F) Health indicators, such as infant mortality.

(2) EMERGENCY FUND.—The Secretary shall develop recommendations for the creation of an emergency fund to fund certain benefits under title XXI of the Social Security Act (as added by this Act) in the event a State experiences changes in economic conditions or other conditions that the Secretary determines to necessitate emergency funding.

(3) REPORT.—Upon completion of the recommendations described in paragraphs (1) and (2), the Secretary shall submit a report to the appropriate committees of the Congress that includes such recommendations.

(e) REDUCTION IN PAYMENT FOR HOSPITALS RECEIVING A DISPROPORTIONATE SHARE ADJUSTMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (hereafter in this subsection referred to as the "Secretary") shall for discharges occurring on or after the first day of the second full calendar year after the date of the enactment of this Act provide for a reduction in the payment of the disproportionate share adjustment percentage specified in section 1886(d)(5)(F) of the Social Security Act by ¼ (½, with respect to discharges occurring on or after the first day of the seventh such full calendar year) of what the payments to hospitals under such provision would have been but for the enactment of this subsection.

(2) APPLICATION FOR EXCEPTION.—

(A) IN GENERAL.—The Secretary shall, notwithstanding paragraph (1), provide for payment of the full disproportionate share adjustment percentage specified in section 1886(d)(5)(F) of the Social Security Act in any case in which a hospital applies to the Secretary for an exception from the reduction specified in paragraph (1) and it is determined by the Secretary that such hospital shall receive payments resulting from the enactment of title VI of this Act that are less than 200 percent of the amount of reduction of payments specified in paragraph (1) to such hospital.

(B) DETERMINATION CRITERIA.—In making a determination under subparagraph (A) the Secretary shall consider—

(i) the number of patients served by a hospital that are underinsured or uninsured and the costs to the hospital of providing services to such patients in the first full calendar year after the date of the enactment of this Act; and

(ii) such other relevant factors as the Secretary determines appropriate.

(C) CONSIDERATION OF APPLICATION.—In the case of a hospital that submits an application to the Secretary under this subsection at least 6 months before the first day of the second full calendar year after the date of the enactment of this Act, the Secretary shall make a determination with regard to such application prior to such first day. With respect to all other applications submitted to the Secretary under this subsection the Secretary shall make a determination with respect to such application no later than 6 months after the date of receipt of such application.

(D) APPEAL OF DETERMINATION.—A hospital submitting an application to the Secretary under this subsection may appeal a determination by the Secretary to the Provider Reimbursement Review Board established under section 1878 of the Social Security Act and the provisions of such section shall apply to any such appeal.

(f) COORDINATION WITH TITLE XIX.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new section:

"COORDINATION WITH TITLE XXI

"SEC. 1930. (a) The provision of medical assistance under this title shall not apply to any individual eligible for coverage under AmeriCare under title XXI of this Act.

"(b) The Secretary shall, by regulation, provide for appropriate coordination of this title with title XXI of this Act.".

(g) INCREASE IN TITLE XIX CAP FOR TERRITORIES.—Subsection (c) of section 1108 of the Social Security Act (42 U.S.C. 1308) is amended by adding at the end thereof the following new flush sentence:

"Notwithstanding the preceding sentence, for each fiscal year beginning after the date of the enactment of the HealthAmerica Act each amount under subclause (C) of each clause of such sentence shall be increased by the AmeriCare percentage increase for the preceding fiscal year. For purposes of the preceding sentence, the AmeriCare percentage increase equals the percentage increase (if any) in the total Federal program costs of title XXI of this Act over such costs of title XIX of this Act (as determined in the fiscal year preceding the effective date of the HealthAmerica Act) for all States.".

(h) EFFECTIVE DATE.—The amendments made by this title shall take effect on the first day of the second full calendar year beginning after the date of the enactment of this Act, without regard to whether regulations to implement such amendments are promulgated by such day.

TITLE VII—DEVELOPMENT OF HEALTH SERVICE CAPACITY

SEC. 701. GRANTS FOR EXPANSION OF AVAILABILITY OF PRIMARY CARE SERVICES.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart V—Emergency Health Care Grant Programs

"SEC. 340D. GRANTS FOR EXPANSION OF AVAILABILITY OF PRIMARY CARE SERVICES.

"(a) IN GENERAL.—The Secretary shall award grants to eligible entities to expand the availability of comprehensive primary health services (as defined in section 330(b)(1)) in medically underserved areas.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

"(1) be—

"(A) a migrant or community health center that receives assistance under section 329 or 330;

"(B) be an entity that meets the requirements of section 329(a) of 330(a) for being a migrant or community health center, though not a recipient of a grant under either of such sections;

"(C) be an entity that does not meet the requirements of section 329(a) or 330(a) for being a migrant or community health center, but that provides assurances satisfactory to the Secretary, including subsequent demonstrable evidence, that such entity will meet the requirements of either such section not later than 2 years after receiving a grant under this section; or

"(D) be an entity that is eligible for a planning grant under sections 329(c) or 330(c); and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) REVIEW OF APPLICATIONS; PRIORITY.—

"(1) REVIEW.—The Secretary shall develop a process and timetable for reviewing applications submitted under subsection (b)(2) to assure that, to the extent practicable, all amounts appropriated under this section are awarded not later than 180 days after the beginning of each fiscal year.

"(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to—

"(A) applicants that will use amounts received under such grant to provide services in areas with the greatest need for such services and in which the demand for such services can be expected to increase after the implementation of the HealthAmerica Act;

"(B) applicants with a demonstrated ability to expand their operations in the most efficient manner;

"(C) applicants that are migrant or community health centers receiving assistance under section 329 or 330, that propose to use amounts received under such grants to expand their operations, including expansion to new sites, to serve high impact areas (as defined in section 329(a)(5)) or medically underserved populations (as defined in section 330(b)(3)), that are not currently being served;

"(D) applicants that do not receive assistance under section 329 or section 330, but that meet all requirements to receive funds under either of such sections, including, for the purpose of planning the establishment of new centers in areas of high need, entities eligible for planning grants under sections 329(c) and 330(c).

"(3) SECONDARY PRIORITY.—The Secretary shall give secondary priority in awarding grants under this section to applicants that—

"(A) propose to meet the requirements of section 329 or 330 within 2 years after the date on which the application is submitted; and

"(B) are serving or propose to serve such populations or areas that are not currently being served or have a proposal for such service pending.

"(d) USE OF AMOUNTS.—An entity receiving a grant under this section shall use amounts received under such grant to expand the availability of comprehensive primary health services (as defined in section 330(b)(1)) in medically underserved or high impact areas.

"(e) REIMBURSEMENT FROM OTHER SOURCES.—

"(1) IN GENERAL.—An entity receiving a grant under this section shall use any and all reimbursements received from other sources for services provided by such entity to—

"(A) compensate for the unreimbursed costs of providing services to patients;

"(B) expand the amounts and types of services furnished;

"(C) serve additional patients or areas; or

"(D) promote the recruitment, training, or retention of personnel.

"(2) RETURN OF UNUSED AMOUNTS.—Any amounts of the reimbursements referred to in paragraph (1) that are not used for the purposes described in such paragraph shall be returned to the Secretary, either directly or through adjustments in future grants, and shall be used by the Secretary to make additional or expanded grants under this section without regard to appropriations under subsection (h).

"(f) FAILURE TO COMPLY.—

"(1) TERMINATION OF PAYMENTS.—In the case of an entity that receives a grant under this section and fails to comply with the requirements of this section, the Secretary shall, after providing such entity with appropriate notice and an opportunity for a hearing, terminate the payment of amounts under such grant to such entity. The Secretary may terminate grants to entities that fail to demonstrate good faith efforts to meet the requirements of this section.

"(2) ADDITIONAL POWERS OF THE SECRETARY.—In addition to terminating payments under paragraph (1), the Secretary may—

"(A) sell any property acquired by the entity with amounts received under the grant, or transfer such property to another entity receiving such a grant; and

"(B) recoup (to the extent practicable) assistance previously provided to the entity under this section.

"(3) INELIGIBILITY FOR FUTURE GRANTS.—If an entity that is not in compliance with the requirements of this section may be granted a 2-year extension to meet such requirements. If at the end of such 2-year period the entity has failed to comply with such requirements, that entity shall be ineligible for further grants under this section.

"(g) ADMINISTRATION.—Not more than 10 percent of the amounts made available under this section may be used for administrative purposes. The costs of administration include—

"(1) the cost of providing, either directly or by grant or contract to nonprofit private entities that represent the recipients of grants under this section, for the identification of areas and populations eligible for assistance under this section; and

"(2) the provision of technical assistance to entities for the planning, development and operation of the service delivery systems supported under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated and there are appropriated to carry out this section—

"(A) $58,000,000 for fiscal year 1992;

"(B) $166,000,000 for fiscal year 1993;

"(C) $266,000,000 for fiscal year 1994;

"(D) $350,000,000 for fiscal year 1995; and

"(E) $426,000,000 for fiscal year 1996.

"(2) REPORT.—Not later than September 30, 1995, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the need for further migrant and community health center primary care service capacity development and recommendations concerning the appropriate level of support needed for activities to address such capacity development.

"(3) ADDITIONAL AMOUNTS.—Amounts provided under this section shall be in addition to any amounts appropriated under sections 329 and 330.".

TITLE VIII—EFFECTIVE DATE

SEC. 801. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, titles I and II of this Act shall take effect on January 1 of the second full year that begins after the date of the enactment of this Act.

(b) EXISTING PLANS.—In the case of an employer that, on the date of the enactment of this Act, has in effect a health insurance plan covering the employees of such employer, the amendments made by titles I and II shall not apply to such employer until the date described in subsection (a) or the first day of the second full year after the date of the enactment of this Act, whichever is later.

(c) STATE AND LOCAL GOVERNMENTS.—In the case of an employer whose revenue is raised by a taxing authority, a health insurance plan covering the employees of such employer shall not be required to meet the requirements of part B of title XXVII of the Public Health Service Act until the first day of the third full year after the date of the enactment of this Act. During the period beginning on the effective date prescribed under subsections (a) and (b) and ending on the first day of such third full plan year, employee participation in such plan shall be voluntary unless otherwise required by the plan.

SEC. 802. POLICY RESPECTING ADDITIONAL BENEFITS.

(a) IN GENERAL.—After the date of the enactment of this Act, no employer shall be required under part B of title XXVII of the Public Health Service Act to provide any health benefit in addition to the benefits required to be provided under section 2721(a) of such Act (as in effect on the date of the enactment of this Act) unless—

(1) such additional health benefit is for a service that the AmeriCare plans (under title XXI of the Social Security Act) are required to cover; and

(2) before the enactment of such requirement, the benefits and costs of requiring the provision of such additional health benefit have been analyzed and considered by Congress.

(b) REPORTS.—

(1) IN GENERAL.—In carrying out subsection (a)(2) with respect to the consideration of a proposed additional health benefit, Congress shall request a report from the Institute of Medicine of the National Academy of Sciences or a public or nonprofit entity with expertise relating to health benefits. Any such report shall—

(A) analyze and summarize such proposed additional health benefit; and

(B) contain an estimate of the economic and health impacts of such proposed additional health benefit.

(2) CONSULTATION.—Any such report shall be prepared in consultation with interested members of the public and with individuals and entities having expertise with respect to such proposed additional health benefit.

SUMMARY OF HEALTHAMERICA: AFFORDABLE HEALTH CARE FOR ALL AMERICANS

OVERVIEW

The legislation will assure every American basic health insurance coverage, either through a plan provided by an employer or through a Federal-State public insurance program, called AmeriCare, that will replace Medicaid.[1] Universal health insurance coverage will be coupled with a comprehensive program to control health care costs and with provision to reflect the special needs and problems of small business.

EMPLOYMENT-BASED COVERAGE

Business responsibility.—Businesses will be offered a choice of providing coverage meeting minimum standards for employees and their families or making a contribution to the public plan. The contribution will be set at a percent of payroll. This contribution will encourage employers to provide health insurance while providing a substantial subsidy to employers, especially small employers, with a high percentage of low-wage or part-time workers. The contribution will be set at a level that will maximize private coverage for the working population without imposing an excessive burden on employers.

If an employer chooses to make a contribution, he or she will be required to facilitate the process of enrollment in the public program by providing his or her employees with enrollment forms and information about how to apply for coverage. States will be given the option to require those employers who elect to make a contribution to the public program to collect the employees' portion of the premium. In the absence of this requirement, employers will be allowed to voluntarily collect premiums on behalf of employees.

Individual responsibility.—Employees will be required to accept coverage for themselves and their families if offered by their employers and pay a share of the premium as well as co-payments and deductibles, if required under the employer plan. A similar obligation will be assumed by workers whose employers make a contribution to the public program. When the plan is fully phased-in, certification of health insurance coverage will be required for each individual claimed as a personal exemption. Certification of coverage will also be required when applying for government benefits such as government loans or food stamps as a condition of receiving benefits.

BASIC BENEFIT PACKAGE

Covered services. Plans must cover: hospital services; physician services; diagnostic tests; limited mental health benefits; 45 days of inpatient care; 20 outpatient visits; prenatal and well-baby care; preventive health benefits: mammograms, pap smears, and well child care.

Cost-sharing. Maximum employee cost-sharing under basic plans is: 20 percent of the premium; deductibles of $250 per individual and $500 per family; co-payments of 20 percent (except for outpatient mental health services, for which 50 percent co-payments may be charged); out-of-pocket catastrophic cap on liability for covered services of $3,000; wage-related cost-sharing may be used for deductible and catastrophic cap; employee premium share and co-payments and deductibles will be subsidized by the public plan for low-income workers (as described in the public plan section below).

Actuarial equivalency. To assure employer flexibility to adapt the plan to the needs of the particular work force, employers may offer plans that do not meet minimum standards as long as the employer contribution to the plan offered is actuarially equivalent, pursuant to guidelines issued by the Secretary, to what would be provided under the basic plan. Under an actuarially equivalent plan, basic services must still be covered without limits on scope and duration, except as specified in the basic plan, but the level of cost-sharing could be adjusted. For example, an employer who offered a service that was not required to be covered could require his or her employees to pay a larger share of the premium or charge a higher deductible. An employer with a lower deductible could have a higher catastrophic cap.

EMPLOYEES TO BE COVERED

Full-time workers. If an employer provides private coverage rather than making a contribution to the public plan, all workers and their families working 17½ hours a week or more must be covered. An employer may choose to make a contribution to the public plan for workers employed less than 17½ hours per week even if direct coverage rather than the payment is chosen for other workers. For purposes of computing the wage base for contributions to the public plan, the employer may exclude workers for whom coverage is not mandatory, including employed children covered under a parent's plan and workers with two employers receiving coverage under another employer's plan.

Less than full-time workers. The required employer premium contribution for workers employed 17½ hours per week or more and less than 25 hours a week may be reduced based on the ratio of hours worked to 25. The required contribution for employees working less than 17½ hours per week is at least 50 percent. Employees who are charged premiums higher than 20 percent of the cost of a basic plan as the result of this provision may decline employer coverage and receive coverage through the public plan.

Two family members employed. Each employer is responsible for primary coverage of his or her employee. If a family member is covered under another plan, a worker may decline coverage for that family member. Parents may choose which employer plan will cover their children. A worker receiving primary coverage from an employer may also elect to participate in the plan of another working family member and receive secondary, wrap-around coverage from that plan. In the case of a two-worker family, the primary worker's premium payment, if any, to the primary employer shall be adjusted to reflect savings to that employer as the result of not bearing responsibility for primary coverage of the secondary worker. A similar adjustment shall be made for workers receiving retirement health benefits from a previous employer.

Employed child. Coverage may be waived for a working dependent child covered under a parent's plan.

ADDITIONAL FEATURES

Waiting period. The waiting period for coverage may not exceed 30 days. If the employer elects to impose a waiting period, the employee may elect to receive coverage from the employer during this period by paying 102 percent of the combined employer and employee share of the premium.

Pre-existing condition limitations on coverage. When fully phased-in, no limits on coverage may be imposed based on the existence of pre-existing conditions.

Consumer protection. A set of legal protections will be established for insured individuals, including the right to full information on plan provisions and the right to appeal coverage decisions.

PUBLIC PLAN

Medicaid will be replaced[2] by a new Federal-State program of public coverage called

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[1] Except for long-term care services.

[2] Except for long-term care services.

AmeriCare. The program would be administered by the states subject to national standards for eligibility, reimbursement, and coverage. All Americans not covered by employment-based coverage will receive coverage under AmeriCare.

Benefits under AmeriCare will be the same as for employment-based coverage, except that Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) will be available under the public program. Individuals below the poverty line will have access to optional Medicaid services that the State chooses to provide. Individuals below the poverty line covered by an employmentbased plan will also be entitled to receive such services through the public plan.

Specific provisions include:

Premiums.—Individuals below 100 percent of poverty will pay no premium. Individuals between 100 and 200 percent of poverty will pay premiums on a sliding scale basis. Individuals above 200 percent of poverty will pay premiums equal to the average actuarial value of the coverage, capped by a percent of income reflecting ability to pay.

Workers receiving coverage through the public plan will pay 20 percent of the actuarial value of coverage, unless their incomes are below 200 percent of poverty.

Subsidy of low-income workers receiving private coverage through an employer.—The public plan will subsidize the premium share of workers with family income below 200 percent of poverty. Premiums will be completely covered for below-poverty workers for basic plan benefits.

Consortia.—States will be encouraged to establish purchasing consortia to reduce the overall rate of health care cost inflation (see below); AmeriCare and Medicare can participate in these consortia.

Managed care.—States will be encouraged to set up and enroll beneficiaries in cost-effective managed care systems. Safeguards are included to assure that no enrollee will be forced to choose a managed care alternative.

Provider reimbursement.—Providers will be reimbursed at levels at least equivalent to the level that would be provided by the use of Medicare reimbursement rules. Reimbursement will be raised in phases.

Scope and duration.—No limits may be placed on scope and duration of coverage for required services.

Phase-in.—The public plan will be phased-in. All children and pregnant women will be assured coverage in the first phase.

Financing.—The public program would be financed by state and Federal contributions. States would receive an enhanced Federal match, phased out over time, for coverage of newly eligible persons and other new program costs in the public program. This enhanced match would be a specified percent increase over a state's current matching rate for the Medicaid program.

EXPANDING ACCESS THROUGH AN IMPROVED DELIVERY SYSTEM

Insurance coverage alone will not guarantee access to care for many individuals in rural and inner-city areas where there is an inadequate supply of health care providers. Over the next five years, approximately $1.2 billion in additional funding will be invested in the creation of community health centers to provide primary care services in such underserved areas. This additional funding will provide the capacity to serve an estimated 5.4 million people each year.

REDUCING THE BURDEN OF HEALTH CARE COSTS

Universal health insurance coverage itself significantly reduces the cost of health care to businesses and individuals currently purchasing insurance. Uncompensated care raises private health insurance premiums an estimated 10–15 percent.

In addition to the reduction in cost-shifting, the program includes a comprehensive program to lower health care cost inflation and total health care costs. The strategy is organized around steps to reduce unnecessary and ineffective care; to reduce the excessive administrative costs of the current pluralistic payment system, and to limit unrestrained price and volume increases by providers. Specific measures include:

REDUCING UNNECESSARY OR INEFFECTIVE CARE

Outcomes research/practice guidelines dissemination.—The Pepper Commission estimated that unnecessary or ineffective health care added as much as $18 billion annually to health care costs. The legislation will raise the authorization level for the Agency for Health Care Policy and Research by $50 million, to enable it to conduct additional outcomes research and develop practice guidelines for more procedures. The current emphasis on Medicare services will be supplemented by an equal emphasis on the services that are delivered in the private market. Government programs will be required to use practice guidelines in utilization review activities. Additional measures will be taken to assure dissemination of guidelines, once developed, to providers and payers (see below).

Technology Assessment.—The current public initiative through the Agency for Health Care Policy and Research to analyze the appropriate use of technology will be expanded. Cooperation between the public and private sector and coordination or private sector efforts will be encouraged. Federal matching grants will be available through the Agency for Health Care Policy and Research for private sector technology assessment initiatives.

Encouragement of managed cares.—Managed care works by encouraging use of the most efficient providers and minimizing unnecessary or ineffective care. Managed care will be encouraged by the following measures:

State legislative barriers to managed care will be preempted.

Small businesses (which employ 30 percent of all American workers) will be given guaranteed access to managed care through small business insurance reform (see below).

Through small business insurance reform (see below), insurers will be given additional incentives to develop cost-effective systems of managed care.

The public program will make managed care options available to those not covered by employment-based plans.

The data base necessary for effective managed care will be enhanced by the standardized data and evaluation of providers described below and by evaluation research and development of practice guidelines.

ELIMINATING UNNECESSARY ADMINISTRATIVE COSTS

Four programs will be established to reduce the excessive administrative costs of our pluralistic payment system.

Standardized claims forms.—The Federal Health Expenditure Board (see below) will be required to develop and implement standardized claims and data forms. This will reduce administrative costs for providers, who must now deal with a multiplicity of forms provided by different payers.

Insurance Consortia. (See Encourage State Consortia, below).—By requiring small insurance companies to combine for the purpose of paying providers, the legislation will dramatically reduce the number of payment entities with which providers must deal. This will make possible significant economies of scale in claims processing, facilitate electronic claims processing, and reduce administrative costs of providers.

Quality improvement agencies.—New agencies will be established in each state to work with providers on a program of continuous quality improvement and implementation of cost-effective methods of delivering care, including practice guidelines. Providers periodically certified by the agency as practicing efficient, quality care will be exempt from utilization review by insurers during the period of the certification, not to exceed one year. This step will focus utilization review where it is most likely to be cost-effective and enhance risk-management activities.

Small business insurance reform (see below).—By reducing the costs of the continuous enrollment and disenrollment endemic to the current system of insuring small businesses, by promoting more effective price competition, and eliminating or reducing the high costs associated with medical underwriting, this reform will reduce the average administrative costs associated with selling insurance to businesses of 25 employees or fewer from 25 percent of premium to 15 percent. For companies with ten or fewer workers, where administrative and sales costs are often as high as 40 percent, savings will be even greater.

ASSURE PROVIDER PRICE AND VOLUME RESTRAINT

Federal Health Expenditure Board.—An independent agency with the stature and independence of the Federal Reserve Board will be established to set national expenditure goals, in total and by sectors of the health care industry. Advisory goals will also be established for states and regions. The Board will convene providers and purchasers to conduct negotiations on rates and other methods of achieving the expenditure goals. Negotiators may recommend adjustments of the goals to the Board. The Board will publish recommended rates and other measures to achieve the goals for the use of purchasers and providers. Recommended rates and other measures will be binding if the negotiations are successful unless State Consortia (see below) establish different payment methods, rates, or other measures that could be successful in achieving the goals.

Encourage State Consortia/Innovative cost control programs.—States will be required to establish insurance/purchasing consortia, which would, at a minimum, require insurance companies with small market shares to participate for the purpose of reducing administrative costs. These consortia would also be encouraged to take other cost-containment actions. To encourage states to use consortia, states will be given the flexibility to have both Medicare and AmeriCare participate. States will also be given grants to establish and evaluate these consortia.

Mandatory functions. The consortia will make all direct payments to providers on behalf of insurance companies with small market shares (most of the estimated 1200 insurance companies marketing health insurance) and will work with providers to establish paperless processing and "smart card" systems for reimbursement that will reduce administrative costs and burdens and take advantage of economies of scale. Larger insurers and the public programs will be allowed, and, at state option, required to join these insurance consortia.

Optional functions. Optional functions of the consortia may include: price negotiation; volume negotiation; capital allocation; rational distribution of providers; data collection; consumer protection; promotion of managed care/competition.

If state consortia establish effective methods of achieving overall state goals established by the Federal Expenditure Board, state rates or other methods may be used in lieu of Board published rates.

Develop and disseminate cost and quality data on individual providers.—The Federal Health Expenditure Board will collect, analyze, and disseminate data that will assist purchasers of care and consumers in evaluating the efficiency and quality of individual providers. This will assist in the development of managed care networks, in identifying quality providers for patients, and in encouraging providers to improve their performance.

ADDITIONAL COST CONTROL ACTIONS

Pre-empt state mandates.—The current ERISA pre-emption of state regulation of the content of employer health plans for self-insured plans will be extended to all employment-based health plans. Federal standards will replace state standards.

Malpractice.—A grant program will be established to provide states incentives to experiment with alternatives to the tort system for reimbursing and protecting the victims of malpractice and with the use of practice guidelines in malpractice cases. The Institute of Medicine or similar independent organization will conduct an evaluation of the current status of knowledge about the malpractice problem in all its facets and make recommendations to the Congress.

Health care cost control research and demonstration program.—A new program of health care cost control research grants and demonstrations will be established in the new Agency for Health Care Policy and Research. Grants will be made to develop effective methods of health care cost reduction. A similar program in the '70s led to the development of the DRG program.

SPECIAL PROGRAMS FOR SMALL BUSINESS

The legislation recognizes the special problems faced by small business in providing health insurance to their workers and addresses these problems in a number of ways.

Contribution to public coverage.—By offering businesses the opportunity to make a contribution based on a percentage of payroll instead of providing coverage directly, the legislation reduces the cost substantially to businesses, often small businesses, that employ predominantly low-wage or part-time workers. This alternative is far less costly to such businesses than providing coverage but will assist them in attracting a qualified work force.

Phase-in of small business responsibility.—Small businesses with fewer than 100 workers will be allowed a phase-in period before they are required to provide or contribute to coverage for their workers. For businesses with 25 to 99 workers, the phase-in will be four years. For businesses with fewer than 25 workers, the phase-in will be five years. These transition periods will allow small business insurance reform time to take effect and give small businesses time to plan for the additional costs they will be expected to incur. Businesses with 25-99 workers will have 4 years to voluntarily provide coverage to workers. If at the end of 4 years 75 percent of the currently uncovered employees of these businesses have been covered, then employers in this group will not be required to provide coverage or pay a contribution to the public program. The same rule will apply for businesses with fewer than 25 employees, except that they will have 5 years to voluntarily provide coverage.

Small business insurance reform.—Federal standards for health insurance sold in the small group market will: remove barriers to access to group health insurance by eliminating pre-existing condition exclusions and denials of coverage on the basis of health status; promote equity in insurance premiums, by moving rate-setting toward a community-rated system; and improve the affordability of coverage for small employers, by preempting state benefit laws and ensuring access to managed care. States will be required to provide information and technical assistance to small employers and consumers seeking to choose a plan.

Special treatment of new small businesses.—Recognizing the fragility of small businesses in their early years, the legislation allows new, small businesses a reduced obligation with regard to providing or contributing toward health insurance coverage. Small businesses with fewer than 25 workers will have no obligation to provide or contribute to coverage during their first two years. In the third year, the contribution they will be required to make to the public plan will be one-half the normal level. In the fourth year, such businesses will be required to fulfill the same obligations as other businesses.

Special treatment of small businesses that have not previously provided coverage.—During the first five years after enactment, small businesses that have not provided coverage to their employees during the year prior to enactment of the legislation will be allowed to buy insurance paying providers under Medicare rules.

This program will allow these small businesses to provide coverage at lower costs and will encourage them to begin to provide coverage voluntarily during the transition period. The Secretary shall study this program and report to the Congress on its effectiveness.

Improved tax treatment for the self-employed.—Currently, the owner-operator of an unincorporated small business is only allowed to deduct 25 percent of the cost of his or her own health insurance premiums from income for tax purposes, and even this deduction is due to expire in December, 1991. By contrast, the cost of health insurance for the owner-operator of an incorporated business is fully deductible. This provision would allow the self-employed owner-operator to deduct 100 percent of the cost of his or her own health insurance premiums up to the value of the premium they paid on behalf of their employees. Owner-operators with no employees would be allowed to deduct 100 percent of the cost of the lowest cost small employer plan meeting the basic benefit requirements available in their area.

Tax credits for small business.—In addition to the improved deductibility of health insurance expenses for the self-employed, small businesses that are not profitable enough to be able to afford to provide health insurance coverage to their workers without difficulty will receive a tax credit to cover up to 25 percent of the cost. This credit will be provided to small businesses with fewer than 60 employees for each full-time employee with a salary of less than $20,000, except for high-profit firms in which the employer earns more than $53,400 per year. This credit would be in addition to the deduction currently available for the cost of such insurance.

Mr. KENNEDY. Mr. President, I have been working on the issue of affordable health care for many years. Never have we been closer to guaranteeing affordable health care for all our people than we are today.

And never has the need for action been greater, because we face a two-pronged crisis in health care that threatens the health and well-being of every American.

Too many Americans are uninsured and underinsured—and the number is growing every year. No American family can be secure that the health insurance they have today will protect them tomorrow. And health care costs are too high and growing at astronomical rates.

In this rich land of 250 million Americans, 34 million of our fellow citizens have no health insurance whatsoever.

At various times over the next 2 years, 30 million more will have no health care coverage for substantial periods. And another 60 million have insurance that even the Reagan administration said was inadequate.

During the great depression, President Franklin Delano Roosevelt called us to action with his statement that "One-third of a nation is ill-housed, ill-clad, and ill-fed." Today, more than a third of our Nation lacks the basic health insurance coverage that every other industrialized country except South Africa deems a fundamental human right.

A family without health insurance must live every day with the knowledge that an accident or an illness could wipe out the savings of a lifetime. But the danger is more profound than the loss of economic security alone.

Every year, 1 million Americans seek health care, but are turned away because they cannot pay. Another 14 million do not even look for care they need, because they know they cannot afford it.

Two-thirds of the uninsured with serious health symptoms such as spontaneous bleeding or loss of consciousness do not see a doctor. A recent study in Washington, DC, found that almost half of the uninsured people admitted to the hospital could have avoided hospitalization if timely care from a family doctor had been available.

The problem is especially devastating to America's children. Eight million American children have no health insurance. One in every three poor children has no coverage. Forty percent of the Nation's children do not even get basic childhood vaccinations. The United States ranks first in wealth, first in military power—and a dismal 22d in preventing infant mortality.

Every American child should be guaranteed a healthy start in life, but too many are not getting it. Soaring costs threaten to price health care out of the reach of working Americans. Today, we are spending in excess of $700 billion a year on health. Costs are going up twice as fast as wages. Corporate expenses for health care are actually greater than corporate profits. The amount American families pay for health care that insurance did not cover has almost tripled in the last 10 years, from $63 to $162 billion.

Exploding costs would be a problem under any circumstances. But these immense expenditures have not brought us the health care system the American people need or that the American people deserve.

They have not kept newborn American infants from dying at rates higher than almost every other industrial country. They have not raised life expectancy as high as 12 other nations. They have not bought insurance for millions of working families or adequate protection for millions more.

Caught between the twin problems of increasing numbers of the uninsured and escalating costs, some of our most important health care institutions are imperiled. Hospitals committed to serving the uninsured are increasingly swamped in a tide of red ink. Half of all public hospitals are operating at a loss. One-third of all rural hospitals are operating at a loss. Six hundred are likely to close in the next few years.

In New York City, it is not uncommon to wait 3 days in an emergency room before a hospital bed becomes available. Forty-one States report similar problems. In Los Angeles, more than half the private hospitals have dropped out of the trauma care system, because they cannot afford the uninsured patients who arrive in the emergency room. Nationally, a third of all hospitals have dropped out of the trauma care system. The message is ominous—"Don't get into an auto accident—whether you are rich or poor, insured or uninsured, your life is at greater risk."

Even in hospitals with a wealthy, well-insured clientele, costs continue to soar. This imbalance is yet another mark of our failure to establish a rational, humane, and effective national health care system. Health care is the fastest growing failing business in America.

The plan we are proposing today builds our current system but corrects its worst faults. It is a practical, achievable proposal that will get the job done.

It will guarantee basic health insurance for every American family, and it will put in place a comprehensive program to control health care costs.

Under the plan, every business will be required to provide health insurance coverage for its workers and their families, or contribute to their coverage under a new Federal-State program called AmeriCare. Two-thirds of the uninsured are workers and their families. These Americans work hard—most of them 40 hours a week, fifty weeks a year, but all their hard work can not buy them the health insurance they need, because their employers refuse to provide it.

The vast majority of businesses already assume this obligation. It has been more than half a century since we required all employers to pay a minimum wage, to contribute to Social Security, and to participate in worker's compensation and unemployment insurance. In 1991, the time is long overdue for all employers to provide or contribute to health care.

The unemployed deserve the basic right to health care, too. AmeriCare will make coverage available to them with premiums based on ability to pay.

Coverage under the plan will be phased in over a 5-year period, beginning with coverage for every child. Businesses with 100 employees or more will be required to provide or contribute to coverage immediately. The obligation will be phased in for smaller businesses. By the fifth year, every American will be guaranteed coverage on the job or through AmeriCare.

The plan includes a number of provisions to make it easier for smaller businesses to afford the cost of their increased obligations. These provisions include insurance reform, so that small businesses will finally be able to buy coverage at a fair price, regardless of whether their employees are healthy or not. It includes new tax credits to provide fair tax treatment for the costs of the self-employed and to pay up to 25 percent of the costs of small businesses that might have trouble affording coverage. And it phases in the provisions of the plan so that small businesses will have time to adapt.

Our plan includes the most comprehensive program to deal with the excessive cost of health care ever introduced.

First, it includes strong steps to squeeze unnecessry care out of the system. Studies by the RAND Corp. of selected medical procedures found that 15 to 30 percent, depending on the procedure, were clearly unnecessary or even harmful. A 5-year study of Medicare has found that 10 to 20 percent of care to be unnecessary. The Pepper Commission estimated that as much as $18 billion worth of medical care annually was unnecessary. Our program will require stepped-up development of practice guidelines so that unnecessary medical care can be clearly identified and eliminated. Managed care, with cost-effective providers, will be encouraged. And outcomes research will be increased so that for many medical procedures whose value is unclear, effectiveness will be established and ineffective procedures eliminated.

Second, the plan will cut billions of dollars in unnecessary administrative costs. The current system is strangling in redtape that burdens physicians, hospitals, and patients alike. Over 1,200 separate companies are selling health insurance today, and the multiplicity of different forms and payment procedures, as well as the repetitive and inconsistent review of medical practice that results, diverts time and money that could be better spent on medical care. When insurance companies sell a policy to a small business or an individual, as much as 40 to 50 cents of every premium dollar goes to cover sales and administrative costs and profit. This money that stays with the insurance companies doesn't buy even a single band-aid.

Our program will reform the insurance market, so that overhead is reduced and a greater share of premiums is used to cover medical care costs, not insurance company redtape. Billing and claims forms will be standardized, and small insurance companies will be required to join consortia for the purpose of paying doctors and hospitals. Economies of scale and standardization will make cost-effective paperless processing easier to implement and will cut the resources devoted to administration. A new quality improvement program will exempt large numbers of doctors and hospitals from the necessity of wasting time and money justifying tests and procedures to insurance companies.

Third, the plan will end the blank-check payment policies that have allowed doctors and hospitals to charge whatever they want for care. We need the best health care system money can buy, not the most wasteful and expensive one.

Under this program, a new Federal Health Expenditure Board, with the stature and independence of the Federal Reserve Board, will be created. The Board will collect, analyze, and publish data on doctors and hospitals in every community in the country, so that patients and insurers can compare costs and quality. The Board will establish tough goals for total spending, and bring providers and purchasers together to negotiate ways to achieve the goals. And States will be encouraged to take additional steps to control costs.

Finally, the program will end cost-shifting by assuring that every American is covered, and that every business does its fair share. Today, health insurance costs for those who have insurance are as much as 15 percent higher than if everyone were covered. When people cannot pay their medical bills, the costs are picked up in the form of higher charges for everyone else.

My family has been fortunate in always being able to afford the best medical care. The time is long overdue to guarantee every citizen that same access to the care they need. I believe the introduction to this bill marks the beginning of a process that can achieve that goal, and make decent health care a reality for every American family.

Mr. RIEGLE. Mr. President, today I am introducing S. 1277, Health America: Affordable Health Care for All Americans, with Senators MITCHELL, KENNEDY, and ROCKEFELLER. I want to commend the majority leader for his leadership in this area.

Health America is the product of almost 2 years of work of the Finance Subcommittee on Health for Families and the Uninsured to provide health care coverage for all Americans. In the 101st Congress, the Finance Committee's Subcommittee on Health for Families and the Uninsured was created at my request to enable us to find a solution. At the first hearing of our Subcommittee, the lead off witness was Senator KENNEDY, chairman of the Labor and Human Resources Committee and we agreed to work together—and have done so—along with the majority leader, Senator ROCKEFELLER and others like Senator PRYOR and Senator METZENBAUM. Over the months all points of view have been weighed and balanced in the package we're presenting today.

We began as a bipartisan process. And it is my hope that this legislation will prompt the administration to act now on the crisis of high health care costs and lack of availability of health care coverage.

I first introduced a bill to provide health care to the uninsured in December 1982 in the 97th Congress and introduced bills on this issue every Congress until the 101st when I asked for the creation and became chairman of the Finance Subcommittee. I began by focusing on unemployed people without health insurance and have since broadened to more comprehensive legislation.

America's health care crisis is part of a larger problem of a shrinking American middle class where our people have less and less economic power to meet their basic needs. Skyrocketing health insurance costs for those who have coverage—and the growing group of Americans with no health insurance coverage—are signs that our health care system must be reformed.

While health care reform has many complexities we must not get lost in the detail and lose sight of the fact that this is an urgent issue facing our people.

In Michigan alone, there are a million people today without a penny of health insurance, and 300,000 of them are children. Nationally, an estimated 34 million Americans have no health insurance coverage. Those that do have health insurance are finding their rates rising sharply and their coverage being reduced by rising deductibles, copayments, and diminished benefits. We can and must do better—and that requires the comprehensive health insurance plan we are introducing today.

Mr. President, more than ever before, we need a national strategy for addressing the current health care crisis in this country. Our health care system—the most advanced and sophisticated in the world—is failing us in two important ways. Tens of millions of Americans are without health insurance or the financial resources to purchase health care services when they or families need care. Yet at the same time, our health care system is the most expensive in the world. A more efficient, better designed health care delivery system could provide care to all Americans without utilizing additional national resources.

Every day we read or hear about these issues—and the problems are only getting worse. We now know that even more Americans, over 60 million, lacked health insurance protection for a period of time each year. A recent study I requested from the GAO underscores the fact that the uninsured span all ages, income levels, employment status, ethnic groups, and geographic regions. The uninsured are also more likely to die after entering a hospital and less likely to have certain procedures performed when compared to insured persons. In fact, in Michigan, this subcommittee has heard testimony from people that have since died as a result of delaying medical care specifically because they had no health care insurance.

Health care is increasingly becoming unaffordable for all Americans. In some cases, premiums continue to rise in double digit figures. These pressures on the current system will 1 day lead to a complete collapse, leaving millions more without health insurance.

A General Accounting Office [GAO] study I requested shows just one dramatic example of why we need comprehensive reform of our current health care system. The primary reasons for the closing of 60 hospital trauma care units in major urban areas were the costs of treating uninsured people without the means to pay and unreasonably low Medicaid payment rates to hospitals. Hospital trauma centers can't stay open in an environment where they are losing money on the people they must serve. For three hospitals in Detroit, the total losses exceed $10 million a year for emergency and trauma care alone. Parts of our health care system are collapsing around us while the need for comprehensive health care reform has been stalled by an executive branch largely indifferent to the problem.

When essential services, like hospital trauma centers, are forced to shut down due to inadequate funds we all suffer. Trauma centers are not the only problem, hospital emergency rooms are closing, hospitals are closing down entirely, and doctors are finding it harder and harder to treat a growing number of our people. In Michigan alone, hospitals lost $350 million last year providing care for those who could not or would not pay. Ultimately, the financial distress of hospitals and doctors that provide large amounts of uncompensated care threatens the quality and availability of this care and, in fact, is threatening to shut down hospitals all across America as well as reduce the number of doctors providing care, particularly in areas where they are needed the most.

The plan we are unveiling today begins the reform process. We've spent the past 2 years analyzing all the relevant data and weighing the viewpoints of the various parties at interest. In fact, in March last year a document of proposed options was distributed for public comment to hundreds of groups, and at least 100 groups in Michigan alone. The principles we have used in designing our program mark a breakthrough that will, in stages over the next 5 years, bring basic health insurance coverage to every person in America.

It does so by implementing important cost-saving reforms at the same time we broaden health insurance coverage--starting universal coverage first with 10 million American children who now lack health insurance and would begin to receive it once the program takes effect. By matching cost-saving reforms with broadened coverage—we can achieve needed efficiencies and cost saving throughout our entire health care system.

This bill strikes a fair and carefully structured balance among competing objectives—and none of the various parties of interest will find it precisely to their liking. I consider that a measure of its practicality and why it should be—and will be—enacted.

Mr. President, Health America addressed two major shortcomings of our health care system—rising health care costs and lack of health care coverage for millions. Our plan would, in stages over 5 years, provide health care for all people who currently do not have health care coverage, building on the current private and public system. Children and pregnant women are covered in the first phase. Of integral importance, we have also developed a significant cost containment program. Our cost containment program makes this bill different from proposals in the past which deal only with access.

About two-thirds of the currently insured get their coverage from their employer. Another 15 percent get their coverage through public programs, primarily the Medicaid Program. That leaves about 16 percent of our population with no coverage at all. Our plan fills in the current gaps in coverage by restructuring the current system. Employers would be encouraged through tax incentives and disincentives to provide coverage; so most people would get coverage through their employer as they do today.

We have a series of special provisions to ease the burden on small businesses including tax credits, small group insurance market reform and special phase-in periods for coverage. Since we phasein our cost reduction program sooner than the coverage of the uninsured, we hope to make health care plans more affordable for small businesses. Many businesses would like to provide health care coverage but the costs are too high. We hope that making health care benefits more affordable and providing direct tax credits will entice businesses to voluntarily provide coverage. I would also say at this point that we owe Senator PRYOR a debt of gratitude for all his hard work in this area.

Anyone who does not receive health insurance through an employer will have access to our new public health insurance program called AmeriCare.

Unlike Medicaid, which it replaces, AmeriCare is not a welfare program. All people are eligible for its coverage including workers and their families from businesses that do not provide private health insurance.

Also, AmeriCare will provide a uniform health benefit package and higher reimbursement rates for providers—both significant changes from the current Medicaid Program. States would administer AmeriCare within these tighter Federal standards creating a uniform health care program across America. Medicaid now varies tremendously by State. In addition, States usually cover only single women with children and on average cover only some 40 percent of all people living in poverty. We increase funding to the States for AmeriCare during the time the program is being phased-in.

Here is just one example of who would be helped by this type of program.

> A remarkable young woman age 28 from Woodhaven, MI, Cheryl Eichler, had Crohn's disease for 13 years. She left a hospital bed in June 1989 to testify before a finance subcommittee hearing in Michigan. Cheryl earned $12,000/yr (2 times the poverty level) at a 7-11 store but her employer did not offer health care. When she quit her job due to her illness, she did not qualify for medicaid because as a single woman with no children she did not fit one of the current categories under Medicaid. We tried to help her. Within 6 months she died—and I am convinced her tragic and premature death occurred because she did not receive the proper care she needed at the right time.

AmeriCare could have helped Cheryl Eichler; she would have had immediate access to essential health care services. She would not have had to fit into an arbitrary category in order to get health care. If she had received immediate medical care throughout her illness, I'm convinced she'd be alive today. Our country is diminished by her death. We can and must save lives like Cheryl's—this program will let us do that.

Our Plan would help those currently insured by the private sector by significantly controlling health care costs. We do this by reducing unnecessary care, decreasing administrative costs, and constraining price increases. Savings to the health care system for part of our cost containment program is estimated at close to $80 billion over a 5-year period.

Our program is a significant step towards a more rationale health care system. Among many provisions, we establish a new independent Federal Health Expenditure Board that will establish voluntary annual expenditure goals by health care sector and by State or regional. The commissioners appointed by the President and approved by the Senate, on the board would be insulated from the political process. They would convene negotiations between purchasers and providers to establish rates and other cost controlling mechanisms in order to establish fair prices. At the State level, a similar process would occur. Both the Federal and State activities in this area would set forth a process where all relevant players—purchasers and providers—are involved and are intended to help constrain health care prices.

This bill would also go a long way towards reducing unnecessary by expanding the current outcomes research effort to determine appropriateness of care and by expanding technology assessment. We also expect to reduce overall administrative costs by promoting cost-effective managed care systems; providing purchasers better information cost and quality and establishing uniform claims and billing forms to be utilized by all providers. Finally, in order to address the current problems relating to medical liability, we would set up grants to States for short reform or alternatives to this, such as alternative dispute resolution.

IMPACT ON BUSINESS

Experience shows that companies that provide health insurance to their employees are finding that their rates are going through the ceiling because they are indirectly paying for the medical care of uninsured people. The costs of uncompensated health care costs which are shifted to private payers have sharply increased the cost of private health insurance.

This severely damages the ability of U.S. companies to compete internationally. Chrysler's health care cost per vehicle—$700—exceeds our international competitors' costs by nearly $500 per vehicle.

Our bill would help American businesses in several different ways. The bill would reduce the current uncompensated care cost shift, often 15 percent of their total health care costs.

Businesses will also be better able to help manage health care costs by participating in the Federal Health Expenditure Board and State consortia. Businesses working together will have increased bargaining power with providers encouraging more efficient delivery of health care services. We will also reduce overall administrative costs by standardizing billing and by implementing practice guidelines to determine appropriateness of services, thus reducing unnecessary care.

We also significantly reduce the current cost shift to business from presently inadequate public programs by mandating higher reimbursement rates.

Mr. President, the political dynamics around this issue have changed dramatically. All sectors of society now recognize the need for change and are working to find solutions.

Big business, facing increasingly competitive world markets, must find ways to control health care costs. Small businesses fear government-mandated health benefits for employees and are looking at alternatives to mandates.

State governments are finding that health care costs are an increasingly large percentage of their budgets. The Governors have formed a task force to develop their own recommendations on this issue.

Doctors and hospitals, concerned about the lack of adequate payment for services, want answers to the uncompensated care problem. Insurers are looking for new ways to keep costs down so their customers do not move to other forms of care or to self-insurance.

Health care is now the major issue in the vast majority of collective bargaining negotiations. Organized labor recently united in supporting the need to achieve universal access and significant cost containment, through building on the Nation's existing employer-based system. A majority of consumers, have also overwhelmingly expressed a need for substantial health system reform.

Mr. President, we need to act now on both universal access to health care and rising health care costs. We have done enough study of the issues. It's now time to move forward on a health care program for all Americans. I hope that my colleagues in the Senate will join me in cosponsoring this important piece of legislation to ensure affordable high quality health care for Americans.

Mr. ROCKEFELLER. Mr. President, I am extremely pleased and honored to rise today with the majority leader, Senator MITCHELL, my colleague on the Finance Committee and chairman of the Subcommittee on the Uninsured, Senator RIEGLE, and the chairman of the Labor and Human Resources Committee, Senator KENNEDY, to introduce a bill that would reshape our Nation's health care system.

It has just been a little more than a year ago that the Pepper Commission—which I chaired and on which Senator KENNEDY served—released its recommendations on how to achieve universal access to health care for all our citizens. At that time I said that our job had just begun and hard work lay ahead. Introduction of today's bill is evidence of some of that hard work and brings us even closer to the day when we can say that every American man, woman, and child has decent, affordable health care coverage.

We all know that the current path of rationing health care based on a person's ability to pay is not acceptable, nor are the costs of our health care system sustainable. It is simply immoral to pour billions of dollars into the world's most sophisticated, high-technology health care system—but deny prenatal care to the 433,000 pregnant women who lack health insurance and to lag behind Singapore and 21 other industrialized countries in infant mortality.

Mr. President, I will not spend my time this afternoon outlining the problem, that's the easy part. The hard part is putting forth a solution and, unfortunately, there is not a magic solution or a quick fix to make the inequities in our system disappear overnight, or to slow down health costs. Even a single payer, Canada-style solution, which sounds simple and has a certain appeal, would require a massive shift and reallocation of resources. It took the Canadians 25 years to create their current health care system, and their per capita health costs are rising as rapidly as ours.

Last year, the Pepper Commission recommended a comprehensive strategy with a fair sharing of public and private responsibility. We came to this decision because we felt our mission was to recommend practical, common sense, and enactable answers for health care reform. Because 85 percent of private insurance is provided by employers and because 75 percent of the uninsured are members of working families, we recommended building on our job-based system while at the same time providing special assistance to small employers—which accounts for 65 percent of the working uninsured.

The Affordable Health Care for all Americans Act takes that same job-based approach, including the structural reforms recommended by the Pepper Commission that are vital if participation is required in our health care system.

Foremost among these structural reforms is small group health insurance reform. While we leave insurance regulation and enforcement in the hands of the States, similar to legislation we passed last year for Medicare supplemental policies, we require that Federal minimum standards be met.

To make private health insurance more available, insurance companies would no longer be allowed to engage in cherry-picking the good risks and selecting out the unhealthy, or those deemed likely to incur high medical bills because of where they work or where they live. Insurance companies would be forced to go back to managing risk and to start managing care. We prohibit medical underwriting and huge premium hikes, or outright cancellation of policies, due to changes in an individual's health status.

We preempt over 700 State benefit mandates and replace them with a basic health benefit package. And, in a step designed to make private health insurance even more affordable for small businesses, we allow previously-uninsured small businesses to elect the use of Medicare reimbursement rules. This will give small businesses the market clout they have so far lacked in order to negotiate better deals with providers. We require insurers to offer managed care plans to small businesses if they offer these plans to large employers in the area, while at the same time we preempt State antimanaged care laws.

In addition to the reforms of the marketplace, we provide a permanent 25 percent tax credit toward the cost of health insurance for employers with less than 60 workers and whose salaries are less than $20,000. We increase the deductibility of health insurance from the current level of 25 to 100 percent for the self-employed. And, because of our recognition of the fragility of new businesses, we exempt new, small businesses from providing health insurance during a 2-year startup period. The third year of operation, new small businesses would only be required to contribute one-half what would otherwise normally be required under the public program.

Employers have told us, overwhelmingly, they would like to provide health benefits to their workers but that cost and availability often are barriers. So, finally after a period of time, after putting all these reforms into effect and making special assistance available, we measure the success of these efforts. If the vast majority of working uninsured do not have coverage, small firms will be required to either provide basic health benefits directly or contribute toward public coverage for their employees. If most workers are uninsured, the Federal Government must find ways to guarantee coverage for the remaining citizens.

Mr. President, in addition to the special measures targeted toward small businesses, this bill contains a variety of mechanisms to slow down national health care expenditures.

Simply by providing universal access, we will end the cost shifting of uncompensated care that employers—as well as doctors and hospitals—detest. Through malpractice reforms and outcomes research, we will lessen America's addiction to defensive medicine and to unnecessary tests and surgeries. Through mandatory cost sharing by individuals, we will instill a sense of consumer responsibility and sensitivity to health care costs. Through managed care, health care will be delivered in settings that emphasize quality and appropriateness.

These were all the cost containing tools called for in the Pepper plan, and I am absolutely certain that they will help. But, for various reasons, they fall short of the test. The solution to the access problem requires bigger, and yes, more dramatic ways to contain cost.

Take individual cost sharing. Making consumers more price sensitive has only a limited effect on whether or not an individual initially seeks care. Once initiated, research shows that courses of treatment generally are the same—since those decisions have traditionally been left up to the doctor.

As for outcomes research and practice guidelines, I could not be a bigger believer in the importance of this work—and not just for cost reasons. But practice guidelines, once developed, will need to be disseminated and, more importantly, adopted by practicing doctors. And, just as we will find instances of inappropriate and unnecessary care through outcomes research, we will, no doubt, find instances of underuse of care. So we might need to spend more in certain cases.

Insurance reform is potentially a powerful tool. That's why I will fight proposals that allege reform, but are actually far too weak. We can save almost $14 billion over 5 years by eliminating medical underwriting and limiting preexisting condition exclusions through small group insurance reform.

This legislation includes several ways to promote managed care and make it more available. Here again, I am a believer. But managed care means many things to many people, and some models are more effective than others. Furthermore, according to CBO's Director, Bob Reischauer, research to date shows only one-time savings from managed care. Managed care has had little or no impact on growth of spending over time.

The chairman of the Finance Committee and a proven leader on health care issues, Senator BENTSEN, has held a series of hearings this past spring on health care reform. At one hearing, the president of Southern California Edison, Michael Peevey, testified in favor of a federally created "all-payor rate negotiation to ensure that every health care payor, no matter how small, can benefit from the low rates negotiated by the largest purchasers." Moreover, he called for a national health expenditure target and limits on capital expenditures.

This comes from the president of a company that has compiled a remarkable record in cost control. Edison saw no increase in its health care costs between 1988 and 1989 and their projected long-term trend rate is down to the 10 to 12 percent range. Even so, at their current rate of increase, their health care costs will double every 6 years.

Mr. Peevey was not alone in calling for dramatic action. Another example: The chairman and CEO of Bethlehem Steel, Walter Williams. Mr. Williams testified that in spite of increased employee cost sharing and extensive managed care programs, their costs rose 26 percent in 1990. His recommendation: Federal cost containment legislation to make sure public and private payors pay the same for health care and regional reimbursement schedules to insure that all payors—pay the same—for the same care. He, too, called for a national health spending target to keep annual increases in health care costs at acceptable levels.

Their calls and others for tougher cost containment have not fallen on deaf ears. If others are to gain access to our health care system, we must simultaneously get a handle on its costs.

Through the creation of an independent Federal Health Expenditure Board, voluntary goals for national, and State-specific, health care spending would be set and a process for national negotiations between providers and purchasers of health care on reimbursement levels would be established. State flexibility and innovation would be preserved through the establishment of State-level consortiums that could perform a variety of cost-saving activities, including further State-level negotiations on reimbursement levels and volume, reduction of administrative costs by streamlining the processing of claims, or capital allocation.

These recommendations stop short of setting mandatory caps on health spending or national payment rates to allow for any necessary adjustments during the transition to universal access. And once fully implemented, we will have the necessary data and information on how well we have done at the job of holding down health care costs, so we can adequately judge where we might need to do more work, or in other areas less.

Mr. President, all together the cost containment measures outlined in this bill have been estimated, by an independent consulting firm, to have the potential to reduce health spending in this country by almost $80 billion over 5 years. Over time these savings will grow.

My colleagues in the Senate and I have laid out in great detail a way to achieve universal access, while at the same time make a significant dent in the costs of our health care system. Just a week and a half ago I introduced a bill, S. 1177, that laid out in great detail the recommendations of the Pepper Commission for universal access. While different in some respects, the general approach is the same.

I have said all along that concessions and accommodations will have to come from all corners—from business, from the insurance industry, from health-care providers, and from the public—if we are to have any hope of real change. In other words, no one can demand their first choice and expect to see results. So, for example, although the Pepper bill, S. 1177, includes my preference for a federally run public program to replace Medicaid, I was willing to compromise with my colleagues in order to move the debate, and it is my fervent hope to move health reform legislation along. I know my Senate colleagues would join me in saying to our colleagues and to others that we are open to further debate and discussion to refine or to add or subtract. It is time to take a seat at the table.

The majority leader, Senator MITCHELL, has shown tremendous leadership in introducing this legislation today. I would welcome a similar display of leadership from the White House. I hope introduction of this bill spurs the administration to come up with its own plan for health care reform and not just ignite another round of stone throwing.

In cities, suburbs, and rural towns across America—health care is the pocketbook issue. Over 70 percent of the uninsured are not poor. They are families in which fathers and mothers have lost their jobs because of the recession. They are working people whose employers cannot afford today's insurance rates. They even include people with ample incomes, but who cannot buy insurance because of a health condition or past illness.

The Director of the Office of Management and Budget, Dick Darman, also recently testified before the Finance Committee that he has yet to come up with an intellectually satisfying solution to the problem of the 9 million uninsured children in this country. What about a morally satisfying solution? What about one that admits the cost of inaction is simply unacceptable and that failure to act threatens our future economic security?

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. BENTSEN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 4, a bill to amend titles IV, V, and XIX of the Social Security Act to establish innovative child welfare and family support services in order to strengthen families and avoid placement in foster care, to promote the development of comprehensive substance abuse programs for pregnant women and caretaker relatives with children, to provide improved delivery of health care services to low-income children, and for other purposes.

S. 25

At the request of Mr. CRANSTON, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 190

At the request of Mr. GRAHAM, the names of the Senator from Utah [Mr. HATCH], the Senator from Massachusetts [Mr. KERRY], the Senator from North Dakota [Mr. BURDICK], and the Senator from Arkansas [Mr. BUMPERS], were added as cosponsors of S. 190, a bill to amend S. 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retired pay reduced on the basis of the degree of the disability rating of such veteran.

S. 200

At the request of Mr. PRYOR, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 200, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions from broker reporting requirements, and to make certain clarifications relating to such requirements.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Alabama [Mr. SHELBY], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 267

At the request of Mr. REID, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 280

At the request of Mr. SASSER, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Wisconsin [Mr. KOHL], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of non-deposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 416

At the request of Mr. DANFORTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 416, a bill to amend the Internal Revenue Code of 1986 to make permanent the tax credit for increasing research activities.

S. 489

At the request of Mr. HATCH, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 489, a bill to provide grants to States to encourage States to improve their systems for compensating individuals injured in the course of the provision of health care services, to establish uniform criteria for awarding damages in health care malpractice actions, and for other purposes.

S. 574

At the request of Mr. CRANSTON, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 574, a bill to amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes.

S. 597

At the request of Mr. DODD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 597, a bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are abusers and children of substance abusers, and for other purposes.

S. 701

At the request of Mr. COATS, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $3,500, and for other purposes.

S. 729

At the request of Mr. BURDICK, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 729, a bill to assist small communities in construction of facilities for the protection of the environment and human health.

S. 749

At the request of Mr. METZENBAUM, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 749, a bill to rename and expand the boundaries of the Mound City Group National Monument in Ohio.

S. 812

At the request of Mr. JEFFORDS, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 812, a bill to amend the Federal Water Pollution Control Act.

S. 840

At the request of Mr. DURENBERGER, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 840, a bill to amend the Internal Revenue Code of 1986 to provide a simplified method for computing the deductions allowable to home day care providers for the business use of their homes.

S. 869

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 869, a bill to amend title 38, United States Code, to improve the availability of treatment of veterans for post-traumatic stress disorder; and for other purposes.

S. 882

At the request of Mr. SARBANES, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 882, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to mandate a 4-year grant cycle and to require adequate notice of the success or failure of grant applications.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Nevada [Mr. BRYAN], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 895

At the request of Mr. PRESSLER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's disease or related organic brain disorders.

S. 914

At the request of Mr. GLENN, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 971

At the request of Mr. DECONCINI, the names of the Senator from Washington [Mr. ADAMS], the Senator from Tennessee [Mr. GORE], and the Senator from Idaho [Mr. CRAIG] were added as consponsors of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 1040

At the request of Mr. GLENN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1040, a bill to provide a Governmentwide comprehensive energy management plan for Federal agencies.

S. 1046

At the request of Mr. BIDEN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1046, a bill to provide for the establishment of an international arms suppliers regime to limit the transfer of armaments of nations in the Middle East.

S. 1072

At the request of Mr. LAUTENBERG, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1072, a bill to amend title 23, United States Code, with respect to gross vehicle weights on the National System of Interstate and Defense Highways, and for other purposes.

S. 1084

At the request of Mr. MITCHELL, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 1084, a bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment.

S. 1121

At the request of Mr. WARNER, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 1121, a bill to authorize funds for construction of highways, for highway safety programs, for mass transportation programs, and for other purposes.

S. 1200

At the request of Mr. BURNS, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 1200, a bill to advance the national interest by promoting and encouraging the more rapid development and deployment of a nationwide, advanced, interactive, interoperable, broadband communications infrastructure on or before 2015 and by ensuring the greater availability of, access to, investment in, and use of emerging communications technologies, and for other purposes.

SENATE JOINT RESOLUTION 73

At the request of Mr. SPECTER, the names of the Senator from Tennessee

[Mr. GORE], the Senator from Montana [Mr. BAUCUS], the Senator from Kentucky [Mr. FORD], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Tennessee [Mr. SASSER], the Senator from New York [Mr. MOYNIHAN], the Senator from Florida [Mr. GRAHAM], the Senator from Illinois [Mr. SIMON], the Senator from Alaska [Mr. STEVENS], the Senator from Wyoming [Mr. SIMPSON], the Senator from Illinois [Mr. DIXON], and the Senator from Idaho [Mr. SYMMS], were added as cosponsors of Senate Joint Resolution 73, a joint resolution designating October 1991 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 74

At the request of Mr. LIEBERMAN, the names of the Senator from Tennessee [Mr. GORE], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Alaska [Mr. STEVENS], were added as cosponsors of Senate Joint Resolution 74, a joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 78

At the request of Mr. BENTSEN, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Idaho [Mr. SYMMS], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from California [Mr. SEYMOUR], the Senator from Michigan [Mr. RIEGLE], the Senator from Tennessee [Mr. GORE], the Senator from Tennessee [Mr. SASSER], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Louisiana [Mr. BREAUX], the Senator from West Virginia [Mr. BYRD], the Senator from South Dakota [Mr. DASCHLE], the Senator from South Carolina [Mr. THURMOND], the Senator from Delaware [Mr. BIDEN], the Senator from Georgia [Mr. FOWLER], the Senator from Idaho [Mr. CRAIG], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 78, a joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month."

SENATE JOINT RESOLUTION 117

At the request of Mr. LAUTENBERG, the names of the Senator from Montana [Mr. BURNS], the Senator from Iowa [Mr. GRASSLEY], the Senator from North Carolina [Mr. HELMS], the Senator from Hawaii [Mr. INOUYE], and the Senator from Mississippi [Mr. LOTT], were added as cosponsors of Senate Joint Resolution 117, a joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the names of the Senator from Wisconsin [Mr. KASTEN], the Senator from California [Mr. CRANSTON], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 126

At the request of Mr. HATFIELD, the names of the Senator from Virginia [Mr. WARNER], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to designate the second Sunday in October of 1991 as "National Children's Day."

SENATE JOINT RESOLUTION 130

At the request of Mr. LAUTENBERG, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Alaska [Mr. STEVENS], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Delaware [Mr. ROTH], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 130, a joint resolution to designate the second week in June as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from North Dakota [Mr. BURDICK], the Senator from Indiana [Mr. COATS], the Senator from Ohio [Mr. GLENN], the Senator from Texas [Mr. GRAMM], the Senator from Hawaii [Mr. INOUYE], the Senator from Michigan [Mr. LEVIN], the Senator from South Carolina [Mr. THURMOND], the Senator from Vermont [Mr. JEFFORDS], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Virginia [Mr. WARNER], the Senator from Alaska [Mr. STEVENS], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 138

At the request of Mr. SPECTER, the names of the Senator from California [Mr. SEYMOUR], the Senator from Wisconsin [Mr. KASTEN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Wyoming [Mr. SIMPSON], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Delaware [Mr. ROTH], the Senator from South Carolina [Mr. THURMOND], the Senator from Vermont [Mr. JEFFORDS], the Senator from Utah [Mr. HATCH], the Senator from Montana [Mr. BURNS], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Iowa [Mr. GRASSLEY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. COATS], the Senator from Oregon [Mr. PACKWOOD], the Senator from Indiana [Mr. LUGAR], the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. CRAIG], the Senator from South Carolina [Mr. HOLLINGS], the Senator from California [Mr. CRANSTON], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. GLENN], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. DIXON], the Senator from Nevada [Mr. REID], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Hawaii [Mr. AKAKA], the Senator from Florida [Mr. GRAHAM], the Senator from Delaware [Mr. BIDEN], the Senator from West Virginia [Mr. BYRD], the Senator from Washington [Mr. ADAMS], the Senator from North Carolina [Mr. SANFORD], the Senator from North Dakota [Mr. BURDICK], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. MOYNIHAN], the Senator from Michigan [Mr. RIEGLE], the Senator from North Dakota [Mr. CONRAD], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. SIMON], the Senator from Alabama [Mr. SHELBY], the Senator from Ohio [Mr. METZENBAUM], the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Nebraska [Mr. EXON], the Senator from Kentucky [Mr. FORD], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 138, a joint resolution designating August 6, 1991 as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 141

At the request of Mr. WARNER, the names of the Senator from Colorado [Mr. BROWN], the Senator from Utah [Mr. HATCH], the Senator from Michigan [Mr. LEVIN], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 141, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week."

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the names of the Senator from Nevada [Mr. BRYAN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 146

At the request of Mr. LAUTENBERG, the names of the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Delaware [Mr. BIDEN], the Senator from Missouri [Mr. BOND], the Senator from New Jersey [Mr. BRADLEY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana

[Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from North Dakota [Mr. CONRAD], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kentucky [Mr. FORD], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mr. GRAHAM], the Senator from Iowa [Mr. GRASSLEY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Oregon [Mr. PACKWOOD], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. ROBB], the Senator from Delaware [Mr. ROTH], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating July 2, 1991, as "National Literacy Day."

SENATE CONCURRENT RESOLUTION 44

At the request of Mr. FOWLER, his name was added as a cosponsor of Senate Concurrent Resolution 44, a concurrent resolution expressing the sense of Congress that the American public should observe the 100th anniversary of moviemaking and recognize the contributions of the American Film Institute in advocating and preserving the art of film.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

AMENDMENTS SUBMITTED

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

INOUYE (AND OTHERS) AMENDMENT NO. 283

Mr. INOUYE (for himself, Mr. DODD, Mr. LIEBERMAN, Mr. AKAKA, Mr. WELLSTONE, and Mr. METZENBAUM) proposed an amendment to the bill (S. 173) to permit the Bell Telephone Cos. to conduct research on, design, and manufacture telecommunications equipment, and for other purposes, as follows:

At the end of the bill, add the following:

"SEC. 228(a). The Commission shall prescribe regulations requiring that any Bell Telephone Company that has an affiliate engaging in any manufacturing authorized by section 227(a) shall—

"(1) not engage in manufacturing until it has filed and received Commission approval of a plan that ensures—

"That the personnel of the Bell Company affiliates that are engaged in the manufacturing of telecommunications equipment will not participate in the formulation of generic or specific requirements for any such equipment that the Bell Telephone Company will purchase and will not obtain notice of such requirements in advance of unaffiliated firms, and

"That unaffiliated firms have the same opportunity as the Bell Telephone Company and its affiliates to prepare and submit proposals and quotes for telecommunications equipment to be purchased by the Bell Telephone Company and have that equipment evaluated on the merits;

"(2) purchase from unaffiliated firms at least a majority of each type of telecommunications equipment that is comparable to types of equipment manufactured by the Bell Telephone Company or its affiliate; and

"(3) sell, either directly or through its affiliate, to unaffiliated firms a substantial amount of telecommunications equipment manufactured by the Bell Telephone Company or its affiliate.

"(b)(1) Within 180 days after the date of enactment of this Act, the Commission shall adopt regulations defining the requirements in subsection (a), including a regulation defining the term "substantial" as an amount not less than 20 percent. The Commission may not alter the definition of the term "substantial" for five years from the date of enactment of this Act.

"(2) The FCC shall repeal the regulations adopted pursuant to subsection (a) when it determines that the Bell Telephone Company faces effective competition in providing local exchange service. The term "effective competition" shall mean that a majority of the residential subscribers and a majority of the business subscribers in the service area have access to local telephone service provided by an unaffiliated firm and that a substantial amount of residential subscribers and a substantial amount of business subscribers actually subscribe to the services of the unaffiliated firm.

"(3) Within one year of the date of enactment of this Act, the Commission shall report to the Congress on the state of competition in local telephone markets, the prospects for the development of competition, and the particular regulatory, technical, and financial barriers to the creation and maintenance of competition."

D'AMATO (AND OTHERS) AMENDMENT NO. 284

Mr. D'AMATO (for himself, Mr. DECONCINI, Mr. GRASSLEY, Mr. MACK, Mr. MURKOWSKI, Mr. LIEBERMAN, Mr. LAUTENBERG, Mr. HELMS, Mr. MOYNIHAN, Mr. SHELBY, and Mr. PACKWOOD) proposed an amendment to the bill S. 173, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF THE SENATE REGARDING THE NATIONAL VICTORY PARADE FOR THE PERSIAN GULF WAR.

It is the sense of the Senate that any country—

(1) for which United States assistance is being withheld from obligation and expenditure pursuant to section 481(h)(5) of the Foreign Assistance Act of 1961; or

(2) which is listed by the Secretary of State under section 40(d) of the Arms Export Control Act or section 6(j) of the Export Administration Act of 1979 as a country the government of which has repeatedly provided support for acts of international terrorism,

should not be represented, either by diplomatic, military, or political officials, or by national images or symbols, at the victory parade scheduled to be held in Washington, District of Columbia, on June 8, 1991, to celebrate the liberation of Kuwait and the victory of the United Nations coalition forces over Iraq.

PRESSLER AMENDMENT NO. 285

Mr. PRESSLER proposed an amendment to the bill S. 173, supra; as follows:

At the end of the bill, add the following:

SEC. 4. ADDITIONAL AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 220(d) of the Communications Act of 1934 (47 U.S.C. 220(d)) is amended by deleting "$6,000" and inserting in lieu thereof "$10,000".

SIMON (AND DECONCINI) AMENDMENT NO. 286

Mr. SIMON (for himself and Mr. DECONCINI) proposed an amendment to the bill S. 173, supra, as follows:

On page 12, between lines 2 and 3, insert the following new subsection:

"(k)(1) A Bell Telephone Company that manufactures or provides telecommunications equipment or manufactures customer premises equipment through an affiliate shall obtain and pay for an annual audit conducted by an independent auditor selected by and working at the direction of the State Commission of each State in which such Company provides local exchange service, to determine whether such Company has complied with this section and the regulations promulgated under this section, and particularly whether the Company has complied with the separate accounting requirements under subsection (c)(1).

"(2) The auditor described in paragraph (1) shall submit the results of such audit to the Commission and to the State Commission of each State in which the Company provides telephone exchange service. Any party may submit comments on the final audit report.

"(3) The audit required under paragraph (1) shall be conducted in accordance with procedures established by regulation by the State Commission of the State in which such Company provides local exchange service, including requirements that—

"(A) the independent auditors performing such audits are rotated to ensure their independence; and

"(B) each audit submitted to the Commission and to the State Commission is certified by the auditor responsible for conducting the audit.

"(4) The Commission shall periodically review and analyze the audits submitted to it under this subsection, and shall provide to the Congress every 2 years—

"(A) a report of its findings on the compliance of the Bell Telephone Companies with this section and the regulations promulgated hereunder; and

"(B) an analysis of the impact of such regulations on the affordability of local telephone exchange service.

"(5) For purposes of conducting audits and reviews under this subsection, an independent auditor, the Commission, and the State Commission shall have access to the financial accounts and records of each Bell Telephone Company and those of its affiliates (including affiliates described in paragraphs (6) and (7) of subsection (c)) necessary to verify transactions conducted with such Bell Telephone Company that are relevant to the specific activities permitted under this section and that are necessary to the State's regulation of telephone rates. Each State Commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

On page 12, line 3, strike "(k)" and insert "(*l*)".

METZENBAUM AMENDMENT NOS. 287 THROUGH 289

Mr. METZENBAUM proposed three amendments to the bill S. 173, supra, as follows:

AMENDMENT No. 287

At the end, add the following new section:

SEC. 4. APPLICATION OF ANTITRUST LAWS.—Nothing in this Act shall be deemed to alter the application of federal and state antitrust laws as interpreted by the respective courts.

AMENDMENT No. 288

On page 11, line 3, strike "equipment." and insert in lieu thereof "equipment, consistent with subsection (e)(2).".

AMENDMENT No. 289

On page 3, strike lines 14 through 24 and insert the following:

"(1)(A) such manufacturing affiliate shall maintain books, records, and accounts separate from its affiliated Bell Telephone Company, that identify all transactions between the manufacturing affiliate and its affiliated Bell Telephone Company;

"(B) the Commission and the State Commissions that exercise regulatory authority over any Bell Telephone Company affiliated with such manufacturing affiliate, shall have access to the books, records, and accounts required to be prepared under subparagraph (A); and

"(C) such manufacturing affiliate shall, even if it is not a publicly held corporation, prepare financial statements which are in compliance with Federal financial reporting requirements for publicly held corporations, and file such statements with the Commission and the State Commissions that exercise regulatory authority over any Bell Telephone Company affiliated with such manufacturing affiliate, and make such statements available for public inspection.

GRAMM (AND DOLE) AMENDMENT NO. 290

Mr. GRAMM (for himself and Mr. DOLE) proposed an amendment to the bill S. 193, supra, as follows:

On page 4, beginning with line 10, strike out all through line 17 on page 7.

NOTICE OF HEARING

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, June 18, 1991, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on a measure currently pending before the subcommittee. The bill is: S. 1029, a bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the Subcommittee staff at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President. I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 5, 1991, at 2:30 p.m., to hold a hearing on the nomination of Saundra Brown Armstrong, to be U.S. district judge for the Northern District of California; Timothy K. Lewis, to be U.S. district judge for the Western District of Pennsylvania; and William L. Osteen, to be U.S. district judge for the Middle District of North Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 5, 1991, to consider S. 106, a bill to amend the Federal Power Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS, AND INTERNATIONAL OPERATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics, and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, June 5, at 2 p.m., to hold a briefing on Moscow Embassy construction plans.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS, AND ENVIRONMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans, and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 5 at 10 a.m. to markup the fiscal year 1992 Foreign Assistance Authorization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 5, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 667, Tribal Judicial Enhancement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, June, 5, 1991, 9:30 a.m. The focus of the hearing will be the enforcement of the Agricultural Quarantine Enforcement Act by the Postal Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on June 5, 1991, at 10 a.m., in SD-192, to hold a hearing on the "Circle of Poison: Devastation in the Third World."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, June 5, beginning at 11 a.m., to conduct a hearing on recycling under the Resource Conservation and Recovery Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet on Wednesday, June 5, 1991, at 9:30 a.m., to receive testimony on the total force policy report, and manpower and force structure plans, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992–93.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet in open session on Wednesday, June 5, 1991, at 2 p.m., to receive testimony on ICBM modernization, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992–93.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO COMMANDER RICHARD ILKA, USNR

• Mr. DECONCINI. Mr. President, I rise today to recognize a devoted public servant who will be honored this evening by Renew America with their prestigious Environmental Partnership Award. Along with several of his colleagues, Comdr. Richard Ilka, USNR, of Scottsdale, AZ, will be honored for his outstanding service to protect, rescue, and rehabilitate thousands of sea birds and other marine species placed at risk by the catastrophic oilspills that occurred during and following the Desert Storm Operation.

The wildlife endangered by the oilspills included the Secotra Cormorant and hundreds of other species of birds, 180 species of mullusks, 106 species of fish, 5 species of dolphins, whales, and sea turtles. Thanks to the extraordinary cooperative efforts of the many volunteers and organizations involved with the rescue efforts, thousands of endangered birds and turtles were recovered, nursed back to health, and returned to their natural habitat.

I ask that my colleagues join me in recognizing someone who was involved with the Persian Gulf War in a rather unique position—to save and preserve, rather than to destroy. So often we hear only of the pain and atrocities associated with armed conflicts, but Commander Ilka and others like him were shining examples of American compassion, ingenuity, and competence both during and after the Desert Shield and Desert Storm operations. I believe that Commander Ilka merits our praise and thanks, just as do our Armed Forces who fought for freedom throughout the conflict. Certainly, their roles are varied and distinct, but their contributions are equally appreciated and valued by a grateful nation.•

THE GUY BEHIND THE TREE

• Mr. SYMMS. Mr. President, newspapers have been filled recently with the news that tens of thousands of men and women in the Pacific Northwest will be put out of work by the U.S. Government's activities regarding the northern spotted owl. This unfolding tragedy is one of epic proportions. Entire communities will be destroyed.

Yet for most Americans the plight of the people of Washington, Oregon, and northern California is far, far away. The cost of this tragedy will be brought home when taxpayers begin paying the millions the courts will order paid because of the unconstitutional takings that will soon occur. However, all of us need to be concerned, right now, about what the Endangered Species Act and other statutes are doing to our economy.

This very point was brought home in an article entitled "The Guy Behind The Tree" which recently appeared in the Miner's News which is published in Boise, ID. The article was written by William Perry Pendley, president and chief legal officer of Mountain States Legal Foundation.

Mr. President, I ask that the article be placed in the CONGRESSIONAL RECORD at this point.

[From the Miner's News, April-May 1991]

THE GUY BEHIND THE TREE

(By William Perry Pendley)

"DON'T TAX ME!"

Former U.S. Senator Russell Long of Louisiana, the once powerful chairman of the Senate Finance Committee, used to say that tax policy was simply: "Don't tax me. Don't tax thee. Let's tax the guy behind the tree."

What was once and always will be true for tax policy is becoming increasingly true for environmental policy. For, while polls indicate a heightened concern by the American people regarding environmental issues, most Americans look to others to achieve whatever goals may result from elevated environmental consciousness.

Thus, while the Earth Day issue of USA Today last year announced "83 percent fear for environment," 65 percent of those surveyed opposed any restriction upon their ability to use their automobiles. A survey of 1,143 Americans conducted last summer by the Associated Press found that 61 percent oppose timber harvesting in "old" forests—such as in Oregon where four out of every 10 jobs is a timber job. Nevertheless, a "strong majority" of those polled stated that they do not engage in so-called "environmentally-ethical shopping" but instead make purchases "mainly on the basis of price and quality."

WE ARE THE PEOPLE

Notwithstanding the tremendous media hoopla regarding environmental issues, a majority of the American people have not brought into the rhetoric of the environmental elite and their friends in the media. In fact, a survey of environmental views conducted by a New York City marketing and opinion research firm found that the majority of the American people are not active environmentalists.

According to that survey, only 22 percent of the American people could be classified as environmentalists. Those Americans are divided into two groups each consisting of 11 percent of the population: "environmental leaders and activists" and "affluent environmental spenders—people willing to pay—but with little time to get involved themselves." Not surprisingly these individuals are affluent, well-educated, well-employed and live in the Northeast and the far West.

However, the largest single group—consisting of 28 percent of the American people—oppose environmental regulation. An additional 24 percent of the public is not involved in environmental issues or activities. Combined, these two groups—which the research firm classified as "not environmentalists"—represent a majority of the American people.

The remaining 26 percent of the population was described as a "middling swing group whose attitudes and behavior can cut both ways—pro- and anti-environment" and whose members are a "portrait of Middle America." Combining this "swing group" with the 52 percent who are not environmentalists yields a startlingly large 78 percent of the American public.

EARTH DAY VS. ELECTION DAY

In the past when I have recounted these statistics and this analysis, "environmentalists" (that is, members of the elite 22 percent) have assured me that despite their smaller numbers, they will prevail because they are affluent and politically sophisticated.

They may well be right. However, they will prevail only so long as the costs of environmental regulation do not become part of the public debate. For the defeat in the last election of "Big Green" by the voters of California demonstrates conclusively that there is a difference between Earth Day and Election Day.

The defeat of "Big Green" is particularly significant since polls taken when the initiative was first placed on the ballot indicated that 70 to 80 percent of California voters favored its adoption. Thus it appears that when the costs of specific environmental proposals are disclosed to the voters, the lopsided support often attributed to vague and nebulous environmental policies evaporates rather quickly.

Put in the terms of the market survey discussed above, "Big Green" was rejected by the voters of California because the 28 percent (which opposes environmental regulation) was successful in persuading not only the 24 percent (which is uninvolved in environmental issues or activities), but 6 percent of the remaining 26 percent (the "middling swing group") that "Big Green" was simply too costly.

COSTS, BENEFITS AND THE PUBLIC WELFARE

As more Americans learn the true costs of excessive environmental policies, the wisdom of those policies will be questioned much more rigorously. As well, the assumptions and objectives which underlie those policies will be subjected to even greater public scrutiny.

That is exactly what is beginning to happen. At one time the Endangered Species Act was merely the object of derisive humor as the Black-Footed Ferret (a rodent) or the

Furbish Lousewort (a weed) were the cause for the demise of some local project, and with it, tens of jobs. However, the Endangered Species Act is taking on a much more somber complexion since that statute is now responsible for the anticipated loss of 60,000 jobs in the Pacific Northwest, for the slow death of a $240 million world-class observatory in Arizona, and for a potentially fatal setback to a water project required by a treaty between a Colorado Indian tribe and the U.S. government.

"Wetlands" policy, once regarded as the savior of swamps, bogs, and migratory bird habitat, is now viewed as the reason why a Hungarian emigree will spend the next three years in prison for cleaning a Pennsylvania dump site that he owned; why municipal water projects from San Diego to South Carolina have been scuttled by the Environmental Protection Agency; and why two Colorado farmers have been fined $40 million by the EPA for protecting their lands from floodwaters.

Unfortunately for wise public policy, even these horror stories are too far removed to have any real meaning for most voters. While all decry such thoughtless abuses of power in the name of "environmentalism," the impact upon the individual citizen is not readily apparent. For too many Americans the victims of such perversions are merely guys behind the tree—the ones who, through no fault of their own, are being required to bear the burdens of environmental policies. What we all need to realize is that very soon it could be us behind that tree.●

SIGHTING OF A CHINESE HIGH SEAS DRIFT NET VESSEL

● Mr. PACKWOOD. Mr. President, for the first time ever, the United States has received documentation that a People's Republic of China high seas drift net vessel has been detected in the Pacific Ocean. At a time when we are trying to eliminate drift net fishing, the detection of another country participating in these fishing activities deals a devastating blow to our legitimate efforts to end the stripmining of our oceans.

The vessel sighted was flying a People's Republic of China national flag, displayed a large red star on both smoke stacks, and had a large high seas drift net ready to be dropped. Radio beacons, spare nets, floats, and other high seas drift netting equipment were photographed on board the vessel.

The vessel was seen in an area where other high seas drift net vessels have been recently sighted illegally fishing for salmon and steelhead. It has been reported that Taiwanese vessels have been reflagged as vessels of the People's Republic of China and this vessel was, apparently, similar in every way to previously documented Taiwanese high seas drift net fishing vessels.

Mr. President, the United Nations passed a resolution in December 1989 calling for an end to high seas drift net fishing by June 30, 1992. The United States has taken a strong stance in support of this position and the Congress has enacted legislation over the past several years to ensure we move in that direction.

In April, I introduced legislation to put teeth in the U.N. resolution by imposing economic sanctions against countries that continue large-scale drift net fishing on the high seas beyond June 30, 1992. The recent sighting of a People's Republic of China drift net fishing vessel reiterates the need for this legislation and for a continued push by the United States and the United Nations to stop drift net fishing once and for all.●

FAMILY PLANNING

● Mr. GORE. Mr. President, in 1988, I opposed the Reagan administration's rule change that prohibited doctors in federally funded family planning clinics from providing their patients the most complete information available, and in too many instances, critically needed advice. I continue to oppose this policy and these restrictions, even as they are upheld by the Supreme Court.

I believe the Court's decision supporting a gag rule against doctors in federally funded clinics interferes with both the obligation of a doctor to a patient and with the constitutional right of free speech. The ruling presents a threat not only to the health of women seeking care from these doctors but also to the basic constitutional rights of these women and their doctors.

The decision to end a pregnancy is always difficult, painful and complicated for the women involved, for her family, and even for her doctor. But it is a decision that, if made, should be made after a full discussion with all the facts and all the options clearly understood—even when the woman is poor; even when her doctor is employed at a federally funded clinic. And, Mr. President, while some may not support abortion as an option, this information still should be protected as part of a private conversation between a doctor and a patient about a legal activity.

I am an original cosponsor of S. 323, the title X Pregnancy Counseling Act of 1991, and S. 1197, the Family Planning Amendments of 1991, because these measures would restore family planning clinics to their proper role, removing the unconscionable gag imposed first by the Reagan administration and then affirmed by the Supreme Court. It is not only appropriate but also essential to the basic rights of both doctors and patients that Federal resources support family planning programs that allow women and couples to make fully informed decisions about pregnancy.●

GORGING ON RED INK

● Mr. SYMMS. Mr. President, notwithstanding our growing Federal deficit, and our demand of the American people that they tighten their belts, the Federal Government continues to gorge on red ink. Nowhere is this more true than in the Government's Land Acquisition Program. Last year Congress dramatically increased appropriations for taking land off the tax rolls and putting it in Federal hands. For the 1992 fiscal year the U.S. Forest Service and Bureau of Land Management propose the largest land acquisition budgets in the history of those agencies.

While all Americans will suffer increased taxes and deficits because of this, no one suffers more than the property owner whose rights are trampled by the Federal bureaucracy. The very personal face of this growing tragedy was brought out in an article recently published in the Wyoming Stockman Farmer. The article was written by William Perry Pendley, president and chief legal officer of Mountain States Legal Foundation.

Mr. President, I ask that the article, "Dealing With Goliath: Can David Use A Slingshot?," be placed in the CONGRESSIONAL RECORD at this point.

The article follows:

DEALING WITH GOLIATH: CAN DAVID USE A SLINGSHOT?

(By William Perry Pendley)

The Saint Croix River flows through eastern Minnesota and northwestern Wisconsin where it merges with the Mississippi River near Prescott, Wisconsin. Approximately 30 miles northeast of Saint Paul, Minnesota, in Polk County, Wisconsin, lies the riverfront property of Francis ("Jake") and Elizabeth Bradac.

Since the early 1970's the National Park Service (NPS) has been acquiring property along the river for preservation in the Lower Saint Croix National Scenic Riverway Project. One of the properties condemned by the NPS was that belonging to the Bradacs.

The Bradacs consistently and persistently disagreed with the NPS' determination of the value of their property. As a result of this disagreement, the matter proceeded to court.

Despite the fact that two years before trial the NPS had asserted that the Bradacs' property was worth $41,000, just one month prior to trial the NPS reduced its appraisal by more than half, to $19,000. Less than two weeks prior to trial, the Bradacs offered to settle for $100,000. The NPS counter-offered with $90,000. However, by this time the Bradacs had an appraisal indicating that their property was worth $155,000. The Bradacs rejected the counter-offer of the NPS.

At the one-day trial, the jury returned a verdict for the Bradacs of $170,000. Although the NPS paid that judgement, the Bradacs' attorneys' and experts' fees amounted to $60,000, thus reducing the Bradacs' recovery to $100,000—some $45,000 less than their expert had testified their property was worth.

DAVID'S SLINGSHOT

As Jake and Elizabeth Bradac learned, "negotiating" with the U.S. Government and its agents in the NPS and the Department of Justice is never easy. Mark Twain once quipped that one should never argue with the press since it buys ink by the barrel. A similar caution might be urged upon those contemplating a battle with the largest law firm in the world—the U.S. Government. For even if a private citizen prevails over the federal government in court, the path is so torturous and the cost so high that such a victory is often a pyrrhic one.

Thus it was that the U.S. Congress adopted the Equal Access to Justice Act, providing that when private citizens prevail over the Government and the position taken by the Government is not "substantially justified," the citizen is entitled to the payment of attorneys' fees and expenses. Congress' reasoning was simple. If the Government takes an unreasonable position and loses, the private citizen should be made whole for battling the unjustified position of his or her government.

For the Davids of the country, the Equal Access to Justice Act is a slingshot to use against the Goliath of the unrestrained power of the federal government, and officials acting in its name. Yet it is little more than a slingshot.

SUBSTANTIALLY JUSTIFIED?

Following their victory, the Bradacs requested that their attorneys' fees and expenses be paid by the U.S. Government. After all, the jury had returned a verdict that represented a 900% increase over the Government's last "appraisal" of the Bradacs' property. Incredibly, the trial court ruled against the Bradacs.

The Bradacs' appeal to the United States Court of Appeals for the Seventh Circuit was denied by a two to one ruling. The majority of the Seventh Circuit's panel held that the position taken by the NPS was "substantially justified" because the appraiser used by the NPS was an "experienced, qualified and competent appraiser." The majority rejected the Bradacs' claim that the NPS had engaged in bad faith during negotiations.

However, the dissent asserted that the NPS's use of an experienced, qualified, and competent appraiser did not answer the question of whether or not the Government's position was "substantially justified." In addition, referring to the Bradacs' "lengthy statement of alleged fact" that the Government had engaged in bad faith negotiations, the dissent concluded that the issue of bad faith had not been properly addressed by the district court.

SUPREME COURT REVIEW

The Bradacs have asked the U.S. Supreme Court to hear their appeal in light of the substantial conflict between and among the various Courts of Appeals as to when, in condemnation cases, the government's actions are "substantially justified."

The Eleventh Circuit has held, for example, that a finding that the U.S. Government was "substantially justified," demands "a neutral and impartial expert" not "one regularly employed by the government." The Tenth Circuit requires a careful review of "[t]he totality of the circumstances as reflected by the record before the court," thus going far beyond a simple review of the qualifications of the appraiser.

Whether the U.S. Supreme Court will hear the Bradacs' appeal is uncertain. However, one thing is certain, without Supreme Court intervention the rights of property owners in this country are in peril. This is particularly the case given the incredible land grab now underway by the U.S. Government.

In the 1991 budget passed by Congress late last year, four federal agencies were given $301.1 million dollars to buy and to condemn privately-owned lands during 1991. The 1991 budget is a dramatic increase for each of those four agencies—National Park Service (53.6%); U.S. Fish and Wildlife Service (36.7%); U.S. Forest Service (40.5%); and Bureau of Land Management (24.6%).

This aggressive approach to land acquisition is likely to continue. President Bush's Fiscal Year 1992 budget proposes the largest land acquisition budget in the history of the U.S. Forest Service (a 204% increase over 1991) and the Bureau of Land Management (a 38% rise over 1991).

CONCLUSION

When landowners prevail over the U.S. Government—not in regaining their land but in receiving fair value for that land—the payment received should not be diminished by the fees incurred by the landowner in his or her efforts to prevail over the often oppressive tactics of Government officials. If the Government is able to do to others what it did to Jake and Elizabeth Bradac, then even the slingshot will have been taken out of the hands of the American People.•

ECONOMIC HEALTH OF THE AMERICAN FAMILY

• Mr. COATS. Mr. President, of late, I have been very pleased to witness a renewed emphasis on the economic health of the American family. A significant portion of families in the United States are having greater difficulties making ends meet each month, despite the notable increase in two income families.

A key contributing factor to these escalating difficulties has been the poor treatment the American family has received in the evolution of the U.S. Tax Code. Over the years we have seen the Tax Code revised and structured in a manner that tends to look after a great number of special interests at the expense of the American family.

Because the personal exemption—which was originally intended to reflect the annual costs of raising a child—was not indexed for inflation for some 35 years, it gradually lost a significant portion of its value. As such, I have introduced legislation to double the personal exemption which I hope my colleagues will join me in supporting and moving forward.

Recently I have had the good fortune to read a speech delivered to the Wisconsin Republican Convention by one of the Senate's leaders in fair tax policy, Senator KASTEN. This speech is an excellent summation of some of the areas in the Tax Code which are in need of revision—revisions which would retore tax fairness to American families—the very foundations of our future and, at the same time, revitalize our economy.

I believe Senator KASTEN is right on target in his assessment of what our domestic priorities should entail. I would thus like to have a copy of his speech included in the RECORD for the benefit of my colleagues in the Senate.

The remarks follow:

REMARKS BY SENATOR ROBERT W. KASTEN, JR.

Thank you very much, Tommy. Eva, Nora, and I extend our warm greetings to everyone here today. We are particularly happy to be here because all of us together have a lot to be proud of. And what better occasion to celebrate our common pride than this Wisconsin Republican Convention!

Earlier this year, the American people showed what they were made of. We stood up to the forces of naked aggression and said America will not tolerate the violation of world peace and freedom by brutal dictatorships.

A couple of weeks ago, I was pleased to be at the joint session of Congress to hear a moving address by Gen. Norman Schwarzkopf. When General Schwarzkopf said that the defeatists and the flag-burners were wrong—that America would rally behind our troops until complete victory was ours—I recognized that we Republicans had indeed been successful in capturing the hearts of our country.

Make no mistake: It was the Republican commitment to freedom that made our victory possible.

So we Republicans have a lot to be proud of. But for the Republican Party, and for America, the best is yet to come, because we have a fight on our hands right here in America, a fight to liberate American families from the heavy hand of Federal over-taxation and over-regulation.

And after the battle of Kuwait, I ask you: Who doubts that we can win this fight?

We Republicans were the freedom fighters of the 1980's. We held the line against the Soviet Union, and the result was freedom in Eastern Europe. We cut taxes and gave Americans more freedom to work, save, and invest. The result was the greatest economic boom in history.

As Republicans, we started the 1990's with a willingness to undertake new challenges. We liberated Kuwait, and yes we can liberate the American family and make it the greatest force for prosperity that mankind has ever known.

Just like in the Persian Gulf, we are confronted by forces that are scared of freedom. The Democratic Party wants to saddle our entrepreneurs with costly burdens—all kinds of Federal mandates—that limit the freedom of the people to invest and produce.

The don't think the American people are smart enough to make their own economic choices. We know that this is wrong and we will oppose them.

The Democrats want to divide Americans against each other. For them, one person getting rich means another has to get poor. We Republicans know that's absolute nonsense. We want to build an America in which all of us share an expanding economic pie, because after all, we are Americans, and that means we're in this together.

As if trying to divide Americans by income weren't bad enough, the Democrats are even trying to create racial divisions. We believe in the dream of Martin Luther King: an America where people are judged by the content of their character rather than by the color of their skin. That's why I and the Republican Party say no to racial quotas.

Bureaucratic mandates, class envy, and racial division—this is the Democrat vision of America, and it is our task as Republicans to make sure that the Democrats never get the chance to make it happen.

We Republicans have another vision for America, a vision based on expanding the freedom and the opportunities of American families.

Families are the building blocks of civilization. Without strong families, America will not survive. That's why the fight to rescue American families is crucial to our success as a nation.

The family is not only the transmitter of our culture. It is also the underpinning of our economic strength. The most important habits that young people form take root not in school or on the street, but at home with Mom and Dad.

That's why it is essential that we make the family stronger. I think we ought to invest in families by increasing their earning power.

One of the ways we can do that is by doubling the value of the personal income tax exemption.

The declining value of the personal exemption is one of the most important reasons the tax burden on working families—especially families with young children—has risen so much over the last few decades.

In 1950, the personal exemption was the equivalent of over $3,000 in today's dollars. Today, the personal exemption is only $2,050.

Look what this erosion means for the average family. In 1950, a family of four with no other exemptions could deduct over 70 percent of its income from taxation. Today, that same average family would be able to deduct less than one-fourth of its income due to the personal exemption. Clearly, it's time for a change. I think we ought to start sending this money back to the men and women who earned it.

Federal spending this year will consume more than $1 in $4 of America's gross national product. We're sending too much money to feed Washington's spending habits, and not letting families keep what they have earned.

Doubling the personal exemption, and doubling the exemption for dependents under age 18, would put us back on the right track.

It comes right down to a question of investment. Do we want to invest America's wealth in the Federal Government, or do we want to invest in our No. 1 source of human capital, the American family?

For me, as a Republican, as a husband, and as a father, the choice is clear. American families need to keep more of the money they earn, so the Federal Government had better start making do with less.

We have to restore the tax incentive for individual retirement accounts. This is the best possible boost we could give to young families trying to save for their children's future.

Our pro-family tax policy is pro-growth. Unlike the Democrats who think that middle-income families exist for no other purpose than to serve as juicy tax targets, we Republicans believe that families already pay far too much in taxes.

Enough is enough. Until Congress gets spending under control, I say absolutely no to a single penny in new taxes.

If we let families keep their resources to save and invest, we will spark an economic boom of historic proportions. What a terrific legacy to leave our young people!

The bottom line is freedom. We Republicans believe that the more freedom American families enjoy, the better off America will be. That's why in education, we stand for choice—the freedom of parents to choose where, what, and how their children will be taught.

That's why in welfare policy, we support what Gov. Tommy Thompson is doing to keep families intact. Only when the family works is there hope for the young people to exercise their freedom in a climate of opportunity.

The Republican message to Wisconsin families is this: We trust you. We know that you are America's only hope for the future, and that if only you have the freedom to do so, you will build an America we can all be proud of.

The Republican Party will help you in every single way we can, and we will be successful, because we know that you are behind us.

It will be tough at first, because the Federal bureaucrats and the tax increasers still have a lot of power—but we know that victory will be ours, because we know that we are doing the right thing for America's families.

And doing the right thing gives you all the power in the world. Ask the people of Kuwait, and ask Wisconsin families once our policies have become the law of the land.

We have a lot of work to do. We have elections to win. We have policies to enact. Together, we will accomplish these great tasks, and make Wisconsin and all America grateful for the effort we made.

We Republicans are performing a vital service. We have a strong record and a message of freedom. The future is ours; let's keep up the great work!•

CREST HOUSE

• Mr. SYMMS. Mr. President, those of us from the West have seen an increasing tendency by the U.S. Forest Service to put an end to the multiple use of our national forests. Despite the clear intent of Congress, as expressed in the Multiple Use and Sustained Yield Act, forest supervisors, in decision after decision, are saying "no" to oil and gas exploration, "no" to mining, "no" to timber harvesting, and "no" to off highway vehicle use. Incredibly, the U.S. Forest Service recently said "no" to the needs of visitors to one of our national forests.

The highest road for motorized travel in North America is in the national forest 35 miles west of Denver, CO. Just below the 14,264-foot summit lies the ruins of the Crest House—an historic structure built of native stone and boulders in the tradition of Frank Lloyd Wright. From 1941 until 1979, when it burned down, the building offered shelter, food, and an alpine rescue station for the millions who visit the mountain. Even though the Forest Service received more than $500,000 to rebuild the building, it recently decided it would not do so. The position of the Forest Service is that the concrete platforms and portable commodes now atop the mountain is all that visitors need.

This incredible tale, plus a good bit of fascinating American history, appears in the Canyon Courier of Evergreen, CO. The article was written by William Perry Pendley, president and chief legal officer of Mountain States Legal Foundation.

Mr. President, I ask that the article, Crest House, a Place to Refresh and Reflect, be placed in the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Canyon Courier, May 8, 1991]

CREST HOUSE, A PLACE TO REFRESH AND REFLECT

(By William Perry Pendley)

If ever an artist popularized the American West, it was Albert Bierstadt who, in 1859, ventured into the frontier. What he painted when he returned astonished the world and inspired generations of Americans. For in his hand, the American West became a mythical, ethereal place, a dreamlike and beautiful land.

In the summer of 1863, Bierstadt journeyed some 35 miles west of Denver and found himself gazing up at a peak which—at 14,264 feet—towered over all around it. To the east, over the foothills far below, stretched the Great Plans. To the west towered the Rocky Mountains, angular and rock-strewn, punctuated with alpine lakes and covered—below timberline—with a lush carpet of pine and shimmering aspen.

For Bierstadt, who had seen and who was to see many beautiful sights, the experience was singular. On his return, he did two things. He painted what he saw and called it "A Storm in the Rockies," and he named the Peak Mount Rosalie, after his future wife. Although his painting became famous, the name he gave the mountain lasted only 32 years. In 1895, the Colorado General Assembly changed the name to Mopunt Evans, after Colorado's second territorial governor.

Others wanted to see the view that inspired Bierstadt. Even before 1920, roads began making their way toward Mount Evans. In 1922, construction of a highway to the summit was begun. In 1930, what is now called Colorado Highway 5, or the Mount Evans Highway, was completed. It is the highest road for motorized travel in North America, and the third-highest in the world.

Beginning at 10,650-foot Echo Lake, the Mount Evans Highway climbs slowly, switching back and forth in a 14-mile trip to the summit. The road passes through an ecological exhibit where flora and fauna flourish, including a rare and beautiful stand of ancient bristlecone pine. At 11,500 feet the highway passes through timberline and into tundra whose abundant arctic and alpine wildflowers are world-famous. While wildlife abounds, including bighorn sheep, elk, deer, fox, badger and an occasional black bear and cougar, the most frequently sighted wildlife are Rocky Mountain goats, which stand incautiously in the roadway or watch visitors from rocky perches overhead.

Each year more than 150,000 visitors to Colorado drive to the top of Mount Evans. Since the highway was completed, millions have been there.

In the late 1930s, three Colorado civic leaders decided that those millions of visitors needed a structure from which to better enjoy all that Mount Evans offered. For Mount Evans—the 15th highest peak in the lower 48—can be brutally cold, even on summer days, and the weather can change quickly and dramatically. As well, reasoned these men, the view is so spectacular that it warrants the length of stay that would be permitted only if one were able to take liquids and refreshment.

In 1940, construction began on what became known as the Crest House. Famed Colorado architect Edwin Francis thought it his best work, noting that he had been inspired by "the moon, stars and heavens." In 1941, the Crest House was completed. Built of native boulders and stone, the building was later deemed eligible for historic landmark status.

Over the years it served millions of visitors. Crest House employees assisted hundreds of lost, stranded, injured or ailing visitors to a summit where the atmospheric pressure is 60 percent that of sea level. The Crest House also functioned as a vital communications center for many daring rescues by the Alpine Rescue Team, during which Crest House employees provided first aid to trauma victims in "the golden hour"—the critical first 60 minutes following traumatic injury.

All that came to an end on Sept. 1, 1979, when a propane fire destroyed the Crest House. The U.S. Forest Service, which by then owned the Crest House, received more than $500,000 in damages and insurance which it could have used to rebuild the structure.

Incredibly, after years of study, the Forest Service decided not to rebuild the Crest House. The Forest Service ignored the pleas of Clear Creek County, of nearby Idaho Springs, of the Alpine Rescue Team, and of a thousand visitors to Mount Evans. The Forest Service also appears to have ignored federal law, which requires government agencies to use money received for the loss of facilities to replace those facilities. Most incredible of all was the Forest Service's response to those who thought the Crest House met a safety need: "there is no requirement or obligation for the Forest Service to ensure the presence of people on a relatively continuous basis at the summit of Mt. Evans for safety related purposes."

What a far cry from the day in 1941 when the local forest ranger wrote to the original operator of the Crest House: "The Summit House meets a very outstanding public need, and the Forest Service is anxious to cooperate with you in any particulars that may serve to meet this need more fully."

The Mount Evans Company—the operator of the Crest House at the time of the fire—has filed a lawsuit against the Forest Service to restore this Colorado landmark and to enhance the experience of Mount Evans visitors.

Unfortunately, the Forest Service decision may be part of a trend away from so-called "intensive" uses. If it is, it is a dangerous trend that bodes ill for those no longer young, or hardy enough, or able and willing to enjoy a view—even as magnificent as that from Mount Evans—without a place in which to rest, to refresh, and even to reflect.

For it is in such a place as the Mount Evans Crest House—out of the wind and the cold—that one could look out upon a jagged sawtooth ridge that meanders West to yet another 14,000 foot peak—Mount Bierstadt—and think of the man who first showed this view to the world. One might even be inclined to make a toast, "To Rosalie."

Editor's note: William Perry Pendley, a Wyoming attorney, is president and chief legal officer of Mountain States Legal Foundation in Denver.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Karen Robb, a member of the staff of Senator DECONCINI to participate in a program in Indonesia, sponsored by the USIA and the Government of Indonesia, from August 17 to September 1, 1991.

The committee has determined that participation by Karen Robb in the program in Indonesia, at the expense of the USIA and the Indonesian Government, is in the interest of the Senate and the United States.•

OUR OWN NATURAL RESOURCES

• Mr. SYMMS. Mr. President, all Americans are filled with pride and patriotism over the heroic efforts of the brave men and women of our military services who performed so valiantly and ably in the Persian Gulf. Yet we cannot allow our euphoria to prevent us from learning what lessons we must learn from that experience. I believe one of the most important lessons that we can learn from this war—America's first over resources—is that we must develop our own natural resources.

As a westerner who represents a mining State that very point is brought home to me as I see the internal struggles in central and southern Africa as well as Russia where many of the most important mineral resources occur. This point is further made by the debate in this body over the future of mining in this country. I only hope that some future Congress is not asked to send young men and women into combat over mineral resources that, but for the opposition of environmental groups, we could have developed here in this country.

This point and others were made in a speech before nearly 2,000 of the country's top young military officers at the Naval Postgraduate School. William Perry Pendley, a member of the Secretary of the Navy's Advisory Committee on the Naval Postgraduate School, and a former aide to this distinguished body, delivered an inspirational and thoughtful address which should be read by every American.

Mr. President, I ask that Mr. Pendley's remarks be placed in the RECORD at this point.

The remarks follow:

ENVIRONMENTAL ISSUES AND THE MILITARY OFFICER

(By William Perry Pendley)*

WHAT A GREAT DAY

Welcome to the "Wyoming Expatriate Lecture Series." I understand that last month you heard from two men from Casper, Wyoming—Secretary of Defense Dick Cheney and Assistant Secretary for Legislative Affairs, David ("Dedge") J. Gribbin, III. Today you get to hear from someone from Cheyenne, Wyoming.

I see on the news that Secretary Cheney is in the Middle East today, telling the troops that they will not be out of the "DMZ" within the next 48 hours, soon to be home, soon to be receiving the kind of greeting that they deserve.

As I have traveled around this country in the weeks since the end of the war, in every city, large and small, in every village and hamlet, in every airport, I have seen the signs "Welcome Home." To those brave men and women who served in the Middle East, "Welcome." To those who supported them here and abroad, thoughout the Fleet, "Welcome Home."

As General Normal Schwarzkopf said on his return to the United States, "What a great day to be a soldier. What a great day to be an American." What a different day from the day I and thousands of others came home during the Vietnam War.

LESSONS LEARNED

We have learned, and are yet to learn, many lessons from the War in the Persian Gulf.

We learned that American technology, ingenuity, know-how and creativity work.

We learned that our weapons work. Just ask Saddam Hussein.

We learned that our men and women can fight and win a war. We are yet to learn if our diplomats can win a peace.

We learned also how to deal with the press.

I must tell you that the American people have had it up to here with the media. The media's standing in the public's eye has never been lower. Although you have recently heard a lecture on the media, I cannot discuss the media and the military without making two points:

First, it is ironic that censorship in the Persian Gulf War came first from the media, not the military. It was the media which demanded that the military cut short its daily briefings and go on "background" so that the media could be the conduct for information on the war. So much for the media's real objective, control of the news.

Second, when a CNN reporter left Baghdad in the middle of the air war, he refused to be debriefed by the military, saying that he was first and foremost a journalist, not an American. So much for the media's orientation.

RESOURCE WAR I

Today, as we welcome home our fighting men and women, I want to discuss yet another lesson we must learn from the war in the Persian Gulf. That lesson is that political decisions made here at home will determine if the sons and daughters of America will fight on foreign shores.

My good friend, Jim Webb, former Secretary of the Navy, one of the most highly decorated Marine Corps officers from the Vietnam War, and one who, with many of you, "rode the green bench" at the Naval Academy, has written yet another outstanding novel. Jim told me that his novel, "Something To Die For," is "a cautionary tale." I recommend it to each and everyone of you. In it Jim sees a Washington, D.C., filled with cynicism and political intrigue, in which the nation's leaders send men to die for nothing in Ethiopia.

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*Mr. Pendley, a former Captain in the U.S. Marine Corporation, is a member of the Secretary of the Navy's Advisory Board on the Naval Postgraduate School. He is President and Chief Legal Officer of Mountain States Legal Foundation in Denver, Colorado. These remarks were delivered as part of the Naval Postgraduate School Superintendent's Guest Lecture Series on May 7, 1991.

Yet I see another force at work. For there is something unique about the war in the Persian Gulf other than the swiftness of our victory. That is, it was the first war America has ever fought over resources.

America, on whom God has surely shed his grace; America, blessed with rich farmlands and forests, with ore and oil, has fought a foreign country over energy. Yes, we fought to rid the world of a despot—of the Hitler of our age. But we also fought, in President George Bush's words in his State of the Union address, because, "[w]e cannot allow control of the world's oil resources to fall into [Saddam Hussein's] hands." Or like the bumper sticker I saw on a pickup truck outside Roswell, New Mexico, "Kick His Ass. Take His Gas."

It may be the first war America has ever fought over resources, but I fear that it will not be the last. It will not be the last unless we change our policies. But before I discuss what we must do, I need to discuss where we are today.

WAR ON THE WEST I

To do that I must go back some 14 years to the administration of the first graduate of the Naval Academy ever to be elected President of the United States, Jimmy Carter. After his election, his administration engaged in policies that were widely perceived of as a War on the West: a war on our water projects, a war on our water law, and a war on our mining, timber and other resource policies.

His policies yielded opposition, heated opposition. It was called the "Sagebrush Rebellion," and it catapulted the man who called himself a Sagebrush Rebel—Governor Ronald Reagan—into the presidency in a landslide.

That would seem to be the end of the story. But it is not. What is happening now is yet another "War on the West." This time by a Republican president and the response to it is being called the "SageBush Rebellion."

The grass roots uprising that we are seeing all across the West, from the 100th meridian to the Cascade Mountains, is what John Lancaster of the *Washington Post* calls "an honest-to-goodness phenomena."

I AM AN ENVIRONMENTALIST

It all began in 1988 when Vice President George Bush, in the midst of the presidential campaign, said "I am an environmentalist." When I heard that I worried. I worried because for 20 years or so, westerners have been at odds with the leaders of the environmental groups as they have sought, so it would seem, to shut us down.

I worried even more when I heard President Bush's first State of the Union address. As you know, State of the Union addresses are usually lacking in specific detail. But in his first State of the Union address, President Bush said two very specific things about natural resources issues.

First, he said he wanted to increase the National Park Service's land acquisition budget from zero to $200 million a year. That is the budget the federal government gets to take property out of private hands, off of the tax rolls and put it into federal ownership. This aggressive federal land acquisition policy has continued. Next year, two land management agencies—the U.S. Forest Service and the Bureau of Land Management—will have the largest land acquisition budgets in the history of those agencies.

Second, President Bush placed three Outer Continental Shelf (OCS) sales off limits to exploration and development. Those sales were supposed to bring into the federal treasury more than $450 million in bonus bids alone, not to mentions jobs, revenues, taxes, and yes, even oil and gas.

Taken together, these two initiatives reduced revenues to the federal government by more than $650 million. Think about that the next time you worry over the shrinking Department of Defense budget.

Shortly after the President's announcement, Congress placed the majority of the OCS off limits to exploration and development. You should know that there is enough oil in the OCS to replace all of the oil we get from the Persian Gulf for the next 25 years. It should be apparent to those of you in uniform that Congress is less concerned about sending the sons and daughters of middle America to war than about confronting the environmental groups on developing domestic energy.

We are not running out of oil in America, we are running out of the will to develop it:

—exploration for oil and gas on U.S. Forest Service lands has dropped by 60% in the last five years;

—the OCS is largely unavailable for exploration;

—the Arctic National Wildlife Refuge—an area the size of South Carolina in which we need to explore an area the size of Dulles International Airport—is off limits;

—our country is 80% dependent on foreign sources for the fuel we use to create nuclear power.

There is oil to be found in America. Recently a major new find was announced in the Gulf of Mexico, the largest find in the last 20 years. It may be as large as the North Sea.

After I heard President Bush's first State of the Union address, I wondered what would happen next.

WAR ON THE WEST II

Water Law

The answer wasn't long in coming. It happened in a place I now call home, Denver, Colorado. For nearly 100 years the people of Colorado have looked to an area called Two Forks—the two forks of the South Platte River—as our source of water for the future. Forty units of local government—no federal or state money was involved—spent $47 million performing the environmental studies to build the project. They agreed to spend $90 million in mitigation measures to make local environmental groups happy, but that was not enough. National environmental groups went to their friend Bill Reilly, Administrator of the Environmental Protection Agency, and said, "Veto this project."

That is exactly what Bill Reilly did. He sent his Regional Administrator from Atlanta—which gets 80 inches of rainfall a year—to Denver—which gets 13 inches of precipitation a year, mostly in snow, to tell Denver whether it needed the water. He concluded that we do not. Bill Reilly's suggestion as to where Denver gets its water for the future is to mine water from deep aquifers or to close down farmers in northern Colorado.

Ever since gold was panned here in California, westerners have been in control of their water. We have decided when and how and where we get it. But with Bill Reilly's decision that is no longer the case.

Timber Jobs

I hope you have been following the tragedy that is unfolding in the Pacific Northwest, as 60,000 men and women face the loss of their jobs due to the Northern Spotted Owl. Four out of every ten jobs in Oregon is a timber or timber-related job. Imagine what would happen to your home towns if 40% of the people lost their jobs. That is beginning to happen now in Washington, Oregon and northern California, at a cost of $47.5 million per Spotted Owl.

No Net Loss

President Bush traveled to my home State of Wyoming and announced a national "no net loss of wetlands" policy to protect bird habitat. That sounds great at the stratospheric levels at which the President and his duck hunting buddies operate—and I'm for shooting birds. But in the bowels of the bureaucracy where even the deserts are "wetlands," it is a problem primarily because of the definitions we lawyers use.

We have a joke in the practice of law: "How much water does it take to have a stream in interstate commerce?" For if you have a stream in interstate commerce, Congress can pass a law about it and a bureaucrat can regulate it. The punch line is, "only so much water as to float the first page of a Supreme Court opinion." No wonder we have problems with the President's "no net loss of wetlands" policy.

In western Colorado, near the town of Carbondale live two old gentlemen, Dennis and Nile Gerbaz. Their father came here from Italy in the early 1900's. For seventy years these men have lived in harmony with the land, raising their cattle and growing potatoes, oats and barley along the Roaring Fork River.

A few years ago a neighbor got a government permit to do some work on the river. But because of the work that was performed the river flooded their land—about ten acres. Dennis and Nile didn't like that so they asked for a permit to correct the problem created by the work permitted by the Government. The Government not only denied the permit, it refused to come out to see the situation.

The following spring, rocks and trees and debris created a dam which prevented the river from flowing in its historic channel. Instead, the river was diverted onto the land of Dennis and Nile Gerbaz, flooding some 20 acres and washing away 5 feet of top soil over a two acre area. That was too much, even for these two gentlemen. They went to a lawyer, learned that the law permitted them to take action, without a permit, to protect their land, and so they did.

They took the obstruction out of the river, rebuilt the levee that had been washed away, and returned the river to the channel in which it had flowed for decades. Then one day, the EPA came to their home and ordered them to report to federal court to pay a fine of $45 million. You see, it is the Government's position that when the river flooded their land it created a "wetland" that they could not dewater without a permit.

Dennis and Nile Gerbaz are not alone. Hundreds of land owners all across America have been victimized by the federal government under the Administration's new "wetlands" policy.

Desert Tortoise

Here in California, in the desert, the Desert Tortoise is in danger of becoming extinct. The U.S. Government has determined that the cause is predation by the common raven. According to the Government document, "raven predation will lead to the extirpation of the tortoise population." I didn't know what "extirpation" meant. I had to look that one up. It means "to pull up by the roots." So I think of "extinction" as going out with a whimper, and "extirpation" as going out with a bang.

The Government decided to get rid of some 1,500 ravens. But the American Humane Society filed a lawsuit saying that would be inhumane to the raven. So the Government settled the lawsuit to save the cost of litigation after the Humane Society agreed that the Government could kill 1,500 ravens. However, the Government did not agree quickly enough, for the Humane Society added another condition. The Government could only kill ravens it could "positively identify as habitually preying on tortoises."

Thus, the Government denied itself the ability to end the predation that was threatening the tortoise with extinction. So what did the Government do? It took action against the miner, and the rancher, and the off highway vehicle enthusiast, and it shut down the fastest growing city in the country, Las Vegas, Nevada.

I was in Las Vegas a few weeks ago. Listen to the agreement that the U.S. Government has demanded of the people of Las Vegas and surrounding Clark County. In exchange for the ability to build on 22,000 acres in downtown Las Vegas, 400,000 acres in the county will be set aside for a tortoise habitat on which no ranching will be permitted, from which miners will be evicted, and on which no off highway vehicle activity will be permitted.

Telescopes

In southeastern Arizona, the University of Arizona and a number of other prestigious institutions are attempting to build a world-class observatory. Originally, they wanted to build 17 telescopes, but they "negotiated" with the Forest Service and it reduced the number from 17 to 13 to 10 to 7 telescopes. The University of Arizona still could not build due to environmental objections, so a law was passed by Congress to cut through the red tape.

Senator John McCain of Arizona stood on the floor of the U.S. Senate and announced that with the signing into law of this bill the telescope project would go forward. No more delays, said Senator McCain. Now, said Senator McCain, we will be able to do what the Soviet Union cannot do, because only we have the technology and ingenuity to build these telescopes.

But Senator McCain was wrong. The Sierra Club filed a lawsuit on behalf of the Red Squirrel which is endangered and the project is on hold at a cost of $25,000 a day to the University of Arizona. How ironic. We can beat Red Ivan, but we can't beat the Red Squirrel.

Wilderness

President Bush signed into law the Nevada Wilderness bill over the protests of Congresswoman Barbara Vucanovich, who represents every county in Nevada except Clark County. There are no wilderness areas in Clark County, unless you count the Las Vegas strip.

Killing Birds To Save Them

Have you heard of the latest efforts of the U.S. Government? Late last year the Justice Department apparently concluded that it did not have a good enough case against Exxon. So Justice Department lawyers went to the U.S. Fish and Wildlife Service and asked it to kill several hundred birds, dip them in oil, and throw them into Prince William Sound so the lawyers could calculate how many birds were killed in the spill.

Incredibly, the Fish and Wildlife Service agreed. Thus it killed several hundred birds from two Alaska wildlife refuges, dipped them in oil, and threw them into Prince William Sound. This is the same Fish and Wildlife Service which recently fined a mining company $500,000 for accidentally killing 25 birds in Nevada.

So much for the legacy, thus far, of the environmental president.

THE NATURE OF THE BEAST

Recently two professors named Popper from Rutgers in New Jersey came to Denver, Colorado, to discuss what they call "The Buffalo Commons." Their thesis is that mankind was never meant to live on the Great Plains. This should come as a surprise to those of you from North Dakota, South Dakota, Nebraska, Kansas, and Oklahoma. The Poppers believe that sooner or later all of those people will be gone; it ought to be sooner, so that the Government can put the buffalo back on the prairie.

Of course, this is a ridiculous, ludicrous proposal affecting, as it does, the larger part of nine states. But for many of those I represent, this very thing is happening now, as ranchers, farmers, miners, oil men, and timbermen are being forced off of the land. Along with them will go the hundreds of small communities which depend upon those activities, which depend upon resource development to exist.

We believe that we are locked in a battle for economic survival, yet we have a consensus, compromise, go-along, get-along, wet-finger-in-the-wind, will-of-the-wisp Administration that does not understand the nature of the battle, the nature of the beast with which we are engaged.

It reminds me of the time years ago when the Environmental Protection Agency decided to ban the poison that woolgrowers were using to kill the coyotes that were eating their sheep. Instead of that poison, the EPA proposed that woolgrowers use a chemical that would render the coyotes sterile. An EPA official embarked upon a tour of the West to explain that to all of us.

The tour ended in Wyoming, in one small town where the folks filled the elementary school cafeteria to hear a bright young man from EPA explain the Government's proposal. Finally, one old boy walked up to the microphone and said, "Sonny, I don't think you understand the nature of the problem. You see, the coyotes are killing and eating the sheep. They're not raping them."

A NATIONAL PROBLEM

This is not just a western phenomena. It is happening all across the country. Government regulation regarding "threatened" and "endangered" species is stifling critical economic development and the utilization of natural resources and facilities nationwide: from the Northern Spotted Owl in Washington, Oregon, and California to the Sea Turtle in Louisiana, to the Red Cockated Woodpecker in Texas. "Wetlands" designation has stopped legitimate development activities all across the country and has subjected landowners, farmers and ranchers to heavy fines and imprisonment. The EPA has vetoed vital municipal water projects from San Diego to South Carolina and from Dade County, Florida to Denver, Colorado.

It is not just private activity either. The Desert Tortoise may well stop expansion of the U.S. Army's Fort Irwin and its vital desert warfare training. One interesting battle yet to be waged is one between two Wyomingites, Secretary of Defense Dick Cheney, and U.S. Fish and Wildlife Service Director, John Turner.

While these are national problems, the impact of these policies is being felt the most in the West. There, where the federal government owns much, if not most of the land, small and rural counties are being devastated. As a result, the National Association of Counties—representing the elected officials of the 3,000 counties nationwide—last year designated ten American communities as "endangered."

ENVIRONMENTAL PASSION

There is an environmental passion in this country that the media is now exploiting. You cannot pick up a newspaper or magazine; you cannot turn on the radio or television; why you cannot even go into the grocery store, without being confronted with some "Save the Earth" propaganda.

While much good has come over the last twenty years from our heightened concern with being good stewards of the planet, I am concerned about this passion, as I fear any passion which acts without regard to Constitutional liberties, without regard to the Fifth Amendment of our Constitution, without regard to the rights of the individual.

We are seeing a new day, that is the radicalization of the environmental movement. The problem is not always with the rank and file of environmental organizations but more often with their leadership. The question is, what do they want? Last year on Earth Day, I heard the leaders of three major environmental organizations say that the free enterprise system, the American system of government was not adequate to protect the environment, that we needed to have fundamental change in our system of government. Even Bill Reilly, Administrator of the EPA, once called property rights "a quaint anachronism."

On the fringe of these organizations are the terrorists—those who "spike" trees, "spike" trails and attempt to topple ski lifts—and the animal rights advocates—those who say "A rat is a pig, is a dog, is a boy." I don't know about you, but I'd rather lose a dolphin while it was performing a hazardous underwater mission than lose a young man or woman in one of your commands.

I fear that much of the environmental rhetoric is anti-people, the kind of rhetoric which states that the human race is "a cancer on the planet." I heard an environmental leader the other day say that the word "more" is a four letter word, a dirty word. Well for the 71% of the American people who do not have a discretionary income, it is not a dirty word. What we see from so many environmental leaders is a dangerous elitism, an elitism that ignores the needs of most people; an elitism that ignores the needs of our high technology civilization, our need for energy, for ore, for timber. These elitist don't have the answers for where we get what we need. They are just in the business of stopping activity.

Shortly after war broke out in the Persian Gulf, a friend sent me a bumper sticker that read, "If You Like Iraqi Oil, You'll Love Russian Timber." The question in this country is where do we get the resources that we need—the energy, the minerals, the timber—if we don't develop them here. The answer is that we get them from foreign countries, countries like Iraq, South Africa and Russia. Yet if we are truly global citizens we should recognize that the Soviet Union doesn't just have a terrible human rights record, it has an abysmal environmental record. It is America that has an outstanding record on wisely developing our forests. For there are more trees today than when I was the age of my sons, who are ten and seven.

There is also a strong anti-technology thread that runs through much of the rhetoric we hear from the leaders of the environmental movement. They have no faith in the ability of American technology to deal with the environmental challenges which we are facing. Of course, these are the same people and types of people who said your weapons would not work.

WEIRD SCIENCE

One of the major problems we face in America today is what I like to call weird or political science. There are two bodies of scientists today. On the one hand are those who know what they are talking about, who seek peer approval, who publish in scholarly journals and who do not talk to the press. On the other hand are those who don't know what they are talking about, who do not seek peer approval, who talk to the press and who publish in *People* magazine. Unfortunately, the latter are helping to make or influence major decisions in this country, including critical issues of environmental policy.

Let me give you some examples of weird science. The Spotted Owl allegedly lives only in old growth. Yet scientists, true scientists, know that, particularly here in California, the Spotted Owl lives, thrives in new growth.

While we are talking of old growth—and I'm a fan of old growth, we've saved millions of acres of it in wilderness areas and parks—what is this fascination with old growth, particularly by those who say they are concerned with global warming? They should know what every scientist knows, that acre-for-acre the best photosynthesis factory of any land-based vegetation is new growth.

As for the Red Squirrel that stopped the telescope project in Arizona, hear what the Fish and Wildlife Service's Biological Opinion says about the squirrel, "The Red Squirrel, on seeing an intruder will become fixated, will forget to collect cones, and will starve to death in the winter."

But the weirdest science of all is "Dr." Meryl Streep on apples. You remember when Meryl Streep said there was 4,000 to 5,000 cases of cancer every year from Alar alone and helped to drive the price of apples from $14 a box to $9 a box when they could be sold. While I have great respect for Meryl Streep as an actress, she's no scientist. Yet she felt no compunction about testifying as she did before a U.S. Senate Subcommittee. As a result of the controversy over Alar, hundreds of orchardmen and women went bankrupt. Thus, some 200 years after Marie Antoinette said, "Let them eat cake," an American actress says, essentially, "I don't mind paying $3 for an organic apple. Do you?"

It reminds me of the sign I saw at a timber rally in Forks, Washington. Every man, woman and child was inside the gymnasium to learn what the community could do to keep its timber-dependent economy alive, to survive as a town. Outside, standing in the rain, was a little boy with a sign held high: "It's not The Owls, It's The Loons."

Let me give you some real science. In the deserts of California and Nevada, modern technology has saved many desperate communities and counties. Through a process called heap leach mining, dirt is piled atop thick plastic, a weak cyanide solution is passed through it and out the other end comes millions and millions of dollars in gold.

There was an unfortunate side effect, the weak cyanide solution was collected in ponds, birds flying over mistook the ponds for the Caribbean, and landed in them. We lost as many as 10,000 birds. We don't want that to happen. The mining companies have changed their practices so now it does not happen. But that is not enough for some environmentalists. They want to stop the mining because if they can stop the mining they can render the desert uneconomic and turn it all into a park.

I want to put those bird kills into perspective. Two British scientists have helped me do it. They did some research on the 5 million household cats in England. They concluded that the 5 million household cats in England kill 20 million birds a year.

I called my friends at the American Humane Society. "How many household cats in America?" "Fifty seven point five million," they replied, "not counting the Toms."

I figured that out myself. I had the old math. Our 57.5 million household cats are killing 230 million birds a year. Then I noticed a footnote. It said that the scientists were off by half because cats only bring home half their kills. One of my lawyers asked, "What half?" The real number is that America's cats kill 460 birds every single year. So I say, before we get rid of those mines, we get rid of our cats. Better yet, we can send the cats out to kill the ravens that are eating the tortoises.

You men and women of the Naval Postgraduate School, you with scientific training, need to be involved in these scientific issues. Thus, I congratulate the Naval Postgraduate School for undertaking work on finding the facts regarding global warming.

WHAT DOES IT MEAN

Let me return now, to where I began. That is, why did our Commander-in-Chief, in the midst of the 1988 campaign, say "I'm an environmentalist." What does it mean?

Meg Greenfield, editor of the editorial page of The Washington Post says that the word "environmentalist" is not big enough. Thus while the leaders of environmental organizations say they are environmentalists, so do my clients, the rancher, the farmer, the miner, the timberman, the oil and gas explorer. For they live on and love the land.

I have waited in vain for George Bush to use the bully pulpit of the presidency to help the American people understand what it means to be a true environmentalist; that we can protect the environment and preserve our economy. Unfortunately, the president has been distracted with other matters. I fear we shall never hear it from him. That is why all across the country people are rising up in opposition to the agenda of organized environmental groups.

The times are changing. We can see that nowhere more clearly than here in California with the defeat last year of "Big Green" and "Forests Forever." Of course, you say, they were defeated, they were stupid. Yet when both got on the ballot some 60% of Californians said they were voting "yes." There is a difference between Earth Day and Election Day.

A market research survey by the highly regarded Roper organization in New York has some startling statistics. It reveals that only 22% of the American people are hard core environmentalists. Some 52% are against excessive environmental regulation. Another 26% are sitting on the fence. I believe that the people who I represent are in the majority.

Yet many issues remain before us. The public must understand the decisions that are being made and what those decisions mean for each and every one of us. You, men and women of the military, need to be involved. As scientists, as citizens, and as warriors you have a unique role to play.

For it is your predecessors-in-arms who have paid the price for the freedoms which we enjoy. Let those sacrifices and deaths not be in vain. Let us not sweep away our precious liberties in a lemming-like hysteria over the environment. It is you—and your sons and daughters, and mine—who may be asked to fight yet another war for resources.

Your heritage and your future duty cries out for your knowledgeable involvement in these battles. Join with me and millions of other Americans who say we can have it all—a clean and healthy environment and freedom!

Thank you.●

HONORING THE WISCONSIN 128 AIR REFUELING GROUP

● Mr. KASTEN. Mr. President, I rise today to share with my colleagues the Desert Storm/Desert Shield remembrances of Col. Gene A. Schmitz, commander of the Wisconsin 128th Air Refueling Group. I found this firsthand account of the war effort to be fascinating reading and quite different from the often-impersonal news accounts of the war.

As you recall, on April 11, I alerted the Senate to the praises of the 128th from Air Force Lt. Gen. John B. Conaway. General Conaway indicated that "the allied air accomplishments would not have been possible without air refueling provided by these units" and recognized the 128th for their excellent performance in the Persian Gulf.

In addition to General Conaway's remarks, the 128th has received much praise and recognition from many quarters. The latest is being chosen to fly over the National Victory Parade on June 8, 1991. The 128's tanker will be one of only three tankers and the only Air Guard tanker chosen to participate in the national parade. This is indeed a tremendous honor.

Colonel Schmitz' personal digest vividly details the efforts that have earned such high praise. The problems, concerns, teamwork and many accomplishments of the Wisconsin 128th Air Refueling Group are laid out in fascinating detail. I highly recommend that my colleagues take the time to read this extraordinary account of men and women at war.

Mr. President, I ask that Colonel Schmitz' remembrances be inserted into the RECORD.

The material follows:

AIR NATIONAL GUARD AT THE 1706 AREFW

The Air National Guard (ANG) first landed at Cairo West on 28 Dec 90. Within the next 5 days 10 KC-135E aircraft, 15 crews and 196 additional personnel from the 128th Air Refueling Group, Milwaukee, Wis., and 5 KC-135E aircraft, 7 crews and 105 additional personnel from the 141st Air Refueling Wing Fairchild AFB, Washington arrived to set up operations. Everyone had a lot of apprehension about living in tents, living in the desert, facing the pressure of a high-threat terrorist area, interfacing with active duty personnel, dealing with cultural problems in a strange land, working with Egyptian Air Force host base troops and wondering constantly what was in store for the war effort.

Everyone was pleasantly surprised how comfortable a tent could be, especially one with a wood/canvas floor, heat and air conditioning, windows and wood doors. The absence of closets, chest of drawers, tables and chairs were soon solved through carpentry, supplies and ingenuity. The wing commander had done a marvelous job preparing the base for our arrival. Tent city was fully operational, all the service functions were in place, bunkers had been cleaned out, offices had been built, fuel bladders were operational, ramp space secured and engineering services completed. It didn't take long to move in and settle down.

The first few days were spent getting organized, familiarizing oneself with base facilities, establishing procedures and getting acquainted with our co-workers.

A strong underlying current flowing through the aircrew force was a deep anxiety regarding the nature of our top secret mission and the questioning concern of terrorist activity that might affect takeoffs and landings. Just how real was the threat of being shot down by a hand-held surface to air missile in the hands of a terrorist?

The first order of business was to insure crews received several flights for familiarity, local area checkout and Egyptian air space exposure. Besides flight proficiency, the crews would spend days and nights reviewing and hanger flying tactical departures and arrivals, formation procedures, retrograde actions, enemy target identification, escape and evasion, chemical defense equipment review and survival considerations. It was a very intense two-week period of training, scheduling and learning. An acute interest was evident throughout the operation area.

In the aircraft maintenance area; refueling operations, towing, prepositioning and fixing aircraft took on a new meaning. All these areas were done in a manner different from State-side operations. Enough praise cannot be given to the maintenance community and their efforts to maintain in-commission rates and mission capable status for the KC-135E aircraft. Although we started with 15 aircraft, we basically operated with 14 airframes after the first 3 days of the war. We knew in advance that aircraft parts would be a problem. One aircraft was cannibalized to keep the remaining birds operational. Despite this arrangement, the real credit still goes to the entire maintenance community for keeping the aircraft flying around the clock. Our back shops fixed parts on many occasions rather then wait for replacements. Ingenious methods were used to secure non-repairables. Maintenance troops often utilized their civilian skills or previous AFSC's to help in other non-assigned areas. The tremendous cooperation, spirit of unity and team work enabled the maintenance troops to produce 20, 21 and 22 sortie days on over 10 occasions. For the 43 day war the average sortie rate was 15.2. No one, except our maintenance people, would have believed such a level of performance could be achieved. It is one of the real success stories of Cairo West.

Let us not forget the hard work and long hours required of the life support and personnel equipment section. Our high sortie rate took its toll on equipment. However, a mission was never without the proper chemical defense, survival and personal gear, parachutes and rations required for combat support refueling flights. The real story emerges when you realize that these same life support personnel also provided 24 hour transportation coverage for crews traveling to and from their aircraft. What a demonstration of cooperation, positive attitude and hard work.

The security of ramp space created another challenging problem. Where do we park all those aircraft? Closed runways and taxiways were pressed into service. 3 separate ramps were established: East, west and south. The east and west ramps were separated by an active runway that created a new set of obstacles for the maintainers. Ground refueling operations also proved to be challenging. Where was the hydrant and pipe-line system? No such luck. The crew chiefs soon learned how efficient and effective fuel bladders and R-14 refueling carts can be. The refueling system worked perfectly and the initial doubts about their sustainability soon went away.

One of the most important factors that Air National Guard personnel bring to an operation is experience. When the average age of the pilots, navigators and boom operators is 40, when the average flying time for these crewmembers is 3300 hours, when the average years of military service is 15 years, when the average age of the crew chiefs is 44 and when junior officers and bottom-three enlisted ranks are rare; then you know you have lots of experience. If you combine these facts with the reality that the Air National Guard has the best maintained aircraft in the world; you can be assured that you have a tremendous fighting force ready and able to handle any mission.

The 1st two weeks of operation at Cairo West required lots of issues to be worked, lots of details to be handled and lots of problems to be solved. Some of the major items were:

Widening some taxiways and parking spaces.

Securing 2 aircraft tugs.

Increasing fuel supply and storage capability.

Securing airspace for combat departures.

Obtaining required airspace for formation flying.

Establishing viable aircraft parts supply system.

Badgering CENTAF into securing enough refueling drogues to equip our fleet since 90% of our missions required drogues.

Ensuring adequate supply of fresh water for tent city.

Working security issues with Egyptian Air Force.

Beefing up security police equipment and defense positions.

Solving a whole host of tent city and MWR issues associated with base population growth.

Obtaining imminent danger pay and associated benefits for Cairo West.

Determining proper Egyptian airspace deconfliction procedure for air defense exercises and war time missions.

Identifying and correcting ground and flying safety hazards.

Exercising base disaster preparedness program.

Establishing strong command and control function.

Establishing battle staff function.

Two solid weeks of problem solving, preparations, exercising plans, working details, establishing procedure and brain storming paid handsome rewards. When the conflict started on 16 Jan 91 we (all 850 troops in the 1706 AREFW) were ready!

Because of the great distance to our air refueling tracks, we were the first Desert Storm tankers to launch. Our first takeoff time was nearly 2 hours prior to the official start of hostilities. The 1st 4 waves of tankers that launched were electrifying. Tension within the aircrews force and throughout the entire base was sky high. What was in store at the refueling track? Would the Iraqi Air Force retaliate in mass? What were the risks, the odds, the threats, the problems to be faced. Clearly, this was a historic time. How would we perform? Would anyone not return? Although every single aircrew member was most fearful of their impending mission, not one person wavered in their assignments.

Well, everyone performed admirably. Although the first 3 days carried a lot of excitement, tension and worry; the crews, the maintenance and support personnel all performed with distinction. For 43 consecutive days we flew around the clock. Despite the pace, despite the long grueling schedule, despite the level of participation and activity, despite the lack of adequate sleep, despite the 1,001 annoyances; everyone kept working with utmost determination. When the cease fire finally came on 28 Feb 91, we had compiled a superb record, an enviable set of statistics, an achievement unsurpassed.

Our combat support missions were flown in tracks located in the northwest part of Saudi Arabia. 90% of our refuelings were drogue missions with receivers from the aircraft carriers Kennedy & Saratoga operating in the Red Sea. The carrier-based receivers would meet the tankers piecemeal until 15 to 30 were joined up in our formation as we orbited in prune and raisin tracks. Once joined, the wave of fighters and tankers would proceed down track. These were our primary pre & post strike tracks. Let's not forget the other wonderful locations where we spent so much time: Gopher, Tangerine, Orange, Chuckberry, Melon, Banana, Grape, Raspberry, Marionberry, Loganberry, Doonesbury, Bone and Fairway. Navy receives that struggled to stab our drogue baskets were F-14, F-18, A-6, KA-6, EA-6, A-7 and EA3B. Almost the entire U.S. Air Force inventory has been on our boom sometime during this conflict. EF-111, F-15, F-16, RF-4, EC-135, MC-130, B-52 and A-10's. Deconfliction with other tracks, tankers, receivers and tactical traffic was a constant battle. Track extension to the north by AWACs also proved challenging and interesting. There were even a few flights that enjoyed penetrating Iraqi airspace. The crews never worried much (want to bet) about Iraqi air defence systems. Our intelligence shop provided daily and sometimes hourly updates on AAA, SA-2, SA-8, and other sundry threats so the crews knew exactly where not to go. Our intelligence personnel deserve much credit for providing volumes of information about the enemy response, threat area, search and rescue information and tons of information about Scuds, order of battle and progress of the war.

From 16 Jan to 28 Feb 91 we flew 650 combat support sorties, refueling 2831 receivers, offloaded 29,016,200 pounds of fuel and expended 3277 flying hours. But the best and most important accomplishment is this. Not one tasked sortie was missed and not one receiver lacked a tanker—100% mission effectiveness. The period from 1 Mar to 6 Mar 91 was devoted to cease-fire positioning, politics and declaration of peace in the AOR. During that time we provided refueling support for F-15 cap, A-10 cover and Navy cap. We accomplished 18 sorties, filled up 61 receivers, flew 95 hours and offloaded 441,000 lbs of fuel.

The Air National Guard also played a key role in the security of Cairo West air base. 44 members of the 127th Security Police Flight from Selfridge ANGB Michigan and 44 members of the 112th Security Police Flight from Pittsburgh ANGB, Pennsylvania arrived a short time before the KC-135 Refueling Squadron and maintenance contingent. Pittsburgh descended on the camp on 20 Dec 90 followed by Selfridge on 26 Dec. They combined their forces with 70 security police from Minot AFB, Mather AFB and Aviano Air Base to provide the best possible security protection for the highest terrorist threat area in the entire AOR. State-of-the-art equipment included night vision goggles, M-60 machine guns, M-203 rocket launchers and HUMMV's provided constant perimeter, post, patrol, gate and fortified defense manning. The entire security force performed admirably regardless of sandstorms, thunderstorms, searing heat and bitter cold nights. Egyptian language problems, rabid dogs, VIP escorts, E2-C crash security, Threatcon Charlie, political Egyptian assassination and aggressive tent-city occupants. Nothing could deter these fine troops from their #1 duty of protecting the personnel and property of Cairo West.

The credit goes to the crews, the maintenance community, the superbly maintained aircraft, the POL folks, the operations staff, the dining hall workers and all base support functions and of course the command structure. The ANG had the privilege of working side by side with active duty personnel who had deployed from 42 separate bases located in Europe, Asia, and the United States. What a team effort! What a wonderful performance! What a record!

The 13 Air National Guard tanker units, with their significant tanker fleet, was heavily tasked for the redeployment of aircrafts to the States from locations all along the air bridge route. Cairo West was willing to do its share of the redeployment, we were ready to work around the clock during the redeployment operation. We were also ready to get back home to resume our civilian careers and get our civilian lives back in order. When we were mobilized, we became the active Air Force. We worked side-by-side with our Air Force brothers. Hopefully it was difficult to tell us apart—except for the age difference. Now it is time to become guardsmen again, to be different than active duty personnel. The entire experience was challenging, rewarding and exciting. All of us will never forget these past 4 months. They have been most memorable.

CEASE-FIRE AND REDEPLOYMENT HISTORY

The cease-fire for the Iraqi war occurred at 0100Z (0300L) on 28 February 1991. This news was met with much jubilation. It triggered an immediate and spontaneous tent city base-wide party and celerbation. No one in camp was allowed (nor wanted) to sleep as the news spread through all 110 tents. Cairo West residents realized that they had been an integral part of the greatest show of air power in the history of the U.S. For 43 days they worked around the clock and now their concerns, fears, fatigue and performance had paid off. The war was over. A few days later the troops at Cairo West Found out just how well they had performed. BG Pat Caruana/17th Air Division Commander visited Cairo West on 2 March. He displayed figures for the air campaign which included a breakdown of the air refueling operation. His charts emphasized sorties, receivers, flying time and offload. As we compared our accomplishments with the totals for all the tankers in the AOR, our success and record became obvious. Our 15 tankers represented 6% of the 225 total tankers in the AOR. However we flew 7% of the sorties and 8% of the flying time, refueled 8% of the receivers and offloaded 7½% of the fuel. Those figures tell us that no one did better then we did. Perhaps someone may have tied our record, but no one exceeded it. The real accomplishment, if you disregard numbers, is that no one sortie was lost, not one receiver went without a tanker-100% mission effectiveness. And speaking of records, the crews always want to know who holds the 1706th flying records. Here are a few:

During the war—longest flight 25 Feb, 7.4 hours, Hemingway; biggest offload 22 Feb, 100,000 lbs, Gronland.

Redeployment—longest flight 3 Mar, 7.5 hours, Katerinos; biggest offload 10 Mar, 104,000 lbs, Alves.

One might tend to think that the cease-fire would create a lull in our activity. Not so. For 43 days of the war we flew around the clock, and since the cease-fire, we have continued to fly around the clock. We maintained that schedule for 98 days (16 Jan to 14 Apr). During the war our highest daily sortie count was 23 and our lowest was 8. The cease-fire period figures show a high of 15 and low of 2 sorties. Our low count of 2 sorties occurred on 1 March, the day after the cease-fire. For those 1st 6 days in March we were immediately and tasked to refuel the F-14 and F-18 Navy carrier fighter caps F-15 caps, and A-10 cover missions. These cap missions over Iraq were flown to enforce the cease-fire and provide a continual show of force. As anticipated, Cairo West proved to be a key location for the redeployment of U.S. aircraft to Conus. The Saudi Arabian and Oman Governments wanted all U.S. warplanes off their civilian fields ASAP. For Saudi, it was concerned about Ramadan (holy period for Muslims—17 March through 30 April) and the annual pilgrimate to Mecca and Medina. So Jeddah, Dubai, Abu Dhabi and King Kalid international were vacated on 7 & 8 March 91. In a matter of days, the AOR reduced its number of tankers from 225 to 57. The only location left with tankers were Riyadh, Seeb, Al Dhafra, Masirah and Cairo. Diego Garcia tankers left the 2nd week of March to complete the exodus.

Civil unrest began to develop in Iraq around the second week in March. Saddam attempted to use his remaining helicopters and fixed wing fighters to attack the rebels. President Bush immediately ordered F-15 caps to be flown around the clock to suppress the Iraqi fighters and enforce the conditions of the cease-fire. This F-15 cap required up to 15 sorties a day in gopher track. At the same time the air bridge business began to flourish. The first redeployment occurred on 7 March 91 when 48 F-15Cs from the 1st TFW (Langley) stationed at Dharan and 18 B-52s stationed at Jeddah were refueled overhead Cairo. We used a random enroute refueling track that closely followed airways. The track started at Ras Nasrani (a town in eastern Egypt) to Metro (reporting point in the southeastern Mediterranean). This track was then used for all future redeployments. Here is a summary of all our redeployment missions.

Date	Receive	From	To
7 Mar	46 F-15	Dhahran	Langley.
8 Mar	2 B-52	Jeddah	Langley.
9 Mar	3 B-52	Jeddah	Barksdale.
10 Mar	14 B-52	Jeddah	Griffiss.
11 Mar	18 F-111	Taif	Lakenheath.
12 Mar	2 MC-130	Sharjah	Pope.
	27 F-16	Al Dhafra	Shaw.
13 Mar	24 F-16	Al Dhafra	Shaw.
	12 F-111	Taif	Upper Heyford.
14 Mar	24 F-15	Al Kharj	Seymour Johnson.
	12 F-111	Taif	Lakenheath.
	2 E-3A	Riyadh	Tinker.
15 Mar	12 F-111	Taif	Upper Heyford.
16 Mar	12 F-16	Al Minhad	Moody.
17 Mar	24 A-10	King Fahd	Myrtle Beach.
18 Mar	24 F-16	Al Minhad	Hill.
	24 A-10	King Fahd	Myrtle Beach.
20 Mar	24 F-16	Al Minhad	Hill.
	1 RC-135	Riyadh	Offutt.
21 Mar	26 A-10	King Fahd	England.
22 Mar	13 F-4G	Shaikh Isa	Ft Wayne.
23 Mar	20 A-6	Shaikh Isa	Cherry Point.
	12 F-14G	Shaikh Isa	Ft Wayne.
24 Mar	12 FA-18	Shaikh Isa	Beaufort.
25 Mar	24 A-10	King Fahd	England.
26 Mar	14 EF-111	Taif	MT. Home.
27 Mar	2 KC-10 (7AV-8)	King Abdul Aziz	Cherry Point.
	6 EA-6B	Shaikh Isa	Cherry Point.
29 Mar	25 F-16	Doha	Terrojon.
30 Mar	13 KC-10 (16 F-117).	Khamis Mushait	Tonapah.
1 Apr	24 F/A-18	Shaikh Isa	Beaufort.
	1 RC-135	Riyadh	Offut.
2 Apr	23 F/A-18	Shaikh Isa	Beaufort.
3 Apr	4 KC-10 (8 F-117)	Khamis Mushait	Tonopah.
5 Apr	8 F4-6	Shaikh Isa	Spangdahlem.
7 Apr	11 RF-4C	Shaikh Isa	Birmingham Muni, Al.
	1 E-3A	Riydh	Tinker.
9 Apr	4 KC-10 (20 AV-8B).	Shaikh Isa	Rota.
10 Apr	6 EA-6B	Shaikh Isa	Rota.
11 Apr	23 F-15C	Tabuk	Zaragosa.

40 redeployers in 30 days (579 aircraft) were handled with ease. On 30 March, because we had one aircraft NMC and 2 aircraft at Moron AB for phase inspection, two Air Force Reserve "E" models from Moron flew in to assist in the F-117 drag. That was the only help received for all the redeployments. One must remember that from 1 March to 14 April, we received daily taskings for F-15 caps in addition to our redeployment schedule. Our record for this 45 days following the cease-fire is 338 sorties, 989 receivers, 1298.8 flying hours and 14,687,100 pounds of fuel offloaded. Again I'll make the boast. Not one mission was canceled, not one receiver went without a tanker—100% mission effectiveness.

A recap of our flying performance.

Date	Sorties	Receivers	Hours	Offload
30 Dec–15 Jan	62	171	284.9	1,454,100
16 Jan-28 Feb	650	2,831	3,277.1	29,016,260
1 Mar–14 Apr	338	989	1,298.8	14,687,100

The issue of not being in the AOR and therefore not receiving all the assorted benefits caused much consternation and unrest for several months. By a stroke of luck Senator Robert Kasten happened to be in Cairo for a meeting with President Mubarak. A visit to Cairo West by the Senator, on 8 Jan. 91, allowed the troops an opportunity to address this AOR issue. Senator Kasten singlehandedly took on the top military officials in the Pentagon. In a matter of weeks, Egypt was authorized imminent danger pay, which triggered the free mail, tax break and savings plan.

The Cairo West ground war from 1 March to 14 April was not quite as successful. Family separation, the return of active duty tankers to the States, the appearance of abandonment by the NGB of Milwaukee and Spokane to the Egyptian desert, family crisis and employer demands created waves of discontent, low morale, complaints, frustration and demands by some of the troops. Rumors were rampant. At least 5 new creative stories appeared in the camp daily. Commander's calls and letters of explanation were utilized to keep things in perspective. An aircrew exchange program and maintenance personnel return policy was successfully initiated. Additionally, the 17th Air Division Commander reduced our crew ratio from 22 crews to 18 crews on 23 March. Here is a summary of personnel who were involved in early returns.

Names deleted to preserve privacy.

On 15 Mar 91, four crewmembers (Black, Anderson, Scarpace, Harper and Amyx-Photo) visited the USS America underway in the Red Sea. They arrived at the carrier via a Navy C-2 turboprop to observe carrier operations and talk with Navy flight crewmembers about air refueling operations. They presented the ship with a video tape of ANG and Navy air refueling operations, talked with the ship's c/o Rear Admiral Katz, who is the commander of the cruiser destroyer group two and ship captain, Kent Ewing. Both the captain and admiral expressed their thanks and appreciation for the Air Force tankers. They stated that the Navy aircraft are extremely limited and impacted in the choice and amount of ordinance because of carrier limitations. So the Air Force tanker allows the Navy to go further, deliver a bigger payload and consequently have a greater impact to the cause.

On 27 March, 5 Milwaukee crews and 1 Spokane crew along with other OPS and maintenance personnel departed Cairo West after a Rickenbacker crew (Elking, Goetz, Mathias and Hamilton) flew in with a Spokane aircraft. Prior to Rickenbacker's arrival, a Pittsburgh crew (Uptegraff, Schill, Barrett, Inwood) arrived on 24 March. Priorities and an elaborate selection process allowed the following Milwaukee troops to leave on 27 March:

Names deleted to preserve privacy.

On 3 April, five crews from Eielson and one crew from McGuire arrived at Cairo West. This contingent allowed the following personnel to redeploy to home station on 4 April:

Names deleted to preserve privacy.

The redeployment date for the ANG at Cairo West became the #1 topic after the cease-fire. By the 7th of March, Milwaukee and Spokane were the only ANG tankers left in the AOR. A message on 7 Mar and another on 10 Mar stated our redeployment date was 10 April. Although we didn't like the idea of having to stay that long, most of the people accepted it. We were just in the wrong place at the wrong time. Besides, no one in the ANG stateside was being demobilized and our ANG tanker friends in the States were involved in east coast TTF, Pony Express cargo/PAX hauling from the AOR and alert. The big difference is that they didn't have the family separation. On 21 March, the 17 AD/CC (COL Bob Hennessy) informed me that 18 April or beyond would most likely be our redeployment date. This new date was totally unacceptable—our 10 April redeployment date was now gone, we suddenly had no firm date to plan around and the uncertainty of the immediate future and long range tanker needs in the AOR were untenable.

It was time for the NGB and our ANG tanker community to come to the rescue. Through many phone calls, discussions and persuasive comments, the NGB finally took two hard stands: One—the NGB will swap out all ANG troops by 15 April and the NGB will withdraw all ANG troops by 30 April from Cairo West. We immediatley put together a 32-page master plan for the swap out. It was sent to Andrews Support Center—Norm Miller, Pentagon—John Deaton, HQS SAC—Steve Bailey, 8th AF—Ron Gill, 141 AREFW—Dennis Hague, 171 AREFW—Bob Chrisjohn. The NGB worked the plan, we worked our end of the deal. By 1 Apr 91 the ANG tanker community had identified 15 aircraft, crews, operations personnel and maintenance with COL Jim McIntosh and McGuire as lead unit. They were ready for the impending swapout. Out of the blue, on 5 Apr, Cairo West received a message from 8th Air Force and HQs SAC stating that the active duty 'R' models would swapout our 'E' models no later than 15 Apr 91. The "R" models would come from Mont-de-Marsan, France; Andravida, Greece; Zaragosa, Spain and Lajes, Azores. That tasking sure had an international flavor to it. The new commander, Col Bob Plebanek and staff arrived on 7 Apr to site survey and subsequently established the following schedule:

"R" in	Date	"E" out	Tail No.
1	8	0	
0	9	1	1503
3	10	2	3603, 1434(S)
3	11	2	2604, 2600(S)
3	12	3	0111, 3141(S), 1509(P)
3	13	3	1456, 1431, 1501(S)
2	14	2	0024, 1519
	15	2	3612, 1445(S)

S = Spokane.
P = Pittsburgh.

With morale ski high, load plans, schedules, personnel selections, packing, phone calls, and last minute shopping surged ahead. On 14 April the last aircraft and personnel from Wisconsin and Washington completed the swapout—En Sha Allah.

MWR was a most important aspect and exceedingly critical function to the health, attitude and well being of all the troops. Who will ever forget the Ramada and the Russian dancing girls, tours to the Pyramids—Sphinx—museum—Citadel—coptic Cairo complete with lunch at the Mena House; tours to Fayum—Alexandria—and the Suez Canal (Ismailia); special events at the Maddi House—horseback riding to Sakkara—Bedouin dinner at the Oasis and best of all, the dinner cruise on the Nile complete with entertainment (skinny belly dancers). Of course we would not do justice to these exciting events if one was not reminded of the pushy, obnoxious street venders with all their wares and "free" gifts. And let's not forget the sights and sounds of the Khan el Khalil and our hunt for the best prices for gold jewelry, in particular those beloved kartouche deals. Camellot and Tent City is indelibly etched in the deepest corner of our minds along with those world famous hangouts—Dusty's Diner, Sand Rock Cafe, rec center, movie tent and weight room and don't let slip from your mind all the 1001 uses for Baraka bottles. Finally, who could ever forget the place we loved and hated the most—depending on our luck—the post office or was it those wonderful tent latrines and showers.

The Egyptian language barrier was formidable. Air traffic control was unbearable, because each day on the airways, the learning curve started at step one. Between the controllers, cab drivers, tour guides and hotel personnel we did manage to pick up a few phrases:

In Sha Allah—If God wants.
Sabah El-Khair—Good morning.
Messa El-Khair—Good evening.
Kaif Halek—How are you.
Afwan—Welcome.
Al Hamdo Llellah—Thank God.
Kowayess—Good.
Mumtaz—Excellent.
Saida—Hello.
Ma Assalama—Good bye.
Ma Feesh Moshkela—No problem.
Tayyarten—2 machines.
Samak El-Ott—Catfish.
Shukran—Thank you.
Min Fadlak—Please.

The Cairo West operations language barrier also caused an occasional problem. Several repetitious phrases seemed to vibrate through the tents now and then: War is hell, when do I get a day off, there is nothing we can do about it and that's the way it is. No problem, everything eventually worked itself out.

Milwaukee and Spokane are most proud of the Cairo West operation. It was a great test of will, personality and resolve. It was also a proving grounds for an individual's character, leadership ability, professionalism and dedication—both good and bad. A tremendous amount of knowledge, insight and talent was gained by this adventure. It truly is an experience we will ponder and discuss for decades. The good experiences will be long remembered while the bad situations will quickly fade away.

GENE A. SCHMITZ,
Colonel, USAF,
Commander, 1706 AREFW(P).●

TRIBUTE TO DR. RONALD G. BLANKENBAKER

● Mr. COATS. Mr. President, it is with great pleasure that I rise today to recognize Dr. Ronald G. Blankenbaker of Indiana for his years of service as chairman of the National Committee on Vital and Health Statistics. This committee serves as adviser to the Department of Health and Human Services and is critical to the exchange of health information in our Nation. Dr. Blankenbaker will retire from his position as chairman of the committee this year.

Dr. Blankenbaker's years as chairman of the National Committee on Vital and Health Statistics have seen the growth of the committee in prominence and effectiveness. Under his leadership, the committee has made great progress in improving the provision of health data to the American public. Throughout his life, Dr. Blankenbaker has been committed to the betterment of health care for Hoosiers and all Americans. He has been actively involved with legislation affecting the health industry on a local, State, and national level. In addition, he has served on numerous boards, councils, and committees whose primary concern is to improve the way health care is provided in this country. His tenure as chairman of the National Committee on Vital and Health Statistics caps off a long career of contributions to the field of health care.

At this time, I would like to commend Dr. Blankenbaker for his distinguished years of service in a field of growing importance to our Nation. I would also like to offer him my best wishes for continued success.●

HONORING THE 890TH TRANSPORTATION COMPANY

● Mr. KASTEN. Mr. President, I rise to honor the 890th Transportation Company from Green Bay, WI. Today, after almost 7 months overseas, the 890th returns home to Wisconsin from the Persian Gulf.

In Saudi Arabia, the 890th was responsible for hauling all types of supplies, from food to ammunition. And, from the accounts that I have received, the 890th performed their job exceedingly well under some very difficult circumstances. In fact, other commands would not have been able to perform their missions without the tremendous support from the 890th.

Now, with their mission completed, these citizen-soldiers are returning to their families and friends, and starting to resume their normal lives. They can be justifiably proud of their many accomplishments. I am sure the memories from this experience will remain with them forever.

On behalf of myself, the State of Wisconsin and, in fact, the entire country, I welcome home these unsung heroes of Desert Storm/Desert Shield. We thank them for their many sacrifices on our behalf and wish them continued success in civilian life.•

TRIBUTE TO EASTSIDE COMMUNITY INVESTMENTS, INC.

• Mr. COATS. Mr. President, I stand today in recognition of an exemplary Hoosier institution, the Eastside Community Investments Inc., recipient of the Fannie Mae Foundation Award of Excellence for the Production of Low-Income Housing.

Each year, the Fannie Mae Foundation seeks to recognize and reward outstanding nonprofit institutions working to procure and maintain affordable and comfortable housing for low-income Americans. This inspirational program has elevated organizations across the Nation to a new level of consciousness of the assistance needed by so many deserving citizens.

On May 21, 1991, the Fannie Mae Foundation awarded grants totaling $215,000 to 19 finalist organizations chosen from a field of over 100 applications. Six of the finalists were selected as awardees to receive grants of $25,000 each in recognition of their creativity, determination, and dedication in producing the finest examples of affordable and safe housing.

The Eastside Community Investments Inc.'s Day Care Homes Cooperative was honored with one of the six awards of excellence. The foundation recognized the Indianapolis-based group for its innovative and successful program in which Eastside renovated 10 abandoned homes and converted them into family day care businesses. However, the success of this program is also due to the fine residents of the cooperative. ECI has staffed its neighborhood day care groups with it own residents by training every adult female of the 16 units of the cooperative as a day-care provider.

Since its incorporation in 1976, ECI has bought, rehabilitated, and sold 175 boarded and vacant homes, creating 75,000 square feet on multi-tenant industrial space. Currently, restoring boarded and vacant units to productive use.

Finding affordable housing is an increasing problem in many U.S. cities. However, with the example set forth by ECI, part of the solution may be found on the path it has so bravely blazed; rehabilitating resources available to us and utilizing the abundance of talent and energy present in the people of the cooperatives. I join in extending my congratulations and best wished to the people of Eastside community. I am confident we will hear of their continued success.•

COMBATING INTERSTATE FLIGHT TO AVOID PAYING CHILD SUPPORT—S. 1002

• Mr. D'AMATO. Mr. President, I rise today to lend my support to S. 1002, legislation which would impose a criminal penalty on those who avoid making child support payments by fleeing to another State. The severity of this problem necessitates that Congress act now to eradicate this tragic practice of delinquency.

As we all know, a divorce is a very traumatic experience for any couple, especially when children are involved. In the vast majority of divorce settlements, the husband agrees to pay a particular sum of money to his wife in support of their children. What few people are familiar with, however, is how frequently these commitments are broken. Millions of mothers, many below the poverty line, have seen their dreams of a better life for their children fade away because of the nonpayment of child support.

My own State of New York has been hit particularly hard by this delinquent behavior. In 1989, those New York mothers on public assistance who sought help from the State in collecting their child support payments received only 40 percent of the total amount owed to them. This left hundreds of thousands of children without the assistance they were promised.

What is most astonishing is the way in which many fathers avoid paying their child support—they move to another State making it difficult, at best, for the mother to collect. This abandonment of our Nation's children must be curbed and this bill will do just that. S. 1002 makes it a Federal crime for a parent or legal guardian to violate their child support obligations by fleeing to another State. An offender would face a fine or prison sentence for the first violation and up to 2 years in prison for further offenses. This legislation will serve as a credible deterrence against commiting such an irresponsible act.

Our children are the key to the future of this country, but without a secure economic foundation, many of them will have little chance for success. Today, this foundation is disappearing for many families due to the nonpayment of child support. I commend my friend, Senator SHELBY, for bringing this important issue to the attention of this body, and I urge my colleagues to join us in cosponsoring this legislation.•

GOODBYE COLUMBUS: LET'S PAY ATTENTION TO THE PLIGHT OF LATIN AMERICA'S INDIANS

• Mr. CRANSTON. Mr. President, recently I introduced the Pan-American Cultural Survival Act of 1991, S. 748, a bill designed to assist the indigenous peoples of Central and South America to take part in the emerging democracies of the region, as well as to help them protect their lands and our common environment.

Next year, we in the American Hemisphere will be marking the 500th anniversary of the arrival of Europeans to our common shores. A time of celebration for many, it will also be a time we rejoice in the fact that all but one of our Latin American neighbors have now joined the community of democratic nations.

Mr. President, 1992 will not be a time of celebration for the indigenous peoples of the Americas, however. The date it commemorates marked the beginning of a tragic onslaught against a people, a culture, and a way of life.

In countries such as Peru, Ecuador, and Guatemala, this gloomy clash of cultures continues, to the terrible detriment of native peoples. The lack of opportunities for full participation in their countries' own democracies is, perhaps, the greatest threat to the survival of the rule of law itself in these fragile political ecosystems.

Just last week, hundreds of Ecuadorian Indians seized that country's Congress building following a series of paramilitary attacks against native communities there, including one that resulted in the death of Julio Cabascango, secretary of human rights and founder of the Imbabura Peasant and Indian Federation.

Although the Indians eventually abandoned the parliament building, they put the political parties on notice that—unless their concerns were addressed—politicians would be barred from entering Indian communities during political campaigns, no small threat in a nation whose indigenous population may be as high as 30 percent of the total.

The protesters also threatened that the Indians might create their own congress. Ecuador has had three freely elected administrations since returning to democratic rule in the late 1970's. Yet, clearly, the failure to address the concerns of indigenous peoples means democracy there is still incomplete.

Mr. President, I take this opportunity to urge that Ecuadoran President Rodrigo Borja take all the necessary steps to assure that Julio Cabascango's murderers are brought to justice. I also urge him to take immediate measures to bring paramilitary actions in Indian areas to a halt.

In addressing the problems of indigenous peoples in Latin America, I want to emphasize that the plight of native Americans in this country has also been a great source of embarrassment. While some of the problems they face have been dealt with through enactment of legislation to promote their well-being, we still have a long way to go. This being said, however, it is important to recognize that the indigenous peoples of Latin America are faced with threats to their very existence.

The Pan-American Cultural Survival Act of 1991 addresses many of the concerns expressed by indigenous peoples, and has been endorsed by, among others, Ember Iguaran Silva, the president of the Indigenous Parliament of America. The bill has also received support from such well-regarded groups such as the Society for Applied Anthropology; the Environmental Defense Fund, the National Wildlife Federation, and the Rainforest Foundation.

S. 748 seeks to strengthen the hemisphere wide trend to democracy. It also is designed to help protect our common natural inheritance from depletion, by assisting indigenous peoples take meaningful and representative roles in their own democracies.

If this bill became law, U.S. policy would include support for indigenous peoples, particularly in countries in which they are numerically significant but still largely disenfranchised.

We are linked, as fellow humans, to the fate of indigenous peoples because the areas in which many of them live—the rainforests of Central and South America—are vital sources of oxygen and biological diversity, the importance of which modern science is only beginning to understand.

And, we are linked as democrats because the revolution of freedom and liberty sweeping our hemisphere will always be incomplete without the incorporation—on their own terms—of the indigenous peoples into democratic institutions and practices.

This is particularly true in Guatemala, Bolivia, Ecuador, and Peru, where Indians comprise either a majority, or an important minority, of the population. In each of these countries, indigenous communities find themselves marginalized from the political mainstream, with their numbers finding scant echo in institutions of democratic governance.

Mr. President, today many of the indigenous peoples of our hemisphere are trying to incorporate themselves into the newly emerging democracies in which they live, even as they confront enormous threats to their very existence.

The Pan-American Cultural Survival Act of 1991 seeks to help ensure a fair shake for indigenous peoples and a new partnership between nations in efforts to foster sustainable development.

It will help further to consolidate democracy in the hemisphere by assisting indigenous peoples to take meaningful and representative roles in their nations' democratic institutions and practices.

It will also assist them to protect their land and cultures.

The Secretary of State, together with the Director of the Agency for International Development, would be required to issue a report to Congress on the status of indigenous peoples in Central and South America. The bill would also mandate the inclusion of the plight of indigenous people as a topic in and of itself in the State Department's yearly human rights report.

AID would be required to create, where appropriate, the position of cultural survival officers. Modeled after the recently created Women-in-Development posts, the cultural survival officers will work with indigenous peoples to develop strategies for their political empowerment and cultural survival.

The bill also directs the Secretary of State and the Secretary of the Treasury to include, where appropriate, the question of cultural survival in all bilateral or multilateral debt reduction efforts and in other developmental initiatives.

Mr. President, S. 748 is an important step in making the protection of indigenous peoples and the lands where they live an integral part of U.S. foreign policy. It will also help make more effective—through the inclusion of the people who are this hemisphere's first inhabitants into the political process—the emerging democracies of Latin America.

Mr. President, I ask that a selection of letters I have received in support of S. 748 be printed in the RECORD, as well as various newspaper articles on the subject.

The material follows:

THE RAINFOREST FOUNDATION,
New York, NY, May 30, 1991.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: On behalf of the Board of Directors and members of the Rainforest Foundation in the United States, we would like to commend you on the introduction of the Pan-American Cultural Survival Act of 1991. We strongly support its passage.

The Rainforest Foundation works in partnership with indigenous people in Brazil to protect the rainforest and the human rights of its inhabitants.

As this act makes clear, the fate of the rainforest, the indigenous people who live there and the planet are inextricably linked. In strengthening U.S. support for indigenous peoples and cultures this legislation is strengthening the efforts to protect and preserve ecosystems which are critical to the survival and well being of humanity.

Passage of this act will be an expression of the U.S. commitment to both human rights and the environment.

We applaud this initiative.

Sincerely,

STING,
Co-Founder, Rainforest Foundation.
TRUDIE STYLER,
President, Rainforest Foundation.

BOARD OF DIRECTORS RFF INC.

Miles Copeland, Susie Field, Jeffrey Hollender, Joshua Mailmain, Louis McCagg, Sandy Pittman, Jonathan Rose, Trudie Styler, Rose Styron, Steve Viederman.

THE SOCIETY FOR APPLIED ANTHROPOLOGY,
Washington, DC, May 31, 1991.

Senator ALAN CRANSTON,
Senate Hart Building, Washington, DC.

DEAR SENATOR CRANSTON: As President of the Society for Applied Anthropology, a professional association of applied anthropologists encompassing some 2,000 members world wide, I wanted to express strong support for the principles and objectives of S–748, the Pan American Cultural Survival Act of 1991.

Anthropologists have long believed that indigenous societies in this hemisphere and elsewhere have a right to meet the powerful challenges posed by industrial societies in ways that enable them to continue their own cultural identities. As S–748 and your speech in the Senate of March 21st make clear, those options have almost never existed. The hemisphere's remaining, relatively independent indigenous cultures are being rapidly extinguished, depriving their members of livelihood, health, cultural rights, and dignity.

Passage of S–748 would be a bold and dramatic affirmation that we, as citizens of this hemisphere, recognize and respect the cultural distinctiveness of our indigenous neighbors. I applaud the articulate and firm stand reflected in S–748 and earnestly hope it can be adopted.

Yours truly,

CAROLE HILL,
President,
Society for Applied Anthropology.

NATIONAL WILDLIFE FEDERATION,
Washington, DC, June 1, 1991.

Hon. ALAN CRANSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: I am writing in strong support of S. 748, a bill you recently introduced in cooperation with Senators Kennedy, Kerry, D'Amato and Wirth. By helping to give indigenous peoples a stronger voice in how natural resources are managed, this piece of legislation would take us a step further toward the achievement of a strong conservation ethic in the remaining wild areas of Central and South America.

We have all seen or heard of the unprecedented destruction of the rainforests, and other tropical ecosystems, in the Western hemisphere. In Brazil alone 20 million acres—equivalent to about 30,000 square miles—of tropical forest were destroyed in 1987. Unfortunately, the time-honored ways of indigenous peoples, those best able to preserve the forests, often perish with the fires. Their cultures are under siege almost everywhere in the tropical Americas.

It seems obvious that those people with the greatest knowledge of the forest would be best suited to using it sustainably. The indigenous peoples of the Amazon basin have lived harmoniously with the great forest for millennia. Today, they promote and develop sustainable use policies. The Coordinating Body for the Indigenous Peoples' Organizations of the Amazon Basin (COICA), representing more than a million indigenous dwellers of the Amazon Basin, states in its landmark agreement with the U.S. environmental community: ". . . to develop programs of management and conservation is an essential alternative for the future of the Amazon." Recognition of these peoples' traditional land rights, and protection as a basic human right, is the key to finding better ways to use and preserve the forest.

The Pan-American Cultural Survival Act may send just the right message to Central and South American governments: to avoid repeating the terrible mistakes of the U.S. they must observe the rights of their indigenous peoples. With democratic freedoms now blossoming all over our hemisphere, it serves everyone's interests to insist on a voice for these residents of the forest. The future of their home, and one of our greatest gifts of Nature, depends on it.

On behalf of the National Wildlife Federation's 5.5 million members and supporters, I thank you for introducing this vital piece of legislation.

Sincerely,

LYNN A. GREENWALT,
Vice President,
International Affairs.

ENVIRONMENTAL DEFENSE FUND,
Washington, DC, June 4, 1991.

Senator ALAN CRANSTON,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR CRANSTON: We strongly support the proposed Pan American Cultural Survival Act of 1991.

The fate of the indigenous peoples of the Americas, as the proposed legislation recognizes, is intimately linked to the fate of the most fragile and threatened ecosystems of the continent. Efforts to preserve tropical forests in particular which do not take into consideration the needs and wishes of their indigenous inhabitants are unlikely to succeed. Indigenous peoples have the greatest understanding of the biological wealth of the continent, as well, in many instances, the most direct interest in the defense of threatened ecosystems.

The legislation further recognizes that the political empowerment of indigenous peoples, be they unrepresented minorities, as in Brazil, or disenfranchised majorities as in many Andean countries or Guatemala, is a key test of democratic institutions.

In our view, human rights and environmental protection will be well served by this legislation.

Sincerely,

BRUCE RICH,
Director, International Program.
STEPHAN SCHWARTZMAN,
Anthropologist.

[Voz de los Andes, May 28, 1991]

ECUADOR: INDIANS SEIZE NATIONAL CONGRESS MEETING ROOM

Members of the Confederation of Indian Nationalities and Amazonian People have paralyzed parliamentary activities because they have seized the sessions room of the national congress to demand a solution to the grave problems that this Ecuadoran sector is facing.

[Begin recording of Luis Macas, president of the Confederation of Indian Nationalities] We have come to the Chamber of Representatives to make known some aspects of life in the Indian communities. We came here to present our proposal for a reform to the Constitution.

We first did this two years ago, and we still do not have an answer. We received no answer from the previous congress and we have received no answer from the current congress.

We have come here to tell the deputies to work.

Another point, the main reason for our presence here, is to request amnesty for more than 1,000 fellow Indians who are facing legal proceedings.

The charges against them have nothing to do with criminal cases. This is a matter of political persecution against Indian leaders. That is what we have come to tell the president of the national congress, to ask him to grant, once and for all, amnesty so that more than 1,000 companeros may move freely throughout Ecuador.

It is being said that we live in a state of full democracy and liberty. Let them allow us to do at least this. The legal proceedings against our companeros and leaders began at a national level after the Indian uprising.

Another point is that the International Labor Organization [ILO], in line with agreement 169, has guidelines that have to do with recognizing the existence of the Indian population in various countries. We have presented this document to the current congress so that it may endorse this ILO agreement. This has not been done yet.

These are the three points we have come to present to the president of congress and to the party leaders who will be meeting soon. We will then know what their position will be. [end recording]

Luis Macas said that democracy has been reinstated in the country, but the state still fails to pay attention to the Indians' problems and needs.

INDIANS LEAVE CONGRESS BUILDING, ISSUE DEMANDS

QUITO, 29 May (AFP).—Today, hundreds of Indians left the Ecuadoran Congress building after issuing a deadline of 24 hours for the political parties to receive them, or the politicians would be barred from entering Indian communities during the next electoral campaign and the Indians would create their own congress.

The Indians adopted the aforementioned position after a meeting with the leaders of the political parties in Congress failed. At this meeting, the new requests made by the Indians, which are described as urgent and indispensable by the Confederation of Indian Nationalities of Ecuador (Conaie), should have been discussed.

Yesterday, approximately 1,000 Indians took over a chamber of Congress, demanding amnesty for 1,000 Indians who were tried or jailed after the three-day uprising that took place exactly one year ago. In addition, the Indians requested a constitutional reform declaring Ecuador as a multi-nation state.

Congress President Edelberto Bonilla had convened the representatives of the political groups represented in Congress. Representatives of only four of 11 political parties attended the meeting, however, which prompted the Indian leaders to react negatively.

Conaie President Luis Macas said that the Ecuadoran Indians will give the leaders of the political parties in Congress 24 hours to sign an agreement committing themselves to seeking a solution to the Indians' requests.

Macas warned that, should the political leaders fail to meet their demands, the Indians will ban all political parties from entering their communities during the general elections scheduled for next year. If this comes to pass, he did not rule out the possibility of a new uprising in the Indian communities. Macas also announced that the Indians, who, according to him, represent 40 percent of the Ecuadoran population, will create their own congress "to govern themselves."

In May 1990, approximately 150 Indians took over an old church making a series of demands. Six days later, thousands of Indians staged a rebellion that brought the country to a standstill for three days but prompted the beginning of talks with the government, which have been suspended twice. The Indians are now demanding, as a condition for resuming the talks with the government, the resignation of Luis Luna, director of the Ecuadoran Agrarian Reform Institute [Instituto Ecuatoriano de Reforma Agraria] (Ierec).

The Indians, who are proposing a list of 16 demands, are urging a solution to the problem posed by peasants without land, among other things. The government has not yet been able to meet their demands.

Meanwhile, the church has begun buying land to give to landless peasants, through a system of flexible credits. The church has received financing from the government resulting from the purchase of the foreign debt.

[Vistazo, Apr. 18, 1991]

INDIANS NOTE PRESENCE OF PARAMILITARY GROUPS; EVENTS CHRONICLED

[Report by Mariana Neira and Cecilion Moreno: "Paramilitary Groups for Killing Indians"]

Following the Indian uprising in June of 1990, the entire country appealed to the government to take concrete measures to soothe tempers. Instead, the authorities have apparently let the situation get out of hand and there is now talk of paramilitary bands and "militarization" which, in the guise of "civic action," seems to be geared toward restoring order in rural aras.

In view of the situation, which is particularly noticeable in Chimborazo and Imbabura Provinces, Congress set up special committees. In Chimborazo, the committee is made up of socialist Segundo Serrano, Gustavo Espinoza Chimbo, from the ID [Democratic Left], and Social Christian Bolivar Cevallos. Representing Imbabura are Diego Delgado, socialist, Xavier Munoz, from the DP [Popular Democracy Party], and Robert de la Torre, from FADI [Broad Front of the Left].

PROBLEMS GENERATES DIVISIONS

Investigations by the deputies revealed, in the specific case of Chimborazo, that 11 percent of the land is in the hands of landowners, while the rest is owned by Indians. The deputies nevertheless join with the military and the Church in their dramatic description of the situation prevailing among this group of Ecuadorans, a situation that has led to a state of violence which Deputy Serrano attributes to inadequate application of agrarian reform and the corruption of certain officials in IERAC [Ecuadoran Institute of Agrarian Reform and Settlement]: the president of the Agricultural Center and the Chimborazo Chamber of Agriculture, Diego Chiriboga, to land trafficking by a number of Indian leaders; the regional head of IERAC, Mauro Andino, to landowners and lawyers who stir up confrontations and invasions; Monsignor Victor Corral, bishop of Riobamba, and the parish priest of Tixan, Pedro Torres, both of whom are labeled as communists, and to the fact that Indians want a better life.

But at the very same time that these causes were being debated, fronts were being opened up. Serrano says some 30 percent of all Indians (60,000) are controlled by the evangelists, who are in favor of military raids in rural areas. These two sectors enjoy the favor of landowners.

Another curious fact observed by the deputy is that 90 percent of the Chimborazo Indians (180,000) do not belong to Conaie [Confederation of Indian Nationalities of Ecuador], which has become the standardbearer for the Indians' demands.

PARAMILITARY BANDS

Division into bands took a different turn with bombings at the court of Riobamba, attacks on Andino's house, and threats against Father Torres. At the same time, intimidating fliers were put out signed by Frenae (Ecuadoran Nationalist Front). On 16 February, Indian leader Calixto Albino Chicaiza Paca and a minor were kidnapped in Riobamba by three individuals, including Marco Toapanta, who tortured and held them for three days in Loja. A rumor began to circulate telling of paramilitary bands in Chimborazo. General Jorge Andrade, commanding officer of the Galapagos Brigade, says that "we travel the length and breadth of this province with our staff of officers, enlisted men, and many civilian employees, but have never seen a paramilitary band.

Serrano agrees with the military official: "I have traveled over only a few ranches on which they say there are bands, but I met no one. What I did see was that some ranches had hired private security, but the owners said it was to meet the wave of violence unleashed in Alausi, Chunchi, and Guamote."

Chiriboga demands the first and last names of landowners who have paramilitary bands. "We can say that they (the Indians) are the ones who have paramilitary bands because they pay people from other communities to come help with their raids carrying shotguns, sticks, and machetes."

TERROR IN IMBABURA

The death of Cayetana Farinango in Imbabura led to reports of armed elements called paramilitary bands on several ranches.

For socialist Deputy Enrique Ayala, "the solution chosen by Imbabura landowners was to hire mercenaries from outside the province. We have seen Blacks illegally dressed in military uniforms and carrying illegal weapons such as submachine guns. Their job is to create awareness in the community that a new invasion cannot occur."

In the opinion of Ignacio Perez, president of the Zone 1 Chamber of Agriculture, a feeling of insecurity spread throughout the rural area causing ranch owners to hire guards. "These are armed guards from companies legally recognized by the Ministry of Government and Ministry of Defense. We emphasize that they are not paramilitary bands and we do accept the fact that there are legitimate, recognized security guards."

MILITARIZATION

Something else is afoot in Chimborazo: Soldiers from the Galapagos Brigade decided to go into Indian communities, in their words, to do social work. To date, of the 1,300 communities in that province, 872 have received some attention from the Armed Forces.

General Andrade says such "community actions" have always been carried out, "but it is true that some time ago, we began giving more aid to the community because we were aware that the situation of the Indians, particularly on the barren plains, is critical. We are also aware that the problem is not one of land, but of a lack of basic education, and it is to that fact that we have addressed our attention."

He then described what is being done in Chimborazo: Agreements were signed with education officials to provide teachers where there were none and 40 were placed. Technical education is supplied, along with education about tourism and handicrafts. Such knowledge is imparted on Saturdays by the Brigade and breakfast and lunch are served. Military buses are used for transportation.

At the same time, free medical care is supplied at the hospital and through the military hospital bus. Repair work is done on roads, bridges, and schools. Communities that had transportation only once a week are now served daily by the military to enable them to take their products to market. Arid zones are being reforested and better breeds of sheep and cattle are being introduced.

Andrade says that everything is done in consultation with them. "When they ask for it, we, either I or someone representing me, go into the communities with a team made up of a psychologist, agronomist, public relations director, and hospital director, who analyze what the community is asking for. We have thus broken down the invisible wall that existed between Indians and soldiers. They trust us because what we offer we immediately provide. No one can say we are militarizing or putting guns in their hands so they can kill their brothers."

According to the general, only in Chunchi was there a case of resistance to such action.

HELP WITH ULTERIOR MOTIVES?

For Monsignor Corral, there are two aspects to the military presence: "First, they are setting up schools and providing aid for the Indians. Second, that presence is disturbing and dividing the Indians. One must know the Indian culture, understand that for them, the land they want to recover is vital to their cultural setting.

Deputy Serrano says that the military sought a way to claim that the uprising affects the country's internal security so the National Security Law could be applied.

He added that already when he arrived in Riobamba, he could observe the division into bands. Some Indians displayed posters saying "Long live General Andrade! Down with the politicians! Down with the priests!" He says, "these Indians organized their demonstration and got the posters from the Galapagos Brigade." He became fearful that such contradictions would only grow more acute when General Andrade and Monsignor Corral talked for two hours and concluded that the only thing they could agree upon was that they did not agree!

Another matter of concern to the deputy is that "General Andrade is sending soldiers, corporals, and sergeants to give classes." When the military official was asked whether they have had teacher's training he did not answer.

The rest of the actions seem to be positive provided they contribute to the national development and "there is no ulterior motive of destroying the peasant organization."

Serrano heard complaints from a number of communities concerning alleged military raids on homes in search of weapons and reports that shots were heard at night.

Torres says the soldiers "are in a community in an area where they have an outpost like one they might have on the border. The other day, they made us go back. Here no paramilitary bands are needed because everything is controlled by the brigade."

Chiriboga says landowners have received no support from the Army, "but we realize the work they are doing and support it."

The solutions proposed by those interviewed are structural, including changes in the Agrarian Reform Law, removal of the IERAC director, and continuation of the dialogue between the opposing sides.

SEEDS OF BANDS

Economist Cesar Verduga, minister of government, admits that our country is venturing into the dark and dangerous world of paramilitary bands, but he rejects the term "militarization" to describe military social work in rural areas.

He defines the Imbabura case as a problem of violence between Whites, Mestizos, and Indians caused by land disputes arising out of delays in standards of procedure established by the Agrarian Reform Law and IERAC, which over the years has become a cumbersome, bureaucratic, and sometimes even corrupt apparatus. Responsibility lies with the Legislative Branch with respect to the law and the Executive Branch for bureaucratic delays, he said.

This sitaution has so complicated land problems that private guards have appeared in Imbabura, in some cases legal and in others illegal. There are also "black berets" or "black belts" formed by Indian groups as shock guards. The minister does not take these paramilitary bands into consideration because their action is not underground, but he does see a need to draft a regulation—and he is doing so—to better control private guards.

In Chimborazo there are also private guards, but there is something else: "There might be the seed of a paramilitary band which, under the acronym Frenae, throws bombs and threats at representatives of the Church. If they engage in clandestine armed actions, kidnap peasants, and bear arms, one could talk of a paramilitary band." Aware that his opinion is contrary to that of the governor of Chimborazo and head of the Galapagos Brigade, he adds that finding these terrorist groups is rather difficult because they operate underground.

Another highly controversial matter is the so-called militarization "which the majority of all Chimborazo residents see as a program of civil action." He does not believe the armed forces have made raids on Indian territory citing the National Security Law, but rather, because of their interest in this type of work.

He claims to be unaware that in a Riobamba demonstration there was praise of General Andrade and rejection of priests and politicians. What he does know is that the Indians are split and that the evangelists are steadily gaining ground. "There is no reason why a process of penetration of a pluralist society by a religious sect should be seen as part of a conflict leading to confrontations." If the Church says that the "evangelists and landowners are against it and rely on the armed forces, it is an accusation the Church should make formally."

In connection with reports of alleged raids on Indian homes looking for weapons and shots fired in the night, the minister asks: "Why did the ones who made such reports not attend the meeting with legislators in Riobamba?

He also rejects comments about military attempts to break up the Indian organization: "This would mean that any government action in the areas of health and education breaks up the Indian organization, so that it would never be possible to take combined actions."

Nor does he accept doubts about the soldiers' inability to educte: "They participated in the literacy campaign. Furthermore, I am not aware that the Education Law excludes any human group from educating."

BLOOD IN THE LAKES

Early last year, an Indian invasion occurred on San Francisco del Cajas Ranch, owned by Manuel Sisalema and located on the border between Pichincha and Imbabura Provinces.

IERAC ordered the ouster of the invaders and during that action in November, Cayetana Farinango was killed. For the local Indian leadership, Farinango was the victim of brutality perpetrated by police acting in collusion with a "paramilitary band" hired by Sisalema. According to the president of the Zone I Chamber of Agriculture, Ignacio Perez Arteta, the Indian woman "died of natural causes. I have in my possession documents stating that she died of an aortal aneurysm in the area of the abdomen, in other words, of an internal hemorrhage." Deputy Enrique Ayala Mora takes the opposite view: "It is the height of cynicism when Chamber of Agriculture officials make statements such as the one that the death of Indian woman Cayetana Farinango was not the result of the eviction, but to natural causes, when in fact they picked up a person over 70 years old, dragged her from where she was, beat her, burned her hut, and dumped her in a ravine."

SECOND DEATH

At 1500 on 31 March, Julio Cabascango was attending a wedding at the home of Enrque Pijal, head of the Gualacata commune. He was pulled out of the celebration by one Cacuango. We have obtained the results of the initial police investigations from the governor of Imbabura: "They walked down about two blocks and the victim apparently had to go to the bathroom. Cacuango continued on his way to his house nearby, which is also close to the home of Colombian Servio Tulio Castillo Ortega, where three Blacks were staying. One of them allegedly killed the victim. Tulio was caught, beaten, and turned over to police by the Indians."

The police later detained seven citizens of color working as guards on La Clemencia ranch owned by the Social Justice cooperative. Their names are: Lider Jama Mendez, Joaquin Rodriguez Sol, Victorio Gonzalez Ortiz, Livingston Moreira Espinoza, Flavio Ibarbo Cevallos, Demetrio Quinonez Bonne, and Guiner Rodriguez Batallas. The latter is the contractor who took them to Imbabura to work.

At the Ibarra jail, VISTAZO talked with Tulio Castillo, accused of killing Cabascango, who was married to an Indian woman: "I came to Ecuador in '78. I have lived in Gualacata for two years. Before that, I lived on the Social Justice cooperative. The Huaycopungo Indians blamed me for the murder and I don't know why." For his part, contractor Guiner Rodriguez talked about their activities on La Clemencia ranch: "We have not even been there a full three months! Before that, I worked on San Francisco del Cajas for two months. Our work was to make sure the Indians did not get on the ranch. They are unjustly accusing us of the murder of the Indian man."

The Black guards totaled nine and they are affiliated with no legally recognized company. They are all natives of the town of Viche, near Quininde, in Esmeraldas Province. Every 30 days, they would take turns so that two of them could go visit their relatives. On Sunday, the 31st, Flavio Ibarbo was off and returned Monday morning proclaiming he had had nothing to do with the murder. According to rumors circulating in Esmeraldas, the material author of the crime is reportedly Pablo Segura. Rodriguez says, "Pablo is one of our comrades. He and another companion, Severo Leonardo Navia, left on Monday for a vacation in Esmeraldas and I bet it was because of this problem that they took off. I don't know whether Pablo killed him; I can't say." Another Esmeraldas resident arrested, Demetrio Quinonez, thinks it is political: "You can clearly see the fault of the politicians who are taking advantage of the ignorant Indians. As God said, they are pointing at the dumbest one." This statement coincides with one made by the president of the Chamber of Agriculture to the effect that "there is a rumor that Cabascango's death was politically motivated. People even say it was a deputy's bodyguards who did the killing."

[Hoy, Apr. 28, 1991]

FELIX EXPLAINS POSITION

Work being done by the armed forces to develop the country was explained by Minister of Defense Jorge Felix, who said in a conversation with HOY that the armed forces are "a subsystem of this great system constituted by the national government."

Felix emphasized the trust which Ecuadorans have placed in the armed forces, as demonstrated by a recent poll published in the media. The minister also defended work done by the Galapagos Brigade in Chimborazo Province and denied it is meddling in Indian disputes that have broken out in the area.

The action being taken by the Galapagos Brigade in Chimborazo consists of "assistance and cooperation in different areas, like that done in the eastern regions."

The minister emphatically stated that nowhere in the country is there any attempt "to place a people under military jurisdiction or militarize any civilian." He did flatly reject any claim about militarization of the province.

"We respect the legal order of the country. In addition, we are the guarantors of that public order and, as such, have a duty to fulfill our obligations to the maximum extent and to the extent allowed by law."

The armed forces budget, which totals 12.76 percent of the government's budget, is not excessive when one realizes that 70 percent of the amount is spent on pay and the rest on development activities, Felix said.

The fight against drug trafficking has not meant any loss of sovereignty due to the assistance of the United States.

That aid is reduced to the presence of six antidrug trafficking experts and the supplying of two boats to patrol border rivers.

[Punto de Vista, Apr. 8, 1991]

INDIAN'S SLAYING COMMENTED

[Reported by Eduardo Tamayo: "Chronicle of a Reported Death"]

The murder of Julio Cabascango, secretary of human rights and founder of the Imbabura Peasant and Indian Federation (FICI), at the hands of paramilitary elements overtaxed the patience of Indians in the province, who since mid November have endured all manner of attacks and harassment from armed groups serving the landowners. [passage omitted]

On Tuesday, the coffin was moved from Caluqui to FICI headquarters in Otavalo. There, in the place he had always frequented, his friends paid him final homage. That homage became spectacular on Wednesday, when thousands of Indians participated in a funeral procession that left Otavalo at 0900 and reached the Gonzalez Suarez parish church, a distance of over 10 km, at 1300.

The procession was a show of force and unity and constituted an appeal for the dismantling of the armed groups that are causing so much anguish in El Cajas, La Vega, Tunibamba, and Chimborazo Province.

The march would have ended like any other if not for a provocation directly involving Dr. Rodrigo Borja's government. The Indians caught two members of the Criminal Investigation Service (Segundo Cardenas and Diego Cartagena) taking down license plate numbers of vehicles accompanying the march and promptly staged a people's trial. It should be noted that on 14 August last, two other agents were detained and tried by Indians in the same parish because they were drawing up a list of leaders, including the now murdered Julio Cabascango.

At Gonzalez Suarez Plaza, Luis Macas, president of Conaie [Confederation of Indian Nationalities of Ecuador], said, in speaking to the agents and paramilitary elements: "We have said that you can kill us one by one. You can murder us—we are on your list—but this whole people is not going to die, this people needs to change, this people needs new justice. They may kill us, but we Indians will continue to live. We have been here for 500 years and will be here even longer. How is it possible that with the same hands you bloodied by killing, you carry bread to your children? You must stop and reflect that here in this country there are thousands upon thousands of Indians, thousands upon thousands of poor people. We appealed to the Tribunal of Constitutional Guarantees. What have they done with our petitions, with the death of comrade Cayetana Farinango, with the death of our comrades in Bolivar Province, with the militarization, with the paramilitary bands? What has this National Congress, whose wretched deputies, accomplished? Nothing but swallow the people's money! Now they will receive the people's punishment. Now we Indians will not vote for any of them. This democracy invented by them, invented by the landowners, will not solve our problems."

Voices were heard in the crowd asking for the heads of the agent infiltrators. The shrewd attitude of the Indian leadership prevented the trial from evolving into an uncontrollable situation.

TRUTH ABOUT PARAMILITARY BANDS

The murder of the FICI leader pointed up the existence of paramilitary groups in Ecuador's rural areas.

For landowners united in the Chambers of Agriculture, what they have on the ranches are "simply" security guards similar to those guarding factories, institutions, and banks in the cities. Similar opinions are voiced by Minister of Government Cesar Verduga, although he admits that some armed groups in rural areas are acting illegally, as a result of which he talks of regulating the operation of such private guards, whose presence is justified by the insufficiency of police elements in the country.

Certain aspects indicate that it is not a matter of simple security companies because they wear uniforms and carry weapons exclusively for the Armed Forces, which is prohibited by law. A report published in HOY on 27 December 1990 states that the security companies opeerating in the northern region of the country are called Paratuche, Vipca, and Oresep, headquartered in Guayaquil. "Nearly all the members of these groups were in the Army for some time and know how to use weapons and military tactics," the morning newspaper states.

Another question must be asked: If these groups are outside the law, as Minister Verduga himself admits, why did the government allow them to operate over the past 5 months during which all manner of attacks were committed on Indian communities? Why was nothing done in response to reports filed by the Indians, who recently presented Verduga with photos and documents on the activity of the paramilitary forces?

In contrast with what is done in business, the armed groups in rural areas have not stayed on ranches guarding property, but have instead gone out into the communities, harassing and even murdering peasants, as was the case in Gualacata.

The existence of other underground groups such as Frenae [Ecuadorian Nationalist Front], which sets off bombs and threatens the progressive clergy in Chimborazo, is no secret to anyone. On Tiquibuso Ranch in Bolivar, a band killed Indian Francisco Guaylla at the end of last year. What further proof is needed of their existence?

Indian organizations are not asking to have their operations regulated, but rather, to have them dismantled and, not only the material authors, but the intellectual authors of the murders punished as well. If this is done, Julio Cabascango's blood will not have been shed in vain.

[From the New York Times, Apr. 17, 1991]

A BRAZIL RAIN FOREST HUNTER-GATHERER TAKES IN THE TOWN

(By Tim Golden)

Davi Kopenawa Yanomami had left his communal hut and traveled from his village deep in the Amazon rain forest to tell of the horrors that white men were visiting upon his people. Then he saw Times Square.

"Man has become crazy," Davi said, as he shuffled down Seventh Avenue in crinkly white running shoes, looking for what had been described to him as the heart of New York. For protection, he wore a necklace of macaw feathers and hollowed seeds beneath his blue work shirt. But his eyes still darted nervously to the blur of passing automobiles.

New Yorkers scurried by on the sidewalk, drafting his small, stocky frame to one side, then the other. "They are like the ant," he announced. "They start one way and turn around and go the other way. They look all the time at the ground and never see the sky. Why do they do that?"

In New York's annals of awe-struck visitors and cultural confrontations, Davi (who doesn't really have a last name, but borrows that of his tribe) begins a new chapter. Among the Yanomami of Brazil, part of the hemisphere's largest tribe of unacculturated Indians, he is the first to visit the United States.

RELUCTANT TRAVELER

As a shaman-in-training, a village notable and the primary hunter-gather of his young family, Davi was not really anxious to quit his home near the Demini River. He had been trying to find money for an emergency health project, planning the first Yanomami school and hoping to find time for some spiritual journeys. Plus, he was worried about visiting a country so recently at war. Among the Yanomami, war is a messy business of axes and clubs and long, bamboo-tipped arrows; years ago, an American anthropologist labeled them "the fierce people," for their tendency to kill each other.

But Davi (pronounced dah-VEE) is one of few Yanomami who speak Portuguese, or any other foreign language, and there is much for them to tell. More than three years ago, gold prospectors began swarming into the forests that his people have occupied for millenia, polluting their rivers with mercury, scaring off their monkeys and tapir, and carrying in deadly diseases like malaria, tuberculosis and the common cold.

Davi is planning to explain all of this to the Secretaries General of the United Nations and the Organization of American States, to high officials of the World Bank and to anyone else who will listen. He was brought to the United States for two weeks by Indian-rights groups eager to dramatize the plight of the Yanomami.

Unlike most of his contemporaries, Davi, who has been saying for several years that he is about 35 years old, saw his first white man while still a boy. He has since visited São Paulo, and even London and Oslo, where he has made speeches, received awards and heard a lot about New York.

An American friend hoped to soften the shock of Manhattan by lending his Upper West Side apartment—and stocking the refrigerator with bananas and Chiquita Caribbean Splash fruit juice. The friend would have rigged up a hammock, too, had the beams of his pre-war building held the screws.

Anyway, Davi arrived angry. In Rio de Janerio, Pan American airline stewards insisted that he check the bow and arrows he had carried along as a gift. At Kennedy Airport, people wearing the same uniforms gave him back only a form, to report lost luggage.

As might have happened with any first-generation son of the earth, a note of condescension crept into Davi's voice as he rode down Broadway on the 104 bus.

"Everything in the world here, everything in these countries is mixed up," he said in his rough Portuguese, glancing out at 72d Street. "Nothing is separated. All the races are mixed. They don't have blood of their own."

Even dogs.

"Another race of dogs in New York," Davi said, admiring a Pekinese whose hair, he figured, would substitute wonderfully for the feathers used to decorate the headdresses that the Yanomami call cocar. A poodle minced by, tied to a man by a long rope. "They have other hair, the dogs; other customs."

The customs of the people seemed no less strange.

"That man is coming from the laundromat," Davi's traveling companion, Claudia Andujar, explained, referring to a man with long plastic bags of clothing slung over his shoulder. The party was walking back along 106th Street after a look at the Hudson. "People here don't wash their clothes," she said.

"But the river is right there!" Davi protested.

He was kidding.

SPIRITUAL QUESTIONS

At the Cathedral Church of St. John the Divine, though, Davi was vexed by the marble sarcophagus holding the remains of a bishop. When the Yanomami die, their bodies are cremated and their ashes consumed in a grog of plantain mush. The names of the dead are never spoken again, making it hard to determine just how many have been killed by the miners and their diseases.

"If his body is in there," Davi asked, "where does his soul go?"

It is not that the Yanomami have no explanation for the ways of white men. A Yanomami myth holds that whites came into the world long ago, when a fight among men interrupted the ritual seclusion of an Indian girl during her first menses. The forest was plunged into darkness and a flood swept many Yanomami away. Remori, a supernatural being, skimmed up some of the foam and mumbled into his cupped hands. The bits of foam then became white people, who, to the Yanomami way of thinking, still use the same burbling noises to communicate.

WHERE KING KONG CLUNG

In the souvenir shop of the Empire State Building, Davi wondered about the monkey depicted on all of the coffee cups and key rings.

A friend explained that the items referred to an old movie about a giant ape that terrorized New York. The friend pointed to posters of King Kong hugging the skyscraper's top.

"Does the monkey still exist?" Davi wanted to know.

It is not really the Yanomami way to be impressed by new things. And upon leaving the building, Davi seemed nonchalant.

"I have been higher than that before," he confided in a taxi cab that squirted down Fifth Avenue. "The homes of the shabori," he said, using the Yanomami word for shaman, "are much higher."

In the Surucucús range of northernmost Brazil, where many Yanomami live (the roughly 20,000 members of the tribe are divided about equally by the Brazilian-Venezuelan border), the hills rise to more than 3,000 feet. But Davi was really talking about something else, said Ms. Andujar, who is trying to have the Brazilian Government declare Yanomami lands a protected national park.

"Nothing ever surprises him because he has already experienced everything in his spiritual trips," she said, meaning the journeys that Yanomami make with the help of yakoana, a hallucinogenic snuff that is blown into the nostrils through long tubes.

LESSON FROM HOLLYWOOD

By the next afternoon, at the Museum of the American Indian, Davi had become positively didactic. At one display case, he pointed to the small likeness of a shaggy quadruped.

"That," he said, "is the buffalo."

His companions stared in disbelief. Where could he have seen a buffalo?

"In São Paulo," he explained. "I saw that movie, 'The Dance of the Wolf.' "

In coming to the United States, the hope of raising money for sick Yanomami was foremost in Davi's mind. The Brazilian Government that took office last year promised to evict the estimated 45,000 prospectors on

Yanomami lands and even dynamited their airstrips. But some of the miners have already returned, and their diseases continue to kill Indians who have no immunity, even to common colds.

Since a Government-sponsored health campaign has staggered for lack of money, a London-based human rights group, Survivial International, has begun a private collection. In appearances around the East Coast Davi is trying to help the group raise funds.

IN THE SOUTH BRONX

As he was driven through poorer parts of New York on Saturday afternoon, Davi began to question the salubriousness of things here.

"When I see white men like that," he said of a ragged-looking man walking along Southern Boulevard in the South Bronx, "I feel very sad. He has no food, he has no place of his own."

Along the Cross-Bronx Expressway, he pointed to a dusky retaining wall. "The smoke that is on the wall, the oil that is there, that makes you sick," he said, citing a tenet of Yanomami medical philosophy. "If I had to live under that bridge, I would get ill and die."

Davi felt better when he looked down from his airplane at the green surroundings of Washington, Ms. Andujar said. Then the people in Pan American uniforms at National Airport told him that they had lost his luggage again.

[From the New York Times, June 1, 1991]

DOURADOS JOURNAL: FOR BRAZIL'S INDIANS, A FINAL WAY OUT

(By James Brooke)

DOURADOS, BRAZIL.—There is an underside to the prosperity in this area of Brazil's agricultural frontier, a landscape of grain silos, sleek white cattle and a sea of soybeans extending west to the horizon.

In despair over the collective loss of Brazil's west, this municipality's original inhabitants are quietly killing themselves. Last year, in a reservation of 7,200 Indians, there were 29 suicides, and 8 more were reported by mid-May of this year.

"Nineteen-ninety was the year it exploded," said Maria Aparecida da Costa Pereira, a psychologist sent here by the National Indian Foundation, a Government agency known to everyone here as Funai. "They are sending out an appeal. The suicides speak of a lack of prospects, of a lack of a future."

The Americas are littered with unsuccessful attempts at reconciling Indian and European cultures, but the Dourados reservation is an especially stark example as the hemisphere prepares for observations next year of the 500th anniversary of the arrival of Christopher Columbus.

RESERVE DATES TO 1920'S

In an attempt to speed the Kaiowa Indians' assimilation of European ways, the Dourados reserve was established here in the 1920's alongside one of the few white outposts in a wilderness territory called Mato Grosso, or Big Forest.

"When I came here, Dourados had six inhabitants," recalled Irenio Inard, a wizened Kaiowa man of 91 years who sat on a stool, protected from the shade by a crumpled hat.

Today, Dourados is an agro-business center of 150,000 people. But over the years, the adjacent 8,819-acre reservation has become a dumping ground for ranchers who wanted to rid their lands of migratory bands of Kaiowa, a subgroup of the Guarani, an ethnic group once found across southern Brazil and Paraguay.

Today, the Dourados reserve holds almost one Indian per acre—not enough land for traditional subsistence farming. To survive, Indian men work as migrant laborers, leaving the reservation for months to cut sugar cane for alcohol distilleries situated several hours by truck from here. Indian women walk to town to sell Indian trinkets, to beg or to engage in prostitution. Until it was closed recently, a town dump was on the edge of the reserve, providing limited material for scavengers.

"I once saw 30 to 40 Indians fighting over clothes and toys in the dump," Joel Vitorino da Silva, a former Indian protection agent, said as he drove a car down the red dirt roads of the reserve.

CHURCHES MOVE IN

Neighboring white farmers started to rent Indian land, and traders brought in alcohol from the adjacent town. The last traditional shaman died a decade ago, and evangelical churches aggressively moved into the reserve, preaching against the Indians' ancestral beliefs. An Adventist mission had been on the reserve since the 1940's, maintaining the Kaiowas only hospital. But five new churches have opened recently, limiting their social action to collecting monthly tithes.

"Historically, in situations of pressure, the Guarani withdraw," said Ms. Pereira, the psychologist. "Under pressure, the Guarani resort to migration, prayer or death."

With the big forest now a big farm, there is nowhere to go.

In Mato Grosso do Sul state, the Kaiowa and other Guarani subgroups have been concentrated in 11 reserves, totaling 52,000 acres. The Missionary Indigenous Council, a Roman Catholic group, seeks legalization of 10 more reserves, which would almost double recognized Indian land.

But previous attempts at protecting the Indians have been slapped down by hostile local judges or by violence from ranchers.

ENCOUNTER WITH THE POPE

In one appeal that caught the eyes of the world, a Kaiowa leader from Dourados, Marcal de Souza, addressed Pope John Paul II during the Pope's visit to Brazil in 1980.

"When Brazil was discovered, we were a great nation," Mr. de Souza said of Brazil's Indian population, which has dwindled from an estimated six million 500 years ago to 230,000 today. "Today, we inhabit the margins of this country with no way to live. Even our survival is in danger as we are being murdered on this land."

Turning to the stocky Indian leader, the Pope replied: "With all my heart, I hope that you, as the first inhabitants of this land, will obtain the right to live in peace and tranquility. May you not suffer the true nightmare of being removed for the benefit of others."

Three years later, Mr. de Souza was slain. Although evidence appeared to point to a local rancher, Libero Monteiro de Lima, the case has never gone to trial. Moving faster, however, a state judge recently upheld Mr. de Lima's claim to 5,700 acres of land now occupied by 200 Indians. Funai, the Indian protection service, is appealing the decision.

Feeling corralled on all fronts, the Kaiowa here started to turn to suicide.

"For the Guarani, death is not the end," said Olivio Mangolim, regional coordinator of the Missionary Council. "It is a way to get to a better situation without suffering."

REMEDIAL PLAN DRAWN UP

Alarmed by the rising suicide rate, especially high among adolescents, Funai drew up a remedial plan in late April.

To reduce the need for men to migrate for work, the Indian agency plans to build fish ponds and to supply seeds, tools and fertilizers to improve farm yields. To strengthen the role of traditional leaders and of traditional rituals, a prayer house is to be built and a shaman is to be brought in from Paraguay.•

S. 210, URANIUM ENRICHMENT

• Mr. WALLOP. Mr. President, almost one-half of the capital base of the United States electric power industry is invested in 100 uranium-fueled nuclear facilities that now supply 20 percent of the United States' electricity. In addition, our nuclear fleet of 150 uranium-fueled submarines and surface ships must have sufficient uranium to assure an uninterrupted fuel supply.

For more than 5 years the committee has labored with this critical matter only to have legislative proposals passed by the Senate on four occasions die in the House. The Congress is long overdue in coming to grips with the fact that the Federal Government's uranium enrichment enterprise is no longer able to effectively compete with its more aggressive counterparts around the world.

Since we began this effort, the character of international markets has changed dramatically. The Soviet Union is now actively dumping uranium and enriched uranium in order to increase their market share. Only last week, the Soviet Union's Techsnabexport announced that it had formed a joint venture with Concord/Nuexco—the Global Nuclear Services & Supply Inc.—to market the full range of nuclear fuel services of the U.S.S.R.'s Ministry of Atomic Power & Industry. Its principal office will be in Washington, DC, although Global Nuclear is being incorporated in Switzerland.

The Soviet Union is clearly bent on becoming a major force in the United States fuel market. Among their announced objectives is greater hard-currency income and an announced intent to capture in excess of 25 percent of the Western World's nuclear fuel market. How they intend to achieve the market share that is their stated objective is not fully understood. But my concern is enhanced by their recent creation of Global Nuclear Services.

The committee amendment thus provides for a study by the International Trade Commission of the uranium and uranium enrichment marketing practices of nonmarketing countries. The committee is not as much concerned for whether or not dumping is occurring, or whether or not economic injury is being incurred, as it is concerned for whether or not their prices reflect true production costs. In this regard, I recognize that it is difficult to determine comparable production costs for such nonmarket economies to those for market economies.

But, even more importantly, I am concerned with what actions the administration proposed to discourage marketing practices such as those being promoted by the Soviet Union.

No matter what your vantage point, whether you view this matter from the perspective of the bureaucrat, the budget cruncher, the taxpayer, or DOE's customers, their actions must be viewed as a threat to DOE's enrichment enterprise and the Enrichment Corporation that this legislation would establish. Soviet prices appear to bear no relationship to real production costs. As a consequence, their marketing practices have already—the Soviet's marketing practices have driven uranium prices to record lows which have led to the closure of many mines and mills in the United States.

The full scope of the threat of the Soviet Union's marketing practices to DOE's enrichment enterprise is unknown, but informed sources estimate that their stockpiles range as high as 500 million pounds. Moreover their estimated annual production of uranium may be as high as 35 million pounds a year. By comparison, the United States' uranium production last year was about 8.7 million pounds, less than 25 percent of U.S. demand. With little effort the Soviets could dump uranium on the international marketplace in volumes greater than the entire United States production.

The Soviets have made no secret of their efforts to capture a substantial part of the world market in nuclear fuel. Experts believe they could easily export enough enriched uranium to take half of DOE's U.S. market and more natural uranium than all the U.S. production projected for this year.

U.S. utilities need about 40 million pounds of uranium a year to run the reactors that now supply almost 20 percent of our needs for electrical power. Already half of this uranium is imported from abroad. After 1995, with inventories depleted, uranium imports will increase sharply.

Some of these imports will come from countries like Canada, but more will come from other sources like Russia, China, and Africa. It is ironic that the utilities which spend millions to advertise their concerns about our dependence on foreign oil are willing to become so dependent on foreign sources for nuclear fuel.

Utilities talk about the need to buy the cheapest fuel, but they may be "penny wise and pound foolish" in taking this approach. The fuel costs for uranium and enrichment services are only 7 percent of the total cost of nuclear energy. To pay a few cents more for U.S. products seems a small price to pay to reduce long-term security risks.

I fully support congressional efforts to restructure DOE's enrichment enterprise into a creature that thinks, looks, acts, and responds, like a business. Whether the Soviet Union is dumping uranium or not is not the question. The concern is the effect of their pricing practices on domestic uranium producers and the Federal enrichment enterprise which must meet the U.S. uranium enrichment requirements for defense purposes as well as its commercial customers.

In addition, the Enrichment Corporation must be able to respond to the Soviet Union's marketing practices once it is established. For this reason the committee bill grants DOE authority to buy uranium and enriched uranium from the Soviet Union on the same basis as DOE's customers. DOE would thus have the option, which it does not now have, of buying the Soviet enriched uranium being dumped.

If DOE were to elect to purchase Soviet enriched uranium it could reduce its production costs. Some of the cost savings could be passed on to DOE's utility customers—thus reducing domestic enriched uranium prices.

In order to protect the domestic mining industry from a possible side effect of such purchases, DOE is restricted in its use of natural uranium stocks provided to it by its utility customers. For example, if DOE were to purchase enriched uranium on the world market, any utility owned uranium stocks held by DOE could not be sold; however, DOE could use such stocks for overfeeding purposes and thus could further reduce its costs. Some of these cost savings could be passed on to DOE's customers.

It must be recognized that the success of the Soviet Union's marketing strategy depends, in part, on the apparent willingness of some United States utilities to buy Soviet natural or enriched uranium and enrichment services. There is no common practice in this regard. Some utilities will not buy Soviet uranium. Others restrict their purchases because of recognition that a viable domestic industry is in their interest.

But what is happening is being influenced by an uncertainty regarding approval of such purchases by State regulatory commissions. Spokesmen for utilities have expressed concern that should they purchase domestic uranium or enriched uranium at prices higher than they can obtain their needs internationally that their domestic purchases will be questioned by State regulatory bodies as prudent.

This is a valid concern which is addressed in the committee amendment which directs the Secretary of Energy to encourage State utility authorities to consider the importance of maintaining a viable domestic uranium industry when deciding whether to allow recovery of associated uranium costs through rates charged to customers.

Mr. President, it ought to go without saying that until we can once again assure the future of nuclear power as a viable option in our Nation's energy future, our continuing dependence on imported oil will remain a threat to our Nation's economic health and energy security.

S. 210 is structured to address this concern. I recommend it for your support.●

TRIBUTE TO BISHOP LOUIS HENRY FORD

● Mr. LUGAR. Mr. President, on July 1, 1991, it will be my honor to extend a tribute to Bishop Louis Henry Ford, one of America's most outstanding community leaders. I want to take a moment to apprise my colleagues of Louis' dedicated leadership to many communities across the United States.

Christian groups have been an important source of the restoration of community values and service to our fellow man. Louis Henry Ford has given a lifetime of service and leadership through his church toward community and personal development.

Called to ministry in 1926, Louis was ordained an elder in Chicago's Church of God in Christ by the late Illinois prelate Bishop William Toverts. In 1936, he founded the St. Paul Church of God in Christ and in 1945, he was named national director of public relations.

Founder of the C.H. Mason and W.M. Roberts Bible Institute for Bible Studies, Louis has been overseer or bishop in over 12 jurisdictions in the Midwest. Over the years, his leadership has found true expression in the series of national positions that he has held including State chairman of Illinois, chairman of the National Founders Day Program, and member of the board of bishops and of the executive committee of the Church of God in Christ.

Beyond his ecclesiastical leadership, Louis has been inspiring communities across the midwest. He was one of the first State bishops to establish a State treasury fund to assist local churches. Recently, he has been a consultant to Chicago's mayor, Richard M. Daley, on public school problems, urban opportunities, and race relations.

As a much sought after guest speaker, Louis has received many awards for his outstanding service. He was most recently honored by the mayor of Chicago who named October 25, 1990, as "Louis Henry Ford Day in Chicago." For his community development and dedication, he was presented keys to the city of Memphis, TN.

This is Bishop Ford's 55th year as founding pastor of the St. Paul Church of God in Christ in Chicago. In 1990, he was elected the international presiding bishop and chief apostle of the Church of God in Christ. Prior to his election as presiding bishop, he was assistant presiding bishop since 1972. Louis has stepped forward in characteristic leadership as international presiding bishop by his spearheading of a series of innovations and plans to revitalize the ministries of the church. The plans include major efforts to address problems of senior citizens, the young and the disabled. He has also outlined plans to confront the national problems of the homeless, of education, and of drug abuse.

The accomplishments that I have mentioned in this short space are only a glimpse of what Louis' lifelong contribution and leadership have been. His service to mankind has been twofold: he has worked to save his fellow man, and he has endeavored to serve many communities. I think that this is why Louis is so deeply respected, so deeply loved. A true man of God, his insightful, creative leadership of the Church of God in Christ has substantially benefited his fellow human beings. His life of service is a shining beacon to us all.●

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. Thursday, June 6; that following the prayer the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reduced to 7½ minutes each; that following the time reserved for the leaders there then be a period for morning business not to extend beyond 11:45 a.m. with Senators permitted to speak therein, with the time from 10:15 to 11:15 a.m. under the control of the Republican leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECORD TO REMAIN OPEN

Mr. FORD. Mr. President, I ask unanimous consent that the RECORD remain open today until 6:30 p.m. for the introduction of a bill by Senator MITCHELL relating to health care, and that the bill be held at the desk until close of business Thursday, June 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. FORD. Mr. President, I do not see any other colleague here who wishes to be recognized.

If there be no further business today, I ask unanimous consent that we stand in recess under the previous order.

There being no objection, the Senate, at 6:07 p.m., recessed until tomorrow, June 6, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 5, 1991:

DEPARTMENT OF STATE

JANE E. BECKER, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS AND DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. THOMAS N. GRIFFIN, JR. [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. RONALD H. GIFFITH [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JOSEPH S. LAPOSATA [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (1H) JIMMIE WAYNE SEELEY, [redacted] U.S. NAVAL RESERVE.

REAR ADM. (1H) ALEXANDER SCOTT LOGAN, [redacted] U.S. NAVAL RESERVE.

REAR ADM. (1H) ROBERT SMITH III, [redacted] U.S. NAVAL RESERVE.

UNRESTRICTED LINE (TAR) OFFICER

To be rear Admiral

REAR ADM. (1H) MAURICE JOSEPH BRESNAHAN, JR., [redacted] U.S. NAVAL RESERVE.

SPECIAL DUTY OFFICER (CRYPTOLOGY)

To be rear admiral

REAR ADM. THOMAS EDWARD COURNEYA [redacted] U.S. NAVAL RESERVE.

DENTAL CORPS OFFICER

To be rear admiral

REAR ADM. (1H) JOHN ROWLEY HUBBARD, [redacted] U.S. NAVAL RESERVE.

HOUSE OF REPRESENTATIVES—*Wednesday, June 5, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

On this new day of grace, we pray, O God, that You will give us hearts full of thanksgiving and praise for the opportunities for service that are before us. Teach us to use the abilities and talents You have given in ways that heal the hurts of the land and to minister to those who seek justice and mercy. May we be ambassadors of good will and ministers of understanding and thus do the work that we have been called to do. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. NAGLE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. NAGLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 282, nays 116, answered "present" 1, not voting 32, as follows:

[Roll No. 129]

YEAS—282

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Atkins
AuCoin
Bacchus
Barton
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates

NAYS—116

Allard
Armey
Baker
Ballenger
Barnard
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cunningham
Dannemeyer
DeLay
Doolittle
Duncan
Edwards (CA)
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Gradison
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hyde
Inhofe
Jacobs
James
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nussle
Oxley
Packard
Paxon
Quillen
Ramstad
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Slaughter (VA)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zimmer

ANSWERED "PRESENT"—1

Taylor (NC)

NOT VOTING—32

Abercrombie
Aspin
Boucher
Boxer
Brown
Crane
Dickinson
Dixon
Dornan (CA)
Edwards (OK)
Glickman
Hunter
Ireland
Kanjorski
LaFalce
Lehman (FL)
McCrery
McDermott
McHugh
Mollohan
Mrazek
Neal (NC)
Peterson (FL)
Riggs
Sanders
Sisisky
Staggers
Valentine
Waters
Weiss
Yatron
Zeliff

□ 1025

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PETERSON of Florida. Mr. Speaker, a previous commitment at the Pentagon precluded my presence in the Chamber for rollcall No. 129, approval of the Journal. Had I been present, I would have voted "aye."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). Will the gentleman from Georgia [Mr. JONES] please come forward and lead the House in the Pledge of Allegiance?

Mr. JONES of Georgia led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will take seven 1-minute statements from each side of the aisle.

JOHN OLVER MAKING HISTORY IN MASSACHUSETTS' FIRST CONGRESSIONAL DISTRICT

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, in just a few days, a public servant from Massachusetts named John Olver will come to Washington and fill the seat left vacant by the death of our good friend and colleague, the late Silvio Conte.

When we lost Sil, Republicans and Democrats remembered a man whose public service was defined by his values and independence. And these principles clearly guided the voters of Massachusetts' First Congressional District.

In this election, voters had a clear choice. One candidate practiced the politics of racial division, took his instructions from the White House, defied America's belief in choice, and worshiped at the altar of the status quo. Perhaps, out of nostalgia for 1988, or to roadtest the Republican campaign strategy for 1992, Willie Horton was back on furlough, and "no new taxes" was back in the dialog, as if the Republican strategists have learned nothing new.

Not surprisingly, this candidate lost—even though Sil, and his Republican predecessors held the seat for nearly a century.

But the other candidate, the Democrat, the victor, steered a different course. He was a healer, he respected the values of choice and of honoring seniors and, most of all, he took his cues from the needs of his district rather than the political agenda of Washington.

Tuesday night, John Olver made history in a congressional district where the Republicans had been on a century long winning streak. Let us recognize our new colleague for the accomplishment of his victory, and for the promise of his service yet to come.

CONCERN ABOUT CUBA'S NUCLEAR REACTOR

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, it does not take long to travel 90 miles—in Washington, DC, houses that are 90 miles from the city are considered suburban. No wonder Floridians are alarmed about a nuclear reactor under construction 90 miles south—in Fidel Castro's Cuba.

Especially now that we know from recent defectors that much of the work is flawed and one site is located in an earthquake zone.

There's a laundry list of reasons why a nuclear reactor under Castro's control is anathema to the free world, not least of which is the enormous threat substandard construction, poor inspection, and inept management would pose to our safety and our environment. Castro has shown that he has little regard for human life, let alone the health and safety of U.S. citizens. A mishap at a Cuban nuclear facility could wreak havoc. The world has moved a long way to shed sunlight on Castro's abuse of power and manipulation of his own people. Now, with his threat to the region becoming even more strident because of his economic desperation, we owe it to ourselves and the world to know what's going on. Are the Soviets really going to send enough enriched uranium to Cuba for four nuclear weapons? Is the nuclear powerplant primarily to energize the Soviet naval base on Cuba? Mr. Speaker, we need answers.

□ 1030

CALLING FOR THE RESIGNATION OF ATTORNEY GENERAL THORNBURGH

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, it is simply outrageous. Today's headlines tell a sorry story of a sitting Attorney General of the United States who will not do the right thing, the judicious thing, the ethical thing, and resign as he prepared to seek a seat in the U.S. Senate.

One cannot be both the Nation's top law enforcement officer and a candidate for the Senate. The president of Common Cause had it exactly right when he said, "Attorney General Thornburgh should not be making any more decisions in this office." Every action, from civil rights to the S&L debacle, will be tainted by political considerations.

Mr. Speaker, all of America will be asking, how can Mr. Thornburgh be prosecuting the S&L crooks and ask them for campaign contributions at the same time?

It is time to step down, Mr. Thornburgh. Justice demands it. Come home now. Pennsylvania is waiting.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Members are reminded that they should address their remarks to the Chair.

THE PRICE-WATERHOUSE DECISION IN CIVIL RIGHTS

(Mr. FAWELL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FAWELL. Mr. Speaker, the majority wants the Justice Brennan decision in Price-Waterhouse to be repealed because it was not liberal enough. When Judge Brennan ruled that if an employer can prove it would have made the same decision, that is, not to accept the lady as a partner in that particular case, regardless of the improper bias against the lady, a cause of action would not exist. He therefore sent the case back to the trial court and the trial court took additional evidence and then ruled in favor of the lady and she collected $435,000 in back pay and was accepted as a partner in the Price-Waterhouse firm. This was all done, Mr. Speaker, under the present remedies section of title VII of the Civil Rights Act. And in lieu of that decision which the majority want to junk now, they bring up a new definition for "unlawful employment practice."

Under the new definition, unlawful employment practice "is established whenever race, religion, sex, or national origin is a motivating factor for any employment practice, even though other factors also contribute to the employment practice." No discriminatory intent is required.

Just think of it, Mr. Speaker. If Freud is right that mankind is motivated primarily by sex, then we have an awful lot of problems here, because all you have to prove, for instance, in order to prove the employer was guilty of commiting an unlawful employment practice, is to show that sex is a motivating factor, de minimus in proportions, for any employment practice. Then you have proven a violation of title VII and the employer has no defense. Now, that is unbelievable, and it is ridiculous. In addition, a complainant would be entitled to unlimited compensatory damages for mental distress, as well as punitive damages, for any such unlawful employment practice. So, you see, unlimited damages also apply for employment practices which do not involve any discriminatory intent. Few people realize these provisions are in the bill.

THE CHICAGO BULLS-L.A. LAKERS WAGER

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, this year's NBA final is one of the greatest match ups in basketball history. All eyes will be on the Windy City tonight for game 2 between the L.A. Lakers and my own Chicago Bulls.

This series is a tale of two cities: The Lakers represent the Perrier-sipping set from La La Land, while the Bulls represent the blue-collar, hard-working men and women from the Nation's heartland. We know that the Lakers are aching and aging, so we let them win the first game just to make it interesting. But now we are serious.

If nothing else, this NBA final will be thrilling and spectacular because of just two letters: M.J., and I do not mean Magic Johnson; I mean Michael Jordan, the most exciting player in basketball history. He, Scottie Pippin, and the rest of the Bulls are going to give the L.A. Lakers a headache worse than the one they normally get when they go outside and try to breathe that L.A. air.

I am so confident that the Bulls are going to blow the doors off the Lakers that I have made a wager.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. RUSSO. I will yield to my good friend, the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding, and I say, "Right on."

Mr. RUSSO. Mr. Speaker, I have made a wager with my friend, the gentleman from California [Mr. DREIER], from La La Land, that if the Bulls win, he can give me seedless grapes and seedless watermelons, and since the Third District is famous for Tootsie Rolls and Tootsie Pops and Oreo cookies, and God forbid that the Bulls should lose, he will get some Tootsie Rolls and Tootsie Pops.

THE WAGER ON THE BULLS-LAKERS CHAMPIONSHIP SERIES

(Mr. DREIER of California asked and was given permission to address the House for 1 minute.)

Mr. DREIER of California. Mr. Speaker, I think that a response from me is in order here.

After taking a much deserved 1-year sabbatical, the Los Angeles Lakers are knocking on the door of yet another NBA championship. This is the Lakers' ninth trip to the finals in 12 years. Having captured the title in 5 of those 9 years, with such an incredibly impressive record, it is surprising to me that some Members of this body are still anxious to relinquish the goods and services of their respective States.

The very athletic gentleman from Illinois [Mr. RUSSO], whose better judgment appears to have been clouded in the wake of the Chicago Bulls' euphoric four-game sweep of the Pistons, has accepted this friendly wager on the outcome of the Los Angeles Lakers-Chicago Bulls series. When Los Angeles wins, I look forward to receiving those Nabisco cookies and Tootsie Rolls. If by chance we do not quite pull this one off, I will proudly present him with Sun World Red Flame seedless grapes and seedless watermelons, a demonstration that our State is clearly innovative and looking toward the future, unlike some other parts of the country.

Mr. Speaker, very clearly, this will be like taking candy from a baby.

THE NIXON TRANSCRIPTS ON THE IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, since we are wagering on the Lakers and the Bulls, how many of the Members would wager that the White House uses the IRS for political purposes? If you have any doubt, read the new Nixon published transcripts. I want to quote the former President:

> Get those Democrats. Make them squeal. Pull their tax files, and to make it look good, pull some Republicans' too, but don't check those out.

Mr. Speaker, I think we do have some great problems. We have a problem in America when the average taxpayer has to hire a Philadelphia attorney to figure out his tax burden, but what is even worse is when American taxpayers start to fear their own Government. No American should fear their Government. Congress should do something about the IRS.

Mr. Speaker, I think the Bulls will win tonight.

H.R. 1—A LAWYERS' BONANZA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, any businessman worth his salt prepares for the worst case scenario, and this new bill, H.R. 1, is it. If he is confronted with jury trials, unlimited liability, and an impossible task of proving his innocence of discrimination, there is only one defense, and he will take that sure defense, namely, hiring by the numbers, matching local population percentages.

If that does not equal forced quotas, I have a bridge I would like to sell you.

I realize the economy is in weak condition, but do we need to spend all of our time and effort in creating a lawyers' bonanza? Attacking the President, who had a good civil rights bill defeated yesterday, will not prove that the Democrats are pro-civil rights but only that they are trying to protect their own trial lawyers.

A CONSTITUENT'S EXPRESSION OF SUPPORT FOR SPACE STATION FREEDOM

(Mr. BACCHUS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BACCHUS. Mr. Speaker, I received this morning in my office a letter from Ms. Louise Kleba of Cape Canaveral, FL, that I would like to read in part into the RECORD:

> DEAR CONGRESSMAN: The decision by the Appropriations Committee to cancel the Space Station Freedom was and is the most blatantly damaging statement and action that could have come from any form of representation.
>
> We have just had a revitalization of patriotism through our decisive actions in the Middle East. Are we now to sit back and rock on the memory and countless retelling of that event and hope that the rest of the world will continue to consider us with awe long after history has moved to the next chapter?
>
> Why don't we take the opportunity to begin that next chapter?
>
> America * * * Americans have always risen to meet a challenge. If the progression into space is cancelled when we have just had a taste for it, I am wondering what challenges we could possibly offer our children to motivate them to reach for a little bit more. If we destroy the dreams, don't we also destroy ambition? Space is still something just a little out of their reach. A space station opens the doors.
>
> Do not close the door. Do not condemn my children to reading about America's "ancient" history. Please, do not support the recommendation to cancel the Space Station Freedom.

Mr. Speaker, Ms. Kleba is absolutely right, and I intend to do everything I can to save Space Station Freedom and save our dreams for America.

☐ 1040

GEORGE AND BARBARA BUSH: FAIR AND KIND PEOPLE IN A CYNICAL CITY

(Mr. KYL asked and was given permission to address the House of 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, it says something about the merits of the so-called Civil Rights Act that the primary argument of its supporters yesterday was that President George Bush is a racial hypocrite, that he only wants a political issue.

George and Barbara Bush are two of the kindest, fairest people in this cynical city. Accusing George Bush of playing racial politics with an issue as serious as civil rights is the lowest, most vicious, most political thing I have seen as a Member of this body. It can only reflect frustration by those who find themselves on the losing side of the issue.

Supporters of H.R. 1 said George Bush does not want a civil rights bill, even after the President offered his own legislation. Honesty demands acknowledgment that his is a serious bill. So the rhetoric is as untrue as it is unfair.

Mr. Speaker, after the serious responsive debate we had on the Persian Gulf war, I expected better of the debate yesterday. But it was sad to watch one after another come to the floor and forsake rational debate in favor of inflammatory rhetoric and cheap shots at President George Bush.

This is too important a subject for Members to lose their cool, to become hysterical, and that is the only way I can describe yesterday's attacks on one of the most decent Presidents ever to serve this country.

Today, let us elevate both the content and the tone of the debate. Let us stop questioning motives and debate the merits.

AMERICANS REMAINING ON DUTY IN PERSIAN GULF SHOULD BE REMEMBERED

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, as we look toward the upcoming victory parades in Washington, New York, and other cities, it is extremely important that we not forget the thousands of men and women who remain on duty in the Persian Gulf.

From my own State, two units are still in the Middle East.

The 740th Transportation Company of the South Dakota National Guard is made up of approximately 170 men and women from Aberdeen, Milbank, Sisseton, Brookings, other parts of northeastern South Dakota, and from areas in the northern Black Hills.

Almost 80 men and women from the 109th Engineering Group of the South Dakota National Guard also remain in the gulf region. Their homes are in Rapid City, as well as other communities, farms, and ranches in the western part of our State.

For them—and for their family members, friends, and loved ones who await their return—these days of celebation are a bittersweet time of frustration, anxiety, and intense longing.

To the men and women who remain in the Persian Gulf—especially the members of our two units from South Dakota—I bring this message on behalf of everyone in your home State and your Nation: "We have not forgotten you. We are hoping and praying for your safe return soon. We are more proud of you than words can express."

H.R. 1: A LITIGATION NIGHTMARE

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, President Bush has taken on some real mud thrown by the Democrats over civil rights. The President is simply trying to do the right thing. He is trying to do the right thing for all Americans, not a Balkanized or fragmented America. The President wants to do the right thing for all American workers.

Mr. Speaker, by not allowing employment decisions to be based on merit, the Democrat's H.R. 1 is anticompetitive. It is anticompetitive for U.S. business, U.S. workers, and U.S. jobs. It amounts to a jobs bill for offshore employees.

Mr. Speaker, yes, this is a real export promotion bill, the export of American jobs. We cannot continue to put more and more pressure on American employers. They need to be nurtured, not assumed guilty until proven innocent.

Mr. Speaker, H.R. 1, as with so much of our legislation and regulation, the ever-increasing payroll taxes, reduced investment incentives, stifling regulation, and litigation, litigation, litigation, are killing American business. It makes us uncompetitive. It sends our jobs abroad. Jobs are lost when litigation's Sword of Damocles threatens the very existence of American business.

Mr. Speaker, H.R. 1 is a litigation nightmare, and it is unfair.

VOTE FOR SPACE STATION FREEDOM

(Mr. STALLINGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STALLINGS. Mr. Speaker, we will soon decide whether we terminate the space station Freedom. This decision is about more than canceling a large program in the face of a tight budget. It is about terminating more than 200 years of American leadership at the frontier of exploration. The decision to cancel the space station would signal that the United States no longer chooses to lead, but prefers to follow.

In the early 1970's Congress made some difficult decisions concerning America's future in space. We decided that we couldn't sustain Apollo-era funding levels, yet we continued our claim to leadership by pressing ahead with the space shuttle.

In 1984 we reaffirmed our leadership position in approving a Space Station Program that would provide America's first permanent outpost at the border of the space frontier. Since that decision we have encountered difficult fiscal times. However, we have dealt with these obstacles while maintaining a space program second to none. We are now being tested again.

The question before us is whether we remain the preeminent Nation in space, or abandon that status to others with more stamina and vision.

Deciding to terminate the space station would be easy, since it would free up billions of dollars for other programs. But we were not elected to this body to make the easy choices. We were elected to make the tough choices, such as ones aimed at maintaining leadership for our Nation.

John F. Kennedy told us that we do not lead because it is easy or cheap, but because we know that it is difficult. Voting for the space station may seem difficult, but it will help assure continued leadership. With that in mind, our choice should be clear. Let us vote for continued leadership at the frontier of exploration; let us vote for the space station.

DEMOCRATS RESORTING TO POLITICS OF HYSTERIA

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, George Bush is a decent human being, who is working hard as our President. He is providing unmatched leadership on both the domestic and the international fronts. But yesterday in this Chamber he was assailed as a race baiter, practicing politics of hate; a demagogue, reviving Willie Horton; and, just this morning, we have heard the chairman of the Democratic Campaign Committee use all these same phrases again.

George Bush is a good man, a good man who wants to sign a civil rights bill, a civil rights bill that does not create preferences, but one that provides equal opportunity for all.

Mr. Speaker, the fact is the Democrat Party is frustrated that they cannot move their political agenda, and are resorting to politics of hysteria.

CIVIL RIGHTS AND WOMEN'S EQUITY IN EMPLOYMENT ACT OF 1991

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to House Resolution 162 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1.

□ 1046

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 4, 1991, the amendment offered by the gentleman from Illinois [Mr. MICHEL] had been disposed of.

It is now in order to consider Amendment No. 3 printed in House Report 102–83.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. BROOKS: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights and Women's Equity in Employment Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—The purposes of this Act are to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

TITLE I

SEC. 101. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means the practice or group of practices must bear a significant and manifest relationship to the requirements for effective job performance.

"(2) Paragraph (1) is meant to codify the meaning of, and the type and sufficiency of evidence required to prove, 'business necessity' as used in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and to overrule the treatment of business necessity as a defense in *Wards Cove Packing Co. Inc., v. Atonio*, 490 U.S. 642 (1989).

"(p) The term 'requirements for effective job performance' may include, in addition to effective performance of the actual work activities, factors which bear on such performance, such as attendance, punctuality, and not engaging in misconduct or insubordination.

"(q) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 102. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2) is amended by adding at the end thereof the following:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—(1)(A) An unlawful employment practice based on disparate impact is established under this title if a complaining party demonstrates that a disparate impact on the basis of race, color, religion, sex, or national origin results from an employment practice or group of employment practices, and the respondent fails to demonstrate that such practice or group of practices is required by business necessity, except that an employment practice or group of practices demonstrated to be required by business necessity shall be unlawful if the complaining party demonstrates that another available practice or group of practices with less disparate impact (which difference is more than merely negligible) would serve the respondent as well.

"(B) If a complaining party demonstrates that a disparate impact results from a group of employment practices, such party shall be required after discovery to demonstrate which specific practice or practices within the group results in disparate impact unless the court finds that the complaining party after diligent effort cannot identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact.

"(C) If the respondent demonstrates that a specific employment practice within a group of employment practices does not contribute in a meaningful way to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

"(5) For purposes of this subsection, a respondent may rely upon relative qualifications or skills as determined by relative performance or degree of success on a selection factor, criterion, or procedure: *Provided*, That if such reliance results in a disparate impact based on race, color, religion, sex, or national origin, such reliance must be demonstrated by the respondent to be required by business necessity.".

SEC. 103. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2), as amended by section 102, is amended by adding at the end thereof the following:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE MOTIVATING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for such employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e–5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent demonstrates that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 104. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2), as amended by sections 102 and 103, is amended by adding at the end thereof the following:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the original proceeding;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 105. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) Statute of Limitations.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "540 days";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) Application to Challenges to Seniority Systems.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 106. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

(a) Damages Generally.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)) or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990 (other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102(b) of that Act as it relates to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

(b) Limitation on Punitive Damages.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The amount of punitive damages that may be awarded under paragraph (1)(B) to an individual against a respondent shall not exceed—

"(A) $150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under paragraph (1)(A) and equitable monetary relief awarded under paragraph (1);

whichever is greater.".

SEC. 107. CLARIFYING ATTORNEY'S FEE PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following:

"(2) No waiver of all or substantially all of an attorney's fee shall be compelled as a condition of a settlement of a claim under this title, except that nothing in this section shall be construed to limit the right to negotiate a settlement in which an attorney's fee is voluntarily waived in whole or in part.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion and in order to promote fairness, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from either an unsuccessful party challenging such relief or a party against whom relief was granted in the original action or from more than one such party under an equitable allocation determined by the court, a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order. In determining whether to allow recovery of fees from the party challenging the initial judgment or order, the court should consider not only whether such challenge was unsuccessful, but also whether the award of fees against the challenging party promotes fairness, taking into consideration such factors as the reasonableness of the challenging party's legal and factual position and whether other special circumstances make an award unjust.".

SEC. 108. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages".

SEC. 109. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) Effectuation of Purpose.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) Nonlimitation.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) Interpretation.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights and Women's Equity in Employment Act of 1991 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 110. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 111. VOLUNTARY AND COURT-ORDERED AFFIRMATIVE ACTION APPROVED; QUOTAS DEEMED UNLAWFUL EMPLOYMENT PRACTICE.

(a) Rules of Construction.—Nothing in the amendments made by this Act shall be construed—

(1) to limit an employer in establishing its job requirements if such requirements are lawful under title VII of the Civil Rights Act of 1964, as amended; or

(2) to require, encourage, or permit an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin, and the use of such quotas shall be deemed to be an unlawful employment practice under such title: *Provided*, That the amendments made by this Act shall be construed to approve the lawfulness of voluntary or court-ordered affirmative action that is—

(A) consistent with the decisions of the Supreme Court of the United States in employment discrimination cases; or

(B) in the absence of such decisions, otherwise in accordance with employment discrimination law;

as in effect on the date of the enactment of this Act.

(b) Definition.—For purposes of subsection (a), the term "quota" means a fixed number or percentage of persons of a particular race, color, religion, sex, or national origin which must be attained, or which cannot be exceeded, regardless of whether such persons meet necessary qualifications to perform the job.

SEC. 112. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 113. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) Application of Amendments.—The amendments made by—

(1) section 102 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 103 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 104 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 105(a)(1), 105(a)(3) and 105(a)(4), 105(b), 106, 107, 108, and 109 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 105(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 110 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) Transition Rules.—

(1) In general.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by section 102, 103, 105(a)(2), or 110 shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) Section 104.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 104, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 104, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(3) Final judgments.—Pursuant to paragraphs (1) and (2), any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires, pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

(c) Period of Limitations.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 102, 103, 105(a)(2), or 110.

SEC. 114. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) Coverage of the Senate.—

(1) Commitment to rule XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment;

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) Application to senate employment.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) Investigation and adjudication of claims.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) Rights of employees.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) Applicable remedies.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) Matters other than employment.—

(A) In general.—The rights and protections under the Americans with Disabilities Act of 1990 shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) Remedies.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) Proposed remedies and procedures.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) Exercise of rulemaking power.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraphs (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) Coverage of the House of Representatives.—

(1) In general.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

(2) Employment in the house.—

(A) Application.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) Administration.—

(i) In general.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) Resolution.—The resolution referred to in clause (i) is the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988), as incorporated into the Rules of the House of Representatives of the One Hundred Second Congress as Rule LI, or any other provision that continues in effect the provisions of such resolution.

(C) Exercise of rulemaking power.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) Instrumentalities of Congress.—

(1) In general.—The rights and protections under this Act and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) Establishment of remedies and procedures by instrumentalities.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) Report to congress.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) Definition of instrumentalities.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Of-

fice, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16).

SEC. 115. DISCRIMINATORY USE OF TESTS.

The first sentence of section 703(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2(h)) is amended—

(1) by striking "to give and to" and inserting ", labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to give, use, or",

(2) by striking "test provided that" and inserting "test provided that (1)"; and

(3) by striking the period at the end and inserting the following:

"and (2) such test validly and fairly predicts without regard to the race, color, religion, sex, or national origin of such test takers, the ability of such test takers to perform the job with respect to which such test is used. If such test does not meet the criteria specified in paragraphs (1) and (2) of the preceding sentence, an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) may develop, give, use, or act upon the results of a test which satisfies such criteria or may use other non-discriminatory selection criteria, in a manner consistent with this title, which measure qualifications to perform the job.".

SEC. 116. PROHIBITION OF DISCRIMINATORY USE OF TEST SCORES.

Section 704 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–3) is amended by adding at the end the following:

"(c) It shall be an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) in connection with the selection or referral of applicants or candidates for employment or promotion to adjust test scores of, or use different cut-off scores for, a written employment test on the basis of the race, color, religion, sex, or national origin of individual test takers.".

SEC. 117. ADEA STATUTE OF LIMITATIONS; NOTICE OF RIGHT TO SUE.

(a) STATUTE OF LIMITATIONS.—Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in paragraph (1)—

(A) by striking out "180 days" and inserting in lieu thereof "540 days"; and

(B) by inserting "or has been applied to affect adversely the person aggrieved, whichever is later" after "occurred"; and

(2) in paragraph (2), by striking out "within 300 days" and all that follows through "whichever is earlier" and inserting in lieu thereof "a copy of such charge shall be filed by the Commission with the State agency".

(b) NOTICE OF RIGHT TO SUE.—Section 7(e) of such Act (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking out the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and" and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed by the Commission, the Commission shall so notify the person aggrieved and within 90 days after the giving of such notice a civil action may be brought against the respondent named in the charge by a person defined in section 11.".

SEC. 118. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

SEC. 119. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT.

(a) DEFINITION OF EMPLOYEE.—Section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) is amended by adding at the end the following: "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.".

(b) EXEMPTION.—Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) is amended—

(1) by inserting "(a)" after "SEC. 702.", and

(2) by adding at the end the following:

"(b) It shall not be unlawful under section 703 or 704 for an employer (or a corporation controlled by an employer) labor organization, employment agency, or joint management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer (or such corporation), such organization, such agency, or such committee to violate the law of the foreign country in which such workplace is located.

"(c)(1) If an employer controls a corporation whose place of incorporation is a foreign country, any practice prohibited by section 703 or 704 engaged in by such corporation shall be presumed to be engaged in by such employer.

"(2) Sections 703 and 704 shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

"(3) For purposes of this subsection, the determination of whether an employer controls a corporation shall be based on—

"(A) the interrelation of operations;

"(B) the common management;

"(C) the centralized control of labor relations; and

"(D) the common ownership or financial control;

of the employer and the corporation.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to conduct occurring before the date of the enactment of this Act.

SEC. 120. CLARIFYING OTHER ATTORNEY'S FEE PROVISION.

The last sentence of section 722 of the Revised Statutes (42 U.S.C. 1988) is amended—

(1) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee"; and

(2) by striking out "as part of the".

TITLE II

SEC. 201. GLASS CEILING COMMISSION.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) despite a dramatically growing presence in the workplace, women and minorities remain underrepresented in executive, management and senior decisionmaking positions in business;

(B) artificial barriers exist to the advancement of women and minorities in employment;

(C) enforcement of Federal equal employment opportunity laws by Federal agencies has not effectively addressed such underrepresentation or eliminated such artificial barriers;

(D) the "Glass Ceiling Initiative" recently undertaken by the Department of Labor has been instrumental in raising public awareness of—

(i) the underrepresentation of women and minorities at the executive, management and senior decisionmaking levels in the United States work force; and

(ii) the desirability of eliminating artificial barriers to the advancement of women and minorities to such levels;

(E) the establishment of a commission to examine issues raised by the Glass Ceiling Initiative would help—

(i) focus greater attention on the importance of eliminating artificial barriers to the advancement of women and minorities to executive, management and senior decisionmaking positions in business; and

(ii) promote work force diversity; and

(F) a comprehensive study that includes analysis of the manner in which executive, management and senior decisionmaking positions are filled, the developmental and skill-enhancing practices used to foster the necessary qualifications for advancement, and the compensation programs and reward structures utilized in the corporate sector would assist in the establishment of practices and policies promoting opportunities for, and eliminating artificial barriers to, the advancement of women and minorities to executive, management and senior decisionmaking positions.

(2) PURPOSE.—The purpose of this section is to establish a Glass Ceiling Commission to study—

(A) the manner in which business fills executive, management and senior decisionmaking positions;

(B) the developmental and skill-enhancing practices used to foster the necessary qualifications for advancement into such positions; and

(C) the compensation programs and reward structures currently utilized in the workplace.

(b) ESTABLISHMENT.—There is established a Glass Ceiling Commission (referred to in this section as the "Commission"), to conduct a study and prepare recommendations concerning—

(1) eliminating artificial barriers to the advancement of women and minorities in employment; and

(2) increasing the opportunities and developmental experiences of women and minorities to foster advancement of women and minorities to executive, management and senior decisionmaking positions in business.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 19 members—

(A) 3 individuals appointed by the President;

(B) 4 individuals appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate;

(C) 2 individuals appointed by the majority leader of the House of Representatives;

(D) 1 individual appointed by the minority leader of the House of Representatives;

(E) 2 individuals appointed by the majority leader of the Senate;

(F) 1 individual appointed by the minority leader of the Senate;

(G) 2 Members of the House of Representatives appointed jointly by the majority leader and the minority leader of the House of Representatives;

(H) 2 Members of the Senate appointed jointly by the majority leader and the minority leader of the Senate;

(I) the Secretary of Labor; and

(J) the Chairman of the Equal Employment Opportunity Commission.

(2) CONSIDERATIONS.—In making appointments under subparagraphs (A) and (B) of paragraph (1), the appointing authority shall consider the background of the individuals, including whether the individuals—

(A) are members of organizations representing women and minorities, and other related interest groups;

(B) hold executive, management or senior decisionmaking positions in corporations or other business entities; and

(C) possess academic expertise or other recognized ability regarding employment and discrimination issues.

(d) CO-CHAIRPERSONS.—The Secretary of Labor, and one individual appointed under subsection (c)(1)(B) who is designated jointly by the appointing authority, shall serve as the Co-chairpersons of the Commission.

(e) TERM OF OFFICE.—Members and Co-chairpersons shall be appointed for the life of the Commission.

(f) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(g) MEETINGS.—

(1) MEETINGS PRIOR TO COMPLETION OF REPORT.—The Commission shall meet not fewer than five times in connection with and pending the completion of the report described in subsection (j)(2). The Commission shall hold additional meetings if the Co-chairpersons or a majority of the members of the Commission request the additional meetings in writing.

(2) MEETINGS AFTER COMPLETION OF REPORT.—The Commission shall meet once each year after the completion of the report described in subsection (j)(2). The Commission shall hold additional meetings if the Co-chairpersons or a majority of the members of the Commission request the additional meetings in writing.

(h) QUORUM.—A majority of the Commission shall constitute a quorum for the transaction of business.

(i) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission and travel.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, as authorized by sections 5702 and 5703 of title 5, United States Code.

(3) EMPLOYMENT STATUS.—A member of the Commission, who is not otherwise an employee of the Federal Government, shall not be deemed to be an employee of the Federal Government except for the purposes of—

(A) the tort claims provisions of chapter 171 of title 28, United States Code, and

(B) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

(j) STUDIES OF ADVANCEMENT OF WOMEN AND MINORITIES TO EXECUTIVE, MANAGEMENT AND SENIOR DECISIONMAKING POSITIONS IN BUSINESS.—

(1) STUDY.—The Commission shall conduct a study of opportunities for, and artificial barriers to, the advancement of women and minorities to executive, management and senior decisionmaking positions in business. In conducting the study, the Commission shall—

(A) examine the preparedness of women and minorities to advance to executive, management and senior decisionmaking positions in business;

(B) examine the opportunities for women and minorities to advance to executive, management and senior decisionmaking positions in business;

(C) conduct basic research into the practices, policies, and manner in which executive, management and senior decisionmaking positions in business are filled;

(D) conduct comparative research of businesses and industries in which women and minorities are promoted to executive, management and senior decisionmaking positions, and businesses and industries in which women and minorities are not promoted to executive, management and senior decisionmaking positions;

(E) evaluate the efficacy of enforcement (including, but not limited to, such enforcement techniques as litigation, complaint investigations, compliance reviews, conciliation, administrative regulations, policy guidance, technical assistance, training, and public education) of Federal equal employment opportunity laws by Federal agencies as a means of eliminating artificial barriers to the advancement of women and minorities in employment;

(F) compile a synthesis of available research on programs and practices that have successfully led to the advancement of women and minorities to executive, management and senior decisionmaking positions in business, including training programs, rotational assignments, developmental programs, reward programs, employee benefit structures, and family leave policies; and

(G) examine any other issues and information relating to the advancement of women and minorities to executive, management and senior decisionmaking positions in business.

(2) REPORT.—Not later than 15 months after the date of the enactment of this Act, the Commission shall prepare and submit to the President and the appropriate committees of Congress a written report containing—

(A) the findings and conclusions of the Commission resulting from the study conducted under paragraph (1); and

(B) recommendations based on the findings and conclusions described in subparagraph (A) relating to the promotion of opportunities for, and elimination of artificial barriers to, the advancement of women and minorities to executive, management and senior decisionmaking positions in business, including recommendations for—

(i) policies and practices to fill vacancies at the executive, management and senior decisionmaking levels;

(ii) developmental practices and procedures to ensure that women and minorities have access to opportunities to gain the exposure, skills, and expertise necessary to assume executive, management and senior decisionmaking positions;

(iii) compensation programs and reward structures utilized to reward and retain key employees; and

(iv) strategies for enforcement of Federal equal employment opportunity laws by Federal agencies as a means of eliminating artificial barriers to the advancement of women and minorities in employment.

(3) ADDITIONAL STUDY.—The Commission may conduct such additional study of the advancement of women and minorities to executive, management and senior decisionmaking positions in business as a majority of the members of the Commission determines to be necessary.

(k) POWERS OF THE COMMISSION.—The Commission is authorized to—

(1) hold such hearings and sit and act at such times;

(2) take such testimony;

(3) have such printing and binding done;

(4) enter into such contracts and other arrangements in any fiscal year only to such extent or in such amounts as are provided in appropriations Acts;

(5) make such expenditures; and

(6) take such other actions;

as the Commission may determine to be necessary to carry out the duties of the Commission.

(l) OATHS.—Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(m) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such information as the Commission may require to carry out its duties.

(n) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Co-chairpersons of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

(o) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of property in order to carry out the duties of the Commission.

(p) USE OF MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

(q) CONFIDENTIALITY OF INFORMATION.—

(1) INDIVIDUAL BUSINESS INFORMATION.—Except as provided in paragraph (2), and notwithstanding section 552 of title 5, United States Code, in carrying out the duties of the Commission, including the duties described in subsection (j), the Commission shall maintain the confidentiality of all information that concerns—

(A) the employment practices and procedures of individual businesses; or

(B) individual employees of the businesses.

(2) CONSENT.—The content of any information described in paragraph (1) may be disclosed with the prior written consent of the business or employee, as the case may be, with respect to which the information is maintained.

(3) AGGREGATE INFORMATION.—In carrying out the duties of the Commission, the Commission may disclose—

(A) information about the aggregate employment practices or procedures of a class or group of businesses; and

(B) information about the aggregate characteristics of employees of the businesses, and related aggregate information about the employees.

(r) STAFF AND CONSULTANTS.—

(1) STAFF.—

(A) APPOINTMENT AND COMPENSATION.—The Commission may appoint and determine the compensation of such staff as the Commission determines to be necessary to carry out the duties of the Commission.

(B) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day the staff member is engaged in the performance of duties for the Commission. The Commission may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(s) EXPERTS AND CONSULTANTS.—The Co-chairpersons of the Commission may obtain such temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(t) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Co-chairpersons of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(u) TECHNICAL ASSISTANCE.—On the request of the Co-chairpersons of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section. Such sums shall remain available until expended, without fiscal year limitation.

(w) TERMINATION.—Notwithstanding section 15 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall terminate 4 years after the date of the enactment of this Act.

SEC. 202. PAY EQUITY TECHNICAL ASSISTANCE.

(a) STATEMENT OF PURPOSE.—Recognizing that the identification and elimination of discriminatory wage-setting practices and discriminatory wage disparities is in the public interest, the purpose of this section is to help eliminate such practices and disparities by—

(1) providing for the development and utilization of techniques that will promote the establishment of wage rates based on the work performed and other appropriate factors, rather than the sex, race, national origin, or ethnicity of the employee; and

(2) providing for the public dissemination of information relating to the techniques described in paragraph (1), thereby encouraging and stimulating public and private employers, through the use of such techniques, to correct wage-setting practices and eliminate wage disparities, to the extent that they are based on the sex, race, national origin, or ethnicity of the employee, rather than the work performed and other appropriate factors.

(b) PROGRAM SPECIFICATIONS.—In order to carry out the purpose of this section, the Secretary of Labor shall develop and carry out a continuing program relating to pay equity. Such program shall include—

(1) the dissemination of information on efforts being made in the private and public sectors to reduce or eliminate wage disparities, to the extent that they are based on the sex, race, national origin, or ethnicity of the employee, rather than the work performed and other appropriate factors;

(2) the undertaking and promotion of research into the development of techniques to reduce or eliminate wage disparities, to the extent that they are based on the se , race, national origin, or ethnicity of the employee, rather than the work performed and other appropriate factors; and

(3) the provision of appropriate technical assistance to any public or private entity requesting such assistance to correct wage-setting practices or to eliminate wage disparities, to the extent that they are based on the sex, race, national origin, or ethnicity of the employee, rather than the work performed and other appropriate factors.

(c) DEFINITION.—For the purpose of this section, the term "other appropriate factors" includes factors such as—

(1) the skill, effort, responsibilities, and qualification requirements for the work involved, taken in their totality;

(2) geographic location and working conditions; and

(3) seniority, merit, productivity, education, and work experience.

SEC. 203. SUBMISSION OF EEOC SUMMARY AND ANALYSIS OF EQUAL EMPLOYMENT OPPORTUNITY DATA.

Section 705(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4(e)) is amended by inserting after the first sentence the following: "The Commission shall include in each such report a summary and analysis of data submitted by employers concerning employment opportunities by sex, race, national origin, or ethnicity occurring among and within industries and occupational groups.".

SEC. 204. EDUCATION AND OUTREACH.

Section 705(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following:

"(2)(A) In exercising its powers under this title, the Commission shall carry out educational and outreach activities (including dissemination of information in languages other than English) targeted to—

"(i) individuals who historically have been victims of employment discrimination and have not been equitably served by the Commission; and

"(ii) individuals on whose behalf the Commission has authority to enforce any other law prohibiting employment discrimination;

concerning rights and obligations under this title or such law, as the case may be.

"(B) As one means of satisfying the requirements specified in subparagraph (A), the Commission may make grants to State or local governmental entities, or public or nonprofit private organizations.".

SEC. 205. ANNUAL REPORT BY OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS.

Section 718 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-17) is amended—

(1) by inserting "Programs" after "Compliance"; and

(2) by adding at the end the following:

"At the close of each fiscal year, the Office of Federal Contract Compliance Programs shall submit to the Congress and to the President a report that includes—

"(1) a summary and analysis of affirmative action reports submitted to such Office by employers who enter into Government contracts; and

"(2) an analysis of employment opportunities and wage differentials by sex, race, national origin, or ethnicity occurring among and within industries, occupations, job groups, and job titles.".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Does the gentleman from Illinois [Mr. HYDE] stand in opposition?

Mr. HYDE. Mr. Chairman, I do.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, civil rights is important in the American experience because it is this society's most visible reaffirmation of our continuing commitment to the bill of rights. The debate over the nature and extent of that commitment is a valid and necessary one if we are to pursue the twin pillars guaranteed by our Constitution—that of individual opportunity and individual liberty. Neither can be permitted to suffer at the other's expense.

But let us be clear about one point: We are now debating civil rights in 1991 not because of political expediency. We are debating civil rights because civil rights in the employment area have been set back 25 years by a string of disastrous Supreme Court decisions.

We have now reached a point in the debate when I think most Members will be able to fully appreciate the work embodied in the bipartisan substitute. Two months ago, I presided over a markup of the House Judiciary Committee of H.R. 1, a bill I introduced on the first day of the 102d Congress. At that time, the bill passed without amendment. Chairman FORD, presiding in the House Education and Labor Committee, presided over a similar markup that produced a similar result. Quite simply, the bill as reported addressed in a forthright manner the issues raised by these five recent decisions by the Supreme Court.

Unfortunately, subsequent events overtook the careful and good efforts of everyone involved in the two committees who moved H.R. 1 forward. Those events included the intense and good faith negotiations between members of the business community and the civil rights community, the disruption of those discussions by the White House as they began to come to fruition, and a stream of unceasing rhetoric from the White House about the mystical existence of quotas in a bill that had absolutely nothing to do with preferences.

However, just as subsequent events overtook the original H.R. 1, I believe they have finally overtaken the President's cynical ploy of saying the word "quota" without respect to the substance of the legislation as well. By attacking the issues head on, by listening to the input of a wide range of legislators as well as the business community, the bipartisan substitute has come to be recognized as both a good bill and a fair bill. During yesterday's debate, the change was leveled that it is a lawyers' bill. Yes, that is correct. It has to be a lawyers' bill since the sole purpose of the legislation is to remedy five highly complex and technical decisions handed down by the Supreme Court. Unlike 1964 and 1965, this is not the occasion for broad-stroke legislation or bold and novel ideas. Yet, despite the complexity of the subject matter, the simplicity of the legislative goal remains clear—that of restoring what had been the law and what had been the operating procedures for the past 25 years before the Supreme Court decided to change the rules in midcourse.

In the swirl of rhetoric surrounding this debate, I believe it is essential to go straight to the core provisions of the Brooks-Fish substitute. Those key areas involve the questions of damages, the legal standard of business necessity, the burden of proof, question of adjusting test scores, and quotas. On the question of the burden of proof, a fallacy has been perpetrated in some of the debate witnessed yesterday. That fallacy maintains that the bipartisan substitute would somehow shift the burden of proof to the employer, while the President's bill would not. That is simply not true; both bills recognize the fallacy of the Supreme Court's change in this area, and there should be no further confusion on this point.

With respect to damages, you are also well aware that in the substitute there is a cap on punitive damages in cases of intentional discrimination of $150,000, or the amount of compensatory damages, whichever is greater. This is the identical provision that the Members voted on last Congress and which passed this body in overwheming fashion. Let us remember that on the issue of damages, damages only apply to cases of intentional discrimination and not to cases of unintentional discrimination that may have a discriminatory impact. In those cases, the bill provides that victims of unintentional discrimination will receive only equitable relief, such as back pay and reinstatement.

In defending against a discrimination case, businesses may show that employment practices that have resulted in unintentional discrimination were taken because they bore a significant and manifest relationship to the business practice in question. With that showing of business necessity, a case of unintentional discrimination will not lie.

Important to note is that the standard utilized—that of "significant and manifest"—is taken directly from the language of the 1971 Supreme Court decision Griggs versus Duke Power Co. Time and time again, the White House and the Attorney General have gone on record as saying that the key to city rights legislation was the restoration of Griggs as the operative standard. This has been done.

Subsequent to the markup of H.R. 1, the so-called issue of race norming of test scores was raised to fever pitch. Though not related in any fashion to the substance of the five Supreme Court decisions under review, it was felt that a responsible civil rights act in 1991 had to deal with that issue as well. For that reason, the Brooks-Fish substitute outlaws race norming and provides that if you cannot utilize a test that validly and fairly predicts the ability of the test taker to perform the job, then you, as an employer, may use other methods to assist you in the employee selection process.

Finally, there is the quota issue. The Members are all well aware that even before the President saw the revised bill, he was quoted through his Press Secretary as saying that it was still a quota bill. The unassailable fact is that, quite to the contrary, my substitute will for the first time state in law that quotas are an unlawful employment practice and that any person will have a cause of action if they are harmed by a quota. The sharp contrast between the shrillness of the President's charges and the silence of his bill to address the very issue which he has inflamed, is curious, to say the least. Nevertheless, the issue is a false one and should be dismissed from substantive debate.

In crafting this balanced substitute, we have had the vital input of a number of Members who made extraordinary efforts to dig into the difficult substantive issues. They read cases; they posed questions; and they were always ready to listen. This substitute bears their imprint and they can deserve and receive our sincere thanks. In addition, the understandings reached by the business community and civil rights groups are preserved in the substitute. Their willingness to work together under intense outside pressure shows that such alliances are possible when the stakes are so high and when good will is present.

Finally, the willingness of both parties to rise above the level of partisan politics and pursue the higher ground of principle decisionmaking have helped restore the type of bipartisan consensus that has always characterized the civil rights effort in this body for 40 years. I want to extend particular thanks to the ranking minority member of the committee, Mr. FISH, for his assistance, counsel, and complete dedication to achieving a fair and balanced piece of legislation. By ignoring the naysayers and those who would inflame passions over reason, he and others have moved the debate forward in our effort worthy of the civil rights legislative tradition.

This may be a tough vote for some of you—it will require you to take a personal stand, to decide whether you will support the principles that made this Nation great. The bill is a good one and a fair one, and it certainly deserves your support.

□ 1050

Mr. Chairman, I reserve the balance of my time.

Mr. HYDE. Mr. Chairman, I yield myself 5 minutes..

Mr. Chairman, in the few minutes left it is impossible to spell out in detail why this bill is quota-friendly, but Justice Sandra Day O'Conner anticipated H.R. 1 back in 1988, when in the case of Watson versus Fort Worth, she said, and I quote, "If quotas and preferential treatment become the only cost-effective means of avoiding expensive litigation and potentially catastrophic liability, such measures will be widely adopted.

The prudent employer will be careful to ensure that its programs are discussed in euphemistic terms, but will be equally careful to ensure that the quotas are met.

Now, H.R. 1 does not outlaw quotas. Its definition of quotas only outlaws them if you hire unqualified people. Nobody does that. As long as the threat of jury trials with unlimited damages is in this bill, it is a quota bill.

□ 1100

Now, civil rights under this bill becomes something you measure by computer. It becomes a game of statistics. It assigns your civil rights by your membership in a group, not as an individual citizen.

As to race norming on employment tests, H.R. 1 only appears to outlaw this fraudulent practice. What they actually outlaw is valid and honest testing. So what they give with the one hand they take away with the other.

I want to talk about divisiveness, the divisiveness of hiring by racial and ethnic preferences which is the heart and soul of H.R. 1. There is afoot in this world a great centrifugal force, the Serbians fighting Croatians, the Catholics fighting Protestants in Northern Ireland, Ethiopians fighting Eritreans, Armenians versus Moldavians, Georgians, Uzbekistanis, Kazakhstanis, and even in Canada, we have a separatist movement in Quebec. It seems that the world is coming apart at the seams. We need a centripetal force to bring us together. We have that unifying force in our constitutional promise of equal protection of the law, and that constitutional promise resonates like a tuning fork with the Civil Rights Act of 1964 which forbids discrimination based on race, ethnicity, religion, and gender, and because it fine-tunes our

Constitution, it has the support of most Americans.

We, as a nation, solved our tribal problems by insisting that it was individuals who have rights and rejecting the notion of group rights. I once heard Ronald Reagan remark that you could move to Germany and become a German citizen but you would never be a German; you could move to France and become a French citizen, but you will never be a Frenchman; but no matter who you are and where you come from, you come to America and become a citizen, you are an American. We are a multiethnic and a multiracial nation, and we are the envy of the world, because its the individual that counts, not race, not gender, not group.

We need to emphasize our shared national identity.

This legislation pits group against group, race against race, ethnic against ethnic. It is a backward leap from 1964 and the Civil Rights Act.

You cannot fight discrimination with discrimination. It is like treating a man who is bleeding to death with leeches.

The civil rights crusade which is one of the shining moments in the history of self-government has been hijacked by certain groups bent on group entitlement. Let us vote no on H.R. 1 and, thus, reaffirm our Constitution and the Civil Rights Act of 1964.

Mr. Chairman, of course, I oppose the Brooks-Fish substitute. It contains supposed antiquota language that does not ban quotas and, in fact, encourages them. The language they have chosen—whether unintentional or intentional—simply does not work. In addition, this substitute contains no real limitation—no real cap—on damages. Damages, of course, are the primary problem in this bill for America's employers.

Also, once again, they have chosen not to use the language from the holding in the Griggs case. So, a new business necessity test in disparate impact cases will confuse employees and prompt extensive litigation.

Again, I must stress that the language they have put in their substitute ostensibly to resolve the questions I have raised regarding the problem of race norming will leave the opposite effect. Their language means that employers will have to undertake lengthy, expensive validaiton studies and may not be able to use existing aptitude tests at all.

In my estimation, this substitute proposes to do far more than merely restore title VII of the Civil Rights Act of 1964 to its legal posture prior to a series of Supreme Court decisions that occurred in May and June 1989. Instead, for the first time, this legislation will allow the recovery of compensatory and punitive damages in employment discrimination cases under title VII. It will encourage costly and unnecessary litigation, delays in settling disputes, jury trails and large damage awards. Furthermore, because disparate treatment cases are often built on statistics, quotas will be the easiest and surest way for an employer to protect against these new and potentially expensive remedies in H.R. 1.

The Brooks-Fish substitute contains the same cap on damages as was adopted on the House Floor last year. Of course, it is a phony cap—in reality, it is not a cap at all. First of all, compensatory damages would be left unlimited and unchanged. Second, the real measurement of possible punitive damages becomes whatever a plaintiff is awarded in compensatory damages. Under the language, a plaintiff can receive up to $150,000 in punitive damages or an amount of punitive damages equal to compensatory damages, whichever is greater. So, if a plaintiff recovers $1.5 million in pain and suffering, they also could receive up to $1.5 million in punitive damages as well. It is not a cap that gives much aid and comfort to employers.

Another much discussed, but little understood, aspect of this debate focuses on the employer's burden of proof in disparate impact; that is, unintentional discrimination cases. Here again, the proposed substitute does not restore the same evidentiary standards that were used in disparate impact cases prior to the Supreme Court's Wards Cove decision. It contains a totally new definition of "business necessity." It still permits a plaintiff to lump all of an employer's employment practices together, merely allege they have a discriminatory impact and attack an employer's bottom line work force numbers. Under this substitute if, after discovery, a plaintiff is still unable to identify the specific employment practice causing disparity, the judge still has the discretion to waive that requirement. In the face of these blanket allegations, an employer would then have to prove that each and every one of its hiring practices either had no statistical effect or was required by business necessity.

Further, effective job performance becomes the standard for hiring or promotion decisions. Employers will be discouraged from considering a prospective employee's long range potential for promotion and be forced to hire persons who may only meet the minimum requirements of the job at hand. It will be an unfair employment practice to hire for excellence, not merely for adequacy.

Once again, the civil rights groups and their supporters have chosen not to deal with the problematic language in this legislation that will inevitably lead to quotas. Instead, they have come up with another new version of the term "required by business necessity." Now, they want employers to prove that there is a significant, as well as manifest, relationship between employment practice and the job in question. What does significant mean? The language they have selected has never been used in any court in any case interpreting the disparate impact theory. This language has been the focus of no hearings, no testimony and there is virtually no legislative history as to what it could mean. What it really means is total uncertainty for an employer.

What an employer has to prove to justify the business necessity of a specific employment practice ought to be governed by the landmark holding in the 20-year-old Griggs decision and the subsequent cases applying the Griggs standard. In stark contrast to the Brooks-Fish substitute, the administration's bill would codify the exact holding of Griggs in its definition of business necessity—"manifest relationship to the employment in question." This very language, by the way, has been cited in every subsequent Supreme Court case discussing the disparate impact theory since 1971.

Unquestionably, quotas will be the natural result of the new, untested and financially threatening language in both the reported version of H.R. 1 and the new alternative. Employers will simply choose to hire by the numbers to protect themselves against lengthy, complicated, and expensive law suits.

As both President Bush and the Attorney General have stated, the language contained in new section 111 that purportedly outlaws quotas is a hoax and farce. It simply takes away what it pretends to give.

Proponents of the Brooks-Fish substitute argue that this language outlaws quotas. But by its very terms, it's only a quota if:

First, an employer hires a fixed number or a fixed percentage based upon their race, color, religion, sex, or national origin;

Second, an employer actually reaches; that is, attains the specific number or percentage; and

Third, an employer hires persons, regardless as to whether they are qualified.

Ironically, this provision actually could encourage quotas because employers could hire solely based upon race, ethnicity or sex, but still easily evade the new Federal prohibition against quotas. Goals and preferences that actually amount to quotas would still be allowed. It encourages employers to hire marginally qualified persons, rather than search for excellence. Most importantly, this substitute does nothing to alter the provisions contained elsewhere in H.R. 1 that actually cause the quota problem; that is, the language on disparate impact cases and damages.

Last, but not least, I want to comment on the language in the Brooks-Fish substitute that again claims one thing but does another. The substitute's proponents say they are outlawing the practice known as "within group norming," or as it is sometimes called "race norming." This practice, which I have criticized publicly, is totally inconsistent with the principles and intent of title VII. "Within group norming" is a method of adjusting or altering the results of employment aptitude tests. Under this so-called score adjustment strategy, an individual's actual score is converted into a percentile reflecting that person's score compared only to others in his or her own racial or ethnic group. A group-based percentile score is then substituted for an individual's real score. Actual scores become meaningless and the job relatedness value of these tests is subsumed in favor of achieving a certain racial or ethnic mix. Typically, persons who score higher on the underlying test appear to have scored lower once their within group percentages are substituted for their actual score.

While this employment practice has only recently received media attention, the practice itself is not new. In fact, it dates back more than a decade, where it has been continuously used by State employment services across the Nation with the active encouragement of the U.S. Labor Department. As of April 15, 1991, the norming scoring method was being used in 34 States as well as by numerous private employers.

But the substitute chooses to deal with this problem by creating a new and potentially worse problem. It appears that the civil rights advocates now want to prevent employers from using any aptitude tests at all. I have objected to a scoring method tied to race or ethnicity. Now, rather than deal effectively with that discriminatory practice, the social engineers want to outlaw tests.

Here, we are not just talking about potential quotas. This practice is aimed at achieving a particular racial/ethnic makeup in a work force—it is an employment practice specifically aimed at the establishment of a quota hiring system. Now, I thought title VII meant that employment decisions should be made without regard to race, color, religion, sex, or national origin. Further, this legislation—which amends title VII—is also supposed to be about equal employment opportunity and not statistical fixes.

The Brooks-Fish substitute contains two sections—section 115 and 116—ostensibly dealing with the issue of discriminatory test scoring. But, section 115 permits employment tests only if such tests validly and fairly predict an individual's ability to perform a specific job, without regard to race, color, religion, sex, or national origin. Importantly, the provision contains no definition of "valid" and "fair." "Fairness," in particular, is a highly subjective term. In the context of aptitude testing, fairness can mean many different things to many different people.

"Validly" connotes applying the formal validation techniques of the industrial psychologist. It implies that anything less than a full blown sophisticated study cannot be used in defense of charges. This is a clear path to quotas. "Fairly" is not a technical term. Many people are promoting their own definitions of "fairness" these days and claiming scientific support for such definitions, when in fact there is no such support. The term "fairly" can only lead to endless litigation. The word "predicts" implies a type of validation that involves a statistical study. The common typing test and experience requirements, based on the content of the job would be in jeopardy.

Because of the vagueness and lack of definition this language will prompt years of litigation, with the courts ultimately deciding what these terms mean. In the intervening period, employers will have to run expensive statistical and validation studies, even if their test has no adverse impact on minorities or women. Further, the language states that a test can only be used to measure aptitude for a specific job. Tests could only be used to measure qualifications of the job at hand. This provision may well prevent the use of tests to gauge a employee's general aptitude or long range potential for promotions.

At best, section 115 will discourage the use of employment related aptitude tests by employers as well as by public and private employment agencies. At worst, aptitude testing could be jeopardized. Under current law, an employer or employment agency can use an aptitude test, if its general job relatedness can be demonstrated. This section will place a much greater burden on employers, in an attempt to either outlaw all employment aptitude testing or severely restrict its use. Tests are "employment practices" that should be judged under the same standard as all other employment practices—the business necessity test. Once a plaintiff claims adverse impact through a showing of statistical disparity, an employer should be able to justify the business necessity of a test by showing that it is job related and that no less discriminatory alternative is available which measures the tester in the same manner.

Section 116 says it outlaws race norming, but while the language is patterned after my amendment, there are some major changes that could alter the legal result. Of course, the restrictive language in the preceding section 115 strongly devalues and undermines the utility of the language in section 116. Further, section 116 says it only applies to written employment tests. What about aptitude tests that measure manual dexterity? What about tests taken on computers or scored on computers? What about routine typing tests?

In addition, the prohibition only applies to "individual test takers." Does this language mean that scores may continue to be adjusted for groups of test takers? It may be an attempt to raise a question that could later be litigated, as to whether or not this language only prohibits score adjustments for individuals and not score adjustments for particular racial or ethnic groups.

Unfortunately, the amendment that I offered in the House Judiciary Committee and which was contained in the Michel substitute, is the only language that would clearly end this discriminatory practice without any other adverse side effects. It is very unfortunate that this House, because of a restrictive rule, never had an opportunity to vote on my amendment separately.

Mr. Chairman, for all of these reasons and more, the Brooks-Fish substitute deserves to be rejected by this House. If adopted, I will continue to work to make sure that this counterproductive proposal does not become law.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. FISH] for the purpose of a colloquy.

Mr. FISH. Mr. Chairman, I am going to introduce into the RECORD of the debate a statement concerning the antiquota provisions of the Brooks-Fish substitute. You are familiar with my statement, and I would like to ask you whether you find such statement consistent with your views of these provisions.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. FISH. I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Yes, I find the remarks reflective of the understandings and intent behind the antiquota provisions, as already enunciated in my colloquy with the majority leader, Mr. GEPHARDT, during general debate. Together with the colloquy with Mr. GEPHARDT, this statement should constitute the authoritative legislative history on the antiquota provisions.

Mr. FISH. Mr. Chairman, on behalf of the chairman, the gentleman from Texas [Mr. BROOKS], and myself, I would like to address the antiquota provisions of the Brooks-Fish substitute found in section III of the bill, and I am incorporating the document which I discussed with Chairman BROOKS into my remarks at this point in the RECORD.

JOINT STATEMENT OF THE SPONSORS OF THE BROOKS-FISH SUBSTITUTE REGARDING ANTI-QUOTA PROVISIONS

On behalf of Chairman Brooks and myself, I would like to address the anti-quota provisions of the Brooks-Fish substitute, which are found in section 111 of the bill. While it was always clear in our view that H.R. 1 would not lead to quotas, since it would simply restore the *Griggs* rule which was in effect for 18 years without causing quotas, our provisions in section 111 provide even further guarantees and make this an *anti*-quota bill.

Specifically, with respect to quotas, section 111 states that nothing in the bill may be construed to "require, encourage, or permit an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin," and that the use of such quotas "shall be deemed to be an unlawful employment practice" under title VII. Therefore, section 111 explicitly bans the use of hiring or promotion quotas.

In addition, in stating that the use of such quotas is deemed to be an unlawful employment practice, that means that the full range of title VII remedies would be explicitly made available to anyone victimized by an illegal quota, including injunctive relief, back pay, and, in the case of intentional use of an illegal quota, damages as well. Voting for the Brooks-Fish substitute is clearly voting against the use of quotas.

We would like to address the definition of quota in section 111(b). That section defines a quota as a "fixed number or percentage of persons of a particular race, color, religion, sex, or national origin which must be attained, or which cannot be exceeded, regardless of whether such persons meet necessary qualifications for the job." This section purposely incorporates language used by Justice Sandra Day O'Connor in *Local 28 of Sheet Metal Workers* v *EEOC*, 106 S.Ct. 3019, 3060 (1986), wherein she refers to a quota as a "fixed number or percentage which must be attained or which cannot be exceeded, and would do so regardless of the number of potential applicants who meet necessary qualifications."

Some have erroneously claimed that because the definition contains the phrase "regardless of whether such persons meet necessary qualifications for the job," the legislation would automatically permit use of fixed numbers or percentages of qualified persons. That is not correct.

The phrase "regardless of qualifications" does not have that meaning. Instead, that phrase simply explains that, in accordance with Justice O'Connor's definition, a quota refers to the use of fixed numbers or percentages *whether or not* job applicants are qualified. It means hiring or promoting by the numbers whether or not it would involve qualified or unqualified persons. Under our substitute, incorporating as we do Justice O'Connor's definition, the use of fixed numbers or percentages whether or not job applicants are qualified is a quota and is made illegal.

In our view, this definition clarifies what is wrong with quotas and why they are discriminatory. First, quotas focus an employer's attention exclusively on an individual's race, color, religion, sex, or national origin, rather than on an individual's skills, abilities, potential, and other factors relevant to job performance. Second, quotas can operate as a self-limiting ceiling on affirmative action efforts. Third, quotas may act to exclude qualified individuals unfairly.

In addition, the assertion that the legislation would permit blanket use of fixed numbers or percentages with respect to qualified persons is wrong for another reason. Section 111 approves of voluntary or court-ordered affirmative action, if it is consistent with the decisions of the Supreme Court or otherwise in accord with employment discrimination law as of the date of enactment of the legislation. Under Supreme Court decisions and title VII law, use of numbers or percentages even of fully qualified persons is permitted only under particular, specific circumstances. This legislation does not expand the use of numbers or percentages beyond what was permissible under the previous affirmative action decisions of the Supreme Court and related employment discrimination law as of the date of enactment of this legislation.

Some questions have been raised about the fact that the "proviso" clause in section 111 is worded differently than in section 13 of H.R. 1. The Brooks-Fish substitute now stated that it should be construed to "approve" affirmative action where consistent with Supreme Court decisions or other law, while H.R. 1, as reported, previously stated that nothing in the bill was to affect the validity of such affirmative action. However, no difference in meaning is intended. The intent of the provision remains the same: to leave things where they were before passage of the Brooks-Fish substitute with respect to the validity of affirmative action.

With respect to the proviso, it is not necessary for Congress to examine all the Supreme Court's decisions on affirmative action specifically before stating that the Act should be construed to approve the lawfulness of affirmative action that is consistent with these decisions. The antiquota language is being inserted to address a number of concerns about demonstrating that Congress does not approve any form of discrimination. At the same time, in taking this step, Congress is making clear that in stating that quotas are prohibited, it is most certainly not affecting lawful affirmative action. That is the reason for the wording of this proviso. The bill simply says that the Supreme Court's decisions on affirmative action will be as valid on the day after we pass this bill, including this bill's ban on quotas, as they were the day before.

Finally, opponents of the bill have asserted that it would cause problems for employers, because the disparate impact provisions would lead them to adopt quotas while the antiquota provisions would make them liable if they adopt them. That assertion is flatly wrong. All employers need to do is what most of them did while Griggs was the law between 1971 and 1989—adopt fair and non-discriminatory job practices. This bill now makes clear that all workers are protected from illegal job bias. Any member of Congress who is against discrimination and against quotas should vote for this bill.

Mr. HYDE. Mr. Chairman. I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to H.R. 1.

Mr. Chairman, it is with regret and a good deal of frustration that I must rise here today in opposition to the Democratic leadership's compromise civil rights bill. I should not have to. This body should be considering a reasonable bill to address discrimination in the workplace. Instead, we are discussing a bill that will ensure full employment for lawyers.

Make no mistake about it, there is a real need to address job discrimination. Everyone in this Chamber wants to establish effective legislation to protect minorities and women from bias. But this bill does not do that.

What this bill does, Mr. Chairman, is force employers to protect themselves from devastating lawsuits by establishing quotas. What other choice will businesses have? Advocates of this bill claim that language strictly prohibits quotas. I see. Now firms will be sued into the ground if they do not come up with quotas and they will be prosecuted if they do.

Either way, the small businessman loses and the lawyers win. And job discrimination is still not addressed.

This bill does not deal with the problems that minorities face in the workplace. And because of that I fear that we will be revisiting this issue in the very near future. Let us not create a situation where employers have to guess how Congress might restructure civil rights law in 5 years.

But there is another significant reason why I cannot vote for this bill. And the most frustrating thing is that it should have been worked out long before this bill came to the floor.

Because this bill does not include an equitable and fair remedy for a small firm that employs many Alaskans, I cannot support this bill.

The company I am speaking of is the Wards Cove Packing Co. which has been to court on eight separate occasions, and on each of those appearances, the courts have found Wards Cove innocent. Eight times. It has spent 20 years and $2 million clearing its name. Wards Cove was even found innocent under the very Griggs standards that the Civil Rights Act seeks to restore.

But now if this bill passes, Wards Cove will have to retry this entire case again. You see, the plaintiffs have filed an eighth appeal to the case solely hoping to keep the issue alive. If this bill passes, it would require that the Wards Cove case start over again using altogether new standards.

Wholesale relitigation of this case would be totally unfair to a company that has consistently been found innocent in court. It would put this firm out of business.

And the most frustrating aspect of this problem is that I should not have to be speaking here in opposition to this bill. Instead, I should be promoting my amendment to this bill that would take care of this problem. But my amendment was not included in the rule. And that's just plain wrong.

It is wrong because my amendment was very simple and very specific. It is wrong because it would allow a final decision in this case but would prevent wholesale relitigation. It is wrong because my amendment enjoyed wide bipartisan support. And it is wrong because without a remedy for Wards Cove I cannot vote for this bill.

This is not a plea to exempt Wards Cove from any civil rights law. Far from it. Wards Cove has been found innocent eight times. It would provide for a final resolution to this drawnout case instead of suddenly forcing a complete overhaul of the case.

If nothing else, let me make one thing perfectly clear. This compromise does not remedy the Wards Cove problem. The plaintiff has filed yet another appeal, and with the case still technically alive it would have to be retried under the new civil rights guidelines.

I originally pushed to have this problem resolved in committee. But it was not. I then pushed to have it corrected in the leadership compromise. But it was not. Finally, I asked that a very straightforward amendment be included in the rule. But it was not.

Even the civil rights groups I speak with don't have a problem with a specific exemption for Wards Cove. But why is it that the Democratic leadership cannot accept this idea? I have yet to hear a good reason.

And now after all this I am asked to vote for this bill. But I can not. This is a quota bill and it shifts the burden of proof, and I cannot support this bill because it could well put a small firm under.

To supporters of this bill I say you really dropped the ball. I guess it merely proves that the only rights this bill will protect are those that encourage endless litigation.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Chairman, I spoke at some length earlier about the Brooks-Fish substitute and why I believe it fails to respond to either the quota charge or to the charge that it creates a litigation bonanza that is not designed to provide real relief to the victims of workplace discrimination.

At the risk of repeating myself, I want to reiterate why I sincerely believe the Brooks-Fish substitute is not good civil rights legislation.

The opposition to H.R. 1 and its various manifestations, including Brooks-Fish, focuses on two issues, quotas and damages. This is not to say that there are not a lot of other provisions in the substitute, attorneys' fees, Martin versus Wilks and retroactivity, to name a few that are quite troubling, and then there are also many new issues not even in H.R. 1 as it was originally introduced.

Mr. Chairman, for the past year and a half, we have argued the quota implications of H.R. 4000 and H.R. 1 are caused by the bills' substantive provisions, namely, the rules of proof in disparate-impact cases which are stacked against employers, and the availability of punitive and compensatory damages in intentional discrimination class actions based on statistical proof which will drive employers to covertly hire and promote by the numbers to avoid costly litigation.

Thus, the only way to respond to the quota call is to make real changes to the substantive provisions to ease the pressure on employers to avoid litiga-

tion. The Brooks-Fish substitute fails to do this.

The Brooks-Fish substitute contains yet another novel definition of business necessity that, again, is not the definition used in Griggs. The lack of familiarity with this definition will require courts to grapple with how it applies to employment practices that are being challenged and will leave employers little comfort as they organize their workplace.

Although the Brooks-Fish substitute takes positive steps on the issue of specific identification of practices, plaintiffs will still be able to group employment practices in disparate-impact cases in a variety of circumstances. All of these elements combine to build pressures on employers to balance their workplace numbers. Including language prohibiting quotas does little to make sure that they do not covertly resort to quotas.

Further, the narrow definition of quotas in the Brooks-Fish substitute, combined with the codification of Supreme Court decisions approving affirmative action, have turned the quota ban on its head. The Washington Post summed it up best when it said that the Brooks-Fish definition of quotas is a straw man. I am not fooled by the straw man, and you should not be either.

As I said earlier today, if it looks like a fish in a brook and swims like a fish in a brook, you cannot put a sign on it and call it a duck and expect anyone to believe it.

I alluded to it before, but let me be precise in saying that a cap that limits punitive damages to the amount of compensatory damages or $150,000, whichever is greater, is not a cap at all. The Brooks-Fish substitute still allows for jury trials compensatory damages that are totally unlimited, and punitive damages.

I would ask my colleagues to think seriously about what they are doing and vote against this legislation.

SUMMARY OF ANALYSIS OF CHANGES TO H.R. 1

1. Disparate Impact: Some improvements were made in the provisions governing this complex area, but the fundamental problems continue. The section still creates an entirely new form of disparate impact analysis which unfairly stacks the deck against employers in litigation, creating intense pressures on employers to correct statistical imbalances through workplace preferences. Further, none of these changes have any relevancy to the problems of quotas arising from the intentional discrimination provisions.

2. Mixed Motive Cases/Price-Waterhouse: The slight change from "contributing" to "motivating" does little and, in fact, simply goes back to H.R. 4000 as introduced. An employer remains liable for punitive and compensatory damages even where it demonstrates that it would have made the same decision regardless of the improper bias. The bill the President vetoed would have limited liability to lost attorneys' fees.

3. Statute of Limitations: Change from 2 years to 18 months is marginal improvement. Increase is still threefold over current limitations of 6 months.

4. "Cap" on Punitive Damages: No cap at all as cap is $150,000 or an amount equal to compensatory damages plus lost backpay, whichever is greater. Thus "cap" constantly floats.

5. Clarifying Attorneys' Fees: Originally provided that waiver of attorneys' fees could not be compelled as part of settlements. Now provides that attorneys' fees may be voluntarily waived. This change does little, as "voluntariness" is simply part and parcel of whether waiver of fees is compelled. The issue remains the same.

6. Anti-Quota Language: The new language prohibits quotas only in very narrow circumstances and, further, adopts by reference Supreme Court case law as existing at time of enactment concerning affirmative action, including use of workplace preferences. It does not address the underlying concern that employers will covertly use quotas to avoid litigation under H.R. 1 and, ironically, effectively permits a wide range of preferential treatment. The entire area of the proper role of affirmative action—in all its different forms—under Title VII has now, for the first time, been opened for debate.

7. Transition Rules/Retroactivity: New law will apply to all cases still under review in the courts. Closed cases can be reopened if justice requires. Provision simply goes back to H.R. 4000 as vetoed by the President.

8. Tests/Race-Norming: Entirely new language places extreme restrictions on the use of employment testing. Restrictions on race-norming thus becomes irrelevant as few tests will be given.

9. Extraterritorial Employment: Entirely new provision extends Title VII to U.S. citizens employed by U.S. businesses overseas. Reverses Aramco case.

10. Expert Witness Fees: New provision reverses the recent West Virginia University Hospital case to permit awards of expert witness fees and other litigation expenses under 42 USC 1988, a general attorneys' fees award statute applicable to several civil rights laws.

ANALYSIS OF CHANGES TO H.R. 1

Section 101, 102. Disparate Impact.

Business necessity: New definition (the latest among many) of "business necessity" still does not codify Griggs (which used the definition of "manifest relationship to the employment in question") and still overly restricts—through a sole focus on "effective job performance"—the range of factors an employer may use in deciding which employees to hire or retain. For example, there is no allowance for nonperformance factors such as a reduced need for the employees' services which could require lay off. Similarly, use of the word "effective" implies that employers may not distinguish between potential employees who will perform only up to the minimal level of job performance and those who will exceed minimal standards. Further, testing experts have repeatedly raised objections to the use of the word "significant" as part of the definition. Finally, this new definition has no applicability whatever to practices not involving nonselection criteria, such as employee benefit policies and working conditions, even though these are clearly covered by the bill according to the legislative history.

Grouping of practices: Some improvements have been made here, but plaintiffs will still be allowed to group practices in many kinds of situations, contrary to the weight of case law even before the Wards Cove decision.

Alternative practice: No significant change has been made here. The employer remains per se liable if the plaintiff can identify a practice with a lesser impact, regardless of whether the employer knew or could have known about the practice. An added provision that the difference in impact must be "more than merely negligible" does nothing.

Demonstrable evidence: The substitute eliminates the requirement of demonstrable evidence but appears to bring it back in through other new, otherwise unexplainable, limitations concerning the "type and sufficiency" of evidence needed to prove business necessity added at section 101(o)(2).

A new section (paragraph (5), p. 5) has been added which states that an employer may rely on "relative qualifications" of employees so long as that reliance is "required by business necessity." The provision is circular and does nothing because the reliance must still be justified by business necessity. Hence, the key issue is still the definition.

Summary: The disparate impact sections continue to create an entirely new form of impact analysis, stacking the deck against employers and creating intense pressures to eliminate statistical imbalances through racial and sexual preferences. Further, it bears repeating that none of the few changes made here even attempt to address the quota problems arising from the use of statistical imbalances in class action, intentional discrimination cases under H.R. 1's new punitive and compensatory damage provisions.

Section 103. Mixed Motive Cases/Price-Waterhouse.

The substitute changes "contributing" to "motivating"; hence, an improper bias must now be a motivating factor. This change merely goes back to last Congress's H.R. 4000 as introduced. Further, an employer is still liable for punitive and compensatory damages even if it demonstrates that it would have made the same decision regardless of the bias. Notably, the bill the President vetoed would have limited damages to lost attorneys' fees where an employer made this showing.

Section 105. Statute of Limitations.

The substitute for H.R. 1 would extend the statute of limitations for filing a claim of employment discrimination under Title VII from the existing period of 180 days to 540 days. While the 18-month limitations period is somewhat of an improvement over the 2-year period contained in the reported bill, the fact remains that it is still a threefold increase over current law. There is scant evidence in the legislative record that any increase in the statute of limitations is necessary, and such a dramatic extension is entirely inconsistent with Title VII's goal of prompt resolution of workplace discrimination complaints.

Section 106. "Cap" on Punitive Damages.

"Cap" is solely limited to punitive damages and would be $150,000 or an amount equal to compensatory damages plus lost backpay, whichever was greater. Hence the "cap" floats, depending on the amount awarded for compensatory damages (including pain and suffering) and backpay. Thus, if $200,000 is awarded in compensatory damages and $75,000 is lost backpay, the "cap" on punitives is now $275,000. This is no cap at all.

Section 107. Clarifying Attorneys' Fee Provision.

As reported, H.R. 1 provides that a court may not enter an order settling a Title VII claim unless the parties or their counsel attest that a waiver of attorneys' fees was not compelled as a condition of settlement. The substitute proposes to add language providing that the aforementioned provision does nothing to limit the right of parties to negotiate a settlement in which attorneys' fees are voluntarily waived. The circularity of the reasoning motivating this additional language is apparent as, even without the new language, the whole issue with respect to whether a waiver of attorneys' fees was compelled is whether or not the waiver was voluntary. Thus, the addition of the new language does nothing to alter the provision's substance. The language in the substitute merely makes explicit what was implicit in the original formulation of the provision. This attorneys' fee provision continues to add yet another layer of judicial inquiry and litigation thwarting Title VII's goal of encouraging settlement of employment discrimination disputes.

Section 111. Anti-Quota Language.

The new language does not address the underlying reasons H.R. 1 will lead to quotas and, in fact, effectively legitimizes a wide range of preferential race- and sex-based treatment.

The substitute contains language providing that "nothing in the amendments made by this Act shall be construed to require, encourage, or permit an employer to adopt hiring or promotion quotas. . ." This language is similar to a provision included in H.R. 1 as reported, with the exception that the substitute adds the word "permit." The substitute also then defines the word "quota" in a very narrow manner and provides that the use of a quota is an unlawful employment practice under Title VII. The anti-quota language in the substitute does not respond to the concern that passage of the bill will lead to unspoken reliance by employers on workplace numbers in hiring and promotion as a means to avoid litigation.

The quota concern generated by H.R. 1 has always been that employers will covertly use race or sex preferences in hiring and promotion to correct statistical imbalances in their workforce in order to avoid costly lawsuits. Opponents of H.R. 1 have never maintained that the bill would legitimize quota hiring or promotion, nor have opponents maintained that quota hiring would currently be permissible. Indeed, a strong case can be made under current Supreme Court precedent that strict use of a hiring or promotion quota is already illegal. The problem with H.R. 1, both as reported and with the substitute language, is that it leaves employers between a rock and a hard place. If their workplace numbers don't look right, employers may be on the hook for disparate impact or intentional discrimination. If employers try to correct workplace numbers through the use of racial or sexual preferences, they're on the hook for reverse discrimination. The anti-quota language does not change the fact that H.R. 1, even in its latest form, creates tremendous pressure on employers to avoid litigation both because 1) the rules of proof are stacked against them in disparate impact cases and 2) their liability for punitive and compensatory damages in class action intentional discrimination cases based on statistical imbalances can be astronomical. In the minds of many employers, the surest way to avoid litigation will be to massage the numbers just enough that attention is not drawn to the makeup of their workforce.

Further, while providing that the use of a "quota" is an unlawful employment practice, the substitute for H.R. 1 very narrowly defines the scope of practices that fall within that prohibition through narrowly defining the term "quota." The restrictive nature of the prohibition effectively permits a wide range of racial and sexual preferences—the necessary implication being that any practice not prohibited is permitted—turning the so-called prohibition on its head.

The substitute defines an illegal quota as "a fixed number or percentage of persons of a particular race, color, religion, sex, or national origin which must be attained, or which cannot be exceeded, regardless of whether such persons meet necessary qualifications to perform the job." (Section 111(b)). The employment practices of few employers would fall within this ban, as few would be willing to hire or promote individuals lacking necessary qualifications. Typically, hiring or promoting by the numbers occurs when a race or sex preference results in the selection of a less qualified individual over a more qualified individual. It does not appear that this type of quota hiring or promotion would be prohibited by the quota ban and, in fact, would, therefore, be permitted. As was previously mentioned, quotas in the narrowly defined form contained in the substitute are arguably already illegal, and the definition does not reach the types of hiring and promotion practices that employers will likely resort to as a means to avoid litigation.

The substitute also attempts to codify Supreme Court law with respect to when the use of racial or sexual preferences are permissible under Title VII. This is quite a complex area of the law, and the numerous Supreme Court decisions on this point are far from consistent. It is doubtful whether H.R. 1 is the proper vehicle to codify this complicated body of law en masse when there has been very little, if any, substantive discussion of the utility, the relative merits and appropriateness of the various manifestations of affirmative action policies, including racial and sexual preferences. The substitute attempts to take the easy way out by prohibiting the narrowest form of quotas, that are probably already illegal, and refusing to directly address the realities of the workplace and the manner in which hiring and promoting by the numbers affects the employment opportunities of all workers.

The ironic effect of the new "no quota" language is to sweepingly endorse racial and sexual preferences in many situations. As such, it extends the scope of H.R. 1 into entirely new areas never explored directly or indirectly at hearings or in debate.

Section 113. Retroactivity/Transition Rules.

The new provision will apply the law to all cases still under review in the courts. Thus, fact situations will be rejudged under entirely new legal standards not existing at the time those situations arose. Cases which have been in litigation for years will be thrown back to initial proceedings. Further, entirely closed and finished cases could be reopened "if justice requires." While proponents of H.R. 1 will argue that this standard is simply adopted from existing rules on civil procedure, legislative history on a similar provision in the bill the President vetoed basically instructed the courts to take a more expansive view of this provision than current law would justify. If proponents only wish to reflect existing law, there is no need for this provision. Further, obviously, much litigation will revolve around whether "justice" requires that a case be reopened.

Section 114. Congressional Coverage.

The Senate and "Instrumentalities of Congress" are now covered, but still no private cause of action is permitted. The same double standard remains.

Sections 115, 116. Use of Tests/Race-Norming.

Section 115, entirely new, amends title VII to place very strict limitations on the use of tests. For example, the sole focus on job performance with respect to each job would eliminate the now common use of tests to predict performance in a range of jobs. The concept that a test must "validly and fairly" predict job performance, while sounding inoffensive, also raises a host of issues for litigation. If a test is "valid," what does the additional qualifier of "fair" mean? (These are special rules over and above those concerning disparate impact analysis.) Section 116 then places restrictions on race-norming, but the prohibition on race-norming has now become almost irrelevant as section 115 has effectively severely restricted the use of employment testing. No test; no race-norming.

Section 119. Protection of Extraterritorial Employment.

The substitute contains a new provision which responds to a recent Supreme Court decision (Aramco) that title VII does not apply extraterritorially to regulate the employment practices of U.S. businesses overseas. The provision would extend title VII coverage to United States citizens who are employed abroad by American firms, but would provide an exemption if compliance with title VII would cause the firm to violate a law of the foreign nations in which it is operating. The provision in the substitute is consistent with the position of the administration before the Supreme Court, but once again, a far-reaching change in employment discrimination law is being undertaken with no pretense of substantive consideration in the legislative process. The extension of title VII coverage contained in the substitute would affect an estimated 2,000 U.S. companies which operate 21,000 overseas units in 121 countries. The provision would also extend title VII coverage to foreign corporations which are "controlled" by American employers. The substitute establishes a set of factors for determining corporate control, another issue that will be subject to much litigation. For your information, the Age Discrimination in Employment Act ("ADEA") was amended in 1984 to provide for extraterritorial application. The amendment was widely supported in the House.

Needless to say, hearings on an issue of this importance—extension of an American law to other countries and all the potential problems that may entail—would have been useful.

Section 120. Attorneys' Fees Provision.

This entirely new provision would reverse another recent decision by the Supreme Court (West Virginia University Hospitals) which found that expert witness fees and other litigation expenses were not recoverable under 42 U.S.C. 1988, a general attorneys' fees provision applicable to several civil rights laws.

Without hearings, it is difficult to say what the effect of this provision is.

CIVIL RIGHTS ACT COMPARISON

Section	H.R. 1, as reported	Brooks/Fish substitute	Michel substitute (administration proposal)	Comments (comments on Brooks/Fish substitute (BFS) in CAPS)
Wards Cove (Disparate Impact).	(1) Defines "business necessity" (two-pronged): . Selection practices: bear a significant relationship to successful performance of the job. Non-selection practices: have a significant relationship to a significant business objective of the employer.	Defines "business necessity": Bear a significant and manifest relationship to the requirements for effecitve job performance.	Defines "business necessity": Having a manifest relationship to the employment in question or legitimate employment goals are significantly served by, even if they do not require, the challenged practice.	BFS DEFINITION STILL FAILS TO CODIFY GRIGGS, WHICH WAS BROADER. SOLE FOCUS ON "EFFECTIVE JOB PERFORMANCE" EXCLUDES RELIANCE ON OTHER, LEGITIMATE ECONOMIC FACTORS: ALSO CAN'T USE FACTORS TO MEASURE ABILITY TO EXCEL. TESTING EXPERTS HAVE STRONGLY OBJECTED TO WORD "SIGNIFICANT." NO APPLICABILITY TO NONSELECTION PRACTICES. Administration bill developed from Griggs, Beazer, Watson, and Wards Cove.
	Specifies that language is meant to overturn Wards Cove and codify Griggs for the meaning of "business necessity".	Specifies that language is meant to overturn Wards Cove and codify Griggs for both the meaning of "business necessity" and the type and sufficiency of evidence required to prove "business necessity".	No provision	BFS NEW "TYPE AND SUFFICIENCY" LANGUAGE UNCLEAR BUT MAY NOT BE DIRECTED AT ACCOMPLISHING SAME PURPOSE OF DROPPED REQUIREMENT FOR "DEMONSTRABLE" EVIDENCE, I.E., FORMAL VALIDATION. (SEE BELOW AT #5.)
		Defines "requirements for effective job performance" to include factors such as attendance, punctuality and not engaging in misconduct or insubordination.		SLIGHTLY AMELIORATES PROBLEM OF EXCLUSIVE FOCUS ON JOB PERFORMANCE BUT DOES NOT GO FAR ENOUGH.
	(2) Shifts burden of proof to employer to justify practice when disparate impact is established.	Same as H.R. 1 as reported	Also shifts burden of proof to employer when disparate impact is established.	H.R. 1, the new substitute and the Administration bill all reverse Wards Cove on this issue.
	(3) Allow grouping of practices without requiring plaintiff to identify specific practices within the group which caused the impact. Limited exception when court finds plaintiff could identify practices which contributed to impact. Defendant required to justify practices which "contribute" to impact.	Retains grouping of practices rule, but has modified exception somewhat to require plaintiff after discovery to identify practice. Defendant still required to justify practices which "contribute".	Does not allow grouping of practices	Administration bill would preserve long-standing case law. "Grouping" contrary to existing law, even prior to Wards Cove. BFS EXCEPTION IS MINIMAL IMPROVEMENT, TO THE EXTENT IT IS DECIPHERABLE. Further, many practices not covered by recordkeeping requirements. "Contribution" also lower threshold than causation. H.R. 1 and BFS remain very unclear.
	(4) Per se violation of Title VII when an alternative employment practice exists which does not have a disparate impact.	Per se violation of Title VII when an alternative employment practice is available and has more than a negligibly less disparate impact.	Violation when alternative employment practice is comparable in cost and effectiveness to that causing disparate impact and the employer still refuses to adopt it.	H.R. 1 creates new rule on this issue. BFS SHUFFLES PROVISION INTO NEW SECTION BUT LEAVES ESSENTIALLY UNCHANGED; NEW PROVISION STATING DIFFERENCE IN IMPACT MUST BE MORE THAN "MERELY NEGLIGIBLE" DOES NOTHING.
	(5) Requires "demonstrable" evidence	No provision	No provision	BFS DROPS THIS SPECIFIC LANGUAGE BUT MAY RETAIN AFFECT THROUGH THE NEW LANGUAGE DISCUSSED ABOVE.
	(6) Existence of statistical imbalance alone does not prove disparate impact.	Same as H.R. 1 as reported	No provision	Provision is irrelevant, merely codifies existing rule that workforce comparisons must be between relevant labor pools.
	(7) Drug-use rules are unlawful only when adopted for intentionally discriminatory purposes.	Same as H.R. 1 as reported	No provision	Exclusion from impact analysis is necessary under H.R. 1 and the BFS because of the onerous nature of H.R. 1's new requirements.
	No provision	An employer may rely on "relative qualifications or skills" in selection procedures; however, if such reliance results in disparate impact, the reliance must be required by "business necessity".	No provision	"RELIANCE" STILL MUST BE PROVEN BY "BUSINESS NECESSITY" SO PROVISION IS CIRCULAR AND DOES NOTHING. FACT THAT CLARIFICATION IS EVEN NEEDED ON THIS INDICATES THE MANY PROBLEMS WITH H.R. 1.
Price Waterhouse	Overturns Supreme Court decision by Justice Brennan. Establishes a course of action when discriminatory motive was a contributing factor in decision; if employer proves that the same decision would have been made anyway, it is still liable for punitive and compensatory damages.	Same as H.R. 1 as reported, except: Changes "contributing" to "motivating" factor ...	No provision (but see new damage provisions, below).	BFS SIMPLY GOES BACK TO H.R. 4000 AS INTRODUCED IN 101ST CONGRESS; NO IMPROVEMENT. EMPLOYER REMAINS LIABLE FOR PUNITIVE AND COMPENSATORY DAMAGES EVEN IF IT IS PROVEN THAT THE SAME DECISION WOULD HAVE BEEN MADE REGARDLESS. VETOED BILL WOULD HAVE LIMITED LIABILITY TO ATTORNEYS' FEES. Administration bill would leave case law intact, i.e., no course of action in "mixed motive" cases if the employers can prove he/she would have made the same decision regardless of improper bias. DOJ study shows few employers win these cases.
Martin versus Wilkes	Imposes broad limitation on ability to challenge consent decrees.	Same as H.R. 1 as reported	Codifies Supreme Court decision allowing challenges to consent decrees according to Federal Rules of Civil Procedure (must join a party to the original suit to prevent challenge by that party).	These cases typically involve reverse discrimination issues. Wilkes simply held that victims of such discrimination should be allowed to challenge such decrees to determine if they were properly issued, unless they were parties to the original case. Vetoed bill more limited than H.R. 1 and BFS.
Lorance	Overturns Supreme Court decision	Same as H.R. 1 as reported	Same	H.R. 1 and BFS go further than overturning case, but few issues remain.
Statute of Limitations	Extended from 180 days to 2 years and begins to run when the violation occurred or when it is applied to the plaintiff, whichever is later.	Extended from 180 days to 18 months and begins to run when the system adversely affects the plaintiff.	No provision	Extension will, as with other provisions, create delays in resolving disputes. BFS REDUCTION FROM 2 YEARS TO 18 MONTHS. MINOR CHANGE.
Patterson	Overturns Supreme Court decision. Restores expansive reading of Section 1981 to prohibit discrimination in all aspects of a contract, i.e., covers all aspects of employment.	Same as H.R. 1 as reported	Same provision	No issues, except that proponents of H.R. 1 claim Administrations reversal of Patterson is inconsistent with refusal to amend Title VII to include punitive and compensatory damages. Reversal, however, goes to scope, not type of damages.
Aramco (Overseas coverage)	No provision	Overturns recent Supreme Court decision to extend coverage of Title VII to citizens of the United States who are employed in a foreign country by US businesses, unless compliance would cause the company to violate the foreign nation's laws.	No provision	TOTALLY NEW ISSUE; NEVER SUBJECT TO HEARINGS.
Damages	Allows unlimited punitive and compensatory damages for intentional discrimination (punitive where there is malice or reckless or callous indifference to "Federally protected rights of others"). Jury trials	"Caps" punitive damages for intentional discrimination at $150,000 or an amount equal to compensatory damages plus backpay, whichever is greater.	Retains existing Title VII remedies with the addition of a new remedy for harassment. Employee must use employer's procedures first ... Allows immediate injunctive relief Allows $150,000 remedy, trial before a judge, but if courts find that the 7th Amendment requires juries to hear the issue of liability, the judge will still determine the damages.	Administration's proposal targeted at harassment, where no monetary remedy usually exists under current law. H.R. 1 and BFS would result in protracted litigation, lawyers' bonanza and quotas because of concern for astronomical liability in intentional discrimination class action cases, which, like impact cases, are based on workforce statistical imbalances. BFS "CAP" NO CAP AT ALL, AS IT WILL CONSTANTLY FLOAT DEPENDING ON AMOUNT AWARDED FOR COMPENSATORY DAMAGES AND BACKPAY.

CIVIL RIGHTS ACT COMPARISON—Continued

Section	H.R. 1, as reported	Brooks/Fish substitute	Michel substitute (administration proposal)	Comments (comments on Brooks/Fish substitute (BFS) in CAPS)
Attorney and expert witness fees.	No provision	Reverses new Supreme Court case on Section 1988 regarding expert witness fees and other litigation expenses (West Virginia).	No provision	H.R. 1, in one fell swoop, reverses 4 Supreme Court decisions to effectively expand grounds for recovery of fees. BFS ADDS ANOTHER ONE, WHICH HAS NEVER BEEN SUBJECT TO HEARINGS. NEW WAIVER LANGUAGE DOES LITTLE BECAUSE "VOLUNTARINESS" IS SIMPLY PART OF QUESTION OF WHETHER WAIVER IS "COMPELLED." ATTORNEY ONLY PARTY PROTECTED BY ALL THIS.
	Prohibits "compelled" waiver of attorneys' fees as part of settlement, reversing Jeff D.	Prohibits "compelled" waiver of attorneys' fees as a condition of settlement but allows voluntary waiver as part of a negotiated settlement.	No provision	
	Allows recovery of expert witness fees and other litigation expenses, reversing Crawford Fittings.	Same as H.R. 1 as reported	Allows recovery of expert witness fees under Title VII of up to $300 per day..	
	Allows prevailing party in a consent challenge to collect attorneys' fees from original losing party, new challenger or both, reversing Zipes.	Same as H.R. 1 as reported	No provision	
	Allows recovery of attorneys' fees for time spent after rejection of settlement offer, even though amount ultimately won is less than such offer, reversing Marek.	Same as H.R. 1 as reported	No provision	
Cases against Federal Government.	Extends the Statute of limitations in cases against the Fed'l Gov't from 30 days to 90 days.	Same as H.R. 1 as reported	Same	No issues.
Anti-quota language	States that nothing in this Act shall be construed to encourage or require an employer to adopt quotas, provided that current court-ordered remedies and affirmative action are not affected.	States that nothing in this Act shall be construed to encourage, require, or permit an employer to adopt "quotas." Defines "quota" as a fixed number or percentage to be attained or not exceeded, regardless of ability to meet the qualifications for a job. Also provides that "affirmative action" is lawful if (1) "consistent" with current decisions by Supreme Court, or (2) in the absence of such a decision, otherwise in accordance with discrimination law.	No provision	Pure fig leaf, provision does nothing. BFS ADDITIONS DO NOT ADDRESS CONCERN THAT H.R. 1 WILL CAUSE EMPLOYERS TO COVERTLY ENGAGE IN QUOTA HIRING AND IS, IN FACT, WORSE THAN H.R. 1. THE LIMITED DEFINITION OF "QUOTA" IMPLICITLY APPROVES ALL OTHER TYPES OF PREFERENTIAL TREATMENT. FINALLY, A BLANKET, VAGUE ADOPTION OF ALL SUPREME COURT DECISIONS (SUBJECT TO MANY INTERPRETATIONS) WITHOUT HEARINGS, IS HARDLY APPROPRIATE.
Employment testing	No provision	Prohibits the use of employment tests unless such test "validly and fairly" predicts ability to perform the job "in a manner consistent with" these amendments.	No provision	ENTIRELY NEW PROVISION SEVERELY RESTRICTS THE USE OF EMPLOYMENT TESTING.
Race-Norming	No provision	Prohibits an employer from adjusting test scores on written employment tests based on race, sex, color, religion, national origin.	Prohibits race-norming.	BFS PROHIBITION ALMOST IRRELEVANT, AS PRECEDING PROVISION ON TESTING SEVERELY RESTRICTS USE OF TEST. NO TESTS, NO RACE-NORMING.
Coverage of Congress	Applies these amendments to Congress	Details application of the amendments to the Senate, the House, and the instrumentalities of Congress.	Applies these amendments to Congress (broader language, also encompasses offices such as GAO, OTA, etc.).	BFS RETAINS DOUBLE STANDARD FOR CONGRESS, WITH NO PRIVATE CAUSE OF ACTION.
	No private cause of action	No private cause of action	Provides for private cause of action.	
Alternative dispute resolution.	Encourages use of alternative dispute resolution .	Same as H.R. 1 as reported	Encourages use of alternative dispute resolution, including binding arbitration, where knowing and voluntary.	
Amendment to ADEA	Amends Age Discrimination in Employment Act to allow 2-year statute of limitations and other changes to reflect those made to Title VII.	Same as H.R. 1 as reported	No provision.	
	Adds "right to sue" notice		No provision.	
Rules of construction	New statutory construction rules amend all federal civil rights laws, of which Title VII is but one. Courts must interpret all broadly and not apply any in such a manner that one would limit another, despite overlaps.	Same as H.R. 1 as reported	No provision	Selectively reverses long-standing rules governing interpretation of statutes, particularly where overlapping. Chaos will result as courts struggle with these new rules.
Glass Ceiling Commission	DOL study of artificial barriers to advancement of women and minorities into top management.	Same as H.R. 1 as reported	No provision	Very similar to DOL administrative initiative and Republican bill (H.R. 1149, Molinari). H.R. 1 and BFS, however, notably omit disclaimer of quotas found in H.R. 1149.
Comparable worth/pay equity.	"Pay Equity Technical Assistance" provision instructs DOL to study wage-setting practices to determine whether improper bias plays a role or whether wages set on basis of "work performed and other appropriate factors." Such factors defined, do not include market place demands.	Same as H.R. 1 as reported	No provision	Implies worth of jobs can be objectively evaluated by outside "experts" without regard to laws of supply and demand to determine what factors set wages. Lays ground work for comparable worth claims.
Reports based on sex, race, ethnicity.	Requires EEOC and OFCCP annually to report to Congress on employment opportunities and wages, broken down by race, sex, national origin, and ethnicity, within industries and occupational groups.	Same as H.R. 1 as reported	No provision	Why is all this required? Race- and sex-specific information arguably belies any claims that H.R. 1 and BFS are race and sex neutral.
Severability	Should any part of the Act be invalid, the rest is not affected.	Same as H.R. 1 as reported	Same as H.R. 1 as reported	
Effective dates	Applies amendments retroactively to the dates of the original cases overturned by the legislation.	Applies new law to cases still under review; closed cases may be reopened if "justice" requires.	Purely prospective	BFS IMPROVEMENT IN AN INITIALLY OUTRAGEOUS POSITION. STILL UNFAIR TO APPLY NEW RULE TO PENDING CASES BASED ON PAST ACTIONS AND LEGAL PRINCIPLES. FURTHER, MUCH LITIGATION WILL TURN ON WHEN "JUSTICE" REQUIRES THAT A CASE BE REOPENED (SAME PROVISION AS VETOED BILL; LEGISLATIVE HISTORY TOOK EXPENSIVE VIEW OF WHEN REOPENING APPROPRIATE).

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, we were all elected to come into this room to try to do what is right and to try to do what is best for this country. We should all have a dream of what we think the ideal country would be like.

One of those dreams would be to be strong and brave, and we have just shown that in the Middle East. But one of these dreams must be equality, that no matter the color of your skin, whether you are male or female, your national origin or religious belief, we would all be equal. That is the American dream.

I voted against the last civil rights bill because of my fear that Government would be coming into businesses and telling them who to hire, but I am convinced that this bill reaches toward that American dream. The language is very clear; right here, it is black and white. It says, "Quotas shall be deemed to be an unlawful employment practice."

So I am going to vote for this bill.

I hope and pray that when my son reaches my age that he will find a country where people are, indeed, treated equal regardless of their religious belief, color of their skin, or whether they be male or female.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, I rise in opposition to H.R. 1.

Mr. Chairman, I speak today in opposition to H.R. 1, a bill which would not bring about the colorblind society we desire but would actually exacerbate racial divisions in America, while doing nothing to help qualified minority workers.

The Supreme Court decisions which H.R. 1 seeks to overturn were arrived at properly through careful consideration of constitutional and legal questions. H.R. 1, on the other hand, is politically motivated.

Under Title VII of the Civil Rights Act of 1964, damages are limited to backpay, reinstatement and other injunctive relief. H.R. 1 would allow unlimited compensatory damages and punitive damages up to a limit of $150,000. Because H.R. 1 also makes it significantly easier to win a judgment against an employer, it would cause a dramatic increase in the volume of litigation in our already suffocating courts. The threat of such litigation will drive employers to use quotas.

In a letter to Congressman BILL GOODLING, Attorney Zachary Fasman explained why H.R. 1 would lead to quotas:

> The proponents of this legislation consistently have argued that the expanded remedies in question will apply only to cases of intentional discrimination. In fact, * * * the bill would allow compensatory and punitive damages in * * * class actions premised upon the disparate treatment theory of discrimination.
>
> The premise under which statistical evidence is used in disparate treatment class actions is very similar to that used in disparate impact cases. Plaintiffs will tend to abandon the disparate impact theory entirely in class cases, in order to take advantage of the significantly expanded remedies made available in such cases by H.R. 1.
>
> *This possibility would impose enormous pressure upon employers to hire and promote in a race and sex conscious manner* (emphasis added). Unlike disparate impact cases, where an employer can prove that a challenged practice is justified as a business necessity, there is no justification defense in a disparate treatment class action. The availability of compensatory and punitive damages, and jury trials, in such cases would lead a risk-averse employer to ensure that its employment practices cannot be challenged on a disparate treatment theory. *In other words, the risk-averse employer would have strong reasons to avoid any statistical claims that its work force was in some way unbalanced* (emphasis added).

De facto quotas would be the risk-averse employer's answer to the ever-present threat of a disastrous lawsuit. The ban on quotas in H.R. 1 is thus a form of Orwellian doublespeak. The hypocrisy of H.R. 1's ban on quotas is revealed by the fact that while the bill establishes no penalties if the quota ban is violated, substantial money damages can be imposed for being found guilty of discrimination.

But while quotas would be the end result, the fundamental problem with H.R. 1 is its disregard for the rule of law. The rule of law insists that every law conform to fundamental principles including certainty, prospectivity, and generality.

First, laws must be known and certain. H.R. 1 creates uncertainty and confusion. Employers face a state of perpetual jeopardy, subject to costly ill-defined lawsuits that are nearly impossible to defend against unless they hire by the numbers, i.e. by quotas. Then, with a cruel twist of irony, H.R. 1 makes hiring by the numbers illegal.

Second, laws must be prospective—they apply only to future actions. Retroactivity violates the spirit if not the letter of the "no ex post facto" law clause of the Constitution, and this is a serious blow to fundamental notions of fairness. How can an employer act today if today's legal action will be declared illegal tomorrow, and yesterday's acts will be judged by today's rules. Such unstable, arbitrary laws smack of Hitler's Germany and China's Cultural Revolution.

Third, laws must be general. We cannot make artificial distinctions benefiting or injuring a specific race or group of people. H.R. 1 tramples equality before the law in order to create some mystical, utopian equality of statistical results. But law cannot be measured by results. Law must treat all parties equally and let the cards fall where they may.

Mr. Speaker, if we accept the violations of rule of law embodied in H.R. 1, we will be acting as a government of political passion and demagoguery—not as a government of law. And a government of passion is no government at all; it becomes a blunt weapon swung by those who hold power. We cannot allow the law to become such a weapon without ultimately destroying its legitimacy.

Mr. Speaker, I urge a "No" vote on H.R. 1.

□ 1110

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, under the guise of civil rights, the Brooks substitute includes several provisions that supposedly will put women on an equal footing with their male counterparts. I am, of course, referring to the comparable worth language in the new attempt at quote "civil rights" legislation, as embodied in the substitute. Comparable worth was not included in last year's bill passed by the House or in the conference report agreed on by Congress.

It seems to me that because all previous attempts to enact comparable worth legislation have been rebuffed, this language is an unwelcome addition to an already horrendous bill. In fact, because of the lack of support, no hearings were even held on these new provisions by the committee of jurisdiction. Furthermore, the courts have rejected the concept of comparable worth time and time again.

The controversial language being proposed specifically in section 202 injects a nontraditional element into established civil rights law. Never has civil rights law addressed the issue of comparable worth. The Brooks substitute calls for a new program under the Department of Labor to establish pay equity across all sectors of industry. Economists argue that attempts to impose wage controls throughout American business through comparable worth would be costly and undermine efficient allocation of resources.

This extraneous provision is just another example of the proponents trying to make the new quota bill more palatable to women. With or without this section, the quota bill, better known as the Brooks substitute, is bad legislation.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I was cut off earlier. I wanted to commend my esteemed colleague, the gentleman from Texas [Mr. SARPALIUS] for his statement. I wanted to say that the gentleman has been most effective in this process of developing a workable substitute, a response in current terms that he and others have raised to the reported bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD], the distinguished chairman of the Committee on Education and Labor, who has made a major contribution to the resolution of this issue.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the bipartisan substitute to our bill, recognizing that compromises were needed to reach concerns that had been expressed to us. I believe that the gentleman from New York [Mr. FISH] and the gentleman from Texas [Mr. BROOKS] have put together an amendment that accomplishes that purpose.

BUSINESS NECESSITY

The Civil Rights Act of 1991 reaffirms an employer's right to establish its requirements for a job and rely upon applicants' relative qualifications or skills.

America's success in the global economic competition of the 1990's surely will depend upon the extent to which we reduce barriers and provide equal employment opportunity.

As many know, the U.S. Department of Labor's Workforce 2000 has estimated that in the next 10 years up to 85 percent of net new entrants in the workplace will be women and minorities.

There are two specific sections of the Civil Rights Act of 1991 among others which I believe enable employers to strike the appropriate balance between selecting persons who are likely to be the most productive employees and providing equality of opportunity.

Section 111(a)(1) provides that nothing in the bill shall be construed "to limit an employer in establishing its job requirements," and section 102 amends title VII to provide that an employer "may rely upon relative qualifications or skills as determined by relative performance or degree of success on a selection, fact or criteria, or procedure. * * *" Read together, these sections reaffirm the employer's right: First, to establish the educational or experience prerequisites necessary to successfully perform a job; and second, to judge one qualified applicant's skill level against another qualified applicant's skill level. That is how it should be.

During the past decade numerous employers have increased the educational and experience prerequisites for a job in order to upgrade their work forces and meet competitive challenges. Requiring employers to justify discriminatory employment practices as "significantly and manifestly related to the requirements of effective job performance" under the Civil Rights Act of 1991 will not prevent employers from adopting policies to upgrade their work forces. For example, courts applying the Griggs "business necessity" standard have consistently upheld college education requirements for police officers. Postsecondary education requirements have been upheld in other public employee contexts, including correction officers, public health workers, social service supervisors, airline flight officers, and university professors.

The use of the National Teachers Examinations for State certification of teachers also has been upheld under the Griggs standard of "business necessity."

Thus, because the Civil Rights Act of 1991 expressly provides that the standard of business necessity in the bill is intended to codify Griggs, the act essentially reaffirms these earlier decisions and presents no obstacle for employers who wish to upgrade their work forces through reasonable educational or competency testing rules.

EMPLOYER POLICIES TO UPGRADE THE WORK FORCE: THE EFFECT OF THE CIVIL RIGHTS ACT OF 1991

The Civil Rights Act of 1991 would restore the business necessity standards adopted by a unanimous Supreme Court in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), and overturn the Court's later weakening of disparate impact law in *Wards Cove* v. *Atonio*, 490 U.S. 649 (1989). The Griggs standard worked well for nearly twenty years. Under Griggs, employers who chose to use selection practices with a significant disparate impact on women or minorities had to defend the practices by showing business necessity. Courts applying Griggs upheld those requirements which actually measured job qualifications, regardless of their disparate impact. Some opponents of the Civil Rights Act have suggested that the Act would interfere with employer efforts to "upgrade" the workforce, such as college education requirements for police officers and minimum competency testing of teachers. These claims are simply false. The business necessity definition adopted by the Civil Rights Act is no more burdensome for employers than the standard established by the Supreme Court in Griggs, and reasonable educational and related requirements have been approved by the courts under Griggs.

For example, courts applying the Griggs business necessity standard have consistently upheld college education requirements for police officers.[1] In *Davis* v. *Dallas*, 777 F.2d 205 (5th Cir. 1985), cert. denied, 476 U.S. 1116 (1986), the fifth circuit found that the city's requirement that police officers have completed 45 semester hours of college credit with at least a C average was justified by business necessity under Griggs. Based on the job's risks and responsibilities, and the difficulty in identifying and quantifying the skills necessary to be a police officer, the court held that the city did not need to present empirical evidence to establish business necessity. Id. at 217. Instead, the court relied on a President's Commission report recommending that police departments raise their educational standards, id. at 218, in addition to other national reports and expert testimony, id. at 219, and found the college education requirement justified.

Two district courts have also upheld college education requirements for similar positions under Griggs. In *Jackson* v. *Curators of the Univ. of Missouri*, 456 F. Supp. 879 (E.D. Mo. 1978), the court found that the requirement that campus patrolmen have two years of college education was a business necessity, given that the job sometimes involved hazardous duties performed without supervision or assistance. The court based its finding on the testimony of the Police Chief. Similarly, in *Morrow* v. *Dillard*, 412 F. Supp. 494 (S.D. Miss. 1976), modified on other grounds, 580 F.2d 1284 (5th Cir. 1978), the court upheld the requirement that state narcotics agents have completed two years of college, or the equivalent in experience. The court appeared to base its reasoning on the nature of the job responsibilities. See id. at 506 ("Due to the delicate and highly specialized nature of the Bureau's responsibilities, this Court does not hesitate to uphold the education and training requirement for agents, as it has for highway patrolmen.")

Post-secondary education requirements have been validated in other public employee contexts as well. See *Rice* v. *St. Louis*, 607 F.2d 791 (8th Cir. 1979) (upholding college degree requirement for public health workers because job requires "maturity, 'unshockability,' persistence, and tact); *Thompson* v. *Mississippi State Personnel Bd.*, 674 F. Supp. 198 (N.D. Miss. 1987) (approving college education requirement for state social services supervisors because of the professional nature of the job and the public interest involved); *Scott* v. *University of Del*, 455 F. Supp. 1102 (D. Del. 1978) (confirming the validity of doctorate degree requirement for University professors), modified on other grounds, 601 F.2d 76 (3rd Cir.), cert. denied, 444 U.S. 931 (1979).

The type of evidence required by courts to show business necessity for educational requirements under Griggs varies depending on the type of job applied for. Where the job requires a high degree of skill and the consequences for hiring unqualified workers are great, courts have uniformly applied a more lenient standard.[2] The level of proof that courts have required to justify educational requirements for such jobs has typically been relatively lax. See *Aquilera* v. *Cook County Police and Corrections Merit Bd.*, 760 F.2d 844 (7th Cir.), cert. denied, 474 U.S. 907 (1985) (finding high school diploma requirement a business necessity for corrections officers based on past court experience with police officers and nature of corrections positions, despite the absence of any sworn evidence of job-relatedness); *Thompson* v. *Mississippi State Personnel Bd.*, 674 F. Supp. 198 (holding empirical evidence not required to validate post-secondary educational requirements for professional jobs where the position implicates the public interest). With such lenient evidentiary standards, there is no reason to believe that employers would be deterred from adopting relevant educational requirements for professional positions or jobs important to the public interest under Griggs or the Civil Rights Act.

The use of the National Teacher Examinations (NTE) for state certification of teachers has similarly been upheld under the business necessity test established by Griggs. See *U.S.* v. *South Carolina*, 445 F. Supp. 1094 (D.S.C. 1977), aff'd mem., 434 U.S. 1026 (1978). South Carolina required local school boards to hire only certified teachers, and the NTE was found to have a significant disparate impact based on race. The court nevertheless found that the state's use of the NTE survived the business necessity test under Griggs because the test scores "reflect individual achievement with respect to specific subject matter content, which is directly relevant to (although not sufficient in itself to assure) competence to teach." Id. at 1116.

Cases decided under Griggs and before Wards Cove provide the best available evidence of how the Civil Rights Act of 1991 would operate in the courts. As the above pre-Wards Cove cases indicate, the Act will present no obstacles for employers who wish to upgrade their workforces through reasonable educational or minimum competency testing rules.

Mr. Chairman, I now yield to the gentleman from Michigan [Mr. HENRY] who has requested a colloquy.

Mr. HENRY. Mr. Chairman, for purposes of clarification with the gentleman from Michigan and with regard to section 107, subsection (3) of the committee report of the Committee on Education and Labor says in explaining the provisions of the bill that the committee intends for the original defendant-employer to ordinarily bear the costs of the original plaintiff's fees in defending against subsequent challenges and interventions. I would like to clarify with the chairman of the committee that subsection (3) of section 107 does not in fact imply or grant any presumption as to whether the original defendant, the intervener, or the original plaintiff should bear these costs.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, the intention of section 107, subsection (3) is to authorize a court to grant fees, but does not create any presumption either as to the granting of the fees or as to which of the parties, the intervener or the original defendant, should pay if they are granted.

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[1] Courts have also uniformly upheld high school diploma requirements for police officers. See *Castro* v. *Beecher*, 459 F.2d 725 (1st Cir. 1972); *United States* v. *Buffalo*, 457 F. Supp. 612 (W.D.N.Y. 1978), modified on other grounds, 633 F.2d 643 (2d Cir. 1980); *League of United Latin Am. Citizens* v. *Santa Ana*, 410 F. Supp. 873 (C.D. Cal. 1976); *Arnold* v. *Ballard*, 390 F. Supp. 723 (N.D. Ohio 1975), aff'd, 12 BNA FEP Cas. 1613 (6th Cir. 1976). In upholding the job-relatedness of such requirements under Griggs, courts have relied heavily on Presidential studies recommending a high level of education for police officers. See, e.g., Castro, 459 F.2d at 735; League of United Latin Am. Citizens, 410 F. Supp. at 901; *U.S.* v. *City of Buffalo*, 457 F. Supp. at 629.

[2] See, e.g., *Spurlock* v. *United Airlines, Inc.*, 475 F.2d 216 (10th Cir. 1972) (upholding college degree requirement for airline flight officers).

Mr. HENRY. Mr. Chairman, to the gentleman from Texas [Mr. BROOKS], similarly the bill reported by the Judiciary Committee includes identical language. However, the committee report, in discussing this provision, says that the language of the bill does not overturn the Zipes decision with regard to the possibility of assessing the prevailing plaintiff's fees against the intervenor. I would like to clarify with the chairman of the Judiciary Committee that this statement is not accurate, that the language of the bill is intended to overturn the Supreme Court's decision in Zipes with regard to both the intervenor and the original defendant, as described above.

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, that is correct.

Subsection (3) of section 197 is intended to overturn the Zipes decision with regard to the award of fees against an intervening party, and the committee report, insofar as it is inconsistent with the intention, is incorrect.

Mr. HENRY. Mr. Chairman, I have discussed a more likely colloquy with further information.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I appreciate the gentleman yielding this time to me.

Mr. Chairman, at this point I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise today in support of the Brooks-Fish substitute for H.R. 1, the Civil Rights Act of 1991, and I commend the distinguished chairman, the gentleman from Texas [Mr. BROOKS], and the distinguished ranking minority member, the gentleman from New York [Mr. FISH] for their efforts in formulating antibias legislation that addresses the serious concerns of both opponents and proponents of this bill.

Mr. Chairman, last year I rose in support of a similar measure, which unfortunately was vetoed by the President, and was not successfully overridden by the Congress.

The controversial issue on this proposal last year was quotas, and again today the opponents of this bill accuse this legislation of forcing quotas on our Nation's employers. Mr. Chairman, the Brooks-Fish substitute has been carefully crafted to make clear that quotas are not permitted and are illegal. The quota excuse is just that, an excuse for Members of Congress to avoid passing a comprehensive, effective law to curb discrimination.

Unfortunately racism, color, sex, religion, and national origin are among the prejudices that exist to some extent in our society today. Most of us would gladly lend our names to any law that would effectively erase the unfair, ignorant attitudes or prejudiced people in our Nation; but this body cannot legislate morality.

There is, however, a responsibility that lies within our purview, this body can legislate a remedy to the recent reverses to the Civil Rights Act that have been handed down by the Supreme Court.

While we cannot legislate morality, we can provide effective judicial recourse to victims of unlawful discrimination.

Mr. Chairman, we all seek to enhance a prejudice-free America, but until such a time as every citizen in our Nation looks upon women, persons of color, or of any religion as an equal, we must continue to advocate the passage of laws that curtail the destructive, destabilizing byproducts of bigotry.

By enacting this legislation, we will be providing the people of our Nation a great justice. Accordingly, I urge my colleagues to support the Brooks-Fish substitute.

Mr. FISH. Mr. Chairman, I thank my colleague, the gentleman from New York [Mr. GILMAN].

I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Brooks-Fish substitute. Since passage of the historic Civil Rights Act of 1964, our Nation has been making steady progress toward the eradication of discrimination. However, certain recent Supreme Court decisions have dramatically tilted the balance in civil rights lawsuits against the victims of discrimination. Those Court decisions have narrowed the application of important civil rights laws, making it more difficult for victims of discrimination to seek fair judicial remedies.

The Brooks-Fish substitute offers us the best chance we have of enacting a civil rights bill on which a majority can agree. The substitute restores and strengthens our civil rights laws. It is balanced and addresses many concerns of the business community. Hiring by quotas would be explicitly outlawed. The legislation would restore the 1971 Griggs Supreme Court decision which protects working Americans against unfair hiring practices. It would affect only those employers who engage in intentional discrimination, not those who base their hiring decisions on performance-related qualifications.

However, while the substitute is the best we can achieve here today, I am disturbed that, in this legislation, the ability of women to seek redress for sexual discrimination, in title VII claims, is limited by a cap on punitive damages. I feel strongly that every victim of intentional discrimination should be treated fairly and equitably. There ought to be equal treatment for all those seeking redress for discriminatory practices—whether the victim is a man, a woman, an ethnic or religious minority, or a disabled individual.

Mr. Chairman, the battle for equal rights is not yet won, especially for women. Despite great strides, Americans must still continue to fight every day against gender and race-based bias. We are still striving to realize the dream of achieving a society where an individual knows that he or she will be judged on character or abilities rather than by skin color, gender, or religious belief. We, in Congress, have a responsibility to provide individuals with the legal tools that will assure them an equal opportunity to successfully compete in our society and to achieve the American dream for themselves and their children. The Brooks-Fish substitute is a significant step in that direction and I urge my colleagues to support it.

Mr. FISH. Mr. Chairman, I thank my friend and colleague, the gentlewoman from Maryland, very much.

Mr. Chairman, I yield to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I am somewhat reluctant to speak on the issue of civil rights. It is highly charged—lots of emotion, and few minds will be changed—at least at this late date.

However, since I did vote against the first civil rights bill last year, and now support the Brooks-Fish amendment, I ask your indulgence in permitting me to spell out one or two issues which I think need to be clarified.

First, I am not a lawyer, but when a piece of congressional legislation says that nothing in it shall require, encourage, or permit hiring or promotion quotas, I must believe that.

When the bill further says that quotas are an illegal employment practice, I must believe that. And when a group of my business friends say that quotas as spelled out are not a big issue, I believe them. You can assign any interpretation you want, make the words mean something else, but business men and women must deal in facts. They can't work with scores of interpretations, and these are the facts. That's point No. 1.

Point No. 2 concerns the so-called damage issue. I feel this has become something of a red herring. It is interesting to see the people who brushed aside all the horror stories on the future of Mexican trade as mere fantasies now creating fantasies of their own—the what if syndrome—conjuring up deep plots by women and the disabled to attack the very life blood of American business, draining our corporations dry through prolonged law suits.

Now let me share with you the facts. The facts are that without caps, mind you, for the last 10 plus years, since 1980 there have been reported only 70 minority suits involving payment of damages. This means that 1/200,000th percent of our population have been involved. There were three payments over $200,000; the average being $40,000. That's a total of less than $3 million.

If you add this number of racial minorities to the total of 60 million working women and 40 million disabled people, this amounts to a five-fold increase. So 5 times $3 million equals $15 million plus the $3 million that is already out there—it all adds up to $18 million—or less than $2 million a year. To put this all into perspective, in the ongoing asbestos suit, an issue of about the same dimension, the costs to corporations so far have been over $350 million.

So the facts, Mr. Chairman, at least tell me that the stories of gloom and doom are far exaggerated. The facts say also that the Brooks-Fish amendment is not a quota bill; history tells us that it will produce a limited exposure to damages; employers will have the right to set requirements for a job when they relate to that job, and the amendment most importantly reaches out to women and the disabled, two groups who up to this time have been unprotected against discrimination.

This bill is not evil. It is positive, it clarifies. You cannot go back to a world that no longer exists. Today we live with safety, financial, environmental, trade requirements—all issues we didn't have to live with when I entered business. This should stand proudly beside them as we look over the hill into the 21st century.

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Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD], the chairman of the Committee on Education and Labor.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I take this time to yield to the gentleman from California [Mr. MINETA] for a colloquy which he has requested.

Mr. MINETA. I thank the gentleman [from Texas] for yielding. Mr. Chairman, I would appreciate it if the Committee on Education and Labor would explain the pay equity provisions in the Brooks-Fish substitute, provisions which were originally reported from the committee.

Mr. FORD of Michigan. The issue of pay equity has a long history of congressional debate and support. Legislation dealing with the issue passed with overwhelming support in the 98th, 99th, and 100th Congresses. The language in section 202 simply establishes a source of information for business voluntarily seeking it: A clearinghouse where individuals, companies, and State and local governments could obtain information on public and private sector initiatives to identify and eliminate wage discrimination based on race, sex, or national origins.

I want to emphasize there is nothing in the legislation that would establish a bureaucracy to determine wages for the private sector.

The Pay Equity Technical Assistance Act was cosponsored by 103 Members of the 101st Congress and 39 Members have cosponsored the legislation thus far in the 102d Congress. And, contrary to what the gentlewoman from Nevada had to say, our committee did in fact hear from witnesses on this specific provision when it was being considered by the Committee on Education and Labor, and none of the witnesses who testified against the form of the bill when we changed its name to the civil rights and women's equity in the workplace bill had one word. Even when I asked them specifically to speak on this, no one wanted to criticize this aspect of the bill.

The few words we have heard here are the first complaint we have heard from anyone, from any source.

Mr. MINETA. Mr. Chairman, I thank the chairman of the committee.

Mr. FAWELL. Mr. Chairman, will the gentleman yield? Will the gentleman yield?

Mr. FORD of Michigan. I do not control the time.

The CHAIRMAN. The time is controlled by the gentleman from Texas [Mr. BROOKS].

Does the gentleman from Texas yield further?

Mr. BROOKS. No, Mr. Chairman.

The CHAIRMAN. The gentleman does not yield. The Chair recognizes again the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I yield myself 15 seconds, following which I would like to yield 1 minute to the gentleman from California, but preceding that may I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. I thank the gentleman for yielding time, and I rise in opposition to the Brooks-Fish substitute.

Mr. Chairman, I rise in opposition to the civil rights, or as it should be called, the Civil Wrongs Act of 1991.

This was a bad bill last year when the President vetoed it; it was a worse bill when it started out this year. And it has been made even worse with all the jiggling and the juggling that has been going on in the last few weeks as the democrat leadership has been trying to come up with a gimmick that will make this bill palatable to a few more people in this body.

Despite all the tinkering, it is still a quota bill. Despite all the tinkering, it is bad legislation. Despite all the tinkering it should be rejected.

America was built on the principle that skill, ability, intelligence, and drive would determine the value of a person in the marketplace. This bill says just the opposite—that the color of your skin or that your sex is more important than your ability when it comes to getting and keeping a job.

That is wrong. That is immoral. And that is unamerican. And that is why I am voting against it.

If this bill were enacted, business—particularly small businesses—would be virtually forced to resort to quotas for hiring and promotion just to protect themselves from a devastating torrent of costly lawsuits. They won't have much choice in the matter. It will be a choice between survival and being sued silly at every turn.

The American people don't want that. The American people find the thought of quotas repugnant. And when that message started to sink in with the Democrats who are pushing this bill for their own political reasons, they decided they had to do something to strengthen their position. They decided to use deception.

The result is that this bill today is a double-edged sword. It prohibits the use of quotas and then goes on to force businesses to use quotas. If this bill is enacted, business will be damned if they do, and double damned if they don't use quotas.

It should be defeated, and its sponsors should be ashamed of themselves.

It is fairly clear by now that there has been no groundswell of support for this bill anywhere in the United States. It is becoming clear that there is not going to be any.

If your district is like mine, you know what I mean. There just is no support for this measure. Over the past 2 years, I have only received some 30 letters or calls in support of it. That's not a sign of overwhelming interest in the issue.

According to my questionnaire, the people in my district overwhelmingly oppose quota legislation by an 8-to-1 margin. There is just no support for this bill.

It deserves rejection. It deserves a veto. And the veto deserves to be sustained.

Mr. HYDE. Mr. Chairman, I just want to say to my friends Mr. HOUGHTON and Mr. SARPALIUS, it is wonderful to quote the part of the bill that says quotas are outlawed, but turn a few pages over and read what they mean by quotas. He who defines the issue has it half-won.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, Pat Buchanan has a unique way of expressing himself on the current scene, the political scene here in Congress.

He said this morning in the Washington Times:

> In the '40s, '50s and early 60's, the term civil rights brought to mind the picture of a small black girl being led through a crowd of abusive whites to a public school. Of black youths sitting at a lunch counter having ketchup dumped on their heads as they tried to buy a sandwich. Of Jackie Robinson being given a chance to prove his ability. Of Rosa Parks refusing to give up her seat on a bus. The movement had about it magnanimity, dignity, nobility.
>
> Today, civil rights has come to mean something different.
>
> It has come to mean an "affirmative action" program at Georgetown Law School, where blacks are admitted with average test

> scores far below the lowest score of any white students.
>
> It has come to mean white cops being denied a lifelong dream of becoming a sergeant or detective, because some court has ordered the next 10 open slots be set aside for blacks and Hispanics.
>
> It has come to mean busing white children across town to meet some judge's notion of an acceptable racial balance.
>
> It has come to mean young men born in El Salvador or Mexico getting preferential treatment at the state college over Polish and Italian kids whose fathers fought in Vietnam.
>
> It has come to mean brazen boodling by politicians who suddenly turn up owning radio and TV stations worth millions—for an investment of a few thousand bucks.
>
> A quarter century ago, we were able to see the faces of the victims of discrimination; now we see the faces of the victims of reverse discrimination.

In essence, the philosophical undergirding of this provision has been lost. I ask for a "no" on this quota bill.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise in support of the bipartisan Brooks-Fish civil rights bill. I hope that all Americans and all small businesses in this country understand that the 1964 Civil Rights Act does not apply to businesses with 15 or fewer employees.

Nothing in this legislation would change that.

This legislation does not extend or expand monetary damages available in race discrimination cases. It merely provides existing remedies available in race cases to discrimination cases based on sex, religion, and disability.

On the quota issue—and let me make it clear that I am opposed to quotas and I believe that nearly everyone in this body is opposed to quotas. The language in this bill, I think needs to be specifically quoted.

It provides that:

> Nothing in the amendments made by this act shall be construed to require, encourage or permit an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin. And the use of such quotas shall be deemed to be an unlawful employment practice.

Now, my colleagues, I do not understand how in the world the President of the United States can read this language and continue to call this a quota bill.

Mr. Chairman, when we finish here today, I hope we will pass this legislation and reaffirm our commitment to the basic principle that we are one Nation under God with equal justice and opportunity for all our citizens.

Mr. HYDE. Mr. Chairman, I yield 15 seconds to the gentleman from Kansas [Mr. SLATTERY] if he would yield to me. Mr Chairman, would the gentleman yield to me?

Mr. SLATTERY. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I just want to know if the gentleman has read the definition of a quota in H.R. 1 and if he does not think that——

Mr. SLATTERY. I would be happy to respond to the gentleman. I will assure the gentleman I have read the definition of quota, and as far as I am concerned the definition of quota contained in the legislation is precisely what anybody reading the English language would assume it meant.

Mr. HYDE. I would only say to the gentleman the Washington Post and the New York Times, no friends of ours, disagree with the gentleman.

Mr. SLATTERY. Well, I do not know whether that is true or not, I will take the gentleman's word. But I don't care what the New York Times or the Washington Post thinks it is.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise today as one who voted for the LaFalce-Michel substitute, the civil rights bill in the last session, but voted for final passage of a civil rights bill in the last session with the fervent hope that we could put petty politics aside and reach a compromise with the administration that all of us could get behind. We did not do that, and we have not come up with an acceptable compromise.

I think the Philadelphia Inquirer summed it up best when on Monday of this week, in an editorial, they stated:

> This is no longer a debate over a piece of legislation. It has become a contest for political advantage.

Further evidence of that was last night with the vote on the Towns-Schroeder substitute, which passed this House on a voice vote. It was not our side that called for a vote, it was the majority side that called for a vote because they knew it would lose and they wanted it to lose.

Mr. Chairman, let us put the politics aside, let us stop playing games. I will vote "no" on the Democratic substitute, I will vote "no" on final passage. I urge my colleagues to do the same.

Let us finally get a civil rights bill with which we can all agree.

Mr. Chairman, I rise today in reluctant opposition to the Civil Rights Act of 1991. I recognize that America today is not the America to which we all aspire. Despite our best efforts, equality for all Americans continues to elude our grasp. Several recent Supreme Court decisions have exacerbated this already strained situation. Unfortunately, racial harmony in America seems more out of reach than it did 25 years ago.

Much of this racism, unfortunately, is out of our hands. Congress cannot legislate an end to bigotry, much as we might hope. But there are steps which we can take to address some of the legal barriers facing minorities in our Nation. For that reason, I strongly support President Bush's proposal and would like to see it enacted into law. The President should be commended for his commitment to civil rights and his tireless efforts on behalf of all Americans.

As drafted today, Mr. Chairman, H.R. 1 has a number of problems. It will place unacceptable burdens on employers. It will place an unreasonable standard for businesses to prove that practices are motivated by a business necessity and the proscriptions against quotas are hollow. Passage of this legislation will be a bonanza for ambulance-chasing lawyers and a disaster for main street businesses.

Ed Koch, former mayor of New York City and former member of this body, a strong advocate for civil rights, recently shared his reasons for opposing H.R. 1. "You might ask, how can it be that I, your former colleague who voted for every civil rights bill when in Congress and as a young lawyer in 1964 went to Mississippi to defend black and white civil rights workers who were registering voters, could take such a position? The answer is simple. H.R. 1 is not a civil rights bill. It is a bill which will encourage quotas based on race, ethnicity, religion, and gender." And quotas hardly move this Nation in the right direction. Koch observed that "the easy thing to do is to give groups preference, but this means that innocent white people are going to suffer. I do not accept that."

Mr. Chairman, although I am voting against H.R. 1, I desperately want Congress to pass a fair civil rights bill. We all know, however, that this debate has less to do with fairness and equality as it does with partisan gamesmanship. As the Philadelphia Inquirer noted in an editorial yesterday morning, "This is no longer a debate over a piece of legislation. It has become a contest for political advantage." The Democrats erased any doubts about that issue last night. After declaring that the Towns-Schroeder substitute had won by voice vote, amendment sponsors called for a recorded vote. Surely, Mr. Speaker, they knew they were going to lose. One can only assume that liberal Democrats did not want to pass Towns-Schroeder, but wanted to use it as a political statement. It is not the Members of this Chamber, or the national parties which suffer from this game. Let us put aside our political affiliations and work together to assist those whose voices have become muted by the Supreme Court.

I will watch the conference committee negotiations carefully. If appropriate changes are made to reflect the concerns of the administration and the business community, then I will be among the bill's loudest supporters. But if the President finds the package presented to him unacceptable and vetoes the bill, then I will vote to sustain his decision.

Mr. Chairman, all of us want a fair civil rights bill. I regret having to vote against H.R. 1, because I sincerely want a compromise which meets the concerns of all involved. But I am not blind to the problems which it would create and urge the conferees to carefully address these issues.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. I thank the gentleman for yielding.

Mr. Chairman, many people criticize this bill as a quota bill and base their criticism on the business necessity provisions of the bill. The bill does expressly reverse the "business necessity" provisions of the Wards Cove case; however, as I understand it, the bill does not undo the nearly 20 years of cases interpreting the issue of business necessity.

Mr. Chairman, is this correct?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. LAUGHLIN. I yield to the chairman.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Chairman, that is correct.

Mr. LAUGHLIN. So, if the extensive body of case law interpreting business necessity prior to Wards Cove didn't require or result in quotas, this bill will not change that. Is my understanding correct?

Mr. BROOKS. The gentleman's understanding is correct.

Mr. LAUGHLIN. I thank the chairman.

☐ 1130

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I would like to propose to the committee chairman a series of questions relating to the business necessity doctrine and allegations made by some that this bill continues to be a so-called quota bill. I believe that the amendments we are offering to this legislation serve to satisfy many of those who may be concerned that this bill requires an employer to hire or promote by quota.

My first question, Mr. Chairman, relates to the standard of proof in disparate impact cases. My references are to section numbers of title VII as amended by the bill.

I understand that section 703(k)(1)(A), as it is now contained in the Brooks-Fish substitute, is designed to make clear that a plaintiff challenging an employment practice or group of practices has the burden of proof of establishing that the disparate impact with regard to a specific kind of employment decision, such as hiring, results from the challenged practice or group of practices and that a nexus or cause and effect must be shown between the employment practice and the disparate impact as courts normally require.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. GEREN of Texas. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, the gentleman from Texas [Mr. GEREN] is correct, and there is nothing unusual here.

Mr. GEREN of Texas. I understand that the addition of section 703(k)(4) to the bill is intended to put to rest concerns that a disparate impact violation might be proven simply by introducing generalized population statistics from the Census or similar sources. That section is designed to make clear that cases like *Hazelwood School District* v. *U.S.*, 433 U.S. 299 (1977) and *Teamsters* v. *U.S.*, 431 U.S. 324 (1977), along with others, continue to set the legal standards for meaningful statistical proof under title VII. Am I correct in this view?

Mr. BROOKS. Yes, you are.

Mr. GEREN of Texas. Can an employer rely entirely on job related criteria, such as relevant education, experience, and past record of performance to prove business necessity?

Mr. BROOKS. That is the intent. So long as the criteria bear a significant and manifest relationship to job performance, then the employer can rely on those criteria in proving business necessity.

Mr. GEREN of Texas. Mr. Chairman, a unanimous U.S. Supreme Court in *Texas Department of Community Affairs* v. *Burdine*, 450 U.S. 248 (1981), a case involving sex discrimination, said in reversing the Fifth Circuit:

> The views of the Court of Appeals can be read, we think, as requiring the employer to hire the minority or female applicant whenever that person's objective qualifications were equal to those of a white male applicant. But Title VII does not obligate an employer to accord this preference.

Mr. Chairman, if this bill becomes law, would it overrule this Supreme Court view of title VII?

Mr. BROOKS. No, it would not.

Mr. GEREN of Texas. In proving that a disparate impact results from a groups of employment practices, it is the intention of this legislation to make clear that the plaintiff has the burden of proof when a group of practices are challenged to demonstrate which specific practice or practices within the group results in the disparate impact. In making that demonstration the plaintiff is required to satisfy the Court that it has made a diligent effort to identify the specific practices that result in the disparate impact and that only after satisfying the Court that it was not reasonably possible from available records or other information for the complaining party to separate the impact of each practice, does the burden shift to the respondent under section 703(k)(1)(C). Is that the way the burdens work under the bill?

Mr. BROOKS. That is the way it is supposed to work.

Mr. GEREN of Texas. Mr. Chairman, I am concerned that the language in section 101(2) referring to the Supreme Court's decision in *Griggs* v. *Duke Power*, 401, U.S. 424 (1971) and to its Wards Cove decision, not be interpreted to overrule U.S. Supreme Court decisions interpreting Griggs that were decided prior to Wards Cove, such as *Albemarle Paper* v. *Moody*, 422 U.S. 405 (1975), *Dothard* v. *Rawlinson*, 433 U.S. 321 (1977), and *NY Transit* v. *Beazer*, 440 U.S. 568 (1979), as well as those earlier decisions upon which the Circuit Courts of Appeal were united on the interpretation of the term "business necessity." Is the intent of this section to overrule that portion of Wards Cove concerned with business necessity?

Mr. BROOKS. Yes, that is the intention.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, we have heard a great deal this afternoon from our learned brethren on the other side of the aisle quoting the provisions in H.R. 1 that outlaw quotas. I would ask the gentleman if he has looked at page 16, lines 12 to 17, which define a quota and has been interpreted—I read it this way: I have been a lawyer since 1950, and there are a lot of us around here and a lot on the outside, and they say it is only a quota if a fixed number or a fixed percentage of persons are actually hired and an employer hires these persons regardless of their qualifications.

Mr. Chairman, I ask the gentleman, "Is that your interpretation of that?"

Mr. GUNDERSON. Mr. Chairman, there is no question that is my interpretation.

Mr. HYDE. That is a great definition. I thank the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Chairman, I appreciate the remarks of the gentleman from Illinois [Mr. HYDE] because no one wants a civil rights bill more than I do.

However, Mr. Chairman, I think we ought to be honest. This is not a civil rights bill. This substitute is a lawyer's rights bill, and let us be honest about the interest group we are serving here today, my colleagues. It is not the minority groups of America. It is the trial lawyers of America.

Mr. Chairman, it is no accident that the Trial Lawyers Association has donated $106,000 to the Democrats on the Committee on Education and Labor in the last campaign and $900 to the Republicans.

This bill does not mandate quotas, but this substitute results in quotas. It results in quotas because no business in America can do anything but establish quotas as their only solitary protection under this legislation. In the absence of that, disparate impact is found, the case goes to trial, it goes to a jury trial, and, as my colleagues know, if our goal was remedies for the victims, I would say to them, "I'm with you." But this bill, this substitute, does not deal with remedies for the victims. It deals with remedies for the lawyers.

I call my colleagues' attention to section 107. No waiver of all or substantially all of an attorney's fees shall be compelled as a condition of a settlement of a claim under this title.

My colleagues, we do want civil rights legislation. Unfortunately this substitute is not it.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Chairman, I rise in support of the Brooks-Fish substitute.

I hail from a part of the country where politicians once made careers based upon one issue—race. The appeal then was overt, explicit, undisguised.

Today, the appeal to race is still being made. This time, it is under the cover of the sophisticated, inflammatory, incendiary concepts like quotas and race norming.

Who amongst us is for quotas? Not a Member on either side.

No one has argued for quotas and no one will. Yet, we are called upon to defend against an argument we have not made.

But, without stopping to ask why, the Brooks-Fish substitute dutifully undertakes to squelch the quota charge. It uses very direct language to do so, explicitly outlawing quotas, and if that were not enough, then creating a right to sue by those victimized by quotas.

Now this language is under attack by those who say the definition of a quota that this subsitute uses in condemning quotas is too narrow. It, they say, outlaws only quotas requiring that meritless, unqualified minorities, and women be hired.

But, is this not what the President says he wants? Hiring based on merit?

Does he now contend that a court could not, upon a finding of discriminatory hiring against qualified black teachers by a school board, for example, require the hiring of two qualified black teachers for each qualified white teacher hired until the effects of the past discrimination are removed.

No. He cannot want to outlaw this practice now permitted by courts, for this would be remedial hiring based on merit.

Now, with all the stretching that Brooks-Fish does to meet the President's feigned quota argument, the President still declares, "it is a quota bill no matter now its authors dress it up. You can't put a sign on a pig," he says, "and say it is a horse."

Doubtless, this contorted analogy will not go down in history alongside the great utterances of American Presidents, but it may go down as one revealing of quite an embarrassing thought—our President does not know the difference between dressing a pig and amending a bill.

For the record, Mr. President, a pig has immutable characteristics, which cannot be changed, no matter how hard one tries. But drafting anti-quota language to a bill is achievable and can be agreed upon if we are willing to try hard enough. Brooks-Fish achieves this.

The task before us, Mr. Chairman, is not changing a pig to a horse, it is changing the tenor of this debate and with it the tolerance of a nation toward securing equal employment rights for all.

I urge my colleagues to vote for the Brooks-Fish substitute.

Mr. HYDE. Mr. Chairman, may I inquire of my distinguished colleague, the gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary: Does the gentleman plan to yield any time to the gentleman from Texas [Mr. STENHOLM]?

Mr. BROOKS. Mr. Chairman, I would say to the gentleman from Illinois [Mr. HYDE], my beloved friend, "Have no fear about your beloved friend, Mr. STENHOLM, I have already assured him that I would yield him all the time he requested, which was 3 minutes. I told him he could have it. I told him I would be delighted to give it to him. I would yield it to him, and I am pleased to do that at the earliest opportunity. So, have no fear about that."

Mr HYDE. Mr. Chairman, I say to the gentleman from Texas, "I can't tell you how gratified I am, having yielded 5 minutes to my distinguished friend from New York. If you would care to yield to Mr. STENHOLM now, then I would yield him a little additional time, and we can sort of have a Stenholm fiesta."

Mr. BROOKS. A little later.

Mr. HYDE. Oh, a little later.

Mr. BROOKS. We will get the mariachi band.

Mr. HYDE. Mr. Chairman, I say to the gentleman from Texas, "I want to see you in one of those big Mexican hats."

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. FAWELL].

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Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding time to me. I know that his time is valuable here.

I want to make reference to the comparble worth debate that occurred a short time ago. I note that H.R. 1 deletes language from last year's vetoed bill stating that the legislation was not "intended to overrule existing cases involving comparable worth."

But in addition, I would point out that because we do not have a two-pronged definition of "business necessity," we are sticking with "significant relationship to effective job performance" as being the definition of "business necessity," and, therefore, the only defense which an employer can use then, when we get to the nonhiring criteria, not involving hiring or promotion, the only defense that an employer might have, for instance, to those employment practices which are not in the hiring category like wage plans would be that the particular employment practice or the wage plan is significantly related to job performance. And, of course, it is not significantly related to job performance; it is related to market forces, it is related to collective bargaining agreements and things of that sort. So in effect the employer has no defense whatsoever whenever a wage plan has a disparate impact, and, of course, a wage plan always has a disparate impact, and then the employer has no defense whatsoever.

There is one other point that I would like to make. So many people have talked about Griggs, what Griggs actually does say, and, of course, Griggs sets forth what the real defense of an employer ought to be to disparate impact. Disparate impact is something that unintentionally occurs because of an employment practice, and here is the language from Justice Brennan, who certainly is no conservative. This is what he says.

> Griggs and its progeny have established a three-part analysis of disparate impact claims. To establish a prima facie case of discrimination, a plaintiff must show that the facially neutral employment practice had a significantly discriminatory impact. If that showing is made, the employer must then demonstrate that "any given requirement has a manifest relationship to the employment in question."

Now, that is the employer's defense, and the name of the game is if you tighten that up enough and you have it relate to job performances, what the employer knows is that he is not going to win that case and that, of course, means that if he knows he is not going to win that case, you have quotas. That is what we have been trying to bring across to the other side.

It is not that we are against civil rights or anything of that sort. I have enjoyed the speeches the other Members have been giving, I too, believe in civil rights, but what we are trying to say is that there is some sincerity on the part of the President and by a lot of us when we point out that you have so wangled and trashed that definition that Justice Brennan set forth as to what Griggs really said, that you do not have what Griggs said in regard to your bill, and as a result the employer cannot win. That is what we have been trying to say.

Mr. BROOKS. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise for the purpose of asking a question of the distinguished chairman of the committee in regard to the section of the bill that defines an illegal quota. The gentleman from Texas [Mr. BROOKS] has already indicated in colloquy with the gentleman from Missouri [Mr. GEPHARDT] that he did not believe that language defining an illegal quota applied only to unqualified workers, that it also applied to qualified workers.

I would like the chairman of the committee perhaps to answer this very straightforward question. Will the chairman support a language change to this definition of illegal quotas so that the language change conforms the language of the bill to the statement made by the chairman that illegal quotas would apply both to qualified and unqualified workers?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, I would be happy to do that.

Mr. TAUZIN. Mr. Chairman, I thank the chairman of the committee for his commitment.

PARLIAMENTARY INQUIRY

Mr. HYDE. Mr. Chairman, if I might make a parliamentary inquiry, the chairman of the Committee on the Judiciary has just committed himself to amending the definition of quota. He said that he is going to do that later. Does he want to do that now by unanimous consent?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] has not stated a parliamentary inquiry.

Mr. HYDE. All right, Mr. Chairman. I will ask that privately, then.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, the so-called civil rights bill we are voting on today is not a civil rights bill, it is a quota bill, plain and simple. Yet supporters of this bill have done everything in their power to hide the quota requirements contained in the legislation. They have tried to hide the quota provisions through a slick public relations campaign and shrill personal attacks against the president. But like the Stealth fighter, the quota bill can hide for only so long before it is detected. That is why the civil rights community and their allies in Congress have created a stealth quota bill. They are hoping to fly this legal monster by the American public before it is detected for what it really is, a job destroying quota bill.

The circular logic contained in this legislation will do more than force quotas, it will clog our already overburdened legal system with thousands of lawsuits. The quota bill allows individuals to sue companies if they use quotas. However, companies must comply with the quota bill. To prove they are in compliance, supporters of the stealth quota bill have created an entirely new form of analysis designed to prove business necessity. This new and improved analysis still stacks the deck against all employers, because the burden of proof is entirely upon them. If an employer cannot prove that their personnel practices "bear a significant and manifest relationship to the requirements for effective job performance," he will be subject to the so-called damages cap of $150,000 or an amount equal to compensatory damages and backpay, whichever is greater.

Mr. Chairman, this bill before us today is wrong. It is wrong for America. We need to be competitive if we are going to compete in the worldwide economy we are in. We need labor and business to work together, and we need to provide equal opportunity for all. This bill does none of those things and will do nothing more than continue to destroy our ability to compete in the worldwide economy.

Mr. BROOKS. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 1, the Civil Rights Act of 1991. It is a fair and just bill which will overcome the roadblocks to civil rights progress that were created by the Supreme Court decisions of the past few years. But the Supreme Court hasn't been the only obstacle to the progress of this legislation.

The President's political strategy has always been one of divisiveness; his quota argument has always been a smokescreen.

He called this bill a quota bill when it wasn't, and it isn't. He sabotaged the negotiations between business and civil rights groups. He dismissed the antiquota language in the bill and called it cosmetic.

But a critical factor has stayed constant throughout the crafting of this bill. Democrats are fighting all forms of discrimination.

Anyone, including the President, who says otherwise, deserves to be second-guessed about their true motives and intentions.

To the President and members of his party who want to exploit the fears in our society about the prospects of reverse discrimination, Democrats have an answer:

"If you feel you are a victim of reverse discrimination because of a racial quota, here is a bill that empowers you to do something about it."

Republicans who join the President and vote against a bill that empowers women and minorities to take on powerful corporations and provides both victims of discrimination and reverse discrimination with a means to combat it, may encounter consequences that they don't envision here today. They do so at their own peril.

Politics aside, the debate we are having today is about whose side you are on—Democrats are standing with workers and the rights of businesses to hire without discrimination and without quotas. George Bush is standing on the side of those who oppose the rights of those workers to take action when they are discriminated against.

Republicans continue to practice the politics of racial divisiveness—pitting segments of our culture against each other, instead of looking for the common ground that we all can stand on.

The President and his party are looking to play the race card whenever it turns up in their hand. This bill, however, takes the quota issue, the race card, out of that hand in 1992.

Democrats bring to the House floor a bill that makes hiring quotas illegal, drives reverse discrimination out of the workplace, and thereby removes a dangerous weapon from the Republican campaign arsenal—race-baiting in political campaigns.

Clearly, the Republican strategy has been to promote racial divisiveness at every opportunity. On the one hand, they attack this civil rights legislation as a quota bill, when it is not.

And on the other hand, the Republican Party is aggressively arguing that minorities must be guaranteed a specific number of seats in redistricting.

After opposing the correction of minority undercount in the census, they then fight to pack minorities into districts guaranteed to defeat Democrats through the use of political quotas.

If you doubt me, I refer you to the critique of the Republican Congressional Campaign Committee by the Heritage Foundation's legal scholar, Bruce Fein.

The Republican strategy to "reach out" to minorities in the redistricting process is characteristic of a Party that will cynically manipulate opportunities and issues in an attempt to twist them to their advantage.

First, they oppose efforts to correct the undercount of minorities in the census, then argue for the creation of "packed" minority districts where it will help them and then ignore them where it won't. By packing districts with minorities, they are essentially legislating quotas in representative terms.

The conservative Mr. Fein wrote that "the prevailing redistricting strategy of the Republican National Committee is politically suicidal, legally inept and racially and ethnically divisive." He says the Republican National Committee strategy is at odds with Mr. Bush's adamant opposition to racial quotas.

He called the Republican strategy "bad law, bad Republican Party politics, and bad for racial and ethnic harmony."

Their plan on the surface may seem to political pros to be both obvious and ingenious, but what the Republicans have left out of their plan is the very thing they have left out of this debate on civil rights, and that is principles.

There is no principled stand. Just more evidence of hypocrisy in the pursuit of partisan political victory.

But, it is time now to stop focusing on these exploitative, divisive tactics and instead to recognize the reality of H.R. 1.

What this civil rights legislation does do is reaffirm our commitment to ensuring equal opportunity in the work place and continue our tradition of guaranteeing equality for all.

This bill restores our legal protections against intentional discrimination in the work place and extends to women, the disabled and religious minorities the same rights that already apply to people of color.

We have an obligation to provide legal protection for all to ensure that none are treated as second class citizens.

Our Nation's longstanding commitment to equality demands that any discrimination based on race, gender, religion or national origin will not be tolerated.

Only the strong protections offered in this bill will give victims of employment discrimination an avenue of redress and access to equal justice.

Let us reaffirm our national commitment to civil rights. I urge my colleagues to support this bipartisan effort toward equality for all Americans.

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Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I sincerely had hoped to reach this point in the debate rising in support of the Civil Rights Act of 1991. I want to vote for a true civil rights bill, and I believe that the overwhelming majority of this body, and the President, want to enact a civil rights bill as well.

Regrettably, the civil rights bill before this body is not the right bill. I had hoped that a compromise could be reached that balanced the goals emphasized by the civil rights community with the concerns focused on by the business community.

Mr. Chairman, I have spent a great deal of time listening to Representatives from all sides of this issue. I had several concerns about the bill reported from committee, and expressed these concerns to the sponsors of the bill and to the civil rights community. A good faith effort was made by many to address the concerns that I and others have, and some of the troublesome parts and sections of the bill were improved.

Unfortunately, many of the problems that have been identified with this legislation remain unaddressed, little things, like the words "manifest" and "significant;" little things, that will, in my opinion, become big things in the world of litigation.

Many of the provisions in the bill that I have difficulties with are not calamitous when considered individually, and could be debated in depth individually. However, when taken together, these provisions will have a chilling effect on legitimate employment practices of businesses and all of their employees across America.

Under the Brooks-Fish bill, employers would face an unreasonable burden when defending themselves against charges of discrimination, and, in effect, would be penalized for being guilty until, with great difficulty and cost, they could prove themselves innocent.

Mr. Chairman, I am also concerned about exposing small businesses to unlimited compensatory damages, such as those for pain and suffering, while simultaneously increasing the pool of possible litigation. Instead of restitution and conciliation, H.R. 1 will encourage further litigation and aversion in our society.

Mr. Chairman, I am inserting for the RECORD a more detailed explanation of the reasons for my opposition to H.R. 1.

A CONSERVATIVE DEMOCRAT'S REMAINING CONCERNS ABOUT H.R. 1

1. ISSUE: QUOTAS

Concern: Despite the appearance of having "fixed" the quota problem, quotas remain at the core of this civil rights bill.

Explanation: The anti-quota language included in the Committee substitute does not respond to the concern that employers are left only with "hiring and promoting by the numbers" if they are to avoid costly litigation. Without such "defensive hiring" employers would face a nearly impossible court defense with exorbitant legal fees. Furthermore, they frequently would be forced to hire the minimally qualified person rather than the well- or over-qualified individual.

In addition, the substitute's language intended to give the appearance of prohibiting quotas ends up placing employers in double jeopardy. As already mentioned, employers are liable if their hiring decisions do not closely reflect "the numbers," but they're also liable in cases, for example, brought by individuals claiming reverse discrimination, if they do hire by the numbers to avoid costly lawsuits.

2. ISSUE: DAMAGES CAPS

Concern: The caps are not real caps, but rather will act as floors. In addition, having caps for some groups of people but not for others is patently unfair.

Explanation: The misleading $150,000 cap is solely limited to punitive damages, and in fact, that cap can be removed by an award which is an amount equal to compensatory damages (including pain and suffering) plus equitable relief (e.g. back pay), if that sum is greater than the $150,000. In addition, the bill still allows unlimited compensatory damages. Compensatory damages would be allowed in class action intentional discrimination suits, which are often based on statistical imbalances between an employer's workforce and the relevant labor pool.

3. ISSUE: BUSINESS NECESSITY

Concern: The "business necessity" definition is unclear, would require extensive court interpretation, and would restrict the factors businesses may use in hiring and promoting.

Explanation: The substitute creates a new standard of "business necessity" that a business must meet to defend an employment practice whose result is a "disparate impact"—meaning the percentage of the employer's work force comprising women, minorities, or a given religious group, does not almost identically match that group's percentage in the available labor pool.

This new language defines business necessity as having a "significant and manifest relationship to the requirements for effective job performance." The courts, through much litigation, would then need to decide exactly what that definition means in practical terms. While the substitute's language purports to codify the court's holding in the Griggs case, that is not what is done, despite the fact that the "Grigg's standard" is clearly referred to in subsequent cases as ". . . manifestly related to the employment in question." In fact, in the dissent of the Wards Cove case, Justice Stevens used this definition to describe the Griggs rule that Wards Cove was overturning.

In addition, the new language of "effective job performance" restricts factors—such as honesty, attitude, promotability, ability to get along with others, recruitment costs, and other legitimate business considerations—which may affect an employer's decision on whether to hire, promote or retain an employee. The new language combines subjective and legally unprecedented terms which, combined with the linkage to job performance, results in a nearly impossible standard for employers to meet.

4. ISSUE: RELATIVE QUALIFICATIONS

Concern: This language is advertised as easing the "business necessity" requirement but in actuality improves nothing.

Explanation: The substitute adds a new section, in response to criticism of H.R. 1's limiting the definition of business necessity to practices based on "effective" (i.e., minimal) job performance. But the Committee substitute states that an employer may rely on "relative qualifications" in hiring and promoting only as long as that preference does not result in a "disparate impact" which, in turn, could only be justified by business necessity. The logic of the provision is entirely circular.

5. ISSUE: "PARTICULARITY" WITHIN THE DISPARATE IMPACT CLAIM

Concern: The amount of paperwork and legal strategy a business would have to have on hand to defend against every employment practice would be overwhelming, especially to small businesses.

Explanation: The substitute's language still puts an employer in the position of having to defend each practice within a group of employment practices as non-discriminatory, and is contrary to case law even before the Wards Cove decision. The language allows a complainant to list a group of challenged practices, without specifying which of the practices causes a "disparate impact."

6. ISSUE: MIXED MOTIVES

Concern: The kind of relief available to plaintiffs in mixed motive cases would be new and inappropriate.

Explanation: The substitute's new language changes the grounds upon which an individual may bring suit against a company for discriminatory intent from that intent being a "contributing" factor to a "motivating" factor. This change is cosmetic and will not materially change the courts' findings. An employer would be liable even if the employer had legitimate, non-discriminatory reasons for taking a challenged action and the result would have been the same.

Furthermore, under the substitute's language, employers who successfully defend themselves in mixed motive cases would still be subject to punitive and compensatory damages.

7. ISSUE: ATTORNEYS' FEES

Concern: Language espoused to remove the "attorney heaven" incentives of the bill is actually circular and maintains trial lawyers as the greatest beneficiaries of this bill.

Explanation: H.R. 1 as reported provides that a court may not settle a Title VII claim unless the parties attest that a waiver of attorneys' fees was not compelled as a condition of settlement. The whole issue as to whether a waiver of attorneys' fees was compelled obviously depends on whether or not the waiver was voluntary. The language in the substitute merely makes explicit what was implicit in the original formulation of the provision, still thwarting Title VII's goal of encouraging settlement of employment discrimination disputes.

8. ISSUE: TIMING—STATUTE OF LIMITATIONS & RETROACTIVITY

Concern: The statute of limitations is greatly expanded and retroactivity is allowed under the substitute. Both time elements place businesses at greater risk and provide attorneys still greater incentives.

Explanation: The current statute of limitations for discrimination cases is 180 days; the substitute would expand it to 540 days—a threefold increase.

Additionally with regard to retroactivity, only those cases considered "finally adjudicated" would be exempt from being reopened, and even those cases in which an issue was settled by the Supreme Court would be reopened if "justice" requires it. The result is that virtually no cases currently under consideration will be excluded from coverage. Businesses which have kept records in a way that complies with laws in existence today will suddenly find themselves unprepared to face the new retroactivity language.

9. ISSUE: RACE NORMING/TESTING

Concern: Objective measures of a potential employee's appropriateness for a given job would be severely restricted.

Explanation: This entirely new language places very strict limitations on the use of tests in hiring. The concept that a test must "validly and fairly" predict job performance for the job in question sounds desirable, but in actuality leaves many questions unanswered. For example, since the language specifies "for the job in question," does that mean that a general mechanical aptitude test could not be used to hire a machinist? Testing is a specific statistical science. Language should not be added to the bill before qualified experts have the opportunity to testify in hearings and full debate can occur.

10. ISSUE: COMPARABLE WORTH

Concern: This new language on comparable worth introduces an entirely new issue into civil rights law without hearings to discuss its appropriateness.

Explanation: All previous attempts to enact comparable worth legislation were limited to federal pay, and even they were rejected by Congress. This new language, which applies to all work places, not just the federal government, was added to the bill without hearings or other debate. While some may argue that this language simply calls for a "study," we all know that today's technical assistance is tomorrow's court evidence and the next day's mandated pay schedule. Establishing a new program under the Department of Labor to develop "pay equity" across all sectors of industry does not belong in this bill, for certain, and has not even been able to move on its own merits.

11. ISSUE: CHALLENGING CONSENT DECREES

Concern: Individuals who were not parties to consent decrees would be unable to contest reverse discrimination that resulted from these decrees.

Explanation: In the case of *Martin* v. *Wilks*, the Supreme Court held that an individual should be allowed to challenge the validity of a consent decree under which he or she had suffered discrimination unless that individual had been a party to the original case leading to the decree. Consent decrees involve affirmative action programs and are often challenged for causing reverse discrimination. H.R. 1 would forbid an employee who is discriminated against because of a consent decree from challenging that consent decree, even if the employee did not know about the court action or have a chance to be heard when the consent decree was issued.

12. ISSUE: EXTRATERRITORIAL COVERAGE

Concern: Should the Civil Rights Act cover American employers and employees who are overseas? This was not in the original bill, but was added in the Brooks substitute.

Explanation: This provision is simply another example that, whatever the merits, we should not legislate before we have had a chance to explore an issue through hearings and debate. It is time to stop legislating by surprise.

Mr. Chairman, I do not think it serves the legislative process well when any of us question the motives of those who disagree with us. I do not question the sincerity and wisdom of the authors and supporters of H.R. 1 in attempting to address the very real problem of discrimination in America. In turn, I believe that the Members of this body, and the business community, who have expressed opposition to this bill, and some on the other side of the question who will be voting for this who still have differences of opinion in this legislation, but those who have expressed opposition to this bill, are not racists, but have legitimate concerns about the effect this bill would have on businesses, and, even more importantly, their employees.

Mr. Chairman, often overlooked in the heated rhetoric that has been going on in this Chamber over the last couple of days is the fact that employees will be affected by the concerns that I and others are raising about the effect of this legislation if it should become law.

I believe that a compromise can, could, and should be reached, which protects the rights of all citizens, black or white, woman or man, employee or employer, and hope that his body will have an opportunity to vote on such compromise sometime in the future.

Mr. Chairman, civil rights bills have never been easy, but they have passed because they were right, right in principle, right in substance, right in legislative drafting.

In my opinion, this bill is not right. Perhaps it is wrong for all of the right reasons. Nonetheless, I urge Members to vote no on this bill, so that in the future we might have the opportunity to vote yes on the right bill; that we as a body and as a nation might find it in our hearts and in our minds and in our legislative agenda in this body to find the answer to those questions that divide us so bitterly today.

Mr. Chairman, I know as I have listened to Members on both sides of this question that in our hearts the overwhelming majority of us want to find that answer. Perhaps the eight Senators on the other side of this building that we stand in today can find the combination that some of us on this side failed to find, finding that proper wording that will give us the goal that each of us seeks.

Mr. HYDE. Mr. Chairman, I am honored to yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, the civil rights debate in Congress is not about the President. The President is a good and decent man. And his record on civil rights is above reproach. When he was one of our colleagues, he cast an unpopular but courageous vote for the Civil Rights Act of 1964, though much of his home State of Texas opposed it.

This debate should be about jobs and opportunity for all Americans, regardless of race or sex. The hard cold fact is that discrimination on the basis of race and sex exists in our country. We absolutely do need a strong civil rights bill that prevents job discrimination and opens up opportunities for women and minorities.

We must focus on how to assure that victims of discrimination have timely, equitable justice. I do not define "timely justice" as an 8-year legal battle in which a victim's lawyer takes home more money than the victim as could clearly happen under this bill. Nor do I define "equitable justice" as a system that freezes out most victims of discrimination because of a prohibitively expensive and lengthy court process.

Further, I do not believe it is a good idea during tough economic times to pass legislation that will stack the deck against small employers. It is only human nature to expect that small employers will avoid situations in which they cannot possibly defend themselves, forcing them to look at numbers, not people.

The bills before us are, in reality, not very different from each other. There are problems that prevent both of them from being the piece of civil rights legislation we need. So today, I am voting against the Brooks-Field substitute. A good piece of legislation is within our reach; the problems in this bill are solvable, but only if the parties work together instead of tearing each other apart on an issue which the American people hold dear—that discrimination on the basis of race or sex has no place in our society.

I hope my colleagues will step back and take a moment to look behind the labels and name calling, to wade through all the lofty rhetoric, and remember that we have a responsibility to pass the best possible legislation that will assure jobs and opportunities for all Americans. We are almost there. But the best solution will come when we lay down the verbal spears, cease the partisan posturing and work together to craft responsible policy that, in the real world, prevents discrimination and promotes jobs and opportunities for all. For that is what the American people elected us to do.

Mr. HYDE. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. FISH].

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the gentleman from New York.

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Mr. FISH. Mr. Chairman, I am pleased to speak in support of the Brooks-Fish substitute, the compromise version of this legislation. The earlier discussions of the Towns-Schroeder substitute and the Michel substitute clarify that Brooks-Fish occupies the middle ground around which consensus hopefully will develop. The hours of debate point out the substitute presently before this body incorporates substantial accommodations to the business community—accommodations that go way beyond our attempts last year to address employer concerns.

During general debate, I pointed to explicit antiquota language stating that the use of quotas is unlawful. Employers do not protect themselves by relying on quotas but rather subject themselves to potential liability for intentional discrimination.

We must not overlook the fact that nothing in this bill gives employers a reason to hire by the numbers. During general debate, I quoted language permitting employer reliance on "relative qualifications or skills." At this point, I want to discuss some basic procedures in disparate impact cases under the Brooks-Fish substitute—steps that clearly provide no incentives for reliance on quotas.

The complaining party in a disparate impact case carriers the heavy burden of linking adverse impact on women of members of minority groups to a specific practice or practices unless the employer's own conduct essentially forecloses the possibility of establishing such linkage. Here the Brooks-Fish formulation goes so far as to require a judicial finding that the complaining party "after diligent effort cannot identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact." Surely it would be unfair to penalize the victims of alleged discrimination for not establishing specific linkage in such narrowly defined circumstances beyond their control—where an employer effectively prevents them from obtaining needed information about employment practices.

Employment practices resulting in disparate impact, of course, may not be unlawful. Business necessity serves as a potential defense. We incorporate the following simple, straightforward standard of business necessity: "[T]he practice or group of practices must bear a significant and manifest relationship to the requirements for effective job performance". The substitute's broad definition of "requirements for effective job performance" further protects employers by permitting consideration of a wide range of work-related factors. The Brooks-Fish substitute clearly facilitates proof of business necessity.

The proposed damages remedy in title VII of the Civil Rights Act is limited to cases of intentional discrimination. The fact that damages will not even be available in disparate impact cases—cases of unintentional discriminatory effort—again negates any suggestion that employers will need to rely on quotas to avoid damage awards. In considering the appropriatenesss of damages as a remedy, we need to bear in mind that damages already are available for racial discrimination under other legislation. There is nothing unique about damages in the context of other forms of intentional, invidious discrimination—such as sex discrimination—nothing, I repeat, that justifies surmising that employers now will resort to quotas in disparate impact cases involving unintentional discrimination.

Mr. Chairman, civil rights laws define our relation one to another in a multicultural society. They promote tranquility by guaranteeing all equal opportunity and equal justice regardless of race, religion, or ethnic background. And we have succeeded, Mr. Chairman, achieving a unified society.

In addressing redress for discriminatory employment practices, we implement. the "equal protection of the law "clause of our Constitution. Surely discriminating employment practices without redress is a denial of equal protection.

In making the practice illegal quotas join countless other unfair employment practices on the books.

The Brooks-Fish substitute both safeguards employment rights. And protects the needs of American business.

Mr. HYDE. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], the distinguished minority whip.

Mr. GINGRICH. Mr. Chairman, I thank my colleague for yielding me this time.

Let me close for our side with a plea to every Member to look to the future. We disagree about H.R. 1, but this bill does not define or limit America's future. We have an obligation to every American, young or old, black, white, yellow, brown or red, male or female, every American to protect their civil rights.

My guess is that in a very few minutes, this bill will not have gotten enough votes to override a veto. My plea to the Democratic leadership at that point would be to work together to fashion a bill that can be signed. I think this country desperately needs a bipartisan effort focused on civil rights, and it should be possible to write a bill that does not threaten small businesses. It should be possible to write a bill that does not threaten unending litigation. It should be possible to write a bill that does not have any question about quotas.

I just want to say for our side, we think it is extraordinarily important to get beyond the heat of the last 2 days, to get beyond the hard language of the last 2 days, to join together against racism, to join together in favor of integration, to join together in favor of the civil rights of every person. If it turns out that the other side does not have the votes to override a veto, I would plead with my colleagues to sit down jointly with us and let us write a civil rights bill the President will sign and let us have a bipartisan joint signing ceremony in which every American gets the message that there is no room in America, there is no room in America, there is no willingness in America to tolerate racism of any kind under any form.

Mr. SHAYS. Mr. Chairman, I rise in support of the Brooks-Fish amendment.

Mr. Chairman, I rise as a legislator from an urban district and as a Republican in support of the Brooks-Fish substitute for H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991.

I support this substitute bill just as I believe I would have supported the Civil Rights Act of 1964, had I been a member of this Chamber at that time.

Regrettably, we wouldn't need to be considering this legislation were it not for the fact that the Supreme Court in several cases in 1989 seriously weakened the employment protection provisions of the landmark 1964 act.

The reality is we need the Brooks-Fish civil rights bill to undo the damage done by the Supreme Court.

The Brooks-Fish substitute is not a quota bill any more than the Michel substitute was a quota bill, any more than the 1964 act was a quota bill.

Referring to this substitute as a quota bill is evidently a way to kill the bill and/or justify a no vote but, in my judgment, it is not a fair accusation.

I know many members whom I respect and admire, as well as the President whom I also respect and deeply admire, disagree on this issue. Despite our differences each of us must be true to our constituents and to ourselves.

This civil rights legislation is needed. It is a good and fair proposal and it deserves our support. It certainly has mine.

Mr. ZIMMER. Mr. Chairman, I rise in support of the substitute.

Mr. Chairman, the battle over this civil rights bill has been a long and increasingly bitter one.

While there is nearly universal agreement that legislation is needed to reverse several restrictive Supreme Court decisions, attempts to draft an equitable civil rights bill have led to an ugly political debate over the divisive issues of discrimination and fairness.

That debate needs to be put to rest. We should focus instead on reconciling the differences between the President's bill and the Democrats' bill and on correcting the recognized deficiencies in the current law.

Regardless of authorship, any civil rights bill should enable victims of actual discrimination to prevail in court and allow innocent employers to defend their business practices successfully.

Admittedly, this is easier said than done. Yet, if properly crafted, this civil rights legislation can create a fair employment system without forcing employers to implement quotas. I have followed the public debate about quotas and I have carefully read the Brooks-Fish substitute. If I thought that this legislation was a quota bill, I would oppose it. Quotas are anathema to true civil rights. In my considered opinion as a business attorney, the Brooks-Fish substitute is not a quota bill.

Unfortunately, the Brooks-Fish bill still has substantial shortcomings. I am particularly concerned that its punitive damages provisions could impose undue hardship upon small businesses. I strongly prefer the punitive damages provisions of the Michel substitute. I also prefer the Michel substitute's emphasis on conciliation rather than litigation. For these reasons, I voted for the Michel substitute.

However, now that the Michel substitute has failed, I will vote for the Brooks-Fish substitute because it is a significant improvement over the current law. For cases of disparate impact, it requires the plaintiff to identify the unfair practice or practices, returns the burden of proof to employer and defines business necessity in a way that provides any employer with the practical ability to justify his business practices. The new version also addresses race norming and appropriately limits challenges to consent decrees.

While there are flaws in both bills and I am completely satisfied with neither, together they provide the necessary framework for re-establishing balanced civil rights protections. I am voting for the Brooks-Fish substitute today to keep the ball in play with the hope that the bill can be improved as it moves through the Senate.

Mr. BROOKS. Mr. Chairman, I yield the balance of my time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

Mr. GEPHARDT. Mr. Chairman, as the debate on our antidiscrimination bill draws to a close, I hope all of us might draw a deep breath so that we might remind ourselves how far we've come.

From boats and chains, to rural homelands, to a painful urban exile outside of America's vibrant life. From unspeakable acts of violence, to segregation, to separation and then impressive marches to new laws, new vistas and new opportunities.

We've spilled blood over these issues, JOHN LEWIS, someone we know and admire, and countless others whose names we'll never know, spilled their blood. And through these sacrifices, we've tried to close a national wound and to bind all of our people much closer together as any society would want itself to be drawn.

It's been hard, it couldn't have been easy, but it's worked. In every community we represent, African-Americans, Hispanics, women, religious minorities, and the disabled—people who heard the promise of American life but never quite got the promise fulfilled—have begun to enter America's mainstream.

Passing this bill is important, but it's not sufficient. We have to reignite the Nation's economy, and we have to challenge our sense of personal responsibility. We cannot let the national dialog on race relations in this country subside even after we put the conference report on the President's desk. Because this debate has exposed—honestly and obviously—that we have failed to talk with each other about these issues far too long.

But our periodic failures in candor cannot be an excuse for inaction today.

Now is the time for courage, for belief, for standing for and doing what is right. It is time for unity, and for healing, and for getting this job done.

In the American classic, "Our Town," the narrator looks out over a Civil War graveyard, and pays his personal testimony to the young men who gave their lives for national unity.

> They had a notion that the Union ought to be kept together, though they had never seen more than fifty miles of it themselves. All they knew was the name, friends, the United States of America.
>
> The United States of America.
>
> And they went and died about it.

In our day in our time, we must not ever allow the clock to be turned back on race relations in this country.

Mr. LIPINSKI. Mr. Chairman, I rise in opposition to this amendment.

I believe all of the civil rights bills before us today continue to promote the use of quotas and cause reverse discrimination. Reverse discrimination has crushed the aspirations of so many of my constituents. For these reasons, I oppose all of these bills. The Democrats, Republicans, liberals, conservatives, and moderates, who are speaking in the House of Representatives today, all say this bill would eliminate quotas. I cannot believe this because I know my constituents have been hurt by the 1964 Civil Rights Act. This act, according to its No. 1 proponent, Senator Hubert H. Humphrey, was not intended to be a quota bill or lead to reverse discrimination. Senator Humphrey, an honest man, would have vigorously opposed his own legislation if he believed that quotas would have in any way resulted from his bill.

Well, it has led to quotas, and it has also led this Nation to a public policy that condones reverse discrimination against my constituents and many other hard working Americans. Since I was first elected to public office in 1975, I have seen a great deal of suffering, pain, disappointment, and dejection due to reverse discrimination. I have seen it in the lives of my constituents whose names end in vowels, -ski, -wicz and other central and Eastern European names. I have seen them deprived of jobs, deprived of promotions, and deprived of entrance to prestigious universities. They have not only been outrageously and negatively impacted by quotas and reverse discrimination, but they have had no influence or power to pass laws permitting slavery, segregation, or discrimination. Instead, these people by their own initiative, imagination, and industry overcame the prejudice which exists in this country. I have seen my constituents, who have worked hard and studied hard, be in a position to achieve their dream and had it taken away by quota and reverse discrimination.

I am for every American—black, white, red, yellow, brown, male or female—having equal opportunity, and I believe that government has a duty to create such an environment for all its citizens. However, government has failed to create such an environment, and it is time we realize that by giving unfair advantage to one group, we will always discriminate against another.

Yes, African Americans have endured slavery and segregation. They along with other minorities and women have and continue to fight discrimination and prejudice. Unfortunately, all of these bills before us today fail to effectively address these negative aspects of American society; and, it is unfair, unjust and un-American to correct past injustices at the expense of my constituents. It must stop.

I believe if we would work together to develop a program that gives all Americans equal opportunity, we could achieve this goal. We must start by creating programs giving all Americans equal access to a quality education. Our emphasis should shift to promoting programs which rebuild and equip America to be competitive throughout the world. By providing decent housing, keeping families together, and fighting drugs and crime, we can more effectively combat discrimination and prejudice. This should be the American solution for ensuring equal opportunity.

It is obvious the social experiment that began with the Civil Rights Act of 1964 has caused quotas and reverse discrimination and has been an abysmal failure. Please stop the reverse discrimination against my constituents, for they have already paid too high a price.

Vote no, and let us work for an America that gives equal opportunity to all.

Mr. BROOKS. Mr. Chairman, I don't want anyone to think that the Brooks-Fish substitute is a perfect bill. I have been here far too long to believe that, and I fully expect that after a few years—or even a few months—people will be standing in line to suggest changes. But, that doesn't trouble me one bit; it's part of the legislative process.

And so, while I am never going to claim that our work here today is going to solve all the world's problems, it is my hope that we can at least make this a little better world to live in. And, if we err, we certainly ought to err on the side of compassion in helping those who want to do better in this world of ours.

Ms. SLAUGHTER of New York. Mr. Chairman, the tragedy of this debate is that we are dividing Americans on who gets to work and we should be spending our time creating jobs.

Mr. BERMAN. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute.

I admit that my reasons for supporting this legislation cannot be expressed in a 30-second sound bite. But obstacles to justice that take the form of legal technicalities can cause intolerable harm just as surely as billy clubs, hoses, and dogs can.

We passed landmark civil rights legislation at a time when those horrid televised images were vivid. But now when the equal opportunites promised by that legislation are snuffed out, it happens not in the streets, at lunch counters, or at the schoolhouse door. It happens instead in hushed courtrooms where well-heeled counsel insist that they cannot explain why year after year their clients show lamentable records in minority hiring, and that since their clients do not intend to discriminate, minorities must bear the burden of proving that particular practices prevent their employment or promotion.

But I have enormous regard for the ability of my colleagues in this body—attorneys and nonattorneys alike—and I believe that all of us can understand that the rights guaranteed by our civil rights laws mean little without the remedies the Supreme Court has stripped from those laws.

And I know that every civil rights attorney in this country worth his or her salt has turned away meritorious cases—cases in which grievous wrong has occurred—because proving and winning those cases has been made immeasurably more difficult in light of the Supreme Court's rulings and the increasingly sophisticated and insidious practices of employers who are not committed to equal employment opportunities.

Make no mistake: The result is not just a problem for racial or religious minorities, for disabled persons, and for women. When Americans are discriminated against in their pursuit of employment opportunities, all of us pay the price.

The United States loses its international competitive edge when we consign millions of minority youths to—at best—a future of minimum-wage jobs at which they know full well they cannot support themselves and their families.

The President of the United States fosters the attitude that minorities in this country are lazily looking for handouts, while the rest of us have worked hard to get where we are today. Yet I know that many, many minority workers day in and day out face unlawful obstacles to getting hired, getting promoted, getting treated on the job with basic decency, that would daunt the sturdiest of us. Failure to enact this legislation this year would sent a message to minority workers that they will receive no help from the Government of the United States in their efforts to overcome obstacles on the job.

I want to also say a word about the particular burdens women face in the workplace. The administration, by barring women from recovering compensatory or punitive damages in title VII cases, is in essence saying that they must continue to suffer intentional discrimination in silence, because we will not take it seriously.

Misconduct that offends us we make punishable by monetary damages under our system of civil justice. It is little wonder that at the same time the President rejects this principle in the context of the legislation before us today, he has also failed to insist that his personal physician apologize to the female White House reporter whom he sexually assaulted. The White House sees that incident as harmless horseplay, leaving women, yet again, without recourse. I, for one, believe that it is long past time that we take discrimination against women seriously, and act to prohibit and redress it.

For all these reasons, I strongly support the Brooks-Fish substitute. I prefer the Schroeder-Towns substitute, but I also am a realist. Enactment of a meaningful civil rights bill this year is essential, and the legislation reflecting the yeoman efforts of my chairman, Mr. BROOKS, and Mr. FISH, and Mr. EDWARDS of California is the means to accomplish that goal.

Mr. CARDIN. Mr. Chairman, I rise today in strong support of the Brooks-Fish substitute. Over the past few weeks, this bipartisan compromise has addressed many of the concerns about the original committee bill.

The right of people to be free from discrimination is fundamental. This Nation was founded on the principle that all men are created equal.

Over the past quarter century, we have seen significant progress on the civil rights front. The breaking down of past walls of injustice has been one of America's proudest accomplishments.

This civil rights legislation involves the always difficult task of establishing a balance between the legitimate claims of minorities seeking equal opportunity and the interests of individual members of the majority who have not committed acts of discrimination.

This bill seeks to reverse the Court's decisions that have skewed the policy balance too heavily against the legitimate interests of those who have in the past been denied an equal opportunity in America. Let us look at what this bill specifically accomplishes.

The Supreme Court in the Patterson versus McLean Credit case said that racial discrimination is prohibited only in the formation of private contracts. This legislation would clarify that discrimination is prohibited in all aspects of private contracts, including employment contracts.

This legislation would require the employer to prove that an employment practice that has a disparate impact on women and minorities "bear a significant and manifest relationship to the requirements for effective job performance." It also requires the employee to challenge the specific employment practices that have resulted in the disparate impact.

The Supreme Court in its decision on the Price Waterhouse versus Hopkins case implied that discrimination was permissible as long as it was not the primary motivating factor. The civil rights bill specifies that it is illegal for intentional discrimination to be any factor in the employment process.

The Brooks-Fish substitute adds a provision that prohibits employers from adjusting test scores on a written employment test on the basis of an individual test-taker's race, color, religion, sex, or national origin.

This civil rights legislation also clarifies that the statute of limitations begins either when a discriminatory employment practice is implemented or when it has an adverse effect on the plaintiff, whichever occurs later.

The bill establishes a procedure to limit the ability of individuals who are not a party to an employment discrimination case from later challenging a consent decree that resolved the dispute.

In the final analysis, this legislation is designed to restore this Nation's commitment to judging individuals on the basis of their skills and qualifications. This civil rights bill will restore our commitment to eliminating discrimination on the basis of race, religion, sex, handicap, or national origin.

Mr. Chairman, we must pass a civil rights bill today. We cannot let this country reverse itself on civil rights matters. As a Congress, we must lead this Nation toward a day when all Americans are treated equal. Sadly, we have not reached that point yet, but this bill will enable us to move forward toward our goal.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the Brooks-Fish substitute because I believe the Court simply made a huge mistake in rolling out a red carpet to prejudice. Our Government's role is not to create a freedom to be racist and sexist.

To begin with, courts have recognized that discrimination occurs not only in hiring, but also in promoting, layoffs, and other aspects of employment. In Patterson v. McLean Credit Union, the Court turned the clock back by saying that only hiring was relevant. The Brooks-Fish substitute would reinstate these modern-day protections.

Second, in the Wards Cove case, the Court overturned its decision in the earlier Griggs case by shifting the burden of proof from the employer to the employee on the critical question of whether the discrimination was justified. That conclusion was incomprehensible, because only the employer has access to the employer's information on why they made their decision. The Brooks-Fish substitute would restore the Griggs outcome.

Third, Ward Cove also lowered the Griggs standard of business necessity for justifying discrimination. This definition is the key to preventing justification of actions as a business necessity when the primary motivation is discrimination. The Brooks-Fish substitute would reinstate Griggs here, too.

Fourth, in Lorance versus AT&T, the Court stated that the statute of limitations begins to run when a discriminatory practice is inititated. But that is patently unfair, since an individual employee is not able to keep abreast of every management decision. It may be years until that employee learns of the practice and is affected by it. That should be the time when the statute of limitations begins to run, and Brooks-Fish adopts that policy.

Fifth, in Price Waterhouse versus Hopkins, the Court allows international discrimination where it is not the primary factor in a management decision. That conclusion was unjustifiable since even our finest psychologists cannot distinguish between the number one and number two thoughts in the mind of an administrator. How do we really know discrimination was a primary factor? The Brooks-Fish substitute makes it clear that intentional discrimination is never acceptable.

Also, Martin versus Wilkes would be overturned by the two proposals. This case allowed a negotiated settlement from a discrimination charge to be challenged again, later. This means that a victim who finally wins could have everything taken away later. Brooks-Fish would reverse this case.

Now, there are provisions of the Brooks-Fish substitute that I find unacceptable. For example, it would prohibit use of quotas by employers; it would prohibit use of race norming; and, most importantly, it would cap punitive damages for the victims of intentional sex, religion, or disability discrimination in employment at $150,000, or the amount of compensatory damages, whichever is greater.

These are very serious provisions that have been placed in the substitute in an effort to work with President Bush; and while I strenuously disagree with them, I shall vote for Brooks-Fish because I believe this Congress must exercise its constitutional responsibility to overturn unfair and discriminatory rulings by our Nation's highest Court.

Mr. Chairman, those critics who say that Brooks-Fish substitute goes too far are dead wrong.

One of the thorny issues that has emerged in the past few days is the issue of caps on punitive damages for sexual discrimination. The notion that there should be such a limit shows a fear of the American people. Why do I say this? Because damages are decided by juries. And juries are Americans. This is not a trial lawyers' provision; it is a provision in line with our system of jurisprudence which says that if a person is injured, he or she has a right to be made whole.

For all of these reasons, I support Brooks-Fish and urge my colleagues to vote for this substitute.

Mr. ORTIZ. Mr. Chairman, I rise in strong support of this legislation.

Mr. Chairman, I rise today as chairman of the congressional Hispanic caucus in strong support of the Civil Rights and Women's Equity in Employment Act of 1991.

The Civil Rights Act of 1991 will restore the integrity of Federal equal employment laws that have been severely weakened by a number of recent Supreme Court decisions.

While the caucus feels that it would have been preferable to have H.R. 1 as reported, we understand and appreciate the concerns raised by the business community and the need for legislation that will receive strong bipartisan support.

As such, the caucus joins the Education and Labor and Judiciary Committees in support of Brooks-Fish bipartisan compromise as the best bill that can be achieved under the current circumstances.

Our Nation has come a long way as a society in recognizing and addressing the incidence of prejudice and racism, and we should be proud of the steps we have made.

Unfortunately, despite our efforts, the occurrence of discrimination in the workplace is still all too prevalent.

Our actions here today, on this floor, will represent our best effort to address this vital concern.

The Federal Government has the societal obligation to ensure that victims of employment discrimination are assured fair and effective remedies regardless of their national origin, race, sex, religion, or physicial ability.

Unfortunately, recent decisions by the Supreme Court, instead of furthering this goal, have worked only to its detriment.

The Court's decisions have cut back significantly on the rights of job discrimination victims and threaten to annul the gains we have made in the last quarter century.

The Brooks-Fish compromise represents our best effort to ensure that our Nation continues to move forward in the arena of civil rights, not backward.

The Brooks-Fish substitute is not a quota bill as the President would have the Nation believe.

It will not place onerous and overburdensome restrictions and regulations on businesses, allow excessive damage awards, or lead to unneeded litigation.

It will fulfill this Congress' and this Nation's overriding responsibility to ensure that each and every one of its citizens is treated fairly and equitably in the workplace.

Vote for the Brooks-Fish bipartisan compromise.

Vote for our future.

Mr. FOGLIETTA. Mr. Chairman, I call upon the President of the United States to support our returning troops who fought so valiantly in the Persian Gulf and sign the civil rights bill which I support very strongly.

Mr. SMITH of Florida. Mr. Chairman, I rise in strong support of H.R. 1 and the substitute to bring together the fabric of society and put the Constitution back in the day-to-day lives of all American people.

Mr. JONES of Georgia. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute. I urge that we put principles above petty politics, and I urge its passage.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of this legislation because it is essential to the goal of eliminating discrimination in the workplace for working women.

Mr. Chairman, I rise in support of H.R. 1. The Civil Rights and Women's Equity in Employment Act is a top priority for women at both the national and local level. Its enactment is essential to the goal of a discrimination free workplace for working women.

This landmark legislation will go a long way toward restoring the law to its earlier intent and interpretation. For many years civil rights laws have opened doors in employment for women. We must ensure that we continue to make progress toward equity in the workplace so that every American woman can reach her full potential.

The Civil Rights Act of 1991 strengthens women's position in the workplace and will have long-lasting and beneficial effects not only on individual women and their families but also on the U.S. economy.

In the competitive new world of the 1990's, when America's destiny depends on bringing out the best in all our people, it is more important than ever to continue America's progress toward wiping out discrimination.

Business, labor, colleges, and universities, the professions, religious institutions—all understand that America must move forward, not backward in the march against prejudice.

The Civil Rights Act of 1991 will restore and strengthen the statutory protections of the civil rights of all women, and send a clear message that the Congress does not intend to reverse our national commitment to equal justice for all.

Opponents to H.R. 1 are mischaracterizing the act as a quota bill. Nothing could be further from the truth. It will instead restore the appropriate balance which long-governed the law of employment discrimination and make an enormous contribution to working women and their families across this country.

The Civil Rights Act of 1991 is not only one of the most important women's issues before the 101st Congress, it is probably one of the most important women's workplace issues that the Congress will consider in the entire upcoming decade.

Any attempt to undermine the Civil Rights Act's efforts to restore a woman's fundamental right to equal employment opportunity is an attempt to perpetuate employment discrimination against women.

This bill makes a clear statement that a woman's right to equal opportunity will not be compromised; 54 million working women are counting on its passage. I urge my colleagues to join with me in supporting H.R. 1.

Mr. ABERCROMBIE. Mr. Chairman, multiracial, multicultural, multiethnic Hawaii will be voting for H.R. 1.

Mr. Chairman, I rise today in support of H.R. 1, the Civil Rights and Women's Equity in Employment Act.

I would like to take a moment today to remind my colleagues in the House exactly what is at stake here. We are trying to restore effective protection against employment discrimination on the basis of race, national origin, sex, and religion. It seems rather simple Mr. Chairman, we are only talking about protecting fairness and opportunity.

The intent of the Civil Rights Act of 1964 was to eliminate discrimination. Unfortunately, the reality is that discrimination against women and minorities still exists, and is in fact widespread.

The problem is, Mr. Chairman, that in the last few years the Supreme Court has weakened civil rights legislation which is essential for protecting Americans against job discrimination, and now the President has labeled this the quota bill.

Even though over the last 30 years we have enjoyed unprecedented progress in the area of civil rights, we are still plagued with discrimination's evil curse.

The fact remains, that civil rights laws are meaningless protections if they do not ensure guarantees of legal recourse. Title VII of the 1964 Civil Rights Act prohibits discrimination in the workplace, but unfortunately it does not provide for fair restitution even in cases of intentional discrimination. It is only fair that title VII be expanded to guarantee that victims of intentional discrimination have the right to sue for some kind of reparation.

Finally, Mr. Chairman, the tragic misconception about this bill is that the administration has attempted to poison the well by branding this as a quota bill. This is not a quota bill. This is an antidiscrimination bill.

Indeed, H.R. 1 includes language that states that employers are not required or encouraged to adopt hiring quotas; and numerical imbalances alone cannot be reason for a violation.

The Civil Rights and Women's Equity in Employment Act simply clarifies that the burden of proof in hiring cases is clearly on the employer. It cannot be said that this will make it more difficult for employers to defend their hiring standards because it only restores the previous standard which was used for over 18 years.

What we have here is another sordid case of manipulating an issue for political purposes. Indeed, it is sad how the administration has done its best to hide the intent of this bill under the false notion of quotas.

Mr. Chairman, I urge my colleagues to remember the real issue at hand. This is not a quota bill. It is an antidiscrimination bill.

This bill is about fairness and opportunity for people as they attempt to find employment and improve their lives.

I urge my colleagues to support H.R. 1, because it gives people a fighting chance.

Mr. EDWARDS of California. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute.

Mr. Chairman, I rise in support of the bipartisan substitute to H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991. The substitute is responsive to the quota and damages concerns raised by the business community. Most of the changes reflect the understandings reached between representatives of the Business Roundtable and the Leadership Conference on Civil Rights. However, there are three issues not part of those discussions which are included in this compromise. They are the cap on punitive damages, the ban on quotas, and the prohibition on discriminatory use of tests.

The substitute reflects the combined efforts of the two committees to which the bill was referred—Judiciary and Education and Labor. In addition, the substitute adds two new sections to reverse Supreme Court decisions announced after committee consideration of this year's bill—decisions which affect the underlying statutes amended by H.R. 1.

Title I, reported by both the Judiciary and Education and Labor Committees, amends the Civil Rights Acts of 1866 and 1964 to restore and strengthen their prohibition against employment discrimination. The Supreme Court dramatically narrowed these laws in a series of decisions in 1989.

The Wards Cove decision placed a nearly impossible burden of proof on plaintiffs in cases involving nonintentional discrimination. H.R. 1 requires employers to justify practices that have a discriminatory effect by going back to the standards enunciated by the Supreme Court in the Griggs decision.

The Brooks-Fish substitute clarifies what employers must show in justifying those practices and provides the flexibility essential to choosing qualified workers. It does so by making several changes to sections 101 and 102—the definition and disparate impact sections:

The term "required by business necessity"—used in section 102—is defined to mean a "practice or group of practices must bear a significant and manifest relationship to the requirements for effective job performance." Business representatives have asserted "manifest" is the best codification of the Griggs standard we are trying to recapture. "Significant" is also found in Griggs and the two terms together fully codify the standards described by the Court in that decision.

The term "requirements for effective job performance" includes factors, such as punctuality and attendance, which go beyond performance of the actual work task.

Section 102 is amended so that: First, there is a single standard applied to all employment practices in disparate impact claims—H.R 1 had one standard for selection practices and another standard for nonselection practices; second, when a group of employment practices is challenged, instead of lumping them together, the plaintiff must identify each discriminatory practice unless the court finds the plaintiff, after diligent effort, was unable to do so from the employer's records or other information of the employer reasonably available through discovery or otherwise; third, when a group of employment practices are challenged, the employer need only defend against those practices which contribute in a meaningful way to the disparity; and fourth, it reaffirms that anemployer may rely on relative qualifications or skills in making employment decisions.

All of these changes are designed to provide flexibility to employers in hiring qualified workers, while restroing the original standards of the Griggs decision.

The Price Waterhouse decision allowed employers to engage in intentional discrimination as long as they also could point to some nondiscriminatory reason to justify their decision. H.R. 1 bans intentional discirmination in all cases.

The compromise allows plaintiffs in mixed motive cases to challenge discriminatory practices that were a motivating factor in the employment decision. H.R. 1 uses the term "contributing" factor.

The Martin versus Wilks case allowed individuals to reopen consent decrees, even where they had an opportunity to participate in the original litigation. H.R. 1 assures that settlements can be reopened only if justified. This provision is unchanged by the Brooks-Fish substitute.

The Lorance case created artificial time barriers for filing discrimination suits. H.R. 1 establishes fair time lmits to file lawsuits.

The compromise changes the 6 months statute of limitations, currently in title VII and the ADEA, to 18 months, down from the 2-year period in H.R. 1.

The Patterson case allowed racial harassment on the job, saying that the 1866 Civil Rights Act prohibited discrimination only in the initial hiring decision. H.R. 1 prohibits racial discrimination at all stages of a contract.

The compromise amends the attorney's fees section by noting that negotiation of a voluntary waiver of attorney's fees is allowed and by removing the self-enforcing provisions of H.R. 1.

H.R. 1 allowed all cases, including closed cases, to be reopened. The compromise applies the new law to pending cases only.

The compromise contains important antiquota language which defines quotas, prohiits their use, and reaffirms congressional approval of Supreme Court cases validating the lawfulness of voluntary or court-orderd affirmative action plans.

The compromise imposes a $150,000 cap on punitive damages, or an amount equal to compensatory damages, whichever is higher. As in H.R. 1, these damages are limtied to intentional discrimination claims.

The bill contains three new sections. Two of those sections respond to recent Supreme Court rulings. The third section responds to concerns first raised at the Judiciary Committee markup of H.R. 1:

Section 117 of the bill provides protection against employment discrimination to American citizens working for American companies overseas—reversing Aramco, decided March 26, 1991.

Section 118 extends the title VII attorney's fees provisions of H.R. 1 to the Civil Rights Attorney's Fees Act (42 U.S.C. 1988)—reversing West Virginia University Hospitals, decided March 19, 1991.

Section 115 prohibits the use of tests which do not "validly and fairly" predict the ability of test taker to perform the job without regard to race, color, religion, sex, or national origin. Section 116 prohibits the adjustment of test scores or use of different cut-off scores for written employment tests on the basis of race, color, religion, sex, or national origin.

Title II encourages the provisions added to H.R. 1 by the Education and Labor Committee:

Section 201 establishes a 4-year class ceiling commission to conduct a study and to make findings and recommendations on the elimination of artificial barriers to the advancement of women and minorities to executive and management positions in business.

Section 202 directs the Secretary of Labor to develop a pay-equity program. The program will disseminate information, promote research, and provide technical assistance to employers seeking to eliminate wage disparities.

Section 204 authorizes EEOC to establish outreach and public information programs for individuals, such as Hispanics and Asians, who historically have been victims of employment discrimination, but who have been underserved by EEOC's enforcement apparatus.

Last year the President did not have a comprehensive proposal until after both Houses considered the bill. He has weighed in now and the Republicans will offer his proposal as a substitute. There have been news accounts and op-ed pieces suggesting there is not a significant difference between H.R. 1 and the President's bill. That simply is not true.

The Michel Republican substitute reverses only one of the devastating 1989 Supreme Court decisions, the Patterson case. It does not overrule Martin versus Wilks, thus, allowing endless relitigation of settled cases. It fails to overturn Price Waterhouse, which means employers can commit intentional discrimination so long as they can justify their job action with some other nondiscriminatory motive.

The Michel substitute mitigates the harsh results of Lorance only for seniority systems, not all employment practices. Furthermore, The Republican proposal only partially reverses Wards Cove—it properly returns the burden of proof to the employer to justify discriminatory practices as a business necessity, but then codifies the lower business necessity standard announced by the Court's Wards Cove majority.

Finally, the remedies section is most perplexing. Unlike race claims brought under the Civil Rights Act of 1866, the Republican alternative would not permit compensatory or punitive damages. Instead, it would authorize courts to grant an additional equitable remedy of up to $150,000, but only if the court determines that such a remedy "is needed to deter" the respondent from discriminating, and only if it is "otherwise justified by the equities, consistent with the purpose of this Title, and in the public interest." These remedies would only be available for harassment claims. In fact, the Republican alternative would legalize untimely harrassment claims—victims of other intentional discrimination would be limited to the existing "make whole" relief currently available under title VII. There are other restrictions too, which, when added together, provide second-rate remedies for persons with sex, religious, and disability claims.

In conclusion, we have heard much in last year's debate and this year's as well about the "quota" issue. Much of this debate has been inflammatory and divisive. I urge opponents not to resort to this harmful rhetoric. But to those who still want to tag this a quota bill we say in the words of Eliza Doolittle, "Show me."

In addition, Mr. Chairman, I would like to address the testing issue at some length, as it is a new issue for this body, one that was not raised until the very end of the committee process.

The substitute does two things in response to this issue:

The substitute bill flatly prohibits the practice of adjusting scores of, or using different cut-off scores for, written employment tests on the basis of the race, color, religion, sex, or national origin of an individual test taker. There are no exceptions to this prohibition. It includes all entities covered under title VII: Employers, labor organizations, employment agencies—which include State employment services—and joint labor management committees controlling apprenticeship or other training or retraining—including on-the-job programs. Moreover, it applies broadly to the selection or referral of applicants or candidates for employment or promotion.

As a result, where written tests are used in connection with employee selection, an applicant for employment or a promotion will be judged on the test score he or she receives without alteration.

At the same time, the substitute reinforces the requirement which has been in the law since 1964 that tests must not themselves discriminate. Indeed, the practice which has come to be known as race norming arose because certain tests predict job performance differently based on the race or gender of the test taker.

The general aptitude test battery [GATB] which has sparked the debate over race norming presents precisely this problem. In an exhaustive analysis, the National Academy of Sciences determined that the GATB provides different information depending on the race of the test taker, to the decided disadvantage of minority test takers. It weeds out black good workers at a much higher rate than white good workers while white poor workers pass the test at a disproportionately high rate. Indeed, other studies have shown that the GATB often selects white poor workers at approximately the same rate that it selects black good workers.

The controversial score adjustments were designed to adjust for this important problem with the test, not to give black job applicants an unfair advantage. While we are making these score adjustments unlawful, it would be unconscionable to permit the continued use of such a racially skewed test.

The substitute incorporates the standard which exists in the Uniform Guidelines for Employee Selection Procedures for evaluating whether employment tests unlawfully discriminate. Because the guidelines may be changed at any time, and may not even be subject to the protections of the Administrative Procedure Act, it is essential that these standards be included in title VII itself. Indeed, there have been recent press reports that the administration is currently considering proposals to weaken the standards which have governed employment tests since 1967.

It is important, at the outset, to be perfectly clear that the mere fact that blacks or women may score lower on a given test has never—and does not now—make that test unlawful. Instead, the question which must be asked is whether the test validly and fairly predicts the ability of test takers to perform the job with respect to which the test is used without regard to the race, color, religion, sex, or national origin. Only then may a test properly be used to allocate valuable employment benefits.

Validity refers to the correspondence between test performance and performance on the job at issue. According to the Standards for Educational and Psychological Testing, published by the American Education Research Association, the American Psychological Association, and the National Council on Measurement in Education, validity is "[t]he degree to which a certain inference from a test is appropriate or meaningful." It should go without saying that a test which does not provide useful inferences regarding performance on the particular job for which it is being used has no place in selecting employees. The amendment incorporates the requirements in the uniform guidelines and the interpretive case law regarding establishing test validity.

It is possible, however, for a test to be valid but not to be fair. Fairness refers to the requirement that the test must work in the same fashion for all test takers, predicting equally the performance of equally capable candidates without regard to their race, national origin, religion, or gender or disability.

An example of a test which may be valid but not fair is the Scholastic Aptitude Test [SAT]. Although the SAT is an education test, it is illustrative of the problems inherent in many employment tests. The test which is used widely in connection with college admissions, scholarship selection, and other purposes, is justified as a predictor of first-year college grades. However, it predicts such performance differently for males and females. If no adjustment is made either in the score or in the predictive analysis, the same score will overpredict a male's performance and underpredict a female's performance.

Based on this differential prediction by gender, the College Board explicitly recommends that college use "separate prediction equations for each sex, rather than a single equation based on the total group." "The Common Yardstick: A Case for the SAT," The College Board, 1989 at 17. This phenomenon also formed the basis for the court's decision in *Sharif* v. *Department of Education,* 709 F. Supp. 345 (S.D.N.Y. 1989), that the SAT could not be used as the sole criterion for allocating State-sponsored scholarships in New York State.

It is also possible for a test to be valid for one race or gender but not valid for another. Less than a month ago, the Federal Court in Houston, Texas, handed down its decision on the settlement of a case involving challenges to eight promotional examinations used by the Houston Fire Department. The court found that among white test takers there were sometimes satistically significant correlations between test score and job performance, but found that there was:

> * * * no statistically significant correlation between test score and job performance for blacks taking any of the eight challenged Chauffeur and Junior Captain examinations. The number of blacks taking the Chauffeur examinations was sufficiently high—66 in 1983, 71 in 1984, 63 1988, and 115 in 1990—that the failure to find a statistically significant relationship between the test and job performance cannot be dismissed as an artifact of small sample size.—*Houston Chapter of the International Association of Black Professional Firefighters* v. *City of Houston*, C.A. No. H-86-3553 (S.D. Tex., May 6, 1991, findings 75 and 77, slip opinion at 36-37).

There is nothing confusing, technical, or new about the term "fairly." It is drawn from the Supreme Court's 1975 decision in *Albemarle Paper Co.* v. *Moody,* 422 U.S. 405, 435 (1975), requiring test users to investigate the possiblity that the test in question might not work as well, or in the same manner, for women or minorities as it does for men or for whites. It is drawn from the study performed by the National Academy of Sciences on the

Labor Department's General Aptitude Test Battery, finding that whites performed much better on the test than they did on the job, and that blacks performed much better on the job than they did on the test. It is drawn from bipartisan standards in effect over the last 21 years: the "test fairness" requirements of the Nixon administration's 1970 EEOC Guidelines on Employee Selection Procedures, 35 Fed. Req. 12333 (1970), the Ford administration's 1976 Federal Executive Agency Guidelines on Employee Selection Procedures, 41 Fed. Reg. 51734 (1976), and the 1978 Uniform Guidelines on Employee Selection Procedures, 43 Fed. Reg. 38290 (1978). It is also drawn from common sense.

It does not take an expert to understand that a test is fair if it helps employers predict which persons will be effective for the job in question, and if it makes these predictions just as well for women as for men, and just as well for minorities as for whites. This is what any employer seeking to hire or promote employees based on merit would demand from a test: To be assured that persons with the same test scores will have the same likelihood of being effective employees.

No employer who wants to hire on merit would want to use a test like the GATB because the test makes so many mistakes that it excluded capable black workers and fails to exclude white workers who cannot perform the job well. Similarly, no employer concerned with merit would want to use an exclusionary test which predicts effective job performance for men or for whites, but which fails to do so for women or for blacks.

It is difficult to understand why those who oppose this provision think there is something worth defending in tests which are invalid and unfair. No employer is helped by a test which is invalid and no employer is helped by a test which is unfair. Every reasonable employer wants to be able to consider every candidate who can do the job effectively and every reasonable employer wants to have confidence that the same test score predicts the same quality of job performance for all persons who are equally qualified to perform the job.

This provision would put directly into the statute requirements which are now only based in the guidelines and, as such, are subject to administrative revision. It will help make sure that hard-working women and minorities are not unthinkingly excluded from jobs they can perform well. It will also help save employers from being sold a bill of goods by the makers and marketers of shoddy tests which needlessly harm the employer's real interests and needlessly blight the hopes and dreams of fully qualified women and minorities.

With the prohibition of any score adjustments in employment tests based on the race, color, national origin, gender, or religion of a test taker and the strengthening of the prohibitions against using discriminatory tests, the substitute takes a major step forward to assure that employment decisions based on test scores will truly be based on merit. This is the way it should be.

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Mr. AUCOIN. Mr. Chairman, I rise in strong support of the Brooks substitute.

Mr. Chairman, I rise today as a cosponsor of H.R. 1, the Civil Rights and Women's Equity in Employment Act, in full support of its passage. Today we find ourselves debating once again a historic measure that we should have seen signed into law last year.

I ask my colleagues, what is our fundamental purpose here in Congress? Is it not to preserve and protect the rights guaranteed to Americans by our Constitution and legislate accordingly. So how can we allow the strength of the Civil Rights Act of 1964 to be slowly eroded away by an indifferent Supreme Court? Today it is our moral imperative to restore by statute the full spirit of civil rights and equality to our laws.

We have been through this debate before. In 1964, we provided stronger protection for rights guaranteed by the Constitution, protections against race discrimination. Many of us here in this Chamber know that that discrimination has not vanished. We have made progress. But, look around, and you see regression. Today we have an opportunity to prevent employees from being discriminated against on grounds of gender, ethnic or religious origin, and handicap. By passing this legislation, we can put fighting words behind the Americans With Disabilities Act that the President signed into law last summer. We can show our troops who fought to preserve world order in the Persian Gulf that we are fighting for social order here at home.

Let us finish today what we set out to do last year. Let us not put civil rights on hold any longer. I urge my colleagues to vote yes on Towns-Schroeder and yes on final passage.

Mr. KOPETSKI. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute and final passage of H.R. 1.

Ms. NORTON. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute, as one who had the great privilege to enforce this act when it was at its zenith and has seen it transform the United States of America.

Mr. Chairman, this began as an exercise to save the basic job discrimination statute from the Supreme Court. It is ending as an effort to save the statute from the Republican minority and from the President of the United States. A conservative court, presumably deferential to the legislative branch, departed from its own principles, usurped legislative intent, and rewrote title VII. Some Republicans and business groups, such as the Chamber of Commerce, always opposed to the statute, have struck while the statute was down.

Even the Court did not do what has been attempted here. It did not disturb affirmative action. To the contrary, a conservative Supreme Court spent the 1980's rejecting Reagan administration attacks on affirmative action.

Mr. Chairman, despite the fact that affirmative action has benefited white women more than blacks, the administration and its agents have left the impression with the American public that racial quotas have been at the heart of the statute. Employers have not used quotas because they know that quotas will only buy more lawsuits, this time from others who have been excluded. If employers have tracked their progress in selecting qualified people, using flexible goals, they have been far more successful with the wives and daughters of white America. This is understandable. One-third of blacks are poor, and many of them are unskilled and therefore are not always prepared for the jobs to which most affirmative action often is directed today. Most white women have had better life chances, come from the same backgrounds as white men and thus, but for discrimination, would occupy many of the same jobs. Thus, all the major women's rights groups have lobbied this body as hard to save affirmative action as they have to keep limits off of damages.

This exercise has sometimes strayed far from the mark; but it will be remembered for high moments as well. Women, people of color, and many others have stood together here. Black men have rejected the proposition that white women should be treated unequally and white women have denied the link between race and quotas. American Jews, the major victims of quotas in America, have strongly urged that Brooks-Fish be passed and have persuasively argued that the bill will not lead to quotas. Many who have no personal stake in this bill also have stood with us.

Mr. Chairman, it was my great privilege to administer the act we seek to amend today. I have seen it transform opportunities and change the American workplace to one in which we can take increasing pride. Title VII has been a bipartisan achievement of the American people that has vindicated our faith in peaceful change through law. Please affirm that faith today by restoring this great statute to full strength.

Mr. COSTELLO. Mr. Chairman, I rise in strong support of the substitute.

Mr. Chairman, I rise today to join a large majority of my colleagues in supporting the bipartisan Brooks-Fish substitute to the civil rights bill.

This bill is not at all a quota bill. What this legislation does is make discrimination illegal, to provide basic rights for employees so that when they interview for a job they will not be discriminated against.

Quotas are something that I do not at all favor, and in fact one of the reasons why I support this substitute is because it specifically forbids quotas by writing that intent into law. The language in the bill reads, "quotas shall be deemed to be an unlawful employment practice under title VII."

This legislation attempts to make the workplace more fair for all employees. In fact, lawsuits can be filed for reverse discrimination by white workers who feel that an employment system is the product of quotas.

It is appalling that the Bush administration is seeking to make the 1991 civil rights bill and the entire civil rights issue the Willie Horton of the 1992 Presidential election. This legislation is about equal opportunity for all workers, and not handouts, quotas, or unfair advantages. I urge my colleagues to support the Brooks-Fish substitute.

Mr. COX of Illinois. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute.

Mr. Chairman. I rise in support today of the Brooks-Fish substitute amendment to the 1991 Civil Rights Act.

The Brooks-Fish substitute is a bipartisan bill which restores the rights of women and minorities reversed by five key Supreme Court cases in 1989. At the same time, this substitute meets the concerns of the business community and does so very effectively.

This substitute addresses everything the President has stated as being wrong with the original bill, H.R. 1. However, the President continues to promise to veto this bill as amended in the Brooks-Fish substitute. The President and some Members of the House continue to falsely claim this bill is a quota bill, ignoring the contents of the bill entirely.

This substitute contains provisions needed to protect both the employer and the employee. It contains a cap on punitive damages at $150,000 under title VII claims, or the amount of compensatory damage claims, whichever is higher. The substitute prohibits race norming by use of adjusted test scores. It provides a burden of proof requirement on the employer that gives the employer more flexibility in defending hiring practices, and provides for a general prevention of retroactive disturbance of court orders.

Most important, I must state again this substitute contains a provision which specifically claims that quotas are prohibited. If an individual believes they are a victim of an unfair quota system they can in turn file suit just like anyone else under the Civil Rights Act. How the administration and some of the Members of this Chamber can still call this bill a quota bill is simply unbelievable.

I think it is clear the administration is using this as an issue of political gain at the expense of the people of this country. If the President truly wanted to sign a civil rights bill, this substitute would be exactly what he has asked for. It addresses all of the concerns of employers and employees, and it prohibits the use of quotas. Yet the administration still does not support this bill. For an administration, which claims to be supportive of civil rights legislation, such actions have proven quite the contrary.

I have met with both small and large businessmen to discuss the civil rights bill. I described to each my unwillingness to support a quota bill, and that is why I support this substitute. It is not a quota bill. Today, I have seen some Members wearing buttons on their lapels which say "Quotas" with a red bar over it. I was curious as to where they got them because I should have been wearing one too. I have been a small businessman all of my life; to think I would support any legislation that would create quotas of any shape or form is utterly ridiculous.

Let's ignore the political rhetoric and support the Brooks-Fish substitute and pass a civil rights bill we can all support.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong support of the Brooks-Fish substitute. I urge its adoption.

Mr. Chairman, I rise today in strong support of the Civil Rights Act of 1991 and in particular the Brooks-Fish substitute. I would like to thank and commend the chairman of the Judiciary and Education and Labor Committees, Chairmen BROOKS and FORD, DON EDWARDS, chairman of the Judiciary Subcommittee on Civil Rights, the ranking member of the Judiciary Committee, HAMILTON FISH, and all who have worked tirelessly to bring a workable bipartisan compromise to the floor of the House.

I am greatly disturbed that we are back again to do what we know is fair and just and we once again are being threatened with a Presidential veto. We know that this bill can pass the House. We know that this bill can pass the Senate. It has been done. Those of us who understand the need to overturn the recent Supreme Court decisions which in effect say that it is OK to discriminate against individuals on the basis of race, sex, or religion or disability, understand that many Americans are no longer afforded protection under the law against discrimination. The Supreme Court managed in 1 year to unravel what took decades to build and which has been in place for 25 years. What we are asking for today is that those fundamental protections which guarantee that every American has an equitable opportunity to compete for jobs or a promotion be restored.

Mr. Chairman, last year we passed and the President signed the Americans With Disabilities Act, the most sweeping antidiscrimination legislation since the 1964 civil rights bill. The business and the disability community got together and with the President's blessing worked out a bill that prohibits discrimination against persons with disabilities. This same President who claims he wants to sign a civil rights bill has quashed all efforts to come to a reasonable compromise on the bill and has sabotaged the efforts of the business and civil rights communities to work together to resolve their differences. I see the Civil Rights Act as an extension of the Americans With Disabilities Act eliminating discrimination not only for the disabled but for minorities, women, and religious groups.

Mr. Chairman, the President and others have raised the red herring of quotas and race norming. The Brooks-Fish substitute seeks to restore equal opportunity for all Americans as was previously in place before the Supreme Court dismantled an individual's ability to claim damages involving racial and ethnic harassment, shifted the burden of proof, and allowed employers to consider factors such as racial, religious, gender, or ethnic stereotypes.

In the years 1971 to 1989 under the law prior to the 1989 Supreme Court cases, there was not a hue and cry that quotas or race norming were undermining equal opportunity. I conclude therefore that this is a political issue that the administration and others are using in a cynical effort to continue the so-called Southern strategy employed in all regions of the country to exacerbate rather than resolve the racial conflicts which for so long have been a cancer on the body politic of America. This effort is fundamentally immoral.

We have spent the past 25 years trying to overcome discrimination in employment and it is incumbent upon us not to retreat from our effort to ensure a society of opportunity for all our people based upon ability and effort rather than prejudice and discrimination.

Over the last 2 years, we have tried to work with the administration to come to a fair and reasonable compromise on this bill with the Brooks/Fish substitute. Although the civil rights act is not now nor was it ever a quota bill, nonetheless the Brooks/Fish substitute seeks to address these concerns by explicitly prohibiting the use of quotas by employers, by stating that the use of quotas is an unlawful employment practice. The substitute also addresses the concern over race norming by prohibiting the race norming of employment test scores.

Every effort has been made to reach a consensus on doing what everybody agrees needs to be done. That consensus is to restore the opportunity that was undermined by the Supreme Court. That is why the President has expressed his support for that objective. However, his actions and those of his staff have ignored the stated objective for obviously political, partisan reasons. We will overwhelmingly reject that cynicism today and act to reiterate this Nation's commitment to equal opportunity for all our citizens.

Mr. DE LUGO. Mr. Chairman, on behalf of the people of the U.S. Virgin Islands, I rise in strong support of this legislation and urge its passage.

Mr. RITTER. Mr. Chairman, the Democratic version of the so-called civil rights bill is still a quota bill. The only way an employer is going to avoid getting sued is to hire "by the numbers" and statistics, not by merit. You can put a "caviar" label on a tin of sardines, but when you open it up, it still reeks of sardines.

The Democrats' bill forces employers to hire less-qualified applicants to avoid being sued. The whole idea of it is unfair. It hurts the workers of America and it's murder for small business—as if small business does not have enough problems.

By basing employment on race, gender, or whatever else other than merit, the Democrats' bill results in reverse discrimination.

President Bush doesn't want a Balkanized, fragmented America. He has taken on some real mud thrown by the Democrats on civil rights. But he's trying to do the right thing, the fair thing for all Americans.

Here's something—by not allowing employment decisions to be based on merit, the Democrats' bill, H.R. 1, is anticompetitive for U.S. workers, U.S. companies, and U.S. jobs. It amounts to a jobs bill for offshore employees. Yes, it is a real export promotion bill. The export of American jobs!

We can't continue to put more and more pressure on American employers. They need to be nurtured, not presumed guilty until proven innocent, as H.R. 1 does, as so much of our legislation and regulation does. Ever-increasing payroll taxes, reduced investment incentives, stifling regulations, and litigation, litigation, litigation. They are killing American businesses—making us uncompetitive. Jobs are lost when litigation's sword of Damocles threatens the very existence of American businesses.

H.R. 1 is a litigation nightmare. It is a litigation nightmare and it is unfair.

The President's bill is fair to all Americans. The only people who win with the Democrats' bill are the trial lawyers. America and American workers lose.

Mr. COYNE. Mr. Chairman, the House is considering a major civil rights bill that has been the subject of lengthy debate and compromise. Unfortunately, this important legislation is being judged by many not on its merits, but on its usefulness as a political campaign tool.

I believe the vast majority of Members and the American people agree that men and women should be protected from discrimination in the workplace. It is unfortunate that political rhetoric about "quotas" has succeeded in obscuring our view of this goal.

While the administration's bill is silent on this issue, the compromise language of H.R. 1 explicitly states that quotas are illegal. Not only are prohibitions against quotas codified for the first time, but the bill provides opportunities for a worker who is injured by an illegal quota practice to seek monetary damages. Still, some refuse to acknowledge that any effective action has been taken to address this issue.

It seems that some elected officials have become bewitched by the allure of using the quota issue on the campaign trail. They are willing to close their eyes to the meaningful steps taken by the bill's sponsors to clear away any suggestion of quotas from this legislation.

This year, members of the Business Roundtable and civil rights leaders were making progress on addressing many areas of concern about the effect of new civil rights legislation. As business leaders began to negotiate a resolution to these issues the administration was able to encourage business leaders to end their talks with the civil rights community.

When the administration is showing its "kinder, gentler face" it is willing to admit that the court went too far in creating hurdles for workers to overcome in proving job discrimination. Sadly, the same administration that discovered Willie Horton has discovered the battle cry of "quotas."

In 1989, the Supreme Court issued six separate rulings that effectively narrowed the rights of individuals to protection from workplace discrimination or harassment on the basis of sex or race. The Bush administration agreed with congressional leaders that the Court has gone too far, and has proposed its own legislation to restore much of these antibias protections. Unfortunately, the administration's proposals fail to provide women and minorities with the full protection of the law which they deserve as U.S. citizens.

Last year, the House and Senate succeeded in crafting a reasonable compromise civil rights package that would restore protection from job discrimination for U.S. workers. This bill, which passed the House by a vote of 273 to 154, stated explicitly that nothing in the bill would require employers to use hiring quotas. I voted for this bill. When President Bush became the first President since Andrew Johnson to veto a civil rights bill, I voted to override that veto. Unfortunately, the administration was able to successfully sustain its veto in the Senate.

The House Judiciary Committee has now once again reported a civil rights bill that effectively responds to the still present fact of discrimination in the workplace. H.R. 1 achieves this goal, and for the first time, establishes a statutory prohibition against quotas. I am proud to be a sponsor of this legislation.

H.R. 1 also provides victims of sex, religious, and ethnic discrimination with certain opportunities for legal redress which are now available only to victims of racial discrimination. In a long overdue response to the injury suffered by women and other victims of job discrimination, H.R. 1 would provide these victims of intentional discrimination the right to recover compensatory and, in egregious cases, punitive damages. Both workers and employers would be able to demand a jury trial. H.R. 1 is a fair and responsible compromise bill that places our Nation once again back on course in protecting the rights of all Americans.

The Congress must pass this legislation and be prepared to override the President's veto, which, if past practice is followed, will occur.

Ms. SLAUGHTER of New York. Mr. Chairman, the opponents of this bill have demonstrated that they are more concerned with creating civil unrest than civil rights. They have attempted to pit different groups of working Americans against one another at a volatile time when millions of our citizens are either out of work or worried about losing their jobs.

By using their politics of fear, opponents have sought to threaten the American public by falsely claiming that passage of a civil rights bill will determine who gets the opportunity to work in America.

The truth is, Americans have been losing their jobs in alarming numbers; 1½ million jobs have been lost since last July. Our current high unemployment rate is due to a Republican recession, not civil rights.

Opponents are using this civil rights bill as a smokescreen for an administration that has failed to meet the needs of working people. Once again, it is easier to use words to divide and deceive the American public than implement an economic policy to employ them.

Mr. Chairman, this divisive debate today reminds me of a similar debate on the Civil Rights Restoration Act in 1988. That bill—which eventually became law—prohibits discrimination by any part of an organization that receives Federal funding. Before final passage, however, opponents said many of the same things we are hearing today—namely that passage of this bill would "be the end of the world."

Let me cite for you what some opponents said on the House floor about the 1988 bill. One member, for example, proclaimed:

> If this bill becomes law, without doubt there will be an open floodgate of lawsuits, making it extremely difficult for small businesses to stay in business.

In fact, the Justice Department tells me that only 12 rulings have been made in 3 years. The floodgates did not open then, and they won't now. And can anyone name a business that failed as a result of the veto override in 1988?

Let me cite other dire predictions of 3 years ago. Another Representative predicted:

> This bill is going to result in the claim being made that a church in America must hire a professing homosexual who has the virus for AIDS because the claim will be made under the Arline decision that such a person fits within the definition of a handicapped person * * *

Citizens, prompted by organized letter campaigns, wrote to Members of Congress with misplaced fear about the results of the bill. One letter said:

> This bill is the greatest threat ever to religious freedom and traditional family values.

Another letter said:

> Homosexuals, drug addicts, alcoholics, and transvestites are "handicapped persons" by their own choice * * * But should schools be forced to hire them just because their chosen lifestyle has made them undesirable? * * * Should they have the same privileges as upright, law-abiding citizens?

Still another included:

> The next things they'll be saying is theft, rapists, murderers, etc., are an accepted life style and we wish to protect them, too.

Most of this rhetoric was ginned up by groups less interested in affecting public policy than in adding to their coffers by scaring citizens in order to make them contribute to their group.

In fact, I was pleased to note that 21 firms just withdrew from membership in the so-called Fair Employment Coalition because they could no longer abide the rhetoric put forward by the Coalition against the Civil Rights Act of 1991.

So today I urge my colleagues not to be swayed by all the misleading negative rhetoric. Look at history. Three years after passage of the Civil Rights Restoration Act, none of the dire predictions from opponents have come true.

It didn't happen then, and it's not going to happen now when we pass the Civil Rights Act of 1991.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise today in support of the Brooks-Fish, bipartisan Civil Rights Act of 1991. Opportunity in employment has been a key facet of American society since the civil rights movement first began. We are in a position today to reaffirm our commitment to equal opportunity and restore the status quo that existed before the six recent Supreme Court decisions.

For minorities and women, discrimination persists in America, and only through the application of fair laws will this problem be consistently addressed. Many people feel that the Brooks-Fish civil rights bill will lead to quotas. As a legislator committed to ensuring that Americans are hired due to merit, and not race, religion or gender, I will not vote for a bill which results in quotas.

I will vote, however, for a civil rights bill which stands on its own merits, due to the veracity of the reasoning behind its provisions and for the fair applicability of its provisions to the American public. I think the Brooks-Fish substitute does that.

I am concerned, however, that race, gender, disability, and religious motives for discrimination not be separated into categories or relative discrimination. Discrimination for whatever reason should be treated equally under the law; subject to the same judicial remedies and awards.

Creating a two-tiered approach to discrimination by placing a cap on punitive damages for women and the handicapped is undesirable. However, I do understand the need to craft a bipartisan civil rights bill that takes into consideration the concerns of the business community and other groups which are worried that the Schroeder-Towns substitute could be misinterpreted as requiring hiring quotas.

Reluctantly, after weighing the pros and cons of the Towns-Schroeder proposal versus the Brooks-Fish bipartisan substitute, I have concluded that the bipartisan substitute has the best mix of protection against sex and race discrimination with the proper prohibition against hiring quotas. This, it appears, is the only way to pass a civil rights bill in today's Congress.

I am pleased that the Brooks-Fish substitute extends punitive damages beyond just victims of racial bias to include victims of sexual discrimination as well. The maliciousness of intentional discrimination must be countered with punitive damages for all individuals subjected to it by an employer, whether the bias targets minorities, women, the disabled or those with differing religious convictions.

The language is clear: If an employer "engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others," then punitive damages may be awarded. This does not mean that suddenly every employer accused of discrimination suffers massive lawsuits and fines. It does mean that employers shown to be determinedly and cruelly discriminatory will pay a significant financial penalty.

I am pleased that this civil rights legislation addresses the changes in America's workplace.

Women have become an ever-larger component of this Nation's workforce. The inclusion of women in the workplace should be matched by extending protections against sex discrimination. The Brooks-Fish substitute achieves this for the first time. Clearly, we have farther to go to truly achieve the proper protections against discrimination for minorities and women and this bill recognizes this.

I commend Chairman BROOKS and Representative FISH for their relentless drive to allay the concerns of those who are justly worried about quotas. The language of their legislation could not be more clear: With this bill there will be no quotas.

This substitute uses Supreme Court Justice Sandra Day O'Connor's definition of quotas, and explicitly outlaws them. It uses the business roundtables definition of "business necessity". This bipartisan compromise addresses all of the legitimate concerns raised by the business community and the administration.

The Brooks-Fish substitute even goes so far as to explicitly prohibit the use of quotas. If an individual of any race or sex believes that they were not hired or promoted due to a quota-hiring policy of an employer, then they may themselves sue on grounds of a reverse discrimination suite. This provision permanently lays to rest the spurious notion that advocates of this Civil Rights Act are in favor of quotas.

As a final word about quotas: For 18 years quotas were not used by the business community while the precise provisions of this law were in place prior to the Supreme Court decisions since 1986 which disrupted the status quo. Quotas will also not be used in the future after the Brooks-Fish substitute is passed.

Mr. MARKEY. Mr. Chairman, the mood of debate over the past weeks regarding the Civil Rights and Women's Equity in Employment Act of 1991, H.R. 1, has been an unpleasant one. The debate over this legislation has not centered around equal and fair rights for all working Americans. It has not focused on the dream of creating a society in which one's physical appearance or gender has no bearing on the measure of a person's abilities. This debate has been dragged into the quagmire of partisan politics and racial divisiveness. We must make an effort to maintain perspective on the issue at hand.

During the year 1989 the Supreme Court of the United States of America succeeded in altering adversely not only the employment opportunities, but the general employment environment for millions of Americans. These Americans were affected because they happened to be racial, ethnic, or religious minorities, disabled persons or women. A series of five decisions that year made defending against discrimination by an employer essentially a losing endeavor. In various ways, from placing the burdens of proof in discrimination cases on the employee to actually legalizing certain instances of intentional discrimination, these five decisions ensured that persons seeking justice against discriminatory action would be met by hostile legal interpretations in the courts.

The Civil Rights and Women's Equity in Employment Act of 1991, H.R. 1, seeks to redress the injury caused by these Supreme Court decisions. This legislation would overturn those five decisions and make any intentional discrimination in the employment process illegal. It would restore the burden of proof to the employer to show that business necessity required a practice that would have a disparate impact on an employee, and it would extend the statute of limitations for filing discrimination cases. This legislation would also allow for compensatory and punitive damages for the first time for women, religious minorities, and the disabled.

Today we are faced with a compromise measure, the Brooks-Fish substitute amendment, worked out in a bipartisan fashion designed to restore the rights of job discrimination victims while attempting to calm the unwarranted fears of the business community. I was in full support of the Towns-Schroeder substitute amendment to H.R. 1. The Towns-Schroeder substitute would not have included a ceiling on damages for women, the disabled, and religious minorities. Now we are asked to vote on the Brooks-Fish substitute when it includes such a ceiling. Despite my opposition to such a ceiling, I, nonetheless, must now support the Brooks-Fish substitute as the strongest version remaining that can correct the weakening effects of recent court decisions.

The Civil Rights and Women's Equity in Employment Act is legislation that will set meaningful equitable standards in employee hiring and treatment. This bill is not a threat to business or nonminorities in America. It is an attempt to create a level playing field for all Americans striving to exercise their inalienable rights to life, liberty and the pursuit of happiness through productive employment. I ask my colleagues to do the right thing, support this Civil Rights legislation.

Mr. MATSUI. Mr. Chairman, democrats are constantly being accused of trying to redistribute wealth—but the Civil Rights Act gets at the need to redistribute economic opportunity by eliminating job discrimination. As our Nation gears up to meet foreign trade competition from Mexico, Europe, and the Pacific rim, employers must clear away discrimination hiring and promotion practices that hinder companies from reaching their total potential in productivity and market competitiveness.

The legislation ensures that individuals are allowed the opportunities to employ their skills to their highest potential. Virtually everyone agrees that people should be hired for reasons based on "business necessity." Let ability be the criteria standard, not skin color, not gender, nor religious faith.

Throughout history, stereotypes and unfounded prejudice has hindered certain minority groups from attaining managerial and positions of executive decisionmaking. Displacing minorities from these higher positions has driven them to exercise their business savvy, customer relations, and creative ingenuity in small businesses. Current business trends demonstrate that they have ability. A disproportionately high share of minorities have started their own businesses. According to the Small Business Administration, Hispanic-owned business start-ups soared from 1982 to 1985 at six times the rate of growth for all businesses. Some 97 percent of United States small business entrepreneurs are engaged in service industries. We cannot hope to compete effectively in world trade so long as some our best and brightest talent are relegated to service industry jobs.

I want to emphasize that this debate is not just about civil rights. Employment discrimination has real economic impact. And it's tying one hand behind the back while we're fighting to reduce our trade deficit. Glass ceilings and employment discrimination don't just hurt women and minorities: They are also hurting our economy.

Mr. WEISS. Mr. Chairman, I rise in support of the Brooks-Fish substitute, although, I voted for the Towns-Schroeder substitute and believe that it, and the committee's original bill (H.R. 1), would better protect victims of discrimination. Given political realities and the need for a veto-proof measure, however, the Brooks-Fish compromise represents a practical alternative.

The Brooks-Fish substitute accomplishes the basic goals of civil rights legislation. It restores worker protections seriously weakened by five key 1989 Supreme Court decisions that narrowed the reach and remedies of employment discrimination laws. For example, the Brooks-Fish substitute overturns the Price Waterhouse decision, which implies that it may be permissible for employers to intentionally discriminate based on race, color, religion, sex, or national origin, as long as the discrimination was not the primary motivating factor in the action taken.

The Brooks-Fish substitute also overturns the Martin versus Wilks decision which permits endless, repetitive litigation challenging title VII consent decrees and thus discouraging settlement of title VII disputes by such decrees.

The Brooks-Fish substitute overturns the Supreme Court decision of EEOC versus

Aramco, handed down on March 26, 1991. It stipulates that the employment discrimination protections of title VII apply to Americans working overseas for American-owned or controlled companies.

The Brooks-Fish substitute overturns Supreme Court cases limiting awards of attorneys' fees in title VII cases, in order not to deny the dwindling group of attorneys willing to take title VII cases fair compensation.

The Brooks-Fish substitute overturns two key aspects of the Wards Cove versus Atonio decision. First, it restores the burden of proof to the employer to prove that an employment practice that has a disparate impact on women or minorities is required by business necessity. Restoring the burden of proof on the employer is both logical and consistent with general legal principles. Because the employer controls the employment process, it makes sense to hold them responsible for demonstrating the practice's business necessity.

The Brooks-Fish substitute also overturns Wards Cove by restoring the standard of business necessity that was established in Griggs versus Duke Power Co. While I favor the Griggs standard of business necessity over the nearly unprovable standard of Wards Cove, I much prefer the higher standard provided in the Towns-Schroeder substitute.

Notably Brooks-Fish substitute grants victims of discrimination based on gender, religion, and disability the right to collect punitive and compensatory damages, a right racial minorities already enjoy. However, it unfairly caps the amount that women, religious minorities and individuals with disabilities can collect.

The sponsors of the Brooks-Fish substitute have always argued that the reason for adding contemporary and punitive damages to Title VII was to ensure that victims of intentional job discrimination on the basis of gender, religion, and disability would be entitled to the same remedies that victims of intentional job discrimination on the basis of race already have under section 1981. Yet, by adding a cap on punitive damages to title VII, the Brooks-Fish substitute enshrines unequal remedies into the law because the cap will only be applied to women, religious minorities, and the disabled, whereas racial minorities face no cap under section 1981. The Brooks-Fish substitute, therefore, permanently condemns women, religious minorities, and the disabled to second class status. I much prefer the damages provision included in H.R. 1 and the Towns-Schroeder substitute, which both ensure equal treatment for all victims of intentional job discrimination.

While I favor the original Committee bill and the Towns-Schroeder substitute over the Brooks-Fish substitute, the Brooks-Fish substitute is an important civil rights bill that I will support. It will restore the pre-1989 reach and remedies of employment discrimination laws without establishing a quota system. Even though quotas are already prohibited by law, the measure explicitly prohibits the use of quotas by employers, stipulating that the use of quotas is an unlawful employment practice.

Nevertheless, the Bush Administration continues to mislabel this substitute a quota bill. This demonstrates its willingness to sacrifice civil rights legislation and the victims of discrimination for the sake of partisan advantages. The Administration's attempts to derail real civil rights legislation are inflaming racial tension and polarizing our society along lines of gender and skin color. Such tactics, though shameful, are not surprising when one recalls Republican racial strategies, such as Richard Nixon's in 1972, and epitomized by George Bush's Willie Horton ads in 1988.

I urge my colleagues to cast a decisive and principled vote for equality by supporting the Brooks-Fish substitute to the Civil Rights and Women's Equity in Employment Act. It is a compromise bill that deserves broad partisan support.

Ms. OAKAR. Mr. Chairman, the Equal Pay Act requiring equal pay for equal work, was signed into law in 1963. The following year saw passage of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, sex, or physical disabilities. Yet, the reality of the situation is that more than 25 years after passage of these landmarks pieces of legislation, inequities in the work place still exist. Individuals are still facing discrimination because of their gender, their race, or their national origin. Women constitute over 45 percent of the work force, yet they only make 63 cents for every dollar that men make. A woman with a college degree working full-time can expect to earn the same amount as a man with no more than an eighth grade education. I feel that it is time, once again, for the Federal Government to take the leadership role to secure economic justice.

I come before this House today to ask that the Civil Rights and Women's Equity in Employment Act of 1991 be strongly passed, allowing this country to regain some of the rights and protections that we thought we had originally won in 1963 and 1964.

I take special pride in this legislation because it includes a provision that deals with pay equity, an issue that I have championed since first coming to Congress. Pay equity has had a long history of support from the Congress, and the inclusion of H.R. 386, the Pay Equity Technical Assistance Act, in The Civil Rights and Women's Equity in Employment Act of 1991 further reflects the importance of this issue to Congress.

The goal of the pay equity provision is to make resources and assistance available to those employers who have decided to take steps to address wage inequities in their work places. This would be accomplished by calling on the Secretary of Labor to develop and establish a clearinghouse for the dissemination of information on efforts being made in the private and public sectors to reduce or eliminate wage disparities. This clearinghouse would operate under the auspices of the Women's Bureau which was established in 1923.

Currently, the Women's Bureau operates a "work and family clearinghouse" which was used as a model for H.R. 386. This work and family clearinghouse has an operating budget of $260,795 for fiscal year 1991, and it is expected that the pay equity clearinghouse would have a comparable operating cost.

Timely implementation of the clearinghouse would assist employers with the long-range planning that will be necessary to meet the challenges presented by changes in the workforce in the next decade. New demands on employers will be made by the shift of the economy to services, the expected labor shortage, international economic competition and workers balancing the requirements of job and family. More than ever, employers will need to concentrate on policies that will stabilize their work force.

By identifying, then eliminating wage inequities based on sex, race or national origin, employers can lessen recruitment and retention problems, such as the present crisis hospitals and health care facilities are experiencing due to the nursing shortage. Since women, people of color and/or immigrants will comprise 68 percent of all new entrants into the labor force between now and the year 2000, examining discriminatory wage-setting practices in the present makes good business sense. Many employers in the private and public sectors have expressed interest in achieving pay equity in the workplace, and I think that the Federal Government should encourage those initiatives.

The Civil Rights and Women's Equity in Employment Act of 1991 puts the country back on the right track. It moves us that much closer to ensuring that every man, woman, and child in America can freely pursue happiness because they are guaranteed the liberty our constitution demands for them.

Mr. SKAGGS. Mr. Chairman, America needs to regain the ground lost in civil rights as a result of recent Supreme Court decisions. The Brooks-Fish substitute amendment to the 1991 Civil Rights Act is the best way for us to do that.

A series of 1989 and 1990 Supreme Court decisions severely narrowed the scope and effectiveness of title VII of the Civil Rights Act of 1964 and section 1981 of the U.S. Code, the two main laws barring job discrimination. And at a time when our society is becoming ever more diverse, and its workplaces are reflecting that diversity, we can not afford to step backwards.

The civil rights movement, with the extraordinary courage and selflessness of its participants, changed this Nation, and changed it for the better. The struggle for equality for women has similarly changed the Nation and benefited our society. We are closer to realizing and recognizing the talents and strengths of that half of our population.

Americans have long expressed their respect for diverse religious views. But words alone do not guarantee respectful treatment. Our civil rights laws provided the legal assurance that religious groups not suffer prejudice. And last year, Americans who we call disabled, but who might more properly be called differently abled, gained their rightful status among those legally entitled to a place in the mainstream.

Title VII and section 1981 were building blocks in the long and often painful struggle to construct a more equal and more democratic society, with economic opportunities available to more of our citizens. These laws, and the Supreme Court decisions that enforced them, moved the country forward toward its goals of equality and mutual respect.

These laws are not perfect. They have not ended discrimination. Their implementation often has not been easy. But have they been right for America? You bet.

Mr. Chairman, we need to put the country back on the track of progress from which the High Court derailed us in 1989 and 1990. Passage of the Brooks-Fish substitute amendment will do so—it will put us back on course in our ongoing pursuit of equal opportunity.

I've been baffled by the President's insistence that this measure is a prescription for quotas. This substitute codifies the standards of the Griggs case, a Supreme Court decision under which this country lived and prospered from 1971 to 1989, an 18-year period of time in which, so far as I know, George Bush never once complained that the Nation's businesses were encumbered by hiring quotas.

The efforts made by the Judiciary Committee and the Democratic leadership have further alleviated the concerns of the President and others about quotas—by adding provisions on employer prerogatives, further defining business necessity to accommodate business concerns, requiring plaintiffs to identify specific employment practices in discrimination suits, and categorically outlawing quotas as an employment practice. These provisions more than meet rational doubts.

What more does the President want? Or is it that he really does not want a civil rights bill, that he's more interested in an issue to divide Americans and benefit his party's political agenda? Why did the President's chief of staff intervene to kill the efforts of civil rights leaders and the Business Roundtable to reach a compromise?

The administration makes an appeal to fear by talking about quotas. We talk about fairness and equality of opportunity and the promise for every American to share in the American dream.

This debate, and the lobbying that's attended it, has been diverted and distracted too much by an inaccurate, almost fictional, view of the scope and handling of discrimination cases in America prior to 1989. You would think, from the arguments offered up against this bill, that there were thousands of specious cases being brought and enormous money judgments being won by legions of unscrupulous civil rights lawyers. The facts are otherwise. These cases were hard to win, even before the recent court decisions. When won, the judgments have been modest.

It's a serious distortion to paint a picture of America that suggests that victims of racial, sexual or other discrimination are in the driver's seat of our legal or economic institutions. There's still a real struggle out there for equal opportunity. And all we're talking about is the removal of arbitrary, unwarranted impediments in the way of those who have the will and the abilities to participate and to succeed.

The issue of caps on damages available to victims of discrimination persists. Last year, I voted for a cap on punitive damages available in cases of discrimination based on sex, religion, or disability. Like many Members, I did so in pragmatic consideration of the views of the administration; I hoped the President would sign the bill. Similarly, the inclusion of a cap in Brooks-Fish is one more instance of the effort made by supporters of this bill to enact a law, not acquire a campaign issue. I look forward to the day when such pragmatic necessities yield to the better principle that equal remedies be available for all victims of discrimination.

Mr. Chairman, yesterday I joined a number of my colleagues in going to the Chinese Embassy to commemorate the second anniversary of the massacre in Tiananmen Square. We did so out of the belief that those who are free are trustees for those who are not, and are obliged to speak for them. As we spoke out for human dignity in China, we must also speak out for human dignity here at home.

Rights are not simply words stated in sacred documents like our Constitution. Rights are fragile expressions of what's best in human nature, and they have to be preserved by constant vigilance against our less noble instincts. We do that by passing and enforcing laws that express our unfolding vision of a decent and caring society. Let us move forward to ensure that those precious liberties first guaranteed as the cause of white men truly belong to all who call themselves Americans.

Mr. BUSTAMANTE. Mr. Chairman, this week we have the opportunity to move ahead in providing greater equality for all residents of the United States, no matter what their race, color, religion, sex, or national origin. Our country was triumphant in coming together as one in support of our military efforts in the Persian Gulf area, yet it seems to me an extreme irony that our country still struggles to come together to guarantee civil rights for all.

The Civil Rights Act of 1964 was a great step toward equality for all, but Supreme Court decisions of the 1980's were deplorable setbacks. By no means has the Civil Rights Act of 1964 advanced civil rights as expected, especially for our country's minorities. The interpretation by the Supreme Court of the rights presumably secured by the spirited efforts of so many courageous leaders illustrates the need to strengthen minority rights in the United States.

I believe we have the opportunity to overturn some Supreme Court decisions by supporting the Brooks-Fish substitute for H.R. 1. I support the Towns-Schroeder substitute as well; however, I would like to point out the Brooks-Fish substitute provides the strongest legal support preventing discrimination. Though job discrimination has no place in society to begin with, there must be practical and encouraging support for those who suffer from unfair employment practices. Unfortunately, recent civil rights rulings by the Supreme Court have unduly complicated the matter, by narrowing the scope of legislation designed to prevent workplace discrimination. Without the necessary support to override certain Supreme Court decisions the chances for minorities to have full equality will again be unnecessarily interrupted.

Mr. DE LUGO. Mr. Chairman, the debate on this civil rights legislation, from the Halls of Congress to homes across America, from conferences to committees, from the White House to corporate offices, has engendered the most significant political and social controversy of 1991. In Congress, we have seen an original bill, the original amended, the amended bill substituted three times, and now we debate the final version which, in all likelihood, will be vetoed by the President.

We have sought compromise but have seen efforts between labor and business leaders scuttled by the administration. We have altered this legislation to satisfy the majority of our Members, only to hear continuing threats of a Presidential veto. We have gone far indeed to achieve consensus on legislation whose goal is to insure harmony, equality, and fair play for all Americans.

Today, we debate on a bill that seeks to allow every American the right to work, to be chosen fairly for that work, and to work under conditions that are equal for all. We have quibbled over quotas, quarreled over testing, and squabbled over semantics, some designed outright to frighten rather than inform, to divide rather than unite.

The leadership of this House has worked sincerely and diligently to frame legislation to overturn 1989 Supreme Court decisions that severely reduce remedies for civil rights violations. This legislation explicitly prohibits that frightening word, quotas. This bill bans unfair employment testing. This legislation outlaws adjusting test results based on race, color, religion or national origin. This bill establishes but caps punitive damages. And this legislation meets business concerns about business necessity standards.

Mr. Chairman, I make a final appeal to this House to pass this important legislation which restores the balance in the business place, returns the ability of minorities in America to obtain equality if it is denied them, and renews faith that in our Nation, all men—and women—are created equal under the law.

As the Representative of the people of the United States Virgin Islands, a territory where racial harmony is one of the hallmarks of our cultural heritage, I urge my colleagues to vote in favor of this civil rights legislation, and to vote so firmly that any threat of a veto will be resoundingly denied.

Mr. DELAY. Mr Chairman, I rise in opposition to the quota bill. I am concerned that when we seek to outlaw the use of quotas, the definition of "quota" is unclear.

In a recent memorandum, the Heritage Foundation's resident expert on regulatory and business affairs, William Laffer, noted this problem. He wrote:

> The latest version of H.R. 1 ostensibly would prohibit the use of quotas. Its definition of a "quota" is so narrow, however, and it has so many loopholes, that the provision would be useless. While employers would supposedly be prohibited from setting aside a fixed number or percentage of positions for people of a particular race, color, religion, sex or national origin, they would be free to engage in other forms of preferential treatment.

As an example, Mr. Laffer says employees could be forced to give job applicants extra credit on employment tests for being black or Hispanic or could adopt a policy of always choosing a minority whenever two applicants are otherwise equally qualified.

Mr. Laffer states further that:

> An employer would be forced to use quotas as long as everyone hired met the minimum necessary qualifications to perform the job. And, while it might not be illegal for an employer to fire a department head for failing to meet a hiring quota, the employer could make department heads' bonuses, raises, and promotions contingent on achieving quota targets.

The problem remains that businesses face expensive lawsuits unless they hire employees under a quota system and ignore employment based on merit. America cannot become a color-blind nation until we end giving preferential treatment based upon color and not merit. This provision alone is enough to force me to oppose this bill.

However, there is another sinister provision in the bill which seeks to undermine our free market economy—comparable worth.

At the last minute, without any hearings, without any public debate, the Democrats inserted a provision in the quota bill to try and implement comparable worth.

Under comparable worth, we abandon our free market economic system and let bureaucrats decide wages and salaries for everyone.

The economies of Communist countries throughout the world lay in ruins. This is because bureaucrats, with a strong bias toward government interference in the marketplace, have little understanding of how free markets operate.

Government bureaucrats would mandate wages and salaries for all jobs based upon their subjective value of the job. Supply and demand would be removed from this wage setting scheme.

First, employers will be forced to hire according to statistical requirements. Then employers will be forced to pay according to a bureaucrat's belief. This bill will remove both merit and market from our economy.

I strongly urge all Members to oppose this bill.

Mr. KLECZKA. Mr. Chairman, today I rise in support of the Towns-Schroeder and Brooks-Fish substitutes to H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991, which has my backing as a cosponsor.

Much of the controversy over this measure arose from false charges that it is a quota bill. However, hiring by the numbers would not result from H.R. 1 or the two substitutes receiving my support.

The disparate impact provision in H.R. 1 that has been the target of quota charges merely restores the 1971 Griggs decision—a unanimous decision by the Burger Supreme Court. The landmark Griggs opinion held that employment practices which appear neutral, but in fact exclude qualified women and minorities disproportionately, are prohibited by title VII of the 1964 Civil Rights Act unless an employer can prove the practice is required by business necessity. Only practices significantly related to successful job performance may be used to exclude qualified individuals, according to the business necessity exception.

The Towns-Schroeder substitute retains the disparate impact language of H.R. 1. It is a matter of public record that after nearly two decades of experience under the Griggs law, prior to the 1989 Wards Cove ruling, no pattern of quotas was generated.

To improve chances for the bill's passage the Brooks-Fish substitute takes an additional step by making job quotas unlawful. To further placate opponents, the definition of quota used in the Brooks-Fish substitute was taken from a 1986 opinion written by Justice Sandra Day O'Connor—*Local 28 of Sheet Metal Workers* v. *EEOC*, 106 S.Ct. 3019—a Reagan appointee. The definition states a quota "would impose a fixed number or percentage which must be attained or which cannot be exceeded" and would do so "regardless of the number of potential applicants who meet necessary qualifications." The O'Connor definition spells out in plain English, for layman and lawyer alike, what a quota is. The Brooks-Fish substitute also just as clearly bans it.

As for title VII, the employment discrimination section of the 1964 Civil Rights Act, H.R. 1 would expand it so that for the first time certain minorities and women would receive the same treatment as victims of racial discrimination. This is the other major issue in dispute. Eliminating the unfair, two-tiered system of damages for intentional discrimination is long overdue, and has my full support.

Unlike title VII, section 1981 (an 1866 law) permits unlimited money damages for intentional racial bias. The Towns-Schroeder substitute also applies the section 1981 policy to practices banned by title VII. Malicious bias is no less harmful for people of color than it is for women, the disabled, ethnic or religious minorities. Given the pervasiveness even today of bias in the workplace, all intentional job exclusion should be addressed.

Unfortunately, the Brooks-Fish substitute imposes a $150,000 cap on title VII punitive damages, preserving a two-tiered system of compensation for victims of workplace bias. This portion of the measure is inequitable, but apparently necessary for passage of H.R. 1.

This Chamber must give civil rights restoration priority over the politics polluting this debate. Through our actions today, we can prove our commitment to job rights for all Americans by voting for what is right—and not what is expedient. I encourage my colleagues to vote for passage of the Towns-Schroeder and Brooks-Fish substitutes, and final passage of H.R. 1.

Mr. TAUZIN. Mr. Speaker, today as we consider H.R. 1, the Civil Rights and Women's Equity in Employment Act, the debate still turns primarily on the issue of employment quotas. This debate over quotas has been amplified by an attempt in the substitute authored by Chairman BROOKS of the House Judiciary Committee to define the term quota in order to clarify the practice which would be made illegal by the substitute. Unfortunately, the attempt at clarity has only further clouded the issue for many, including this Member.

The definition of quotas contained in the substitute is written in such a way as to imply, by one interpretation, the legality of employment quotas for qualified employees as opposed to those who might not be qualified. The reason for such an interpretation lies in the phrase which stipulates that an employer may rely on qualifications in making employment decisions—the phrase implies that as long as a prospective employee meets the minimum standards for job performance he is an acceptable job candidate and should be hired by the numbers. It indicates that the only employment quotas made illegal by the definition are those which would force the hiring and promotion of unqualified workers.

Chairman BROOKS in a colloquy with Majority Leader GEPHARDT has asserted on the floor that his own interpretation of the quotas definition contained in the substitute is that all quotas, those applicable to qualified as well as unqualified employees, would be made illegal by the language used in that definition. There remains a great difference of opinion on that point, however.

In a subsequent colloquy with this Member, Chairman BROOKS agreed to such language changes in the bill—obviously in conference with the Senate—to clearly conform the language of the definition of quotas with his own declared interpretation; that is, that employment quotas deemed illegal by the act would include quotas applicable to qualified as well as to unqualified employees. With such a language change, now agreed upon by Chairman BROOKS, the act would clearly declare that nothing contained in it would encourage nor mandate employment quotas, and the act would further make employment quotas of any kind an illegal employment practice. As such, any employee affected by such a quota would have a right of action for reverse discrimination, a right some members of the white majority in America have long desired.

With the assurance by Chairman BROOKS that the definition of illegal employment quota will be perfected to cover quotas affecting both qualified and unqualified employees, I have decided to vote for H.R. 1 as amended, in order to keep the process alive. I do so in the sincere hope that negotiations will continue to close the remaining differences between the proponents of H.R. 1 and the administration, so that the President may be presented with a bill which he can and will sign. I also do so with the caveat that I am not prepared to vote to override a Presidential veto if the remaining problems in the bill are not resolved. I speak of the following problems:

First, the problem of unlimited damages coupled with the new provisions for jury trials. I do not personally like punitive damages, and I do not support the notion of codifying the practice. But if juries rather than judges will, under the bill, decide these punitive damages, and if there are no real limits on how high the juries may award these damages, I believe the combination will prove legally deadly. Potential liabilities under the bill will either destroy employment opportunities in America, or will force employers to hire by the numbers—the very practice the illegal quota language is meant to forbid.

If juries will decide these cases and if the bill codifies the practice of awarding punitive damages, then real, not fake, limits must be placed upon those potential damages. H.R. 1 now contains, as everyone knows, a fake limit or "cap" on these punitive damages. That must be corrected.

Second, the problem of the language defining an employer's defense of "business necessity." The President's civil rights bill, H.R. 1375, restores the exact phrase of the Griggs decision on this point, specifically in stating that any given job requirement must have a "manifest relationship" to the "employment in question." H.R. 1 seeks to restore the Griggs decision on this point, but uses language composed of words found in Griggs, but pieced together in a new and uninterpreted phrase which declares that employment criteria "must bear a significant and manifest relationship to the requirements for effective job performance."

In order to restore the status of the civil rights laws of our Nation, as they existed prior to the 1989 Supreme Court term, I believe the exact phrase used in Griggs and contained in H.R. 1375 should be used in H.R. 1. I will watch the conference carefully to determine whether or not an agreement can be reached on this point.

The President has made it rather clear that he will veto H.R. 1 unless those specific problems are resolved. I believe the interest of the eventual success of civil rights legislation this year, and perhaps for many years, requires that those problems be resolved.

Therefore, my vote today will be to keep the process alive. The process must now, however, include negotiations and agreement, or there will be no success in the end. There will only be retreat, failures, and politics as usual. Democrats blaming the President for the demise of civil rights reform, and Republicans chanting "quotas" to the ugly beat of a new Willy Horton political ad. It ought not end that way. We should find agreement and the President should be part of the agreement—I think Americans would be both surprised and appreciative if we did.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in strong support of President Bush's civil rights bill and in opposition to the latest Democratic version of H.R. 1.

Throughout my tenure in office I have championed human rights abroad and civil rights at home. In fact, I have voted in favor of every civil rights bill that has become law during the past decade, including the Voting Rights Act Amendments of 1981, the Civil Rights Restoration Act of 1988, the Fair Housing Act Amendments of 1988 and the Americans with Disabilities Act of 1990, which I also cosponsored. And today I will vote in favor of legislation to expand and enhance civil rights for women and minorities. I will not vote, however, for legislation that will clearly result in quotas.

Mr. Chairman, make no mistake about it, the Democrats' civil rights bill will force businesses to use quotas. To quote the former Democratic mayor of New York City, Ed Koch, "H.R. 1 is not a civil rights bill. It is a bill which will encourage quotas based on race, ethnicity, religion and gender."

Mr. Chairman, the President has offered a genuine civil rights bill—one that will foster civil rights without forcing quotas. Contrary to assertions by proponents of the quota legislation, the President's civil rights bill contains important provisions that provide extra protection for workers against both intentional and unintentional discrimination—without leading to quotas.

First, the President's civil rights bill reverses the Wards Cove decision which made it harder for employees to challenge hiring practices that unintentionally discriminated against minorities and women. Under the President's bill, the burden of proof in such cases would be returned to the employer, using the same standards of evidence that had been used successfully for 20 years prior to the Wards Cove decision.

Second, the President's civil rights bill will reverse the Patterson decision concerning discrimination in contracts by expanding the definition of "make and enforce contracts" to include "the making, performance, modification and termination of contracts and the enjoyment of all benefits, privileges, terms and conditions of the contract."

Third, the President's civil rights bill reverses the Lorance decision and specifies that, with regards to seniority systems, the statute of limitations begins to run when the violation occurred or on the date the employee is adversely affected.

Fourth, the President's civil rights bill would establish, for the first time, a right to file civil suits against employers on the grounds of harassment in the workplace based upon an employee's race, color, religion, sex or national origin.

Fifth, the President's civil rights bill raises the amount of money that may be recovered for expert witness fees to $300 per day, thereby providing victims of job discrimination another tool to prove their case.

Sixth, the President's civil rights bill extends the statute of limitations for cases brought against the Federal Government from 30 to 90 days.

Seventh, the President's civil rights bill contains provisions to apply title VII to the Congress, which is currently exempt from most federal antidiscrimination laws.

In addition, the President's civil rights bill outlaws the practice of race-norming by making it illegal to adjust the result of employment tests on the basis of race, color, religion, sex or national origin.

Mr. Chairman, the Democrats' latest version of H.R. 1 is not much different than last year's bill which the President vetoed, with the Senate sustaining his veto.

While the President's civil rights bill restores a fair balance between employee and employer rights, the Democrats' bill makes it virtually impossible for employers to defend themselves against any allegation of unintentional discrimination.

Under the Democrats' bill, any employee who can show that the composition of the work force does not exactly match the composition of the population, may allege that a group of unspecified employment practices has had a "disparate impact" on women and minorities. Employers would then be required to prove that each and every one of their employment practices is indispensable. In addition, the employer must prove that there is no other criteria that can be used for making hiring decisions.

Mr. Chairman, the only sure way for employers to prevent costly litigation and large damage awards will be to insure that the composition of their work force exactly matches that of the population—in other words hire by the numbers and establish quotas.

Despite their repeated protestations, the Democrats' bill does coerce employers to use quotas in hiring and promotion. The cynical and shallow attempt to include antiquota language will not work. Even the liberal Washington Post acknowledges that the Democrats' antiquota language won't work:

"We don't think the Democrats helped their cause by including in their bill a definition of quotas that, whatever its legal provenance, is a straw man. Quotas cannot be limited in definition to forcing employers to hire the unqualified; the question is whether, as among qualified applicants, they will have to hire by the numbers based strictly on race."

Further, in Sunday's New York Times, another liberal publication, columnist Steven A. Holmes also dismisses the Democrats' purported antiquota language:

"* * * because the civil rights bill defines quotas so narrowly, such programs would still be permitted, even though the measure's supporters say that they are explicitly outlawing quotas."

Mr. Chairman, the difference between the President's civil rights bill and the Democrats' quota bill are real and substantive. The Democrats' bill will force the use of quotas in hiring and promotion. The President's bill will provide new protections against both intentional and unintentional discrimination in the workplace without resorting to quotas. I urge all of my colleagues to stand up for true civil rights legislation and vote for the President's bill and against the Democrat quota provisions of H.R. 1.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were— ayes 264, noes 166, not voting 1, as follows:

[Roll No. 130]

AYES—264

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long

Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Weiss
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NOES—166

Allard
Annunzio
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Boxer
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Darden
DeLay
Dellums
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Mink
Molinari
Montgomery
Moorhead
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Russo
Santorum
Savage
Saxton
Schaefer
Schroeder
Sensenbrenner
Shaw
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Washington
Weber
Weldon
Wheat
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—1

Sisisky

□ 1230

Mr. KOSTMAYER changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under the consideration the bill (H.R. 1) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, pursuant to House Resolution 162, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the Committee amendment in the nature of a substitute, as amended.

The Committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 273, nays 158, not voting 1, as follows:

[Roll No. 131]

YEAS—273

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NAYS—158

Allard
Annunzio
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer

Darden
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Holloway
Hopkins
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison
Myers
Nichols
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Roth
Roukema
Russo
Santorum
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—1

Sisisky

☐ 1255

Mr. WASHINGTON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered and passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. SISISKY. Mr. Speaker, due to a long standing family commitment, I will be absent when the House considers the Civil Rights Act of 1991 this week. However, had it been possible for me to be here for this important vote, I would have voted in favor of the Brooks-Fish substitute and in favor of the bill.

As a supporter of a similar civil rights measure that passed this body last year and, as someone who believes strongly in equal opportunity for all Americans, I endorse the objectives of H.R. 1 and encourage my colleagues to do the same.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1790

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1790.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

GENERAL LEAVE

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and that I may include extraneous and tabular material on H.R. 2506, the bill about to be considered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1992

Mr. FAZIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2506) making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not exceed 1 hour, the time to be equally divided and controlled by the gentleman from California [Mr. LEWIS] and myself.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. FAZIO].

The motion was agreed to.

☐ 1259

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2506, with Mr. DONNELLY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from California [Mr. FAZIO] will be recognized for 30 minutes and the gentleman from California [Mr. LEWIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, it is a pleasure to present H.R. 2506, the legislative branch appropriations bill for fiscal year 1992 to the House.

The bill and the report, House Report No. 102-82, were filed on Thursday, May 30, 1991.

I do not intend to go into every detail of this bill. The report and the bill have been available to the Members for several days, so at this point I will simply summarize.

I would before I begin, though, want to thank each member of my Legislative Subcommittee on Appropriations. First of all, my good friend and the ranking minority member, the gentleman from California [Mr. LEWIS] who has worked so diligently with me on this bill for the last 11 years.

The other members of the subcommittee: Messrs. MRAZEK, SMITH of Florida, ALEXANDER, MURTHA, TRAXLER, PORTER, and Mrs. VUCANOVICH.

Also, Mr. WHITTEN, the chairman of the full committee, is a member of the subcommittee. Mr. MCDADE, the ranking minority member is an exofficio member of the subcommittee.

I should also point out that we work very closely with the Committee on House Administration, and I also want to express my appreciation to the members and leadership of that committee, primarily the chairman, the gentleman from North Carolina [Mr. ROSE], and the gentleman from California [Mr. THOMAS], the ranking minority member of that committee; the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from Kansas [Mr. ROBERTS], the chair and ranking member on the personnel and police subcommittee.

The gentleman from Connecticut [Mr. GEJDENSON] and the gentleman from New York [Mr. WALSH], the chairman and ranking minority member of the Subcommittee on Office Systems and the gentleman from Pennsylvania [Mr. GAYDOS], and the gentleman from Ohio [Mr. GILLMOR], chairman and ranking member of the Accounts Subcommittee.

Then there is BILL CLAY, and BILL BARRETT, chairman and ranking member of the Subcommittee on Libraries and Memorials.

We also work closely with our dear friend Chairman FRANK ANNUNZIO and ranking member MICKEY EDWARDS of the Subcommittee on Procurement and Printing.

SUMMARY OF BILL

Mr. Chairman, the bill before the House totals $1.8 billion ($1,805,378) in budget authority for fiscal year 1992.

COMPARISON WITH FISCAL YEAR 1991

In fiscal year 1991, we provided $1.74 billion to the activities and agencies funded in this bill. I am excluding funds for the Senate which will be added when the bill goes to the other body. The funding for fiscal year 1991 includes the funds in the regular bill, and the supplemental which was necessary for some of our operations.

The increase between 1991 and 1992 is $64.6 million ($64,575,474). That's an increase of only 3.7 percent.

We have had to constrain the legislative budget severely. The budget requested an increase of $353 million, which was trimmed by 82 percent.

COMPARISON WITH 602(b) ALLOCATION

Under section 602(b) of the Budget Act, our committee allocated $2.344 billion for the legislative bill. The bill before us contains $1.805 billion in budget authority. That means we are $539 million under the target.

However, if we add the $504 million that we have left for the Senate—which is their baseline—and then if we add the $34 million that we have been scored as an advance appropriation even though that money was appropriated in the fiscal year 1991 bill, we are within $1 million of our 602(b) BA target.

We did a similar analysis on our outlay target. Our calculation is that the bill is about $7 million under the 602(b) outlay ceiling. If we can hold that level in conference with the Senate, that will be a further contribution to deficit reduction that goes beyond the budget summit agreement.

COMPARISON TO BASELINE

Another measure of the bill is the extent to which we are close to the baseline estimate by CBO and the Office of Management and Budget.

The baseline is supposed to tell us what level of funding is required just to stay at the current level of services. That is, only an allowance for prospective COLA's, health and retirement contribution increases mandated by law, and an allowance for the inevitable increase in prices to acquire the same amount of pencils, computer paper, electricity, gas and oil, travel, and other routine expenditures.

The $1.8 billion in this bill is eight-tenths of 1 percent above that baseline.

That is true even though we had to add about $30 million to the bill to take care of a few projects that are absolutely essential, such as the $5.2 million deacidification project at the Library of Congress, removal of toxic PCB's and asbestos from the Capitol complex and the General Accounting Office building, and several small, but unavoidable maintenance projects.

COMPONENTS OF INCREASE OVER 1991

As I have pointed out, the bill contains $64.6 million more than the current fiscal year 1991 appropriation, including supplementals, and the advance appropriations provided in the 1991 bill. That increase over the current level can be explained by its five components.

First, mandatory items cause an increase of $82.1 million. These items consist of COLA increases paid to our employees, the normal merit and longevity increases, and increases in health and retirement benefits.

Second, the effect of price increases in contracts, rents, supplies and materials, and other normal expenditure items is about $25.8 million.

Third, we have provided a net increase of $1.1 million for mandated legislative requirements, the primary one being a proposed compression in the amount of time it takes for our Capitol police to reach the top step of their salary longevity ladder. That proposal is currently pending before the Committee on House Administration. The funds are in the bill if that proposal is enacted.

Since the increase necessary in those first three categories is $109 million, and we have only provided a $64.6 million increase overall, we had to reduce the final two components under the 1991 level by over $44 million to reach our mark.

There is a net reduction of $10.8 million in workload items.

Some workload items were increases, others decreases. Overall, there is a net decrease of the $10.8 million.

Essential increases:	*Millions*
Book deacidification	$5.2
LOC automation	1.0
Congressional printing	6.8
Decreases required to meet targets:	
Mail (net decrease under 1991 bill)	12.0
Police overtime and equipment	7.0
Position and base reductions at GAO	5.6
Depository library publications	1.4

Finally, a net reduction of $33.5 million in the fifth component of equipment, alterations, maintenance, and repairs.

There were a few repair, renovation, and equipment items that cannot be deferred. In the architect's budget alone, we denied over $58 million in projects. But a few things have to be done.

Major essential increases:	*Millions*
Library of Congress day care center	$1.0
PCB removal	2.0
Energy efficient lighting (1st installment)	1.0
Escalator and elevator repairs	0.5
Emissions monitors, pipe insulation, steamline repairs, other crucial maintenance	2.0
Asbestos removal and renovation at GAO building (continuing project)	6.8
Illustrative decreases necessary to meet target:	
Office equipment (House)	6.3
St. Cecelia's purchase (one time)	5.9
Capitol and office building maintenance	16.5
Talking book machines	8.5
GAO computer hardware and software	3.1

MAJOR ITEMS IN BILL

House of Representatives: We have allowed $709.2 million for the operations of the House. This is the budget baseline level, less a reduction of $16 million under the baseline for House mail. This is a $61.5 million increase over 1991. The components of the increase are +$5.3 million was allowed for benefits (retirement, health benefits, thrift savings); +$20 million for clerk hire; +$6.9 million for Committee employees; +$4.2 million for administrative staff salaries and expenses; +$6 million for various office expenses. Included is $80 million for House mail, a reduction of $13.4 million under the budget estimate.

Joint Items: We have allowed $80 million for Joint Items, including salaries of police, Joint Committees, the guide service, and the Attending Physician.

Architect of the Capitol: For the Architect of the Capitol, the bill appropriates $111.4 million. That's a reduction of $8.8 million below 1991. In addition to the one-time projects that we were able to eliminate because they were funded last year, we had to reduce annual and cyclical maintenance by $6.1 million, and allowed only one position. We did add $2 million to continue removing PCB's, and we added $2 million to continue the electrical wiring renovation at Cannon and to make structural repairs at the northwest corner of Cannon tunnel where there is a constant water seepage problem. We also provided $1 million for a major test of an electric energy retrofit program. We did allow some funds to rehabilitate space for a day care center for the Library of Congress. But by and large, this is a very austere year for our physical plant maintenance. Overall, we denied $58 million in projects submitted by the Architect.

I want to point out that we have been advised that the Palm House at the Botanic Garden (the glass enclosed central portion of the building) has to be demolished because it has been found to be structurally unsafe. We don't have the funds to replace it.

Congressional Research Service: $55.7 million is allowed for CRS, the CBO baseline. That may necessitate a reduction in services, even though the baseline is generally understood to be the current service level. Certainly, CRS will have to hold open a number of vacancies to meet this tight budget level.

Library of Congress: $248.5 million is allowed for the Library of Congress in several accounts. We allowed $5.2 million and 10 positions to finally begin the task of deacidifying the 15 million books in the Library's collections that are deteriorating due to the high acid content of the paper. We also added $1 million for automation, and funds for the equipment needed to equip the day care center. In order to finance these essential items, we had to go into the Library's operating budget and reduce it by $3.5 million.

Government Printing Office: We have provided $116.3 million for printing and distribution of congressional documents and for the operation of the depository library program. The funding provides $3.5 million for a recent increase in GPO page rates, $3.2 million for an expected increase in the volume of congressional printing, and $3.6 million to begin paying off a $17.6 shortfall in what we owe GPO for our printing bill from previous years.

General Accounting Office: For the GAO, there is $440.9 million, plus $6.2 million in building rental collections. We had to add $6.8 million to keep the asbestos removal and renovation program going at the GAO building ($114 million total cost of project). In order to continue that program and meet our target, we had to reduce the employment base by 38 positions, block another 41 positions, and make a base reduction of $5.6 million.

LEGISLATIVE BRANCH STAFFING

Of the 245 new permanent positions requested, a net increase of one new position has been allowed. Also, funding is allowed for 41 blocked, unfinanced positions already authorized at the Library of Congress, but that increase is canceled out by blocking 41 currently authorized positions at GAO.

GENERAL AND ADMINISTRATIVE PROVISIONS

There are several housekeeping provisions in the bill, most of which have been contained in previous bills. The new ones cover equipment charges, a funds transfer to pay for leased space, adjustments in a few staff salary ceilings, and performance awards. We also have included language which authorized the House to operate its day care center.

MAINTAINING THE 1991 LEVEL OF OUTPUT

Mr. Chairman, I have often said the legislative branch is just people and computers. The Members and staff of the House and Senate are paid salaries by the American taxpayer. We have excellent assistance from the CBO, OTA, General Accounting Office, the Congressional Research Service, our Government printers, our maintenance and custodial people, and a few other small entities. Plus we have the Nation's library, the Library of Congress.

Our assets and our capability in this branch of Government are our people. And they need, just like office workers everywhere, computers, calculators, telephones, the ability to send and respond to mail, fax machines, and a variety of communication devices.

The charts in the Speaker's lobby tell the story. They were prepared by the Congressional Research Service from data collected on fiscal year 1990 expenditures and salary data generally. One chart is a pie chart, and it documents my point precisely. The personnel expenses of the legislative branch consist of 50 percent of this bill. Fifty cents of every dollar in this $1.8 billion appropriation is for the salaries of our staff resources for the legislative branch of Government.

The second chart in the Speaker's lobby documents the reality of paying our staff. To typify a legislative employee, we used the average clerk on a Member's payroll who makes about $25,000. When you add the health and retirement benefits and last January's COLA, and next January's COLA, and a modest allowance for merit increases, that $25,000 employee's total cost in fiscal year 1991 would be $31,204.

That same employee will require $33,368 in the fiscal year 1992 bill, after the COLA, a probable increase in health or retirement costs, and perhaps another very small merit increase.

That means this bill must have a 6.9 percent increase in personnel compensation just to pay the current staff. That allows no growth in staff.

That works out to an increase of about $60 million.

The balance of the bill, primarily computers, telecommunications, maintenance, and a small element of capital improvements, primarily is driven by price levels in general.

If we assume a modest 4 percent increase in projected prices—which is consistent with OMB projections—that would be another $35 million.

So in order to just stay even with this year, our appropriation in this bill would have to increase by $95 million over the fiscal year 1991 level.

Our bill is up by only $64.6 million, or only 68 percent of the level necessary to maintain our current level of services. We have reduced this bill that much in order to meet our budget target.

I think that is a remarkable achievement.

And I don't think you will find anything even remotely comparable in the executive branch.

Their salary and expense budgets will go up by amounts far in excess of the 3.7 percent in this bill. If you want further savings, let's first bring executive agencies down to our modest level.

COMPARISONS

In conclusion, Mr. Chairman, we have developed some interesting comparisons.

Since 1978 the legislative appropriation has grown at an average annual rate of 5.6 percent. The executive budget has grown at an annual rate of 8.3 percent. The CPI has grown at an annual rate of 5.6 percent. That means the legislative branch has just about stayed even in real terms while the rest of the Federal budget has grown at an annual rate about 48 percent higher.

This bill is only 3.7 percent higher than the overall budget authority provided in the 1991 bill.

We have tried to protect core legislative functions. Members can be assured we have trimmed the maximum, but the House will have the funds needed for essential operations. There is no need to apologize for this bill, or to make meat ax reductions.

I urge an aye vote for the bill.

□ 1300

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is approximately a decade that I have been working on this bill with my colleague, the gentleman from California [Mr. FAZIO]. It seems that maybe on that 10th year anniversary it is appropriate for me to mention to the House that the work of this subcommittee not only addresses itself to the pure appropriations whereby we operate the Congress and its related agencies, the support agencies, but we very much as well affect some of the fundamentals that make up the interworking of the House.

The chairman of the subcommittee has played a very, very significant role in seeing that the funding that is available for our office staff, official expenses, as well as the Members themselves.

I might mention further that the gentleman has played a very key role in making certain that the facilities of the House, namely, the Capitol Building itself, is kept up in a reasonable manner. That was long overdue before the gentleman became chairman of the subcommittee. I might mention to the Members that when the gentleman from California [Mr. FAZIO] and I arrived here, there were 20-by-20 inch pillars in the west front of the Capitol that had been holding up that part of the building for some 20 years. It was this subcommittee chairman who was willing to bite the bullet and put together a sizeable package of some $45 million needed to renovate that portion of the Capitol.

Mr. Chairman, while the legislative branch appropriations bill provides the funding for the House in this year, in my own judgment we have gone forward on a very conservative basis. On the total appropriations of $1.8 billion, of which $1.1 billion is for the congressional operations themselves, it is important to note that the remaining 40 percent of the bill, $728 million, is for the operation of other legislative branch related agencies. That is a reduction of 13.8 percent or $288.3 million under the budget request.

□ 1310

Over the 1991 appropriations, there is an increase in total of $64.6 million. Not included in this bill, but scored against it, is some $29.9 million that actually was appropriated in the 1991 fiscal year. The bill reflects, thereby, an increase of only 3.7 percent over the 1991 years.

Within the bill, the Architect of the Capitol, as the gentleman from California [Mr. FAZIO] indicated, has come under serious scrutiny. The bill allows for $111.4 million, which is a reduction of $8.8 million below the 1991 baseline.

Any number of other areas of responsibility of the legislative branch will come under serious scrutiny today. I might mention to Members that indeed our ability to expedite our work on this bill today will very much depend upon the kind of rhetoric we decide to go forward with as we amend various sections of the bill. It has been a pattern in the past that a number of Members have enjoyed themselves demonstrating that we as Members of Congress are willing to cut our own appropriations.

There are a number of areas that could be addressed for possible reductions. Indeed, if we are willing to, if we address those amendments one by one in a relatively moderate way, it is conceivable that we may not only complete the bill at a much earlier hour than expected, it is my own judgment it is possible that we might adjourn in time to enjoy the President's barbeque.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from California [Mr. PANETTA], a member of the Committee on House Administration.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 2506, the legislative branch appropriations bill for fiscal year 1992. This is the third of the 13 annual appropriations bills. Again, I commend the gentleman from California [Mr. FAZIO], the chairman of the subcommittee, and the ranking member, the gentleman from California [Mr. LEWIS], for adhering to the limits established by both the budget resolution and the budget agreement, as well as the allocations provided through the appropriations process.

The bill provides $1.839 billion in discretionary budget authority and $1.836 billion in discretionary outlays. This includes $34 million in budget authority provided in the 1991 bill which has been scored, for budget scorekeeping purposes, as advance appropriations for 1992. I am pleased to note that the bill is $505 million below the level of domestic discretionary budget authority and $481 million below the domestic discretionary outlays as set by the 602(b) spending subdivision for this subcommittee. I also note that, in keeping with tradition, Senate items are excluded from this bill.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the Appropriations Committee on its other bills.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, June 3, 1991.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 2506, the Legislative Branch Appropriations Bill for Fiscal Year 1992. This bill is scheduled to be considered on Wednesday, June 5.

This is the third regular Fiscal Year 1992 appropriations bills to be considered and the bill is below the 602(b) subdivision.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

Attachment:

FACT SHEET OF H.R. 2506, LEGISLATIVE BRANCH APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102-82)

The House Appropriations Committee reported the Legislative Branch Appropriations Bill for Fiscal Year 1992 on Thursday, May 30, 1991. Floor consideration of this bill is scheduled for Wednesday, June 5.

Comparison to the 602(b) Subdivision

COMPARISON TO DOMESTIC SPENDING ALLOCATION

The bill, as reported, provides $1,839 million of discretionary budget authority, $505 million less than the Appropriations 602(b) subdivision for this subcommittee. This includes $34 million in budget authority provided in the 1991 bill (P.L. 101-520) which has been scored, for budget scorekeeping purposes, as advance appropriations for 1992. The bill is $481 million under the subdivision total for estimated discretionary outlays. In keeping with tradition, Senate items are excluded from the House bill. A comparison of the bill with the funding subdivisions follow

[In millions of dollars]

	Legislative branch appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	1,839	1,836	2,344	2,317	−505	−481
Mandatory[1]	81	81	81	81		
Total	1,920	1,917	2,425	2,398	−505	−481

[1] Conforms to the Budget Resolution estimates for existing law.

BA = New Budget authority.
0 = Estimated outlays.

Following are major program highlights for the Legislative Branch Appropriations Bill for fiscal year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
House of Representatives, salaries and expenses	709	684
Congressional Budget Office (CBO)	22	20
GPO—Congressional Printing and Binding	90	78
Congressional Research Service	56	50
Library of Congress, salaries and expenses	194	142
General Accounting Office (GAO)	441	384

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Report 102-81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

Mr. LEWIS of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, This is my first year on the Appropriation Committee and I feel very fortunate to have been assigned a seat on the Legislative Branch Subcommittee. It is a privilege to serve with such distinguished Members as the chairman, VIC FAZIO and the ranking member, JERRY LEWIS. I would like to commend them for their hard work on this bill. This is always a controversial piece of legislation and Mr. FAZIO and Mr. LEWIS have worked hard to bring a fair and balanced bill to the floor.

Mr. Chairman, this year's bill is no exception. The bill would appropriate $1.8 billion for the operations of the House and other congressional agencies in fiscal year 1992, such as the Library of Congress, General Accounting Office, and Government Printing Office. Although this is about $65 million or 4 percent more than this fiscal year, it is $288 million or 14 percent less than the amount requested.

This is, by its very nature, a difficult debate. I would like to point out, however, that the restrictions we put on House Members' use of taxpayer funds for mass mailings last Congress appear to be reducing the cost of the frank. For fiscal year 1992—an election year—this bill includes $80 million for mailing costs. The figure for the past 4 election years ranged between $96 million and $114 million. In addition, there are no additional funds for the fiscal year 1991 franking appropriation of $59 million. This is one of the first years when we have not been embarrassed by a shortfall of funds.

Let me also point out that this bill contains no funds for Members' salaries. Salaries for Members are paid out of a permanent appropriation for the compensation of Members.

Appropriations for the Architect of the Capitol total $96 million, $3 million less than the 1991 appropriation and $44 million less than the amount requested. Although the committee understands the historical importance of this magnificent building, the report directs the Architect to sort out his priorities in future budget presentations, so the committee will have a more reliable estimate of essential activities.

Mr. Chairman, on the whole, I support this bill and I urge my colleagues to do the same.

I know that this is an easy bill to criticize but this funding is necessary for the efficient operations of the House. A lot of hard work on both sides, has gone into this bill and I urge passage of H.R. 2506.

Mr. FAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to thank the gentlewoman from Nevada [Mrs.

VUCANOVICH] for her comments and for her general participation in the work of the committee. I would also like to simply say to the gentleman from California [Mr. LEWIS], how much I not only enjoy working with him, but I appeciate the leadership he provides. He really is a true partner in the way this bill is drafted and managed, and it has been a great privilege to spend the last decade working on these issues, issues that are really important to this institution and to the people of this country.

Mr. LEWIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would echo the comments of the gentleman from California [Mr. FAZIO] that the time we have worked together on this bill has been among the most satisfying experience in my professional career here. There is no doubt that the work of this subcommittee is very important to the House. While controversial, it is a fact of life that the House of Representatives needs professional personnel. Indeed, we need facilities to allow us to adequately carry forward the people's work. So the decade or so we have worked together in this bill has been very rewarding for me as well.

Mr. MCDADE. Mr. Chairman, I rise in support of the legislative branch appropriation bill, and I commend the chairman and ranking members of the subcommittee, in particular, for their work. Theirs is a thankless task and one which is of little positive impact back home in their districts. But their colleagues know and appreciate what they are doing.

Mr. Chairman, the legislative branch bill is the third fiscal year 1992 appropriation bill brought before the House this year. Once again it makes clear that the Budget Enforcement Act of 1990 does impact the appropriations process. It has imposed considerable discipline; spending constraints are real and they are difficult.

This is the only appropriation bill which funds one of the three branches of the Federal Government in its entirety and only that branch of government. The funding for that branch, the people's branch, totals $1.8 billion. It contains $1.1 billion, or 60 percent, for actual operations of the Congress—excluding Senate items—and, $728.8 million, or 40 percent, for the functions of other agencies such as the Library of Congress, the Government Printing Office, the General Accounting Office and the Botanic Garden which are not specifically related to the Congress.

The total appropriation provided in this bill, $1.8 billion, represents a $288.3 million, or 13.8 percent, reduction to the budget request. The bill is under the subcommittee's section 602(b) allocation by $539 million, and is over the 1991 appropriation by $64.4 million, or 3.7 percent. Mr. Chairman, not included in this bill, but scored against it is an advance appropriation of $34 million.

Mr. Chairman, this bill holds the line. The subcommittee had some difficult decisions to make and they did so as a team. The committee has reported a balanced, fair and disciplined bill. I urge my colleagues to support it.

Mr. GAYDOS. Mr. Chairman, I rise in strong support of the legislative branch appropriations bill for fiscal year 1992. This bill is a fiscally responsible piece of legislation which will limit the potential for growth in legislative branch expenditures. It is the product of a very rational and systematic process of reviewing in detail every budget request from the entities comprising the legislative branch. The bill, as skillfully crafted by the Subcommittee on Legislative Branch Appropriations, prudently balances the demand for fiscal restraint in the expenditure of public funds with the critical need for the legislative branch to discharge its constitutional responsibilities in an effective manner. Consequently, I commend the chairman of the subcommittee, Mr. FAZIO, the ranking minority member, Mr. LEWIS, and the members of the subcommittee for their hard and thoughtful work.

The recommended total new budget authority for fiscal year 1992 is only $64,575,474 more than the total amount available for fiscal year 1991. Furthermore, the recommended total amount for fiscal year 1992 is $288,313,000 less than the sum total of all the budget requests from the respective legislative branch entities. In effect, the total of all the requests was cut by 13.8 percent. Thus, the recommended total appropriation for fiscal year 1992 is very reasonable and it certainly cannot be considered as excessive in any way. In other words, the subcommittee has presented to the house a true product of fiscal restraint and prudence.

In terms of understanding the relationship of the pending appropriations bill with the legislative branch budgets approved over the past several years, the committee report is very instructive. Since 1978, a year in which legislative branch operations stabilized, the legislative branch budget has remained approximately the same in real terms. As the report indicates:

> The average growth since 1978 has been 5.6 percent per year, the same as price levels measured by the consumer price index. Congressional operations, title I of the bill (and adding the budget estimates for the Senate), also have been restrained, growing at only 5.9 percent annually. During the same period, the executive branch has averaged an 8.3 percent annual rate of growth, an increase in real dollars at an annual rate of 48 percent higher than the legislative budget.

Finally, I strongly urge my colleagues to support this bill. It is a very responsible allocation of Federal funds. In particular, I would recommend against supporting any indiscriminate across-the-board cut. Approval of such a cut would seriously negate the careful judgements made by the appropriations subcommittee during its meticulous budget review process. In fact, the adoption of such an amendment would impair the process itself and it would lead to unforeseen consequences. It would be a defeat for the House's effort to apportion its funds in a fiscally responsible manner.

Mr. CLAY. Mr. Chairman, the Appropriations Committee is to be commended for providing a responsible legislative appropriations bill. In fiscal year 1992, the legislative appropriation would be $1.8 billion, which represents a $64.5 million increase over the fiscal year 1991 appropriation, an increase of only 4 percent. This legislation appropriately accommodates the basic needs of this body while remaining well within the budgetary constraints faced by all Federal agencies.

Additionally, in my role as chairman of the Franking Commission, I would like to commend the committee and Mr. FAZIO for the fine work he has done in the area of reformed control of official mail costs.

Finally, I would like to state my strong opposition to the Lewis amendment, requiring House committees to pay for GAO detailees. It is important that we recognize the chilling impact that such a requirement would have on the effectiveness of this body. The majority of the congressional committees are understaffed and lack expert investigatory support on certain issues. For these reasons Congress recognized more than 20 years ago the importance of GAO detailees to its operations. The need for GAO detailees is just as strong today as it was then.

I urge my colleagues to oppose the Lewis amendment, an amendment that would serve to cripple the oversight and investigatory functions of this legislative body.

Mr. LEWIS of California. Mr. Chairman, I have no futher requests for time, and I yield back the balance of my time.

Mr. FAZIO. Mr. Chairman, I have no further requests for time, and yield back the balance of my time.

The CHAIRMAN. All time has expired for general debate.

The Clerk will read.

The Clerk read as follows:

H.R. 2506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

HOUSE OF REPRESENTATIVES

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $709,001,000, to remain available until expended, as follows:

AMENDMENTS OFFERED BY MR. SANTORUM

Mr. SANTORUM. Mr. Chairman, I offer six amendments, and I ask unanimous consent that they be considered en bloc. Furthermore, I ask unanimous consent that other amendments on pages 1 through 7 of the bill be considered after my amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. FAZIO. Mr. Chairman, I reserve the right to object.

The Clerk read as follows:

Amendments offered by Mr. SANTORUM:

Page 2, line 8, strike "to remain available until expended,".

Page 4, strike line 22 and all that follows thereafter through page 5, line 2.

Page 6, strike lines 14 through 18.

Page 6, line 23 through line 24, strike "'HOUSE LEADERSHIP OFFICES"

Page 6 Through Page 7, Lines 24 Through line 3, Strike "COMMITTE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (HOUSE INFORMATION SYSTEMS)", "CONTINGENT EXPENSES OF THE HOUSE",

Page 7, Lines 3 Through 6, Strike "OFFICAL MAIL COSTS", and "SALARIES, OFFICERS AND EMPLOYEES"

□ 1320

The CHAIRMAN. Does the gentleman from California reserve a point of order?

Mr. FAZIO. Mr. Chairman, we have just received copies of the amendments and at the moment we are still analyzing them. I am not sure that I have a right to object, but I do want to consider whether they should be allowed en bloc.

The CHAIRMAN. The gentleman from California reserves the right to object.

Mr. FAZIO. Mr. Chairman, I continue to reserve my right to object.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I will try to clarify for us. I believe what the gentleman from Pennsylvania [Mr. SANTORUM] is trying to accomplish here is while he puts his amendment en bloc, because he is addressing those sections, he will not stop another Member who wishes to present an amendment later that deals with one of the sections that is involved.

It is an amendment that we presumed would be considered. So frankly, I do not think there is a problem.

Mr. DINGELL. Mr. Chairman, reserving the right to object, until we know what the different amendments might be that are included in this unanimous consent request with regard to en bloc, I would have to object.

The CHAIRMAN. There is a possibility of a pending point of order.

Mr. DINGELL. Mr. Chairman, I would like to know about that, too.

The CHAIRMAN. Does the gentleman from Michigan make a point of order?

Mr. DINGELL. Mr. Chairman, at this point I do not, but I reserve one.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] reserves the right to make a point of order.

Mr. LEWIS of California. Mr. Chairman, I can assure the gentleman from Michigan the amendment involved is not one that he is concerned about in a direct way.

Mr. DINGELL. Mr. Chairman, if the gentleman would permit, I feel very much affected by a lot of amendments that I gather might be offered today, and I would like to know what they all are before I become more cooperative. But I do withdraw my reservation.

Mr. LEWIS of California. Mr. Chairman, it is my understanding that the amendment he is concerned about is the one that addresses the official mail cost. We are going to deal with that amendment sooner or later anyway and so he is suggesting he does not want this en bloc to block that other amendment.

Frankly, if we could agree upcn that, I do not think there would be a problem.

Mr. FAZIO. Mr. Chairman, is the gentleman's amendment simply directed towards the transfer of funds issue solely and only?

Mr. SANTORUM. Mr. Chairman, that is exactly right. It is reprogramming the funds.

Mr. FAZIO. Mr. Chairman, so the amendment that he wishes to take up en bloc, which is all in order, as I read it, is simply directed at that only?

Mr. SANTORUM. That is correct.

Mr. FAZIO. Then I would not object, Mr. Chairman, and I withdraw any reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SANTORUM] is recognized for 5 minutes in support of his amendments.

Mr. SANTORUM. Mr. Chairman, I, too, want to pitch in on my part, and I commend the gentleman from California, Mr. FAZIO and Mr. LEWIS, for the job that they have done on this appropriations bill. As a new Member, one of the things I like to do is read the bills and try to find if there is anything there that I object to. And while there are certain things that I do object to, by and large I think they have done a very fine job.

As a new Member, I was elected, obviously, to represent my constituency. And one of the things that I heard loud and clear during my election is that we have got some things in the Congress that we are not particularly happy about. I do not think I ran as a Congress basher, and I do not think that I ran as the gentleman from California [Mr. FAZIO] said, to save the Congress and am in fact trying to destroy it. I think frankly the system is doing a pretty good job of destroying itself right now, and what I would like to do is see what I can do about pitching in to bring things aboveboard and let people know exactly what is being done here.

Again, I commend the gentleman from California for the job he has done by and large, but that does not mean that we are all perfect and that there are not changes that can be made along the way. That is what I am hoping to do here.

Let me say that what I am not doing in this amendment is attacking the budget amount. That is not a concern of mine. What I am saying is that we should live within our budget. And that is exactly what this amendment does.

It says that if we live within our budget and we spend at or less than the amount, then the money, a Member can spend that money but if a Member spends less than that amount, the money does not go into some fund to be spent for some other purposes that we know not what. But the money would go back to the Treasury, would go back to the taxpayers to reduce the Federal deficit. That is all my amendment does.

It says that the moneys appropriated for whatever function of the legislature should go for that function. And if it is not expended, then the money should go back to the Treasury to reduce the Federal deficit. To be lapsed back. It should not go into some account managed by the Speakers, the leaders, whomever, to be spent in a way that they see fit. I think that that is inappropriate. I think that is something that the people in America would not like to see done with their taxpayers' dollars.

They would like to see where it is budgeted and spent for that purpose. That is what this amendment does.

I am confident that this type of radical reform is generally well accepted here in the Congress since we have been doing it for many, many years. And it has only been in the last couple years that we have created this system that allows unspent funds to be kept in house to be used for other purposes.

If I can give an example of how this money is being spent for other purposes and what I am aware of is that this recent increase that we got in our clerk hire account was a result, this $40,000 increase was a result of funds being reprogrammed, unused funds being reprogrammed and divvied back out to the Members. I have been asked by Members who I am asking for support on this whether I have accepted that money. My answer is, "Heck, yes, I have." Because if I do not accept that money, it is just going to go back to the leaders for them to spend in some other way. So I guess the answer is, those of us who want to be somewhat responsible and restrained in using our account really find ourselves in a catch-22. If we do act responsibly and restrain our spending, then the money goes back to the leadership for them to use for whatever purposes they want to use it for. And so we are forced in a situation to spend our money or give it back to someone to use it for another purpose.

I think I should have the option, as a Member of Congress, to either spend my money for the purposes of the district that I represent or the money should go back to the Treasury to the people who paid those taxes in the first place.

That is what my amendment does. I seek the support of both sides of the aisle.

Mr. Chairman, I yield back the balance of my time.

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment.

I really do appreciate the fact that the gentleman from Pennsylvania [Mr. SANTORUM] has offered this amendment because I think it is very important to clear up a number of misunderstandings that are typical and which sort of feed upon themselves from one Congress to another.

We have always had this question of whether there is a Speaker's slush fund somewhere where all the money that is not spent ends up going. And then of course the Speaker, the story goes, has the unilateral authority to decide how these funds are spent.

Nothing could be further from the truth. There is a very clear process which the gentleman from California [Mr. LEWIS] and I use to reprogram funds. It is the same process that is used in other appropriation, and it is certainly something that is a great aid and assistance to any agency of the Federal Government that is trying to make the best use of their resources.

Let me begin with a little bit more information for the gentleman from Pennsylvania [Mr. SANTORUM] because I think this is important. I do not want to repeat myself but I do think there is some basic information that we have to get across here. We do not appropriate the full amount of funds authorized for either clerk-hire or for a Member's office expenses. We already know that many Members will not fully expend those allowances.

So we have already reduced the appropriation from the authorized amount to what we think is a reasonable expectation.

For example, clerk-hire in this bill is funded at 93 percent of the authorization and at only 82 percent if you factor in the $75,000 transfer from their office account allowance that Members are authorized to move into that account should they make that decision.

Members' office accounts are only funded at 91.9 percent and at 67 percent, if you factor the transfer in.

So if Congressman A, as your material refers to does not spend his full amount, he or she can truly say that the unspent funds will stay in the Treasury or, more likely, will be spent for something else since we are in a deficit. But they do not come to the Hill. They do not come to our coffers. They stay in the Treasury. You are drawing on that.

So there is no loose money slipping around from one account to another. One would think that from hearing the arguments that we routinely use clerk-hire funds or Members' office accounts for other purposes, that we are somehow engaging in a sleight-of-hand. That is not the case.

For those who are concerned about this so-called slush fund, we have looked at our records for several years and found not one instance where those Members' clerk-hire funds have been utilized elsewhere.

□ 1330

There have been several instances when we have had to transfer savings, however, into Members' clerk hire, since we had not provided enough in those instances obviously for cost of living adjustments to give our staff, the same increase that other Federal agencies give their employees. In three instances, for example, we used excess office account funds to make up deficiencies in the clerk hire account, but that is only right, because under the rules, Members are allowed to transfer, as some may know, from office account to salaries. Therefore, we needed to have the flexibility to transfer the funds.

We did transfer $6 million in fiscal year 1989 from office account funds to purchase the new telephone switch and related equipment. That was one of the best investments we ever made, and the life-cycle savings from that investment are going to be somewhere in the neighborhood of $26.6 million. I think technology will be even more important to us in the future.

We have also used surplus office account funds for equipment for Members' district offices in the years when we were not charging Members for their equipment use. I do not see anything wrong with this. I think it is good management. These adjustments are required.

Without this flexibility, we would need supplementals. We would pass up improvements that lead to reduced spending, and we would not be taking advantage of the skills and expertise of our financial managers in the operations of the House.

There really are a number of areas within the bill where the committee has to retain authority to transfer funds from areas where a surplus may exist to an area where a deficit may occur because of unforeseen circumstances and because we have occasionally underestimated our requirements. This is prudent fiscal management. There is nothing sinister, nothing underhanded about it. It is not unusual. This is a tool that is practiced in every agency of the Government, in every corporation in America.

So we think it is good business to allow some flexibility in the budget plan and to provide a procedure which is very much up front, signed off on both sides of the aisle, for making that flexibility as efficient as possible.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I would like to say to my colleague, the gentleman from Pennsylvania, that I very much appreciate the thrust of his amendment, the effort to focus upon places within a bill like this where money can be saved rather than being reserved and then transferred elsewhere. On the surface, it is an obvious difficulty. I commend the gentleman for focusing in that detail upon this very important piece of legislation.

I must say that I reluctantly oppose the amendment because of some of the difficulties that my chairman has suggested.

We do, from time to time, find ourselves in a circumstance where an expenditure planned for a year ahead exceeds itself a good deal, and that expenditure turns out to be totally unpredictable. For example, we usually, in the even-numbered years, if you will, budget more money for mail costs than in odd-numbered years, because it just seems that a lot of Members mail more in those even-numbered years. From time to time, you will find yourself having to deal with a supplemental to solve such a problem.

We have presently a circumstance dealing with office property that people, Members, are in line for. There are a lot of Members who are interested in a two-drawer filing cabinet that might be available if there was funding available for it. There are 130 Members in such a line. If we had funding that was left over in reserve, we might reprogram it to make that equipment available to those Members who need that kind of equipment in their office.

Sometimes these sorts of reserves become highly technical in terms of the way the House operates. Nonetheless, transfer authority has been very, very helpful.

The gentleman has raised questions about the opportunity to transfer from fund to fund causing the bill to overspend. There is little doubt that in an appropriation bill like this one there is that possibility. But I must say that within the subcommittee we have made every effort to be extremely conservative with the legislative branch and, indeed, cutting every category of spending wherever it was possible, and for that, Mr. Chairman, I reluctantly oppose the amendment.

Mr. STEARNS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I commend the gentleman from Pennsylvania for his amendment.

This amendment would require that funds not spent on clerk hire be used to reduce the deficit.

Now, within the realm of what we have here, we have a huge deficit, and I appreciate the analogy between corporate America and the Government here. But we are talking about taxpayers' money that we are shifting fund to fund here, and I think the gentleman from Pennsylvania is saying that if you are a Member and you are giving back part of your clerk hire, you want to be sure you know where it is going.

The patriotic thing to do is to try and return it to the Treasury, so I think that is what his amendment is saying, let us specifically designate it to reduce the deficit.

As many Members know, several months ago we were notified that our clerk hire accounts would be increased by $40,000. Now, even though the House rejected this increase last October, we were told savings had been realized in other areas. It was not explained to us how this came about, but it was just sent to us in a memo, so that the clerk hire could be increased.

Several Members, including myself, have declined this increase. While the reasons may be varied, I am hopeful that all Members who turn their money down all want to see it returned to the Treasury to reduce the deficit.

The question is: What is going to happen to the $1 million saved by the 23 Members who declined this additional increase? I do not think they want this money to be put toward rugs, new hair dryers, or new decorator furniture. A more worthwhile expenditure is to put this money toward the growing deficit.

Previously the House was instructed to give any unspent legislative branch money back to the Treasury. However, under last year's legislative branch appropriations bill, any remaining funds are not to be returned to the Treasury but are simply to stay in the account to be used on any other House project.

Members without this amendment that the gentleman from Pennsylvania has introduced will not be assured that there is an incentive to save this money and to reduce the deficit. In private industry, managers are rewarded for coming under budget. However, here in the House of Representatives money saved simply means money that can be spent somewhere else.

Mr. SANTORUM. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I am happy to yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, just a clarification for the purposes, that the amendment that the gentleman offered last year that defeated the increase in the clerk hire basically is going to be overrun by this reprogram. Is that my understanding?

Mr. STEARNS. To put it in perspective, it was overwhelmingly voted that we would reduce the clerk hire to the cost of living. Now, what happened was in January they came back and they put more funds than the cost of living which brought it up to a little over 8 percent increase in the clerk hire. Then with the recent memo from the committee, it went up to 15.8 percent. For a matter of record, it is even more than my legislative amendment was fighting against. So we now have the Congress spending even more than was even talked about in October.

Mr. SANTORUM. If the gentleman will yield further, those people who voted with the gentleman against the increase in clerk hire should vote for this amendment if they really want to see clerk hire accounts kept reasonable?

Mr. STEARNS. I think so, and I think the gentleman is putting it out in black and white where the money would go so there would be no question that a Member would have his funds returned to the Treasury to reduce the deficit rather than going from a multitude of funds which we know not where they would go.

Mr. SANTORUM. If the gentleman will yield further, is it my understanding that this money, when it is sent back into this reprogramming fund, can stay in there for years and does not have to be spent the next year; it can stay there as long as it wants?

Mr. STEARNS. What the gentleman is saying is that there is no accountability, and that is true.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from California [Mr. FAZIO] is recognized for 5 minutes.

There was no objection.

Mr. FAZIO. Mr. Chairman, I just simply have to clarify the record. The reason that the gentleman from Florida is mistaken is that he, in fact, did cut the funds that were to be appropriated for the additional clerk hire raise for staff. He did not remove the authorization, and as I said earlier in my remarks on the amendment offered by the gentleman from Pennsylvania [Mr. SANTORUM], we appropriate as well as authorize in this bill, and in this case, we clearly used a pay-as-you-go approach.

We went back, scrubbed all the accounts and found some savings so that we will not increase the deficit. We simply made up for the reduction in the appropriation that the gentleman from Florida [Mr. STEARNS] and the gentleman from North Carolina [Mr. HEFNER] offered on the floor with other funds, so there was no net increase to the cost to the legislative branch.

I noted that the gentleman from Arizona [Mr. KOLBE] was quoted in Roll Call as having said that that is the reason he felt comfortable accepting the clerk hire allowance, and I am sure many Members, even some who supported the gentleman from Florida [Mr. STEARNS] and the gentleman from North Carolina [Mr. HEFNER], have made that decision, because they felt it was appropriate since they were not adding to the cost of the legislative branch or the Federal budget.

□ 1340

The money that the gentleman struck on the floor did go back to the Treasury just as the gentleman wished. In fact, it never came out of the Treasury. We did not fund the increase in the clerk hire allowance for our staff, other than in the routine procedure to reprogram funds available from legitimate savings.

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I thank the gentleman for yielding. Let me ask a simple question. I am sure the American people do not quite understand the difference between appropriation and authorization.

Mr. FAZIO. I think many Members do not understand.

Mr. STEARNS. And I understand your point, but the fundamental fact that Members do understand, and the American people do understand, we voted on the House floor to reduce the clerk hire, would the gentleman agree?

Mr. FAZIO. We certainly voted to eliminate the funds to pay for an increase in the clerk hire account, and we also adopted language that authorized an increase in the clerk hire.

Mr. STEARNS. If the gentleman will continue to yield, if the vote was overwhelmingly to give just a cost-of-living to the clerk hire in the appropriations rather than the authorization, does that not in a sense represent the will of Congress, the will of all the Members, to say let Members hold spending on the legislative side to the cost of living, and then Members on the committee decide to thwart this through some legislation?

Mr. FAZIO. We want to make it clear we were not telling Members how to act. We were not thwarting any Member's needs.

In fact, it was indicated that each Member who felt it appropriate to take the funds for clerk hire should stipulate so, and many Members did. Many who voted with the gentleman from Florida and many who voted against the gentleman from Florida on the premise that they were not adding to the deficit, they were using other funds that had been derived through savings. I think every Member has to make that decision, and everyone now must make it publicly. I think that is a fine way to determine what the real will of Congress was.

Mr. STEARNS. If the gentleman will continue to yield, I will close, if the gentleman will allow me a few moments more.

The basic premise a lot of Members felt was that we voted to reduce this, as an act of courage.

Mr. FAZIO. An act of courage?

Mr. STEARNS. I think it took courage to vote to try and limit Congress' spending; does the gentleman think it does not take courage to limit Congress' spending?

Mr. FAZIO. I would not typify it that way.

Mr. STEARNS. Any time a Member comes on the House floor to reduce Government spending, I think it takes courage.

In a sense, this has been thwarted through your not only giving more than was talked about, 15 percent. You are now up to 15.8.

Mr. FAZIO. All we did was allow the amount to be provided for on an annualized basis. We did not even fund it at the cost that was represented on a full year basis.

Mr. STEARNS. The gentleman will admit it is more than our amendment called for?

Mr. FAZIO. No, I think that simply allowed the clerk hire to be funded for part of the year at the level that was authorized by our bill last year.

Mr. HEFLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman mentioned that by doing this maneuver, we did not increase the deficit. I think that is perfectly correct. We did not increase the deficit but we did not decrease the deficit either. Should that not be our goal here, to decrease the deficit, and not just hold our own? We held our own, perhaps, in this because we found the money other ways within the budget, but we did not decrease.

I think we need some kind of a motivation to help Members control their own spending. I cannot tell Members how many of the people that I have talked to that voted for the gentleman from Florida [Mr. STEARN's] amendment last year and that told me that I was silly to be 1 of the 23 that turned my back, because if they turned theirs back it will just be spent somewhere else, and it does seem silly to turn mine back under those circumstances. Why turn it back, to let somebody else's priority take over? I could take it and use it to good effect.

However, it seems to me we have a role to play in trying to reduce the deficit. So, should there not be a motivation here to do that, if we turn that money back, if we make that choice?

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from California.

Mr. FAZIO. We have never transferred any funds out of clerk hire for any other purpose in the records we have looked at. So any dollars that the gentleman does not spend in his clerk-hire remains in the Treasury, does not go back to the Treasury, it remains in the Treasury. It must be drawn down from the Treasury. If a Member does not spend it, it remains there.

Therefore, I would urge Members to continue the policies that, obviously, they have adopted, which is to make the deficit reduction your No. 1 priority and reduce the size of the spending on your staff. The money spent does not come to the Hill. It remains in the Treasury. If a Member does not spend it, it stays there. No money has ever been transferred out of clerk-hire.

Mr. HEFLEY. If the gentleman will share with me, why is he opposed to the gentleman's amendment, then? Is that not what the gentleman is trying to get at?

Mr. FAZIO. If the gentleman will continue to yield, I have the same question. I wonder about the intent of the amendment.

Mr. HEFLEY. What the gentleman is saying, basically, it seems to me is that the amendment does no good because that is what happens anyway? Why fight the amendment? Make Members feel better by supporting the amendment and be assured what the gentleman is supporting us actually is what happens.

Mr. FAZIO. If the gentleman will continue to yield, his amendment goes far beyond your clerk hire and far beyond your office expenses and would restrict any transfers.

Mr. HEFLEY. Is it not that kind of motivation that we would like to have here? I think it was the height of hypocrisy for Members, last year, to stand before the election when everyone was upset, that the Nation was upset over the way the Congress was handling the budget matters, and we came up here and we voted courageously to cut our own clerk hire fund just before an election time. Now the election is gone. There will not be another election for a year and a half. When there is not another election for a year and a half miraculously we find the money somewhere.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from California.

Mr. LEWIS of California. The gentleman is making an important point, but perhaps I could clarify for those who would like to understand the way our bill operates. The need for transfer within the legislative branch from time to time become very real.

In another subcommittee, to illustrate the point, the Subcommittee on Foreign Operations that I used to serve on that provides all the money for foreign assistance, many, many times every year the administration will come in and ask for transfer of funds, because a crisis developed in a different part of the world. So funds are taken from one category and moved to another in order to be able to accomplish that which is necessary. As a practical fact, this does not compare with those kinds of concerns and needs, but is a fact of life that within the legislative branch we do need to transfer from time to time.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. HEFLEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. As a chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs, I would like to buttress what the gentleman from California is saying.

The fact is that while many Members seem to have the impression that we are appropriating specifically for spending for specific countries or specific accounts in the foreign aid bill, the fact is that we get hundreds and hundreds of transfer notices from the agencies every month. The fact is that the executive branch has mammoth ability to move funding around between accounts.

They may come in and tell Members that they intend to appropriate money to a specific country, and come in with a revised sheet telling Members they intend to send it someplace else.

(On request of Mr. OBEY and by unanimous consent, Mr. HEFLEY was allowed to proceed for 30 additional seconds.)

Mr. OBEY. Mr. Chairman, I simply say if Members want to take a look at an agency which has an incredible amount of slosh, take a look at the way any administration will deal with the foreign aid budget. That is where they ought to be focusing

Mr. HEFLEY. I can understand that with the foreign operations bill because there are external factors that are playing a role, and we do not have any control over the external factors, but in our own legislative budget, we have control of how it is spent, it seems to me.

I think we ought to support the gentleman's amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. SANTORUM].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SANTORUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 276, not voting 5, as follows:

[Roll No. 132]

AYES—150

Allard
Archer
Armey
Baker
Ballenger
Bereuter
Bilirakis
Boehner
Broomfield
Browder
Bruce
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Combest
Condit
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Hall (TX)
Hancock

Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horn
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
Livingston
Luken
Machtley
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nichols
Nussle
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Petri
Poshard
Ramstad
Ravenel
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Russo
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (WY)
Upton
Valentine
Vander Jagt
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOES—276

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Brown
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Reed
Regula
Richardson
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—5

Ford (TN)
Lehman (FL)
Martinez
Sabo
Sisisky

□ 1408

Messrs. BATEMAN, EVANS, and MARTIN, and Mrs. ROUKEMA changed their vote from "aye" to "no."

Messrs. ZIMMER, PARKER, SHAYS, and OXLEY changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

POINT OF ORDER

Mr. BORSKI. Mr. Chairman, I ask unanimous consent to make a point of order against section 105, notwithstanding the fact that it has not been reached in the reading.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman may make his point of order at this point.

Mr. BORSKI. Mr. Chairman, on behalf of the leadership of the Committee on Public Works and Transportation and on a bipartisan basis, I raise a point of order against section 105 of the bill because it is legislation in an appropriations bill and therefore in violation of clause 2 of rule XXI.

Section 105 would authorize and appropriate funds to the Architect of the Capitol to lease and occupy approximately 75,000 square feet of space in the Judiciary Office Building and to acquire and install funiture and furnishings for the leased space.

As such, this section speaks to issues which may run cross-purpose to the Judiciary Office Building Development Act of 1988 which was authored by the Committee on Public Works and Transportation. That law—specially section 3(a), (6)(a) and (b)—provides a specific process for allocating space in the Judiciary Building. Section 105 raises a number of questions about that process.

In addition, Mr. Chairman, I would be remiss if I didn't mention that inclusion of this provision is also objectionable as a matter of process. This matter has not been considered by our committee, was included without our consultation, and can and should be handled through the normal legislative process. Circumventing that means that this issue escapes the scrutiny normally afforded other proposals.

Accordingly, Mr. Chairman, section 105 is legislation is an appropriations bill and violates clause 2 of rule XXI.

□ 1410

The CHAIRMAN. Does the gentleman from California wish to be heard?

Mr. FAZIO. Mr. Chairman, I would be inclined to concede the point. I think the gentleman from Pennsylvania [Mr. BORSKI] makes a worthy point within the rules. I simply would say, however, that this is the second time we have had a discussion about procedure with the Committee on Public Works and Transportation. We do not wish to intrude into their territory, but I do want to urge the committee to hold hearings on these subjects so we can begin the process of streamlining the legislative branch. Moving forward in this area would be to the benefit of all of us. We certainly have no desire to interfere with the work of the Committee on Public Works and Transportation, but it is a failure to hold hearings in the proper subcommittee that might be able to move beyond this impasse.

The CHAIRMAN (Mr. DONNELLY). For the reasons stated by the gentleman from Pennsylvania [Mr. BORSKI] the point of order is sustained. Section 105 is stricken from the bill.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend my subcommittee chairman, the gentleman from California [Mr. FAZIO], and my ranking member also, the gentleman from California [Mr. LEWIS], and the members of the committee for the fine job that they have done in bringing the bill together. I want to point out to the Members that this legislation contains some important environmental provisions that they ought to be aware of.

First, Mr. Chairman, we put in funding for the expansion of the office waste recycling program that is going forward in the House of Representatives, and we have also put in money for a comprehensive review of the lighting systems in the House, Senate, Capitol and the Library of Congress. The review will be used to determine a schedule for retrofitting all of the systems with efficient lighting technology and toward the goal of saving substantial amounts of money in that account.

Mr. Chairman, the bill also contains provisions regarding recycled paper, and we love to pat ourselves on the back and say, many of us, that we use recycled paper in our work in the Congress, but, as a matter of fact, most of the paper that is used here is not really recycled paper. It is not paper that contains post-consumer waste paper; that is, paper that has been used once and de-inked. It is, rather, paper that has been scraped up off the floor, never used before, and put into the process.

Mr. Chairman, the Government is the single largest user of paper in the world, using 2 percent of all the paper used in the United States, and there are many applications of paper that do not require highly reflective white paper, but paper that could contain post-consumer waste and may have a slighlty gray hue to it. The Moore Business Forms Co., the largest purveyor of business forms in the world, has begun a process whereby it is using a great deal of post-consumer waste paper in its operations. It seems to me that the Government ought to take the lead as well, particularly in the use of forms within the Congress or forms within agencies like the Internal Revenue Service where we can stop the need to cut down virgin timber and create the same paper by using paper that has been truly recycled; that is, post-consumer waste paper.

Mr. Chairman, this would eventually, if we follow our good principles, create an entire new industry and make our society, our economy, a dynamic one. It is a fine provision for conservation, and the bill contains extensive language requesting the Government Printing Office to report to the Congress a list of printing jobs that can be printed on real recycled paper. It suggests innovative uses of recycled paper for such bulky items as IRS tax documents.

Mr. Chairman, I commend the members of the committee for including these environmentally sound provisions in the bill.

Mr. SAVAGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take all the time. I just rise to set the record straight on when an objection was raised to appropriations without authorization with regard to the matters involved in the Architect of the Capitol. During that debate it was mentioned that the point wanted to be made that the Subcommittee on Public Buildings and Grounds had not held hearings and wanted to bring it to the attention of the subcommittee to do so expeditiously. Well, Mr. Chairman, I happen to be the chairman of that subcommittee, and I resent that comment because it is completely wrong. We have not been asked by the Architect of the Capitol to hold any such hearings, and this is not the first time this problem has arisen between our subcommittee and the Architect of the Capitol. We have held hearings almost weekly since I became chairman this year on that subcommittee, trying to entertain all requests for hearings. We had no such requests. If someone has a complaint or a criticism, it is not with this subcommttee. It is with the Architect of the Capitol.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. SAVAGE. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I would be more than happy to help enlighten the Architect of his responsibility to contact your subcommittee.

Mr. SAVAGE. Let me just say this. We held a hearing where we had the Architect present, and the gentleman does not have to enlighten him. We enlighten him in the public hearing. So, this was no accident on his part.

Mr. Chairman, I yield the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $5,781,000, including: Office of the Speaker, $1,477,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,127,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,388,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $1,025,000, including $5,000 for official expenses of the Majority Whip and not to exceed $308,930, for the Chief Deputy Majority Whip; Office of the Minority Whip, $764,000, including $5,000 for official expenses of the Minority Whip and not to exceed $93,520, for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $218,500,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $67,900,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $409,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $57,900,000.

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE INFORMATION SYSTEMS

For salaries, expenses and temporary personal services of House Information Systems, under the direction of the Committee on House Administration, $20,025,000, of which $8,615,000 is provided herein: *Provided*, That House Information Systems is authorized to receive reimbursement for services provided from Members and Officers of the House of Representatives and other Governmental entities and such reimbursement shall be deposited in the Treasury for credit to this account.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $214,518,000, including: Official Expenses of Members, $82,600,000; supplies, materials, administrative costs and Federal tort claims, $19,116,000; net expenses of purchase, lease and maintenance of office equipment, $4,427,000; furniture and furnishings, $1,810,000; stenographic reporting of committee hearings, $1,100,000; reemployed annuitants reimbursements, $1,000,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $103,833,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $632,000.

Such amounts as are deemed necessary for the payment of allowances and expenses under this heading may be transferred among the various categories of allowances and expenses under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $6,500,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the House of Representatives, as authorized by law, $80,000,000.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 5, line 15, strike "$80,000,000" and insert "$59,000,000."

Mr. PENNY. Mr. Chairman, I will be brief. I offer this amendment together with the gentleman from Kansas [Mr. ROBERTS] and the gentleman from Michigan [Mr. UPTON] and the gentleman from Pennsylvania [Mr. SANTORUM]. The amendment will reduce the appropriation for official mail contained in the committee reported bill from $80 million to $59 million. This reduced level of funding, a reduction of $21 million, in effect would freeze next year's funding at the current year level. With a surplus this year projected by the Franking Commission to be $25 million, a freeze level of funding for mail costs should more than cover projected mail costs next year despite increased postage costs.

Mr. Chairman, the committee will argue that they are only meeting the projected costs, but no one has a crystal ball, so we have to go with what we know to be true now. We know that franking costs are coming down. We know a surplus will likely exist at the end of this year. And we know Members will not mail as many pieces now as during the last election cycle.

Accordingly, Mr. Chairman, we should appropriate a smaller number. Enough said. I urge adoption of the amendment.

Mr. ROBERTS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Minnesota [Mr. PENNY].

Mr. Chairman, I thank my colleague, the gentleman from Minnesota [Mr. PENNY] for introducing the amendment. I am a cosponsor. I am a member of the Committee on House Administration and the Commission on Congressional Mailing Standards, and this is really a proposal to reduce the fiscal 1992 funding level for congressional mail to better fit existing reform and current mail costs. So, I am joining the gentleman from Minnesota [Mr. PENNY], the gentleman from Pennsylvania [Mr. SANTORUM], and the gentleman from Michigan [Mr. UPTON] in opposition to the committee recommendation of $80 million. I think it makes a lot of sense because this sum by many estimates, as was pointed out by the gentleman from Minnesota [Mr. PENNY], is far, far above the amount we really need, and, if adopted by the House, I would tell my colleagues that it does provide an opportunity to increase the mail Members may wish to send by, yes, reprogramming funds for various reasons.

□ 1420

We have already had a full debate in that regard. We do not need to go down that road again.

The gentleman from Minnesota [Mr. PENNY] pointed out that the Commission on Congressional Mailing Standards of the U.S. Postal Service says that of the $59 million that is provided for official mail in fiscal year 1991, we are not going to use 42 percent of it; we are only going to use $34 million, and $25 million will be saved or not used.

If $80 million is provided in fiscal year 1992, as proposed in this bill, it is going to far exceed the needed funding, and as I say again, it would create an opportunity for all parties interested in changing the current franking formula.

We have worked very hard for franking reform. We do not need this lollypop inducement, if you will, for us to go back on franking reform.

We have always argued that the frank is essential to communicate and respond to our constituents. Let me point out that in 1989, of the 262 million pieces of mail we sent from the House, only one-third or 87 million was sent in response to constituent inquiries. So the majority of mail sent from Congress was unsolicited—letters, newsletters, and targeted mass mailings.

Next year is an election year. In past years, everyone in this Congress knows from wandering up and down the halls that we see pallet after pallet of unsolicited mail. We are making progress along those lines, and we do not need to encourage any Member to backslide or to change that progress.

I do not want to confuse my colleagues with this amendment. It does not reduce the possible mailings that can be done in fiscal year 1991 or fiscal year 1992. It is meant to prevent even further increases in the Members' official mail accounts or the reprogramming of the surplus funds.

Mr. UPTON. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Michigan.

Mr. UPTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I support this amendment offered by the gentleman from Kansas [Mr. ROBERTS], the gentleman from Minnesota [Mr. PENNY], the gentleman from Pennsylvania [Mr. SANTORUM], and myself to keep the fiscal year 1992 House mail expenses at the same level as last year.

This is a freeze, and with the projected surplus in the account this year, as the gentleman from Kansas mentioned, there should be more than enough funding to provide for next year's need, despite increased postage costs.

Franking costs are coming down. We have become more efficient as we have worked with the Committee on House Administration, and we know that Members will not mail as many pieces in 1992 as they did in 1990. If we honestly need more next year, we can address the situation then in a supplemental which we know comes once or twice every year.

With other efforts to reduce expenses in this bill, we must demonstrate to Federal agencies who are working to reduce their spending and to the American people that we share in the efforts to control Federal spending and we cannot ask others to do what we will not do ourselves.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman from Michigan [Mr. UPTON] for his contribution.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise reluctantly in opposition to the amendment.

The gentleman is addressing an area that is of great concern to me, and has been for a number of years. The House will remember that early on I was one of the Members who led the fight to reduce the numbers of postal patrons available in the House, those mailings that are dropped to every household in a Member's district. We at one time were allowed six, and eventually through one of my amendments those numbers dropped to three. That was the first major step in an attempt to address the way we handle mail around this place.

During the last Congress my leader, the gentleman from Illinois [Mr. MICHEL], appointed a Republican task force, and with the diligence of our good friend, Bill Frenzel, some major reforms were implemented regarding the mail.

I believe personally that the giant steps they made toward getting a handle on those costs ought to have some time to operate. In this session of Congress we are going through the first experience of dollar allocation to Members' offices to reflect a potential reduction in mail, and that in turn leaves a great deal of responsibility to each individual Member's office to try to control the cost of running their operation.

Mr. Chairman, because of the very recent changes and reforms we have made, I urge the Members at this point to vote no on this amendment.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the Penny amendment.

Last year, once and for all, I thought that we had settled the issue of House official mail costs. We passed legislation which limits the amount of money each Member can spend on mail. Those limits were reasonable and responsible. This appropriations bill simply provides the funds for Members to mail, if they choose, up to the legally authorized amount—an amount equal to three times the number of addresses in their districts times the current first class postage rate.

Frankly, this amendment is a bit of grandstanding, Mr. Chairman. The franking law entitles each Member to mail up to his or her legal limit. If a Member exceeds that limit, the law also provides an enforcement mechanism: The Postal Service is required to refuse to deliver any more franked mail for the Member who has exceeded his or her limit.

The Penny amendment simply cuts this year's appropriation. It will not hold down franked mail volume. Members can still mail up to their legal limit, and if the appropriation is insufficient, we will simply have to appropriate more money next year to reimburse the Postal Service.

Members have been very reasonable in using their individual franking allowances. The most recent quarterly report from the Postal Service shows that the House spent only $7 million in the second quarter of this fiscal year. This is the quarter in which the franking reforms took effect. Under the franking reforms, the House spent $10 million less than in the same quarter of the most recent non-election year, 1989. In an apples-to-apples comparison, the House spent $10 million less under the franking reforms.

Mr. Chairman, under the leadership of the gentleman from California [Mr. FAZIO], chairman of this subcommittee, the House has been very responsible concerning the use of the frank, and I say that because of the increase in postage from 25 to 29 cents, it is necessary for us to support this piece of legislation. So let us support the committee and the chairman and vote down the Penny amendment.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think the arguments made by the gentleman from Missouri [Mr. CLAY] and my colleague, the gentleman from California [Mr. LEWIS], should be persuasive.

I would simply say, as the cosponsor with Mr. Frenzel of this reform effort, that it is really just being implemented at this time, and that this would be an unfortunate decision if we make it, because we have already reduced this item by a sizable amount, over $13 million. I think we have done what we can about franking reform. This is predicated on the lowest outgoing mail volume in an election year in the last 9 years, and the House is on track.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. Yes, before I complete my remarks, I will yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, let me echo the comments of the gentleman with regard to the success we have had with franking reform. That is precisely why we are offering the amendment. I do not want to see an inducement to back away from those limits.

We have 120 days when we cannot mail anything other than a constituent response because of the election deadlines. We are not using 40 percent of the existing funds that are provided as of this year. We do not need the $59 million. We may need the $59 million for this year. We are only using $34 million, and yet we have a figure in there of $80 million.

If we have the figure of $80 million, we know what the next step is going to be. Someone will say, "Well, now, let's change these franking reform rules. Maybe we need to mail a little more here in an election year." And the gentleman knows on those even-numbered years, with all of those mailings that have been stacked up in the folding room and the mailing room, that they cannot get them out and they are an invitation for someone to say that we are violating the ethics on the frank. We do not need to go back down that road.

Mr. Chairman, I say that $59 million is enough for this year. We are not spending that, and $59 million should be the franking level for next year.

□ 1430

Mr. FAZIO. Mr. Chairman, reclaiming my time, I think the point which I am making is that we ought to err on the side of caution. We think we are making progress. I do not think we have an answer. I think we ought to let the system work for 1 year before we tinker with it. I will be the first one to take any savings in this area that I possibly can. The gentleman knows what a burden it places on the overall bill. It would be foolish to jump too quickly into making savings that we are not sure we know are going to exist.

Mr. SANTORUM. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Pennsylvania.

Mr. SANTORUM. Mr. Chairman, I hate to revisit an old issue, but we are increasing this by 35 percent. We are not using the bulk of the money right now. If we show that next year we end up not using all of this money too, to the tune of what we are doing this year, the same percentage, all that money would be eligible for reprogramming, is that correct?

Mr. FAZIO. Mr. Chairman, reclaiming my time, we will continue to ratchet down the funding in this bill every chance we get, and will, as soon as we understand the pattern that will exist in the new era when each Member controls their own mailing.

Mr. SANTORUM. If the gentleman will yield further, all that money would be eligible for reprogramming if we do not spend it.

Mr. FAZIO. Mr. Chairman, only if we can get an agreement from all the parties involved, including the gentleman from California [Mr. LEWIS], the ranking Republican member, and we have a purpose generally accepted by the body.

I rise in opposition to this amendment.

I had thought we had laid this franked mail matter to rest last year.

We enacted a serious and permanent reform in the use of franked mail. This was done on a bipartisan basis, and we now have an allowance for each Member, based upon a formula.

We now have incentives for Members to send their mail at the lowest rate possible in order to utilize that allowance effectively.

We are beginning to use automation more wisely to assist in counting and ZIP Code sorting. This will help us reduce our expenditures and help the Postal Service reduce their mail delivery costs.

We also have disclosure in the Clerk's Report so that all can see what we spend on our constituent mail.

But this amendment is misleading. We have an allowance. If the gentleman wants to change the allowance, let him work with the authorizing committee to change it.

By reducing the funding, he is merely trying to force us into a supplemental. It will not save money. We will be back where we started before the mail reform.

We will have shortfalls, supplementals, and protracted debate over our mail bill.

The $80 million in the bill is a reduction of $16 million under our mail baseline. It is a reduction of $13.4 million under the budget. It is about $15 million below the allowance formula, if Members, committees, and offices utilized all they are allowed. Actually, it is also a reduction of about $12 million under 1991 when we had to augment the bill to pay for the 1990 shortfall.

So we are below everything in sight.

As a further indication that reform is working, the committee, in reducing the budget estimate by $13.4 million, reduced the estimated piece count by 74 million pieces.

This will be the lowest election year piece count in the last 9 years.

Our mail cost trend line is down, when postal rates are held constant.

Our mail volume trend line is down.

But our incoming mail continues to rise at about 5.5 percent a year.

I don't think the House should reopen this issue, Mr. Chairman.

We do not need a knee-jerk amendment to practice fiscal prudence. Our reform was carefully thought out and crafted.

Let's give the reform a chance to work. By all accounts, it already is.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. UPTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 227, not voting 6, as follows:

[Roll No. 133]

AYES—198

Allard
Andrews (TX)
Archer
Armey
AuCoin
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chandler
Coble
Combest
Condit
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Frank (MA)
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gingrich
Glickman
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horn
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Laughlin
Leach
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Murphy
Nichols

Nowak
Nussle
Orton
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Petri
Porter
Poshard
Pursell
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Sanders
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOES—227

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hammerschmidt
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Jefferson
Jenkins
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Quillen
Rahall
Rangel
Reed
Richardson
Roe
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tanner
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—6

Brooks
Collins (IL)
Goodling
Lehman (FL)
Sisisky
Thomas (GA)

□ 1451

Messrs. BUSTAMANTE, MCMILLEN of Maryland, KOLTER, LENT, and SKEEN changed their vote from "aye" to "no."

Mr. SAXTON and Mr. ROEMER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

Mr. FAZIO. Mr. Chairman, I ask unanimous consent that the remainder of the bill, except for lines 22 and 23 on page 40, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the bill, through line 21 on page 40 is as follows:

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $48,878,000, including: Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $20,860,000; Office of the Sergeant at Arms, including not to exceed $500 for official representation and reception expenses, $1,288,000; Office of the Doorkeeper, including overtime, as authorized by law, $10,013,000; Office of the Postmaster, $4,377,000, including $126,850 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $19,805 per annum each; Office of the Chaplain, $120,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $946,000; for salaries and expenses of the Office of the Historian, $361,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,356,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,171,000; six minority employees, $713,000; the House Democratic Steering Committee and Caucus, $1,476,000; the House Republican Conference, $1,476,000; and other authorized employees, $1,721,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this heading may be transferred among the various offices and activities under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated for fiscal year 1992 for salaries and expenses of the House of Representatives, such amounts as may be necessary may be transferred among the headings "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (HOUSE INFORMATION SYSTEMS)", "CONTINGENT EXPENSES OF THE HOUSE (ALLOWANCES AND EXPENSES)", "OFFICIAL MAIL COSTS", and "SALARIES, OFFICERS AND EMPLOYEES", upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. Effective for the fiscal years beginning with fiscal year 1992, the annual rate of pay for the positions established for the Democratic caucus and the Republican conference by section 2 of House Resolution 413, 94th Congress, as enacted by section 201 of the Legislative Branch Appropriations Act, 1976 and the positions established by section 102(a)(1) and (2) of the Legislative Branch Appropriations Act, 1990 shall not exceed the annual rate of pay payable from time to time for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 103. The Clerk of the House under the direction of the Committee on House Administration, is authorized to receive payments of assessments for monthly equipment charges incurred by such organizations as are authorized by the Committee on House Administration. Receipts under this subsection shall be deposited into the Treasury for credit to the appropriate account under the appropriation for "Salaries and expenses" under the heading "Contingent expenses of the House", "Allowances and expenses".

JOINT ITEMS

For joint committees, as follows:

Contingent Expenses of the Senate

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $4,020,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,391,000.

Contingent Expenses of the House

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $5,759,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

Office of the Attending Physician

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $1,000 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $500 per month each to two assistants and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (5) $999,800 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,509,000, to be disbursed by the Clerk of the House.

Capitol Police Board

Capitol Police

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $63,343,000, of which $31,389,000 is appropriated to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $31,954,000 is appropriated to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That of the amounts appropriated for fiscal year 1992 for salaries, including overtime, and Government contributions to employees' benefits under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training, protective details, and tuition and registration, expenses associated with the implementation of the Capitol Police Employee Assistance Program, including but not limited to professional referrals, and expenses associated with the awards program not to exceed $2,000, expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $2,029,000, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further*, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1992 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,603,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than thirty-three individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred and twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

SPECIAL SERVICES OFFICE

For salaries and expenses of the Special Services Office, $292,000, to be disbursed by the Secretary of the Senate.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One Hundred Second Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $20,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including official representation and reception expenses (not to exceed $3,500 from the Trust Fund) to be expended on the certification of the Director of the Office of Technology Assessment, expenses incurred in administering an employee incentive awards program (not to exceed $1,800), rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww, and 42 U.S.C. 1395w-1, $21,025,000: *Provided*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further*, That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available, and reimbursement may be accepted, for salaries or expenses of the Office of Technology Assessment in connection with facilitating completion of the work required by section 400DD(e)(1), and the report required by section 400DD(g)(2), of the Energy Policy and Conservation Act.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not to exceed $2,300 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $22,372,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; and other personal services; at rates of pay provided by law, $7,858,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $50,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000, which shall remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $21,990,000, of which $3,405,000 shall remain available until expended: *Provided*, That of the funds to remain available until expended, $2,000,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $4,150,000.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, including the position of Superintendent of Garages as authorized by law, $33,403,000, of which $4,780,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Judiciary Office Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $30,800,000: *Provided*, That not to exceed $3,200,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1992.

ADMINISTRATIVE PROVISIONS

SEC. 104. (a) Section 108(b)(1) of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 166b-3b(b)(1)) is amended—

(1) in subparagraph (A), by striking "the rate payable" through the semicolon and inserting "90 percent of the maximum rate allowable for the Senior Executive Service;";

(2) in subparagraph (B), by striking "the rate payable" through the period and inserting "85 percent of the maximum rate allowable for the Senior Executive Service."; and

(3) by adding at the end, as a flush left sentence, the following:

"For purposes of the preceding sentence, 'the maximum rate allowable for the Senior Executive Service' means the highest rate of basic pay that may be set for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(b) Section 108 of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 166b-3b) is amended by adding at the end the following:

"(c) Effective beginning with any pay period beginning on or after the date of enactment of the Legislative Branch Appropriations Act, 1992, the rate of basic pay for up to 8 positions under the jurisdiction of the Architect of the Capitol may be fixed at such rate as the Architect considers appropriate for each, not to exceed 135 percent of the minimum rate payable for grade GS-15 of the General Schedule.".

SEC. 105. (a) Notwithstanding any other provision of law, the Architect of the Capitol with the approval of the Senate Committee on Rules and Administration and the House Office Building Commission is authorized to lease and occupy 75,000 square feet of space, more or less, in the Judiciary Office Building: *Provided*, That rental payments shall be paid from the appropriation "Architect of the Capitol, Capitol Buildings" upon vouchers approved by the Architect of the Capitol: *Provided further*, That nothing in this section shall be construed so as to obligate the Architect of the Capitol to enter into any such lease or to imply any obligation to enter into such lease.

(b) There is hereby authorized to be appropriated to the "Architect of the Capitol, Capitol Buildings" such sums as may be necessary to carry out the provisions of subsection (a).

(c) There is hereby authorized to be appropriated to the "Architect of the Capitol, Senate Office Buildings" such sums as may be necessary for the acquisition and installation of furniture and furnishings for the space to be leased pursuant to subsection (a).

(d) There is authorized to be appropriated to the Sergeant at Arms of the United States Senate such sums as may be necessary to provide for the planning and acquisition and installation of telecommunications equipment and services for the Architect of the Capitol necessitated incident to occupancy of space pursuant to subsection (a).

(e) The authority under this section shall continue until otherwise provided by law.

SEC. 106. The Legislative Branch Appropriations Act, 1989 is amended in the matter under "House Office Buildings", under the paragraph headed "Architect of the Capitol" (40 U.S.C. 175 note)—

(1) by striking "5 U.S.C. 5307(a)(1)(B)" and inserting "section 5306(a)(1)(B) of title 5, United States Code,"; and

(2) by striking "policy." and inserting "policy, and subject to any increase which may be allowed by the Committee on House Administration based on performance exceeding an acceptable level of competence over a 52-week period (except that no such performance-based increase shall affect the waiting period or effective date of any longevity step-increase or increase under such section 5306(a)(1)(B)).".

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $55,725,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further*, That notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $89,941,000: *Provided*, That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That, to the extent that funds remain from the unexpended balance of fiscal year 1984 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1992".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,862,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $201,494,000, of which not more than $7,300,000 shall be derived from collections credited to this appropriation during fiscal year 1992 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,300,000: *Provided further*, That of the total amount appropriated, $7,636,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That, of the total amount appropriated, $4,870,000 is to remain available until expended for the deacidification program.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $25,823,000, of which not more than $14,000,000 shall be derived from collections credited to this appropriation during fiscal year 1992 under 17 U.S.C. 708(c), and not more than $1,979,000 shall be derived from collections during fiscal year 1992 under 17 U.S.C. 111(d)(3), 116(c)(1), and 119(b)(2): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $15,979,000: *Provided further*, That $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $41,179,000, of which $9,417,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $3,235,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $175,690, of which $54,800 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

SEC. 205. Not to exceed $12,000 of funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for the Overseas Field Offices.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $10,187,000, of which $2,000,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $865,000, of which $735,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $26,327,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $117,000.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of twelve passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule (5 U.S.C. 5316): *Provided further*, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,000 workyears: *Provided further*, That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15, nor to any employee involved in the in-house production of printing and binding: *Provided further*, That expenses for attendance at meetings shall not exceed $95,000: *Provided further*, That the revolving fund shall be available for expenses not to exceed $100,000 for a special study of GPO's personnel and compensation systems.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule (5 U.S.C. 5315); hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $440,879,000: *Provided*, That not more than $6,213,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1992: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further*, That, notwithstanding any other provision of law, $1,800,000 of this appropriation shall be available for the planning, administering, receiving, sponsoring and such other expenses as the Comptroller General deems necessary to represent the United States as host of the 1992 triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI): *Provided further*, That the General Accounting Office is authorized to solicit and accept contributions to be held in trust, which shall be available without fiscal year limitation, not to exceed $20,000, for any purpose related to the 1992 triennial Congress.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. Section 3216(e)(2) of title 39, United States Code, is amended by striking "subsection (1) of this section" each place it appears and inserting "paragraph (1) of this subsection".

SEC. 307. Notwithstanding any other provision of law, and subject to approval by the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, and subject to enactment of authorizing legislation, amounts may be transferred from the appropriation "Library of Congress, Salaries and expenses" to the appropriation "Architect of the Capitol, Library buildings and grounds, Structural and mechanical care" for the purpose of rental, lease, or other agreement, of temporary storage and warehouse space for use by the Library of Congress during fiscal year 1992, and to incur incidental expenses in connection with such use.

SEC. 308. Section 311(d)(2)(A) of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a-2a), as amended by section 308 of the Legislative Branch Appropriations Act, 1991 (Public Law 101-520; 104 Stat. 2277), is amended by striking "5305" and inserting "5303".

SEC. 309. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101-576.

SEC. 310. (a) The Clerk of the House of Representatives shall maintain and operate a child care center (to be known as the "House of Representatives Child Care Center") to furnish pre-school child care—

(1) for children of individuals whose pay is disbursed by the Clerk of the House of Representatives or the Sergeant at Arms of the House of Representatives and children of support personnel of the House of Representatives; and

(2) if places are available after admission of all children who are eligible under paragraph (1), for children of individuals whose pay is disbursed by the Secretary of the Senate and children of employees of agencies of the legislative branch.

(b)(1) There shall be an advisory board, the members of which shall serve without pay, for the purpose of providing advice to the Clerk on matters of policy relating to the administration and operation of the center (including the selection of the director of the center).

(2) The Speaker of the House of Representatives shall appoint 3 voting members of the board from each of the following categories:

(A) Individuals proposed by the parents association of the center.

(B) Individuals proposed by the director of the center.

(C) Members of the House of Representatives and spouses of Members, who express an interest in the center.

The director of the center shall serve as a member of the board, ex officio and without the right to vote.

(3)(A) Each voting member of the board referred to in paragraph (2) shall be appointed for a term of 3 years, except that, as designated at the time of appointment, of the members first appointed, one member from each category shall be appointed for a term of one year and one member from each category shall be appointed for a term of 2 years.

(B) In addition to the voting members referred to in paragraph (2), there shall be 2 additional voting members of the board, each to be appointed by the Speaker of the House of Representatives, from any category described in such paragraph, for a term of 2 years, beginning at the same time as the terms of the voting members first appointed under that paragraph. The member positions under the preceding sentence shall cease to exist at the end of the 2 year terms of such positions.

(4) Of the voting members of the board appointed by the Speaker under paragraph (2), 4 members shall be appointed on the recommendation of the majority leader of the House of Representatives, 4 members shall be appointed on the recommendation of the minority leader of the House of Representatives, and one member shall be appointed on the recommendation of the chairman and ranking minority party member of the Committee on House Administration, acting jointly. Of the 2 voting members of the board appointed by the Speaker under paragraph (3)(B), one member shall be appointed on the recommendation of the majority leader of the House of Representatives and one member shall be appointed on the recommendation of the minority leader of the House of Representatives.

(5) A vacancy on the board shall be filled in the manner in which the original appointment is made. Any member appointed to fill a vacancy occurring before the expiration of a term shall be appointed only for the remainder of that term. A member may serve after the expiration of a term until a successor is appointed.

(6) The chairman of the board shall be elected by the members of the board.

(c) In carrying out subsection (a), the Clerk is authorized—

(1) to collect fees for child care services;

(2) to accept such gifts of money and property as may be approved by the House Office Building Commission; and

(3) to employ a director and other employees, including temporary employees, for the center.

(d) There is established in the contingent fund of the House of Representatives an account which, subject to appropriation, shall be available for activities carried out under this section. The Clerk shall deposit in the account any amounts collected or received under subsection (c).

(e) As used in this section—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(2) the term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, and the Copyright Royalty Tribunal; and

(3) the term "support personnel" means, with respect to the House of Representatives, any employee of a credit union or of the Architect of the Capitol, whose principal duties are to support the functions of the House of Representatives.

(f) House Resolution 21, Ninety-Ninth Congress, agreed to December 11, 1985, enacted into permanent law by section 103 of the Legislative Branch Appropriations Act, 1987 (as incorporated by reference in section 101(j) of Public Law 99-500 and Public Law 99-591) (40 U.S.C. 184b-184f) is repealed.

The CHAIRMAN. Are there any points of order against that section of the bill?

POINT OF ORDER

Mr. HEFLEY. Mr. Chairman, I raise a point of order against section 310 on the ground that it violates clause 2(b) of rule XXI of the House of Representatives by changing existing law.

Section 310 of this bill would rewrite the law regarding the House Child Care Center. This provision was not considered in the Committee on House Administration which is the committee of jurisdiction. It is not the product of any introduced bill, and hearings have never been held in any committee.

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to be heard on the point of order?

Mr. FAZIO. Mr. Chairman, I thought that the Chair had passed the point in the bill where this was appropriate to be offered. That is my understanding, that the gentleman has passed that point, and the gentleman no longer has the right to offer that.

The CHAIRMAN. The bill is open for amendment at any point. The Chair then queries whether there be any points of order. The Chair has requested whether there be any points of order against that section of the bill that was open, and that is when the gentleman arose and made his point of order.

Does the gentleman from California wish to speak on that point?

Mr. FAZIO. Not at the moment.

The CHAIRMAN (Mr. DONNELLY). Are there any other Members requesting to speak on the gentleman's point of order?

If not, the Chair is then prepared to rule. For the reasons stated by the gentleman from Colorado, the point of order is sustained. Section 310 is stricken from the bill. Are there any amendments to that section of the bill?

AMENDMENTS OFFERED BY MR. UPTON

Mr. UPTON. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. UPTON: Page 8, line 8, strike "$4,020,000" and insert "$3,858,750".

Page 8, line 11, strike "$1,391,000" and insert "$1,332,450".

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Chairman, I have very carefully reviewed this appropriations bill and found that many accounts received significant increases. But most of them did not receive everything they asked for. In a time of incomprehensible, unbelievable $300 billion deficits, we all limit our appetites—including Congress and its support agencies.

For this reason, I rise to reduce the increase in funding for the joint Committee on Printing and the Joint Economic Committee. Both received the entire increase they requested—somewhere between 9 and 10 percent over fiscal year 1991. I propose to limit the increase to 5 percent over fiscal year 1991.

Mr. Chairman, I am not acting out of some desire to single out these committees for unfair treatment. Other areas within Congress are learning to live with less. So must these. A 5-percent increase should be enough for them to continue their valuable activities. Even a 5-percent increase is greater than increases received by other accounts in this bill. Indeed, some accounts received significant cuts.

Mr. Chairman, we all recognize that sometimes requesting more than you really need is standard practice in government budgeting. In other cases, real increases above inflation are necessary. And perhaps these two committees could put the new money to a good end. But how can we agrue that other important Federal programs must suffer to help reduce the deficit and not face the same music ourselves? This is not a time for significant real growth in noncritical Federal programs.

I fully realize we are talking about relatively small amounts of money and that this amendment will do little to balance the budget. I am more concerned about the principle. I urge my colleagues to join me in voting for this amendment.

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendments.

I want to try to explain to the Members. First of all, the Joint Committee on Printing, for example, is at the baseline that the Congressional Budget Office calculated.

□ 1500

We did not augment or reduce their request because it was a small entity. The increase is $122,000.

Let me explain how this can quickly pile up in a small personnel-intensive agency. Of that increase, $42,000 is necessary for next year's cost as a result of the January 1, 1991, 4.1-percent COLA. We have to include $35,000 which is the anticipated COLA for the same number of people, by the way, no change in the number of people working there, that will occur on January 1, 1992. Then on top of that, $24,000 is for the increase in the benefits attributable to the increase in salaries because they are proportionate.

In addition, there is $21,000 remaining, the actual amount of the discretionary increases to be used for staff changes and salary adjustments amounting to a mere 1.6 percent of last year's bill.

As I indicated earlier, and the chart in the lobby, I think, underscores this, these are personnel-intensive agencies. They are not doing any cap outlay. They are not doing any program that expends additional funds that can be redirected to pay their very limited staff resources. They are simply performing the same functions, but as the staff receives cost-of-living adjustments or benefit costs increase, the cost goes up.

I would like to compare that 9.6-percent increase with a number of increases that have been proposed by a variety of agencies in the executive branch. In the Executive Office of the President, for example, the Special Assistance to the President, a requested budget increase of 13.3 percent; the Office of Management and Budget, 10.5 percent; the Points of Light Foundation, a 50-percent increase; in the Department of Commerce, the General Administrative Office, 12.2-percent increase. In the Department of Interior, the Office of the Secretary, 20.3-percent increase; in the Department of Justice, General Administration, 30.4-percent increase; in the administration of foreign affairs at the Department of State, 9.6-percent increase; in the Department of Transportation, the Office of the Secretary, a 39.9-percent increase.

There are a variety of others in the executive branch, and I could go on. They are almost all well above the 9.6-percent increase that was asked for by the Joint Committee on Printing. This is much ado about nothing. This is nothing that we should be concerned about because this is not an increase in the scope of this small joint committee. It is simply to compensate its people fairly.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, I would simply like to add to the comments made by the chairman of the subcommittee and make a couple of comments specifically about the Joint Economic Committee, because if there is one committee in the Congress that has been restrained in its budget requests, it has been that committee. I know of no other committee in the Congress about which it can be said that for 10 years in a row they have requested absolutely no staff increase. Ten years in a row. They finally did get a small increase of three people after I, when I became chairman in 1985, asked for an increase of five people, so that we could deal with some of the new problems that we are facing.

The committee, for instance, did not even have enough budget to have an agricultural economist on its committee, and I do not think that rural America ought to be ignored.

This year, for instance, there is a $340,000 increase in the committee budget, and I would point out there is no increase for staff. There is no increase for contract budget. There is no increase for hearing activity. There is no increase for staff travel. There is no increase for any ancillary miscellaneous expenses. The increase of $340,000 largely goes to provide for mandatory agency contributions and COLA adjustments, something which is perfectly appropriate, certainly essential, and something which the committee cannot avoid.

This is the committee of Congress, the only committee of Congress which deals with long-range economic problems facing the country. We have just seen a very large increase recommended by the President for the statistical basis for the Bureau of Labor Statistics. I fully support that. I think the executive branch needs that. However, I would suggest that the committee of the Congress charged with the responsibility for reviewing the accuracy of all those figures needs a stand pat, stay-in-place budget, which this budget is. There is absolutely no increase, in real terms. There is no real increase in this committee budget at all. These are very largely mandatory items beyond the control of the committee.

I would suggest that this committee, above all others, has been restrained in its requests, and certainly does not deserve the actions suggested by this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Michigan [Mr. UPTON].

The question was taken; and on a division—demanded by Mr. UPTON—there were—ayes 8, noes 18.

So the amendments were rejected.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ROBERTS. Page 15, line 25, strike out "$21,990,000" and insert in lieu thereof "$20,990,000".

Mr. ROBERTS. Mr. Chairman, I am offering this amendment to strike $1 million from the Architect of the Capitol building fund. The amendment, as has been indicated, reduces this fund from $21,990,000 to $20,990,000, and I am offering this amendment to respond to talk, to some rumors that have been apparently flurrying all throughout Capitol Hill as described in the report that does accompany H.R. 2506. These funds will be allegedly used, and I am quoting now, for a structural and space renovation project in the Cannon Building.

However, this vague description fails to properly or adequately detail the uses of these funds. We have heard talk, as a matter of fact I have been told by the leadership or certainly someone who is very close to the leadership as of this afternoon, that this appropriation would be used for the construction, will be used someday for the construction of a gym, a new gym, a new House gym in the Cannon House Office Building. In fact, the Architect of the Capitol and his attorney are continuing a study on the feasibility of constructing such a facility.

This is somewhat of a surprise to me in that last year's appropriation bill we had $50,000 for a study to determine whether such a gym would be appropriate or could work, liability questions, et cetera, et cetera. It was struck in conference. Here we find the planning is still proceeding.

I am offering this amendment, since this provision was not struck by the full Committee on Appropriations or detailed by the subcommittee. The report in subcommittee hearings do not mention the ongoing study by the Architect, the need for the facility, or other alternatives that the House should consider.

Should Congress appropriate $1 million in funding during these times of fiscal cutbacks? I do not think so. We have a great many current projects in existing House office buildings to complete. We cannot even get the escalator to work going from the Longworth down to the Longworth Garage. That piece of equipment, whatever it is, is 26 years old. We are trying to fix it. We took money out for elevator operations. We have people on top of people in our office suites. This space over there, and I went over and looked at it this morning, is the size of at least seven three-room suites. I am not really trying to criticize the merits of such a proposal. However, the procedures chosen to appropriate this funding is wrong, and the priorities are wrong, and it should be exposed.

I am asking my colleagues to support my amendment to eliminate the $1 million in the Architect's fund without accountability and discussion of the merits and use of these funds. They should not be approved by this body.

Mr. Chairman, I yield back the balance of my time.

□ 1510

Mr. FAZIO. Mr. Chairman, I rise in opposition to the amendment of the gentleman, referring to the leak in the Cannon Building.

This is in fact documented in the legislative branch hearings for fiscal year 1992. I will simply read what the Architect has outlined as to the importance of making this repair:

> Funds in the amount of $1 million are requested to complete work in the schedule to begin in fiscal year 1991 to repair leaks in the Cannon tunnel and to renovate the space that has been damaged by water leaks. For some time water has been leaking into the space at the end of the Capitol tunnel leading to the Cannon Building. There has been over time some kind of corrosion in the reinforcing steel and concrete structural members. The program is scheduled to be undertaken to repair these structural members as well as resolving the cause of the water leakage.

I will not go on. We did not specifically go into this project when the full committee considered the bill. I grant, and I am very glad we did not.

These funds are not for a staff gym. Some people have thought that might be a purpose that this would somehow further. The space has structural and water damage that needs repair. That is what the funds are for.

I regret we could not do all the things we know need to be done. I said in my introductory remarks that we cannot find all the funds that the Architect would like to have for maintenance and other projects. He asked us for I believe a $49 million increase in his budget this year. We could not accommodate it.

We did, however, I say to the gentleman from Kansas [Mr. ROBERTS], provide funds for the escalator that is always broken down. The gentleman can see the funds are in here for that.

I do not think the gentleman wants to let this section of the Cannon Building become more structurally unsound. We have an obligation to protect and maintain our physical plant and our physical plant manager, the Architect of the Capitol, has said this is an important priority.

If at some point that space will be put to some use, the House Office Building Commission will decide. That Commission consists of the Speaker, the majority and the minority leaders. In the meantime, we need to provide the funds to repair the damage and prevent further damage.

I will just simply indicate to the Member myself personally that I think it would be inappropriate for us to back into something that really does need a lot of thought and discussion before we proceed on it; so the gentleman has my assurance that if we, like every other federal agency by the way, decide to have some sort of gym facility for our employees, we are going to do it with everyone being aware of it and on board. It would be inappropriate for us to do otherwise.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, let me understand what the gentleman is saying, and I am fully aware of the structural problems.

I just went over to B-106 of the Cannon Building as of this morning. We reprogrammed funds to the tune of $1.1 million. There is the reprogramming again, to make the necessary structural repairs and stop the water leaks.

I have a letter that was sent to the gentleman by the Architect of the Capitol going into the $200,000 for the Longworth project, $800,000 for the Cannon project, and the reprogramming of these funds to fix the structural damage.

Now, I was just told by Mr. Raines of the Architect's office that that project can be completed with the reprogrammed funds, and we are asking for another million dollars.

What I want assurance about is the extra $1 million. I do not want any penny of it to be used for refurbishing, modernizing or equipping this space without the subcommittee and the full committee going into the intended purpose specifically, not the Building Commission. Once it is to the Building Commission, it has passed the floor of this House. It has passed the subcommittee and it has passed the full committee; so that extra $1 million that we are going to use, I want to make sure that it is used for a proper purpose, as opposed to an "all-of-a-sudden gym that is discovered.

Mr. FAZIO. Well, Mr. Chairman, I want to assure the gentleman that will be the case.

Normally we do not take any action unless the Building Commission has acted first. That is our authorizing entity. So it has not passed us or gone to the House floor when it goes to the Commission. It is before us and we have to take action only when they have gone forward with an approval.

Mr. ROBERTS. Mr. Chairman, will the gentleman continue to yield on one point?

Mr. FAZIO. Yes, I am happy to yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I have the work sheet that the Architect has prepared in regard to the structural damage. I am not an expert. I do not know if it is going to take another $1 million to fix what is structurally wrong over there, but I also know in ways that I can describe to the gentleman privately that this space is being reserved for a gymnasium. Before we go down that road, it seems to me if we are going to be spending funds, that we ought to have assurance from the gentleman, which he has given me now, that no funds will be expended for this purpose unless first taken up by the subcommittee, the full committee and the Building Commission without a full debate. Is that correct?

Mr. FAZIO. That is correct.

Mr. ROBERTS. Mr. Chiairman, I withdraw my amendment.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Kansas [Mr. ROBERTS] is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY: On page 40, insert after line 21 the folowing new title:

Title IV: Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 1.4 percent.

Mr. HEFLEY. Mr. Chairman, this is a simple amendment. It reduces the budget authority in this bill by 1.4 percent. This translates into outlays savings for the fiscal year 1992 of $21.4 million, or a total increase over last year's spending level of 2.4 percent.

Its goal is to hold spending to a 2.4 percent increase over last year's spending level.

Why would we want to hold it at 2.4 percent? Well, I think it was stated on the floor here just the other day by the gentleman from Pennsylvania [Mr. WALKER] that Congress can achieve a balanced budget without cutting Federal spending by holding our spending increases at or below 2.4 percent over the next 4 years. This amendment will do that for the House of Representatives.

Is the amendment necessary? This bill is already $288 million under the President's own request. But we know that the "President's Request" is in name only in this particular item on the budget. The President never actually requested any such amount. Every year the House Clerk sends the OMB an inflated estimate of House expenses for the upcoming year, and every year the OMB, as required by law, returns those inflated estimates to the House as the so-called "President's Request." Congress passed a law which prohibits the President from amending the request made by the House Clerk.

The legislation is under its budget limits. It only offers a small 3.7 percent spending increase, so why do we need this amendment?

Nearly every bill we passed last year fell within its budget allocations, and we have a deficit of over $350 billion. With the economy still in recession, this deficit could rise to new record levels. In the face of these record shortfalls, it is not enough to oppose new spending caps by hiding behind this year's budget allocations. We need to do more.

Last year the House of Representatives defeated a balanced budget amendment by only seven votes. During that debate, opponents to the amendment argued that Members of Congress did not need a mandate to balance the budget, they needed courage to make the tough choices. This may be one of the tough choices.

Now, I know that when we have legislation for the veterans done here, there is a great constituency out there pressuring us for more money. When we have health legislation, there is a constituency out there that says we have got to have more. When we have legislation for seniors, there is a constituency demanding more. Even for foreign aid, there is a constituency out there asking for it; but Mr. Chairman, there is no constitutency demanding that Congress spend more on itself. There is no pressure on us to spend more for the operation of Congress.

We can very easily make this very modest 1.4-percent cut here and we will be on the road to a balanced budget, at least so far as this aspect of our budget is concerned.

Mr. LEWIS of California. Mr. Chairman, I rise in reluctant opposition to the across-the-board cut amendment proposed here by my colleague.

Mr. Chairman, I rise to resist this amendment for the following specific reaons:

During the deliberations of the subcommittee this year, the legislative branch made every effort to be as tight as they could in every category of this bill. The 1991 enacted legislative branch appropriations bill was $1.740 billion for the legislative branch of the House. The 1992 request was for $2.093 billion. The 1992 recommended amount was only $1.805 billion. Compared to the 1991 fiscal year, the increase reflects for the entire body and its supportive agencies, $65 million of increase.

□ 1520

The request itself would have been as much as $288 million. The percentage of increase reflects approximately 3.7 percent. This cut would cut the House back to far below any inflation rate that I believe it could have a serious impact on the operation of the personnel of the House.

For that reason, while I am empathetic to the gentleman's view, I rise to resist the amendment.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words, and I rise to echo the words of my friend, the gentleman from California [Mr. LEWIS], in opposition.

The amendment is really similar to the one that was offered the other day by the gentleman from California [Mr. DANNEMEYER], I believe. A similar amendment was offered on the energy and water bill, the same approach, to restrict outlays by the same percentage, I believe.

At that time 92 Members voted in favor and 320 voted against. That bill was a 4-percent increase. This bill is a 3.7-percent increase above the fiscal year 1991 bill.

I want to point out we are well within our 602(b) target. We are within 8/10ths of 1 percent of our baseline. We are below the 4 percent that OMB estimates the rate of inflation will be. We are $30 million below where we would need to be just to pay the legislative branch staff COLA's and benefits. In other words, we have added that money and then cut other programs in order not to increase our spending by what it takes just to pay our staff.

We are well below the 10.5-percent increase requested by OMB for its own expenses. We are below the 13.1 percent for special assistance to the President, or the 50 percent for the Points of Light Foundation or the 9 percent that the Office of White House Policy Development has requested, or the anywhere from 8.6 percent to 39.9 percent requested in major executive department salaries and expense accounts.

In other words, the legislative branch bill, as usual, is much tighter than that of the same kinds of personnel-intensive agencies in the executive branch.

This amendment is not aimed at a profligate budget increase. I think it is just picking on what we all know to be a relatively easy whipping boy.

If it takes courage to vote against spending in the legislative branch, I need a new definition of courage in my dictionary. It is the easiest bill to cut, and I think you will see a very different vote on this reduction than you saw on the energy and water bill, for one reason alone, and that is: some Members simply are afraid to stand up and vote for this institution. I am sure a majority will, however, and I look forward to seeing that on the voting board shortly.

Mr. HEFLEY. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Colorado.

Mr. HEFLEY. I thank the gentleman for yielding.

Mr. Chairman, you know, in the energy and water bill, there were constituencies out there demanding more spending. There is not that here. But if there is ever a place that we could set the example, it is in this bill.

No, you have not——

Mr. FAZIO. If the gentleman will let me reclaim my time, did the gentleman hear me tick off these percentage increases that the executive branch agencies that are very analogous to what we do here have asked for? How far below that we are?

That is setting an example, that is exactly what I meant by that.

Mr. HEFLEY. If the gentleman will yield again.

Mr. FAZIO. I yield again to the gentleman.

Mr. HEFLEY. I thank the gentleman. In the last 10 years we have increased the legislative budget by 83 percent. I am not sure, in a time of great deficits, that is something to be tremendously proud about.

Mr. FAZIO. I do not know where the gentleman gets that information. All I can tell you is that the increases in our budget on an annual basis have been far below that in the executive branch. We are somewhere in the neighborhood of a 5.5 percent average over the last 10 years. Here it is: Since 1978 the legislative appropriation has grown at an average annual rate of 5.6 percent. The executive budget has grown at an annual rate of 8.3 percent. The CPI has grown at an annual rate of 5.6. We are right on it.

That means that the legislative branch has just about stayed even in real terms while the rest of the Federal budget has grown at an average annual rate of 48 percent higher than the CPI or the legislative budget. That is the example that the gentleman asked us to set, and we set it every year.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 134]

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey

Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich

Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker

Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders

Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift

Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1545

The CHAIRMAN. Four hundred nineteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Colorado [Mr. HEFLEY] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 171, noes 255, not voting 5, as follows:

[Roll No. 135]

AYES—171

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Camp
Campbell (CA)
Chandler
Clinger

Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Franks (CT)
Gallegly

Gekas
Geren
Gilchrest
Gilman
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton

Hubbard
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Laughlin
Leach
Lewis (FL)
Lloyd
Long
Luken
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Myers
Neal (NC)
Nichols
Nussle
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Petri
Pickett
Porter
Poshard
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Zeliff
Zimmer

NOES—255

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (MI)
Conyers
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gonzalez
Gordon
Gray
Green
Guarini
Gunderson
Hall (OH)
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Huckaby
Hughes
Hyde
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Price
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schumer
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Vucanovich
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—5

Callahan
Collins (IL)
Lehman (FL)
Sisisky
Thomas (GA)

□ 1553

Mrs. ROUKEMA changed her vote from "aye" to "no."

Mr. WALKER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. COX OF CALIFORNIA

Mr. COX of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COX of California: On Page 31, Line 5 Strike "$440,879,000" and insert "$333,333,000"

Mr. COX of California. Mr. Chairman, I rise as the Republican chair of the congressional Grace caucus, which, as most Members know, because so many are members, is dedicated to limiting and weeding out fraud and waste and abuse throughout the Federal Government, and, yes, in the Congress.

The purpose of my amendment is to limit the General Accounting Office to one-third of $1 billion annually. Many Members may not have known that the General Accounting Office has a budget so large that it is even as big as one-third of a billion dollars each year. But this part of our congressional staff is this year asking for $440 million.

Mr. Chairman, the General Accounting Office was created in 1921 as the investigative arm of Congress, to audit Government spending. It has evolved into a sprawling organization with approximately 5,000 employees, which produces thousands of reports. In fact, over 3,000 reports since 1986 have been produced.

It has been growing like Topsy for years, and no one has ever said anything about it. As we will learn later, the General Accounting Office has so many employees, it actually loans them to the Congress.

Today, instead of limiting congressional spending, the GAO itself is a major source of deficit spending. Its budget, if H.R. 2506 passes without amendment, will be $440 million, nearly one-half of a billion dollars, or $4 for every taxpayer in America, just for that one part of our congressional staff.

What is more, instead of acting as a watchdog for wasteful congressional spending, GAO has actually assisted in the process, serving as a virtual arm of the Congress.

In a recent judicial decision, the Supreme Court found that the Comptroller General and the GAO are controlled by the Congress. That is why, of course, the agency rarely investigates Congress, even though many people say there is at least as much mismanagement and misconduct on Capitol Hill as in any Federal agency.

Mr. Chairman, I will quote the New York Times: "Asked if he ever considered doing a comprehensive audit of the Congress, the Comptroller General said in an interview, 'I would love to do it, but in my 15th year.'" In other words, after he is gone.

Mr. Chairman, it now costs over $2 billion a year to run the Congress. There are only 535 of us. In fiscal year 1990 it cost $2,263,000,000 to operate the Congress.

We are often told that we cannot cut congressional spending because it comprises entitlements. Our legislative staff are not entitlements. They are not uncontrollable programs. We ought to make sure they do not become such.

Mr. Chairman, the GAO does some good work for Congress, as an adjunct staff for the Congress. But, with good management, we can run it for under one-third of a billion dollars.

□ 1600

Our annual deficit is now slated to exceed $400 billion. If we care about it, let us show that we are willing to vote yes for fiscal restraint in the Congress.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I just want to clear up one point. The actual cost of operating the Congress under title I of the bill is $1.1, not this $2.1 billion. This is for the House and our direct support agencies like the Architect of the Capitol, the Congressional Research Service, like the Congressional Budget Office, and for congressional printing. The House itself is about $700 million. The Senate cost will be added when the bill gets to over there, another $500 million.

Mr. COX of California. Reclaiming my time, that is where the staff explosion in Congress has occurred, with the Office of Technology Assessment, with the Congressional Budget Office, with the General Accounting Office. What Congress has done over the last several decades is create a shadow executive branch. It is redundant. It is wasteful, and it is time for us to cut spending. It always hurts to cut spending. We have got to make cuts in these discretionary programs.

Mr. FAZIO. The Congress has had almost a level work force for the last 12 years. The explosion, if one could call it that, occurred in the early 1970's. It has not taken place at all during the 1980's.

Mr. COX of California. Does the gentleman deny that there are approximately 5,000 staff positions at the General Accounting Office?

Mr. FAZIO. No, I think that is wonderful exactly as it should be.

Mr. COX of California. That is exactly right.

Mr. Chairman, I yield back the balance of my time.

Mr. SYNAR. Mr. Chairman, I rise in opposition to the amendment.

I could not think in my history of 13 years that I have been in the U.S. Congress of a more misdirected amendment than this amendment. Of all the agencies that we have in the Federal Government that has served this Congress, this body and this Government well, it is the General Accounting Office. It is the single agency which serves the investigating arm of this institution in order that we can accomplish the responsibility directed to us and us alone by the Constitution to make sure that Government works correctly.

The 5,000-plus men and women who serve us in the General Accounting Office have literally saved us billions of dollars through fraud, abuse, and waste. It is probably one of the most important functions which we have to ensure the American public that their taxpayer dollars are being used efficiently and effectively.

This amendment is in many ways very mean-spirited because what they are saying through this amendment is they do not like the work that the General Accounting Office has been doing in routing out the fraud and abuse and waste of the management of this administration over the last 13 years.

What is a crime is the fact that many times these General Accounting Office reports and investigations have been done in a bipartisan fashion. They have been done through subcommittee work and committee work which serves this institution and this country well. It would be a crime to cut the General Accounting Office because it would indeed then take away the best tools we have to ensure that we are using taxpayers' money efficiently.

I rise in strong opposition of this, and I direct my colleagues to the point that the billions of dollars which the General Accounting Office will save us this year will be more than made up by the cost of the agency.

Mr. Chairman, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Arizona.

Mr. KYL. Mr. Chairman, I rise in support of the Cox amendment. Surely the General Accounting Office can get by on one third of a billion dollars. How do we know this? Well, for one thing, they have got so much money that they have got extra employees. This year they have brought apparently 172 extra employees. How do we know that? Because something called detailees, loaners from the GAO to the congressional committees, people, staff people have been loaned to the committees of the Congress. That is a 23-percent increase over last year. And they had a 21-percent increase over the year before.

In other words, to the point the gentleman from California was making earlier, the increase in the detailees has been substantially over the last 3 or 4 years. It has not been flat.

And since we just got through debating the civil rights bill, where we were talking about trying to have a fairness for minorities, and of course those of us in the minority over here are a little sensitive to that, when it comes to staff around here, let us look to some of the committees to see where these detailees have gone.

In my committee, the Government Operations Committee, there were 27 detailees in 1990. And what does the staff ratio look like as a result of these detailees? Ninety-three percent for the majority, 7 percent for the minority. That is pretty fair, is it not, with a majority/minority ratio in the Congress of approximately 60 to 40.

Let us look at the Judiciary Committee. It is the same percentage, 93 percent to 7 percent. And let us look at the Energy and Commerce Committee, 91 percent to 9 percent. And a large part of this is due to the fact that these detailees from the General Accounting Office have gone over to the staffs of these committees.

In the case of Energy and Commerce, 33 detailiees. As I said, 27 to the Government Operations Committee. And when we talk about bipartisan, let us ask about bipartisan. Of the requests of the GAO for opinions, a very conservative estimate is a 4-to-1 ratio. It is probably closer to a 5-to-1 ratio request of Democrat Members to Republican Member requests for work done by GAO, accepted by the GAO, resulting in reports.

The point, Mr. Chairman, is this. The General Accounting Office has enough money to be loaning all of these extra employees to the committees which already have a ratio which far exceeds that that is appropriate in terms of the majority and the minority. If there is a place to save money clearly it can be saved in this area.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. Reclaiming my time, I yield to the gentleman from California.

Mr. FAZIO. I just want to point out at one point during the year, maybe 50 or 60 people would be detailed from GAO. The 172 is the number of people who at any time, maybe even a week, over a period of a year, would be detailed. But no more than 50 or 60 at any time. And no more than 10 people have ever been detailed for more than a year.

Mr. LEWIS of California. Reclaiming my time, we are going to have an amendment to discuss in great detail the detailees. Having said that, I would to mention to my colleague, the gentleman from Oklahoma [Mr. SYNAR], that his comments were not only interesting but that they are part and parcel of the frustration that many Members are feeling on this side of the aisle regarding GAO.

That agency was begun initially to provide bipartisan, nonpartisan work for the Congress. The way staffing has developed over time, just the reverse has taken place. More and more there is frustration on our side of the aisle with work and reports and detailees and personnel who are operating with a partisan beat.

Indeed, it is undermining the confidence of this side of the aisle in their work. Unless we change that pattern, we are going to have more of this kind of dialog. I urge my colleagues who so highly regard the work of the GAO to recognize that this lack of confidence is a fact of life over here. It is not something that people are just kidding about.

Over time our Members have become more and more frustrated with the kind of product they are seeing coming out of what was once an independent agency designed to serve all of us equally. Today many of us believe it is something less than equal.

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Oklahoma.

Mr. SYNAR. I think the gentleman from California needs to get one subject committee chairman from Government Operations to come up here and make that case, because in the Government Operations Committee, which is the committee of jurisdiction which really does the oversight for all the other agencies of Government, most of those are done in a bipartisan fashion. The gentleman from New York [Mr. HORTON] and the gentleman from Texas [Mr. BROOKS], and now the gentleman from Michigan [Mr. CONYERS] have worked in a bipartisan fashion. The gentleman from Pennsylvania [Mr. CLINGER] and I have.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] is expired.

(On request of Mr. SYNAR and by unanimous consent, Mr. LEWIS of California was allowed to proceed for 2 additional minutes.)

Mr. SYNAR. Mr. Chairman, if the gentleman will continue to yield, those colleagues from his side of the aisle who work with Government Operations, I would like them to come forward during this debate and say they have been dissatisfied because they have never said that to me as a subcommittee chairman, nor any of the other subcommittee chairmen on Government Operations, that they have felt that we have abused or used to our own purpose the Government accounting agency officials. I would be very interested to hear one of them come forward in this debate and tell us that they think they have been abused.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Arizona.

Mr. KYL. As a member of the Government Operations Committee, since the time I came to the Congress, let me just respond to that by telling a story. I think all the members of the committee will remember this. When the committee had its official photograph taken earlier this year and all the Republicans lined up on one side and the Democrats on the other side and the Republicans' staff members on their side, and the Democrat staff members were called in. And all of us broke out in laughter because, of course, the line of committee staff people on the Democratic side, including the detailees from the General Accounting Office, were so numerous that they circled all the way around to the point that the photographer could not get them all in the photograph. And they had to bunch up two or three deep.

□ 1610

They had to bunch up two or three deep, and I think we all recognize the fact that there is an imbalance, and let us not deny that fact.

I think the gentleman from California had the point. There is great frustration on our side. It does need to be bipartisan. It does need to be fair. Right now it is out of balance. Part of the reason is because of the detailees that have gone over to the majorirty side.

Mr. GINGRICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to support the amendment offered by the gentleman from California [Mr. COX], and I do so in part to send a signal to the Comptroller General.

The General Accounting Office used to be prestigious and reliable. I would argue that, having watched it for the last 2 or 3 years, it ought to be audited. It is uncoordinated, it is ideological, it is increasingly sloppy in its behavior. On some occasions its reports are technically incompetent. In other cases they are politically motivated.

Let me suggest that every Member of the House should be aware, and let me suggest two examples of what concern us in terms of the direction the General Accounting Office is going in.

First, there have been a series of letters between the gentleman from Illinois [Mr. MICHEL] and the Comptroller General about the fact that a partisan Democrat for partisan reasons asked for an inquiry into October 1980, in a way in which no Republican was ever involved. There was no effort to establish a bipartisan fair standard for the report. There was no effort to involve anybody on our side of the aisle about what was inherently and unquestionably a political question.

If the GAO is going to become a branch of the Democratic National Committee, they ought to go out and raise money privately. But it is outrageous that they would accept a partisan request about a partisan topic and engage in an investigation without anybody, starting with the gentleman from Illinois [Mr. MICHEL], being asked about it.

Let me give the second example, which was in the paper yesterday. The General Accounting Office on its own has decided that it will decide the value structure of American health care. It decides it will endorse Canadian health care. It does say in the fine print, "Oh, by the way, you will not have new technology, you will have to wait 6 months to 3 years, you will not get a whole set of services, you will not be allowed to privatize any behavior even like on the British model," but you have got to get to the fine print.

It is not the business of a technical accounting agency to decide on values questions, and the General Accounting Office has to understand that we will move to cut its spending if it does not correct its behavior and become genuinely bipartisan; if it does not drop its ideological bias, we will recommend to the administration for next year's budget to dramatically cut its spending.

We are not going to have a partisan, ideological, pro-Government agency engaging in sloppy behavior on its own terms and then masquerading as though it is nonpartisan.

I hope the Comptroller General will take note of this.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I understand the gentleman's concern, and I think there are issues that really need to be discussed with the Comptroller General.

I just wanted to make two points. First of all, I do not want anyone to forget that this Comptroller General was appointed by President Reagan, and this is a Republican appointee for a 15-year term. He has no ability to succeed himself, and he is not influenced, therefore, because of the method by which he is selected and appointed. This is a very unique position in the Federal structure.

Second, the GAO's budget does not go through any rigorous review by the executive branch. We simply receive the GAO budget, and we make the decision, so it is appropriate that we discuss it here today.

I do think that there is more support here than anger and opposition, but if the gentleman has concerns that may or may not be legitimate that are based on partisan leanings one way or the other, I think these do need to be directly taken up with the Comptroller General.

Mr. GINGRICH. Let me ask the distinguished chairman: When is the last time the GAO was audited by an outside agency?

Mr. FAZIO. I really do not know.

Mr. GINGRICH. When was the last time GAO had any kind of outside management report on the way in which it is run and whether or not it is efficient?

Mr. FAZIO. I am told that the investigative staff of the Committee on Appropriations has looked at the GAO, and that is not too long ago. In fact, I would urge the gentleman to look at that report, because it may well be far more critical than some of the Members on the gentleman's side seem to think.

Mr. GINGRICH. With all deference to the distinguished staff of the Committee on Appropriations, I think it would be interesting to consider a totally independent audit of the GAO, to then have somebody who is in private business tell us how efficiently and effectively it is being run.

Mr. FAZIO. It is now being run, of course, by a man who was in private business as a senior partner with one of the leading accounting firms in the country.

Let me reiterate my opposition to this amendment. This amendment could not be more misdirected.

The General Accounting Office may be, next to Congress itself, the best watchdog the American taxpayer has in minding the store.

They locate the fraud, waste, and abuse in Government. These are not partisan issues, Mr. Chairman.

If we eliminate the funds for this agency, or drastically reduce their budget, we will lose one of the most effective programs in the Government.

Let me cite a few examples. In 1990, the GAO found measurable financial savings of $15 billion. Those are real dollars this agency has helped the Federal Treasury save.

They issued 921 reports to Congress in 1990; 54 to Federal agencies; and issued 3,500 legal opinions.

If we impair this agency, competition in Government procurement goes with it because the GAO legal staff has a major role in the Competition in Contracting Program.

This agency does several major financial audits a year. They audited the Air Force 2 years ago and uncovered major problems. They did one at the Exim bank that revealed major bookkeeping shortcomings.

They are currently doing vital work in many areas, including assessing Federal liability in the savings and loan industry; an assessment of health care costs; and the future military force structure in a rapidly changing international environment.

Mr. Chairman, these are not partisan issues. We need GAO—A junk yard dog so to speak. They earn their keep many times over.

Reject this amendment.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. GINGRICH] has expired.

(By unanimous consent, Mr. GINGRICH was allowed to proceed for 2 additional minutes.)

Mr. GINGRICH. Mr. Chairman, let me make this point, because I think the gentleman from California made a very good ploy. The fact is that any one man put in charge of 5,000 career bureaucrats, within a very short time, tends to become a captive of the system. The fact is that the overwhelming pressure on GAO is a partisan pressure, and the fact is that we on this side of the aisle are unequivocally not comfortable with the product we are getting, and I strongly urge a yes vote for the amendment offered by the gentleman from California [Mr. COX].

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I wanted to quote from Hobart Rowen in the Washington Post who indicated in an article that was published recently that Mr. Bowsher may be the one job selection that President Reagan and surely President Bush wishes they had back. That may tell a little bit about where the politics of all this lie.

Mr. SMITH of Florida. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Georgia has obviously cut right through to the gravemen of this amendment, and that is that they do not like people being able to look into the administration, because that is what the GAO does, how the administration runs. It is designed to help the Congress help run the country. That is what it does.

Now, even though it has a Republican appointee as the head of it and even though this is a man who has a 15-year term appointed by a Republican President, they do not want it. They do not like it.

So instead of coming to the committee, to the subcommittee when the hearings were held or the markup was held to talk about the issue of cutting the budget, they come to the floor and ask for cutting $107 million from an agency that most of the people in this institution, both Republicans and Democrats alike, have acknowledged performs a very valuable service.

One of the gentlemen on the other side said that,

> We do not like the way the detailees are apportioned, and we do not like the way staffs are apportioned. Why, there was as much as, at one time, or totally, 172, 172 detailees to the Congress, and so we are going to cut $107 million.

If you give them an average salary of $30,000, 172 detailees, if you wanted to cut them for that reason only, is $5,160,000, so in their attempt to sustain their argument that they are being mistreated, the Republicans want to cut the GAO 22 times larger than they would have to if they wanted to cut only the disputed positions of those whom they claim are abusing what they are supposed to be doing.

Let me tell the membership of this body that that GAO organization saves the United States of America and its taxpayers billions of dollars a year. When I first came here 9 years ago, I found that in south Florida where HMO's had been given the right by Federal law to enter into the business of providing Medicare services to Medicare beneficiaries and that the U.S. Social Security System would pay for that, we began to find an enormous amount of fraud and abuse.

We asked for a GAO investigation in south Florida. That GAO investigation, after approximately 1 year, found practices that they estimated had already cost the U.S. taxpayers close to one-half a billion dollars during that preceding year, and could have cost on an exponential basis, if not dealt with, billions, billions of dollars.

This was done on a bipartisan basis. The gentleman from Florida [Mr. SHAW], the gentleman from Florida [Mr. LEWIS], the gentleman from Florida [Mr. FASCELL], Congressman Pepper, myself, the gentleman from Florida [Mr. LEHMAN] all joined in asking for this, and the whole of the United States benefited, not only from being able to weed out the fraud and abuse but by upgrading the quality of Medicare which was being delivered by these federally licensed HMO providers of Medicare coverage to Medicare beneficiaries.

□ 1620

That is what this organization, this agency does. If there is a problem in any way, this is certainly not the way to fix the problem, an across-the-board, blind cut, with no regard for the value the agency has. If we cut $107 million now, we will be looking for billions more to pay for what the GAO could not do to save the taxpayers of this country a great deal of money.

I tell Members something, folks. If that is not counterproductive, we will never do anything here.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I want to say to my colleague that it is the first time I had a chance to have an exchange regarding the work of our subcommittee, and it has been a pleasure to work with the gentleman.

I would mention to my colleague, while the gentleman and I agree upon the thoughts that an agency like GAO should be available to take a look at the administration and the work they do.

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. I yield to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I hope, as we work together, and I would take a careful look at the thought that that agency that we created, designed to look at the administration and represent our interests as well, has come to the point where there are 5,000 investigators, probably enough, I would say. From there, they are investigating at the discretion and direction of a highly partisan Congress, the gentleman might agree, as a practical fact of life. Members on this side of the aisle are now concerned that there is such a bias that their ability to have confidence in the work of that agency is in serious question. The gentleman would not want to change this?

Mr. SMITH of Florida. Reclaiming my time, does the gentleman believe that that agency deserves to have positions which would be 20 times the amount of the detailees that the gentleman talked about before, cut out of its budget as a result of your arguments? Does the gentleman truly believe that?

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. Does the gentleman from California believe we should cut the GAO $107 million?

Mr. LEWIS of California. If the gentleman will yield, the gentleman from Florida knows well that I worked very intently to cut various aspects of this budget, including this one.

My point is that this recommended cut of 25 percent of their personnel is a reflection of tremendous frustration over here that is not a healthy circumstance for this agency.

Mr. SMITH of Florida. I understand the reason for which it was offered, but I am asking the gentleman if he agrees and is going to vote yes to cut 25 percent?

Mr. LEWIS of California. The gentleman from Florida and I will talk about that.

Mr. SMITH of Florida. I see. I think the gentleman answered the question.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, this is a penny-wise, pound-foolish partisan amendment. It totally lacks merit. Its function is to cut by 25 percent the budget of an agency which saved for the Federal taxpayer a measurable and measured $15 billion.

Now perhaps the gentleman wants to go back to his home State and say that he cut an agency of that sort by 25 percent, and as a result perhaps there will be 25 percent less in the savings for the taxpayer of that $15 billion. The General Accounting Office, I will say for the benefit of the author of the amendment, and the rest of my colleagues unfamiliar with it, is the auditing arm of the Congress. It is a nonpartisan agency, headed by an appointee of the President. That President who appointed the current Comptroller General was Ronald Reagan. He appointed, a Republican, for a 15-year term, who may not succeed himself.

Now, let Members look at what the GAO does. It audits on its own as it is chartered to do by the Congress, to find out whether there is waste, fraud, abuse, in the executive branch, or whether there is a failure to carry out the letter, spirit, or intent of the law. As I said, it has saved the taxpayers in the last year $15 billion.

Now, I have seen this kind of amendment come before us in the past. On one occasion I saw an amendment to cut the number of customs employees. The offeror wanted to cut them by a hundred. The interesting thing about that was that every customs employee brings in about $18 for every dollar that we pay for them. In another instance, I remember from that side of the aisle, came a massive cut in the number of Internal Revenue Service agents. We saved about $2 million. The result, however, in terms of losses to the taxpayer, were that the Federal Government lost about $20 billion in revenue.

That is the kind of thinking that underlies this amendment. We are throwing the baby out with the bath water; we are burning down the barn to cook the pig. We are not supporting good government, if you offer or support an amendment of this kind.

Now, what does the General Accounting Office do for the Congress of the United States and the general public? One, they perform audits on request by any Member or any group of Members. Those audits relate to performance of government agencies, or whether policies are being carried out. They also result in findings of where there is waste, fraud and abuse in terms of the behavior of the Federal Government and the waste in Federal moneys.

Now, it is useful, I think, to see what GAO detailees have done in terms of serving the Congress and the people of the United States. Every single committee under the law has the right to call upon the GAO to have detailees assigned to it, to carry out specific functions and performances. Almost every single committee in this Congress in 1990 has called upon the General Accounting Office to carry out that particular performance. They are listed at the end of the following letter:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, May 29, 1991.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We understand that during consideration by your Committee of the legislative appropriations bill for fiscal year 1992 an amendment may be offered which reportedly would require all House Committees to pay or reimburse the General Accounting Office (GAO) for all or part of the cost of GAO personnel assigned to congressional committees and subcommittees in fiscal year 1993 and thereafter. We strongly urge that your Committee reject such an amendment.

As you know, the Committee on Appropriations and many legislative Committees periodically arrange (pursuant to 31 U.S.C. 731) for the assignment of GAO personnel to the Committees and their Subcommittees for various purposes. This is natural because the GAO is an arm of the Congress. It was established to, among other things, support Congress.

This practice was authorized as long ago as 1970 as part of the Legislative Reorganization Act. These GAO personnel, who are nonpartisan, have expertise and skills that are very helpful to the Committees in their work, including oversight and investigation functions mandated by the House Rules. The Senate Committees also utilize GAO personnel on detail.

The GAO's supplement to its annual report (copy enclosed) provides a detailed account of these assignments to each House and Senate Committee. The report shows that the Committees and Subcommittees vary from year to year to the extent of such use of GAO personnel. These assignments are sometimes very brief, lasting anywhere from a few days to a few months, depending on the need. All assignments have a specified term not to exceed one year, although GAO employee may be assigned to a subcommittee for a certain period and then to the full Committee for another term. Both majority and minority Members of committees and subcommittees benefit from these assignments.

The GAO's annual report, which is public, shows the travel and salary costs for each GAO assignee in the House and Senate, costs which are covered by the annual appropriation for GAO. For fiscal year 1990 the total of all associated costs for 172 skilled and dedicated GAO people detailed to the House and Senate was a little more than $5.2 million. That is only about $30,000 per person. GAO provides this information pursuant to 31 U.S.C. 719 and presumably in partial justification of its own budget each year. If the Committees and Subcommittees hired consultants or more staff in lieu of these detailees, the costs would be far larger and the benefits for the taxpayer probably not as great.

We understand that Congressman Jerry Lewis and others want all of the Committees to pay or reimburse the GAO for these costs beginning in fiscal year 1993. Presumably, this would mean a comparable cut in the GAO appropriation which could harm that agency. Apparently this would require the Committees to determine in advance how many GAO personnel would be needed in a fiscal year and to seek such personnel, based not on experience and skills, but rather on their salaries in order to ensure that the Committee did not exceed the additional appropriated sums which would be needed to cover their costs. The Committees are not always sure of their needs at the beginning of each fiscal year. Any mistakes in estimates, or an appropriation that falls short of those estimates, could reduce the use of GAO personnel and thus curtail oversight, investigations, and other activities which significantly benefit the House, the Congress, and the taxpayers. In short, this amendment could result in limiting congressional oversight. We do not think that is in the public interest.

We point out that these GAO personnel have helped ferret-out millions of dollars of waste and fraud, such as the recent investigations of unauthorized charges by universities for such items as statues, travel, yachts, and entertainment. Simply put, detailing GAO personnel to Committees saves taxpayer dollars far beyond the actual cost of the GAO personnel.

We urge you to reject this amendment.

With best wishes.

Sincrely,

John D. Dingell, Chairman, Committee on Energy and Commerce.
Henry B. Gonzalez, Chairman, Committee on Banking, Finance and Urban Affairs.
Walter B. Jones, Chairman, Committee on Merchant Marine and Fisheries.
George E. Brown, Chairman, Committee on Science, Space, and Technology.
Charlie Rose, Chairman, Committee on House Administration.
George Miller, Chairman, Committee on Interior and Insular Affairs.
Dante B. Fascell, Chairman, Committee on Foreign Affairs.
John Conyers, Jr., Chairman, Committee on Government Operations.
G.V. Montgomery, Chairman, Committee on Veterans' Affairs.
William D. Ford, Chairman, Committee on Education and Labor.
Dan Rostenkowski, Chairman, Committee on Ways and Means.
Jack Brooks, Chairman, Committee on the Judiciary.
William Clay, Chairman, Committee on Post Office and Civil Service.
E de la Garza, Chairman, Committee on Agriculture.
Robert A. Roe, Chairman, Committee on Public Works and Transportation.
Leon E. Panetta, Chairman, Committee on the Budget.
Les Aspin, Chairman, Committee on Armed Services.

HOUSE COMMITTEES THAT UTILIZED GENERAL ACCOUNTING OFFICE DETAILEES IN FISCAL YEAR 1990 PURSUANT TO 31 U.S.C. 731

Committee on Armed Services.
Committee on Ways and Means.
Committee on the Judiciary.
Committee on Appropriations.
Committee on Energy and Commerce.
Committee on Veterans' Affairs
Committee on Standards of Official Conduct.
Committee on Agriculture.
Committee on Banking, Finance and Urban Affairs.
Committee on the Budget.
Committee on Foreign Affairs.
Committee on Government Operations.
Committee on House Administration.
Committee on Post Office and Civil Service.
Committee on Science, Space, and Technology.

What has been the result? I will not describe what has happened with regard to other committees, but I will tell Members what has happened as a result of the work that has been done by the General Accounting Office for the Committee on Energy and Commerce.

First of all, hundreds of millions of dollars each year in waste, fraud, abuse, and overpayments has been curtailed with regard to defense contractors. Other committees have done the same kind of work. Just this year, better than $1 billion of waste, fraud, and abuse and overpayments and overcharges by universities of higher learning in connection with billing for overhead charges was saved. Other examples follow:

MAJOR INVESTIGATIONS DURING 101ST CONGRESS USING GAO DETAILEES

A. HEALTH

1. Blood Supply Safety.—exposed substantial problems and led to the recent beginning of complete overhaul of Red Cross blood banking system and tougher FDA enforcement.
2. Food Imports.—exposed major loopholes and led to improved FDA enforcement efforts.
3. Medical Devices.—exposed lax FDA monitoring and enforcement.
4. Government supported research.—exposed substantial abuses and led to extensive changes, both voluntary and involuntary, in university indirect cost charging practices as well as the expected recovery of millions of dollars.
5. Bottled Water.—exposed significant gaps in regulation.

B. ENVIRONMENT

1. EPA Inspector General.—exposed management and auditing problems.
2. Superfund and RCRA oversight—ongoing review of critical programs.

C. SECURITIES AND FINANCE

1. Insurance Company Insolvencies.—exposed wrongdoing and state regulatory inadequacies.
2. Insider Trading.—variety of investigations, including Drexel.
3. Northrop.—exposed procurement abuses.
4. Merged Surplus and "M" Accounts.—exposed "slush funds" involving billions of dollars and led to corrective legislation.

D. COMMERCE

1. Substandard Fasteners.—exposed use of tens of millions of counterfeit/substandard fasteners and led to corrective legislation as well as enforcement actions that have resulted in payments of over $20 million.

Now, perhaps some believe these are not meritorious. If Members think they are not, I urge those Members to vote with the author of the amendment. If Members think this kind of expenditure of the public moneys, and this kind of service to the Congress is of value, I urge those Members to reject this amendment out of hand.

There appear to be some curious games going on on the other side of the aisle, and I do not know quite what they are; but I want my colleagues over there who are serious about good government to listen. They complain about detailees and budgets. I want to first address the question of the budget of the Republican side of the aisle on the Committee on Energy and Commerce.

(By unanimous consent Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. There is no Democratic staff on the Committee on Energy and Commerce. There is a committee staff, and there is a minority staff. The minority staff is a special staff that works only for the minority, and the minority in our committee got every nickel and every staff member they requested from the House Administration Committee. I presented it to the Administration Committee and they got every nickel and every staff member they wanted. There is no partisanship on that matter.

The Republicans are kept fully informed on our committee with regard to the hearings and so forth that are engaged in by the Subcommittee on Oversight and Investigations which I chair.

As I pointed out, billions of dollars have been saved, and audits of things like the safety of the blood supply, audits of things like misbehaviors at colleges, universities, and by defense contractors, audits of important questions like rail safety where tons and tons of trainloads and carloads of hazardous substances are being carried around this country have been carried out by the General Accounting Office and by detailees. The minority on our committee participated in those actions. More recently, the General Accounting Offices has been looking into serious misbehavior in the security industry.

If my colleagues do not believe me, call Mr. Broyhill, who used to be our ranking minority Member, or call our current Republican minority leader, the gentleman from New York [Mr. LENT], the ranking minority member on the subcommittee, and ask whether there is any partisanship, or whether there are games played with detailees or with the staff of the committee.

I think it is time we recognize that we Members have some duty in this place to see to it that this Congress has the resources that it needs to serve the public interests, to do the things that need to be done, and to curb the excesses in the government downtown and outside of the government.

☐ 1630

The only way we are going to be able to do that is to see to it that we have an adequate level of staff to catch wrongdoing, misuse, and misbehavior.

I hear constant complaints about waste, fraud, and abuse, about the fact that the budget is not balanced. Most of it comes from that side of the aisle. I want those people over there who constantly complain and carp about such matters to take a look and see how we use the GAO to curb and to cut back on the kind of waste, fraud and abuse, about which they are complaining, and through that effort to help balance the budget.

If you are serious about saving money, then I urge you to vote against this amendment. For good and all, this kind of nonsense and trivia should be buried so it does not continue to waste the time of the House, so that we can concentrate on more important and serious matters instead of nonsense like this.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Yes, I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding.

I say to the gentleman from Michigan [Mr. DINGELL], I am sure the gentleman knows that I am as concerned as the gentleman is to make certain——

Mr. DINGELL. The gentleman is not showing it very well today.

Mr. LEWIS of California. To make sure that we have facilities to make sure we review that work that the administration is doing, and I know that my chairman would never involve himself in partisan considerations.

All I was suggesting is that there are people on this side of the aisle who see a pattern developing in the GAO that raises serious questions about partisan leanings.

Mr. DINGELL. There are old ladies in this society who find a man under the bed or think there is a man under the bed every night. Some of them I think are actively hoping so.

Mr. LEWIS of California. I do not know about the chairman, but we do not have any old ladies over here like that..

Mr. DINGELL. Mr. Chairman, this is an offensive amendment and should be rejected overwhelmingly.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am a little confused about this debate and I would like to ask perhaps the chairman of the committee some questions.

We have in the GAO how much total personnel employed?

Mr. FAZIO. Mr. Chairman, if the gentleman will yield, there is a limit of 5,062 staff years, which has been reduced by 38 positions in this bill.

Mr. ARMEY. It is 5,062

Mr. FAZIO. Yes.

Mr. ARMEY. And a certain number of these personnel in the GAO are assigned to work for Members of Congress, or on the staffs?

Mr. FAZIO. A relatively small percentage, in fact as I said earlier, maybe 50 to 60 at any time are detailed to the hill.

Mr. ARMEY. Detailed to the Hill, how many did the gentleman say?

Mr. FAZIO. At any one time, 50 to 60. Over a year, I believe the gentleman from Arizona [Mr. KYL] said 172. They may be here for a brief period, some for a longer period. Very few are here longer than a year. There are currently I believe about 11 who have been allowed to stay longer than a year.

Mr. ARMEY. The chairman is very generous with his explanation.

Mr. FAZIO. I tried to be helpful to the gentleman from Texas.

Mr. ARMEY. Are they detailed to individual Members, like could I have one detailed to me?

Mr. FAZIO. I think you have to be the chairman of a committee or a ranking member. That request goes forward to the GAO and they are assigned to the committee, not to any given individual Member. One of these days if things go the gentleman's way, he may be in a position to have someone detailed.

Mr. ARMEY. If I am a ranking member of a committee, I contact the head of the GAO and ask for somebody to be detailed to me?

Mr. FAZIO. No. First of all, you have to be a chairman or a member of a committee, with the support of the chairman. You then can get a GAO staff person assigned to the committee, not to any individual Member, for the purpose of helping on a specific study or assignment.

Mr. ARMEY. So that you have to be a committee chairman to arrange for somebody to be detailed to work for——

Mr. FAZIO. For the committee.

Mr. ARMEY. So that the Republican chairman or Democrat chairman, I mean, like if I were the Republican chairman of a committee, I could have people detailed to me?

Mr. FAZIO. No. You could have a person detailed to the committee to work on a designated project that is within the purview of the committee's work.

Mr. ARMEY. The point is that the only person who can make an arrangement for such a thing to occur is a Democrat committee chairman.

Mr. FAZIO. Well, I think ranking members on most committees have a good working cooperative relationship with the chairman and the request is usually totally nonpartisan.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, the answer is yes.

Mr. FAZIO. Mr. Chairman, if the gentleman will yield further, I would think that many of them would be jointly requested.

Mr. ARMEY. Mr. Chairman, in my short tenure here in Congress, there are two words that I have come to totally distrust. The two words are "nonpartisan" and "bipartisan," and yes, I say to the gentleman from Michigan [Mr. DINGELL], this is a partisan amendment and I support it on that basis. It is a partisan concern. The concern is that the GAO, like other agencies, such as the Joint Tax Committee staff and the Congressional Budget Office, work first and foremost and most enthusiastically for the Democrat majority of this body and only intermittently and unenthusiastically on behalf of nonpartisan or bipartisan or Republican concerns; but that is not my concern.

My concern is this. If you take the official reports of official agencies of the Federal Government, such as the GAO, such as the Joint Tax Committee, such as the Congressional Budget Office, they become part of the public's data base by which they understand the operation and functioning of the Government, of the economy and of the Government in the economy, and the relationships in-between. If we do not have scientific accuracy, if we do not have good data bases, if we do not have sound methodological approaches to generating these government reports, we misinform the Nation and that, my friends and colleagues, I believe is serious business.

The universities that we are so concerned about with waste, fraud, and abuse at the universities, we have been concerned and I applaud Chairman DINGELL for the work he has done there. I am very proud of the work he has done there in his committee.

But if the Government of the United States through the malfeasance of its own agencies are giving the American universities fraudulent data base, then we ultimately are to blame.

I would say that the gentleman from California is to be admired for raising the question, because it gets to the heart of the matter. Is this Government committed enough to accuracy in the reports that we make that we are willing to in fact be nonpartisan. I do not think that is the case.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the GAO falls within the jurisdiction of the Government Operations Committee, and as its chairman I would like to make it clear that we have announced that there would be oversight hearings in the GAO and that from approximately 6 months ago, we have sought to find any Member who wished to come forward in an oversight hearing on the GAO, including all the members of the Government Operations Committee, and I wish to report to you that up until this moment the number that had come forward was zero.

I would be happy to entertain any of the new found concerns about an agency that I feel must be defended in terms of its scrupulous fairness in attempting to bring to us the answers to investigative matters without which our staffs could not operate. These are technical matters and I would just like to review a couple that have come to our attention.

Several GAO investigators were assigned to our committee to help uncover the serious risks associated with adapting embedded computer systems with the multi-million dollar weapons systems in the Navy Seawolf attack submarine. As a result of our work, the House Armed Service Committee and the Defense Appropriations Subcommittee substantially reduced the funding for the Seawolf by $2 billion.

□ 1640

The chairman of the Committee on Energy and Commerce is absolutely correct, the savings of GAO in bipartisan efforts to reduce waste, fraud, and abuse amount to $14.5 billion, nearly $15 billion.

Now, what we want to make clear is that in our committee, and I can only speak for the Committee on Government Operations, we have a completely fair operating system with reference to any requests for detailees. We have enjoyed a very good relationship. I might say the gentleman from Arizona [Mr. KYL], who serves with great distinction on the Committee on Government Operations, is fully aware of the processes that we use.

The gentleman from Pennsylvania [Mr. WALKER], former member of the Committee on Government Operations, I think call all join in making it clear that under no circumstances has any Member on the Republican side who has made a request ever been refused a detailee. The gravamen of my case against a reduction is that we will be cutting the best staff that we have, sometimes even as competent as many of our own staff members.

My necessity to request assistance is because of the technical nature of some of the assignments that come to our committee, and it is in that spirit, ladies and gentlemen, that I urge that this amendment be rejected.

I can tell you that the ranking members of the Committee on Government Operations, the minority member, has cooperated with me, my predecessor, the gentleman from Texas, JACK BROOKS, now chairing the Committee on the Judiciary; in all my years on Government Operations we have enjoyed this kind of relationship that has led to no Member to have asked to participate in the oversight hearings that we would be holding.

I trust that out of this discussion there may be Members who will wish to come before the committee, and they will certainly be invited to do so.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think most of you know I serve as the ranking member of the Committee on Government Operations, and from the day that I came to the Congress, practically, my first assignment was on the Committee on Government Operations. For some years I have served as the ranking Republican. I have worked very closely, for my 29 years in the Congress, worked very closely with the Comptrollers General, particularly Mr. Bowser, and before him Elmer Staats.

I want to say, and I hope that we can kind of calm down the tone of the debate here a little bit, I think there is a legitimate concern by my colleagues on the Republican side with regard to some of the assignments that have been made with regard to people from the GAO and from other administrative agencies.

I think that it is important for us to have a better handle than we have had in the past with regard to these assignees to the various committees.

The chairman, the gentleman from Michigan, [Mr. CONYERS] and I have worked it out pretty carefully as far as our commitee is concerned.

I am aware, and my staff is aware, who those assignees are. We work very closely with them.

In the 29 years I have been on the Committee on Government Operations we have tried to operate without regard to partisanship but from an objective standpoint for the good of the Government. Our job in the Committee on Government Operations is to check on efficiency and economy and to check on waste, fraud, and abuse. I have often said that we have two responsibilities in the Congress: One is to legislate, and the other is to oversight.

We are basically the oversight committee.

The General Accounting Office, over those 29 years that I have been there, has given us outstanding professional service, and I think that we ought to recognize the debate that is going on here is not aimed at any of these professional people who work in the General Accounting Office. Time after time after time these reports have come in, they have been excellent reports, reports that we can rely on after indepth investigation, indepth recommendations. I personally think that these reports have been very excellent.

I think what we need to do is to understand that there is a problem with regard to these detailees, and hopefully we can work that out to the satisfaction of everybody. Maybe as a result of this discussionm that we are having here, we can have a more effective General Accounting Office. It is one of the important tools that we have in the oversight function.

The General Accounting Office, the inspectors general, the chief financial officers that we have just put in, the Paperwork Reduction amendments, the OIRA we have in the OMB are all tools for us to have a better handle on oversight. Let us not throw the baby out with the bathwater as a result of what we are trying to do here.

Let me point out what would happen if this amendment goes through, and I hope it does not go through, but I understand the motivation that has brought this amendment to the floor. The General Accounting office, as a I understand it, and I checked with them this afternoon, they requested approximately $490 million for this next budget, and that was cut by this committee by approximately $50 million, which brought them to a level of $440 million.

I have been informed that if this amendment goes through, it would reduce travel to data collection points and regions to the point where it would almost have to be stopped; the professional staff of 4,000 would have to be cut by approximately 1,000. I do not think we want that.

The congressional requests would be delayed a minimum of 8 to 10 months before they could be even started. And many of us—and I have asked for those reports, and I have gotten them. I realize that as the ranking member of the Committee on Government Operations, I could get that. I remember they spent a whole year checking and giving me a report on what we did at the borders with regard to fresh fruits and vegetables coming into this country. That was the first time anybody had ever looked at that.

They did look at it, gave us a report, which is a bible and which has brought out a lot of information with regard to that subject.

There would be serious disruptions in computer acquisition and data analysis.

The CHAIRMAN. The time of the gentleman from New York [Mr. HORTON] has expired.

(By unanimous consent Mr. HORTON was allowed to proceed for 3 additional minutes.)

Mr. HORTON. I would not be surprised that right now the General Accounting Office is operating under a hiring freeze.

So I think this amendment would create some very serious problems, and I hope that it does not move forward.

I do think, in the affirmative, I do think what we need to do is sit down and talk about this subject.

The chairman has indicated he wants to have some hearings, and I think that is an excellent thing to do, and I would certainly join with him and the members who have been talking here today on the Committee on Government Operations, and they will have an opportunity to get answers to their questions from the General Accounting Office.

I think the chairman's suggestion which the gentleman from Michigan, [Mr. CONYERS] has made with regard to having hearings on the General Accounting Office is good. We have done that in the past, we have looked it over in the past. We have had those kinds of hearings. I think that would be helpful.

But I do think that it is important for us in our discussions here to recognize there are professional people that we have to respect and we have to thank and we have to applaud for the tremendous job that they have done over the years.

Now, I agree that there is this problem of detailees, but I think that too can be worked out.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. KASICH. I thank the gentleman for yielding.

Mr. Chairman, when I came as a freshman, I would ask the GAO to do some studies on some things that they were about the only ones who would have done anything for me as a freshman Member. I have some problems with some of the studies that they have done, but overall I have very high regard for the GAO. I think they have done excellent work. I think a lot of what the chairman, the gentleman from Michigan [Mr. DINGELL] said about the GAO is true. I guess my concern is that there is, speaking to Chairman DINGELL and to the gentleman from California [Mr. FAZIO] there is deep concern here that it is just skewed the wrong way and that Republicans ought to have a bigger shot at how the staff gets divided up.

Now, I am prepared to vote against this amendment if there is some assurance that we can start to look at it and fix this so that there is some greater equity.

From the chairman's Mr. DINGELL's remarks it was one that the system appears to be fine, "Don't mess with it."

I think that there is a legitimate issue here about how people get detailed. I am prepared to vote against the amendment if ther is some sense that we are going to get this equity.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has raised questions that I think deserve consideration and they deserve a fair and respectable answer, and I want to try to give it to him.

□ 1650

First of all, the detailees that come to our committee are not detailed to me. They are detailed to the committee or to the subcommittees, and they function to do specific tasks for those committees and subcommittees. We have never had a request from our Republican colleagues either to use resources of the committee or to use the resource of the detailees on particular tasks.

I do want to lay to rest one question. My Republican colleagues on the Committee on Energy and Commerce have received every single staff member and every single nickel that they requested. I make that a matter of pride. I make it a matter of personal pride that I try to see to it that my Republican colleagues on our committee have the resources, both money and people, of which they have need so that they may carry out their responsibilities as a minority. I want my Republican colleagues to be thoroughly informed so they can come to the best possible position because I believe that is the best way our committee can legislate and present to this House a good work product.

Mr. Chairman, I work very closely with both the gentleman from New York [Mr. LENT], the ranking minority member of the committee, and the gentleman from Virginia [Mr. BLILEY] with regard to the business in the subcommittee. I fully intend to continue that, and I will tell my colleagues this: That never in the years which I have been chairman of this committee has there ever been a complaint from my Republican colleagues about the way I——

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, this is in regard to Chairman DINGELL. There is no one in the House that raises cane more effectively than he does, and I say—That means you have to take on some people out there who aren't going to appreciate what you're trying to do. I felt myself in that position from time to time. I do not think, though, that I should have to go to a committee chairman to get his approval. What if the committee chairman does not agree with me, and I happen to be right? We do not want ever to have a committee chairman in the position to deny a request to somebody because that Republican wants to be more aggressive than Democrats.

Mr. Chairman, I have shared that concern of mine with the gentleman from Michigan [Mr. DINGELL].

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to commend the gentleman from Ohio [Mr. KASICH] because he raises two points that I would like to elaborate on.

First of all, Mr. Chairman, the ranking minority member of the committee also shares in the disposition of detailees, and I think that applies to all the committees across the Congress.

Second, I think the gentleman raises a good point, that we are trying to improve a situation with GAO and not to cripple the excellent effort that they have done.

I am hopeful that, if I reiterate the commitment of the Committee on Government Operations to hold the hearings, the oversight hearings that would take into consideration all of these matters and invite any of the Members here in this discussion that would like to join it, I would like to ask the author of the amendment to consider withdrawing the amendment until we at least have had such hearings, and I would hope that that would be taken in good faith.

Mr. HORTON. Mr. Chairman, I would like to add one other thing, and that is this:

I was concerned 2 or 3 years ago about this detailee situation. The leadership on my side knows this. The gentleman from Michigan [Mr. CONYERS] knows, and others know. I was the first one to bring up this subject because up until that time no one had ever kept track of or asked anything with regard to the detailees.

(By unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. So, I think that there is a legitimate concern here. I think we can work it out, and I am sure that, as a result of these hearings, we can.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I think it is very important that this issue get worked out, and I will tell my colleagues why: Because there are a number of my colleagues on the Republican side who have viewed the GAO increasingly as putting forth politically charged reports. The one thing about the GAO that made it effective is that, when the reports came out, they were viewed as unbiased and without a partisan slant.

So, we can get this thing fixed. Maybe we can take some of the recurring charges of partisanship out of the debate because the GAO, I think, offers great help to the taxpayers and to the people on both sides of the aisle. But clearly it has got to get fixed.

Mr. HORTON. Mr. Chairman, I appreciate the gentleman from Ohio [Mr. KASICH] for his contribution.

Mr. WALKER. Mr. Chairman, I move to strike the last work.

Mr. Chairman, one gets the impression that someone may have kicked over a sandbox that some people have been laying in for some time here, and the fact is that there are legitimate concerns about GAO which I think are raised by this amendment.

When I joined the Committee on Government Operations some years ago, the GAO was in fact considered an independent, nonpartisan agency. I have got to tell the gentlemen who have billed it as such today that the impression on our side is that it is less than that today, and I find that tragic, and I will tell my colleagues the reason why we regard it as less than that.

First of all, Mr. Chairman, there are the numbers of detailees, and that has been roundly discussed here, but some of the people who have risen to speak so loudly in favor of the GAO in fact have dozens of detailees from those agencies working on their committees, and at least our impression on our side is that the minority does not even share in knowing that those detailees are there, let alone in the allocation of them.

Second, the real concern I have is that there has been a drift away from the GAO doing reports that it regards as being important to GAO doing reports the Democratic committee chairmen think are important, and I will give my colleagues some numbers on that. I cannot be exactly specific, but there is at least one newspaper investigation going on at the GAO at the present time, which has found a rather startling statistic, and that is that something better than 75 percent of all the reports done by GAO in 1980 were done self-initiated. In other words, GAO initiated them. Today, right now, 10 years later, some 75 percent or more are done at the insistence of Democratic committee chairmen in the Congress.

Mr. Chairman, that is a complete reversal in a 10-year period that I think is one of the things that disturbs us.

The gentleman from Michigan [Mr. DINGELL] said a little bit ago that his committee always allows all cooperation with the GAO. Let me give him a specific example. Recently one of his subcommittees did an investigation of the space station. The minority attempted to find out what was going on in that GAO investigation. The minority was told specifically that it was being done for the committee's subcommittee chairmen, and the minority was not permitted to see it. In fact, Admiral Truly was asked to come up to testify. We tried to get a copy of the report so he would at least know what he was testifying on. We were told specifically that the chairman had that report and was not going to give it to anybody, that it was being done for the chairman, and the minority would not be granted access to it.

Mr. Chairman, I say that does not sound to me as though it is a nonpartisan kind of thing. It sounds to me as if it is being done very specifically for a specific person, and in this case it was a political purpose.

Mr. CONYERS. Mr. Chairman, will the gentleman yield for a response?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, we have a rule that, I think, is Congresswide that no reports are released until the hearing at which they are contemplated would occur, and for that reason we never let any reports out prior to the date of the hearing.

Mr. WALKER. Mr. Chairman, I will tell the gentleman from Michigan [Mr. CONYERS] that it goes further than that. When Admiral Truly asked to view the report, as reports are usually done at the agency, in other words, when they are doing a report, they are to review them, he was told specifically: No, the subcommittee chairman has said this was not be reviewed with the agency, so there was not even that courtesy extended.

In this particular case, sure we do not release them publicly. The fact is this one leaked the day before. Now since only the committee chairmen, or subcommittee chairmen in this case, had access to it, one has to guess that it was leaked out of that venue, but I do not know that to be the case. What I do know is that, when the minority was asking for access to it, not to leak it, but simply to have the data, the minority was denied access to it.

Now I am telling my colleagues that that is where we get the impression that some of these things are being done on a partisan basis rather than on a nonpartisan, independent kind of an investigation.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. CONYERS. The gentlemam has served with great distinction on the Commitee on Government Operations himself, knows that personally I have reviewed these matters as carefully as I can, not only in my subcommittee, but with all the subcommittees in the Commitee on Government Operations. I have never had any complaint lodged in my memory, not only in the Committee on Government Operations, but from any Member in the Congress, and that is why I say to the gentleman in the well that the hearings will be the more appropriate place to really develop this. I cannot develop it on this hearsay.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS]. He just had a complaint lodged, and it is a very specific complaint, and I would ask the gentleman to look into it.

Mr. CONYERS. I would be happy to do so.

Mr. JACOBS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe it is accurate to say that in the years I have served in the Congress I have very rarely ever voted against an amendment to reduce the legislative appropriations. I shall cast my constituents' vote in opposition to this amendment to reduce the legislative appropriations.

□ 1700

Those who were here at the time can tell us that I was the only Member of the U.S. House of Representatives who voted against an appropriation to give the beloved John McCormack special office space in Boston when he retired. I loved him, but my duty was to the taxpayers, and I had to do something that was actually obnoxious to me. If they had passed the hat, I would have put some money in it, but I did not think the taxpayers should be required to do that.

They say that now and then a person's thinking will be messed up by facts, and when we have our thinking messed up, we do not like facts. But to impugn the reputation of the finest agency in the Federal Government, the U.S. General Accounting Office, is going way, way too far. There are so few things today, so few public institutions in which we can have faith. I personally requested investigations by the GAO which disproved my original suspicion. I messed up my thinking with facts. In court they call that filing a motion to amend the facts.

Mr. Chairman, I think that passing this amendment would be as grievous a mistake, perhaps even a more grievous mistake than the horrible mistake that was made in the 1980's by reducing the auditors' activities among the S&L's in the United States.

Mr. Chairman, I hope that this amendment, therefore, will be rejected.

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will be brief. I am not a Republican and I am not a Democract. I am the only Independent in the House, so I am not going to get involved in the partisan aspects of the discussion, but this is what I do want to say: I do not claim expertise on the GAO, but I find it interesting that this discussion surfaces 2 days after the GAO published what I believe to be one of the most important reports this Congress has ever seen, and that is a comparison of the Canadian health care system to the American health care system. I think that what we are hearing today is an attempt to shoot the messenger because some people do not like the message that the GAO faithfully brought forth.

What did the GAO report say that is so odious to some people? They said that in Canada all people receive comprehensive health care without out-of-pocket expense. By God, is that not terrible?

They said that in Canada they are able to control health care inflation better than we are in the United States. Oh, that is terrible.

And they said that in Canada they have a lower infant mortality rate than we do, and they said that in Canada people live longer than our people do.

This report also said—and this is very terrible—that the American people should not be allowed to get this information, that despite all the advances of the Canadian system, they are spending 30 percent less per capita on health care than we are, and if we moved toward a single payer, with the Canadian style health care system, we could save $67 billion a year. Now, is that not a terrible thing to learn?

So my suggestion is that if there are people who do not like the concept of national health care or a single payer system, let us debate that issue, but let us not shoot the messenger for bringing forth an important message.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman for yielding.

The point, though, in the GAO study was not a comparison of the two systems and the relative merits of the two systems but only the fact that under the Canadian system we could save possibly $67 billion in administrative costs, and that goes to the point that the gentleman from Texas was bringing up earlier. They are comparing only administrative costs. We are putting a record out there for the American people, and part of the data base of information out there is inaccurate, because we are only presenting a very small part of a very large issue.

That is the point the gentleman from Texas was making, and the point here is that we are not talking about saving $67 billion in that system; we are only looking at administrative costs.

Another point I bring up is the point we had in agriculture where on the Export Guarantee Program we had some Members politically motivated who do not want to give credits to the Soviets.

Mr. SANDERS. Mr. Chairman, if I can get my time back, I would simply say in response that the gentleman is right, that the GAO suggested we could save $67 billion in administrative costs. The gentleman is aware, I am sure, that there are many medical economists who will argue that that is a conservative number, that in fact if we move toward a single payer system, we could save over $100 billion.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I am happy to yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I think it is terribly important, since that is a perfect example in a sense of the damage the GAO is capable of doing by examining too narrow a portion of a point, to remind the body as well as those listening that the reason administrative costs are different in Canada than they are in the United States is because the systems are very different and they reimburse many, many fewer specialists than we do in America. And that has consequences for both access and quality.

Mr. SANDERS. Mr. Chairman, I would simply say that we are presented in this body with a national health care system. I do not want to get into that debate right now. That is a good debate to get into, but let us not criticize the GAO because they stimulated this debate.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are hoping to wrap this up soon. Just before I yield to the gentleman from California [Mr. COX], the sponsor of this amendment, let me say that in past years there were two fiscal conservatives, Everett Dirksen and H.R. Gross, who served in this House and who were noted for their fiscal restraint. They must be smiling in their graves. I heard earlier some Member stand up and say that the GAO must be saving us tens of millions of dollars. Then I heard one Member—I think it was the gentleman from Florida, Mr. LARRY SMITH—stand up and say, "No, that is wrong; they are saving us $15 billion." Then I heard my friend, the gentleman from Michigan, Mr. JOHN DINGELL, stand up and say, "No, they are saving us hundreds of millions of dollars—no, I mean hundreds of billions of dollars."

Let me just tell the Members something. We talk about hospital care, and right now in the veterans' health care facilities across this country, in every one of our districts, there is right now a shortfall. American veterans are going without medical care services. Medical care alone in the VA hospital care system is short $154 million. In addition to that, VA medical research is short $33 million. Major construction in our VA hospitals in all of our districts is short $68 million. The National Cemetery System for our dying veterans is short $11 million. And the procurement of medical equipment in VA hospitals in our districts is short $80 million.

Mr. Chairman, if this amendment saves $177 million, I think it is money well saved.

Mr. Chairman, I now yield to the gentleman from California [Mr. COX].

The CHAIRMAN. The Chair would ask that the gentleman from New York remain on his feet while he yields to the gentleman from California.

Mr. COX of California. Mr. Chairman, I thank the gentleman from New York for yielding.

More than anyone else, I am anxious to wrap this up, because while I listened to the debate and I enjoyed it and the rhetoric was outstanding, I noted that we got very far off the track. This is my amendment, and let me tell the Members why I brought it here. It has nothing to do with most of the reasons I heard advanced. It certainly is not meant to impugn anyone's integrity in the General Accounting Office, which I think is doing a great job in a number of respects.

The purpose of my amendment is to get at our very serious problem of runaway deficit spending. The purpose of my amendment is to say that if you believe the General Accounting Office is doing a great job, if you believe we need this adjunct congressional staff now running over 4,000 people, let us fund it at an amount not to exceed one-third of a billion dollars.

□ 1710

Frankly, I am comfortable going back to California and telling my constituents that we can fund this one part of our congressional staff at one-third of a billion dollars. That is what this is all about.

Now, I heard a couple of things during debate that I think we ought to get clear. First, that the Comptroller General is appointed by a Republican President. All this political stuff is off the wall, because President Reagan appointed this person.

Well, President Reagan appointed this person under legislation established by Congress, from a list of people presented to him by the Congress. Even though I did not raise any political issues in my own remarks introducing this cost-cutting amendment, I will say that it is the New York Times that we can rely upon. We do not have to rely upon Republicans or Democrats to tell us whether there is politics involved.

The New York Times quoted Harry S. Havens, 1 of the 11 Assistant Comptroller Generals, who acknowledged, "Close ties between the GAO and Congressinal committees which often use the agency's research for partisan political ends, could pose significant risks to credibility for the watchdog agency."

It is tough to cut spending around here, but our deficit next year is going to run, we are told, over $400 billion. I do not want to cut spending on Medicare, I do not want to cut it on food stamps, cancer research, nor veterans. None of you does either. But we can cut our own staff, and that is what we are talking about here. Let us limit it to one-third of a billion dollars. I think that is plenty enough.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. COX].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COX of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 294, not voting 7, as follows:

[Roll No. 136]

AYES—130

Allard
Archer
Armey
Baker
Barrett
Barton
Bennett
Bentley
Bereuter
Bilirakis
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chandler
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Franks (CT)
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Regula
Rhodes
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Santorum
Saxton
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wylie
Zeliff
Zimmer

NOES—294

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Bateman
Beilenson
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin

Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Ritter
Roe
Roemer
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—7

Collins (IL)
Ford (TN)
Gephardt
Lehman (FL)
Matsui
Sisisky
Thomas (GA)

□ 1729

Mr. MOODY changed his vote from "aye" to "no".

Mr. PORTER changed his vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 40, after line 21, insert the following new section:

"SEC. 313. (a) Each House of Congress, and each other entity within the legislative branch, shall establish and implement a random controlled substances testing program for employees and officers, whether appointed or otherwise, within their respective bodies.

(b) For the purpose of this section, the term "controlled substance" has the meaning given such term by section 102 of the Controlled Substances Act.

Mr. FAZIO. Mr. Chairman, I reserve a point of order against the gentleman's amendment.

The CHAIRMAN. The gentleman from California [Mr. FAZIO] reserves a point of order.

Mr. SOLOMON. Mr. Chairman, I will be very brief. We are ending this bill very shortly, and I do not want to take up much time.

But let me just say that I would not be offering an amendment to an appropriations bill under ordinary circumstances. Because I am the ranking Republican on the Committee on Rules. I try very hard to obey the rules of the House. I urge all Member to do so.

But the truth is there is no authorization bill out there right now for the legislative branch. This bill is the only opportunity that I have. You all know that I have been offering amendments on bills for every department and agency and bureau of the Federal Government which would require random drug testing of Federal employees. It is only fair to them that we treat ourselves and our staff the same as we would hope to treat them. That is why I offer the amendment today.

Mr. Chairman, I do not mean to impugn the character or the integrity of any Member of this House or any Member of the legislative branch. Nor do I believe that any Member of this House does use illegal drugs, nor do I believe their staffs do. However, we do know that we have a terrible problem in the country, and we know that there is rampant drug use throughout America by many of our citizens.

Unfortunately, 75 percent of all the illegal drug use that takes place in the country today is used by casual drug users, usually those coming from the middle-class or from the upper-middle-class. That means that many people just like you and I, as Members of Congress from that same echelon, and many people on your staffs come from that same middle- or upper-middle-class constituency.

Therefore, I offer the amendment in hopes that we could set the example for not only the other Federal employees but for the private sector as well that we want to stop casual drug use in America. Let's lick this terrible problem that is facing us.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would rise in support of the gentleman's amendment if it is made in order.

I have introduced legislation, H.R. 17, that would require random drug testing of Members of Congress. It does not relate to the staff drug testing that is also in the amendment offered by the gentleman from New York.

My legislation has been referred to the Committee on House Administration on January 3, which was the first day that we could introduce legislation. There has been no hearing yet set on the legislation, and to my knowledge they are not planning any hearings. So this may be the only opportunity to get an amendment considered, and I personally think, as Members of Congress, we should set an example for the rest of the country.

We have a serious drug problem. We should be in the forefront of trying to help solve that problem, and the amendment offered by the gentleman from New York would certainly give us credibility in our efforts to get the rest of the country to help fight and win the war against drugs.

Mr. SOLOMON. Mr. Chairman, before yielding back the balance of my time, let me just say that I introduced a bill to try to get this amendment on the floor in the 101st Congress. It was pending before the Committee on House Administration for those years. I have now introduced it in this Congress. It is H.R. 2420.

Even though a point of order lies against the amendment, I would hope that the gentleman would allow a vote on this measure just to show the American people we are as sincere as they are in trying to do something about this terrible problem.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to be heard on his reservation of a point of order?

Mr. FAZIO. Mr. Chairman, I would simply say that the House does feel very deeply about the problem of drug abuse. We have a policy which has been promulgated by our Speaker, put into effect on October 2, 1990. I will place that in the RECORD:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, October 2, 1990.

DEAR COLLEAGUE: Substance abuse is a serious problem affecting many Americans throughout our Nation. The House of Representatives, as a governmental institution employing several thousand individuals, is committed to providing our employees, and those we serve, with a drug-free workplace. This statement is intended to articulate the policy designed to meet that goal.

The unauthorized possession, use, or distribution of controlled substances in the offices of the House of Representatives is violative of applicable laws. Furthermore, if such violations occur in the offices of the House of Representatives, it does not reflect creditably on the House of Representatives. Each employing authority in the House shall take appropriate action which may include termination or other properly available employment action, when such use, possession, or distribution occurs, depending upon the specific facts and circumstances of any such instance. It is fundamental to the employer-employee relationship that any policy concerning remedies with respect to possession or use of controlled substances in the workplace be administered in a humanitarian fashion. Therefore, in the administration of this drug-free workplace policy, remedial measures, such as counselling and rehabilitation, as well as the full range of properly available employment actions, may be and should be considered. With respect to counselling and rehabilitative services the Employee Assistance Program which is being established under the auspices of the Clerk of the House will provide one internally available resource for such services.

This policy is designed to ensure that workplaces in the House of Representatives be, in a manner consistent with law, free from the illegal use, possession, or distribution of controlled substances (as defined by the Controlled Substances Act) by the Members, officers, and employees of the House of Representatives.

Sincerely,

THOMAS S. FOLEY,
Speaker.

But at this point, I cannot accept the authorization language on this appropriation bill.

Mr. Chairman, I make a point of order against the amendment, because it proposes to change existing law and constitutes legislation in an appropriation bill and, therefore, violated clause 2 of rule XXI.

Mr. SOLOMON. Mr. Chairman, as I said before, I recognized that a point of order legitimately lies against the amendment, and rather than appeal to the Chair on something I know is correct, why, I am going to accept the ruling of the Chair.

The CHAIRMAN (Mr. DONNELLY). The Chair will rule that, for the reason stated by the gentleman from California [Mr. FAZIO], the point of order is sustained.

AMENDMENT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEWIS of California: Page 33, line 2, insert after "Congress" the following: ": *Provided further*, That none of the funds appropriated in this Act may be used for any assignment or detail of an officer or employee of the General Accounting Office to a committee of the House of Representatives for a period in excess of the period permitted under section 734 of title 31, United States Code".

Mr. FAZIO. Mr. Chairman, I reserve a point of order against the amendment offered by the gentleman from California [Mr. LEWIS].

The CHAIRMAN. The gentleman from California [Mr. FAZIO] reserves a point of order.

Mr. LEWIS of California. Mr. Chairman and my colleagues, the dialogue that I expected we might have on this amendment has largely taken place when we discussed detailees during debates on the earlier amendment cutting the appropriation to the GAO. Nonetheless, I think it is important that we highlight and bring to the attention of the Members a problem that is very significant in terms of the pattern and the fashion that detailees from GAO are used within our committees in the House.

The chart that I have before me makes a very significant point, and while it addresses only four committees in the House, it makes the point that Members on our side of the aisle are attempting to make. There is a pattern in the House of staffing within GAO that is becoming of great concern to those of us who have supported that agency because its purpose is to provide unbiased analysis of the work of the administration, reflecting the interests and concerns of Members on both sides of the aisle.

Currently we have in the House a circumstance that is very disconcerting to this Member, that is, that there is an imblance within our committee system in terms of staffing ratios that distinctly impact in a negative fashion the ability of the minority to be heard in the committee process.

To illustrate the point, in the Committee on Energy and Commerce, a committee we discussed earlier, there are 33 GAO detailees this year. Of the Energy and Commerce total investigative staffs, the majority has 92 staffers, the minority 13, a pattern of 88 percent of the staff going to the majority. You then add to that ratio the impact of detailees, and the staff ratios become 91 percent of the staff for the majority and 9 percent for the minority.

If the Members will peruse this chart, they can see the pattern continues, and it is creating a very significant pattern.

GAO DETAILEES IN 1990

Committee	Number of detailees	Investigative staff		Staff ratio		Staff ratio with detailees	
		Number majority	Number minority	Percent majority	Percent minority	Percent majority	Percent minority
Energy and Commerce	33	92	13	88	12	91	9
Government Operations	27	51	6	89	11	93	7
Banking	17	69	11	86	14	89	11
Judiciary	8	43	4	91	9	93	7

Source: Supplement to the Comptroller General's 1990 Annual Report 1990 Committee Budget Reqests.

□ 1740

My own Members are very concerned that the GAO detailees that are coming to our committee, at the direction of the chairman, rarely in the employ of a ranking member. Those detailees in some cases carry on professional work with a bias.

It is very important for Members to know that this growing pattern is the reason for the slant of the debate today from our side of the aisle—a growing concern where GAO details would take the important work of the House.

These detailees are professionals who, under the existing law, can work on a specific project for a committee up to a year. The law literally says they cannot extend beyond 1 year, but the fact is that going through the Committee on House Administration, a chairman often extends those detailees beyond a year or two, and those are the people that my amendment specifically concerns. To have a detailee of very intense professional background, serving a year in one of our committees or subcommittees, and then automatically to be available to the same committee, the same subcommittee, or another subcommittee of that full committee, for a second or a third year, creates, to say the least, a very difficult circumstance for the minority.

My amendment today essentially says that no funds will be expended for such detailees.

It has been suggested by some that the reason that the minority has relatively few detailees assigned to them is because we do not ask for them. The fact is, the chairmen of the committees ask for them on behalf of other people. The reality is that the minority finds itself in a circumstance where if they were to ask for such employees they do not have the space to put them in. So as a practical fact of life, the majority continues to dominate.

It is that concern that I am here to bring to the attention of the House, and I urge Members to support my amendment to eliminate this practice, which is part of the pattern of the way the committees are being staffed in the House.

The CHAIRMAN. Does the gentleman from California [Mr. FAZIO] wish to continue his reservation?

Mr. FAZIO. Mr. Chairman, I do not need to be heard on the reservation. I will move at some point, but I want to allow the gentleman from North Carolina [Mr. ROSE] and the gentleman from California [Mr. THOMAS], who wish to comment on this, to be heard before I offer my point of order. However, I would like to continue my reservation.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

I intend to support the gentleman from California [Mr. LEWIS]. I voted against the last amendment because I know the value of the General Accounting Office. I was one of those, in my leadership role, responsible for Mr. Boucher's appointment in the first place. He is a good personal friend of mine, and one who I served for many years on the Committee on Appropriations. That was natural to utilize to a great extent, the great work that is done by the General Accounting Office in supplying the Committee on Appropriations which I serve, the kind of documentation and voluminous reports over a long period of time.

Therefore, I know the value, and I just caught a few of the words of the gentleman from North Carolina in the earlier dialog that took place. He is eminently correct, but I think what is happening here, there has been a pattern that has evolved here that ought to be corrected. I am a leader on our side. I have a certain measure of power, certainly nothing that compares to the power of the Speaker. There is nothing wrong with that disparity, either. Each of the committee chairmen wield a great deal of power in this body; ranking members, a fraction of what power is. I would like to think all Members who have any measure of power to wield, that we would be fair and would not abuse that power.

I think the thing that rankles this Member, in the past there has been a pattern evolving here where one tends to get the feeling that these GAO people, and it is an arm of the people, are the handmaidens of just certain people, and all the information is privy only to that one individual, and ought to be disseminated either to the ranking member as a minority member or other members of the committee. I think that is unfair, and I am not altogether sure it is a good practice around here.

Therefore, all I am asking, and the distinguished gentleman from Michigan and I have had a conversation several times about it over a period of time, because he utilizes the GAO to a great extent. We have tremendous debates in this House on funding of committees and who gets how much staff and how much investigating staff, and the wide disparity between what Members on the majority side and what the minority gets on our side, so what we are raising, this was not raised because of the doggone report on the Canadian Health Plan, this is something that has been going on for quite sometime, and has nothing to do with the good work that GAO does. However, the process and the procedure in this House by which we utilize those people, that is what we are getting at here. I think there has to be some correction made, because otherwise we are going to continue to raise the question.

Now, the distinguished gentleman talks about the billions of dollars that are saved, and I agree with that. May be a little bit magnified, but when, for example, the last flap we had over investigating, what happened in the October surprise back in 1980 had nothing to do with dollars and cents. So I asked the Comptroller General in a letter dated May 20, I guess it was, how did this all come about, who authorized it? Who asked for it? When was it done? Well, it so happens I get a reply back that said they undertook the inquiry at the request of the chairman of the Committee on Government Operations, I guess at that time back in July 1990. I asked, what happened to the report? Well, we will put that all in the RECORD. The point being, it was not shared with any Member other than simply the chairman.

Now, I happen to think that in a matter of that concern that the ranking member of the Committee on Government Operations would certainly be entitled to at least ask, "Hey, what did you-all find out? Are we entitled to that?" They are an arm of the Congress, not an arm of one individual or one committee chairman. We would like to think we have a shared role in the responsibility of running this House in an orderly fashion. That is what our gritch is. It is not what the GAO does, or the number of employees they have doing whatever they do. They are good people and pursue their work. However, let Members face it, as an arm of the Congress, when they are asked by a man of influence in this body, they are going to have to respond.

My view, and my only point that I am trying to underscore, it seems to me that it ought to be done more on a bipartisan basis. Quite frankly, there are plenty of staff people on a partisan basis that can do it if it has to be done, playing it close to the belt or the vest, where they would be sure that the information were held only to the one side of the aisle or the other. Let Members face it, in some of our committees, we have minority staff, it is true. During my long tenure on the Committee on Appropriations I never thought in terms of a partisan staff. Shucks, we never had a point about it because we all worked in a very bipartisan way.

The other legislative committees admittedly tend to get minority/majority, and that is part of the process. All we are trying to underscore here, and I appreciate the gentleman from California raising the issue one more time, gentleman, it has been thoroughly aired and debated early on, I think, but we wanted to make the point abundantly clear what the real core and substance of our complaint was.

Mr. ROSE. Mr. Chairman, I move to strike the last word, and I will be very brief.

I would like to engage my colleague from California [Mr. THOMAS], the ranking member on the Committee on House Administration for just a few brief words. I have heard and listened with great interest to everything that has been said here. I understand the concerns that have been expressed and the explanations that have been given. The law states that the detailees from the General Accounting Office, before they can be authorized, must have the approval of the Committee on House Administration.

In other words, our committee is responsible for authorizing these positions. I want to pledge to the gentleman from California [Mr. LEWIS] and to Members of his side of the aisle that our committee will endeavor in the future to take a very close look at this process to see that the detailees are fairly authorized, and that some of the concerns the gentleman expressed, are looked into and met.

☐ 1750

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, as folks know, the Accounts Subcommittee of the House Administration Committee determines the investigative committee funding. Over the last several years, Republicans, as the leader indicated, have been concerned about the question of reasonable fairness in ratios.

In addition to that, although it is not under the jurisdiction of House Administration, there has been a concern about space. Everybody is concerned about space. We are concerned about a fair share allocation of space.

As the chairman correctly indicated, the underlying statute says that no one can have a detailee, and we have been focusing on the GAO here, but of course the Government Printing Office and a number of other agencies provide detailees as well; but no committee can have a detailee without written permission of House Administration.

It seems to me that if the gentleman from North Carolina, the chairman of the committee, is willing to work with the ranking member from California, we can set up a procedure somewhat akin to the investigative budget procedure in which the minority can be assured of some input on the decision on detailees. If that is what the gentleman is indicating, I think we can resolve the problem from our side of the aisle through the underlying statute portion of House Administration signing off.

Mr. ROSE. Mr. Chairman, I think the House knows and the gentleman from California knows that we have worked very hard this year at cooperation and making this place work smoothly and better.

I endorse the procedure that the gentleman has outlined in his comments and we will work together to see that this no longer becomes a problem to anybody.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, as the gentleman knows, this Member is very concerned about the pattern that has begun to develop relative to the detailees and their assignment in the House.

Between the years 1987 and 1990, the time that we have been able to get this information about numbers of detailees, starting in 1987 detailees in numbers of 119 have risen through 1990 to the number of 172, with a pattern of increase at levels of 17, 20, and 23 percent.

Having said that, those detailees carry on responsibilities in committees that very much appear to be developing a partisan slant.

It is my concern that both sides of the aisle have a chance to sign off on those kinds of assignments initially, and if that is what the gentleman is telling me that he is willing to do, then that changes the picture, at least for the short term considerably.

Mr. ROSE. Mr. Chairman, I am telling the gentleman that the gentleman from California [Mr. THOMAS] and I will agree on a system that will see that this is not a problem for the gentleman's side of the aisle, that will allow the work of the detailees to go forward, but just with the usual kind of way in which the gentleman from California [Mr. THOMAS] and I work together, I think the gentleman's concerns will be met.

Mr. Chairman, I yield to the gentleman from Kansas [Mr. ROBERTS], a member of my committee.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the Lewis amendment.

Mr. Chairman, I rise in support of Congressman JERRY LEWIS's amendment to better control the use of Government Accounting Office detailees in the House.

During fiscal year 1990, the Congress utilized the talents and skills of 130 GAO detailees. This service cost the GAO $5.3 million—in fiscal year 1990.

While I wish not to directly criticize the work these detailees provide—it is undoubtedly beneficial—I share my colleagues concern with their growing use in the House without cost accountability.

As explained by Congressman LEWIS, GAO detailees are brought to the House at the request of committees. They are responsible to investigate and retrieve information for the benefit of the committee. They play the role of committee staff with expertise in certain areas. Why shouldn't committee be expected to pay for their services?

The Lewis amendment is willing to allow committees to request and work GAO detailees for up to 1 year without having to pay their salaries—a generous compromise. It is offered to place financial burden-sharing on committee budgets and prevent abuse of the current system.

The Lewis amendment does not forbid, prevent, or hinder the use of GAO detailees. It corrects inequities and returns the system back to the intent of the law.

I urge my colleagues to support this amendment.

Mr. THOMAS of California. Mr. Chairman, if the gentleman will yield further, based upon this colloquy, is the gentleman interested in pursuing his amendment?

Mr. LEWIS of California. Mr. Chairman, will either of these gentleman yield?

Mr. ROSE. Mr. Chairman, I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, assuming that I understand our understanding, recognizing that we will be watching very closely in the near term, with that understanding I will withdraw my amendment.

Mr. ROSE. Mr. Chairman, I thank the gentleman. We will work together.

Mr. PORTER. Mr. Chairman, I want to commend my subcommittee chairman, the gentleman from California [Mr. FAZIO], and my ranking member also, the gentleman from California [Mr. LEWIS], and members of the committee for the fine job that they have done in bringing the bill together. I want to point out to the Members that this legislation contains some important environmental provisions that they ought to be aware of.

First, Mr. Chairman, we put in funding for the expansion of the office waste recycling program that is going forward in the House of Representatives, and we have also put in money for a comprehensive review of the lighting systems in the House, Senate, Capitol, and the Library of Congress. The review will be used to determine a schedule for retrofitting all of the systems with efficient lighting technology and work toward the goal of saving substantial amounts of money in that account.

Mr. Chairman, the bill also contains provisions regarding recycled paper, and we love to pat ourselves on the back and say that we use recycled paper in our work in the Congress. As a matter of fact, however, most of the paper that is used here is not really recycled paper. It is not paper that contains postconsumer waste paper: That is paper that has been used once and removed from the waste stream to be recycled.

Mr. Chairman, the Federal Government is the single largest user of paper in the world, using over 2 percent of all the paper used in the United States. There are many applications of paper that do not require highly reflective white paper, but paper that could contain postconsumer waste and may have a slightly gray hue to it. The Moore Business Forms Co., the largest purveyor of business forms in the world, has begun a process whereby it is using a great deal of postconsumer waste paper in its operations. It seems to me that the Government ought to take the lead as well, particularly in the use of forms within the Congress or forms within agencies like the Internal Revenue Service where we can stop the need to cut down virgin timber and create the same paper by using paper that has been truly recycled; that is, postconsumer waste paper.

Mr. Chairman, this would eventually, if we follow our good principles, create an entire new industry and make our society, our economy, a more dynamic one. It is a fine provision for conservation, and the bill contains extensive language requesting the Government Printing Office to report to the Congress a list of printing jobs that can be printed on real recycled paper. It suggests innovative uses of recycled paper for such bulky items as IRS tax documents.

Mr. Chairman, I commend the members of the committee for including these environmentally sound provisions in the bill.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from California [Mr. LEWIS] is withdrawn.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Legislative Branch Appropriations Act, 1992".

Mr. FAZIO. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. DONNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2506) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 308, nays 110, not voting 13, as follows:

[Roll No. 137]

YEAS—308

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Bateman
Beilenson

Bennett
Bentley
Berman
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sikorski
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NAYS—110

Allard
Archer
Armey
Ballenger
Barrett
Barton
Bereuter
Bilirakis
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Glickman
Goss
Gradison
Grandy
Hammerschmidt
Hancock
Hansen
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
McCandless
McCollum
McEwen
Meyers
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Packard
Pallone
Paxon
Petri
Pursell
Ramstad
Ravenel
Rhodes
Riggs
Ritter
Roberts
Rohrabacher
Roth
Santorum
Sarpalius
Saxton
Schaefer
Sensenbrenner
Shaw
Shays
Shuster
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Walker
Weber
Weldon
Wylie
Zeliff
Zimmer

NOT VOTING—13

Bevill
Byron
Collins (IL)
Fish
Ford (TN)
Gephardt
Gingrich
Lehman (FL)
Matsui
Sharp
Sisisky
Thomas (GA)
Torricelli

□ 1815

Mr. DORNAN of California changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATION BILL FOR FISCAL YEAR 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–98) on the resolution (H. Res. 165) waiving certain points of order during consideration of the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2519, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT APPROPRIATION BILL, FISCAL YEAR 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–99) on the resolution (H. Res. 166) waiving certain points of order during consideration of the bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PEDIATRIC AIDS AWARENESS WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 91) designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. ORTON). Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I take this time to yield to our colleague, the gentleman from New York [Mr. SERRANO], the chief sponsor of this joint resolution.

Mr. SERRANO. Mr. Speaker, I am very proud and pleased to have introduced the first resolution ever specifically directed to the alarming and increasing number of fatal cases of AIDs among our children.

House Joint Resolution 91 focuses attention on a tragic development affecting our most precious possession, the Nation's children.

The April 1991 statistics reported to the centers for disease control reveal 3,028 cases of pediatric AIDS resulting in 1,581 deaths. The alarming rate at which pediatric AIDS cases are being diagnosed indicates that by the end of 1992, the number of children infected with human immunal deficiency virus [HIV] will have doubled.

The highest numbers of pediatric AIDS cases as reported by the CDC in metropolitan cities include: New York 779 cases, Miami 171, Newark, 146, San Juan 111, Los Angeles 94, Washington 73, Boston 57, Philadelphia 56, Chicago

55, Baltimore 53, Houston 51, Atlanta 30, New Haven 28 and Detroit 25.

Mr. Speaker, my congressional district in the South Bronx is home to a large number of the economically and socially disadvantaged of New York City and the Nation. Is is the poorest district in the Nation, and it is bearing much of the brunt of the AIDS assault. Bronx newborns have the highest incidence of HIV seropositivity in New York City. As of March 1991 the New York City AIDS surveillance reported 189 pediatric cases in the Bronx. That is 27 percent of the total for all of New York City. The Bronx alone has 10 percent of the entire Nation's pediatric AIDS cases.

Ninety-one percent of all pediatric AIDS cases in New York City are African-American or Latino and from my district, the figure is 94 percent. New York City has 26 percent of national total reported pediatric AIDS cases. The tragic statistic that AIDS is the leading cause of death of children ages 1 to 4 in New York City is an indication of the dimension of the problem.

Mr. Speaker, these figures are alarming, but what is really frightening is that, for every child born or diagnosed with the AIDS virus disease there is another who is also infected, and a father, who also carries the disease.

□ 1820

Unprecedented numbers of newborn are at risk of abandonment as the maternal drug use continues to escalate. According to CDC statistics for April 1991 84 percent of pediatric aids cases reported resulted from mothers with HIV or at risk of HIV and intravenous drug use.

Mr. Speaker, House Joint Resolution 91 enjoys the strong bipartisan support of 220 Members of Congress and several national organizations each of which merits commendation here. They are Sunburst National AIDS project; the National Association of Children's Hospitals and related institutions; the Pediatric AIDS Foundation; Hostos AIDS task force; the National Puerto Rican Coalition; the National Black Child Development Institute; Child Welfare League; the National Coalition of Hispanic Health and Human Services Organization; the AIDS Interfaith Network; the National Minority AIDS Council; National Parents Council on AIDS; the Pediatric AIDS coalition; Northern Lights Alternative, New York.

Mr. Speaker, I would like very much to thank the members of the committee for giving me this opportunity to put forth this message, a message which I hope will alert our Nation and alert this House to the fact that this is a very serious problem. When we think of AIDS in this society, we think of older people. We do not think of children. Yet the children who day after day suffer in this society, now find themselves with something new to have to deal with.

Mr. Speaker, children who are born afflicted with AIDS are not wanted in this society. Children who are born suffering from AIDS are not being taken care of by parents who are also ill. Children who born with AIDS are looked upon as individuals with no rights in this society.

Mr. Speaker, I realize, having presented this as my first resolution, that resolutions like these simply call attention to matters. But it is my hope that the attention we call will make us think, think and realize, that the children have to be given an opportunity to grow up, and that we need to do whatever we can to help these little people in our society who have no one to defend them.

Mr. Speaker, my district is the poorest district in the Nation. On top of all the homelessness problems and the education problems and crime problems, we now find ourselves with children that no one really wants to deal with. I hope that this resolution will give us the opportunity to dedicate more of our efforts to helping the children.

Mr. Speaker, I urge Members to join me next week in raising awareness of HIV-infected children.

Mr. RIDGE. Mr. Speaker, I thank the gentleman from New York [Mr. SERRANO] for his sponsorship of this very important resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ORTON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 91

Whereas more than 157,525 individuals in the United States have been diagnosed with acquired immunodeficiency syndrome (commonly known as AIDS) and 98,530 have died from the disease;

Whereas the Public Health Service has estimated that there will be 365,000 cases of AIDS by the end of 1992 and that there are currently between 1,000,000 to 1,500,000 persons in the United States infected with the human immunodeficiency virus (commonly known as HIV) which causes AIDS;

Whereas heterosexual AIDS is not a myth as evidenced by the fact that the proportion of females with AIDS continues to rise, as does the number of pediatric AIDS cases of children infected perinatally;

Whereas pediatric AIDS refers to AIDS patients under the age of 13 at the time of being diagnosed with the disease;

Whereas the Centers for Disease Control has reported 2,734 cases of pediatric AIDS resulting in 1,423 deaths as of November 1990;

Whereas approximately 75 percent of teenagers in the United States have had sexual intercourse by the age of 19;

Whereas among the 25,000,000 adolescents between the ages of 13 and 19 there are subgroups who either have intercourse at an earlier age or whose patterns of sexual behavior put them at risk of becoming infected with HIV;

Whereas HIV-infected women can transmit the virus to their infants during pregnancy or at birth;

Whereas more than 80 percent of children with AIDS have a parent with, or at risk for, HIV infection;

Whereas 27 percent of reported pediatric AIDS cases in the United States have occurred in New York City and 74 percent of those are related to drug use by a parent or unprotected sexual activity;

Whereas 70 percent of women who are HIV-infected and 78 percent of children with pediatric AIDS are African-American or Latino, many of whom have experienced social and economic discrimination;

Whereas there have been 157 cases of pediatric AIDS reported to the Centers for Disease Control in Miami, Florida; 123 cases in Newark, New Jersey; 106 cases in San Juan, Puerto Rico; 90 cases in Los Angeles, California; 64 cases in Washington, District of Columbia; 53 cases in West Palm Beach, Florida; 53 cases in Philadelphia, Pennsylvania; 51 cases in Boston, Massachusetts; 50 cases in Chicago, Illinois; 49 cases in Baltimore, Maryland; and 45 cases in Houston, Texas;

Whereas schools across the Nation continue to discriminate against AIDS and HIV-infected children and their families;

Whereas there are increasing numbers of HIV-infected children and it is important that the people of the United States diligently seek preventative measures and better solutions to care for HIV-infected pregnant women, including helping them gain access to new delaying and preventative therapies to allow time for biomedical progress;

Whereas early intervention and educational resources must be made available to all citizens, especially adolescents, women who are drug abusers, and other high-risk groups to make them more aware of AIDS and the risks associated with engaging in unprotected sexual activity;

Whereas the Health Care Financing Administration and the Public Health Service should work with appropriate State officials to help design optimal care packages needed for children with AIDS or HIV infection; and

Whereas States and localities should recognize relatives as an appropriate source of foster care for children with AIDS whose parents can no longer care for them, subject to the same review and afforded the same benefits as other foster parents: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 10 through 16, 1991, is designated as "Pediatric AIDS Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL SCLERODERMA AWARENESS WEEK

Mr. SAWYER. Mr. President, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 219) to designate the second week in June, as "National Scleroderma Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of the gentleman from New Jersey [Mr. DWYER], who was the chief sponsor of this joint resolution.

Mr. DWYER of New Jersey. Mr. Speaker, I rise today to thank my colleagues for their help in ensuring the passage of House Joint Resolution 219, which will designate next week as "National Scleroderma Awareness Week."

Scleroderma affects the lives of 300,000 Americans. It is a chronic orphan disease of unknown origin and with no cure. It causes thickening and hardening of the skin due to a build up of collagen. Indeed, the word scleroderma means stone skin. In its most severe form, the hardening process spreads to the joints, causing decreased mobility, and to the body organs, causing functional impairment.

While scleroderma does strike both sexes, it predominantly occurs in otherwise healthy women between the ages of 25 and 55 years old. In fact, scleroderma occurs four times more frequently in women than men.

As in any other disease, early diagnosis is very important in treating scleroderma. While there is no cure for scleroderma, early diagnosis and treatment can slow the progression of the disease—but not always. Even with treatment, the prognosis for scleroderma patients varies widely; some experience remission, some have minor symptoms, while others develop life-threatening symptoms. In severe cases, sufferers develop kidney malfunction, respiratory weakness, heart spasms, digestive and intestinal problems.

Activities and events have been organized around the country to heighten public knowledge about scleroderma as well as make sufferers aware of presence of local scleroderma support groups. It is my hope that additional public interest and education in this disease will also mean additional interest in scleroderma by the scientific research community.

Despite the fact that 300,000 Americans suffer from this disease, the Federal commitment to eradicating this disease has been small. In fiscal year 1990, the National Institutes of Health [NIH] allocated $3.348 million for scleroderma. NIH further estimates that it will spend $3.8 million and $4.006 million, respectively, in fiscal years 1991 and 1992. The bulk of research into scleroderma is conducted by the National Institute of Arthritis, Musculoskeletal, and Skin Diseases [NIAMS]. NIAMS is supporting basic research into the vascular bed and the causes of scleroderma, what causes the body to make excess scar tissue, and potential environmental causes of scleroderma. The National Institute of Allergy and Infectious Diseases [NIAID] is studying the autoimmune nature of scleroderma. Additional research and research support on scleroderma is conducted by the National Institute for Dental Research and the National Center for Research Resources.

The Scleroderma Federation has also been providing scientists with vital research dollars. In 1989 and 1990, private fundraisinig efforts raised $650,000 and $750,000 respectively for scleroderma research.

Finally, I wish to thank the membership of the various scleroderma State and national societies for all their work on House Joint Resolution 219. Special thanks and acknowledgement must be given to Heidi Fox of the New Jersey Scleroderma Society for her untiring efforts and enthusiasm.

Mr. HAYES of Illinois. Mr. Speaker, as I considered adding my name as a sponsor to House Joint Resolution 219, which designates June 9–15, 1991 as "National Scleroderma Awareness Week," one of the interns working in my office this summer relayed to me her personal experience with the disease. Not only did her story encourage me to sponsor this measure, it also sensitized me to the need to educate the Nation about this potentially fatal disease. I would like to share Roni R. Little's personal comments with you today:

> At 11 years of age my mother was diagnosed as having lupus. It began with a bruise that would never go away, then there were mood swings, exhaustion and finally, shortness of breath. No doctor seemed to know what caused these problems. They thought it may be psychological. It definitely was not. No medical professional was sympathetic, no one seemed to really care. Now I know it was not that they were unsympathetic, they were merely ignorant of the symptoms of a potentially fatal disease.
>
> After a while, the medical specialists decided she was not suffering from Lupus, but it was another similar, incurable disease called Scleroderma. It took 2 years for the doctors to finally label the disease.
>
> Scleroderma is a rare and incurable disease resulting in hardening of the skin and organs. This disease is recognized as a horrible solidification of body tissue. Scleroderma is life threatening. The disease occurs four times as much in women as it does in men. It has an unknown origin and is often fatal. Translated literally, Scleroderma means hard skin. Scleros, meaning hard and Derma meaning skin.
>
> There was no medication to permanently stop my mother's back pains, her headaches or arthritis. Research was rare for this disease and still there is no cure.
>
> Eventually, the doctor said she would die. They informed my family my mother only had a few months to live. Perhaps there was peace for her in her death because she was always so tired, so completely lifeless during her illness.
>
> I desperately wanted someone to stop her pain. The doctors called it a common case, but where was the help, where was the wonder drug? Why didn't someone save my mother's life? It certainly was not common for our family as we struggled to deal with this crisis.
>
> As the years went by, my mother's will to live died. Within the last 4 months of her life her lungs hardened so she couldn't breath on her own. An oxygen tank was to be carted around with her both night and day. Work was impossible because she could barely move her hands or her legs.
>
> In the 2 years of my mother's illness she was not the only one in pain. Her children, her mother, and her friends were hurting, not physically, but emotionally.
>
> Scleroderma in any of its forms, whether it be life threatening or not, is more common than Muscular Dystrophy. Yet, scleroderma has less funding and is little known. The public should be more aware of those 400,000 Americans who suffer from a disease that has them encased in their own skin like mummies.
>
> As attention is slowly being drawn to the need to provide funding for research, the importance of designating a week to raise the public's awareness is greatly needed. I thank Congressman Dwyer for introducing this measure, and Congressman Hayes for lending his support. I encourage other members to do the same so those who suffer from scleroderma may not have to suffer as my mother did.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 219

Whereas scleroderma is a disease caused by the excess production of collagen, the main fibrous component of connective tissue, the affects of which are hardening of the skin and/or internal organs such as the esophagus, lungs, kidney, or heart;

Whereas approximately 300,000 people in the United States suffer from scleroderma with women of childbearing age outnumbering men three to one;

Whereas scleroderma a painful, crippling and disfiguring disease is most often progressive and can result in premature death;

Whereas the symptoms of scleroderma are variable which can complicate and confuse diagnosis;

Whereas the cause and cure of scleroderma are unknown; and

Whereas scleroderma is an orphan disease which requires intensive research to improve treatment as well as find the cause and cure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week June 9, 1991 is designated as "National Scleroderma Awareness Week", and the President of the United States is upon the people of the United States to observe the week with the appropriate ceremonies and activities.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SAWYER: Strike all after the resolving clause and insert the following:

That the week beginning June 9, 1991, is designated as "National Scleroderma Awareness Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. SAWYER].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. SAWYER: strike the preamble and insert the following:

Whereas scleroderma is a disease caused by excessive production of collagen, the main fibrous component of connective tissue, the effects of which are hardening of the skin and internal organs, such as the esophagus, lungs, kidney, and heart;

Whereas approximately 300,000 people in the United States suffer from scleroderma, and women of childbearing years suffer from the disease 3 times more frequently than men;

Whereas scleroderma, a painful, crippling, and disfiguring disease, is often progressive and can result in premature death;

Whereas the symptoms of scleroderma are variable and therefore complicate and confuse diagnosis of the disease;

Whereas the cause of and cure for scleroderma are unknown; and

Whereas scleroderma is an orphan disease that requires intensive research to improve treatment and to discover its cause and cure: Now, therefore, be it

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Ohio [Mr. SAWYER].

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "To designate the week beginning June 9, 1991, as 'National Scleroderma Awareness Week'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Joint Resolution 91 and House Joint Resolution 219, the two joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SUPPORT NATIONAL FEDERATION OF INDEPENDENT BUSINESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, this week more than 500 small business owners have been here in Washington to participate in a leadership forum of the National Federation of Independent Business.

Yesterday, I had the pleasure of meeting with a constituent who is here attending the NFIB forum. Jean Stinson, her mother and two of her sisters own R.W. Summer, a small contracting company in Bartow, FL, that repairs railroad track.

Jean and the other NFIB members I visited with talked about the difficulty and responsibility involved in meeting a payroll, complying with contradictory and confusing regulations and laws, the threat of costly lawsuits, and finding affordable heatlh care for themselves and their employees.

Jean Stinson and other small business owners share one common characteristic: they are all bottom-line oriented. They have to be.

What does that mean to all of us here in Congress?

My colleagues, it means that it is easy to say you're for small business. But your small business constituents aren't going to measure your performance by what you say alone. It is how you vote that really counts.

DISTRICT OF COLUMBIA GOVERNMENT'S 1992 BUDGET REQUEST AND 1991 BUDGET SUPPLEMENTAL REQUEST—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–95)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, Wednesday, June 5, 1991.)

ON AID TO YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes.

Mr. LIPINSKI. Mr. Speaker, the political crisis in Yugoslavia intensifies daily. As the four democratic Republics take steps toward sovereignty, the dominant Communist Republic of Serbia tightens its grip on the nation. The chasm between the Republics is growing, and I fear the likelihood of full-scale civil war in Yugoslavia is growing with it.

In the midst of the crisis, the administration decided last week to lift a ban on aid to Yugoslavia. I can only shake my head at this decision. Aid was automatically cut off on May 5 because of a stipulation in last fall's Foreign Operations Appropriations Act that Yugoslavia meet human rights standards. I was surprised and disappointed when Secretary Baker reinstated aid the following week. Yugoslavia—and specifically Serbia—is trampling Croatia's right to self-determination.

Serbia is engaged in a systematic effort to undermine Croatia's economic and political reforms and to control the smaller Republics future. This dispute, which began more than a year ago with the election of Western-oriented reformers in Croatia and Communists in Serbia, grows more bloody and more bitter by the day. In the last 2 months, violence between Croatian police and Serbian separatists living in Croatia has claimed dozens of lives. Croats see the uprising as a sign of Serbian ambition to dominate the nation and believe the Serbian Government is supplying arms to the separatists. Serbian calls for intervention by the Yugoslav Army are seen as a thinly disguised ploy to allow the Serbian-dominated Yugoslav Army to occupy and intimidate Croatia.

The bloody battles in the streets of Croatia are matched by the heavy-handed actions of the Serbian leadership in the staterooms. Just 2 weeks ago, Serbia and its allies blocked the rotation of the Federal Presidency to Croatia. This was in direct defiance of Yugoslavia's Constitution, which mandates a yearly rotation of the Presidency to a leader from each Republic. With the rotation still stalemated, Yugoslavia has no head of state and no commander in chief of its Armed Forces. In the words of the Slovenian Republic's President, Serbia had "staged a camouflaged coup d'etat."

Croatia will not sit idly by while its freedoms are crushed by its powerful neighbor. Croatian President Franjo Tudjman has publicly stated that Croatia will not stay in a united, Federal Yugoslavia. In a referendum on May 20, more than 90 percent of the Croatian people demonstrated their support for this position. In the wake of the overwhelming vote for independence, last week Croatia declared itself a sovereign, independent state.

With Croatian sovereignty being challenged by the Serbian coup, I question the wisdom of a United States policy that continues aid to Yugoslavia. I realize the $5 million designated for fiscal year 1991 is not monetarily significant, but sending even this small amount sends a loud and clear message to Serbia. It says to Serbia that you can do what you want within Yugoslavia. It's your business. We won't interfere in your internal matters.

This is exactly the wrong message we should be sending. After throwing off 45 years of inept Communist rule, Croatia's bold efforts to reform its economy and entrench democracy deserve our support. We must send a clear message to Croatia that the United States does not and will not support its oppressors. And we must stand solidly behind Croatia as it leads its neighboring Republics in the transformation to free-market democracy.

□ 1830

SEXUAL HARASSMENT AT THE PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

The SPEAKER pro tempore (Mr. ORTON). Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 60 minutes.

Mr. LIVINGSTON. Mr. Speaker, it's time to set the record straight. It's time to clear the good name and reputation of a dedicated public servant. And it's time to expose a villain and a sexual harasser who has tried to make a name for himself by defaming others.

Tonight, Mr. Speaker, I am going to tell you and the American people the facts concerning a small Federal organization within the executive branch called the President's Commission on Executive Exchange, the PCEE. This is not a pretty story, Mr. Speaker. It concerns a pattern of harassment of women and abusive behavior by a lone employee who thought he could bully his way to the top.

That, in one of itself, is an abominable situation. However, what has made the PCEE controversy so terribly unique is the degree to which the rules and regulations that are supposed to protect Government employees have been abused in a concerted effort to obscure the truth and to defame a lady who has tried to uphold these same regulations.

Unfortunately, the President's Commission on Executive Exchange has now been abolished. However, the issues raised in this controversy are still very much with us and will remain with us for a long time to come.

In brief, this is the true story of a PCEE employee named Gordon Hamel, who, for the better part of a year, continually harassed and abused his female coworkers and his boss, who was also a female. Hamel's boss, Betty Heitman, issued repeated warnings to him, nearly all of which went unheeded. On the verge of being fired, Gordon Hamel went to the Office of Personnel Management, accused PCEE of fraud and mismanagement, and proclaimed himself a whistleblower, thus immune from discipline.

In the months that followed, he seized on every opportunity to attack viciously and contemptuously his coworkers and Mrs. Heitman. It is, indeed, a sad story, but it holds lessons for all of us.

To start at the beginning, Mr. Speaker: The President's Commission on Executive Exchange [PCEE] was founded in 1969 for the purpose of placing corporation executives within the Federal Government for 1-year stints. In turn, Federal employees would spend a year in the private sector.

Each would learn a little about how the other side operates. Hopefully, a more harmonious, more efficient relationship between Government and industry would result.

In 1989, a fine lady named Betty Heitman took control of the Commission. I have known Betty Heitman for over 20 years. I knew her when she was an articulate spokeswomen in Louisiana politics. I watched as she ascended to ever-higher positions of national prominence, including becoming chairwoman of the National Federation of Republican Women and then cochair of the Republican National Committee.

A more honest and decent person there could not be. Her reputation was impeccable and for that reason, in 1989, newly elected President George Bush selected her to run PCEE.

One would hope and expect that in an operation the size of the President's Commission on Executive Exchange—10 people who worked out of a townhouse across Pennsylvania Avenue from the White House—that there would be a certain collegiality, a certain sense of teamwork.

Well, you would expect that, but that was not the case. Mr. Gordon Hamel, the Director of Personnel at the Commission, did not see himself as a team player. Instead, he saw himself as a one-man show. Early on in his tenure, he determined that, in his own eyes, he was better than everyone else at the Commission; that he could do as he pleased; and that his coworkers—particularly his female coworkers—were objects to be alternatively toyed with and then cut off at the knees at his discretion.

Do I exaggerate? Mr. Speaker, at this point, I would like to read into the RECORD a statement of facts prepared by the U.S. Justice Department concerning Gordon Hamel. It is—in its entirety—based on statements of Mr. Hamel's coworkers—statements made under oath and under penalty of perjury.

This statement of facts paints a portrait of a man with a raging combination of insecurity and paranoia.

I designate this as exhibit A which I will read in its entirety.

EXHIBIT A

STATEMENT OF FACTS

Shortly after starting work as Director of Placement at the President's Commission on Executive Exchange, Mr. Gordon Hamel began having confrontations with his supervisors and other staff members of the PCEE. At first, these incidents took the form of verbal harangues by appellant against the female employees of the PCEE. As the frequency and seriousness of these encounters increased, appellant increasingly employed sexually explicit language and sexual innuendo. Mr. Hamel was also immediately at odds with his immediate supervisor, Mr. Jack Finberg, and frequently complained of him to Mrs. Heitman (Heitman Decl. ¶¶12–16; Finberg Decl. ¶¶7–8; 10–13; Farrel Decl. ¶¶3–4; Fader Decl. ¶¶2–8).

By February 1990, the PCEE had contacted OPM for guidance in dealing with the disruptive conduct of appellant (Brooks Decl. ¶3). At this time, Mrs. Heitman counselled appellant twice in order to inform him that his conduct was unacceptable (Heitman Decl. ¶16). However, Mr. Hamel's abusive conduct towards his female co-workers continued unabated.

Throughout March and April of 1990, the PCEE was in constant contact with OPM concerning the conduct of appellant, and in April, with the help of OPM, Mrs. Heitman began drafting a counseling memorandum to him (Heitman Decl. ¶17; Brooks Decl. ¶¶4–5; Ramon Decl. ¶¶2–3; Finberg Decl. ¶¶14–15; Fader Decl. ¶9).

During Spring 1990, appellant frequently claimed to Mrs. Heitman and Mr. Finberg that he was in possession of documentation evidencing mismanagement at the PCEE. But each time his supervisors asked him to provide them with this information so that they could take any necessary corrective action, appellant refused to cooperate (Heitman Decl. ¶¶13; Finberg Decl. ¶¶18–19).

On May 3, 1990, Mr. Hamel indicated that he felt the PCEE was about to take adverse action against him (Agency File, Tab 2). On May 7, 1990, appellant disclosed his allegations of mismanagement to officials at OPM (Phillips Decl. ¶2). At this point, appellant claims to have become a "whistleblower", entitled to the protections of the Whistleblower Protection Act. Upon learning of these disclosures, Mrs. Heitman immediately requested that OPM perform a management audit of the PCEE (Agency File, Tab 4).

During Summer 1990, Mr. Hamel began contacting executives who had participated in the PCEE's programs. During his conversations with these executives, Mr. Hamel spoke derogatorily of the PCEE and its Chief of Staff. In addition, he solicited negative comments about the PCEE from the executives. Several of these executives contacted Mrs. Heitman to express their opinion that Mr. Hamel had conducted himself in an unprofessional and inappropriate fashion. They also felt that the incidents reflected poorly on the PCEE (Heitman Decl. ¶¶28–33, 42; Gallogly Decl. ¶5; Somers Decl. ¶¶6–8; Phelps Decl. ¶4; Walther Decl. ¶¶4, 6; Hogan Decl. ¶4; *See* Agency File, Tabs 11–15).

At the same time, appellant continued to engage in abusive conduct and sexual harassment, including one incident involving a college student working at the PCEE (Decl. ¶¶5–10). In July 1990, two female employees of the PCEE sent Mrs. Heitman formal complaints of sexual harassment by appellant (Agency File, Tabs 8–9).

Mr. Hamel continued to claim that he had a "thick file" of information documenting improper practices at the PCEE. Once again, however, he continued to withhold this information, and during one incident, he claimed to be doing so on the advice of counsel (Heitman Decl. ¶¶35–36; Finberg Decl. ¶19). Also, on several occasions, appellant offered to surrender his file to Mrs. Heitman in exchange for various favors including an "outstanding" performance rating and assistance in finding a job at another agency (Heitman Decl. ¶37; Finberg Decl. ¶19). Mrs. Heitman, however, refused to trade favors for information, and reminded Mr. Hamel that it was his obligation to provide his supervisor with any information in his possession about mismanagement at the PCEE. Appellant remained unswayed, preferring to keep his information to himself. *Id.*

By August 1990, as a result of appellant's misconduct, the situation at the PCEE had deteriorated to the point where it was determined necessary to place him on administrative leave (Heitman Decl. ¶¶39–41). Because of the seriousness of appellant's misconduct

> and his inability to respond to counseling, the PCEE felt it had no choice other than to issue a notice of proposed removal of Mr. Hamel (Heitman Decl. ¶¶43, 45; Agency File, Tab 1).
>
> Soon thereafter, this matter became the subject of Congressional hearings. In addition, appellant has contacted the Office of Special Counsel, which is currently conducting an investigation of this incident. Furthermore, appellant is challenging the notice of proposed removal, which is currently pending before Mrs. Mae Sue Talley, the Deciding Official. In addition to all these other proceedings, appellant has also filed an appeal before the Board to seek review of the PCEE's actions regarding him.

□ 1840

One wishes this were it, Mr. Speaker. Unfortunately, the statement of facts does not convey the true despicable nature of what Mr. Hamel did at the commission. The statement reads like a dispassionate, lawyerly brief—which, in fact, it is. But to capture the true nature of what work must have been like at the Commission, I will now read from the prepared testimony that the Commission's director, Betty Heitman, delivered before a Congressional subcommittee on 10 December 1990:

Ms. Heitman testified that:

> From the very outset of Mr. Hamel's arrival at the Commission, his relationship with the staff in general and me as his supervisor in particular has gone downhill. I had placed enough faith in Mr. Hamel when I had worked with him previously to offer him the position of chief of staff upon my taking on the position of Executive Director. My faith in Mr. Hamel has been diminished, not because he has attempted to claim himself a whistleblower but because he has repeatedly denied the responsibilities of his misconduct while at the Commission.
>
> All individuals employed in the Federal and private sectors deserve to work in an environment without disruption, without references to sexual innuendo, and without cause for intimidation.
>
> Just as critical, management of any organization, whether large or small, and in our case we have only ten staff members, requires that there be a line of authority which supervisors must have in maintaining the conduct of business. In the case of Mr. Hamel, it was his insubordination that I have called into question. His abusive language, his outburst of rage, and his methods of sowing seeds of discontent among my staff are legend.
>
> In phone call after phone call, Mr. Chairman, Gordon Hamel sought to discredit his superiors and to gain the confidence of the executives towards his own vicious efforts. His references to sexual innuendo with one of our executives factually documents Mr. Hamel's poor judgement. His references in wishing to take over his bosses' position because Gordon Hamel thought he could do a better job is insubordination through and through. But his crass and rude remarks to one of the executives and to one of our corporate sponsors cuts against all means of integrity and loyalty.

She goes on to say:

> But most of all, most critical to my concerns about Mr. Hamel's misconduct with regards to our internal operations has been his treatment of women. To use the phrase D—— H—— consistently and to demean women in our office by calling them C—— in front of their superiors or fellow staff members is not only inappropriate behavior for a profesional but it is inappropriate on a staff comprised nearly all of women. We do not have on our commission an office of EEOC * * * We can only turn to the advice of the Office of Personnel Management. Sexual harrassment in the workplace, as Congress has just recently reviewed and debated, is an injustice to all women. Mr. Hamel's repeated use of phrases such as D—— H—— and C—— was an issue that I visited with him and warned him about such behavior. It is obvious that my warnings required written followup. * * * But in my experience when a supervisor warns a staff member about sexual harrassment the message should have gotten through.

She then summarizes her testimony, again, marked exhibit B, with the following:

> Mr. Hamel may wish to paint a picture that his world shows him as the hero, a man whose interest is the taxpayer and the integrity of the Federal employee. Mr. Hamel is a disruptive and manipulating individual who in one minute is concerned about management practices of the Commission and in the next minute is conducting a vicious smear tactic with the very executives with whom our mission is to build trust and support for the Federal process. You cannot have it both ways, saint-and-sinner, and Mr. Hamel wants it both ways.

EXHIBIT B

TESTIMONY OF BETTY HEITMAN, EXECUTIVE DIRECTOR, PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

Chairman Lantos and subcommittee staff, thank you for this opportunity to discuss at the outset the Commission on Executive Exchange and my service as Excutive Director. While a public hearing is not the arena to discuss the circumstances of a personnel action between an employee and his employer, I am prepared to respond to the questions of the subcommittee relevant to the decision to propose an adverse action and the activities leading up to this decision.

As I outlined in my meeting, Mr. Chairman, with Mr. Weisburg and Ms. Nelson, my service in the Federal Government has been limited to my current position. I have had a wide array of managerial experiences in my life, but I do not have the long-standing experience Mr. Hamel has had in personnel issues and the guidelines available to respond to an individual's misconduct while in the employ of the Federal Government.

It would appear that my lack of personnel experience has been complicated by factors involving the ability of Mr. Hamel to move much faster in his actions than in my ability to correctly dicipline him for his misconduct. And it would appear that in the case of Mr. Hamel's actions, a best defense when you know that your conduct is coming into question is to go on the offensive.

From the very outset of Mr. Hamel's arrival at the Commission, his relationship with the staff in general and me as his supervisor in particular has gone downhill. I had placed enough faith in Mr. Hamel when I had worked with him previously to offer him the position of chief of staff upon my taking on the position of Executive Director. My faith in Mr. Hamel has been diminished, not because he has attempted to claim himself a whistleblower but because he has repeatedly denied the responsibilities of his misconduct while at the Commission.

All individuals employed in the Federal and private sectors deserve to work in an environment without disruption, without references to sexual innuendo, and without cause for intimidation.

Just as critical, management of any organization, whether large or small, and in our case we have only ten staff members, requires that there be a line of authority which supervisors must have in maintaining the conduct of business. In the case of Mr. Hamel, it was his insubordination that I have called into question. His abusive language, his outburst of rage, and his methods of sowing seeds of discontent among my staff are legend.

In phone call after phone call, Mr. Chairman, Gordon Hamel sought to discredit his superiors and to gain the confidence of the executive towards his own vicious efforts. His references to sexual innuendo with one of our executives factually documents Mr. Hamel's poor judgement. His references in wishing to take over his bosses' position because Gordon Hamel thought he could do a better job is insubordination through and through. But his crass and rude remarks to one of the executives and to one of our corporate sponsors cuts against all means of integrity and loyalty.

Let's discuss Mr. Hamel's allegations of waste, mismanagement, fraud and abuse. Are these the allegations that on two occasions I asked Mr. Hamel to present to me so that I could make appropriate changes? Are these the unsubstantiated allegations on those two occasions that Mr. Hamel said he would present to me, his superior, and for which he responded that his attorney told him to not share them with me? Are these the same allegations that Mr. Hamel to this very date has not presented to me in either oral or written form but continues to tell me he has a file that he is building to prove his points?

And are these the same unsubstantiated allegations, Mr. Chairman, that I called upon the Office of Personnel Management to investigate and for which the Parker management audit was conducted? Are these the same unspoken allegations that I called upon the inspector general of OPM to conduct a full investigation?

Mr. Chairman, I come from Louisiana and we have a belief down there that you have to question the rooster who believes that because of his crowing the sun rises in the morning.

No one can dispute the fact that the 1986 OPM general counsel opinion which basically give the Commission the okay to use the revolving funds or funds we collect from fees was wrong. This is the same opinion that stayed on the books until late April, early May of this year. I did not know we were in conflict with existing present day regulations and both the Parker Report and the inspector general's report verify that. But it was one of my other staff members and not Mr. Hamel who caused the Commission to seek out the General Accounting Office and the OPM general counsel's office review of the old 1986 opinion. As a result of the newly issued, May 1990 opinion, the Commission is presently conducting its business in line with all current Federal acquisition regulations and policies. And I immediately asked the Commission staff to implement that practice upon receiving the new OPM opinion in May of this year.

Does my decision to propose Mr. Hamel's removal from Federal service do an injustice to the whistleblower protections provided under the act of 1989? If the subcommittee is truly interested in both sides of the Gordon

Hamel story then I think no one can refute two vital facts about this case:

First, my decision and all of the documents and the timing of this decision are purely based on the charges of misconduct by Mr. Hamel. I should have known and called into question my judgement of Mr. Hamel when way back in early February when Mr. Hamel could not obtain White House clearance. It was then that he demonstrated his conniving behavior, asking me to gain his clearance based on my good word of his character, seeking my loyalty.

Second, does the subcommittee think for one minute that I would take an adverse action to remove Mr. Hamel from his current position lightly knowing full well that the Commission carries both the title of the President and the White House with it?

But more importantly, I have asked for deliberative review of all legislation and law to ensure impartiality in deciding Mr. Hamel's fate. The subcommittee obviously calls into question both the Justice Department's involvement in this case and determination of selecting one of our Commission appointees as the deciding official for Mr. Hamel's proposed removal.

But most of all, most critical to my concerns about Mr. Hamel's misconduct with regards to our internal operations has been his treatment of women. To use the phrase "d - - - h - - -" consistently and to demean women in our office by calling them "c - - - -" in front of their superiors or fellow staff members is not only inappropriate behavior for a professional but it is inappropriate on a staff comprised nearly all of women. We do not have on our Commission an office of EEOC. We can only turn to the advice of the Office of Personnel Management. Sexual harrassment in the workplace, as Congress has just recently reviewed and debated, is an injustice to all women. Mr. Hamel's repeated use of phrases such as "d - - - h - - -" and "c - - -" was an issue that I visited with him and warned him about such behavior. It is obvious that my warnings required written followup. But in my experience when a supervisor warns a staff member about sexual harrassment the message should have gotten through.

Those who wish to skim the surface of the concerns to be discussed today believe that this is a debate about retaliation against a whistleblower. That is Mr. Hamel's position. It has been my position all along that Mr. Hamel has desired nothing more than to coerce and threaten me into providing him with the things he requested as a trade off for not going to the IG, or not going to the special counsel. On no less than three occasions, Mr. Hamel stated either to me directly or through one of my staff members of his willingness to drop his actions with the IG or other investigative bodies in return for me providing the college course he wanted, an outstanding performance rating, or for me to find him another GM 15 position at another agency in the Federal Government. Mr. Hamel wanted the Commission to pay for college courses that he knew would lead towards his finally gaining a college degree. The Commission was not then and still is not now in a position to pay for his college courses as long as those courses did not relate to his training for the purposes of his carrying out his functions.

While the subcommittee has an interest in discussing our actions against Mr. Hamel for his alleged whistleblowing, I maintain that the whole story needs airing. I have provided to the subcommittee viz and viz this presentation the letters from members of last year's Executive Exchange Program. These letters were generated after I received numerous calls from almost every executive in last year's group. I asked them to document for the record in their own words the calls they had received from Mr. Hamel; calls that were inappropriate, full of mean-spiritedness, and with a desire on Mr. Hamel's part to do damage to the reputation of the Commission. When Mr. Hamel learned that he would not be placed in charge of the Commission while I was away and that another person with another rank would be in charge, I believe he decided then to hurt the Commission and embarrass me.

The subcommittee knows that because of the status of this case, and as long as there is a pending personnel action, it is inappropriate for me to discuss the advice I was given under client privilege and I have asked Mr. Ramon, general counsel of OPM to stay within those parameters in his testimony today.

One last critical question seems to be the timing of all events surrounding this case. And again I must point out that I alone have no background in personnel issues and personnel disciplinary actions. What was I as a manager to do?

I must call upon those who have the knowledge to advise me in my deliberations and directions. I thought I was doing the right thing in discussing Mr. Hamel's sexual harassment and inappropriate contact with our executives with Mr. Hamel directly first. And as a side note, Mr. Chairman, let me point out Mr. Hamel has still continued to contact our executives inappropriately.

Mr. Hamel may wish to paint a picture that his world shows him as the hero, a man whose interest is the taxpayer and the integrity of the Federal employee. Mr. Hamel is a disruptive and manipulating individual who in one minute is concerned about management practices of the Commission and in the next minute is conducting a vicious smear tactic with the very executives with whom our mission is to build trust and support for the Federal process. You cannot have it both ways, saint and sinner, and Mr. Hamel wants it both ways.

This sort of behavior—crude sexual harassment, verbal abuse, insubordination—was quickly earning Mr. Hamel a one-way ticket to the unemployment line he so richly deserved. Unfortunately, Hamel had his own bag of tricks.

Timing is critical, Mr. Speaker, and so I want to give a chronology of the events surrounding Mr. Hamel's departure from the PCEE. Some of this was in the statement of facts which I earlier read into the RECORD, but I think it is worth going over again:

In February and March 1990, PCEE staffers approached OPM about Gordon Hamel's repeated pattern of insubordination, harassment and abuse of female coworkers.

On May 3, 1990, OPM investigators went to PCEE to follow up these charges. This we know from OPM, but conveniently enough, we also have a memo to file from Gordon Hamel himself, dated May 3, 1990. Mr. Speaker, I'd like to read this memo, which I'll call exhibit G, into the RECORD. This memo states unequivocally,

Mr. Brooke (black gentleman) and female associate came to office 12:00 to see Jackie Feder and Jack [a reference to chief of staff Jack Finberg] both of them went behind closed doors. I don't know what's up and I really don't care, but I expect that they are still trying to find a way to get rid of me.

EXHIBIT G

MEMO TO FILE FROM GORDON HAMEL

I spoke to Jack this a.m. re: the calls that must be made to [illegible]. During the course of the conversation in which I told him I thought he had mishandled the legislation, he got angry and stated that the reason he had been [illegible] toward me was because I had told Betty that I felt Jack had mishandled the U.S.A. Jack further stated [illegible].

Mr. Brooke (black gentleman) and female associate came to office 12:00 to see Jackie Feder & Jack both of them went behind closed doors. I don't know what's up and I really don't care but I expect that they are still trying to find a way to get rid of me.

Again, timing is everything. This was May 3, 1990. Gordon Hamel knew he has gone too far in his harassment of female employees and his insubordination and abuse of Betty Heitman. He knew his deeds were catching up with him. So what does he do:

On May 7, 1990—4 days after the OPM investigators went to the Commission—Hamel himself went to OPM, threw out some allegations of mismanagement, and subsequently declared himself a whistleblower in an attempt to gain protection under the Whistleblower Protection Act of 1989.

Mr. Speaker, do you remember the old line about the true definition of gall? It's a child who kills his parents and then pleads with the court for clemency on the grounds that he is an orphan.

That is precisely the sort of cynical manipulation of well-intentioned public law that has become Gordon Hamel's hallmark. Let me be clear, Mr. Speaker. It is vital to the functioning of Government that workers are allowed to speak their mind, in particular, when they perceive problems. The Whistleblower Protection Act is designed to protect them. The act is emphatically not designed to provide a cover—a shield—for Federal employees who simply cannot work within the Government's system. Yet that is exactly what Gordon Hamel was trying—indeed, is still trying—to do.

On August 2, 1990, PCEE director Betty Heitman could take no more of Hamel's repeated pattern of sexual harassment and abuse. She placed Gordon Hamel on administrative leave and had him escorted from the building—terminated with pay.

LIST OF GOVERNMENT INVESTIGATIONS SPAWNED BY GORDON HAMEL

(1) Two separate, distinct investigations were done by the Office of Personnel Management, Inspector General.

(2) The Office of Special Counsel (an independent agency) investigated whether Hamel was protected under the Whistleblower Protection Act.

(3) The Government Accounting Office is preparing an audit report on the PCEE. (this

will be released at the Lantos hearing for the first time)

(4) The Merit Systems Protection Board was considering the adverse personnel actions taken against Hamel by the PCEE.

(5) One hearing has been held by the Committee on Government Operations Subcommittee on Employment and Housing and a second is scheduled for Monday, June 10.

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Unfortunately for Betty Heitman—and for anyone else who believes in truth and fair play—that action threw her into a modern-day, 10-month-long Kafka trial. During that time, she saw press reports of selectively leaked information designed to make her seem the villain. She has had to watch Gordon Hamel make wild charges against her, knowing that she cannot respond because of Federal statutes. She has even had to endure a congressional subcommittee investigation—supposedly a dispassionate investigation into the facts—in which the subcommitte chairman interrupted her nearly 40 times during her answers.

In short, Mr. Speaker, to paraphrase Shakespeare, "Fair became foul and foul became fair." Let me cite a few examples:

Hamel enthusiastically cooperated with the syndicated TV show, "Hard Copy," feeding them through crocodile tears his imaginative yarn about his supposedly heroic whistleblower attempts. He posed for photos and video footage; he openly discussed both his public and personal lives; he taunted the very people he formerly abused.

I cite the following quotes from Hamel that appeared on that TV show, "Hard Copy." On Betty Heitman, he said:

> I thought she was a very pleasant person who had a lot of responsibilities and duties and was a little bit confused about how she was going to accomplish what she had to.

On the executives at PCEE, including Mrs. Heitman, he said:

> My personal feeling is that they wanted to run it like one of the political parties around town and just let one party in.

On himself, Saint Gordon modestly admits:

> I think I'm acerbic at times. I don't pull punches.

What a guy.

On Heitman's charges against him, Hamel declared:

> It was very difficult for me to understand exactly what Mrs. Heitman was accusing me of. She keeps alluding to numerous instances of all kinds of things happening, but she's not specific about anything.

That, Mr. Speaker, is an outright, demonstrable, provable lie as Gordon Hamel knows full-well. More about that in a moment.

In addition to the Hard Copy report, there was a Jack Anderson column on March 18, 1991, that also swallowed Hamel's distortions hook, line, and sinker.

Gordon Hamel was thus clearly showboating for the media. But he very deviously refused to sign a waiver to the Federal Privacy Act—as was his right. His refusal to sign meant that while Betty Heitman and her good name and reputation had to endure repeated slings and arrows from Hamel, she was not allowed to divulge even the most basic substantiation of her charges. Had she done so, she would have been in violation of Federal law.

Fortunately, Mr. Speaker, I have seen depositions made by Mr. Hamel's coworkers—not only at the Commission, but also at the General Services Administration, where he worked prior to PCEE. Contained in these depositions—and I emphasize that they are legal documents made under oath and under threat of perjury—is a remarkable amount of information that is very revealing about this character's true nature.

Let me read some of the more interesting items; and these items are from exhibit C as follows:

EXHIBIT C

SYNOPSIS PREPARED BY BOB LIVINGSTON OF SWORN DECLARATIONS OF WITNESSES TO GORDON HAMEL'S ACTIONS

(1) Hamel was having trouble while at GSA getting promoted to GS-15. (Heitman p. 2/3)

(2) Hamel was unable to obtain White House Security Clearance due to past misconduct. (Heitman p. 3)

(3) Hamel denigrated Mr. Finberg, his superior, behind his back and to Betty but would not offer corroborating evidence when asked. (Heitman p. 3/4, Gallogly p. 2, Walther p. 2, Somers p. 2)

(4) A number of female PCEE employees complained about Hamel's unprofessional language, sexual innuendo, and abusive attitude towards females in general. (Heitman p. 4, Finberg p. 3, see also Brooks p. 2, Ramon p. 1, Laflam p. 2)

(5) Specific allegations of abusive behavior and sexual harassment are made by Jackie Fader, a PCEE employee, to Betty about Hamel. (Heitman p. 4)

(6) Specific allegations of abusive behavior and sexual harassment are made by Trish Farrell, a PCEE employee, about Hamel. (Heitman p. 5, Finberg p. 3)

(7) Hamel disregarded Betty's instructions not to confront Ms. Farrell about the above sexual harassment allegations and did so in a hostile manner. (Heitman p. 6)

(8) Hamel went to lunch with Betty during which he repeatedly criticized Finberg and alleged mismanagement. At this time, he told Betty that he had talked with Bill Phillips, Deputy Director of OPM and alleged mismanagement at PCEE. Hamel had yet to bring specific criticisms to Betty so that she could attempt to correct any problems. (Heitman p. 7)

(9) Hamel abusively derided Betty about her performance at PCEE in her office in a loud tone overheard by other staff members. (Heitman p. 8)

(10) Hamel obtained possession of PCEE employee timecards although he had no legitimate access to them. (Heitman P. 9)

(11) Hamel rudely treated Ms. Sandra Arangio, a corporate executive with the John Hancock Co. resulting in a phone call from her to Betty about Hamel's abusive behavior. (Heitman p. 9/10)

(12) Hamel again loudly yelled at Betty in her office and this time refused to leave when asked. Betty was forced to leave her own office to terminate an encounter she felt was threatening and distasteful. (Heitman p. 10)

(13) Hamel unilaterally contacted various corporate executives who had participated in PCEE programs and attempted to solicit negative comments about PCEE employees and programs. These contacts resulted in complaints by the executives to Betty about Hamel's inappropriate behavior. Among those contacted who found Hamel's conduct offensive are: Ivan Somers, Jim Gallogly (a federal executive), Andrew Phelps, Larry Walther, and Alice Hogan. (Heitman p. 10–13, Gallogly p. 1/2, Walther p. 2, Hogan p. 2, Somers p. 2)

(14) July 13, 1990—Hamel gave a memo addressed to Betty and dated June 15, 1990 to Jack Finberg which alleged a conflict of interest on the part of a participating executive which possibly could have created some irregularities in the PCEE procurement process. Hamel would not name the executive nor would he provide further details when asked. Betty had not seen the memo before this time. (Heitman p. 13)

(15) Hamel offered to drop all charges he had levied against the PCEE including those made to the Inspector General (IG) if Betty would give him a outstanding rating (which results in a bonus), pay for his college courses (so that he could finally obtain a college degree), and allow him to hire an assistant of his choice OR if Betty would get him a GS-15 job at another agency. Hamel made a similar offer to Finberg. (Heitman p. 14, Finberg p. 5, see also Brooks p. 2)

(16) A 20 year old college intern, Brigid Raczynski, is brought to tears at the prospect of working alone in the office with Hamel. (Heitman p. 15, Raczynski p. 2, Finberg p. 3)

(17) Other female staff members tell Betty that they are afraid of Hamel. (Heitman p. 15)

(18) Hamel caressed the shoulders of a 20 year old college intern working at the PCEE causing her to move away from him. (Raczynski p. 2, Heitman p. 19, Finberg p. 3)

(19) Betty is contacted by Ms. Joan Rodney of General Motors who states that someone had phoned her claiming to be Betty's superior at PCEE. This male misrepresented facts and used high pressure tactics in an attempt to force GM to provide an assignment for a public sector executive. Betty felt that this phone call could only have come from Hamel as placement of Federal executives was one of his primary responsibilities. (Heitman p. 16)

(20) Hamel used language such as "c——" and "b——" when referring to female coworkers . (Finberg p. 4)

(21) Gary Brooks, a Labor Relations Specialist at OPM, was contacted by the PCEE in February 1990 about Hamel's conduct at work and inability to follow the direction of his supervisors. (Brooks p. 1/2) Jamie Ramon, General Counsel for OPM is contacted about same problems in April. (Ramon p. 1)

(22) Numerous instances of misconduct are cited by Hamel's former supervisor at GSA, including an instance where Hamel arranged a meeting during work hours between himself, business associates, and a Capitol Hill staffer to discuss a contract for provide gain. (Barnett p. 1/2)

(23) Hamel threatened to sue Barnett, his supervisor at GSA, unless Barnett would give him an "outstanding" performance rating and the $5000 bonus which accompanies such a rating. (Barnett p. 2)

(24) Hamel is again reprimanded while at GSA for his increasingly disruptive conduct in the office. (Barnett p. 2)

(25) Hamel's conduct at GSA is criticized by a co-worker as extremely disruptive. (Laflam p. 1)

(26) Hamel often sexually harassed female employees at GSA. (Laflam p. 2, Arnade p. 2)

(27) Hamel told a former co-worker at GSA that he was going to talk to Capitol Hill about what was going on in the GSA. (Laflam p. 2)

(28) While at GSA, Hamel threatened to throw a colleague out of the "G——— D——— window" if he didn't "shut the f——— up" and stop giving him "s———". (Arnade p. 1/2)

Mr. Speaker, I emphasize again that these statements have been made under oath—in marked contrast to Gordon Hamel's statement to the media. Every person involved here was fully cognizant of the consequences of perjury.

Unfortunately, Betty Heitman could not release any of that information. For 10 months, she endured continued verbal shots from newspaper columns, TV shows, and Gordon Hamel, who was secure in the knowledge that because he didn't sign a Privacy Act waiver, Betty Heitman was prohibited—by law—from responding.

Well, now the story can be told. An exhaustive study by the inspector general of OPM has just been released and his conclusions, to be charitable, blow Gordon Hamel out of the water. This report demolishes his original charges against Betty Heitman and the Commission, thus debunking the canard that is some sort of heroic whistleblower.

The inspector general's report is two-tiered. The first part focuses on Gordon Hamel's 43 allegations against Betty Heitman and the President's Commission on Executive Exchange. The second deals with the allegations against Gordon Hamel.

Regarding the allegations against Gordon Hamel—allegations of abusive and insulting behavior toward his superiors and his female coworkers—the inspector general concluded:

> It was determined by the inspector general that the formal charges brought against Mr. Hamel were generally substantiated. Let me read that again, Mr. Speaker: It was detemined by the Inspector-General that the formal charges brought against Mr. Hamel were generally substantiated.

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Referring specifically to the Commission's co-workers' charges against Gordon Hamel, the IG continues:

> Although small in absolute numbers, the charges . . . reflect complaints from just under half of the employees who worked with Mr. Hamel at the PCEE. If there had been only one or two of the less offensive remarks substantiated, then these might have been dismissed as thoughtless but unintentional misstatement. However, taken in the aggregate, the cumulative effect did illustrate a continuing pattern of offensive behavior bordering on sexual harassment insofar as it pertained to the female employees with whom Mr. Hamel came in contact.

Mr. Speaker, I have compiled a synopsis of both the charges against Mr. Hamel and the findings of the inspector general. I'd like that synopsis to be included in its entirety in the RECORD—Exhibit D.

EXHIBIT D

BRIEF PREPARED BY CONGRESSMAN BOB LIVINGSTON OF THE OFFICE OF PERSONNEL MANAGEMENT, INSPECTOR GENERAL'S REPORT ON THE CHARGES MADE AGAINST GORDON HAMEL BY THE PRESIDENT'S COMMISSION ON EXECUTIVE EXCHANGE

The IG's report addresses the 12 formal charges listed in the November 29, 1990 "Notice of Proposed Adverse Action" (notice that the PCEE wanted to fire Hamel) sent to Gordon Hamel along with a separate section listing 3 additional issues/complaints of questionable conduct that were presented only in the affidavits of certain participants in the investigation.

Note on Hamel's status—The Merit Systems Protection Board issued a stay of Hamel's dismissal and all adverse actions against Hamel were rescinded May 13, 1991 by OPM. Thus, Hamel was never actually fired by the PCEE. Instead, he has been on Administrative leave with pay since August 2, 1990. Now that the PCEE has been abolished this status will end.

The charges against Gordon Hamel can be delineated into four main categories.

First, improper conduct directed toward undermining the mission of the PCEE;

Second, disrespectful and abusive behavior toward private sector executives participating in the PCEE executive exchange program and toward potential participants;

Third, disrespectful and abusive behavior toward Betty Heitman as his immediate supervisor; and

Fourth, disrespectful, abusive, and insulting behavior toward other coworkers, particularly female employees.

The general conclusion of the IG as to the validity of the formal charges brought against Gordon Hamel is that they were generally substantiated.

CHARGE 1

You have intentionally engaged in unauthorized and improper conduct and sought to disrupt and undermine the mission and functioning of the Commission. You have called a number of the Commission's participating executives and had highly improper conversations about other executives participating in the program, the program itself, and other Commission employees. Through these actions, you have seriously derogated the Commission's mission and functions as well as damaged its reputation with participating executives and private sector corporations. Some examples of your improper conduct are as follows:

1(a) Hamel contacted Jim Gallogly, a federal executive, and attempted to solicit negative comments about the Commission, Jack Finberg (Betty Heitman's Administrative Assistant), and the 1990 International Seminar.

IG Findings: Both a July 23, 1990 letter by Gallogly to Betty Heitman and details of a January 25, 1991 interview of Gallogly by an IG special agent corroborate this charge. Hamel denies the charge.

1(b) Hamel contacted Ivan Somers, a participating executive, and attempted to solicit negative comments about Jack Finberg and the International seminar.

Findings: This charge is corroborated by a July 25, 1991 letter by Somers to Betty Heitman and a February 14, 1991 interview by the IG. Interestingly, Somers contacted the PCEE as the unofficial spokesman of a "round-table" of participating executives who had been contacted by Hamel and found his actions demeaning and unprofessional. Somers also stated that Hamel had referred to the Secretaries at the PCEE as "b—es". Hamel denies the charge.

1(c) Hamel made improper phone calls to Andrew Phelps, one of the participating corporate executives, wherein Hamel suggested that he (Hamel) should replace Finberg and that the Commission employees did not like Phelps.

Findings: The charge is corroborated by a July 26, 1990 letter by Phelps to Betty Heitman and from a January 30, 1991 interview with an IG special agent. Phelps said that Hamel threatened to expose him to his employer for some minor mistake he had made while participating in the program unless he helped Hamel "get" the info on Betty Heitman and Jack Finberg. Hamel also told Phelps that PCEE employees didn't like Phelps in an effort to provoke him into making negative comments about the commission. Phelps said that Hamel made crude, graphic comments about his desire to have sex with a female exchange executive. Hamel admits that he talked to people about his displeasure with Finberg but denies making sexual comments.

1(d) Hamel contacted Larry Walther, a participating corporate executive, and criticized the performance of Jack Finberg and the Commission in general bringing into question the program, the staff, and participating executives.

Findings: Corroborated by a August 2, 1990 letter to Betty Heitman from Larry Walther and a January 30, 1991 interview with a OSC special agent. Hamel admits he may have been critical of Finberg.

1(e) Hamel contacted Alice Hogan, a participating corporate executive, to solicit negative comments about the Commission. He asked Ms. Hogan to provide an unsigned, undated report of her complaints against the program.

Findings: Corroborated by a August 8, 1990 letter to Betty Heitman from Alice Hogan and a January 25, 1991, interview with a OSC special agent. Hamel admits that this charge is as close to the truth as any of the charges are but denies he only tried to solicit negative info.

CHARGE 2

You have also engaged in improper conduct during two other phone conversations to private sector corporate executives in which you were disrespectful and abusive. The details of these conversations are as follows:

2(a) During a June 10, 1990, phone conversation with Sandra Arangio, a corporate executive with the John Hancock company, Hamel rudely and abruptly stated that she had to take any assignment that the PCEE gave her. This resulted in a call to Betty Heitman from Ms. Arangio about the incident and an oral reprimand from Heitman to Hamel.

Findings: Corroborated by a December 7, 1990, letter to Betty Heitman from Sandra Arangio, and numerous interviews with other PCEE employees including Iretha Tate who was a party to the phone conversation between Hamel and Arangio. Hamel tried to force Arangio to take a job with the Navy she did not want. Both became upset and Hamel eventually put Arangio on hold and would not return to the phone. Hamel agrees that a three-way phone conversation occurred but claims it took place on June 14, 1990, not June 10, as indicated in the charge. He denies that Heitman ever reprimanded him for his actions in the matter.

2(b) On August 3, 1990, Betty Heitman received a letter from Joan Rodney, a General Director at General Motors. Ms. Rodney stated that she has received a phone call from someone at the PCEE who represented himself as Heitman's superior and used high pressure tactics to attempt to force GM to provide an assignment for public sector executives. This phone call could only have come from Gordon Hamel as he was the Director of Placement. Further, the caller told Ms. Rodney that the Chairman of GM had previously committed to the program, a fact that could not be verified.

Findings: Corroborated by a January 31, 1991, interview with a OSC special agent and the August 3, 1990, letter mentioned in the charge. While Ms. Rodney could not originally remember the male caller's name, when the name Gordon Hamel was mentioned to her she indicated that he was the man who had called her. Hamel admits talking to Ms. Rodney but denies misrepresenting himself or using high pressure tactics. The charge against Hamel indicates that the letter was received August 3, 1990, but Heitman's affidavit states that it was received August 30, 1990. Hamel maintains that since he was put on Administrative leave August 2, 1990, and the letter from Ms. Rodney states that the incident occurred several weeks earlier, he could not be the person described in the letter as he was no longer working at the PCEE.

CHARGE 3

Your Misconduct has not been limited to dealings with persons outside our office. One numerous occasions, beginning almost from the time you started working at the Commission, you have engaged in misconduct consisting of disrespectful and abusive actions, attitude and statements towards myself as your supervisor.

3(a) On or about May 7, 1990, Hamel confronted Betty Heitman in her office in a loud, disrespectful and abusive manner concerning complaints about the Commission Hamel had raised with officials at OPM.

Findings: While both Heitman and Hamel agree that a conversation took place, they disagree as to the severity of the affair. Arlene Davenport, a PCEE employee, does recall hearing Hamel yell at Heitman on one occasion but does not recall the date.

3(b) On or about June 12, 1990, Hamel again became highly agitated at Heitman when she orally reprimanded him about his conduct during a phone conversation with Ms. Arangio. Hamel yelled at Heitman and would not leave her office when asked causing Heitman to leave her own office to terminate the confrontation.

Findings: Both Hamel and Heitman agree that the conversation took place although they disagree as to the date and severity of the conversation. Heitman's version is corroborated by the sworn testimony of Jackie Fader, Iretha Tate, and to a lesser extent Jack Finberg, all of whom are PCEE employees. The conversation was initiated over a disagreement about Hamel's conduct on the phone and Heitman's decision to limit Hamel's contact with corporate participants. Hamel denies yelling or acting abusive.

3(c) On or about August 3, 1990, when Hamel was given notice that Betty Heitman was placing him on excused absence status, Hamel became highly abusive and insulting towards Heitman.

Findings: This charge is simply not corroborated by anyone. The special Agent interviewed 6 people present the day Hamel was removed and none recall Hamel being abusive and insulting towards Betty Heitman. Betty claims Hamel told her that she should go home to LA and find out how much money her husband had because she was going to need it. Hamel denies the charge.

CHARGE 4

From almost the inception of your employment with the Commission, you have acted in a disrespectful, abusive and insulting manner to other staff members, particularly to female employees. This behavior constituted a serious disruption to our office, and caused employees morale to plummet. The details of some of your abusive actions are as follows:

4(a) In February Hamel made a series of sexual innuendos and comments to Trish Farrell, a female PCEE employee. Hamel told Ms. Farrell that he enjoyed when she worked on his computer because it gave them the opportunity to "cuddle-up together" and that it would be fun for them to head over to the fitness center and take off all their clothes together. These incidents resulted in Betty Heitman orally reprimanding Gordon Hamel.

Findings: The Charge is corroborated by statements of other PCEE employees who claim to have heard about the incidents. Also the charge is supported by the target of the abuse, Trish Farrell. Hamel absolutely denies the incidents ever occurred and further denies that Betty Heitman reprimanded him for his actions.

4(b) Throughout Gorden Hamel's employment at the PCEE he was abusive and disrespectful towards Jacki Fader, Betty Heitman's female assistant. Hamel criticized her work performance even though he was not her supervisor and subjected her to his fits of rage and sexual innuendo. Hamel told Ms. Fader that the only thing on her mind was sex and that he would help her with that when he had time. He also called her a "c——" at one point, used the term "d——h——" in her presence, and generally continued to use off color language around Ms. Fader even after being told not to by Betty Heitman.

Findings: Hamel denies all of the points raised in this charge, although he does admit to having a conversation with Jack Finberg about Jacki Fader's poor job performance and he does vaguely remember Betty Heitman saying something to him about an off color remark made by him to Ms. Fader. The victim of Hamel's conduct, Jacki Fader, confirms the charge against Hamel. A third party, Jack Finberg corroborates that Hamel called Ms. Fader a c——t. An OPM employee confirms that the PCEE had been in contact with OPM as early as February 1990 about the conduct of an unnamed PCEE employee. During a May 3, 1990 meeting between OPM staff and PCEE employees concerning Gordon Hamel's conduct, the topic of Hamel's threat to go public was brought up. The term blackmail was used.

Other Issues of Questionable Conduct:

(1) Hamel filed charges of waste and mismanagement at the PCEE with the IG in order to coerce Betty Heitman into giving him preferential treatment including:

—an outstanding rating,

—payment for college courses unrelated to Hamel's duties at the PCEE, or

—in the alternative, a GS-15 position in another agency.

Findings: Hamel denies that he filed the charges against the PCEE in order to coerce Betty Heitman into doing anything contained in the charge. Jack Finberg confirms that Hamel requested that the PCEE pay for his college courses and that the amount requested approximated what would be the entire training budget for an agency the size of the PCEE. Alice Taussig, a PCEE employee, verified that Hamel told her that he would stay at the PCEE if he could have his own secretary or that he would leave if Heitman got him a job in another federal agency.

(2) Betty Heitman reported in her affidavit of February 19, 1991 that Gordon Hamel had offensively touched Brigid Raczynski, a 20 year old summer intern who worked at the PCEE.

Findings: Brigid Raczynski in a January 31, 1991 interview with a OSC special agent stated she had never heard Gordon Hamel use vulgar language, conduct himself in a vulgar manner, or sexually harass any PCEE employee. She did remember one incident where Hamel put his hands on her back which made her feel very uncomfortable. Also she recalled complaining to Jack Finberg about her desire not to be alone in the office with Gordon Hamel. She provided the Merit Systems Protection Board (MSPB) with a sworn statement that she cried at the prospect of working alone with Hamel. Nonetheless, Ms. Raczynski's statements largely discount this charge.

(3) It was rumored that Gordon Hamel was involved in sexual harassment while employed at GSA. This subject was raised in two sworn statements submitted to the MSPB (Tim Arnade and Joan Laflam's statements). They declared that they witnessed Gordon Hamel sexually harass female employees while he was employed at GSA. Mr. Arnade specifically identified GSA employee Laura Hermsmeyer as a victim of sexual harassment.

Findings: The OSC special agent was not able to corroborate this charge. In fact, the alleged victim of Gordon Hamel's sexual harassment commented that she had never been harassed by Gordon Hamel.

Finally, Mr. Speaker, I would also like included into the RECORD the executive summaries of both the IG's report on the charges against Gordon Hamel and his report on the charges against the PCEE and Betty Heitman—exhibits E and F.

EXHIBIT E

OFFICE OF PERSONNEL MANAGEMENT INSPECTOR GENERAL'S REPORT ON HAMEL'S ALLEGATIONS AGAINST THE PCEE

EXECUTIVE SUMMARY

The investigative report which follows is the product of an investigation which commenced in Washington, D.C., on December 10, 1990, at the request of Inspector General Patrick E. McFarland, Office of Personnel Management (OPM). It addresses allegations of illegal, improper, and wasteful practices on the part of the President's Commission on Executive Exchange (PCEE) made by Gordon R. Hamel, who was Director of Placement from December 3, 1989, until he was placed on administrative leave from this position on August 2, 1990. It followed an earlier report on these allegations that was flawed and incomplete, which was the basis of hearings held by the Employment and Housing Subcommittee of the House Government Operations Committee on December 10, 1990.

The PCEE was created in 1969 by Executive Order No. 11451, and was abolished by Executive Order No. 12760 on May 2, 1991. It was a small agency, under the administrative guidance and support of OPM, which had been established to promote better understanding between the private sector and government through an exchange program, including corporate and other business executives and senior governmental officials within the Federal Government.

As a result of the investigation of Mr. Hamel's 28 allegations, the Inspector General has concluded that 5 of the allegations could be substantiated and in 9 cases, corollary, additional findings were made. Twenty-three of the allegations could not be substantiated. Following, by category, is a summary of the allegations and the report's conclusions.

Administrative—Allegations relating to such matters as the legality of the placement of Jeffrey Brown in the Overseas Private Investment Corporation (OPIC) under the Voluntary Services Exchange program, attempts to pressure Mr. Hamel to use his influence with the GSA Administrator to obtain a job for Betty Heitman's son, and that Mrs. Heitman attempted to pay an illegal honorarium could not be substantiated as having occurred. Other allegations, such as use of a sign-in log, use of a clerk to drive Mrs. Heitman to official functions during work hours and use of temporary employees, were found to have occurred but were not improper or illegal. The only allegation relating to the administration of the PCEE that could be supported as improper was the reimbursement by OPIC to the Pepsi-Cola Corporation of the participation fee of its employee in the PCEE executive exchange program. Also, many expenditures were improperly made in reliance on a 1986 OPM General Counsel's opinion that determined PCEE's private funds were not subject to Federal appropriations limitations, which subsequently was revoked as incorrect. It could not be determined that the increased costs from such expenditures were the cause of an increase in the participation fee.

Conflict-of-Interest—The relationship that John Healy had with the printer he selected to publish a PCEE brochure was found to be too tenuous to constitute a conflict-of-interest. An allegation that PCEE employee Susan Levine improperly used PCEE letterhead was substantiated, but she was found to have been counseled and terminated the practice. Another allegation involving receipt of compensation by Ms. Levine from her former employer was found to be without substance.

Procurement—An allegation concerning the purchase of jewelry by the PCEE for its employees was substantiated and found to be improper. Other allegations concerning leasing of a parking space for a PCEE employee from a private contractor and use of an outside consultant to develop a position description were not found to be improper.

Travel—Allegations concerning the impropriety of the manner in which travel services were procured for a 1990 foreign trip were substantiated and found contrary to Federal travel and procurement regulations. While payment of taxicab fares for Mrs. Heitman's after-hours trips from her home to official functions in the District of Columbia should not have been made, the report would not characterize this as creating an inflated travel voucher as alleged. Other allegations concerning submission of false local travel vouchers by Alice Taussig and exaggerating the length of a Canadian trip could not be substantiated.

Time and Attendance—An allegation that Jacki Fader and Iretha Tate used official time to travel to Mrs. Heitman's residence to pay her maid could not be substantiated. However, it was found that these employees exceeded their lunch period to pick up clothing and other personal items to take to Mrs. Heitman at the hospital. This would not qualify as permissible, administratively excused absence. Another allegation concerning time and attendance abuses by Jacki Fader could not be substantiated.

Miscellaneous—An allegation concerning use of a Diners Club Card issued to the Federal Government for purchase of airline tickets for personal travel by Jacki Fader was substantiated but was not found to have been done to defraud the government inasmuch as her ex-husband did not inform her that it was for government use, and the bill was paid when received. Other allegations concerning refusal of Jack Finberg to supply Mr. Hamel with details about the PCEE program budget and that Ivan Somers, a private sector exchange executive, played computer games on office equipment while at PCEE, could not be substantiated.

BACKGROUND

This investigation examined 28 formal allegations brought to the attention of the Office of the Inspector General, Office of Personnel Management (OPM), by Gordon R. Hamel, Director of Placement, President's Commission on Executive Exchange (PCEE). These allegations were made over a period of time, beginning with a meeting held at his request with a member of the OIG staff on July 25, 1990, and concluding with him signing a formal compilation of allegations on January 17, 1991.

In a separate action, Mr. Hamel was formally charged by Mrs. Heitman in her capacity as Executive Director at the PCEE with misconduct, insubordination, and other unprofessional actions. Mr. Hamel's allegations pertain to illegal, improper, and wasteful practices on the part of PCEE management.

With respect to the PCEE as a governmental entity, this small agency was established in 1969 by Executive Order No. 11451 to promote a better understanding between the private sector and government through an exchange program made up of corporate and other business executives and senior governmental officials within the Federal Government. The PCEE offices formerly were located at 744 Jackson Place, N.W., Washington, D.C. The PCEE was recently abolished by Executive Order No. 12760, signed on May 2, 1991, by President Bush.

Also of interest is the fact that all adverse actions against Gordon Hamel were rescinded by OPM on May 13, 1991. The Merit System Protection Board, which is hearing Gordon Hamel's appeal, is considering whether his case is now moot and should be dismissed. The Office of Special Counsel has decided not to reach a decision on Mr. Hamel's charge that the PCEE's earlier adverse actions against him constituted retaliation under the Whistleblower's Protection Act of 1989. As a result of the PCEE's demise, Gordon Hamel's supervisor, Betty Heitman, no longer has her position. In light of these unusual circumstances, some explanation appears necessary as to why and how this report was prepared and why the Inspector General believes, pursuant to his responsibilities under the Inspector General Act of 1978, as amended, it is still necessary and relevant.

At the outset, it should be noted that this investigation is also unusual in the degree of public scrutiny and notoriety it and the underlying controversies it reports have received. In attempting to resolve controversies and promote institutional reform, an investigative report, as contrasted with a program audit, should be a relatively confidential document. Insofar as proper and justified by the circumstances, the privacy and reputations of investigated persons, who may have committed no actionable wrong, should be protected to the fullest extent possible. In those circumstances involving possible criminal referrals, prejudicial publicity must be avoided to protect the integrity of the criminal justice process. Because the case has been aired publicly in the press, television expose programs, and newscasts, and was the subject of a Congressional hearing, these interests are of less concern here. However, the Inspector General is limiting initial distribution of this report to the Director of the Office of Personnel Management, the immediate parties, and the relevant Congressional oversight committees.

The Office of Inspector General (OIG) involvement in this case began with a meeting held at Gordon Hamel's request with a member of the OIG staff on July 25, 1990. Betty Heitman conferred on her case with OPM Inspector General Patrick E. McFarland on August 14, 1990. Mr. Hamel was then Director of Placement for the PCEE. As mentioned, Mr. Hamel made allegations of illegal, improper, and wasteful practices on the part of PCEE management, which became the basis of this and an earlier investigation. Separate meetings had already been held by Mr. Hamel and Mrs. Heitman at which accusations were exchanged. Mr. Hamel met on or about March 15, 1990, with OPM General Counsel Jaime Ramon to discuss PCEE administrative problems and concerns, including alleged improper contracting procedures. PCEE Executive Director Heitman claimed to have been consulting with other OPM officials at about the same time concerning allegations of Mr. Hamel's misconduct. General Counsel Ramon told the OIG that Mrs. Heitman and PCEE Chief of Staff Jack Finberg met with him in April 1990 and that OPM Chief of Labor Relations Gary Brooks then began work with them on counselling memorandum concerning the charges against Mr. Hamel.

Mr. Hamel carried his concerns regarding alleged mismanagement of the PCEE on May 7, 1990, to OPM Deputy Director Bill Phillips. Mrs. Heitman followed this action by writing a letter to OPM Director Constance Berry Newman requesting a review of procedures and policies at the PCEE. These requests led to issuance on June 14, 1990, of a report by the OPM Director's Counselor Vernon Parker with recommendations concerning changes in policies and procedures at the PCEE. This report formed a partial basis for the OIG's original investigation.

The Parker report and the present OIG investigation have found that many of the problems relating to the PCEE's misuse of appropriated funds related to a memorandum sent to its contracting officer by OPM Acting General Counsel James S. Green, dated July 25, 1986. It contained a conclusion that the Federal Acquisition Regulation was inapplicable to the purchase of goods and services by the PCEE when funds from private sources were used and was based on the assumption, subsequently found to be erroneous, that such funds would be categorized as non-appropriated funds.

In a letter dated June 8, 1990, rescinding the 1986 opinion, OPM General Counsel Jaime Ramon found that the participant fees used to fund much of the PCEE's activities, which was the private funding at issue, were required by 5 U.S.C. 4109(d) to be credited to OPM's revolving fund. That fund, created by 5 U.S.C. 1304, was expressly made available to the PCEE for education and related travel, for printing, and for entertainment expenses but only in the amounts specified in OPM's appropriation. The General Counsel's decision also relied on Comptroller General decisions finding that even if revolving funds were totally financed by private contributions, they are still appropriated funds and under 31 U.S.C. 1301(a) could be used only for the purposes for which they have been made. [35 Comp. Gen. 436 (1953); 63 Comp. Gen. 110 (1983).]

Mr. Hamel was placed on administrative leave by PCEE Executive Director Betty Heitman on August 2, 1990. On the same day, Mrs. Heitman wrote to the newly appointed OPM Inspector General Patrick McFarland requesting him to conduct a "full investigation of possible abuse by Mr. Hamel of his position and professional responsibilities as well as any matters that he may have brought to your office's attention." In effect, her letter supported Mr. Hamel's earlier request for OIG involvement.

The OIG report on its original investigation was issued on October 1, 1990, less than two months after Inspector General McFarland assumed office. By the time hearings to review the report were held by the Subcommittee on Employment and Housing, House Committee on Government Operations, on December 10, the Inspector General was aware that a completely new investigation was necessary to correct certain deficiencies in that report. In his testimony, Inspector General McFarland told the subcommittee that he would assign new investigators to handle the case and would conduct a new investigation of Mr. Hamel's allegations concerning mismanagement and abuses at the PCEE. This report is the result of that promise.

Mrs. Heitman issued a Notice of Proposed Adverse Action to Mr. Hamel on November 29, 1990. Because of his concern that the OIG's earlier investigation had been instrumental in her decision, the Inspector General wrote to Mrs. Heitman and urged her to rescind her dismissal, suggesting that administrative leave with pay would be "a personnel action best suited to the circumstance of a new investigation." In her reply dated December 18, 1990, Mrs. Heitman advised that the OIG report was not used as the basis for the propsoed adverse action against Gordon Hamel. The Merit System Protection Board subsequently issued an order to stay Mr. Hamel's dismissal.

METHODOLOGY OF THIS INVESTIGATION

Every possible effort has been made by this Office to conduct an investigation of Mr. Hamel's allegations that would be completely independent from earlier investigations and would in no way be biased by earlier findings. Completely new personnel were assigned to the task. The OIG's only senior criminal investigator was assigned to begin a review of Mr. Hamel's allegations of illegal, improper, and wasteful practices by the PCEE. Because the OIG was only beginning to staff its criminal investigations section, a criminal investigator was detailed from the Department of Housing and Urban Development to assist in the early stages of the investigation. All persons involved in management of the PCEE or in any way concerned with the charges, were interviewed, many for the first time.

In the interests of fairness, a separate investigation was begun concerning Mrs. Heitman's charges against Mr. Hamel, which is resulting in a second report that is being issued in conjunction with this one. A senior criminal investigator on loan from the Department of Labor conducted that investigation. The decision to launch a separate investigation to consider the charges being directed against Mr. Hamel was made after it was determined that three investigating agencies were considering charges against the PCEE (the General Accounting Office was preparing an audit report or testimony on the PCEE: the Special Counsel had agreed to consider Mr. Hamel's charges of retaliation under the Whistleblower Protection Act of 1989; and the Merit System Protection Board was considering the adverse personnel actions taken against Mr. Hamel). No one, however, was directly concerned with Mrs. Heitman's charges against Mr. Hamel.

In further interests of fairness, the OIG has attempted to conduct an open and cooperative investigation. We have, where appropriate, shared investigative leads and have sought to informally coordinate with jurisdictional responsibilities of the Department of Justice, the Office of Special Counsel and the General Accounting Office to avoid unnecessary duplication of effort and taxpayer expense. A forum has been provided to any person wanting to provide information, and all sides of the issues have been thoroughly explored.

Although the PCEE has been abolished, the OIG believes that, under the Inspector General Act of 1978, it has a clear responsibility to OPM, as the agency providing administrative guidance to the PCEE while it was in existence, to determine errors that were made and assist OPM in formulating corrective measures to prevent future abuses and correct systemic flaws. The OIG also has a clear responsibility to complete the reporting process on this case to Congress to assist the legislative branch in its oversight role.

EXHIBIT F

OFFICE OF PERSONNEL MANAGEMENT INSPECTOR GENERAL'S REPORT ON THE PCEE'S ALLEGATIONS AGAINST HAMEL

EXECUTIVE SUMMARY

The investigative report which follows is the product of an investigation which commenced in Washington, D.C., on January 2, 1991, at the request of Inspector General Patrick E. McFarland, Office of Personnel Management (OPM). It addresses charges of misconduct, insubordination, and other unprofessional actions levied against Gordon E. Hamel while he was Director of Placement at the President's Commission on Executive Exchange (PCEE) from December 3, 1989, until August 2, 1990, when he was placed on administrative leave.

The President's Commission on Executive Exchange was created in 1969 through Executive Order No. 11451, and was recently abolished through Executive Order No. 12760, which was signed on May 2, 1991, by President Bush.

This small agency was established to promote a better understanding between the private sector and government through an exchange program made up of corporate and other business executives and senior governmental officials within the Federal Government. The PCEE conducted business out of its offices located at 744 Jackson Place, N.W., Washington, D.C.

The charges against Mr. Hamel were contained in a Notice of Proposed Adverse Action dated November 29, 1990, addressed to him by Mrs. Betty Heitman, who was then Executive Director of the President's Commission on Executive Exchange. The Inspector General concluded that Mrs. Heitman was not placed under any undue pressure by the Office of Personnel Management or anyone to take the action she did in bringing these charges against Mr. Hamel.

This report addresses the 12 formal charges listed in the Notice of Proposed Adverse Action along with a separate section listing three additional issues/complaints of questionable conduct that were presented only in the affidavits of certain participants in the investigation.

A reading of these charges and complaints reveals four major categories relating to misconduct and other unprofessinal actions. These are summarized as follows:

Category 1: improper conduct directed toward the undermining of the mission of the President's Commission on Executive Exchange;

Catetory 2: disrespectful and abusive behavior toward private sector executives participating in the PCEE executive exchange program and toward potential participants;

Category 3: disrespectful and abusive behavior toward Betty Heitman personally as his immediate supervisor; and

Category 4: disrespectful, abusive, and insulting behavior toward other co-workers, particularly female employees.

At the conclusion of this investigation, it was determined by the Inspector General that the formal charges brought against Mr. Hamel were generally substantiated. One specific exception, however, was the charge in which Mrs. Heitman stated that Mr. Hamel became highly abusive and insulting toward her parents in front of other PCEE staff members on or about August 2, 1990, which was the time Mr. Hamel. was placed on administrative leave at the PCEE.

Attention should be called to the various charges falling under Category 4, *supra*. Although small in absolute numbers, the charges therein reflect complaints from just under half of the employees who worked with Mr. Hamel at the PCEE. If there had been only one or two of the less offensive remarks substantiated, then these may have been dismissed as thoughtless but unintentional misstatements. However, taken in the aggregate, the cumulative effect did illustrate a continuing pattern of offensive behavior bordering on sexual harassment insofar as it pertained to the female employees with whom Mr. Hamel came in contact. It should also be noted that the prohibition against sexual harassment is directed not only to an individual's acts but to the hostile working environment that can be created by offensive behavior directed toward a person because of his or her gender. [See *Meritor Savings Bank, FSB* v. *Vinson*, 447 U.S.C. 57 (1986)] It is the possibility of the cumulative effect that this continual behavior may have had on the PCEE work environment that makes these charges serious.

With respect to the preceding charges and complaints relating to offensive behavior, the countervailing force is the failure of PCEE management to take contemporaneous action at the time of these reported personnel problems.

The report herein reflects the findings and conclusions drawn to substantiate and/or deny those charges, and any portions thereof, which were brought to the attention of the Inspector General.

BACKGROUND

This investigation addresses 12 formal charges of misconduct, insubordination, and other unprofessional actions brought against Mr. Gordon R. Hamel in his capacity as Director of Placement at the President's Commission on Executive Exchange (PCEE) by Mrs. Betty Heitman, his supervisor and Executive Director at the PCEE. Mrs. Heitman conferred on her case with Inspector General Patrick E. McFarland, Office of Personnel Management (OPM) on August 14, 1990, after writing to him on August 2, requesting him to conduct an investigation into these charges. Mrs. Heitman also placed Mr. Hamel on administrative leave on the same day.

In a separate action, Mr. Hamel, presented allegations pertaining to illegal, improper, and wasteful practices on the part of PCEE management to the Office of the Inspector General, Office of Personnel Management (OPM), beginning on July 25, 1990. The Inspector General requested an investigation, and a separate report is being issued in coordination with the release of this report.

With respect to the PCEE as a governmental entity, this small agency was established in 1969 by Executive Order No. 11451 to promote a better understanding between the private sector and government through an exchange program made up of corporate and other business executives and senior governmental officials within the Federal Government. The PCEE offices formerly were located at 744 Jackson Place, N.W., Washington, DC. The PCEE was recently abolished by Executive Order No. 12760, signed on May 2, 1991, by President Bush.

Also of interest is the fact that all adverse actions against Gordon Hamel were rescinded by OPM on May 13, 1991. The Merit System Protection Board, which is hearing Gordon Hamel's appeal, is considering whether his case is now moot and should be dismissed. The Office of Special Counsel has decided not to reach a decision on Mr. Hamel's charge that the PCEE's earlier adverse actions against him constituted retaliation under the Whistleblowers' Protection Act of 1989. As a result of the PCEE's demise, Gordon Hamel's supervisor, Betty Heitman, no longer has her position. In light of these unusual circumstances, some explanation appears necessary as to why and how this report was prepared and why the Inspector General Act of 1978, as amended, it is still necessary and relevant.

At the outset, it should be noted that this investigation is also unusual in the degree of public scrutiny and notoriety it and the underlying controversies it reports have received. In attempting to resolve controversies and promote institutional reform, an investigative report, as contrasted with a program audit, should be a relatively confidential document. Insofar as proper and justified by the circumstances, the privacy and reputations of investigated persons, who may have committed no actionable wrong, should be protected to the fullest extent possible. In those circumstances involving possible criminal referrals, prejudicial publicity must be avoided to protect the integrity of the criminal justice process. Because the case has been aired publicly in the press, television expose programs, newscasts, and was the subject of a Congressional hearing, these interests are of less concern here. However, the Inspector General is limiting initial distribution of this report to the Director of the Office of Personnel Management, the immediate parties, and the relevant Congressional oversight committees.

As mentioned, Mr. Hamel made allegations of illegal, improper, and wasteful practices on the part of PCEE management. Separate meetings had already been held by Mr. Hamel and Mrs. Heitman at which accusations were exchanged. Mr. Hamel met on or about March 15, 1990, with OPM General Counsel Jaime Ramon to discuss PCEE administrative problems and concerns, including alleged improper contracting procedures. PCEE Executive Director Heitman claimed to have been consulting with other OPM officials at about the same time concerning allegations of Mr. Hamel's misconduct. General Counsel Ramon told the OIG that Mrs. Heitman and PCEE Chief of Staff Jack Finberg met with him in April 1990 and that OPM Chief of Labor Relations Gary Brooks then began work with them on a counseling memorandum concerning the charges against Mr. Hamel.

Mr. Hamel carried his concerns regarding alleged mismanagement of the PCEE on May 7, 1990, to OPM Deputy Director Bill Phillips. Mrs. Hamel followed this action by writing a letter to OPM Director Constance Berry Newman requesting a review of procedures and policies at the PCEE.

As previously stated, Mr. Hamel was placed on administrative leave by PCEE Executive Director Betty Heitman on August 2, 1990, the same day, Mrs. Heitman wrote to newly appointed OPM Inspector General Patrick McFarland requesting him to conduct a "full investigation of possible abuse by Mr. Hamel of his position and professional responsibilities as well as any matters that he may have brought to your office's attention." In effect, her letter supported Mr. Hamel's earlier request for OIG involvement.

Mrs. Heitman issued a Notice of Proposed Adverse Action to Mr. Hamel on November 29, 1990. Because of his concern that the OIG's earlier investigation had been instrumental in her decision, the Inspector General wrote to Mrs. Heitman and urged her to rescind her dismissal, suggesting that administrative leave with pay would be "a personnel action best suited to the circumstance of a new investigation." In her reply dated December 18, 1990, Mrs. Heitman advised that the OIG report was not used as the basis for the proposed adverse action against Gordon Hamel. The Merit System Protection Board subsequently issued an order to stay Mr. Hamel's dismissal.

METHODOLOGY OF THIS INVESTIGATION

In the interests of fairness, a separate investigation also was begun concerning Mrs. Heitman's charges against Mr. Hamel, which is the basis for this report being released at this time. A senior criminal investigator on loan from the Department of Labor conducted that investigation. The decision to launch a separate investigation to consider the charges being directed against Mr. Hamel was made after it was determined that three investigating agencies were considering charges against the PCEE (the General Accounting Office was preparing an audit report or testimony on the PCEE; the Special Counsel had agreed to consider Mr. Hamel's charges of retaliation under the Whistleblower Protection Act of 1989; and the Merit System Protection Board was considering the adverse personnel actions taken against Mr. Hamel). No one, however, was directly concerned with Mrs. Heitman's charges against Mr. Hamel.

Every possible effort has been by this office (OIG) to conduct an investigation of Mr. Hamel's allegations that would be competely independent from earlier investigations and would in no way be biased by earlier findings. Completely new personnel were assigned to the task. The OIG's only senior criminal investigator was assigned to begin a review of Mr. Hamel's allegations of illegal, improper, and wasteful practices by the PCEE. Because the OIG was only beginning to staff its criminal investigations section, a criminal investigator was detailed from The Department of Housing and Urban Development to assist in the early stages of the investigation. All persons involved in management of the PCEE or in any way concerned with the charges, were interviewed, many for the first time.

In further interests of fairness, the OIG has attempted to conduct an open and cooperative investigation. We have, where appropriate, shared investigative leads and have sought to informally coordinate with jurisdictional responsibilities of the Department of Justice, the Office of Special Counsel and the General Accounting Office to avoid unnecessary duplication of effort and taxpayer expense. A forum has been provided to any person wanting to provide information, and all sides of the issues have been thoroughly explored.

Mr. Speaker, regarding the second prong of OPM's investigation—the original, supposedly whistleblowing charges by Hamel against the Commission—the results are no less conclusive. In late April, in an oral briefing by the inspector general himself, I and three other Members of this body were told that Hamel lodged 43 separate charges against PCEE and Mrs. Heitman. These were consolidated into 28 formal charges.

By my count, 23 of Hamel's 28 allegations were thrown out by the inspector general. Only 5 of the 28 charges were substantiated, and—importantly—none of them were the result of anything malicious or circumspect on Betty Heitman's part. We have one violation, for example, where an employee sent out five personal letters on Commission stationery—but using her own stamps. Now, it is true that this is a violation, but it's also true that the cost to the Government was probably about 30 cents.

About the only substantive charge of the five was the question of an $18,000 participation fee reimbursement to the Pepsi-Cola Corp. This is a complicated situation that is fully described in the OPM inspector general's report. It involves not only PCEE, but also the Overseas Private Investment Corporation [OPIC]. While the IG did find fault with the reimbursement, I think it's worth noting that the evidence demonstrates that the Federal officials involved consulted with their in-house counsels prior to making any decisions.

This internal legal advice was subsequently overturned by OPM's General Counsel; however, we should remember that it was given in good faith to officials within PCEE who, it should be emphasized, in seeking in-house legal advice were trying to be very careful in the way they managed funds.

On that note, Mr. Speaker, I would add that the officials at PCEE were obviously more careful in the way they handled public funds than Gordon Hamel was in the way he made up charges. Every one of the serious fraud and mismanagement charges Hamel launched were tossed aside by the inspector general.

Mr. Speaker, the sum total of the few violations substantiated at PCEE amounts to virtually nothing when compared with the costs of the various investigations into PCEE. At that same meeting in April, the Inspector-General estimated to me his cost for this investigation to be between $100,000 to $150,000.

One could reasonably assume that the ongoing GAO investigation into the Commission will cost around the same amount as did the OPM investigation. Also, throw in the costs of the Office of Special Counsel investigation, which looked into whether Mr. Hamel was, in fact, a whistleblower and the costs of the House subcommittee on Employment and Housing has incurred in its one hearing last December, as well as its second hearing to be held next Monday.

All that adds up, Mr. Speaker, to a sum of money that so completely outstrips any possibly improper expenditures at PCEE, that one would be tempted to laugh, if the situation were not so pathetic—and, I should add, an affront to the taxpayer. It is likewise an embarrassment to those, including some Members of this body, who saw in Gordon Hamel a cheap political shill to be used for partisan gain.

Fortunately, in the end, the truth came out. Betty Heitman's actions were proven to be in good faith and, in virtually all circumstances, correct. Gordon Hamel has had his veneer of white knighthood stripped away—revealing an abusive, nasty sexual harasser.

PCEE may have been a minor cog in the Federal wheel. With only 10 employees, it certainly was one of the smallest operations. But the people who worked in PCEE, especially Betty Heitman, have professional reputations just the same as those of us here in Congress. When their reputations are besmirched, all of us should stand up and take notice.

There is an outrage here, Mr. Speaker. A fine and upstanding woman was shafted—if only temporarily. Likewise, a sexually harassing bully could temporarily claim to be public-minded whistleblower. This was a rotten play, Mr. Speaker, and the taxpayers paid for all of it.

My special order here tonight may not fully take away the hurt and the defamation inflicted on Betty Heitman over the last 10 months. It does, however, set the record straight as to who is at fault and who is not.

THE GROWING PANDEMIC OF AIDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I will not take the entire 60 minutes. I know it is getting late in the day and everybody wants to get out of here, but I think there is some very important information that needs to be disseminated to my colleagues, and I hope they are going to be paying attention.

One of the biggest problems facing America now and in the foreseeable future is the pandemic called AIDS. Literally millions of Americans are likely to die from this disease in the next decade or so.

As a matter of fact, up until April 1991, 2 months ago, 175,000 Americans are either infected with active AIDS or are dead from it. That means 175,000 Americans are dead or dying of AIDS as of last April.

By the end of this year, there will be over 203,000 Americans dead or dying of AIDS, and another 5 to 6 million are probably infected, and over the next 5 to 6 years they will die of AIDS.

The projections of a conservative nature are that by 1996 over 1 million Americans will be dead or dying of AIDS, 1 million; 1 out of every 240 Americans will be dead or dying of AIDS by 1996.

Now, that is a very sad state of affairs.

Now, what is even sadder, Mr. Speaker, is that we are getting a lot of misinformation through the media, on television, on the radio, and through the newspapers.

Now, I am not sure a lot of it is intentional. Many people who are giving this misinformation out to the public simply do not know what they are talking about, and yet they sound like experts on TV.

One of problems we have with television, Mr. Speaker, is that people watch it and they assume that the person on the other end of that tube really has some expertise and many times they do not, and they do a real disservice to this country, especially in the case of AIDS, because they give that information out through the airways and people gain a false sense of security. They feel like they are not likely to get the disease.

Now, a case in point is a television show that took place this past Sunday called "Off the Record" on Fox TV.

□ 1910

This TV show was hosted by a fellow whom I have debated previously on the program "Crossfire" and other programs over the years, Bob, his name is Bob Beckel, he was Jimmy Carter's 1980 campaign manager. Other participants in the program were Jim Glassman of Roll Call magazine, which we all read around here, Michael Barone of U.S. News & World Report, Dan Goodgame of Time magazine, and Congresswoman SUSAN MOLINARI of New York, one of my colleagues.

I want to read to you some of the quotes from that program and I want to correct the misinformation that may have been given to the American people, so that they will know the facts and be able to protect themselves. Not all of the quotes on the program were misinforming the people. There were some real accurate statements and also some misinformation.

First of all, they interviewed me for 35 minutes approximately, in my office, and out of this 35-minute interview they took about a minute of quotes. And the quotes they took were the ones that were the most earthshaking, that would garner the most controversy so that the people would be hooked and watch the television show.

Well, that is all right, I understand that. But the fact of the matter is the substantive comments that I made to them regarding how people get AIDS, where it is spreading, how rapidly it is spreading, and so forth, were not included in the program. I was very concerned about that.

Here is the quote they took from me: "We need to find out who has the AIDS virus so we can tell them to stop their irresponsible behavior so we can stop the epidemic from becoming worse." The reason I said that was because people carry the AIDS virus anywhere from 2 to 10 years before they even know they have it. All the time they are carrying the AIDS virus they have the capability of infecting other human beings. A person who has the AIDS virus and does not know it is a walking time bomb. If the person goes out and meets a person, they look perfectly healthy, they fall in love, they have sexual contact with them, and another person has been condemned to death because they caught the AIDS virus unknowingly. Even the person who gave it to them did not know it.

So it is important that people know they have the AIDS virus so they can stop irresponsible behavior, that is having contact with other human beings to whom they will be giving the death sentence.

I want on to say, "I think we need to do something to constrain that person. Persons who know they have the AIDS virus and continue to act irresponsibly. I think that means maybe even putting them in a sanitorium." The reason I said that was because if a person goes out with a gun and holds up a supermarket and they shoot the person, the cashier from whom they are stealing the money, we assume in society that they ought to be removed from society to protect people from being shot at by them in the future.

If a man or a woman shoots somebody once, we can assume they may do it again. They pay a penalty for that. We try to stop them from spreading that kind of mayhem in the public sector time and again.

Now, if a person has AIDS, active AIDS, and they know they have it and they know that if they have sexual contact with somebody else they are more than likely going to infect them and ultimately kill them, we do not do anything about that.

So I think, and still feel very strongly, that if a person has AIDS and knows they have AIDS and they go out and knowingly infect other people and expose them to that disease, they ought to be constrained in some way. Society must be protected from a person who is going to give someone a death sentence, whether it is from a gun or from a sexually transmitted disease that they know will kill them. That is why I said that. But that was not covered in detail in this interview.

Well, it was, but they did not put it on television.

Now, they had, after I made that statement, a person from the AIDS Action Council, whose name was Jeff Levi; he said,

> People like Congressman Burton are not willing to put more resources into preventing the spread of this disease by educating people about how they can protect themselves. They would rather identify and stigmatize those who are already infected.

That could not be further from the truth. I believe we need to appropriate more money for AIDS education, more money for a comprehensive program to deal with the problem. We need to have education, we need to have testing to find out who has it so they will know and they will know better than to go out and spread it to someone else.

Those who are tested and found positive we need to give them psychological assistance so they will be able to cope with that problem. We need to tell them about AZT and other drugs so that they can protect themselves and prolong their life. But we also need to tell them that they can no longer go out and have sexual contact with people outside the AIDS community because they are going to kill them.

So we need a comprehensive program, education, testing, contact tracing so that people who have the AIDS virus, after they know it continue to spread it so that we can stop them from doing that, constrain them. We need to have the psychological assistance for them and for those who continue to act irresponsibly after they know they have the disease and are spreading it to other people, those people need to be constrained in some way. That would include, in my opinion, even putting them in a sanitorium if they go on killing other people by spreading this disease.

In fiscal 1991 we allocated $400 million for AIDS prevention and much of that was used for education. So we are appropriating money to educate the population. We do not know how it is spreading.

There are those who say you can only get it through sexual contact or through needles by using drugs or through a blood transfusion. The fact of the matter is there are many more ways that we suspect it can be found, and I will talk about those in just a moment.

Studies have found "among heterosexual couples in which one partner carries the virus between 16 and 24 percent of the uninfected partners contracted the virus despite the use of sexual preventative measures such as condoms." In other words, people we have seen on television, that if a person uses a condom you cannot transmit the AIDS virus. That is just simply not the case. We know for a fact that according to the Hudson Institute study that was conducted last year, 16 to 24 percent of the people who used condoms still transmit the disease.

Education is not nearly as effective unless it is done in conjunction with a comprehensive program of testing. People do not change their behavior, many times, when they know they are infected.

Another quote used on the show was by the moderator himself, Bob Beckel. He said, "I never agree with DAN BURTON on anything." Well, Bob, my good friend, I think we have argued on more than one occasion. I remember that on Crossfire we did have some agreements. So I think that kind of categorical statement is not correct. But he does not agree with me very much, I will give him that.

He went on to say, "I do think there are lots of categories of people who should be tested. Health care workers ought to be tested. Anybody who goes around the business of curing people ought not to be infected with this disease. It is ravaging America. It is no longer just a gay disease. It has spread into the heterosexual community. One of these days if we are smart we are going to get everyone to take a test." Bob, we do agree on that. I think universal testing is going to have to be in the future for America because we cannot have people carrying a lethal disease not even knowing they have it, for 7 to 10 years, thus infecting other human beings.

The teen-age population in America is very sexually active. We know that. We know the college-age crowd in America is very sexually active. If we do not let them know whether or not their sexual partner has AIDS or whether or not they have AIDS, it is going to continue to spread rapidly through the future of America, that is the teen-age and college students of today.

Jim Glassman of Roll Call magazine said on the program, "I am not for testing anybody unless they want to be tested." Well, unless we test people, they are not going to know they have the AIDS virus. A voluntary testing program simply will not work because you are not going to have a large enough segment of the population being tested. So you are still going to have literally 4 to 5 million people, in my opinion, out there without the knowledge of their disease, going about their business, having sexual contact with other human beings, spreading the disease. It will spread in an exponential manner if we are not very careful.

He went on to say, "It is very clear there are only three ways to get AIDS. One is sexually, one is through using contaminated needles, and one is through a blood transfusion."

Mr. Glassman, I would say, is incorrect there. I want to set the record straight for anybody in America, and my colleagues who want to have this information.

A dentist in Florida, Dr. Acer, infected at least three of his patients during a medical procedure. That is not one of the three ways that Mr. Glassman talked about. The Federal Centers for Disease Control is funding a study right now to determine whether the virus can be transmittted in an infected aerosol form. In other words, they are saying that doctors and people who are working with another human being using saws and so forth or dentists using a drill and it turns into a miss, there is some concern that it is being spread that way. That dentist down in Florida may have given the AIDS virus to other people because of the aerosol transmission of it. We do not know.

So the Centers for Disease Control rightly is running tests right now to find out, funding a study right now to find out if AIDS can be spread as an aerosol, through the air, through spray and so forth.

A 24-year-old Italian soccer player apparently contracted the AIDS virus as a result of colliding, running into another player during a game. That was not through needles, that was not through sexual contact, that was not through a blood transfusion; that was from running into another person who had the AIDS virus and probably cutting themselves.

□ 1920

An American tourist caught the AIDS virus when splased with blood. It was not any cut. It just went through his pores. An American tourist caught the AIDS virus when blood was splased on him during a bus accident, according to the New York Post, March 22, 1989 article. Six cases of AIDS being spread through breast milk were reported at the Fourth International

Conference on AIDS. This was an AP story dated June 18, 1988. During breast feeding four mothers then contracted the AIDS virus from their babies through small cracks in the women's nipples. The baby was nursing and gave the mothers the AIDS virus. That was not through needles. That was not through blood-to-blood contact, not through sexual contact. Before people did not believe that was possible. We now know it is.

So Mr. Glassman is incorrect there. Mr. Glassman went on to say, "By requiring these test, you are going to do two things. One is the drive a lot of doctors out of the field and the other is to scare a lot of people unnecessarily." I have to take issue with that. What is better to keep everybody in the dark by not letting people know they have the AIDs virus, or to have a testing program that lets people know they have the AIDS virus and they have to change their behavior so they do not spread it to their husbands or wives or children or loved ones? People need to know, so we can do something about it. We need to know how AIDS is spreading, where it is spreading, who is spreading it and how rapidly. And to do that we need a comprehensive program, including testing of everyone in the sexually active age group. With successive confirmatory tests, false/positive rates can now be reduced to one in millions at relatively low cost. If we tested everybody in the country, it would cost under $5 per person. And the total cost of that is something that is acceptable, as far as the health of this Nation is concerned. I will get into that in a moment because many people say that is going to cost over $1 billion a year. Wait until you find out how much it is going to cost to threat AIDS patients, what it is going to do to the health care system and what it is going to do as far as health professionals are concerned.

He went on to say, "I would test people being admitted to hospitals patients, and I think almost all of them are now. Otherwise, absolutely no mandatory testing."

Once again, Mr. Glassman is incorrect. A UCLA survey found that only 15 percent of the hospitals in this country reported that they test some or all of the patients for infection at the time of admission, and 25 percent did not require threat patients be told if they tested positive. As a matter of fact, in the State of California, if you have the AIDS virus and a doctor finds out about it, he not only cannot report that to the State health agencies, as he has to do with any other sexually transmitted disease, he cannot even tell your wife or your husband because he will be in jeopardy of being sued and could be driven out of business because he would lose everything he has. So the fact of the matter is, hospitals to not test on a routine basis, very few do. And they do not even tell the patients that they do test if they are testing positive.

Michael Barone said on this program, "The experience we have had so far with testing low-risk populations has not been positive."

That is incorrect. The military has been testing 2 million military personnel per year for some time with great success. The incidence of AIDS in the military is very, very low. These people are in a very sexually active age, the young men and women who fought in Desert Storm, and they have been able to keep the military relatively free from the AIDS virus because of this routine testing program. And because of the testing program, they have been able to get those that tested positive on AZT quicker. The military program dispels that myth cheaply and accurately, according to Dr. Redfield, who ran the U.S. military program. Mr. Barone said that there has not been much success in this area. Dr. Redfield, the expert from the military, disagrees with that. Successive confirmatory tests on those testing positive can reduce the false/positive rate to 1 million at a relatively low cost, according to the Hudson Institute report which was put out in October 1989.

My colleague, the gentlewoman from New York [Ms. MOLINARI] said the majority of Americans are not going to be in favor of or for mandatory testing. The fact of the matter is, a nationwide poll found that nearly two-thirds of all Americans, 65.5 percent, would find Government-imposed testing acceptable.

In addition to that study, the Journal of the American Medical Association found that 93 percent of the homosexual men would be tested if tests were confidential, and 88 percent would take mandatory AIDS tests if they were protected by antidiscrimination laws. And we passed one last year, the Americans With Disabilities Act, that protects them. So there is no reason not to have a mandatory test program to test the entire population to protect them, because they are protected under that civil rights bill we passed last year, the ADA bill.

And the American people will accept it because they are concerned about their husbands, their wives, and their children and the future health of this Nation.

The cost to test everybody in America on a yearly basis is $1.24 billion, one and a quarter billion. That would test everybody. If you only tested the people in the age groups between 12 and 60, which is the sexually active age group, most people would agree, it would be $620 million or less than half of that; $620 million to find out who has the AIDS virus and how it is spreading, where it is spreading. We could really get a lot of information.

That is a relatively small addition to the $150 billion Federal health bill that we have every year, $150 billion is spent on Federal health care every year. It would cost $620 million to test the people of this sexually active age group once a year. That is not much money considering the AIDS epidemic will cost the country $44 billion a year in direct health costs in the year 2002.

Little over 10 years from now it is going to cost $44 billion a year to take care of the AIDS patients and the related health costs dealing with them, and we can eliminate a lot of that cost if we would start a testing program right away, not to mention the people whose lives we would save. It would cost $620 million a year, the total cost of medical care for the people with AIDS or HIV infection in New York State alone. I wish the gentlewoman from New York [Ms. MOLINARI] was here to hear this tonight. The total cost of medical care for people with AIDS or HIV infection in New York State alone was estimated at $1.3 billion last year, and is expected to double in less than 2 years to $2.6 billion. That State, New York, is one of the hardest hit in the country and testing would really help long term the health care problems of that State. And that is one of the reasons we need it.

That quote I just used was from the American Hospital Association News, February 26, 1990.

In New York State, hospitals will need an additional 7,000 nurses during the next 4 years just to take care of AIDS patients. Seven thousand additional nurses in one State alone to take care of AIDS patients in the next 4 years, and yet we do not have a testing program to find out who has it, to stop the spread of unknowing people. Remember, the people who have the AIDS virus do not even know they have it. And for the next 2 to 7 years before they get active AIDS, they look just like anybody else. They can be an athlete, a cheerleader, a basketball star in the NBA, whatever it happens to be. And all that time they are having contact with other human beings, sexual contact or maybe even other contact. We do not know. They could be spreading that disease.

That is why it is important that we test, find out, and then start a routine program, a comprehensive program to deal with this problem.

That quote was from the American Hospital Association News, February 26, 1990.

Due to the AIDS epidemic, the size of the labor force may be reduced by slightly more than 1 percent during the 1990's alone, just think what that means to the gross national product and the productivity of this country. One percent of the producing people in this country will be reduced from the labor force in the next decade because of the AIDS virus, and we do not have even a program to deal with it. We do not have a comprehensive program to deal with it. We sit here and poke fingers in the air and years go by and more people are infected, destined to die, and they are spreading to other people, and we are not doing anything about it.

I first started talking about this in 1986 and 1987, when I came down to the well. And I went into this in a lot of detail. I started talking to experts from all over the world, doctors and scientists from London, from Lancet Medical Journal, from the New England Medical Journal, from people from Harvard, all over the world, scientists and doctors who had expertise in this area.

When I first started talking about it, they estimated we had 1.5 million people infected, and it was doubling every year. That was in 1986-87. Here we are in 1991, halfway through the year, and they are still telling us there are only 1.5 million people infected.

The fact of the matter is, many experts believe we have more like 5 to 6 million people infected, all of whom will get active AIDS eventually, all of whom have potentially been spreading that to other human beings, and 95, 96, 97 percent of them, we are not sure how many, but we know it is a high percentage, do not even know they have it. They are going on day in and day out, conducting business as usual and spreading it to other human beings.

□ 1930

Now I want to talk about Dr. Everett Koop, who has his own television show. I saw it the other night, and it was a pretty good show. I want to talk about some of the things he said about the AIDS virus, just a couple of short years ago.

Dr. Koop said, in a report to everybody in this country,

> There is no danger of AIDS virus infections from visiting a doctor, a dentist, a hospital, a hairdresser, or a beautician. You may have wondered why your dentist wears gloves and perhaps a mask when treating you. This does not mean that he has AIDS or that he thinks you do. He is protecting you and himself from hepatitis, common colds, and so forth.

But he said you cannot get it from your doctor or your dentist.

Refutation is,

> A definition danger exists of AIDS infection from any health care provider engaging in invasive procedures.

On November 15, 1985, and again on April 11, 1988, the Centers for Disease Control, the CDC, in Atlanta, issued recommendations for preventing transmission of AIDS between dentists and their patients, including the wearing of gloves and masks. These recommendations have been widely adopted. So that refutes what Dr. Koop said.

We also know he said you could not get it from a doctor or a dentist. We also know that people have gotten it from doctors and have gotten it from dentists. They have been infected and are going to die because the doctor or dentist had it. They have given it to them through the course of their surgery or their profession.

I would like to read a couple of other quotes here.

> Federal health officials yesterday reported evidence suggesting that for the first time a health professional with AIDS has transmitted the virus to a patient.

I talked about that. That was Dr. Acer in Florida.

"The CDC has found evidence to strongly suggest he," Dr. Acer, "infected at least two other patients."

We now know there were others.

> Doctors and dentists infected with the AIDS virus should stop doing surgery or tell their patients about their condition, the American Medical Association and the American Dental Association said Thursday.

That was in USA Today in January 1991.

Yet, just a couple of short years ago we got a report that went all over this country saying you could not get it from doctors. Dr. Koop should not have made those categorical statements without knowing what he was talking about, but he did. And that is what I was talking about a little while ago, when I said these television shows that have people on that appear to be experts, and they give this false information to people, maybe not knowing that they are doing it, and it gives the American people misinformation, it gives them a false sense of security, and they do not protect themselves or their families, and they are at risk of getting the AIDS virus.

The Washington Times, February 15, 1991, Dr. Jewett, a professor of orthopedic surgery at the University of California, conducted a study that showed that aerosols containing HIV-infected blood were produced during orthopedic surgery. He found that these particles were small enough to penetrate a surgical mask. That meant that during surgery, when he was running a saw, spray went into the air. He has a mask on. He looked at these particles being sprayed into the air from the person that had the AIDS virus, and they were small enough to penetrate the mask he was wearing. That meant they could get onto his face and into his lungs. And that is why this test is being conducted, this study is being conducted, by CDC right now in Atlanta to find out if you can get the AIDS virus from an aerosol, from a spray in the air.

Two hundred thirty million AIDS viruses will fit on a period at the end of a sentence. Is it any wonder that people have had blood splashed on their skin and got the AIDS virus? Because their pores are so much bigger than the virus itself, the virus can penetrate their pores, even though there are not cuts.

That is why we need to have a comprehensive program.

> The AIDS virus is hard to get and is easily avoided. Coughing or sneezing will not transmit the AIDS virus.

Dr. Koop said that.

Well, I just told you that they are doing a study right now to find out if it is an aerosol, if it can be spread that way, because CDC has now come to the conclusion that they really do not know.

But Dr. Koop a few short years ago said you cannot get it that way. Just like he said you cannot get it from a doctor or a dentist, which we now know to be false.

Doctors and dentists, the Surgeon General of the United States should not be making categorical statements without factual evidence. They need to be conducting a comprehensive program, a comprehensive study, across this Nation to find out how it is being spread, who is spreading it, how rapidly it is being spread, and what can be done to curtail the disease.

I told you a while ago about the soccer player who collided, the American tourist who caught AIDS when the blood was splashed on him during a bus accident, the man who said he spent 6 years beating up gay males and may have contracted the AIDS virus from the blood of his victims when he hit them.

Dr. Koop went on to say, "An infected woman can give the AIDS virus to her baby before it is born or during birth," but he did not include the fact that you can get it after birth.

Six cases of AIDS being spread through breast milk were reported at the Fourth International Conference on AIDS which I talked about a few moments ago.

Dr. Koop said you will not get AIDS from saliva, sweat, tears, urine, or a bowel movement.

The Washington Post, January 29, 1989, during breast feeding, four mothers then contracted the AIDS virus from the babies nursing.

The New England Journal of Medicine, transmission of HIV infection from a woman to a man by oral sex has been documented. This case report suggests that oral sex alone, you can transmit HIV, even when there is no coincident exchange of blood.

So you can get it without a blood transfusion.

New Dimensions, March of 1990. Anyone who would tell you categorically that AIDS is not contracted by saliva is not telling you the truth. AIDS may in fact be transmissable by tears, saliva, bodily fluids, and mosquito bites. That is a quote from Dr. William Haseltine, a Harvard AIDS researcher.

So we really do not know all the ways it is being spread. That is why this body and this Government and the Centers for Disease Control and the Surgeon General and the head of HHS—Health and Human Services—need to get down to brass tacks and come up with a program that will deal with this in a responsible way.

We need to have a program of education. We need to have a program of testing. We need to have contact tracing. We need to have penalties for those who have the AIDS virus and know that they are spreading it to other human beings. And we need to give them psychological training. We need a comprehensive program.

We need to also make sure that those who have the AIDS virus, regardless of their sexual preference, are not discriminated against.

I feel very confident that with the Americans with Disabilities Act last year, that hurdle has been reached. There are parts of that bill that I think went way too far. Nevertheless, the civil rights of those people are protected, and we must get on to the business of protecting the vast majority of Americans who may or may not get the AIDS virus.

Mr. Speaker, most recently the New England Journal of Medicine came out with a new view of the AIDS virus and how we ought to deal with it. I would like to read an editorial by Dr. Marcie Angell, the concluding part of her editorial.

Here is what she says:

> I believe that on balance systematic tracing and notification of the sexual partners of HIV-infected persons and screening of pregnant women, newborns, hospitalized patients, and health care professionals, are warranted. These populations are, after all, relatively accessible to the health care system and at some special risk. Attempting to screen the entire population would simply be impractical. On the other hand, targeting only high risk groups would be unworkable, in part because it would entail making distinctions that are often impossible, as well as invidious.

I would like to say I disagree with her on that. I think that ultimately, I really truly believe in my heart of hearts, ultimately we are going to have a comprehensive, routine testing program, for all Americans, like we did in years past for syphilis, for tuberculosis, and other diseases that threatened the health of the Nation.

The problem is, how long are we going to wait? Are we going to wait until we have another 6 or 8 million people infected, who are destined to die? I sincerely hope not.

She went on to say,

> With any increase in screening, however, the specter of discrimination arises once a person is known to be infected. Only if such discrimination, at least in its more tangible expressions, is countered by statute, and if those with HIV infection are assured of receiving all the medical care they need, can we pursue the basic elements of infection control more resolutely, and so spare others the tragedy of this disease.

We need to do that. We need to protect those who have the AIDS virus from discrimination. But at the same time we need to get on with a comprehensive program to protect the vast number of people in this country.

Some Members want to allow anybody to come into this country who has the AIDS virus. They think we should not have any barriers.

That may sound all right on the surface, but the average cost of taking care of an AIDS patient from the time they come down with the disease to the time they die is between $100,000 and $150,000.

Multiply that times the number of people who are coming into the country that might carry the AIDS virus. Multiply that times the number of people in this country that already have the AIDS virus, that are going to come down with it. You get astronomical figures.

So we need to start dealing with this in a realistic manner. We need to come up with a program that is going to deal with the problem, control the problem, give us a guide as to where the AIDS epidemic or pandemic is going in the years to come, and then get on with protecting the majority of the people of this country.

☐ 1940

The only way to do that, in my view, is to have this comprehensive program I have talked about. To do less, in my view, is a tragic mistake.

In closing, I just would like to say to the people who are doing television broadcasts, Mr. Speaker, and I tell my colleagues this, those who are doing television broadcasts about the AIDS pandemic really ought to do their homework. They should not be making off-the-cuff remarks that are going to mislead the American people. I am sure they do not do it intentionally, but the fact of the matter is when they make these irresponsible remarks they give people a false sense of security, and then many of these people will go out and get infected with AIDS because of this misinformation.

I would just challenge anyone talking about this to do their homework, to talk to the experts, to read the journals, to read the medical journals, the Lancet, the New England Journal of Medicine, the AMA Journal on this so that when they go on television, or the radio, or in the newspapers and start expounding about this pandemic that they really are giving the straight facts. And if they do not know, they should say, "Well, I don't know about that: we'll have to check."

We are talking about something that is very, very serious, very serious, because once you get the AIDS virus you are a dead person. It is just a matter of how long you are going to live, and we need to protect the American people from this pandemic.

Mr. Speaker, I yield back the balance of my time.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1991

(Mr. PANETTA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of spending, credit, and revenues for fiscal year 1991.

This is the fifth report of the first session of the 102d Congress. This report is based on the revised budget aggregates and allocations for fiscal year 1991 as authorized in section 12 of House Concurrent Resolution 121 and as submitted to the House on May 29, 1991.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington DC, June 5, 1991.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Section 12 of House Concurrent Resolution 121, the Fiscal Year 1992 Budget Resolution, outlined procedures for revising the Fiscal Year 1991 budget aggregates and allocations. That section, applicable only to the House of Representatives, permits the aggregate levels and committee allocations for fiscal year 1991 to be revised to make them consistent with the discretionary caps and pay-as-you-go provisions of the Budget Enforcement Act of 1990.

The 302(a) allocations to House Committees made pursuant to section 12 of H. Con. Res. 121 were printed in the Congressional Record on May 29, 1991, page H. 3698. The new aggregates and committee allocations set all direct spending and revenues exactly at current baseline levels using Congressional Budget Office (CBO) estimates. For discretionary appropriations, the new allocation exactly equals the sum of the existing discretionary caps.

As specified in section 12, Committees are not required to subdivide the Fiscal Year 1991 amounts allocated to them, and enforcement of the allocations will be based on the total amounts allocated to a committee.

In order to facilitate enforcement under section 302 and 311 of the Congressional Budget Act, I am herewith transmitting the status report for fiscal year 1991 reflecting the changes in budget aggregates and allocations as authorized by section 12.

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary new budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments.

Sincerely,

LEON E. PANETTA,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1991 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 310 AS REVISED PURSUANT TO SEC. 12 OF HOUSE CONCURRENT RESOLUTION 121

REFLECTING COMPLETED ACTION AS OF JUNE 4, 1991

[On-budget amounts, in millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,187,800	1,155,800	793,000
Current level	1,187,563	1,155,200	793,000
Amount under ceilings	237	600	
Amount over ceilings			
Amount over floor			

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $237 million in budget authority for fiscal year 1991, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 310, as revised, to be exceeded.

OUTLAYS

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $600 million in outlays for fiscal 1991, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 310, as revised, to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal year 1991, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 310, as revised.

FISCAL YEAR 1991 BUDGET AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION ALLOCATION BY COMMITTEE, PURSUANT TO SEC. 302

[In millions of dollars]

House committee	Current level		
	Budget authority	Direct loans	Primary loan guarantees
Agriculture	0	0	0
Appropriations	−237	0	0
Armed Services	0	0	0
Banking, Finance, and Urban Affairs	0	0	0
District of Columbia	0	0	0
Education and Labor	0	0	0
Energy and Commerce	0	0	0
Foreign Affairs	0	0	0
Government Operations	0	0	0
House Administration	0	0	0
Interior and Insular Affairs	0	0	0
Judiciary	0	0	0
Merchant Marine and Fisheries	0	0	0
Post Office and Civil Service	0	0	0
Public Works and Transportation	0	0	0
Science, Space and Technology	0	0	0
Veterans' Affairs	0	0	0
Ways and Means	0	0	0

Note: Committees are over (+) or under (−) their 302(a) allocation for "discretionary action."

FISCAL YEAR 1991—ALLOCATION OF NEW ENTITLEMENT AUTHORITY [NEA] PURSUANT TO SEC. 302

[In millions of dollars]

Committee	Allocation	Reported[1]	Enacted[2]	Enacted over (+)/ under (−) allocation
Agriculture	0	0	0	0
Appropriations	0	0	0	0
Armed Services	0	0	0	0
Banking, Finance, and Urban Affairs	0	0	0	0
District of Columbia	0	0	0	0
Education and Labor	0	0	0	0
Energy and Commerce	0	0	0	0
Foreign Affairs	0	0	0	0
Government Operations	0	0	0	0
House Administration	0	0	0	0
Interior and Insular Affairs	0	0	0	0
Judiciary	0	0	0	0
Merchant Marine and Fisheries	0	0	0	0
Post Office and Civil Service	0	0	0	0
Public Works and Transportation	0	0	0	0
Science, Space and Technology	0	0	0	0
Veterans' Affairs	0	0	0	0
Ways and Means	0	0	0	0

[1] These figures are used for 401(b)(2) of the Budget Act.
[2] These figures are used for 302(f) points of order.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 5, 1991.

Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels. These estimates are consistent with the technical and economic assumptions in the Concurrent Resolution on the Budget agreed to on May 22, 1991 and are compared to the revised 1991 budget aggregates pursuant to section 12 of House Concurrent Resolution 121. This report, for fiscal year 1991, is tabulated as of close of business June 4, 1991 and is summarized in the following table (in millions of dollars).

	On-budget current level	Revised on-budget aggregates	Current level +/− aggregates
Budget authority	1,187,563	1,187,800	−237
Outlays	1,155,200	1,155,800	−600
Revenues	793,000	793,000	—
Direct loans	18,355	18,355	—
Guaranteed loans	109,767	109,767	—

Since my last report, dated May 1, 1991, the Congress has cleared for the President's signature H.R. 2251, the Emergency Supplemental for Humanitarian Assistance. The current level of spending has also been adjusted to reflect the within-session OMB sequester of $2.4 million in budget authority and $1.4 million in outlays.

Sincerely,

ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT, 102D CONGRESS, 1ST SESSION, HOUSE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSE OF BUSINESS JUNE 4, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues	—	—	793,001
Permanent appropriations and trust funds	740,762	683,281	—
Other legislation	668,128	695,667	—
Offsetting receipts	−225,151	−225,151	—
Total enacted in previous sessions	1,183,740	1,153,797	793,001
II. Enacted this session:			
Extending IRS deadline for Desert Storm Troops (P.L. 102–2)	—	—	−1
Veterans' education, employment and training amendments (P.L. 101–16)	(1)	(1)	—
Dire emergency supplemental appropriations, 1991 (P.L. 102–27)	3,823	1,401	—
Higher education technical amendments (P.L. 102–26)	3	3	—
OMB discretionary sequester	−2	−1	—
Total enacted this session	3,824	1,403	−1
III. Continuing resolution authority	—	—	—
IV. Conference agreements ratified by both Houses:			
Emergency supplemental for humanitarian assistance (H.R. 2251)	(1)	—	—
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution	—	—	—
On-budget current level	1,187,563	1,155,200	793,000
Revised on-budget aggregates	1,187,800	1,155,800	793,000
Amount remaining:			
Over budget resolution	—	—	—
Under budget resolution	237	600	—

[1] Less than $500,000.

Note: Detail may not add due to rounding.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 60 minutes, today.

Mr. BOEHLERT, for 5 minutes, today.

Mr. DORNAN of California, for 5 minutes, on June 6.

Mr. BURTON of Indiana, for 60 minutes each day, on June 18, 19, and 20.

Mr. DUNCAN, for 5 minutes today.

Mr. WELDON, for 60 minutes, on June 6.

Mrs. BENTLEY, for 60 minutes each day, on June 14, 17, 18, 19, 20, 21, 24, 25, 26, and 27.

(The following Members (at the request of Mr. SERRANO) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, on June 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. CAMPBELL of California in two instances.

Mr. GRADISON.

Mr. CUNNINGHAM.

Mr. OXLEY.

Mr. CAMP in two instances.

Mrs. ROS-LEHTINEN.

Mr. LAGOMARSINO.

Mr. MCEWEN in two instances.

Mr. LEWIS of Florida.

Mr. YOUNG of Alaska.

Mr. FIELDS.

Mr. MICHEL.

(The following Members (at the request of Mr. SERRANO) and to include extraneous matter:)

Mr. SKELTON.

Mr. MCMILLEN of Maryland.

Mr. TAUZIN.

Mr. HAMILTON.

Mr. PETERSON of Florida.

Mr. REED in two instances.

Mr. CLAY.

Mr. RANGEL in two instances.

Mr. KOSTMAYER.

Mr. NEAL of Massachusetts.

Mrs. LOWEY of New York.

Mr. MARKEY in two instances.

Mr. BONIOR.

Mr. SWETT.

Mr. SANDERS.

Mr. DWYER of New Jersey.

Mr. BOUCHER.

Mr. ROYBAL.

Mr. LIPINSKI.

Ms. NORTON.

Mr. SHARP.

Mr. KILDEE in three instances.

Mr. STUDDS.

Mr. ERDREICH.

Mr. DELLUMS.

Ms. SLAUGHTER of New York.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 971. An act to designate the facility of the United States Postal Service located at 630 East 105th Street, Cleveland, OH, as the "Luke Easter Post Office."

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 42 minutes p.m.) the House adjourned until tomorrow, Thursday, June 6, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1471. A letter from the Department of Defense, transmitting notification that a study has been conducted with respect to converting the transient aircraft maintenance function at McChord Air Force Base, Washington, and a decision has been made that performance under contract is the most cost-effective method of accomplishment, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Appropriations.

1472. Acting Under Secretary of Defense, transmitting the Department's report on financial analysis methodology for return on investment studies, pursuant to Public Law 100-456, section 801 (102 Stat. 2007); to the Committee on Armed Services.

1473. A letter from the President, Resolution Trust Corporation, transmitting the Corporation's report pursuant to section 21A(k)(9) of the Federal Home Loan Bank Act, as amended; to the Committee on Banking, Finance and Urban Affairs.

1474. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions by Luis Guniot, Jr., of Virginia, Ambassadors-designate and members and his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1475. A letter from the Department of State, transmitting a report on the status of secondment with the United Nations by the Soviet Union and Soviet-bloc member nations, pursuant to Public Law 100-204, section 701(b) (101 Stat. 1385); to the Committee on Foreign Affairs.

1476. A letter from the Department of Education, transmitting the semiannual report of the Inspector General for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1477. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of the Office of Inspector General for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1478. A letter from the Consumer Product Safety Commission, transmitting a copy of the annual report in compliance with the Government in the Sunsine Act during the calendar year 1990, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1479. A letter from the National Endowment for the Arts, transmitting the semiannual report of activities of the Inspector General covering the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1480. A letter from the Securities and Exchange Commission, transmitting the semiannual report of activities of the Inspector General covering the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1481. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1482. A letter from the Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled, "Foreign Agents Registration Act of 1991"; to the Committee on the Judiciary.

1483. A letter from the Department of Transportation, transmitting the annual report of activities of the Department's administration of the Deepwater Port Act, pursuant to 33 U.S.C. 20; to the Committee on Public Works and Transportation.

1484. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with medical, therapeutic, rehabilitative, and prosthetic devices, appliances, equipment, and services; to the Committee on Veterans' Affairs.

1485. A letter from the Acting Secretary of the Navy, transmitting the Department's report on Naval Medical Research and Development Command's C.W. "Bill" Young Marrow Donor Recruitment and Research Program; jointly, to the Committees on Appropriations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1775. A bill to authorize expenditures for fiscal year 1992 for the operation and maintenance of the Panama Canal; with an amendment (Rept. 102-97). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 165. Resolution waiving certain points of order during consideration of H.R. 2521, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes. (Rept. 102-98). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 166. Resolution waiving certain points of order during consideration of H.R. 2519, a bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes. (Rept. 102-99). Referred to the House Calendar.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X, the following action was taken by the Speaker:

H.R. 2474. Referral to the Committee on Armed Services extended for a period ending not later than June 20, 1991.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 2544. A bill to authorize the Secretary of Transportation to carry out a highway demonstration project for construction of a bridge to replace a bridge in providing motor vehicle access across the White River at DeValls Bluff, AR; to the Committee on Public Works and Transportation.

By Mr. BARTON of Texas (for himself, Mr. Lent, Mr. Moorhead, Mr. Fields, Mr. Holloway, Mr. Oxley, and Mr. Synar):

H.R. 2545. A bill entitled the "Vehicular Natural Gas Act of 1991"; to the Committee on Energy and Commerce.

By Mr. BOUCHER (for himself, Mr. Oxley, Mr. Cooper, Mr. Hastert, Mr. Fields, Mr. Barton of Texas, Mr. Downey, Mr. Gordon, Mr. McCloskey, Mr. Fuster, Mr. Evans, Mr. Olin, Mr. Payne of Virginia, Mr. Ford of Tennessee, Mr. Hochbrueckner, Mr. Traxler, Mr. Wolpe, Mr. Jacobs, Mrs. Lowey of New York, Mr. Spratt, Mr. Shays, Mr. Chapman, Mr. Stallings, Mr. Nagle, Mr. Laughlin, Mr. Green of New York, Mr. Armey, Mr. Hammerschmidt, Mr. Henry, Mr. Penny, Mr. Combest, Mr. Marlenee, Mr. Skeen, Mr. Quillen, Mr. Traficant, Mr. Engel, Mr. DeLay, Mr. Smith of Texas, Mr. LaFalce, Mr. Wise, Mr. Clinger, Mr. Neal of North Carolina, and Mr. Machtley):

H.R. 2546. A bill to advance the national interest by promoting and encouraging the more rapid development and deployment of a nationwide, advanced, interactive, interoperable, broadband telecommunications infrastructure on or before 2015 and by ensuring the greater availability of, access to, investment in, and use of emerging communications technologies, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DONNELLY:

H.R. 2547. A bill to amend the Communications Act of 1934 with respect to the regulation of service tiers provided by cable television systems; to the Committee on Energy and Commerce.

By Mr. DURBIN:

H.R. 2548. A bill to authorize the Secretary of the Interior to establish an Abraham Lincoln Research and Interpretive Center; to the Committee on Interior and Insular Affairs.

By Mr. FRANK of Massachusetts:

H.R. 2549. A bill to make technical corrections to chapter 5 of title 5, United States Code; to the Committee on the Judiciary.

By Mr. GRANDY (for himself, Mr. Rangel, Mr. Houghton, and Mr. Morrison):

H.R. 2550. A bill to amend the Internal Revenue Code of 1986 to encourage the formation of, and donation of contributions to, apprenticeship education organizations; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 2551. A bill to amend title XVI of the Social Security Act with respect to establishing minimum national standards to protect elderly and other residents of board and care facilities; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WYDEN (for himself and Mr. Roybal):

H.R. 2552. A bill to provide for a National Commission on Board and Care Facility Quality to review and recommend standards for board and care facilities; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. HOBSON:

H.R. 2553. A bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice; to the Committee on the Judiciary.

By Mr. HUBBARD:

H.R. 2554. A bill to amend chapter 3 of title 11, United States Code, to modify the compensation for private bankruptcy trustees; and for other purposes; to the Committee on the Judiciary.

By Mr. KOSTMAYER:

H.R. 2555. A bill to provide for the establishment of a summer camp program for low-income youths, and to expand the Youth Conservation Corps Program; jointly, to the Committees on Education and Labor, Interior and Insular Affairs, and Agriculture.

By Mr. LAGOMARSINO (for himself, Mr. Gallegly, Mr. Panetta, and Mr. Thomas of California):

H.R. 2556. A bill entitled "Los Padres Condor Range and River Protection Act;" jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. McMILLEN of Maryland:

H.R. 2557. A bill to amend the Elementary and Secondary Education Act of 1965 to provide additional grants to schools eligible for grants under chapter 1 of title I of such act that require students to maintain satisfactory grades as a condition of participation in extracurricular activities; to the Committee on Education and Labor.

By Mr. MARKEY (for himself and Mr. Rinaldo):

H.R. 2558. A bill to authorize appropriations for the National Telecommunications and Information Administration for fiscal years 1992 and 1993; to the Committee on Energy and Commerce.

By Mr. SCHUMER:

H.R. 2559. A bill to require that the U.S. Government hold certain discussions and report to the Congress with respect to the secondary boycott of Israel by Arab countries; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. SHARP (for himself, Mr. Bruce, Mr. Scheuer, Mr. Bereuter, Mr. Berman, Mr. Costello, Mr. Jontz, Mr. Lancaster, Mr. McCloskey, Mr. Porter, and Mr. Ravenel):

H.R. 2560. A bill to provide that for purposes of determining the minimum allocation paid to any State under section 157 of title 23, United States Code, and determining the amount of any other allocation or appointment of Federal-aid highway funds, the amount of taxes treated as paid into the Highway Trust Fund with respect to alternative sources of energy shall be determined as if such energy sources were taxed as gasoline, and for other purposes; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. WILLIAMS (for himself, Mr. Gephardt, Mr. Hoyer, and Mr. Downey):

H.R. 2561. A bill to remove the barrier to access for middle income students to Federal student financial aid programs, and for other purposes; to the Committee on Education and Labor.

By Mr. GEJDENSON (for himself, Mr. Tauzin, Mr. Davis, Mr. Studds, Mr. Fields, Mr. Lehman of Florida, Mr. Reed, Mr. Hochbrueckner, Mr. Panetta, Mr. Inhofe, Mr. Blaz, Mr. de Lugo, Mr. Guarini, Mr. Ravenel, Mr. Espy, Mr. Spence, Mr. Machtley, Mr. Smith of Florida, Mr. Lancaster, Mr. Bacchus, Mr. Darden, Mr. Engel, Mr. Ramstad, Mr. Owens of Utah, Mr. Bilirakis, Mr. Thomas of Georgia, Mr. Lagomarsino, Mr. Johnson of South Dakota, and Mr. Eckart):

H. Con. Res. 163. Concurrent resolution commending the Coast Guard for its important role in the Persian Gulf conflict and urging the people of the United States to recognize such role; to the Committee on Merchant Marine and Fisheries.

By Mr. VISCLOSKY (for himself, Mr. Levin of Michigan, Mr. Ackerman, Mr. Annunzio, Mr. Bacchus, Mrs. Bentley, Mr. Bereuter, Mr. Bevill, Mr. Bonior, Mr. Brown, Mr. Bruce, Mr. Bryant, Mr. Burton of Indiana, Mr. Cardin, Mr. Clement, Mr. Clinger, Mr. Coyne, Mr. Davis, Mr. Darden, Mr. Dellums, Mr. Durbin, Mr. Dwyer of New Jersey, Mr. Engel, Mr. Erdreich, Mr. Evans, Mr. Feighan, Mr. Gaydos, Mr. Gekas, Mr. Guarini, Mr. Harris, Mr. Herger, Mr. Hochbrueckner, Mr. Horton, Mr. Jontz, Mr. Kanjorski, Ms. Kaptur, Mr. Kolter, Mr. Kostmayer, Mr. LaFalce, Mr. Lipinski, Ms. Long, Mr. Machtley, Mr. Markey, Mr. Mavroules, Mr. McCloskey, Mr. McNulty, Mr. Mfume, Mr. Montgomery, Mr. Murphy, Ms. Norton, Mr. Nowak, Mr. Orton, Mr. Owens of Utah, Mr. Payne of New Jersey, Mr. Pease, Mr. Poshard, Mr. Rahall, Mr. Reed, Mr. Ritter, Mr. Roe, Mr. Roemer, Mr. Rose, Mr. Russo, Mr. Sarpalius, Mr. Saxton, Ms. Slaughter of New York, Mr. Smith of Florida, Mr. Staggers, Mr. Studds, Mr. Taylor of Mississippi, Mr. Towns, Mr. Traficant, and Mr. Wilson):

H. Res. 167. Resolution expressing the sense of the House of Representatives that United States businesses engaged in the rebuilding of Kuwait should use United States subcontractors and all available United States goods and services; to the Committee on Energy and Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

163. By the SPEAKER: Memorial of the Senate of the State of Colorado, relative to the dual banking system; to the Committee on Banking, Finance and Urban Affairs.

164. Also, memorial of the Legislature of the State of Hawaii, relative to the establishment of a comprehensive national health insurance program; to the Committee on Energy and Commerce.

165. Also, memorial of the Senate of the State of Colorado, relative to the Federal Election Campaign Act of 1971; to the Committee on House Administration.

166. Also, memorial of the Senate of the State of Colorado, relative to the new Federal tax on recreational vessels; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BACCHUS:

H.R. 2562. A bill for the relief of M4 Data, Inc.; to the Committee on the Judiciary.

By Mr. BEREUTER:

H.R. 2563. A bill for the relief of Richard W. Schaffert; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. NEAL of Massachusetts, Mr. GILMAN, Mr. FEIGHAN, Ms. OAKAR, Mr. CLAY, Mr. WASHINGTON, Mr. KILDEE, Mr. FROST, Mr. LEHMAN of Florida, Mr. ANDREWS of New Jersey, Ms. NORTON, and Mr. POSHARD.

H.R. 74: Mr. WASHINGTON, Mr. MARTINEZ, and Mrs. BOXER.

H.R. 116: Mr. GLICKMAN.

H.R. 134: Mr. REED, Mr. RIGGS, Mr. RITTER, Mrs. VUCANOVICH, Mr. VENTO, Mr. HEFLEY, Mr. NEAL of Massachusetts, Mr. WILLIAMS, Mr. DONNELLY, Mr. RIDGE, Mr. MINETA, Mr. MCMILLAN of North Carolina, and Mr. SCHEUER.

H.R. 194: Mr. DARDEN and Mr. KANJORSKI.

H.R. 251: Mr. BEILENSON, Mr. JONTZ, and Mr. SIKORSKI.

H.R. 252: Mr. STUDDS.

H.R. 288: Mr. ENGEL, Mr. LANCASTER, Mr. JOHNSON of South Dakota, Mr. MCHUGH, Mr. TORRES, Mr. JACOBS, Mrs. MORELLA, Mr. ESPY, Mr. OWENS of Utah, and Mrs. UNSOELD.

H.R. 299: Mr. HUNTER.

H.R. 300: Mr. KANJORSKI.

H.R. 392: Mr. MORRISON and Mr. PANETTA.

H.R. 447: Mr. EVANS.

H.R. 539: Mr. LEHMAN of Florida.

H.R. 571: Mr. MARTINEZ.

H.R. 592: Mr. ROE.

H.R. 623: Mrs. MEYERS of Kansas and Mr. MACHTLEY.

H.R. 730: Mr. ESPY.

H.R. 784: Mr. PETRI.

H.R. 830: Ms. SLAUGHTER of New York.

H.R. 843: Mr. KANJORSKI.

H.R. 852: Mr. CLAY and Mr. KENNEDY.

H.R. 945: Mr. INHOFE, Ms. MOLINARI, Mr. HOBSON, Mr. GILLMOR, and Mr. RHODES.

H.R. 1063: Mr. JONTZ, Mr. SABO, Mr. DELLUMS, Mr. HOCHBRUECKNER, Mr. HERTEL, Mr. SIKORSKI, and Mr. STUDDS.

H.R. 1077: Mr. SAXTON, Mr. PENNY, Mr. DWYER of New Jersey, Mr. ASPIN, and Mr. CRANE.

H.R. 1080: Mr. ENGEL, Mr. MACHTLEY, Mr. LEWIS of Florida, and Mr. HORTON.

H.R. 1107: Mr. APPLEGATE, Mr. BARNARD, Mr. BERMAN, Mrs. BOXER, Mr. BROWN, Mr. BRYANT, Mr. CHANDLER, Mr. CONDIT, Mr. DARDEN, Mr. DELLUMS, Mr. DURBIN, Mr. ERDREICH, Mr. EDWARDS of California, Mr. ENGEL, Mr. ESPY, Mr. EVANS, Mr. FEIGHAN, Mr. GLICKMAN, Mr. HUTTO, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mrs. LOWEY of New York, Mr. MILLER of Washington, Ms. NORTON, Mr. OLIN, Mr. ORTON, Mr. RICHARDSON, Mr. RITTER, Mr. SARPALIUS, Mr. SCHEUER, Mr. SIKORSKI, Mr. SMITH of Oregon, Mr. TALLON, Mr. TRAFICANT, Mrs. VUCANOVICH, Mr. WEISS, Mr. WILSON, Mr. YATRON, and Mr. ZELIFF.

H.R. 1124: Mr. FISH and Mr. MARTIN.

H.R. 1130: Mr. LUKEN.

H.R. 1200: Ms. LONG, Mr. CONDIT, Mr. MORRISON, Mr. PETERSON of Florida, Mr. VOLKMER, Mr. YATRON, and Mr. SIKORSKI.

H.R. 1246: Mr. OWENS of Utah, Mrs. KENNELLY, and Mr. RANGEL.

H.R. 1269: Mr. ENGEL.

H.R. 1368: Mr. HERTEL.

H.R. 1414: Mr. CONDIT.

H.R. 1444: Ms. NORTON.

H.R. 1454: Mr. PRICE, Mr. GRAY, Mrs. COLLINS of Illinois, Mr. WEISS, Mr. OWENS of Utah, and Mr. ANDREWS of Maine.

H.R. 1457: Mr. JONES of Georgia and Mr. JOHNSTON of Florida.

H.R. 1468: Mr. HANCOCK.

H.R. 1472: Mr. DANNEMEYER, Mr. CUNNINGHAM, Mr. RAVENEL, Mr. HAYES of Louisiana, Mr. JOHNSON of South Dakota, and Mr. ROTH.

H.R. 1514: Mr. SMITH of Oregon, Mr. HUNTER, Mr. LEWIS of California, Mr. KYL, Mr. SKEEN, Mr. THOMAS of Wyoming, Mr. HANSEN, Mr. MCCANDLESS, Mr. STUMP, Mr. RICHARDSON, and Mr. THOMAS of California.

H.R. 1633: Mr. CRAMER, Mrs. LOWEY of New York, Mr. GUNDERSON, Mr. LAFALCE, Mr. MANTON, Mr. WOLPE, Mr. SWETT, Mr. FLAKE, Mr. WHEAT, Mr. SOLARZ, Mr. JONES of Georgia, Mr. GILMAN, Mr. MCMILLEN of Maryland, Mr. FISH, Mr. RICHARDSON, Mr. CARDIN, Mr. JOHNSON of South Dakota, Ms. PELOSI, Mr. KOLBE, and Mr. JOHNSTON of Florida.

H.R. 1662: Mr. WHEAT, Mr. BRYANT, and Mr. WEISS.

H.R. 1724: Mr. KANJORSKI.

H.R. 1737: Mrs. UNSOELD, Mr. GORDON, Mrs. COLLINS of Illinois, Mr. MCDERMOTT, Mr. FEIGHAN, Mr. HUCKABY, Mrs. MINK, Mr. RANGEL, Mr. ROE, and Mr. FROST.

H.R. 1751: Mr. GILMAN and Mr. MACHTLEY.

H.R. 1782: Mr. WOLPE, Mr. RIGGS, Ms. HORN, Mrs. MORELLA, Mr. COUGHLIN, Mr. PRICE, Mr. SCHUMER, Mr. NOWAK, Mr. MFUME, Mr. BRYANT, and Mr. BOUCHER.

H.R. 1860: Mr. NAGLE, Mr. ESPY, and Mr. ANTHONY.

H.R. 1960: Mr. RANGEL, Mr. WHEAT, Ms. NORTON, and Mr. HOBSON.

H.R. 1969: Mr. BOEHLERT and Mr. RINALDO.

H.R. 2027: Mr. KOPETSKI and Mr. JOHNSTON of Florida.

H.R. 2041: Mr. BILIRAKIS.

H.R. 2046: Mr. ZELIFF and Mr. SWETT.

H.R. 2049: Mr. CUNNINGHAM.

H.R. 2056: Mr. MILLER of Washington.

H.R. 2141: Mr. BEILENSON, Mr. GUARINI, Mr. HOAGLAND, Mr. PAYNE of Virginia, Mr. POSHARD, Mr. RICHARDSON, and Mr. TOWNS.

H.R. 2199: Mr. NOWAK, Mr. FISH, Mr. UPTON, Mr. SMITH of Texas, Mrs. BYRON, Mr. MINETA, and Mr. ECKART.

H.R. 2212: Mr. WELDON, Mr. GORDON, Mr. ANDREWS of New Jersey, Mr. EDWARDS of Oklahoma, Mr. HERTEL, Mr. TRAFICANT, Mr. GONZALEZ, Mr. DOOLITTLE, Mr. HOYER, Mr. CUNNINGHAM, Mr. POSHARD, Mr. EVANS, Mr. BOUCHER, Mr. SKAGGS, Mr. MANTON, Mr. CARPER, Mr. SARPALIUS, Ms. ROS-LEHTINEN, Mr. PALLONE, Mr. GILMAN, Mr. TORRES, Mr. PRICE, Mr. HAYES of Louisiana, Mr. RANGEL, Mr. WOLPE, Mr. LEHMAN of Florida, Mr. PERKINS, Mr. MAVROULES, and Mrs. KENNELLY.

H.R. 2231: Mr. GILCHREST, Mr. ROSE, Mr. WEBER, and Mr. LANCASTER.

H.R. 2258: Mr. BUSTAMANTE, Mr. CARR, Mr. DORGAN of North Dakota, Mr. FLAKE, Mr. GILCHREST, and Mr. SYNAR.

H.R. 2279: Mr. DELLUMS.

H.R. 2291: Mr. LIPINSKI.

H.R. 2303: Mr. KOPETSKI.

H.R. 2361: Mr. NAGLE.

H.R. 2363: Mr. DWYER of New Jersey, Mr. JEFFERSON, Mr. GILMAN, Mr. HAYES of Illinois, Mr. JOHNSTON of Florida, and Mr. SIKORSKI.

H.R. 2386: Mr. WALSH, Mr. HERTEL, Mr. PAYNE of Virginia, and Mr. BURTON of Indiana.

H.R. 2448: Mr. DERRICK, Mr. HAMILTON, Mr. MARLENEE, Mr. MAZZOLI, Mr. MOORHEAD, Mr. RICHARDSON, Mr. STALLINGS, Mr. SWIFT, Mrs. PATTERSON, Mr. NEAL of North Carolina, Mr. AUCOIN, and Mr. THOMAS of Wyoming.

H.J. Res. 130: Mr. STAGGERS.

H.J. Res. 195: Mr. KOSTMAYER.

H.J. Res. 207: Mrs. COLLINS of Michigan, Ms. OAKAR, Ms. WATERS, Mr. WAXMAN, Mr. JENKINS, Mr. JONES of North Carolina, Mr. LEVIN of Michigan, Mr. SARPALIUS, Mr. ABERCROMBIE, Mr. BLAZ, Mr. BREWSTER, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CRAMER, Mr. VOLKMER, Mr. DARDEN, Mr. DAVIS, Mrs. BENTLEY, Mr. DICKS, Mr. ESPY, Mr. FORD of Tennessee, Mrs. BYRON, Ms. HORN, Mr. HYDE, Mr. FISH, Mr. WOLPE, Mr. SLATTERY, Mr. YATRON, Mr. SERRANO, Mr. ZIMMER, Mr. HARRIS, Mr. HAMMERSCHMIDT, Mr. MFUME, Mr. MAVROULES, Mrs. MEYERS of Kansas, Mr. MURPHY, Mr. MCDADE, Mr. MCMILLAN of North Carolina, Mrs. MINK, Mr. ORTON, Mr. RAMSTAD, Mr. ROBERTS, Mr. PURSELL, Mr. TRAFICANT, Mr. VANDER JAGT, Mr. TOWNS, Mr. TAUZIN, Mr. TALLON, Mr. KANJORSKI, Mr. STAGGERS, Mr. MARTIN, Mr. PERKINS, Mr. HENRY, Mr. SKEEN, and Mr. BILIRAKIS.

H.J. Res. 219: Mr. RUSSO, Mr. GRAY, Mr. ROEMER, Mr. MORAN, Mr. BUNNING, and Mr. GILCHREST.

H.J. Res. 228: Mr. BRYANT, Mr. FISH, Mr. HUNTER, Mr. LEVIN of Michigan, and Mr. HALL of Texas.

H. Con. Res. 101: Mr. MFUME and Mr. EVANS.

H.J. Res. 83: Mr. LAGOMARSINO, Mr. BALLENGER, Mr. SCHAEFER, Mr. BOEHNER, Mr. HYDE, Mr. INHAFE, Mr. DICKINSON, Mr. CALLAHAN, Mr. HORTON, Mr. HEFLEY, Mr. IRELAND, Mr. COX of California, Mr. HERGER, and Mr. TAUZIN.

H. Res. 125: Mr. GOSS, Mr. RIGGS, Mr. LENT, Mr. BATEMAN, Mr. LEWIS of Florida, Mr. KYL, Mr. LAGOMARSINO, Mr. PETRI, Mr. KOLBE, Mr. BAKER, Mrs. VUCANOVICH, Ms. MOLINARI, Mr. ARMEY, and Mr. COX of California.

H.J. Res. 129: Mr. DYMALLY, Mr. FISH, and Mr. LEWIS of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1790: Mr. SENSENBRENNER.

EXTENSIONS OF REMARKS

A TRIBUTE TO CHARLIE BENNETT'S ATTENDANCE RECORD

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. ANNUNZIO. Mr. Speaker, every Member of this House should take pride in the fact that Congressman CHARLIE BENNETT today is celebrating 40 years of perfect attendance on rollcall votes.

CHARLIE's voting record demonstrates his dedication to public service and the institution of this House. But beyond that, CHARLIE has earned our respect time and again by voting his conscience regardless of politics.

Mr. Speaker, over the past 40 years, CHARLIE BENNETT has demonstrated a determination to vote for what he believes in regardless of the political fallout. That quality is a perfect complement to the 40-year voting record we are recognizing today.

TRIBUTE TO REPRESENTATIVE CHARLIE BENNETT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. CLAY. Mr. Speaker, I would like to take note of the exemplary voting record of my colleague Representative CHARLES BENNETT who on June 4, 1991, celebrated the anniversary of his 40th year without missing a legislative vote. This remarkable record, the longest in congressional history, is an achievement that certainly deserves special recognition and commendation. I welcome this opportunity to express my admiration for Representative BENNETT's record that is indicative of his dedication and commitment to the welfare of our Nation.

PROUD OF OUR OWN CHARLES BENNETT

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. SMITH of Florida. Mr. Speaker, today our esteemed colleague and friend, CHARLES BENNETT, celebrates his 40th year in Congress without missing a single legislative vote. The Guiness Book of World Records is being rewritten every day he comes to work. His voting record is the longest in U.S. congressional history. Mr. BENNETT is one of the most respected people in Congress and his years of dedication and commitment to his constituents and his country are to be commended.

CHARLES BENNETT has struggled with bad weather conditions and a World War II injury, made emergency transportation reservations, and even left the hospital where his wife was giving birth to their fourth child in order to fulfill his duties as a Member of Congress. He has still cast a record-breaking number of legislative votes. His dedication to his work has earned him the deep admiration of his colleagues on both sides of the aisle.

But CHARLIE'S dedication does not stop with voting records. He has had tremendous impact on the passage of important legislation. He has successfully promoted military and environmental legislation. Nevertheless, he has authored and enacted legislation in the areas of crime, auto safety, education, government efficiency, and fiscal responsibility. He is responsible for legislation that required that buildings be accessible to the handicapped.

CHARLIE has served his district, his State, and his country for over 42 years with dedication and commitment. Today we celebrate that commitment. We in Florida are very proud of our own CHARLES BENNETT.

TRIBUTE TO CHARLES BENNETT

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. YATRON. Mr. Speaker, I rise today, with great honor, to pay tribute to my esteemed colleague from Florida, CHARLIE BENNETT. Mr. BENNETT is the 10th longest serving Member in the history of the U.S. House of Representatives and, as you know, has set an all-time voting record in Congress, having not missed a single vote since June 4, 1951.

It has truly been a pleasure to work with CHARLIE over the last 23 years. His outstanding performance has continually shown an undaunted enthusiasm and fervor for tackling important issues and his presence at each vote has been an inspiration to all. Having served since January 1949, CHARLIE has been a leader in various areas ranging from issues in ethics to environmental and military legislation. He authored the code of ethics for government service and his legislation created the House Ethics Committee of which he has twice been chairman. It was CHARLIE who introduced the legislation to make "In God We Trust" our national motto.

It has been my district privilege and honor to know and work with CHARLIE BENNETT. He has continued to serve his constituents and his Nation with honor and dedication. I would like to wish him continued success and happiness in the future and I look forward to seeing him at the next vote.

BELL COMPANIES AND THE LINE OF BUSINESS RESTRICTIONS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. MARKEY. Mr. Speaker, today, legislation passed in the other body which would allow the Bell Operating Cos., or BOC's, into the manufacturing marketplace, an area which the BOC's have been restricted from since the 1984 consent decree which broke up the old Bell telephone system.

This legislation, introduced by the distinguished Senator from South Carolina, Senator HOLLINGS, provides the United States telecommunications industry with an opportunity to improve this Nation's status as a leader in communications technology and will usher in a new generation of advanced telecommunications equipment manufactured right here in the United States. I would like to commend the chairman of the Senate Committee on Commerce, Science and Transportation for providing his leadership on this vital issue of American competitiveness in high-technology products. Because of this tremendous effort on the part of Senator HOLLINGS and his staff, S. 173, the Telecommunications Equipment Research and Manufacturing Competitiveness Act of 1991, passed in the Senate.

Last month, I circulated draft legislation which would permit the BOC's to manufacture telecommunications equipment, with several safeguards to protect consumers and ensure competition. In addition, the draft legislation would require telephone network upgrades and modernization and institute certain prospective safeguards, if or when the BOC's are given additional relief from MFJ restrictions.

In short, the legislation would revise the FCC rules for governing an outsider's access to the telephone network; institute standards for service quality in the local telephone networks; require that BOC's provide nondiscriminatory interconnection with large business customers and other common carriers; create new price and cost-accounting rules and new protections for residential customers from bearing the cost of BOC entry into new business.

This legislation must be carefully crafted to allow the BOC's to compete in manufacturing, while controlling the potentially negative ripple effect on other businesses that unleashing such powerful marketplace forces could have. In addition, consumers, who depend on a single company to provide local telephone service, must be guaranteed the same quality service and reasonable rates that have traditionally been provided for the American consumer. We cannot allow ourselves to be blinded by the relative gleam of new ventures and technological advances without ensuring that these important safeguards are in place.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

And we must have the vision to create legislation which will comprehensively address all of the issues involved.

For far too long, Congress has allowed itself to be effectively by locked out of its legitimate leadership responsibility in this area of telecommunications policy. Even during the Senate debate, there was an attempt to insert judicial influence in the process. For this reason, any attempt at legislating in this area should not be so limited in scope as to deny the appropriate role of Congress.

This month, as debate on MFJ legislation moves to the House, the Subcommittee on Telecommunications and Finance will have a unique opportunity to hear from the administration's leading experts on this issue. The Assistant Secretary for the National Telecommunications and Information Administration, the chief telecommunications advisor to the President, will testify this month, as well as the Chairman of the Federal Communications Commission. These forums will provide members with an open discussion of all of the issues related to the difficult task of moving legislation in this area. The decisions we eventually make will have profound and far-reaching effects on the information technology and telecommunications industries.

I urge my colleagues to consider the significance of these issues and to support legislation which will protect consumers, invigorate competition, and stimulate growth and investment in the telecommunications industry.

CONGRESSMAN KILDEE HONORS BARBARA STEWART

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. KILDEE. Mr. Speaker, I would like to take this opportunity to honor a wonderful and distinguished individual—Mrs. Barbara Stewart of Flint, MI—who is retiring after 40 years with the Flint Community Schools.

Her retirement marks the end of four decades of dedicated and extraordinary service to kindergarten education at Pierson and Neithercut Elementary Schools.

Mrs. Stewart began her teaching career after extensive schooling that included graduate studies at the University of Michigan and postgraduate work at Michigan State University; the University of Michigan; the Sorbonne, and the University of Paris in France; and the Centres Europeans Langues et Civilisations in Lausanne, Switzerland. She is a charter member of the Beta Mu Chapter of Delta Kappa Gamma, the international honorary teachers' society.

Besides her teaching, she also has earned enormous respect and admiration for her talents and devotion to music—"the universal language of mankind"—as Longfellow said.

Over the years, Barbara has been an active member of the Flint Civic Opera, and in 1990, she toured England with the Flint Festival Chorus. She has performed at Flint's Whiting Auditorium with the Flint Symphony Orchestra, Detroit's Cobo Hall, New York City's Lincoln Center for the Performing Arts, and in concert twice at New York City's Carnegie Hall.

Her love of music, and her great interest in the cultures and languages of Europe, have served as great inspiration to her students for years. Through her, they also have had a rare opportunity to learn about other young people across the ocean, removing cultural barriers, and creating a better tomorrow.

Mrs. Stewart will be greatly missed by her colleagues and the students of the Flint Community Schools, and she will always be remembered for her accomplishments in the academic arena and in the field of fine arts.

Mrs. Stewart has succeeded in making the Flint community a better place in which to live. It gives me great pride to stand before you today to honor such a fine individual and to give her the credit she so richly deserves.

HON. JAMES L. WATSON, SENIOR JUDGE, U.S. COURT OF INTERNATIONAL TRADE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. RANGEL. Mr. Speaker, I would like to bring to the attention of my colleagues a resolution adopted by the chief judge and judges of the U.S. Court of International Trade recognizing Judge James L. Watson. Judge Watson, is a jurist whose illustrious career illustrates his devotion to the service of our Nation.

Judge Watson is a decorated World War II veteran, former New York State Senator and civil court judge. During his 25 years of regular service as a judge of the U.S. Court of International Trade he has built a reputation of fairness patience, and dignity.

The resolution which was prepared by the court on February 28, 1991, follows:

RESOLUTION

The United States Court of International Trade recognizes with appreciation, respect and admiration the Honorable James L. Watson upon the occasion of his decision to retire after twenty-five years, from regular active service as a judge of this Court, effective at the close of business on February 28, 1991, and thereafter to perform substantial judicial duties as a senior judge.

Judge Watson's service to his country began with the 92nd Infantry Division during World War II. He was wounded while a combat infantryman in Italy and received the Battle Star, Purple Heart, Combat Infantry Badge, and European Theater Ribbon.

Before his appointment in March 1966 to the United States Customs Court, predecessor to this Court, Judge Watson served as a Senator of the State of New York and a Judge of the Civil Court of the City of New York.

During his twenty-five years service to this Court, Judge Watson, in addition to his judicial duties, also served as Chairman of the Legislative Committee of the Court, which was concerned with important legislation such as the Customs Courts Act of 1970 and of 1980, the Trade Agreements Act of 1979, and the Court of International Trade Amendments Act of 1985. He also served as Chairman of the Rules and Practice Committee of the Court guiding major revisions and amendments to the Rules, through to adoption. And, as Chairman of the Committee on Automation, he influenced and encouraged the acquisition of needed automation and technological facilities, including computer assisted legal research, personal computers with related hardware and software, and electronic court recording equipment for the judges and staff of the Court.

Judge Watson also served with distinction, pursuant to eighty-eight separate designations by two Chief Justices of the United States, on district courts throughout the United States.

Of course, Judge Watson's contributions to the Court cannot be described by merely listing events and achievements. His wise counsel on controversial issues; his objectivity and low-key demeanor; his keen judgment in matters requiring Court action; his quiet elegance; his charm, wit and sense of fair play; his congeniality; his sensitivity for human freedom and dignity; his unpretentiousness; his inmate sense of decency and propriety—are some of the qualities which best describe Jim Watson, our friend and colleague.

Throughout his judicial career, he has epitomized the personal attributes required by Canon 3 of the Code of Conduct for United States Judges—patience, dignity, and courtesy to litigants, lawyers, witnesses, jurors, and all others with whom he dealt.

We, the Chief Judge and Judges of the Court, on behalf of the institution, its staff and its bar, and the public, are proud to acknowledge his friendship and his dedicated service to the judiciary, and we congratulate him on his successful and rewarding career—a career that will continue as he goes forward with many more years of future service as a senior judge.

TRIBUTE TO THE ARMY NATIONAL GUARD 460TH SUPPLY UNIT

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. CAMP. Mr. Speaker, it is with pleasure and great pride that I recognize the Army National Guard 460th Supply Unit based in my hometown of Midland, MI.

About a month ago, this unit celebrated a joyous occasion in Midland—their return home. I was on hand to see their emotion-filled return to their families and friends in mid-Michigan. This 166-member unit which served proudly in the Persian Gulf, had an additional reason to rejoice since they returned home without any loss of life.

Mid-Michigan residents are extremely proud of the skills and sacrifices exhibited by their family, friends, and neighbors who served in the 460th Supply Unit and were stationed in the Persian Gulf during Operation Desert Storm. Their contributions helped make Operation Desert Storm a great success.

We have known for many years that National Guard and Reserve Units are a cost-effective way of providing for the defense and security of our Nation both in peacetime and in war. They are the grass roots support of our military operations. Their outstanding contributions during Operation Desert Storm reinforced their important role in our military operations.

While I certainly hope that the National Guard and Reserve Units will never be called on to serve in a military conflict, we can be confident that they would again serve us bravely and skillfully.

Mr. Speaker, I am sure you will join with me in recognizing and commending the 460th Supply Unit of Army National Guard for a job well done. They wholeheartedly deserve this special recognition.

MEMORIAL DAY IN SURFSIDE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it brings me great pleasure to honor the Memorial Day celebration of Surfside, a growing south Florida town in the northern part of my district. The ceremony was held in conjunction with the Harry H. Cohen Post No. 723 of the Jewish War Veterans of the United States.

With the ending of the Persian Gulf war, the true meaning of "Memorial Day" becomes all the more clear. When we commemorate our veterans, we celebrate our commitment to democracy and freedom. We honor their courage and their willingness to give their lives for our way of life. We realize that we are fortunate to live in a country which prides itself on liberty.

Comdr. Ruth Sondak and Mayor Eli Tourgeman arranged a moving ceremony. Many civic leaders came out to speak at the celebration. Among them were Chaplain Max Akst introducing Mayor Eli Tourgeman the master of ceremonies; Scout Mark Pomerance of the 67th Boy Scout Troop who led the Pledge of Allegiance; Rabbi Shalom Lipskar of Surfside Shul who delivered the invocation; Maj. Bruce Pagel of the U.S. Marine Corps who just returned from Desert Storm 3 weeks ago; Comdr. Greg Kirkbridge of the U.S. Coast Guard; Sr. M. Sgt. Harvey Dworin of Homestead Air Force Base; Lt. Comdr. Renee Simpson of the U.S. Navy; Gwen Margolis, the president of the Florida State Senate; Dr. Jon Rauch, leader of Boy Scout Troop 67; Mr. Ainslee R. Ferdie, past national commander of the Jewish War Veterans; Ben Levine, former Mayor of Surfside; Rabbi Phineas A. Webberman of Ohev Shalom; Frita Cohen, wife of the late Harry H. Cohen, who laid the wreath with Chaplain Max Akst; Sam Brenner, former Mayor of Surfside who delivered the benediction; and Gold Star mother Gertrude Eisenberg whose son died in World War II.

These speakers, along with the residents of Surfside, honored war veterans in the true spirit of Memorial Day. It is with great pride that I bring their spirit to the attention of the House and the American public.

TRIBUTE TO SGT. DAVID W. WILLIAMSON

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. MCEWEN. Mr. Speaker, as Members of Congress we have the frequent opportunity to meet and work with dedicated individuals who play a critical role in the successful protection of America's communities.

Occasionally, among those many devoted State and local officials, we find an individual of such unusual distinction and accomplishment that his work requires special notice. That is my purpose in rising today.

It is with great pride and pleasure that I ask you to join me in recognizing Sgt. David W. Williamson upon his retirement from the city of Jackson Police Force. Upon becoming acquainted with David Williamson's career, I am confident that our colleagues will be anxious to join the officers of the city of Jackson Police Force along with Sergeant Williamson's family and friends in saluting his contributions to law enforcement, safety, and to civic responsibility.

Sergeant Williamson's 25-year career with the city of Jackson Police Force began in June 1966. During his time as a distinguished public servant, Sergeant Williamson was responsible for law enforcement and public safety in a rural community of nearly 9,000 residents. His range of responsibilities included day shift operations and supervision of assigned officers, traffic accident division operations including alcohol intoxication testing, drug testing/identification and evidence room operations. Of particular significance, Sergeant Williamson was most recently responsible for startup, training, and operational supervision of a highly effective Neighborhood Watch Program. Sergeant Williamson has been recognized for his outstanding performance having received the 1990 Sergeant of the Year Award, 1989 FOP Appreciation Award, and was nominated for Officer of the Year in 1981, 1984, and 1987.

But to fully understand and appreciate David Williamson, one must look beyond his life on the job. Sergeant Williamson and his wife, Iva, are parents of a daughter, Sarah, who is 9 years old. They worship at Good Shepherd Wesleyan Church. David served as president of the Fraternal Order of Police Lodge for 3 years and is currently the Fraternal Order of Police Lodge secretary. He has also served as president of the Coalition Alumni.

David Williamson is one of those special people who, in addition to giving so much to their professional responsibilities, make generous use of their spare time to the added benefit of all our lives. It is difficult to place an exact value on the many contributions David has made to life in Ohio, as a police officer and as an involved citizen. It would be still harder to try to imagine what life in Ohio would have been like if we had never known David Williamson. But Ohio has been fortunate, Mr. Speaker, very fortunate.

Mr. Speaker, the city of Jackson Police Force protects the lives and property of the citizens of Ohio every day. Through tireless effort and dedication to the duties of the Jackson Police Force, Sergeant Williamson earned the gratitude and respect of all whom he served. I urge my colleagues to join me today in commending Sgt. David Williamson for his years of honorable service as an exemplary member of the city of Jackson Police Force and, equally important, as a caring friend and neighbor.

Our best wishes should rightfully go to David and his family as they enjoy the fruits of a well-earned retirement. I know that David will remain dedicated to his life-long pursuit of an ideal: Active and continuing good citizenship. It is an honor to have had David's friendship for these many years. I know that his good health and faithful service will give him many years of joy ahead.

SALUTING EAGLE SCOUT BRIAN LAMARSH OF TROOP 49

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Brian M. Lamarsh of Troop 49 in the Lakewood section of Warwick, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as Citizenship in the Community, Citizenship in the Nation, Citizenship in the World, Safety, Environmental Science, and First Aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, Brian Lamarsh led a group of Scouts in landscaping the House of Hope temporary shelter in Warwick.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Brian Lamarsh. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Brian Lamarsh will continue his public service and in so doing will further distinguish himself and consequently better his community. I am proud that Brian Lamarsh undertook his Scout activity in my Representative district, and I join friends, colleagues, and family who this week salute him.

HONORING HELEN ANN HENKEL

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. ENGEL. Mr. Speaker, today I wish to pay tribute to Helen Ann Henkel, a distinguished member of the Slavic community in Yonkers, who is being honored with the Book of Golden Deeds Award by the Exchange Club of Yonkers.

The Book of Golden Deeds Award is a prestigious honor given to an outstanding individual who has provided many years of service and dedication to the Yonkers community. Helen Henkel certainly fits this description. As chief clerk in the Yonkers Department of Public Works, she has coordinated many essential city services. In addition, she serves as vice chair for the Yonkers Board of Ethics, second vice president for Big Brothers and Big Sisters of Yonkers, and on the board of directors of a host of other important civic organizations.

The Exchange Club of Yonkers, which was founded in 1937, has a long history of raising funds for the improvement of the community. It is a group that judiciously bestows its honors on those rare individuals who have given freely and selflessly to the people of Yonkers. Helen Henkel is only the ninth recipient of the Golden Deeds Award in the 54 years of the Exchange Club of Yonkers, and she is the first local female recipient of the award.

As the grand daughter of Polish and Ukrainian immigrants who came to this country at the turn of the century, Helen Henkel has carried on the rich traditions of her heritage while also giving generously to her community and country. I salute her today along with the Exchange Club of Yonkers.

RITA WFBB SMITH THE WOMAN WHO TOOK BACK HER STREETS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. RANGEL. Mr. Speaker, I would like to call to the attention of my colleagues an article about Mrs. Rita Webb Smith. Mrs. Smith has earned a master's degree in social work from Fordham University, two honorary doctoral degrees and special recognition from various government officials and community organizations. She has shown a sincere commitment to revitalizing her community through various housing and socioeducational programs. Her efforts have breathed new life into the idea that the true hope for our Nation's struggling communities lies in the strength of its members.

The article, which appeared in the New York Daily News on May 21, 1991, follows:

MRS. SMITH GOES TO WASHINGTON—AND BRINGS BACK THE MONEY TO SAVE HER HARLEM STREETS

(By Hollie I. West)

At Rita Webb Smith's door, petunias, gladiolas and ivy are in full bloom. The only greenery in sight, they stand in bright contrast to the concrete of W. 143d St.

"I planted these flowers," she recalls, and "people would pull them up or mash them. But I'd just plant them again. Now nobody bothers them."

Smith was just as persistent—and successful—in her fight to oust drug dealers and renovate housing in her Central Harlem block. The struggle is captured in the recently published "The Woman Who Took Back Her Streets" (New Horizon Press $19.95).

Written by Smith with Tony Chapell, the book is a powerful account of how she mobilized her block, built a coalition, made Washington deliver, got off welfare, earned a master's degree in social work from Fordham, received two honorary doctorates and won the plaudits of government officials and community organizations.

Hers is a saga of growing up in an unhappy home, getting married and divorced twice before the age 28 while giving birth to five children (twin daughters came later).

"I wanted to tell the other side of what's happening in Harlem," says Smith, 51, moving briskly around her office in the building where she grew up and now owns. "There're a lot of good people that hold the place together."

Smith's cause began in 1979 when her son David became the innocent victim of a drug enforcer, who shot the 21-year-old in the face. She helped police track down the assailant and fueled the prosecution with evidence that resulted in a conviction for attempted murder and a jail sentence of 25 years.

"I had to respond," she says. "I couldn't stand it. People were being held as human pawns of poverty."

Before David was shot, Smith's family and neighbors lived in terror. Gunfire crackled in the street; police and fire sirens pierced the air. Mornings usually brought the discovery of dead youngsters in vacant lots. Fires broke out in abandoned buildings that drug addicts used as freebasing galleries.

In fear of the flames, Smith kept a bag of necessities and important papers ready in case she and her children had to flee their apartment at a moment's notice.

After the trial, Smith turned her attention to the decrepit housing that had become drug havens. She wrote a proposal that brought the last of the federal Section 8 housing money available to the city to her neighborhood. Residents established a development company, Make a Neighborhood Again, and are renovating 700 low- and middle-income units in buildings in a 10-square block area.

Smith calls the late Catholic activist Dorothy Day her mentor. "Dorothy was like a mother to me," she says. "Sometimes she'd pay my water and heat bills. She raised money to help me go to college. But she always wanted me to stay in Harlem and fight.

"As a kid growing up, my dream was to live somewhere else. I thought I'd marry a doctor or lawyer. . . . But at one point, I decided to make the best of this. After having all the kids, I decided to make my own American dream."

With her twin daughters in college, another daughter just graduated from law school and the other children on their own, Smith, now in a new third marriage, had launched the Survival Clinic and Take Back Your Street Center. At the clinic, she directs local residents to community services; at the center, she hopes to hold organizing sessions for neighborhood leaders.

"At one point, I was president of everything," she said. "I looked forward to the day when I could step aside. Now I want to help people develop their self-help skills."

KILDEE SALUTES 50 YEARS OF WORSHIP AT JACKSON MEMORIAL TEMPLE OF GOD IN CHRIST

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in commemorating the 50th anniversary of the Jackson Memorial Temple of God in Christ serving my hometown of Flint, MI. The parishoners of Jackson Memorial will celebrate the golden jubilee of their church this July.

The Jackson Memorial Temple of God in Christ, established in December 1941, has been a bedrock of faith and spiritual support for the members of the parish over the last five decades. The priests and sisters of the Jackson Memorial Temple of God in Christ have helped the parishioners through many difficult periods, and the parishioners have given generously of their time, talents, and love to make this parish the close and supportive community it remains today.

Since December 1941, when Elder Leo J. Jackson first celebrated mass for the parish, the Jackson Memorial Temple of God in Christ has been the heart of a vibrant Christian community on the south side of Flint. Elder Jackson began the work of the Lord 50 years ago with his wife Dorothy, his mother and sister, Thelma Washington. The four of them dedicated their lives to serving the Lord. Through their time and perseverance, the Jackson Memorial Temple of God in Christ has become a reverent example of Christianity.

Rev. Vincent M. Lewis and his staff have had a strong, unifying influence on the community. Sunday school, Bible studies, and Christian outreach youth and action weekly meetings have been instrumental in molding good families and developing good citizens of the Flint community.

Mr. Speaker, without a doubt, our community is a much better place in which to live because of the 50 years of service, love, and spiritual support from the parish of the Jackson Memorial Temple of God in Christ. I urge my House colleagues to join me in congratulating the people of Jackson Memorial Temple of God in Christ for a wonderful, fulfilling 50 years, and in wishing them even greater success in the years ahead.

PROPOSAL FOR REORGANIZATION BY THE ARMY CORPS OF ENGINEERS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. LIPINSKI. Mr. Speaker, I rise today to call attention to a proposal for reorganization by the Army Corps of Engineers. This reorganization would cause the shutdown and relocation of many offices across the country.

Included in this proposal is a recommendation to close both the Chicago District Office and the North Central Division Office, also located in Chicago. I strongly believe this to be a terribly misguided recommendation.

Today I had the opportunity to present testimony before the Commission on Defense Base Closure and Realignment on this subject. The fact that this Commission, properly understood, does not have jurisdiction over the reorganization of the Army Corps of Engineers is one point of objection. My comments, however, focus on the fact that it would be a grave environmental and economic mistake to close the Chicago offices.

In order to register my opposition to this reorganization plan, I would like to submit my complete testimony for the RECORD:

TESTIMONY OF HON. WILLIAM O. LIPINSKI BEFORE THE COMMISSION ON DEFENSE BASE CLOSURE AND REALIGNMENT

Thank you for the opportunity to provide testimony before the Commission today on this very important matter.

I would like to start by stating that I respectfully question the jurisdiction of the Commission on Defense Base Closure and Realignment to consider the proposed reorganization of the Army Corps of Engineers (ACOE). The jurisdiction of the Commission relates to facilities with military missions. The ACOE's mission, however, is in significant part a civil works and environmental mission.

I will not focus on this issue today, however. Rather, I would like to concentrate on the substance of the recommendations regarding the reorganization of the ACOE.

I oppose the closing of the Chicago District and North Central Division offices of the ACOE on the grounds that such closure would seriously undercut efforts of regional and national significance to protect both the natural and man-made environment, and to promote trade and commerce on the nation's waterways. It would disrupt important intergovernmental and civic relationships that have been painstakingly established over a long period of time, and which serve vital ecological and economic interests which are national in scope and importance. The closure would be costly and wasteful.

The Great Lakes Basin holds the largest concentration of fresh water on earth. It provides a transportation route for raw materials into the nation's heartland, and for feeds, grains and manufactured goods out to the rest of the world. It is a vital national and international resource, the proper management of which is essential to the physical and economic well-being of the region and the nation.

The City of Chicago is the largest metropolitan area on the Great Lakes. It has the largest population and the longest publicly owned shoreline in the entire Great Lakes Basin. Chicago is also the location of the north-south aquatic continental divide; it is through the Chicago and Calumet Rivers that the Great Lakes Basin connects with the Mississippi River, and eventually, the Gulf of Mexico. The construction of the Illinois & Michigan Canal at the turn of the century, which achieved this connection, involved a greater engineering effort and movement of earth than the Panama Canal. As such, Chicago is a crucial population center and hydrological site for both the Great Lakes and Mississippi River systems.

The Chicago District of the ACOE is central to the proper regulation and protection of the Great Lakes. The Chicago District has charge of the lock system on the Chicago River that regulates the diversion of water from the Basin into the Mississippi watershed. The rate of diversion is governed by the Supreme Court of the United States, so as to guarantee that the waters of the Basin are not depleted to the detriment of the Great Lakes States and Canada. The Chicago District's oversight of the confluence of these two important watersheds is thus of interstate and international significance.

The Chicago District and the North Central Division are directly involved in water quality issues for the Great Lakes. Remediation of environmentally impaired sites in the region, such as the Waukegan Harbor and Gary, Indiana Superfund sites, has proceeded with significant involvement of the North Central Division and the Chicago District. Similarly, the Chicago District has been active in dredging contaminants from the Calumet River, and disposing of the dredge material in cells it constructed for containment of contaminants.

The proposal to remove the ACOE district and division offices from Chicago would constitute a serious abnegation of ACOE, and federal, responsibility for the Great Lakes environment. The presence of the ACOE offices in Chicago, which is a major industrial center with the problems of environmental impairment associated with past industrial activity, is key to effective coordination of environmental remediation of Great Lakes contamination. Given the concentration of approximately one-quarter of the world's fresh water in the Great Lakes, the North Central Division's and the Chicago District's continued participation in environmental remediation of the Basin has national and global significance.

Also of national significance is the work being undertaken by the Chicago District and the North Central Division regarding coastal management. At a time when coastal erosion and conflict between natural processes and development pressures has reached crisis dimensions in coastal communities throughout the nation, the ACOE offices in Chicago have helped develop an approach to coastal protection that is a model for the nation. Through coordination with the City of Chicago, the Chicago Park District, the State of Illinois, and civic organizations, the Chicago District has developed a coastal erosion plan that will restore and protect the 26-mile public shoreline of Chicago in a way that will enhance open space, preserve water quality and protect literally billions of dollars of investment and development, by accommodating natural fluctuations in lake levels. Personnel from the North Central Division have participated in task forces and technical groups to establish the foundations for the plan. It is a plan which has won praise, from both coastal engineers and environmental activists, as ecologically sensitive and workable.

The process of public discussion and participation, with local and state governments and citizen and civic organizations, resulted in broad public consensus and an environmentally sensitive plan. This process was possible because of the location of the ACOE district and division offices in Chicago. Implementation of the plan will require similar broad cooperation, including continued ACOE participation. The removal of the Chicago District and North Central Division offices will undercut the institutional and personal relationships that have been painstakingly established and fostered in the planning process, and which need to be maintained to assure successful completion of the project. As the ACOE expands its efforts to protect the environment, removal of the Chicago District, where this role has most fruitfully been realized, is wasteful and counterproductive. What has been established in Chicago is a model for the nation. The offices and personnel that have achieved this should not be broken up and disposed.

The important on-going tasks of the Chicago District include flood prevention and control. The district office is in the process of completing the study of the final leg of the Tunnel and Reservoir Project undertaken by the Greater Chicago Metropolitan Water Reclamation District to prevent flooding and to control storm water runoff so as to improve Lake Michigan water quality. The District office is also engaged in regional surface, storm water retention basin projects throughout the Chicago region. The extremely complex hydrogeology of the northeastern Illinois region makes the long-term presence and involvement of the Chicago District office and the North Central Division in floodplain study and development essential for effective flood control in the region.

Finally, the continuing role of the Chicago District in promoting trade and commerce in the region should be noted. From the earliest period of Chicago history, when it helped establish the path of the Chicago River as it entered Lake Michigan, built and maintained the breakwaters that still protect the Chicago Harbor, the ACOE Chicago District has provided key assistance to the economic life of the region. Presently, the Chicago District is helping trade and commerce by maintaining the channels of the Chicago and Calumet Rivers for barge traffic. It is anticipated that the urban industrial core along the Chicago River, which municipal ordinances have designated as a Protected Manufacturing District, will have continuing vitality in part through further Chicago District dredging projects. In addition, there are now discussions underway regarding Chicago District cooperation in restoring riverine wetlands and natural areas within the urban river corridors, furthering the local/federal coordination already manifest in the Lake Michigan coastline project.

The Chicago District and the North Central Division offices of the ACOE have proven themselves to be a responsible and innovative representative of the federal government and the Department of the Army. Both of these offices have become effective institutions for environmental protection and responsibility. They have acted as reliable and able partners to governments and civic organizations in the region. Their continued presence is important to Chicago, to projects essential to regional trade and commerce, and to environmental concerns vital the Great Lakes, the nation and the world. Closure of the Chicago District and North Central Division would not serve the Army Corps of Engineers, and would greatly disserve the interests of Chicago, the Great Lakes and the United States.

INTRODUCTION OF THE NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION REAUTHORIZATION ACT OF 1991

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. MARKEY. Mr. Speaker, today I join my colleagues in introducing the "National Telecommunications and Information Administration Reauthorization Act of 1991". This legislation would authorize appropriations for fiscal years 1992 and 1993 for the National Telecommunications and Information Administration [NTIA]. The bill authorizes the full NTIA budget request of $18.7 million in fiscal year 1992 and $21 million in fiscal year 1993.

The funding authorized in the bill will enable the agency to effectively continue its important role in developing our national policy for the telecommunications industry. The funding levels reflect the importance that telecommunications has in our national and global economies and is consistent with the needs of the agency and the needs of this vital industry. Specifically, this legislation will allow NTIA to fulfill its responsibilities for the development and presentation of domestic and international telecommunications and information policy for the executive branch, for management of the radio spectrum assigned to Federal Government users, and for performing research in telecommunication sciences.

During the next 2 years, NTIA will continue to pursue several specific program and policy priorities, which will be critical to ensuring the future growth of the telecommunications industry in the United States. In previous years, NTIA has conducted detailed telecommunications infrastructure studies and provided expert advice and technical information to telecommunications entities in various countries. During the past year, NTIA met with senior officials of Eastern European nations to assess those nation's telecommunications infrastructure, determine needs, and identify resources for improving basic telephone and mass media communications requirements. NTIA also undertook serious policy discussions with these officials to familiarize them with essential elements of competition and privatization in telecommunications. In 1990, spectrum management seminars were conducted in Hungary, Czechoslovakia and Romania. This year, similar seminars will be conducted in Poland, Bulgaria, and Yugoslavia. These seminars not only introduce new techniques to the host country, but they also provide the host with a good technical environment in which to meet with U.S. service and equipment suppliers.

NTIA has been an increasingly active player in international telecommunications issues, assuming a particularly strong role in the Federal Government's effort to reduce foreign barriers to the world-wide telecommunications trade. The telecommunications provisions of the 1988 Trade Act required determinations to be made of the extent to which market access is available in other nations. NTIA provided the U.S. Trade Representative with technical advice in the bilateral negotiation process with the European Community and the Republic of Korea, and on telecommunications market access in Japan.

In addition, NTIA contibuted to preparations for and served on delegations to meetings of the Organization for Economic Cooperation and Development [OECD] and the General Agreement on Trade and Tariffs [GATT] pertaining to international telecommunications services and regulatory and trade policy developments. And, in 1990, NTIA chaired an executive branch committee which developed initial U.S. views for the 1992 World Administrative Radio Conference [WARC] at which decisions will be made on many radio frequency standards affecting new and innovative telecommunications services. NTIA also chaired a group within the Organization of American States [OAS] charged with developing common western hemisphere views and united positions prior to the conference.

NTIA's domestic policy activities include, among other things, the conduct of studies in areas of significant interest, testimony on legislation affecting the telecommunications and information industries, recommendations to the Federal Communications Commission, and minority participation in the telecommunications industry. NTIA initiated three major domestic policy initiatives in 1990 through its Office of Policy Analysis and Development. First, in February 1991, NTIA released a study, "U.S. Spectrum Management Policy: Agenda for the Future," which examines alternative spectrum management methods, technology developments affecting spectrum use, and anticipated spectrum requirements.

Second, NTIA's Telecommunications Infrastructure Inquiry posed questions relating to the role of government in promoting development of national telecommunications networks; the ways in which those networks contribute to U.S. competitiveness and quality of life; and the technological improvements that are changing the basic capabilities of telecommunications networks.

Third, NTIA's Inquiry on the Globalization of Media explores the phenomenon of international media enterprises, and asks how the increasingly international nature of electronic media firms should affect current U.S. domestic media policies. NTIA and the City University of New York cosponsored a symposium on these issues in December 1990.

Mr. Speaker, I have only scratched the surface of the international and domestic activities of NTIA. This organization is vital to the future competitiveness of the United States in the critical area of high-technology products and information systems. As the global economy depends more and more on the quick transfer of information and data through innovative means of communicating, the importance of American leadership in telecommunications policy will become increasingly important. I urge all of my colleagues to support this critical legislation.

A TRIBUTE TO MANUEL FERNANDEZ

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to pay tribute to a most outstanding citizen, Manuel Fernandez. Mr. Fernandez is an 86-year-old resident of Miami, FL, and is constantly making an effort to enhance the community and make Miami a better place to live.

Mr. Fernandez is a very caring and thoughtful individual. Not only does he care for his wife, Carmen, to whom he has been married for over 50 years, he also maintains the household in which they have lived for nearly 17 years. From actually collecting door to door, he has raised thousands of dollars for "La Liga Contra El Cancer," an organization to help fight cancer. He is also very active in helping refugees and aliens acquire citizenship to the United States. These are the efforts of a true humanitarian.

Among many community activities, he holds a position as one of the officers in his Southwinds Condominium building. He also works very hard in his effort to increase voter registration. Through his dedication to make Miami a safer community, he has helped to obtain a crosswalk at the intersection of 94th Avenue and Flagler Street, an area in which this was greatly needed.

Mr. Manuel Fernandez does not ask for recognition nor does he look for it, but this is a man whose achievements cannot go unnoticed. He is a wonderful human being and an inspiration to all who know him. It is my pleasure to bring him to the attention of my colleagues and the American public.

TRIBUTE TO SHELDON S. SOLLOSY

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. REED. Mr. Speaker, I rise today to pay tribute to Sheldon S. Sollosy, who will this week be named recipient of the Providence Rotary Club's 1991 Rhode Island Distinguished Citizen Award. Mr. Sollosy, who has since 1954 served as president of Manpower, Inc. of Providence, has long distinguished himself as an activist in Rhode Island's business and Jewish communities, and has consistently devoted considerable time and effort to various charities. I join thousands of Rhode Islanders in praising his worthy selection for this award.

The impressive range of Mr. Sollosy's community involvement reflects his devotion to business, education, faith, and his fellow Rhode Islander. He is vice chairman for the Government Affairs Council of the Greater Providence Chamber of Commerce, vice president of the Providence Public Library, and a member of the Workers Compensation Advisory Council, the board of the public education fund, and the Governor's Small Business Council. He is also chairman of religious practices for the Jewish Home for the Aged, and a director of the Genesis School, the Jewish Federation of Rhode Island, Leadership Rhode Island, the Turks Head Club, and the Providence Performing Arts Council.

In recent years, Mr. Sollosy has served as president of the Rhode Island Chamber of Commerce, honorary president of Temple Torat Yisrael and Providence Hebrew Day School, a delegate to the White House Conference on Small Business, and chairman of the Rhode Island March of Dimes during the last outbreak of polio.

For his efforts, Mr. Sollosy has been named Small Business Leader of the Year by the Greater Providence Chamber of Commerce, recipient of the distinguished Amudim Award by Providence Hebrew Day School, and recipient of Brandeis University's Distinguished Community Service Award.

Mr. Speaker, I ask you and my fellow colleagues to join me in saluting distinguished Rhode Island citizen Sheldon S. Sollosy. Thousands of Rhode Islanders, like myself, have been touched by Sheldon's many gestures of compassion, enthusiasm, and innovation, and I am proud that he has undertaken much of his work in my Representative district. I join family and friends who next week celebrate his many contributions.

CONGRESSMAN KILDEE HONORS NASA ASTRONAUT, LT. COL. DONALD R. McMONAGLE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. KILDEE. Mr. Speaker, I would like to bring to your attention the outstanding achievements of Lt. Col. Donald R. McMonagle, a native of my hometown of Flint, MI, who recently returned from an 8-day mission aboard the space shuttle *Discovery*.

During this flight, the first unclassified Department of Defense mission, Lieutenant Colonel McMonagle and the other six crew members circled the Earth 134 times, logging over 3.5 million miles. As part of this mission, the *Discovery* crew conducted a number of experiments including gathering data for the strategic defense initiative, observing and photographing the Southern Lights as well as strong storms on the surface of the Sun.

Lieutenant Colonel McMonagle's flight into space marks the highlight of a stellar career in the U.S. Air Force. As Lieutenant Colonel McMonagle has risen to prominence in the Air Force, he has gained over 3,400 hours of flying experience. After graduating from pilot training school in 1975, McMonagle went on a 1-year tour of duty in South Korea. Upon his return, he was assigned to Holloman AFB in 1977 and then to Luke AFB in 1979 as an F–15 instructor pilot. In 1981, he entered the U.S. Air Force Test Pilot School at Edwards Air Force Base, CA, and was the outstanding pilot graduate in his class. From 1982 to 1985, McMonagle was the operations officer and a project test pilot for a technology demonstration aircraft. He was the operations officer for the 6513th Test Squadron at Edwards AFB when chosen for the astronaut program.

Selected by NASA in June 1987, McMonagle became an astronaut in August 1988, and qualified for assignment as a pilot on future space shuttle flight crews. His technical assignments have included the space shuttle main engines, external tank, and main propulsion system. Prior to McMonagle's space shuttle mission assignment, he worked as capsule communicator [CAPCOM], the focal point for all verbal communication with the crew in the orbiting vehicle.

Since McMonagle's return from space, he has discussed his mission with hundreds of students in the Flint area. His appearance and talks with the students has increased both their enthusiasm and their confidence. One local principal said that Lieutenant Colonel McMonagle makes the children "believe that if they put their mind to it, they can accomplish anything."

Mr. Speaker, I ask that you join me and our colleagues as we honor the fine achievements of Donald McMonagle. He serves as a model for the Flint community. His outstanding accomplishments certainly make him worthy of recognition by the House of Representatives today.

HONORING COL. WILLIAM H. FRIZELL, U.S. MARINE CORPS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. McEWEN. Mr. Speaker, I rise today to recognize and honor the outstanding service of Col. William H. Frizell, U.S. Marine Corps, a Marine Corps Congressional Liaison Officer to the U.S. House of Representatives in the Office of Legislative Affairs.

Colonel Frizell has been a tremendous asset to the U.S. Marine Corps throughout his service as liaison to the House from August 1987 to June 1991. He has been an influential and well respected spokesman for congressional policy supporting the mission and preparation of the Marines, and his contribution to assuring that the Marines were provided the support they needed to perform with the capability they recently exhibited in the Persian Gulf cannot be measured.

Mr. Speaker, I have had the pleasure to work personally with Bill Frizell on numerous occasions. He has always performed his duty with absolute professionalism, exceptional integrity, superior judgement, and a mastery of national security issues which made his assistance and advice much sought after. He has also always maintained a breadth of vision which went beyond matters of direct impact on the Marine Corps. This made Colonel Frizell's advice and counsel an invaluable commodity to numerous members whenever national security matters came before the House.

Along with providing assistance directly to Members of Congress, Colonel Frizell carried out his service with a tone of professionalism that reflected positively on the Marines. As the Chief House Liaison for the Marines, Colonel Frizell personified the Corps. In doing so, he served in the House with the same exceptional professionalism and excellence that the U.S. Marines have always exhibited on the field of honor. Every Member that worked with Colonel Frizell could only think better of the Marine Corps and the U.S. Navy thereafter.

Colonel Frizell displayed initiative and creativity in devising and implementing a member-relations program that personalized the needs and capabilities of the Navy/Marine team. His Quicklook Outreach Program has become a cornerstone of the Department of the Navy orientation, and promises to remain so for many years.

Mr. Speaker, Bill Frizell's accomplishments in the Marine Corps are too numerous to detail. He has been decorated with the Distinguished Flying Cross, the Purple Heart, the Defense Meritorious Service Medal, the Air Medal with strike flight numeral "15," the Navy Commendation Medal and the Combat Action Ribbon. He has served with distinction and valor on the field of battle protecting American freedom and values, he has served with honor in numerous posts during peacetime, and he has been a marked success during his tenure in the House.

Col. William Frizell departs his position in the Congressional Liaison for another assignment in the Marine Corps. After nearly 25 years of active duty service he heads off to Hawaii, but not to retire and enjoy the trade winds of the Pacific, instead he moves to the USCINCPAC, Airborne Defense Command Post at Camp Smith, Hawaii. Though I know that I will miss him here in Congress, I wish him well in this newest challenge offered to him by his beloved Corps.

Colonel Frizell's contributions to the Marine Corps and Navy will keep benefitting the Nation well into the 21st century. He leaves behind an impressive network of close personal and professional relationships, and his service as director of the Marine Corps House liaison will be the Yardstick by which those who follow him will be measured.

Mr. Speaker, I join my colleagues in commending and thanking Bill Frizell for his service to America, his service to the Marine Corps, and his service to the U.S. Congress. He will be greatly missed, but he will remain a valued friend to many in Congress and will not be forgotten.

TEN YEARS SINCE AIDS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. RANGEL. Mr. Speaker, I would like to call the attention of my colleagues to an article printed in the New York Times on June 5, marking the first decade of the battle against AIDS. Today marks 10 years since the official recognition of Acquired Immune Deficiency Syndrome by the medical community.

Since then, the struggle against this tragic disease has affected the lives of every American. It has shattered families, strained city, State, and Federal budgets, and ruined lives. In 1990 alone, over 160,000 were diagnosed with AIDS and more than 100,000 have died.

In New York City especially, AIDS has had devastating effects. There are more cases of AIDS in New York City—over 31,000 reported cases this year—than the next 4 cities with the highest incidences of AIDS combined. Of all the cases diagnosed in the country, 25 percent have been in New York City. AIDS has become the leading cause of death in New York City for women aged 25 to 29 and for men aged 30 to 44.

In particular, the black and Latino communities in New York City have been ravaged by AIDS. Black and Latino men and women comprise over 60 percent of the adult cases in the city. And nationally, 28 percent of all the reported AIDS cases are black and 16 percent are Latino. Tragically, 91 percent of the pediatric AIDS cases are black and Latino.

As we enter the next decade, the fight against AIDS must be strengthened. The saying "Silence is death" applies more to AIDS now than ever before. The leadership of this country must step forward, speak up, and direct their energies to the fight against the disease—and not against those who are afflicted with it.

The Nation must fight the war against AIDS with as much commitment and resources as it fought the war in the Persian Gulf. I urge my colleagues to support full funding of the Ryan White Comprehensive AIDS Resource Emergency Act. This act provides essential funding to intensify AIDS education, treatment, and research.

The next decade will be vital in all areas regarding AIDS. I pray that we are not here 10 years from now, lamenting over the horrors of AIDS, when we can act now and save thousands of lives.

[From the New York Times, June 5, 1991]

AIDS—THE SECOND DECADE; LEADERSHIP IS LACKING

(By Michael S. Gottlieb)

LOS ANGELES.—Ten years ago, I treated a few patients with mysteriously high fevers, weight loss and unusual lung infections. On June 5, 1981, the Centers for Disease Control published my description of this rare array of symptoms. At first, I naively thought that the patient would recover and that they would be healthy once again. I was wrong. All of them died. It was clear to me before too long that we were on the brink of a natural disaster as devastating as any on earth.

In 1981, less than 100 people died of the disease that came to be known as acquired immune deficiency syndrome. By the end of 1990, approximately 160,000 people in the U.S. had been diagnosed with AIDS and 100,000 had died. What we thought might be a curable outbreak was a full-fledged epidemic.

As we enter the second decade of AIDS, the question that haunts me must haunt everyone. How did this epidemic happen? Why wasn't every possible step taken to halt the spread of this virus? And, perhaps most important, why is there no comprehensive national plan to address the most costly epidemic of our time?

The tragedy, of course, is that the AIDS epidemic was preventable. The war could have been won early if there had been a commitment at the highest levels of the Government.

As in Vietnam, the war was fought without a will to win. The leadership in Washington underestimated the enemy and mistook the threat as coming from people who had the virus rather than from the virus itself.

Americans may tend to regard AIDS as a problem of the 1980's, yet the 1990's will be much worse. According to the Centers for Disease Control, by the end of 1993 there will have been 285,000 to 340,000 deaths. It is estimated that in each year of the 1990's at least 2,000 babies will be born infected with the AIDS virus.

Despite these astounding figures, two Presidents of the United States have been reluctant to be the commander-in-chief in this fight. Ronald Reagan gave AIDS only passing notice, and President Bush has failed to enter the battle as forcefully as the crisis demands. Consider these figures: In the first 30 days of the Persian Gulf war, 14 Americans were killed in combat; in the same period, 2,500 Americans died of AIDS.

We need a battle plan for AIDS in the 1990's. Mine would aim to do the following:

Persuade President Bush to take charge of this crisis by putting AIDS at the top of his domestic agenda.

Revive the prevention message first voiced by Surgeon General C. Everett Koop. It has been neglected since he left the Government in 1988. He made condoms a household word. Because of inadequate prevention strategies, 40,000 to 50,000 Americans are newly infected each year.

Prevent the spread of the virus among drug users, their sexual partners and babies. This strategy must include distributing free clean needles to addicts, and expanding methadone programs and basic health care for this impoverished population.

Increase access to prenatal care and testing for the 80,000 or so women of child-bearing age who are infected with the HIV virus.

Expand financing for research on treatment and vaccines. AIDS is still a medical emergency and warrants urgent expenditures.

Our leaders in Washington have ducked the issue for far too long. There should no longer be a political risk in supporting an effort to make AIDS a zero-growth epidemic.

One million Americans are already infected with the HIV virus. The AIDS crisis has not passed, and the worst is yet to come. It is likely that in three or four years every American will know someone who has AIDS. Maybe that is what it will take to change attitudes and make every American an AIDS activist.

(Michael S. Gottlieb is a physician specializing in patients with AIDS and HIV infections.)

UNITING AGAINST ANTI-SEMITISM

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, I have an entry today for that list which consists of good news about bad news. That is, there are phenomena in our society which we all wish did not exist, and which are very bad news. From time to time individuals and organizations take effective action against these various forms of bad news, and in our effort to eradicate these blights in our life, it is important that we pay proper attention to the efforts that are made against them.

Anti-Semitism continues to be a problem in American society, and no organization does more to combat it than the Anti-Defamation League of B'nai B'rith. We are especially fortunate in New England to have Leonard Zakim as the head of the ADL regional office. Recently he along with leaders of the Massachusetts Council of Churches, the Roman Catholic Archdiocese of Boston, and the Greek Orthodox community began a new program entitled, "Uniting Against Anti-Semitism—the Christian Community Responds." This is a very promising program and I extend my very sincere congratulations to all of those involved in it. I ask that the explanation of this program be printed here. As the statement says, it is meant to be a national model and my purpose here is to offer this model to other sections of the country in the hope that they will emulate it to the benefit of all of us.

UNITED AGAINST ANTI-SEMITISM—THE CHRISTIAN COMMUNITY RESPONDS

Calling it a national model for collaboration against anti-Semitism by Christians and Jews, leaders from the Archdiocese of Boston, the Massachusetts Council of Churches, the Greek Orthodox community, and the Anti-Defamation League in Boston announced that a new pamphlet entitled, "Uniting Against Anti-Semitism—The Christian Community Responds" is being distributed to over 8,000 churches and individual priests and ministers in Massachusetts.

The initiative for the pamphlet came after the Anti-Defamation League reported a 171% increase in the number of reported incidents in Massachusetts for 1989. The Pamphlet is designed to address the unique problem of anti-Semitism as emanating from persistent myths and stereotypes about Jews.

"Anti-Semitism cannot be seen only as a Jewish problem and we at the ADL are grateful for the strong alliance with our Christian friends that enables us to stand together condemning anti-Semitism not only manifested through hate groups and vandalism but through rebutting centuries old attitudes and anti-Semitic stereotypes. Through giving people who want to do something specific ideas on what to do against anti-Semitism, we are ensuring today that not only Jews will be acting against anti-Semitism in their own communities," said Leonard Zakim, Executive Director of the New England office of the Anti-Defamation League.

The Massachusetts Council of Churches is sending out over 5,000 pamphlets and intends to recommend that the pamphlet be used as a catalyst for preventive discussion in its 41 ecumenical and interfaith associations. Reverend Diane Kessler, Director of the Massachusetts Council of Churches and one of the writers of the pamphlet said, "Even in our own writing of the pamphlet the intense and substantive discussions were so important in learning about each other and the problem of anti-Semitism. Even though the pamphlet is specially intended to deal with anti-Semitism, the ideas contained in it can be transferred to other incidents of bigotry and racism."

Father George Papademetriou of the Greek Orthodox school of theology and one of the writers of the pamphlet pledged to make this available to Greek Orthodox dioceses across the country. "We believe any prejudice against any people is against our Christian faith."

FORKED TONGUES SPEAK AGAINST ARCTIC OIL SEARCH

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. FIELDS. Mr. Speaker, I want to recommend to my colleagues an excellent article printed in the May 23 edition of the Houston Chronicle. It is written by Michel T. Halbouty, a pioneer of America's oil industry, and owner of Michel T. Halbouty Energy Co. in Houston, an independent oil producer.

The article discusses the crucial need to explore the Arctic National Wildlife Refuge [ANWR] for oil and gas, and goes on to document sworn testimony by several environmental groups from the early 1970's belittling the value of ANWR.

I urge my colleagues to read this article.

FORKED TONGUES SPEAK AGAINST ARCTIC OIL SEARCH

(By Michel T. Halbouty)

When analyzed rationally, it becomes clear that there can be no question that the development of Alaska's Arctic National Wildlife Refuge oil resources is essential to the security of the United States. This need is made all the more pressing when we consider the fact that oil imports are again rising, having topped 8.3 million barrels per day for the first week of May.

Despite this telling evidence, however, the environmental lobby remains intransigent. Part of the reason is that opposition to oil exploration on ANWR has grown to mythic proportions in the environmentalists' pantheon of issues, becoming in effect their Holy Grail. As with any group's quintessential issue, they have come to pursue opposition to drilling on ANWR with a virtually religious fervor.

For example, holding the line on ANWR became the environmental lobby's litmus test in last year's congressional election, with the groups threatening active opposition to any candidate who dared refuse to pledge unqualified support for keeping oil explorationists out. But it was not always so. In fact, at one time, the very groups that are so adamant about ANWR's unique ecological value today were singing quite a different tune. It is interesting to read on and see just how they condoned and even suggested various heavy activities to be conducted in ANWR.

Between 1969 and 1973, the Department of the Interior held an exhaustive series of hearings examining the environmental consequences of building the Trans-Alaskan Oil Pipeline System. The record of these hearings comprises tens of thousands of pages, many of which are taken up by testimony from various members of the environmental lobby, which saw blocking the TAPS pipeline's construction as a way to block Alaskan oil development.

Although in most respects the arguments they put forward against the TAPS line are virtually identical to those offered in opposition to ANWR today, they differ in one important respect: their attitude toward ANWR.

The testimony they presented in these hearings provided a valuable insight for today's debate, because it shows how facile the environmental lobby is at tailoring its arguments to the cause of the moment. Indeed, the testimony clearly reveals the flimsy fabric of their current position, bringing to mind the old Indian expression of "speaking with forked tongues."

At the May 4, 1972, TAPS hearing, Thomas J. Cade, testifying on behalf of the Wilderness Society, Friends of the Earth and Environmental Defense Fund, stated:

"The Arctic National Wildlife Range has practically no exceptional or unique natural values in its northern foothills and narrow coastal plain sections."

Sierra Club representative Lloyd Tupling stated at the same hearing:

"An all-land route through Canada, with a spur running to Prudhoe Bay south of the Arctic Wildlife Range (in which is now ANWR), would have several advantages over the North Slope-Valdez route."

Nor was this position new to the environmental lobby. A year earlier, at a hearing on May 16, 1971, Chris Hartwell, another environmentalist, had stated:

"It is far better to run the pipeline through the wildlife range."

Richard Rice, a professor at Carnegie-Mellon University, even went so far as to suggest building a railroad across ANWR to ship Prudhoe Bay oil!

And what about the most basic issue, the importance of Alaskan oil production?

At the Feb. 4, 1971, hearing on TAPS held in Washington, D.C., David Wayburn, vice president of the Sierra Club, turned his crystal ball to the future, noting that development of Alaskan oil "suggests an increasing need for oil at a rate of 4 percent a year at the very time the internal combustion engine may be becoming obsolete."

Since Wayburn offered this opinion, the number of cars, trucks, buses and motorcycles on the road in the United States has risen by nearly 72 million from their 1971 level.

At the Feb. 17, 1971, hearing, Berkeley Professor Richard B. Norgaard said: "The North Slope oil does not particularly add to our security."

As noted earlier, the North Slope contributes 20 percent of all the oil produced in the United States today.

Most revealing of all, however, in terms of the real goals of the environmental movement was a May 4, 1972, New York Times article, later included in testimony by David Brower of Friends of the Earth. His summary of the environmentalist attitude presented one of the clearest revelations of its real objectives when he stated at one point:

"There is a hope our population will not increase over the next years. Furthermore, new generations may find the quest for more material goodies a less satisfactory way to spend their lives than relating to more permanent systems of value."

And what might these "more permanent systems of value" be? Obviously, whatever Brower and his friends think they should be. What Brower's comment so clearly reveals is there is actually a hidden agenda behind the environmental lobby's opposition to virtually every effort to produce additional domestic energy, whether it is in ANWR or offshore, or anywhere else.

Their much vaunted concern over the environment, it seems, is merely a subterfuge to permit them to accomplish their genuine goal: the restructuring of society to conform with their own narrow concept of what it should be.

While they are certainly free to advocate whatever societal structure they want, their failure to be more forthright about their true aims is simply disingenuous.

So, following their dream might permit an elitist few to live well, but would condemn the masses in most nations to the status of a permanent underclass. In short, theirs is an elitist vision that would benefit only a chosen few.

The above quotes of the environmentalists on their early attitude on ANWR clearly reveal that they will tailor their actions to whatever suits their fancy at the moment.

Passing up the opportunity ANWR presents is a luxury the nation cannot afford. It is our last best chance to stem the rising tide of imports. Let the environmental lobby have its self-absorbed dreams of restructuring society, but let the explorationists have ANWR for the benefit of the nation. To do otherwise can only aggravate our import dependence without justification, and we have seen all too graphically over the last 10 months just how costly that dependence can be.

INTRODUCTION OF STUDENT INCENTIVE ACT

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. McMILLEN of Maryland. Mr. Speaker, today I am introducing the Student Incentive Act, or Studi Act. The bill would encourage school districts to establish a 2.0 grade point average in order for students to participate in extracurricular activities—and reward those schools adopting the standard with a 10-percent bonus in Federal chapter 1 funding.This bill is identical to legislation I introduced in the 101st Congress.

Under the legislation, to qualify for grants, States must adopt regulations encouraging all State public secondary schools to issue policies requiring a student to maintain a 2.0 on a 4.0 scale grade point average [GPA] in a core curriculum in order for the student to participate in any extracurricular activity sponsored by the school. To comply, a State's 2.0 GPA program must be certified by the Secretary of Education.

I have introduced this bill because I believe there is an imbalance in the priorities of young Americans between athletics and academics. For years we have been hearing of abuses in the collegiate athletic system, athletes becoming all-American linebackers, but who cannot read after 4 years of college. But the problems begin much sooner—in America's high schools and junior high schools.

A survey by USA Today reviewed the dismal State requirements of high school students to participate in sports—and showed the average is only a 1.3 to 1.7 grade point average. These D-minus students will not be able to compete in the 21st century international marketplace.

However, more and more individual school districts are raising their standards for students who participate in sports and extracurricular activities. These districts have seen the light—they see their students, years after graduation, with no hope for a job, no steady career, with only the memories of a great game.

Mr. Speaker, America is sending the wrong signal to our young people—that their athletic skills are more important than their thinking skills. We'll need better students to compete in an increasingly competitive world—because that's where the real game is played.

THE COMMUNICATIONS COMPETITIVENESS AND INFRASTRUCTURE MODERNIZATION ACT OF 1991

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. BOUCHER. Mr. Speaker, today I am pleased to join with the Gentleman from Ohio [Mr. OXLEY], and 41 of our colleagues in introducing the Communications Competitiveness and Infrastructure Modernization Act of 1991.

Senator BURNS and GORE today have introduced a companion bill in the other body.

Mr. Speaker, the goals of our bill are twofold: To remedy the many problems presently experienced by cable television subscribers and to ensure that a modern fiber optic network, which will improve the quality of telecommunications and enhance the American economy, is deployed nationwide.

Our bill provides telephone companies with the economic incentive to modernize the telecommunications infrastructure by allowing them to compete in the cable television market through a phased lifting of the restrictions which prevent telephone companies from offering cable TV services in their telephone service areas.

Today, with only a handful of exceptions nationwide, the cable television industry is an unregulated monopoly. Only one company provides the service in virtually all American localities, and the rates charged to cable subscribers are not subject to governmental review.

In that atmosphere, cable rates have soared. In addition to complaining about high cable rates, consumers complain about poor cable service, insufficient program choices, and retiering—the moving of program services from the basic tier to a higher priced tier. Our legislation will lead to consumer savings, improved cable service, and an increase in both the quantity and quality of the programs that are offered to subscribers:

A study by the Consumer Federation of America indicated that truly effective competition would reduce cable rates by approximately one-half and save consumers $6 billion annually. In the approximately five communities nationwide where some competition exists in the delivery of cable television service, the rates tend to be one-half the national average.

Service repairs would occur more rapidly if there was genuine competition for customers.

Allowing the telephone companies to compete in the cable market will hasten the provision of cable TV service in rural areas. The telephone industry presently serves more than 99 percent of all American homes and businesses. In the near future, the telephone industry could provide universal cable television service as well.

Program providers would have alternative means for distributing their programs, which will ultimately lower the cost of program distribution.

Consumers would have expanded program options with greater variety and higher quality than the programs currently offered.

Finally, the passage of our bill will result in the rapid deployment of fiber optic cable into homes and businesses nationwide, with attendant benefits for our economy. Japan expects to have a nationwide fiber optic network serving every home and business by 2015. Businesses in the United States need the same high speed data transmission capabilities which that deployment will give to their Japanese counterparts. Our telephone industry will deploy fiber optics nationwide during the next 20 years if it has the financial incentive which the right to offer cable television service will provide. Our legislation will, therefore, ensure fiber deployment in the United States within the same timeframe as is contemplated by the Japanese without the investment of any public moneys.

The Boucher/Oxley bill provides for a phased lifting of the restrictions preventing telephone companies from offering cable TV services in their telephone service area. Initially, telephone companies will be allowed to transport video programming offered by other companies. This video dial tone service is defined to include video gateways, navigational aides, billing and collection, network management, and other ancillary services.

After the State public utility commission [PUC] and the FCC have approved a telephone company's implementation plan for the deployment of broadband technology, the telephone company may license, package, own, and produce video programming on 25 percent of the total channel capacity, leaving 75 percent of the available channels to other program providers.

It is essential that the telephone companies be prohibited from cross-subsidizing the provision of cable television services. To allow such a cross-subsidy would be unfair both to telephone ratepayers and to the telephone companies' cable competitors. Accordingly, our legislation contains a statutory prohibition against cross-subsidization, and provides a "death penalty" for willful violations of that prohibition, under the terms of which an offending telephone company would be required to divest its video programming subsidiary. The bill also contains the following strict regulatory safeguards:

A separate video programming subsidiary will be required;

Telephone companies will be prohibited from purchasing existing cable systems;

Cross-marketing of telephone and video services will be prohibited;

Cost allocation rules to protect telephone ratepayers are required; and

Local cable franchises and all other regulatory constraints faced by the cable industry will be imposed on telephone companies offering cable TV services.

The broadcast industry has long been seeking assurances that local over-the-air stations will be carried on cable systems and that they will have appropriate channel positions. In addition, the broadcasters recently have been seeking retransmission consent—the right to be paid for carriage of their signal by the cable operators. While our bill does not address their concerns, broadcasters should be assured that the inclusion of such provisions are not incompatible with the overall objectives of our legislation.

I want to thank my colleague Mr. OXLEY, the Senator from Montana [Mr. BURNS], and the Senator from Tennessee [Mr. GORE], for their assistance in structuring the legislation we are introducing today, and ask my friends in the House to join us in this effort. It is a thoughtful means of promoting a solution to current cable TV concerns and of assuring the deployment of a modern fiber optic network during the coming two decades.

INTRODUCTION OF LEGISLATION TO DESIGNATE LANDS WITHIN THE LOS PADRES NATIONAL FOREST AS WILDERNESS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. PANETTA. Mr. Speaker, I rise today to join Congressman ROBERT LAGOMARSINO in introducing legislation to designate lands within the Los Padres National Forest as wilderness. I am pleased to be introducing this legislation with Congressman LAGOMARSINO and thank the gentleman for his efforts in putting this package together.

This legislation is similar to legislation being introduced today in the Senate by our colleagues from California, Senator CRANSTON and Senator SEYMOUR. As my colleagues may recall, Los Padres National Forest wilderness legislation was approved by the House in the last Congress, but was never considered by the Senate due to unresolved differences between the two Senators from California. As such, I am pleased that after many months of negotiations between myself, Senators CRANSTON and SEYMOUR, Congressman LAGOMARSINO, Congressman THOMAS, and Congressman GALLEGLY, an agreement on the Los Padres legislation has been reached. It is my hope and expectation that these negotiating efforts will ensure the enactment of this legislation by the 102d Congress. Compromise and concessions were made by all parties involved and I believe that the legislation agreed to achieves a balance between the need to provide strong environmental protection and allow for multiple uses of the Forest's resources.

The Los Padres National Forest is an important resource to central California. It is home to many rare and endangered species such as the bald eagle, peregrine falcon, and the California condor. The Forest offers outstanding recreational opportunities for the residents of California and contains much of the Big Sur coastline, one of our Nation's greatest coastal treasures.

The legislation introduced today would designate areas of the Los Padres National Forest within my congressional district as wilderness and include two rivers in my district in the wild and scenic rivers system.

The bill would add nearly 38,000 acres to the existing Ventana Wilderness in the Los Padres National Forest. The areas in the Ventana addition include Bear Mountain, Black Butte, and Junipero Serra Peak. Futhermore, the bill would designate approximately 14,500 acres in the coastal Silver Peak area as wilderness. The areas are important additions to the existing wilderness areas in the Los Padres and warrant the permanent protection from encroachment and contrary activities provided by the wilderness designation.

As noted above, this legislation also makes additions to the wild and scenic rivers system. First, the legislation designates the Big Sur River as a wild and scenic river from its headwaters to the point at which it emerges from the Ventana wilderness. Second, the bill directs the Secretary of Agriculture to study the Little Sur River, from its headwaters to the Pacific Ocean, for possible inclusion in the wild and scenic rivers systems. As was included in the Los Padres Wilderness bill which passed the House last Congress, this legislation specifically directs the Secretary to consult with the Big Sur Multi-Agency Council during this study to ensure that local interests and concerns are recognized and reflected in the Forest Service's study. The Big Sur Multi-Agency Council has played a vital role in ensuring the proper management of the Big Sur area and I believe that its participation in this study will be a benefit to both the Forest Service and the local residents.

Mr. Speaker, the Los Padres National Forest is a national treasure warranting strong, yet balanced, protection. I believe this legislation achieves that goal by protecting the most sensitive areas of the Forest while continuing to allow multiple uses of other Forest lands. I urge my colleagues to support its adoption.

HONORING AILEEN E. BURNS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. ENGEL. Mr. Speaker, This week, the Westchester Irish Committee is holding its annual cocktail party-buffet during which it honors individuals who have worked tirelessly to improve the local community. I wish to particularly recognize one of the honorees, Aileen Burns, a life-long resident of the city of Yonkers in my Congressional District.

Aileen has demonstrated a concern for issues that effect her fellow Irish-Americans, as well as a dedication to serving the community. She currently is the employment manager at St. John's Riverside Hospital in Yonkers, and she is working toward continuing her health care career by pursuing a Masters of Science in Health Services at Iona College.

Aileen has also been an active member of the American-Irish Association for the past 10 years, including a stint as the first woman president of the organization. She has served on the Scholarship, Heritage Day, and Journal Committees for the Association, and she also serves on the Yonkers mayor's Irish Advisory Board.

In short, Aileen Burns is the type of young woman of whom we can all be proud. She has remained true to her heritage and served her community and country well. It is a pleasure to join the Westchester Irish Committee in recognizing her outstanding accomplishments.

THE LOS PADRES CONDOR RANGE AND RIVER PROTECTION ACT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. LAGOMARSINO. Mr. Speaker, today I am reintroducing a bill to address wilderness and river protection issues in the Los Padres National Forest in southern California. This Los Padres Condor Range and River Protection Act represents the culmination of efforts of a number of parties over the last 3 Congresses and provides for comprehensive protection of resources within this heavily visited national forest.

In all, this bill will provide for designation of almost 400,000 additional acres of wilderness in seven different management areas, designation of 85 river miles on 3 different rivers under the Wild and Scenic River Act, wild and scenic river studies totaling 110 miles on 4 other rivers, and withdrawal of over 100,000 acres of some of America's most beautiful coastal lands from mineral entry. With the designation of wilderness under this measure, almost 50 percent of the land within this forest will have been permanently protected as wilderness; providing the Los Padres National Forest with one of the greatest percentages of wilderness designation of any national forest in the country.

Throughout the development of this measure, I have been guided by two basic objectives. First, was to ensure that lands recognized under this act fully meet the criteria set forth under the 1964 Wilderness Act and 1968 Wild and Scenic River Act. As a long-time supporter of both of these important pieces of legislation, I could certainly not be an advocate for any measure which would assault the integrity of these laws.

Second, I have attempted to develop a balanced piece of legislation; one that recognizes the legitimate interests of all forest users. Due to conflicting interests, it was not possible to develop a bill which meets the full approval of all the various interest groups. Numerous difficult choices had to be made in crafting this measure. In order to guide me in these difficult choices, I have relied heavily upon the expertise of the Forest Service, the extensive public comment developed through the 1988 planning process, and guidance from my colleagues in the House and Senate.

The centerpiece of this legislation is the Sespe Wilderness unit. This 220,500-acre wilderness unit surrounds the 31.5 mile segment of Sespe Creek which would be designated for protection under this Wild and Scenic River Act.

As Sespe Creek winds through this section of the national forest, it offers numerous scenic and recreational opportunities. Many varieties of plants and animals can be found along the river's banks. The 53,000-acre Sespe Condor sanctuary, located on lands adjacent to the river, protects habitat which will be critical for the reintroduction effort for the endangered California Condor. Sespe Creek is also known as an excellent trout fishery and a portion of the river was recently designated as a State wild trout stream. Recreational activities along Sespe Creek includes swimming, camping, hiking, horseback riding, and fishing. Several trails parallel or cross the river at various points.

The proposed 220,500-acre Sespe Wilderness begins just east of the Dick Smith Wilderness which was established largely through my efforts with passage of the 1984 California Wilderness Act. This area is characterized by rugged and diverse topography and serves as a major watershed for the Piru, Sespe, and Cuyama Rivers. Although the Wilderness lies almost entirely within the Los Padres National Forest, a small portion of it extends into the adjacent Angeles National Forest. This Sespe area is known for its unique natural and geologic features, including Topatopa Mountain, Sespe Hot Springs, and the pristine Sespe Condor sanctuary. The Sespe also serves as an important habitat for sensitive bird and animal species, including the recently reintroduced Bighorn sheep.

Nature study, fishing, and hunting are popular recreational activities in this area. Numerous trails through the area and several trail camps enhance other activities such as cross-country hiking and backpacking.

I must point out that in proposing portions of Sespe Creek for wild and scenic designation, Great care has been taken to not foreclose the option for future water development projects at Cold Springs and Oat Mountain. On the other hand, this bill would prohibit construction of a water storage project at the Topatopa site, which is considered to be the best site for dam construction by water development interests.

It is important to recognize that this bill authorizes no dam construction on Sespe Creek or anywhere else. I have taken no position with respect to dam construction on Sespe Creek, because I believe that further study and a referendum of persons who would be affected by such a project are necessary prerequisites to any final decision. For Congress to make a decision at this point in time would be both premature and short-sighted, especially in light of the drought conditions already facing southern California. I would also point out that until a final decision is made, this measure would ensure that all portions of the Sespe Creek within the forest would remain in their current, undeveloped state.

In addition to the Sespe Creek, my bill also provides for designation of 33 miles of the Sisquoc River within the forest and 19.5 miles of the Big Sur River. Other wilderness areas which would be designated under this bill are the 30,000-acre Matilija unit; 43,000-acre San Rafael unit; 14,600-acre Garcia unit; 38,200-acre Chumash unit; 38,000-acre Ventanna unit; and the 14,500-acre Silver Peak unit. I have also made substantial changes in a number of the general provisions of the bill from the version passed by the House last year. These changes include: deletion of provisions which would have allowed new leases for directional drilling beneath wilderness, addition of language permitting establishment of water rights, and revision of language pertaining to access for fire and watershed management purposes.

I have worked very closely with Senators SEYMOUR and CRANSTON in the development of this bill, and most of the difficult issues have been resolved among the three of us. I want to commend both Senators for their willingness to objectively evaluate and consider a full range of alternatives to address the issues contained in this bill. Their assistance and cooperative attitude will continue to be important at this measure proceeds through the legislative process. I would also like to recognize my cosponsors on this bill: Mr. GALLEGLY, Mr. THOMAS and Mr. PANETTA. Between the four of us, we represent all of the land in Los Padres National Forest addressed by this measure.

Mr. Speaker, the legislative initiative I am introducing today represents a comprehensive and farreaching addition to the National Wilderness System and the National Wild and Scenic River Systems. It will preserve and protect in perpetuity some of our most serene and secluded canyons, rivers, and peaks. In addition, by virtue of their close proximity to the urban areas of southern California, these resources will provide numerous diverse recreational opportunities to meet the demands of an ever increasing population. Therefore, I urge my colleagues to cosponsor and support this important legislation.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION, GOVERNMENT DOES WORK

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. KOSTMAYER. Mr. Speaker, I rise today to bring to the attention of my colleagues the work of the Pennsylvania Avenue Development Corporation [PADC], the Federal agency responsible for the revitalization of Pennsylvania Avenue between the White House and the Capitol. Since it was created by Congress in 1972, the PADC has achieved extraordinary success in transforming "America's Main Street" from "a scene of desolation," in the words of a Presidential committee formed in the late 1960's to study the condition of the Avenue, to a great boulevard worthy of its role in the Nation's history and its place in the center of the Nation's Capital City.

Work on the public areas and 21 square blocks within the Corporation's territory has been guided by a master plan, approved by Congress in 1975. With appropriations from Congress, PADC has undertaken a program of extensive public improvements that includes landscaping, lighting, new sidewalk and roadway paving, street furniture, the planting of 700 willow oak trees, and the restoration of landmark structures. Six parks and plazas have been created or refurbished: Meade Plaza, John Marshall Park, Indiana Plaza, Market Square Park/Navy Memorial—in cooperation with the private U.S. Navy Memorial Foundation—Freedom Plaza—formerly Western Plaza—and Pershing Park. Work to refurbish a seventh public open space, Sherman Park, is to begin shortly.

Construction and development on the squares involves joint ventures between PADC and private developers. Where PADC has acquired a site, the Corporation holds an open competition to select a developer/architect team. The restoration of the historic Willard Hotel, the development of mixed-use complexes such as National Place and Market Square, and the all-residential development of the Lansburgh apartment building are a result of the competitions PADC has held, attracting high-quality teams of architects and developers.

Deteriorated and vacant buildings have been restored or replaced with attractive new structures alive with offices, retail shops, and restaurants and, in the Pennsylvania Quarter neighborhood, with residential apartments and condominiums. Since 1981, 22 projects have been completed or are nearing completion. These range from smaller scale, historic projects such as Sears House—an adaptive reuse of historic buildings at 7th and Pennsylvania—to large, mixed-use complexes such as 1001 Pennsylvania which takes up the entire block between 10th and 11th Streets. Completed projects include: The Canadian Embassy, 601 Pennsylvania Avenue, Sears House, Pennsylvania Plaza, Argentine Naval Building, Bob Hope USO Building, 625 Indiana Avenue, Liberty Place at 325 7th St., Gallery Row, Jenifer Building, 717 D St., the Lansburgh, Market Square, the Stables Art Center, 1001 Pennsylvania Avenue, the Evening Star Building, 1201 Pennsylvania Avenue, 1275 Pennsylvania Avenue, 1301 Pennsylvania Avenue, National Place, National Press Building, and the Willard Hotel and Office Building. The new Pennsylvania Avenue contains award-winning architecture, including the work of three American Institute of Architects [AIA] Gold Medal winners.

The Corporation began its development efforts in the western portion of the project area, between 10th and 15th Streets. Office, retail, hotel, and theater uses characterize this now largely developed area.

PADC's focus has been, in recent years, on the creation of a new neighborhood, Pennsylvania Quarter, midway between the White House and the Capitol, between 6th and 9th Streets. Four projects—Market Square, the Pennsylvania, the Lansburgh, and Market Square North—offer almost 1,000 housing units in accordance with the Pennsylvania Avenue plan. The Pennsylvania has leased 120 of its 150 units. This month, the first 139 rental units in the first phase of the Lansburgh became available; the remaining units will be ready in December 1991. Market Square, with 210 residential units on the top four floors, has begun marketing its condominiums which offer spectacular views east and west along the Avenue end of The Mall. Market Square North, with 201 housing units, is expected to begin construction later this year.

The Pennsylvania Quarter neighborhood offers its residents an abundance of amenities: Museums, art galleries, and theaters—all within walking distance, including the new 450-seat theater in the Lansburgh; a short trip to Capitol Hill and downtown business offices; easy access to Union Station and five Metro stations; and superb views. Three new white-tablecloth restaurants have opened recently in Penn Quarter: The Peasant, 701 Pennsylvania, and Bice. The new neighborhood is critical to achieving PADC's goal of a downtown with 7-days-a-week vitality.

Toward this end, PADC also actively programs the parks and plazas along the Avenue. With an appropriation from Congress of $100,000 a year, PADC presents a variety of festivals, cultural performances, athletic events, and education activities designed to bring liveliness downtown. About 200 events are programmed throughout each year, often in cooperation with corporations, foreign embassies, businesses and schools, agencies of the District and Federal Government, charitable institutions, arts organizations, hotels, and restaurants.

In August 1987, with the passage and signing of the Federal Triangle Development Act (Public Law 100-113), Congress and the President gave PADC the authority to develop the 11-acre parking lot fronting on Pennsylvania Avenue and 14th Street for the Federal Triangle/Federal Office Building/International Cultural and Trade Center [FOB/ICTC]. The complex will contain 3.1 million gross square feet of space, with 500,000 occupiable square feet for the ICTC and 1,350,000 occupiable square feet for offices for various Federal agencies, including the Woodrow Wilson International Center for Scholars. When completed, the project will be the second largest Federal building in size after the Pentagon and will complete the Federal Triangle, begun in the 1920's.

The center will assemble in one convenient place the full range of activities dealing with international trade and cultural exchange. It will include chancery annex offices, State and local agencies dealing with trade and tourism, retail establishments, and performing arts spaces.

During the construction phase, the project is expected to employ 3,600 to 4,000 people in numerous building trades. At least $71.7 million is expected to flow to minority businesses during the construction period; an additional approximately $5.25 million will go to minority firms for architecture and engineering professional services.

The master lease with the developer was signed by GSA in September 1990. The rental rate to the Federal Government of this $656 million project will remain constant for the 30-year term of the lease. At the end of the lease, the Government will own the building at no additional cost.

Much important work remains to be done on the various, still-undeveloped blocks within PADC's area. In March 1991, PADC issued the prospectus for the development competition for Square 457–C, the western half of the block bordered by 6th, 7th, D, and E Streets. The site is planned to have a minimum of 230 residences, 35,000 square feet of retail space, 5,000 square feet of arts space, and either office space or a hotel, or both. The deadline for submission of proposals is September 16, 1991.

PADC and the owners of Square 406, situated just south of the National Portrait Gallery between 8th, 9th, E, and F Streets, are examining future development options. Mixed use, including housing, is contemplated. Several important historic buildings located on the north side of the site are to be rehabilitated.

PADC is working with the District government on guidelines for Square 491 for a major new structure to replace the D.C. Department of Employment Services Building. The site is located at 6th Street, adjacent to the Canadian Embassy.

Refurbishment of other properties is planned. PADC is discussing various improvements with owners of the Harrington Hotel at 11th and E, the owner of 406 7th Street, and the owners of Union Hardware on D Street. On nearby Indiana Avenue, owners of three 19th-century structures—the Artifactory, Dutch Mill Restaurant, and Litwin Furniture Store—are analyzing options for restoration of their historic exterior with PADC's assistance.

PADC is designing extensive improvements to the sidewalks and plazas adjacent to future development. This additional public improvements work will make the public spaces inviting and enjoyable to pedestrians and fulfill the Federal Government's commitment to work cooperatively with private developers.

The work of the Pennsylvania Avenue Development Corporation is an outstanding example of the private-public partnership concept. PADC's investment of approximately $130 million has generated more than $1.5 billion in private commitments to date.

The Corporation has received numerous awards recognizing its achievements, including two of the most prestigious: The 1987 Urban Land Institute Award for Excellence for Rehabilitation, for the Willard Hotel and Office Building complex; and the 1988 Presidential Award for Design Excellence, for the Pennsylvania Avenue Plan and its implementation. Other awards received are from: American Society of Landscape Architects, National Capital Area Chapter of the American Planning Association, American Association of Nurserymen, D.C. Building Industry Association, International Downtown Association, and the AIA 1990 Citation for Excellence in Urban Design.

In his weekly column in the Washington Post of May 18, 1991, architecture critic Benjamin Forgey had high praise for two PADC projects, Market Square and Market Square Park/Navy Memorial, at Pennsylvania Avenue and 8th Street. He said:

> Combining the architectural talents of the New York firm Conklin Rossant for the Navy Memorial and Washington's Hartman-Cox for the two buildings framing the memorial, Market Square is quite simply one of the more exciting and successful urban spaces to be completed anywhere in the last quarter century * * *
>
> [Neither] would have happened without help from governmental rulemakers. At Market Square the Pennsylvania Avenue Development Corporation established the basic urban form and requirements for ground floor retail and upper floor residential uses.

Market Square and Market Square Park represent the thoughtful, imaginative approach that is working for all of Pennsylvania Avenue. The ingredients for success include: An entrepreneurial public agency, with a creative board and staff, establishing guidelines for development and providing a quality public environment; private developers and investors who are committed to building projects of long-lasting excellence; architects and landscape architects providing the best in contemporary design; and enlightened tenants, residents, restaurateurs, and merchants who recognize the opportunity to be a part of this new urban neighborhood.

All Americans can take enormous pride in Pennsylvania Avenue and in the renewal of the Pennsylvania Avenue area that, when complete, will portray the best of American planning, design, and development—a successful model for other areas of Washington and for cities throughout the world.

The Pennsylvania Avenue Development Corporation has proven that an urban landscape need not be a grim and seamless expanse of concrete.

And it has proven that a partnership between the public and private sectors can work, really Mr. Speaker, that government can work and most of all it proves that function and beauty are compatible in America's great cities.

INTRODUCTION OF LEGISLATION ON CABLE TELEVISION DEREGULATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. DONNELLY. Mr. Speaker, today I am reintroducing legislation I sponsored in the 101st Congress to repeal a provision of the 1984 Cable Communications Policy Act (Public Law 98–549), legislation which deregulated the cable television industry, and which has caused enormous problems for many local communities across the country.

Mr. Speaker, the provision I am referring to is apparently being interpreted as allowing cable companies to abrogate the terms of contracts which they had executed with communities prior to enactment of the 1984 law. Specifically, section 625(d) of the act provides that cable companies operating in communities whose rates are deregulated are permitted to "rearrange a particular service from one service tier to another, or otherwise offer the service * * *" Cable companies have evidently taken the position that this subsection gives them a nearly unrestricted ability to delete service tiers or restrict the ability of homeowners to subscribe to certain service tiers—in direct contravention of contracts which they have executed with local communities.

Frankly, Mr. Speaker, this is an outrageous abuse of the deregulation legislation. In 1984, I believed that Congress was deregulating rates—no more, no less. We were not giving cable companies carte blanche authority to do what they felt like doing. To the extent that cable rates were previously set in contract negotiations, the 1984 act impaired those existing contracts, something that States are proscribed from doing under article I of the Constitution. Although the Federal Government may apparently impair the obligation of contracts, it is a step taken cautiously and with deliberation. I do not believe that Congress should have gone further than rate deregulation in 1984. My bill, therefore, conforms the 1984 act to what I believe the intent should have been.

My legislation is effective as of the date of enactment. It is my understanding that there may be some litigation outstanding that may be affected by my legislation. No inference should be drawn by the introduction of this bill as to the proper interpretation of section 625(d) of the act. In addition, I recognize that this effective date may have to be further clarified in the legislative process. I plan to work with the authorizing committees toward that end as my bill moves through the legislative process.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

Section 625 of the Communications Act of 1934 (47 U.S.C. 545) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 are effective on the date of the enactment of this Act.

IN RECOGNITION OF JON BICKFORD

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. ANDREWS of Maine. Mr. Speaker, I rise today to commend and congratulate Mr. Jon Bickford of North Yarmouth, ME, who today receives the National Letter Carriers National Hero Award. Mr. Bickford courageously risked his own life to rescue the driver of an overturned chemical tanker truck on his way to work last March.

In the predawn hours on March 13, 1990, Jon Bickford came upon an overturned tanker truck carrying over 2,000 gallons of hydrochloric acid. It was a morning that in Jon's words was "like a science fiction movie with fog so thick" he barely could see the blinking red lights of the vehicle in front of him. He stopped and rushed with a flashlight to the cab of the leaking truck to discover both the driver, Cynthia McCallum, and her dog trapped inside. Jon Bickford was able to pull Ms. McCallum out from the vehicle and lead her to the safety of his own vehicle. Moments later the acid began to vaporize and envelop the surrounding area in toxic fumes. Arriving on the scene, paramedics credited Bickford with saving McCallum's life.

Mr. Speaker, Jon Bickford endangered his own life to save the life of another. He is truly a hero. While he believes that anyone would have done the same, he performed an exceptional feat that is a model for all of us. In the everyday routine, he saw someone in need and jumped right in to help them. I know I speak for all Maine citizens when I express my pride and appreciation for Jon Bickford's heroic rescue.

RESOLUTION TO SUPPORT AMERICAN BUSINESSES AND WORKERS IN THE RECONSTRUCTION OF KUWAIT

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. VISCLOSKY. Mr. Speaker, without the assistance of the United States, Kuwait and its people would probably still be held by Saddam Hussein as the 19th Province of Iraq. To recognize the contribution of the United States and the American people in the liberation of their country, Kuwait has indicated its intention to award a substantial majority of the contracts for the rebuilding of its infrastructure and industrial base to United States businesses.

Today, I am introducing a resolution to support American businesses and workers in the reconstruction of Kuwait. This resolution, which has the support of 72 of my colleagues as original cosponsors, urges United States businesses engaged in the rebuilding of Kuwait to use American subcontractors and all available United States goods and services. It also calls upon the Commerce Department to monitor and encourage the implementation of this policy.

It is currently estimated that the reconstruction of Kuwait will generate $25 billion in business contracts over the next 5 years. The Commerce Department has developed a policy of strongly encouraging United States businesses awarded contracts for the rebuilding of Kuwait to ensure that the intended benefits of the Kuwaiti policy extend to the awards of subcontracts to United States businesses and the procurement of United States goods and services.

Unfortunately, prime contractors, including the U.S. Corps of Engineers, are not required to source their subcontracted products or services from U.S. companies. For example, steel products have already been ordered from Japan and Venezuela. These and other subcontracts could—and should—have been sourced by U.S. companies. We must do everything possible to ensure that American industry and workers benefit from the reconstruction of Kuwait.

In addition to wide, bipartisan support in the House of Representatives, this important resolution has also been enthusiastically received by U.S. industry. It is strongly backed by the American steel industry, including the American Iron and Steel Institute [AISI] and the Steel Service Center Institute, and the United Steelworkers of America. Of course, the use of American subcontractors and all available United States goods and services to rebuild Kuwait would benefit a multitude of American companies.

American men and women risked their lives to liberate Kuwait from Saddam Hussein. Further, American taxpayers financed the massive military initiative in the Persian Gulf. Now that the war is over and war-ravaged Kuwait is being rebuilt, it is imperative that our Nation reap the maximum benefit from the situation. I urge you and the rest of my colleagues to support this resolution.

TRIBUTE TO COL. DENIS R. NIBBELIN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. MICHEL. Mr. Speaker, I take this opportunity to congratulate Col. Denis R. Nibbelin on his retirement from the Air Force and for his many years of dedicated and devoted service to our country.

Colonel Nibbelin, a Peoria, IL, native, graduated from my alma mater, Bradley University, and entered the Air Force on active duty in 1961. Currently the Director of Information Management, Headquarters, Air Force Systems Command, at Andrews Air Force Base in Maryland, his assignments have brought him to the far reaches of the earth—the Philippines, Germany, Crete, and Washington, DC, among others.

His tenure in the Air Force has been marked with professionalism, courage, and dedication. He is the recipient of the Defense Meritorious Service Medal, the Meritorious Service Medal with two oak leaf clusters, the Joint Service Commendation Medal, and the Air Force Commendation Medal with three oak leaf clusters.

I extend to Colonel Nibbelin and his family my congratulations and best wishes. Given his splendid accomplishments in service to our country, I know Colonel Nibbelin will continue to serve his community and country in his retirement.

SALUTE TO DR. MICHAEL S. GOTTLIEB

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. ROYBAL. Mr. Speaker, on June 5, 1981, the Centers for Disease Control published in its weekly Morbidity and Mortality Weekly Report a short study by a young and little-known doctor at UCLA.

The study was entitled "Pneumocystis Pneumonia—Los Angeles." In the study, the doctor reported his discovery of a strange and baffling new disease—an immunological deficiency, marked by the appearance of a rare form of opportunistic pneumonia, that he had found in five homosexual males in Los Angeles.

Few Americans noticed this study. Fewer realized its significance. However, the disease that the doctor described in this study would change our country forever. The author of the study is now the world-renowned Dr. Michael S. Gottlieb, and the illness that he reported is now America's most terrifying public health threat. This disease is now known as AIDS.

Mr. Speaker, I rise on the 10th anniversary of the discovery of AIDS to salute Dr. Gottlieb, who is a resident of my congressional district in Los Angeles.

Dr. Gottlieb is truly deserving of our sincere appreciation and our utmost respect. His laurels do not rest on his role as the first to tell the world of AIDS. More importantly, he is the world's pioneer AIDS researcher and crusader, and he has remained at the forefront of clinical research and public activism in the fight against AIDS.

Dr. Gottlieb's tireless efforts to combat the AIDS epidemic through research, publicity, and fundraising are known worldwide, and have been written about extensively. One of the most poignant descriptions of his work and of his role in the AIDS crisis can be found in what is the definitive history of the first 5 years of AIDS, Randy Shilts' "And The Band Played On." He is also a central figure in two other bestsellers about the AIDS epidemic, "Beyond Love", by Dominique Lapierre, and "In the Absence of Angels", by Elizabeth Glaser and Laura Palmer.

Dr. Gottlieb is recognized today as an innovative clinical researcher, immunologist, and AIDS healer; as one of the first to use the now-common drug AZT in treating people with AIDS; as the author of numerous research studies on AIDS, and the editor of several leading AIDS journals; and as a cofounder, with Elizabeth Taylor, of the most prominent private group which funds AIDS research, the American Foundation for AIDS Research [AmFAR].

However, perhaps he is best known to us as one of America's leading AIDS activists. As an advocate and lecturer, and as the doctor to many famous AIDS patients, including Rock Hudson and Elizabeth Glaser, he has played a key role in helping America to understand this frightening disease, and to acknowledge that those among us who courageously struggle with the affliction of AIDS deserve our sympathy, our respect, our consideration, and our help.

Dr. Gottlieb was only 32 when he spotted the disease that would change his, and our, lives. He had just completed his post-doctoral work at Stanford University in clinical immunology, and had moved to UCLA to take up a challenging post as an assistant professor of medicine.

He sought to cover new ground in immunological research. "I wanted to generate new knowledge," Gottlieb declares. "I can't say I was looking to find a new disease, but I had a deep down feeling that everything under the sun in the clinical arena had not been described."

In his quest for something new, Dr. Gottlieb spread the word among UCLA's residents that he was interested in unusual cases related to the immune system.

In November 1980, he was notified of a patient with a strange array of symptoms including the rare Pneumocystis carinii pneumonia that would become significant in the diagnosis of AIDS.

Within 5 months, he had seen four patients with similar symptoms. The patients all were previously healthy, homosexual men who developed ongoing fevers, severe weight loss, and mysterious infections. Then a fifth case showed up, and Gottlieb became alarmed. A deadly epidemic appeared to be gathering force.

Recognizing the urgency of getting the word out quickly and frustrated by the long wait to publish a scholarly paper in a prestigious medical journal, Dr. Gottlieb sent his story to the Centers for Disease Control. On June 5, 1981, the CDC published the study in the weekly report. The uncertainty of its importance was signaled by its placement on the report's inside pages, and his study's simple title, "Pneumocystis Pneumonia—Los Angeles."

That was the beginning. He began to receive phone calls from doctors around the country. They, too, were beginning to see patients with similar symptoms. Soon, Dr. Gottlieb says, "the telephones rang off the hook." In December of that year, Dr. Gottlieb published the first detailed study of AIDS in the New England Journal of Medicine.

Since then, Dr. Gottlieb has become one of the most celebrated and published AIDS researchers in the world. He has lectured on AIDS in Europe and Asia, has published more than 70 research papers, articles, and reviews on the affliction, and is the senior medical editor of the journal, AIDS Patient Care as well as editor of the AIDS Clinical Digest. He has directed clinical trials of many experimental treatments for AIDS. As a physician, Dr. Gottlieb has treated several thousand people infected with the AIDS virus.

But with fame came controversy. Gottlieb was the first doctor to conduct clinical trials of AZT on the west coast in 1986 and helped prove its effectiveness. His academic superiors were lukewarm in their approval.

"There was an urgency to find treatment for people who were dying and I felt the university hierarchy would appreciate that urgency," he says. "But their thinking was that it was the job of drug companies to develop drugs, and that the work I was doing in testing drugs was of secondary importance."

Unwilling to play academic politics, Dr. Gottlieb left the university staff in 1987 to go into private practice. He now heads the Gottlieb Medical Group in Los Angeles, and is the medical director of the Immune Suppressed Unit at Sherman Oaks Hospital and Health Center.

"I've taken some lumps along the way," Dr. Gottlieb says. "Where I've come to is older and wiser."

As a doctor who views patients as his top priority, Gottlieb has endured the anguish of having many die of AIDS while experiencing the elation of helping many survive far longer than they might have hoped.

"I do get attached to my patients and there's great sadness with the death of people I've treated for years," he says. "But I also feel I've helped people a great deal. The key to my ability to continue this work is the satisfaction of helping people live with AIDS and have quality time with their families and loved ones, more time than they would have had without my attention."

As we begin the second decade of our struggle to confront and defeat AIDS, Dr. Gottlieb says that we must have a "national war plan for AIDS" for this next 10 years. It must be, he says, "one that is as powerful as the one we employed against Saddam Hussein."

Dr. Gottlieb says, "The Public Health Service currently estimates that 1 million Americans are infected with the human immunodeficiency virus [HIV], including 80,000 women of childbearing age. The Centers for Disease Control estimates that by the end of 1993, there will have been between 285,000 and 340,000 deaths from AIDS in this country alone. It's estimated that in each year of the 1990s, at least 2,000 babies will be born infected with the AIDS virus."

Dr. Gottlieb is calling on President Bush to name a senior advisor at the White House level to act as the administration's point person on AIDS.

Just as America has a drug czar, Dr. Gottlieb says, there must be someone in the White House who has a comprehensive understanding of the AIDS epidemic, and of the organization of the Federal AIDS effort, who will work full-time on this health emergency. This person should be assigned the task of working with the National Commission on AIDS to develop and implement a national plan to win the war against AIDS.

Dr. Gottlieb also believes that we must achieve a number of other goals during this second decade of AIDS. Among these are the following:

We must halt the spread of AIDS and make it a zero-growth epidemic through aggressive prevention and public education.

We must reinforce safer sexual practices and work to prevent the spread of AIDS among drug users and to their sexual partners and babies. This must include overcoming our squeamishness and instituting clean needle exchange programs. We must also expand access to methadone programs and basic health care for this poor and disenfranchised population.

We must ignite a more general AIDS response movement, extending beyond particular risk groups, and further dispel the myth that AIDS is a gay disease.

We must emphasize AIDS and HIV as a women's issue, and alert and educate women to the methods of self-protection. We must also alert the African-American and Hispanic communities to the insidious spread of HIV in their populations, and accelerate education programs among these groups.

We must increase access to prenatal care and testing for the estimated 80,000 women of childbearing age who are infected with the AIDS virus.

We must address the prevention and treatment of pediatric AIDS, and decrease the number of babies born with HIV infection.

We must expand funding for research programs to find treatments and vaccines.

We must support the Food and Drug Administration in its efforts to speed access to effective drugs, but to also protect an eager public against AIDS drug fraud.

We must improve patient care and access to services, such as skilled nursing facilities for people with AIDS, and reduce the costs of AIDS medical care without sacrificing quality.

Lastly, we must work to train medical professionals in safety techniques that will minimize their exposure to HIV through puncture accidents that occur while providing patient care.

Mr. Speaker, 10 long years have passed since the discovery of AIDS. In that time, we have taken substantial steps in our understanding and treatment of this baffling, terrifying disease.

However, no cure for AIDS is yet on the horizon, and deployment of a vaccine could take another 10 years. Faced with the severity of the AIDS epidemic and its threat to America's health, we continue to devote relatively and pathetically little in the way of funding, time, and resources to winning the war against AIDS.

We can do more. We must do more. The heroic efforts of Dr. Gottlieb and those like him—and the courage of those among us who battle daily with AIDS—demands no less of us.

WETLANDS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 5, 1991, into the CONGRESSIONAL RECORD:

WETLANDS

Every week I hear from farmers, developers and private landowners who say that government regulation of wetlands is too restrictive, and from others who maintain that wetlands are being lost and that protection measures are insufficient. This controversy has spurred debate on wetlands protection policy.

VALUE OF WETLANDS

Wetlands are broadly defined as land containing watery vegetation and soils, and surface or underground water for prolonged periods. They can include swamplands, marshes, bogs and prairie potholes. Much of the wetlands in the continental U.S. is concentrated along coastlines. Three quarters of the country's wetlands are privately owned.

The decline in wetlands has been dramatic. In the late 18th century there were an estimated 221 million acres of wetlands in the lower 48 states. By 1990 wetlands acreage has been reduced by more than half, to 104 million acres. That means that the lower 48 states have lost an average of 60 acres every hour over the last 200 years. Indiana and nine other states have lost 70% or more of their original wetland acreage. Nearly 86% of the wetlands in Indiana has been drained or filled.

In recent years the traditional view of wetlands has changed. Since colonial times, wetlands were considered wastelands to be drained and filled, and put to productive use as cropland or sites for new houses and roads. Today wetlands are no longer considered a nuisance, but rather an invaluable resource. While accounting for only 5% of the total land area in the continental U.S., wetlands play a critical role in improving water quality through trapping and filtering sediment, serving as a natural flood control system, and preventing shoreline erosion. They also provide essential habitat for fish and wildlife, including nursery and spawning ground for 60% to 90% of U.S. commercial fish catches.

WETLANDS PROTECTION

The importance of wetlands and their protection is widely acknowledged. The issue now is on the effectiveness and costs of protecting wetlands, rather than preserving them. Many states and localities have developed programs to protect wetlands, but Indiana has no state wetlands program. In 1988 President Bush pledged support for a national policy of "no-net-loss" of wetlands. Specific practices for implementing this policy have not been approved, but a "no-net-loss" policy would aim to keep total wetlands acreage constant by creating a new acre of wetland for each acre that is developed.

Federal participation in wetlands protection spans thirty years, and includes a wide variety of laws. Some laws regulate wetlands by protecting wildlife habitat or by generating funds for wetlands acquisition. The "swampbuster" provisions of the 1985 farm law make farmers who drain and cultivate wetlands ineligible for price support payments. The 1990 farm law relaxed "swampbuster" sanctions by exempting producers from the sanctions when draining a wetland would have only a minimal effect, permitting the use of lesser sanctions for inadvertent wetland conversions, and allowing producers to mitigate the conversion of farmed wetlands by returning an equivalent area to wetland status. The strongest and the most controversial protection law, Section 404 of the 1972 Clean Water Act, protects wetlands by requiring landowners to obtain a permit from the Army Corps of Engineers before filling in a wetlands area.

PROBLEMS

The number and diversity of wetlands protection programs have created confusion among farmers, landowners, and developers. There is as yet no clear federal policy on wetlands protection. Consequently, federal, state and local governments have had only limited success in coordinating their programs, and federal regulators have often been working at cross-purposes with one another and with their counterparts at the state level. Only in 1989 did the four federal agencies involved in wetlands protection agree upon a definition of what constitutes a wetland, and this definition is still controversial.

The administration of existing laws has also been chaotic. The confusion arises because there are many kinds of wetlands, and because various agencies have differing interpretations, authority and responsibility. Landowners contend that wetlands regulators have been overzealous in enforcing the laws. Environmentalists counter that wetlands laws should be more rigorously enforced in order to prevent any further loss of wetlands acreage. Landowners have also criticized the delay and uncertainty in obtaining section 404 permits. Some have faced delays of two to three years to obtain wetlands permits, and others have proceeded with development activities only to discover that they have violated state or federal protection laws. Many landowners maintain that existing laws are an intrusion on private land-use decisions.

FEDERAL RESPONSE

The confusion and controversy surrounding wetlands policy necessitate urgent reform of the current system. The President is expected to issue an administrative order soon that would narrow the definition of a wetland. This order could have the effect of opening hundreds of thousands of wetlands acreage to development. Many farmers and developers support this change, while conservationists oppose it. Congress will soon review the application of section 404 during consideration of a bill to reauthorize the Clean Water Act. Bills have already been introduced that would narrow the scope of the protection program by classifying wetlands for their ecological value. Another bill, which could cost taxpayers billions of dollars, would require that compensation be paid to landowners prevented by the presence of wetlands from developing their property.

CONCLUSION

A wetlands policy must aim to preserve and restore quality wetlands, while providing for appropriate private land-use. I support efforts to narrow the scope of the protection program. My impression is that federal wetland enforcers have overstepped a common sense interpretation of the regulations, and widened the definition of wetlands to include land that is only marginally "wet." The protection program needs fine-tuning, not elimination. Wetlands are, of course, a vital part of our environment and should be protected. Efforts must be made to manage wetlands, educate people about their importance, and add incentives for their protection and enhancement.

BOY SCOUT TROOP 1: 75 YEARS OF PREPARING BOYS FOR THE CHALLENGES OF TODAY'S WORLD

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mrs. LOWEY of New York. Mr. Speaker, the Boy Scouts are a very special organization. All over this country, they help parents in the challenging task of bringing boys up right, and they help boys in learning, growing, and having fun. In Bronxville, NY, Boy Scout Troop 1 is entering its 75th year of providing these important services.

For 75 years, Bronxville boys have learned about themselves and learned to care and to serve their country and their fellow human beings through their participation in this organization. For 75 years, Bronxville boys have grown to adulthood in the Boy Scouts. Many of them have remained in Westchester County, contributing to its vitality and its values. Others have moved on to other places, which they enrich with the lessons and values that they have learned in Troop 1.

A Boy Scout, according to their code, should be trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent. These are qualities that any society looks for in its young people. We are fortunate indeed to have an organization that focuses specifically on passing these virtues on to our sons.

"Be prepared," Boy Scouts are taught, and when the time comes for them to leave the Scouts, they are much better prepared to face the challenges of the world in which they live. For this, I salute the Boy Scouts of America, and particularly Bronxville's Troop 1. I congratulate them on their 75 years of service, and wish them many more years of helping the youth of our community to thrive.

RETIREMENT TRIBUTE TO THOMAS H. CASIELLO, ASSISTANT SUPERINTENDENT-DIRECTOR, PATHFINDER REGIONAL VOCATIONAL TECHNICAL HIGH SCHOOL

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, today I would like to share with you and the other Members the story of a man whose achievements and outlook in the field of education made a difference to the hundreds of students whose lives he touched for the better. That man is Thomas H. Casiello, assistant superintendent-director of Pathfinder Regional Vocational High School in Palmer, Massachusetts, who is retiring after serving 15 years at his beloved school.

Mr. Casiello's career in teaching began after working as a printer in Springfield at Trade Composition. He worked there until 1964 when he became a teacher of Graphics Arts at Holyoke Trade High School. He went on to Pathfinder High School in 1975.

Throughout his 15 years at Pathfinder, Richard Casiello always put his students ahead of any ambitions or personal aspirations. Maybe the most significant contribution he has made to the students was the introduction of the personal computer to the Pathfinder community. This has improved the curriculum at the school as well as made the administration more efficient.

Beside his work at Pathfinder, Tom has been a visiting lecturer at Westfield State College, where he taught Fundamentals of Vocational Education for a period of over 10 years. He was also active in interscholastic athletics both at Holyoke Trade and Pathfinder.

Mr. Speaker, with the ever-changing economy demanding new vocational training almost daily it is an honor to recognize someone like Tom who truly gave his best to his students. To Tom, his wife Lillian, their children, Brian, Andrew, and Ann Marie and his five grandchildren please accept my best for a healthy and joyous retirement.

YOUTH SUMMER CAMP AND CONSERVATION ACT OF 1991: PROVIDING OPPORTUNITIES FOR LOW INCOME CHILDREN TO ATTEND SUMMER CAMP AND TO INCREASE FUNDING FOR THE YOUTH CONSERVATION CORPS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. KOSTMAYER. Mr. Speaker, today I am introducing a bill on behalf of the youth of America. More than 22 million children in the United States today come from low-income households. These children can't afford to go to Yellowstone or Yosemite National Parks to appreciate the Nation's natural heritage. In fact, most of them live in cities where nature is a small urban park with concrete sidewalks and manicured lawns, and outdoor recreation is playing ball in the street, pitching pennies on the sidewalk, or cooling off with the neighborhood fire hydrant.

In addition, many of the teenagers in these families will be unable to find summer employment and will be at loose ends in our Nation's cities this summer. For example, here in our Nation's Capital, Mayor Dixon has estimated that the summer jobs program will have only half the number of job opportunities this summer as it has had in past years. Unfortunately, teenagers who can't find work this summer will also be hard pressed to find many of the organized summer youth activities they might have otherwise enjoyed. Tough economic conditions in America's cities may mean the closure of summer recreation facilities and public pools or, at the very least, limited hours at these facilities. In response to this need, today I am introducing legislation that will enable thousands of youths to enjoy the Great Outdoors and to learn about our country's natural resources.

My bill provides a simple and direct means of giving low-income children the opportunity to visit our national parks and national forests or otherwise enjoy the wonders of the natural world—an opportunity they might never have. The way the bill would work is this: the Secretaries of Interior and Agriculture would contract with private, nonprofit, youth organizations—such as the Boy Scouts, Girl Scouts, Camp Fire Boys and Girls, and YMCA—to send children from low-income families to summer camp in healthy, outdoor locations around the country. Actually, some of these are in national forests or near State parks. The children would be able to attend these camps for a minimum of 14 days. At the camps, they would engage in outdoor recreation activities such as swimming, hiking, and canoeing, as well as, learn about aspects of nature and the environment. My bill would provide funding that would send up to 20,000 children to camp.

This legislation also provides summer employment opportunities for teenagers in healthful outdoor settings. By increasing the funding for the Youth Conservation Corps, more teenagers will have the opportunity for summer jobs in our national parks and national forests. Not only will they earn a minimum wage, but they will also learn about our Nation's natural resources and the agencies that manage them. Participants in this program perform various outdoor jobs, including trail maintenance, fence repairs, reforestation, landscaping, and construction of interpretive facilities and stream improvement structures. The Federal Government has been authorized to spend up to $60 million on the YCC program, but it has not been funded at that level since 1980. Once my legislation is fully enacted, the YCC program would receive an additional $6.5 million, doubling the current funding level.

The funding for these programs would come from an additional fee charged to those concessioners of the National Park Service and special use permittees of the Forest Service earning more than $2 million per year. These concessioners and permittees would pay an additional 2 percent of their gross receipts into a special fund in the Departments of Interior and Agriculture which would manage these programs.

Nothing is more important than the youth of America. The future of our country depends on them. But many of these children will not have any experiences in the out-of-doors beyond zoos, city parks, and vacant lots. If we are to have environmentally aware voters 10 or 20 years from now, we must take steps to ensure that our youth appreciate, enjoy, and understand the wonders of our Nation's natural heritage. The future protection of our national parks and public lands depends on an informed voting public. Let's do something to ensure that ALL of our youth have the opportunity to develop a love for these jewels of nature. I urge all my colleagues to join me as a cosponsor of this legislation.

TRIBUTE TO CHERYL KRYSIAK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. BONIOR. Mr. Speaker, today I have the distinct privilege of honoring a very close and personal friend. After deeply touching the lives of countless students at Mount Clemens High School, Cheryl Krysiak is being honored by her peers as Teacher of the Year.

Cheryl has taught social studies at Mount Clemens for over 20 years. Her students will tell you she excites their desire to learn—the highest tribute of all. She understands the individual needs of students and reaches them through her sense of humor and healthy approach to life and learning.

Believing grades are often only a measure of behavior rather than a measure of achievement, Cheryl emphasizes the worth of each individual student. She recognizes that the growth of self-esteem will encourage an interest in the pursuit of knowledge and the development of each student's full potential and talent. Colleagues, too, recognize the success of her methods and look toward her example to motivate their own students.

While a dedicated professional, Cheryl Krysiak is equally committed to the life of her community. Among the many activities that make her an outstanding leader and citizen is her work with the Mount Clemens/Clinton Township League of Women Voters, the Macomb County Committee for Economic Opportunity, the Michigan Department of Education, and the Macomb County Community Services Agency.

And, each year, my staff and I look forward to working with Cheryl on a variety of projects that bring the processes of democracy within closer reach of our young people. She has encouraged many students to travel to Washington as congressional pages, interns, or participants in the Close-Up Foundation program. Her enthusiasm and expertise helped shape my annual congressional student leadership summit into a top-notch program that allows young people to learn first hand what the legislative process is all about.

Mr. Speaker, although Cheryl has unsparingly shared her artistry as a teacher with her students and her compassion for people with her community, she has somewhere found reserves of enthusiasm, time, and interest for her friends, as well. I look forward to her visits to Washington with great eagerness. Over breakfast or lunch together in the House of Representatives Dining Room in the Capitol, we always have animated conversation about education or government or politics. Twenty years ago Cheryl was my first volunteer. Through the years, there has been no one more loyal or steadfast. I am personally grateful for her friendship.

Cheryl Krysiak is in many ways a touchstone to all of us who have had the privilege to know her. I am extremely proud of my good friend. Her dedication to excellence has enhanced all of our lives. I ask that my colleagues join me in saluting Cheryl Krysiak for her fine record of civic and professional accomplishment.

THE INTRODUCTION OF THE NEW COLUMBIA STATEHOOD ACT—H.R. 2482

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Ms. NORTON. Mr. Speaker, I am proud to announce that on May 29, 1991, I fulfilled one of the strongest mandates given to me by District of Columbia voters in introducing H.R. 2482, the New Columbia Statehood Act of 1991. Among D.C. residents there is a passion for full democracy that can be satisfied only when hometown D.C. becomes the 51st State. This passion is rooted as well in the desire of District residents to match the full obligations of citizenship they have assumed with the full rights of citizenship thus far denied them. We have met all the tests and then some—service in all wars, including the Persian Gulf, where we were fifth per capita; the second highest in the Nation in taxes paid per capita and $1 billion annually to the Federal treasury; provision of protective and other vital services to the Congress and the Federal Government.

Yet, my constituents are denied rights that the constituents of other Members take for granted. Congress reviews every law our democratically elected city council passes. You attach appropriation riders that the Congress rather than District residents desire. You overturn the democratically enacted laws of the D.C. Government.

These actions contradict the democratic standards of our country and of this esteemed body. It is simply not your way and we cannot believe it is your will.

As we begin floor debate on an historic civil rights bill, let us also count the introduction of the New Columbia Statehood Act as the beginning of another democratic quest. Let the Congress mark May 29, 1991, as the day this body began to move in earnest to fulfill one of the last remaining promises of democracy in America.

THE CIVIL RIGHTS BILL

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. LEWIS of Florida. Mr. Speaker, over the past 2 days the House of Representatives has considered a number of civil rights proposals. The focus of each of these proposals is to offer protection against employment discrimination based on race, color, religion, sex, or national origin. However, the vast difference between each is the manner in which to provide these protections.

The Michel substitute amendment, in my view, provided the best balance brought forward between protection against the intolerable circumstance of employment discrimination without bringing current business industry to a standstill. Make no mistake, the Michel substitute penalized those who discriminate but does so by strengthening existing protections and remedies.

Unlike the Michel amendment, H.R. 1, the Democrat's civil rights bill, allows for unlimited compensatory and punitive damages. This legislation would also lead to quota hiring. A system of quota hiring will inevitably result because employers will be forced to hire employees based on population numbers or face bankruptcy defending their hiring practices in court. These practices will erode the very fabric of the business community by threatening financial bases, discouraging expansion, and ultimately damaging the work force we are trying to protect.

During the past 2 days, debate also focused on caps for damages in sexual harassment cases. I oppose caps and ceilings for remedies and damages directed toward a particular segment of our society. A true civil rights bill protects not only the rights of sexual harassment victims but everyone's rights on an equal basis.

The Democrat's so-called civil rights bill passed by the House of Representatives today was nothing more than an example of ill-conceived legislation. This type of shoestring governing is unacceptable in any situation. It is particularly appalling when it affects an issue as vital to our Nation as civil rights.

If this Congress wants to get serious about passing a civil rights bill this session, we need to put aside the rhetoric and politics to pass legislation that will hold true to the spirit of civil rights. Today's action was neither civil nor right.

ETHEL PAYNE, JOURNALIST, PASSED

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. DELLUMS. Mr. Speaker, a majestic voice in the history of American journalism has been stilled—and America is a poorer Nation, both intellectually and morally, because Ethel Payne is dead.

For almost four decades Ethel Payne was a major contributor to my life's learning experience. As a young man Ethel Payne's news stories and syndicated columns exposed me to a wider world beyond the confines of the Bay Area—and to the injustices perpetrated by the powerful against the powerless at home and abroad. Hers was a voice of sustained moral outrage, speaking out against the inequities and injustices of our society—in the school room and the court room, in the workplace and the community at large. She was one of the first to educate me on the complex problems of the emerging nations in the Third World, as they struggled to shake off the shackles of racist imperialism.

When I first came to the House of Representatives in 1971, one of my most memorable moments was my initial meeting with Ethel. This led to a personal friendship that endured for more than 20 years—a friendship that is cherished more than ever because of her passing.

Throughout those 20 years Ethel was a constant source of intellectual inspiration and stimulation on a wide range of problems, both domestic and foreign. She was the spiritual godmother of the Congressional Black Caucus, and a driving force in urging us to take an aggressive leadership role on the critical life-and-death matters of poverty, health care and education. She educated me and a host of others on the legislative background history of civil rights legislation that she said was so necessary to undo the civil wrongs inflicted on minorities and women in this society since the Nation's inception.

Ethel was a constant source of encouragement and commitment on the need for legislating sanctions against the racist regime in South Africa to help end the obscenity of apartheid in that land. She was in the forefront of the effort to make all America more aware of the desperate hunger crisis throughout much of sub-Saharan Africa, and the moral imperative to shift this Nation's priorities toward that region from arms sales to food and health-care assistance.

Ethel was a fighter—in the best sense of the term, but one with an inbred sense of compassion and humor. She was a national treasure—and she will be a treasured memory of mine for the rest of my days. It was a privilege and an honor to have known you, my sister.

A TRIBUTE TO THE ABBEY ETNA MACHINE CO.

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to take this opportunity to pay tribute to the Abbey Etna Machine Co., which celebrates its 90th anniversary on June 10.

It is difficult to overstate the value of companies that fulfill a commitment to quality and to their communities over a great many years. A business that digs its roots firmly into an American city, contributes to its employment, its prosperity, and its overall well-being. There is no doubt that the Abbey Etna Machine Co. has made this kind of contribution to Perrysburg, OH.

Mr. Speaker, we live in a time when many Americans are deeply concerned about our ability to compete in the international marketplace and endure. We need to look no further than Abbey Etna and its showcase of machinery. It is a showcase of American quality and ingenuity, proof of what we are capable of accomplishing as an enterprising people.

As they celebrate the company's beginnings in 1901, I wish the people of Abbey Etna the very best, and commend them for their good work.

THE SECOND ANNIVERSARY OF THE TIANANMEN SQUARE MASSACRE

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, today in this country, civil rights are very fresh in our minds. The human rights abuses in China, however, seem to be forgotten.

Tuesday, June 4, is the second anniversary of the Tiananmen Square massacre. The courageous men and women who are imprisioned or executed for peaceful dissent must be remembered. Their cries for freedom must pave the way to a freer China.

I am honored to sign the proclamation that asks for the release of all prisoners of conscience and for information on over 1,000 Chinese citizens whose names are listed and who have been detained or are unaccounted for.

Two years after Tiananmen Square massacre, President Bush still contends that the extension of unconditional most-favored-nation trade status for China provides an incentive for that government to improve its human rights record. However, according to the administration's own documentation, the human rights situation in China has not improved.

Ours is a nation which champions democracy, freedom, and human rights on all fronts. We can not ignore the thousands of Chinese citizens who are still imprisoned under harsh conditions for peaceful demonstration.

The world's interests are best served by peaceful cooperation. China's response to the conflict in Cambodia is not peaceful negotiation but to supply arms to the Khmer Rouge, who are responsible for killing a quarter of the Cambodian population over the past 15 years.

We must not forget the 40 years of tyranny and oppression in Tibet.

The Dalai Lama, in his acceptance speech for the Freedom Award said, "Without freedom, humanity's creative nature cannot be utilized fully. Therefore, without utilizing creative human nature, there is no progress."

Supporters to renew China's MFN trade status point out the economic importance of our relationship. However, the relationship clearly favors China. The United States buys much more, $15.2 billion in 1990, than it sells, $4.8 billion.

The People's Republic of China does not give protection to United States intellectual property rights, a failure that leads to the reproduction of bootlegged software and other properties inside China and exported from

China. American exporters did not get the same unrestricted and fair access to the Chinese markets that President Bush proposes to give to Chinese exports in our markets.

The granting of most-favored-nation trade status would send a powerful message to repressive nations that human rights abuses and prison labor are acceptable as long as we demand their products. Never let it be said that the United States values economic gains more than human rights. We should not grant MFN status to the People's Republic of China.

A TRIBUTE TO ELLEN W. JONES

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. STUDDS. Mr. Speaker, on Monday, June 10, 1991, residents of Cape Cod, MA—which I am privileged to represent in this House—will gather to pay tribute to an outstanding woman who has worked tirelessly on behalf of all Cape Codders. It is with great pleasure that I join in expressing my profound appreciation for Ellen W. Jones of Chatham, a founder and first chairperson of the Barnstable County Health and Human Services Advisory Council.

On June 10, Ms. Jones will retire as chairperson of the advisory council after successfully guiding the council through its first formative years. Under her leadership, the council has become a strong advocate for Cape Cod's coordinated human services system. As one of Massachusetts' foremost public health and human service activists, Ellen has been instrumental in raising public awareness about many issues of great importance to those of us who live and work on Cape Cod.

Ellen has always believed that the best services can be provided to those in need through cooperation of providers; ensuring that no one slips through the proverbial cracks by bringing together all the resources available within the community.

Those of us in Congress who care deeply about all people, especially those in need—the very young and the very old, the homeless and the jobless, the working poor and the uninsured—recognize the importance of having active organizations like the Barnstable County Health and Human Services Advisory Council and people like Ellen W. Jones hard at work in our districts.

It is to Ellen's great credit that as she retires, she leaves behind a much more enlightened and active constituency. While she will be missed as chairperson, we are pleased that she will continue as a member of the council. I join her many friends and colleagues in saying thank you and wishing her the very best on this special occasion.

TRIBUTE TO JAMES P. COX

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. SKELTON. Mr. Speaker, I would like to recognize the outstanding contributions and fine public service of James P. Cox, retired chief executive officer of Still Regional Medical Center in Jefferson City, MO. During the annual president's banquet last April, the Distinguished Service Award from the Missouri Association of Osteopathic Physicians and Surgeons was given to James P. Cox in recognition of over 15 years of dedicated service to the osteopathic profession.

Mr. Cox's career in the health profession demonstrates a real commitment to the improvement of health care systems in Missouri. He has served as a spokesman and advocate for the association's impaired physician program as well as the assistant administrator and director of the substance abuse program at Still Regional Medical Center.

Mr. Speaker, the achievements of James P. Cox and his many contributions to the osteopathic profession are literally to numerous to mention. I ask that you join me and our colleagues today in recognizing this selfless and dedicated man. His 15 years serving the osteopathic profession certainly make him worthy of recognition by the House of Representatives.

MICHEL AND PAULINE BOUCHARD BECOME AMERICAN CITIZENS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. SWETT. Mr. Speaker, I rise before you today to congratulate Michel and Pauline Bouchard of Concord, NH, who today fulfilled a long-held dream when they became naturalized as U.S. citizens.

Michel and Pauline left their native Canada 27 years ago to come to work in my district. They knew no English. They had never been to America, and they knew no one in the area. But they did know that America was the land of opportunity, where hard work, dedication, and the support of loved ones could bring a rewarding and fulfilling life.

The American Dream came true for Michel and Pauline many years ago, but there has always been one thing missing—their United States citzenships.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Michel and Pauline Bouchard on this day that they proudly became U.S. citizens.

TRIBUTE TO MR. DAVID TAUB

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, it gives me great pleasure to share with my colleagues the achievement of Mr. David Taub of Hillside, NJ as he becomes Man of the Year by the Boxing Hall of Fame this Sunday, June 9. Mr. Taub was elected to the New Jersey Boxing Hall of Fame in 1985. During Mr. Taub's fighting career with the Newark Athletic Club, he earned 21 consecutive wins. In 1931, fighting as a middleweight, he was a finalist in the State championships.

At the age of 84, Mr. Taub is well known for his community involvement. He boasts more than a 40-year involvement as an active member of both the Hebrew Club and B'nai B'rith, and 60 years as a member of Hillside Elks Lodge No. 1591. He has also committed countless hours at the Sinai Recreation Center in Hillside, NJ, structuring organzied boxing for boys, and developing contenders for the Golden Glove competitions and national challenges. He is to be commended for his work as we all know the importance of helping our youth keep fit in both the mind and body, not to mention how far his work goes to keep our youth off the streets and out of trouble. The giving of one's self and asking nothing in return, as Mr. Taub has done continuously throughout his life, serves as an example for everyone to follow.

Mr. Speaker I am proud of everything Mr. Taub has done and am honored to be a friend of his. I again ask that my colleagues join me in congratulating him on his achievements.

IN PRAISE OF MRS. DEBBIE HORMEL

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. CUNNINGHAM. Mr. Speaker, while with one breath we give thanks for the heroes of the war in the gulf, with the other we should take note of other heroes, who stayed home to take care of the families of the men and women our Nation sent abroad.

One such hero is Mrs. Debbie Hormel, the ombudsman for the 711 sailors of the U.S.S. *Okinawa,* based in San Diego.

As a Navy ombudsman for the past 12 years, Mrs. Hormel has been a lifesaver for thousands of Navy families. She is involved with Navy families when their needs are greatest—when there are financial problems, family emergencies, or children born while a parent is at sea. She leads seminars for Navy families, helping them help themselves while their active-duty spouses are at sea. Her outstanding work has helped make her president of the San Diego Ombudsman Council, and president of the Amphibious Group 3 Council, overseeing 45 local Navy commands and the work of 67 ombudsmen.

Most remarkably, Mrs. Debbie Hormel is a volunteer.

Let me tell you about some of the things she did while the U.S.S. *Okinawa* was at sea, during Operations Desert Shield and Desert Storm.

During that cruise, 62 babies were delivered; 47 were delivered locally, in San Diego. She was present and assisted with three; and with one, Mrs. Hormel, who served as a Navy nurse in Vietnam, became a midwife and delivered the child herself. In between all these, Mrs. Hormel visited every one of these new Navy mothers to make sure everything was okay.

Here is another example. While an Okinawa sailor was at sea, leaving his pregnant wife and 2-year-old child at home, their house burned down. In that time of extraordinary need, Mrs. Hormel helped obtain housing for the family, coordinated volunteers to help meet their needs for food and clothing, and replaced necessary household items, and helped the mother deliver her second child.

These examples of her day-to-day heroism for Navy families do not even begin to describe her long service to San Diego Navy personnel, or her 2-plus years serving the sailors of the U.S.S. *Okinawa*.

Without a doubt, Mrs. Debbie Hormel is a true hero to the families she helps and to the Nation she serves.

Therefore, let the good works of Mrs. Debbie Hormel, Navy ombudsman of San Diego, CA, be commemorated forever in the CONGRESSIONAL RECORD, the permanent journal of the U.S. House of Representatives.

COMMUNICATIONS COMPETITIVENESS AND INFRASTRUCTURE MODERNIZATION ACT

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. OXLEY. Mr. Speaker, I'm pleased to join with my House colleague Congressman BOUCHER of Virginia and my colleagues from the other side of the Capitol, Senator CONRAD BURNS and Senator AL GORE as we introduce today the Communications Competitiveness and Infrastructure Modernization Act.

We are at the beginning of the information age, which will probably be more important than the Industrial Revolution. I'm excited about the introduction of this bill, because it shapes the future of telecommunications in this country.

We want a sound telecommunications system by the year 2015 that will connect everyone in America with each other and with the world. We want the rural areas to have the same access as the urban areas. We want to keep the cost reasonable for consumers so that middle and lower income Americans can fully participate in the great age of information. The development of the broadband system will be as important to American life as the advent of radio and television.

Those who would say this is a cable-bashing bill are not taking the long view, in my opinion. You have to consider how forward-thinking, how progressive this legislation is.

Competition is integral to our system, it drives the engine of American success. There is every reason to apply that time-honored concept to the emerging telecommunications industry. There is every reason to believe that competition will improve cable TV for everyone and result in lower cable rates, and more and better program choices, better service in hard-to-wire areas. I know the cable system is strong enough to handle the competition, and I know the consumer will ultimately benefit.

All the great advances in this country have created faster, more efficient, more convenient ways to move. We move freight easily from manufacturer to consumer. We use the highway system, the airline system to move ourselves around the country. Radio and television waves deliver programming. And now we are exploring the possibilities of fiber-optic technology, which holds limitless opportunity as a way to move information.

This bill encourages the infrastructure, the fiber-optic roads we need to move information. To give us access to what we want to learn and the means to communicate what we have to say.

I look forward to the passage and enactment of this bill, but more importantly, I look forward to a new era of telecommunications.

DELIVERING NUCLEAR POWER'S MESSAGE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. YOUNG of Alaska. Mr. Speaker, As Congress continues its discussion on national energy policy at an unprecedented pace, the center of debate will turn to the critical issue of licensing reform for new nuclear energy plants.

By ensuring a stable, fair and predictable licensing environment for nuclear energy plants—a necessary element in any legislative effort on energy policy—Congress can promote an objective that benefits all Americans.

I would like to commend to my colleague's attention the following statements from the 1991 Nuclear Power Assembly, held recently in Washington, DC. Foremost, President Bush acknowledged the nuclear energy industry's commitment to the Nation's environmental and energy security goals by developing and implementing its strategic plan for building new nuclear energy plants. The plan, which includes the goal of an order for a new nuclear energy plant by the mid-1990's, contains several provisions similar to omnibus energy bills being considered in this Congress and will provide the Nation with economic, environmental and energy security benefits.

Additionally, I hope my colleagues will take a moment to read a keynote address by NORMAN LENT, ranking minority member on the House Energy and Commerce Committee, which provides Members of Congress with an overview of two issues vitally important for the expansion of nuclear energy—licensing reform and high-level nuclear waste disposal.

As all of us know, NORM LENT is a national leader in the effort to develop a diversified energy future for America. I commend him for his leadership in this vitally important issue to our nation.

I insert the aforementioned items in the RECORD in their entirety:

THE WHITE HOUSE,
Washington, May 14, 1991.

I am pleased to send greetings to all those gathered in our Nation's Captial for the 1991 Nuclear Power Assembly.

The theme of your conference, "Nuclear Energy: The Power of Independence," is timely and corresponds with one of the major goals of our National Energy Strategy—to reduce America's vulnerability regarding foreign oil and to enhance our energy security. As you know, safe, reliable, and environmentally sound sources of nuclear power can play an imporant role in meeting our Nation's energy needs.

It is encouraging that your industry now has a "Strategic Plan for Building New Nuclear Power Plants," which complements our National Energy Strategy. Implementing the National Energy Strategy is essential, not only to our national security, but also to our economic productivity and competitiveness. This strategy calls for developing more economical, safer nuclear technologies. I welcome your cooperation in building public confidence in this effort.

Barbara joins me in wishing you a successful conference.

GEORGE BUSH.

REMARKS OF THE HON. NORMAN F. LENT

Good morning. Thank you for inviting me to speak this morning on the topic of "Delivering Nuclear Power's Message."

As the ranking Republican member of the House Committee on Energy and Commerce, I feel well-qualified to address the topic of nuclear power's message. The Energy and Commerce Committee has looked at nuclear power many times, and as you remember, I led the fight against the Markey emergency planning amendment in 1987, a victory that enabled us to preserve the nuclear industry's ability to provide about 20 percent of the Nation's electricity. More recently, nuclear power has been resurrected as an answer to problems as diverse as clean air, global warming and energy security. Under the administration's leadership nuclear power is once more being advanced, this time as a key component of a national energy strategy.

President Bush is to be commended for having had the foresight in July of 1989 to instruct his administration to develop a new national energy strategy, long before the Iraqi invasion of Kuwait put energy back on the front page. The recommendations in the N-E-S announced earlier this year should be considered by Congress as carefully as they were prepared by the Secretary of Energy and others in the Cabinet.

I was honored to join the President in the Oval Office on February 20th with Admiral Watkins and leaders from the House and Senate Energy Committees to discuss the N-E-S before its release later that day. We also discussed how to proceed on the package in this Congress.

I was also pleased to join Chairman John Dingell as the sponsor, by request, of H.R. 1301—the National Energy Strategy Act. This bill contains the legislative component of the overall N-E-S, which is one-quarter of its total recommendations. The President's proposal is a solid foundation on which to act on energy; it is now up to the Congress to muster the political will to act responsibly.

The national energy strategy should be a real boon to the nuclear industry, because it strongly supports nuclear power. To quote: "Nuclear power is a proven electricity-generating technology that emits no sulphur dioxide, nitrogen oxides, or greenhouse gases. Virtually every nuclear power plant in the free-market countries has operated safely. Nuclear power is a plus for 'energy security' because it does not rely on fuel whose supply is threatened by depletion or cut off."

The national energy strategy includes four key goals for nuclear policy. An overriding theme behind these goals is to remove undue regulatory and institutional barriers to the use of nuclear power for generating electricity in the United States. These include barriers to constructing new nuclear power plants, extending the life of existing generating units, and disposing of power plant radioactive waste.

Let me turn now to what the Energy and Commerce Committee is doing concerning the legislative language. Presently, the Energy and Power Subcommittee is in the midst of 14 weeks-worth of hearings on various components of that bill. I predict the committee will put together a comprehensive energy bill in July with subcommittee markup occurring in September. I do not think Congress will finish working on a comprehensive energy bill before the end of the second session, but I do predict that we will pass such legislation. My prediction that Congress will send a comprehensive energy bill to the president does rest, however, on the Senate sending a bill to the House. If at any point movement of a comprehensive energy bill slows down in the Senate, then that could well stop progress in the House.

There are two important nuclear issues that could and should be addressed in the comprehensive energy bill put together by the Committee. These are nuclear power plant licensing reform and high-level radioactive waste disposal. I believe the National Energy Strategy Act's provisions on licensing reform and on waste act reform will be very beneficial to the nuclear industry's goals of getting these problems solved. Resolution of these two issues is very important to the continued vitality of the nuclear power option in America.

With regard to licensing reform, I know many of you will remember that the Republican members of the committee have long been strong supporters of licensing reform. In fact, we successfully moved a true one-step licensing reform amendment through the Subcommittee on Energy and Power on the 1989 N-R-C reauthorization. As we put together a comprehensive energy bill this year, I am hopeful that we will be able to continue to assist the nuclear industry in its efforts to streamline the licensing process.

With regard to statutory reform of the waste disposal act, that is, of course, an issue that is very difficult to deal with. It raises the old question of States' rights versus national policy when disposing of high-level radioactive waste in a permanent geologic repository. It may be that provisions such as those sought by the Department of Energy will be included in the comprehensive energy bill put together by the committee later this year. It is a little early to be able to predict, but, as always, the Republicans on the Energy and Commerce Committee will do what we can to help the nuclear industry.

Nuclear power is a necessary precondition for—and component of—an energy secure, economically robust, and environmentally clean America. I know I am not alone in reaching this conclusion and I believe that Congress, assisted by the administration, is ready to begin a reevaluation of the nuclear option. I hope that the nuclear industry will work with us as we try to get past some of the distrust and fear that invariably accompanies the word "nuclear." And I hope that the industry will be creative and forward-looking and will lead us as it once did when nuclear power was the hope of many American policymakers.

Thank you very much. I look forward to working with you, hopefully on the rebirth of the nuclear option.

WHO TO HELP

HON. WILLIS D. GRADISON JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. GRADISON. Mr. Speaker, the collapse of totalitarianism in Eastern Europe and the glimmer of hope from "perestroika" in the Soviet Union created unwarranted euphoria in the West. The economic transformation to capitalism is proving to be much more difficult than the political transformation to democracy. At issue is whether the fragile new democracies can survive the trauma of economic transformation. It is in our best interests, and the best interests of free peoples everywhere, that they do.

A recent issue of "The Economist" [May 11–17, 1991, p. 11] contains a sobering editorial. Entitled "From Marx to the market", it reminds the reader of the most basic fundamentals of capitalism. Namely, market-based prices do not ensure a market economy; capitalism without capitalists is impossible, so private ownership of assets is also essential. This means privatization, and the faster the better. And while there are no guarantees, "it is the only approach not guaranteed to fail."

There is no painless way to make the transition from Marxism to Capitalism. Even in the former German Democratic Republic (East Germany), the recipient of massive assistance from the Republic of Germany (formerly West Germany, severe economic and political disruptions have appeared and are expected to worsen. Despite all this assistance, for example, unemployment in the former GDR may reach 50 percent this summer. Other countries trying to convert to capitalism are not so fortunate as to have a rich brother willing and able to help.

The obstacles to economic transformation are monumental. Industrial sectors were grossly inefficient, poorly organized, and terribly managed; machinery is from another era. The service sector was largely nonexistent to begin with. Workers did not "work" as we normally think of that term (as the saying goes, "they pretended to pay us and we pretended to work"); changing old habits, and attitudes, is never easy and will not happen overnight. Pollution and environmental degradation from past practices is not only despicable, but hazardous and costly as well. Property rights, so essential to capitalism, are confused at best. And, by and large, assets remain in state rather than private hands.

Clearly, expectations must be lowered; it may well be decades before these countries achieve the standards of living of their Western neighbors. But no less clear is that the Free World is faced with an historic window of opportunity that may not remain open forever. The question is not whether to help, but how, and who.

While keeping in mind that there is no painless way, we can begin by recognizing that the most important ingredient for making a successful transition to a market economy is the true desire to do so. And while desire is necessary, it is not sufficient. Leadership, too, is essential. It is in our best interests to help those countries who demonstrate the desire and whose leaders show the commitment to see it through. We should eschew countries that fail this criterion.

In my view, the Soviet Union fails to pass the test. Without a clear demonstration of its desire and commitment to move to a market economy, it would be shortsighted to provide aid to the Soviets. Absent a clear demonstration of desire and the commitment, we would be pouring scarce resources down the proverbial rat hole. Better to help those who have a fighting chance of making it.

"Pick your enemies carefully", an English general once said. We should pick our friends very carefully as well.

ST. LAWRENCE PARISH CELEBRATES 125TH ANNIVERSARY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to the St. Lawrence Parish of Utica, MI, on its 125 anniversary. St. Lawrence Catholic Parish was established in 1866 as a mission of the Sacred Heart Parish in Utica Junction, now known as Roseville. The mission served the faith, social, intellectual, and cultural needs of the Irish, German, and Belgian Catholics who settled in the village of Utica and the surrounding farm community of Macomb County. On August 15, 1874, Bishop C.H. Borgess dedicated St. Lawrence Parish's first church; 4 years later, a cemetery was consecrated ½ mile north of the church. In 1904, a fire swept through Utica, destroying the church. Parishioners resorted to worshiping in homes and renting halls until a new church was built in 1908.

The St. Lawrence Parish has served persons of all nationalities throughout its history, and continues to serve and nurture Catholics within its boundaries after 125 years. Generations later, many of the original church families still continue their lives as members of the parish, and have blended their faith lives with many newcomers of all walks of life. The St. Lawrence Parish complex now includes the beautiful Spanish-Romanesque church—built in 1951—the rectory, convent, and school as well as the original cemetery. The present neo-Romanesque church was designed by Detroit architect DesRosiers. The broad nave seats 800 people, and the parish remains the oldest religious community in Utica.

Mr. Speaker, I stand today to offer my warmest congratulations to the St. Lawrence Parish church congregation on their 125th anniversary. I would also like to ask all of my colleagues to join me in honoring this parish, which has, for so many years, strongly devoted itself to the service of its community.

TRIBUTE TO STORRER FAMILY

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly outstanding family in mid-Michigan, the Storrer family of Owosso, MI. This recognition is in honor of their 100th year of service to the community.

In 1891, Frederick J. Storrer, known to some as the "hustling clothier", became a member of Wicking and Storrer Clothing. Three generations later, Storrer's Clothing still stood as one of Owosso's finest clothing stores. The store officially closed in February 1986, under the presidency of John Storrer, grandson of the founder. However, James Storrer, another grandson, and his wife, Fayenne, plan to open a men's specialty store soon and to continue the tradition that began in 1891.

Over the years, several members of the Storrer family have served in the three branches of the U.S. armed services with one member, Robert L. Storrer, serving as a Golden Eagle in World War I and a Captain in the Civil Air Patrol in World War II.

The members of this family have not only served their country but also their community in a manner which deserves recognition. Many have been members of the Shiawassee Shrine Club, American Legion Post 57, Owosso Elks Lodge 753, Rotary International, and the Chamber of Commerce.

The third generation of this family has also been very active in community and professional organizations. James has been the president of the State Exchange Club, and a member of both the National Exchange Board of Education and the National Board of Trustees of the National Exchange Club.

This family's dedication to their community is summed up best in a quote from Robert L. Storrer. He once stated that the desire of Storrer's Clothing is to "do something for the city in which we live. Not in the form of a benefactor, but as an improvement to the downtown area. We live here and our interests are here." Later, after having decided to open the new shop, James Storrer referred to his father's words and added "it's about time we have another Storrer as the hustling clothier."

Mr. Speaker, I know that you will join me today in commending the Storrer family on their 100 years of service to mid-Michigan. We all wish James and Fayenne Storrer well and continued success in reopening this historic establishment.

MILTON BRUNSON: A PIONEER OF COMMUNITY CHOIRS

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. ERDREICH. Mr. Speaker, it is with great pride I welcome to Jefferson County one of the Nation's foremost choral directors, bass soloists, and ministers, the Rev. Milton Brunson. I know I speak of all of Jefferson County in giving Reverend Brunson and enthusiastic and appreciative welcome to the 75th Anniversary of the Apostolic Overcoming Holy Church of God.

During his remarkable music career spanning 43 years, Reverend Brunson developed and organized dozens of community choirs, including the renowned Thompson Community Singers. Named for the late Rev. Eugene Thompson of St. Stephen's Church, the Thompson Community Singers grew from an ensemble of 48 to more than 200 voices. The Thompson Community Singers became a legendary fixture on Chicago's West Side, with many distinguished alumni rising from their ranks. Thanks to Reverend Brunson's commitment, the Thompson Community Singers celebrate their 33d birthday this year.

Reverend Brunson's talents led to his selection as a director of a 1,000 voices chorus at Cominskey Park. His active radio ministry launched the "Gospel Sounds" programs.

Reverend Brunson's contributions have not been limited to music. He has counseled at-risk young people, worked with Dr. Martin Luther King in the formation of Operation Breakfast, and been active in Chicago school crisis-solving for more than 15 years.

Reverend Brunson has also donated his considerable talent to Operation Breadbasket and Operation PUSH. He served as chairman of the Garfield Organization and the West Side Ministers' Coalition.

Reverend Brunson, through his dedication to music, ministry and community, has touched our lives and improved our world. We are truly honored to welcome him to the Magic City.

INTRODUCTION OF CONCURRENT RESOLUTION RECOGNIZING COAST GUARD FOR ROLE IN PERSIAN GULF WAR

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. GEJDENSON. Mr. Speaker, since the 100-hours war against Saddam Hussein ended, Americans have rightfully been proud of the brave men and women of the Armed Forces. Americans have appropriately recognized and honored their courage, skill, and expertise for a job well done.

We have praised the Air Force for the unrelenting air campaign, which crippled Saddam Hussein's forces. We have praised the Navy for their role in the air campaign and for subduing the Iraqi Navy, making them an insignificant force and allowing the allies to focus troops and supplies on other areas and we have praised the Army for their success in the ground campaign.

Unfortunately, one branch of the service, the U.S. Coast Guard, has mostly gone unrecognized for its contribution. That is why I am introducing a resolution recognizing the valuable role of the U.S. Coast Guard in Operation Desert Storm and Operation Desert Shield.

Without the Coast Guard, the operations of the U.S. military may not have been so smooth, efficient, or decisive. This resolution will bring attention to the Coast Guard's contribution and will honor the brave men and women, the active personnel and the reservists who were called up and immediately went to work, facilitating the smooth handling of Operation Desert Storm and Desert Shield.

Mr. Chairman, though many may not realize it, more than 950 Coast Guard reservists were called up to participate in Operation Desert Shield and Desert Storm serving in vessel inspection units, port security units in the gulf, and in supervising the loading of munitions and hazardous military cargoes.

It is important to recognize that the Coast Guard monitoried the offloading and shipment of more than 4 million tons of cargo bound for the troops in the gulf, with no significant accidents.

The unique expertise of the U.S. Coast Guard law enforcement detachments, with their expertise in maritime sanctions enforcement, vessel boardings, and vessel inspection, led the United Nation's sanctions enforcement forces in more than 60 percent of the nearly 600 boardings in support of the international maritime interception operations in the Middle East. In addition, the U.S. Coast Guard also provided training to others to enable the maritime interdiction forces to be able to effectively and safely enforce the U.N. sanctions.

More than 550 Coast Guard reservists served in port security units deployed in the gulf to provide port security and waterside protection of ships offloading essential cargo in the gulf. This enabled crucial military and other support cargo to safely be brought into the theatre of operations, be safely offloaded, and put into operations.

After Saddam Hussein created this massive oilspill into the Persian Gulf, the U.S. Coast Guard, through its environmental response program, headed the international interagency oil pollution response team at the request of the Saudi Government. Coast Guard Falcon aircraft with oilspill aerial surveillance and mapping capabilities were deployed in the area and quickly assessed the size and depth of the problem.

The Coast Guard Research and Development Center located in Groton, CT, developed a deployable differential global positioning system capability for use with the explosive ordnance disposal search detachment. Their successful development of this equipment improved the efficiency and effectiveness of the minesweeping and ordnance countermeasures operations in the gulf, saving thousands of dollars in direct operations costs, and the inestimable savings in lives and equipment that could have been lost had this Coast Guard system not been developed.

Mr. Chairman, in addition to their direct gulf activities, Coast Guard personnel also played a critical role in the successful outcome of Operation Desert Storm and Operation Desert Shield by facilitating the safe transport of cargo, and facilitating the approval of Ready Reserve vessels to be able to carry important cargo to the Gulf. The Coast Guard vessel inspection program conducted the required inspections of 73 Sealift vessels, primarily activated Ready Reserve force vessels brought into service because of this operation. Additionally, the activation of a large number of reserve vessels, as well as the significant increase in military vessel traffic resulted in a vast increase in marine casualties requiring Coast Guard personnel actions and investigations. As a result, some field units have seen more than 300 percent increase in their investigative work load. Many of these investigations will continue for months.

The increased marine traffic and the necessity to move huge amounts of equipment and supplies also required the Coast Guard to develop a flexible Merchant Marine manning and licensing program to facilitate bringing reserve vessels into action and to ensure that ship crews were adequately trained to secure maximum safety.

U.S. Coast Guard personnel served in the joint information bureau combat camera and public affairs staff.

Coast Guard personnel served in various joint command and control staffs in the gulf theatre of operations.

The U.S. Coast Guard Intelligence Coordination Center provided support, monitoring, reviewing, and evaluating of political, terrorist, military, and intelligence activities related to Desert Shield/Storm. Specifically, Coast Guard intelligence forces were deployed to determine threats to Coast Guard forces, overseas and port security units. This was also expanded to provide intelligence support to the National Oceanic and Atmospheric Administration oil-spill team which was deployed at Coast Guard headquarters.

Mr. Chairman, I believe that we must recognize the important role of all of our Armed Forces in the Persian Gulf. As the summer proceeds and we honor our troops in parades and celebrations throughout the country, it is my hope in introducing this resolution that all Americans recognize and appreciate the important role of the U.S. Coast Guard in the Persian Gulf war. I urge my colleagues to join me in cosponsoring this resolution.

ALTERNATIVE FUELS/HIGHWAY BILL INTRODUCTORY STATEMENT

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 5, 1991

Mr. SHARP. Mr. Speaker, today I am pleased to introduce, on behalf of myself and several of my colleagues, a bill that will stop penalizing States for using alternative motor fuels. Unfortunately, under current law, several States that are leaders in the sale of alternative motor fuels are losing millions of dollars in Federal highway funds as a result of that leadership. Yes, believe it or not, in these times when the Congress is hard at work developing incentives and mandates to increase alternative fuels, we are stuck with a highway fund allocation formula that is tantamount to a penalty for using alternative fuels.

One important blow that Nation has struck for energy independence and clean air is the widespread use of ethanol as a gasoline additive. A major force driving the use of ethanol blends has been the exemption of gasohol from part of the Federal excise tax on gasoline.

Natural gas and electricity are also exempt from highway taxes, and many States are moving aggressively to increase their use.

The formula for allocations from the highway trust fund, however, is based on taxes paid in each State. States furthering our national energy security and air quality goals through the use of tax-exempt or tax-reduced alternative fuels are thus penalized by the loss of highway funds.

My bill simply requires that allocations from the highway trust fund be calculated based upon what a State's contribution to the fund would have been if all motor fuels had been taxed at the same rate as gasoline. This will correct a significant unintended consequence of the current highway allocation formula.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 6, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 7

9:30 a.m.

Armed Services

Projection Forces and Regional Defense Subcommittee

To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on antisubmarine warfare programs, including attack submarine programs.

SR-222

Governmental Affairs

To hold hearings on the nomination of Preston Moore, of Texas, to be Chief Financial Officer, Department of Commerce.

SD-342

Joint Economic

To hold hearings to review the employment-unemployment situation for May.

SD-562

JUNE 11

2:00 p.m.

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold hearings on S. 433, to provide for the disposition of certain minerals on Federal lands, and S. 785, to establish a Commission to study existing laws and procedures relating to mining.

SD-366

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on security assistance programs.

S-126, Capitol

Environment and Public Works

Toxic Substances, Environmental Oversight, Research and Development Subcommittee

To hold hearings to examine electric and hybrid vehicle technologies.

SD-406

JUNE 12

9:00 a.m.

Armed Services

To hold a briefing on the Persian Gulf War.

SH-216

Select on Indian Affairs

To hold hearings on S. 962, and S. 963, bills to confirm the jurisdictional authority of tribal governments in Indian country.

SR-485

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine certain issues relating to conventional weapons trade.

SD-342

Veterans Affairs

To hold hearings on S. 775 and S. 23, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain disabled veterans, sections 111 through 113 of S. 127, and related proposals with regard to radiation compensation, and proposed legislation providing for VA hospice-care.

SR-418

10:00 a.m.

Finance

Taxation and Debt Management Subcommittee

To hold hearings on miscellaneous tax bills, including S. 90, S. 150, S. 267, S. 284, S. 649, and S. 913.

SD-215

Judiciary
Constitution Subcommittee
To hold hearings on proposed legislation authorizing funds for the Civil Rights Commission.
SD-226

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the safety and restart issues.
SR-222

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 654, to revise Federal patent law to provide for the patentability of certain processes along with a machine, manufacture, or composition of matter with which they are associated, and S. 756, to revise Federal copyright law to provide an automatic copyright renewal system for all works copyrighted before January 1, 1978.
SD-226

JUNE 13

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Carolyn R. Bacon, of Texas, Martha Buchanan, of Texas, and Sheila Tate, of Virginia, each to be a Member of the Board of Directors of the Corporation for Public Broadcasting.
SR-253

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review revenues from additional radio spectrum allocations.
SR-253

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on proposed legislation on municipal pollution control, including S. 1081, authorizing funds for water pollution prevention and control programs of the Clean Water Act.
SD-406

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings of enforcement of anti-dumping and countervailing duties.
SD-342

10:30 a.m.
Armed Services
To hold hearings on the nominations of Gen. Gordon R. Sullivan, USA, to be Chief of Staff of the Army, and Lt. Gen. Carl E. Mundy, Jr., USMC, to be Commandant of the Marine Corps.
SR-222

Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine national tourism policy.
SR-385

1:30 p.m.
Judiciary
Constitution Subcommittee
To hold joint hearings with the House Committee on Judiciary's Subcommittee on Civil and Constitutional Rights on certain issues relating to DNA.
2226 Rayburn Building

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To continue hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on chemical defense and chemical demilitarization issues.
SR-222

Foreign Relations
To hold hearings on the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, with Annex, signed at Washington, June 1, 1990 (Treaty Doc. 101-22).
SD-419

JUNE 18

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

10:00 a.m.
Judiciary
To resume hearings on legislative proposals to strengthen crime control.
SD-226

JUNE 19

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on the National Native American Advisory Commission.
SR-485

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine dairy supply management options.
SR-332

10:00 a.m.
Foreign Relations
European Affairs Subcommittee
To hold hearings to examine the future of the Soviet economy.
SD-419

1:30 p.m.
Agriculture, Nutrition, and Forestry
To continue hearings to examine dairy supply management options.
SR-332

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the Corporation for Public Broadcasting.
SR-253

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 933, to provide fair funds to consumers of natural gas who are found to have been overcharged.
SD-366

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review broadcasters' public interest obligations.
SR-253

JUNE 26

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR-418

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 362, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.
SR-485

JULY 16

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for rail safety programs.
SR-253

CANCELLATIONS

JUNE 20

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on the Navajo-Hopi relocation program.
SR-485

POSTPONEMENTS

JUNE 6

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on enforcement and administration of the Foreign Agents Registration Act (FARA).
SD-342

SENATE—*Thursday, June 6, 1991*

(Legislative day of Monday, June 3, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

But he that is greatest among you shall be your servant.—Matthew 23:11.

Eternal God, we celebrate with gratitude and profound appreciation the many men and women who serve the public servants in the U.S. Senate. When we contemplate their faithful, dedicated service we realize the Senate could not do its work without them.

We ask Your blessing upon the food service people, those who maintain buildings and grounds, the office and committee staffs, the wonderful young people who are pages, those who provide security—uniformed and plainclothes—the doormen and floormen, the staffs in the Cloakrooms and the officers of the Senate. And as we remember them, we also remember their families. Thank you, Lord, for this multitude who labor behind the scenes and help those up front look good.

We pray in the name of Him who was the Servant of servants. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 6, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, Senator MITCHELL, is recognized for 7½ minutes.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the time for the two leaders has been reduced to 7½ minutes each. Immediately following the time for the two leaders, there will be a period for morning business not to extend beyond 11:45 a.m. during which Senators may speak. The hour from 10:15 a.m. until 11:15 a.m. will be under the control of the Republican leader or his designee.

Mr. President, as I have previously indicated on several occasions, it is my hope that we can proceed to consideration of the surface transportation bill and then the crime bill as soon as possible.

I believe that these two important measures warrant the attention of the Senate, and I hope that all Senators will cooperate in permitting us to proceed to them as soon as possible. I recognize that both are complex and controversial in nature and that many Senators will have amendments that they wish to offer. That is appropriate and understandable. But, obviously, no one can offer an amendment until we get to the bills. So I hope we will be able to get to those bills as soon as possible, begin debating them, voting on amendments, and ultimately dispose of them as the Senate decides.

Mr. President, I reserve the remainder of my leader time and yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, if I might respond to the majority leader, I know there is a meeting of a number of Senators on both sides, who have different views on the highway bill, particularly on a formula, I guess. They are meeting either late this morning or early afternoon. So I do not think there is any effort to not move to it. If they can work it out, we can save a great deal of time. I will cooperate with the majority leader in an effort to get the bill before the Senate. If not, at least they ought to be, maybe, discussing it on the Senate floor.

Mr. MITCHELL. I thank my colleague and look forward to early consideration and debate on that measure.

CAMPAIGN FINANCE REFORM

Mr. DOLE. Mr. President, last month, the Senate passed legislation that described itself as campaign finance reform.

Republicans resisted the bill, claiming that it was proincumbent, antipolitical party, and a soak-the-taxpayers welfare program for politicians.

Well, Mr. President, Republicans are not just grinding a partisan ax when leveling these criticisms.

In two articles that recently appeared in the Washington Post, columnist and political observer David Broder uses a single word to describe S. 3—the word "bogus."

According to Mr. Broder, if we are really serious about helping challengers, if we are really serious about improving competition in politics, then we ought to be strengthening—not weakening—the one institution in America that has a vested interest in removing incumbents—the political parties, Democrat and Republican.

Mr. President, party building was one of the key recommendations of the bipartisan panel of campaign finance experts, appointed last year by the majority leader and myself.

And it has been one of the key ingredients of the Republican campaign reform strategy from the very beginning.

But, unfortunately, S. 3 clamps down on legitimate party activities, while putting no clamps on illegitimate—undisclosed—nonparty influence.

It makes it tougher for political parties to engage in their bread-and-butter activities—like get-out-the-vote and voter registration—but makes it easier for special economic interests to dump enormous sums of undisclosed, unregulated cash into the coffers of favored incumbents.

As Mr. Broder points out, S. 3 flunks the procompetition test.

And it will ultimately restrict—not enhance—citizen participation in the very process that we are trying to reform—the process of financing congressional campaigns.

So, Mr. President, if Congress is to pass meaningful campaign finance reform legislation this year, it is my hope that my colleagues on the other side of the aisle will realize that political parties are not so bad after all.

Political parties help challengers. They increase citizen participation in politics.

And they should be strengthened—encouraged—in any proposal that bears the name reform.

Mr. President, I ask unanimous consent that both Washington Post articles be printed in the RECORD immediately after my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 2, 1991]

Bogus Campaign Finance Reform

(By David S. Broder)

In 1990, the Ford Motor Co. sold more than 3.5 million vehicles in the United States and spent $735 million on advertising—an average of about $208 per customer. General Motors and Chrysler appear to have spent at least as much—maybe more.

I tell you this not to make some point about auto advertising but to provide the context for the debate about political campaign financing. When I asked Washington Post researcher Mark Stencel to run these numbers, I had just finished reading the five days of debate that preceded last week's Senate passage of a campaign finance bill. That bill was designed to curb what one Democrat after another called "the money chase" that now supposedly makes a misery of senators' lives.

Sen. David Boren (D-Okla.) repeatedly warned that "the amount of money [needed] to run successfully for the House and the Senate has been escalating at an alarming rate. . . . Spending per voter [in Senate races] last year continued to climb, going up from the rate of $1.41 per voter spent in 1988 to $1.87 per voter in 1990."

Even at that higher figure, it is less than 1/100th of what any of the Big Three auto companies spends on persuasion for each sale. The comparison is not irrelevant. One reason the cost of campaigns is rising is that candidates are competing, not just with each other, but with all the other products and services being marketed to the American public. Why should a society that tolerates an avalanche of auto, soft drink, beer and cold remedy advertising choke on a relatively small amount of political persuasion?

The answer, we are told, is that senators are forced to engage in a nonstop pursuit of contributions, diverting them from their real work as legislators. Well, as Sen. Mitch McConnell (R-Ky.) pointed out, more than $80 of every $100 senators raise is collected in the final two years of their six-year terms. They could, with minimal risk, give themselves a complete vacation from fund-raising for two-thirds of their terms. If they don't, it's because they don't want to, not because they have to.

I dwell on these points to illustrate what is so maddening about the way Congress deals with campaign finance reform. The bill the Senate passed and the one the House is likely to pass in the next couple months are based on public perceptions the members of Congress know to be false. They are tailored to satisfy an agenda set largely by editorial writers and by Common Cause. The members of Congress use the camouflage provided by these well-meaning reformers to skirt the most serious problem in the way campaign funds are raised and distributed.

The Senate bill caps campaign spending and (in a move of every doubtful constitutionality) abolishes political-action committees (PACs), the convenient symbol of special-interest influence. It was passed amid knowing winks, after being loaded with other feel-good "reforms," like a purported ban on virtually all outside income. Senators were read a letter from President Bush saying he would certainly veto it because of his objection to spending limits and public financing.

Bush can match anyone when it comes to phony arguments on this issue. Although he has happily accepted taxpayer financing in his past presidential campaigns, he argues that it would be indecent for congressional races to enjoy a similar subsidy.

There is a widespread view on Capitol Hill that the provisions of the House and Senate bills don't matter, because the real measure—if there is to be one—will be written in a House-Senate conference, with the bipartisan leaders of both bodies negotiating with each other and with the president.

One has to hope so. The bills taking shape deal unsatisfactorily with the crucial problem. That problem is the financial starvation of challengers, especially in the House but significantly in the Senate as well.

Competition—the lifeblood of democracy—is drying up, because challengers have been almost shut out of the fundraising game.

The Senate bill addresses this crucial problem only indirectly. It uses voluntary spending ceilings to rein in free-spenders, who are mainly incumbents. It also offers candidates who accept spending limits partial public financing and reduced TV rates. But it distributes these goodies with fine impartiality, evenhandedly rewarding cash-starved challengers and cash-rich incumbents—with their government-paid staffs, offices and mailings, and their easy access to contributors. It does not give challengers one compensatory break.

The House bill will also likely rely on a combination of ceilings and subsidies. But on neither side of the Capitol are the Democrats prepared to do the one thing that might really help challengers—ease the restrictions on fund-raising and spending by the political parties, the only institutions in America that have an intrinsic interest in electing non-incumbents to office.

Indeed, the Senate bill (and likely the House version as well) threatens new restrictions on state parties, limiting the contributions they can accept for coordinated registration and get-out-the-vote campaigns. These efforts are at the heart of electoral democracy, but Congress is threatening to clamp down on them. To call this an improvement takes a greater leap of faith than I can muster.

[From the Washington Post]

Power to the Parties

(By David S. Broder)

Perhaps because he came to office as an unelected president, perhaps because he had been so close for so many years in Congress to his own western Michigan constituents, Gerald Ford worried even more than most politicians about staying in touch with grass-roots America.

The secretary of health, education and welfare in his administration, former University of Alabama president David Mathews, shared Ford's understanding of the importance of being connected to Main Street thinking. As president of the Kettering Foundation, he has kept his focus on the damaged links between the governed and those governing in this republic.

The foundation has just published the latest and most important in a series of reports on that topic, called "Citizens and Politics: A View From Main Street America." It is so right on so many fundamental matters that its silence on one vital topic is all the more astounding.

The body of the report is a summary and analysis of 10 focus groups, with cross-sections of people, held in scattered cities across the nation. Six were held in the middle of last year; four others, this spring. But the Harwood Group, which conducted the sessions, found no significant shift from prewar to postwar attitudes on politics.

In both time periods, and in all 10 sessions, those interviewed expressed a disdain and distrust for politics so deep that Mathews is well-justified in saying that "the legitimacy of our political institutions is more at issue than our leaders imagine."

That view is amply confirmed by the experiences I have had in the last five years when interviewing voters for The Post. Those interviews also bear out two other points emphasized in this report that contradict some of the conventional wisdom.

First, the problem is not voter apathy—but frustration. Citizens "argue that politics has been taken away from them—that they have been pushed out of the political process. They want to participate, but they believe there is no room for them," the report says.

Second, fears that this generation of Americans has become selfish, self-centered and devoid of concern for community and country are unfounded. On the contrary, millions of people are actively involved in neighborhood or community efforts. These require political skills (organizing, agenda-setting, negotiating), but they sharply separate them from the politics they despise. At the level at which they are personally involved, they see a possibility of change and accomplishment. Politics—which to them means mostly national and state government—is beyond their influence and, therefore, they believe, beyond redemption.

"Politics," said a Los Angeles woman, "is rules, laws, policies. This has nothing to do with why I am involved in my community."

All that, from my experience, is on target and has important implications. It means, among other things, that good-government reforms like public financing of campaigns or a ban on politicans' honoraria address only symptoms, not causes, of public disillusionment.

The root cause is that people have lost their belief that, as individuals they can influence the distant decison-makers in Washington or the state capital. "They believe they have been squeezed out," the report said, and the system they should control has been usurped by "politicians, powerful lobbyists and the media," who communicate and negotiate with each other but ignore the concerns the citizens want addressed.

The report suggests a variety of ways that the shattered connection between citizens and governments might be rebuilt. But, astonishingly, its analysis does not even mention that in the last 40 years, we have seen the steady decline of the political party organizations that once functioned as the links between local citizens and governments at all levels.

Do elected officials no longer hear or heed what citizens think? It is largely because the political networks, from precinct captains to county and state chairmen, that once carried those messages, no longer exist.

Do interest groups and political action committees now dominate the governmental process? It is largely because aspiring candidates and elected officials no longer can look to their parties for financial and grass-roots organizational support.

Do the mass media now play an exaggerated role in promoting or crippling political careers and in setting the issues agenda? It is largely because communication moves almost exclusively through the media, not up and down the party networks from precincts to Capitol Hill and the White House.

Disillusioned citizens are right in thinking that individuals are nearly powerless in a mass society's politics. This report tells us, sadly, that they have entirely forgotten that parties existed to inform, to mobilize and to empower them—the very thing they want but no longer know how to get.

The report correctly emphasizes that American democracy can only be rebuilt from the bottom up. Now someone needs to remind people that we don't need to invent a solution. We need only to remember what it was like when Republican and Democratic precinct captains worked and organized neighborhoods across America.

H.R. 1: OUT OF TOUCH WITH AMERICA

Mr. DOLE. Mr. President, yesterday the House of Representatives passed H.R. 1, the quota bill vetoed by President Bush last year.

Mr. President, H.R. 1 has a civil rights label, but it is a label, and nothing else.

H.R. 1 is not about equality of opportunity.

It is about equality of results.

It is not about restoring our historic civil rights laws.

It is about transforming title VII into a national tort law that will keep the American Trial Lawyers Association in business for decades to come.

So, Mr. President, the bad news is that the House of Representatives has voted for time-consuming lawsuits, for high-priced lawyers fees, for quotas in every workplace in America.

But the good news, believe it or not, is that the quota bill has failed to garner the necessary 290 votes to override President Bush's sure-to-come veto.

The quota bill has now passed the House. And it will probably pass the Senate later this year.

But, fortunately, the quota bill will not become law, because the President will save Congress from itself.

President Bush has proposed the real McCoy in this debate—a fair, responsible, tough civil rights bill—that will guarantee equality of opportunity for all Americans.

With the President's package, we can have a Rose Garden signing ceremony. We can have a strong, meaningful civil rights bill.

But, Mr. President, my colleagues on the other side of the aisle must first extricate themselves from the quota quagmire and come back to America—where equality of opportunity is a shared value, but where equality of results—quotas—are as popular these days as Saddam Hussein.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:45 a.m. with Senators permitted to speak therein.

The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, is the understanding of the Senator from Wyoming correct that there is to be a period of time reserved for the Republicans after which time there is a period of time reserved for Democrats?

The ACTING PRESIDENT pro tempore. Under the previous order, the time between 10:15 a.m. and 11:15 a.m. is controlled by the Republican leader.

Mr. WALLOP. I thank the Chair.

MISSILE DEFENSE

Mr. WALLOP. Mr. President, the great political philosopher Edmund Burke once said that governing obliges one to make choices—and that often the choice lies between the disagreeable and the intolerable. On many occasions I have reminded my colleagues that the art of government is the art of making choices.

In our representative democracy, the people govern themselves through their elected legislators and magistrates. It is simply not possible for 100 million voters to make their choices individually and directly on every question. They delegate that task to their elected officials, who then must choose between competing courses of action for them.

In this regard we are their fiduciary agents. The word fiduciary comes from the Latin fiducia, which means trust. As fiduciaries we accept the special trust, confidence, and responsibility the American people repose in us. We are entrusted to carry out their public obligations, to enact good laws, to spend public moneys wisely; in sum, to safeguard their interests. Standing in for the people, we study, reflect, debate, and wrestle with the difficulties and exigencies of public policy on their behalf. But when all that is done, the moment finally arrives in which we must earn our pay and justify our office. Then we must choose.

Nowhere is this responsibility more evident, or more crucial, than in the realm of national security. Our fiduciary responsibility demands above all that we ensure the security of the American people. We might fall short in other legislative functions—and in my opinion we often fail miserably in our stewardship of the taxpayers' hard-earned money. But we can survive most such failures. What we cannot survive is the failure of the Congress and the executive branch to meet threats to national security, indeed to America's survival.

Mr. President, no issue dramatizes the heavy responsibility we have assumed than does missile defense. And yet the basic choices we profess to make are obscured by the 1972 ABM Treaty. The Reagan administration built the SDI Program upon a fundamental contradiction: The logic of the ABM Treaty and the logic of missile defense. The propositions are antithetical, but the Congress and two successive administrations have been unwilling to face up to this fundamental contradiction.

I might say that the Senator from Virginia, the colleague of the Senator in the Chair, posed that question to the Senate this year. For reasons political rather than strategic we failed to act and failed to make that choice, but he has promised we will return to that. I hope we will and indeed trust that we shall.

What happens is the Members of Congress say, "Well, we don't have to worry about the ABM Treaty for a long time to come. Let's avoid dealing with that now." But it is a problem now, and has been from the beginning. In building our missile defense program upon such a vast contradiction, it allows all acting as America's fiduciary agents to avoid responsibility.

Mr. President, if there was a lesson in the gulf, and lots of people are drawing all kinds of lessons, and one of the lessons will be on Saturday downtown as we celebrate the triumph of America's forces and her allies, but the one principal lesson ought to be clear to everyone who looks at it at all is that we cannot find and cannot neutralize mobile missiles. It cannot be done. With all the sophistication that we demonstrated in every other element of warfare, we could not find the Scuds; we could not destroy them. And now to our dismay we are finding there were many more left than we had supposed.

The second lesson followed from the first. That even an inadequate defense, a Patriot missile designed and devised to defend against aircraft was vastly to be preferred than no defense at all.

So, Mr. President, I find it totally inexcusable, totally wrongheaded, of the House of Representatives to refuse to provide for Americans what we willingly provided to Israel and Saudi Arabia, a defense against missiles.

We proved in the gulf that even something designed as an air defense missile mechanism can hit a ballistic missile. Sure, the Scud is an old missile, and sure the Patriot is not part of the strategic defense, but Americans now believe that you can in fact hit a missile with a missile, that you can defend against these weapons of death, weapons of terror, things that threaten.

But we refuse to supply them to Americans, or at least the House of Representatives does. There is, Mr. President, one armament in the world demonstrably that now threatens Americans and that is missiles, Third World missiles, or Soviet missiles, accidently or intentionally, as terror or as acts of war. These are things that we know take place. These are things about which we in this country can do nothing because we refuse to act.

Twenty countries more or less are said to be going to have missiles within the rest of this century. Some will be nuclear. Some can be chemical. All can threaten America in one way or another, or our allies. Yet what the House of Representatives has done was to say that does not matter, Americans, these things that we provide to the Israelis and Saudis, we will not provide for you.

Mr. President, I think that is dead wrong. The one thing now that separates the Soviet Union from inadequate Third World status are its strategic forces. Mr. President, the array upon array of missiles that can hit and destroy America as we know, more of them mobile than last year, more next year than the year before, we learned that we cannot find them. B-2 or no B-2, we cannot find mobile missiles.

So what are we to say to Americans? Even though we know how to protect you from these things in the most part we are not going to provide that. That is what the Democratic majority in the House of Representatives has done. They have said it does not matter, Americans, that we have this technology, we are simply not going to provide it.

The Soviet strategic armaments include strategic defenses and includes significant amounts of work on it. I might say, Mr. President, that as yet we have not dismantled Krasnoyarsk. As yet we have not got either a House of Representatives, a Senate, or even an administration willing to take the Soviets at their words that this was a violation and in fact its purpose had been to complete the ring of strategic defenses around the Soviet Union.

Mr. President, the House action was irresponsible; it is my hope that the Senate does not follow in it. Acting as America's fiduciary agent, the U.S. Senate consented to the 1972 ABM Treaty, as stipulated in article II, section 2 of the U.S. Constitution. In effect, we the Senate, along with the executive branch, committed the American people to a contract with the Soviet Union in the form of this treaty.

Responsible fiduciary agents should frequently ask themselves, on behalf of their clients, "How is this contract working out? Is the other party carrying out its terms? Even more important, is this contractual arrangement still in our clients' interest, or have conditions perhaps changed? Is the contract bringing about the conditions our clients desired? Is it living up to the promise which led us to enter into it in the first place?"

The answer, Mr. President, has to be no.

To ignore or neglect this kind of periodic examination of a binding obligation is a supreme act of irresponsibility on the part of a fiduciary. And the treaty, the contract itself, recognizes that that must take place because the means by which it can be terminated or renegotiated are patently clear within the terms of the treaty.

Mr. President, however others of my collleagues may feel, I feel very keenly my responsibility as a fiduciary for the people of Wyoming who elected me, as well as to the American people as a whole. Consequently, I and my colleagues speaking with me today insist that this body begin asking questions on behalf of our clients, the American people: Has the ABM Treaty lived up to its promise? Have the conditions upon which we consented to this treaty been met?

Fortunately, Mr. President, there is a record of these conditions and the promise which induced the Senate to agree in 1972 to a treaty that intentionally left America defenseless, vulnerable as a matter of policy, to the most terrifying weapons ever created by man.

Most discussions of the treaty focus on its prohibition of defensive weapons. But Mr. President, the ABM Treaty paradoxically was created not merely to eliminate defensive weapons, but to eliminate offensive nuclear missiles. In 1972 the primary concern was the Soviet heavy ICBM, the SS-9, and submarine-launched ballistic missiles. The Soviet revolution in military affairs was rushing forward, and our strategic planners accepted the arcane, academic theory that mutual vulnerability would bring a halt to the massive increase in the Soviet nuclear arsenal.

Listen to the language of the treaty itself:

The preamble states that the parties agreed to the treaty on the basis of the following reasons: "* * * That effective measures to limit antiballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms. * * * And proceeding from the premise that the limitation of ABM systems * * * would contribute to more favorable conditions for limited strategic arms."

This rationale is reinforced by the U.S. unilateral statement appended to the treaty which says that the U.S. objectives of were to "constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces. * * *" It states further that if such limitations in strategic forces were not achieved in 5 years. "U.S. supreme interests could be jeopardized," and that would constitute grounds for withdrawal from the treaty, as allowed in article XV.

The Senate clearly accepted this rationale. Members believe the promise that giving up our means to defend ourselves would somehow lead to a reduction in offensive nuclear missiles, and that the Soviets would have no incentive to continue building them, or developing new types of nuclear weapons. This promise of a mutual reduction in offensive missiles constituted the primary terms of the contract, and codified the doctrine of mutual deterrence, appropriately dubbed MAD, or mutual assured destruction, into U.S. law—and for an unlimited duration.

Senator Hughes's analysis of the treaty was an uncompromising statement of the MAD dogma: "By approving the ABM Treaty we can end our MAD and elusive search for some device that gives us only a false sense of security and settle instead for what has so rightly been called a delicate balance of terror."

The Senate debate in August 1972 makes it abundantly clear that Senators were willing to give up our right of self-defense only in exchange for getting major reductions in Soviet nuclear weapons. Senator Percy said that the treaty would "halt the momentum of Soviet offensive missile programs." Senator McIntyre claimed that the agreement would "slow down the arms race and move us toward a more peaceful world."

Time does not permit me to cite additional such speeches. Senators are free to read the record. But without a doubt, only the promise that the treaty would lead to a reduction in Soviet offensive forces justified its ratification. Senator Buckley, one of two who voted against the treaty, even tried to incorporate an understanding into the resolution of ratification spelling out this fundamental rationale more forcefully and explicitly. He quoted from Secretary of State Rogers' letter of transmittal of the treaty, which contained language similar to the unilateral statement of treaty negotiator Ambassador Gerard Smith:

> If * * * more complete strategic arms limitations were not achieved within 5 years, U.S. supreme interests could be jeopardized * * * constituting a basis for withdrawal. * * *

Senators Mansfield and Javits, leading supporters of the treaty, appealed to Senator Buckley to withdraw his amendment on the grounds that such an understanding was superfluous. They asserted that the Senate position was in full accord with the Rogers/Smith statement, that an additional understanding to that effect was unnecessary, and that U.S. rights to withdraw from the treaty under article XV could be invoked if the promised offensive reductions did not occur.

Mr. President, has the ABM Treaty lived up to its promise? Has it met its own criterion for success, spelled out in the treaty itself? Has American vulnerability to Soviet nuclear missiles led to a reduction, or even a leveling off, in the production in those weapons since 1972?

Sadly, Mr. President, the answer is a resounding "no." Not only has the treaty failed to bring about a reduction in Soviet nuclear missiles, but the huge Soviet strategic arsenal has actually increased many times since the signing of the treaty.

Since 1972, the U.S.S.R. has built and deployed 30 new types of ICBM, SLBM, cruise missile, or modifications of existing weapons. This extraordinary strategic modernization program includes the mammoth SS-18 and highly threatening mobile ICBM's, the SS-24 and SS-25. In the same period Soviet ICBM and SLBM nuclear warheads grew from slightly over 2,000 to just under 10,000 in 1990. By contrast, American strategic weapons in the treaty-covered period include only a few systems, the C-4 SLBM, the D-5, SLBM, the ALCM, and the MX Peacekeeper. We have no mobile ICBM's, nor are we likely to ever deploy any.

Mr. President, there is only one thing in the world today that can truly threaten to destroy the United States, and that is the Soviet nuclear arsenal. Senators may argue that the Soviet Union is not a benevolent entity, that with Mikhail Gorbachev on his way to Stockholm to pick up his Nobel Peace Prize, the U.S.S.R. no longer threatens us.

I devoutly hope this proves to be so, Mr. President. But who will dare base the security of the American people and the survival of our Nation on hope. The fiduciary agents of United States security are morally obligated to respond to the concrete fact that the Soviets continue, despite glasnost and perestroika, to build and field new nuclear weapons.

Twenty years ago, the Senate said to the American people, "We want you to give up any opportunity to defend yourself against weapons of mass destruction. In exchange for becoming nuclear hostages, we guarantee you that the weapons you fear the most will wither away as a result of rendering yourself naked to them. We further guarantee that if the promised reduction does not occur, we will, as the agents of your security, insist on withdrawing from the treaty and finding some other means of safeguarding you."

Mr. President, our moral responsibility to the American people compels us to admit that our ABM Treaty contract has failed to deliver. In failing, it has left us vulnerable to an overwhelming Soviet nuclear capability, a growing capability that cannot be dismissed simply by attributing peaceful intentions to Soviet leadership.

We can no longer avoid the basic question that the ABM Treaty obscures. The question before us now is not "are you for or against SDI?" The straightforward choice both the Congress and the administration must face is this: "Are you for or against defending the American people from nuclear-armed ballistic missiles?" If we are in favor of defending the American people, Mr. President, then the broken contract, the failed, violated, and outmoded relic of MAD, the ABM Treaty, must be consigned to the dustbin of history where it belongs.

Mr. President, I note that my colleague from Idaho is here and is wishing to speak on this. I would yield to him such time as he may use.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Idaho [Mr. CRAIG].

ABM TREATY

Mr. CRAIG. Mr. President, I thank my colleague for yielding but most importantly I thank him for bringing this important debate to the floor of the Senate.

The question of whether we will vigorously promote the research, development and deployment of a system to defend the United States and our Armed Forces against ballistic missile attack is long overdue. And, at the heart of the debate rests the 1972 ABM Treaty.

Mr. President, without a doubt the focus of the ABM Treaty has consistently been toward the Soviet Union and a handful of other countries. After all, in the early seventies, there were few countries that possessed nuclear weapons.

However, in the 1980's and 1990's, we have seen a rapid increase in the proliferation of ballistic missile technology to Third World nations, placing ourselves in greater peril than the previous two decades or at least as we understood it. It is no longer a threat from just the Soviet Union.

As William Webster, the Director of the Central Intelligence Agency, said in recent testimony, by the end of this century between 15 and 20 developed nations will possess the capability to deploy some form of ballistic missiles.

Furthermore, Senator WARNER was quite correct in his analysis earlier this year of potential global threats to the United States. We cannot, with any degree of certainty, determine the long-term political climate of several countries, that will ultimately become involved. The constant turmoil and instability south of our borders, within the Soviet Union's own borders, throughout the Middle East, and the increasing capability of several countries in ballistic missile technology, should give the United States tremendous cause for concern.

Mr. President, the debate on this issue is not about the technical or legal issues surrounding the ABM Treaty.

Rather, it is about our policy, or lack thereof, to defend our citizens and Armed Forces similar to our ability to defend the citizens of Israel and Saudi Arabia.

Because of the ABM Treaty, we have restricted ourselves from testing and deploying a missile defense system to protect our citizens. The policy is sound, and to a degree, proven in the gulf war. Out of 42 Scud missile launches by Iraq into Israel and Saudi Arabia, 41 were intercepted by our Patriot missiles.

Mr. President, we can defend our troops and citizens from a ballistic missile threat. The question is: Do we have the will and the desire? But if we cannot continue our research, development and eventual deployment of a missile defense system because of restraints imposed by the ABM Treaty, we can do nothing to further our own security or that of our allies. I think that is the question.

To me, it is quite simple. Let the American public, through their elected representatives, determine if it is in our national interests to move toward our own collective security in the strategic defense initiative.

In that regard, I want to share with this body two polls that were taken some time back on this very issue.

In a Los Angeles Times poll, individuals were asked: Should the United States develop SDI even if it violates the ABM Treaty? Sixty-five percent said "yes," while 29% said "no."

I guess what that says, Mr. President, is that we all really do believe in protecting ourselves in trying to preserve our country.

An ABC-Washington Post poll asked: Are you in favor of the strategic defense initiative even if the United States would have to abandon or violate the ABM treaty? Again, 63 percent "yes," while only 32 percent said "no."

I think the answer is clear whether the poll was taken a year or two ago or whether it is today, specially today, after the Persian Gulf war and the success of the Patriot.

Mr. President, I think we should move rapidly with our testing and development of a strategic defense initiative. I am pleased that we can again debate this topic on the floor of the Senate where it ought to be thoroughly discussed and I look forward to the Senate's consideration of SDI funding levels as we are going to consider them in the 1992 Defense authorization bill.

This is a fundamental debate about national security. It ought not be a philosophical debate. It is basic to the well-being of our citizens and our defense forces.

I thank my colleague for yielding, and I yield back the remainder of my time.

Mr. WALLOP. Mr. President, I thank the Senator from Idaho. Clearly, I agree with his statement. This is something that ought to be debated. It ought not to be shunted out for political reasons. Americans are entitled to hear this issue discussed.

A ballistic missile defense is clearly within the technological reach of America. It has clearly not been within the political reach of America and that is the simple distinction between where we are and where we could have been.

Way back in the Carter administration—and they were opposed to it then openly—they said that we could have had a laser ballistic missile defense boost phase, using chemical lasers, deployed, Mr. President, by 1990 for the sum then of some $28 billion, which would have included all of the research and development, testing and deployment cost of the system.

Would it apply 100 percent protection? No. Do we need 100 percent protection? No. Was it desirable? Of course. But to wait for perfection is to lose the lesson of the Gulf War.

We did not have perfect defenses for the Israelis or for the Saudis. But, Mr. President, I dare anyone to state for the record that the Israelis and the Saudis would have preferred to have been without the defense that they had rather than waiting for the perfect one. that is the question. Logic tells you that there is no means by which mankind can guarantee perfection under all sets of circumstances.

And to deny ourselves adequate defenses in the hopes of perfection is a little bit like saying, well, why would I have eaten breakfast this morning, I am only going to be hungry by lunch; or at lunch, when I am only going to be hungry by dinner. Or to say that, well, I am not going to eat either because it is not going to satisfy me for the rest of my life by eating one is to say the same thing that the House of Representatives just said to the people: America, it is idiotic for you to want to be defensive.

We are not going to do it. The Democrats in the House of Representatives simply said that.

Some of us met with the President yesterday, and his message was that a missile defense was his top priority. He stated it last year at Lawrence Livermore Laboratories, and again just last week at the Air Force Academy. In his view, Mr. President, he has almost compromised enough by going to GPALS and dropping the full up phase I—GPALS, global protection against accidental launches.

Americans know in their hearts that their technology can provide them greater protection than the Congress so far has been willing to give them. Secretary of Defense Dick Cheney, my old colleague from Wyoming, said it was extraordinarily important, his top priority, and that the House action was devastating.

What do Americans have to do to get their Congress to debate these things honestly; not using closed rules and the domination of a fews committee gurus, not using the rules of the Senate to deny us the opportunity to debate whether or not the ABM Treaty is still of service and use to the United States? We do it by facing these questions honorably. For all their difficulty and all their disagreeability, they are there.

I would just say one thing to my colleagues from Idaho, who has left. We need not violate the treaty. The treaty provides for us to give notice, it provides for withdrawal, it provides for the means of renegotiating its provisions.

The Senate of the United States shortly will have the opportunity to face the issue whether or not the American people should be defended. It is the one thing upon which isolationists and globalists alike can agree, that a defense against the missiles of the world is in the interests of the Nation and its people.

I yield to my colleague from Indiana such time as he may desire.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Indiana [Mr. COATS].

BALLISTIC MISSILE DEFENSE

Mr. COATS. Mr. President, I rise today to reiterate my strong support for the development and deployment of a ballistic missile defense system to protect American citizens and soldiers at home and abroad and to afford a measure of defense for key allies and friends. This effort, in my view, is one of the most important national security challenges facing the United States today.

Mr. President, Iraq's use of ballistic missiles in the gulf war underscored the importance and feasibility of missile defense. This experience demonstrated that deterrence is not enough to prevent the use of ballistic missiles, even when threats of retaliation are harsh and credible. It showed that ballistic missiles are likely to be Third World weapons of choice in the future, even when other more conventional means of delivery are available. It also demonstrated how difficult it is to track and destroy mobile missiles before they are launched, a lesson we learned after diverting thousands of air sorties from their original missions. The list of lessons goes on, but these are sufficient to illustrate the fact that the base for missile defenses, both strategic and tactical, has been substantially strengthened by our experience in the gulf.

The world witnessed firsthand how the Patriot antimissile system came to the rescue and virtually neutralized Saddam Hussein's one means of threatening U.S. forces deployed in the gulf. The Congress now owes the American people concrete assurances that it will build on this success by moving vigorously to provide a modern and effective system to defend our troops overseas and American citizens at home.

Although I am hopeful that a consensus will soon be formed in Congress on the importance of theater and strategic missile defenses, I am disappointed that some Members seem intent on severely limiting the scope and effectiveness of a deployable system. While there is almost universal agreement that a robust theater missile defense system is needed as soon as possible to protect U.S. forces deployed overseas, there is a lack of support for strategic defenses—those needed to actually defend the United States. Unfortunately, nobody has adequately explained why we should deploy robust defenses for our forces and friends overseas and yet deny most Americans a similar degree of protection at home.

Certainly the short-range ballistic missile threat overseas is more immediate, and in this sense our most urgent ballistic missile defense requirement is apparent. But there can be no denying that the trend in ballistic missile proliferation is toward long-range, more accurate systems that will soon threaten the United States itself. We should also not ignore the potential for unauthorized or accidental launches of intercontinental missiles currently targeted on the United States. While the likelihood of such a launch may be low, the consequences of not being prepared in the event that the unexpected should happen are grave indeed.

Over the years numerous criticisms have been leveled at the strategic defense initiative—some legitimate but most ill-founded or intentionally misleading. The passage of time and the advance of technology have provided satisfactory answers to all legitimate questions. This progress demonstrates that there is no compelling reason for failing to proceed with President Bush's SDI program to provide global protection against limited strikes. The GPALS program is balanced, technologically realistic and affordable. Most important, it addresses a very real and growing threat to the United States and is vital for U.S. national security. It reponds to all serious criticisms that were raised in last year's Senate debate over SDI.

Why then have so many Members refused to endorse the President's GPALS Program? There are various reasons, but three in particular are worth addressing.

First, some Members simply regard SDI as a political issue and have staked their reputations on attempting to discredit the concept of strategic defense and the strategic defense initiative organization. Members who hold this view are unlikely to favor strategic defense no matter how effective and affordable they are. The existence of this attitude helps explain the House's decision to split theater missile defenses, which they support, from SDIO, which they wish to see fail.

Second, I believe some Members who support limited defenses of the United States are opposed to Brilliant Pebbles or any other spaced-based weapons. This view is based on the concern that, while space has played a military role for decades, it would be provocative and unwise to deploy weapons there. Unfortunately, this artificial distinction between the militarization and the weaponization of space is not compelling and has more-or-less been overtaken by events. Air Force Secretary Rice and Chief of Staff McPeak both characterized Operation Desert Storm as "The first space war in history" when they testified before the Armed Services Committee earlier this year. Space has become an integral part of our military planning in every sense. Moreover, if we want to talk about "weaponizing space we need to look first at the Iraqi Scuds that used space as a medium for attacking their targets in Israel and Saudi Arabia. Finally, it should be pointed out that even ground-based interceptors engage their targets in space; in the case of the Soviet ABM system with nuclear weapons.

The third reason why support for GPALS has not been stronger has to do with the AMB Treaty, which will need to be revised to accommodate even the ground-based part of the program. It is my firm belief, however, that the AMB Treaty in its current form impedes U.S. national security more than it enhances it. The ABM Treaty was designed to regulate United States-Soviet relations but now prevents the United States from addressing problems that have nothing to do with the Soviet Union.

There is no compelling reason why we should not now move beyond the current ABM Treaty regime to one that permits more comprehensive development, testing, and deployment of missile defense technologies. This can be done cooperatively with the Soviet Union in the defense and space talks. In my view, we should seek to modify the treaty to lift any restriction on research, development and testing, and focus limitations solely on the deployment of weapons. Within these limits we should seek relief from the treaty to permit the deployment of the GPALS architecture.

Of course, as long as the Soviets see a lack of U.S. congressional support for SDI, they have no incentive to seriously negotiate in the defense and space talks. For this very reason the Senate should fully support the President's GPALS Program and reconsider Senator WARNER's sense of Congress amendment on the ABM Treaty, which calls for a 2-year deadline for negotiating amendments to the ABM Treaty. I commend Senator WARNER for his leadership in this area and encourage my colleagues to support his initiative. Passage of the Warner amendment would immediately breath life into the defense and space talks.

Mr. President, before I close I would like to make several comments on the House's decision to gut the SDI Program in the fiscal year 1992 Defense authorization bill. My sentiments were closely reflected in a recent Wall Street Journal editorial entitled "General Aspin's Pork Army." According to the Journal:

> The House is acting as if nothing much happened in Iraq, as if Scuds never flew and all future threats have vanished. For all the rethinking in Congress, the Pentagon might as well have lost the war.

It is my hope that the Senate will not follow this irresponsible lead of the House.

In looking at the House's treatment of SDI and their decision to effectively kill the B-2 bomber program, I am concerned that pressure will now build to restore the B-2 at the expense of SDI. Such an outcome would be tragic. I say this as one of the strongest supporters of the B-2 in the Senate. If we learned anything from operation Desert Storm it is that stealth technology and missile defenses save lives. We need both, not one or the other. In my view, any Defense bill that does not adequately support both SDI and the B-2 should be promptly vetoed.

Mr. President, in closing I would like to thank the Senator from Wyoming, Senator WALLOP, for his unfailing leadership in this important area. The American people have been denied a defense against ballistic missiles for too long. This is a vulnerability that will be perpetuated or eliminated according to Congress' will. I hope my colleagues make the correct choice.

I thank my colleague for yielding the time.

Mr. WALLOP. I thank the Senator from Indiana, and I yield such time as he may consume to the Senator from Mississippi [Mr. LOTT].

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

STRATEGIC DEFENSE INITIATIVE

Mr. LOTT. Mr. President, I would like to thank the distinghished Senator from Wyoming for his leadership in having this discussion today about this most important issue. I also want to say that I know there are other members of the Armed Services Committee, particularly our ranking member, Senator WARNER of Virginia, who will be working on this issue this year.

I think that we are going to have to be more aggressive and really speak up more on this whole question of strategic defenses if we are going to get the proper attention and the proper funding that the President's program needs.

In fact, in trying to get some information that I could use in my statement today, I was told much of that is still classified. It is going to be very difficult for us to explain to the American people really how important this program is if we cannot get more information out to the general public about what is actually involved.

My question today for my colleagues in the Senate and the American people is fundamentally: Did we not learn anything from Desert Storm? Is it already ancient history? Did we not learn that our military investment in the eighties, the sophistication, the high-technology weapons that we developed worked; that it saved lives? It gave us an astronomical success in that conflict that we could not have achieved if we had not invested in the military to build up our capability.

And did we not learn anything from that conflict about dangerous missiles, that even very unsophisticated missiles can be extremely dangerous and damaging to buildings and to lives? Have we forgotten the Scuds and the Patriots already? Have we forgotten that some 28 military men and women from America lost their lives when one Scud got through and struck a building where our military personnel were located? And have we forgotten that in 1987, the Congress would have jettisoned the Partriot missiles as some high-technology scheme: claiming it would not work and was too costly.

So it is beyond me that we are already looking at Desert Storm and the lessons we learned just a few weeks ago like it is ancient history. There is no question that a land-based defense alone is not enough.

How do we explain to the American people that while the Patriots were great in knocking out incoming Scuds, that we could have had, with proper funding and aggressive support of strategic defense, the capability to knock out those Scuds before they even got in their descending trajectory? With the President's program we would not have had to worry about parts of the Scuds falling on people in Israel and on our troops. We could have knocked them out shortly after they were launched. So there is no question in my mind that the President's program is very important for the future defense against ballistic missiles, like the Scuds.

I am very concerned about what I have seen happen in the Congress year after year. Every year that we have had debate on the stratgegic defense initiative, Congress would say, well, Congress was afraid not to fund it because the Amercian people kept saying, "Wait a minute; we have the capability to develop a nonnuclear conventional defense against these terrible weapons of destruction. Why would we not do that?" The people understand but the Congress did not understand.

I look at what happened in the House again, like we have done year after year. Not only have we cut back and held back SDI, but now the House has gone even further and would, frankly, prefer to gut the strategic defense initiative completely.

So I am very worried about what is happening with this. It is important that we fund research on the strategic defense initiative at a maximum level so that we can move forward with the capability we can develop in this area.

Some people say, well, we may have to modify the ABM Treaty. So be it. Once again, I think the American people look at the ABM Treaty and wonder how did we ever get into this mode? Mad: What a proper description for our defensive postures of mutually assured destruction.

I think the American people feel like we can develop a great capability with the President's strategic defense program and it is going to be up to this body to reverse the mistakes that are being made in the House of Representatives this year. We have to go back and correct what was done by the House on SDI and on the B-2 bomber.

Talk about military pork, we are all guilty of that. I want every military base, every military installation, every military man and woman in Mississippi to stay there. I do not want anything cutback. I think we are making a tragic mistake in what we are doing to our defense overall; cutting it back 25 percent over 3 years. We are going to regret it. We are going to lose our capability.

We have this crazy system of eliminating bases in the United States while we have new bases overseas. It makes no sense at all. We all would like to have military installations in our States. I am a very active proponent of strong reserve components, National Guard units. I like National Guard buildings. It gives our people a place to meet and to train. But when you cut funds or programs like B-2 and SDI to put it over in 200 new armories across the country, I have to scratch my head and wonder where are our priorities.

I think that it is time that the Congress, the Senate, lead in this issue. Let us have a full debate and let us have some votes. Who won Desert Storm? What should we be doing about these dangerous ballistic missiles against which we don't have any defenses? We have a choice now. We can plow this ground or we can let the weeds grow. I am afraid that the Congress is moving toward letting the weeds grow.

We have to talk about what the risks are and what we can do with the strategic defense initiative. If we fail to provide for the common defense of our country, we have failed to meet a fundamental responsibility we have as Senators, and certainly as members of the Armed Services Committee.

I hope we will have this continuing discussion of SDI and that we will recognize what can be done with proper funding. I look forward to continued debate.

I yield the floor.

Mr. WALLOP. Mr. President, momentarily, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I thank the Senator from Mississippi. He states quite clearly the problem. I say to the people who may be watching, I say to the Senate, and I say to the Members of the House, who did what they did to the strategic defense initiative funding, that they stopped the defense and space talks in their tracks. The Soviets had made some final tiny modicum of movement in there, which we were discussing. In a pawn seeing the vote of the House, the Soviets stopped, withdrew those, figuring that the Congress would do the negotiating for them. They had no further obligation.

Mr. President, I have a letter dated yesterday, the 5th of June, signed by one of the heroes of the American military, the Chairman of the Joint Chiefs of Staff, Colin Powell. I ask unanimous consent that this entire letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOINT CHIEFS OF STAFF,
Washington, DC, June 5, 1991.

Hon. JOHN WARNER,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: The refocused Strategic Defense Initiative (SDI) and the military requirement for ballistic missile defense have been subjects of considerable congressional interest. Consequently, I want to provide you the position of the the Joint Chiefs of Staff on these important issues.

The Joint Chiefs of Staff fully support the President's decision refocusing SDI to provide global protection against limited strikes (GPALS). It is a clear and correct response to the threat posed by the proliferation of ballistic missiles. In DESERT STORM, we vividly witnessed the impact ballistic missile defenses had in bolstering the coalition arrayed against Iraq. Today, 20 nations have ballistic missiles. In the not-too-distant future, there is the potential for very accurate missiles with mass destruction warheads to be available to numerous Third World nations. Ultimately, some of these missiles could have the capability of directly attacking the United States. Providing protection against limited ballistic missile attacks for our deployed forces, friends and allies, and the United States should be a top national priority.

The President's decision to refocus SDI is totally consistent with JCS requirements. First, for strategic defense, specific requirements set out in our 1987 requirements document include high defense effectiveness against limited ballistic missile attacks, man-in-the-loop control, survivable systems, and the ability to destroy specified percentages of warheads during a major Soviet attack. Meeting these requirements is important because Soviet offensive and defensive strategic forces continue to be modernized. In a post-START world, the Soviet Union will remain the only nation capable of destroying the United States within 30 minutes. Second, the related issues of theater missile defense was addressed by the Joint Chiefs of Staff in 1988 when we established the requirement to protect US forces from an increasingly sophisticated threat. At the time, the threat was primarily based on Warsaw Pact and Soviet capabilities. Now, the situation has changed.

The end of the Cold War and the proliferation of theater missile capabilities outside Europe, graphically demonstrated in DESERT STORM, are redefining the threat. We are reviewing requirements in light of the new situation, but it is clear that defense against theater ballistic missiles will be even more imperative in the future. GPALS is a very positive step in the right direction and one we support on its own merits. In addition, the SDI program should continue to develop the technologies and systems needed to make an informed choice for proceeding with a more robust missile defense should the geopolitical environment warrant.

In short, the Joint Chiefs of Staff fully support the President's decision refocusing SDI to provide global protection against limited strikes and urge the Congress to do so as well. This decision is in full consonance with military requirements, and it preserves our ability to expand the system to meet a much larger threat should a decision be made to do so in the future.

Sincerely,

COLIN L. POWELL,
Chairman, Joint Chiefs of Staff.

Mr. WALLOP. Mr. President, let me focus on a couple of points he makes. He said:

> The Joint Chiefs of Staff fully support the President's decision refocusing SDI to provide global protection against limited strikes (GPALS). It is a clear and correct response to the threat posed by the proliferation of ballistic missiles. in DESERT STORM, we vividly witnessed the impact ballistic missile defenses had in bolstering the coalition arrayed against Iraq. Today, 20 nations have ballistic missiles. In the not-too-distant future, there is the potential for very accurate missiles with mass destruction warheads to be available to numerous Third World nations. Ultimately, some of these missiles could have the capability of directly attacking the United States. Providing protection against limited ballistic missile attacks for our deployed forces, friends and allies, and the United States should be a top national priority.
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Mr. President, the letter goes on validating that. As you have already given me permission to insert it in the RECORD in its entirety, let it rest there.

But suffice it to say the American chief military officer is sounding a warning, which Americans can hear and the Congress cannot, that the Soviet Union continues to modernize its strategic forces; that the biggest percentage of its modernization has been that its missilry is mobile; that we, drawing on the lessons from Iraq, know that we cannot find mobile missiles on the ground.

If we are to protect Americans or our allies we must do it by defenses against missiles. If we are to have a defense against missiles that has any proficiency, any hope of providing Americans real defense, it must have a space element.

It has not been forthright to vote for a program which is research only with the idea in mind that you would never get to the point where we were going to deploy something. It ultimately trivializes it, and politics, as it did last year, begins to result in defense of hometown pork rather than the needs of defending America—it is a design that fails while giving cover for SDI and also supporting it, but do not ask me what I will ever do for you because I have seen to it by design that it will never achieve a defense of America.

Mr. President, I note with pleasure the presence of the Senator from Virginia, the distinguished ranking member of the Senate Armed Services Committee, with whom I am proud to serve, and I ask him if he would have some comments.

But let me just say that the Senator from Virginia [Mr. WARNER] correctly phrased the debate last February, and we were denied the opportunity to debate that. He promised to return to it, and I guarantee that I will be by his elbow. This Senate will debate that some time this year.

I yield to the Senator from Virginia.

The ACTING PRESIDENT pro tempore. The senior Senator from Virginia [Mr. WARNER].

THE ABM TREATY

Mr. WARNER. Mr. President, I thank my distinguished colleague from Wyoming, and I thank those who appeared here today.

The Senator from Wyoming has led this debate for many, many years in the Senate. I appreciate his acknowledgment that earlier this year I did initiate the dialog, which I will continue, along with others, addressing the need to look at the ABM Treaty in the context of our defenses today and 10 years hence.

Repeatedly, the President has said and the Secretary of Defense and others have said that the legacy that we—that "we" is a bipartisan we; that "we" is our President—must leave for the next generation is to take now the steps needed to provide, within the capabilities of technology and within the capabilities of the arms control arrangements, the initiatives that will lead to defenses against ballistic missiles, both long range and tactical, 10, 12 years hence when the proliferation across this world will be frightening in proportion.

The Senator from Wyoming touched on one point which I wish to allow, and that is lessons learned in the gulf. The Patriot system was put together in just the nick of time; that is, the adaptation from an air defense to a missile defense, for this conflict. That time could be measured in weeks and months. The convergence of the technology to transform it into a generation of missile defense was only arrived at on the eve of this unanticipated gulf military operation. It did work. It was effective.

But that effectiveness was heavily dependent on assistance from space, the warning time that was necessary. That issue has been addressed.

But I also commend my colleague from Wyoming in mentioning the fact that we could not find, in many instances, as quickly as we hoped those mobile missiles in Iraq and that the ability of the Soviets at some future time—given that their whole trust now is to go to mobile—could pose an unacceptable threat to us in view of their mobility and our ability to track that.

We now learn from the analysis of the gulf operation that we had to divert a disproportionate amount of particularly our air and other resources to that tracking operation away from other operations. We were not confronted in the gulf with a serious air threat. We had air superiority. But had we not had that, we would still have had to allocate a disproportionate amount to the tracking operation, and we could have had a very serious situation.

So I thank my colleagues for bringing forth this debate today. We still renew it and renew it until this body conscientiously and objectively, and I hope in a bipartisan way, addresses the solution for the future.

I thank the Chair.

Mr. WALLOP. Mr. President, I thank Senator WARNER, and I want to lay some statistical impetus upon what he said about the pending and growing Soviet threat.

The Defense Intelligence Agency, in open session, testifying in front of our committee, said that by the time of the implementation of the new Strategic Arms Reduction Treaty, the START I, 80 percent of Soviet missilry would be mobile.

If that is not coffee to wake up and smell, I do not know what it will take to provide the impetus for this Congress to act.

Mr. President, I yield the floor to Mr. COCHRAN for as much time as he may use.

AN EFFECTIVE BALLISTIC MISSILE DEFENSE SYSTEM

Mr. COCHRAN. Mr. President, let me congratulate the distinguished Senator from Wyoming [Mr. WALLOP] for his leadership in bringing this issue to the attention of the Senate today, and also the leadership of the distinguished Senator from Virginia [Mr. WARNER] who is our ranking Republican member of the Senate Armed Services Committee. His leadership has been important in many areas of national security and, certainly, in this area he will be a very forceful and influential Member of the Senate.

I hope that the Senate will start looking very closely at the options that we may have before us this year in this important area, and I think that is why we take the floor today, to discuss some of these concerns and views.

When we talk about other issues or areas such as education, health care, civil rights, family planning, and other issues that are current and being debated in one committee or the other, or on the floor of one body or the other, they all seem to be put in a different perspective when we look to the issue of national security and, particularly, missile defense. It makes an impression on me, Mr. President, that our highest priority as an institution is to make sure that the decisions we make on national security issues are correct, well-reasoned, and carefully considered, because the lives and the security of the citizens of the United States are at stake and are affected by our decisions.

When Her Majesty, Elizabeth II, was here, she publicly commended our President for his clarity of vision and firmness of purpose in dealing with the challenge that the aggression of Iraq posed to the free world in the Kuwait theater of operations. I hope it is that same clarity of vision and firmness of purpose that this institution can bring to bear in the decisionmaking process about whether or not this Nation uses its technology, its scientific know-how, its ability to get things done, to develop an effective ballistic missile defense system.

It shocks Americans when they hear and realize that in spite of all of our power as a militarily capable nation, we do not have the capability to protect our population centers, or our Armed Forces, or military installations, from attack by ballistic missiles.

We have had underway a research program trying to develop understanding of how we might be able to develop a system and protect ourselves from that kind of an attack. The fact of the matter is, in this modern era, when you see missiles being developed by Third World countries, such as Iraq, with the capability of sending those missiles long distances to Israel, to Riyadh, Saudi Arabia, and maybe to points beyond, it brings home to you the fact that we are living in a very dangerous world, and that danger is exacerbated because of the technology of some of the developing nations in being able to deliver ballistic missile warheads containing chemical agents and containing nuclear weaponry.

So we should now bring together the power that we have in the scientific community and the understanding we have gained from recent experiences in the Persian Gulf, and our space technology that has advanced so impressively in many areas, and try to make sure that we utilize these assets and resources in a way that provides our country with the best possible, most effective defense we can develop, fund, and deploy to guarantee the safety and security of the citizens of this great Nation.

It worries me that we may concentrate our efforts and energies in other directions, talk about the nuances, legal and otherwise, of existing treaty relationships, get bogged down in a legal tangle and forget to do what we ought to be doing right now, and that is: Making sure we understand all of the scientific facts and possibilities that may be available to us to provide the best possible security for our country in this era.

I read reports that China is selling, or had contracted to sell, an M-9 missile to Iran. I read about the fact that the British intercepted a newly created weapon system that was destined for Iraq just before the Persian Gulf war that some said might have been capable of sending artillery shells or warheads of one kind or another long distances across borders.

Look at the State of Libya, led by a zealot, Qadhafi, who would just as soon fire a missile at you as look at you, who will look you in the face and tell you a lie. There are people as predictable and dangerous all over the world, such as in North Korea; there are hostile groups in El Salvador and in Cuba, very near our shores.

It is about a thousand miles from this Capitol to Biloxi, MS. It is about that far from Biloxi, MS, to El Salvador. It is 600 miles from Gulfport, MS, to Havana. These are not long distances, and certainly in the hands of hostile neighbors, a ballistic missile could do grave damage to the people of the United States.

So I hope that we look at how we can develop an effective, a robust, a workable ballistic missile system. The President has requested in his budget the funding for activities, research, and the development of systems that will move us forward in this direction. I hope we can support that budget request and that we can convince the majority of the Senate that the time to act is now, this year, that further delays may very well jeopardize the security and the livelihood and well-being, indeed the very existence of the people of this great country.

THE NEW STRATEGIC DEFENSE INITIATIVE

Mr. KASTEN. Mr. President, some domestic and foreign policy issues perennially capture the attention of almost every Member of this body. The recent flood of floor statements and op-ed pieces indicates that the strategic defense initiative is one of those issues. Immediately following the President's announcement of his plan to refocus the SDI Program, the opponents of SDI launched a barrage of criticism. Unfortunately, many commentators ended up firing harmless Scuds—because they opened fire before adequately understanding the true extent of the changes planned for the SDI Program.

As if almost by reflex, a few made the point that there was no connection between the success of Patriot and SDI. They were quick to point out that Patriot was an Army program going back some 20 years, that the Strategic Defense Initiative Organization [SDIO] had for years resisted spending substantial sums on antitactical ballistic missile defense, and that no inferences should be drawn from the success of Patriot for the more challenging task of intercepting missiles of intercontinental range.

To these arguments I respond that missile defense technology—of which Patriot is an example—is a critical component of modern warfare.

I understand that the new direction for SDI, now termed GPALS, or Global Protection Against Limited Strikes, was being considered in the spring of 1990 and that GPALS was approved by the Secretary of Defense in November 1990—well before the first Scud strike. We cannot ignore some important lessons from the Patriot-Scud duel in the Persian Gulf war.

First, ballistic missile proliferation must be taken seriously as a military and geopolitical problem. It is now clear that countries possessing ballistic missiles—albeit of short or medium range—are serious about their use, despite the inaccuracy of the missile or the prospect of retaliation. In addition, it is apparent that despite the Scud missile's ineffectiveness in a tactical military sense, its employment against Israel could have had enormous strategic consequences had it precipitated Israeli retaliation. Instead, the Patriot helped Israel to withstand the Scud barrage and, in so doing, helped preserve the Arab coalition poised against Iraq.

Another lesson derived from our experience with Patriot is that the technology necessary to defend against ballistic missile attacks is in our grasp. Of course, I understand that intercepting an ICBM is a much more daunting task than our recent success against the Scud. But recent flight tests have demonstrated that the technology is in hand for this more challenging task. Patriot is at the bottom rung of the technology SDI is developing. The success of Patriot in its first wartime role, however, augurs well for the potential of ballistic missile defense technologies.

I state the above points, not necessarily to make the case for SDI, but to offer supporting arguments for a very important principle; that protection against limited ballistic missile strikes is a prudent goal or obstacle for national policy. Evidence of this principle is found in the fiscal year 1991 Defense authorization bill, which created a separate program element for SDI entitled "Limited Protection System." To be sure, there are few in this body today that would disagree that ballistic missile defense has arrived. Now that it is here, the question is, what are we going to do with it?

While many people agree on the principle of protection against limited ballistic missile strikes, there is disagreement over how much protection is needed, and against what kind of ballistic missile threats. This year's SDI debate should therefore focus on three central questions: First, what is our best estimate of the future ballistic missile threat; second, what is the level and type of defenses needed to hedge against the existing and potential threat; and third, how much do we want to pay for a particular level of capability? Inextricably linked to these broad questions are issues associated with the ABM Treaty, offensive arms reductions, Soviet reactions, technological capability, ground versus space-based interceptors, and cost tradeoffs associated with other components of the defense budget.

While we await the administration's case for GPALS, I hope SDI opponents will keep an open mind and not reach reflexively for the old, standard arguments against SDI, many of which no longer remain valid in the context of GPALS. I am not suggesting that there may not be new arguments leveled against GPALS, only that many of the old arguments won't do anymore.

One such argument was that deterrence stability would be upset by the deployment of robust defenses. In particular, it has been suggested that the presence of defenses might provoke the Soviets to strike first during a crisis, when its effectiveness against United States defenses is greatest. However, GPALS is designed to defend against only several hundred ballistic missiles or warheads—rather than thousands. The focus on protection against limited strikes, rather than outright deterrence of a Soviet first strike, renders previous deterrence arguments moot.

The same can be said for the arms control arguments against SDI. As it becomes apparent to the Soviet Union that it, too, can benefit from protection against limited strikes, the likelihood of a cooperative deployment of defense becomes greater. The ABM Treaty, which was intended to be a "living document," can be amended to reflect this shared interest.

In concluding, Mr. President, I would return to the principle mentioned above, and which I hope is agreed upon by all. Namely, that protection against limited ballistic missile strikes ought to be a laudable and timely goal of our U.S. national security policymakers. Those that support only theater missile defenses on grounds that "the danger from long-range missiles is in the distant future," are, I am afraid, being terribly shortsighted.

I believe that a consensus is building—including both the executive and legislative branches—on the need to explore options for a missile defense system designed to provide protection against limited ballistic missile threats of all ranges. I support this emerging consensus, and note that it is the result of truly evolutionary thinking on the part of both critics and supporters of ballistic missile defense.

Mr. WALLOP. Mr. President, I issue one counsel to military commanders of the United States, that they heed the call of their Commander in Chief. I speak particularly of General Hammond, commander of the Army Strategic Defense Command, and ask him and others not to put the interest of the service beyond the interest of the United States.

Mr. President, I yield to the Senator from South Carolina [Mr. THURMOND] for such time as he may consume, and say that I am expecting Senator SEYMOUR and Senator SMITH.

THE ABM TREATY

Mr. SMITH. Mr. President, I join with my distinguished Republican colleagues today to focus attention on a growing national security liability: the 1972 Antiballistic Missile Treaty, better known as the ABM Treaty.

Mr. President, the United States is walking a dangerous tightrope. For 18 years, we have blindly adhered to an arms accord which hamstrings critical technology development and fundamentally undermines our national sovereignty. Our unquestioning compliance with the ABM Treaty, which prohibits nationwide defenses against strategic missiles, has opened a dangerous window of vulnerability to Soviet and emerging Third World missile threats. Alarmingly, this acquiescence has relegated strategic defense policymaking to a collection of arms control attorneys rather than expert military and civilian elected officials.

I have no doubt that President Nixon's arms control negotiators truly believed that an ABM Treaty would enhance superpower stability and prevent an expensive and dangerous missile/antimissile race. Yet, it is clear that the fundamental assumptions upon which the treaty was premised are simply not valid. For instance, contrary to expectations of treaty supporters, the accord failed to produce deep Soviet offensive force reductions, and failed to reduce threats to the survivability of retaliatory forces. Instead, the Soviets continued to aggressively modernize and stockpile advanced offensive forces, including the SS-18 heavy ICBM, whose accuracy and hard target capability increased, rather than decreased, the vulnerability of United States forces.

Eight years ago, President Reagan unveiled the strategic defense initiative to develop an effective defense against ballistic missiles. Since then, congressional opponents have consistently sought to kill, underfund, restructure, and perpetually delay development and deployment of strategic defenses. These critics selectively disregard technological progress, and now scoff at legitimate analogies between tactical missile defenses such as the Patriot and strategic missile defenses. They instead cower behind the ABM Treaty, and the obsolete and dangerous policy of mutual assured destruction to justify their skepticism.

But the American people know better, Mr. President. With the success of the Patriot missile in Desert Storm, they have seen the practical application of what has been erroneously characterized by SDI opponents as an unworkable, valueless theoretical concept. The fact is, missile defense works. SDI works. It saved countless civilian and military lives in the Persian Gulf. And it can provide an effective defense for America as well. In fact, just last January an ERIS ground-based interceptor successfully destroyed a mock ballistic missile warhead which had been launched more than 4,500 miles away in a test. Let there be no doubt, the technology to protect America exists today. The question is, Does the Congress of the United States have the courage to implement that technology?

But what also exists today is a rapidly changing security environment in which the United States is confronted by numerous enduring and emerging ballistic missile threats. For instance, the Soviet Union is virtually bankrupt, yet continues to vigorously upgrade and enhance its strategic arsenal. This robust modernization program includes an advanced version of the SS-18, along with new rail mobile SS-24 and road mobile SS-25 missiles. Remember how difficult it was to find Scud launchers in the barren desert of Iraq? Imagine how tough it would be to locate these highly accurate mobile missile systems in the mountains, valleys, and urban centers of the Soviet Union. It is a scary thought, especially since some of those missiles may be in the hands of anarchists at some point in time.

Perhaps even more disturbing is the simultaneous global proliferation of ballistic missile and chemical, biological, and nuclear weapons technologies. Currently, it is estimated that some 18 nations—a conservative estimate—possess ballistic missile capability. By the year 2000, the number of countries with deployable ballistic missile systems could exceed 25. Without an effective missile defense, the United States and our forward deployed military forces will become increasingly vulnerable to these uncertain, volatile threats. This is a vulnerability that I, as a Member of the U.S. Senate, cannot and will not accept.

The United States must now ask itself: "Is a deterrent posture based on mutual assured destruction suitable to the evolving Third World threat and the tyrannical fanaticism of Saddam Hussein, Mu'ammar Qadhafi, and Kim il-Sung?" Clearly, it is not. The knowledge that we could obliterate the Nation of Irag failed to deter Saddam Hussein's terrorist aggression, nor did it deter his willingness to go into a combat situation with the United States of America. And it will not prevent future incursions of the same type.

The United States has within its grasp the capability to rapidly develop and deploy a limited defense against strategic ballistic missiles. However, the burdensome and restrictive ABM Treaty is hamstringing our ability to operationally test, refine, or deploy promising ABM systems and components. Our excessive preoccupation with compliance causes unnecessary program delays and cost increases. This important point has been repeatedly reinforced by witnesses testifying before the Senate Armed Services Committee this year.

Furthermore, the treaty permits only the protection of Washington, DC, or, alternatively, a single intercontinental ballistic missile launch site. Thus, American people are left thoroughly vulnerable and defenseless, while those inside the Washington Beltway can be blanketed by up to 100 ABM interceptors. It is tragically ironic that Congress, who would benefit most by a treaty compliant capital defense, is so adverse to extending the umbrella of protection to its constituents.

What is so sacred about the ABM Treaty that could possibly justify the vulnerability of our citizens? Frankly, I see nothing. The treaty negotiators had no way of anticipating what type of revolutionary technological developments the future would hold, nor did they profess to. Instead, they incorporated provisions which established a standing consultative commission to periodically consider questions of compliance, and possible amendments to the treaty. Moreover, article 15 authorizes either party to withdraw from the treaty in the interest of national security after a 6-month notice and wait period.

Mr. President, this debate is not about the broad versus narrow treaty interpretation. It is about whether Congress will fulfill its constitutional obligation to provide for the common defense. In essence, we must choose between protecting the American people, or protecting an ambiguous, obsolete arms accord. The status quo simply will not do. Either we protect the United States, or we protect an outdated scroll of paper.

The time has come for Congress to lay Washington politics aside and truly represent the people of America. Technology and changes in the global security environment have transcended the partisan logic of SDI opponents. The genie is out of the bottle. In the Persian Gulf war the American public saw firsthand the immense value of missile defenses, which saved hundreds if not thousands of lives in Israel and Saudi Arabia.

Now justifiably the American people are saying, "Hey, what about us over here?" So here we are, unilaterally disarming ourselves based on what we perceive to be the intentions of the Soviet Union. I emphasize what we perceive to be the intentions of the Soviet Union rather than what we know are the capabilities of the Soviet Union and we know are the capabilities of some of the other emerging nations.

The current strategic equation is alarming. Let me state why.

No. 1, we are shutting down, as we speak, our only hot ICBM line, intercontinental ballistic missile line. We are shutting down the MX Peacekeeper, our missile to help us in the case of mutual assured destruction; shutting it down.

No. 2, we do not have any mobile missiles, none, zero. We do not have any deployed. Some will say we have mobile missiles. We have it on the drawing board, we have it in the plan, we have it as an option, but we do not have any mobile missile deployed.

Mr. President, the Soviets are deploying two new mobile missiles, the rail mobile SS-24 and the road mobile SS-25, and if the great Scud hunt in the Persian Gulf is any indication, we cannot find them.

We are severely curtailing our airborne strategic command and control operations which provide the vital link with our nuclear forces, and we have no strategic defense system to protect our citizens against hostile missile attacks. We are moving from a policy of mutual assured destruction to assured self-destruction.

Mr. President, we are gambling with national security based on perceived intentions rather than current realities. The ABM Treaty has clearly become a national security liability, and it has to be addressed. We can no longer jeopardize our freedom and security to protect an outdated arms accord. Now is the time to develop and deploy strategic defenses.

In the wake of the most brilliant, successful military operation in history, it would be a crime to allow the ABM Treaty to tie the hands of our military and prevent them from defending themselves and the American people.

Mr. President, I ask unanimous consent that the remarks of Senator WALLOP be included in the RECORD.

STRATEGIC DEFENSE INITIATIVE

Mr. THURMOND. Mr. President, I want to say a few words on the SDI situation, and I want to speak on the crime bill in a few minutes.

I want to take this opportunity to commend the able Senator from Wyoming for his leadership in this matter. Senator WALLOP has done a fine job, as has the ranking member, Senator WARNER, along with Senator COCHRAN, Senator LOTT, and Senator COATS, who spoke here, also.

Mr. President, I just want to say this: What the White House did on SDI was entirely inaccurate. We have to do more than they did. We have to go forward with SDI. I happen to be the ranking member on the Strategic Subcommittee on Armed Services and I can tell you this: The Soviets have not slowed up with strategic matters. They are going forward; they are going forward every day to become stronger from a strategic standpoint.

And it has been very difficult to get them to reduce their conventional weapons. Efforts have been made along this line for a long time.

Mr. President, there is no question about it. Research is necessary to continue this important work on SDI. We will be foolish if we do not do it. We must do it. National defense demands we do it. The freedom and security of this country demands we do it. If we are going to retain our freedom in this country we have to maintain a strong defense and to do that we need to go forward with the SDI, we need to go forward with the B-2 and other matters that will protect this country.

THE STRATEGIC DEFENSE INITIATIVE

Mr. SIMPSON. Mr. President, with regard to SDI, or the strategic defense initiative, if the gulf war taught us anything at all, it taught us that the superpowers no longer have a monopoly on ballistic missiles. We found that out in a frightening way. More and more countries around the world are developing and manufacturing and procuring these extremely dangerous weapons. All of us, and it has been mentioned many times on this floor, saw the Patriot missiles streaking into the night sky to intercept Saddam's Scud missiles. The performance of the Patriots showed that the missile defense is possible. But I think it also demonstrated that we need to improve this technology very dramatically in the future.

The threat to the United States in the coming years will be of two different types. While obviously we have better relations with the Soviets these days, we must also recognize they are very much capable of striking a devastating blow to the United States' strategic systems. We do not know for certain what the future holds, obviously, for United States-Soviet relations. It is my personal hope that that will proceed apace, as it has in the last months and years. It is very important, the relationship of our country with the Soviet Union; yet, we must be prepared for all scenarios.

The second type of threat, I think, comes from smaller countries that could attack U.S. troops employed in foreign lands or at home with ballistic missiles. We can expect ballistic missile capabilities to improve in the coming years in all countries, and we must be able to blunt this increasing and very real threat.

From a strategic and theater perspective, the ABM Treaty, as we observe it, seems to handcuff the United States with regard to the development of the new antiballistic missile technologies. For this reason, I think we have to reexamine this treaty and its effect on our defensive programs. That will be controversial, but I think it is very critical.

From a strategic perspective I think we need to continue research and development on defensive systems, and we should consider testing of certain key components. I certainly believe the President's proposal for global protection against limited strikes, colloquially known as GPALS, should be fully funded and implemented, and from the theater perspective we must continue to upgrade the Patriot system and go forward with new systems such as the Arrow Program being developed jointly with Israel. The American people and U.S. troops deserve the very best protection that Congress and the administration can provide. I am deeply disturbed by some who would try to kill or emasculate our defensive programs that will be critically needed in the decade ahead.

I think what the House of Representatives did with regard to these systems was tremendously in error and inappropriate, because I believe the American public strongly supports missile defense programs because they saw how important they were during the gulf war. They may not understand the arcane intricacies of star wars lingo, like star wars itself, or Brilliant Pebbles, but they certainly understand the threat and the need to neutralize that threat.

So, as we go forward with the DOD authorization and appropriations process in this year, I think the public will be watching ever more closely to see who, and which party, is truly concerned about protecting America and our troops and our citizens in the coming years, with some type of appropriate missile defense system. Let us not call it anything else. I trust we can then develop a solid consensus for a strong strategic and theater defense.

STRATEGIC DEFENSE INITIATIVE

Mr. MACK. Mr. President, I rise today to address a crucial element of our Nation's defense, which may literally determine the fate of our children and future generations. Just beyond today's reach shines the promise of a safer world. The strategic defense initiative means security for Americans and our allies both at home and abroad.

Still, there are those who would have us step back instead of forward, satisfied that what we already have is enough, and willing to bet their lives that they're right. Strangely, many of these are the same people who have howled most loudly about the danger of the nuclear balance of the past 50 years. Finally given the opportunity to begin to make those terrible weapons obsolete, however, they apparently prefer gamesmanship and power politics.

For example, in recent months much debate has taken place about the future of the strategic defense initiative, posing a question of whether to cut the heart out of the space based elements of SDI in order to support further development of the Patriot missile and other ground-based systems. Simply put, the argument itself is specious. It's not a matter of choosing one system or the other in response to a single risk, it's a matter of assessing our needs and guaranteeing our people the greatest degree of safety we can.

Despite warnings from luddite experts that antiballistic missiles couldn't work, during Operation Desert Storm, Americans everywhere marvelled at the sight of Patriot missiles rocketing into the night skies over Israel and Saudi Arabia to defeat incoming Scuds. We revelled in the ingenuity and technology behind "hitting a bullet with a bullet," something others had suggested couldn't be done. The important lesson is evident: Given the opportunity, American technology can and will work. Today's impossibility is tomorrow's reality.

We were told for years that defense missile sytems were destabilizing and dangerous. To the contrary, the Patriot batteries which protected Israeli population centers from Saddam's terrorist Scud attacks, kept the war from expanding.

Similarly, many of those who now tell us the Soviet threat is over also assured us that a ground war in the Persian Gulf would be bloody, protracted, and unwinnable, and that using Patriots to defend against ballistic missiles was a dream. Between the tyrannical past of the Soviet Union and the uncertain future of who will control its nuclear arsenal as its empire crumbles, recent Soviet actions against their own people raise the specter that things may not have changed so much after all. We cannot ignore 45 years of aggression on the mere promise of change. Gambling our very existence on a change of heart is a fool's game.

Some may argue that strategic defense is too costly to pursue without both an immediate threat and a guarantee of short-run success. But to risk our children's security from attack by ballistic missiles cannot be justified on any economic grounds. Technology has never retreated from its inexorable forward path. We must stand ready to meet any threat to our national security and our way of life.

Even as we continue our work on space-based systems, we should not neglect the ground-based ones which have proven so remarkably effective. Patriot is an important system. It has shown its effectiveness on the field of battle, and has saved the lives of Americans and our allies in the Persian Gulf. In the words of President Bush, when the need was at its worst, "Thank God for the Patriot missile." To deny U.S. citizens in their homes the same protection Patriots offered to the citizens of Israel and Saudi Arabia, and our troops in the field, is unthinkable. Abstract theories of deterrence offer little protection when missiles come raining down from the sky.

What we do with strategic defense should not be a matter of partisan politics, but a fundamental issue of statesmanship. We must take the long view. Can we afford to greedily spend a supposed peace dividend before we are utterly certain that the threat has passed? Should we allow budgetary considerations rather than prudent risk assessment to dictate the pace of force reductions in our armed services? Is there any function of government more important than protecting the lives and freedom of its citizens? I suggest that the answer to each of these questions is a resounding no.

Let us face the issue of national defense responsibly. Pitting ground-based against space-based defenses creates an artificial choice. The question is not which to spend our resources on, but how much each will require in order to protect our countrymen, in uniform and out, from the terror of ballistic missiles.

Mr. WALLOP. Mr. President, this morning we have been focusing on the fundamental choices posed by the strategic defense initiative and the ABM Treaty. Missile defense is profoundly important to our national security, but it is vital to remember that this issue does not reside in a vacuum. A sound national policy takes into account all aspects of the nuclear and strategic equation: Strategic offensive forces as well as strategic defenses, and our arms control policy.

The United States and the Soviet Union are headed for a summit meeting this summer which is reportedly to be highlighted by the signing of a new Strategic Arms Reduction Treaty. So today I would also like to call the special attention of Members and the American people to an eye-opening assessment of the proposed START treaty, which I believe is seriously flawed.

The assessment of START, published in the May 4, 1991 edition of Human Events and entitled "Stop the START Summit," is offered by Mr. Sven Kraemer, an expert on defense, arms control, and foreign policy, who was President Reagan's director of arms control of the staff of the National Security Council from the beginning of the Reagan Presidency until 1987.

The article assesses key elements of the proposed treaty—heavy missiles, mobile missiles, bombers, air- and sea-launched cruise missiles, and verification. It clearly demonstrates how each of these elements and the related issues of Soviet treaty violations and START's deadly poison pill, undermine SDI, violate Reagan arms control principles requiring equality, effective verification, and stability.

Mr. Kraemer notes the treaty's flaws, magnified by lessons of the gulf war and the dangerous resurgence of Soviet military hardliners, are fatal. He recommends that President Bush order a top-to-bottom agonizing reappraisal of START's provisions and premises. He calls for a new strategy encompassing: A radically revised START, the accelerated deployment of ballistic missile defense, and increased emphasis on standing with the forces of democratic reform in the Soviet Union.

Mr. Kraemer brings to this assessment the expertise of 25 years in government, including an unparalled 16 years in the NSC with 4 Presidents and 10 national security advisors. He is currently director of policy and research for the American Security Council Foundation in Washington.

Mr. President, I ask unanimous consent to include this article in the RECORD, and encourage all who care about our Nation's security to read it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Human Events, May 4, 1991]

STOP THE START SUMMIT

(By Sven F. Kraemer)

A NEW STRATEGY REQUIRED

The Administration is pressing to move ahead with a U.S.-Soviet summit in June and to make a new Strategic Arms Reduction Treaty (START) a summit highlight. Its desire to "lock up" a new agreement with Mikhail Gorbachev and his generals, notwithstanding increasing Soviet unreliability and instability, reflects a deadly policy. It mirrors Secretary of State James Baker's foolish description, at last summer's summit, of START as "shaping up largely on original United States concepts and original United States proposals. . . . In terms of what we have given and what we have taken, we have done very well indeed."

As demonstrated below, the emerging START treaty has a distinctly "emperor's new clothes" quality, and worse. No wonder the chief U.S. START negotiator, Richard Burt, recently left for greener pastures. Its key elements are fatally flawed by embarrassing concessions that have abandoned the arms control principles of the Reagan Administration. Principles like equality, stability and effective verification. Principles magnified by lessons of the Persian Gulf war and the resurgence of Kremlin hardliners. This START has turned serious arms control on its head and puts the United States at substantial risk. It does not belong on a summit agenda.

START'S FATAL FLAWS

Heavy Missiles.—In support of strategic stability and militarily meaningful arms reductions, President Reagan placed a high START priority on cutting in half the capability of the most lethal strategic systems, the "heavy" intercontinental ballistic missiles that are ideally suited for a first strike. The Soviet Union has 308 such missiles, the infamous "SS-18s," each capable of carrying 10 to 14 or more highly accurate warheads. The United States has none.

But whereas Reagan's START insisted on a 50 percent cut in numbers and a total ban on any modernization of any "heavy" missiles, Bush's START accepts recent Soviet deployments of the SS-18 missile's deadly "Mod-5" upgrade and will reportedly permit some development testing of the even newer "Mod-6." As a result, the Soviet force remaining after a 50 percent cut will likely have a greater first-strike lethality than the total earlier force, a problem further exacerbated by the SS-18's reported ability to carry 40 percent more warheads per missile (14 vs. 10) than ascribed under START.

Mobile Missiles.—Reagan's START provided for a total ban on another major category of intercontinental ballistic missiles (ICBMs), the mobile land-based systems. There were two decisive security reasons for this position.

First, anything short of a "zero" option for mobile missiles (whatever their range) simply could not be verified effectively.

Second, the United States had no realistic future prospects for gaining full funding or deployment of any truly mobile U.S. ICBMs. Both reasons remain valid today.

Yet Bush's START now accepts deployment of 1,100 warheads on mobile ICBMs, of which the U.S. has none and the Soviet Union has many—the modern road- and rail-mobile SS-25s and SS-24s.

This U.S. concession ignores the lessons of Iraq's hard-to-find mobile Scud missiles and of sustained Soviet cheating on the Intermediate Nuclear Force (INF) treaty, whereby the Soviet military successfully hid scores of banned mobile SS-23 missiles in three East European countries during the late 1980s. It also ignores the Administration's decision to terminate funding for a mobile MX missile and to downgrade development of the potentially mobile Midgetman missile.

Backfire.—The Reagan position was that START must limit the Soviet Union's Backfire bombers, modern long-range aircraft that can attack U.S. territory and U.S. ground and naval forces around the globe. Bush's START, in contrast, permits more than 100 Backfires above the 400 currently deployed, thus ignoring the significant military threat of the 4,000 nuclear weapons that can be used by these aircraft against strategic and theater targets.

Air-Launched Cruise Missiles (ALCMs).—Bush's START proposes new ALCM limits which cannot be effectively verified and which will have a highly adverse impact on important, highly cost-effective U.S. strategic options.

Whereas Reagan's START limited only nuclear-armed ALCMs more than 1,000 kilometers in range, Bush's START sets limits down to 600 kilometers in range, a critical difference which captures most U.S. ALCMs, but excludes virtually all deployed by the Soviets and which may also impact adversely on non-nuclear options in future conventional force negotiations.

Additionally, Bush's START grants the Soviet Union 40 percent more ALCM-carrying "heavy" bombers than the U.S. (210 versus 150).

Sea-Launched Cruise Missiles (SLCMs).—Reagan policy ruled out any START limits on such missiles absent resolution of two important security issues that remain valid today: (1) intractable verification obstacles; and (2) the missiles' exceptional cost-effectiveness and stabilizing deterrent qualities. The Bush Administration, however, has agreed to sign a "politically binding" set of "unilateral declarations" with the Soviet Union pledging significant limits, though none of these can be effectively verified. They are to limit to 880 the number of nuclear-armed SLCMs above 600 km in range, a less than prudent number and range limit, which will constrain most U.S. SLCM deployments, but exempt most Soviet systems.

Verification.—The Administration's extravagant claims for unprecedented verification procedures on START are abysmally unjustified. Inherent monitoring difficulties and a series of U.S. concessions make high confidence in effective verification of START's key provisions quite impossible.

The problem is compounded by START's uncertain data base (reportedly involving possible Soviet deception), adverse counting rules, and a wide range of unresolved verification procedures. Gone is Reagan's "don't trust, verify." Far from providing U.S. assurance or security, START's severe verification problems will encourage Soviet cheating.

Soviet Violations.—A U.S. signature on a START agreement would abandon the last remnants of a principled U.S. compliance policy which insisted on Soviet fulfillment of existing agreements before we would take on new agreements. In President Reagan's words: "compliance with past arms control commitments is an essential prerequisite for future arms control agreements."

Administration pressure for a START agreement also flies in the face of the annual report on Soviet noncompliance sent to the Congress by President Bush on Feb. 15, 1991.

This report details continued Soviet arms control violations and bad faith involving the Anti-Ballistic Missile (ABM) treaty; chemical, biological and nuclear testing conventions; and the two treaties recently signed by Mikhail Gorbachev himself—the INF treaty of December 1987 and the CFE treaty of November 1990.

With regard to the ABM treaty, the report notes that the illegal Krasnoyarsk radar has still not been dismantled and that Soviet military activities raise serious compliance concerns about five additional ABM treaty provisions.

Killing SDI.—START is doubly dangerous, not only in its fatally flawed key elements, but also in involving a deadly "poison pill" designed by the Soviet Union to kill the deployment of advanced ballistic missile defenses under the U.S. Strategic Defense Initiative (SDI). For since a fall 1989 meeting at Secretary Baker's Wyoming ranch, the Soviet Union has linked its future START compliance with continued United States compliance with the ABM treaty.

Although the Soviet Union breached the ABM treaty nine years ago with the Krasnoyarsk radar (acknowledged by former Soviet Foreign Minister Eduard Shevardnadze as a clear violation), our nation's unilateral compliance would thereby be extended indefinitely.

It is a fateful irony that while the Soviet generals are modernizing Soviet strategic offensive and defensive systems with undiminished intensity, they have leveraged our leaders' lust for START and misplaced fealty to a broken ABM treaty into a Faustian no-win deal for the United States.

SALT IN START'S WOUNDS

President Bush would do well to recall the fate of an earlier flawed strategic arms agreement, President Carter's Strategic Arms Limitation Treaty (SALT II).

In 1979, Carter, eager to lock in agreements with a fading Leonid Brezhnev, confidently presented his SALT II treaty to the United States Senate. Though a few recognized its problems, he was cheered on by his Administration, the arms control community and the media, and expected handy ratification.

But then, following a thorough examination, the Armed Services Committee of the U.S. Senate issued an unexpected "blinders-off" report which unambiguously concluded that the treaty "is not in the national security interests of the United States of America."

In words that could readily be applied to today's START, the Committee declared of SALT II that: "the treaty is unequal in favor of the Soviet Union and inconsistent with PL 92-448" (the Jackson Amendment requiring equal strategic levels), and its "constraints on the growing Soviet threat are not militarily significant." It added that "many provisions of the treaty . . . cannot be verified * * * on a strict standard of compliance. * * *"

Such exposure of SALT II's flaws, magnified by Soviet militance at home and abroad, mortally wounded SALT II and the Carter Administration's arms control credibility even before the Soviet invasion of Afghanistan delivered a coup de grace that led to withdrawal of the treaty from Senate consideration.

Today, START's fundamental flaws, magnified by recent events in the Persian Gulf and the Soviet Union, expose the Administration and the nation to even greater embarrassment and risk and urgently require the President's immediate personal attention.

START AT A HISTORICAL CROSSROADS

The current historical crossroads requires the President's leadership to stop START's MAD summit momentum and to order an agonizing reappraisal of START and its broader strategic context in light of recent developments.

Persian Gulf War Lessons.—Several START-related lessons of the gulf war have already emerged. One is that U.S. and allied forces are increasingly vulnerable to missile attack and were lucky Iraq's Scud missiles were unsophisticated and lacked warheads of mass destruction.

Second, anti-ballistic missile defense can work, but the advanced systems of space-based SDI are required against missiles, such as the Soviet ICBMs and expected future Third World threats, that are far more advanced than Scuds.

Third, air- and sea-launched cruise missiles proved cost effective, and such systems, whether conventional or nuclear, should not be limited on our side, especially when we cannot accurately monitor Soviet limits.

Fourth, the war's end game demonstrated the duplicity of Soviet military hardliners who openly pressed for a precipituous ceasefire designed to cut the noose around Saddam Hussein's neck and to preserve his military power for a later day.

START and the Soviet Generals.—The fatal flaws and associated risks of START's key elements are compounded by the recent aggressive actions of Soviet military leaders and their KGB allies. Risks to the United States are mounting as these forces bear out former Foreign Minister Shevardnadze's warnings against their assertiveness, their arms control violations, their anti-reform crackdowns, and their movement toward dictatorial control.

Though facing severe economic crisis and while nominally pledged to defense reform, the Soviet generals, by official Soviet estimates, continue to spend at least 25 percent of the Soviet GNP on military efforts. These efforts include strategic offensive and defensive programs that dwarf ours and are completely unwarranted by any defense standard.

Modern Soviet strategic programs include nine ballistic missile types (six land-, three sea-based), three submarine types, four strategic bomber types, construction of deep command bunkers and tunnels, and a deployed, and improving, ABM system around Moscow.

The United States, in contrast, is in the seventh year of declining defense investment and headed for four more. We are unilaterally ending production lines of MX ICBMs and Trident strategic submarines, cutting back on D-5 submarine-launched missiles and B-2 bombers, keeping SDI budgets and tests far below priority rates, are ending all tank and much aircraft production and are cutting back Army and Navy forces by 25 percent.

A Dangerous Situation.—In a period of rapidly shrinking United States defense budgets and increasingly assertive Soviet generals, U.S. reliance on Soviet good behavior and on Gorbachev's intentions or staying power is fatal to America's security. We must not forget that in possessing 20,000 nuclear weapons, 9,000 strategic, the Soviet Union remains a military superpower, the only nation able to destroy us and our allies.

FOUR STEPS TOWARD A NEW STRATEGY

President Bush should take four steps toward a sound strategy:

1. START and a Strategic Review.—President Bush needs to take a pause, take START off the summit agenda, and order a 90-day, top-to-bottom blinders-off review of START's provisions and premises within the broader global content of threatening developments in the Soviet Union and the Third World. To assure that sound security principles frame this effort, it should be led by the Department of Defense and should include a "Red Team" approach.

2. Put Aside the ABM Treaty.—The review should be free to put aside the artificial limits imposed by the 1972 Anti-Ballistic Missile (ABM) treaty. The treaty has long ago become a destabilizing factor and has been made obsolete by Soviet arms control violations and by historical developments.

History has fundamentally discredited the treaty's assumptions about the technical infeasibility of cost-effective anti-missile defenses and about the continued military, and I would add, ethical validity of nuclear missile deterrence based on Mutual Assured Destruction, a deadly gamble with mutual suicide.

3. Accelerate SDI.—President Bush must not let SDI fall victim to the fatally flawed START treaty, to the broken ABM treaty or to obsolete defense priorities. He should seize the moment and declare accelerated SDI development and deployment, to focus on the technologically promising space-based systems such as "Brilliant Pebbles," to be an indispensable and stabilizing insurance policy of highest defense priority for the American people, America's allies and the world.

4. Have a Soviet Human Rights Policy and Summit.—As part of a principled Bush Doctrine in support of global freedom and democracy, President Bush should direct that, as its single highest diplomatic priority, United States policy firmly support the democratic forces throughout the Soviet Union. This means standing fully with the forces of fundamental political, economic and military change in the republics and cities—dealing as much as possible directly with the freely elected leaders like Yeltsin, Popov and their interregional allies.

It means that if the regime does not immediately cease treaty violations, unwarranted military programs and political crackdowns, the United States will withhold consideration of any summit meetings, arms control agreements, trade or other commercial benefits involving the Soviet Union.

The bottom line of stopping a START summit and starting a new strategy should be crystal clear. It is that START requires radical revision to increase security rather than risks and that rapid United States deployment of SDI and implementation of democracy and self-determination throughout the Soviet Union—not the fatally flawed provisions and premises of the current START—can be the uniquely effective means of securely achieving strategic arms control and stability now and for the decades ahead.

THE SENATE'S NEED TO PASS THE COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991

Mr. THURMOND. Mr. President, I want to speak on the crime bill for a few minutes.

Today, I rise to urge my colleagues to act upon the President's crime bill, S. 635, when the Senate considers crime legislation. This bill, which I introduced along with 26 cosponsors on March 13 of this year, is the toughest antiviolent crime proposal before the Senate. The Comprehensive Violent Crime Control Act of 1991 is vitally important legislation designed to combat the growing problem of vicious, brutal crime. On March 11, President Bush was joined by our Nation's State attorney generals, representatives from law enforcement, and Members of Congress in unveiling this urgently needed legislation. The President called upon Congress to pass his bill within 100 days. I believe this is a reasonable request. Without question, if the U.S. Armed Forces can win a ground war against Iraq in less than 100 hours, Congress can, within 100 days, act upon the President's crime bill. It will provide the President and the States with the weapons needed to mount an all out assault on crime.

Mr. President, the 100-day deadline is steadily approaching. The majority leader has stated his intention to shortly move to a violent crime bill. The Judiciary Committee has held several hearings in recent months on the crime bill. Furthermore, these issues have been debated over and over again, year after year. I rise today to urge my colleagues to realize that it is time for Congress to act upon a tough violent crime bill.

S. 635 is the toughest bill. It responds to what Attorney General Thornburgh has called the first civil right of every American—the right to be free from fear in our homes, on our streets, and in our communities. Title I of S. 635 restores an enforceable Federal death penalty by establishing constitutional procedures for the implementation of a death sentence. The bill also includes language to reform current habeas corpus procedures which will minimize Federal judicial interference with State criminal convictions and deal with common abuses typical of habeas prisoner petitions.

These reform proposals have been endorsed by a majority of our Nation's attorneys general, the National District Attorneys' Association, numerous victims' organizations including Citizens for Law and Order, and numerous police organizations such as the Fraternal Order of Police. All of these organizations realize, as does the Bush administration, that nothing will afford the criminal justice system more force, more credibility, and more integrity, than a Federal death penalty and putting an end to the endless succession of appeals, especially by death row inmates.

Additionally, the President's bill includes a codification of the good faith exception to the exclusionary rule that has been recognized by the Supreme Court. This provision codifies and expands upon a Supreme Court decision by simply providing that when a law enforcement officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial.

Mr. President, the President's crime bill also proposes increased penalties for serious gun offenses. It is imperative that we make substantial prison time a certainty for the drug traffickers and other criminals who prey upon the innocent in our society and use firearms to commit their brutal crimes.

In summary, Congress has before it a bill which will substantially help to win the war on vicious crimes. That bill is the President's bill. The American people demand action on the President's crime bill and they demand it now. The Senate should be afforded an opportunity to act upon the President's legislation, not a watered down version which expands the rights of vicious criminals at the expense of the law abiding. We must have real, tough reform.

For this reason, I urge my colleagues to take swift action upon this legislation. I urge my colleagues to permit the Senate to vote—up or down—on the President's bill. There is no doubt that S. 636 encompasses the tough reform America wants and so greatly deserves.

I yield the floor, Mr. President.

Mr. GRASSLEY. Mr. President, apart from the economy, there is no more powerful and emotional issue today than crime.

In poll after poll, crime ranks at, or near, the top of domestic policy concerns. And this is properly so, because there is no more important obligation of government than to protect the lives and property of its people.

Indeed, the right to live in a crimefree and drugfree neighborhood is the first civil right of every American.

But, when government fails to perform this most essential function, the people begin to question its legitimacy—and with good reason. For they have a right to expect that government will fulfill its primary responsibility.

The latest FBI report is evidence that violent crime in the United States presents us with one of our most crucial national security challenges of the last decade of the 20th century.

Mr. President, our national crime strategy must always be mindful that behind the statistics, there are human victims of crime and we must attempt to make them whole as best we can. Unfortunately, that has not always been the case in this country, because scant attention has been paid to the victims of crime.

We've been preoccupied with a suspect's rights, and even a convicted criminal's rights. For over a generation, courts have erected elaborate procedures intended to protect the criminal, often at the expense of his victims. Consequently, criminal proceedings have become less truthseeking devices, but rather obstacle courses that benefit lawyers and criminals.

We need to pass tough, meaningful anticrime legislation.

As we speak on the floor of the Senate today, we are approaching the President's 100-day challenge to Congress to enact anticrime legislation for his signature that offers some means to stem the deadly flow of criminal violence.

I know the American people will be pleased that we will consider crime legislation in the Senate, beginning next week.

Mr. President, there have been many hearings and bills on crime during my years in the Senate and my service on the Judiciary Committee. After reviewing all of this material, I am no longer interested in an academic search for the so-called root causes of crime.

Nor do I believe that the American people are much interested in the root causes of crime.

Instead, the American people are demanding action to stop criminal violence against persons and property, whatever the cause.

The American people aren't interested in more excuses and theories from sociologists. The American people do not want rationalizations for antisocial behavior.

The American people want to stop crime now.

In addition, the American people don't want us to become embroiled in side issues that are exclusive of the issue of real crime control.

For example, the issue of gun control is irrelevant because criminals simply don't care about gun control laws. They never have, and they never will.

Nor should the diversion over guns deter us from a winning anticrime strategy to protect law-abiding citizens. We must aggressively promote that strategy. We must not shy away from political confrontation on the issue, if it is necessary.

The President's comprehensive crime package, sponsored by our distinguished colleague, Senator THURMOND, is a meaningful antidote for our sick criminal justice system.

It includes:

First, stiffer penalties for Federal firearms crimes, tougher laws on juveniles and gangs, beefed-up antiterrorism provisions, simplified prosecutions for sexual violence and child abuse, and expanded drug testing for Federal parolees and probationers;

Second, a relaxation of the judge-made exclusionary rule to allow Federal courts to exclude probative evidence only on constitutional grounds, and admit evidence seized by the police acting in good faith;

Third, a promoting of some sense of finality in criminal cases by limiting Federal habeas corpus petitions, including persons convicted in State courts; and

Fourth, a strengthening of the Federal death penalty by the addition of several new capital offenses, such as attempted assassination, kidnaping resulting in death, murder-for-hire, and murder during hostage taking.

The Bush-Thurmond package is tough on the people it ought to be tough on—those who commit violent crime.

At the same time, it is fair to suspects.

As importantly, it protects law-abiding Americans.

I urge my colleagues in the Senate to accept no substitutes for real, tough, and meaningful anticrime legislation.

Let's get on with the debate.

THE CANCER OF CRIME

Mr. SIMPSON. Mr. President, I want to join my colleagues in expressing appreciation for the manner in which the leadership on both sides of the aisle are trying to meet the President's goal to address the issue of crime, and the highway issue, within the first 100 days of the 102d Congress. I commend the majority leader for his willingness to accept the President's recommendation and move forward.

We have heard a great deal in these past few days about proposals to improve health care. There will be the Democrat's proposal, which is like new wine in old bottles or old wine in new bottles, whichever one you want to call that one, and then there will be the Republican proposal.

All we know is that this system of health care is costing us $670 billion a year and about 85 percent of the people of America are just loving it and about 15 percent of the American people are appalled at their being left out of it.

That is not what I would address in these few moments, but that is what we have talked about lately here. Both parties have their own ideas on improving health care to individuals.

I think we have another serious health problem in our country. I think our society is really very much suffering from a cancer of crime that is growing and threatening our societal well-being. Our city streets are not safe. Some of our neighborhoods are controlled by armed gangs of thugs and hooligans.

Throwing money at the problem, an eternal congressional activity, has not worked. Our strongest statement so far is throwing money at the problem. That has helped to ease the rate of increase, but it has not very effectively deterred crime. So I think we need to turn our attention to deterrence and punishment, if you will—it is not popular to talk about that, but critically important—rapid, swift, certain but fair, predictable, and severe punishment for criminals, strong sanctions for violent crime. We in the Congress need to breathe new life into the old saying, "If you can't do time, don't do the crime."

The crime bill introduced by the ranking member of the Judiciary Committee, our extraordinary and effervescent colleague, STROM THURMOND, of South Carolina, I think is our very best hope for implementing a cure for the cancer of crime that our country is facing. We need to start getting tough with the career criminals and people who kill.

We almost succeeded in getting started on a cure last year with the bipartisan good-faith efforts here in the Senate—and I commend the chairman, JOE BIDEN, and the Senator from South Carolina, STROM THURMOND; they were trying very hard to put together a good package—and we were thwarted in conference. In my 13 years in the U.S. Senate, I have never seen a conference where the conferees of one body actively worked to defeat their own bill. I have never seen that. That is exactly what they did.

Make no mistake about it, Mr. President, the Senate bill sent to conference was already a compromise, and then we got into this extraordinary adventure in the Commerce Committee. Many tough votes were held right here in this Chamber, and we worked very hard to compromise in good faith to at least make a good start toward addressing the problem of violent crime in America.

I think it is long overdue time to enact a tough death penalty. It is time to enact serious habeas corpus reform that will severely restrict the endless and frivolous and repetitive appeals of capital convictions. The administration's proposal introduced by Senator THURMOND will do just that. We need those provisions, and the American people are in wholehearted support of getting serious about serious crime.

There will be some effort to turn the debate on crime, violent and serious crime, solely into a debate on whether or not we should enact additional gun control measures. This is not about gun control, even though that is a passionate area for me and for some of our colleagues.

We should not be diverted by that single issue as we do the crime bill. We need to finally focus on the criminal, not his arbitrary choice of a particular means of wreaking havoc and mayhem on his fellow human beings, but on the criminals. Get them off the street, and it will not matter how many revolvers or handguns are sold in this country. It will not matter how many semiautomatic rifles and handguns are manufactured and sold. The diversionary debate about gun control is just another way, intentionally or unintentionally, of making excuses for criminal acts.

I happen to feel very strongly about gun control. I represent the State of Wyoming where that is a very important part of our ethic. I cannot support the Brady bill, not when I come here and spend the other half of my life in Washington, DC, which has the toughest gun control laws in the United States and is assuredly the murder capital of the United States. Something is twisted.

So I hope we do not have to listen to excuses for criminal acts and get diverted from that. There really is no excuse for cold-blooded murder. There really is no excuse for violent assault. Some people are real animals, and that is the way it is in real life.

We need to reinstate the concept of personal accountability in our criminal law. The criminal should be personally accountable for his criminal acts. He should not be allowed to blame the gun, society, his teacher, his mother, his strict father or the system or the establishment. The system is slanted in favor of the criminal. We need to change that and change that now. The proposal introduced by Senator THURMOND will do much to begin the process of change the American people have been demanding for these many years.

Finally, in closing, for too long now, and I am very careful as I say this, the majority party in the other body, in the House of Representatives, has exercised its power to suppress the administration's proposal and any other thoughtful proposal, including their own, from the House floor. To my knowledge, there has been no action whatsoever on any provision of the administration plan either in whole or in part. The leadership in the Senate, on the other hand, should be commended for having the courage to allow free and open debate on all proposals this session, and I commend the majority leader for that.

It is very troubling for me as a legislator to see these procedural rules used in the other body in a way which prevents the slightest airing of proposals that differ from the agenda of the majority party. That is a fact of life we are going to deal with and live with, but very unfortunate.

That is also an additional reason to work especially hard in this body to see that a really tough crime bill is passed in the Senate. That is the only way both approaches will be fairly and openly aired. The American people should be able to be fully aware as to how their elected representatives are expressing their constituents' concerns about violent crime in America.

I look forward to working in the Senate toward passage of a really tough crime bill. The administration proposal produces a much-needed and long overdue first step toward reducing violent crime, giving law enforcement the tools needed to get criminals off the streets and into the klink where they really belong.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Oregon is recognized. I advise Senators that controlled time has now expired. We are in morning business.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I ask unanimous consent that I may yield a minute to the Senator from Minnesota without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH REFORM AGENDA

Mr. DURENBERGER. Mr. President, I thank my colleague from Oregon.

Mr. President, yesterday in my comments I saluted three colleagues of ours who are authors of a very comprehensive health reform bill, and I neglected to mention the one author who has done the most over the last 2 years to seek a bipartisan Senate health reform agenda. Most people know DON RIEGLE as the senior Senator from Michigan. Many people know him as the much admired chairman of the Senate Banking Committee.

In 1989 DON RIEGLE became the chair of a new subcommittee in the Senate Finance Committee, the Subcommittee on Health for Families and the Uninsured. From that time on he hosted dozens of meetings in his personal office over in the Dirksen Building with as many as 20 Republican and Democratic Senators trying to find a bipartisan way to find a comprehensive health agenda on the table. Because the effort failed does not mean he did not try his best in that effort, and I salute him as one of the four main authors of that agenda.

I indicated yesterday I do not agree with a lot of elements in the agenda. But the fact it exists is a tribute to him as much as it is to the other authors. I wanted to make that clear to all of my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HATFIELD. I thank the Chair.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 1228 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SMITH. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senator from New Hampshire is correct; we are in morning business. The Senator from New Hampshire is recognized.

CRIME

Mr. SMITH. Mr. President, next week the Senate will deal with the problem of crime in our streets. It will be presented with a choice as stark as any we are likely to face this year. The Senate can choose a crime bill which limits frivolous appeals by convicted criminals, blocks release of dangerous felons for trivial technicalities, and creates a constitutionally acceptable death penalty for heinous crimes.

If this is the route the Senate chooses to take, they will adopt the President's bill. It is the route I hope we take. Or the Senate can adopt a bill which effectively outlaws the death penalty at the Federal level, expands the rights of convicted criminals to lodge frivolous appeals, and makes it easier for dangerous felons to be released on the streets on account of legal technicalities—and which seeks to cover up for all these inadequacies by ample dollops of gun control and, yes, by recklessly throwing away another billion dollars in taxpayers' funds. If this is the route the Senate selects, it will adopt the crime bill proposed by the Democratic leadership.

Whatever route the Senate selects, it is important to understand one thing: Serious crime is overwhelmingly the product of career criminals who commit serious felonies again and again. Unless we end the criminal justice system revolving door for these career felons, crime will continue to rise.

REGARDING THE CRIME BILL

Mr. SYMMS. Mr. President, there is some good news and some bad news on the crime front. The good news is that the Senate Democratic leadership has responded to the President's March 6 call for a crime bill within 100 days. The bad news is that the leadership has overlooked the fact that what the President wanted was an anticrime bill, not a procrime one.

The travesty masquerading as a crime bill which was introduced yesterday would do nothing to stop the plague of crime and drugs on our Nation's streets. Instead, it would:

Effectively outlaw the death penalty at the Federal level by prohibiting its implementation unless the random pattern produced by jury sentencing complied with precise racial quotas;

Expand the rights of prisoners by overturning six judicial decisions limiting habeas corpus;

Expand the rights of criminals to exclude evidence in their criminal trials; and

Reorganize the Justice Department in a way which the Justice Department believes would be counterproductive in the fight against crime.

Mr. President, some Members of the Senate may have succeeded in fooling themselves, but the American people have not been fooled.

The people of Jacksonville, FL, where the murder rate has risen 84 percent in the past 5 years, are interested in curtailing the rights of criminals to file frivolous petitions, not expanding them, as the Democratic bill would do.

The citizens of New Orleans, where the murder rate has risen 101 percent from 1985 to 1990, want to reduce the options open to criminals to ban evidence obtained in good faith in their criminal trials, not expand them.

The people in Milwaukee, where murder has risen a whopping 126 percent from 1985–90 and has risen another 43 percent already in 1991, want to implement the death penalty, not outlaw it with racial quotas.

Mr. President, we need a crime bill that will hold criminals accountable for their actions, not create more loopholes for them to escape justice. We need a bill that will incapacitate criminals, not empower them. In short, we need to enact an anticrime bill which would:

Expand the number of Federal crimes punishable by death;

Allow prosecutors to use evidence in court even if it was obtained in violation of some legalistic hyper-technicality; and

Limit the number of frivolous habeas corpus petitions by prisoners.

The President's crime bill is such an anticrime bill. The Democrat's bill is not.

THE DESERT STORM HOMECOMING—A TIME FOR REFLECTION AND CELEBRATION

Mr. WALLOP. Mr. President, on Saturday, the American people will come together in our Nations Capital to welcome home the liberators of Kuwait. It will be a time for joy and relief—joyous that our men and women serving in the Armed Forces were successful in their most recent crusade, and relieved that our sons and daughters, husbands and wives, fathers and mothers have come home.

During the celebration on the Mall, one soldier from Wyoming will not be participating in the parade. Manuel Davila died in combat on February 27, 1991. Private Davila served in the U.S. Army, and was killed by enemy fire which struck his armored vehicle. While we watch the festivities on Saturday, we must recall the sacrifice that Manuel Davila and 377 of his comrades made in service to our country.

Shortly after Manuel's death, a letter was received in Gillette, WY, addressed to the employees of the Black Hills Power & Light Co. They had organized a support effort for troops serving in the gulf. The letter was from Private Davila thanking the people of Gillette for their kindness. It is one of those poignant letters of loneliness and dedication inspired by the tensions of war. I would ask that the text of the letter be printed at this point in the RECORD.

Manuel Davila will not fulfill his promise to thank in person the Gillette community. Rather, it was the people of Wyoming who came out on a cold early spring morning to attend a memorial service to honor and lay to rest this young man. As we celebrate this Saturday, we will remember Private Davila.

There are other service men and women from Wyoming who will not be here on Saturday. They will be attending to their duties defending the Nation, or they will have returned to civilian life after being called up as members of the Reserve or the National Guard. One unit, from Wyoming, was the 1022d Medical Company [Air Ambulance], which supported the 3d Armored Division. This unit provided medical services to the division which fought the Republican Guards in southern Iraq.

Shortly after the cease-fire, I received a letter from the company's commanding officer, John Mudlo. He recounts the activities of his unit which expertly accomplished their mission. It is his closing that captures the spirit of those we honor on Saturday. He wrote, "I am very proud of the 1022d soldiers. * * * We look forward to returning home soon to get reunited with our families and friends. We miss Wyoming." Though the 1022d will not be in Washington on Saturday, I would like to welcome them home, and congratulate them on a job well done.

I would ask that John Mudlo's letter also be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEBRUARY 23, 1991.

Kind People of Black Hills Power and Light:

I meant to write earlier, but as you can probably guess, we've been moving a lot and keeping busy. Well, I've got some time, I'd like to thank you all for your support. It really makes us feel good that people back home care enough to send gifts.

Well, if you don't know already, I've got a huge family in Gillette, and all of them appreciate what you've done. When I get back, I will make it my business to thank you in person. I recently was married and I've got a wonderful little girl.

As for my life over here, I'm a long way from home, and I miss our little home in Wyoming. I can't wait to get back. My new wife may already be on her way, it's really high stress for her knowing I'm down here. Well, I've got to go, I'll write again.

Thanks for everything,

MANUAL M. DAVILA.

MARCH 22, 1991.

DEAR SENATOR WALLOP: Thank you for your Christmas greetings to the soldiers of the 1022nd Medical Company (Air Ambulance). We were late in receiving the greeting because our zip code changed when we reached the Persian Gulf.

The 1022nd has been very busy since we were activated on November 21, 1990. We moved to our mobilization station at Ft. Carson, Colorado from our ground vehicles and flew our 12 helicopters to Oakland, California. In Oakland, we loaded our equipment on two ships on about 7 December. The two ships departed for the Persian Gulf around 10–14 December. We continued our training at Ft. Carson until we were given our orders to move to Saudi Arabia. We departed Peterson AFB in Colorado Springs on January 15th at 3 AM. We arrived at King Fahd International Airport on 16 January. That night we watched our Air Force heading north over our camp enroute to Kuwait and Iraq. We were still on moutain time, so we were wide awake at 2 AM. We quickly moved to the port of Dammam and unloaded our aircraft and trucks from the ships. Within one week we were getting orientation flights in our area of operations.

We were assigned to the VII Corps under the 332nd Medical Brigade. During the ground war we provided aeromedical evacuation to the 3rd Armored Division. The 3rd Armored Division travelled about one hundred miles into Iraq and ended up fighting units from the Republican Guard. Fortunately, there were very few casulaties and the war ended quickly. We carried about 62 patients during the ground war (both Iraqi and U.S. soldiers). We are still supporting the 3rd Armored Division in eastern Kuwait. The soldiers of the 1022nd successfully accomplished their mission during the war and are still providing valuable support to the

3rd Armored Division soldiers. I am very proud of the 1022nd soldiers and Wyoming should be also. We look forward to returning home soon to get reunited with our families and friends. We miss Wyoming.

Sincerely,

JOHN T. MUDLO,
Commanding.

ECONOMIC ENGAGEMENT IS A KEY TO FURTHER SOVIET REFORM

Mr. PELL. Mr. President, this week, the Bush administration has taken three steps that seem to signal its recognition that economic stability and increased economic contact with the West are key factors in the Soviet Union's ability to move forward on political reform.

On Monday, President Bush announced that the administration was extending its waiver of certain Jackson-Vanik provisions, making the Soviet Union eligible for credits and some trade benefits. Then, after talking with Prime Minister Major of Great Britain, President Bush stated that the United States would support an invitation to Soviet President Gorbachev to attend the Group of Seven's annual meeting in London. Finally, the President nominated Robert Strauss, an individual with extensive business and trade experience—as well as political acumen—to be our next ambassador to Moscow.

Mr. President, last month, I urged the administration to be responsive to Soviet requests to become more fully integrated into the international economic community. I welcome the steps that President Bush has taken this week toward that end. If the Soviet Union is to be our active, constructive partner in areas such as arms control, regional peace efforts, and the environment, the Soviet economy must be put in order. I believe that international cooperation in the economic sphere—including the extension of most-favored-nation trade status—can help promote the internal stability necessary for success in these and other efforts.

President Gorbachev has come to view Western support as essential to the success of Soviet restructuring efforts. The West, for its part, has come to view a specific, comprehensive Soviet plan for free-market reform as essential to any commitment of assistance. In my view, the London summit of the G-7 will provide a particularly good forum for a constructive exchange of views on these issues among the seven industrialized nations and the Soviet Union.

Mr. President, the United States and our allies in the G-7 have responded positively and responsibly to Soviet requests to become more engaged in the international economic community. It is now up to President Gorbachev to take the next step by bringing to the London summit a detailed program that reflects some sort of consensus among Soviet central and republic leaders on the course of reform.

TRIBUTE TO LT. COL. DICK CODY, 101ST AIRBORNE DIVISION

Mr. LEAHY. Mr. President, I have known Robert and Janice Cody for most of my life. The Cody family is well known in the Montpelier area of Vermont where I was born and raised, and represent several generations and numerous family members who have contributed a great deal to our community and our State.

Recently, their son, Lt. Col. Dick Cody, was profiled in the Burlington Free Press and the article tells, better than I could, of his heroism and professionalism in Operation Desert Storm. So often, we do not hear of people we know so I want to share it with my fellow Senators, and ask unanimous consent that the article be included in the CONGRESSIONAL RECORD at this place.

I make this request with a great deal of pride for Dick and his family.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington (VT) Free Press, May 18, 1991]

MONTPELIER NATIVE FIRED SHOT HEARD ROUND THE GULF

(By Patricia Haller)

Despite years of training, flying a dark and silent helicopter into Iraq to fire the first shots of the air war was "like being on the worst part of a roller coaster for an hour and a half," said Lt. Col. Dick Cody.

Cody, a 1968 graduate of Montpelier High School, led eight Apache attack helicopters from the U.S. Army's 101st Airborne Division in the first attack of Operation Desert Storm. At 2:38 a.m. Jan. 17, the pilots broke radio silence and opened fire, destroying two key early warning radar stations in Western Iraq.

"We were flying 50 to 75 feet above the desert at 120 to 130 miles an hour, completely blacked out," said Cody, commander of the 1st Battalion, 101st Aviation Regiment stationed at Fort Campbell, Ky. "We had no lighting systems and no radio calls until just 10 seconds before launching the first missiles."

By taking out the Iraqi radar, Cody's unit opened a 20-mile corridor so allied bombers could fly unhindered to Baghdad. The raid was captured on a video that the 40-year-old Vermont native said he has watched repeatedly, often freezing the frame the moment the missiles hit.

"It was chaotic," said Cody, 40, son of Robert and Janice Cody, owners of Cody Chevrolet Inc. in Montpelier. "All the stuff was blowing up. It was like a 4½-minute explosion. You can see the soldiers running for cover and see the effects of our rockets and guns taking care of the enemy."

The 101st Airborne was the first Fort Campbell unit called up in the Gulf war. Cody, his pilots, his soldiers and their equipment left for Saudi Arabia on Aug. 15, less than two weeks after Saddam Hussein's invasion.

"They airlifted the entire battalion—40 aircraft, 85 pilots and a total of about 340 soldiers," Cody said. "It took about 2½ days to get us all over there. But we were a deterrent force and General Schwarzkopf wanted to have as many attack helicopters in-country as he could to prevent (Saddam) from coming down from Kuwait and taking the Saudi Arabian oilfields."

Cody was told to train for the first-strike mission in September. Those orders were top-secret. He spent the winter months drilling his pilots, who didn't learn of their mission until he briefed them two days before the strike.

Cody said he and his pilots saw the assignment as a chance to prove the night attack capabilities of the AH-64A Apache attack helicopters.

"We love the aircraft, and it felt good to have a chance to prove that it was everything we said it was," he said.

Despite the radio silence the unit drew fire from Iraqis with shoulder-held missile launchers and machine guns, but all the rounds missed.

"We were nervous, obviously, because if any of us had been shot down, we would have been POWs," Cody said. "But we were all pretty proud that we did it, and did it right."

TAX RELIEF FOR UTILITIES INSTALLING CLEAN AIR TECHNOLOGY

Mr. SPECTER. Mr. President, I join my distinguished colleague from Illinois as an original cosponsor of legislation to help offset the capital costs of technological controls installed by public utilities under phase I of the Clean Air Act. The goal of this legislation is to provide a financial incentive to help lower the cost of capital of installing scrubbers, so that utilities can achieve higher emissions reductions at an earlier date. In doing so, the bill would achieve an important result to ensure a more equitable allocation of acid rain control costs.

I want to make it plain, Mr. President, that I fully support the goals of the Clean Air Act with its objective of removing 10 million tons annually of sulfur dioxide from the air to help solve the acid rain problem. However, I am concerned with the matter of fairness, and I see this legislation as a method to correct an inequity that was present in the final version of the Clean Air Act.

As I said at the time of this debate last year, clearly, it is not equitable for a small number of Midwestern States who together comprise 51 percent of the national sulfur dioxide emissions total, to be responsible for 90 percent of the emissions reduction in implementation of phase I of the Clean Air Act.

Mr. President, we are not asking for relief from our environmental protection responsibilities. This bill would simply allow those utilities which install pollution control devices, scrubbers, the same kind of a tax break enjoyed by others who undertook those controls at an earlier time when there was an investment tax credit.

In order to comply with the stringent regulations established by the Clean

Air Act, expensive, state-of-the art technology will necessarily be installed by our region's utilities. Electrical rates for consumers in some States could increase by 13 to 20 percent. By allowing this tax credit, this bill would provide needed relief in reducing the costs to our region's electrical consumers in meeting our national clean air goals. In addition, this tax credit may avoid the cost of paying for compensation of unemployed workers should we fail to provide assistance for the installation of new technology in these plants.

I am hopeful that you will see this bill not as a regional issue, but as a show of national support for a national priority that must be shared by the whole country, and I ask that you join in support of this legislation as a long-term step in the solution to the nation's acid rain problem.

REGARDING S. 173, THE TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

Mr. WALLOP. Mr. President, yesterday the Senate adopted S. 173, the Telecommunications Equipment Research and Manufacturing Competition Act by a vote of 71 to 24. I voted against the measure because of my reservations about its domestic content provision. I regret that my friend and colleague from Texas, Mr. GRAMM, was unsuccessful in convincing the majority of the Senate that it was a mistake to retain such a protectionist measure.

As the Senator from Texas pointed out so eloquently, including a domestic content provision in a bill primarily intended to make America more competitive in the telecommunications industry flies in the face of common sense. Domestic content violates six treaties, is potentially unconstitutional, and is an inefficient way to do business.

For many, many years, we as a nation have worked very hard to open foreign markets to our products. We have made great progress in that regard, a fact boldly demonstrated by the rather dramatic reduction in our trade deficit. Nowhere is that reduction more obvious than in the telecommunications industry where we have a trade surplus of $1.3 billion in the high value lines and our overall deficit has dropped from $2.61 billion in 1988 to $790 million in 1990. Telecommunications equipment exports have grown 157 percent while imports have increased only 64 percent.

Yet, in our fervor to appease one particular special interest group—notwithstanding what its impact might be on the consumers of America—we make an agreement which has the potential for building a brick wall around our country and sends a signal to other countries that we aspire to anti-competitive practices.

Mr. President, we cannot have it both ways on trade. We cannot expect to close our doors to foreign products and anticipate negotiations will result in anything but reciprocal treatment. Therefore, I urge our House colleagues to inject some reason and good judgment into this domestic content dispute. My hope is that common sense will prevail so we can move forward with a bill that produces jobs, telecommunications industry growth, and sophisticated technologies that other countries now enjoy.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

Mr. DOLE. Mr. President, is there any leader time left or did I use it all earlier?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. DOLE. Thank you, Mr. President.

CRIME BILL

Mr. DOLE. Mr. President, Americans want action in the war against crime. And they want it now. President Bush heard that message, and responded by proposing the Crime Control Act of 1991, and challenging Congress to take action within 100 days.

I am proud to say that the Senate also heard that message loud and clear, and next week we will consider crime legislation.

And I want to join my colleagues in praising Senator MITCHELL, Senator BIDEN, and Senator THURMOND, for their work in meeting the President's 100-day calendar.

Unfortunately, the members of the majority party in the House of Representatives have turned a deaf ear to the demands of the people. They have closed their eyes to the epidemic of crime which continues to sweep the Nation. They continue to believe that the best way to combat crime is to ignore it and the best way of handling criminals is to let them roam the streets.

I sincerely hope that next week's debate in the Senate will enlighten those who want to wave the white flag in the war against crime.

Next week's debate should not be lengthy. We have discussed and debated these issues before.

There are a number of crime bills floating around. But it is clear to me that the best bill, the hardest-hitting bill, the bill that will make the biggest difference, is the President's bill.

No one can deny that our courts are clogged and overburdened. And the President's bill deals with this by putting a stop to repetitive and frivolous delays.

No one can deny that our courts all too often let the guilty go free because of minor procedural errors by the police. And the President's bill deals with this by permitting evidence collected in good faith to be introduced, and by allowing all firearms to be introduced as evidence, no matter how they are obtained.

No one can deny that one way to decrease handgun violence is to put those who use handguns behind bars. The President's bill creates additional categories of firearm offenses and penalties. And it says that first time felons caught with firearms should serve 5 years behind bars. No plea bargaining. No early release. No kidding.

And no one can deny that the vast majority of Americans favor the death penalty for the most heinous of criminals, such as cop killers and terrorists. And the President's bill does just that.

The President's bill also does more. It includes provisions designed to curb terrorism, racial injustice, sexual violence, and juvenile crime. It makes it easier for Federal officials to prosecute those who commit acts of sexual violence against children. It requires drug testing as a condition of postconviction release for Federal prisoners. It guarantees a victim's right to address the court at sentencing.

It is a good bill, a comprehensive bill, and a bill that will reduce crime, that will save lives, if it becomes law.

Given the situation in the House of Representatives, it is a tough fight. But it is a fight that we owe the American people. And it is a fight we cannot afford to lose.

DEMOCRATS ON HEALTH CARE

Mr. DOLE. Mr. President, yesterday the majority leader joined by four of his colleagues announced their solutions to certain aspects of the health care crisis confronting this Nation. They are to be commended for helping to begin and shape the long overdue debate on access to health care.

Frankly, Mr. President, there is little disagreement over the existence of serious problems. People are undoubtedly falling through the cracks—in fact, whole regions, particularly rural areas, are falling through the cracks. Children as a group are woefully underserved. Costs are too high and getting higher and the quality and appropriateness of some care is certainly in question. All of these things lead to the inevitable conclusion that the status quo cannot survive. Our disagreement—if we have a disagreement, and it is not a partisan disagreement as much maybe as a philosophical disagreement—comes over how best to proceed.

In the coming weeks and months many proposals will be discussed. And in fact, there is much in the Democrat's proposal worth discussing—there are other ideas, however, which clearly take us in the wrong direction.

PAY OR PLAY

As a number of my colleagues have already pointed out, the central focus I believe of the proposal are the so-called pay or play requirements. I, for one, see no reason to look to the State of Massachusetts for solutions to our problems. Yet, what the Democrats have proposed is largely the old Dukakis plan.

Now that the Federal Government is running in the red, and State governments are faced with budget deficits that rise each year, the Democrats are looking for a new pocket to pick, and small business will fill that role.

The proposed mandate on employers is, in effect, a heavy tax on jobs. As with any tax, the more Government taxes something, the more it discourages it. Taxing employment means fewer jobs.

The proposal pretends that it is employers who would bear the cost of the new mandates, but the costs really fall on the workers, particularly low-wage workers, the very worker who is most likely to lack health insurance. For these workers, the costs will come in the form of reduced employment, slower rates of employment growth, and cutbacks in other fringe benefits.

By imposing mandates on business, the result is a growing web of Government regulations, restrictions and price fixing that distort the system and that are contrary to the fundamentals of a market economy.

We have already seen the effects of such a strategy on other areas when Government regulation of these industries has resulted in time-consuming and cost-consuming efforts in Congress, when deregulating years later is necessary to hand the resources and decisionmaking power back to the consumers and providers.

Following regulatory logic to its natural conclusion, a fully nationalized system will be created by proposing a universal system of mandatory insurance, with Government specified benefits and prices. The proposal effectively has called for a national system paid for by the employers. Of course, many American companies may quickly grow frustrated and simply shed the burden by pressing the Government to take over completely.

A Government monopoly would achieve some savings initially, but over time it would become as unresponsive, inefficient and ineffective as any other monopoly.

If we look to Canada, we can assume the inevitable result would be explicit rationing and waiting lists as a response to the disparity between unrestrained demand and finite resources. In Canada, patients can expect to wait 4 to 7 months for heart surgery, 2 to 5 months for disc surgery, and 2 to 7 months for cataract removal.

COST IMPLICATIONS

And, of course, the anticipated cost of this new federalized system is completely unknown. What the ultimate increase in the payroll tax would be or the increase in costs to the States from the new mandates are yet unknown.

What we do know is how poor our history is in projecting the costs of new programs. In fact, Medicare and Medicaid are excellent examples. We have no reason to be any more trusting now. What we may find is that we promise far more than we can ever deliver. The failure of the Democrats to propose any specific financing mechanism certainly further complicates this issue.

On the positive side, I compliment the distinguished majority leader and his colleagues for including a number of initiatives which mirror proposals made by a number of Republicans. Senators DURENBERGER, CHAFEE, and McCAIN have proposed small market insurance reform, in the hopes of making coverage more affordable to small business. Senators HATCH, DOMENICI, DANFORTH, MCCONNELL, and McCAIN have also proposed wide ranging malpractice reform—not simply grants to States for more experimentation.

The preemption of State mandated benefit laws and the removal of barriers to managed care initiatives are also proposals Republicans have championed.

Mr. President, there are other areas where I believe we can reach consensus. The challenge to all of us is to develop a fair and equitable health care strategy that will address the health care needs of all Americans from both the accessibility and cost perspectives. To achieve this we must restructure and build on our present system to both hold down skyrocketing costs and expand access to health care services.

I believe the following are the elements of how to meet the challenge:

Evaluate our current health insurance system.

Examine health insurance practices and Federal tax policies to ensure that small employers and individuals are treated fairly in comparison to large employers and their employees.

Ensure that innovative and creative alternatives to traditional health insurance plans are given a fair opportunity to evolve.

Place a greater emphasis on prevention.

Examine the role of the individual.

If a good and affordable health insurance plan is available, does one have a responsibility to purchase it?

How can we encourage and reward good health care behavior.

Reform medical liability laws that have an impact on how care is provided and on the rising cost of health care.

Maintain and continue to improve the quality of care provided.

Develop better and more responsive methods of providing health care; for example, emergency rooms versus health centers or other primary care providers.

Maintain critical element of choice.

We owe it to our colleagues to join with them in debating these very serious issues. I think we can, working together, put together a strategy that we can afford and that will achieve our goal of improving access to care for all our citizens.

I say that we have a long way to go. The issue certainly cries for debate, discussion, solution, and I am pleased to see that with the plan by the majority, there will be other plans introduced on this side of the aisle. Perhaps if not this year, very soon we can address the problem that has needed addressing for some time.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, 2 weeks ago, the Congressional Research Service released a report on the Persian Gulf war. Once again, CRS has distinguished itself for its ability to turn real world events into useful recommendations that can be pursued by Congress. The report, entitled "Persian Gulf War: Defense Policy Implications for Congress," highlighted insights that Senators and their staffs should consider well before the Defense authorization bill reaches the floor of the Senate.

The Defense acquisition system bears the burden for converting technology advances into the weapons used by our men and women in uniform. It consumes a large amount of Federal tax revenues. This summer, Congress will give the Department of Defense $103 billion to develop and buy new weapons. Several billion dollars must be added to this total in order to account for the salaries of several hundred thousand DOD employees who buy, maintain, and upgrade weapon systems.

The defense acquisition system is comprised of a huge bureaucracy, with layer upon layer of management and dozens of buying commands and subcommands in each military service. When the Packard Commission recommended streamling this bureaucracy to three layers and a handful of commands, the Defense Department added a second multilayer bureaucracy to the old structure. As a result, the American taxpayer is now paying for two bureaucracies in each of the three military departments. As the CRS report noted, this system is clearly at odds with the principle of unity of command that was applied so successfuly in Operation Desert Storm.

It should come as no surprise that virtually every major weapon system currently being developed is experiencing serious cost and schedule problems. A recent Defense Department advisory group study revealed that DOD's acquisition system continues to experience cost and schedule problems despite the myriad reforms enacted over the last 10 years; reforms the DOD study found to have marginal impact. The study found that it now takes 16 years to field a new weapon.

Mr. President, once again, the data support the need for a single defense acquisition agency to acquire modern weaponry. The CRS report suggested that a single buying agency would be better able to interact with the Joint Chiefs of Staffs' unified command structure resulting in more cost-effective weapons. In addition, while recent acquisition work force reforms have made a big step toward what I had recommended in the 1980's, many gains are lost without a single buying agency to integrate work force innovations. Moreover, a single buying agency would save money just by removing the expensive duplication of acquisition staff. Still, the largest gains would come from reducing the cost and time currently wasted in converting new technology into weapons.

Further, the single buying agency could improve the use of defense research and development expenditures. For example, DARPA is on the edge of breakthroughs in smart weapons guidance technology, which is critical to at least five major weapons currently in development—the B-2 bomber, the advanced technology fighter, SDI, the next generation tank, and the Army's light helicopter. A single buying agency would be best able to efficiently transfer these technological advances because there would be no need to work around procedures at each military department that currently limit the use of such innovations.

Mr. President, I commend the Congressional Research Service for recognizing the merits of the single defense buying agency. I intend again to introduce a new bill that would streamline DOD's acquisition system into a single agency. This approach is supported over and over by studies and real world events. As the CRS report noted, the success of Operation Desert Storm demonstrates the importance of unity of command and the need for reforming the defense acquisition system to reflect this principle.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The chair advises the Senator that the time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. KERREY. Mr. President, I ask unanimous consent that the period for morning business be extended and that Senators be allowed to speak as in morning business for such time as needed.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Mr. KERREY. Mr. President, yesterday the Democratic leadership introduced comprehensive health care legislation. It is obvious to me, and I think practically everyone in this body would share the observation, that some comprehensive solution is much needed and it is long overdue. I also point out that it is exceedingly controversial health care.

The distinguished occupant of the Chair yesterday introduced legislation that will, I think, address a serious problem, and that problem is the problem of the growing cost of Medicaid as well as the increase in difficulty that working people have in being able to get access to health care.

There is a variety of proposals. The Democratic proposal, the proposal introduced by the leadership is comprehensive and thus it stakes out a piece of territory, and thus it demonstrates a willingness to confront the status quo and say we simply cannot allow the status quo to go on.

I appreciate earlier the distinguished Republican leader came forward and commented and in praising the Democratic leadership pointed out some differences of opinion, pointed out some areas where he believes that there is philosophical disagreements. Indeed, I think there may be philosophical disagreements throughout.

Thus, I would like to focus a bit this afternoon on the philosophy of health care which I think is terribly important because I think what we are about to do is much more than just solve or hopefully solve a domestic problem.

As I said, Mr. President, this is much needed and overdue because of rising costs at the national level, rising costs at the business level, and rising costs at the individual level. All of these rising costs are squeezing American families and businesses. They are decreasing the capacity of both individuals and businesses to maintain competitive stature in the marketplace.

In addition to that, as he spoke well of yesterday, rising costs are also forcing too many Americans onto the thin ice of medical indigency. It is also needed and overdue because of a more vexing change than just the change associated with rising costs. Although the necessity of solving this problem and its close companion decreasing access is urgent, we should not view this as just another domestic problem to be solved by legislative action.

The larger and more important context for this debate is the need to adjust to a changed competitive environment. The larger context is the same one which guided our debate of the President's request for fast-track authority to negotiate trade agreements.

American workers have been competing in an international marketplace for at least the past 20 years. As communications technology has improved and as the move of jobs offshore has increased in the 1980's, the risk to American jobs has been the object of much of our attention. The impulse to protect our markets and to shelter our industries is a powerful and understandable impulse.

Mr. President, I believe it is a mistake for us to yield to this impulse because the United States has an obligation to lead the world toward freer trade. However, it is an even greater mistake if we conclude that treaties alone, that treaties all by themselves, will make us competitive. Our public and private institutions simply cannot hunker down around the status quo if we expect to do well in this dramatically changed world.

Thus, for me health care reform is one of several changes we need in order to give American workers a more level playing field in an international workplace. The enormous change in the competitive environment of the American worker necessitates fundamental changes in our public and private institutions of health care. To those who will be adversely affected by this change, and there will be some—perhaps the insurance industry will be adversely effected by needed change, perhaps there will be some providers that will be adversely affected by needed change—we must do the same thing that we did during the debate about the extension of fast-track authority for the President: Look to the future and understand that there may be some short-term changes that will produce some short-term pain but that long-term what we are trying to do is say to an American worker, increase your skills, think about what you need in order to raise your standard of living, and do not worry that if what you need causes you to increase your skills that you are going to lose health care as a result of going back to school. Do not sit and worry that technology is going to come into the marketplace and perhaps displace you and your job, that that displacement will cause you to lose health care.

We need to be thinking that way, Mr. President. Think about American workers up against German workers, American workers up against Canadian workers, American workers up against Japanese workers, and American workers up against every worker of every country in the world, except for South

Africa, and think about what those workers need so that they can raise their skill level, so they can raise their standard of living and will not be penalized as a consequence of their action.

We cannot afford to avoid difficult institutional changes just because there may be some short-term pain. President Bush, who demonstrated he was willing to forge ahead on trade negotiations to reduce trade barriers, has been unwilling to reduce barriers faced by working American families. He has been unwilling to face institutional opposition that may indeed be adversely affected if we do the right thing with health care.

If we are to do this right, we simply cannot afford to be intimidated by our political supporters. Just as many of us Democrats took the long view in voting to give the President fast-track authority for trade negotiations, the President must take the long view with health care.

If we are to do this right, we must look into the future to see Americans not just at risk to rapidly rising health care costs, but also at risk to rapidly increasing worldwide competition. Only inside this context is it possible to see the need for health care benefits which are attached to being an American rather than attached to the place of work.

Mr. President, here is where I believe philosophy is important, and I believe simplicity is important, if we want to have a health care system that not only enables us to provide our workers with a level playing field but itself becomes simple as a consequence.

Mr. President, as a consequence I believe it is important for us to argue whether or not we believe that a universal right to health care in America should be a fundamental principle of our health care proposals. I believe it should be.

I believe that the case for a universal right to health care is in the first instance an economic case. Since our industrial competitors allow workers to move from job to job, or from job to temporary unemployment, without fear of losing health care benefits, their workers are not penalized if they attempt to increase their job skills.

The definition of a universal right is that everyone qualifies for it. We should not stigmatize the poor, and we do not need to create a special interest group when the right is universal.

A universal right is not an absolute right. There are limits. Thus, the fear that we will break the bank by establishing a universal right to health care should be no greater than our fear of breaking the bank's windows by creating a right to free speech. Moreover, Mr. President, the fear and I hear it all the time, all the time, from those who oppose establishing this right, the fear that limitations will produce destructive rationing I believe is almost the exclusive property of those whose income and/or status enable them to avoid the rationing with which a majority of Americans are already quite familiar.

A universal right allows us to simplify our system. The most rapidly growing area in most providers' offices is the space used for data processing or bill collecting. If we established a nondifferentiated right with a budgeted, negotiated fee schedule method of financing, there would be no more Americans employed to answer questions about eligibility or questions about how payment is going to be achieved. By creating a certainty to access we also create a certainty in payment.

A universal right to health care also allows us to consider much needed welfare reform. Anyone familiar with the details of our Medicaid Program will tell you that breaking the cycle of poverty must begin with health care reform.

Mr. President, as good as the Democratic leadership proposal is, and I believe it is a good proposal, it does not establish a right to health care as a fundamental principle. It attempts to solve some of the most serious problems Americans face, and as such gives us a very solid foundation upon which to begin our debate. However, I hope we use this opportunity to see health care in a larger context than just a domestic issue. I hope we use this opportunity to require the kind of institutional change that a rapidly changing workplace demands.

Mr. President, I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the parliamentary situation? What is the pending business?

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement offered by the Senator from Nebraska we are in an extended period of morning business.

Mr. BAUCUS. I thank the Chair.

Mr. KERREY. The majority leader just asked me to do something here. Could I get the distinguished Senator from Montana to yield just for a few minutes?

Mr. BAUCUS. Yes.

DEFENSE PRODUCTION ACT AMENDMENTS

Mr. KERREY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 991, the Defense Production Act.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 991) entitled "An Act to extend the expiration date of the Defense Production Act of 1950, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and title I of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Mr. LaFalce, Ms. Oakar, Mr. Vento, Mr. Carper, Mr. Wylie, Mr. Ridge, and Mr. Paxon.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment, and modifications committed to conference: Mr. Gonzalez, Mr. Annunzio, Mr. Neal of North Carolina, Ms. Oakar, Mr. Schumer, Mr. Carper, Mr. Wylie, Mr. Leach, Mr. McCollum, and Mrs. Roukema.

From the Committee on Energy and Commerce, for consideration of section 8 of the House bill, and sections 203-206 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Markey, Mrs. Collins of Illinois, Mr. Lent, and Mr. Rinaldo.

From the Committee on the Judiciary, for consideration of section 5 of the House bill, and section 104 of the Senate amendment, and modifications committed to conference: Mr. Brooks, Mr. Edwards of California, and Mr. Fish.

From the Committee on Ways and Means, for consideration of sections 202-204 of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Jenkins, Mr. Archer, and Mr. Crane.

Mr. KERREY. Mr. President, I move that the Senate insist on its amendment to the House bill, agree to the request for a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on behalf of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. RIEGLE, Mr. SARBANES, Mr. DIXON, Mr. GARN, and Mr. D'AMATO conferees on the part of the Senate.

Mr. KERREY. I thank the Chair, and I thank the distinguished Senator from Montana.

Mr. WARNER. Mr. President, there is no objection on the minority side.

The PRESIDING OFFICER. The Senator from Montana.

THE CLEAN WATER BILL

Mr. BAUCUS. Mr. President, last month, I introduced, with Senator CHAFEE and other members of the Environment Committee, legislation to expand and strengthen the Clean Water Act.

In a statement in the Senate shortly after introducing the clean water bill, I highlighted one of the major themes of the legislation—pollution prevention. For many years we have focused our efforts on treating whatever pollutants we generated before dumping them into the water. But further progress toward our goal of fishable and swimmable waters demands that we expand our efforts to reduce the amounts of pollutants we create in the first place.

Today, I want to describe two other central goals of our clean water bill—better water quality science and tougher controls over toxic pollutants.

The water pollution control issues we will face in the coming years will be increasingly complex and challenging. If we are to address these issues successfully, we must assure that the water programs operate on a solid scientific foundation.

A critical first step in this effort is to improve our water quality research program. The present research program is badly underfunded. Further, it does not provide the information we need about the effect of pollutants on aquatic systems and on human health.

In addition, our research efforts are not fully effective in stimulating advances in pollution prevention and control technology. Improving the state-of-the art for water pollution prevention and control is critical if we are to advance the cause of water quality protection.

Another element of improved water quality science is better monitoring of our rivers, lakes, and coastal waters. We cannot operate effective water quality programs if we lack data on the extent of pollution problems and the effectiveness of our response.

Today, information concerning water quality conditions is very sketchy. For instance, we only assess about 30 percent of our river miles.

Furthermore, we need better indicators of the cumulative effect of toxic pollutants. And, we need better methods to measure the pollution associated with wet weather, such as runoff from city streets, agricultural lands, combined sewers, and construction areas.

Perhaps the most important benefits of improved science in the water quality program will be the ability to upgrade water quality criteria and standards.

States rely on the Federal Government to provide the basic scientific assessment of pollutants. States then use this information in setting enforceable water quality standards.

As we uncover more evidence of the human health and environmental consequences of water pollution, we need to increase the number of pollutants assessed by the EPA. And, we must ensure that the information is tailored to meet the needs of States. We also need to provide the EPA with clear authority for development of scientific information needed to protect sediment quality, an area of increasing concern among water quality specialists.

Another major goal of the new clean water bill is control of toxic water pollutants. This was a primary objective of the 1987 Clean Water Act amendments. It is even more clear today that continued progress in toxic pollution control is essential to meeting our water quality objectives.

An important first step in toxic pollution control is to expand the existing authority of the EPA Administrator to prohibit the discharge of pollutants which are highly toxic or which are likely to accumulate in the food chain. These highly toxic and bioaccumulative pollutants represent a significant threat to human health that must be addressed.

Much of the toxic pollution control accomplished to date is the result of the effluent guidelines established for 50 major categories of industry. Continued toxic reductions will require expanding the authority for these guidelines, including instituting periodic review of existing guidelines and developing guidelines for new industries.

It is a little known fact that of the total amount of pollutants discharged by industry to our waters almost two-thirds is discharged to sewage treatment plants and then into the water. The remainder is directly discharged to rivers and other water bodies.

Given this fact, improved control of discharges to these municipal treatment plants is vital. We need to strengthen authority for development of indirect discharge standards and assure that industries not covered by such general standards still meet appropriate discharge limits.

In summary, we face major challenges in developing a first-rate water quality program. New initiatives to improve the scientific foundation of our program and to tighten control of toxic pollutants are central to this effort.

Over the next 2 months, my Subcommittee on Environmental Protection will be holding hearings on these and other amendments to the Clean Water Act.

I look forward to working with other Senators to develop the best possible legislation to protect the quality of rivers, lakes, and coastal waters.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, I have appeared here on the floor at high noon to engage in a colloquy with my good friend, the distinguished Senator from New York and chairman of the Transportation Subcommittee of the Committee on Public Works, Mr. MOYNIHAN. He will momentarily, I believe, appear on the floor at which time I am hopeful that we can enter into a colloquy regarding the differences that I perceive between the bill which he and the leadership of the Public Works Committee have fashioned for the transportation of our Nation in the next 5 years and a bill which I have fashioned, together with some perhaps 18 or 19 other Senators, which draws on the work performed over a period of 2 years by the transportation officials of several States.

I think Senators are quite anxious to learn of the differences between these pieces of legislation and to learn from the leadership of the Senate as to the scheduling of this important piece of legislation. Therefore, I am hopeful that Senator MOYNIHAN will appear shortly and we can have a colloquy on this subject.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. MOYNIHAN. Mr. President, my very good friend and colleague on the Committee on Environment and Public Works, the most able and distinguished senior Senator from Virginia, has just mentioned we will be turning our attention now to the Surface Transportation Efficiency Act of 1991. He indicates, and I want very much to emphasize, this is a moment of rare opportunity for the Senate; it is a moment we have known would be coming, and which has now arrived.

When I say we knew that it would be coming, I note that it fell to me to be the floor manager for the Surface Transportation Act of 1987 which was a year off schedule because the Senate-House conference committee could not reach agreement in 1986, and so we had to take it up immediately in the next Congress. It was H.R. 2 on that side. It came here and it had to be reported twice. It was vetoed, and then the veto was overriden.

At that time I took the occasion of some rather long stretches where negotiations were taking place off the floor to make the point that the bill was the last bill of the interstate era. It would bring to conclusion the Interstate highway program, the largest public works program in our history and in fact the largest in the history of the world.

It has a long and colorful origin. I think it can be said in a curious way this most elemental of all subjects, transportation, is not written about as it ought to be. It is not attended to as ought to be in the case for something as fantastically important as the interstate—no real research, no literature, on its origin.

It is my view, and I hope it to be an informed view, that the interstate program goes back—its conceptual origin is the General Motors Futurama Exhibition at the 1939 World's Fair in Flushing, Queens. I can speak from more than passing knowledge of that exhibit. It was quite the great wonder of the fair—that, plus the obelisk with a hammer and sickle on the top, while we were told was higher than the spire of St. Patrick's and was meant as a source of obviously sinister purpose by the Soviet Union, which I cannot doubt; in any event, it did not succeed.

But General Motors built this huge display which showed automobiles on a new platform, a separated multilane highway called the superhighway, moving along without stops, without obstructions, moving one over the other, moving through mountains, across and around cities, flowing smoothly, ever more efficiently.

A new idea. And it caught the imagination of the country. It caught the imagination of this 12-year-old, who knew a hole in the fence such that if you got out there for 5 cents and went in that way, you got all sorts of free snacks and another look at the Futurama, and then you had 5 cents to get home. A good day was spent.

In 1944, President Roosevelt asked that the Interstate System be established, having in mind, as best we know—but again I repeat a subject that ought to be worth a dozen books has none to my knowledge. I may be doing a disservice to some author who realizes his work has gone unnoticed. But I am not aware of anything like the research that ought to accompany a subject of such consequence.

President Roosevelt had in mind, as best I can tell, that this would be a postwar public works program in the anti-Depression mode. It was assumed the Depression would resume after World War II was over. It had come to be assumed that depression was the normal condition of capitalist societies and only very large efforts would keep employment levels up.

The actual program, in 1944, was authorized. The map was agreed to in 1947. New York State had gone off right away to build the first segment of interstate, the New York State Thruway, now the Gov. Thomas E. Dewey Thruway.

In 1956, however, we have the next large event, which was the decision to establish a trust fund into which a gasoline tax would be paid for purposes of financing this program. This was done at the behest of a group of younger members of the House Committee on Public Works.

President Eisenhower was very much interested. One of the formative experiences of his life took place in 1919 when, as a young Army lieutenant colonel, soon to revert to captain in peacetime rank, he was given command of a serious exercise—I know the Senator from Virginia will be interested in this—based on the assumption that the railroads have been destroyed in wartime.

World War I was just over, and the railroads had been the principal means of transportation, with mules and the internal combustion engine. A new phenomenon, that internal combustion engine.

Lieutenant Colonel Eisenhower was asked to take a convoy of trucks across the United States from Ft. Meade, a few miles north of us, to San Francisco, to see whether it could be done and whether the Nation could function in a military sense absent railroads, in the event they were destroyed by saboteurs, invaders, what have you. A good military exercise.

What Eisenhower found was that it could not be done. His convey moved on average 7 miles an hour. Getting from the east coast to the west coast was no easy task.

So when he became President, he very much welcomed the idea of getting on with building this enterprise. Indeed, in 1956, the National System of Interstate Highways became the National System of Interstate and Defense Highways, the defense provision being real in President Eisenhower's mind and important as a means, I suppose, of getting anything done.

Two years later, in 1958, we passed the National Defense Education Act, our first aid to higher education. Putting defense on a program those days was as good then as I suppose it is today.

We proceeded, Mr. President, to build the Interstate System with Federal moneys matched in ratios from 90 to 10. In certain cases, 95 to 5. It meant in the first instance a large flow of revenues out of the Northeast quadrant of the Nation to the South and to the West.

At that time, about half the automobiles in the country were registered in the Northeast quadrant—parallelogram is a better way to put it. They would be paying half the gasoline tax, but three-quarters of the outflows would be West and South, it being a national program and having a national purpose. It did then and does today.

The one thing that was never really made clear, Mr. President—and only in the aftermath is it possible to win any recognition for this fact—is that we were building an Interstate System, yes; but most of the money would be spent in cities. The interstate map showed the Nation and showed the great highways crossing the prairies and the mountains.

What I hope everyone is able to see is the way which the predominant impression of the map is of these long highways crossing Kansas, crossing Nebraska, going down through Colorado, over into Idaho, down through Nevada. Great distances were covered with these great new highways, but from the beginning, the majority of the money was going to be spent in cities.

It was just 30 years ago in the Reporter magazine that I had occasion to write a long article on the subject. It was called "New Roads and Urban Chaos." I said we did not know how to put something this big through a city. I watched the construction of New York State Thruway built by a brilliant civil engineer, Bertram D. Tallamy. Bertram Tallamy came down from Albany at President Eisenhower's request to take over the Bureau of Public Roads in the Department of Commerce, a little old farm-to-market road operation. Good, but not large. He built the rest of the Interstate System to the specifications of the thruway.

In building the New York State Thruway, Tallamy avoided cities, going around Albany, under Utica and Rome, over Syracuse, under Rochester. He did get into Buffalo, I grant, but in the main, he stayed out of cities, knowing, I like to think, that doing so was an art not yet developed. How do you put such an enormous physical fact into the cities of that time? How can you do it without smashing them? How can you do it without dividing them? How can you do it without eviscerating them?

The answer, Mr. President, is you could not. And so we did. That piece, I think, reads very well today. We have had, in one form or another, urban chaos ever since. It has been at the center of American political issues, in one form or the other: the mismatch of population in the center of cities; the continuous flow of jobs out of the cities.

The railroads were effectively disabled by this legislation. Railroads, as George Will has made clear, made manufacturing possible in cities. And when there became the cost competition with federally subsidized highways, it was such that the railroads could not compete. Job opportunities began to move along the Interstate System, out of the cities, and with the mismatch that pattern continues to this day.

Mr. WARNER. Mr. President, can I interrupt my distinguished colleague to ask if it would not be beneficial for the Senate as a whole, at some point, that he and I and perhaps others who may join, have, say, a 10-minute colloquy on just the basic differences and viewpoints that we have? And then the Senator could continue his historical view, which is a very important perspective, the foundation for the ultimate consideration of this bill.

I am wondering at what point the Senator might entertain a brief colloquy? I have the Senator from Florida and the Senator from Missouri here. If we can take 2 or 3 minutes apiece, what I am trying to do is educate the Senate on the sincerity of a bipartisan group of Senators who respectfully disagree with major portions of the chairman's bill.

If the Senator would be kind enough to indicate what time it would be convenient: Perhaps the Senator from Virginia, 3 or 4 minutes; the Senator from Missouri, 2 or 3 minutes; the Senator from Florida, 2 or 3 minutes; just to frame our grievances, if I might say.

Mr. MOYNIHAN. Mr. President, I would be more than happy to proceed exactly such. I had been anticipating that the majority leader might appear to begin this process. But we are quite capable of debating these matters on our own, and I would suggest we proceed exactly as the Senator from Virginia suggests.

I had hoped the Senator from Idaho would be on the floor.

Mr. WARNER. Mr. President, I think he is in the environs. I saw him here 1 minute or 2 ago. Indeed, we wish to accommodate the majority leader.

Mr. MOYNIHAN. We will.

Mr. WARNER. I wonder if there could be some clarification. I received some indication that perhaps he was going to observe this from his chambers and then maybe at a later time come and express his views. Maybe the Senator has other information on that point.

Mr. MOYNIHAN. Mr. President, may I then just state for the record that we will now be discussing S. 1204, the Surface Transportation Efficiency Act of 1991. This bill was reported out of the Committee on Environment and Public Works by a 15-to-1 vote. The Senator from Virginia was in the minority on that occasion. Occasionally, sooner or later, all of us will be in that situation.

The bill is reported by our most revered chairman, Senator QUENTIN BURDICK of North Dakota. It is cosponsored by the distinguished chairman and the distinguished ranking member, the junior Senator from Rhode Island [Mr. CHAFEE]. It is cosponsored as well by myself—I am the chairman of the Subcommittee on Water Resources, Transportation, and Infrastructure of the Committee on Environment and Public Works—and my very able counterpart, the Senator from Idaho [Mr. SYMMS]. He is the ranking member of the subcommittee. Senator LAUTENBERG joined us, as did Senators JEFFORDS, LIEBERMAN, BAUCUS, and REID, members of the committee. We feel very proud that Senators CRANSTON and D'AMATO, who are working on the mass transit aspect of this legislation, also are cosponsors.

That is just to establish our pedigree here. I think as such that I have spoken as long as I need to for the moment, and I am happy, Mr. President, seeing my able colleagues on the floor, to yield the floor.

The PRESIDING OFFICER. The Senator from New York yields the floor.

Mr. WARNER. I thank the Chair. I express my appreciation to my good friend and chairman of the subcommittee on which I am proud and privileged to serve. I thank him for his courtesies. We will fight a fierce battle, but I think throughout, the amenities will always be observed.

Mr. President, I joined this committee several years ago for the specific purpose of taking a more active role in the Transportation Act referred to by the chairman. I did so because I learned, after the passage of the predecessor legislation, which I understand expires in September, that my State did not come out with as much money as it had anticipated. In fact, we feel in Virginia that we were not treated equitably.

That is history. But we are about to make new history, and, therefore, I voted against this bill, reluctantly but decisively, as an expression of my desire to come to this floor and work with other colleagues to bring about a more equitable and a fairer allocation of those tax dollars paid by each citizen, when they buy a gallon of gas, into the Federal Treasury, into the highway fund, and eventually portions of that fund come back to the States. It is the disparity between what is paid in and what is received back in the State, that this fight is all about.

Mr. President, I, indeed, am grateful to the Presiding Officer for his counsel and advice to me personally throughout the formation of this group that will express their views in the context of this bill. I have now put in a bill with some 16 Senators joined representing 9 States. This bill embraces provisions which were formulated over a period of 2 years. I readily acknowledge not by the Senator from Virginia but from transportation officials across this Nation, who have spent some 2 years anticipating this moment in the life of the Congress, anticipating that we would come to the floor and have it out on the question of the apportionment of these funds and other aspects of the leadership bill referred to by my distinguished chairman as drawn up by the distinguished Senator from North Dakota, Mr. BURDICK, and ranking member, Mr. CHAFEE, and Mr. MOYNIHAN and Mr. SYMMS.

Mr. President, the opening part of this battle will involve a very prolific use of charts and statistics. Those will be the weapons. Just a few moments ago my distinguished chairman handed me another chart prepared by the Federal Highway Administration, and I received no more than 24 hours ago another chart from the Federal Highway Administration, and I must say this is the one I received, this is the one that the Senator from New York gave me, as you cannot reconcile them, at least I cannot, both prepared by the same source but they are difficult to reconcile.

Initially this battle will be a battle of statistics and charts, and I hope somehow persons who spend more time than I, who have a longer history of association with this issue, can interpret these charts and eventually we can find a chart which clearly delineates which are the donor States and which are the donee States, such that Members of this distinguished body can reach their conclusions on this legislation.

I will now yield the floor to my other colleagues, but I want to say to my good friend—and I say this with sincerity but in partial jest—we have known each other many years. We share a deep respect for the Navy. The Senator from New York served in the Navy in World War II, with a distinguished record. I served a brief tour in the Navy. But as I said to him earlier, our group, which now represents nine States—and I anticipate it will grow to twice that number and perhaps three times that number—we are determined, Mr. President, to fight for one cause.

Today, June 6 being the anniversary of D-day, in the immortal expressions of Winston Churchill as he addressed the House of Commons, "We shall go on to the end * * * we shall fight in the seas and oceans * * * we shall fight on the beaches, we shall fight on the landing-grounds, we shall fight in the fields and in the streets, we shall fight in the hills; we shall never surrender * * *." We will not surrender until we receive that degree of fairness and equity to which we think we are entitled in our respective States. We will not relinquish 1 inch of ground, procedurally or otherwise, until such time as we have that opportunity to make known our case.

I thank the distinguished chairman. I am hopeful that my colleagues will speak for a few minutes. This is not partisan, Republican or Democrat. Indeed, this coalition of nine States reflects a bipartisan effort. Politics has been checked at the door on this. The question now is fairness and equity among the several States of this great Union.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from New York.

Mr. MOYNIHAN. I am very happy to have heard that statement from my friend, Mr. Secretary, as I prefer to call the Senator from time to time. Of course, the allocation of resources is an issue in any nationwide program, but it is uniquely difficult with respect to a surface transportation program because our States are of different size.

That is simply the elemental fact here. We will get to it. We will discuss it. How do you mediate that reality? Wyoming is 350 miles wide. That is how God made Wyoming. It just does not help much if you are living in Rhode Island. God made Rhode Island smaller. There is no way around that.

I want to say this, however: We have the data on the 35-year experience of the Federal-Aid Highway Program. I ask unanimous consent that a table showing which is the return on investment for the highway account of the highway trust fund cumulative for the fiscal years 1957–89, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Return on investment for the highway account of the highway trust fund cumulative from fiscal years 1957–89

[Expressed as dollars returned per dollar contributed]

State	*Return*
Above 2.0—9 States:	
Alaska	7.80
District of Columbia	3.98
Hawaii	3.27
Montana	2.57
Vermont	2.43
West Virginia	2.32
Wyoming	2.15
Rhode Island	2.11
Utah	2.02
1.5 to 2.0—9 States:	
South Dakota	1.96
North Dakota	1.94
Nevada	1.92
Idaho	1.90
Washington	1.74
Connecticut	1.66
Maryland	1.58
Delaware	1.53
New Hampshire	1.52
1.0 to 1.5—21 States:	
New Mexico	1.46
Louisiana	1.43
Arizona	1.42
Colorado	1.40
Minnesota	1.35
Virginia	1.30
Oregon	1.29
Kentucky	1.21
Alabama	1.20
New York	1.20
Iowa	1.17
Nebraska	1.16
Pennsylvania	1.14
Kansas	1.14
Illinois	1.13
Maine	1.11
Massachusetts	1.11
Tennessee	1.08
Mississippi	1.05
Georgia	1.00
Missouri	1.00
Below 1.0—12 States:	
Arkansas	0.98
Florida	0.94
New Jersey	0.93
South Carolina	0.93
Ohio	0.91
Michigan	0.91
California	0.89
Indiana	0.87
Texas	0.85
Wisconsin	0.85
North Carolina	0.85
Oklahoma	0.85

Source: Federal Highway Administration.

Mr. MOYNIHAN. Such has been the cunning tenacity and the unshakeable conviction of the Senator from Virginia, that Virginia got away with robbery over the last 35 years, receiving $1.30 of highway trust funds for every $1 paid. I honor him.

Missouri broke even. Florida lost 6 cents to the dollar. New York received $1.20 for each $1.00 contributed. These are patches. But those are the patterns of building the interstate.

What will be a new pattern, which is the legitimate subject that the Senator from Virginia raises, is what we are discussing now.

May I make one comment before the very able Senator from Missouri speaks, the former Governor? The question is about how shall we decide what the numbers are? That is always the first problem on this side of the discussion. I would like to make a proposal informally, but I wonder if we could not have some informal discussion of it as the other Senator speaks.

We have as the head of the Federal Highway Administration, Dr. Thomas Larson, a person of great knowledge in this field. He is an educator. He has been running the Federal Highway Administration. He sent us a bill. I am prepared to let him be the arbiter of what these numbers are. The measure I just put in the RECORD is from the Federal Highway Administration.

I think we will always serve our constituents and serve the country best if we have a common set of numbers that we work from. I do not know why we should not take them from Dr. Larson and the Federal Highway Administration.

Mr. President, I see my able friend patiently waiting. I yield the floor.

Mr. WARNER. Mr. President, will the distinguished Senator yield? I ask unanimous consent to put in the RECORD here tables where the Highway Administration provided to the Senator from Virginia and his coalition, together with a GAO report which addresses the subject in some detail. Although it is dated March 31, 1986, I think that report is very pertinent to the issue at hand.

I thank my colleague again for his courtesy.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE TA–124.—COMPARISON OF THE ESTIMATED 5 YR FISCAL YEAR 1992–96 APPORTIONMENTS UNDER S. 965 (W/O I–CON & I–TRN) WITH ESTIMATED 5 YEAR FISCAL YEAR 1992–96 APPORTIONMENT UNDER S. 1121 (W/O I–CON & I–TRN) AND EST. 5 YEAR FISCAL YEAR 1992–96 HIGHWAY TRUST FUND ATTRIBUTIONS (HIGHWAY ACCOUNT PAYMENTS, 2½ CENTS TO HTF IS EXTENDED TO FISCAL YEAR 1996) BASED ON FISCAL YEAR 1990 HIGHWAY ACCOUNT ATTRIBUTIONS

States	S. 965 Apportionments			S. 1121 Apportionments			Fiscal year 1991–96 Hwy Acct Pymt	
	Dollars (thousands)	Percent	Ratio of percent apportionments/ percent payment	Dollars (thousands)	Percent	Ratio of percent apportionments/ percent payment	Amount (thousands)	Percent
Alabama	1,433,548	1.86	0.89	1,567,776	2.02	0.97	1,765,528	2.09
Alaska	1,129,867	1.46	6.55	755,445	0.97	4.35	189,078	0.22
Arizona	1,106,210	1.43	0.91	1,225,303	1.58	1.00	1,333,682	1.58
Arkansas	986,818	1.28	0.91	1,082,168	1.39	0.99	1,193,063	1.41
California	6,693,121	9.02	0.83	7,664,398	9.88	0.91	9,219,541	10.91
Colorado	1,190,891	1.54	1.32	903,716	1.16	1.00	988,845	1.17
Connecticut	1,286,779	1.67	1.46	854,628	1.10	0.96	966,567	1.14
Delaware	365,681	0.47	1.62	373,716	0.48	1.65	246,971	0.29
District of Columbia	406,486	0.53	3.67	373,716	0.48	3.36	121,235	0.14
Florida	3,360,802	4.36	0.89	3,724,076	4.80	0.98	4,146,626	4.91
Georgia	2,325,521	3.01	0.85	2,578,699	3.32	0.94	2,992,689	3.54
Hawaii	371,299	0.48	1.89	373,716	0.48	1.89	215,632	0.26
Idaho	552,645	0.72	1.64	474,950	0.61	1.40	370,009	0.44
Illinois	3,017,232	3.91	0.95	3,127,517	4.03	0.98	3,482,523	4.12
Indiana	1,800,589	2.33	0.90	2,023,530	2.61	1.01	2,186,673	2.59
Iowa	1,110,127	1.44	1.15	1,014,383	1.31	1.05	1,056,287	1.25
Kansas	1,027,880	1.33	1.08	999,554	1.29	1.04	1,042,041	1.23
Kentucky	1,233,104	1.60	0.88	1,351,773	1.74	0.96	1,535,040	1.82
Louisiana	1,214,060	1.57	0.89	1,305,734	1.68	0.95	1,495,650	1.77
Maine	487,937	0.63	1.13	426,364	0.55	0.98	472,924	0.56
Maryland	1,250,497	1.62	0.89	1,253,212	1.61	0.89	1,541,682	1.82
Massachusetts	1,563,484	2.03	1.05	1,401,360	1.81	0.94	1,631,287	1.93
Michigan	2,215,085	2.87	0.89	2,432,052	3.13	0.97	2,736,467	3.24
Minnesota	1,314,612	1.70	1.02	1,311,948	1.69	1.01	1,415,622	1.67
Mississippi	915,873	1.19	0.93	989,805	1.28	1.00	1,078,416	1.28
Missouri	1,897,615	2.46	0.92	2,042,662	2.63	0.99	2,248,903	2.66
Montana	784,922	1.02	2.23	550,539	0.71	1.55	386,254	0.46
Nebraska	759,063	0.98	1.41	716,461	0.92	1.32	591,259	0.70
Nevada	566,738	0.73	1.28	503,326	0.65	1.13	486,174	0.58
New Hampshire	448,312	0.58	1.43	373,716	0.48	1.18	344,471	0.41
New Jersey	2,087,198	2.70	0.97	1,906,452	2.46	0.88	2,361,247	2.79

TABLE TA-124.—COMPARISON OF THE ESTIMATED 5 YR FISCAL YEAR 1992–96 APPORTIONMENTS UNDER S. 965 (W/O I-CON & I-TRN) WITH ESTIMATED 5 YEAR FISCAL YEAR 1992–96 APPORTIONMENT UNDER S. 1121 (W/O I-CON & I-TRN) AND EST. 5 YEAR FISCAL YEAR 1992–96 HIGHWAY TRUST FUND ATTRIBUTIONS (HIGHWAY ACCOUNT PAYMENTS, 2½ CENTS TO HTF IS EXTENDED TO FISCAL YEAR 1996) BASED ON FISCAL YEAR 1990 HIGHWAY ACCOUNT ATTRIBUTIONS—Continued

States	S. 965 Apportionments			S. 1121 Apportionments			Fiscal year 1991–96 Hwy Acct Pymt	
	Dollars (thousands)	Percent	Ratio of percent apportionments/ percent payment	Dollars (thousands)	Percent	Ratio of percent apportionments/ percent payment	Amount (thousands)	Percent
New Mexico	771,581	1.00	1.31	724,993	0.93	1.22	647,146	0.77
New York	4,432,529	5.74	1.27	3,209,517	4.14	0.92	3,810,207	4.51
North Carolina	1,994,125	2.58	0.86	2,192,706	2.83	0.94	2,532,310	3.00
North Dakota	527,886	0.68	2.01	490,949	0.63	1.86	287,398	0.34
Ohio	2,907,517	3.77	0.88	3,252,443	4.19	0.98	3,614,914	4.28
Oklahoma	1,155,417	1.50	0.91	1,288,781	1.66	1.01	1,383,578	1.64
Oregon	919,483	1.19	0.89	1,010,441	1.30	0.97	1,131,463	1.34
Pennsylvania	3,271,505	4.24	0.98	3,006,049	3.87	0.90	3,657,131	4.33
Rhode Island	397,047	0.51	1.66	373,865	0.48	1.56	261,515	0.31
South Carolina	1,148,584	1.49	0.87	1,246,515	1.61	0.94	1,441,308	1.71
South Dakota	585,554	0.76	2.13	478,382	0.62	1.73	301,150	0.36
Tennessee	1,647,380	2.13	0.90	1,778,889	2.29	0.97	2,004,359	2.37
Texas	5,013,800	6.50	0.88	5,645,570	7.28	0.99	6,207,306	7.34
Utah	708,467	0.92	1.29	619,942	0.80	1.12	603,458	0.71
Vermont	391,375	0.51	2.10	373,716	0.48	1.99	204,381	0.24
Virginia	1,601,116	2.08	0.78	1,867,822	2.41	0.91	2,247,101	2.66
Washington	1,336,855	1.73	0.90	1,425,268	1.84	0.95	1,635,462	1.93
West Virginia	894,194	1.16	1.46	605,220	0.78	0.98	672,161	0.80
Wisconsin	1,234,746	1.60	0.83	1,467,438	1.89	0.98	1,637,082	1.94
Wyoming	589,305	0.76	1.59	484,172	0.62	1.30	407,183	0.48
Puerto Rico	459,748	0.60	....	376,466	0.49	....	0	0.00

[U.S. General Accounting Office]

HIGHWAY FUNDING: FEDERAL DISTRIBUTION FORMULAS SHOULD BE CHANGED

GENERAL ACCOUNTING OFFICE, RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION,
Washington, DC, March 31, 1986.

Hon. LAWTON CHILES,
U.S. Senate.

DEAR SENATOR CHILES: This report, prepared in response to your March 1, 1985, request, discusses the formulas and factors currently used to apportion federal highway funds to the states. The report also identifies alternative formula factors that, in our opinion, more closely relate to today's highways. At your request, we did not obtain agency comments on the draft report; however, we did discuss the content of the report with Federal Highway Administration officials.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time we will send copies to the Director, Office of Management and Budget; the Secretary of Transportation; appropriate congressional committees; and other interested parties.

Sincerely yours,

J. DEXTER PEACH,
Director.

EXECUTIVE SUMMARY

More than $13 billion in highway funds have been apportioned among the states in fiscal year 1986 on the basis of highway formulas enacted by Congress over the years. These funds are used to preserve the existing highway system and provide for its further development.

Concerned about whether the formulas distribute funds to the areas of greatest need given the population growth in the South and West, Senator Lawton Chiles asked GAO to examine the formulas' relevance to today's highways.

To evaluate the relevance of each formula and alternative formula factors, GAO developed criteria against which to compare apportionment factors.

Background

Since the inception of the federal-state highway program in 1916, the Congress has established several highway systems that receive federal funding. These systems are referred to as the "federal-aid highway program" and are funded by the Federal Highway Administration (FHWA). Each highway system has a legislatively established formula for apportioning the congressionally authorized funds. GAO agreed to examine the formulas for apportioning funds for the primary, secondary, and urban highway systems; the interstate resurfacing, restoration, rehabilitation, and reconstruction (4R) program; and the highway bridge replacement and rehabilitation program. These have combined authorizations of about $9.1 billion for fiscal year 1986.

Generally, the apportionment formulas consist of several factors. For example, the primary highway system funds are apportioned on the basis of each state's share of a complex combination of the nation's land area, postal mileage, and urban and rural population. The secondary highway system funds are apportioned on the basis of each state's relative share of the nation's total land area, rural population, and postal route mileage, each weighted one-third. The urban highway system funds are apportioned on the basis of each state's share of the nation's urban population.

Results in brief

The factors used in formulas to apportion highway funds should reflect the extent and usage of today's highway system. The factors used in the primary, secondary, and urban highway apportionment formulas—land area, population, and postal mileage—are not closely related to today's highway system. These factors were chosen between 40 and 70 years ago on the basis of data available at that time. Other factors that better reflect highway activity are now available.

In contrast, the basic interstate 4R formula, established in 1978, is based on two factors that are directly related to the extent and use of the system. It includes lane-miles, which measures the extent of the road network to be preserved, and vehicle miles of travel, which measures highway use.

Principal findings

Land Area, Postal Mileage, and Population Are Not Closely Related to Today's Highways

Land area is used in both the primary and secondary apportionment formulas. It was originally included as a factor in 1916 against which to balance population and to reflect future highway needs. However, rather than balance population, it now results in large but sparsely populated states receiving larger apportionments than would otherwise be possible. In addition, land area no longer bears a close relationship to the extent of today's highway system or future highway needs since the highway system is no longer growing at a dramatic pace throughout the country.

Postal mileage is also a factor in the primary and secondary apportionment formulas. The Congress included postal mileage as a formula factor in 1916 because of the constitutional justification for federal involvement in highways (the power to establish post offices and post roads). By 1919, however, additional highway legislation ended the postal system justification for federal highway involvement. In addition, since postal mileage is computed on the basis of the distance traveled both on and off the federally aided highway system, it is unrelated to either the extent of the federal-aid highway network or its use.

Population is used as a factor in the primary, secondary, and urban apportionment formulas. Population figures, for formula use, are derived every 10 years from the decennial census. As a result, population changes that occur within the states are not accounted for except at 10-year intervals. Therefore, states that experience above-average population growth receive no credit under these formulas except at 10-year intervals.

Alternatives Are Related to the Extent or Use of the Highway System

On the basis of GAO's review of congressional hearings and studies and papers completed by FHWA, the American Association of State Highway and Transportation Officials, and other national associations and discussions held with various congressional committee and federal highway officials, in GAO's view the general consensus of opinion is that the present federal highway system can be considered largely complete except for growth areas such as suburbs and the Sunbelt.

Therefore, GAO's criteria and evaluation were based on the belief that today's highway goals are to preserve the current system and provide for its expansion where traffic dictates. In developing its criteria and arriving at its results, GAO considered a wide variety of factors previously suggested to the Congress and identified those that are consistent with retaining the basic federal highway programs, and for which data are available.

GAO found that lane-miles is a direct measure of the size of the road network and should be used to reflect the extent of the system to be preserved. GAO also found that highway use can be measured by both vehicle miles of travel and motor fuel consumption. Each has its own advantages and disadvantages from a formula perspective. The interstate 4R program is the only formula currently using a combination of these factors.

The primary, secondary, and urban formulas, therefore, need to be revised to be consistent with the extent and use of the current system. Changing the factors used in these apportionment formulas would result in some states receiving more or less funds than under the present formulas. To lessen these impacts, a transition period could be provided during which the full effect of the formulas would be gradually introduced.

GAO also reviewed the bridge formula, which is based on the cost of repairing and replacing each state's deficient bridges relative to national needs. This formula favors states with high construction costs. GAO is currently reviewing this program more fully.

Recommendations to the Congress

On the basis of GAO's conclusions on the relevancy of both current and potential alternative formula factors to the highway environment, GAO is recommending specific changes in the formula factors used in the primary, secondary, and urban highway apportionment formulas to more closely reflect the extent of these highway systems, their present use, and increases in their use. GAO is not, however, recommending specific formulas for apportioning the federal-aid highway funds because it believes that the development of such formulas must be reached through political consensus. By limiting its recommendations to individual factors, GAO believes it can provide information that would be useful to the Congress in achieving such a consensus. (See ch. 3.)

Agency comments

As requested, GAO did not obtain the comments of Department of Transportation officials on this report but did discuss its contents with them during the review. Their comments were considered in preparing the report.

Mr. BOND. Mr. President, I thank very much our distinguished colleague from New York and our good friend from Virginia for giving me just a few moments.

What my colleague from New York has outlined is a quandary. We have a difficult question to face—how we divide up the funds that are raised by user fees supposedly to go for highways, for infrastructure, for roads and bridges.

In recent years, I think shortsightedly, we have used some of those funds to mask overspending elsewhere in the budget. That has been one of the reasons our States have suffered. My State gets back only 77 cents on the dollar—in the most recent year, my colleague from Florida will tell you that his State gets back only 53 cents. Our colleague from New York does quite well. He gets back $1.10.

That formula was designed, as I understand it, to enable this country to accomplish a national purpose; that is, to complete the Interstate Highway System. That, for all intents and purposes, has been accomplished. But the people in my State know more than anything else that inadequate infrastructure is a problem for economic development, for jobs, for convenience and yes, for safety.

We have many roads in our State, highways that are two-lane highways with two-way traffic on them, and they are handling 6,000, 8,000, 10,000, and even 12,000 vehicles a day. The highway officials will tell you that many vehicles demand a divided or a dual highway. Our State has the dubious distinction of being No. 2 in the Nation in terms of deficient bridges. For example, I was driving day before yesterday from Butler to Clinton, MO. We came over a hill on Highway 18. We were traveling at the speed limit. At the bottom of the hill was a one-lane bridge. The bridge is in such bad shape that only traffic in one direction can cross that bridge. It was very exciting because there were two cars coming the other direction, also seeking to use that single lane. Fortunately, the young man with me who was driving had a good heavy foot on the brakes. He shut it down so the cars could cross from the other direction.

We have to have a fair funding formula. We need to change the old formual which allocated money to get the interstates built. I accept the distinguished New York Senator's suggestion that we talk about the formula, and I have a suggestion. I have a suggestion that these user fees be allocated back to the States on the basis of need, need as based on the usage because where you are using the highways, you have need.

He has suggested, very generously, that we meet with the Federal Highway Administrator. I suggest we include the American Society of Highway and Transportation Officers because these are the men and women who build highways in our States. I think we could gain from them.

We are dead serious about this problem, Mr. President. We want to see a good highway bill. We want to see a highway bill, a transportation bill of the future, and many aspects of the chairman's bill are visionary. But for a visionary forward-looking highway program, we do not need a dinosaur of a formula.

So it is with great enthusiasm that we accept the invitation and look forward to discussing this with the chairman because quite simply staying with the old formula just will not work, and it cannot be accepted by us. I thank the Chair.

Mr. WARNER. Mr. President, may I ask my colleague a question? He used a phrase, "need." Might I suggest, I have been working with a phrase. In other words put the money where the cars are. It is where "use" of the system is. Does that correlate?

Mr. BOND. Mr. President, I believe that "need" is reflected in "use".

Mr. WARNER. That is the point I wish to make because all of us have needs, and it is very difficult to quantify which bridge will fall down first or which highway has the most potholes. We have good statistics on where the cars are and what the usage of this road system is.

Mr. MOYNIHAN. Mr. President, I wonder if the Senator from Florida will allow me to make a quick comment, and then we will proceed?

Mr. President, I very much respect and appreciate what the Senator from Missouri has just said. I want to join him in recognizing that we have a new program. It certainly will be a new program.

How we will deal with these matters is something we will work out here in the Senate. We have been at it for 2 centuries and they work pretty good. I want to make clear that geography is a hard reality here that will dictate outcomes according to whatever the makeup of the Senate is, or how much it may resist that outcome.

I make the point that the first public highway program was the National Road. It was signed into law by President Thomas Jefferson in 1806. It had as its purpose bringing in first Ohio into the Union and then the territories still further west.

There was fierce opposition in this body. Virginia wanted nothing of it. The South would have nothing of it. It will drain our population off. And most particularly outrageous, the road did not pass through Richmond. Then, of course, in Pennsylvania, the idea the road west would not go through Philadelphia, and the idea that the road was heading for a place called St. Louis, oh, heaven, what is the world coming to. The first great public road and it was a tragedy.

It technically ended in Vandalia, IL, but it was at that point 20 miles from Missouri and St. Louis. The road went from Baltimore to St. Louis. If you lived in Baltimore or lived in St. Louis, or anywhere in between, you were better off having that road. As a matter of fact, if you did not, and you were an American, you were still better off for having that road.

Mr. BOND. Mr. President, if my distinguished colleague will yield, I only point out to him that that road was a road traveled by the St. Louis Browns when they became the Baltimore Orioles, so there are some down sides to transportation.

Mr. MOYNIHAN. The Senator is correct. It is U.S. 40 today.

Mr. MACK. Mr. President, let me express my appreciation to the distinguished Senator from New York for yielding to allow us to have a few moments to express our opposition to the allocation of these funds. I want to join my distinguished colleague from Virginia in this battle, because it is a battle of significance and of great importance for our individual States.

This is one of those classic debates in the Senate where, really, the political lines are not drawn by party; they are really drawn by State or by geography, as the Senator from New York has indicated.

I also want to thank the Senator for the opportunity that he gave us several weeks ago to express our concerns to the committee at that time. If the Senator will recall, one of the points I raised had to do with geography.

Most people think of the State of Florida in a sense that it is one growing very rapidly, a thousand people a day, or that 360,000 people a year are moving into the State. People are somewhat focused on that, and that causes us some problems with respect to formulas. Very few people focus on the idea or the knowledge that it is almost as far from Key West, FL to Pensacola, FL, as it is from Pensacola to Chicago. It is a big, big State, which is facing tremendous needs with respect to roads.

So I express those concerns today just to indicate my willingness to become involved in this debate, and in standing with the Senator from Virginia in making our case.

We feel that it is very important that Florida be recognized, recognized in the sense of what it has given up in the past. A figure was given earlier that showed we were supposedly only 6 cents short. The numbers I have looked at since 1956, show us getting back 80 cents on the dollar over that period of time. That is something we will have to reconcile. I know that within the last 2 years, Florida has gotten back, in 1990, something like 53 cents for every dollar that we have paid into the fund. In 1991 that is estimated to be 63 cents.

So this issue for my State, for the people of the State of Florida, is vital, because we are talking about hundreds of millions of dollars a year that are not coming back into the State. So this is the No. 1 issue. This allocation issue must be settled first, and then we can look at other issues related to this piece of legislation.

Again, I thank the distinguished Senator for yielding me time.

Mr. WARNER. Mr. President, I thank, again, my distinguished colleague and good friend. He has given us the opportunity which we desired to express here.

In morning business I hastened to say the formalities of this bill have not started. That is up to the leadership. The report has not as yet reached the Senate. For various reasons, we cannot go to the bill.

I assure him that this is the anniversary of D-day, and our forces have landed, sir, and we have established a beachhead, and we are a growing group. We do not wish to do anything but be constructive, but I urge the Senator to come to the peace table as quickly as possible and hear us out.

I thank my colleague.

Mr. MOYNIHAN. Mr. President, may I thank, once again, the Senator from Virginia, Mr. Warner. He is always gallant, incapable of fear, and indomitable in the pursuit of the concerns and the interests of the Old Dominion. I must make the point, and he would agree, that there are Senators with other views, and we will hear these out.

We are starting a new program. To make the record clear, what the committee has tried to do, is to take the distribution of funds from existing law, the 5-year period that will end on September 30, leaving aside interstate construction and substitution. We have attempted to ensure that all States review a share of these programs equal to their share under current law.

In other words, what you have received in the past for the purposes that will not become the focus of the program: Maintenance and improvement of the existing system.

Our purpose is to say what we have been getting in that matter is arbitrary and, yet, it had a purpose. There was a rationality behind it. The system worked. And so our intent was to keep everybody where they were. That may not be adequate. I fully understand that those who are below a certain return rate would feel that way. I must say at this point that we have numbers going around the floor that are not so. The disparities are real, but there are places that are way off the curve in the historical experience. Alaska receives $7.80 of highway moneys for every dollar contributed.

Those are unusual. Most hover around between 85 cents and $1.15. But we must talk about this issue. We will try to agree about our numbers. In the end, we will reach agreement. Of that, I am confident.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. BRADLEY].

SOVIET AID—GRAND BARGAIN OR GRAND ILLUSION

Mr. BRADLEY. Mr. President, a few weeks ago the Senate debated whether the Government of the United States should extend $1.5 billion in additional agricultural credit guarantees to the Soviet Union on top of the $1 billion that we extended in December.

The Senate voted decisively to urge the extension of further credit guarantees to the Soviet Union. I regretted that vote because I did not think it was in our long-term interest as a country.

At the time, I reflected on the remarks of the Librarian of Congress, Mr. James Billington, in which he pointed out that what is going on in the Soviet Union is a conflict between two groups—one group is the old Leninist-Communist political machine that has power but no legitimacy. And that political machine confronts a challenge from range of groups in the Soviet Union. These grassroots forces are pressing for democratic rights, for human rights, for the right to worship as they choose, for the right to vote and have their voices heard at all levels of government. They are fighting for a better environment in the Soviet Union, trying to protect cultural monuments and religious shrines, reviving the spiritual and moral values of the Russian Orthodox Church and other religious groups.

There are literally millions of Russians, Ukranians, Balts, and others who are a generation younger than Gorbachev and Yeltzin and have organized and belong to these groups. Unlike the ruling political machine which has power but no legitimacy, these informal organizations have legitimacy but no power.

And that, I believe, is where we are: A conflict between a political machine that has power but no legitimacy and a massive set of movements that have legitimacy but no power.

Mr. President, it is in that context that we had the vote on credit guarantees for the Soviet Union, and it is in that context that in the last several weeks there has emerged something called the grand bargain; the Soviet Union would ask for and be provided with $30 to $50 billion a year for each of the next 5 years—in exchange for some as yet undefined mutually agreed to actions.

Now we read in today's Washington Post that Mr. Gorbachev has accepted his Nobel Peace Prize, and in his acceptance speech, he made a number of interesting points. The headline in the Washington Post says, "Gorbachev Asks Aid, Shuns Conditions." That about says what he did. He said in one point in the speech, "Now that perestroika has entered its critical phase, the Soviet Union is entitled to expect large-scale support to assure its success." Entitled, Mr. President, entitled like the American Social Security recipient, he says he is entitled.

Mr. President, I would say, first, that I do not believe the Soviet Union is entitled to aid from the United States or other Western countries.

But more importantly, Mr. Gorbachev said in his speech that there should be no conditions for aid. His exact words: "It is also futile and dangerous to set conditions."

In other words, the Soviets will not agree to do anything in exchange for aid—not more movement toward a market economy, not a reduction of weapons, not implementation of more liberal immigration laws, not instituting clear democratic reforms, not codifying the right of the individual to practice a religion of their choice, nothing. Mr. Gorbachev has said very clearly that there should be no conditions for aid and that the West should send enormous sums of money to the Soviet Union because the Soviet Union is entitled to that aid.

Well, he seems to be saying—and, in fact, does at a number of points—that such conditions would be an interference into the internal affairs of the Soviet Union.

So there you have it. The grand bargain that has been trumpeted around this town for the last month is revealed to be a grand illusion.

Does Mr. Gorbachev really believe that there is any compelling reason to aid the Soviet Union? Generally, I see little, and specifically after these statements, I see very little. Oh, the proponents of the grand design say that if we do not provide the aid, nuclear terrorism might be unleashed in the Soviet Union as rabid groups get control of nuclear weapons. That is, indeed, what representatives of the Soviet Government were saying when they were shopping around their ideas last week: If there is no aid, it might unleash nuclear terrorism in the Soviet Union as various unreliable groups get control of nuclear weapons.

How should we react to that? I react by saying it seems to me, it sounds to me like that is somewhere between an attempt at nuclear blackmail—"Give us money or there will be some form of nuclear terrorism"—and a gross exaggeration.

Mr. President, I think that those who use this tactic and inject that specter into this debate underrate the determination as well as the capacity of the Soviet Armed Forces to keep control of their nuclear weapons. Indeed, Soviet nuclear security command and control systems are extraordinarily well designed and managed for unconventional civil as well as military contingencies.

After all, they do have a rather sophisticated military. That has always been the big bulk of over $300 billion defending ourselves against. They manage a lot of nuclear weapons. They have clearly thought of many different contingencies. They do have plans to manage those contingencies.

Second, those who use this tactic and introduce this element into the debate slight the statements and actions of the Russian, Ukrainian, and other leaders of republics to facilitating the consolidation and protection of any nuclear weapons stockpiles if and when there are more serious disorders.

The fact of the matter is that the weapons are controlled by Russians in Russia in large part.

So, Mr. President, I was struck today in the morning paper by Mr. Gorbachev's acceptance speech.

I felt it appropriate to come to the floor and deal both with the assertions that if there is to be aid there should be no conditions and, if there is not aid, we will end up with a kind of nuclear terrorism in the Soviet Union. I reject both of those.

I think the Senate should give careful thought to what is taking place in the Soviet Union. I hope we will not fail to realize today's statement by Mr. Gorbachev makes what some call the grand bargain look more like a grand illusion.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, might I inquire what is the pending business?

The PRESIDING OFFICER. We are in morning business.

The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1233 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPACE STATION FREEDOM

Mr. SEYMOUR. Mr. President, the House of Representatives will vote today on an appropriations amendment that would restore most of the administration's full fiscal year 1992 funding request to the space station Freedom.

This vote by our colleagues will do more than merely affect bureaucratic careers in Washington. Even at this early stage in its development, the space station employs nearly 100,000 people nationwide. This program will have a direct impact not only on our manned space flight and exploration initiatives, but on health care research, manufacturing technologies, and our understanding of what the environment of the solar system does to the environment of this Earth.

A few days ago, a House appropriations subcommittee denied all fiscal year 1992 funds for the space station and reduced the total spending authority for the program to $2 billion from $15 billion. The subcommittee took this action citing the need to investigate less costly alternatives.

This reasoning, Mr. President, is naive and shallow at best. First, the administration has already investigated and produced a less costly space station. Last year, NASA restructured the program and sliced $6 billion out of it. The funding cut by the House subcommittee came on top of a budget request that reflected 1992 savings alone of $900 million.

Second, the administration, with the approval of Congress, has already invested $56 billion in the space station and estimates that it would cost between $200 and $500 million to terminate the program.

As a result, if we let the House subcommittee action stand, the taxpayers would have spent up to $6.1 billion for nothing.

Eliminating or even significantly reducing our investment in the space station now, will not save the American people any money, it will cost them.

It will not allow them the luxury of looking at a cheaper alternative, since we are already in the first fiscal year of the cheaper alternative.

And it will not, Mr. President, have a positive impact on our economy.

After the Apollo launch, America's manned space flight program languished for more than 10 years, and according to NASA, the United States lost nearly 750,000 jobs just in that time.

And the people holding these jobs were not victims of economic adjustments or technological change—on the contrary, they were the agents of the rapid market changes swirling around us today.

We must also clear up the misperception that the space station would benefit only astronauts, astronomers, or physicists.

A permanent manned platform in the solar system will make it possible for us to discover how and why human beings can live in space over long periods of time.

It can give doctors and technicians new insights into how operational medicine might address deadly diseases.

It will uncover unknown atmospheric impacts on weather patterns and soil quality.

Finally, the space station will give us direct access to materials that may produce lighter and stronger components for industrial production.

These are some of the futuristic promises of space station Freedom. But we cannot forget what it can deliver to the American people here and now.

The technology, design process, launch system, and subcomponents of the station could help a struggling aerospace industry in the rebirth of its export potential.

Even in these times of decimated defense spending, aerospace firms continue to remain internationally competitive. They account for more than 10 percent of all American export sales and sustain a high trade surplus in the international market.

The export side of this business assumes an even greater importance in light of the decreasing military budget. By 1995, when we will have slashed Defense Department spending by 25 percent, the survival of many U.S. aerospace firms could depend on a robust export business. And much of this business could stem from the myriad of systems and subsystems that make up the space station.

Why is it important to discuss the station's relationship to this sector of the economy? Because the salvation of the domestic aerospace industry does more than preserve jobs at home. It helps us protect the peace in an unpredictable world, sharpens our edge in transportation and health care technologies, and directly contributes to the stabilization of our international balance of trade.

The economic and technological reach of the space station, therefore, will extend as far away as Mars and as close as the laboratories and factories in every State of the Union.

It is an original multifaceted enterprise. It will demonstrate that the more we penetrate the mysteries of the universe, the better we will be able to address the problems of our own earth.

I urge each of my colleagues, then, to support full funding for space station Freedom once this issue comes before that Senate.

I thank the Chair. I yield my time and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DODD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, parliamentary inquiry. Are we in morning business?

The PRESIDING OFFICER. The Senator is correct; we are in morning business.

Mr. DOMENICI. How much time does the Senator have under the previous order.

The PRESIDING OFFICER. There is no time limit. The Senator may speak as long as he wishes.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1232 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistance legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. LUGAR. Mr. President, I want to take this opportunity to express my willingness to join with the senior Senator from Virginia, Senator WARNER, in the fight for equitable highway funding formulas, and to express my opposition to the committee-reported surface transportation legislation.

I was not able to join my colleagues on the floor earlier this afternoon, but had I been here, I would have clearly stated, along with them, opposition to any motion to proceed to S. 965, the Surface Transportation Efficiency Act of 1991, or S. 1204, an identical bill.

This omnibus transportation funding legislation is of critical importance both to my State of Indiana and to our Nation as a whole. Its provisions will not only determine the fate of many local highway and public transportation projects in Indiana, but will also directly impact our Nation's economy, commerce, and competitiveness.

The issue of surface transportation policy is visited by this body only once every 5 years. Such an approach provides long-term stability to transportation programs whose projects often take many years to plan and to construct. At the same time, such a schedule requires that the Congress be that much more careful in crafting changes to these programs. Mr. President, this bill is even more unique. With the completion of the Interstate Highway System, the 1991 highway bill is the first major overhaul of our highway programs in 30 years. It is likely that this bill will lay the foundation of our Nation's transportation policy for decades to come.

In this context, one would predict that the leadership of the Environment and Public Works Committee would take a careful and, I would stress, cooperative approach in moving this legislation through the Senate. Instead, the committee has apparently rushed the bill to the floor, barely allowing Senators time to review its provisions or to discuss it with constituents. The committee apparently wants to move to this legislation without even giving Senators a chance to review its report.

Mr. President, this is a highly technical and complicated bill. It deserves very careful analysis on the part of Senators and the Nation. State and local governments, industry groups, and professional associations all deserve and will need time to examine its provisions, discuss it with their own organizations, and ultimately provide feedback to us.

S. 965 is a strong departure from our current transportation policy. I fear that the committee's speedy timetable may be an effort to limit analysis, discussion, and opposition to its ideas.

I strongly plead with the committee leadership to discuss their legislation with those of us who have opposing views and to attempt to address our concerns. In my judgment, if their proposal has merit and integrity, it will presevere in this debate and preserve its basic outline.

My prediction is that, after consultation with all Senators, better formulas of distribution of funds among the States will be found, certainly more equitable distributions will be established and, likewise, the outlines for a sound transportation policy for our country will come much more clearly into view.

I thank the Chair, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EXON). Without objection, it is so ordered.

THE 25TH ANNIVERSARY OF THE ADDRESS OF SENATOR ROBERT F. KENNEDY ON THE DAY OF AFFIRMATION, UNIVERSITY OF CAPETOWN

Mr. DODD. Mr. President, it is indeed ironic that today, the 25th anniversary of one of the greatest civil rights addresses of this generation, should fall at the conclusion of such a bitter battle over the passage of civil rights legislation in the House of Representatives. Mr. President, it is ironic that race is still a political issue in this country, in this day and age.

Twenty-five years ago today, Mr. President, Robert Kennedy stood up in Capetown, South Africa, a bastion of apartheid, and called for the enlargement of liberty for individual men and women as "the supreme goal and abiding practice of any Western society." He spoke of a society where Government must answer—"not just to the wealthy, not just to those of a particular religion or particular race, but to all of its people." He continued, Mr. President, calling upon the youth of South Africa and the United States to set their own houses in order so as to contribute to the world's progress toward this vision of society. He said:

> If we would lead outside our borders, if we would help those who need our assistance, if we would meet our responsibilities to mankind; we must first, all of us, demolish the borders which history has erected between

men within our own nations—barriers of race and religion, social class and ignorance.

Mr. President, 2 years later on this very day, June 6, 1968, Robert Kennedy was felled by an assassin's bullet before he had a chance to see his dreams of a better, freer world come true. How would Robert Kennedy rate us in our pursuit of equal justice for all if he were alive? I wonder, Mr. President, whether the world that he envisioned where we did not deny "individual integrity, human dignity, and the common humanity of man" can be, when implementation of a meaningful and necessary civil rights law is not assured.

The debate over the quotas that the administration fears the civil rights legislation will give rise to has descended to the level of race baiting. Mr. President, I am opposed to quotas, as I believe most Members are. However, race baiting has no place in the formulation of that policy. We need a fair civil rights bill that will ensure equality and justice in the workplace. We need legislation that reemphasizes the often-stressed fact that no one in this Chamber favors racial or sexual quotas, but that the American people look for an equal employment opportunity for all of its citizens.

Mr. President, I ask unanimous consent that Robert Kennedy's remarks delivered on June 6, 1966, at the University of Capetown be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDRESS OF SENATOR ROBERT F. KENNEDY, DAY OF AFFIRMATION, UNIVERSITY OF CAPETOWN, JUNE 6, 1966

I come here because of my deep interest and affection for a land settled by the Dutch in the mid-seventeenth century, then taken over by the British, and at last independent; a land in which the native inhabitants were at first subdued, but relations with whom remain a problem to this day; a land which defined itself on a hostile frontier; a land which has tamed rich natural resources through the energetic application of modern technology; a land which once imported slaves, and now must struggle to wipe out the last traces of that former bondage. I refer, of course, to the United States of America.

But I am glad to come here to South Africa. I am already enjoying my visit. I am making an effort to meet and exchange views with people from all walks of life, and all segments of South African opinion—including those who represent the views of the government. Today I am glad to meet with the National Union of South African Students. For a decade, NUSAS has stood and worked for the principles of the Universal Declaration of Human Rights—principles which embody the collective hopes of men and good will all around the world.

Your work, at home and in international student affairs, has brought great credit to yourselves and to your country. I know the National Student Association in the United States feels a particularly close relationship to NUSAS. And I wish to thank especially Mr. Ian Robertson, who first extended this invitation on behalf of NUSAS, for his kindness to me. It's too bad he can't be with us today.

This is a Day of Affirmation—a celebration of liberty. We stand here in the same name of freedom.

At the heart of that western freedom and democracy is the belief that the individual man, the child of God, is the touchstone of value, and all society, groups, the state, exist for his benefit. Therefore the enlargement of liberty for individual human beings must be the supreme goal and the abiding practice of any western society.

The first element of this individual liberty is the freedom of speech; the right to express and communicate ideas, to set oneself apart from the dumb beasts of field and forest; to recall governments to their duties and obligations; above all, the right to affirm one's membership and allegiance to the body politic—to society—to the men with whom we share our land, our heritage and our children's future.

Hand in hand with freedom of speech goes the power to be heard—to share in the decisions of government which shape men's lives. Everything that makes man's life worthwhile—family, work, education, a place to rear one's children and a place to rest one's head—all this depends on decisions of government; all can be swept away by a government which does not heed the demands of its people. Therefore, the essential humanity of men can be protected and preserved only where government must answer—not just to the wealthy; not just to those of a particular religion, or a particular race; but to all its people.

And even government by the consent of the governed, as in our own Constitution, must be limited in its power to act against its people; so that there may be no interference with the right to worship, or with the security of the home; no arbitrary imposition of pains or penalties by officials high or low; no restriction on the freedom of men to seek education or work or opportunity of any kind, so that each man may become all he is capable of becoming.

These are the sacred rights of western society. These were the essential differences between us and Nazi Germany as they were between Athens and Persia.

They are the essence of our difference with communism today. I am unalterably opposed to communism because it exalts the state over the individual and the family, and because of the lack of freedom of speech, of protest, of religion and of the press, which is the characteristic of totalitarian states. The way of opposition to communism is not to imitate its dictatorship, but to enlarge individual human freedom—in our own countries and all over the globe. There are those in every land who would label as "communist" every threat to their privilege. But as I have seen on my travels in all sections of the world, reform is not communism. And the denial of freedom, in whatever name, only strengthens the very communism it claims to oppose.

Many nations have set forth their own definitions and declarations of these principles. And there have often been wide and tragic gaps between promise and performance, ideal and reality. Yet the great ideals have constantly recalled us to our duties. And—with painful slowness—we have extended and enlarged the meaning and the practice of freedom for all our people.

For two centuries, my own country has struggled to overcome the self-imposed handicap of prejudice and discrimination based on nationality, social class or race—discrimination profoundly repugnant to the theory and command of our Constitution. Even as my father grew up in Boston, signs told him that "No Irish need apply." Two generations later President Kennedy became the first Catholic to head the nation; but how many men of ability had, before 1961, been denied the opportunity to contribute to the nation's progress because they were Catholic, or of Irish extraction. How many sons of Italian or Jewish or Polish parents slumbered in slums—untaught, unlearned, their potential lost forever to the nation and the human race? Even today, what price will we pay before we have assured full opportunity to millions of Negro Americans?

In the last five years we have done more to assure equality to our Negro citizens, and to help the deprived both white and black, than in the hundred years before. But much more remains to be done.

For there are millions of Negroes untrained for the simplest of jobs, and thousands every day denied their full equal rights under the law; and the violence of the disinherited, the insulted and injured, looms over the streets of Harlem and Watts and Southside Chicago.

But a Negro American trains as an astronaut, one of mankind's first explorers into outer space; another is the chief barrister of the United States government, and dozens sit on the benches of court; and another, Dr. Martin Luther King, is the second man of African descent to win the Nobel Peace Prize for his non-violent efforts for social justice between the races.

We have passed laws prohibiting discrimination in education, in employment, in housing; but these laws alone cannot overcome the heritage of centuries—of broken families and stunted children, and poverty and degradation and pain.

So the road toward equality of freedom is not easy, and great cost and danger march alongside us. We are committed to peaceful and non-violent change and that is important for all to understand—though all change is unsettling. Still even in the turbulence of protest and struggle is greater hope for the future, as men learn to claim and achieve for themselves the rights formerly petitioned from others.

And most important of all, all the panoply of government power has been committed to the goal of equality before the law—as we are now committing ourselves to the achievement of equal opportunity in fact.

We must recognize the full human equality of all our people—before God, before the law, and in the councils of government. We must do this, not because it is economically advantageous—although it is; not because the laws of God and man command it—although they do command it; not because people in other lands wish it so. We must do it for the single and fundamental reason that it is the right thing to do.

We recognize that there are problems and obstacles before the fulfillment of these ideals in the United States as we recognize that other nations, in Latin America and Asia and Africa have their own political, economic, and social problems, their unique barriers to the elimination of injustice.

In some, there is concern that change will submerge the rights of a minority, particularly where the minority is of a different race from the majority. We in the United States believe in the protection of minorities; we recognize the contributions they can make and the leadership they can provide; and we do not believe that any people—

whether minority, majority, or individual human beings—are "expendable" in the cause of theory or policy. We recognize also that justice between men and nations is imperfect, and that humanity sometimes progresses slowly.

All do not develop in the same manner, or at the same pace. Nations, like men, often march to the beat of different drummers, and the precise solutions of the United States can neither be dictated nor transplanted to others. What is important is that all nations must march toward increasing freedom; toward justice for all; toward a society strong and flexible enough to meet the demands of all of its own people, and a world of immense and dizzying change.

In a few hours, the plane that brought me to this country crossed over oceans and countries which have been a crucible of human history. In minutes we traced the migration of men over thousands of years; seconds, the briefest glimpse, and we passed battlefields on which millions of men once struggled and died. We could see no national boundaries, no vast gulfs or high walls dividing people from people; only nature and the works of man—homes and factories and farms—everywhere reflecting man's common effort to enrich his life. Everywhere new technology and communications bring men and nations closer together, the concerns of one inevitably becoming the concerns of all. And our new closeness is stripping away the false masks, the illusion of difference which is at the root of injustice and hate and war. Only earthbound man still clings to the dark and poisoning superstition that his world is bounded by the nearest hill, his universe ended at river shore, his common humanity enclosed in the tight circle of those who share his town and views and the color of his skin.

It is your job, the task of the young people of this world to strip the last remnants of that ancient, cruel belief from the civilization of man.

Each nation has different obstacles and different goals, shaped by the vagaries of history and experience. Yet as I talk to young people around the world I am impressed not by the diversity but by the closeness of their goals, their desires and concerns and hope for the future. There is discrimination in New York, the racial inequality of apartheid in South Africa and serfdom in the mountains of Peru. People starve in the streets of India; a former Prime Minister is summarily executed in the Congo; intellectuals go to jail in Russia; thousands are slaughtered in Indonesia; wealth is lavished on armaments everywhere. These are differing evils; but they are the common works of man. They reflect the imperfection of human justice, the inadequacy of human compassion, the defectiveness of our sensibility toward the sufferings of our fellows; they mark the limit of our ability to use knowledge for the well-being of others. And therefore they call upon common qualities of conscience and of indignation, a shared determination to wipe away the unnecessary suffering of our fellow human beings at home and round the world.

It is these qualities which make of youth today the only true international community. More than this I think that we could agree on what kind of world we want to build. It would be a world of independent nations, moving toward international community, each of which protected and respected basic human freedoms. It would be a world which demanded of each government that it accept its responsibility to insure social justice. It would be a world of constantly accelerating economic progress—not material welfare as an end in itself, but as a means to liberate the capacity of each human being to pursue his talents and his hopes. It would, in short, be a world we would be proud to have built.

Just to the North of here are lands of challenge and opportunity—rich in natural resources, land and minerals and people. Yet they are also lands confronted by the greatest odds—overwhelming ignorance, internal tensions and strife, and great obstacles of climate and geography. Many of these nations, as colonies, were oppressed and exploited. Yet they have not estranged themselves from the broad traditions of the West; they are hoping and gambling their progress and stability on the chance that we will meet our responsibilities to help them overcome their poverty.

In the world we would like to build, South Africa could play an outstanding role in that effort. This is without question a preeminent repository of the wealth and knowledge and skill of the continent. Here are the greater part of Africa's research scientists and steel production, most of its reservoirs of coal and electric power. Many South Africans have made major contributions to African technical development and world science; the names of some are known wherever men seek to eliminate the ravages of tropical diseases and pestilence. In your faculties and councils, here in this very audience, are hundreds and thousands of men who could transform the lives of millions for all time to come.

But the help and the leadership of South Africa or the United States cannot be accepted if we—within our own countries or in our relations with others—deny individual integrity, human dignity, and the common humanity of man. If we would lead outside our borders; if we would help those who need our assistance, if we would meet our responsibilities to mankind; we must first, all of us, demolish the borders which history has erected between men within our own nations—barriers of race and religion, social class and ignorance.

Our answer is the world's hope; it is to rely on youth. The cruelties and obstacles of this swiftly changing planet will not yield to obsolete dogmas and outworn slogans. It cannot be moved by those who cling to a present which is already dying, who prefer the illusion of security to the excitement and danger which comes with even the most peaceful progress. This world demands the qualities of youth; not a time of life but a state of mind, a temper of the will, a quality of the imagination, a predominance of courage over timidity, of the appetite for adventure over the love of ease. It is a revolutionary world we live in, and thus, as I have said in Latin America and Asia, in Europe and in the United States, it is young people who must take the lead. Thus you, and your young compatriots everywhere have had thrust upon you a greater burden of responsibility than any generation that has ever lived.

"There is" said an Italian philosopher, "nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things." Yet this is the measure of the task of your generation and the road is strewn with many dangers.

First, is the danger of futility; the belief there is nothing one man or one woman can do against the enormous array of the world's ills—against misery and ignorance, injustice and violence. Yet many of the world's great movements, of thought and action, have flowed from the work of a single man. A young monk began the Protestant reformation, a young general extended an empire from Macedonia to the borders of the earth and a young woman reclaimed the territory of France. It was a young Italian explorer who discovered the New World, and the 32 year old Thomas Jefferson who proclaimed that all men are created equal. "Give me a place to stand," said Archimedes, "and I will move the world." These men moved the world, and so can we all. Few will have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation. Thousands of Peace Corps volunteers are making a difference in isolated villages and city slums in dozens of countries. Thousands of unknown men and women in Europe resisted the occupation of the Nazis and many died, but all added to the ultimate strength and freedom of their countries. It is from numberless diverse acts of courage and belief that human history is shaped. each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

"If Athens shall appear great to you," said Pericles, "consider then that her glories were purchased by valiant men, and by men who learned their duty." That is the source of all greatness in all societies, and it is the key to progress in our time.

The second danger is that of expediency; of those who say that hopes and beliefs must bend before immediate necessities. Of course, if we would act effectively we must deal with the world as it is. We must get things done. But if there was one thing President Kennedy stood for that touched the most profound feelings of young people across the world, it was the belief that idealism, high aspirations and deep convictions are not incompatible with the most practical and efficient of programs—that there is no basic inconsistency between ideals and realistic possibilities—no separation between the deepest desires of heart and mind and the rational application of human effort to human problems. It is not realistic or hard-headed to solve problems and take action unguided by ultimate moral aims and values. It is thoughtless folly. For it ignores the realities of human faith and passion and belief; forces ultimately more powerful than all the calculation of economists or generals. Of course to adhere to standards, to idealism, to vision in the face of immediate dangers takes courage and self-confidence. But we also know that only those who dare to fail greatly, can ever achieve greatly.

It is this new idealism which is also, I believe, the common heritage of a generation which has learned that while efficiency can lead to the camps of Auschwitz, or the streets of Budapest, only the ideals of humanity and love can climb the hill to the Acropolis.

A third danger is timidity. Few men are willing to brave the disapproval of their fellows, the censure of their colleagues, the wrath of their society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality for those who seek to change a world which yields most painfully to change. Aristotle tells us that "At the Olympic games it is not the finest and the strongest men who are crowned, but they who enter the lists . . . So too in the life of the honorable and the good it is they who act rightly who win the prize." I believe that in this generation those with the courage to enter the moral conflict will find themselves with companions in every corner of the world.

For the fortunate among us, the fourth danger is comfort; the temptation to follow the easy and familiar paths of personal ambition and financial success so grandly spread before those who have the privilege of education. But that is not the road history has marked out for us. There is a Chinese curse which says May he live in interesting times. Like it or not we live in interesting times. They are times of danger and uncertainty; but they are also more open to the creative energy of men than any other time in history. And everyone here will ultimately be judged—will ultimately judge himself—on the effort he has contributed to building a new world society and the extent to which his ideals and goals have shaped that effort.

So we part, I to my country and you to remain. We are—if a man of forty can claim that privilege—fellow members of the world's largest younger generation. Each of us have our own work to do. I know at times you must feel very alone with your problems and difficulties. But I want to say how impressed I am with what you stand for and the effort you are making; and I say this not just for myself, but for men and women everywhere. And I hope you will often take heart from the knowledge that you are joined with fellow young people in every land, they struggling with their problems and you with yours, but all joined in a common purpose; that, like the young people of my own country and of every country I have visited, you are all in many ways more closely united to the brothers of your time than to the older generations of any of these nations; and that you are determined to build a better future. President Kennedy was speaking to the young people of America, but beyond them to young people everywhere, when he said that "The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world."

And, he added "With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own."

Mr. DODD. Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1234 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

FEDERAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. MITCHELL. Mr. President, as I have stated previously publicly on several occasions, it is my hope that the Senate can proceed as promptly as possible to consider the Surface Transportation Efficiency Act of 1991, what we all know as the highway bill.

The report of the Committee on the Environment and Public Works with respect to that legislation, now designated as S. 1204, was received in the Senate at 2:33 p.m. today. Under the rules of the Senate, unanimous consent is required in order to proceed to that legislation prior to the expiration of 2 days following the receipt of the report. Therefore, although I had hoped we could begin consideration of that legislation at this time, I am advised that there is objection on the part of one or more Senators to so proceeding.

It is my intention shortly to seek that unanimous consent. I have discussed the matter previously with the distinguished Republican leader, with the manager of the bill, the distinguished Senator from New York, and several others. I understand there will be objection to the request to proceed immediately. It is my hope that we can work out some way of getting to this bill as promptly as possible.

As I have indicated also publicly on several occasions, immediately upon disposition of this bill, it is my intention to proceed to the consideration of comprehensive crime legislation, and I know many Senators have expressed an interest in proceeding to that, as well.

Mr. President, before I make the request, I want to yield to the distinguished Republican leader to see if he has any comment at this time.

Mr. DOLE. Mr. President, I appreciate the majority leader yielding. It is my understanding that the Senator from Virginia [Mr. WARNER] has been conducting a number of meetings, discussions, with Members on each side of the aisle. They have a different view concerning a formula that is contained in the legislation.

I have discussed taking up the bill immediately with the Senator from Virginia, and I would, as the Senator has indicated, be constrained to object on his behalf. He indicates somebody would object because the report is 257 pages long. It was only available at 2:33. He just feels he needs some time.

Having said that, it is my hope that if we cannot agree to lay the bill down immediately, or tomorrow morning, or tomorrow afternoon, we could agree to go to the bill on Monday, and maybe in the interim try to work out the differences. I will be working with the majority leader.

I am advised by the Senator from Virginia that he is on his way here from the Pentagon. He should be here momentarily, and I will have an opportunity to talk with him again at that time.

Mr. MITCHELL. Mr. President, I thank my colleague.

I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 105, S. 1204, the Federal Surface Transportation Efficiency Act of 1991.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, as previously indicated, I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, as we have previously discussed, both here publicly, and prior to that privately, it is my hope that we can work out a way to begin consideration of this bill. I understand and appreciate the concerns of Senators about provisions in the bill.

Obviously, any Senator may appropriately use whatever means are available under the rules to delay consideration of the bill.

The substantive differences, it seems to me, will ultimately have to be resolved by the full Senate. I would hope that those Senators who have disagreements with one or more parts of the bill will permit us to proceed to the bill, and if any Senator has an amendment seeking to alter some provision of the bill, he or she will offer the amendment and we can proceed to disposition of the bill.

I simply say to Senators that we have a lot of work to do in this legislative period, and anything we do not do today will mean a long evening session point in the near future, or perhaps a weekend session or a Friday afternoon session or a Monday evening session. So, the work has to be done. It is a question of when it is done.

I am grateful to the distinguished Republican leader for this cooperation in this matter. I understand the reasons for the objection, and I hope that before this day is out, and shortly, that we will be able to reach an accommodation enabling us to proceed to the bill as soon as possible.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SIMON). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I thank the leaders for arranging for this bill to come forward. It has been 5 years in the making, and it is the first such legislation we will have enacted of comparable importance since the Federal-Aid Highway Act of 1956.

Four and a half years ago, it fell to me to be the floor manager of the last such bill. It fell to me then, as it will now, as Senator MITCHELL said. And I made the point repeatedly that the 1987 bill would be the last of the interstate highway era, and that the bill we are about to take up would be the first of a new era. A new era in which we would address new subjects, and we hoped in new ways.

Might I make the point to an empty Chamber, the word having spread that there will be no votes, that we are in a period of some dispute about the allocation of the Federal moneys, $105 billion over 5 years between the different States. This is ever a difficulty with regard to a public works program that involves surface transportation.

It simply is the case that the States are of such different size and topography, that the normal processes of allocation cannot work. The per capita basis for allocating most resources which we dispose of through the Federal Government just is not available to us.

I said earlier today that the Lord made Wyoming 350 miles wide, and there simply is no way to get around that fact. There is no way to get around the fact that all the routes have disparities. The national road, which began in 1806, ran from Frederick, MD to Vandalia, IL. Basically, the route connected Baltimore with St. Louis.

It was a tremendously important event. A hugely important event. That and the Erie Canal opened the West. It bypassed Richmond and it bypassed Philadelphia, and they were furious. It was so far south of Albany that I suppose nobody there thought to complain, and we were even then embarked on the Erie Canal.

Boston and Charleston did not feel in the issue. Anybody close enough to say, you should not put it there; you should put it here, would have difficulty. That is inherent in this Union of States conceived at Philadelphia. That is why we have two Senators from every State on this floor. In the next Congress, 1 State will have more than 50 Members in the House of Representatives, and a number of States will have 1. But each will have two Senators.

So we will do our best to work this out. I think we will. We always have. It was a lot more difficult in Thomas Jefferson's day than it is today, or at least it was thought to have been.

I would like to make the point in these few moments that the allocation of resources between the States in this legislation is a very minor consideration compared with the theory and practice of this legislation as we envision it.

We hope to have the first bill, which will address the issue of surface transportation, a large portion of the public sector of the economy, to introduce into that sector the principles of cost effectiveness, of accountability, and of productivity. They have not been there in the last 35 years. They did not seem to be important issues in 1956, which was when we added defense to the purpose of the enterprise.

And when you hear defense, you cease thinking cost effectiveness, because for good reasons defense outcomes have other measurements. But not here. What we find here is what public sectors find everywhere. It is the problem of government in our age.

Public sectors are so inefficient. We have the productivity rates. I remarked earlier today that it is not generally seen this way, but productivity in manufacturing in the United States may be at its all-time high. I am not an economics historian, but productivity in durable goods is rising at 6 percent per year, and has been for the last decade. Such a rate of growth doubles in 12 years.

In the end, your wealth, your standard of living, reflects the productivity of your economy. If we had an economy growing at 6 percent, productivity growing at 6 percent per year, we would double our GNP in 12 years.

But, sir, that is only part of the economy. There is another part called transportation. Transportation productivity, Mr. President, has been growing at 0.2 percent a year. At that rate, it takes 3½ centuries to double. You have about the rate of productivity of Western European economy from the year 1000 to the year 1350, an increase in the standard of living that you could see over 3½ centuries. But no one in his or her own lifetime would think anything had changed, the pace of change being so small.

That comes of inattention to these matters, which are inherently difficult to attend to when you are in the public sector spending what appears to be free goods. There are no free goods here. We hear it said there is no such thing as a free lunch. There is not. And neither is there such a thing as a freeway.

They have costs and they have benefits, and what is the balance? It happens that just this morning, the Washington Post, on the job as always, had a front-page story about our new legislation. The Post was contrasting our bill with some proposals in the administration bill. There were some mild details that we want to correct, if that is the term.

The Post observes that the bill that we have reported provides operating subsidies for mass transit.

It does not. An earlier draft inadvertently had that provision. We dropped it right away because we want to know prices here.

But much more importantly, there is a story written by one of the coauthers of the article on the front page. Inside, on the carryover page, I believe they speak of it in the newspaper world, by Mr. Don Phillips, who is a Washington Post writer, it has a headline which tells it all. It says: "Europeans Build Better Pavement Faster—With Guarantees."

This describes a factfinding tour which a group of State transportation officials—I have to assume this was AASHTO, the American Association of State Highway and Transportation Officials. They went over to Europe and came back with—I will just read the lead paragraph of Mr. Phillips' discourse. He says:

> A sense of unease spread through the winter meeting of State transportation officials last year in Phoenix. A transatlantic factfinding tour had a sobering report: European countries have developed an asphalt pavement that lasts twice as long and handles heavier loads than U.S. pavements, is quieter and doesn't rut.

One of the members of the group, Mr. Wayne Muri, who is the chief engineer of the Missouri Highway and Transportation Department, had this to say:

> Rather than a second-class nation, we could become a fourth-class nation, and that's tough for an American to swallow.

Here we are describing ourselves as a second-class nation and talking about the prospect of becoming a fourth-class nation. Well, is has happened before in the history of the world. And when it does, transportation is one of the fulcrums. Because we have built on transportation that National Road, that Erie Canal, the canal system, then the railroad system, followed by the road system. Our road system has now matured, but it is hugely inefficient and not well-maintained. The congestion, which we thought would disappaar with the Interstate System, seems only to have worsened with it.

It says here in the main body of a long article by Mr. Phillips and Mr. Fehr:

> Because of congestion, the Federal Highway Administration estimates that trucks traveling more than 50 miles on intercity highways lose $35 billion a year through loss of productivity, greater fuel costs, higher driver pay and other costs.

Thirty-five billion dollars is a lot; more than we would be spending each year in our program. How come, after the largest public works program in history, designed to get rid of congestion, we have more congestion than ever?

There is an answer to that, Mr. President. Free consumer goods, are disposed of by overconsumption. Congestion is the pricing mechanism for our highways. The economist Steve A. Morrison of Northeastern University compared them in our hearings, to those long lines of people waiting outside butcher shops in Moscow which do not have anything in them. It is very simple. The prices are too low. And so there is a great, excessive demand and a great shortage of supply.

Now, there will always be some congestion at some hours in any transportation system. It is called the football stadium effect. When the game is over, everybody leaves and you have a big jam. That is understood and clear. But when you have systems that appear to provide something free which is in demand, the demand will be higher than the supply. Always. That is a rule that Adam Smith laid down and no one has found a way around it since.

But we are going to try to say to States and cities, think this way: the more efficient systems of travel you get, the better off you will be. The better your ability to compete.

I know we are going to compete on the floor for who gets this Federal money. I would like to see us compete after the legislation is in place. To see who spends it best, who says move to our town. Your trucks will arrive on time, your transit will work, your highways will perform. We will better highways, electronic highways. We have no more electronics in our highways or on our cars as regards their performance than did the model T Ford. Better ways to, for instance, collect tolls. I was a young boy when the Triborough Bridge opened in New York City. I remember the cars going over it. A great moment.

Fifty years later, a person is still standing in those toll booths collecting the tolls. Zero increase in productivity, zero, for 50 years. A dollar's worth of electronics—and that is a good kind of electronics, those little things Americans like to make that only cost a dollar and you make 17 million of them or 117 million—a dollar's worth of electronics would signal to the Triborough Bridge that you are crossing it, record your license plate number, and bill you once a month like a telephone bill. If you do not pay it for 3 months, you lose your license. Easy. You get people out of those toll booths. That is no life, living in those unnecessary exhaust fumes.

We would like to build that, and Senator LAUTENBERG has been very active in the provision of the bill on intelligent vehicles and highways. We would like to see innovation and usage.

I read here in the Post that they are beginning to experiment in Europe with pavement concepts. Some include ground rubber, which is quieter and has qualities—I was interested in that because in our bill, it says 10 percent of surface pavements now should use recycled rubber from those 250 million tires that we discard every year.

And the Tire Manufacturers Association, I would like to record, Mr. President, volunteered that they would be prepared to have a tax levied on tires to provide for this recycling to the point where, instead of "the rubber meets the road," the rubber meets the rubber. And why not? That is what is called thinking. That is what we are suposed to be good at.

We have one provision for a single magnetic levitation project to be awarded by competition by the Department of Transportation. Here is a good exmple of our problems. We are the only major industrial country in the world that is not experimenting and developing high speed transportation systems. The most advanced such system is magnetic levitation. Magnetic levitation, Mr. President, is the floating train. Magnetic fields repel each other and a car, of whatever length, simply rises on a guide path and moves along at 220 miles per hour, no friction, no difficulties of that kind. I have ridden on one in Germany. There is one going into fare box operation in Japan now.

It is a little too familiar to have to tell you, sir, that magnetic levitation was invented in the United States and is being made in Japan. I do not know who is to blame for that but two nuclear engineers, very able men, still very active, Doctors Danby and Powell at Brookhaven National Lab, patented the device in 1964. We put a little money into it in the 1970's and dropped it. It is going on all over the world.

This will be the first time since the railroad, which was the beginning of modern transportation, where the United States is not ahead of all the other economies of the world, or at least abreast of them.

We were that way with the steamboat. We caught up on the long-distance railroads. We did it with the automobile. We did it with the airplane. We are not doing it now. I think we went to sleep during that period of the Interstate System and I hope we can wake up with this legislation. It is not just the Surface Transportation Act, it is the Surface Transportation Efficiency Act. We are making a bet on ourselves. I think we ought to do that.

Mr. President, at this point in the RECORD, I ask unanimous consent to have printed the introduction to the report which I prepared several weeks ago.

There being no objection, the introductory statement was ordered to be printed in the RECORD, as follows:

INTRODUCTORY STATEMENT

The first Federal highway program was signed into law by Thomas Jefferson on March 29, 1806 (2 Stat. 357). It was part of the arrangements whereby Ohio was admitted to the Union. The National Road, as it came to be known (more recently, U.S. 40), was to connect the new state with the Eastern seaboard. As has been the case ever since, the legislation both divided the states and united the nation. The historian Philip D. Jordan writes:

"The South was antagonistic because it feared a Western road would drain off its population and because Richmond was not included on the route. Pennsylvania was angry because the road would pass through only a small part of the state and because Philadelphia was by-passed."[1]

Even so, no state failed to give the measure at least one supporting vote. The age of internal improvements had begun, as had the debate concerning them.

Then, and ever since, internal improvements have been intricately involved with foreign relations. The origins of the National Road go back to the French and Indian wars and George Washington's earlier expedition to the Ohio valley in 1753. A basic fact of American geography is that, save for a gentle nine mile portage between Lake Erie and Lake Chautauqua in New York, a river and lake system runs from Quebec City on the St. Lawrence River to New Orleans on the Gulf of Mexico. Until the advent of the canal and the railroad, these natural waterways were the most economic routes for exports from the American interior. But they passed through foreign domains, and the national government was constantly seeking through tariffs and assorted preferments, especially roads, to maintain the link to the original thirteen.

The era of The National Road gave way to a period of canal building, followed by the advent of the railroads. Again the Federal government was involved, and again we were crossing the continent. Vast tracts of Federal lands were given to the transcontinental railroads. The railroad system matured at about the turn of the century just as a new transportation technology, the automobile, made its epic appearance. In 1916 Congress enacted a permanent Federal roads program. Not large, but ongoing and again rural-oriented. ("Farm-to-market" roads, as they were known.)

By now another great technological change had occurred, albeit few saw it in those terms. The City. The Census of 1920 reported that for the first time the majority of Americans lived in "urban" areas. These could be quite small communities, but the essential truth was that the United States had ceased to be an agricultural nation. Whatever Jefferson's fears and Hamilton's hopes, we were now an urban civilization. Our wealth came from Big Cities, and mainly from manufacturing in such cities. Detroit, which manufactured automobiles, was the quintessential such city.

The idea of a vast national network of "superhighways" to connect these cities, and to provide high speed separated roads within them appears to have taken shape with the great success of the General Motors "Futurama" exhibit at the 1939 World's Fair at Flushing Meadows in Queens, New York. From there it was then a short distance to the White House where President Franklin D. Roosevelt soon proposed such a system. Legislation authorizing a "National System of Interstate Highways" was enacted in 1944.

As all students of the Congress know, authorizations are one thing, appropriations are another. At first, little money was forthcoming for the Interstate System. Then, in the next decade a President came to office who cared very much about the subject, having encountered it in a formative personal experience more than three decades earlier.

In 1919, young Army Lt. Colonel (soon to revert to his peacetime rank of Captain) Dwight D. Eisenhower was given command of a serious military exercise. He was to assume that wartime events had disabled the railroads. He was to lead a convoy of Army trucks across the country from Camp Meade in Maryland (about where the National Road began) to San Francisco. In "At Ease: Stories I Tell to Friends," Eisenhower writes:

"To those who have known only concrete and macadam highways of gentle grades and engineered curves, such a trip might seem humdrum. In those days, we were not sure it could be accomplished at all. Nothing of the sort had ever been attempted."[2]

The convoy averaged less than seven miles per hour. The trip took two months, and proved that cross-continental travel by truck was all but infeasible for defense purposes. The convoy demonstrated that railroads were indispensable; ironically, it also contributed to their great decline. In 1950, the railroads carried 47 percent of freight traffic. By 1989, this had dropped to 26 percent. Truck traffic has seen a corresponding increase.

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[1] Philip D. Jordan, *The National Road* (Gloucester, Mass.: Peter Smith (1966), p. 74.

[2] Dwight D. Eisenhower, "At Ease: Stories I Tell to Friends" (New York: Doubleday & Company, Inc., 1967), p. 157.

Eisenhower became convinced of the need to end such dependence on rail. Upon becoming President he set about seeing to it that the National System of Interstate and Defense Highways (as it became in the Federal-Aid Highway Act of 1956 [70 Stat. 374]) got up and going.

Working with a group of young Congressmen on the House Public Works Committee, notably Jim Wright of Texas, later to become Speaker of the House, the idea emerged of a Federal gasoline tax to be paid into a Highway Trust Fund dedicated to this object. This, too, was provided in the 1956 Act (70 Stat. 374). Construction of the Interstate System now began in earnest. Years later, President Eisenhower would regard this as the most important domestic achievement of his administration.[3] At the urging of our esteemed late colleague Senator John Heinz of Pennyslvania, the system is now officially designated the Dwight D. Eisenhower System of Interstate and Defense Highways.

In the meantime, however, the first true segment of the Interstate System had been built in New York, where the idea had first gained currency. Not too long after the end of World War II, automobile ownership began to grow again, not least to follow housing to the suburbs. In 1950 the New York State Legislature created a public corporation to construct and operate a 559 mile expressway, from along the historic route up the Hudson and westward through the break in the Appalachians that had been first traversed by turnpike, then canal, then railroad. The Governor Thomas E. Dewey Thruway, as it would be named in recognition of its sponsor, was opened in 1954, the longest toll road superhighway in the United States. With passage of the Federal-Aid Highway Act of 1956, the Thruway was included in the Interstate System as Interstates 87 and 90.

Bertram D. Tallamy, who had supervised construction of the Thruway as New York State's Superintendent of Public Works, and later as Chairman of the New York State Thruway Authority, was asked by President Eisenhower to come to Washington to build the Interstate System. In 1957, Tallamy took over the then-small Bureau of Public Roads in the Department of Commerce as the first Federal Highway Administrator appointed by the President and confirmed by the Senate. He used his vast experience with the Thruway to launch the national program.

It was originally understood that this would require 13 years and cost $27 billion. In the event, however, it would take more on the order of 39 years and $128 billion, which is to say three times as long and 5 times as much as originally planned.

Even now, it is not quite finished. Two urban segments, the Glenn M. Anderson Freeway in Los Angeles and the Central Artery/Third Harbor Tunnel in Boston remain to be completed, and some States are still owed reimbursement for segments removed from the system. In all, another $8 billion will be required over the next 4 years. However, it will then, finally, be done.

This is excellent news, but of course comes as no surprise. In 1987, as floor manager for the Surface Transportation Act of that year, I repeatedly reminded the Senate that this would be the final legislation of the Interstate era, and that in 1991 a new period would begin.

In the years since, the Subcommittee on Water Resources, Transportation and Infrastructure has held extensive hearings on the needs of this new period and its constraints on those needs.

One of these constraints, as will be discussed, is budgetary. The United States government for the present and foreseeable future cannot and will not embark on the epic enterprises that came with such seeming ease to Roosevelt and Eisenhower. We have spent our money on other things, and are now much in debt. And there you are.

But this is not our only constraint. The plain fact is that traffic congestion has grown during this period of massive highway construction. We have to face the fact that even if we had greater resources than we do, adding to highway capacity does not any longer seem a promising road to increased highway efficiency. In city after city we heard of horrendous congestion problems. Yet this was a problem the Interstate System was meant to resolve. (Whatever President Eisenhower's purposes!) In their definitive study, "Autos, Transit and Cities John E. Meyer and José A. Gómez-Ibáñez observe:

". . . [T]he greatest disappointment with the interstate highway program . . . was that it did not seem to achieve its major objective of reducing traffic congestion."[4]

This is the oldest of urban problems. Rome struggled with it until the day the Goths arrived. We have done the same. Meyer and Gómez-Ibáñez note that when the Interstate program seemed to be failing we turned to the Urban Mass Transit Act of 1964. First construction grants; then operating subsidies. Again with limited or seemingly counterintuitive results.

In effect, both practitioners and analysts urged the Committee to consider that four decades of straight forward adding to "supply" by building more urban highway lanes or diverting demand through additional transit facilities had been tried—and has had at most a partial success. The subject is more complicated. The systems involved are complex, interdependent, often idiosyncratic. They cry out for innovation and flexibility. Thus the Committee approached its task in the context of three realities.

First, with the completion of the Interstate System and cutbacks (in the case of transit), the United States has entered a period of general disinvestment in infrastructure. Specifically, in surface transportation infrastructure. The most important study of the overall subject was "Fragile Foundations," the 1988 report of the National Council on Public Works Improvement, which was created by the Public Works Improvement Act of 1984 (Public Law 98-501). The Council found that federal expenditures for highways, to take one segment, reached a peak in 1965 at some $40 billion per year. This is followed by a steady decline into the early 1980s, when expenditures leveled off at about the $10 billion per year level, where they remain. (Both numbers are in 1982 dollars.)

Federal outlays are important, but note that far and away the largest share of investment in transportation infrastructure comes from state and local governments. In 1989, for example, State and local governments accounted for 84 percent of the total outlays for roads and highways, with the Federal government providing only 16 percent.

A second reality that emerged from our hearings is that the level of federal investment in infrastructure generally, and in surface transportation specifically, is not likely to rise at any time soon. Rescuing America's "crumbling infrastructure" has become part of the imagery of American political discourse. For the moment, however, the federal deficit is a reality and a restraint. Just as engineers live in a world of precision measurement, prudent risk, and the understanding that decisions must be based on what is, rather on what might be, so legislation concerning public works must be equally realistic.

Certainly a case can be made for greatly expanded investment in infrastructure. It is probably still not widely understood just how far we have wandered from our traditional, industrious, improving ways. During the early 1980s, as an example, the mighty and ancient United States Army Corps of Engineers designed and supervised more construction in Saudi Arabia than in the United States. (In the course of this foreign adventure we built among other things, 46 mosques. Excellent as a limited exercise, but even mosque building can be carried to excess.)

No doubt many members of our Committee would like to see greater spending for infrastructure, and would propose means by which to pay for its, notably an increase gasoline tax. Some would contend that such an increase would make for sound energy policy regardless of other needs or advantages. But for the moment, this Committee has been asked to devise a Surface Transportation Act that contemplates an outlay of some $105 billion over five years.

Be clear, however. We are going to spend more money on surface transportation. The present bill calls for the expenditure of $105 billion over the next five years, nearly one third more than the $80 billion of the past five years. Leaving aside interstate construction and substitution, the increase is one half.

A third reality emerged from the first two. If we will learn from the past and think about the future we must get more for our money. Given that investment is declining, and that it is not likely to rise anytime soon, it follows that the surpassing theme of the post-Interstate period must be efficiency. Hence the Surface Transportation Efficiency Act of 1990.

The heart of the matter is productivity. In the manufacturing sector of the American economy, productivity growth has been robust. As, for example, in durable goods, where productivity has been growing at the astounding rate of 6.0 percent per year. But everything that is manufactured must be transported, and productivity growth in transportation has been flat to the point of being nonexistent. In April, the Honorable Michael J. Boskin, Chairman of the Council of Economic Advisors, advised the Committee:

"Output per hour in the Transportation sector broadly defined rose at only 0.2 percent annually from 1979 to 1988."[5]

The contrast is incredible. A growth rate of six percent per year means that productivity will double in 12 years. If the whole of the economy were to grow at such a rate, living standards would increase five-fold in the course of a single generation. By contrast, if the economy as a whole were to grow only at the rate of 0.2 percent per year, it would take 12 generations for living standards to double.[6]

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[3] Bryce N. Harlow to D.P.M., Conversation, 1969.

[4] John Meyer and José A. Gómez-Ibáñez, "Autos, Transit, and Cities" (Cambridge, Mass.: Harvard University Press, 1981).

[5] The Honorable Michael J. Boskin to Senator Daniel Patrick Moynihan, April 18, 1991

[6] Calculations are based on 30-year generations.

Jordan reports that the immigrant Irish laborers who did much of the pick and shovel work on the National Road were paid $6 per month. A 0.2 percent productivity growth since that time (for the economy as a whole, of course) would have brought monthly wages (in constant dollars) up to about $9 per month by now. Or $108 per year. Now clearly this would not seem a satisfactory growth rate to most of us. But that is our growth rate in transportation. Just as clearly, it is not something we can blame on foreign competition. Not, mind, that some won't try. But the Committee feels there ought to be a more constructive outlet for dissatisfaction. Namely, to think harder and to do better.

This will not be easy. When was it? No one seems to know just why productivity in transportation is so low. For one thing there is a stunning absence of data—facts. Transportation economics is clearly held back by the paucity of reliable information. (It is for this reason that the Act proposes to establish a Bureau of Transportation Statistics in the Department of Transportation.) However, as President John F. Kennedy would say, to govern is to choose, and we have chosen two working propositions as having the most explanatory power, and being the more convincing.

The first proposition is that our problems derive in part from a lack of technological innovation which has been virtually absent from this huge area of the economy.[7] Not entirely, but relatively. All the major machines—the steamboat, the railroad engine, the automobile—are 19th century inventions. (It is hard to assign a particular date for the pipeline. The "Big Inch" pipeline reached Pennsylvania from Texas in 1943. On the other hand, Robert Fulton was experimenting with cast iron aqueducts in the 1790s. The Committee readily concedes that engineering history is the province of other authorities.)

For the first time since Fulton's steamboat—the *Clermont* made its journey from New York to Albany in 1807—the United States is watching other nations take the lead in surface transportation technology. High speed rail, not a new technology, but an old one with new improvements, is developing rapidly (!) in Europe and Japan. In a number of states, including Texas, Florida, Pennsylvania and Nevada, there is active interest in building such facilities, using European or Japanese products. Which is competitive and good. What is not good, however, is for there to be no American firms in the competitions.

Even as this report was in preparation, the New York Times reported:

"GERMANY ROLLS OUT ITS FAST TRAIN

"BUILDERS HOPE TO COMPETE WITH THE FRENCH AND JAPANESE

"BONN, May 29.—Germany's state-owned railroad system formally introduced its new high-speed train service today, as slick, computer-controlled trains capable of speeds of 250 miles an hour carried 4,000 guests to a coming-out party in Kassel, a crossroads city lying almost precisely at the country's geographic center.

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"More than two dozen Inter-City Express trains will begin regular service Sunday morning on a newly built line linking Hamburg, Frankfurt, Stuttgart and Munich and cities in between. The network will be expanded in the years ahead to include Berlin and other destinations, and it will eventually be part of a planned Western European high-speed train system.

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"The Germans contend that their high-speed train is more technologically advanced and more comfortable than its French and Japanese counterparts. But it also costs more.

"Industry experts said experience and more flexible pricing made France's TGV and the Japanese "bullet" trains the front-runners in the bidding to build high-speed lines in other Western European countries and in the United States. Canada, South Korea and Taiwan are also accepting bids on high-speed train systems, while Australia, Brazil and the Soviet Union are considering such projects."[8]

The Times report goes on to note that the German state-owned enterprise is losing money, despite large government subsidies. Clearly no such effort is possible for the United States at this time. Or, rather, clearly the United States is not going to commence any such effort at this time. Still it is troubling to be out of the race.

This is especially disconcerting in the case of magnetic levitation, a genuinely new technology invented in the United States by Dr. James Powell and Dr. Gordon Danby, who got the first patent in 1966. The U.S. Department of Transportation did support some development work in the 1970s. But then, like much else, the energy just seems to have seeped out of our system. Two decades later we look up and find "maglev" systems moving ahead smartly in Germany and Japan. This technology will almost inevitably be established in the United States one day and the Committee would hope that American manufacturers will be able to bid for the work. To this end, the Act provides $750 million for a single "maglev" system to be constructed along a route chosen by the Department of Transportation following a national competition.

It is also evident that there is an enormous opportunity to introduce electronics into cars and highways. The hardy if furtive pioneers who first equipped their automobile dashboards with radar detectors will now be followed by millions on millions of ordinary drivers whose cars will be routinely equipped with new devices to collect and receive all manner of highway information. The Intelligent Vehicle-Highway Systems Act contained in Part C of our bill will create a program for applied research and development of these technologies.

Our second theme is that surface transportation has been subject to the inefficiencies associated with the public sector of any economy. There is no reason to be defensive about this. It is the nature of the beast. Public goods tend to be perceived as free goods, and consumed as if they had no cost. There is, of course, a cost. It is merely hidden. The trick, then, is to find a rationing mechanism that is the equivalent of a pricing system.

Just as there is no such thing as a free good, there is no such thing as a freeway.

The evidence is not clear—more accurately, there is no evidence as such—but it is not unreasonable to suspect that considerable portions of the Interstate System were built simply because the Federal money to do so was available in near unlimited quantities. That is to say, as a 90–10 ratio of Federal to State funds, or even 95–5.

This being said, let there be no question as to the large view of the Committee. The Interstate System has been an enormous success. If we had not built it when we did, we would be thinking of doing so now. As, indeed, is now being considered in Europe.[9]

On the other hand, there is not much question that the Interstate System went forward without much attention to its prospective effect on urban areas. From the outset, most of the money was destined to be spent in cities. As a nation, we missed this point completely. The Governor Thomas E. Dewey Thruway, the Interstate System prototype, had mainly avoided cities, the single exception being Buffalo, New York. As noted, the Bureau of Public Roads had previously been almost exclusively concerned with what were known as "farm-to-market" roads, small rural routes by definition.

Thirty-one years ago, in 1960, I wrote a long article for The Reporter magazine entitled "New Roads and Urban Chaos." It was, or attempted to be, a description of the new Interstate program written from the perspective of someone who had followed the development of the Thruway and who, from the vantage point of the Governor's office in Albany, could estimate the probable impact of a nationwide system built to Thruway standards—and Thruway size—but built into cities which the Thruway had prudently avoided.

The Interstate System map made you think of great ribbons of concrete crossing Kansas to the horizon. This was true so far as the prairies were concerned, and these great cross-continental routes have been a brilliant success. But this was only half the story, or rather less than half. To say again, from the beginning, most Interstate System funds were scheduled to be used in cities. The Reporter article was an effort to make this point. I argued that the roads as planned were simply too big for most cities as they then existed. Instead, they would smash through, wrecking and dividing and segregating as they went. Moving jobs out and leaving the jobless behind in what has become a permanent mismatch. I argued that the character of American cities would be changed beyond recognition and redemption:

"[t]he program is doing about what was to be expected: throwing up a Chinese wall across Wilmington, driving educational institutions out of downtown Louisville, plowing through the center of Reno. When the interstate runs into a place like Newburgh, New York, the wreckage is something to see."[10]

The wreckage in Newburgh would be more than physical. Shortly after "New Roads and Urban Chaos" appeared in The Reporter magazine, Meg Greenfield wrote a powerful account of the national controversy that had arisen there over the increase in welfare rolls and the association with unemployed minorities. Entitled "The 'Welfare Chiselers' of Newburgh, N.Y.," Ms. Greenfield described the beginnings of what she accurately perceived would become a national political issue that endures to this day. Things had not always been troubled in this Hudson river community, with its idyllic setting. Ms. Greenfield wrote:

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[7] Compare the speed with which the private sector has introduced cellular telephones and "FAX" communications over the last 15 years.

[8] Ferdinand Protzman, "Germany Rolls Out Its Fast Train," (The New York Times, May 30, 1991), p. D1.

[9] See "Advanced Integrated Motorway System in Europe: The motorway project for the Europe of tomorrow," (Geneva: International Road Foundation, 1990).

[10] Daniel Patrick Moynihan, "New Roads and Urban Chaos," The Reporter, April 14, 1960, pp. 19–20.

"The last time Newburgh came to national attention was in 1952. In recognition of progress achieved through intelligent citizen action, Newburgh was honored as the All American City. At the time it was stated that Newburgh had managed to lower its taxes, raise its services, and all but perfect itself in defiance of the laws of American urban life." [11]

Had the Interstate System changed all that? Hard to state. But it is worth recording the Wall Street Journal editorial description of the haphazard manner in which we had set about redesigning the United States: "(A) vast program thrown together, imperfectly conceived and grossly mismanaged, and in due course becoming a veritable playground for extravagance, waste and corruption.[12]

The Reporter essay on the Interstate System had noted that urban planning was even then being described as a failed profession, meaning that the great expectations of the early years of the century had failed to come to pass. But the article also noted that the Interstate program, by any definition at least in part an urban program, made no provision whatever to take urban concerns into account. The prediction was "Urban Chaos." In science a correct prediction, even just once, adds to the likelihood that an explanation has been found. The author makes no great claims, but does assert that in 1960 he foretold "Urban Chaos," associating this with the new Federal highway program, and that urban chaos broke out and has persisted in one or another form ever since.

The eminent economist William J. Baumol describes the situation—thirty years later—in a communication to the Committee:

"I believe the interstate highway system has had at least one crucial consequence. By encouraging the substitution of truck transport of freight for railroads it eliminated one of the major advantages of the city as a manufacturing location. This, and other forces, drove manufacturing jobs elsewhere, and left the cities with excessive populations relative to the employment possibilities they offered. Indirectly, it added to the forces that exacerbated crime, drug consumption and homelessness, and, probably to the burning of the Bronx where I grew up one block from where General Powell was raised, attending the same high school and the same college . . ." [13]

More recently the commentator George Will put the matter in larger terms:

"The traditional functions of central cities are being dispersed. Central cities are no longer the nation's vital manufacturing centers or wholesale and retail marketplaces, or the preferential residence of the middle class. America is becoming the first developed nation in which central cities—cities as traditionally understood—are important primarily as problems." [14]

All this is done and cannot be undone. But neither should it be ignored. Similarly, the question arises as to whether the Interstate System directed more resources to the single-occupant automobile than is optimal for all concerned. In "Commuting in America" Alan Pisarski states that the average vehicle occupancy rate for commute travel in 1980 was 1.15 persons per vehicle, and is not increasing.[15] Hence congestion.

If space on the road appears as a free good, more and more persons use the road until scarcity—a situation of supply being less than demand—appears. A striking analogy was presented to the Committee by Professor Steven A. Morrison of Northeastern University. He likened the situation at rush hour in many American cities to the long lines in front of food stores in Moscow:

"Our highway congestion has the same basic cause—although a more ready solution—as the long lines we see in news reports from the Soviet Union. Both reflect shortages induced by prices set too low. The price system, which we rely on to ration nearly all goods and services in our economy, is usually ignored in seeking solutions to highway congestion." [16]

Pricing need not be inflexible. Toll facilities could, if they chose, introduce differential pricing. Economic historian Stanley Lebergott has suggested that, as an experiment, the toll for crossing the George Washington Bridge that connects New York City with northern New Jersey be reduced to 25 cents between midnight and 6 a.m. this coming Labor Day.[17]

Professor John Kain, who was ever attendant to our least inquiry, testified before the Committee that:

"90 percent of the urban transportation problem—and for that matter, congestion—[is] caused by the gross mispricing of perhaps 5 percent of the nation's highway capacity.

"The problem is that we have a system for pricing our roads . . . that charges vehicles the same amount for every mile driven. However, there are huge differences in the cost of producing highway capacity in various parts of the nation . . ." [18]

The Committee's concern with traffic congestion is necessarily associated with environmental issues, especially those addressed by the Clean Air Act Amendments of 1990, which occupied the Committee for much of the preceding decade. In Los Angeles County, for example, traffic congestion is said to cost upwards of 72 million gallons of gasoline every year. At present, 61 percent of Americans live in areas that violate federal air quality standards. Overwhelmingly, this air pollution is the result of inefficient use of the automobile as a mode of transport.

The only feasible way to introduce marketplace pricing and competition into the transportation system is to encourage states, and within states, cities, to compete with one another in how effectively they use the money made available to them.

We don't have to invent such competition. It already exists. It has existed from the beginning of the Republic. What do members of Congress tell their constituents more than any other single thing? That they "bring home the bacon." The problem is that most of this largesse comes in the form of a nominally free good. Once obtained, there is not accountability as to whether the investment is "profitable" or not.

It is very hard to develop competition in a setting of public monopoly. Our idea is to let states compete among themselves. Let them learn from each other's mistakes; copy each other's successes. Those who make wise decisions will prosper. Those who make poor decisions will pay.

This should be the new spirit of the public sector in America. It may sound odd, but there could be no better place for it to begin than with highways. Highways, after all, is where the public sector of the American economy begins. Before public schools, before public broadcasting, before public financing of election campaigns—came public roads.

The moment calls for flexibility. No one state or city is exactly like another. Our job must be to facilitate and reward the best mix of transportation modes suited to specific jurisdictions.

The Committee has been hugely encouraged by what we have seen and heard in hearings in Washington and across the nation. Everywhere we came upon highway officials, transit officials, transportation boards and commissions with high levels of innovative energy. Transportation is a major concern almost everywhere in the United States. Increasingly this concern attracts talent and invites innovation.

Our legislation requires large metropolitan areas to begin serious, formal transportation planning. Had this been specified in the legislation providing for the Interstate System, we possibly would have a more efficient transportation network today. But that was then, now is now. The Committee has heard testimony from state and local officials who have asked for a larger role for Metropolitan Planning Organizations, which bring local elected officials into the planning process. We have tried to respond to these requests.

Not every jurisdiction or every interest will be fully satisfied by our proposal. This is the nature of legislation to allocate resources across a continent. This was the case with the National Road in 1806; it is still the case nearly two centuries later.

Even so, the Subcommittee has been encouraged by the general reception to the present proposal. Perhaps most by the testimony of the Honorable Alan S. Boyd, whom President Lyndon B. Johnson asked twenty-five years ago to serve as the nation's first Secretary of Transportation. The Committee's bill, he declared in testimony of May 14, 1991, is "breakthrough legislation." We like to think it is and are hugely encouraged that such a distinguished public servant first volunteered the thought.

It remains to address two important concerns of the administration. In a letter of May 22, 1991, addressed to Chairman Burdick, Secretary of Transportation Samuel K. Skinner noted that the Committee bill did not establish a new National Highway System, as proposed by the administration, and did not increase the State/local share of the costs of surface transportation projects and thus get more "leverage" from Federal funds. The Committee was of course aware of the Secretary's concerns, and sympathetic to them. However, the National Highway System called for by the administration bill (S. 610) is not yet drawn. No Senator can know that any portion of it will be located in his or her State. No Representative can know whether any segment passes through his or her District. We may assume, for example, that Texas will be included. But we don't know.

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[11] Meg Greenfield, "The 'Welfare Chiselers' of Newburgh, N.Y.," The Reporter, August 17, 1961, p. 37.

[12] "Warning: Icy Roads Ahead," The Wall Street Journal, December 29, 1959, p. 10.

[13] Professor William J. Baumol to Senator Daniel Patrick Moynihan, April 30, 1991.

[14] George F. Will, "New York: A Failed City," The Washington Post, May 20, 1991, p. D7.

[15] Alan E. Pisarski, "Commuting in America: A National Report on Commuting Patterns and Trends" (Westport, Connecticut: Eno Foundation for Transportation, Inc., 1987), p. 50.

[16] U.S. Senate Committee on Environment and Public Works, "Congestion Pricing and Infrastructure Financing: Hearing before the Subcommittee on Water Resources, Transportation, and Infrastructure," 102nd Cong., 1st sess., March 21, 1991, p. 7.

[17] Professor Stanley Lebergott to Senator Daniel Patrick Moynihan, May 1, 1991.

[18] U.S. Senate Committee on Environment and Public Works, "Demographic Trends and Transportation Demand: Hearing before the Subcommittee on Water Resources, Transportation, and Infrastructure," 102nd Cong., 1st sess., February 7, 1991, pp. 8–9.

The Committee bill accordingly directs the Secretary of Transportation to draw a precise map and submit the proposal to the Congress in two years' time. As for increasing State and local matching ratios, the Committee is simply of the view that given the current economic recession this is not an appropriate time. Thus in the lead article of The New York Times on May 30, 1991, Mr. David E. Rosenbaum reports:

"WASHINGTON, May 30.—States and municipalities across the country plan to raise taxes and cut spending by tens of billions of dollars in the fiscal year that begins July 1, and economists fear that the money this takes out of consumers' pockets could inhibit recovery from the recession.

"Edward M. Gramlich, a professor of economics at the University of Michigan who is studying the situation for the Congressional Budget Office, has concluded that belt-tightening by state and local governments could send unemployment up by one-half of one percentage point nationwide. . . ."[19]

Indeed, the current recession makes it all the more important to ensure that the new Surface Transportation Efficiency Act is enacted prior to October 1st, when the existing Act expires.

That said, it remains to thank Secretary Skinner for his great patience and insight, along with his most distinguished Administrator of the Federal Highway Administration, Dr. Thomas D. Larson. They have been supportive throughout our deliberations. If we have not always been able to agree on everything, we have even so come this far with a growing sense of gratitude and regard for their efforts.

DANIEL PATRICK MOYNIHAN.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1235 and S. 1236 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

THE HIGHWAY BILL

Mr. HELMS. Mr. President, reauthorization of the Federal Highway Program is always an important and often contentious matter, but this year's reauthorization is the most important reauthorization in 35 years. I hope it will not be contentious. About that we will have to wait and see.

The Interstate Highway Program—first funded in 1957, as I recall—is on the verge of being completely finished. Therefore, Congress must establish priorities for our Nation's various transportation needs for the next 5 years and beyond in terms of funding.

In other words, the most important part of this debate, the most important question to be resolved, will be how the $92 billion in Federal highway funding will be distributed among the States. For 35 years, North Carolina and many other States have consistently, year after year, sent more money to Washington in transportation fees and taxes than they have received in return for their highway programs.

North Carolina to be specific—and obviously I am primarily interested in that State—has sent $1.7 billion more transportation dollars to Washington since 1957 than my State has received in funding from the Federal Highway Program.

Obviously, Mr. President, North Carolina could have used that money but, like other States that have been shortchanged, we donated this money to assist less populated States in building their portions of the national interstate highway network because those States could not have built those roads without that help.

And this I understand. But, as I said at the outset, the Interstate System is almost complete and the need for some States to donate to other States is no longer as necessary, because maintaining the interstates will cost a great deal less than building them did.

Sad to say, Senator MOYNIHAN's transportation bill—which has been and is being discussed on this floor today—takes the money from the so-called donor States as if the Interstate System were still being built. But I reiterate for the point of emphasis, that the interstates are nearly completed now. So the ballgame has changed and the playing field needs to be made level.

Senator MOYNIHAN's highway bill fails to recognize this fact because it incorporates the same inequitable funding allocation formulas as under current law. The bill, therefore, fails to mitigate in any way how much money donor States, like my State of North Carolina, will be required to contribute to other States.

Now let us look at a few specifics, and there will be more and more of these as the days go by. Under the Moynihan bill, North Carolina will continue to receive just 84 cents for every transportation dollar North Carolina sends to Washington. Senator MOYNIHAN's bill proposes, on the other hand, that New York receive a whopping $1.27 for every dollar Senator MOYNIHAN's State sends to Washington. In fact, almost every State in the Northeast—States with large populations that ought to be able to pull their own weight—gets more money back than it puts into the Federal Highway Program.

For the 5-year period beginning in 1992, Rhode Island would get $1.66 for every dollar paid into the highway fund. Vermont will get $2.10; Connecticut gets $1.46. Massachusetts gets a $1.05. Delaware gets a $1.62. And so on and so on.

Mr. President, most of the extra money awarded to these States is primarily taken from States in the Southeast and the Midwest.

Perhaps I should also emphasize that these figures do not include the large amounts that States receive under the Mass Transit Program. Of course, some of the States I have just listed will receive the lion's share of the Federal Mass Transit Program funds as well. I note that in the Federal Mass Transit Program last year, North Carolina got back a mere 5 percent of the $45 million we sent to Washington for that program. I will have more to say on this, however, when the mass transit bill becomes the pending business in the Senate.

Senator WARNER, whose State of Virginia likewise will suffer under the Moynihan bill, has offered another highway transportation reauthorization bill recognizing that the interstate highways are almost complete. Senator WARNER'S bill uses a new allocation formula that is vastly more equitable to those States that have been forced to donate money for the past 35 years.

Under the Warner bill, North Carolina, Virginia, and the other 17 so-called donor States still will not get back 100 cents for every highway dollar they send to Washington, but they do much better than they would under the Moynihan bill.

Mr. President, the donor States realize the sparsely populated States out West will still need some help maintaining the interstates and other national highways, but those of us in the donor States see no reason why our States must be compelled to subsidize large metropolitan States. These States should not receive inordinate subsidies at the expense of North Carolina and other so-called donor States. As I said earlier, the urban States already receive enormous Federal subsidies for their unique transportation needs through the Federal Mass Transit Program.

Fair is fair, Mr. President, but the Moynihan proposal is not fair. And that is why it is being resisted by a number of Senators.

Mr. President, I reiterate that in 1990 North Carolina got back only 54 cents of every dollar it sent to Washington. For 35 years my State has helped others in order to build the Nation's interstates. But even though the interstates are complete, the Moynihan bill will return only 84 cents to North Carolina for every dollar sent to Washington. The Warner bill does not give us back 100 percent, but it does improve North

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[19] David E. Rosenbaum, "States and Cities With Deficit Woes May Slow Rebound," The New York Times, May 31, 1991, p. A1.

Carolina's return to 94 cents on the dollar, much better than the 84 cents offered by the Moynihan bill.

Mr. President, fairness and equity demand that States like North Carolina will no longer be required to send more of their transportation dollars to other States than is absolutely necessary. The Warner bill moves in the direction of correcting this inequity. The concerns of the 19 so-called donor States must be addressed before a new highway reauthorization bill becomes law.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 1242 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE NOMINATION OF ROBERT STRAUSS

Mr. EXON. Mr. President, I rise to congratulate the President and my good friend Robert Strauss. I was delighted to learn that President Bush has nominated Robert Strauss, to be the next United States Ambassador to the Soviet Union.

Robert Strauss is a statesman and a most shrewd businessman. He was appropriately described by a fellow Texan as the "ultimate capitalist." Bob Strauss also understands the strategic and economic interests of the United States and is a visionary who can help guide United States-Soviet relations through a most interesting and exciting time.

I can think of no individual more qualified, or more respected by Democrats and Republcians alike than Ambassador Robert Strauss. In terms of world peace and prosperity, the nomination of Robert Strauss could well be considered the President's single most important nomination.

I am especially cheered by the fact that Bob Strauss has keen understanding of how important agriculture is in the United States. The Soviet Union represents one of America's most promising long-term export markets for American food products.

I look forward to discussing an agenda of cautious but constructive cooperation with Ambassador Strauss. As a leading advocate of barter and countertrade, I also look forward to discussing my ideas on trading American food for Soviet oil and other natural resources to expand American food-export markets.

Bob Strauss's incredible knowledge of economic and commercial matters will help guide our Nation in its rapidly developing commercial relationship with the Soviet Union and his deep commitment to United States national security will assure that the United States does not let our high hopes for closer friendship, trade and exchange with the Soviet Union cloud our judgment on security matters.

Mr. President, as the chairman of the Strategic Forces and Nuclear Deterrence Subcommittee with very serious responsibilities for America's nuclear arsenal, I am most encouraged by the President's nomination of Bob Strauss and I look forward to working with Ambassador Strauss and the Bush administration to form American policy toward the Soviet Union.

AREAS FOR UNITED STATES-SOVIET COOPERATION

Mr. EXON. Mr. President, today, I present the third report on my observations, recommendations, and reflections following a spring visit to the new democracies in Eastern Europe and the Soviet Union. In my first address I discussed my views on Eastern Europe, my second speech focused on political developments in the Soviet Union, and this report will discuss what I consider to be key areas of U.S.-U.S.S.R. cooperation.

As I have discussed in my previous address, the Soviet Union is undergoing rapid and dramatic change. The economic, political, and social underpinnings of Soviet society are crumbling and that nation is scrambling to rebuild and reshape its very foundation. This is no easy task for a multiethnic nation which covers one-sixth of the globe.

The present represents a unique time in history where the events and actions of the next dozen months can shape the future of the world for decades. The United States should take every opportunity to encourage the Soviet Union to continue down the path of peaceful political and economic reform.

It is a time for caution, but also a time for vision. The United States, unlike any other nation has the ability to influence and coax events in the Soviet Union. As I said in my last address, the United States has provided the Soviet Union and the world a shining example that the path to a better life is the path marked democracy and freedom. The Soviet Union should fully understand that closer ties and cooperation with the United States and the free world are made more likely with each Soviet step toward a free and democratic society.

In light of the dramatic changes which have occurred thus far in the Soviet Union there are several areas where cautious but constructive cooperation is appropriate. These areas emphasize the mutual peaceful aspirations of the United States, the Soviet Union, and the world community. As confidence is built through these initiatives, additional cooperation can be explored.

WORLD PEACE

First and foremost, the central focus of American and Soviet cooperation must be to continue to make the globe a more peaceful and safe place. Arms control, arms reduction, and risk reduction must remain at the top of the United States-Soviet agenda. In my earlier address, I outlined my serious concerns about the Soviet view of the Conventional Forces Europe [CFE] Agreement. While in the Soviet Union, I repeatedly made it known, that the United States Senate would have a difficult time placing confidence in a START Treaty. Since my return, I have been encouraged to learn of a measure of flexibility from the Soviets and will be watching carefully as CFE discussions continue. It now appears that the Soviet Union understands, that a high degree of confidence with regard to the CFE agreement is an absolute prerequisite to progress on the START Treaty.

As the chairman of the Strategic Forces and Nuclear Deterrence Subcommittee of the Senate Armed Services Committee, I am especially concerned that in spite of reductions in other areas of military activity, the Soviet Union continues to modernize their strategic forces. As such, the United States has no option but to continue our modernization program. That is a key reason I strongly support the B-2 bomber and research and development for the star wars system. The United States must consider military capability in planning our national defense, rather than present day personalities or intentions.

Over the long term, change in the Soviet Union coupled with significant verified arms reduction can open entirely new vistas for our two nations. Soviet cooperation in the Persian Gulf represented a remarkable turning point for U.S.-U.S.S.R. relations and for global politics. By working together, our nations can make the world a much safer place.

ENVIRONMENTAL CLEANUP

While in the Soviet Union, I met with Deputy Minister Mikhailov of the Soviet Atomic Energy Ministry. I sought this meeting to discuss a proposal Secretary Watkins and I have been discussing over the last few years, namely that America and the Soviet Union should cooperate on the cleanup of the nuclear waste created by the production of nuclear weapons. I told the Minister that our nations both know how to make nuclear weapons and components, but as nations we have not done a good job of cleaning up the waste produced by these endeavors. I said that if the United States and the Soviet Union can enter into a START Treaty which attempts to reduce nuclear weapons inventories, certainly, we can get together and work together on nuclear waste cleanup.

Minister Mikhailov welcomed the opportunity to cooperate. He said that it is a good idea to get the best minds together on this common problem. He emphasized that it would be very useful to have experts discuss some of the new "exotic" methods of nuclear waste disposal. He also raised another important point that as both nation's disarm weapons, even more waste will be produced, not just former nuclear warheads, but also nonnuclear components which may have been contaminated.

Cooperation on nuclear waste cleanup would serve the interests of the United States, the Soviet Union, and the world. America has a great deal to learn from the Soviets and to teach the Soviets. The tragedy of Chernobyl should be carefully studied to learn more about accident prevention, reaction, and the treatment of radiation disease. It also gives the world a warning about the many dangers of nuclear technology.

Since my return, I have discussed this nuclear waste cleanup initiative with Admiral Watkins, the U.S. Secretary of Energy, and gave him copies of transcripts of our meeting notes. In the coming months, I will be working with the Secretary to find appropriate avenues for United States-Soviet exchanges of scientists to find answers to our mutual nuclear waste cleanup problems.

AGRICULTURE TRADE

Mr. President, with regard to our economic relationship with the Soviet Union, the old saw that bread is the staff of life is a most apt description of United States-Soviet trade relations. Food is a basic human need and the basic ingredient of an important trade relationship. For political, economic, and humanitarian reasons, agriculture trade is a most appropriate first step toward building a closer economic relationship with the Soviet Union. Food shortages could spark chaos which could derail reforms in the Soviet Union.

In the economic arena, nowhere are the needs of the United States and the U.S.S.R. more closely matched than in the agriculture and food sector. American farmers need new markets and the Soviet people need American food.

During our visit to the Soviet Union, Senator HEFLIN and I had fascinating meetings with Vyacheslav Chernoivanov, the new Soviet Minister of Agriculture and Leonid Filmanov, the Soviet Minister of Oil and Gas.

We sought these meetings to explore opportunities to increase agriculture and food-related exports from the United States to the Soviet Union and to discuss a proposal I had made last year regarding an exchange of American food for Soviet oil.

At our meeting with the new Minister of Agriculture, Senator HEFLIN and I were perhaps two of the first United States officials to be informed of the Soviet Union's interest in additional credit guarantees. It was clear that the Soviet Union's food situation is very serious. Hunger in the Soviet Union is a real possibility. Several reports indicate that there will be a poor harvest in the Soviet Union this year and waste in the Soviet system is widespread. The Minister spoke of 20 percent waste and American experts at the American Embassy told us of upward of 40 percent waste in Soviet agriculture production.

Given the political tension I observed in the Soviet Union, food shortages could unleash a series of reactions and emotions within that country which could further undermine any movement toward reform. That would not be in the interests of the United States. As I have long said, a hungry bear is a very dangerous thing.

On May 15 the U.S. Senate overwhelmingly passed a resolution endorsing the extension of additional credit guarantees by the U.S. Government for additional American food sales.

This resolution backed the extension of credit guarantees in a manner which both encourages continued political and economic reform in the Soviet Union and in a manner which would limit risk to United States taxpayers. It stands as a prime example of the type of cautious but constructive cooperation that I recommend.

As a member of the working group which helped craft the language of the resolution, I am pleased to report that the legislation took into consideration the legitimate human rights concerns raised by several Senators.

The resolution urged the Bush administration to secure clear and binding assurances from the Soviet Union that the credits will not be used to support the military, security, or Communist Party apparatus at the expense of the people of the Soviet Union and that the credits will not be used to pressure the Baltic States or the Soviet Republics to support the new U.S.S.R. Union Treaty.

I was especially pleased that the Senate resolution included language I offered to urge the Bush administration to explore barter, countertrade, collateralization, and other nontraditional means of finance to facilitate additional Soviet purchases of United States agricultural and food products. The resolution also included language I suggested regarding the repayment of past and present credit extended under U.S. guarantees by currency or barter acceptable to grain providers and the United States.

Mr. President, as the Senate knows, I have for some years been an advocate of barter and countertrade as a means of expanding U.S. export markets. Some estimates suggested that 25 percent of world trade moves via barter and countertrade arrangements. For a number of years, the United States officially and unofficially discouraged firms from engaging in barter transactions. In 1988, the Congress changed that policy and adopted legislation I offered to the 1988 trade bill which created the Office of Barter in the U.S. Department of Commerce and made it clear that barter and countertrade should be part of our Nation's strategy to win new export markets.

Barter offers the United States the key to opening markets in areas such as the Soviet Union and Eastern Europe where hard currency is simply not available. Such arrangements would be ideal for expanding United States agriculture trade with the Soviets. For some months I have been encouraging the Bush administration to pursue a food for oil initiative with the Soviet Union.

As I mentioned, I discussed this proposal with the Soviet Minister of Agriculture and the Minister of Oil and Gas. Both of whom expressed great interest in my proposal.

The Soviet Union has the globe's largest oil reserves and the United States has the world's most productive food sector. The Soviet Union needs American food and the United States could use Soviet oil. As I have outlined in several previous speeches, it is time to match up these needs in a mutually beneficial manner. The United States could trade energy technology and food for future Soviet oil deliveries. It can be done on a project by project basis, or under a long-term framework agreement between the United States and Soviet Governments. I should point out that the French have already concluded a similar framework agreement. U.S. export promotion programs such as the Export-Import Bank and the Overseas Private Investment Corporation should be adapted to facilitate sound but creative financing.

Bartering food for oil is a very practical approach. If the United States waits for a convertible Soviet currency, valuable trade opportunities, especially in the food sector where the present Soviet need is so great will have been lost. The barter and countertrade language in the Senate-passed resolution attempts to further prod the Bush administration to explore barter arrangements.

The Soviet Union is an important agriculture market for the United States constituting about 10 percent of America's agriculture exports. The extension of credit guarantees will have a significant positive impact on America's grain markets and represents an important investment and development of a most promising long-term market. When considering food sales to the Soviet Union, it should not escape the attention of the Senate that the French and the Canadians have seen fit to extend agricultural credits to the Soviet Union in recent weeks.

Over the long term, the Soviet market provides a rich opportunity for the American farmer and by using barter and countertrade, the United States can begin to explore the frontier of an expanded trade relationship.

FOOD PROCESSING

In a related area, the Minister of Agriculture made it very clear to Senator HEFLIN and me that his country desperately needs food storage and processing equipment. The Minister asked about credit opportunities to secure American storage and processing equipment. Nebraskans, including Omaha's former Congressman John Cavanaugh have been very involved in efforts to sell processing equipment in the Soviet Union and there are other Nebraska related business concerns looking into the Soviet food distribution network.

I am pleased that President Bush detailed a team to evaluate and advise the Soviets on their food distribution system. Improving the food distribution system is an excellent area for humanitarian assistance and an area where the United States has unparalleled expertise. Such an initiative can also form the groundwork for developing a mutually beneficial trade relationship. Food production, marketing, and distribution are clear American strengths. Rationalizing the Soviet distribution system can also be good for American farm exports. The geography of the Soviet Union is so vast, that there are regions of that nation which can and should be served largely by food exports from the United States. Presently, Soviet trains hauling grain pass each other going in opposite directions. Regional distribution makes sense for the Soviet Union and could create a trade opportunity for the United States. A rational distribution network forms the infrastructure of a market economy. It is my understanding that the Burlington Northern Railroad, a firm with significant operations in Nebraska has been working on such a plan with the Soviet Government to improve Soviet food distribution and transportation. The Soviet Union can learn a great deal from the United States in this regard and the President is to be congratulated for this initiative.

MILITARY CONVERSION

In another critical economic area, one point I heard at several meetings in the Soviet Union was that the military industrial interests are somewhat immovable because arms production employs so many Soviets. Our delegation heard of disappointing and failed efforts to convert Soviet military operations to the production of consumer goods.

If the Soviet Union is to successfully convert its economy, it must make drastic cuts in defense spending, just as reformers, including Boris Yeltsin and Stanislav Shatalin have suggested. Such a reduction will also bring dramatic improvements in the U.S.-U.S.S.R. relationship and add to the level of global security and risk reduction.

While in the Soviet Union, it struck me that the United States should lend technical expertise to the effort to convert Soviet factories from military production to consumer goods production. Upon my return, I saw an excellent article written by former Gov. Richard Celeste which advocates the creation of an International Conversion Management Institute to help both the United States and the Soviet Union identify and implement conversion opportunities. There may be business opportunities in this area as well. Through this cooperation, joint venture partners may be able to identify Soviet military technologies which could be spun off into the consumer and medical sector.

Mr. President, I ask unanimous consent that the article "A United States-Soviet Joint Venture" be printed in the RECORD at the conclusion of my remarks. While I do not embrace every suggestion by Governor Celeste, I believe his article is an excellent place to begin consideration of conversion cooperation. Such cooperation, of course, must be carefully implemented, and progress on the basis of mutual confidence building. In no way would we want to assist the Soviet Union to convert obsolete defense plants and apply American manufacturing innovations to newer more efficient defense operations. Appropriately implemented, such cooperation could help tame the Soviet military bear, meet the growing needs of the Soviet people and build a closer relationship.

In this regard, there exists an even more pressing need for conversion cooperation in Eastern Europe where the needs for employment and hard currency earnings make it very difficult for the governments of the new democracies to end arms production and turn down sales to countries in global hot spots. In the coming weeks I will discuss and explore the possibilities of conversion cooperation with defense and foreign policy experts.

TELECOMMUNICATIONS

To enter the modern age, the Soviet Union, and Eastern Europe for that matter, must modernize their telecommunications infrastructure. Cooperation in this area is also consistent with American expertise and philosophy. The information revolution is a freedom revolution. Even at the height of repression in the People's Republic of China during the Tiananmen massacre, the truth got out via phone calls, faxes, and satellites. Assisting the Soviet Union update its consumer and business communications network serves American interests in promoting free speech, free minds, and free markets.

The beauty of a telecommunications development project is that it is partially self-financing. The Soviet Union has perhaps the worst telephone system in the modern world. It was recently reported that there are only 17 public international phone lines out of Moscow. I can personally report on how difficult it is to call the United States from the Soviet Union. The interesting thing about long-distance phone traffic is that the receiving country earns a tariff on each incoming call. Those revenues are in hard currency. Each improvement in a country's phone system brings an increase in revenues in addition to opportunities for economic development.

Telecommunications is a key area where the United States holds a competitive advantage over the rest of the world, and an area of development which can support future exports. If the Soviet Union and the new democracies in Eastern Europe would devote increased phone tariffs to telecommunications infrastructure development, a good deal of the needed improvements could be self-financed.

The United States should target telecommunications opportunities for export promotion in Eastern Europe and the Soviet Union. As they say in the investment business, this is a chance to get in on the ground floor. Make no mistake, our European competitors are also scouting these important high-technology markets. If the United States does not move aggressively in this sector believe me, our competitors will step into the void. The continuing chill in Soviet-Japanese relations and the anxiety of East Europe and the Soviet Union regarding Germany, create a competitive breech into which the United States should move.

Telecommunications development will not only facilitate commerce, it will foster freedom.

SPACE AND SCIENCE

Another area where the United States already has had some experience is in the area of space and science cooperation. There are a number of exciting exchanges which have already occurred between the United States and the Soviet Union and we all remember the successful joint space mission in the 1970's. Exchanges in space and science should continue and be expanded.

From space, the Earth is not marked by political boundaries, it is but a fragile blue sphere floating in space. Cooperation in space exploration provides a poetic reminder of what is at stake in the U.S.-U.S.S.R. relationship. It appears that both the United States and the Soviet Union have similar ambitions for future space exploration. Both nations face critical fiscal restraints. It simply makes sense to consider joint space missions and to share data from civilian space missions.

PEOPLE TO PEOPLE CONTACTS

The recent liberalization of Soviet travel restrictions may usher in a new opportunities for international travel and people to people exchanges. In many ways, international understanding has built one friendship at a time. While on the last leg of our trip, I had one of the most pleasant surprises of our journey. I was proud and pleased to meet Silvija Purkalitis, the assistant professor of business at Doane College which is located in Crete, NE, when our delegation visited Riga, Latvia, one of the Baltic Republics. Ms. Purkalitis was teaching English to Latvian students. It was thrilling to meet a fellow Nebraskan halfway around the world. The friendships between American and Soviet citizens are one of the best ways to build understanding.

I am also proud of a group of pioneering students from Omaha's Westside High School who are now participating in an exchange program with Soviet students and living with Soviet families. I am certain that these students will return with new friendships, valuable insights and a renewed appreciation of the blessings of America.

In this regard, I also must mention Omaha's SCOLA satellite network which broadcasts global news programs including programming from the Soviet Union to colleges, universities, and secondary schools across the United States to help students and scholars learn foreign languages, economics, and political science.

I salute Ms. Purkalitis, the students of Westside High, and the dozens of Nebraska educators, farmers, and business people who have taken the extra effort to share their knowledge and wisdom with our new friends in the Soviet Union. The United States should encourage more travel, more study, and more student and professional exchanges.

CONCLUSION

In conclusion Mr. President, I have outlined several areas of constructive cooperation with the Soviet Union which make sense under current conditions. If the Soviet Union continues its movement toward a free and democratic society the areas of cooperation are boundless. In implementing my recommendations for constructive cooperation, the United States must work to expand contacts with individual Soviet Republics because that is where increasing Soviet power is moving. At the same time increased contacts with the Republics can serve to make it clear that the United States expects the Soviet Union to respect human rights and negotiate peacefully the future confederation of the Soviet Union.

The liberation of Eastern Europe and the end of the cold war mark the dawn of a new era. Circumstances have given the United States unique leverage in this new era. Our Nation should use that leverage to encourage reform and global security. Certainly, our power must be used carefully and responsibly. However, failure to use that leverage would be squandering a unique and valuable moment in history.

Following World War II, the United States truly created a new world order, not by punishing the vanquished but by welcoming all who embraced freedom including our former foes into the world community. At the dawn of this new era, America can not afford to be timid or short sighted. Eastern Europe and the Soviet Union are embracing freedom. While the scope of our actions are restrained by America's decade of debt, there are prudent investments which the United States can now make in the United States-Soviet relationship and the economic development of Eastern Europe which promise to pay huge dividends for years to come.

My visit to the Soviet Union and Eastern Europe was an enlightening and inspiring journey. It presented a contrast between the joys of new found freedoms in Eastern Europe and the growing anxieties of a former superpower with an economy on the edge of collapse. Our delegation had an opportunity to only touch the surface of the scope of change in Eastern Europe and the Soviet Union. American must now plan a strategy to lock in the victories of liberty over the last 2 years.

These are exciting times. There is a new opportunity for the United States to close the door on decades of adversity and to work together to create the environment for peace and prosperity around the globe.

Mr. President, I ask that the article entitled "A U.S.-Soviet Joint Venture" by Richard Celeste and a partial list of delegation meetings be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Foreign Service Journal, May 1991]

A U.S.-SOVIET JOINT VENTURE

(By Richard F. Celeste)

The scope of change in the Soviet Union today is mind-boggling. And although the change may be too slow for ordinary Russian citizens lining up for daily necessities or for radical reformers articulating "500-day" visions, its pace is astonishing as well.

In February 1990, I led a delegation of 14 Ohio business people to Moscow and Riga, Latvia to explore trade opportunities. We were the guests of the mayor of Moscow and the prime minister of Latvia, both senior Communist Party officeholders. Arriving the same evening that the Soviet Parliament responded favorably to President Gorbachev's request to eliminate the primacy of the Communist Party in the Soviet Union, we saw the beginning of change. Nevertheless, I returned skeptical of the opportunities for joint enterprise between U.S. business and Soviet counterparts.

In November 1990—only 10 months later—I returned to Moscow as part of a joint business-academic delegation, sponsored by the Council on Economic Priorities, to meet with Soviet counterparts. Our dialogue focused on the transfer of public investment from military to civilian production in both our nations. In contrast to my earlier visit, this time I was cautiously optimistic.

TOOLING UP FOR CONSUMER GOODS

Today, the Soviet Union is struggling to bring about a virtual industrial revolution, as governments work to shift the focus of the economy from military to civilian production. Some Soviet experts say that military expenditures have constituted 20 to 25 percent of GNP in real terms. Much of those productive resources must be shifted to satisfy huge pent-up consumer demand.

In the United States as well, we are seeing efforts at the state level to come to grips with the impact of shifting patterns of defense spending, as we begin to adjust to a post-Cold War defense budget. In January 1990, Ohio sponsored the first such effort: a study and needs assessment culminating in a conference of 250 small defense contractors. The conference focused specifically on the needs of small businesses that are eager to lower their level of dependency on the military-contract treadmill. Now, several other states have followed their lead.

The Soviet Union is grappling with efforts to bring about four revolutions at once. One is the switch from military to civilian production throughout the economy. The second is a change from a command-administrative economy to one that will be decentralized and market-oriented. The third revolution is a change from a single, all-powerful central government and political party to increasingly assertive republican and local governments led by multi-party coalitions (almost as if the United States were to move from our Constitution back to the Articles of Confederation). And finally, the Soviet Union is changing from a closed society hunkered down behind the Iron Curtain, jamming incoming broadcasts to a vastly more open society in which vigorous debate now occurs on the streets and in the newspapers all across the country.

In one manifestation of this new openness, the Soviets now welcome foreign business delegations at previously high-security military production facilities to talk about the potential for civilian joint ventures using state-of-the-art military and space technology. And on a crisp November morning 10 of us, including senior officials from Digital Equipment and TRW, climbed the already chipped concrete and marble stairs of one of the new buildings in the Almaz defense production conglomerate.

In a small fourth-floor office, we were hosted by academician Boris Bounkin, astrophysicist and senior manager of this far-flung "scientific industrial corporation," which until 1988 was devoting 70 percent of its production to military contracts such as printed circuit boards for SA-10 missiles. For nearly an hour Bounkin and his top associates described the impact of military-civilian conversion—and that of the other profound changes taking place in this society—upon their enterprise.

In 1988, the Almaz marching orders, handed down from the central planning agency, Gosplan, called for increasing defense contracts from 700 million rubles to 750 million; the very building in which we were sitting was then under construction to increase the manufacturing capacity of the 55,000-person enterprise. Suddenly, Gorbachev announced substantial unilateral Soviet military cuts at the United Nations. No one quarreled with the decision (other than whether the cuts were deep enough). At Almaz, however, they complained of lack of notice.

Military contracts for the enterprise fell immediately to 650 million rubles, then to 580 million rubles in 1990. This year the expectation is for just 500 million rubles of military contracts, repesenting a cut of one-third from the plan under which Almaz was operating three years ago.

As a consequence, the new plant is still unfinished. Now totally dedicated to civilian production, only 10 percent of its space is utilized, due to lack of product or orders. Almaz executives look forward to producing 200,000 TV sets for Great Britain in 1992, but have only just begun to reconfigure factory space for that production. And they are producing sample circuit boards for UNISYS in place of the old product, which was destined for the SA-10 missiles and is now stacked up under plactic covers gathering dust.

GROPING IN THE DARK

To cope with the necessity to switch to civilian production without adequate central government financing or clear-cut direction, the Almaz team contemplates bank-borrowing to finance new production equipment, early retirement to reduce the workforce while retaining highly skilled employees (including some 7,000 scientists and engineers), and management training in Moscow for senior management personnel who need new skills to survive in the new economic environment.

Finally, over tea and coffee, the Almaz senior management sought almost desperately to invite American interest in the possibility of joint production. "We believe we could produce 16-layer circuit boards for $20 apiece." "Here is a new-ink jet printer we designed in just six months." "We can make a deal directly without approval from the center or the Russian Republic (read "state capital") on any non-military product."

MEETING OPENNESS WITH OPENNESS

There was a certain messiness and even chaos in the Almaz attempts to move into civilian production. But they left me with general optimism about the capacity for change—not because the obstacles had diminshed in the shot period between my two visits, but rather because I became convinced that the sweeping changes in the Soviet Union are irreversible. They are unpredictable, yes. But still, the changes are moving irreversibly toward the market, toward civilan goods, toward decentralized political decision-making, and toward participation in the global marketplace.

For joint enterprise between the United States and the Soviet Union to flourish, however, certain steps are essential. On our side, we must offer Most Favored Nation status to the Soviets and provide trade credits or investment guarantees. We must reciprocate the openness on their side with authorization for our own military contractors to welcome Soviet counterparts to their plants and focus on state-of-the-art collaborations. That means further easing COCOM restrictions on the export of high technology as well.

On the Soviet side, they must provide investment guarantees (especially for any large-scale projects) and ensure the opportunity to bring our profits in hard currency. They must invest immediately in telecommunications infrastructure so that phone and fax contacts in that country are prompt and dependable. Perhaps both sides could set aside (for us, through the Export-Import Bank) to finance joint ventures that expedite conversion of military plants to the civilian sector.

We also should create an International Institute of Conversion Management, under the cooperative auspices of the Soviet Academy of Sciences and the National Academy of Science, and based at two or three outstanding business schools in each country. The institute ought to offer both theoretical and hands-on training in new market development (especially exports), product modification and redesign; technology transfer; cross-cultural understanding; and worker retraining. These are skills certain to be increasingly in demand in both of our nations.

Finally, the profound changes under way in the Soviet Union invite a bold response from our own leadership, as we wrestle with decisions about cuts in our own defense budget. As a means of strengthening the prospects for peace and cooperation between the United States and the Soviet Union, I believe we should launch a major joint conversion project at the government-to-government level. We could both pledge to devote 1 percent of our respective defense budgets for the next five years to address some shared urgent need. I have in mind, for example, the clean-up of nuclear weapons production sites and the disposal of nuclear waste. Citizens in both nations would be the beneficiaries for generations to come.

Two years ago it was hard to imagine the fall of the Berlin Wall or German reunification. A year ago it was hard to imagine talking to Soviet military contractors about bank loans, early retirement, and contracts for TV sets and circuit boards. Now is the time for bold imagination in our own private investment decisions and in our own public policy initiatives.

(Richard F. Celeste is former Governor of Ohio. He operates Celeste & Safety Ltd., an international business advisory firm specializing in providing business linkages to world markets.)

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,273d day that Terry Anderson has been held captive in Lebanon.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:33 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 971. An act to designate the facility of the United States Postal Service located at 630 East 105th Street, Cleveland, Ohio, as the "Luke Easter Post Office."

The enrolled bill was subsequently signed by the Acting President pro tempore [Mr. ROBB].

At 4:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week"; and

H.J. Res. 219. Joint resolution to designate the week beginning June 9, 1991, as "National Scleroderman Awareness Week."

The message also announced that pursuant to the provisions of section 204 of Public Law 98-459, the Speaker appoints from the private sector Dr. Eugene S. Callender of New York, NY, to the Federal Council on the Aging on the part of the House to fill the existing vacancy.

MEASURES REFERRED

The following bill, ordered held at the desk by unanimous consent, was read the first and second times by unanimous consent, and referred as indicated:

S. 1227. A bill to amend the Public Health Service Act, the Social Security Act, and the Internal Revenue Code of 1986 to provide affordable health care of all Americans, to reduce health care costs, and for other purposes; to the Committee on Finance.

The following joint resolution, received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the consideration of the following bill, which was placed on the calendar:

S. 635. A bill to restore an enforceable Federal death penalty, to curb the abuse of habeas corpus, to reform the exclusionary rule, to combat criminal violence involving firearms, to protect witnesses and other participants in the criminal justice system from violence and intimidation, to address the problem of gangs and serious juvenile offenders, to combat terrorism, to combat sexual violence and child abuse, to provide for drug testing of offenders in the criminal justice process, to secure the right of victims and defendents to equal justice without regard to race or color, to enhance the rights of crime victims, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1004. A bill to authorize a certificate of documentation for the vessel *Billfish* (Rept. No. 102–74).

S. 1005. A bill to authorize a certificate of documentation for the vessel *Marsh Grass III* (Rept. No. 102–75).

S. 1006. A bill to authorize a certificate of documentation for the vessel *Miss Lelia* (Rept. No. 102–76).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. Kennedy, from the Committee on Labor and Human Resources:

Louise M. McClure, of Idaho, to be a member of the National Council on the Arts for a term expiring September 3, 1996; and

Daphne Wood Murray, of California, to be a member of the National Museum Services Board for a term expiring December 6, 1995.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD (for himself and Mr. Bradley):

S. 1228. A bill to provide for a comprehensive review by the Secretary of the Interior of western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself and Mr. Durenberger):

S. 1229. A bill to exempt certain small employer purchasing groups from certain requirements of State laws relating to health benefit plans and to amend the Internal Revenue Code of 1986 to equalize tax benefits for self-employed persons participating in such groups; to the Committee on Finance.

By Mr. SARBANES (for himself and Ms. Mikulski):

S. 1230. A bill to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN (for himself and Mr. Rockefeller):

S. 1231. A bill to amend title XVIII of the Social Security Act to provide for coverage of colerectal screening examinations and certain immunizations under part B of the medicare program, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. Danforth, Mr. Rudman, Mr. Chafee, and Mr. Gramm):

S. 1232. A bill to provide for medical injury compensation reform for health care provided the Social Security Act and other Federal health programs, to amend the Internal Revenue Code of 1986 to implement like reforms in employer-provided health plans, and for other purposes; to the Committee on Finance.

By Mr. BURNS (for himself, Mr. Symms, Mr. Packwood, Mr. Pressler, Mr. Kasten, Mr. Danforth, Mr. McCain, Mr. Gorton, Mr. Lott, and Mr. Rockefeller):

S. 1233. A bill to promote the growth of travel and tourism in the United States through the establishment of a rural tourism development foundation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DIXON (for himself, Mr. Byrd, Mr. Rockefeller, Mr. Simon, Mr. Specter, Mr. Ford, Mr. Bond, and Mr. Coats):

S. 1234. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to utilities installing acid rain reduction equipment; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. Inouye):

S. 1235. A bill to amend the Internal Revenue Code of 1986 to provide that storage tanks constructed in connection with the Regional Petroleum Reserve are eligible for the investment tax credit; to the Committee on Finance.

S. 1236. A bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing for storage tanks used in connection with a Regional Petroleum Reserve; to the Committee on Finance.

By Mr. DURENBERGER:

S. 1237. A bill to suspend until January 1, 1995, the duty on certain ceramic ferrules and sleeves; to the Committee on Finance.

By Mr. GRAHAM:

S. 1238. A bill to require the Secretary of Health and Human Services to report to the Congress on the validity of utilizing certain criteria in the alcohol, drug abuse and mental health block allotment formula, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. KASSEBAUM:

S. 1239. A bill to preserve jobs in the aircraft industry by amending the Internal Revenue Code of 1986 to repeal the luxury excise tax on aircraft; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. Riegle, Mr. Danforth, Mr. Pryor, Mr. Moynihan, Mr. Breaux, and Mr. Boren):

S. 1240. A bill to amend title XIX of the Social Security Act to provide criteria for making determinations of denial of payment to States under such Act; to the Committee on Finance.

By Mr. BIDEN:

S. 1241. A bill to control and reduce violent crime.

By Mr. EXON:

S. 1242. A bill to amend the Congressional Budget Act of 1974 to provide that any concurrent resolution on the budget that contains reconciliation directives shall include a directive with respect to the statutory limit on the public debt, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days to report or be discharged.

By Mr. HARKIN (for himself, Mr. Adams, Mr. Ford, Mr. Wellstone, Mr. Cranston, Mr. Kerry, and Ms. Mikulski):

S. 1243. A bill to restrict assistance for Guatemala, and for other purposes; to the Committee on Foreign Relations.

By Mr. BRADLEY:

S. 1244. A bill to amend the Internal Revenue Code of 1986 to expand the working condition fringe benefit with respect to employee parking; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. Symms):

S. 1245. A bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable; to the Committee on Finance.

By Mr. PELL (for himself, Mrs. Kassebaum, Mr. Kennedy, and Mr. Hatch) (by request):

S. 1246. A bill to amend the Higher Education Act of 1965 to target Federal grant assistance on the lowest-income students, to reward excellence and success in education, to enhance choice and flexibility, to promote greater accountability, to reduce waste and abuse in the use of public funds, to extend the Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself, and Mr. GRAMM) (by request):

S. 1247. A bill to amend the Securities Exchange Act of 1934 to extend the regulatory authority of the Secretary of the Treasury under the Government Securities Act of 1986, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAUTENBERG:

S. 1248. A bill to prevent theft of motor vehicles by establishing a national framework for a program under which law enforcement officials are authorized to stop vehicles operated under specified conditions, such as during certain night hours, when operation of the vehicle under those conditions, according to a certification signed voluntarily by the owner, establishes a reasonable suspicion that the vehicle is being operated unlawfully; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Biden, Mr. Levin, Mr. Simon, Mr. Packwood, Mr. Moynihan, Mr. Metzenbaum, Mr. Jeffords, Mr. Adams, Mr. Akaka, Mr. Cranston, Mr. Glenn, Mr. Harkin, Mr. Kerry, Mr. Pell, and Ms. Mikulski):

S. 1249. A bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing; to the Committee on the Judiciary.

By Mr. SIMON (for himself and Mr. Biden):

S. 1250. A bill to require court clerks to report the posting of bail in an amount exceeding $10,000 in certain criminal cases, and for other purposes; to the Committee on the Judiciary.

By Mr. BREAUX:

S. 1251. A bill entitled the "Disaster Assistance Act of 1991"; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MURKOWSKI (for himself, Mr. Burns and Mr. Craig):

S. 1252. A bill to amend the National Park Foundation Act (16 U.S.C. 19e through 19n, P.L. 90-209 (December 18, 1967)); to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. ADAMS, Mr. AKAKA, Mr. CONRAD, Mr. DODD, Mr. GRAHAM, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. PELL, Mr. SARBANES, Mr. DECONCINI, Mr. SANFORD, Mr. DIXON, Mr. INOUYE, Mr. CRANSTON, Mr. BRADLEY, Mr. RIEGLE, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. SHELBY, Mr. BIDEN, Mr. SASSER, Mr. FOWLER, Mr. GLENN, Mr. NUNN, Mr. KERRY, Mr. LEVIN, Mr. BREAUX, Mr. BINGAMAN, Mr. HOLLINGS, Mr. BENTSEN, Mr. BURDICK, Mr. CHAFEE, Mr. COCHRAN, Mr. COHEN, Mr. HATCH, Mr. DOLE, Mr. DURENBERGER, Mr. JEFFORDS, Mr. MACK, Mr. SPECTER, Mr. DOMENICI, Mr. MURKOWSKI, Mr. THURMOND, Mr. GRASSLEY, Mr. CRAIG, Mr. STEVENS, Mr. D'AMATO, Mr. BURNS, Mr. WARNER, Mr. GORTON, Mr. SEYMOUR, and Mr. BOND):

S.J. Res. 156. Joint resolution to designate the week of October 6, 1991 through October 12, 1991, as "Mental Illness Awareness Week"; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. AKAKA, Mr. KERRY, Mr. BRADLEY, Mr. CRANSTON, Mr. BUMPERS, Mr. DASCHLE, Mr. JEFFORDS, Mr. BENTSEN, Mr. BYRD, and Mr. MITCHELL):

S.J. Res. 157. Joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SASSER:

S. Res. 138. A resolution expressing thanks and appreciation to the Exchange Club of Murfreesboro, Tennessee; to the Committee on the Judiciary.

By Mr. DOLE:

S. Res. 139. A resolution to make a minority party appointment to the Special Committee on Aging; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD (for himself and Mr. BRADLEY):

S. 1228. A bill to provide for a comprehensive review by the Secretary of the Interior of western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

WESTERN WATER POLICY REVIEW ACT

Mr. HATFIELD. Mr. President, in tandem with my good friend and colleague on the Energy and Natural Resources Committee, Senator BRADLEY of New Jersey, I am about to introduce, or reintroduce, the Western Water Policy Review Act, a bill that I first introduced in 1989 as Senate bill 1996.

Mr. President, basically this legislation established an advisory commission to the Secretary of the Interior that will study the institutional framework surrounding Federal water policy affecting the 19 Western States. In addition to studying the current policy, the commission will be charged with recommending changes to establish a more coherent decisionmaking process.

Conserving and coordinating the views over finite water resources in an age of growing demand is critical and I feel is fast reaching crisis proportions. The frightening possibility of this water crisis is both a national and international issue and it looms larger every day.

In America's Western States, particularly California, a fifth-year drought threatens to virtually shut down large sectors of the State's agricultural industry. Additionally, this drought has had severe effects on California's fish and wildlife populations and water-consumptive urban industries.

Internationally, the recent war in Iraq confirms my theory that war over access to raw materials is a reality. And while countries can diversify their energy resources such as oil and others, and even get to the point where hopefully someday they can function without dependency on oil, or fossil fuel, they cannot survive, no living organism can survive, without water. And unlike other resource shortages, a water crisis cannot be solved through the development of alternatives. We have only one option available, the conservation and wise distribution of existing water resources.

Drought conditions in the Western United States, particularly California, again serve to underscore the desperate need for a coordinated and comprehensive water policy. In mid-February of this year, just a couple of months ago, in 1991, the Federal Central Valley Water Project in California had to reduce its water allocations by 75 percent following a 50 percent cutback in 1990.

Many fear this year's drought could cost farmers throughout the State of California approximately $642 million in direct crop revenues; thereby increasing consumer food costs by as much as $207 million.

In addition, California fish and wildlife could be experiencing irreparable harm as a result of extremely low streamflow levels.

California is not the only Western State to be experiencing drought conditions. My own State of Oregon is currently tied with Nevada as the second lowest in water availability of the Western States. Six Oregon counties have formally requested emergency drought status from the Governor's office of my State. Streamflow conditions in much of southern and eastern Oregon range from 30 to 50 percent of normal. And irrigation reservoirs throughout the State average 57 percent of normal storage capacity.

Contrary to the popular image that Oregon is a place of water surplus, or that it rains all the time in my State, we are now experiencing the status of a deficient water State.

I would remind my colleagues that a great portion of my State, the greatest portion of my State, gets less than 20 inches of rainfall per year. A third of the State gets less than 10 inches of rainfall per year, and yet another segment of the State can get up to 100 inches of rainfall per year. These varying levels of rainfall serve to illustrate how very, very disparate Oregon's average rainfall actually is.

Despite these problems, water usage in the Western United States and, indeed, of all America is increasing exponentially. Per capita consumption of water has grown to about 1,400 gallons per day, including a personal consumption average of approximately 100 gallons of water per day.

Unfortunately, our Nation's overburdened water supply is not infinite. The current supply problems in California and Oregon point to an impending water crisis.

Additionally, water problems throughout the rest of the country are increasing. The Ogallala aquifer, the largest aquifer in this country, distributes water to the 13 Midwestern States. This area of our Nation is the breadbasket of the world, and is also experiencing water supply problems of crisis proportions. In fact, the Presiding Officer is from that part of the country.

How can we cope with a dwindling water supply? Traditionally, water supply policy has been made to State interest and has been handled at the State level. The Federal Government, however, has been involved in three specific aspects of local water systems: No. 1, funding water impoundment and storage systems; No. 2, setting safe drinking water standards; and No. 3, providing funding to assist local governments in construction of wastewater treatment facilities.

In addition, the Federal Government has played a major role in assuring the safe navigation of our waterways.

Despite this involvement in local water supply and the development policy surrounding it, Federal water-related policy is extremely fragmented. This fragmentation prohibits us from achieving smooth and coordinated responses to meeting the Nation's water supply objectives.

Mr. President, and my colleagues, please take notice of the chart beside me. I am sorry that those who are viewing the proceedings of the Senate will probably not be able to see the fine print. And I want to assure the recorder of the CONGRESSIONAL RECORD that I am not going to ask that this be reproduced in the RECORD.

This chart illustrates the labyrinth of congressional and executive cross-jurisdictions relating to existing water law and policy. Put simply, this chart shows that currently at least 13 congressional committees deal with water resource issues. In the executive branch of Government, there are eight Cabinet-level Departments, six independent agencies, and two White House offices all charged with responsibilities relating to national water policy. Needless to say, as you can see by this chart, it has led to some confusion.

In addition to the laws, we have treaties that govern our water supply policies in many ways, treaties with the American Indian nations for example. And these treaties have not only been established in long periods of time but they have been, in effect, validated by recent court actions, validated in the sense that they are operative today where they have not often been operative in the past. One such treaty, or a series of such treaties, engaged many years ago in the 1850's with the Indian nations of the Northwest, has recently been validated by Federal court action as providing the Indians with 50 percent of the salmon run in the Columbia River.

Now, obviously from the 1850's to the 1980's and 1990, the traditions of the Pacific Northwest have drastically changed. Yet, when we consider the water supply of the Columbia River and its multiplicity of uses, we are now governed by treaties as well as State laws, Federal policy, and Federal laws.

These large, colored circles on this chart attempt to identify some of those very specific policies that have impacted drought response in more recent days. How do we respond to the drought problems of the Western States that have been put on track as far as asking or requesting Federal help, Federal action?

One important thing we have to address is the ground water. Ground water problems are increasing. For example, we have found traces of iodine—129 on the Oregon side of the Columbia River that obviously started at Hanford with the handling, the mishandling, or lack of handling of the nuclear waste of the Hanford reactor, the oldest reactor in the United States.

We have, as I said, current tribal reserve rights and settlements that are continuing with the Indian nations.

And then, of course, we have the non-Federal water supply, and its effects on urban developments. Just look at the Pacific Southwest and the enormous growth patterns of population, housing developments, and water demands that go with all of that. These urban water concerns, also apply to the Pacific Northwest, namely the Portland and Seattle areas.

I have listed here, just as an example, those Departments at the executive level: the Department of Transportation, the Department of State, the Department of Justice, the Department of the Interior, the Department of Energy, the Department of Defense, the Department of Commerce, and the Department of Agriculture. And then there are lines that go down to the various subdivisions of their Departments, and then the sub-sub divisions of these Departments. All of these things are part of the various and sundry agencies of the Federal Government. Additionally, here on this side are the independent agencies: Federal Emergency Management Agency, FEMA; Nuclear Regulatory Commission; Tennessee Valley Authority; International Joint Commission; International Boundary Waters Commission; and the Environmental Protection Agency.

Finally, you get down here into the Senate and the House committees at the bottom of the chart, and all the lines feed in and feed out, duplicating, overlapping, with no coordination.

Then we ask ourselves, why do we not have a comprehensive water policy as it relates at least to the West, the 19 Western States? For this very reason, Mr. Chairman, Mr. BRADLEY and I are introducing this Western Water Policy Review Act.

Realizing that the West is not the only area of the country experiencing water supply and allocation problems, our bill can be expanded to include national water policies as well, as we develop the interests of other States with Members from other States. In other words, we are not locked into restricting this purely for the Western States. But Senator BRADLEY, I and others, feel that we must begin to address what I consider to be one of the great crises this country is facing. This bill is our humble attempt at beginning a process which I hope will bear great results.

Mr. President, I ask that the text of my legislation and the attached articles be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Western Water Policy Review Act of 1991".

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that—

(1) the Nation needs an adequate water supply for all States at a reasonable cost;

(2) the demands on the Nation's finite water supply are increasing;

(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy;

(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

(7) the appropriation doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

(8) the Federal Government has recognized and continues to recognize the jurisdiction of the several States over the allocation, priority, and use of water resources of the States and that the Federal Government will, in exercising its authorities, comply with State laws;

(9) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to have major responsibilities in assisting States in the wise management and allocation of scarce water resources; and

(10) the Secretary of the Interior, given his responsibilities for management of public lands, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey, should initiate a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

SECRETARIAL REVIEW

SEC. 2. (a) The Secretary of the Interior is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources, whether surface or subsurface and to submit a report on his finding, together with his recommendations, to the President, the President of the Senate, and the Speaker of the House of Representatives.

(b) Such report shall be submitted within five years from the date of enactment of this Act.

(c) In conducting his review and preparing his report, the Secretary is directed to consult with the Advisory Commission established under section 3 of this Act, and may request the Commission to undertake such studies or other analyses as he determines would assist in his review.

(d) The Secretary shall consult periodically with the Commission, and upon the request of the Secretary, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

THE ADVISORY COMMISSION

SEC. 3. (a) There is established the Western Water River Commission (hereafter in this Act referred to as the "Commission").

(b) The Commission shall be composed of fourteen members, as follows:

(1) The ranking majority and minority member from the Senate Committees on Energy and Natural Resources and Appropriations.

(2) The ranking majority and minority member from the House Committees on Appropriations and Interior and Insular Affairs.

(3) Six persons who are not now, and for a period of one year immediately preceding their appointments, have not been, officers or employees of the United States; but, the foregoing or any other provision of law notwithstanding, there may be appointed under this paragraph, any person who is retained,

designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days; said persons shall be appointed by the President of the United States.

(4) Of the aforementioned Commission members, one shall be elected, by majority vote, to serve as Chairman of the Commission (hereafter in this Act referred to as the "Chairman").

(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) The organization meeting of the Commission shall be held at such time and place as may be specified in a call issued jointly by the ranking majority and minority members of the Commission of both the Senate and the House of Representatives.

(e) Ten members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) The members appointed by the President shall each receive a per diem in the amount equal to the daily rate of pay for a GS-18 position on the executive schedule when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence and other necessary expenses incurred by them in the performance of such duties.

DUTIES OF THE COMMISSION

SEC. 4. (a) The Commission shall—

(1) review present and anticipated national water resource problems affecting the nineteen Western States, making such projections of water requirements as may be necessary and identifying alternative ways of meeting these requirements—giving consideration, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the highest economic use of water and recent technological advances;

(2) examine the current Federal programs affecting such States and recommend to the Secretary whether they should be continued and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

(3) review the need for additional storage or other arrangements to augment existing water supplies;

(4) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law;

(5) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

(6) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation and those agencies whose decisions would impact on water resources availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

GOVERNOR'S REPRESENTATIVES

SEC. 5. The Chairman of the Commission shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff in matters pertaining to this Act.

INTEREST GROUP REPRESENTATIVES

SEC. 6. The Commission, at its discretion, may invite appropriate public or private interest groups to designate a representative to work closely with the Commission and its staff in matters pertaining to this Act.

POWERS OF THE COMMISSION

SEC. 7. (a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States;

(4) without regard to the civil service laws and regulations and without regard to chapter 51 of title 5, United States Code, employ and fix the compensation of such personnel as may be necessary to carry out the functions of the Commission;

(5) procure services as authorized by section 3109 of title 5, United States Code, at rates not to exceed an amount equal to the daily rate of pay for a GS-18 position on the executive schedule;

(6) purchase, hire, operate, and maintain passenger motor vehicles;

(7) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

POWERS AND DUTIES OF THE CHAIRMAN

SEC. 8. (a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (8) of section 6(a).

(b) The Chairman may make such provision as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Executive Director or other personnel of the Commission.

OTHER FEDERAL AGENCIES

SEC. 9. (a) The Commission may, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the Secretary may request the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 4(a)(7) of this Act, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with this Commission on a reimbursable basis such personnel with his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services, except that—

(1) the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 5514) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of such Administrator for the administrative control of funds (31 U.S.C. 655(g)) shall apply to appropriations of the Commission; and

(2) the Commission shall not be required to prescribe such regulations.

APPROPRIATIONS

SEC. 10. There are hereby authorized to be appropriated not to exceed $18,000,000 to carry out the purposes of this Act.

[From the National Geographic, June 1991]

AGE-OLD CHALLENGE: WATER AND THE WEST—THE WASTEFUL USE OF WATER RESOURCES MAY BE HOW THE WEST IS LOST

(By Bruce Babbitt)

Each night as the sun goes down and the desert darkens, the neon lights of Las Vegas, Nevada, flare into the sky. Beneath the lurid glow of giant casino signs, water splashes in Roman fountains, runs into acres of swimming pools, and overflows into street gutters.

Las Vegas, prodigal playground of the West, illustrates the conflict between man and nature in the Colorado River basin. Within just ten years the metropolitan area could be using virtually every drop of Nevada's legal share of the Colorado River's flow. City leaders, expecting the population of 800,000 to double in the next 40 years, are searching far and wide for new water supplies.

City water engineers are advocating a traditional solution: an engineering project to tap into the underground waters beneath remote valleys of eastern Nevada. They propose a system of 145 huge wells spread across nearly 20 percent of the state and connected by a thousand miles of pipeline. Cost estimates range from 1.5 billion to four billion dollars.

Environmental costs may be as high or higher, if less easy to quantify. Critics contend that groundwater pumping will lower the water table, destroying streams and marshes that sustain migratory waterfowl and nourish plant and wildlife oases in desert basins, including distant Death Valley National Monument in California. Even there, in the hottest desert in North America, water lies beneath the ground. Fearful for the future, the National Park Service has filed formal protests against the project.

Water reformers throughout the West are beginning to question these expensive, environmentally damaging water-transfer projects. They insist that there is a better way. If westerners would strongly promote conservation and develop plans to recycle and reuse existing water supplies, there would be no immediate need for more such projects.

Reformers point to Tucson, Arizona, as a good example of a desert city that today supports growth by conserving and reusing water. More and more streets and parks are planted with the trees and flowering plants of the surrounding Sonoran Desert. Residents receive free pamphlets explaining xericscaping, the art of landscaping with low-water-use plants. City ordinances require low-flow toilets, shower heads, and faucets, and the city has even shared the cost of more efficient toilets for older homes. Many golf courses and parks are watered with treated sewage effluent.

Tucson residents are proud of their distinctive "desert city" image. The payoff is clear: On a per capita basis, Tucson now consumes about half the water of Las Vegas, where conservation is still voluntary.

As the following article makes starkly clear, communities dependent on the Colorado River are facing a crisis. The river is being used to the fullest, and the region is now in its fifth year of drought.

As urban populations continue to grow, the battle between the traditional water engineers, known in the West as "water buffaloes," and the emerging reform movement will surely intensify. The question, as yet unanswered, is whether man can live and prosper with nature, respecting the limits of our desert environment.

[From the National Geographic, June 1991]

THE COLORADO: A RIVER DRAINED DRY

(By Jim Carrier)

The man they call El Coyote pushed his blue dinghy away from the bulrushes, stroked through the murky brown residue of the Colorado River, and began to pull up his gill net. Halfway through pulling in the 130-foot net, he found an eight inch mullet that landed with a lonely plunk in an orange pail at his feet. Minutes passed before I heard the plastic thud again, and by the time the whole net lay empty in the boat, there were just three fish in his bucket.

"At least it's breakfast," Ricardo Sandoval said to me. "The net's been out here two days." El Coyote, so nicknamed for his days as a crafty baseball player, paddled back home to El Mayor, the ramshackle settlement of the Cucapá Indians, the "river people" who are last in line for the waters of the Colorado River system (map, pages 16–17).

Fifty miles south of the U.S. border in Mexico's Baja California, the great river of the West that I had followed from beginning to end was gone, the water in its bed a shallow, narrow sump of salt and pesticide-laced runoff from crop irrigation.

"*Es nuestra vida*—It is our life," said El Coyote, summing up 2,000 years of his people's sustenance from this area. But for half a century the delta had been dying, and with it the Cucapá culture. No longer can tribal members hunt mule deer, plant squash with the floods, harvest wild salt grass, or eat fish three times a day. Several species of fish and plant life have disappeared. The settlement has shrunk to about 85 families. The once rich estuary is filled with weeds, trash, and occasional swamps of unhealthy water—barely enough to float their boats. Last year, the fourth year of drought, the water dropped to its lowest level in tribal memory. The Cucapá were lucky to eat fish once a week.

"We are the river people. We're still here," said Ricardo. "But what river? I haven't seen it. It doesn't get this far."

While most mapmakers draw a vibrant blue line from the central Rocky Mountains to the Gulf of California, the nets of the Cucapá tell a poignant truth about the Colorado River:

Demand has finally exceeded the river's capacity to support the Southwest.

For a river bigger than life such a condition seems unthinkable. Plunging from frozen heights of 14,000 feet on the continental spine, the Colorado writhes for 1,450 miles. It etches the Rocky Mountains, it carves the mile-deep Grand Canyon. For only 56 years have its red-mud floods been under control.

European explorers thought the land it flowed through was useless. "Ours has been the first and will doubtless be the last party of whites to visit this profitless locality," wrote Lt. Joseph C. Ives of the Army Engineers in 1858, after steaming upriver to the present site of Hoover Dam in search of a navigable route between the Rockies and the Pacific. "The Colorado River, along the greater portion of its lonely and majestic way, shall be forever unvisited and undisturbed."

As rivers are measured, the Colorado has only a few superlatives: Its elevational drop is the greatest in North America; it is one of the siltiest (before the dams, it carried an average load of 380,000 tons a day); and it is one of the saltiest, carrying nine million tons a year. Although it ranks seventh in length in the U.S., its water volume has averaged only 15 million acre-feet of water yearly since 1905. (The Columbia empties 192 million and the Mississippi more than 400 million.)

The Colorado system binds the Southwest in a semiarid 244,000-square-mile drainage (an area larger than France) and divides the region as no other element; state against state, rural against urban, Indian agaist white. It has earned the reputation as the most legislated, litigated, and debated river in the world.

In two years of tracing the Colorado I was stunned by the magnitude of what it was asked to do. The Colorado grows grapes in New Mexico, brews beer in Colorado, raises minnows in Utah, floats rafts in Arizona, lights jackpots in Nevada, nurses elk in Wyoming, freezes ice for California, sweetens cantaloupes in Mexico. In bringing life to 21 million people and more than two million acres of farmland in seven states and two countries, the river has reached a dammed and diverted denouement.

There is only so much water, and demands are increasing. Conflicts are constant among water users. The 1922 Colorado River Compact that divides its waters into two basins for use by seven bordering states—Wyoming, Utah, Colorado, New Mexico, Arizona, Nevada, and California—no longer seems adequate as Americans flood the Sunbelt. New rules must be written in a time of environmental concern and heightened awareness of Native American rights and claims. A new strategy is needed for western water. As the Colorado River nears the end of a fruitful century in which it was harnessed to human needs, it enters an era of limits.

"These glaciers really did a number on this country," said John Barlow, a rock-and-roll lyricist and former Wyoming rancher, as we looked out the window of a small plane, nearly touching the gouged granite of Gannett Peak. Sunrise had just topped Wyoming's Wind River Range, one of the Colorado's main sources, and down in the shadows I could see stretch marks on Mammoth Glacier as it slowly ebbed into the Green River, the most northern reach of the Colorado system.

"You could say that the Green was the central river in settling the West," said Barlow. It was the heart of the beaver trade, and John Wesley Powell began his historic exploration of the Colorado in 1869 at the town of Green River in the Wyoming Territory.

Unlike most other Colorado tributaries, which are diverted at their headwaters, the Green has wild beginnings. I could see a moose and her calf clomping at the edge of Upper Green River Lake, a brilliant turquoise reflected from glacial silt. Two miles more and the river leaves the wilderness, weaving its way through a sage plain. This is where is virginity ends: Here the first irrigation ditches cut into its banks.

Over a ridge, on the New Fork of the Green, John Barlow's grandfather, Perry W. Jenkins, built his ranch in 1905. He organized Sublette County around the Green's watershed and later helped represent Wyoming in negotiations for the historic 1922 Colorado River Compact. Each summer John flood-irrigated 2,200 acres to grow grass for 1,100 cows. But he lost the ranch to high debt and low beef prices in the late 1980s. The new, absentee owners sold the cattle, and the unused water slipped into the Green, where almost 60 percent of Wyoming's compact share goes for lack of use.

"I would like my kids' kids to live here," said John, who makes a living writing songs for the Grateful Dead. "I don't think the national interest is served by running all the water to where it cleans off driveways in Los Angeles. But I think the compact will be abrogated, and Wyoming will be the loser. This is heretical, but I don't know how we can justify our need for the water under present circumstances."

Three hundred miles to the southeast in Colorado, along the Continental Divide, the 12,000-foot Never Summer Mountains have beautiful names: Cumulus, Nimbus, Stratus. With the heart of a poet and big snowshoes, I'd hoped to find one of the river's sources near Lake of the Clouds in Rocky Mountain National Park, which lies below these peaks. The birth here is difficult: The runoff of the serrated mountains is interrupted by a big gouge 14 miles across the mountain breasts. This Grand Ditch runs water eastward across the divide at 10,186 feet, then sends it down the east face of the Rockies to Fort Collins and 30,000 acres of sugar beets, corn, and barley on the Great Plains.

"Some people thought it was awful to tear up the side of the mountain," said Harvey Johnson, 95, chairman of Water Supply and

Storage Company, which owns the water in the ditch. "I tell them we're growing food, and they'd go hungry without it."

First dug by Asian laborers, the ditch carried water by 1900. "We were quite desperate, and the Western Slope was flush with water," Johnson told me. "The company decided they'd just go get it." That was both the mentality and legal status quo. The primary law of the arid West, "first in time first in right," gives the oldest users of water nearly ironclad seniority and ownership. Johnson, one of the grand men of the river, arrived in Colorado in a covered wagon and spent his life making the semiarid plains bloom. "It's very productive soil," he told me, "if you put good water on it."

Colorado's entire Front Range is a rich farm belt and a growing urban area because of water diverted across the Great Divide. The Grand Ditch is one of the oldest transmountain diversions, but there are 20 others, draining a third of the Colorado's high tributary flows. Denver, where I live, gets half its water from the Colorado system.

The most improbable diversion lies 2,000 feet below the Grand Ditch, where snowmelt collected in Lake Granby is literally pumped backward, up the old Colorado riverbed to Grand Lake. A beautiful, natural mountain lake is thus made part of a plumbing system that takes 90 percent of the fledgling main stem's water. A tunnel 13 miles long and nearly ten feet wide, part of the Colorado-Big Thompson Project, takes the lake water under the Continental Divide to the east face of the Rockies. The water then flows to cities like Boulder, serving a population of 500,000, and to Weld County, the fourth richest agricultural county in the U.S. But draining so much water leaves the Colorado a small stream in the mountains, with just enough water to meet the state requirement for keeping trout alive.

"Without that requirement you would have dry streambeds on the Western Slope for sure," said Rolly Fisher of the Colorado River Water Conservation District, which has carried on a half-century water war with Denver and the Front Range. Formed as a "protective association" when the Colorado-Big Thompson was built, the district has fought nearly every transmountain diversion. "The fear has been that the Western Slope would be dewatered just as California's Owens Valley was dried up by Los Angeles," said Fischer.

Denver's suburban neighbor Aurora has proposed tapping the Gunnison River, the one remaining Western Slope river not diverted to the Front Range. "The Gunnison is one of the last frontiers in the water wars," said Bill Trampe, one of the local ranchers who increased their own taxes for 1991 to fight Aurora in water court. "Recreation is the Gunnison's leading industry," he said. "It requires water in the streams. And half of Aurora's water would go on lawns."

But Aurora's population of 222,000 could triple by the year 2050, and the city is already using the water from 20,000 acres of mountain ranchland and has bought other farm water. "The Western Slope views it as their water, while in reality state law provides for diverting water to where it can be used," explained Aurora's utilities director, Tom Griswold.

In the spring of 1990, the signs of drought came early in the mountains, where snow depths are watched like a water stock market. On April 1, when I skied through the Fraser Experimental Forest west of Denver measuring snow with U.S. Forest Service scientists, the Colorado's predicted flow was 45 percent below normal.

Within days George Anderson was making tough decisions downstream about ranchland water in Roan Creek, just one small tributary near Grand Junction, Colorado. "I'd rather do anything than go tell a guy I've got to shut his water off," said Anderson, a soft-spoken, friendly water commissioner with a gold tooth in his grin. "If you don't have water up here, you don't have nothing," he said as he drove me around the irrigated valley.

In a drought, George Anderson is judge, jury, and executioner. On about a hundred ditches that in a good year carry Roan Creek to 8,000 acres of grass sprouted from sagebrush range, he had to close all but six of the guillotine-shaped headgates in April.

As the Colorado's two main branches—the upper Colorado and the Green—converge, the landscape becomes increasingly arid and lonely; precipitation drops from as much as 55 inches in the mountains to as little as 10 on the Colorado Plateau, where the rivers sink to serpentine cracks.

The greatest pollution is salt. Starting with snowmelt quality of 50 parts per million, both rivers grow saline as the water is extracted, evaporates from reservoirs, passes over natural salt beds, and pours through soil that was once the bottom of an ancient sea. By the time the Green reaches Green River, Utah, 600 miles from its source, its salinity exceeds the federal 500 parts per million salt standard for drinking water.

The river used to flood silty cold in the spring and trickle warm and clear in the fall. Now, below dams like Flaming Gorge, it runs clear and cold year-round. The dams trap silt, reservoirs release frigid water from their depths back into the river, creating excellent trout habitat but contributing to the near extinction of several native species sensitive to the temperature change.

"We're not talking about one or two fish," said Harold Tyus, who runs the U.S. Fish and Wildlife Service laboratory on the Green River near Vernal, Utah. "We're talking about the loss of an entire fauna. More than half the endemic fish in the upper basin are endangered. This is the last stronghold."

Before sunrise in a rose-colored canyon I watched Tyus's biologists seine the Green for tiny Colorado squawfish larvae—"threads with eyeballs." That they exist at all there is due to the Yampa River, the only major undammed tributary in the Colorado drainage. It joins the Green in Dinosaur National Monument and runs warm and low enough for squawfish spawning. Proposals to dam the Yampa—one company wanted to sell the water to San Diego—would probably eliminate the fish, said Tyus, who favors giving the fish a water right of their own.

Where the Green and Colorado meet, in the remote labyrinth of Canyonlands National Park near Moab, Utah, a powerful river results. I could see the pistachio color of one mixing with the red-silt-laden flow of the other, a total of 13,000 cubic feet a second swirling and gathering strength for a plunge through Cataract Canyon. In a life jacket and rubber raft I joined a group of thrill seekers through Big Drops 1, 2, and 3—rolling, muddy rapids guaranteed to soak to the skin.

In side canyons we examined the ruins of Anasazi Indians, the "ancient ones" who lived along the river a thousand years ago. The best explanation for their disappearance is a combination of drought, overpopulation, and internal strife—elements present in the West today.

"The Colorado has defined what the West became," the rafters heard from Sally Ranney, president of American Wildlands, after a steak dinner on the beach. "And because of the water shortage it will define what the West will not become. We have a saying out here that water flows toward money. It has nothing to do with gravity."

Near the end of our trip the river widened into Lake Powell. Capable of holding nearly two years' flow in a red sandstone bathtub 1,900 miles around, Powell is just upstream from Lees Ferry, the dividing point between the upper and lower basins. The 1922 compact apportioned 7.5 million acre-feet to each basin, from an annual flow then thought to average about 17 million. In years of drought, the lower basin gets its share first, sometimes resulting in a shortfall for the upper basin.

Virtually all the water that will enter the Colorado has done so by now, and the lake is a quick look at demand and supply. In 1990, the fourth year of drought, a ring was showing in the bathtub 66 feet above the water level (evaporation alone takes five feet a year). Less than 5.5 million acre-feet of water flowed into Lake Powell, not nearly the 8.25 million required downstream by the compact and a later treaty.

Lake Powell's creation in 1963 was the crowning act of the U.S. Bureau of Reclamation's 30-year, big-dam era. Built for water storage, flood control, and power, Glen Canyon Dam flooded caverns and canyons that only a few thousand people had ever seen. Today more than three million people visit the vast desert lake each year, and I could see a new conflict on the river, as the traditional water users—the irrigators and power interests—bumped heads with the enormous economic force of leisure time. Boaters wanted their docks in the water, not draped on silt.

Downriver, in the Grand Canyon, the dam was exacting another price. With most of the silt blocked off, the clear, deep-green "hungry" water ate away existing sand and silt, the base for the canyon's ecosystem. "Some of the worst erosion came early, in 1964," said Martin Litton as he maneuvered a dory through the rapids below the dam for perhaps the 75th time in his 74 years. The Grand Canyon curmudgeon has long been a burr under the saddle of dam interests.

Without the usual feast-and-famine flows of the natural river, wildlife changed abruptly. Fish used to warmer waters and muddy bottoms died off. Beaver disappeared because entrances to their homes, built underwater in the riverbanks, were regularly exposed as the water level rose and fell. Tamarisk invaded and songbirds increased; trout were introduced and bald eagles began to make winter stopovers.

Litton glanced up at the violet-green swallows looping about for bugs: "They're doing fine, but most cliff swallows left after the water cleared. Not enough mud for their nests. With fewer beaches for boaters to camp on, the national park limited visitors to 22,000 a year, outlawed driftwood fires except in winter, and made everyone carry out all waste."

On our second morning we awoke to find our boats high and dry on the narrow beach. The water had receded nearly 13 feet during the night. Glen Canyon's hydroturbines are used when power demand peaks, causing the water in the Grand Canyon to go up and down like a tide. Less demand for power, less water. "See, the water is low today because it was cool in Phoenix yesterday and they didn't want as much air-conditioning. The beaches can't take this daily up-and-down stuff," explained Litton, who argued for a shift of peaking power away from Glen Canyon.

But Lloyd Greiner, a manager with the Western Area Power Administration, later countered: "I don't believe there is enough evidence that fluctuating flows are a major contributor to the damage. The river drops 2,000 feet in the canyon. With water rushing through, there will be erosion."

On a Sunday morning we awoke in the canyon to bad news: Low weekend demand for electricity in Phoenix meant that low "Saturday water" was reaching us 87 miles from the dam. In Unkar Rapids, Litton hit a rock. A few miles farther the river looked worse. "I've never seen Hance Rapids this low. This is basically unrunnable in dories," he said when he saw the boulders sticking out of the water.

So we waited, with environmentalist Litton praying, ironically, that Phoenix would suffer a heat wave so we could float the river. That night I stared up into a heaven cut by the cleavage of the canyon. I watched satellites inch across the star-sprinkled sky and thought that mine was the last generation to have seen a night sky uncluttered by man-made things—or the Grand Canyon's water unregulated. Two days later Litton's prayers were answered.

When Maj. John Wesley Powell emerged from the Grand Canyon in 1869, he met Mormon colonists who gave him melons and other food from ground that received only four inches of rain a year. Powell later foretold the opportunities and limits of western water: "All the waters of all the arid lands will eventually be taken from their natural channels," he wrote. The Mormons believed that irrigation fulfilled the prophecy of Isaiah, that when Christ returned "the desert shall rejoice, and blossom as the rose. . . . for in the wilderness shall waters break out, and streams in the desert."

Like a miracle the river plugged by Hoover Dam, on the border of Nevada and Arizona, achieved that promise. The "grande dam" reined in the Colorado, fostered what was the richest irrigation project in the world, and watered and powered the Sunbelt. As I followed the waterway 150 miles below Hoover, I could almost hear the slurping straws of distant cities. On one side of Lake Havasu is the Central Arizona Project (CAP), which carries river water 335 miles eastward to Phoenix and, soon, to Tucson. On the other is the Colorado River Aqueduct, emerging from a pump house able to suck up one billion gallons of water a day for southern California.

Until 1990 those California intake pipes, run by the Metropolitan Water District (MWD) of Southern California, took pretty much what they needed—over one million acre-feet a year, twice MWD's right to the river. Arizona wasn't using its full share. With the CAP nearing completion in 1990 it looked like Arizona would come close. When dry California asked for more water, the Bureau of Reclamation, with its hand on the Hoover spigot, said no. It was a historic announcement. As 1990 began, the lower basin had, for the first time, used up its full share of the Colorado River. Six months later, with generous rains in Arizona, the spigot to California was reopened.

Given these limits, it was strange to me to travel west along the Colorado River Aqueduct and find its waters spread in chevron-shaped shallow ponds near Palm Springs, California, soaking into the ground! Like a desert mirage, the waste wasn't what it appeared: The water was recharging the desert's huge underground aquifer.

Because of the rich aquifer, wealth beyond all imagining has come to Palm Springs. On Country Club Drive, I passed developments with names like "The Lakes" and "Desert Falls." At Marriott's 400-acre Desert Springs resort the lobby contains a ten-foot-deep indoor lagoon, complete with boats, and the resort pumps one and a half million gallons of water a day onto its golf course in summer.

In Los Angeles I found serious attempts to conserve water as the California drought entered its fourth year. Squads from the city's Drought Busters enforced new ordinances against washing sidewalks, serving unsolicited water in restaurants, and watering lawns during the day.

I spent one morning cruising the streets with Drought Buster Tony Marufo, who would brake to a halt at the first sign of a damp spot on a hot sidewalk. "Some people say I can smell water," he said, grinning. In 1990, in a city long known for its profligate water use, Marufo and his 25 colleagues wrote 8,862 citations from May to October. By late summer Los Angeles had reduced its water use by more than 10 percent.

But MWD's Tim Quinn told me that conservation is a limited tool, that per capita use is up in most western cities. Newer houses actually push water use up—all have automatic dishwashers—and higher income families use more water. "We're trying to find ways to flatten those numbers out," he said, "but lowering them may be impossible. It would cross the line of fundamental changes in life-style—no green yards, for example."

And that, I learned, was a line that no one in the California water establishment wanted to cross. Controlling growth, they said, is not a water agency's job; finding more water is. The population of 15 million served by MWD is growing by 300,000 a year, and officials fear running short of water by the year 2000 if serious drought conditions continue.

The Sacramento River is a likely source of relief but an unpopular choice with many northern Californians who think southern Californians are stealing their water. The drought has also raised anew such possibilities as seagoing tankers bringing fresh water from the Pacific Northwest, ships hauling icebergs, and a pipeline to tap the Columbia River. Desalination plants have been started to turn Pacific Ocean water into fresh water.

Another prospect is water marketing—trading water like a commodity, a relatively new concept in California. In its first deal MWD agreed to finance the lining of irrigation canals and the upgrading of Imperial Irrigation District plumbing at a cost of 223 million dollars. The deal will save 100,000 acre-feet from seeping into the ground, thus increasing water available to MWD. The agency might also pay farmers not to grow crops in dry years: Agriculture draws 80 to 90 percent of the Colorado.

"The phone rings three times a week from landowners in other states, wanting to sell their water," said Tim Quinn. Wyoming might use its water after all, I thought—by selling it to California. But State laws would have to change for that.

Everywhere I went along the river, a new breeze was blowing on water policy. At the end of the pipeline, where I expected a hurricane force, it was but a whisper. One of the fastest growing communities in southern California is Chula Vista, outside San Diego—highly dependent on the Colorado River. EastLake, a development being built there on barren land a few miles from the Mexican border, is an example of how water leverages growth. EastLake's water cost of $525 an acre-foot (a western family of four uses one acre-foot of water a year) helps turn worthless ground into a thriving community. Projections for the year 2004 show 25,000 people living on 3,200 acres in 8,900 homes, a five-fold population increase.

"This is going to be our downtown here," said developer Robert Snyder, pointing to a gully of sand. In an area called EastLake Hills and Shores, with 1,834 houses ranging in the price from $70,000 to $600,000, peer pressure keeps most homes surrounded by verdant bluegrass, and Snyder says he could not force xeriscaping, the use of water-miser desert plants, on EastLake homeowners: "In five years maybe I can."

Snyder, an athletic third-generation California builder, drove me by the EastLake Shores Beach Club, where palms and grass surrounded a sandy beach. "This is the kind of amenity that brings people to EastLake. We've spoiled ourselves, no doubt about it. There has been enough water in California for whatever we wanted to do."

Saguaro cactuses stand guard in Arizona along the Central Arizona Project. The 3.5-billion-dollar water network administered by the Bureau of Reclamation is considered by environmentalists the ultimate in desert folly. In order to pump 1.5 million acre-feet of water clear to Tucson and subsidize its cost so farmers can irrigate economically, the bureau helped build a coal powerplant near Page, which taints the air over the Grand Canyon and the Navajo Reservation.

But south of Phoenix, on the tiny Ak-Chin Indian Reservation, that same CAP is a godsend, I learned. Water from the Colorado has turned a dirt-poor community into a prideful, self-sufficient farming community with low unemployment and no welfare.

"We're using it to farm cotton, small grains, alfalfa—even fish—and 95 percent of our people work on our farm," said Leona Kakar, a strong woman whose family led the way to this Indian-country success. She spoke to me in the shade of a tamarisk tree after ceremonial basket dances to celebrate groundbreaking for a tribal museum. A mile away workers were harvesting cotton. "I've given 26 years of my life for this fight," she said with a shake of her graying, curly hair. "It's made a world of difference."

Until the 1960s a few hundred Ak-Chin subsisted in the Sonoran Desert around shallow wells. But pumping around Phoenix lowered the water table hundrds of feet, making farming too expensive. Citing the 1908 Supreme Court Winters doctrine, which reserves enough water for Indians to irrigate their land, the tribe sued the federal government. Congress awarded the Ak-Chin CAP water, which first arrived in 1987. Within two years a 38 percent unemployment rate had dropped to 4 percent, and the tribal farm had tripled its acreage.

Encouraged by the Ak-Chin success, other Arizona tribes, which have been without adequate water for a century, are following suit. Their claims total more than all the water in Arizona, which arguably could make them the American Arabs of water. The huge Navajo Indian Reservation alone could claim most of the flow of the Colorado, based on the Winters doctrine. "It's certainly a cloud of uncertainty that hangs over our water management programs," said Larry Linser, deputy director of Arizona's Department of Water Resources.

But a water right without wet water is useless, and several tribes have compromised in order to get canals built and water delivered. The CAP carries Colorado water for ten tribes. "We are doing what we did in A.D.

200, just a little more modern," said Leona Kakar. "Water is our lifeline, our blood."

Below the Colorado River Aqueduct, the Colorado runs like a sluice, wide and sluggish, the banks riprapped in places and lined with tamarisk and occasional rows of cottages. Near Yuma, Arizona, it backs up behind the Imperial Dam, which takes more than 20 percent of the water, the single biggest chunk of the river, and pushes it through the All American Canal about 80 miles west to California's Imperial Valley.

Driving west, I watched dune buggies race over sand dunes sliced by the canal, where an estimated 70,000 acre-feet of water soaks into the sand each year. Congress has authorized the Bureau of Reclamation to stop the leakage on the canal; lining it is a likely solution.

California cities can't understand how so much water can just disappear into the ground—or how nearly one million acre-feet of water runs off and under irrigated fields in the Imperial Irrigation District and into the briny Salton Sea. The state of California has found that the district, at the far end of the canal, wastes about 15 percent of its water and has required it to conserve 100,000 acre-feet. Some 700 farmers there, who generate nearly one billion dollars each year, have a very senior right to the river's water. After 90 years, they are worried.

"We do live in a democracy," said Larry Cox, a 32-year-old cotton, alfalfa, and vegetable producer I found weighing onion seed. "If you've got 16 million voters up there in L.A., who's to say they can't change the laws? I think it's a definite possibility."

The land is so salty and the river water is so saline (averaging more than 700 parts per million) at the end of its journey that extra water is poured through the soil to flush salt away from roots. Each field gets about four feet of water. Pipes buried four to eight feet below the surface then carry the excess, salty water away.

Cox, whose onions will be used on McDonald's hamburgers, said he resisted more efficient irrigation methods until he felt forced to try the drip system on a tomato field plagued by waterborne soil disease "It was fairly easy" he said, "and the yield went up substantially."

Nowhere on the Colorado did I get a greater sense of the dividing of the waters between the haves and have-nots than below Morelos Dam in Mexico, south of Yuma, Arizona. The last of the Colorado River is pushed into the Canal Central here, and the riverbed becomes shallow enough to wade across. Many Mexicans hoping to start a new life with the water and wealth of the U.S. have waited in the riverbed until dark before crossing the border.

Without a real river, the poor have built makeshift homes along the canal. They are called *avecindados*—squatters. I watched an old man wash his clothes and hang them on a *cachanilla*, or arrowwood, plant. A woman carried a bucket of water for her garden, a skimpy row of corn and squash. Their homes were part adobe made from canal mud, cardboard, and car parts.

For some 20 miles the nearly empty riverbed is the border betwen the U.S. and Mexico, but metaphorically the Colorado has divided the two countries since the first attempts to divert the river into California. A 1944 treaty guarantees Mexico 1.5 million acre-feet of water a year. After return flows from the irrigation district east of Yuma raised salinity in Mexico to more than a thousand parts per million, killing crops, an agreement was signed controlling salt levels. Rather than take the saline U.S. soil out of production, Congress authorized a 260-million-dollar desalination plant.

Under the treaty, Mexican officials don't expect more water from the U.S. "The States aren't interested in giving up anything," said Luis Lopez Moctezuma, a planning official for Baja California. Only two-thirds of irrigable land in Baja gets water from the river, which is divided among 14,000 farmers, each of whom can plant only 40 of their 50 acres. There also is an increasing demand for urban water: An aqueduct takes Colorado River water to Tijuana.

It was in the river delta that I saw the real effect of the water shortage. The delta was once a series of green lagoons that ecologist Aldo Leopold described as a "milk-and-honey wilderness" where egrets gathered like a "premature snowstorm," jaguars roamed, and wild melons grew. That was in 1922, the year the Colorado River's interstate compact was signed and plans were laid for Hoover Dam. In the years since, marine ecologist Cuauhtemoc Leon Diaz told me, the ecosystem has changed completely.

Two marine animals became endangered species: a fish called the totoaba and a porpoise called the vaquita. The totoaba used to grow as long as six feet and weigh 300 pounds; its flesh and bladder were a delicacy. Adults migrated to the mouth of the delta in thick schools, and the tides sent their eggs back, deep into the natural nursery of the delta. When the river was cut off, the nursery mechanism was cut off too.

Other, unknown species may have disappeared, according to saltwater agronomist Nicholas Yensen, who rediscovered a wheatlike salt grass thought extinct. Through selective breeding he improved the yield from one or two pounds an acre to one or two tons an acre. The grass grows best when irrigated with full-strength seawater, making it valuable in arid and saline areas worldwide.

"When the Colorado stopped flowing, we lost the main population of the plant—it could have gone extinct, and we'd never have known," he said. The river was like the Nile in its importance to the delta. "We probably never will know what we lost."

In my last days on the river I talked with Cucapa Indians at their village, aided by Anita Alvarez de Williams, a self-taught expert on the small tribe. It had been six months since they had been able to catch enough fish to sell. Still, at every home, a boat lay expectantly in the gravel. "I don't have much hope for the future," said Rosendo Carrillo Oliveras. "The older ones fish, the younger ones goof off—there is no work."

Anita introduced me to Inocencia Gonzales Saiz, a 53-year-old woman who makes traditional beaded collars, worn in ceremonies. Instead of fish, she said, they eat frijoles and junk food. The water can't be used effectively on melons or squash because it is too salty. They eat a diet high in sugar and fat. Many of the people have diabetes.

I thought back to all that I had seen on the Colorado. The river could produce so much—and promise so little. As we left El Mayor, Anita said to me, "There are important things to learn from apparently simple cultures. These guys have been around for a couple thousand years. But barring a miracle, you're seeing the last of them."

Aldo Leopold, at the end of his essay on the Colorado Delta, wrote: "Man always kills the thing he loves. . . . I am glad I shall never be young without wild country to be young in."

With what water it had, the Colorado created a new civilization in the Southwest. Now it is beset by the needs of a mature and burgeoning community. There is talk of renegotiating the compact to move more water where the people are and of creating new ways to exchange, augment, conserve, and manage. The river above the delta reminded me of an aging prima donna eking out a little more time, refusing to face the inevitable.

"What river?" I remembered the fisherman El Coyote asking me.

I knew the answer, but had no reply.

PLUMBING THE WEST

"We have in the Colorado an American Nile awaiting regulation," said Los Angeles water investigator Joseph B. Lippincott in 1912. Since that time the river has been "regulated" almost out of existence and now rarely empties into the Gulf of California. With scores of reservoirs and diversion dams, hundreds of miles of aqueducts and tunnels, dozens of pumping stations, thousands of miles of canals, and more than 30 hydroelectric plants, the river basin contains one of the world's most controlled river systems.

Riverwide regulation began with the 1922 Colorado River Compact, which divided seven western states into upper and lower basins (map) and allocated 7.5 million acre-feet of water a year to each. A 1944 treaty with Mexico guaranteed that country 1.5 million acre-feet annually. Although the Colorado was committed to deliver 16.5 million acre-feet, its annual flow has averaged only 14 million since 1930, and evaporation from reservoirs removes another 2 million.

As long as some states continue to use less than their share (inset), others can siphon off more. But as populations rise and states in both basins complete water projects, the Colorado will be virtually tapped out.

[From the National Journal, Jan. 30, 1988]

WHERE'S THE WATER?

(By Lawrence Mosher)

Ever since Ronald Reagan came to Washington seven years ago, his Administration has consistently opposed the development of a national water policy. With an eye cocked on the West's disdain for federal intervention, James G. Watt stripped six river basin commissions of federal support and killed an interagency water council during his tenure as Interior Secretary. But the nation's growing water problems may eventually reverse this Reagan doctrine.

Water scarcity is no longer just a western dilemma best left to western states and federal courts to sort out. In recent years, the East has suffered from a series of droughts that have alarmed cities up and down the Atlantic seaboard. The result is increasing agitation over the issue of water management.

The looming question is whether the current systems that control the nation's water should be changed—and if so, to what.

A prime example of the rising interest in water management can be found in a potentially radical set of recommendations involving New York City's future supplies. The plan, presented to Mayor Edward I. Koch in January, comes from an intergovernmental task force that he appointed during the last eastern drought, in 1984–85, when the city's supplies ran so low that police helicopters used infrared scopes to direct illegal nighttime lawn watering. The plan's key recommendations—to draw heavily on the Hudson River and possibly integrate the city's system with the dwindling aquifers of Long Island—were offered by the Army Corps of

Engineers during the Carter Administration, but no action was taken.

The Koch task force's plan represents a move toward managing water more by its hydrological than its political boundaries—even though the proposed New York City "watershed" is a hydrological fiction embracing two river basins and an island's aquifers.

Meanwhile, the twin pressures of fiscal and resource constraints are fast eroding water's traditional power base in Congress, built on the West and South, with potentially far-reaching consequences for changing the national approach to water management. In 1986, Congress dealt pork-barrel water politics a hard blow by enacting significant cost-sharing requirements for the first time, breaking a 10-year moratorium on new water project authorizations.

"What has happened," said Rep. George Miller, D-Calif., chairman of the Interior and Insular Affairs Subcommittee on Water and Power Resources, "is that western water development, or Mississippi River basin development or various inland waterway improvements are no longer the sole purview of the Members of Congress and Senators from that state. Because of the [budget] deficit, the community of review now involves many more Members of Congress than it did when I came here more than a decade ago."

An eastern Senator, Bill Bradley, D-N.J., took over the chairmanship of the Energy and National Resources Subcommittee on Water and Power last year, and he is trying to sharpen the full committee's oversight role. At a hearing last October, Bradley prodded committee chairman J. Bennett Johnston Jr., D-La., to probe the Interior Department's implementation of the 1982 Reclamation Reform Act. Bradley accused Interior officials of caving in to California agribusiness that he said were circumventing the law, which requires farmers with more than 960 acres to pay "full cost" for water provided by the federal government, which in California can increase water costs fivefold.

Bradley has said that he wants to broaden his subcommittee's membership to include more Senators from the North and East. He also is looking for "the right federal role" in water management, according to an aide, and is helping the Delaware River Basin Commission augment its reservoir capacity.

PLANNING BY BASINS

River basins are natural hydrological planning and management units for water. Congress first recognized this in establishing the Tennessee Valley Authority in 1933, which manages the nation's fifth-largest river. The Delaware commission was established by Congress in 1961 after a fight between New York and New Jersey resulted in a Supreme Court consent decree in 1954. The commission was set up to manage the Delaware watershed in Delaware, New Jersey, New York and Pennsylvania, plus a bit of Maryland. Its members are the governors of the first four states and the Interior Secretary.

In 1965, Congress passed the Water Resources Planning Act, which set up six more commissions covering New England, the upper Mississippi River, the Missouri River, the Ohio River, the Great Lakes and the Pacific Northwest. Congress added the Susquehanna River Basin Commission in 1970.

River basins make more sense as water planning and management units than states do because water is naturally self-contained within basins. "Budgets" can be drawn up to show the availability of water and how and where it's used, and "deficits" can be predicted to allow better management.

The Missouri River Basin Commission, one of the six new units later abandoned by the Reagan Administration, in the 1970s predicted the Denver area's current water shortage, but it had no power to execute a solution. Now the Denver area wants to impound more water, including water in the Colorado River watershed, setting off more western water wars in the courts.

As the Delaware decree and other settlements have shown, the courts are not the ideal arena for getting the most efficient yield from rainfall and aquifers.

"The water of the upper Delaware are locked up by the 1954 Supreme Court consent decree," said Daniel P. Sheer, a prominent hydrology engineer who crafted agreements in 1982 to assure adequate supplies for the Washington (D.C.) area well into the 21st century.

The Delaware commission had to incorporate the Court's rules, which turned out to be unrealistic. The Court allocated 800 million gallons a day to New York City and 100 million gallons a day to northern New Jersey, regardless of variations in the river's flow. When the "drought of record" hit the region in the mid-1960s, Philadelphia almost ended up with no drinking water when the "salt front"—the unacceptable level of salinity in the Delaware estuary—moved upriver to within a few miles of the city's intake pipe because fresh water needed to dilute the estuary's ocean water went to New York City and northern New Jersey instead.

New York City draws half its water from three upper Delaware reservoirs that lie in New York state. At the height of the drought, the city violated the 1954 decree by reducing for one week its releases downstream substantially below the required flow, demonstrating the ultimate water law: Who controls the valve owns the water. The decree also requires that the city release enough water to maintain a flow of 1,750 cubic feet per second at the U.S. Geological Survey gauging station at Montague, N.J., just below the New York state line.

The 1960s drought spurred Congress to authorize a vast Corps of Engineers study, the Northeastern United States Water Supply Study. It pinpointed the metropolitan areas of Washington, New York City and eastern Massachusetts-Rhode Island as "critical." The region's population of 50 million would grow to 80 million by the year 2020, the Corps predicted, making those areas even more vulnerable to recurring droughts.

"Droughts had occurred in the past and had caused inconvenience and economic losses," the 1977 study said. "But not until the 1960s had the great urban centers perceived themselves to be vulnerable to a water system breakdown—a situation involving not inconvenience with severe but acceptable monetary losses, but involving potential loss of life through fire, disease and deprivation along with economic losses of disastrous proportions."

The Corps acknowledged the value of river basin management but shied away from recommending it for the Hudson. The reason was opposite from New York City, which had torpedoed a similar proposal by a state commission in 1973. The Corps said that "regionalization generally is not perceived as desirable, except in the largest urban area, where it is a matter of necessity."

Enter the drought of 1984–85, which hit New York City hard.

WATCHING THE FLOW

In July 1985, Koch convened the Intergovernmental Task Force on New York City Water Supply Needs, chaired by a deputy mayor and including representatives from four city departments, neighboring Westchester County, two state agencies and two federal agencies, the Geological Survey and the Corps. In 1986, Koch added 11 counties from Long Island, the Hudson River valley and the upper Delaware basin.

"We expanded the task force membership because we recognize that in water supply, as in so many other ways, New York City is part of a larger region," Koch said in a statement. "We are committed to an open, negotiated process with the rest of the region as we study our options for increasing our water supply. Any significant new sources of water for the city will be located outside our borders. Any solution to our water supply problems will be a regional solution."

The "region' Koch put together embraces two river basins and an island's aquifers. Gotham, in effect defined its own "watershed," an imperious maneuver that nevertheless was executed more democratically than past water grabs were. Not unexpectedly, those affected outside the city have reached with both praise and alarm.

"Finally, after decades of resisting calls to conserve water, New York City is beginning to act," said Mary Ellen Noble, an officer of the Watershed Association of the Delaware River. "Everyone here is delighted, but we are now waiting to see what they do. People here have grown bitter watching New York waste water over the years. It's ironic, too, because they are now looking to their own river, which means the concerns we have long faced will now come a lot closer to their home."

New York City has never metered its residential water service; users are billed on the basis of building frontages and the number of water-using fixtures. The city's average residential water bill comes to only $112 a year. A 10-year metering plan is now under way, with completion scheduled for 1996. Although metering is more a water management tool then a conservation measure, it is considered a mandatory step toward controlling demand.

Water conservation measures, however, are high on the list of the task force's recommendations. They include stepping up a leak detection survey and enforcing the state's low-flow water fixtures law.

Plumbing manufacturers have opposed stringent state enforcement, and so the city is now trying to get state authority to enforce the state code with its own inspectors. The state code regulates some 500 water fixtures—requiring, for example, toilets, in new buildings, that use less water. A pilot retrofitting program also is planned to test lower-flow toilets. The National Wildlife Federation, meanwhile, is promoting legislation to establish federal performance standards for new plumbing fixtures and major appliances.

How much water metering and conservation measures will save in New York City is a matter of speculation. The 1977 study by the Corps estimated that New York City metering alone would save about 50 million gallons a day—less than a 4 per cent savings based on the city's current usage of 1.4 billion gallons a day. But Jeffrey L. Sommer, first deputy commissioner of the city's Environmental Protection Department, predicts a 10–30 percent savings.

The city's major planning problem is that it doesn't really know what happens to its water after it enters the city. A preliminary study two years ago predicted a rise in demand by the year 2025 ranging from 250 million-1 billion gallons a day, or up to 71 per cent. "The task force concluded that we needed to do a very detailed demand study, which is under way now and will be ready in another year," Sommer said.

EYEING THE HUDSON

What bothers the city's neighbors up the Hudson River is both the "softness" of its water data and the possibility that the city will decide to take up to one billion gallons a day from the river. Currently, the city draws water from the Hudson only during drought emergencies.

The task force's "high-flow" proposal—to take water when the river is full—is environmentally preferable to taking water during droughts, when the river is low, because the water's quality is better and the impact on salinity is less. But 1 billion gallons a day is a lot to draw out of a river—even the Hudson, whose average flow at Poughkeepsie exceeds 12 billion gallons a day.

The Hudson is tidal all the way to Troy, 153 miles upriver. Unacceptable salinity "spikes," or momentary high levels, already have been recorded at Poughkeepsie, which, along with a half-dozen other nearby communities, depends on the river for drinking water. Unlike, New York City, these communities have no other source of high-quality water. The city enjoys extremely high-quality water because most of it comes from the relatively undeveloped counties of the Catskill and upper Delaware watersheds.

The aqueducts that bring this water to the city pass through some of the upper Hudson counties that are getting increasingly nervous about the city's future demands. These counties now make up the fastest-growing region in the state: Dutchess County predicts a 42 percent increase in water demand in 20 years. But because they have the right to buy water from city-owned aqueducts, these localities are torn between going along with New York City and opposing it.

"These counties are concerned that New York City doesn't get the jump on them concerning Hudson River water," said Cara Lee, environmental director of Scenic Hudson Inc. "They want to make sure the city makes the best use of its present water supplies before it develops new ones. But they see New York going ahead to develop new supplies while it is still just talking about conservation. Metering is not a comprehensive conservation plan."

Scenic Hudson, an environmental group based in Poughkeepsie, hosted a symposium last June called Touching Bottom: New York City's Water Crisis. "Continuing to meet New York's great thirst poses a water allocation problem that is unprecedented in the eastern United States," Lee wrote in a pamphlet. The pamphlet included a proposal by Dutchess County Executive Lucille Pattison to create a Hudson River Basin Water Commission.

Pattison faulted the New York State Environmental Conservation Department for failing to organize a long-term plan for the region's water needs. "There is no single agency, state or otherwise, responsible for such an effort," she wrote. "While it is commendable that the city has included other communities, . . . the process is theirs, not ours."

Since then, the state environmental agency has proposed a "draft strategy" that Scenic Hudson's Lee considers flawed because of its reliance on "soft" city data and a "failure to address the institutional question." Whether the upstate counties can move the state their way is not yet clear. Cornell University professor Walter Lynn, chairman of the New York State Water Resources Planning Council, said, "If one has to develop other sources of water, then it is clear that in this day and age, New York City cannot arbitrarily throw its weight around and do whatever it pleases."

The city's Environmental Protection Department says there is room for compromise. "There is some level of water we can take without any detrimental impact to anyone or environmentally," Sommer said. "The real question is finding out how much. This is the prime option being considered. There clearly are legitimate concerns by the people along the Hudson."

TAPPING THE DELAWARE

But New York City's "watershed" also includes another river basin—the Delaware. In this case, a "good faith agreement" of 1983 between the basin's four governors and Koch established more realistic rules for allocating water during droughts. Instead of 800 million gallons a day, New York City is gradually whittled down to 540 million gallons a day, a decrease that in fact took place from July 25–Oct. 2, 1985. At the same time, releases from the three city reservoirs into the Delaware were cut below the Court-set 1,750 cubic feet per second. Fortunately, the "salt front" didn't migrate upriver far enough to threaten the drinking water of Philadelphia and Camden, N.J., as it did in the mid-1960s.

The critical question is what will happen in a severe drought. Will New York City honor the Delaware Basin's "good faith agreement" or break the rules again?

Then there is the problematical impact of the greenhouse effect, an ecological wild card that could throw off anyone's best plans. This is the future effect of the planet's gradually rising sea level caused by increasing amounts of carbon dioxide, methane, chlorofluorocarbons and other gases in the atmosphere that are warming the globe, speeding the melting of polar ice caps.

A 1986 study ordered by the U.S. Environmental Protection Agency (EPA) and the Delaware River Basin Commission said a 21-inch rise in the global sea level by 2050 would "imply" a rise of 2.4 feet in the estuary, which would send the "salt front" up the Delaware about five miles beyond Philadelphia in a 1960s-type drought. The study said that salinity increases could be offset by additional reservoir capacity. But the commission abandoned a huge reservoir project, Tocks Island, in 1977 because of local opposition. The commission's current reservoir expansion planning to the year 2000 does not include greenhouse-effect predictions.

By expanding a reservoir and bringing a new one on line, commission executive director Gerald M. Hansler said, "we can easily meet" a more stringent chloride standard by the year 2000. However, this prediction assumes only the historical sea-level rise of 0.1 inch per year. The greenhouse-effect study assumes an annual rise three times greater.

Neither the New York City task force nor the Delaware commission has so far cranked the greenhouse effect into its planning, although Sommer said the city's long-term study would include it. "Frankly, at this point there is not enough information to allow us to plan anything about the effects," he said.

Are the New York groups and the Delaware commission doing everything possible to deal with future droughts? Sheer thinks not, but not because of lack of intent. Sheer faults the system.

"There's no movement at all at a scale necessary to resolve the problem," he said. "Nobody has yet tried to look at New York, Long Island and the Delaware as a single water system. The mayor's task force is looking at Long Island and New York, and that's not sufficient. Unless you look at the Delaware too, New York doesn't have the flexibility to operate the Hudson River well. Unless you integrate the operation of the Delaware reservoirs into the development of alternative supplies for New York City, you can't operate the new facilities very well."

Sommer and Hansler disagree. "Sheer has told the commission we could save more water in those three New York City reservoirs if we didn't have to meet the Court-set 1,750 cubic feet per second rule at Montague," Hansler said. "Well, the down-basin states want that flow. They need it for recreation, fisheries, wildlife and domestic use. That's what they bargained for, and that's what they won."

Sheer responded: "Those rules were set in 1954, when we were much less sophisticated about how to operate reservoir systems. . . . They struck a deal that seemed fair at the time. But now we can make releases that are predicated on actual measurements of salinity. This could increase the effectiveness of those releases. But we are stuck with this rule of using the flow at Montague, and half the time, we are releasing water when we don't need it to check the salinity downstream. Sometimes they are releasing too much water, and sometimes not enough. So the rules are not letting us utilize the water in the best possible way."

Whether and when the federal government will step into such water management issues in a more aggressive way under the next Administration is still an open question.

Under Reagan, the only discernible national water policy has been budgetary restraint. Reagan's first appointee at the Corps, William R. Gianelli, came to Washington to sell cost-sharing and left disappointed. His successor, Robert K. Dawson, succeeded, aided by an alliance with environmental organizations. But he is not optimistic about government's willingness to make changes. Dawson, now an associate director of the Office of Management and Budget in charge of natural resources, energy and science, predicted:

"It's going to get tougher, not easier. Unfortunately, it will take a much bigger crisis than we now have before people will really make some of the tough moves to do this cross-pollination in thinking. This is too bad, but it may take some more publicized problems before we can really do anything more. . . . There are so many toes that get stepped on when you start making institutional changes."

[From the New York Times, March 10, 1991]

HIGH AND DRY IN CALIFORNIA: NATURE HUMBLES A STATE OF MIND

(By Robert Reinhold)

LOS ANGELES.—Californians yet again have cause to ponder the consequences of the profligacy, recklessness and greed that have long dulled the California dream of hope, renewal and optimism. In what the historian Kevin Starr has called "the intensified pursuit of human happiness" that marks the energetic history of California, insult after insult has been inflicted on this earthly paradise. The great Gold Rush left the mountains scarred like a battlefield. Lumbermen denuded the magnificent stands of redwood to the point that the few remaining trees are tourist curiosities. Automobiles have exhausted the air of Southern California. And now, it seems, the water is nearly all gone.

It did not have to be this way. For four dry years, water officials gambled that the rain and snow would resume soon, treating drought as a temporary inconvenience. To maintain near-normal deliveries, they drew down reservoirs to dangerously low levels. Even as drought tightened its grip in 1990, California farmers racked up record receipts and income. California remained the nation's second largest grower of rice, a monsoon crop that can be grown here only with cheap subsidized water and Federal crop supports. And there seemed plenty of water for Angelenos to fill their pools and wash their sidewalks.

Only now, well into the fifth dry year, when it may be too late, has concerted reaction set in with panicky attempts to conserve water and find additional sources. A few days ago, the Napa Valley wine town of St. Helena, with only a 125-day supply left in its reservoir, imposed rationing for the first time in history. In the San Joaquin Valley, the city of Merced adopted an odd-even outdoor watering rule on Monday, the same day the State Water Project cut off supplies to all farmers. Cities throughout Southern California last week were preparing rationing plans.

The state government's response so far has been hesitant and confused. The Water Resources Control Board twice set dates to impose statewide restrictions and twice postponed them amid doubts about its authority, ultimately deferring to Gov. Pete Wilson, who has appointed a special water panel to make emergency recommendations by Friday. His short-term options are limited, the long-term ones painful.

Few places on earth offer a more improbable setting for vast industrialized cities and prosperous farms than this mostly desertified state. Even as the American settlement of the Pacific frontier was gathering momentum a century and a half ago, a United States naval officer, Lieut. Henry Augustus Wise, pronounced California's future bleak. "Under no contingency," he wrote in 1849, "does the natural face of Upper California appear susceptible of supporting a very large population; the country is hilly and mountainous; great dryness prevails during the summers, and occasionally excessive droughts parch up the soil for periods of 12 or 18 months."

With great disdain for such negativism, Californians rearranged the environment to get the water they needed. Dams and reservoirs snatched water from the snows of the Sierra of Northern California and funneled it into thick aortas, the mighty aqueducts that course through the deserts making rich farms out of the malarial bogs of the Central Valley and sprouting powerful cities where none were naturally meant to be. Not even mountains stood in the way of the engineers. Huge pumps, like throbbing heart muscles, thrown the water of the Tehachapi Mountains and down into that arid tract known as the Los Angeles Basin, land of car washes, swimming pools and now home to 15 million. The result is perhaps the most problematic and vulnerable urban conglomeration in America today, threatened by the twin terrors of earthquake and drought.

"There is something disturbing about this corner of America, a sinister suggestion of transience," wrote the British author J. B. Priestly. "There is a quality, hostile to men in the very earth and air here. As if we were not meant to make our homes in this oddly enervating sunshine." He went on: "California will be a silent desert again. It is all as impermanent and brittle as a reel of film."

That may or not be true. But the means by which the water problem is solved will speak volumes about whether California, in its maturity, will learn from its youth or repeat its mistakes.

"In Iowa there is a humility about the farmer's reliance on nature—he embraces nature and allows himself to be embraced by its generosity," J. S. Holliday, historian of California's rambunctious Gold Rush past, said in an interview. "But here there is an entirely different attitude. The miners brought the attitude that nature had to be cracked open, that nature is a bounteous force from which we will take whatever we can get however we can get it. We were so flagrant, so arrogant, so profligate."

Already, history is repeating itself. Five years of water profligacy in the face of drought have taken an environmental toll. According to the Natural Resources Defense Council in San Francisco, striped bass counts in the Sacramento Delta and San Francisco Bay are at their lowest levels in history, and numerous birds, sea animals and plants have become candidates for the endangered species list because reduced fresh water flows to estuarine waters have raised salinity.

But the solution that is so obvious to conservationists—to change the outdated system of water rights and impose new incentives for more efficient agriculture—may not be the most politically feasible outcome. It is sobering to realize that even if every household in California, population 30 million, cut its annual water use by 25 percent that would reduce overall use by only 2 percent; agriculture consumes 85 percent of all available water.

"It is an empty exercise to put cities through elaborate conservation exercises," argues William L. Kahrl, author of "Water and Power," the definitive chronicle of California water wars. "That picks the course that causes the maximum inconvenience to the largest number of people, rather than looking at the reality of the deliveries. The lesson is they are very likely going to say: 'I don't care about the Sacramento Delta. That's a long way away. Give me more water.'"

Southern California, with the bulk of the population and political power, has long coveted the water of the north. The largest new potential for water would come from building the long-delayed peripheral canal that would channel more water to the south from the Sacramento Delta, water that would otherwise flow into San Francisco Bay. Talk about tapping the rivers of rural far-northern California has also been revived, a course that would please the farmers as much as urban leaders, but that would rearrange the environment even more than it has been.

"I do not have any thought of giving up water—it's a matter of how we get it," said Carl Boronkay, the general manager of the Metropolitan Water District of Southern California. His is the largest and most politically powerful of the state's 2,000 water districts, supplying half the water used by 15 million people in the fast-growing region from Ventura to the Mexican border. Mr. Boronkay talks of taking water away from rice farmers, of voluntary transfers between regions—easier said than done because water cannot be transferred like money between accounts. Reclamation, rationing and conservation are fine, he said, but "we need wet water."

The water crisis gives Californians one more reason to contemplate the state's failure to prepare for uncertainty and for growth that seems as inevitable as it is unwanted. Schools, social programs, freeways, bridges, prisons—none has kept pace with the exploding population. "There are a full raft of problems we have failed adequately to plan for," said Bill Bradley, author of the forthcoming book "The United States of California." "California is the quintessence of the American dream," he said. "Its history has been based on betting on the prospect of things going one's way. There is a lot of strength in being optimistic. But the down side is what we are confronting now."

THE FIGHT FOR MORE WATER

With the announcement last week that irrigation authorities were cutting off all water to farmers, including those in the huge Central Valley, and with Southern California cities preparing rationing plans, the drought that is now in its fifth year has exposed more starkly than ever the precarious assumption on which California's civilization is built: that even in a desert an endless stream of water is an inalienable right.

Even in the wettest times, providing water for California's agriculture industry and its growing megalopolises is a heroic (some would say hubristic) act involving hydrology, geography and power politics that sometimes seems to border on civil war. Northern California may have been born in the Gold Rush but the resource that has become the most coveted is the water that falls on its mountaintops. But while three-fourths of the state's rain and snow falls north of Sacramento, three-fourths of the population is in the southern part of the state. In a mammoth feat of civil engineering, water is funneled by a labyrinth of dams and reservoirs into aqueducts that lead to the politically powerful south.

The Northerners ask why they should make such a sacrifice for the Southerners, whom they like to stereotype as water-guzzling users of swimming pools and car washes. And both the Northerners and the Southerners resent having to share water with the farmers, who have long insisted on growing cotton, alfalfa, rice and other crops requiring huge amounts of water. About 85 percent of the water in California is, or rather was, used by farmers, who produce half the fruits and vegetables in the United States.

And so the effects of the drought ripple beyond California. Halfway through the so-called rainy season, the snowpack in the Sierra Nevada stands at 13 percent of normal, making hopes of a spring runoff seem an elusive dream.

[From the Fresno Bee, Nov. 10, 1989]

ABUSES AS CLEAR AS WATER

The General Accounting Office's lastest investigation of maladministration of federal irrigation programs merely confirms—again—what critics of the Department of the Interior have been saying all along.

In detailing the methods by which huge agricultural corporations in California's San Joaquin Valley and elsewhere have managed to keep collecting hundreds of millions of dollars in water subsidies that were intended to go to small family farmers, the GAO report notes dryly that "Congressional expectations have not been met." That's doubly disappointing since those expectations, in recent years at least, have not been very high.

The compromise on the so-called reform act that the Reagan administration hammered out with Congress in 1982 gutted most of the original intent of federal reclamation law. And the few protections it retained for the taxpayers were immediately extracted by the Department of the Interior in its administrative regulations for carrying out the new statute.

Absolutely no one has been fooled or misled about what was going on. Congress stood by and let it happen. Under pressure from wealthy agricultural interests, federal reclamation officials rewrote their own rules to ensure that the big companies would neither have to change their operations nor pay full cost for the water they're getting.

As a result, through phony trust arrangements that the Department of the Interior regards as perfectly legitimate, corporate farmers such as the J.G. Boswell Co. can keep right on collecting double benefits from the taxpayers by using cheap federal water to grow federally subsidized crops on the same lands they've always controlled. And now Interior Secretary Manuel Lujan wants to perpetuate some of those rip-offs for another 40 years by issuing new water service contracts without even considering the effects.

Rep. George Miller, Sen. Bill Bradley and some of the other members of Congress who've been interested in reclamation reform seem to be waiting to see what reaction the new GAO report draws before deciding what to do about it. The report itself explains how to put a stop to abuses like the Boswell trust. But many feel that kind of tinkering doesn't go far enough.

Some congressional reformers have proposed forcing agribusiness to decide whether it wants water subsidies or crop subsidies—but not both. Others want to simplify things by saying that any farm above a fixed size will have to pay full price for its water with no exceptions. In the past, agribusiness and its political allies have staved off such proposals for fundamental reform by contending that there's no evidence that the abuses were as bad as the reformers claimed.

The GAO report should silence that argument.

[From the Los Angeles Times, Nov. 3, 1989]

ENVIRONMENTAL SHOWDOWN

The Bush Administration's schizophrenia over the environment and natural resources is nowhere more apparent right now than in the proposed renewal of 40-year irrigation contracts between the U.S. Bureau of Reclamation and California farmers. The internal struggle represents a major conflict between the Environmental Protection Agency and Secretary Manuel Lujan Jr.'s Department of the Interior, with the Council on Environmental Quality siding with EPA. This is viewed by many in the Administration as a critical test case. The issue has not caught much attention outside of selected California constituencies, but its outcome could determine the Administration's future course on environmental matters and Lujan's ability to survive as a politically viable secretary of interior.

If the Administration follows logic and apparent legal precedent, it will order a full environmental impact study of the contract renewals and their considerable effect on California's complex water distribution system. If the Administration elects to hew to the narrow and tenuous legal claims of the Department of the Interior, it will reject an environmental study. The question is whether the Administration will relent now and maintain President Bush's desire to be a friend of the environment. Or whether it will side with mostly Republican friends in the agricultural community, give away considerable environmental credibility, and possibly lose the issue in the courts anyway.

The only reasonable answer is to proceed with the environmental impact report. This may embarrass Secretary Lujan, but it will not necessarily mean the farmers will lose any of the water they have been using from the Bureau of Reclamation's Central Valley Project the past 40 years. For the Administration to uphold Lujan's defiance of EPA would have the same effect as saying it believes in the National Environmental Policy Act, the keystone of American environmental law, only when it chooses to. From that point on, any claim by Bush that he is a friend of the environment will have quite a hollow ring.

The somewhat unfortunate scapegoat of the affair is the Orange Cove Irrigation District on the east side of the San Joaquin Valley, the first of some 300 districts to sign water deliverly contracts with the Central Valley Project, in July, 1949. Orange Cove is not typical of the agribusinesses that have been the principal targets of conservation organizations such as the Natural Resources Defense Council for receiving subsidized federal irrigation water, sometimes for growing subsidized crops. Most Orange Cove farms are small family operations that use water efficiently. Lujan issued a new 40-year contract to Orange Cove last summer in defiance of EPA's decision. The Department of Interior claims that other federal law requires it to renew the contracts and that no formal impact study was required. The Council on Environmental Quality, an arm of the White House that attempts to settle intra-Administration disputes of this sort, has sided with EPA. Lujan has had the matter under review ever since and is expected to announce a decision soon.

The EPA position reportedly also has struck a sympathetic chord within the Justice Department where Richard Stewart is the chief environmental lawyer, a former Harvard Law professor and former chairman of the board of the Environmental Defense Fund. Stewart, however, must defend the Department of Interior against a Natural Resources Defense Council lawsuit that seeks to force Interior to do the environmental analysis.

While only the one irrigation district is directly involved, the outcome of the dispute will set a precedent for hundreds of contracts that will be expiring throughout the West. The Central Valley Project of California alone distributes some 7 million acre-feet of water a year, or more than seven times as much water as the city of Los Angeles uses annually.

To ignore the environmental effects of such diversions is to show indifference to massive alterations in California's water system over the years and to defy the changing nature of its water needs. The Bush Administration could set national water policy ahead by years if it approved the environmental studies, perhaps in a joint venture with California, and used them as the centerpiece for the reconciliation of a variety of water problems affecting both farmers and city folk.

[From the Los Angeles Times, Nov. 6, 1989]

GAO WOULD SHUT WATER LAW LOOPHOLE

(By Marlene Cimons)

WASHINGTON.—Congress should close a loophole in the law that regulates use of federally subsidized water supplies, the General Accounting Office said in a report released Sunday. The congressional watchdog agency said that the government is losing millions of dollars in revenue because some farmers are taking advantage of the law to qualify for cheap irrigation rates.

The 1982 Reclamation Reform Act, designed to help states where water is scarce, primarily in the West, allows farms of 960 acres or less to receive water at low, subsidized rates. Some owners of large farms, particularly in California, have circumvented the size limit by reorganizing their holdings into smaller parcels so that they qualify for the cheap water.

"Congressional expectations have not been met," the report said in recommending that the loophole be closed.

In one case study cited in the report, Alpha Farms, one of California's leading cotton producers, reorganized its 12,345 acres into separate landholdings through 18 partnerships, 24 corporations and 11 trusts. The GAO said there were indications that the smaller holdings, all in the Central Valley, continued to be operated as one large farm.

In another case, the GAO said, a father, son, daughter and her husband each owned parts of a 4,638-acre farm and applied for the subsidized water as four landholdings of less than 960 acres each.

"However, the family continued to operate the four landholdings as one farm," the GAO said.

In the sample cases it reviewed, the GAO found that owners or lessees in 1987 paid about $1.3 million less for federal water than they would have paid if their respective multiple landholdings had been considered collectively as large farms subject to the legal size limit.

"Reduced revenues likely will continue to occur annually unless the act is amended," the GAO said.

Rep. George Miller (D-Martinez), chairman of the House Interior and Insular Affairs subcommittee on water, power and offshore energy resources, blamed the Interior Department for allowing farmers to get around the law.

"Wealthy farmers in California's Central Valley have subverted the intent of federal water laws and top Interior Department officials, aware of the abuse, declined to take corrective action," he told the Associated Press.

Steven Goldstein, a spokesman for the Interior Department, said Sunday that Interior officials had not yet seen the report. "However, if Rep. Miller believes the law should be changed, that is certainly within his purview as a member of Congress," he said. "The secretary has a responsibility to carry out the law as it is written."

The law does not "preclude multiple landholdings, each of which is within the act's 960-acre limit, to continue to be operated collectively as one large farm while individually qualifying for federally subsidized water," the GAO said.

"Some farmers have taken advantage of this loophole by reorganizing their farms into multiple, smaller landholdings to be eligible to receive additional federally subsidized water * * * using various partnerships, corporations, and/or trust arrangements," the report continued. "For all practical purposes, these smaller landholdings continue to be operated collectively as single large farms, much as they were before being reorganized."

Mr. BRADLEY. Mr. President, I am pleased to join the senior Senator from Oregon [Mr. HATFIELD] in sponsoring the Western Water Policy Review Act of 1991. No one familiar with the subject of western water policy can be satisfied with the current state of affairs. Although the Federal Government and the States have invested billions of dollars in water supply infrastructure, important contemporary needs are ignored or served only with the greatest difficulty. Facilities are not the central problem, policies are.

Western water policy has changed little from the turn of the century, while the West itself has changed dramatically from the underpopulated agrarian region with simple needs which defined the Federal Reclamation Program and other manifestations of western water policy. The West is now the most urbanized region in the Nation. The 17 Western States which host the reclamation program are home to about 76 million people, about 60 million of whom, or 80 percent, live in metropolitan areas. In California, the percentage is over 95. More than 80 percent of the residents of Washington, Colorado, and Texas live in metropolitan areas. Overall, the West's cities grew at almost twice the national rate during the 1980's. To use Oregon as an example, between 1980 and 1987, Oregon's urban population grew at almost four times the pace of that State's rural population.

The cities' rise is matched by striking declines on the farm and in rural areas. A century ago, almost half of the U.S. population lived on farms. As recently as 1950, about 15 percent lived on farms. By 1988, only 2 percent of the total U.S. population and less than 10 percent of the entire rural population resided on farms. Farming is the third fastest declining job category in the Nation's labor force, just ahead of stenographers. Between 1979 and 1985, the number of jobs in rural areas grew by only 3 percent, while the number of jobs in urban areas grew by 10 percent. Rural areas have been losing population for years. In fact, between 1982 and 1987, net outmigration from rural areas to urban areas totaled almost 2 million people, with the majority of those leaving being the youngest and best-educated.

These numbers mean something. They mean that the principal need for new water supplies lies in the West's cities, not rural areas. The numbers mean also that continued Federal investment in agricultural irrigation may no longer be the best means of helping develop western rural economies. Perhaps the assets of the reclamation program—water, power, storage and conveyance facilities, repayment revenues, and human talent—could be helpful in new ways. Without a doubt, it is time to explore comprehensively the policy adjustments which will provide the West with the best and broadest range of public benefits.

At the same time, it is vital for this Nation to reshape western water policy to grant environmental protection its rightful place as an equal—and essential—partner to economic development. Senator HATFIELD is all too aware of the environmental costs of antiquated Federal water policies in the Columbia River basin. The Committee on Energy and Natural Resources regularly confronts critical environmental problems created by traditional western water policies which discourage efficient water use and ignore public values in fish, wildlife, and environmental quality. The Nation is spending millions of dollars to clean up after the Federal Reclamation and water development programs. This legislation offers us a welcome chance to move away from piecemeal remedial actions toward broadly applicable preventive measures.

I look forward to working with Senator HATFIELD on this beneficial measure.

By Mr. McCAIN (for himself and Mr. DURENBERGER):

S. 1229. a bill to exempt certain small employer purchasing groups from certain requirements of State laws relating to health benefit plans and to amend the Internal Revenue Code of 1986 to equalize tax benefits for self-employed persons participating in such groups; to the Committee on Finance.

SMALL EMPLOYER HEALTH INSURANCE INCENTIVE ACT

• Mr. McCAIN. Mr. President, I rise today to introduce important legislation to address the growing problem our Nation's small businesses are facing in the ability to purchase affordable health insurance for their employees. This legislation, the Small Employer Health Insurance Incentive Act of 1991, will provide incentives and make it possible for small businesses, including the self-employed, to form groups for the purpose of purchasing affordable health insurance.

Today, between 32 and 37 million Americans are without adequate health insurance. Because of the continuing escalation of health care costs in this country, many of these people are forced to go without routine and needed medical care.

The result is more acute health problems in some individuals, including children. These increased health problems, the result of inadequate health insurance, then cause an increased drain on government resources.

Contrary to what most of us believe, the bulk of uninsured Americans are not unemployed. Rather, between 70 and 80 percent are employed or are dependents of employed individuals. The vast majority of these work for small businesses. Also, contrary to general opinion, these people are without insurance not because small business owners are unwilling to provide coverage, but in large part because the business is unable to pay the high cost of health coverage as mandated by most States.

I believe the best approach to this problem is providing employees with the coverage they need, giving small firms affordable options for covering their employees, helping insurance providers as they struggle to keep pace with rising health care costs, and reducing the health cost drain on our government resources. On March 20, I joined with Senator DURENBERGER in introducing S. 700, the American Health Security Act of 1991—legislation to assist small businesses with under 50 employees by providing them with alternatives to existing insurance plans, eases the cost of buying insurance by providing tax incentives, and limits premium increases.

This legislation in no way mandates coverage. While some believe mandates are the way to go, I do not. I believe mandates would only make it more difficult for small businesses to purchase affordable health care coverage for their employees.

State mandates imposed on insurance coverage lead to a great deal of the cost of small group health policies. These mandates have made those policies too costly for many small businesses. In fact, premium rate increases of 50 to 100 percent are not uncommon for these policies.

The legislation I am introducing today, the Small Employer Health Insurance Incentive Act of 1991, goes beyond the American Health Security Act to address the issue of whether we should permit small businesses to band together to purchase insurance. And, where the American Health Security Act covers those businesses with up to 50 employees, this legislation would cover businesses with as many as 100 employees.

Mr. President, this issue of permitting small businesses to band together to purchase health insurance is very important. The model for this legislation is based on the Council of Smaller Enterprises [COSE] in Cleveland, OH. COSE is a group that makes health insurance available and affordable to 10,000 small employers and over 120,000 employees and their dependents.

Because of its administrative efficiencies and purchasing power, premium rates for COSE increased by only 34 percent between 1984 and 1990, compared with a 176-percent increase for commercial insurance rates during the same period. These cost savings have enabled approximately 2,000 small employers in the Cleveland area to offer employee health insurance that could not do so before joining COSE.

State regulations such as mandated health benefits, health insurance premiums taxes, and restrictions on managed care make it difficult for small employers to contain costs. In contrast, larger employers have the economic wherewithal to self-insure under the Employee Retirement Income Security Act [ERISA] and are therefore exempt from State regulation of health insurance.

Under the bill, the following incentives would be offered to encourage the formation of small employer purchasing groups:

Exemption from State-mandated health benefits;

Exemption from State taxes on health insurance premiums; and

Exemption from State laws that prohibit certain types of managed care activities.

Unlike the self-insured ERISA plans, the small employer purchasing groups would only be allowed to purchase health insurance and could not bear any risks for actually insuring their members.

All small employer purchasing groups must be certified by the Secretary of the Department of Health and Human Services. To acquire such certification, the small employer purchasing group must apply with the Secretary and demonstrate that it meets the above criteria.

To encourage self-employed individuals to join small employer purchasing groups, the tax deduction for health insurance for the self-employed would be increased from 25 percent to 100 percent for those that join such a group. These particular provisions are similar to those contained in S. 88 and S. 89 which I also recently introduced with Senator DURENBERGER.

Mr. President, this bill I am introducing today, which was just introduced in the House by Congressman CHANDLER, together with the other three I have just discussed, forms a comprehensive package which will go a long, long way in resolving the difficulty our Nation's small businesses are having in obtaining affordable health insurance. And, in the process, this package significantly addresses the uninsured problem we are facing in this country. I believe it is time that we take this issue on in a head-on fashion, which these bills do.

This is fair legislation. It does not seek to penalize employers or insurers. No mandatory coverage is called for, and premium rates are capped within ranges that will reflect the marketplace and actual experience. This package of bills represents a real, working solution for millions of uninsured Americans.

I hope that my colleagues will examine these bills closely and consider adding their names as a cosponsor.

I ask unanimous consent that the entire text of the Small Employer Health Insurance Incentive Act of 1991 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Small Employer Health Insurance Incentive Act of 1991."

SEC. 2. PREEMPTION FROM INSURANCE MANDATES FOR QUALIFIED SMALL EMPLOYER PURCHASING GROUP

(a) QUALIFIED SMALL EMPLOYER PURCHASING GROUP DEFINED.—For purposes of this section, an association is a qualified small employer purchasing group if—

(1) the association submits an application to the Secretary of Health and Human Services at such time and in such form as the Secretary may require; and

(2) on the basis of information contained in the application and any other information the Secretary may require, the Secretary determines that—

(A) the association is administered solely under the authority and control of its member employers,

(B) the association's membership consists solely of employers with not more than 100 employees (except that an employer member of the group may retain its membership in the group if, after the Secretary determines that the association meets the requirements of the paragraph, the number of employees of the employer member increases to more than 100),

(C) with respect to each State in which its members are located, the association consists of not fewer than 100 employees, and

(D) at the time the association submits its application, the health benefit plans with respect to the employer members of the association are in compliance with applicable State laws relating to health benefit plans.

(b) PREEMPTION FROM INSURANCE MANDATES.—

(1) FINDINGS.—Congress finds that employer purchasing groups organized for the purpose of obtaining health insurance for employer members affect interstate commerce.

(2) PREEMPTION OF STATE MANDATES.—In the case of a qualified small employer purchasing group described in subsection (a), no provision of State law shall apply that requires the offering, as part of the health benefit plan with respect to an employer member of such a group, of any services, category of care, or services of any class or type of provider.

(3) PREEMPTION OF TAXES ON PREMIUMS.—In the case of a qualified small employer purchasing group described in subsection (a), no provision of State or local law shall apply that requires a provider of insurance to pay a tax on premiums received from employer members of the group under a health benefit plan obtained by the group from the insurer for its employer members.

(4) PREEMPTION OF PROVISIONS RELATING TO MANAGED CARE.—In the case of a qualified small employer purchasing group described in subsection (a), the following provisions of State laws are preempted and may not be enforced against the health benefit plan with respect to an employer member of such a group:

(A) RESTRICTIONS ON REIMBURSEMENT RATES OR SELECTIVE CONTRACTING.—Any law that restricts the ability of a carrier to negotiate reimbursement rates with providers or to contract selectively with one provider or a limited number of providers.

(B) RESTRICTIONS ON DIFFERENTIAL FINANCIAL INCENTIVES.—Any law that limits financial incentives that a health benefit plan may require a beneficiary to pay when a nonplan provider is used on a non-emergency basis.

(C) RESTRICTIONS ON UTILIZATION REVIEW METHODS.—(i) Any law that—

(I) prohibits utilization review of any or all treatments and conditions;

(II) requires that such review be made by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or by a physician in any particular speciality or with any board certified speciality of the same medical specialty as the provider whose services are being rendered:

(III) requires the use of specified standards of health care practice in such reviews or requires the disclosure of the specific criteria used in such reviews;

(IV) requires payments to providers for the expenses of responding to utilization review requests; or

(V) imposes liability for delays in performing such review.

(ii) Nothing in clause (i)(II) shall be construed as prohibiting a State from requiring that utilization review be conducted by a licensed health care professional, or requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

(c) EFFECTIVE DATE.—This section shall take effect 60 days after the date of the enactment of the Act.

SEC. 3. EXPANDED TAX BENEFITS FOR SELF-EMPLOYED PERSONS PARTICIPATING IN QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) INCREASE IN DEDUCTION.—Paragraph (1) of section 162(1) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "25 percent (or 100 percent for insurance which is obtained by a qualified small employer purchasing group)".

(b) DEDUCTION MADE PERMANENT.—Subsection (1) of section 162 of such Code is amended by striking paragraph (6).

(c) DEDUCTION LIMITED TO QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.—Subsection (1) of section 162 of such Code, as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(6) QUALIFIED SMALL EMPLOYER PURCHASING GROUP DEFINED.—In paragraph (1), the term 'qualified small employer purchasing group' means an association that is a qualified small employer purchasing group for purposes of section 2 of the Small Employer Health Insurance Incentive Act of 1991.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.•

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 1230. A bill to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD; to the Committee on Energy and Natural Resources.

LAND ACQUISITION AT MONOCACY NATIONAL BATTLEFIELD, MD

• Mr. SARBANES. Mr. President, today I am introducing legislation, together with my colleague, Senator BARBARA MIKULSKI, to authorize additional appropriations for land acquisition at Monocacy National Battlefield. This legislation is the companion to a measure introduced by Representative BEVERLY BYRON, H.R. 990, which was recently approved by the House of Representatives. I want to commend Congresswoman BYRON for her leadership in crafting this measure to preserve and protect a Civil War battlefield that is an important part of our Nation's heritage.

Monocacy National Battlefield Park in Frederick County, MD, is the site of a little-known but important Civil War battle referred to as the "Battle that saved Washington." It was here on July 9, 1864, that Union soldiers blunted a bold Confederate thrust at the Nation's Capital. Although outnumbered by some 14,000 Confederates under Lt. Gen. Jubal Early, 6,000 Union troops under the command of Maj. Gen. Lew Wallace, delayed the Confederate forces for a day, enabling Gen. Ulysses S. Grant to strengthen Washington's defenses and warding off the Confederacy's last attempt to bring the war to the North.

Congress first recognized the importance of the Battle of Monocacy by establishing the Monocacy National Military Park in 1934. In 1975, the battlefield area was placed on the National Register of Historic Places as a national landmark. Legislation introduced in the 1970's by the late Representative Goodloe Byron, authorized funding for land acquisition and the Park Service has acquired or obtained scenic easements on over half of the 1,670 acres that lie within the boundaries of the battlefield.

Unfortunately, the acreage presently authorized for acquisition by the Park Service is seriously threatened by encroaching development. Only 30 miles from Washington, and 46 miles from Baltimore, the battlefield is at the hub of an historic and well-traveled area. The site is virtually bisected on a north-south axis by I-270, the major route from the west to the Nation's Capital. The battlefield's superb location along an interstate highway corridor and within easy reach of major population concentrations also provides the basis for the serious and growing threat to the parkland.

Two major parcels of land in private ownership remain within the battlefield's authorized boundaries. The owners of one of the parcels, the Trail Farm, which encompasses approximately 300 acres and is zoned for industrial development, have indicated that family circumstances may force the sale of the property this year. Private developers have expressed an interest in acquiring the property, but the family would prefer to sell to the Park Service. However, the Park Service's authorized ceiling for acquisition of battlefield property is inadequate to purchase the tract. The legislation we are introducing today, simply provides the National Park Service with additional authority for this land acquisition.

Mr. President, a recent article in the Frederick Post entitled "The Case for the Monocacy Battlefield" and authored by Representative BEVERLY BYRON, presents very cogent arguments for protecting Monocacy National Battlefield Park. I ask unanimous consent that the article and a related editorial from the Frederick Post be printed in the RECORD immediately following my statement. This beautiful area—so important to the history of this country—must be protected before the opportunity to preserve and interpret this battlefield is lost forever. I urge my colleagues to join me in supporting this legislation.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Frederick News-Post, May 29, 1991]

THE CASE FOR THE MONOCACY BATTLEFIELD

(By Beverly B. Byron)

Several years ago in a much and deservedly publicized situation, the National Park Service purchased from a developer a critical piece of land adjacent to Manassas National Battlefield in Virginia. The developer paid $10.5 million for the 542-acre tract in 1982, and it quickly jumped on the joyride of escalating land values that characterized the decade.

The ride ended in 1988 when Congress authorized the funds for the park service to pay the developers $100 million for the very same parcel it could have purchased six years earlier in order to achieve the same goal—to give the battlefield a buffer zone of protection from the area's growth.

As it exists today, the situation at the Monocacy National Battlefield is different from that at Manassas, but should we fail to act, they will have very much in common in the future. The National Park Service was at first uninterested in acquiring the land at Manassas. By contrast, it has targeted the Monocacy parcel as its top priority for land acquisition for the mid-Atlantic region.

And then there is this difference: The parcel of land that is being put up for sale at Monocacy is within the boundaries of the park and is therefore not, as some have understood it, the target of a federal land grab. But as with the land adjacent to Manassas, the property at Monocacy is of great interest to developers. At least two, in fact, have expressed interest in purchasing its 294 acres. Make no mistake about it. The market factors that resulted in the federal government paying close to 10 times the original asking price at Manassas are a possibility now at work at Monocacy if we do not move soon.

Assuming that it's considered unseemly to have development take place within the boundaries of a national park, to what length should we be willing to go to afford such historical places protection?

An editorial that appeared in your paper in August 1982 suggested this: "Development of Monocacy National Battlefield Park will someday provide an open, living textbook on the importance of this event in the outcome of the Civil War and the history of America. There are priorities, however, and these include first—buying outright or securing scenic easements of the land in the actual battle zone."

I agree, and that is why I have offered legislation to raise the authorization ceiling.

Without my bill the National Park Service cannot even entertain an offer from the land's seller, because it does not have the legal authority to do so at the current authorization level. But let's be clear about this so that your readers understand. My legislation does not appropriate one penny of federal money. It does not add to the federal budget deficit. It says only that Congress agrees that $27.8 million is the maximum that may be spent for all park operations and activities for an unspecified future time. Expenditures above that level would require another congressional authorization. For the record, the last such authorization was in 1980.

To some this may seem just a shell game or a matter of semantics, but it is an extremely important distinction, especially in view of last year's budget package that virtually set spending levels for the next five years. The actual funds that are available for land acquisition at Monocacy and other parks around the country will have to come out of the discretionary allocation of the Interior Appropriations Subcommittee. That funding level was set last October in the budget agreement.

So the real battle for preserving Monocacy is not my legislation though, as I have said, it cannot even begin without my bill. It will, instead, be in the Interior Appropriations process and how persuaded those legislators are that Monocacy represents a timely and critical priority on what is their very long list. I and the Maryland congressional delegation have been at work reminding our colleagues that a very expensive clock is ticking on Monocacy.

Though it is not certain, it is likely that the Trail Farm property within the battlefield's boundaries will be sold this year. We can delay and let developers move in. But whether they build or not, the value of the Trail Farm will almost certainly rocket right into the stratosphere.

Unless we deem it not worthy of preservation, the time for Monocacy is now. I voted against the legislation that provided the $100 million for Manassas, because its time had passed.

Should we lose this opportunity at Monocacy, I would be hard pressed to vote for an exorbitant purchase price later. Let us not again step wide-eyed into the trap we set for ourselves at Manassas, to then one day years hence say we made a costly mistake at Monocacy and then pay for it 10 times over. The high road in this case is to choose among our priorities and have the conviction to see that they are achieved.

[From the Frederick Post, Nov. 18, 1989]

A "GATEWAY" TO HISTORY

National Park Service Superintendent Richard Rambur had some good news for those who share an interest in saving the site of the "battle that saved Washington" and thereby preserving a part of our Frederick County heritage.

Within a year or two, the park service expects to have all 1,670 acres of the Monocacy National Battlefield under ownership or scenic easement, the superintendent noted in an Associated Press story Friday. Also, there are plans to build a visitor center at the site within four years.

Mr. Rambur envisions the Monocacy battlefield eventually becoming a "gateway to the Civil War" for tourists traveling from Washington and Baltimore on their way to the more familiar war landmarks of Gettysburg, Antietam and Harper's Ferry.

The park could attract more visitors than the 350,000 people who visited Antietam National Battlefield last year, Mr. Rambur said. And that means more tourist dollars and attention coming to Frederick County.

But it also means that the small clash between Union and Confederate forces that went unrecorded by Civil War correspondents, unnoticed by historians and untouched for so long by the federal government will finally get the recognition it deserves.

The Battle of the Monocacy, while not one of the major engagements of the Civil War, was a crucial encounter in that bloody four-year struggle. With a few thousand troops rushed from Baltimore, Union Maj. Gen. Lew Wallace blunted Confederate Gen. Jubal Early's bold thrust at the federal capital. Although the rebels beat the small Yankee army, the battle bought time for Gen. Ulysses S. Grant to reinforce the defense of Washington and save the panic-strickened city.

Now thanks to efforts by the park service, the local tourism council and others, those momentous events of 125 years ago will be rescued from obscurity and preserved for future generations to study and contemplate.●

By Mr. BENTSEN (for himself and Mr. ROCKEFELLER):

S. 1231. A bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening examinations and certain immunizations under part B of the Medicare Program, and for other purposes; to the Committee on Finance.

MEDICARE PREVENTIVE BENEFITS ACT OF 1991

● Mr. BENTSEN. Mr. President, I am introducing today, with Senator ROCKEFELLER, the Medicare Preventive Benefits Act of 1991, which will improve the package of preventive services currently available to Medicare beneficiaries and establish mechanisms to promote future progress on health prevention as well.

Our colleague, Chairman DAN ROSTENKOWSKI of the House Ways and Means Committee, plans to introduce a companion measure today.

Under current law, preventive care services are generally excluded from the Medicare benefit package. This exclusion dates back to the inception of the program, when health insurance was seen primarily as protection against the expense of treating acute illnesses.

In recent years, Congress has enacted piecemeal expansions of the Medicare benefit package to include several preventive services: pneumonia and hepatitis B vaccines, pap smears, and mammography screening.

This bill will make a number of services newly available to Medicare beneficiaries.

First, it will extend coverage to screening services for colon cancer, as has been recommended by both the National Cancer Institute and the American Cancer Society.

In addition, it will cover influenza and tetanus/diphtheria vaccinations, and—for the small number of children who are entitled to Medicare—well-child visits and immunizations. These expansions follow the advice of the U.S. Preventive Services Task Force, an expert group appointed by the Secretary of Health and Human Services.

Finally, it will also make mammography screening available once a year, rather than once every 2 years as under current law. This change follows the recommendations of many groups, including the National Cancer Institute, the American Cancer Society, the American College of Obstetricians and Gynecologists, and the American Medical Association.

Equally important, the bill calls for the establishment of an ongoing research program under which the Department of Health and Human Services would evaluate the merits of additional preventive services for which there is currently insufficient evidence to warrant coverage.

Finally, the bill looks beyond the current situation—in which new benefits are legislated on an ad hoc basis—to a time in which the Department makes preventive care coverage decisions administrative—in much the same manner as other types of coverage decisions are currently made for Medicare.

Because of the uniqueness and complexity of many of the issues involved in the establishment of such a process for preventive care, however, the bill provides for a detailed study of the way in which this process should work.

While S. 1231 does not specify the manner in which the new benefits will be financed, I want to assure my colleagues that, when the Finance Committee takes up the provisions of this bill, it is my intention to seek an offset that fully finances the costs of this initiative—as we have with all initiatives that have originated in the Finance Committee during my tenure as chairman.

One of the financing options under consideration will be adding a flat dollar amount onto the monthly premium that is paid by Medicare beneficiaries who are enrolled in part B of the program. Preliminary Congressional Budget Office estimates place the amount of such an add-on at $1.10 in 1992, with it rising to $1.60 in 1996.

In his fiscal year 1992 budget, President Bush identified enhanced prevention as an administration priority and a national goal. "By not waiting for people to require treatment," the budget states, "prevention can both improve lives and reduce medical treatment costs."

The President and Secretary Sullivan are correct—it is time to pay greater attention to the important goal of improving health care through early intervention and treatment when necessary. I encourage my colleagues to join us in support of this initiative, and I ask that the full text of the bill, as well as a section-by-section description be printed immediately following this statement.●

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Preventive Benefits Act of 1991".

SEC. 2. COVERAGE OF COLORECTAL SCREENING.

(a) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m), as amended by section 4163(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (hereafter referred to as "OBRA-1990"), is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS AND SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(1) SCREENING FECAL-OCCULT BLOOD TESTS.—

"(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to screening fecal-occult blood tests provided for the purpose of early detection of colon cancer, except as provided by the Secretary under paragraph (3)(A), the payment amount established for tests performed—

"(i) in 1992 shall not exceed $5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (3)(B), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within the 11 months after a previous screening fecal-occult blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (3)(B), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within the 59 months after a previous screening flexible sigmoidoscopy.

"(3) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 1994, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening fecal-occult blood tests and screening flexible sigmoidoscopies based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection, but no such revision shall apply to tests or procedures performed before January 1, 1995.

"(4) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in subparagraph (B), or, if less, as defined in section 1848(g)(2)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to a procedure performed—

"(i) in 1992, 120 percent of the payment limit established under paragraph (2)(A); or

"(ii) after 1992, 115 percent of such applicable limit.

"(C) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(b) CONFORMING AMENDMENTS.—(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) of such Act (42 U.S.C. 1395l(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(d)(1),".

(2) Section 1833(h)(1)(A) of such Act (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraphs (1) and (3)(A) of section 1834(d), the Secretary".

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) of such Act (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer)".

(4) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking "and" at the end,

(ii) in subparagraph (F), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(G) in the case of screening fecal-occult blood tests and screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to screening fecal-occult blood tests and screening flexible sigmoidoscopies performed on or after January 1, 1992.

SEC. 3. COVERAGE OF CERTAIN IMMUNIZATIONS.

(a) IN GENERAL.—Section 1861(s)(10) of the Social Security Act (42 U.S.C. 1395x(s)(10)) is amended—

(1) in subparagraph (A)—

(A) by striking ", subject to section 4071(b) of the Omnibus Budget Reconciliation Act of 1987,", and

(B) by striking "; and" and inserting a comma;

(2) in subparagraph (B), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) tetanus-diptheria booster and its administration;".

(b) LIMITATION ON FREQUENCY.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by section 2(b)(4)(A), is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(H) in the case of an influenza vaccine, which is administered within the 11 months after a previous influenza vaccine, and, in the case of a tetanus-diptheria booster, which is administered within the 119 months after a previous tetanus-diptheria booster;".

(c) CONFORMING AMENDMENT.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by section 2(b)(4)(B), is amended by striking "or (G)" and inserting "(G), or (H)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to influenza vaccines and tetanus-diptheria boosters administered on or after January 1, 1992.

SEC. 4. COVERAGE OF WELL-CHILD CARE.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 4201(d)(1) of OBRA-1990, is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by striking the semicolon at the end of subparagraph (P) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(Q) well-child services (as defined in subsection (ll)(1)) provided to an individual entitled to benefits under this title who is under 7 years of age;".

(b) SERVICES DEFINED.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating the subsection (jj) added by section 4163(a)(2) of OBRA-1990 as subsection (kk); and

(2) by inserting after subsection (kk) (as so redesignated) the following new subsection:

"WELL-CHILD SERVICES

"(ll)(1) The term 'well-child services' means well-child care, including routine office visits, routine immunizations (including the vaccine itself), routine laboratory tests, and preventive dental care, provided in accordance with the periodicity schedule established with respect to the services under paragraph (2).

"(2) The Secretary, in consultation with the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and other entities considered appropriate by the Secretary, shall establish a schedule of periodicity which reflects the appropriate frequency with which the services referred to in paragraph (1) should be provided to healthy children.".

(c) CONFORMING AMENDMENTS.—(1) Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)), as amended by sections 2(b)(4)(A) and 3(b), is amended—

(A) in subparagraph (G), by striking "and" at the end;

(B) in subparagraph (H), by striking the semicolon at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(I) in the case of well-child services, which are provided more frequently than is provided under the schedule of periodicity established by the Secretary under section 1861(ll)(2) for such services;".

(2) Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)), as amended by sections 2(b)(4)(B) and 3(c), is amended by striking "or (H)" and inserting "(H), or (I)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to well-child services provided on or after January 1, 1992.

SEC. 5. ANNUAL SCREENING MAMMOGRAPHY.

(a) ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 64.—Section 1834(c)(2)(A) of the Social Security Act (42 U.S.C. 1395m(b)(2)(A)), as added by section 4163(b)(2) of OBRA-1990, is amended—

(1) in clause (iv), by striking "but under 65 years of age,"; and

(2) by striking clause (v).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to screening mammography performed on or after January 1, 1992.

SEC. 6. DEMONSTRATION PROJECTS FOR COVERAGE OF OTHER PREVENTIVE SERVICES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall establish and provide for the conduct of a series of ongoing demonstration projects under which the Secretary shall provide for coverage of the preventive services described in subsection (c) under the medicare program in order to determine—

(1) the feasibility and desirability of expanding coverage of medical and other health services under the medicare program to include coverage of such services for all individuals enrolled under part B of title XVIII of the Social Security Act; and

(2) appropriate methods for the delivery of those services to medicare beneficiaries.

(b) SITES FOR PROJECT.—The Secretary shall provide for the conduct of the demonstration projects established under subsection (a) at the sites at which the Secretary conducts the demonstration program established under section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 and at such other sites as the Secretary considers appropriate.

(c) SERVICES COVERED UNDER PROJECTS.—The Secretary shall cover the following services under the series of demonstration projects established under subsection (a):

(1) Glaucoma screening.

(2) Cholesterol screening and cholesterol-reducing drug therapies.

(3) Screening and treatment for osteoporosis, including tests for bone-marrow density and hormone replacement therapy.

(4) Screening services for pregnant women, including ultra-sound and clamydial testing and maternal serum alfa-protein.

(5) One-time comprehensive assessment for individuals beginning at age 65 or 75.

(6) Other services considered appropriate by the Secretary.

(d) REPORTS TO CONGRESS.—Not later than October 1, 1993, and every 2 years thereafter, the Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives describing findings made under the demonstration projects conducted pursuant to subsection (a) during the preceding 2-year period and the Secretary's plans for the demonstration projects during the succeeding 2-year period.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Supplementary Medical Insurance Trust Fund for expenses incurred in carrying out the series of demonstration projects established under subsection (a) the following amounts:

(1) $4,000,000 for fiscal year 1992.
(2) $4,000,000 for fiscal year 1993.
(3) $5,000,000 for fiscal year 1994.
(4) $5,000,000 for fiscal year 1995.
(5) $6,000,000 for fiscal year 1996.

SEC. 7. OTA STUDY OF PROCESS FOR REVIEW OF MEDICARE COVERAGE OF PREVENTIVE SERVICES.

(a) STUDY.—The Director of the Office of Technology Assessment (hereafter referred to as the "Director") shall, subject to the approval of the Technology Assessment Board, conduct a study to develop a process for the regular review for the consideration of coverage of preventive services under the medicare program, and shall include in such study a consideration of different types of evaluations, the use of demonstration projects to obtain data and experience, and the types of measures, outcomes, and criteria that should be used in making coverage decisions.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Director shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives on the study conducted under subsection (a).

THE MEDICARE PREVENTIVE SERVICES BENEFIT ACT OF 1991—SECTION-BY-SECTION ANALYSIS

SECTION 1. TITLE

SECTION 2. COVERAGE OF COLORECTAL SCREENING

The bill would provide for coverage of fecal occult blood tests (FOBT) and screening sigmoidoscopies for the early detection of colorectal cancer. The FOBT would be covered on an annual basis; the screening sigmoidoscopies would be covered every 5 years. Payment for the FOBT would be under the laboratory fee schedule, subject to a $5 limit in 1992. The screening of sigmoidoscopies would be reimbursed under the RB RVS, without regard to the RB RVS transition provisions. That is, the sigmoidoscopies would be paid based fully on the RB RVS rate in 1992.

The Secretary would be permitted to modify the frequency criteria after 1994.

SECTION 3. COVERAGE OF CERTAIN IMMUNIZATIONS

The bill would provide for coverage of annual influenza vaccinations, and for tetanus-diphtheria vaccinations every ten years.

SECTION 4. COVERAGE OF WELL-CHILD CARE

The bill would provide for coverage of pediatric well-child care, including appropriate immunizations for Medicare beneficiaries up through age 6. In general, beneficiaries eligible for these benefits would be children entitled to Medicare benefits who have kidney failure as a result of end-stage renal disease.

SECTION 5. ANNUAL SCREENING MAMMOGRAPHY

The bill provides for Medicare coverage of screening mammography on an annual basis for individuals age 65 or older. Current law coverage provides for annual coverage for women ages 50 through 64, but only every two years for older women.

SECTION 6. DEMONSTRATION PROJECTS FOR COVERAGE OF OTHER PREVENTIVE SERVICES

The bill would provide for the establishment of an ongoing series of demonstrations that would evaluate the appropriateness of coverage of additional services under Medicare.

SECTION 7. OTA STUDY OF PROCESS FOR REVIEW OF MEDICARE COVERAGE OF PREVENTIVE SERVICES

The Office of Technology Assessment, subject to the approval of the Technology Assessment Board, would conduct a study and recommend a process for determining when other preventive services should be covered under Medicare.

SECTION 8. EFFECTIVE DATE

The benefits would apply to services provided on or after January 1, 1992. All other provisions would be effective on enactment.

By Mr. DOMENICI (for himself, Mr. DANFORTH, Mr. RUDMAN, Mr. CHAFEE, and Mr. GRAMM):

S. 1232. A bill to provide for medical injury compensation for health care provided under the Social Security Act and other Federal health programs, to amend the Internal Revenue Code of 1986 to implement like reforms in employer-provided health plans, and for other purposes; to the Committee on Finance.

MEDICAL INJURY COMPENSATION FAIRNESS ACT

Mr. DOMENICI. Mr. President, I rise today to introduce a bill on behalf of myself, Senator DANFORTH, Senator RUDMAN, Senator CHAFEE, and Senator GRAMM that will dramatically reform the medical liability system in this country.

It is just a coincidence, Mr. President, that the Senator from New Mexico introduces this measure proximate to the time that the Democratic leadership introduced a so-called health reform package. This is not a Republican health care package, that which the Senator from New Mexico will soon address, but, rather, an initiative by some of us which we hope will become bipartisan, that we think stands on its own. We do not need to wait for a major medical delivery system reform that attempts to take care of more Americans and change the cost spiral that is presently festering health care in America. We think a reform of the tort liability standing on its own ought to be done. Its time has arrived. Over the long run, it will be a very valuable tool as we put together comprehensive health care, because without question no one suggests that the current tort liability system on which we go to court in this Nation, is not pushing the cost of health care upwards day by day.

Now, there may be a few, and they are principally trial lawyers, who say even though that is happening, it is for the good. I submit it is not for the good. There is little or no good coming to the American people. Average Americans who are desperately in need of health care and can hardly afford what they are currently buying know they are not being helped. They are not getting better medical treatment, and they know that. They are not getting cheaper health care, and they know that. They are not getting malpractice awards, and they know that. A few people are. In fact, we think 1 out of every 16 where there is liability, negligence of one sort of another, we think 1 out of 16 in this system of trying these cases in court with juries, with all the emotions and risks and legalized lottery that is attendant, have real results forthcoming.

But where the results are forthcoming, the rewards that is, they are more in cases where there has been an untoward event that nobody is really responsible for but it is truly untoward. An adverse event, a malformed baby is born, and a jury awards $7 million.

Average Americans understand they are not getting anything out of that, not even a better delivery system. They understand somebody is getting something out of it. And really I believe it is time that we fix it.

Frankly, what the Senator from New Mexico is going to do with this bill—and I have asked a number of Senators to help. In addition to the help of former surgeon general, Dr. Koop, who worked with me and others on my staff, and others in the Senate for about 6 months on this bill. What we are saying is, forget the past decade of concern about whether we should take these issues away from the State courts. Should we preempt tort liability in New Mexico, or in Maryland, or Connecticut? We say forget about all of that rhetoric.

Yes, there is a Federal interest, Medicare, Medicaid, veterans health, the insurance that we pay for Federal employees, and Federal retirees. And, yes, the tax deductible that the employers of America are taking under our Tax Code is paying for enormous numbers of health care packages for their employees. All of those have a Federal interest. By capitalizing on the interest we will take at least 80 percent of all medical injury claims out of court.

We say it is time we recognize the interest, and that the interest is sufficient for us here in the Congress to direct any effort to collect for negligence under any of those kinds of relationships stemming from those federally related programs. There is no jurisdiction in any State court. It will go to arbitration in our sovereign States, and will be determined by an arbitration under the well-established rules of arbitration in the United States. And those arbitration councils across this land will be supervised by the Secretary of Health of the United States.

And we really believe, Mr. President, that when we get this in the United States in lieu of tort liability the remaining 20 percent or so that are not part of the federal system touched by Federal moneys, touches by Federal programs that I have just described out there are permitted under this law that I am introducing today, this statute, to join voluntarily. We think they will all join. We will have everyone in a system of arbitration where, in my humble opinion, it should have been all along.

There is probably no set of liability relationship, in this country that are more tortuous under the system, the common law system, and the jury system than the tort liability for the medical delivery system, and the doctors of this Nation. Probably it should never have been there to begin with.

Having said that, I have a very detailed analysis of where we were, and where we hope we will be if this kind of law gets adopted. I think everyone understands that the cost of health care in America is skyrocketing. I think everyone understands that many, many Americans cannot afford it. Many have no coverage whatsoever. And those that are paying for it are day-by-day reminding us as their representatives that it is outrageously high. We know that. And something must be done about that.

Twelve percent of our gross national product in health care is moving up so rapidly that by the turn of the century, it will be 15 percent of gross national product—unheard of. Twelve percent compares with the Japanese at a little over 6. If the Chair is interested in an economic issue, every automobile that comes down the assembly line in the United States, American made, has about 750 dollars' worth of health care in it. Every Japanese car coming down the assembly line—just over $200. Right off there is a $500 difference in competition in the world market just on the health care costs.

I do not do this because of automobile health care costs but rather that a first step has to be taken to reduce the costs. There are many other steps to be taken but no one doubts that we ought to dramatically reform the malpractice, and the tort liability.

It will distribute our doctors better. They will get back into delivering babies in rural areas where currently they have left in droves because they cannot afford to live there, deliver the babies, and pay the cost of health care. That will get straightened out rather quickly.

The costs will eventually come down, and justice will be served because more people will get fair treatment for the right kind of claims, not the kind that are ostentatious, showboat claims, and adverse events for which no one is liable but cannot be kept from the jury, and they rule.

More people will get swift justice against the doctors and hospitals for negligence, all at a lower cost and all without moving defensive medicine up to new thresholds each year where more and more service is performed for people in order to avoid and minimize the risk of liability.

So all of these will be minimized if the proposal that I am recommending to the Senate today, for which four very distinguished Senators have joined—and I believe before we are finished there will be many, many more. Some were interested and have asked a few questions. They will get answers.

Let me give you a couple that I think Senators would be interested in. Yes, there is a cap, even in arbitration on noneconomic damages; pain and suffering, $250,000. We believe that in the overall interests of society, and the reasonable costs of health care, somebody injured by medical negligence ought to get every penny they are entitled to for economic loss. If they have an arm that has been injured, they ought to get every bit of economic loss for the rest of their lives from that injury. But we believe that the pain and suffering, the intangible, should be minimized in this overall system.

Then there is the issue of punitive damages—that is, flagrant damages, damages for negligent conduct. It seems to many that this also is abused under the current system, and many thought it should disappear if you redo the system.

But what the Senator from New Mexico has done, and after much consultation we have the following: Punitive damages are allowed. But if they are recovered they do not go to the claimant but rather to the State in which the injury occurred if that State has set up a system, a process for improving the quality of doctors, policing doctors. That punitive award goes to that agency to be used for that effort. And if there are some who would like to improve upon that approach as part of this package, the Senator in New Mexico is more than willing to discuss it.

Obviously, this is a tough issue. This is an issue that nobody should be part of it they are not prepared to take a little bit of guff. There will be some around who will claim that this is anticonsumer. There will be lawyers around who will claim it is anticivil rights. There will be some around who will contend that it is just an inherent part of our system that people should be able to go to court and get these matters ajudicated. We are prepared to address all of those issues.

Frankly, we believe the consumers, the consumers being the American citizens who are entitled to health care, from the smallest children who may have parents who have money, or to those children whose parents are poor, to the most senior American citizen and everyone in between, we are entitled to the best health care that our magnificently educated people in the medical profession can deliver. But we are also entitled to that at reasonable costs.

We think the first step is saying to our doctors, our hospitals, and others, this is a real war on excessive costs. The first step is to reform this tort system and do something much fairer, much more reasonable. Give more people an opportunity to get awards but get them quickly, and take the lottery, the big-time adverse event, and the system that is attached to that—which I think is really sensational—take that out of the picture.

Mr. President, I send the bill that does what I have just described to the desk and ask that it be appropriately referred.

I ask unanimous consent that a letter from Dr. Koop explaining his support, and why, be printed in the RECORD, along with one from the former Secretary of HEW, Joseph A. Califano, who supports the proposal; and a letter from the National Federation of Independent Businesses; and one from the American Hospital Association, Physicians Insurers Association, American Medical Association, and a legal opinion by the law firm of Sidley & Austin out of Chicago, IL, and Los Angeles. They have looked at the bill in depth with reference to its effectiveness and its constitutionality.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, June 4, 1991.

Re Medical Injury Compensation Fairness Act of 1991.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: The American Medical Association commends you for assuming a leadership role in the current national discussion on medical liability reform.

As the architect of the Medical Injury Compensation Fairness Act of 1991, you have demonstrated a commitment to addressing many of the perplexing issues in the medical liability arena which have resulted in increased health care costs, higher liability insurance premiums and the continued practice of defensive medicine. We applaud provisions in your bill which: (1) establish alternative dispute resolution mechanisms; (2) reduce damage awards for payments received through collateral sources; and (3) lower the cap on noneconomic damages to $250,000.

The American Medical Association looks forward to working with you to achieve the kind of medical liability reform that will lead to elimination of unnecessary defensive medical tests, adoption of appropriate alternative dispute resolution programs and enhanced care for all of our patients.

Sincerely,

JAMES S. TODD, M.D.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, June 4, 1991.
Senator PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: The American Hospital Association, on behalf of its nearly 5,500 member hospitals, wishes to applaud your efforts in the area of medical liability reform. Your proposal, the Medical Injury Compensation Fairness Act of 1991, represents a bold and innovative approach for addressing one of the leading health care issues of our day.

The current system for dealing with undesired medical outcomes is expensive and often inequitable. It encourages defensive medicine, lengthy and expensive courtroom litigation, excessive awards, and exorbitant malpractice insurance premiums. Individuals often litigate because they want satisfaction for an untoward but non-negligent outcome or one that fails to meet expectations. As a result, health care costs are driven up, and access to care often is undermined. AHA backs medical liability reform that permits:

Cost-effective and equitable resolution of claims;

Limits on noneconomic damages and attorneys' fees;

Elimination of legal requirements that hospitals pay for damages caused by others;

Payment of malpractice awards over time rather than in a lump sum; and

Arbitration as an alternative to litigation for claimants.

Your proposal contains many of these reform measures and seeks to create an efficient and speedy system for resolution of most malpractice claims. AHA commends you for taking this important first step, and urges you to seek a system which would ensure like treatment for all claims and contain all of the reforms listed above. We look forward to continuing to work with you and your staff in your efforts.

Very truly yours,
PAUL C. RETTIG,
Executive Vice-President.

PHYSICIAN INSURERS
ASSOCIATION OF AMERICA,
Pennington, NJ, May 31, 1991.
Hon. PETER V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the Physician Insurers Association of America (PIAA), I wish to express our gratitude for your leadership in recognizing the need to restore common sense and fairness to the nation's medical liability system, and in taking the positive step of introducing the Medical Injury Compensation Fairness Act of 1991. We believe your bill represents a constructive approach to solving problems with the current system, and we are committed to working with you and other interested members of Congress to improve the availability and affordability of health care for all Americans.

There is no question that the current system of resolving medical liability claims is a disaster. It is much too costly, too time consuming and inequtable. More dollars are devoted to the costs of litigation than to compensating injured claimants. The system, in its present form, does not serve the public's interest. Further, the threat of lawsuits and the rising costs of medical liability insurance premiums have led to the expensive practice of "defensive medicine," and have made many physicians reluctant to practice in high-risk specialties, particularly obstetrics. This has added billions of dollars annually to the national health care bill, and has denied many Americans access to the health care they need. Moreover, the fear of litigation has discouraged medical innovation and volunteerism.

As you know, PIAA member companies were formed in the mid-1970's in response to the medical liability crisis, and they now write liability coverage for over 50% of physicians nationwide. For the most part, our companies are not in business to make a profit and devote their energies to enhancing patient safety and reducing claim costs. From its inception, the PIAA has continually sought reform of the current medical liability system, and has worked recently with the Bush Administration and interested members of Congress who have taken the lead on this important issue. The recent proposal by the President and his commitment to push for enactment of a medical liability reform package, coupled with the introduction of your bill, are evidence of the broad recognition of the need for a legislative solution. The time for action has arrived, and the PIAA stands ready to work with you and your like-minded colleagues to achieve our common goals.

Very truly yours,
W. MAURICE LAWSON, M.D.,
President.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, June 5, 1991.
Hon. PETE DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the over 500,000 small business members of the National Federation of Independent Business, I want to thank you for introducing the Medical Injury Compensation Fairness Act of 1991.

The high price of health insurance is the primary barrier small business owners face when trying to set up health care coverage for their employees, and health care costs continue to spiral upward, threatening continued coverage. Between 1987 and 1990, small business health insurance premiums rose from an average of $1,942 per employee to $3,192 per employee.

The Small Business Administration has estimated that the threat of malpractice claims adds $4 billion to the cost of health care each year and that defensive action on the part of doctors costs $100,000 per year per physician. By virtually eliminating multimillion dollar jury awards, the Medical Injury Compensation Fairness Act of 1991 could limit the need for physicians to practice defensive medicine. With health care costs skyrocketing, this country can no longer afford the millions of useless tests doctors currently perform to protect themselves from malpractice suits.

One of NFIB's top priorities is to reduce the cost of health insurance in this country so that small business owners can afford to purchase it for their employees and for themselves. The Medical Injury Compensation Fairness Act could help bring down the cost of health care by reducing the cost of medical malpractice suits, lowering medical malpractice insurance and reducing the practice of defensive medicine.

Again, thank you for introducing this important legislation.

Sincerely,
JOHN J. MOTLEY III,
Vice President, Federal Governmental Relations.

JOSEPH A. CALIFANO, Jr.,
June 5, 1991.
Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Your proposal to reform the medical malpractice system wisely builds upon the legitimate Federal interest in reducing escalating health costs.

There are many unnecessary costs associated with our current health care system, including billions of dollars in unnecessary defensive medicine. In order to expand access and more efficiently use the $750 billion Americans will spend on health care this year, we must begin to make changes in many areas, including our medical malpractice system. We have the resources to provide health care to all Americans, if we free up funds that are being needlessly spent.

Using Federal programs to spur medical liability reform is appropriate. The Federal government spends $220 billion directly on health care. Federal subsidies for private health insurance, which finances another $185 billion in health care, exceed $50 billion annually. The current malpractice system is inefficient. Sixty percent of malpractice insurance premiums pay lawyer's fees and administrative costs for malpractice cases. That leaves only forty percent for those people who are injured. Your bill would correct this inequity and give more to injured patients.

I applaud the provisions in your bill that encourage the development of practice guidelines for physicians. Standards of care for physicians offer the promise of higher quality medical care for patients, as well as a fair defense against charges of malpractice.

Your legislation is an excellent step towards making health care in our nation more effective and efficient.

Sincerely,
JOSEPH A. CALIFANO, Jr.

WASHINGTON, DC,
June 6, 1991.
Hon. PETE V. DOMENICI,
U.S. Senate, 434 Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: I want to commend you for your proposal to reform the medical liability system in this country. Your bill would provide more reasonable health care costs for consumers, fairer and more timely awards for injured patients and more rational liability decisions for physicians.

As you know, the current medical liability system has many flaws, including the inducement of costly defensive medicine. Some estimates indicate that as much as 25 percent of health expenditures are unnecessary, and defensive medicine is responsible for much of these costs. We cannot afford to continue spending hundreds of billions of dollars needlessly on health care if we are to have resources available for other important needs, like providing health care for those who don't have it and educating our children.

Furthermore, the current medical liability system is unfair for many patients. As many as 15 out of 16 persons who have been injured due to negligent medical treatment never get compensation through the litigation system, and 60 percent of malpractice insurance premiums pay for administrative expenses and lawyers' fees, leaving only 40 percent for injured patients.

To address these problems, I am convinced that we need to take these cases out of court and resolve them instead in arbitration-type arrangements with some constraints on awards. Your bill would do just that. It would also give health care consumers and providers the flexibility to agree early on about dispute resolution arrangements specific to their needs.

I also applaud those provisions in your bill which encourage the development and use of practice guidelines to help determine the appropriate standard of care in specific situations. These guidelines can help eliminate the confusion of opposing expert witnesses presenting conflicting opinions on the appropriate standards.

Again, I congratulate you for developing this excellent piece of legislation. I believe it is critical that we move quickly to address the obvious failings of the current liability system, and I fully support the approach you have taken in your bill. I look forward to helping you advance this important proposal.

Sincerely,

C. EVERETT KOOP, M.D.

Washington, DC, June 4, 1991.

Re Medical Injury Compensation Fairness Act of 1991.

Senator PETE V. DOMENICI,
SD-434 Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR DOMENICI: You have asked me to provide you with my opinion concerning the constitutionality of the Medical Injury Compensation Fairness Act of 1991, which you have prepared in draft form and which you plan to introduce in the near future. I have studied the proposal with some care and have concluded that, although the bill would raise several constitutional issues, none of them is substantial. In short, there is no significant constitutional obstacle to your proposal to remove a significant number of medical liability cases from the civil justice system and have them resolved through less formal methods of dispute resolution.

In my opinion the proposed legislation raises questions concerning six separate constitutional provisions: the Commerce Clause in Article I, Section 8; the Spending Clause in Article I, Section 8; the Supremacy Clause in Article VI, Clause 2; the right to due process in the Fifth Amendment, the right to equal protection that has been incorporated into the Fifth Amendment and the right to a civil jury trial in the Seventh Amendment. I will discuss the issues associated with each provision in turn.

I. Commerce Clause. Since the infancy of the Constitution, it has been accepted that Congress' power over interstate commerce "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution." *Gibbons* v. *Ogden*, 9 Wheat. 1, 196 (1824). Based on this principle, it is settled that Commerce Clause authority reaches "'those activities intrastate which * * * affect interstate commerce or the exercise of the power of Congress over it.'" *Heart of Atlanta Motel, Inc.* v. *United States*, 379 U.S. 241, 258 (1964), quoting *United States* v. *Darby*, 312 U.S. 100, 118 (1941).

The Court in dicta has indicated that "a relatively trivial impact on commerce as an excuse for broad general regulation of state or private activities" might not be permissible under the Commerce Clause. *Hodel* v. *Virginia Surface Mining & Reclamation Ass'n, Inc.*, 451 U.S. 264, 310-311 (1981) (Rehnquist, J., concurring); see *Maryland* v. *Wirtz*, 392 U.S. 183, 196, 197 n.27 (1968). Nevertheless, the Court's holdings consistently have approved congressional actions even though the nexus between intrastate activity and interstate commerce was neither direct nor obvious. See Virginia Surface Mining (surface mining legislation permissible because erosion and loss of farmland affects interstate commerce); *Wickard* v. *Filburn*, 317 U.S. 111, 127-138 (1942) (restriction on wheat growing for home consumption justified by potential effect on interstate prices for wheat). In fact, during the past 50 years the Supreme Court has not found a single intrastate activity beyond the reach of Congress' commerce power.

Based on these authorities, Congress could readily determine that any one of a number of the social and economic costs of the current malpractice system burdens interstate commerce in a manner sufficient to warrant a federal regulatory response. In the first place, the federal government is the largest purchaser of health care, which means that Congress can directly act to protect its own interest. This interest is most directly related to the Spending Clause (see infra), but it also provides a significant basis for Congress to exercise its Commerce Clause authority.

Less directly, because health care providers purchase goods moving in interstate commerce as a regular part of their business, escalating premiums for professional liability insurance necessarily reduce the amount of purchases these entities can make. See *Maryland* v. *Wirtz*, 392 U.S. at 194-195 (burdens on the free flow of goods justifies congressional action); *Katzenbach* v. *McClung*, 379 U.S. 294, 300 (1964) (racial discrimination by restaurants reduces sales to blacks in interstate commerce). In addition, the adverse effect of malpractice on access to health care, especially in obstetrics, has forced patients to travel interstate in order to obtain medical care. See *Virginia Surface Mining*, 452 U.S. at 276-277.

These burdens are more than sufficient to bring medical malpractice liability within the reach of Congress' Commerce Clause power. The remaining question, then, is whether the bill is a reasonable and appropriate means of regulating these burdens. As a practical matter, that question is for Congress alone to answer. *Fullilove* v. *Klutznick*, 448 U.S. 448, 480 (1980) ("'In no matter should we pay more deference to the opinion of Congress than in its choice of instrumentalities to perform a function that is within its power'"). Moreover, there is no serious doubt that an alternative dispute resolution process with some restraints on the severity of damages that can be imposed for malpractice is a reasonable method of reducing the obstacles to interstate commerce that are posed by the current tort system. The proposed bill reasonably is designed to reduce professional liability premiums by providing some limits on liability. There is substantial evidence that reforms in the tort system in California similar to those you proposed have caused reductions in insurance premiums in California. Cohn, "Tort Reform: Past, Present, and Future," Am. Coll. Surgeons Bull. 13, 15-16 (June 1989) (discussing comparative data). See P. Danzon, Medical Malpractice: Theory, Evidence, and Public Policy (1985) (showing that caps on non-economic damages significantly reduce severity of malpractice claims).

In sum, there is little doubt that Congress can enact legislation such as the type you propose without creating any serious constitutional issue under the Commerce Clause of the Constitution.

II. Spending Clause. The analysis under the Spending Clause basically follows, a fortiori, from what has been said above about the Commerce Clause. This is because, if anything, Congress has broader authority in the exercise of its power over the purse than it does when acting simply to unburden interstate commerce. See *Steward Machine Co.* v. *Davis*, 301 U.S. 548 (1937); *Oklahoma* v. *United States Civil Service Comm'n*, 330 U.S. 127 (1947); *Fullilove* v. *Klutznick*, 448 U.S. 448 (1980).

Nevertheless, there is a question whether the Spending Clause is satisfied and it clearly is. The only issue is whether the condition placed on federal funds or tax benefits is rationally related to the purpose of the program. See *Harris* v. *McRae*, 448 U.S. 297 (1970). Here, Medicare and Medicaid are both designed to increase the public's access to health care and the problems of professional liability directly interfere with that objective. Use of a condition in a federal program as a means of eliminating this obstacle is certainly a rational means of furthering Congress' overall aims under Medicare and Medicaid.

III. Supremacy Clause. It is well settled that so long as Congress acts within one of its enumerated powers, it may completely displace all state law relevant to the federal enactment. *Hines* v. *Davidowitz*, 312 U.S. 52 (1941). This is the essential meaning of the Supremacy Clause of the Constitution. Thus, the preemptive effect of the bill is simply a matter of legislative intent. Preemption is "'compelled whether Congress' command is explicitly stated in the statute's language or implicitly contained in its structure and purpose.'" *Fidelity Federal Savings & Loan Ass'n* v. *De La Cuesta*, 458 U.S. 141, 153 (1982), quoting *Jones* v. *Rath Packing Co.*, 435 U.S. 519, 525 (1977). In its latest version, the bill contains language expressly preempting state malpractice actions and under the Supremacy Clause that declaration ends any doubt on this issue.

IV. Due Process Clause. The Due Process Clause of the U.S. Constitution specifies that no person "shall be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. The proposed bill raises two separate due process issues. First, it abolishes a common-law cause of action. Second, the bill conditions the receipt of federal money on the relinquishment of certain personal interests which raises a separate issue.

A. A common-law case of action (i.e., a suit against a doctor for malpractice) is considered a property right which cannot be restricted or abolished without due process. *Logan* v. *Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982) ("a cause of action is a species of property protected by the * * * Due Process Clause"). When a common-law cause of action is abolished, most state constitutions require that a substitute remedy or quid pro quo be provided. It is not clear, however, whether the federal Due Process Clause contains a similar requirement.

The Supreme Court addressed this issue in *Duke Power Co.* v. *Carolina Environmental Study Group*, 438 U.S. 59 (1978), when it examined the Price-Anderson Act's limitation on liability for nuclear accidents. The Court noted that "it is not at all clear that the Due Process Clause in fact requires that a legislatively enacted compensation scheme either duplicate the recovery at common law or provide a reasonable substitute remedy." Id. at 88. Nevertheless, the Court concluded that the Price-Anderson Act provided "a reasonably just substitute," since Congress replaced state tort law remedies with a $560 million recovery fund and mandatory waiver of defenses.

An analogous case is *Dames & Moore* v. *Regan*, 453 U.S. 654 (1981), in which the Supreme Court upheld President Carter's nullification of prejudgment attachments on Iranian assets. While the holding of Dames & Moore specifically concerned the limits of executive power, implicit in the Court's reasoning was that the nullification of the attachments was balanced by the availability of a $1 billion fund held by an international tribunal and the right to sue the federal government under the Tucker Act. L. Tribe, American Constitutional Law §9-7 (2d ed. 1988).

Your bill provides a reasonably just substitute in exchange for eliminating a common-law cause of action. Mandatory arbitration would compensate plaintiffs more quickly and equitably. A relatively inexpensive system of arbitration also would allow more patients to bring claims. For health providers and their insurers, a cap on noneconomic damages reduces the risk of unpredictably high jury verdicts, thus stabilizing the cost of liability insurance and promoting access to quality medical services.

B. The second possible violation of the Due Process Clause occurs when the government conditions the receipt of a benefit on the nonassertion of a constitutional right. "[T]he constitutional interest at issue must rise to the level of a recognized right—indeed a *preferred* right normally protected by strict judicial review." Sullivan, "Unconstitutional Conditions," 102 Harv. L. Rev. 1413, 1427 (1989) (emphasis in original). While the benefit involved here (e.g., Medicare, Medicaid, and tax deductions) is obvious, the right to sue for malpractice is more amorphous. Even if this right is a common-law right, it is not a fundamental right protected by the Constitution.

When conditions have been struck down in the past as unconstitutional, they have involved such fundamental rights as the right to interstate travel, free exercise of religion, and freedom of speech. See *Shapiro* v. *Thompson*, 394 U.S. 618 (1969) (invalidating denial of welfare benefits to residents who had lived in-state for less than one year); *Sherbert* v. *Verner*, 374 U.S 398 (1963) (invalidating denial of unemployment benefits to woman who would not work on her sabbath); *Speiser* v. *Randall*, 357 U.S. 513 (1958) (invalidating requirement that veterans take loyalty oath as condition for property-tax exemption). As Professor Sullivan notes, "[a]part from these cases and those applying them to very similar facts, not a single other challenge to a condition on a government welfare program has succeeded in the Supreme Court." Sullivan at 1437. See, e.g., *Wyman* v. *James*, 400 U.S. 309 (1971) (AFDC requirement that recipient permit home visitation by caseworker does not violate Fourth or Fourteenth Amendments).

The Court's most recent statement on the issue was its decision on May 23 in *Rust* v. *Sullivan*, 51 CCH S. Ct. Bull. B2025 (1991), which upheld the Title X regulations forbidding abortion counseling. As for the issue of unconstitutional conditions, Chief Justice Rehnquist's decision noted: "here the government is not denying a benefit to anyone, but is instead simply insisting that public funds be spent for the purposes for which they were authorized." Id. at B2047. Given that Rust seems to allow government restrictions on free speech, it is unlikely that abrogating the right to sue for malpractice would be viewed as an unconstitutional condition.

V. Equal Protection Component of Due Process Clause. It has long been held that the Due Process Clause of the Fifth Amendment contains an equal protection component that applies to the federal government in the same way the Equal Protection Clause in the Fourteenth Amendment applies to state governments. See *Bolling* v. *Sharpe*, 347 U.S. 497 (1954). Equal protection dictates that the government treat similar individuals in a similar manner. Any classifications used by the government must "not be based upon impermissible criteria or arbitrarily used to burden a group of individuals." R. Rotunda, J. Nowak & J. N. Young, 2 Treatise on Constitutional Law: Substance and Procedure §18.2 (1986). This bill contains at least three classifications that must be subjected to equal protection analysis: health providers and other tortfeasors; victims of medical malpractice and victims of other torts; and victims of malpractice with high non-economic damages (i.e., those whose damages would exceed the $250,000 caps) and victims with low non-economic damages.

Because none of those classifications involves a suspect class, such as a racial group, or touches a fundamental right, an equal protection challenge to the bill must be examined under a rational basis test. *Duke Power*, 483 U.S. at 93-94. Under this test, the court must find only that it is "conceivable that the classification bears a rational relationship to an end of government which is not prohibited by the Constitution." Id. at §18.3. Under this extremely deferential standard, there is a "strong presumption of validity for classifications in the economic and social welfare area." Id. See *Bowen* v. *Billiard*, 438 U.S. 587 (1987) (upholding reduced AFDC to families in which all members live in same home); *Lyng* v. *Castillo*, 477 U.S. 635 (1986) (upholding reduced allocation of food stamps to nuclear families and other people who purchase and prepare food together); *Schweiker* v. *Wilson*, 450 U.S. 221 (1981) (upholding reduced Medicaid benefits to people institutionalized in certain public mental care institutions).

Under the rational relationship standard of review, the bill's three classifications must be upheld, because they clearly bear a rational relationship to Congress' goal of solving the medical malpractice crisis, which uniquely impairs Congress' interest in containing health care costs and ensuing access to health care. See *Fein* v. *Permanente Medical Group*, 38 Cal. 3d 137, 695 P.2d 665, 211 Cal. Rptr. 368, appeal dismissed, 474 U.S. 892 (1985) (cap on non-economic damages does not violate equal protection.)

VI. Right to Jury Trial. In any major modification of the tort system, there is an immediate question raised concerning the right to trial by jury. This concern is diminished significantly by federal legislation because there is no federal constitutional right to a jury trial that applies to state court proceedings. The Seventh Amendment jury trial right "applies only to proceedings in courts of the United States and does not in any manner whatever govern or regulate trials by jury in state courts or the standards which must be applied concerning the same." *Minneapolis & St. Louis R.R.* v. *Bombolis*, 241 U.S. 211, 217 (1916). Thus, congressional action terminating a jury trial in state court would raise only a state constitutional objection, which is swept aside by the Supremacy Clause. Congress is as free to preempt state constitutional requirements as it is to preempt any other source of state law.

Accordingly, the Seventh Amendment issue would only arise in the setting of a medical malpractice case that could have been brought in federal court under diversity jurisdiction. 28 U.S.C. §1332. As a practical matter, this is a trivial number of cases. Most malpractice actions do not involve parties from different states. But even if there were more such cases, this category of litigation poses no serious obstacle to the proposed bill. Congress has full power to limit the Article III jurisdiction of federal courts without running afoul of the Seventh Amendment. "Congress need not create lower federal courts and, if it does, need not grant them to full Article III jurisdiction. In fact, it has never conferred the full Article III jurisdictional power." R. Rotunda, et al., §2.1. Thus, Congress has the power to limit what substantive matters the federal courts can hear. See *J&R Sportswear & Co.* v. *Bobbie Brooks, Inc.*, 611 F.2d 29 (3d Cir. 1979) (federal statute requiring stay of trial during arbitration does not violate the Seventh Amendment). By making clear that federal courts lack jurisdiction to hear malpractice cases subject to the bill, the proposed legislation permissibly avoids any serious claim that the arbitration system violates the jury trial right in the Seventh Amendment.

In sum, I am firmly convinced that your proposed Medical Injury Fairness Compensation Act is constitutional. It clearly falls within Congress' enumerated powers to enact, is at least a reasonable means of accomplishing Congress' objective of ensuring increased access to health care, and violates no fundamental rights of any of the participants of the federal programs affected by the proposed bill.

If you or any members of your staff have any questions about this opinion, please do not hestitate to contact me.

Sincerely,

CARTER G. PHILLIPS.

By Mr. BURNS (for himself, Mr. SYMMS, Mr. PACKWOOD, Mr. PRESSLER, Mr. KASTEN, Mr. DANFORTH, Mr. MCCAIN, Mr. GORTON, Mr. LOTT, and Mr. ROCKEFELLER):

S. 1233. A bill to promote the growth of travel and tourism in the United States through the establishment of a rural tourism development foundation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RURAL TOURISM DEVELOPMENT FOUNDATION ACT

Mr. BURNS. Mr. President, I rise today to offer the Rural Tourism Development Foundation Act of 1991.

During the past 2 years the Bush administration has advocated the enhancement of rural tourism business development in the United States. In fact, the National Policy Study on Rural Tourism and Small Business Development was completed in September of 1989. This congressionally mandated study identified opportunities and recommendations for developing rural tourism through cooperative planning with Federal, State, and local government and private small business.

During many discussions with leaders in the tourism industry as well as Federal land agencies a concept was developed that would provide a central source for cooperation between public and private sector groups with similar goals for developing tourism; the rural tourism development foundation.

The rural tourism development foundation is a nonprofit, nongovernment managed foundation that will be supported by private financing for the purpose of planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Potential projects could produce educational and promotional materials pertaining to both private and public attractions that are located in rural locations across America.

Those eligible for funds will be Federal land managing agencies, private enterprises, State and local governments, including native American tribes or any other entities interested in promoting rural tourism to international markets.

A serious need exists within our Federal land agencies for outside help to promote their tourism and recreation sites, especially to foreign visitors. Each of these agencies has a varying degree of latitude for the development of promotional materials. None, however, are sufficient for measurable results.

An example of potential applications could include any of the following: A scenic loop tour could be developed selling a tour of Custer battlefield, Mount Rushmore, Wounded Knee, and Yellowstone National Park along with other sites within the old West trail region;

A driving tour of the Nez Perce Trail from Oregon, Idaho, Wyoming, and Montana; the Grand Circle in Utah, Colorado, Arizona, and New Mexico;

A co-op program between the States in the Appalachian region or a native American cultural trail including Indian reservations interested in tourism development.

The results of these promotions would be distributed to USTTA and foreign commercial service offices as well as foreign tour wholesalers.

As stewards of our public lands we all bear the responsibility of preserving its natural state as well as ensuring that it is managed in such a way that it will always be available for our children to enjoy.

It is not enough to dole out dollars to lay asphalt and paint the outbuildings in our Federal recreation sites. We must be aware of high traffic patterns and know why some sites are more highly used than others.

It is possible for us to manage this traffic. And we need to. People have a habit of going to popular places.

How does a place become popular? Well, for one thing, word gets out that it is an enjoyable experience to visit or take part in the activity.

Another is, it is publicized by media and promotion. If there is awareness, there is interest which equals demand for services from the traffic. Increased traffic equals business revenue and erosion of property, thus the need for increased maintenance which costs the taxpayer more money.

The common problem we are aware of in the National Park Service is the overcrowded conditions of some of our more well-known parks. We see roads and facilities that are embarrassingly in need of repair.

The flip side of this is the underutilization of some of our Forest Service, BLM- and Corps of Engineers recreation sites. If the general public is not informed about these alternatives they rarely seek them out on their own.

Today, we live in a world of convenience. From the time we get up in the morning until we go to sleep at night we are bombarded with media messages selling us everything from gasoline to McDonalds new lean burgers. Any time of the day we will find messages offering us getaways to anywhere in the world.

Americans have so little spare time today. Because of this they rely on these messages to give them a list of alternatives for their vacations.

This lifestyle directly affects our public lands. Whether it is our friends from foreign shores or our neighbors from next door—the result is the same. They want to go to the sites they hear so much about. We need to offer them alternatives to lessen the impact on our natural attractions as well as spread some of that revenue into the rural areas of this country.

A direct result of this lack of information is the impact of the overcrowded parks such as Yosemite and Yellowstone. Overuse not only causes erosion of our countries natural attractions, but is creating a heavy financial burden due to the excess use of roads, trails, and facilities in our most popular Federal land sites.

All Federal land agencies share this common hardship. We are witnessing the yearly failure to keep up with the maintenance of these publicly owned lands.

We are being handed the bill for irresponsible promotion of our Federal lands attractions. It is felt there is a great need to divert traffic to lesser known areas in both State and Federal parks and recreation sites to lessen the erosion of the natural environment, as well as control the demand on facility services.

Thus, the main purpose of the rural tourism foundation is to divert traffic to lesser known destinations. This bill will inform the public about alternatives to the overcrowded areas by promoting scenic loops into America's lesser known destinations.

This bill is designed to support and enhance S. 1204, the Surface Transportation Act of 1991, relating to tourism and recreation roads, trails, and scenic byways. Over the next 5 years Federal agencies and States will spend $2.25 billion to develop infrastructure to insure travel to and from Federal lands. In 1989, 1.8 billion tourist visits were recorded to these sites.

The demand will always be there. It is up to the Congress to responsibly monitor all programs that ultimately affect the use of these lands. We must not only build roads, but look beyond the asphalt and bridges to those who will use the finished product.

We are providing the infrastructure system that enables our small businesses and governments across the country to further develop this tourism market. Not only does this benefit the foreign visitor market, but obviously benefits the domestic market. Infrastructure benefits all users.

I hope that my colleagues will join me in cosponsoring this bill. I think we can all see that this completes the package that enables us as stewards of our public lands to preserve what is one of the most valuable assets we know today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Rural Tourism Development Foundation Act of 1991".

RURAL TOURISM DEVELOPMENT FOUNDATION

SEC. 2. (a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of education and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local

governments, and other persons and entities interested in rural tourism development.

(c) Board of Directors.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) Compensation and Expenses.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) Acceptance of Gifts, Devises, and Bequests.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real of personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) Investments.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) Use of Federal Services and Facilities.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefore.

(h) Perpetual Succession; Liability of Board Members.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(i) Contractual Power.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any all lawful acts necessary or appropriate to its purposes.

(j) Administration.—(1) In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(k) Exemption From Taxes; Contributions.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(l) Liability of United States.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(m) Annual Report.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(n) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1991, 1992, and 1993 not to exceed $500,000 to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(2) provide administrative services for the Rural Tourism Development Foundation.

(o) Definitions.—As used in this section, the term—

(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) "Indian tribe" has the meaning given that term in section 4(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) "local government" has the meaning given that term in section 3371(3) of title 5, United States Code; and

(4) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Area, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(p) Assistance by Secretary of Commerce.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

(1) by striking "and" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Rural Tourism Development Act of 1991, in the development and promotion of rural tourism.".

By Mr. DIXON (for himself, Mr. BYRD, Mr. ROCKEFELLER, Mr. SIMON, Mr. SPECTER, Mr. FORD, Mr. BOND, and Mr. COATS):

S. 1234. A bill to amend the Internal Revenue Code of 1986 to provide tax relief to utilities installing acid rain reduction equipment; to the Committee on Finance.

ENVIRONMENT TAX CREDIT LEGISLATION

Mr. DIXON. Mr. President, I rise today to introduce the Environmental Tax Credit Act of 1991, a bill that will encourage utilities to build pollution control devices to comply with the acid rain provisions of the Clean Air Act amendments.

As we all know, the Clean Air Act amendments will require that certain utilities make extensive reductions in their sulfur dioxide emissions, and the majority of affected units are located in only a few States. I am sure you will also remember that my colleagues from those States and I were not satisfied that the costs of this national problem were being equitably distributed, but that is now water under the bridge. The task before us now must be how to most effectively meet the requirements of the new law, and it is with that in mind that we offer this legislation.

The bill we are introducing would provide the following incentives for utilities to build pollution control devices, such as scrubbers, to meet the strict environmental goals of the Clean Air Act amendments:

A 20-percent investment tax credit for qualifying pollution control devices;

Five-year amortization of qualified pollution control devices;

Tax-exempt bond financing for utilities that build qualifying pollution control devices;

A 20-percent credit for minerals and ores used in pollution control devices to clean coal;

And, in addition, our legislation will allow utilities to exclude from gross income the revenue received from the sale of emissions allowance credits.

Mr. President, our legislation does not ask for a handout, nor does it seek to evade the requirements to reduce sulfur dioxide emissions. On the contrary, our legislation will help to ensure that the environmental goals of the Clean Air Act are not only met but exceeded, without devastating the economies of our Nation's high-sulfur coal region.

The incentives provided in our legislation are not new. The investment tax credit [ITC] and tax-exempt pollution control bonds were eliminated in the 1986 Tax Reform Act. Prior to that act, over 50 billion dollars worth of pollution control municipal bonds were issued, ranging from $5,000 in Rhode Island to $5 billion in Texas.

Reinstatement of these tax measures will ease the financial burden on millions of rate payers and once again encourage utilities to build more pollution control devices. Building more scrubbers will save thousands of coal mining and related jobs, create hundreds of manufacturing jobs, and encourage utilities to reduce a greater amount of their emissions.

Mr. President, we made a long-term commitment to our environment when we passed the Clean Air Act amendments, and there is no doubt that the entire country will benefit from our work. But we continue to fear that without the incentives included in this bill, the economics will force utilities to switch fuel, causing the loss of thousands of jobs, closing businesses, disrupting the domestic coal market, and leaving certain regions of our country devastated.

As a result of the Clean Air Act, even with the concessions made to soften the blow to Midwest States, it is projected that Illinois coal production will be cut in half, and 6,000 miners will lose their jobs.

Mr. President, the technology exists to clean, or scrub, the sulfur dioxide out of the high-sulfur coal emissions, thus allowing our utilities to continue using high-sulfur coal. But this technology is prohibitively expensive, and without providing incentives to our utilities to employ such technology, they will have no choice but to switch fuel. This could have the effect of virtually eliminating the high-sulfur coal market.

Unable to use local, high-sulfur coal, the most practical alternative available to Midwest utilities would be switching to low-sulfur, western coal. But it, too, has its drawbacks. While the costs of building a scrubber can be accurately and effectively worked into a utilities operating costs and rate scales, the future cost of western coal, as well as its transportation costs, are much more unpredictable.

In addition, Mr. President, at a time when our Nation's energy policy has gained everyone's attention, we cannot underestimate the important role that coal, of all grades, must play.

Coal is our Nation's largest indigenous resource of fossil fuel, constituting almost 95 percent of the Nation's proven fossil energy resources. On an energy equivalent basis, demonstrated U.S. coal reserves are 43 percent greater than the world's combined known oil and natural gas reserves.

Approximately 57 percent of the electricity produced in the United States is generated from coal, accounting for 85 percent of domestic coal consumption. This equates to an annual offset of 556.2 million barrels of oil or 3.1 trillion standard cubic feet of natural gas. At a time when foreign energy sources have once again proven themselves unreliable, thus presenting us with an uncertain energy future, America's biggest asset is its vast coal reserves.

Scrubber technology, together with advances in clean coal technology, represents one of the best alternatives for meeting increased energy needs at reasonable costs, while maintaining and improving environmental quality. Additional benefits will be realized in the form of new jobs, industrial growth, and improved trade balance, and enhanced energy security.

The first step toward assuring coal's place in our Nation's future energy policy is to maintain the economic viability of our high-sulfur coal producing regions. Our legislation will go a long way toward doing just that, and I urge my colleagues to join in support of this measure.

I ask unanimous consent that Senators BYRD, ROCKEFELLER, SIMON, SPECTER, FORD, BOND, and COATS be listed as original cosponsors, that a copy of the bill and a section-by-section summary be printed in the RECORD at the conclusion of my statement, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX CREDIT FOR EQUIPMENT TO MEET ACID RAIN REDUCTION STANDARDS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. ACID RAIN CONTROL PROPERTY.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—If qualified acid rain control property is placed in service during any taxable year, there shall be allowed as a credit for each taxable year in the credit period an amount equal to 6⅔ percent of the taxpayer's qualified investment in such property.

"(2) CREDIT PERIOD.—For purposes of paragraph (1), the term 'credit period' means, with respect to any qualified acid rain control property, the 3-taxable year period beginning with the taxable year such property is placed in service.

"(3) ACID RAIN CONTROL QUALIFIED PROGRESS EXPENDITURES.—In the case of any taxpayer who so elects under subsection (h) the amount of the credit allowed under paragraph (1) shall be increased in the taxable year of construction and in the two succeeding taxable years by an amount equal to 6⅔ percent of the qualified progress expenditures, (as defined in section 46(d) (3) and (4) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) made in the taxable year of construction to construct property which it is reasonable to believe—

"(A) has a normal construction period of two years or more, and

"(B) will be qualified acid rain control property when it is placed in service.

"(4) Credit adjusted for qualified progress expenditures.—Any credit allowable under paragraph (1) in the taxable year the qualified acid rain control property is placed in service and in each of the 2 succeeding taxable years shall be reduced by one-third of the aggregate amount of credits allowed under paragraph (3) during the construction of such property.

"(5) Failure to qualify as acid rain control property.—If the property fails to qualify as qualified acid rain control property when placed in service, the taxpayer's tax for the taxable year in which such failure occurs shall be increased by—

"(A) the credits allowed under paragraph (3) with respect to the property, and

"(B) interest for the period from the due date for the filing of the return of tax imposed by chapter 1 for the taxable year for which such credit was allowed to the due date for the taxable year in which the property is placed in service.

"(b) Qualified Acid Rain Control Property.—For purposes of this section—

"(1) In general.—The term 'qualified acid rain control property' means—

"(A) tangible property for use of coal which—

"(i) is installed in order to comply with the sulfur dioxide emission limitations under title IV of the Clean Air Act (as added by Public Law 101-549; 42 U.S.C. 7651 et seq.), and

"(ii) is a technological system of continuous emission reduction which achieves a 90 percent reduction in emissions of sulfur dioxide from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion, or is a coal repowering technology as defined in Section 402(12) of the Clean Air Act (as added by Public Law 101-549; 42 U.S.C. 7651 et seq.), or

"(B) property which is installed on or in connection with property described in subparagraph (A).

"(2) Only depreciable property eligible.—The term 'qualified acid rain control property' includes only—

"(A) property to which section 168 applies (without regard to any useful life), or

"(B) any other property—

"(i) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(ii) which has a useful life (determined at the time the property is placed in service) of 3 years or more.

"(3) Property must be new.—

"(A) In general.—The term 'qualified acid rain control property' includes only property the original use of which commences with the taxpayer.

"(B) Reconstruction.—For purposes of subparagraph (A), qualified acid rain control property includes property the reconstruction of which is completed by the taxpayer, but only with respect to that portion of the basis which is properly attributable to such reconstruction.

"(4) Certain other requirements.—In determining whether property is qualified acid rain control property, rules similar to the rules of the following provisions shall apply:

"(A) Section 50(b)(1) (relating to the requirement that property must be used predominantly in the United States).

"(B) Section 50(b) (3) and (4) (relating to exclusion of property of certain tax-exempt organizations, governmental units, and foreign persons and entities).

"(C) Section 168(g)(6) (relating to imported property).

"(c) Qualified Investment.—For purpose of this section—

"(1) In general.—The term 'qualified investment' means, with respect to any qualified acid rain control property, the basis of such property as of the time such property is placed in service.

"(2) Limitations with respect to certain persons.—In determining qualified investment, rules similar to the rule of section 46(e) (as in effect on the day before enactment of the Revenue Reconciliation Act of 1990) shall apply.

"(d) Limitation Based on Amount of Tax.—

"(1) Liability for tax.—The credit allowable under section (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the taxpayer's regular tax for such taxable year reduced by the sum of the credits allowable against the taxpayer's regular tax liability under subpart A and sections 27, 28, and 29, over

"(B) the tentative minimum tax for the taxable year.

"(2) Carryback and carryforward of unused credit.—

"(A) In general.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (hereafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an acid rain control credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an acid rain control credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year beginning on or before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the 18 taxable years to which (by means of clauses (i) and (ii)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) Limitations.—The amount of the unused credit which may be taken into account under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(e) Recapture Upon Disposition.—

"(1) In general.—If a taxpayer disposes of qualified acid rain control property during any taxable year (or the property otherwise ceases to be qualified acid rain control property with respect to the taxpayer) before the close of the 5-year period beginning on the date such property was placed in service, the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under this section for all taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(2) Recapture percentage.—For purposes of paragraph (1), the term 'recapture percentage' has the meaning given such term by section 50(a)(1)(B).

"(3) Other rules.—Rules similar to the rules of section 50(a) (2) and (3) shall apply for purposes of this subsection.

"(f) Basis Adjustment.—For purposes of this subtitle, if a credit is allowable under subsection (a) with respect to qualified acid rain control property, the basis of such property shall be reduced by the amount of such credit (determined as if the entire credit with respect to such property was allowable in the taxable year such property was placed in service). For purposes of this subsection, rules similar to the rules of section 50(c) shall apply.

"(g) Limitation in Case of Certain Regulated Companies.—No credit shall be allowed under this section with respect to any property which is public utility property (as defined in section 46(f)(5), as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) with respect to which a credit would not be allowed under section 38 if section 46(f)(2), as so in effect (relating to cost of service and rate base reductions) applied to such property, except that subparagraph (B) of such section 46(f)(2) shall not apply if the reduction in the rate base is restored not less rapidly than ratably.

"(h) Election.—An election under subsection (a)(3) may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to qualified acid rain control property constructed in the taxable year for which the election is made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary."

(b) Conforming Amendments.—

(1) Section 196 of the Internal Revenue Code of 1986 (relating to deduction for certain unused business credits) is amended by adding at the end thereof the following new subsection:

"(e) Acid Rain Control Credit.—The provisions of subsections (a) and (b) shall apply in the same manner to the credit allowable under section 30(a)."

(2) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(26) Credit under section 30.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 30, and under such regulations as the Secretary may prescribe) the items required to be taken into account for purposes of section 30 in respect of the distributor or transferor corporation."

(3) Section 383(a)(2) of such Code (defining excess credit) is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) any unused acid rain control credit of the corporation under section 30(d),".

(4)(A) Section 6411(a) of such Code (relating to tentative carryback and refund adjustments) is amended by inserting "by an acid rain control credit carryback provided in section 30(d)," after "section 172(b)," in the first sentence.

(B) Section 6411(a) of such Code is amended by striking so much of the second sentence as follows "the return for the taxable year" and inserting the following: "of the net operating loss, net capital loss, unused acid rain control credit, or unused business credit from which the carryback results and within a period of 12 months after such taxable year or, with respect to any portion of an acid rain control credit carryback or business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year, in the manner and form required by regulations prescribed by the Secretary."

(C) Subsections (a)(1), (b) and (c) of section 6411 are each amended by inserting "unused acid rain control credit," after "net capital loss," each place it appears.

(5) Subparagraph (C) of section 6511(d)(4) of such Code is amended by inserting "or any acid rain control credit carryback under section 30(d)" after "section 39".

(6) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting at the end thereof the following new item:

"Sec. 30. Acid rain control property."

(c) Effective Date.—The amendments made by this section shall apply to property placed in service after October 1, 1992, in taxable years ending after such date.

SEC. 2. TAX-EXEMPT FINANCING OF ACID RAIN CONTROL PROPERTY.

(a) In General.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bonds) is amended by striking "or" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(12) qualified acid rain control property."

(b) Qualified Acid Rain Control Property Defined.—Section 142 of such Code is amended by adding at the end thereof the following new subsection:

"(j) Qualified Acid Rain Control Property.—For purposes of this section, the term 'qualified acid rain control property' has the meaning given such term by section 30(b)."

(c) Exemption From Volume Cap.—Subsection (g) of section 146 of such Code is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(5) any exempt facility bond issued as part of an issue described in paragraph (12) of section 142(a) (relating to qualified acid rain control property)."

(d) Effective Date.—The amendments made by this section shall apply to obligations issued after January 1, 1992.

SEC. 3. TAX CREDIT FOR MINERALS USED TO REDUCE THE SULFUR IN COAL.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by inserting after section 44 the following new section:

"SEC. 45. COAL CLEANING MINERALS CREDIT.

"(a) General Rule.—For purposes of section 38, the credit for qualified coal cleaning minerals for the taxable year shall be an amount equal to 20 percent of the expenses paid or incurred during the taxable year for qualified coal cleaning minerals.

"(b) Qualified Coal Cleaning Minerals.—For purposes of this section, the term 'qualified coal cleaning minerals' means minerals and ores used in connection with qualified acid rain control property to remove or reduce the sulfur content of coal.

"(c) Qualified Acid Rain Control Property.—For purposes of this section, the term 'qualified acid rain control property' has the meaning given such term by section 30(b)."

(b) Conforming Amendments.—

(1) Section 38(b) of such Code (relating to business credits) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the coal cleaning minerals credit determined under section 45(a)."

(2) Section 162 of such Code (relating to deduction of trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Coal Cleaning Minerals.—

"(1) In general.—The deduction allowed by subsection (a) shall not exceed 80 percent of the expenses paid or incurred during the taxable year for qualified coal cleaning minerals.

"(2) Definition.—For purposes of this subsection, the term 'qualified coal cleaning minerals' means minerals and ores for which a credit shall be allowable in the taxable year under section 45."

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 45. Coal cleaning minerals credit."

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1993.

SEC. 4. EXCLUSION FROM GROSS INCOME OF RECEIPT OF QUALIFIED CLEAN AIR ALLOWANCE AND PROCEEDS OF DISPOSITION THEREOF.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and inserting after section 135 the following new section:

"SEC. 136. QUALIFIED CLEAN AIR ALLOWANCES.

"(a) Receipt of Allowances.—Gross income does not include the value of qualified clean air allowances allocated to the taxpayer.

"(b) Disposition of Allowances.—

"(1) In general.—At the election of the taxpayer, gross income does not include amounts received or accrued from the sale or exchange of qualified clean air allowances.

"(2) Limitation.—The amount to which an election under paragraph (1) applies shall not exceed the aggregate adjusted basis of the qualified acid rain control property held by the taxpayer at the beginning of the taxable year following the taxable year in which the sale or exchange occurs.

"(3) Special rules.—

"(A) Election.—Any election under paragraph (1) shall be made in the manner prescribed by the Secretary by regulations and shall be made not later than the due date prescribed by law (including extensions) for filing the return of tax under this chapter for the taxable year in which the amounts were received or accrued.

"(B) Basis reduction.—The amount excluded from gross income under this subsection shall reduce the basis of the qualified acid rain control property of the taxpayer under subsection (a)(26) of section 1016.

"(C) Taxable year of basis reduction.—The basis reduction described in subparagraph (B) shall be made at the beginning of the taxable year following the taxable year in which the sale or exchange occurs.

"(c) Definitions.—For purposes of this section—

"(1) Qualified clean air allowances.—The term 'qualified clean air allowances' means allowances allocated to the taxpayer by the Administrator of the Environmental Protection Agency under section 403 of the Clean Air Act.

"(2) Qualified acid rain control property.—The term 'qualified acid rain control property' has the meaning given such term by section 30(b)."

(b) Conforming Amendments.—

(1) Section 1016(a) of such Code (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) for amounts excluded from gross income pursuant to an election under section 136(b)(1)."

(2) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

"Sec. 136. Qualified clean air allowances.

"Sec. 137. Cross references to other Acts."

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1992.

SEC. 5. 60-MONTH AMORTIZATION OF ACID RAIN CONTROL PROPERTY.

(a) In General.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to itemized deductions for individuals and corporations) is amended by inserting after section 169 the following new section:

"SEC. 169A. AMORTIZATION OF QUALIFIED ACID RAIN CONTROL PROPERTY.

"(a) Allowance of Deduction.—Every person, at his election, shall be entitled to a deduction with respect to the amortizable basis of any qualified acid rain control property (as defined in section 30(b)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis of the qualified acid rain control property at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of such month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such qualified acid rain control property for such month provided by section 167. The 60-month period shall begin, as to any qualified acid rain control property, at the election of the taxpayer, with the month following the month in which such property was completed or acquired, or with the succeeding taxable year.

"(b) Election of Amortization.—The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the property is completed or acquired, or with the taxable year succeeding the taxable year in which such property is completed or acquired, shall be made by filing a statement of such election with the Secretary in such manner and form, and within such time as the Secretary may by regulations prescribe.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer, who has made an election, under subsection (b) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period. Such discontinuance shall begin as of the beginning of any month specified by the taxpayer in a written notice filed with the Secretary before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such property.

"(d) AMORTIZABLE BASIS.—

"(1) DEFINED.—For purposes of this section, the term 'amortizable basis' means that portion of the adjusted basis (for determining gain) of qualified acid rain control property which may be amortized under this section.

"(2) SPECIAL RULES.—

"(A) In the case of qualified acid rain control property which has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such property shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such property, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the applicable recovery period of such property determined under section 168.

"(B) The amortizable basis of a qualified acid rain control property with respect to which an election under this section is in effect shall, at the election of the taxpayer, be increased for purposes of this section, for additions or improvements after the amortization period has begun, effective with the month following the month of completion which month shall be deemed the first month of the 60-month period applicable to such addition or improvement.

"(e) DEPRECIATION DEDUCTION.—The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

"(f) CROSS REFERENCE.—

"For the special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245."

(b) CONFORMING AMENDMENTS.—

(1) Section 1245(a)(3) of such Code is amended by striking "(or subject to the allowance of amortization provided in section 185 or 1253(d)(2) or (3))" after "section 167" and inserting "(or subject to the allowance of amortization provided in section 169A, 185, or 1253(d) (2) or (3))".

(2) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 169 the following new item:

"Sec. 169A. Amortization of qualified acid rain control property."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1992.

SECTION-BY-SECTION ANALYSIS—ENVIRONMENTAL TAX CREDIT ACT OF 1991

SECTION 1—INVESTMENT TAX CREDITS

Utilities that build pollution control devices designed to achieve at least a 90 percent reduction in SO2 emissions are eligible to receive a 20 percent investment tax credit (ITC), one third of the 20% credit (6⅔%) will be allowed the first year of construction, and one third in each of the two succeeding years.

The ITC would be available for Phase I and Phase II. The credit would have carry over provisions.

The credit will be allowed only if normalized for rate making purposes and with respect to qualified property placed in service subsequent to October 1, 1992.

The ITC will be available at the start of construction to assist utilities with the high capital expenditures necessary at the time, and to avoid "rate shock"—a quick and severe increase in utility rates.

SECTION 2—TAX-EXEMPT FINANCING

The bill adds "qualified acid rain control property" to the Section 142(a) list of exempt facilities which may be financed by the tax exempt "qualified bonds" under Section 141(e).

In addition, Section 146(g) is amended to add such qualified acid rain control property bonds for the purpose of the volume cap otherwise applicable to the amount of private activity bonds issuable by the relevant public authority.

SECTION 3—CREDIT FOR MINERALS USED IN POLLUTION CONTROL DEVICES

Section 162 is amended to reduce by 20% the cost of the minerals and ores which may be deducted as an operating expense. This 20% credit for qualified coal cleaning minerals, such as lime, would be available when used in certain pollution control devices.

(There are essentially two kinds of scrubbers: a limestone scrubber, which is more expensive to build, but less expensive to maintain; and a "lime" scrubber, which is less expensive to build, but has a higher maintenance cost. This credit allows the two scrubbers to receive fair treatment under the tax options, so that one type won't be favored over another.)

SECTION 4—EXCLUDING FROM INCOME THE REVENUE RECEIVED FROM SELLING CREDIT ALLOWANCES

This section excludes from gross income the value of the pollution credit allowances held by the initial owner and excludes any revenue received by the owner when an allowance is sold.

The 1990 Clean Air Act Amendments establishes a system of marketable allowances, whereby utilities are provided an initial allotment of allowances permitting the targeted utilities to emit pollutants. At the same time, the utilities are required to reduce their pollutant emissions.

In theory, after achieving the required reduction, a utility will sell some of its allowances and thus recoup part of its costs of achieving the reduction.

The allowances are designed to provide an "after the event" reduction in the cost of compliance. To accomplish such a reduction, the receipt and disposition of the allowances by the initial recipients should result in no tax consequences. If such an exclusion is not provided, the intended cost reduction from the sale of the clean air allowances will not be fully achieved.

SECTION 5—5-YEAR AMORTIZATION FOR POLLUTION CONTROL DEVICES

This section extends the 60 month amortization principles of Section 169 to qualified acid rain control property built to comply with the 1990 Clean Air Act Amendments. Currently, the property would not qualify under Section 169 either because it (1) is an addition to property placed in service after 1975, or (2) is an improvement to an existing emission reduction facility being amortized under section 169. Since section 169 also denies 60 month amortization to property which significantly alters the nature of a production process or facility, this section provides 60 month amortization for replacements of process equipment or facilities if such property is certified as contributing to emission reduction even though it alters an energy generating facility.

Mr. BYRD. Mr. President, I am pleased to be an original cosponsor of the legislation being introduced today by the Senator from Illinois [Mr. DIXON]. I believe this bill, S. 1234, a bill to provide tax relief to utilities that elect to comply with the requirements of the Clean Air Act Amendments of 1990 through the installation of a technological system of continuous emissions control, serves two important purposes. First, it will help reduce the potentially devastating economic consequences that last year's clean air amendments could have on communities across a wide section of our Nation. Second, I believe it will advance the environmental and energy policies of this Nation by encouraging the eventual deployment of advanced clean coal technologies currently under development.

Last year, with some regret, I voted against the Clean Air Act Amendments of 1990. Having not enacted any new clean air legislation in 13 years, I believed that the time had come, last year, for the Congress to do so. I was compelled, however, to vote against the Clean Air Act Amendments of 1990 because of the tremendous price that legislation is certain to exact, in terms of lost wages and lost employment, from the men and women who work in our Nation's high-sulfur coal mines, as well as their families and their communities and because of the high cost it is certain to impose on electric ratepayers in the industrial heartland of America.

It is true that the Clean Air Act Amendments of 1990, as signed into law by the President last November, does include important incentives for the use of technological systems of emission control, incentives that will help mitigate the impact of last year's amendments on the high-sulfur coal industry and on electric ratepayers. However, despite the inclusion of these incentives, I believe that the Clean Air Act Amendments of 1990 will still impose a heavy and unfair burden on the citizens of West Virginia and other coal-producing and coal-consuming States in the Midwest.

S. 1234, by providing additional incentives to utilities to use technological emission controls to comply with the acid rain control provisions of last year's clean air amendments, will help further mitigate the impact that legislation is likely to have on West Virginia and other coal States. This legislation will help save jobs in our high-sulfur coal mines, as well as jobs in the communities supported by those mines. And in communities and regions already suffering from high unemployment and severe economic dislocation, nothing is more important than preserving the jobs that still remain.

There is also a longer term benefit that will be provided by this legislation. By encouraging the continued development and eventual deployment of new clean coal technologies, this bill will advance the long-term environmental and energy policies of our Nation. Mr. President, the realities of American energy use are clear. Coal is our most abundant domestic energy resource. Coal currently accounts for more than 50 percent of our domestic electricity production, and, even with significant increases in conservation and energy efficiency, as well as increased development of other domestic energy resources, it will continue to be responsible for more than half of our electric power generation well into the future.

Today, as in the past, we find ourselves confronted by issues related to environmental quality and energy security. Finding ways to burn coal more efficiently and cleanly will enable us to address these environmental and energy issues together, and clean coal technologies offer the best hope for doing so. The legislation crafted by my colleague from Illinois will encourage the development and deployment of clean coal technologies, and for that reason I believe it merits the support not only of Senators from the coal-producing States of Appalachia and the Midwest, but of every Member of this body.

I commend the Senator from Illinois for the work he has done in putting together this legislation, and I urge my colleagues to support it. Again, I am pleased to be an original cosponsor of this bill.

Mr. SPECTER. Mr. President, I join my distinguished colleague from Illinois as an original cosponsor of legislation to help offset the capital costs of technological controls installed by public utilities under phase I of the Clean Air Act. The goal of this legislation is to provide a financial incentive to help lower the cost of capital of installing scrubbers, so that utilities can achieve higher emissions reductions at an earlier date. In doing so, the bill would achieve an important result to ensure a more equitable allocation of acid rain control costs.

I want to make it plain, Mr. President, that I fully support the goals of the Clean Air Act with its objective of removing 10 million tons annually of sulfur dioxide from the air to help solve the acid rain problem. However, I am concerned with the matter of fairness, and I see this legislation as a method to correct an inequity that was present in the final version of the Clean Air Act.

As I said at the time of this debate last year, clearly, it is not equitable for a small number of Midwestern States who together comprise 51 percent of the national sulfur dioxide emissions total, to be responsible for 90 percent of the emissions reduction in implementation of phase I of the Clean Air Act.

Mr. President, we are not asking for relief from our environmental protection responsibilities. This bill would simply allow those utilities which install pollution control devices, scrubbers, the same kind of a tax break enjoyed by others who undertook those controls at an earlier time when there was an investment tax credit.

In order to comply with the stringent regulations established by the Clean Air Act, expensive, state-of-the-art technology will necessarily be installed by our region's utilities. Electrical rates for consumers in some States could increase by 13 to 20 percent. By allowing this tax credit, this bill would provide needed relief in reducing the costs to our region's electrical consumers in meeting our national clean air goals. In addition, this tax credit may avoid the cost of paying for compensation of unemployed workers should we fail to provide assistance for the installation of new technology in these plants.

I am hopeful that you will see this bill not as a regional issue, but as a show of national support for a national priority that must be shared by the whole country, and I ask that you join in support of this legislation as a long-term step in the solution to the Nation's acid rain problem.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1235. A bill to amend the Internal Revenue Code of 1986 to provide that storage tanks constructed in connection with the regional petroleum reserve are eligible for the investment tax credit; to the Committee on Finance.

S. 1236. A bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing for storage tanks used in connection with a regional petroleum reserve; to the Committee on Finance.

PETROLEUM RESERVE INVESTMENT TAX CREDITS

Mr. AKAKA. Mr. President, over the past 2 months the senior Senator from Hawaii [Mr. INOUYE] and I have introduced legislation, S. 836, to establish an emergency petroleum reserve in Hawaii and subsequent legislation, S. 1078, the Emergency Petroleum Supply Act, to ensure that insular areas of the United States have guaranteed access to the strategic petroleum reserve and SPR loading docks.

Today, I am joined by Senator INOUYE in introducing a third component, the Emergency Petroleum Supply Tax Incentive Act, which would provide tax incentives for the construction and maintenance of the storage tanks necessary to hold the crude oil and refined petroleum products which become part of the strategic regional petroleum reserve.

On numerous occasions, I have detailed the urgent need for an emergency petroleum reserve in Hawaii. Distance and access remain the two major impediments to improving energy security in Hawaii and other insular areas in the Pacific. My State relies on oil for 90 percent of our energy needs. All of it arrives by ocean tanker. This total reliance on tanker deliveries for crude oil and refined petroleum products makes Hawaii exceptionally vulnerable should any crisis disrupt imports.

Studies have shown that under current procedures, Hawaii could face a 53-day wait during the purchase, drawdown, and delivery of oil from the nearest strategic petroleum reserve loading docks 7,000 miles away on the gulf coast. Yet, extant storage capacity affords our State only an average commercial working capacity of 20 days. This precarious situation offers little in the way of security if we were to experience a severe oil supply disruption. I do not exaggerate when I say that Hawaii's economy would grind to a halt and the daily activities of our citizens and visitors would be dramatically altered. The hardship would be even more acute for the Pacific territories.

S. 836 and S. 1078 would rectify potential problems created by Hawaii's distance from and access to our Nation's strategic petroleum reserve, and would afford Hawaii the same energy security enjoyed by the rest of our country. We ask for nothing more than the same protection already provided to the continental United States. It's a matter of simple equity.

At present, Hawaii does not possess excess storage capacity necessary to hold the crude oil and refined petroleum products for a 20,000,000-barrel emergency petroleum reserve. This legislation we propose today offers a two-option approach to encourage the construction of storage facilities to be employed by the Department of Energy as part of the regional petroleum reserve. Due to the exclusivity of each approach, we have decided to introduce the legislation as two separate bills.

The first bill provides that obligations issued for the construction of petroleum storage tanks used as part of the strategic petroleum reserve qualify for tax-exempt bond financing. Eligibility would apply to both the land acquisition and construction of qualified storage facilities used to store oil or petroleum products in connection with a regional petroleum reserve as defined under section 157 of the Energy Policy and Conservation Act.

Our companion measure provides that the storage tanks constructed in connection with the regional petroleum reserve are eligible for the investment tax credit.

Enactment of these two bills, along with the Emergency Petroleum Supply Act I introduced on May 15, is critical if Hawaii is to successfully establish and maintain a strategic petroleum reserve.

By Mr. GRAHAM:

S. 1238. A bill to require the Secretary of Health and Human Services to report to Congress on the validity of utilizing certain criteria in the alcohol, drug abuse, and mental health block grant allotment formula, and for other purposes; to the Committee on Labor and Human Resources.

ADAMH BLOCK GRANT FORMULA REVIEW

• Mr. GRAHAM. Mr. President, since the 1988 Anti-Drug Abuse Act, there have been attempts to change the formula that distributes the alcohol, drug abuse, and mental health block grant funds—the primary source of Federal treatment dollars to the States.

We have wrestled with terms like urban weighting, age cohorts, indicators of need, and other variables in the formula that combine to supposedly give us an accurate picture of where Federal funds for mental illness and substance abuse treatment need to be targeted.

This year we will again attempt to change the formula when the Senate reauthorizes the programs under the ADAMH administration.

But I want to challenge the assumption that tinkering with the current formula can produce the most equitable distribution of funds.

What may be required is a new method of assessing need and distributing funds.

The bill I will introduce today will ask for an evaluation of the current formula. I want to know if the block grant funds are really going to where the need is.

To do this, I ask the Secretary of Health and Human Services to look at the most up to date scientific evidence on mental illness and substance abuse. Using the newest and most relevant science, the Secretary will then identify new factors that reliably predict mental illness and substance abuse.

We also ask the Secretary to ensure that the variables in the current formula are still valid.

Then we ask the General Accounting Office to take the information provided by the Secretary and come back to Congress with recommendations on how to change the formula to reflect HHS's findings.

I came to the conclusion that this reevaluation of the formula needed to happen for three reasons.

One, the changes that I expect to come out of this year's reauthorization will likely reduce Florida's share of the block grant by millions of dollars.

My State has clear, documented needs; according to the Judiciary Committee, only one out of four citizens of Florida who need substance abuse treatment receives it. If we're only meeting a fourth of our treatment needs, how can it be considered fair to reduce access to treatment in Florida even further?

Second, the current formula relies on three age categories for its base population for estimating the incidence of mental illness, alcoholism, and drug abuse. These age cohorts exclude, I believe, significant populations that have substance abuse and mental health needs.

For instance, Senator PRYOR, chairman of the Special Committee on Aging, and I are concerned that because the current formula looks only at the population of persons between the ages of 18 and 65, we are not taking into account the needs of those older than 65.

Because of his concern, the Senator from Arkansas has indicated that he will cosponsor this bill as soon as he is well enough to resume his full duties here in the Senate.

Third, the entire formula is based on scientific evidence that may be out of date. We know more today about who suffers from mental illness, the type of person seeking substance abuse treatment. We know about crack and cocaine babies—two relatively new phenomena that weren't factors when the original formula was written.

Senator KENNEDY and his staff have been very supportive of my efforts to craft this bill. As chairman of the committee that has jurisdiction over the reauthorization of ADAMHA, he is trying to balance the needs of very different States. I look forward to working with him during reauthorization.

Mr. President, I realize that very rarely are all parties satisfied with a funding formula. For that reason, formulas must be based on current science, impartial recommendations, and the most accurate indicators of need. I hope that my colleagues will support the bill I'm introducing as the best way to achieve those goals for the alcohol, drug abuse, and mental health block grant.

Mr. President, I ask that the full text of the bill be printed immediately following the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORT CONCERNING ALCOHOL, DRUG ABUSE AND MENTAL HEALTH BLOCK GRANT ALLOTMENT FORMULA.

(a) REPORT.—Not more than six months after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce a report on the statutory formula by which funds made available under section 1911 are allocated among the States and territories.

(b) COMPONENTS OF THE REPORT.—The report mandated by section (a) shall include:

(1) an assessment of the degree to which the formula allocates funds according to the respective needs of the States and territories;

(2) a review of relevant and current epidemiological research regarding the incidence of substance abuse and mental illness among various groups and geographic regions of the country;

(3) the identification of factors not included in the formula that are reliable predictors of the incidence of substance abuse and mental illness;

(4) an assessment of the validity and relevance of factors currently included in the formula, such as age, urban population, and cost;

(5) any other information the Secretary believes would contribute to a thorough assessment of the appropriateness of the current formula.

(c) CONSULTATION.—In preparing the report mandated by section (a), the Secretary shall consult with the Comptroller General. The Comptroller General shall review the study after its transmittal to Congress and make appropriate recommendations to Congress in response thereto no later than three months after the date of transmittal.•

By Mrs. KASSEBAUM:

S. 1239. A bill to preserve jobs in the aircraft industry by amending the Internal Revenue Code of 1986 to repeal the luxury excise tax on aircraft; to the Committee on Finance.

REPEAL OF THE LUXURY TAX ON AIRPLANE PURCHASES

• Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation to repeal the luxury tax on the purchase of airplanes.

While this new tax took effect only on January 1, it is already clear that it does not raise but actually reduces Federal revenues, while also causing a significant loss of jobs. While this luxury tax was supposed to be aimed at the very rich, it in fact penalizes assembly line workers and others who build one of the best U.S.-made products in the world.

To illustrate the real effect of this tax, I want to provide other Senators with figures compiled by the Beech Aircraft Corp., which is by far the largest producer of privately owned aircraft in the Nation. Prior to the imposition of the luxury tax, Beech had planned to hire 500 new employees this year. Instead, from January 1 to March

31—the first fiscal quarter under the luxury tax—Beech lost 39 new airplane sales. These lost sales include 13 Bonanzas, 4 Barons, 20 King Airs, and 2 Beechjets. The total value of the lost sales is $77.6 million.

Building these 39 airplanes would have employed 255 workers for 1 year. Beech would have paid $7.5 million to those workers, and the Federal Government would have collected about $1.1 million in Federal income taxes and about $1.1 million in FICA payroll taxes.

In short, the luxury tax directly reduced employment and economic activity in my State and directly cost the Federal Government $2.2 million in lost revenues. The only offset against this loss was the $16,000 the Government collected in luxury taxes in two airplanes that actually sold in the first 3 months of this year.

This tradeoff makes no sense, either in fiscal terms or in economic reality. For every $1 the new luxury tax raises, it takes $475 out of the pockets of American workers. For every $1 it raises in new Federal revenues, it costs the Government $138 in lost income and payroll taxes.

Mr. President, I believe we should end this nonsense before even more workers lose their jobs. I know Senator CHAFEE and Senator BREAUX can cite similar statistics in the boat industry, and I am sure other industries affected by the so-called luxury tax are in the same predicament. Today, I am introducing legislation to repeal the luxury tax on airplanes, and I intend to support legislation to repeal the tax on other industries as well. Such taxes may be aimed at the rich, but it is American workers who end up paying through reduced paychecks and an increased number of pink slips. Mr. President, this tax is a luxury that America's economy and workers cannot afford.•

By Mr. CHAFEE (for himself, Mr. RIEGLE, Mr. DANFORTH, Mr. PRYOR, Mr. MOYNIHAN, Mr. BREAUX, and Mr. BOREN):

S. 1240. A bill to amend title XIX of the Social Security Act to provide criteria for making determinations of denial of payment to States under such Act; to the Committee on Finance.

MEDICAID AUDITS AND DISALLOWANCE REFORM ACT OF 1991

• Mr. CHAFEE. Mr. President, today I introduce the Medicaid Audits and Disallowance Reform Act of 1991. During these times of severe budget constraints, we must constantly strive to ensure that our limited Medicaid dollars are spent appropriately, on quality and medically necessary services. The legislation that I am introducing today will make needed improvements in the Medicaid audit and disallowance system while ensuring that our Medicaid dollars are not misspent. I am joined by my colleagues Senators RIEGLE, DANFORTH, PRYOR, MOYNIHAN, BREAUX, and BOREN.

Currently, the amount of Federal Medicaid dollars paid to States is based on claims filed each quarter for expenditures made by the States for services provided to Medicaid eligible individuals. These funds are matched by the Federal Government based on the States' per capita income. These matching percentages range from 50 percent in States such as New York and Massachusetts to almost 80 percent in Mississippi. The Health Care Financing Administration [HCFA] and the Office of the Inspector General [OIG] within the Department of Health and Human Services conduct audits of State Medicaid programs after payments are made to States to determine the appropriateness of a State's claim for Medicaid matching funds. The Secretary of HHS may disallow a State's claim based on these audits, and recoup the Federal matching payment.

State Medicaid agencies are experiencing a period of substantial change. Federal mandates have increased the cost and complexity of the Medicaid Program. Over the last few years, my colleagues and I have heard from our State Medicaid directors about the States' great frustration with the increasing Federal practice of imposing enormous disallowances on the basis of procedural or highly technical violations of State Medicaid plan provisions, even when there is no question that the services provided were appropriate. In light of many States' dire fiscal condition, and the congressionally mandated Medicaid expansions enacted in the past few years, I believe that it is critical to resolve the problems inherent in the current audit and disallowance system so that the States are better able to focus on meeting the health care needs of the poor.

This bill is not designed to relieve States of their statutory and regulatory obligations under the Medicaid Program. Nor does the bill provide avenues for the States to misspend Federal funds without accountability. This bill does not question the right of the Federal Government to audit programs that are in whole or in part, financed by the Federal Government. The bill simply acknowledges that there should be some flexibility in the assessment of Federal penalties upon the States under the Medicaid audit and disallowance process.

The legislation that we introduce today would reform the audits and disallowance process in several ways. First, there are situations in which States may not be fully in compliance with Medicaid procedural requirements, but denying Federal matching funds for the service is too severe a penalty. If the Secretary agrees that the violation was technical or procedural in nature, the bill would give States the opportunity to come into compliance on a prospective basis without financial penalty. The bill defines such procedural violations as those which do not affect quality of care, medical necessity or appropriateness of services. In addition, there must be no question that the individual was eligible for services, that the health care provider was a qualified Medicaid provider, or that the services were within the definition of the States Medicaid plan.

Second, should the Secretary determine that the violation does warrant Federal recoupment of Federal matching funds; for example, disallowance, this bill allows some flexibility in determining the amount of the disallowance. Under current law, if the Secretary issues a disallowance, States have the right to a fair hearing before the Departmental Appeals Board. The Board makes a determination as to whether or not the State was at fault and can either dismiss the disallowance or recoup all matching funds for the services provided. The Board has no statutory or regulatory authority to adjust the disallowance amount so that the fiscal penalty imposed on the State is commensurate with the nature of the violation.

Under this system, the Board has been forced to affirm disallowances that are disproportionately high given the nature of the violation, and conversely, the Board may reverse a partially meritorious disallowance in its entirety because of the enormity of the dollar amount. This legislation would allow the Appeals Board, if it upholds the disallowance, to reduce the amount of the disallowance. The Board would, in appropriate cases, consider such factors as whether the amount of the disallowance is proportionate to the error of deficiency on which the disallowance is based.

The legislation prohibits the Secretary from imposing a disallowance if the State was in compliance with a plan approved by HHS. Further, under present law, if a State elects to retain the amount of the disallowance pending administrative review, and the disallowance is ultimately sustained, the State must repay the amount in question and interest to the Federal Government for the period of the appeal. Under our legislation, should a State elect to repay the amount in question, but is later successful on appeal in overturning the disallowance, the Federal Government would be required to pay interest to the State. A similar provision was recently enacted in connection with the Aid to Families With Dependent Children and food stamp quality control reforms.

I believe that these reforms will not only ease the adversarial relationship between State Medicaid officials and Federal auditors, but will make the Medicaid Program easier for the States to administer. In addition, this proposal will allow Federal auditors to focus their limited resources on State violations which adversely affect quality of care and misuse of Federal Medicaid dollars.

I urge my colleagues to join with us in sponsoring this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TO PROVIDE CRITERIA FOR MAKING DETERMINATIONS OF DENIAL OF PAYMENT TO STATES.

(a) CRITERIA PROVIDED FOR MAKING DETERMINATIONS OF DENIAL OF FEDERAL FINANCIAL PARTICIPATION TO STATES.—Section 1903 (43 U.S.C. 1396b) is amended by adding at the end the following new subsection:

"(w)(1) In any case in which the Secretary proposes to disallow under section 1116(d) a claim by a State under this section, the Secretary shall, if the proposed disallowance is described in paragraph (2)(A), follow the procedure described in paragraph (2)(B). The Secretary may disallow such claim only if the State fails to take the action specified in paragraph (2)(B).

"(2)(A) The procedure described in subparagraph (B) applies to any proposed disallowance where there is no contention by the Secretary that the services rendered were not medically necessary and appropriate, or that the quality of care provided to eligible individuals was deficient and the proposed disallowance is not based upon (i) an erroneous determination of eligibility of individuals; (ii) services of a type that are not covered by this title; (iii) services provided by an ineligible provider; (iv) erroneous computation of a State's indirect cost allocation rate or an ineligible provider's rate; (v) claims based on an inapplicable medical assistance percentage; or (vi) failure to comply with utilization control procedures pursuant to subsection (g).

"(B) In the case of any proposed disallowance described in subparagraph (A) the Secretary shall notify the State of the Secretary's intent to disallow a claim. Within 60 days of receipt of such notice, the State may inform the Secretary of its intention to alter its program or practices on a prospective basis to satisfy the matters on which the proposed disallowance is based, in which event the Secretary shall review the State's program or practices, as appropriate, to assure that the necessary changes have been made or will be made within a reasonable time.

"(3) Whenever the Secretary disallows any claim by a State under this section, whether or not described in paragraph (2)(A) of this subsection, and the State exercises its right of reconsideration under section 1116(d), the Department Appeals Board established in the Department of Health and Human Services shall, if such Board upholds the basis for the disallowance, determine whether the amount of the disallowance should be reduced. In making this determination, the Board shall take into account (to the extent the State makes a showing) factors which shall include, but not be limited to—

"(A) whether the basis of the disallowance was procedural in nature;

"(B) whether the amount of the disallowance is proportionate to the error or deficiency on which the disallowance is based;

"(C) whether the basis of the disallowance constitutes noncompliance that prevented or materially affected the provision of appropriate services of recipients eligible under this title; or

"(D) whether Federal guidance with respect to the action that is the basis for the proposed disallowance was insufficient and the State made good faith efforts to conform its action to the intent of the applicable Federal statute or regulation.

"(4) No disallowance shall be taken or upheld if action of the State on which the disallowance would be based is consistent with its approved State plan.

"(5) In any case of a disallowance as to which the State does not elect to retain the amount of the Federal payment in dispute pending a final determination with respect to such payment amount, and such final determination (either by administrative or judicial decision) is to the effect that such payment amount, or any portion thereof, shall not be disallowed, the State shall be entitled to interest on the amount determined not to be disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at the rate specified in subsection (d)(5).

"(6) No disallowance of a claim under this section may be taken with respect to any amounts paid to a State unless an audit or financial review with respect to such amounts has been initiated, and the State has been informed that the audit has been initiated, within 3 years of the date of filing of the State's claim for such amounts.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disallowances made after the date of the enactment of this Act and shall take effect without regard to the promulgation of implementing regulations.●

● Mr. RIEGLE. Mr. President, I am pleased to cosponsor this bill with Senator CHAFEE, the ranking minority member of the Finance Subcommittee on Health for Families and the Uninsured which I chair. We also have a number of other cosponsors from the Finance Committee including Senators DANFORTH, PRYOR, MOYNIHAN, BREAUX, and BOREN. This bill is intended to help States in administrating their Medicaid Programs by giving them more flexibility to achieve compliance for very specific procedural and technical issues.

Medicaid Programs across the country are an increasingly large portion of State budgets. We have enacted a number of important expansions in the past few years, particularly for pregnant women and children. This bill recognizes the difficulties in administering Medicaid due to these changes. Ultimately, these diffficulties may limit access to services and lower the quality of care provided. S. 1240 amends existing Medicaid law concerning Federal program audits and resulting disallowances to permit both States and the Federal Government to better focus their administrative resource on implementation of the recent changes.

Mr. President, I am pleased that my home State of Michigan has expressed support for the intent of the legislation, as well as the American Public Welfare Association. I look forward to continuing to work with States, particularly Michigan as well as the Health Care Financing Administration, to improve administration of the Medicaid Program.

As we work to strengthen Medicaid in terms of more coverage and improved benefits for people, and better reimbursement levels, it is important that we also recognize the need for improving administration of this important program. I believe this bill is a first step toward helping States administer the program without compromising quality of care.

I hope that my colleagues in the Senate will join us in cosponsoring this legislation.

By Mr. BIDEN:

S. 1241. A bill to control and reduce violent crime; placed on the calendar.

VIOLENT CRIME CONTROL ACT

Mr. MITCHELL. Mr. President, I will introduce today legislation concerning handgun purchases. It will become part of Senator BIDEN's comprehensive anticrime legislation. It is designed to accomplish what the opposing sides identify as their common goal, a goal which each side has tried to reach by different means.

Both the supporters of a handgun purchase waiting period and the opponents of a handgun purchase waiting period agree that their goal is to keep handguns out of the hands of convicted felons. Both sides agree that do do so, a background check of handgun purchases is needed.

This proposal is designed to achieve that common goal more effectively than either side's competing proposal will do on its own.

In this effort, I want to acknowledge especially the contributions of Senators KOHL and GORE. They have been deeply interested and involved in this issue. Senator KOHL and Senator GORE have helped fashion a practical and, I believe, effective proposal.

The Brady bill provides for a waiting period with no background check necessary in those States which do not now have a waiting period or a background check.

That is some 29 States in all. The Brady proposal is predicated on the idea that a check will be done, but the bill contains nothing to ensure it. The Brady bill does nothing to ensure that the criminal records which would be consulted in a check will be either current or complete. As such, the proposal imposes a wait in many cases on States which have already affirmatively considered and rejected the idea, and then implicitly hopes that something will come of it. The Senate turned down a similar 14-day wait by a 2-to-1 margin several years ago.

We have added some practical components. A brief summary of the compromise provisions follows my remarks.

The proposal as we currently introduce it does not meet all of the objections of both sides because we believe that when two sides agree on a goal, it ought to be possible to agree on the means of reaching that goal. We are continuing to work actively with parties on both sides of the issue in the hopes of achieving both the mutual goal and a mutually acceptable way to reach it.

I emphasize, Mr. President, that most of the analysis on this issue has concentrated on the differences between the two sides. We prefer in this approach to concentrate on what they share in common. Rather than try to build on the differences, we try to build on what they share in common in the hopes of reaching a mutually agreeable method of achieving the goal that has already been mutually agreed upon.

The measure being introduced today represents our best judgment of the elements needed to accomplish the goal of keeping handguns out of the hands of felons. The Brady proposal provides that when a national background check system is in place, the waiting period will end. The purpose of the waiting period, in other words, is to allow time for a check to be done, but the Brady bill does not require a check to be done.

The approach supported by the National Rifle Association sought to impose the solution of an instant phone check, but it did not take into account the practicalities of time or resources to reach that solution. Standing alone, neither approach will be fully effective.

Current law requires the Attorney General to establish a means of making effective background checks on handgun buyers, but current law leaves the process, its pace and its standards to the Attorney General's discretion. The Justice Department has announced that a national telephone background check will be the system used to respond to that law, but the Department has not said when such a system will be in place, what it considers to be adequate national coverage, or what will be the role of the States.

Our proposal seeks to answer some of those questions. It provides resources to the States to upgrade and computerize their central criminal records and to conduct background checks beginning now, while criminal records are not yet fully upgraded.

The funds to the States are conditioned on the conducting of a background check. In other words, any State covered by the Brady bill—that means any State, the laws of which do not meet the background check and wait requirements in the Brady bill—will have to conduct a background check as well as comply with the waiting period in order to receive funds under our proposal.

Two other conditions govern the funding of criminal record improvements and background check costs. One is that a State agree to share its criminal record data with the FBI's interstate identification index by the end of 1993. Most Members should be aware that many States do not now share their criminal history data with the FBI's national identification index, and since the overwhelming majority, more than 90 percent of crimes committed in our society are committed under State jurisdiction, any effort to identify persons with criminal records must include State criminal history records if it is to be effective.

The second condition is that by the end of 1995, States' criminal history records must have achieved an 80-percent level of currency of case dispositions for the last 5 years of criminal activity.

These two conditions are included for straightforward reasons. There are only 21 States which today share criminal data with the FBI system. For a national check to be possible, all State records must be accessible through a central system.

The second condition is designed to ensure that when a criminal background check is conducted, the records to be consulted will be reasonably complete and current. Today, in many States, reasonably complete and current records are not readily available.

A great deal of emotion and rhetoric fueled the debate over this issue. Supporters of the Brady bill approach argue that the use of firearms in crimes and accidental killings is too high a price to pay for unrestricted access to handguns and that at least those persons who are, by law, already prohibited from owning a handgun ought to be prevented from easily buying one.

Supporters of the National Rifle Association argue that the vast majority of all guns including handguns are purchased and owned by law-abiding citizens whose rights ought not to be infringed because of a very small minority of criminals. Emotional arguments and controversy do not arise when one side is completely in the right and the other is completely in the wrong. Controversy arises precisely when there is some truth on both sides of an issue. That is the case here. Supporters of a waiting period are right to say that the easy accessibility of handguns may contribute to crime and accidents. They make a fair argument that a brief waiting period is a reasonable accommodation to a serious social problem.

The National Rifle Association and its supporters are right to remind us that the overwhelming majority of American gun owners are not criminals. They are law-abiding citizens whose ownership of firearms poses no threat.

Controversy also arises when exaggerated claims and misleading rhetoric is used. That has also happened on this issue. Some supporters of a waiting period approach have implied that it is a panacea for firearms violence. That is just not true. No waiting period is going to keep handguns from the hands of the mentally incompetent, or unstable, or drug addicts because our society does not maintain readily available lists of persons with mental instabilities or addictions.

Meanwhile, some opponents of a waiting period have suggested that even the most minor inconvenience to a handgun purchaser is a constitutional violation and the first step toward firearms confiscation. That is not true either.

Our Nation has had laws governing firearms sales for over a half-century, and there is no indication that the right of law-abiding citizens to purchase firearms is any more at risk today than it was 50 or 100 years ago. I hope the debate over this issue can be characterized by less emotional rhetoric.

This proposal is designed to help reach the goal both sides say they want, and we take both sides at their word. They say they want to keep guns away from criminals. We agree. We say join us in fashioning effective legislation that will do that more efficiently with less inconvenience than either of the alternative proposals standing alone. We believe our proposal goes further toward the goal than either of the competing proposals, and I hope my colleagues will consider and support this proposal.

Mr. President, I, again, as I did at the outset, thank my colleagues, Senator KOHL and Senator GORE, for their contribution, and involvement and hard work on this issue.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I rise today in strong support of Senator MITCHELL and our Brady bill compromise, which will become part of Chairman BIDEN's new crime package.

Mr. President, we have a terrible problem in America today: namely, the frightening growth of violence in our cities and on our streets. From last August to this March, during the entire time of our buildup and war with Iraq, nearly 300 Americans died in the Persian Gulf. But during that same period, more than 1,200 Americans were murdered in New York, more than 1,000 murdered in Los Angeles, and more than 300 murdered right here in our Nation's Capital. No city is immune: last year my own city of Milwaukee, WI, set a record with more than 150 brutal killings. Most of these people were killed with guns, and many of the dead were children.

Of course, there is no easy solution to this deadly problem. We need to move on several fronts: Ensure more certainty of punishment; provide more resources to State and local law enforcement; and when necessary lock people up and throw away the key. But we also need to do everything we can to keep firearms out of the hands of criminals and drug traffickers: in short, we ought to enact a uniform national waiting period for handgun purchases—with mandatory checks and money for States to improve their criminal records so that these checks can be made.

Our proposal implements this concept in a simple, effective, and straightforward manner. It would keep the 7-day waiting period in place, but make the background checks mandatory in virtually every State covered by Brady. And it would give $40 million to States to defray the costs of these checks and to update their computerized criminal history records—an improvement that is essential to performing effective and accurate screening. States that accept these funds will be required to conduct background checks. And States currently exempt from Brady are already conducting these checks.

Mr. President, I am a supporter of the Brady bill, but I believe it should be stronger. The Brady bill does not require background checks. And though I believe it is well intentioned, I am not satisfied with Staggers, either. Its immediate point-of-sale background check is not realistic.

I believe that our approach combines the best elements of these two proposals. Simply put, the Mitchell-Kohl-Gore amendment to Brady would do a better job of keeping guns out of the hands of criminals and drug traffickers. And, most importantly, it would save lives.

We have talked to colleagues on both sides of the aisle about our proposal, and we believe a bipartisan majority will support it when it comes up for a vote as part of the crime bill. I am also pleased that we have received the endorsements of Sarah and Jim Brady, and virtually every major police group.

Mr. President, in crafting this compromise, credit must go to a number of my distinguished colleagues: Senator METZENBAUM, for authoring the original legislation; Senator GORE, for his very valuable assistance in this effort; and Chairman BIDEN and his staff, for their continued work and encouragement. Most importantly, I would like to acknowledge the vision and courage of the majority leader. Without his guidance and the help of his staff, this rare compromise—one which is stronger than the original bill—would never have been possible.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I stand today with the majority leader, with my colleague, and the Senator from Wisconsin [Mr. KOHL], and in support of legislation we are introducing today and in support of its goals to make our streets safer, our neighborhoods once more places where children can play without fear or danger, and where the rights of every American are respected, and to take these steps without compromising the legitimate rights of gunowners.

In my home State of Tennessee, there is a 15-day waiting period for the purchase of handguns, and a background check is required. When you talk to local and State law enforcement officials, they will tell you what a big difference that waiting period has made in keeping guns out of the hands of dangerous criminals and others who should not have them, without infringing on the rights of hunters or sportsmen, or other Americans who legitimately own firearms.

Mr. President, this legislation will make our Tennessee law even more effective by providing State officials with the resources they need to create the most up-to-date, and effective system for conducting background checks on handgun purchasers. In other States where there is not a waiting period now, this legislation will ensure that a waiting period absolutely will offer real protection and real security.

The compromise I am cosponsoring with the majority leader and with my colleague from Wisconsin, Senator KOHL, strengthens the Brady bill. This compromise makes a good idea better.

Tennessee's experience has convinced me that a waiting period and background checks make sense. That is the law in my home State and it works. It is not enough I say with all due respect to just propose a waiting period, and assume that during that time, background checks would be made—despite the fact that there are States without computerized criminal records and States who do not share criminal records with the FBI's national registry. In fact, as the majority leader has pointed out, on average, State criminal records are less than 60 percent complete.

This legislation will provide the protection we need and the safety our families are after. This legislation does not assume background checks will be made. It requires the waiting period and, provides the mandate and the resources every State needs to conduct effective criminal background checks, and I emphasize effective.

Mr. President, I urge my colleagues to support this compromise.

I, too, wanted to commend the leadership of Senator MITCHELL, the majority leader, and the leadership of my colleague, from Wisconsin, Senator KOHL. I have enjoyed working with them on this matter

I might just say it is not every day when you can look at a couple of positions that are as heated and that are as intensively argued as the positions that have framed by this debate over the Brady bill and then come up with a compromise approach that meets the essential requirements that both sides of that heated debate say need to be met.

I think it is a rare opportunity for this body to make a genuine step forward in adopting this measure as part of the overall crime bill that Senator BIDEN will bring to the Senate.

Again, I commend the majority leader and the Senator from Wisconsin. I am proud to stand with them today and to cosponsor this legislation.

Mr. BIDEN. Mr. President, I rise today to introduce a revised version of my Crime Control Act of 1991.

This new bill is essentially the same as my original bill, S. 618. The only major difference is that this bill includes a compromise version of the Brady bill, drafted by Senators MITCHELL, KOHL, and others.

Let me make it clear that it was my hope that the Brady bill would be considered as a separate bill in the Senate, and it remains my firm belief that there should be a separate vote on its provisions.

But I also understand the rules of the Senate. They dictate that when the Brady bill is considered, other crime issues too will be considered. The Brady bill cannot be divorced from other anticrime proposals under our Senate rules.

That is why today, with the enthusiastic backing of Brady bill supporters, I am introducing this comprehensive crime bill which includes the Mitchell-Kohl-Gore version of the Brady bill.

Other than this handgun provision, this bill is substantially the same as the bill I introduced last January. Minor and technical changes have been made, responding in some places to suggestions made by the Justice Department.

In closing, let me say that the Nation needs a comprehensive anticrime bill. This is the only bill in the Senate—The only bill—which deals with all of the major anticrime proposals under consideration:

Increasing police, prosecutors, and prisons;

Imposing the death penalty;

Limiting habeas corpus appeals;

Reforming the exclusionary rule;

Banning killer assault weapons; and

With today's addition, making it harder for criminals to purchase handguns.

This is the toughest, most comprehensive crime bill in the Senate—and it is my hope that the Senate will act on it favorably in the days ahead.

By Mr. EXON:

S. 1242. A bill to amend the Congressional Budget Act of 1974 to provide that any concurrent resolution on the budget that contains reconciliation directives shall include a directive with respect to the statutory limit on the public debt, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs.

DEBT CEILING REFORM ACT OF 1991

Mr. EXON. Mr. President, I rise to introduce the Debt Ceiling Reform Act of 1991. It is a proposal which calls for fiscal honesty, integrity, and truth. Last year, this measure received favorable approval from the Senate Budget Committee. Unfortunately, it was upstaged by the work of the President's budget summit. It will not be long before the weaknesses of the budget reforms approved last year are revealed and the need for a new course will be evident.

The legislation which I introduce today would put debt ceiling legislation into the budget cycle; require that the borrowing aspect of the budget be subject to reconciliation instructions and require that annual legislation to increase the debt ceiling be included in the annual reconciliation package. The debt ceiling would then be subject to the limited debate rules of reconciliation and prevent the debt ceiling from becoming a magnet for all types of amendments.

In addition, under my proposal a three-fifths vote would be necessary to increase the debt ceiling to beyond the level contemplated by the congressional budget resolution.

Such a procedure would institute continuous enforcement of the deficit targets contained in each year's budget. If Congress sticks to its annual budget and corrects it for changing economic conditions, debt ceiling legislation would be handled in a routine manner under the limited debate procedures of reconciliation.

If the Federal Government borrows funds at a rate faster than contemplated by the annual budget, the congress would need a three-fifths vote to increase the debt ceiling. Other measures to deal with a budget shortfall, such as reducing spending and/or raising revenue would only require a simple majority. No longer would increasing the national debt be the easiest way for Congress to satisfy its spending appetite.

This procedure would also make it much more difficult for the Congress or the President to employ smoke and mirrors instead of serious deficit reduction. Under this proposal, commitment to deficit reduction would be measured by the national debt. Accounting gimmicks, spending shifts, and off-budget accounts would be discouraged because the accumulated national debt would grow when spending is shifted rather than reduced. In addition, hiding the deficit behind growing trust fund surpluses would be ended.

The budget compromise legislation approved in the last Congress was, to put it bluntly, a disaster for fiscal accountability. In effect, the Congress and the President extended the debt ceiling for 5 years in the budget agreement thereby removing an important, critical pressure point for deficit reduction.

Mark my words, Mr. President, when the books are closed on this fiscal year, the deficit will register a new record.

If the Debt Ceiling Reform Act were in place, the American people would have been told from the onset that the budget package approved in the last Congress actually increased Federal borrowing. When the general public learns of the turth, there will be a shock wave of discontent and further disillusionment.

What I propose here is a very tough but workable solution to the still faulty budget enforcement mechanism. The American people would know the total borrowing of the Federal Government on a year-to-year basis.

Under this plan, when the Congress adopts its budget reconciliation legislation, it would essentially issue the Federal Government a letter of credit for the coming year. If the Congress and the President could not come to an agreement, the Government would be on a short tether in that Federal spending authority would begin to wind down. If borrowing authority is not extended, we could spend only incoming revenues. This procedure would require continuous congressional attention to the actual levels of spending rather than annual projected levels.

The reform I propose today would force Congress and the President to be careful and, most importantly, honest.

Mr. President, the Congress must face the fiscal facts and work to reduce deficit spending rather than hide it. When it comes to the budget, Mr. President, honesty is the best policy.

I invite my colleagues to support this important budget reform initiative.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

Thank you Mr. President.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECONCILIATION DIRECTIVES TO INCLUDE DIRECTIVE WITH RESPECT TO INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT.

(a) IN GENERAL.—Section 310 of the Congressional Budget Act of 1974 (2 U.S.C. 641) is amended by adding at the end thereof the following new subsection:

"(h) RECONCILIATION DIRECTIVES WITH RESPECT TO PUBLIC DEBT LIMIT.—

"(1) Any concurrent resolution on the budget for a fiscal year that contains directives of the type described in paragraph (1) or (2) of subsection (a) for such fiscal year shall also include a directive of the type described in paragraph (3) of such subsection for such fiscal year.

"(2) Any change in the statutory limit on the public debt that is recommended pursuant to a directive of the type described in paragraph (3) of subsection (a) shall be included in the reconciliation legislation reported pursuant to subsection (b) for such fiscal year.".

(b) CONFORMING CHANGE.—Section 310(d)(2) of such Act is amended by inserting "(other than a provision reported pursuant to a directive of the type described in subsection (a)(3))" after "motion to strike a provision".

SEC. 2. POINT OF ORDER.

(a) IN GENERAL.—Notwithstanding the Standing Rules of the Senate, except as provided in subsection (b), it shall not be in order in the Senate to consider any bill or joint resolution (or any amendment thereto or conference report thereon) that increases the statutory limit on the public debt during a fiscal year above the level set forth as appropriate for such fiscal year in the concurrent resolution on the budget for such fiscal year agreed to under section 301 of the Congressional Budget Act of 1974.

(b) EXCEPTION.—Subsection (a) shall not apply to any reconciliation bill or reconciliation resolution reported pursuant to section 310(b) of the Congressional Budget Act of 1974 during any fiscal year (or any conference report thereon) that contains a provision that—

(1) increases the statutory limit on the public debt pursuant to a directive of the type described in section 310(a)(3) of such Act, and

(2) becomes effective on or after the first day of the following fiscal year.

(c) WAIVERS.—Subsection (a) may be waived or suspended in the Senate by a vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—If the ruling of the presiding officer sustains a point of order raised pursuant to paragraph (1), a vote of three-fifths of the Members duly chosen and sworn shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between and controlled by, the majority leader and the minority leader or their designees. An appeal of any such point of order is not subject to a motion of table.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of the enactment of this Act.

SEC. 4. EXERCISE OF RULEMAKING POWERS.

This Act and the amendments made by this Act are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

By Mr. HARKIN (for himself, Mr. ADAMS, Mr. FORD, Mr. WELLSTONE, Mr. CRANSTON, Mr. KERREY, and Ms. MIKULSKI):

S. 1243. A bill to restrict assistance for Guatemala, and for other purposes; to the Committee on Foreign Relations.

PROMOTION OF DEMOCRACY AND RESPECT FOR HUMAN RIGHTS IN GUATEMALA ACT OF 1991

• Mr. HARKIN. Mr. President, the human rights situation in Guatemala continues to deteriorate despite the positive role of our Ambassador in promoting human rights, the administration's suspension of military assistance on December 21, 1990 and the first peaceful transfer of the Presidency from one civilian to another in 40 years. Since the inauguration of President Jorge Serrano Elias in January 1991 several human rights monitors have been assassinated. For the period of January 1 to April 23, 1991, the Guatemalan Human Rights Ombudsman, appointed by the Guatemalan Congress, reports there have been 46 disappearances, another 48 people classified as missing and 200 extrajudicial executions. Mr. President, the figures I have just cited point to a dramatic rise in human rights abuses and represent the worst 4 months since a civilian has been elected to the Presidency of Guatemala.

Last year, according to the State Department's 1990 human rights report on Guatemala, Guatemalan military and civil patrols committed human rights violations with almost total impunity, including extrajudicial executions, torture and disappearances. The report further states:

> With few exceptions, the Government failed to investigate, detain, and prosecute those perpetrators of extrajudicial and politically motivated killings who were connected with the security forces, in particular certain rural military zone officers, from engaging in extrajudicial killings.

I believe Mr. President, that democracy will not take root in Guatemala, and President Serrano, like his predecessor President Cerezo, will remain powerless to enforce the laws of his country as long as the military continues to act as if law has no power over it. The appalling and intolerable human rights situation during the first 4 months of the Serrano government clearly indicates the Guatemalan military's continued contempt for the rule of law and civilian authority.

For this reason, Mr. President, Senator ADAMS and I, along with our colleagues here, are introducing the Promotion of Democracy and Respect for Human Rights in Guatemala Act of 1991. The bill sends a clear signal that until certifiable actions have been taken which strongly demonstrate civilian control over the military it will not be business as usual with the U.S. Congress. I believe that the burden of proof rests with the Guatemalan Government. Over the past few years I have had members of the Guatemalan Government in my office and I have said that I am willing to give them the benefit of the doubt. And I have given them the benefit of the doubt over the last few years. Yet it seems like nothing changes. And here we go, its deja vu all over again. Therefore, prior to the provision of military and economic assistance the U.S. Congress must insist that the fundamental guarantees of democratic rule have been firmly established in Guatemala.

This bill would withhold all U.S. military assistance, including assistance in the pipeline, and condition economic assistance. Military assistance is conditioned upon, among other things, the extension of internationally recognized workers' rights to Guatemalan workers. Mr. President, allow me to point out some recent attacks against labor organizations in Guatemala. On May 6 the National Federation of Guatemalan Government Workers reported that its entire leadership had received death threats. On May 16, six leaders of the Union of Social Security Workers [STIGSS] fled Guatemala for exile in Canada. On May 17, the Trade Union of Guatemalan Workers [UNSITRAGUA] reported that at least 18 workers had received death threats. Mr. President, I have mentioned only the most recent cases in which death threats have been issued, those cases in which such threats have been executed are simply too numerous to mention. This wave of repression against trade union movements is one of the reasons that I believe that economic freedom and political freedom are linked.

This bill also conditions economic assistance on the progress in three human rights cases. Our bill provides an incentive to the Guatemalan Government to conduct a thorough and professional investigation into and prosecution of those responsible for the abduction and brutal mistreatment of Sister Diana Ortiz, as well as the murders of Michael Devine and anthropologist Myrna Mack. The bill also limits the uses of economic assistance until the Guatemalan Government has made substantial progress toward a fiscally responsible tax policy. Mr. President, it is estimated the Guatemalan citizens hold over $1 billion in United States banks and according to recent studies, Guatemala has the lowest tax levels in the world. Tax evasion has become a way of life for the wealthy in Guatemala. Mr. President, why should the U.S. taxpayer, in a time of shrinking budgets, be asked to finance a government which fails to collect taxes from its own citizens?

Mr. President, by no means do I mean to insinuate that President Serrano has taken some very positive steps in the area of human rights and the promotion of a political settlement. I encourage President Serrano to continue on the path toward peace and assure him of my moral support. In this regard, the conditions established in the bill should not be viewed solely as conditions on Guatemala but as the minimum standards our Nation establishes before we are willing to continue financing the Guatemalan Government. The American people have the right to ask how their tax dollars are being spent and under the current circumstances it would be extremely difficult to justify financing a government whose citizens hold over $1 billion in United States banks, which fails to collect taxes from the wealthy of its own nation and whose military remains outside civilian control committing barbarous acts against United States citizens and the people of Guatemala. Mr. President, the people of Iowa as well as the rest of our country simply would not permit such an outrage.

Finally, Mr. President, let me emphasize that this bill establishes the minimum criteria before the United States would consider the provision of military and economic assistance. This Senator, however, would be extremely reluctant to support any aid to the Guatemalan Government if the ongoing human rights abuses are not halted.

Mr. President, I am proud to join with Senators ADAMS, FORD, WELLSTONE, CRANSTON, KERRY, and MIKULSKI in introducing the Promotion of Democracy and Respect for Human Rights in Guatemala Act of 1991. I ask for unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1243

Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Promotion of Democracy and Respect for Human Rights in Guatemala Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) According to the State Department's 1990 human rights report on Guatemala, Guatemalan military and civil patrols have committed human rights violations with almost total immunity, including extrajudicial executions, torture, and disappearances.

(2) Despite clear involvement of Guatemala's armed forces and civil patrols in human rights violations, no member of the Guatemalan armed forces has ever been convicted of a serious human rights abuse.

(3) The Government of Guatemala has demonstrated a lack of will to protect human rights. According to the State Department's human rights report on Guatemala, "With few exceptions, the Government failed to investigate, detain, and prosecute those perpetrators of extrajudicial and politically motivated killings who were connected with the security forces. . . . The Government also did not act to prevent members of the security forces, in particular certain rural military zone officers, from engaging in extrajudicial killings.".

(4) The Government of Guatemala has failed to conduct a thorough and professional investigation into, and prosecution of those

responsible for, the murder of Michael Devine (June 1990), the abduction and brutal mistreatment of Sister Diana Ortiz (November 1989), and the murder of anthropologist Myrna Mack (September 1990).

(5) The human rights ombudsman appointed by the Guatemalan Congress reported 304 politically motivated murders and 223 politically motivated disappearances in 1990, with most of the victims killed by the armed forces or by persons associated with or protected by the armed forces.

(6) Since 1988, more than 20 human rights workers have either died or disappeared, including several since the inauguration of President Jorge Serrano Elias in January 1991.

(7) Members of the Guatemalan police force have been involved in the murder and disappearance of street children and those who aid them.

(8) The United States suspended military assistance on December 21, 1990, in response to a deterioration in the human rights situation.

(9) The United States voted in favor of the appointment of a United Nations human rights rapporteur for Guatemala during the 47th Assembly of the United Nations Human Rights Commission in Geneva, Switzerland.

(10) Despite the suspension of military assistance, the recall of the United States Ambassador to Guatemala in March 1990 due to United States dissatisfaction in the lack of progress in the investigation of human rights abuses, and the positive role of the United States Ambassador in advocating human rights, the human rights situation in Guatemala continued to deteriorate.

SEC. 3. STATEMENT OF POLICY.

It shall be the policy of the United States—

(1) to foster a greater respect for basic human rights, the rule of law, and democratic practices;

(2) to support the efforts of the National Reconciliation Commission and to promote a permanent settlement to the conflict in Guatemala; and

(3) to promote economic development which provides for environmentally sustainable economic growth as well as to seek to improve income distribution in Guatemala.

SEC. 4. PROHIBITION OF MILITARY ASSISTANCE TO GUATEMALA.

(a) PROHIBITION.—Notwithstanding any other provision of law, no United States military assistance allocated for Guatemala for fiscal year 1991 or for any prior fiscal year, which has not been obligated or otherwise made available to the Government of Guatemala as of the date of enactment of this Act, and all United States military assistance allocated for Guatemala for fiscal years 1992 and 1993, may be furnished to Guatemala unless the President determines and reports in writing to the Congress that the conditions described in subsection (b) have been met.

(b) CONDITIONS.—The conditions referred to in subsection (a) are that—

(1) the Government of Guatemala has conducted a thorough and professional investigation into, and prosecution of, those responsible for—

(A) the murder of Michael Devine (June 1990);

(B) the murder of Myrna Mack (September 1990);

(C) the abduction and brutal mistreatment of Sister Diana Ortiz (November 1989);

(D) the massacre of 13 civilians at the military base in Santiago Atitlan (December 1990); and

(E) the murders of the following human rights workers: Aurselio Lorenzo Xicay (GAM member murdered July 24, 1989); Maria Mejia (CERJ member murdered March 17, 1990); Jose Vicente Garcia (CERJ member murdered April 10, 1990); Jose Maria Ixcaya (CERJ member murdered May 1, 1990); Juan Perebal Morales and Juan Perebal Xirum (CERJ members murdered on February 17, 1991);

(2) military harassment and assassinations have ceased against human rights activists and independent human rights groups such as the Mutual Support Group (GAM) and the Council of Ethnic Communities (CERJ) may freely carry out their legal activities;

(3) respect for the rights of freedom of the press, speech, assembly and association as well as other attributes of political pluralism has substantially increased in Guatemala;

(4) internationally recognized workers' rights have been extended to Guatemalan workers;

(5) the Government of Guatemala is prosecuting all members of the police force who are responsible for the murders and disappearances of street children or those who aid them; and

(6) the Government of Guatemala has put an end, by law or in fact, to the practice of forced civil patrol duty.

SEC. 5. RESTRICTIONS ON ECONOMIC AND FOOD ASSISTANCE.

(a) RESTRICTIONS.—Economic support fund assistance allocated for Guatemala for fiscal year 1991 and prior fiscal years which has not been obligated, expended, or otherwise made available to the Government of Guatemala as of the date of enactment of this Act, and all United States economic support fund assistance allocated for Guatemala for fiscal years 1992 and 1993, all development assistance, and all assistance under the Agricultural Trade and Development and Asssistance Act of 1954 that are provided for Guatemala—

(1) may be used only by civilian agenices and nongovernmental organizations;

(2) shall be limited to assistance;

(A) the support the efforts of the Guatemalan human rights ombudsman;

(B) for programs that directly address poverty and basic human needs;

(C) for fiscal administration;

(D) for the National Reconciliation Commission; and

(E) to improve the performance of democratic institutions or otherwise promote pluralism; and

(3) may not be used for partisan political purposes or as an instrument of counterinsurgency.

(b) WAIVER.—The restrictions of paragraphs (1) and (2) of subsection (a) on the provision of United States economic support fund assistance shall not apply if the President determines and reports in writing to the Congress that the conditions described in subsection (c) have been met.

(c) CONDITIONS.—The conditions referred to in subsection (b) are that—

(1) the Government of Guatemala has conducted a thorough and professional investigation into, and prosecution of those responsible for, the murder of Michael Devine (June 1990);

(2) the Government of Guatemala has conducted a thorough and professional investigation into, and prosecution of, those responsible for the abduction and brutal mistreatment of Sister Diana Ortiz (November 1989);

(3) the Government of Guatemala has conducted a thorough and professional investigation into, and prosecution of, those responsible for the murder of Myrna Mack (September 1990); and

(4) the Government of Guatemala has made substantial progress toward a fiscally responsible tax policy and improved fiscal administration.

SEC. 6. MULTILATERAL CONTROLS ON THE SUPPLY OF ARMS TO GUATEMALA.

(a) POLICY.—It is the sense of the Congress that the President should make every effort to encourage other nations, in whatever forum or context, to cease the provision of military assistance to Guatemala until the conditions described in sections 4(b) and 5(c) have been met.

(b) REPORTING REQUIREMENT.—Sixty days after the date of enactment of this Act, and every 180 days thereafter, the President shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report, in either classified, or unclassified form, describing—

(1) an identification of specified countries, as well as companies and individuals, both foreign and domestic, engaged in the sale or export of military equipment both lethal and nonlethal to the Government of Guatemala; and

(2) a description of the nature and type of military equipment provided to the Government of Guatemala, including both lethal and nonlethal equipment.

SEC. 7. DEFINITIONS.

For purposes of this Act—

(1) the term "assistance under the Agricultural Trade Development and Assistance Act of 1954" includes all donations, sales, and proceeds generated from sales of agricultural commodities under the Agricultural Trade Development and Assistance Act of 1954 (also known as "P.L. 480");

(2) the term "development assistance" means assistance provided under chapter 1 of part I of the Foreign Assistance Act of 1961;

(3) the term "economic support fund assistance" means assistance provided under chapter 4 of part II of the Foreign Assistance Act of 1961; and

(4) the term "United States military assistance" means assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 and foreign military sales, sales financing, or grants under the Arms Export Control Act.●

● Mr. FORD. Mr. President, I rise in support of the legislation just introduced by Senator HARKIN to restrict United States assistance to Guatemala. The title of this bill, the Promotion of Democracy and Respect for Human Rights in Guatemala Act of 1991, is a telling one. It is the goal of we who are cosponsors: We want the killing to stop and those who have committed atrocities against their own people and against the religious community to be brought to swift and decisive justice. We want the country's democratic institutions to function as they were originally intended. We want peace.

I am particularly interested in this legislation because it conditions U.S. military and economic assistance upon a satisfactory conclusion of the case of Sister Diana Ortiz. A member of the Ursuline Religious Community of Maple Mount, KY, Sister Diana was kidnaped, raped and brutally mistreated in Guatemala in early November 1989. This was a year and a half ago, Mr. President, and no progress whatsoever has been made in the case.

Former President Cerezo established a special commission to investigate the case. Even though designated, the commission never met or otherwise began its work.

I suppose it is understandable that the new President of Guatemala, President Serrano, would choose to form a special commission of his own and not honor that of his predecessor. What troubles me, however, is that even though he promised as much in writing, he removed the Human Rights Ombudsman from the membership of the commission and then indicated that he could not afford the cost of such a committee. Once again, Sister Diana's case appears to be going nowhere. To aggravate matters, my staff was told in a recent meeting with Guatemalan officials that the case would be handled only by the judicial system. Thus far there has been absolutely no satisfactory resolution of cases treated in this manner.

President Serrano has sworn he is interested in improving the human rights situation in Guatemala. I want to believe him. I also want to deliver notice that, if conditions do not change radically and quickly, we in the Congress will take the severe measures called for by Senator HARKIN's legislation.•

• Mr. WELLSTONE. Mr. President, I rise as an original cosponsor of the Promotion of Democracy and Respect for Human Rights in Guatemala Act of 1991. I am grateful to my colleague from Iowa, Senator HARKIN, for taking the lead in developing this legislation, and for his consistent support for democracy and human rights in the region. The bill not only conditions United States military aid to Guatemala on respect for human rights, but would set an important additional precedent for those of us interested in reestablishing respect for basic human rights—civil, political, economic, and social—as a cornerstone of United States foreign policy. It would impose conditions on U.S. economic assistance as well as on military assistance.

Despite the administration's suspension of military assistance in December of last year, and the first peaceful transfer of Presidential power from one civilian to another in 40 years, the human rights situation in Guatemala continues to deteriorate. For the period January 1 to April 23, 1991, the Guatemalan Human Rights Ombudsman, appointed by the Guatemalan Congress, reports there have been 46 disappearances and more than 200 extrajudicial executions, a marked increase over the last quarter of 1990.

Last year, even the United States Department of State's own Country Report on Human Rights in Guatemala observed that reliable evidence indicates that Guatemalan military and civilian patrols committed, with almost total impunity, a majority of the major human rights abuses, including extrajudicial executions, torture and disappearances. The report further states, "With few exceptions, the government failed to investigate, detain, and prosecute those perpetrators of extrajudicial and politically motivated killings who were connected with the security forces * * * the government also did not act to prevent members of the security forces, in particular certain rural military zone officers, from engaging in extrajudicial killings." Other independent human rights monitors continue to report a similar pattern of widespread human rights abuse.

Mr. President, in a recent meeting, representatives of the Government of Guatemala argued for giving President Jorge Serrano Elias, inaugurated last January, a chance to stop the relentless violence that has plagued Guatemala for years before imposing additional human rights conditions on United States aid. I share the hopes and aspirations of President Serrano with respect to improvement in human rights, but I am less sanguine about the real prospects for change within the ranks of the security forces responsible for most of these abuses. We are talking about the gradual transformation of a political culture of violence and intimidation, Mr. President, and I believe we will not be successful if we continue with business as usual regarding U.S. aid.

In my view, President Serrano, like his predecessor President Cerezo, will remain powerless to enforce the laws of his country as long as the security forces continue to commit egregious human rights violations with impunity, as though the law did not apply to them. If what's past is prologue, as we saw during the mid-1980's transfer of power in Guatemala, those security forces will not be brought under control without such incentives.

Our rule should be that former President Reagan applied to Soviet arms control treaties, "Doveryaj no proveryaj." Trust but verify. Without the conditions provided under this bill, our ability to verify concrete progress on human rights is severely limited.

I believe we should focus on the structural underpinnings of military impunity for human rights violations, including military control of the police, the impotence of the Federal judiciary, and the systematic violence that continues to be directed at human rights monitors.

This bill would not only withhold United States military assistance for Guatemala, including assistance already in the pipeline, but would also condition United States economic assistance on measurable human rights progress, including the vigorous prosecution of the murderers of Sister Diana Ortiz, Michael Devine, Myrna Mack, as well as others. It is a package of carefully structured incentives designed to ensure that U.S. policy in the region is informed by the important principles of respect for internationally recognized human rights, democratization, and peaceful social and political reform in that war-ravaged society. The people of Guatemala deserve a fresh start, Mr. President. This measure places the United States squarely on the side of those who seek a more just and peaceful Guatemala, where respect for the dignity and basic human rights of all persons can be guaranteed. I urge my colleagues to support this legislation, and I hope the Foreign Relations and Appropriations Committees will incorporate the policy prescriptions it contains into major legislation on foreign aid currently being developed.•

By Mr. BRADLEY:

S. 1244. A bill to amend the Internal Revenue Code of 1986 to expand the working condition fringe benefit with respect to employee parking; to the Committee on Finance.

COMMUTER PARKING FRINGE BENEFIT

• Mr. BRADLEY. Mr. President, I rise today to introduce legislation that will reduce traffic on our highways, conserve energy, benefit the environment and provide revenue to States and local mass transit agencies.

This legislation is simple—it extends the parking fringe benefit which employers can provide to include parking lots that serve commuter points like train stations and subway lines. Free parking is a benefit that many employers provide to their employees tax-free. Since companies can deduct the cost of parking as a cost of doing business, the Tax Code effectively subsidizes free employee parking. Companies therefore have an incentive to offer free parking, and that in turn, creates an incentive for people to drive to work. Driving to work has higher social costs than public transit; a rational Tax Code would reward taking public transit.

We can do more in the Tax Code to reward the millions of people who make the decision to drive to a local train station and take the train into work, rather than driving all the way in. We can do this by making sure that employers can deduct parking in those lots as well as in lots near their offices. And since parking is generally much cheaper outside of big cities, I hope that companies will encourage employees to use parking lots near commuter lines, rather than near their offices.

By itself, this legislation will not change the world. However, it perfectly complements legislation which I have joined with Senator MOYNIHAN in introducing to increase the cap on the deductibility of transit passes. The $15 limit, as well as the $21 proposed cost-of-living increase, is far too low and deserves to be increased to $60 as Senator MOYNIHAN's bill, S. 26, provides. I hope that measures such as these mark the beginnings of a change in how we view the impact of our energy and tax policy on our everyday consumption decisions.

Millions of New Jerseyans commute every day. They face a choice: Should I drive all the way in, or should I drive over to the train station at Metropark or Princeton Junction or one of the SEPTA stations and catch public transit in from there? As a matter of Federal policy, commuters should be encouraged to choose public transit because it is good for our environment, reduces America's dependence on imported gas, and reduces congestion on our highways.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF EMPLOYEE PARKING FRINGE BENEFIT.

(a) IN GENERAL.—Paragraph (4) of section 132(h) of the Internal Revenue Code of 1986 (relating to treatment of certain parking) is amended by inserting before the period at the end thereof the following: "or on or near a location from which the employee commutes to work by mass transportation, by van pools or by carpool".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits provided after December 31, 1990.●

By Mr. DASCHLE (for himself and Mr. SYMMS):

S. 1245. A bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable; to the Committee on Finance.

AMORTIZATION OF INTANGIBLES CLARIFICATION ACT

● Mr. DASCHLE. Mr. President, I rise today to introduce legislation that is vital to a host of service businesses, particularly small service businesses. I am joined by my colleague from Idaho, Senator STEVE SYMMS.

The legislation would clarify the current law income tax treatment of customer-based, market share and similar intangible assets, including such items as customer or subscriber lists, advertiser lists, insurance expirations and client lists, and patient lists. These assets frequently are present in the context of acquiring a business that provides services to customers, such as the acquisition of an insurance company, newspaper, magazine, consulting practice, or any other similar business.

The bill specifically would clarify that these intangible assets may be amortized, or written off, over their determinable useful lives, provided the taxpayer can demonstrate that: First, the asset has an ascertainable value separate and distinct from other assets including goodwill or going concern value; and second, the asset has a limited useful life, the length of which can be reasonably estimated.

Last year, the Internal Revenue Service issued a so-called coordinated issue paper that has given rise to the need for a legislative clarification in this area. The coordinated issue paper expresses the IRS's position that customer-based intangible assets cannot be amortized in any situation in which the acquirer of those assets also acquires the goodwill of a business, as part of the same transaction.

The position expressed by the IRS in the coordinated issue paper is inconsistent with the court cases on this issue and the IRS's own position expressed on previous occasions. Simply put, it misstates current law. What's more, it has led to extensive problems for taxpayers through IRS audits and tax litigation designed to impose this new position on them.

The legislation being introduced expresses the view of Congress that the coordinated issue paper misstates current law.

The current law treatment of customer-based intangible assets is reflected in years of judicial decision-making. The leading case in the area is the Houston Chronicle case, in which the Fifth Circuit Court of Appeals specifically recognized the fact that the tax law does not contain a blanket prohibition on amortization of customer-based intangibles where goodwill is present. On the contrary, the court noted that these assets may be amortized "* * * if the taxpayer properly carries his dual burden of proving that the intangible asset involved (1) has an ascertainable value separate and distinct from goodwill, and (2) has a limited useful life, the duration of which can be ascertained with reasonable accuracy." This conclusion has been reaffirmed in numerous other cases since the Houston Chronicle case. Our legislation is simply intended to clarify this longstanding rule of law.

The position expressed in the coordinated issue paper is also unfair. It effectively prevents taxpayers from even attempting to demonstrate that the useful life and value of any given customer-based intangible asset can actually be determined. The discrimination against service businesses is evident, given that taxpayers are permitted to depreciate the cost of tangible business assets.

Finally, since the proposal is merely a restatement of current law, I anticipate that it would have no negative impact on Federal tax revenues. Moreover, it is my hope that the measure, if enacted, would reduce litigation and facilitate early resolution of disputes between taxpayers and the IRS in this area.

Most importantly, by refuting the position expressed in the coordinated issue paper, the legislation would eliminate the unfairness to service business owners contemplating a possible sale of their business, the value of which is currently being depressed by the position being taken by the IRS.

I urge my colleagues to join in supporting this legislation and eliminating the IRS's unfair treatment of small businesses in this area. ●

● Mr. SYMMS. Mr. President, I am today joining with my colleague, Senator DASCHLE, in introducing the Amortization of Intangibles Clarification Act of 1991. The importance of this legislation to service businesses, particularly to small service businesses like insurers, publishers, advertisers, and private medical or dental practices cannot be overstated.

The introduction of this legislation is made necessary because of an Internal Revenue Service coordinated issue paper released on July 23, 1990. This paper takes the position, as a matter of law, that customer-based intangible assets cannot be amortized in any situation in which the acquirer of those assets acquires goodwill of a business as part of the same transaction.

While the name is unwieldy, customer-based intangible assets are basic to a small service business. They include various lists like customer or subscriber lists showing the current patrons of the business. They also include lists of patients in a medical or dental practice which include the patients' medical records. These lists are a large part of the economic value of an ongoing business or practice to anyone considering acquiring the practice.

Customer-based intangibles also include what are called insurance expirations, which are records containing information on insurance policies which have been sold through the business. Such information as the type of policy sold, the amount of coverage, and the expiration dates provides much of the value of an ongoing insurance business, both to the current owner and to a prospective purchaser of the business.

With the publication of its coordinated issue paper, the IRS has taken a position that is inconsistent with judicial precedent and the Service's own prior pronouncements. And now, despite the fact that the IRS position misstates current law, IRS auditors have attempted to impose the position of the paper on taxpayers, resulting in tremendous confusion, not to mention a lot of unncessary IRS audit and litigation activity.

The mere existence of the paper is already having a significant depressing effect on the value of small service businesses. Imagine you were about to buy a service business that included an expiration list as a key asset of the business. If you knew there was a good chance the IRS was going to deny amortization for the businesses expiration list, you would reduce the price you offer for the business.

The legislation I am introducing would make clear that the IRS position in the paper is not what the Congress intends. It would clarify and reaffirm that the IRS position prior to the issuance of the paper was correct—that customer-based intangible assets may be amortized even if the purchaser of an ongoing business acquires goodwill as an asset of the business. This legislation would also put an end to the confusion and the litigation resulting from the paper, litigation that taxpayers correctly see as unwarranted IRS harassment.

Specifically, the legislation would clarify that customer bases, market share, and any similar intangible assets are amortizable over their determinable useful life provided that the taxpayer can demonstrate that: First, such items have an ascertainable value separate and distinct from other assets including goodwill or going concern value; and second, such assets have a limited useful life.

The legislation is fully consistent with a long line of court decisions in this area. By way of example, let me refer my colleagues to one of the preeminent cases in this area, the Houston Chronicle case. In that case, the Fifth Circuit Court of Appeals specifically recognized that the tax law has no rule that customer-based intangibles are amortizable in those cases where goodwill is present. In referring to the general rule, and the exception to that rule which has been used to explain the amortizability of consumer-based intangibles, the court noted as follows:

> [W]e are satisfied that the [general] rule does not establish a *per se* rule of nonamortizability in every case involving both goodwill and other intangible assets. In light of section 167(a) of the Code and Regulation section 1.167(a)-(3), we are convinced that the "mass asset" rule does not prevent taking an amortization deduction if the taxpaper properly carries his dual burden of proving that the intangible asset involved (1) has an ascertainable value separate and distinct from goodwill, and (2) has a limited useful life, the duration of which can be ascertained with reasonable accuracy.

The court of claims reached a similar conclusion in the Richard S. Miller case when it stated as follows:

> There is no *per se* rule of nondepreciability or nonamortizability in every case that involves both goodwill and other intangible assets. The depreciability of assets such as customer and subscription lists, location contracts, insurance expirations, etc., is a factual question only.

This court, like many others specified the two-pronged test that taxpayers must satisfy while stressing that reasonable approaches to satisfying these tests are appropriate:

> The evidence must establish that the expirations (1) have an ascertainable value separate and distinct from goodwill, and (2) have a limited useful life, the duration of which can be ascertained with reasonable accuracy. In application of this test, precise exactitude is not required. As the court in Houston Chronicle states:

Our view that amortizability for tax purposes must turn on factual bases—is more in accord with realities of modern business technology in a day when lists are bartered and sold as discrete vendible assets. Extreme exactitude in ascertaining the duration of an asset is a paradigm that the law does not demand. All that the law and regulations require is reasonable accuracy in forecasting the asset's useful life.

Likewise, valuations based on arm's-length allocations generally should be treated as reasonable. Useful life estimates based on the experience of the taxpayer or of the seller of the assets, or based on industry experience or reasonable appraisals also should be treated as reasonable.

My proposed legislation is only intended to restate current law. Nevertheless, because of the problems the IRS has created for taxpayers through the conclusions of its coordinated issue paper, I believe it is critical that this legislation be enacted promptly.

I should also like to point out to my colleagues that, because it only restates current law, my legislation should be revenue neutral.

The obvious unfairness of the current IRS position as reflected in its coordinated issue paper is a matter of serious concern for both buyers and sellers of service businesses, but particularly so for the sellers of small businesses because the existence of the paper is depressing the value of these businesses. I find this situation especially disturbing because many service business owners view the ability to sell their businesses—and to get a fair price unencumbered by IRS confusion—as a vital component of their retirement income.

I encourage my colleagues to cosponsor and to work for enactment of this important legislation.●

By Mr. PELL (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH):

S. 1246. A bill to amend the Higher Education Act of 1965 to target Federal grant assistance on the lowest-income students, to reward excellence and success in education, to enhance choice and flexibility, to promote greater accountability, to reduce waste and abuse in the use of public funds, to extend the Act, and for other purposes; to the Committee on Labor and Human Resources.

HIGHER EDUCATION ACT AMENDMENTS

● Mr. PELL. Mr. President, I am introducing on request the administration's proposal to reauthorize the Higher Education Act. I ask unanimous consent that the full text of the bill be printed in the RECORD along with the section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act Amendments of 1991".

TITLE I—ACCESS AND RETENTION

SEC. 101. Title I of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; hereinafter referred to as "the Act") is amended to read as follows:

"TITLE I—ACCESS AND RETENTION

"STATEMENT OF FINDINGS

"SEC. 101. The Congress finds that—

"(1) access and retention of students from low-income and educationally disadvantaged backgrounds continues as a national concern, specifically for those who need support services while pursuing postsecondary education;

"(2) individuals from low-income and educationally disadvantaged backgrounds are becoming an ever-increasing component of the American workforce;

"(3) the job market is demanding ever-increasing levels of educational preparedness; and

"(4) while more students are entering postsecondary education, access, choice, retention and completion rates for students from low-income and educationally disadvantaged backgrounds are appallingly low, and have in fact been declining for some groups.

"STATEMENT OF PURPOSE

"SEC. 102. It is the purpose of this title to enable eligible individuals to have access to the benefits of postsecondary education by providing for special programs and projects designed to—

"(1) identify and encourage students from low-income or educationally disadvantaged backgrounds who have potential for postsecondary and graduate education; and

"(2) prepare students from low-income or educationally disadvantaged backgrounds for postsecondary and graduate education.

"PART A—PRECOLLEGE OUTREACH PROGRAM

"PURPOSE

"SEC. 111. It is the purpose of this part to expand and provide support for outreach services for individuals from low-income and educationally disadvantaged backgrounds in order to provide guidance, information, support services, and, where necessary, the academic enrichment for them to successfully complete their secondary education and to begin and succeed in their postsecondary education.

"DEFINITIONS

"SEC. 112. For the purpose of this part, the term—

"(1) 'eligible entity' means a two- or four-year nonprofit institution of higher education, public or private nonprofit organization or agency, business, or a public or private secondary school (if there are no other applicants capable of providing the services for which funding is requested in the targeted service area); and

"(2) 'first generation college student' means an individual neither of whose parents have received a baccalaureate degree or, in the case of an individual who has regularly resided with and received support from only one parent, whose custodial parent has not received a baccalaureate degree.

"GRANTS TO STATES

"SEC. 113. (a) AUTHORITY.—From the funds appropriated under section 116, the Secretary shall make grants to States to carry out the purpose of this part.

"(b) ALLOTMENTS.—(1) From the amounts appropriated to carry out this part, the Secretary shall reserve not more than one percent for awards to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Palau (only to the extent authorized by section 104(c) of Public Law 99-658 and until the effective date of the Compact of Free Association with the Government of Palau), the Virgin Islands, and the Secretary of the Interior.

"(2) From the amounts remaining after funds are reserved under paragraph (1), the Secretary shall allot funds to the States on the same basis as funds are awarded for the same fiscal year under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965.

"(c) APPLICATIONS.—(1) Any State desiring to receive an allotment under this part shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(2) A State's application shall—

"(A) contain a plan for conducting competitions for the award of subgrants to eligible entities under this program, including procedures and criteria for—

"(i) evaluating grant applications;

"(ii) setting award amounts;

"(iii) monitoring the administration of funded projects; and

"(iv) evaluating project effectiveness, including the development of performance standards in such areas as secondary school completion rates, standardized test scores, and postsecondary admission rates; and

"(B) contain assurances that—

"(i) for those projects that serve age groups under 19 years of age, the State will award grants only to an eligible entity which, based on the entity's application, demonstrates that the entity has established linkage with a local educational agency with the greatest need for the service; and

"(ii) for those projects that serve age groups of 19 years of age and above, the State will award grants only to an eligible entity which, based on the entity's application, demonstrates that the entity serves such population within a local educational agency with the greatest need for the service; and

"(C) contain such other assurances as the Secretary may require.

"AWARDS TO ELIGIBLE ENTITIES

"SEC. 114. (a) AUTHORITY.—(1) A State is authorized to make subgrants to eligible entities to carry out one or more of the services authorized under this part.

"(2) An award made under this section shall be for a term of three years and may be renewed.

"(3) The Federal share of any project assisted under this part shall not exceed 90 percent for the fist year, 85 percent for the second year, 80 percent for the third year, 75 percent for the fourth year, and 70 percent for each year thereafter.

"(b) APPLICATIONS.—An eligible entity desiring to receive an award from a State under this part shall submit an application to the State containing such information as the Secretary and the State may require, including—

"(1)(A) a description of the plan of operation for the services for which the grant is sought;

"(B) a statement of the performance standards the eligible entity will use to evaluate the project and to help the State meet its goals;

"(C) information on the needs of the area to be served and how the project will meet them; and

"(D) a list of any institutions of higher education, local educational agencies, and nonprofit organizations that would be participating in the proposed project under a partnership agreement; and

"(2) assurances that—

"(A) at least two-thirds of the persons participating in the proposed project will be individuals from low-income families who are first-generation college students;

"(B) the remaining individuals participating in any proposed project will be individuals from low-income families or first-generation college students;

"(C)(i) for those applicants that serve age groups under 19 years of age, the applicant will demonstrate that it has established linkage with a local educational agency receiving chapter 1 funds; and

"(ii) for those applicants that serve age groups of 19 years of age and above, the applicant will demonstrate that it serves such population within a local educational agency receiving chapter 1 funds;

"(D) a local educational agency or other nonprofit organization receiving funds or services resulting from a grant awarded under this part shall ensure that neither an institution of higher education nor a local educational agency will reduce its efforts in the face of funds or services received under a Precollege outreach project grant; and

"(E) a local educational agency receiving funds under this part shall use the funds provided so as to supplement and, to the extent practical, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in the project, and in no case to supplant such non-Federal funds.

"(c) SELECTION CRITERIA.—The criteria used by a State agency in selecting projects shall include—

"(1) the degree to which an applicant's service area includes large numbers of low-income or first generation college students;

"(2) the degree to which the proposed project is likely to increase the postsecondary admission rate of the individuals to be served;

"(3) the degree to which projects that serve the same age group as those served under chapter 1 would be selected and coordinated with those funded under chapter 1; and

"(4) the adequacy of the performance standards proposed by the applicant when compared to the standards established by the State against which the project's success will be measured.

"AUTHORIZED SERVICES

"SEC. 115. (a) USES OF FUNDS.—Funds awarded under this part may be used by eligible entities for projects or activities to assist in the motivation and preparation of students for a postsecondary education, including—

"(1) program to identify qualified individuals with potential for postsecondary education and to encourage such individuals to complete secondary school, or obtain a recognized equivalent of a high school diploma, and to undertake a postsecondary education;

"(2) programs designed to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs;

"(3) instruction in reading, writing, study skills, mathematics, and other subjects;

"(4) personal counseling;

"(5) academic advice and assistance in course selection;

"(6) tutorial services;

"(7) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged individuals;

"(8) activities designed to acquaint project participants with the range of career options available to them;

"(9) summer residential and nonresidential academic programs for 9th through 12th grade students, including stipends of $40 per month during the academic year and $60 per month in the summer;

"(10) programs and activities that are specially designed for students with limited English proficiency;

"(11) motivational speakers to build student aspirations; and

"(12) activities and resources designed to provide information with respect to financial and academic assistance, and to provide assistance in applying for college admission and financial assistance.

"(b) LIMITATION.—Funds awarded under this part may not be used by an institution of higher education for the recruitment of students to enroll at that institution.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 116. There are authorized to be appropriated to carry out this part $253,000,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years.

"PART B—STUDENT SUPPORT SERVICES PROGRAM

"PURPOSE

"SEC. 121. The Secretary shall assist eligible institutions of higher education to provide support for individuals pursuing programs of postsecondary education who are first generation college students or who are from low-income or educationally disadvantaged backgrounds.

"DEFINITION

"SEC. For the purpose of this part, the term 'first generation college student' means an individual neither of whose parents have received a baccalaurate degree or, in the case of an individual who has regularly resided with and received support from only one parent, whose custodial parent has not received a baccalaureate degree.

"PROGRAM AUTHORIZED

"SEC. 123. (a) PROGRAM AUTHORIZED.—(1) For the purpose described in section 121, and for carrying out one or more of the services authorized under this part, the Secretary is authorized to make grants to eligible institutions of higher education.

"(2) An award made under this section shall be for a term of five years and may be renewable. To remain eligible for continued funding under this part, institutions of higher education must demonstrate reasonable progress toward achievement of the performance standards as set out in the initial application and the ability to provide an increasing match of funds.

"(b) APPLICATIONS.—(1) Any eligible institution of higher education desiring to receive an award under this part shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(2) Each application shall include assurances that—

"(A) not less than two-thirds of the persons participating in the proposed project will be physically disabled or will be low-income individuals who are first generation college students:

"(B) the remaining students participating in the proposed project will be low-income individuals, first generation college students, or physically disabled individuals;

"(C) the applicant institution will determine that each project participant has a need for academic support in order to pursue successfully a program of postsecondary education;

"(D) project participants will be enrolled or accepted for enrollment at the applicant institution; and

"(E) the applicant institution will ensure that each participant will receive sufficient financial assistance to meet the participants' financial need.

"(c) SPECIAL CONSIDERATION.—In making awards under this part, the Secretary shall give the highest priority to projects at institutions with the lowest educational and general expenditures per full-time equivalent student.

"AUTHORIZED SERVICES

"SEC. 124. A project assisted under this part may provide support services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success in a postsecondary institution;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services and counseling, including peer counseling;

"(5) exposure to cultural events and academic programs not usually available to disadvantage students;

"(6) activities designed to acquaint students participating in the project with the range of available career options;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

"(8) activities designed to assist students currently enrolled in two-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education; and

"(9) programs and activities described in paragraphs (1) through (8) that are specially designed for students of limited English proficiency.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 125. For the purpose of carrying out this part, there are authorized to be appropriated $129,799,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART C—RONALD E. MCNAIR GRADUATE OUTREACH PROGRAM

"PURPOSE

"SEC. 131. It is the purpose of this part to provide assistance to institutions of higher education for services to eligible individuals from low-income and educationally disadvantaged backgrounds in order to prepare them for graduate, professional, and doctoral study.

"PROGRAM AUTHORITY

"SEC. 132. (a) AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education in order to fulfill the purpose of this part.

"(b) AWARDS.—An award made under this part shall be for a term of three years and may be renewed. To remain eligible for continued funding under this part, institutions of higher education must demonstrate reasonable progress toward achievement of the performance standards as set out in the initial application and the ability to provide an increasing match of funds.

"(c) SELECTION CRITERIA.—In making awards under this part, the Secretary shall, in addition to other criteria prescribed by regulations—

"(1) consider the quality of the research and study program presented in competing applications;

"(2) consider the applicant's plan for identifying and recruiting participants; and

"(3) ensure, to the extent practicable, an equitable geographic distribution of assisted projects.

"APPLICATIONS

"SEC. 133. (a) APPLICATIONS.—An institution of higher education desiring to receive an award under this part shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including—

"(1) information regarding the program of study, including a description of such activities as summer research internships, seminars, and other educational experiences;

"(2) a plan for identifying and recruiting talented undergraduates from low-income or educationally disadvantaged backgrounds;

"(3) the participation of faculty in the program and a detailed description of the research in which students would be involved;

"(4) performance standards; and

"(5) a plan for the evaluation of the effectiveness of the program.

"(b) REQUIRED ASSURANCES.—The Secretary shall not make an award under this part without assurances in the application that—

"(1) at least two-thirds of the individuals participating in the proposed project will be first-generation college students from low-income families;

"(2) the remaining persons participating in the project will be from a group that is underrepresented in graduate education;

"(3) participants will be enrolled in a degree program at an institution of higher education; and

"(4) participants in summer research internships will have completed their sophomore year in postsecondary education.

"USES OF FUNDS

"SEC. 134. Funds awarded under this part may be used by institutions of higher education for the following projects or activities:

"(1) Opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study.

"(2) Summer internships.

"(3) Seminars and other educational activities designed to prepare students for doctoral study.

"(4) Tutoring.

"(5) Academic counseling.

"(6) Activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

"(7) Fellowships and stipends, provided that a student participating in research funded under a postbaccalaureate achievement project may not receive a stipend in excess of $2,400 per year.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 135. There are authorized to be appropriated to carry out this part $10,826,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years.".

TITLE II—NATIONAL GRADUATE FELLOWSHIPS PROGRAM

REPEALS

SEC. 201. (a) Title II of the Act is repealed.
(b) Title IX of the Act is repealed.

NATIONAL GRADUATE FELLOWSHIPS PROGRAM

SEC. 202. The Act is amended by inserting after title I a new title II to read as follows:

"TITLE II—NATIONAL GRADUATE FELLOWSHIPS PROGRAM

"FINDINGS AND PURPOSE

"SEC. 201. (a) FINDINGS.—The Congress finds that—

"(1) since the economic well-being and national security of the United States depend on an adequate supply, in areas of national need, of highly trained individuals capable of conducting advanced research, teaching at the postsecondary level, and applying their expertise in the world marketplace, it is in the best interest of the United States to support highly qualified individuals in their graduate studies; and

"(2) since certain groups continue to be underrepresented in graduate studies in areas of national need, even though these groups are increasing as a percentage of the Nation's population, it is also in the best interest of the United States to support highly qualified individuals from groups traditionally underrepresented in graduate studies in areas of national need, and to encourage institutions of higher education to assist these individuals in their graduate studies.

"(b) PURPOSE.—It is the purpose of this title to provide competitive grants to institutions of higher education to enable such institutions to provide financial support to highly qualified individuals in graduate studies in areas of national need, including individuals from groups traditionally underrepresented in graduate studies in areas of national need, to ensure that the highly skilled workforce needs of the United States are met.

"PROGRAM AUTHORIZATION

"SEC. 202. (a) The Secretary shall make grants to institutions of higher education that provide programs of study leading to a graduate degree, as defined by the Secretary, to enable these institutions to provide fellowship assistance to graduate students in accordance with the provisions of this title. Grants awarded under this title shall consist of fellowship stipends awarded to students and payments to institutions in which the students are enrolled.

"(b) Each recipient of a fellowship stipend awarded under this title shall be known as a 'National Graduate Fellow'.

"APPLICATION REQUIREMENTS

"SEC. 203. (a)(1) Any institution of higher education that offers a program of post-baccalaureate study leading to a graduate degree in an area of national need may apply for a grant under this title. The institution is eligible only if the program of graduate study in which a National Graduate Fellowship grant is sought has been in existence for at least four years prior to application for assistance under this title.

"(2) After consultation with public or private agencies and organziations, including other Federal agencies, the Secretary shall designate, as frequently as the Secretary determines to be appropriate, areas of national need. Areas of national need shall include such areas as biology, chemistry, computer science, engineering, foreign language or area studies, geosciences, mathematics, physics, or any other area that the Secretary determines is appropriate in achieving the purposes of this title.

"(b) Any institution of higher education that wishes to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall—

"(1) describe the applicant's program of graduate study for which the grant is sought;

"(2) set forth policies and procedures to ensure that, in awarding fellowship stipends under this title, the applicant will seek highly qualified individuals, including individuals from groups traditionally underrepresented in the area of graduate study for which the grant is sought;

"(3) set forth policies and procedures to ensure that, in awarding fellowship stipends under this title, the applicant will award stipends to individuals who are eligible under the requirements of this title;

"(4) provide an assurance that Federal funds made available under this title for any fiscal year will be used to supplement the funds that would otherwise be made available for the purpose of this title, and in no case to supplant those funds;

"(5) provide an assurance that, if funds made available to the applicant under this title are insufficient to provide the assistance due to a student under the commitment entered into between the applicant and the student under section 205, the applicant will endeavor, from any funds available to it, to fulfill the commitment to the student; and

"(6) contain such other information as the Secretary may prescribe.

"ALLOCATION OF FUNDS

"SEC. 204. (a)(1) The Secretary shall make grants under this title based principally on the quality of the programs of graduate study presented in competing applications. Consistent with making awards based on the quality of these programs, the Secretary shall also seek to achieve an equitable geographic distribution of assisted programs and an equitable distribution of assisted programs among eligible public and private institutions of higher education.

"(2) The Secretary shall ensure that, in making grants under this title, fellowship stipends are awarded to highly qualified individuals, including, to the maximum extent feasible, highly qualified individuals from groups traditionally underrepresented in graduate studies in areas of national need.

"(b)(1) Whenever the Secretary determines that an institution of higher education is unable to use all of the funds available to it under this title, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not used by the institution to other institutions assisted under this title that can effectively use the awards authorized by this title.

"(2) Whenever an institution of higher education determines that a National Graduate Fellow at the institution no longer satisfies program eligibility requirements under this title, the Fellow shall remit to the institution a portion of the fellowship stipend in accordance with the pro rata refund provisions in title IV of this Act. The institution may use the remitted portion of the fellowship stipend to assist, under the conditions of the fellowship stipend for which remaining funds have been remitted, another highly qualified student who satisfies program eligibility requirements under this title.

"AWARDS TO GRADUATE STUDENTS

"SEC. 205. (a) A fellowship stipend awarded under this title shall be for no longer than five years.

"(b)(1) Any institution of higher education that receives a grant under this title shall make a commitment to each graduate student, at any point in his or her graduate study, enrolled in the institution and designated as a National Graduate Fellow. The commitment shall provide that the institution will award a stipend to the student for five years, or for the length of time necessary for the student to complete his or her course of graduate study, including the time to complete a doctoral dissertation, whichever is the shorter time period.

"(2) The institution may not make such commitment to a student under this title unless the institution has determined that adequate funds are available to fulfill the commitment either from funds received or anticipated under this title, or from institutional funds.

"(c)(1) The size of the fellowship stipend awarded to a student for an academic year shall not exceed the lesser of the maximum stipend, as determined by the Secretary under this title, or the demonstrated level of financial need, according to the criteria under part F of title IV of this Act.

"(2) The maximum stipend for academic year 1992–1993 shall be $10,000.

"(3) The Secretary shall determine the maximum stipend for each academic year succeeding academic year 1992–1993.

"ELIGIBILITY OF GRADUATE STUDENTS

"SEC. 206. (a) A student shall be eligible to receive a National Graduate Fellowship only during periods in which the student—

"(1) is maintaining satisfactory progress in, and devoting essentially full time to, study or research (including acting as a teaching, research, or other assistant as may be required as a condition for receiving a post-baccalaureate degree) in the field in which the fellowship stipend was awarded; and

"(2) is not engaging in gainful employment, other than part-time employment by the institution involved in teaching, research, or other similar activities, as approved by the Secretary.

"(b) In addition to the requirements of subsection (a), a student is eligible to receive a fellowship stipend under this title only if the student—

"(1) is a citizen, national, or permanent resident of the United States;

"(2) provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen or permanent resident of the United States; or

"(3) is a permanent resident of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Palau (but only until the Compact of Free Association with Palau becomes effective), Puerto Rico, or the Virgin Islands.

"INSTITUTIONAL PAYMENTS

"SEC. 207. The Secretary shall, in addition to the National Graduate Fellowship stipends awarded to students, pay to an institution of higher education, for each student awarded a National Graduate Fellowship under this title at the institution, an amount up to $6,000 for academic year 1992–1993, and such amounts as the Secretary determines to be appropriate in subsequent academic years. The institution shall use such payment only to cover the cost of tuiton and fees for the student receiving the fellowship stipend and other costs of education of the student recipient to the extent that payment for these costs is not otherwise remitted to the institution or forgiven by the institution in conjunction with the student's receipt of a teaching, research, or other assistantship.

"CONTINUATION AWARDS

"SEC. 208. The Secretary may award continuation grants to institutions of higher education that demonstrate satisfactory progress in achieving the purpose of this title. An institution of higher education that receives a continuation grant under this title shall give preference in awarding fellowship stipends to students who have received National Graduate Fellowships under this title and who demonstrate satisfactory progress in their studies.

"REPORTS

"SEC. 209. (a) An institution of higher education that receives a grant under this title shall submit to the Secretary an annual report, which the Secretary may use in determining the award of continuation grants. The annual report shall include, as the Secretary detemines appropriate—

"(1) an assurance that each student that has been awarded a National Graduate Fellowship stipend under this title at the institution is making satisfactory progress in, and is devoting essentially full time to, his or her study or research;

"(2) a description of the effectiveness of the program, including, where feasible, the degree to which National Graduate Fellows have entered into the field for which they received a fellowship stipend;

"(3) a description of the extent to which the institutional payment covers the cost of tuition and fees, and other costs of education, of National Graduate Fellows at the institution, and the extent to which these costs have been forgiven by the institution; and

"(4) such other information as the Secretary may reasonably require.

"(b) The Secretary may also require an institution of higher education that receives a grant under this title to submit such other reports, containing such information in such manner and at such times as the Secretary determines necessary.

"(c) Prior to the reauthorization of the programs authorized under this title, and at such interim points as the Secretary deems appropriate, the Secretary shall submit a report to the Congress that summarizes and analyzes the reports required under subsections (a) and (b).

"TRANSITION AWARDS

"SEC. 210. (a) The Secretary shall make new grants under this title only to the extent that funds remain after the Secretary provides continued funding, in accordance with the terms of this Act as in effect prior to enactment of the Higher Education Act Amendments of 1991, to recipients of graduate fellowship assistance for—

"(1) the Foreign Language and Area Studies Fellowship Program;

"(2) the Patricia Roberts Harris Fellowship Program;

"(3) the Jacob K. Javits Fellows Program; or

"(4) the Graduate Assistance in Areas of National Need Program.

"(b)(1) An institution of higher education that receives a grant under this title shall give preference in awarding fellowship stipends to students who previously received fellowship assistance under a program listed in subsection (a), except that this preference shall be limited to the number of years of eligibility remaining under the terms of the previous fellowship assistance.

"(2) The conditions of the continuation awards for students who previously received fellowship assistance under a program listed in subsection (a) shall be those of the fellowship assistance received under that program.

"(d) A student who received fellowship assistance under a program listed in subsection (a) may subsequently receive a National Graduate Fellowship, except that the combined period of fellowship assistance under a program listed under subsection (a) and the National Graduate Fellowship program shall not exceed five years.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 211. There are authorized to be appropriated to carry out this title $65,449,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years.".

TECHNICAL AMENDMENT

SEC. 203. Part D of title XIII of the Higher Education Amendments of 1986 (20 U.S.C. 1029 note) is repealed.

TITLE III—INSTITUTIONAL AID

FINDINGS

SEC. 301. Section 301(a) of the Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;";

(2) in paragraph (2), by striking out "recruitment activities,";

(3) by striking out paragraph (3);

(4) by amending paragraph (5) to read as follows:

"(5) providing assistance to eligible institutions will enhance their role in providing access and quality education to low-income and minority students;"; and

(5) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

STRENGTHENING INSTITUTIONS

SEC. 302. (a) PROGRAM PURPOSES.—Section 311(b) of the Act is amended—

(1) in the subsection heading, by striking out "SPECIAL CONSIDERATION" and inserting in lieu thereof "ALLOWABLE ACTIVITIES";

(2) in paragraph (1), by striking out the period at the end thereof and inserting in lieu thereof a comma and "including—";

(3) by striking out the paragraph designation "(1)";

(4) by striking out paragraph (2); and

(5) in paragraph (3)—

(A) by striking out the paragraph designation "(3)" and all that follows through "engage in—"; and

(B) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(b) DEFINITIONS AND ELIGIBILITY.—Section 312 of the Act is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by amending subparagraph (B) to read as follows:

"(B) except as provided in section 352(b), the average educational and general expenditures of which are lower, by a percentage determined each year by the Secretary, than the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;";

(ii) in subparagraph (D), by inserting "and" after the semicolon at the end thereof;

(iii) by striking out subparagraph (E);

(iv) by redesignating subparagraph (F) as subparagraph (E);

(B) in paragraph (2), by adding "and" at the end thereof; and

(C) by striking out paragraphs (3), (4), and (5); and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking out the dash after "includes";

(B) by striking out paragraph (1); and

(C) in paragraph (2)—

(i) by striking out the paragraph designation "(2)"; and

(ii) by striking out "second preceding fiscal year" and inserting in lieu thereof "second fiscal year preceding the fiscal year for which the determination is made".

(c) GRANT DURATION.—Section 313 of the Act is amended to read as follows:

"GRANT DURATION

"SEC. 313. (a) GENERAL RULE.—Except as provided in subsection (b), the Secretary shall award only one grant under this part to any eligible institution. No grant awarded under this part to any eligible institution may exceed five years.

"(b) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution for a period of one year for the purpose of preparing plans and applications for a grant under this part.".

(d) APPLICATION REVIEW PROCESS.—Section 314 of the Act is amended to read as follows:

"GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAMS

"SEC. 314. (a) GOALS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

"(b) CONTINUATION REQUIREMENTS.—Any continuation application shall demonstrate the progress made toward achievement of those goals".

STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

SEC. 303. (a) DEFINITIONS.—Section 322(2) of the Act is amended by striking out the comma following "was" and "and is".

(b) UNDERGRADUATE INSTITUTIONS.—Section 323 of the Act is amended—

(1) at the end of subsection (a), by adding a new paragraph (9) to read as follows:

"(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.";

(2) by redesignating subsection (b) as subsection (c); and

(3) by adding a new subsection (b) to read as follows:

"(b) GENERAL RULE.—The Secretary shall not award more than two grants under this part, for a period not to exceed ten years from September 30, 1987, to any one undergraduate part B institution. No grant awarded under this part to any one undergraduate part B institution may exceed five years.".

(c) APPLICATIONS.—Section 325 of the Act is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting a comma and "in accordance with the procedures established in section 351 of this title," after "application"; and

(2) by adding a new subsection (c) to read as follows:

"(c) GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAMS.—(1) Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

"(2) Any continuation application shall demonstrate the progress made toward achievement of those goals.".

(d) GRANTS TO PROFESSIONAL AND GRADUATE INSTITUTIONS.—Section 326(b) of the Act is amended—

(1) by inserting "from September 30, 1987" after "10 years"; and

(2) by striking out "undergraduate or".

ENDOWMENT CHALLENGE GRANTS

SEC. 304. (a) ENDOWMENT CHALLENGE GRANT PROGRAM.—Part C of the Act is amended in the part heading by inserting "ENDOWMENT" before "CHALLENGE".

(b) CHALLENGE GRANTS.—Section 331 of the Act is repealed.

(c) ENDOWMENT CHALLENGE GRANTS.—Section 332 of the Act is amended—

(1) in subsection (a)(2), by adding a new subparagraph (D) to read as follows:

"(D) The term 'eligible institution' means an institution that is an (i) eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelors degree; (ii) institution under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or (iii) institution that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged. The Secretary may waive the requirements of clauses (i) and (ii) of this subparagraph with respect to a postgraduate degree in the case of any institution otherwise eligible under this subparagraph for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "endowment" immediately before "challenge grants";

(B) in paragraph (2)(B), in the text preceding clause (i), by striking out "$10,000,000" and inserting in lieu thereof "$20,000,000";

(C) in paragraph (4)(A), by striking out "section 331(a)(1) of this title" and inserting in lieu thereof "subsection (a)(2)(D) of this section";

(D) in paragraph (4)(B), by striking out "a challenge grant" and inserting in lieu thereof "an endowment challenge grant"; and

(E) in paragraph (5)—

(i) in the matter preceding subparagraph (A), by striking out "a challenge grant under this section to an eligible institution year" and inserting in lieu thereof "an endowment challenge grant under this section to an eligible institution"; and

(ii) by amending subparagraph (B) to read as follows:

"(B) not to be more than $500,000 for fiscal year 1992 or any succeeding fiscal year.";

(3) in subsection (f)(1), by inserting before the semicolon at the end thereof a comma and "or to an applicant that has received a grant under part A or part B of this title within the five fiscal years prior to the fiscal

year in which the applicant is applying for a grant under this section"; and

(4) in subsection (g), before the period at the end of the first sentence, by inserting a comma and "including a description of the long- and short-term plans for raising and using the funds under this part".

GENERAL PROVISIONS

SEC. 305. (a) APPLICATION CONTENTS.—Section 351(b)(7) of the Act is amended—

(1) by striking out subsection (D); and

(2) by redesignating subsections (E) and (F) as subsections (D) and (E), respectively.

(b) WAIVER AUTHORITY.—Section 352(a) of the act is amended—

(1) in paragraph (1), by adding "and" after the semicolon at the end thereof;

(2) by striking out paragraphs (3), (4), (5), and (6); and

(3) in paragraph (2), by striking out the semicolon at the end thereof and inserting in lieu thereof a period.

(c) APPLICATION REVIEW.—Section 353 of the Act is repealed.

(d) SPECIAL PAYMENT RULES.—Section 355 of the Act is repealed.

(e) WAIVER OF PAYMENT OF NON-FEDERAL FUNDS.—Section 356 of the Act is repealed.

(f) CHALLENGE GRANT APPLICATIONS.—Section 359 of the Act is repealed.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 360 of the Act is amended—

(1) by amending subsection (a) to read as follows:

"(h) AUTHORIZATIONS.—(1) There are authorized to be appropriated $87,831,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years to carry out part A.

"(2)(A) There are authorized to be appropriated $87,831,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years to carry out part B (other than section 326).

"(B) There are authorized to be appropriated $11,711,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years to carry out section 326.

"(3)(A) There are authorized to be appropriated $7,462,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years to carry out part C.

"(B)(i) There are authorized to be appropriated $10,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995 for awards under section 332 of the Act to historically Black colleges and universities that qualify as part B institutions.

"(ii) Any part B institution that receives an award from funds appropriated for any fiscal year under clause (i) shall not be eligible to receive an award from funds appropriated for that fiscal year under subparagraph (A).

"(4) Funds appropriated for part C shall remain available until expended.";

(2) by striking out subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS

STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

SEC. 401. Section 401 of the Act is amended—

(1) in subsection (a), by striking out paragraphs (3), (4), and (5), and inserting in lieu thereof the following new paragraphs:

"(3) providing scholarships to students, including disadvantaged students and students pursuing postsecondary education in mathematics, engineering, or the sciences, who demonstrate high levels of academic achievement; and

"(4) providing capacity-building grants for special programs designed to provide educational, support and other services to enable students whose families are engaged in migrant or seasonal farmwork to complete successfully high school equivalency programs or the first year of postsecondary education."; and

(2) in subsection (b), by striking out "1 through 8," and inserting in lieu thereof "1 through 6,".

Subpart 1—Pell Grants

PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION

SEC. 411. Section 411(a)(1) of the Act is amended—

(1) by striking out "September 30, 1992," and inserting in lieu thereof "September 30, 1997,"; and

(2) by striking out the last sentence therein.

AMOUNT OF GRANTS

SEC. 412. Section 411(b) of the Act is amended to read as follows:

"(b) AMOUNT OF GRANTS.—(1)(A) The amount of a basic grant for a student eligible under this subpart shall be the lesser of—

"(i) the maximum award specified in paragraph (2), less an amount equal to the amount determined in accordance with Part F of this title to be the expected family contribution with respect to that student for that year; or

"(ii) the percentage, specified in paragraph (3), of the amount of the student's need for financial assistance (as defined in section 471).

"(B) In any case in which a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any award year, the amount of the basic grant for which that student is eligible shall be reduced in proportion to the extent to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for this purpose and published in the Federal Register.

"(2) The maximum amount of an award under this subpart shall be $3,700 for award year 1992–1993 and the four succeeding award years.

"(3) The percentage of the amount of a student's need for financial assistance to be used in paragraph (1)(A)(ii) shall be—

"(A) 79 percent, if the family of the student has a total income (excluding the income of the dependent student) of $10,000 or less;

"(B) 65 percent, if the family of the student has a total income (excluding the income of the dependent student) of between $10,001 and $15,000, inclusive;

"(C) 48 percent, if the family of the student has a total income (excluding the income of the dependent student) of between $15,001 and $20,000, inclusive;

"(D) 35 percent, if the family of the student has a total income (excluding the income of the dependent student) of between $20,001 and $30,000, inclusive; and

"(E) 30 percent, if the family of the student has a total income (excluding the income of the dependent student) of $30,001 or more.

"(4) Except as provided in subsection (g)(2), no basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any award year would be less than $400.".

PERIOD OF ELIGIBILITY FOR PELL GRANTS

SEC. 413. Section 411(c) of the Act is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking out "period required" through "attendance" and inserting in lieu thereof the following: "period normally required for the completion of the first undergraduate baccalaureate course of study,"; and

(B) by amending subparagraph (A) to read as follows:

"(A) such period may not exceed the full-time equivalent of—

"(i) three academic years in the aggregate in the case of all undergraduate degree or certificate programs normally requiring two years or less;

"(ii) five academic years in the aggregate in the case of all undergraduate degree or certificate programs normally requiring more than two years but not more than four years, including any period for which the student received a Pell Grant in accordance with clause (i); or

"(iii) six academic years in the aggregate in the case of all undergraduate degree or certificate programs normally requiring more than four years, including any period for which the student received a Pell Grant in accordance with clause (i) or (ii);"; and

(2) in paragraph (3), by striking out "is entitled to" and inserting in lieu thereof "shall".

CALCULATION OF ELIGIBILITY

SEC. 414. Section 411 of the Act is further amended by striking out subsection (f).

ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS

SEC. 415. Section 411(g) of the Act is amended—

(1) by amending pargraph (1) to read as follows:

"(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all basic grant amounts for which students are eligible, as calculated under subsection (b)(1)(A)(i), the amount paid with respect to each such calculation of the basic grant amount shall be a percentage of such calculation, as determined in accordance with a schedule of reductions established by the Secretary for this purpose."; and

(2) in paragraph (2), by striking out "paragraph (1)(B)", "entitlement", and "$100," and inserting in lieu thereof "paragraph (1)", "basic grant amount for which the student is eligible, as calculated under subsection (b)(1)(A)(i),", and "$200,", respectively.

USE OF EXCESS FUNDS

SEC. 416. Section 411 of the Act is further amendment—

(1) by striking out subsection (h); and

(2) by redesignating subsections (g) and (i) as subsections (f) and (g), respectively.

REPEALS

SEC. 417. Sections 411A, 411B, 411C, 411D, 411E, and 411F of the Act are repealed.

Subpart 2—Supplemental Educational Opportunity Grants

AUTHORIZATION OF APPROPRIATIONS

SEC. 418. Section 413A(b) of the Act is amended by striking out "$490,000,000 for fiscal year 1987," and inserting in lieu thereof "$346,945,000 for fiscal year 1992,".

FEDERAL SHARE

SEC. 419. Section 413C(a)(2) of the Act is amended to read as follows:

"(2) agrees that the Federal share of awards under this subpart will not exceed 50 percent of such awards in fiscal year 1992 and succeeding fiscal years; and".

Subpart 3—Repeals

SEC. 420. Subparts 3, 4, 7, and 8 of part A of title IV of the Act are repealed.

Subpart 4—Presidential Achievement Scholarship Program

PRESIDENTIAL ACHIEVEMENT SCHOLARSHIP PROGRAM

SEC. 421. Part A of Title IV of the Act is further amended by adding immediately after subpart 2 the following new subpart:

"Subpart 3—Presidential Achievement Scholarship Program

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 415A. (a) PURPOSE.—It is the purpose of this part to award scholarships to Pell Grant recipients who demonstrate high academic achievement, and thereby encourage financially needy students to excel in their elementary and secondary studies, enter postsecondary education, and continue to demonstrate high levels of academic achievement at the postsecondary level.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $170,000,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years to carry out the purposes of this subpart. Funds shall remain available for expenditure until the end of the fiscal year immediately succeeding the fiscal year for which such funds were appropriated.

"SCHOLARSHIPS AUTHORIZED

"SEC. 415B. (a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with this subpart, to carry out a program or awarding scholarships to students who are Pell Grant recipients and demonstrate high level of academic achievement.

"(b) PERIOD OF AWARDS.—(1) A student who satisfies the requirements of section 415C may receive a scholarship, for a period of one academic year, for full-time undergraduate study at an institution of higher education.

"(2) A student who satisfies the requirements of section 415C may receive up to four scholarships, each awarded for a period of one academic year, except that, in the case of a student who is enrolled in a full-time undergraduate course of study that requires attendance for five academic years, the student may receive up to five scholarships under this subpart.

"(c) PRESIDENTIAL ACHIEVEMENT SCHOLARS.—Students awarded scholarships under this subpart shall be known as 'Presidential Achievement Scholars.'

"ELIGIBILITY OF SCHOLARS

"SEC. 415C. (a) REQUIREMENTS FOR STUDENTS IN FIRST YEAR OF POSTSECONDARY EDUCATION.—In order for a student who will be attending his or her first year of postsecondary education to be eligible to receive a scholarship under this subpart for that academic year, the student must—

"(1)(A) rank, or have ranked, in the top ten percent, by grade point average, of his or her high school graduating class; or

"(B) achieve at least the minimum score, announced by the Secretary for this purpose by notice in the Federal Register, on one of the nationally administered, standardized tests identified by the Secretary; and

"(2) receive a Pell Grant under subpart 1 of this part for that academic year.

"(b) REQUIREMENTS FOR OTHER STUDENTS.—In order for a student who will be attending a year of postsecondary education, other than his or her first year, to be eligible to receive a scholarship under this subpart for that academic year, the student must—

"(1) be enrolled in a program of study of not less than two academic years in length that leads to a degree or certificate;

"(2) rank in the top 20 percent, by cumulative grade point average (or its equivalent, if the institution does not use a system of ranking its students by grade point averages), of his or her postsecondary education class as of the last academic year of study completed; and

"(3) receive a Pell Grant under subpart 1 of this part for that academic year.

"(c) PRIOR SCHOLARSHIPS.—Except in relation to the aggregate limits on the receipt of scholarships in section 415B(b)(2), a student's eligibility for a Presidential Achievement Scholarship for a given academic year is not dependent on whether the student received a Presidential Achievement Scholarship or a Pell Grant in the previous academic year.

"(d) FULL-TIME ATTENDANCE REQUIRED.—A student who is attending an institution of higher education on a less than full-time basis is not eligible to receive a Presidential Achievement Scholarship.

"AWARD PROCEDURES

"SEC. 415D. (a) AWARD PROCEDURES.—(1) The Secretary shall establish the procedures through regulations by which Presidential Achievement Scholarships shall be awarded.

"(2) A participating institution of higher education shall provide such information as as required by the Secretary regarding a potential scholarship recipient's class rank or test score.

"(b) DEADLINES.—The Secretary shall specify, by notice in the Federal Register, the date after which no additional students may be considered for scholarships under this subpart for a given academic year. The Secretary shall then determine the total number of eligible applicants for that academic year, and, if necessary, apply the reduction procedures specified in section 415E(c).

"(c) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this subpart to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education."

"SCHOLARSHIP AMOUNT

"SEC. 415E. (a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this subpart for any academic year shall be $500.

"(b) RELATION TO COST OF ATTENDANCE AND OTHER ASSISTANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this subpart shall be reduced, by the institution of higher education that the student is or will be attending, by the amount that the scholarship—

"(1) exceeds the student's cost of attendance, as defined in section 472; or

"(2) when combined with other Federal or non-Federal grant or scholarship assistance the student receives in any academic year, exceeds the student's cost of attendance, as defined in section 472.

"(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section 415D(b), funds available in a fiscal year are insufficient to fully fund all awards for that academic year under this subpart, the amount paid to each student shall be reduced proportionately.".

Subpart 5—National Science Scholars Program

NATIONAL SCIENCE SCHOLARS PROGRAM

SEC. 422. Part A of Title IV of the Act is further amended by adding immediately after Subpart 3 (as added by Subpart 4 of Part A of Title IV of the bill) the following new subpart:

"Subpart 4—National Science Scholars Program

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 417A. (a) PURPOSE.—It is the purpose of this part—

"(1) to establish a National Science Scholars Program to recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering;

"(2) to provide financial assistance to students under paragraph (1) to continue their postsecondary education in such fields of study at sustained high levels of performance;

"(3) to contribute to strengthening the leadership of the United States in such fields;

"(4) to strengthen the United States mathematics, science, and engineering base by offering opportunities to pursue postsecondary education in life, physical, and computer sciences, mathematics, and engineering;

"(5) to encourage role models in scientific, mathematics, and engineering fields for young people; and

"(6) to attract talented students to teaching careers in mathematics and science in elementary and secondary schools.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and such sums as may be necessary for the two succeeding fiscal years for awards to National Science Scholars. Appropriations shall be available until expended.

"SCHOLARSHIPS AUTHORIZED

"SEC. 417B. (a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with this subpart, to carry out a program of awarding scholarships to students for the study of the physical, life, or computer sciences, mathematics, or engineering, who—

"(1) are selected by the President;

"(2) have demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering; and

"(3) show promise of continued outstanding academic performance in such fields of study.

"(b) PERIOD OF AWARDS.—

"(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of section 417D(a) may receive a scholarship, for a period of one academic year, for the first year of undergraduate study at an institution of higher education.

"(2) CONTINUATION AWARDS.—A student who satisfies the requirements of section 417D(b) may receive additional scholarships, each awarded for a period of one academic year, to complete his or her undergraduate course of study. A student may receive additional scholarships for not more than three academic years of undergraduate study, except that, in the case of a student who is enrolled in an undergraduate course of study that requires attendance for five academic years, the student may receive additional scholarships for not more than four academic years of undergraduate study.

"(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this part may attend any institution of higher education, as defined in section 1001(a).

"(d) NATIONAL SCIENCE SCHOLARS.—Students awarded scholarships under this subpart shall be known as 'National Science Scholars.'

"SELECTION OF SCHOLARS

"SEC. 417C. (a) SELECTION CRITERIA FOR INITIAL AWARDS.—The Director of the National Science Foundation and the Secretary shall jointly establish criteria to be used in the selection of National Science Scholars for initial year awards under section 417B(b)(1). Such criteria shall provide for the selection of scholars on the basis of potential to complete successfully a postsecondary program in the physical, life, or computer sciences, mathematics, or engineering, and on the basis of motivation to pursue a career in such fields. In addition, consideration may be given to the financial need of the individual, and to the nondiscriminatory promotion of participation by minorities and individuals with disabilities.

"(b) SELECTION PROCESS FOR INITIAL AWARDS.—(1) NOMINATING COMMITTEE.—Each State desiring to qualify students residing in that State for selection as National Science Scholars shall establish a nominating committee. Such committee shall be appointed by the chief State school officer or by an agency or panel designated by such officer, and shall be approved by the Secretary. The nominating committee shall be a broad-based committee composed of educators, scientists, mathematicians, and engineers, who shall serve as volunteers without compensation.

"(2) NOMINATIONS.—The nominating committee in each State shall submit to the President the nominations of at least four, but not more than 10, individuals from each congressional district in the State. Such selections shall be ranked in order of priority. The nominating committee shall keep, and the State shall maintain, records relating to the nominating process for five years after the nominations are made.

"(3) SELECTION.—The President, after consultation with the Secretary and the Director of the National Science Foundation, shall select two National Science Scholars for each academic year from each congressional district.

"(4) ANNOUNCEMENT AND AWARD OF SCHOLARSHIPS.—The President shall announce the selection of National Science Scholars. The Secretary shall notify each Member of Congress of selections made from such Member's district and State before the public announcement by the President.

"(5) CONGRESSIONAL DISTRICT.—For purposes of this subsection, the term 'congressional district' includes the part or all of a State (within the meaning of section 1001(b)) represented by a Member or Delegate of the House of Representatives, and includes the Commonwealth of the Northern Mariana Islands.

"(c) CONTINUATION AWARDS.—The Secretary shall award additional scholarships under section 417B(b)(2) to recipients of initial awards under section 417B(b)(1) who the Secretary determines meet the requirements of section 417D(b).

"(d) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed by the Secretary on behalf of students who receive scholarships under this subpart to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher eduction.

"(e) SPECIAL RULE.—The Director and the Secretary shall encourage the support and assistance of civic groups, the business community, professional associations, institutions of higher education, and others in providing scholarship assistance to National Science Scholarship finalists.

"ELIGIBILITY OF SCHOLARS

"SEC. 417D. (a) REQUIREMENTS FOR INITIAL AWARD.—To be eligible to receive a scholarship under section 417B(b)(1), a student shall—

"(1) be scheduled to graduate from a public or private secondary school, or to obtain the equivalent of a certificate of graduation (as recognized by the State in which the student resides), during the school year in which the award is made;

"(2) have demonstrated outstanding academic achievement in secondary school in physical, life, or computer sciences, mathematics, or engineering;

"(3) have been accepted for enrollment at an institution of higher education as a full-time undergraduate student (as determined by the institution); and

"(4) have declared a major in one of the physical, life, or computer sciences, mathematics, or engineering, or provided a written statement to the State of his or her intent to major in one of these fields of study, if it is the policy of the institution at which the student has been accepted for enrollment that students not declare a major until a later point in their course of study.

"(b) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under section 417B(b)(1) may receive a scholarship for a subsequent academic year of undergraduate study under section 417B(b)(2) if the student—

"(1) maintains a high level of academic achievement, as determined by the institution, subject to the approval of the Secretary;

"(2) continues to major in, or provides a statement to the institution at which he or she is enrolled, similar to the statement described in subsection (a)(4), of his or her continuing intent to major in one of the physical, life, or computer sciences, mathematics, or engineering; and

"(3) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

"(c) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

"(d) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this subpart shall be suspended by the Secretary. Any scholarship proceeds that have not been disbursed by the institution to the student shall be returned to the Secretary and used to make other awards under this subpart.

"(e) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this subpart may be reinstated if the recipient seeks to re-enter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

"(g) NOTIFICATION OF SECONDARY SCHOOLS.—The Secretary shall notify all public and private secondary schools and all institutions of higher education in each State annually of the availability of scholarships under this subpart.

"SCHOLARSHIP AMOUNT

SEC. 417E. (a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this part for any academic year shall be $6,000.

"(b) RELATION TO COST OF ATTENDANCE AND OTHER ASSISTANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this subpart shall be reduced by the amount that the scholarship—

"(1) exceeds the student's cost of attendance, as defined in section 472; or

"(2) when combined with other Federal or non-Federal grant or scholarship assistance the student receives in any academic year, exceeds the student's cost of attendance, as defined in section 472.

"(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this subpart, the amount paid to each student shall be reduced proportionately.

"SUMMER EMPLOYMENT OPPORTUNITIES FOR SCHOLARS

"SEC. 417F. (a) PRIORITY FOR SUMMER EMPLOYMENT.—To the extent that they are otherwise qualified, students receiving scholarships under this subpart shall be given priority consideration for federally financed summer employment in federally funded research and development centers, that, to the maximum extent practicable, complements and reinforces the educational program of these students.

"(b) FEDERAL AGENCY COOPERATION.—(1) Federal agencies shall cooperate fully with the Secretary and participate actively in providing appropriate summer employment opportunities for such students.

"(2) The Secretary shall notify other Federal agencies of the requirements of this section.".

REPEAL

SEC. 423. Part A of Title VI of the Excellence in Mathematics, Science and Engineering Education Act of 1990 (P.L. 101-589) is repealed.

Subpart 6—Special Programs for Students Whose Families are Engaged in Migrant and Seasonal Farmwork

PROGRAM AMENDMENTS

SEC. 424. Section 418A of the Act is amended—

(1) by amending the section heading to read as follows: "GRANTS TO BUILD PROGRAM CAPACITY";

(2) by amending subsection (a) to read as follows:

"(a) STATEMENT OF PURPOSE.—The Secretary shall award grants to build the capacity of—

"(1) State or local educational agencies, institutions of higher education, or private nonprofit organizations to operate high school equivalency programs for migrant students; and

"(2) institutions of higher education, or private nonprofit organizations working with institutions of higher education, to operate college assistance migrant programs.";

(3) in subsection (b)—

(A) in paragraph (1), by striking out "17 years of age and over," and inserting in lieu thereof "16 years of age and older, or are beyond the age of compulsory school attendance in the State in which they reside and are not currently enrolled in school,"; and

(B) in paragraph (4), by inserting a comma after "concerning" and "obtaining";

(4) in subsection (c)—

(A) in the matter immediately preceding paragraph (1), by inserting immediately preceding "include" a comma and "except as provided in paragraph (2), are limited to those services that are necessary to assist migrant students in completing their first year of college, and";

(B) in paragraph (2), by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively;

(C) in paragraph (3), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(D) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively;

(E) by inserting the paragraph designation "(1)" immediately following the subsection heading; and

(F) by adding at the end thereof the following new paragraph:

"(2) A grantee that is awarded a grant under this subpart to operate a college assistance migrant program shall provide follow-up services for migrant students after they have completed their first year of college, and may use up to ten percent of such grant for such follow-up services, which include—

"(A) monitoring and reporting the academic progress of students who participated in the project in their first year of college during their subsequent years in college; and

"(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid.";

(5) in subsection (d)—

(A) in paragraph (5), by striking out "and" at the end thereof;

(B) in paragraph (6), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new paragraph:

"(7) a long-range management plan describing how the applicant will, over the period of the grant, gradually assume the financial responsibility to provide services that are substantially similar to those proposed in the project application.";

(6) by striking out subsection (e) and inserting in lieu thereof the following new subsection:

"(e) CONSIDERATION OF GEOGRAPHIC DISTRIBUTION.—For purposes of making grants under this subpart, the Secretary shall consider the geographic distribution of the persons who are to be served by grantees.";

(7) by amending subsection (f) to read as follows:

"(f) GRANT PERIOD; MINIMUM ALLOCATIONS.—(1) In the case of a grantee that is receiving funds under this subpart for the first time, the Secretary shall award a one-time, nonrenewable grant for a five-year period. After the receipt of a grant under this paragraph, the grantee shall not be eligible for any further grants under this section. The Federal share of the cost of the high school equivalency or college migrant assistance program operated by such grantee shall not exceed 90 percent for the first year of the grant, 80 percent for the second year, 70 percent for third year, 60 percent for the fourth year, and 50 percent for the fifth year.

"(2) In the case of a grantee that has previously received funds under this subpart, the Secretary shall award a one-time, nonrenewable grant for a three-year period. After the receipt of a grant under this paragraph, the grantee shall not be eligible for any further grants under this section. The Federal share of the cost of the high school equivalence or college migrant assistance program operated by such grantee shall not exceed 90 percent for the first year of the grant, 70 percent for the second year, and 50 percent for the third year.

"(3) The Secretary shall not allocate an amount less than $150,000 for each project under this section.";

(8) in subsection (g)—

(A) in paragraph (1), by striking out "$7,000,000 for fiscal year 1987" and inserting in lieu thereof "$8,135,000 for fiscal year 1992,"; and

(B) in paragraph (2), by striking out "$2,000,000 for fiscal year 1987" and inserting in lieu thereof "$2,034,000 for fiscal year 1992,";

(9) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively; and

(10) by inserting immediately following subsection (a) the following new subsection:

"(b) ELIGIBILITY.—(1) A State or local educational agency, an institution of higher education, or a private nonprofit organization is eligible to receive a grant for the purpose described in subsection (a)(1).

"(2) an institution of higher education, or a private nonprofit organization working with an institution of higher education, is eligible to receive a grant for the purpose described in subsection (a)(2).".

Subpart 7—Robert C. Byrd Honors Scholarship Program

ALLOCATION AMONG STATES

SEC. 425. Section 419D of the Act is amended to read as follows:

"ALLOCATION AMONG STATES

"SEC. 419D. (a) ALLOCATION FORMULA.—From the sums appropriated pursuant to section 419J for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary.

"(b) NUMBER OF SCHOLARSHIPS AVAILABLE.—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that no less than ten scholarships shall be made available to any State.

"(c) USE OF CENSUS DATA.—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the United States Bureau of the Census.".

SELECTION OF SCHOLARS

SEC. 426. Section 419G of the Act is amended—

(1) by amending subsection (b) to read as follows:

"(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State."; and

(2) by adding at the end thereof the following new subsection:

"(d) TIMING OF SELECTION.—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.".

AWARDS CEREMONY

SEC. 427. (a) Section 419E of the Act is amended—

(1) in paragraph (3), by adding "and" at the end thereof;

(2) in paragraph (4), by striking out "at an awards ceremony in accordance with section 419I; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (5).

(b) Section 419I of the Act is repealed.

(c) Subpart 6 of part A of title IV of the Act is further amended by redesignating sections 419J and 419K as sections 419I and 419J, respectively.

AUTHORIZATION OF APPROPRIATIONS

SEC. 428. Section 419J of the Act (as redesignated by section 427) is amended by striking out "$8,000,000 for fiscal year 1987," and inserting in lieu thereof "$9,271,000 for fiscal year 1992,".

PART B—GUARANTEED STUDENT LOANS

LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE

SEC. 43. Section 424(a) of the Act is amended by striking out "$2,000,000,000", "1992.", and "1997." and inserting in lieu thereof "$10,000,000,000", "1997.", and "2002.", respectively.

LOAN LIMITS

SEC. 432. (a) Section 425(a) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i), by striking out "$2,625," and inserting in lieu thereof "$3,500,";

(ii) in clause (ii), by striking out "$4,000," and inserting in lieu thereof "$5,000,"; and

(iii) in clause (iii), by striking out "(as defined in regulations of the Secretary)";

(B) in subparagraph (B), by striking out the first sentence therein; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking out "$17,250," and inserting in lieu thereof "$22,000,"; and

(B) in clause (ii)—

(I) by striking out "$54,750," and inserting in lieu thereof "$59,500,"; and

(II) by striking out "as defined by regulations of the Secretary and".

(b) Section 428(b)(1) of the Act is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking out "$2,625," and inserting in lieu thereof "$3,500,";

(B) in clause (ii), by striking out "$4,000," and inserting in lieu thereof "$5,000,"; and

(C) in the matter immediately following clause (iii), by striking out "in cases" through "but" and inserting in lieu thereof "that"; and

(2) in subparagraph (B)—

(A) in clause (i), by striking out "$17,250," and inserting in lieu thereof "$22,000,"; and

(B) in clause (ii), by striking out "$54,750," and inserting in lieu thereof "$59,500,".

(c) Section 428A(b) of the Act is amended by amending paragraphs (1) and (2) to read as follows:

"(1) ANNUAL LIMITS.—Subject to paragraphs (2) and (3), the amount a student may borrow in any academic year or its equivalent (as determined by the Secretary) may not exceed—

"(A) $2,500, in the case of a student who has not successfully completed the first year of a program of undergraduate education and who is enrolled in a program of less than one academic year (defined for this purpose as 24 semester or trimester hours, 36 quarter hours, or 900 clock hours);

"(B) $4,000, in the case of a student who has not successfully completed the first year of a program of undergraduate education and who is enrolled in a program of at least one academic year in length;

"(B) $6,000, in the case of a student who has successfully completed such first year, but who has not successfully completed the remainder of a program of undergraduate education; or

"(C) $10,000, in the case of a graduate or professional student.

"(2) AGGREGATE LIMITS.—The aggregate insured principal amount for insured loans made to any student under this section, exclusive of interest capitalized under subsection (c), shall not exceed—

"(A) $28,000, in the case of a student who has not successfully completed a program of undergraduate education; and

"(B) $50,000, in the case of a graduate or professional student, including any loans made to such student under this section before he or she became a graduate or professional student.".

GRADUATED REPAYMENT; BORROWER INFORMATION; CONFESSION OF JUDGMENT

SEC. 433. (a) Section 427 of the Act is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (G), by striking out the "and" at the end thereof;

(B) by redesignating subparagraph (H) as subparagraph (J); and

(C) by inserting immediately following subparagraph (G) the following new subparagraphs:

"(H) provides that, not more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated repayment schedule, provided that such schedule does not result in negative amortization of the loan, provides for the repayment of only accrued interest during the first 12 months of repayment, and, after the fourth year of repayment, requires the borrower to resume repayment on an equal installment basis in an amount sufficient to satisfy the requirements of subparagraph (B);

"(I) provides the borrower's authorization for entry of judgment against the borrower in the event of default; and"; and

(2) by adding at the end therefore the following new section:

"(d) BORROWER INFORMATION.—The lender shall obtain the borrower's driver's license number, if any, at the time of application for the loan.".

(b) Section 428 of the Act is further amended—

(1) in subsection (a)(2)(A)—

(A) in clause (i)(I), by striking out "and" at the end thereof;

(B) in clause (ii), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's license number, if any."; and

(2) in subsection (b)(1)—

(A) by amending subparagraph (E) to read as follows:

"(E) subject to subparagraph (D) and (L), and except as provided by subparagraph (M), provides that (i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 428A the option of repaying the loan in accordance with a graduated repayment schedule, provided that such schedule does not result in negative amortization of the loan, provides for the repayment of only accrued interest during the first 12 months of repayment, and, after the fourth year of repayment, requires the borrower to resume repayment on an equal installment basis in an amount sufficient to satisfy the requirements of clause (ii), and (ii) repayment of loans shall be installments over a period of not less than 5 years (unless the student, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years, beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;";

(2) in subparagraph (U), by striking out "and" at the end thereof;

(3) in subparagraph (V), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(W) provides that the lender shall obtain, as part of the note or written agreement evidencing the loan, the borrower's authorization for entry of judgment against the borrower in the event of default.".

LOAN CERTIFICATION BY ELIGIBLE INSTITUTIONS

SEC. 434. Section 428(a)(2)(F) of the Act is amended by striking out "under this part," through the end thereof and inserting in lieu thereof "under this part."

DEFERMENTS

SEC. 434. (a) Section 427(a)(2)(C) of the Act is amended—

(1) in clause (i), by striking out the subclause designations "(I)", "(II)", and "(III)";

(2) by redesignating clauses (i) through (xi) as subclauses (I) through (XI), respectively;

(3) by inserting immediately preceding subclause (I) (as redesignated in paragraph (2)) the following new clause:

(i) for a loan made to cover a period of instruction beginning before October 1, 1991—";

(4) in subclause (XI) (as redesignated by paragraph (2)), by striking out the comma at the end thereof and inserting in lieu thereof a semicolon and "or"; and

(5) by inserting immediately after clause (i) the following new clause:

"(ii) for a loan made to cover a period of instruction beginning on or after October 1, 1991—

"(I) during which the borrower is pursuing a full-time course of study leading to a degree or certificate at an eligible institution, is pursuing at least a half-time course of study (as determined by the institution) leading to a degree or certificate during an enrollment period for which the student has obtained a loan during this part, or is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary; or

"(II) not in excess of three years in the aggregate, during which the borrower demonstrates a financial inability to make the required repayments of principal and interest because of exceptional circumstances that meet criteria established by the Secretary pursuant to regulations.".

(b) Section 428(b)(1) of the Act is amended—

(1) in subparagraph (M)—

(A) in clause (i) by striking out the subclause designations "(I)", "(II)", and "(III);

(B) by redesignating clauses (i) through (xi) as subclauses (I) through (XI), respectively;

(C) by inserting immediately preceding subclause (I) (as redesignated in paragraph (2)) the following new clause:

"(i) for a loan made to cover a period of instruction beginning before October 1, 1991—";

(D) in subclause (XI) (as redesignated by paragraph (2)), by adding at the end thereof "or"; and

(E) by inserting immediately after clause (i) the following new clause:

"(ii) for a loan made to cover a period of instruction beginning on or after October 1, 1991—

"(I) during which the borrower is pursuing a full-time course of study leading to a degree or certificate at an eligible institution, is pursuing at least a half-time course of study (as determined by the institution) leading to a degree or certificate during an enrollment period for which the student has obtained a loan under this part, or is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary; or

"(II) not in excess of three years in the aggregate, during which the borrower demonstrates a financial inability to make the required repayments of principal and interest because of exceptional circumstances that meet criteria established by the Secretary pursuant to regulations."; and

(2) in subparagraph (V)—

(A) in clause (i), by striking out "and" at the end thereof;

(B) in clause (ii), by striking out "clause (i)," and clause (i)." and inserting in lieu thereof "clause (i) or (ii)," and "clause (i) or (ii).", respectively;

(C) by redesignating clause (ii) as clause (iii); and

(D) by inserting immediately following clause (i) the following new clause:

"(ii) provides that, upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals for up to three years, under which no payments of interest or principal may be required, but the interest that accrues shall be added to the principal amount of the loan, if the borrower—

"(I) is serving under the Peace Corps Act or the Domestic Volunteer Service Act of 1973; and

"(II) does not qualify for the deferment described in subparagraph (M)(ii)(II); and".

(c) Section 428A(c)(2) of the Act is amended by striking out "sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i)" and inserting in lieu thereof "sections 427(a)(2)(C) and 428(b)(1)(M)"

(d) Section 428B(c)(1) of the Act is amended—

(1) by striking out "clause (i), (viii) or (ix)" and inserting in lieu thereof "subclause (I), (VIII), or (IX) of clause (i), or clause (ii)"; and

(2) by striking out "clause (i) of either such section." and inserting in lieu thereof "clause (i)(I) of either such section.".

CHANGES IN FEDERAL REINSURANCE COVERAGE

SEC. 436. Section 428(c) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking out the period at the end thereof and inserting in lieu thereof a comma and "or 45 days after the guaranty agency discharges its insurance obligation on the loan, whichever is later.”; and

(B) by amending subparagraph (B) to read as follows:—

“(B) Notwithstanding subparagraph (A)—

“(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the amount of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 percent of the amount of such excess;

“(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 percent of such excess; and

“(iii) if, with respect to the end of any fiscal year, a guaranty agency is being reimbursed at the level described in clause (i) or (ii), the initial reimbursement payments by the Secretary with respect to the beginning of the next succeeding fiscal year shall be calculated at such level until the Secretary determines, based on data submitted by the guaranty agency, that it meets the requirements of this subsection for reimbursement at a different level. Upon the Secretary's determination, the reimbursement payments by the Secretary shall be adjusted accordingly, including any underpayment or overpayment of the initial reimbursement payments.”; and

(2) in paragraph (7)—

(A) in subparagraph (A)(i), by inserting immediately following “1977” a comma and “but before October 1, 1991”;

(B) in subparagraph (B), by inserting “or (B)” immediately following “(A)”;

(C) by redesignating subparagraph (B) as subparagraph (C); and

(D) by inserting immediately following subparagraph (A) the following new subparagraph:

“(B) Notwithstanding paragraph (1)(B), the Secretary may pay a guaranty agency 100 percent of the amount expended by it in discharge of its insurance obligation for any fiscal year—

“(i) which beings on or after October 1, 1991; and

“(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b), or is one of the four succeeding fiscal years.”.

CREDIT CHECKS; COSIGNERS

SEC. 437. (a) Section 427(a)(2)(A) of the Act is amended to read as follows:

“(A) is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender shall—

“(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report;

“(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history;”.

(b) Section 428(b)(1) of the Act is further amended—

(1) in subparagraph (V) (as amended by section 433), by striking out “and” at the end thereof;

(2) in subparagraph (W) (as amended by section 433), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and “and”; and

(3) by adding at the end thereof the following new subparagraph:

“(X) provides that prior to making a loan made, insured, or guaranteed under this part (other than a loan made in accordance with section 428C), a lender shall—

“(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

“(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history.”.

DELAYED LOAN DISBURSEMENT

SEC. 438. Section 428G(b) of the Act is amended—

(1) by amending the subsection heading to read as follows “TIMING OF FIRST DISBURSEMENT.—”; and

(2) by amending paragraph (1) to read as follows:

“(1) LOANS TO FIRST-YEAR STUDENTS.—In the case of a borrower who is entering the first year of a program of undergraduate education—

“(A) at an institution with a cohort default rate equal to or greater than 30 percent, the institution shall not disburse the first installment of the proceeds of any loan made, insured, or guaranteed in accordance with section 427, 428, or 428A prior to 60 days after classes have begun for the period of enrollment for which the loan is obtained; or

“(B) at an institution with a cohort default rise less than 30 percent, the institution shall not disburse the first installment of the proceeds of any loan made, insured, or guaranteed in accordance with section 427, 428, or 428A prior to 30 days after classes have begun for the period of enrollment for which the loan is obtained.”.

LIMITATIONS, SUSPENSIONS, TERMINATIONS, OTHER HEARING PROCEDURES, AND FINES

SEC. 439. Section 432 of the Act is amended—

(1) in subsection (a)(3), by striking out “on the record,” and inserting in lieu thereof a comma;

(2) in subsection (g)—

(A) in paragraph (1), by striking out “on the record,” and inserting in lieu thereof a comma;

(B) by striking out paragraphs (2), (3), and (4); and

(C) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively;

(3) in subsection (h)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the first sentence therein, by striking out “shall, in accordance with sections 556 and 557 of title 5, United States Code,” and inserting in lieu thereof “shall”; and

(II) in the second sentence therein, by striking out “The Secretary” through “disqualification— ” and inserting in lieu thereof the following: “The Secretary shall impose any or all sanctions, imposed by the guaranty agency, on the participation of the lender in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of the imposition of such sanctions—”;

(ii) in subparagraph (B), by striking out “disqualification” each place it appears and inserting in lieu thereof “sanctions”; and

(iii) by redesignating subparagraph (B) as subparagraph (C); and

(iv) by inserting immediately following subparagraph (A) the following new subparagraph:

“(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(U) shall be limited to—

“(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

“(ii) a determination as to whether the guaranty agency compiled with section 428(b)(1)(U) and any notice and hearing requirements specified in regulations prescribed under this part.”; and

(B) in paragraph (3)—

(i) in subparagraph (A)—

(I) in the first sentence therein, by striking out “shall, in accordance with sections 556 and 557 of title 5, United States Code,” and inserting in lieu thereof “shall”; and

(II) in the second sentence therein, by striking out “The Secretary” through “disqualification—” and inserting in lieu thereof the following: “The Secretary shall impose any or all sanctions, imposed by the guaranty agency, on the participation of the institution in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of the imposition of such sanctions—”;

(ii) in subparagraph (B), by striking out “disqualifications” each place it appears and inserting in lieu thereof “sanctions”;

(iii) by redesignating subparagraph (B) as subparagraph (C); and

(iv) by inserting immediately following subparagraph (A) the following new subparagraph:

“(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(T) shall be limited to—

“(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

“(ii) a determination as to whether the guaranty agency compiled with section 428(b)(1)(T) and any notice and hearing requirements specified in regulations prescribed under this part.”.

(b) Section 428(b)(1)(T) of the Act is amended by striking out “as in effect on January 1, 1985”.

RESTRICTION ON GUARANTY AGENCY OFFICERS AND EMPLOYEES

SEC. 440. Section 428(b) of the Act is further amended by adding at the end thereof the following new paragraph:

“(7) RESTRICTIONS ON GUARANTY AGENCY OFFICERS AND EMPLOYEES.—No guaranty agency shall permit any of its officers or employees, or any member of their immediate families, to have a direct financial interest in, or serve as an officer or employee of, any lender, secondary market, contractor, or servicer with which the guaranty agency does business.".

GUARANTY AGENCY INFORMATION

SEC. 441. (a) Section 428 of the Act is further amended—

(1) in subsection (c)(2)(B) by striking out "as the Secretary may reasonably require to carry out the Secretary's functions under this subsection," and inserting in lieu thereof "including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States,"; and

(2) in subsection (f)—

(A) in paragraph (1)(B)—

(i) by inserting "subject to paragraph (3);"; and

(ii) by striking out "according to the provisions of this subparagraph." and inserting in lieu thereof "according to the provisions of this subsection.", respectively; and

(B) by adding at the end thereof the following new paragraph:

"(3) PROVISION OF FINANCIAL INFORMATION.—The Secretary is authorized to reduce or withhold payments under this subsection until the guaranty agency provides the information required under subsection (c)(2)(B).".

ADMINISTRATIVE COST ALLOWANCE

SEC. 442. Section 428(f)(1)(B) of the Act is further amended, in the first sentence therein, by striking out "equal to" through the end thereof and inserting in lieu thereof "equal to the lesser of one percent of loan volume or actual administrative costs, as estimated in accordance with criteria prescribed by the Secretary.".

COLLECTION RETENTION ALLOWANCE

SEC. 443. Section 428(c)(6)(A)(ii) of the Act is amended by striking out "30 percent of such payments (subject to subparagraph (D) of this paragraph)" and inserting in lieu thereof "the lesser of 30 percent of such payments, or the cost of collection on that loan, as estimated in accordance with criteria prescribed by the Secretary in regulations,".

GUARANTY AGENCY OVERSIGHT

SEC. 444. Section 432 of the Act is amended by adding at the end thereof the following new subsections:

"(k) GUARANTY AGENCY MANAGEMENT PLANS.—(1) If the ratio of a guaranty agency's reserve funds to its outstanding guarantees is less than a level set by the Secretary, or the Secretary otherwise determines that the administrative or financial condition of the guaranty agency jeopardizes its continued ability to perform its responsibilities under its guaranty agreement, the Secretary may, in order to protect the financial interest of the United States, require the guaranty agency to submit and implement a management plan acceptable to the Secretary.

"(2) A management plan under this subsection shall include the means by which the guaranty agency will improve its financial and administrative condition. The management plan may include, but is not limited to, the limitation of administrative expenditures, the increase of the insurance premium charged to borrowers, up to the maximum prescribed in section 428(b)(1)(H), and the increase of the ratio of guaranty agency's reserve funds to outstanding guarantees.

"(3) If the guaranty agency fails to submit a management plan acceptable to the Secretary, or the Secretary determines that the guaranty agency has failed to improve substantially its administrative and financial condition in accordance with its management plan under this subsection, the Secretary may terminate the guaranty agency's agreement in accordance with subsection (l).

"(l) TERMINATION OF GUARANTY AGENCY'S AGREEMENT.—If the guaranty agency does not satisfy the requirements of subsection (k), or the Secretary otherwise determines that the guaranty agency is no longer able to perform its responsibilities under its guaranty agreement, the Secretary is authorized, in order to protect the financial interest of the United States, after notice and opportunity for a hearing, to terminate the guaranty agency's agreement under this part.

"(m) AUTHORITY OF THE SECRETARY TO ASSUME GUARANTY AGENCY FUNCTIONS.—(1) a guaranty agency terminates its agreement under this part, or its guaranty agreement is terminated by the Secretary under subsection (l), the Secretary is authorized, to the extent the Secretary determines is necessary to protect the financial interest of the United States and carry out the purposes of this part, to—

"(A) assume responsibility for the functions of the guaranty agency under its loan insurance program, including, but not limited to—

"(i) ensuring the exercise of due diligence by lenders in making, servicing, and collecting loans;

"(ii) requiring lenders to submit the information necessary to determine the amount of interest benefits and special allowance payments payable on loans guaranteed under the guaranty agency's loan insurance program;

"(iii) requiring the timely filing by lenders of default, death, disability, and bankruptcy claims;

"(iv) paying default claims made by lenders;

"(v) monitoring the participation of institutions and lenders in the loan insurance program, including requiring the submission of any necessary information;

"(vi) the limitation, suspension, or termination of the participation of an institution or lender;

"(vii) monitoring the enrollment status of student borrowers; and

"(viii) reporting to national credit bureaus in accordance with section 430A;

"(B) require the guaranty agency to assign or otherwise provide, without compensation, to the Secretary any of the guaranty agency's assets, books, records, computer software, and equipment that the Secretary determines are necessary to carry out the functions assumed by the Secretary under subparagraph (A); and

"(C) take such other action as the Secretary determines is appropriate to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of its responsibilities, including the transfer of such guaranty agency's functions and assets to another entity.

"(2) Nothing in this subsection shall require the Secretary to guarantee new loans as part of the guaranty agency functions assumed under paragraph (1), or to serve as a lender of last resort in accordance with section 428(j).

"(3) The Secretary's liability for any outstanding liabilities of a guaranty agency, the functions of which the Secretary has assumed, shall not exceed the fair market value of the assets assigned by the guaranty agency to the Secretary in accordance with paragraph (1)(B), minus any necessary liquidation or other administrative costs.".

COST SHARING BY STATES

SEC. 445. Section 428 of the Act is amended by adding at the end thereof the following new subsections:

"(m) STATE BACKING OF GUARANTY AGENCIES.—(1) Notwithstanding any other provision of law, a State shall guarantee, with the full faith and credit of the State, or its equivalent, all loans guaranteed under this part by the guaranty agency designated for that State for borrowers who are attending eligible institutions in that State.

"(2) In addition to the designated guaranty agency specified in paragraph (1), a State may elect to guarantee, with the full faith and credit of the State, loans guaranteed under this part by any other guaranty agency for borrowers who are attending eligible institutions in that State.

"(3) In the event that a guaranty agency whose loan guarantees are guaranteed by a State under paragraph (1) or (2) is unable to discharge its insurance obligation incurred on loans under its loan insurance program, the State shall be responsible for discharging such obligations, as well as the administrative costs associated with transferring the operations of that guaranty agency to another entity.

"(4) If a State discharges the insurance obligations of a guaranty agency under paragraph (3), the Secretary shall pay the State the amount such guaranty agency would have otherwise received as reimbursement under subsection (c).

"(5) Unless a State demonstrates to the satisfaction of the Secretary that it has taken any steps necessary to satisfy the requirements of paragraph (1) by January 1, 1994, the Secretary shall assess institutions of higher education participating in the program under this part that are located in that State a fee based on the risk of financial loss to the Federal Government that the State would otherwise assume under this subsection. Such fees shall be deposited in the student loan insurance fund described in section 431.

"(n) STATE SHARE OF DEFAULT COSTS.—(1) If the cohort default rate, determined on the basis of the most recent fiscal years for which data are available, for borrowers that attended institutions of higher education located in a State exceeds 20 percent, the State shall pay to the Secretary an amount equal to the percentage of new loan volume that is equal to the percentage by which the cohort default rate exceeds 20 percent.

"(2) A State may charge a fee to an institution of higher education that participates in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection.".

DEFINITIONS

SEC. 446. Section 435 of the Act is amended—

(1) by amending subsection (a) to read as follows:

"(a) ELIGIBLE INSTITUTION.—The term 'eligible institution' means an institution of higher education, as defined in section 481.";

(2) by striking out subsections (b), (c), and (n);

(3) in subsection (m)—

(A) by inserting the paragraph designation "(1)" immediately following the subsection heading;

(B) in the first sentence, by striking out "The term" and inserting in lieu thereof "In general, the term"; and

(C) by adding at the end thereof the following new paragraphs:

"(2) For purposes of the definition in paragraph (1) only, a loan made in accordance with section 428A shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of deferment based on such enrollment. Each eligible lender of a loan made under section 428A shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

"(3) For purposes of calculating the cohort default rates for lenders, other holders of loans made under this part, or States, references to lenders, other holders, or States, as the case may be, shall be substituted for references to institutions in paragraph (1)."; and

(4) by redesignating subsections (d) through (m) as subsections (b) through (k), respectively.

SPECIAL ALLOWANCE

SEC. 447. Section 438(b)(2) of the Act is amended—

(1) in subparagraph (A), by striking out "subparagraphs (B), (C), and (D)" and inserting in lieu thereof "suparagraphs (B), (C), (D), (E) and (F)"; and

(2) by adding at the end thereof the following new subparagraphs:

"(E) In the case of a holder of loans for which the cohort default rate exceeds 20 percent, subparagraph (A)(iii) shall be applied by substituting '3 percent' for '3.25 percent'.

"(F) In the case of a lender who does not provide to the guaranty agency the information required under section 435(k)(2), subparagraph (A)(iii) shall be applied by substituting '3 percent' for '3.25 percent'.—

STUDENT LOAN MARKETING ASSOCIATION

SEC. 448. Section 439(n) of the Act is amended to read as follows:

"(n) REPORTS.—(1) LENDING.—The Association shall, within 15 days, notify the Secretary of Education when—

"(A) the Association makes a loan, or extends any other form of credit, to a guaranty agency; or

"(B)(i) the Association's cumulative loans (or other forms of credit) outstanding to any one lender exceed $50 million; or

"(ii) The Association makes any additional loans (or other forms of credit) to a lender whose cumulative outstanding loans from the Association exceed $50 million. "Any notification under subparagraph (A) or (B)(ii) shall include the amount of, and reason for, such loan.

"(2) OPERATIONS AND ACTIVITIES.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Secretary of Education and the Congress a report of its operations and activities during each year. The report shall include specific information regarding the Association's investments and debts, the characteristics of its student loan portfolio, which may include the composition of the portfolio by guarantor and lender, by type of loan, and by borrower characteristics (such as borrower income and year in school), and such other data as the Secretary may reasonably require.".

PART C—WORK-STUDY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 451. Section 441(b) of the Act is amended by striking out "$656,000,000 for fiscal year 1987" and inserting in lieu thereof "$396,615,000 for fiscal year 1992.".

FEDERAL SHARE

SEC. 452. Section 443(b)(5) of the Act is amended to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work study program in accordance with the agreement will not exceed 50 percent for fiscal year 1992 and succeeding fiscal years;".

COMMUNITY SERVICE-LEARNING

SEC. 453. (a) Section 443(b)(2) of the Act is amended to read as follows:

"(2) provide that funds granted to an institution of higher education under this section may be used only to make payments to students participating in work/study programs, except that an institution may—

"(A) use a portion of the funds granted to it to meet administrative expenses in accordance with section 489;

"(B) use a portion of the funds granted to it to meet the cost of a job location and development program in accordance with section 446; and

"(C) transfer funds in accordance with section 488.".

(b) Section 446 of the Act is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) The Secretary is authorized to enter into agreements with eligible institutions under which such institutions may use not more than 10 percent or $30,000 of their allocations under section 442, whichever is less, to establish or expand programs under which such institutions, separately or in combination with other eligible institutions, locate and develop jobs for currently enrolled students."; and

(B) in paragraph (2), by striking out "subparagraph (A) or (B) of";

(2) in subsection (b)—

(A) in paragraph (1), by striking out "80 percent" and inserting in lieu thereof "50 percent"; and

(B) in paragraph (2), by striking out "subsection (a)(1)(B) of this section," and inserting in lieu thereof "subsection (a)(1);"; and

(3) by striking out subsection (c).

(c) Section 447 of the Act is repealed.

(d) Section 489(a) of the Act is amended—

(1) in the second sentence, by striking out "(other than section 447),"; and

(2) by striking out the fourth sentence therein.

ELIGIBLE EMPLOYMENT

SEC. 454. Section 443 of the Act is further amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting "(except in the case of a proprietary institution of higher education)" immediately following "the institution itself";

(B) in paragraph (4), by striking out "$200," and inserting in lieu thereof "$100,";

(C) in paragraph (7), by adding "and" at the end thereof;

(D) by striking out paragraph (8); and

(E) by redesignating paragraph (9) as paragraph (8); and

(2) by striking out subsection (c).

PART D—INCOME CONTINGENT LOAN PROGRAM

AUTHORIZATION OF APPROPRIATIONS

SEC. 461. Section 452(b) of the Act is amended by striking out "$5,000,000 for fiscal year 1987" and inserting in lieu thereof "$10,000,000 for fiscal year 1992,".

ALLOTMENT

SEC. 462. Section 452(c) of the Act is amended—

(1) by amending the subsection heading to read as follows: "ALLOTMENT.—"; and

(2) by amending paragraph (2) to read as follows:

"(2) The term 'institution of higher education' as used in this part includes a consortium of institutions of higher education.".

TERMS OF LOANS

SEC. 463. Section 454(a) of the Act is amended—

(1) in paragraph (2), by striking out the period at the end thereof and inserting in lieu thereof a comma and "in the case of an undergraduate student, and $50,000, in the case of a graduate or professional student (including any loans from such funds established pursuant to agreements under this part made to such person before he or she became a graduate or professional student).";

(2) in paragraph (3)—

(A) in subparagraph (B), by striking out "and" at the end thereof;

(B) in subparagraph (C)—

(i) by striking out "fourth and fifth" and inserting in lieu thereof "fourth or fifth"; and

(ii) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) $10,000 in the case of a graduate or professional student."; and

(3) by adding at the end thereof the following new paragraphs:

"(6) A student seeking a loan under this part shall provide his or her driver's license number, if any, to the institution at the time of application for the loan.

"(7) An institution participating in the loan program under this part shall—

"(A) prior to making any loan under this part, obtain a credit report, from at least one national credit bureau organization, with respect to any loan applicant who will be or was at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the institution may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

"(B) require an applicant of the age specified in subparagraph (A) who, in the judgment of the institution, in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this paragraph, an insufficient or nonexistent credit history may not be considered to be an adverse credit history.".

EVALUATION

SEC. 464. Section 455 of the Act is amended to read as follows:

"EVALUATION

"SEC. 455. (a) EVALUATION.—The Secretary shall evaluate the cost-effectiveness of the program authorized by this part, its impact on participating institutions and students, and the feasibility of extending it to a loan program of general applicability.

"(b) REPORT.—The Secretary shall prepare and submit to the Congress a report on the evaluation conducted pursuant to subsection (a) not later than October 1, 1993, together with such recommendations as the Secretary deems appropriate.".

PART E—PERKINS LOAN PROGRAM

AUTHORIZATION OF APPROPRIATIONS

SEC. 471. Section 461 of the Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 461. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program of assisting institutions of higher education to maintain funds for making low-interest loans to students who need such loans to pursue their course of study. Loans made under this part shall be known as 'Perkins Loans'.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of reimbursing institutions for loans that are canceled pursuant to section 465, there are authorized to be appropriated $15,000,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years.".

AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

SEC. 472. Section 463(a) of the Act is amended—

(1) in the matter preceding paragraph (1), by striking out "for the payment of Federal capital contributions";

(2) in paragraph (1), by striking out "establishment and";

(3) in paragraph (2)(A), by striking out the semicolon at the end thereof and inserting in lieu thereof a comma and "as in effect prior to the enactment of the Higher Education Act Amendments of 1991;"; and

(4) in paragraph (6), by striking out "in accordance with section 462;" at the end thereof and inserting in lieu thereof a semicolon.

TERMS OF LOANS

SEC. 473. Section 646 of the Act is amended—

(1) in subsection (b)—

(A) in the heading, by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "BORROWER INFORMATION.";

(B) in paragraph (1)—

(i) by striking out the paragraph designation; and

(ii) by striking out "this title" and all that follows through the end thereof and inserting in lieu thereof "this title, who meets the requirements of section 484, and who provides the institution with the student's driver's license number, if any, at the time of application for the loan."; and

(C) by striking out paragraph (2);

(2) in subsection (c)—

(A) in paragraph (1), by amending subparagraphs (D) and (E) to read as follows:

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of (i) 3 percent per year; (ii) 4 percent per year, in the case of any loan made on or after July 1, 1981; (iii) 5 percent per year, in the case of any loan made on or after October 1, 1981; or (iv) 8 percent per year in the case of any loan made to cover a period of instruction beginning on or after July 1, 1992;

"except that no interest shall accrue prior to the beginning date of repayment determined under subparagraph (A), or during any period in which repayment is suspended by reason of paragraph (2);

"(E) shall provide that the loan is made without security and without endorsement, except that—

"(i) if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement and security may be required; and

"(ii) an institution participating in the loan program under this part shall—

"(I) prior to making any loan under this part, obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be or was at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the institution may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

"(II) require an applicant of the age specified in subclause (I) who, in the judgment of the institution in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this paragraph, an insufficient or nonexistent credit history may not be considered to be an adverse credit history;"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "made for a period of instruction beginning before July 1, 1992" immediately following "any loan";

(ii) by redesignating subparagraph (B) and (C) as subparagraphs (D) and (E), respectively;

(iii) in subparagraph (C) (as redesignated by clause (ii)), by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A) or (B)"; and

(iv) by inserting immediately after subparagraph (A) the following new subparagraphs:

"(B) For any loan made under this part to cover a period of instruction beginning on or after July 1, 1992, no repayment of principal or interest shall be required during any period—

"(i) during which the borrower is carrying at least one-half the normal full-time academic workload leading to a degree or certificate at an institution of higher education or at a comparable institution outside the United States that is approved for this purpose by the Secretary; or

"(ii) not in excess of three years in the aggregate, during which the borrower demonstrates a financial inability to make the required repayments of principal and interest because of exceptional circumstances that meet criteria established by the Secretary pursuant to regulations.

"(C) In the case of a borrower who is in service under the Peace Corps Act or the Domestic Volunteer Service Act of 1973, and does not qualify for the deferment described in subparagraph (B)(ii), the institution shall, at the borrower's request, require no payments of interest or principal be paid on any loan made from a student loan fund assisted under this part for not in excess of three years while the borrower is in such service, and shall add the interest that accrues during such period to the principal amount of the loan. No interest that is so capitalized shall be eligible for cancellation under section 465."; and

(3) in subsection (d), by striking out "for payment of Federal capital contributions".

CANCELLATION FOR CERTAIN PUBLIC SERVICE

SEC. 474. Section 465 of the Act is amended—

(1) in subsection (a)(1), by striking out "June 30, 1972," and inserting in lieu thereof "June 30, 1972 for a period of instruction beginning before July 1, 1992,"; and

(2) in subsection (b), by striking out "under section 468." through the end thereof and inserting in lieu thereof a period.

DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

SEC. 475. Section 466 of the Act is amended by striking out "1996" and "1997" each place each appears and inserting in lieu thereof "2001" and "2002", respectively.

REPEALS

SEC. 476. Sections 462 of the Act is repealed.

PART F—NEED ANALYSIS

AMOUNT OF NEED

SEC. 481. Section 471 of the Act is amended by striking out the parenthetical therein.

COST OF ATTENDANCE

SEC. 482. Section 472 of the Act is amended—

(1) by amending the matter immediately preceding paragraph (1) to read as follows: "Except as provided in subsections (b) and (c) and subject to section 478, for purposes of this title, the term 'cost of attendance' means—";

(2) by amending paragraph (1) to read as follows:

"(1) tuition and uniform compulsory fees normally assessed a student carrying the same academic workload, as determined by the institution at which the student is in attendance for any award year, without regard to whether the student receives grant, loan, or work assistance under this title;"

(3) in paragraph (3)—

(A) in the matter immediately preceding subparagraph (A), by inserting immediately following "institution" the following: "without regard to whether the student receives grant, loan, or work assistance under this title";

(B) in subparagraph (A), by striking out "$1,500" and inserting in lieu thereof "$1,700"; and

(C) in subparagraph (C), by striking out "$2,500" and inserting in lieu thereof "$2,300";

(4) by inserting the subsection designation "(a)" immediately following "SEC. 472."; and

(5) by adding at the end thereof the following new subsections:

"(b) For the purpose of subpart 1 of part A of this title—

"(1) tuition and fees to be used in determining the student's cost of attendance in accordance with subsection (a)(1) shall be first calculated on the basis of a full-time academic workload, and then adjusted in accordance with section 411(b)(1)(B);

"(2) the allowance for room and board costs, books, equipment, supplies, transportation, and miscellaneous personal expenses incurred by the student to be used in determining the student's cost of attendance in accordance with subsection (a) shall not exceed—

"(A) $1,700 for a student without dependents residing at home with his or her parents; and

"(B) $2,300 for all other students;

"except that if, for an award year after award year 1992–1993, the standard maintenance allowances specified in sections 475(c)(4) and 477(b)(4) are increased or decreased by the Secretary in accordance with section 478, then the dollar amounts specified in paragraphs (1) and (2) shall be increased or decreased by a percentage equal to such percentage increase or decrease in such standard maintenance allowances; and

"(3) the allowance for dependent care to be used in determining the student's cost of attendance in accordance with subsection (a)(7) shall not exceed $1,000.

"(c) In the case of a student enrolled in a program of training that is one academic year or less and designed to prepare students for gainful employment in a recognized occupation, the maximum allowable cost of attendance for purposes of this title shall be an amount determined by the Secretary to equal the average State academic program expenditures per academic year for two-year public institutions of higher education.".

FAMILY CONTRIBUTION DEFINED

SEC. 483. Section 473 of the Act is amended by striking out "except subparts 1 and 3 or part A,".

DATA ELEMENTS

SEC. 484. Section 474 of the Act is amended—

(1) by amending paragraphs (1), (2), and (3) to read as follows:

"(1) the available income of (A) the student and his or her parents, in the case of a dependent student, or (B) the student (and spouse), in the case of an independent student;

"(2) the number of (A) dependents of the parents of the student, in the case of a dependent student, or (B) dependents of the student (and spouse), in the case of an independent student;

"(3) the number of (A) dependents of the parents of the student, in the case of a dependent student, who are enrolled in, on at least a half-time basis, a program of postsecondary education and for whom the family may reasonably be expected to contribute to their postsecondary education, or (B) dependents of the student (and spouse), in the case of an independent student, who are so enrolled and for whom such contribution may reasonably be expected;";

(2) in paragraph (4)(B), by striking out "(and spouse)"; and

(3) in paragraph (6)—

(i) in subparagraph (A) by striking out "the student and the student's parents," and inserting in lieu thereof "the students's parents and the dependents of the parents, including the student,"; and

(ii) in subparagraph (B) by inserting "spouse and" immediately following "his or her".

FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS

SEC. 485. Section 475 of the Act is amended—

(1) in subsection (a), by striking out "(and spouse)" each place it appears;

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B) by adding "and" at the end thereof;

(ii) by redesignating in subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting the subparagraph designation "(A)" immediately following the paragraph designation; and

(iv) by adding at the end thereof the following new subparagraph;

"(B) if the amount determined under subparagraph (A) is a negative amount, setting the parents' adjusted available income at zero, and converting such negative amount to a positive number and using it to increase the adjustment to student income (determined in accordance with subsection (g)(2));"

(B) in paragraph (3), by striking out the semicolon at the end thereof and inserting in lieu thereof a period; and

(C) by striking out the matter immediately following paragraph (3);

(3) in subsection (c)—

(A) in paragraph (2), in the table therein, by striking out "$15,000 more" and inserting in lieu thereof "$15,000 or more";

(B) in paragraph (4), by amending the table therein to read as follows:

"STANDARD MAINTENANCE ALLOWANCE

Family size (including student)	Number in college					For each additional subtract
	1	2	3	4	5	
2	$10,370	$8,600				
3	12,910	11,150	$9,380			
4	15,940	14,180	12,410	$10,640		
5	18,810	17,050	15,280	13,510	$11,740	
6	22,010	20,240	18,470	16,700	14,930	$1,770
For each additional add	2,490	2,490	2,490	2,490	2,490	";

(C) in paragraph (5)—

(i) by striking out "$2,100" each place it appears and inserting in lieu thereof "$2,500"; and

(ii) by striking out "1987–1988," and inserting in lieu thereof "1992–1993,"; and

(D) in paragraph (7), by striking out "instructional";

(4) in subsection (d)—

(A) in paragraph (1), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"except that the amount determined under this paragraph shall not be less than zero.";

(B) in paragraph (2)—

(i) in subparagraph (B), by striking out "a dislocated worker" through the end thereof and inserting in lieu thereof: "a family with an adjusted gross income of less than $20,000; and"; and

(ii) in subparagraph (C)—

(I) by striking out "a business or farm" and "such business or farm" and inserting in lieu thereof "business or farm assets" and "such business or farm assets", respectively; and

(II) by amending the table therein to read as follows:

"ADJUSTED NET WORTH OF BUSINESS OR FARM ASSETS

If the net worth of business or farm assets is—	Then the adjusted net worth is:
Less than $1	$0
$1 to $75,000	$0 + 40 percent of NW
$75,001 to $225,000	$30,000 + 50 percent of NW over $75,000
$225,001 to $370,000	$105,000 + 60 percent of NW over $225,000
$370,001 or more	$192,000 + 100 percent of NW over $370,000";

and

(B) in paragraph (3), by amending the table therein to read as follows:

"ASSET PROTECTION ALLOWANCE FOR FAMILIES AND STUDENTS

If there is one parent, and the age of that parent is, or if there are two parents, and the average age of both parents is—	And there are	
	two parents	one parent
	Then the asset protection allowance is—	
25 or less	$0	$0
26	500	1,700
27	1,100	3,300
28	1,600	5,000
29	2,100	6,700
30	2,600	8,400
31	3,200	10,000
32	3,700	11,700
33	4,200	13,400
34	4,700	15,100
35	5,300	16,700
36	5,800	18,400
37	6,300	20,100
38	6,800	21,800
39	7,400	23,400
40	7,900	25,100
41	8,100	25,700
42	8,300	26,200
43	8,500	26,800
44	8,700	27,300
45	8,900	28,000
46	9,100	28,700
47	9,400	29,200
48	9,700	29,900
49	9,900	30,600
50	10,200	31,400
51	10,500	32,100
52	10,800	32,900
53	11,100	33,700
54	11,400	34,700
55	11,700	35,500
56	12,100	36,400
57	12,500	37,500
58	12,900	38,300
59	13,300	39,500
60	13,700	40,600
61	14,200	41,700
62	14,700	42,900
63	15,200	44,100
64	15,700	45,400
65 or more	16,200	46,900";

(5) in subsection (e)—

(A) by striking out "under section 479):" and inserting in lieu thereof "under section 478):"; and

(B) by amending the table therein to read as follows:

"PARENTS' ASSESSMENT FROM ADJUSTED AVAILABLE INCOME (AAI)

If AAI is	Then the assessment is
Less than zero	Zero
$0 to $9,300	22 percent of AAI
$9,301 to $11,600	$2,046+25 percent of AAI over $9,300
$11,601 to $14,000	$2,621+29 percent of AAI over $11,600
$14,001 to $16,300	$3,317+34 percent of AAI over $14,000
$16,301 to $18,700	$4,099+40 percent of AAI over $16,300
$18,701 or more	$5,059+47 percent of AAI over $18,700";

(6) in subsection (g)—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—The minimum student contribution from available income is equal to the greater of—

"(A)(i) in the case of a student who has not completed the first year of undergraduate studies—

"(I) zero, if the parents' total income is $12,000 or less;

"(II) $500, if the parents' total income is between $12,001 and $15,000, inclusive; and

"(III) $700, if the parents' total income is $15,001 or more; and

"(ii) in the case of any other student—

"(I) zero, if the parents' total income is $12,000 or less;

"(II) $600, if the parents' total income is between $12,001 and $15,000, inclusive; and

"(III) $900, if the parents' total income is $15,001 or more; or

"(B) an amount equal to 70 percent of the student's total income (determined in accordance with section 480) minus the adjustment to student income (determined in accordance with paragraph (2));

"except that, if the amount determined in accordance with subsection (b)(1)(B) results in a negative amount, then such negative amount shall be converted to a positive number and increase the adjustment to student income (determined in accordance with paragraph (2)), except that the dependent student's contribution from income shall not be reduced to less than zero.";

(B) in paragraph (2)—

(i) in the paragraph heading, by striking out "(AND SPOUSE)";

(ii) by striking out "(and spouse)" each place it appears; and

(iii) in subparagraph (A), by striking out "estimated"; and

(C) in paragraph (4) by striking out "(and spouse)";

(7) in subsection (h)—

(A) in the subsection heading, by striking out "(AND SPOUSE)";

(B) by striking out "(and spouse)" each place it appears; and

(C) by striking out "35 percent," through the end thereof and inserting in lieu thereof "35 percent."; and

(8) in subsection (i), in the matter immediately preceding paragraph (1), by striking out "For" and inserting "Except for purposes of subpart 1 of part A, for".

FAMILY CONTRIBUTION FOR MARRIED OR SINGLE INDEPENDENT STUDENTS WITHOUT DEPENDENTS

SEC. 486. Section 476 of the Act is amended—

(1) by amending the section heading to read as follows: "FAMILY CONTRIBUTION FOR MARRIED OR SINGLE INDEPENDENT STUDENTS WITHOUT DEPENDENTS";

(2) in subsection (a)—

(A) in the matter immediately preceding paragraph (1)—

(i) by inserting "married or single" immediately following "For each"; and

(ii) by striking out "(including a spouse)," and inserting in lieu thereof a comma;

(B) in paragraph (1), by inserting "(and spouse's)" immediately following "student's"; and

(C) in paragraph (2), by inserting "(and spouse's)" immediately following "student's";

(3) in subsection (b)—

(A) by amending the section heading to read as follows: "STUDENT'S (AND SPOUSES) CONTRIBUTION FROM INCOME.—"

(B) by amending paragraph (1) to read as follows:

"(1)(A) IN GENERAL.—Subject to subparagraph (B), the student's (and spouse's) contribution from income is determined by—

"(i) adding the student's (and spouse's) adjusted gross income and any income earned from work but not reported on a Federal income tax return, and subtracting excludable income (as defined in section 480);

"(iii) computing the student's (and spouse's) available taxable income by deducting, from the amount determined under clause (i)—

"(I) Federal income taxes;

"(II) an allowance for State and local income taxes, determined in accordance with paragraph (2);

"(III) the allowance for social security taxes, determined in accordance with paragraph (3);

"(IV) an employment expense allowance, determined in accordance with paragraph (4); and

"(V) a maintenance allowance of up to $600 per month, during periods of non-enrollment, for the independent student without dependents, and $5,240 per year, for the spouse of the independent student without dependents, or amounts established by the Secretary in accordance with section 478;

"(iii) assessing such available taxable income in accordance with paragraph (5); and

"(iv) adding to the assessment resulting under clause (iii) the amount of the untaxed income and benefits of the student (and the student's spouse), determined in accordance with section 480(c).

"(B) The student's (and spouses') minimum contribution from income shall be the greater of—

"(i)(I) zero, if the student's (and spouse's) total income is $12,000 or less;

"(II) $780, if the student's (and spouse's) total income is between $12,001 and $15,000, inclusive; and

"(III) $1,200, if the student's (and spouse's) total income is $15,001 or more; or

"(ii) the amount calculated under subparagraph (A).";

(C) in paragraph (3), by inserting "(and the student's spouse)" immediately following "student";

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting immediately following paragraph (3) the following new paragraph:

"(4) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows: If both the student and a spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income. For any award year after award year 1992–1993, this paragraph shall be applied by increasing the dollar amount specified to reflect increases in the amount and percent of the Bureau of Labor Standards' budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-earner versus a one-worker family."; and

(F) in paragraph (5) (as redesignated by subparagraph (D))—

(i) in the matter preceding subparagraph (A)—

(I) by inserting "(and spouse's)" immediately following "student's"; and

(II) by striking out "paragraph (1)(A)" and inserting in lieu thereof "paragraph (1)(A)(i)";

(ii) in subparagraph (A), by striking out "$8,600," and inserting in lieu thereof "$10,600,"; and

(iii) in subparagraph (B), by striking out "$8,600,", "$6,020", and "$8,600." and inserting in lieu thereof "$10,600,", "$7,240", and "$10,600.", respectively; and

(4) in subsection (c)—

(A) in the subsection heading, by inserting "(AND SPOUSE'S) immediately following "STUDENT'S";

(B) in paragraph (1), by inserting "(and spouse's)" after "student's" each place it appears;

(C) in paragraph (2)—

(i) in the paragraph heading, by inserting "(AND SPOUSE'S)" immediately following "STUDENT'S";

(ii) in the matter immediately preceding subparagraph (A) by inserting "(and spouse's)" immediately following "student's");

(iii) in subparagraph (B), by striking out "a displaced worker" through the end thereof and inserting in lieu thereof: "a student (and spouse) with an adjusted gross income of less than $20,000; and"; and

(iv) in subparagraph (C)—

(I) by striking out "a business or farm" and "such business or farm" and inserting in lieu thereof "business or farm assets" and "such business or farm assets", respectively; and

(II) by amending the table therein to read as follows:

"ADJUSTED NET WORTH OF BUSINESS OR FARM ASSETS

If the net worth of business or farm assets is—	Then the adjusted net worth is:
Less than $1	$0
$1–$75,000	$0 + 40 percent of NW
$75,001–$225,000	$30,000 + 50 percent of NW over $75,000
$225,001–$370,000	$105,000 + 60 percent of NW over $225,000
$370,001 or more	$192,000 + 100 percent of NW over $370,000";

and

(D) by amending the table in paragraph (3) to read as follows:

"ASSET PROTECTION ALLOWANCE FOR INDEPENDENT STUDENTS

If the age of the single student, or the average age of the student and spouse, is—	And the student is	
	Married	Single
	Then the asset protection allowance is—	
25 or less	$0	$0
26	500	1,700
27	1,100	3,300
28	1,600	5,000
29	2,100	6,700
30	2,600	8,400
31	3,200	10,000
32	3,700	11,700
33	4,200	13,400
34	4,700	15,100
35	5,300	16,700
36	5,800	18,400
37	6,300	20,100
38	6,800	21,800
39	7,400	23,400
40	7,900	25,100
41	8,100	25,700
42	8,300	26,200
43	8,500	26,800
44	8,700	27,300
45	8,900	28,000
46	9,100	28,700
47	9,400	29,200
48	9,700	29,900
49	9,900	30,600
50	10,200	31,400
51	10,500	32,100
52	10,800	32,900
53	11,100	33,700
54	11,400	34,700
55	11,700	35,500
56	12,100	36,400
57	12,500	37,500
58	12,900	38,300
59	13,300	39,500
60	13,700	40,600
61	14,200	41,700
62	14,700	42,900
63	15,200	44,100
64	15,700	45,400
65 or more	16,200	46,900".

FAMILY CONTRIBUTION FOR MARRIED OR SINGLE INDEPENDENT STUDENTS WITH DEPENDENTS

SEC. 487. Section 477 of the Act is amended—

(1) by amending the section heading to read as follows: "FAMILY CONTRIBUTION FOR MARRIED OR SINGLE INDEPENDENT STUDENTS WITH DEPENDENTS";

(2) by amending subsection (a) to read as follows:

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each married or single independent student with dependents, the expected family contribution is equal to—

"(1) the sum of—

"(A) the family's contribution from income (determined in accordance with subsection (b)); and

"(B) the family's income supplemental amount from assets (determined in accordance with subsection (c)); divided by

"(2) the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested; "except that the amount authorized under this subsection shall not be less than zero.";

(3) in subsection (b)—

(A) by amending the subsection heading to read as follows: FAMILY'S CONTRIBUTION FROM INCOME.—"

(B) by amending paragraph (1) to read as follows:

"(1)(A) IN GENERAL.—Subject to subparagraph (B), the family's contribution from income is determined by—

"(i) calculating the family's available income by deducting from total income (as defined in section 480)—

"(I) Federal income taxes;

"(II) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(III) an allowance for social security taxes, determined in accordance with paragraph (3);

"(IV) a standard maintenance allowance, determined in accordance with paragraph (4);

"(V) an employment expenses allowance, determined in accordance with paragraph (5);

"(VI) a medical-dental expense allowance, determined in accordance with paragraph (6); and

"(VII) an educational expense allowance, determined in accordance with paragraph (7); and

"(ii) assessing the family's available income in accordance with subsection (d).

"(B) The family's minimum contribution from income shall be the greater of—

"(i)(I) zero, if the family's total income is $12,000 or less;

"(II) $780, if the family's total income is between $12,001 and $15,000, inclusive; and

"(III) $1,200, if the family's total income is $15,001 or more; or

"(ii) the amount calculated under subparagraph (A).";

(B) in paragraph (4)—

(i) by striking out "section 479):" and inserting in lieu thereof "section 478):"; and

(ii) by amending the table therein to read as follows:

"STANDARD MAINTENANCE ALLOWANCE

Family size (including student)	Number in college					
	1	2	3	4	5	For each additional subtract
2	$10,370	$8,600				
3	12,910	11,150	9,380			
4	15,940	14,180	12,410	10,640		
5	18,810	17,050	15,280	13,510	11,740	
6	22,010	20,240	18,470	16,700	14,930	$1,770
For each additional add:	2,490	2,490	2,490	2,490	2,490	";

(C) in paragraph (5)—

(i) by striking out "$2,100" each place it appears and inserting in lieu thereof "$2,500"; and

(ii) by striking out "1987–1988," and inserting in lieu thereof "1992–1993,"; and

(D) in paragraph (7), by striking out "instructional";

(4) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(ii) by adding at the end thereof the following:

"except that the family's income supplemental amount from assets shall not be less than zero.";

(B) in paragraph (2)—

(i) in subparagraph (B), by striking out "a dislocated worker" through the end thereof and inserting in lieu thereof: "a family with an adjusted gross income of less than $20,000; and"; and

(ii) in subparagraph (C)—

(I) by striking out "a business or farm" and "such business or farm" and inserting in lieu thereof "business or farm assets" and "such business or farm assets", respectively; and

(II) by amending the table therein to read as follows:

"ADJUSTED NET WORTH OF A BUSINESS OR FARM

If the net worth of a business or farm is	Then the adjusted net worth is
Less than $1	$0
$1–$75,000	$0 + 40 percent of NW
$75,001–$225,000	$30,000 + 50 percent of NW over $75,000
$225,001–$370,000	$105,000 + 60 percent of NW over $225,000
$370,001 or more	$192,000 + 100 percent of NW over $375,000";

and

(C) by amending the table in paragraph (3) to read as follows:

"ASSET PROTECTION ALLOWANCE FOR INDEPENDENT STUDENTS

If the age of the single student, or the average age of the student and spouse, is	And the student is	
	Married	Single
	Then the asset protection allowance is	
25 or less	$0	$0
26	500	1,700
27	1,100	3,300
28	1,600	5,000
29	2,100	6,700
30	2,600	8,400
31	3,200	10,000
32	3,700	11,700
33	4,200	13,400
34	4,700	15,100
35	5,300	16,700
36	5,800	18,400
37	6,300	20,100
38	6,800	21,800
39	7,400	23,400
40	7,900	25,100
41	8,100	25,700
42	8,300	26,200
43	8,500	26,800
44	8,700	27,300
45	8,900	28,000
46	9,100	28,700
47	9,400	29,200
48	9,700	29,900
49	9,900	30,600
50	10,200	31,400
51	10,500	32,100
52	10,800	32,900
53	11,100	33,700
54	11,400	34,700
55	11,700	35,500
56	12,100	36,400
57	12,500	37,500
58	12,900	38,300
59	13,300	39,500
60	13,700	40,600
61	14,200	41,700
62	14,700	42,900
63	15,200	44,100
64	15,700	45,400
65 or more	16,200	46,900";

(5) in subsection (d)—

(A) by striking out "adjusted";

(B) by striking out in the first parenthetical "subsection (a)(1) and hereafter referred to as 'AAI'" and inserting in lieu thereof "subsection (b)(1)(A)(i)"; and

(C) by amending the table therein to read as follows:

ASSESSMENT FROM AVAILABLE INCOME

If available income is	Then the assessment is
Less than zero	Zero
$0 to $9,300	22 percent of AAI
$9,301 to $11,600	$2,046 + 25 percent of AAI over $9,300
$11,601 to $14,000	$2,621 + 29 percent of AAI over $11,600
$14,001 to $16,300	$3,317 + 34 percent of AAI over $14,000
$16,301 to $18,700	$4,099 + 40 percent of AAI over $16,300
$18,701 or more	$5,059 + 47 percent of AAI over $18,700".

UPDATED TABLES

SEC. 488. Section 478 of the Act is amended—

(1) in the section heading, by striking out "REGULATIONS;";

(2) by striking out subsection (a);

(3) by striking out "academic year 1987–1988," and "1986" each place each appears and inserting in lieu thereof "academic year 1992–1993," and "1991", respectively;

(4) in subsection (b), by striking out "and 477(b)(4). Such revised table" and inserting in lieu thereof "and 477(b)(4), and revised maintenance allowances for purposes of section 476(b)(1)(B)(iv). Such revisions";

(5) in subsection (c)(2), by striking out "'$24,000', '$84,000', and '$156,000'" and inserting in lieu thereof "'$30,000', '$105,000', and '$192,000'"

(6) by amending subsection (e) to read as follows:

"(e) ASSESSMENT SCHEDULES AND RATES.—For each academic year after academic year 1992–1993, the Secretary shall publish in the Federal Register revised tables of assessments for the purposes of section 475(e), 476(b)(5), and 477(d). Such revised tables shall be developed—

"(1) by increasing each dollar amount that refers to adjusted available income, available taxable income, and available income in sections 475(e), 476(b)(5) and 477(d), respectively, by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1991 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(2) adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1)."; and

(7) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (a), (b), (c), (d), and (e), respectively.

AID ADMINISTRATOR DISCRETION

SEC. 489. Section 479A of the act is amended—

(1) in subsection (a)—

(A) by striking out the subsection designation and "IN GENERAL.—"; and

(B) by striking out "subparts 1 and 2" each place it appears and inserting in lieu thereof "subpart 2"; and

(2) by striking out subsections (b) and (c).

INDEPENDENT STUDENT AND OTHER DEFINITIONS

SEC. 490. Section 480 of the Act is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking out "paragraphs (2) through (4)," and inserting in lieu thereof "paragraphs (2) and (3), and subsection (e),";

(B) in paragraph (2), by striking out "subpart 2 of part A and parts B, C, and E of";

(C) by striking out paragraph (3); and

(D) by redesignating paragraph (4) as paragraph (3);

(2) in subsection (b), by amending the matter preceding paragraph (1) to read as follows:

"(b) Untaxed Income and Benefits.—The term 'untaxed income and benefits' when applied to parent contributions and the contributions of dependent students or independent students (with or without dependents) means—";

(3) by striking out subsection (c), and inserting in lieu thereof the following new subsection:

"(c) Secretarial Adjustments of Data Elements for Special Circumstances.—The Secretary may prescribe regulations specifying situations in which the data elements considered in determining a student's expected family contribution may be modified to accommodate the special circumstances of the student.";

(4) in subsection (d)—

(A) in paragraph (1)(A), by striking out "24" and inserting in lieu thereof "26";

(B) in paragraph (2)—

(i) in subparagraph (C), by striking out "who declares" through the end thereof and inserting in lieu thereof a semicolon;

(ii) in subparagraph (D), by striking out "who declares" through the end thereof and inserting in lieu thereof a semicolon; and

(iii) by amending subparagraph (F) to read as follows:

"(F) is a single undergraduate student with no dependents who—

"(i) did not live with his or her parents for more than six weeks in the aggregate during the calendar year preceding the award year;

"(ii) will not live with his or her parents for more than six weeks in the aggregate during the first calendar year of the award year; and

"(iii) prior to the disbursal of assistance under this title, demonstrates to the student financial aid administrator self-sufficiency during each of the two calendar years preceding the award year by demonstrating annual total income (excluding resources from parents and student financial assistance and living allowances from programs established under the National and Community Service Act of 1990) that is equal to or exceeds the amount specified in the Department of Labor's Lower Living Standard Income Level, adjusted for a family size of one; or";

(C) by striking out paragraphs (3) and (4); and

(D) by adding at the end thereof the following new paragraph:

"(3) An individual who meets the requirements of paragraphs (1) and (2) may, in unusual circumstances, be determined to a dependent student by a student financial aid administrator, provided that such determination is documented.";

(5) by striking out subsection (e);

(6) by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (i), and (j), respectively;

(7) by inserting immediately following subsection (f) (as redesignated by paragraph (6)) the following new subsections:

"(g) Farm Assets.—The term 'farm assets' means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the consumption of the family, even if some income is derived from incidental sales.

"(h) Business Assets.—The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights."; and

(7) by adding at the end thereof the following new subsections:

"(k) Dependent of the Student.—Except as otherwise provided, the term 'dependent of the student' means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one half of their support from the student and will continue to receive more than half of their support from the student during the award year.

"(l) Dependent of the Parent.—Except as otherwise provided, the term 'dependent of the parent' means the student, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

"(m) Family Size.—(1) In determining family size in the case of a dependent student—

"(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

"(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining available income or the student's contribution from income.

"(2) In determining family size in the case of an independent student with dependents—

"(A) family members include the student, the student's spouse, and the dependents of the student; and

"(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

"(3) In determining family size in the case of an independent student without dependents—

"(A) family members include the student and the student's spouse; and

"(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student.".

Part G—General Provisions

DEFINITIONS

Sec. 491. Section 481 of the Act is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A)—

(I) by striking out "subsection (e),"; and

(II) by striking out "and part B," and "section 1201(a)—" and inserting in lieu thereof a comma, and "section 1001(a)—", respectively;

(ii) by striking out subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(B) by adding at the end thereof the following new paragraph:

"(4)(A) An institution whose cohort default rate, as defined in section 435(k)(1), is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this title for the fiscal year for which the determination is made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue its participation in a program under this part if—

"(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B); or

"(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable. "During such appeal, the Secretary may permit the institution to continue to participate in a program under this title.

"(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

"(i) 35 percent for fiscal years 1991 and 1992;

"(ii) 30 percent for fiscal year 1993; and

"(iii) 25 percent for any succeeding fiscal year.

(C) Until July 1, 1994, this paragraph shall not apply to any institution that is—

"(i) a part B institution within the meaning of section 322(2) of the Act;

"(ii) a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

"(iii) a Navajo Community College under the Navajo Community College Act.".

(2) in subsection (b)—

(A) by striking out "section 1201(a)," each place that it appears and inserting in lieu thereof "section 1001(a),"; and

(B) by adding at the end thereof the following: "If the Secretary determines that a particular category of proprietary institution of higher education does not meet the requirements of paragraph (4) because there is no nationally recognized accrediting agency or association qualified to accredit institutions in such category, the Secretary may, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specifically qualified to evaluate training provided by institutions in such category, which shall make recommendations to the Secretary concerning the standards of content, scope, and quality that must be met in order to qualify institutions in such category to participate in programs under this title, and whether particular schools not meeting the requirements of paragraph (4) meet the standards established by the Secretary after review of the standards recommended by the advisory committee.";

(3) by striking out subsections (c) and (e); and

(4) by redesignating subsection (d) as subsection (c).

AWARD MAXIMUMS FOR SHORT-TERM PROGRAMS

Sec. 492. Part G of Title IV of the Act is further amended by inserting immediately after section 481 the following new section:

"AWARD MAXIMUMS FOR SHORT-TERM PROGRAMS

"Sec. 481A. The maximum grant or loan amount that may be awarded under any grant or loan program under this title to a student enrolled in any course of study of less than one academic year (defined for this purpose as 24 semester or trimester hours, 36 quarter hours, or 900 clock hours) shall not exceed the amount that bears the same relation to the annual statutory maximum for such grant or loan as the course of study measured in semester, trimester, quarter or clock hours bears to one academic year.".

MASTER CALENDAR

SEC. 493. Section 482 of the Act is amended—

(1) in subsection (a)(1)—

(A) by striking out subparagraph (B);

(B) in subparagraph (C), by striking out "final modifications and updates pursuant to sections 411E and 478" and inserting in lieu thereof "updates pursuant to section 478"; and

(C) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively;

(2) in subsection (b), by striking out "section 413D(e), 442(e), or 462()j)," and inserting in lieu thereof "section 413D(d) or 442(d),";

(3) by striking out subsection (c); and

(4) by redesignating subsection (d) as subsection (c).

FORMS

SEC. 494. Section 483 of the Act is amended—

(1) in subsection (a)—

(A) by amending paragraphs (1), (2), and (3) to read as follows:

"(1) The Secretary shall prescribe a common financial reporting form to be used to determine the expected family contribution of a student for purposes of this title. No student or parent shall be charged a fee for processing the form prescribed by the Secretary. A student or parent may be charged a fee for processing an institutional or State financial aid form or data elements that are not required by the Secretary.

"(2)(A) Any need analysis servicer or State that collects information to be used to determine the expected family contribution of a student for purposes of this title, and is certified by the Secretary for this purpose, shall use the common financial reporting form prescribed by the Secretary and forward such information to the central processor designated by the Secretary.

"(B) The central processor designated by the Secretary shall perform all determinations of the expected family contributions of students for purposes of this title.

"(3)(A) The institution of higher education that a student awarded grant, loan, or work assistance under this title is or will be attending shall—

"(i) examine and assess the data used to determine the expected family contribution of the student;

"(ii) recalculate the expected family contribution of the student if there has been a change in the circumstances of the student or in the data submitted;

"(iii)(I) make the award to the student in the correct amount; or

"(II) in the case of a loan made, insured, or guaranteed under part B of this title, certify the correct loan amount; and

"(iv) for purposes of subpart 1 of part A of this title only, after making such award, report the corrected data to the need analysis servicer and the central processor for a confirmation of the correct computation of the amount of the expected family contribution for each such student.

"(B) Whenever a student receives assistance under this title that, due to recalculation errors by the institution of higher education, exceeds the amount that the student should have received, such institution shall—

"(i) pay the Secretary the amount of such excess unless such excess is resolved in a subsequent disbursement to the institution; or

"(ii) in the case of a loan made, insured, or guaranteed under part B of this title, return the amount of such excess to the lender.";

(2) by striking out subsections (b) and (c);

(3) by amending subsection (f) to read as follows:

"(f) NOTICE OF STUDENT AID RECEIPT.—In its notification to each student who receives assistance under this title (except assistance received under subpart 5 of part A) of the type and estimated amount of assistance awarded to such student under this title, each eligible institution shall specify that such assistance is federally supported."; and

(4) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively.

STUDENT ELIGIBILITY

SEC. 495. Section 484 of the Act is amended—

(1) in subsection (a), by amending paragraph (2) to read as follows:

"(2) satisfy the minimum academic achievement standards specified in subsection (c);";

(2) in subsection (c)—

(A) by amending the heading to read as follows: "MINIMUM ACADEMIC ACHIEVEMENT STANDARDS.—";

(B) by amending paragraph (1) to read as follows:

"(1) For the purposes of subsection (a)(2), any student, other than a student entering his or her first year of postsecondary education, must achieve academic standing above the bottom ten percent of his or her postsecondary class, as determined by grade point averages (or is equivalent, if the institution does not use a system of ranking its students by grade point averages) on a cumulative basis and including the most recent grading period for which academic standing information is available.";

(C) in paragraph (2), by striking out "for graduation," and inserting in lieu thereof "of this subsection,"; and

(D) in paragraph (3)(C), by striking out the period at the end thereof and inserting in lieu thereof "in accordance with the regulations of the Secretary.";

(3) in subsection (c), by striking out "by the institution," each place it appears and inserting in lieu thereof "by the institution subject to such minimum standards as the Secretary may prescribe in regulations,";

(4) in subsection (d), by striking out "approved by the Secretary." and inserting in lieu thereof "that meets such standards for development, administration, and scoring as the Secretary may prescribe in regulations.";

(5) by striking out subsections (f), (h), (i), and (j); and

(6) by inserting immediately preceding subsection (g) the following new subsection:

"(f) VERIFICATION OF IMMIGRATION STATUS.—(1) The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that he or she satisfies the requirements of subsection (a)(5) shall be verified prior to the individual's receipt of grant, loan, or work assistance under this title.

"(2) The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.".

BORROWER INFORMATION

SEC. 496. Section 485(b) of the Act is amended—

(1) by amending the subsection heading to read as follows: EXIT COUNSELING FOR BORROWERS; BORROWER INFORMATION.—"; and

(2) by adding at the end thereof the following: "Each eligible institution shall require that the borrower of a loan made under part B, part D, or part E submit to the institution, during the exit interview required by this subsection, the borrower's expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower's expected employer after leaving the institution; and the address of the borrower's next of kin. In the case of a loan made under part B, the institution shall then submit this information to the holder of the loan.".

REPEAL; INSTITUTIONAL REFUNDS

SEC. 497. (a) Section 486 of the Act is repealed.

(b) Part G of Title IV of the Act is amended by inserting immediately following section 485B the following new section:

"INSTITUTIONAL REFUNDS

"SEC. 486. (a) Each institution of higher education participating in a program under this title shall have in effect a fair and equitable refund policy under which the institution refunds unearned tuition, fees, room and board, and other charges to a student who received grant, loan, or work assistance under this title, or whose parent received a loan made under section 428B on behalf of the student, if the student—

"(1) does not register for the period of attendance for which the assistance was intended; or

"(2) withdraws or otherwise fails to complete the period of enrollment for which the assistance was provided.

"(b) The institution shall provide a written statement containing its refund policy, together with examples of the application of this policy, to a prospective student prior to the student's enrollment, and make its refund policy known to currently enrolled students. The institution shall include in its statement the procedures that a student must follow to obtain a refund, but whether or not the student follows those procedures, the institution shall, in accordance with subsection (e), pay to the lender the portion of a refund allocable to the student's loans made, insured, or guaranteed under section 427, 428, 428A, or 428B, and return the portion of the refund allocable to another program under title IV of the Act to the appropriate account for that program. If the institution changes its refund policy, it shall ensure that all students are made aware of the new policy.

"(c) The institution's refund policy shall be considered to be fair and equitable for purposes of this section if that policy provides for a refund in an amount of at least the largest of the amounts provided under—

"(1) the requirements of applicable State law;

"(2) the specific refund requirements established by the institution's nationally recognized accrediting agency and approved by the Secretary;

"(3) if no such standards exist, the specific refund policy standards set by another association of institutions of postsecondary education and approved by the Secretary; or

"(4) the pro rata refund calculation described in subsection (d), except that this paragraph will not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the halfway point (in time) in the period of enrollment for which the student has been charged.

"(d)(1) As used in this section, the term 'pro rata refund' means a refund by the institution of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last recorded day of attendance by the student, rounded downward to the nearest 10 percent of that period, less any unpaid charges owed by the student for the period of enrollment for which the student has been charged, and less a reasonable administrative fee not to exceed the lesser of 5 percent of the tuition, fees, room and board, and other charges assessed the student, or $100.

"(2) For purposes of paragraph (1), 'the portion of the period of enrollment for which the student has been charged that remains' shall be determined—

"(A) in the case of a program that is measured in credit hours, by dividing the total number of weeks comprising the period of enrollment of which the student has been charged into the number of weeks remaining in that period as of the last recorded day of attendance by the student;

"(B) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the period of enrollment for which the student has been charged into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance by the student; and

"(C) in the case of a correspondence program, by dividing the total number of lessons comprising the period of enrollment for which the student has been charged into the total number of such lessons not submitted by the student.

"(e) For purposes of this section, a refund shall be credited against grant, loan, or work assistance awarded under this title on a pro rata basis.".

(c) Section 485(a)(1)(F) of the Act is amended by inserting a comma and "in accordance with section 486," immediately following "institution".

PROGRAM PARTICIPATION AGREEMENTS

SEC. 498. Section 487 of the Act is amended—

(1) in subsection (a), by adding at the end thereof the following new paragraphs:

"(13) The institution acknowledges the authority of the Secretary, guaranty agencies, accrediting agencies, and State licensing bodies under section 1011 to share with each other any information pertaining to the institution's eligibility to participate in programs under this title.

"(14) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments to any persons or entities engaged in any student recruiting or admission activities or in making decisons regarding the award of student financial assistance.".

(2) in subsection (b)(2), by striking out "on the record,"

"(3) in subsection (c)—

"(A) in paragraph (1)(D), by striking out "on the record," and inserting in lieu thereof a comma; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking out "on the record," and inserting in lieu thereof a comma; and

(ii) in subparagraph (B)(i), by striking out "on the record," and inserting in lieu thereof a comma; and

(4) by adding at the end thereof the following new subsection:

"(e) CONDITIONAL CERTIFICATION OF INSTITUTIONAL ELIGIBILITY.—(1) Notwithstanding any other provision of law, the Secretary is authorized to conditionally certify an instutition's eligibility to participate in programs under this title if—

"(A) the institution's administrative capability and financial responsibility is being determined for the first time:

"(B) there is a complete or partial transfer of ownership of an eligible institution; or

"(C) the Secretary deems that an institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement.

"(2) The Secretary may conditionally certify an institution under this subsection for up to three complete award years.

"(3) If, prior to the end of a period of conditional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this title after notice and opportunity for a hearing.".

WAGE GARNISHMENT

SEC. 499. (a) Part G of title IV of the Act is further amended by inserting immediately following section 488 the following new section:

"WAGE GARNISHMENT REQUIREMENTS

"SEC. 488A. (a) GARNISHMENT REQUIREMENTS.—Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this title that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayments under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B on which the guaranty agency received reimbursement from the Secretary under section 428(c), with the guaranty agency holding the loan, as appropriate, provided that—

"(1) the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

"(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

"(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

"(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

"(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

"(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph; and

"(7) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

"(b) HEARING REQUIREMENTS.—A hearing described in subsection (a)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2), and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(c) NOTICE REQUIREMENTS.—The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(d) DEFINITION.—For the purpose of this section, the term 'disposable pay' means that part of the compensation of any individual remaining after the deduction of any amounts required by law to be withheld.".

(b) Section 428E of the Act is repealed.

(c) Section 428(c)(6) of the Act is amended by striking out subparagraph (D).

DATA MATCHING

SEC. 499A. Part G of title IV of the Act is further amended by inserting immediately following section 489 the following new section:

"DATA MATCHING

"SEC. 489A. (a)(1) The Secretary is authorized to obtain information from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States, or of any State, concerning the most recent address of an individual obligated on a loan held by the Secretary or a loan made in accordance with part B of this title held by a guaranty agency, or an individual owing a refund of an overpayment of a grant awarded under this title, and the name and address of such individual's employer, if the Secretary determines that such information is needed to enforce the loan or collect the overpayment.

"(2) The Secretary is authorized to provide the information described in paragraph (1) to a guaranty agency holding a loan made under part B of this title on which such individual is obligated.

"(b)(1) Notwithstanding any other provision of law, whenever the head of any department, agency, or instrumentality of the United States or of a State receives a request from the Secretary for information authorized under this section, such individual or his designeee shall promptly cause a search to be made of the records of the agency to determine whether the information requested is contained in those records.

"(2)(A) If such information is found, the individual shall, in conformance with the provisions of the Privacy Act of 1974, as amended, immediately transmit such information to the Secretary, except that if disclosure of this information would contravene national policy or security interests of the United States, or the confidentiality of census data, the individual shall immediately so notify the Secretary and shall not transmit the information; or

"(B) if no such information is found, the individual shall immediately so notify the Secretary.

"(3)(A) The reasonable costs incurred by any such agency of the United States or of a State is providing any such information to the Secretary shall be reimbursed by the Secretary, and retained by the agency.

"(B) Whenever such information is furnished to a guaranty agency, that agency shall be charged a fee to be used to reimburse the Secretary for the expense of providing such information.

"(c) The Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access for the Secretary, in accordance with this section, to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.".

CRIMINAL PENALTIES

SEC. 499B. Section 490 of the Act is amended—

(1) in subsection (a), by inserting immediately after "under this title" a comma and "or attempts to so embezzle, misapply, steal, or obtain such funds, assets, or property,";

(2) in subsection (b), by inserting immediately after "under this title" a comma and "or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment,";

(3) in subsection (c), by inserting immediately after "under part B" a comma and "or attempts to make such unlawful payment"; and

(4) in subsection (d), by inserting immediately after "under this title" a comma and "or attempts to so destroy or conceal".

TECHNICAL AMENDMENTS

SEC. 499C. (a) Section 485(a)(1) of the Act is amended by redesignating subparagraph (L) (as added by P.L. 101-610) as subparagraph (M).

(b) Section 485B(a) of the Act is amended—

(1) in paragraph (9), by striking out "and" at the end thereof;

(2) in paragraph (10), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by redesignating paragraph (5) (as added by P.L. 101-160) as paragraph (11).

AMENDMENTS TO OTHER LAWS

SEC. 499D. Section 3(c) of the Higher Education Technical Amendments of 1991 (P.L. 102-26) is amended by striking out "that are brought before November 15, 1992".

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

REPEALS

SEC. 501. Sections 501 and 502 of the Act are repealed.

PARTNERSHIPS FOR INNOVATIVE TEACHER EDUCATION

SEC. 502. Part A of title V of the Act is amended to read as follows:

"PART A—PARTNERSHIPS FOR INNOVATIVE TEACHER EDUCATION FINDINGS"

"SEC. 511. The Congress finds as follows:

"(1) All students must master challenging subject matter and learn to be critical thinkers and self-directed learners, so that they will be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

"(2) Teachers must have a thorough understanding of the content they teach and knowledge and skill in how to teach it to all students.

"(3) Teachers learn to teach most effectively in clinical, school-based settings with prospective and novice teachers working under the guidance of master teachers.

"(4) Research and development for improving teaching practices and student learning can and should be done by and with teachers for use in their particular schools.

"(5) School-based research and development is an effective way to generate knowledge that is needed for improving teaching and learning.

"(6) To be effective, training provided prospective teachers by institutions of higher education must be responsive to the needs of schools and teachers.

"(7) The business community has an important role to play in encouraging school-based research and development to improve teaching and learning.

"(8) Interested and committed individuals who possess demonstrated subject area competence but have pursued no formal study in the field of education should be assisted in entering the teaching profession.

"PURPOSE

"SEC. 512. It is the purpose of this part to assist in the establishment of teaching schools for the improvement of teacher education and teaching by providing financial assistance to partnerships involving institutions of higher education and elementary and secondary schools, with the support and collaboration of the State and local educational agencies, other educational organizations, social or human service agencies, other community organizations, and the business community.

"PROGRAM AUTHORITY

"SEC. 513. (a) AUTHORITY.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, State educational agencies, local educational agencies, institutions of higher education, and consortia of such agencies and institutions to plan, establish, and operate teaching schools to develop and put into practice the best knowledge about teaching.

"(b) DEFINITIONS.—For the purpose of this part, the term—

"(1) 'teaching school' means an elementary or secondary school whose mission, in addition to providing the best possible education to its students, is to provide a site for formal collaboration between one or more institutions of higher education and the school for the purpose of—

"(A) the training of prospective and beginning teachers under the guidance of master teachers and teacher educators;

"(B) the continuing development of experienced teachers; and

"(C) research and development to improve teaching and learning; and

"(2) 'institution of higher education' shall not include proprietary schools.

"(c) AWARDS AND RENEWALS.—(1)(A) An award made under this part shall be for a term of three years.

"(B) An award made under this part may be renewed without further competition for a period of two additional years, if the Secretary determines that the award recipient—

"(i) has achieved the goals set out in its application for the original term;

"(ii) shows promise of continuing its progress;

"(iii) will meet its share of the project costs; and

"(iv) has developed, during the final year of the original term, a plan for continuing the teaching school after federal funding is no longer available.

"(2) No teaching school may be supported with funds provided under this part for a period of more than five years.

"APPLICATIONS

"SEC. 514. (a) APPLICATIONS.—(1) Any State educational agency, local educational agency, institution of higher education, or consortium of such agencies and institutions desiring to receive an award under this part shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(2) Each such application shall include—

"(A) an identification of the elementary or secondary school, or schools, that will operate as teaching schools;

"(B) an identification of the institution, or institutions, of higher education that will be the partner in each teaching school;

"(C) a statement of the goals to be achieved during the initial period of the award;

"(D) a plan for evaluating the effectiveness of the teaching school in meeting the goals it has developed for teacher and student performance; and

"(E) estimates of the number of prospective and beginning teachers to be trained in the teaching school in each year of the project and assurances that a significant number of prospective and beginning teachers will be trained in the teaching school in each year of the project.

"(b) PRIORITIES.—In making awards under this part, the Secretary shall give priority to applicants that—

"(1) select teaching school sites based on need, as evidenced by measures such as a high rate of teacher attrition and a high proportion of the student body at risk of educational failure;

"(2) propose projects that demonstrate the active support of the State educational agency, the local educational agency, and the university or college; and

"(3) propose projects that demonstrate collaboration with other educational organizations, social or human service agencies, other community organizations, and the business community in the teaching school's operation.

"(c) SPECIAL RULES.—(1) An application from a State educational agency must describe how the agency will address the need to change or waive a State rule or regulation that is found by a teaching school to impede the school's progress in achieving its goals.

"(2) An application from a local educational agency must describe how the agency will address the need to change or waive a local rule or regulation that is found by a teaching school to impede the school's progress in achieving its goals.

"(3) An application from an institution of higher education must describe how the School of Education, the School of Arts and Sciences, and any other department of the institution will be involved in the program.

"USES OF FUNDS

"SEC. 515. (a) USES OF FUNDS.—(1) Applicants may use funds awarded under this part for the planning, establishment, and operation of teaching schools, including—

"(A) staff development;

"(B) purchase of books, materials, and equipment, including new technology;

"(C) minor remodeling;

"(D) payment of personnel directly related to the operation of the teaching school program;

"(E) participation in the activities of a network of teaching schools; and

"(F) other costs incidental to planning, establishing, or operating teaching schools.

"(2) The Secretary may limit the amounts of funds that may be used for minor remodeling and the purchase of equipment under this part.

"(b) AUTHORIZED ACTIVITIES.—Teaching schools shall use funds under this part for the following activities:

"(1) Training activities for prospective teachers in the school setting.

"(2) Internship training and other induction activities for prospective and beginning teachers, including those seeking to enter teaching alternate routes or alternative certification.

"(3) Training and other activities to promote the continued learning of experienced teachers, especially in their subject matter knowledge and how to teach it.

"(4) Participation of experienced teachers in the internship training and assessment of prospective and beginning teachers.

"(5) Participation of higher education faculty with expertise in pedagogy in the school-based training and continuing development of teachers.

"(6) Activities designed to increase beginning and experienced teachers' understanding and use of research findings.

"(7) Participation of expert practicing teachers and administrators in the university-based education studies of prospective teachers.

"(8) Participation of faculty with expertise in the liberal arts and sciences in the training of prospective and beginning teachers and in the continuing development of experienced teachers.

"(9) Experimentation and research conducted in the school by teachers and university faculty to improve teaching and learning.

"(10) Activities designed to disseminate information about the lessons learned in the teaching school with other teachers in the district's schools.

"(11) Other activities proposed by the applicant and approved by the Secretary.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 516. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $20,000,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) RESERVATIONS.—The Secretary is authorized to reserve up to five percent of the amount appropriated for each fiscal year under subsection (a) to—

"(1) study the planning and implementation processes and the results of the teaching schools established under this program;

"(2) disseminate findings of such studies to researchers, practitioners, policymakers, and parents;

"(3) provide technical assistance to teaching schools; and

"(4) support the development of a network or networks of teaching schools.

"(c) COST SHARING.—The Federal share of the cost of the activities set forth in an approved application shall be 75 percent for the first three years and 50 percent for the last two years. The non-Federal share may be provided in cash or in kind.".

SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

SEC. 503. Part B of title V of the Act is repealed.

PROFESSIONAL DEVELOPMENT AND LEADERSHIP PROGRAM

SEC. 504. Part C of title V of the Act is amended—

(1) by redesignating part C as part B;

(2) by striking out the subpart 1 heading;

(3) by amending section 531 to read as follows:

"AUTHORIZATION

"SEC. 521. There are authorized to be appropriated $370,000 for fiscal year 1992 for the purpose of completing the final year of funding for the territories under subpart 2 of part C of title V of the Act, as in effect prior to the effective date of the Higher Education Act Amendments of 1991."; and

(4) by repealing section 532 through to the end of the part.

TEACHER SCHOLARSHIPS AND FELLOWSHIPS

SEC. 505. (a) HEADING.—Part D of title V is amended by striking out the part heading and inserting in lieu thereof "PART C—TEACHER SCHOLARSHIPS AND FELLOWSHIPS".

(b) CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAM (PAUL DOUGLAS).—Subpart 1 of Part D of title V of the Act is amended—

(1) by amending the subpart heading to read as follows: "Subpart 1—Paul Douglas Teacher Scholarship Program";

(2) by striking out "Congressional Teacher Scholarship" each place it appears in subpart 1 and inserting in lieu thereof "Paul Douglas Scholarship";

(3) in section 551, by striking out "during fiscal years 1987 through 1991 to a maximum of 10,000 individuals who are outstanding high school graduates and who demonstrate an interest in teaching," and inserting in lieu thereof "to outstanding high school graduates or college students who demonstrate an interest in teaching,";

(4) in section 552—

(A) by amending the section heading to read "AUTHORIZATION AND ALLOCATIONS";

(B) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively;

(C) by adding a new subsection (a) to read as follows:

"(a) AUTHORIZATION.—There are authorized to be appropriated $14,639,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years to carry out this subpart."; and

(D) in subsection (b), as redesignated, by striking out "pursuant to section 502(d)";

(5) in section 553(b)—

(A) by amending the paragraph to read as follows:

"(4) provides assurances that each recipient eligible under section 535(b) of this part who receives a Paul Douglas Scholarship for either or both of the two academic years prior to completion of a program of study for which the recipient would receive a teaching certificate, shall enter into an agreement with the State agency under which the recipient shall—

"(A) teach for a period of not less than one year for each year for which assistance was received, in a public or private nonprofit school or education program at the preschool, elementary, or secondary level in any State or outside the United States in schools sponsored by the Department of Defense;

"(B) within the four year period after completing the program of study for which the Paul Douglas Scholarship was awarded, complete the teaching obligation specified in subparagraph (A), except that scholars who receive assistance under this subpart for one academic year or less shall complete such teaching obligation within the three-year period after completing the program of study for which the Paul Douglas Scholarship was awarded;

"(C) provide the State agency evidence of compliance with section 536 of this title as required by the State agency; and

"(D) repay all or part of a Paul Douglas Scholarship received under section 534 of this title plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 537 of this title, in the event that the conditions of subparagraphs (A) and (B) are not complied with, except as provided for in section 538 of this title.";

(B) in paragraph (8), by striking out "and" following the semicolon;

(C) in paragraph (9), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(D) by adding a new paragraph (10) to read as follows:

"(10) provide assurances that recipients of assistance under this part will sign a statement of their intention to pursue a teaching career at the preschool, elementary, or secondary level and be enrolled in a State-approved program of teacher education.";

(6) in section 555(b), by inserting "or who are maintaining at the postsecondary level a 3.25 or better grade point average on a 4-point grade scale, or the equivalent grade average on another scale" before the period at the end of the first sentence thereof; and

(7) by redesignating sections 551 through 559 as sections 531 through 539, respectively.

(c) CHRISTA MCAULIFFE FELLOWSHIP PROGRAM.—Subpart 2 of part D of title V of the Act is amended—

(1) in section 563—

(A) by amending subsection (a) to read as follows:

"(a) AUTHORIZATION AND ALLOTMENTS.—(1) There are authorized to be appropriated $2,036,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years to carry out this subpart.

"(2)(A) Funds awarded under this subpart shall be allotted to each State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and Palau (only to the extent authorized by section 104(c) of Public Law 99-658 and until the effective date of the Compact of Free Association with the Government of Palau) based on the number of public school teachers in each State and the jurisdictions enumerated above in proportion to the total number of public school teachers in all the States and the jurisdictions enumerated above.

"(B) No State or jurisdiction enumerated in subparagraph (A) shall receive less than the average national salary of public school teachers, in the most recent year for which satisfactory data are available as determined by the Secretary.

"(3)(A) Fellowship awards may not exceed the national average salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary.

"(B) Christa McAuliffe teacher fellows may not receive an award for two consecutive years.

"(C) Subject to the repayment of provisions of section 566, Christa McAuliffe teacher fellows shall be required to return to a teaching position in their current school district or private, nonprofit school for at least two years following the fellowship award; provided that the Secretary is authorized, in extraordinary circumstances, to waive or defer all or a portion of the service requirement, or to allow fellows to fulfill their service requirement by going to a teaching position in another school or school district."; and

(B) by striking out paragraph (3);

(2) in section 564—

(A) by inserting "(a) STATEWIDE SELECTION PANEL.— before "recipients"; and

(B) by adding a subsection (g) to read as follows:

"(b) PRIORITY.—In making awards under this part, States, consistent with State law, shall give priority to applicants that propose fellowship projects that involve pursuit of eligible activities on a full-time basis as part of a sabbatical.";

(3) in section 565—

(A) by striking out "(a) and the subsection heading; and

(B) by striking out subsection (b); and

(4) by redesignating sections 561 through 566 as sections 541 through 546, respectively.

STATE TASK FORCES ON TEACHER TRAINING

SEC. 506. Part E of title V of the Act is repealed.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

LANGUAGE AND AREA CENTERS

SEC. 601. Section 602 of the Act is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

PERIODICALS

SEC. 602. Part A of title VI of the Act is amended—

(1) by repealing section 607; and

(2) by redesignating sections 608 and 609 as sections 607 and 608, respectively.

AUTHORIZATION OF APPROPRIATIONS

SEC. 603. (a) Part A of title VI of the Act is further amended by repealing section 610.

(b) Part B of title VI of the Act is amended by repealing section 614.

(c) Part C of title VI of the Act is amended by adding a new section 621 to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 612. There are authorized to be appropriated to carry out this title $28,670,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 604. (a) Section 602(a) of the Act is amended—

(1) by amending paragraph (1) to read as follows:

"(a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs and undergraduate language and area centers and programs. Such centers and programs shall be national resources for—

"(A) teaching any modern foreign language;

"(B) instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used;

"(C) research and training in international studies and the international and foreign language aspects of professional and other fields of study; and

"(D) instruction and research in affairs that concern one or more countries."; and

(2) in paragraph (3), by striking out "centers described in paragraph (1)(A)" and inserting in lieu thereof "comprehensive language and area centers".

(b) Section 605 of the Act is amended—

(1) by striking out subsection (b);

(2) in subsection (a)(2)(C), by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "paragraphs (1) and (2); and

(3) by redesignating subsections (a)(1), (a)(2), (a)(2)(A), (a)(2)(B), (a)(2)(C), (a)(3), (a)(3)(A), (a)(3)(B), (a)(3)(C), and (a)(4) as subsections (a), (b), (b)(1), (b)(2), (b)(3), (c), (c)(1), (c)(2), (c)(3), and (d), respectively.

(c) Section 611(a) of the Act is amended—

(1) in paragraph (3), by striking out "presently" and inserting in lieu thereof "currently"; and

(2) in paragraph (4), by inserting a comma after "chambers of commerce".

(d) Section 612 of the Act is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing, and operating centers for international business education that shall—

"(A) be national resources for the teaching of improved business techniques, strategies, and methodologies that emphasize the international context in which business is transacted;

"(B) provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners; and

"(C) provide research and training in the international aspects of trade, commerce, and other fields of study.

"(2) In addition to providing training to students enrolled in the institution of higher education in which such center is located, such centers shall serve as regional resources to businesses located in proximity to such centers by offering programs and providing research designed to meet the international training needs of such businesses.";

(2) in subsection (b)—

(A) by inserting a comma after "establishing";

(B) in paragraph (1), by striking out the comma after "countries" and inserting in lieu thereof a semicolon;

(C) in paragraph (2), by striking out the comma after "materials" and inserting in lieu thereof a semicolon;

(D) in paragraph (3), by striking out the comma after "development" and inserting in lieu thereof a semicolon; and

(E) in paragraph (4), by striking out "research, and" inserting in lieu thereof "research; and";

(3) in subsection (c)(1)(C), by inserting a comma after "professionals";

(4) in subsection (d)(2)—

(A) by striking out "Center Advisory Council" and inserting in lieu thereof "center advisory council"; and

(B) in subparagraph (E), by striking out "representative" and inserting in lieu thereof "representatives";

(5) in subsection (e)(2)—

(A) by inserting a comma after "establishing";

(B) in subparagraph (A), by striking out the comma after "furnished" and inserting in lieu thereof a semicolon; and

(C) in subparagraph (B), by inserting a semicolon after "year"; and

(6) in subsection (f)—

(A) in paragraph (1)(D), by striking out "by institutions of higher education described in subsection (c)(1)" and inserting in lieu thereof "under this section by such institution or combination of institutions";

(B) by striking out the paragraph designation "(1)"; and

(C) by redesignating subparagraphs (A), (B), (C), and (D) as paragraphs (1), (2), (3), and (4), respectively.

(e) Section 613 of the Act is amended—

(1) in subsection (b)(10), by striking out "the establishment" and inserting in lieu thereof "establishment"; and

(2) in subsection (c)—

(A) by inserting a comma after "trade organization" and "improving"; and

(B) by striking out "by institutions of higher education described in subsection (b)" and inserting in lieu thereof "under this section by such institution".

(f) Section 622 of the Act is amended—

(1) in paragraph (1), by inserting a comma after "international relations";

(2) in paragraph (3), by inserting a comma after "teaching" and "laws"; and

(3) in paragraph (6)—

(A) by striking out "language an area studies programs, professional" and inserting in lieu thereof "language and area studies programs, or professional";

(B) by inserting a comma after "curriculum development"; and

(C) by striking out the comma after "baccalaureate degree programs", "foreign language knowledge", and "works in translation" and inserting in lieu thereof a semicolon.

TITLE VII—COLLEGE FACILITIES LOANS AND INSURANCE

COLLEGE FACILITIES LOANS AND INSURANCE

SEC. 701. (a) PURPOSES AND AUTHORIZATION OF APPROPRIATIONS.—Title VII of the Act is amended—

(1) by striking out the title designation "TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES" and inserting in lieu thereof "TITLE VII—COLLEGE FACILITIES LOANS AND INSURANCE";

(2) by amending section 701 to read as follows:

"PURPOSE

"SEC. 701. It shall be the purpose of this title to provide higher education institutions with access to private capital construction debt through the College Construction Loan Insurance Association and to provide for the servicing of the remaining loan portofolio of the Higher Education Facilities Loans, the College Housing Loans, and the College Housing and Academic Facilities Loans authorized by this title prior to the effective date of the enactment of the Higher Education Amendments of 1991."; and

(3) by repealing section 702.

(b) REPEALS.—Title VII of the Act if further amended by repealing Parts A, B, C, D, F, and G thereof.

(c) COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION.—Part E of title VII of the Act is amended—

(1) by redesignating Part E as Part A; and

(2) by redesignating sections 751 through 760 as sections 711 through 720, respectively.

(d) GENERAL.—Part H of Title VII of the Act is amended—

(1) by redesignating Part H as Part B;

(2) in section 781—

(A) in subsection (a), by inserting a comma and "as in effect before the effective date of the Higher Education Act Amendments of 1991," after "A or B of this title"; and

(B) in subsection (b), by inserting a comma and "as in effect before the effective date of the Higher Education Act Amendments of 1991," after "A or B of this title";

(3) in section 782—

(A) in paragraph (1)(A), by inserting a comma and "as in effect before the effective date of the Higher Education Act Amendments of 1991," after "part A or C";

(B) in paragraph (3)(A)(i), by inserting a comma and "as in effect before the effective date of the Higher Education Act Amendments of 1991," after "part A or B"; and

(C) in paragraph (3)(A)(ii), by inserting a comma and "as in effect before the effective date of the Higher Education Act Amendments of 1991" after "part C"; each place it occurs;

(4) by redesignating sections 781 through 783 as sections 731 through 733, respectively; and

(5) by adding a new section 734 to read as follows:

"PRIOR RIGHTS AND OBLIGATIONS UNDER TITLE VII

"SEC. 734. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1992, and for each of the four succeeding fiscal years, to pay obligations incurred prior to 1987 under Parts C, D, and F of this title, as in effect before the effective date of the Higher Education Act Amendments of 1991.

"(b) LEGAL RESPONSIBILITIES.—All entities with continuing obligations incurred under Parts A, B, C, D, and F of this title, as in effect before the effective date of the Higher Education Act Amendments of 1991, shall be subject to the requirements of those parts as in effect before the effective date of the Higher Education Act Amendments of 1991.".

TITLE VIII—COOPERATIVE EDUCATION

GENERAL PROVISIONS

SEC. 801. Section 801 of the Act is amended—

(1) by amending the section heading to read "GENERAL PROVISIONS";

(2) in subsection (a), by striking out "$17,000,000 for fiscal year 1987" and inserting in lieu thereof "$13,175,000 for fiscal year 1992";

(3) in subsection (b)—

(A) in paragraph (1), by adding "and" after the semicolon at the end thereof;

(B) by amending paragraph (2) to read as follows:

"(2) not to exceed 25 percent shall be available for carrying out grants and contracts under section 803."; and

(C) by striking out paragraphs (3) and (4); and

(4) by adding at the end thereof two new subsections to read as follows:

"(d) DEFINITION.—As used in this title, the term 'cooperative education' means the provisions of alternating or parallel periods of academic study and public or private employment in order to give students work experience related to their academic or occupational objective and an opportunity to earn the funds necessary for continuing and completing their education.

"(e) PURPOSE.—The purpose of this title is award grants to institutions of higher education to encourage these institutions to develop and make available to as many of their students as possible programs of cooperative education in order to provide work experience that will aid these students in future careers and will enable them to support themselves financially while in school.".

MATCHING REQUIREMENTS

SEC. 802. Section 802 of the Act is amended—

(1) in subsection (b)—

(A) by amending paragraph (3) to read as follows:

"(3) describe the plans that the applicant will carry out to increase the applicant's share of the fiscal support for the program to ensure that the total amount expended for such program in subsequent years of the grant is not less than the total amount expended for such program during the initial year of Federal assistance;" and

(B) in paragraph (4), by inserting a comma and "at not less than the total amount expended during the initial year of Federal assistance," immediately after "continue the cooperative education program"; and

(2) by adding at the end thereof a new subsection to read as follows:

"(e) MAINTENANCE OF EFFORT.—If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort required under subsection (b)(3), the Secretary may elect not to make a contribution award under this section to the recipient. Pursuant to subsection (b)(4), each recipient of funds under this section shall provide to the Secretary information documenting its maintenance of fiscal effort beyond the 5-year period of Federal assistance as required by the Secretary through notification in the Federal Register.".

APPLICATION REQUIREMENTS

SEC. 803. (a) Section 802(b) of the Act is further amended—

(1) in paragraph (7), by striking out "and" at the end thereof;

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting after paragraph (7) two new paragraphs to read as follows:

"(8) describe the extent to which programs in the academic discipline for which the application is made have had a favorable reception by public and private sector employers;

"(9) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period and to disseminate the results of this evaluation; and".

(b) Section 802(d) of the Act amended—

(1) by striking out paragraph (1); and

(2) in paragraph (2)—

(A) by striking out the paragraph designation "(2)";

(B) by striking out "also"; and

(C) by striking out "which demonstrate" and all that follows through the end thereof and inserting in lieu thereof "that demonstrate a commitment to serving disadvantaged students and studens with disabilities.".

DURATION OF GRANTS

SEC. 804. Section 802(c) of the Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) Except as provided in subparagraph (B), no institution of higher education may receive, individually or as a participant in a combination of such institutions, more than one grant, for a period of not more than 5 years, under this section.

"(B) Any institution of higher education that received a grant under this section prior to enactment of the Higher Education Act Amendments of 1991 shall be eligible to receive not more than one additional grant, of not more than 5 years, under this section.";

(2) by striking out paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

TRAINING AND RESOURCE CENTERS

SEC. 805. Section 803(a)(2)(B) of the Act is amended by inserting a comma and "in conjunction with other activities listed in this paragraph" after "programs".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 806. (a) Section 802(a) of the Act is amended—

(1) in paragraph (2)—

(A) by striking out subparagraph (A); and

(B) by striking out subparagraph designation "(B)".

(b) Section 820(b) of the Act is further amended—

(1) by inserting a comma after "combination of institutions"; and

(2) in paragraph (6), by inserting a comma after "including" and "receives a grant".

(c) Section 803(a) of the Act is amended—

(1) by inserting "from the amount available under section 801(b)(2) in each fiscal year and" after "The Secretary is authorized,";

(2) in paragraph (1), by striking out "from the amounts available in each fiscal year under section 801(b)(2)";

(3) in paragraph (2), by striking out "expand comprehensive cooperative education programs," and inserting in lieu thereof "expand comprehensive cooperative education programs; and";

(4) by striking out the flush left language at the end of paragraph (2); and

(5) in paragraph (3), by striking out "cooperative education, from the amounts available in each fiscal year under section 801(b)(4)" and inserting in lieu thereof "cooperative education".

TITLE IX—POSTSECONDARY IMPROVEMENT PROGRAMS

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 901. Part A of Title X of the Act is amended—

(1) in section 1001, by striking out the text and the dash immediately before paragraph (1) and inserting in lieu thereof "The Secretary is authorized to make grants to, and enter into contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private institutions and agencies (except that no grant shall be made to an institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by:";

(2) by repealing section 1002;

(3) in section 1003—

(A) in subsection (a), by inserting immediately before the period at the end of the first sentence a comma and "with a Director appointed by the Secretary";

(B) in subsection (c)—

(i) in paragraph (1), by adding "and" at the end thereof;

(ii) by striking out paragraphs (2) and (4); and

(iii) by striking out paragraph (3) and inserting in lieu thereof the following:

"(2) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions under the program.";

(4) in section 1004—

(A) by striking out the subsection designation "(a)"; and

(B) by striking out subsection (b);

(5) in section 1005—

(A) by striking out "$14,500,000" and inserting in lieu therof "$14,639,000"; and

(B) by striking out "1987" and inserting in lieu thereof "1992"; and

(6) by redesignating sections 1001, 1003, 1004, and 1005 as sections 901, 902, 903, and 904, respectively.

MINORITY SCIENCE IMPROVEMENT PROGRAM

SEC. 902. Part B of Title X of the Act is amended—

(1) in the Part B heading, by striking out "MINORITY SCIENCE AND ENGINEERING PROGRAMS" and inserting in lieu thereof "MINORITY SCIENCE IMPROVEMENT PROGRAM";

(2) in section 1021(a), by striking out "Institutions";

(3) in section 1022—

(A) in subsection (b), by striking out "Institutions"; and

(B) by striking out subsection (c);

(4) by repealing section 1024;

(5) by redesignating sections 1021, 1022, and 1023 as sections 911, 912, and 913, respectively;

(6) by adding a new section 914 to read as follows:

"MULTI-AGENCY STUDY OF MINORITY SCIENCE PROGRAMS

"SEC. 914. Prior to 1995, the Secretary in cooperation with the heads of other departments and agencies that operate programs similar in purpose to the Minority Science Improvement Program, seeking to increase minority participation and representation in scientific fields, shall submit a report to the President summarizing and evaluating those programs.";

(7) by repealing subpart 2 (sections 1031 through 1033);

(8) by redesignating subpart 3 as subpart 2;

(9) in section 1041—

(A) in paragraph (2), by striking out the semicolon and "and" at the end thereof and inserting in lieu thereof a period; and

(B) by striking out paragraph (3);

(10) in section 1042 by adding a new subsection (c) to read as follows:

"(c) CONTINUED GRANTS ELIGIBILITY.—To remain eligible to receive funds awarded under this part, a grant recipient must demonstrate to the Secretary that it is making reasonable progress toward achieving the goals of the project.";

(11) in section 1043—

(A) by inserting "and consult" following "cooperate"; and

(B) by striking out "and Engineering" following "Minority Science";

(12) in section 1044—

(A) by striking out the subsection designation "(a)"; and

(B) by striking out subsection (b);

(13) by repealing section 1045;

(14) in section 1047—

(A) in subsection (a)—

(i) by striking out the subsection designation "(a)";

(ii) by striking out "$7,500,000" and inserting in lieu thereof "$6,100,000"; and

(iii) by striking out "1987" and inserting in lieu thereof "1992"; and

(B) by striking out subsections (b) and (c); and

(15) by redesignating sections 1041, 1042, 1043, 1044, 1046, and 1047 as sections 921, 922, 923, 924, 925, and 926, respectively.

INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

SEC. 903. Part C of Title X of the Act is amended—

(1) by amending the part heading to read "PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES";

(2) by amending section 1061 to read as follows:

"STATEMENT OF PURPOSE

"SEC. 1061. It is the purpose of this part to support innovative projects in order to encourage student participation in community service projects, including literacy projects.";

(3) in section 1062—

(A) by amending the section heading to read "INNOVATIVE PROJECTS FOR COMMUNITY SERVICES";

(B) in subsection (b), by striking out "Director" and inserting in lieu thereof "Secretary";

(C) by striking out subsection (c); and

(D) by adding new subsection (c) to read as follows:

"(c) DEFINITION.—For the purpose of this part, 'community services' means planned, supervised services designed to improve the quality of life for community residents, particularly those of low income, or to assist in the solution of particular problems related to the needs of such residents. Such services may address problems related to illiteracy, education (including turorial services), health and health care, vocational rehabilitation and training, social and legal services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and any other problem specified by the Secretary.";

(4) in section 1063—

(A) in subsection (a)—

(i) by striking out the subsection designation "(a)";

(ii) by striking out "$3,000,000" and inserting in lieu thereof "$6,830,000"; and

(iii) by striking out "1987" and inserting in lieu thereof "1992"; and

(B) by striking out subsection (b); and

(5) by redesignating sections 1061, 1062, and 1063 as sections 931, 932, and 933, respectively.

REDESIGNATION OF TITLE X

SEC. 904. Title X of the Act is redesignated as Title IX.

TITLE X—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

REPEAL

SEC. 1001. The Act is further amended by repealing title XI.

TITLE XI—GENERAL PROVISIONS

DEFINITIONS

SEC. 1111. Section 1201(a) of the Act is amended—

(1) in paragraph (2), by adding at the end thereof the following: "subject to such minimum State licensing standards as the Secretary may prescribe in regulations, which the relevant State licensing body shall impose upon institutions that it licenses, and with which an institution is required to comply in order to be eligible to participate in programs under this Act,";

(2) by amending paragraph (5)(B) to read as follows:

"(B) if the Secretary determines that a particular category of institutions is not so accredited because there is no nationally recognized accrediting agency or association qualified to accredit institutions in such category, the Secretary may, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specifically qualified to evaluate training provided by institutions in such category, which shall make recommendations to the Secretary concerning the standards of content, scope, and quality that must be met in order to qualify institutions in such category to participate in programs under this Act, and whether particular institutions not so accredited meet the standards established by the Secretary after review of the standards recommended by the advisory committee.";

(3) by inserting immediately following the second sentence the following: "For purposes of title IV, such term also includes any school which provides not less than a six month (or 600 clock hour) program of training to prepare student for gainful employment in a recognized occupation, which has been in existence for at least two years, and which meets the requirements of clauses (1), (2), (4), and (5)."; and

(4) by adding at the end thereof the following: "If an institution is accredited by more than one accrediting body, the institution shall, for purposes of eligibility under this Act, designate one such accrediting body as its primary accreditor, either on an institutionwide basis or by program, and if the institution's accreditation is withdrawn, revoke, or otherwise termined for cause by the primary accreditor, or the institution withdraws from accreditation by the primary accreditor voluntarily under a show cause or suspension order, the institution (or a program thereof) shall no longer be deemed to meet the requirements of clause (5) for 24 months from the date of such withdrawal, revocation or termination, unless during such period of time the institution's accreditation is restored by the same accrediting agency which had accredited it prior to such withdrawal, revocation or termination.".

TREATMENT OF TERRITORIES AND TERRORITORIAL STUDENT ASSISTANCE

SEC. 1112. Section 1204 of the Act is amended—

(1) in subsection (a)—

(A) by striking out "required" and inserting in lieu thereof "authorized"; and

(B) by striking out the subsection designation; and

(2) by striking out subsections (b) and (c).

NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

SEC. 1113. Section 1205(f) of the Act is amended by striking out "1991." and inserting in lieu thereof "1996.".

APPLICATION OF PEER REVIEW PROCESS

SEC. 1114. Section 1210 of the Act is amended—

(1) by inserting the subsection designation "(a)" immediately following the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) The Secretary is authorized to use up to one-half of one percent of the funds appropriated for discretionary grants, contracts, or cooperative agreements under parts A and B of title I, titles II and III, subpart 5 of part A of title IV, parts A and B of title V, and titles VI, VIII, and IX of this Act to provide for the panels of readers required by this section to review the applications for such discretionary grants, contracts, or cooperative agreements.".

PROGRAM EVALUATIONS

SEC. 1115. Title XII of the Act is amended by adding at the end thereof the following new section:

"PROGRAM EVALUATIONS

"SEC. 1213. (a) The Secretary is authorized to use a portion of the funds appropriated for programs authorized by this Act, in the amounts described in subsection (b), to conduct, to the extent the Secretary determines necessary, evaluations and studies of such programs to determine their effectiveness in providing program services.

"(b) The amount that the Secretary may use for program evaluations under subsection (a) shall be specifically appropriated for such purpose, and shall not exceed—

"(1) $10,000,000 in the aggregate for any fiscal year for all title IV program evaluations; and

"(2) $5,000,000 in the aggregate for any fiscal year for all evaluations of programs authorized by any other title of the Act, except that the amount that may be expended under this section to evaluate a particular program so authorized may not exceed five percent of the funds appropriated for such program for that fiscal year.".

SHARING OF INSTITUTIONAL ELIGIBILITY INFORMATION

SEC. 1116. (a) Title XII of the Act is further amended by adding at the end thereof the following new section:

"SEC. 1214. SHARING OF INSTITUTIONAL ELIGIBILITY INFORMATION.—Notwithstanding any other provision of Federal or State law, the Secretary, a guaranty agency, an accrediting agency, or a State licensing body—

"(1) may provide any information in the Secretary's or its possession, as the case may be, if that information is relevent to an institution of higher education's eligibility to participate in programs under this title, to the Secretary, or any other entity specified in this section that accredits, licenses, or serves as the primary guaranty agency for that institution; and

"(2) shall provide any such information to the Secretary, or any other entity specified in this section that accredits, licenses, or serves as the primary guaranty agency for that institution, as the case may be—

"(A) if the Secretary or other entity in possession of such information is considering, or preparing in possession of such information is considering, or preparing for, an action that would adversely affect an institution's eligibility to participate in programs under this title; or

"(B) upon the request of the Secretary or such other entity, if the Secretary or such other entity is considering, or preparing for, an action that would adversely affect an institution's eligibility to participate in programs under this title.".

INELIGIBILITY FOR DEFAULT ON FEDERAL OBLIGATION

SEC. 1117. (a) Title XII of the Act is further amended by adding at the end thereof the following new section:

"SEC. 1215. INELIGIBILITY FOR DEFAULT ON FEDERAL OBLIGATION.—Notwithstanding any other provision of law, an individual who is in default on any loan made, insured, or guaranteed by the Federal Government shall not be eligible to receive any assistance under this Act unless satisfactory repayment arrangements are made with regard to such default.".

REPEALS

SEC. 1118. Sections 1206, 1211 (as enacted in P.L. 99-498), and 1211 (as enacted in P.L. 100-418) of the Act are repealed.

REDESIGNATIONS

SEC. 1119. Title XII of the Act is further amended—

(1) by redesignating sections 1201, 1202, 1203, 1204, 1205, 1207, 1208, 1210, 1212, 1213 (as added by section 1115), 1214 (as added by section 1116), and 1215 (as added by section 1117) as sections 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, and 1012, respectively; and

(2) by redesignating Title XII as Title X.

TITLE XII—EFFECTIVE DATES

SEC. 1201. (a) Except as otherwise provided in this section, the amendments made by this Act shall be effective on October 1, 1992.

(b) The amendments made by sections 432, 433 (other than the amendments relating to graduated repayment) shall be effective for loans made in accordance with section 427 or 428 on or after the date of enactment to cover periods of instruction beginning on or after October 1, 1991, or made on or after October 1, 1991 in the case of loans made in accordance with section 428A, 428B, or 428C of the Act.

(c) The amendments made by section 463 and 473 shall be effective for loans made on or after the date of enactment for periods of enrollment beginning on or after July 1, 1992.

(d) The amendments made by sections 411, 412, 413, 414, 421, 446(a), (2), and (4), 453, 454, and 495 shall be effective for periods of enrollment beginning on or after July 1, 1992.

(e) The amendments made by sections 417 and 494, and part F of title IV of this Act shall be effective for determinations of need for periods of enrollment beginning on or after July 1, 1992.

(f) The amendments made by sections 439, 440, 441, 444, 448, 497, 498, 499A, 499B, 1116, and 1117 shall be effective 90 days after enactment.

(g) The amendments made by sections 434, 499C, and 499E shall be effective on enactment.

(h) The amendments made by section 433 relating to graduated repayment shall be effective for a loan made, insured, or guaranteed under part B of title IV of the Act, whenever made, for which the student borrower's first payment is due on or after 90 days after enactment.

HIGHER EDUCATION ACT AMENDMENTS OF 1991—SECTION-BY-SECTION ANALYSIS

TITLE I—ACCESS AND RETENTION

Title I. Title I (Access and Retention) of the bill would replace Title I (Postsecondary Programs for Nontraditional Students) of the Act with programs designed to enhance access to postsecondary education for, and retention of, qualified students from low-income or educationally disadvantaged backgrounds.

Title I of the bill would eliminate Part A (Program and Planning Grants) of Title I, which provides assistance to eligibile institutions of higher education to establish programs that meet the needs of adult learners and the adult work force, including off-campus programs and staff training, and continuing education services; Part B (National Programs) which establishes the Adult Learning Research program; Part C (The National Advisory Council on Continuing Education); and Part D (Student Literacy Corps), which authorizes the Secretary to make 2-year grants to institutions to establish student literacy corps programs.

Current Parts A and B are no longer necessary because of the changing characteristics of higher education enrollment during the last two decades. "Nontraditional" students (such as parttime and older students) make up a larger proportion of higher education enrollment, and institutions have responded to the special needs of these students well. Additional direct Federal support to institutions for support programs for those students is no longer needed. This is reflected by the fact that Parts A and B, the institutional support programs, have not been funded since their reauthorization five years ago. Also, significant non-federally funded research in this area is already taking place. Finally, limited, short-term research now authorized by Part B could be funded under the Fund for the Improvement of Postsecondary Education (FIPSE), in Title X of the Act.

Current Part C of Title I is also no longer necessary. With the shift of focus of Title I in 1986 from continuing education to the nontraditional student, the activities of the National Advisory Council gradually diminished during the early 1980's, and the Council was disbanded in 1987.

The literacy functions of Part D of Title I of the Act are being incorporated, in section 1001(c) of the bill, into Part C (Innovative Projects for Community Services and Student Financial Independence) of Title X of the Act.

Section 101. Section 101 of the bill would amend Title I of the Act to authorize the following programs:

Section 101 of the bill would authorize a new Part A (Precollege Outreach Program) of Title I of the Act. This new Part A would provide for a program of formula-based grants to States for the purpose of their making competitive awards to institutions of higher education and nonprofit organizations to provide outreach services to students from low-income and educationally disadvantaged backgrounds. The new Part A would combine important elements of a number of the TRIO programs, currently in Subpart 4 of Part A of Title IV of the Act, to provide for a more flexible, effective, and less burdensome program.

Applicants would be allowed greater creativity in designing programs and providing services. The provision of formula grants to State agencies would ensure that geographic distribution of program funds would be directly related to need and would place administration control of the program closer to the people it serves.

States requesting funds under this new Part A must submit to the Secretary a plan for conducting competitions for the award of subgrants to eligible entities. The plan must include procedures for evaluating grant applications, setting award amounts, monitoring expenditure of funds, and evaluating project effectiveness.

New section 113(b) of the Act would authorize the Secretary to allocate funds to each State for this program. The State allocation formula would be based on each State's share of basic and concentration grant funds under Part A of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965. Up to one percent of the total authorization would be allotted to the Territories and to the Secretary of the Interior.

New section 113(c) of the Act would require each State wishing to receive allocations to submit an application to the Secretary. The application would have to include a plan for conducting annual competitions for the award of grants and the designation of a State agency to administer the program.

New section 114 of the Act would authorize a State to make three-year, renewable, competitive subgrants to eligible entities (two-year and four-year nonprofit insitutions of higher education, public and private nonprofit organizations and agencies, businesses, and secondary schools (if there are no other applicants capable of providing the services for which funding is requested in the targeted service area)). The State would only award subgrants to entities that establish a relationship with local educational agencies serving the largest concentration of disadvantaged students. The Federal share of the cost of such projects could not exceed 90 percent the first year, 85 percent the second year, 80 percent the third year, 75 percent the fourth year, and 70 percent thereafter. Grants could be used for planning, developing, or carrying out a number of specified services.

New section 114(b) of the Act would require eligible entities wishing to receive an award from a State to submit an application to the State containing certain information and assurances, including an assurance that it demonstrate a relationship with local educational agencies receiving Chapter 1 funding.

New section 114(c) of the Act would require that the criteria used by the State in selecting grant recipients include the degree to which the applicant's target service area includes large numbers of low-income or first generation college students; the degree to which the proposed project is likely to increase the postsecondary admission rate of the individuals to be served; the degree to which the projects selected are coordinated with those funded under Chapter 1; and the adequacy of the performance standards proposed by an applicant when compared to the standards established by the State against which the project's success will be measured.

New section 115 of the Act would provide a list of services that could be funded. This list would offer the same variety of services as the School, College, and University Partnerships program, in Part B of Title V of the Act, and certain TRIO programs (Upward Bound, Talent Search, and Educational Opportunity Centers) within a single, flexible outreach program. This consolidation would allow institutions greater flexibility and creativity in designing programs and providing services and would reduce administrative burden on both institutions and the Department. New section 115 would prohibit the use of funds for the recruitment of students by an institution of higher education.

New section 116 of the Act would authorize $253,000,000 to be appropriated for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years.

Section 101 of the bill would place the Student Support Services program, currently authorized in section 417D of the Act, in a new Part B of Title I of the Act. The Student Support Services program provides assistance to institutions of higher education for support services for individuals from disadvantaged backgrounds who need academic support to successfully complete their postsecondary education. This program is more appropriately placed in Title I in light of the proposed new focus of Title I on access and retention.

Section 101, however, would make the following changes to the Student Support Services program:

Section 101 would provide, in new section 125 of the Act, an authorization of $129,799,000 for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years.

Section 101 would replace the requirement, currently in section 417A(b)(2) of the Act, that the Secretary give consideration to applicant institutions that have prior experience in conducting Student Support Service projects with a requirement that the Secretary give the highest priority to the neediest applicant institutions (institutions with the lowest educational and general expenditures per full-time equivalent student). This change in priority would help ensure that assistance is directed to those institutions that have the greatest financial need in providing the support services that are necessary to ensure that all their students are able to complete their programs of study and otherwise to take full advantage of the educational opportunities they have been afforded.

The Ronald E. McNair Post-Baccalaureate Achievement graduate program, currently in section 417D(d) of the Act, would be taken out of the Student Support Services program and merged into the new Ronald E. McNair Graduate Outreach Program which would be authorized in section 101 of the bill as a new Part C of Title I of the Act. The new program would combine the Ronald E. McNair Post-Baccaulaureate Achievement program, currently in section 417(D)(d) of the Act, with the Grants to Institutions to Encourage Minority Participation in Graduate Education program, currently in Part A of Title IX of the Act, while maintaining the McNair title. The single new program would simplify program delivery and reduce administrative burden on both institutions and the Department.

New section 132 of the Act would authorize competitive grants and contracts to institutions of higher education to provide services to individuals from disadvantaged backgrounds to prepare them for graduate, professional, and doctoral study. The criteria for making awards would include the quality of the recruitment and outreach program, as well as the applicant's research and study program. The Secretary would, in making such grants, ensure an equitable geographic distribution among eligible public and private institutions of higher education. Awards would be for a three year period. Continuation awards would be made to institutions that demonstrate reasonable progress toward the performance goals included in their applications and the ability to provide the increasing match of funds.

New section 133 of the Act would require any institution of higher education desiring to receive an award under this part to submit an application to the Secretary, containing certain information and assurances. The Secretary would not make an award without assurances that at least two-thirds of the individuals participating in the proposed project are low-income first-generation college students; the remaining persons participating in the project are from a group that is underrepresented in graduate education; participants are enrolled in a degree program at an eligible institution; and participants in summer research internships have completed their sophomore year in postsecondary education.

New section 134 of the Act would provide a list of the projects and activities for which funds can be used. This list would contain a variety of uses similar to those specified in the existing McNair and Minority Participation programs.

New section 135 of the Act would authorize $10,826,000 to be appropriated for the new Part C for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years.

TITLE II—NATIONAL GRADUATE FELLOWSHIPS PROGRAM

Section 201. Section 201(a) of the bill would repeal Title II of the Act, which authorizes the Secretary to provide assistance for academic library and information technology enhancement. The Library Career Training program (authorized under section 222 of current law) would be consolidated with other graduate fellowship programs under the Act, thus allowing the study of library and information sciences to compete with other fields of study for Federal fellowship assistance. The remaining library programs currently authorized in Title II of the Act no longer need to receive Federal assistance. These programs have met their goals of alleviating the shortage of college libraries and of demonstrating the uses of new information technologies. Further, non-Federal sources of funds are available to support these types of activities.

Section 201(b) of the bill would repeal Title IX of the Act, which authorizes the Secretary to provide assistance for graduate study. In general, programs currently authorized under Title IX of the Act would be consolidated into a new National Graduate Fellowships program that would provide flexibility to meet national priorities and would reduce the administrative burden associated with a multiplicity of requirements for individual fellowship programs. Thus, the Patricia Roberts Harris Fellowships, the Jacob K. Javits Fellows program, and the Graduate Assistance in Areas of National Need program would be incorporated into the proposed National Graduate Fellowships program. Further, Federal support of clinical legal education activities authorized under Part F of Title IX of the Act is no longer necessary, since this type of education has been successfully demonstrated, clinical education programs are now provided at many of the Nation's law schools, and these programs will continue to be provided without Federal assistance.

The minority participation program authorized in Part A of Title IX of the Act duplicates the Ronald E. McNair Post-Baccalaureate Achievement program, which also authorizes grants to institutions of higher education to prepare disadvantaged students for graduate school. In the interest of administrative simplicity, this program would be incorporated into a new Ronald E. McNair

Graduate Outreach program described in proposed Part C of Title I of the Act. Similarly, students currently assisted under Part E of Title IX of the Act to undertake training in the legal profession may be served under proposed outreach programs.

Section 202. Section 202 of the bill would create a new Title II of the Act, entitled the "National Graduate Fellowships Program," as a single, unified fellowship program for graduate students under this Act. In addition to the consolidation noted above, the proposed program would incorporate the Foreign Language and Area Studies Fellowship program authorized under Title VI of current law. The repeal of that program is provided in Title VI of the bill. The National Graduate Fellowships program, which would be designed to provide Federal support for graduate education in areas of national need, would contain the following provisions.

Proposed section 201. Proposed section 201 of the Act would state congressional findings that: (1) since the economic well-being and national security of the United States depend on an adequate supply, in areas of national need, of highly trained individuals capable of conducting advanced research, teaching at the postsecondary level, and applying their expertise in the world marketplace, it is in the best interest of the United States to support highly qualified individuals as they pursue their graduate studies; and (2) since certain groups continue to be underrepresented in graduate studies in areas of national need, even though these groups, as a percentage of the population, are increasing, it is also in the best interest of the United States to support highly qualified individuals who are members of these groups in their pursuit of graduate studies in areas of national need, and to encourage IHEs to assist these students in their graduate studies. Thus, this section of the bill would state that the purpose of proposed Title II would be to provide competitive grants to IHEs so that these institutions can provide financial support to highly qualified graduate students, including students from traditionally underrepresented groups, studying in areas of national need, to ensure that the highly skilled workforce needs of the United States are met.

Proposed section 202. Proposed section 202 of the Act would require the Secretary to make grants to IHEs that provide programs of study leading to a graduate degree to enable these IHEs to provide fellowship assistance to graduate students in accordance with the provisions of proposed Title II. The proposed program is intended to provide fellowship stipends primarily to students pursuing a doctoral degree or its equivalent, in order to have the academic preparation needed for advanced research, teaching at the postsecondary level, or the attainment of expertise applicable in the world marketplace. The Secretary would be authorized to define "graduate degree" when specifying areas of national need, since different disciplines have different requirements for a terminal degree. In addition, the program would include payments to institutions to help meet the cost of tuition and fees, as well as other costs of education, of students awarded a fellowship stipend under this program. This proposed section would also designate each recipient of a fellowship stipend awarded under proposed Title II as a "National Graduate Fellow."

Proposed section 203. Proposed section 203 of the Act would provide that any IHE that offers a program of post-baccalaureate study leading to a graduate degree in an area of national need may apply for a grant under proposed Title II. However, the IHE would be eligible only if the program of study in which a National Graduate Fellowship is sought has been in existence for at least four years prior to application for assistance under proposed Title II. The Secretary would designate areas of national need, as frequently as the Secretary determines to be appropriate, after consultation with public or private agencies and organizations, including other Federal agencies. Areas of national need would include such areas as biology, chemistry, computer science, engineering, foreign language or area studies, geosciences, mathematics, physics, or any discipline that the Secretary determines to be in accord with the purposes of proposed Title II. Requiring the Secretary to designate areas of national need would ensure that Federal support is provided for students in appropriate academic disciplines based on changing national workforce needs.

Proposed section 203 of the Act would also require that any IHE desiring to participate in the proposed Title II program submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application would be required to: (1) describe the applicant's program of graduate study for which the grant is sought; (2) set forth policies and procedures to ensure that, in awarding fellowship stipends under proposed Title II, the applicant will seek highly qualified students, including those students from traditionally underrepresented backgrounds; (3) set forth policies and procedures to ensure that, in awarding fellowship stipends under proposed Title II, the applicant will make awards to individuals eligible under Title II; (4) provide an assurance that Federal funds made available under proposed Title II for any fiscal year will be used to supplement the funds that would otherwise be made available for the purpose of this proposed title, and in no case to supplant those funds; (5) provide an assurance that, if funds made available to the applicant under proposed Title II are insufficient to provide the assistance due to a student under the commitment entered into between the applicant and the student, the applicant will endeavor, from any funds available to it, to fulfill the commitment to the student; and (6) contain such other information as the Secretary may prescribe.

Proposed section 204. Proposed section 204 of the Act would require the Secretary to allocate funds under proposed Title II based principally on the quality of the graduate programs presented in competing applications. The criteria with which to measure program quality would be identified in regulations and may include such measures as qualifications of teaching staff, plans for recruitment of highly qualified students, and institutional commitment to the program.

The Secretary would be required to seek to achieve an equitable geographic distribution of programs assisted under proposed Title II and an equitable distribution of such programs among eligible public and private IHEs. These two criteria would provide a basis for ranking IHEs in the case of equally acceptable applications based on quality; in essence these distribution factors would be "tie breakers."

Further, the Secretary would be required to ensure that, in making awards under proposed Title II, fellowships are made to highly qualified individuals, including, to the maximum extent feasible, highly qualified individuals from groups traditionally underrepresented in graduate studies in areas of national need. Thus, while the all of the fellowship stipends under proposed Title II would be awarded for graduate studies in areas of national need, highly qualified individuals other than those from traditionally underrepresented groups could be eligible for a fellowship.

Proposed section 204 of the Act would also provide that whenever the Secretary determines that an IHE is unable to use all of the funds available to it under proposed Title II, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not used by the IHE to other participating IHEs that can effectively use the grants authorized by proposed Title II.

Finally, proposed section 204 of the Act would provide that whenever an IHE determines that a National Graduate Fellow at the IHE no longer satisfies program eligibility requirements, the Fellow would be required to remit to the IHE a portion of the fellowship in accordance with the pro rata refund provisions in proposed Title IV of the Act. The IHE would be authorized to use the amount remitted to assist another highly qualified student at that institution, under the conditions of the previous fellowship.

Proposed section 205. Proposed section 205 of the Act would require an IHE that receives an award under proposed Title II to make a commitment to each graduate student, enrolled in the IHE and designated as a National Graduate Fellow, at any point in his or her graduate study, to provide stipends for the length of time necessary for the student to complete his or her course of graduate study, including the time to complete a doctoral dissertation, but in no case longer than five years. However, the institution would not be allowed to make such a commitment unless the institution determined that adequate funds are available to fulfill the commitment either from funds received or anticipated under this title, or from institutional funds.

Proposed section 205 of the Act also would provide that the size of the fellowship stipend awarded to students for an academic year shall not exceed the lesser of the maximum stipend, as determined by the Secretary under proposed Title II, or the demonstrated level of financial need, according to the criteria under proposed Part F of Title IV. The maximum stipend for academic year 1992–1993 would be $10,000, while the Secretary would determine the maximum stipend for each academic year succeeding academic year 1992–1993. The proposed $10,000 maximum fellowship level is the same as that of the fellowship programs currently authorized in Title XI of the Act; it reflects an increase over the maximum fellowship stipend for the Foreign Language and Area Studies program in Title VI of current law and the Library Career Training program in Title II of current law.

Proposed section 206. Proposed section 206 of the Act would provide that a student would be eligible to receive a fellowship stipend only during periods in which the student: (1) is maintaining satisfactory progress in, and devoting essentially full time to, study or research (including acting as a teaching, research, or other assistant as may be required as a condition for receiving a post-baccalaureate degree) in the field in which such fellowship was awarded; and (2) is not engaging in gainful employment, other than part-time employment by the institution involved in teaching, research, or other similar activities, as approved by the Secretary. Further, a student would be eligible to receive a stipend under proposed Title II only if the student: (1) is a citizen, national, or permanent resident of the United States; (2) provides evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen or permanent resident of the United States; or (3) is a permanent resident of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Palau (but only until the Compact of Free Association with Palau becomes effective), Puerto Rico, and the Virgin Islands. This requirement would help achieve the goal of developing a highly qualified workforce in the United States.

Proposed section 207. Proposed section 207 of the Act would require the Secretary, in addition to paying fellowship stipends to students, to pay to an IHE, for each student awarded a fellowship stipend under proposed Title II for pursuing a course of study at the IHE, an amount up to $6,000 for academic year 1992–1993, and such amounts as the Secretary determines in subsequent academic years. Proposed section 207 would also require the IHE to use this payment only to cover the cost of tuition and fees for the student receiving the fellowship stipend and other costs of education to the extent that payment for these costs was not otherwise remitted to the IHE or forgiven by the IHE in conjunction with the student's receipt of a teaching, research, or other assistantship.

Proposed section 208. Proposed section 208 of the Act would authorize the Secretary to award continuation grants to IHEs that demonstrate satisfactory progress in achieving the purpose of proposed Title II. An IHE that receives a continuation grant would be required to give preference in awarding fellowship stipends to students who have received National Graduate Fellowships and who demonstrate satisfactory progress in their studies.

Proposed section 209. Proposed section 209 of the Act would require an IHE that receives a grant under proposed Title II to submit to the Secretary an annual report, which the Secretary may use in determining the award of continuation grants. The annual report would include, as the Secretary determines appropriate: (1) an assurance that each student that has been awarded a National Graduate Fellowship stipend at the IHE is making satisfactory progress in, and is devoting essentially full time to, his or her study or research; (2) a description of the effectiveness of the program, including, where feasible, the degree to which National Graduate Fellows have entered into the field for which they received a fellowship stipend; (3) a description of the extent to which the institutional payment covers the cost of tuition and fees, and other costs of education, of the National Graduate Fellows and the extent to which these costs have been waived by the Institution; and (4) such other information as the Secretary may reasonably require.

Proposed section 209 of the Act would also authorize the Secretary to require an IHE assisted under proposed Title II to submit such other reports, containing such information in such manner and at such times as the Secretary determines necessary.

Finally, proposed section 209 of the Act would require the Secretary, prior to the reauthorization of the National Graduate Fellowship Program, to submit a report to the Congress summarizing and analyzing the information received from institutions participating in the program. The reporting requirement would also provide that the Secretary report to Congress at such interim points in the administration of this program as the Secretary deems appropriate.

Proposed section 210. Proposed section 210 of the Act would provide for continued fellowship assistance as awarded under current law by requiring that the Secretary make new awards under proposed Title II only to the extent that funds remain after the Secretary provides continued funding, in accordance with the terms of the Act as in effect prior to enactment of this proposed Act, to recipients of fellowship assistance for the Foreign Language and Area Studies Fellowship program, the Patricia Roberts Harris Fellowship program, the Jacob K. Javits Fellows program, or the Graduate Assistance in Areas of National Need program.

Proposed section 210 of the Act would also require an IHE that receives a grant under proposed Title II to give preference in awarding fellowships to students who have received previous fellowships under the programs noted above. The terms of the fellowships would be the same as those of the fellowships received in the previous year. A student who received fellowship assistance under the programs listed above would be eligible to receive a National Graduate Fellowship stipend; however, no student would be eligible to receive more than a total of five years of fellowship assistance.

Proposed section 211. Proposed section 211 of the Act would authorize appropriations of $65,449,000 to carry out proposed Title II of the Act for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years. This proposed funding level would be the same as the combined fiscal year 1991 appropriation for the programs proposed for consolidation. A more focused and unified graduate fellowship program, as proposed above, should provide Federal support in a manner that would ensure a more efficient and effective use of Federal funds.

Section 203. Section 203 of the bill would make a technical amendment in accordance with the proposed repeal of Title II of current law.

TITLE III—INSTITUTIONAL AID

Title III. Title III of the bill would amend Title III (Institutional Aid) of the Act as follows:

Section 301. Section 301(1) of the bill would amend section 301(a)(1) of the Act to eliminate from the finding in paragraph (1) the reference to "declining enrollments and scarce resources" and to insert instead a reference to institutions "serving high percentages of minority students and students from low-income backgrounds." Current enrollment trends show that postsecondary enrollment is increasing. This change would more clearly define the Title III target institutions.

Section 301(2) of the bill would eliminate from the finding in section 301(a)(2) of the Act an inappropriate reference to "recruitment activities." Recruitment, either of students or faculty, has never been an allowable activity under Title III.

Section 301(3) of the bill would eliminate the outdated finding in section 301(a)(3) of the Act, that Title III programs prior to 1985 did not always meet the needs of Historically Black Colleges and Universities ("HBCUs") and other institutions with large concentrations of minorities and low-income students.

Section 301(4) of the bill would amend the finding in section 301(a)(5) of the Act to eliminate references to minimum assistance for and continuing participation of eligible institutions under Title III. These references are unnecessary since Title III programs continue to provide substantial support to eligible institutions to help them become, financially and academically, self-sustaining institutions of higher education.

Section 302. Section 302(a) of the bill would amend section 311 of the Act to substitute "ALLOWABLE ACTIVITIES" for "SPECIAL CONSIDERATION" in subsection (b)'s heading; eliminate subsection (b)(2)'s eligibility requirements for special consideration; and make subsection (b)(3)'s list of factors for special consideration into a nonexclusive list of examples of activities for which eligible institutions may use Part A funds. The special consideration provisions of section 311 were enacted to serve as grant tie-breakers.

Section 302(b) of the bill would amend section 312 of the Act as follows:

Section 302(b)(1) of the bill would amend section 312(b)(1)(B) of the Act to revise the eligibility criteria for institutions of higher education. Section 302(b)(1)(A)(i) of the bill would change the criteria in section 312(b)(1)(B) of the Act to require that the institution's average educational and general expenditures be lower, by a particular percentage determined yearly by the Secretary, than the expenditure of similar institutions. This amendment would give the Secretary the flexibility to adjust the currently large size of the Part A applicant pool to ensure that the neediest institutions have a better chance to compete successfully.

Section 302(b)(1)(A)(iii) of the bill would eliminate section 312(b)(1)(E) of the Act, which requires eligible institutions to have been accredited for 5 years prior to seeking assistance under this part. This requirement was enacted in 1965 when the number of new institutions being established was much higher. Now, there is less of a need to ensure that Part A funds will be used to strengthen existing "struggling" institutions rather than be awarded to new institutions to use for initial development. Also, the 5-year rule is unduly burdensome to administer and is subject to a number of statutory waivers.

Section 302(b)(1)(C) of the bill would eliminate sections 312(b)(3), (4), and (5) of the Act which define, respectively, an eligible institution as any institution that has an enrollment of at least 20 percent of Hispanic students, an institution that has an enrollment of at least 60 percent American Indian Students, and an institution that has an enrollment of a least 5 percent of Native Hawaiian, Asian American, American Samoan, Micronesian, Guamanian, or Northern Marianian students. These definitions act as waivers of the 5-year rule in section 312(b)(1)(E) of the Act. Since the 5-year accreditation rule would be deleted from the statute, these provisions are unnecessary.

Section 302(b)(2) of the bill would eliminate section 312(c)(1) of the Act, which defines "enrollment of needy students," for purposes of determining eligibility, as an institution at which at least 50 percent of the enrolled degree students are receiving need-based assistance under Title IV of the Act. Like the amendment made by section 302(b)(1)(A)(i) of the bill, this amendment would give the Secretary the flexibility to adjust the currently large size of the Part A applicant pool to ensure that the neediest institutions have a better chance to compete successfully.

Section 302(c) of the bill would amend section 313 of the Act to authorize only two types of grants (a 1-year planning grant and a 5-year development grant) under Part A, rather than the three types currently available. Section 302(c) would also limit each grantee to one of each type of grant. Planning grants help institutions thrive and move towards self-sufficiency, while development is better served by grants that emphasize long-range projects. Limiting each grantee to one of each type of grant will ensure that more institutions receive Part A awards.

Section 302(d) of the bill would eliminate section 314 of the Act, which establishes rules for review panels. Since the Department has general administrative regulations that govern the selection of, and procedures for, review panels, section 314 of the Act is unnecessary. Section 301(d) of the bill would substitute, instead, a requirement that each application under Part A describe the establishment of measurable goals for the institution's financial planning and academic programs, and any continuation application must demonstrate progress toward achievement of those goals.

Section 303. Section 303(a) of the bill would amend section 322(2) of the Act to eliminate from the definition of "part B institution" the requirement that HBCUs have as a continuing principal mission the education of Black Americans. Such a principal mission could violate Title VI of the Civil Rights Act of 1964.

Section 303(b) of the bill would amend section 323 of the Act to add establishing or improving a development office to strengthen or improve alumni and private sector contributions as a new item to the list of allowable activities in subsection (a). Section 303(b) of the bill would also add a new requirement that grants to eligible undergraduate institutions be made for a period not to exceed 10 years from 1987 and that no more than two 5-year grants may be made to any one undergraduate institution. This change is consistent with the program's legislative history; Congress never intended that these grants be permanent.

Section 303(c)(1) of the bill would amend section 325(a) of the Act to clarify that HBCUs must submit applications and performance reports in accordance with the general requirements in section 351 of the Act. This is consistent with Part A applications, which must contain objectives and qualitative and quantitative outcome measures for each activity and the annual performance reports, which must indicate the grantees' success in achieving their objectives.

Section 303(c)(2) of the bill would amend section 325(c) of the Act to require that Part B applications, like Part A applications, describe the establishment of measurable goals for the institution's financial planning and academic programs, and continuation applications demonstrate progress toward achievement of those goals.

Section 303(d) of the bill would amend section 326(b) of the Act to require that Part B grants to eligible professional or graduate institutions be made for a period not to exceed 10 years from 1987 and that no more than two 5-year grants be made to any postgraduate institution. This change is consistent with the program's legislative history; Congress never intended that these grants be permanent.

Section 304. Section 304(a) of the bill would amend the heading for Part C so that it is correctly called the "Endowment Challenge Grant" program. Other amendments made by section 304 of the bill would conform terminology with this change.

Section 304(b) of the bill would repeal section 331 of the Act, which establishes the Challenge Grant Program. The Challenge Grant Program, authorized in 1982, was intended to be the mechanism to encourage Part A and B eligible institutions and certain postgraduate medical schools to strengthen their fundraising capabilities in order to achieve self-sufficiency and to "graduate" from Title III. It did not have this effect, however. Awards were made under this program for only two years. In 1984, when the Endowment Challenge Grant program was established. Congress stopped appropriate funds for new Challenge Grant awards. The last Challenge Grant continuation award expired in September, 1988.

Section 304(c)(1) of the bill would amend section 332(a)(2) of the Act to add a definition of eligible institution. This definition is nearly the same as the definition contained in section 331(a) of the Act, which would be repealed by section 304(b) of the bill above.

Section 304(c)(2)(B) of the bill would amend section 332(b) of the Act to allow the Secretary to make an endowment challenge grant under Part C of more than $1,000,000 in any fiscal year in which the appropriations for Part C exceed $20 million, rather than $10 million. Raising the appropriations trigger in section 332(b) of the Act would ensure that in a given year sufficient funds would be available for the smaller 1:1 matching grants. In the three years since the 2:1 matching awards were initiated, grant reservations for 2:1 matching awards have accounted for nearly 70 percent of the total funds available.

Sections 304(c)(2)(C) and (D) of the bill would amend sections 332(b)(4)(A) and (B) of the Act to make technical and conforming changes.

Section 304(c)(2)(E) of the bill would amend sections 332(b)(5)(A) and (B) of the Act to make technical corrections to subparagraph (A) and to update the provision setting the cap for the amount of an award in subparagraph (B).

Section 304(c)(3) of the bill would amend section 332(f) of the Act to give a priority under Part C to current recipients of Part A or B grants and grantees that have received those grants in any of the five fiscal years preceding the fiscal year in which the applicant is applying for the Part C grant. This amendment would expand the number of institutions serving low-income students that could be eligibleeach year for an endowment challenge grant.

Section 304(c)(4) of the bill would amend section 332(g) of the Act to require Part C applicants to provide a description of their long- and short- term plans for raising and using the funds under Part C.

Section 305. Section 305(a) of the bill would eliminate section 351(b)(7)(D) of the Act, which requires information from Title III applicants based on expectations of declining enrollments among institutions of higher education. This information is no longer necessary since enrollments are no longer expected to decline.

Section 305(b) of the bill would eliminate sections 352(a) (3) through (6) of the Act, which constitute waivers of the requirement that, in order to be eligible to receive Part A grants, institutions of higher education must have a certain enrollment of needy students. As noted, in the description of section 302 of the bill, Part A is burdened with a complex set of waivers that have the effect of making the eligibility pool too large and inclusive.

Some waiver authority would be retained, however. Section 305(b) of the bill would retain the waiver authorities in sections 352(a) (1) and (2) of the Act because they protect the eligibility of State-subsisized institutions with low tuition. Likewise, section 352(b) waivers, recognizing the impact on educational and general expenditures of cost-of-living differences between urban and rural areas, would be retained. These waivers are necessary to protect the eligibility of State-supported institutions and institutions in urban areas, both of which enroll large numbers of low-income and minority students.

Section 305(c) of the bill would repeal section 353 of the Act. Section 353, like section 314 of the Act (which would be repealed by section 302(d) of the bill), is unnecessary. Review panel selection and procedures are handled through the Department's general administrative regulations.

Section 305(d) of the bill would repeal section 355 of the Act. Sections 355 (a) and (b) of the Act provide for payments after the enactment of the 1986 amendments and are not out of date. Section 355(c) of the Act provides for the use of Part A and B funds that remain available after the end of the fiscal year. Since funds appropriated for Parts A and B of Title III are available only for one fiscal year, so this provision has no practical effect.

Section 305(e) of the bill would repeal section 356 of the Act, which provides for a waiver of the non-Federal share required under Titles II, IV, VII, and VIII for eligible institutions under Title III. The section 356 waiver would affect only three programs, the Cooperative Education program in Title VIII, and the College Work Study and Supplemental Educational Opportunity Grants (SEOG) programs in Title IV. The Cooperative Education program provides "seed money" and an increasing institutional share designed to encourage institutions to continue their programs with non-Federal resources after five years. The College Work Study and SEOG programs benefit the institutions as well as the students, through tuition revenues and subsidized labor, and the institution should bear some of the cost. Such a waiver of the non-Federal share is inappropriate for these programs. Also, Title III schools currently make up about one third of all the institutions of higher education. The sums waived and the disparity between costs for Title III and non-Title III schools will be considerable.

Section 305(f) of the bill would repeal section 359 of the Act. Section 359 of the Act is unnecessary, since the challenge grant authority would be repealed by section 304(b) of the bill.

Section 305(g)(1) of the bill would amend section 360(a) of the Act to authorize appropriations for Parts A, B, and C.

Also, section 305(g)(1) of the bill would amend section 360(a)(3) of the Act to authorize additional appropriations for endowment challenge grants under Part C for HBCUs that qualify as Part B institutions. As amended, section 360(a)(3)(B)(i) would authorize $60,000,000—$10,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995 for endowment challenge grants to such institutions. Section 360(a)(3)(B)(ii) would clarify that if for any fiscal year a Part B institution competes successfully for an award from funds appropriated under the additional authorization in clause (i), it could not receive funds for that fiscal year appropriated under the basic authorization for the Part C program in section 360(a)(3)(A) of the Act, but that if for any fiscal year a Part B institution does not receive an award from the funds appropriated under the additional authorization in clause (i), that institution would be eligible to compete for and receive funds for that fiscal year appropriated under the basic authorization in subparagraph (a).

Section 305(g)(2) of the bill would eliminate section 360(c) of the Act. Section 360(c)(1) requires that two-year institutions of higher education receive no less than $51,400,000 of the funds appropriated annually under Part A, and sets aside 25 percent of the difference between the Part A appropriation and the fiscal year 1986 appropriation for eligible institutions with the "highest percentages" of minority students. Since two-year institutions of higher education compete so successfully for grants, no convincing case can be made for retaining the set-aside.

Section 360(c)(2) of the Act requires Title III funding of institutions based on their percentage of minority students from 100 percent down until the set-aside is exhausted. As a result, highly ranked institutions with high enrollments of minority students (some with minority enrollments of over 80 percent, for instance), and that have submitted the most meritorious applications, must be skipped to fund lower scoring applications from institutions with a 100-percent enrollment of minority students.

TITLE IV-STUDENT ASSISTANCE

Part A—Grants to students

Section 401. Section 401 of the bill would amend the statement of purpose for Part A of Title IV of the HEA in section 401 of the Act to eliminate references to programs that would be repealed by this bill—the State Student Incentive Grant (SSIG) program, Special Programs for Students from Disadvantaged Backgrounds, Assistance to Institutions of Higher Education (including the Veterans Education Outreach Program), and Special Child Care Services for Disadvantaged College Students—and to include references to the programs that would be added to Part A by this bill, namely the new Presidential Achievement Scholarship program and the National Science Scholars program, currently authorized under Part A of Title VI of the "Excellence in Mathematics, Science and Engineering Education Act of 1990" (P.L. 101-589). Both of these additions to Part A focus on academic achievement, as does the Robert C. Byrd Honors Scholarship program authorized in subpart 6 of Part A of Title IV of the Act, so it is appropriate that the statement of purpose for this part also reflect that emphasis on excellence.

Subpart 1—Pell Grants

Section 411. Section 411(1) of the bill would amend section 411(a)(1) of the Act to extend, through fiscal year 1997, the authorizaton for the Pell Grant program in Subpart 1 of Part A Title IV of the HEA. In addition, section 411(2) of the bill would eliminate the requirement that the Department pay an institution, in advance of each payment period, at least 85 percent of the amount the institution estimates that it will need to pay eligible Pell Grant recipients. This amendment would clarify the Secretary's authority to place institutions posing a high risk of fund mismanagement on the "reimbursement system" of Pell Grant funding, and would ensure that the Secretary has the necessary flexibility to treat problem institutions appropriately. Under the reimbursement system, an institution must document the need for Pell Grant funds after eligible students have enrolled and have started attending classes, not before. The reimbursement system thus reduces the likelihood that Pell grant funds will be misspent. In addition, the 85 percent requirement has resulted in cash flow problems for the Pell Grant program, when institutions have not promptly returned excess funds that would have otherwise been available to the Secretary for distribution to other institutions that need the funds for their Pell Grant recipients later in the year.

Section 412. Section 412 of the bill would make a number of changes to section 411(b) of the Act. First, the current three award rules, under which the amount of a Pell Grant that a student is eligible to receive is determined, would be replaced with two award rules designed to improve the targeting of Pell Grants on the lowest income students by taking into account each family's ability to contribute to the student's educational costs and funding a percentage of financial need. The amount of a students Pell Grant award would be the lesser of 1) the maximum Pell Grant minus the expected family contribution, or 2) a percentage of the student's need for financial assistance (defined as the cost of attendance minus the expected family contribution). The percentage used in the second proposed award rule would vary from 79 to 30 percent, declining as the income of the student's family increases. The first proposed award rule is one of the current award rules, and would serve as a limit on the awards to relatively higher income students attending institutions with higher costs of attendance. The second award rule would reduce the proportion of need met by the Pell Grant for higher income families.

Next, section 412 of the bill would substantially increase the maximum amount of a Pell Grant to $3,700 for award year 1992-1993 and the four succeeding award years. This amendment would support the Adminstration's major educational goals of promoting lifelong learning and ensuring access to postsecondary education for disadvantaged students. Such an increase would also greatly improve the purchasing power of the Pell Grant, which has eroded over the last decade as tuition costs and inflation have outpaced the increases in the maximum and average Pell Grant awards. Better targeting of the Pell Grant, through the modification of the award rules proposed in this section of the bill, and changes to the need analysis system (such as reducing the minimum contribution in cases of negative discretionary parental income) contained in Part F of Title IV of the bill would ensure that the new maximum Pell Grant would be available only to the lowest income students. In addition, the size of the proposed increase would ensure broad access to a wide range of postsecondary educational opportunities at a variety of institutions.

The minimum Pell Grant award would also be raised from $200 to $400. The Pell Grant minimum has not been increased since 1975 and the proposed increase would be only a partial adjustment for inflation. Pell Grants of less than $400 provide relatively little benefit to the student, and the administrative burden associated with such small awards outweighs that benefit. Moreover, Pell Grants of less than $400 are disproportionately awarded to students with the highest family incomes among those eligible.

Section 412 of the bill would also amend section 411(b) of the Act to elimnate the restrictions currently in sections 411(b)(6) and (7) of the Act regarding the eligibility of less than half-time students to receive Pell Grants. Pell Grant eligibility for less than half-time students provides access to postsecondary education for those individuals who cannot, for an variety of reasons, attend school on a half-time or greater basis. In addition, this amendment would reflect the changing demographics of the postsecondary education population, which includes an increasing share of part-time students.

Section 413. Section 413 of the bill would amend section 411(c)(1) of the Act to reduce the period of Pell Grant eligibility for short-term programs, and to clarify that the maximums for the various lengths of undergraduate degree or certificate programs are cumulative and includes prior coursework not necessarily taken at the same institution. A student taking an undergraduate degree or certificate program normally requiring two years or less would be eligible for Pell Grants for up to a total of three academic years, regardless of how many such short-term programs the student takes. Students should not be able to receive Pell Grants for numerous, successive programs of short duration, which could be an indication that the student is merely pursuing his or her recreational or avocational interests and may not be serious about obtaining an education. A three-year maximum would still provide sufficient flexibility to students enrolled in shorter programs, but would reduce the potential for abuse of the current, overly generous maximum duration for Pell Grants, which is designed to accommodate the length of time normally necessary to complete a first baccalaureate degree, not short-term programs. If a student who was initially subject to the new three-year maximum were to subsequently enroll in a program longer than two years, the student would then be subject to the applicable five- or six-year cumulative maximum in current law.

Section 413 of the bill would amend section 411(c)(3) of the Act to eliminate the use of the term "entitlement" from that provision. This amendment would not change the basic nature of the Pell Grant program, which does not fit the definition of a true entitlement program because the award amounts for which students are eligible can be reduced due to insufficient appropriations.

Section 414. Section 414 of the bill would eliminate the calculation of eligibility provisions in section 411(f) of the Act. A modified provisions in section 411(f) of the Act. A modified version of this provision is proposed for inclusion in section 483 of the Act by section 494 of the bill. The modifications and new placement of this provision would be consistent with other changes to the processing of student aid applications proposed in section 494 of the bill.

Section 415. Section 415 of the bill would modify the language of the linear reduction formula currently in section 411(g) of the Act. The current formula provides that in the event funds appropriated are insufficient in any given year to pay for all grants to students, then the most financially hardpressed students (the so-called "hold harmless" class of students, who have an expected family contribution, or EFC, of $200 or less) would not have their awards reduced. However other students would, under the formula, have their awards progressively reduced depending on their financial status. Section 415 would eliminate the "hold harmless" class of students from the linear reduction formula, because the practical result of the current formula is that a minority of the students receiving Pell Grants faces a substantial reduction of their awards, even though their financial need may be only slightly less than that of students in the "hold harmless" class. The "hold harmless" class represents 64.4 percent of all Pell Grant recipients; even reducing the EFC threshold for the "hold harmless" class would not restore the equity that originally justified this distinction, because 56.9 percent of all Pell Grant recipients have an EFC of zero. Reducing all awards by a linear percentage would result in the smallest reductions for the most needy students, but would spread the impact of the reduction more equitably among students who all have relatively high levels of financial need. The minimum Pell Grant under the linear reduction formula would be increased from $100 to $200, consistent with the increase proposed in section 412 of the bill. In addition, the references to "entitlement," which is used in section 411(g) of the Act to refer to the award rule that calculates the amount of a Pell Grant for which a student is eligible by subtracting the student's EFC from the maximum award, would be eliminated, and that award rule would be cited explicitly.

Section 416. Section 416 of the bill would eliminate section 411(h) of the Act, which limits the availability of Pell Grant funds when excess amounts are available at the end of a fiscal year. This provision inappropriately restricts the Department's flexibility to use funds appropriated for a given fiscal year to cover shortfalls from prior years, or to carry over an excess appropriation into the next fiscal year to cover program costs for the next academic year.

Section 417. Section 417 would repeal sections 411A, 411B, 411C, 411D, 411E, and 411F of the Act. Sections 411A, 411B, 411C, 411D and 411F all relate to the determination of a student's financial need for a Pell Grant, and are no longer necessary because a single need analysis system applicable to the Pell Grant program as well as the rest of the Title IV, HEA student aid programs is proposed for Part F of Title IV of the Act in Part F of this title of the bill. Some provisions currently in section 411F of the Act, such as the definition of "cost of attendance" for Pell Grant purposes, will be incorporated, with revisions as necessary, into the proposed single need analysis system in Part F. Section 411E of the Act inappropriately restricts the Secretary's flexibility to administer the program and respond to issues as they arise.

Subpart 2—Supplemental Educational Opportunity Grants

Section 418.—Section 418 of the bill would amend section 413A(b) of the Act to authorize appropriations of $346,945,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 through 1996, for the Supplemental Educational Opportunity Grant (SEOG) program, authorized by Subpart 2 of Title IV of the Act. While this amount is below the fiscal year 1991 funding level, other changes proposed in this part of the bill, as discussed below, would minimize the impact of a reduced funding level and enable an additional 64,000 students to receive SEOGs. This reduction in funding is necessary to permit more funds to be directed to provide increases in student aid programs, particularly the Pell Grant program, that are more targeted on students with the greatest amount of financial need.

The Department of Education is continuing to explore ways in which to amend the allocation formula for the campus-based programs to both simplify the formula and focus it more precisely on needier students, and may propose amendments to the allocation formula at a later date.

Section 419. Section 419 of the bill would amend section 413C(a)(2) of the Act to reduce the Federal share of SEOG awards to students to a maximum of 50 percent for fiscal year 1992 and succeeding fiscal years. An institution should bear a higher share of a student's award under this program because it receives significant financial benefits from this program and has wide latitude to direct these funds to the students, from among those students with financial need, that it is most interested in enrolling.

Subpart 3—Repeals

Section 420. Section 420 of the Act would repeal Subparts 3, 4, 7, and 8 of Part A of Title IV of the Act, which authorize the State Student Incentive Grant (SSIG) program, Special Programs for Students from Disadvantaged Backgrounds (the TRIO programs), Assistance to Institutions of Higher Education (including the Veterans Education Outreach Program, or VEOP), and Special Child Care Services for Disadvantaged College Students, respectively.

The SSIG program, which provides grants to States to assist them in providing need-based grant and work-study assistance to eligible postsecondary students, is no longer necesary because all States now have need-based student assistance programs and have committed a consideration level of funding to these programs. That funding has continued to increase, despite years in which Federal funding for this program has either declined or remained level. It is estimated that of the 42 States that overmatched the Federal contribution in academic year 1989–90, 39 provided at least 160 percent more need-based grant assistance than was necessary to satisfy the program's matching requirements. The SSIG program has clearly achieved its purpose of encouraging States to provide financial aid to needy students, and has outlived its usefulness.

The TRIO programs in Subpart 4 of Part A of Title IV of the Act would be replaced by the access and retention programs proposed as a new Title I of the Act in Title I of this bill.

Section 420 of the Act authorizes payments to institutions of higher education, to be used to defray instructional expenses in the institutions' academic programs. Payments are based on the total number of students attending the institution and the aggregate amount of funds the institution receives under the SEOG, Work-Study, and Perkins Loan programs. However, the Payments to Institutions of Higher Education program, enacted in 1972, has never been funded, and it is not generally the Federal Government's role to help defray instructional costs that should be met by institutional revenues, including tuition charges. In addition, such a general subsidy to all institutions would be prohibitively expensive—if section 420 of current law were fully funded, this program would cost over $2 billion in fiscal year 1991 alone.

Section 420A of the Act authorizes the VEOP, which provides formula grants to institutions with at least 100 veterans with honorable discharges in attendance as undergraduates to assist the institutions in supporting offices of veterans' affairs that provide outreach services, special educational services, and counseling. This program is no longer necessary because its original purpose, to serve large numbers of Vietnam-era veterans, has been met. The needs of currently eligible veterans, including those who served in Operation Desert Storm, can be met by other Federal outreach and support programs (including those proposed in Title I of the bill), as well as by traditional tutorial and counseling services provided by institutions. In addition, the different branches of the military provide enlistees with information on veterans' educational benefits and ongoing benefits counseling. Individuals separating from military service receive mandatory counseling regrading their benefits. The Department of Veterans Affairs (DVA) provides information through its Separation Point program, its toll-free telephone service, and its Veterans Assistance Centers. Finally, eligible veterans can pursue refresher, remedial, and deficiency coursework and qualify for tutorial assistance under both the older Veterans Educational Assistance Program and the newer Montgomery G.I. bill administered by the DVA.

Special Child Care Services for Disadvantaged College Students, which authorizes grants to institutions to cover the full cost of child care expenses of low-income students through vouchers, contracted services, or direct services, has never been funded. With the enactment of a five-year $15 billion child care plan in P.L. 101–508, which includes a broad range of options, including tax credit provisions, a State-administered voucher program, and a school-based program for early childhood education and before- and after-school child care, it is neither necessary nor appropriate to reauthorize this small, never-funded program.

Subpart 4—Presidential Achievement Scholarship Program

Section 421. Section 421 of the bill would add a new Subpart 3 to Part A of Title IV of the Act to authorize a new Presidential Achievement Scholarship (PAS) Program. The Secretary would be authorized to award scholarships of up to $500 to Pell Grant recipients who demonstrate high levels of academic achievement. Appropriations of $170,000,000 would be authorized for the PAS program for fiscal year 1992, and such sums as may be necessary would be authorized for fiscal years 1993–1996. Funds would remain available for expenditure in the fiscal year following the fiscal year for which the funds were appropriated. This new program is designed to serve as an incentive for financially needy students to excel in their elementary and secondary studies, enter postsecondary education, and, once there, persist and excel in their postsecondary studies. It is estimated that there would be approximately 340,000 recipients in the first year of the program's operation.

One of the best predictors of a student's success in postsecondary education is a solid academic foundation obtained at the elementary and secondary school level. By providing an extra measure of financial support to academically outstanding Pell Grant recipients, the PAS program would demonstrate the Federal Government's dual commitment to providing access to postsecondary education for financially disadvantaged students, and recognizing academic excellence. This program would also encourage students to remain in postsecondary education.

A Presidential Achievement Scholar may receive up to four scholarships (or five scholarships if the Scholar is in a five-year undergraduate program), each awarded for a period of one academic year. In order for any student to receive a Presidential Achievement Scholarship, the student must receive a Pell Grant for that academic year, and be a full-time student. Requiring the receipt of a Pell Grant as a condition for the receipt of a PAS ensures that the neediest students will receive these scholarships. The full-time attendance requirement is based partially on the fact that full-time students are more likely to persist in postsecondary education, which is one of the purposes of the program, as well as the need to limit the complexity and cost of this large-scale effort.

In addition, if the student will be attending his or her first year of postsecondary education, he or she must rank in the top ten percent, by grade point average, of his or her high school graduating class or achieve a high score on a nationally administered, standardized test, such as the ACT or SAT. Students who will be attending other years of postsecondary education must be enrolled in a program of study of not less than two academic years in length that leads to a degree or certificate, and rank in the top 20 percent, by cumulative grade point average (or its equivalent), of their postsecondary education class as of the last academic year of study completed. These levels of academic achievement are worthy of the national recognition that the PAS Program would provide. It is anticipated that a student's high school or postsecondary education class ranking for the complete academic year preceding the year for which the award determination is being made will be available in sufficient time to use that information in awarding the scholarships.

A student's eligibility for a PAS would not depend on whether a student received a PAS or a Pell Grant in the previous year, thus providing an incentive to excel and persist in postsecondary education to an even broader group of high-achieving, needy students, such as students who may not have done well in high school but are now excelling at the postsecondary level, or who, for a variety of reasons, may not have performed at their usual outstanding level in a given year of postsecondary education, but subsequently resumed that level of achievement.

The Secretary would establish the procedures by which Presidential Achievement Scholarships are awarded, with information on class ranks and test scores supplied by the institution. This would simplify the procedures necessary for obtaining this information. In general, under these procedures, the Secretary would first specify a cutoff date by which an institution would send to the Department its list of Pell recipients who are eligible to receive PAS awards. (The institution would produce this list by checking the merit qualifications of its projected Pell recipients. A cutoff date is necessary because students can become eligible for Pell Grants year-round.) The institution would also include in that list the dollar amount for which a particular student is eligible ($500, unless reduced under the cost of attendance rules described below). The Department would use that data to tally up the dollar amounts on those lists for all students, and, if that total exceeded the appropriation, reduce all awards by the percentage necessary. The institution would then be allocated the appropriate amount of PAS funds for its students.

In addition, although receipt of the Presidential Achievement Scholarship is an honor, it should bear some relation to the student's educational costs and other aid received. Need analysis provisions for Title IV of the Act require that the Pell Grant be the first source of Federal student assistance, and, if necessary, that other sources be reduced. Therefore, new section 415E would require that if the PAS, alone or in combination with other Federal or non-Federal grant and scholarship assistance, would exceed the student's cost of attendance, as defined in section 472 of the Act, then the PAS would be reduced by the excess amount.

Subpart 5—National Science Scholars Program

Section 422. Section 422 of the bill would move the National Science Scholars (NSS) program, currently authorized under Part A of Title VI of the "Excellence in Mathematics, Science and Engineering Education Act of 1990" (P.L. 101-589), into a new Subpart 4 of Part A of Title IV of the HEA. The NSS program is more appropriately placed with the other student financial assistance programs under the HEA with which it shares many common terms and provisions.

In addition, section 422 of the bill would reauthorize and make certain changes to the NSS program. First, appropriations of $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995 and 1996 would be authorized under a new section 417A(b). This would be a major increase over the current authorization of appropriations of $4.5 million for fiscal year 1991, and would highlight the importance of the NSS program and its goals, provide funding of scholarships for continuation awards for 1991 Scholars to continue their studies as well as fund new awards for 1992 Scholars, and substantially increase the average award from the 1991 estimated average award of $1,120. It is important to ensure that the funding for this prestigious program is also available at substantially increased levels in the outyears so that all Scholars who remain eligible may continue to receive awards throughout their undergraduate studies. Appropriations would also be available until expended.

The increase the authorization of appropriations would also permit an increase in the maximum award available to a Scholar from $5,000 per year to $6,000 per year under new section 417E. However, while receipt of the scholarship is an honor, it should bear some relation to the student's educational costs and other aid received. Section 605(b) of the current NSS program states that the NSS award must not be reduced on the basis of other aid received, but must be taken into consideration when determining the student's need for other Federal student financial assistance. However, need analysis provisions for Title IV of the Act require that the Pell Grant be the first source of Federal student assistance, and, if necessary, that other sources be reduced. Therefore, new section 417E would require that if the total of the NSS and other Federal and non-Federal grant and scholarship assistance would exceed the student's cost of attendance, as defined in section 472 of the Act, then the NSS would be reduced by the excess amount.

Section 422 of the bill would also amend the NSS program so that, if a student previously selected as a Scholar becomes ineligible to receive further scholarships and the student's circumstances do not qualify for reinstatement within the Secretary's guidelines, the funds that would have been used for those scholarships would be used to make other awards under this subpart.

In addition, section 422 of the bill would eliminate references in sections 603(b) (2) and (3) of the current NSS program to a gender-based nominating and selection process for the NSS program, as well as the reference in current section 601(a)(6). While the goal of increasing female participation in the fields of science, mathematics, and engineering is laudatory and supported by the Department of Education, the means chosen to achieve that goal—a strict quota based on sex—is inappropriate and unnecessary.

Section 422 of the bill would also amend the procedures for the announcement and award of scholarship under new section 417C of the Act to eliminate the January 1 deadline, currently in section 603(b)(4) of the NSS program statute, by which the selection of Scholars must be completed and announced. This deadline is inappropriate because the academic achievement of students in their senior year of high school could not be assessed as part of the selection process, and most students will not know at that point if they have been accepted for enrollment at an institution of higher education. Further, binding the Department and the President to a particular date does not allow for extenuating circumstances, such as the delayed enactment of appropriations Acts, that may delay the selection process.

Other relatively minor amendments that would be made by section 422 of the bill include: modifying the description of the development of selection criteria to reflect the joint development of the criteria by the National Science Foundation and the Department of Education; adding a maximum of ten nominees per congressional district; requiring the nominating committee to keep, and the State to maintain, records relating to the nominating process for five years after the nominations are made; eliminating the statement in current section 603(b)(4) regarding presentation of scholarships in a public ceremony, since no program funds may be used for such ceremonies; eliminating the citizenship requirement in current section 604(a)(2) in favor of the general citizenship requirements for Title IV in section 484(a)(5) of the Act; requiring the institution, subject to the approval of the Secretary, not the Secretary alone, to determine whether a Scholar is maintaining a high level of academic achievement; requiring the Scholar to submit to the institution, rather than the State, any statement, as necessary, of his or her continuing intent to major in one of the sciences, mathematics, or engineering; and specifying that unused scholarship proceeds are to be returned to the Secretary and used for other scholarships. These amendments are generally designed to simplify the NSS program statute and its administration.

Section 423. Section 423 of the bill would make a conforming change by repealing Part A of Title VI of the Excellence in Mathematics, Science and Engineering Education Act of 1990 (P.L. 101-589), which currently authorizes the National Science Scholars program.

Subpart 6—Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork

Section 424. Section 424 of the bill would make a number of changes to the High School Equivalency Program (HEP) and the College Assistance Migrant Program (CAMP) authorized by section 418A of the Act. First, the purpose of the program would be focused on providing discretionary grants to help build the capacity of educational institutions, agencies and organizations to operate high school equivalency and college assistance programs for migrant students, rather than to provide long-term grants for direct services. Appropriations of $10,169,000 would be authorized for that purpose for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 through 1996. This shift in focus would better serve the migrant student population by equipping a broader pool of institutions and agencies with the tools to meet the needs of this population, and would be a more cost-effective use of limited Federal resources.

Next, the pool of potential HEP grantees would be expanded to include, in addition to the institution of higher education and nonprofit organizations currently eligible, State or local educational agencies (SEAs and LEAs). SEAs and LEAs have experience in providing secondary-level education and working with migrant students, are the agents through which other Federal high school equivalency programs are funded, and have the resources to continue high school equivalency services to migrant students beyond the duration of the Federal grant. The entities eligible to apply for CAMP grants would be unchanged by this legislation.

As proposed in the bill, HEP services could be provided to individuals who are 16 years of age or older, or are beyond the age of compulsory school attendance in the State in which the individual resides are not currently enrolled in school, and who meet the other current requirements for eligibility. This change from the current requirement that HEP participants be 17 years of age or older conforms the age requirements for HEP with the eligibility requirements of the Adult Education Act.

In addition, the bill would clarify, consistent with current practice, that direct CAMP services are focused on migrant students in their first year of college. However, the bill would also require grantees to provide follow-up services for migrant students after they have completed their first year of college, such as follow-up reports on the students' progress, and referrals to on- or off-campus providers of counseling services, academic assistance, or financial aid. These follow-up services would help ensure that the gains achieved by these students in their first year of college would be maintained in subsequent years of study, and would provide useful information regarding the longer-term effects of the program. A grantee would be permitted to use up to ten percent of its CAMP grant to pay for the required follow-up services.

The remaining amendments to section 418A of the Act in the bill would also relate to the central theme of institutional capacity-building. A long-range management plan describing how, over the period of the grant, the applicant will gradually assume the financial responsibility to provide services that are substantially similar to those proposed in the project application would be required. This management plan would ensure that the grantee has considered the steps it will take to continue to provide HEP or CAMP services to this disadvantaged population after Federal assistance is reduced or no longer available.

First-time HEP or CAMP recipients would receive a grant for a period of five years, and the Federal share of that grant would not exceed 90 percent for the first year of the grant, 80 percent for the second year, 70 percent for the third year, 60 percent for the fourth year, and 50 percent for the fifth year. Recipients that have previously received HEP or CAMP funds would receive a grant for a period of three years, and the Federal share of the grant would not exceed 90 percent for the first year of the grant, 70 percent for the second year, and 50 percent for the third year. As under current law, the minimum grant would be $150,000. No special consideration would be afforded applicants with prior experience, and a recipient would be eligible to receive only one multiyear grant. The length of the proposed grant periods should provide sufficient time for the grantee to develop the capacity to provide the services without further Federal funding. Federal funds could then be used to assist other institutions in developing their capacity to provide HEP or CAMP services.

Finally, in order to ensure that the availability of services bears an appropriate relationship to the individuals to be served, the Secretary would consider the geographic distribution of the individuals who are to be served by grantees in awarding grants.

Subpart 7—Robert C. Byrd Honors Scholarship Program

Section 425. Section 425 of the bill would amend section 419D of the Act to change the way funds are allocated to States under the Robert C. Byrd Honors Scholarship Program authorized in Subpart 6 of Part A of Title IV of the Act. Section 419D of the Act currently requires the Secretary to allocate funds to States based on a formula that provides ten scholarships of $1,500 each for every congressional district in the State, plus an administrative allowance. In conformity with the changes proposed in section 426, section 425 of the bill would base the allocation of program funds on the relative size of the State's population ages 5 through 17, with a minimum of ten $1,500 scholarships awarded to each State. This simplification of the allocation formula is consistent with the appropriations Act language that has overridden the allocation formula in section 419D of the Act every year since the Byrd program was enacted. The administrative allowance would also be eliminated because the award ceremonies that are the primary reason for providing an administrative allowance would be eliminated in section 427 of the bill.

Section 426. Section 426(1) of the bill would amend section 419G of the Act to modify the requirements for the selection of Byrd Scholars to eliminate the ten Scholar per congressional district requirement, consistent with current practice and controlling appropriations Act language. Instead of a strict numerical formula, States would simply be required to ensure an equitable geographic distribution of awards within the State.

Section 426(2) of the bill would merely move the provision regarding the timing of the selection process from current section 419I(b) of the Act to a new section 419G(d) of the Act. The provision on timing of the selection process is more appropriately placed with the rest of the selection process provisions in section 419G, and section 419I(a) of the Act is proposed for repeal in section 427 of the bill.

Section 427. Section 427 of the bill would repeal section 419I of the Act, which requires States to arrange for award ceremonies at which Members of Congress, if possible, are to award Byrd Scholarships to the students selected. As with other changes relating to the Byrd program proposed in this bill, this amendment would make the authorizing statute consistent with the way in which the program has been administered since its inception because of appropriations Act provisions that have overridden the HEA provisions. States would still be able to hold award ceremonies if they wished, but would not be required to do so by law. In addition, section 427 of the bill would make conforming changes relating to the State participation agreement to remove the references to the award ceremony and to the administrative allowance proposed for elimination in section 425 of the bill.

Section 428. Section 428 of the bill would authorize appropriations for Byrd Scholarships of $9,271,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 through 1996.

Part B—Guaranteed student loans

Section 431. Section 431 of the bill would amend section 424(a) of the Act to extend the authorization for, and amount of, new loan principal that may be made to students covered by Federal loan insurance.

Section 432. Section 432 of the bill would amend sections 425(a), 428(b)(1), and 428A(b) of the Act to increase the annual and aggregate loan limits for the Stafford Loan and Supplemental Loans for Students (SLS) programs. Annual limits for Stafford Loans would be increased from $2,625 to $3,500 for first and second year undergraduate students, and from $4,000 to $5,000 for third, fourth, of fifth year undergraduates. The aggregate loan limits for undergraduate and graduate students would be increased from $17,250 to $22,000 and from $54,750 to $59,500, respectively to reflect the proposed annual increases. Currently, the annual SLS loan limit is $4,000 (with a lower limit for programs of less than one academic year). The current annual limits would be retained for first year undergraduates, but second, third, fourth, and fifth year undergraduates could receive up to $6,000 per year, and graduate students could receive up to $10,000 per year. Aggregate SLS loan limits would be raised from $20,000 for all students to $28,000 for undergraduates and $50,000 for graduate students. The moderate increases in Stafford Loan and SLS loan limits will offset the erosion in real value of the current loan limits and provide additional capital for all eligible students.

Section 433. Section 433 of the bill would make a number of changes to sections 427(a)(2) and 428 of the Act. First, lenders would be required to offer to borrowers of Stafford Loans and SLS loans the option of repaying their loans on a graduated repayment schedule instead of in equal installments over the life of the loan. Lenders would be required to give borrowers this option not more than six months prior to the date on which the student borrower's first payment on a loan is due. The schedule offered could not result in negative amortization of the loan, would provide for the repayment of only accrued interest during the first 12 months of repayment, and after the fourth year of repayment, would require the borrower to resume repayment on an equal installment basis in an amount sufficient to retire the debt in the normal 10-year statutory maximum period for repayment.

Studies suggest that borrowers who are offered an optional repayment schedule are significantly less likely to default than borrowers who are not given this option. Even if a borrower does not select a graduated repayment schedule, his or her active involvement in establishing the repayment terms reinforces the seriousness of the repayment obligation in the borrower's mind. In addition, the typical borrower experiences significant increases in income over the first few years of repayment, making graduated repayment during this period an appropriate way to manage the borrower's debt burden and minimize the risk of default.

Next, lenders would be required to obtain the borrower's driver's license number, if any, at the time of application for a Stafford, SLS, or PLUS Loan. This information would enhance collection efforts with little increase in the administrative burden on lenders. Similar amendments are proposed for the Perkins Loan and Income Contingent Loan (ICL) programs.

Finally, lenders would be required to obtain, as part of the promissory note, a "confess judgment" statement by the borrower that, in the event of default, the borrower waives certain rules of civil procedure governing commencement of suit, service of process, and trial. "Confess judgment" provisions are recommended by the Federal Claims Collections Standards whenever a Federal agency enters into a repayment agreement with a debtor. This provision would not, however, foreclose all opportunities for the defaulter to present a defense; a judgment secured under a confession of judgment is treated like a default judgment, and most courts will hear debtor defenses after the judgment is entered.

Section 434. Section 434 of the bill would amend section 428(a)(2)(F) of the Act to prohibit an eligible institution from refusing to certify a student's determination of need for a loan. This amendment would eliminate the recent amendment to this provision by P.L. 102-26, which permitted an institution to refuse to certify a student's eligibility for a guaranteed student loan, or to certify a loan amount that is less than is determined under the statutory system of need analysis, so long as the institution documented the reason for the action and provides written notice to the student. As amended by P.L. 102-26, section 428(a)(2)(F) of the Act is excessively broad; there are no clear limits on the institution's discretion to refuse to certify a student's eligibility for a loan, and deserving students may be harmed by this provision, particularly as institutions seek ways in which to reduce their default rates.

Section 435. Section 435 of the bill would amend sections 427(a)(2) and 428(b)(1)(M) of the Act by mdoifying the extent to which a student may qualify for deferment of repayment of new GSLs. For new loans, the in-school deferment in current law would still be available, but the various other categorical deferments would be replaced by a single hardship deferment of up to three years in the aggregate. The categorical deferments in current law are not directly related to the financial ability of the borrower to repay the loan, and may be taken without an aggregate limit. However, many borrowers who would qualify for one of the categorical deferments would qualify for the financial hardship deferment, and if a Peace Corps or VISTA volunteer did not qualify, the lender would be required, at the borrower's request, to provide forbearance, under which interest would be capitalized during up to three years of service. A single hardship deferment would greatly simplify the administration of the program by lenders, and would be far more equitable since the deferment would be directly linked to the borrower's inability to repay the loan.

Section 436. Section 436 of the bill would amend section 428(c) of the Act to modify the way Federal reinsurance is calculated. First, guaranty agencies would be requried to file reinsurance claims within 45 days from the date an insurance claim is paid. This requirement of timely filing eliminates a loophole in the current law that guaranty agencies take advantage of by holding their reinsurance claims when their reinsurance rate drops below 100 percent. The claims are then submitted at the beginning of the next fiscal year, when the reinsurance rate automatically returns to 100 percent.

The automatic return to 100 percent reinsurance would also be modified by section 436 of the bill. The Secretary would be required to make the initial reimbursement payments in a fiscal year to a guaranty agency at the rate the agency was being reimbursed at the end of the preceding fiscal year, until the guaranty agency submitted data justifying a different reimbursement rate.

Both of these modifications would encourage guaranty agencies to monitor more rigorously the default prevention activities of the institutions and lenders they service, and eliminate loopholes in existing law.

Finally, section 436 of the bill would amend section 428(c)(7) of the Act to authorize, rather than require, the Secretary to provide 100% reimbursement to new guaranty agencies for the first five years of their operation. This amendment would provide the Secretary with the flexibility to give a new guaranty agency 100% reimbursement where the financial circumstances of the new agency warrent such treatment.

Section 437. Section 437 of the bill would amend sections 427(a)(2)(A) and 428(b)(1) of the Act to require all applicants for Stafford, SLS, and PLUS loans who are age 21 and older to undergo credit checks, and to require that applicants who, in the judgment of the lender (subject to regulatory standards prescribed by the Secretary) have adverse credit histories, obtain a credit worthy cosigner in order to receive the loan. Lenders would be authorized to charge applicants up to $25 or the actual cost of obtaining the credit report, whichever is less, to defray the cost of the credit checks. Students with very little or no credit history, who would be the majority of applicants, would not be required to obtain a cosigner, and, consequently, their access to financial assistance and to postsecondary education would not be limited by this amendment. By requiring credit checks only of applicants who are at least age 21, this amendment would be more cost-effective than requiring credit checks of all applicants, because the students who are least likely to have a credit history would not have to pay for a needless credit check, and the lenders' burden would be minimized. This amendment is targeted at only those loan applicants who have already demonstrated their lack of credit worthiness, and would reduce defaults by requiring that a financially responsible individual, whether it is the student or the student's cosigner, stand behind the student's loan obligation. Similar changes are proposed for the Perkins Loan and ICL programs.

Section 438. Section 438 of the bill would amend section 428G(b) of the Act to build on the current requirement that disbursement of GSLs to all first year students be delayed 30 days. This amendment would require a 60-day delay of disbursement to first year students attending institutions with default rates over 30 percent. This amendment would enhance current law and reduce defaults by ensuring that many of those students least able to repay their loans—early dropouts at high default schools—have no loans to repay.

Section 439. Section 439 of the bill would amend the procedures in section 432 of the Act for limiting, suspending, or terminating the eligibility of a lender or institution that violates program requirements by eliminating the requirements for a full-blown administrative hearing "on the record." Institutions would still be provided notice and an opportunity for a hearing that would satisfy due process considerations. The formal "on the record" hearings are unnecessary, burdensome, time-consuming, and costly for both the Government and the institution. Unscrupulous institutions often manipulate the various procedures associated with "on the record" hearings to delay the final disposition of the case for as long as possible in order to keep the Federal funds flowing to the institution.

In addition, section 439 of the bill would amend section 432(h) of the Act to permit the Secretary to apply any or all of the sanctions imposed by one guaranty agency on an institution or lender to the lender's or institution's participation in the student loan insurance programs of all guaranty agencies. Currently, when a guaranty agency limits, suspends, or terminates a lender's or an institution's participation in its student loan insurance program, the Secretary is authorized only either to disqualify the lender or institution from participation in the program, or to do nothing. Complete disqualification is a harsh penalty that may not be appropriate in all cases, especially where the guaranty agency has imposed only a limitation or suspension.

This amendment would provide much-needed flexibility in imposing sanctions for program violations, particularly in situations where complete disqualification would be inappropriate. In addition, this amendment would clarify that the Secretary's review of a limitation, suspension, or termination imposed by a guaranty agency on a lender or an institution is limited to a review of the written record of the proceedings in which the guaranty agency imposed the sanctions and a determination as to whether the guaranty agency complied with statutory and regulatory requirements. Congress never intended that the Secretary's review of guaranty agency's actions against a lender or an institution take the form of a full-blown administrative hearing, which would substantially lengthen and complicate the procedures required with no real benefit to the institution or lender, other than as a delaying tactic through which Federal funds would continue to flow to an entity already found in violation of program requirements by a guaranty agency.

Section 439 of the bill would also eliminate certain restrictions in section 432(g) of the Act regarding the Secretary's ability to fine lenders and guaranty agencies. The current restrictions limit the effectiveness of civil penalties as a sanction—if all a lender or guaranty agency has to do to avoid a civil penalty is correct (at least temporarily) the underlying problem, there is no incentive to follow program requirements. Further, in some cases it can be more cost-effective to pay a single fine rather than correct program violations.

Section 440. Section 440 of the bill would amend section 428(b) of the Act to prohibit a guaranty agency from permitting its officers and employees, as well as members of their immediate families, from having a direct financial interest in, or serving as officers and employees of, any lender, secondary market, contractor, or servicer with which the guaranty agency does business. These restrictions are necessary to prevent conflicts of interest.

Section 441. Section 441 of the bill would amend section 428 of the Act to clarify that the Secretary's authority to obtain information from guaranty agencies includes financial information, and would back this authority with the sanction of reduced or withheld administrative cost allowances if the guaranty agency doesn't provide the necessary information to the Secretary. This amendment would ensure that the Department is able to monitor the condition of guaranty agencies more closely, and is apprised of any agency instability or irregularities before the problems become irreparable.

Section 442. Section 442 of the bill would amend section 428(f)(1)(B) of the Act to change the amount of the administrative cost allowance that a guaranty agency currently receives from a fixed one percent of loan volume, to the lesser of one percent of loan volume or the guaranty agency's actual administrative costs, as estimated using criteria prescribed by the Secretary. Loan volume can fluctuate significantly from year to year, and may not always accurately reflect an agency's immediate administrative costs. However, it is necessary to specify a maximum administrative cost allowance in order to contain costs and encourage fiscal responsibility.

Section 443. Section 443 of the bill would amend section 428(c)(6)(A)(ii) of the Act to limit the amount that a guaranty agency may retain from amounts collected on defaulted loans to the lesser of 30 percent of the amounts collected, or the cost of collections as estimated in accordance with criteria prescribed by the Secretary in regulation. Current law permits guaranty agencies to retain a flat 30 percent of collections, or 35 percent if the guaranty agency is located in a State that enacts and enforces a garnishment law that is consistent with the requirements of section 428E of the Act. It is appropriate to reimburse agencies in an amount based on a reasonable estimation of their collection costs, rather than at a fixed rate that may not accurately reflect those costs. The amendments made by this section would not change the current law provisions that permit the guaranty agency to retain from default collections the difference between the insurance paid to lenders and the reinsurance paid by the Federal Government at the time of default. Section 499 of the bill would remove the unnecessary and costly incentive to establish garnishment programs.

Section 444. Section 444 of the Act would amend section 432 of the Act to make a number of changes regarding the Secretary's authority to oversee guaranty agencies. First, the Secretary would be authorized to require a guaranty agency with an inadequate reserve level (to be set by the Secretary in regulations), or an agency that the Secretary determines to be in a financially or administratively weak condition to develop and carry out a management plan acceptable to the Secretary.

If the guaranty agency does not submit a management plan acceptable to the Secretary, or the Secretary determines that the guaranty agency has failed to improve substantially its administrative and financial condition under its management plan, the Secretary may terminate the guaranty agency's participation in the GSL programs. In addition, if the guaranty agency's reserve level is lower than a particular level set by the Secretary, or the Secretary otherwise determines that the guaranty agency is no longer able to perform its responsibilities under its guaranty agreement, the Secretary may terminate the guaranty agency's participation.

If a guaranty agency withdraws from a student loan insurance program under this part, or its guaranty agreement is terminated by the Secretary, the Secretary would be authorized to assume responsibility for the functions of the guaranty agency under its loan insurance program, require the guaranty agency to assign to the Secretary any of the guaranty agency's assets, books, records, computer software, and equipment that the Secretary determines are necessary to carry out those functions, and take appropriate action to ensure continued loan availability and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of its responsibilities, including the transfer of the guaranty agency's functions and assets to another entity. The Secretary would not be required to guarantee new loans, or to serve as a lender of last resort in accordance with section 428(j) of the Act. The Secretary's liability for the liabilities of the guaranty agency would be limited to the value of the assets assigned to the Secretary, minus costs.

These provisions would provide an early warning to the Department of guaranty agency financial or administrative difficulties, and the means of requiring the necessary corrections in sufficient time to avert the agency's financial collapse. The termination authority would provide a strong incentive for guaranty agencies to avoid making business decisions that leave them in financial weak positions, and this authority, coupled with the Secretary's authority to assume guaranty agency functions, would provide for a smoother transition if a new agency needs to be designated in place of a weak agency that failed. The authority for the Secretary to assume guaranty agency functions is also necessary to ensure that loan servicing continues in the interim until a new agency is designated.

Section 445. Section 445 of the bill would amend section 428 of the Act to require that States share some of the financial responsibility for the guaranty agencies and institutions serving the State's residents. First, a State would be required to guarantee, with the full faith and credit of the State or its equivalent, all loans guaranteed under this part by the guaranty agency designated for that State for borrowers who are permanent residents of that State. If the guaranty agency backed by a State is unable to discharge its student loan insurance, the State would be responsible for discharging those obligations, as well as the administrative costs associated with transferring the operations of that guaranty agency to another entity. The Secretary would then pay the State the amount such guaranty agency would have otherwise received as reimbursement under subsection 428(c) of the Act.

If the State has not complied with the requirement to back the designated guaranty agency by January 1, 1994, the Secretary would assess institutions of higher education participating in the GSL programs that are located in that State a fee based on the risk of financial loss to the Federal Government that the State would otherwise assume by backing the guaranty agency.

Because the State would have a financial interest in the success of that State's guaranty agency, the State would have a powerful incentive to be more rigorous in overseeing GSL program participants in the State, including institutions, lenders, and the guaranty agency. The States often have access to better information, and would be able to monitor these entities more closely than the Department of Education can at the Federal level.

Section 445 of the bill would also add a requirement that the State share financial responsibility for a portion of the default costs above a certain level at institutions located in that State. If, based upon the latest available data, the cohort default rate for borrowers that attended institutions of higher education located in a particular State exceeds 20 percent, the State would be required to pay to the Secretary an amount equal to the percentage of new loan volume that equals the percentage by which the default rate exceeds 20 percent. The State would be authorized to charge a fee to a participating institution in the State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's costs. This provision would encourage an increase in the States' role in monitoring the quality of institutions in the State, particularly in its licensing function. The State should bear some of the financial burden for high default costs in a State, because it shares an interest with the Federal Government in ensuring quality education, protecting the consumer, and generating a positive economic impact from the public investment in education.

Section 446. Section 446 of the bill would make a number of changes to the definitions in section 435 of the Act. First, several changes would be made to the definition of an "eligible institution." Because of the changes proposed to the definitions of an "institution of higher education" in Part G of Title IV and Title XII of the Act in sections 491 and 1111 of the bill, the definitions of "institution of higher education" and "vocational school" in sections 435(b) and (c) no longer necessary. In addition, foreign schools would no longer be eligible institutions for purposes of the GSL program with respect to students who are nationals of the United States. Many of the Title IV participation requirements are unenforceable against a foreign entity, and there are no requirements of accreditation, licensure and certification applicable to foreign school participation. Thus there is no accountability for GSL program funds. Eliminating foreign school eligibility would not, however, eliminate the opportunity for students receiving Title IV aid to study abroad; students enrolled in U.S. institutions can receive Title IV aid while studying at foreign schools if it is a part of their curriculum.

As part of the consolidation of definitions of institutional eligibility, the minimum course length for all Title IV programs would be set at six months or 600 clock hours in duration. Currently, shorter term programs are eligible under the GSL program. This six month minimum program length would reduce student loan default rates and help keep student debt burden more in balance with the expected earnings of graduates of short term training programs.

Next, the definition of "cohort default rate" in subsection (m) would be amended to add two new paragraphs. The first addition would alter, for purposes of this definition only, the point at which an SLS loan is considered to enter repayment. Normally, the SLS loan is considered to have entered repayment on the date it is made, regardless of whether payments on that loan are being deferred because the borrower is in school. Because there is no opportunity for default, the default rate thus appears much lower than it would be if the rate is calculated once the borrower is no longer enrolled in school and in an in-school deferment. In addition, each eligible lender of SLS loans would be required to provide the Secretary with the information necessary to determine when the SLS loans entered repayment for purposes of this definition.

The second addition would make the cohort default rate calculation in section 435(m) of the Act applicable to entities other than institutions, such as lenders and States. This change conforms with the changes proposed in sections 447 and 445 of the bill.

Section 435(n) of the Act, which relates to the impact of the loss of accreditation on an institution's participation, would be repealed because it is no longer necessary in view of the proposed consolidation of definitions of institutional eligibility. A comparable provision in Part G of Title IV, would instead be applicable to all Title IV programs.

Section 447. Section 447 of the Act would amend section 438(b)(2) of the Act to reduce the special allowance rate of a holder of loans for which the cohort default rate exceeds 20 percent by one quarter of a percent, to the three-month average of the 91-day Treasury bill rate plus 3 percent, minus the interest rate paid by the borrower. This sanction should reinforce the due diligence requirements and serve to discourage the overzealous practices of some loan originators by reducing the marketability of high default loan portfolios in the secondary market.

This amendment would similarly reduce the special allowance rate of a lender who does not provide to the Department the information required to determine when a SLS loan entered repayment for purposes of calculating the cohort default rate. This would provide a sanction to ensure lender compliance with the reporting requirements proposed in section 446 of the bill.

Section 448. Section 448 of the bill would amend section 439(n) of the Act to require the Student Loan Marketing Association (Sallie Mae) to notify, within 15 days, notify the Secretary of Education when Sallie Mae makes a loan (or extends some other form of credit) to a guaranty agency, its cumulative loans (or other credit) outstanding to any one lender exceed $50 million, or it makes any additional loans to a lender whose cumulative outstanding loans from Sallie Mae exceed that amount. Sallie Mae would also be required to report to the Secretary on the amount of, and reason for, the loan. This reporting requirement would be in addition to the current law requirements (which would also be expanded to include more detailed information about the characteristics of Sallie Mae's student loan portfolio) that Sallie Mae report to the President and the Congress on its operations and activities each year, and that the Secretary of the Treasury be furnished copies of annual audit reports on Sallie Mae. These new reporting requirements would provide the Secretary of Education with information that could indicate that an agency or lender may be experiencing financial difficulties, and would give the Department of Education more direct access to information crucial to the operation of the GSL programs.

Part C—Work study programs

Section 451. Section 451 of the bill would amend section 441(b) of the Act to authorize appropriations of $396,615,000 for fiscal year 1992, and sums as may be necessary for fiscal years 1993 through 1996. This reduction in Federal funding is necessary to permit more funds to be directed to provide increases in the Pell Grant program, which is more targeted on students with the greatest amount of financial need.

The Department of Education is continuing to explore ways in which to amend the allocation formula for the campus-based programs to both simplify the forumla and focus it more precisely on needier students, and may propose amendments to the allocatioin formula at a later date.

Section 452.—Section 452 of the bill would amend section 443(b)(5) of the Act to reduce the Federal share of the compensation of students employed in the Work-Study program to a maximum of 50 percent for fiscal year 1992 and succeeding fiscal years. An institution (or other employer) should bear a higher share of a student's compensation under this program because it receives significant financial benefits from this program, including decreased labor costs, and has wide latitude to direct these funds to the students, from among those students with the same level of financial need, that it is most interested in enrolling.

Section 453. Section 453 of the bill would eliminate all of the special provisions applicable to the expenditure of funds for community service-learning jobs, although employment in this type of job would still be permitted under the provisions generally applicable to the Work-Study program. These special provisions, such as an increase Federal administrative allowance for institutions and an increased Federal share of the compensation of students employed in community service-learning jobs, were designed to encourage institutions to employ students in community serivice-learning jobs, but have not been successful. Only one percent of the institutions participating in the Work-Study program employment students in this type of job, and a number of these institutions are not utilizing the special statutory incentives available.

Section 453 of the bill would also reduce the Federal share of the cost of a Job Location and Development program to a maximum of 50 percent, consistent with the amendments proposed in section 452 of the bill.

Section 454. Section 454 of the bill would amend section 443(b)(1) and eliminate sections 442(b)(8) and (c) of the Act, which authorize the use of Federal funds to subsidize profitmaking business, including proprietary institutions of higher education. Section 443(b)(8) of the Act permits a student attending a proprietary institution to be employed by that institution under the Work-Study program. Section 443(b)(1) of the Act would be amended to prohibit students under the Work-Study program from being employed at the proprietary institution itself. Under these amendments, which would restore the law as in effect prior to the 1986 reauthorization, students attending proprietary institutions would still be able to participate in the Work-Study program, but would have to be employed by a government agency or a private nonprofit organization rather than the proprietary institution. The benefits of the Work-Study program would thus still be available to these students without improving the profitability of proprietary schools (through decreased labor costs) at the expense of the taxpayer.

Section 443(c) of the Act permits an eligible institution to provide a portion of its Work-Study funds to private, for-profit organizations that hire students on a part-time basis. This program is not intended simply to provide low-cost employees to private businesses, and students are not having any difficulty finding work with these businesses. Thousands of postsecondary students are able to find summer or part-time employment with for-profit organizations each year without any Federal subsidy to their employers.

In addition, section 454 of the bill would amend section 443(b)(4) of the Act to reduce the amount of Work-Study subsidized compensation that a student may receive in excess of his or her need for $200 to $100. While a limited degree of administrative flexibility is warranted, $200 is 20% of the average Work-study award, and is thus an excessive amount of leeway to provide the institution in calculating the number of hours of federally subsidized employment that a student may work.

Part D—Income Contingent Loan Program

Section 461. Section 461 of the bill would amend section 452(b) of the Act to authorize appropriations for the Income Contingent Loan (ICL) program of $10,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993–1996. This represents a $5,120,000 increase over the fiscal year 1991 appropriation for the ICL program and would enable up to 20 institutions to participate in this pilot program, a doubling of the current participation rate. This expansion would increase the funds available to needy students (and do so in more cost-efficient manner), increase the number of recipients by 2,000 for fiscal year 1992 alone, and would provide a broader range of institutional experiences with the program on which to base an evaluation of the feasibility of a full-scale ICL program.

Section 462. Section 462 of the bill would amend section 452(c) of the Act to eliminate the requirement in paragraph (2) that no more than ten institutions may participate in the ICL program, and to make consortia of institutions eligible to participate. Permitting ICL program participation by consortia would encourage the participation of institutions that might be reluctant to administer the ICL program on their own, but would be willing to participate if the financial and administrative resources of several institutions were pooled to reduce the administrative burden on any single institution.

Section 463. Section 463 of the bill would amend section 454(a) of the Act as follows:

Sections 463(1) and (2) of the bill would amend section 454(a) of the Act to add graduate student eligibility for ICLs with loan maximums of $10,000 annually and $50,000 in the aggregate (including any ICLs made to a borrower before he or she became a graduate or professional student). Graduate and professional student eligibility for ICLs is needed both for comparability with the other Title IV loan programs, and to provide graduate and professional student access to a source of loan funds that offers both substantial loan maximums and income—sensitive repayment terms.

Section 463(3) of the bill would amend section 454(a) of the Act to require applicants for ICLs who are age 21 and older to undergo credit checks, and to require that applicants who, in the judgment of the institution (subject to regulatory standards prescribed by the Secretary), have adverse credit histories to obtain a creditworthy cosinger in order to receive the loan. Institutions would be authorized to charge applicants up to $25 or the actual cost of obtaining the credit report, whichever is less, to defray the cost of the credit checks. Students with very little or no credit history, which would be the majority of applicants, would not be required to have a cosigner. By requiring credit checks only of applicants who are at least age 21, this amendment would be more cost-effective than requiring credit checks of all applicants, because the students who are least likely to have a credit history would not have to pay for a credit check, and the institutions' burden would be minimized. The cosigner requirement is targeted at only those loan applicants who have already demonstrated their lack of credit worthiness, and would reduce defaults by requiring that a financially responsible individual, whether it is the student or the student's cosigner, stand behind the student's loan obligation. Similar changes are proposed for the Guaranteed Student Loan and Perkins Loan programs.

Finally, section 463 of the bill would amend section 454(a) of the Act to require that the institution obtain the borrower's driver's license number, if any, at the time of application for an ICL. This information would enhance collection efforts with little increase in the administrative burden on institutions.

Section 464. Section 464 of the bill would amend section 455 of the Act, which currently authorizes a study, with reports due October 1, 1991 and October 1, 1995, of the feasibility of expanding the ICL pilot program into a full-scale direct loan program. This amendment would provide for an evaluation, by October 1, 1993, of the impact of the ICL program on participating schools and students, as well as the program's cost-effectiveness. An examination of the feasibility of expanding the ICL program would still be included, but an evaluation of the program on additional issues, such as the changes proposed in this bill, would provide far more information that would be useful in setting the future direction of this program.

Part E—Perkins Loan Program

Section 471. Section 471 of the bill would amend section 461 of the Act to authorize appropriations for the Perkins Loan Progam under Part E of Title IV of the Act only for the payment of cancellations under section 465 of the Act on loans made before FY 1992. No new Federal capital contributions to the revolving student loan funds administered by participating institutions of higher education would be authorized, in part because the Perkins Loan Program duplicates the objectives of the less subsidized Stafford Loan Program, and amendments to that program as proposed in Part X of the bill, particularly higher loan limits, would ensure that postsecondary students have adequate access to loans. In addition, the revolving loan funds at some institutions are sizable enough to be self-sustaining without further Federal capital contributions.

Section 472. Section 472 of the bill would amend section 463 of the Act to modify the agreements between institutions of higher education and the Secretary to reflect the fact that no new Federal capital contributions would be authorized.

Section 473. Section 473 of the bill would make several changes to the terms of Perkins Loans in section 464 of the Act. First, section 464(b)(1) of the Act would be amended to require that the institution obtain the borrower's driver's license number, if any, at the time of application for a Perkins Loan. This information would enhance collection efforts with little increase in the administrative burden on institutions. Similar amendments are proposed for the GSL and ICL programs.

Next, section 473(2)(A) of the bill would increase the interest rate for Perkins Loans made on or after July 1, 1992 to 8 percent. This increase from the current 5 percent rate would make the interest rate for Perkins Loans comparable to that of Stafford Loans, and, by returning greater amounts to the funds at the institution, would make more resources available for Perkins Loans for other students at the institution.

Section 473(a)(A) of the bill would also amend section 464(c)(1)(E) of the Act to require applicants for Perkins Loans who are age 21 and older to undergo credit checks, and to require that applicants who, in the judgment of the institution (subject to regulatory standards prescribed by the Secretary), have adverse credit histories obtain a credit worthy cosigner in order to receive the loan. Institutions would be authorized to charge applicants up to $25 or the actual cost of obtaining the credit report, whichever is less, to defray the cost of the credit checks. Students with very little or no credit history, who would be the majority of applicants, would not be required to obtain a cosigner. By requiring credit checks only of applicants who are at least age 21, this amendment would be more cost-effective than requiring credit checks of all applicants, because the students who are least likely to have a credit history would not have to pay for a needless credit check, and the institutions' burden would be minimized. This amendment is targeted at only those loan applicants who have already demonstrated their lack of credit worthiness, and would reduce defaults by requiring that a financially responsible individual, whether it is the student or the student's cosigner, stand behind the student's loan obligation. Similar changes are proposed for the GSL and ICL programs.

Section 473(2)(B) of the bill would amend section 464(c)(2) of the Act by modifying the extent to which a student may qualify for deferment of repayment of new Perkins Loans. For new loans, the in-school deferment in current law would still be available, but the various other categorical deferments would be replaced by a single hardship deferment of up to three years in the aggregate. The categorical deferments in current law are not directly related to the financial ability of the borrower to repay the loan, and may be taken without an aggregate limit. However, many borrowers who would qualify or one of the categorical deferments would qualify for the financial hardship deferment, and if a Peace Corps for VISTA volunteer did not qualify for the hardship deferment, the institution would be required, at the borrower's request, to provide forbearance, under which no payments of principal would be required, and interest would be capitalized for up to three years of service, although the capitalized interest would not be subject to cancellation under section 465 of the Act. A single hardship deferment would greatly simplify the administration of the program by institutions, and, since the proposed single deferment would be directly linked to the borrower's inability to repay the loan, would be far more equitable and less subject to abuse.

Finally, section 473 of the bill would make conforming changes to reflect amendments proposed elsewhere in this part of the bill. The requirement that an institution must make Perkins Loans available to less than full-time students, if a portion of the Federal capital contributions it receives is based on the financial need of these students, would be eliminated because no new Federal capital contributions would be authorized. Whether to make Perkins Loans to these students would be left to the discretion of the institution.

Section 474. Section 474 of the bill would amend section 465 of the Act to eliminate, for Perkins Loans made for a period of instruction beginning on or after July 1, 1992, the cancellation of a specified percentage of a student's loan obligation in return for a period of service in a number of fields. Loan cancellation does not serve the purpose for which it is intended, namely, to attract additional individuals to a particular field of study or career. Instead, cancellation merely provides a windfall to those already intending to pursue that field of study or career.

Section 475. Section 475 of the bill would amend section 466 of the Act to delay for five years the required distribution of assets from Perkins Loan funds that would end the program. This amendment is consistent with the proposed extension of the program authorization for that period of time.

Section 476. Section 476 of the bill would repeal section 462 of the Act, which sets the allocation formula for Federal capital contributions and is no longer necessary because no new Federal capital contributions would be authorized for the program.

Part F—Need Analysis

Section 481. Section 481 of the bill would amend section 471 of the Act to delete the exclusion of the Pell Grant and SSIG programs from the definition of a student's amount of need for Title IV, HEA assistance. This is one of several amendments proposed here and in Subpart 1 of Part A of this title of the bill to create a single need analysis system in Part F of Title IV of the Act for use for all of the Title IV need-based student assistance programs (SSIG is proposed for repeal in section 420 of the bill, and Part F does not apply to the HEP/CAMP and Byrd Scholarship programs authorized in Subparts 5 and 6, respectively, of Part A of Title IV). Currently, there is a separate need analysis system for the Pell Grant program, while Part F applies to the rest of the Title IV need-based student assistance programs. A single need analysis system would simplify the delivery of Federal student aid, and reduce confusion and burden for students and their parents. Where necessary, some elements of the Pell Grant need analysis system would be retained, or used to modify the "Congressional Methodology" currently in Part F, but, in general, the Part F system would serve as the basis for the proposed new single need analysis system.

Section 482. Section 482 of the bill would amend the definition of "cost of attendance" in section 472 of the Act. First, section 472 would be amended to use the more precise term "uniform compulsory fees" from the Pell Grant need analysis provisions. Next, institutions would not be permitted to include costs related to the purchase of equipment, materials and supplies in determining the allowable amount of tuition and fees. These items are already covered by section 472(2) of the current law. In addition, the allowance for room and board for the Title IV aid programs (other than Pell) would be modified to be similar to the Pell Grant living allowances. Both the tuition and fees and room and board provisions would be clarified to ensure that separate sets of charges are not applied by an institution depending on whether a student is receiving Title IV assistance or not.

Certain special provisions applicable only to the determination of the cost of attendance for Pell Grant purposes would also be added to section 472 of the Act. First, because of the way that Pell Grants for student attending on a less than full-time basis are calculated, tuition and fees to be used in determining the student's cost of attendance for Pell Grant purposes would be first calculated on the basis of a full-time academic workload, and then adjusted in accordance with section 411(b)(1)(B) of the Act (as amended by section 412 of the bill), by reducing the full-time award amount to reflect part-time attendance.

The maximum living allowances (for room and board, books, supplies, transportation, and miscellaneous expenses) to be included in calculating a student's cost of attendance for Pell Grant purposes would be set at $1,700 for a student without dependents residing at home with his or her parents and $2,300 for all other students. These living allowances are derived from the current definition of cost of attendance for the Pell Grant program in section 411F(5) of the Act. However, the current living allowance definition would be modified by eliminating the provision that ties it to changes in the amount of the maximum Pell Grant. Section 412 of the bill would substantially increase the maximum Pell Grant, but a comparable increase in the size of the living allowance is not warranted. Section 482 would instead provide a more appropriate method of providing reasonable increases in the living allowance to offset the effects of inflation, by tying changes in the maximum living allowance to the percentage changes in the standard maintenance allowances in section 475(c)(4) and 477(b)(4) of the Act after award year 1992–1993. Finally, the allowance for dependent care to be used in determining the student's cost of attendance for Pell Grant purposes would be limited to $1,000.

In addition, section 482 of the bill would amend section 472 of the Act to establish a maximum cost of attendance for short-term (one year or less) programs of training to prepare students for gainful employment in a recognized occupation. This maximum cost of attendance would be determined by the Secretary to equal the average State academic program expenditures per academic year for two-year public institutions of higher education, as determined by the Secretary. This provision is designed to discourage unscrupulous schools from increasing their tuition and fees simply because more Federal funds are available to their potential students due to the substantial increase to the Pell Grant maximum, as well as increases in the limits for the various student loan programs, proposed in this bill. Despite the inclusion of this provision in the bill, however, the Department is continuing to examine the issue of how best to control Federal costs for short-term vocational programs.

Section 483. Section 483 of the bill would amend section 473 of the Act to make a conforming change necessary because of the single need analysis system proposed in this part, and the repeal of the SSIG program proposed in section 420 of the bill.

Section 484. Section 484 of the bill would amend the data elements in section 474 of the Act that are considered in determining the expected family contribution (EFC), in order to make certain conforming changes. First, section 474 would be amended to conform to changes made to section 480 of the Act by section 490 of the bill, by using slightly different terminology regarding who is considered a dependent of the student or of the parent, and how family size is determined. This language was taken from the Pell Grant program statute and would provide clearer guidance for using the data elements than is now provided in Part F. Next, section 474 of the Act would be amended to conform to changes proposed throughout Part F of Title IV of the Act, discussed below, regarding the treatment of a student's spouse. Other minor editorial amendments would also be made to section 474 of the Act.

Section 485. Section 485 of the bill would amend section 475 of the bill to make a number of changes to the way the EFC for a dependent student is calculated. First, references to the spouse of a dependent student would be eliminated throughout section 475 of the Act, to conform with changes to the definition of an independent student, proposed in section 490 of the bill.

Section 485 of the bill would also amend subsection (b), (d), and (g) of section 475 of the Act to permit the application of the parents' negative available income, if any, first to reduce the parents' income supplemental amount from assets, down to zero if necessary, and then, if there is still any negative available income remaining, to increase the allowances against the dependent student's income by that amount, although the dependent student's contribution from income would never be reduced to less than zero. These changes would take into consideration that students from very low-income families would most likely be contributing more of their income to support their families' basic needs, and thus would have less to contribute to meeting their postsecondary education expenses.

Section 485 of the bill would also revise the minimum dependent student contribution in section 475(g) of the Act to be the greater of an amount that would vary according to family income, or 70 percent of the student's total income minus adjustments. As calculated under the variable portion of this provision, for a first year under graduate student, the minimum contribution would be zero, if his or her parents' total income is less than $12,000; $500, if the parents' total income is between $12,001 and $15,000; and $700, if the parents' total income is $15,001 or more; and for all other dependent students would be zero, $600, and $900 in those income categories.

Exceptions to the general need analysis calculations for dislocated workers and displaced homemakers would be eliminated from section 475, and elsewhere in this part of the bill, from sections 476, 477, and 480 of the Act. These exceptions have resulted in a substantial administrative burden and a significant lack of accuracy that outweigh the additional benefits provided to a relatively small number of these aid recipients. For example, about three-quarters of the 2,100 institutions that responded to a recent Survey of of Undergraduate Financial Aid Policies, Practices and Procedures reported that their aid applicants correctly claimed dislocated worker status less than 50 percent of the time, and correctly claimed displaced homemaker status about 20 percent of the time. About one in five schools reported that their students *never* claimed dislocated worker status correctly, and one in four schools reported the same information regarding displaced homemaker status. Instead of statutory exceptions for this very limited group of individuals, the Secretary would be authorized, in section 490 of the bill, to prescribe regulations specifying situations in which the data elements considered in determining a student's expected family contribution may be modified to accommodate the special circumstances of any student, including dislocated workers and displaced homemakers.

Next, section 475 of the Act, and elsewhere in this part of the bill, sections 476 and 477 of the Act, would be amended to exclude the net value of the principal place of residence from the calculation of net worth for the parents of dependent students and independent students with adjusted gross incomes of less than $20,000. For families with low incomes, home equity is generally not available to tap as a resource to pay postsecondary education expenses because their earnings are often insufficient to qualify for a loan against their homes in order to pay for their education, or the education of their children.

The tables and provisions used to determine the standard maintenances allowance, employment expense allowance, adjusted net worth of a business or farm, asset protection allowance, and parents' assessment from adjusted available income would all be updated to reflect the amounts to be used for award year 1992–1993 (with certain modifications) that were set in regulations, pursuant to section 478 of the Act. Updates for subsequent years would be published in the Federal Register, as is the case in current law.

This section of the bill would authorize the use of the parents' negative available income to reduce the parents' income supplemental amount from assets, and then increase the adjustments to the dependent student's income. The parents' income supplemental amount from assets would also be modified so that any negative amount resulting from the calculation of the parental income supplemental amount from assets would be converted to zero, rather than being added to the parents' negative available inome to create a larger offset against the dependent student's income. While students from very low income families may be contributing more of their income to support their families, assisting their parents to accumulate assets does not fall within that concept of support.

The asset protection allowance would be changed by looking at the average age of both parents in the calculation, rather than the age of the older parent. This amendment would reflect the significant increase in two-earner couples, and thus more accurately determine the appropriate asset protection allowance.

A minor terminology change would also be made to section 475(d)(2)(C) of the Act in order to conform with the slightly different provisions, taken from the Pell Grant program statute and added to section 480 of the Act by section 490 of the bill, regarding business and farm assets.

Finally, section 475(i) of the Act would be amended to exclude the Pell Grant program from the adjustment of award amounts for enrollment periods of other than nine months. This provision is unnecessary for Pell Grant purposes, because this calculation is already performed when the full scheduled award is adjusted to reflect the period of attendance.

Section 486. Section 486 of the bill would amend section 476 of the Act in a number of ways similar to the amendments to section 475 of the Act discussed above, including updating the various tables, modifying the asset protection allowance to reflect the average age of a married independent student and his or her spouse, eliminating the exceptions for dislocated workers and displaced homemakers, excluding the net value of the principal place of residence from the calculation of net worth for independent students with adjusted gross incomes of less than $20,000, and making necessary conforming changes to reflect the new farm and business assets definitions added to section 480 by section 490 of the bill.

In addition, section 486 of the bill would modify section 476 of the Act to include married, as well as unmarried, independent students without dependents. Currently, spouses are considered "dependents" of the students under section 476 and 477 of the Act, and the calculation of the expected family contribution for married independent students without dependents is now the same as the more generous need analysis formula used for families with children. Families without children do not have the same living expenses and financial responsibilities, and thus this provision would be altered to treat all independent students without children uniformly, regardless of marital status.

Because married independent students would be included under section 476, a maintenance allowance for the spouse of the independent student, and an employment expense allowance similar to those in sections 475(c)(5) and 477(b)(5) would be added to section 476 of the Act.

Similar to the changes proposed to section 475(g) of the Act, the minimum student contribution in section 476(b) of the Act would also be revised to be the greater of the amount calculated according to the formula in section 476 of the Act or an amount that would vary according to family income. As calculated under the variable portion of this provision, a student's minimum contribuiton would be zero, if his or her total income is less than $12,00; $780, if that total income were between $12,001 and $15,000, and $1,200, if that total income were $15,001 or more.

Section 476 of the Act would also be amended to eliminate veteran's educational benefits from the calculation of the independent student without dependents' contribution from income. The current formula results in only a certain percentage of the veteran's educational benefits being used to reduce the student's amount of need for Title IV, HEA student assistance. Under this amendment these benefits would instead be treated as other forms of student financial aid, which are considered resources for meeting the student's financial need on a dollar-for-dollar basis.

Section 487. Section 487 of the bill would amend section 477 of the Act similar to the changes to sections 475 and 476, discussed above, including updating the various tables, modifying the asset protection allowance to reflect the average age of a married independent student and his or her spouse, eliminating the exceptions for dislocated workers and displaced homemakers, excluding the net value of the principal place of residence from the calculation of net worth for independent students with adjusted gross incomes of less than $20,000, making necessary conforming changes to reflect the new farm and business assets definitions added to section 480 by section 490, modifying section 477 of the Act to exclude married independent students without dependents, and eliminating veteran's education benefits from the computation of adjusted available income. The minimum contribution for an independent student with dependents would be the greater of the amount calculated according to the formula in section 477 of the Act or an amount that would vary according to family income. As calculated under the variable porton of this provision, a student's minimum contribution would be zero, if his or her total income is less than $12,000; $780, if that total income were between $12,001 and $15,000, and $1,200, if that total income were $15,001 or more. In addition, the way in which the expected family contribution is calculated in sections 477 (a) and (b) of the Act would be amended to make the calculation of the minimum contributions for independent students similar, and make the assessment of resources in section 477 of the Act, which is currently modeled on the calculation of the expected family contribuiton for parents of dependent students in section 475 of the Act, more appropriate for independent students.

Section 488. Section 488 of the bill would amend section 478 of the Act to eliminate the prohibition in subsection (a) against the Secretary prescribing regulations to carry out Part F, other than on limited topics. This elimination would restore the necessary Secretarial flexibility to regulate Title IV student aid programs and promptly address issues as they arise. In addition, the dollar amounts and years referenced in the remainder of section 478 of the Act would be updated in conformity with the updating of the various tables in sections 475, 476, and 477 of the Act as proposed in this part of the bill, and necessary corrections to cross references would be made.

Section 489. Section 489 of the bill would eliminate the references to Pell Grants and examples of asset adjustments in section 479A of the Act, which provides discretion to the student financial aid administrator to adjust a student's expected family contribution and cost of attendance. Under the campus-based programs, a school's Federal funds are limited by the availability of appropriations and by allocation formulas. The adjustment authority for the GSL program is also limited, in practice, because students would be less likely to take out excessive loans than they would be to accept higher grant amounts. However, under the current section 479A of the Act, there is no way to limit Pell Grant expenditures to the availability of appropriations. Any increase in eligibility for the Pell Grant program generally results in increased Federal funds to students at the school. Thus, discretion has the potential to be extraordinarily and unpredictably expensive.

There is also a very serious potential for institutional abuse of such a "blank check" authority to adjust award levels, particularly in light of the substantial increase in the Pell Grant maximum, proposed in section 412 of the bill. Furthermore, such blanket discretion is inequitable because two similar students applying for Federal assistance will not necessarily be judged by the same criteria. Section 490 of the bill would authorize the Secretary to prescribe regulatory modifications of the determination of a student's expected family contribution in special circumstances. The Secretarial authority would be more uniformly applied, remove the incentive for instatutional abuse, and be more predictable than the discretion found in current law, yet would provide ample flexibility to accommodate the special needs of students.

Section 490. Section 490 of the bill would amend the various definitions in section 480, including the definition of an "independent student" in section 480(d) of the Act. Under current law, a student is considered to be independent if he or she is 24 years of age or older by December 31 of the award year; is an orphan or ward of the court; is a veteran; is a gradate or professional student, or is married, and declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents during the first calendar of the award year; has legal dependents other than a spouse; is a single undergraduate student who was not claimed as a dependent for income tax purposes by his or her parents for the two calendar years preceding the award year and demonstrates total self-sufficiency by showing annual total resources (excluding established under the National and Community Service Act of 1990) of $4,000; or is a student from whom a student financial aid administrator makes a documented determination of independence due to unusual circumstances.

Section 490 of the bill would alter this definition by increasing the age at which a student would be automatically considered to be independent to age 26, and would eliminate the difficult-to-verify declaration required of graduate, professional and married students (as well as make conforming changes to the definition due to this change by eliminating paragraphs (3) and (4) of section 480(d)). In addition, this amendment would require a single undergraduate student with no dependents to demonstrate that he or she did not live with his or her parents for more than six weeks during the calendar year preceding the award year, and will not live with his or her parents during the first calendar year of the award year for a similar period, and show his or her self-sufficiency during each of the two calendar years preceding the award year by demonstrating annual total income (excluding resources from parents and student financial assistance and living allowances from programs established under the National and Community Service Act of 1990) of an annually adjusted amount, which would be $5,740 for award years 1992–1993.

Increasing the age at which a student would be automatically considered to be independent to age 26 would significantly reduce the number of students receiving artificially reduced EFCs despite their true dependency status, and is consistent with the Administration's position that the student and his or her parents should shoulder the primary responsibility for financing the student's postsecondary education. Eliminating the declaration regarding parental tax information currently required of graduate, professional, and married students recognizes that the tax returns necessary to verify this declaration are not available in sufficient time to permit any meaningful verification of this declaration. In addition, the current requirements for a single undergraduate student to establish independent student status through a certain level of "resources" are too generous, because such resources could include student financial aid, and are set at an insufficient level to allow a student to be truly self-supporting.

A student financial aid administrator would also be authorized to make a documented determination that, in unusual circumstances, an individual who meets the statutory definition of an independent student is in fact dependent. This is consistent with the aid administrator's authority in current law to make a documented determination that a student is independent in unusual circumstances, even though the student does not meet the statutory definition.

Section 490 of the bill would also amend section 480 of the Act to eliminate the exception in section 480(a)(3) of the Act regarding dislocated workers, and the definition of a displaced homemaker in section 480(e) of the Act, for the reasons discussed in section 485, above.

Section 490 would also add a provision to section 480 of the Act authorizing the Secretary to prescribe regulations specifying situations in which the data elements considered in determining a student's expected family contribution may be modified to accommodate the special circumstances of a student. This addition would provide the necessary flexibility to accommodate the special needs of students, and replace the elimination of student financial aid administrator discretion for purposes of the Pell Grant program proposed in section 489, above.

Finally, section 490 would add slightly different provisions, derived from the Pell Grant program statute, regarding what constitutes farm and business assets, who is considered a dependent of the student or of the parent, and how family size is determined. These changes would provide clearer guidance for using the data elements than is now provided in Part F.

Part G—General provisions

Section 491. Section 491 of the bill would amend the definitions in section 481 of the Act to simplify and consolidate the definitions regarding what types of postsecondary educational institutions may participate in programs under Title IV. Elsewhere in this bill, amendments are also proposed to sections 435 and 1201(a) of the Act in conformity with this simplification.

First, the separate definition for a "postsecondary vocational institution" would be eliminated as unnecessary because of changes proposed to the definition of an "institution of higher education" currently in section 1201(a) of the Act.

Next, section 491 of the bill would also amend section 481(a) of the Act to make an institution with unacceptably high default rates ineligible to participate in any of the Title IV programs. This amendment is similar to the provision added to the GSL program by the Omnibus Budget Reconciliation Act of 1990, P.L. 101-508, but would apply to all Title IV programs, and the default rate at which an institution generally would be terminated would be set at 25 percent for fiscal year 1994 and beyond. High default rates are one indicator of poor academic quality. Termination of eligibility should not be limited to the GSL programs. Further, the reduction of the default threshold for termination of eligibility from the current 30 percent for fiscal years 1993 and beyond is not adequately stringent. Schools with default rates over 25 percent are not satisfactorily fulfilling their program participation obligations, and should not, in general, be permitted to continue to participate in the Title IV programs.

The definition of a "proprietary institution of higher education" would also be changed to permit the institution to be eligible under the same alternative to accreditation as proposed for nonprofit institutions in section 1111 of the bill. Currently, a proprietary institution must be accredited in order to participate in the Title IV programs generally but may utilize the alternative to accreditation under section 435(c) of the Act as one way to establish eligibility for GSL program participation. Section 491 of the bill would add to the definition of a proprietary institution language derived from the current sections 435(b) and (c) of the Act. This alternative would state that if there is no nationally recognized accrediting agency or association qualified to accredit institutions in a particular category, the Secretary may appoint an advisory committee that would make recommendations to the Secretary regarding the appropriate standards, and whether a particular school meets the standards the Secretary establishes.

Finally, section 481(e) of the Act would be eliminated because it would be superseded by changes proposed in section 1101 of the Act.

Section 492. Section 492 of the bill would add a new section 481A to Part G of Title IV of the Act that would reduce statutory maximums for grants and loans for students in short term programs. If a student is or will be enrolled in a course of study of less than one academic year (defined for this purpose as 24 semester or trimester hours, 36 quarter hours, or 900 clock hours), the maximum amount of a grant or loan that he or she may receive under any of the Title IV grant or loan programs would be reduced proportionately. For example, if the student is enrolled in a 600 clock hour program, the maximum amount of a Stafford Loan that he or she may receive is 600/900ths, or two-thirds, of the annual loan limit that would otherwise apply to that student. This amendment would match the award amount to the amount of training provided, and would serve as an incentive to institutions to constrain the amount of tuition charged for short-term training.

Section 493. Section 493 of the bill would amend the Master Calendar in section 482 of the Act to make changes to cross-references necessary to conform with other changes proposed in this bill, and to eliminate subsection (c), which currently delays the effective date of certain Title IV regulations published on or after December 1 to the second award year beginning after that date. This is an inappropriate intrusion on the administrative functions of the Department in the delivery of student aid. The unreasonably long delay of the effective date of regulations would, in certain circumstances, delay the implementation of desirable program improvements; constrain regulatory procedures and minimize opportunities for public comment; and severely limit the Secretary's ability to respond effectively to unforeseen administrative problems that require prompt regulatory guidance.

Section 494. Section 494 of the bill would make several changes to section 483 of the Act regarding how student financial aid forms are developed and processed. First, the Secretary would prescribe a common financial reporting form to be used to determine the expected family contribution of a student for purposes of all the Title IV programs, and no student or parent could be charged a fee for processing this form, although a fee could still be charged for processing additional items required for institutional or State financial aid purposes. Instead of having need analysis processors using a variety of forms, this amendment would streamline and make uniform the student aid delivery process. All of the aid application information would be collected using the common form, and forwarded to the central processor designated by the Secretary, where all determinations of the expected family contributions of students would be performed.

Currently, under sections 483(a)(2) and (3) of the Act, individual multiple data entry (MDE) agencies contract with the Department to collect the aid application information, using a variety of application forms (all of which contain the "core" elements for determining the expected family contribution for Title IV purposes), and forward the information to the central processor, where the student's expected family contribution for Pell Grant purposes is determined. In addition, the MDEs calculate a second expected family contribution, which is used to award campus-based aid.

The Department's Inspector General has criticized the MDE procurement as noncompetitive, expensive, and duplicative. Section 494 of the bill would eliminate the requirement that the Secretary enter into not less than five MDE contracts, thereby providing the Secretary with the flexibility necessary to ensure that the determination of expected family contributions is done as efficiently as possible. This amendment would ease the confusion and burden associated with the current system.

This amendment also contains elements taken from section 411(f) of the current Pell Grant program statute, in that the institution of higher education would be able to recalculate the expected family contribution of the student if there has been a change in circumstances or in the data submitted, make the corrected award (or certify the correct loan amount, in the case of a GSL), and, in the case of Pell Grants, report the corrected data via the need analysis servicer to the central processor for confirmation of the correct amount.

Finally, section 494 of the bill would amend section 483(f) to eliminate the requirement that institutions issue a "United States Department of Education, Federal Student Assistance Report," bearing the Great Seal of the United States and printed in the same color as checks issued by the Treasury Department, to student aid recipients that informs those recipients of the amount and type of Federal assistance awarded. Government documents that resemble Treasury checks both create confusion on the part of recipients and facilitate counterfeiting attempts. This amendment would merely require that an institution inform each student who receives Title IV assistance of the type and estimated amount of assistance awarded, that the assistance is federally supported. There is no need for a separate form in order to convey this information.

Section 495. Section 495 would amend the student eligibility requirements in section 484 of the Act by replacing the current requirement that, in order to be eligible to receive Title IV grant, loan or work assistance, a student must be making "satisfactory progress" toward a postsecondary degree or certificate. The amendments in section 495 of the bill would instead require that a student rank in the top 90 percent of his or her class in order to remain eligible to receive Title IV assistance. Each year, eligibility would be based on the student's cumulative class ranking at the end of the enrollment period most recently completed. In addition, the definition of "satisfactory progress" in section 484(c) of the Act would be amended to specify that the Secretary may regulate minimum standards of satifactory progress. However, it must be pointed out that the Department has indicated that it will reexamine this proposal, and develop an alternative approach ensuring that Federal student aid goes only to those students who recognize the importance of education and who take their studies seriously.

Next, section 495 of the bill would amend section 484(d) of the Act to make more explicit the Secretary's authority to regulate on a variety of issues relating to the testing of students who are not high school graduates. In order for such students to receive most forms of Title IV assistance, they are required under current law to pass an independently administered examination approved by the Secretary. Test approval encompasses a variety of issues, and this amendment would include clearer references to some of the elements of that process into the statute.

Section 495 of the bill also eliminates the limitation, in subsection (f), on the Secretary's authority to verify the accuracy of the data reported by aid applicants, and the verification of immigration status provisions in subsections (h), (i), and (j). Currently, section 484(f) of the Act prohibits verification of the data on more than 30 percent of aid applications for any Title IV student aid program per institution in any award year. This is an arbitrary limitation that interferes with the Department's efforts to reduce the documented high error rate on student aid applications. The Department spent many years developing a national system for identifying error-prone applications that has been seriously undermined by the addition of this limitation by the Higher Education Technical Amendments Act of 1987 (P.L. 100-50). Up to 60 percent of the applications each year at some institutions now contain patterns of reported data that, historically, have proven to be erroneous. This provision of current law permits institutions to manipulate the system by delaying the processing of difficult or error-prone aid applications until after the 30 percent limitation has been reached.

In addition, section 495 of the bill would substitute an authoirty for the immigration status alternative verification system for the current sections 484(h), (i), and (j). These current subsections were added by the Immigration Reform and Control Act (IRCA), which also permitted this verification system to be waived if an alternative system would be more cost-effective. The Secretary determined that a centralized computer matching program implemented by the Department using INS information accomplishes the goals of IRCA through more economical and less burdensome means, and received a waiver of the subsections in current law. Thus, the current subsections are obsolete and create confusion on the part of institutions with regard to their verification responsibilities.

Section 496. Section 496 of the bill would require institutions to obtain additional information from borrowers that would make it easier to locate those who are delinquent or in default, and to share that information with lenders. This provision of the bill would amend section 485(b) of the Act to require the institution to obtain, during the exit interview, the borrower's expected address after leaving the institution, the name and address of the borrower's expected employer after leaving the institution, and the address of the borrower's next of kin. This information would enhance collection efforts with little increase in the administrative burden on schools.

Section 497. Section 497 of the bill would repeal section 486 of the Act and replace it with a new section 486 that would require that all institutions participating in Title IV programs implement fair and equitable refund policies, and inform prospective students in writing of those policies. The current section 486 of the Act, which authorizes the Secretary to enter into contracts in order to provide training to individuals in financial aid and support services, is unnecessary because the Secretary already has sufficient authority to provide the type of training described in section 486 without a special authorization, and does in fact provide such training, often in the form of conferences.

Under the new section 486, an institution's refund policy would be considered fair and equitable if it provides refunds of at least the largest of the amounts provided under applicable State law; the refund requirements established by the institution's nationally recognized accrediting agency requirements and approved by the Secretary; the specific refund policy standards set by another association of institutions of postsecondary education and approved by the Secretary; or a pro rata calculation under which the institution would refund a share of tuition, fees, room and board, and other charges assessed the student by the institution, in proportion to the amount of time remaining in the enrollment period at the time the student withdraws. The institution would also be permitted to retain a reasonable administrative fee.

If a student withdraws after the halfway point in the period of enrollment for which the student has been charged, the institution would not be required to determine the refund using the pro rata calculation. Section 497 would also make a minor conforming change to section 485(a)(1)(F) of the Act.

These amendments would help to minimize the problems of defaults by students who drop out near the beginning of a program of study, and would remove an incentive for a school to enroll students lacking a reasonable prospect for completing their studies.

Section 498. Section 498 of the bill would make a variety of changes to the program participation agreements in section 487, as well as amend the hearing requirements in section 487 (b) and (c). First section 498 would amend section 487(a) of the Act to require that institutions acknowledge, as part of their program participation agreements, the right of the Secretary, guaranty agencies, accrediting agencies, and State licensing bodies to share with each other information relating to an institution's eligibility to participate in Title IV programs. This would conform to the change proposed in section 1116 of the bill.

Section 498 of the bill would also prohibit an institution from paying an individual engaged in the recruiting or admission activities, or in making decisions regarding the award of student financial assistance, any form of incentive payment that is based directly or indirectly on that individual's success in securing enrollments at the institution.

A compensation system based on commissions or bonuses for recruiters is a powerful incentive for misrepresentation and unscrupulous tactics, including abuse of the ability-to-benefit student eligibility criterion in section 484(d) of the Act, and the enrollment of likely dropouts. This type of compensation system places an undue emphasis on generating student aid dollars for the institution rather than providing a high quality education to students who are adequately prepared to undertake the courses of study for which they enroll. This amendment would address a major source of program abuse through which some unscrupulous institutions have been able to exploit disadvantaged students, with a resulting waste of Federal grant aid and an increase in student loan defaults.

Next, section 498 of the bill would amend the procedures in section 487 of the Act for limiting, suspending, or terminating the Title IV participation of an institution that violates program requirements by eliminating the requirements for a administrative hearing "on the record." Institutions would still be provided notice and an opportunity for a hearing that would satisfy due process considerations. The formal "on the record" hearings are unnecessary burdensome, time-consuming, and costly for both the Government and the institution. Unscrupulous institutions often manipulate the various procedures associated with "on the record" hearings to delay the final disposition of the case for as long as possible in order to keep the Federal funds flowing to the institution.

Finally, section 498 of the bill would add a new subsection (e) to section 487 of the Act that would authorize the Secretary to certify conditionally that an institution is eligible to participate in Title IV programs if: an institution's administrative capability and financial responsibility is being determined for the first time; there is a complete or partial transfer of the ownership of an eligible institution; or the Secretary deems that institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement. Apart from being in one of these categories, an institution would be subject to the same standards for a conditional certification as it would be under the current certification process.

The Secretary could conditionally certify an institution under this subsection for up to three complete award years. If, prior to the end of a conditional certification, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary could terminate the institution's participation after notice and opportunity for a hearing. A full administrative hearing "on the record" would not be required in order to terminate an institution's participation that is conditionally certified.

This amendment would greatly improve the Secretary's ability to take timely actions against institutions with unproven records of administering Federal funds, or changed circumstances that may affect their adminsitration of those funds. Such authority has become particularly necessary in recent years due to the growth in the number of postsecondary institutions seeking to participate in the Title IV programs.

Section 499. Section 499 of the bill would add a new section 488A to the Act that would provide a uniform authority under which the Secretary and guaranty agencies could garnish the pay of student loan defaulters. Under section 428E of the current law, a guaranty agency is entitled to retain 35 percent, rather than the 30 percent of its collections on defaulted loans normally allowed, if it is located in a State that has enacted and enforces a wage garnishment statute that is consistent with the requirements of that section.

Section 499 of the bill would authorize guaranty agencies or the Secretary, depending on who holds the loan, to garnish up to 10 percent of the defaulter's disposable pay, regardless of particular State law requirements. The provisions in current section 428E would also serve as the general parameters of the wage garnishment authority proposed in new section 488A. By retaining basically the same safeguards as described in current law, defaulters would be provided with ample due process protections.

It is also important to extend this administrative wage garnishment authority to the Secretary because it is not cost-effective for the Department of Justice (DOJ) to pursue defaulted loans in small dollar amounts through the judicial process, and the minimum dollar value that DOJ will accept for collection may increase in the near future. While these loans may be small individually, they add up to significant dollar amounts that could otherwise be uncollectible if the Secretary of Education does not obtain an administrative wage garnishment authority.

Finally, this section of the bill would eliminate the unnecessary and unduly costly incentive in current law discussed above that permits guaranty agencies to retain an additional five percent of collections.

Section 499A. Section 499A of the bill would add a new section 489A to Part G of Title IV of the Act to authorize the Secretary to obtain information from any agency of the United States, or of any State, concerning the most recent address of a student loan borrower, or an individual owing a refund of an overpayment of a Title IV grant, as well as the name and address of his or her employer, if the Secretary determines that the information is needed to enforce the loan or collect the overpayment. The information that the Secretary would be authorized to obtain would include, in addition to the address itself, information that might assist the Secretary in obtaining the address. The Secretary could then share the information obtained with a guaranty agency holding a loan made to that borrower.

The head of any agency of the United States or of a State would, in conformity with the Privacy Act requirements, be required to provide the information requested by the Secretary notwithstanding any other provision of law, unless disclosure of this information would contravene national policy or security interests of the United States, or the confidentiality of census data. The reasonable costs incurred by the agency in providing the information to the Secretary would be reimbursed by the Secretary and retained by the agency, and if the information is furnished to a guaranty agency, that agency would be charged a fee in order to reimburse the Secretary for the expense of providing the information.

This new provision would greatly enhance the Secretary's ability to locate student loan defaulters and others who owe Title IV funds in order to collect on those obligations. It is also necessary to provide this means of determining the name and address of the individual's employer in order for the wage garnishment provision proposed in section 499 of the bill to be fully utilized.

Section 499B. Section 499B of the bill would amend section 490 of the Act to make the attempt to commit the offenses listed in section 490 subject to criminal penalties. Whether an individual is subject to criminal penalties should not be dependent on whether the individual is successful in carrying out the commission of one of these offenses, which include embezzlement, providing false information, providing unlawful inducements to make or assign GSLs, and concealing or destroying records relating to Title IV assistance.

Section 499C. Section 499C of the bill would make certain purely technical corrections to sections 485 and 485B of the Act.

Section 499D. Section 499D of the bill would amend section 3(c) of the Higher Education Technical Amendments of 1991 (P.L. 102-26) to remove the November 15, 1992 sunset on the elimination of any limitation period applicable to an offset, lawsuit, or other action brought to collect on a defaulted student loan or a grant overpayment. This sunset is an arbitrary limitation of the Department of Education's ability to collect on older defaulted student loans. Permanent elimination of the statute of limitations is additionally justified for this unique type of debt because studies have shown that the student loan defaulter's ability to repay increases over time. Moreover, student loans are made without regard to the credit worthiness of the borrower, and the benefits that the borrower receives through obtaining a student loan far outweigh any burden on the student resulting from the Federal Government's ability to collect on the loan over an indefinite period of time.

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

Title V. Title V of the bill would amend Title V (Teacher Training and Development) of the Act as follows:

Section 501. Section 501 of the bill would repeal sections 501, purpose, and 502, authorizations of appropriations, of the Act. Each part or subpart already has a statement of purpose and an authorization of appropriations.

Section 502. Section 502 of the bill would replace the current Part A (Midcareer Teacher Training for Nontraditional Students) with a new Part A program, Partnerships for Innovative Teacher Education. The new program would assist in the establishment of teaching schools that develop and put into practice the best knowledge about teaching. The teacher education functions of the current Part A program would be subsumed by the new, more comprehensive, program.

Section 513 of new Part A would authorize the Secretary to make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, institutions of higher education, and consortia of such agencies and institutions to plan, establish, and operate teaching schools.

A teaching school would be defined as an elementary or secondary school whose mission, in addition to providing the best possible education to its students, is to provide a site for a formal collaboration between one or more institutions of higher education and the school for the training of prospective and beginning teachers under the guidance of master teachers and teacher educators, the continuing development of experienced teachers, and research and development to improve teaching and learning. Proprietary schools would not be eligible for awards under this part.

Awards would be for a term of three years and could be renewed, non-competitively, for a period of two additional years if the Secretary makes certain determinations. No individual teaching school could receive funds provided under this part for a total period of more than five years.

Section 514 of new Part A would require State or local educational agencies, institutions of higher education, or consortia of such agencies and institutions that want to receive awards under this part to submit applications to the Secretary containing such information and assurances as the Secretary requires, including a plan for evaluating the effectiveness of the teaching school and assurances that a significant number of prospective and beginning teachers will be trained in each teaching school in each year of the project. Applications from State or local educational agencies would also have to indicate how the State or local agencies would deal with their own rules or regulations that are found by a teaching school to impede its progress in achieving its goals. Applications from institutions of higher education would have to describe how the Schools of Education and of Arts and Sciences and other departments will be involved in the project.

Priority would be given to applicants that select training school sites based on need, propose projects that demonstrate the active support of the State and local educational agency and the university or college, and propose projects that demonstrate collaboration with other educational organizations, social or human service agencies, other community organizations, and the business community.

Section 515 of new Part A would allow applicants to use award funds for planning, establishment, and operational activities, including staff development, purchase of books, materials, and equipment, minor remodeling, payment of additional personnel, participation in network activities, and other related costs. The Secretary would be authorized to limit the amounts of program funds used for remodeling and the purchase of equipment. Section 515 of new Part A would also require teaching schools to use program funds for specified activities.

Section 516 of new Part A would authorize $20,000,000 to be appropriated for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the Part. A reservation of up to five percent of the amount appropriated for each fiscal year would be allowed to study the planning and implementation processes and the results of the teaching schools established under this program, disseminate findings of such studies, provide technical assistance to teaching schools, and support the development of a network or networks of teaching schools.

Section 516 of new Part A would also require that the Federal share of the cost of the activities set forth in an approved application be 75 percent for the first three years and 50 percent for the last two years.

Section 503. Section 503 of the bill would repeal Part B (School, College, and University Partnerships) of Title V of the Act. The program functions of the current Part B program would be subsumed by the more comprehensive new Part A (Precollege Outreach Program) of Title I of the Act proposed in section 101 of the bill.

Section 504. Section 504 of the bill would eliminate the programs contained in current Part C (Professional Development and Leadership Programs) of Title V of the Act.

Subpart 1 (Professional Development Resource Centers) of current Part C has never been funded and is not necessary.

Subpart 2 (Leadership in Educational Administration development, or "LEAD") of current Part C was originally envisioned as only a six-year effort. Currently in place is an excellent framework, the National Leadership Network, that supports the LEAD centers. In addition, the 1992 budget request for research includes $50,000 for a National LEADership Collaborative, which would assist the networking among the LEAD centers in support of the national goals. Section 504(3) of the bill would authorize $370,000 to be appropriated for fiscal year 1992 for the purpose of completing the final year of LEAD funding for the territories.

Section 505. Section 505(a) of the bill would amend current Part D (Teacher Scholarships and Fellowships) of Title V of the Act to make it Part C.

Sections 505(b) (1), (2), and (3) of the bill would change the heading of subpart 1 of Part D to the "Paul Douglas Teacher Scholarship Program," change references to Congressional Teacher Scholarships to Paul Douglas Scholarships, and correct an outdated reference.

Section 505(b)(4) of the bill would add a new subsection to section 552 of the Act, authorizing $14,639,000 to be appropriated for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the Paul Douglas Teacher Scholarship Program.

Section 505(a)(5)(A) of the bill would amend section 553(b)(4) of the Act, which imposes a service obligation on Paul Douglas Scholarship recipients, to: apply the service obligation only to scholars who received scholarships for either one or both of the two academic years prior to completion of a program of study for which the recipient would receive a teaching certificate (i.e., chiefly junior and senior recipients); reduce the number of years of service from two years of service for every year of scholarship to one year of service for every year of scholarship; allow service to be performed in a public or private nonprofit school or education program at the pre-school, elementary, or secondary level in any State or outside the United States in schools sponsored by the Department of Defense; and require that recipients complete their teaching obligation within the four year period after completing the program of study for which the Paul Douglas Scholarship was awarded, or within three years for scholars who receive assistance for one academic year or less. This change would entice younger students to consider careers in teaching, help make teaching more attractive to current postsecondary students, and ease serious administrative burdens on the States.

Section 505(a)(5)(D) of the bill would amend section 553(b) of the Act to add a requirement that applications provide assurances that all recipients will sign a statement of their intention to pursue a teaching career and be enrolled or accepted in a State-approved program of teacher education. This change would be supportive of, and consistent with, the purpose of the program.

Section 505(a)(6) would amend section 555(b) of the Act to add an alternate eligibility requirement that a student be maintaining a postsecondary grade point average of 3.25 or better on a 4-point grade scale, or the equivalent grade average on another scale. This proposal would give States greater flexibility in selecting Douglas scholars.

Section 505(c)(1)(A) would amend section 563(a) of Subpart 2 (Christa McAuliffe Fellowship Program) of current Part D of Title V of the Act to authorize $2,036,000 to be appropriated for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the program; replace the current requirement that a fellowship be awarded to a teacher teaching in each congressional district with a requirement that funds be distributed to the States, the District of Columbia, Puerto Rico, and to the Territories on the basis of the number of public school teachers in each State, District, Commonwealth, or Territory in proportion to the total number of public school teachers; and allow the Secretary, in extraordinary circumstances, to waive or defer all or a portion of the service requirement, and to allow fellows to accept a teaching position in another school or school district. Section 505(c)(1)(A) would retain current law that individual fellowships may not exceed the national average salary of public school teachers and that no State or territory shall receive less than the average national salary of public school teachers.

Since appropriations levels for the Christa McAuliffe Fellowship Program have consistently been too low to provide one fellowship for each congressional district, and allocations of funds for this program have been made on the basis of teacher count according to section 563(a)(3) of the Act, this amendment would conform the requirement with current practice. With this amendment, section 563(a)(3) of the Act, providing for alternative distribution of fellowships if there are not sufficient funds to provide one fellowship for each congressional district, would become unnecessary and, therefore, would be eliminated in section 505(c)(1)(B).

Section 505(b)(2) of the bill would amend section 564 of the Act to require States, consistent with State law, when making Christa McAuliffe Fellowship awards to give priority to applicants that propose fellowship projects that involve pursuit of eligible activities on a full-time basis as part of a sabbatical. This amendment would help ensure that fellowship awards actually support enrichment activities undertaken during sabbaticals. Over 70 percent of the 1990 fellowship recipients will conduct projects while teaching full-time during the fellowship award period. Devoting full-time to a fellowship would encourage more meaningful activities to improve skills or service of outstanding teachers and would enhance the program.

Section 505(c)(3) of the bill would amend section 565 of the Act by striking out subsection (b), the requirement that announcement of McAuliffe fellowship awards be made in a public ceremony. This requirement is unnecessary.

Section 506. Section 506 of the bill would repeal current Part E (State Task Forces on Teacher Training) of Title V of the Act. Part E has never been funded, and States are already examining ways to improve teacher training.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

Section 601. Section 601 of the bill would remove the graduate fellowship authorities in section 602(b) of the Act. The provisions (currently in seciton 602(b)(1) of the Act) for stipends to individuals engaged in a program of language training, area studies, or international studies, or studying the international aspects of a professional studies program would be incorporated into the National Graduate Fellowships program proposed for Title II of the Act. This program would provide competitive grants to IHEs to provide support for graduate students studying in areas of national need. These areas, which would be designated by the Secretary, could include the programs of study that are currently the focus of section 602(b) of the Act.

The provisions (currently in section 602(b)(2) of the Act) authorizing awards to students beginning their third year of graduate training would be eliminated, since this authority would serve a limited number of students who could be served under the regular fellowship program. Section 601 of the bill would also remove a funding stipulation (currently in section 602(b)(3) of the Act) that is no longer necessary, given the removal of the other authorities under section 602(b) of the Act.

Section 602. Section 602 of the bill would remove the authority (currently in section 607 of the Act) for the Secretary to make grants to institutions of higher education to acquire foreign periodicals. Activities under this authority are the responsibility of the individual institutions and are an inappropriate use of Federal funds. This section of the bill would also redesignate sections 608 and 609 of the Act as sections 607 and 608, in conformity with the proposed removal of the current authority in section 607 of the Act.

Section 603. Section 603 of the bill would reauthorize Title VI programs through fiscal year 1996, with an authorization level of $28,670,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years. Since the authorization of appropriations incorporates programs under Parts A and B of Title VI, the authorization provisions would be placed in the general provisions part of the current title, in place of the recently repealed Advisory Board authority (previously section 621 of the Act). Section 603 of the bill would also repeal the current authorization of appropriations (in section 610 of the Act) for Part A programs and (in section 614) of the Act) for Part B programs, since the proposed appropriations authority would incorporate both Parts A and B.

Section 604. Section 604 of the bill would make a variety of technical and conforming amendments to Title VI of the Act. Section 604(a) of the bill would make several changes to grammar and punctuation in section 602(a)(1) of the Act to eliminate potential confusion in citing the "flush left" language that currently appears after section 602(a)(1)(B). Section 604(b) of the bill would delete a grant selection provision in section 605(b) of the Act that is unnecessary in light of the more general provision in section 608(c) of the Act; this section of the bill would also make conforming amendments to section 605 of the Act. The remaining provisions in section 604 of the bill would make changes to grammar and punctuation in current law that are needed for consistency and clarity.

TITLE VII—COLLEGE FACILITIES LOANS AND INSURANCE

Title VII. Title VII of the bill would amend Title VII of the Act (Construction, Reconstruction, and Renovation of Academic Facilities) as follows:

Section 701(a)(1) of the bill would change the title designation to "College Facilities Loans and Insurance."

Section 701(a)(2) of the bill would replace section 701 of the Act, a statement of purpose and priority for renovation projects, with a new purpose statement. Section 701 of the Act, as amended, would state the title's purpose as providing higher education institutions with access to private capital construction debt through the College Construction Loan Insurance Association and servicing of the remaining loan portfolio of the Higher Education Facilities Loans, the College Housing Loans, and the College Housing and Academic Facilities Loans programs as authorized by Title VII prior to the effective date of this Act.

Section 701(a)(3) of the bill would repeal section 702 of the Act, which authorizes appropriations for Parts A, B, C, D, and E of the Act. Parts A, B, C, and D are repealed in section 701(b) of the bill, and Part E is given its own authorization of appropriation in section 701(c)(5) of the bill.

Section 701(b) of the bill would amend Title VII to repeal Parts A (Grants for the Construction, Reconstruction, and Renovation of Undergraduate Academic Facilities), B (Grants for Construction, Reconstruction, and Renovation of Graduate Academic Facilities), C (Loans for Construction, Reconstruction, and Renovation of Academic Facilities), D (Grants to Pay Interest on Debt), F (Housing and Other Educational Facilities Loans), and G (Special Programs). By repealing Parts A, B, C, D, F, and G of the Act, section 701(b) would eliminate the Secretary's authority to provide financial assistance for academic facilities construction by higher education institutions. Responsibility for financing the capital outlay needed to maintain an institution's physical plant lies with the institution itself, State and local governments, taxpayers at those levels, private sector users and beneficiaries of higher education services, and the College Construction Loan Insurance Association, not with the Federal Government. Only in special circumstances of national importance should the Government provide such support. Parts E (College Construction Loan Insurance Association) and H (General) of Title VII would be retained.

Section 701(c) of the bill would redesignate Part E of Title VII as Part A and redesignate Part E section numbers.

Section 701(d) of the bill would redesignate Part H of Title VII as Part B of that title and make conforming amendments. Section 701(d)(5) of the bill would add a new provision to the Act authorizing appropriations for fiscal year 1992, and for each of the four succeeding fiscal years, in order to maintain current Federal obligations under current Parts C, D, and F of the Act, which would be eliminated under section 701(b) of the bill. Section 701(d)(5) of the bill would also apply the requirements of current Parts A, B, C, D, and F, in effect before the effective date of the bill, in determining the legal requirements of entities with continuing obligations under those programs.

TITLE VIII—COOPERATIVE EDUCATION

Section 801. Section 801 of the bill would amend the appropriations authority in section 801 of the Act by providing an authorization of $13,175,000 for fiscal year 1992 and such sums as may be necessary for each of the four succeeding fiscal years to carry out Title VIII activities. This section of the bill would also remove the funding reservations in current law that limit the amount available for specific categories of projects under section 803 of the Act, but would retain the current allocation of funds between sections 802 and 803 of the Act. Removal of these funding reservations would allow the Secretary to determine the appropriate funding levels for the various types of activities authorized under section 803 of current law, given the changing needs and requirements of this program.

Further, this section would make applicable to all Title VIII programs a definition of cooperative education that is similar to the provision in section 802(a)(2)(A) of the Act; the explanation of cooperative education in current law technically applies only to programs under section 802 of the Act. Finally, section 801 of the bill would add a statement of purpose for Title VIII activities, that is, to encourage institutions of higher education to develop and make available to their students cooperative education programs, so that the students are able to obtain work experience helpful to their careers and to support themselves financially while in school.

Section 802. Section 802 of the bill would amend the application requirements in section 802 of the Act to ensure that an applicant plans to use Federal support as "seed money" (rather than merely maintaining the applicant's fiscal effort) and to maintain fiscal support for the program for which it received Title VIII support after Federal assistance for the program is no longer available. Consistent with the use of Federal support as "seed money," this section of the bill would authorize the Secretary not to make a continuation award to a recipient of a multi-year project grant under this section, if the Secretary determined that the recipient failed to maintain the fiscal effort required under proposed section 802(b)(3) of the Act. Further, a recipient of assistance would be required to provide information documenting its fiscal effort after termination of Federal support as required by the Secretary through notification in the *Federal Register*.

Section 803. Section 803 of the bill would remove factors, in section 802(d)(1) of the Act, for which the Secretary is required to give special consideration in evaluating applications for cooperative education grants under section 802. The factors in sections 802(d)(1)(B) and 802(d)(1)(C) of the Act duplicate factors the Secretary uses in evaluating applications, and for which there need not be a special consideration. The bill would retain, as one of the factors to be considered among the other application provisions, the factor in section 802(d)(1)(A) of the Act, regarding prior favorable reception of cooperative education programs by public and private sector employers. This factor should not be given special consideration, since the purpose of Title VIII is to provide "seed money" and encourage new applicants; prior favorable reception of a cooperative education program would give an advantage to institutions that already have well-established programs.

This section of the bill would also amend the special consideration provision in section 802(d)(2) of the Act regarding applications from institutions that demonstrate a commitment to serving a variety of special populations. Instead, this section of the bill would authorize the Secretary to give special consideration to institutions that demonstrate a commitment to serving disadvantaged students and students with disabilities, in keeping with the Administration's focus on serving students most in need.

Finally, section 803 of the bill would add to the application requirements in current law a requirement that the applicant describe plans for evaluating its cooperative education program and disseminating the results of the evaluation.

Section 804. Section 804 of the bill would amend the cooperative education grant authority in section 802 of the Act to provide that an institution of higher education would not be allowed to receive more than one cooperative education grant award, for an award period of not more than five years. However, this section of the bill would allow institutions that received a grant prior to enactment of this legislative proposal to remain eligible for an additional grant of not more than five years. This section of the bill would also remove the exception in current law that allows an instituion, or an individual unit of an institution, that has received a five-year cooperative education grant to apply for another cooperative education grant if the institution has operated a cooperative education grant without Federal assistance for two years after the original grant and has satisfied several other conditions.

These proposed changes to the duration of Federal assistance are intended to expand the scope of the cooperative education program. First, since an institution would have only one opportunity for Federal "seed money," the institution would be encouraged to request support to develop its cooperative education programs on more of an institution-wide basis than is provided under current law. Further, since the number of institutions eligible for new awards would decrease every year (given a constant number of institutions), more institutions would eventually be served.

Section 805. Section 805 of the bill would amend a provision (in section 803(2)(B) of the Act) that currently authorizes Federal assistance for training and resource centers the purpose of which are to improve materials used in cooperative education programs. The amendment would allow training and resource centers to conduct this activity only in conjunction with other authorized activities that are designed to improve or expand cooperative education programs.

Section 806. Section 806 of the bill would make conforming amendments to sections 802 and 803 of the Act with regard to, for example, removing some of the funding reservations from current law, adding a definition of "cooperative education" to the Act, and removing some of the factors for special consideration for applications under section 802 of the Act. This section of the bill would also make several technical amendments to clarify and update current law.

TITLE IX—POSTSECONDARY IMPROVEMENT PROGRAMS

Title IX. Title IX of the bill would amend Title X (Postsecondary Improvement Programs) of the Act as follows:

Section 901. Section 901 of the bill would amend Part A (Fund for the Improvement of Postsecondary Education) (FIPSE) of Title X of the Act as follows:

Section 901(1) of the bill would make technical and editorial changes to section 1001 of the Act, to eliminate a reference to section 1002 (repealed in section 901(2) of the bill) and clarify that entities other than education institutions are eligible for funding.

Section 901(2) of the bill would repeal section 1002 of the Act, which prohibits FIPSE grants or contracts from being entered into unless an application has been submitted to the appropriate State entity and that entity has had an opportunity to submit comments to the Secretary. Section 1002 of the Act is unnecessary since under Executive Order 12372 "Intergovernmental Review of Federal Programs," and the Department's implementing regulations, the Secretary gives State entities an opportunity to comment on grants prior to funding.

Section 901(3)(A) of the bill would amend section 1003(a) of the Act, to clarify that the Secretary appoints the Director of the FIPSE Board.

Section 901(3)(B) of the bill would eliminate sections 1003(c)(2) and (c)(4) of the Act. Section 1003(c)(2) of the Act is identical to section 1003(c)(3) and, therefore, redundant. Section 1003(c)(4), requiring four meetings of the Board each fiscal year, is unnecessary and burdensome. Section 446 of the General Education Provisions Act already requires advisory committees to meet at least twice a year. Currently, the Board averages three meetings a year.

Section 901(4) of the bill would eliminate section 1004(b) of the Act, which requires the Director to establish procedures for reviewing and evaluating grants and contracts made under this Part, but prohibiting review of such procedures by anyone in the Department other than FIPSE program officials. The Secretary has established, through regulations and directives, policies and procedures dealing with review of grants and contracts. The requirements of section 1004(b) are unnecessary.

Section 901(5) of the bill would amend section 1005 of the Act to authorize $14,639,000 to be appropriated for fiscal year 1992 and such sums as may be necessary for the next four fiscal years.

Section 901(6) of the bill would conform the section numbers of Part A to the redesignation of this title as title IX in section 904 of the bill.

Section 902. Section 902 of the bill would amend Part B (Minority Science and Engineering Improvement Program) of Title X of the Act as follows:

Section 902(1) of the bill would change the name of Part B of Title X from "Minority Science and Engineering Programs" to "Minority Science Improvement Programs" ("MSIP"). Other sections of the bill would conform part name references with this change.

Section 902(3) of the bill would eliminate section 1022(c) of the Act, which lists specific criteria that the Secretary may consider in making grants. These criteria are already established in regulations pursuant to section 1022(a) of the Act.

Section 902(4) of the bill would repeal section 1024 of the Act, which requires the Secretary to submit to Congress annually a list of grantees receiving awards under this program. Congress is notified of grants made under all grant programs through the Office of Legislation and Congressional Affairs. This specific requirement for notification is unnecessary.

Section 902(5) of the bill would conform the section numbers of the subpart to the redesignation of this title as Title IX in section 904 of the bill.

Section 902(6) of the bill would add a new section to the Act requiring, prior to 1995, the Secretary in cooperation with the heads of other departments and agencies that operate programs similar in purpose to MSIP to submit a report to the President summarizing and evaluating those programs.

Section 902(7) of the bill would repeal subpart 2 of Part B (sections 1031 through 1033) of Title X, which requires the Secretary to make grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions enrolling at least 10 percent minority students. Most activities under this subpart are currently being provided under the special programs for the disadvantaged under Subpart 4 of Part A of Title IV of the Act and the program of grants to institutions to encourage minority participation in graduate education under Part A of Title IX of the Act. These programs will continue to be available under the Precollege and the Graduate Outreach Programs proposed for Title I of the Act by Title I of this bill.

Section 902(9) of the bill would eliminate section 1041(3) of the Act, which refers to section 1032 of the Act (repealed by section 902(7) of the bill).

Section 902(10) of the bill would amend section 1042 of the Act to require as a condition of continued eligibility under the Act that a grant recipient demonstrate to the Secretary that it is making reasonable progress toward achieving the goals of the project.

Section 902(11) of the bill would amend section 1043 of the Act to require MSIP officials to consult, as well as cooperate, with other programs within the Department and with other Federal, State, and private agencies that carry out programs to improve the quality of science, mathematics, and engineering education.

Section 902(12) of the bill would eliminate section 1044(b) of the Act, which requires the Secretary to establish procedures for reviewing and evaluating grants and contracts made under this part, but prohibiting review of such procedures by anyone in the Department other than MSIP program officials. The Secretary has already established, through regulations and directives, policies and procedures dealing with review of grants and contracts.

Section 902(13) of the bill would repeal section 1045 of the Act, which requires establishment of a nine member Advisory Board. The Board required by this provision has been terminated pursuant to section 448(b) of the General Education Provisions Act. Therefore, this section is unnecessary.

Section 902(14) of the bill would amend section 1047 of the Act to authorize $6,100,000 to be appropriated for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years; and eliminate section 1047(b)'s allocation of appropriations among the subparts, since only one programmatic subpart would remain.

Section 902(15) of the bill would conform the section numbers of the subpart to the redesignation of this title as Title IX in section 904 of the bill.

Section 903. Section 903 of the bill would amend Part C (Innovative Projects for Community Services and Student Financial Independence) of Title X of the Act as follows:

Section 903(1) of the bill would amend the Part C heading to read "PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES." This would reflect the change in the program's focus.

Section 903(2) of the bill would amend section 1061 to change the purpose of the program from determining the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance to that of supporting student participation in community service projects, including literacy. The added emphasis on literacy would allow incorporation of the functions of current Part D (Student Literacy Corps) of Title I of the Act into the Innovative Projects for Community Services program. The authority for the Innovative Projects for Community Service program would be broader than the current Student Literacy Corps. This consolidation would allow more flexibility in project design and greater coordination in the use of student volunteers.

Section 903(3) of the bill would amend section 1062 of the Act by adding a definition of "community services". The new definition would emphasize the broad nature of the program and retain Secretarial discretion, yet also emphasize the interest in focusing on the use of student volunteers for combatting illiteracy and other problems.

Section 903(3) of the bill would revise section 1062(b) of the Act, to make it clear that the Secretary may require application information, and eliminate section 1062(c) of the Act, which requires the FIPSE Board to approve applications. The first change would make the innovative projects application process consistent with the normal process. As for the second change, there is no need for such approval.

Section 903(4) of the bill would amend section 1063 of the Act to authorize $6,830,000 to be appropriated for fiscal year 1992, and such sums as may be necessary for each of the four succeeding fiscal years. This increased funding level is in keeping with the consolidation of the Student Literacy Corps functions into the Innovative Projects for Community Services program. Section 903(4) of the bill would also amend section 1063 of the Act to remove the current linkage between Part C (Innovative Projects for Community Services) appropriations and Part A (FIPSE) appropriations. This would emphasize the important, freestanding, purpose of this program.

Section 903(5) of the bill would conform the section numbers of the part to the redesignation of this title as Title IX in section 904 of the bill.

Section 904. Section 904 of the bill would redesignate Title X as Title IX of the Act.

TITLE X—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

Section 1001. Section 1001 of the bill would repeal Title XI of the Act. Title XI currently authorizes grants to: (1) postsecondary institutions (in cooperation with labor, government, business, community organizations, and industry) to enhance economic development; and (2) urban universities to provide services to their local community.

The proposed repeal of these authorities is in accord with focusing Federal funds to assist in the higher education of students rather than to enhance local economic growth or address community problems. Except for a one-time grant to the Wagner Institute of Urban Public Policy, these programs have not been funded. Should the Institute require additional operating funds, it is more appropriate to obtain funds from the City University of New York, with which it is affiliated, or from non-Federal sources, rather than through a noncompetitive Federal grant. Further, funding for economic development projects authorized under Title XI should result from market forces within the business community. Finally, these authorities have received scant support from the public. No references were made to Title XI programs in either public hearings or reauthorization of the Act or in written comment to the Department.

TITLE XI—GENERAL PROVISIONS

Section 1111. Section 1111 of the bill would amend section 1201(a) of the Act by simplyfying and consolidating the definitions regarding what types of postsecondary educational institutions may participate in the programs. The current section 1201(a) definitions, as they relate to all titles *except* Title IV will remain the same, with the exception of the amendment relating to State licensing standards, the alternative to accreditation, and the designation of a primary accreditor, discussed below. Two provisions in the consolidated "institution of higher education" definition would only apply for Title IV program purposes, as set out below. Amendments to sections 435 and 481 of the Act that are also designed to achieve this purpose are proposed elsewhere in this bill.

First, section 1111 would require that an institution, in addition to being legally authorized in a State, would be required to comply with any minimum standards prescribed by the Secretary and imposed by State licensing bodies. This amendment would provide the Secretary with greater authority to strengthen the State licensing component, that, in conjunction with accreditation by accrediting bodies and certification by the Department, is designed to ensure a minimum level of quality in institutions participating in the HEA programs.

Next, section 1111 would replace the current alternative to accreditation known as the "31C" rule with the alternative to accreditation currently in sections 435(b) and (c) of the Act and used as one option for establishing eligibility for GSL program participation. The 31C rule provides that an institution, in lieu of being accredited, may document that three accredited institutions accept the transfer of credits from that institution as though it were accredited. The 31C rule is very prone to abuse, and can be used to circumvent the requirement for accreditation in cases where an institution would not meet the standards of an accrediting body.

The proposed alternative states that if there is no nationally recognized accrediting agency or association qualified to accredit institutions in a particular category, the Secretary may appoint an advisory committee that would make recommendations to the Secretary regarding the appropriate standards, and whether a particular school meets the standards the Secretary establishes. This would provide a means of establishing HEA eligibility for institutions that have been accredited by an accrediting body that is no longer recognized by the Secretary, as well as for institutions for which there never has been a recognized accrediting body. A similar change is proposed to the defintion of a proprietary institution of higher education in section 481(b) of the Act by section 491 of the bill.

For Title IV program purposes, section 1111 of the bill would next expand the definition of an institution of higher education to include institutions that provide programs of at least six months (or 600 clock hours) that prepare students for gainful employment in recognized occupations, and that have been in existence for at least two years. The latter requirement, derived from the definition of a vocational school in section 435(c) of the Act and of a postsecondary vocational institution in section 481(c) of the Act, is desirable because it requires the institution to prove that they can exist without SFA funds.

The current definition of the postsecondary vocational institution in section 481(c) of the Act also includes the six months program requirements. Currently, under section 1201(a), programs must be of at least one year in duration, and there is no minimum amount of time that the institution is required to have been in existence.

Vocational schools and postsecondary vocational institutions would thus both be incorporated into the overall definition of an institution of higher education for Title IV program purposes, although the minimum program length would be made a uniform six months or 600 clock hours, eliminating the shorter term vocational school programs that are currently eligible under the GSL program. This six month minimum program length would be consistent across all Title IV student aid programs, and reduce student loan default rates.

Finally, section 1201(a) would be amended to require an institution that is accredited by more than one accrediting body to designate one accrediting body as its primary accreditor for purposes of eligibility under the Act, either on an institutionwide basis or by program. If the institution (or program) loses its primary accreditation, the institution (or program) would no longer be deemed to meet the accreditation requirements in the definition of an institution of higher education for 24 months from the date of the loss of accreditation, unless during that period of time the institution's accreditation is restored by the same accrediting agency which had accredited it previously. This provision is designed to prevent an institution from circumventing the potential loss of its HEA eligibility merely by establishing multiple accreditations. This amendment would replace a similar provision reagarding the impact of the loss of accreditation currently in sections 435(n) and 481(e) of the Act.

Section 1112. Section 1112 of the bill would amend section 1204(a) and eliminate sections 1204(b) and (c) of the Act. First, section 1204(a) would be amended to authorize, rather than require, the Secretary to waive the eligibility requirements of any postsecondary education program administered by the Department of Education to take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. It is not necessarily appropriate to waive every type of eligibility requirement for these programs.

Section 1204(b) of the Act relates to the promulgation of regulations concerning HEA program modifications to adapt these programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. The authority under subsection (a) is adequate to make any program adaptations necessary. Section 1204(c) authorizes the Secretary to make grants to support the cost of providing postsecondary education on Guam for nonresident students from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. This direct Federal subsidization of postsecondary education costs is not appropriate, and in no other case does the Federal Government make direct payments to postsecondary institutions to help meet the costs related to educating students who are not residents of that State or territory. Most of the institution's costs related to educating these students are met by the tuition and fees charged to the students. Furthermore, because many of those students are receiving Title IV student financial assistance to pay their tuition and fees, section 1204(c) results in a unique double Federal subsidy of the education of these students.

Section 1113. Section 1113 of the bill would extend the authorization of the National Advisory Committee on Accreditation and Institutional Eligibility for five years.

Section 1114. Section 1114 of the bill would amend section 1210 of the Act to authorize the Secretary to use up to one-half of one percent of the funds appropriated for discretionary grants, contracts, or cooperative agreements upon under parts A and B of title I, titles II and III, subpart 5 of part A of title IV, parts A and B of title V, and titles VI, VIII, and IX of the HEA to meet some of the administrative costs of providing the panels of field readers required by section 1210. This option to use program funds for this purpose is needed to ensure a high quality peer review process.

Section 1115. Section 1115 of the bill would add a new section 1213 to Title XII of the Act that would authorize the Secretary to use some of the funds appropriated for HEA programs to conduct any necessary evaluations and studies of the effectiveness of those programs. The Secretary could use up to $10 million in any fiscal year for all Title IV, HEA program evaluations, and up to $5 million in any fiscal year for program evaluations for all other HEA titles, except that the amount that could be expended to evaluate a particular program (other than a Title IV program) could not exceed five percent of the program appropriation for that fiscal year. In addition, funds would be have to be specifically appropriated for the purposes of evaluations. This would enable the Department to use a small amount of program funds to collect and disseminate data on program services, participants and outcomes; systematically assess the programs; and propose any necesssary changes to improve program effectiveness.

Section 1116. Section 1116 of the bill would add a new section 1214 to Title XII of the Act to permit explicitly the sharing of information relating to an institution's eligibility to participate in Title IV programs among the Secretary, and the guaranty agency, accrediting agency, and State licensing body that serves as the primary guarantor for, or accredits or licenses that institution, respectively. The sharing of such information would be required if the entity with the relevant information is considering, or preparing for, an action that would adversely affect an institution's eligibility to participate in programs under this title, or upon the request of another entity considering, or preparing for, such an action. There is great reluctance among some of these entities to share relevant information regarding an institution for fear of being sued by the institution over the disclosure, even if such a suit would not be successful. This reluctance makes it difficult for other entities to learn about actions on the part of one entity, for example, an accrediting agency, that may have an impact on the actions of, for example, a guaranty agency, in dealing with a particular institution. This diminished flow of information impedes the process of correcting problems at an institution, which can result in the wasting of Federal student aid funds and aggravating the default problem. This amendment would override any Federal or State laws impeding such disclosures, and help improve communication among responsible oversight agencies.

Section 1117. Section 1117 of the bill would add a new section 1215 to the Act that would prohibit an individual who is in default on any loan made, insured, or guaranteed by the Federal Government from receiving any assistance under the HEA, unless satisfactory repayment arrangements are made.

Section 1118. Section 1118 of the bill would repeal sections 1206, 1211 (as enacted in P.L. 99-498), and 1211 (as enacted in P.L. 100-318) of the Act. Section 1206 of the Act authorizes the Joint Study Commission on Postsecondary Institutional Recognition, which has never been funded. Section 1211 (as enacted in P.L. 99-498) sets out aggregate limits on authorizations of appropriations for programs under the Act, other than the Pell Grant and GSL programs and is unnecessary. Section 1211 (as enacted in P.L. 100-418) authorizes the establishment of technology transfer centers and has never been funded.

Section 1119. Section 1119 of the bill would redesignate Title XII of the Act as Title X, and renumber all sections accordingly.

TITLE XII—EFFECTIVE DATES

Section 1201. Section 1201 sets out the effective dates for the bill.●

By Mr. DODD (For himself and Mr. GRAMM) (by request):

S. 1247. A bill to amend the Securities Exchange Act of 1934 to extend the regulatory authority of the Secretary of the Treasury under the Government Securities Act of 1986, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOVERNMENT SECURITIES ACT AMENDMENTS

● Mr. DODD. Mr. President, today with my colleague and ranking minority member of the Securities Subcommittee, Senator GRAMM, I am introducing the Government Securities Act Amendments of 1991.

This legislation amends the Government Securities Act of 1986 by extending the regulatory authority of the Secretary of the Treasury to write rules with respect to government securities brokers and dealers. In addition, it would authorize sales practice rules for government securities brokers and dealers and rules governing disclosure of and access to government securities price and volume information.

This legislation was submitted to Congress by the Department of the Treasury, and we are introducing the bill by request. The Securities Subcommittee will hold a hearing on the bill on Wednesday, June 12.

The U.S. Government securities market is the largest securities market in the world. The fair and efficient operation of this market is absolutely essential for the issuance of Treasury debt securities at the lowest possible cost and for the protection of investors in this important market. We look forward to hearing from market regulators, investors, and other market participants as we consider the merits of this proposal.

I ask unanimous consent that the legislation, together with a section-by-section analysis and transmittal letter from the Department of the Treasury, be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Government Securities Act Amendments of 1991".

SEC. 2. GOVERNMENT SECURITIES REGULATORY AUTHORITY.

(a) EXTENSION OF RULEMAKING AUTHORITY.—Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended by repealing subsection (g).

(b) ADDITIONAL RULEMAKING AUTHORITY.—Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended in subsection (b), by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (5), (6), (7), and (8) and inserting after paragraph (2) the following new paragraphs:

"(3) The Secretary may propose and adopt rules—

"(A) which define, and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative with respect to transactions in government securities effected by government securities brokers and government securities dealers; and

"(B) designed to promote just and equitable principles of trade with respect to transactions in government securities effected by government securities brokers or government securities dealers that are financial institutions."

"(4) In furtherance of the objective of assuring adequate dissemination of government securities price and volume information:

"(A)(i) The Secretary may propose and adopt rules and regulations designed to:

"(I) assure the prompt, accurate, reliable, and fair reporting, collection, processing, distribution, and publication of information with respect to quotations for and transactions in government securities and the fairness and usefulness of the form and content of such information;

"(II) assure that all government securities information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions in government securities as is reported, collected, processed, or prepared for distribution or publication by any processor of such information (including self-regulatory organizations) acting in an exclusive capacity; and

"(III) assure that all government securities brokers, government securities dealers, government securities information processors, and, subject to such limitations as the Secretary, by rule, may impose as necessary or appropriate for the protection of investors or maintenance of fair and orderly markets, all other persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions in government securities as is published or distributed.

"(ii) No self-regulatory organization, government securities information processor, government securities broker, or government securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to report, collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for or transactions in any government security, to assist, participate in, or coordinate the distribution or publication of such information, or to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any government security in contravention of any rules or regulations promulgated under this paragraph.

"(B) The Secretary may, by rule, as the Secretary deems necessary or appropriate in the public interest or for the protection of investors, after due consideration of any effects on the liquidity or efficiency of the government securities market, require any government securities broker or government securities dealer who has induced, attempted to induce, or effected the purchase or sale of any government security by use of the mails or any means or instrumentality of interstate commerce to report purchases, sales or quotations for any government security to a government securities information processor, national securities exchange, or registered securities association and require such a processor, exchange, or association to make appropriate distribution and publication of information with respect to such purchases, sales or quotations.".

(c) TECHNICAL AMENDMENT.—Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5) is amended in subsection (d) by revising paragraph (2) to read as follows:

"(2) Information received by any appropriate regulatory agency, any Federal Reserve Bank, or the Secretary from or with respect to any government securities broker or government securities dealer or with respect to any person associated therewith may be made available by the Secretary, the recipient agency or the Federal Reserve Bank to the Commission, the Secretary, any appropriate regulatory agency, any self-regulatory organization, or any Federal Reserve Bank."

SEC. 3. RULES BY REGISTERED SECURITIES ASSOCIATIONS.

Section 15A(f)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(f)(2)) is amended—

(1) in clause (E), by striking the word "and" at the end thereof;

(2) in clause (F), by striking the period at the end thereof and inserting instead ", and"; and

(3) by adding at the end thereof the following new clause:

"(G) with respect to transactions in government securities, to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, provided such rules are consistent with any rule adopted by the Secretary of the Treasury pursuant to section 15C(b)(3)(A) of this title.".

SEC. 4. OVERSIGHT OF REGISTERED SECURITIES ASSOCIATIONS.

Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended—

(1) in subsection (b), by adding at the end thereof the following new paragraph:

"(5) The Commission shall consult with and consider the views of the Secretary of the Treasury (Secretary) prior to approving a proposed rule change filed by a registered securities association pursuant to section 15A(f)(2)(G) of this title, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor. If the Secretary comments in writing to the Commission on such proposed rule change that has been published for comment, the Commission shall respond in writing to such written comment before approving the proposed rule change."

(2) in subsection (c), by adding at the end thereof the following new paragraph:

"(5) With respect to rules adopted pursuant to section 15A(f)(2)(G) of this title, the Commission shall consult with and consider the views of the Secretary before abrogating, adding to, and deleting from such rules, except where the Commission determines that an emergency exists requiring expeditious or summary action and publishes its reasons therefor."

SEC. 5. AMENDMENTS TO DEFINITIONS.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C 78c(a)) is amended—

(1) in paragraph 34(G) (relating to the definition of appropriate regulatory agency), by amending clauses (ii), (iii), and (iv) to read as follows:

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25(a) of the Federal Reserve Act;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation;";

(2) by amendment paragraph (46) (relating to the definition of financial institution) to read as follows:

"(46) The term 'financial institution' means—

"(A) a bank (as defined in paragraph (6) of this subsection);

"(B) a foreign bank (as such term is used in the International Banking Act of 1978); and

"(C) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation."; and

(3) by adding at the end thereof the following new paragraph (relating to the definition of government securities information processor):

"(53) The term 'government securities information processor' means any person engaged in the business of (i) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations for any government security; or (ii) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations. The term 'government securities information processor' does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, government securities broker, government securities dealer, or savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), if such bank, government securities broker, government securities dealer, or association would be deemed to be a government securities information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, or association activities, or any common carrier, as defined in section 3(h) of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3(t) of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations for any government security.".

ANALYSIS OF THE GOVERNMENT SECURITIES ACT AMENDMENTS OF 1991

SECTION 1

Short Title

SECTION 2. GOVERNMENT SECURITIES REGULATORY AUTHORITY

Subsection (a) would repeal section 15c(g) of the Securities Exchange Act of 1934 (1934 Act). Section 15c(g), as added by section 101 of the Government Securities Act of 1986 (GSA) (Pub. L. 99-571), provides that the authority of the Secretary of the Treasury to promulgate regulations and issue orders under the GSA governing transactions in government securities by government securities brokers and dealers expires on October 1, 1991. The repeal of subsection (g) would permanently extend the regulatory authority of the Secretary. This amendment is necessary to preserve the current regulatory structure of the government securities market and to ensure continuity of regulatory policy.

Subsection (b) would amend section 15c(b) of the 1934 Act, as added by GSA section 101(b), which concerns rules adopted and implemented by the Secretary of the Treasury. This amendment would grant the Secretary of the Treasury discretionary authority to prescribe sales practice rules that are reasonably designed to prevent fraudulent, deceptive, or manipulative acts and practices for all government securities brokers and dealers, including financial institutions. Vesting Treasury with this authority would ensure that such rules provide comparable protection to customers of both bank and non-bank brokers and dealers. This amendment would also grant the Secretary discretionary authority to prescribe sales practice rules to promote just and equitable principles of trade applicable to government securities brokers and dealers that are financial institutions. These authorities, together with the granting of authority to registered securities associations (i.e., the National Association of Securities Dealers (NASD)) to prescribe just and equitable principles of trade for their members pursuant to section 15A(f)(2)(G) of the 1934 Act (as proposed herein), are intended to provide government securities investors with sales practice protections (e.g., prohibitions against excessive mark-ups, suitability guidelines, and customer authorization requirements) that are comparable to those available in other securities markets.

This subsection would also grant the Secretary discretionary authority, similar to the existing authority of the Securities and Exchange Commission (SEC) with respect to non-exempt securities transaction information, to regulate disclosure of and access to government securities price and volume information. The Secretary would be authorized.

To assure the prompt, accurate, reliable, and fair reporting, collection, processing, distribution, and publication of government securities transaction information and the fairness and usefulness of the form and content of such information;

To purpose and adopt rules designed to assure that all government securities information processors have access, for purposes of distributing or publishing on reasonable and nondiscriminatory terms, to government securities quotation and transaction information reported, collected, processed or prepared for distribution or publication by any processor acting in an exclusive capacity regarding such information.

To assure that all persons, including government securities brokers and dealers, and government securities information processors, as the Secretary deems appropriate, have access on reasonable and nondiscriminatory terms to quotations and transaction reports published.

This subsection also would make it unlawful for any self-regulatory organization, government securities information processor, or government securities broker or dealer to perform the functions of a government securities information processor or to purchase or sell any government security in contravention of any rules prescribed by the Secretary.

This subsection would also permit the Secretary to determine that it would be in the public interest to require the reporting of government securities quotation, purchase, or sale information by any government securities broker or government securities dealer to a government securities information processor, national securities exchange, or registered securities association, and to require recipients to make appropriate distribution and publication of the information.

Subsection (c) clarifies that information concerning any government securities broker or government securities dealer may be received from or provided to the Federal Reserve Banks as well as the Board of Governors of the Federal Reserve System.

SECTION 3. REGISTERED SECURITIES ASSOCIATIONS

This section would amend section 15A(f)(2) of the 1934 Act, which concerns rules that registered securities associations may adopt and implement with respect to members of such associations. The amendment would grant registered securities associations (i.e., the NASD) discretionary authority to prescribe government securities sales practice rules for their members, provided such rules are consistent with sales practice rules adopted by the Secretary of the Treasury under section 15C(b)(3)(A) of the 1934 Act. In adopting sales practice rules, registered securities associations should take care not to unnecessarily impair the liquidity or efficiency of the government securities market. The provision requiring consistency parallels a provision in section 19(b)(2) of the 1934 Act which requires proposed rules of self-regulatory organizations to be consistent with the requirements of the 1934 Act and the regulations thereunder. The consistency requirement is thus intended to prevent the promulgation of any rules that would require or appear to permit government securities brokers and dealers to engage in conduct that is inconsistent with the requirements of applicable Treasury rules.

When enacted, the GSA did not rescind the restriction placed on registered securities associations that prohibits them from adopting or applying sales practice rules to government securities transactions. This amendment would rescind this restriction, and is intended to enhance customer protection by facilitating the ability of registered securities associations, specifically the NASD, to enforce compliance with sales practice rules applicable to members that are government securities brokers or dealers.

SECTION 4. OVERSIGHT OF REGISTERED SECURITIES ASSOCIATIONS

This section would amend section 19 of the 1934 Act, which concerns registration, responsibilities, and oversight of self-regulatory organizations. This amendment would require the SEC to consult with and consider the views of the Secretary of the Treasury prior to approving government securities sales practice rules proposed by registered securities associations, specifically the NASD. The amendment would grant the SEC authority to approve such rules without consulting with Treasury if an emergency arose requiring expeditious or summary action. The amendment would also require the SEC to respond in writing to any written comment submitted by the Secretary relating to such proposed rules before it approves the rules.

Further, the amendment would require the SEC to consult with and consider the views of the Secretary before abrogating, adding to, and deleting any government securities sales practice rules developed by registered securities associations. The SEC would be able to abrogate, add to, and delete such sales practice rules without consulting with Treasury if an emergency warranted such action.

SECTION 5. AMENDMENTS TO DEFINITIONS

Paragraph (1) would conform section 3(a)(34)(G) of the 1934 Act, as added by GSA section 102(b) (concerning the definition of "appropriate regulatory agency"), with existing bank regulatory agency supervisory authorities.

First, the Board of Governors of the Federal Reserve System (FRB) would be designated as the appropriate regulatory agency for financial institutions that are Edge or Agreement corporations. Without this modification, supervisory responsibility for the government securities activities of these entities would continue to rest with the SEC.

Since the FRB already exercises bank regulatory and supervisory responsibilities for these entities pursuant to the Federal Reserve Act, this amendment would eliminate inefficiencies and reduce costs resulting from duplicative examinations. In addition, the transfer of supervision from the SEC to the FRB is appropriate since the FRB routinely examines financial institutions, while the SEC supervises the broker and dealer activities of institutions that are not generally financial institutions.

Second, the Federal Deposit Insurance Corporation (FDIC) would be designated as the appropriate regulatory agency for insured State branches of foreign banks (the FRB would retain jurisdiction for uninsured State branches and State agencies of foreign banks). This amendment will ensure that the FDIC, which currently examines insured State branches of foreign banks pursuant to the International Banking Act, would be responsible for the examination of government securities activities conducted by such institutions. The amendment would eliminate the costs associated with duplicative examinations.

Finally, as a technical amendment, this provision would insert a parenthetical reference to the definition of "savings association" contained in the Federal Deposit Insurance Act. The Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) amended clause (iv) to designate the Director of the Office of Thrift Supervision (OTS) as the appropriate regulator for savings associations. The term "savings association," however, is not defined in the Act.

Paragraph (2) would technically amend the definition of "financial institution" contained in section 3(a)(46) of the 1934 Act. Prior to FIRREA, section 3(a)(46) referenced the definition of "insured institutions" (including insured thrifts) contained in the National Housing Act (NHA). FIRREA, however, repealed the referenced NHA definition. The amendment would clarify the definition of "financial institution" by reincluding entities that were formerly insured by the Federal Savings and Loan Insurance Corporation. Consistent with FIRREA section 744(u), this provision would include savings associations insured by the FDIC and subject to supervision by the OTS within the definition of "financial institution."

Paragraph (3) would add to section 3(a) of the 1934 Act a definition of the term "government securities information processor." The term is based on the definition of a "securities information processor" found at section 3(a)(22)(A) of the 1934 Act and is defined as any person engaged in the business of collecting, processing, or preparing for distribution or publication information with respect to transactions in or quotations for any government security and also any person engaged in distributing or publishing such information on a current and continuing basis. The press and common carriers subject to the jurisdiction of the Federal Communications Commission or a State commission, would be exempted from the definition unless such carrier is engaged in the business of preparing for or coordinating the distribution or publication of such information. Self-regulatory organizations would also be exempt from the definition, as would banks, government securities brokers, government securities dealers, or saving associations if the latter four organization types would be government securities information processors merely because they engage in functions customary for such institutions.

DEPARTMENT OF THE TREASURY,
Washington, DC, June 6, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There are transmitted herewith a draft bill, the "Government Securities Act Amendments of 1991," and an analysis thereof. We urge expeditious consideration of the draft bill by the Senate.

The draft bill would amend section 15C of the Securities Exchange Act of 1934 (1934 Act), as added by the Government Securities Act of 1986 (GSA), to extend permanently the authority of the Secretary of the Treasury to promulgate rules and issue orders pertaining to transactions in government securities effected by government securities brokers and dealers. This authority currently is scheduled to expire on October 1, 1991.

The GSA directed the Department of the Treasury, the Securities and Exchange Commission (SEC), and the Board of Governors of the Federal Reserve System to prepare a joint report evaluating the effectiveness of regulations promulgated under authority of the GSA, including a recommendation regarding the extension of the Secretary's rulemaking authority. In a report submitted to the Congress in October 1990, the three agencies jointly recommended the extension of the Secretary's rulemaking authority.

By permanently extending the regulatory authority of the Secretary of the Treasury, the draft bill will ensure the continuity of comprehensive regulations designed to prevent fraudulent and manipulative acts and practices and protect the integrity, liquidity, and efficiency of the government securities market. Moreover, the rules preclude unfair discrimination among brokers, dealers, and customers, and avoid unnecessary burdens on competition.

The draft bill also would authorize the Secretary to promulgate sales practice rules applicable to all government securities brokers and dealers and would authorize registered securities associations, subject to SEC approval, to prescribe such rules for their members. The SEC would be required to consult with Treasury before approving or altering such rules prescribed by registered securities associations. Further, the draft bill would authorize the Secretary to promulgate rules governing disclosure of and access to government securities price and volume information. Such authorities are consistent both with a GSA-mandated report issued by the General Accounting Office in September 1990, recommending that Treasury be given these rulemaking authorities, and the regulatory structure set out in the GSA that Treasury is best situated to regulate the activities of government securities brokers and dealers.

Finally, the draft bill would make several conforming and technical amendments to the 1934 Act. These amendments are explained in detail in the enclosed analysis.

It would be appreciated if you would lay the draft bill before the Senate. An identical proposal has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that enactment of the draft bill would be consistent with the Administration's objectives.

Sincerely,

JEANNE S. ARCHIBALD,
General Counsel.●

By Mr. LAUTENBERG:

S. 1248. A bill to prevent theft of motor vehicles by establishing a national framework for a program under which law enforcement officials are authorized to stop vehicles operated under specified conditions, such as during those conditions, according to a certification signed voluntarily by the owner, establishes a reasonable suspicion that the vehicle is being operated unlawfully; to the Committee on the Judiciary.

MOTOR VEHICLE THEFT PREVENTION ACT

Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Motor Vehicle Theft Prevention Act, to address the growing national problem of motor vehicle theft.

The Motor Vehicle Theft Prevention Act would establish a national framework for what might be described as a "consent-to-stop" program, based on a program operating in various jurisdictions around the country. Under this program, law enforcement officials are authorized to stop vehicles operated under specified conditions, such as during certain night hours, when operation of a vehicle under those conditions, according to a certification signed voluntarily by the owner, establishes a reasonable suspicion that the vehicle is being operated unlawfully.

Mr. President, the problem of auto theft has exploded in recent years. According to the Uniform Crime Report, between 1985 and 1989 motor vehicle theft increased by 42 percent, to over 1.5 million offenses per year. Around the country, there is one motor vehicle theft every 20 seconds. The total value of stolen vehicles now exceeds $8 billion annually.

The motor vehicle theft problem is particularly serious in my State of New Jersey. Newark, NJ has the worst problem in the country, and several other cities are also listed in the top ten. In addition, a large number of stolen cars are being exported from New Jersey's ports.

There are many dimensions to the vehicle theft problem. To a large extent, stealing cars has developed into a full-fledged industry, run by professionals. Criminal conspirators are stealing cars, sometimes after a buyer gives them an order for a particular part, and selling the parts on the black market. Chop shops are taking in stolen cars, breaking them down, and making large profits. And increasingly, organized rings of criminals are exporting cars abroad, where they may be worth three times more than in the United States.

In many parts of the country, the problem of auto theft is primarily one of juvenile crime. Children, some not even teenagers, are stealing cars at an appalling rate. They start young; sometimes they're barely tall enough to see over the steering wheel. Unfortunately, it doesn't take long for them to become experts, able to enter and steal a car in a matter of seconds.

Beyond the costs and inconvenience to owners, and the higher insurance rates that result, auto theft is also a highway safety problem. Auto thieves, particularly juveniles, often drive recklessly, sometimes to avoid the police, and that leads to death, injuries, and destruction of property.

In Newark last year, for example, 10 persons were killed by stolen automobiles. This represents more than a quarter of all auto fatalities in the city. These were innocent bystanders, Mr. President. One victim, Karrima Sewell, was a 10-year-old girl.

Clearly, Mr. President, there's no magic formula for eliminating auto theft. Much of the responsibility rests with local and State law enforcement agencies. But auto theft is also a crime with a clear interstate dimension. So the Federal Government also has an important role.

Over the past few months, I have been studying the auto theft problem in an effort to develop possible responses. On May 1, I held a hearing in

Newark, and heard testimony from several law enforcement experts on various proposals to reduce auto theft. The Motor Vehicle Theft Prevention Act emerged as one of the most promising approaches. It focuses on prevention.

The bill is based on a concept first developed in New York City in the mid-1980's by State Senator Leonard Stavisky. New York's program allows law enforcement officials to stop the vehicles of participating owners if the vehicles are being operated between the hours of 1 a.m. and 5 a.m., the period during which most thefts are believed to occur. To participate, an owner must sign a consent form stating that the car is not normally driven during those hours. The owner then gets two decals to place on the rear and side windows, which tell the police that the car may be stopped during the designated hours. Participation is entirely voluntary.

It's a simple, inexpensive and innovative concept. And by all indications it's been extraordinarily successful.

In New York City, 2,722,615 vehicles were registered in 1990; 146,309 were stolen. Yet of the 71,663 vehicles participating in the consent-to-stop program, only 60 were stolen. Thus, the total theft rate was 5.37 percent, whereas the theft rate for vehicles with program decals was only .08 percent. In other words, cars without decals were about 65 times more likely to be stolen than cars participating in the program.

The success of the program in New York has sparked great interest among jurisdictions around the country. According to State Senator Stavisky, at least 30 municipalities have adopted the program, including Trenton, Philadelphia, St. Louis, St. Paul, and San Diego. The idea has even been adopted by Scotland Yard in London. To the best of my knowledge, the program has been well received and successful wherever it has been adopted.

As a testament to the program's effectiveness, several insurance companies have voluntarily reduced the insurance rates for vehicles that participate in the program.

The Motor Vehicle Theft Prevention Act is designed to build on the success of the program by establishing a national framework for its implementation. Under the bill, the Attorney General would be directed to develop a uniform design or designs for the decals or other identification devices that are used in the program. In addition, uniform consent forms would be established. Participation would be entirely voluntary on the part of States, localities, and vehicle owners.

There are several benefits of establishing a national framework for this program. First, it will increase participation in the program, by increasing its visibility and making it more practical and economical for jurisdictions to participate. Although the idea is spreading rapidly, many local officials remain unfamiliar with the program. At the same time, many officials, particularly those in small towns, are interested in the program, but do not believe it is cost effective to develop and produce a decal when only a small number may be needed. A uniform decal design would encourage mass production of the decals and consent forms, which would enable many more municipalities, particularly smaller towns, to participate.

Greater participation in the program should mean reduced thefts, which also means saved lives, reduced insurance costs, and lower costs of enforcement to the law enforcement and judicial systems.

The second primary benefit of establishing a national framework for the program is that it will help law enforcement officials apprehend thieves who drive stolen cars across State or city lines. Currently, if a car is stolen in one town and driven into another, law enforcement officials in the second town may be unfamiliar with the decals used in the first town and may not be in a position to stop the car. A uniform design will eliminate this problem.

I expect that some may wonder how a program like this can work, when professional auto thieves will be able, with some work, to scratch off the decals. Most officials I have talked with believe that the program works because time is of the essence to auto thieves. Many cars stolen in exposed areas. So thieves feel they cannot afford the time to get into a car, climb into the back seat, and scratch off two decals. Also, most decals are manufactured so as to be very difficult to dispose of, and many leave a mark even if they are scratched off.

The bottom line, in any case, is that the program works. The results speak for themselves. And under this bill, if State or local officials still don't believe the program will work in their jurisdiction, they are entirely free not to participate.

I would also note, Mr. President, that consent-to-stop programs are consistent with the Constitution's fourth amendment protections against unreasonable searches and seizures. Under well established constitutional law, the police may stop a vehicle if an officer has a reasonable suspicion that it is being operated unlawfully. Under this bill, a law enforcement officer will be allowed to stop a car only if the car is being operated under conditions that create such a reasonable suspicion. It is also important to again emphasize that participation in the program is entirely voluntary.

Mr. President, the problem of auto theft is of great concern to law enforcement officials and the insurance industry. This bill is supported by the Fraternal Order of Police and the Alliance of American Insurers.

I hope my colleagues will support the legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD at this point, along with a New York Times editorial and other materials related to the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Motor Vehicle Theft Prevention Act".

SEC. 2. MOTOR VEHICLE THEFT PREVENTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with the States, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, evne if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such individuals that would provide sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

SEC. 3. ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.

(a) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(b) EXCEPTED PERSONS.—Paragraph (2) of section 511 of title 18, United States Code, is amended by—

(1) striking "and" after the semicolon in subparagraph (B);

(2) striking the period at the end of subparagraph (C) and inserting, "; and"; and

(3) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(c) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(d) UNAUTHORIZED APPLICATION OF A DECAL OR DEVISE.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§ 511A. Unauthorized application of theft prevention decal or devise

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or devise' means a decal or other device designed in accordance with a uniform design for such devices developed pusuant to the Motor Vehicle Theft Prevention Act.".

(2) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

[From the New York Times, Oct. 2, 1988]

ANTIDOTE FOR AUTO THEFT

An innovative, inexpensive New York City program promises genuine relief for the epidemic of automobile thefts in American cities.

Last year, Americans reported 1.3 million stolen cars, an increase of 23 percent since 1983. Most were stolen during early morning hours, and a program called Combat Automobile Theft, conceived two years go by State Senator Leonard Stavisky of Queens, seeks to take advantage of that fact. Car owners sign a consent form that allows the police to stop the vehicle if it's being driven between the hours of 1 a.m. and 5 a.m. Bright yellow decals affixed to the car's windows put thieves on notice that the owner has enrolled.

Normally, police are prohibited under the Fourth Amendment from stopping a car without cause. Some civil libertarians question whether a car's owner can waive the privacy rights of someone else who might drive the car. But a thief would have no privacy claim, and the owner's statement creates a reasonable suspicion that a crime is in progress.

The program began in 1986 in two Queens precincts and now has been expanded to include 28 precincts city-wide. The decals have proved a remarkably successful deterrent. Of the 17,871 cars enrolled in the program city-wide only 18 were stolen in two years—a rate dramatically below the city average.

The Combat Auto Theft program isn't the full answer to the nation's rising auto theft problem. But it does afford a simple, creative way for car owners to better their odds.

[From the Vending Times, Nov. 14, 1990]

STICKERS STICK IT TO CAR THIEVES

(By Leonard Stavisky)

Apart from home ownership, buying a car is the average family's largest single investment. Grand larceny/auto is also one of the fastest growing property crimes in New York state. In 1989, nearly 150,000 motor vehicles were stolen—a 21.5 percent increase above the previous year's level. The loss to consumers and insurance companies exceeded $1 billion.

Most cars are taken in the middle of the night while the owners are asleep. Constitutional safeguards against arbitrary search and seizure prevent the police from stopping a driver unless there is reason to believe that a crime has been committed. Even if an alert highway patrol officer had immediate access to a computer and punched in the license plate number of a passing vehicle, there would be no record that the automobile had been stolen. By the time the crime is reported to the authorities, the vehicle has been hidden, altered in appearance or dismantled for parts.

Car theft dramatically changes the victim's lifestyle. After the initial shock and disorientation, the motorist is often without a replacement vehicle for days, weeks, or months. There are prolonged discussions with the police and insurance adjusters. Calls to the station house sometimes lead to gratuitous suggestions that the insurance carrier rather than the law enforcement agencies are the citizens's best hope for redress. Even if an arrest is made, district attorneys routinely plea bargain the offense down from a felony to a misdemeanor. Few car thieves are ever sent to prison. Negotiations with the insurance carriers can prove equally frustrating. The owner receives a check for the depreciated book value of the missing car rather than the replacement cost of a new automobile—a differential that could amount to $5,000 or more. To add insult to injury; some insurance companies increase the annual premium, since the motorist is now deemed a poor risk.

To help cope with this growing dilemma, Gov. Cuomo recently signed into law a statewide auto theft prevention measure enabling police to identify stolen vehicles before the crimes have been reported. The legislation is based on the Combat Auto Theft (CAT) Program, which has been operated successfully by the New York City Police Department since March 1986.

Under its provisions, the owner signs a form notifying police that the car is not normally used between 1 a.m. and 5 a.m. The document also serves as an informed consent statement authorizing police to ask for the license and registration of anyone operating the vehicle during those targeted hours. Two decals affixed to car windows signal the fact that the owner has given written approval for a check to be made.

Over the past four and a half years, 52,000 people have signed up for the New York City CAT Program. In all that time, only 84 of these automobiles have been stolen. Last year alone, 134,000 vehicles not participating in the program were taken from the streets of the city. Official records indicate that cars not registered with the police are 40 times more likely to be stolen than those bearing the decals. Thieves have admitted that they leave the CAT cars alone because they do not want to waste time scraping off decals after breaking into unattended vehicles.

The program has now been copied by police departments throughout the U.S. In addition to New York City and Yonkers, the plan has spread to East Brunswick and Trenton, N.J.; Philadelphia and Pittsburgh, Pa.; West Palm Beach, Fla.; St. Louis, Mo.; New Orleans, La.; Macomb County, a suburb of Detroit, Mich.; Dallas, University Park, a suburb of San Antonio, and Houston, Texas; Memphis, Tenn.; Tulsa, Okla.; as well as San Diego and San Bernardino County, Calif. It is operational in Arizona under the auspices of the Arizona Automobile Association. Scotland Yard has also implemented the CAT Program in London.

New York's new law directs the Commissioner of Motor Vehicles, in consultation with the Superintendent of State Police, to establish a motor vehicle theft prevention program that will involve the participation of motor vehicle investigators and policy offices throughout the state. The Commissioner and Superintendent are empowered to devise an informed consent statement and application to be available at all motor vehicle offices and state police headquarters. The state officials will also approve the decal format to be used by local police in municipalities that agree to implement the program within their respective jurisdictions. When registering a car, the motorist will submit the application and proof of ownership to the local police who will then record the decal number assigned to each vehicle.

The CAT law enjoyed broad bipartisan sponsorship in both houses of the Legislature. Editorials backing this antitheft program came from WNBC-TV, WCBS, WPIX-TV, the New York Times, and the New York Post. Articles appeared in periodicals ranging from New York Motorist to Good Housekeeping magazine. Memos of support were submitted by the New York State Automobile Association (AAA) and the Ford Motor Co. Eight insurance companies doing business in New York state endorsed the program and filed for rate reduction in insurance premiums for policy holders who register their vehicles in the program. These included GEICO, Travelers, Fireman's Fund, CNA, Utica, New York Casualty, General Accident, and Metropolitan Property and Casualty. For an individual car owner, this could mean a savings of $25 to $30 a year. The new law is not a panacea, but, as The New York Times editorially observed, this is "an innovative, inexpensive program that promises genuine relief for the epidemic of automobile thefts in American cities."

[From the Journal of Commerce, Mar. 6, 1989]

AUTO INSURERS SUPPORT NY ANTI-THEFT PROGRAM

NEW YORK.—Several auto insurers are prepared to offer discounts to car owners who participate in a anti-theft program called Combat Auto Theft.

In prepared statements, Fireman's Fund Insurance Cos., Novato, Calif., CNA Insurance Cos., Chicago, Ill., and Travelers Cos., Hartford, Conn., said they would offer 5% discounts on comprehensive coverage for New York City area participants.

Under the program, developed about three years ago by New York State Sen. Leonard P. Stavisky, car owners sign a consent form that allows the police to stop the vehicle if it's being driven between the hours of 1 a.m. and 5 a.m. Bright yellow decals affixed to the car's windows tell thieves that the owner has enrolled in the program, which began in Queens.

The program is already available in 48 police precincts throughout the five boroughs of New York City and is also available to motorists in Yonkers, N.Y., East Brunswick, N.J. and Philadelphia.

ALLIANCE OF AMERICAN INSURERS,
Washington, DC, April 26, 1991.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

Dear Senator Lautenberg: The Alliance of American Insurers is a national trade assocation representing 170 property and casualty insurers. As such, we are quite concerned about automobile theft and fully support your legislation, the Motor Vehicle Theft Prevention Act. (MVTPA).

Several cities have adopted "consent-to-stop" programs, whereby the vehicle owner agrees that his car can be stopped if it is being operated during certain times or by certain age groups. These programs are showing significant success and should be encouraged in other jurisdictions. Your legislation will aid the formation of these programs and will provide some uniformity as the list of participating jurisdictions increases.

We appreciate the opportunity to participate in discussions on this and other auto issues. If we can be of any assistance, please let me know.

Sincerely,

SARA F. CLARY,
Assistant Vice President, Federal Affairs.

By Mr. KENNEDY (for himself, Mr. BIDEN, Mr. LEVIN, Mr. SIMON, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. METZENBAUM, Mr. JEFFORDS, Mr. ADAMS, Mr. AKAKA, Mr. CRANSTON, Mr. GLENN, Mr. HARKIN, Mr. KERRY, Mr. PELL, and Ms. MIKULSKI):

S. 1249. A bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing; to the Committee on the Judiciary.

RACIAL JUSTICE ACT

• Mr. KENNEDY. Mr. President, I am pleased to join with my colleagues Senators BIDEN, LEVIN, SIMON, PACKWOOD, MOYNIHAN, METZENBAUM, JEFFORDS, ADAMS, AKAKA, CRANSTON, GLENN, HARKIN, KERRY, PELL, and MIKULSKI in introducing the Racial Justice Act. This legislation is identical to S. 1696, introduced in the 101st Congress, and section 207 of S. 618, the Violent Crime Control Act of 1991, introduced by the chairman of the Judiciary Committee, Senator BIDEN.

Race discrimination is unacceptable everywhere, and it is particularly unacceptable in capital punishment—the awesome decision by a free society of those whom government can legally kill. If that decision is to be made at all, it must be made without racial bigotry.

There is compelling evidence that race discrimination infects capital sentencing decisions in jurisdictions throughout the country.

In study after study, experts have found that defendants who kill whites are more likely to receive the death penalty than those who kill blacks, and that black defendants are more likely to be given a death sentence than white defendants.

A recent example is the evidence in McCleskey versus Kemp, decided by the Supreme Court in 1987. Warren McCleskey, the defendant in that case, was a black man charged with murder for killing a white police officer in Fulton County, GA.

In challenging his death sentence, McCleskey placed into evidence two studies conducted by teams led by Prof. David Baldus of the University of Iowa College of Law, which analyzed over 2,400 homicide cases in Georgia between 1973 and 1979. From official State records, the Baldus studies collected data about more than 500 factors in each case such as the characteristics of the defendant and the victim, the circumstances of the crime, the strength of the evidence, and a range of mitigating and aggravating factors in each case. Using sophisticated statistical techniques, the studies took account of the effects of up to 230 nonracial sentencing factors.

The conclusions of that study are striking. Those who killed whites were 4.3 times more likely to receive the death penalty than killers of blacks.

The five members of the Supreme Court who voted to affirm McCleskey's death sentence and rejected the statistical evidence of discrimination did not dispute the accuracy of the Baldus studies. They admitted that statistical evidence of the kind contained in the studies would be sufficient to prove intentional race discrimination in other areas, such as housing and jury selection.

But the majority concluded that the death penalty is "different," because juries and prosecutors make capital punishment decisions on the basis of individual defendants, not on the basis of statistics, and because it would be inappropriate to require States to call on their juries and defendants to rebut showings of discrimination.

I believe that the McCleskey decision is a mistake. The compelling evidence that McCleskey's sentence was affected by racial considerations should have been sufficient to set aside his sentence. In its zeal to expedite proceedings in capital cases, the Court failed to recognize a glaring injustice that Congress should not tolerate, even if five Justices of the Supreme Court are willing to permit it.

This pattern of racial discrimination in sentencing is repeated in jurisdiction after jurisdiction around the country:

In Florida, a study published in the Stanford Law Review found that defendants convicted of killing whites were eight times more likely to receive a death sentence than those convicted of murdering blacks. Another study found that blacks who kill whites received the death penalty 22 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Georgia, blacks who kill whites received the death penalty 16.7 percent of the time, while whites who killed whites received the death penalty only 4.2 percent of the time.

In Illinois, that same study found that killers of whites were six times as likely to receive a death sentence as killers of blacks.

In Maryland, defendants convicted of murdering whites received the death sentence eight times more frequently than killers of blacks.

In Ohio, a 1980 study found that blacks who kill whites received the death penalty 25 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Texas, a 1980 study found that killers of whites were 20 times more likely to receive a death sentence than killers of blacks, while a 1985 study found that they were over 4 times more likely to do so. Blacks who kill whites received the death penalty 8.7 percent of the time, while whites who killed whites received the death penalty only 1.5 percent of the time.

This pattern also appears in California and Pennsylvania, and nationally as well. A 1985 study of capital sentencing conducted by a Dallas newspaper found that killers of whites were nearly three times more likely to receive the death sentence than killers of blacks.

Race discrimination is pervasive in capital punishment. The facts are irrefutable, and they should be unacceptable to each and every Member of the Senate.

I oppose the death penalty in all cases, but that is not the issue here. The Members of the Senate have the authority, and the responsibility, to ensure that racial disparities do not occur in State or Federal death penalty cases.

The Racial Justice Act is intended to meet that responsibility. The act prohibits the imposition of the death penalty under State or Federal law if the sentence is part of a racially discriminatory pattern.

If such a pattern exists—if a defendant can establish that the race of defendants or victims is playing a role in sentencing—then the government must show by clear and convincing evidence that the racial disparities are not the result of discrimination, but reflect nonracial factors, such as the presence or absence of mitigating or aggravating circumstances.

For example, if a defendant offers statistical evidence demonstrating that blacks receive death sentences in a particular State at a rate higher than whites, and the defendant shows that the death sentence was imposed in furtherance of this racially discriminatory pattern, then the State must show by clear and convincing evidence that the statistical disparity results from other, nonracial factors, such as differences in the nature of the crimes or in the conviction records of the defendants.

If the government cannot meet that burden, the death sentence must be vacated. If we are serious about ending race discrimination in capital sentencing, no other result is acceptable.

By permitting statistical evidence of a pattern of racial disparities to be used to establish a claim of race discrimination, the act makes the standard of proof in capital sentencing cases analogous to that under other Federal antidiscrimination statutes.

In order to ensure that adequate data are available to determine whether or not race discrimination exists, the amendment also requires jurisdictions which have the death penalty to collect and maintain data about the nature of crimes for which the death penalty may be imposed, the details of those crimes, and the demographic characteristics of the victims and the defendants.

The mere fact that blacks may receive the death penalty more frequently than whites would not create a prima facie case of discrimination under the act. To establish a prima facie case, a defendant must show, for example, that blacks receive the death penalty with a frequency that is disproportionate to their representation among those arrested, or charged with, or convicted of capital crimes. Even if a prima facie case is established, the government can rebut such a claim by showing by clear and convincing evidence that any disparity is the result of nonracial factors. The act is simply intended to eliminate racism in capital sentencing.

The Racial Justice Act is supported by a number of leading organizations, including the American Bar Association, the Leadership Conference on Civil Rights, and Amnesty International.

If we are to live up to our responsibility to fulfill the Constitution's promise of equal protection of the laws, we must ensure that race discrimination in capital punishment is eliminated. The Racial Justice Act is a practical step to achieve the goal of making our system of justice worthy of the name.

I ask unanimous consent that the text, the Racial Justice Act, may be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Racial Justice Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) section 5 of the fourteenth amendment of the United States Constitution calls upon Congress to enforce the Constitution's promise of equality under law;

(2) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the determination of whether and when to administer the ultimate penalty of death;

(3) the death penalty is being administered in a pattern that evidences a significant risk that the race of the defendant, or the race of the victim against whom the crime was committed, influences the likelihood that the defendant will be sentenced to death;

(4) the Constitution's guarantee of equal justice for all is jeopardized when the death penalty is imposed in a pattern in which the likelihood of a death sentence is affected by the race of the perpetrator or of the victim;

(5) the United States Supreme Court has concluded that the Federal judiciary is institutionally unable to eliminate this jeopardy to equal justice in the absence of proof that a legislature, prosecutor, judge, or jury acted with racially invidious and discriminatory motives in the case of a particular defendant;

(6) the interest in ensuring equal justice under law may be harmed, not only by deci-

sions motivated by explicit racial bias, but also by government rules, policies, and practices that operate to reinforce the subordinate status to which racial minorities were relegated in our society;

(7) the institutional need of courts to identify invidiously motivated perpetrators is not shared by Congress, which is empowered by section 5 of the fourteenth amendment to take system-wide, preventive measures not only to eliminate adjudicated instances of official race discrimination but also to eradicate wide-scale patterns and practices that entail an intolerable danger that persons of different races would be treated differently; and

(8) the persistent racial problems pervading the implementation of the death penalty in many parts of this Nation require the Government of the United States to counteract the lingering effects of racial prejudice in order to enforce the constitutional guarantee of equal justice for all Americans.

SEC. 3. AMENDMENT TO TITLE 28.

(a) PROCEDURE.—Part VI of title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 177—RACIALLY DISCRIMINATORY CAPITAL SENTENCING

"Sec.
"2921. Definitions.
"2922. Prohibition on the imposition or execution of the death penalty in a racially discriminatory pattern.
"2923. Data on death penalty cases.
"2924. Enforcement of the chapter.
"2925. Construction of chapter.

"§ 2921. Definitions

"For purposes of the chapter—

"(1) the term 'a racially discriminatory pattern' means a situation in which sentences of death are imposed more frequently—

"(A) upon persons of one race than upon persons of another race; or

"(B) as punishment for crimes against persons of one race than as punishment for crimes against persons of another race,

and the greater frequency is not explained by pertinent nonracial circumstances;

"(2) the term 'death-eligible crime' means a crime for which death is a punishment that is authorized by law to be imposed under any circumstances upon a conviction of that crime;

"(3) the term 'case of death-eligible crime' means a case in which the complaint, indictment, information, or any other initial or subsequent charging paper charges any person with a death-eligible crime; and

"(4) the term 'Federal or State entity' means any State, the District of Columbia, the United States, any territory thereof, and any subdivision or authority of any of these entities that is empowered to provide by law that death be imposed as punishment for crime.

"§ 2922. Prohibition on the imposition or execution of the death penalty in a racially discriminatory pattern

"(a) PROHIBITION.—It is unlawful to impose or execute sentences of death under color of State or Federal law in a racially discriminatory pattern. No person shall be put to death in the execution of a sentence imposed pursuant to any law if that person's death sentence furthers a racially discriminatory pattern.

"(b) ESTABLISHMENT OF A PATTERN.—To establish that a racially discriminatory pattern exists for purposes of this chapter—

"(1) ordinary methods of statistical proof shall suffice; and

"(2) it shall not be necessary to show discriminatory motive, intent, or purpose on the part of any individual or institution.

"(c) PRIMA FACIE SHOWING.—(1) To establish a prima facie showing of a racially discriminatory pattern for purposes of this chapter, it shall suffice that death sentences are being imposed or executed—

"(A) upon persons of one race with a frequency that is disproportionate to their representation among the numbers of persons arrested for, charged with, or convicted of, death-eligible crimes; or

"(B) as punishment for crimes against persons of one race with a frequency that is disproportionate to their representation among persons against whom death-eligible crimes have been committed.

"(2) To rebut a prima facie showing of a racially discriminatory pattern, a State of Federal entity must establish by clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain the observable racial disparities comprising the pattern.

"§ 2923. Data on death penalty cases

"(a) DESIGNATION OF AGENCY.—Any State or Federal entity that provides by law for death to be imposed as a punishment for any crime shall designate a central agency to collect and maintain pertinent data on the charging, disposition, and sentencing patterns for all cases of death-eligible crimes.

"(b) RESPONSIBILITIES OF CENTRAL AGENCY.—Each central agency designated pursuant to subsection (a) shall—

"(1) affirmatively monitor compliance with this chapter by local officials and agencies;

"(2) devise and distribute to every local official or agency responsible for the investigation or prosecution of death-eligible crimes a standard form to collect pertinent data;

"(3) maintain all standard forms, compile and index all information contained in the forms, and make both the forms and the compiled information publicly available;

"(4) maintain a centralized, alphabetically indexed file of all police and investigative reports transmitted to it by local officials or agencies in every case of death-eligible crime; and

"(5) allow access to its file of police and investigative reports to the counsel of record for any person charged with any death-eligible crime or sentenced to death who has made or intends to make a claim under section 2922 and it may also allow access to this file to other persons.

"(c) RESPONSIBILITY OF LOCAL OFFICIAL.—(1) Each local official responsible for the investigation or prosecution of death-eligible crimes shall—

"(A) complete the standard form developed pursuant to subsection (b)(2) on every case of death-eligible crime; and

"(B) transmit the standard form to the central agency no later than 3 months after the disposition of each such case whether that disposition is by dismissal of charges, reduction of charges, acceptance of a plea of guilty to the death-eligible crime or to another crime, acquittal, conviction, or any decision not to proceed with prosecution.

"(2) In addition to the standard form, the local official or agency shall transmit to the central agency one copy of all police and investigative reports made in connection with each case of death-eligible crime.

"(d) PERTINENT DATA.—The pertinent data required in the standard form shall be designated by the central agency but shall include, at a minimum, the following information:

"(1) pertinent demographic information on all persons charged with the crime and all victims (including race, sex, age, and national origin);

"(2) information on the principal features of the crime;

"(3) information on the aggravating and mitigating factors of the crime, including the background and character of every person charged with the crime; and

"(4) a narrative summary of the crime.

"§ 2924. Enforcement of the chapter

"(a) ACTION UNDER SECTIONS 2241, 2254, OR 2255 OF THIS TITLE.—In any action brought in a court of the United States within the jurisdiction conferred by sections 2241, 2254, or 2255, in which any person raises a claim under section 2922—

"(1) the court shall appoint counsel for any such person who is financially unable to retain counsel; and

"(2) the court shall furnish investigative, expert or other services necessary for the adequate development of the claim to any such person who is financially unable to obtain such services.

"(b) DETERMINATION BY A STATE COURT.—Notwithstanding section 2254, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 2922 shall be presumed to be correct unless—

"(1) the State is in compliance with section 2923;

"(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert and other services necessary for the adequate development of the claim which were substantially equivalent to those provided by subsection (a); and

"(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

"§ 2925. Construction of chapter

"Nothing contained in this chapter shall be construed to affect in one way or the other the lawfulness of any sentence of death that does not violate section 2922.".

(b) AMENDMENT TO TABLE OF CHAPTERS.—The table of chapters of part VI of title 28, United States Code, is amended by adding at the end thereof the following new item:

"177. Racially Discriminatory Capital Sentencing .... 2921.".

SEC. 4. ACTIONS PRIOR TO THE DATE OF ENACTMENT.

No person shall be barred from raising any claim under section 2922 of title 28, United States Code, as added by this Act, on the ground of having failed to raise or to prosecute the same or a similar claim prior to enactment of the Act, nor by reason of any adjudication rendered prior to its enactment.•

By Mr. SIMON (for himself and Mr. BIDEN):

S. 1250. A bill to require court clerks to report the posting of bail in an amount exceeding $10,000 in certain criminal cases, and for other purposes; to the Committee on the Judiciary.

ILLEGAL DRUGS PROFITS ACT OF 1991

• Mr. SIMON. Mr. President, I rise today with the chairman of the Judiciary Committee, Senator BIDEN, to introduce important legislation suggested by Mayor Richard M. Daley of Chicago at a recent Judiciary Committee hearing—legislation that will give this Nation's law enforcement agencies a new weapon in our efforts in the war against drugs and crime.

Mr. President, we all know only too well that our Nation is faced with a terrible crisis. While government studies report a decrease in casual drug use, there are more people using dangerous drugs like cocaine, and its derivative, crack, in greater quantities than ever before. The ravaging effects of illegal drug use do not discriminate between young and old, rich and poor, black and white. We, as a nation, are all victims.

The manufacture, distribution, and use of illegal drugs are pervasive problems which have a substantial and damaging effect on the health and general welfare of the American people. The prospect of illegal and untaxed profits from the manufacture and distribution of drugs is a substantial incentive to such activity and contributes greatly to this national tragedy.

While over the past few years Congress has passed a number of initiatives to help end this tragedy, much more needs to be done. We must constantly seek out new ideas. We cannot let down our guard until we have solved the problem.

As Mayor Daley suggested, one way to do this is by tracking down the illegal cash in the drug system.

Individuals owe taxes on earned income, from whatever source—even criminal drug enterprises. But criminals rarely pay taxes on illegal profits, and often attempt to launder illegal revenues through legitimate businesses. We need the highest possible scrutiny of drug traffickers, and others who facilitate the transfer of illegal drug profits. Such scrutiny of the financial operations of major drug trafficking organizations is a vital part of the battle to take our streets back from the drug dealers.

But how will the IRS identify the individuals and organizations to scrutinize? As Mayor Daley pointed out in his testimony before the Judiciary Committee on April 23 of this year, every day of the year alleged drug offenders or their friends walk into court and post bail with enormous amounts of cash—cash which might well come from the very crimes of which they are accused—cash which may represent illegal and untaxed drug profits—cash which may well represent the devastation of more American lives. The drug dealers have been telling us in our State and Federal courts who among them have the real money, but we haven't been listening.

This legislation Senator BIDEN and I are introducing today will help us listen to major drug dealers as they identify themselves. Our bill requires clerks in both State and Federal courts to inform the Internal Revenue Service of all incidents in which an alleged drug offender or money launderer or racketeer posts a substantial bail in cash. The IRS will be able to use this information to identify and investigate major drug dealers and other powerful criminals and use the civil and criminal tax penalties of the Internal Revenue Code to cut down their financial empires.

We already have laws which require honest American businesspeople to report large cash transactions between them and their clients and customers. This has been one of our tools in identifying the flow of illegal cash into legitimate businesses. If we put this requirement on honest Americans, isn't it time we got at the large amounts of cash held by the drug dealers?

Mr. President, the fight against drugs is for the health and future of all Americans, and we need all the help we can get in this battle. I thank Senator BIDEN and Mayor Daley for their help in crafting this important legislation, and I urge my colleagues to join me and Senator BIDEN in adding this potent weapon to our arsenal.•

• Mr. BIDEN. Mr. President, today, I am joining Senator SIMON to introduce legislation to give prosecutors another weapon to attack the financial underpinnings of drug trafficking and organized crime.

Simply put, this legislation will require Federal and State courts to notify the Internal Revenue Service [IRS] whenever a defendant charged with drug trafficking, racketeering or other serious crimes is able to post large amounts of cash to meet bail.

Every year, the drug trade generates billions of dollars in illicit profits. Last month, in testimony before a hearing that I chaired, Mayor Richard Daley of Chicago expressed frustration—a frustration shared by prosecutors across the country—when big-time drug dealers are able to post tens of thousands of dollars in cash to meet bail.

Undoubtedly, much of this cash represents the proceeds from illegal activities, yet there is no effective means to monitor suspicious cash bail payments.

This legislation gives law enforcement authorities a means to track suspicious cash bail payments. Under this proposal, whenever a defendant in Federal or State court posts $10,000 or more in cash bail, court officials must notify the IRS. These reports are similar to the currency transaction reports [CTR] and currency and monetary instruments reports [CMIR] that must be filed under the Federal money laundering laws.

The potential impact of this new law enforcement tool is best illustrated by the fact that Al Capone, the famous Chicago gangster, went to prison not for racketeering, but for tax evasion. Drug dealers—modern day Al Capones—frequently violate tax laws when they fail to report or pay taxes on their illicit profits. This legislation will open a new front in the fight against the illegal drug trade, enabling Federal authorities to use the criminal tax laws to bust drug dealers and take away their ill-gotten gains.

I want to thank Senator SIMON for his work on this legislation and Mayor Daley, who initially raised this issue when he testified before the Judiciary Committee.•

By Mr. BREAUX:

S. 1251. A bill entitled the Disaster Assistance Act of 1991; to the Committee on Agriculture, Nutrition, and Forestry.

DISASTER ASSISTANCE ACT OF 1991

• Mr. BREAUX. Mr. President, I rise to introduce legislation, the Disaster Assistance Act of 1991.

Farmers throughout the State of Louisiana have been devastated by heavy rains and flooding over the last several months. Fully half of the parishes in Louisiana have been declared Federal disaster areas.

The Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center estimates growers' financial losses at more than $173 million. This figure will probably go higher because it is too early to estimate the extent of losses to Louisiana sugarcane growers.

In 49 parishes, 11,333 homes and businesses have been flooded; 1,517,265 acres of crop and pasture land have been flooded. For many weeks farmers were unable to get into their fields because of flooding. Fields are so wet in many places that planting and cultivating are impossible. Much of the rice crop in north Louisiana has already been lost. Cotton planting is behind schedule. Thousands of acres of sugarcane are under water. Winter wheat crops are lost or damaged. Aquaculture production is threatened with huge losses and livestock feed supplies have been lost.

The bill that I am introducing today would provide disaster assistance to producers of all 1991 crops affected by damaging weather throughout the United States. It would provide reduced yield and prevented planting disaster payments to producers of program crops—such as wheat, corn, cotton, and rice—who lose 35 percent or more of their crop. Program participants in this category would be eligible for payments at a rate of 65 percent of the target price for that crop. Non-participants would be eligible for payments at a rate of 65 percent of the loan rate for that crop.

This legislation would provide payments to producers of peanuts, sugar beets, sugarcane and tobacco at a rate of 65 percent of the price support level on losses greater than 35 percent. Producers of soybeans and other nonprogram crops would be eligible for payments at a rate of 65 percent of the average producer market price for the last 5 years on losses greater than 35 percent. It would reauthorize emergency livestock feed assistance and provide cost sharing for the reseeding of pastures. Finally, it would authorize payments for reduced quality of crops caused by damaging weather.

In order to be eligible for disaster assistance, producers would have to agree to obtain crop insurance for the 1992 crop where available. Producer eligibility will be determined by the quantity of the commodity that the producer is able to harvest. Further, the legislation would provide loan guarantees to rural businesses impacted directly and indirectly by damaging weather.

Mr. President, the problems caused by weather conditions in my State of Louisiana and in other parts of the country are very serious. I hope that my colleagues will join me in supporting this badly needed relief for disaster-stricken farmers. I yield the floor.

By Mr. MURKOWSKI (for himself, Mr. BURNS, and Mr. CRAIG):

S. 1252. a bill to amend the National Park Foundation Act (16 U.S.C. 19e through 19n, Public Law 90-209 (Dec. 18, 1967)); to the Committee on Energy and Natural Resources.

NATIONAL PARK FOUNDATION ACT AMENDMENTS

• Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation to amend Public Law 90-209, the National Park Foundation Act.

There are several issues which cause me concern about recent events—especially the sale of the Yosemite Park and Curry Co., from MCA, Inc., to the National Park Foundation. I am not convinced that the rationale for the sale nor the specific agreement is in the best interest of the Government, taxpayer and/or park visitor.

The Secretary of the Interior announced a new policy initiative based on the principles of protecting the resource, providing quality visitor services at a reasonable cost, providing park concessionaires with a reasonable opportunity for profit, and providing for a fair return on fees, investments and services to the Government.

Mr. President, there are laudable goals. In fact, they are almost identical to those enacted by Congress with the passage of Public Law 89-249, the National Park Service Concessions Policy Act. What the Interior Department apparently overlooks was the basic decision by the Congress that the private sector, not federally chartered foundations, were to provide those services.

It was when Interior's goals were translated into his specific policy directions that we found ourselves on the *Titanic*. All we are doing is rearranging the deck chairs. Make no mistake, Mr. President—should we stay the course, we will certainly sink.

When the parent company of Yosemite Park and Curry Co., Music Corporation of America, was purchased by a foreign firm, Matsushita of Japan, it generated sensational headlines, rather than a true and accurate portrayal of the situation.

The complexities of the concession industry have become trivialized by some in Congress and the administration because they decided to judge the issue based on catchy slogans—"No foreign ownership of our national treasures" is a good example of that. Somehow Interior thinks the hamburger stand is the national treasure, rather than the park itself. Interior has completely ignored the legal and contractual relationship between a concessioner and the park.

Service in favor of an ill-informed and only marginally catchy press release. In the process, Interior has altered the objectives of the Park Foundation and opened the door for those who want to eliminate all concessions in an effort to prevent visitors from entering the national parks.

If anyone thinks that is not the objective, they should only look at the policy of visitor access. An example is the 5 acres of the Anchorage zoo get more visitation than the entire interior portion of Denali, and the zoo does not have an armed ranger to keep visitors out. Two of the parks in Alaska have more entry and exit by Park Service personnel than they do visitors.

No one addressed the positive aspects or the potential benefits that Yosemite may have had with the ties to Matsushita. Senators WALLOP and SEYMOUR and myself have recently begun discussing a monorail system of some sort for Yellowstone, Denali and Yosemite National Parks—certainly a 21st century mode of transportation. Matsushita might have had some innovative ideas.

I do not want to dwell on the Japanese bashing that has taken place, for it will serve no purpose to those who possess such a narrow view of the world.

Mr. President, through the negotiations between the Department and MCA and the National Park Foundation, Interior is attempting to dismantle the National Park Service Concessions Policy Act, by eliminating the concepts of possessory interest, preferential right of renewal, preferential right to additional services and long-term contracts. Interior appears to violate its responsibility to faithfully administer the laws as intended under the Park Foundation.

Congress never meant to establish the National Park Foundation to operate concessions in the National Park System. The Park Foundation lacks the expertise and experience, without the current Curry Co., management team, to even qualify as a responsible bidder for a National Park concession.

There are those who make a case that the Foundation is merely the stockholder under the potential agreement—notwithstanding the fact that the Foundation will appoint two members to the Board of Directors of Yosemite Park and Curry Co., that the chairman of the Park Foundation is the Secretary of the Interior, and now it is my understanding that the Park Foundation is attempting to formulate a subsidiary not-for-profit organization to deal with these matters.

I fear that with the Yosemite agreement, the Department of the Interior is sending the wrong signal to other concessionaires—and they are saying to the American public we may no longer be concerned with reasonable prices and quality service, but instead want to only maximize the return to the Treasury, which in this case will probably not occur. It appears to me that if one considered the amount of money the Foundation will have to expend in their first year of the buy-out, as well as the potential profits the concessioner will need to make over a 1-year period, there may be a serious shortfall in the ability of the Foundation to pay their debt. This is notwithstanding the fact that no one has taken into consideration that a major fire, snowstorm or any other natural disaster which has the potential to close the park for a period of time will also impact the earnings capability of the concessioner.

I don't like what the Interior Department is doing—it doesn't serve the public and it certainly doesn't serve the parks. A concessioner with no possessory interest, no preferential right, a short-term contract and a high fee will be forced to cut corners on design, construction, operation and maintenance, if they operate at all. Necessarily, we will almost always operate for the short term with as little deference to the resource as is possible.

A stable concessioner with incentive to make long-term investments and plan for continuity of operation helps to protect the resource. A long-term investor is able to plan, design and build environmentally sensitive facilities as directed by the National Park Service. Further, he is able to operate and maintain these facilities with long-term tenure in mind and thus in accord with the environmental sensitivity necessary in national parks.

The same factors are true to providing service to the visitor. A concessioner looking to the long-term will provide high quality service at reasonable prices. Further, he will be able to enhance the visitor experience by making the concessioner facilities an extension of the park. He will be able to provide such additional free services as interpretive lectures, guided hikes, and other extensions of the park.

It may be argued that resource protection and service to the visitor could be achieved by National Park Service regulation, but, in fact, the current partnership system has proven to work far better than any regulatory scheme. Thus, the system which Congress created has worked well and should not be destroyed by whim.

Mr. President, it is in this spirit that I feel compelled to introduce this legislation to amend the National Park Foundation Act, which would preclude the Foundation from operating or owning directly or indirectly or participate in transactions or activities directly or indirectly in the management or ownership of a park concession.

Mr. President, I would ask unanimous consent to print in the RECORD an editorial from the February 15, 1991, copy of Science, entitled "The Saving of Yosemite"; an April 2, 1991, article from the San Jose Mercury News, entitled "Yosemite's Fate in Hands of Obscure Group"; and a copy of a letter written by George E. Capsen, Jr., of Fort Sumter Tours, a park concessioner, who compiled a factsheet entitled "The Situation," which I believe adequately reflects the position and thinking of many of our park concessioners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Science Magazine, Feb. 15, 1991]

THE SAVING OF YOSEMITE

(By Daniel E. Koshland, Jr.)

The news recently carried stories of the Secretary of the Interior's success in thwarting a Japanese firm from taking control of Yosemite National Park. The Secretary, by some timely Japan-bashing, got the Japanese corporation to sell back its rights at a very reduced fee. Elation was expressed by some over this great victory.

The action of the Secretary of the Interior was clearly prophetic. Anyone with half a brain would know what the Japanese had in mind. They would certainly remove Yosemite, rock by rock, tree by tree, waterfall by waterfall, and mountain by mountain to Japan, and there, nestled at the foot of Mount Fuji, it would create one of the great tourist attractions of all time. Global sightseers would no longer even be interested in coming to the United States, and tourism, like television sets, cameras, and binoculars, would become another Japanese monopoly.

This kind of situation had to be avoided at all costs, and extreme measures were probably needed. On the other hand, there are those, like this editor, who feel the cost was very high. The idea that the Japanese, with a noted record of efficiency in management, long-range point of view, and high quality of merchandise, would take over from the Yosemite Park and Curry Company (which had in general done a good job) was indeed attractive. The park organization might actually run like a Japanese car—low maintenance, high efficiency, and excellent service. The average visitor to the park would only note that it was running well and would not realize that the profit was going to a Japanese corporation instead of to the who-cares-about-profits-we're-just-acting-for-the-national-good U.S. corporation. Therein, of course, lies the rub. The Japanese corporation would probably make a lot of money, and some people would resent that, but again, the conventional wisdom may be wrong.

If the Japanese made a lot of money at Yosemite, they might think that they could make money in other operations of the U.S. government, and one of the first that comes to mind is the U.S. Postal Service. A Japanese takeover of the Postal Service might be the last chance for the American people to get their mail on time or even at all. The postal rates are going up again, racing ahead of the cost of living index by leaps and bounds, at the same time that mail delivery services keep going down. This inverse correlation probably has its origin in the wonderful managerial practices of the U.S. government. The chairman of the commission that sets postal rates was asked whether or not there had been an examination of the efficiency of the Postal Service before the current hikes were approved, and he replied that his commission was not authorized to investigate efficiency. Their job was to look at the figures and say whether the actual expenses justified the increase. Separating those who are paying the bills from those who are running the operation is a management device that I am sure would send shivers up the spine of any intelligent Japanese businessman, but it fits in perfectly with the savings and loan fiscal policy of the U.S. government.

The only hope for the average American who wants to receive anything but junk mail on time is for a selfish Japanese corporation to assume responsibility and make "unconscionable" profits. Thus a reversal of the Yosemite decision might lure the Japanese into running the Postal Service, and they might even be encouraged to take over the Internal Revenue Service, where the inefficiencies are probably even more glaring than at the Postal Service. Alas, the Yosemite episode is likely to deter the Japanese from trying any further to make sense out of U.S. government operations. The most obvious solution to the Yosemite mess is to compensate the Japanese for our insulting behavior by giving them the Postal Service and letting them run it with their usual management skills. If the Japan-bashers win, there is still perhaps one last desperate way out of this situation. The Yosemite Park and Curry Company must have much less to do than it ever had, and it has an organization of appreciable size that has actually made money in a bureaucratic atmosphere. Therefore, if worse comes to worst, it is conceivable that the Postal Service and the Internal Revenue Service can be turned over to the Yosemite Park and Curry Company. The average postal worker would probably prefer to work for an efficient corporation of any nationality but politically, conservatism and provincialism will always triumph over innovation and magnanimity.

[From the San Jose (CA) Mercury News, Apr. 2 1991]

YOSEMITE'S FATE IN HANDS OF OBSCURE GROUP

(By Tom Philp]

When MCA Inc. agreed in January to the historic sale of its Yosemite tourist business to the National Park Foundaton, many park activists first cheered. Then wondered. Who is the National Park Foundation?

The foundation is the wild card in Yosemite's future, and so far it isn't showing its hand. Perhaps, it says, it will take over the lucrative concession business itself when the contract comes up for bid again in 1993. Perhaps it will leave Yosemite to others. The only sure thing is that the turbulent fishbowl of Yosemite politics is an odd place to find a tiny foundation with no experience in anything this big or important.

"They didn't do a great deal," said William Pehn Mott Jr., director of the National Park Service during half of the Reagan administration, of the foundation's '80s track record. "The board enjoyed trips to the various parks for their board meetings and things of that sort."

Congress created the foundation in 1967 to raise money and buy land for the park service—things big government bureaucracies have trouble doing. It has 23 members on its board of directors, mostly corporate executives who earn no stipend or salary. President Alan Rubin, who oversees an office of only three employees, makes $120,000—more than James Ridenour, who leads the 12,000-strong National Park Service.

The foundation started with more than $1.1 million in seed money from the Rockefeller family, and spent its early years arranging land donations—for Grand Teton National Park, for Virgin Islands National Park, and for Georgias Cumberland Island National Seashore. But by the '80s, with the Reagan administration stressing "privatization" of public lands, the foundation lowered its profile.

Maybe too low.

"They are a mystery to us," said Joan Reiss, West Coast director of the Wilderness Society, which is a partner in a group which may bid for the concessions. "They have us very concerned."

Audits, annual reports and interviews with former foundation employees reveal an organization with a scattered resume that is heavier on museum and arts projects than activities in the parks.

Its only Yosemite project, a $500,000 film focusing on the park's controversial history, was sanitized to the point that it was "frivolous and factually incorrect," according to its creator.

Its big project for the 1980s, when park interpretation programs suffered from Reagan budget cuts, was a museum at the base of Wall Street in Manhattan. The museum was never a priority of the park service.

A sister organization created by Congress, the National Fish and Wildlife Foundation, has managed to raise seven times as much money in one-fifth the time.

Still, Interior Secretary Manmel Lujan in January made the foundation a key player in Yosemite when, acting in his role as foundation chairman, he dropped the Yosemite Park and Curry Co.—the MCA subsidiary which actually runs the park concessions—in its lap.

WHO'S WHO ON THE BOARD

Here is a partial list of board members on the National Park Foundation:

John Fery, chairman and chief executive officer, Boise Cascade Corp, Boise Idaho.

Neil Harlan, former chairman, McKesson Corp., San Francisco.

Richard Madden, chairman and chief executive officer, Potlatch Corp., San Francisco.

Phoebe Hearst Cooke, philanthropist, Woodside.

John Gavin, Los Angeles.

Gilbert M. Grosvenor, president, National Geographic Society, Washington, DC.

James Harvey, chairman, Transamerica Corp., San Francisco.

Marian Heiskoll, director of the New York Times Co., New York.

Roger Staubach, former Dallas Cowboys quarterback, Dallas.

Source: 1989 foundation annual report.

CAMPSEN & CAMPSEN,
ATTORNEYS AT LAW,
Charleston, SC, May 21, 1991.

Hon. FRANK H. MURKOWSKI,
U.S. Senator from Alaska, ranking Republical member Subcommittee on Public Lands, National Parks and Forests.

(Attention of Mr. Jim O'Toole).

DEAR SENATOR MURKOWSKI: I have been an active trial lawyer for over thirty years. I am also President of Fort Sumter Tours, Inc., a family-owned enterprise, which has, pursuant to a concessions contract with the National Park Service, provided public boat transportation to Fort Sumter National Monument since 1962. I am also a member of the Board of Directors of the Conference of National Park Concessioners.

The national parks and monuments in our great nation are one of our finest accomplishments and are enjoyed by millions of our citizens each year. Since our system began, visitor goods and services have been provided by private sector business men and women, known as concessioners, under strict supervision and control of the Department of the Interior, acting through the National Park Service. It is felt that the excellence of service provided by the private sector contributes greatly to the gratifying experience of visitors to our national park areas.

An effort is presently underway which would dramatically change and ultimately destroy the national park concession system as it presently exists. You have been furnished a copy of a document entitled "The Situation". It is felt that this document properly identifies and discusses the important issues involved. A copy of same has been furnished to each member of the Board of Directors of the Conference of National Park Concessioners, and it is felt that the discussions contained therein expresses the position of all concessioners.

It is hoped that you and others in authority will prevent the destruction of a system which has withstood the test of time, and has provided outstanding goods and services to the millions of visitors to our national park areas.

Faithfully yours,

GEORGE E. CAMPSEN, Jr.

THE SITUATION

(The following are current issues or questions, national in scope, which have developed because of the announced policy goals of Manual Lujan, Jr., the present Secretary of the Interior, regarding the role of private sector concessioners in our national park areas.)

What type services and facilities are needed in National Park areas?

For over a century, our citizens who visit national park areas have shown a strong desire and need for quality food, beverages, transportation, lodging, souvenirs, recreational opportunities and other family type comfort conveniences, determined by the National Park Service to be necessary and appropriate for proper enjoyment of park areas.

Who are National Park concessioners?

Concessioners are private enterprise business men and women who are independent contractors for the National Park Service, and whose private business function is to provide the goods and services as deemed by the National Park Service to be necessary and appropriate for park visitors. They are subject to, and pay, federal, state and other taxes. They are responsible for hiring, training, paying, disciplining and firing their own employees.

Are concessioners regulated or controlled by any governmental agency?

Concessioners are totally regulated and controlled by concession contracts with the National Park Service, under the Department of the Interior, all as authorized and directed by Congress.

"THE SITUATION"

Each of the following concession business operations are now, and have been for decades, regulated and controlled by the Secretary of the Interior, acting through the National Park Service:

(a) Every service and item offered for sale to park visitors must first be approved by the Service.

(b) The price charged the public for such service and items also must be approved.

(c) The type and amount of insurance any concessioner maintains must be approved.

(d) The Service reserves the right to fire any employee of any concessioner.

(e) The Service reserves the right to inspect all concessioner equipment to make certain it is appropriate for its purpose and maintained to the satisfaction of the Service.

(f) Any investment in buildings or equipment in the park, to be made at concessioner's expense, must be approved as to its need, type, design and function.

(g) All of concessioner's daily operating procedures and practice must be approved.

(h) Any and all advertising used by concessioner must be approved.

(i) The scheduling and duration of all concession-executed events must be approved.

(j) The uniform or dress of all concessioner employees must be approved.

(k) The operating hours of all concession activities must be approved.

(l) The color, decorations and appearances of all concession equipment must be approved.

(m) The size, shape, design and location of all concession employee housing must be approved.

(n) Franchise fees, building use fees (rent) payable by concessioner to Service must be approved.

(o) Extent and type of audit of concessioner's business operation, which is required annually by Service must be approved.

(p) The method and type of business accounting maintained by concessioner must be approved.

(q) Concessioner's compliance with all federal, state and local regulations are subject to review by Service for compliance.

Will competition between more than one concessioner offering services in a park benefit the visitor or the Park Service?

All business operations in the USA are regulated and controlled to some extent. For instance, the Food and Drug Administration, the Federal Communication Authority, the Internal Revenue Service, Wage and Hour requirements, Civil Rights Legislation, the Interstate Commerce Commission, the Anti-Trust Laws, etc., etc. After these type controls, we generally support a free economy, where competition among businesses serves as a regulating factor for business efficiency, quality of performance and opportunity for profit, without further control by government. However, there is another type of business operations which are essential, and wherein competition would be totally destructive, and experience has demonstrated that regulated monopolistic practice best serves the public interest. This type business primarily involves the area of public service, such as public transportation, utility companies, and national park concessioners. The beneficial goal in terms of public interest, in these type business operations, is satisfactory public service at reasonable prices. Obviously, in these situations, this cannot be accomplished through open competition. Imagine, if you would, the chaos, economic disaster and poor services, which would be rendered if we had numerous businesses competing for our residential electrical services and water system, with multiple distribution electrical lines and pipes, and multiple concessioners and their equipment, competing to provide goods and services to visitors within each of our national park areas.

Obviously, in these areas, competition would be most undersirable and unworkable. But experience has also taught us that because of the inherent greed of all men, a business producing unique or monopolistic goods and services, must be restrained and controlled in their pricing, and quality of service. Something controlling must be present to serve the otherwise valuable function, and take the place of "competition". Therefore, in PL 89-249, the Congress mandated that since national park concessioners are not subject to regulation through competition, the prices they charge, and the quality and type of services they offer, shall be regulated and controlled by the Secretary of the Interior, acting through the National Park Service.

The historic record of concession operations will show that through many decades of trial and error, the Park Service, the Congress and all previous Secretaries of the Interior concluded that open and sometime bitter competition, within the park, by numerous concessioners for the park visitors' dollars, is not beneficial, but detrimental, to the visitor and the Park Service.

Accordingly, the Congress, in PL 89-249, authorized the Secretary to contract with one responsible concessioner who would be rigidly regulated, rather than allowing an atmosphere of bitter competitive commercialism to develop in park areas. This system has worked well . . .

Would the visitor or the service benefit from more concession competition for contract renewals?

Based upon many decades of trial and error experience, in PL 89-249, approved October 9, 1965, the Congress made a factual finding that the public interest would be best served by private concessioners, rather than government, providing goods and services to park visitors, and directed the Secretary of the Interior to encourage private concessioners to provide the facilities and services needed in the parks. Also, Congress found, as a fact, the continuity of satisfactory concession operations were in the public interest, and directed the Secretary to grant a preference in the negotiations and renewal of contracts, or permits, to all concessioners who have performed their obligations under prior contracts to the satisfaction of the Secretary. This right has been interpreted as a right to match any competing proposal. It is important to realize that concessioners the Secretary deems unsatisfactory are not entitled to any preference, but are subject to immediate termination . . . The question is—should satisfactory service be continued?

Should concessioners be replaced routinely without regard for the quality or efficiency of their performance?

The present Secretary of the Interior is openly advocating short term contracts, and routine replacement of concessioners only for the purpose of change.

Presently in this country, there are literally hundreds of thousands of employees of private sector park concessioners, who have committed their careers to providing the goods and services needed by park visitors. Obviously, as with the civil service, union contracts, and all businesses in this country who have employees, each must be able to attract and maintain quality type personnel. This job attraction is only accomplished through benefits, such as long term pension plans, hospital insurance, vacations and perhaps most importantly, the opportunity for continued employment or tenure in exchange for satisfactory performance. It is also important and necessary for park concessioners to specially train their employees in terms of conservation park resources, park ethics, customs and courtesies, etc., all of which takes considerable time to locate and develop a desirable cadre of outstanding career employees, and once accomplished, should not be scrapped every five years. The present Secretary has announced his desire and intentions to limit most concessions contracts to a five year period, and encourages routine replacement of concessioners. It should be obvious that such practice would disrupt, if not destroy, career opportunities for all the talented and highly qualified persons, who desire to work for and with private concessioners in serving visitors within our national parks. Human nature being what it is, a "get it while you can" quest for money would surely evolve by all such short term concessions. What would motivate them to do anything else? Who would this benefit?

Thankfully, our Congress in 1965 adopted P.L. 89-249 and directed all Secretaries of the Interior to "encourage continuity of concession operations, facilities and services within the parks". The announced intention and policy of the present Secretary—to disrupt "continuity" is contrary to the "expressed will" of Congress. It should be remembered that it was the Congress of the Unites States which created and established the national park system, and then merely delegated the authority to carry out the "will of Congress" to the Secretary of the Interior.

Should franchise fees charged concessioners be used as a revenue source for the Federal Government and to reduce concession profits?

Absolutely not. The Congress, in P.L. 89-249, provided that such fees shall be determined upon consideration of the probable value to the concessioner of the privileges granted by the particular contract. The value is defined as "the opportunity for net profit in relation to both gross receipts and capital invested". The Congress gave specific directions to the Secretary regarding the amount and purpose of franchise fees, when it stated—"Consideration of revenue to the United States shall be subordinate to the objectives of protecting and preserving the areas and of providing adequate and appropriate services for visitors at reasonable rates". Obviously, any demand by the Secretary that franchise fees be increased, merely to produce more revenue for the federal government, is also contrary to the stated intention of the Congress and, when abused by the Secretary, a means of drastically reducing concession incentive, and ultimately destroying the entire system nationwide.

Unfortunately, to many in positions of authority in government, "profit" is a bad word, and symbolizes an evil empire of entrepreneurs. This is most regrettable and presently one of the great challenges to our free market system. It should be obvious that in order for any salaries and taxes to be paid, or anything good economically to happen, it is first necessary that some private enterpreneur be given an opportunity to make an honest profit. If those in authority destroy this incentive, we will surely follow the path of Russia and Eastern Europe into economic chaos.

Should a concessioners have some security for, or possessory interest buildings and improvements which the park service directs a concessioner to produce at its expense, for public use on Federal lands in the park?

At the request and requirement of the Secretary of the Interior, acting through the National Park Service, private sector concessioners have invested hundreds of millions of dollars in buildings and improvements upon federal lands for the enjoyment of park visitors. Is it not proper that such investments be reasonably secure? These large investments require borrowed funds from banking institutions, which require such loans to be collateralized by mortgages and other security documents. To deprive a concessioner of this possessory interest would promptly end private concession investments, and would deny the park visitor the use and enjoyment of all concession financed improvements, or require additional federal money to finance such improvements. Again, the Congress, in P.L. 89-249, denied the Secretary this authority, by requiring that a concessioner who, at its expense, finance any structure, fixture or improvement upon park lands, at the request of the Secretary or Park Service, "shall" have a possessory interest therein. The Act then defines possessory interest and mandates that the value thereof shall equal "sound value", defined as "replacement cost, less depreciation, but not to exceed fair market value." This Secretary wants to destroy that concept!!

Should the Secretary be granted the authority to define "reasonable profit" concessioners would be permitted to earn? Are profitable concessioners detrimental to park visitors or the Secretary of the Interior?

Absolutely not. Again, the Congress, in PL 89-249 mandated that the Secretary shall exercise his authority in a manner consistent with a reasonable opportunity for the concessioner to realize a profit. The Congress has granted the Secretary no authority to directly regulate or control "profit opportunities" of concessioners. Nor is the concessioner granted any insulation or protection from a business loss, even though such losses may be due to acts of God, civil commotion, war or other events beyond the control of concessioners. In accordance with the free enterprise philosophy, after accepting reasonable regulation and control by the Secretary, including approval of charges made, concessioners have been properly granted the opportunity to make whatever profit legally available, and likewise be subjected to any risk of business losses. Experience has shown that this system works well. It should not be changed!!

In any private business, "profit" is a necessary component of a lasting business relationship, including the partnership, as mandated by Congress, which presently exists between park concessioners and the Secretary. Surely, the internal collapse of worldwide communism should teach us all that the free enterprise, "profit" motivated business climate, is the only successful system. After the Service and the Secretary have assured quality service and reasonable prices through rate approval, etc., it is hard to envision how the federal government or park visitors would be better off by diminishing the "profit opportunity" of private concessioners. The economically healthy concession business is the only kind that can survive and respond to visitor needs and large investments in needed park facilities. Fortunately, under our free economy, businesses must determine in the "market place", whether they can be profitable, and the government should not attempt to control profits. Such an experiment was tried in Russia and Eastern Europe—and was a miserable failure. It is called Communism!!

The Congress gave the Secretary of the Interior substantial regulatory authority over concession operations, but fell far short of granting him authority to regulate profits. This Secretary wants to diminish "profit opportunity" by increasing franchise fees, in order to raise additional revenue for the U.S. Treasury. In essence, a type of additional federal income tax, especially for park concessioners. This is fraught with the great danger of allowing the Secretary, in his discretion, to impose higher franchise fees, even to the extent of breaking the financial backs of concessioners. Such practice has never been authorized by Congress and its implementation, over time, will surely eliminate private concessioners in our parks, requiring that the necessary goods and services be provided by the federal government. Is this in the best interest of the park visitor?

When a private concessioner decides to sell his business, should the Secretary of the Interior have a right to determine the sales price?

For over a quarter of a century the Secretary has possessed the right to approve the business qualifications of any prospective purchaser of a concessioner's business interest. This is justified upon the grounds that the Park Service should have the right to judge the acceptability of its "new partner", and make a judgment concerning its ability to continue to satisfactorily perform the obligations of the concessions contract. However, the monetary terms and conditions of the sale heretofore has been left exclusively to the judgment of the willing seller and purchaser, involved in an arms length business tranaction. Now, the Secretary has declared that he will not approve any sale he, in his sole discretion, feels will result in windfall profits to the seller, which he has described as "blue sky". With all due respect, isn't this unnecessary meddling into the business judgment of two private contracting parties? The ability to determine the "true value" of any business enterprise is a very technical procedure requiring the professional abilities of business brokers, attorneys, accountants and other consultants. What are the qualifications of "government" in this area? Furthermore, what difference should it make to the Secretary, or anyone else—what a willing buyer and seller agree upon as—"true value"? Upon the sale of any business, including concession operations, many will often claim the sales price was too high and others will say it was too low. Historically, such negotiations have been an important and private part of American business, and should stay that way, and not be dominated by the Secretary of the Interior, merely because a park concessioner happens to be the seller.

Has the spirit and intent of PL 89-249 created a good working concession system or not?

Private concessioners, under contract with the federal government, have been providing visitor goods and services in park areas since the establishment of our very first national park, Yellowstone, in 1872. Since that time and during the expansion of our park system, through trial and error experience, the Congress continually monitored many, if not all, of the possible circumstances of providing visitor services, for the purpose of finding a method which would best serve park visitors. After evaluating such experiences for almost a century, the Congress conducted extensive and numerous hearings and finally selected those policies and procedures which, through time and application, had proved to be the best, and codified them into Public Law 89-249.

An assault upon these policies and procedures is now being conducted by the Secretary of the Interior, even though he openly acknowledges that private concessioners generally have produced outstanding goods and services for park visitors at reasonable prices.

Our national parks are a model for the world . . . The system is not broken—and does not need fixing. Hopefully, the Congress and others in authority will not allow a proven system to be destroyed.•

By Mr. ROCKEFELLER (for himself, Mr. AKAKA, Mr. KERRY, Mr. BRADLEY, Mr. CRANSTON, Mr. BUMPERS, Mr. DASCHLE, Mr. JEFFORDS, Mr. BENTSEN, Mr. BYRD, and Mr. MITCHELL):

Senate Joint Resolution 157. A resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week"; to the Committee on the Judiciary.

HIRE A VETERAN WEEK

• Mr. ROCKEFELLER. Mr. President, it is with great pride that I rise today to introduce a joint resolution to designate the week beginning November 10, 1991, as "Hire A Veteran Week."

I believe this is a timely and appropriate resolution. This weekend, people from around our country will gather in Washington, DC, to celebrate the return of our troops. It will be a time of elation and joy, a time of both relief and pride.

Nevertheless, as we celebrate and honor our veterans, we must also be aware of the concerns that veterans and their families will face after the parade ends and as they must begin to make the transition from military service into civilian life.

Employment is a major issue for all veterans, especially in our present economy.

As a member of the Senate Veterans' Affairs Committee, I have been proud to work on legislation designed to strengthen our benefit programs for all veterans, including those who served bravely in Operation Desert Storm.

Training and employment assistance play a vital role, but the bottom line is our veterans need a job. Unfortunately, the latest employment statistics from the Department of Labor indicate that more than 667,000 veterans are unemployed, and many others are underemployed.

West Virginia alone has 6,000 unemployed veterans and this number unfortunately may rise as men and women from my State return from the Persian Gulf and others leave military service. In West Virginia, we have committed professionals at the Veterans Employment Service who are working to help veterans develop the skills they need for interviews. My State also works to encourage employers to consider veterans for job opportunities—but they would welcome a national initiative.

Every State should do more to tell employers about the tremendous advantages of hiring veterans.

Men and women who served in the military have gained unique experiences that are also beneficial in civilian careers as well. Military training fosters leadership skills and encourages teamwork. It brings veterans in contact with the latest equipment and the most modern technologies. Veterans receive training in a variety of specialized fields ranging from medicine to electronics. Moreover, because of the Armed Forces' structure and discipline, veterans are frequently better trained and better suited for all employment opportunities.

"Hire A Veteran Week" seeks to focus national attention on these issues. Under the resolution, Federal agencies, State governments, labor organizations, employers, and veterans' organizations would be asked to support and assist veterans seeking jobs. Several States already sponsor similar initiatives. However, I believe we should have a national "Hire A Veteran Week." Promoting public awareness through a national recognition week focusing on hiring veterans is a basic, but effective, way to remind employers to consider veterans for job opportunities.

Veterans have helped defend freedom; it is time we help them. Let us take this simple step to truly welcome home our troops.

I urge my colleagues to join me in supporting this simple but important resolution for all veterans.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD following my statement.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 157

Whereas the people of the United States have a deep appreciation and respect for the men and women who serve the United States through service in the Armed Forces;

Whereas many veterans possess special qualities and skills that make them ideal candidates for employment;

Whereas many veterans encounter difficulties in securing employment despite these special qualities and skills; and

Whereas the Department of Veterans Affairs, the Department of Labor, the Office of Personnel Management, and many State and local governments administer veterans programs and have veterans employment representatives to ensure that veterans receive the services to which they are entitled and to promote employer interest in hiring veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 10, 1991, is hereby designated as "Hire a Veteran Week", and the President is authorized and requested to issue a proclamation calling upon employers, labor organizations, veterans' service organizations, and Federal, State, and local governmental agencies to lend their support to the campaign to increase employment of the men and women who have served the United States through service in the Armed Forces.•

ADDITIONAL COSPONSORS

S. 24

At the request of Mr. MOYNIHAN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 24, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from gross income of educational assistance provided to employees.

S. 50

At the request of Mr. SYMMS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 50, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 190

At the request of Mr. GRAHAM, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 190, a bill to amend section 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retired pay reduced on the basis of the degree of the disability rating of such veteran.

S. 200

At the request of Mr. PRYOR, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 200, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions from broker reporting requirements, and to make certain clarifications relating to such requirements.

S. 210

At the request of Mr. SASSER, his name was added as a cosponsor of S. 210, a bill to establish the United States Enrichment Corporation to operate the Federal uranium enrichment program on a profitable and efficient basis in order to maximize the long-term economic value to the United States, to provide assistance to the domestic uranium industry and to provide a Federal contribution for the reclamation of mill tailings generated pursuant to Federal defense contracts at active uranium and thorium processing sites.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 323

At the request of Mr. CHAFEE, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Nebraska [Mr. KERREY], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 327

At the request of Mr. BOREN, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 327, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 447

At the request of Mr. THURMOND, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Ohio [Mr. GLENN], and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 447, a bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 504

At the request of Mr. HARKIN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 504, a bill to amend the Standing Rules of the Senate to require that reports accompanying each bill involving public health that is reported by a Senate committee contain a prevention impact evaluation, to establish a Task Force on Disease Prevention and Health Promotion, and for other purposes.

S. 510

At the request of Mr. HARKIN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 510, a bill to amend the Older Americans Act of 1965 to expand the preventive health services program to include disease prevention and health promotion services, and for other purposes.

S. 518

At the request of Mr. GRAHAM, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 518, a bill to amend title XVIII of the Social Security Act to expedite the payment of claims under such title by increasing the level of interest paid on late payments to providers under such title, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 694

At the request of Mr. HARKIN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 694, a bill to amend title VII of the Public Health Service Act to increase the support provided to programs for the training of medical rehabilitation health personnel, to establish an Advisory Council on Allied Health, and for other purposes.

S. 717

At the request of Mr. SYMMS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 717, a bill to amend title XVIII of the Social Security Act to provide for the exclusion of all rural areas from medicare payment reductions for the services of new physicians provided in such areas.

S. 765

At the request of Mr. BREAUX, the names of the Senator from Florida [Mr. MACK], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 773

At the request of Mr. CHAFEE, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 773, a bill to amend title XIX of the Social Security Act to create a new part under such title to provide access to services for medically underserved populations not currently served by federally qualified health centers, by providing funds for a new program to allow federally qualified health centers and other qualifying entities to expand such centers' and entities' capacity and to develop additional centers.

S. 803

At the request of Mr. REID, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 803, a bill to amend the Family Violence Prevention and Services Act to provide grants to States to fund State domestic violence coalitions, and for other purposes.

S. 832

At the request of Mr. GORTON, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 832, a bill to authorize the Secretary of Commerce to develop and expand new national markets for recycled paper and other commodities; and to carry out a program requiring Federal departments to procure and use recycled paper and paper products in carrying out their functions.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Rhode Island [Mr. PELL] was added as cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 879

At the request of Mr. DASCHLE, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 880

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 880, a bill to amend title XVIII of the Social Security Act to provide for improved reimbursement of clinical social worker services covered under medicare.

S. 881

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 881, a bill to amend title VII of the Public Health Service Act to provide educational support for individuals pursuing graduate degrees in social work, and for other purposes.

S. 909

At the request of Mr. LEAHY, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 909, a bill to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

S. 922

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 922, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by electric utilities to customers to subsidize the cost of energy conservation services and measures.

S. 1009

At the request of Mr. COATS, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1009, a bill to amend the Internal

Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $4,000, and for other purposes.

S. 1010

At the request of Mr. INOUYE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendents.

S. 1121

At the request of Mr. WARNER, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1121, a bill to authorize funds for construction of highways, for highways safety programs, for mass transportation programs, and for other purposes.

S. 1141

At the request of Mr. PELL the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1141, a bill to help the Nation achieve the National Education Goals by supporting the creation of a new generation of American schools in communities across the country; rewarding schools that demonstrate outstanding gains in student performance and other progresss toward the National Education Goals; creating academies to improve leadership and core-course teaching in schools nationwide; supporting State and local efforts to attract qualified individuals to teaching and educational administration; providing States and localities with statutory and regulatory flexibility in exchange for greater accountability for student learning; encouraging, testing, and evaluating educational choice programs; increasing the potential usefulness of the National Assessment of Educational Progress to State and local decisionmaking; expanding Federal support for literacy improvements; and for other purposes.

S. 1226

At the request of Mr. JEFFORDS, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1226, a bill to direct the Administration of the Environmental Protection Agency to establish a small community environmental compliance planning program.

SENATE JOINT RESOLUTION 39

At the request of Mr. THURMOND, the names of the Senator from Nevada [Mr. REID], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Joint Resolution 39, a joint resolution to designate the month of September 1991, as "National Awareness Month for Children with Cancer."

SENATE JOINT RESOLUTION 57

At the request of Mr. THURMOND, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Louisiana [Mr. BREAUX], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Joint Resolution 57, a joint resolution to designate the month of May, 1991, as "National Foster Care Month."

SENATE JOINT RESOLUTION 72

At the request of Mr. SPECTER, the name of the Senator from Georgia [Mr. NUNN] was added as cosponsor of Senate Joint Resolution 72, a joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 73

At the request of Mr. SPECTER, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 73, a joint resolution designating October 1991 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Virginia [Mr. WARNER], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. HEFLIN], the Senator from Mississippi [Mr. LOTT], the Senator from Oklahoma [Mr. NICKLES], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 115

At the request of Mr. MOYNIHAN, the name of the Senator from Maine [Mr. COHEN] was added as a consponsor of Senate Joint Resolution 115, a joint resolution to designate the week of June 10, 1991, through June 16, 1991, as "Pediatric AIDS Awareness Week."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 125

At the request of Mr. SIMON, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Wisconsin [Mr. KOHL], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from South Dakota [Mr. PRESSLER], the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 125, a joint resolution to designate October 1991 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 136

At the request of Mr. RIEGLE, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to authorize the display of the POW-MIA flag on flagstaffs at the national cemeteries of the United States, and for other purposes.

SENATE JOINT RESOLUTION 138

At the request of Mr. SPECTER, the names of the Senator from Colorado [Mr. BROWN], the Senator from Georgia [Mr. NUNN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 138, a joint resolution designating August 6, 1991 as "National Neighborhood Crime Watch Day."

SENATE JOINT RESOLUTION 147

At the request of Mr. LEAHY, the names of the Senator from Maryland [Mr. SARBANES], the Senator from South Dakota [Mr. DASCHLE], the Senator from North Dakota [Mr. BURDICK], the Senator from Virginia [Mr. WARNER], the Senator from North Dakota [Mr. CONRAD], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. D'AMATO], the Senator from Delaware [Mr. BIDEN], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Washington [Mr. ADAMS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 147, a joint resolution designating October 16, 1991, and October 16, 1992, as "World Food Day."

SENATE JOINT RESOLUTION 151

At the request of Mr. RIEGLE, the names of the Senator from Nebraska [Mr. EXON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. THURMOND], the Senator from Washington [Mr. ADAMS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from South Dakota [Mr. PRESSLER], the Senator from Connecticut [Mr. DODD], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Mr. SARBANES], the Senator from Kansas [Mr. DOLE], the Senator from New Jersey [Mr. BRADLEY] the Senator from Rhode Island [Mr. CHAFEE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Montana [Mr. BURNS], the Senator from Missouri [Mr. BOND], the Senator from Alaska [Mr. STEVENS], the Senator from Indiana [Mr. COATS], the Senator from Rhode Island [Mr. PELL], the Senator from Vermont [Mr. JEFFORDS], the Senator from California [Mr. CRANSTON], the Senator from Hawaii [Mr. AKAKA], the Senator from Alabama [Mr. HEFLIN], the Senator from Tennessee [Mr. GORE], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 151, a joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day."

SENATE JOINT RESOLUTION 154

At the request of Mr. DECONCINI, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Missouri [Mr. BOND] were aded as cosponsors of Senate Joint Resolution 154, a joint resolution to designate August 1, 1991, as "'Helsinki Human Rights Day."

SENATE CONCURRENT RESOLUTION 40

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Concurrent Resolution 40, a concurrent resolution expressing the sense of the Congress that the Federal Republic of Germany and the Republic of Austria should take all applicable steps to halt the distribution of neo-Nazi computer games and prosecute anyone found in possession of these materials to the full extent of the law.

SENATE RESOLUTION 116

At the request of Mr. ROTH, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 138—EXPRESSING THANKS TO THE EXCHANGE CLUB OF MURFREESBORO, TN

Mr. SASSER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 138

Whereas the Exchange Club of Murfreesboro, Tennessee, was chartered on June 5, 1951, and will be celebrating its 40th Anniversary this June; and

Whereas the members of the Exchange Club of Murfreesboro have served their community these past 40 years, actively participating in the Programs of Service of The National Exchange Club, such as Crime Prevention, "One Nation Under God," and the Freedom Shrine, as well as others: Now, therefore, it is

Resolved, That the Senate of the United States of America recognizes and acknowledges the selfless contributions of service made by the members of the Exchange Club of Murfreesboro. It is further

Resolved, That the United States Senate expresses its most sincere thanks and appreciation to the members of the Exchange Club of Murfreesboro, Tennessee, for all the contributions made in the true spirit of Exchange to the betterment of their community and, as a result, to the Nation.

• Mr. SASSER. Mr. President, I am pleased to submit today a resolution to recognize the Exchange Club of Murfreesboro, TN, which celebrates its 40th anniversary this June.

Members of this outstanding organization have served their community over the past four decades and have actively participated in the many service programs of the National Exchange Club, including a program in crime prevention and one honoring the freedom shrine. The Exchange Club of Murfreesboro has made countless contributions to the community and, indeed, the entire Nation.

Mr. President, I join my fellow Tennesseans in congratulating the Exchange Club of Murfreesboro on its 40th anniversary and expressing our deep appreciation for its years of leadership and civic commitment to the middle Tennessee area and the entire State of Tennessee.•

SENATE RESOLUTION 139—MAKING A MINORITY PARTY APPOINTMENT TO THE SPECIAL COMMITTEE ON AGING

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 139

Resolved, That the following Senator shall be added to the minority party's membership on the Special Committee on Aging for the One Hundred Second Congress or until their successors are appointed:

Mr. Specter.

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

SIMON (AND GRAHAM) AMENDMENT NO. 291

(Ordered to lie on the table.)

Mr. SIMON (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by them to the bill (S. 1204) to amend title 23, United States Code, and for other purposes, as follows:

At the end of the bill, add the following new title:

TITLE—HIGH-SPEED RAIL AND HIGHWAY TRAFFIC SAFETY PROGRAM OF 1991

SEC. 01. SHORT TITLE.

This title may be cited as the "High Speed Rail and Highway Traffic Safety Program of 1991".

SEC. .02. FINDINGS.

The Congress makes the following findings:

(1) An efficient and safe highway and street network is essential to assure the welfare of its citizens and the economic vitality of the United States.

(2) A Federal role in highway safety and high-speed rail development is vital if the Nation is to live up to its responsibility of providing for the public convenience and necessity in transportation, long a component of Federal jurisdiction.

(3) Highway infrastructure in the United States is benefiting from a major public works improvement and expansion program, yet it alone cannot adequately meet future demands for travel between the largest urban areas, and development of high-speed train systems is in the public interest.

(4) Transportation safety data indicates an inordinate number of Americans suffer fatal or incapacitating injuries while traveling, and safer methods and alternative systems should be pursued.

(5) In particular, cumulative automobile fatalities are expected to reach three million by 1994, with more than 90 million Americans having suffered disabling injuries due to auto accidents. In all, Americans who have died violent deaths on the Nation's highway represent more than four times the 641,691 Americans killed in World War I, World War II, Korea, and Vietnam combined. The Nation must contribute to the general welfare by providing for improvements at and elimination of rail-highway grade crossings as well as a safer form of transport through the provision of improved passenger train service.

(6) The Federal government has been inactive regarding high-speed ground transportation and it is time for Federal efforts to assist State governments as they plan such systems.

(7) Transport demand in the States is met through multi-faceted programs, and any one Federal program that supports greater safety while simultaneously improving the prospects for high-speed train service is a wise use of government resources.

(8) The Department of Transportation has been charged historically with jurisdiction over highway safety as well as high-speed ground transportation systems, and it remains the most logical agency to improve highway safety as well as to assist development of high-speed ground transportation systems.

(9) It is necessary for Federal efforts to be intensified if high-speed ground transportation systems are to serve the many travel, business, employment, environmental, energy, and safety needs of the United States, and, therefore, the Department of Transportation shall consult with the State departments of transportation or equivalent agencies to establish effective programs.

SEC. 03. HIGH-SPEED RAIL AND HIGHWAY TRAFFIC SAFETY PROGRAM.

In order to provide a safer highway system, to expedite safe and efficient passenger and freight service, and to facilitate future high-speed rail service, the Secretary of Transportation (hereafer referred to as the "Secretary") is authorized to establish and carry out a program designed to encourage and financially assist the States to carry out projects for the construction, improvement, and elimination of rail-highway crossings.

SEC. 04. SELECTION OF RAIL CORRIDORS.

(a) PROCEDURES.—In establishing such program, the Secretary shall include procedures pursuant to which the Governor of a State may submit recommendations, developed in cooperation with appropriate State and local governmental agencies in consultation with appropriate railroads, for the selection by the Secretary of rail corridors eligible for assistance under such program.

(b) SELECTION.—After consideration of such recommendations and the completion of planning studies pursuant to section ___05(d), the Secretary shall select not less than 8 nor more than 10 corridors where projects authorized in section ___04 are eligible for financial assistance under such program. Selections by the Secretary under this section shall be made with a view to assuring that the completion of proposed improvements within the corridor will increase the safety of highway and rail traffic in major surface transportation corridors, and will expedite safe and efficient passenger and freight service therein.

(c) PREFERENTIAL CONSIDERATIONS.—In making selections under this section, the Secretary shall give preferential consideration to those rail corridors—

(1) with substantial rail and highway use;

(2) which do not exceed 400 miles in length;

(3) which provide rail-passenger service;

(4) for which States have demonstrated commitment to improving the corridor through State funds and which show promise of future commitment including public and private sector funding;

(5) which show a potential for high speed rail transportation therein; and

(6) for which a State has demonstrated its ability to close a significant number of railway/highway crossings and which have a substantial number of additional crossings.

SEC. 05. GRANTS: APPROVAL OF PROJECTS.

(a) GRANTS.—In carrying out the program established pursuant to this title, the Secretary is authorized to make grants to States to assist such States in carrying out projects approved by the Secretary pursuant to subsection (b) of this section. A grant for such a project shall be in an amount equal to 90 percent of the cost of such project. Grants made pursuant to this section shall be made at such time or times, and subject to such condition or conditions, as the Secretary shall determine. Funds expended for the elimination of private at-grade crossings shall be credited toward the non-Federal share of the cost of any such project.

(b) APPROVED PROJECTS.—The Secretary is authorized to approve any project, within any rail corridor selected in accordance with this title, that improves safety at rail-highway crossings on any public road, and expedites safe and efficient rail passenger and freight service. Eligible projects may include, among others—

(1) the construction or reconstruction of rail-highway grade separation structures;

(2) the installation of automated devices to separate train and highway traffic that reduce potential conflict;

(3) other methods of eliminating train-vehicle conflicts, such as crossing closure, rail consolidation, and street closure and rerouting;

(4) adequate warning systems and surfacing where positive separation is not feasible or cost effective; and

(5) systems and devices that reduce the potential for train-vehicle collisions in innovative ways.

(c) PROJECT APPROVAL CONDITIONS.—In the approval of projects submitted by the States for funding under subsection (a), the Secretary shall consider the degree to which the project will contribute to a completed corridor plan, the expected reduction accidents, the participation in this and other projects within the corridor from other than Federal funds, and improvement to rail operations provided. The Secretary shall not approve any project under this section until—

(1) he determines that it is based on a comprehensive corridor planning process being carried out cooperatively between the State or States, their political subdivisions, and the railroads involved;

(2) he determines that the public or private entities identified to construct maintain, and operate the improvement have the authority and capability, including the closure of crossings;

(3) he determines that employees subject to collective bargaining agreements covering the type of work and railroad property involved in the project will be provided the opportunity to perform the construction and maintenance work involved.

(4) he determines that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of grants under subsection (a) will be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, and that required labor standards will be maintained upon the construction work; and

(5) he has entered into an agreement governing the financing,, maintenance, and operation of the project or projects with such States, political subdivisions, agencies, or other entities to insure that the benefits of such improvements are fully realized and which shall contain terms determined by the Secretary of Labor to provide fair and equitable protection of the interests of any employees of carriers by railroad affected by such project or projects, including such terms as may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions with respect to their employment;

(D) assurances of employment to employees of affected carriers by railroad and priority of reemployment of employees terminated or laid off; and

(E) paid training or retraining programs and which in no event provide benefits less than those established pursuant to section 11347 of title 49, United States Code; and

(6) he determines that any grant made under subsection (a) will be used by the recipient or recipients thereof in compliance with applicable Buy America provisions.

(d) PLANNING GRANTS.—In addition to the grants authorized in subsection (a), the Secretary is authorized to pay up to 100 percent of the cost of engineering and economic surveys or other investigations necessary for the identification and development of improvement plans for corridors to be approved by the Secretary under section——04. At the request of the Governor of a State that has submitted an application for corridor designation and selection under section ——04, a grant may be made under this subsection by the Secretary to reimburse such State for the costs of such surveys and investigations, including direct personnel and materials costs of participating public and private entities. In making grants under this subsection, the Secretary is authorized to prescribe those surveys, investigations, plans, and agreements that are necessary in connection with the final selection of corridors under section ——04. No grant under this subsection shall exceed $200,000.

SEC. 06. AUTHORIZATIONS.

There are authorized to be appropriated out of the Highway Account of the Trust Fund not to exceed $5,000,000 for fiscal year 1992 for the purposes of planning grants under subsection (d) of section ——05, and not to exced $300,000,000 for each of fiscal years 1993, 1994, 1995, and 1996 for the purposes of grants under subsection (a) of section ——05.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing entitled Trade in Conventional Weapons: The International Arms Bazaar.

This hearing will take place on Wednesday, June 12, 1991, at 9:30 a.m. in Room 342 of the Dirksen Senate Office Building. For further imformation, please contact Daniel F. Rinzel, chief counsel of the subcommittee's minority staff at 224-9157.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nomination of Ann Veneman of California, to be Deputy Secretary of Agriculture, on Wednesday, June 12, 1991, at 10 a.m. in SR-332.

For further information please contact Bill Gillon of the committee staff on 224-5207.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 6, 1991, at 9 a.m., to consider the nomination of Nancy Patricia Dorn to be Assistant Secretary of the Army [Civil Works].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 6, 1991, to receive testimony from John Schrote, nominee for Assistant Secretary of the Interior for Program, Budget, and Administration, and Mike Hayden, nominee for Assistant Secretary of the Interior for Fish and Wildlife and Parks.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, June 6, 1991, at 2 p.m., to hold a hearing on "Cramdowns of Residential Real Estate Mortgages in Chapter 13 Bankruptcies."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 6, beginning at 9:30 a.m., to conduct a hearing on recycling under the Resource Conservation and Recovery Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a meeting to markup health, education, and Court of Veterans Appeals legislation and the Committee's fiscal year 1992 medical construction resolution on Thursday, June 6, 1991, at 9:30 a.m., in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 6, at 10:30 a.m., to hold a hearing on Middle East arms transfer policies.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 6, at 2 p.m., to hold a hearing on "The Soviet Crisis and the U.S. Interest: Future of the Soviet Military."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Thursday, June 6, 1991, at 10:30 a.m., to conduct a markup of S. 1194, the Federal Transit Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, June 6, 1991, at 9:30 a.m., to hold a hearing on the twin problems of access to health insurance and the affordability of health care.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 6, 1991, at 10:30 a.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 6, 1991, at 9:30 a.m., to hold a hearing on Enforcement and Administration of the Foreign Agents Registration Act [FARA].

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE LESSONS OF TIANANMEN SQUARE

• Mr. RIEGLE. Mr. President, a banner draped from a Beijing University dormitory last Wednesday declared, "We will never forget June 4." Unfortunately, it appears, that the Bush administration has forgotten that fateful day which transpired only 2 years ago. In announcing that he will unconditionally extend most-favored-nation trading status to China, President Bush has given America's tacit approval to human rights violations and other abuses by the Chinese Government.

On June 4, 1989, in Tiananmen Square, the Chinese Army squelched peaceful demonstrations aimed at changing their authoritarian, Communist state into a representative republic. The brutal crackdown by China's octogenarian leaders earned themselves the label—"The Butchers of Beijing."

Although the United States imposed a range of sanctions upon China immediately following the crackdown, those sanctions were, unfortunately, short-lived. President Bush, a former Ambassador to Beijing, felt that maintenance of normal diplomatic and economic relations with China was more important than demonstrating American outrage at continuing human rights violations. He discontinued sanctions early, renewed MFN, and sent National Security Advisor Brent Scowcroft to Beijing on two occasions to revitalize United States-Chinese relations.

Two years after the crackdown, the results of the President's policy are in. Despite the administration's steps to use American diplomatic and economic leverage to coax the Government of China to pursue less violent policies, repression in China continues unabated.

Two recent reports by the respected human rights watch-dog organization, Asia Watch, provide frightening examples of the continuing abuses. On April 19, Asia Watch revealed that the use of prison-labor is widespread in China. "The Government of China," Asia Watch reported, "is systematically exploiting the labor of prisoners in the vast Chinese gulag to produce cheap products for export." And, only last week the organization released a 150-page report uncovering evidence that "China's prisons and labor camps hold more political prisoners than at any time since Deng Xiaoping's rise to power in the late 1970's."

Chinese human rights violations do not end at the borders of territorial China. In a recent visit to the Congress, the Dalai Lama, the spiritual leader of the Tibetan people, informed the United States that over 1 million people have died as a result of the harsh and illegal Chinese occupation of Tibet.

While China did not oppose the United States in the United Nations Security Council during the Persian Gulf conflict, America and China are far from working hand-in-hand around the globe. In fact, China's actions in several regions of the world are diametrically opposed to American interests and international peace and security. In Indochina, as the world struggles to resolve the Cambodian conflict, China continues to supply the murderous Khmer Rouge—which killed 1 to 1½ million people in the 1970's—with the military resources to carry on their campaign of terror. And, with Chinese support, more and more nations have acquired unconventional weaponry, including ballistic missiles and nuclear technology.

America must not encourage China to continue on the course it has pursued in the wake of the Tiananmen Square tragedy. Rather than promoting reconciliation between Chinese authorities and the Chinese people, the United States Government, through its passivity, risks further encouraging the Chinese authorities to pursue their heavy handed, inhumane policies.

Now, the administration has decided, once again, to renew most-favored-nation trade advantages to the Chinese Government. The United States should not unconditionally reward Beijing with trade benefits while it continues to repress its citizens. It sends the completely wrong message. In continuing to conduct business as usual, we embolden the hard-liners by giving the appearance of international support for their policies. America should think twice before subordinating the lasting values of freedom and democracy to short term economic interests.

Any attempt to gain good will from China's aged leaders by granting MFN is bound to backfire. Because Premier Li Peng and Deng Xiao Ping have reached the twilight of their lives, any political benefit President Bush could possibly extract will necessarily be fleeting.

America is properly concerned with the impact of a denial of MFN upon the future of United States-Chinese economic relations. Nevertheless, we must realize that unconditionally granting MFN is an expression of tacit support for Beijing's failed economic policies which have cursed China with social and industrial stagnation for so many years. Moreover, it seems inappropriate to passively condone the 20 percent increase in Chinese exports to the United States when so many of the goods are allegedly produced through illegal prison labor.

The situation in China may appear calm and orderly on the surface, but we know that the Chinese people are anything but calm. The memory of the tragedy of 2 years ago is still vivid in China. While the flame of freedom and democracy still burns within the hearts and minds of China's youth, America must not let them down. The United States must do more than simply carry on business as usual.•

TRIBUTE TO SPANISH FOODS, INC., PRODUCTOS MOLINERA

• Mr. GRAHAM. Mr. President, I rise today to join the Spain-United States Chamber of Commerce Gala Dinner in honoring Spanish Foods, Inc., Productos Molinera as Company of the Year.

Attending this festive occasion will be Mr. Francisco Hernandez Perez, president of Molinera in Spain and many other Spanish dignitaries, including Mr. Carlos Gonzalez Rivero, Mr. Tomas Munoz, and Mr. Rafel Ruiz.

Spanish Foods, Inc., was established in Miami, FL, in 1987 by Lilliam Martinez and Fausto Diaz Oliver, Jr. Thanks to these visionaries, Spanish Foods, Inc., has become a great success story.

Spanish Foods, Inc., has been involved in improving the welfare of the south Florida community by developing a well grounded reputation for community involvement and philanthropic endeavors.

Mrs. Martinez and Mr. Diaz Oliver are to be commended for bringing to the State of Florida a new and innovative source of employment.

In addition, they have served as a shining example of what can be achieved when Americans of Hispanic descent reach out to their heritage and build new bridges of culture and commerce.

Mr. President, I am pleased to recognize this great Florida company for being named "Company of the Year" by the Spain-United States Chamber of Commerce and wish them many more years of success.•

HARKIN GUATEMALA BILL

• Mr. CRANSTON. Mr. President, I rise today to commend my good friend the distinguished Senator from Iowa [Mr. HARKIN] on this important effort to promote democracy and human rights in Guatemala.

The Senator's cutting edge leadership on these issues has been well-known to all of us for more than two decades.

Whether the issue was United States-funded tiger cages in Vietnam, or the important battles on human rights legislation in the 1970's, or the efforts to bring a modicum of sanity to United States Central American policy in the 1980's, the Senator from Iowa has always been there, in the thick of it, tilting the bow of the American Ship of State on a more humane course.

And today he has turned his prodigious skills to the sorry case of Guatemala.

Mr. President, I cannot say I lend my support to this effort happily, although I certainly do so vigorously. Guatemala—a lovely land rent by more than three decades of massive political violence—is a premier victim of United States cold war strategy.

In 1954, a CIA-organized coup overthrew a reformist leftwing government there, setting the stage for a dismal parade of military dictatorships. In the 1960's and early 1970's, our counterinsurgency efforts in Guatemala gave aid and comfort to far-right sectors in the oligarchy and the military. The result was tens of thousands of dead—many of those poor, Indian, and completely unconnected to violent leftwing groups.

Since the human rights crusade of President Jimmy Carter, the United States has more or less disengaged from Guatemala. Our voice was loud and clear during the Carter administration, but to their credit Presidents Reagan and Bush also made important efforts to promote democratization there.

Yet, the cold war is over but Guatemala is still bleeding.

Mr. President, a few days ago I received in my office an official high level delegation sent by newly elected President Serrano to talk about the situation there. As you know, Mr. Serrano is the first freely elected civilian to receive the reins of power from another freely elected civilian President in more than four decades.

The case put to me was eloquent on several points.

President Serrano has made a courageous good faith effort to bring peace to his country through negotiations with Guatemala's small but persistent guerrillas.

He has also taken several administrative steps that may result in important changes in the human rights situation later on.

And finally, he has not been in office long enough so that proof of his determination might be found in concrete results.

Despite these arguments, all of which are true, I must support this bill.

I do so, Mr. President, because the issue is not President Serrano, who I believe we can all agree is a true patriot who knows the fundamental importance of national reconciliation.

The issue, rather, is the role of Guatemala's military in a democratizing society and the fact that its vicious counterinsurgency continues unabated, bringing to mind Argentine storyteller Jorge Luis Borges' famous dictim about his own country's military-led state terror: "They pretended to end cannibalism by eating the cannibals."

Mr. President, the rape of Sister Ortiz and the murder of Michael Devine, both American citizens, had nothing to do with guerrilla activity. Rather these acts have everything to do with military impunity.

Their cases, like those of tens of thousands of other equally innocent Guatemalans, have not been resolved even though their killers are well-known. Even since President Serrano has taken office these killings continue to be committed with impunity. The United States cannot afford, for the love of mercy, to be associated with such an anthropophagous military, even indirectly.

To President Serrano, I wish the best, sincerely. We will all be watching for the first signs of breakthrough so that we might aid him in his noble venture.

But for now, we must only watch—and wait.•

CENTRAL AMERICAN DEMOCRACY AND DEVELOPMENT ACT

• Mr. KERRY. Mr. President, last week, we passed the Central American Democracy and Development Act by a vote of 87 to 9. This act establishes that, among other things, "it is the policy of the United States to encourage and support the Central American countries in the efforts to * * * establish respect for human rights." To my great dismay and disappointment, however, Guatemala has not made much effort to stop widespread human rights abuses there. As a result, if we are to carry out the policy agreed upon last week in this Chamber, we must persuade Guatemala to do more on the human rights front. This is the purpose of the bill offered by my distinguished colleague from Iowa, and I am proud to be an original cosponsor.

This legislation, known as the Promotion of Democracy and Respect for Human Rights in Guatemala Act of 1991, both prohibits the resumption of United States military assistance to Guatemala and restricts United States economic and food assistance to that country, unless the Guatemalan Government meets certain human rights conditions.

At his inauguration in January of this year, newly elected President Jorge Serrano Elias stated his "solemn commitment to make every possible effort to fully reestablish human rights in Guatemala." In the months since his inauguration, President Serrano has taken steps to fulfill this commitment. He has appointed a civilian, and former deputy human rights ombudsman, as Minister of the Interior; he has reactivated and reinforced the Presidential Commission on Human Rights; and he has increased efforts to solve outstanding cases of human rights abuses. President Serrano deserves credit for these actions, and also should be commended on his initiative for total peace, which recently accepted by the insurgents and has greatly enhanced the prospects for peace in Guatemala.

Despite President Serrano's efforts, however, I remain deeply concerned about Guatemala's human rights record. I had hoped that the suspension of United States military aid to Guatemala last December would bring about greater progress in this area. In February, however, three native human rights activists were shot near their village, and two of them died. The survivor identified two of the assailants as former civil patrol chiefs who had repeatedly threatened the victims and other activists. In addition, Guatemalan police continue to be involved in the murder and disappearance of street children and those who help them. And although security forces have been responsible for numerous human rights abuses, no member of the armed forces has yet been convicted of a serious human rights violation.

It is because of these continued human rights abuses and the failure to adequately address those that have occurred in the past that we must go beyond the suspension of military aid and restrict economic assistance to Guatemala as well. Promises to end human rights violations, and even preliminary steps to stop them, are no longer sufficient for the United States to continue providing assistance to the Government of Guatemala. We must see results. We have given Guatemala the benefit of the doubt too many times in the past, only to see the human rights situation deteriorate further.

The legislation offered by the Senator from Iowa, therefore, is intended to make it clear that we expect Guatemala to meet certain minimal human rights standards before it can receive most kinds of aid. Given the major role that the security forces have played over the years in committing human rights abuses, this bill requires that more be done before the prohibition on military assistance is lifted than must be done before the restrictions on economic and food aid are removed. However, in neither case are the conditions that onerous.

For over a decade, too much attention was focused on the military situation in Central America without addressing the underlying causes of conflict. With the tremendous changes that have occurred in the region over the last 2 years, there is great hope for a new order there. By clearly establishing our expectations of Guatemala in the area of human rights, the bill introduced today will serve to promote the fundamental liberties of all people in that country and the rest of Central America that are essential to achieving this new order.●

CHINA MOST-FAVORED-NATION

● Ms. **MIKULSKI.** Mr. President, I cannot understand President Bush's determination to provide China with trade benefits despite the People's Republic of China's dismal record of human rights violations and unfair trade practices.

Especially puzzling is the double standard which the President applies to the family planning issue. On the one hand, the President vetoes funding for the U.N. Population Fund [UNFPA] because it maintains an office in a country—China—where forced abortions and sterilization have allegedly taken place. On the other hand, he is anxious to extend trade benefits to this same country.

In effect, President Bush is rewarding China in spite of these horrible violations while punishing the rest of the developing world for China's behavior.

This thinkng is inconsistent, and it is callous.

When Senator MITCHELL'S MFN legislation comes to the floor, I intend to propose an amendment adding another condition before MFN trade status can be granted to China: President Bush must certify that it is not the policy of the Chinese Government to permit forced abortions or sterilizations.

I do not see how anyone can object to this condition, and I expect a unanimous vote.

Some background: The United States was the prime force behind the establishment of the UNFPA and until 1985 was its principal contributor.

Then in 1985 the United States suddenly decided to end its contributions. The reason given was that UNFPA, which maintains a small office in the People's Republic of China, was participating in a program of forced abortions and sterilizations.

China had been trying to rein in its freightening population growth and had provided incentives for a one-child family. Unfortunately, horrible reports of forced abortions and sterilizations reached the West. These activities are repugnant to all of us, and naturally the United States wanted to distance itself from these gross violations.

But what did this have to do with UNFPA? Nothing. UNFPA does not fund abortions—forced or voluntary. It does not provide abortion services or equipment. Its four-person China office carriers out demographic research, and provides maternal and child health services, better contraceptives, and family planning services and education.

Nonetheless, the President has refused to fund UNFPA, thus punishing the rest of the developing world for China's actions.

The population explosion in the Third World has resulted in starvation, poverty, environmental degradation, and death and disease to women and children. Family planning is the key to solving the development crisis. UNFPA is the best governmental delivery service. It is in virtually every country and has the infrastructure and expertise to get the job done.

What it needs is more money. The U.S. contribution is important in itself and is critical to attracting funds from other governments. The United States has a responsibility to be a leader in international family planning.

So how should the United States help provide family planning services while condemning the bloody Chinese practices?

I proposed the following: The United States should fund UNFPA, but the UNFPA must keep United States funds in a separate account and allow none of those funds to go to China. If any United States funds found their way to China, or if the United States contribution led to an increase in UNFPA funding for China, the UNFPA would be required to return the entire United States contribution. Further, my provision prohibited the use of any funds for abortion and required that all family planning activities be in accord with internationally recognized human rights standards. All U.S. foreign aid legislation contains explicit prohibitions on the use of U.S. funds for abortion.

The Senate passed this provision. The House passed this provision. The President vetoed the bill over this provision.

In his veto message, he paid lip service to the antiabortion cause. Ironically, however, any cuts in family planning services result in more abortions, not fewer.

The Bush policy is riddled with inconsistencies:

Apparently, it is not OK for UNFPA to provide maternal and child health care, but it is OK for China to compete in the international market with goods produced by slave labor.

Apparently, it is not OK for UNFPA to conduct demographic studies, but it is OK for China to murder political dissidents.

Apparently, we give trade benefits to governments which physically force their women to undergo abortion and sterilization, but we cut family planning services to governments which do not.

Mr. President, maybe you can figure out the logic behind this position. I cannot.

I urge the Senate to support my amendment and the Mitchell bill.

I ask that the amendment be printed in the RECORD.

The amendment follows:

On p. 8, line 17 insert the following:

(8) the Government of the People's Republic of China does not support or participate in the management of a program of coercive abortion or involuntary sterilization.

TRIBUTE TO DR. ALVARO CASTILLO

• Mr. GRAHAM. Mr. President, on Friday, June 7, 1991, the Nicaraguan American Bankers and Businessmen Association will honor Dr. Alvaro Castillo. I rise today to join in recognition of this outstanding citizen.

Dr. Castillo was born in Managua, Nicaragua. He pursued his academic endeavors in the United States achieving a double degree in economics and Spanish literature as well as a law degree from Georgetown University.

This young lawyer rapidly stood out, not only because of his professionalism and aptitude as a leader, but also for his dedication in helping the needy.

Mr. Castillo was the driving force behind the scholarship program of the Nicaraguan American Bankers and Businessmen Association which helps Nicaraguans with little economic resources. His efforts to get work permits for Nicaraguan refugees has been relentless.

Mr. Castillo was the founding president of the Latin-American Lawyer's College, as well as founder of the Guatemalan-American Chamber of Commerce. He is currently the president of the NABBA.

Mr. Castillo has been one of the most inspiring supporters of the move to request temporary protective status for Nicaraguans living in the United States. He has been instrumental in mustering country-wide support for this effort.

Recently, I had the privilege of appointing Mr. Castillo to serve as the newest member of the National Advisory Board to the U.S. Senate Hispanic Task Force to represent the State of Florida.

Mr. President, it is a great honor to join the Nicaraguan American Bankers & Businessmen Association and recognize the many outstanding contributions of Mr. Castillo before you and my colleagues here in the U.S. Senate.

I would like to thank Mr. Castillo for all he has done on behalf of the Nicaraguan community in exile and south Florida.•

NEW JERSEY POLLUTION PREVENTION AWARDS

• Mr. LAUTENBERG. Mr. President, the Congress has been working hard to reduce the level of pollution to which we are subjected. But industrial and citizen efforts are essential if we are to rid our society of toxic pollution.

That is why I am pleased to inform my colleagues that Hoffman-La Roche, the AT&T Engineering Research Center in Princeton, and the New Jersey Environmental Federation recently received New Jersey Gov. Jim Florio's Awards for Outstanding Achievement in Pollution Prevention.

Hoffman-La Roche, headquartered in Nutley, NJ, was selected because of its efforts to minimize waste and employ source reduction methods at its New Jersey facilities. The company developed a system to measure and track hazardous substances. As a result, Hoffman-La Roche was able to reduce its inventory of stored chemicals. The company also eliminated the use of bromine, phosgene, and benzene, all toxic chemicals, from its production facilities and eliminated the use of solvents in its tablet coating operation. Hoffman-La Roche also has made significant progress towards its goal of reducing air emissions from its Nutley and Belvidere manufacturing facilities by 90 percent by the end of 1992.

AT&T Engineering in Princeton was selected because of its efforts to eliminate CFC's in its production process. The company developed a low solids fluxer which provides electronics manufacturers an accurate and reliable method of applying fluxes to printed circuit board. This process leaves little residue eliminating the use of CFC's to clean the boards. The technology has reduced AT&T's CFC emissions by 50 percent. AT&T has a goal of total elimination of CFC's by 1994.

The actions of Hoffman-La Roche and AT&T, two of our Nation's most successful companies, clearly shows that protecting our Nation is consistent with successful business operations.

The New Jersey Environmental Federation, one of the Nation's most effective environmental organizations, was selected for its educational campaign about how the public can help curb the use of toxics. The federation developed an environmental shoppers campaign to teach consumers how to shop with the environment in mind when making purchases.

I commend Hoffman-La Roche, AT&T and the New Jersey Environmental Federation for their efforts to protect our environment. The programs they have developed set a high standard for business and citizen group environmental programs. I urge other business and citizen groups to strive to attain the success achieved by Hoffman-La Roche, AT&T, and the New Jersey Environmental Federation.•

CONGRATULATIONS TO MONSIGNOR COBURN

• Mr. LAUTENBERG. Mr. President, I rise today to congratulate Msgr. Vincent Paul Coburn on the 50th anniversary of his entry into priesthood.

Monsignor Coburn has a distinguished record of public service. He has worked with Archdiocesan Catholic Youth Organization and his theses on "Marriages of Conscience" was a published work. During the Second Vatican Council Monsignor Coburn served as an observer for archdiocese. Since 1968 until his retirement in 1985, he was the Pastor of St. Thomas the Apostle in Bloomfield, NJ. Currently, the Monsignor resides at the rectory of the parish of St. Rosa and is available when needed by the pastor of the church.

Monsignor Coburn should be commended for his commitment. In order to open up doors for minorities, he taught in both Spanish and in English. The life of a priest is demanding and requires a selfless dedication. The monsignor has served as an adviser, friend and role model for generations of New Jerseyites and I thank him for his positive influence in his community.

Mr. President, Monsignor Coburn's accomplishments and contributions over the last 50 years have been many and I commend him for reaching this milestone.•

THE HIGHER EDUCATION ACT OF 1965—S. 1150

• Mr. PELL. Mr. President, on May 23 I introduced S. 1150, the Higher Education Act. I now ask that the full text of S. 1150 be printed in the RECORD, because it was inadvertently not printed on May 23.

The bill follows:

S. 1150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROGRAM AND PLANNING GRANTS.

Section 115 of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") (20 U.S.C. 1015) is amended by striking "1987" and inserting "1992".

SEC. 2. NATIONAL PROGRAMS.

Section 122 of the Act (20 U.S.C. 1016a) is amended by striking "1987" and inserting "1992".

SEC. 3. STUDENT LITERACY CORPS.

Section 146 of the Act (20 U.S.C. 1018e) is amended by striking "1991" and inserting "1992, and such sums as may be necessary for each of the 4 succeeding fiscal years".

SEC. 4. ACADEMIC LIBRARY INFORMATION TECHNOLOGY ENHANCEMENT.

Subsection (b) of section 201 of the Act (20 U.S.C. 1021) is amended—

(1) in paragraph (1), by striking "1987" and inserting "1992";

(2) in paragraph (2), by striking "1987" and inserting "1992";

(3) in paragraph (3), by striking "1987" and inserting "1992";

(4) in paragraph (4), by striking "1987" and inserting "1992"; and

(5) in paragraph (5)—

(A) by striking "1988" and inserting "1992"; and

(B) by striking "3" and inserting "4".

SEC. 5. INSTITUTION AID.

Subsection (a) of section 360 of the Act (20 U.S.C. 1069f(a)) is amended—

(1) in paragraph (1), by striking "1987" and inserting "1992";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1987" and inserting "1992";

(B) in subparagraph (B), by striking "1987" and inserting "1992"; and

(3) in paragraph (3), by striking "1987" and inserting "1992".

SEC. 6. BASIC EDUCATIONAL OPPORTUNITY GRANTS.

Clause (v) of section 411(b)(2)(A) of the Act (20 U.S.C. 1070a(b)(2)(A)(v)) is amended by striking "year 1991–1992" and inserting "years 1991–1997".

SEC. 7. SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.

Subsection (b) of section 413A of the Act (20 U.S.C. 1070b(b)) is amended by striking "1987" and inserting "1992".

SEC. 8. AGREEMENTS WITH INSTITUTIONS.

Subparagraph (C) of section 413C(a)(2) of the Act (20 U.S.C. 1070b–2(a)(2)(C)) is amended by striking "year 1991" and inserting "years 1991 through 1997".

SEC. 9. GRANTS TO STATES FOR STATE STUDENT INCENTIVES.

Subsection (b) of section 415A of the Act (20 U.S.C. 1070c(b)) is amended by striking "1987" and inserting "1992".

SEC. 10. SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Subsection (c) of section 417A of the Act (20 U.S.C. 1070d(c)) is amended by striking "1987" and inserting "1992".

SEC. 11. SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK.

Subsection (g) of section 418A of the Act (20 U.S.C. 1070d–2(g)) is amended—

(1) in paragraph (1), by striking "1987" and inserting "1992"; and

(2) in paragraph (2), by striking "1987" and inserting "1992".

SEC. 12. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.

Section 419K of the Act (20 U.S.C. 1070d–41) is amended by striking "1987" and inserting "1992".

SEC. 13. VETERANS EDUCATION OUTREACH PROGRAM.

Subsection (a) of section 420A of the Act (20 U.S.C. 1070e–1(a)) is amended by striking "1987" and inserting "1992".

SEC. 14. SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS.

Subsection (c) of section 420B of the Act (20 U.S.C. 1070f(c)) is amended by striking "1987" and inserting "1992".

SEC. 15. WORK STUDY PROGRAMS.

Subsection (b) of section 441 of the Act (20 U.S.C. 2751(b)) is amended by striking "1987" and inserting "1992".

SEC. 16. INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT.

Subsection (b) of section 452 of the Act (20 U.S.C. 1087b(b)) is amended by striking "1987" and inserting "1992".

SEC. 17. DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION.

Subsection (b) of section 461 (20 U.S.C. 1087aa(b)) is amended—

(1) in paragraph (1), by striking "1987" and inserting "1992"; and

(2) in paragraph (2)—

(A) by striking "1991" and inserting "1992"; and

(B) by striking "five" and inserting "4".

SEC. 18. EDUCATOR RECRUITMENT RETENTION AND DEVELOPMENT.

Section 502 of the Act (20 U.S.C. 1101a) is amended—

(1) in subsection (a), by striking "1987" and inserting "1992";

(2) in subsection (b), by striking "1987" and inserting "1992";

(3) in subsection (c)—

(A) in paragraph (1), by striking "1987" and inserting "1992"; and

(B) in paragraph (2), by striking "1987" and inserting "1992";

(4) in subsection (d)—

(A) in paragraph (1), by striking "1987" and inserting "1992"; and

(B) in paragraph (2), by striking "1987" and inserting "1992"; and

(5) in subsection (e), by striking "1987" and inserting "1992".

SEC. 19. PERIODICALS PUBLISHED OUTSIDE THE UNITED STATES.

Section 607 of the Act (20 U.S.C. 1125a) is amended—

(1) by striking "609" and inserting "610"; and

(2) by striking "1987" and inserting "1992".

SEC. 20. INTERNATIONAL EDUCATION PROGRAMS.

Section 610 of the Act (20 U.S.C. 1127) is amended by striking "1987" and inserting "1992".

SEC. 21. BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.

Section 614 of the Act (20 U.S.C. 1130b) of the Act is amended—

(1) in subsection (a), by striking "1988" and inserting "1992"; and

(2) in subsection (b), by striking "1987" and inserting "1991".

SEC. 22. CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES.

Section 702 of the Act (20 U.S.C. 1132a–1) is amended—

(1) in paragraph (3) of subsection (a), by striking "4" and inserting "9"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "1987" and inserting "1992";

(B) in paragraph (2), by striking "1987" and inserting "1992"; and

(C) in paragraph (3), by striking "1987" and inserting "1992".

SEC. 23. AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM.

Subsection (h) of section 795 of the Act (20 U.S.C. 1132j(h)) is amended—

(1) by striking "1988" and inserting "1992"; and

(2) by striking "3" and inserting "4".

SEC. 24. COOPERATIVE EDUCATION.

Subsection (a) of section 801 of the Act (20 U.S.C. 1133(a)) is amended by striking "1987" and inserting "1992".

SEC. 25. GRADUATE PROGRAMS.

Section 971 of the Act (20 U.S.C. 1132u) is amended—

(1) in subsection (a), by striking "1987" and inserting "1992";

(2) in subsection (b), by striking "1987" and inserting "1992";

(3) in subsection (c), by striking "1987" and inserting "1992";

(4) in subsection (d), by striking "1987" and inserting "1992";

(5) in subsection (e), by striking "1987" and inserting "1992"; and

(6) in subsection (f), by striking "1987" and inserting "1992".

SEC. 26. POSTSECONDARY IMPROVEMENT PROGRAMS.

Section 1005 of the Act (20 U.S.C. 1135a–3) is amended by striking "1987" and inserting "1992".

SEC. 27. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM.

Section 1047 of the Act (20 U.S.C. 1135d–6) is amended—

(1) in subsection (a), by striking "1987" and inserting "1992"; and

(2) in subsection (c)—

(A) by striking "1988" and inserting "1992"; and

(B) by striking "3 succeeding" and inserting "4 succeeding".

SEC. 28. INNOVATIVE PROJECTS FOR COMMUNITY SERVICE AND STUDENT FINANCIAL INDEPENDENCE.

Subsection (a) of section 1063 of the Act (20 U.S.C. 1135e–2(a)) is amended by striking "1987" and inserting "1992".

SEC. 29. PARTNERSHIP FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE.

Section 1122 of the Act (20 U.S.C. 1138a) is amended by striking "1987" and inserting "1992".

SEC. 30. GENERAL PROVISIONS.

Paragraph (5) of section 1211 of the Act (20 U.S.C. 1145e(5)) is amended by striking "year 1991" and inserting "years 1992 through 1997".•

SUMMARY OF NATIONAL ENERGY SECURITY ACT—S. 1220

• Mr. JOHNSTON. Mr. President, the National Energy Security Act of 1991 was reported on June 5. I ask that a summary of S. 1220 be printed in the RECORD.

The summary follows:

SUMMARY—S. 1220—THE NATIONAL ENERGY SECURITY ACT OF 1991

(As reported by the Senate Committee on Energy and Natural Resources) (S. Rept. No. 102–72)

TITLE I—FINDINGS AND PURPOSES

Subtitle A.—Findings and Purposes

Subtitle B.—Goals, Least-Cost Energy Strategy, and Director of Climate Protection

Goals and Policies.—Sets forth the goals of the subtitle, which are addressed by the least-cost energy strategy required under the subtitle and contains a non-exclusive list of the kinds of policies to be considered by the Secretary of Energy (the Secretary) in developing the strategy. This section also sets forth guidelines for United States policy with respect to an international framework convention on global climate change.

Least-Cost National Energy Strategy.—Requires the National Energy Plans to include a "Least-Cost National Energy Strategy" designed to meet the aforementioned goals. The Strategy is intended to outline policies and assign priorities among the energy resources that the Secretary determines to be the most cost-effective, taking into consideration the impact of the production and use of these energy resources on global climate change, and the economic, energy, social, and environmental consequences.

Director of Climate Protection.—Requires the Secretary to appoint a Director of Climate Protection to serve as the Department's representative on all interagency and multilateral policy discussions regarding global climate change.

Repeal.—Repeals title III of the Energy Security Act, which requires the Secretary to transmit to Congress targets for energy consumption, production and imports.

TITLE II—DEFINITIONS

TITLE III—CORPORATE AVERAGE FUEL ECONOMY

New Standards.—Directs the Secretary of Transportation to adopt new corporate average fuel economy (CAFE) standards. Separate standards would be set for each manufacturer, each vehicle class (cars, light trucks, or class of trucks), and for two periods—model years (MY) 1996-2001 and MY 2002 and each year thereafter. Each standard would require the manufacturer's vehicle class to achieve "maximum feasible" CAFE.

How New Standards Are Set.—The Secretary of Transportation is to determine the maximum feasible CAFE by assuming that vehicles in each class:

Will use all known fuel-saving technologies that can be expected to be applied;

Will maintain MY 1990 performance levels;

Will maintain the MY 1990 size mix and interior volume;

Will meet applicable emission requirements; and

Will meet applicable safety standards.

The Secretary must then determine the percentage increase in the MY 1990 CAFE of all vehicles in the class necessary to achieve the maximum feasible CAFE for the entire class for each period, and apply that percentage to each manufacturer.

Credit Trading.—Credits for exceeding CAFE standards under current law are made tradable among manufacturers and among vehicle classes. Beginning with credits earned in MY 1996, credit can be carried forward until used, instead of just three years under current law.

Excessive Fuel Consumption Fee.—Manufacturers are assessed an excessive fuel consumption fee if they fail to meet CAFE standards. The amount of the fee is determined by multiplying $20 (increased from $5 in current law) by: (i) the number of tenths of miles per gallon the applicable CAFE standard exceeds the manufacturer's actual CAFE; and (ii) the number of vehicles of the class made by the manufacturer during the applicable model year. Existing law is modified so that exceeding CAFE standards is no longer "unlawful," but the fee for exceeding the standards is quadrupled starting in 1996.

Scrappage Programs.—Funds from the excessive fuel consumption fee may be appropriated to fund State programs designed to take pre-1980 cars off the road. Excess funds may be appropriated for other energy conservation programs.

TITLE IV—FLEETS AND ALTERNATIVE FUELS

Subtitle A.—Alternative Fuel Fleets

Federal Fleets—Requires all Federal agencies, regardless of the number of vehicles in their fleets or the location of the fleets, to begin acquiring alternative fuel vehicles in 1995. By 2000, nine out of every ten fleet vehicles acquired by a Federal agency must be an alternative fuel vehicle.

State Fleets.—Requires States that have at least 50 fleet vehicles statewide and at least one fleet of 20 or more vehicles in a metropolitan statistical area with a 1980 Census population of 250,000 or more to begin acquiring alternative fuel vehicles for fleets in such areas beginning in 1995. By 2000, nine out of every ten fleet vehicles acquired by a State for use in such areas must be an alternative fuel vehicle.

Municipal and Private Fleets.—Requires municipalities and private companies that have at least 50 vehicles and at least one fleet of 20 or more vehicles in a metropolitan statistical area with a 1980 Census population of 250,000 or more to begin acquiring alterntive fuel vehicles for fleets in such areas beginning in 1998. By 2000, seven out of every ten fleet vehicles acquired by a municipality or a private firm for use in such areas must be an alternative fuel vehicle.

Qualifying Fuels and Vehicles.—Defines alternative fuel to include methanol, ethanol, alcohol mixtures with less than 15 percent gasoline, natural gas, liquefied petroleum gas, hydrogen, coal derived liquid fuels, and electricity. Vehicles may be either dedicated to run only on alternative fuel or capable of running on both an alternative fuel and gasoline or diesel.

Exempt Vehicles.—Excludes rental cars, car dealers' stock, test vehicles, police cars, ambulances, firetrucks, military combat vehicles, farm vehicles, construction vehicles, trucks weighing more than 26,000 pounds, and vehicles garaged at a personal residence.

Other Exemptions.—Directs the Secretary of Energy to exempt fleet operators if alternative fuel vehicles meeting the fleet operator's needs or alternative fuel supplies are not available. Fuel supplies are considered unavailable only if they are not sold commercially and the cost of installing refueling capacity for the fleet is prohibitive.

Fuel Use Requirement.—Requires flexi-fuel vehicles to use alternative fuel except when operating in an area where alternative fuel is not available.

Diesel Trucks.—Permits fleets containing diesel trucks to maintain the percentage of diesel trucks on the date of enactment.

Subtitle B.—Electric and Electric-Hybrid Vehicle Demonstration, Infrastructure Development, and Conforming Amendments

Electric Vehicle and Electric-Hybrid Vehicle Demonstration.—Directs the Secretary to conduct a program for the demonstration of electric and electric-hybrid vehicles, and the associated equipment.

Electric Vehicle and Electric-Hybrid Vehicle Infrastructure Development.—Authorizes the Secretary to issue guidelines for use by States and localities in the development of infrastructure plans for electric and electric-hybrid vehicles. This section also authorizes the Secretary to enter into as many as five cost-shared joint ventures with the private sector for research, development, and demonstration of infrastructure projects and systems for electric and electric-hybrid vehicles.

Amendment to the Alternative Motor Fuels Act.—Amends the Energy Policy and Conservation Act to expand the type of vehicles that may be acquired under the Alternative Motor Fuels Act to include electric vehicles, electric-hybrid vehicles, and vehicles fueled by liquefied petroleum gas including propane.

Amendment to the Motor Vehicle and Information Cost Saving Act.—Amends the Motor Vehicle and Information Cost Saving Act to allow vehicles using liquefied petroleum gas to qualify for Corporate Average Fuel Economy credits.

Subtitle C.—Alternative Fuels

Replacement and Alternative Fuel Program.—Directs the Secretary of Energy to establish a program to promote the development and use of domestically produced replacement and alternative fuels. Defines "replacement" fuels as motor vehicle fuels that can be mixed with gasoline, and "alternative" fuels as those that cannot be. Defines "domestic" to include Canada.

Demand Estimates.—Requires the Secretary to estimate annually the demand for alternative fuels and providers of replacement and alternative fuels to certify how much of each such type of fuel they plan to produce.

Voluntary Supply Commitments.—Directs the Secretary to seek voluntary supply commitments from providers of domestic replacement and alternative fuels sufficient to meet public demand for such fuels.

Standby Authority.—Directs the Secretary to prepare, in the event of a shortage of any replacement or alternative fuel, a plan to require providers of the fuel for which there is a shortage to make adequate domestic supplies available to the public. Such plan is to be prepared in consultation with the providers of the fuel and is to lay before Congress for sixty days before it is implemented.

Subtitle D.—Mass Transit and Training

Mass Transit Program.—Provides for cooperative agreements and financial assistance to municipal, county, or regional transit authorities in large urban areas to demonstrate the feasibility of using natural gas or other alternative fuel as fuels for mass transit.

Training Program.—Establishes a Department of Energy training and certification program for technicians who install equipment that converts gasoline or diesel powered vehicles to those vehicles capable of running on natural gas or other alternative fuels.

TITLE V—RENEWABLE ENERGY

Subtitle A.—CORECT and COEECT

Committee on Renewable Energy Commerce and Trade (CORECT) and Committee on Energy Efficiency Commerce and Trade (COEECT).—Amends the Energy Policy and Conservation Act to designate additional duties for CORECT in order to foster policies that will enhance economic development in lesser-developed countries and promote the United States manufacture and export of renewable energy technologies. This section also establishes a complementary interagency working group—the Committee on Energy Efficiency Commerce and Trade (COEECT)—for the promotion and export of energy efficient technologies. Directs the Secretary of Commerce to expand the comprehensive data base and information dissemination system in order to provide information on country specific technical and energy needs. Establishes renewable energy and energy efficiency industry outreach offices in the Pacific Rim and Caribbean basin.

Subtitle B.—Renewable Energy Initiatives

Joint Ventures for Renewable Energy Development for Oil Displacement and Technology Export Training.—Expands the joint venture program under the Renewable Energy and Energy Efficiency Technology Competitiveness Act to include biofuels energy systems, high-temperature and low-temperature geothermal energy systems, solar water heating technologies, photovoltaic and wind energy systems, biomass direct combustion or gasification technologies, fuel cell technologies, and utility-scale photovoltaic systems. In addition, this section directs the Secretary to conduct a joint venture for energy technology export training and grants authority to the Secretary to "buy-down" or subsidize interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries.

Report on Waste Minimization Technologies in Industry.—Requires the Secretary to undertake a report evaluating opportunities to minimize waste outputs from production processes in United States industry.

Amendments to the Energy Policy and Conservation Act.—Amends existing law to encourage the development and implementation of renewable energy and energy efficiency projects at the State and local level.

Spark Matsunaga Renewable Energy and Ocean Technology Center.—Establishes a facility for cooperative research and development in Keahole Point, Hawaii.

Renewable Energy Technical Achievement Award.—Establishes a program at the Department of Energy, in consultation with the National Academy of Sciences, for awarding cash prizes for technical achievement in the following technologies: solar thermal; photovoltaics; windpower; sustainable biomass; and geothermal.

Subtitle C.—Hydropower

Streamlining of Federal Power Act Regulation.—Removes certain mandatory conditioning powers of Federal land managers under section 4(e) of the Federal Power Act in favor of the comprehensive licensing process added to the Act by the Electric Consumers Protection Act of 1986 (ECPA).

Environmental Studies and NEPA Compliance.—Requires the Federal Energy Regulatory Commission (FERC) to give hydroelectric license applicants earliest practicable notice of studies that will be required to accompany a license application. Provides for a single consolidated NEPA review of project licensing; authorizes the setting of time limits for agency participation; and makes FERC the lead agency for purposes of NEPA compliance activities associated with hydroelectric licensing.

State Licensing Jurisdiction Over Small Projects.—Subject to certain conditions, generally allows States to take over the licensing of hydroelectric projects having a capacity of 5 megawatts or less, upon certification of the relevant Governor that the State has assessed its river resources in a comprehensive way and has in place an appropriate regulatory system.

Study of Hydropower Potential at Existing Federal Projects.—Authorizes the Secretary of Energy to identify cost effective opportunities to increase hydropower production at existing Federal water project facilities.

Water Use Efficiency at Federal Reclamation Projects.—Directs the Secretary of the Interior to study and implement water use efficiency measures at Federal reclamation projects for purposes of increasing hydropower production, making more efficient use of project power, and providing more water for fish and wildlife.

Miscellaneous Matters.—Removes Federal licensing jurisdiction over hydroelectric projects on fresh waters in Hawaii; removes Federal licensing jurisdiction over two hydroelectric projects in Alaska; extends time for project development for two projects in Arkansas.

TITLE VI—ENERGY EFFICIENCY

Subtitle A.—Industrial, Commercial and Residential

Building Energy Efficiency Standards.—Requires the Secretary of Energy to issue a Federal building energy code to assure that all new Federal buildings include energy efficiency measures that are technically feasible and economically justified. Also requires all buildings receiving Federal mortgages to meet or exceed the Federal code. Finally, the section requires the Secretary to support and participate in the upgrading of the voluntary industry building energy codes, and authorizes incentive funding to States and localities which adopt energy building codes at least as stringent as the voluntary industry code.

Residential Energy Efficiency Rating and Mortgages.—Directs the Secretary to issue voluntary guidelines to be used by States, local organizations and others to develop energy rating systems for residential buildings. Authorizes technical assistance to encourage the adoption of rating systems. Finally, the section encourages the use of energy efficient mortgages to maintain housing affordability by authorizing a requirement that homebuyers be notified of the availability of energy efficient mortgages at the time of mortgage application.

Manufactured Housing Efficiency.—Requires the Secretary to make recommendations to the National Commission on Manufactured Housing regarding energy efficiency improvements to manufactured housing. Also requires the Commission to make such recommendations to the Secretary of HUD who has the authority to set energy standards. Finally, the section requires the Secretary to test the performance of manufactured housing built to the established standards.

Improving Efficiency in Energy-Intensive Industries.—Directs the Secretary to pursue a research and development program and joint venture program to improve efficiency in energy-intensive industries and industrial processes.

Report.—Directs the Secretary to give energy efficiency high priority in the areas of planning, research and development, private assistance, and Federal procurement. The Secretary is directed to prepare a report which evaluates energy efficiency policies and their potential to decrease overall United States energy use and oil consumption per unit of GNP.

Voluntary Guidelines for Industrial Plants.—Requires the Secretary, in cooperation with utilities and major industrial energy consumers, to establish voluntary guidelines for the conduct of energy audits, and for the installation of insulation, in industrial facilities for purposes of identifying cost-effective options for reducing energy use.

Energy Efficiency Labeling for Windows and Window Systems.—Requires the Secretary to provide financial assistance to support the voluntary development of a nationwide program to develop energy ratings and labels for windows and window systems. The section further requires the Federal Trade Commission to develop such a program if it is not developed voluntarily within two years.

Energy Efficiency Information.—Directs the Administrator of the Energy Information Administration to expand the scope and frequency of data collection under the National Energy Information System in order to improve the ability of the Department of Energy to evaluate the effectiveness of energy efficiency policies and programs.

Energy Efficiency Labeling for Lamps and Luminaires.—Requires the Secretary to provide financial and technical assistance to support the voluntary development of a labeling program for lamps and luminaires. The section further requires the Federal Trade Commission to develop such a program if it is not developed voluntarily within two years.

Commercial and Industrial Equipment Efficiency.—Adds lamps, commercial air conditioning, and heating equipment, and utility distribution transformers to the appliance energy efficiency program, and requires the Secretary to conduct a study of the potential benefits of upgrading utility distribution transformers at the time of their routine maintenance. Finally, this section requires the Secretary to provide support for the development of a voluntary labeling system for commercial office equipment, or directs the Federal Trade Commission to develop such a program if one is not developed voluntarily within two years.

Energy Efficiency of Showerheads.—Establishes a maximum flow rate of 2.5 gallons per minute at 80 psi for showerheads manufactured after July 1, 1992 unless ANSI publishes a different standard before March 1, 1992, in which case the ANSI standard shall apply. Requires the adoption of any future ANSI standard if it is more stringent than the existing standard, and preempts all prospective state and local showerhead flow rate standards. Finally, the section requires uniform national labeling requirements consistent with ANSI.

Subtitle B.—Federal Energy Management

Federal Energy Management Amendments.—Requires Federal agencies to install energy efficiency improvements with payback periods of 10 years or less and establishes a Federal Energy Efficiency Project Fund for DOE to encourage agencies to undertake energy efficiency improvements in Federal facilities. Directs agencies to take advantage of utility energy efficiency incentive programs. Directs the General Services Administration (GSA) to identify the energy cost-effectiveness of items listed in the GSA product schedule, and directs the Administrator of the GSA to consider fuel efficiency when purchasing government vehicles. Finally, this section authorizes the Secretary to provide bonuses of up to $5,000 to Federal facility managers for success in saving energy.

Plan Regarding Demonstration of New Technology.—Requires the Secretary to submit a plan to Congress for the demonstration in Federal facilities, or by Federal agencies, of energy efficiency technologies that have received Federal assistance for research and development and which the Secretary has determined are ready for commercialization.

Study of Federal Purchasing Power.—Directs the Secretary to report on the potential of using Federal purchasing power to encourage the development and commercialization of new energy efficient products.

Subtitle C.—Utilities

State Consideration of New Ratemaking Standards.—Required State commissions to consider decoupling regulation of utility profits from sales for purposes of removing disincentives for utilities to pursue demand side management and energy efficiency resources; requires State commissions to consider requiring utilities to engage in integrated resource planning (IRP).

Grant Program.—Establishes grant program for purposes of encouraging consideration by State commissions of demand side management and energy efficiency resources as means of meeting future electricity demand.

Integrated Resource Planning by the Southwestern Power Administration (SWPA) and the Southeastern Power Administration (SEPA).—Requires SWPA and SEPA to consider requiring nonregulated utility customers to implement IRP as a condition of future power contracts with each power marketing administration.

Integrated Resource Planning by the Tennessee Valley Authority (TVA).—Requires

TVA to employ IRP in exercising its functions.

Subtitle D.—Used Oil Energy Production

Used Oil Energy Production.—Amends EPCA to promote the collection, refining, rerefining, and reprocessing of used lubricating oil into fuel for transportation and other petroleum products through market incentives and the removal of legal disincentives.

Subtitle E.—State, Local, Insular and Tribal Energy Assistance

Insular Areas Energy Assistance Program.—Provides direction to the Secretary, under existing authorization, for providing financial assistance to Insular area governments, for the purposes of encouraging the adoption of energy efficiency and renewable energy measures.

State Building Energy Incentive Fund.—Authorizes the Secretary to provide up to $1 million to States to capitalize a State revolving fund to undertake energy efficiency projects in State and local government buildings in those States which have demonstrated a commitment to improve building energy codes.

Private Sector Investments in Low-Income Weatherization.—Authorizes supplemental grants to Weatherization Program grant recipients to cover the costs of arranging private sector contributions to the program, and the costs of training and education activities between program grant recipients.

Training of Building Designers and Contractors.—Authorizes existing State energy Conservation Programs to use Federal funds to assist in training building designers and contractors in energy system, energy efficiency, and renewable energy technologies.

Energy Education and Teacher Training.—Authorizes supplemental funding under the existing State Energy Conservation Programs to increase public understanding of energy issues or to provide teacher training in energy education.

Tribal Government Assistance Program.—Sets forth guidelines for the Secretary to provide financial assistance to tribal governments to plan and implement energy efficiency and renewable energy projects.

State Energy Conservation Plan Requirement.—Requires State Energy Conservation Plans to provide for vehicles to turn left from a one-way street onto a one-way street at a red light as a condition for receipt of Federal SECP funding.

Subtitle F.—LIHEAP Options Pilot Program

LIHEAP Futures Pilot Program.—Directs the Secretary of HHS to report to Congress on the advantages and disadvantages of using futures and options contracts for fuel as a means of protecting LIHEAP funds from large price increases in fuels, and authorizes the Secretary of HHS, in consultation with the Secretary of Energy, to conduct a pilot program.

TITLE VII—OIL AND GAS LEASING IN THE ARCTIC NATIONAL WILDLIFE REFUGE

Leasing Program.—Authorizes a competitive oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge, Alaska (ANWR).

No Significant Adverse Effect Standard.—Requires the Secretary of the Interior to implement such a program (through regulations and lease stipulations) so as to result in no significant adverse effect on fish and wildlife, their habitat, or the environment of the Refuge, and to require the application of the best commercially available technology for oil and gas exploration, development and production.

Lease Sales.—Requires the Secretary of the Interior to promulgate regulations to carry out the leasing program no later than 9 months after the date of enactment of the Act; to conduct the first lease sale within 18 months after the issuance of these regulations; and to conduct the second lease sale 36 months after the first sale.

Environmental and Reclamation Provisions.—Provides for site-specific environmental and mitigation measures; land reclamation requirements; and environmental monitoring and enforcement provisions.

Energy Security Fund.—Provides that the Federal share (50 percent) of any revenues from ANWR is deposited in a special fund in the Treasury—the Energy Security Fund—to be used, subject to appropriation, by the Secretary of Energy to fund energy-related programs and projects designated to enhance the Nation's energy security and reduce reliance on imported oil.

Export Prohibition.—Prohibits export of oil produced from ANWR, except under specified limited circumstances.

Outer Continental Shelf Leasing Moratorium.—Prohibits leasing and preleasing activities under the Outer Continental Shelf Lands Act offshore California and New Jersey until the year 2000.

TITLE VIII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

Five-Year Program Plan for Commercialization of Advanced Reactor Technologies.—Directs the Secretary to carry out an advanced nuclear reactor research, development, and demonstration program that will lead to commercialization of advanced reactor technologies after 1995. The Secretary is required to prepare and submit to Congress a five-year program plan for commercialization of these advanced technologies.

Advanced Light Water Reactor Technology.—Establishes a 1995 goal for completion of research and development and certification of standardized designs for the near-term technologies, primarily advanced light water reactors, that will not require a technology demonstration. Directs the Secretary to conduct a program of technical and financial assistance to encourage and support development and certification of advanced reactor designs. Authorizes the Secretary to enter into cooperative agreements with private parties and to support through cost-shared agreements the engineering and research and development necessary to achieve certification of advanced reactor designs.

Advanced Reactor Technologies, Other than Advanced LWRs.—Establishes a 1995 goal for completion of necessary research and development for the more advanced technologies, such as high-temperature gas-cooled reactors and liquid metal reactors, to support selection of one or both of these technologies for prototype demonstration after 1995. Requires the Secretary to make a recommendation to Congress no later than January 31, 1996 on whether to build one or more full-scale prototype demonstration reactors utilizing one or more of the advanced technologies. Any prototype demonstration proposed to be built using the authority under this section would be cost-shared with the private sector with no less than 50 percent of the total cost provided by non-Federal sources.

TITLE IX—NUCLEAR REACTOR LICENSING

Combined Licenses.—Amends the Atomic Energy Act to clarify the Nuclear Regulatory Commission's (NRC) authority to issue combined licenses authorizing both construction and operation of a nuclear power plant. The NRC would be required to hold a public hearing before issuing a combined license. The combined license would have to set forth all the inspections, tests, analyses, and acceptance criteria necessary to establish that the plant, once built, is safe to operate. Once the NRC is satisfied that all such inspections, tests, and analyses are completed and all the acceptance criteria are met, the plant would be allowed to operate.

Post-construction Hearings on Combined Licenses.—Provides an opportunity for a public hearing on questions of whether the completed plant meets the requirements of its combined license if a showing is made that the plant has not met the requirements of its combined license and that, as a result, public health and safety could be compromised. Questions raised after issuance of the combined license about the adequacy of the license itself would be treated as petitions to modify the license.

Operation Pending a Hearing.—Permits the NRC to allow a plant to operate under a combined license before completing a post-construction hearing unless it appears unsafe to do so.

Informal Hearing Procedures.—Provides that any post-construction hearing on a combined license will use informal hearing procedures unless the NRC determines the formal, trial-type procedures are needed to resolve factual disputes.

Combined License Amendments Pending a Hearing.—Permits the NRC to amend a combined license and allow a plant to operate under the amended license before completing a hearing on the amendment if the amendment does not raise significant safety issues. The NRC already has this authority with respect to amendments to operating licenses.

TITLE X—URANIUM

Subtitle A.—Uranium Enrichment

Establishment of Corporation.—Establishes the United States Enrichment Corporation as a wholly-owned government corporation for purposes of taking over the uranium enrichment enterprise operated by the Department of Energy (DOE). The Corporation is established as an agency and instrumentality of the United States and directed to (1) perform uranium enrichment and sell this service to the Department of Energy and qualified persons; (2) conduct research and development; and (3) operate as a commercial enterprise on a profitable and efficient basis in order to maximize its long-term economic value. The Corporation would be run by an Administrator, appointed by the President and confirmed by the Senate, and would have a five-member part-time Corporate Board appointed by the President.

Transfer of Property to the Corporation.—Transfers to the Corporation all DOE property related to uranium enrichment except the Gaseous Division Plant in Oak Ridge, Tennessee and facilities related to the Gas Centrifuge Enrichment Program. The Oak Ridge Gaseous Diffusion Plant will be transferred to the Corporation at the time of decontamination and decommissioning but not earlier than 2000. Facilities related to research and development of the Advanced Vapor Laser Isotope Separation technology are not transferred, but the Corporation is provided access to them for research and development purposes.

Initial Debt.—Sets the initial debt of the Corporation at $364 million and requires that this amount be recovered with interest from enrichment customers over a 20-year period.

This amount represents the difference between revenues and appropriations, with interest, from 1969 when the commercial enrichment program began through the end of 1986.

Repeal of Section 161v. of the Atomic Energy Act.—Repeals section 161v. of the Atomic Energy Act of 1954, which contains the current pricing requirements applicable to the uranium enrichment enterprise. Requires the Corporation to set prices for products, materials, and services that recover over the long-term the costs of performing and maintaining corporate functions including research and development; depreciation of assets; repayment of the initial $364 million debt and future borrowing; decontamination, decommissioning, and remedial action costs; and reasonable profit.

Decontamination and Decommissioning.—Provides for sharing the costs of decontamination and decommissioning and remedial action for uranium enrichment equipment between commercial customers and DOE on the basis of separative work that has been performed with such equipment for the benefit of either group. A decontamination and decommissioning fund is established, with annual payments into the fund by the Corporation.

Subtitle B.—Uranium

Voluntary Overfeed Program.—Directs the Corporation to establish a voluntary overfeeding program for a period of not less than five years to be made available to enrichment services customers. Overfeeding is the use of additional uranium in the enrichment process, the effect of which is to reduce power costs otherwise incurred by the enrichment enterprise. Under this program, customers supplying additional uranium would be credited with the value of reduced power costs. The overall effect of the overfeeding program should be to produce a modest increase in the demand for domestic uranium.

National Strategic Uranium Reserve.—Establishes a National Strategic Uranium Reserve consisting of 50,000,000 pounds of uranium. Use of the reserve is restricted to military and government research purposes. The amount of uranium provided for the reserve is approximately the same as the amount of uranium which is in current stockpiles and allocated to DOE's national defense activities.

Federal Responsibilities.—Restricts Federal Government purchases of uranium to that which is of domestic origin and is purchased from domestic uranium producers. Establishes a continuing responsibility of the Secretary of Energy for the viability of the domestic uranium industry, including a responsibility to encourage export of domestic uranium.

Remedial Action Program.—Creates a program to reimburse licensees of uranium and thorium mill sites for the costs of reclamation of uranium and thorium mill tailings generated as a result of sales to the Federal Government for defense purposes.

Imports from Non-market Economy Countries.—Requires the Secretary of Energy, the United States Enrichment Corporation, and the International Trade Commission to take actions to protect domestic sources of uranium, enriched uranium, and uranium enrichment services from foreign sources selling uranium or enrichment services at prices below production costs.

TITLE XI—NATURAL GAS

Optional Certificate Procedures.—Amends Natural Gas Act (NGA) section 7 to authorize an optional certificate (OC) procedure for the construction and operation of interstate pipelines. Directs FERC to issue OCs without a hearing if applicants are willing to accept certain terms and conditions attached to the certificate, including a prohibition on the recovery of OC facility costs in the rates for other facilities or services. A special complaint procedure would supplant rate review under NGA section 4 and 5 procedures. If OC construction would result in the displacement of sales or transportation service being provided by a local distribution company (LDC), the proposed construction would be considered by FERC under traditional NGA section 7 certificate procedures.

Transportation of Natural Gas Under the NGPA.—Amends Natural Gas Policy Act (NGPA) section 311(a) to: (1) remove limitations with respect to shippers on whose behalf natural gas may be transported under section 311; (2) authorize specifically the construction of interstate pipeline facilities under section 311; and (3) provide that if section 311 construction would result in the displacement of sales or transportation service being provided by an LDC, the proposed construction would be considered by FERC under traditional NGA section 7 certificate procedures.

NEPA Compliance.—Amends NGA section 7(c) to provide that for purposes of NEPA, and other applicable environmental laws, FERC's issuance of a certificate is the only Federal action that may be considered a major Federal action requiring the preparation of an environmental impact statement (EIS). Authorizes FERC to set time limits for other Federal and State agencies' participation in the NEPA process, and directs FERC to permit contractors selected from a FERC-approved list and paid by an applicant to prepare environmental documents (i.e., environmental assessments and EISs) required for FERC to comply with its NEPA obligations.

Rates and Charges.—Amends NGA section 4 to provide a 60-day posting requirement for rate change filings (current law provides 30 days); and authorization for interstate pipelines to file joint tariffs for sequential transportation of natural gas. Confirms FERC's authority under NGA section 4 to authorize pipelines to recover the Gas Research Institute surcharge in jurisdictional rates, including expenditures for natural gas vehicle and emissions control research. Directs FERC to report to Congress within 6 months of enactment regarding a variety of natural gas regulatory issues. Directs the Secretary of Energy to delegate to FERC NGA section 3 authority to authorize imports and exports of natural gas; requires FERC to condition approval of natural gas imports to redress any anticompetitive impacts on domestic natural gas producers; and directs the Department of Justice, in consultation with FERC, DOE and USTR, to report to Congress within 6 months of enactment regarding authority to address and remedy regulatory advantages that may be conferred on imported natural gas.

Utilization of Rulemaking Procedure.—Amends DOE Organization Act section 403(c) to state that FERC shall have authority to utilize rulemaking procedures for certificate proceedings under NGA section 7. Section 403(c) currently applies to proceedings to establish rates and charges under the NGA and Federal Power Act and is silent as to certificate proceedings.

Review of Commission Orders.—Amends NGA section 19, NGPA section 506 and Federal Power Act section 313 to provide that FERC must take final action on an application for rehearing of a FERC order within 60 days of the filing of such application, but may, for extraordinary cause, extend the period for rehearing for an additional 90 days (or 120 days in a rulemaking proceeding). Also shortens the period for seeking judicial review of a FERC order from 60 days to 30 days and requires an appellant's petition for review to state with specificity the grounds for review.

Limited Antitrust Relief for Independent Producer Cooperatives.—Provides limited antitrust relief for cooperatives formed by independent producers for the purposes of pooling natural gas to enable effective bargaining for the sale of such gas. An independent producer is defined as one whose production does not exceed 6 million cubic feet per day and excludes interstate pipelines, intrastate pipelines, LCDs, and their affiliates.

Vehicular Natural Gas Jurisdiction.—Confirms that certain activities related to the sale and distribution of vehicular natural gas (VNG) will not cause entities that are currently exempt from NGA jurisdiction to forfeit such exemptions; provides that persons not otherwise public utilities may sell or transport VNG without coming subject to economic regulation pursuant to State laws in effect prior to January 1, 1989; and provides that VNG activities alone will not cause a company to become a gas utility company under PUHCA or change the status of companies already registered as such.

Streamlined Certificate Procedures.—Amends NGA section 7(c) streamline procedures for the issuance of certificates of public convenience and necessity; includes provisions regarding repair and replacement facilities, unopposed applications, evidence of need, and phased consideration of certificate applications.

Gas Delivery Interconnection.—Amends NGA section 7(a) to authorize the FERC to order an interstate pipeline to interconnect with a production or gathering facility, or an intrastate or OC pipeline in the production area.

Deregulation of Pipeline Sales Service.—Amends NGA section 4 to authorize FERC, after a hearing, to exempt natural gas cost component of a pipeline's rates from NGA regulation based on a finding that the pipelines provided comparable transportation service and served a competitive market.

Commission Policy Making.—Amends DOE Organization Act section 401 to clarify that general policy discussions by all members of the FERC do not constitute a "meeting" for purposes of the Government in the Sunshine Act.

TITLE XII—OUTER CONTINENTAL SHELF

Coastal State and Community OCS Impact Assistance.—Provides impact aid to coastal States and communities affected by OCS leasing and development in the amount of 37.5 percent of "new" OCS revenues, as defined by the legislation. States are eligible for funding based on a formula modeled after the formula formerly used in the Coastal Energy Impact Program under the Coastal Zone Management Act. Impact assistance would be based on the amount of newly leased OCS acreage offshore a State, the amount of OCS oil and gas produced offshore a State, and the amount of OCS oil and gas first landed in the State. Under the formula, no State could receive more than 37.5 percent of the amounts appropriated annually for OCS impact assistance.

Report on Availability of the Outer Continental Shelf for Leasing.—Requires the President to submit report containing information on OCS potential, the extent to which OCS production could offset United States dependence on foreign oil, a proposal regarding current OCS leasing and post-leasing procedures, and an analysis of OCS lease cancellation compensation criteria.

TITLE XIII—RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION ACTIVITIES

Energy Research, Development, Demonstration, and Commercialization Priorities.—Directs the Secretary to set priorities and prepare a management plan for research, development, demonstration, and commercialization activities consistent with the purposes of the Act.

Natural Gas End-Use Technologies.—Authorizes the Secretary to carry out a program to promote the commercialization on a cost-shared basis, of natural gas utilization technologies including stationary source emissions control and efficiency improvements, natural gas storage, transportation fuels, and fuel cells.

Natural Gas Supply Enhancement.—Authorizes the Secretary to carry out a program, on a cost-shared basis, of research, development and demonstration to increase the recoverable natural gas resource base, including efforts in the following areas: increased recovery from discovered conventional resources, economic recovery of unconventional natural gas resources, surface gasification of coal, and recovery of methane from biofuels.

High Efficiency Heat Engines.—Directs the Secretary to carry out a program of research, development, demonstration, and commercialization on high efficiency heat engines including advanced gas turbine cycles.

Applied Research on Eastern Oil Shale.—Directs the Secretary to carry out a research and development program on oil shale that includes applied research on eastern oil shale and that is conducted in cooperation with universities and the private sector.

Western Oil Shale.—Directs the Secretary to carry out a research, development, and demonstration program on western oil shale and to consider establishment and utilization of at least one field test center. Requires private sector cost-sharing for any demonstration project.

High-Temperature Superconducting Electric Power System.—Directs the Secretary to carry out a program of research, development, and demonstration of a high-temperature superconducting electric power system. Requires private sector cost-sharing for any demonstration project.

Renewable Energy Research and Development.—Amends the Renewable Energy and Energy Efficiency Technology Competitiveness Act to remove the authorization limitation for renewable energy research and development programs.

Energy Efficiency Research and Development.—Amends the Renewable Energy and Energy Efficiency Technology Competitiveness Act to remove the authorization limitation for energy efficiency research and development programs.

Natural Gas and Electric Heating and Cooling Technologies.—Directs the Secretary to expand the program of research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings. Requires private sector cost-sharing for any demonstration project.

Fusion Research, Development, and Demonstration.—Directs the Secretary to carry out a research, development, and demonstration program on fusion energy that is structured in a way that will lead to commercial demonstration of the technological feasibility of fusion energy for the production of electricity after the year 2010. Requires private sector cost-sharing for any demonstration project.

Electric Vehicle Research and Development.—Directs the Secretary to conduct a program of research and development on techniques related to improving electric vehicles, electric-hybrid vehicles, and battery technology. Requires private sector cost-sharing for these programs.

Advanced Oil Recovery Research, Development, and Demonstration.—Directs the Secretary to carry out a program of research, development, and demonstration to increase the economic recoverability of domestic oil resources that includes both advanced secondary oil recovery and tertiary oil recovery. The Secretary is authorized to enter into cooperative agreements for activities under this section. Requires private sector cost-sharing for any demonstration project.

Tar Sands.—Requires the Secretary, in consultation with the Secretary of the Interior, to submit a study to Congress within one year. The study shall identify and evaluate the development potential of sources of tar sands in the United States (including eastern and western sources).

Study of Telecommuting.—Directs the Secretary, in consultation with the Secretary of Transportation, to conduct a study of the potential costs and benefits of telecommuting. Telecommuting would allow people to work from home on a computer or telephone rather than commuting to a central workplace.

Study of Minimization of Nuclear Waste.—Directs the Secretary to conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste.

Nuclear Waste Management Plan.—Directs the Secretary to submit to Congress a report on whether the current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 are adequate for the management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of enactment of this Act.

Math and Science Education.—Directs the Secretary to enter into agreements with qualified entities to provide post-secondary programs for the promotion of mathematics and science education for low-income and first generation college students.

TITLE XIV—COAL, COAL TECHNOLOGY AND ELECTRICITY

Subtitle A.—Coal and Coal Technology

Coal Research, Development and Demonstration Program.—Directs the Secretary to carry out a research, development and demonstration program for advanced coal-based technologies that will achieve greater control of NOx, SO2, and air toxics; will be capable of converting coal into cost-competitive transportation fuels; will be capable of converting coal into synthetic gaseous, liquid, and solid fuels; will achieve greater energy efficiency; and will be commercially available by 2010.

Non-fuel Use of Coal.—Requires the Secretary to submit a research, development, and demonstration plan and implement a program for technologies for the non-fuel use of coal. Such technologies include the production of coke, carbon-based chemical intermediates, and coal treatment processes.

Coal Refining Program.—Directs the Secretary to carry out a research, development, demonstration, and commercialization program for coal refining technologies. Directs the Secretary to solicit proposals for cost-shared demonstration projects of coal refining processes and authorizes the Secretary to enter into agreements with non-Federal entities to undertake these projects.

Underground Coal Gasification.—Directs the Secretary to carry out a research, development and demonstration program for underground coal gasification technology. Directs the Secretary to solicit proposals and authorizes the Secretary to provide financial assistance for at least one demonstration project of underground coal gasification technology.

Low-Rank Coal Research.—Requires the Secretary to pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals. Authorizes the Secretary to enter into contracts, cooperative agreements, and jointly sponsored research programs with, and provide grants to, qualified persons in order to carry out this program.

Magnetohydrodynamics.—Requires the Secretary to carry out a proof-of-concept program in magnetohydrodynamics. In carrying out this program, the Secretary is directed to solicit proposals from the private sector and seek to enter into an agreement that provides for cost-sharing with non-Federal entities.

Coal-Fired Locomotives.—Directs the Secretary to conduct a research, development and demonstration program for utilizing "ultra-clean coal-water slurry" in diesel locomotive engines.

Coal Exports.—Requires the Secretary to submit to Congress a plan for expanding the export of coal from the United States.

Clean Coal Technology Export Coordinating Council.—Establishes a Clean Coal Technology Export Coordinating Council to facilitate and expand the export and use of clean coal technologies, with a priority on such transfer and use in lesser-developed countries. Requires the Council to develop a data base and information dissemination system relating to clean coal technologies.

Coal Fuel Mixtures.—Requires the Secretary to prepare a report on technologies for combining coal with other materials, such as oil or water fuel mixtures.

National Clearing House.—Directs the Secretary to establish a national clearing house for exchange and dissemination of technical information relating to coal and coal-derived fuels.

Utilization of Coal Combustion Byproducts.—Directs the Secretary to conduct a comprehensive study on the institutional, legal, and regulatory barriers to increased utilization of coal combustion byproducts, such as ash, slag, and flue gas desulfurization.

Data Base and Report on Coal Transportation.—Requires the Secretary to establish a data base and prepare a report regarding coal transportation rates and distribution.

Subtitle B.—Electricity

Applicability of New Source Review to Existing Electric Utility Steam Generating Units (WEPCo).—Addresses the so-called WEPCo issue concerning EPA's interpretation of new source performance standards (NSPS) and new source review (NSR) in cases of physical changes at existing powerplants. Exempts pollution control projects from NSR and NSPS and prescribes standards for assessing whether other physical changes at existing powerplants trigger NSPS and NSR.

Excess Capacity Study.—Requires the Secretary to submit report on physical impediments to transfer of excess electrical energy from regions with surpluses to regions with shortages.

Calculation of Avoided Cost.—This section states that State regulatory authorities are not required to base calculations of avoided cost, under the Public Utility Regulatory Policies Act (PURPA), on the rates for or the costs of demonstration projects under the Department's clean coal technology program.

Regulatory Incentives for Clean Coal Technologies.—Sets out a process for establishing Federal regulatory incentives for clean coal technologies and encourages State regulatory authorities to consider similar incentives for these technologies. Requires the Secretary to report to Congress on progress made in encouraging States to provide these incentives.

TITLE XV—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

Creation of EWGs.—Allows for the creation of exempt wholesale generators (EWGs): corporate entities who are engaged exclusively in the business of wholesale electric generation and who are completely exempt from corporate organizational restrictions under the Public Utility Holding Company Act of 1935 (PUHCA). Entities who are currently subject to PUHCA (registered utility holding companies and exempt utility holding companies) and entities who are not currently subject to PUHCA (non-utilities and nonholding company utilities) are permitted to own EWGs without limitation.

Maintenance of SEC Jurisdiction with Respect to Relationships Between a Registered Holding Company and an EWG.—Requires Securities and Exchange Commission (SEC) approval for financing of EWGs by a registered utility holding company or service, sales and construction contracts between a registered holding company and an EWG.

Prevention of Sham Wholesale Transactions and Stranded Investment.—Prohibits sale of electricity by EWGs where the purchaser is merely a broker interposed for purposes of making possible "cherry picking" (i.e., an indirect sale to an industrial customer or other desirable retail load). Prevents sale of electricity by EWGs where a State commission would use the purchase of such electricity as the basis for not permitting recovery of existing capital investment by the purchasing utility.

Protection Against Abuse of Affiliate Relationships.—Prohibits the gaining of any "undue advantage" from the existence of an affiliate relationship between an EWG and a utility purchaser.

Clarification of State and Federal Jurisdiction Over Wholesale Power Transactions.—Except in certain instances involving allocation of power costs within registered utility holding company systems, gives State commissions acting in accordance with State law the general right to review the prudence of wholesale purchases by their jurisdictional utilities. In instances involving purchase of power from EWGs, the right to review prudence is conferred even within a registered holding company system.

Consideration of Capital Structure and Fuel Adequacy Issues.—Requires States commissions to analyze the effects on reliability and utility purchasers of the use of leveraged capital structures by wholesale sellers of power (including EWGs) and the adequacy of fuel supplies employed by such sellers. Requires State commissions to consider reflecting the results of such analysis in approving or disapproving wholesale power purchases.

Provision of EWG Books and Records.—Allows affected State commissions to uncover potential EWG/utility cross subsidy problems and to access the financial stability of EWGs by requiring disclosures of EWG books and records.

TITLE XVI—STRATEGIC PETROLEUM RESERVE

Completion of One Billion Barrel SPR.—Directs President to enlarge the SPR to one billion barrels as rapidly as possible.

Defense Petroleum Inventory.—Authorized creation of a 10 million barrel Defense Petroleum Inventory.

Petroleum Acquisition.—Provides that the President, acting through the Secretary of Energy, may acquire by purchase, exchange, or other arrangement, from one or more foreign governments, without the necessity for competitive procurement, petroleum products for storage in the SPR or the Defense Petroleum Inventory, and may contract, without regard to certain specified provisions, of law, for storage in the SPR or the Defense Petroleum Inventory of petroleum products owned by one or more foreign governments.•

ORDER OF BUSINESS

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

FEDERAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1991

Mr. MITCHELL. Mr. President, as stated earlier in the day on two occasions and earlier in the week on several occasions, it had been my hope and my intention that the Senate could proceed to the consideration and ultimately disposition of the transportation bill, a matter of critical importance to everyone in the country and every Senator, and upon disposition of that proceed to the comprehensive crime legislation.

The report on the transportation bill was filed at 2:33 this afternoon and under the rules we cannot move to proceed to it until 48 hours have elapsed from the time of the filing of the report unless all Senators consent to do so. I earlier sought consent to do so, and the distinguished Republican leader, in behalf of the distinguished Senator from Virginia [Mr. WARNER] registered an objection and therefore we were not able to proceed to the bill at that time. Since then, Senator DOLE and I have met with Senator WARNER and Senator GRAHAM of Florida representing, as they stated to us, approximately 10 Senators who have concerns about some aspects of the bill.

Those Senators and perhaps others are meeting at this moment with the subcommittee chairman and possibly other members of the committee to discuss their differences on the legislation and are expected to report to me prior to 7 p.m. on the status and prospects of their discussion. Senator WARNER indicated that pending that discussion the group of Senators opposed to the bill intend to exercise all of their rights under the rules of the Senate to delay the consideration of the legislation. They are, of course, entitled to do so under the rules, and while I understand that I find it most regrettable because I had previously indicated our desire to proceed to that bill.

I have requested of both Senators opposed to the bill that, since their concern is legitimate with respect to immediate consideration, given the fact that the report was filed only this afternoon, they permit us to proceed to the bill on Monday. That would give Senators a period of some 5 days to review the report before the time we actually take the bill up. Senators WARNER and GRAHAM advised that they were not in a position to agree to that at that time and therefore we are not in a position to proceed to the bill at this time.

Since we do not expect a report from the other Senators until prior to 7 p.m., I see no purpose in the Senate remaining in a quorum call until that time and I will shortly, after yielding to the distinguished Republican leader, who is present on the Senate floor at this time, seek consent to recess until 7 p.m., at which time I would hope to come back and make a then current report to the Senate on the current status of matters.

If there is to be full use of the rules on the part of those who oppose the legislation, it will, of course, be incumbent upon those of us who are charged with the responsibility for moving forward on this matter to use all appropriate means to move the matter forward which, of course, could mean a session during the weekend in order to set up a cloture vote on the motion to proceed early next week. I hope that will not be necessary but since it is at least possible—and that possibility has just developed in the last few minutes—I wanted to alert Senators to that fact so that they can be aware of it in accordance with their schedules.

I repeat, I hope that is not necessary and I will resort to that only as a last resort, all other means failing, to obtain agreement to move forward on the legislation.

Mr. President, with that, I yield to and invite any comment which the distinguished Republican leader would wish to make. He was present at the meeting with me and I ask him to make any comment and, certainly, if I have made any statement that inaccurately describes our meeting, to correct that.

The PRESIDING OFFICER. The distinguished minority leader.

Mr. DOLE. Mr. President, if the leader will yield, the majority leader has accurately reflected the present circumstances and the meeting that was held in his office just 20 minutes ago. It is my hope that we can have an agreement to proceed to the bill on Monday. I know that they could, using the rules, not let us proceed. We would have to have a motion to proceed, then obtain cloture on the motion to proceed, and all that of course is time consuming. But I understand those who have a very strong view on this issue—and they indicate it might be as many as 20 or more Senators, almost evenly divided—have a different view on how a certain formula in the bill, which I am not totally familiar with, works.

So it is a rather important thing to each State involved.

They are now in a meeting, as I understand it, with the distinguished Senator from New York [Mr. MOYNIHAN]. But I would hope whatever may happen that they would let us proceed to the bill on Monday, as suggested by the majority leader, and it would not be necessary for a session on Saturday, for example, so that a cloture motion could be filed.

In any event, I believe both Senator WARNER from Virginia and Senator GRAHAM from Florida are in good faith protecting their rights. It is just my hope that they can resolve any procedural issues that they have, and let us proceed to the bill on Monday.

Mr. MITCHELL. Mr. President, I thank my colleague. I understand we now have some other matters to dispose of.

MEASURES PLACED ON THE CALENDAR—S. 1241 AND S. 635

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1241, introduced earlier today by Senator BIDEN, be placed on the calendar, and further that the Judiciary Committee be discharged from further consideration of S. 635, and that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL SCLERODERMA AWARENESS WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 219, designating "National Scleroderma Awareness Week," just received from the House; that the joint resolution be deemed read a third time and passed; that the motion to reconsider passage of the joint resolution be laid upon the table; and that the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the joint resolution (H.J. Res. 219) was deemed read a third time and passed.

The preamble was agreed to.

Mr. LAUTENBERG. Mr. President, I rise today in support of House Joint Resolution 219, a bill to designate the second week of June as "National Scleroderma Awareness Week." House Joint Resolution 219 is the companion to Senate Joint Resolution 130, which I introduced earlier this year and is cosponsored by 55 Senators.

Scleroderma affects approximately 300,000 Americans. This chronic disease usually strikes healthy individuals at any time between the ages of 25 and 55 years old. Women suffer from scleroderma two to three times more frequently than men. It causes thickening and hardening of the skin. In its most severe form, the hardening process spreads to the joints, causing decreased mobility and to the body organs causing functional impairment. Early diagnosis allows therapeutic treatment that may slow the progression of the disease.

Even with early treatment, scleroderma is an incurable disease. Caused by the excess production of collagen, the severity of the prognosis of scleroderma patients varies widely; some experience a remission or have minor symptoms that do not interfere significantly with a normal lifestyle. But for others, who may develop kidney malfunction, respiratory weakness, heart spasms, digestive and intestinal problems or respiratory weakness, the disease can be fatal.

A national week of awareness would heighten public awareness of scleroderma, recognize progress, and would promote activities and events to facilitate financial support of much needed research and patient support groups. I urge my colleagues to support House Joint Resolution 219.

MAKING MINORITY PARTY APPOINTMENT TO THE SPECIAL COMMITTEE ON AGING

Mr. DOLE. Mr. President, I send a resolution to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 139) to make a minority party appointment to the Special Committee on Aging.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 139) was agreed to, as follows:

S. RES. 139

Resolved, That the following Senator shall be added to the minority party's membership on the Special Committee on Aging for the One Hundred Second Congress or until their successors are appointed:

Mr. Specter.

RECESS UNTIL 7 P.M.

Mr. MITCHELL. Mr. President, unless the distinguished Republican leader has anything further, I now ask unanimous consent that the Senate stand in recess until the hour of 7 p.m. this evening.

There being no objection, the Senate, at 6:24 p.m., recessed until 7 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. AKAKA].

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, earlier today I indicated that I expected to receive a report from the Senator from Virginia and the Senator from Florida with respect to a meeting that they were having with the Senator from New York. I have received no report, but I assume the purpose of the Senator's presence here is to give us the report out here on the Senate floor. So I would be pleased to hear from my colleague.

Mr. WARNER. Mr. President, I telephoned over about 6:40 and was informed that the majority leader was to bring the Senate back in at 7, and at that time he would receive our report. So there may have been a gap procedurally. But I am here to represent what I interpret as an effort on both sides to try to remove a serious misunderstanding; namely, that Senator MOYNIHAN had offered to have a meeting, the communications broke down, but finally it came together, and Senators did meet with the chairman of the committee and the chairman of the subcommittee from approximately 6:20 until just a few minutes ago.

I speak on behalf of Senators representing roughly 10 States at this time. They have become cosponsors of the bill, which is commonly known as the WARNER bill, but it embraces the work of over 2 years by an organization known as the FAST group of transportation officers. So much for that.

We feel very strongly, our group. While at this time it is only 10 States, we know of another at least 10 States that feel equally as strongly as we do that the bill referred to by Mr. MOYNIHAN as a committee bill—I am a member of that committee—does not provide a fair distribution, percentagewise, of the tax dollars collected each year from the motorists and other users of transportation in our States, which are paid into the revolving fund, and that revolving fund distributes the money back to the States. It is that formula that separates this group of roughly 22 Senators from another group of roughly 23 Senators.

We are referred to as the "donor" States; they are the "donee" States. I will allow my distinguished chairman, Mr. MOYNIHAN, to speak with respect to the meeting. He is present in the Chamber now, along with the Senator from Ohio, the Senator from Florida, and the Senator from North Carolina, who would have attended if they had received notice. That is not important at this moment.

At this moment, I say we are engaged in a dialog, and I will let others speak to the possibility of resolving this problem. I myself feel that in the near future it cannot be resolved, and I will, therefore, assert whatever rights I have as a U.S. Senator to prohibit this bill from being brought up.

Mr. MITCHELL. Well, Mr. President, I appreciate the Senator's comment. Let me just say that it is, of course, commonplace that Senators disagree on an issue. It happens about every day that the Senate is in session. There is nothing new, unique, or different about this bill, or any other bill, when Senators disagree.

The customary manner, the logical manner, the historical manner for resolving differences is to have an open, free and vigorous debate on the Senate floor and then vote. That is what the democratic process is about. If the Senator has 20 States, that means 40 Senators adhere to his position or support his position. Then he need only persuade five or six more, and his position can prevail.

I have not advocated any particular position on this issue. What I have advocated is that the Senate take this bill up and debate it and consider it. The Senator from Virginia, the Senator from Ohio, the Senator from Florida, and the Senator from New York, and a Senator from any other State, if he wants to, may state his position as vigorously and forcefully as he can.

I remind my colleagues that this is a bill which the President said, in addressing the Congress, was one of his highest priorities and asked that we bring the matter up and act on it within 100 days of the date on which he spoke. I have been attempting to honor the President's request, to bring the bill up, and to have a debate on it, and to have a vote on it. That is my only request.

Obviously, each Senator has a right to delay, to prevent action, in the hopes of using the delay and the preventing action as leverage to advance his or her position. That is also commonplace here, and we all understand and accept that. That means that a large number of Senators must be inconvenienced, from time to time, to accommodate the interests of a relatively small number of Senators. That is understandable; that is commonplace, and that occurs regularly.

I, earlier, asked the distinguished Senator from Virginia—with the report having been filed on Thursday afternoon—whether he would agree to permit us to proceed to the bill on Monday, 4 days hence, with the further understanding that there would not be any votes on Monday, that we would simply debate the issues on Monday with action to occur on Tuesday, 5 days hence. And the Senator had earlier refused that request. I take it from the Senator's comment now that he persists in that refusal.

Mr. WARNER. Mr. President, that is correct.

Mr. MITCHELL. Then let me say to the Senator that I am used to being here all the time. I accept that as part of my job. When the Senate begins, I am here, and when the Senate ends, I am here, as is Senator DOLE. Whether it is Monday or Saturday is not of great consequence to me, because I understand and accept that as part of my job.

Most Senators like the opportunity to devote time to meeting with their constituents and traveling through their States, and that is an important part of their job. Under the rules of the Senate, once the 48-hour period has expired, which would be at 2:33 on Saturday afternoon, it would be possible for me than to have the Senate in session Saturday afternoon, make a motion to proceed and file a cloture motion on that motion to proceed, which then would ripen 1 hour after the Senate convened on the second day thereafter. If we were not in session Sunday and were in session on Monday, that means the Senate would vote a cloture on the motion to proceed to this bill on Tuesday morning.

Since that is possible under the rules, but would require a Senate session Saturday afternoon, I inquire of the Senator from Virginia whether he and his colleagues would permit us to act as though that had occurred, obviate the need for a Saturday afternoon session, permit a cloture motion to be filed later today, with the agreement that the vote on cloture would occur on Tuesday morning?

It is something which we can accomplish under the rules, and if the Senators persist in that refusal we will accomplish it if it means a Saturday afternoon session with great inconvenience to many people.

I inquire of the Senator from Virginia whether he is agreeable to permit us to proceed as though that had occurred, thereby achieving the same result without the necessity of that further inconvenience for all concerned to actually have a Saturday afternoon session.

Mr. WARNER. Mr. President, we must also recognize that Saturday is an unusual day in the Nation's Capital since we will be observing a parade and there could be logistic consequences that none of us can foresee at this time bringing the Senate in.

It seems to me that the leader places before the Senate a reasonable request; however, at this time I feel in deference to my colleagues who worked with me, perhaps one or more would like to speak to the issue. If not, I will be prepared to give the majority leader my response.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. SANFORD. Mr. President, I certainly have, I think, since I have been here attempted to support the leadership in large and small matters, and I am inclined to do so now. But I am also inclined to say that this is the first time that I have seen the kind of actions that strike me as inconsistent with the spirit of this organization, the U.S. Senate.

Clearly in talking to staff members, and now in talking to the chairman of the full committee and the chairman of the subcommittee, I have seen no indication whatsoever of them bringing any serious attention to compromise or to working something out. As the leader points out, we frequently have differences—of course we have differences—and we simply have to vote on those differences, but it seems to me this whole exercise over the highway bill falls into an entirely different category.

First of all, the committee Members, represent 13-to-3 the States that have been donee States, receiving the benefit of taxes paid by hardworking people in the donor States. North Carolina has been contributing to New York now for many years. The per capita income difference between the States is remarkable, with New York being far higher.

The GAO several years ago, at the request of Senator CHILES, addressed the need of changing the highway funding formula, and said that most of these rules were adopted 40 to 70 years ago, and that they ought to be based on what is going on in the world today.

Any change in updating the formula was postponed when the Interstate System came along. And I could hardly object at that time, when I happened to be the Governor of a State short of Interstate funds, because I understood that the Western States that were vast in area but small in population, and they needed an extra advantage. We were glad enough to contribute a sizable amount of money every year, as we had for decades, in order to see to it that we had an Interstate System across the Nation. It would have been unfair to have suggested anything else.

Now that is basically behind us, but do we get now an opportunity to have a fair shake? We did not in the committee.

I said facetiously that it was stacked. Of course, I do not mean it was deliberately stacked, but the fact of the matter is the Committee is rather one-sided. We are in the position of having patiently borne up under this inequity long enough. Five years ago I thought that I ought to protest this, having observed it for many years before I came here. But at that time I succumbed to the need, it seemed to me, to get a highway bill passed. And I put myself in an embarrassing position, for that reason, at the request of the leadership.

Now those of us, and it is about 20 States that have been on the contributing side all of these years—not just the last 10—think that we are entitled to a more generous attitude on the part of the leadership, on the part of the committee, and on the part of the subcommittee chairman. I do not think that has been forthcoming.

This may be seen as an effort by Virginia and North Carolina to get something more. That is not really the point. The point is fair play.

We are getting dealt out, not given fair play, and it distresses me that the U.S. Senate would take advantage of a majority position and barely be willing to discuss what I think is a longstanding, really a generation-standing, complaint of unfair treatment. Now we are forced to play our hand in a way that neither the distinguished Senator from Virginia nor I like to—insisting that, yes, we can probably get 40 votes on a cloture vote. Maybe we cannot, but I do not think that is the way we ought to go. I think the Senate ought to realize that these States, even if they are in the minority, have been cheated—to use a rather sharp word—and there is no indication now to be fair.

Having said that, obviously I would not have to be here Saturday afternoon because we are not taking any votes. Obviously, the leader would have to be here to start the procedure. I have no desire whatsoever to inconvenience anybody, certainly not the leader who devotes so much time and energy to making this institution run smoothly. So I do not have any objection and will not pose any objection. But I did not want to sit here mute without letting the leader and others know how I feel about this procedure.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks the floor? The Senator from Florida Mr. GRAHAM is recognized.

Mr. GRAHAM. Mr. President, I share the opinion that is just expressed by my colleagues from Virginia and North Carolina. I do not have objection to what appears to be an eminently procedurally fair recommendation made by our leader.

The Senator from North Carolina has talked about the history of how we got to where we are today. I would like to make some comments about where we are going to be over the life of this legislation which is from now until 1996.

There is an environment in which we are going to be considering this matter. I believe that all my colleagues and all of the American people interested in transportation and interested in what transportation means to a competitive American economic system need to clearly understand this fundamental fact. The fact is that we are about to vote on legislation which will guarantee us that at the end of this 5-year period the Nation's highway system will be worse off than it is today.

We are passing a bill which guarantees that at the end of this 5-year period, the American highway system will be worse off in the amount of approximately $85 billion of additional accumulated maintenance and capacity needs than it is today.

We will add to the $450 billion of unmet needs today an additional $85 billion. Why is that important? It is important because it removes from us the ability to argue that we are going to be making a great contribution to a better transported America or to an America which is better prepared to compete in the international economy. Neither of those statements is accurate. It is also important because it sets the environment for much of this debate over State-to-State allocation.

If we were dealing with a level of funding which kept us even, which allowed us to say things will not be better but at least it will not be any worse, then there could be greater acceptance of what we think to be the unfairness and the inequities in the allocation formula. But as we are, in fact, scraping for the spare morsel of a declining transportation system, it heightens each of our sense of inequity, it brings to mind historic patterns and creates a strong incentive to want to achieve a more equitable distribution of inadequate funds.

We also are dealing with an important period here. It is the end of the interstate era. We are now moving to the post-interstate era. One of the concerns about the allocation formula that we have is that it proposes to distribute half of the money by taking the distribution as it existed from 1986 to 1991, adjusting that distribution by subtracting among other items, and primarily interstate construction funds and other interstate payments in lieu of construction, then determining what percentage an individual State received of the national total. And that percentage then becomes the percentage that you will receive of half of the transportation funds for the period 1992 to 1996.

What are some of our concerns about that basic approach? One very obvious one is the 1986 to 1991 distribution formula is based on the 1980 census. So we are going to be representing to our people that we will be distributing in 1996 funds based on the 1980 census. I find that argument patently absurd and incapable of explanation to the American people.

It also says that those States which happened to come in later in the interstate period and therefore had a disproportionally high amount of their total transportation construction in the period 1986 to 1991 in the interstate program are going to have a disproportionately large subtract from their total Federal expenditures and therefore a smaller percentage of funds available in the 1992 to 1996 period.

I recognize, Mr. President, and my colleagues, that we are talking about statistics that are difficult to grasp if you have them on a piece of paper, but even more so when received verbally. But the fact is that we are about to carry forward almost to the 21st century some basic inequities of the immediate past.

So, Mr. President, I will agree—and will agree with enthusiasm and respect—with the proposal that has been made by our leader. But I want all to understand that this is a very serious issue for our Nation, the judgment that we are making in terms of what we consider to be an adequate investment or, I would say, an acceptable disinvestment in our Nation's transportation system, and then how those funds will be allocated among the 50 States who have the primary responsibility for converting those funds into the actual resource of transportation.

This is going to be an important debate whenever we commence this debate, and it is a debate in which I believe that all parties need to accord the seriousness and respectful attention of those who share differing views. I hope that some of those differing views can be worked in appropriate conferences over the next few days. If not, they will be the source of a very interesting debate that we will participate in here on the Senate floor.

Mr. MITCHELL. Mr. President, I would like to propound the unanimous-consent request if I am able to do so.

Mr. WARNER. Will the Senator yield for a slight modification? And then I would, therefore, like to wholeheartedly endorse the request of the leadership.

The facts that will be needed by this body to make an informed decision are still being gathered. Despite the efforts of our distinguished chairman and others, we are still gathering essential facts. A debate is needed with those facts in hand. I, therefore, would like to submit for the consideration of the leadership the following: that we accept the offer for a Tuesday vote on a cloture motion but provide for a 3-hour debate equally divided beforehand and schedule the vote at such time as the leadership indicates.

Mr. MITCHELL. Mr. President, let us get one thing clear. I am the person here that is trying to get the debate going on this bill. It is the Senators who have stood up to prevent us from getting the bill who say we want a debate but who will not permit the debate to begin. Every Senator ought to understand that.

Let us not have any misunderstanding about what is occurring here. I am trying to have the Senate begin debate on the bill. The Senator from Virginia and the other Senators who have spoken are trying to prevent the Senate from beginning debate on the bill. But when the Senators stand up and say, "We want a debate on this bill; we want to have a debate on this bill; this is an important bill, let us debate it; we ought to have 3 hours of debate on Monday," I am trying to have a debate tonight, tomorrow, Monday.

So let there be no misunderstanding about having a debate. I am perfectly prepared to be here tomorrow. I tried to get a debate going all day today but was prevented from doing so. I suggest we have 8 hours of debate tomorrow and 8 more hours of debate on Monday. That would give 16 hours of debate before the cloture vote Tuesday morning, five times what the Senator has requested. And I think everybody then could have their say and all those who have stood up here and said they want to debate will have ample opportunity to debate.

So I suggest then, if, as the Senators indicate their desire is to debate this issue—the Senator has asked for 3 hours of debate on the issue—I suggest 16 hours of debate on the issue, 8 hours tomorrow and 8 hours on Monday. Then we will have the cloture vote on Tuesday morning and everybody can be fully informed on the subject matter and every Senator will have had the fullest possible opportunity to debate. And if the Senators here this evening wish more time, then I would suggest 10 hours tomorrow and 10 hours on Monday, or whatever time they wish to debate the subject.

So, Mr. President, I appreciate the interest of the Senators in having a debate on the subject. In fact, I gather the debate has started this evening. All I am suggesting is, let us proceed to have that debate and I will agree to have the Senate in session tomorrow and Monday for as long as the Senators who want to debate wish to debate the subject.

Mr. SANFORD. Mr. President, will the leader yield?

Mr. MITCHELL. Yes, certainly.

Mr. SANFORD. I simply want to disassociate myself from anybody who wants a debate. I think this bill is so badly flawed that it ought to be corrected before we start a debate. So I have not been asking for a debate, Mr. Leader.

Mr. METZENBAUM. Will the leader yield?

Mr. MITCHELL. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to address myself to the majority leader, for whom I have great respect. I do not think the issue is debate. I think the Senator from North Carolina pretty much hits the nail on the head. What we have here is not the kind of situation where you have an issue such as abortion, where the issues run deep, emotions run deep; or an issue such as aid to the Soviet Union or some issue having a philosophical basis.

What we have here is a debate about numbers. It has to do with the fact that a number of States have been shortchanged over a period of years, and there may very well have been a reason for that to have occurred, because some of the Western States did not have as much tax revenue, had longer highways, so that kind of arrangement was made.

Now, as a consequence, some States, my own included, have been shortchanged over a period of years. This piece of legislation proposes to continue that same shortchanging. But the fact is just about all of the Interstate Highway System has been completed and it does not make good logic to continue that same procedure.

I am frank to say 16 hours, 20 hours, 60 hours of debate is not going to change too many minds. It probably will not change anybody's mind. I have said to the leader before, I have said to the distinguished manager of the bill, the Senator from New York, I have said to my very respected chairman of the committee, the 85-percent formula that has been operable over a period of years—it is time to change it. There is a general recognition that in the House, in all likelihood, it will be changed.

But the fact is that many of us from States that get shortchanged have a strong feeling we have an obligation to fight for a change, at this point, in the Senate.

I would say to my leader, I believe he could perform a very useful function. Far, far be it from me to tell the Senator what his function is in this body. He has led us well and ably, and I do not mean this as any reflection upon that leadership, but I think this Senator has been saying compromise, compromise. None of us expect we are going to get 100 cents back for every dollar paid in.

In a short meeting I had with the manager of the bill and the distinguished chairman of the committee, the indication was we could not do that without taking it back to the committee. We know how the committee vote stands.

I say I believe there are some issues, particularly where you are dealing with numbers, that deserve a compromise resolution and I, for one, am prepared to be a party to that kind of negotiation. I hope the leader will see fit to help bring that about.

We can battle it out here on the floor next week. Even if we move on Tuesday and we go to cloture, we then start on the bill itself, and that means there would be rather extended debate and there probably would be another cloture motion and then there would be various postcloture amendments, et cetera.

But the basic issue has to do with the fairness and equity of some States getting 85 cents on the dollar and some States getting $2 and $3 and $7 on the dollar paid in.

I hope, regardless of the mechanics of when we vote or how we vote or with how much debate before, I hope the leader will see fit to see if we could not bring about a compromise resolution of this issue so this bill can be passed, not in 72 or 96 or 120 hours, but in 24 hours. I think once compromise is reached this bill would pass just about immediately thereafter.

Mr. MITCHELL. I thank my colleague for his comments, and he has certainly illuminated what the issue is here, what we all know the issue is here, and that is money for the individual States. Each Senator wants more money for his or her State. That is what the issue is here. That is the only issue here.

I happen to have some familiarity with it because last year on the authorization bill I was the ranking member on the subcommittee and participated with the distinguished Senator from Rhode Island, the then chairman of the subcommittee, and that was the issue then.

We do not need to dress it up in any other context. Each Senator wants more money for his or her State. I am certainly amenable to attempting to resolve that, and will do so, along with the distinguished chairman of the subcommittee, in any context at any time that Senators wish.

The Senator from Virginia is now going through the process of drafting an alternative bill, and I have not been involved in the drafting and I do not know what is in the bill, but I say with absolute certainty he is trying to figure out a way to increase the allocation for 26 States. That is the way he expects to prevail. It is the only way he is going to prevail.

The immediate question before us is how we proceed.

I have been attempting for days to get the Senate in position to consider this bill; to permit the debate that at least some Senators here say they want to have, and to permit a disposition of the bill which the President has said is one of his high priorities and which he has asked that the Congress complete action on within 100 days of the time in which he spoke. The 100th day is expiring a week from tomorrow.

No one is surprised that Senators who do not like what is in the bill are trying to prevent the bill from coming up. But let us not suggest somehow there is anything other at stake than how much money a Senator can get for his State, so the Senator can say "I have done this for my State."

Every Senator has used the word fairness. Well, fairness, like beauty, is in the eye of the beholder. When we get into the debate, if the Senators would like to do so, they can stand up here and describe what they think is fair for as long and in as much detail as they want, and other Senators can get up and describe what they think is fair.

I am going to propound a request which seeks to have occur a cloture vote on Tuesday morning, which will occur in any event. The rules which the Senators are here so skillfully exploiting, as is their right, are such that I, as majority leader, will be able, using those same rules, to cause to occur a cloture vote on the motion to proceed on Tuesday morning. And I am simply asking the Senators to permit us to do that which otherwise can be done under the rules in a manner that imposes a modestly less amount of inconvenience upon other persons.

Mr. METZENBAUM. Will the Senator yield?

Mr. MITCHELL. Yes, I certainly yield.

Mr. METZENBAUM. I am aware it is money. But the fact is some are below a dollar for a dollar. My question to the distinguished majority leader is: Would he be willing to convene a meeting tomorrow morning or Monday, whichever time is convenient for him, of those Senators who are handling the bill and those of us who have a concern—and let me say in propounding that question I have no authority to speak for any other Senator, for any Senator other than myself—but I want to say to the leader that if we can arrive at a compromise, we will not have a vote on Tuesday with respect to the cloture motion to proceed; on Tuesday next we will pass the bill, if we arrive at that, and put it away. There will be no further debate and there will be no further delay.

Mr. MITCHELL. I will be pleased to respond to my colleague.

Mr. WARNER. Will the Senator yield for just a moment?

Mr. MITCHELL. May I respond to this, and then I will be pleased to yield.

Mr. WARNER. Gladly.

Mr. MITCHELL. On those occasions on which the Senator from Ohio has been the manager of a bill within the jurisdiction of his committee, he would surely expect the majority leader to consult with him before convening a meeting on any measure which he was managing or within his committee's jurisdiction.

Mr. METZENBAUM. Of course. Of course.

Mr. MITCHELL. My response to the Senator is I will consult with the chairman of the committee and the manager of the bill, and then will be pleased to respond to the Senator from Ohio.

Mr. METZENBAUM. I, of course, accept that and recognize the manager and chairman of the committee are both on the floor. I would point out if there were to be a meeting tomorrow morning, since some Senators will be leaving shortly, as soon as they know there will be no further votes—and some may have—and I am sure they would want to participate in a meeting, I hope the leader would just take that into consideration or maybe make the meeting on Monday.

Mr. MITCHELL. I yield to the Senator from Virginia.

Mr. WARNER. I thank the distinguished leader. I listened very carefully to what he said and he said the bottom line here: the motivation is money. Indeed money is very important. To my State the potential loss is $200 million over the next 4 or 5 years. I have to stand up and fight, as do others, for the rights of my citizens, for those who operate vehicles and otherwise pay taxes. But my bill is not simply about money, in fairness to those who cosponsored and otherwise supported me. We have provisions in there about the National Highway System.

There is an honest dispute between the committee bill and my sponsors about how the money is allocated within the State, commonly known as flex bill. We just received the report today. So in fairness to the debate, while it could have started after 2:43 this afternoon when the report was received by the Senate, I do not think we have lost that much time and we have not, as yet, I think, used dilatory tactics.

So I hope the distinguished leader will recognize that while we are ready to exercise our rights, I so informed you briefly in our meeting, roughly at 6 o'clock, we do want to cooperate. And we recognize the hardships inflicted on members of the Senate staff and others if we come in on Saturday.

So we are prepared as a group to accept the proposition, and I hope the distinguished leader will allow us some period on Tuesday morning, when likely more Senators are resident and available to participate and certainly have the benefit of the debate, to have some debate on Tuesday morning prior to the cloture vote.

Mr. FORD. Will the majority leader yield to me a moment?

Mr. MITCHELL. Certainly.

Mr. FORD. Mr. President, there is not a Senator in the Chamber that has not received some correspondence or telephone call from his Secretary of Transportation at home. There is not a Senator in this Chamber who does not understand what the committee bill does and basically what the substitute does. We are kidding ourselves if we say we do not know.

I am basically with the distinguished Senator from Virginia and the approach he is going to take, and my vote will be there, but not on procedure.

I think you are doing a disservice to the Senate by trying to develop a wall against a procedure of the majority leader. He has been here for 2 hours now before 7, and now an hour almost since 7, trying to work out an agreement so we will not be in on Saturday. He can do that.

I just say to my colleagues, let us be fair. You want to debate some more on Tuesday. If the majority leader does that, then that just delays it a little bit further. He has to reserve his right, and if he does not reserve his right, then that yields to those who want to delay.

So I say in all fairness, where you can get a meeting tomorrow and work it out, I do not believe it. I have been in on the meetings a little bit. The staff have been in on the meetings. I think it is going to be difficult to get a few Senators together in the morning and walk out with a bill and say hooray, vote on it on Tuesday, and not have any debate.

I am not sure the final bill I will like, even though I will probably go along with which bill helps my State and my constituency most. I say to my colleagues, let us agree to the unanimous-consent request.

You can debate tomorrow, hold meetings, call them in Saturday after the parade, call them in Sunday afternoon after church. You can be here on Monday. This institution used to have Members who would develop their schedules around the schedule of the institution. Now the institution is trying to schedule around the schedule of the membership. We have it all backwards: We cannot be here; some of them have already gone home, will not be here to vote; cannot be here tomorrow; let us wait until Monday until they get back.

I think we have to take a 180-degree turn and let the majority and minority leaders set the schedule in this Senate. We should develop our schedule around doing our job. The majority leader is trying to do his job. He is trying to be fair and trying not to bring us in on Saturday and trying to let you debate on Monday.

I encourage my colleagues to support the motion about to be made and not object to it.

Mr. MOYNIHAN addressed the Chair.

Mr. MITCHELL. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I will make a very brief comment. It is entirely the case, we are discussing the allocation of moneys among the 50 States and territories, and the Commonwealth of Puerto Rico.

I would ask a moment to note there is something else involved here, as well, which is a very large, new undertaking with respect to surface transportation in this country.

The first Secretary of Transportation, Alan Boyd, appointed in 1965 by President Johnson, testified before us that this is breakthrough legislation. This is not simply a formula for allocating the gasoline tax.

We have some very large ideas here, and I find in that regard, and I hope the majority leader will take this much comfort at least, there is a surprising degree of not unanimity, but something very close, as reflected by the 15-to-1 vote in the committee.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that a cloture vote occur on the motion to proceed to S. 1204, the surface transportation bill, on Tuesday, June 11, at 11 a.m. with the live quorum having been waived; that the 2 hours prior to the cloture vote on Tuesday be equally divided for debate between Senators MOYNIHAN and WARNER; that the motion to proceed to S. 1204 be considered as having been made on Monday, June 10, at the close of morning business; and that it be in order at this time to file a cloture motion relative to the motion to proceed.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object. Would the majority leader be good enough to explain his point with respect to filing an additional cloture motion on the bill? Is that what the majority leader is saying?

Mr. MITCHELL. No, that is not. I have requested permission to file the cloture motion relative to the motion to proceed.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1204, a bill to amend title 23, United States Code, and for other purposes:

Daniel P. Moynihan, Howell Heflin, Fritz Hollings, Paul Simon, Alan J. Dixon, Claiborne Pell, Quentin Burdick, Frank Lautenberg, Wendell Ford, Bill Bradley, Joseph Lieberman, Harry Reid, Joe Biden, Tom Daschle, Kent Conrad, Harris Wofford.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 10, 1991

Mr. FORD. Mr. President, I am about to propound a unanimous-consent agreement that has been approved by the Republican leadership.

Therefore, I ask unanimous consent, Mr. President, that when the Senate recesses today it stand in recess until 10 a.m. Monday, June 10; that on Monday the Senate meet in pro forma session only; further that the motion to proceed to S. 1204 be deemed to have been made on that day; and that when the Senate closes the pro forma session it stand in adjournment until 9 a.m. on Tuesday, June 11; that when the Senate reconvenes on Tuesday the Journal of the proceedings be deemed to have been approved to date, the call of the calendar be waived, and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired.

I further ask unanimous consent that the time for the two leaders be reserved for their use later in the day; and the Senate then resume consideration of the motion to proceed to S. 1204, the Surface Transportation Efficiency Act as under the previous order; further that the required live quorum be deemed waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JUNE 10, 1991 AT 10 A.M.

Mr. FORD. Mr. President, if there be no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 8:04 p.m., recessed until Monday, June 10, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 6, 1991:

DEPARTMENT OF LABOR

STEVEN I. HOFMAN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE DALE TRIBER TATE.

FRANCES CURTIN MCNAUGHT, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE KATHLEEN HARRINGTON.

DEPARTMENT OF THE TREASURY

DESIREE TUCKER-SORINI, OF COLORADO, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE ROGER BOLTON, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT M. ALEXANDER, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. GARY H. MEARS, [redacted] U.S. AIR FORCE.

HOUSE OF REPRESENTATIVES—*Thursday June 6, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With gratitude to You, O God, we enter a new day, full of the hopes and dreams that this day brings. We remember in prayer those near and dear to us and recall their names in the privacy of our own hearts. May Your spirit, O God, give strength to those who are weak, comfort those who experience sadness or sorrow, and encourage those who seek to do Your will. May Your blessing, gracious God, touch the lives of all Your people and give them that peace that passes all human understanding. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. TAYLOR] come forward and lead the House in the Pledge of Allegiance.

Mr. TAYLOR of North Carolina led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 173. An act to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes, and

S. 1193. An act to make technical amendments to various Indian laws.

APPOINTMENT AS MEMBER TO FEDERAL COUNCIL ON AGING

The SPEAKER. Pursuant to the provisions of section 204 of Public Law 98–459, the Chair appoints from the private sector Dr. Eugene S. Callender of New York, NY, to the Federal Council on the Aging on the part of the House to fill the existing vacancy thereon.

THE DESERT STORM MILITARY SERVICE ACADEMY ELIGIBILITY EXTENSION ACT OF 1991

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, today I am introducing the Desert Storm Military Service Academy Extension Act of 1991 to extend the application deadline for admission to our military academies for service men and women who served tours of duty in the Persian Gulf during Operation Desert Storm. This legislation will do the same thing for service men and women who served tours of duty in other combat zones in the unfortunate event that the United States becomes involved in another armed conflict sometime in the future.

Mr. Speaker, one of my constituents who is still serving in the Persian Gulf, decided he wanted to attend the Naval Academy after he participated in Operation Desert Storm. The experience of serving with his fellow sailors in the Navy during wartime has inspired him to make the military his career. But by the time he returns home, he will be too old to apply to the Naval Academy and there is no mechanism for waiving the application deadline.

It is outrageous that he should be prevented from becoming a career Navy man, because he missed the application deadline while answering his country's call and risking his life in the Persian Gulf. In this era of a volunteer military, it is essential we do everything possible to widen the application process for potential academy candidates—especially ones who have already proven their mettle in a combat zone.

Mr. Speaker, we have a moral responsibility to give something back to the troops who gave so much to us during their service in the Persian Gulf.

Mr. Speaker, I urge my colleagues to cosponsor this legislation and help service men and women who have served a tour of duty in wartime to come home and make the Armed Forces their career.

FLORIDIANS SUPPORT FAST PROPOSAL

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, there is a piece of legislation that is about to expire, and if you ask the people from high-growth States like mine, it could not expire soon enough. Year after year, these States are shortchanged by the Federal Highway and Transit Program.

For instance, in 1990 Floridians received 53 cents for each dollar they paid into the program—the lowest rate of any State. Since 1956, Florida has received only 82 cents on the dollar. Through that period, Florida has exported nearly $1.8 billion to pay for highway projects in other States.

Meanwhile, Florida ranks fourth in total population, second in population growth, fourth in the number of vehicles, and third in the number of vehicle miles traveled—yet, our State is dead last in the rate of tax returns.

I join my colleague from Florida, Mr. BENNETT, in introducing legislation to reverse this trend. It will raise the rate of return to 90 percent, boosting Florida's share from $551 million to a fairer $704 million, allowing Florida's residents and visitors to have a safer and saner driving experience.

BEST WISHES TO NICK CALIO, RETIRING LOBBYIST

(Mr. ROSTENKOWSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to alert my colleagues that one of our best friends in the White House is leaving. I am talking about Nick Calio, who is one of the classiest and most effective lobbyists I have run into during my years of service here.

Before he joined the White House staff, we worked together to enact the Tax Reform Act of 1986. After he became one of the President's men, we worked together on a series of projects including, most recently, extension of the President's fast track trade negotiating authority.

Nick knows how to frame an issue. He knows how to listen. And he knows how to count. He plays to win—and properly so—but he also plays with an awareness that there will be another game with new alliances tomorrow. He doesn't burn his bridges. Instead, he builds relationships with everyone, including those who may disagree with him on the issue of the day.

Anyone who has served here for more than a few years knows that lobbying is tough work and appreciates the talents of someone who does it well. Nick is a world-class lobbyist. I wish him

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

well during the next phase of his career.

A SILENT SCANDAL

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, we have spent the last month, and more specifically the last couple days, talking about fairness and equity. I would like to talk about an aspect of fairness that this body needs to address.

This city loves a scandal. It takes no more than a hint of wrongdoing or imperfection, and the wolf pack attacks. Names like Oliver North, John Tower, Gary Hart, Robert Bork, and Neil Bush come to mind.

That is why it is so interesting to note the silence which has greeted the saga of Clark Clifford and the alleged First American Bank mischief.

This story has all the elements of a good Washington feeding frenzy. There are ties to legendary political families, shadowy foreign investors, laundering of drug money for Manuel Noriega, massive profits from insider deals, and the list goes on; but as a Wall Street Journal column noted last week, the Washington wolf pack has been unusually silent on this issue.

Instead, the political wagons have been circled around Clark Clifford in an effort to protect the beleaguered patriarch of the Democratic Party. The congressional committees with oversight power are dragging their heels in investigation. Fortunately, the ranking Republican has asked for a subpoena.

We need to take a look at this and take a look at fairness.

AMERICA PARADES WHILE JAPAN BUYS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Desert Storm and our troops deserve a tribute, but Congress must stay focused. While America will be parading our military might, Japan has just leased the AT&T building and is taking prices on the Empire State Building.

In addition, a German company has just been awarded the first contract to build a bullet train in America.

Remember World War II? I want you to think back about Red Square; tanks, missiles, posters of Lenin. They have a May Day parade every year in the Soviet Union.

Congress, they are asking us for $150 billion so they can feed their people.

We must pay tribute to Desert Storm, but parading our tanks may not be the greatest need of this country. We had better take a look at our problems.

KEEP THE DREAM ALIVE—SUPPORT THE SPACE STATION

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, when John F. Kennedy declared America would go to the Moon, he did not justify it in terms of cost effectiveness. He put it in terms of strengthening American leadership and expanding human horizons.

Ironically, one of the prime benefits of this mission was to propel American leadership in space to a level which has kept us ahead to this day. Our high technology lead has provided millions of jobs and tens of billions of dollars. A 4-A plus for our economy.

Unfortunately, some would ignore this lesson. Instead, they would allow this Nation to rest on its laurels. Forgetting the rest of the world will not stop if we pause. They will redouble their efforts to surpass us.

Mr. Speaker, I, for one, did not look at the Moon rocks from the Apollo mission and wonder if some rocks were worth the expense. I, like the rest of America, saw the greater meaning behind the achievement.

The space station is the next step in that achievement. Support the space station—keep the dream alive.

TREE SPIKING: IT'S HAZARDOUS TO OUR HEALTH

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, there is danger in America's forests. Unbelievably, the perpetuators of this danger consider themselves environmentalists. More accurately they are eco-terrorists, engaging in an activity called tree spiking.

Opposed to legal timber harvesting, these eco-terrorists have taken to the practice of driving metal spikes into trees, hoping to discourage lumber companies from logging. The practice has life-threatening consequences.

Tree spiking came to light recently when a mill worker operating a bandsaw struck a spike. The impact of the saw hitting the spike sent metal flying, a piece of which slashed across the throat of the mill worker, almost killing him.

In Maine last year some 100 spikes were found in trees—this time on private land. And just last week, I received a letter from a small lumber company. Trees which the company had purchased were degraded by insertion of spikes. While serious injury to mill workers was avoided, the company lost thousands of dollars as the value of the trees was severely diminished.

I have introduced legislation to increase penalties for tree spiking. I would encourage my colleagues to cosponsor my bill.

No self-respecting environmentalist can support tree spiking. Congress must help ensure that tree spiking is brought to a halt.

MOST-FAVORED-NATION STATUS FOR CHINA

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, President Reagan says to give China the most-favored-nation status is just and it is moral. That is like the President saying that John Dillinger should be president of the Bank of America. It would be immoral, it would be immoral to recognize the oppression of human rights by any government. To recognize a nation that kills its people only because they want to speak out freely is crazy.

When that happened in Nicaragua, the Reagan and Bush team cut them off, no special trade status.

If you support the President on this, you are going to have to answer to the American people and to the American veterans who went out and fought and sacrificed to preserve precious freedoms and now to see their jobs lost to a suppressive government.

This Congress better send a strong message to the President of the United States that we expect him to stand up for America.

THE STRENGTH OF OUR ECONOMY DEPENDS ON SCIENCE AND TECHNOLOGY

(Mr. VALENTINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VALENTINE. Mr. Speaker, economic vitality is directly related to the national investment in research and development for science and technology. This lesson is understood by all industrialized nations.

The United States cannot be economically competitive without high productivity, and we cannot be more productive without technological innovation.

In high technology, markets are driven by product innovation. The company with the best product is the one that will succeed. Without the new knowledge that comes from research and development, we cannot create significant new innovations to drive our high technology industries forward.

High technology R&D can also increase our economic strength in low-technology manufacturing industries.

Our loss of competitiveness in manufacturing industries such as steel and construction reflects the fact that the United States did not incorporate high technology innovations as rapidly as did other nations.

Many countries that did not have significant R&D systems in the past—especially the newly industrialized nations of the Pacific rim—are rapidly developing an R&D capability. They understand that they must do so if they expect to be able to compete. They learned this lesson from the United States.

In both high- and low-technology products, success in the global market means creating and applying new knowledge—and new technology born of new knowledge—faster than one's competitors. The way to create new knowledge more rapidly is to increase our investment in R&D.

Insufficient support for science and engineering is related to our economic problems in general, and our lack of global economic competitiveness in particular.

An example of the need that I described is the space station, and I urge my colleagues to support restoration of funding for that project.

ABORTION RIGHTS UNDER ATTACK

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, for the second time in less than a month, the Supreme Court of the United States has restricted a woman's right to comprehensive family planning advice. The Supreme Court has said twice that abortion counseling is not to be included.

First, the Court targeted American women who rely on federally funded family planning. In the Rust versus Sullivan decision, the freedom to choose for many women was virtually obliterated. Then, this past Monday, the Court let stand a Reagan administration policy cutting off family planning aid to foreign health care organizations that use funds from any source to provide abortion counseling.

It is clear. We cannot count on this Supreme Court to protect the right to choose. Now is the time for Congress to stand up where the Court has not. We must pass legislation to reverse these bans on free speech and infringements on the right to choose. Women's health is in jeopardy if these Supreme Court decisions are not reversed. We must restore the sanctity of the doctor-patient relationship and protect access to a full range of family planning services for women whatever their economic condition.

IN SUPPORT OF SPACE STATION FREEDOM

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, the ancient Greeks learned long ago that the key to any well-intentioned government is balance. Balance between the needs of the present and the requirements of the future. Unfortunately, that balance is being threatened by recommendations to cancel the space station Freedom.

In these times of tight budgets, we must be very careful how we spend our limited resources. We must take care of our homeless, our veterans, and our environment. But we must also take care of our future. We must make the investments in research and development that will provide for future growth so that our children will not have to bear the full burden of our debt. We must continue to set high goals and challenges to inspire our children to study math and engineering and to stir their creative powers. Space station Freedom is just that kind of investment.

While it is important to strike a balance between today and tomorrow, it is also important to strike a balance within the space program itself. Space station Freedom does just that by keeping alive a manned space program. In canceling the space station, we would be pulling the plug on future human exploration of the solar system.

The space station Freedom is the next logical step in our hopes, dreams, and accomplishments in space. Just as the ancient Greeks looked to the heavens for guidance about the future, we too, should look to the stars as we contemplate our fate. In doing so, we should envision the international space station, called Freedom, and we should cast our votes to make it a reality.

Mr. Speaker, my district will not receive any money from this appropriation. But I want my children reaching for the stars.

TRIBUTE TO HON. GERALD B. SOLOMON ON HIS COMMITMENT TO OUR DESERT STORM VETERANS

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I take this time to extend my hearty congratulations to the gentleman from New York, the Honorable GERALD B. SOLOMON, the distinguished ranking member of the Committee on Rules, who has just received this very important award. It is an award that underscores his commitment to insuring that the homecoming for the courageous Americans whose sacrifices during Operation Desert Storm will be recognized.

This Saturday we are going to see a parade like this town and like the United States of America has never seen before. It could not have taken place had it not been for the efforts of the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY] and also the gentleman from New York [Mr. SOLOMON].

Mr. Speaker, I simply want all of us to extend our hearty congratulations to the gentleman from New York for receiving this great award.

WE SHOULD RECOGNIZE THE COMMITMENT OF OUR VETERANS OF THE VIETNAM WAR

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, we have spent much of the last week talking about issues of equal treatment and fairness. We will spend approximately $8 million this weekend on a parade to honor veterans of a 43-day-old war that had the support of the vast majority of the American people and that met with unparalleled success.

But within our country are 8 million veterans of another war, the war which caused 45,000 casualties and that did not have the support of the vast majority of the American people and that in fact required far more patriotic commitment on the part of the brave men who fought that war. It was unsuccessful, but not due to the fault of the veterans who fought that war.

Mr. Speaker, last week the Desert Storm Homecoming Foundation voted to keep Vietnam veterans out of the march this weekend and out of the picnic that follows that march. Mr. Speaker, that is just one more wrong in a litany of wrongs against the veterans, the very brave and patriotic veterans of the Vietnam war.

Mr. Speaker, it is unfair, and it ought to be changed.

□ 1020

NASA'S SPACE STATION, NOT A LUXURY, BUT A NECESSITY

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, it is time for Congress to stop playing with the future and start building it.

NASA's space station is today under attack from within this Chamber by those who mistakenly see it as a luxury.

Mr. Speaker, an American space station is not a luxury but a necessity as our world transforms itself from military confrontation and toward economic competition.

Throughout the last 30 years we have seen time and time again how space exploration has helped educate our children, stimulate high-technology industries, and generate countless medical breakthroughs.

Our space program is not about hardware. It is about where this Nation will go and what we will do in the international laboratory of outer space.

How can we even consider shortchanging future generations of Americans by putting the future on hold and eliminate space station Freedom as a national priority?

Mr. Speaker, I do not believe we can, and it is my hope that the House will vote to restore funding for space station Freedom.

EXPANDING FEDERAL STUDENT AID FOR WORKING AMERICANS

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, I say to my colleagues, "If you want to see the faces of a young family turn pale in a hurry, just ask how they plan to pay for their children's college education."

Although expensive now, Mr. Speaker, a college education is considered a fairly routine requirement for young people who want to get ahead in life. But when we start estimating the cost of college and the hundreds of thousands of dollars, it becomes anything but routine. Over the past 10 years, while family income raised 35 percent, the cost of a college education rose from 60 to 90 percent.

Mr. Speaker, I am pleased to join my majority leader, the gentleman from Missouri [Mr. GEPHARDT], and my colleagues, the gentleman from Maryland [Mr. HOYER], the gentleman from Montana [Mr. WILLIAMS] and the gentleman from New York [Mr. DOWNEY], to expand Federal student aid for working Americans.

Expansion of the Pell grant and Perkins loan programs were two of the most repeated requests I heard recently when I conducted a series of financial aid meetings in my district recently.

My colleagues, a college education is an investment in our people. Middle-income students and their families are caught in a terrible squeeze and forced to make very difficult choices about their futures. I am pleased to stand with my colleagues to say to middle-income Americans, "We believe in you, too. We want you to succeed."

VOTE TO FUND THE HOPE PROGRAM

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, in my short time in Congress, I have heard those on the other side of the aisle cry out for us to do something about the poor. Today, we have the opportunity to start doing something substantive about the poverty problem. Today, we can vote to fund the HOPE Program which will dramatically reform public housing in this country.

The only alternative to HOPE is to continue the failed housing policies of the past. One only needs to read the book, "There are no Children Here" by Alex Kotlowitz, to realize the scope of the failure of public housing. From the crime that rampantly runs through the projects to the rundown, rat-infested, closet-sized apartments that the tenants are forced to live in, there is no doubt that we have the duty to try something different.

Mr. Speaker, HOPE will begin the process of bringing the poor out of the grip of poverty by encouraging them to own property. We all know that when an individual has the power of ownership, their entire way of thinking changes, resulting in renewed confidence, a heightened sense of pride and previously unthinkable achievement. Mr. Speaker, it is time the liberals start trusting the poor by giving them the responsibility of home ownership.

OUR CHILDREN DESERVE THE BENEFITS TO BE DERIVED FROM SPACE STATION FREEDOM

(Mr. CRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAMER. Mr. Speaker, I rise in strong support of space station Freedom. We must continue on the path of manned exploration of space. A permanent manned presence in space with the space station is necessary for this effort.

Space station Freedom will provide a space based laboratory for conducting life sciences and microgravity research that will be unparalleled. We will realize unprecedented technological and scientific advancement from our development of the station. Our children deserve the benefits to be derived from space station Freedom.

We certainly face tough choices in this time of fiscal restraint and rightfully so. But lets not take a shortsighted approach and ignore an investment in the future. Funding the space station will insure that the United States will continue as the world's leader in space exploration and continue to be competitive as a technology based society.

I urge all my colleagues to enthusiastically support the Chapman/Lowery amendment which provides funding for space station Freedom.

FUTURE OF SPACE STATION AND STRONG SPACE PROGRAM THREATENED FOR YEARS TO COME

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, today I do urge my colleagues to join me in supporting the Chapman-Lowery amendment to restore the funding for the Space Station Program.

The expedient action of the Appropriation Subcommittee not only kills this program today, but will destroy any chance for a strong, relevant space program for many years to come. We have not had the opportunity to fully debate and weigh the impacts of this action practically as to their long term implications. Expediency must not push us blindly along a path when we have given little thought to where it is leading.

We are now able to put in place technology that now permits us to understand our planet and to measure the changes that man is bringing about. We can now see the depletion of the Earth's ozone layer; we can for the first time measure and monitor CO_2 and CFC's in our atmosphere; we see deforrestation taking place and the encroachment of deserts. These capabilities provide us the basis to be better stewards of planet Earth. The U.S. space program has made much of this advance possible.

We must carefully consider that the consequences of this action will further erode our reputation as a reliable partner for international cooperative efforts. I am not convinced that these issues have been thoroughly reviewed in the haste to agree with a bottom line.

MORTGAGE SCAM

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, I want to bring to my colleagues' attention a scandal that has rocked the city of Boston and elsewhere in Massachusetts. Hundreds, maybe thousands, of poor and elderly citizens are on the verge of losing their homes. Here is what is happening: A fly-by-night contractor bangs on your door, tells you that you need your roof fixed or your bathroom repaired or have your house painted or windows replaced. And that it won't cost you anything because he represents a bank that will put up the money. The homeowner, who is often illiterate, never sees a dime, and signs a paper agreeing to pay off a loan at interest rates as high as 24 percent, and often demanding a balloon payment at the end of 2 or 3 years. When the homeowner cannot pay, his home is seized, and he and his family are thrown out onto the street.

It is not just these con-artist contractors and rip-off mortgage companies that are involved in this scam. The major banks of this Nation are providing financing for these fraud firms. And it is happening in Georgia, Alabama, and other cities and States throughout this Nation.

I urge my colleagues to check up on home repair practices in their districts, to ensure that unsuspecting homeowners are not being ripped off by hustlers working in cahoots with banks that are unwilling to open offices in low- and moderate-income areas, but are happy to play patsy with those who would prey upon society's most vulnerable citizens.

PERMISSION FOR DISTRICT OF COLUMBIA DAY TO BE ON TUESDAY, JUNE 11, 1991, INSTEAD OF MONDAY, JUNE 10, 1991

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that District of Columbia Day be obseverd under clause 8, rule XXIV, on Tuesday, June 11 of this year instead of Monday, June 10, 1991.

Mr. BLILEY. Mr. Speaker, I reserve the right to object. Under my reservation I would ask the gentleman from California [Mr. DELLUMS], the chairman of the Committee on the District of Columbia, to explain the reasons for his request and for the legislation to be considered.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from Virginia [Mr. BLILEY] for yielding, and, as I am sure the Members of the House are aware, the rules of the House permit that the second and fourth Mondays are designated as District Days on which our committee can bring local legislation to the floor of the House. However we are making this request for District Day to be on Tuesday, June 11, 1991, in deference to a number of my colleagues, including the distinguished gentleman from Virginia [Mr. BLILEY], the ranking minority member of the Committee on the District of Columbia, who has expressed a personal interest in one of both of the two bills that will be considered.

Mr. Speaker, if my colleague will continue to yield, I would like to explain briefly the two pieces of legislation that we would consider, pending the unanimous-consent request on Tuesday. First, we would consider H.R. 2123, which would establish a predictable and equitable method for determining the amount of Federal payment for the District of Columbia. In addition, the bill would authorize the Federal payment to the District of Columbia for fiscal year 1992.

□ 1030

In addition to H.R. 2123, Mr. Speaker, we will call up H.R. 1720. That bill would amend Public Law 98-621, the St. Elizabeth's Hospital Transfer Act of 1984, to allow for certain capital improvements of the campus of St. Elizabeth's Hospital, and for other purposes. H.R. 1720 authorizes no new moneys for St. Elizabeth's Hospital.

Mr. Speaker, I am joined, as I understand it, in this request by my distinguished colleague, the gentleman from Virginia [Mr. BLILEY], who, as I indicated in my previous earlier remarks, is the ranking member of the Committee on the District of Columbia.

Mr. BLILEY. Mr. Speaker, further reserving the right to object, I want to thank the gentleman from California [Mr. DELLUMS] for his explanation. I note that at least one other member of our committee on this side will not be here on Monday. So, since this request to move District Day is in part at our request, I thank the gentleman for his indulgence and would note that I am in strong support of both items of the legislation to be considered.

Mr. Speaker, I withdraw my reservation of objection.

Mr. DELLUMS. Mr. Speaker, I repeat my unanimous consent request.

The SPEAKER pro tempore (Mr. GLICKMAN). Is there objection to the request of the gentleman from California?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2519, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1992

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 166 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 166

Resolved, That all points of order against consideration of the bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes, for failure to comply with the provisions of clause 2(1)(6) of rule XI and clause 7 of rule XXI are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clauses 2 and 6 of rule XXI are waived: beginning on page 8, line 15 through page 9, line 25; beginning on page 10, line 5 through page 11, line 24; beginning on page 13, lines 3 through page 13; beginning on page 16, line 8 through page 23, line 10; beginning on page 24, lines 9 through page 17; beginning on page 25, line 7 through page 26, line 2; beginning on page 27, lines 9 through 16; beginning on page 29, line 1 through page 30, line 4; beginning on page 31, line 8 through page 34, line 2; beginning on page 34, line 23 through page 37, line 26; beginning on page 38, line 8 through page 42, line 24; beginning on page 45, line 21 through page 46, line 17; beginning on page 47, line 1 through page 50, line 14; beginning on page 50, line 22 through page 54, line 2; beginning on page 55, line 15 through page 56, line 4; beginning on page 56, lines 9 through page 23; beginning on page 57, line 8 through page 58, line 14; beginning on page 59, line 21 through page 64, line 9; beginning on page 79, line 15 through page 80, line 6. It shall be in order to consider en bloc the amendments numbered one printed in the report of the Committee on Rules accompanying this resolution, said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and may amend portions of the bill not yet read for amendment. It shall be in order to consider en bloc the amendments numbered two printed in the report of the Committee on Rules, said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, may amend portions of the bill not yet read for amendment, and all points of order against said amendments en bloc are hereby waived. It shall be in order to consider en bloc the amendments numbered three printed in the report of the Committee on Rules accompanying this resolution, said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and may amend portions of the bill yet read for amendment.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 166 is the rule waiving points of order against provisions of H.R. 2519, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies commissions, corporations, and offices for fiscal year 1992.

House Resolution 166 provides the necessary waivers of the rules to allow immediate consideration of H.R. 2519 and waives rules against specific provisions of the bill.

The rule specifically makes it in order to consider the following amendments: First, the amendments en bloc to be offered by Representative TRAXLER, second, the amendments en bloc to be offered by Representatives CHAPMAN and LOWERY, and third, the amendments en bloc to be offered by Representative KOLBE.

The rule waives clause 2(l)(6) of rule XI, requiring a 3-day layover, and clause 7 of rule XXI, requiring relevant printed hearings and report to be available for 3 days prior to consideration of a general appropriation bill, against consideration of the bill.

House Resolution 166 also waives clause 2 of rule XXI, prohibiting unauthorized appropriations or legislative provisions in general appropriations bills, and restricting the offering of limitation amendments to such bills, against specific provisions of the bill.

Furthermore, the rule waives clause 6 of rule XXI, prohibiting reappropriations in a general appropriation bill, against specific provisions of the bill.

The precise provisions of H.R. 2519 for which these waivers are provided are detailed in the rule by reference to page and line in the Veterans Affairs/Housing and Urban Development appropriation bill for fiscal year 1992.

Finally, the rule specifically makes it in order to consider the following amendments: First, the amendments en bloc to be offered by Representative TRAXLER, second, the amendments en bloc to be offered by Representatives CHAPMAN and LOWERY, and third, the amendments en bloc to be offered by Representative KOLBE.

The three en bloc amendments are printed in the report accompanying the resolution, are not subject to a demand for a division of the question, and may amend portions of the bill not yet ready for amendment. The rule waives all points of order against the Chapman-Lowery amendments en bloc.

Mr. Speaker, the HUD/VA appropriations bill funds many vitally important programs. I urge adoption of the rule so the House can proceed to consideration of this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the rule, and I would like to begin by extending my appreciation to the gentleman from Missouri [Mr. WHEAT] and a number of his colleagues on the majority side for helping us fashion this rule. I should say, however, that I am concerned due to the fact that not all Republican Members who want to offer amendments to H.R. 2519 will be able to do so. I am referring to the Roukema en bloc amendments to transfer additional funds to the HOME and HOPE Programs.

However, the rule does make in order the Kolbe-Espy-Mrazek en bloc amendments to provide $151 million to help public housing residents buy their units. Despite the fact that this program, known as HOPE I, was authorized by the Banking Committee last year, the Appropriations Committee chose not to provide funding to help public housing residents attain the dream of home ownership.

Instead, the Appropriations Committee chose to increase, by $151 million, Federal handouts to owners of multifamily housing projects, many of whom can truly be called slumlords.

By funding HOPE II and HOPE III, while denying funds for HOPE I, the Appropriations Committee has effectively relegated public housing tenants to second-class citizenship. The Kolbe-Espy-Mrazek amendment will restore some semblance of sanity to the funding priorities of this appropriations bill.

Again, Mr. Speaker, I thank many of the Members on the majority side for helping us incorporate this amendment.

The rule also makes in order the Chapman-Lowery amendment to restore funding for the Space Station Program, which is essential to maintaining our national security as well as our leadership in space exploration. The United States has already spent $5.6 billion to develop the station and foreign partners in the project have spent about $1 billion.

Cancellation of the space station will jeopardize future scientific cooperation between the United States and our partners in Europe and Japan. The director of the European Space Agency said:

> It cannot be doubted that U.S. withdrawal from the international space station would have a serious adverse impact on the prospects for any future trans-Atlantic cooperation in the space field. It would certainly have an effect in other scientific and technological fields.

In short, Mr. Speaker, as Admiral Truley said: "America's credibility is on the line."

Mr. Speaker, I insert in the RECORD the administration's views on H.R. 2519. I will support this rule, and urge my colleagues to move forward with passage of the Chapman-Lowery amendment and the Kolbe-Espy-Mrazek amendment.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 5, 1991.

STATEMENT OF ADMINISTRATION POLICY

(H.R. 2519—VA/HUD and Independent Agencies Appropriation Bill, FY 1992—Sponsors: Whitten, Mississippi; Traxler, Michigan)

This Statement of Administration Policy expresses the Administration's views on the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Bill, as reported by the Committee. The Administration objects in the strongest terms to the termination of the Space Station and the funding of excessive public housing subsidies instead of HOPE. If these objections are not addressed in the bill presented to the President, his senior advisers would recommend that the bill be vetoed.

SPACE STATION

The Administration urges the Rules Committee to approve a rule that would make in order an amendment, expected to be offered by Congressmen Chapman and Lowery, to fund Space Station Freedom, with appropriate offsets.

The Administration strongly objects to the Committee's proposed termination of Space Station Freedom. It is particularly disturbing that such an action should be proposed immediately following the completion by NASA of a comprehensive restructuring of the program, performed at the specific request of the Subcommittee. The restructuring met all of the criteria imposed by the Subcommittee, including limits on annual budgetary growth.

Space Station Freedom is a critical element in planned future space science and technology programs; it is a major contributor to long-term U.S. economic growth; and it is an important element in international cooperation in science and technology. It is a visible manifestation of the nation's commitment to investment in the future.

The United States has already invested over $4 billion in the Space Station program. Our international partners have already invested over $1 billion. If the program that has been supported by a bipartisan national consensus for the last seven years were now canceled, it would call into question our ability to execute any large, complex science and technology program. Other nations would rightly question our reliability as a partner in such ventures, which would have serious implications for cooperation on important projects in a number of other fields.

The Committee's action is tantamount to an abandonment of America's manned space program. The House is urged in the strongest terms to restore funding for Space Station Freedom.

HOPE AND HOUSING PROGRAMS

The Administration strongly opposes the Committee's severe reduction in the President's requested funding for new housing programs, authorized in the Cranston-Gonzalez National Affordable Housing Act—especially HOPE homeownership grants. Instead of supporting these new and innovative housing programs that give tenants a stake in their future, the Committee added $1.4 billion above the President's request for the costly and ineffective housing construction programs that have been tried in the past. The 76 percent reduction in the President's request for HOPE grant funding, from $865 million to $210 million, would deny thousands of low-income families the opportunity to become homeowners. The Administration urges the Rules Committee to make in order an amendment that would reallocate housing funds for HOPE homeownership grants for public housing tenants.

The Administration objects to the Committee's funding level or $2.4 billion for public housing operating subsidies, a $250 million increase over the President's request. The President's $2.2 billion request will more than adequately cover the operating subsidy needs in FY 1992 for two reasons. First, utility costs are now projected to be substantially less than those assumed in the FY 1992 Budget. Second, HUD estimates that a significant portion of the FY 1991 supplemental appropriation will be available for obligation in FY 1992.

CHIEF FINANCIAL OFFICERS ACT

The Administration strongly opposes section 519, which would bar the use of funds appropriated in the VA, HUD, and Independent Agencies Appropriations Bill for the implementation of Public Law 101-576, the Chief Financial Officers Act of 1990. This law addresses long-standing Congressional and Administration concerns about financial management deficiencies in the Federal Government. These are deficiencies that must be corrected.

In passing the Chief Financial Officers Act (CFOs Act), the Congress found that "[b]illons of dollars * * * lost each year through fraud, waste, abuse, and mismanagement * * * could be significantly decreased by improved management." As a remedy, the CFOs Act (passed by voice vote without dissent) (1) strengthens Management capabilities; (2) provides for improved accounting systems, financial management, and internal controls to assure reliable information and deterrence of fraud, waste, and abuse; and (3) provides for reliable financial information—useful to Congress and the Executive Branch—in financing, managing, and evaluating Federal programs. Implementation of the CFOs Act is essential to good government.

The House is respectfully urged to support Space Station Freedom and provide additional funding for HOPE homeownership grants. The Administration's other concerns with the Committee-reported bill are outlined in the attachment.

H.R. 2519—VA/HUD AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1992

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding Levels

Department of Housing and Urban Development (HUD)

HOPE: The House Committee provides $1.1 billion for HOPE, $1 billion less than the President's request of $2.1 billion. The largest share of the decrease is in the HOPE Homeownership Grants program, where only $210 million of the $865 million requested was provided. Moreover, the Committee mark provides no funds at all for the Secretary's highest HOPE priority—public housing tenant ownership. The 76 percent reduction in HOPE grants funding will deny thousands of low-income families the opportunity to become homeowners. This opportunity, endorsed by the Congress last year in the Cranston-Gonzalez National Affordable Housing Act, should be given a chance to become reality with adequate funding.

HOME: The House Committee provides $500 million for HOME grants, $500 million less than the President's request or $1 billion. HOME grants provide States and localities greater flexibility in meeting the housing needs of their low-income residents. Funding HOME at $1 billion in FY 1992 would serve up to 70,000 families, and most of the assistance would be available within two years. These same funds in public housing new construction would create only about one-fifth as many new units some five years after the commitment of funds.

Subsidized Housing—Public Housing Modernization: The House Committee provides $2.5 billion for public housing modernization, $233 million more than the President's request. The President's request of $2.3 billion represents a 28 percent increase over the average modernization funding level for the years 1988 through 1990. The 1991 level of $2.5 billion has increased the substantial backlog of available but unspent modernization funds to around $5 billion. Funding this program at $2.5 billion in FY 1992 will only exacerbate an already excessive backlog.

Subsidized Housing—Public and Indian Housing New Construction: The Administration objects to providing $732.3 million for Public and Indian housing development. Public housing new construction costs twice as much as rental assistance (rental certificates, housing vouchers) with less choice. The President's Budget funds Indian housing units through a set-aside of $125 million in the new HOME grant program. The HOME set-aside will provide more flexibility to Indian tribes to develop housing programs that they believe are most effective. Tenant-based housing vouchers, which utilize existing private housing, can provide housing at less cost and with more choice to tenants.

Subsidized Housing—Elderly and Handicapped New Construction: The Committee provides nearly $797 million, $542 million more than requested by the Administration. The Committee level does not assume any funding for these units through the less expensive and more flexible options of leasing of existing housing. The Administration proposed to fund approximately 3,000 units through leasing, for a total of 5,000 units.

Subsidized Housing: The earmarkings for various programs under the account, Annual Contributions for Assisted Housing, exceed the amount appropriated. The Committee covers the excess earmarking by assuming the reservation of $216 million in previously appropriated funds, which would be carried over into FY 1992. Such carryovers have never been assumed in the past and are inappropriate. To the extent that the carryovers do not occur, the Administration would be required to make appropriate reductions below the specific funding earmarks included in bill language. Accordingly, the number of additional subsidized units and the size of the subsidized programs may turn out to be lower than the Committee forecasts in the bill.

Community Development Block Grants: The House Committee provides $345 million above the President's 1992 Budget request for this program. The President's request should be more than sufficient, given the start up of the new HOME program.

Salaries and Expenses: The Committee has abandoned the traditional practice of funding all of HUD's staff costs, excluding the Inspector General, in a single large appropriation, totaling $879 million. In lieu thereof, the Committee has straitjacketed HUD with separate appropriations for seven headquarters staff offices for personnel services and travel only, and a separate large appropriation of $750 million for HUD's remaining expenses. These seven appropriations for headquarters staff offices (five of the seven are less than $15 million) will severely limit the Secretary's ability to efficiently manage staff and to quickly reallocate staff to respond to unexpected demands. For example, the recent HUD scandals demanded quick action including reallocation of staff. Under the Committee appropriation structure the Secretary could not have responded in a timely manner to the unfolding events. The Administration asks the House to return to the traditional single appropriation for HUD staff that has worked effectively and efficiently in the past.

Office of the Inspector General: The House Committee cuts by $1 million the President's request for the HUD Inspector General. This reduction will impede audits and investigations to identify and correct management and administrative deficiencies.

Department of Veterans Affairs (VA)

Medical Care: The bill includes an unnecessary $265 million increase above the President's request for Department of Veterans Affairs (VA) medical care. Most of this increase is attributable to medical equipment, personnel costs, such as physician pay, and unrequested program enhancements, such as increased nursing staff. Any increases in personnel costs in VA medical care could be accommodated within the 7.5 percent increase over the FY 1991 level that was requested by the Administration for FY 1992.

Construction: The Administration strongly objects to the addition of $72 million for three unrequested VA construction projects: $16.8 million for design of a $187.8 million clinical addition in Ann Arbor, Michigan; $48.8 million of an ambulatory care facility in El Paso, Texas; and $6.4 million for renovations in Tuscaloosa, Alabama. Funding these low-priority projects circumvents VA's orderly construction planning process. The Ann Arbor project, the second costly replacement project in southern Michigan in two years, would be constructed within 40 miles of the $247 million replacement hospital in Detroit.

Parking Garages: The Administration objects to the addition of $10.7 million for parking garages in Nashville, Tennessee, and Miami, Florida. The Committee's rejection of the budget proposal to reallocate FY 1990 funds from a 1,500-space garage in Detroit, Michigan to partially fund the Nashville parking garage disregards VA's current planning projections, which support a 1,250-space garage in Detroit. The 1,500-space garage in Detroit, MI, is not supported by VA's current planning projections. Moreover, funding unrequested, low-priority projects such as the Miami parking garage further circumvents VA's orderly construction planning process.

Inspector General: The Committee provides $1.9 million less for VA's Inspector General than proposed in the President's FY 1992 budget. The Inspector General is required by statute to maintain an employment level of at least 417 FTE. In addition, the Inspector General's office has been given the responsibility of overseeing the audit of VA's financial statements as required by the recently enacted Chief Financial Officers Act. The funding decrease jeopardizes the Inspector General's ability to carry out these and other responsibilities.

Environmental Protection Agency (EPA)

Superfund: The Administration objects to the Committee's reduction of $100 million in the Superfund program and to the reallocation of an additional $36 million from critical-site cleanup work to fund low-priority activities. These actions would undermine the Administration's efforts to accelerate cleanup of the nation's worst hazardous waste sites and would unnecessarily extend the risks posed by these sites to public health and the environment.

Construction Grants/Wastewater Treatment Grants: The Administration opposes the $295 million increase for wastewater treatment grants because it exceeds the authorized level of funding. The President's request of $1.8 billion to construct facilities to treat domestic sewage is consistent with the overall level authorized by the Water Quality Act of 1987, and would target $300 million to cities with the largest remaining need. These targeted amounts are vital to the achievement of the Nation's water quality goals.

The Administration objects to the removal of $51 million from the President's request to construct a plant to treat sewage discharge from Tijuana. The Administration is committed to addressing serious pollution problems along the U.S.-Mexican border. Tijuana's sewage is causing adverse public health affects in southern California that must be addressed on a priority basis.

Operating Program: The President's request included a $191 million (8 percent) increase over FY 1991 for EPA's Operating programs (Salaries and expenses, Abatement, control and compliance, Research and development, and Buildings and facilities) to fund Clean Air Act implementation and initiatives such as Great Lakes cleanup. The additional $162 million above the request is not necessary to carry out EPA's statutory mandates and would fund activities that are primarily state and local responsibilities (e.g., implementation of the nonpoint source program, and asbestos loans and grants). Particularly objectionable are the increases that would fund numerous low-priority and special-interest projects, such as expensive unwanted laboratories, at a time when the Committee is reducing funds for Superfund cleanups. The Administration opposes the funding of special interests at the expense of the health and safety of Americans.

Dock Facilities in Bay City Michigan: The Administration strongly objects to the inclusion of $20 million for dock facilities and other items in Bay City, Michigan. This hardly seems consistent with the mission of a regulatory agency charged with protecting human health and the environment.

National Aeronautics and Space Administration (NASA)

Earth Observation System: The Administration objects to earmarking $25 million from Research and Development and $3.4 million from Construction of Facilities for the Consortium for International Earth Science Information Network for work on the Earth Observing System (EOS) date and information system (EOSDIS). The amount earmarked from Research and development is 30 percent of the total funding available for the EOS data and information system—the most crititical element of the EOS program. Earmarking funding for this Consortium, based in Michigan, will have serious adverse affects on the current EOSDIS schedule and thereby delay achievement of the objectives of the broader U.S. Global Change Research Program.

Landsat: The Committee provides $5 million for Landsat long lead parts. This would initiate a new, unrequested program in NASA at a time when other on-going programs, including Space Station, have few resources. No funds are required in FY 1992 for additional satellites, consistent with the expected lifetime of Landsat 5. The Administration is committed to maintaining the continuity of Landsat-type data, and is considering options for continuing Landsat-type data after Landsat 6, including how Landsat should be funded. Traditionally, Landsat has been funded by NOAA.

National Science Foundation (NSF)

Academic Research Instrumentation Program: The Administration objects to the deletion of funding proposed for the National Science Foundation's new Academic Research Instrumentation program. The Administration requested $50 million for high cost scientific instruments. There is an enormous need for this high cost equipment in order to make continued progress in research in fields such as surface chemistry, materials synthesis and processing, and molecular biology. Breakthroughs in basic research in all of these fields have the potential to make long-lasting contributions to U.S. economic growth. The need of researchers for access to state-of-the art instrumentation far outstrips the additional funding provided by the Committee for facilities renovation funds or for graduate traineeships.

Research Facilities Modernization: The Administration objects to the $20 million provided by the Committee for a program to modernize academic research facilities. The Federal government is providing over $1 billion per year to universities for facilities through use charges and operations and maintenance expenses included in indirect cost recovery payments. This is the proper way to fund academic research facilities. The Administration understands that universities have not always invested these payments for renovation and modernization of buildings and equipment, and has proposed changes in the rules governing indirect costs to address this situation.

Traineeship: The Administration opposes $25 million included for a new program of graduate traineeship. The traineeship programs apparently are justified by concerns over possible "shortages"; however, serious questions have recently been raised about the validity of these alleged "shortages". The House is urged to delete funding this low-priority program.

Salaries and Expenses: The Administration objects to the deletion of funds for NSF's relocation. NSF requested relocation from the General Services Administration (GSA) because its current location is inadequate both in terms of total spaced and support for NSF's activities (e.g., computer and electrical capability). GSA conducted a full and open competition and has executed a lease on a new facility for occupancy in 1993. Abrogating this lease will be extremely costly to the taxpayer.

The Points of Light Foundation: The Committee provides no funding for the Points of Light Foundation. The Foundation, a Presidential initiative, makes direct and consequential voluntary service aimed at serious social problems central to the life and work of every American. The House is urged to fund this program at the requested level of $7.5 million.

National Institute of Building Sciences: The Administration opposes funding for this Institute. Consistent with the Institute's original authorizing legislation, it should continue to be self-supporting as it was in FY 1991.

B. Language Provisions

Environmental Protection Agency

User Fees: The Administration objects to the Committee's delegation of language included in the President's Budget that would allow user fees deposited in the Environmental Services Fund to be used to finance the programs for which the fees are collected. This language is consistent with—and needed to fully implement—the EPA fee provisions in the Omnibus Budget Reconciliation Act of 1990. Further, it would provide an incentive for quick establishment of the fees and ensure that they are used to support the programs for which the fees are charged.

Personnel Earmarking: The Administration opposes inclusion of specific staff levels for various EPA headquarters offices. Congressional micromanagement of this nature eliminates the necessary flexibility to allocate staff resources to the most presiding needs. The House should delete this provision.

Leaking Underground Storage Tank Trust Fund (LUST): The Administration objects to report language earmarking $1 million for a demonstration project in Iowa. The existing allocation system for LUST resources has worked well and the House should avoid the temptation to make this a pork barrel program.

Environmental Education Awards: The Administration requests the deletion of report language which would transfer from the Council on Environmental Quality (CEQ) to EPA the responsibility for the President's Awards for Excellence in Environmental Education. This transfer contradicts the National Environmental Education Act of 1990, which specifically designates CEQ as the administrator of the program.

Department of Housing and Urban Development

Administrative Provisions: The Administration objects to a number of provisions that forgive repayments and a loan to HUD. These provisions allow the cities of Malden and Newburyport, Massachusetts, Jefferson City, Missouri, Valleyjo, California, and New London, Connecticut to retain land disposition proceeds, and allows Calhoun Falls, South Carolina to not repay its public facilities loan. These provisions set an undesirable precedent as other communities could seek similar exceptions to HUD program requirements.

Senior Executive Service Limits: Currently, HUD is authorized 28 noncareer positions in the Senior Executive Service. If the Department is limited to 15 noncareer positions in the Senior Executive Service, the Secretary's ability to respond to serious issues relating to HUD's mission will be severely impeded and will seriously impact HUD's management. This micromanagement of an Executive branch agency is inefficient, ineffective and inappropriate.

Department of Veterans Affairs

Medical Care: Language earmarking $8.75 billion for personnel services within VA Medical Care infringes upon VA's executive management of the veterans' health care system and precludes the Department from utilizing medical funds in the most effective and efficient manner. This provision should be deleted.

Federal Emergency Management Agency (FEMA): National Insurance Development Fund. The bill would forgive Treasury borrowing incurred by the National Insurance Development Fund (Crime Insurance). This budget adjustment would not result in any savings. The House should delete this forgiveness of debt.

Consumer Product Safety Commission (CPSC): Private industry currently receives CPSC advice, expertise and safety "certification" free-of-charge. The President's FY 1992 Budget proposes to begin to recover the costs of these services through user fees. The budget proposal follows the directive in the recent CPSC reauthorization (P.L. 101-608) that the CPSC should conduct a one-year study on the feasibility of user fees. In failing to adopt proposed user fee language, the Committee has missed an opportunity to improve the operation and equity of Federal services.

C. Scoring

Scorekeeping Adjustments: Based on preliminary analysis, OMB's scoring of the bill shows that total budget authority would be $310 million above the 602(b) allocation. This results from three scorekeeping adjustments:

$273 million of this increase is in discretionary receipts for GNMA's mortgage-backed securities program. The Committee assumes that this program makes a profit for the Government; the President's Budget assumes that the fees charged to the users of the program cover its cost;

$14 million is for VA incremental costs of Operation Desert Shield/Desert Storm that the committees declared an emergency. These monies would continue to fund additional staff through FY 1992 for claims processing and transition assistance that was provided in the FY 1991 emergency supplemental. The President's Budget assumes there would be an increase in the number of new veterans as a result of the planned reduction of active military strength. Therefore, additional funding is not needed and would not be designated as an emergency; and,

$17 million for medical cost recovery that would result in an increase in spending. The Committee added a limitation that would allow VA to use collections above the level projected in the President's Budget.

VA, HUD, INDEPENDENT AGENCIES, 1992 DEFENSE AND DISCRETIONARY SPENDING

[In millions of dollars]

Major programs	1991 enacted[1]		1992 President's request[2]		House committee		House Difference from			
							Enacted		Request	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
DISCRETIONARY SPENDING										
Domestic spending:										
Housing and Urban Development:										
Subsidized housing programs	16,910	14,225	16,016	15,801	16,838	15,821	−72	1,595	822	19
HOPE grants			865		210		210		−655	
General and special risk program account	268	62	244	225	244	225	−24	163		
Shelter plus care			91	4	87	4	87	4	−3	
Flexible subsidy fund		26	203	102	203	102	203	76		
Payments to the operation of low-income housing	2,175	2,047	2,156	2,190	2,406	2,305	231	258	250	115
Drug elimination grants for low-income housing	150	0	165	76	165	76	15	75		
Community development grants	3,205	3,073	2,920	3,099	3,265	3,113	60	40	345	14
Emergency shelter grants	73	67	71	73	71	73	−2	6		
HOME block grant			1,000	20	500	10	500	10	−500	−10
Management and administration	459	429	479	474	478	474	20	45	−1	−0
Other HUD	160	1,339	319	1,331	277	1,328	117	−10	−43	−3
Subtotal, HUD	23,400	21,269	24,530	23,394	24,745	23,530	1,345	2,261	215	135
Veterans Affairs:										
Medical care	12,335	12,123	13,260	13,014	13,552	13,231	1,217	1,109	292	217
Other VA	2,011	1,772	1,893	1,738	2,048	1,807	37	35	155	70
Subtotal, VA	14,346	13,994	15,154	14,752	15,600	15,039	1,254	1,144	446	287
NASA:										
Research and program management	2,212	2,223	2,452	2,417	2,427	2,396	215	173	−25	−22
Space flight control and data communication	5,124	5,184	5,576	5,454	5,618	5,483	493	299	42	29
Construction of facilities	498	363	480	445	399	440	−99	77	−82	−5
Research and development	6,024	5,718	7,199	6,389	5,195	5,371	−829	−348	−2,004	−1,019
Other NASA	11	10	15	14	13	13	2	3	−2	−1
Subtotal, NASA	13,868	13,497	15,721	14,719	13,651	13,702	−217	205	−2,070	−1,018
FEMA:										
Disaster relief		822	184	356	184	356	184	−466		
Other FEMA	255	330	229	292	271	334	16	4	42	42
Subtotal, FEMA	255	1,152	414	648	458	690	201	−462	42	42
EPA:										
Construction grants	2,100	2,353	1,900	2,194	2,195	2,199	95	−154	295	5
Hazardous substance response trust fund (superfund)	1,616	1,361	1,750	1,514	1,650	1,493	34	132	−100	−21
Salaries and expenses	975	922	1,090	1,062	1,090	1,062	115	140		
Research and development	255	253	313	276	334	284	79	31	21	8
Abatement, control and compliance	979	865	1,020	893	1,134	939	155	73	114	46
Other EPA	157	131	139	148	164	153	8	23	25	5
Subtotal, EPA	6,081	5,884	6,212	6,087	6,567	6,129	486	245	355	42
National Science Foundation	2,316	2,098	2,722	2,416	2,722	2,398	406	298	−0	−20
Resolution Trust Corporation	11	11	30	30	30	30	20	19		
Other Independent Agencies	172	−43	132	111	121	102	−51	145	−11	−9
Total domestic spending	60,449	57,762	64,915	62,157	63,891	61,617	3,442	3,855	−1,023	−541
DEFENSE SPENDING										
FEMA	308	310	310	312	310	312	2	2		
All other	27	6	27	27	27	27	1	1		
Total defense spending	335	336	337	339	337	339	3	2		
Total discretionary spending	60,784	58,098	65,252	62,496	64,229	81,968	3,445	3,857	−1,023	−541

[1] FY 1991 enacted includes credit reform adjustments for comparability with FY 1992.

[2] FY 1992 President's request includes legislative proposals.

602(b) Allocations:
Defense discretionary—Budget authority $338; Outlays $339.
Domestic discretionary—Budget authority $63,590; Outlays $61,390.

Note: Detail may not add to totals due to rounding.

Mr. DREIER of California. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I appreciate the gentleman's support for this rule. We believe it to be a fair rule. The rights of all Members are maintained to offer germane amendments to this bill.

Mr. Speaker, I have no requests for time I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GREEN of New York. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 14, not voting 13, as follows:

[Roll No. 138]

YEAS—404

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill

Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—14

Allard
Burton
Coble
Cox (CA)
Crane
Dannemeyer
Hancock
Hefley
Herger
Petri
Roukema
Stump
Upton
Vucanovich

NOT VOTING—13

Anthony
Bilbray
Collins (IL)
Hunter
Levine (CA)
Mavroules
Mfume
Neal (NC)
Olin
Savage
Sisisky
Thomas (GA)
Wise

☐ 1101

Mr. McCANDLESS changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2519, the bill about to be considered, and that I be permitted to include tables, charts, and other extraneous materials.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Michigan?

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1992

Mr. TRAXLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1½ hours, the time to be equally divided and controlled by the gentleman from New York [Mr. GREEN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

☐ 1104

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 2519, with Mr. BEILENSON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Michigan [Mr. TRAXLER] will be recognized for 45 minutes and the gentleman from New York [Mr. GREEN] will be recognized for 45 minutes.

The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we bring to you a bill that I think deserves your unanimous support, and I am confident that it will receive much of that.

Before I begin, I want to express my personal appreciation and gratitude to the distinguished ranking minority Member, the gentleman from New York [Mr. GREEN]. He is an outstanding Member of this body who is appreciated and whose thoughtfulness and intellect and careful positions are appreciated by not only myself but every Member. This product represents that portion of the intellect of the gentleman from New York [Mr. GREEN] that we all admire, and it could not be here but for him.

Mr. Chairman, also, I would like to especially express my gratitude to the members of the subcommittee, the gentleman from Ohio [Mr. STOKES], the gentleman from West Virginia [Mr. MOLLOHAN], the gentleman from Texas [Mr. CHAPMAN], the gentleman from Massachusetts [Mr. ATKINS], the gentlewoman from Ohio [Ms. KAPTUR], of course, the gentleman from New York [Mr. GREEN], the ranking minority Member, the gentleman from Pennsylvania [Mr. COUGHLIN], and the gentleman from California [Mr. LOWERY]. Then, Mr. Chairman, there are some unseens and unrecognized staff people who make this process work and without whose valuable assistance no bill could ever come to this floor, and so it is with deep appreciation I recognize what I consider to be some of the finest staff people on this Hill. We all know that without the help of the staff, the business of the Congress could never go forward; and all staff adequately and wonderfully serve the people of the United States of America: Dick Malow, who is the committee clerk who has been there for 19 years; Paul Thomson, many years on the subcommittee; Michelle Burkett, starting with us officially last year as a member of the subcommittee staff; Marissa Smith, an intern detailed to the subcommittee, and I could not go on without mentioning a person on my personal staff, Bill Gilmartin, and on Mr. GREEN'S staff, Jeff Lawrence, both of whom have made significant contributions over the years to this effort.

Mr. Chairman, well now, what are the facts that the subcommittee faced when we put this bill together, and why did we do what we did do? Let me tell you.

Here is the situation: the outlays for the 10 domestic discretionary appropriation bills increased by 7½ percent for 1992 above 1991. This bill, as requested by the President, required roughly a 7-percent increase in outlays.

The allocation, the pie, that the subcommittee received represented a 5½-percent increase. Well, what does that really mean? Let me translate.

That means that we had to cut the President's budget by $1,207,000,000 in budget authority, and $840,000,000 in outlays.

Those are only numbers. They are only numbers, and perhaps because of the size, we do not understand them or do not appreciate them. I have a problem with it. That is a lot of money in my world back outside the Beltway, as it is for all of you.

What it really means is that we had to make tough, hard choices. The subcommittee had to prioritize between funding major new initiatives such as the space station versus funding for other ongoing program requirements both within NASA and the other agencies in the bill. Not fun, not easy.

But we are not here looking for sympathy. We are here to explain to you why we present this bill in the form that it is in and why and how we made those choices.

□ 1110

Now, the choice was made to cancel the space station. Let me say that this was not an easy choice. We have worked closely, with the authorizing committee, and I am very proud of the personal relationship that I have with the authorizing Committee on Science, Space, and Technology, and its distinguished chairman, the gentleman from California [Mr. BROWN].

Unfortunately, he and I will have separate views on this, and he will explain those to you later.

I might also add that later there will be an amendment to be offered by two distinguished members of the subcommittee.

I regret that we have these different views and positions. It in no way affects the esteem and warmth with which I hold them, and certainly the decision to cancel the station by the subcommittee and the full committee does not in any way impinge on the friendship and the esteem with which we have held the NASA management.

Admiral Truly, J.R. Thompson, and Bill Lenore in my judgment are three very capable, talented managers, of which this Nation can be proud. I have enjoyed with them a friendship and I expect that will continue even though we hold different positions in relation to the station.

This subcommittee has been and will be a strong supporter of the NASA programs.

Now, why do we make this change? Why do we cancel the station?

Well, if we had funded the station, the subcommittee would have had to make drastic cuts in the funding in these areas:

VA medical care, environmental programs within EPA, the National Science Foundation and all the wonderful work it does in basic science, science teacher education and the scholarships that it offers. The importance that it is to the technological base and the productivity of America is critical to us, and we fully funded science education and then some.

I must also say, we did not want to reduce the programs within NASA, the science programs which we think are extremely beneficial and important. We made those difficult choices.

It really came down to these kinds of issues. We could fund the space station and provide for virtually no other increases, and indeed probably be forced into a reduction mode, or we could cancel the station, and fund other important science and people programs that are in this bill. Not an easy choice, not one that any member of this subcommittee is overjoyed with.

Let me say a word or two about veterans medical care, and I will expand upon this later when I offer the amendment to increase the veterans medical care.

We have added $265 million for VA medical care, and that does not include a $33 million amendment we will offer in a little while from now. None of this would have been possible without the able assistance and the friendship of the distinguished gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Veterans' Affairs Committee. He was able to find for our subcommittee some $90 million that is going to be dedicated to VA medical equipment, and for that I am especially grateful. His commitment to America's veterans is exceeded nowhere in this Congress or in this Government, and I am very appreciative of that dedication. He makes my task, my job in the subcommittee, so much easier.

But the truth of the matter is that while we have added this $265 million for VA medical care, and there will be as I said another $33 million added to that, we should be adding probably $400 to $500 million if we really want to begin to address the problems within the VA health care system, and I want you to understand that. In spite of the best efforts that the subcommittee has been able to make, with the full cooperation of the gentleman from Mississippi [Mr. MONTGOMERY] and the Veterans' Affairs Committee, in my judgment we are still short.

Today, many of the VA hospitals are operating at the margin. They are not delivering, in my judgment, the kind of first-class medical care that our veterans are entitled to. I regret that and so does every member of the subcommittee and of this body, I am sure. They do not have the nurses to staff the wards. They do not have the anesthesiologists to keep the operating rooms going. They do not have enough radiologists to read the x rays, or laboratory technicians to conduct the tests, to measure the blood samplings. The list goes on and on.

We made a choice to take some money and put it in the National Science Foundation science programs, very critical science programs to this country. We put it in the EPA in their research and enforcement budgets. We put it into VA medical care and VA medical research; but above all other increases, we put it into the NASA science programs, such as the Earth Observation System, EOS, CRAF/Cassini, and so on. These programs are strongly supported by the Committee on Science, Space, and Technology. They have been the genesis for many of them, and for that I am grateful.

Now, let me say a word or two about the space station. You know, as I said earlier, our argument is not against NASA. We are not even arguing, as a matter of fact. We are making a hard choice. They redesigned and rescoped the space station according to the subcommittee's request. We did not design it. We are not engineers, and we do not intend to be, but we were concerned about certain cost-factors. NASA brought within some parameters that we were concerned about and they did so, I think, with the full cooperation of the subcommittee and a lot of conversation, and for that I am appreciative.

The rescoped station, in my judgment, is an excellent design and it meets most of the subcommittee's concerns.

The sad part is that we would have a station in orbit today if the agency and others in this town had taken the advice back in 1984 when another chairman stood in this well and swore that there was not going to be enough money to fund the then-concept of the station, the big enchilada.

We said let us proceed with this on a "buy the yard basis". That advice was not taken at that time, and now we find ourselves in this situation. The new design is, by the way, a "buy the yard" station.

There are fire walls in the station, and if the amendment prevails to reinstate the station—I hope it will not, but if it does prevail—I will tell you, if the cost of the station continues to escalate, we will be back down here in another year on another day and we will be drawing this line and this fight will be held all over again if those costs escalate.

Now, we cannot afford the station, unfortunately, even if it is redesigned, in my judgment. Big science is really knocking out little science here. You cannot escape that.

If you look carefully at the proposed amendment, it goes after the science in NASA and, of course, it does some other things to low-income housing which we will discuss later. But the point that is really our focus is also the point that the academics have been talking about, that we have all read about, heard about in our luncheon conversations and in the seminars we have attended—little science versus big science.

The amendment will slash little science within NASA and promote one single objective, and that is the space station. Big science, yes, in their amendment; little science, yes, in our amendment. I think that we properly framed that.

I want to tell you that if the station comes in, in my judgment it is going to eat our lunch this year, but it is going to eat your dinner next year.

Keep in mind the 1993 space station costs are about $2.5 billion, followed with an increase to $2.5 billion the following year. These increases, coupled with the increase in EOS and other NASA programs, cannot fit into the shrinking discretionary budget. It simply cannot be.

Why? As we stand here, we know in this subcommittee and in the full committee, and the Budget chairman will tell you that the allocation in 1993 will probably not allow us to fund inflationary increases in this subcommittee.

Now, ask yourselves how we can expect to provide for 10 to 15 percent increases in NASA, 8 to 9 percent increases in the VA medical care, an 18 percent increase in the National Science Foundation, and 8 to 10 percent increases in environmental programs, and do all that when the allocation will go up within a range of 3 to 4½ percent.

□ 1120

It "don't" work. That dog "don't" hunt, the turkey "don't" fly.

I cannot manufacture money, and neither can the subcommittee. We are living under the budget agreement of last fall. Like it or not, that set the tone and the blueprint for what the appropriators can do. If you make those numbers fly and do those things, you are a superior mathematician than I am, and you may be engaging in some Chinese arithmetic.

On the other hand, you can do what the amendment proposes—restore the station, and you can offer up for space station, on its altar, virtually every other NASA program. Let me emphasize that: If you do station in this amendment, you are throwing out the window the NASA science space programs. The thing that the Augustine Commission said was the most vital and important thing we could do in space is space science and the last thing they said we ought to do priority-wise is space station. The leaders of the American space community issued that report. We got copies of it; you got copies of it, read it, believe it, follow it.

This is not just something that the subcommittee dreamt up as a priority. This report is the speaking of the American space community leadership in the Augustine Commission report. I commend it to you.

My judgment is that this amendment will wipe out space science and you ought not decimate it, you ought not cripple the shuttle program, you ought not cut to the bone NASA personnel and the facilities budget, and you ought not wipe out and hurt—not wipe out, you will decimate the aeronautics programs.

If you do that, I am personally convinced it is the wrong choice for NASA, and more importantly it is the wrong choice for the Nation.

So, Mr. Chairman, I urge a "yes" vote on the bill and a "no" vote on the station amendment.

I will include a table comparing the amounts recommended in the bill with the 1991 appropriations and the revised 1992 budget requests at this point:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1991 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1992

Agency and item (1)	Appropriated, 1991 (enacted to date) (2)	Budget estimates, 1992 (3)	Recommended in bill (4)	Bill compared with appropriated, 1991 (5)	Bill compared with budget estimates, 1992 (6)
TITLE I					
DEPARTMENT OF VETERANS AFFAIRS					
Veterans Benefits Administration					
Compensation and pensions	16,397,135,000	15,841,620,000	15,841,620,000	-555,515,000	
Readjustment benefits	752,500,000	635,400,000	635,400,000	-117,100,000	
Veterans insurance and indemnities	15,410,000	25,740,000	25,740,000	+10,330,000	
Loan guaranty revolving fund	670,200,000			-670,200,000	
Guaranty and indemnity fund	80,800,000			-80,800,000	
Guaranty and indemnity program account (indefinite)		367,709,000	367,709,000	+367,709,000	
Administrative expenses		39,689,000	39,689,000	+39,689,000	
Loan guaranty program account (indefinite)		128,920,000	128,920,000	+128,920,000	
Administrative expenses		85,870,000	85,870,000	+85,870,000	
Direct loan program account (indefinite)		9,000	9,000	+9,000	
(Limitation on direct loans)		(1,000,000)	(1,000,000)	(+1,000,000)	
Administrative expenses		1,368,000	1,368,000	+1,368,000	
Education loan fund program account		8,000	8,000	+8,000	
(Limitation on direct loans)		(21,000)	(21,000)	(+21,000)	
Administrative expenses		307,000	307,000	+307,000	
Vocational rehabilitation loans program account		105,000	105,000	+105,000	
(Limitation on direct loans)		(1,688,000)	(1,688,000)	(+1,688,000)	
Administrative expenses		936,000	936,000	+936,000	
Direct loan revolving fund (limitation on direct loans)	(1,000,000)			(-1,000,000)	
Total, Veterans Benefits Administration	17,916,045,000	17,127,681,000	17,127,681,000	-788,364,000	
Veterans Health Administration					
Medical care	12,335,490,000	13,287,096,000	13,462,096,000	+1,126,606,000	+175,000,000
Medical equipment			90,000,000	+90,000,000	+90,000,000
Copayment savings			-90,000,000	-90,000,000	-90,000,000
Medical and prosthetic research	216,795,000	216,795,000	226,795,000	+10,000,000	+10,000,000
Health professional scholarship program	10,113,000	10,113,000	10,113,000		
Medical administration and miscellaneous operating expenses	41,434,000	40,479,000	40,479,000	-955,000	
Grants to the Republic of the Philippines	484,000	500,000	500,000	+16,000	
Total, Veterans Health Administration	12,604,316,000	13,554,983,000	13,739,983,000	+1,135,667,000	+185,000,000
Departmental Administration					
General operating expenses	914,514,000	847,204,000	854,204,000	-60,310,000	+7,000,000
Desert Shield/Desert Storm incremental costs			(14,100,000)	(+14,100,000)	(+14,100,000)
Office of Inspector General	24,859,000	29,959,000	28,000,000	+3,141,000	-1,959,000
Construction, major projects	580,000,000	450,000,000	522,000,000	-58,000,000	+72,000,000
Construction, minor projects	130,640,000	195,701,000	189,701,000	+59,061,000	-6,000,000
(Limitation on administrative expenses)	(44,420,000)	(46,176,000)	(45,176,000)	(+756,000)	(-1,000,000)
Parking garage revolving fund	28,900,000	8,536,000	19,200,000	-9,700,000	+10,664,000
Grants for construction of State extended care facilities	70,000,000	85,000,000	85,000,000	+15,000,000	
Grants for the construction of State veterans cemeteries	3,946,000	5,104,000	5,104,000	+1,158,000	
Total, Departmental Administration	1,752,859,000	1,621,504,000	1,703,209,000	-49,650,000	+81,705,000
Total, title I, Department of Veterans Affairs:					
New budget (obligational) authority	32,273,220,000	32,304,168,000	32,570,873,000	+297,653,000	+266,705,000
(Limitation on direct loans)	(1,000,000)	(2,709,000)	(2,709,000)	(+1,709,000)	
(Limitation on administrative expenses)	(44,420,000)	(46,176,000)	(45,176,000)	(+756,000)	(-1,000,000)

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1991 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1992—Continued

Agency and item (1)	Appropriated, 1991 (enacted to date) (2)	Budget estimates, 1992 (3)	Recommended in bill (4)	Bill compared with appropriated, 1991 (5)	Bill compared with budget estimates, 1992 (6)
TITLE II					
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
Housing Programs					
Homeownership and opportunity for people everywhere grants (HOPE grants)	....	865,400,000	210,000,000	+210,000,000	-655,400,000
HOME investment partnerships program	....	1,000,000,000	500,000,000	+500,000,000	-500,000,000
Annual contributions for assisted housing	9,525,000,000	9,065,790,000	9,985,790,000	+460,790,000	+920,000,000
Rescission of assisted housing deobligations (budget authority, indefinite)	-535,190,000	-227,000,000	-227,000,000	+308,190,000	....
Total, annual contributions for assisted housing (net)	8,989,810,000	8,838,790,000	9,758,790,000	+768,980,000	+920,000,000
Assistance for the renewal of expiring section 8 subsidy contracts	7,890,800,400	7,024,589,000	7,024,589,000	-866,211,400	....
Rental rehabilitation grants	70,000,000	....	....	-70,000,000	....
Rental housing assistance:					
Rescission of budget authority, indefinite	-46,000,000	-52,641,000	-52,641,000	-6,641,000	....
(Limitation on annual contract authority, indefinite)	(-2,000,000)	(-2,393,000)	(-2,393,000)	(-393,000)	....
Rent supplement program:					
Rescission of budget authority, indefinite	....	-53,856,000	-53,856,000	-53,856,000	....
(Limitation on annual contract authority, indefinite)	....	(-2,448,000)	(-2,448,000)	(-2,448,000)	....
Housing assistance for the elderly and persons with disabilities	....	152,810,000	....	....	-152,810,000
Congregate services	9,500,000	....	9,500,000	....	+9,500,000
Payments for operation of low-income housing projects	2,175,000,000	2,155,844,000	2,405,844,000	+230,844,000	+250,000,000
Housing counseling assistance	8,000,000	3,700,000	8,350,000	+350,000	+4,650,000
Flexible subsidy fund	....	203,413,000	203,413,000	+203,413,000	....
Federal Housing Administration Fund	317,366,000	....	....	-317,366,000	....
(Limitation on guaranteed loans)	(75,000,000,000)	....	....	(-75,000,000,000)	....
Temporary mortgage assistance payments (limitation on direct loans)	(151,125,000)	....	....	(-151,125,000)	....
FHA - Mutual mortgage insurance program account:					
(Limitation on guaranteed loans)	....	(53,592,815,000)	(60,000,000,000)	+60,000,000,000	(+6,407,185,000)
Administrative expenses	....	255,645,000	255,645,000	+255,645,000	....
Offsetting receipts	....	-255,645,000	-255,645,000	-255,645,000	....
FHA - General and special risk program account:					
(Limitation on guaranteed loans)	....	(8,651,901,000)	(8,651,901,000)	(+8,651,901,000)	....
Administrative expenses	....	189,000,000	189,000,000	+189,000,000	....
Program costs	....	54,911,000	54,911,000	+54,911,000	....
Total, Federal Housing Administration Fund	317,366,000	243,911,000	243,911,000	-73,455,000	....
Nonprofit sponsor assistance (limitation on direct loans)	(1,100,000)	....	....	(-1,100,000)	....
Drug elimination grants for low-income housing	150,000,000	165,000,000	165,000,000	+15,000,000	....
Government National Mortgage Association					
Guarantees of mortgage-backed securities loan guarantee program account:					
(Limitation on guaranteed loans)	(80,000,000,000)	(74,769,293,000)	(74,769,293,000)	(-5,230,707,000)	....
Administrative expenses	....	6,595,000	6,595,000	+6,595,000	....
Offsetting receipts	....	-279,700,000	-279,700,000	-279,700,000	....
Total, Housing Programs (net)	19,564,476,400	18,408,455,000	19,439,795,000	-124,681,400	+1,031,340,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1991 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1992—Continued

Agency and item (1)	Appropriated, 1991 (enacted to date) (2)	Budget estimates, 1992 (3)	Recommended in bill (4)	Bill compared with appropriated, 1991 (5)	Bill compared with budget estimates, 1992 (6)
Homeless Assistance					
Emergency shelter grants program	73,164,000	71,000,000	71,000,000	-2,164,000	
Transitional and supportive housing demonstration program	150,000,000	150,000,000	150,000,000		
Supplemental assistance for facilities to assist the homeless	11,263,000	57,000,000	57,000,000	+45,737,000	
Section 8 moderate rehabilitation, single room occupancy	105,000,000		55,000,000	-50,000,000	+55,000,000
Shelter plus care:					
Section 8 moderate rehabilitation, single room occupancy		53,333,000	50,000,000	+50,000,000	-3,333,000
Section 202 rental assistance		37,200,000	37,200,000	+37,200,000	
Homeless rental housing assistance program		167,200,000	116,000,000	+116,000,000	-51,200,000
Total, Homeless Assistance	339,427,000	535,733,000	536,200,000	+196,773,000	+467,000)
Community Planning and Development					
Community development grants	3,200,000,000	2,920,000,000	3,265,000,000	+65,000,000	+345,000,000
(Limitation on guaranteed loans)	(140,000,000)		(140,000,000)		(+140,000,000)
Urban homesteading	13,000,000			-13,000,000	
Total, Community Planning and Development	3,213,000,000	2,920,000,000	3,265,000,000	+52,000,000	+345,000,000
Policy Development and Research					
Research and technology	28,500,000	35,000,000	29,500,000	+1,000,000	-5,500,000
Fair Housing and Equal Opportunity					
Fair housing activities	12,410,000	13,000,000	13,000,000	+590,000	
Management and Administration					
Salaries and expenses (multiple accounts)	429,500,000	444,453,000	444,453,000	+14,953,000	
(By transfer, limitation on FHA corporate funds)	(396,000,000)	(435,000,000)	(435,000,000)	(+39,000,000)	
Office of Inspector General	29,283,000	35,020,000	34,000,000	+4,717,000	-1,020,000
(By transfer, limitation on FHA corporate funds)	(10,000,000)	(9,645,000)	(9,645,000)	(-355,000)	
Total, title II, Department of Housing and Urban Development:					
New budget (obligational) authority (net)	23,616,596,400	24,257,061,000	24,471,948,000	+855,351,600	+214,887,000
Appropriations	(24,197,786,400)	(24,590,558,000)	(24,805,445,000)	(+607,658,600)	(+214,887,000)
Rescissions	(-581,190,000)	(-333,497,000)	(-333,497,000)	(+247,693,000)	
(Limitation on annual contract authority, indef)	(-2,000,000)	(-4,841,000)	(-4,841,000)	(-2,841,000)	
(Limitation on direct loans)	(152,225,000)			(-152,225,000)	
(Limitation on guaranteed loans)	(155,140,000,000)	(137,014,009,000)	(143,561,194,000)	(-11,578,806,000)	(+6,547,185,000)
(Limitation on corporate funds to be expended)	(406,000,000)	(444,645,000)	(444,645,000)	(+38,645,000)	
TITLE III					
INDEPENDENT AGENCIES					
American Battle Monuments Commission					
Salaries and expenses	15,900,000	18,440,000	18,440,000	+2,540,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1991 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1992—Continued

Agency and item (1)	Appropriated, 1991 (enacted to date) (2)	Budget estimates, 1992 (3)	Recommended in bill (4)	Bill compared with appropriated, 1991 (5)	Bill compared with budget estimates, 1992 (6)
Commission on National and Community Service					
Salaries and expenses	2,000,000			-2,000,000	
Program activities	55,000,000			-55,000,000	
Total, Commission on National & Community Service	57,000,000			-57,000,000	
Consumer Product Safety Commission					
Salaries and expenses	37,109,000	39,200,000	40,200,000	+3,091,000	+1,000,000
Court of Veterans Appeals					
Salaries and expenses	7,481,000	9,133,000	9,133,000	+1,652,000	
Department of Defense - Civil					
Cemeterial Expenses, Army					
Salaries and expenses	12,236,000	12,587,000	12,587,000	+351,000	
Environmental Protection Agency					
Salaries and expenses	974,700,000	1,090,000,000	1,090,000,000	+115,300,000	
Office of Inspector General	37,000,000	41,200,000	39,661,000	+2,661,000	-1,539,000
Research and development	254,900,000	313,000,000	333,875,000	+78,975,000	+20,875,000
Abatement, control, and compliance	1,006,525,000	1,019,500,000	1,133,625,000	+127,100,000	+114,125,000
Buildings and facilities	40,000,000	13,000,000	39,700,000	-300,000	+26,700,000
Subtotal, operating programs	2,313,125,000	2,476,700,000	2,636,861,000	+323,736,000	+160,161,000
Hazardous substance superfund	1,616,228,000	1,750,000,000	1,650,000,000	+33,772,000	-100,000,000
(Limitation on administrative expenses)	(233,000,000)		(260,000,000)	(+27,000,000)	(+260,000,000)
Leaking underground storage tank trust fund	65,000,000	85,000,000	85,000,000	+20,000,000	
(Limitation on administrative expenses)	(6,000,000)		(6,400,000)	(+400,000)	(+6,400,000)
Construction grants	2,100,000,000	1,900,000,000	2,195,000,000	+95,000,000	+295,000,000
Total, Environmental Protection Agency	6,094,353,000	6,211,700,000	6,566,861,000	+472,508,000	+355,161,000
Executive Office of the President					
Council on Environmental Quality and Office of Environmental Quality	1,873,000	2,560,000	2,560,000	+687,000	
National Space Council	1,363,000	1,491,000	1,491,000	+128,000	
Office of Science and Technology Policy	3,560,000	3,880,000	3,880,000	+320,000	
The Points of Light Foundation	5,000,000	7,500,000		-5,000,000	-7,500,000
Total, Executive Office of the President	11,796,000	15,431,000	7,931,000	-3,865,000	-7,500,000
Federal Emergency Management Agency					
Disaster relief		184,459,000	184,459,000	+184,459,000	
Disaster assistance direct loan program account		541,000	541,000	+541,000	
(Limitation on direct loans)		(6,000,000)	(6,000,000)	(+6,000,000)	
Salaries and expenses	143,000,000	165,113,000	165,113,000	+22,113,000	
Office of Inspector General	3,351,000	5,144,000	3,600,000	+249,000	-1,544,000
Emergency management planning and assistance	282,624,000	277,827,000	277,827,000	-4,797,000	
Emergency food and shelter program	134,000,000	100,000,000	134,000,000		+34,000,000
Total, Federal Emergency Management Agency	562,975,000	733,084,000	765,540,000	+202,565,000	+32,456,000
General Services Administration					
Consumer Information Center	1,540,000	1,944,000	1,944,000	+404,000	
(Limitation on administrative expenses)	(2,172,000)	(2,285,000)	(2,285,000)	(+113,000)	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1991 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1992—Continued

Agency and item (1)	Appropriated, 1991 (enacted to date) (2)	Budget estimates, 1992 (3)	Recommended in bill (4)	Bill compared with appropriated, 1991 (5)	Bill compared with budget estimates, 1992 (6)
Department of Health and Human Services					
Office of Consumer Affairs	1,964,000	2,103,000	2,103,000	+139,000	
Interagency Council on the Homeless					
Salaries and expenses	1,083,000	1,300,000	1,083,000		-217,000
National Aeronautics and Space Administration					
Research and development	6,023,600,000	7,198,500,000	5,194,600,000	-829,000,000	-2,003,900,000
Space flight, control and data communications	6,334,132,000	5,608,300,000	5,650,300,000	-683,832,000	+42,000,000
Portion applied to debt reduction	-1,209,732,000	-32,675,000	-32,675,000	+1,177,057,000	
Construction of facilities	497,900,000	480,300,000	398,700,000	-99,200,000	-81,600,000
Research and program management	2,211,900,000	2,452,300,000	2,427,300,000	+215,400,000	-25,000,000
Office of Inspector General	10,500,000	14,600,000	12,952,000	+2,452,000	-1,648,000
Total, National Aeronautics and Space Administration	13,868,300,000	15,721,325,000	13,651,177,000	-217,123,000	-2,070,148,000
National Credit Union Administration					
Central liquidity facility:					
(Limitation on direct loans)	(600,000,000)	(600,000,000)	(600,000,000)		
(Limitation on admin. expenses, corporate funds)	(893,000)	(964,000)	(964,000)	(+71,000)	
National Institute of Building Sciences					
Payment to the National Institute of Building Sciences			250,000	+250,000	+250,000
National Science Foundation					
Research and related activities	1,694,200,000	1,963,500,000	1,960,500,000	+266,300,000	-3,000,000
Academic research facilities	20,478,000		20,000,000	-478,000	+20,000,000
Academic research instrumentation		50,000,000			-50,000,000
United States Antarctic research activities	100,000,000	118,000,000	118,000,000	+18,000,000	
United States Antarctic logistical support activities	75,000,000	75,000,000	75,000,000		
Education and human resources activities	322,350,000	390,000,000	435,000,000	+112,650,000	+45,000,000
Salaries and expenses	101,000,000	122,000,000	110,000,000	+9,000,000	-12,000,000
Office of Inspector General	3,000,000	3,500,000	3,300,000	+300,000	-200,000
Total, National Science Foundation	2,316,028,000	2,722,000,000	2,721,800,000	+405,772,000	-200,000
Neighborhood Reinvestment Corporation					
Payment to the Neighborhood Reinvestment Corporation	25,554,000	26,900,000	26,900,000	+1,346,000	
Selective Service System					
Salaries and expenses	26,635,000	27,480,000	27,480,000	+845,000	
Total, title III, Independent Agencies:					
New budget (obligational) authority (net)	23,039,954,000	25,542,627,000	23,853,429,000	+813,475,000	-1,689,198,000
(Limitation on administrative expenses)	(241,172,000)	(2,285,000)	(268,685,000)	(+27,513,000)	(+266,400,000)
(Limitation on direct loans)	(600,000,000)	(606,000,000)	(606,000,000)	(+6,000,000)	
(Limitation on corporate funds to be expended)	(893,000)	(964,000)	(964,000)	(+71,000)	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1991 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1992—Continued

Agency and item (1)	Appropriated, 1991 (enacted to date) (2)	Budget estimates, 1992 (3)	Recommended in bill (4)	Bill compared with appropriated, 1991 (5)	Bill compared with budget estimates, 1992 (6)
TITLE IV					
CORPORATIONS					
Federal Deposit Insurance Corporation:					
FSLIC Resolution Fund	22,000,000,000	3,419,000,000	15,899,000,000	-6,101,000,000	+12,480,000,000
Portion applied to liquidation of authority to borrow	-22,000,000,000	-3,419,000,000	-15,899,000,000	+6,101,000,000	-12,480,000,000
Resolution Trust Corporation: Office of Inspector General	10,785,000	30,328,000	30,328,000	+19,543,000	....
Total, title IV, Corporations	10,785,000	30,328,000	30,328,000	+19,543,000	....
Grand total:					
New budget (obligational) authority (net)	78,940,555,400	82,134,184,000	80,926,578,000	+1,986,022,600	-1,207,606,000
Appropriations	(80,731,477,400)	(82,500,356,000)	(81,292,750,000)	(+561,272,600)	(-1,207,606,000)
Rescissions	(-581,190,000)	(-333,497,000)	(-333,497,000)	(+247,693,000)	....
(Limitation on administrative expenses)	(285,592,000)	(48,461,000)	(313,861,000)	(+28,269,000)	(+265,400,000)
(Limitation on annual contract authority, indefinite)	(-2,000,000)	(-4,841,000)	(-4,841,000)	(-2,841,000)	....
(Limitation on direct loans)	(753,225,000)	(608,709,000)	(608,709,000)	(-144,516,000)	....
(Limitation on guaranteed loans)	(155,140,000,000)	(137,014,009,000)	(143,561,194,000)	(-11,578,806,000)	(+6,547,185,000)
(Limitation on corporate funds to be expended)	(406,893,000)	(445,609,000)	(445,609,000)	(+38,716,000)	....

Mr. Chairman, I reserve the balance of my time.

Mr. GREEN of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as the distinguished chairman of the Subcommittee on VA, HUD, and Independent Agencies has pointed out, this is a bill which brings home the fact that this House must make choices. I want to commend the distinguished chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER] because he has had the courage to make choices instead of just trying to keep everything rolling along on inefficient levels which are only ultimately going to make the choices even harder in the years ahead.

Mr. Chairman, he has had the courage to lead the committee through the process of saying what our options are, not just this year but next year, and to see that we come to a rational conclusion as to what the country can afford and what the country cannot afford.

Mr. Chairman, I should like to suggest to my colleagues that when a chairman of a subcommittee on appropriations shows the kind of courage that the gentleman from Michigan [Mr. TRAXLER] has shown in making the hard decisions, this House ought to back him up, and I urge my colleagues to vote for this bill.

I should like to discuss just two of the choices that we have made. My remarks cover issues which will be debated at great length in the day ahead, so I shall be brief. Let me address first the housing issue and then the space station issue.

In the case of the housing programs, the subcommittee faced the problem that last year's new housing bill provided for $4 billion more in authorizations than the then-current level of appropriations. Plainly our subcommittee could not fund all of the things that were authorized in last year's housing bill. So we did have to make some choices.

Those choices include a significant start on the major new programs in the housing bill, the HOME Program, and HOPE II and HOPE III, which are the single-family and multifamily HOPE Programs.

The one home ownership program which we did not provide additional separate funding for was the so-called HOPE I Program, the sale of public housing to its tenants.

But I think the House should be aware, as it faces that decision, that there is outstanding a demonstration program involving the sale of 2,000 units of public housing by the Department of Housing and Urban Development. They have been engaged in that program with the approval of our subcommittee for 6 years now. In the course of those 6 years they have sold just under 350 units of public housing to its tenants. We asked them why is this program going so slowly, because this is obviously the precursor to HOPE I. We were told by the department in the course of our hearings that the reason it is going so slowly is that in the report where we gave the department the go-ahead for this demonstration program, we told them to replace every unit sold with a new unit of public housing. I think they were right, that was a very serious constraint.

So, to meet that objection, we included in the bill before you language removing that constraint, and that means that the agency will not be subject to that very restrictive feature in disposing of the remaining 1,650 units which are available under this demonstration program.

The agency also tells us that it is costing about $30,000 per unit to fix up these units and put them in condition for sale to tenants. I think with a little arithmetic you can see that that number gives us a $49.5 million program for sale of public housing to its tenants simply by moving forward the demonstration, one hopes, more rapidly with the constraints removed from it.

So I think that we have been fair to all of the various interests that participated in the compromise that produced last year's housing bill, and I think that the department is being given a fair shot to get the new programs going.

Let me now turn to what is certainly an even more contentious issue, and that is the space station. I should like to explain why, at least for this member of the subcommittee, the space station in the end turned out to be a very low priority.

I will go into this in greater detail later on. But I think I can sum it up by quoting from the Space Studies Board of the National Research Council, and I am sure the Members are aware that the National Research Council is a subsidiary of the National Academy of Sciences and National Academy of Engineering, designed to look at public policy issues from a scientific point of view and give advice to the executive and legislative branches as to where to go.

As they reviewed the latest configuration of the space station, here is what they said:

> In the judgment of the Board, the proposed redesign of space station Freedom does not meet the stated national goal of enabling the life sciences research necessary to support extended human space exploration nor does it meet the stated needs of the microgravity research community, the two major science areas that are claimed for the space station.

So, given the fact that, after all this time and all this money, the station cannot really perform much in the way of useful purposes, from my point of view it really has to be at the end of the parade as far as this bill is concerned.

Unfortunately, the money ran out before we could get to the space station. It is as simple as that.

Now we are going to face an amendment today which will take $250 million from public housing operating subsidies and the balance from other NASA programs to provide $1.9 billion for the space station. I just want everyone to understand what that choice means if you want to go that way.

First you are going to cut by 10 percent the operating subsidy for the homes of some of the poorest people in this country. We will be told, "Well, you are $250 million over the administration's request." We sure are, because according to HUD's own formula we had to up the administration's request for this program for the current fiscal year, not by $250 million, but by $350 million before we were finished with the supplemental appropriation bill because the administration consistently underrequests for that operating subsidy.

So that is one of the things you will be doing.

The other thing you will be doing is simply devastating everything else at NASA: Mission to planet Earth, you are putting off a decade and we will not get the vital information that we need to make the very expensive decisions we are going to have to make about global warming, global climate change.

You will be decimating the astronomy programs, you will be decimating even the real life science that NASA does.

Now, they crafted the amendment in this way despite the devastation it wreaks on NASA, I think, for two reasons. First, I think they hoped, as we all hoped, that somehow the Senate would save us.

□ 1130

Well, the Senate has not saved us. The fact of the matter is that yesterday the Senate got its 602(b) allocations—that is the son of 302(b)—and this subcommittee on the Senate side got only $50 million more than our subcommittee did in the House. Fifty million dollars is not going to bridge that $1.9 billion gap for the space station. So, there is no salvation over there.

And remember also that we have to think, not just about fiscal year 1992, but fiscal year 1993. Oh, the sponsors of the Chapman-Lowery amendment say it does not affect the veterans, it does not affect poor people and housing, it does not affect the environment, but my colleagues must understand that, if they vote for that amendment, they are voting not just for $1.9 billion this year. They are voting for $2.3 billion next year and another quarter of a billion dollars over that the year after that, and out to the end of the century.

I say to my colleagues, If you don't think that's going to reduce the amount of funding that our subcommittee has available for veterans, if you don't think that's going to reduce the amount of funding that our subcommittee has available for poor people, and housing and the homeless, if you don't think that's going to affect the amount of money that our subcommittee has available for the environment, then I really don't think you can add or subtract very accurately. It's got to kill those programs in future years, and you ought to understand that if you're going to think of voting for that amendment.

Mr. Chairman, that is the kind of choice that our subcommittee has made under the distinguished leadership of our chairman. We made the tough choices. I ask the House to show the same courage that our chairman did and that our subcommittee did, to back up our distinguished chairman. Vote "yes" on the bill and vote "no" on the amendments.

Mr. TRAXLER. Mr. Chairman, before I yield to the gentleman from Ohio [Mr. STOKES], just let me correct myself for a moment here. The Augustine Report, quoting from it, to put their priorities in perspective, I misquoted it when I was in the well, and I would not want anyone to misunderstand what the Augustine Report said.

> It is our belief that the space science program warrants the highest priority for funding. It in our judgment, it ranks above station, aerospace planes, manned mission to the planets and many other major pursuits which often receive greater visibility.

End of quote from the Augustine Report.

Mr. Chairman, I yield such time as he may consume to the distinguished ranking majority member of the subcommittee, the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 2519, the VA/HUD and independent agencies appropriations bill for fiscal year 1992. I want to congratulate the gentleman from Michigan [Mr. TRAXLER] and the ranking minority member the gentleman from New York [Mr. GREEN] for their leadership in bringing this bill to the floor. Even though confronted with a very inadequate allocation for programs under the committee's jurisdiction, they have steered a measure through the committee that responds to the pressing issues facing our Nation.

Mr. Chairman, to say that this bill provides funding that is essential to our society is an understatement. This contains many people programs that are of crucial importance to millions to our citizens.

There are housing programs, not just for the poor, elderly, and homeless, but those that provide mortgage and loan guarantees to all persons. This bill incorporates programs to develop our neighborhoods and cities, which are decaying and in dire need of our support. Programs that compensate veterans and their families, provide them housing loans, and furnish their medical care and treatment are also included in this measure. The bill provides funds to support our efforts to cleanup the environment, including asbestos removal from schools; lead based paint abatement; pollution prevention and control; and ozone and global warming studies come out of this allocation. Our Nation's disaster relief projects are also funded through this measure.

In addition, the essential strategies and activities to improve our math and science capabilities, and thus our economic competitiveness, are addressed in this one bill. This includes NASA and the National Science Foundation.

I know how important each of these programs are just to my district alone. Over 200,000 veterans are treated in the VA hospital in Cleveland. There are thousands of children with lead-based paint poisoning, as well as polluted waters on Ohio's lakeshore.

Unfortunately, Mr. Chairman, the prospect for supporting these programs that provide basic services to Americans is especially grim. As you know, the level of funding provided for the VA/HUD appropriations was well below what we anticipated for our target this year. Given this situation, and the fact that we owe it to the American public to provide and maintain these services, we are left with few choices than that which is before us today.

I am pleased that this bill incorporates provisions of specific interest to me that address our domestic concerns. This includes funds for a national lead-based paint abatement program, the No. 1 preventable health hazard facing our children. Linked to this is a requirement that the Environmental Protection Agency take the lead in developing a comprehensive Federal implementation plan for attacking this epidemic.

In addition, the measure includes several amendments to assist socially and economically disadvantaged businesses. One would require the Resolution Trust Corporation [RTC] to make 10 percent of contracts from the savings and loan crisis available to disadvantaged individuals and firms. Another provision establishes within the EPA a contractor mentor/protege program for disadvantaged businesses applicable to all prime contracts over $3 million.

I was also able to include in this bill $2 million for the National Science Career Access Program for summer science camps for underrepresented middle school youth.

Mr. Chairman, I understand the concern about continuing the space station. But I absolutely object to efforts to restore funding for this project on the backs of the least fortunate in our society. That is exactly what would happen under the proposed amendment to fund the space station by taking money from public housing operating subsidies. In the city of Cleveland, this would mean a $4 million deduction for public housing operating subsidies. And, ironically, the amendment to fund HOPE I takes away from a program serving low and moderate income persons. Thus, the very individuals who need our assistance to keep a roof over their heads are the same ones who would suffer under these proposals.

We must not forget that we have not totally abolished the work proposed to come from the space station. This bill provides funds to carry out a study of alternate methods of building the station. Moreover, it provides funds to conduct right here on Earth the most critical research to be carried on by the space station. But most importantly, because we recognize the vital services NASA as a whole provides to the Nation, we have left intact the other NASA programs. Moreover, we provided $210 million to HOPE II and III, which includes money for an elderly independence demonstration project.

Mr. Chairman, this bill presents some very hard choices. Nonetheless, the priorities of this bill are correct. They are prudent. I urge my colleagues to join me in supporting H.R. 2519.

Mr. GREEN of New York. Mr. Chairman, I yield 3 minutes to the distinguished ranking minority member of the Committee on the Budget, the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I am forced to object to the $14 million so-called emergency appropriation for claims processing included in this measure, and I want to speak briefly about it.

One can make a case that this additional spending is appropriate. Indeed, its proponents have gone to some trouble to do so. But regardless of the merits of the argument, no one can make a legitimate case that this constitutes an emergency.

This funding can be planned for; the fact that it's included in legislation for a fiscal year that doesn't start until 4 months from now makes the point. This kind of planning—distributing a limited amount of resources according to one's priorities, and making the tradeoffs required to do so—is what budgeting is about. The Appropriations Committee did show this kind of decision-making ability with regard to the space station: Regardless of the way one feels about the merits of that project, at least the appropriators made a choice—a choice that involved a high-visibility program and the allocation of $2 billion. But when it came to this $14 million item, the appropriators lost their will to make any more tradeoffs. So they slapped an emergency label on this provision. This is not necessary; we could expand veterans' services by $14 million without the emergency designation. But by calling this an emergency—so that no limits apply—the appropriators have given themselves $14 million to spend somewhere else. I might add that it does no credit to us, or to our country's veterans, to keep pretending we can increase veterans spending as if no one has to pay for it.

Finally, Mr. Chairman, we are talking here about a $63.6 billion appropriations bill. The $14 million emergency represents about 2/100 of 1 percent of the whole bill. In that context, if we can't find $14 million of savings somewhere else in the $63.6 billion we are spending here, then the American taxpayers, many of whom are veterans, have every right to believe that Congress just doesn't know how to budget.

Mr. GREEN of New York. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Pennsylvania [Mr. COUGHLIN], the former ranking minority member of our subcommittee.

Mr. COUGHLIN. Mr. Chairman, I rise in strong support of H.R. 2519, a bill appropriating funds for the Department of Veterans Affairs, the Department of Housing and Urban Development, and independent agencies like the National Science Foundation, the National Aeronautics and Space Administration, and the Environmental Protection Agency.

This was perhaps the most difficult year the subcommittee has ever had in crafting our annual appropriations measure and our chairman, Mr. TRAXLER, and the ranking Republican member, Mr. GREEN, are to be commended for their open-mindedness and fairness in working through the difficult decisions we had to make.

Later today we will debate amendments dealing with two of the most contentious decisions our subcommittee made affecting space station and HOPE I initiative. I won't take time at this moment to discuss these issues since they will be debated in detail shortly.

I do, however, want to comment on some of the specific appropriations recommendations we made. But before I do, I do want to caution the Members that we had extraordinarily severe funding constraints.

First, our budget allocation fell $1.2 billion in budget authority and $845 million in outlays below the President's budget request. This is regrettable and, as Republicans, we have objected to the process which gives us very little voice in these budget allocations and prevents approval of many of the President's laudable funding requests.

Second, as in past years, authorization levels far outstripped our funding allocation. In the case of housing programs, the authorization level was no less than $4 billion over the amount appropriated last year. There was no way our panel ever would have had the resources to fund all the innovative and positive housing programs authorized under the National Affordable Housing Act. The same is true of NASA where the authorizing committees have approved all sorts of programs leaving us to sort out the funding priorities.

Despite these problems, we did succeed in approving the administration's request for the National Science Foundation. Almost all programs, excluding the space station, receive full funding in NASA. Veterans compensation and benefits, and medical care assistance will receive a needed infusion of resources. Moreover, the Environmental Protection Agency will receive a $355 million increase over the administration's budget to embark on a variety of critical environmental protection initiatives affecting air and water quality, drinking water, hazardous waste, pesticide, toxic substances, and Superfund.

H.R. 2519 is a fiscally responsible and delicately balanced bill and I urge my colleagues support.

□ 1140

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the distinguished chairman of the Committee on Science, Space, and Technology, the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Chairman, let me thank my very good friend and distinguished colleague, the gentleman from Michigan [Mr. TRAXLER], not only for his generosity but for bringing what I have already told him is an exceptionally good bill to the floor. We have only one difference, really, and that is over the funding of the space station, and I want it clear that the gentleman from Michigan [Mr. TRAXLER] has from the beginning recognized that and has been very generous in offering to assist in the phrasing of an amendment which would put that question before us in a way which would allow us to make the decision on the floor. It is obviously too important a decision to be made in the context of any small group of the Congress, whether it is the authorizing committee or the Committee on Appropriations.

I think we could put the actions of the Appropriations Committee in very simple terms. Recognizing that he was faced with a deficit of over $1 billion in his allocation and having to decide how to handle that, what the subcommittee has done is to cut NASA $217 million below an absolute freeze level for 1991. In other words, NASA will get $217 million less than it got this year, but all of it will come out of the station. With those additional funds the gentleman from Michigan [Mr. TRAXLER] and the committee have been able to increase all the other programs within their jurisdiction by fairly substantial amounts. That was the decision that the committee made. I happen to agree with the need to support the social programs more adequately. Unfortunately, I cannot agree with the rest.

Mr. Chairman, on Monday, many Members of the House of Representatives participated in the special order on the space station Freedom. During that lengthy colloquy, we had the opportunity to hear the diverse reasons to support the continuation of the space station program. I do not need to review that discussion.

In anticipation of today's debate on the VA/HUD Independent Agencies appropriations bill, the Science, Space, and Technology Committee held a hearing on Tuesday to examine the implications of canceling the space station.

I want to make it very clear that this was not a hearing for the Science Committee to examine the merits or the schedule or the various capabilities of the currently proposed space station. We as a committee had completed that examination in our authorization hearings. We found the station to have many merits and accordingly reported an authorization bill with full funding for the space station and that authorization was confirmed overwhelmingly by a vote of 361 to 36 by the full House of Representatives several weeks ago. The committee's vote and the House vote are part of the public record.

Our hearing was focused specifically and singularly on the impact of the possible space station cancellation.

For the benefit of my colleagues in the House who are not members of the Science Committee and thus did not have the opportunity to hear our witnesses speak to the consequences of cancellation, I would like to review briefly some of their warnings. In an effort to portray a comprehensive perspective of outcomes, we invited administration officials and representatives of our foreign partner nations.

Let me begin with Jean-Marie Luton, director general of the European Space Agency representing our nine partner nations in ESA. The Europeans have pledged between $8 and $10 billion to the space station program. With the cost of constructing the station estimated at $16.9 billion, this contribution represents roughly one-third of the total cost of the construction and about one-half of what America's contribution will be. This is not a symbolic or token partnership, this is full-fledged participation. To date, the Europeans have spent $1 billion of these committed funds.

Mr. Luton told us:

> After three years of joint development work and seven years after first inviting the other nations to participate in this "genuine partnership," the United States suddenly now feels able to stop the project in its tracks to solve an internal budget problem. We all face budget shortfalls and very hard choices. * * * Failure by the United States to live up to its commitments in the international Space Station partnership will fundamentally influence Europe's plans, but not

> stop the pursuit of its own ambitions to implement manned/man-tended orbital facilities. * * * Moreover, it cannot be doubted that U.S. withdrawal from the international Space Station would have a serious adverse impact on the prospects for any future transatlantic cooperation in the space field. It would certainly have an effect in other scientific and technological fields. These effects would of course be felt most should the United States attempt to initiate a major new international technological program. * * * The future of this cooperation is clearly in your hands.

Mr. Chairman, this is not an idle statement, it is a serious portrayal of consequences that we will bring down upon ourselves. In an era of increasing international cooperation, the United States is playing a dangerous game of alienating its friends.

I do not in any way question, in fact I defend, America's right and responsibility to make independent decisions about its welfare. However, the debate and judgment to plan the space station as an international partnership program took place years ago. Withdrawal now does not reflect responsible action, but rather irresponsible action.

The testimony of Dr. John Boright, Deputy Assistant Secretary at the Department of State, reflected how the space station cancellation would represent a pervasive foreign policy discontinuity for the United States that would invade all aspects of our foreign relations. He said:

> It is important to bear in mind that the Europeans, Japanese, and Canadians accepted our invitation only after lengthy internal consideration and debate. The Canadians and the Japanese had doubts about making such a large proportion of their space programs dependent upon a cooperative agreement with the U.S. One-half of Canada's expenditures on space go to the Space Station; the entire Japanese manned space program has been structured around the Japanese Experimental Module (JEM), their contribution to the Space Station. In Europe, there was intense debate between those who favored cooperation with the United States and those who preferred investing in autonomous programs competitive with our own.

Mr. Chairman, the decision on the part of the Europeans to join with us in space station Freedom was actually a leap of faith. They have strong and bitter memories of the American withdrawal from the International Solar-Polar Mission—now called Ulysses. At the hearing, Jean-Marie Luton responded to a question about European reaction to the space station termination with the chilling response that, "this will be a ghost in the European memory."

I do not need to remind my colleagues that there are several international science and technology projects on the world agenda. We are currently active partners in some of those such as the international thermonuclear experimental reactor project [ITER], a cooperative fusion energy initiative. We are planned partners in others such as the Earth Observing System [EOS] Program to monitor global change over a 15-year period. We are seeking active partners in others such as the superconducting super collider project. And there are still other projects that are in the formative discussion stage, from which the United States will be excluded, as the uninvited partner, because our allies and friends no longer trust our word. Dr. Boright put it quite succinctly when he said:

> There is little distinction between leadership and honoring one's commitments.

It would be the ultimate irony to cancel the space station program only to have the Europeans, Canadians, and Japanese regroup to cooperate in a permanently manned project while America's manned space effort ossifies on the sidelines and we become the has-beens of space history. We should not delude ourselves that this possibility is far-fetched, rather we should recognize that we have already been forewarned.

Mr. Chairman, Richard Darman, Director of the Office of Management and Budget said in his testimony:

> Breaking faith on space station Freedom should not be confused with deficit reduction. * * * From a fiscal perspective, the failure to appropriate $2 billion for space station Freedom would not "save" a dime. Under the budget agreement, total discretionary spending is set. What is at issue is the allocation, not the total.

Mr. Chairman, let me comment for a moment on the allocation to which Richard Darman referred. The National Aeronautics and Space Administration funding is included in the Appropriations Subcommittee with funding for the Department of Housing and Urban Development, the Veterans' Administration, and other independent agencies. Although these are unlikely bedfellows, that is a fact unchangeable. As all of my colleagues well know, this arrangement often pits these diverse programs against each other.

A great nation should provide for its citizens in the most compassionate and substantial manner. In order to provide the continuing social benefits of health care, housing, child care, handicapped services, school lunch programs, and hundreds more, we have to have an economic base that can generate growth and that has the inherent potential for continued expansion.

Social programs generate economic wealth by helping citizens lead productive lives that enhance their dignity as they, in turn, make positive contributions to the society.

Science and technology programs generate economic growth by continuously revealing new knowledge that can be applied to develop new products and processes of commercial value in the global marketplace.

Neither the biggest or the most numerous social agenda nor the most intensive or expensive science and technology infrastructure alone can sustain a balanced society with foresight for its long range potential.

Mr. Chairman, I am here today to speak for that important societal balance. I would not vote for one at the cost of the other. I have not asked my colleagues to do that either.

I would ask each of you to consider the prospect of canceling the space station in this light. This is not a narrow or confined decision that will allow the remainder of America's space development to continue on, unnoticing of the loss of just one initiative. This is the center and stepping off point of space development for the 21st century. Without the space station we effectively absent ourselves from continued manned space exploration. Please note that I have said ourselves, not the other 11 nations with whom were our partners.

The Chapman/Lowery amendment is a reasonable vehicle for restoring the space station funding. It accomplishes this by freezing NASA spending at the fiscal year 1991 level. Outside of NASA, it would leave all but two accounts in the appropriations bill unchanged, adding funds for veterans medical programs and reducing one housing program which the Appropriations Committee had already cordoned off against expenditure for essentially the whole fiscal year.

In more concise terms, the Chapman/Lowery amendment makes more than 90 percent of the needed adjustments within NASA. These are not easy reductions. They are taken to preserve the centrality of the space station for future U.S. space development and to protect the social benefits that a benevolent nation is committed to provide.

When Neil Armstrong took that historic step on the Moon's surface, he said:

> One small step for a man and one giant step for Mankind.

Let my colleagues be aware that a decision to cancel the space station will provide an ironic twist to that legendary statement. We will make one small step of budgetary rearrangement and one giant step for America's withdrawal from leadership in the 21st century.

□ 1150

Mr. GREEN of New York. Mr. Chairman, could Members be informed how much time is remaining on each side?

The CHAIRMAN. The gentleman from New York [Mr. GREEN] has 28 minutes remaining, and the gentleman from Michigan [Mr. TRAXLER] has 12 minutes remaining.

Mr. GREEN of New York. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I thank the distinguished gentleman from New York.

Mr. Chairman, as a member of the Public Works Committee and the ranking Republican of the Water Resources Subcommittee, I commend the Appropriations Committee for funding the Clean Water Act title VI loan program at its authorized level, but I also want to express my concern about several provisions of H.R. 2519.

First, the bill provides $300 million for title II EPA construction grants to five cities for the construction of sewage treatment facilities. These cities are Boston, New York, Los Angeles, San Diego, and Seattle. When the Clean Water Act was last reauthorized in 1987, the decision was made to phase out title II construction grants in favor of State revolving loan funds.

The grants program expired in 1990. Therefore, these specific grants have not been authorized. Even more importantly, while these cities may have water quality problems, I am sure other cities around the country which are experiencing difficulties in meeting their treatment needs would also like to receive grants. Why do we single out these five cities? The simple fact that the $300 million was included in the President's budget does not answer my question as to whether or not we really want to return to a grants program and, if so, why these five, and not others, should receive special treatment.

H.R. 2519 also provides $46 million for a Rouge River national wet weather demonstration project grant for Wayne County, MI, primarily for management of stormwater. These funds have not been authorized and it is not appropriate that $46 million be provided for this special project.

Here again, other cities around the country are struggling to address their various water pollution problems.

The Water Resources Subcommittee has received testimony from many local officials, although not from Wayne County, on the financial struggle to meet their water quality needs. Why then are we suddenly giving $46 million and special consideration to Wayne County, MI? I know that Milwaukee would like some Federal help for its pollution prevention program and contaminated sediments cleanup. Why not give a few million to Richmond which has been quite forceful in testifying as to its combined sewer overflow problem?

Finally, I want to express my serious concern regarding legislative language which would allow the Massachusetts Water Resources Authority to use an out-of-State landfill, which is not required to be owned by the authority, as a backup facility for sludge disposal. I understand that EPA is concerned about this language, which affects an ongoing EPA enforcement case, and which is in opposition to an order by a Federal district court. In fact, this appears to be another example of using legislation to address the NIMBY syndrome—clean up Boston Harbor, but don't let it affect Walpole, MA. Perhaps there may be some reason for this language, but no hearings have been held on the merits of the proposal.

Mr. Chairman, not only do I have serious concerns about the policy implications of these provisions, but it is not appropriate to include unauthorized projects and legislative language in an appropriatons bill. This represents yet another assault on the proper authorities and jurisdiction of our authorizing committees.

Mr. GREEN of New York. Mr. Chairman, I yield 4 minutes to the distinguished ranking minority member of the Committee on Science, Space, and Technology, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the debate thus far has been interesting on the bill that the committee brings to us, because it starts from a number of premises that I think need to be examined.

The original contention of the committee was that space station had to be cut, because within their allocation, they could not do everything, and if we spent money for space station, we would have to reduce money for veterans, we would have to reduce money for housing, we would have to reduce money for EPA, we would have to reduce money for FEMA. We would have to do all of these things if the space station was to be funded.

What we found out was we developed an amendment, which the gentleman from Texas [Mr. CHAPMAN] and the gentleman from California [Mr. LOWERY] will offer on the floor later on today, saying that simply was not true; you could do all of these things within their allocation, and you could still fund the space station. That is the amendment that will come forward later on today.

Mr. Chairman, having seen what we innovatively came up with, the committee then turned their argument and suggested that if in fact you did all of these things that we want to do, including freezing NASA, that that would be devastating to NASA.

The fact is NASA supports what we will bring to the floor later on today, and it is not devastating. Freezes are not devastating. You can in fact do many things within freezes. You can in fact adjust programs within freezes, and, ultimately that is what will take place. But this is not a devastating kind of thing to NASA. It is in fact a real way of managing within the allocation given to the committee.

□ 1200

It is true that $250 million of money was taken out of the Public Assistance Housing Program. The gentleman from New York referred to that.

Let me talk about that money for a minute. The committee itself fenced it until September of next year. It is money, some might call it funny money that was fenced until September of next year. It has no outlay effect and so, therefore, the question is whether or not it is really money.

We happened to find it. We used it as a part of our attempt to save what we think is an important national project, but it is hardly devastating to the housing program for the program to be fenced off until September 20 of next year. And we just decided not to spend the money in that particular area.

The committee has a sense of priorities here that is somewhat interesting.

For example, in some of the NASA accounts, in the ASRM Program, one can say that the ASRM's are an important part of the program. Most of us would agree, but they put $125 million more in that account despite the fact that the $125 million, the testimony for it is in order for it to supply the space station which they canceled. And so the problem is that some of their sense of priorities does not match up to reality.

The bottom line is this: This is a subcommittee that does not agree that manned space is a high priority. I would even say that some members of that committee probably do not believe in manned space at all. They think that robots are a better kind of space program for our future.

The British author Henry Fairlie recently spoke to that. He did before he died, and I think that it is important to understand what this debate is really all about. He says:

> The achievements of the unmanned spacecraft are important, but they do not tell us of the human soul, the soul of our civilization, and so of America at its greatest, the restless endeavor to know. That is the heroism.
>
> To put it another way, only men and women in space, seeking the knowledge, can make us feel at home in space, at home in the sense that we come to think of it as no longer "alien," and we will have a new and inspiring vision of our place in the universe.
>
> What has happened to America, its Presidents and its Congressmen, that they no longer are inspired by such a vision? Or by the courage needed to make the exploration?

That is the real question before the House today. Do we have the courage and the vision to move forward with the manned exploration of space and do so by creating the infrastructure necessary for that to take place? That is really the issue we are debating on the House floor today.

Much of this will be a debate about technicalities. It is the vision thing that is really important.

Mr. GREEN of New York. Mr. Chairman, I yield myself such time as I may consume.

I think it is important to address the question of the $250 million. The gentleman from Pennsylvania [Mr. WALK-

ER] would have us believe that this is $250 million that the public housing agencies are never going to see and that it is never going to benefit their tenants. Nothing could be further from the truth.

The fact of the matter is that this money is fenced for the reasons that we fence money in these bills, and that is so it will not outlay in the current fiscal year. But it will be obligated to the housing authorities at the end of the fiscal year, and this is a program where it so happens that HUD does dole out the money by stages over the year. So there is nothing unusual about that.

Any suggestion that somehow in the fiscal year 1993 bill, if we do not have this money in this bill, we are going to pick up an extra $250 million for operating subsidies for public housing is ridiculous. The station is going to go up another $400 million. Where are we going to be able to double up on the public housing operating subsidy facing that kind of demand?

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Could the gentleman tell me what the outlay amount is in his proposal for that $250 million?

Mr. GREEN of New York. It will not outlay in fiscal year 1992.

Mr. WALKER. If it is not going to outlay in fiscal year 1992, it is not money that is going to be spent in 1992 and so, therefore, it becomes funny money, just as I described it.

Mr. GREEN of New York. If I may reclaim my time, that is not true. A lot of the things this committee appropriates money for do not outlay in the year when they are appropriated. For example, is the space station funny money because it is not going to outlay in the year appropriated? Is that what the gentleman is telling us?

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman knows that indeed the budget authority numbers are important. And I know that, too. The problem is in this particular budget authority number, we have $2.4 billion in. Most of it outlays in this year except for the fenced-in amount. The fenced amount does not. All we have suggested is that if we can fence it off and it is not going to outlay in this fiscal year, then it can be rolled over until the next fiscal year.

Mr. GREEN of New York. That is precisely where the gentleman is wrong. It cannot be rolled over until the next year, if the gentleman prevails, because he is going to impose an additional $400 million demand for space station on this subcommittee next year. Where are we going to find an extra $250 million in fiscal year 1993 when the gentleman is demanding $400 million more from us than he is demanding this year? That is ridiculous.

Mr. TRAXLER. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the full committee.

Mr. WHITTEN. Mr. Chairman, this bill includes funds for many important programs—veterans, environmental protection, housing, the National Science Foundation, and the National Aeronautics and Space Administration.

This is one of the bills, Mr. Chairman, that takes care of America and, through research, America's future. The needs of the present and the future must be accommodated in order for us to continue as a great nation.

Mr. Chairman, the chairman of this subcommittee, the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York, the ranking minority member [BILL GREEN] and other members of the subcommittee have covered the principal provisions of the bill. I'm glad I am a member of the subcommittee.

Mr. Chairman, at this time I direct attention to a particular problem which the subcommittee and the full Committee on Appropriations and the Congress have to solve.

The subcommittee members realize that the space program is needed but feel that it should not be at the expense of essential domestic programs.

Mr. Chairman, some weeks ago it was my suggestion to the chairmen of the various subcommittees on appropriations that those essential programs of the Government which could not be funded under present limitations be funded and that we obtain a rule to prevent them from being counted in order to avoid sequestration.

That has been done by the executive branch time after time.

I support the space program, but I do not believe it should be used to drastically cut existing and necessary programs. I am sure that is also the intent of the subcommittee. In the report by the full committee, it was stated that funds for the space program were not included, without prejudice to the space program, in order to avoid cutting important existing programs.

Mention has been made in the press about ASRM—the advance solid rocket motor—facility presently under construction at Yellow Creek in my State.

The facts about that existing and ongoing construction are as follows:

First, NASA said that the most important reason to fund ASRM was to improve shuttle safety. Why? Because the new ASRM has fewer case joints and eliminates four critical 1 failure modes.

Next, NASA said that the ASRM design eliminates the necessity to throttle the space shuttle engines and that increases shuttle safety.

Next NASA said that all asbestos materials are being replaced—and that improves safety and health.

Next, NASA sold us the ASRM because it increases the shuttle payload by 12,000 pounds—recapturing much of the payload capability that was lost after the *Challenger* accident.

NASA told us that it was essential to build a new Government-owned facility to produce the ASRM.

Now obviously, ASRM would also be important to the space station because it permits the launching of both the laboratory and the habitat with fully integrated payload racks.

But that's not why NASA proposed the ASRM. They proposed it for the reasons I just stated—and virtually none of those had anything to do with space station. NASA proposed the ASRM because it wanted a new, more reliable, safer, solid rocket booster with increased payload capability.

May I say again, my original advice to the full committee as chairman—that these things that are essential should be off-budget and not used to bring about sequestration, is sound but also the committee position is sound. I know its intentions are good. I repeat again, the report was that the committee left it out at this time because of the effect it would have on existing important programs. We need both, and I think the committee approached it in the right way.

Mr. TRAXLER. Mr. Chairman, how much time is remaining on each side?

The CHAIRMAN. The gentleman from Michigan [Mr. TRAXLER] has 9 minutes remaining; the gentleman from New York [Mr. GREEN] has 18 minutes remaining.

Mr. GREEN of New York. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. LEWIS], a distinguished former member of our subcommittee.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman for yielding time to me.

I find myself in a delicate and sensitive, position. I come before you today to ask that the body support an amendment that in some fundamental ways violates the work of my former subcommittee.

During the 8 years I served on the Housing and Independent Agencies Subcommittee, I worked very closely with both the chairman and the ranking member through many a difficult budgetary year. There is no question that our challenge, working with one another, was to find ways to be supportive of a manned space station as the fundamental piece of America's future role in manned space.

□ 1210

On more than one occasion, it became apparent that there was a fundamental conflict within the committee. The Housing and Independent

Agencies Subcommittee, is faced with an almost impossible challenge. How should we fund very popular and important people programs, housing programs, some of which have worked very well and, some of which have not? Veterans' medical programs are very popular, very important to people and most have worked very well, some not so well.

I find myself constantly amazed that within our subcommittee we often tend to fund those programs with very little in depth questioning of which programs have worked and which have not.

In addition, those people programs compete with space in a limited budgetary account that makes it extremely difficult for NASA to get the kind of treatment that it should.

So over the years, there has been an impact upon space station that has changed its mission. Today this is presented as an argument by the subcommittee for not funding a space station at all.

In responding to my full committee chairman's comments a moment ago, I wonder if we should not take a hard look at the feasibility of moving NASA's funding to the Defense Subcommittee where there would be a fair exchange of programs that should compete with each other in a different kind of way. It is not unwise for us to consider having a reasonable House number for space station to take to conference.

Mr. Chairman, we are talking about adjustments within NASA. We are talking about, some limited additional funding for veterans. Clearly, that is a design to try to impact the politics within the subcommittee itself.

To make the choice to fund certain kinds of science projects and to totally zero out manned space station is a fundamental error. It will take us in the wrong direction. There is competition between scientific programs. We know that. That debate has gone on for some time. For us to signal the House's lack of support for space station by zeroing does not reflect the truly bipartisan support for the station in the House.

So I would urge the Members to seriously consider the Chapman-Lowery amendment when it comes before us, and I would urge an aye vote.

Mr. TRAXLER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio [Ms. KAPTUR], an important and vital member of the subcommittee.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding me this time. I thank the chairman, Mr. TRAXLER, and the ranking member, Mr. GREEN, for the difficult deliberations that our subcommittee has been brought through to bring this bill to the floor and also for the amendment that will be permitted today so that the full House can consider the important issue of the space station. This is a most unusual procedure on an appropriation bill and the chairman should be commended for his openness on this issue.

I want to draw the membership's attention to today's vote on the space station and state that this is really not a vote about U.S. commitment to space exploration. We all share that commitment. It is really a vote about how best to achieve the finest space science and exploration, how to make the best set of scientific choices, and how best to invest in U.S. competitiveness under tight budget restraints.

Last year, this Congress almost brought our Nation to a halt as we struggled with the Bush administration to agree upon a tough, binding 3-year budget agreement. It has forced us to make tough choices to meet deficit-reduction targets and, in terms of this subcommittee, what it meant was that we received only a 5-percent budget mark increase for 1992, not even enough to keep up with the inflation over last year's discretionary spending. The reality of this subcommittee's mark is that it was even $1.2 billion below the administration's request.

So today we are faced with the results of our own actions. With 50 cents of every one of our tax dollars now going to pay interest on our national debt, our choices are narrowed, indeed. If you understand budgets and if you understand their out-year impacts, you will vote for the committee bill.

There are ever increasing demands on this committee, and as the decade unfolds, they will be even greater. Space station will consume, if it is to be continued, larger and larger shares of a smaller and smaller pie. Take veterans' care—with the World War II and Korean veterans now coming into the hospital system, we cannot even afford to buy replacement dentures for World War II veterans. We are turning away class B and C veterans at our hospitals. We find ourselves in the incredible situation of not being able to schedule veterans for operations even though there are empty beds in hospitals because we do not have the doctors and nurses to take care of them.

Or how about home ownership? Back in the 1980's, we saw the spending on home ownership and rental programs in this country fall from $35 billion to $15 billion. in this budget, we have only been able to restore it back to a level of $24 billion—$10 billion less than in 1980. The 1980's, our Nation learned a new vocabulary—the homeless—American citizens sitting on grates and on corners all over this country.

Our bill does not completely meet that need nor does it meet the needs of environmental investment.

We only provide $8.5 billion in this bill rather than the necessary $30 billion to $150 billion needed to clean up Superfund sites across this country.

Our bill, in fact, is already stretched too thin. But we do try to provide for NASA funding that keeps NASA strong. As we see our astronauts in the space shuttle today, we want to keep them safe and healthy. And the programs that we do fund, we want to work. We do not want any more *Challengers* out there. We want NASA to make sure it manages its programs well, not stretched thin, robbing from one program to meet another. But as the Augustine Commission reported,

> The space science program warrants highest priority for funding. It ranks above space stations, aerospace planes, manned missions to the planets and many other pursuits which often receive greater visibility.

Mr. GREEN of New York. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I want to focus attention, if I might, particularly on the matter of funding for the EPA pesticide-disposal activities.

My concern for this issue stems from the fact that the EPA has allowed banned dioxin-containing chemicals, some 670,000 pounds of solid and 260,000 gallons of liquid 2,4,5-T/Silvex to remain in a warehouse located in downtown St. Joseph, MO, since 1986 when the chemicals were discovered at a fire at that facility.

This warehouse has never been licensed to store these toxic materials, I might point out.

My reasons for concern are obvious. The warehouse is located in the middle of a community of 80,000 people. The EPA is supposed to be the agency responsible for the protection of the public health and the environment from pesticide risk. Yet, at the same time, why have large amounts of dioxin-contaminated pesticides existing in the United States, in fact, this is the largest amount of pesticide of its nature existing in this country, been permitted to be at this unlicensed warehouse facility since 1986?

I have been working with the EPA, and I have been working with the State Department of Natural Resources in Missouri for the last 5 years, and it has become very clear that the options for removing the chemicals and either destroying them or storing them in a licensed facility are relatively nonexistent.

Finally, last year, the EPA published a solicitation for bids to relocate these chemicals, and it is currently considering bids to receive in response to that request.

Mr. Chairman, I am concerned that the EPA has sufficient funds in its budget for the abatement, control, and compliance in pesticide programs to effectively resolve the situation in the St. Joseph warehouse. I do not believe that it is acceptable or appropriate to leave EPA-owned, and that is what these are, EPA-owned chemicals, toxic chemicals in an unlicensed facility in a highly populated area.

I only hope that if there were a fire or some disaster of that magnitude that firefighters are adequately prepared to protect the residents of St. Joseph from a possible disaster.

□ 1220

In view of the significant health implications to my constituents and to the amount of time that has passed with no solution forthcoming, I want to ensure that the EPA have the resources to address this problem as a priority in its next year fiscal year's budget.

Therefore, I commend the committee in its statement that is contained in this report that accompanies this bill, and I would like to read it. It is very brief.

> The Committee has not taken a reduction in pesticides transportation, storage, and disposal for fiscal year 1992. However, the Committee is concerned about EPA's progress in disposing of liquid 2,4,5-T/silvex pesticides in St. Joseph, Missouri. It is the Committee's understanding that the Agency is actively exploring several options for final disposal of these stocks. The Committee expects that EPA will make every attempt to resolve this issue as expeditiously as possible and directs the Agency to report monthly on its progress in disposing of these dioxin-contaminated pesticides.

Mr. Chairman, again, I commend the chairman for recognizing what I brought to their attention in testimony earlier this year, in putting it in their official document accompanying this bill. There is a very clear message there for the EPA; that is, the eyes of Congress are on the EPA to resolve that matter and to resolve it expeditiously. We will accept nothing less.

Mr. GREEN of New York. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. PACKARD).

Mr. PACKARD. Mr. Chairman, I rise in strong support of the space station. I have served much of my career here in the Congress on the Subcommittee on Space, and I have come to realize that the space station is the centerpiece, it is the linchpin of virtually all that we are trying to do in the future in space. It becomes a part of virtually every other program and every other aspect of our space planning, and to kill it at this point would cast a mortal blow against our manned space program and planning.

It would also have a major effect upon other important space programs. It would certainly jeopardize the advanced solid rocket motor program, the new launch systems, the Space Lab missions the life science research. We could go on and on into areas where we would find the space station would seriously jeopardize if it were killed.

We have spent to this point approximately $5.6 billion on the space station. That is just U.S. dollars. That is not our partners, our international partners. For the United States to kill it at a time when we have such a major investment I think would be very shortsighted, and certainly would not be in the best interest of the economy in this country. It is one of the few programs that is providing a positive and favorable balance of trade in this country, $28 billion of positive trade balance for the United States in 1990 alone. If we killed this program, it would have a major impact upon our trade balance, and certainly would affect jobs.

We have over 200,000 jobs presently that are based upon our space program, and the space station would certainly cost major jobs.

The Appropriations Subcommittee went to NASA and asked them to redesign the space station because it was too expensive. We went to the time and expense and the trouble of redesigning the space station. They have now come back with their redesign at the moment now the committee has said we are going to kill it. The reason that they are killing it is because it now is claimed that it will not perform the functions that space station was designed to do. So they told them to reduce the design, reduce the functions, and then use those reduced functions in design as an argument to kill it. I cannot understand if that would be a legitimate reason to kill it.

I strongly urge my colleagues to salvage the space station. We can do it if we really put our heads to the budget. I encourage a vote for the Chapman-Lowery amendment.

Mr. TRAXLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank my friend, the gentleman from Michigan [Mr. TRAXLER], chairman of the subcommittee, for yielding me this time. Let me salute him, as well as my friend from New York [Mr. GREEN], on another job well done.

Typically, from year to year the gentleman from Michigan and the gentleman from New York put out very good bills that this House can have pride in supporting, as I do today.

I want to speak just for a moment here about the debate and the discussion on the question of space exploration and space stations. I admire the courage that has been exhibited by the two gentleman and their committees in making these tough choices. We are now reaching the reality of the whole budget process. We have to make some very tough budget choices. The gentlemen have made these tough choices. They have tried to balance the Earth's terra firma needs with its space needs.

I feel some of the debate tends to characterize those who oppose the upcoming Chapman amendment as being somehow troglodytes or somehow unable to see the beauty of space and the need to explore it. I am told that there is something like $13 billion in the bill which is a large amount of money. Thirteen thousand million dollars on space in its various shapes and sizes and configurations. So certainly we are not shortchanging space exploration.

To bring this down to Earth, I am told by officials in my hometown that it could sustain a loss of a million and a half dollars in operating subsidies for our public housing programs, which for the city of Louisville and the county of Jefferson are very important.

Therefore, I say that I think we ought to be very clear here. We are not depriving NASA of vital funds. We are not depriving space exploration. We are not zeroing out any of this. We are providing in this bill a substantial sum of money for this whole question of looking beyond Earth and making sure that we can capture the beauty of space and its talents.

However, we are also trying to take care of the Earthbound needs as well. Knowing these are very tough choices, I generally support the gentleman's bill and oppose the upcoming amendment.

Mr. GREEN of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Chairman, I thank my friend, the distinguished gentleman from New York [Mr. GREEN] for yielding me this time. I rise in strong support of the space station.

Mr. Chairman, today the House has taken the time to familiarize itself with the details of the civil space program and the important role it plays in our international posture and our competitiveness and our technological leadership. We are concentrating our concerns today on the space station Freedom, but there are other worthy elements to the NASA Program. I want to take a moment to mention one in particular that is noteworthy. Also, a strong tie-in and interdependence with the space station.

The Advanced Solid Rocket Motor Program was developed in the aftermath of the tragic *Challenger* accident of 1986 to significantly improve space shuttle flight safety and reliability by reducing catastrophic failure modes.

The reasons the decision was taken to proceed with the advanced solid rocket motor were threefold: First, the safety, of flight; second, the safety of manufacture; and third, the additional lifting capacity. The capabilities of ASRM have become more widely recognized. The national launch system, when it comes along, has already baselined the ASRM as the booster of choice for both the NASA and the Air Force versions. Commercial opportunities may well make the ASRM what is now being called the universal booster bringing added capacity and safety to both military, civilian and commercial sections of the U.S. space program.

It was conceptualized in 1986, and during research and development phase it has become critical to requirements of space station Freedom and the national launch system. Space station has benefited by ASRM because, through increased payload performance provided by ASRM, space station can be more fully assembled and checked out on the ground, consequently reducing extra vehicular activity time in space. Moreover, because of the increased safety, reliability, and payload performance which ASRM provides, it is known to be critical to orbits of extended duration and NASA's overall future space transportation needs The ASRM will be operable beginning in 1996.

We will have an increased payload capacity by 12,000 pounds. They will reduce the long-term per-flight cost for the ASRM. The solid rocket propellant used in the enhanced motor is produced in highly automated, more uniform environment.

Congress is faced with the most difficult budget choices it has had to make in recent history. At the same time, the National Aeronautics and Space Administration is on the threshold of going into the 21st century with a robust transportation program while continuing to make manned space flight the cornerstone of our mission.

□ 1230

The advanced solid rocket motor is critical to ensuring that man's journey into space is accomplished with a higher level of safety, reliability, and increased performance and cost effectiveness.

I urge my colleagues to support this vital, integrated, yet vital element in the space program.

Mr. TRAXLER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PANETTA], the distinguished chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, first of all, I rise in support of the bill, H.R. 2519.

This is the fourth of the 13 appropriation bills to come before the House. I want to commend the chairman and commend the ranking member for adhering not only to the budget resolution, but the budget agreement with regards to discretionary limitation.

This bill provides $63.9 billion in discretionary budget authority and $61.7 billion in discretionary outlays.

I am pleased to note that the bill is about $1 million below the level of discretionary budget authority and about $18 million below the discretionary outlays as compared to the 602(b) allocations that were provided to this subcommittee.

I also want to commend the committee for making choices. That is what the budget agreement is all about, very difficult choices on some very important priorities, and I would just recommend to the Members that we in this body are going to have to make a choice when it comes to the space issue. It is a choice between whether you go with the space station or whether you want to provide increases to the other missions that are involved in NASA, or whether you want to go with those missions and eliminate the space station.

I do not think very frankly, that you can fund a little bit of each of those, because I think that is going to be the worst of all worlds in terms of NASA's mission What I would prefer is that Members make a choice between the space station and these other missions because in effect that is really what faces the House.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield to me very briefly?

Mr. PANETTA. Yes, I will yield very briefly to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, will the gentleman confirm for me the language in his Budget Committee report:

> The committee assumes funding increases for NASA programs totaling $579 million and this funding is sufficient to support continued progress in the Space Station and the Earth Observation System.

Is that what the gentleman's report said?

Mr. PANETTA. That was in our budget resolution as passed by the House.

Mr. BROWN of California. The gentleman has not changed his mind on that?

Mr. PANETTA. I must say to the gentleman that the budget conference report provides even further limitations with regard to this subcommittee's allocations.

Mr. BROWN of California. But at the time, the gentleman thought we should continue the space station?

Mr. PANETTA. If the committee had followed and the conference had followed those same allocations, I would take the same position; but when you have less, you have to make choices.

Let me, If I might, engage the chairman in a brief colloquy.

Mr. Chairman, may I ask the committee chairman, the gentleman from Michigan [Mr. TRAXLER], I understand that there is a $14 million emergency appropriation included in this VA-HUD appropriation bill for the administrative costs of veterans' benefits related to Operation Desert Shield. This is the first spending for fiscal year 1992 to fall under the emergency designation and I want you to assure the House that this $14 million is essential and directly tied to Operation Desert Shield. Would the gentleman please justify the $14 million emergency expenditure as contained in this legislation?

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield, I am pleased to set the record straight on this $14 million emergency funding. As you know, there will be a number of new claims filed by Desert Shield service personnel for veterans' benefits including compensation for service-connected disabilities, insurance, and readjustment benefits. These new claims will necessitate additional VA personnel to process Desert Shield veterans' claims so that these men and women can begin to receive their entitlement benefits immediately.

Mr. PANETTA. I am satisfied that this is a valid emergency and I am pleased to support the bill, and I thank the gentleman for this assurance.

Mr. GREEN of New York. Mr. Chairman, I yield myself such time as I may consume, and I do so for two purposes.

First, I want to make it very clear that even without the space station, NASA will be a very robust agency with a very robust program.

The fact of the matter is that the funding level the committee recommends is in real, after-inflation dollars 40 percent above the level at which NASA was funded for fiscal years 1983 through 1986. There are not too many agencies of this Government that are having 40 percent real increases over their mideighties level of operations; so I do not think NASA has anything to complain about the total level of funding.

Second, to say that you are not drastically impacting NASA science programs because you are freezing them is ridiculous, and the people on the Science, Space, and Technology Committee, ought to know better.

The fact of the matter is we have a number of programs at NASA as a result of the increase in funding since the mideighties, which are ramping up, most notably the Earth Observation Program, but also the advanced x-ray astronomy facility, CRAF/Cassini and numerous others. They know full well that a freeze in essence guts these programs because the programs are predicated on rising budgets as they mature.

Finally, I should like to use my time to call to the attention of my colleagues, in case they have not looked at today's mail, a letter from the League of Conservation Voters strongly urging Members to support the distinguished chairman and the ranking Republican by voting no on the Chapman-Lowery amendment. They say:

> The League of Conservation Voters is not alerting you that the Chapman-Lowery vote will be considered for inclusion in the 1991 environmental scorecard.

So I hope all Members are on notice on that.

Mr. TRAXLER. Mr. Chairman, I am pleased to yield such time as I may have remaining to the distinguished gentleman from Texas [Mr. HALL], the chairman of the Subcommittee on Space of the Committee on Science, Space, and Technology.

Mr. HALL of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I think when the gentleman from California [Mr. PANETTA] made the statement that you have to make a choice, I think he set the course for this entire debate, because we do have to make a choice.

I do not believe that the American people today know that this Congress is about to make a choice or purports to make a choice that runs the white flag up on the space station for this country. I do not think the people know about that.

Let me very briefly say that there is a correlation between the Veteran's Administration, HUD, and this space station. There is a correlation between them, because there are medical solutions that await us up there. The space station is a solution to a lot of the medical mysteries that lie wasting away in veterans' hospitals. These are the things that the American people are going to think in the weeks ahead, and we must not make that choice at this time to turn our backs on those people who need and seek and are entitled to a decision that can be made in the laboratories with weightless environment at their backs and the needs of this country in front of them.

Mr. GREEN of New York. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER], a leader on the Committee on Science, Space, and Technology, and a letter on the this subject.

Mr. SENSENBRENNER. Mr. Chairman, lest anybody be under the misunderstanding that the Committee on Science, Space, and Technology, does nothing but give NASA billions and billions of dollars, the authorization bill which we reported out and which the House of Representatives passed by an overwhelming margin reduced NASA's authorization request by $488 million for fiscal year 1992. We did so by cutting some of the programs that they wanted and by setting the priorities which the authorizing committees with their expertise thought were necessary. We did accomplish this $488 million cut by fully funding the space station.

So what the Appropriations Committee is proposing to do is to go below this line which the House approved by an overwhelming margin, and I think that effectively decimates NASA's program and probably puts America out of the manned space flight business for the better part of the next 20 years.

Mr. GREEN of New York. Mr. Chairman, I yield myself the balance of the time, and I do so simply to rebut the suggestion that somehow this issue has sneaked up on the American people and they know nothing about it. The fact of the matter is in the May 20 Business Week there was an editorial, "Earth to Congress: Scrap the Space Station."

Our colleague, the gentleman from New Jersey [Mr. ZIMMER], had a piece in the Washington Post: "Space Station Under Fire."

Time magazine had a long column in its June 10 issue: "Requiem for the Space Station. NASA's proposed house in the sky will cost too much and do too little."

The Washington Post has supported the position that our subcommittee took.

In an editorial today in the New York Times, it does the same.

So I think the public is well informed about this debate here because it has been in all the national magazines and the media.

□ 1240

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Texas.

Mr. HALL of Texas. I thank the gentleman for yielding.

Mr. Chairman, may I ask the gentleman what the year of those news articles is?

Mr. GREEN of New York. It is this year.

Mr. HALL of New York. Just this year for a space station that has enduring contracts with the Japanese and 20 other countries?

Mr. GREEN of New York. Well, if I may reclaim my time, I think this is the time for the news magazines to write about it and they did.

Mr. STUMP. Mr. Chairman, I praise the gentleman from Michigan, BOB TRAXLER, for his leadership as chairman of the subcommittee, and also the gentleman from New York, the ranking member, BILL GREEN, for all their hard work on this spending package before us today.

The caps defined in the Budget Enforcement Act of 1990 have made this budget cycle an especially difficult one. The decisions to be made within the domestic discretionary category had to be the toughest of all. Knowing how hard the subcommittee worked on this package, I deeply regret that I simply cannot support the bill.

It is a well established fact that the Department of Veterans Affairs has been underfunded for many, many years. Members of the Veterans Committee, under the leadership of my good friend, SONNY MONTGOMERY, have stood before this body and forwarned of major problems just waiting to happen—all because of severe underfunding.

Perhaps part of the problem is that, under the current Appropriations Committee structure, the Department of Veterans Affairs is forced to compete with housing, science, and environmental programs that may also be worthy of funding. I suggest that the leadership consider adopting a separate appropriations bill for VA so that we can better focus on the basic needs of our veterans.

Mr. Chairman, members of the Veterans Committee are acutely aware of budget constraints, deficits, and competing programs worthy of Federal funding. But we are not asking for major increases in veterans programs, we are simply asking for basic funding for current services. This bill does not fund a current services budget for Veterans Affairs. It is as simple as that.

This bill funds excessive public housing subsidies. Instead of funding new and innovative housing programs that give tenants a stake in their future, the committee added $1.4 billion above the administration's request for costly housing construction programs that have been tried in the past and have proven to be ineffective.

Further, the bill provides $233 million more than the President's request for public housing modernization. But it is my understanding that there is about $5 billion of unspent funds already in the program. Why are veterans being turned away from VA hospitals for lack of funds when HUD can't spend theirs fast enough?

Now that the war is over, do not let their contributions and the contributions of past veterans slip from our congressional memory. On Saturday, the national victory celebration will be held to hail the tremendous contributions and enormous successes of the U.S. Armed Forces during Desert Storm. No doubt many of my colleagues will be lining Constitution Avenue cheering our soldiers, sailors, marines, and airmen. Based on our actions here today, let this body demonstrate its true sense of gratitude to these brave men and women. Lets really give these veterans something to cheer about.

Mr. Chairman, I am asking for a more rational set of priorities in the appropriations process.

Mr. MONTGOMERY. Mr. Chairman, I rise in support of this appropriation bill. I want to compliment the distinguished gentleman from Michigan, the very able chairman of the Subcommittee on VA, HUD and Independent Agencies, BOB TRAXLER, and the distinguished gentleman from New York, the ranking minority member of the subcommittee, BILL GREEN, for the package they have put together.

This is a particularly tough year for all of us. The continuing high deficit and the caps imposed by last year's summit agreement make it very difficult to operate existing programs, let alone create new ones. There have to be compromises and I support the priorities established by the Appropriations Committee contained in this bill.

The Veterans' Affairs Committee has been very vocal in its recommendations to the Budget and Appropriations Committees on increased funding levels to meet the health care needs of veterans and their eligible dependents. This bill recognizes the critical need in this area. The bill would increase funding for health care $265 million above the amount requested by the administration. Adequate nurse staffing is an important part of providing quality health care, and the subcommittee provides funds for 1,500 additional nurse positions. The additional funds for medical care will allow the Department to implement the physician and dentist pay bill enacted by the Congress a few weeks ago. The VA can not get good doctors unless it pays them appropriately.

I know that many members of the House have heard from their veteran constituents about the difficulty they are having in gaining access to many VA hospitals. Many Members have urged me to work with the Appropriations Committee to get an increase for fiscal year 1991. I am pleased to inform my colleagues that this bill responds to that need.

The bill also addressed another critical issue—medical equipment. Because of inadequate budgets during the past decade, many VA hospitals are in dire need of replacement equipment. This bill contains an additional $90 million for this purpose. The shortfall in VA's medical equipment account is at least $700 million according to witnesses who have testified before our committee and based on our own hospital surveys. The Department's inability to replace obsolete equipment poses a real threat to quality care. This increase will not solve the current equipment procurement problem, but it will be a big boost to staff in the field who are mandated by Congress to provide quality care to their patients.

The cost of this provision will not add to the deficit, Mr. Chairman. The bill provides a source of funds to cover these costs. The funds will be derived from the modest fees some nonservice-connected veterans are required to pay for medical care and prescription drugs. These copayments were established as 1-year cost-saver in last year's Omnibus Budget Reconciliation Act. This bill would lift the sunset dates on those cost-savings provisions. Mr. TRAXLER and I have agreed to this provision with the understanding that the scheduled termination of the authority to collect these fees will be extended for one year, provided that the funding for medical care is not less than the amount contained in the House bill, $13.5 billion. If there is any effort to reduce the amount in the other body, the distinguished gentleman from Michigan and I have agree that the 1-year extension will be dropped in conference. We do not intend that these fees be used to fund someone's personal project. I think we have that clear understanding and I appreciate the willingness of the Appropriations Committee to work with our committee.

The bill will help in several other ways:

It would provide $226.8 million for medical and prosthetic research—$10 million more than the amount requested.

The subcommittee also added $10 million above the amount in the President's budget for the operation and maintenance of our national cemeteries. We have ignored the funding needs of our cemeteries for too many years, and I am proud that the committee has heeded our advice regarding the need for additional funds.

It would add $4 million to restore 100 additional full-time staff in VA regional offices. Veterans deserve better service when they are seeking benefits from VBA, and this will help the situation in our regional offices. In addition, the bill adds $14.1 million for unbudgeted VBA costs associated with Operation Desert Storm. I have seen the justification for this addition, which will support 288 employees to provide transition assistance and to adjudicate the additional claims which will be filed by a large number of servicemembers leaving the Armed Forces. The Office of Management and Budget has claimed that the administration's budget included funds to take care of these veterans. This is simply untrue, Mr. Chairman.

In March 1991, Department of Veterans' Affairs Secretary Ed Derwinski, with OMB's blessing, said that VA had an immediate need for $12 million in the current fiscal year (1991) for claims processing and transition assistance "to gear up for a large and sudden influx of new veterans seeking benefits." Congress provided these funds and the President agreed that these amounts were related to Operation Desert Storm/Desert Shield.

The VA's budget for 1992 makes the express statement that it contains no funds for any workload associated with Desert Storm/Desert Shield.

Moreover, because of a very low mark from OMB, the 1992 budget projects a 38 percent decline (compared to 1990) in the number of claims from separating servicemembers for compensation and pension benefits, a 29 percent decline in claims for veteran (chapter 30) education benefits, a 23 percent decline in home loans processed, a 22 percent decline in veterans initiating vocational rehabilitation, and virtually no increase in veteran assistance activities, despite the huge demand for veterans assistance associated with the draw-down in military end-strengths and the mandate to provide a Transitional Assistance Program to these new veterans.

Given these declines anticipated in the President's budget, it strains credibility to say that this budget "assumes there would be an increase in the number of new veterans." The only way to square this assumption with the budget projections shown above is to assume that all of the old veterans would cease making claims or seeking assistance.

If OMB agreed that the VA needed $12 million for the 6 months remaining in fiscal year 1991 to "gear up for a large and sudden influx" of claims by new veterans, it needs far more than this amount to meet the surge which will hit its peak sometime in 1992.

Clearly, OMB is trusting that Congress has no memory of the events in March and April of this year. Otherwise it would not dare say that these funds are not needed. If they are not approved now, we will have a real emergency later.

The bill would add $76.7 million for major construction, including much needed parking garages at the Nashville and Miami VA medical centers.

Finally, the bill contains the necessary funds to colocate two regional offices in Bay Pines, FL, and Houston, TX. These new offices will be built on the medical center grounds, making it convenient for veterans and cost-effective to the Federal Government.

But there is language on page 10 of the committee report to which our committee is in total disagreement. The language states:

> The committee is aware of recent problems in starting up at least one of the new integrated hospital system sites. The purpose of these sites is to examine alternative technology for the future so it can be incorporated in the day-to-day computer hospital operations. The Committee expects the VA to resolve any problems in this regard and optimize the benefits from these five sites.

The Committee on Veterans' Affairs does not agree with the position taken by the Appropriations Committee and, for many reasons, I hope the Secretary will not continue the operation of a private system at the Brooklyn site nor renew the contracts at the other four sites. Those systems cost far more than they are worth. The Department of Veterans Affairs operates 172 hospitals. The Decentralized Hospital Computer Program [DHCP] is installed in 167 of them. VA users developed the software language [MUMPS], which is the main reason the system is so cost effective. DHCP is a proven system also being installed in all military hospitals, following extensive tests monitored by the General Accounting Office. The only problem the committee has found in talking with VA users in the field is the lack of sufficient funds to purchase the hardware needed to make the system more effective.

Notwithstanding the effectiveness of the DHCP, several years ago the Appropriations Committee insisted that VA install independent health information programs by private vendors at three hospitals. By the end of this fiscal year, the total cost to VA for these three sites will be about $60 million.

After these three were installed, the committee directed the VA to issue two additional contracts. Although the Department expressed strong reservations, it complied with the Appropriations Committee directive and proceeded to install private systems at two other sites. The VA selected Chicago—Lakeside—and Brooklyn. No difficulties were encountered in the implementation at Chicago. But like the other private systems, the system is just not as good as the DHCP installed at comparable VA facilities, and is terribly expensive. For example, the cost to VA to operate and maintain the private computer program in five hospitals is estimated to be about $20.5 million for this fiscal year. The system developed by VA installed in the remaining 167 medical centers will cost $115.7 million. In other words, Mr. Chairman, the $20.5 million to operate the five private computer programs—which includes both VA staff and contractual obligations—is 17.8 percent of the total DHCP costs. This is a terrible waste of funds.

When the Appropriations Committee states that it expects the VA to resolve its problems at Brooklyn, one must ask the question why? Brooklyn is a disaster. As a result of continual and unyielding problems with the contractor, the Department is in the process of preparing a cure notice for failure to perform. According to the VA, little has been accomplished at this facility. Yet, its cost to VA in fiscal year 1991 is expected to be $4.5 million.

Mr. Chairman, DHCP is a proven, cost-effective system that works. Our committee is unaware of any substantial enhancements that have resulted from the private vendors. The $70 million already spent and the tens of millions to be spent in future years at these sites could be applied to the equipment backlog that currently exists in the VA. It could be used to fund installation of already developed DHCP clinical enhancements which remain on the shelf because VA's hardware capacity is already at its peak. The funds could be used to offset spiralling increases VA is facing in the cost of medicines and drugs.

It is my hope the Appropriations Committee will reevaluate its decision to operate these five systems. With the budget problems we have, we can ill afford to continue such extravagance.

On balance, as I said earlier in my remarks, Mr. Speaker, this is an excellent bill for veterans and I thank the very able chairman of the subcommittee, Mr. TRAXLER, and the distinguished gentleman from New York, Mr. GREEN, for their leadership. I also want to express my appreciation to all members of the committee for the funding levels contained in the bill for veterans programs.

I urge my colleagues to support the bill.

Mr. MCDADE. Mr. Chairman, the fiscal year 1992 appropriations bill for VA, HUD, and Independent Agencies is one of the most difficult pieces of legislation to be brought to the floor this year. It is difficult because the needs addressed by the bill far outstrip the resources available for appropriation.

The VA–HUD bill is the department store of appropriations bills. It funds everything from VA medical care to NSF research. It funds disaster relief, homeless programs, and the EPA Superfund. It funds the Consumer Products Safety Commission, the American Battle Monuments Commission, the National Aeronautics and Space Administration, and the Selective Service. It represents an immense, unwieldly family of programs, whose children are pitted against one another in the annual battle for sustenance.

I wish to make it clear that the House Subcommittee on VA, HUD, and Independent Agencies has provided great stewardship of its many charges. The chairman of the subcommittee, my dear friend, the gentleman from Michigan, the Honorable BOB TRAXLER, has served the subcommittee and the Congress with great distinction. He has been forced to make enormously difficult choices, and I have nothing but the greatest respect for the work he has performed.

Likewise, the ranking Republican member of the subcommittee, my wise and learned colleague, the gentleman from New York, the Honorable BILL GREEN, has invested untold hours trying to build a castle out of a budget allocation made of mud.

Mr. Chairman, the subcommittee's 602(b) allocation of domestic discretionary budget authority is fully $1.2 billion below the President's request for this bill. Unfortunately, the allocation reflects the Budget Committee's decision to reduce the space and science function by the same $1.2 billion. This has led to the unfortunate decision to terminate funding for the space station Freedom.

While I completely understand the circumstances leading to this decision, I also know that this bill is headed for a certain veto death without corrective surgery. Today, I call upon the many doctors in the House to fix this patient up, so it can walk on its own to the other body, then down Pennsylvania Avenue and into law.

Mr. Chairman, the reasons for funding the space station are many, and they will be discussed at length during today's debate. I would only note at this point that the future of manned space flight depends upon the establishment of an orbital outpost. We have already invested nearly $6 billion in the project, and we have made express commitments to our international partners to build the station. We have required NASA to redesign space station Freedom to fit within a more realistic funding profile. We did these things to retain our lead in aerospace technology; to perform groundbreaking research; and to one day realize the benefits of a far-sighted investment in new products, systems and technologies. If we pull the plug now, we will draw into question the ability of the United States to lead a long-term collaborative international science and technology effort. We will cripple our ability to attract foreign participation to other large-scale science projects, such as the superconducting super collider. The potential damage to the reputation of the United States as an international leader must not be ignored.

Mr. Chairman, I would also note that the bill in its present state provides only $200 million of the $855 million requested for the HOPE Program of HUD. HOPE—Home Ownership for People Everywhere—was authorized with great bipartisan support during consideration of last year's omnibus housing bill. The program is designed to enpower low-income Americans by giving them the opportunity to build equity in their federally assisted homes.

Mr. Chairman, the bill provides no funding for HOPE I—a part of the HOPE Program designed to help tenants of public housing acquire ownership of their units. I urge my colleagues to support an amendment to be offered today to transfer a very modest amount of seed money to the HOPE I Program. There are over 1.3 million units of public housing in America, and today's amendment would fund the conversion of only a fraction of 1 percent of those units to tenant ownership. It is time to try something new in housing policy, and the authorization for HOPE expires at the end of 1992. Accordingly, I urge my colleagues to save this infant program from imminent crib death.

Mr. Chairman, I also would note that this bill fully funds the President's request for FEMA disaster relief. Neither the request nor the appropriation, however, begin to address the serious continuing shortfall in the disaster relief account. I call upon the administration to expeditiously assess funding requirements for disaster assistance and to deliver a request for funding as soon as possible. I will work with my chairman to ensure that we maintain an ability to respond to new emergencies and to address the needs created by present disasters.

Finally, Mr. Chairman, I am proud to observe that this bill contains $13.5 billion for VA medical care, an increase of $175 million over the President's request and $1.1 billion over the fiscal year 1991 level. It also provides $2.7 billion for the National Science Foundation. This is nearly the full amount of the 17 percent increase over last year's level sought by the President. It also contains significant increases for Community Development Block Grants, EPA Construction Grants, and public housing modernization. I note parenthetically that none of these increases will be jeopardized by today's amendments to fund the space station and the HOPE Program.

Again, Mr. Chairman, I wish to thank my colleagues on the subcommittee for their effort.

Mr. RAHALL. Mr. Chairman, I am pleased to rise in support of the fiscal year 1992 VA–HUD and related agencies appropriations bill.

Many of these programs funded in this $80.9 billion measure are of great importance to my home State of West Virginia. This level of funding represents a $2 billion increase over last year among all programs covered by the bill.

H.R. 2519 increases by 9 percent the funding for medical care and treatment of eligible beneficiaries, and for the addition of 1,500 nurses for secondary and tertiary VA hospitals. The funding will also permit increases in special pay for doctors and dentists, additional primary health benefits, and 140 additional positions to expand the Posttraumatic Stress Disorder Program for veterans.

I personally regret, even in the name of staying within budgetary constraints, the extension for another year of last year's imposition of a $2 copayment for medication provided to veterans on an outpatient basis. I have heard from veterans in West Virginia who do not understand why this is being imposed, since many of them are on low, fixed incomes and barely able in many cases to afford medication.

The bill recommends a 5.2-percent cost of living [COLA] for veterans' pensions next year, funding service-connected compensation benefits for an estimated 2.5 million beneficiaries and pension payments for an estimated 999,000 beneficiaries with nonservice connected disabilities.

The bill provides $635 million for readjustment benefits, which will go to provide education and training assistance, vocational rehabilitation training, and special housing and transportation grants, serving 399,000 veterans and eligible dependents.

Also of great importance to West Virginia is the $522 million for VA and State facilities, which includes major and minor construction projects, and for the establishment of State veterans' home and nursing care facilities. Under these programs, the veterans facilities in Beckley and Huntington, WV, both in my Fourth Congressional District, are eligible to receive funds.

The bill, due to budgetary constraints, fund housing programs at a level of $19.4 billion in fiscal year 1992, representing a reduction of $125 million over last year for these important programs. Again, I regret that spending constraints, due to the Federal deficit which we are committed to bringing down, force us to reduce veterans' housing program needs.

I sincerely wish, Mr. Chairman, that it was not necessary to leave the newly authorized HOME and HOPE Programs unfunded, or underfunded. I recognize that the reason is that we are trying not to severely reduce funding for existing, and vastly important, housing programs. Even though the HOPE and HOME Programs are characterized as administration programs being put forward for funding by President Bush and Secretary of Housing Jack Kemp, the fact remains that Congress authorized them. I know, as well as any Member of Congress, that authorizing is one thing, and funding is yet another. However, funding battles should not be characterized in such political terms as them versus us, if indeed Congress intended to pay more than lip service to housing needs when it put its stamp of approval on HOPE and HOME Programs. Having said that, let me say that were it not for the spending caps under which we are forced to work, I would like to see more than token funding of HOME and HOPE. These programs are no longer their programs, but our programs. We voted for them.

There is funding in the bill that provides assistance for an additional 74,500 low income families. The $9.8 billion in the bill, will benefit the following: $1.1 billion for 5-year housing voucher contracts—$8 million less than last year; $1.1 billion for existing section 8 housing certificates, for an additional 34,900 low income families in the coming year. Of this amount, $35 million must be used to assist families in imminent danger of losing their children to foster care due to a lack of appropriate housing. Funds are also provided to assist in meeting the housing needs of disabled, and persons with AIDS.

For the homeless, I am pleased to note that the bill continues to provide for the homeless, providing $536 million, an increase of $196 million over last year's level, for this purpose. This level of funding includes programs for emergency shelter, transitional and supportive housing demonstrations, SAFAH, and for section 8 moderate rehabilitation of single-room units for the homeless.

I am intensely pleased to note that the Community Development Block Grant Program is continued, and that the bill provides $3.3 billion in fiscal year 1992 for CDBG's. This funding level represents a modest increase—but an increase nevertheless—of $65 million over last year's level.

Mr. Chairman, one of the related agencies funded under this bill is the National Aeronautics and Space Administration [NASA]. Normally, I support funding for NASA, because it is important to our future leadership in space exploration as befits a world power. The bill, however, dropped all funding for the space station.

While the importance of the space station to West Virginia is modest in terms of money, some of those funds do go to West Virginia, including to my district. Currently, on-going contracts for space station programs amount to $1 million in West Virginia, rising to $4 million over the next 3 years. Given the expertise of West Virginia companies currently competing for these contracts, and the fact that their expertise is growing and expanding, future contracts for space station purposes can increase, allowing currently funded companies and new applicants to create new jobs.

I am supporting the reinstatement of funding for the space station today for the simple reason that the money is found by freezing all other NASA programs at last year's levels, and reprogramming funds from existing NASA programs for space station purposes. At the same time, the amendment to restore the funds also provides an increase of $11 million for veterans medical care.

All of us are bearing the burden of the spending caps and limited means of expanding funding for the programs that fall under VA–HUD—programs of such magnitude and significance to our constituents that it does not require further articulation here. But in West Virginia we need to make the most of every opportunity to create jobs and bring more Federal dollars into our districts. Reinstating funding for the space station will help do that in 30 States. I am committed to job creation for our State which lags far behind the rest of the country in achieving economic stability.

Mr. Chairman, also of utmost importance to my State, and to the Nation, is the provision of funds in this bill for wastewater treatment. The bill provides $2.2 billion in fiscal year 1992 for wastewater treatment grants, $95 million more than in fiscal year 1991. Of this amount, $1.8 billion is for grants to State wastewater treatment revolving loan funds. While this funding is referred to in the bill as grants, it is important to call to the attention of my colleagues that this is a loan program, called the State Revolving Loan Program [SRF], and it replaced the Title II Wastewater Treatment Facilities Construction Grant Program, which was phased out last fiscal year.

In West Virginia, and indeed in small communities nationwide, the use of the SRF is minimal, because small communities cannot afford loans. They can't afford the interest on the principal—and therefore they are letting wastewater treatment needs go begging because they simply cannot leverage the backing they need to go after the loans.

I am pleased to note that the Public Works and Transportation Committee, on which I serve, has begun a 2-year process of reauthorizing the Clean Water Act, which will include serious consideration of the Nation's $84 billion water infrastructure needs. I have introduced legislation, H.R. 916, to reinstate the phased-out Title II Grant Programs for wastewater treatment facilities construction. I hope that this program can be reinstated, and that it can be made to work in concert with the SRF, so that economically distressed, small communities can continue to receive grants, and larger, more affluent communities, able to leverage funding through municipal and other bond issues, can use the State revolving loan funds for their needs. With a dual program in place, and future funding that is adequate to both, we may come nearer to meeting the EPA and other standards Congress has imposed upon the States and localities for Clean Water Act compliance.

In conclusion, Mr. Chairman, I am pleased to note that FEMA funding is continued. I wish that FEMA could have received larger increases, for the need is great. I especially wish that the $134 million for emergency food and shelter could have been increased.

There are $2.7 billion for the National Science Foundation, reflecting an increase of $406 million over last year. This funding, among other things, supports science education activities and university research capabilities, which I support.

I am unalterably opposed to providing $15.9 billion for the FSLIC Resolution Fund, to continue the savings and loan bailout. I don't buy the statement that these billions are not counted for budget scoring purposes. All that means to me is that we are lying to the American public. Period. I can't very well vote against this bill because of this provision—it is too important in too many other ways to my constituency—but if I could, I would.

Again, I strongly support this appropriation bill, and urge my colleagues to join me in voting to pass H.R. 2519 to fund VA–HUD and related agencies in fiscal year 1992.

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 2519, as reported by the Appropriations Committee on Monday and in opposition to amendments that would redirect the spending plan of the reported bill on housing, space-related programs, VA, and independent agencies.

Mr. Chairman, we are beginning to face the reality of the renowned budget summit agreement, here today, as we deliberate over one of the key appropriations bills. We must now consider the real limits and tradeoffs that exist in our spending choices. We can make fair decisions. We can make decisions that put the real needs of our citizens at the forefront of our priorities.

I think H.R. 2519 does that in a balanced manner. I am pleased that Chairman TRAXLER and his committee have prioritized spaceship earth and people as having more pressing needs than the needs of a space station. This was undoubtedly not an easy decision. It is, however, one by which we should stand.

The Chapman and Lowery amendment offered today would dramatically narrow the mission for NASA established with this measure. NASA has in the recent past become, because of the single project tunnel vision, the National Space Shuttle Administration. Tomorrow, because of the present policy path and the choice of that path, NASA could become the National Space Station Administration. Of course, NASA, the National Aeronautics and Space Administration, must have a broad mandate and retain such in practice and reality. We should not sacrifice the broad scientific missions by cutting the broad base of NASA programs by $1.7 billion for the space station as this amendment would do. Nor should we support the $250 million cut from public housing operating subsidies by this amendment. Operating dollars meet the real needs, benefiting the poorest of the poor in our society. Operating subsidies are the dollars that pay for the utilities and repairs to keep the housing for 1.4 million families safe, sound, and sanitary.

This bill appropriates almost $81 billion among the Department of Veterans Affairs, Housing and Urban Development, the Environmental Protection Agency, FEMA, FDIC, RTC, and numerous other independent agencies. It manages to fund these programs at a level below the President's budget request, although above last year's appropriation.

Importantly, H.R. 2519 provides the funding for the housing programs authorized in the Cranston-Gonzalez National Affordable Housing Act—some tried and true, and some new. It does so with a healthy balance that does cannibalize current programs for those that we are just beginning, such as HOPE and the HOME investment partnership grants.

Although I am disappointed that the committee followed the President's budget request to cut the Emergency Shelter Grants Program to $71 million, I am very pleased at the funding that would be provided for the McKinney homeless assistance programs, and for the new Shelter Plus Care Programs that were created last year. Including FEMA and the Interagency Council on the Homeless, this bill would provide $671.3 million for those homeless programs that are funded under this bill, not to mention those programs targeted toward homeless veterans.

I extend my appreciation to the committee for clarifying its intent with regard to the appropriation of $57 million for the Supplemental Assistance for Facilities to Assist the Homeless [SAFAH]. Many of us were concerned that the rough plan proposed in the administration's budget that would collapse many current McKinney programs from other Departments into HUD's SAFAH Program was being seriously considered. As the report language points out, funding decisions for education, mental health, substance abuse and job training programs for the homeless will be considered in the Labor, Health and Human Services, and Education appropriations bill.

The bill also provides for a number of other housing programs that I strongly support including the expansion of the Congregate Housing Services Program, the Neighborhood Housing Services Program, the preservation provisions of the Affordable Housing Act and the essential Community Development Block Grant Program. These and the other housing and community development programs funded in the bill are truly empowerment programs that are deserving of our support.

Mr. Chairman, I want to thank Chairman TRAXLER, Representative GREEN and the committee and I urge my colleagues to support the bill as reported.

Mrs. MORELLA. Mr. Chairman, today's VA-HUD and Independent Agencies Appropriations bill presents a difficult decision. The space station is in unhappy competition with public housing operations and mission to planet Earth. After careful consideration, I have chosen to support the space station. The Augustine Committee stated: "If the United States is to have any significant long-term manned space program, a space station is the next logical and essential element." By continuing appropriations for the space station, we maintain our credibility with our international partners with whom we have agreements to build the station. The defunding of the space station will have a severe effect on the nation's economy. This program impacts more than 2,000 businesses in 40 States, employing over 50,000 workers, many of whom live and work in the State of Maryland.

However, this appropriations bill funds several beneficial programs that will suffer because they are pitted against the space station. I am deeply concerned that maintenance in public housing will be cut back. Maintaining our public housing continues to be crucial for low income housing. We should not build housing that we do not maintain. The Housing Opportunities Commission in Montgomery County, MD informs me that the county will have to increase significantly its subsidy because of this cut, and this is at a time when HOC is closing its waiting list of more than 8,500 households, who are requesting assisted housing.

Another program that will be affected adversely by space station funding in this bill is NASA's Earth sciences budget. It seems fair to fund the space station by freezing NASA's budget at fiscal year 1991 levels. As an environmentalist, I am unhappy that mission to planet Earth, a satellite program to study how the global environment is impacted by the Earth's population, will be slowed. A major focus of mission to planet Earth is to collect data on the effect of greenhouse gases in the atmosphere and to use this information to plan for a sustainable future.

Mr. Chairman, I deeply regret that this appropriations bill forces such a difficult choice. However, public housing maintenance will not end with this cut of $217 million. Mission to planet Earth will also continue, but the space station would be terminated by the lack of funds. The space station is an investment in jobs now and benefits to education, engineering, energy and environment in the future. I think the choice must be made for the space station today.

Mr. LEVIN of Michigan. Mr. Chairman, I rise in support of H.R. 2519 and urge my colleagues to vote in favor of this legislation.

I particularly want to commend the committee for including funding in the bill to help clean up the Rouge River in my home State of Michigan.

The Rouge is Michigan's River. More than 1½ million people—many of them my constitutents—live near the Rouge. This river should be counted among the Crown Jewels of Michigan. Once upon a time, it was. Years ago, the Rouge was swimmable, drinkable, and fishable. Indeed, as a young girl some 80 years ago, my mother swam in the Rouge.

Today, the Rouge is an ecological casualty of our modern industrial society. The river is so polluted that it threatens the health, safety, and quality of life of the more than 1½ million Michigan citizens who live near it.

Ironically, the Rouge River has also come to symbolize the determination and environmental spirit of the people of my State. Despite the river's problems, the people of Michigan have not given up on the Rouge. Each year, thousands of citizens meet on the banks of the river to clear logjams and debris. Indeed, last Saturday, I joined the people of my district for this year's cleanup effort.

But the main pollution problem in the Rouge is not logjams and debris. The problem is raw sewage. Whenever there is a storm, the local sewer systems are overwhelmed and untreated sewage flows directly into the river. The demonstration project funded in this legislation will begin the infrastructure improvements necessary for the environmental recovery of the Rouge.

Thirty years ago, John Kennedy remarked:

> I can imagine nothing more wasteful than to pollute our rivers and permit valuable water to flow to the sea in conditions where other people cannot use it. Our goal must be the fullest utilization of every drop and gallon of water in every river system in America.

Today we take a step toward the realization of this goal.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, it shall be in order to consider en bloc each of the amendments numbered 1, 2, and 3 printed in House Report 102-99. Said amendments en bloc shall not be subject to a demand for a division of the question and may amend portions of the bill not yet read for amendment.

The Clerk read as follows:

H.R. 2519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

Mr. PAYNE of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, may I ask the gentleman from Michigan, the distinguished chairman of the subcommittee, Mr. TRAXLER, a few questions regarding this bill?

Mr. TRAXLER. I would be delighted.

Mr. PAYNE of Virginia. I thank the distinguished chairman for the opportunity to direct a few questions to him concerning this bill.

You note in your report accompanying the bill that there are a number of unfunded studies mandated by the Clean Air Act. In this report, the committee urges EPA to request funding for these studies in fiscal year 1993.

Mr. Chairman, among the studies authorized by the Clean Air Act were studies which will identify and evaluate sources of visibility impairment in class 1 regions—our national parks and wilderness areas. In particular, the act requires development of regional air quality computer models for this purpose.

As you know, Members on both sides of the aisle from my State, and both of our State's Senators, have been working with both the Department of the Interior and EPA on this issue.

It is an issue of great national importance that has received extensive national news coverage. It has first evidenced its national importance in Virginia, but it will become an issue across the land wherever there are class 1 areas.

Mr. Chairman, I wish to clarify whether it is the committee's intent that the Administrator of EPA take up this subject with the Secretary of Interior, and develop a joint strategy for EPA to have the required modeling and data base available at the earliest possible date?

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. PAYNE of Virginia. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Chairman, I would like to thank the gentleman from Virginia for his question. Yes, that is the intent of the committee.

Mr. PAYNE of Virginia. Mr. Chairman, I further would request to know whether it is the committee's intent to have language along these lines included in the joint statement of the conference on this issue?

Mr. Chairman, the committee will be pleased to consider including such language in the joint statement of the managers at the time of conference.

Mr. PAYNE of Virginia. Finally, I would request to know whether the committee would consider carefully and make its efforts to include any funding provided by the Senate for this purpose when this matter comes to conference?

Mr. TRAXLER. Yes, the committee will take into careful consideration any funds provided for this purpose by the Senate when this matter is addressed in conference.

Mr. Chairman, I would advise the gentleman this is a very important program, and we will make our very best effort to that extent.

Mr. PENNY. Mr. Chairman, will the gentleman from Virginia yield to me?

Mr. PAYNE of Virginia. I yield to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. I thank the gentleman for yielding.

Mr. Chairman, as we consider the VA HUD Independent Agencies appropriations bill today, several points need to be raised. First, no subcommittee faces a more difficult challenge in meeting widely disparate needs and balancing competing interests than this one. How do we meet our obligations to those who have been disabled in the service of our country; to those who have no homes or lack means to find housing; to those whose livelihoods have been destroyed by earthquakes or floods; to all who have the right to clean water and clean air? How do we provide for scientific research and yes, even space exploration, that will reap benefits in the future? Each of these programs is vital in its own way and I believe that Chairman TRAXLER, Mr. GREEN and the subcommittee have done a commendable job in weighing the options. Overall, the spending in this bill represents only a 2.5 percent increase above the previous fiscal year.

Additionally, the subcommittee has called agencies to task for "top heavy" management and plans to hold the agencies accountable for such practices in the future. Wisely, the committee has not funded such things as the Points of Light Foundation because its governing commission has not even been selected.

The subcommittee has ensured greater protection of our environment through increased funding of EPA. The subcommittee also has chosen to meet some of the new obligations of the National Affordable Housing Act—in the HOPE and HOMES Programs—which I believe are the basis of meeting more of our housing needs.

In times of tough choices, the subcommittee and the full committee have suspended funding for the space station program. While I intend to say more on this later during the debate on the Lowery/Chapman amendment, I once again affirm this as a good choice. As the committee report states: "Funding the space station in 1992 would require the committee to reduce, eliminate, or curtail virtually every other NASA program and inadequately fund VA medical care, the National Science Foundation, and the Environmental Protection Agency—the fiscal year 1993 outlook is worse."

In other words, we simply can't afford to do it all.

Having said those words of commendation, I do want to interject one word of caution about a practice that is, unfortunately, not peculiar to this subcommittee. The bill, as reported, does contain some unauthorized and unrequested projects in such areas as VA major construction and EPA. For example—$48,800,000 has been designated for the El Paso VA Ambulatory Care Facility. This is to be a shared VA clinic with Beaumont Army Medical Center. While I am a strong supporter of VA/DOD sharing of medical facilities and a member of the House Veterans' Affairs Committee, I know that this project was not authorized by our committee nor was it a high priority in the VA's own construction plans. I am also not aware of any corresponding DoD commitment to the project evidenced in the recently passed military construction appropriation.

Finally, let me clear up a significant piece of misinformation from OMB about the budget scoring of $14.1 million provided for VA incremental costs related to claims processing and transition assistance. OMB would lead us to believe that these funds are not neeeded because they were somehow anticipated by the President's budget. That's nonsense. The VA's budget submission for fiscal year 1992 explicitly states that it contains no funds for any workload related to Operation Desert Storm/Desert Shield. The budget also assumed—despite the long-planned downsizing of the military and a new congressional mandate to provide transition assistance—a large decrease in the number of claims filed. As I have said many times during the past 6 months, we have done our veterans no favor if we provide benefits only to make them stand in line to get their check or file their claim.

I support the priorities set forward in this bill and ask my colleagues to join me in passing this legislation.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise to engage the gentleman from Pennsylvania [Mr. WALKER] in a colloquy. The gentleman from Pennsylvania is the ranking minority member of the Committee on Science, Space, and Technology, the authorizing committee. To be honest about it, the authorizing committee did a very fine job in having a balanced approach to a space program for this country. That is, manned and unmanned kinds of projects.

My own feeling, and I have to say this publicly, is that there is prejudice on the part of some, and it is certainly an intellectual decision on individuals' parts toward a manned program.

Maybe we should have had a robot on the Moon as opposed to a man on the Moon. I do not know. Maybe we should have robots flying our airplanes today. This is the thinking of some scientific members of the community.

Mr. Chairman, I recall JOHN GLENN, who pioneered space, telling me the story that when he was a young astronaut there was a tremendous national movement against manned space programs and there were people who believed that only machines could do the job. Frankly, many of the astronauts in that early era were jeopardized in terms of their missions because of that bias.

I think, myself, that is what we are having the debate about today. We are really not talking about budget priorities because what the authorizing committee did, what the Budget Committee did in offering a balanced program, was to say that America needs space, the space program, for all the ripple effects it has done affecting every single person's life. We need the space program. There is nothing we do that has not been affected by the space program, whether we are talking about environmental programs, whether we are talking about health programs, whether we are talking about programs that relate to world hunger, et cetera.

We have needed all kinds of programs to fulfill the dreams of this country and the world. And to have a bias against having human beings involved in terms of manning these projects is really wrong because there has been an effective job done by the authorizing committee and by the amendment that Mr. CHAPMAN will soon offer that says, "Let us have a comprehensive approach to it. Let's not have a prejudice against one area and not another area."

So I think there is a balanced way to do it. You cannot have one without the other, in my judgment.

Mr. Chairman, I just wanted to yield to the gentleman to ask him if that was his original point when he talked about the manned space programs versus the work that has been done.

Mr. WALKER. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentlewoman for yielding.

Mr. Chairman, my contention is that indeed scientific robotic programs are important as a part of our space future. There are certain things that we are not capable technically of doing with man at the present time and will not be for some time, some of the outer reaches of the solar system, as an example. But there are some places where we are technically capable of putting man in as part of the loop. Those are where we get the greatest learning curve. That is where we get the greatest economic payback.

The glasses I am wearing came out of the space program, they are plastic glasses, very lightweight. So therefore they are very comfortable. They have scratch-resistant lenses on them. That is the only way you can have plastic glasses. It come from having the astronauts having to have shields on the front of the helmet, and this is the development from that.

We get all of these paybacks. We are not doing the space program in order to get those paybacks, those paybacks come as a result of doing the space program. We do not get that with robots. Robots we build with technology we know how to do. They go out and find things that we expect to see. That is wonderful information, it is good space science, but it is not the kind of developmental work that pays back to this economy at a 9-to-1 ratio.

So the gentlewoman is absolutely right, we need a balanced program. It is my belief that the Appropriations Committee is rapidly moving us in the direction where we will not have that kind of balanced program, that they believe thoroughly in only the space science aspect and that ultimately the direction in which they will take us will have us with no manned space effort whatsoever by the end of the decade.

☐ 1250

Ms. OAKAR. Mr. Chairman, let me reclaim my time by just saying this:

I am going to ask the Members who do not believe in a manned space program whether they would be willing to get on a commercial airliner and just have the airliner operated by automatic pilot. I think not. I think we want to have human beings involved in the space program, and that is really what this issue is all about.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $15,841,620,000, to remain available until expended: *Provided*, That not less than $9,711,000 of the foregoing amount shall be transferred to "General operating expenses" for necessary expenses in implementing those savings provisions authorized in the Omnibus Budget Reconciliation Act of 1990, the funding source for which is specifically provided as the "Compensation and pensions" appropriation.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34–36, 39, 51, 53, 55, and 61), $635,400,000, to remain available until expended: *Provided*, That, funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $25,740,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans authorized by 38 U.S.C. chapter 37, as amended, such sums as may be necessary to carry out the purpose of the program.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $39,689,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans authorized by 38 U.S.C. chapter 37, as amended, such sums as may be necessary to carry out the purpose of the program.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $85,870,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by 38 U.S.C. chapter 37, as amended, such sums as may be necessary to carry out the purpose of the program: *Provided*, That during 1992, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,368,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by 38 U.S.C. 1798, as amended, $8,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $21,000.

In addition, for administrative expenses necessary to carry out the education loan program, $307,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by 38 U.S.C. chapter 31, as amended, $105,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,688,000.

In addition, for administrative expenses necessary to carry out the vocational rehabilitation revolving fund program, $936,000, which may be transferred to and merged with the appropriations for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $13,462,096,000, plus reimbursements: *Provided*, That of the sum appropriated, $8,750,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further*, That of the funds made available under this heading, $375,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1992: *Provided further*, That of the collections deposited in the "Medical care cost recovery revolving fund" pursuant to the Omnibus Budget Reconciliation Act of 1990, not more than $77,000,000 shall be available in fiscal year 1992 to cover the costs of collection activities.

AMENDMENTS EN BLOC OFFERED BY MR. TRAXLER

Mr. TRAXLER. Mr. Chairman, I offer en bloc amendments on medical care which were printed in the report on the rule.

The Clerk read as follows:

Amendments en bloc offered by Mr. TRAXLER: On page 7, line 10, strike out "$13,462,096,000" and insert "$13,495,096,000".

On page 34, line 20, strike out "$750,078,000" and insert "$744,078,000".

On page 46, line 9, strike out "$1,090,000,000" and insert "$1,084,000,000".

On page 49, line 9, strike out "$1,650,000,000" and insert "$1,630,000,000".

On page 68, line 9, strike out "$110,000,000" and insert "$109,000,000".

The CHAIRMAN. The gentleman from Michigan [Mr. TRAXLER] is recognized for 5 minutes in support of his en bloc amendments.

Mr. TRAXLER. Mr. Chairman, this amendment is really quite simple. It adds $33 million to the VA medical care appropriation, and it offsets this with a reduction in three salary and expense accounts and the EPA Superfund Program. As the Clerk read:

VA medical care is increased $33 million, HUD salaries and expenses is reduced $6 million, EPA salaries and expenses are reduced $6 million, EPA Superfund, $20 million; and NSF salaries and expenses, $1 million.

In my judgment, Mr. Chairman, these reductions have minimal impact on programs, and in all instances the amounts that are recommended, including these reductions, still provide more in the accounts in 1992 than was appropriated in 1991.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is the level-the-playing-field amendment, and I think the House ought to understand what is happening here. When the Chapman amendment was crafted, we were able to find, not only enough money to fund the space station, but we were also able to find enough money to increase the account to Veterans' Administration level. In other words, we believed what the committee has told us up until then about the ability to do space station within the context of their allocation. We showed that we could keep the EPA funding at its appropriate level, what the committee had down. We found that we could keep FEMA at the right level. We found that we could keep Superfund at the proper level. We found we could do all of these things and, in addition, increase VA. When the committee discovered that the makers of the amendment had in fact done them one better in terms of VA, they said, "Well, no, we can't have that. We've got to come to the floor, and we've got to have a level playing field. We've got to have $33 million more in ours as well."

So, Mr. Chairman, if we have done nothing else in this exercise, we have forced the committee to readjust their priorities, but it is interesting where they readjust their priorities.

We are going to hear a lot in the next little while. We are going to hear that the League of Conservation Voters were shown a voting list in order to show that support. Well, I wonder if they told the League of Conservation Voters that where they are getting some of the money to do their increases is out of Superfund, $20 million of Superfund. I wonder if they told them that it is coming out of EPA expenses, primarily salary expenses for EPA personnel. I wonder if the League of Conservation Voters knows that, and, if they do know it, I wonder what they are doing.

Because the fact is that the committee, when it had to come up with its priorities in order to find $33 million for veterans did some things that I think may make some Members uncomfortable, and so we are going to have a debate here over a series of issues, but I would hope that the same committee that is telling us that we cannot take money out of an account that is essentially nonfunctional for nearly all of 1992 will then not turn around and suggest to us that they somehow have a better sense of priorities when their priorities are coming out of the hide of EPA, Superfund, and other programs.

So, I do not see any reason not to level the playing field if the gentlemen feel that it is necessary. We will have accomplished the goal then of getting a little bit of extra money for VA medical care, but I want to remind the House that extra money did come out of some important accounts, including the Superfund account, and in all honesty I would prefer us to have taken it from some other place.

The one thing that I think maybe we ought to be able to do, if we want to really level the playing field, is to allow us then to have in our amendment the ability to knock back out some of these things so we can hold Superfund harmless in this whole process. I would hope that maybe we can now readjust our amendments and say, "I found $33 million that they regard as nonessential that we maybe could put those back in and thereby have a little bit of debate about that sense of priorities." I do not know whether the committee will allow us to do that or not. That woud be a true level playing field.

The gentleman from Michigan [Mr. TRAXLER] is shaking his head no. Of course not. We cannot have a real level playing field here because the committee wants to have its own way, wants to debate only on its terms. I would like to have a debate about whether or not it is better to cut housing subsidies which are nonoperative or whether it is better to cut the Superfund program, which in fact has some dramatic impact across the country. I think that is a real debate, too. I think the gentleman is intent on not letting us have that particular debate.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I know the gentleman would want the entire body to understand precisely what the numbers are, and, with his permission, let me just read them, and the membership will make their own decision of course. The HUD S&E account is a $825 million account. We did take $6 million out of that, as the gentleman knows.

Mr. WALKER. Yes.

Mr. TRAXLER. The EPA S&E, salaries and expenses, is $974 million, and we add, incidentially, 115 of that this year, and we reduced that by 6 million; that is true. The gentleman is correct.

Mr. WALKER. I thought I was.

Mr. TRAXLER. And the S&E account we added a million to this year, bringing it up to a total of $101 million, and we do cut that by $101 million, I must say.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. TRAXLER. It is also true, as the gentleman points out, that of the $1.6 billion Superfund account we did take away $20 million.

Mr. WALKER. Yes.

Mr. TRAXLER. The gentleman is accurate and correct.

Mr. WALKER. I thought I was, and I thank the gentleman from Michigan [Mr. TRAXLER], and I am in fact expressing it, and we have made the point with regard to the housing account, which we decided was the lesser priority because it is a $2.4 billion account, too. The gentleman knows at this point, I assume with information coming from the staff of his committee, that there are housing authorities all over the country calling in to Congress suggesting that their programs will be totally devastated by this account, which, as the gentleman knows, is money which is frozen off to at least September 20, 1992, anyway.

□ 1300

So there is a sense of priorities here. The gentleman has chosen Superfund to take his money from. We have chosen an account that will not be spent anyway to take our money from. I am suggesting the priorities are something that need to be discussed.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I think that it is important to note that the Lowery-Chapman amendment was drafted first and was given to the gentleman from Michigan [Mr. TRAXLER] and the members of the subcommittee that is bringing this bill to the floor. They then took the Lowery-Chapman amendment and drafted their own amendment, which is their prerogative, and I certainly do not denigrate that. But the rule that came out of the Rules Committee protects both amendments from points of order and also protects both amendments from a division of the question.

So what the gentleman from Michigan is proposing to do here to give Veterans' Administration the additional money is to reduce Superfund, but in our amendment we cannot bring Superfund back up the suggested level of the Appropriations Committee unless it is done by unanimous consent, and the gentleman from Michigan has already indicated he is going to object to that. That really does not level the playing field, because we would like to spend the $20 million more on Superfund and whatever is necessary for salaries and expenses in the EPA so that Superfund projects can get off the ground in greater number and perhaps be completed.

So the Rules Committee has somewhat killed the playing field at the direction of the subcommittee and the gentleman from Michigan by prohibiting a division of the question on this amendment, so we cannot get a separate vote on the $20 million they are planning on taking out of the Superfund. It also will not allow us to put the $20 million back in. I think that is a very salient point.

Mr. WALKER. Mr. Chairman, I thank the gentleman. I think the House should focus on the fact that there are some problems here that need to be understood before we approve this amendment.

Mr. GREEN of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise simply to point out to the House that the terms of the two amendments and the rules that circumscribe them were negotiated out before the Rules Committee by both parties, those offering the amendment and the subcommittee chairman and ranking minority member, and they were agreed to before the Rules Committee with the Rules Committee, and everyone understood that that was the playing field on which we were playing, and everyone at that time thought it was a level playing field.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, was there discussion of the cuts the gentleman was going to make before the Rules Committee?

Mr. GREEN of New York. Yes. The distinguished chairman made it very clear where the money was coming from. You cannot put anything like that over on the Rules Committee.

Mr. WALKER. Mr. Chairman, if I recall, there was no discussion in the Rules Committee. The chairman in fact presented it as part of his written testimony, what his amendment was going to be, but there was no discussion in the Rules Committee about all this, and as a matter of fact I had not seen a copy of this amendment until after the Rules Committee had met on this, and I asked to see what the amendment was that was being made in order for the gentleman from Michigan [Mr. TRAXLER], because earlier I was there—and I do not think the gentleman was there then—and I asked about the Traxler amendment and was told there was going to be no amendment. Then when I went back, I found out there was going to be a Traxler amendment, and I was shown a copy of it at that point. But I do not remember any discussion, and I sat through the whole thing.

Mr. GREEN of New York. Mr. Chairman, I can only say that I was there and made my presentation after the gentleman from Michigan made his presentation, and thereafter the proponents of the amendment made their presentation. It was quite well understood what we were doing, and it was quite well understood by everyone that the subcommittee chairman had been extremely fair and gracious in the way he had gone to the Rules Committee to give the proponents of the amendment the opportunity, which we do not often give Members, to reach across lines if they want in order to fund what they want to fund.

I really do object to any suggestion that there was any unfairness here. This was fully laid out before the Rules Committee, and everyone agreed we had been more than fair in how we were proceeding.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, I do not quarrel with the gentleman's point that everyone agreed that it was fair to have these amendments on the floor. I am not disagreeing with that. The question I have is whether or not we discussed before the Rules Committee, on this level playing field amendment, whether $20 million of that was going to come out of the Superfund.

Mr. GREEN of New York. Mr. Chairman, the full amendment was presented to the Rules Committee, and they included it in their report as it had been presented to them. There were no secrets at all.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the subcommittee chairman.

Mr. TRAXLER. Mr. Chairman, let me say on this rather arcane discussion here that we provided as much information on our amendment as was provided on the reinstated space station. As much information was given by both sides, and I have no problems with the information that was provided.

I think the difficulty here is that we need to understand that in finding the $33 million to add to the Department of Veterans Affairs, to create the level playing field, we looked at some accounts where it would do a miniscule amount of harm. We are talking about, for instance, in the EPA S&E account, where there is a reduction of six-tenths of 1 percent. We are looking at the NSF S&E account, where there is a 1 percent reduction. We are looking at Superfund, and that is an approximately 1 percent reduction. Let me say that those accounts are still, even with the reductions, above last year's numbers.

I think most Members would understand this situation very well, and I think they would appreciate the effort we made not to do harm to programs. In my opinion, we have funded the programs that the committee has supported over the years, and the Members of both sides would agree, I believe, that what we are doing is leveling the playing field.

If we could, I would like to get on to the real issue that is in front of us, and that is: If we put the station in, what do we take out? That is really why we are here today, and that is what we are discussing.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I am happy to yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, let me say that I think the gentleman is correct. We had agreement that there is no reason why we should not have in this committee bill the $33 million. There are a lot of angels dancing on the head of a pin here to discern whether or not we can detect a half a degree's difference in how level that playing field is. I think that the gentleman from Pennsylvania [Mr. WALKER], in all good faith, did know exactly where that money was coming from, and I think he is doing what he does best and that is to reveal the facts of the situation to all of us. There is a no harm in that either, but it does represent a little bit of maneuvering.

Mr. Chairman, let me say that I do support the amendments.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. TRAXLER].

The amendments en bloc were agreed to.

AMENDMENTS EN BLOC OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I offer amendments en bloc made in order by the rule.

The Clerk read as follows:

Amendments en bloc offered by Mr. Chapman: Page 7, line 10, strike "$13,462,096,000" and insert "$13,495,096,000".

Page 24, lines 15 through 17, strike "$2,405,844,000" and all that follows through "September 20, 1992" and insert "$2,155,844,000.".

Page 60, line 6, strike "$5,194,600,000" and insert "$6,023,600,000".

Page 60, line 17, strike "$5,650,300,000" and insert "$5,157,075,000".

Page 61, line 4, strike "$398,700,000" and insert "$497,900,000".

Page 62, line 19, strike "$2,427,300,000" and insert "$2,211,900,000".

Page 63, line 6, strike "$12,952,000" and insert "$10,500,000".

Page 64, line after line 9, insert the following new paragraph:

Funds provided in this Act for the National Aeronautics and Space Administration, shall be used for the same amounts, purposes, and programs as are provided for fiscal year 1991 under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (Public Law 101-507).

□ 1310

Mr. CHAPMAN. Mr. Chairman, today I am offering an amendment, along with the gentleman from California [Mr. LOWERY], to the VA, HUD, and independent agencies appropriations bill for fiscal year 1992, that will restore virtually all funding for the Space Station Freedom Program.

Mr. Chairman, before I do that, and in the context of the discussion we have just had, I have a unanimous consent request that I would like to explain. That is, with the amendment just adopted by the House, we now have before the House a bill which makes certain cuts to accounts within the bill to fund an additional $33 million for the VA medical account.

As has been discussed, those cuts are to HUD, salary and expenses; EPA, salary and expenses; Superfund, some $20 million; and the National Science Foundation, salary and expense account, $1 million.

REQUEST FOR MODIFICATIONS OF AMENDMENTS EN BLOC OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I ask unanimous consent to amend my amendments so that we can go back to the initial thrust, and truly level the playing field, so that we can have before the House today a clear decision on the Chapman-Lowery amendment, which would fund space station at $1.9 billion, taking the funds to do so from the HUD account previously noted in debate, and add $33 million back to the VA medical account, so there is a clear distinction between our amendment and the amendment which has just been adopted, which funds an additional $33 million from HUD, EPA, Superfund, and the National Science Foundation.

Mr. Chairman, to do so, I ask unanimous consent that the amendments being offered by myself and the gentleman from California [Mr. LOWERY] be modified by adding the following provisions: on page 34, line 20, strike out $744,078,000 and insert $750,078,000; page 46, line 9, strike $1,084,000,000 and insert $1,090,000,000; page 49, line 9, strike $1,630,000,000 and insert $1,650,000,000; and, page 68, line 9, strike $109,000,000 and insert $110,000,000.

Mr. Chairman, this would truly level the playing field and present before the House today the clear choices of the Chapman-Lowery amendment and the amendment that the committee bill just adopted.

The CHAIRMAN. The Clerk will report the modifications.

The Clerk read as follows:

Modifications to amendments en bloc offered by Mr. CHAPMAN: In the matter proposed to be inserted by the amendment:

(1) Strike the item referred to on page 7, line 10;

(2) Insert at the end the following:

(A) Page 34, line 20, strike "$744,078,000" and insert "$750,078,000";

(B) Page 46, line 9, strike "$1,084,000,000" and insert "$1,090,000,000";

(C) Page 49, line 9, strike "$1,630,000,000" and insert "$1,650,000,000"; and

(D) Page 68, line 9, strike "$109,000,000" and insert "$110,000,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. TRAXLER. Mr. Chairman, I have an objection.

The CHAIRMAN. The gentleman will state his objection.

Mr. TRAXLER. Mr. Chairman, the amendment is outside of the rule.

The CHAIRMAN. Objection is heard.

MODIFICATION OF AMENDMENTS EN BLOC OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, since objection has been made, at this time, in light of the fact that the amendment has increased the VA medical account by some $33 million, and we have been prevented from offering a clear choice as between the two provisions, I would ask unanimous consent to again modify my amendment that is offered by myself and the gentleman from California [Mr. LOWERY] by striking out $2,155,844,000, and inserting $2,188,844,000, the purpose of which is, since the funding has now been increased in the VA medical account, it is no longer necessary to reduce the VA-HUD account by $250,000,000. That would now be reduced to $217,000,000.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. TRAXLER. Mr. Chairman, reserving the right to object, would the gentleman from Texas [Mr. CHAPMAN] explain his amendment?

Mr. CHAPMAN. Mr. Chairman, since the amendment offered by the gentleman from Michigan [Mr. TRAXLER] has now been adopted by the House and has increased by some $33 million on the VA medical account, which the Chapman-Lowery amendment would have done, it is no longer necessary for our amendment to increase VA medical, because it has been increased. Therefore, we no longer need to transfer $250,000,000 from the appropriate HUD accounts, but only $217,000,000, to fully fund NASA at last year's level.

Mr. TRAXLER. Mr. Chairman, I thank the gentleman from Texas [Mr. CHAPMAN] for that explanation, and I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The text of the amendments en bloc, as modified, is as follows:

Page 7, line 10, strike "$13,462,096,000" and insert "$13,495,096,000".

Page 24, lines 15 through 17, strike "$2,405,844,000" and all that follows through "September 20, 1992" and insert "$2,188,844,000".

Page 60, line 6, strike "$5,194,600,000" and insert "$6,023,600,000".

Page 60, line 17, strike "$5,650,300,000" and insert "$5,157,075,000."

Page 61, line 4, strike "$398,700,000" and insert "$497,900,000".

Page 62, line 19, strike "$2,427,300,000" and insert "$2,211,900,000".

Page 63, line 6, strike "$12,952,000" and insert "$10,500,000".

Page 64, after line 9, insert the following new paragraph:

Funds provided in this Act for the National Aeronautics and Space Administration, shall be used for the same amounts, purposes, and programs as are provided for fiscal year 1991 under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991, (Public Law 101-507).

Mr. CHAPMAN. Mr. Chairman, during the upcoming debate we will hear many arguments, both for and against funding for space station Freedom. I would like to open this debate by expressing my beliefs in this regard and to outline the Chapman-Lowery amendment, which will restore nearly full funding for the space station project.

A generation ago John Kennedy had a dream for America, a dream for our Nation to lead in space exploration and to benefit from its technological advances.

Mr. Chairman, there is no question that the Apollo Program stimulated unprecedented numbers of children to study math, science, and engineering. Yet today we are witnessing a serious decline in the ability of our children to perform in these very areas.

Mr. Chairman, in order to maintain our competitiveness, our children must be educated in math and science. Space Station Freedom is a powerful inspiration for America's young people, and allows them to see future opportunities for math and science skills. Space Station Freedom will provide a first class laboratory in space for materials science, microgravity research, biotechnology, life sciences research, and medical research. The laboratory will give us unique opportunities to study cardiovascular disease, hypertension, osteoporosis, anemia, diabetes, and the basic immune functions. Such research can lead to new medicines to treat diseases like cancer and AIDS.

Mr. Chairman, to back out on our pledge at this time to our international partners to build a space station will seriously affect our Nation's credibility. Our international partners in this effort have made space station a critical element of their space policy. Plans and budgets that they have already adopted incorporates space station Freedom in their space future. They have pledged to invest $8 billion in this project, and have already paid $1.6 billion of that pledge.

Mr. Chairman, just this week, in hearings before the House Committee on Space, Science, and Technology, executives of these foreign space agencies testified that the cancellation of this project would make it difficult to cooperate with U.S. science programs in the future.

We must continue space station Freedom, to retain our credibility and technological leadership in the world.

Mr. Chairman, space station Freedom has a tremendously large economic impact on our Nation. The space station program has a procurement constituency of over 2,000 businesses in 40 States and employs over 100,000 people directly and indirectly. Many of these workers are skilled engineers and scientists who will be needed to ensure future U.S. technological competitiveness.

Mr. Chairman, while the economic aspect of this program is worth noting, I believe it is hardly the strongest argument for continuing space station Freedom. I believe that a vote to abandon the centerpiece of U.S. space policy in our program is tantamount to destroying our manned space program in this country.

Critics of space station will argue that the space station's objectives have been too narrowly defined and NASA's future lies somewhere else in the unmanned programs. It may be true that space exploration may be better suited in some cases to unmanned probes, but such a position, in my judgment, is terribly short-sighted.

Mr. Chairman, the space station is not so much an end in itself, as it is a significant step in a longer term program of expanding human presence beyond Earth and into the solar system. If we are to retain our goal of a manned space program, then this Nation must have a space station from which to learn and launch that program.

□ 1320

After the VA, HUD Subcommittee voted to terminate the space station, our chairman, the gentleman from Michigan [Mr. TRAXLER], encouraged the gentleman from California [Mr. LOWERY], and myself, as members of the subcommittee, to offer an amendment that would restore space station funding. He expressed to us that the entire House of Representatives should voice their opinions on this issue, that space policy and the future of our space program should not be left to the voting determination of nine members of a subcommittee or the full Appropriations Committee. So it is with my chairman's encouragement and blessing that I am here today offering this amendment to restore space station funding.

In fact, we appeared together yesterday before the Rules Committee in an effort to secure a rule making in order the choice that the House will have today.

The Chapman-Lowery amendment would preserve the general priorities reflected in the committee's recommendation while still allowing the House of Representatives to speak on the issue of space station Freedom.

The CHAIRMAN. The time of the gentleman from Texas [Mr. CHAPMAN], has expired.

(By unanimous consent Mr. CHAPMAN was allowed to proceed for 4 additional minutes.)

Mr. CHAPMAN. The Chapman-Lowery amendment would provide funding for space station from within the NASA portion of the bill by freezing all of NASA's programs at the 1991 funding levels. This would provide space station with $1.9 billion, the same amount of money station is getting this year. And no other NASA program, let me restate this, no other NASA program would receive a dollar less than it is receiving in this year's funding request and funding amount.

Under our amendment, as amended now and the bill as amended by the chairman, veterans' medical care will receive $33 million more than the original subcommittee mark. Under our amendment, all of EPA's program will receive the full increases provided by the subcommittee. That cannot be said now for the subcommittee bill. The subcommittee bill, the choice of the Chapman amendment versus the subcommittee's position now will cut Superfund by $20 million, will cut EPA salary and expenses. Our amendment funds EPA and Superfund at the full subcommittee mark, an increase of some $500 million over last year's or this year's fiscal year.

Under our amendment the National Science Foundation will receive the full amount requested by the President and provided by the subcommittee, an increase in NSF funding of some $406 million, a 17-percent increase in the budget of the National Science Foundation in an effort to double their funding as we all hope we can do over a 5-year period. The Chapman-Lowery amendment now does this because the chairman's mark cuts funding for the National Science Foundation. We fully fund the National Science Foundation.

Under the amendment, all programs for the homeless and community development block grants will receive full funding and full increases provided by the subcommittee. In the committee bill, the Appropriations Committee funded public housing operating subsidies at $250 million above the President's request, and this appears to be the issue and the concern of many of my colleagues. "Where," they ask, "Jim and Bill, where did you get the money to restore the funding?"

We went to the HUD operating subsidies account, where the subcommittee had plused up the funding some $250 million above the President's request, over $300 million, my colleagues, above the authorized level for this account. And we took that $250 million, which is fenced in the committee bill until the last 10 days of the 1992 fiscal year, and which CBO and OMB tell us cannot be spent anyway, and transferred that funding to VA and to NASA.

If the Appropriations Committee has effectively acknowledged that $250 million of their $2.4 billion mark is not needed to meet 1992 needs, then there is no reason to forward fund 1993 operating subsidy needs this fiscal year.

The Chapman-Lowery amendment will reduce those public housing operating subsidies by $250 million below the committee mark. However, and I want to say again, this program will still be funded at the full request of the President and the Secretary of HUD and above, above the current authorized level.

Mr. Chairman, this proposed amendment will nearly fully fund space station Freedom. We are at almost 95 percent of requested funding. We do so without modification to the 602(b) allocation of the subcommittee and without any major impact to the other agencies funded in the bill. Since the offsets for restoring space station come primarily within the NASA account, I am aware that some Members are concerned about the effect this bill will have on other NASA programs. I would like to make a few points on that matter.

Many Members have received letters from the science community strongly reminding them that the recent Augustine Committee report on the future of the space program said that space science was a top priority.

The CHAIRMAN. The time of the gentleman from Texas [Mr. CHAPMAN] has again expired.

(By unanimous consent Mr. CHAPMAN was allowed to proceed for 2 additional minutes.)

Mr. CHAPMAN. The Augustine Committee noted that the space science program should be given priority, but within the context of a balanced space program, one in which manned space activities are also a key element.

In fact, the Augustine Committee itself stated that manned space activities were of critical importance to the overall U.S. space program. The answer of the Augustine Committee to a manned space program is a resounding yes. The Committee bill, my colleagues, destroys this balance. It tells the space science community in effect that they can get their funding only if they help kill space station and the manned space program.

Cancellation of the space station would lead to a temporary increase in some funding for other NASA programs, but it would mark the loss of a long-term goal that this country has had for a generation.

The Chapman-Lowery amendment would maintain the balance between manned space flight programs and unmanned space flight programs and would maintain the 20-percent share the NASA budget has devoted to space science.

NASA itself has indicated that space station Freedom is an important national priority, and it fully supports the Chapman-Lowery amendment.

I understand the hard choices that we as Members of Congress must make in order to reduce our current budget deficit. However, we must not be shortsighted. We must not destroy America's role in manned space flight. We must demonstrate that we understand the important contributions the space station will make to our Nation and to our future and that we must be committed to remaining the technological leader of the world.

I urge my colleagues to adopt the Chapman-Lowery amendment.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from Michigan.

Mr. TRAXLER. I just want to take this time to express my admiration for the gentleman from Texas [Mr. CHAPMAN] and the gentleman from California [Mr. LOWERY].

The CHAIRMAN. The time of the gentleman from Texas [Mr. CHAPMAN] has again expired.

(On request of Mr. GREEN of New York, and by unanimous consent, Mr. CHAPMAN was allowed to proceed for 4 additional minutes.)

Mr. TRAXLER. If the gentleman will continue to yield, they are both distinguished members of the VA, HUD, Independent Agencies Subcommittee. And each has made significant contributions to this bill.

More importantly, in the course of our discussions, in conversations pertaining to the gentlemen's amendment, they have conducted themselves in the finest manner. They have absolutely kept their word on every issue that we talked about. They have set forth clearly to all parties what they wanted and intended to do, and they have assured everyone that this debate would be on the highest plane and the highest level.

I am very proud to say they are members of the subcommittee but, more importantly, good friends. I want them to know that they are now and they will be, irrespective of how this issue is resolved in the House later today. I am proud of both of them.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from New York.

Mr. GREEN of New York. I think we ought to make very clear what the answer is on what was the $250 million and now is the $217 million. I realize the gentleman has not in the past been deeply involved in public housing finance and that most of our colleagues have not. I think we ought to understand that the way HUD puts out the operating subsidy money, traditionally only about 46 percent of it outlays in the fiscal year in which it is appropriated. That happens to be very similar to the space station, which outlays in a very similar rate.

□ 1330

Neither is funny money. The fact of the matter is that HUD outlays this money periodically as the authority fiscal years begin, and that is not something that is recent. The housing authorities whose fiscal years begin on October 1 submit their request to HUD by July 1, and are funded out of the last fiscal year money available.

If you take this $250 million or $217 million away from HUD, then in order to meet that October 1 need, HUD has to cut every housing authority so that proportionately there will be $217 million less available for operating subsidies for public housing in fiscal year 1992. It is as simple as that. This is not funny money. It is not something we are doing that is any different from what has been done in the way HUD has operated over the years.

Let me make one further observation, and that is that the gentleman seems to assume that we are just flinging money around because we added $250 million to this above the administration request. The fact of the matter is the administration has underfunded this program consistently.

Last year, for example, the administration request was $1,825,731,000. Ultimately, by the time the supplemental was done, we had to fund the program at $2,157,000,000, and that works out to almost $375 million more than the administration's request just in order to match the formula that HUD uses for providing this funding.

I think it is very clear that in putting in the $250 million above the administration request we are simply trying to have this bill be honest from the start instead of having to come back with a supplemental and try to find the money for it next spring when the administration's request will have proved to have been wrong.

Mr. CHAPMAN. Reclaiming my time, let me say that the gentleman is correct. I have not been an avid or real student of housing programs until this came up. Let me say that I have gone to school in the last few days about these HUD programs, and here is what I found out. I have found out that a formula was developed which the gentleman has referred to which presumably sets a budget for these public housing authorities to operate based upon the efficient management of a housing authority. It is a formula budget.

What we are doing here, my colleague, my fear is, and what I think has happened is we are in effect creating a $250 million, if you will, slush fund at the end of the year that, based upon the formula needs submitted to our subcommittee by HUD, we have fully funded the formula need. Now, what we are doing is we are doing nothing more here than creating at the end of the fiscal year another $250 million.

The CHAIRMAN. The time of the gentleman from Texas [Mr. CHAPMAN] has again expired.

(At the request of Mr. GREEN of New York and by unanimous consent, Mr. CHAPMAN was allowed to proceed for 3 additional minutes.)

Mr. CHAPMAN. Mr. Chairman, we are doing nothing more here than creating at the end of the fiscal year a $250 million pool of money which cannot be obligated, which cannot be spent, according to prior dialogue I heard here today, which looks to me is going to encouage inefficiencies, encourage public housing authorities to do those things so they can come in at the end of the year and say, "I have got to have extra money."

How can you say that we are not funding HUD when we are funding HUD not only at the full request of their Secretary, Mr. Kemp, and at the request of the administration, but at some $80-plus million above the authorization of the authorizing committee?

Mr. GREEN of New York. If the gentleman will yield further, this is the same Secretary Kemp who submitted a request that proved to be $375 million short last year by HUD's own formula.

Mr. CHAPMAN. We are not talking about that. We are talking about September of 1992. We are anticipating inefficiency.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

He makes a good point. The gentleman from New York wants to blame this all on the Kemp administration and on the Bush administration.

The fact is that, as the gentleman points out, the figure that is in the gentleman's amendment is still above the authorized amount. We are still some $67 million above authorization.

One of the problems with this subcommittee is the fact that they seem to ignore authorizations, and in this particular case this is an authorized amount as well, and so it is a congressional amount, and I think the gentleman is entirely proper in pointing that out.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am delighted, as a member of the authorizing committee, at this new found respect for our function. I hope it is long lasting.

I would point out that the chairman of the authorizing committee is here today, and I think he will agree with many of us who are on the authorizing committee that what the Committee on Appropriations did is exactly appropriate. We had a bargaining session last year. We had to get a bill out in conference. I do not think the authorizing numbers were given, in our mind, a degree of exactitude, and we knew that the Committee on Appropriations might do this, and we were prepared to be very clear that the money that is being appropriated here is all money that can be and will be used as the chairman of the authorizing committee will point out, but I do want to say that we appreciate this, and we will approach our authorization now perhaps with a little bit more optimism about the extent to which it will be deferred to.

Mr. LOWERY of California. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I am happy to yield to the gentleman from California.

Mr. LOWERY of California. Mr. Chairman, let me add a little more enlightenment on this topic.

Since 1975 the public housing subsidies have been allocated, as the gentleman from Texas said, to public housing authorities through a formula. This goes back to 1975.

The statute does not permit allocations to public housing authorities in excess of that formula, and based upon the current formula and economic assumptions, the 1992 needs for public housing authorities for operating subsidies will be fully met at the $2.16 billion level requested by the administration.

The CHAIRMAN. The time of the gentleman from Texas [Mr. CHAPMAN] has again expired.

(At the request of Mr. GREEN of New York and by unanimous consent, Mr. CHAPMAN was allowed to proceed for 3 additional minutes.)

Mr. LOWERY of California. Mr. Chairman, if the gentleman will yield further, the additional $250 million can only be used to forward fund 1993 needs by obligating those needs in advance of 1992, or to provide discretionary windfalls to selected public housing authorities for costs beyond control, costs that exceed the formula, and not once over the last 10 years has the regular congressional appropriation exceeded the formula-based needs for operating subsidies.

I hope that answers it.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I am happy to yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, I guess the gentleman was not there when the HUD witnesses explained to our subcommittee why they consistently come in with an underestimate year after year.

That is because OMB orders them to make economic assumptions which are unreal. OMB orders them to assume that the incomes of public housing tenants are going to go up at a rate that equals inflation, and year after year, as the year goes on, they do not. As a result, year after year there is a shortfall, a shortfall which, in the current fiscal year, reached $375 million because of this artificial requirement which OMB is imposing on HUD.

We are simply trying to be honest with the House based on the experience of how much tenant incomes actually rise and how much the formula will ultimately require as a result of that. We are being honest with our colleagues by putting that amount in at the beginning so we do not have to come back and say that there is this terrible emergency and we have got to have a supplemental appropriation.

Our action is based on the Department's testimony to us, and I think the record is very clear that the reason the administration continually underfunds this account in its appropriation request is that its economic assumptions are consistently wrong.

Mr. CHAPMAN. Reclaiming my time, if I may, let me say that if that be the case, it is interesting that the committee has fenced the $250 million until the last 10 days of the fiscal year, and OMB and CBO say we cannot spend any of it within the fiscal year whether or not it will be expended. What we do now is that under the current committee mark there are real cuts to real people and real programs in HUD salary expenses, in EPA, in Superfund, and in the National Science Foundation. That is not in the Chapman-Lowery amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, it has been an interesting explanation, and it was also interesting that it has been added to by suggesting that authorizations are no longer a serious part of the process here. I still regard authorizations as a very serious part of the process, and the fact is that the rules state that the committee is not supposed to exceed authorized levels.

I think we in the authorizing committees have a right to expect that what we do is taken seriously.

I was somewhat amused by the contention that they no longer are relevant.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. CHAPMAN. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. I think most people associate me as being a strong supporter of subsidized housing, having been on the authorizing committee for many years.

But I am confused about what the Committee on Appropriations did, because I just had the question asked "Do you do this every year? Do you fence every year with respect to this category?"

The answer I got was no. Now, I want to read to my colleagues, so that they know that in may heart of hearts I do not think we are affecting these programs at all in terms of what the gentleman did, because basically what he did was take all of the funds out of NASA with this exception.

□ 1340

Now on page 27 of the report, your committee's report, this is a new one. I had never heard of fencing in my life for the 15 years I have been in this body. This is a new one. It says "These funds should satisfy performance funding system." They are referred to the committee's recommendation as 2,405,844 for the payment of operating subsidies.

Now, remember, we are just talking about this category, operating subsidies. We are not talking about new construction. We are not talking about modernization. We are not talking about rental subsidies. We are talking about operating subsidies.

So the authorizing committee authorized $2.09 billion. I could make a big argument that that should be more, and I would be the first to agree. The Committee on Appropriations appropriated $2,405,844, about $400 million more, but then here is what they say, and I am not making this up. On page 27 they say, "These funds should satisfy performance funding system requirements. Language has been included in the bill delaying the availability of $250 million until September 20, 1992." They give, in other words, they give the housing authorities 10 days, 10 days to spend $250 million.

(On request of Ms. OAKAR and by unanimous consent, Mr. CHAPMAN was allowed to proceed for 1 additional minute.)

Mr. CHAPMAN. I yield to the gentlewoman from Ohio.

Ms. OAKAR. By the gentleman from New York, Mr. GREEN'S approach, which is a new one, it is a new one for me. If I understood why, in fact, they do not consistently do it every year. I am of the belief that the gentleman's amendment that he is offering today does not affect housing, and I really believe that. I think he is taking the lion's share from NASA and doing what the Authorizing Committee said, and that was, "Let's have a balanced program, let's not have a bias against manned programs in NASA."

I urge Members to just read this report. I have to tell Members that I have become a student of this committee's operations, too, and I think it is very, very interesting.

Also, I would point out on page 24 under "Projects" it says as follows.

(On request of Mr. McDERMOTT and by unanimous consent, Mr. CHAPMAN was allowed to proceed for 1 additional minute.)

Mr. CHAPMAN. Mr. Chairman, I yield to the gentlewoman from Ohio.

Ms. OAKAR. "For payments in public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by Section 9 of the United States Housing Act of 1937, as amended, $2,405,844,000: provided, That of the funds made available under this heading, 250 million shall not become available for obligation until September 20, 1992."

Now, I think the least that should happen in the future is that there be a little bit of honesty about what we are doing in terms of spending money on housing.

I want to thank the gentleman for his discovery on this because Members can be sure that I am going to be monitoring this business a little closer. I do not know what they want to use it for, perhaps they want to use it for special projects. I know it is a privilege to be in the Committee on Appropriations, and I know because of that, and I accept that. I never argued against it, that Members do have chances to put pet projects for their home districts and so on.

(On request of Mr. McDERMOTT and by unanimous consent, Mr. CHAPMAN was allowed to proceed for 1 additional minute.)

Mr. CHAPMAN. Mr. Chairman, I yield to the gentleman from Washington.

Mr. McDERMOTT. Mr. Chairman, I am one who would like to support the space station, and I called my housing authority in Seattle. The gentleman from New York, Mr. GREEN'S analysis is exactly the one I got from the Seattle Housing Authority. For the last 10 years they received that money in September, and it has always come in a lump sum at the end of the fiscal year. So there is nothing new in this bill whatsoever. It is money that is needed by housing authorities. That is why the gentleman from Pennsylvania [Mr. FOGLIETTA] and I sent out a letter, as the leaders of the Urban Caucus on this issue.

It will affect every major city housing authority in the United States. I urge Members to vote against this amendment.

Mr. CHAPMAN. Mr. Chairman, reclaiming my time if I may, let me conclude. I know we are here to discuss space station, and Members can seek their own time.

Mr. Chairman, let me say that I have just received a letter from the Secretary of Housing and Urban Development, dated today, addressed to the ranking minority member of the House Committee on Appropriations. If I may read to my colleague what the Secretary of HUD says on this issue and on this amendment:

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, June 6, 1991.

Hon. JOE McDADE,
Ranking Minority Member, House Committee on Appropriations, Washington, DC.

DEAR JOE: I understand that the House of Representatives is currently considering the Chapman-Lowery amendment to the FY 1992 VA, HUD, Independent Agencies appropriations bill that would provide much-needed funding for NASA's space station in the coming year.

The amendment shifts $250 million from public housing operating subsidies to NASA and the VA. This $250 million is above the full funding level for operating assistance requested by President Bush in his budget for FY 1992. In addition, the $250 million is "fenced" until September 20, 1992 and would not be available to public housing authorities until that time.

The Bush Administration's commitment to space exploration is matched by its commitment to exploring solutions to inner city crime, poverty and despair. The Department of Housing and Urban Development supports funding for public housing operating subsidies at the full funding level requested by President Bush in his budget. If the Chapman-Lowery amendment passes, full funding of the operating assistance needed for public housing in FY 1992 will continue to be available.

Sincerely,

JACK KEMP.

Mr. GREEN of New York. Mr. Chairman, I move to strike the last word. I think the gentleman from Washington [Mr. McDERMOTT] has laid to rest the idea that somehow the proponents of this amendment have found a treasure trove of money that is not going to be spent. However, let me just make the operating subsidy funding system very clear.

HUD, for years, has funded housing authorities cyclically during the year. They do not have to rush in 10 days to get this money spent, because they know they have it and they order all the housing authorities whose fiscal years begin on October 1 to submit budgets by July 1, which they then review, and on the basis of that review they make the money available at the end of September. They have been doing that for the longest time.

Strictly for reasons of budget accounting, we put in this fence. It does not change the HUD operations at all, but, for the budget powers that be, it gets this funding moving from the 46-percent outlay category to the zero percent outlay category, and thus saves our committee some money to do all the other wonderful things that all Members want Congress to do like the veterans programs, the space program, the environment. That is why that fence is in there this year. It is not new. It was in last year, too.

It is not found money. Real prople will be hurt if this money is taken out, and they are some of the poorest in America, the 1.4 million households that live in public housing, because the housing authorities will have less money to spend to keep up their homes. Let no one suggest that we are overspending on operating public housing.

The fact of the matter is that Secretary Kemp testified that in order to get public housing in shape to sell it to its tenants so they will not be saddled with rundown homes or face a huge repair bill, HUD is spending $30,000 per unit to fix up that housing. That is the price we are paying for having underfunded public funded operations in the past, $30,000 per unit to fix it up. It is very foolish, with that kind of backlog of deferred maintenance in public housing, for Members now to cut this account almost 10 percent and just make that problem worse. Real people are being hurt because they have underfunded public housing in the past. Real people are going to be hurt if we underfund public housing next year by supporting this amendment.

Mr. LOWERY of California. Mr. Chairman, I rise in support of my amendment. The gentleman from Texas [Mr. CHAPMAN] and I are offering this amendment with a clear purpose. That is, to restore space station Freedom. In my view, to ensure America's continued leadership in space exploration and America's technological and scientific leadership in the world economy space station is the key to the future of the manned space program.

If the station is killed, the entire manned program will limp to an end in this decade.

The VA-HUD bill, as approved by the Committee on Appropriations, would terminate the program in fiscal year 1992. Our amendment would provide $1.9 billion, nearly full funding, to move this vital space and technology program forward.

During consideration of this bill in subcommittee, the gentleman from Michigan [Mr. TRAXLER], the chairman, stated that, given the 602(b) allocation be received, $1 billion below the House budget resolution, and $2 billion below the President's request, he could not fund the space station.

☐ 1350

He made a difficult decision in an effort to protect other important domestic programs. This decision may be understandable, given the constraints he faced, but it will ultimately cost this Nation greatly in the future. Ending the station will damage our ability to develop new technologies in science and aerospace. It will undermine our ability to excite and motivate our youth in the fields of math and science, and perhaps most importantly, it will forfeit the leadership in space exploration won by the Mercury, Gemini, Apollo, and space shuttle programs.

Let me bring you back to the 1960's, the late 1960's. Trying to buy a pocket calculator, they were 300 bucks. Today you can go into any drugstore, any supermarket, and for less than $10 buy a calculator more capable than those that were over $300. That is just one of the spin-offs as a result of our space program.

Space exploration provides a tremendous boost for excellence in all fields. Without the station, we will lose this source of inspiration.

The Chapman-Lowery amendment will restore the space station program. Under the amendment, the space station would receive close to full funding. $1.9 billion will allow the program to continue efficiently toward deployment in this decade.

Our amendment is under the outlay targets of the committee bill. CBO scoring shows the amendment to be $87 million below the committee mark. It is a responsible approach.

Our amendment would freeze all NASA programs at the fiscal year 1991 level. This funds the station and allows all existing NASA projects to proceed at the current funding level. This included important space science programs.

Our amendment preserves the committee funding priorities for all other domestic programs. NASA will bear the burden for funding the station. Our amendment would also provide a $33 million increase for veterans' medical care. And now as a result of the chairman's unanimous consent amendment, they will equal what we have been able to do for veterans' medical care in the Chapman-Lowery amendment.

The only reduction from the committee bill outside of NASA would be the now $217 million increase above the President's request for HUD public housing operating subsidies. The committee itself fenced this increase until September 20, 1992, in essence making it unavailable until fiscal year 1993, because the CBO does scores this at no outlay.

Also, the administration estimates that an increase for HUD operating subsidies is not necessary due to declining energy costs for these facilities, and you heard the letter read from Secretary Kemp by my colleague, the gentleman from Texas [Mr. CHAPMAN] that he is in support of this effort.

The Chapman-Lowery amendment is an honest alternative to the committee bill. We believe it is vital for the manned space program to go forward. This is what this vote is about. If you believe the United States must continue its leadership in space at a time when we no longer enjoy a monopoly as we have in the past, when we are severely challenged not only by the Soviets, but the Europeans, the Japanese and the Chinese in space, you will vote for the Chapman-Lowery amendment. Do not kill America's space program. Let us keep America preeminent in this vital area of technology.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, if the United States wants to be a premier player in the 21st century, we must become the premier scientific Nation, not just with scientific knowledge but with the *vision* and prestige of man's exploration of space. The future of the universe is in space.

If you believe in robots, why do you not fly on an airliner from Washington to Los Angeles on a robot? Why do they use thousands of pilots? I will tell you why, because they are smarter. When they have rough weather, they go on manual, that is why.

We have already allowed Japan and other countries to supersede us in the manufacture of televisions, household electronics, VCRs, bicycles, automobiles, farm equipment—such as tractors—heavy building equipment—big loaders, dozers, et cetera. The list goes on and on.

If we want to continue to exacerbate the decline of the United States, if we aim to become a second-class Nation, then we should go ahead and kill the space station, kill the space program, kill it all, save your money and straight to you-know-where, a second-class country for the rest of this century. How do you like that? Is that what you want to leave your children and your grandchildren.

In the 33 years since the beginning of space flight, America has established itself as the world leader in space exploration. Since 1984, America has been working on the next step to continue this leadership in space. It has been designing and defining plans for a permanent home in space—space station Freedom. Reflecting the growing international character of space activity, America invited the other space—faring nations of the free world to participate in the building of space station Freedom.

Today, the 13 member nations of the European space agency, Canada, Japan, and the United States have an agreement, with treaty status, in the largest cooperative international scientific and technological program ever undertaken—space station Freedom. The U.S. Congress already has made a major commitment to it, having already contributed over $4 billion toward its creation. Now would it not be unthinkable to destroy a program in which we have already invested so heavily? A program which is vital to the continuing growth of our nation and our world? A program which will keep the United States on the frontline of technology and a first, instead of a second-rate nation?

People say, what will creating the space station Freedom do for me? Well, for starters, it will provide first-class laboratories to study the effects on the human body and psyche of long duration exposure to microgravity. This new knowledge will be used on Earth to combat cardiovascular diseases, hypertension and osteoporosis. It will give us new insights into aging, anemia, diabetes, muscle atrophy, and the basic immune function. Biomaterial will be developed to use for artificial skin, tendons, blood vessels, and the cornea. Freedom also will have laboratories for microgravity, pharmaceutical and materials research, both new sciences. Among the goals are pharmaceuticals to treat cancer, diabetes, aids, and other diseases. Materials experiments will aim at lighter and stronger materials, improved semiconductors, new processes in recycling on Earth and much more.

The process of preparing for this adventure, and actually doing it, sets the stage for discovery of the unknown that traditionally has led to great breakthroughs in medicine, energy, transportation and materials.

All of this can significantly improve America's competitiveness is a world that is making rapid strides in technology, and is challenging every day the first place position of the United States among the world's economies.

Space station Freedom already is a powerful inspiration for our youth. It helps stimulate their interest in math, science, and engineering, and helps get them equipped for the marketplace of tomorrow. Young men and women are willing to take the tough courses but only if they see challenges and opportunities for their future skills. NASA can help inspire future generations of Americans, and space station Freedom will play a major role.

Building Freedom will directly and indirectly employ 75,000 people. The fiscal 1992 budget calls for spending more than $2 billion with more than 2,000 businesses in 40 States. The first element will be put in orbit in 1995, and permanently manned capability achieved in 1999.

Killing space station Freedom would send a clear signal that the United States is not committed to manned space flight and continued U.S. leadership in space. It would strain America's credibility with our international partners, which have already spent more than $4 billion on their parts of the project, and would be a deterrent to future cooperation in any major scientific or technological undertaking.

In the final analysis, we are far along in our commitment to space station Freedom, we have encouraged its production through our authorizations.

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Mr. Chairman, we have invested heavily through our appropriations with the strong support of this subcommittee. I believe it would be the height of folly to simply cut off our support at this time. This is very much our future. We must continue our commitment if our country is to continue to be the premier player in the world.

Mr. Chairman, I support the Chapman-Lowery amendment. I think that will make this possible.

Mr. BROOMFIELD. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my colleagues Mr. Chapman from Texas and Mr. Lowery from California to restore the funding for NASA's Space Station Freedom Program.

I do not claim to have any special expertise on our space program. However, as the ranking minority member of the Foreign Affairs Committee, I would like to point out that our failure to provide adequate funding for the space station will violate our treaty agreement with the 13 member countries of the European Space Agency, as well as with the Canadians and the Japanese regarding space station Freedom.

Our European, Canadian and Japanese partners in the agreement have already spent close to $2 billion to carry out their part-in the engineering and preliminary construction of space station Freedom. There are, to be sure, legitimate differences of opinion about the proper role and mission of this joint undertaking. Yet our refusal to fund this project at this time calls into question the credibility of the United States in undertaking joint scientific and technical projects with other countries.

In his letter of June 3, 1991 addressed to this Member, Canadian Ambassador D.H. Burney expressed deep concern over funding cuts and a possible withdrawal of the United States from the space station program. He noted that:

> For the United States to withdraw at this point from the Space Station program will at the very least indicate that nations have failed in this important attempt to work together for the peaceful development of space and will profoundly affect the prospects for international collaboration in this area.

The Japanese Ambassador expressed similar concern in a letter of June 5 to me that the termination of this project would be a serious setback for international cooperation in space. In his view, "The International Space Station Freedom program, the largest scientific collaboration ever undertaken, could be an excellent model for our future cooperative efforts in science and technology. Looking at the opportunities lying ahead of us, I believe that it is critically important to see to it that the space station program will be brought to a successful conclusion with the continuing support of all participating countries."

Under the leadership of former President Reagan, the United States invited its friends and allies to participate in this largest international venture in science and technology ever undertaken. As a result of this initiative, the European Space Agency, its member states and the Canadian and Japanese Governments joined us in signing the Intergovernmental Agreement [IGA] regarding space station cooperation on September 29, 1988.

Pursuant to this agreement, the parliaments in West Germany, Norway, the Netherlands and Denmark have ratified treaty commitments committing their respective countries to a joint space station effort. Four additional European countries are likely to follow suit in the near future. I urge the adoption of the Chapman-Lowery amendment.

I would request, Mr. Chairman, that the full text of the Canadian and Japanese Ambassadors' letters be inserted in the RECORD at the appropriate time.

EMBASSY OF JAPAN,
Washington, DC, June 5, 1991.

Hon. WILLIAM S. BROOMFIELD,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN BROOMFIELD: I am writing to you personally to convey the serious concerns of my government over the recent developments in the House Appropriations Committee which, if left unchanged, could result in the withdrawal of the United States from the International Space Station Freedom program. I fear that the program termination would be a serious setback for international cooperation in space.

As you are well aware, the international Space Station program was instituted in 1984 when the then U.S. President Reagan invited the friends and allies of the United States to join the project. My government has ever since been one of the active U.S. partners in this large scale, long term scientific cooperative venture based on the Intergovernmental Agreement on Space Station Cooperation (IGA) signed on September 29, 1988 by the United States, the ten member countries of the European Space Agency, Canada, and Japan. This gigantic and scientifically significant undertaking is a reflection of the sincere desire of all the participating countries to work together and combine resources for the common cause of the advancement of science and technology in space. Japan, together with other participating countries, is fully committed to the implementation of this cooperative program and will remain so in accordance with the IGA.

As its major contribution to this international effort, Japan has committed to the development of the Japanese Experiment Module (JEM) at a total cost of approximately $2.3 billion. This module, designed for a variety of research activities in life science and microgravity science, is now being successfully developed. Roughly a quarter of the total development cost has already been financially committed through contracts by the National Space Development Agency of Japan (NASDA). Should there be a cancellation of the Space Station program therefore, it is all too obvious that the financial stake at risk would be very significant even at this point. Furthermore, the decision to participate in this program required necessary adjustments to the then existing Japanese space development programs and even the reorientation of NASDA's organizational structure in support of this joint program.

The International Space Station Freedom program, the largest scientific collaboration ever undertaken, could be an excellent model for our future cooperative efforts in science and technology. Looking at the opportunities lying ahead of us, I believe it is critically important to see to it that the Space Station program will be brought to a successful conclusion with the continuing support of all participating countries.

I ask you to do whatever is possible in your capacity as ranking member of the House Foreign Affairs Committee to attain an appropriate level of funding for the Space Station program in the FY 92 Department of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriation Bill on which, I understand, a House floor action is expected sometime tomorrow.

Sincerely yours,
RYOHEI MURATA,
Ambassador of Japan.

AMBASSADOR TO CANADA,
Washington, DC, June 3, 1991.

Hon. WILLIAM S. BROOMFIELD,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN BROOMFIELD: I would like to convey to you the deep concern of the Canadian government over recent funding action in the House of Representatives that could result in withdrawal of the United States from the International Space Station Freedom Program.

As you know, the Space Station is by far the largest cooperative space venture that either country has ever undertaken. The international partners have been investing in this program for more than five years and its development is now more than a quarter completed. For this reason alone, the United States, Canada, Europe and Japan all have a tremendous incentive to ensure the continued success of Space Station.

The Space Station is unique in the fact that it represents a landmark initiative betwen countries for the peaceful development of space. It tangibly demonstrates the willingness and commitment of the nations involved to ensure that space be developed in ways that will benefit all humanity. The United States exercised leadership when it invited other nations to join it in developing space in this way and the action sent a watershed signal to the rest of the world to this effect. For the United States to withdraw at this point from the Space Station program will at the very least indicate that nations have failed in this important attempt to work together for the peaceful development of space and will profoundly affect the prospects for international collaboration in this area.

For your information and use I am enclosing copies of letters from myself and Dr. Kerwin, President of the Canadian Space Agency, to the Administration registering Canada's concerns over the funding developments in the United States regarding Space Station.

I urge you to ensure on-going funding sufficient to allow successful completion of this key international program.

Your sincerely,

D.H. BURNEY,
Ambassador.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. I thank the gentleman, my colleague from Michigan, for yielding to me. The gentleman is one of the senior members of my delegation whom I dearly respect and oftentimes follow on international matters. Rarely would I go wrong in following his counsel.

Let me just make a comment on what I perceive to be the issue here in connection with these international agreements.

None of us, of course, is at all pleased that the agreements that are in place when we terminate the station will also be terminated. But legally and lawfully, under the clause in those agreements that says—and I want you all to hear this—those agreements all have an escape clause for each of the countries, including the United States, "subject to appropriations." Subject to appropriations." Subject to appropriations and that is what these agreements have.

But let me go on for a minute. The Japanese, the Europeans, they all know that clause is there and it works both ways, of course.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. BROOMFIELD] has expired.

(On request of Mr. TRAXLER and by unanimous consent, Mr. BROOMFIELD was allowed to proceed for 4 additional minutes.)

Mr. BROOMFIELD. Mr. Chairman, I continue to yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman.

Mr. Chairman, from the committee's standpoint the reason we did this is because we do not have the money that we thought we would have when these agreements were reached in 1987. That is a fact. Priorities change, and that is indeed what this vote is about, it is priorities of America.

Now, let us talk for a minute about agreements because you have to know that the amendment pending before us will abrogate an agreement in space that we have with the Europeans. We have one or two agreements that NASA has signed with them, and we do not want any misunderstanding about this: The amendment will cut $465 million out of the space science program and, in my judgment, CRAF Cassini program is gone, gone in the amendment that is pending before us.

That means we are reneging on an agreement with the Europeans on CRAF/Cassini. That is what this pending amendment does.

Now, the Europeans are building the probe for the Cassini mission, a probe that is going to land on the surface of one of the moons of Saturn and a probe that will cost the Europeans a few hundred million dollars. What about that agreement? Is it OK to abrogate that one but not abrogate the station amendment? I think not, I think not.

I call this to the committee's attention. I encourage you all to vote "no" on the amendment.

MR. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Wisconsin.

MR. SENSENBRENNER. I appreciate the gentleman from Michigan yielding to me.

Mr. Chairman, on Tuesday the Committee on Science, Space, and Technology had a hearing, and the major international partners of the space station sent their executive directors to testify before the committee. The exception was the Canadians, and the Canadian Government apparently has a policy that none of their officials appear before committees of Congress.

Mr. Lutton, who is the director general of the European space agency, testified strongly that he favored the continuation of the station.

In answer to questions that I posed to him, he said that the Europeans had already spent $1 billion in United States dollars on their part of station construction and that the cost to discontinue would probably obligate them to the expenditure of somewhere around $200 million, United States dollars, more.

The executive director of the Japanese space agency, NASDA, said that their out-of-pocket expenditures has already been $650 million. He would not speculate as to how much it would cost to terminate the contracts that they have already signed and to make whole their contractors. But I think it is safe to assume that another $200 million to $300 million would have to be paid out there.

You add that to what the Canadians are doing, and if we make the unilateral decision to discontinue the space station today, in effect we will have stiffed our international partners somewhere around $2.5 billion, United States dollars. That is going to have major consequences on the international arena, not only in terms of our scientific cooperation with international partners but in other areas of the conduct of American foreign relations.

Two and a half billion dollars, leaving our allies holding the bag in that amount, is a pretty nifty piece of change.

More significantly, Director General Lutton of the European Space Agency says if the United States backs out of the space policy, rather than losing all of this money that his member states have committed, they are going to seek to have some kind of a manned space presence on their own without American participation.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. BROOMFIELD] has again expired.

(On request of Mr. SENSENBRENNER and by unanimous consent, Mr. BROOMFIELD was allowed to proceed for 2 additional minutes.)

Mr. BROOMFIELD. Mr. Chairman, I continue to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding further.

Mr. Chairman, I think what he is saying is they are going to try to recoup some of those losses by getting together with the Japanese, Canadians, and perhaps the Soviet Union, to put their own space station into orbit and cut us out. What an international disaster it would be.

What an international disaster it would be if everybody else in the world that was in space had their space station but we did not have, after being the leading country in manned space exploration ever since President Kennedy said that we will go to the Moon. And we went to the Moon on time and under budget because the Congress had a permanent commitment to go to the Moon, as President Kennedy had suggested, rather than subjecting every major project to a year-to-year appropriation.

Finally, in response to the other gentleman from Michigan [Mr. TRAXLER], there is nothing in this amendment or legislation that cancels the CRAF/Cassini Program. The European and Japanese partners knew what was in the amendment. They made no complaints about the potential cancellation of CRAF/Cassini because NASA is made whole in this space science account, and CRAF/Cassini will go ahead.

Mr. BROOMFIELD. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. SENSENBRENNER] for his comments, and, Mr. Chairman, at the appropriate time during the Committee of the full House I will insert the complete text of the letters from the Canadian Ambassador, as well as the Japanese Ambassador.

Mr. BEVILL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Chapman-Lowery amendment which would restore the funding for the space station Feedom. I fully support the rest of HUD, the Veterans' Administration, and independent agencies appropriations bill as reported to the House, but I must vote to continue the space station project.

Mr. Chairman, we have heard this discussion here about all these agreements with foreign countries. We are continuing whacking at our research programs in these bills, authorization and appropriations, and I am very concerned about it. The United States is losing its credibility.

My colleagues have just heard the fact that Japan is participating in this project, the fact that Canada is participating in this project, European countries are participating in it. Now how long are they going to go along with this, with them spending millions of dollars, and then we just suddenly drop the project? And actually last year this very subcommittee instructed this space station exactly where they wanted to make cuts, exactly what they wanted them to do, and they followed it to a T, and then, bang, all the money is gone, just knocked out.

Mr. Chairman, what explanation is the committee going to give to Japan, and to Canada, and to other European countries, and especially to those American bright young students out there, bright men and women that want to go into the scientific field, and they see a program like this that has been working with the Congress for 7 years? This program is 7 years old, and has been moving along and making progress, and bang, for some reason there is no money.

So, Mr. Chairman, I think this is an image that we better think about and we better study about.

I realize that the gentleman wants to talk more about HUD than they do in this bill, but I believe that the Secretary of HUD—I know him. He served on the Committee on Appropriations with us, and Jack Kemp does not send out any false information, and he says it is not going to bother HUD and not going to bother any agencies.

So, let us pass this amendment and keep this space station, and let the Senate do the same thing, and let us keep this program.

A strong manned space program has always been a part of our civil space objectives. The successes of the Mercury, Gemini, Apollo, and shuttle programs show what can be achieved if we put our minds to it. All of NASA's programs have continued to grow, including its science programs. Space station Freedom will ensure the continued success of our manned space efforts and our science projects.

Space station Freedom is the next important step in our return to the Moon and the human exploration of Mars. We must be able to experience and study the effects of long-term exploration of space. The space station will provide a life-science and microgravity research laboratory in space that is unparalleled.

The space station is the product of a close working relationship with Congress over 7 years. This program has undergone numerous design reviews and studies, and currently represents the highest priorities of the Nation's civil space agenda within a workable funding scheme. Last year, at the explicit direction of this subcommittee, NASA further streamlined the program and did it consistent with the specific design and cost cutting requests that came from this very Congress. Now, 7 years and $5 billion into design, testing, and production of the space station, the subcommittee suddenly cut off funding. This unpredictable budget environment must not be allowed to destroy our national space program.

We must consider our international partners in this debate. Japan, Canada and the European Space Agency have all spent substantial amounts of money on the project. They are committed to long-term manned space programs. If we abandon the space station and give up our position of leadership in space, these other countries will step in to fill our shoes. I don't want this to happen.

Killing the space station is not just a change in priorities at NASA, it is complete shift away from any manned space program. We would abandon this vital technological field to others. This is not acceptable to me.

We face very tough budget choices today. I do not think we should take the shortsighted view and ignore this investment in the future. We need to continue funding for space station Freedom.

The Chapman-Lowery amendment will restore funding for the space station. It simply makes the space station a priority from within NASA. The amendment is fiscally responsible and restores funding for a vital space project.

We must continue to be the leader in space exploration. Space station Freedom gives us that opportunity. This investment in our children's future is a small price to pay for the benefits to be derived from our increased knowledge of the universe.

I urge my colleagues to vote for the Chapman-Lowery amendment to restore funding for space station Freedom.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. WOLF. Mr. Chairman, I rise in strong support of the Chapman-Lowery amendment, which would restore funding for the Space Station Freedom Program. This vote is about whether we want to maintain our commitment to manned space exploration. But it is also about something even more important. It is a vote on whether the United States is committed to remaining the world leader in advanced technology and scientific research.

We are under a tremendous challenge from our economic competitors, Japan and West Germany and others. The success of our troops in the Persian Gulf revealed the importance of technology in maintaining U.S. national security. We need to recognize that the threat to our long-term economic security is just as great, and we must invest in areas that will strengthen this Nation economically. The space station Freedom is a long-term investment in the future competitiveness of the United States.

As the flagship of the civilian space program, the space station is critical to developing technological advances that will have applications in many areas. If we fail to recognize the importance of continuing to push forward our scientific and technological horizons, then we will fall behind those nations that do. Other countries such as Japan and Canada and the European Community are developing space programs, and are realizing the economic benefits to the areas of science, engineering, research and development.

The challenge we face today is very similar to the one that faced this country 30 years ago, when the Soviets launched the sputnik satellite. President Kennedy challenged the Nation to develop the necessary technologies that would allow America to land a man on the moon by the end of the decade. By focusing on momentum and commitment, the United States was able to regain technical and scientific superiority in the space race with the Soviet Union through dedication to the development of core technologies that thrust the United States back to the forefront of aerospace technology. We are still in a position of leadership today, but this vote may determine whether we are the world leaders tomorrow.

President Bush has offered a challenge to the Nation. He has made clear his commitment to the space station. Today we must respond to that challenge, or our space program may never be the same. The U.S. aerospace industry is one of the few that currently enjoys a favorable balance of trade. If we hope to compete with other nations in the expanding space services industry, we must continue our support for the space station. The station will allow the United States to develop new, marketable, and competitive methods of reaching, working, and living in space.

There is much more than national pride at stake. The space station Freedom is a critical element in strengthening our Nation's global competitiveness and technology base. In addition to providing critical microgravity and life sciences research capability that will benefit health care on Earth, the station will contribute to advances in new technologies such as robotics, high speed computers, lightweight alloys, high-accuracy navigation, and rocket propulsion, among many others. By establishing intensive research and development programs, space station Freedom will allow the United States to dramatically push back the high-technology frontiers of science and engineering and significantly improve the existence of mankind well into the next century. This is crucial step in finding a world where all people can flourish.

Beyond the technical benefits derived from the program, the space station will also serve as a source of inspiration to American youth to achieve excellence in education. If the United States hopes to remain at the forefront of high technology research and manufacturing, we must encourage our students to expand their knowledge in the areas of math, science and engineering. The United States currently faces a crisis in these areas as the number of bachelor of science and Ph.D. science degrees earned has declined since 1986. The number of doctoral degrees awarded to Americans has fallen from 2,400 per year in the early 1970's to 1,300 per year recently. Overall, projected shortfalls in Ph.D and bachelor of science degrees are expected to number 78,000 and 675,000 respectively by the year 2006. Between 1982 and 1987, the percentage of college freshman who planned to pursue engineering degrees dropped from 22 to 17 percent for men and for 4 to 3 percent for women. Overall interest in pursuing degrees in computer science majors declined from 4 percent in 1982 to 2 percent in 1987. What message would we send to these young people if we kill the space station? The Space Station Freedom Program should serve as a focal point to motivate young Americans tp pursue degrees in science and engineering, and will serve as a symbol of our country's commitment to achieving excellence in education.

We need to put this vote within the historical context of a commitment by the United States to the exploration of space. It is a commitment that represents a larger vision of the United States as the leader of the world community in space exploration and scientific and technological development. I urge you to support the Chapman-Lowery amendment, so that the United States may maintain this vision as we enter the 21st century.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Texas [Mr. CHAPMAN].

Mr. Chairman, I rise in strong opposition to the Chapman-Lowery amendment. It is unthinkable to transfer any funds from public housing programs. Such a move would set a dangerous precedent for funding priorities.

I do not understand how we can even consider reducing funds for public housing. Where have the sponsors and supporters of this amendment been? Have they not heard that there is a serious housing crisis in this Nation? That there are millions of people waiting to get housing—any housing, even old public housing units that are in disrepair.

I have recently heard the ludicrous argument that NASA supports this amendment to fund the space station; and that we should listen to NASA because NASA knows space. Well, NASA may know space, but NASA doesn't know diddley about housing and has an apparent lack of knowledge about the public housing needs of Americans living on this planet.

Further, the argument that funds to be cut from HUD would be fenced off until near the end of the fiscal year is irrelevant and nothing more than a red herring. The fact still remains that if the funds for HUD are available—even late in the fiscal year—they sorely need to be put to the use for which they were appropriated and intended.

Let me be clear: Those of us who oppose this amendment are not asking for more money for housing programs, though Heaven knows that if more money were available, it could certainly be put to good use. Rather we are simply trying to keep the funds already appropriated for this vitally important Federal program. Opposing this amendment does not gut funding for the many other worthwhile programs NASA has underway and on the drawing board. But adopting the Chapman-Lowery amendment would gut the public housing assistance subsidy.

Up to this moment, I have a 100-percent rating with the National Space Society because I have always supported the space station and other NASA programs. Yes, the space station is a good idea, but let's face it: we can no longer afford to blast money into space when we have too many real needs right here on Earth. Perhaps in a few years when we have dug ourselves out of the economic hole we're in now, we'll be able to afford things like a $118 billion space station. But not right now. And certainly not at the expense of those homeless, working poor citizens and families who have already paid too dearly for skewed spending priorities.

Let us not lose sight of the fact that the Appropriations subcommittee on VA-HUD-Independent Agencies thoroughly looked into the feasibility and practicality of funding the space station and made a very difficult decision on its future. I am willing to trust their judgment and that of the Advisory Committee on the future of the U.S. Space Program that we simply cannot afford it.

We as a nation are being forced to deal with the cold, hard reality of a national debt at a figure that is beyond comprehension as well as a skyrocketing deficit. We cannot do all of the things we want to do. Many of us would like to increase funding for such things as expanding the pool of eligible individuals and increasing the reimbursement rate for health care providers under Medicaid; providing long-term care and a universal health care program; higher education assistance programs; job training; urban and rural development; improving the air traffic control system; natural resource conservation; drug treatment, education and counseling programs; and, infrastructure improvements, to name a few. But we are told we cannot afford to do so. If we cannot find the funds for these vital people programs and endeavors, we cannot seriously consider funding the space station.

As I noted, I have generally supported our Nation's space program, but I must depart from that position now. I cannot in good conscience even begin to consider taking funds from real people and essential programs and earmarking them for some experiment in the great beyond.

I urge my colleagues to oppose Chapman-Lowery.

Mr. DURBIN. Mr. Chairman, I appreciate this opportunity to speak today on behalf of the subcommittee and against the amendment of the gentleman from Texas [Mr. CHAPMAN].

Mr. Chairman, I have listened carefully to the arguments which have been propounded on the floor today. It is good that this deliberative body should consider a project of this magnitude and seriousness at this moment in our Nation's history.

For those who are not familiar with the history of the space station in Washington, DC, before this House of Representatives, you may be interested to know that under the original estimate of cost and the original timetable the space station was to have cost us $8 billion and would have been ready next year. Today, as we stand and debate this project, the estimated cost is at least $40 billion, and some suggest that the overall cost of the program may be $118 billion.

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We are dealing with a program far different than it was at its inception. It is a program which has not only exceeded the original cost estimates many times over but at this moment perhaps has no scientific mission whatsoever. I have listened with great care as my colleagues have described the fact that our failure to fund space station Freedom would somehow make the United States a second-class Nation. I wonder if we inspire any other nation on earth with a space station which has little scientific value.

I ask the Members not to listen to this Congressman's words as to the scientific value of this project. Let us turn to the experts. On March 15, the National Academy of Sciences concluded as follows:

> The Space Station would either be ill-equipped or unable to meet the basic research requirements for the two specific scientific disciplines for which it was intended: The study of life science and of ways to make materials in low gravity.

Then on May 8, the Council of Scientific Society Presidents, which represents virtually every field of science, called the station's contribution to science "greatly overrated."

If we are to fund this space station, then it clearly is not for scientific reasons; it is for the reason that we wish to fund and somehow continue to subsidize the contractors who are involved in this project. This has in fact become a WPA project for the aerospace industry, and I do not believe the nations of the world can view our funding of this program as anything more than that.

Mr. Chairman, let me address another topic, which I think goes to the heart of this debate. How many times have speakers stood in this well this afternoon asking us to fund the space station Freedom, saying it was necessary to movitate our youth. We are all in favor of motivating the youth of America.

Let me read to the Members what we were told last week by the President of the United States and this administration when it came to motivating our youth. Last week the President announced that he was sending a plan to Congress to sharply reduce the number of Federal grants available to college students, except for those at or near poverty level. Local college officials have said that President Bush's plan could have a devastating effect on student aid on their campuses by further tightening the squeeze on middle-income and working-class students. They said that more students would be required to take out loans, use up family savings, find jobs, go to college part time, or drop out. If the President's plan is approved, Federal Pell grants would be received by 400,000 fewer American students from working families.

As we face the budget realities, this White House on one hand is cutting back on student assistance for working families and coming to this well with a tin cup begging for billions of dollars for a WPA project for the aerospace industry, supposedly to motivate our youth. Give me a break. If we want to motivate our youth, we should give them a chance to go to college and learn. Let us not on one hand fund a project which the scientific community has serious doubts about and then on the other hand suggest that there is not enough money to send our kids to school to learn the math and the science they need to compete in tomorrow's world.

Mr. Chairman, let me add this: The President stood before the people of the United States of America a year and a half ago in his inaugural address and said that our Nation has "more will than wallet." A lot a people applauded when they heard that. It was a grim reality. The budget deficit has forced us to make tough choices.

My colleague, the gentleman from Michigan [Mr. TRAXLER] and this subcommittee have taken this challenge to heart. They have made a tough choice. They have said that we cannot continue a program which has costs out of control and a scientific mission which frankly cannot be verified.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. DURBIN] has expired.

(By unanimous consent, Mr. DURBIN was allowed to proceed for 3 additional minutes.)

Mr. DURBIN. Mr. Chairman, if we are truly interested in science rather than bragging rights, then we cannot support the Chapman amendment. If we are prepared to admit that every big science project in America is not necessarily virtuous or wise, then we cannot support the Chapman amendment. Our priorities in America have to change, and what is happening in this appropriation bill and this debate today is a suggestion that the change has to take place with the multi-billion-dollar projects which have endured massive cost overruns and at this point are out of control.

It we stood and listened to the President's inaugural address and nodded in agreement when he said that we have "more will than wallet," or even appluaded, I cannot see how we can stand on this floor today and support the amendment offered by my colleague, the gentleman from Texas [Mr. CHAPMAN]. If we in fact are going to have a balanced approach to science, if we are not going to shortchange every other NASA program to fund this one Federal behemouth, then we have to support the subcommittee in its decision. To do otherwise would be disastrous not only for science in this Nation but for our role in the world.

Mr. Chairman, let me close on one note: I cannot shed a tear for those who say that failure to fund this project will somehow disappoint the Japanese. Our role is not to encourage and somehow make happy the people of Japan or other countries. Our responsibility is to the American taxpayer. We continue to subsidize the defense of Japan and the defense of so many other countries whom we are afraid to embarrass by saying that we have to reorder our priorities. No, our first responsibility is to the taxpayers of this country, our own Nation, and our own children who will be shortchanged if we continue this project.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I did not intend to speak on the amendment at this moment until I heard the testimony of the last gentleman. The pros and cons of this issue can certainly be judged based on the merits of the arguments on both sides. To attempt to polarize this issue almost in a partisan form, setting the administration over here against another group—against students perhaps—is to misrepresent the substance of this issue.

The committee has worked very hard on this issue over the years. There are very difficult choices when we have a program as important as NASA in a subcommittee that contains programs such as housing and veterans. When you have very fine Members such as my colleague, the gentleman from California [Mr. BROWN], the chairman of the Committee on Science, Space, and Technology, strongly advocating the importance of a manned role in space particularly the space station, I cannot believe that my colleague would use the kind of debate that would polarize rather than recognize our able Members on both sides of the aisle who are attempting to focus this debate in a balanced fashion.

I was also moved earlier by that portion of the discussion recognizing America's commitment to space as well as our responsibility to lead the world. In the field of scientific research, the leading power of the world must play a role if we are going to continue with breakthrough after breakthrough and also make a difference in the world economy.

Earlier today my colleague, the gentleman from Pennsylvania [Mr. WALKER], talked about his glasses, lightweight plastic glasses that are technologically feasible because of a discovery made while carrying forth our space mission. A couple of weeks ago, Members may have seen me with a cast on my arm. It was made of a kind of plastic that is a special development, a result of experiments taking place in space. This is not the reason we are in space, but rather the result of investment there that is leading to economic change and opportunity. Continued investment promises to be a boon to our economy and the world economy throughout the next century.

Recently, we had a debate on the floor in which Members discussed the pros and cons of the superconducting super collider. It was suggested during that debate that somehow that program was going to take too many dollars away from science, so we should not go forward with that technology. The committee had cut $100 million out of the program. Nonetheless, the House made a judgment that the program was important enough that we should go forward with the balance of the funding. That project is another representation of our commitment with other allies throughout the world. Without its going forward, America cannot lead in the field of research and development.

The same arguments should be applied here. It is suggested by some members of the subcommittee that if we do not fund all of the space program this year, somehow that justifies cutting the whole program. That is not where we are in this House. We are in the midst of very difficult choices. The space station does deserve our support. I would urge the Members to recognize that if we are going to have a future in space, we must go forward with the House approval of funding for the space station.

□ 1430

Mr. Chairman, I urge Members to give support to the amendment of the gentleman from Texas [Mr. CHAPMAN] and the gentleman from California [Mr.

LOWERY], who have done outstanding work. I appreciate the work of the gentleman, and urge Members to give it their support.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Chapman-Lowery amendment. As a member of the subcommittee, let me first acknowledge my understanding of the dillema faced by my chairman, the ranking minority member, and the whole committee.

These are scarce resources. The administration's request for programs under our jurisdiction totaled $65.25 billion. The committee's allocation was $63.9 billion.

Today, it is critical that we not forget the history of space station Freedom. From the days of the Apollo era, great minds of the scientific community described a logical path of space exploration that included a permanently manned space station and a space shuttle.

In 1984 NASA was directed to move forward to build a space station and to seek international partners.

On September 29, 1988, international agreements were signed at the executive level to commit to pursue a joint space station program.

Clearly, the decision to pursue space station and the commitment to do it in cooperation with other nations has already been made.

To date, over $5 billion has been spent by the United States on this effort and over $1 billion by our international partners—the European Space Agency, the Japanese, and Canada.

The effect of this bill on our international reliability is far-reaching—the fact is that future accomplishments of our Nation in science and technology are increasingly dependent upon international cooperation. Not only does the termination of space station Freedom destroy America's leadership in space and prevent any future cooperative efforts to return to the Moon and Mars in our generation—it could have very real ramifications on other science and technology programs, where international participation is critical.

Yes, the space station Freedom program is expensive. I believe that the Chapman-Lowery amendment does an exemplary job of marshaling the scarce funds in our portion of the domestic discretionary budget to the multiplicity of competing programs in our subcommittee's jurisdiction.

This amendment increases funding for the veteran's medical care by an additional $33 million from the bill passed by the subcommittee—this level of VA total funding is $300 million above the President's request.

Further, the accounts for EPA, the National Science Foundation, FEMA, and other agencies are fully funded at the level that the subcommittee bill recommended. At this level, the National Science Foundation is funded at a 16-percent increase for research—in accordance with the President's request to provide a 5-year doubling path of funding for the Agency. Further, the Environmental Protection Agency keeps its $355 million increase above the President's request for its valuable environmental protection programs.

However, under the subcommittee bill, NASA would be subject to an over $207 million cut from last year's appropriated level. That's devastating while other programs are growing.

Which accounts are affected by this amendment? Well, it is NASA, itself, that is asked to prioritize its resources in order to preserve the space station program. And they are painfully willing to do so to preserve the future of a manned exploration in the United States.

NASA understands the consequences, and accepts them. Why? Because the NASA program must be balanced—and a move to cancel space station changes the entire complexion of an agency which was created to explore. What is NASA's mission? Why was the Agency formed?

The crux of the question boils down to the inevitability of space exploration and what role the United States will today decide to play in that history.

This vote is nothing less than the answer to the question of whether the United States is going to continue its manned exploration program, or step aside to let others take the lead.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must oppose the amendment offered by my esteemed colleagues from the subcommittee, Mr. LOWERY and Mr. CHAPMAN and urge Members to take an independent look at the space station as a priority within—I say within—NASA.

The amendment would go in exactly the opposite direction—the opposite direction—from that recommended by the Advisory Committee on the Future of the U.S. Space Program—the so-called Augustine Commission. The amendment would fully fund the space station at the expense of the very space science efforts that the Augustine Commission recommended as our top space priority.

Mr. Chairman, for more than 20 years I have served on the authorizing or appropriating committees for NASA and I have always supported the space programs. Before coming to Congress I was in the business of space manufacturing.

In fact, when Sputnik went up in 1957 I found myself part of Wernher von Braun's operation making the very first solid rocket propellant casings which were often designed on the back of an envelope.

This taught me to appreciate the need to move forward and to expend all we can on science and technology. But, my friends, we must have priorities in our science and technology.

The pending amendment would turn aside the most fundamental recommendation of the Augustine Commission which tells us to concentrate on space science. It said that space science "ranks above space stations, aerospace planes, manned missions to the planets, and many other major pursuits which often receive visibility."

The pending amendment, however, cuts almost 16 percent from the subcommittee's recommendations and the administration budget request for space science.

In fact, my questioning of Chairman Augustine when he appeared before our subcommittee confirmed that the only reason—the only reason—to build the space station in its present configuration is as a platform to support a manned Moon-Mars mission estimated to cost $400 billion.

All of our other scientific missions—space sciences, earth sciences, life sciences, microgravity research—can be performed in other ways. Those missions will inevitably be starved if we proceed with space station and space exploration as presently proposed.

I have received many letters from scientists concurring with the subcommittee's decision. Let me conclude with an excerpt from a letter I received from a professor at Cornell University's College of Engineering, Prof. Joseph Burns. Professor Burns states that:

> * * * As a member of the National Academy of Sciences' Space Study Board, I have sat through many presentations about Space Station. During these presentations and subsequent discussions, I have been astonished that the long-term use of this facility was so ill-defined. While I believe that a Space Station should ultimately fly, the U.S. should not be spending a large fraction of its science and technology budget for the 1990s on the Station until our exploration plans are better defined.

This is sage advice and I urge my colleagues to support the Appropriations Committee recommendation.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, I know my good friend, the gentleman from Pennsylvania [Mr. COUGHLIN], feels very strongly about this, but I have been looking at the scientific results of the Apollo mission, and, very frankly, there are none. The Soviets did an unmanned lander which took some soil samples back to the Soviet Union, and got all of the science we did with the Apollo mission.

Mr. Chairman, I would ask if the gentleman from Pennsylvania [Mr. COUGH-

LIN] agrees with me that science was not the main reason for sending the Apollo mission up?

□ 1440

Mr. COUGHLIN. By the same token, the other scientific efforts that we have underway today and that are being funded by this subcommittee provide the same inspiration to science, provide the same success in science, and provide better technology and better investment of our dollars in future technology.

Mr. BROWN. I know that the gentleman knows, and I agree with him, the science investment is the primary reason, but I would like to point out the United States became the world's leader in space by a mission that did not do any science, and the Russians, who did the science without a manned mission, were relegated to second position in the world.

Mr. COUGHLIN. And the budget that we are proposing in this committee will keep us first in the world in science research and exploration. We are talking about a budget that is 40 percent more in real dollars than it was in the mid-1980's and one that will keep us preeminent, not just in space but in manned space as well.

Mr. ATKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

Several things are very clear about the amendment. One is that it will in fact fully fund the space station. What is not clear is the very real cost to humans and to science of fully funding the space station.

There has been much debate about the $250 million in operating funds for the public housing authorities and the 1.4 million families who live in public housing in this country. What this $250 million is is it is really money that helps in a very small way, helps them fight terror, helps them fight crime, helps build some semblance of normal life to allow children to develop appropriately in that public housing.

I would like to quote from Secretary Kemp, when he came before our committee this year to talk about funding for public housing.

Secretary Kemp said, and I quote, "By the time public housing residents are adolescents, they have contended with more terror than most of us confront in a lifetime."

The Secretary then went on to say, "There are no children in public housing. They are 9 years old, but they have seen too much."

What this $250 million is is not a special project for anybody, it is not some accounting gimmick. It is money that will enable us to fix locks where they have been broken by some crack-crazed drug addict who has broken into a unit. It is money that will enable us to weatherize a facility, to fix a broken window, money that will enable us to put in drug hot lines for public housing. It is money that in a very modest way, through millions of hundreds of thousands of public housing units, will allow people and will allow tenant groups to fight off the chaos and the terror that surrounds them. Taking this money out of the budget will have a very clear impact.

The impact will be to reverse progress that we have made in the past several years in fighting the scourge of drug addiction in our public housing. I think it would be a tragedy, a tragedy to deny these 1.4 million families the modest insurance against terror that this money for public housing operating subsidies provides.

There has also been talk about NASA and how much of the money for the station is just reprogrammed from what we are doing here. Space station is a project that has, as the Augustine Commission has said time and again, minimal scientific value. It is a platform. It is a platform to go on and do further manned space exploration.

Virtually all of the things that would give us any scientific insights can be done much more cheaply in an unmanned mission. What we will do with this amendment is to strip virtually all of the science out of NASA and turn NASA into essentially a public works and a transportation agency and away from its mission and primary mission for science.

Mr. DeLAY. Mr. Chairman, I move to strike the requisite number of words.

I rise in support, and it is no surprise to anybody in this room, being from Houston, I rise in support of the amendment offered by the gentleman from Texas [Mr. CHAPMAN], my friend and colleague, and the gentleman from California [Mr. LOWERY]. Being a member of the committee, there is a couple of things that really need to be said. I want to say first that I have the utmost respect for the chairman of the subcommittee and the ranking member, the gentleman from New York. They have a tough job of prioritizing spending within their subcommittee.

Where I respectfully disagree with my chairman and my ranking member is the way that they prioritize the spending. I think that we can both pay for the future through future science, future space exploration, research, and others, as well as we pay for the mistakes of the past, the housing projects, the assistance for the homeless and others.

I think it is a matter of prioritizing the way we spend our money. Let me point out a couple of things that my friend from West Virginia pointed out earlier, because I want to stress it. There are huge increases within accounts in this bill, huge increases.

Homeless assistance is increased by over 50 percent in this bill. The American Battle Monuments Commission has increased their budget, by 25 percent in this bill.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New York.

Mr. GREEN of New York. I think the gentleman should understand that the American Battlefield Monuments Commission operates the military cemeteries overseas where there are buried American soldiers who fell in foreign wars. And unfortunately, with the decline in the value of the dollar, as opposed to other currencies, the dollar does not go as far and we have to make that up. I am sure the gentleman would not want those cemeteries to be ill-tended.

Mr. DELAY. I would not want them to be untended, but I do not think we need to raise their budget by 25 percent. It has been doing quite well for a long time.

FEMA's budget was increased 40 percent. I could go on. National Science Foundation by my count will receive almost a 20-percent increase. And I could go on.

Do we need those kinds of increases at the expense of research in space?

In this bill, as we all know, NASA is cut about $217 million. Here are 44 grants, 44 grants and individual projects for Members' districts that amount to $219 million.

So the chairman and the ranking member and the committee, have a tough job. I understand that. And it is tough, because I serve on this committee and I know how tough it is. But I just submit to my colleagues that there are programs and projects in here that I do not think we need.

There are increases in budgets that I do not think we need to be making. Not only will this amendment go a long way to restoring the space station Freedom, it also would help secure this Nation's future as the leader in science and technology, and we have heard enough about that.

I would like to respond to the gentleman from California that the American people do not believe that no gains in science and technology came out of the Apollo Program. I mean, when they pick up their calculators, that was a development that came out of the Apollo Program. They see miniaturized electronics, that was also developed during the Apollo Program. So it is a little disingenuous to say to the American people that we did the Apollo Program just to have somebody walk on the Moon and we did not get anything for it. We did, and we would for the space station.

Today, however, I would like to just compare what the space station means for America to some of the needs many opponents to this amendment express in their statements. I found that many of the principles and ideals opponents speak of can be found in the space station program.

Opponents of the amendment speak of the need for an increased medical care for veterans, a very admirable program.

But did you know that the life-sciences research aboard space station Freedom will have many health care benefits here on Earth? For example, space research in bone-calcium loss may lead to a cure for osteoporosis.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, space research on white blood cell behavior may lead to a cure for cancer. Further, previous NASA space programs have provided medical advances such as insulin infusion pumps and other medical discoveries. Obviously, medical care, including veterans' medical care, has benefited significantly from the space programs in the past and will continue to prosper under the space station program.

Opponents of the amendment also speak of adding money to perform research on global warming and other environmental projects. We need to do that.

If these Members are really serious about our environment, they would be more than willing to support funding for the space station. Let us look at the facts. Space station Freedom would be a permanent observatory for Earth sciences. Environmental scientists would be able to continually view and study the Earth from a new perspective and characterize change over the next 30 years.

Earth observations from the space station contribute to Mission to Planet Earth providing a better understanding of our ecological system leading to solutions of environmental problems such as air and water pollution, deforestation, greenhouse effect, ozone depletion, and waste and resource management.

Mr. Chairman, I feel it is important to put into perspective where these funds would ultimately fall. They will fall on precisely the people opponents of the station wish to help. The space station means increased medical care through medical advancement. The space station means increased environmental protection through extensive research in our planet, and our space station with its associated 50,000 jobs directly associated with the development and construction of the program means fewer Americans will require public support for basic needs like food and housing.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I am happy to yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, I would merely like to clarify a statement that I made in which I indicated that the Apollo Program did not produce the pure science. It was the most important advanced technology program in the history of this country, but it was only after we had finished that that we began to make larger investments in the science area per se.

The gentleman is quite correct about the benefits of that program.

Mr. DELAY. I appreciate the chairman clarifying that. If we would have built the station on the Moon, we would have gotten better science.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of space station Freedom. We in Congress find ourselves shackled by the weight of our own fiscal chains. Congress is faced here with a choice none of us care to make; for we either vote for the spending of the here and now, or spending for the future. This is the challenge before us. Are we content as a people, or do we have the courage to be visionaries? Some will say today that we have more pressing social needs and cannot afford space station Freedom, but I contend that the space station is also a social need. Investing in space gives us real advances in areas such as medicine, the environment and high technology. Previous programs have provided everything from pacemakers, to home insulation and supercomputers. What we are choosing here today is whether to be shortsighted in our thinking and use stopgap measures to heal our social problems, or whether to invest in our economic future. I choose to invest in the future.

To deny space, to turn our backs on the next frontier, is to deny the vision which has made America a nation unparalleled. Let us strike forward as a country. The space station represents our future. We cannot afford to let it die. President Kennedy said space exploration, "is one of the great adventures of all time, and no nation which expects to be the leader of other nations can expect to stay behind in this race for space." Support the space station. Vote for the Chapman-Lowery amendment.

Mr. PACKARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment. I will speak to only two or three points, because I have spoken earlier during general debate on some other points, but I would like to speak on one point particularly.

The social and environmental demands of this country and the needs of this country in those areas could use up every dollar in our budget, every one of them, and we would be justified in doing so. But it would be shortsighted, and it would certainly leave out space and defense and infrastructure and a variety of other programs that we must support and fund.

I think that it is important that we recognize that even though this subcommittee is required to prioritize, this Congress is required to prioritize, and certainly space has been one of the high priorities in the past.

The committee, the Committee on Appropriations, required of NASA during the last year and a half to reprogram and to restructure the space station. NASA came in, after significant time and expense, with a reprogrammed, redesigned space station, and almost the moment they came in with the redesign, the rug is being pulled out from under them with no funding whatsoever. To me that is irresponsible. It simply would be, I think, a very, very poor procedure.

Certain levels of credibility must be maintained. We have heard from some here today that love to bash Japan, and I am aware that there are many who do not have a high regard for Japan's trading and partnership, but, nevertheless, the United States normally must carry a certain level of credibility, a certain level of responsibility with all of our trading and all of our partners.

In this case, the Committee on Appropriations unilaterally has canceled the space station. They did not consult the Space Subcommittee. It came as a surprise to us who sit on the committee and have sat for a long time. They did not consult NASA. It came as a surprise to NASA. They did not consult Japan or the European Space Agency or Canada, our very responsible partners in the space station, and to me that is irresponsible, and certainly will not go to develop credibility.

Lastly, several other major projects will be at stake. The SSC, the superconducting super collider, will demand; it simply cannot survive without international partners. The INTER project, the international nuclear thermal experimental reactor; we are in the final stages of siting that, and the United States site is on the verge of being selected. It is perhaps the preferred site. We are only weeks from that being selected with international partners of Germany, Japan, the U.S.S.R.

We jeopardize all of this, because we lose credibility with our international partners and, finally, virtually every State in the Union benefits from our space station project economically.

Legitimately, every one of us, if we find a base, a military facility, listed on the base-closing list in our district or near our district, we legitimately rise in opposition because of the economic problems it will create and the job problems it will create for our districts. Well, certainly the space station will have major economic negatives on each of our States.

Virtually every State in the Union will be significantly affected by it, and thus I think every Member would do well to find out how much the space station and the space program benefits their State.

In fact, it would be a poor vote to vote against the economy of their own States.

I urge my colleagues to recognize the long-term benefit of the space program and particularly the space station.

Again, it is the hub of virtually all we intend to do in the long-term future in space. Let us not remove the centerpiece of all that we want to do.

Mrs. LLOYD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do rise in support of the Chapman-Lowery amendment.

We have had good debate today, arguments for and against continuing with the space program, but I must remind my colleagues that we cannot afford to sell off our future to buy our way through our budgetary problems.

We also have commitments to our future generations. We owe to the scientists and the space explorers of the future the opportunity to pursue careers in space, the opportunity to lead the world in space technology, the opportunity to have imagination as its only limitation.

□ 1500

Our space station Freedom is a powerful inspiration for our young people to excel and to stimulate their interest in math and science and engineering, and at a time in our Nation's history we are searching for new ways to encourage our young people to excel in science and math. Why on Earth would we destroy one of the best lures on these fields?

Space station Freedom is an inspiration to our young people that plays into their dreams and into their homes.

Mr. Chairman, to my colleagues who have argued this is something we cannot afford, I would like to remind those Members that our space program is yielding a 9-to-1 return on our investment. A 9-to-1 return. We fund this program for space exploration and research. What we get from this program, however, are products that give all citizens food products, new materials, new industries. A balanced space program acts as seed money for research and development on projects literally from A to Z that go into the marketplace and that fuel our economy.

Space station Freedom is a vital foundation of our manned space program. It is the largest international cooperative endeavor in science and technology in the entire world. Our reputation as a trustworthy, reliable research partner is on the line today.

This vote, to continue our investment in space station Freedom, is a vote to affirm the United States' leadership in space. To deny funding for the space station could position this Nation to a second-rate role in the explorations of space for the first time in 33 years.

We must create a climate where our youth can pursue careers in science and math. We must commit to our young people to create a world where we expand knowledge, and do not cut it short.

Americans do not deserve a dream deferred or a dream denied. We owe it to ourselves and to the future generations to continue the challenge of a dream fulfilled. Space station Freedom is such a dream. We owe it to future generations to make it a reality.

Mr. THORNTON. Mr. Chairman, will the gentlewoman yield?

Mrs. LLOYD. I yield to the gentleman from Arkansas.

Mr. THORNTON. Mr. Chairman, the application of our scientific genius to solving real problems here on Earth is essential to our continued economic competitiveness and will result in improving health, and in advancing human dignity and national security.

From the announcement by President Kennedy that we would during the 1960's send Americans to the Moon and return them to Earth, the scientific accomplishments of our manned space effort have resulted in great advances, from goals as vital as achieving dramatic breakthroughs in medicine—such as the pacemaker—and in communications and high computing, to applications as down-to-Earth as ceramic cookware and agricultural practices, and as important to national and personal security as laser-guided missiles and air-traffic safety.

The policy which has led to these advances has been developed over the years by Congress and several administrations. A reversal of the national policies which have given our country a leadership role without any formal hearings on the reversal of that policy by the appropriate legislative committees will not only setback the cause of science, but also the principles of developing public policy through careful decisions by committees with legislative authority.

The amendment continues the agreed upon public policy without the sacrifice of other programs, and I urge my colleagues to join me in supporting the amendment.

(On request of Mr. LAGOMARSINO and by unanimous request, Mrs. LLOYD was allowed to proceed for 1 additional minute.)

Mrs. LLOYD. Mr. Chairman, I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding. I want to commend the gentlewoman for her statement and join her in it.

It seems to me if we are going to maintain the lead that we have had in science and space and technology, that we have to go forward with the space station. It seems ironic to me that it was only like a month ago that in this House we voted 361 to 36 for the authorization of the space station Freedom, and now we are talking about not funding it at all. I think it will be a great step backward. I commend the gentlewoman.

Mr. LEWIS of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when John F. Kennedy declared that America would go to the Moon, he did not justify it in terms of its cost effectiveness. He put it in terms of strengthening American leadership and expanding human horizons.

He did this despite the fact that, in terms of gross national product, the lunar missions were more expensive than space station Freedom will be. Indeed, the lunar missions took up a higher percentage of the Federal budget than the entire NASA budget does now.

The American public knew then, as it does now, that America's destiny is in space. They also know that there is more to space exploration and inhabitance than dollars and cents, and that you cannot put a price on knowledge.

Ironically, one of the prime benefits of our leadership in space has been to propel American leadership in space to a level which has kept us ahead to this day—and can be measured in dollars.

Our space exploration is directly responsible for an aerospace industrial base that currently provides 1.3 million quality jobs, and a $25 billion trade surplus, which is the largest of any sector of our economy.

In addition, many of the spinoffs resulting from our space program have become so commonplace we hardly even think of them. For example, antilock braking systems, insulin distributors, and other medical devices are generated from NASA products.

Also, our modern computer age began with the space program. Ironically, in this debate on the space station, many of the speeches given by its opponents will be generated on computers that were a direct spinoff of our civilian space program.

Unfortunately, some would ignore the lessons learned from continually stretching our boundaries. Instead, they would allow this Nation to rest on its laurels, forgetting that the rest of the world will not stop if we pause to rest.

But we all know the world will redouble their efforts to surpass us—and they will surpass us.

Mr. Chairman, I, for one, did not look at the Moon rocks from the Apollo mission and wonder if it was worth all the expense for some simple rocks.

I, like the rest of America, saw the greater meaning behind the achievement. And yes, I basked in the glory of our achievement.

Unfortunately, the opponents of space station Freedom would use the former logic. They would forget that none of this money is spent in space—it is all spent here on Earth enhancing our high-technology lead. They seem to think there is no return on our investment.

Leaving aside the issue of the cost effectiveness, which I believe to be sufficient enough, there are other important points to be made.

For example, virtually every American under the age of 35 can point to a period in their childhood when they were captivated by our space program's endeavors. Most have had dreams of becoming an astronaut.

In addition to the undeniable patriotic and intellectual benefits of this excitement, this is the type of youthful exuberance that inspires thousands of our young people to pursue science, math, and engineering fields.

As we all know, these are the fields that will keep the American economy strong for the next several decades.

Finally, Mr. Chairman, I have a few words to my colleagues who are apprehensive that the station is being drawn out and is over budget. I think it is important to realize that the bulk of the responsibility for this lies right here in this Congress.

We have never fully funded this project. We have underfunded and strung out the station and then blamed NASA. I am afraid this is becoming a trend with projects such as this.

The opponents underfund the project and then gleefully report it is over budget and behind schedule. Clearly, this is no way to spend the taxpayer's money.

Mr. Chairman, we can never forget the benefits this Nation reaped from our bold decision to explore outer space.

People are alive today. People are walking today. People are able to help themselves and be gainfully employed today by the spinoffs of NASA.

Whether tangible or intangible, these benefits are real and important.

Now is no time to turn back. We must continue to build on our past successes. The space station is the next step in that process. Support space station Freedom—keep the American dream alive.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Chapman-Lowery amendment, and I want to commend the chairman of the committee, the gentleman from Michigan [Mr. TRAXLER] and the ranking member, the gentleman from New York [Mr. GREEN] for allowing this important debate to occur.

Those who are opponents and those who have been proponents have a most unusual opportunity here today to be treated fairly, and we know how important this issue is to people, regardless of which side of the issue they are on.

Let me begin by saying that this is really not a vote today about the U.S. commitment to space exploration nor our commitment to NASA.

□ 1510

We all share the commitment. It is really a vote over how best to achieve the finest space and science exploration, the best set of scientific choices, and how best to invest in U.S. competitiveness under very tight budget restraints.

I want to begin with the budget for a second. As the debate unfolds, I am reminded of many old sayings: "Don't nickel and dime something to death," "If it is worth doing, it is worth doing well," and finally, "Only God can do everything."

As I look at the choices available to this committee this coming year and in years hence, I really have to ask myself the hard question of where does the money come from to pay for everything we want to do, including a space station that would work? Last year this Congress almost brought our Nation to a halt as we struggled with the Bush administration to agree upon a tough, binding 5-year budget agreement. That has forced us to make tough choices to meet deficit reduction targets that were hard for all of us, and in terms of this subcommittee what it meant was that we received only a 5-percent budget mark increase for 1992 over last year, not even enough to keep up with inflation.

The reality of this subcommittee's mark was that it was even $1.2 billion less than the administration's request.

So we fell behind even some of the other subcommittees.

So, today we are faced with the results of our own budget actions and last year, right before the election, we all wanted to do what was responsible in terms of the budget. Now the chickens have come home to roost and we cannot turn our backs.

With 50 cents of every dollar now going to pay interest on the national debt, our choices are narrowed, indeed.

If you understand budgets and if you understand their out-year impacts, you will vote against this amendment and for the committee bill.

Now, some exceptions of the budget agreement have, unfortunately, already been allowed to happen. This makes our set of choices in real dollars even more narrow. Specifically, the multibillion-dollar savings and loan bottomless pit has been craftily moved off budget. Yet we must pay the bills.

The Persian Gulf war was moved off budget; and yet we must pay the bills.

We can see coming around the corner another taxpayer bailout of the commerical banking industry, and that will also amount to billions, and we will have to pay the bills.

There is no question in my mind that every single subcommittee and every spending program in Congress will be affected by those future choices. Now, there have been ever-increasing demands on this subcommittee and, as the decade unfolds, they will be even greater. The space station will consume, if it is continued, larger and larger shares of a smaller and smaller pie. A station originally conceived to cost $8 billion is now estimated by NASA to cost $30 billion, by GAO to cost $40 billion and over a 30-year period the experts say it will cost $100 billion, maybe $180 billion.

Now, what does that mean to other sections of the budget? To veterans? How many of you cannot serve the veterans in your districts, how many do you have to turn away, how many of you have to turn away veterans because you cannot get them served by the veterans department of this country?

How about housing? Has housing been closed in your city too? Or how about the National Science Foundation and all of the young minds that need to be educated in this country that we cannot afford to send to college? Or the environment? And I will say more about that in a second.

All are scored by our committee along with NASA.

The CHAIRMAN. The time of the gentlewoman from Ohio [Ms. KAPTUR] is expired.

(By unanimous consent, Ms. KAPTUR was allowed to proceed for 3 additional minutes.)

Ms. KAPTUR. Let us talk about veterans care. With World War II and Korean veterans now coming into the hospital system, we cannot even afford to buy replacement dentures for World War II veterans who had their teeth pulled by the Government of the United States.

We are turning away class B and C veterans at our clinics and hospitals. We find ourselves in the incredible situation of not being able to schedule veterans for operations even though there are empty beds in hospitals because we do not have enough doctors and nurses to take care of them.

How about homeownership? Someone talked here about our homelessness earlier. Boy, do I want to answer that. Back in the 1980's we saw spending on home ownership and rental programs in this country fall from $35 billion down to $15 billion. In this budget we have only been able to restore it back to $24 billion, over $10 billion less than 10 years ago.

In the 1980's our Nation learned a new vocabulary, the homeless, American citizens sitting on every corner and grate in every major city in this country, and they are still sitting there. Our bill does not completely meet that need, nor does it meet the needs of the environment. In this bill we only provide $8.5 billion rather than the necessary $30 billion to $100 billion to clean up Superfund sites around this country.

How many of you have Superfund sites in your district that are sitting there, leaking into your water and streams and rivers?

Our bill is already stretched too thin. But we do try to provide for NASA funding that keeps NASA strong. And as we see our astronauts in the space shuttle today, we want to keep them safe and we want to keep them healthy, and the programs that we do fund we want to work. We do not want any more *Challengers* out there. We want to make sure NASA manages its programs well, not stretched so thin, robbing from one program to meet another.

The space science program warrants highest priority funding as the Augustine report reminds us, and it ranks above space station, aerospace planes, manned missions to the planets, and many other pursuits which often receive greater visibility.

Mr. GREEN of New York. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from New York.

Mr. GREEN of New York. I thank the gentleman for yielding.

I think the point that the gentlewoman is making as to the impact of this on the veterans programs is something that ought to be strongly emphasized to this group here because, although the amendment does not touch the VA funding and hurt it this year, the station will require $400 million more next year and the year after that it is going to require another quarter-of-a-billion-dollar increase.

Plainly, there is no way that our subcommittee will be able to fund the veterans, as we want, if we have to look forward to those kinds of increases from the space station.

That is why I have letters here—and Members are invited to examine them—from the Veterans of Foreign Wars, the American Legion, the Paralyzed Veterans of America, AMVETS and Disabled American Veterans, all opposing the Chapman-Lowery amendment and all asking the Members of the House to stay with the subcommittee's recommendations.

Ms. KAPTUR. I thank the gentleman for that important clarification. I wanted to say that the amendment offered by the gentleman from Texas [Mr. CHAPMAN] and the gentleman from Califormia [Mr. LOWERY], two gentlemen for whom I have the highest respect, shows exactly how very thorough our committee's decisions have been. I commend the gentlemen for trying to save the station and for the chairman and ranking member for allowing this debate to occur.

The CHAIRMAN. The time of the gentlewoman from Ohio [Ms. KAPTUR] has again expired.

(By unanimous consent, Ms. KAPTUR was allowed to proceed for 2½ additional minutes.)

Ms. KAPTUR. Mr. Chairman, their proposal falls far short for several reasons, and let me state those. First of all, most importantly it shortchanges other NASA projects. We are talking about more than nickels and dimes as this decade progresses. The hits on other NASA programs will be devastating, and the hits on other accounts, including veterans, housing, the environment, NSF, and so forth, are also devastating.

The amendment would cause the Earth observation system to be cut by $145 million to a level of $191 million. This program is designed to place instruments in orbit around the Earth in order to study the Earth's weather and pollution patterns. EOS is the centerpiece of the Mission to Planet Earth Program, and it is a major priority of the Augustine Commission. That would be almost killed. The CRAF Cassini Program to study how planets form and evolve would be cut by $183 million to a level of $145 million. And we have talked about the problems a little bit earlier with respect to the European agreement.

□ 1520

The advanced x-ray astrophysics facility would be cut by $110 million, to a level of $101 million, and this is the third of the great observatories. The other two are the Hubble space telescope and the Gamma Ray Observatory, and we know Hubble had a few problems out there.

There would be a $75 million cut in mission operations and data analysis, and space transportation capability development would be cut by $277 million, and that is one of the priorities of the President's report on critical technologies. That program would be cut.

Four hundred eighty-three million dollars would be cut form the space flight control and data communications, and, frankly, that concerned me a lot.

The committee bill makes hard choices about where to invest NASA dollars. Four point five billion dollars for space shuttle production and operation is included, 4 percent more than requested, and that would provide for nine shuttle flights in 1992, and the bill also includes $375 million, 175 more than requested, for continued development of the new advanced solid rocket motor for the shuttle.

The bill also includes money for mantended microgravity free flier research and a study of a separate competitive life science space station.

Let me just say: Vote for space, not the space station.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

The CHAIRMAN. The gentlewoman from Kansas is recognized for 5 minutes.

Mr. WALKER. Mr. Chairman, will the gentlewoman yield for just a moment?

Mrs. MEYERS of Kansas. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentlewoman from Kansas [Mrs. MEYERS] for yielding.

Mr. Chairman, I have taken up the gentleman from New York [Mr. GREEN] on his proposition that we ought to look at these letters from the veterans groups. I find at least three of the letters that do not even mention the Chapman-Lowery amendment and are not, in fact, opposed to that. They do want VA funding held harmless. That is, in fact, done by the Chapman-Lowery amendment. So, the letters the Members ought to look at fairly suspiciously.

Mr. GREEN of New York. Mr. Chairman, would the gentlewoman yield? Just let me read one paragraph.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, this one happens to come from the American Legion.

> We are aware of at least one proposed amendment which seeks a major reallocation of funds among program activities within the jurisdiction of the VA, HUD and Independent Agencies Subcommittee. Although this proposal would not reduce the level of VA appropriations, its approval could seriously endanger veterans program funding as H.R. 2519 moves through the legislative process.

They oppose it, Mr. Chairman. I do not see what can be clearer than that.

Mr. WALKER. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYERS of Kansas. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentlewoman from Kansas [Mrs. MEYERS] for yielding.

The gentleman must not have listened to me carefully. I said that three of his letters do not have that kind of language in it. He picked the one that did, and it seems to me that we better be very careful about it.

Mr. GREEN of New York. Mr. Chairman, if the gentlewoman from Kansas [Mrs. MEYERS] would yield, let me take the next one to Chairman Traxler from the Paralized Veterans of America.

> The amendment will call for a major redistribution of funds within the bill as approved by your Subcommittee and the Full Appropriations Committee. This redistribution will call for a modest increase in veterans' health care funding which is identical to a proposal you will also bring to the Floor. However, the balance of the Chapman/Lowery Amendment, in our opinion, will have serious implications for adequate funding lev-

els for veterans' programs in future years. For this reason, Paralized Veterans of America (PVA) must oppose the Chapman/Lowery Amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, I would like to comment that I think the League of Conservation Voters has written about their concern about this amendment, and their concern was two-pronged. They were afraid that there would be across-the-board cuts in all of the programs under this appropriations bill, thus cutting EPA. That has not happened. So, I think at least half of their concern is addressed.

They were also afraid that there would be cuts in programs that collect earth science data, mission to planet Earth and the Earth-observing program; however, none of these programs are funded below this year's levels, and I would like to mention for those for whom the League of Conservation Voters voice is very important, as it is to me. Mr. Chairman, I rise in support of the Chapman-Lowery amendment. 1991 has proven to be a momentous year for Congress. From the decision to authorize Operation Desert Storm to the vote on fast track, we have made more pivotal votes this year than in any other in recent history. This vote here will prove to be one of those defining moments in history. We are about to decide whether the United States will have a manned space program. The choice we must now make is whether this country will be the leader in space development or are we willing to pass the baton to Europe or Japan?

There are still those who say, "How can we spend this money in space, when we have so many needs on Earth?" There are three answers to this question. The first is that the money is indeed spent on Earth. NASA's appropriation is not loaded into a rocket's nose cone or the shuttle's cargo bay and shot into orbit. It is spent on the ground, mostly in the United States, on goods and services and real people. The second is, that the product of this spending has paid back dividends far beyond the money invested. The third, and most important answer to the question, is that it's worth doing for its own sake.

The spinoffs from the space program are too numerous to count, and all of you use them. And I am not talking about the ability of our constituents to watch us on C-SPAN. I mean anything involving microminiaturization, minicomputers, reliable microswitches, image enhancers, and remotely controlled manipulators. Because of space-related research, your tires last longer. Firemen can better keep your house from burning down. The returns from the space program have increased our gross national product immensely. The products from space medicine, which could only come from a manned space program, have saved countless lives. The space station will undoubtedly produce new materials, new technology, and new learning. There are the examples that our colleagues have mentioned. Even more exciting, though, are the ones they haven't, because no one can yet imagine what they are. That is why we need a manned station, so that people can discover something new and apply it; whereas a robot would ignore it, because no one would have thought to program the computer to do anything with it.

But the most important reason for establishing a permanent manned presence in low earth orbit is that low earth orbit is the jump-off point for the universe. Once you get to low earth orbit, you are almost halfway to anywhere. This is not hyperbole; of the energy needed to reach the escape velocity of the solar system from the surface of the Earth, 46 percent of it is used in just reaching Earth orbit. To have a rational space program, we need both a means of reaching low Earth orbit, and a permanent presence there. The space station is vitally important if we are to develop and maintain the capability to get further than halfway to anywhere.

The results of this vote will be felt mostly by our children and grandchildren. Bequeathing them a huge national debt. However, I believe that the high payoffs of space development will better provide them the ability to pay off that debt.

If we are short-sighted enough to reject this amendment and kill the manned space station it will not mean the end of humans in space. The profits are such, that others will step into our shoes. Mr. Chairman, my colleagues, the question we will answer today is: Will the language of the cosmos be English, or Japanese? Vote for the future. Support the space station.

Mr. LAUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today is judgment day for the space station.

We can provide a space station that has the potential of bringing us the technical advances of tomorrow, or, once again, we can sit back and watch the international community pick off the ball and beat us in an area where the United States has always led.

We must not allow ourselves to become complacent. Keeping our manned space program functioning is of vital importance to U.S. competitiveness in the decades that lie ahead, and the space station is central to building the needed momentum. Cutting the space station will say to the international community that Americans are content being followers. That would be a travesty.

The space station is the scientific laboratory of the future. Thirty years ago we sent astronauts into space. Today, we send doctors and scientists. The advances they will make in medical science, materials research, and biotechnology are boundless.

America's youth is already disinterested in science and math. Cutting the space station will solidify this decline.

By cutting the space station we will be saying to our children that science and math are not a high priority in this country.

The space station will spur the interest of our youth in science. The Apollo missions directly resulted in a new generation of scientists in this country. We need to rekindle this interest in our children so more young people will move into these vital areas by challenging their minds. I can think of nothing more exciting to aspiring scientists than the vision of a space laboratory designed to unlock the mysteries of the universe and produce tangible advances for the human race. Apollo achieved this in the previous generation and I believe the space station will inspire the best and brightest of our youth.

Mr. Chairman, now is not the time to erode our commitment to the space program. A vote for this amendment is a vote for our future. I strongly urge my colleagues to support the Chapman-Lowery amendment.

□ 1530

Mr. ZIMMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with regret that I rise to oppose the Chapman-Lowery amendment because of the admiration and respect that I have for the chairman of the Science, Space, and Technology Committee, the gentleman from California [Mr. BROWN], and the chairman of the Space Subcommittee, the gentleman from Texas [Mr. HALL], as well as the ranking Republican Members seventh committee and subcommittee, the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from Wisconsin [Mr. SENSENBRENNER] as well as the sponsors and other proponents of space station Freedom and the amendment.

I regret that I must rise in opposition to the amendment because I agree with so many of the points made by its proponents.

I agree with the supporters of space station Freedom when they say we need an aggressive and robust manned space program. We do.

I agree with the Members who say our current dilemma has been caused in large part by appropriators trying to micromanage the space program. I agree that it was wrong to divert most of the money cut from the space station to nonspace programs.

I agree when Members say that we must conduct life science research and microgravity research in space so we can continue to explore the space frontier.

But Mr. Chairman, I part company with Members when they say that space station Freedom is the best way to move forward into space. Instead of opening the door to space, I believe this project could lock the door.

The amendment proposed today will fund the space station at the expense of many other needed and promising NASA programs. I am sure that the sponsors of the amendment hope that the other body will restore some of these funds. But this amendment is still a significant and ominous development that foreshadows the damage the space station can do to critically important space programs.

Next year, when NASA requests another $3 billion for the space station, more NASA programs will be sacrificed. And as long as the allocation is tight—and it will be tight for the rest of the decade—NASA will slowly starve basic science, R&D projects, and every other part of the agency in order to fund the space station.

The choice could not be more clear. The choice is between the space station and a balanced, aggressive space program. The current design of the station may well be capable of performing its trauncated mission—but at what cost? The facts developed by the GAO indicate it will become a budgetary black hole in space.

The space station was originally conceived to handle a myriad of tasks, including as a staging area to go to the moon. But it will not do that any more. Its mission is scracely more ambitious than that of our first space station—Skylab—but the cost is many times that of Skylab.

Rather than being fixated on this specific piece of hardware, we should focus on the mission that space station Freedom is supposed to perform—microgravity and life science research. There are a host of options to achieve that mission.

A few weeks ago this house adopted my amendment to the NASA authorization bill to have the National Academy of Sciences evaluate these options. I believe that some of these options will allow us to accomplish the same objectives as space station Freedom and at a lower cost.

If we build spacecraft based on the recommendation of that study we will achieve all of the objectives space station Freedom supporters claim are the other reasons, the nonscientific reasons, to build Freedom. We will maintain our space industry. We will provide America with a manned presence in space, and we will create the same amount of enthusiasm among school children and all of America.

As currently designed, the space station will not inspire Americans. It will frustrate them and further erode their confidence in NASA's ability to maintain this Nation's lead in space exploration. Shuttle delays, the very real chance of another *Challenger*-type disaster, and endless cost increases will severely diminish America's spirit for space exploration.

I urge my colleagues to act now rather than later. Vote against the amendment.

Mr. ANDREWS of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, in the 1960's, millions of Americans thrilled at the news of Alan Shepard's ride in space, and the triumph of JOHN GLENN touched us all with its daring, its mission, and its excellence. And those early victories set a breathtaking pace over the past 25 years. We recognize that the costs and risks of manned space flight have only increased over time—but as the challenge has grown, so have the rewards.

John Kennedy spoke of these things in Houston in 1962:

> The exploration of space will go ahead, whether we join in it or not, and it is one of the great adventures of all time, and no nation which expects to be the leader of other nations can expect to stay behind in this race for space. * * * We mean to be a part of it—we mean to lead it.

President Kennedy's words still ring true today as we decide whether to forge ahead with a manned space station. This decision will affect our Nation's space program well into the next century.

For our Nation, killing the space station means stopping the manned space program dead in its tracks. Space station Freedom is the linchpin of man's future in space. The medical research that will occur in a weightless environment may very well lead to the cure for cancer. Some of our best scientists believe we can build a more powerful computer chip in space than can be produced on Earth. Though the station's mission has narrowed over the years, its potential for reward has not. The station will provide an unparalleled environment and laboratory for microgravity and life-sciences research, offering the chance for great advances in the medical, biological, and metallurgical fields.

Many products and processes that future generations will take for granted will be developed aboard the space station in our lifetime. Like all our previous efforts in space, the space station will yield countless benefits that we cannot imagine today.

Our trading partners understand the space station's potential—the Japanese, the Canadians, the Europeans are all preparing to follow our leadership. Without space station Freedom, they will surely look elsewhere. They will also move ahead of us in this fierce competition for the future. Indeed, Japan has already announced that if the Congress kills the space station, the chances for future joint science efforts are slim; their government may refuse to contribute billions of dollars to other United States-led science projects.

Last fall, Congress directed NASA to redesign the space station. NASA has complied with that direction and the new design deserves our support. Killing this program after 8 years of effort, 8 years of international cooperation and four billion dollars of investment would be an act of bad judgment and bad faith on the part of this Congress. To shift gears now, to reverse directions, to stop the advancement of manned space flight, will set the space program back for decades.

My 13-year-old daughter, Caroline, wants to be an astronomer when she grows up. She and other children like her have thrilled to the story that has been written over the years by America's space program. Space station Freedom holds the promise to future generations to aspire to become the scientists, engineers, astronauts, and explorers of the future.

Our generation faces a responsibility and a great challenge. We can keep America No. 1 in space competition; we can continue to lead other nations; or we can step aside and follow. The choice is a clear one. This Congress holds the fate of the space program—and the future—in its hands. The challenge before us, in the weeks and months and years ahead, is to make sure that all Americans can share in the dreams and promises of our country's space program, ensuring that it does remain one of the great adventures of all time.

□ 1540

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment to restore funding for the space station Freedom. In discussing the space station, there have been many references, obviously, to the future. But in the immortal words of the late Redskins coach, George Allen, "The future is now."

We could speak of space exploration 35 years ago as a concept in futurology. But in 1991, we have already made the leap into space. Now that we have made the leap, we need some place to stand, and the space station Freedom is the place we need.

We should continue funding the space station in the interest of enhancing our competitiveness, as another means of extending our world leadership, and, yes, to expand our scientific knowledge.

The space station Freedom represents our efforts to remain competitive in an ever-changing world. There is a growing realization in the Congress of the importance of American competitiveness. As a matter of fact, earlier this week the Speaker and I testified before the Committee on Ways and Means, which is to begin a whole series of hearings on the subject.

Remaining competitive means having a vision beyond next week. It means the ability to see beyond present requirements to meet future needs.

What about world leadership? Jean-Marie Luton, the director general of the European Space Agency, has outlined in a letter to Vice President DAN QUAYLE the importance of this issue to our friends in Europe, when he wrote,

> The Space Station Project commands importance at the highest political levels in Europe, and, based on the United States' assurances following President Reagan's invitation to join the project, has been made a cornerstone of the European Space Agency long-term space plan.

Summarily cutting the space station has implications far beyond our own borders, obviously. This space station represents our responsibilities in the present and in the future.

Finally, the space station Freedom expands our scientific knowledge. As William Lenoir, the Associate Administrator for Space Flight at NASA, wrote me in his letter, "The Manned Space Flight Program remaining without space station Freedom would be reminiscent of the post-Apollo era, when the United States essentially took a decade off."

Mr. Chairman, the space station Freedom is important for our world leadership, competitiveness, and scientific discovery. As one of the ancients said, "Give me a place to stand, and I will move the Earth."

Mr. Chairman, I urge Members to give the United States a place to stand in space, so that we can continue to move our country in the direction of always expanding the horizons of our knowledge.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am opposed to the amendment. I will not talk extensively about the space aspects. There are divisions within. My own inclination would be to support the other science projects, and less so the space station. We are told that this is a very important project for our world leadership, and if we do not do it, we will cede leadership.

Mr. Chairman, I am not aware that any other country was planning a space station. If leadership went to that country that had a space station, I assume there would be somebody else planning to build one, and that is how we would lose the leadership.

But I want to talk about the housing aspect, because I do not think Members ought to kid themselves into thinking that this is a decision that can be made without consequences. The consequences are clear in this amendment in this form, and there may be other ways to do it, but this amendment in this form says to the poorest of the poor, you shall have less police protection than you would otherwise have.

It says to the poorest of the poor, your living conditions will be worse than they otherwise would be, because it proposes a 10-percent reduction in the appropriation for the operating subsidies for public housing.

Yes, there is a fencing here. The fencing is a way to deal with the budget and move some money that would be obligated in the last 10 days and not spent until the first 10 days from outlay category to budget authority category.

I wish we did not have to have some of these budget gimmicks. But understand one thing, and anyone concerned with housing and any of the committee staffs will tell you this: that is real money. We are talking about $250 million, which if the committee bill passes as is, is available for the living conditions in public housing of the poorest of the poor, from 2-year-olds to the elderly.

If the amendment passes, they lose that $250 million. We are not talking budget gimmicks, we are not talking anything other than reality. Yes, it is above the authorization. I am on the authorizing committee. We have gotten to a stage where authorizations have not been dealt with as if they were holy writ.

When we got to the end of the conference last year with our good friends over there and people from HUD and people from OMB, we agreed to that. There are a lot of things I would have agreed to to get a good housing bill out.

But now we come to the reality this year, what do we need? Here is what operating subsidies pay for: basic maintenance, garbage collection, police. We are talking here about the essential services for public housing. The amendment says there shall be 10-percent less than the committee talked about for the day-to-day lives of the people who live in public housing.

People say, well, public housing is not that great.

Right. So let us make it worse. Let us pass an amendment, which not in intent, but in effect, will degrade further the people who live in the most degraded conditions in our society. Cut $250 million out of the money that goes to keep the poorest of the poor protected, heated, keeping their environment somewhat free.

They all talk about our future. A future in which 2-, 3-, 4-, 10-, 12-, 14-year-olds in public housing live in worse circumstances rather than better, is not the kind of future that a world's leader ought to be aspiring to.

These are questions about the division within NASA. I think science is better served by the subcommittee's proposal. But whatever your position on this, it is indisputable, the chairman of the authorizing committee is here, the people from the appropriations subcommittee. There was some confusion. I understand there was confusion, legitimate confusion. But this is indisputable. We are talking about a real cut. We are talking about the people who live in public housing.

Why do these people live in public housing? Because they can live nowhere else. They live in housing that most of us are appalled to think about sometimes, because it is the best they can get. For the money they have in this society, that is all they can find. And the question is, shall we try to improve it a little bit, and I guess that is not even the question. The question is, under the subcommittee bill, shall we try to stave off degradation a little further? Because that is what we are talking about.

□ 1550

We are talking about a desperate effort to prevent the poorest of our fellow citizens from being further degraded. Yes, there are other goals to think about.

People talk about lightweight eyeglasses, and I like lightweight eyeglasses. But when a 3-year-old is confronted with living in the situation in which broken glass litters every place he or she goes and in which animal waste is all over the place, in which elevators do not work and endanger his or her safety, then if I had to make the plastic glasses wait a little bit, I would wait a little bit. I do not think that is a necessary choice, if we do the science right.

We are told we have to make hard choices, and then Members try to avoid it by saying, we can have it all. We can have the space station and it is only just games. It will not hurt the people in public housing. Do not, Mr. Chairman, fool ourselves that way. There is an absolute undeniable reality here.

The $250 million we are talking about comes from public housing operating subsidies, the basic maintenance, police, heating, the day-to-day physical living conditions of people in public housing. We are not even talking about quality of life, because we do not give them that. We are not talking quality; we are talking bare necessities.

Ride past the public housing authority on your way home and vote for this amendment and congratulate yourself on voting to reduce by $250 million the amount that is available to keep these people in decent living conditions.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. FRANK], has expired.

(On request of Mr. GONZALEZ, and by unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 3 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas, chairman of the authorizing committee.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman from Massachusetts and join him.

I merely wish to add my voice to that of the gentleman from Massachusetts [Mr. Frank]. I think he has stated it better than I can. I do want only to say that I was here when the letter from the Secretary of HUD was read. I want to disabuse any Member's mind if he was impressed by that letter. The Secretary has never been for public housing.

When he was a Member of this House, his vote, the Record will show, never supported us on the authorization committee, on the requests that we were recommending for housing and public housing.

I have been on this Subcommittee on Housing the 30 years I have been here. And of course, I was here all during the term of office of the Secretary of HUD while he was a Member.

Last year he would have eliminated public housing. In fact, it was not until we got to the conference committee and it was only because I had a sort of a sit-down strike in the middle of the conference that the present structure that has been in place for 44 years was saved, because the Senate conferees had been convinced by this same Secretary that what they were doing was not going to do anything but destroy public housing structure such as we have known it, which is intricate. The financing mechanism behind it is intricate, and we would have lost that with no substitute ever, ever offered by the Secretary of HUD.

What he has done is to come and fight for projects that are costing $164,000 a unit, such as the Kennilworth project here in Washington, DC, in the name of what? Tenant management and home ownership by the poorest of the poor, if my colleagues can visualize that.

I rise in strong opposition to the amendment offered by my colleagues, Mr. Chapman and Mr. Lowery. I have followed the debate earlier today on this issue and have had substantial discussions and correspondence with experts in public housing and budget and have found that the arguments made for removing $250 million from operating subsidies necessary for the viability of the nation's public housing stock are patently incorrect.

The choice before us is to provide $250 million for the space station at the expense of thousands of low-income families who reside in public housing. It is an unfortunate circumstance that this laudable NASA project is pitted against the needs of the poor and the elderly in this country. But's let's face it: That's the decision before us today. We cannot be fooled by the myth that had been set forth today to suggest that the $250 million is not real money that would be available for the operation and maintenance of our distressed public housing stock.

I personally spent all yesterday afternoon and this morning researching this matter. I even questioned whether or not this is funny money. My unequivocal conclusion after discussion with the Budget Committee, Congressional Budget Office, Department of Housing and Urban Development, the Council of Large Public Housing Authorities, National Association of Housing and Redevelopment officials, the National Low Income Housing Coalition and several other organizations expert in either public housing or budget is that the so-called fenced funds will actually be available and spent by those public housing agencies that are in need of an adequate level of operating assistance.

The manner in which these funds are provided is somewhat complicated. Here again Mr. Chairman, the budget process that has now become sacrosanct drives us to these kinds of appropriation devices. It's very simple. Since many of the public housing authorities have fiscal years beginning in October it is possible and reasonable to provide their operating assistance funds late in the fiscal year and thus reduce a budgetary outlay impact for a given fiscal year. By fencing the funds the Appropriation Committee has simply recognized that the actual outlays from the amounts appropriated will not occur until 1993.

Now I would like to address the issue of whether these funds are actually needed or not. It is true that the amounts involved exceed the amounts authorized and the amounts requested by the administration. It is not true, however, nor was it ever true that those amounts were recognized as adequate to meet the full funding requirements for operating subsidies. The performance funding system [PFS] formula has traditionally understated the actual need, for whatever the reasons, some of which have been pointed out today. The Appropriations Committee has always been relied upon to provide for the full amount required. That amount is $2.406 billion, as provided in the committee reported bill. Reduce this amount and you are going to cut short the needs of the thousands of public housing agencies and the poor tenants. It is ironic to me that HUD Secretary Kemp should run around the country extolling the virtues of other programs against the public housing programs—which he says are falling apart—and then turns around and sends a letter that suggests we should deny the funds to fix it.

I urge my colleagues to defeat this amendment and not do further damage to the already distressed public housing agencies.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. RHODES. Mr. Chairman, I do support this amendment. I support it because I support man's exploration of space, and I support the space station. I want to approach this portion of the debate with a question from a slightly different perspective.

That question is, who makes policy for this country? I think each one of us would say, "The Congress of the United States makes policy for this country." I think this bill would indicate that there is a qualifier on that answer. The Congress of the United States makes policy for this country except when the Appropriations Committe disagrees with the policy.

I invite my colleagues to look at two specific aspects of this bill. Just for a moment take a look at section 519. My colleagues all remember last year when we passed a piece of legislation that said every executive agency shall have a chief financial officer. This bill says that VA, HUD, and the independent agencies, they could have a chief financial officer but they cannot pay him. They cannot use funds appropriated in this bill to carry out the purposes of that act.

Then, of course, we know what it does to the policy that we have related to man's exploration of space and to the space station. For 30 some years, this Congress and the successive administrations have said it is our policy to have a manned effort in space. For a decade this Congress, the administration, and subsequently 13 other countries have said it is our policy to explore space from a manned space station. Hundreds if not thousands of hearings, dozens if not hundreds of witnesses, consultation with allies, consultation with the administration, plans, thoughts, debates here on the floor, all have gone into making up that policy.

With the stroke of a pen, a subcommittee of a committee of this House says, we are changing the policy. No hearings, no witnesses, no testimony, no consultations, no concern about the impact this is going to have on 13 countries that have said we want to go into space with you, none of those things. Just simply it is time to change policy.

It may be, but if it is, let us find out. Let us let those who would change the policy introduce a bill. It will be assigned to several committees, including Science, Space, and Technology. The gentleman from Texas who chairs the Space Subcommittee will hold hearings. The gentleman from California who chairs the full committee will hold hearings. We will have a chance to discuss it.

We will have a chance to review what the policy is now. We will have a chance to see what its impact is on this country and on our economy. We will have a chance to see what changes in policy would be, what the impact of that would be on 13 other nations who are with us. We can come to the floor. We can debate, and we can decide whether we are going to stick with the policy we have or change it.

I am sorry. I do not think that 2 or 3 or 4 hours of debate on the floor during an Appropriations Committee with about 10 day's worth of opportunity to consider what this appropriations bill would do to us is sufficient for us to change 30 years of American policy. So

I would say, if my colleagues love space and they love the space station, please support this amendment. If they do not care about space, if they do not care about the space station but they care about their prerogatives, as a Member of this body, and if they care about the process that we ought to follow in establishing the policy for this country, support this amendment.

This amendment is about more than space. It is about the way we run this country.

AMENDMENT OFFERED BY MR. SMITH OF FLORIDA TO THE AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. CHAPMAN

Mr. SMITH of Florida. Mr. Chairman, I offer an amendment to the amendments en bloc, as modified.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Florida to the amendments en bloc, as modified, offered by Mr. CHAPMAN: Strike everything after the word "page" on line 1 of the amendment beginning with the number "7" through the word "page" preceding the number "64".

Mr. SMITH of Florida. Mr. Chairman, the essence of this amendment is simple. It cuts the reallocation or the reprogramming of the $217 million out of the $250 million that was taken out of HUD that was given to NASA for space station purposes. The other $33 million never went to NASA, so we do not have to cut those figures. It cuts all of that. It leaves the last paragraph of the amendment, which says, "Funds provided in this Act for the National Aeronautics and Space Administration shall be used for the same amount, purposes and programs as are provided for fiscal year 1991," et cetera, "under the jurisdiction of the subcommittee."

☐ 1600

This, Mr. Chairman, gets us to the gravamen of this argument. Do you want the space station or not, and cutting away the complicating factor of moving money out of the jurisdiction of this committee which funds some of the most important things we do in this country? That is all.

We should not fall victim to the problems we created ourselves in last year's budget summit agreement. Guns for butter is no longer an economic theory with any relevance with regard to the budget process in this country. You can no longer decide to reduce guns and increase butter.

You now want to fund space station? Cut the poor, cut the elderly, cut children, cut the veterans. That is wrong. We are falling prey in this amendment to the very thing many of us did not like about the budget summit agreement, and what I do by virtue of this amendment, Mr. Chairman and my colleagues, is to offer you the pure choice.

I come from Florida. The space station will probably have a significant context in Florida. Cape Canaveral is in Florida. I, like many others in many other States, have a significant interest in this. And I, like others in this Congress, have been happy that we have explored space and have reaped benefits that have been immeasurable in terms of what we have done over the years.

But we never, never had to make choices that were directly to disconnect other portions of the population to fund scientific research like we are being asked to do now. We never had that before. We never were faced with the choice of reducing food programs or social programs that were of significant importance to do this.

And so I am asking you to make a decision in your own minds that you are going to vote for the space station or not vote for it based solely upon the rightness or wrongness of having the space station.

We are decomplicating this process by removing the transfer of the money from the HUD housing program. NASA would then be authorized with the language in my amendment which basically leaves the last paragraph of the Chapman language as his amendment; NASA would be authorized to fund the space station project for 1992 up to $109 billion which was the 1991 allocation. That means that space station would go ahead. NASA would have to find the money within its own budget as the Committee on Appropriations, the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] and the rest of the committee have decided that their budget should be. It is that simple.

We now take the appropriations level, give it to NASA and say, "That is what you get. If you wish to use some money for the space station, go right ahead."

My colleagues, I will yield when I am finished.

But, my colleagues, be cautioned about one thing, and I mean to do it with this amendment, this will then hold accountable the people at NASA to making the toughest choices, not for us to have to make a choice between cutting off housing programs and the space station, but NASA now having to decide whether they want to possibly compromise basic research, scientific programs, all of their other programs, by utilizing the money only that they are getting from the Committee on Appropriations which did not give them any money for the space station.

I will now say quite honestly that that will make them next year, frankly, very, very—well, there will be a lot of trepidation when they come in here, because both the authorizing committee and the appropriations subcommittee are going to be looking very seriously at the choices they made and what use they made of their own money and, frankly, whether or not they compromised the other programs that they came in and asked the gentleman from Michigan [Mr. TRAXLER] and his subcommittee to fund, because they were so important, because they put money into the space program.

That is the choice.

We have a policy in this country of wanting to pursue space and a space station.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Florida. Mr. Chairman, that policy we entrusted to the people who run NASA.

I do not know that we should tinker with it, but they have to be held strictly accountable.

This amendment will allow for them to make the toughest choices this year. They are going to have to choose their priorities very carefully, and when they come back in here next year, it is all going to be laid out on the record: "Did you compromise the rest of your programs because you chose to go into the space station, or were you able to accommodate all you wanted to do?" Those questions will have to be answered by them, and I believe that is the right time.

I have one more sentence, and I will finish.

But I will tell you this: This is very important, because we will no longer be asking ourselves to go across to somebody else's backyard and take out money which is directly responsible for the upgrading of the condition of the human life in this country.

I will not vote for the Chapman-Lowery amendment without this amendment. I personally will not, because I will not ever condone going into the kinds of programs like housing and asking them to sacrifice.

We are going to worry about foreign countries and our commitments to them when we are removing our commitment to our own constituents, to the humble, the poor, the young in this country by taking money out of their budget to fund the space station? Not me. Perhaps some of you. Not me.

I urge you to vote for this and give yourselves a true, true test of whether the space station is right or wrong for the country by voting only on NASA without the complicating factor of anything else.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has again expired.

(At the request of Mr. GREEN of New York and by unanimous consent, Mr. SMITH of Florida was allowed to proceed for 3 additional minutes.)

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, just so we all understand what it is the gentleman is doing, essentially what he is doing is preserving only the last paragraph of the amendment on page 2?

Mr. SMITH of Florida. The gentleman is correct.

Mr. GREEN of New York. The result is, therefore, the $217 million which is now coming out of the public housing operating subsidy would, instead, come out of NASA?

Mr. SMITH of Florida. That is correct.

Mr. GREEN of New York. And therefore, in addition to the level of cuts which the proponents of the amendment are proposing would have to occur in other NASA programs, there would have to be a still further $217 million cut in order to fund the space station?

Mr. SMITH of Florida. No. They have the right to fund up to $1.9 billion for the space station. They may choose not to and not have to cut any other programs. It does not represent a cut.

Mr. GREEN of New York. Maybe I will make some comments on my own.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I would like to say that was quite a last sentence that the gentleman had.

I need the gentleman to clarify one thing though. Earlier the House adopted, or the Committee adopted, the Traxler amendment which included $33 million in additional funds for veterans' medical care. Does the gentleman's amendment affect that $33 million?

Mr. SMITH of Florida. Not at all, because the Chapman amendment never dealt with that $33 million as it relates to NASA, and the last paragraph being preserved only relates to NASA.

Mr. RHODES. So the Traxler amendment is not affected by what you do?

Mr. SMITH of Florida. No. I do not believe so.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. As I understand the gentleman's amendment, if I read it correctly, your amendment now reads that NASA must use the funds within this bill in the same amounts and for the same purposes and programs as fiscal 1991? Is that right?

Mr. SMITH of Florida. Funds provided; yes. That is correct. That is in the Chapman amendment already.

Mr. WALKER. Yes. I know. But the Chapman amendment also included some other language which was fairly important that the gentleman strikes, and let me explain to the gentleman, because I believe he is trying to be helpful, and I think he could end up hurting us badly.

Last year we spent $1.209 billion for the TDRSS program, but that pays it off. There is only about $32 million that needs to be spent this year.

Mr. SMITH of Florida. I know where the gentleman is going. There is no other language in the Chapman bill except the reallocation of dollar amounts. There is no other language in the Chapman amendment.

Mr. WALKER. If the gentleman will yield further, that is not true. In the Chapman amendment, what we do is we take that money and assure that that money does not have to be spent in that location this time, and by the gentleman's amendment, the way he has worded, we are literally going to waste $1.2 billion. It is going to be spent for something we do not need to spend the money for.

Mr. SMITH of Florida. Let me reclaim my time again. The gentleman must understand that I have taken the language that already existed in the Chapman amendment. There was no qualification of that language with any other language in here notwithstanding what the gentleman intends to intimate; that is not the case. The language in the bill, or in the amendment, and if the gentleman wishes to seek his own time, go right ahead, but the bottom line is that none of the language in the Chapman-Lowery amendment qualified the language in the last paragraph of said amendment which is the paragraph that I have preserved as the only part of the amendment.

□ 1610

Mr. BOEHLERT. Mr. Chairman I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I rise today to speak in support of space station Freedom and the Chapman-Lowery amendment.

More than a generation ago, our country committed itself to the manned exploration of space. The record established by NASA in pursuit of that goal has been a highly successful one—not flawless—no great efforts are—but the record has been one of steady progress and ever-greater abilities to reach out into the heavens.

Today we stand on the edge of a decision that would mark America's retreat from global scientific leadership and an abandonment of the challenge of manned-space exploration. I ask the Members of this House to carefully consider the implications of endorsing this retreat.

The space station is the cornerstone of our manned-space program. Ending this program would mark the end of this effort, an abandonment of the challenge of manned-space exploration.

Further, the space station is not only the cornerstone of America's manned-space program, but in a very real sense it is the cornerstone of the Earth's space program. Fifteen nations have joined the United States in the space station project—Japan, Canada, and the 13 member states of the European Space Agency. Each of them looks to the United States for leadership and vision, and together they have committed bills in support of this project because they believe in it and in our ability to deliver on our promises.

For 3 years, the United States negotiated with these partners to establish the space station Freedom agreement—an agreement that carves up roles and guarantees that the burdens of this bold initiative will be shared. The result has been a complex web of commitments and understandings in which our partners have agreed to provide nearly $10 billion in support. The space station Freedom agreement was made between governments and has the force of a treaty; unilaterally abrogating that treaty will carry serious and long-lived consequences for our ability to establish new cooperative scientific initiatives.

If we back out of this important project, other nations will justifiably conclude that the United States is incapable of keeping long-term commitments and that the United States lacks the vision and will needed for effective leadership.

If we terminate the space station program, at a time of growing international and scientific interdependence, at a time when our greatest challenges require international partnerships, we will destroy the basis of trust upon which those other initiatives must be forged.

There are a wide range of scientific problems that can only be effectively addressed within the context of international cooperation. The health and prosperity of our planet, as well as that of future generations of Americans, hinges upon our ability to work productively with other nations to resolve these problems.

Research on global environmental change, sustainable energy development, agriculture, and biological diversity, to cite just a few examples, all require international partnerships sharing costs and knowledge. America's central role in weaving together these partnerships will be lost if the space station is unceremoniously terminated.

Leadership in world affairs is a fragile quality. It doesn't simply fall to the nation that has the most money or the largest armies. It rests as much on perceptions of will, steadiness, vision, and trust as on material strength. Killing the space station, without addressing our partners' concerns, without exploring alternatives for our manned-space program, will be perceived by others as an abandonment of leadership by the United States.

Leadership abandoned is leadership lost. Once lost, we will have to redouble our efforts to rebuild trust, to recraft a policy vision that others can subscribe to, and reclaim our carelessly discarded mantle.

If ever there was a policy that could be described as penny wise and pound foolish, terminating the space station it is, because it will be nearly impossible to find partners willing to tie their scientific fates to our efforts in other scientific fields—leaving it up to America to bear higher costs and make less progress on global scientific challenges than if we could convince others to share the burdens of scientific and technological exploration.

For all these reasons, vote to restore funding for the space station, vote in support of the Chapman-Lowery amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, the gentleman says if we do not build a space station we will be ceding leadership to someone else. Who is the other country that will then build the space station?

Mr. BOEHLERT. We have heard testimony in our committee, just this week, from international partners from the European Space Agency. We know that they are anxious to pursue it, and I think there is the possibility of pursuing it with the Soviet Union.

Mr. FRANK of Massachusetts. The Soviet Union is going to build a space station?

Mr. BOEHLERT. There is a possibility that the Soviet Union will pursue it.

Mr. TRAXLER. Mr. Chairman, I ask unanimous consent that all debate on the Smith amendment to the Chapman amendment terminate now.

The CHAIRMAN. Is there object into the request of the gentleman from Michigan?

Mr. ROE. Mr. Chairman, I object.

Mr. TRAXLER. Mr. Chairman, we are talking only about the Smith amendment, not about the Chapman amendment.

Mr. ROE. Mr. Chairman, reserving the right to object, in fair play, we have been waiting here 3½ hours, and we have been waiting our time. I understand where the gentleman is coming from. However, we have been waiting 3½ hours, and it is the same group debating the same bill. That is not fair to the House. We have something to say, and we wish to be heard.

Therefore, I object.

Mr. TRAXLER. Mr. Chairman, I would appreciate it if the gentleman would allow me to explain this.

The CHAIRMAN. The Chair will state that the gentleman from New Jersey has the time under his reservation, and he may yield as he wishes.

Mr. ROE. Mr. Chairman, I yield to the distinguished gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, let me assure the distinguished chairman that I share his concern over time. My request only relates to the amendment offered by the gentleman from Florida [Mr. SMITH]. We will deal with time on Chapman at a later point in this discussion.

After the Smith matter, after appropriate Members have a chance to continue the debate on Chapman, we may or may not consider limiting debate. My request is only on the Smith amendment to the amendment.

Mr. ROE. Mr. Chairman, what is the gentleman's proposal?

Mr. TRAXLER. My proposal in the Smith amendment is that we terminate debate now and vote on it.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the only problem I have with the request of the gentleman from Michigan [Mr. TRAXLER] is the fact that the gentleman from Florida [Mr. SMITH] would not yield while we were trying to explore some technical problems that I think we have.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I am prepared to stay all night. We have scores of other amendments coming after we finish NASA, and we can have a late dinner here.

Mr. Chairman, I withdraw my unanimous-consent request.

The CHAIRMAN. The gentleman from Michigan [Mr. TRAXLER] withdraws his unanimous-consent request.

Mr. WOLPE. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the Smith amendment as well as to the Chapman-Lowery amendment.

I have great respect for the authors of these amendments and acknowledge that the issue they present is, in fact, a very difficult one. Moreover, it is frankly very awkward to find that in my first year as a subcommittee chairman on the Science Committee, I must oppose an amendment which will be supported by the gentleman from California [Mr. BROWN], who is serving his first year as chairman of the full committee. I serve on the Science Committee in large measure because of my enormous respect both for my chairman's approach to science and technology issues and for the manner in which he leads our committee. However, on the difficult issue of the future of the space station—a decision on which there are honest differences in judgment—I must come down on the side of those space scientists who believe that the space station will actually undermine, rather than strengthen, our Nation's space program. Months, and in many cases, years ago—long before the bill before us today focused our attention on this issue—these scientists told us that the station was an ill-conceived program which would make the achievement of our objectives in space far more difficult and enormously more costly.

The fact is that in this year's budget, the station is simply not an effective expenditure of the funding that this Nation has available for space, science, and technology. We should not kid ourselves into thinking that by saving the space station in the House today, we will somehow be able to fund both the station and NASA's science programs in the appropriations conference. The fact of the matter is that the amounts available to the Senate to fund the programs in this bill are no larger than the amounts available to the House.

In this connection, it should be noted that, in order to make room for the space station in this year's bill, the Chapman-Lowery amendment guts not only NASA's space science programs, but also calls for a reduction of over $200 million in housing programs. Let there be no mistake that by preserving the space station this year, the impact of cuts in future years for programs in housing, veterans benefits, and environmental protection will be much more severe.

I salute the gentleman from Texas [Mr. CHAPMAN] and the gentleman from California [Mr. LOWERY] for offering us the clear-cut choice that their amendment presents: Funding the space station or funding a host of other valuable scientific programs within NASA. In my view, we should follow the lead established by the scientific community itself.

The incontrovertible fact is that the space station is not good science. Dr. Nicolaas Bloemberger, president of the American Physical Society, has stated that canceling the space station would have "the overwhelming support not only of physicists but of the entire scientific community". Dr. Tom Donahue, professor at the University of Michigan and former head of the space studies board of the National Academy of Sciences, has stated that "The space station has negligible scientific capability". The President's own science adviser agrees with this assessment. So do a host of respected scientific associations including the American Geophysical Union, the American Physical Society, and the Association of Scientific Society Presidents. In my view and theirs, the space station is more akin to a jobs program for the aerospace industry than a scientific endeavor.

In light of these facts, we should not regard the termination of the space station as a crisis, but as an opportunity to advance the credibility of the space program, both within the scientific community and the public at large. We must remember that the space station is not the same thing as the space program. In fact, terminating the station now is a necessary first step in reassessing NASA's priorities, reforming its management, and re-establishing its credibility in the eyes of the taxpaying public.

Termination of the station will enable NASA to pursue the sensible agenda laid out for it earlier this year by the advisory committee on the future of the U.S. Space Program: The first priority should be space science; second, the study of the Earth from space; and third, to the extent that it is affordable, manned exploration of the solar system. Those are the correct priorities, and there can be little doubt that there are far more cost-effective means than the space station of pursuing the third priority. For example, we should begin now to join the U.S.S.R. in a common effort, using the Soviet space station Mir and the shuttle, to understand the effects of long-duration flight at low gravity on human beings.

NASA's reputation and productivity have been hurt in recent years by its tendency to reach beyond its capability to deliver. By focusing NASA's work on what is achievable—a sound science program, a well-designed mission to planet Earth, and a cost-effective manned space program—the Nation's space program will be far healthier in the long run. By keeping a space station program which serves no useful scientific purpose, NASA will only compromise its ability to do what it needs to do well.

I will not dwell today on the cost of the space station, even though there has been much discussion in recent weeks about whether the space station costs $30 billion for 10 years, or somewhere between $110 and $180 billion for 30 years.

Whatever the true costs of the station, they are reflective of a broader debate on the appropriate mix of big versus small scientific projects. The station—a big science project in the worst sense—will squeeze out a variety of small science projects far more valuable to the scientific endeavor, and particularly to the training of the next generation of American scientists.

Why is the funding of small science so critical? It is primarily because small science projects—conceived, designed, and conducted by benchtop scientists—are carried out in universities rather than in Government laboratories or aerospace companies. As a result, small science is critical to the development of the next generation of scientists, including women and minority scientists. Without an adequate small science base, the research infrastructure of our Nation's colleges and universities will wither, compromising not only the development of future scientists, but also the general education of all our college and university students.

There are other equally compelling arguments for protecting small science from the voracious appetite of the big science projects. Small science is flexible—it is easier to shift direction as results dictate—and it is effective—nearly all Nobel laureates work in small science. And small science does lead to technological advances as readily, or more readily, than does big science. The transistor, antibiotics, TV and VCR's, the computer, lasers, monoclonal antibodies, and CD's did not come from big science.

These big-science-versus-small-science arguments are anything but academic. If the proposed cut in the space station stands, there will be more funding available in future years for a number of small science initiatives both at NASA and at other agencies funded by this bill, including the National Science Foundation and the Environmental Protection Agency.

While I do not oppose every big science initiative, I do think that we have reached the point where funding for big science is severely affecting our ability to proceed with scientific programs far more critical to our Nation. In the face of an array of proposed science projects, each of which costs billions or even tens of billions of dollars, we must be wise enough to choose to proceed with the ones that are truly critical to the Nation's future. As the Office of Technology Assessment concluded in its recent assessment entitled "Federally Funded Research": "Not all [science megaprojects] may be supportable without eroding funding for the science base."

In conclusion, I would like to address those who would say that terminating the space station would signal an end to this Nation's willingness to inspire, to explore, and to undertake and succeed in high-risk ventures. I would remind my colleagues that, while the manned space program has been a source of pride to all Americans, there are many other dramas in science and technology which could excite a nation and inspire generations of new scientists. Just last week, I had the opportunity to visit Dr. Francis Collins, the University of Michigan researcher who discovered the cystic fibrosis gene in 1989. Dr. Collins' saga of creativity and persistence is a tribute to the highest fruits of our science and technology, a masterpiece of detective work that will save thousands and thousands of lives. It is a story that should inspire a nation far more than building a space station that serves no discernable scientific purpose.

This Nation faces a host of problems—in medicine, in the environment, in the provision of safe, efficient energy—that will demand the best efforts of all of our people. How many other promising young scientists like Dr. Collins could be supported if we had the wisdom to direct our limited resources to those activities which are truly focused on expanding the base of human scientific knowledge?

□ 1620

Mr. Chairman, in closing I would like to read a portion of a letter I have received from a distinguished space scientist that I believe reflects a very large body of scientific opinion:

> If the decision to terminate the space station is sustained, continued progress will occur in many different, important NASA R&D programs. These include the vital Earth Observing System, (EOS) component of Mission to Planet Earth, several major space exploration programs, including Cassini/CRAF, the Space Infrared Telescope Facility (SIRTF), and the Advanced X-Ray Astrophysics Facility (AXAF), and a wide range of smaller R&D activities. If, however, the decision is made to fund the space station program within current stringent budget guidelines, it is clear that there will be major reductions in these R&D activities. Such unprecedented reductions would decimate NASA's research program and have disastrous impacts on this nation's ability to pursue its space science program.
>
> If it is leadership in space that is needed, then provide it through projects that have a direct benefit to the technical and practical needs of this nation. Don't dissipate our precious funds on technology that leads nowhere in terms of our long term objectives in space. The termination of the space station program is not the end of manned space flight. Instead, it provides important refocussing into more productive areas related to use of the space shuttle and preparations for manned exploration of the Moon and Mars.

Mr. Chairman, I urge opposition to the amendment before this House.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. WOLPE. I yield to the gentleman from California.

Mr. BROWN. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the expression of respect that the gentleman has indicated for me, and I share that with respect to him. I have high respect for the gentleman.

Despite that, we both disagree with each other once in a while. But we do not disagree about the importance of science. We are thoroughly in agreement on that. But the gentleman has set the standard that the scientists should have the prevailing voice with regard to the space station. I can tell the gentleman, through 25 years of experience, that the scientists have never supported, as a majority, manned space flight, and they do not today, and their criticism is quite right: It does not produce as much science as they would like.

The scientists also assert that they need at least 100 percent more money to fund basic research.

Does the gentleman think that that is a reasonable judgment, that we should also carry out?

Mr. WOLPE. As the gentleman from California knows, I have made the same kind of observations to the scientific community about the need for them to also prioritizes their own requests and recognize there is not an unlimited pie available for their efforts.

Mr. BROWN. I thank the gentleman.

Mr. TRAXLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am very pleased to yield to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the amendment to the Chapman-Lowery amendment. I think that it is a possibility that the gentleman from Florida, who I think is attempting to be helpful in finding some middle ground, seriously complicates deliberations on this issue because, by the wording of his amendment in requiring, if his amendment is successful in amending the Chapman amendment, what his amendment would require is that the funds provided in the bill shall be used for the same amounts, purposes and programs as were provided in fiscal year 1991, which requires a $1.2 billion payment that is not required in 1992.

I oppose the gentleman's amendment. I think it confuses the issue. I think the debate has been well framed by the Chapman-Lowery amendment.

Mr. LOWERY of California. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from California.

Mr. LOWERY of California. I thank the gentleman for yielding.

Mr. Chairman, I would urge my colleagues to vote down the amendment. I understand that my colleague from Florida is trying to be helpful, to space station, but his amendment complicates this issue. We think we have the space station clearly framed in terms of freezing NASA accounts at 1991 levels. I might add there is a problem with the draftsmanship in the amendment. I would urge my colleague to withdraw, his amendment but if he will not do that, let us vote it down.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I too believe there are some real operational problems with the amendment as it is drafted. In talking to the majority staff and to the minority staff, I have found that there is a real kind of problem here with the $1.2 billion that we have to spend this year, but under the gentleman's amendment it would be the purpose that we would have to spend it next year despite the fact that the expenditure is not needed.

That, I think, would be a major concern and would, I think, handicap NASA to do the kind of things that the gentleman from Florida seems to want them to do.

So I too would oppose the amendment.

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Florida.

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Chairman, I think the chairman understands that I did not file this amendment to the amendment to have this technical problem, if it exists, be a problem. Staff of the Subcommittee on Appropriations, which the gentleman chairs, assured me that it was not a problem. Now we hear that it may be a problem.

In any event, if I am not mistaken, Mr. Chairman, is it not very possible that if in fact there was—if in fact there was, and I am not acknowledging that there is—a technical problem, that there would be additional money in this bill which they would be directed to spend if my amendment and then the Chapman amendment, as amended, will be adopted, they could come to the gentleman at any time and ask for a reprogramming in order to avoid spending money on a program that they did not have to spend any more money on? They would not be absolutely required to spend more money on a program which had lapsed or which only required a few hundred thousand dollars to pay off.

Am I correct that they in fact could ask for a reprogramming?

Mr. TRAXLER. Reclaiming my time to answer the gentleman's question, I do not know what his amendment does, but I can tell you absolutely that reprogramming is a standard part of the appropriations process in our cooperation with agencies.

But I reiterate I am not sure what his amendment does. And I want a very square, fair vote on the issue we have been talking about all day. I am afraid the gentleman is digging a hole for NASA that even I will not be able to get him out of in about 4 to 5 weeks from now. You may want to roll those dice, but I do not.

□ 1630

Mr. Chairman, this agency is severely impaired, many would claim, under either Traxler or under Chapman-Lowery. Please do not add to the agony of our troubles in this fashion.

Therefore, I reiterate that I oppose the amendment, and I hope we can have a vote on it very shortly and then proceed to conclude debate on the Chapman amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. SMITH] to the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. CHAPMAN].

Mr. SMITH of Florida. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 139]

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski

Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1651

The CHAIRMAN. Four hundred thirteen Members have answered to their name, a quorum is present, and the Committee will resume its business.

PARLIAMENTARY INQUIRY

Mr. SMITH of Florida. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SMITH of Florida. Mr. Chairman, am I correct that this is a vote only on the Smith amendment to the Chapman amendment?

The CHAIRMAN. The Chair would announce that pending is a request for a recorded vote only on the amendment offered by the gentleman from Florida [Mr. SMITH] to the amendments en bloc, as modified, previously offered by the gentleman from Texas [Mr. CHAPMAN].

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentlemen from Florida [Mr. SMITH] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Five minutes will be allowed for this vote.

The vote was taken by electronic device, and there were ayes 122, noes 296, not voting 13, as follows:

[Roll No. 140]

AYES—122

Abercrombie
Andrews (ME)
Aspin
Atkins
Beilenson
Bennett
Bereuter
Berman
Boxer
Campbell (CA)
Cardin
Carper
Clay
Coble
Collins (IL)
Collins (MI)
Condit
Conyers
Cox (IL)
DeFazio
DeLauro
Dellums
Dicks
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Engel
Evans
Fascell
Feighan
Fish
Flake
Foglietta
Frank (MA)
Gejdenson
Gephardt
Gilman
Gonzalez
Green
Guarini
Hayes (IL)
Hefner
Hoagland
Hochbrueckner
Hughes
Jefferson
Johnson (SD)
Johnston
Kennedy
Kennelly
Kleczka
Kostmayer
LaFalce
Lancaster
Lehman (CA)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Markey
Mavroules
Mazzoli
McCloskey
Mfume
Miller (CA)
Mineta
Mink
Moakley
Moody
Moran
Neal (MA)
Oakar
Olin
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Poshard
Price
Rangel
Reed
Ros-Lehtinen
Rose
Roukema
Russo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Shays
Sikorski
Smith (FL)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Swift
Torres
Washington
Waters
Waxman
Weiss
Weldon
Wheat

NOES—296

Alexander
Allard
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Carr
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Coleman (TX)
Combest
Cooper
Costello
Coughlin
Cox (CA)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
Dickinson
Dingell
Dixon
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Fawell
Fazio
Fields
Ford (MI)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hobson
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (TX)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kildee
Klug
Kolbe
Kolter
Kopetski
Kyl
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (FL)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Luken
Machtley
Manton
Marlenee
Martin
Matsui
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Parker
Paxon
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Rostenkowski
Roth
Rowland
Roybal
Sabo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shuster
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weber
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Ackerman
AuCoin
Borski
Campbell (CO)
Dymally
Ford (TN)
Gray
Martinez
Mrazek
Pelosi
Sisisky
Vento
Williams

☐ 1700

Mr. TAYLOR of North Carolina changed his vote from "aye" to "no."

Mr. JOHNSON of South Dakota, Mr. PALLONE, Ms. WATERS, and Ms. OAKAR changed their vote from "no" to "aye."

So the amendment to the amendments en bloc, as modified, was rejected.

The result of the vote was announced as above recorded.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is appropriate that we discuss the space station at this time in the 1992 budget for NASA.

As I reflect on it, I think back about 500 years. There was a young man, 500 years ago, that traveled around Italy about this time trying to get a sponsor to be able to travel to find a new route to the East Indies. And he had to go all the way to Spain, but he found somebody in Spain, Isabella and Ferdinand. And they sponsored that young man, as we know, Christopher Columbus, and they knew him as Cristofo Columbo.

Without that vision that he had and without deciding to go where scientists and science at that time said he could not go, because at that time the contour of the Earth was such that they visioned that he would drop off, but he went anyway. As a result, here we are today. He had a vision that he looked into and said that there is a future out there. And if Isabella and Ferdinand had decided, as some members of the Committee on Appropriations have decided and other Members who have spoken as well have said that this space station is now restructured and too small to do all the things that need be done, they probably would have told him that the *Nina* and the *Pinta* and the *Santa Maria* were not large enough and big enough to go across that vast ocean. Therefore, he should not go. But they did not say that, they said, "Go, and with our blessing."

We have an opportunity today to reverse the decision of that subcommittee and look also to the future and not be afraid of that future, to say to the world that we will remain a leader and we will proceed with that vision of the future with the space station in order to obtain knowledge that is not attainable in any other way. The research on life sciences that would be done on the space station cannot be done in any other way. If Members are willing to say that they do not want to have any further manned transportation in space, then they will vote against the Chapman amendment.

Research in life sciences can only be done on the space station, and perhaps it will take a century to be able to travel, man to be able to travel back to the moon for a permanent habitat. Without that life sciences research, forget it. It is only with space station research with life sciences that man will ever be able to travel interplanetary. Without it, forget it. we are not going to do it, maybe somebody else will. Maybe another country will take up the effort and fund it. But we will not be doing it. Nor will we be able to do in the material sciences applications in space, the microgravity research and materials processing. The future of that will provide many, many new things, some of which are only being dreamed about today.

Much of the research that is being done, programs right now in the universities in our laboratories is geared to go on the space station for microgravity research. Without the space station, Mr. Chairman, we just might as well not fund those in this bill either because they have no application. We just might as well tell those scientists, forget it. There is not going to be any more expanded duration for man-tended microgravity research. Forget it.

□ 1710

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I thank my colleague Mr. VOLKMER for yielding. I think it was the Bible that said "Without vision, the people perish." Well to a large extent that wisdom is relevant to America, where we, without vision, would not be leading the world as we currently are economically, militarily, scientifically, socially, and spiritually.

The space station may not be perfect in concept or design, but to abandon it now would be to give up on the vision of space exploration for years and years to come. That decision would be a serious mistake for the future scientific and economic strength of America and that decision would attack the dreams of millions of Americans, particularly young Americans in school today, who dream the dreams of our future because of America's space program. That decision would also be in direct contravention to the policies enunciated by this country since the days that John F. Kennedy led this country into the glories of space frontiers. Let us vote for the Chapman-Lowery. amendment keeping the space station alive, realizing that its scope and concept and may need to be modified and modernized in the years to come. The future if at risk in this vote. Let us not abandon the future for shorter term priorities. Our children and grandchildren will never forgive us.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

Mr. VOLKMER. There have been statements on this floor that some scientists say that the space station has no application for science. I disagree strongly with that.

As has been said on this floor earlier, I believe the former chairman of the Space Committee could verify that those are the same scientists who said that we did not need a space shuttle either because that same space shuttle would not bring us any science, and look at what it has done.

The only science that they want is interplanetary exploration with satellites. That is what they want. It is necessary, yes, but it is not the only science that we can develop.

But the only sciences that we can develop on microgravity and life sciences is with the space station, and if you do away with the space station, you do away with that, and as the gentleman from Kansas says, you are doing away with a vision for the future for generations to come into the next century.

With the space station, you have that vision out there for all of our young people to grow up in and say, "Yes, I, too, one day want to be in space." Without it, you just might as well tell them to forget it, they do not have to have any vision of ever being in space, and they can stay earthbound.

Remember, Christopher Columbus could have stayed in Italy, too.

I ask all of the Members to support the Chapman amendment and support the future of this country in space.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I just want to compliment the gentleman on his eloquent statement and the outstanding leadership that he is providing in helping all of us to understand this issue, as we should, and I thank him for his contributions. I would like to associate myself with his remarks.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has again expired.

Mr. VOLKMER. Mr. Chairman, I am not going to take that full additional minute, but I would like to mention that some of you may wonder why I stand here and have this opinion. It would be a lot easier perhaps for my district to take the position of the subcommittee. I neither have one employee of a Federal agency, NASA, in my district, or one contractor employee in my district, but it matters to me that we, as a nation, must look to the future.

I was subcommittee chairman of the Space Subcommittee in 1984 when we decided to go down this road, and I think that as a nation, will really be considered, in my opinion, second class if we decide to abandon the space station.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the vote we will take here in a few minutes on space station Freedom will speak volumes about the vision of this House, the vision of this House as to the future of manned exploration of space, the vision of this House about whether we will put a man on Mars in a reasonably foreseeable future time, the vision of this House about whether we will put a manned exploration of the solar system within the next century, a vision of this House about whether we will do the research necessary in order to have manned exploration into the further, distant reaches of the solar system, the galaxy, and universe.

I think that that is the word that many have used today for the simple reason that we, as a nation, have always stood for exploration and for vision and for putting mankind out front.

Yes, there is a great debate among some of our colleagues over the question of the scientific value of each step we take and how we best get there.

The fact of the matter is that there is applied science, and that there is other science, and there is a need for man to be out in the forefront of all the sciences.

The space station is a part of our heritage, and I think a part of our destiny.

Nobody can deny the benefits that have been gained here on Earth from the extensive scientific research in space. From medical science to our national defense, space exploration and research have been crucial to this country's development in the 20th century. How many more mouths have we fed? How many more sick children have we cured? How many more of the world's problems have we been able to solve because we, as a nation, have pursued extensive and forward-looking manned space program?

Yet, now, some of our friends have decided that 7 years into its development they are just not interested in the space station anymore. This is shortsighted.

This country needs a balanced and viable manned space program as it enters the 21st century. What the Lowery-Chapman amendment assures is that we will have a space station that is critical to that program, and it does so without reducing the subcommittee's mark for environmental protection, veterans, and many other priorities that I know are of great concern to our Members.

I served for quite a number of years on the Housing Subcommittee of the authorizing committee, and I know the great debate over that issue, but the minor amount of funds that are being taken from certain portions of those housing programs in this amendment today pale by comparison to the great advantages and gains we will have if we go forward with the space station, with a manned space program.

Mr. Chairman, space station Freedom is a bargain. A first-class life science and microgravity research laboratory facilitating scientific research in the areas of medicine, physics, metallurgy, materials science, astronomy, and a whole host of other fields that will be crucial to our efforts to compete in the high technology of the economy of the 21st century is embodied in this vote. More than that, space station Freedom represents our continued dedication to the frontier spirit that has been the cornerstone of this Nation.

The glory of science is knowing, and when we turn our backs on the quest for knowledge, we shortchange ourselves and our future generations. We cheat them of the benefits of science and the promise of a better world.

Mr. Chairman, I urge that we vote for the Lowery-Chapman amendment. It is the logical choice. It is the responsible choice. And it is the necessary choice for the future generations of this Nation.

PARLIAMENTARY INQUIRY

Mr. TRAXLER. Mr. Chairman, I inquire of the Chair as to how many Members he has on the list.

The CHAIRMAN. At the moment, the Chair would advise the gentleman 16 or thereabouts, close to that.

Mr. TRAXLER. Suppose we were to request 3 minutes for each of those distinguished Members who are on the Chair's list?

Mr. ROE. No, Mr. Chairman.

The CHAIRMAN. Is the gentleman suggesting something?

Mr. ROE. I think, in fairness, obviously, this is a very important issue to the Members of the House, as I know the distinguished chairman realizes. We have been waiting for 3½ hours to present our view, and I think it would be well to let the matter unfold a little bit, even though it will be a little bit later. It is that important an issue, and this gentleman from New Jersey wants at least his 5 minutes.

Mr. TRAXLER. I always seek to accommodate the distinguished gentleman from New Jersey.

Mr. ROE. And I always enjoy dealing with the distinguished gentleman from Michigan.

Mr. TRAXLER. Let me just say that I want to correct the gentleman, that it has been 4½ hours, and we are spending more time on this amendment than we did on civil rights.

Ms. OAKAR. Mr. Chairman, I was going to recommend, as a form of compromise, that each Member have their 5 minutes but not be allowed, in the interest of time, to extend beyond the 5 minutes. Does that make sense?

The CHAIRMAN. The Chair would advise the gentlewoman that obviously is up to the Members. Members may object to that request as to the extension of time.

Mr. TRAXLER. Maybe after three or four more Members speak, I might come back to the 3-minute thought.

Mr. Chairman, I withdraw my request at this time.

The CHAIRMAN. The gentleman withdraws his request.

□ 1720

Mr. BACCHUS. Mr. Chairman, I move to strike the requisite number of words. During the critical decade of the 1780's Thomas Jefferson represented our new Nation as Ambassador to France. In 1785 he wrote home to a friend about some of what he saw in a changing Europe. He wrote,

> Science has liberated the ideas of those who read and reflect, and the American example has kindled feelings of right in the people. An insurrection has consequently begun, of science, talents, and courage, against rank and birth * * * science is progressive, and talents and enterprise on the alert.

Mr. Chairman, no one understood the mission of our democracy better than Mr. Jefferson. And no one understood better the critical connection between advances in science and advances in democracy.

If we hope to continue the insurrection that Jefferson began, if we hope to continue to make real advances for democracy, then we must continue to make advances in science.

As Jefferson did, we must make investments in the progressive enterprise of science. We must find the unfound, know the unknown, explore the unexplored. We must help America remain an example to others of how science can serve the great dreams of our democracy. To do this, we must pursue science to demand exploration of space. We must become a spacefaring Nation.

Mr. Chairman, it saddens me that a Nation as great as ours, a Nation as prosperous as ours, a Nation as creative as ours, is thought by some to be so burdened, so indebted, and so doubtful that we can afford no longer to be an example of world leadership in the exploration of space.

For a generation and more, we have led the world into space. Today we continue to lead the world technologically in aerospace and in aeronautics. However, our lead is fast slipping away. Our lead is slipping away because we have not made the investments, and we have not established the priorities that would enable the United States to secure that lead.

Do we really want the space program to be added to the lengthening list of America's technological fatalities? Do we want our national adventure in space to become a faint echo of our past, a fading memory of another, brighter day? Do we want to slip these jobs too overseas and watch from afar as the Japanese or the Germans build a space station themselves, and move ahead of the United States to assume the world leadership in still one more arena of global competition? Or do we want to be the example that Jefferson hoped that we would be, bold enough and strong enough and courageous enough to use our space program and our scientific advances as fuel for democracy?

Mention has been made today of the Space Studies Board's criticism of the latest configuration of the space station. The very same board also said that it "strongly endorses the position that a space-based laboratory is required to study the physiological consequences of long-term space flight." Mr. Chairman, we know of no way to conduct these essential studies without a space station.

Mention has been made, too, of the priority suggested by the Augustine Committee. What has not been mentioned is that the Augustine Committee stated that we need a balanced space program and that, "The space station remains, in our judgment, the essential initial building block of the maned exploration program."

Killing the space station may well kill manned space exploration by America for a generation. If we kill the space station this year, what will we kill next year? The space shuttle? The very idea of manned space flight? Is that the future we seek? Is that the America we want? Is that the example to the world that we hope to be?

Mr. Chairman, in a letter to another friend, in 1810, Thomas Jefferson wrote,

> I am not afraid of new inventions or improvements * * * where a new invention is supported by well-known principles, and promises to be useful, it ought to be tried.

That letter was written to Robert Fulton, the inventor of the steamship. In Fulton's day, many questioned the steamship. In our day, many question the space station. There will always be those who question the costs and the consequences of new ideas and new inventions.

In conclusion, Mr. Chairman, the space station is supported by well-known principles. The space station will be useful to the advance of democracy. The space station will help America remain an example of leadership in science and space to all the world.

Therefore, I urge my colleagues today, I urge my colleagues to rise above their doubts, seize the future, provide new and needed support for the continuing exploration and insurrection of democracy that Jefferson began. Build space station Freedom.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

It is appropriate that we are debating this legislation today on June 6, the 47th anniversary of D-Day of the Normandy invasion. Forty-seven years ago a terrific battle was raging in North France. As the President said, a battle to free suffering humanity, and the young men and women who fought in that crucial battle are now in their sixties and seventies.

As the veterans grow older, they are facing growing health care needs, and face additional services, services provided by the Department of Veterans' Affairs.

Now, much has been said today in the debate about science and technology. Yes, we are all in favor of science and technology. Education is crucial, but the way I read this legislation, we are not cutting back in any of those programs because, as I read it, we are having the same level of funding in the 1991 bill as we had in the 1990 legislation. So we are not cutting. In fact, since the mid-1980's, spending on NASA is up some 40 percent. We cannot say that about many other projects, but we can say that about NASA.

This legislation will help. The legislation we have before Members today, as it is drafted, will help our veterans.

I want to extend my deep appreciation to the chairman of the committee, the gentleman from Michigan [Mr. TRAXLER] and to the ranking member, the gentleman from New York [Mr. GREEN] for their courageous stand. I appreciate their arguments. On the other side, I appreciate the arguments that are made against this proposal. Their arguments are powerful, but the problem is, we have a $320 billion deficit, and we have a responsibility to the American taxpayer. We must have priorities. Money does not grow on trees. Money comes from working men and women around this country who have to pay taxes, and heavy taxes. That is why it is so important.

I cannot get upset with the chairman, the ranking member, because we have unforgiving restraints set on funding in the last budget bill we passed last fall. It is to the credit of the chairman and to the ranking member that we came forward with a bill that did not short shrift our veterans. The bill before Members contains much needed VA funding. Perhaps the most significant is the $130 million boost in medical care. This increase will help to meet the growing and changing health care needs of our veterans. We have a continuing obligation to America's veterans. They served our Nation in a time of war by putting their lives on the line. Now our Nation must serve them in this time of peace by making sure that they receive the best possible care.

This legislation before Members is fair legislation. It is fair to the people that we have to represent, to the taxpayers. It is fair to the people, the veterans, and others who are helped in this legislation. Yes, it is fair for the future of our country, whether it is science, math, or high technology, because every dollar that we appropriated last year is being appropriated this year, as I read, in NASA. We are not shortchanging anyone.

It is important for everyone to have priorities, but when we have these priorities, we have to take, I think, into consideration not any one particular pet project, but we have to take a look at the entire legislation.

Mr. ROE. Mr. Chairman, I move to strike the requisite number of words.

(Mr. ROE asked and was given permission to revise and extend his remarks.)

□ 1730

Mr. ROE. Hosanna, hosanna, hosanna, Mr. Chairman. After 4 hours I get a chance to talk with my colleagues.

Mr. Chairman, at the outset having been chairman of this committee for 4 years and on the Committee on Science, Space, and Technology for 21 years, since I have been in the House, I want to pay my high regards to the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN]. I do not think they expected me to say that. Also, Mr. Chairman, to the gentleman from Florida [Mr. SMITH].

Mr. Chairman, that is because what you all have done, and properly so, you have raised the level of debate. You have raised the level of debate and I do not think there has been a debate in this House, including the civil rights bill, that has engendered the kind of respect and understanding and at least the chance to debate the issues of the Nation that you have created.

So I want to, as one Member of this House, applaud you for what you have done and for your efforts, although I believe you are dead wrong on this issue.

I wrote to myself while I was sitting here, frittering and fretting, trying to get to the floor, I wrote about bean counters and lemmings, bean counters and lemmings, bean counters, and lemmings.

Now, Mr. Chairman, bean counters are the people that go away, and they take their checkers and they put the little beans together and that makes it all right; as long as all the beans come together you have solved the problem.

Now, how about the lemmings? Four hundred and thirty-five Members of the House and, brother, we are going right down that path, getting ready to jump off each cliff that comes along.

Are we thinking for ourselves? We did not come here as a body of 435 people, we came here as 1, each man and each woman, to represent our 250 million people.

So does the House degenerate on this budget issue into bean counters and lemmings? Ask yourselves a logical question: Why should there be a debate about housing and space? The space program does not even belong in this category of the budget; it should not be there. There is no competition between housing and space.

On the veterans, there is no competition with veterans. We put it there, we collectively put it there and that is where the argument is now.

So the argument on housing and the argument on what we are going to do for veterans is specious, it is dishonest—not that the Members who are bringing it up are dishonest. It is a dishonest issue. It does not belong there and everybody in this House ought to know that.

I think we ought to speak to that.

Environmentalists, going around and threatening people, "you are going to be on the hit list." God, run for cover, run for cover, because if that is all we are worth around here because somebody presumes to call themselves an environmentalist that you are going to be on the hit list, God, I would rather lose an election than kowtow to somebody putting me on any hit list, if it is the right thing to do.

Why do we not say to the environmentalists, "Don't threaten us," because let me tell you something, environmentalists, and I hope you will listen to me, if it was not for the space program there would not be any LANDSAT program. So as you are counting the forest burning up and being plowed under, and so forth, in Brazil, where your information is coming from, do you know what? It is coming from the space program. You are able to see to the future, you are able to see inside the Earth and you are able to use the technology that we have developed to do that.

We are fighting over social programs. What is the Government about?

A government is built for the people, it is to provide for the needs of our people. Let me tell you something: We are fighting over social programs. Did you ever think about one point, and share it with me if you can for a moment.

Mr. Chairman, I was courteous to the gentleman from Florida [Mr. SMITH], and I hope he would please listen to me so I can finish my point? I would appreciate it.

How are we going to create the new wealth of America? The argument was good that was made on the floor. Yes, we have housing problems. Yes, we have aging population. Yes, we have veterans' problems. That is true. You are concerned about the outyears of the space program and you are right. It is going to cost more money next year.

But so is housing and so is veterans' affairs and so are the social needs of the country, including Medicare and health care.

How are you going to create the new wealth of the country? Where is it going to come from to be able to pay for those social costs? It has got to come out of the points that we are doing in science and technology, in international competition, global competition and advanced technology.

The space program returns $10 for every $1 we spend. We know that is true, and it is probably more. That is 10 times the wealth that is being created to provide for the housing and provide for the homeless and provide for the veterans.

If you cancel this program out, then what is next?

We have had that argument: What is next?

You know, I came to Congress 22 years ago and I think we were talking about some pride and dreams. It is not just what we do as bean counters and lemmings, it is what the country is about. We would never have been able to fight Desert Storm if it had not been for advanced technology. It could not have been done. And we saved lives doing it.

We say to ourselves what a great achievement that was, and it was, in the interest of our country. But think about the future. What about the dreams? Or is that just lemmings and bean counters?

Mr. Chairman, I would hope, if I may close on this note, I would hope we would support the Chapman-Lowery amendment because it is right. It is not going to solve all the problems, it is going to create additional problems. But we should create additional problems so that this body can solve the problems correctly and rightly in the interests of this country.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Chapman amendment.

Mr. Chairman, I rise in strong support of the amendment offered by my distinguished colleague from Texas, Mr. CHAPMAN.

We in the Congress are sometimes criticized for not being able to see the forest for the trees—for taking too much of a short-range perspective when considering projects or programs that will provide long-term benefits for our country and the American people. Regrettably, I must say that with regard to deleting fiscal year 1992 funding for NASA's space station Freedom, that criticism is abundantly justified.

I want to remind my colleagues that in all likelihood, unless we vote to fund the space station program for fiscal year 1992, the program will die. The Chapman amendment will not just determine whether or not the space station program receives funding in the coming fiscal year. Rather, the amendment's fate will determine the fate of the space station program itself. If the Chapman amendment is approved, America will proceed with its space station program. If the amendment is rejected, the space station will die.

The space station program holds the promise of providing this country, and all mankind, with benefits that cannot even yet be imagined—in areas as diverse as medicine, industrial production and basic science. A recent General Accounting Office study stated that the space station program could well allow the United States to develop crystals to improve computer technology, and to develop large protein crystals for use in manufacturing drugs to cure illnesses that cannot be cured at the present time. As the GAO pointed out, "the human and economic return [from] these endeavors—if successful—could be enormous."

Before you vote on the Chapman amendment, consider what medical advances could be realized from the space station program that could mitigate human suffering here in the United States and around the globe. Imagine overcoming the problems of osteoporosis, cardiovascular disease, cancer, and other afflictions. America can continue to play a leading role in finding cures for these afflictions—and the space station program will allow us to do so.

From its beginning three decades ago, the American space program has generated so-called spin-off benefits. American technology would not be as technologically advanced, medical care would not be as miraculously curative, and everyday life for Americans would not be as comfortable as it is were it not for our Nation's 30-year commitment to exploring and traveling in space. Weather satellites, communications satellites, advanced computer technology, advanced composite materials, lasers, CAT scans, and pacemakers are just a few of the 30,000 spinoffs made possible by our Nation's space program. Space station Freedom will likely stimulate new and even more exciting benefits in the decades ahead.

Cancellation of the space station program would jeopardize our entire space program. Worse, it would signal to the world that the United States is fully willing to abdicate its leadership in space—in the same way it has abdicated its leadership in semiconductors, land-remote sensing, automobiles, digital imaging technology, high-density storage, and advanced materials. All of those technologies were developed in the United States, and all of them were transferred to other nations. Will space exploration and the benefits it provides be next?

Japan, Canada, and the other nations in partnership with the United States have already committed to investing between $7 billion and $8 billion in America's space station program. They did so because they trusted us when we said that this project was important to us. If the United States reneges on that promise, we will risk cancellation of future cooperative scientific endeavors with the international community.

Mr. Chairman, there will be a space station. The only questions are whether or not it will be named Freedom, whether or not it will have the American flag painted on its shell, and whether or not the United States will lead the way in its development and deployment.

We must not abandon our Nation's long commitment to exploring space. NASA's leadership role in space and aerospace provided a positive balance of trade for the United States of $28 billion in 1990. Voting to kill the space station will eliminate this economic benefit. Space station Freedom represents a pathway to the markets, the jobs and the economic opportunities of tomorrow. We must make this investment in the space station program if we are to improve our economic security in the future.

But the space station program provides other benefits as well. By providing our young people with an exciting new opportunity to travel in and learn about space, space station Freedom will serve as an invaluable stimulus for the astronauts and engineers of tomorrow to learn and to excel in science, math, and engineering. If today's students do not excel in these subjects, the United States will not remain competitive with other nations in the 21st century. Additionally, I feel compelled to point out that the space station program today employs nearly 100,000 Americans directly and indirectly. Termination of this project will adversely affect these hard-working Americans, and will negatively affect our nation's economy. The cancellation of NASA's Apollo Program in the 1970's resulted in the loss of 750,000 jobs in the United States. We must not repeat that mistake in the 1990's.

Finally, Mr. Chairman, I want to remind my friends and colleagues, especially those on the other side of the aisle, of remarks made by President Kennedy back in 1961, at a time when some Americans questioned the expense and the wisdom of space exploration—and questioned the very ability of the United States to meet and overcome the challenges of that undertaking. President Kennedy stood there, at that dais, and he asked the Congress to provide the financial and political support necessary for "landing a man on the Moon and returning him safely to the Earth. And then the President cautioned, ["Let it be clear that I am asking the Congress and the country to accept a firm commitment to a new course of action—a course which will last for many years and carry very heavy costs. If we are to go only halfway, or reduce our sights in the face of difficulty, in my judgment it would be better not to go at all."]

Mr. Chairman, the Congress has the foresight, the courage and the resolve to make that commitment in 1961. And it had the foresight, the courage and the resolve to keep its commitment until Neil Armstrong and others after him walked upon the moon. I ask my colleagues to demonstrate that same foresight, that same commitment and that same resolve here today by passing the Chapman amendment.

□ 1740

Mr. TRAXLER. Mr. Chairman, may I be recognized for a unanimous-consent request?

The CHAIRMAN. The gentleman from Michigan [Mr. TRAXLER] may proceed.

Mr. TRAXLER. Mr. Chairman, we have been on this now for almost 5 hours.

I understand the Chairman has a list of names, and I think it is around 15 or 18 Members that are on this list.

The CHAIRMAN. The gentleman from Michigan is correct, yes.

Mr. TRAXLER. Mr. Chairman, we can do this one or two ways. We can either say 3 minutes per Member, which will take us another hour, or we could say 40 minutes and shorten the timeframe for the Members who are on the list, and I suppose the Chairman will add Members if they were not on it.

The CHAIRMAN. Perhaps the gentleman from Michigan [Mr. TRAXLER] will decide between the two and make some unanimous-consent request at this point.

Mr. TRAXLER. Mr. Chairman, we want to be fair to everyone, and so I ask, "Is there any consensus here? Do you want 40 minutes, folks, or do you want 3 minutes, or what do you want?"

Mr. Chairman, there is a division of opinion here.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Do an overall time limit, and just divide among the people who are standing.

Mr. TRAXLER. Mr. Chairman, I think, if everyone has 3 minutes, including myself, that I am being fair to me and fair to everyone. Do we have other Members who want much more time?

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, some of us have been waiting around here for nearly 2 hours, and there is one gentleman who has been waiting for 2 hours or more.

Mr. TRAXLER. Mr. Chairman, let me just do this then: Mr. Chairman, I ask unanimous consent that all debate on this amendment end at 7 o'clock tonight because we have about 4 or 5 more hours on this bill, and, if I do not get this unanimous-consent request, I will move and say that enough is enough.

The CHAIRMAN. Is the gentleman from Michigan [Mr. TRAXLER] making a unanimous-consent request at this point?

Mr. TRAXLER. Yes, Mr. Chairman, I ask unanimous consent that all debate on the Chapman amendment and all amendments thereto end at 7 o'clock tonight, and that we proceed with the 5-minute rule. That is all.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The chair will proceed at this point under the 5-minute rule.

Mr. APPLEGATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a lot of debate today and a lot of good points made both for and against the amendment of the gentleman from Texas [Mr. CHAPMAN]. But I will tell my colleagues that I have heard people say that it is going to cost a great deal of money.

However, Mr. Chairman, I can tell my colleagues this: It takes money to make money. Money begets money.

My colleagues, if this is defeated, it is going to deal a severe blow to the American space and technology program. This is America's future. We cannot become Neanderthal in a high-technology world.

In addition, this is the future for our youth of America, and they cannot do it with a covered-wagon mentality.

Now we are talking about American dollars spent on American technology and American productivity for American benefit. Ought we continue to contract out to the Japanese, or the Germans, and, yes, even the Soviet Union, when we are moving in that direction, and should we depend on corporate America if nobody else is going to do it? Well, let me say this to my colleagues:

Just ask the Japanese, if you think you can believe them. Anybody here read the book "The Japan That Can Say No"? Well, if you read the whole thing through, and I'll have to say it's not the greatest literary production in the world, but it says their position and their feeling on it, and what they say is that American greed and profit are undermining our own American economy.

As my colleagues know, this is just ludicrous to even think that we are moving in this direction. We are going to give them our productivity, and we are going to give them our research and development. They think we are stupid. The Koreans think we are stupid. They closed their doors to our productivity; we opened ours up. We give them our technology, and they shut us out and do not allow us to buy it. America is giving to them to do for us what we do best.

Why do we do it? Mr. Chairman, it is agreed.

America's space and technology program is what made us No. 1 in the high-technology world today, but cutting it now to show a smaller deficit is ludicrous, and it is backward thinking. Look what it has done to the space program in the last 30 years, and there is a whole list of things in computer technology, in the medical health field and in educational tools for the future of our country. To move forward with this space station is to move ahead.

Now are we going to allow Japan, and Germany and these others to dictate our future? What are we doing in all of our sci-fi, our scientific technology and all? What are we doing in magnetic levitation? We are behind in that. We are not pumping money into that, but we are starting to get into that.

Mr. Chairman, I can tell my colleagues that the Americans do not like it. They do not want anybody taking over the space program, and Americans do not want to be second class citizens in this space race. If we do not fight for our ability to produce instead of giving it away to other nations, our hundred-billion-dollar trade deficit is going to balloon even higher, and it is going to cost us more jobs, and we lose 27,000 for every $1 billion of deficit that we have. What we want is more American jobs because, if we have them, it means that we are going to have more taxes coming into the Federal coffers, and that in itself will help to reduce the deficit.

Now is the time to vote to show if we stand for or against American technology and American jobs. Let us give a damn for a change, and let us vote for the Chapman amendment.

Mr. RITTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Texas [Mr. CHAPMAN].

Mr. Chairman, in the course of this debate we have been hearing how, if we did away with the space station, somehow that would leave money in NASA to do more basic science, that somehow this would mean a more effective space program, according to what some scientists are saying. I want to point out to my colleagues that there has been a debate ever since the beginning of the space program, and on one side it has been those who are interested in an engineering program, a technology program, a space exploration program, a manned space exploration program, and those who are advocating a science program, and we have a little of both overlapping as well.

But the bottom line is the space program is not a basic research program. It is not an academic program. It is a program where men and women explore space. It is a program which has rocket ships, and it is a program where these ships dock in space. It is a program where we went to the Moon. It is a program where we faced tremendous odds, and we overcame them. It is a program which at its very heart is exploration. It is not a basic research program. It is the exploration of the next frontier. It is the movement of our human race off this planet and into space and beyond and to other worlds.

Mr. Chairman, that is the nature of the space program.

□ 1750

It is not more research grants for university professors or research institutions. That is not what lies at the core of it. Yes, they need to make contributions, it is true, but we are talking about human beings in space, and let me tell the Members this: The space station is the logical next step. It is the logical next step because we need experience in space. We need to be out in space, we need to be working in space.

I recall the New York Times editorial I read this morning. It named off a couple of research possibilities and a couple of science possibilities, and it said this was not enough to justify going into space. I would say, yes, it is true, it is not enough, because there is so much more to be gained.

Is the space program not going well beyond the new crystal that someone was just talking about, although I would say that I would be much in favor of more research on these new crystals? It is more than the biotechnology we are going into there. The space program is our dream; it is our vision. It is what puts America at the pinnacle of nations.

We are the first nation to effectively move into outer space. I ask the Members to think about it. Think what that means to our national psyche, the respect we have all over the world. Think what it means to our leadership and the whole range of aerospace industries and telecommunications industries and satellites. This is major stuff. It is well beyond a few experiments here and there. It is the pinnacle of America's national achievement. It is something that we have done well. I frankly think we made a great mistake by curtailing our efforts.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RITTER] has expired.

Mr. RITTER. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 3 additional minutes.

The CHAIRMAN. The Chair would remind the gentleman that we are proceeding under an overall debate limitation with all Members of the Chair's list receiving an equal allocation of time. The gentleman has been granted permission to revise and extend his remarks, and that there are others who will not be heard if very much additional time is granted to Members.

Mr. RITTER. Mr. Chairman, I will then ask unanimous consent for 1 additional minute to complete my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RITTER. Mr. Chairman, we have done this real well. How many programs in the Federal Government can we point to and say, "Oh, was that a success!"

We went to the Moon and we came back. We probably should have stayed. We have had a wonderful program of men in space and women in space. We really can point to this as a success as we think about what we do here in Congress. We expend so much on social programs whose benefits we cannot quantify, and sometimes we even conceive them to be counterproductive. Here is something that has worked. Here is something that has not been throwing funds down some kind of a black hole. The whole world is watching this debate. This is a reflection of our national self-confidence.

Mr. Chairman, let us defeat the attempt to curtail the space station and support the Chapman amendment.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, first of all, let me express my respect for the views of all those Members who have spoken on both sides of this issue, because they have spoken sincerely and, I think, with a deep concern about the issue of the United States and our future role in the world. This is really not a debate over whether or not we are for or against space exploration. I really and truly believe that almost all Members here believe that we ought to maintain a leadership role when it comes to space exploration. And it is not a debate as to whether we are for or against other priorities such as those contained in this bill with regard to veterans or housing or the environment, because I think all of us share the concern that we have to try to adequately fund these areas as well.

The fundamental issue or the fundamental problem is that we are a Nation that is starving for resources. That is the reality of the budget agreement. The fact is that the constraints of that budget agreement mean that we have to decide priorities within each of these areas. We have to do that. We no longer live at a time when we can fund everything. I wish we could. That is not the reality of today's world.

We have to make fundamental decisions about priorities, and it applies to NASA just like it does to everything else. Members of the Committee on Appropriations every day are deciding on how much they are going to be able to provide for education and how much for health care. They are going to have to make fundamental choices, and that is what this subcommittee had to face as well.

We cannot fully fund both of these. Let me repeat that. We cannot fully fund both the space station and all the other missions at NASA unless we are willing to somehow do away with the budget agreement, get rid of the budget agreement, break the caps, and, second, perhaps rip apart the other priorities that are contained in this proposal in terms of taking it from veterans or from housing or from elsewhere. Then maybe we could fully fund all those missions. Third, we could convert it into an entitlement program and pay for it. That is another option. But we all understand how unrealistic those options are.

So the fundamental decision here is, within NASA, what priorities are we going to decide on? I ask that because the allocations are tough in both the House and the Senate. The Senate yesterday made very strict allocations, so we should not look to the Senate to bail out both the space station and the other missions. That is not going to happen.

So we have three choices, and let us face it. One choice is to go with these other important missions in space and to eliminate the space station. Which is what the subcommittee did. The second choice is to go with the space station. If Members believe that the space station is where we ought to put all of our money, then we would get rid of the other missions and be honest about it and put it all in the space station.

The third approach is what is suggested in this amendment, which is essentially to freeze the funding on both the space station and the other missions, which means that they will all limp along, and that we will not fully develop either the space station or these other missions.

The subcommittee had to make a tough choice, but I think they made a responsible choice. It would also be responsible, let me say to the Members here, if they felt it should all go into the space station and do away with these other missions, to put it all in the space station. That, too, would be a responsible approach. But I think to suggest that we could freeze the funding on both the space station and the other missions and keep both of them alive is essentially saying to the country that we want what cannot happen. We cannot do them both.

I realize that Members will try to take the path of least resistance here, and that is what has probably gotten us in trouble in terms of the deficit in past years. Members should not make a choice that is just symbolic. We should not make a choice that is symbolic because we owe it to the space program to rethink our mission for the future, recognizing the resources we have. NASA has to do that, and the Congress has to do that. The subcommittee did its part.

Mr. Chairman, I ask the Members to support the subcommittee.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, if today the question is asked "Where will the destiny of humankind be defined?" The answer is clear. The destiny of humankind will be defined in the stars.

Can anyone doubt that men and women will one day explore the solar system? Can anyone doubt that men and women will one day permanently live beyond the bounds of Earth? Why as we speak, men and women, American men and women, are circling the Earth doing scientific investigation. Other men, Soviet men, are aboard a space station also engaged is real work and, in their case, semipermanent habitation.

In other words, Mr. Chairman, our generation has a unique opportunity, an opportunity granted only a few eras in history. We can see a bit of the future. We can see a bit of humankind's destiny.

But that opportunity also creates a unique challenge. Having seen the future, what are we prepared to do about it?

Other generations in other nations have been given the challenge of defining destiny, and stepped away from the task. Oh, they had excuses—it's too big a job, there are other things that have to be done first, we can't afford it, we shouldn't be asked to carry the burden, and many more—but the real fact is that history records only their failure. Great nations do great things. When they cease doing great things, they cease being great nations. Great nations decline when they shrink away from their challenges and reject the future they could have helped define. They then shrink in power, prestige, and the moral authority to act positively and progressively.

We have faced such decisions in our time. Today, on the floor of the House, we face a challenging moment. History may not judge us by the particular vote we cast here and now, but it will judge this nation on the direction in which that vote takes us.

If we know the future of humankind lies in the stars, and know that we are capable of technologically fulfilling a part of that destiny, why would we reject doing so? The space station represents our commitment to manned exploration and habitation of the universe. Why would we send robots to do the job instead? Why would be forego the massive economic and political strength that is inherent in space and high technology pursuits?

Our colleagues tell us that they would so reject because there are other priorities of more substance. I'm sure they believe that, but I am also sure they are as wrong as those who opposed exploration of the New World, those who opposed the Louisiana Purchase and the mission of Lewis and Clark, and those who opposed the Apollo program. Interestingly, some of the same distinguished voices of science who opposed President Kennedy's call to go to the Moon 30 years ago are today quoted anew as opposing space station, in most cases, for the very same reasons.

Were there failures in the aftermath of Apollo? Sure there were. Does the space program need to recognize the realities of our budget problems? Sure it does. But neither of these two things are reasons for stepping away from the responsibilities of national leadership. National leadership demands that we look the future in the eye and resolve to conquer its challenge. National leadership demands mustering the political will and courage to do the difficult jobs instead of the easy ones. National leadership means fulfilling our commitments to international partners who want to join us in the pursuit of peaceful goals.

If we reject space station, we will shrink away from national leadership. We will understand that humankind's destiny lies in space, but will determine that America's destiny does not. We understand that there are rewards to be reaped by challenging history's greatest frontier, but we will determine that America will not take the risk. And we will be poorer for having made such a decision.

In describing the impact of space exploration, Apollo astronaut Michael Collins observed,

> When the history of our galaxy is written, if the planet Earth gets mentioned at all, it won't be because its inhabitants visited their own moon. . . . What will be worth recording is what kind of civilization we Earthlings created and whether or not we ventured out to other parts of the Galaxy. Were we wanderers? Human history so far indicates we are indeed. It's human nature to stretch, to go, to see, to understand. Exploration is not a choice, really, it's an imperative.

Make no mistake about it: If the station is canceled this year, the appropriators will be back next year with a suggestion that shuttle flights be curtailed, and with further cuts to an already too-small exploration program. The U.S. Manned Space Program will come to an end.

Mr. Chairman, the abandoned Mercury launch pad at Cape Canaveral has a sign posted near it which reads, "Abandon in Place." The site is virtually a modern day ruin, decayed by the sand and salt air of the Kennedy Space Center, less than 30 years after it was used to launch the U.S. Manned Space Program. That launch pad is dilapidated because of progress, and because we moved on to better vehicles that could take us far beyond the confines of Earth's orbit.

If we don't support the Chapman amendment today we may as well put up an "Abandon in Place" sign on the rest of our space infrastructure. And, this time it won't be as a result of innovation and imagination, but the outcome of our lack of vision and our insistence on remaining checked by our earthbound fetters to the past.

James Michener, author of "Space," said at a 1979 Senate hearing:

> There are moments in history when challenges occur of such a compelling nature that to miss them is to miss the whole meaning of an epoch. Space is such a challenge. . . . Therefore, we should be most careful about retreating from the specific challenge of our age. We should be reluctant to turn our back upon the frontier of this epoch. Space is indifferent to what we do; it has no feeling, no design, no interest in whether we grapple with it or not. But we cannot be indifferent to space, because the grand slow march of our intelligence has brought us, in our generation, to a point from which we can explore and understand and utilize it. To turn back now would be to deny our history, our capabilities.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, Wernher von Braun said the value of a discovery can sometimes only become clear in the wake of the discovery itself.

Little could Columbus have known or imagined what he would find when he first asked Isabella for money.

As we debate our 1992 budget, it is hard to imagine, but well to remember, that only 500 years ago, Columbus and his scraggly crew founded this magnificent jewel of America. Our partners in the space station thought enough of Columbus, his courage and accomplishments, that they named their space station module after him.

We must have the courage to make that project a reality. We must not allow ourselves to be so engrossed in our own present that we cannot envision the future on which our children's well-being depends. We must have as much vision and as much daring as that simple seafarer.

I rise in support of the Chapman amendment, fully aware and very respectful of the tough choice I am making and the tough choice we are making here today, the choice between long-term investment and short-term immediate need, the choice between our vision of the future and our responsibility to respond to the problems of the present.

☐ 1810

Indeed, this is a choice worthy of the full House, not a choice for the committee but a choice for each one of us representing the people of our district, committing the Nation to a course in the future that I believe will benefit every citizen in America and every member of Earth's ship in our times.

Mr. PENNY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. PENNY. Mr. Chairman, my generation has always been challenged to boldly go where no man has gone before.

Reared on "Star Trek", Moon walks, and star wars, we have come to believe that outer space is our manifest destiny. And if we take ads in today's Washington Post to heart, we must also conclude that funding space station Freedom is our patriotic duty.

I think it is time, however, to take our direction from yet another "Star Trek" movie, the one in which, as my colleagues may remember, Mr. Spock learns the very human lesson that the needs of the many outweigh the needs of the one. Spock demonstrates that axiom by sacrificing his life for his fellow crew members.

The Appropriations Committee has made it clear that there is no room in their allocation to do it all. In a Dear Colleague letter, Chairman TRAXLER and ranking member Mr. GREEN state succinctly, "There is no wiggle room, no place to hide. It is space station against every other program in the bill, including NASA's other programs."

The space station, as its costs grow, will most certainly squeeze out other programs in the years ahead. It is time then to support the needs of the many, the veterans, the homeless, and all citizens who deserve clean air and clean water and sacrifice the needs of the one, the space station.

It is a mistake to think we will slip in our position as a space leader if we do not fund space station Freedom because it is yet to be determined what space station Freedom must accomplish to make it successful.

Mr. Chairman, if we are to boldly go where no man has gone before, we should provide our Nation with meaningful objectives. We should concentrate instead on the other useful NASA projects which could reshape the Nation's space and science goals.

I urge my colleagues to make the wise fiscal and scientific decision by eliminating space station funding as recommended by the committee and to vote down the Chapman-Lowery amendment.

Now, I know those who support the Chapman amendment are sincere in their motive. I also know that they would prefer not to cut veterans or housing or other valuable programs to make the space station possible. Fundamentally, with that logic, they would propose that we make this choice to spend but are clearly uncomfortable admitting that we must make other tough choices to cut. Building a multi-billion-dollar space station will lead inevitably to higher taxes or higher debt. Neither of those options will help to make our Nation great in the years ahead.

Again, I urge a no vote on the Chapman-Lowery amendment.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the amendment offered by my fine colleagues, Mr. CHAPMAN of Texas and Mr. LOWERY of California.

Mr. Chairman, it is time for Congress to stop playing with the future and start building it.

NASA's space station is today under attack from within this chamber by those who mistakenly see it as a luxury.

Mr. Chairman, America's space program is not a luxury but a necessity. Our world is transforming from military confrontation and toward economic competition, and space exploration is part of that New World Order.

Throughout the last 30 years we have seen time and time again how space exploration has helped educate our children, stimulate high-technology industries, and generate countless medical breakthroughs.

The space program also has stimulated the Nation's aerospace industry, which represents our biggest net exporting industry.

This is why I strongly urge my colleagues to support the Chapman-Lowery amendment.

I have been a Member of this body for 17 years. During every one of those years, I have championed housing, environmental, and veterans programs. Mr. Chairman, I simply would not support an amendment that I thought would harm these programs.

Mr. Chairman, the Chapman-Lowery amendment will provide funding for space station Freedom without having any adverse effect on the Environmental Protection Agency or the National Science Foundation programs. In fact, under this amendment these programs will grow.

Some Members opposed to this amendment would also have us believe that it will take money away from housing programs. This belief has no foundation in reality.

These are misconceptions.

The Appropriations Committee itself has acknowledged that the $250 million this amendment withdraws from HUD is not needed to meet 1992 needs.

Some Members opposed to the Chapman-Lowery amendment would have you believe that if we have a space station, it will crowd out other science research.

Mr. Chairman, as a senior member of the Science, Space, and Technology Committee, and as a representative of California's Silicon Valley, I have been a long-time supporter of science research and technology.

So let me put this science issue to rest.

A vote in favor of the space station is a vote in favor of America's most visionary science programs.

On the other hand, eliminating the space station will not result in a great increase of funding for other science research, as some Members have been led to believe.

Of the $1.8 billion that would be saved in fiscal year 1992 by cutting out the space station, the net increase in funding for science programs within NASA comes to only $62 million—$62 million.

That's just 3 percent of the $1.8 billion that was cut—hardly a convincing argument that cancellation of the space station would be a boon to science programs.

Finally, Mr. Chairman, some Members opposed to the amendment are painting the space station as some kind of monster that will somehow grow out of control and cause cuts in other government programs in the years to come.

Let us be clear.

This is a 1-year appropriations bill, and the Chapman amendment contains absolutely no cuts in any program or agency in the out years, nor will this amendment cause any cuts in any agency in the years to come.

Those are budget battles that will have to be fought each and every year.

Our decision this year is about one thing and one thing only—whether or not to continue with the space station that will be the heart of our Nation's space program in the years to come.

Mr. Chairman, our space program is about where this Nation will go and what we will do in the international laboratory of outer space.

Right now the astronauts on the space shuttle *Columbia* in orbit above the Earth are carrying out life sciences experiments that will begin to lay the groundwork for permanent manned capability on the space station Freedom.

Mr. Chairman, are we going to turn our backs on this important work?

Should we tell those astronauts to pack up and come home?

That is what this vote is about.

Even worse, Mr. Chairman, are we going to turn our backs on our children?

How can we even consider shortchanging future generations of Americans by putting the future on hold and eliminate space station Freedom as a national priority?

Mr. Chairman, I do not believe we can. I strongly urge a vote in favor of the Chapman amendment.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I commend the gentleman on his statement.

This is a decision I do not want to make. I envy my colleagues who see this as simple: Either the space program is so clearly preemptive to them that the decision is easy, or that the Nation's housing needs so clearly exceed the need for space exploration that the decision is almost self executing. For me no such simple solution suggests itself.

I am a former local housing authority board member. I believe the problems of the homeless and the housing needs of low income American's are critical and have always supported the fullest funding possible. I ached to see the public housing program eviscerated during the Reagan years.

Likewise, I have always supported the space program as our's and future generation's frontiers—fully equivalent to the frontiers on Earth that our forbearers possessed for thousands of years. I believed for as long as I can remember that space provides an important and perhaps essential outlet for a human need of a sense that there are new worlds beyond those we know: That space exploration replaces terrestrial exploration as the safety valve for a kind of collective human species' claustrophobia.

Space provides for us, as the New World provided for generations past, an opportunity to exercise humankind's intellect, imagination, courage and sense of romance that no other human endeavor can quite duplicate.

So this vote is, for me, a dilemma, a terrifying choice. It pits very concrete human needs that face us here and now against somewhat more abstract, if just as real human needs—needs which, if ignored, can distort the future outlook of mankind.

It is a choice between important realities and important intangibles.

What would we decide if we were a parliament in Spain trying to choose between a 10-percent cut in funding for housing or, on the other hand, the purchase of the *Nina,* the *Pinta,* and the *Santa Maria?*

One thing suggests itself strongly: Had we not tripled the national debt in a single decade, we would not have to make this choice. We mortgaged so much of our future during that credit card financed tour of nostalgia with President Feelgood.

But, we did it and recriminations now aren't going to change the results. I'll leave it to history to make the ultimate judgement on those years. But we can leave to no one else the decision that must be made today.

I have to, painfully, reluctantly and with an enormous sense of frustration come down, this time, on the side of the *Nina,* the *Pinta,* and the *Santa Maria.* I will not abandon the housing needs of this Nation. Future space ship captains need secure homes in which to grow and learn and dream. But today, in this specific vote, we decide whether we will abandon a major commitment to humankind's frontier. And I simply can't do that.

Mr. SKELTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I feel very much like the mythological boy must have felt as he watched the parade go by as he exclaimed, "The emperor has no clothes." Amidst all of the lofty rhetoric that we have heard concerning the space station, the stars in the heavens and the skies, I think it is time for us to understand that the more emotion, the less reason. So let us come back down to Earth for a few moments and discuss where we are.

The space station amendment, which we are discussing at this moment, would earmark some $1.9 billion for that project. In the amendment some $33 million as a fish hook for some folks is given to veterans and a quarter of a billion, $250 million, is taken from HUD projects and put in there. That leaves $1.65 billion that has to come from somewhere. Where is this going to come from?

Well, of course, it has to come from other NASA projects. But downstream I think we see the continuation of those missions as well and maybe this year we will take a little bit from the HUD projects, but in the long run, I know where the money is going to come from. 1.9 this year, 2.3 next year, 2.8 next year, and $4 billion thereafter until the $40 billion or thereabouts is reached. Where will it come from?

First the projects that fall off undoubtedly will be the joint DOD-NASA projects.

□ 1820

Then as the budgeteers look at the budget year after year after year to fund the space station, there is only one place and one area where the large amount of money is declining, and that, of course, is in the Department of Defense funding.

So I think that it is reasonable to say that in the days and years ahead, the project will be funded out of that.

We see a need to keep our national defense aboveboard. We see that we have had a history of bringing this national defense up to a high level, but if we allow it to slip as it was back in the late 1970's, we may very well see Desert One problems as opposed to successful operations that we have had in more recent years.

Let us not kid ourselves. We cannot have our cake and eat it, too. We must make a decision.

I think the way to make this decision would be for this amendment to be defeated, for this conference to make priorities with the NASA budget, know what missions are doable, know what missions are not doable, and then proceed from there. If we do not do that, we will be making a sad mistake, and in the long run I know who will pay the bill.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with so much having been said, there may be few arguments that can be added to a very long debate, but there are some emotions I would like to revisit, like those images of young persons walking down the path helmet in hand ready to begin America's exploration of space, or those first few words of JOHN GLENN telling America that orbit had been achieved, or the sight of our flag on the Moon.

Mr. Chairman, some of us were only schoolchildren when this epic journey began, and now it is for us to decide whether, on those days we were beginning down a long path of human exploration to encompass the whole solar system, or whether it ends here.

The ambition, the pride, the promise ends here on this night in this Chamber with this vote, because, my friends, make no mistake about it, this vote is not about a reduction in spending, not about a change in direction in this space program. It is a judgment about whether the manned exploration of space by this country, by American astronauts, will end, never to be achieved again, and whether, indeed, that giant leap of mankind turns out to be a rather small step after all.

The space station is part of a continuum, an unbroken chain from Apollo to shuttle to interplanetary travel. Break it once, and it will not be constructed again.

I know that choice is difficult; veterans, housing, economic needs; but for all of these wants, there is not a Government program, no new source of funding, just this: economic growth, of a growing economy based on learning, discoveries of science, the space program itself.

Space and science are not a problem for these wants. They are the answer.

It is no coincidence, my friends, that the one part of our economy that is functioning the best, our one net surplus in trade, is aerospace. No coincidence. It is the result of three decades of space exploration, of investing in science that is producing the very revenues we need to meet these very needs.

There was a time when the decision for exploration, of scientific breakthrough was ours alone. It would be made in this Chamber or it would not be made at all. That is not true any longer.

Space will be explored. There will be new breakthroughs in science. The only question is whether America participates, whether or not the breakthroughs of medicine and new materials and computers are shared by Americans or are dominated by others, and whether the citizens that are served by those breakthroughs, their veterans, their homeless, those in need in their countries are served or ours, or whether, indeed, as the promise of the space station would have it, we do these things together.

For 30 years we have made these judgments. We have decided to take up the challenge, and our credibility is so strong that when the Japanese reached the judgment of whether to have a space program, they decided to do it with America; so strong that when the Europeans decided to have a space station, they decided to do it with America and invested $1 billion.

If we fail, they will now proceed or proceed without us.

My colleagues, we have never failed to make this judgment before, never failed. Do not tonight.

We will not revisit this moment again. For the future of our science program, of our economy, of what we are about as a nation, keep America in space. Support Lowery-Chapman.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Chapman-Lowery amendment.

I think there has been some misinformation and suggestions given, and just briefly I would like to point out to my colleagues that there is no increase under this amendment in the space budget. It does not take a nickel away from the already voted-upon appropriation within the committee for veterans, et cetera.

I think it is wrong to put fear in veterans, as a strong supporter of their programs, that somehow this competes with them. It does not, and the amendment in no way touches their benefits.

Soon, Congress and the administration will make a crucial decision regarding the future of the space station, a manned scientific laboratory in outer space. I believe strongly that the space station should be developed. It is at the core of the entire NASA program. Without it, the American people will have lost an historic opportunity to expand employment, commercial, scientific and educational bases.

Americans can be proud that we emerged as the leader in space technology. Ever since the 1950's, when President Eisenhower challenged the Soviets' leadership in space, after their stunning development of the sputnik, the social and economic spinoffs from space technology have transformed our lives here on Earth. The scientific knowledge gathered from our space efforts led to advancements such as innovative insulation of clothing and homes, preservation of food and improvement in the quality of drinking water. Without our adventures in space, we would not be able to enjoy satellite television, enhanced airplane fuel economy, sophisticated computer technology. Further spinoffs resulted in the development of ambulatory cataract surgery, laser surgery, insulin pumps, catscanners, and the purification of cardiovascular medications.

The space station laboratory will continue to benefit mankind in ways we cannot yet imagine. Many of the discoveries cannot be projected, but we do know some of the potential spinoffs. Study of calcium loss in a gravity-free environment, for example, will allow us to address the problem of osteoporosis and find a cure for it. Scientists can also tackle hypertension and other cardiovascular diseases and conduct studies of cancer and immunological disorders. The space station environment will allow stable and ordered growth of protein crystals, leading to the development of new vaccines and drugs to prevent and cure diseases like diabetes.

The space-based laboratory will also offer a unique base to observe environmental degradation, agricultural production and weather patterns on Earth, providing opportunities to deal comprehensively with problems such as ozone depletion, the green house effect, acid rain, food production and world hunger. Above all, pioneering in the unknown will continue to stimulate America's creative genius, in itself reason enough for the existence of the space station.

Americans can be justly proud of our space program, but Greater Clevelanders in particular have reason to be pleased with our contributions. We are home to the Lewis Research Center, the only NASA site in the entire Northeast-Midwest region of the country. For 50 years, it has excelled in energy and propulsion technology. It is an anchor of our economy. Every day, 4,500 workers walk through the doors of Lewis to meet the challenge of our Nation's future. The Lewis Research Center has generated billions of dollars in contracts for Ohio businesses, creating further spinoffs and economic ripples. Since Lewis is responsible for the power and electrical systems for the space station 1,000 new jobs have been created for 1992 alone, involving 134 Ohio businesses.

Education in Ohio has also benefitted. Nine Ohio universities and 17 firms have formed the Ohio Aerospace Institute, located at Lewis. In 1 year, nearly $1 million in scholarships and almost $2 million in Federal funds have been granted to Ohio academic research. In addition, hundreds of junior and senior high school students from our city and suburban schools attend workshops and benefit from summer internships. For America to remain a globally competitive Nation, we must continue to invest in future technologies. If we abandon the space station, the Japanese, French, and others are waiting in the wings to completely take over. For the sake of the many practical applications whch have already improved our quality of life on Earth and will continue to do so, and for the sake of our country's future, we must save this valuable program.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

I have all sorts of material from NASA and the administration, and I was all prepared to say many of the things that my colleagues said over and over during the last few hours. As I watch the debate, it occurred to me as we come toward a close, maybe the most amazing thing about this afternoon has been the length and the intensity, passion, the fact that so many Members of both sides of the aisle felt compelled to come down here and to speak out.

This has been, for an amendment of this kind, an unusually long debate. It has been an intense, emotional outpouring, a passionate, bipartisan pleading for a yes vote. For a yes vote for the future, for a yes vote for men and women in space. Members might ask, why have Democrats and Republicans alike spoken out? Why have liberals and conservatives alike come down here and asked for a yes vote. I think because this is the dream, the dream in many ways of our childhood. Many Members grew up when manned space was simply a dream. Even the youngest Member of this House was born before the first man walked on the Moon. We all remember vividly that moment, and the fact that that man was free and an American.

In a very real sense, Neil Armstrong's spirit is here in this Chamber, urging Members to vote yes, so free men and women and continue to go into space.

I remember as a high school student reading of the magic future in magazines that no longer exist—Collier's, Saturday Evening Post—where writers said, "Yes, it is possible someday to have a different future, to reach out, to explore the unknown." That was the period of sputnik, a time when Americans did not invest enough, and when Eisenhower had to lead an effort to catch up with the Soviet effort.

Then as a college student, I listened to John F. Kennedy magnificently pledge to go to the Moon. His spirit is in this room in a bipartisan plea that our future not be cutoff, that we not turn our backs, that we not lose the future. In the tradition of John F. Kennedy, we owe a yes vote to our children and to the future.

It is easy to be negative. In 1850, Daniel Webster stood in the other body and he ridiculed the idea of going West. He joked about California. Members should read someday the speech in which he described my good friend's State as a State that had no future, no economic worth, no hope, a place as barren as the Moon. If Members read those words they would not be able to imagine that he is talking about what is now our largest State, an economy eighth largest in the world. Yet because he lacked vision and courage, he suggested America turn its back on the future when the future was California.

Now, some of our good friends would have the United States, out of cheapness, out of arguments involving other less risky, less romantic, less daring reasons, turn our back on the future.

I will close with this thought: There are a lot of things computers can do. There is a lot of stuff scientific instrumentation can do. In the end, over and over, as recently as the war in Iraq, we have proven that the human being on site with their own eyes, their own mind, their own senses, makes a difference. When we go into the unknown, it is very helpful to have a human being with all of those facilities, in the middle of that unknown.

This may be one of the most important votes we ever cast, because if the station dies on this floor tonight, if the Japanese and the Europeans and the Canadians and others learn, "Do not trust America, do not commit your money to work with the Americans, do not rely on the unreliable allies whose Congress cuts you off a third of the way through, and all the future efforts to go through the unknown, are alliances with the Russians, the French, the Germans, Japanese, and Canadians, but not the Americans," then we will all pay dearly.

On the other hand, if we vote yes tonight, we are reaffirming the commitment that John F. Kennedy made. We are reaffirming the tradition of Neil Armstrong, and we are moving together to give our children and grandchildren a far better future.

Mr. BROWN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat reluctant to take this time because I know there are others who perhaps would like to speak, and certainly more able speakers than I. However, I will do this because I do think this is important, and I do think we have had a good debate.

My own attitudes towards the space program were shaped early in life and arose out of reading science fiction and the work of great scientists. I think most people do not realize that the great scientist Newton developed equations by which he could predict the speed at which a body could leave the Earth, and in a sense, set the stage for the planetary exploration of today. H.G. Wells, of course, wrote marvelous books about space exploration, going to the Moon and so forth. Many other authors did.

One of the most profound emotional experiences of my life was when we had the first Moon shot, and I took my father who was then nearly 80, and one of my neighbors, who was about 10, down for that event. Throughout the life of my father, who recently passed away, he said that that was the most significant moment of his life, watching that first vehicle leave the Earth and go to the Moon. My nephew has said the same thing over these past 20-odd years.

So this is an emotional attachment. It is something that I have lived to want to see. Our exploration of space, and it has been the greatest pleasure of my life to have an opportunity to have some influence on it. Then I have found that it is more than emotion. I have found that the future economic growth of this country depends upon how much we are willing to invest in science and technology and research and development. Over the past 25 years, we have averaged a fairly constant 2 percent of our gross national product investment in what OMB calls "civilian research and development."

During that same period our competitors, the Japanese, the Europeans, particularly the Germans, starting from a much lower level, about 1 percent of the GNP, moved up to the point where they now have a 50 percent larger investment than we do.

□ 1840

The charts over here, which we used on Monday, illustrate this.

Today the Japanese spend about 3 percent of their GNP on civilian R&D compared to our 2. Now, when they crossed the line and began to exceed us, our balance of trade in advanced technology products became negative. The reasons are simple: They are making more investments in trained manpower, in research and in advanced technology. That is not the only factor.

I do not want to oversimplify it. They have cheaper capital and other things. But the investments in research and development, commitment to developing new knowledge and exploiting it makes the difference.

Half of this country's investment in civilian research and development is the space program and when the space program in our budget begins to turn down, and that is exactly what this appropriation bill does, it reduces it below last year's level; when it begins to turn down, you can be sure that our future as an economic leader in this world, not just the space leader, is going to turn down also. When half of our investments in civilian R&D are in the space field and we begin to cut those down, that is going to be the final score that shows that this country no longer has the leadership potential.

You will see the negative trade balances going more and more to the critical technologies. We have the documents, we have reports coming out of our ears, which show that that is exactly what is happening.

So my emotional attachment to the space program, which is lifelong, has not gone away but it has been replaced by a solid, pragmatic economic and political analysis that our future as a leader in the world, the economic health of this Nation, the ability of our children to expect a higher standard of living depends on our willingness to commit ourselves to the support of this program. I promise you the space station means, if we lose it, that from now on we see a 10 percent per year decline in our investments in space, and that will be reflected in the health of this Nation.

Mr. GREEN of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have been told all sorts of marvelous things about the space station this afternoon; it is going to cure cancer and do all sorts of wonderful things for mankind. That is, of course, the same story we were told by NASA at the outset of the program; it was going to be a marvelous astronomical observatory, it was going to be a wonderful platform for Earth sciences, it was going to be a marvelous place to do microgravity materials processing, and above all it was going to be a marvelous laboratory for life sciences.

What has happened? In the case of the astronomy community, the National Research Council put out a study of priority projects for astronomy and astrophysics for the next decade. Not a one of them goes on the space station.

Dr. Sally Ride did a report for NASA on the future of NASA, where she brought together what was involved in Mission to Planet Earth. Her report makes it clear that Mission to Planet Earth cannot make much use of the space station. Mission to Planet Earth requires polar and geosynchronous orbits, and the space station essentially will be in equatorial orbit.

So, really, it is of no use for a Mission to Planet Earth.

As for the microgravity research and the life science research, I shall again read you the comments of the Space Studies Board of the National Research Council on the latest configuration:

> In the judgment of the board, the proposed redesign of Space Station Freedom does not meet the stated national goal of enabling the life sciences research necessary to support extended human space exploration nor does it meet the stated needs of the microgravity research community.

So, all these hifalutin things you have heard about what the station is going to do for science and space travel and the like really get knocked in the hat when you look at the hard reality of the program.

What they do not tell you is what they are cutting, because what they are cutting is going to hurt human beings, it is going to hurt life science, and it is going to hurt science and it is going to hurt our exports.

Let me just go through that a little bit. The amendment cuts space science and applications by $460 million below what the committee has, $500 million below what the President requested. That will include a cut in life sciences of $10 million below what the committee has and it will include a cut in Earth sciences of $118 million.

We are told how important it is to do research for exports and manufacturing technologies; there is no industry where we are more preeminent than in the aeronautical industry. But we are not going to stay there if the proponents of this amendment have their way and cut $79 million from aeronautical research and technology as they would do.

As for manned flight, they cut space flight control and data communications $526 million below what the committee did. And of that amount, they cut $187 million from shuttle production and operations capacity and they cut $225 million from space shuttle operations.

How are we going to have human beings in space if they are not going to allow us to keep up the shuttle, the only vehicle we have for getting human beings into space.

My colleagues, I plead with you, I know the romance of the space station; but when you take a hard look at it as the science community has done, it just does not work and you are killing other NASA programs which have real importance.

Finally, although the proponents of this amendment have very cleverly crafted it so that this year it is not touching the VA or the environment, the fact of the matter is that their program requires a $400 million increase next year and requires a quarter-of-a-billion-dollar increase a year after that and for the rest of the decade. And there is no way that our subcommittee is going to be able to provide the kind of funding it ought to be providing in 1993 and the years after for the veterans programs, the environment, the National Science Foundation and the homeless if we have to take the kind of hit that the space station will inevitably impose on us.

I say to you very simply that is why the League of Conservation Voters, that is why all the veterans organizations, all the housing groups, everyone else who has an interest in this bill is pleading with you to defeat this amendment and stay with a committee that had the courage to make the hard choices.

Mr. LEVINE of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Lowery-Chapman amendment.

Mr. Chairman, I rise in support of the Lowery-Chairman amendment to fully fund space station Freedom. This is not an easy vote for me to cast, but it is a necessary one.

The future of our Nation, and indeed of all humanity, fundamentally depends on our vision and our commitment to move forward, to take risks and to expand the boundaries of human knowledge and experience.

The manned space program has played a critical role in expanding our knowledge of our own world, has improved the quality of life for millions of people, and has opened the doors of the solar system to us and our children.

But there is far more at stake with space station Freedom than the romance of manned space travel.

The future of American preeminence in science and technology is intimately bound with our commitment to pursuing the goals of the Space Station Program.

Budget constraints force difficult choices. The HUD funds cut by this amendment will come from critically needed operating funds for local housing agencies. At a time when millions of Americans are homeless or live in substandard housing we have a moral responsibility to provide adequate resources for Federal housing programs.

Likewise, I am concerned about the claims of opponents of this amendment that its passage will result in future cuts in EPA's budget. As a committed advocate of environmental protection, I have long supported increased funding of EPA. I will vehemently oppose any effort to reduce EPA's already inadequate budget.

But it is terribly shortsighted to use budget constraints as an excuse not to invest in America's future. U.S. leadership and competitiveness in a vast array of critical technologies and industries, our international competitiveness, and ultimately our standard of living depends on a prudent and sustained commitment to projects such as the space station.

Just last week the House approved a defense authorization bill which contained $2.9 billion for SDI. I have long argued that, rather than wasting billions of dollars of taxpayers money on a weapons program that will not work, that we don't need, and that will undermine existing arms control agreements, we should invest those monies in our manned and unmanned space programs.

Such a reallocation of resources would provide NASA with the funds it needs to adequately fund its mission, eliminate the need for the kind of budget cuts necessitated by this amendment, and use scarce government funds for a productive, rather than destructive, purpose.

The only logical next step for the U.S. Manned Space Program is to develop a permanent space infrastructure. The space station is a critical part of such an infrastructure. It will be a unique laboratory for research across a broad range of disciplines, including materials research and the biological sciences. A necessary prerequisite for any future manned space efforts will be the knowledge and experience we acquire through the space station.

Without the space station, the space shuttle is left without its prime customer, and will itself become only marginally useful.

If we don't build the space station, there is no longer the need for the new heavy lift capability that was intended to be another pillar of our space program.

Without the space station, there is simply no manned space program. It will not be an easy task to reconstitute this program once we have killed it.

If we cancel the space station, our aerospace workforce—in NASA and the private sector—will wither. The bright young scientists and engineers who might have been drawn to the space program by the challenge and promise of Space Station Freedom will search elsewhere for career fulfillment.

A strong and robust aerospace industry is critical to our future international competitiveness. If we kill the space station we will be driving yet another nail into the coffin of that industry.

Further, the abdication of U.S. international scientific leadership in space would be nothing short of a national tragedy.

We should also not underestimate the grave threat cancellation of the space station poses to all future international scientific cooperative efforts.

The space station is the largest international scientific effort ever undertaken. With 11 foreign partners having committed nearly $8 billion to this project, and having revamped their own national space program to accommodate the space station in a central way, our abrupt cancellation at this time will do irreparable damage to U.S. credibility and will spell disaster for future U.S. attempts to muster international support for bold new science and technology projects.

Let me remind my colleagues that the money used to build the space station is not being sent into orbit. It is being spent here on planet Earth—creating highly skilled jobs—78,000 of them so far, and putting money into communities in 40 States. More importantly, we are building a community of scientists and engineers who will spearhead U.S. technology development well into the next century.

Space Station Freedom is not an investment in merely a space platform, it is an investment in America's future.

More importantly, it is an investment in expanding the horizons of the human race. The philosopher Arthur Schopenhauer once said, "every man takes the limits of his own field of vision for the limits of the world."

The Manned Space Program is an effort to expand the limits of our vision into our solar system and the universe beyond.

I urge my colleagues to join me in support of the Lower-Chapman amendment to restore funding for the space station and continue our assault on the frontiers of human knowledge.

□ 1850

Mr. SCHUMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I realize the hour is late, and we have heard long debate, and so I will try to limit my remarks.

However, Mr. Chairman, I must rise in opposition to the Chapman-Lowery amendment.

There have been many speeches on the part of the amendment. I respect all those people. I understand where they are coming from. But I think we must look at two aspects of this amendment: what it gives us and what it takes away.

First, in terms of what it gives us, I, too, believe we have to explore space. I, too, believe that we need the kind of scientific and industrial throw-offs that space exploration gives us.

However, Mr. Chairman, I would argue to my colleagues that what this amendment will do is force NASA to eat its young. Every new program in space science, in satellites, in everything else, will be squeezed out by the space station. It is not a program that is at the cutting edge of science. It is not a program that is at the cutting edge of any of the new things we need to know to keep America preeminent and economically No. 1. It is something that does provide jobs. It is something that people see has impact in their district, but, when we talk about space, and we talk about vision, and we talk about what has to be done to keep man's knowledge at the cutting edge, no scientist I know believes the space station is the best way to go, and, in a day when NASA's budget will be limited, to put such a huge proportion of money into the space station will not move us forward into the future, but will move us back.

Mr. Chairman, a great nation is able to realize that one big shining project may not be the way to the future, and lots of slow, carefully thought-out, developmental projects are.

Second, I talk about investment. This takes away money from public housing.

Now we have already invested in this country, not in present value, but in previous value, $60 billion in building public housing. We know how desperately needed it is. We have all seen the waiting lists in city after city, and to take that money away; this is the maintenance money; it is as if we bought a huge expensive car, and instead of maintaining that car, we started putting our money into buying a new car. It makes no sense. Yet when we take away public housing operating subsidies, we are taking awayt the daily mending, repairing and upkeep of our Nation's $60 billion investment in public housing. There were better places to take the money from. They could not have found a worse place because we cannot afford to build much new housing, we must preserve the housing for the poor that we have, and cutting public housing subsidies ruins that.

So, Mr. Chairman, I say to my colleagues on two bases, on the basis of preserving an investment we have, an investment on Earth, and on the basis of keeping us at the cutting edge of what is really science and not just gold plating in space, we must rise to the occasion and defeat the Chapman-Lowery amendment.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I want to commend the gentleman from New York [Mr. SCHUMER] for an excellent statement. I agree with him in total. He said it well.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Minnesota [Mr. SABO].

Mr. MCMILLEN of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, along with so many of my colleagues, to ask for this body's support of the Chapman-Lowery amendment to overturn the decision of the Appropriations Committee to dramatically reduce spending for fiscal year 1992 for the space station Freedom. With $4.65 billion already having been spent, I question the wisdom of abandoning the project.

Further, everybody will agree that America's credibility is on the line—curtailing funding in fiscal year 1992 will surely decimate the Freedom, jeopardizing our relationships with Canada, Japan, and the European Community. After all, they have already contributed over a billion dollars to defray the construction and design costs.

Shutting down the station at this juncture will assuredly have repercussions throughout the manned space program—in fact it could be the deathknell for the entire space effort. The Freedom is a vital component of our future space infrastructure, providing us with a celestial platform from which we can go on to explore the cosmos, including the Moon and Mars.

True, funding station in this budget cycle will mean that other NASA programs will not be funded at optimal levels in the next year. This would include EOS, the Earth observing system. Under the terms of the Chapman-Lowery amendment, EOS would suffer a cut of $146 million from the President's request, but I maintain that this reduction would allow us to more clearly define the proper course and goals for the project. Less aggressive EOS funding in fiscal year 1992 will mean that we can proceed more carefully, more deliberately, on this extraordinarily complex engineering project.

Further, if station is canceled, we are jeopardizing the future of EOS, which is also dependent on international cooperation. Not funding station will call into question our reliability as a research partner.

Also, we cannot lose track of the fact that the Freedom represents and investment in our future. Operations aboard the Freedom will move us ahead in the areas of microgravity research, medical sciences, and materials development. This will translate into an important competitive advantage for America in the international trading arena.

It is unfortunate that the the nature of Representative TRAXLER's bill is such that we are forced to make difficult choices among such disparate priorities as VA health care and the NASA budget. In light of this reality, the Chapman-Lowery amendment represents the most logical distribution of funds within the 602 B allocation. It will help us to respect the funding needs of HUD, EPA, and the Veterans' Administration. At the same time, it will permit us to maintain a balance within NASA between space science and manned space exploration. Importantly, this is consistent with the findings of the Augustine Commission.

Ultimately, we must understand that without the station, we are condemning the space program to a uninspired, undirected existence. We must restore a reasonable, rational vision to the space program—support station by supporting Chapman-Lowery.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. MCMILLEN of Maryland. I yield to the gentleman from Alabama.

Mr. CRAMER. Mr. Chairman, I stand in support of the Chapman-Lowery amendment. I commend the speaker, the gentleman from Maryland [Mr. MCMILLEN] for his remarks.

Mr. Chairman, I rise in strong support of the Chapman-Lowery amendment which would restore funding for space station Freedom.

Funding space station Freedom is not to choose the manned program over space science. The space station will enhance all of NASA's science programs in the long run. A robust manned-space program was proven to strengthen overall NASA growth, especially its science programs.

Space station Freedom will provide a permanent manned facility in space to study the effects of long-term space travel. It will provide a life-science and microgravity research facility that will be second to none.

The potential of a space-based laboratory to provide vital scientific breakthroughs is extraordinary. Many research opportunities are being developed by NASA's centers for the commercial development of space. The center at the University of Alabama in Birmingham is conducting biomedical research such as the development of human protein crystals in microgravity. Such crystals, which cannot be developed on Earth, can be developed on the extended-duration operations of the space station. These crystals offer the hope of new medicines being developed in much shorter times than are currently available. Additional centers at the University of Alabama in Huntsville and at Auburn University are conducting research in the areas of microgravity-materials processing and advanced-power systems which is well suited for the space station. The science potential on the station is unparalleled.

Some argue that the Chapman-Lowery amendment guts NASA's science projects. This is simply not true. The amendment holds NASA's spending at 1991 levels for all accounts. There are several accounts that were funded in 1991 that are not needed or are reduced in 1992. The gamma ray observatory, Mars observer project, upper atmosphere research satellite, and the global geospace science project are good examples. These programs alone will allow NASA to reprogram more than $120 million to other science projects. This reprogramming will restore funding to important initiatives such as the advanced x-ray astrophysics facility and the Earth-observing system.

The Chapman amendment does not eliminate NASA science projects that opponents of the amendment would have you believe. It simply slows the increases for some of those projects. Let's not be short sighted in our vision of the future of the manned-space program and NASA's science projects. A vote for the Chapman amendment is a vote to invest in our future.

Support America's space program. Vote for the Chapman-Lowery amendment.

Mr. TRAXLER. Mr. Chairman, as I understand it, we have the gentleman from California [Mr. LOWERY], the gentleman from Texas [Mr. CHAPMAN], and myself left on the list; is that correct?

The CHAIRMAN. The gentleman is correct. He has 3½ minutes remaining.

Mr. TRAXLER. Mr. Chairman, I ask unanimous consent to amend a previous unanimous-consent request, that the gentleman from California [Mr. LOWERY] be allowed 3 minutes, the gentleman from Texas [Mr. CHAPMAN] 3 minutes, and I will close debate with 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. TRAFICANT. Mr. Chairman, reserving the right to object, are there other Members' names on the list?

The CHAIRMAN. The unanimous consent earlier was an agreement that all debate on the Chapman amendment end at 7 o'clock.

Mr. TRAFICANT. However, Mr. Chairman, I would ask, "Weren't there other Members' names on the list?"

The CHAIRMAN. All Members' names on the original list, as the gentleman from Ohio [Mr. TRAFICANT] knows, were called, and there is not now time for Members who were not listed at the time of the limitation.

Mr. TRAFICANT. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from California [Mr. LOWERY] is recognized for 3 minutes.

Mr. LOWERY of California. Mr. Chairman, Robert Browning wrote it years ago and it is appropriate to our debate today.

> Ah, but a man's reach should exceed his grasp
> Or what's a heaven for?

Man has been studying the heavens since he has been able to see them. We have been reaching for the stars through the centuries in poetry, in prose, in song, and in science. It is only in the last few decades that we have finally "slipped the surly bonds of earth" and climbed to the Heavens.

I grew up watching the space program go up. The Russians launched sputnik in October 1957, and the Nation responded to the challenge. We tried and failed and tried again—but we presisted. My heroes became Wally Schirra, Gordon Cooper, and Alan Shephard. Manned space missions gave us, vicariously, the thrill of the unknown, the daring of the astronauts, the successes for our country as we competed with the Russians and won. Neil Armstrong walked on the moon and we took that giant step with him staring at the television set in disbelief and unquenchable pride.

Each launch, each mission, each walk in space added to a storehouse of information. Then, in the 1970's we decided to skip a decade. The 1980's brought as the shuttle and the 1990's were to bring us the space station.

This Nation needs a vision for the future. The space station and manned space exploration are that vision. Although unmanned spacecraft have an important role in a balanced space program, there is simply no substitute for the hands-on laboratory experiments and exploratory voyages that have characterized all technology progress to date here on Earth.

And the Augustine report, which was accepted on a bipartisan basis as a blueprint for the future in space reads,

> * * * the Committee holds the strong conviction that if the U.S. is to have any significant long-term manned space program, a space station is the next logical and essential element of that endeavor. The most significant unknowns remaining in manned exploration reside in the area of life sciences. A manned, near-Earth laboratory is, in our judgment, the sensible place to begin addressing these crucial questions which sooner or later must and will be resolved—by the U.S. or some other space faring nation.

Americans are not willing to let some other space faring nation lead this conquest of the next frontier.

Do we now erase the dream? Do we stop here and tell our children, it was a good idea but we are not going to conquer the next frontier? Do we tell them to be content to watch science fiction and count the satellites that are successfully launched?

Our children are falling behind most other countries in test scores in math and science. The Soviet Union is graduating five times as many engineers as the United States while Japan, with only half of our population now out produces the United States in many critical science education ideas.

It is time to recapture the challenge of the 1950's and 1960's. It is big science that inspires and sparks the imagination. It is the space station that will lead our country to preeminence in space.

Vice President QUAYLE said,

> The importance of the Space Station is not the size of its span nor the power of its circuits; it is the size of the dream and depth of the commitment it represents.

NASA and the administration are committed to a balanced plan for space exploration. Let this Congress keep the commitment as well. Let us continue to reach for the stars.

Mr. Chairman, we have had a great debate here on the future of space, and I commend our chairman, the gentleman from Michigan [Mr. TRAXLER], and our ranking member, but let me just say, "Let's vote for the Chapman-Lowery amendment, and let's keep reaching for the stars."

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The CHAIRMAN. The gentleman from Texas [Mr. CHAPMAN] is recognized for 3 minutes.

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman from California [Mr. LOWERY] for his able assistance in helping to craft and present this amendment. I will not use all of my 3 minutes, but I will say that the debate tonight in my judgment is about who we are in America, what we believe in, and where we will go.

The manned space program, as has been described by speaker after speaker, is in jeopardy and its very existence is on the line tonight with this vote. With space station Freedom there can be no serious debate that we will make scientific discoveries. We will make medical breakthroughs, we will improve technologies, and we will by virtue of those discoveries and those advancements improve not only our country, our future, our youth, but yes, in fact all mankind. Tonight this vote is about who we are, what we believe in, and where we will go.

Mr. Chairman, let us support the investment of our funds in space station Freedom. Let us support the future of America and all mankind. I ask the Members to vote for the Chapman-Lowery amendment.

The CHAIRMAN. The chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER] is recognized as the final speaker for 5 minutes.

Mr. TRAXLER. Mr. Chairman, I most especially want to extend my deep gratitude and appreciation to the sponsors of the amendment, the gentleman from Texas [Mr. CHAPMAN] and the gentleman from California [Mr. LOWERY] and to my distinguished colleague, the gentleman from New York [Mr. GREEN] for the high-level of debate which started sometime this morning. I want to say how proud I am of this body, irrespective of how this vote comes out. I have learned a lot, and I am sure that America has as well. I extend my gratitude for that.

Mr. Chairman, let me tell the Members what the amendment does in my judgment. I believe it restores much of the funding for station, and it offsets that increase for station by freezing NASA at the 1991 level in the science accounts and other accounts, and additionally it takes $217 million from the poorest of the poor of this Nation. For me, I am not only looking at this year's allocation but also next year's allocation. Our allocation at that time is not going to be sufficient to do all the things all the people want us to do. Even as we could not do them this year, I want to assure the members we will not be able to do them next year, especially with the station in and capturing so much of our resources.

Let me put this question to rest. The manned space flight program is not in jeopardy. Space station is in jeopardy with this amendment. As we talk here now, men and women are in space. Are the Members aware of that? We are going to be there. We have an excellent manned space program. The question is: Do we want a station that performs essentially two limited functions at a cost of over $40 billion? And that number will climb as we add the centrifuge and assured crew rescue vehicle. Both of those items will add billions.

So the question becomes in my judgment one of: What are your priorities? In my judgment, this means that the agency, NASA itself, could lose between a thousand and two thousand civil servants because of the cuts contained in this amendment. If you do not think that is real, when we come back from the Senate and we cut the money for NASA's science programs, Members will understand then what we have done. It means that the space science programs are virtually wiped out, and I support him. I do not like what we are doing. It means that EOS, the Earth Observation System, is gone. How are we going to know about our ozone layer problem and its effects on mankind and the habitability of this planet without EOS and the EOS-DIS? I do not know.

It means that the space shuttle program, the only manned program that we have in place, will be cut between $300 million and $500 million with this amendment. What this boils down to is that we are funding a station at the expense of every other NASA program. The Members have got to know that. If they love NASA, they have got to hate this amendment. In addition to that, we are attacking the weakest folks in America, the poor who live in public housing.

Many members of the Committee on Science, Space, and Technology have stood in this well year after year after year talking about science. I have listened to them, and they taught me well. I subscribed to what they said, that NASA science programs are critical and essential. I believed them, and we protected those programs fully in this bill. This amendment guts them. It goes in the face of everything anyone has done on the Science Committee in prior years. I am sorry to have to say that.

The decision to support this amendment is wrong. Why? Because when this bill goes to conference, the problems are only going to get worse. We are not going to cut medical care for veterans, because I will not, you will not, and certainly the Senate will not. The veterans have said that they do not like this amendment. We have all the letters before us in our office, and they are handing them out at the doors. They are troubled by this amendment. They know it is part of their lunch that is going to get eaten by station next year and the year after and the year after as the limitations on expenditures inescapably fall upon this House in the years to come.

I ask the Members to listen to this. This country has serious fiscal problems. They are serious, and we cannot do everything any more. This amendment doesn't recognize those limitations. It expands the scope of our fiscal obligations in the years to come when we are not going to be able to do everything. The choices we are making here are hard, difficult choices. We came back down on the side of basic research, on the side of science, on the side of EPA science research and investment, on VA medical program, which we support, and we came down and said, yes, we support housing for the poor. We are not going to cut Department of Veterans Affairs programs in conference. We are not going to cut the EPA, in my judgment.

Mr. Chairman, I want to say in closing that this is the wrong amendment, and this is the wrong approach for this Nation.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise today in strong opposition to the Chapman-Lowery amendment to the VA-HUD and Independent Agencies appropriations bill. This amendment, which would provide funding for NASA's space station Freedom, would require cuts in essential domestic programs.

I recognize the need for the United States to remain globally competitive through scientific research. In fact, I have been holding hearings on international competitiveness in the Ways and Means Committee this very week. I acknowledge that the Space Station Freedom is certainly a vehicle for the United States to retain its leadership in space exploration.

However, I am certain that every Member in this Chamber is aware of the severe constraints that have been placed on spending through last year's budget agreement. Because of these restrictions, we as legislators must make difficult decisions in domestic spending.

Mr. Chairman, the Chapman-Lowery amendment provides $1.9 billion for the space station by holding all NASA programs at last year's levels and by cutting $250 million from public housing operating subsidies. Next year the space station will need further funding. And it will need continued funding for an estimated 30 years.

Where will these funds come from?

Can we truly afford to pay for a laboratory in space at the expense of housing here on Earth?

Mr. Chairman, I urge my colleagues to join me in voting in opposition to the Chapman-Lowery amendment.

Mr. ATKINS. Mr. Chairman, it is important to look at the space station amendment and see who is effected by the offsets. We have already heard about space science, life science, other NASA programs and of course, every NASA contractor has faxed us an information package about housing programs. I'd like to focus on crime and drugs. Drug dealers are a big winner in this amendment and every law abiding citizen in public housing is a big loser. Let me explain how.

The Chapman-Lowery amendment cuts public housing operating subsidies by $250 million—that's over 10 percent. Operating subsidies cover costs for salaries of public housing employees, utility bills and small repairs of the facility. Salaries must be paid on time and so must utility bills meaning that inadequate funding—and this proposed amendment goes well beyond inadequate—will prevent small repairs from being made.

What kind of repairs are we talking about? The replacement of broken door and window locks, for example. The replacement of broken or burnt out light bulbs in common areas like courtyards and hallways; metal screens to prevent vandals from breaking lamppost bulbs; minor repairs of fences that are meant to keep unwanted visitors out of public housing; as well as the hiring of security officers to guard public housing units and the installation of drug prevention hotlines between police and residents of public housing.

In fact, there is no program of greater importance to the health and safety of public housing residents than operating subsidies. Even drug elimination grants, slated for $165 million, do not come close to providing the basic necessities for public housing safety that are funded out of operating subsidies.

Some have argued that the amendment only reduces funding to the President's request—so what is the problem? There is a game that is played out every year between the VA–HUD appropriations subcommittee and HUD. HUD comes in with a low-ball figure for public housing operating subsidies. During testimony Chairman TRAXLER asks Secretary Kemp if the figure put forth in the budget for operating subsidies is the Secretary's number or OMB's. The Secretary smiles, shifts in his chair and makes some sort of joke about OMB. All of the HUD bean counters in the room look at the ground, shrug their shoulders and sheepishly kick at the carpet looking like the cast in an "Our Gang" episode. The subcommittee, knowing that the survival of the units and the tenants depend on a reasonable allocation, increases the level and everyone is happy.

The President's request, which is the recommended level in Chapman-Lowery, is $19 million below the amount funded last year. And last year was a tight year for public housing. Chapman-Lowery would simply gut the program unless, by some miracle, utility prices plummet and the employees of public housing offer to return part of their salary.

If your office is like mine, then you have received faxed messages from NASA contractors concerning, believe it or not, HUD programs. Their information is way off the mark. They say that Chapman-Lowery will only delay the $250 million in HUD funding for 10 days. That 10 days puts us into fiscal year 1993, and we cannot appropriate for 1993 in the 1992 budget. Second, HUD needs to hold that $250 million until the last 10 days of the fiscal year because that is when the funding cycle begins for a sizable number of public housing authorities. If HUD does not hold the funds, they will be forced, once again, to ask for a supplemental appropriation.

Finally, I'd like to relay to you a quote from Secretary Kemp, who is greatly admired and supported in our subcommittee and this Chamber. I am quoting from April 24, 6 weeks ago before the VA–HUD subcommittee, and I hope to do justice to the Secretary's impassioned and eloquent delivery. Speaking to Chairman TRAXLER the Secretary quoted from a publication stating that, "by the time (public housing residents) are adolescents, they have contended with more terror than most of us confront in a lifetime." And then the Secretary said, "there are no children" in public housing. "They are 9 years old" but "they have seen too much."

Now we have an amendment in front of us that will guarantee that doors and windows that have been jimmied open by some crack-crazed assailant will not have their locks replaced; security officers will be terminated because no money is available for contracts. The equipment necessary to keep the criminal element at bay will become old, broken and useless. The drug dealer, the gang member, the vandal, the rapist, the killer wins. Everyone else loses.

It is amazing to me that we are debating the construction of a $40 billion station to be placed into space when we cannot change a light bulb in the public area of a public housing unit. I do not see the sense in that.

Thank you Mr. Chairman for this opportunity to speak in opposition to the Chapman-Lowery amendment.

Mr. KOLBE. Mr. Chairman, I rise today in reluctant opposition to the Chapman-Lowery amendment and the space station Freedom. This is a difficult decision for me to make as I have been a supporter of this mission since it's inception. However, the bold concept we began with has been carved up and reduced to a mission which shares little more than the name of the original idea.

Unfortunately, because of the budget caps set by last year's budget agreement, we don't have the money to continue this project and provide for other important space science projects. Ordinarily, a mission such as space station Freedom would yield many returns on our investment. However, because of rescoping and financial uncertainties, space station Freedom has been left without a true mission. Similarly NASA is off track. We must ensure that this agency is put back on course before we begin any new major endeavors. Once its mission is redefined and clarified and faith in this program is restored, space station Freedom should be wholeheartedly supported. I remain supportive of a manned space station. Indeed, such is station would be a very important part of our space program. However, until we are willing and able to fully commit to this mission, we should hold off on its funding. We can not continue to piecemeal the space station into space.

I have an additional concern with space station Freedom. Funding this mission would leave NASA in a position to do little more. It would mean our already suffering space science program would continue to be neglected. This comes at a time when space science was underlined as the most important part of our space program by the prestigious Augustine Report. Funding space station Freedom now would mean putting into a deep freeze the discoveries and innovations which beckon from outer space. We have heard about the economic and technological rewards in store for us if we fund space station Freedom. Even so, there will also be countless returns from the myriad of other space projects we will be able to fund if we do not fund station. Funding for space science will clearly be in jeopardy if we fund station. Science programs such as the Great Observatories, Mission to Planet Earth, Craf Cassini would not just be cut—they would be terminated. These programs have a defined and proven mission and deserve our continued support.

I realize the importance of a manned space mission. When we are able to fully support a refined manned mission, I will gladly support such a concept. As we enter the 21st century, we are in a good position to reevaluate and refocus the mission and future of NASA. I am excited about the opportunities available to us, and hope to be a part of this important process.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Chapman-Lowery amendment to restore funding for the space station Freedom project.

Mr. Chairman, there has been a lot of discussion about what this amendment does. Unfortunately, there has been a lot of misinformtion as well.

As the Members know full well, this House voted just over a month ago to fund the space station Freedom in the NASA authorization bill. The vote was 361 to 36.

Now today we're being asked to kill the program. Mr. Chairman, this is no way to run a railroad, and it's no way to run the Government space program.

Space station Freedom is a vital part of the U.S. space program for the next decade. Like other NASA programs, it will advance the state of science and technology, advance our medical knowledge of the human body, advance our knowledge of the ecology of our planet, and provide untold scientific economic and other dividends.

It is an integral part of the two other major NASA missions slated for the 21st century: the Mission to Planet Earth and the Moon Mars Mission. Freedom will provide an unmatched platform for scientific observation of the Earth and its ecosystems—terrestrial, oceanic, and atmospheric.

It will provide the biological and technological foundation for lunar and planetary exploration.

Killing the space station is throwing away the opportunity to advance our knowledge of how the human body works and how the Earth itself works, along with the opportunity to learn how to cure the ailments of both.

There are those who say we can do all this with robots. I can guarantee you that those same people would not step onto an airliner piloted by a robot and fly coast to coast. We could probably program a robot to avoid thunderstorms and handle emergencies, but you won't get me on board.

Only a human being can make the untold calculations, adjustments and decisions to adapt to unforeseen situations or react to new information. That is the reason we have a manned space program.

Nor are the benefits entirely scientific. The space station project will advance our economy as well as our technology. The economy of the 21st century will rely upon technology, and the nation which leads in technology will be the leader in the world economy.

That is clearly why Canada, Japan, and the European Space Agency have signed on with the U.S. space station program. Canada created its space program specifically for the space station Freedom.

The space station project provides us with an unparalleled opportunity to develp an international cooperative agreement in space. Instead of competing, we will be working together for the advancement of scientific knowledge and for solutions to international dilemnas such as global warming, ozone layer depletion, deforestation and ocean pollution.

Mr. Chairman, as we come to a decision on whether to proceed with this program in 1992, I can't help but think back to a decision made 500 years ago, in 1492, when Christopher Columbus couldn't interest his own nation in funding a voyage of discovery to the New World.

He went to Spain instead, and the rest is history.

Let's not slip into the backwaters of scientific knowledge and exploration, the second rank of nations, the followers instead of the leaders in international cooperation. Vote for the space station Freedom—it will be the best investment we make in the next century.

Mr. HOAGLAND. Mr. Chairman, I will vote today to cut funding for the space station. I wish we had enough room in the Federal budget for all kinds of exotic investments, but today, the money just is not there.

Reaganomics and supply-side economics have left the American people with a $300 billion budget deficit, a $2.6 trillion national debt, and $198 billion in interest payments on the national debt annually. This means every American is paying an astounding $800 every year just to pay interest on the national debt. We have no choice but to cut corners.

We were originally told the space station would cost $8 billion and be ready in 1992. The General Accounting Office, Congress' investigative arm, now puts the price at $40 billion, saying the long-term cost will skyrocket to $118 billion. When it comes to the space station, the only thing that seems to get into orbit is the price tag.

The National Institutes of Health, the Federal agency trying to find cures for diseases like cancer and Alzheimer's, has only enough resources to fund 29 percent of the research projects approved by scientific panels for funding. With shortfalls like this, it is hard to keep pouring money into a project that even the prestigious National Academy of Sciences has concluded has little scientific use. For example, the space station was once justified as an outer space platform for monitoring large-scale changes on Earth, but today we have satellites that can do that. We have the space shuttle that can perform experiments on ultrapure drugs produced in zero gravity. Dr. James A. Van Allen, one of the world's preeminent space scientists puts it this way:

> My own aspiration for future space exploration is quite different [from the Reagan-Bush Administration's emphasis on manned flights]—namely, building on our experience and using the superb techniques of unmanned flight to pursue scientific investigations and applications having direct value to human welfare and to the future habitability of the Earth.

The Bush administration promotes the space station as a project that will maintain American prestige around the globe. I simply don't think it is worth that for $118 billion.

I am certainly not against scientific exploration. The bill before us continues funding for the other activities of the National Aeronautics and Space Administration. It provides funding for the National Science Foundation to help restore excellence in science and mathematics among our students. Nor am I not against scientific research.

But I have to question spending taxpayer money on projects of questionable scientific merit. Voting against this amendment today that restores space station funding is my way of saying, "No."

Mr. SKAGGS. Mr. Chairman, it's been interesting to listen to the debate on this amendment. I envy the many Members who have spoken and who are able to see support or opposition to the amendment as the clear and obvious choice. After studying the issue, after 4 years on the Science, Space, and Technology Committee, I am afraid I am genuinely conflicted about what is best.

Looking first at the international ramifications, I believe we do have to pay attention to the negative impact it will have on our space station partners if we kill the program. They have committed real money based on real agreements. We cannot be cavalier in dismissing that dimension of the decision before us. It will hurt us if we do not keep our agreements.

Although it is impossible to quantify or place a dollar value on considerations like U.S. leadership in space, that consideration is nonetheless significant. I do not want to see this country lose or compromise its aspirations to greatness or its status as the pre-eminent nation in space.

The question is what is best and right for America in the long term. This would all be so much easier were it not for the fiscal cul-de-sac we are in. Budget discipline, we are all finding out, involves real choices and real pain. No new starts in the Energy and Water appropriations. Zeroing out earmarked grants in the Treasury, Postal bill. Now this.

I have a hard time envisioning a space program for America 20 years hence that does not include a manned, orbiting facility of some kind. Does that mean we should stay the course with the current space station program? Or, does it make sense to put this troubled program aside for now, keep the manned program going with shuttle, and come back with a better, less-compromised approach, when the budget is in better shape, and, arguably, when intervening manned and unmanned activities will have enabled a better conceived and engineered station?

I am especially worried about the effects of this amendment on the space science and applications program at NASA. There is no way we can ignore the very severe impact of a half-billion-dollar reduction there in order to make room for station. Yet, the most recent and persuasive review of NASA priorities by the Augustine Commission recommends this as the area to get top priority.

Whether it is EOS, or AXAF, or any of several other projects, there is good evidence that we will be getting more and more significant and needed knowledge from this part of NASA's budget. It may even carry the same—or better—commercial spin-off potential as station. And the gnawing question remains as to how much of the science conducted on station could not be done safer and cheaper and even better via unmanned satellites and probes.

Looking further at the budgetary implications, the out-year predictions are uncertain. I would love to buy the proposition that, with the rescoped station, we have seen the end of the ramp-up, and the only increases that lie ahead are modest, annual inflation adjustments. It does stretch my faith, however, to make a decision today that depends to any great degree on that prediction coming true. And if it does not, as Chairman TRAXLER points out, things are only going to get worse next year and the year after.

I believe the United States should continue to have a manned space program. Space station would certainly be the most compelling and dramatic way for us to do so. My thinking on this amendment is colored, however, by the fact that the shuttle program should and will continue, even if station—in its present configuration—does not.

The decision on this amendment carries very direct consequences for my district in Colorado—a district that is home to world class scientists and engineers employed by universities, Federal research agencies, and many private firms, large and small. I have sought their advice on this. They, too, are divided. But the clear preponderance of informed, professional advice from my area is—if the choice between station and the rest of NASA's research and development budget has to be made—to choose, with regret, to cut space station.

In an issue like this, institutional tactics should come last. No one knows what the Senate will do, or how to position the House to get the best outcome in conference. What we do know is that this vote today is not going to be the end of this issue. And so, I choose to weigh in at this time, and under the current circumstances, and with clear admission of my own uncertainty about this, on the side of retaining the Committee's numbers. I'll continue to study the question and will welcome all the advice and counsel I can get.

Ms. PELOSI. Mr. Chairman, I rise today in strong support of H.R. 2519, the VA-HUD-Independent Agencies appropriations bill and urge my colleagues to reject all amendments to reduce funding for the vitally needed. I would like to commend Chairman TRAXLER and the members of the subcommittee for their wisdom and their courage in addressing our urgent and pressing domestic problems. This bill is a fine example of realistically balancing an achievable vision of space science and the future with a humane understanding of the more earthly needs of our citizens today.

I oppose the Chapman-Lowery amendment and urge my colleagues to oppose it also. The Appropriations Committee has recommended a fair approach here. While trying to reduce the Federal deficit, we plainly and simply cannot afford to begin construction of the space station, a big-ticket item, which unfortunately must compete with housing, the environment, and veterans for funding.

The space station is a big, glossy, high-tech experiment. In the best of all possible fiscal worlds, we could afford to experiment. Unfortunately, we are not living in the best of all possible fiscal worlds. This amendment would make very deep cuts in the other NASA programs, cuts we cannot afford to make. I am concerned that these cuts to other NASA programs would then have to be restored by the other body. Funds to restore these programs will have to be found elsewhere, in HUD, EPA and the Veterans Administration. Thus, while the Chapman-Lowery amendment cuts only one vital housing program, I am concerned that its passage would result ultimately in deep cuts in other desperately needed domestic programs. If we choose to spend vast amounts of scarce resources on this particular experiment, we are choosing ultimately to once again ignore urgent domestic needs.

The bill before us has vision. It provides full funding for the National Science Foundation, and virtually full funding for NASA's budget request aside from the space station. H.R. 2519 is a commitment to the wholehearted pursuit of science in the public interest, science which is a keystone of our economic future.

How can you look at a homeless child, who is struggling to survive on a daily basis, and not understand that without adequate shelter, education, and health care, this child will not be part of a productive future. We are rich as a nation because of our people. We must work today to meet the basic needs of our people.

We have a stark choice before us. We must make the fiscally responsible choice and acknowledge that housing America is part of this Government's role and responsibility. I urge my colleagues to vote against the Chapman-Lowery amendment. As long as we have earthly needs, the heavens can wait.

Mr. FEIGHAN. Mr. Chairman, I rise in strong support of the Chapman-Lowery amendment.

Some have cast this vote as choice among priorities—do we fund the space station or do we fund vital housing programs? Others have said that this vote is about fiscal responsibility.

I believe that this vote revolves around two different issues. The first goes to the heart of whether or not the United States will be technologically competitive in the 21st century.

The space station is the core of our science and technology efforts. To renege on our commitment to this program and to eliminate the funding would be shameful. To give up our leadership role among other nations in the effort to build the space station freedom would be senseless.

And to ignore the dreams of our children and other future Americans—to say "we can't do it, let the Japanese and the Europeans do it"—would be tragic.

We've lost our competitive lead in industries like rubber, steel, and autos. But what remains as America's hope for the future is our technological ingenuity.

Make no mistake about it: A space station will be built. We will decide today whether or not we lead the effort and reap the benefits.

The second issue before us—why are we even here today arguing between our country's scientific and technological needs and other vital domestic needs? Today's vote is the first and most graphic demonstration of the faulty foundation of last year's budget agreement.

The Congress is effectively boxed in by a false set of choices. We are forced to play off one vitally important domestic program against another:

Veterans' medical care versus environmental clean-up; education versus crime control; the space station versus housing subsidies.

We shouldn't have to choose between the space station and housing funds—both are necessities and both are priorities. We should be able to look at the entire trillion dollar budget and make room for these priorities.

We should be able to say "no" to one more B-2 bomber and "yes" to our scientific and technological security.

Thirty years ago, John Kennedy challenged this country to put a man on the moon by the end of the decade. An earlier generation of lawmakers rose to that challenge.

Today, we are challenged in exactly the same way. We risk losing much more than just a space station. We risk our kids' futures and their ability to compete in a high-technology society.

And above all, we abdicate the responsibility of teaching our children the most important lesson of all: That our thirst for knowledge, our curiosity about our world, has made the United States the world's technological leader.

Let's rise to this challenge. Let's pass the Chapman-Lowery amendment.

Mrs. BOXER. Mr. Chairman. I rise in opposition to the Chapman-Lowery amendment and in strong support of the bill crafted by Chairman TRAXLER and his colleagues on the Subcommittee on VA, HUD, and Independent Agencies.

The United States must strive to develop a space program that offers the greatest possible benefits to the American taxpayer. NASA has had tremendous success with unmanned space flights—the *Voyager 2* being one of the most prominent recent examples. Programs such as *Voyager* help the United States to maintain its role as a leader in research and development of high technology.

It is not at all clear that the space station would contribute to America's efforts to lead the way in space sciences. The space station has been assigned two scientific purposes; microgravity research and life sciences research. In fact, the consensus in the scientific community appears to be that the space station is not needed for microgravity research, most of which can be carried out on unmanned vehicles, and that extensive life sciences research should be undertaken only if we are ready to commit to a Mars expedition—at a price that might well exceed $500 billion.

The National Research Council examined these objectives and stated: "Most of these goals could be achieved in both a more timely and more cost-effective manner by alternative means." The VA–HUD Subcommittee has wisely allocated funds to study alternatives to the station, a measure I strongly applaud.

The issue of cost is a critical one. Both GAO and the staff of the Subcommittee on Government Activities and Transportation, which I chair, have found that NASA has grossly and repeatedly understated the costs of the station. NASA has publicly estimated the cost of the station at $30 billion, but this figure accounts only for the costs to achieve permanent occupancy. However, NASA's estimate of $30 billion understates even the initial costs it is meant to cover. GAO estimates that it will cost $40 billion, not $30 billion, to achieve permanent occupancy. The subcommittee staff estimates that it will cost $51 billion.

Even for this first phase, NASA fails to include costs of the crew return vehicle, full cost of shuttle flights to build and service the station, and the costs of the scientific equipment that will be placed aboard the station. Over its 30-year life, the cost of the station is estimated by GAO to run up to $118 billion; the subcommittee places the cost at $180 billion. The only significant difference between the subcommittee's methodology and that applied by GAO is that the subcommittee accounts for the full cost of each shuttle flight while GAO accounted only for marginal costs.

In an era of burgeoning deficits, we must take great care not to embark on extravagant symbolic ventures. This is especially true when proven alternatives exist. Many of these alternatives would be slashed pursuant to this amendment.

One key program threatened by this amendment is the promising Mission to Planet Earth, which should greatly improve our ability to understand and interpret global climate change. This program could be a cornerstone in our efforts to study and cope with our changing environment. Unfortunately, the amendment would cut funding for this program by 16 percent.

America needs a vigorous and robust space program—a program that benefits American scientists, scholars, and consumers—a program that benefits those who swim in our oceans as well as those who scan the stars. A fundamental prerequisite for NASA projects should be solid science, not glamour. I believe that the bill as reported out of committee reflects the priorities of the American taxpayer and the American scientist, and I urge a "no" vote on the amendment.

The CHAIRMAN. All time under the unanimous-consent agreement for debate on these amendments has expired.

The question is on the amendments en bloc, as modified, offered by the gentleman from Texas [Mr. CHAPMAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GREEN of New York. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 240, noes 173, not voting 18, as follows:

[Roll No. 141]

AYES—240

Allard
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bryant
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Cardin
Chandler
Chapman
Clinger
Coleman (MO)
Coleman (TX)
Combest
Cooper
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dickinson
Dicks
Dixon
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Fascell
Fawell
Fazio
Feighan
Fields
Franks (CT)
Frost
Gallegly
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (TX)
Jones (NC)
Kasich
Kennelly
Klug
Kolter
Kopetski
Kyl
Lagomarsino
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Machtley
Marlenee
Matsui
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillen (MD)
Meyers
Michel
Miller (OH)
Mineta
Mollohan
Moorhead
Moran
Morella
Morrison
Myers
Neal (MA)
Nichols
Oakar
Ortiz
Oxley
Packard
Pallone
Pease
Perkins
Peterson (FL)
Petri
Pickett
Pickle
Porter
Quillen
Rahall
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Skeen
Slattery
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NOES—173

Abercrombie
Alexander
Andrews (ME)
Anthony
Atkins
AuCoin
Beilenson
Bereuter
Berman
Bonior
Boxer
Bruce
Bunning
Camp
Carper
Carr
Clay
Clement
Coble
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coughlin
Cox (IL)
Coyne
DeLauro
Dellums
Derrick
Dingell
Donnelly
Dorgan (ND)
Duncan
Durbin
Dwyer
Early
Engel
Espy
Evans
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gilman
Gonzalez
Grandy
Gray
Green
Guarini
Hamilton
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hoyer
Hughes
Jacobs
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Kolbe
LaFalce
Lancaster
Leach
Lehman (FL)
Levin (MI)
Lewis (GA)
Lowey (NY)
Luken
Manton
Markey
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McMillan (NC)
McNulty
Mfume
Miller (CA)
Mink
Moakley
Molinari
Montgomery
Moody
Murphy
Murtha
Nagle
Natcher
Neal (NC)
Nowak
Nussle
Oberstar
Obey
Olin
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (MN)
Poshard
Price
Pursell
Ramstad
Rangel
Ravenel
Ray
Reed
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Skaggs
Skelton
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stokes
Studds
Synar
Towns
Traxler
Unsoeld
Upton
Visclosky
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Wolpe
Wyden
Yates
Zimmer

NOT VOTING—18

Ackerman
Bilbray
Borski
Campbell (CO)
Dymally
Gallo
Huckaby
Kostmayer
Martin
Martinez
Miller (WA)
Mrazek
Shuster
Sisisky
Slaughter (NY)
Solomon
Vento
Williams

☐ 1925

The Clerk announced the following pairs:

On this vote:

Mr. Dymally for, with Mr. Ackerman against.

Mr. Solomon for, with Mr. Vento against.

Messrs. WYDEN, PAXON, and McNULTY changed their vote from "aye" to "no."

Mr. TORRES changed his vote from "no" to "aye."

So the amendments en bloc, as modified, were agreed to.

The result of the vote was announced as above recorded.

Mr. SYNAR. Mr. Chairman, today I voted against two amendments on the VA–HUD–Independent Agencies appropriation for 1992. I voted against the Traxler amendment to increase funding for VA medical care by $33 million because the increase in funding is financed by taking $20 million from the EPA's important Superfund Program. I also voted against the Chapman amendment which provides $1.9 billion in funding for the space station and $33 million for VA medical care by freezing spending on NASA programs and cutting $250 million from HUD public housing operating subsidies.

I have always been a strong advocate and supporter of veterans programs in our country. So it is with reluctance that I must vote against both these amendments. The 1990 budget agreement requires that increases in domestic spending be offset by other cuts in domestic spending. Given these rules, a compelling argument must be presented in order to increase funding for one worthy program at the expense of another worthy program. I could support these amendments if the cuts came from unworthy, wasteful Government projects or services. These amendments, however, would slash two particularly vital domestic programs.

As chairman of the Environment, Energy and Natural Resources Subcommittee with direct oversight over the EPA's administration of the Superfund Program, I do not believe it is at all appropriate to reduce funding for the Superfund Program. The existing Superfund sites are among the worst hazardous waste sites in the country. The current program is already overburdened and underfunded. In addition, the Superfund Program is often the last resort for hazardous waste site cleanup because of funding shortfalls in RCRA and other clean up programs. Reducing funding for Superfund sends a disturbing signal about our Nation's commitment to hazardous waste clean up.

I opposed the Chapman amendment because I do not believe it is prudent to increase funding for the space station at the expense of vital NASA programs, Federal science projects, and public housing subsidies. While there is a need for space exploration, the recent design modifications aimed at cutting the cost of the space station have reduced the proposed station's capabilities, and several scientific review boards now are questioning the scientific justification for spending such large sums on such limited uses. In light of our country's severe budgetary constraints, I cannot support an amendment authorizing $1.9 billion for a project whose ultimate cost is estimated by the GAO to cost $118 billion over the next 30 years and whose mission continues to narrow.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1993, $226,795,000, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,113,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $40,479,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1993.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $854,204,000, of which $42,000,000 for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration shall not become available for obligation until September 1, 1992, and shall remain available for obligation until September 30, 1993: *Provided*, That in addition to the foregoing amount made available under this head, $14,100,000 is appropriated for the unbudgeted fiscal year 1992 incremental costs associated with Operation Desert Shield/Operation Desert Storm and such funds are hereby designated to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the $616,658,000 appropriated for the Veterans Benefits Administration in the "General operating expenses" appropriation of Public Law 101-507, is reduced to $613,658,000, and the $3,000,000 shall be available for the National Cemetery System.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $28,000,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 230, 1004, 1006, 5002, 5003, 5006, 5008, 5009, 5010, and 5022 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $522,000,000, to remain available until expended: *Provided*, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1992, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1992, and (2) by the awarding of a construction contract by September 30, 1993: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 230, 1004, 1006, 5002, 5003, 5006, 5008, 5009, 5010, and 5022 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $189,701,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That not more than $45,176,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $19,200,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care": *Provided*, That from funds previously appropriated under this head, the Department of Veterans Affairs shall construct parking facilities with at least 1,500 spaces at the Detroit VA Medical Center.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $85,000,000, to remain available until September 30, 1994.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $5,104,000, to remain available until September 30, 1994.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1992 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1992 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

Mrs. LOWEY of New York. Mr. Chairman, I move to strike the last word to engage in a colloquy with the chairman, the gentleman from Michigan [Mr. TRAXLER], regarding the Environmental Protection Agency's Long Island Sound Office.

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Mr. Chairman, EPA is in the process of establishing the Long Island Sound Office, authorized under the Long Island Sound Improvement Act, Public Law 101-508. Mr. Chairman, Public Law 101-508 authorizes EPA to expend such sums as are necessary to pay for administrative costs of the Long Island Sound Office. EPA is moving quickly to carry out this mandate. In fact, I understand that EPA will announce the siting of the Long Island Sound Office very soon.

Is it the committee's intent to include language in the statement of the managers' at conference directing EPA to give priority to this important endeavor?

Mr. TRAXLER. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY of New York. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentlewoman from New York for her question. The committee recognizes the commitment of the Long Island Sound Office to cleaning up the sound and supports the efforts of EPA to establish the office on an expedited basis. The committee would be pleased to consider language at the time of conference urging EPA to continue its priority support for this important facility in fiscal year 1992.

Mrs. LOWEY of New York. I thank the chairman for his consideration of my request.

Mr. HERTEL. Mr. Chairman, I move to strike the last word for the purposes of a colloquy.

Mr. Chairman, I would like to address language in the committee report on page 45 relating to data management. In reading this language, I couldn't help thinking how important it is for there to be coordination in the development of environmental data and geographic information systems. The appropriations report includes rather specific directives for EPA with respect to taking a leadership role in the integration of data from remote sensing systems and terrestrial sources and making this data available to policymakers and the public.

It occurs to me that EPA is not the only agency engaging in environmental and geographic data management system enhancements. The National Oceanic and Atmospheric Administration [NOAA] is currently planning a major new program for archiving and accessing environmental data, and the National Aeronautics and Space Administration [NSAS] is devising systems to manage its ever-increasing requirements for storing and retrieving satellite data.

In making their proposals to Congress, each of these agencies goes through a separate and distinct review process by congressional committees concerned with the effective management of each of their programs. While promotion of efficient data management systems is a laudatory goal for environmental and geographic data, coordination between the agencies during the development stages is crucial. I am all too familiar with the mistakes that can be made, resulting in significant ill-spent dollars when coordination does not take place between various agencies handling related data and serving similar users.

Recently, the Merchant Marine and Fisheries Committee consulted with the General Accounting Office about its data management initiative for NOAA. We found overall that Federal agencies involved in environmental data collection and retention need to consult with each other and with Congress before initiatives for new systems moved forward.

There appears presently to be little coordination. With the advent of new systems and enhancements, the danger exists that opportunities to avoid duplication, to ensure compatibility of data retrieval, access, and exchange, and to spend Federal funds wisely could fall by the wayside. Instead, agencies could independently pursue data management systems that are costly, limited in use and scope, or are duplicative and incompatible with others.

For these reasons, Mr. Chairman, I would like to suggest that EPA consult with NOAA and NASA so that environmental data systems, such as remote sensing data systems, are developed and enhanced in a coordinated multiagency effort.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I appreciate your comments and understanding about the necessity for coordination between EPA, NOAA, and NASA regarding environmental data systems. You have made some worthwhile observations, and I would agree that your suggestions should be reflected as supported by the committee.

I might also tell the gentleman that there is an outstanding, nonprofit entity in Michigan which has contracts with NASA now to do many of the things the gentleman is talking about, and that entity is CIESIN, and I will be pleased to discuss that further matter with the gentleman.

Mr. HERTEL. We just want all the agencies to work together and not go their separate ways.

I thank the chairman for his consideration.

Mr. STUDDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as you know, H.R. 2519 appropriates several million dollars to the Environmental Protection Agency to carry out the administration's so-called coastal America initiative. My question is whether the committee intends that, of this amount, $750,000 shall be available to EPA solely to develop the guidance for control of nonpoint sources of coastal pollution as required by section 6217(g) of Public Law 101-508; $1.25 million shall be available for coastal America projects generally; and all the remaining funds shall be available solely to fund projects called for by the comprehensive conservation and management plans approved by the EPA under section 320 of the Clean Water Act?

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Michigan.

Mr. TRAXLER. The answer to the gentleman's question is yes, that that is what the committee's intent is, and I thank the gentleman for the colloquy and the question.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1992 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities", shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1991.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1992 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the HOPE for Homeownership of Multifamily Units Program as authorized under title III of the United States Housing Act of 1937 and subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), $100,000,000; for the HOPE for Homeownership of Single Family Homes Program as authorized under title III of the United States Housing Act of 1937 and subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act, $100,000,000; and for the HOPE for Elderly Independence demonstration program as authorized under section 803(k) of the Cranston-Gonzalez National Affordable Housing Act, $10,000,000: *Provided*, That all amounts shall remain available until expended.

AMENDMENTS EN BLOC OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. KOLBE: Page 15, line 19, strike "For" and insert the following: "For the HOPE for Public and Indian Housing Homeownership Program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitle A of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), $150,000,000; for".

Page 25, line 16, strike "$203,413,000" and insert "$53,413,000".

MODIFICATION OF AMENDMENTS EN BLOC OFFERED BY MR. KOLBE

Mr. KOLBE. Mr. Chairman, I ask unanimous consent that my amendments en bloc be modified to reflect the precise figures.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendments en bloc offered by Mr. KOLBE: In the matter proposed to be inserted on page 15 by the amendment, strike out "$150,000,000" and insert "$151,000,000";

In the matter proposed to be inserted on page 25 by the amendment, strikeout "$53,413,000" and insert "$52,413,000."

The CHAIRMAN. Is there objection to the modification?

There was no objection.

The text of the amendments en bloc, as modified is as follows:

Amendments en bloc offered by Mr. KOLBE: Page 15, line 19, strike "For" and insert the following: "For the HOPE for Public and Indian Housing Homeownership Program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitle A of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $151,000,000; for".

Page 25, line 16, strike "$203,413,000" and insert "$52,413,000".

The CHAIRMAN. The Chair recognizes the gentleman from Arizona [Mr. KOLBE] for 5 minutes to speak on behalf of his amendments en bloc.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I am happy to yield to the gentleman from Michigan, the distinguished chairman of the subcommittee.

Mr. TRAXLER. Mr. Chairman, if I understand the situation correctly, of course, this is an important amendment, and we have also had it on a previous occasion a few months ago.

Would the gentleman be willing to consider an hour's time limitation, one half-hour to the gentleman from Arizona and the other half-hour to be controlled by myself?

Mr. KOLBE. I would be quite happy to entertain such a unanimous-consent agreement. I think that we have certainly spent a great deal of time talking about one issue here today, and I think most of the Members of this body would probably like to see us get on as quickly as possible. I think a time limitation of an hour or something in that nature would certainly be satisfactory as far as I am concerned.

Mr. TRAXLER. I will give 15 of my minutes to the gentleman from New York [Mr. GREEN].

Mr. KOLBE. Mr. Chairman, I ask unanimous consent that 15 minutes of my time be given to the gentleman from Mississippi [Mr. ESPY].

Mr. TRAXLER. Mr. Chairman, I ask unanimous consent, under these conditions, that the time be limited to 1 hour, that the time be equally divided between myself and Mr. KOLBE, and that I be allowed to give 15 minutes of my time to the gentleman from New York [Mr. GREEN].

Mr. WEBER. Mr. Chairman, reserving the right to object, just to clarify it do I understand the agreement is for 1 hour of debate, 15 minutes controlled by the chairman, 15 minutes by the gentleman from New York [Mr. GREEN], 15 minutes controlled by the gentleman from Mississippi [Mr. ESPY], and 15 minutes controlled by the gentleman from Arizona [Mr. KOLBE]?

Mr. TRAXLER. The gentleman is correct. Yes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona [Mr. KOLBE].

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Mr. KOLBE. Mr. Chairman, I yield myself such time as I may consume. I rise today to offer this amendment on behalf of the gentleman from Mississippi [Mr. ESPY] and myself. It is an amendment which should be familiar to Members of this body because we have seen this issue before on the supplemental appropriations bill we considered in March of this year.

I want to leave time for other Members to talk, so let me make my points as briefly and quickly as possible, and I will reserve the balance of my time.

Let me talk about what this amendment is. Simply, it is an amendment to find a program that this body spoke on very strongly last year in authorizing the Affordable Housing Act. It would take $150 million, money that is over, over the authorized level. It would take that money from the Flexible Subsidy Program, a program that goes to developers, private developers to rehabilitate housing projects, and put that into the hands of poor people to allow them to own their own homes in public housing projects. It is as simple as that.

It is budget neutral. It takes money from an authorization only to the extent this appropriation exceeds the authorization. It is an irony today that I stand here as a member of the Committee on Appropriations defending the position of the authorizing committee. The $150 million that was put in by the chairman, by the subcommittee and the full committee is for a program called Project Repair. This is a program for which there have been no hearings in the Authorizing Committee and for which there has been no discussion. So, the program is not authorized. Let me make it clear that the dollars that are going into this program from the Flexible Subsidy, the $150 million going into this program, does not affect the authorized amount. Indeed, the $52 million that is authorized and appropriated for, if this amendment is passed, is 13 times higher than any amount put in the Flexible Subsidy Program since 1982.

So no Member can suggest we are short-changing the Flexible Subsidy Program. Rather, we are putting this unauthorized amount into a program that this Congress authorized and spoke on last year, when we adopted the HOPE program.

What is HOPE? It is very simple. It says that people who are less fortunate ought to have a chance to own their own home. It says that home ownership should not only be the dream of middle America, upper class America, but ought to be a dream that can be realized by people that live in public housing projects. They too, should have their opportunity to own a home.

It would get this program started, with a very modest $150 million, well below the amount that this body authorized last year, but an opportunity to at least get HOPE I started. We authorized three HOPE programs: One for public housing, one for multifamily housing, one for single-family housing. This one is for the public housing. It would get that program started.

It does not, let me say once again, does not cut into a program that currently exists. It does not take any money out of Section 8 vouchers. It does not cut into support for public housing. At the very least, if every bit of these dollars are spent, we are talking about less than one-half of 1 percent of all public housing units that might be sold to poor people who could occupy and own those homes. We are not talking about depleting the public housing stock.

This is a program that Congress spoke to last year. It is a program the authorizing committee said we ought to implement. I would remind Members that in the debate we had on the supplemental appropriations bill, the chairman of the subcommittee, the ranking member, and those who spoke against funding HOPE in a supplemental, said every effort would be made to give funding for these programs this year. I appreciate the difficulties that they find themselves under. However, the time has come for members to say that we ought to provide home ownership for the poor. We ought to give the same hope for people who are less well-off than we are. We ought to give them the opportunity to own their own home. We ought to give them an opportunity to participate in the American dream.

Therefore, I hope this body will support this amendment, a very modest attempt to get the HOPE I program started.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAXLER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Chairman, I want to start off by complimenting the gentleman on the very capable manner in which has handled these very difficult areas.

I rise in opposition to the amendment. This is, again, a robbing-Peter-to-pay-Paul type of situation. It is an attractive, but illusory amendment.

What it does on one hand will be minimal, and the defect and impediments that it will provide for the existing housing programs that are shaped, and the only ones existing, the only ones our country has ever shaped up for the poor, very poor, will suffer as a consequence. I hope it will be voted down.

Mr. ESPY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of this amendment is to shift a relatively small amount of money into a program which I believe really has huge possibilities. We all have heard the saying, Mr. Chairman: Give a man a fish, he eats for a day; if we teach him how to fish, he eats for a lifetime. However, in this amendment, we are not talking about just giving or just teaching, but in fact we are talking about acquiring, acquiring the fisher. If we can do that, that in turn lays the basis; if we can convert folks from tenants into homeowners, that converts them and moves them into the mainstream. That is what this is all about.

This amendment would fund the HOPE I program at $151 million, less than half the authorized level of $380 million. It would affect less than one-half of 1 percent of HUD's total budget and affect even less of the total stock of public housing. However, it would help 6,500 families in public housing achieve homeownership. It would help another 23,250 families in 233 projects begin planning for home ownership conversions. The amendment would provide $20 million in planning grants and $131 million for implementation grants, most of which would be used for rehabilitation of public housing and public assistance.

Mr. Chairman, the amendment would transfer funds from the flexible subsidy account, bringing that account down from $203 million to its authorized level of $52.8 million. Even with this deduction, $75 million from excess rental payments would still be available from the balance of that program. So we clearly are not talking about a radical change in public housing policy, but in fact we are talking about an important change in our approach toward those who live in public housing.

Mr. Chairman, there is a book on the New York Times best seller list that chronicles the movement of African-American people from the South in the 1940's and in the 1950's. These people began to move off the plantation into other areas across this country. Experience taught them that the person who controls your home controls your life. They knew that new hardships would come with leaving the plantation, but the hardships for staying were worse. I believe today many of the low-income Americans live in public housing, which is a lot worse off than living in some of those plantations of old, and so we are trying to change that. They are effectively trapped into transitional housing which in many cases is not fit for human beings to live in, but most of all, Mr. Chairman, they are trapped in a cycle of poverty, with no way to accumulate the skills or the assets that they need to move ahead. Without accumulating assets, the poor are destined to remain poor. Assets, Mr. Chairman, not necessarily income, is what separates the haves from the have-nots. The richest 5 percent of Americans receive the same amount of income as the bottom 40 percent, but the richest 1 percent of Americans own more assets than the bottom 80 percent combined.

This year, Mr. Chairman, we will provide $60 billion in tax deductions to homeowners, middle-income and upper-income homeowners. I support that. I will always support that. That will help them continue to build assets. However, that is more than twice this entire HUD budget combined. I think that we ought to be willing to spend a fraction of that to help those residents of public housing who have a desire to develop some assets of their own. Homeownership, in my opinion, is the best way to do that, and the quickest way to accumulate those levels of assets.

The HOPE program that we are seeking to fund today will not turn public housing residents into condominium owners. It will not solve all their problems. In fact, this program is not for every tenant in public housing projects. It is definitely not for every public housing project. There are some projects that tenants would not even want to own, where the only reasonable goal is to escape as soon as possible.

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There are some projects that are albatrosses that no reasonable person would suggest hanging around the necks of any tenant.

But there are some other tenants in other public housing projects who, with the proper planning and assistance, would welcome the chance to own their own home. That is in fact what HOPE offers. The Committee on Appropriations has provided $100 million each for HOPE II and HOPE III. I thank Chairman TRAXLER for doing that. It funds the acquisition of multifamily housing and single-family units.

The committee report, when you read it, reaffirms the belief that low-income residents deserve a chance to become homeowners.

I say we should extend that reaffirmation by funding HOPE I with additional dollars.

I have talked to my colleagues in my efforts as whip on this bill that there are some legitimate concerns that I would like to address briefly. There is a legitimate concern that the total stock of public housing would decrease if tenants purchased public housing units. There is a legitimate concern that public housing tenants will be saddled with unprofitable projects and left holding the bag after Uncle Sam has gone. There is a legitimate concern, which I think is legitimate, that with the large number of families already waiting for housing assistance, it is unwise to reduce the stock of public housing.

Mr. Chairman, I think that this program has been structured to help address those concerns, at least some of them.

Very briefly, we are not talking about just dumping the worst public housing stock onto public housing tenants and saying, "You're on your own." Hope I funds would be used for planning assistance, for economic development assistance, for rehabilitation assistance, and for implementation. Tenant prticipation would be voluntary.

Planning assistance will be used to help organize tenants and tenant associations, to help teach them the responsibilities of home ownership so they can decide whether or not this is something they want to do. This is entirely voluntary.

Implementing grants will be available to help tenants learn how they can budget and how they can maintain their units. More importantly, implementation grants will be available to help rehabilitate the units before they are sold.

Operating assistance will be available for 5 years and, in some cases, for 10 years.

An adjustable post-sale subsidy will be available so that martgages are no more than 30 percent of a family's income. Those projects which cannot realistically be expected to become self-sufficient at the end of the subsidy period will not be approved, period.

The last concern, Mr. Chairman, the concern about the reduction of our low-income housing stock, is legitimate. However, for every unit sold to one low-income family, funds will be made available to assist another through vouchers, rehabilitated vacant public housing units or State or locally developed housing units. The total number of families receiving assistance will increase because the law now declares a 1-for-1 replacement. But the foundation would be laid so that more families can start accumulating the training, the experience and, most of all, the assets they need to escape public housing altogether.

I think we ought to learn from our failures and improve upon our successes.

The goal of this program is not simply to reduce the public housing stock. It is, rather, to take an affirmative step toward helping reduce the number of people who have no alternative other than public housing in the first place.

This program is not a panacea, that is for sure. It is not intended to replace other HUD housing programs to assist the first-time home buyers, but which are beyond the reach of most public housing tenants. We will have to monitor those very carefully and work with HUD, we will have to work with other tenant groups and we most certainly will have to follow the progress of the projects. We will have to learn from the sucesses and from the failures, and there will be some of both.

Lastly, Mr. Chairman, let me say that we must emphasize that this program is not for every tenant in public housing, and it is definitely not for every public housing project. But for those who are willing to risk becoming homeowners, I believe HOPE I will at least offer them a hand. There are risks, but it seems to me the potential greatly outweighs those risks. I think simply it is worth a try.

Again, my colleagues, we are only talking about less than 1 percent of the HUD budget. That is a small amount of money to spend to give public housing tenants a chance at owning their own piece of the pie, toward giving them a chance to move from dependence to independence.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. GREEN of New York. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

I should like to explain what the committee actually did in terms of funding the new programs. The fact of the matter is we funded the HOME program and we funded two of the three parts of the HOPE program, the part dealing with multifamily home ownership and single-family home ownership, and that funding was roughly in the ratio of the authorizations in the housing bill of last year.

Given the fact that the housing bill authorized $4 billion more in appropriations that the then-current appropriations level, there was no way we were going to be able to fund everything to the full level authorized in the housing bill.

I am sure members of the Committee on Banking, Finance and Urban Affairs and its Subcommittee on housing understand that and understood that, but those unrealistic funding levels are what they had to do to arrive at the compromise which got us the bill last year.

I do not criticize them for doing it.

As I mentioned, we had funded the HOPE for a single-family home ownership and the HOPE for multifamily home ownership. What we did not fund through the HOPE vehicle was the program for the sale of public housing to its tenants,

I want to compliment the gentleman from Mississippi [Mr. ESPY] for his statement because I think he recognizes the experimental nature of this program and the fact that it has some high degree of risk in it. Just to give one example, in HUD's testimony before us they indicated that in order to make the economics of the program work, tenant incomes would have to increase at 5 percent above inflation each year in order for tenants ultimately to be able to afford to keep up this housing without subsidy.

Now, that is a fairly daunting economic assumption. Because of the risks inherent in this program, several years ago, back in 1984, HUD, in fact, initiated a demonstration program for the sale of public housing to tenants. After some discussions with our subcommittee, we finally told them, "Go, ahead and do it at a 2,000-unit level." They have, as of a couple of weeks ago, sold 343 of those 2,000 units to their tenants. So, obviously, this has not been a fast-developing program.

I think that raises some real issues as to how much money we want to tie up in it, given the delivery rate thus far.

However, I was persuaded that HUD had in our hearings come up with a very good explanation of why the sales rate had been so slow. It was the fact that in our committee report, I guess it was back around 1985, we had included a requirement that they replace on a 1-for-1 basis any of the units that were sold.

I agree with them, that is a fairly stiff requirement and plainly it has slowed them down. As a result, our subcommittee, in response to that explanation by HUD as to why it had not been able to make better progress, removed that requirement for a 1-for-1 replacement. There is bill language in the bill which will remove that for the remaining 1,650-plus units that remain available for sale under the demonstration.

Now, HUD is currently experiencing a cost of about $30,000 per unit to fix up these units so that they are in a shape to sell to tenants. I think that tells us how badly we have underfunded the public housing operating program and the modernization program over the years as reflected in this enormous deficit in maintenance that has to be made up before anyone would think of selling these units to the tenants.

In any event, if one multiplies that $30,000 which HUD has been getting from modernization money, or some communities have been getting from Community Development Block Grant funds, if one multiplies that $30,000 by the 1,650-plus units that remain in the demonstration, one will see that in fact we have not blanked out the ability of HUD to engage in the sale of public housing to its tenants but in fact have relaxed the rules under which they can go ahead with a $49.5 million program.

□ 2000

Given the very slow pace of the sales until now with that restriction on, I think it makes sense to see if they can move the program more rapidly now that that restriction is off, and I think it will also give us more time to see whether some of these very extreme assumptions as to the growth in tenant incomes will really be there when all is said and done.

So, I agree with the gentleman from Mississippi [Mr. ESPY] that this is an experiment, and probably we are going to have success and failures along the way. I guess where I disagree with him is that we already have a demonstration in place at HUD to test the program, and to see what its strengths and weaknesses are. I think that elimination of the 1-for-1 requirement, will enable HUD to prove whether this program can move along more rapidly or not, and whether the pitfalls that some say are there are there or not. It would seem, to me we ought to proceed on that basis rather than accelerating the programs even more.

Mr. Chairman, I am particularly concerned, of course, that the funding for this is coming from the flexible subsidy program, and I say that because we tried to respond in the increased flexible funding to a request by the administration for a new project repair program which will use the flexible subsidy fund as a financing conduit. The program is part of the administration's effort to deal with distressed housing and with the growing backlog of multifamily projects which are either financially or physically troubled or have the potential to become so in the near future.

These are all subsidized, and either FHA-insured projects or direct loan projects, such as those under the section 202 program. If we do not do the necessary repairs, if we do not keep these projects up, if we allow them to slip away, as we have allowed public housing to slip to the point where it is taking $30,000 a unit to bring it up to snuff, these projects are all going to be in default, and we are going to have very substantial losses either to the FHA insurance fund or, in the case of the direct loans, defaults directly to the Federal Government.

Mr. Chairman, it seems to me that this is a real stitch in time saves nine kind of case, and it is really unwise to tap the flexible subsidy fund in order to accelerate the HOPE I Program beyond what the demonstration will provide. For that reason I would ask my colleagues to support the committee and reject the amendment.

Mr. KOLBE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just want to respond to one point that was made by the distinguished ranking member, the gentleman from New York [Mr. GREEN] when he spoke about the fact that these funds were requested by the administration. I point out the page from the budget request. It says the Project Repair Program will replace the flexible subsidy program in 1992. That is what the $200 million was requested for, for Project Repair. But Project Repair has not been authorized, let me repeat, has not been authorized, so we have $150 million in there for a program that does not exist. We are suggesting using this money for, this particular program, HOPE I.

Mr. Chairman, I yield 2 minutes to the distinguished ranking member of the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Arizona [Mr. KOLBE] for yielding.

Mr. Chairman, I regret that I must disagree with my distinguished chairman, but I do so respectfully.

Mr. HAYES of Illinois. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, as a Representative of a district that has 70,000 residents in public housing, I enter into the RECORD my statement and do so in opposition to this amendment.

Mr. WYLIE. Mr. Chairman, I support the Kolbe-Espy amendment because I feel it is essential to provide funding for the HOPE I Program which was authorized in last year's National Affordable Act, and I emphasize "authorized" in the Housing Act of last year. I feel that it is of vital importance to provide an appropriation for HOPE I, for public housing, home ownership. The HOPE Program was the keystone of Secretary of HUD Jack Kemp's effort during the debate of the National Affordable Housing Act last year, and I believe that he and the deserving people in public housing ought to have an opportunity to see if the program works.

Mr. Chairman, the gentleman from Arizona [Mr. KOLBE] and the gentleman from Mississippi [Mr. ESPY] are proposing to translate $151 million from the Federal flexible subsidy program. The gentleman from Arizona has made the point that this money was not authorized and also the point that the flexible subsidy program was designed to reduce claims on HUD's mortgage insurance funds by redirecting excess funds, and I emphasize "excess funds" from healthy projects to financially distressed projects. Even without an appropriation, flexible subsidy will receive approximately $87.1 million. The self-funding aspect of flexible subsidy is reflected in the fact that Congress has not found it necessary to appropriate moneys for this program since 1982. The $151 million has not been authorized, no hearings have been held. We have done a comprehensive reform of the FHA Program, and I think it is in a pretty healthy state. I urge adoption of the Kolbe-Espy amendment.

Mr. ATKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, let me say to my friend, the gentleman from Mississippi [Mr. ESPY], that he has given the best description, and I mean this quite seriously, of the home ownership program I have seen. I hope he will tutor the Secretary in the sophisticated version that he has given, and I will say to him publicly, as I said to him privately, that, if he gets the Secretary fully to subscribe to that and persuades of it, he will have a much easier sell.

My problem is not just with that, however, now, but with taking it from flexible subsidies, and people say in the handouts flexible subsidy goes to the developers. That is true, and, when we build weapons, it goes to the companies. We live in a private-sector society, and, when we do things and we spend Government money, the Government money goes to private individuals.

I am surprised to hear from my friends on the other side, in particular, the invocation of private companies as if this was a terrible thing. If private companies get money to do things which have a public purpose, that is a good thing in our society, and flexible subsidy is very much in that vein. If we reduce flexible subsidy, and I have to say to my colleagues, Mr. Chairman, given what we just did, a number of my colleagues say, "Well, we don't want to take this from public housing, but we're forced to because this is the budget structure. We want to preserve the space station."

As the gentleman from Mississippi [Mr. ESPY] correctly stated to his credit, "Renter will remain the mode of life for most poor people. We will try to help some become owners. It's expensive, and it's difficult, but we're going to try to do it."

But most poor people most of the time will rent housing.

Now the House has already reduced one pot of money that goes to maintain rental housing. Some Members did that reluctantly because of the space station, and I understand that. If we follow this now, by reducing flexible subsidies by this very large amount, if we cut it to about a quarter of what we are talking about, we will further reduce our ability to keep a stock of habitable rental housing because what flexible subsidy does is go to those private developers who build housing for low- and moderate-income people under Government rules, under programs known as 221(d)(3), 236 and help them keep it habitable, or when one owner defaults or allows this to walk away, we can provide some replacement. The flexible subsidy is a subsidy that allows the housing to be rented at less than market rates. That is where the subsidy word is. It is a subsidy so that people can live in this at less than market rates.

We have a lot of housing that was built under various programs over the years. This housing sometimes deteriorates or threatens to deteriorate or the owners run into trouble. It was a nonprofit group that meant well and could not run it. It was a profit-making person who could not be trusted. Flexible subsidy is what we used for the troubled projects.

There are Members here who will have in their districts projects in trouble, 221(d)(3), 236. They will come to help them working it out. This is it. Do not take it away.

Mr. ESPY. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman. I move to strike the requisite number of words.

Mr. Chairman, I find myself in a rather awkward situation. I am in a little puzzle tonight. Yesterday I sided with my colleagues primarily on this side of the aisle about the civil rights bill, and now I find myself in a rather distressing situation, seeing them opposing what I see is a fundamental civil rights reform in the HOPE and home ownership package suggested by the administration and supporting the amendment of the gentleman from Mississippi [Mr. ESPY] and the gentleman from Arizona [Mr. KOLBE]. We have a fight in America today about civil rights, but it is not only a fight about legal rights. It is also a fight about economic rights, and the entire concept of this proposal is to allow poor people to break the cycle and have the opportunity to have a home of their own.

□ 2010

This is kind of a crude analogy. We all know what a hotel room looks like when we leave it. Towels are scattered in one corner, sheets are ripped off the bed. My kids leave a hotel room in a mess. Somebody else is going to clean it up because it is not yours. But if it is yours, it is an entirely different matter. It is a place of pride, and it is a place of economic grounding, a place where you can plant flowers, a place you can paint, a place that is not only your house but also your home.

If we vote against this amendment, what I think we are telling people is that "we can't allow you to be trusted with your own future." As the gentleman from Mississippi said, there is a risk in voting for this project a risk that HOPE and HOME may fail, but I think there is a greater risk that if we do not take this opportunity and adopt this idea, we will allow people to be trapped in a cycle of poverty and trapped in large public housing projects for decades in years to come.

Pride of home ownership, as the Soviet Union is beginning to realize, is the key to perestroika in that country, and it is just possible that pride of ownership could be the beginning of restructuring in our own American cities.

Mr. KOLBE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would just like to make two quick points after listening to the gentleman from Massachusetts. First of all, no, we have no problem with private responsibility or private ownership and private developers. They support this amendment. I have a letter here from the National Association of Home Builders in support of it, and also I have one from the Public Housing Authority Directors' Association.

I also find it ironic that the gentleman from Massachusetts is on the authorizing committee and is here today speaking for $150 million for a program his committee has never authorized but he is against putting money into a program that his committee has authorized.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me.

Back in 1968, after the devastating riots in many cities of our country, everyone recalls that the Kerner Commission was created, and it restated in vital terms something that every American has always known, that every single American, virtually all Americans, wants to see the day come when they will own their own homes. In fact, the entire Commission report was based on that flowery, wonderful language:

> The American people's dream to own one's own home is shared by virtually all Americans, and we believe it is in the interest of the Nation to permit all who share such a goal to realize it.

That is what this is all about. If we give one family, one neighborhood, one community, the opportunity, the hope to gear their subsidies and all the other kinds of benefits that they now use ineffectively into home ownership, we will have succeeded magnanimously with one little program. That is what this is all about, to give people the opportunity for home ownership.

From the Kerner Commission we come to the Kemp commitment. This is Jack Kemp, who is no big spender, who is no liberal profligate, who wants to see moneys in the sums that have been stated here diverted into a program that will put people into home ownership and to use tax moneys for tax users who will become taxpayers. That is a wonderful blend of economic enterprise, of freedom of enterprise, of the ability to own a home, of breaking the cycle of poverty, of giving every single American that grand opportunity to be a homeowner. From the Kerner Commission to the Kemp commitment, we have an opportunity to stand up to all Americans here tonight.

Mr. Chairman, I ask the Members to pass the Kolbe-Espy amendment.

Mr. TRAXLER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in opposition to this amendment which would transfer desperately needed funds from other public housing programs. The amendment is based on an ill-conceived, politically driven plot devised to relieve the Federal Government of its responsibility to provide decent, low-income housing for the poor. It is a cruel scheme backed by those promoting the discredited notion of supply-side economics. The unsuspecting public housing tenants who desire home ownership are merely pawns in this political chess game. There is no hope for them at the end of Secretary Kemp's HOPE I rainbow because the rain will not stop falling.

Mr. Chairman, the HOPE I Program defies both common sense and common decency. For supporters of this amendment to suggest that the poorest element in our society—those who subsist primarily on welfare, food stamps, old-age assistance—who can barely afford clothing, medical care, transportation, and other basic necessities—to suggest that this Government will make home ownership for them a reality is a farce. It's unadulterated hypocrisy.

A recent report issued by the Budget Committee of this House indicates that the average income of public housing residents is less than $600 a month and the monthly operating costs of home ownership would exceed $300 a month. What family planner or economist envisions poor people spending 50 percent of their meager incomes for a mortgage and at the same time breaking the cycle of poverty? What banker would consider financing a house where the purchaser's monthly note in a slum neighborhood would equal 50 percent of his monthly income?

I am afraid that Mr. Kemp's HOPE Program offers only false hope.

Mr. Chairman, I am sick and tired of hearing about the wonderful accomplishments achieved at the Kenilworth project here in Washington, DC. Kenilworth is HUD's first effort under the Public Housing Sale Program. Hitler's Minister of Propaganda would be proud of the campaign of distortion and deceit used in describing Kenilworth. He said, tell a lie, tell it big enough, tell if often enough and it will become the truth. Well, the lies about success at the Kenilworth project are big enough and told often enough, but should not become the truth to intelligent, discerning persons. Kenilworth is a colossal failure. It is a tribute to Government's propensity for waste and abuse. So far HUD and the District of Columbia have spent in excess of $35 million to repair the 464 apartments. In addition another $10 million have been doled out in rent subsidies. The projected figures for the cost of improvements is $130,000 per unit. And these figures do not reflect the millions of dollars from other Federal and local tax-funded programs which provide support services ranging from day-care to van pooling to job training. Yet less than half of the units have been occupied since 1987. All of this assistance mind you is being provided to Kenilworth residents in a lopsided effort to make Kenilworth appear to be a successful program. The truth is, thousands of other poor people in public housing in this town who don't live at Kenilworth are being denied equal access to these social service programs.

Mr. Chairman, in St. Louis, HUD has been encouraging the sale of Carr Square Village, a public housing entity. The latest projected renovation and replacement costs at the project are $80,000 per unit or nearly $40 million for the entire project. Some 4,500 families in my congressional district are on a waiting list to get into public housing while thousands of structurally sound units remain boarded up because HUD claims not to have funds to make minor plumbing and electrical repairs. But to squander $40 million on this Alice-in-Wonderland make-believe dream consumes a major portion of Secretary Kemp's agenda.

Mr. Chairman, Secretary Kemp, I am sure, is sincere in pushing this program. But his efforts, in my opinion, are misdirected. This administration should stop fighting to reduce funding for public housing and discard this pie-in-the-sky notion that home ownership is the key to overcoming poverty. Hope of home ownership without adequate income, access to good health care, possibility of decent education—is a dream that will quickly dry up "like a raisin in the Sun." I urge defeat of the amendment.

Mr. GREEN of New York. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KYL].

Mr. GREEN of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. MCEWEN].

Mr. KYL. Mr. Chairman, I rise in strong support of the Kolbe-Espy amendment.

Mr. Chairman, the American dream is home ownership. This amendment is the only way that dream can be achieved by those in public housing projects. Project HOPE will offer the opportunity—on a voluntary basis—for 30,000 low-income families to own their own home.

So many times we have heard, in response to the drug abuse problem, the crime problem, gang violence, broken homes and poor education—that the answer is to break the cycle of poverty, get people out of situations of dispair, including housing projects which don't offer opportunity.

The point has already been made tonight that when you own something, you're more likely to care for it, regardless of your income. That applies most of all to your own home.

So I can think of no better way to give families the opportunity to improve the environment in which they live than to empower them to own their our home. That's what Project HOPE does. That's what the Kolbe-Espy amendment does. That's what we should support tonight.

Mr. McEWEN. Mr. Chairman, I rise in support of the Kolbe-Espy amendment, and I thank the gentleman from New York [Mr. GREEN] for being so gracious and for yielding this time to me.

Very simply, as was mentioned earlier, I had two friends who were pulling out of an airport in a rental car, the traffic was very close, and it looked like there might be an opening. One of them turned to the other one and said, "Go for it. It's a rental."

Very simply, we know that when you do not own something, you are not as concerned and committed, and if you are locked into poverty and locked into public housing and you do not have the hope of owning that property, you know that everyone who roams the halls has the capacity to spray paint the walls and knock down the doors and knock holes in the walls and rip down the storm windows, and they do it because the government is going to repair it, because somehow the housing authority will take care of it. That is true throughout the history of these programs. We can speak of the experience in London, we can speak of the privatization program in Europe that is now taking place in Eastern Europe, and where home ownership takes place, lo and behold there doe not need to be the repair of storm windows and screen doors. Flower boxes appear in the windows, and the spray paint disappears from the hallways as people own their own homes.

Some people think it is cruel to give this opportunity to those who are trapped in poverty.

We believe under this amendment that has been authorized that it would work. It has been approved. This was all debated for 2 years, and it has already been approved by the House whereby Secretary Kemp would be given the opportunity to give those people a chance to own their property, recycle that property into home ownership, take those dollars for new and better subsidized housing, and get them out of this trap that they are in and allow them to move forward.

□ 2020

That is what this is about. This legislation before us is authorization on an appropriations bill. This program has been authorized, and this is an effort by the Committee on Appropriations to circumvent the authorization, to rewrite the law to say that you cannot do what has already been authorized by the Congress.

I believe it is wrong, Mr. Chairman, and I recommend that this amendment be passed. As was mentioned earlier, the reason we are using these funds is because the committee has not cooperated, and I support the amendment.

Mr. KOLBE. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Kolbe-Espy amendment in order to give public housing residents an opportunity to participate in the American dream of owning their own home.

Permit me to remind my colleagues that the Home Ownership and Opportunity for People Everywhere Program was overwhelmingly approved last year by Members on both sides of the aisle as part of the National Affordable Housing Act. Yet, this year, the Appropriations Committee provided zero funding for HOPE I, that part of the program that would give public housing residents an opportunity to break the cycle of dependency. This amendment's funding of $151 million for HOPE I would help nearly 6,500 public housing families, 65 projects, achieve home ownership and help another 23,250 families, 233 projects, begin planning for their homeownership conversions.

In addition, this amendment provides $20 million in planning and grants and $131 million for implementation grants, the bulk of which would be used for rehabilitation of public housing and operating assistance.

This amendment would fund HOPE I at approximately one-half of the authorized level of $380 million and does not change the authorization for HOPE II or HOPE III. Furthermore, even after this amendment, the three HOPE grant programs together would be funded at less than one-half of the authorized level.

Mr. Chairman, support for the Kolbe/Espy amendment is the least we can do to furnish HUD the opportunity to end the dispair suffered by low-income families as they are forced to live a life of dependency. Accordingly, I urge my colleagues to support the Kolbe/Espy amendment in order to make home ownership available for all Americans.

Mr. ESPY. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Connecticut [Mr. FRANKS].

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut.

The CHAIRMAN. The gentleman from Connecticut [Mr. FRANKS] is recognized for 3 minutes.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise in strong support of the Kolbe-Espy amendment. This amendment would reallocate housing funds for HOPE, home ownership grants for public housing tenants. It will take away some funding from the costly and ineffective housing construction programs that have been tried in the past.

Project HOPE will allow low-income families to take greater control of their lives with an approach that is basic to our common values.

Mr. Chairman, I would urge Members to reassess funding for this program, and think about the following questions: do you want to reach out to low-income families eager to depart from the deprivation of poverty and government dependency? Do you want to offer people a hand up the economic ladder? Do you want to provide low-income families with the responsibility and endless potential of home ownership? Do you want to say as a Congressman that we are ready to make a fresh start on a problem which continues to trap people in subsidized housing?

Mr. Chairman, if you said yes to these questions, there can be no doubt that you can support funding for the HOPE I Program. We should not allow petty politics to sidetrack us from providing this opportunity to the families that would truly like to realize a part of the American dream, home ownership.

Mr. Chairman, I encourage Members to support the Kolbe-Espy amendment.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in strong opposition to the Kolbe-Espy amendment. I rise in opposition to this amendment, because it is more than ridiculous. I am sick and tired of hearing the theoreticians, political pundits, and would-be politicians talking about what is good for people who live in housing projects. I am sick and tired of them talking about what they are going to do once they are able to own a unit in Kabrina Greens or in Carr Square Village or in Nickerson Gardens in Watts.

They do not know what they are talking about. They have never lived there, for the most part, and they do not visit these housing projects.

I have six of them in my district. I am working with young men and women every day who are standing on the corners of those housing projects in a state of hopelessness. They want jobs, they want to be employed, they need child care. They need assistance in getting into the mainstream.

If you want to empower these people, let us talk about jobs, let us talk about job training, let us talk about education. Let us not talk about a silly idea of owning a unit that nobody wants to live in.

If you want to do something for these housing projects, put some money into repair and rehabilitation. Put some swings on the grounds for children to play on. Put some sandboxes there so mothers will have some place for their children to play. Fix up the windows, put some new cabinets in, paint the units, and do something about making them just a little bit better for these people to live in.

People do want to own their homes, but they want to live in homes like you live in and like I live in. If they can get a job, they can be empowered. Let me tell you something, they will buy their home, and it will not be in a housing project; it will be in suburbia, or maybe nextdoor to you.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the distinguished minority whip, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, let me say I was very disappointed with the gentlewoman from California [Ms. WATERS] who just spoke. She said nobody visits.

Jack Kemp today was in Chicago. He was visiting Henry Horner Homes, which is the site of this book, "There Are No Children Here."

Jack Kemp is desperately trying to move the Bush administration, the Congress, and the Nation, because he does care. He cares about these kids. He cares about children who live in violence, he cares about a welfare program that has failed, and he cares about public housing projects that have failed. It is truly tragic.

The introduction to this book has a poem by Langston Hughes:

What happens to a dream deferred?

Does it dry up
like a raisin in the sun?
Or fester like a sore—
And then run?
Does it stink like rotten meat?
Or crust and sugar over—
like a syrupy sweet?

Maybe it just sags
like a heavy load.

Or does it explode?

Mr. Chairman, there is one person in this Government who everybody I know knows is out trying every day to save human beings. It is Jack Kemp, Secretary of HUD. He is asking for a tiny opportunity, a tiny opportunity to try something new. Maybe it will not work, but we know what we have tried has failed.

Mr. Chairman, I would beg this House, give Secretary Kemp at least a tiny chance. Try something new, and maybe we will save some children.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, hearing the gentleman from Georgia [Mr. GINGRICH] just infuriates something in me. We just received a letter from Jack Kemp on the last amendment urging that we cut $250 million of operating subsidies from those very same public housing project units and put it in a space station. And now we are being read poetry. What kind of baloney is that?

You cannot give people ownership in homes unless you have adequate money to do it. We do not have enough in operating subsidies, and Secretary Kemp, who is supposed to represent HUD, sends all of us a letter saying that we should cut $250 million from those desperately needed operating subsidies and build a space station. He is not the Secretary of Science or of Space; he is the Secretary of HUD. Therefore, I would say to Members that this HOPE Program is simply hype. We cannot give people homes in public housing. If you want to give people opportunity, then let them move out of public housing because they have the necessary resources and buy homes like the rest of America, so that more poor people can move into public housing.

□ 2030

What we are doing here is rearranging the deck chairs on the *Titanic*. We are taking a unit that is occupied by a poor family and changing its form of ownership and leaving hundreds of thousands, if not millions of families out in the cold. If my colleagues really want to help the people, do not fiddle around with this nice ideological, grandiose scheme but provide the dollars they need to live in a decent place once and for all.

Mr. KOLBE. Mr. Chairman, may I inquire how much time is remaining?

The CHAIRMAN. The gentleman from Arizona [Mr. KOLBE] has 2 minutes remaining; the gentleman from Mississippi [Mr. ESPY] has 1½ minutes remaining; the gentleman from New York [Mr. GREEN] has 1 minute remaining; and the gentleman from Michigan [Mr. TRAXLER] has 6 minutes remaining.

Mr. TRAXLER. Mr. Chairman, I yield 3 minutes to the gentleman from Cleveland, Ohio [Mr. STOKES], an important and ranking member of the VA, HUD, Independent Agencies Subcommittee.

Mr. STOKES. Mr. Chairman, on its face it appears that the authors of this amendment are really helping poor people. It sounds good. It sounds American to say that adoption of this amendment would enable poor people to do what other Americans do; that is, to be able to buy a home. If that were true, I would not be in this well opposing this amendment.

These people are not buying homes. They are buying the oldest housing stock in America, old, dilapidated, unrenovated public housing.

In Cleveland, free public housing was offered to the homeless in the King-Kennedy Estates and the homeless turned it down.

Mr. Chairman, I grew up in public housing. The people who live in public housing do not want to live there and certainly do not want to buy there. The people who live in public housing live there because they cannot afford to live anywhere else. They do not want to buy homes in crime infested, drug-ridden poverty hovels in ghettos. They are the poor people who live in public housing because they want the same thing that other Americans want.

They want homes in nice neighborhoods with nice green lawns, good schools for their children. They are trying to escape public housing, not perpetuate their existence in poverty and crime in a ghetto.

The only way this makes sense at all is that it does what both Ronald Reagan and George Bush have sought to do; that is, to get the Government out of the public housing business by selling it away.

I ask my colleagues, do they personally know of anyone who wants to buy a house known as public housing? No. And neither do I.

The people who the authors of this amendment want to help are good people, but they are poor people. In fact, they are the poorest of the poor.

It is a cruel hoax to offer them ownership by selling the public housing. If we really want to help these people, defeat this amendment and give these people a chance to do what other Americans do: That is, buy a decent home in a decent neighborhood as a result of earning decent wages on a decent job.

This is the case where the poor, whom the authors of this amendment would help would say, "Please, don't help us this way." This is why the government has only been able to sell 343 of these homes out of the 2,000 available.

I urge the defeat of this amendment.

Mr. ESPY. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentleman from Mississippi [Mr. ESPY] for yielding time to me. I am sorry we do not have a whole lot more time here so that I could recount some of the experiences that I have had in approaching this subject, together with the gentleman from Mississippi. He and I served in a joint leadership position on the Delta caucus, one of the poorest regions of the country.

It occurs to me that most of the speakers that I have heard this evening come from urban areas, and I will tell my colleagues that Project HOPE has a great deal of applicability to rural

America and it could do an awful lot of good.

I think that this is a very, very modest request for $151 million, a reallocation of money within the housing budget.

I rise today in support of the Kolbe-Espy amendment which would provide $151.0 million to fund the HOPE I—Housing Opportunities for People Everywhere—Program. The HOPE I Program was left out of appropriations altogether. Yes, altogether. $380.0 million was authorized for a very worthy program and the committee appropriated not one cent.

The Kolbe-Espy amendment provides—$151.0 million—less than half of what was authorized—and which would affect less than one half of 1 percent of HUD's total budget. This modest amount would come from HUD's flexible subsidy account, bringing the account down from $203 million to its authorized level of $52.8 million. It would not take moneys from new or existing programs.

We all know from experience that programs like HOPE work. From cochairing the Delta caucus, together with my friend and colleague MIKE ESPY, I know that areas like the poverty-ridden Delta need the helping hand that the Federal Government can provide through programs such as this. In communities across the country, local home ownership programs are helping low-income families pull themselves out of poverty and break the dependency cycle. HOPE I is the first stage of a new and successful war against poverty and $151.0 million is a small amount to invest in the destiny of so many Americans. HOPE I would help 6,500 public housing families achieve home ownership and would help another 23,250 families begin planning for home ownership conversions. That is a lot of families.

To authorize HOPE I without appropriating funding would undermine the efforts of millions of residents living in public and assisted housing communities who seek increased opportunities through urban homesteading, resident management and economic development. Let us in Congress not deny them this much needed vehicle.

I urge my colleagues to adopt the Kolbe-Espy amendment.

Mr. GREEN of New York. Mr. Chairman, I yield myself such time as I may consume.

As one who lived in rental housing until he was 39 and who has 75 percent of his constituents living in rental housing, I take a certain umbrage at the comments that have been made this evening about the conduct of those who live in rental housing. I have no reason to believe that most people who live in rental housing abuse their housing and are not just as concerned as those who live in their own homes to live in a decent environment.

Let me simply say that we have provided in this bill for the sale of public housing demonstration to go forward. We have removed the one stumbling block that the department told us was the reason it has not been going faster, why they have been able to sell only 343 units in 6 years.

If they really can move the program faster with the impediment removed, they have the opportunity to do it for another 1,657 units.

Jack Kemp, go to it. Meanwhile, let us not take this other money that is needed to fix up some badly deteriorated housing. Please stick with the committee and defeat the amendment.

Mr. TRAXLER. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I thank the chairman for yielding time to me.

I rise in opposition to the amendment before us. Certainly in an ideal world we would like to have home ownership for people who live in public housing. I do not think anybody would disagree with that, but let us be honest about it. The few that would have access to anything like that are very few and far between. And I think it would be very, very unfortunate to take this money away from a program that really protects programs like FHA, programs for the elderly, programs for women who are head of the household, who need to depend on subsidized housing.

So while I feel ideally it would be wonderful to fund at least on an experimental basis a program of this nature, I really do not think it is appropriate in this bill because of the shortcomings and the budget crunches we have.

It seems to me that when we are talking about a program of transferring money from a program that protects individuals who may have problems keeping up with their FHA loan, people who indeed are older, who really need the resources to live in rental housing, I do not think we should take it away from them. So I oppose the amendment.

Mr. KOLBE. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, a recent speaker on the other side of this issue referred to the public housing programs in this country as "the *Titanic*," a sinking ship.

Mr. Chairman, we agree with that. We have got problems with our public housing program. This Congress has agreed with that. This Congress agreed with that by authorizing a new approach.

We said in addition to the existing programs, which no one is trying to gut, which no one is disparaging, we want to try something different. We want to try an approach that puts assets in the hands of poor people, an approach that extends private ownership to poor people.

This Congress has supported and will continue to support a multitude of programs to subsidize home ownership by middle-class people and rich people, FHA programs, VA programs, farmers' home program and the deductibility of mortgage interest which even the richest people can utilize to help them own their own homes.

What we are saying with the Kolbe-Espy amendment is, let us try a little bit to help a few very poor people who cannot access these programs for rich and middle-class people that we all support to try to get into the ownership of assets which arguably has done more to create the middle class in this country than anything else.

The opponents of this program are saying simply no. We cannot do it. When they said no last time, it was on a narrow basis. Cannot do it right now, regulations are not promulgated. We are not ready to implement the program.

We are at the crossroads tonight because the arguments used against funding this amendment will come back to us next year, and the year after and the year after that. The opponents are not saying no tonight. They are saying no, never. Tonight is the opportunity for the Congress to put its appropriated money where its authorizing mouth was.

Keep HOPE alive. Support the Kolbe-Espy amendment.

□ 2040

Mr. ESPY. Mr. Chairman, I yield myself 30 seconds, the remainder of my time, just to say that there are a number of organizations that support this amendment, the Public Housing Authorities Directors Association, the Conference of Black Mayors, the Council for a Black Economic Agenda, the National Association of Housing Cooperatives, the National Center for Neighborhood Enterprises, the National Cooperative Business Association, the American Legislative Exchange Council, and the National Association of Neighborhoods.

Mr. Chairman, in the remaining milliseconds that I have, let me just say that this is not just an amendment that benefits urban America. There are all kinds of housing projects that exist in rural America. I have 22 in my district, and I have visited them.

They tell me, "Mr. Congressman, if this project was rehabilitated, if it could be sold to the tenant association and I know that my mortgage would be capped at 30 percent of family income, I would like to own the place where I live to leave for my children and for the next succeeding generation." That is why I am doing this.

Mr. KOLBE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of the Kolbe-Espy amendment. The people in my district, 66-percent minority, do favor the HOPE Program.

Mr. KOLBE. Mr. Chairman, I yield myself 30 seconds, the remainder of my time. Let me make these points.

This is money for a program that is not authorized. This is not a cut. This is not a reduction in the flexible subsidy program.

Indeed, it is 13 times higher in this appropriation bill than the last time it was ever appropriated for in 1982, 13 times higher than it was then.

This is for a program that has been authorized, has strong bipartisan support, and the money that we are taking this from is for a program that the authorizing committee has never had hearings on, never authorized. It stinks.

Why should we not give people who are less fortunate an opportunity to own their own home? Vote for the Kolbe-Espy amendment.

Mr. TRAXLER. Mr. Chairman, I yield myself 1½ minutes, the remainder of my time.

Mr. Chairman, I rise in opposition to the amendment offered by my distinguished colleague from Arizona.

Let me tick off a couple of the many, many agencies and organizations opposing the amendment: the U.S. Conference of Mayors, the Catholic Conference, the Union of Hebrew Congregations, Partnership for the Homeless, the Consumers Union, American Baptist Churches of America, ACORN, Association of Community Organizations, American Planning Association, Center for Community Change, Child Welfare, the AFL–CIO.

Look, there is an existing pilot program for HOPE I. It is not working very well. It is very expensive.

It started at 2,000 units. We are even helping the Secretary with some bill language where he does not have to replace those units one for one. But we would appreciate it very much if the Members would reject this amendment, allow—and there are probably 1,500 units left there, or 1,400, and we get different answers from HUD every time we call, but whatever is left—them to do them. They are terribly expensive to do. We are giving away public housing in this situation. These are family jewels. It is the crown jewels they are giving away after they have been renovated at extremely high costs.

So what I would say to the Members is run the pilot program on HOPE I. We are starting HOPE II and III, and we will have our opportunity to see who is right on this issue. Do not start a massive selloff of public housing.

Mr. MICHEL. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Arizona, [Mr. KOLBE].

The gentleman's amendment shifts funds within the Department of Housing and Urban Development to provide initial funding for the President's HOPE I Program. This program would assist persons residing in public housing to purchase such units.

The HOPE program—which stands for Home ownership and Opportunity for People Everywhere—was first proposed by the President and then authorized by Congress in the National Affordable Housing Act last year.

The HOPE Program is a radical departure from the traditional thinking on providing public housing for those in need.

We determined last year that conventional public housing may not be the only solution available to us. With over 100,000 units boarded up and vacant—in a state of decay—it was certainly time to look for new answers.

No one disputes that home ownership is a basic tenet of the American dream. And no segment of the American people should be excluded from this dream.

As stated by Housing and Urban Development Secretary Kemp in a recent Washington Post editorial "Acquiring assets powerfully affects the way people think, promoting achievement, inspiring confidence and encouraging planning for the future."

Persons living in public housing should be afforded the opportunity to join in the dream of home ownership. They should be encouraged to build a better life for themselves.

Therefore, it is crucial that funding be initiated for the HOPE I Program. I urge my colleagues to join me in supporting the Kolbe amendment.

Mr. ATKINS. Mr. Chairman, we have just passed an amendment to cut $250 million from public housing operating subsidies. As we already know, salary and utility costs are more or less fixed, so the cuts come from garbage collection; by eliminating security guards and police hotlines in the projects; by slashing funds for window and door lock replacement, fixing elevators, broken lights, cleaning public areas and a host of other things that make public housing barely livable.

Now, after letting down the poorest of the poor, the Kolbe-Espy amendment is saying to public housing residents "boy have I got a deal for you!" Mr. Chairman, caveat emptor.

Everyone in this Chamber supports home ownership, and there is currently $200 million dollars in the VA–HUD budget for HOPE II and HOPE III—two home ownership programs that make sense. There is also $27 million in the budget for the Neighborhood Reinvestment Corporation, an excellent home ownership program which is administered far better than anything HUD could possibly accomplish.

But HOPE I has serious problems. One look at the Kenilworth project and its $130,000 per unit price tag and every Member should be alarmed. In April, the National Journal wrote that "The Federal and district governments have poured more than $35 million into fixing up the 464 apartments at the (Kenilworth) project. That doesn't count the $10 million in rental subsidies for Kenilworth tenants over the next 5 years."

That's a $45 million allocation for 464 apartments, and we just cut $250 million to help keep public housing operational for the other 1.3 million residents. It seems unfair to me that we drastically cut funds for the vast majority of public housing residents and then vote to create an oasis for the select few.

I strongly support resident-management programs and I have seen them work in my district. I agree with Secretary Kemp and everyone in this body who believes that it is a must for low-income families to have control over their own lives. Home ownership is an important element for economic empowerment, as are tenant-management programs. But HOPE I is a dump public housing at all costs program and it will not deliver economic empowerment to residents.

Every Member and everyone watching C–SPAN at home should apply the HOPE I test to their own life. Here's the first quiz question: Go home tomorrow night and bust a window. Scrawl graffiti on your door and in the hallway. Dump garbage out the window, break the elevator and then smash the light bulbs in the stairwell. Let the grass grow 2-feet high on your lawn and don't forget to spread broken glass on the grounds. Jimmy the lock on the front door so everyone in the neighborhood can come in whenever they want. Relocate a major interstate highway within a stone's throw of your door. And finally, put it up for sale.

You couldn't give the property away. But that is exactly what HOPE I sets out to do. The Federal Government has fallen down on its responsibility to make these projects livable. Today we slashed the operating budget to make conditions in the worst place a family in America could possibly live even worse. Then we say to tenants, "It's yours. We'll generously provide you with modernizing funds and 5 years of operating subsidies and your on your own." Unless, of course, Congress agrees to spend $130,000 per unit to turn one of these projects into a shiny trophy in a trophy case.

Today, Secretary Kemp drafted a letter which was used in the previous debate which said in essence, "HUD does not need $250 million to make repairs on public housing." Can anyone who has ever seen a public housing project really believe that there are no needs for additional funds for security and repairs?

Now the Secretary wants to take us to Camelot on the HOPE I chariot. But HOPE I is poorly designed and will only falsely raise hope for the poorest in the Nation. It will not deliver and it will cost a bundle. I urge all Members to reject the rhetoric and oppose the Kolbe-Espy amendment.

Ms. PELOSI. Mr. Chairman, I rise today in opposition to the Kolbe-Espy amendment, which would shift millions of dollars away from rental public housing and into the HOPE I Program to allow the Federal Government to sell off public housing. While assisting a few individuals, this amendment would contribute to the rapidly growing shortage of available affordable housing. I urge my colleagues to oppose it.

I support the goals of empowerment as a way for individuals to break the chains of poverty. Home ownership may, for some, be the key to empowerment. However, there will always be those among us who either choose to rent or need to rent and we cannot allow our meager stock of affordable public housing to be depleted. HOPE I is not cost effective and unfortunately this amendment by taking funds away from the Flexible Subsidy Program, will benefit the few at the expense of the many.

Once again, I find myself on the floor of this body saying that in the best of all fiscal worlds, we could afford to fund this experiment in home ownership. Once again, I must remind my colleagues that we are not living in the best of all fiscal worlds and we must choose. The choice here is fairly simple. We can choose to rehabilitate and improve the existing housing stock and ensure that it stays affordable by supporting the committee. Or, we can choose to not only sell our public housing, but also set back efforts to improve and rehabilitate the existing stock.

I believe that the committee position is the fiscally responsible choice to make. Kenilworth-Parkside, the most highly publicized example of HUD's public housing sale program, has already cost the Government the exorbitant sum of $130,000 for the sale of each unit. Brand new units of affordable housing are being built by groups like the Enterprise Foundation for less than $70,000 per unit. Existing units of housing can be rehabilitated for an average cost of $20,000 per unit. Many units of affordable housing could be rehabilitated, improved, and maintained as part of the affordable housing stock if we oppose the Kolbe-Espy amendment and preserve the Flexible Subsidy Program.

Passage of this amendment would benefit a handful of public housing developments while depriving thousands of others. In these times of fiscal constraint, this is not a choice we can afford to make. I urge my colleagues to oppose the Kolbe-Espy amendment.

The CHAIRMAN. Under the unanimous-consent agreement agreed to earlier, all time on this amendment has expired.

The question is on the amendments en bloc, as modified, offered by the gentleman from Arizona [Mr. KOLBE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KOLBE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 216, noes 183, not voting 32, as follows:

[Roll No. 142]

AYES—216

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Carper
Chandler
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeFazio
DeLay
Dickinson
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Espy
Fawell
Feighan
Fields
Ford (TN)
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hayes (LA)
Hefley
Henry
Herger
Hobson
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (NC)
Kasich
Kennelly
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Lowery (CA)
Luken
Machtley
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Morrison
Myers
Nichols
Nowak
Nussle
Ortiz
Oxley
Packard
Pallone
Panetta
Parker
Paxon
Payne (VA)
Penny
Petri
Pickle
Porter
Pursell
Ramstad
Ravenel
Ray
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Skeen
Skelton
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Washington
Weber
Weldon
Wilson
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—183

Abercrombie
Alexander
Anderson
Andrews (ME)
Annunzio
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bonior
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Edwards (CA)
Engel
Erdreich
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Guarini
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Horn
Hoyer
Hughes
Jacobs
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Kolter
Kopetski
LaFalce
LaRocco
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Meyers
Mfume
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Oberstar
Obey
Olin
Orton
Owens (NY)
Owens (UT)
Patterson
Payne (NJ)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schumer
Serrano
Sikorski
Skaggs
Slattery
Smith (FL)
Smith (IA)
Solarz
Spratt
Stark
Stokes
Studds
Swift
Synar
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Visclosky
Waters
Waxman
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—32

Ackerman
Anthony
Bilbray
Borski
Boucher
Boxer
Campbell (CA)
Campbell (CO)
Dymally
Gallo
Gray
Hastert
Jenkins
Kostmayer
Lehman (FL)
Livingston
Manton
Martin
Martinez
McCurdy
Miller (CA)
Miller (WA)
Mrazek
Pelosi
Quillen
Ridge
Rose
Shuster
Sisisky
Slaughter (NY)
Vento
Williams

□ 2102

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Dymally against.

Mr. GAYDOS and Mr. GUARINI changed their vote from "aye" to "no."

So the amendments en bloc, as modified, were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), $500,000,000, to remain available until expended: *Provided*, That after setting aside amounts for reservation in accordance with section 217(a)(2), and prior to applying the allocation provisions of section 217(a)(1) of such Act, $25,000,000 of the foregoing $500,000,000 shall be available for grants to States and units of general local government for a program of lead-based paint abatement in privately-owned housing, in accordance with such terms and conditions as the Secretary shall specify: *Provided further*, That for the purposes of the foregoing $500,000,000, such Act shall be construed as providing the following: in section 216(3)(A), "$750,000" both places it appears shall be "$375,000"; in section 217(b)(2)(A), "$3,000,000" both places it appears shall be "$750,000"; in section 217(b)(2)(B), "$500,000" both places it appears shall be "$125,000"; and in section 217(b)(3), "$500,000" shall be "$250,000".

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING (INCLUDING RESCISSION)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $9,985,790,000, to remain available until expended: *Provided*, That of the new budget authority provided herein, along with $216,200,000 of budget authority previously made available for vouchers and certificates under section 8(o) and section 8(b) of the Act (42 U.S.C. 1437(o)) which remains unreserved at the end of fiscal year 1991, $157,800,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1737bb); $574,500,000 shall be for the development or acquisition cost of public housing, including $143,625,000 for major reconstruction of obsolete public housing projects, other than for Indian families; $2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including funds for the comprehensive testing, abatement, and risk assessment of lead, of which $25,000,000 shall be for the risk assessment of lead and $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $1,106,550,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f) (of which $35,000,000 shall be for Foster Child Care); $818,975,000 shall be for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437(o)); $2,555,141,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, including $70,000,000 which shall be for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235); $718,462,000 shall be for assistance for State or local, tenant and nonprofit organizations to purchase projects where owners have indicated an intent to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $348,750,000 shall be for loan management, provided that any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1)(42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years; $266,682,000 shall be for section 8 assistance for property disposition; and $41,000,000 shall be for the conversion of rent supplement and rental assistance program units and projects to section 8 project-based assistance: *Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further*, That up to $227,000,000 of amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1992, shall be rescinded: *Provided further*, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further*, That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, 25 percent of the new budget authority for the development or acquisition costs of public housing other than for Indian families shall be used for major reconstruction of obsolete public housing projects other than for Indian families: *Provided further*, That of the $9,985,790,000 provided herein, $50,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); and $4,200,000 shall be for the housing demonstration under section 304(e)(1) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625): *Provided further*, That sales of housing units by a public housing agency, as authorized by section 5(h) of the United States Housing Act of 1937, as amended, which occur under the Department of Housing and Urban Development's "Public Housing Homeownership Demonstration" (as described in 49 FR 43028 of October 25, 1984), shall not be subject to section 304(g) of such Act: *Provided further*, That of the $54,250,000 earmarked in Public Law 101–507 for special purpose grants (104 Stat. 1351, 1357), $667,000 made available for the city of Chicago to assist the Ashland II Redevelopment Project shall instead be made available for the city of Chicago to assist the Marshway Project.

Of the $9,985,790,000 provided under this head, $343,920,000 shall be for capital advances for housing for the elderly as authorized by section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $380,950,000 shall be for project rental assistance for supportive housing for the elderly under such section 202(c)(2) of the Housing Act of 1959, of which up to $92,950,000 may be for amendments for section 8 contracts for projects for the elderly that receive capital advances, including projects previously reserved under section 202 as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act, including $16,250,000 for service coordinators pursuant to section 202(g) of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625).

Of the $9,985,790,000 provided under this head, $83,400,000 shall be for capital advances for housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $104,510,000 shall be for project rental assistance for persons with disabilities under section 811(b)(2) of the Cranston-Gonzalez National Affordable Housing Act, of which up to $23,300,000 may be for amendments for contracts for projects for the handicapped that receive capital advances, including projects previously reserved under section 202 of the Housing Act of 1959 as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act.

Any amounts heretofore provided under this head for assistance under section 8 of the United States Housing Act (42 U.S.C. 1437) for rental assistance in projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) (before revision in section 801 of the Cranston-Gonzalez National Affordable Housing Act) for such projects for the handicapped, may be used by the Secretary for project rental assistance under section 202(c)(2) of such Act (after revision by section 801 of the Cranston-Gonzalez National Affordable Housing Act).

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $7,024,589,000, to remain available until expended: *Provided*, That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further*, That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1992 by not more than $2,393,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

RENT SUPPLEMENT PROGAM

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1992 by not more than $2,448,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

Mr. SHAYS. Mr. Chairman, I move to strike the last word, and I do so for the purpose of engaging the chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER] in a short colloquy.

Mr. Chairman, on behalf of Congressman MRAZEK and myself, I want to commend the gentleman from Michigan [Mr. TRAXLER] for his excellent work on the Appropriations Committee. I know that his subcommittee had to make difficult choices in light of severe budget constraints.

His subcommittee has been very supportive of the National Estuary Program and specifically the Long Island Sound study. The study is in its final year, but considerable research and evaluation need to be completed on toxic contamination, pathogens, and living marine resources. In addition, NOAA is completing water quality and circulation models that are critical to understanding the problems with nutrients and low-dissolved oxygen in the sound.

Mr. Chairman, we have learned that the EPA is planning to significantly cut the amount of funding the Long Island Sound study will receive this year. In fiscal year 1991, EPA and NOAA received approximately $2 million.

If EPA does not allocate at least $1 million, the research and evaluation cannot be properly completed. This is the most critical time for the modeling work and it would be very detrimental to slash funding for the study after this 5-year effort.

Mr. Chairman, on behalf of our constituents and the congressional Long Island Sound caucus, it is our hope that the subcommittee will consider Long Island Sound funding a priority as the bill makes its way through the legislative process and in its conference deliberations with the Senate.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the chairman.

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Chairman, I am in complete agreement with the statement. I understand the concerns of the gentleman. You can be sure we will work on this as a priority to see that the Long Island Sound study receives adequate funding in conference committee.

Mr. SHAYS. I thank the gentleman.

Mr. TRAXLER. Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 80, line 6, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of the balance of the bill through page 80, line 6, is as follows:

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and non-profit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, as amended, $9,500,000, to remain available until September 30, 1993.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,405,844,000: *Provided*, That of the funds made available under this heading, $250,000,000 shall not become available for obligation until September 20, 1992.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), section 106(c), and section 106(d) of the Housing and Urban Development Act of 1968, as amended, $8,350,000, of which $350,000 shall be available for the prepurchase and foreclosure-prevention counseling demonstration program.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, $203,413,000, and all uncommitted balances of excess rental charges as of September 30, 1991, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1992, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1992, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $60,000,000,000.

For administrative expenses necessary to carry out the guaranteed loan program, $255,645,000, to be derived from the FHA-Mutual Mortgage Insurance Guaranteed Loans Receipt account, of which not to exceed $250,100,000 may be transferred to and merged with the appropriations for salaries and expenses; and of which not to exceed $5,545,000 may be transferred to and merged with the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of guaranteed loans under such funds authorized by the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), $54,911,000: *Provided*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed of not to exceed $8,651,901,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan programs, $189,000,000, of which $184,900,000 shall be transferred and merged with the appropriations for salaries and expenses; and of which $4,100,000 shall be transferred and merged with the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK INSURANCE FUNDS

On October 1, 1991, each outstanding obligation issued by the Secretary of Housing Urban Development to the Secretary of the Treasury pursuant to section 520(b) of the National Housing Act, as amended, together with any promise to repay the principal and interest which has accrued on each obligation, and any other term or condition specified by each such obligation, is canceled.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901–11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $165,000,000, to remain available until expended: *Provided*, That $5,700,000 of the foregoing amount shall be available for grants, contracts, or other assistance for technical assistance and training for or on behalf of public housing agencies and resident organizations (including the costs of necessary travel for participants in such training): *Provided further*, That $10,000,000 of the foregoing amount shall be made available for grants for federally assisted, low-income housing.

Government National Mortgage Association

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1992, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $74,769,293,000. For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $6,595,000, to be derived from the GNMA—Guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $6,595,000 may be transferred to and merged with the appropriation for salaries and expenses.

Homeless Assistance

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $71,000,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $150,000,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, of the foregoing amount, $5,000,000 shall be available for a homeless demonstration project at Luther Place Church in Washington, DC and $4,200,000 shall be available for the New England Shelter for Homeless Veterans in Boston, Massachusetts.

The unexpended balances of the "Transitional housing demonstration program", available from the appropriations enacted in Public Law 99–500 and Public Law 99–591, and the unexpended balances of the "Supportive housing demonstration program", available from the appropriation enacted in Public Law 101–71, shall be added to and merged with amounts available under this heading.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless as authorized under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $57,000,000, notwithstanding section 837(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), to remain available until expended.

SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), $55,000,000, to remain available until expended.

SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION, SINGLE ROOM OCCUPANCY

For the Shelter Plus Care: Section 8 moderate rehabilitation, single room occupancy program, as authorized under subtitle F, part III, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $50,000,000, to remain available until expended.

SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

For the Shelter Plus Care: Section 202 rental assistance program, as authorized under subtitle F, part IV, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $37,200,000, to remain available until expended.

SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

For the Shelter Plus Care: Homeless rental housing assistance program, as authorized under subtitle F, part II, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $116,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,265,000,000, to remain available until September 30, 1994: *Provided*, That $32,600,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $14,500,000 shall be available for "special purpose grants" pursuant to section 107 of such Act, and $500,000 shall be available for a grant to demonstrate the feasibility of developing an integrated database system and computer mapping tool for compliance, programming, and evaluation of community development block grants pursuant to section 901 of the Cranston-Gonzalez National Affordable Housing Act of 1990: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following proviso) shall be expanded for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing $3,265,000,000 to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z–6 note): *Provided further*, That after September 30, 1991, notwithstanding section 909 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended.

During fiscal year 1992, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $140,000,000 of contingent liability for loan principal.

REHABILITATION LOAN FUND

(TRANSFER OF FUNDS)

Notwithstanding section 289(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), the assets and liabilities of the revolving fund established by section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), and any collections, including repayments or recaptured amounts, of such fund shall be transferred to and merged with the Revolving Fund (liquidating programs), established pursuant to title II of the Independent Offices Appropriation Act, 1955, as amended (12 U.S.C. 1701g–5), effective October 1, 1991.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $29,500,000, to remain available until September 30, 1993: *Provided*, That $1,000,000 of the foregoing amount shall be available for innovative building technologies research with the Research Center of the National Association of Home Builders.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $13,000,000, to remain available until September 30, 1993: *Provided*, That not less than $8,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $750,078,000, of which $394,609,000 shall be provided from the various funds of the Federal Housing Administration.

PERSONAL SERVICES AND TRAVEL, OFFICE OF HOUSING

(INCLUDING TRANSFER OF FUNDS)

For personnel compensation and benefits for the headquarters Office of Housing, $55,580,000, of which $37,637,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That not to exceed $1,276,000 of the $55,580,000 herein provided shall be available for travel expenses of the Office of Housing: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF PUBLIC AND INDIAN HOUSING

For personnel compensation and benefits for the headquarters Office of Public and Indian Housing, $10,424,000: *Provided*, That not to exceed $491,000 of the $10,424,000 herein provided shall be available for travel expenses of the Office of Public and Indian Housing: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

For personnel compensation and benefits for the headquarters Office of Community Planning and Development, $17,872,000: *Provided*, That not to exceed $439,000 of the $17,872,000 herein provided shall be available for travel expenses of the Office of Community Planning and Development: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF POLICY DEVELOPMENT AND RESEARCH

(INCLUDING TRANSFER OF FUNDS)

For personnel compensation and benefits for the headquarters Office of Policy Development and Research, $10,705,000: *Provided*, That not to exceed $141,000 of the $10,705,000 herein provided shall be available for travel expenses of the Office of Policy Development and Research: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

For personnel compensation and benefits for the headquarters Office of Fair Housing and Equal Opportunity, $10,516,000: *Provided*, That not to exceed $377,000 of the $10,516,000 herein provided shall be available for travel expenses of the Office of Fair Housing and Equal Opportunity: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, DEPARTMENTAL MANAGEMENT

For personnel compensation and benefits for the headquarters budget activity of Departmental Management, $9,293,000: *Provided*, That not to exceed $673,000 of the $9,293,000 herein provided shall be available for travel expenses of the Departmental Management activity: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

PERSONAL SERVICES AND TRAVEL, OFFICE OF GENERAL COUNSEL

(INCLUDING TRANSFER OF FUNDS)

For personnel compensation and benefits for the headquarters Office of General Counsel, $14,985,000, of which $2,754,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That not to exceed $259,000 of the $14,985,000 herein provided shall be available for travel expenses of the Office of General Counsel: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $43,645,000, of which $9,645,000, shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

Notwithstanding any other provision of law or other requirement, the city of Vallejo, California, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Marina Vista Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Vallejo shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

Notwithstanding any other provision of law or other requirement, the city of New London, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Shaw's Cove Urban Renewal Project (No. Conn. R-126), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New London shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

Notwithstanding any other provision of law or other requirement, the cities of Newburyport and Malden, in Massachusetts, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Central Business Urban Renewal Project (No. MASS-R-80) in the city of Newburyport and the Civic Center Urban Renewal Project (No. MASS-R-118) in the city of Malden, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The cities of Newburyport and Malden shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

Notwithstanding any other provision of law or other requirement, the Housing Authority of the city of Jefferson, in the State of Missouri, is authorized to retain any land disposition proceeds from the financially closed-out Capitol West Urban Renewal Project (Mo. R-45), pursuant to the agreement which permitted the retention of certain proceeds, which agreement was dated August 27, 1982, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Housing Authority of the city of Jefferson City shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the town of Calhoun Falls, South Carolina, relating to the public facilities loan (Project No. SC-16-PFL0061). The town of Calhoun Falls, South Carolina, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

During fiscal year 1992, notwithstanding any other provision of law, the number of individuals employed by the Department of Housing and Urban Development in other than "career appointee" positions in the Senior Executive Service shall not exceed 15.

Section 8(c)(1) of the United States Housing Act of 1937 is amended by inserting after "New York." the following new sentences: "The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County.".

Section 801(a) of the Cranston-Gonzalez National Affordable Housing Act is amended in the last sentence of subsection (g)(2) of the amendment to be made (by such section 801(a)) to section 202 of the Housing Act of 1959 by striking "in housing principally serving frail elderly persons".

The last sentence of section 202(g)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(g)(2)) is amended by striking "or a project where the tenants are not principally frail elderly".

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following new subsection:

"(p) With respect to amounts available for obligation on or after October 1, 1991, the criteria established under section 213(d)(5)(B) of the Housing and Community Development Act of 1974 for any competition for assistance for new construction, acquisition, or acquisition and rehabilitation of public housing shall give preference to applications for housing to be located in a local market area that has an inadequate supply of housing available for use by very low-income families. The Secretary shall establish criteria for determining that the housing supply of a local market area is inadequate, which shall require—

"(1)(A) information regarding housing market conditions showing that the supply of rental housing affordable by very low-income families is inadequate, taking into account vacancy rates in such housing and other market indicators; and

"(B) evidence that significant numbers of families in the local market area holding certificates and vouchers under section 8 are experiencing significant difficulty in leasing housing meeting program and family-size requirements; or

"(2) evidence that the proposed development would provide increased housing opportunities for minorities or address special housing needs.".

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $18,440,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $40,200,000: *Provided*, That not more than $395,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. 4051-4091, $9,133,000: *Provided*, That such sum shall be available without regard to section 509 of this Act.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of three passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $12,587,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,090,000,000: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913): *Provided further*, That of the amount appropriated, $4,951,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes for which that fund is established.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $39,661,000, of which $14,954,000 shall be derived from the Hazardous Substance Superfund trust fund and $623,000 shall be derived from the Leaking Underground Storage Tank Trust Fund.

RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For research and development activities, including procurement of laboratory equipment, supplies, and other operating expenses in support of research and development, $333,875,000, to remain available until September 30, 1993: *Provided*, That not more than $42,000,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development: *Provided further*, That of the amount appropriated, $2,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes for which that fund is established.

ABATEMENT, CONTROL, AND COMPLIANCE

(INCLUDING TRANSFER OF FUNDS)

For abatement, control, and compliance activities, $1,133,625,000, to remain available until September 30, 1993: *Provided*, That up to $2,800,000 shall be available for grants and cooperative agreements to develop and implement asbestos training and accreditation programs: *Provided further*, That of the amount appropriated, $10,982,800 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes for which that fund is established: *Provided further*, That notwithstanding any other provision of law, from funds appropriated under this heading, the Administrator is authorized to make grants to "Federally recognized Indian tribes" on such terms and conditions as he deems appropriate for the development of multimedia environmental programs: *Provided further*, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $39,700,000, to remain available until expended: *Provided*, That $6,700,000 of the foregoing amount shall be made available as a grant for a center for neural science to be constructed and owned by New York University: *Provided further*, That none of the funds previously appropriated to the Environmental Protection Agency for activities pertaining to the proposed Environmental Technology and Engineering Center in Edison, New Jersey shall be expended, except for those funds necessary to investigate alternative laboratory sites.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,650,000,000, to be derived from the Hazardous Substance Superfund, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $200,000,000 during fiscal year 1992, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $50,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1992: *Provided further*, That no more than $260,000,000 of these funds shall be available for administrative expenses: *Provided further*, That notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall, from funds appropriated under this heading, obligate up to $213,000 for a new pumping station in St. Anthony, Minnesota: *Provided further*, That, notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall, from funds previously appropriated under this heading in Public Law 101-507, obligate up to $5,000,000 for Koppers Texarkana Superfund site relocation.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $85,000,000, to remain available until expended: *Provided*, That no more than $6,400,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,195,000,000, to remain available until expended, of which $1,783,500,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $49,000,000 shall be for section 510 of the Water Quality Act of 1987; $300,000,000 shall be for making grants under title II of the Federal Water Pollution Control Act, as amended, to the appropriate instrumentality for the purpose of constructing secondary sewage treatment facilities to serve the following localities, and in the amounts indicated: Boston, Massachusetts, $100,000,000; New York, New York, $70,000,000; Los Angeles, California, $55,000,000; San Diego, California, $40,000,000; and Seattle, Washington, $35,000,000; and notwithstanding any other provision of law, $46,000,000 shall be available for Rouge River National Wet Weather Demonstration Project grants to be awarded by the Administrator, who is authorized to make such grants to Wayne County, Michigan, such grants to be for the construction of sanitary sewers and retention basins, for the repair and maintenance of wastewater treatment plants and collection systems, and for the investigation of commercial and industrial facilities and storm sewer connections to implement the Rouge River National Demonstration Project for Wet Weather Flows: *Provided further*, That, notwithstanding any other provision of law or any regulatory requirements, the Massachusetts Water Resources Authority may utilize facilities inside or outside the Commonwealth of Massachusetts to meet any technology or marketing backup requirements imposed by the Environmental Protection Agency, the Commonwealth of Massachusetts, or any judicial decree for residuals management. The Massachusetts Water Resources Authority shall not be required to own such management facilities to meet such backup requirements as long as such facilities are under the control of the Massachusetts Water Resources Authority pursuant to a binding enforceable lease, contract, or other legal instrument for the period of time required under the approved residuals management program. Nothing in this paragraph shall relieve the Massachusetts Water Resources Authority of its obligation, pursuant to a preexisting court order, to maintain its ownership and control of a site within the Commonwealth of Massachusetts for potential use as a backup residuals management facility, except that the development of such land for a backup facility is not required prior to selection of a final site for such a facility by the Landfill Siting Commission appointed by the Governor of the Commonwealth of Massachusetts or January 1, 1992, whichever first occurs. Any facility used by the Massachusetts Water Resources Authority for residuals management shall meet all applicable Federal and State environmental requirements.

ADMINISTRATIVE PROVISION

During fiscal year 1992, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 46 workyears for the Immediate Office of the Administrator, (2) 50 workyears for the Office of Congressional and Legislative Affairs, (3) 77 workyears for the Office of Communications and Public Affairs, (4) 187 workyears for the Office of General Counsel, (5) 61 workyears for the Office of International Activities, (6) 32 workyears for the Office of Federal Activities, (7) 285 workyears for the Office of Policy, Planning, and Evaluation, and (8) 1,386 workyears for the Office of Administration and Resources Management.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $1,000 for official reception and representation expenses, and hire of passenger motor vehicles, $2,560,000.

NATIONAL SPACE COUNCIL

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,491,000, of which not to exceed $1,000 may be for official reception and representation expenses: *Provided*, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $3,880,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $185,000,000, of which not to exceed $541,000 may be transferred to the disaster assistance direct loan program account for subsidies for direct loans provided under section 319 of such Act, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

Funds provided to this account are available to subsidize gross obligations for the principal amount of direct loans not to exceed $6,000,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; $165,113,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,600,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $277,827,000.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $134,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $12,874,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $45,023,000 shall, upon enactment of the Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1993. In fiscal year 1992, no funds in excess of (1) $32,000,000 for operating expenses, (2) $208,276,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

NATIONAL INSURANCE DEVELOPMENT FUND

Notwithstanding section 520(b) of the National Housing Act (12 U.S.C. 1735d(b)), effective October 1, 1991, any indebtedness of the Director of the Federal Emergency Management Agency resulting from the Director or the Secretary of Housing and Urban Development borrowing sums under such section before the date of the enactment of this Act to carry out title XII of the National Housing Act shall be canceled, the Director shall not be obligated to repay such sums or any interest thereon, and no further interest shall accrue on such sums.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,944,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1992 shall not exceed $2,285,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1992 in excess of $5,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,103,000.

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311–11319), as amended, $1,083,000, to remain available until expended: *Provided*, That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,194,600,000, to remain available until September 30, 1993.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for, in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $5,650,300,000, to remain available until September 30, 1993, of which $32,674,796 shall be used only for the purpose of payment, to the Federal Financing Bank, for the Tracking and Data Relay Satellite System (TDRSS) loan: *Provided*, That such payment shall constitute settlement of all amounts owed on said loan.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $398,700,000, to remain available until September 30, 1994: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefore, as authorized by law (5 U.S.C. 5901–5902); awards, lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $200,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $2,427,300,000: *Provided*, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $12,952,000.

ADMINISTRATIVE PROVISIONS

No amount appropriated to the National Aeronautics and Space Administration in this or any other Act may be used to fund grants, contracts or other agreements with an expected duration of more than one year, when a primary effect of the grant, contract, or agreement is to provide a guaranteed customer base for or establish an anchor tenancy in new commercial space hardware or services unless an appropriations Act specifies the new commercial space hardware or services to be developed or used, or the grant, contract, or agreement is otherwise identified in such Act: *Provided*, That the Administrator may authorize such a grant, contract, or agreement if he determines, in consultation with the Committees on Appropriations, that deferral of such action until enactment of the next appropriations Act would be inconsistent with the interest of the Nation.

Income derived from the National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund may be used to award fellowships to selected United States nationals who are undergraduate students pursuing a course of study leading to certified teaching degrees in elementary education or in secondary education in mathematics, science or technology disciplines.

None of the funds appropriated in this Act to the National Aeronautics and Space Administration may be used to administer, execute, or implement the provision 48 CFR 52.246-8 (f) and (j) of the standard Federal procurement contract language.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1992, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1992 shall not exceed $964,000.

NATIONAL INSTITUTE OF BUILDING SCIENCES

PAYMENT TO THE NATIONAL INSTITUTE OF BUILDING SCIENCES

For payment to the National Institute of Building Sciences, $250,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $1,960,500,000, to remain available until September 30, 1993: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

ACADEMIC RESEARCH FACILITIES

For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $20,000,000, to remain available until September 30, 1993.

UNITED STATES ANTARCTIC RESEARCH ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; services as authorized by 5 U.S.C. 3109; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $118,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $75,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

EDUCATION AND HUMAN RESOURCES ACTIVITIES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $435,000,000, to remain available until September 30, 1993: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $110,000,000: *Provided*, That contracts may be entered into under salaries and expenses in fiscal year 1992 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,300,000.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $26,900,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $27,480,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further*, That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1992 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1992, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101–73 are insufficient, $15,899,000,000.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,328,000.

TITLE V—GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS–18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. None of the funds appropriated in title II of this Act, or otherwise available to the Department of Housing and Urban Development, shall be used for first class travel of any Department official or employee unless required by medical necessity or on airplane flights longer than seven hours.

SEC. 517. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000, unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 518. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government to restructure, modify or renegotiate the assistance agreement; and

(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such actions.

SEC. 519. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101-576.

SEC. 520. (a) Section 622A(c) of title 38, United States Code, is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1992".

(b) Section 8013(e) of the Omnibus Reconciliation Act of 1990 (Public Law 101-508) is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992".

(c) The amount provided in this Act for "Medical care" for the Department of Veterans Affairs is hereby increased by $90,000,000, to be available only for procurement of medical equipment.

(d) Subsections (a), (b), and (c) shall not take effect if the amount provided in this Act for "Medical care" for the Department of Veterans Affairs is less than $13,462,000,000, plus reimbursements.

The CHAIRMAN. Are there any points of order against the remainder of the bill?

If not, are there any amendments to the remainder of the bill?

AMENDMENT OFFERED BY MR. BROWN

Mr. BROWN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN: Page 64, strike lines 5 through 9.

Mr. BROWN. Mr. Chairman, On page 64 of the bill, the Appropriations Committee has seen fit to rewrite the regulations by which NASA awards contracts for the development of high-risk, state-of-the-art equipment—regulations which, by the way, have evolved through painful experience over a long period of years. The purpose of my amendment is to strike this provision, which, if enacted, would create chaos in all current and future NASA procurement activities.

Last year, in mandating that NASA redesign the space station according to its specifications, the Appropriations Committee went right to the edge of what is permissible under House rules in terms of legislating in an appropriations bill. This year, in rewriting the way in which the Federal acquisition regulation [FAR] applies to NASA, it has again walked right up to that line. The committee has been very clever about this. Had they gone over that line, we certainly would have asked the Rules Committee to strike this provision on a point of order. But even if we concede the right of the Appropriations Committee to push into all sorts of quasi-legislative activities involving agencies under its jurisdiction, we cannot permit them to do so in the harmful and sloppy manner that they have in this case.

The fact of the matter is that the committee is effectively legislating on tens of billions of dollars of NASA contracts without the benefit of a single hearing on this provision, or of a record of any kind. All the experts that we have consulted conclude that this is a very poorly crafted provision. In fact, we have been unable to elicit any sort of agreement from the experts on what this provision would mean in practice. NASA is on record as opposing the provision strongly. Contract experts at the General Accounting Office have told us that the provision would create chaos and that its likely effect will be the exact opposite of the intent of the provision as laid out in the committee's legislative report accompanying the bill.

To cite but one example of questionable impact of this provision, experts at GAO conclude that the effect of the amendment would actually be to reduce, rather than strengthen, the ability of the Government to compel contractors to correct defective products.

Mr. Chairman, we on the Science Committee certainly agree that reforms are needed in the Federal procurement system. The taxpayer is not well served when NASA pays for and accepts defective products such as the Hubble space telescope. But one of the problems with this provision is that, even if it had been in place, it would not have had the slightest effect on the government's ability to fix the problems of the Hubble telescope. The solution to procurement problems will be neither simple nor obvious, as the House has learned over the past several years in its attempts to reform the procurement process in the Department of Defense.

For NASA, the process of procurement reform has already begun. Last month, I introduced legislation—H.R. 2162—which provides a starting point for a series of hearings that our committee intends to convene later this year on the issue of liability in NASA contracting. The Appropriations Committee is aware of our activities and intentions in this area, and of the legitimate interests of the Government Operations Committee. Given the complexities of these issues, the House should let the normal legislative process operate to produce a thoughtful and comprehensive solution to the problem. The public would not be served by the adoption of a provision as confusing and poorly understood as this one.

I urge my colleagues to support the amendment.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. I thank the gentleman for yielding.

Mr. Chairman, let me tell the membership what this is all about. All I need is 2 minutes of your time. It has been a long day, but I would not want anybody to walk out of here tonight without understanding the problem that the chairman is committed to fixing.

Let me tell you what it is. When Hubble went kerplunk and developed its inability to see, we asked, as the subcommittee that funds NASA and as the subcommittee like each and every one of you that is worried about taxpayer dollars, whether we could find out what the situation was on the contractor liability.

□ 2110

We asked NASA to send the contracts over. We talked with NASA. The fact of the matter is that there is a longstanding practice within NASA and the contracting industry to provide for waivers on ordinary negligence on behalf of the contractor.

Now get this one. I ask my colleagues, "Would you enter into this kind of contract if you were a business person buying something from another business?"

Here is how it reads:

> Except as provided in this clause, and the exception is fraud, lack of good faith or willful misconduct, except as provided in this clause and as may be provided in the schedule, the contractor shall have no obligation or liability to correct or replace articles which at the time of delivery are defective in material, or workmanship or for any other

> reason not in conformity with the requirements of this contract.

In other words, the contractor can deliver shoddy goods, and they cannot be sued. In short, they are paid. That is what we are doing on Hubble, and that is what the language in this bill is designed to correct. The gentleman has assured me that this issue has top priority in this committee, and all we want is a fix so that the taxpayer gets a fair, fair delivery of goods for the dollars he is paying.

Mr. CONYERS. Mr. Chairman, would the gentleman from California yield?

Mr. BROWN. Mr. Chairman, before yielding to the gentleman from Michigan [Mr. CONYERS], let me make it clear that, while this was a NASA problem, the regulations involved are governmentwide, and the legislation falls within the jurisdiction of the Committee on Government Operations, and the distinguished chairman of that committee is anxious, as I am, to see that some remedy is achieved.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from California [Mr. BROWN], my friend, for yielding in this repentant mode that we are in after the deed has been done. I say to the gentleman, "I support the concept that you're working toward. I share your concern. But, as you know, the Federal acquisition regulation falls within our committee. We would appreciate, even if we're not violating the law of rule XXI, clause 2, that we are certainly violating the spirit to do it this way. We would appreciate working with you on these matters. I support the intent. Please don't let it happen too much more in the future."

Mr. BROWN. Mr. Chairman, I am not sure whether the gentleman from Michigan [Mr. CONYERS] is addressing me or the gentleman from Michigan [Mr. TRAXLER]. The bill that I referred to has been referred to his committee, and it cannot be reported unless he acts on it.

Mr. CONYERS. Mr. Chairman, if the gentlman will yield, I thank the gentlman, but this is all after the fact. I say to the gentleman, "I'm glad you're giving it to me now."

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I feel like I just fell in the crack. All I want and all the American taxpayer wants is to get what he is paying for, and I leave it to the gentleman to figure it out. But I promise one thing if it is not figured out and fixed next year, my colleagues are going to be staring at this language again, and we will have a vote on it.

Mr. BROWN. Mr. Chairman, I thank the distinguished gentleman for being so willing to write all the authorization legislation required by the Congress, and I know he will continue to do a good job.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Michigan.

Mr. TRAXLER. I appreciate the efforts he has made on behalf of the Committee on Appropriations. He has been pretty successful today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN].

The amendment was agreed to.

Mr. BATEMAN. Mr. Chairman, I move to strike the last word and I rise for purposes of engaging in a colloquy with the chairman of the subcommittee, the gentleman from Michigan [Mr. TRAXLER].

The CHAIRMAN. The gentleman from Virginia [Mr. BATEMAN] is recognized for 5 minutes.

Mr. BATEMAN. Mr. Chairman, the coastal America initiative is premised on the idea that interagency coordination of various Federal coastal programs makes sense both from a resource protection standpoint and from an administrative and funding standpoint. To the extent that the coastal America initiative does not get all of its earmarked funding or to the extent that it's earmarked for the National Estuary Program as Mr. STUDDS has suggested, there's nothing contained in this bill or current law which prevents EPA from coordinating its coastal resource efforts with other Federal agencies which have coastal resource responsibilities. Is that correct?

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BATEMAN. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, the gentleman from Virginia [Mr. BATEMAN] is absolutely correct.

Mr. BATEMAN. Mr. Chairman, I thank the gentleman.

AMENDMENT OFFERED BY MR. CARPER

Mr. CARPER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. CARPER: Page 79, strike lines 12 through 14.
>
> Page 79, line 15, strike "SEC. 520." and insert "SEC. 519.".

Mr. CARPER. Mr. Chairman, I offer this amendment in conjunction with the gentleman from Minnesota [Mr. PENNY] and with the gentleman from Michigan [Mr. UPTON]. The language that we would strike with our amendment is a very brief section, section 519. I will read those words to our colleagues. The language we strike reads as follows:

> SEC. 519. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101-576.

I might ask, "What is Public Law 101-576?" It is legislation that the 101st Congress enacted entitled A Chief Financial Officers Act of 1990.

Each week during the year 1989 seemed to bring with it fresh revelations of gross mismanagement of HUD. The extent of the waste, and the fraud and the corruption first brought our dismay, then our embarrassment, and, when we became aware of the extent of it, it brought forth our anger and our outrage. As a result of the kind of mismanagement that we learned about 2 years ago, the Committee on Government Operations prepared and offered to the full House legislation creating the chief financial officer in 22 departments and agencies within the Federal Government.

This particular proposal represents, I believe, the best single financial management reform for the Federal Government for the executive branch of our Government in the time that I have been in the Congress. This recommendation is strongly endorsed by GAO, strongly endorsed by the Comptroller General, endorsed during hearings by the Committee on Government Operations, by Members of this body, by the executive branch, by GAO, by CPA's from around the country.

We voted on this legislation last year. We adopted it without a dissenting vote. The Senate adopted this legislation also, I believe, without a dissenting vote. They were signed into law last year by the President, and now we find in one appropriation bill after the other that language like the language I read earlier which prohibits the use of any funds for the purpose of hiring or enabling chief financial officers in each of our departments and agencies to do the job that the legislation of last year intended for them to do.

I sat here last week when we debated the energy and water bill and said nothing. I sat here last week when we debated the military construction and appropriation bill and said nothing.

□ 2120

Mr. Chairman, I sat here earlier this week when we debated the legislative branch appropriations bill, and I said nothing. But today, when we debate funds for HUD, which represents the worse example of mismanagement, lack of financial systems, lack of accounting, and lack of cash management systems, to say nothing, I cannot do that.

This is a program that deserves to be funded, and I ask my colleagues today to consider this issue. A number of us have had an opportunity earlier today with the chairman and ranking minority member of the Committee on Government Operations to meet with the chairman of the Committee on Appropriations and express to him our personal concern over the failure of funding for these particular financial officers. We need this kind of reform. My hope is that if we do not act on this amendment today, certainly by the time we take up the Treasury appropriation bill, that some resolution of whatever is keeping us apart here may be reached and we may complete this report that we began last year.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I am happy to yield to the chairman of the committee.

Mr. WHITTEN. Mr. Chairman, I appreciate the gentleman's statement, and may I say that I can agree with him as to the objective. But I say to my colleagues here that the housing situation is not from the action of the Congress. We do not administer these programs. Everything the gentleman mentioned that is bad is handled by the executive department. We write the laws and appropriate the money, and after that it is out of our hands.

I agree with how bad some of these things are, and I agree with the purpose the gentleman has, but I differ with the gentleman about the cure he has offered. I will not state how many folks heard it, but as the gentleman says, there was not a dissenting vote on this bill. There was not a record vote either. I knew nothing about it until about a month ago. So what we have done on our committee is point out that the end result may be worse than what we have if we follow this course.

May I say again that housing, the savings and loan, and all that is administered by the executive branch, not by the Congress.

Our Committee on Appropriations has held the line. We had sequestration imposed by the Office of Management and Budget after the recent supplemental appropriations. They had sequestration of 13 ten-thousandths of 1 percent and, according to the press that means a dime apiece for each of our employees each month.

So I object to turning over the operations of the legislative branch to a representative of an executive department. That comes from many years of experience. But I agree with the objectives the gentleman has.

May I say that in the meeting we had today, we agreed we would have the staffs of the two committees work together to bring about the best results we can, and we would have it ready by the time the Treasury bill comes before the House. So I hope that will satisfy the gentleman, because my intentions are just as good as his. And as to my record and our record, I am proud to say to all the Members, that the Appropriations Committee since 1945 has held the total of appropriation bills $180.8 billion below the recommendations of the President. But you are about to squeeze us where we cannot look after the country. So, I hope we can postpone this and let the staffs work together and see what we can do to bring about the results we both seek.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman from Delaware yield?

Mr. CARPER. Mr. Chairman, before I yield, let me say that I have no quarrel with the record of the Appropriations Committee. It is the record of the management or mismanagement, the financial mismanagement that occurred and is occurring in other agencies. We want it to stop.

Mr. WHITTEN. That is right, and it does not need to be done at the expense of the Appropriations Committee to do it because we are not the cause of mismanagement. Let me say again that it is not the gentleman's fault. He did it in public, and the CFO bill passed the House. But I do not know how many folks heard the debate. I did not know anything about it until a few weeks ago.

The CHAIRMAN. The time of the gentleman from Delaware [Mr. CARPER] has expired.

(On request of Mr. BURTON of Indiana, and by unanimous consent, Mr. CARPER was allowed to proceed for 1 additional minute.)

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I would just like to ask the gentleman from Delware a question.

It is my understanding, after reading the language in the bill last year, that the legislative branch of government is not conceding any authority to the executive branch. What we are doing is setting up a mechanism where there will be accounting that will be consistent throughout the Government so that the various agencies of Government will know what is going on. Right now, as I understand it, it is a real mishmash and nobody can figure out what the problems are in the various agencies of Government and where the waste is. So there needs to be consistency and there needs to be sound accounting procedures. Is that correct?

Mr. CARPER. Mr. Chairman, the gentleman has stated it very well.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what the chairman of the Committee on Appropriations stated earlier is accurate, that we did meet this afternoon with him about this subject and he did indicate that our staffs would try to work something out on this subject, but in the meantime we thought that we ought to inform the Congress exactly what it is we are talking about here.

Mr. Chairman, Congress has too few chances in the course of its business to really do something to cut down on Government waste and make this huge Federal Government a more streamlined and efficient operation. The Chief Financial Officers Act of 1990, which was enacted last November and is now being threatened in this and other appropriations bills, is one such opportunity.

Congress passed the CFO's Act unanimously last October in response to the HUD scandal, the savings and loan crisis, and the many other Federal Government management "high-risk areas" identified by the General Accounting Office and others. The act requires the installation of chief financial officers in the 16 Cabinet departments and the 7 largest agencies, and outlines goals for restructuring internal financial management. It also makes the Office of Management and Budget more responsive to Congress by creating a new OMB Deputy Director for Management, and requires certain financial statements and audits in each of the 23 covered agencies.

The act was supported by a broad, nonpartisan coalition of legislators, Government officials, and private sector groups. It did not come out of nowhere—Congress had been considering such legislation for over 5 years.

It is 'essential for the cause of good government—which I believe every Member of this body supports—that Congress fund the implementation of this act, both in the VA/HUD/Independent Agencies appropriations bill that we are currently considering and in every other appropriations bill. Governmentwide, the administration is asking for a little more than $104 million to fund the implementation of the CFO's Act. My 29 years in Congress, all of them serving on the Government Operations Committee, have shown me that the investment up front in intelligent management reform programs—like the one required in the CFO's Act—will yield in savings many times the amount invested. This act, if funded and implemented, will prevent untold amounts of fraud, waste, and abuse from occurring in the months and years down the road.

I have heard the concerns of some that the CFO's Act will decrease the power of Congress relative to the executive branch. This will not be the result of this act. The legislation seeks only to streamline internal executive branch management, not tinker with the substance of programs, or the relations between Congress and the administration. The act will simply create benign, nonpartisan improvements in a Federal management structure riddled with weak internal controls and poor information.

The act would help eliminate such inefficient and wasteful practices as the operation of over 450 different and incompatible Government accounting systems. The management of the executive branch is often quite poor. There are long lists of agencies that the GAO and others have identified as time bombs of management scandal. The CFO's Act seeks nothing more and nothing less than to inject accurate information and discipline into the management of the multi-billion dollar enterprise of Government. And past legislative efforts, such as the Inspectors General Act of 1978, indicate that intelligent management reform can be quite effective.

The Members should also know that the act will not make OMB more powerful than it is now. Both new OMB positions are subject to Senate confirmation, and OMB will be required to report to Congress on all of its major steps, both in the implementation process and from year to year. If the act is properly implemented, OMB will actually lose the power to guide the basic decision of what the actual numbers are in the management cycle of the agencies, since the system will be generating precise, accurate information that will be outside of the influence of OMB.

Mr. Chairman, it is very important that the implementation of the Chief Financial Officers Act of 1990 be fully funded in all of the covered departments and agencies, including the VA, HUD, NASA, EPA, and the National Science Foundation, all of which are affected by todays bill and all of which will benefit greatly from continued management reform. Chairman CONYERS and I, and the other drafters and supporters of the bill, strongly believe that the only thing in our Government that this bill would threaten, if implemented properly, is the continued existence of waste, fraud, and abuse. It will change only those things that need to be changed.

□ 2130

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the ranking member of the Committee on Government Operations, the gentleman from New York [Mr. HORTON], is exactly correct. the Chief Financial Officers Act has hung around the Congress for many years, and it deals only with the fiscal management of the departments and agencies, some 22, that are so unauditable that we cannot begin to keep track of the savings and loans and the HUD scandals.

Mr. Chairman, we have some 78 programs that are on the shaky list, that are going to come up on the screen. This is to help Congress make the assessment about what we are to do.

The CHAIRMAN. The time of the gentleman from New York [Mr. HORTON] is expired.

(At the request of Mr. CONYERS and by unanimous consent, Mr. HORTON was allowed to proceed for 2 additional minutes.)

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, this in no way cuts into the jurisdiction of the esteemed chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN]. I want to praise the gentleman for the meetings that we have had, as existential as they might have been. I think we are on the right track. We are moving toward closure on this matter, and I hope that the chairman of the Committee on Appropriations begins to see that we are in no way trying to curtail the jurisdiction of the Congress in this matter. It is only to give us more control over the fiscal reports.

Mr. Chairman, I am very pleased to concur with the gentleman from New York [Mr. HORTON] in the progress of our meetings.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment to strike a limitation on funding the Chief Financial Officers Act. May I say that in this bill there is no money to carry this out anyway. We put the provision in here so that at some time no one could use available balances to do this. There is no money in this bill for this purpose.

I agree with the purpose that our good friends have in mind. I agree that if either one of them were running it, it would be all right. But the person put in charge is the Office of Budget and Management. Here is their record.

The Office of Management and Budget has already required sequestration to reduce funds by 13 ten thousandths of 1 percent. The cost of making this reduction across the whole Government cost many thousands of dollars. That was the executive branch.

These problems that we read about are not made by the Congress. We do not run these programs. We provide the money and the law. The executive branch implements it. So that is where the problem is.

Now, the annual cost of $100 million to finance the Chief Financial Officers Act would come at the expense of present programs.

In addition, this act will create one more impediment to the operations of our Committee on Appropriations and the Congress and in effect surrender to a branch of the executive branch increased control.

The major jusitification given for this act was that it will stop the scandals like those during the past decade in HUD. Those happened because of actions taken by high level executive branch employees. There was ample authority to investigate and stop these problems if that level of scrutiny was desired.

Sections 4(a) and 5(d) of the Inspector General Act, which has been in place since October 1978, read as follows:

> It shall be the duty and responsibility of each Inspector General * * * to provide policy direction for and to conduct, supervise, and coordinate audits and investigations. * * *
>
> Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

In the highly publicized scandal that occurred at HUD, such a report was not issued by an IG though it was required to do so. I don't see how having another person for the IG to report to will help control waste and fraud. Adding new legislation to control fraud won't stop the problem if the executive branch will not use what they already have in place.

I would say let us get together and see if we can work out something to carry out your objective, and, at the same time, not risk what has happened on sequestration.

We need sound financial management and appropriate audit controls. Legislation already exists to require this. The Chief Financial Officers Act merely adds a new position with a fancy title for each agency whose responsibility would be to comply with policy and guidance from the Director of OMB. Instead of that layering, we need to more effectively implement sections 1112, 3511, 3512, and 3513 of title 31, United States Code, our basic financial management authorities. More intensive implementation of these basic authorities is the right approach, not layering agencies with fronts for OMB.

If financial management procedures or controls need to be strengthened, then the parts that are ineffective should be improved. Administration and management need to be improved.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I am going to ask the author of this amendment to consider withdrawing it, in light of the progress that we have been making.

Mr. WHITTEN. Mr. Chairman, reclaiming my time, I think I have a record, and I know the gentleman from Michigan does, of wanting to do the right thing if we can find out what it is. But let us not turn it over to a partnership in the executive branch of the Government.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield I will say this: If the OMB in any way intrudes upon any of the jurisdiction of any committee in this Congress, I will be leading the fight for zero funding in the next Congress.

Mr. WHITTEN. Mr. Chairman, reclaiming my time, may I say, they had the jurisdiction to cause us the sequestration of 13 ten-thousandths of 1 percent. It cost you a dime, but it cost the Government several hundred thousand dollars to run it through the Government.

Mr. Chairman, I hope we can postpone this and see if we can work it out.

Mr. UPTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to echo the words in support of this amendment by my good friend, the gentleman from Delaware [Mr. CARPER], and echo the comments made by the gentleman from Minnesota [Mr. PENNY], the gentleman from Michigan [Mr. CONYERS], the gentleman from New York [Mr. HORTON], and the gentleman from Indiana [Mr. BURTON].

Mr. Chairman, we are all against fraud and abuse, and we are all for better accounting, period. We are all for better efficiencies in this program as well.

Last year the chief financial officers bill passed this House without a dissenting vote. In fact, I complained to the gentleman from Michigan [Mr. CONYERS], earlier this afternoon, why did we not have a recorded vote, so it could have shown it would have been 435 to nothing, or maybe 434 to 1, based on the comments this evening. In fact, that would have helped us in our preparation for offering and passing this amendment this evening.

Mr. Chairman, I commend the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN], for meeting with us this afternoon, and I hope that in the next 7 to 10 days we can in fact work out a compromise that will allow for the funding of the chief financial officers bill, so that we can see real accounting, we can go after fraud and abuse in the program, and we can do something to help solve this deficit in this country.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, just simply to reaffirm the comments made by the gentleman from Michigan [Mr. UPTON] and others, we did have a meeting with the gentleman from Mississippi [Mr. WHITTEN] this afternoon. We are going to be meeting with the gentleman throughout the next week.

I would like to come to some agreement on this, and, if we do, there will not be a need to bring this amendment up on future appropriation bills. On the other hand, if we do not, it might come back later.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, I appreciate that meeting. Nothing has been said about how many folks were on the floor when that legislation passed. I did not know about it.

But be that as it may, we want to solve the problem here. We have suggested that we get together and do it.

Mr. Chairman, may I say again, there is no money in this bill for this purpose at this time, whether we keep the amendment or not.

Not only that, but I am glad to have a chance to tell Members all they have been reading about has come from the executive branch, not the Congress.

Mr. CARPER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. CARPER. Mr. Chairman, I do not plan to ask for a vote tonight, given the assurances of the gentleman from Mississippi [Mr. WHITTEN], and given the negotiations that are occurring with the Committee on Government Operations. I think it is important and appropriate that those negotiations go forward.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, it was a public statement when I made it this afternoon, and I am glad to make it before my colleagues again this evening.

Mr. CARPER. Mr. Chairman, having said that, this is an important issue. It certainly is an important issue to those on the Committee on Government Operations, and it is an important issue to those who serve on the Subcommittee on Housing. It is an issue that is not going away, and it must be addressed.

Mr. Chairman, given those assurances, I would ask unanimous consent to withdraw this amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Delaware?

There was no objection.

The CHAIRMAN. The amendment is withdrawn. Are there further amendments to the bill?

The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992".

Mr. TRAXLER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 39, not voting 29, as follows:

[Roll No. 143]

YEAS—363

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Burton
Bustamante
Byron
Callahan
Camp
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)

Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Morrison
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Penny
Perkins
Peterson (FL)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—39

Annunzio
Armey
Beilenson
Bunning
Cox (CA)
Crane
Dannemeyer
Donnelly
Dreier
Duncan
Early
Fawell
Guarini
Hancock
Henry
Hubbard
Hughes
Jacobs
Kaptur
McEwen
Moody
Moorhead
Nagle
Nussle
Oberstar
Obey
Olin
Orton
Pallone
Pease
Peterson (MN)
Petri
Roemer
Russo
Schroeder
Sensenbrenner
Stark
Stump
Weiss

NOT VOTING—29

Ackerman
Bilbray
Borski
Boucher
Boxer
Campbell (CA)
Campbell (CO)
Dymally
Gallo
Hastert
Kostmayer
Lehman (FL)
Martin
Martinez
Miller (CA)
Miller (WA)
Mrazek
Pelosi
Quillen
Rose
Rostenkowski
Shuster
Sisisky
Slaughter (NY)
Swett
Towns
Vento
Williams
Yates

□ 2156

Mr. HUBBARD and Mr. DONNELLY changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, I was unable to be present for rollcalls 141, 142, and 143. Had I been present, I would have voted "no" on rollcalls 141 and 142 and "yea" on rollcall 143.

Mr. Speaker, I ask unanimous consent that my statement appear at the appropriate place in the permanent RECORD.

The SPEAKER pro tempore (Mr. KANJORSKI). Is there objection to the request of the gentlewoman from New York?

There was no objection.

PERSONAL EXPLANATION

Mr. NAGLE. Mr. Speaker, on final passage of H.R. 2519, the VA-HUD-Independent Agencies appropriation, I mistakenly recorded my vote in the negative when I intended to vote in the positive. I was not aware that I had in fact cast an inappropriate vote, and, while the vote cannot be changed, I want the RECORD to show that, had I not cast the inappropriate vote, I would have voted in the positive.

Mr. Speaker, I ask unanimous consent that the permanent RECORD include my statement of explanation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERSONAL EXPLANATION

Mr. WILLIAMS. Mr. Speaker, congressional business in Montana required that I leave Washington, thus I was unable to be present for the votes on the bill H.R. 2519, VA-HUD appropriations.

Had I been present I would have voted "aye" on final passage.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from the vote on rollcall 140, the Smith amendment to the Chapman-Lowery amendment to H.R. 2519, the VA-HUD appropriations bill. I was unavoidably delayed due to a meeting in my office. Had I been here to vote, I would have voted "aye.'

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from votes. I was unable to vote because I was en route to my district. Had I been here to vote, I would have voted the following way:

On rollcall 142, the Kolbe amendment to H.R. 2519, the VA-HUD appropriations bill, "No."

On rollcall 143, final passage of H.R. 2519, "aye."

PERSONAL EXPLANATION

Mr. MILLER of Washington. Mr. Speaker, I was unable to be here. Had I been here, I would have cast the following votes:

"Yes" on rollcall No. 141—Chapman amendment on the space station to the Veterans Affairs, HUD and Independent Agencies appropriations bill.

"Yes" on rollcall No. 142—Kolbe amendment on the HOPE I Program to the Veterans Affairs, HUD and Independent Agencies appropriations bill.

"Yes" on rollcall No. 143—The vote on the Veterans Affairs, HUD and Independent Agencies appropriations bill.

□ 2200

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2038, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-100) on the resolution (H. Res. 169) providing for the consideration of the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2508 FOREIGN ASSISTANCE AND RELATED PROGRAMS, AUTHORIZATION FOR FISCAL YEARS 1992 AND 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-101) on the resolution (H. Res. 170) providing for the consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of the act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ORDER OF BUSINESS

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that the order of the special orders granted for today to the gentleman from Georgia [Mr. GINGRICH] and the gentleman from Pennsylvania [Mr. GEKAS] be switched.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that the 60-minute special order granted to the gentleman from Pennsylvania [Mr. WELDON] for today be vacated, and that he be granted a 5-minute special order today instead.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THOUGHTS ON BOOKS: THE BEAUTY OF THE WRITTEN WORD AND THE PRINTED PAGE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute, revise and extend his remarks, and include extraneous matter.)

Mr. MAZZOLI. Mr. Speaker, next month, July, the White House Conference on Library and Information Services will take place and I thought it was appropriate that this morning in the Washington Post there is a column by the columnist George Will dealing with books and the beauty of the written word and the printed page.

In this column Mr. Will describes the usual travails about American students watching too much television, and reading too little. He expresses, as I feel, a certain concern about what might be called a transition from the printed page to the electronic medium for assembling and conveying information.

A few words of his are worth repeating from his article. He says, "Electronic pictures, unlike words, are ill-suited to communicate irony, ambivalence and other elements of adult wisdom. Television * * * is less suited than printed words are for required and developing intellectual maturity," which he describes as "the complexity needed for governance of the self and for self-government in society."

So there is a civic interest served by our promoting the written word and by our promoting libraries, which are the repositories for the Nation's and the world's learning.

The article follows:

[From the Washington Post, June 6, 1991]

TEMPTING READERS

(By George F. Will)

Reading the torrent of essays about the end of reading, and the glut of books about the death of the book, leaves little time for savoring the significance of Borders bookstores, which are flourishing.

There are 14 of them so far. The first was in Ann Arbor, Mich. The one here in Rockville is typical. It has more than 100,000 titles, 1.3 million volumes and a staff who when asked "Where is 'Billy Budd'?" will not reply, "He doesn't work here."

No one works here who cannot pass a quiz featuring questions like, "In what subject areas would you look for books by or about Jean Piaget, Gustav Klimt, Dorothy Sayers, Karen Horney, Ludwig Wittgenstein"? "Who wrote 'Tin Drum'? 'Native Son'? 'Where the Wild Things Are'?" Non-readers need not apply at Borders, which unlike lots of supposed bookstores sells neither games nor globes nor garden hoses.

The number of bookstores increased 76 percent in the 1980s. Only fast-food restaurants multiplied faster. Unfortunately, some of the bookstores resemble those restaurants, serving up a high volume of unnourishing stuff in an ungracious ambience. They make much of their money off bestsellers. They have transitory inventories: If a book is not moving fast, yank if off the shelf, fast.

A better way of doing business in books began 20 years ago with the Border brothers, University of Michigan graduate students, Tom, an English major, and Lewis, a computer wiz. Their idea was to use modern information systems to make possible, meaning profitable, small-volume purchases of many titles rather than large-volume purchases of titles that will sell at a high velocity.

The bulk of Borders' stock consists of just one or two copies of particular titles. A book selling eight to 10 copies a week is a strong seller. But, then, people do not come here for Danielle Steel.

Borders believes that the secret of a seductive store—selling books should involve enticement—is not just selecting stock with interesting eclecticism from the 55,000 new titles each year. It also involves offering selections from publishers' backlists.

Both the Walden and B. Dalton-Barnes & Noble chains account for approximately 12 percent of U.S. retail book sales and up to 25 percent of many bestsellers. But chains are only 32 percent of all bookstores. Independents are thriving because of their independent judgments about book stocks.

If everyone who entered a supermarket bought only the food he or she had in mind when leaving home, the supermarkets would fail. Supermarkets depend on impulse purchases. So do bookstores like Borders.

Supermarkets depend on display and packaging to trigger purchases. Borders knows it is enough to get real readers into the store and confront them with variety in a "browser-friendly" ambience.

Great independent bookstores—Denver's Tattered Cover, St. Paul's The Hungry Mind, Square Books in Oxford, Miss.—are receiving from some chain stores the homage of emulation. The chains are installing stuffed chairs and wooden shelves.

There is a public interest at stake in the fate of bookstores that quicken the public's appetite for printed words.

Seventy-two percent of eighth-graders recently surveyed said they watch at least three hours of television a day; only 27 percent said they read for pleasure each day. The rising generation is characterized by "aliteracy": It can read but doesn't. It prefers less demanding, actually less active, activities—mere distractions, really.

At most 12 percent of the adult population sets a good example by reading serious literature. Small wonder that SAT scores measuring verbal skills of the college-bound cream of high school students have declined.

The success of stores like Borders encourages the hope that Alvin Kernan is wrong to say (in his book "The Death of Literature") that serious literature has "almost no presence outside university literature departments." But Kernan rightly worries about the "transition from a print to an electronic culture."

What is changing, he says, is not just the way we do something—communicate—but consciousness itself. In our electronic culture the mind is becoming a thinner, more watery, less interesting thing.

Reading is private, silent, inward, active, demanding. It is linear as a sentence, orderly as a paragraph, governed by a logic of coherence. Electronic ways of learning things, using pictures rather than words, are passive, noisy, chaotic, communicating surfaces and meanings that are immediately and easily accessible. Electronic pictures, unlike words, are ill-suited to communicate irony, ambivalence and other elements of adult wisdom.

Words are complex signs sending sometimes elusive signals. Television, particularly, is less suited than printed words are for requiring, and developing, intellectual maturity—the complexity needed for governance of the self, and for self-government in society. So there is a civic interest served by anything, be it a better school or a better bookstore, that stimulates the wholesome addiction to printed words.

FARMERS NEED RATIONAL "WETLANDS" POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, today I am introducing a bill to protect the ability of Arkansas and American farmers to respond to the Nation's need for food and natural fiber production.

My bill would exempt lands which have been and continue to be used for agriculture production purposes form regulation, under Sec. 404 of the Federal Water Pollution Control Act, of deposit of dredged and fill material.

What farmers need is fair play. The Agriculture Wetlands Exemption Act I am proposing would help insure that they get it on this issue. The text of my bill is included in this speech.

Wise wetlands management is of vital importance to the Nation and to the future of all Americans. Therefore, it is reasonable that all Americans, not just farmers, share the costs.

The bill which I am introducing would block the application of the Sec. 404 provisions relating to discharge of dredges or fill material to lands which:

Was used for agricultural production on any calendar date during the 24 months prior to its enactment; and,

Which were used for agricultural production for at least 1 year in the period between January 1, 1972, and the date the bill becomes law.

The problems facing farmers in connection with the implementation of Sec. 404 are not new. However, they have boiled to the surface of public awareness due to the uncertainties and perceived injustices resulting from conflicting, inconsistent, and illogical rulings by Federal agencies charged with administering Sec. 404.

It is true that during the last year and a half some changes have been made which are directed at applying Sec. 404 in a more rational and logical manner. However, implementation of the "normal farming" exemption contained in Sec. 404(f) of the law continues to be restricted. And, farmers are suffering the consequences.

Thus, it appears that only effective means of settling this matter is write into Sec. 404 a clear and unambigous provision which protects land that is being used for and continues to be used for farming purposes. My bill would accomplish that.

The following is the text of the bill which I am introducing:

HR. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Wetlands Exemption Act."

SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CONTROL ACT.

Section 404 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1344), is amended by adding at the end thereof the following subsection:

"(u)(1) This section shall not apply to the discharge of dredged or fill material into any wetland:

"(A) which was used for agricultural production on any calendar date during the twenty-four months prior to the date of enactment of this subsection: and,

"(B) which was used for agricultural purposes for at least one year in the period between January 1, 1972 and the date of enactment of this subsection

so long as such land shall be used for agricultural production.

"(2) For purposes of this subsection, the term 'agricultural production' shall include, but not be limited to, production of row crops; horticulture; vintniculture; silviculture; aquaculture; mariculture; grazing; haying; apiculture; hydroponics; production of tree fruits or nuts; raising of cattle, horses, poultry, swine, sheep, goats and other livestock; storage of surface water for agricultural production; distribution of water for agricultural production; conserving uses required as a condition of enrollment in an acreage reduction program administered by the Secretary of Agriculture under the Agriculture Act of 1949 or any amendments thereto; all other activities identified in Sec. 404(f)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344) as of July 31, 1989, and the construction, expansion, improvement, maintenance and operation of farm residences and facilities."

THE MEDICARE PREVENTIVE BENEFITS ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to introduce today H.R. 2565, the Medicare Preventive Benefits Act of 1991, along with 23 of my colleagues on the Committees on Ways and Means. This legislation would improve Medicare coverage of essential preventive health services. A companion bill is being introduced today in the Senate by the Honorable LLOYD M. BENTSEN, chairman of the Senate Finance Committee.

Health professionals have recognized the value of preventive services for many years. Some preventive services, such as vaccinations prevent the occurrence of diseases. Other preventive services such as mammography screening enacted last year allow for early detection through screening. Early detection and treatment are not just cost-effective. For diseases like cancer, early detection and treatment may offer the best chance for reducing mortality and duration of illness.

However, preventive services generally have not been reimbursed under Medicare. Only in the last 10 years has Congress begun a slow process of providing coverage for a limited number of preventive services. Services currently covered by Medicare include:

Pneumococcal vaccine, since 1980;

Hepatitis B vaccine for certain high-risk individuals, since 1984;

Pap smears to screen for cervical cancer, since 1990;

Mammography screening for breast cancer, since January of this year.

The Medicare Preventive Benefits Act of 1991 would further extend Medicare coverage to additional preventive services with proven and unquestioned value. The bill would also lead to the establishment of a routine process for accelerating coverage decisions relating to preventive services under Medicare.

First, H.R. 2565 would provide a Medicare benefit for colorectal cancer screening. In addition, the current policy of biannual mammography screening for elderly women would be amended to allow for annual screenings as recommended by the American Cancer Society.

Second, our bill would provide coverage for annual influenza vaccinations for the elderly and for tetanus vaccinations every 10 years.

Third, H.R. 2565 would provide coverage for well-baby and well-child care, including appropriate immunizations for the small number of children eligible for Medicare through the end-stage renal disease program. These services are appropriate for all small children, and should be available to Medicare beneficiaries.

Finally, our bill would authorize permanent demonstration projects relating to preventive services. In addition, the Office of Technology Assessment would conduct a study and recommend a process for determining when other preventive services should be covered under Medicare.

Mr. Speaker, consistent with the requirements of last year's budget agreement and with the committee's policy over the last 10 years, the Committee on Ways and Means is fully committed to pay-as-you-go financing for benefit expansions within its jurisdiction, such as those contained in this bill.

There are a variety of approaches that could be used to finance these benefits. One would be through an increase in Medicare's part B premium. Based on preliminary estimates, the cost of these benefits would be fully financed by an increase in the premium of $1.10 per month in 1992, increasing to $1.60 per month in 1996. Other approaches for financing these benefits on a pay-as-you-go basis could also be considered. I specifically solicit public comment on this proposed premium increase at the hearing by the Subcommittee on Health that will be held June 17, 1991.

Mr. Speaker, I wish to thank Chairman BENTSEN for his support in developing this legislation, and my colleagues on the committee for their support of this important bill.

Preventive services not only offer the potential of saving money for the Federal Government, but also the lives and suffering of millions of our senior citizens. I urge my colleagues to join me in support of this important legislation.

A section-by-section summary of the bill follows:

THE MEDICARE PREVENTIVE SERVICES BENEFITS ACT OF 1991

SECTION-BY-SECTION

Section 1. Title.

Section 2. Coverage of Colorectal Screening.—The bill would provide for coverage of fecal occult blood tests (FOBT) and screening sigmoidoscopies for the early detection of colorectal cancer. The FOBT would be covered on an annual basis; the screening sigmoidoscopies would be covered every 5 years. Payment for the FOBT would be under the laboratory fee schedule, subject to a $5 limit in 1992. The screening of sigmoidoscopies would be reimbursed under the RB RVS, without regard to the RB RVS transition provisions. That is, the sigmoidoscopies would be paid based fully on the RB RVS rate in 1992.

The Secretary would be permitted to modify the frequency criteria after 1994.

Section 3. Coverage of Certain Immunizations.—The bill would provide for coverage of annual influenza vaccinations, and for tetanus-diphtheria vaccinations every ten years.

Section 4. Coverage of Well-Child Care.—The bill would provide for coverage of pediatric well-child care, including appropriate immunizations for Medicare beneficiaries up through age six. In general, beneficiaries eligible for these benefits would be children entitled to Medicare benefits who have kidney failure as a result of end-stage renal disease.

Section 5. Annual Screening Mammography.—The bill provides for Medicare coverage of screening mammography on an annual basis for individuals over the age of 65 or older. Current law coverage provides for annual coverage for women ages 50 through 64, but only every two years for the older women.

Section 6. Demonstration Projects for Coverage of Other Preventive Services.—The bill would provide for the establishment of an ongoing series of demonstrations that would evaluate the appropriateness of coverage of additional services under Medicare.

Section 7. OTA Study of Process for Review of Medicare Coverage of Preventive Services.—The Office of Technology Assessment, subject to the approval of the Technology Assessment Board, would conduct a study and recommend a process for determining when other preventive services should be covered under Medicare.

Section 8. Effective Date.—The benefits would apply to services provided on or after January 1, 1992. All other provisions would be effective on enactment.

DOMESTIC DEFENDERS' BILL OF RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, 1991 is the 200th anniversary of the Bill of Rights of this Nation. In that regard, it is fitting and proper that this year Congress acknowledge a similar bill of rights for America's domestic defenders, the men and women who make up the emergency response network in this great Nation.

In that regard, 10 days ago I introduced H.R. 2448, the Benjamin Franklin Memorial Fire Service Bill of Rights. In just 20 short days this legislation has received the cosponsorship of 250 of my colleagues, and we expect to move this legislation quickly in the House; shortly, Senator BIDEN from Delaware will be introducing the exact same legislation in the Senate. We expect a similar response in that body.

This Bill of Rights on behalf of the Fire Service and the emergency responders of this country provides for 10 basic rights in recognition of the job that the domestic defenders of this country have done for the last 250 years. It does not grant them the entitlement to sue this Government, but simply acknowledges that we in this country have not been doing enough to support their efforts Nationwide.

In that regard, it calls for the minting of a special coin in 1993, as a matter of fact, 2 separate coins. 250,000 of a gold coin, and 4 million silver dollars to commemorate and honor Benjamin Franklin, our Nation's first fire fighter.

The proceeds of the sale of these coins will go to a series of programs that will benefit the 3 million men and women who make up the Nation's fire and emergency services network. The proceeds will be distributed equally among six nonprofit foundations, each of which is providing a level of service to the fire services of this Nation, including two scholarships for fire fighters and emergency response personnel who wish to go on to pursue advanced degrees.

Proceeds to establish promotion of volunteer health and safety programs for the 85 percent of the fire service who, in fact, are volunteers; 13 percent of the proceeds of the sale of these coins to go to the International Association of Fire Fighters Burn Foundation for research into burn injuries and better techniques and abilities to deal with burn injuries; 13 percent of the proceeds go to the National Association of State Fire Marshals to establish and maintain a special scholarship program named in honor of the late Senator John Heinz, who last year sponsored this bill in the Senate to provide educational scholarships for the children and spouses of fire fighters and emergency responders who were killed in the line of duty; an additional 13 percent of the proceeds will go to the National Fire Protection Association's Learn Not to Burn Foundation to provide local education programs and resources for low-income residents, in rural and urban communities throughout this Nation. Finally, 13 percent to the Institute of Life Safety Technology and Emergency Management Education and Emergency Response Disciplines.

Mr. Speaker, this legislation does not cost the taxpayers of this country 1 dime. As a matter of fact, the bulk of the coins will be purchased by the fire fighters themselves throughout this country.

I ask my colleagues, tonight, to join with the 250 Members of this body who have already cosponsored this legislation so that we can move it quickly and allow this legislation to become reality.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. WELDON. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I want to thank personally my colleague from Pennsylvania. All Members who have come to this Congress have come from neighborhoods and communities where we have earned or we have given a great deal of respect to the fire fighters and other domestic helpers of our communities, but it took the gentleman from Pennsylvania [Mr. WELDON] to elevate their status to the highest it has ever been, and to help Members of Congress understand fully the place in society that the fire fighter takes.

For that reason, I am glad to be one of the 250 sponsors to whom the gentleman refers, and we will cooperate with the gentleman in whatever further ventures he may put before Members.

Mr. WELDON. Mr. Speaker, I appreciate the comments of my friend and acknowledge the fact that he passed major legislation last year as part of the defense bill in regard to better protecting our fire fighters around the country.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New York.

Mr. GILMAN. I want to commend the gentleman from Pennsylvania who has brought many Members together in the Fire Fighters Caucus, in the Congress, and given Members the opportunity to address many of the needs, to assist our many volunteers who are out there saving lives and property daily.

I am pleased to cosponsor the measure the gentleman is introducing, and I hope many more of our colleagues will join in that endeavor.

Mr. WELDON. Mr. Speaker, I thank my friend and colleague from New York, and I applaud him for his leadership in leading the way for legislation calling for smoke detectors in public buildings.

□ 2210

POLAND TALKING WITH FOREIGN BANKS ON DEBT SETTLEMENT

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, a delegation of Polish officials and creditor foreign banks are due to meet June 18 and 19 in Frankfurt, Germany to discuss compromises on a debt reduction package. I enthusiastically support this meeting because an agreement would be beneficial to both the Polish economy and the foreign banks.

The foreign debt hinders the Polish economy in its drive toward capitalism and free markets. Because of the difficulty the Polish Government has had in converting to a market economy, it has not been able to afford its debt payments since late 1989. An agreement would stimulate the Polish economy and allow the foreign banks to receive much of what is owed to them. An agreement would also be a very strong signal for potential investors in Poland.

With some $46 billion in total foreign debt, Poland owes $35 billion to foreign governments and some $11 billion to 500 foreign banks. About $3.5 billion of the total is owed to American banks. Poland recently won a landmark agreement from the Paris Club of government creditors to write off at least half of the $35 billion they are owed. Poland is seeking a similar agreement from the banks.

The problem is, in order for Poland to receive the 50-percent debt reduction from the foreign governments, it has to successfully negotiate a similar reduction with the foreign bank creditors.

In May, the banks offered debt forgiveness of 35 or 40 percent. The banks hesitate to accept the 50-percent offer because they believe that Warsaw must first address the question of overdue interest payments. Poland has offered to pay $100 million worth of overdue interest, and to deposit 20 percent of on-going interest payments with the Bank for International Settlements [BIS]. The deposits with the BIS would be made unconditionally, but release of the deposits to the banks would depend on completion of a total debt package to be agreed with the banks.

Thus the discussions have been going back and forth. While simply talking is a good step toward an agreement, I fear that no agreement from the June 18 and June 19 meetings will cause the talks to collapse.

The talks must not collapse. These talks are of paramount importance if the Polish economic system is expected to make further progress on the road toward capitalism. Both sides must be further willing to compromise, but I urge the American banks among the foreign bank creditors to take a greater leadership role in moving to accept the 50-percent debt reduction proposal. The Polish progress toward democracy and privatization over the last couple of years must not be sacrificed.

THE PRESIDENT'S ANTICRIME BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 60 minutes.

Mr. GEKAS. Mr. Speaker, next Friday, a week from today, there will have expired the 100 days within which the President of the United States wanted very much to see action taken by this Congress on the comprehensive crime bill for which the American public is pining as a society to try to bring about a control of the crime wave that is hitting every community.

Sadly, that 100 days will elapse like the 100 months that have elapsed since former President Reagan first introduced his comprehensive crime package.

From the time 8, 10 years ago now that that President introduced a stern and firm comprehensive crime package, we have been able to get through the Congress perhaps one or two little legs of a series of things that have to be done in this titanic battle we are waging. And those were accomplished through parliamentary devices where we had to use legerdemain through the auspices and with the help of our minority leader, Mr. MICHEL, and with the grudging help of the then-Speaker of the House in maneuvers unbeheld previously in this Chamber.

But we did so because we knew if the House was given the opportunity, it would enact legislation to be tough on criminals. And because of this same kind of opposition that President Reagan had in everything he tried and now which President Bush is encountering, we have another titanic struggle ahead of us. We are going to keep trying.

What is it that the American people most become disgusted about in the whole system of justice that we have? I maintain it is the phenomenon of a criminal caught red-handed who then comes before the court and because of some technicality the judge is forced to free him, to allow him to leave the court laughing at the system for beating the rap because of some technicality, some missed comma in a search warrant, some oversight that has nothing to do with the commission of the crime.

No wonder then the American people have a distrust of the entire system. That would be cured if only we would be permitted to bring to the floor and follow to conclusion in conference and placed before the President a bill that would finally reform the exclusionary rule and end the practice of using technicalities to free known criminals from their just desserts.

We know the American people overwhelmingly support the death penalty in those heinous and serious, tragic cases that hit the headlines every day; not just those that are blatantly accomplished by paid killers and drug dealers, serious as they are, but the drive-by killers, the bank robbers, and all those bloody messes of murders that we see in our newspapers and televisions almost every day.

We want a comprehensive death penalty to be applied across the board for those who would dare to kill in our society, and many other portions of the comprehensive crime bill also.

But what we are really saying here tonight is we know what the American people want, we know they will support us and do support us in these efforts. We know that we have men and women of good will in the House of Representatives who will support these anticrime measures.

But the real complaint, and it is a justifiable complaint that we lodge here tonight, is that the leadership of the Committee on the Judiciary and the leadership of the opposition to the President would rather not let anything happen at all than to abide by a passage of bills that have the leadership stamp of President Bush placed right on them. That is the real issue here. They do not want to see the President succeed in a comprehensive crime initiative that he began almost 100 days ago.

Well, there are other speakers who I am sure will embellish on what we have begun to say here.

Mr. Speaker, I yield to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], the leader of the Republican portion of the House of Representatives.

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker and my colleagues, as the gentleman from Pennsylvania so well put it, the 100-day deadline is winding down. In less than 10 days, the President's simple request to the Congress that it pass an anticrime bill will go unanswered.

We use the word crime so often and so easily, we tend to forget the evil that it represents. Crime is not just another issue; crime is a personal thing. Crime is the knife at your throat on a darkened city street; crime is the fear that terrorizes the elderly who hide behind locked and bolted doors; crime is the greed and violence of the drug lords who rule parts of our city as if they were sinister royalty; crime is being mugged outside your home, as I have been; crime is the outward visible sign of a breakdown in values, of civility, discipline, of responsibility. And I guess we can talk about root causes all we want, but defining a root cause never put one thug behind bars.

Yes, let us search for the cause of the scourge, but while they are talking, let us do something useful.

You would think such a vital issue would be our No. 1 priority in this country.

I strongly believe it should be.

Those who engage in this special order feel likewise. But the likely scenario for crime legislation in this session will probably follow a familiar pattern; the majority may very well move a bill that will be so loaded down that it probably would be worse than no bill at all.

Republicans are going to be working to change this unacceptable routine. We will vote against any bill that will do nothing effective to fight crime in this country. We will urge the President to veto any weak crime bill that comes to his desk. We are going to fight for a crime bill that punishes the criminal and protects the victim. We want a tough crime bill, as the gentleman from Pennsylvania has alluded to earlier. We are going to do everything in our power to see that effective and forceful anticrime legislation passes the House this session. An effective crime bill includes, as the gentleman said, habeas corpus reform that will stop the endless legal delays and redtape used by the guilty to avoid justice being done. It also includes a modified exclusionary rule to clarify those technicalities that criminals employ to have evidence at their trials suppressed.

Finally, it must include an expanded death penalty for those who deserve it.

The President's crime bill includes those provisions and others that will help in our Nation's struggle against criminals. It is politically difficult for Members to vote against the crime bill, even one that has no teeth; but it is politically irresponsible to tell the American people we have produced an anticrime bill when we have not.

The American people instinctively understand this basic truth. We must stand fast for a crime bill that fights crime and accept nothing less.

I will underscore, in conclusion, only again that in times past we have had to use every parliamentary device and ruse under the sun to really give this House an opportunity to vote on really strong crime legislation. I am thinking back to several years ago when our good friend Dan Lungren, who was still a Member of Congress from California, took the motion to recommit that we at the time had caught our opponents unawares on that occasion, but that was a unique kind of situation. Then again, last year when we got so close through both Houses for all practical purposes and that had one of the good things that we had adopted and fought so hard for, gutted in the conference.

We do not intend to see that happen this year. We are going to hang in there tough. I just want to alert our Members on the other side that that is going to be our game plan for this session with respect to anticrime legislation. Hopefully, we will be successful this year.

I appreciate the gentleman's yielding to me at this particular time.

□ 2220

Mr. GEKAS. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL].

Mr. Speaker, I always remember that conference that we had, I remind the gentleman from Illinois, with the then Speaker, Tip O'Neill, and all our leadership and all the little things we had to do to try to get a parliamentary party going on in the House here as we prolonged the debate on capital punishment. I thank the gentleman.

Mr. Speaker, I now yield to the gentleman from New York [Mr. GILMAN] for a short message.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding, and I want to commend the gentleman for arranging this time and commend our distinguished majority leader, the gentleman from Illinois [Mr. MICHEL], for his introduction and support of a Comprehensive Violent Crime Control Act of 1991.

Violent crime has become a disease afflicting and eroding our Nation. It is an epidemic spreading throughout urban, suburban, and rural areas where our citizenry are constantly concerned for their own safety. I ask, "Isn't it time that we alleviate the apprehensions of the people of our Nation who even fear walking the streets of their neighborhoods due to the incidence of violent crime?"

Drug trafficking and abuse is a major contributor to the crime problems in our Nation. Eighty-five percent of all those arrested today for violent crimes test positive for drugs. Drugs clearly walk hand in hand with violent crime. Although the recently adopted 7-day waiting period in the Brady bill will help reduce crime, we are going to have to take much more comprehensive action. We must strike fear into the hearts of all criminals, into the hearts of all drug dealers and drug abusers. If not, this deadly disease will continue to spread terror across our Nation, victimizing more and more innocent, law-abiding citizens.

To effectively combat crime we are going to have to attack it at its core. The Michel tough Comprehensive Violent Crime Control Act of 1991 would be a truly powerful weapon in combating crimes and drugs in our society. The people of our Nation are disgusted with the drugs being fed to our young people and the ever-increasing cases of violent crimes. To eliminate violent crime the American public needs our help and needs it now.

Accordingly, Mr. Speaker, it is incumbent upon this Congress to support this comprehensive violent crime control legislation in order to provide our law enforcement officials with a powerful tool to crack down on the drugs and crime dilemma confronting our society.

Mr. GEKAS. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN].

I now yield to the gentleman from New Mexico [Mr. SCHIFF] who is a member of the Committee on the Judiciary and was also the chairman of the Crime Task Force for the Republican Party in the Congress.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GEKAS] for yielding to me.

Mr. Speaker, I think in the area of addressing the enormous problem of violent crime we have terribly let down the American people. They expect us to take strong action to address the carnage that is going on in the streets today, in excess, I believe, of 20,000 homicides a year. And what have we done in the U.S. Congress in just this year, in almost half of the calendar year 1991?

Mr. Speaker, we passed H.R. 7, the Brady bill, in the House, and we have sent that over to the other body, and that is all we have done.

Now I must say personally I did not vote for the Brady bill, as a matter of fact, nor did I vote for the National Rifle Association's proposed substitute because I did not think either would be effective in fighting crime. I have yet to hear someone explain rationally how the Brady bill will stop crime or even affect crime.

In terms of law enforcement, the Brady bill says that law enforcement agencies may conduct a check, but do not have to conduct a check of those who are purchasing handguns, and, in terms of the waiting period supposedly addressing those who in a weak mental moment might commit a crime of passion, to the extent that really happens with store-bought weapons, which I would question, the Brady bill actually, as we passed it , took that provision out. I know that has not been expressed in the media reports. But there is a provision in H.R. 7, the Brady bill, that we passed that says that, if any State, such as Virginia today, has an instantaneous check system between a gun dealer and a law enforcement computer to determine immediately whether someone wishes to purchase a handgun is a convicted felon, then there is no 7-day waiting period, so what happened to this need for a cooling-off period so that everyone who buys a handgun has a chance to think about it so they will not commit a crime of passion? Under the Brady bill today there would be no cooling-off period in Virginia, nor any other State as they adopt the Virginia system, and most of them will.

Now that has been decided in this body for now. The House of Representatives passed the Brady bill. I must say it passed fair and square, and it is over in the other body for its action. The point is that even the most ardent supporter of the Brady bill does not claim that it will be very effective in fighting crime, since everyone concedes that most criminals do not get their firearms from stores. They get them from other means. Therefore, even assuming that the Brady bill will in fact have the impact against crime that is limited, but that its supporters claim, what else have we done?

Mr. Speaker, the answer is nothing. That is why we need to move on the President's crime package, and that is why we need to move on every other good idea that we can think of and that we should be considering on the House floor.

I have to conclude by observing that all of the action against violent crime will not be taken in the Congress of the United States. Many of the laws with which we are dealing are State and local laws, and they have to be addressed.

For example, the States control juvenile laws, and we have a tremendous problem with teenage gangs. We do not want to face that idea. We want to think that a juvenile criminal is a 12-year-old who shoplifts, and with a little kick on the behind and a pat on the back will go straight and will not cause any problems as an adult. Of course that is probably the truth. Of course. Nevertheless, there are also 16- and 17-year-olds who rob, who rape, and who kill. How do our laws address those?

In my State of New Mexico, very poorly. We recently had a case where a 17-year-old killed an innocent bystander in a drive-by gangland-style shooting, and what did the State of New Mexico do to this 17-year-old murderer? We sent him to reform school of course because he is 17 years old, and he will be out again inside of 2 years, if not 2 months. So, there are great areas of reform that have to be done in bodies other than the Congress of the United States.

I will take that one step further. Much of the solution against crime exists with our communities, with our families, with our schools, with our religious institutions, with our community institutions far beyond what any legislative or governmental body can do. But we in the Congress of the United States have our obligations, our responsibility, and that is to take all of the action we possibly can at the Federal level which will address and curb the rising tide of violent crime and which will assist State and local governments and communities in doing the likewise, and we have failed in that thus far, and that is why we should move, and the next move we should take is acting on the President's proposed anticrime bill.

Mr. Speaker, I hope that this will be acted on in the Committee on the Judiciary as soon as possible and brought to the House floor for action, and I thank the gentleman from Pennsylvania [Mr. GEKAS] again for yielding.

Mr. GEKAS. Mr. Speaker, I thank the gentleman from New Mexico [Mr. SCHIFF] for his remarks.

I now yield to the gentleman from Florida [Mr. MCCOLLUM], a member of the Committee on the Judiciary and a leader over the years in the attempts to pass a comprehensive crime package.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GEKAS] for yielding on this special order time tonight.

Mr. Speaker, I believe the comments that are being made are very significant because we are talking about being within 10 days of the challenge that the President gave of 100 days in which to come up with a crime bill. It seems to me that that is very significant in light of two things. One is the obvious that he made, and that is that we can have our troops in Desert Storm do what they did in 100 hours. Surely we can pass a comprehensive crime bill in a period of 100 days. But it is especially meaningful in the broader context of why he used the crime bill as one of two pieces of legislation that he suggested to us in that speech after Desert Storm that we should take very, very quick action on.

The reason that he used the crime bill in particular is because of what happened in the last Congress when we dilly-dallied around here and did not pass the major crime bill that we did pass and passed a pretty good one on the floor of the House. We did not do it until the very end of the session of the 2-year sessions of the Congress, and, as a result of that, the conferees between the House and Senate who got together to work out their differences had only about 3 days in which to work, and, as a practical matter, just a handful of very liberal Members of the other body, along with perhaps some sympathetic conferees from our side, could easily kill the crime bill that was passed out here on the floor. That crime bill of course was passed overwhelmingly out here, as the gentleman from Pennsylvania well remembers, and that is what we do not want to see repeated.

We want to see a timely crime bill out of here now, this half of the Congress, before we get too far into all of this so that we can take that to conference and so that the Senators hopefully will be pressured to pass one as well, and that in this year, not at the end of a Congress, not at the end of a 2-year cycle, but during this very first year, we will have plenty of time in which to work the will of the Congress through a conference so there can be no excuses about that, we can bring something back in disagreement, we can have other votes on it.

☐ 2230

We could put public pressure, rally people to write letters and so forth. I think that there is a reasonable chance that the Members on the other side of the aisle, their leadership will live up to some signals they are giving now that they will bring a bill out. I hope tonight will encourage them to make sure they do. There has been talk that we will have a bill through our House Judiciary Committee in July. I have not seen the movement yet on the subcommittees that would prove that, but there has been talk about that.

There has also been an indication here, by the gentleman from Missouri [Mr. GEPHARDT], who is the leadership, of course, on the other side of the aisle, in response to some debate over one of our bills here a few days ago, indicated that there was going to be a bill by this fall, during this calendar year. And some others in their leadership have said they think there will be a bill out by September.

It seems to me there should have been action by now because there cannot be a bill out here on the floor, since there has been no committee action, within the next 10 days, within the President's 100-day challenge, but surely there can be a bill.

When there is a bill, there must be the provisions that we have heard our leader mention, and we have heard the gentleman from Pennsylvania [Mr. GEKAS] mention out here. We must have the restoration of the procedures, that are necessary to put in place the death penalty, again in the Federal laws where it had been on the books for years but was taken off procedurally by decision of the Supreme Court in 1972. All the States, of course, that have had that decision rendered on them applicable to their procedures that had the death penalty have long ago reinstated the death penalty. We have not done that. That is to correct the constitutional infirmities.

The second thing going hand-in-hand with that, that is important, in addition to a few additional death penalty provisions the President wants, is particular emphasis on a new death penalty for drug kingpins where there is no actual provable death in the case but where there is trafficking in extremely high quantities of drugs, sufficient that that is what anybody would realize would be the appropriate deterrent for these huge drug kingpins. Then, of course, we have heard discussed the exclusionary rule, the so-called modified rule that deals with methods that would simply change the law to conform in the cases where there are no search warrants, the admissible standards when there is an otherwise legal search, not talking about violating the constitutional provisions against unlawful searches and seizures, where there is an otherwise lawful search. And there would be consent to go into somebody's home and make that search, if you have that.

The Supreme Court has said in the case that there is a warrant and one goes in and makes the search, then if there is a legitimate error, one that is technical in nature, that perhaps otherwise might be something they disapprove of, that at least the evidence could come in against the criminal in that case. We do not see why. I do not see why that should not be the same type of thing, same ruling applied where there is a lawful search in every other respect, just a technical flaw even though there is no warrant.

For example, a consent search situation where the police knock on the door and a person says, "Come on in." I do not have a problem with that.

The third or the fourth area really that was in that bill last year that we are readdressing in this Congress and needs to be out here in this 100-day limit time is the change in the law on habeas corpus. The Supreme Court ruled a few weeks ago on the subject but they did not go far enough or as far as we went last year. That is to change the rules so that in death penalty cases and in other cases where there has been an ability over the years for criminals to appeal endlessly to delay the carrying out of sentences, there can be some finalities. There can be, saying to the criminal, "You will have your one day to go into Federal court, if it is a State court conviction. After you have had all your appeals, regular appeals to the Supreme Court of the United States, you go back in one time but only one time and claim you don't have an attorney that was representing you properly or whatever other constitutional infirmity you want to claim. But you should not be able to come back again and again and delay and delay the carrying out of the sentences."

Those are very significant things, all in the President's crime bill, all of which were debated out here on the floor last Congress, all of which passed in some form this body and went to conference and then were defeated in the middle of the night because we did not have the bill out of this body in a timely fashion, because we put it over there with only 3 days left.

In closing my portion of this special order, I would point out that there are several very significant additional things in the President's proposal. I am not going to list all of those, but one that comes to mind, because it is being discussed a great deal right now, concerns minimum mandatory sentences for those who commit violent crimes and drug-related crimes with guns.

One of the great tools that is out there right now for law enforcement in this country is a Federal law that says that if a person commits a crime of violence, a drug-related crime, either using a gun or having a gun in their possession, even if it is a State conviction, a State crime, then there is an additional Federal crime for the simple possession or use of the gun during that crime. And if the Federal Government prosecutes that person for that, and there is a new Attorney General ruling, Attorney General Thornburgh has out, asking the U.S. attorneys to make these prosecutions and cooperate with State courts and cooperate with States attorneys, for the States to bring those State criminals into the Federal system after they finish their prosecutions there. If they get that conviction, that second conviction in Federal court, regardless of what happens in the underlying case in the State court, they have the result being a minimum mandatory 5-year prison sentence.

The significance of that is that we have many felons, very violent criminals being released on our streets today in the United States who really should not be, because we have overcrowded State prisons. We have lots of room in our Federal prisons compared to the State prisons. We are building new prisons. We need to take the violent criminal who commits crimes with guns off the streets. We have the tools to do that with.

This bill the President has proposed offers enhancement of those. He would offer, for example, an enhanced penalty for someone who commits or carries with him during the commission of one of these violent crimes a semiautomatic weapon. That is real gun control.

If a person has a semiautomatic weapon and commits a crime, the President says that person ought to get a minimum mandatory sentence of 10 years in prison.

There are several other related enhancements that go with that. If we can get the criminal off the streets who is using the gun and he is a repeat offender and really lock him up with no chance of parole, the Federal law does not allow that in these situations, then we have begun to really do something to make the streets safer and to send a message, which is what criminal law is all about, to these thugs that are out there on the streets that there is swiftness and certainty back in our criminal laws and in our punishment system, and that we do mean business.

That is the only way we are going to get deterrence, so we get two things out of these things the President has proposed in his crime bill. The death penalty revision, exclusionary rule to get evidence in more easily to get convictions, particularly drug cases, the changing in the law to end the endless appeals in death row cases and in related other kinds of cases, and the cases with regard to these gun-toting felon violent criminal situations.

We have sent at least two messages. One is that we are going to mean it and they are really going to face the tough sentences and going to have to do time and a long period of time and not be able to delay the carrying out of their sentences if they commit this type of crime. And the second message to the American public that is equally important is that we are going to put people away for a long period of time. They are not going to keep getting released out on the streets and turned loose like we saw on television this evening on one of the network shows when they were talking about how judges are forced in State courts in many parts of the country to release people because of the overcrowding.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California.

Mr. CUNNINGHAM. I would like to extend some of what the gentleman has said today a little bit. Today our prisons are overcrowded. We cannot handle the people we have going in there. So how are we going to take care of this in the future?

When I was in the service, the day we pulled into Singapore on the Coral Sea, they hung in public a mother, a grandmother and a daughter. I am not proposing to do that, but we had a lot of trouble with our sailors going into different ports on drug usage. And when we pulled out of Singapore, the Captain's Mast line, we did not have a single sailor in the drug line. When we pulled into Africa, it was told to us that many of the prostitutes there had the HIV AIDS virus, and before the lines were extensive coming out of different ports. No one sailor, when we pulled out of Africa, was in the VD line.

□ 2240

In Singapore, they also have a penalty called the cane. In that penalty, if you commit a crime, say it is murder, you receive so many hits with this cane. It is very brutal, and I am not promoting it, but I am trying to make a point.

If you steal, then it is a different level of hits that you take. It is so bad that the cane cuts all the way to the bone. The doctor has to look at you after every time you are hit.

If you have, say, like 15 hits, and you can only take 3, what they do is take you back to the hospital and heal you up until you are able to come back and take the remaining ones. Singapore has a zero return rate in their prison system.

I am not promoting these, but what I am saying is if the penalty is severe enough, that you will not have the return to those jails and the recidivism that we have in our jail system today.

So what the President is trying to do is make criminals that commit the crime pay for what they do, and make it severe enough that they are not going to come back, like the gentleman from Pennsylvania said, in 2 months, or 6 months, and commit the same crime.

Mr. McCOLLUM. Mr. Speaker, reclaiming my time, I agree. That is exactly right. The point of the gentleman is so well-made. We have lots of constitutional barriers, rightfully so, to some of those severe punishments other countries have. But those other countries do not have the crime problems we do.

We can have that deterrence, as the gentleman is pointing out. Maybe not quite the same absolute, but we can have a lot more, which we do not have in our law today, and that is the point of the gentleman. I agree with it.

If we just would do some of the things the President wants to do, and put that swiftness and certainly back in the system of punishment of our country for criminal laws.

I want to again thank the gentleman from Pennsylvania [Mr. GEKAS], because he is doing a service to bring up this time tonight for us to discuss this. He has worked very, very hard, especially on the restoration of the death penalty over the years. It is absolutely a tragedy that we have not passed these laws and the death penalty restoration long before now. There is only a handful of Members in this body and in the other body who held this up, and thwarted the public will.

Maybe this throwing down of the gauntlet by the President, even though the 100 days may expire shortly, will prompt us to get that bill up.

Mr. GEKAS. I thank the gentleman for participating.

I yield whatever time he might consume to the gentleman from California [Mr. CUNNINGHAM] for his statement.

Mr. CUNNINGHAM. I thank my friend, the gentleman from Pennsylvania, for yielding.

Mr. Speaker, as a freshman, even today as we went through several bills, my freshman class on both sides of the aisle sat down. We have only been here a short time, but we are in dismay for the politics that go on here on this House floor. The things that really prevent us from helping people is the politics involved.

My friend, the gentleman from Florida [Mr. MCCOLLUM], touched on it with the Committee on the Judiciary not releasing the President's crime bill. This is intolerable. It has been over 100 days. Today marks the 93d day since the President challenged Congress to pass this crime bill, and yet we have not seen it. We hear July, we hear August. Well, maybe next year.

This is ludicrous. They will not let it come up, and it is a crime in itself.

Crime is the No. 1 problem in the United States. Crime hits low-income and minorities the hardest. We just passed a civil rights bill on the House floor. People have a right to live.

Blacks are six times as likely to be murdered as whites. Half the murder victims in the United States are black. Blacks are more likely than whites to be victims of violent crime. Over 44 percent of blacks versus 34 percent of whites are involved in violent crime.

Hispanics are more likely than non-Hispanic to be the victims of violent crime. Persons with family income less than $7,500 are two and one-half times more likely to be the victims of crime.

People have a right to live. They have a civil right. We need to protect that.

Firearms were used in 11 percent of all violent crimes in the United States. According to the Justice Department, in 1989 there were over 21,000 murders in the United States.

I can remember thinking as a child that one murder, when I heard it, in the United States was unbelievable. We have 21,000.

In Los Angeles, in my home State, there are murders every day. Here on Capitol Hill is the same, and San Diego is no different.

There are over 135,000 rapes. Not 135, but 135,000 rapes.

About 5 percent of all households have been touched by violent crime. Not just break-ins, but violent crime. That means if we live 20 more years, every single one of us are going to be involved in violent crime.

The crime bill of the President will be a major step to getting the criminals off the street. The House just passed the Brady bill. My colleagues have mentioned it. Maybe they did not support the Brady bill. I did not support the Brady bill, and I probably should not have supported the Staggers bill, because neither one answered the question. Neither one answered the question of taking the weapons away from the criminals.

The President has vowed to veto the Brady bill. Mr. Speaker, we need some type of a system, and I would hope that the Senate can take the Brady bill and the Staggers bill and take the best portions out of them and combine it with a crime bill.

Mr. Speaker, I believe that over a period of time, a few years, we could have a system wherein if a criminal walks in and wants to purchase a weapon, or a criminal has a weapon, that some of the events that the gentleman from Florida [Mr. MCCOLLUM] spoke about can be taken care of. I hope that that also passes.

The gentleman from Florida [Mr. MCCOLLUM] talked about the death penalty. This is one of the things that the President's bill will take care of. Not just for murder of Federal officials, but the penalty for drug kingpins, terrorists, the killing of hostages, and of murder for hire.

Equal protection. We need to ensure that justice is color-blind. Most of the people in our jails today are from ethnic minorities. Why? Maybe because we do not provide them with the jobs we need. Maybe they are not provided with the education that they need. Maybe they do not have the homes that they need.

This House tonight passed an appropriations bill with a HOPE Program which allows people to own their own homes. I think under that provision, that the first person that writes graffiti on that home, they are going to go away. The first drug kingpin that moves into those housing developments, it is the homeowner that will take care of it.

When you own your own home, that takes care of the value system in the homes themselves. I think when you have HOPE, you have a home, and you are going to eliminate some of the crime itself and put the value system back into it.

Reform of habeas corpus. That is the system that ties up our courts, that does not allow us to get due process.

Reform of the exclusionary rule. My friend from Florida covered that, and I am not going to expound on it.

We need to improve the firearm laws themselves and require a mandatory 10-year term for the use of semiautomatic weapons in drug trafficking offenses, rather than just a violent felony. If someone uses a weapon in a crime, we need to put the maximum pressure and penalty on them. We need to increase the penalties, which my friend, the gentleman from Florida [Mr. MCCOLLUM] also spoke about.

We need to protect the judicial system with witnesses, court officials, and jurors in Federal proceedings.

Gangs and juvenile offenders, my friend form Pennsylvania [Mr. GEKAS] touched on this. I do not want San Diego to turn out to be another Los Angeles, or another Washington, DC, where crime is so rampant. We need to handle gangs.

One of the ways we need to do it is not just focusing on the negatives of our youth. There are so many positives that come out. We need to focus on some of the positives for the minorities, give them role models, and the only way to do that is through the educational process.

I believe that the President's crime bill will help us do all of these things and achieve all of those things.

One of the most terrible, heinous crimes, other than drug kingpins, other than murder for hire, for me, is child abuse and sex offenders. The bill will provide new penalties for child abuse.

Child abusers; to me, the Singapore system is in order. I am sorry, I do not really believe that, but something needs to be done for child offenders, for sex offenders, and make it easier to prosecute these offenders, and increase the penalties, as well as providing drugs to pregnant women and for sex offenders against children under 16 years of age.

□ 1050

The President's bill does this. Ladies and gentlemen, we need to pass the President's bill.

We have not talked about drug testing, but we have a war on drugs. When I was a commanding officer in the service, 99 percent of all of the problems that I had in the squadron were in relation to drugs, and I include alcohol within that division. We need to take a look at our borders. We need to take a look at more strenuous, tougher laws on parole.

My colleague from New York talked about 85 percent of all criminals testing positive for drugs, 85 percent. When we have a felon who is on parole, we need to test that individual.

Mr. Speaker, the President's bill takes care of all of these things, but yet the Judiciary Committee will not allow the President's bill to come out. Why? That is a crime in itself.

Mr. Speaker, I ask that we force this bill to come out so that it is voted on in the House and so that we can also take it to the Senate and it can pass so that the American public will not only have civil rights, but they will have a right to life.

Mr. GEKAS. I thank the gentleman for participating in this special order.

Mr. Speaker, I yield to another distinguished gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentleman for all his leadership on this issue. The hour is late. I know that our dedicated employees around here are anxious to get home, but this is a very, very important subject made even more so because of the connection to the President's 100-day challenge.

I certainly appreciate the comments of all of my colleagues, particularly my cohort and colleague from California [Mr. CUNNINGHAM].

I enjoy a rare distinction in this body of being one of a very few number of former police officers and those of us, if I can put that badge of honor on for just a moment, who have served, if you will, in the front line in the fight against crime and can never move too far away from that battle. It is something that really carries with you always. It can, in fact, be a badge of honor. It is a very, very valuable experience and a frame of reference to have to use in whatever situation or experiences one may encounter later in life.

I was reminded of this just a week or so ago when the Select Committee on Children, Youth and Families held a rather unique hearing on police job stress, and gave my better half, my wife Kathy, who I hope is back in California watching right now, the opportunity to testify before our panel from her perspective also as a former police officer, and the unique stresses that families involved in law enforcement occupations face. What came out clearly at that hearing from line officers in the law enforcement profession is that we are struggling, that we are struggling to cope, struggling to keep our heads above the surface, if you will, in the ongoing fight against crime, particularly in our inner cities in America. And they want our help back here in Washington, in the Congress of the United States, in taking back control of the streets and securing our neighborhoods.

But lest any of our colleagues who still might be with us tonight think that those of us who are gathered here in strong support of advancing this crime package through this Congress, against the determined opposition of our loyal foes on the other side of the aisle, think that we gather here just as a small group of right-wing bomb throwers, let me shift hats, take off the hat of the ex-policeman, the ex-cop, the ex-deputy sheriff, and put on the hat of the chairman of the Republican Task Force on Empowerment, and point out that the President's crime package, a well thought out, comprehensive approach to combating crime on the street level, on a national level in terms of drug trafficking and organized criminal dealings, and rings, and on an international level is but one part of a comprehensive package and empowerment strategy to try and improve the lives of Americans who might be most prone to victimization, victimization either by poverty circumstances and the background into which they were born, victimization at the hands of a fellow American in either a random street crime or a deliberate crime of malice aforethought. This package which was unveiled, as the gentleman from Pennsylvania certainly knows, back in February by the President was called the civil rights and opportunity package, and again I thought I would just stand up for a moment and point out that our crime bill is just one small part. I should not say a small one, but a very important part of that overall package.

What else is in the package? Educational choice, educational reform, educational flexibility. The President now has sent us his Educational Enhancement Act which contains strategic initiatives to improve the learning achievement of all Americans, to fundamentally reform and restructure our public educational system in America.

Enterprise zones. The Enterprise Zones and Jobs Creation Act of 1991 targets tax incentives and regulatory relief to some of our Nation's most economically depressed areas. The Opportunity Act of 1991 would enable communities to restructure Federal programs to provide services and benefits in the way a community deems best to meet the needs of its citizens and families served.

And last, but certainly not least, combating crime, freedom from crime being the most basic, the most basic of all civil rights. The administration has again proposed legislation to truly target and get tough on violent criminals, and criminals who are part of criminal syndicates, and I am talking about our inner city drug gangs as well. This is a comprehensive, and if I could go so far to say brilliant legislative agenda that deserves the serious consideration of both parties in this body.

Let me also point out if I might to my two colleagues remaining here that the President indicated with respect to handgun control measures, well in advance of this body acting on final passage of the handgun bill that he would, with distinct reservations, and perhaps having to hold his nose, he would support the incorporation or the merger of handgun control bill resembling the Brady bill into his crime package. He made that clearly known to the leadership of Congress; yet, our friends on the other side of the aisle were unwilling to meet him halfway. They were unwilling to entertain a bipartisan political compromise which might have allowed us to move this crime bill to the floor for debate, might have allowed us to send a signal to our fellow Americans that we in fact are serious about dealing with what are the principal concerns, and that is the problem of crime, spreading crime in America, particularly in our inner cities.

So where does that package stand today, if I might ask the rhetorical question? That package, as we discuss it tonight in this special order regarding President Bush's 100-day update, and specifically anti-crime bill, let me, if I might, with the indulgence of the gentlemen, explain where we are with the rest of that package, and particularly talk a little bit about the crime bill.

With respect to education flexibility, the President sent his education bill to the Congress at the end of May. Since then there has been no action in subcommittee, no action obviously in full committee.

On antidiscrimination laws, we had that debate over the last few days on the floor of the House. The President's bill, H.R. 1375, which I personally felt was the better, more balanced legislation, was defeated. But that is the one element of his package that has actually been acted on by this body. One time we have been able to break away from the bounds of political paralysis that seem to permeate this place and take actual action, affirmative action for our fellow Americans.

His community opportunities areas, enterprise zone concept, that bill, H.R. 23, was introduced by the gentleman from New York [Mr. RANGEL], a very distinguished Member from New York who truly has concerns about inner-city crime problems at heart, given the nature of his district, which is Harlem on the island of Manhattan. He is chairman of the Select Committee on Narcotics Abuse and Control. Since then where has that bill gone? He is a prominent Member of the majority party, but there has been no subcommittee action and no full committee action.

☐ 2300

Homeownership: for low-income persons, well, we established tonight that, indeed, hope is alive, and we have taken the first steps toward funding the HOPE Program.

The anticrime bill: well, as we know, it languishes on a train going nowhere. For those of us who would like to see it pulling out of the station with a lot of our Democratic friends on board.

He also had one other element of that package, the Social Security earnings test.

There are a number of bills that seek to address that critical concern to repeal restrictive provisions in the Social Security laws with respect to earnings by older Americans. None of those bills has been heard in subcommittee. No action in the full committee.

Now, my colleagues from California and Florida have done a better job than probably this ex-cop can in describing the crime package, but there are certain elements about it that I just want to reinforce very, very quickly.

One, of course, is title IV, which would strengthen the Federal firearms laws by providing, as the gentleman from Florida [Mr. MCCOLLUM] explained, mandatory sentences, and in the case of prior convictions, enhancers. That is very, very important legislation. It is legislation that would send from this body a signal across the land that we are going to get tough on violent crimes, crimes that are committed with the use of a firearm, and you will get no dispute on this end, although I voted for the Brady bill and thought it was a reasonable, sane approach, common sense, if you will, to doing something about handgun proliferation.

I was very, very cognizant, and, I mean, I get calls from my ex-colleagues in law enforcement that it would not do much about fighting crimes committed with firearms. This bill would. I would also, as has been pointed out, address the problem of gangs and juvenile offenders and, frankly, again, in terms of the fight to take back our streets, that is a very, very important element, as to the city streets.

A subject very close to me, because my wife used to, as a police investigator, investigate these kinds of crimes, it would provide for Federal penalties in the area of sexual violence and child abuse. Let me tell you, you talk about dealing with crime, here is a whole area of crime that was relatively unknown just a few years ago, certainly underreported in America.

But with increased awareness and consciousness on the part of our fellow Americans and through active outreach areas by social agencies and law enforcement, the stigma of coming forward and reporting those crimes, the stigma of being a victim of that sort of degradation and abuse has been hopefully mitigated somewhat, and it is very, very important when we ultimately act on a crime bill that this element be in that bill.

Other provisions, drug testing; well, of course, drug testing for Federal offenders released on parole or probation only makes sense and, of course, if we were to survey our fellow Americans, that is exactly the kind of approach to crime that they would want to take.

We in our home State, as my good friend, the gentleman from California [Mr. CUNNINGHAM] knows, survey after survey has shown strong public support for the death penalty in certain situations. Yet, because of endless legal appeals, abuse of due process, we just simply do not seem to be able to, as a government, carry out that policy.

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I am happy to yield to the gentleman from California.

Mr. CUNNINGHAM. I would like to point out to my friend, the gentleman from California [Mr. RIGGS], that since the Supreme Court in the 1972 decision of Furman versus Georgia, that 41 States have enacted laws to restore the death penalty, and since Gregg versus Georgia in 1976, it is clear that capital punishment can constitutionally be imposed under certain procedures.

I think that these procedures set forth in the President's crime bill protect an individual's rights, but those individuals that would seek to take lives of other Americans or anyone then could possibly forfeit their lives under certain circumstances, and the President's bill does this.

I thank my colleague, the gentleman from California, and I thank my friend, the gentleman from Pennsylvania, for yielding time.

Mr. RIGGS. I thank the gentleman for his very cogent observation.

I would also point out, in case Americans are wondering what we are talking about, what kind of crimes do we want to apply a Federal death penalty to. Two that come out right away are mail-bombing. What an atrocious, cowardly act, death by mail-bombing; murder of Federal officials. And I for one will stand up, as I did on the campaign trail for one form of the death penalty that I think ought to be a Federal statute, and that is the murder of a peace officer in the performance of his or her duties. So it is high time that we reflected the will of the American people.

I happen to subscribe to that old adage when the people lead, hopefully, anyway, the leaders will follow.

It is very clear that they want us to act in this area. One of the key components, in fact the centerpiece, of a Federal anticrime package has to be the Federal death penalty in certain situations.

Legal reform is also very necesssary, but the gentleman from Florida [Mr. McCOLLUM] did a wonderful job of pointing that out with respect to reform as to habeas corpus and the exclusionary rule, and the only thing I would add to his commentary was that the President's bill also contained a provision to sanction unwarranted and illegal fourth-amendment searches.

So it is a balanced package. That is a very key element that provides for administrative and legislative oversight and compensation, Federal compensation of victims, for unlawful searches an seizures. So here we are, and just if I might one more time emphasize that this is a comprehensive package, the crime bill being the most important, because unless people are fundamentally safe and secure in their natural environment as they go about their daily business, as they come home to their abode, whatever it might be, in the evening, and some of the other empowerment reforms that those of us who strongly support that agenda and want to advance it on this floor subscribe to cannot take place.

But it is a comprehensive package. The President, in his own statement, when he sent this package to Congress, said that everyone knows the best education takes place in a safe, drug-free environment. It is difficult for children to learn if there is violence in the classroom or crime in the schoolyard or drug pushers on the street corner, and older students and workers find it hard to attend night school or put in late hours at the office because of the danger that darkness brings, especially in crime-ridden neighborhoods.

As my friend, the gentleman from California [Mr. CUNNINGHAM] pointed out, who is affected the most by runaway crime in America, of course, low-income Americans. Study after study has shown, talking about the civil rights debate over the last couple of days, that most crime is minority on minority, low-income American victimizing another low-income American, and that is a fundamental inequity in our society.

So low-income Americans are the ones most likely to be intimidated by crime and less likely to be able to take advantage of the opportuities I have been referring to, so it is in their name, our fellow Americans who come from disadvantaged and minority backgrounds, that this battle for the streets of our cities must be waged. The thugs and the gangs and the drug kingpins should be the casualties of this war, not their victims.

Our tactics, mandatory sentences for using firearms in a violent crime, strengthen prosecution, against sex crimes and child abuse, tough prosecutors, courts that deal out justice and, finally, our strategy must be an unequivocal commitment to empower our fellow Americans, particularly our young people.

I thank the gentleman for all the time this evening. I would point out, in closing, if I might just have a moment more, that in terms of meeting the President's 100-day challenge, I suppose in a sense it is very much a moot point.

I have here at least the tentative calendar for next week for the House, and that will take us through June 14. In fact, there is no legislative business on Friday, June 14. Perhaps that is an appropriate metaphor.

But nowhere on here will you see anything remotely relating to the crime bill or, for that matter, the empowerment package.

I thank the gentleman for all the time.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for his participation and commend both him and his colleague from California for participation in the total value of this special order.

Mr. FRANKS of Connecticut. Mr Speaker, crime continues to tear at the social and economic fabric of our Nation. The statistics and anecdotal stories numb the mind.

Every 24 minutes an American is murdered; every 6 minutes a woman is raped; every minute, someone is robbed and every half minute, a person is assaulted.

Crime is no longer isolated in urban areas, where poverty and hopelessness run rampant. It touches suburbs, small cities, and little towns.

Throughout the debate over the Brady and the Staggers bills, both sides agreed crime is a menace which threatens every citizen, regardless of income, race, or age.

I supported the Staggers bill because it would have done what everyone concurs is the common goal, remove hand guns from criminals who use them through a mandatory criminal background check.

Whatever the fate of the Brady bill, there is one reality which remains about crime—there are no easy answers, no quick fixes or magic tonics that will make crime go away.

So, it would appear to everyone that a thorough game plan is needed to punish criminals, stop the plague of drug abuse, educate and halt the abuse of women, the elderly, and children.

A plan does exist. Unfortunately, it has not been given a fair hearing by Congress.

President Bush has challenged the Congress to act and pass his plan to attack crime in all its forms—the Comprehensive Violent Crime Control Act of 1991. This sweeping blueprint for change would address many of the fundamental issues affecting crime.

Briefly, the plan would call for a mandatory 5-year sentence for anyone convicted of committing a crime with a handgun. No appeals, just straight time.

Drug dealers and kingpins who murder or order the killing of law enforcement personnel or witnesses would be eligible for the death penalty under the President's proposal. The aim of this provision is to insure the rights of the victims, not the hardened criminals who have caused misery and suffering.

An example of that suffering was heard this week. A father of a young woman, who was raped and murdered, told a Senate panel that her attacker had delayed his death sentence for 6 years. While the murderer bides his time through the courts, a family's anguish goes on.

The President's proposal would also change the exclusionary rule thereby allowing evidence retrieved during a search, to be used by prosecutors. While this has been termed controversial, it is essential our legal system does not allow criminals to be freed due to some minor technicality caused by an unintentional infraction by law enforcement officials.

During the debate over the Brady and Staggers bills, I supported a motion to have the Brady bill sent back to the committee process, with the hope of having it included in the debate on the President's plan. The Brady bill passed in the House and now heads to the U.S. Senate for action.

Unfortunately, this motion was ridiculed by some Members of the Congress and defeated. However, it is my hope the President's plan will eventually get a hearing, so the Congress can form a consensus that strikes at the heart of an issue which unites all law abiding people—the desire to live in safety.

Mr. GOSS. Mr. Speaker, as of January there were approximately 2,412 death row inmates in the United States. Two thousand four hundred twelve people who have committed crimes so heinous that juries decided on the ultimate punishment. Assault, rape, theft, and homocide are household words in every community. Drugs are overruning our streets, and our court systems are so clogged with criminal cases that civil suits are denied due process. And yet this Congress has been sitting on our hands for 92 of the 100 days the President gave us to send him a meaningful anti-crime bill. In this Chamber we have debated everything from funding for the Lawrence Welk museum to nibbling at the edges of the crime issue through the Brady bill. But none of us can really look our constituents in the eyes and say we have confronted one of their top concerns head on. Violent crimes have increased at rapid speed leaving law abiding citizens victimized and frightened—even in their own homes. I am frustrated by this trend, and I am outraged. Members of this Congress have a responsibility to the people we serve. For each day that passes without action on measures we know will provide at least some remedy to this enormous problem—we allow ourselves to become accomplices. It is bad enough that the President had to issue a challenge and a deadline to get us moving on tough anti-crime legislation—you would think that our own consciences would have dictated swift and resolute action long before now.

Mr. RAMSTAD. Mr. Speaker, on March 6 in this very Chamber, we celebrated our victory in the Persian Gulf with the President of the United States. In his speech before Congress and the Nation, President Bush commended our troops on a job well done.

That day marked an important turning point for Congress: With the end of the war, the time to get to work on domestic issues had arrived.

Mr. Speaker, the President recognized this and put forth a reasonable challenge. He said that if our outstanding troops could win the ground war in 100 hours then surely Congress could enact a crime bill in 100 days.

Ninety-two days later, where do we stand? We have not moved forward a single inch. Just a few days after the President's challenge was issued, I was proud to join with many of my colleagues from this side of the aisle to introduce the President's comprehensive crime package, H.R. 1400. And yet, to this day, it has not been referred to a single subcommittee.

I sit on the Judiciary Subcommittee on Crime—the obvious starting point for many elements of the crime package. Clearly, this legislation should have been before that subcommittee back in March.

I want to commend my good friend from across the aisle, Mr. SCHUMER, the chairman of that subcommittee, for doing what he can to at least hold oversight hearings on the crime bill. But his hands are tied just like ours on the Republican side. Mr. Speaker, at this point, 3 months after the President's speech, we should be discussing the merits of the crime bill on the House floor. But the Democratic leadership on the Judiciary Committee does not want to even start the debate.

In the Senate, four hearings have been held to consider the President's crime package, as well as the Democratic alternative. There is no reason to justify the delay of this legislation in this House. Apparently the Democratic leadership on the Judiciary Committee does not recognize the urgent need to enact a good crime package.

The President's package is comprehensive and offers powerful solutions to make a serious dent in the crime epidemic. We need to enact this legislation, and the sooner we get on with the debate, the better.

We need to strengthen the Federal death penalty, extend it to drug kingpins, terrorists, and those who commit other heinous crimes. Mr. Speaker, for years we have had in the Federal statutes death-penalty provisions which are constitutionally invalid. This legislation will establish constitutionally sound procedures and adequate standards which will resurrect these dormant statutes.

Mr. Speaker, we need to impose mandatory sentences for gun-related crimes. Let us send out a message that is crystal-clear to all: If you use—or merely possess—a firearm when committing a violent crime or a serious drug offense, you are going to prison; if you choose to steal firearms, you are going to prison; and if you use a semiautomatic firearm, you will be in prison for the next 10 years. No exceptions!

We need reform of habeas corpus proceedings that have resulted in stays of executions averaging over 8 years. We need reform of the exclusionary rule which has kept necessary and probative evidence from juries, often allowing hardened criminals to go free. We need to protect witnesses, jurors, and court officers from violence by increasing penalties for such attacks. We need to increase the penalties for sexual assault and child molestation.

The President's comprehensive crime package addresses all these challenges, and does even more.

Mr. Speaker, at the very least, I call upon the Democratic leadership to refer H.R. 1400 to the relevant subcommittees within the 100-day challenge. That is one week from tomorrow, June 14. Then at least we can advance the debate. Every day of delay of this important crime legislation will be matched with further crime on the streets.

Mr. COUGHLIN. Mr. Speaker, violent crime and drugs continue to hold our communities hostage while Congress fails to come to America's rescue. On March 12, the President asked Congress to pass his tough but fair crime package within 100 days. We are closing in on the 100 days and still Congress has not passed the President's crime package.

Unfortunately, history seems to be repeating itself. Last year, Congress did manage to pass a crime bill only after eliminating some of the tougher provisions. As House Republicans it is our duty to respond to the President's goal of protecting law-abiding citizens.

The American people want the President's comprehensive Violent Crime Control Act of 1991 to pass in its entirety. Our constituents are sick and tired of hearing Congressmen talk tough on crime and drugs. Talking tough on crime did not prevent 20,000 Americans from being murdered in 1990. Talking tough on crime did not prevent too many criminals from going free because of legal technicalities. H.R. 1400 is a comprehensive bill containing provisions for sexual crimes, child abuse, gangs and juvenile offenders, firearms offenses, terrorism and drug testing. I am confident that with passage of the President's 1991 crime package, we will be helping to free America from the grip of violent crime and drugs.

As I stated earlier, the President's crime package is tough, but it is fair. As ranking Republican on the Select Committee on Narcotics Abuse and Control, I feel it is important to focus on the provisions in H.R. 1400 aimed at drug traffickers. The only thing that frustrates the American people more than crime is drugs. The President realized this and has rightfully included drug trafficking crimes in his package. A 10-year mandatory prison sentence for the use of a semiautomatic weapon in a drug trafficking offense and new offenses for smuggling firearms in the furtherance of drug trafficking are called for in the President's crime package. It also authorizes the death penalty for drug kingpins.

The habeas corpus reform and exclusionary rule reform provisions are crime control measures aimed at removing many of the burdens that have plagued our criminal justice system by ensuring that sentences such as the death penalty are not delayed indefinitely by repetitive appeals. The Congress will be taking a significant step toward insuring swiftness and certainty of criminal punishments.

We have all heard of instances in which a violent criminal or drug trafficker gets out of jail free because a law enforcement officer—acting in good faith—made a mistake in seizing certain evidence. Exclusionary rule reform ensures that evidence, which is otherwise admissible, shall not be excluded if obtained in good faith.

House Republicans realize the time has come to give law enforcement personnel, judges, and juries the anticrime tools they need to make it harder for violent criminals to be released—due to legal technicalities—only to prey upon honest, hard-working, law-abiding citizens.

Drug testing in the criminal justice system is another important element of the President's crime bill. If a Federal offender is released on probation, parole, or a post-imprisonment supervised release and still uses drugs the chances of that individual committing a violent crime is increased. H.R. 1400 calls for drug testing of Federal offenders in such release programs. It also requires drug testing programs in State criminal justice systems as a condition of Federal justice assistance funding.

This provision allows the Federal Government to ensure that violent offenders are drug-free prior to the completion of their term of imprisonment.

I know I do not have to convince my Republican colleagues of the importance of H.R. 1400. With a person being murdered every 24 minutes in the United States, a woman being raped every 6 minutes, someone being robbed every 55 seconds and someone being assaulted every 33 seconds, I only hope that the distinguished members of the Judiciary Committee realize the urgent need for this legislation and commit themselves to taking swift action on H.R. 1400.

Mr. Speaker, the provisions contained in H.R. 1400 are overwhelmingly supported by the American people. If we can have a debate on these provisions in the House, I am confident we can enact them into law.

However, if a crime bill comes to the floor that is a hollow shell, I will urge my colleagues to vote against it. If such a crime bill should still pass, I will urge the President to veto it. I do not believe the 102d Congress should be allowed to go home without enacting tough anticrime legislation.

Mr. Speaker, I continue to have faith in the Congress. I believe that both sides of the aisle can come together to enact real, meaningful anticrime legislation.

Mr. ALLARD. Mr. Speaker, I rise to call upon the Congress to act now on the President's crime bill. Americans realize the need for a death penalty for drug kingpins and for certain heinous acts such as terrorists' murders. Americans realize the need to quickly bring criminals to justice instead of endless litigation. Americans realize the need to have a good faith exception to the search-and-seizure exclusionary rule. The President, in response to American concerns, has called on Congress to pass his crime package in 100 days. I agree with the President and want to see action now.

On March 6, 1991, in his gulf war victory speech to a joint session of Congress, President Bush called an Congress to act on a crime package in 100 days. On June 14, 1 week from today, the 100-day deadline will be here. What has Congress done? Nothing! In fact the President's crime bill has not even been referred to subcommittee. A first step in passing legislation.

I believe we need action on a crime bill this year. A crime bill which deals with the death penalty, habeous corpus, and the exclusionary rule. Congress should not be allowed to adjourn without action on a strong crime bill. We can do no less for American victims. If any other crime package comes to the floor, we should vote against it and the President should veto it.

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the matter of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted:

Mr. CAMPBELL of Colorado (at the request of Mr. GEPHARDT) for today and the balance of the week on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. NEAL of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HAMILTON, for 60 minutes, on June 12.

Mr. SKELTON, for 60 minutes, on June 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GEKAS) and to include extraneous matter:)

Mr. RINALDO.
Mr. CRANE.
Mr. LAGOMARSINO in two instances.
Mrs. MORELLA.
Mr. GALLEGLY.
Mr. BROOMFIELD.
Ms. ROS-LEHTINEN.
Mr. RIGGS.
Mr. CAMP.
Mr. LIVINGSTON.
Mr. WELDON.

(The following Members (at the request of Mr. NEAL of Massachusetts) and to include extraneous matter:)

Mr. MONTGOMERY.
Mr. SKELTON.
Mr. TORRES.
Mr. TRAFICANT.
Mr. DARDEN.
Ms. SLAUGHTER of New York.
Mr. SCHEUER.
Mr. RANGEL.
Mr. MATSUI.
Mr. TAUZIN.
Mr. MANTON.
Mr. DE LUGO.
Mr. RICHARDSON.
Mr. DIXON.
Mr. REED.
Mr. TOWNS, in three instances.
Mr. BONIOR.
Mr. SOLARZ.
Mr. SHARP.
Mr. MAVROULES.
Mr. HUBBARD.
Mr. CARR.
Mr. MILLER of California.
Mr. DOWNEY.
Mr. BUSTAMANTE.
Mr. CLEMENT.
Mr. SCHUMER.
Mr. ROYBAL.
Mr. MFUME.
Mr. RAHALL.
Mr. CONDIT.
Ms. DELAURO.

SENATE ENROLLED BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 173. An act to permit the Bell Telephone Cos., to conduct research on, design, and manufacture telecommunications equipment, and for other purposes; to the Committee on Energy and Commerce and the Judiciary;

S. 253. An act to provide for the establishment of an international criminal tribunal for the prosecution of Persian Gulf war criminals, to establish an office within the Department of State to implement the U.S. role with respect to the tribunal, and for other purposes; to the Committees on the Judiciary and Foreign Affairs; and

S. 1193. An act to make technical amendments to various Indian laws; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. GEKAS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 10 minutes p.m.), the House adjourned until tomorrow, Friday, June 7, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1486. A letter from the Comptroller General, General Accounting Office, transmitting the status of budget authority that was proposed for rescission by the President in his third special impoundment message for fiscal year 1991, dated February 28, 1991, pursuant to 2 U.S.C. 685 (H. Doc. No. 102-96); to the Committee on Appropriations and ordered to be printed.

1487. A letter from the Chief Legislative Liaison, Department of Defense, transmitting notification of the decision not to convert to contractor performance and to retain the in-house operation of the commissary storage and warehousing function at Fort Monroe, VA, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Armed Services.

1488. A letter from the Acting Under Secretary, Department of Defense, transmitting three reports on the Seawolf attack submarine, pursuant to 10 U.S.C. 2400(c); to the Committee on Armed Services.

1489. A letter from the Principal Deputy (Production and Logistics), Department of Defense, transmitting a report on its maintenance of firefighting and other emergency services at military installations in the United States, pursuant to Public Law 101-519, section 354(b); to the Committee on Armed Services.

1490. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to repeal the requirement that U.S. currency notes must be reissued after redemption; to the Committee on Banking, Finance and Urban Affairs.

1491. A letter from the Secretary of Health and Human Services, transmitting the annual report on the Health Care for the Homeless program, pursuant to Public Law 100-77, section 601 (101 Stat. 515); to the Committee on Energy and Commerce.

1492. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the International Labor Conference of the International Labor Organization and their solicitations of nominations of Congressional Advisors; to the Committee on Foreign Affairs.

1493. A letter from the Acting General Counsel, U.S. Arms Control and Disarmament Agency, transmitting the English and Russians Language texts of amendments I and II to the memorandum of agreement regarding the implementation of the Verification provisions of the treaty between the United States and the Soviet Union on the elimination of their intermediate-range missiles; to the Committee on Foreign Affairs.

1494. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the inspector general, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1495. A letter from the Assistant Secretary—Land and Minerals Management, Department of the Interior, transmitting the Department's notice on leasing systems for the Beaufort Sea, Sale 124, scheduled to be held in June 1991, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Interior and Insular Affairs.

1496. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1497. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1498. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1499. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1500. A letter from the Assistant Director, National Recreation Programs, National Park Service, transmitting a report on America's national scenic, national historic, and national recreation trails for 1989-90; to the Committee on Interior and Insular Affairs.

1501. A letter from the Director, Office of Government Ethics, transmitting a draft of proposed legislation to amend section 202 of title 18, United States Code, to provide for Presidential waiver authority of certain conflict of interest statutes; to the Committee on the Judiciary.

1502. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the management of the Veterans Canteen Service; to the Committee on Veterans' Affairs.

1503. A letter from the Secretary of State, transmitting his views concerning renewal of most-favored-nation status for the People's Republic of China; to the Committee on Ways and Means.

1504. A letter from the Acting Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting an amendment to the Kuwait Assets Control Regulations, pursuant to Public Law 101-513, section 586C(c)(1) (104 Stat. 2048); jointly, to the Committees on Appropriations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BEILENSON: Committee on Rules. House Resolution 169. Resolution providing for the consideration of H.R. 2038, a bill to authorize appropriations for fiscal year 1992 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 102-100). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 170. Resolution providing for the consideration of H.R. 2508, a bill to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes (Rept. 102-101). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 2564. A bill to exempt agriculture from certain requirements under the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. ROSTENKOWSKI (for himself, Mr. STARK, Mr. CHANDLER, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. JACOBS, Mr. JENKINS, Mr. GUARINI, Mr. MATSUI, Mr. ANTHONY, Mr. DORGAN of North Dakota, Mrs. KENNELLY, Mr. COYNE, Mr. ANDREWS of Texas, Mr. LEVIN of Michigan, Mr. MOODY, Mr. CARDIN, Mr. MCDERMOTT, Mr. VANDER JAGT, Mr. SCHULZE, Mr. THOMAS of California, Mr. MCGRATH, and Mrs. JOHNSON of Connecticut):

H.R. 2565. A bill to amend title XVIII of the Social Security Act to provide for coverage of colorectal screening examinations and certain immunizations under part B of the Medicare Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. BENNETT (for himself, Mr. PETERSON of Florida, Mr. BACCHUS, Mr. BILIRAKIS, Mr. ENGLISH, Mr. FASCELL, Mr. GIBBONS, Mr. GOSS, Mr. HUTTO, Mr. IRELAND, Mr. JAMES, Mr. JOHNSTON of Florida, Mr. LEWIS of Florida, Ms. LONG, Mr. MCCLOSKEY, Mr. MCCOLLUM, Mr. MYERS of Indiana, Mr. ROEMER, Ms. ROS-LEHTINEN, Mr. SENSENBRENNER, Mr. SHAW, Mr. SMITH of Florida, Mr. STEARNS, Mr. WOLPE, and Mr. YOUNG of Florida):

H.R. 2566. A bill to authorize funds for construction of highways and for highway safety programs, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. BOXER (for herself, Mr. ACKERMAN, Mr. DE LUGO, Mr. FRANK of Massachusetts, Mr. FUSTER, Mr. HOCHBRUECKNER, Mr. JONTZ, Mr. LIPINSKI, Mr. MARTINEZ, Ms. NORTON, Ms. PELOSI, Mr. RANGEL, Mr. SERRANO, Mr. STUDDS, Mrs. UNSOELD, and Mr. YATES):

H.R. 2567. A bill to establish the Federal Council on Women; to the Committee on Government Operations.

By Mr. CONDIT (for himself and Mr. WISE):

H.R. 2568. A bill to provide for the coordination of Federal drug treatment programs involved in the criminal justice system; to the Committee on the Judiciary.

By Mr. CRANE (for himself and Mr. GIBBONS):

H.R. 2569. A bill to encourage the establishment of free trade areas between the United States and certain Pacific rim countries; to the Committee on Ways and Means.

By Mr. DELLUMS (for himself, Ms. Norton, Mr. Stark, Mr. Rahall, Ms. Oakar, Ms. Kaptur, Mrs. Kennelly, Mrs. Morella, Mrs. Schroeder, Mr. Dymally, Mr. McDermott, Mr. Hoyer, Mr. Moran, Mr. Wolf, Mrs. Vucanovich, and Mr. Levin of Michigan):

H.R. 2570. A bill to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes; jointly, to the Committees on the District of Columbia Government Operations, and Public Works and Transportation.

By Mr. DOWNEY (for himself, Mr. Miller of California, Mr. Ford of Tennessee, Mrs. Kennelly, Mr. Andrews of Texas, Mr. Levin of Michigan, Mr. Moody, Mr. McDermott, and Mr. Matsui):

H.R. 2571. A bill to promote family preservation and the prevention of foster care with emphasis on families where abuse of alcohol or drugs is present, and to improve the quality and delivery of child welfare, foster care, and adoption services; to the Committee on Ways and Means.

By Mr. ESPY (for himself, Mr. Whitten, Mr. Alexander, Mr. Emerson, Mr. Ford of Tennessee, Mr. Thornton, Mr. Hayes of Louisiana, Mr. Holloway, Mr. Hubbard, Mr. Livingston, Mr. Montgomery, Mr. Poshard, Mr. Tanner, and Mr. Tauzin):

H.R. 2572. A bill to authorize the Secretary of Agriculture to make a grant to the Lower Mississippi Delta Development Center; jointly, to the Committees on Banking, Finance and Urban Affairs and Public Works and Transportation.

By Mr. GUARINI:

H.R. 2573. A bill to amend the Internal Revenue Code of 1986 to make S corporations eligible for the rules applicable to real property subdivided for sale by noncorporate taxpayers; to the Committee on Ways and Means.

By Mr. HUTTO (for himself and Mr. Callahan):

H.R. 2574. A bill to amend the Wild and Scenic Rivers Act to designate the Perdido River in the States of Florida and Alabama for potential addition to the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs:

By Mr. LAGOMARSINO (for himself, Mr. de Lugo, Mr. Fuster, Mr. Faleomavaega, Mr. Lewis of Georgia, Mr. Darden, Mr. Blaz, Mr. Gallegly, and Mr. Jontz):

H.R. 2575. A bill to implement certain proposals relating to recommendations made pursuant to sections 504 and 902 of the covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States of America, approved by Public Law 94-214, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, the Judiciary, Armed Services, Merchant Marine and Fisheries, and Education and Labor.

By Mr. MOODY (for himself, Mr. Peterson of Minnesota, and Mr. Hall of Ohio):

H.R. 2576. A bill to amend the Emergency Food Assistance Act of 1983 to authorize appropriations to purchase, process, and distribute milk to States for distribution to needy persons in situations of emergency and distress; to the Committee on Agriculture.

By Mr. RICHARDSON:

H.R. 2577. A bill to amend title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. SHARP (for himself, Mr. Moorhead, Mr. Dingell, Mr. Lent, Mr. Scheuer, Mr. Towns, and Mr. Schumer):

H.R. 2578. A bill to amend the Petroleum Marketing Practices Act to require certification and posting for all liquid automotive fuels, to provide the States more authority to enforce automotive fuel posting requirements, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of Oregon (for himself and Mr. Wyden):

H.R. 2579. A bill to amend the Internal Revenue Code of 1986 to encourage health professionals to serve in medically underserved areas, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TOWNS (for himself, Mrs. Boxer, Mr. Conyers, Mr. Dellums, Mr. Dixon, Mr. Dymally, Mr. Evans, Mr. Hayes of Illinois, Ms. Kaptur, Mr. McDermott, Mr. Mfume, Ms. Norton, Mr. Owens of New York, Mr. Payne of New Jersey, Mr. Sikorski, Mr. Stokes, and Mr. Wheat):

H.R. 2580. A bill to amend the Solid Waste Disposal Act to prohibit the international export and import of certain solid waste; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

By Mr. GLICKMAN (for himself and Mr. Roberts):

H.R. 2581. A bill to preserve jobs in the aircraft industry by amending the Internal Revenue Code of 1986 to repeal the luxury excise tax on aircraft; to the Committee on Ways and Means.

By Mr. SOLARZ:

H.R. 2582. A bill to amend the Trademark Act of 1946 to limit infringement actions for registered marks of professional sports teams; to the Committee on the Judiciary.

By Mr. SOLARZ (for himself, Mr. Ackerman, and Mr. Saxton):

H.J. Res. 266. Joint resolution designating the week beginning August 4, 1991, as "International Parental Child Abduction Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. MAVROULES:

H. Res. 168. Resolution designating 1991 as "National Land Trust Appreciation Year," in recognition of the 100th anniversary of the establishment of the Trustee of Reservations; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

167. By the SPEAKER: Memorial of the Senate of the State of Michigan, relative to the Michigan National Guard; to the Committee on Armed Services.

168. Also, memorial of the General Assembly of the State of Colorado, relative to regulation of mine waste; to the Committee on Energy and Commerce.

169. Also, memorial of the Senate of the State of Michigan, relative to the automotive industry; to the Committee on Energy and Commerce.

170. Also, memorial of the General Assembly of the State of New Jersey, relative to funding the POW/MIA special investigation conducted by the Senate Foreign Relations Committee; to the Committee on Government Operations.

171. Also, memorial of the General Assembly of the State of Colorado, relative to adopting the President's proposal to turn over to States additional Federal programs in grant form; to the Committee on Government Operations.

172. Also, memorial of the Legislature of the State of Hawaii, relative to public lands condemned by the Federal Government; to the Committee on Interior and Insular Affairs.

173. Also, memorial of the General Assembly of the State of New Jersey, relative to the Soldiers' and Sailors' Civil Relief Act of 1940; to the Committee on Veterans' Affairs.

174. Also, memorial of the House of Representatives of the State of Hawaii, relative to benefit-cutting proposals in the Department of Veteran Affairs; to the Committee on Veterans' Affairs.

175. Also, memorial of the House of Representatives of the State of Hawaii, relative to veterans' benefits; to the Committee on Veterans' Affairs.

176. Also, memorial of the General Assembly of the State of New Jersey, relative to the passage of H.R. 1147, the POW/MIA truth bill; jointly, to the Committees on Armed Services and Intelligence (Permanent Select).

177. Also, memorial of the Senate of the State of Michigan, relative to funds in the highway trust fund; jointly, to the Committees on Ways and Means and Public Works and Transportation.

178. Also, memorial of the General Assembly of the State of South Carolina, relative to equalizing federally funded medical payments; jointly, to the Committees on Ways and Means and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DUNCAN:

H.R. 2583. A bill for the relief of Gregory E. Walters, to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 33: Mr. Synar.

H.R. 66: Mr. Glickman, Mr. Dorgan of North Dakota, and Mr. Cunningham.

H.R. 125: Mr. Johnson of South Dakota.

H.R. 127: Mr. Manton, Mr. Davis, Mr. Leach, and Mr. Baker.

H.R. 179: Mr. Huckaby.

H.R. 200: Mr. Jones of North Carolina.

H.R. 246: Mr. Nichols.

H.R. 298: Mr. Pallone, Mr. Smith of New Jersey, and Mr. Camp.

H.R. 299: Mr. Doolittle.

H.R. 394: Mr. Rose, Mr. Vento, and Mr. Sangmeister.

H.R. 421: Mr. Lancaster, Mr. Miller of California, Mr. Ravenel, Mr. Feighan, Mr.

Frost, Mr. Serrano, Mr. Frank of Massachusetts, Mr. Hochbrueckner, and Mr. Moran.

H.R. 431: Mr. Geren of Texas, Mr. Wilson, Mr. Armey, Mr. Gilman, Mr. Campbell of California, Mr. Coleman of Missouri, Mr. Camp, Mr. Zeliff, and Mr. Hall of Texas.

H.R. 461: Mr. Santorum, Mr. Shays, and Mr. Campbell of Colorado.

H.R. 643: Mr. Rogers.

H.R. 784: Mr. Sensenbrenner.

H.R. 842: Mr. Jenkins, Ms. Slaughter of New York, Mr. Cox of Illinois.

H.R. 911: Mr. Armey, Mr. Emerson, Mr. Torres, Mr. Roe, Mr. Lantos, Mr. Campbell of Colorado, Mr. Hughes, Mr. Klug, Mr. Weldon, Mr. Stenholm, Mrs. Byron, Mrs. Johnson of Connecticut, Mr. Lewis of Florida.

H.R. 924: Mrs. Patterson.

H.R. 951: Mr. Burton of Indiana, Mr. Luken, Mr. Moody, Mr. Gillmor, Mr. Frank of Massachusetts, and Mr. Riggs.

H.R. 1112: Mr. Peterson of Florida, Mr. Santorum, and Mr. Atkins.

H.R. 1126: Mr. Bustamante and Mr. Hayes of Illinois.

H.R. 1147: Mr. Bilbray, Mr. Payne of New Jersey, Mr. Barnard, Mr. Klug, Mr. Wyden, and Mrs. Mink.

H.R. 1156: Mr. Bacchus and Mr. Frank of Massachusetts.

H.R. 1177: Mr. Tallon, Mr. Owens of Utah, Mr. Markey, Mr. Bustamante, and Mr. Ford of Tennessee.

H.R. 1218: Mr. English, Mr. Murphy, and Mr. Ford of Michigan.

H.R. 1287: Mr. Klug.

H.R. 1288: Mr. Payne of New Jersey.

H.R. 1300: Mr. Coyne.

H.R. 1346: Ms. Horn and Ms. Norton.

H.R. 1364: Mr. Kostmayer and Mr. Coleman of Missouri.

H.R. 1365: Mr. Kostmayer.

H.R. 1385: Mr. Yatron, Mr. Rahall, Mr. Staggers, and Mr. Derrick.

H.R. 1400: Mr. Armey, Mr. Wilson, Mr. Inhofe, and Mr. Gilman.

H.R. 1423: Mr. Payne of New Jersey, and Mr. Kanjorski.

H.R. 1468: Mr. Walker and Mr. Duncan.

H.R. 1472: Mr. Bryant, Mr. Myers of Indiana, Mrs. Meyers of Kansas, Mr. Boehner, Mr. Sensenbrenner, Mr. Oberstar, Mr. Roberts, and Mr. Hubbard.

H.R. 1474: Mr. Kopetski.

H.R. 1483: Mr. Kennedy and Mr. Rogers.

H.R. 1495: Mr. Johnson of South Dakota, Mr. Jenkins, Mr. Schaefer, Mr. Lehman of California, Mr. Spratt, Mr. Ramstad, and Mr. Fields.

H.R. 1502: Mr. Martinez and Mr. Gonzalez.

H.R. 1523: Mr. Camp.

H.R. 1587: Mr. Gunderson and Mr. Engel.

H.R. 1599: Mr. Ballenger, Mr. Duncan, and Mr. Jones of Georgia.

H.R. 1618: Mr. Stearns, Mrs. Byron, Mr. Dwyer of New Jersey, Mrs. Meyers of Kansas, Mr. Darden, Mr. Ballenger, and Mr. Coble.

H.R. 1655: Mr. Geren of Texas, Mr. Hansen, and Mr. Gilman.

H.R. 1669: Mr. Oberstar.

H.R. 1703: Mr. Mineta.

H.R. 1708: Mr. Beilenson, Mr. Zimmer, Mr. Kopetski, Mr. Serrano, Mr. Torres, Mr. Ackerman, Mr. Rangel, Mr. Bruce, and Mr. Eckart.

H.R. 1725: Mr. Traficant, Mr. Abercrombie, Mr. Kolter, and Mr. Kanjorski.

H.R. 1726: Ms. Horn.

H.R. 1746: Mr. Wise, Mr. Emerson, Mr. Young of Alaska, Mr. Harris, and Mr. Towns.

H.R. 1860: Mr. Martin and Mrs. Patterson.

H.R. 2012: Mr. Gibbons, Mr. Spratt, Mrs. Patterson, Mr. Lipinski, and Mr. Taylor of North Carolina.

H.R. 2040: Mr. Dornan of California, Mr. Dannemeyer, Mr. Riggs, Mr. Hyde, Mr. Wilson, Mr. Rangel, Mr. Fawell, Mr. Emerson, Mr. Roe, Mr. Paxon, Mr. Doolittle, Mr. Jefferson, and Mr. Santorum.

H.R. 2149: Mr. Andrews of Texas and Mrs. Morella.

H.R. 2175: Mr. Slattery.

H.R. 2199: Mr. Frost and Mr. Boehner.

H.R. 2267: Mr. Beilenson, Mr. Clinger, Mr. McDermott, Mr. Hughes, Mr. Sabo, Mr. Kolter, Mr. Fascell, and Mr. Eckart.

H.R. 2268: Mr. Jacobs and Mr. Sharp.

H.R. 2309: Mr. de Lugo, Mr. McNulty, Mr. Mfume, Ms. Norton, and Ms. Slaughter of New York.

H.R. 2311: Mr. McCloskey.

H.R. 2333: Mr. Grandy and Mr. Dorgan of North Dakota.

H.R. 2334: Mr. Horton, Mr. Conyers, Mr. Rangel, Mr. McNulty, Mr. Dellums, Mr. de Lugo, Mr. Bonior, Mr. Serrano, Mr. Evans, Mr. Payne of New Jersey, Mr. Mfume, Mr. Abercrombie, Mr. Jefferson, Mr. Jontz, Mr. Martinez, Mr. Dwyer of New Jersey, and Mr. Frost.

H.R. 2371: Mr. Bacchus, Mr. Smith of Florida, Mr. Fascell, Mr. Livingston, Mr. Bennett, Mr. de Lugo, Mr. Klug, Mr. Peterson of Florida, Mr. Gilman, Mr. Lewis of Florida, and Mr. Emerson.

H.R. 2382: Mr. Hertel, Mr. Hughes, Mr. Mfume, Mr. Kleczka, and Mr. Frost.

H.R. 2391: Mr. Roe and Mr. Payne of New Jersey.

H.R. 2392: Mr. Roe and Mr. Payne of New Jersey.

H.R. 2452: Mr. Scheuer, Mr. Studds, Mr. Beilenson, Mr. Spratt, Mr. Zimmer, and Mr. Frank of Massachusetts.

H.R. 2464: Mr. Bryant, Mr. Anthony, Mr. Burton of Indiana, Mr. Dennemeyer, Mr. Baker, Mr. Hayes of Louisiana, Mr. Tauzin, Mr. Bunning, Mr. Campbell of Colorado, and Mr. Hopkins.

H.R. 2470: Mr. Martin.

H.R. 2489: Mr. Payne of New Jersey, Ms. Pelosi, Mr. Rangel, Mr. Roe, and Mr. Savage.

H.R. 2511: Mr. Nowak, Mr. Machtley, Ms. Kaptur, Mr. Kostmayer, Mr. Wilson, and Mr. Jacobs.

H.R. 2515: Mr. Parker, Mr. Jones of Georgia, Mr. Sangmeister, Mr. Traficant, Mr. Applegate, Mr. Hancock, Mr. Lewis of Georgia, Mr. Brewster, Mr. Gilman, Mr. Inhofe, and Mr. Saxton.

H.R. 2542: Mr. Bryant.

H.J. Res. 95: Mr. Evans, Mr. Rogers, Mr. Hammerschmidt, Mr. Saxton, Mr. Bryant, Mr. Tallon, Mr. Traficant, Mr. Stokes, Mr. Moran, and Mr. Yatron.

H.J. Res. 143: Mr. Hayes of Louisiana.

H.J. Res. 196: Mr. Hochbrueckner, Mr. Smith of Florida, Mr. Dwyer of New Jersey, Mr. McMillen of Maryland, Mr. Synar, Mr. Bryant, and Mr. Kopetski.

H.J. Res. 229: Mr. Emerson, Mr. Quillen, Mr. Hamilton, Mr. Burton of Indiana, Mr. Dixon, Mr. Jacobs, Mrs. Johnson of Connecticut, Mr. Solarz, Mr. Coyne, Mr. Duncan, Mr. Pickle, Mr. Stark, Mr. Ortiz, and Mr. Washington.

H. Con. Res. 8: Mr. Hammerschmidt, and Mr. Bacchus.

H. Con. Res. 120: Mr. Fish.

H. Con. Res. 123: Mr. Hochbrueckner and Mr. Martinez.

H. Con. Res. 126: Mr. Traficant, Mr. Andrews of New Jersey, Mr. Frost, Mr. Torres, Mr. Ackerman, Mr. Engel, and Mr. Conyers.

H. Con. Res. 160: Mr. Smith of Florida, Mr. Dellums, Mr. Roybal, Mr. Savage, Mr. Torres, Mr. Weiss, Mr. Frank of Massachusetts, Mr. Mrazek, Mr. AuCoin, Mr. Wolpe, Ms. Pelosi, Mr. Johnston of Florida, and Mr. Roe.

H. Res. 40: Mr. Morrison.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2508

By Mrs. BENTLEY:

—At the appropriate place, insert the following new section:

SEC. . SITUATION IN THE KRAJINA REGION OF YUGOSLAVIA.

It is the sense of Congress that—

(1) ethnic Serbians living in the Republic of Croatia and in other parts of Yugoslavia should not be discriminated against because of their ethnicity;

(2) the people of the Krajina Region including ethnic Serbians, should retain their autonomous status in Yugoslavia, respecting the rights of all peoples and treating them equally under the law;

(3) the people of Krajina Region should be allowed to hold free and fair elections for an Assembly of the Krajina Region, which should be allowed to function as a representative institution reflecting the will of the people; and

(4) Serbian leaders in the Krajina Region and other Yugoslav and Croatian leaders should resolve their differences through negotiations and should not, under any circumstance, resort to violence or repression.

EXTENSIONS OF REMARKS

THE CHACOAN OUTLIERS PROTECTION ACT OF 1991

HON. BILL RICHARDSON
OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 6, 1991

Mr. RICHARDSON. Mr. Speaker, I rise today to introduce the Chacoan Outliers Protection Act of 1991. The purpose of this act is to expand the Chaco Archeological Protection Site System to include an additional 5,519 acres, including eight newly evaluated sites, and to provide administrative provisions that will improve interagency cooperation and assistance in protecting important sites.

The Chaco Archeological Protection Site System protects structures and artifacts associated with the Chacoan Anasazi Indian culture of the San Juan Basin of northwestern New Mexico.

The earliest evidence of human occupation in the San Juan basin dates to about 10,000 years ago, when Paleo-Indian hunters roamed the area. After thousands of years of occupation, inhabitants began to cultivate crops and establish permanent dwelling sites. By 500 A.D. these people had adopted a subsistence economy based in part on agriculture. This shift marked the beginning of a sedentary lifestyle, common to much of the Colorado Plateau region, which is termed the Anasazi culture.

As the Anasazi culture grew, a gradual evolution of architectural styles at inhabited sites occurred. However, in the area of northwest New Mexico that is drained by the Chaco River, development progressed more rapidly than in the adjacent Kayenta and Mesa Verde regions. During this time there appeared half a dozen large pueblos, or Chacoan structures, that greatly exceeded those of the adjacent region cultures in terms of overall size, construction units, and individual rooms. Chaco Canyon National Monument was originally established to protect one of the most notable areas of these resources.

Archeological discovery and research over the past several years has revealed that the achievements of the Chacoan people were even more sophisticated and extensive than previously imagined. It now appears that Chaco Canyon was the economic, administrative, and perhaps ceremonial center of a trade network involving as many as 75 outlying communities, which were spread over an area of 30,000 square miles and connected by an extensive system of roads.

As research and discoveries by the Chaco Center and others have verified the extent of the prehistoric Chacoan system, the need for adequate protection of the outlying sites has become increasingly evident. Congress recognized the potential for conflicts between preservation of these important cultural resources and development in the San Juan basin region in 1980 when it passed title V of Public Law 96–550. This law provided for the protection system for 33 recognized outlying sites in the San Juan basin.

Public Law 96–550 required that a joint management plan be developed by those agencies having jurisdiction over lands containing the sites and required the Secretary of the Interior to submit to Congress recommendations for additions to, or deletions from, the list of archeological sites to be protected.

Mr. Chairman, a Chaco Culture Interagency Management Committee was formed and it has provided a joint management plan for the protection site system. The Interagency Management Committee developed a set of recommendations regarding the addition of several new sites and necessary administrative changes to improve resource protection and coordination of agency management actions.

The bill I am introducing today addresses these needed changes. My bill will add eight new sites totaling 4,356 acres to the existing Chaco Culture Archeological Protection Site System. Included in these new sites is Chimney Rock, the first Forest Service site and the first in southern Colorado.

The bill also expands the boundaries of 13 of the previously listed archeological protection sites by a total of 2,354 acres. Three sites, totaling 986 acres, have been dropped from the protection site list and three sites have been reduced in size, by a total of 205 acres, at the recommendation of the Interagency Management Committee. Thus, the total acreage of the protection site system would be increased from 8,768 acres to 14,287 acres.

Mr. Speaker, the Chacoan Outliers Protection Act of 1991, by including an additional 5,519 acres in the Chacoan Archeological Proteciton Site System, by providing for improved interagency cooperation and assistance in preservation, and by allowing for more direct acquisition of privately owned sites when owners are willing to sell such sites, will allow preservation of these sites for future generations and assure that the sites are protected from further looting and degradation. These archeological sites are part of the cultural heritage of all Americans and we must act to preserve them, for cultural resources, once lost, can never be restored or regained.

Mr. Speaker, I insert the text of the bill in the RECORD immediately following my remarks:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chacoan Outliers Protection Act of 1991".

SEC. 2. AMENDMENT OF PURPOSES.

Subsection (b) of section 501 of Public Law 96-550 (16 U.S.C. 410ii(b)), relating to the Chaco Culture Archaeological Protection Sites, is amended by striking "San Juan Basin;" and inserting "San Juan Basin and surrounding areas;".

SEC. 3. ARCHEOLOGICAL PROTECTION SITES.

Subsection (b) of Section 502 of Public Law 96-550 (16 U.S.C. 410ii-1(b)) is amended to read as follows:

"(b)(1) Thirty-eight outlying sites are hereby designated as 'Chaco Culture Archeological Protection Sites'. The thirty-eight archeological protection sites totaling approximately fourteen thousand two hundred eighty-seven acres are identified as follows:

Name:	*Acres*
Allentown	380
Andrews Ranch	950
Bee Burrow	480
Bisá ani	131
Casa del Rio	40
Casamero	160
Chimney Rock	3,160
Coolidge	450
Dalton Pass	135
Dittert	480
Great Bend	26
Greenlee Ruin	60
Grey Hill Spring	23
Guadalupe	115
Halfway House	40
Haystack	565
Hogback	453
Indian Creek	100
Jaquez	66
Kin Nlzhoni	726
Lake Valley	30
Manuelito-Atsee Nitsaa	60
Manuelito-Kin Hochoi	116
Muddy Water	1,090
Navajo Springs	260
Newcomb	50
Peach Springs	1,046
Pierre's Site	440
Raton Well	23
Salmon Ruin	5
San Mateo	61
Sanostee	1,565
Section 8	10
Skunk Springs/Crumbled House	533
Standing Rock	348
Toh-la-kai	10
Twin Angels	40
Upper Kin Klizhin	60

"(2) A map entitled 'Chaco Culture Archeological Protection Sites' and generally depicting the thirty-eight outlying sites specified in paragraph (1) shall be kept on file and available for public inspection in the office of the Headquarters of the Chaco Culture National Historical Park, the office of the State Director of the Bureau of Land Management in Santa Fe, New Mexico, the Office of the Area Director of the Bureau of Indian Affairs in Window Rock, Arizona, and the offices of the State Historic Preservation Officers of Arizona and New Mexico.".

SEC. 4. ACQUISITIONS.

Section 504(c)(2) of Public Law 96-550 (16 U.S.C. 410ii-3(c)(2)) is amended to read as follows:

"(2) The Secretary shall seek to use a combination of land acquisition authority under this section and cooperative agreements (pursuant to section 505), whenever possible, to accomplish the purposes of archeological resource protection at those sites described

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in section 502(b) which remain in private ownership.".

SEC. 5. PRESERVATION ASSISTANCE.

Section 506 of Public Law 96-550 (16 U.S.C. 410ii-5) is amended by adding at the end the following new subsection:

"(f) The Secretary shall, through the Director of the National Park Service, assist the Navajo Nation in protection and management of the Chaco Culture Archeological Protection Sites on Tribal lands through a contract grant or cooperative agreement entered into under the Indian Self Determination and Education Assistance Act (Public Law 93-638). Assistance under this subsection shall include assistance with site planning, protection, interpretation, resource management actions, and other activities identified in the contract grant or agreement.".

TIBET'S STRUGGLE FOR SELF-DETERMINATION

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Ms. SLAUGHTER. Mr. Speaker, the House of Representatives will soon consider granting most-favored-nation trade status to the People's Republic of China which, just last week, celebrated with parades, monuments and festivals their 40 years of tyranny and repression in Tibet. Before Members of Congress cast their votes on the MFN question, we would all do well to give careful thought to the teachings of His Holiness the XIV Dalai Lama of Tibet. "Now we are facing a situation where one ancient nation with a unique cultural heritage may disappear from this planet," His Holiness warned in a recent address to the Congressional Human Rights Caucus.

Given the powerful moral example of the Dalai Lama and the overwhelming justness of the Tibetans' struggle for self-determination, I urge my colleagues to join me in cosponsoring House Concurrent Resolution 145, which finally sets straight the historical record on Tibet. The resolution proclaims that Tibet is an occupied country under established principles of international law, and recognizes the Dalai Lama and the Tibetan Government in exile as the true representatives of the Tibetan people. I am also proud to cosponsor H.R. 2212, which would condition the granting of MFN status to China on measurable improvements in that country's human rights record at home and in Tibet. China's subjugation of Tibet is a dark blot on human history and we must not allow China's crimes to be forgotten. Never let it be said that the United States only cares about human rights in oil-producing countries.

The Dalai Lama, a previous winner of the Nobel Peace Prize, spoke on the occasion of his receiving Freedom House's 1991 Freedom Award. For the benefit of my colleagues, I submit the entire text of His Holiness's remarks for the RECORD. I also submit for the RECORD the remarks of Max Kampelman, chairman of Freedom House, which is in its 50th year of promoting human rights and dignity throughout the world. These statements should lend valuable insight to the ongoing debate on relations with China and the future of Tibet.

The material follows:

REMARKS BY HIS HOLINESS THE 14TH DALAI LAMA UPON RECEPTION OF THE FREEDOM HOUSE'S FREEDOM AWARD

Friends, I am extremely happy to be able to attend this luncheon cosponsored by Freedom House and the Congressional Human Rights Caucus, and I am also very honored to received the Freedom Award.

I have a special relationship with Freedom House as well as the Congressional Human Rights Caucus, because it was at Freedom House in 1979 where I held the first press conference here in the United States. I was at the Congressional Human Rights Caucus that I presented the five-point peace plan in 1987. Because of these special connections, I have a special feeling and a special appreciation for this award given to me today.

There's not much time, just a few minutes, so I just wanted to say that I am extremely happy and deeply honored to receive this award and be here with some of my old friends and some new friends—all basically human beings and moreover, you see, committed to the rights of human beings and concerned about basic human values. So, because of these reasons, I am very, very happy to be here with you.

I am a monk who comes from Tibet, the roof of the world as people call it. It is a different culture, a different historical situation, a different climate, but basically we are all the same human beings. Moreover, I think due to many factors, Tibetan civilization is really of a peaceful nature. Our relations with our fellow human beings and also our relationship with the environment are basically peaceful in nature. Of course this does not mean that Tibetans never fight. We fight, sometimes, I think. Generally speaking, Tibetan civilization is something quite good, something quite useful. Therefore, I try to preserve that unique cultural heritage. I believe that culture not only benefits the Tibetan people, but humanity as a whole. I think we may have the potential to contribute something to humanity.

So, those people, those organizations who are committed to the Tibetan people, the Tibetan culture, I very much appreciate. On behalf of my unfortuante people, I would like to express my deep appreciation and thanks. At this moment we need your encouragement, because we are passing through what really is a critical situation. Now we are facing a situation where one ancient nation with a unique cultural heritage may disappear from this planet. So this is something that is a question of life and death.

As a human being, I always pray for all sentient beings, and in particular for all human beings. But praying for all sentient beings and particularly for all humanity, is not sufficient. We must implement, we must take action: the prayer, I think, should transform into action. Your organizations, I think, carry out that action. That is very important. I also think that your active role in fighting against human rights violations and for democracy not only saves individual rights, but also—and I think that this is very important—helps human progress. Usually, you see, within humanity, those people who have a deeper creative nature and greater intelligence, are usually those who are more critical of the existing system or government. So when you see these people's rights suppressed, then essentially the entire progress of that country or that community actually has been stopped. Without freedom, humanity's creative nature cannot be utilized fully. Therefore, without utilizing creative human nature, there is no progress.

I thus always admire this kind of work. I hope any pray for the continued success of your work. I think that's all. Thank you. Thank you very much.

REMARKS BY MAX M. KAMPELMAN ON THE OCCASION OF PRESENTING THE FREEDOM HOUSE AWARD TO THE 14TH DALAI LAMA

Members of the United States Senate, Members of the United States House of Representatives, distinguished guests and friends. In behalf of Freedom House and as its Chairman, I welcome you this afternoon to join us in honoring His Holiness, the Fourteenth Dalai Lama, who will be receiving our Freedom Award. We are proud to join with the Congressional Caucus on Human Rights to pay tribute to this outstanding man of religion and public conscience for his forty years of devotion to restoring democracy, human rights and dignity to his people and to his country, Tibet. We are proud to identify ourselves with his patient and yet persistent efforts to demonstrate that the aspiration for democracy and human freedom is a universal one.

This year marks Freedom House's 50th year. Nearly 50 years ago, a noteworthy group of American leaders—Democrats, Republicans, and Independents—led by Eleanor Roosevelt and Wendell Willkie, came together to assert that the human values of freedom and democracy must be at the foundation of our government's policies, domestic and international. During the ensuing fifty years, we have taken on many challenges, some popular and others less so. We have fought for civil and human rights in our own country and elsewhere in the world. We have opposed the totalitarians of the right and of the left and we have never hesitated to do so. Whether in the Soviet Union or the Union of South Africa, whether in Chile, China or Cuba, we have spoken out for freedom and human dignity.

Freedom House has acted with the strong conviction that America has a moral imperative to defend liberty and uphold the fundamental ethical values that form the foundation of our democratic society. During the past 50 years, our commitment to genuine political pluralism, religious liberty, ethnic tolerance, and basic human rights have been at the cornerstone of our activities around the world.

We do so again this afternoon in welcoming the Dalai Lama of Tibet in this edifice of democracy, the Capitol of the United States of America.

Our guest, the Fourteenth Dalai Lama in a line that began in 1351, has described himself as "a simple monk". He is aware of his moral and political responsibilities as the leader of his people who today live under Chinese domination, the victims of an armed invasion by foreign troops that took place 40 years ago.

That aggression and the repression used to perpetuate it is one that too many are prepared to accept as a reality of international affairs. There is no legal or moral justification for acquiescing in that dastardly act of violence. For 1,300 years the Tibetans have worked to preserve their own unique form of government. They have insisted on their separateness and their right to follow the teachings of their culture and religion, which emphasize selflessness, compassion, meditation, study, and discipline. They continue to seek a status and a way of life which will permit them to live their own lives free of foreign intrusion and domination.

The Dalai Lama is today in exile from his country and his people. His leadership has been a moral one and its power has been awesome. The recognition he has received in being awarded the 1989 Nobel Peace Prize for his commitment to non-violence in resisting the evils experienced by his people is an illustration of that strength. His voice and message have brought that cruelty to the attention of the civilized world. The Dalai Lama has become a symbol of the power of moral force in international affairs.

Tibet is today a tragic land. Many of its people, including tens of thousands of its children, have been forcibly removed to China in an effort to homogenize them and bury their heritage. Millions of Chinese have been forcibly removed from their homes and brought to Tibet in order to dilute and further destroy Tibetan culture, religion and influence. Indiscriminate torture and public executions have been tools of that repression. Buddhist monks became a primary target for persecution as thousands of monasteries have been defaced, ransacked and destroyed. Vital food and grains were confiscated from Tibet and sent to China, resulting in famine, killing tens of thousands. We cannot permit a deafening silence to acquiesce in that extermination process which continues even today.

That is why we gather today to express our support for the aspirations of the six million Tibetan people for freedom and dignity. That is why we honor the Dalai Lama in his effort to safeguard Tibetan culture and to champion the principles of democracy, peace and the unity of mankind.

The world is rapidly moving toward greater democracy and human dignity. It is an inevitable by-product of the communications revolution which is making available to all peoples the impressive potential benefits to mankind from the scientific and technological changes that are altering the way we live.

Over the years, Freedom House has supported and worked with noble human spirits such as Martin Luther King, Jr., Andrei Sakharov, Lech Walesa and Vaclav Havel. Once lonely voices, their messages have now become messages of humanity as we move forward toward their realization. We identify ourselves with the aspirations of the Dalai Lama in that same spirit. We believe in the rightness of his cause. We work to help him and his people focus the attention of the world on the moral legitimacy of their cause. We do so again this afternoon. We will not abide those who seek to silence them. Nor will we abide those who seek to isolate and ignore them. The cause of the Dalai Lama is the cause of our evolving civilization.

The principles of tolerance, pluralism and democracy are today rapidly advancing across the world stage. Tibet remains hidden behind a curtain of terror and repression. We, here, must help remove that curtain. The United States represents respect for human rights and the dignity of the human being. That is what the Dalai Lama is striving to achieve for his people. That is what his efforts represent. We belong together. We, here, are together.

It is now my honor to present his Holiness, the Fourteenth Dalai Lama, with the Freedom Award of Freedom House in honor of his outstanding contributions to the cause of human liberty and human dignity.

THE SERBIAN NATIONAL RENEWAL MOVEMENT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CRANE. Mr. Speaker, these past months have produced monumental political and emotional drama throughout the Republics of Yugoslavia. To some, a loose confederation of Yugoslavian states is the means to end the current violence as well as the political repression of the last half-century. To others, revamping the current political system is seen as a more viable option. In considering the turbulent nation, however, we cannot lose sight of the fact that Yugoslavia faces a multitude of problems; therefore, it would be foolhardy to expect a simple resolution to the current crisis.

I would like to share with you a statement written by Dr. Milosh Kostich, Washington representative of the Serbian National Renewal Movement. In this article, Dr. Kostich examines the problems inherent in the "confederation" solution versus the advantages of the "federation" solution. I hope my colleagues will take time to read Dr. Kostich's thoughts on the political, ethnic, and boundary dilemmas of today's Yugoslavia as they pertain to the Serbian population. It is only when all viewpoints, including the following, are explored that Yugoslavia can begin to make the desperately needed progress for peace.

THE YUGOSLAV CRUCIBLE: A SERBIAN VIEW

(By Milosh Kostich)

The recent months of political turbulence in Serbia has dramatically demolished the myth, nurtured for some time by superficial Western media, that Yugoslavia consists of two essentially distinct components which deserve varying treatment: a "democratic" and "pro-Western" Croatian and Slovenian north, and an authoritarian and residually bolshevik Serbian south.

By massively pouring into the streets of Belgrade and other cities in response to the call of the Serbian National Renewal Movement and its president, the novelist, Vuk Draskovic, Serbs have signalled their rejection of the demagogic neo-bolshevik regime of strongman Slobodan Milosevic they have not done this in a painlessly coordinated transition to democracy, as was the case with their northern countrymen, but in a defiant stand against the police and military instruments of authoritarianism that have so far exacted a human cost in dead, wounded, and arrested.

The initial acquiescence of a substantial number of Serbs to Mr. Milosevic's deft utilization of what, back in 1983, he cynically termed the "nationalist card" is unintelligible without some appreciation of their geopolitical position in presentday Yugoslavia. While the majority of the Western public and media have facilely assumed that the internal borders of Yugoslavia's constituent republics have some historical substance, they are, in fact, the product of arbitrary decisions made by Tito and his communist entourage in 1943, which became permanent as a result of their coming to power in 1945.

That is the crux of the Serbian dilemma, the single most complicating factor in interethnic relations, the key to the federation/confederation controversy, and the secret to Mr. Milosevic's remarkable success, until quite recently, in morally blackmailing an entire nation to do his bidding.

For, according to that arrangement, no ethnic group in Yugoslavia with the exception of the Slovenes, is substantially circumscribed by the boundaries assigned to its republics. In that division, by fiat, the Serbs fared the worst. Close to half of them found themselves within the borders of other republics and Serbia itself was further administratively dismembered through the creation of autonomous provinces to accomodate Hungarian and Albanian minorities, in spite of their dismal record of mass collaboration with the Axis during the war.

Although Croatia has a large compact Serbian minority, which had been decimated by the genocideal onslaught of the pro-nazi Ustashi government in the war, no comparable accommodation was mandated on their behalf. Those facts should be borne in mind in assessing both the demand of Serbs living in Croatia for autonomy and the charge of Serbian hegemonism in general. A hegemonistic nation does not deliberately implement policies which lead to its territorial and political dismemberment.

Thus, unless the issue of internal boundaries were first equitably addressed and they were redrawn in such a way that most Serbs would live in a Serbian state, the apparently reasonable confederal solution to Yugoslavia's agony would in fact function inherently contrary to the vital interest of the country's most numerous nationality, the Serbs. If stability is what the West seeks, that certainly is not the prescription to achieve it. A high percentage of Serbs would remain hostage in now-sovereign states where memories are still fresh of hundreds of thousands of Serbs massacred there during World War II. The Serbian people would be expected to relinquish lands their ancestors have inhabited and defended against Ottomans for centuries and to disregard enormous human sacrifices they had made in both world wars, where they fought on the side of the Western allies, so that their freedom would be ensured in a common state whether it were called Serbia or Yugoslavia.

That is an outcome, the Serbian people will never accept. The Serbs's preference, for a federal Yugoslavia (if Yugoslavia is to continue), must therefore be viewed in the context of their legitimate desire to be politically united and not as the reflection of an impulse to dominate others. A confederal solution or a civilized separation are both quite possible, of course, but only provided a formula is found to avoid the perpetuation of Serbia's territorial and political fragmentation. Germany was finally united. Why can't Serbia be also?

The keen desire of the Serbian people, whose roots and traditions of culture and statehood go back centuries, to live under their own government on their own land merits at least as much favorable consideration as the similar desire in many newly emerging nations in other parts of the world. The Western obsession with current events torn out of their historical matrix and predilection for improvised policies based on that shaky foundation has led to a perception shared by many Serbs that they have been deliberately misunderstood and that their interests have been wantonly disregarded. That had propitiated the emergency of Mr. Milosevic as a pseudo-nationalist hero. The initial support given him by wide segments of the Serbian public was not directed to his communist views but was a reflection of their hope that at last someone in authority appeared who was willing to speak up for their nation's interests in the multi-ethnic Yugoslav arena. Mr. Milosevic, on his part, adroitly disguising himself, made brilliant use of resurgent feelings of national pride to mobilize a broad following which was then manipulated to further, not Serbia's national interest, but Mr. Milosevic's own, in intra-party power struggles.

It is ironic, that Mr. Milosevic should have been misidentified as a "nationalist" when in his book "Years of Decision" (1989) he declared that, in his view, Serbian nationalism was enemy number one (p. 171). Mr. Milosevic is a sincere Serbian nationalist for the same pragmatic reasons which prompted Saddam Hussein, at the height of the crisis which has shaken his regime, to suddenly turn into a fervent Muslim, although most of his political career, he cared not a whit for Islam, any more than Milosevic, always a loyal Titoist apparatchik, had cared for Serbia.

Evidently, the aim of such a malicious identification is not to provide a precise definition of Mr. Milosevic's genuine credo, but to smear through association with his discredited personality and policies all patriotic Serbs who do love their country, but without resenting anybody else's.

The Serbian National Renewal Movement (NRM), the largest opposition party in Serbia, led by Mr. Vuk Draskovic, aims to restore reason and moderation to Yugoslav politics after fifty years of totalitarian nightmare. Mr. Draskovic has stated repeatedly that dialog with all interested Yugoslav and foreign parties, not confrontations and demagogic crusades, should be the starting point of a genuine effort to resolve inter-ethnic differences. The NRM approach can be reduced to three essential points: (1) new and this time genuinely free elections in Serbia, unencumbered by communist pressure, control of the media, and limitations on opposition activity which characterized the questionable electoral exercise of December, 1990; (2) a gradual reorientation of the economy toward the liquidation of the socialist system and opening toward Europe, its institutions, and values; and (3) the position that all existing territorial and ethnic disagreements can be lastingly and fairly resolved at the conference table when Serbia is represented by a genuinely legitimate government which enjoys the trust of a broad cross-section of its people.

Such a dialogue should not be burdened by any preconditions except for one: it must be businesslike, realistic, and rational. Both Serbia and the other constituent nationalities of Yugoslavia must give due weight to the emergency European and global order and to the fundamentally new set of criteria it entails in the conduct of international relations.

The Serbian National Renewal Movement is striving to become a mature and modern democratic party, aware of its nation's unique heritage and traditions but also no less conscious of its interdependence within the larger human family.

A TRIBUTE TO MRS. MARY FONG

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Mrs. Mary Fong, who is retiring as assistant board secretary to the superintendent. Next Friday, her friends and colleagues in Sacramento City Unified School District will gather for dinner to recognize Mary's many contributions to the school district and the community at large.

Her 24 years of dedicated service to the school district began at John Still Junior High School where she was hired as a half-time clerk. Within a few years, she became a full-time secretary at C.M. Goethe Junior High School. Her pleasant and dynamic personality served her well in this capacity, as she earned an impeccable reputation for exemplary work. Her tremendous people skills assisted her in effectively working up the secretarial ladder within the school district. This progress culminated in her final promotion to that of assistant board secretary to the superintendent, the position from which she is retiring today.

Retirement will certainly not slow her down. Mary and her husband Edward are the parents of four grown daughters and have one grandchild. Besides leading an active home life with her family, Mary is also involved with many community organizations including the YWCA, Campfire Girls, Girl Scouts, and the PTA.

I ask that my colleagues join me in commending and congratulating Mrs. Mary Fong on her retirement from the Sacramento City Unified School District.

DECENNIAL CELEBRATION OF THE SAL ABBRACCIAMENTO SCHOOL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. TOWNS. Mr. Speaker, today I rise to commemorate the tenth anniversary of the dedication of Brooklyn's P.S. 108 in honor of Sal Abbracciamento, a proud East New York resident. Although Mr. Abbracciamento was a product of a different era, his character, determination and pursuit of educational opportunity in the face of adversity makes him a noble role model for every generation.

Sal Abbracciamento was born in Naples, Italy on July 31, 1901. When a toddler, his parents brought him to the United States. Upon entering this country, the young family settled in East New York.

Sal attended P.S. 108 and Boys' High School in Brooklyn. His father's death forced Sal to leave high school to work to assist his mother support his eight brothers and sisters. He worked as a dishwasher, busboy, waiter and eventually established a successful restaurant which served the East New York community. Despite working to support his family, Sal understood the necessity of education and managed to complete his schooling.

In addition to business and education concerns, Sal managed to become an active member of the community. He was involved in community, civic and church affairs. During his life, Sal was known throughout Brooklyn for his philanthropic acts and charitable deeds. For 25 years, Sal served as lieutenant governor of the Kiwanis Club. His tenure was marked by untiring assistance to the underprivileged children of the East New York-Cypress Hills Community. Sal worked tirelessly and unselfishly to improve East New York. He founded the Council for the Better East New York [CBENY] and the first auxiliary police unit at the 75th precinct. Sal was an active fundraiser on behalf of the Cerebral Palsy Association of Cypress Hills; the Italian Board of Guardians and St. John's Home for Orphans.

Additionally, Sal was able to use his fundraising and organizational acumen to benefit the education of all children of East New York. Sal was appointed to serve on the archdiocese's Committee to build a high school in Brooklyn. In 1965, he successfully led the drive to save P.S. 65 and P.S. 108 from demolition.

Sal Abbracciamento left a legacy of charitable and community service. The East New York-Cypress Hills community and the students at P.S. 108 are fortunate to have had such a tireless and altruistic benefactor.

EAGLE SCOUT MICHAEL D. FORD

HON. JOHN F. REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Michael D. Ford of Troop 2 in Harrisville, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Sout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, Michael Ford led a group of Scouts in assembling a bus shelter across from the Harrisville Town Hall.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scourt Michael Ford. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has, through its 80 years, honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Michael Ford will continue his public service and in so doing will further distinguish himself and consequently better his community. I am proud that Michael Ford undertook his Scout activity in my Representative District, and I join friends, colleagues, and family who this week salute him.

RABBI SOLOMON FREILICH: 45 YEARS OF LEADERSHIP

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mrs. LOWEY of New York. Mr. Speaker, Rabbi Solomon Freilich is an individual who truly fulfills the traditional role of "Rabbi, teacher, and preacher." His 45 years in the rabbinate have been truly commendable, and for that I offer him my sincere appreciation.

Rabbi Freilich has stood before us in this Chamber to offer the morning prayer as a guest chaplin, he has received several scholarly degrees from Yeshiva University, including a doctorate and a master's in social work, and he has been a source of wisdom and inspiration for all of his congregants. A man of learning and of compassion, he has been ready to serve at the time of major events and for the day-in and day-out life of his community. He has contributed to the growth and strength of Judaism, in America and in Israel.

Perhaps the most important achievement in Solomon Freilich's long and distinguished career is his outstanding leadership of his synagogue, Congregation Brothers of Israel. Through the strength of his will, Rabbi Freilich has kept his congregation as a vibrant and important force in the life of Mount Vernon and its Jewish families.

As Congregation Brothers of Israel celebrates the 45th anniversary of this man's entrance to the rabbinate, I join them in extending to Rabbi Solomon Freilich my warmest wishes. I trust that all of my colleagues will join me in saluting Rabbi Freilich, and in wishing him and the congregation all of the best for continued strength and success.

A TRIBUTE TO WINSTON CHURCHILL HIGH SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Ms. MORELLA. Mr. Speaker, I am proud to pay tribute to the faculty, parents, and students of Winston Churchill High School in Montgomery County, MD, for winning the "Excellence in Education" award from the Department of Education school recognition program.

"Academic excellence is an expectation across the entire curriculum," stated Principal Diane Ippolito. Every staff member is challenged to grow intellectually and students are taught that an act of learning is to be valued in and of itself. Forty-five percent of the staff participate in seminars offered by the education system or conferences sponsored by government agencies and cultural institutions, such as the national Institute of Health, the Smithsonian and Kennedy Center. Students participate in numerous honors level and advanced college placement courses, including calculus, computer science, chemistry and biology.

The environment is conducive to learning at all levels. Winston Churchill has a program for at risk students in English, science, and social studies which recently was honored by the National Teachers of English. Its program for the learning disabled couples the support of its strong resource program with the intense participation of its regular classroom teachers. The school's technical education program offers mechanical and architectural drawing, and theater classes include vocal and instrumental music as well as stage production and set design.

Students and faculty at Winston Churchill have compiled an impressive record of achievement. The school was awarded the National Pacemaker Award as one of the eight outstanding high schools in the country. It was named the outstanding school in Maryland for a school with students at risk. Two students were named finalists in the National Westinghouse Talent Search. Its computer science team won the all star competition for the American Computer Science League. One student was named a Presidential scholar, another was selected to the All USA Today High School Academic Team and another was commended in the Dreamer and Doer Contest sponsored by Walt Disney. A foreign language resource teacher was awarded the Excellence in Administration of Foreign Language Programs Award. Over the last 5 years, 92–95 percent of the students took the student aptitude tests for college admission and placed above the national norms. Seventy-five students were selected national merit scholars and 272 were commended scholars.

At Winston Churchill, there is a high degree of parent involvement. Its active Parent Teacher Students Association has an executive board of 50 members. Parents help plan programs and participate in classroom learning. They helped with training programs for parents of the learning disabled and with freshman orientation. They offered career guidance, advice on Maryland's laws and administrative and fund raising assistance to the numerous sports and clubs at the school.

As a former teacher, I am pleased that Winston Churchill High School is being recognized for its fine educational and extra-curricular programs. I congratulate its fine faculty, its supportive parents, and its excellent administrators and wish them continued success in achieving excellence in education.

JOHNNIE COCHRAN'S GULF WAR MESSAGE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. DIXON. Mr. Speaker, on June 8, Americans throughout the United States will be celebrating the historic victory of United States service men and women who fought with our allies to liberate Kuwait and honoring those who died fighting to uphold the values of our Nation. I rise to share with you the inspirational message of one of my constituents—Johnnie L. Cochran, Sr. Mr. Cochran wrote these heartened words during the gulf war to bring comfort to families whose sons, daughters, mothers and fathers were bravely risking their lives.

Mr. Cochran is not just an ingenious and creative writer, he is a pillar of his community. He is a longstanding member of Second Baptist Church—one of the oldest Baptist Churches in Los Angeles—and a dedicated father of two daughters and two sons. He retired from Golden State Mutual Life Insurance Co., the oldest and most successful black-owned insurance company in the country several years ago and now spends much of his time writing to inspire and encourage others.

I share with you the original selection of prayers by Mr. Johnnie Cochran, Sr:

A PRAYER FOR PEACE

Heavenly Father, help us to work diligently for peace in our homes, communities and the world. Lead us to realize that hate, greed, selfishness, egotism, injustice and all such evils inevitably result in war and destruction. Grant that we, especially violent-prone individuals, leaders of nations and every entity engaged in marketing guns—weapons of war will learn some vital positive lessons from previous mistakes and the war.

We pray fervently that peace will prevail promptly. Hasten the end of human abuses and oppression that continues to occur in many nations. Inspire us to build a new violent free world order, where laws, the dignity and rights of everyone are respected. Grant that our efforts will evidence abiding gratitude for the sacrifices of our military and their families; as we experience your blessings and dedication as daughters and sons of God. Amen.

A PRE-WORK MORNING PRAYER

Heavenly Father, we thank and praise you for another night of refreshing blissful sleep; and for awakening us to the call and responsibilities of a new day. Open our eyes to the beauty and challenges of this day. Lord, fill our hearts and minds with new creative thoughts and ideas to pursue. Help us to respond with enthusiasm to the task we should perform, and may we seek to learn and do your will.

Let your holy spirit lead and guide us, and keep us from harm's way. Help us to respond with care to the sick, hurting and needy with whom we come in contact; and to be your witnesses in word and deed wherever we go. Multiply and increase our faith, reduce and subdue our ego and selfishness, and reinforce and expand our love. Amen.

A PRE-SLEEP EVENING PRAYER

Heavenly Father, we thank and praise you for leading and guiding us safely through this day. You have protected and kept us from harm's way. Crown our positive efforts to improve the quality of life with success, and forgive our failures and misdeeds. As the curtain has fallen on this day and the shadows of night prevails, help us to lay aside every troubling care, task or concern, and grant us a generous portion of safe, restful sleep.

Renew our strength for the journey we must travel tomorrow. Let your guardian angel watch over us, and in due time awake us to go forth facing the new day with courage and determination to seek and do your will. Calm our anxieties and fears, shut out the noise and disturbances, reassure us of your love and constant presence. Amen.

A MILITARY SERVICE PERSON'S PRAYER

Eternal God our Father, hear and answer our prayers. We acknowledge that you know and understand all of our needs, and have done and are doing more for us than we can ask or express. We thank and praise you for your abiding presence. You have blessed us with health, strength, and every element of life support.

May your spirit guide us safely around harm's way and return us to our respective homes. Hasten the day when wars will cease, and peace and justice will prevail. Dear God, reduce our anxieties and fears, enhance our spirits, comfort all who experience hurt and loss, reinforce our faith, insure our hope and purify our love. Amen.

TRIBUTE TO JOHN (JACK) J. MURPHY AND HIS SON DAVID K. MURPHY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to two outstanding citizens from my congressional district who deserve to be recognized for their many contributions to our community. Tonight friends and family will gather to honor Mr. John "Jack" J. Murphy and his son Mr. David K. Murphy at the Distinguished Citizens Dinner of the Golden Empire Council of the Boy Scouts of America.

Jack Murphy has been involved in Scouting for over 30 years, and was awarded the Silver Beaver Award in 1968, which is the highest award given by the Boy Scouts of America. In addition to his dedication to guiding our local youth, Jack has been a leader on many fronts. He served as president of the Rotary and the Independent Insurance Agents, is a trustee to Sutter Hospital, and is a member of the prestigious Knights of St. George.

Dave Murphy has done a great deal for Scouting and for the entire Sacramento community. He is a successful businessman and has been an active member of many community organizations. He served as president of the Rotary Club of Sacramento and the Independent Insurance Agents of Sacramento. Dave has used his many talents to assist the American Red Cross in their fund raising and relief projects and was recognized as one of their most outstanding volunteers. He was also awarded the University of Santa Clara Man of the Year Award, the Insurance Women of Sacramento's Boss of the Year Award, and Rotary's prestigious Paul Harris Award.

The leadership of Jack and Dave is an inspiration to all of us in Sacramento. They have both raised lovely families and have been close friends to me and many others. Our appreciation of their kindness and tremendous work is immeasurable.

Mr. Speaker, John "Jack" J. Murphy and David K. Murphy are exemplary citizens and I commend them for their numerous contributions to Sacramento and to the State of California. I ask that my colleagues join me in recognizing the achievements of these two outstanding community leaders.

ADDRESSING THE NEED FOR BLACK PHYSICIANS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. TOWNS. Mr. Speaker, I rise today to address a problem that is plaguing black Americans throughout the United States, which is the necessity to increase the number of black physicians.

Today, I would like to persuade black youths who have hopes of being physicians to strive to make their dreams become a reality, although society may tell them to give up. It is the duty of all Americans to address these problems that hold back the education of all youth.

If we do not make changes the entire society will suffer. Encouraging black youth to become physicians will conclusively help to overcome problems that plague society such as drugs, crime, and delinquency. We must make it a top priority to make the necessary changes within America's educational system so that all students can obtain appropriate education as children so that they can have an equal chance to excel as adults.

It is imperative to address this issue at once so that the number of black physicians will increase. As inner city schools suffer from budget cutbacks, black youth suffer from various social conditions that prevent them from getting an adequate education. Educational achievement is vital to prepare these students for college studies. If changes are not made soon, the number of blacks in the field of medicine will decline also.

Presently, there are many blacks in the United States who suffer from improper medical care. Due to decreasing numbers of black physicians it is often hard for many to obtain sufficient health care within their community.

We must continue to encourage black youth who have interests in the medical field. When the number of black physicians increase, many positive things will occur. For example, the overall health within black communities will improve, social problems can be combated through education, the economic makeup of poor areas will improve, and create positive role models in a society that produces negative images of blacks.

I know it is possible to change this cycle. Dr. Ben Carson, a world famous physician at Johns Hopkins Hospital often speaks of his troubled youth. Yet today, this man is not only a healer, but a scholar and a gentleman.

A TRIBUTE TO WESTLAND INTERMEDIATE SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mrs. MORELLA. Mr. Speaker, I am proud to pay tribute to the faculty, parents, and students of Westland Intermediate School in Montgomery County, MD, for winning the Blue Ribbon Excellence in Education Award from the Department of Education.

According to Principal Sarah Pinkney-Murkey, Westland has an image of success for all students. It has programs for the gifted and talented as well as special programs for foreign and minority students. Thirty-eight percent of its ethnically diverse population come from minority groups. IBM selected Westland to participate in its Adopt a School Program, with a special focus on minority and at risk students.

Westland has adapted several strategies to encourage an atmosphere of inclusiveness for all. It includes all students in regular classes with a second teacher or aide instead of scheduling special skills level classes. Groups with lesser and greater abilities are paired to enhance student self-esteem. English for speakers of other languages [ESOL] teachers visit homes, eliminating barriers and encouraging student and parent participation in all school activities.

Westland encourages recognition for both students and teachers. Each month a student of the month is selected to have his or her picture displayed in a showcase and to have lunch with the principal. Awards are made for a variety of reasons, with academic achievement only one factor among many. There is also a staff recognition showcase, prominently displaying those chosen for their outstanding contribution to the school.

The school's staff and students have won numerous awards. Among them are the Washington Post's Agnes Meyers Award for Outstanding Teacher of the Year; a National Science Teacher Education Award; a NASA Support Program for Instructional Competency in Astronomy Award, the Superintendent's Writing Award; and recognition for the school's string ensemble and band.

At Westland, parents are involved in all aspects of the school's programs. More than 40 parents are on the executive board of the Parent Teacher Student Association. Parents raise funds, set up meetings at local elementary schools, and chair committees that oversee activities as diverse as a science expo and an ethnic festival.

Maintaining the involvement of staff and students has led to the implementation of innovative programs. Prior to the school year, the entire staff is surveyed for ideas and suggestions on improving the school. Monthly staff breakfasts offer an opportunity for all facilty, administrators, and support staff to meet and informally exchange ideas.

As a former teacher, I wish to congratulate Westland Intermediate School for creating the right atmosphere for learning. I am proud of their well trained staff, their supportive parents, and their excellent students. I wish them continued success in creating the excellence in education needed for tomorrow's schools.

THE HOME FOR THE AGED OF NEW ROCHELLE: SERVING THE COMMUNITY FOR 85 YEARS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mrs. LOWEY of New York. Mr. Speaker, it is essential that we care for our elderly and that we do so in a fashion that gives these individuals who have given so much to all of us the respect and loving care they need. Their care poses difficult challenges which require great skill and sensitive understanding. Those who respond to this need deserve our support, our admiration, and full recognition for all they do.

The Colburn Memorial Home for the Aged in New Rochelle, NY, marks its 85th year of service today. Since 1906, the home has been there for those who needed it, helping families and those who had no families to cope with the pressures and challenges of aging. It provides an environment in which age is respected and where care is the watchword. It is an institution that makes Westchester a better place to live for many.

Today, under the directorship of Peter A. Beter, "The Colburn" is home to 35 seniors. I am proud to be their Representative, and proud that the community which I represent has a place like the Home for the Aged, which offers so much. I extend to everyone associated with the home my warmest congratulations on this momentous occasion, and I am sure that all of my colleagues join me in wishing the Colburn Home for the Aged many more years of service in this important field.

INDIRECT RESEARCH COST AND STANFORD UNIVERSITY

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CAMPBELL of California. I rise to discuss the question of indirect cost reimbursement for Federal research contracts in general, and at Stanford University in particular. I have spoken with members of the news media on this subject but would like to make my position more formally a matter of record.

Mistakes were made by Stanford. They must be corrected. Taxpayers' money must be fully repaid, with interest. And Stanford's procedures must be reformed so that two very important objectives can be achieved: Efficient management of Federal money, and the continuation of the Government-university partnership in basic research in our country.

Allegations have been made that Stanford had too close a relationship with several Government contractors so that proper supervision was lacking. If these allegations, or worse, allegations of outright fraud, are true, then those responsible should be punished to the full extent of the law.

I have discussed Stanford's indirect cost allocation system with Stanford officials. It is a concern to me as a taxpayer as well as the Member of Congress whose district includes Stanford. I have been assured that energetic accounting reforms are being proposed, and some have already been put into place. There will be a new director of internal audit at Stanford. There will be a new chief financial officer at Stanford. A special study by the outside accounting firm of Arthur Andersen has been commissioned and will be finished by the end of June; I have been informed that their recommendations will, in all likelihood, be accepted in toto and put into practice.

Last weekend, I spoke with David Packard about this question, and I wish to share with the Congress his assessment of the problem. His remarks follow. Mr. Packard not only is a respected industrialist and former Deputy Secretary of Defense; he was the chairman of the recent Study Commission on Improved Defense Procurement Procedures. He is familiar with the problem and presents useful insight into its solution.

It has been my practice, whenever Stanford University has been involved in my official duties, to draw attention to my statement in the CONGRESSIONAL RECORD of January 3, 1991, regarding my status as a professor at Stanford University.

Mr. David Packard's remarks follow.

THE HEALTH OF U.S. RESEARCH COLLEGES AND UNIVERSITIES

(By David Packard)

The recent headlines about abuses in overhead charges at some of the country's major universities are indicators of serious problems that have developed in the federal support of research at U.S. colleges and universities.

This is a complex issue which is not well understood by the Congress and the general public. It should be, because how these problems are dealt with will have a major impact on the ability of the United States to maintain world-wide leadership in science and technology in the years ahead.

I have been involved in this issue for over 50 years. I believe the problems can be corrected without too much difficulty, but it is important to understand first how this great research endeavor started, and why it has developed these problems over the last three decades.

Before the beginning of World War II, federal support of research at American universities was very limited. The one major exception was the federal support of research at the so-called Land Grant Colleges. This program began under the Morrill Act of 1862 which gave grants of federal land to colleges to teach subjects "related to agriculture and the mechanical arts". It was kind of a vocational arts program in the beginning. It has developed into a major research enterprise, supported by the federal government which has made American agriculture the most productive agriculture in the world today.

By 1940 President Roosevelt came to the conclusion that the Allies would not be able to defeat the German military forces in Europe without the help of the United States. He thought one of the best ways to help them would be with scientific knowledge. To do this he asked Dr. Vannevar Bush in June 1940 to head a new agency called the National Defense Research Committee. Dr. Bush recruited six-thousand of the country's leading scientists, engineers and doctors and when we became involved in the war in 1942 the effort was expanded. By the end of the war there were thirty-thousand of the best and the brightest scientists, engineers, and doctors in the country engaged in this endeavor to use science to win the war.

Some of these scientists concentrated on the specific objective of making the atom bomb. Others concentrated on applying scientific research and product development to all other aspects of the war effort. They developed better radar and radar counter measures, the proximity fuse, better equipment to deal with German submarines, and a great many types of equipment and systems described as electronic warfare. The doctors did research and development to improve our ability to deal with military medical problems. There was close cooperation with scientists, engineers and doctors in Great Britain who were working on similar projects. This great research and development endeavor was the most important determinant in the allied victory over the enemy in Europe and in our success in retaking the islands in the Western Pacific from Japan for it gave the allied forces better weapons than the Germans or the Japanese.

The atom bomb was a factor only in the surrender of Japan but it saved millions of lives.

This unprecedented endeavor is described in detail in a book, "Modern Arms and Free Men," written by Vannevar Bush in 1949 and anyone who wants to know the details will find this book very interesting.

Because of the success of this war-time research endeavor, Vannevar Bush was convinced that a similar effort should continue after the war. He stated it this way; "On the wisdom with which we bring science to bear in the war against disease, in the creation of new industries, and in the strengthening of our armed forces depends in large measure our future as a nation."

Vannevar Bush's advice was followed after the end of the war and the outcome has been exactly what he predicted. The United States has made great progress in the war against disease, we have created vast new industries, and our brilliant military victory, Desert Storm, was assured because our distinguished military leaders and our highly skilled, brave and dedicated men and women in uniform had the best weapons in the world.

When this program began in 1945, the Office of Naval Research, ONR, was the only federal agency with experience in dealing with research at universities. Dr. Frederick E. Terman, who headed the Radio Research Laboratory at Harvard during the war, returned to Stanford University to establish one of the country's major research programs following the pattern recommended by Vannevar Bush. The ONR worked directly with Dr. Terman at Stanford and with scientists at other universities during the first few years. The National Science Foundation was established in 1950 to take over this responsibility but the ONR continued to be involved.

During the 1950's this federally supported research endeavor propelled the country through the challenge of Sputnik and equipped the United States with the scientific knowledge and the scientific talent to put a man on the moon.

In the decade of the 1960's the current problems began to develop. Social problems began to receive more attention at the research universities. Also the cost of equipment needed for research as well as the direct costs of research began to increase. These pressures caused the colleges and universities to press for more financial support from the federal government and more support was provided, not only for the increasing direct costs of research but also through increased allowances for overhead.

It is, I think, generally understood that the federal government should pay its full share of the real costs of the research it supports at the universities, including the costs of depreciation for the facilities and equipment that are being used.

Here is a major cause of the present problem. Most universities do not have any costs for the depreciation of the facilities they acquire. Buildings and equipment are paid for by contributions from alumni or other sources. When buildings and equipment need to be replaced contributions from alumni or other sources are obtained to replace them. There are funds borrowed in some cases and there are real costs in interest and amortization of the loans. The government does pay its fair share of these real costs as it should.

The depreciation allowances which the universities receive for which they have no depreciation costs have been put into the current operating accounts and spent for current operations. Part of the current operating costs do support research activities but a large part do not. It is a horrendous job to sort this out. There are now 33 government auditors at Stanford and a similar number of Stanford people working with them. It will require several years of effort and cost millions of dollars to sort these problems out and this effort will not improve the research at Stanford in any way. It will be money down the drain for nothing.

This problem should be solved by requiring the universities to put these depreciation allowances into a capital account to be used only for the rehabilitation or replacement of research facilities or to service the actual cost of debt used to acquire or improve research facilities. This fund should be used only for those research programs which require expensive facilities or equipment and which receive the largest depreciation allowances.

If this is done, federal contracts should have an allowance for administrative overhead. This allowance should be a fixed percentage of the direct costs in the range of 25–30% and would not need detailed reporting or auditing. The Congress, as part of its oversight responsibility, could require audits from time to time.

There is nothing wrong with the federal government making contributions to the current operating costs of colleges and universities. This is a matter that should be decided by the Congress and the Administration and not done in the devious ways that have developed. Colleges and universities can also provide equally good research with lower current operating costs. There would be some serious transition problems if colleges and universities have to retrench and this transition problem should be given some attention.

There is general agreement on what items should be included in the direct costs of university research. These direct costs are not handled on a uniform basis, as they should be, by all government agencies. This situation should be corrected by legislation if necessary.

Over the years a large reporting requirement has built up on the direct research costs. Also, because of the shortage of funds, a research scientist must often prepare several requests for funding every year just to have a reasonable chance to continue a research program. It often requires a quarter, sometimes a third, of a research person's time to deal with this maze of red tape imposed largely by the Congress. The taxpayers of the country would benefit from substantially more research at the universities if this micro-management by the Congress could be reduced or eliminated.

The actions that need to be taken are described in more detail in a report released in 1986 by a special committee of the White House Science Council which I chaired with Dr. Allan Bromley. Similar recommendations were made in 1988 in a report of the American Association of Universities, AAU, chaired by Dr. Pimgs, who was then the Chancellor of USC.

Legislation is now being developed in the Congress to correct these problems which have developed with the federal support of university research. The legislation being developed if enacted, should correct these problems.[1]

This is a very important issue for the future of the United States. The legislation to correct these problems deserves the support of every citizen in the country and every member of the Congress.

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[1] The legislation proposed by Rep. Rick Boucher, (D-VA) Chairman of the Subcommittee on Science of the U.S. House of Representatives Committee on Science, Space, and Technology, covers most of the basic actions needed.

LEGISLATION TO ENCOURAGE THE ESTABLISHMENT OF FREE-TRADE AREAS BETWEEN THE UNITED STATES AND CERTAIN PACIFIC RIM COUNTRIES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CRANE. Mr. Speaker, today I am introducing legislation for the purpose of encouraging the establishment of free-trade areas between the United States and certain Pacific rim countries.

This legislation directs the President to initiate preliminary consultations with the government of each eligible Pacific rim country to determine the feasibility and desirability of negotiating the elimination of tariff and nontariff barriers in the context of a bilateral free-trade agreement. If a positive determination is made, the President shall request a meeting at the ministerial level with the government of that country to consider the conditions under which formal negotiations regarding a free-trade agreement could be commenced. The eligible countries include: Indonesia, Malaysia, the Philippines, Singapore, Thailand, Brunei, Australia, New Zealand, Taiwan, South Korea, Japan, and Hong Kong.

This legislation offers a number of real advantages such as dispelling the fear of regionalism, spurring the European Community to move forward in the Uruguay round negotiations, and improving our trade ties with the Pacific rim.

The recent action taken by the Congress in which we approved the extension of the "fast-track" procedures represents our commitment to trade liberalization with Mexico as well as with the world trading community as a whole. However, for some countries, especially among our Asian trading partners, this action represents one more step toward a hemisphere wide free-trade area in which a "fortress America" will emerge. What they fear is similar to what many Americans fear will happen after the European Community fully integrates in 1992 in which countries outside of the trading bloc will be prevented from trading with countries within it.

There are two schools of thought as to whether regional trading blocs are desirable. In his opening address before the Asia Pacific Economic Cooperation Ministerial meeting last year, Singapores' Prime Minister Lee Kuan Yew warned of the dangers of such trading blocs:

> [A] de facto emergence of such [trading] blocs will mean a world fraught with conflicts. Asians will feel that they have been quarantined into the Japanese Yen Bloc so that they can be excluded from the markets of prosperous Europeans and Americans, that the whites have changed the rules just as Asians have learned to compete and win under those rules. An Economic division of the world on racial lines would add bitterness and animosity to the normal conflicts of interests between states.

While I agree with Trade Representative Carla Hills that such blocs can provide a growth model to encourage other areas of the world to open their markets, at the same time I believe that it is important that we seek to dispel any fear of fortress America. This would certainly be accomplished by passing legislation to encourage FTA's with the Pacific rim.

Additionally, passage of this legislation would serve notice to the European Community that the United States will not tolerate its continued reluctance to compromise on the question of agricultural subsidies in the Uruguay round. Indeed, this message was brought home in December when the United States refused to go forward with the negotiations. By February, the EC promised to change its negotiating posture and proceed issue by issue on the question of farm policy if the talks were resumed. However, since resuming, little progress has been made. This bill will send a second signal to the EC that the United States will seek trade liberalization with or without it.

Finally, the real advantage to this legislation is that it will improve our trade ties with the Pacific rim. There is every indication that Asia will be the center of growth over the next decade. In fact, it has been estimated that their economy is expected to grow 8 percent a year over the next 10 years. In 1989, total trade between the United States and Asia topped $300 billion, compared with total trade with Western Europe which was $201 billion. Clearly it would be foolhardy not to preserve and enhance our trading relationship with that part of the world.

The creation of bilateral free trade agreements is desirable by virtue of the fact that they increase competition, eliminate inefficiency, and ultimately result in lower cost to consumers. In addition to the economic gains, FTA's carry with them strategic and political advantages. As economies become increasingly interdependent, the stake in a lasting peace rise as well.

I urge my colleagues to cosponsor this legislation.

MARCH ON WASHINGTON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to share with my colleagues an article concerning the declining amount of Federal funding for American cities. Osborn Elliott, a former editor in chief for Newsweek and chairman of the Citizens Committee for New York City, has proposed a march on Washington DC to address this growing issue.

The article, which appeared in Newsweek magazine, from the April 8, 1991, publication follows:

[From Newsweek, Apr. 8, 1991]

MARCH ON WASHINGTON

(By Osborn Elliott)

Now that the gulf war is behind us, it's time to start planning history's greatest March on Washington, a huge parade of protest by the cities of this land against a national government that has betrayed them. We live in an urban society. Yet, incredibly, our cities have lost their place on the national agenda. Brutal cutbacks in federal aid for schools, housing, food stamps, mass transit and social services have taken a terrible toll. The cuts were quite deliberate and their effects make daily headlines from Milwaukee to Miami:

A child left by her mother in the trunk of a car for lack of proper day care.

An army of inner-city dropouts honing their entrepreneurial skills by dealing drugs and dodging bullets.

A horde of young mothers and babies who are now the fastest growing group among our homeless millions.

"A Clockwork Orange" violence that has turned our streets and parks into killing fields.

It's high time that urban Americans, as well as suburbanites who depend on the cities for their daily bread, exercise their right "peaceably to assemble, and to petition the Government for a redress of grievances." In communities of 50,000 and in cities of many millions, governmental neglect has caused or worsened all these grievances. It is no coincidence that homelessness has soared as federal subsidies for low-cost housing have been slashed by 80 percent. Since the late 1970s, the portion of state and local budgets picked up by Washington has slumped by one third. For New York City, that has meant the denial of more than $20 billion in federal funding over the last decade and $3 billion in the current year alone. That is exactly the size of the budget gap the city is now struggling to close.

No one claims that Washington should take on the whole burden of restoring urban America. Our cities and states, our great corporations and foundations, our academic institutions and our churches must do their part as well. So must ordinary Americans, who already give enormously of their time, effort and money. But all these cannot do the job alone; the federal government has a practical obligation and a moral imperative to assume a much larger role in helping to mend the frayed social fabric.

Where should the marchers come from? From East and West, North and South, from cities and suburbs large and small. From San Francisco, where the pestilence of AIDS fights with the homeless for preference and priority. From sprawling Detroit and historic New London, Conn., cities whose downtown hearts barely beat anymore.

Who should join the protest? This march should be nonpartisan—for Democrats and Republicans alike are to blame for the cities' plight. The urban cutbacks started in the Carter administration, accelerated rapidly under Ronald Reagan and continue with President Bush. And all the while, a Democratic Congress has acquiesced in the butchery. Now bankers and businessmen and labor leaders should join hands, just as they did when New York was threatened with bankruptcy 15 years ago, in this crusade for the cities. Civic groups—Lions and Elks, war veterans, chambers of commerce—should join the line of march. Teachers and students and parents should demand that our crumbling schools be restored. Church leaders should rally their flocks to express outrage about their decaying communities. Civil-rights activists should unfurl their banners and raise their voices against the continuing cruelties of urban discrimination and the pathological conditions of ghetto life.

Love-hate ambivalence: Who should lead the parade? Given the love-hate ambivalence the country has always displayed toward New York, probably not New York or its mayor. Boston's Mayor Raymond Flynn, and expert on homelessness, who is soon to become head of the U.S. Conference of Mayors, is one likely candidate. So is Cleveland's energetic Mayor Michael White. Or Seattle's Norman Rice. Or Mary Moran of Bridgeport, Conn. Or Lee Cooke of Austin, Texas. Or Kurt Schmoke of Baltimore.

When should this great march take place? Late this summer.

A quarter century ago, when Martin Luther King Jr. rallied 210,000 people in search of "jobs and freedom," many months went into the planning of that event. A. Philip Randolph, president of the Sleeping Car Porters of America, had the idea to begin with, and $110,000 was raised to coordinate and run that march. Randolph reached out to Bayard Rustin, the leading intellectual of the civil-rights movement, to plan the enormous gathering down to the tiniest detail. Marchers were advised to bring two box lunches apiece (hold the mayonnaise, the instructions said, lest it go bad in the summer heat). In Washington, 26 public toilets were set up, each with facilities for up to 40 persons. There were 22 first-aid stations, staffed with two doctors and four nurses apiece. And thousands of District of Columbia police, National Guardsmen and volunteer marshals stood by to maintain order, if needed (they weren't). More than 1,500 chartered buses rumbled into Washington, and on the morning of the march 40 special trains pulled into Union Station at the rate of one every few minutes.

Similar detailed planning, probably over a span of four or five months, will have to go into the great Urban March on Washington. That would bring us to late summer 1991. As it happens, next Aug. 28 will mark the 28th anniversary of that glorious day in 1963, when Dr. King dreamed his historic dream. Not a bad moment for our cities to put on parade their own dreams, so long denied, and to regain their rightful place atop the list of America's most pressing priorities.

NEW CAPITAL VENTURE FUND AND MINORITY BUSINESSES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. TOWNS. Mr. Speaker, I submit for inclusion in the CONGRESSIONAL RECORD the following excerpt. It is taken from the Wall Street Journal, dated June 3, 1991. It highlights the introduction of a plan to reverse the decline of private capital for minority venture funds. Created by a Washington, DC, trade group and an institutional money manager, the fund will provide new funding for minority-owned businesses which is more than the minority venture capital industry has enjoyed in the past 21 years:

[From the Wall Street Journal, June 3, 1991]

NEW FUND TO INCREASE CAPITAL FOR MINORITY VENTURES

(By Udayan Gupta)

A Washington, D.C., trade group and a large institutional money manager have teamed up to try to reverse the decline in private capital for minority venture funds.

The two plan a $250 million fund for minority-owned businesses—more capital than the minority venture-capital industry has received from private investors since its inception 21 years ago.

Minority venture funds, called minority enterprise small business investment companies, or Mesbics, have had a frustrating history. Last year, they received less than $10 million in new private capital—down from a high of $50 million in 1981.

JoAnn Price, president of the National Association of Investment Companies, and Bigier Investment Management Co. will manage the fund. The association represents the 135 U.S. venture funds that invest exclusively in minority and women-owned businesses. Bigier, based in Farmington, Conn., manages more than $500 million invested in venture partnerships by corporate and public pension funds.

GOOD TIMING

Although the project is clearly ambitious, some investment professionals think the timing may be favorable. "Pension funds are seeking ways to channel funds to minority-managed investment companies as well as to minority-owned businesses," says Frank Savage, vice chairman of Equitable Capital Management Corp., New York, a unit of Equitable Life Assurance Society of the U.S.

If the project succeeds, it will address a major obstacle for minority entrepreneurs. "We've been closed out of many deals because of the size of financing required," says Patrick Jones, president of the Combined Fund, a Chicago Mesbic. The pool would allow minority venture capitalists to increasingly invest in buy-outs of small corporate units, a major source of new business opportunity for minorities, Mr. Jones adds.

The plan may "ensure a long-term source of capital for minority venture funds," adds venture capitalist Herb Wilkins, president of W&J Management Inc., a Washington, D.C., venture capital firm. "It means that minority-owned businesses can now receive the full financing they deserve to reach their potential."

The Mesbic industry, established by federal law in 1969 to encourage the formation and growth of minority-owned businesses, depends on private capital as its primary source of funds. The private funds are then used for loans, supplemented by low cost capital provided by the Small Business Administration.

LESS SUPPORT

But in recent years, many of the industry's corporate backers have withdrawn their support. Minority venture funds started by the General Foods Group of Philip Morris Cos. and MCA Inc. have been shut down. Funds sponsored by General Motors Corp. and Ford Motor Co. are still operating but haven't received any capital infusions lately.

Minority venture capital funds suffered partly because venture capital investment in general has declined in profitability, says Mr. Savage of Equitable. Many pension fund managers elected to put their assets in leveraged buy-outs, which seemed to promise big short-term profits. "Long-term investing in venture capital just wasn't a priority with many corporate investors." the official says.

But investors also complained that few minority-owned companies concentrated on fast-growing high-technology or health-care businesses—the major beneficiaries of mainsteam venture capital funds. For example, there are only four high-tech oriented companies among the 20 largest black-owned businesses, according to Black Enterprise magazine. The largest, Technology Applications Inc., a 14-year-old company in Alexandria, Va., reported sales of less than $60 million in 1990.

The few minority venture funds that attempted to diversity their sources of capital found it tough going. It took Mr. Wilkins, for example, nearly 2½ years to raise $35 million, even though his investments enjoyed an annual return of more than 20% over 12 years.

TOO LITTLE TIME

"We weren't alone," he recalls. Institutional investors lacked familiarity with the process of minority enterpreneurship, he says. And with dozens of venture funds vying for their attention, "they just didn't have the time needed to understand what we were all about."

Among other problems, few minority-owned concerns ever offer their stock to the public—a major source of profits for venture capital funds.

Ms. Price of the association of investment companies says that the fund will provide big investors easier access to a group of overlooked minority venture funds that have consistently produced high returns. "We not only represent a group of experienced and successful venture investors," she says. "We also are providing access to a marketplace of minority entrepreneurs that mainstream funds have yet to tap."

Public-employee pension funds are under increasing pressure to provide opportunities to minority-owned companies. Private corporations, especially those with large minority work forces or customer bases, face similar pressures.

A number of pension fund managers say that they have been working lately on strategies to make more capital available to minority entrepreneurs. "The question for many of us is now to get [capital] there," says Rick Yamamoto, manager of investments for Southern California Edison Co., in Rosemead, Calif.

The new plan "parallels discussions we ourselves have been having in the pension community," says DeWitt Bowman, chief investment officer for the California Public Employees Retirement System, which currently has $63 billion in assests.

Increasingly, big pension funds have been receiving proposals from various small minority venture funds. But often they are either too small or require too much study on the part of the big funds, Mr. Bowman says. "Any fund that can provide the additional 'due diligence' and monitoring of their performance will play a valuable role."

LARRY LAROCCO HITS THE GROUND RUNNING

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MANTON. Mr. Speaker, I would like to call to the attention of my colleagues an article in last week's American Banker regarding our friend and colleague, LARRY LAROCCO. LARRY was elected to the Congress in 1990 to represent Idaho's First District. Prior to his election, LARRY worked as a securities broker and community banker. LARRY's many years in the financial services industry made him an obvious choice for a seat on the Committee on Banking, Finance and Urban Affairs.

Shortly after LARRY joined the Banking Committee, the committee began consideration of the President's comprehensive banking reform plan. Ordinarily, freshmen Members have little success in shaping landmark legislation. However, as the American Banker article clearly shows, LARRY knows more than the financial services industry. He also knows the legislative process. LARRY offered an amendment to permit healthy banks to continue to accept brokered deposits, a practice the administration wanted to abolish completely because of the abuses of a few insolvent institutions. While many observers thought the administration's approach to the problem of abusing brokered deposits was overly broad, few thought it could be changed. LARRY proved the pundits wrong.

Mr. Speaker, I know my colleagues join me in commending LARRY for a job well done. I know his knowledge of the banking and securities industries will allow him to continue to grow in stature on the Banking Committee. I ask unanimous consent to have the American Banker article reprinted in the RECORD at this point:

[From the American Banker]

LARRY LAROCCO, FRESHMAN, WINS A KEY VICTORY IN DC

(By Robert M. Garsson)

When Rep. John J. LaFalce, a senior member of the House Banking Committee, told Rep. Larry LaRocco to expect his opposition to an amendment protecting brokered deposits, the freshman Democrat from Idaho had a ready response.

"I told John I had 19 votes already," recalled Rep. LaRocco. It was a bare majority of the 36-member subcommittee on financial institutions, but it was a sufficiently impressive display of political power to quiet Rep. LaFalce.

"I wanted to win, and I thought that was how to do it," Rep. LaRocco said.

Apparently it was Rep. LaRocco's amendment—which would permit sound banks to continue accepting brokered deposits—breezed through on a voice vote. Rep. LaRocco had neutralized not only Rep. LaFalce, a New York Democrat, but all other opponents.

THE AURA OF EXPERTISE

Only five months into his first term, the former banker and stockbroker from Boise already is already playing the game like a pro.

During subcommittee deliberations on the administration's banking reform bill, he picked his shots carefully. He identified two issues to champion—the other was prohibiting banks from selling title insurance—and won on both.

Having a background in financial services clearly helps. ("It not only gives him the expertise, but it gives him the aura of expertise," said lobbyist James Butera.) As a result, other legislators are more likely to defer to him.

During last week's votes on the banking bill, Rep. LaRocco concentrated on topics where his background gave him the most credibility. "I tried to stay in my area of expertise," he said. "I tried not to take up all the subcommittee's time talking about every amendment."

In the case of brokered deposits, he was backing a cause so thoroughly identified with the worst excesses of the thrift industry as to be almost a dirty word on Capitol Hill. Rep. LaRocco developed a compromise—tougher than current law, more permissive than the total crackdown proposed by the Bush administration.

The securities industry was lobbying against the Bush provision, but Rep. LaRocco, who once sold brokered deposits, says he decided on his own to oppose it.

"When I was a broker, a lot of the brokered CDs went to IRAs or Keough accounts * * * These days people do transactions by phone, and they should have the same access to insurance as anyone else."

FROM BANKER TO LAWMAKER

Though bank lobbyists think of him as a former securities broker, Rep. LaRocca began his career as a community banker. After three years in the Army, he served as director of marketing for Twin Falls Bank and Trust Co. from 1973 to 1975.

He left to become north Idaho field representative for the late Sen. Frank Church, a job he held until 1981, tending to constituent matters in the area from which he would later run for Congress. He also picked up an invaluable connection; Sen. Church's name still counts for a good deal in Idaho politics.

VICTORY ON THE SECOND TRY

The first time Rep. LaRocca ran for Congress, in 1982, he got 46% of the vote, running against Republican Rep. Larry Craig. That was considered a strong showing for a Democrat.

Last November, after Rep. Craig had become Sen. Craig, Rep. LaRocco won the seat, with 53% of the votes.

He had joined E.F. Hutton & Co. after his failed bid for office and stayed on as vice president and manager of the Boise office after the firm was bought by American Express Co.'s Shearson Lehman unit. He later moved on to a regional brokerage firm, Piper, Jaffray, & Hopwood Inc., also as a vice president.

INTRODUCTION OF FEDERAL AID SURFACE TRANSPORTATION ACT OF 1991

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. BENNETT. Mr. Speaker, in order to develop a new transportation plan to carry us into the 21st century, I, along with 24 of my House colleagues, am today introducing the Federal Aid Surface Transportation Act of 1991. This bill, known as FAST, sets a blueprint for the way Federal transportation dollars will be distributed to the States for years to come.

While the current system worked well in constructing our 42,000 mile Interstate Highway System, its methods now shortchange many States in the return on Federal highway dollars. My home State of Florida, for example, paid almost $690 million into the highway trust fund last year and received back only $360 million. This is a rate of return of 53 cents on the dollar and ranked Florida last in return on highway trust fund investment last year. Florida, however, is not alone in this dispartiy. North Carolina receives back only 54 cents for every dollar it contributes to the fund, Michigan—68 cents, Indiana—72 cents, Wisconsin—75 cents, Oklahoma—78 cents, California—79 cents, Texas—80 cents; and the list goes on.

The inequity of the current system prohibits States, like those I have mentioned, from maintaining and building highways at a rate comparable with their population growth. In Florida, automobile registrants have increased 52 percent; for every 10 residents Florida now has 12 automobiles. In addition, travel on State highways has increased 50 percent, but the State highway system grew only 9 percent in total lane miles. The question is, how can Florida, California, Texas, Indiana, and others who are in the same situation improve their current transportation plight? I, along with others, sought support through our State department of transportation for a bill which today we are introducing—it is legislation based on the recommendations of the American Association of State Highway and Transportation Officials.

This legislation has three basic components: First in fiscal year 1992 the legislation authorizes $15.7 billion and provides for regular increases fiscal year 1993 through fiscal year 1996. Funding for this will come from regular growth in assets of the transportation program. If necessary, however, we could utilize a portion of the 5 cent gas tax authorized in last year's Budget Reconciliation Act. Such funds could be used without really impacting the highway trust fund.

Second, the legislation restructures the overall Federal transportation partnership to better use whatever level of Federal funding is available. The FAST bill streamlines the process by reducing the Federal funding formula from more than 60 categories to 2. A two-tiered program would be created, establishing a National Highway and Bridge System and an Urban and Rural Highway and Bridge Program. The National Highway and Bridge System would provide uniformity and connectivity to all parts of the Nation for interstate commerce and national defense, linking major population centers efficiently and safely. The Urban and Rural Highway and Bridge Program would focus on congestion relief and rural access, thus helping to improve traffic flow from suburban areas into cities.

Third, the legislation revises the current formulas which disperse transportation funds to the States and does so in order to reflect more accurately today's needs and provide greater equity in returning Federal tax dollars to the States where they are collected. The current formula was written to provide for the construction and completion of the Interstate System. It met those needs and the Interstate System is now 99 percent complete. But now the formula is outdated. A 1986 General Accounting Office report found that most factors in the funding formula are unrelated to either the extent or use of Federal-aid highways. Unfortunately, what worked to build the interstates won't work to meet our transportation needs in the 21st century. That hurts States that are high on growth and population increases and the formula needs to be revised for that reason.

In addition, a hold harmless provision in the bill assures that no State will receive less funding than was received in 1991. Also, every State is guaranteed at least 90 percent of its contributions to the trust fund.

FAST will dramatically improve transportation funding throughout the United States. States with great needs will have more funds to work with in order to meet those transportation needs. On average over the next 5 years Florida, North Carolina, Michigan, Wisconsin, California, and Texas will each receive at least 90 cents for every dollar they contribute to the trust fund. Oklahoma and Indiana will receive $1 for every dollar they contribute. This may seem like a dramatic increase, but it is no more dramatic than the shortfall these States have been suffering from for so long.

Our national transportation system plays a fundamental role in each of our lives. Transportation accounts for 15 percent of national employment, and investments in the system account for more than $800 billion annually—nearly 20 percent of our GNP. It is because of its importance that we need a new national transportation program which accounts for today's needs.

I am glad to be introducing this bill along with so many of my House colleagues. The bipartisan, widespread support this bill has received is indicative of the changes necessary in the current Federal transportation program.

SPEECH ON AFRICAN DEVELOPMENT BY WORLD BANK PRESIDENT BARBER CONABLE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. BROOMFIELD. Mr. Speaker, our former colleague, longtime ranking Republican member of the Banking Committee and current World Bank president, Barber B. Conable recently addressed the subject of African development in a speech to the Organization of African Unity. Mr. Conable's remarks come as he prepares to depart from the Bank and reflect the expertise and perspective gained during his years in this post.

Conable's speech, which was well received by the OAU delegates, goes to the fundamental issues of African development and the role of international assistance. It stresses the basic lessons of the past, which demonstrate the need for continued economic policy reform and broad-based development initiatives based on sustainable, market-oriented and private sector-based actions.

I commend Mr. Conable's speech to my colleagues and hope that it will be widely read in development circles.

The speech follows:

AFRICA'S DEVELOPMENT AND DESTINY

(Speech by Barber B. Conable, president, the World Bank)

THE WORLD BANK'S PARTNERSHIP WITH AFRICA

Mr. Chairman, Mr. Secretary-General, Your Excellencies, Distinguished Guests, Ladies and Gentlemen:

It is a distinct honor for me to address the 27th Session of the OAU Assembly of Heads of State and Government. I would like to express my personal appreciation to the Secretary-General of the OAU, Mr. Salim Ahmed Salim, for inviting me here. And I would like to congratulate you, Mr. Chairman—as well as the Secretary-General and his staff—for the excellent arrangements made for this meeting. I would also like to thank the Government and the peoples of the Federal Republic of Nigeria for their hospitality and for making us all feel at home. My wife and I are delighted to be back in Africa.

The World Bank recognizes the fundamental importance of the OAU in African affairs. The OAU represents the collective will and sovereignty of the African people. It is the most authentically African institution which deserves your genuine commitment to its principles and objectives. It also deserves the respect and support of all external agencies. As I see it, the OAU and the African Development Bank are the two truly pan-African institutions which play key roles in the development efforts of this great continent.

I feel it appropriate that I should come before you here because I am, in a sense, your employee. Your governments are shareholders in the World Bank. It is your institution. We are at your service, running side-by-side in a marathon development undertaking. I hope that my presence here might mark the beginning of an even deeper relationship between this august body and the World Bank, a true partner in your development.

Over the last five years, I have visited many of your countries, met many of you personally, and I have seen, first-hand, the immense development challenges that you and your peoples face. As one who has exchanged views with you on these challenges, I very much appreciate this opportunity to share with you some personal reflections which relate to the development process in Africa.

A HISTORIC MOMENT

We stand, Mr. Chairman and your Excellencies, at a historic moment in time. The world is undergoing fundamental change. Superpower rivalry is yielding to a new spirit of dialogue, and the impulse toward political and economic reform has transformed the geopolitical landscape. The opportunities for the world to benefit from increased cooperation are enormous.

Here in Africa too, new winds of change are blowing. Namibia's recent gaining of independence effectively marked the end of colonial rule in Africa—and attests to the OAU's unfailing efforts to bring freedom to every corner of the continent. The release of Mr. Nelson Mandela and the steps taken toward dismantling the abhorrent system of apartheid in South Africa—provided they are steadily continued—hold the promise of a new era in Africa.

The struggle for independence was, clearly, the major challenge that faced Africa in the second half of the 20th century. With this objective now virtually achieved, Africa can focus its energies on what is clearly the major challenge of the 1990s and the next century: the struggle against poverty and the achievement of economic and social development for all the peoples of the continent. This is an opportunity that—in my humble opinion—Africa must not, dare not, lose.

A CONTINENT IN CRISIS

Mr. Chairman, your Excellencies: From a development perspective, Africa today is a continent in crisis. You are more familiar with the problems than I, because you live with them day in and day out.

Low-income Africa is the only region of the world where the number of people living in poverty would, if current trends continue, increase by the year 2000; it is the only region where population is doubling every 20 years or so—in fact, it is the only region where, for some three decades, economic growth has barely kept ahead of population growth; and it is the only region whose debt is now greater than its total economic output. These are daunting statistics, by any measure. We cannot underestimate the severity of the situation. The 1990s are going to be extremely difficult years for Africa.

I do not, however, consider the problems to be insurmountable. Indeed, I believe that there are a number of reasons to be positive about the future of Africa—and I say this without taking a romantic view of the very real life and death struggle that so many Africans face every day. Why am I hopeful?

REASONS FOR HOPE

First, because I take a long-term view. Most African countries are barely a generation away from independence and a colonial heritage that bequeathed them neither strong institutions nor an educated citizenry—the critical capacities for development. These deficiencies cannot be overcome overnight. We are, as I said, involved in a marathon undertaking, and we must beware of unrealistic expectations. But I am convinced that Africa is going to make it.

Second, I am hopeful because of the change in attitude and approach toward economic policymaking that has taken place in Africa in recent years. Indeed, the difference in the situation now, compared with five years ago when I came to the World Bank, is quite remarkable. This change began slowly around the mid-1990s with a handful of countries undertaking structural adjustment programs aimed at increasing productivity and stimulating growth. Today, more than 30 African countries have adopted economic reform programs.

This has happened without much attention being paid by those who have waxed lyrical about similar kinds of reform programs in Eastern Europe. But the important thing is that it has happened. African countries have taken a grip on their problems as never before.

On this point, however, I would like to make one thing clear: a country's entry into structural adjustment cannot bring about instant recovery. We must not forget, Mr. Chairman and your Excellencies, that in virtually every case, African countries have gone into adjustment only when they were in dire straits. You know what the situation was. You also know that adjustment has helped stop the decline and allowed for improvement to take place. The evidence becomes stronger every day. In 1990, low-income countries implementing adjustment programs grew an average of 4-5 percentage points faster than those not undertaking economic reform.

I am the first to admit that progress—in terms of on-the-ground improvements in people's living standards—remains unsatisfactory. The process of recovery is long and painful, as the countries of Eastern Europe are also discovering. But those who blame the pain on the reform programs confuse the malady with the remedy. The real causes of today's problems lie in the mistaken economic policies of the past—and if those policies had simply been continued, the situation would be much worse today.

There is no alternative to adjustment—no soft option, no easy way out. But adjustment strategies can be—must be—designed with every effort made to protect the poor and the vulnerable. I think we have made substantial progress in this regard, through the Social Dimensions of Adjustment program and other measures—and more will be done. I am not discouraged. As the President of the African Development Bank, Mr. Babacar N'Diaye, puts it: "Africa is getting better and better." We must be patient and look to the long term. Something important is happening in Africa—and it gives reason for hope.

The donor countries have clearly recognized this. Through efforts such as the Special Program of Assistance (SPA) for low-income Africa—initiated by the World Bank and strongly supported by the African Development Bank and virtually all of the major bilateral and multilateral donors—unprecedented levels of financial aid and debt relief have been going to Africa in recent years. It may not be enough to bring about improvement as quickly as we would like to see it. But it is certainly more than Africa has ever received in the past. This momentum of support—provided it can be maintained—is another reason to be hopeful about the future.

THE EMERGENCE OF CONSENSUS

But the major reason that I am hopeful, and the major difference that I see between the situation in Africa today compared with five years ago, is the clear emergence of consensus—in Africa and between Africa and the donor community—on Africa's development objectives and how they should be tackled. This consensus has not been easy to achieve. Different people have different ideas and the debate has been vigorous. It has also been productive.

I would like to think that the World Bank has played a modest role in helping the consensus to evolve—through our operations and special initiatives, and through our Long Term Perspective Study on Africa. Like the Lagos Plan of Action and Africa's Priority Programme for Economic Recovery, this long-term report stated that, in the final analysis, development cannot be measured solely in terms of economic aggregates. To paraphrase the wise words of Mwalimu Julius Nyerere, the rational choice on development is investment in people and their well-being.

THE STRATEGIC AGENDA

We all know that Africa is generously endowed with natural resources compared to many other regions of the world. What is vitally needed is the human capacity to make the most effective use of those resources and to harness them for Africa's development. The first item on Africa's strategic agenda, therefore, is to increase investment in human resources. Expenditures on education, health and nutrition should be at least doubled by the year 2000, to enable the peoples of Africa to play their full part in what must be a "people-centered" development process. People come first.

Second, economic reforms aimed at growth with poverty reduction must continue to be aggressively pursued—in order to make Africa efficient, competitive and capable of taking care of the needs of her peoples.

Third, agricultural production and productivity must be boosted substantially—indeed, doubled from current levels if agriculture is to fulfill its potential as Africa's engine of growth.

Fourth, Africa's exponential population growth rate needs to be slowed. I am encouraged that over half of the countries represented here have now adopted national population policies. I urge you to implement those policies and to give Africa's economic growth the breathing space it needs to catch up with population growth.

Fifth, the degradation of the continent's environment and natural resource base must be halted and reversed—and broad-based national environmental action plans must be put in place. The linkages between agricultural stagnation, accelerating population growth and environmental damage need to be recognized and appropriate actions taken to preserve Africa's patrimony.

Sixth, women, the primary actors in so many of Africa's development activities, must be recognized as contributors to the economic stability of Africa and must be given the resources they deserve. Let me be frank here: we have all talked about promoting the role of women. But as yet, I see little evidence of a change in their role or status. We simply must increase their access to education, to credit and to opportunity. I firmly believe this: without an improvement in the conditions for African women, there will be no improvement in the condition of Africa.

Seventh, local, grassroots development organizations need to be nurtured and encouraged. Sustainable development can only come from the bottom-up, not from the top-down, and we need to do more to empower local groups and communities.

PRIVATE SECTOR EXPANSION

I believe that we can all agree on these seven items on Africa's strategic agenda. I also believe that there is now a consensus that the private sector has a key role to play in Africa's development. Private entrepreneurship has been downplayed in most African countries over the last 30 years. We know the reasons why: indigenous entrepreneurs were assumed to be scarce, and foreign entrepreneurs were generally distrusted. It was also argued that the state could best manage production and markets. We now know, of course, that this supposition was wrong and, I am pleased to note, a reappraisal of development strategies has been taking place in Africa.

The "anti-business" rhetoric that was so evident only five years ago, has all but disappeared. Government intervention in the marketplace has been reduced. And Africa's entrepreneurs are beginning to respond. The fact is that Africa's labor force is set to double within the next generation. Only the private sector can create enough jobs to meet this expansion. Investment—domestic and foreign—must be encouraged, and Africa's businesspeople must be enabled to meet the challenge.

INCREASED REGIONAL COOPERATION

Increased regional cooperation could do more than anything else to create this enabling environment. I know that regional integration was the dream of the Founding Fathers of African independence. I also know that it remains a policy objective of both the OAU and the African Development Bank. So far as I can see, however, little has been done in practical terms to realize it. Mr. Chairman and your Excellencies: The time has come to move from dreams to deeds.

As an outsider, I must admit that I find it difficult to comprehend why there are so many roadblocks between Accra and Lagos, or between Dakar and Abidjan. Why is it so difficult for a businessman to transport his goods from Mombasa to Kampala and from Dar-es-Salaam to Lusaka? I have been struck that it is often easier for me—a "Mzungu"—to travel from one African country to another, than it is for an African. Surely, as we stand on the threshold of the 21st century, we can move beyond this kind of obstructionism?

I am delighted, Mr. Chairman and your Excellencies, that this assembly will be signing a draft treaty establishing an African Economic Community. The World Bank will do everything in its power to support the realization of its objectives. The signing of the document is an important first step, but it is even more important that concrete, pragmatic measures be taken—by African countries—to implement the treaty and make the idea of an African Economic Community a reality.

CAPACITY BUILDING

To implement the right kinds of policies, Africa needs its own capacities. It needs to strengthen its local institutions and human resource base, and it needs to use those resources effectively. This is a crucial item on Africa's strategic agenda. To help achieve it, the World Bank has been working with the African Development Bank, the United Nations Development Programme and many other donor and African governments to establish the African Capacity Building Foundation. This Foundation will focus on public policy analysis and management skills—those skills so critical to the development process.

This is a venture very close to my heart: an African institution, run by an African, based in Africa, and focused on developing African human and institutional capacities. This is not just another example of donor-driven technical assistance. In fact, we hope that this initiative might offer a new approach to external support for human resource development and institution-building in Africa. I urge all African governments and donors to nurture the African Capacity Building Foundation into an endowed entity after its pilot phase. Let me also take this opportunity to applaud President Robert Mugabe and the Government of Zimbabwe for their speedy action in hosting the headquarters of the Foundation—which has now opened its doors for business in Harare.

THE QUESTION OF GOVERNANCE

Mr. Chairman, your Excellencies: We can build capacities; we can increase regional cooperation; we can invest in human resources; and we can pursue with all our might the other goals of Africa's strategic agenda. But it has become increasingly clear that all will be to no avail unless the quality of governance in Africa improves. I am not qualified to comment on the nature and form of Africa's political systems. This is the concern of the African people themselves. As your "employee," however, I am concerned about those aspects of governance which impede development and impair the quality of life for your people.

One of the most obvious problems is continued civil strife within Africa. How many internal and trans-border wars has Africa experienced? How many coups have been staged to topple African leaders? What price in human terms has Africa paid for militarization? When will Africa's untold millions of refugees and starving children be allowed the peace and dignity that is the basic right of every human being? As I reflect on these questions, I recall the high hopes of the OAU when it was established. Mr. Chairman, your Excellencies: I now urge all of you to use the OAU as the principal African mechanism for conflict resolution and for ensuring security and stability—because without these, there will be no sustained development for Africa.

The second aspect of governance which directly affects economic development is the question of the participation of people in their country's economic life. This is not an issue unique to Africa; people all over the world are demanding a say in the decisions which affect their lives. In my personal opinion, it is an entirely legitimate demand. I can recall the voices of the Founding Fathers of African independence. Kwame Nkrumah, Nnamdi Azikiwe, Leopold Senghor, Modibo Keita, Jomo Kenyatta and Julius Nyerere (to name but a few), all demanded "Uhuru"—freedom—of speech, of thought, of association; freedom from arbitrary arrest and oppression; freedom to participate in the development of their nations. Mr. Chairman, your Excellencies: Africa today is once again hearing those voices, the voices of freedom. I urge you, as Africa's leaders, not to ignore them.

I would like to make one final point on this question of governance. The World Bank is not about to involve itself in the internal political affairs of any country or to introduce any new political conditionalities in its work. We are a development institution and we will continue to focus our attention only on those aspects of governance which directly affect development—accountability, transparency, predictability, adherence to the rule of law, and so on. These are not new issues for the Bank. But in a world where the competition for our scarce resources has never been more intense, we will be paying increasingly more attention to them in the years to come.

ROLE OF THE WORLD BANK

Mr. Chairman, your Excellencies: If there is one message that I would wish to leave with you today, it is this: Africa is the master of its own fate. I do not underestimate the external difficulties—low commodity prices, high levels of debt, unfair trading practices, inappropriate forms of technical assistance and so on. But I believe that with the right kinds of policies and the right kinds of leadership, these problems can be managed and even overcome. I am not speaking in the abstract here; other developing regions have shown that it can be done.

The simple fact is that Africa has lost out to those other regions in terms of competitiveness and efficiency. While it is true that the prices of some commodities have declined, the more serious problem for Africa has been the loss of market share—a 50 percent loss since 1970. Indeed, recent analysis indicates that if low-income Africa had only maintained its 1970 market share of non-oil commodities, it would be receiving today an additional $9–10 billion per year in export revenues—regardless of price fluctuations. The major reason for this lack of competitiveness is low levels of efficiency. The cost of doing business in and with Africa is simply too high—often 50 to 100 percent higher than comparable costs in other developing regions. The name of the game is competition—and Africa is going to have to adjust in order to improve its economic efficiency and hold its own in the world.

I believe you can do it; I believe you have started to do it. The World Bank stands ready to support you in your efforts with all the financial, technical and intellectual support that we can muster—and we will continue to catalyze as much support as we can from other sources. We recognize the responsibility that donors have to help Africa achieve its development objectives. We have stated clearly and publicly that Africa needs increased levels of financial resources and debt relief. Over the last five years, I personally have pushed to make Africa a priority for the World Bank and the donor community. I hope I have at least succeeded in convincing Africa that it has a friend in the World Bank. I must emphasize, however, that ours is essentially a support role. The principal responsibility for achieving Africa's development rests with Africans. You must chart the course. You must energize your peoples. You must inspire confidence in investors and donors.

A PERSONAL REFLECTION

Mr. Chairman, your Excellencies: In my travels in Africa and through my discussions with the leaders of the countries of Africa, I have learned a great deal about the problems of and the prospects for the continent. Let me leave you with what I discern as my main concern and my main hope.

My main concern is that Africa may be marginalized as the world's attention shifts to other areas. If governance is not seen to improve in Africa, if development is not seen to be taking hold, then "Afro-pessimism" may indeed set in and Africa's great needs may be set aside. But as I have tried to make clear, this is a situation which you have the power to do something about. The World Bank will help, as will others. There is a reservoir of international goodwill toward Africa. For this reason, I urge all of you to support President Quett Masire of Botswana as he seeks to mobilize and tap this goodwill through the Global Coalition for Africa which has been recently established.

My main hope, my main inspiration, is the resourcefulness and determination of the African people. Through talking to them over the years, I have gained a sense of their vision of the future: a vision of food security, basic health care and education for all Africans; of full participation of the African people in the development process; and of a dynamic, competitive Africa that not only makes its way in the world but that makes a vital contribution.

Let me conclude by citing the words of the American President who had a very special relationship with, and special interest in, Africa—John Fitzgerald Kennedy. He once said that since "Our problems are man-made, they can be solved by man." As I leave the World Bank and as I leave Africa, I am convinced that, with committed leadership, African men and women can solve Africa's problems—and build a brighter future for Africa's children.

Mr. Chairman, your Excellencies: The destiny of Africa is in your hands.

A BILL CONCERNING THE NORTHERN MARIANA ISLANDS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. DE LUGO. Mr. Speaker, I have joined the distinguished ranking Republican of the Subcommittee on Insular and International Affairs, our colleague ROBERT J. LAGOMARSINO, in introducing a bill today that primarily concerns the Federal relationship with the newest member of the American political family—the Northern Mariana Islands—but would also affect other United States insular areas as well.

This bill, which was proposed by the administration, relates to recommendations developed through processes required by the covenant approved by Public Law 94–241 that established the union between the United States and the Northern Mariana Islands.

One of these processes was established to further define the relationship. The other was established to resolve issues affecting the relationship that would become clear or develop after the covenant went into effect.

Both processes were intended to compensate for the lack of participation that the Commonwealth would have in the Federal decisionmaking process, ensuring policy-level attention to its concerns.

The first process involved a presidential commission which studied the full range of Federal law and made recommendations on how laws should be applied to the Commonwealth. The second involves consultations between representatives of the President of the United States and the Governor of the Northern Mariana Islands to develop recommendations on all matters affecting the relationship.

In later 1985, the Northern Mariana Islands Commission on Federal Laws recommended a large number of changes in the application of laws to this insular area. At the beginning of 1989, representatives of then-President Reagan and then-Governor Tenorio agreed that seven of the recommendations should be enacted into law.

A few months later, President Bush agreed, although he noted that one of the recommendations had already been acted on by the Congress. Still later in 1989, another recommendation was enacted through Public Law 101–219, which I am proud to have sponsored.

After the President agreed that the recommendations should be enacted, however, the administration hesitated. A member of the White House staff insisted on a further agency review.

This review—amazingly—withdrew support for one of the recommendations to which the President had agreed and insisted on changes to others. The changes relate to policy regarding American Samoa, Guam, Puerto Rico, and the Virgin Islands as well as the Northern Mariana Islands.

Representatives of Governor Guerrero accepted the position that the administration finally insisted upon, although they indicated they may want to propose amendments in the areas where it differs form what President Bush had agreed to support. The administration then proposed enactment of the four provisions which comprise the bill that we are introducing today.

We have sponsored this bill becasue we believe it deserves consideration for several reasons.

One is that it has been proposed by the administration.

Another reason is that it is composed of proposals that were—in part, at least—developed through processes required by the convenant intended to ensure attention to the islands' concerns.

A third is that the bill would further define the Federal-insular relationship, answering questions arising out of the covenant.

I do have several questions about this bill, however.

The first is one that I would apply to any proposal which would define or otherwise affect the United States-Northern Mariana Islands relationship: Is it consistent with the covenant union?

This is a threshold question which should be answered before we examine whether a proposal is good insular policy in other respects and, if it is, whether it is good policy in all respects.

The second question is one that particularly relates to the way that these proposals were developed: Why are they different from the recommendations agreed to by the representatives of the President and the Governor—as well as different from what was agreed to by the President himself?

This question will cause us to examine how recommendations arising out of the covenant processes I described earlier are proposed to the Congress.

A third question is raised by the language that would extend the reach of the recommendations to other U.S. insular areas: Does it propose good policy for those areas?

This question will require an examination of the impact of proposals originally related only to the Northern Mariana Islands on other United States insular areas.

The Insular and International Affairs Subcommittee, which I am privileged to Chair will try to find answers to these questions. A hearing on this bill has been scheduled for June 17.

IN HONOR OF WILLIAM JUDSON FOR HIS LIFELONG CONTRIBUTIONS TO THE BLIND

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. BUSTAMANTE. Mr. Speaker, I would like to call to the attention of my distinguished colleagues the lifetime contributions of William Judson to the blind citizens of San Antonio, TX. Bill, born in San Antonio in 1903, has made significant contributions to the citizens of San Antonio and has demonstrated his commitment during difficult and tyring times.

Shortly after World War II, Bill joined the board of directors of the San Antonio Association for the Blind to help it out of financial crisis. At that time, the association served only a handful of blind people in a small, old house on the west side of San Antonio. A successful businessman himself, Bill saw the need for a modernized, central facility, and it was during this period that a major building project was undertaken.

Bill has served continuously on the board of directors since 1947, and has provided steadfast leadership throughout his long involvement with the association. In 1950 he was elected board president and in 1965 became chairman of the executive committee. Bill continued to serve in this capacity until 1963, when he was elected chairman emeritus of the executive committee due to his lasting service. The members of the board have always had strong affection for Bill and held him in their highest esteem.

The successful development of the association can be credited to the tremendous effort and dedicated guidance Bill provided. Bill played a principal role in diversifying market outlets to ensure employment stability and greater upward mobility for the association's blind employees. Bill also played a key role in assuring that the average wage for blind employees at the association exceeds the minimum wage and that fringe benefits are comprehensive. Bill led the way in the development of a rehabilitation facility and program to provide services not only to those sight impaired wishing to be employed by the association, but also to other blind citizens.

Since Bill came to the San Antonio Association for the Blind, the association has grown from employing only a handful of blind citizens to employing approximately 150 blind persons. Currently the association is housed in a modern, well-equipped manufacturing facility, provides competitive pay, and has done annual sales of almost $10 million. This expansive growth comes after the future of the association looked quite unstable. Also, the rehabilitation center has expanded, and this year will offer an array of new technological services which will enhance employment opportunities for blind persons from all across south Texas.

These impressive accomplishments reflect the growth of the organization; more importantly, they reflect opportunity and success for hundreds of blind individuals. Bill's wonderful efforts have enabled those individuals to support themselves and their families and have helped employees gain the dignity and personal pride that accompanies independence.

On January 24, 1991, the board of directors of San Antonio Association for the Blind passed a resolution to rename the rehabilitation division the William Judson Center in recognition of Bill's committed leadership and lasting contributions. On June 14, 1991, the William Judson Center is being officially dedicated. The William Judson Center will stand as a living monument to the incredible difference one man can make, underscoring to all of us the responsibility to provide those with a disabling condition the opportunity to receive services that will enable them to lead completely independent lives.

Many thanks to Bill for his lifelong outstanding contributions to the city of San Antonio.

And sincerest best wishes for many more magnificant years.

INTRODUCTION OF CONCURRENT RESOLUTION RECOGNIZING COAST GUARD FOR ROLE IN PERSIAN GULF WAR

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. GEJDENSON. Mr. Speaker, since the 100 hours war against Saddam Hussein ended, Americans have rightfully been proud of the brave men and women of the Armed Forces. Americans have appropriately recognized and honored their courage, skill, and expertise for a job well done.

We have praised the Air Force for the unrelenting air campaign, which crippled Saddam Hussein's forces. We have praised the Navy for their role in the air campaign and for subduing the Iraqi Navy, making them an insignificant force and allowing the allies to focus troops and supplies on other areas and we have praised the Army for their success in the ground campaign.

Unfortunately, one branch of the service, the U.S. Coast Guard, has mostly gone unrecognized for its contribution. That is why I am introducing a resolution recognizing the valuable role of the U.S. Coast Guard in Operation Desert Storm and Operation Desert Shield.

Without the Coast Guard, the operations of the U.S. military may not have been so smooth, efficient, or decisive. This resolution will bring attention to the Coast Guard's contribution and will honor the brave men and women, the active personnel, and the reservists who were called up and immediately went to work, facilitating the smooth handling of Operation Desert Storm and Desert Shield.

Mr. Chairman, though many may not realize it, more than 950 Coast Guard reservists were called up to participate in Operation Desert Shield and Desert Storm serving in vessel inspection units, port security units in the gulf, and in supervising the loading of munitions and hazardous military cargoes.

It is important to recognize that the Coast Guard monitored the offloading and shipment of more than 4 million tons of cargo bound for the troops in the gulf, with no significant accidents.

The unique expertise of the U.S. Coast Guard law enforcement detachments, with their expertise in maritime sanctions enforcement, vessel boardings, and vessel inspection, led the U.N.'s sanctions enforcement forces in more than 60 percent of the nearly 600 boardings in support of the international maritime interception operations in the Middle East. In addition, the U.S. Coast Guard also provided training to others to enable the maritime interdiction forces to be able to effectively and safely enforce the U.N. sanctions.

More than 500 Coast Guard reservists served in port security units deployed in the gulf to provide port security and waterside protection of ships offloading essential military cargo in the gulf. This enabled crucial military and other support cargo to safely be brought into the theater of operations, be safely offloaded, and put into operations.

After Saddam Hussein created the massive oilspill into the Persian Gulf, the United States Coast Guard, through its Environmental Response Program, headed the international interagency oil pollution response team at the request of the Saudi Government. Coast Guard Falcon aircraft with oilspill aerial surveillance and mapping capabilities were deployed in the area and quickly assessed the size and depth of the problem.

The Coast Guard research and development center located in Groton, CT, developed a deployable differential global positioning system capability for use with the explosive ordnance disposal search detachment. Their successful development of this equipment improved the efficiency and effectiveness of the mine-sweeping and ordnance countermeasures operations in the gulf, saving thousands of dollars in direct operations costs, and the inestimable savings in lives and equipment that could have been lost had this Coast Guard system not been developed.

Mr. Chairman, in addition to their direct gulf activities, Coast Guard personnel also played a critical role in the successful outcome of Operation Desert Storm and Operation Desert Shield by facilitating the safe transport of cargo, and facilitating the approval of ready reserve vessels to be able to carry important cargo to the gulf. The Coast Guard Vessel Inspection Program conducted the required inspections of 73 sealift vessels, primarily activated ready reserve force vessels brought into service because of this operation. Additionally, the activation of a large number of reserve vessels, as well as the significant increase in military vessel traffic resulted in a vast increase in marine casualties requiring Coast Guard personnel actions and investigations. As a result, some field units have seen more than 300-percent increase in their investigative workload. Many of these investigations will continue for months.

The increased marine traffic and the necessity to move huge amounts of equipment and supplies also required the Coast Guard to develop a flexible merchant marine manning and licensing program to facilitate bringing reserve vessels into action and to ensure that ship crews were adequately trained to secure maximum safety.

U.S. Coast Guard personnel served in the joint information bureau combat camera and public affairs staff.

Coast Guard personnel served in various joint command and control staffs in the gulf theater of operations.

The U.S. Coast Guard Intelligence Coordination Center provided support, monitoring, reviewing, and evaluating of political, terrorist, military, and intelligence activities related to Desert Shield/Storm. Specifically, Coast Guard intelligence forces were deployed to determine threats to Coast Guard forces, overseas and port security units. This was also expanded to provide intelligence support to the National Oceanic and Atmospheric Administration oilspill team which was deployed at Coast Guard Headquarters.

Mr. Chairman, I believe that we must recognize the important role of all of our Armed Forces in the Persian Gulf. As the summer proceeds and we honor our troops in parades and celebrations throughout the country, it is my hope in introducing this resolution that all Americans recognize and appreciate the important role of the U.S. Coast Guard in the Persian Gulf war. I urge my colleagues to join me in cosponsoring this resolution.

A TRIBUTE TO RICHARD MONTGOMERY HIGH SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to the faculty, parents, and students of Richard Montgomery High School in Montgomery County, MD, on being selected as a "School of Excellence" in a national competition by the U.S. Department of Education.

In describing his vision for the school, Principal Tom Quelet said, "All students can be successful if they are willing to learn and advance." Encompassing broad socioeconomic strata and a diverse ethnic population, Richard Montgomery High School's strength is its ability to reach out to average, special education, gifted and talented and ESOL students. Educating students from 76 foreign countries and the United States, it has a special international baccalaureate program, the only one in Montgomery County. It also has significant honors and advanced college placement programs as well as a wide variety of vocational programs, including cosmetology and automotive classes.

At the school, there is a shared sense of purpose and a climate conducive to teacher and student growth. "Everyone works closely together in extracurricular activities," explains Quelet. With an active PTSA, back to school night draws more than 80 percent of the school's 1,400 member population. There also are receptions for parents of special education and ESOL students, where translators are present. There are booster clubs for the parents of athletes, and parents and students are involved in 70 active community service programs, which includes almost half the student body. Innovative programs in which teachers are encouraged to try techniques and strategies new to them and to become active in curriculum development are the norm at Richard Montgomery.

Each year a high proportion of students win awards. This past year, schools, communities, and universities awarded students 150 special awards. One hundred thirty-eight students were inducted into the National Honor Society. Seven were National Merit semifinalists, 36 were commended students, 6 were Maryland Distinguished Scholars, 2 were semifinalists, 2 won honorable mentions, and 3 won in the music and art areas. One student won a National Achievement Scholarship for Hispanic students; one was a semifinalist and another was commended in the contest for the National Achievement Scholarship for outstanding Negro students. In addition, 498 took the international baccalaureate tests and 300 took advanced college placement exams.

As a former teacher, I am delighted that Richard Montgomery High School is receiving the recognition it richly deserves. I pay tribute to the devoted faculty, supportive parents, and outstanding students and wish them continued success in achieving excellence in education.

NINTH DISTRICT STUDENTS ON THE ECONOMICS OF THE MIDDLE EAST

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Ms. KAPTUR. Mr. Speaker, each year I hold a competition for the students in my district for the Lyndon Baines Johnson congressional internship. This year, I asked all applicants to select a Middle East nation that was involved in the Persian Gulf war and discuss how its economy relates to the rest of the world. I received many excellent papers from the students in Ohio's Ninth District, and I would like to take this opportunity to share some of their findings with my colleagues.

PAPER BY STEPHEN CHEN—LBJ INTERNSHIP RECIPIENT

One day the Phoenix was spotted by a huge Eagle. This Eagle had been helped by the Phoenix before, but the Eagle had not eaten for days. He was desperate. "Why should she have the gift of fire?" he thought as his powerful wings pushed him far above her. "If I had the gift I could hunt with ease, for when I attack farms for food the arrows of the farmers would burn before they pierced me. I deserve her gift and I will take it from her!" The Eagle dived downward, sharp claws spread to slam into the Phoenix from above. With the sound of a thunderbolt the two birds collided.

At the end of the Iran-Iraq war both countries lay devastated. Although the perception was that Iraq had emerged victorious, the truth was that the Iraqi economy was destroyed. It would take some $230 billion to rebuild the country, on top of Iraq's $80 billion foreign debt (Karsh 19).

To cope with these financial obstacles, Iraq demanded that its war-time loan debts be forgotten and that it needed $30 billion more in funds. In conjunction with these demands, the Iraqi military conducted maneuvers near Kuwait. Iraq also demanded that OPEC countries reduce production so prices could increase or remain stable as Iraq increased production to get the revenues necessary for reconstruction (Karsh 22).

Iraq's demands fell on deaf ears. In particular Kuwait continued to exceed its OPEC quota, refused to forgive the war loans to Iraq, and would not give additional funds to Iraq (Karsh 22).

Iraq continued to protest Kuwaiti and UAE over-production (adding new demands as well) during the months previous to the invasion, several times threatening that "if words fail to afford us protection, then we will have no choice but to resort to effective action (Karsh 25). Iraq was desperate, and, on August 2, 1990, the Iraqi army invaded Kuwait.

PAPER BY KELLY WOOD

Egypt is known to most people as the land of the pyramids in the Mideast. This vast region is full of history and culture. That is why when people think of Egypt they think of pharaohs, riches and mystery. However, this is the twentieth century. Pharaohs do not exist, and it is not a country that is full of great wealth. In this country that is full of agriculture, oil, and history, there are problems.

Egypt, like other countries, is facing a failing economy. It is importing more than it exports which means that more money is being spent for foreign goods and it is receiving less money. However, Egypt has made noticeable efforts in improving its economic situation. Since the Gulf War has brought the Mideast into the spotlight, Egypt's economic condition has become important.

PAPER BY MICHAEL BORSOS

As Syria enters into the postwar era, it will need to make some very important decisions on its policy concerns towards the west and Middle East. Will Syria move toward a more pro-West feeling and with Egypt and Saudi Arabia and other Arab states that are members of the MOD and have strong ties with the west? If Syria does make this choice, it will continue to enjoy the sweeteners that it has received for being in the coalition and it will open doors for economic trade and aid. The Soviet Union, mired in economic and political chaos, will not be a reliable provider for Syria. The country desperately needs foreign currency, and the recent favorable trends in the balance of trade indicate that Syria should continue to emerge from the shadows of diplomatic isolation. Syria may even receive, in a settlement with Israel, some of its most sought-after interests in the Golan Heights.

Or will Syria continue to be a "soft" state and revert to its anti-West feelings and be seen as a terrorist state, losing all that it might gain from the West and a peace settlement with Israel? If Syria does this, it will be left almost alone in the Arab world, without help from other Arab states. The Soviet Union cannot be called a reliable benefactor. Syria will stand alone to face its economic and Middle East regional problems and again will face the power of the U.S. and its Middle East allies as Syria tries to meet its armies in the Middle East. The lesson of Iraq can be painfully obvious—a country that spends all of its economic energy on the military will likely be humiliated and set back so far that its own citizens become restless and frustrated, even threatening complete political upheaval.

PAPER BY JENNIFER MANSOUR

Kuwait not only turns to the West for protection, but Kuwait also is dependent on the West and other non-Arab countries for many essentials. Kuwait is totally dependent on imports for food. Kuwait must also import machinery, transportation equipment, manufactured goods, iron, steel, and live animals. The majority of imports come from Japan, the United States, the United Kingdom, Germany, and France.

Kuwait also exports more than just oil, though they bring in a minute revenue by comparison. Exports include chemicals (mainly fertilizer), manufactured goods, and shrimp. Also, Kuwait re-exports automobiles, auto parts, appliances, tobacco, tea, rice, and flour to some Middle East countries.

PAPER BY KURT GERDENICH

By the early 1980's, what worried Syria most was its continued dependence upon foreign capital for its economic restructuring. Syria became the primary client state to the Soviet Union, depending upon it for nearly all of its military equipment. Similarly, the majority of civilian expenditures arose from money given by Saudi Arabia and other Gulf states (Wilson, 11). Syria, although it wished to be free of foreign influence in its economy, nonetheless found itself virtually dependent on foreign nations for survival. As a result of these economic factors, including a failing socialist system, the destruction suffered in the War with Israel, and Syria's growing dependence on foreign capital, Syria's economy stagnated (Bus. Am., 25).

PAPER BY BETH GOTTSCHLING

The major sectors of the Israeli economy are construction and industry; together they form 20% of Israel's gross national product [GNP]. Cut and polished diamonds are the country's leading industrial export product, $2,738 million worth of cut diamonds were exported in 1989. The country's largest single industry is Israel Aircraft Industries [IAI] which employs approximately 21,000 people. IAI manufactures multi-mission and fighter aircraft, missiles, and various other weapons.

Israel's agricultural sector is comparatively minor and constitutes only 6% of gross domestic product [GDP] and 4.8% of the work force. Citrus fruits are perhaps the oldest as well as the largest export crop. The main restriction upon agricultural development has not been a lack of land, but rather a lack of water.

PAPER BY FRANCIS SZOLLOSI

After accepting back any and all Iraqi gains in the 8 year war, including sovereign rights to the Shatt al-Arab waterway, all prisoners of war, and all territories won or lost, Iran proclaimed its neutrality in the Kuwaiti affairs. It simultaneously denounced the Iraqi invasion and the Allied military response. Rafsanjani's supporters swept the elections to the Assembly of Experts. Unlike the PLO, Iran didn't gamble, choosing instead to play it safe, such as taking the Iraqi fighter planes and agreeing to hold them until after the conflict was resolved. Little Iranian interference was certainly welcome in Washington and elsewhere, and Rafsanjani expects to court many foreign investments he may have soured if Iran would have taken a hardline. Indeed, Iran stands to benefit enormously from its neutral role in the Gulf Crisis. It certainly has moderated Iran's image, and coupled with recent announcements by the government of Iran that it will pressure Middle East terrorist organizations for the release of Western hostages, Iran should expect its economy to thrive in the 1990's. By improving relations with the Soviets, Iran will hold a strong hand when it eventually sits down with Western diplomats. It will be in the best interest of Iran to take advantage of the shrinking superpowers, and enlarge its economy and role in the Middle East. Indeed, few countries today have such a bitter history of nationalism; however, the Persians have long been known as adept commercialists. With the breakdown of the relevance of nation border in the increasingly global economy, can Iran peaceably make the transition to a fully modern state that has defined its economic policy for nearly a century?

PAPER BY BRIDGETTE WOODALL

OPEC may set the standard for oil prices, but it has also formed a key element in aiding third world nations. Madagascar recently received its tenth loan from OPEC. The organization gave $7.61 million in funds to help with a road project and building of a hydroelectric power plant. $3 million went to Bolivia for a public works program and a $3.5 million agriculture project was started in Zambia with OPEC funds.

Kuwait is amongst the wealthiest of members in OPEC and the devastation it has been suffering from the war will have a powerful impact on the third world. The Kuwait Petroleum Corporation itself gave a $6.5 million deal to Hungary to modernize a refinery.

THE PRICE OF MISALLOCATING WATER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MILLER of California. Mr. Speaker, in spite of welcome rains this spring, the drought persists in California. I am hopeful that the Senate will act soon to pass much needed drought legislation. The bill which passed the House in March will provide the Federal agencies with additional authority to move water to places where it is most needed.

This legislation, however, does not solve the long-term problems relating to water use in the State. It is an emergency bill, with temporary authorities.

We need to take a long, hard look at the way that water is used and managed in the State. The inequities of the present allocation of water are aptly pointed out in a letter I recently received from Mr. T.J. Rodgers, the president and CEO of Cyprus Semiconductor of San Jose, CA.

Mr. Rodgers' article illustrates the relative contributions to the economy of two farms that use the same amount of water. His analysis clearly demonstrates the problem we face in allocating too much water at too low prices.

I urge my colleagues to take a few moments to review Mr. Rodgers' study.

DON'T FORGET TO WATER THE SILICON

(By T.J. Rodgers)

When a reporter asked me what Silicon Valley would do if the Federal Government's recently announced 75 percent water cutback for Santa Clara County were applied pro rata to every company, my answer came easily, "Go out of business." Recently, an investment banker's report entitled "Will Drought Dry Up Silicon Valley?" analyzed semiconductor companies' vulnerability to water rationing and indicated which of their stocks could be "bet on" by buying or selling their stock options. In desperation, Silicon Valley companies might consider buying small farms to gain rights to their water allocation—or possibly trying to propose legislation that declares silicon chips to be a crop with equivalent subsidies. But simple logic dictates that none of the above events will happen.

North First Street in San Jose is a microcosm of California's water crisis; it has residential, industrial and agricultural water users all in a one-mile strip, all sharing the same water supply. Just north of our semiconductor plant is a residential area that is suffering from severe water rationing; just south, is a forty-acre alfalfa farm. Homeowners and industrial users pay about the same for Santa Clara County water, $1.00 per hundred cubic feet (one HCF equals 748 gallons), while agricultural users pay one-tenth of that, or $0.10 per HCF. That price break allows the alfalfa farm to flood a one-acre field to a depth of one foot (an acre-foot of water equals 326,000 gallons) for only $45. And flood it they do—a typical California alfalfa farm is irrigated annually with an average of four feet of water. To me, that agricultural subsidy is analogous to a reverse gas-guzzler tax: the government subsidizes 90 percent of gas cost, from $1.00 per gallon to $0.10 per gallon, but only for big V-8s which get less than 10 miles per gallon.

To make the most reasonable water allocation decision for North First Street, let's consider silicon chips to be a crop that is watered and harvested by the acre and choose which crops make the most economic sense to grow with a limited water supply. Cypress Semiconductor's "silicon farm" harvests 108,000 silicon wafers (0.42 acre) per year and uses 240 acre-feet of water per year. Compared to the four feet of water needed for the alfalfa farm, our silicon farm needs to be irrigated with an average of 568 feet of water yearly! Fortunately, that water needs to cover only 0.42 acre.

Nevertheless, can a water-hungry crop like silicon chips ever be justified in the water-starved Silicon Valley? Our silicon farm produces sales of $250,000,000 per year and supports 1,600 employees. A 60-acre alfalfa farm, which uses the same 240 acre-feet of water as a 0.42-acre silicon farm, produces only about $60,000 in revenue and employs on the average only 2 workers:

	Alfalfa farm	Silicon farm
Water used per year	240 acre-feet	240 acre-feet.
Farm size	60 acres	0.42 acre.
Workers employed	2	1,600.
Daily water use per worker	107,122 gallons	134 gallons.
Sales generated	$60,000	$250,000,000.
Daily water use per $1 in sales	250 gallons	0.31 gallon.

On an alfalfa-to-alfalfa basis, it is obvious that no farmer would ever grow alfalfa if he could grow silicon. Likewise, the government would induce economic disaster in California if it shut down any of its silicon farms and diverted that water to its alfalfa farms at one-tenth the price.

Indeed, we should question critically the de facto decision of our state and federal water-control authorities that is forcing the browning of the modest landscaping of most California homeowners. Our homeowners' "unnecessary" water use represents a collective investment of billions of dollars that adds value to their homes and, in many cases, is accomplished through efficient drip irrigation. Should they be asked to let their plants die, while at the same time the state allows the flooding of alfalfa fields and rice paddies with cheap water? Furthermore, our water authorities are starting to threaten individual heavy water users with water restrictors that limit the flow of water to "violating" homes to a trickle. I would not want to be the lawyer defending the state when a spark from a barbecue grill sets ablaze the brown grass of a homeowner who cannot even douse the fire with a garden hose before a home is lost.

With 85% of California's water going to big agriculture, a meager 18% agricultural rationing plan could double the water supply for homeowners and industry combined. Conversely, California industries and homeowners could sacrifice every drop of their current water to farming only to facilitate a change to even more water-intensive uses, such as beef production. Cattle are inefficient consumers of alfalfa hay, which, in turn, is an inefficient consumer of water. Those compounded inefficiencies require the consumption of about 1,300 gallons of water to produce a single hamburger patty. 1,520 gallons of water is a one-month allocation for a resident of hard-hit Marin County.

I am not trying to put down the agriculture industry, which has done a good job feeding America, but they should be subject to the same reasonable economic water constraints as the rest of us. Cheap water translates to wasted water. Our firm just purchased a Minnesota silicon wafer fabrication plant with free well water. That plant uses a whopping 506 acre-feet of water annually and is currently 46 times less water-efficient than their California cousins. In two years, they will match our efficiency.

Whenever the free market is abandoned in favor of a Soviet-style allocation system, supply problems and black or grey markets always develop. For example, our company has received unsolicited offers from farmers who are willing to sell their $45 acre-feet of water at a discount relative to the industrial price of $450 to reap a nice profit from their government water subsidy without growing anything. One can hardly blame a rice farmer for that maneuver: selling his 3.2 acre-feet of water at $300 per acre-foot (a 33% discount from the industrial price) would yield him $960 per fallow acre, while the effort of growing rice typically produces only about $720 per acre. Why should he bother, especially when we are having no luck in forcing the Japanese to import the California rice, even with both water and price subsidies to rice growers.

The quirky water market created by government intervention produces many absurd possibilities. To meet ever more stringent water pollution requirements, our company just bought two small water purification plants to purify our waste water to the point that it is now suitable for agriculture. What if we used our waste water to grow alfalfa on our land, or just gave it to the alfalfa farmer down the street? Given the agricultural water price break to which we should be entitled, our yearly water bill would drop from $104,000 to $10,400, our sewer bill would drop from $75,000 to $5,000, and we would also produce $60,000-worth of alfalfa annually. If we cannot declare silicon chips to be a crop, how about declaring silicon wafer fabrication plants to be nothing more than complicated watering systems for alfalfa farms?

I am confident we will not have to start buying black market water or growing alfalfa, because I have great faith in the self-preservation instincts of our politicians. When the hard choices finally must be made, the politicians will declare it patriotic to allocate the last 240 acre-feet of water to the 1,600 silicon farm work-voters rather than the 2 alfalfa farm worker-voters. Any reasonable mathematical or political calculation says it must be that way. Certainly, the state has the right to demand ongoing water use efficiency improvements from the semiconductor industry. But, in the final analysis, we must continue to water our California silicon crop while we find ways to grow alfalfa and to produce 1,300-gallon hamburgers somewhere else where the water is cheaper.

FAMILY PRESERVATION ACT OF 1991

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. DOWNEY. Mr. Speaker, many families in America are in trouble. Alcohol, drugs, poverty, homelessness, and hopelessness have strained the capacity of many families to nurture their children adequately and to maintain a healthy family life. Most of the problems are less dramatic than those of drug-affected babies and their families. But State and local welfare agencies report that they are dealing with more families in need, and that the families they see are more troubled.

The legislation I am introducing today is an effort to be sure that Government will meet its growing responsibilities to help strengthen and preserve families. It is an ambitious bill, but there is a lot of work to be done.

Reports of child abuse and neglect doubled during the 1980's. Two-thirds of child protection workers say that they are overwhelmed by the magnitude of today's problem. They need help. They cannot investigate all the reports, much less provide services to families in need.

Drugs are a significant part of the problem. The number of infants with drug problems rose by 268 percent in New York between 1986 and 1989. Referrals in Los Angeles increased by 342 percent and in Chicago by more than 1,700 percent. Yet of the quarter million pregnant women requiring help with alcohol or drug problems, fewer than 30,000 of them get it.

The courts are falling behind as the problems grow. A State survey shows that child victim cases filed in the courts more than doubled during a period when the number of judges rose by only 4 percent.

We should not be surprised that foster care caseloads are rising again. The system that should deal with families in crisis is itself in crisis. Across the country, lawsuits are pending against child welfare agencies, and some agencies already are operating under the supervision of the Federal courts. We are failing to protect children adequately.

These are big problems that defy easy solutions. But the Federal Government can help the States do better. Indeed, we must, or we will pay even greater costs later.

The Family Preservation Act provides additional Federal funds to help meet these needs. The bill includes funds to support innovative State and local programs designed to strengthen and preserve families and to prevent the need for expensive foster care placements. And there are funds to help States access services to address the unique problems of families in crisis due to substance abuse.

The bill also provides States with new flexibility so that problems can be dealt with in a comprehensive and innovative fashion. The bill includes a number of provisions designed to improve the lives of children in foster care and to create more adoption opportunities for children with special problems who are hard to place.

America is only as strong as the American family. Our Government has no greater responsibility than to those who are too young and too weak to defend themselves.

A TRIBUTE TO THE WHITMAN-WALKER CLINIC

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mrs. MORELLA. Mr. Speaker, as we mark the 10th anniversary of the first diagnosis of AIDS in this country, I would like to bring to the attention of my colleagues the exemplary work being conducted every day at the Whitman-Walker Clinic in Washington, DC, and at its satellite office in northern Virginia.

The Whitman-Walker Clinic [WWC] is the largest volunteer-based community health clinic in the mid-Atlantic region. With nearly 100 fulltime staff members and over 1,600 active volunteers, it has earned its reputation as one of the finest gay and lesbian resource centers in the country. Each week, volunteers donate 5,000 man-hours to a host of programs run by the clinic, including a Buddies Program for persons with AIDS, an anonymous HIV antibody testing prorgam, counseling groups, and more. In addition, the gay and lesbian community turns to Whitman-Walker for state-of-the-art medical and dental care, housing and case management for AIDS patients, and other needs.

Although Whitman-Walker provides a host of non-AIDS-related services, the clinic has gained national prominence over the past decade in large part due to its singular efforts in the AIDS epidemic. Now that AIDS has gone beyond its traditional boundary—the gay, white male population—WWC has responded by tailoring its programs to meet new needs. Outreach and prevention effort now include women and minorities; for as we all know, AIDS is not prejudiced—it is not gender-biased, it is not race biased, it is not biased based on sexual orientation. As the sponsor of legislation to address the crisis of HIV/AIDS among women, I am pleased to see that Whitman-Walker is becoming actively involved with HIV-positive women. Most notable in this regard is WWC's Stuart B. McKinney House, a residence for HIV-positive women and their children. Now housing six families, the house provides HIV-infected individuals with the comfort, the support, and the security they need in their most difficult moments.

Mr. Speaker, we could not have made significant strides in our battle against HIV/AIDS in this country if it were not for the efforts of volunteer-based community centers like the Whitman-Walker Clinic. WWC has risen to meet an immense challenge in the Washington, DC, area, and it will continue to meet that challenge, I am sure, until we can put this terrible illness behind us.

HONORING DR. MYRON S. MAGEN

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CARR. Mr. Speaker, colleagues, I rise for a moment to pay honor to one of the most distinguished men of medicine in my home State of Michigan. On June 13 and 14, 1991, doctors of osteopathy from across the Nation will gather in my home State of Michigan for a conference on the future of health care in America. One of the stated goals of the conference is to provide an event that appropriately celebrates the distinguished career of Dr. Myron S. Magen.

Dr. Myron S. Magen, D.O. is the founding dean of the Michigan State University College of Osteophathic Medicine, the first osteopathic college in more than 50 years and the first to become university affiliated and State supported.

Under Dr. Magen's leadership, the MSU College of Osteopathic Medicine not only has flourished, but it has been instrumental in establishing younger osteopathic colleges and influencing their programs. Four deans of the Nation's new osteopathic college have come from MSU.

As a national consultant, Dr. Magen has been a member of three advisory committees of the Institute of Medicine of the National Academy of Sciences, and was the first D.O. appointed to a special medical group advising the chief medical director of the Veterans' Administration. He has been elected to the Medical Perspectives Selection Committee of the National Fund for Medical Education, and served as a consultant to HEW's Division of Physician Manpower and to the Health Resources Administration of the U.S. Public Health Service.

A member of the Graduate Medical Education Medical Advisory Committee, Dr. Magen chaired an educational subcommittee of leading educators examining the influence of institutional environment on choice of practice specialty and site of practice. He also served on the finance panel and the plans and methods committee.

Internationally, Dr. Magen has filled a key role in constructing institutional linkages for medical education and research in bio mechanics. His travels in seven European countries and the Middle East helped to strengthen new networks with practitioners and professional groups.

His trips to West African nations have included conferences with ministers of health, university officials, and field visits led to a proposal to establish an Office of International Health at MSU.

An early advocate of bringing science to health care, Dr. Magen in 1961 was among the first doctors of osteopathy to receive a grant from the National Institute of Mental Health, which funded his work in human ecology and ecologic sociology in an undergraduate medical curriculum at the Des Moines College of Osteopathic Medicine.

Dr. Magen has published widely and holds several professional awards, including the Andrew Taylor Still Lecutersh of the American

Osteopathic Association and the distinguished public service award of the Oklahoma College of Osteopathic Medicine. He is a past president of the American Association of Colleges of Osteopathic Medicine, a fellow and former president of the American College of Osteopathic Pediatricians, a diplomate of the American Osteopathic Board of Pediatrics.

In 1991, Dr. Magen was selected to serve on the PEW Health Commission as a representative of the osteopathic profession. And in 1991, he was elected to membership in the Institute of Medicine of the Academy of Sciences.

It's my pleasure to take this opportunity to join my good friend Mike Magen's colleagues in honoring him for his long and distinguished career.

HONORING LORI AND STEVE EPSTEIN

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. SCHUMER. I am delighted to rise today in honor of the 70th anniversary and birthday bash of the Nottingham Association and its honorees, Lori and Steve Epstein.

In a time when government at all levels is contracting and able to do less and less, it is heartening to celebrate the successes of strong community groups like the Nottingham Association.

Nottingham Park and our whole area has benefited from the leadership of your association on issues ranging from housing and community development to the quality of our neighborhood's trees. No persons have come to personify the ideals of the Nottingham Association as much as Lori and Steve. As the founders of your civilian patrol, the Epsteins have devoted thousands of hours to our community.

Leaders like Lori and Steve make my job easier. Their intelligence and persuasive advocacy on behalf of Nottingham continue to serve as an example to their neighbors. Congratulations to the Nottingham Association and Lori and Steve Epstein. Keep up the good work.

STATEMENT OF APPRECIATION FOR DAVID TAYLOR

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. SOLARZ. Mr. Speaker, later this month, David Taylor, First Secretary at the New Zealand Embassy in Washington, will be leaving the United States and returning to New Zealand's Ministry of External Relations and Trade in Wellington. As chairman of the Subcommittee on Asian and Pacific Affairs, I want to take the opportunity to recognize David's contributions in fostering the close friendship between the United States and New Zealand, and for his willingness to serve as a source of accurate and up-to-date information and advice on issues relating to New Zealand and to the South Pacific.

In my view, David represented the interests of his government with distinction. In areas where our two governments have disagreed, such as certain defense and security issues, David has ensured that my subcommittee has been fully informed of the important determinants of New Zealand policy. This has served to increase the subcommittee's capacity to pursue constructive dialog with New Zealand officials, even on issues where positions between our two governments have diverged.

In addition, David has effectively pursued opportunities to enhance the friendship between the United States and New Zealand, and to strengthen political ties between our countries. For example, in drafting resolutions recognizing the sesquicentennial of New Zealand's principal founding document and the 151st anniversary of United States-New Zealand relations, Members of both Houses of Congress benefited greatly from information and advice that David provided.

Finally, I should mention David's willingness to furnish to the subcommittee information, advice, and assistance on issues concerning the South Pacific, a region of special interest to the Government of New Zealand. Prior to a congressional delegation that I led to the South Pacific in 1989, David provided an excellent briefing to subcommittee staff as well as written information that formed an important part of the CODEL's briefing material. David has also provided his government's perspectives, as well as a continual flow of information and advice, on South Pacific-related issues of particular interest to my subcommittee, such as the South Pacific Nuclear Free Zone Treaty and Driftnet Fishing.

I want to thank David once again, and to offer David, his wife Theresa, and his daughter Hannah my very best wishes.

TRIBUTE TO PHYLLIS BUTLER

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Phyllis Carlotta Butler, 52, of Paducah, KY, who died Tuesday at Lourdes Hospital in Paducah from injuries suffered in an automobile accident earlier in the day.

Phyllis Butler—talented, personable, attractive, a dedicated Christian, a faithful worker in her church, wife, mother, grandmother—was admired and well liked by the many who knew her and whose lives were influenced by her.

Phyllis Butler, along with her highly respected, well-known husband Tom Butler, vice president for news at the NBC affiliate television station in Paducah, KY—WPSD–TV—have been for 20 years a popular and outstanding western Kentucky couple.

My Paducah field representatives, Elaine Sullivant and Raye Ann Heath, attended the impressive 1 p.m. funeral today at Lindsey Funeral Home in Paducah. A huge, standing-room only crowd attended the funeral. Rev. James O. Green, pastor of Paducah's East Baptist Church, paid tribute to Phyllis Butler at the funeral. However, the highlight of the funeral service today was the tremendous, moving, even emotional tribute paid to Phyllis by her gifted husband Tom. There were few dry eyes at the funeral.

Mrs. Butler was a 1957 graduate of Corinth High School in Corinth, MS, and attended Union University in Jackson, TN.

She was a member of East Baptist Church, Paducah, where she was a nursery worker for 28 years.

Mr. Butler, in addition to her husband, is survived by a son, Tom Butler, Jr., of Paducah; a daughter, Amy Barrow of Ledbetter; a sister, Maybelle Goforth of Paducah, and granddaughter, Lauren Michelle Barrow of Ledbetter.

Her parents were Clarence and Pearl Rollins Butts.

My wife Carol and I extend our sympathy to the family of Phyllis Butler at this difficult time for each of them.

CONGRESSIONAL SALUTE TO DR. ALLAN W. JACOBS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor an outstanding educator as he steps down after 19 years of service to the Simi Valley Unified School District.

Dr. Allan W. Jacobs has served the district in a variety of leadership positions, for the past 5 years as associate superintendent, educational services. In that role, as the district's second-highest position, he has been responsible for the instructional program for 27 schools enrolling 20,400 students.

Prior to that, Al served as assistant superintendent, instructional and support services and as assistant superintendent, secondary education for the Simi Valley district, the largest school district in Ventura County.

During his career with Simi Valley Unified, Al has contributed greatly to the district's success and the education of thousands of our young people. In addition, he has contributed to the community in many ways. Al was named Simi Valley Citizen of the Year in 1986, he is a longtime member of the Chamber of Commerce and the Rotary Club, and he has been a leader with the Tri-Valley YMCA and the United Way.

Mr. Speaker, I ask my colleagues to join me in saluting Al Jacobs for his many accomplishments, and in wishing him well upon his retirement.

THE BOARD AND CARE REFORM ACT OF 1991

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. ROYBAL. Mr. Speaker, yesterday I introduced legislation, the Board and Care Reform Act of 1991, to end the widespread abuse and neglect of the more than 1 million elderly and disabled people living in over 68,000 board and care homes in America. I was joined in this effort by my colleague, the Honorable RON WYDEN.

Board and care is the broad term used to describe facilities that provide shelter, food, and protection to frail and disabled individuals. This bill mandates the establishment of protective standards, similar to those currently required by the Federal Government of nursing homes, which must be adhered to by every board and care home in the Nation which houses a recipient of Social Security or Supplemental Security Income.

After a 10-year investigation, the Subcommittee on Health and Long-Term Care under the chairmanship of my predecessor, the late Claude Pepper, released a report in 1989 documenting the fact that the States do a miserable job of protecting the elderly and disabled residents of board and care homes. Subcommittee investigators conducted unannounced inspections of board and care homes in 10 States. They found evidence of fraud, waste, and abuse in every State.

Many of the homes visited were not fit for roaches, let alone the elderly and disabled people who were forced to live there. Here is a summary of the subcommittee's findings regarding board and care residents, and the troubling conditions under which many of these residents must live:

More than half of the board and care residents came from a mental institution. Most residents were female and elderly.

Over 72 percent of Supplemental Security Income is the entirety of their income. They pay about $578—less the personal needs for allowance of $35—for rent. Most residents make the home's manager their representative payee. Less than 25 percent of residents once worked; less than 5 percent are currently employed. Residents come primarily from mental institutions. Other referrals come from hospitals, detoxification centers, nursing homes, and the street.

Residents have few rights. In those States which do require the long-term care ombudsman to respond to complaints, the effectiveness of this remedy depends on State regulation. For example, in States which license homes with four or more residents, a resident in a home with only three has no recourse within the State.

Inadequate staffing was a major problem followed by overdrugging of residents. Where homes were understaffed, chemical—drugs—or physical restraints were the primary means of containing or controlling residents.

Most homes were not equipped with fire safety equipment, were unsanitary and ill-kept, and were roach and pest infested.

The subcommittee observed at least one incident of fraud, waste, or abuse in literally every State that was visited. In New York, we found Medicaid cards being sold to providers. In New Mexico, 10 Alzheimer's patients were found bound to their wheelchairs in spite of a law requiring residents to be able to leave the home under emergency situations on their own. In California, we investigated the murder of seven residents by an ex-felon manager who then cashed their Social Security checks. In Maryland, an owner continued to house 11 residents in her burnt out home. One resident was robbed of his possessions. In Washington, DC, a bedbound elderly woman was found by subcommittee staff lying in her own urine begging for food in her roach-infested, three-story walk-up room. In Illinois, we found 200 residents of a home who were required to turn over their small personal income allowance to the home operator. In Florida, we investigated the deaths of two residents, one of whom died of a drug overdose, and the other who died bedbound, tied, with decubitis ulcers. In Louisiana, city officials closed down a pest-infested, unlicensed board and care home following the subcommittee's unannounced inspection unveiling deplorable and life-threatening conditions. One resident died and others were hospitalized within hours of the subcommittee visit. In Alabama, a home cited for numerous violations by the subcommittee burned down, injuring two of the home's frail elderly residents several days after the visit. In Virginia, we found 11 former mental patients, 2 of whom required skilled nursing care, warehoused in an old row house.

An analysis by the subcommittee of data received from State licensing officials and State long-term care ombudsmen regarding their experiences with board and care homes in their respective States revealed that:

The number of licensed board and care homes in the United States nearly doubled from 23,474 to 39,986 in the period from 1984 to 1988. The population in these licensed homes increased over the same period from 376,436 to 573,943. In addition, there are many individuals living in unlicensed homes. The data shows that there are some 3.2 million people at risk for board and care home placement.

The population of board and care homes is for the most part economically disadvantaged. The States estimate that 57 percent of the residents of board and care homes receive Supplemental Security Income [SSI] benefits.

The number of complaints received by the State licensing offices increased from 6,963 in 1982 to 11,011 in 1987. Sixty percent of the State long-term care ombudsmen also said that they were experiencing increasing difficulties with board and care homes.

A high percentage of both State licensing officials and State ombudsmen reported problems with such abuses as: Physical and sexual abuse of residents, malnutrition, neglect, resident death due to improper or inadequate care, overcrowding, inappropriate placement, improper administration of drugs, and misappropriation of funds.

Despite the many problems States identified with board and care homes, this type of facility is still not a priority for most ombudsmen. The ombudsmen estimated that on average their staffs spent just 16 percent of their time on board and care issues. One-third of the ombudsmen said that they spent less than 5 percent of their time on board and care.

The States are cognizant of their own deficiencies in dealing with the serious problems in the board and care industry. Two-thirds of the State ombudsmen said their State's system for regulating board and care homes was inadequate.

Based on the subcommittee's findings, I have developed this reform legislation, highlights of which include:

The establishment of national uniform standards which mandate protection of residents' rights, freedom from chemical and physical restraints, cleanliness and sanitation, proper diet, proper physical structure and fire safety, and access to needed health care; unannounced annual inspections of each facility by the States; investigation of all complaints regarding board and care homes; mandated imposition of a range of penalties against homes providing poor care; imposition of hefty fines on homes found to be operating without a license; requirement that each State carry out a program of aggressively seeking out and identifying unlicensed homes; a raise in both the Federal and State Supplemental Security Income payments for residents of homes found in compliance with the new national standards; requirement of tighter control of individuals receiving Social Security checks on behalf of others; prohibition on Medicare certified hospitals discharging patients to unlicensed board and care homes; and, establishment of grant programs to train board and care staff and advocates and to support the establishment of temporary emergency shelters for the abused elderly.

The standards in this legislation would go into effect 2 years after the date of enactment. However, during that time the Secretary of Health and Human Services would establish a National Commission on Board and Care Facility Quality, similar to the very successful Institute of Medicine Commission that recommended the regulatory structure for nursing homes. The Commission would review the standards in this legislation and issue a report within 18 months of the date of enactment, either endorsing the standards or proposing amendments that the Congress could then consider. If Congress took no further action on the legislation, the standards would go into effect as scheduled.

The National Academy of Sciences, through the Institute of Medicine, would set up the Commission and provide administrative support. The 15-member Commission would be composed of residents of board and care facilities or their representatives, operators of board and care facilities, State government officials, and members of the Institute of Medicine with experience in long-term care, including at least one expert on the administrative of drugs to the elderly and disabled and one expert on fire safety in board and care facilities.

The Secretary would maintain a toll-free hotline to collect information on board and care facilities, and receive complaints and answer questions with respect to such facilities. An investigative unit would be established to follow up on complaints.

With an estimated 1 million Americans currently residing in board and care homes and an estimated 3.2 million more of our citizens currently at risk for board and care placement, it is the responsibility of government to ensure the best possible care in these homes. I therefore urge all my colleagues to join me in supporting H.R. 2551, the Board and Care Reform Act of 1991. Thank you.

IN SUPPORT OF THE FAMILY PRESERVATION ACT OF 1991

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MILLER of California. Mr. Speaker, I am pleased to be an original cosponsor of the Family Preservation Act of 1991. As the original author of the Adoption Assistance and Child Welfare Act of 1980, Public Law 96–272, which this bill amends, I believe that the changes made by this legislation to the foster care and adoption assistance programs will strengthen and support not only the families and children in need of services, but also the workers and agencies serving them.

Congressman TOM DOWNEY, acting chairman of the Subcommittee on Human Resources, Committee on Ways and Means, and his staff, Mr. Wendell Primus and Ms. Yvette Chocolaad, are to be commended for their thoroughness and diligence in crafting this important legislation. This is a bill which I am proud to cosponsor.

After 5 years of extensive congressional investigation, the Adoption Assistance and Child Welfare Act of 1980 was passed to improve a child welfare system that was in shambles. Our investigation found a system that kept children in placements outside their homes for years, often in placements that were inappropriate for their special needs, a system that provided financial incentives for out-of-home placements, but few funds for preventive and reunification services, and a system which denied children basic legal rights and protections.

Public Law 96–272 was passed with the help of child advocacy groups, State and local social service administrators, and Federal program specialists to remedy many of the problems we found in that system. And, as a result of the new law, and efforts that contributed to its enactment, including passage of new State laws, there was a decline in the number of children in foster care by more than one-third between 1977 and 1983. Family preservation programs, which provide intensive in-home services to families at risk of having children placed in the foster care system, were developed around the country, and successfully averted costly out-of-home placements for children.

However, no one in 1980 could have predicted the dramatic increase in child abuse and neglect reports, the AIDS epidemic, the drug epidemic and the impact crack would have on society, or the numbers of homeless families with children. As a result, the child welfare system has been in a state of crisis during the past decade, unable to respond to the children and families in need of its services. The problems, the costs, and the numbers of children needing care and needing special services, continue to dramatically increase.

But despite this bleak picture of our present child welfare system, there is hope that we can, through the Family Preservation Act of 1991, make the necessary improvements to remedy the problems with the current system. We have spent the past decade learning what has gone wrong with the system, and how we can make it responsive to the families and children it serves.

We have learned that the problems families face today are multiple and complex. We now understand that family problems are better addressed by a system that provides a continuum of integrated, multisystem services in order to assist them. We know that preventive, preplacement services are not only successful at keeping families together, but are also cost-effective.

We have learned that social workers and their agencies need training and support in order to assist these new populations with their problems. And the Congress is finally admitting that it has failed to provide the States with needed moneys in order to make the system work effectively.

The Family Preservation Act of 1991 is responsive not only to the needs of the children and families in the system, but also those of the social workers, the courts, and the States. It makes title IV–B child welfare services a capped entitlement, and sets aside a portion of that entitlement for services designed to strengthen and improve families. It targets families in crisis due to substance abuse, and emphasizes comprehensive services geared toward the entire family. The Select Committee on Children, Youth, and Families, which I formerly chaired, has documented for several years, the critical need for intensive services to this population.

I am pleased that this legislation eliminates the false distinction between children who are title IV–E eligible and those who are not, and is a major step toward making certain that the system serves all children and families in need. Reimbursing States for all children in their foster care system should help streamline the system, allow States to develop more coordinated and comprehensive services for families and children, and eliminate the cumbersome and expensive eligibility determinations social workers have had to make.

I am delighted to see the provision which provides States, at their option, the flexibility in blending title IV–B and title IV–E funds to develop comprehensive and coordinated services designed to provide preventive services to families at imminent risk of out-of-home placement, reunite children more expeditiously if they are placed out of their homes, or, if they are unable to return home, place children in other permanent placements. This provision, which permits families in the mental health and juvenile justice systems to be served with Federal foster care money, recognizes the needs of families today. For too long, we have provided—or failed to provide—services based upon how we have labeled the family. In many cases, only if a family was deemed to be a "foster care" family would it be eligible for family preservation services. No such services were provided for families in other systems, even though they had the same problems, simply because they didn't have the right label.

This provision remedies that problem. If a family is in trouble, we want to help them before they enter the system, regardless of how they are labeled. While not all States will be able to utilize this option, there are States which are already working toward a comprehensive and integrated multisystem approach, and this provision should be of assistance to them.

The bill contains provisions to provide the court system, the "gatekeeper" component of this system, with finanical support to make it function more responsively and effectively, and requires States to monitor and document the need for out-of-State placement of children. This out-of-State placement of children is a national problem which warrants closer scrutiny. The data provided by this provision will help ensure that children who are sent away from their families to another State are monitored and receive the protections to which they are entitled.

This important legislation is greatly needed. I urge my colleagues to support it.

TRIBUTE TO SYLVIA SHAINA

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to an outstanding individual, Ms. Sylvia Shaina of Fraser, MI. Ms. Shaina is retiring after reaching the pinnacle of her professional career. This year Sylvia was selected as the 1990 Newsweek/WDIV Outstanding Elementary Teacher of the Year for Macomb County.

Sylvia and I have been friends for many years. She is one of my best supporters and has been from the beginning. Throughout my tenure in Congress, Sylvia has always been there to offer advice, assistance and friendship. Her efforts on my behalf and her commitment to traditional Democratic values have been deeply appreciated.

Sylvia was appointed to the State's Physicians' Assistant Task Force by former Governor Jim Blanchard. She is an executive board member of the 12th Congressional District Democratic Committee. She is on the board of directors for the Fraser Aluminum Recycling Organization. She is chairperson for the March of Dimes in Clinton Township and is a member of the Macomb Audubon Society.

Sylvia has always had a strong commitment to educational excellence. She is actively involved in the Fraser Education Association. This year Sylvia received a Michigan Educator Award from the Milken Family Foundation, and she was selected as Elementary Teacher of the Year. In reviewing some of the supporting statements that accompanied Sylvia's nomination form, I found perhaps one of the most fitting statements about Sylvia that I have heard. It comes from a colleague of hers, Ms. Joan Bernacik. Ms. Bernacik states:

"Sylvia Shaina has displayed unquestionable compassion and support to families and children with special needs—two specific cases of terminally ill children, who have since passed away, come to mind. Sylvia's always aware and 'there' to help the total family deal with their losses * * * beyond the call of 'duty'."

I could not have said it better.

Sylvia has given so generously to her students and to her community, and yet has always found time for her family. Her love for her husband, Ed, and her children, Ed, Steve, and Valerie are a vital part of her life. These strong relationships surely motivate Sylvia's caring disposition.

I am honored, Mr. Speaker, to pay recognition to Sylvia on the floor of the House for her many years as an outstanding teacher * * * for her hours and hours of volunteer work * * * for her good judgment and kind heart * * * for her friendship.

Sylvia remains dedicated to helping others and continues to set remarkable standards for us all. I am sure she looks forward to a long and happy retirement. No matter where Sylvia goes from here, her contribution to our community will not be forgotten. I want to thank you, Sylvia, for all you've done for all of us.

THE OCTANE DISPLAY AND DISCLOSURE ACT OF 1991

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. SHARP. Mr. Speaker, today I am reintroducing legislation to provide the States more authority to enforce octane posting requirements and to extend octane posting to all liquid automotive fuels to provide consumers with more information. This legislation is essentially the same as that which passed the House last year but was not considered by the Senate.

Although the vast majority of all gasoline distributors and dealers are honest business people, a 2-year investigation by the General Accounting Office [GAO] estimates that 9 percent of the gasoline sold nationwide in 1988 was mislabeled by at least half an octane point, the amount considered a significant violation.

About 25 States test gasoline octane ratings on their own and the GAO showed that, as a result, these States have reduced the extent of octane mislabeling or octane cheating. Unfortunately, States' attempts to prosecute octane labeling violators are hampered because the Petroleum Marketing Practices Act [PMPA] preempts many effective State enforcement procedures. However, since 1981, according to the GAO report, the FTC and the EPA have not tested or enforced gasoline octane compliance under the PMPA. This legislation would allow States broader authority to enforce octane mislabeling and posting on their own, without relieving the EPA and FTC of their responsibilities under the law.

A second goal of this legislation is to extend certification and posting requirements to fuels other than traditional gasoline. Fuels such as diesel fuel, reformulated gasoline, gasohol, ethanol, and methanol would now receive octane notices similar in format to those required of gasoline. This would allow consumers of these fuels to compare posted octane with their engine's requirements.

A third goal of this legislation is to study other proposals to improve information provided to consumers of automotive fuels. A method for posting the antiknock characteristics of nonliquid fuels such as compressed natural gas would be studied. The possibility of dyeing of different octanes of gasoline for identification would also be studied. A third study would recommend what the elements of a uniform Federal gasoline label should be if one were to be adopted.

In short, this bill attempts to increase consumer confidence in, and information about motor fuels. If enacted, I believe this legislation will benefit both consumers and retailers of motor fuels.

UNION PACIFIC RAILROAD KEEPS THE ROYALS IN OMAHA

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. HOAGLAND. Mr. Speaker, the city of Omaha, NE, which I proudly represent in the U.S. Congress, is a tranquil, unified community with a great deal of confidence and spirit.

Through the decades, the corporate community in Omaha has made phenomenal contributions to the town. Thanks to previous corporate benefactors, we have a home-owned newspaper, an institution called Ak-Sar-Ben which has made substantial contributions to Nebraska and Omaha through the years, and parks and green space throughout, which makes the city so beautiful and livable.

Now we have another major contribution from an outstanding corporate citizen. I am referring to the Union Pacific Railroad and its chairman, Mike Walsh.

We were about to lose our triple A baseball team, called the Omaha Royals, when the Union Pacific Railroad stepped in to buy a 49-percent interest in the ball team for $2.5 million. This is a wonderful contribution to our community. It will keep the team in Omaha. It should secure the future of our baseball stadium and the presence of the college World Series in Omaha. It will strengthen the nearby Henry Doorly Zoo, which has received continuing corporate support for many years.

I salute the Union Pacific Railroad, its employees, and chairman Mike Walsh for this generous, ingenious, and community-spirited investment in the future of our great city and State.

EQUALITY AND EMPOWERMENT, NOT PARTISANSHIP

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. RIGGS. Mr. Speaker, the recent debacle in the House of Representatives over civil rights legislation is a sad case of consensus lost to partisanship and the catering to special interest. Fortunately, while the day may be lost, there are still opportunities in this Congress to make a real difference in the lives of minorities and women.

Republicans and Democrats generally agree that the Supreme Court decisions that overturned equal employment provisions of the 1964 Civil Rights Act were wrong for the country. We most definitely need to reform employment discrimination laws, but unfortunately, in finding a way to redress those Supreme Court decisions in Congress, legalistic language replaced reason, political posturing replaced statesmanship and, ultimately, parliamentary maneuvering replaced democratic debate.

Under the magnification of the media and the politicizing effects of the imminent 1992 elections, the House could not reach a compromise civil rights bill. Amid this sound and fury, Congress has yet to take up the vital task of creating ways to empower minorities to overcome the most basic problems in housing, education, and health care.

We all can agree that racial discrimination in hiring and advancement is anathema to American ideals of fair play. I believe that the Supreme Court decisions that had the effect of placing the burden of proof on plaintiffs in job discrimination suits is deleterious to the intent of the law, and those issues had to be addressed by legislation.

But under the Democrats' bill, H.R. 1, evidentiary burdens placed on plaintiffs were significantly reduced while those placed on defendants were dramatically increased. It attempted specific proportional representation of races and sexes, which gave birth to the notion of hiring by the numbers.

H.R. 1 also had the potential to become a fishing expedition for trial lawyers. Unlimited caps on damages, in concert with a shift in the burden of proof to the employer, would invite a lawyers' bonanza. Small business, fearing for their very survival would adopt preemptive hiring practices, hiring by color and gender. These are among the reasons that led the President to claim that H.R. 1 is a quota bill.

I can't really buy the quota argument, but what the bill did, both with its open-ended language and its provisions for unlimited compensatory damages, was to place small businesses, those that cannot afford to maintain armies of lawyers, in real financial jeopardy.

So who gets hurt by such legislation? First, small businesses who must already struggle to remain above water in a chancy and highly regulated economic environment. Secondarily, H.R. 1 has the potential to deprive qualified individuals from jobs offered by skittish employers who overzealously strive to remain in compliance with the law.

The Michel amendment (H.R. 1375), which I supported but was defeated, would have overturned the most objectionable Supreme Court decisions and placed on the employer the burden of proving business necessity for racial imbalances. It would have made available to victims new monetary remedies for discrimination, including on-the-job sexual harassment. It also would end years of hypocrisy by applying antidiscrimination laws to Congress itself. But it also sets reasonable caps on damages, and attempts to move cases toward conciliation rather than litigation by encouraging alternative dispute resolution techniques, including binding arbitration. The bill would have protected businesses against nuisance litigation and excessive and arbitrary judgments while ensuring equality in hiring and advancement for minorities.

When I voted for the Michel amendment, I knew all too well that it did not have a chance for passage. Democrats also knew that H.R. 1 would be vetoed by the President. The bill that could have passed, a bipartisan compromise on employment standards and penalties, never came to be, scuttled by the Democrat-controlled House Rules Committee, who refused to allow any tinkering with their prize legislation on the House floor.

So we ended up with political paralysis, a shared goal never reached because of the impenetrable lines of partisanship.

There is still some hope for legislative action this session. The Senate is now looking at a compromise bill introduced by Senator JOHN DANFORTH, Republican of Missouri, and cosponsored by eight other moderate Republicans. If a compromise Senate bill is passed, a joint Senate-House conference committee will then try to meld both bills together. If the final bill meets my concerns about protecting both the rights of minorities in the workplace and the vitality of small business, which provide most new jobs, I will vote for it.

Meanwhile, we still have a chance to move ahead in areas of potentially greater impact for the underrepresented and the disadvantaged. I am actively supporting the President's empowerment package that promotes greater self-sufficiency and rewards human effort and productivity. It also affords local communities the opportunity to restructure Federal programs to provide social, welfare, health, education, and nutritional services in ways that will better serve individuals and families in low-income communities.

The President also wants to create enterprise zones in minority communities, offering tax credits for business startups in designated poverty stricken, high unemployment areas, thereby creating new jobs for the most needy. Hopefully, Congress will again revisit the HOPE and HOME housing programs, which give low-income renters the opportunity to own their own homes and apartments, and promotes public-private partnerships devoted to the provision of affordable housing.

Only through such aggressive empowerment programs, offering individuals the opportunity to gain control over their own lives, putting all races and classes of people on the same level playing field, will we truly restore the full right of citizenship to all Americans. I hope my colleagues on both sides of the aisle resolve to put aside partisanship and support these critical, yet attainable goals.

INTRODUCTION OF LEGISLATION REGARDING FEDERAL LAWS AND THE NORTHERN MARIANAS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. LAGOMARSINO. Mr. Speaker, today I am introducing legislation which relates to the newest member of the American family, the Commonwealth of the Northern Mariana Islands. I am pleased to have a number of my colleagues joining me in this effort, including RON DE LUGO, chairman of the Subcommittee on Insular and International Affairs, and BEN BLAZ, representing the southernmost island of the Mariana Archiapelago, Guam.

It has only been 5 years since the people of the Northern Marianas became U.S. citizens. The conferring of citizenship took effect with President Ronald Reagan's Presidential proclamation of November 3, 1986, which was necessary under law providing for the new Federal-territorial relationship.

The text of the legislation is identical to the administration's proposal transmitted to the Congress last year. There are four sections of the bill which specify the applicability or inapplicability of certain Federal laws to the Commonwealth of the Northern Mariana Islands. There appear to be a number of modifications to the legislation, some of a technical nature, which may be necessary once the full impact of the proposed changes in Federal law are examined.

The people of the Northern Mariana Islands chose through popular referendum in the early 1970's to seek a close relationship with the United States which would permit them to share U.S. citizenship and the duties and responsibilities as a member of the American family. The special Federal-territorial relationship which emerged, and is embodied in the covenant approved by Public Law 94–241, provides for local self-government, encourages development through multiyear Federal assistance, endorses the nonalienation of indigenous land to preserve the islands' culture, and allows for the future application or inapplication of Federal laws.

In order to determine which laws should be applicable, the Congress provided a Presidential commission. I was fortunate to be appointed by President Reagan as a representative to the Northern Marianas Commission on Federal Laws. The Commission produced a two-volume interim report on the effects of the applicability or inapplicability of Federal laws. The provisions of the legislation which I am introducing today are reflected in the Commission's interim report recommendations.

Once the two-volume interim report was issued, the professional staff of the Commission was released. However, other members of the Commission met in subsequent years and issued what was called the final report with several major changes to the recommendations of the interim report. All of the recommendations in the interim and final reports, including the conflicting ones, merit review in order to advance the Federal-territorial relationship envisioned by the covenant.

In addition to the Commission's report, recommendations have also been made regarding changes in Federal laws as a result of a consultative process provided for in section 902 of the covenant. Representatives of the Governor of the Northern Mariana Islands and the President of the United States are to meet no less than every 10 years to examine issues affecting the relationship. This mechanism of consultation is crucial to the relationship as the people of the Northern Mariana Islands have neither a voting nor a nonvoting representative in the Congress.

The covenant section 902 process has thus far produced a number of mutually agreed recommendations regarding the application of Federal laws to the Northern Marianas. Of these, the four contained in the legislation were finally cleared by the administration and submitted during the last Congress.

As part of the legislative process of considering the merit of these four changes, the Congress may also examine other recommendations of the Commission and the section 902 representatives. It may also be appropriate to examine the process which led to these recommendations and consider modifications if appropriate. These actions are important as the Congress remains constitutionally tasked under article IV, section 3, clause 2, the territorial clause, with the responsibility to provide for all of the rules and regulations affecting territories of the United States.

I have enjoyed working with the many outstanding elected leaders of the Commonwealth of the Northern Marianas, including Gov. Lorenzo Guerrero and Resident Representative Juan Babauta. We have discussed many issues affecting the development of the Northern Mariana Islands. As the newest member of the American family who chose a closer relationship with the United States instead of independence or free association, the recommendations reflected in the legislation deserve serious consideration.

The complete text of the bill and a sectional analysis follow:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. (a) A person who elects to become a national rather than a citizen of the United States pursuant to section 302 of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved by Public Law 94-241, 902 Stat. 263) may be naturalized subsequently as a citizen of the United States upon compliance with applicable requirements of the Immigration and Nationality Act, except that in petitions for naturalization filed under the provisions of this section, residence and physical presence within the United States within meaning of the Immigration and Nationality Act shall include residence and physical presence within the Northern Mariana Islands.

(b) For purposes of the requirements of judicial naturalization of persons eligible for naturalization under this section, the Northern Mariana Islands will be deemed to constitute a State as defined in subsection 101(a), paragraph (36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(c) The courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands shall have jurisdiction to naturalize persons who become eligible under this section and who reside within their respective jurisdictions.

TITLE II

SEC. 201. (a) Subsection (a) of section 4342 of title 10, United States Code, is amended by striking the language following clause (10) and substituting therefor the following:

"(11) one cadet from the Northern Mariana Islands nominated by the Resident Representative to the United States for the Northern Mariana Islands.

"Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, and the Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands are entitled to nominate a principal candidate and nine alternates for each vacancy that is available to him under this section.".

(b) Subsection (f) of section 4342 of title 10, United States Code, is amended to read as follows: "Each candidate for admission nominated under clauses (3)–(7), (9), (10), and (11) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Northern Mariana Islands, if nominated from one of those places.

"A candidate nominated under clause (10) or (11) of subsection (a) must also, at the time of admission, either be a citizen of the United States, or have initiated action to become a naturalized citizen of the United States and be eligible for naturalization within two years after admission to the Academy. Failure to become a naturalized citizen within two years after admission to the Academy will result in voluntary disenrollment.".

(c) Section 4343 of title 10, United States Code, is amended by substituting "clauses (2)–(11) of section 4342(a)" for "clauses (2)–(9) of section 4343(a).".

(d) Subsection (a) of section 6954 of title 10, United States Code, is amended by striking the language following clause (10) and substituting therefor the following:

"(11) One from the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Northern Mariana Islands.

"Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, and the Resident Representative to the United States for the Northern Mariana Islands is entitled to nominate a principal candidate and nine alternates for each vacancy that is available to him under this section.".

(e) Subsection (a) of section 6956 of title 10, United States Code, is amended to read as follows: "The Secretary of the Navy shall, as soon as possible after the first of June of each year, notify in writing each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, and the Resident Representative to the United States for the Northern Mariana Islands of any vacancy that will exist at the Naval Academy because of graduation in the following year, or that may occur for other reasons, for which the member or delegate or resident representative is entitled to nominate a candidate and nine alternates.".

(f) Subsection (c) of section 6956 of title 10, United States Code, is amended by substituting "clauses (2)–(11) of section 6954(a)" for "clauses (2)–(9) of section 6954(a).".

(g) Subsection (b) of section 6958 of title 10, United States Code, is amended to read as follows: "Each candidate for admission nominated under clauses (3)–(7), (9), (10), and (11) of section 6954(a) of this must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Northern Mariana Islands, if nominated from one of those places.

"A candidate nominated under clause (10) or (11) of subsection (a) must also, at the time of admission, either be a citizen of the United States, or have initiated action to become a naturalized citizen of the United States and be eligible for naturalization within two years after admission to the Academy. Failure to become a naturalized citizen within two years after admission to the Academy will result in voluntary disenrollment.".

(h) Subsection (a) of section 9342 of title 10, United States Code, is amended by striking the language following clause (10) and substituting therefor the following:

"(11) One cadet from the Northern Mariana Islands, nominated by the Resident Representative to the United States for the Northern Mariana Islands.

"Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, and the Resident Representative to the United States for the Northern Mariana Islands are entitled to nominate a principal candidate and nine alternates for each vacancy that is available to him under this section.".

(i) Subsection (f) of section 9342 of title 10, United States Code, is amended to read as follows: "Each candidate for admission nominated under clauses (3)–(7), (9, (10), and (11) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, or the Northern Mariana Islands, if nominated from one of those places.

"A candidate nominated under clause (10) or (11) of subsection (a) must also, at the time of admission, either be a citizen of the United States, or have initiated action to become a naturalized citizen of the United States and be eligible for naturalization within two years after admission to the Academy. Failure to become a naturalized citizen within two years after admission to the Academy will result in voluntary disenrollment.".

(j) Section 9343 of title 10, United States Code, is amended by substituting "clauses (2)–(11) of section 9342(a)" for "clauses (2)–(9) of section 9342(a)".

(k) Subsection (d) of section 4342, subsection (d) of section 6954, and subsection (d) of section 9342 are each amended by striking out "clauses (2)–(7), (9), or (10)" and inserting in lieu thereof "clauses (2)–(7) or (9)–(11)".

TITLE III

SEC. 301. The territories, possessions, and commonwealths of the United States shall be considered as part of the United States for purposes of section 211 of Public Law 96–561, (94 Stat. 3275, 15 U.S.C. 1511b), and section 3 of the Act of February 14, 1903, (c. 552, 32 Stat. 825), as amended (15 U.S.C. 1512).

TITLE IV

SEC. 401. At the discretion of the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands competitive awards that any such insular area receives under the Higher Education Act of 1965, as amended, may be incorporated into a consolidated grant under section 501 of Public Law 95–134.

SECTIONAL ANALYSIS

Section 1, Residency Requirement for Naturalization, would allow persons electing U.S. nationality under section 302 of the Northern Marianas Covenant subsequently to satisfy the residency requirements for naturalization as a U.S. citizen by residence in the Northern Mariana Islands. Section 301 of the Covenant provides generally for the collective naturalization of the people of the Northern Marianas, declaring them to be citizens of the United States as of November 3, 1986. Section 303 provides that persons born in the Northern Marianas on or after November 3, 1986, become citizens of the United States at birth. But section 302 permits two categories of persons to choose to become noncitizen nationals of the United States instead of citizens:

(1) Those who become citizens of the United States under section 301 may, within six months of November 3, 1986, choose U.S. nationality instead by making a declaration under oath to that effect; and

(2) Those who reach the age of 18 after November 3, 1986, may also choose U.S. nationality instead of U.S. citizenship by making a similar declaration under oath.

It appears that no person described in (1) has made such declaration. It will be possible for those described in (2) to do so for some years yet to come.

The purpose of section 1 of the proposed bill is to accommodate one who has chosen nationality over citizenship, and who later changes his or her mind and seeks to become a citizen, to count residence in the Northern Marianas toward the residence requirement of the U.S. naturalization laws. Under existing law, that would not be possible because the Federal naturalization laws are largely inapplicable to the Northern Marianas under section 503(a) of the Covenant. Subsection (c) of the proposed bill would expand the jurisdiction of the courts of the Northern Marianas to permit the naturalization of such persons. Under section 506 of the Covenant, that jurisdiction is now very limited, owing to the inapplication generally of the Federal Immigration and Nationality Act to the Northern Marianas.

Section 2, Nominations to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy, would authorize the nomination of one person from the Northern Marianas to attend each of the three service academies at any one time. Nominations would be made by the Resident Representative to the United States from the Northern Marianas.

Nominations may be made under existing law in the same number from the Virgin Islands, Guam, and American Samoa, with nominations from those areas being made by their respective Delegates in Congress. Nomination is not the equivalent of admission, because nominees must meet certain physical and academic requirements.

Section 2 also contains some technical changes in existing law that are intended to overcome earlier drafting oversights. These changes appear in subsection (e) for Puerto Rico, and in subsections (c), (f), and (j) for American Samoa. In addition, section 2 contains language in subsections (b), (g), and (i) that is intended to meet the problem described in our cover letter, that is, the problem of noncitizen U.S. nationals being eligible for appointment to the academies, but ineligible to serve as commissioned officers thereafter. These subsections would require that such noncitizen nationals commence naturalization as U.S. citizens within two years following their admission to the academies.

Section 3, Fishery Trade Officers; Department of Commerce, amends two Federal laws to make clear that the Department of Commerce is obliged to advance the fishing interests of the Northern Marianas, as a part of its obligation to advance fishing interests of the "United States." Public Law 96-511 officers to "promote United States fishing interests"; and the Commerce Department's 1903 Organic Act provides that the Department is to foster foreign and domestic commerce, including "fishery industries of the United States" (15 U.S.C. 1512). Section 3 of the proposed bill is intended to make clear that the "United States" for the purposes of these two statutes includes the Northern Mariana Islands as it is a territory under the sovereignty of the United States.

Section 4, Consolidated Grant for Higher Education, authorizes the consolidation under section 5 of Public Law 95-134 of discretionary grants received by the Northern Mariana Islands under the Higher Education Act. Section 5 of Public Law 95-134 now permits the consolidation by any Federal department or agency of grants received by the Northern Marianas, as well as by the Virgin Islands, Guam, and American Samoa. Section 4 is intended to make clear that discretionary, or competitive, grants received by any such insular area under the Higher Education Act may be included in the consolidated grant.

GWEN McFARLAND—CONGRATULATIONS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CLEMENT. Mr. Speaker, I would like to take this opportunity to recognize and congratulate a constituent who has dedicated her life to serving her party, her community, and the Nation.

In the latest stage of a long, distinguished career Gwen Elizabeth Nation McFarland was recently elected president of the National Federation of Democratic Women.

She was born in Lawrence County, TN, and educated in public schools. In addition to assuming the responsibilities of a wife and mother, she achieved a masters and Ph.D from George Peabody College for Teachers at Vanderbilt University, and a J.D. from the Nashville College of Law.

Through the years her numerous civic, political, and professional accomplishments include:

Legislative liaison to the Tennessee General Assembly for the Metro Board of Education.

Director of human relations for Metro Schools.

Past chairperson on the Governor's Committee on Employment of the Handicapped.

Past president of the Tennessee Federation of Democratic Women.

Delegate to the 1972, 1984, and 1988 Democratic conventions.

Twenty years service as State committeewomen for the 18th senatorial district.

From her days as a teacher, principal, and administrator in the Metro School System, to her service in the Nashville City Council, and influential participation in Democratic Party and community affairs, every endeavor of her life has been marked with determination, commitment, and compassion.

Mr. Speaker, Gwen McFarland is considered an invaluable asset to the Nashville community, I hope you and all our colleagues will join me in honoring her as she assumes the presidency of the National Federation of Democratic Women.

A TRIBUTE TO JOY HELLARD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to bring Ms. Joy Hellard to the attention of the House and the American public. Ms. Hellard, a teacher in the Dade County public school system, is a truly inspiring individual who encourages her students to fulfill their potentials. When we consider the current problems in our education system, Ms. Hellard brings us hope for the future. In a recent issue of the Miami Herald, staff writer Jon O'Neil describes the talent of this individual.

TEACHER WON'T LET HER STUDENTS COAST

Joy Hellard spent a lot of time trying to buck her teaching heritage, but she ended up in the classroom anyway.

There are a lot of people at Ponce de Leon Middle School who are glad about that.

"She's the greatest," said principal Neyda Navarro. "She's so enthusiastic that when you go into her classroom, you can't do anything but listen and learn."

Hellard, 41, is a fourth-generation teacher. She didn't want to follow in her mother's and grandfather's and great-grandfather's footsteps.

"I first wanted to be a jockey," she said. "Then a veterinarian, then an archaelogist, then a psychologist. Finally, in my second year of college, I realized that through education, I could do all of these things."

Hellard, who is in her first year at Ponce, teaches English and world history, working mainly with gifted or honor students. She also coached the school's first "Odyessy of the Mind" team this year, guiding it to a second place finish in the statewide competition.

Her teaching philosophy is simple: She tries to identify every student's talent and get them to focus and build on it. She also believes in pushing her kids.

"If I see talent somewhere, I don't just let it lie there," she said. "I want them to get involved and stretch themselves."

In the classroom, that usually means projects, Recently, her classes were studying the Holocaust and all students were required to do projects on the subject.

"We do projects so they get a chance to relate their own feelings and emotions to the subject," she said. "They need to feel it to understand it."

"The way she teaches is different," said student Kathy Tong, 14. "It's not just reading and memorizing. It's discussing and understanding. I hate doing projects, but I learn from them.

Hellard was born in Lexington, Ky., and graduated from the University of Kentucky with a degree in elementary education. She taught elementary school in Kentucky and Alabama.

Before moving to Miami last year, she spent 16 years teaching in Brandon, Miss., where she helped develop a program for gifted students. Hellard said Miami has taken some adjustment.

"These are big city kids here," she said. "In their attitudes and their language. It's different from what you find in rural Mississippi. But now, they're my kids."

Hellard also enjoys the cultural mixes that only a city like Miami can provide.

"I love the diversity here," she said. "I'm going to spend this summer learning to speak Spanish."

Principal Navarro said Hellard's commitment to Ponce goes beyond regular school hours.

"She works after school and on weekends. Her enthusiasm is contagious," she said. "Whenever I get down and need a boost, I go up to her class and watch for awhile. It helps remind me what education is all about."

Joy Hellard is a truly remarkable person who makes the lives of our children a little easier. As a concerned parent and a Miami resident, I thank her.

TRIBUTE TO ARCHBISHOP BEVILACQUA

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. WELDON. Mr. Speaker, it is with pleasure that I rise today to pay tribute to a spiritual leader and good friend, Archbishop Anthony J. Bevilacqua, who will be elevated to the position of cardinal later this month by Pope John Paul II. Archbishop Bevilacqua currently serves as the head of the Archdiocese of Philadelphia and will continue in this role after his elevation.

Archbishop Bevilacqua will join the College of Cardinals, whose members serve as the Pope's closest advisers. As a member of the college, the archbishop will be an influential leader of the Catholic Church. By achieving this rank, Archbishop Bevilacqua will become one of the 100 members of the College of Cardinals with the authority to elect the next Pope, should it be necessary.

Since 1988, Bevilacqua has led the Archdiocese of Philadelphia, where he has worked unceasingly for its members. Before that he served as the Bishop of Pittsburgh from 1983 to 1988. He became the Auxiliary Bishop of Brooklyn after being ordained a bishop in November 1980. He was ordained a priest in June 1949 after studying at the Seminary of the Immaculate Conception.

Throughout his life as a priest, the archbishop has had a special concern for the needy. He has worked hard to better the lives of immigrants and refugees to this country. As a member of the Bishops Committee for Pro Life Activities, he has worked to preserve the dignity of all stages of life.

I have had the opportunity to work with Archbishop Bevilacqua on many occasions. As a board member at a Catholic hospital, I have witnessed his untiring devotion to the people of the community. His guidance is an inspiration to those around him and to those who benefit from his efforts.

Those who have worked with the archbishop and those who have benefited from his philanthropy rejoice with him in his achievement. Please join me in congratulating Archbishop Bevilacque on receiving this honor.

INTRODUCTION OF THE MEDICARE PREVENTIVE BENEFITS ACT OF 1991

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CHANDLER. Mr. Speaker, there is a growing consensus among the Members of Congress that the United States is in the midst of a crisis; that crisis being inadequate health coverage for American citizens. An nowhere is the crisis better illustrated than in the fact that 34 million Americans have no health insurance and that health care costs now exceed 11 percent of our country's gross national product [GNP].

Those statistics have appropriately generated much concern, to which Congress has responded with any number of proposals to reform the country's health care system. And while I strongly support many of these efforts, I also believe there is much we can do within the context of our existing system to improve the health of American citizens. One such area is that of preventive health care.

Preventive health care saves lives. For that reason alone, Congress should be exploring new ways to promote this practice. With that goal in mind, I am pleased today to join with the chairman of the Ways and Means Committee, Representative ROSTENKOWSKI, in introducing the Medicare Preventive Benefits Act of 1991.

In last year's budget bill, Congress appropriately included a provision to expand Medicare coverage to mammography screening once every 2 years. Such an expansion was long overdue. The bill we are introducing today builds on the notion of preventive health care and extends it to equally valuable services. New services to be covered by the bill include colorectal screening, tetanus and influenza immunizations, well-baby and well-child care and a further expansion of mammography coverage to annual screenings. The bill would also make permanent current Medicare prevention demonstration projects and require the Office of Technology Assessment [OTA] to study the success of preventive health care.

Mr. Speaker, this legislation will give a real shot in the arm to preventive health care. It promotes wellness through early prevention and detection screening. But perhaps its most attractive feature is the fact that it is easily implemented; in fact, from a practical standpoint, it requires no implementation at all. It merely requires a commitment from Congress to improve the health and quality of life for the citizens of this country. That alone should be sufficient to insure its passage.

Mr. Speaker, I urge my colleagues to join this effort to improve our country's health and cosponsor the Medicare Preventive Benefits Act of 1991.

COMMEMORATING ROBERT KENNEDY'S CAPETOWN SPEECH

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Ms. DELAURO. Mr. Speaker, 25 years ago today a great American statesman spoke before the National Union of South African Students in Capetown, South Africa. In a now famous speech, he presented concisely, and eloquently, the challenge that faced not only their generation—but that which confronts every generation striving to make a mark in our world.

Twenty-five years ago in Capetown, Robert F. Kennedy challenged the youth of that country—and of the world—to commit to making a difference: To ignore the apparent limits of the individual; to maintain our idealism in the face of expediency; to be aggressive in our pursuit of a better society; and to resist the temptation of to pursue personal comfort without regard to the needs of the world in which we live.

Robert Kennedy's challenge to the youth of that generation—my generation—is as appropriate to the world in which we live today as it is was then. Mr. Speaker, I have attached those poignant words spoken by Senator Kennedy—they live as a part of his legacy to this Nation.

ADDRESS OF SENATOR ROBERT F. KENNEDY

I come here because of my deep interest and affection for a land settled by the Dutch in the mid-seventeenth century, then taken over by the British, and at last independent; a land in which the native inhabitants were at first subdued, but relations with whom remain a problem to this day; a land which defined itself on a hostile frontier; a land which has tamed rich natural resources through the energetic application of modern technology; a land which once imported slaves, and now must struggle to wipe out the last traces of that former bondage. I refer, of course, to the United States of America.

But I am glad to come here to South Africa. I am already enjoying my visit. I am making an effort to meet and exchange views with people from all walks of life, and all segments of South African opinion—including those who represent the views of the government. Today I am glad to meet with the National Union of South African Students. For a decade, NUSAS has stood and worked for the principles of the Universal Declaration of Human Rights—principles which embody the collective hopes of men of good will around the world.

Your work, at home and in international student affairs, has brought great credit to yourselves and to your country. I know the National Student Association in the United States feels a particularly close relationship to NUSAS. And I wish to thank especially Mr. Ian Robertson, who first extended this invitation on behalf of NUSAS, for his kindness to me. It's too bad he can't be with us today.

This is a Day of Affirmation—a celebration of liberty. We stand here in the name of freedom.

At the heart of that western freedom and democracy is the belief that the individual man, the child of God, is the touchstone of value, and all society, groups, and state, exist for his benefit. Therefore the enlargement of liberty for individual human beings must be the supreme goal and the abiding practice of any western society.

The first element of this individual liberty is the freedom of speech; the right to express and communicate ideas, to set oneself apart from the dumb beasts of field and forest; to recall governments to their duties and obligations; above all, the right to affirm one's membership and allegiance to the body politic—to society—to the men with whom we share our land, our heritage and our children's future.

Hand in hand with freedom of speech goes the power to be heard—to share in the decisions of government which shape men's lives. Everything that makes man's life worthwhile—family, work, education, a place to rear one's children and a place to rest one's head—all this depends on decisions of government; all can be swept away by a government which does not heed the demands of its people. Therefore, the essential humanity of men can be protected and preserved only where government must answer—not just to the wealthy; not just to those of a particular religion, or a particular race; but to all its people.

And even government by the consent of the governed, as in our own Constitution, must be limited in its power to act against its people; so that there may be no interference with the right to worship, or with the security of the home; no arbitrary imposition of pains or penalties by officials high or low; no restriction on the freedom of men to seek education or work or opportunity of any kind, so that each man may become all he is capable of becoming.

These are the sacred rights of western society. These were the essential differences between us and Nazi Germany as they were between Athens and Persia.

They are the essence of our difference with communism today. I am unalterably opposed to communism because it exalts the state over the individual and the family, and because of the lack of freedom of speech, of protest, of religion and of the press, which is the characteristic of totalitarian states. The way of opposition to communism is not to imitate its dictatorship, but to enlarge individual human freedom—in our own countries and all over the globe. There are those in every land who would label as "communist" every threat to their privilege. But as I have seen on my travels in all sections of the world, reform is not communism. And the denial of freedom, in whatever name, only strengthens the very communism it claims to oppose.

Many nations have set forth their own definitions and declarations of these principles. And there have often been wide and tragic gaps between promise and performance, ideal and reality. Yet the great ideals have constantly recalled us to our duties. And—with painful slowness—we have extended and enlarged the meaning and the practice of freedom for all our people.

For two centuries, my own country has struggled to overcome the self-imposed handicap of prejudice and discrimination based on nationality, social class or race—discrimination profoundly repugnant to the theory and command of our Constitution.

Even as my father grew up in Boston, signs told him that "No Irish need apply." Two generations later President Kennedy became the first Catholic to head the nation; but how many men of ability had, before 1961, been denied the opportunity to contribute to the nation's progress because they were Catholic, or of Irish extraction. How many sons of Italian or Jewish or Polish parents slumbered in slums—untaught, unlearned, their potential lost forever to the nation and the human race? Even today, what price will we pay before we have assured full opportunity to millions of Negro Americans?

In the last five years we have done more to assure equality to our Negro citizens, and to help the deprived both white and black, than in the hundred years before. But much more remains to be done.

For there are millions of Negroes untrained for the simplest of jobs, and thousands every day denied their full equal rights under the law; and the violence of the disinherited, the insulted and injured, looms over the streets of Harlem and Watts and Southside Chicago.

But a Negro American trains as an astronaut, one of mankind's first explorers into outer space; another is the chief barrister of the United States government, and dozens sit on the benches of court; and another, Dr. Martin Luther King, is the second man of African descent to win the Nobel Peace Prize for his non-violent efforts for social justice between the races.

We have passed laws prohibiting discrimination in education, in employment, in housing; but these laws alone cannot overcome the heritage of centuries—of broken families and stunted children, and poverty and degradation and pain.

So the road toward equality of freedom is not easy, and great cost and danger march alongside us. We are committed to peaceful and non-violent change and that is important for all to understand—though all change is unsettling. Still even in the turbulence of protest and struggle is greater hope for the future, as men learn to claim and achieve for themselves the rights formerly petitioned from others.

And most important of all, all the panoply of government power has been committed to the goal of equality before the law—as we are now committing ourselves to the achievement of equal opportunity in fact.

We must recognize the full human equality of all our people—before God, before the law, and in the councils of government. We must do this, not because it is economically advantageous—although it is; not because the laws of God and man command it—although they do command it; not because people in other lands wish it so. We must do it for the single and fundamental reason that it is the right thing to do.

We recognize that there are problems and obstacles before the fulfillment of these ideals in the United States as we recognize that other nations, in Latin America and Asia and Africa have their own political, economic, and social problems, their unique barriers to the elimination of injustice.

In some, there is concern that change will submerge the rights of a minority, particularly where the minority is of a different race from the majority. We in the United States believe in the protection of minorities; we recognize the contributions they can make and the leadership they can provide; and we do not believe that any people—whether minority, majority, or individual human beings—are "expendable" in the cause of theory or policy. We recognize also that justice between men and nations is imperfect, and that humanity sometimes progresses slowly.

All do not develop in the same manner, or at the same pace. Nations, like men, often march to the beat of different drummers, and the precise solutions of the United States can neither be dictated nor transplanted to others. What is important is that all nations must march toward increasing freedom; toward justice for all; toward a society strong and flexible enough to meet the demands of all of its own people, and a world of immense and dizzying change.

In a few hours, the plane that brought me to this country crossed over oceans and countries which have been a crucible of human history. In minutes we traced the migration of men over thousands of years; seconds, the briefest glimpse, and we passed battlefields on which millions of men once struggled and died. We could see no national boundaries, no vast gulfs or high walls dividing people from people; only nature and the works of man—homes and factories and farms—everywhere reflecting man's common effort to enrich his life. Everywhere new technology and communications bring men and nations closer together, the concerns of one inevitably becoming the concerns of all. And our new closeness is stripping away the false masks, the illusion of difference which is at the root of injustice and hate and war. Only earthbound man still clings to the dark and poisoning superstition that his world is bounded by the nearest hill, his universe ended at river shore, his common humanity enclosed in the tight circle of those who share his town and views and the color of his skin.

It is your job, the task of the young people of this world to strip the last remnants of that ancient, cruel belief from the civilization of man.

Each nation has different obstacles and different goals, shaped by the vagaries of history and experience. Yet as I talk to young people around the world I am impressed not by the diversity but by the closeness of their goals, their desires and concerns and hope for the future. There is discrimination in New York, the racial inequality of apartheid in South Africa and serfdom in the mountains of Peru. People starve in the streets of India; a former Prime Minister is summarily executed in the Congo; intellectuals go to jail in Russia; thousands are slaughtered in Indonesia; wealth is lavished on armaments everywhere. These are differing evils; but they are the common works of man. They reflect the imperfection of human justice, the inadequacy of human compassion, the defectiveness of our sensibility toward the sufferings of our fellows; they mark the limit of our ability to use knowledge for the well-being of others. And therefore they call upon common qualities of conscience and of indignation, a shared determination to wipe away the unnecessary sufferings of our fellow human beings at home and around the world.

It is these qualities which make of youth today the only true international community. More than this I think that we could agree on what kind of world we want to build. It would be a world of independent nations, moving toward international community, each of which protected and respected basic human freedoms. It would be a world which demanded of each government that it accept its responsibility to insure social justice. It would be a world of constantly accelerating economic progress—not material welfare as an end in itself, but as a means to liberate the capacity of each human being to pursue his talents and his hopes. It would, in short, be a world we would be proud to have built.

Just to the North of here are lands of challenge and opportunity—rich in natural resources, land and minerals and people. Yet they are also lands confronted by the greatest odds—overwhelming ignorance, internal tensions and strife, and great obstacles of climate and geography. Many of these nations, as colonies, were oppressed and exploited. Yet they have not estranged themselves from the broad traditions of the West; they are hoping and gambling their progress and stability on the chance that we will meet our responsibilities to help them overcome their poverty.

In the world we would like to build, South Africa could play an outstanding role in that effort. This is without question a preeminent repository of the wealth and knowledge and skill of the continent. Here are the greater part of Africa's research scientists and steel production, most of its reservoirs of coal and electric power. Many South Africans have made major contributions to African technical development and world science; the names of some are known wherever men seek to eliminate the ravages of tropical diseases and pestilence. In your faculties and councils, here in this very audience, are hundreds and thousands of men who could transform the lives of millions for all time to come.

But the help and the leadership of South Africa or the United States cannot be accepted if we—within our own countries or in our relations with others—deny individual integrity, human dignity, and the common humanity of man. If we would lead outside our borders; if we would help those who need our assistance, if we would meet our responsibilities to mankind; we must first, all of us, demolish the borders which history has erected between men within our own nations—barriers of race and religion, social class and ignorance.

Our answer is the world's hope; it is to rely on youth. The cruelties and obstacles of this swiftly changing planet will not yield to obsolete dogmas and outworn slogans. It cannot be moved by those who cling to a present which is already dying, who prefer the illusion of security to the excitement and danger which comes with even the most peaceful progress. This world demands the qualities of youth; not a time of life but a state of mind, a temper of the will, a quality of the imagination, a predominance of courage over timidity, of the appetite for adventure over the love of ease. It is a revolutionary world we live in, and thus, as I have said in Latin America and Asia, in Europe and in the United States, it is young people who must take the lead. Thus you, and your young compatriots everywhere have had thrust upon you a greater burden of responsibility than any generation that has ever lived.

"There is" said an Italian philosopher, "nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things." Yet this is the measure of the task of your generation and the road is strewn with many dangers.

First, is the danger of futility; the belief there is nothing one man or one woman can do against the enormous array of the world's ills—against misery and ignorance, injustice and violence. Yet many of the world's great movements, of thought and action, have flowed from the work of a single man. A young monk began the Protestant reformation, a young general extended an empire from Macedonia to the borders of the earth and a young woman reclaimed the territory of France. It was a young Italian explorer who discovered the New World, and the 32 year old Thomas Jefferson who proclaimed that all men are created equal. "Give me a place to stand," said Archimedes, "and I will move the world." These men moved the world, and so can we all. Few will have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation. Thousands of Peace Corps volunteers are making a difference in isolated villages and city slums in dozens of countries. Thousands of unknown men and women in Europe resisted the occupation of the Nazis and many died, but all added to the ultimate strength and freedom of their countries. It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

"If Athens shall appear great to you," said Pericles, "consider then that her glories were purchased by valiant men, and by men who learned their duty." That is the source of all greatness in all societies, and it is the key to progress in our time.

The second danger is that of expediency; of those who say that hopes and beliefs must bend before immediate necessities. Of course, if we would act effectively we must deal with the world as it is. We must get things done. But if there was one thing President Kennedy stood for that touched the most profound feelings of young people across the world, it was the belief that idealism, high aspirations and deep convictions are not incompatible with the most practical and efficient of programs—that there is no basic inconsistency between ideals and realistic possibilities—no separation between the deepest desires of heart and mind and the rational application of human effort to human problems. It is not realistic or hard-headed to solve problems and take action unguided by ultimate moral aims and values. It is thoughtless folly. For it ignores the realities of human faith and passion and belief; forces ultimately more powerful than all the calculation of economists or generals. Of course to adhere to standards, to idealism, to vision in the face of immediate dangers takes courage and self-confidence. But we also know that only those who dare to fail greatly, can ever achieve greatly.

It is this new idealism which is also, I believe, the common heritage of a generation which has learned that while efficiency can lead to the camps of Auschwitz, or the streets of Budapest, only the ideals of humanity and love can climb the hill to the Acropolis.

A third danger is timidity. Few men are willing to brave the disapproval of their fellows, the censure of their colleagues, the wrath of their society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality for those who seek to change a world which yields most painfully to change. Aristotle tells us that "At the Olympic games it is not the finest and the strongest men who are crowned, but they who enter the lists * * * So too in the life of the honorable and the good it is they who act rightly who win the prize." I believe that in this generation those with the courage to enter the moral conflict will find themselves with companions in every corner of the world.

For the fortunate among us, the fourth danger is comfort; the temptation to follow the easy and familiar paths of personal ambition and financial success so grandly spread before those who have the privilege of education. But that is not the road history has marked out for us. There is a Chinese curse which says "May he live in interesting times." Like it or not we live in interesting times. They are times of danger and uncertainty; but they are also more open to the creative energy of men than any other time in history. And everyone here will ultimately be judged—will ultimately judge himself—on the effort he has contributed to building a new world society and the extent to which his ideals and goals have shaped that effort.

So we part, I to my country and you to remain. We are—if a man of forty can claim that privilege—fellow members of the world's largest younger generation. Each of us have our own work to do. I know at times you must feel very alone with your problems and difficulties. But I want to say how impressed I am with what you stand for and the effort you are making; and I say this not just for myself, but for men and women everywhere. And I hope you will often take heart from the knowledge that you are joined with fellow young people in every land, they struggling with their problems and you with yours, but all joined in a common purpose; that, like the young people of my own country and of every country I have visited, you are all in many ways more closely united to the brothers of your time than to the older generations of any of these nations; and that you are determined to build a better future. President Kennedy was speaking to the young people of America, but beyond them to young people everywhere, when he said that "The energy, the faith, the devotion which we bring to this endeavor will light our country and all who serve it—and the glow from that fire can truly light the world."

And, he added "With a good conscience our only sure reward, with history the final judge of our deeds, let us go forth to lead the land we love, asking His blessing and His help, but knowing that here on earth God's work must truly be our own."

HELEN ANN HENKEL: A TRIBUTE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mrs. LOWEY of New York. Mr. Speaker, today I would like to speak about a woman who has dedicated her life to the concept of Exchange. The credo of that organization is an obligation to strive to cure the ills of home and to pursue the highest social, religious, business, and political ideals. Helen Ann Henkel lives by that credo, and, fortunately for all of us who live there, Westchester is a better place because she does.

Her current service to the community include the important positions of vice chairman of the Yonkers Board of Ethics and second vice president of Big Brothers/Big Sisters of Yonkers. She serves on the boards of a number of local organizations, including the Yonkers Philharmonic Orchestra, Exceptional Child PTA of Yonkers, United Slavonian American League, Service Employees International Union Local 704, and the Ukrainian Heritage Festival Committee.

Others who benefit from her indefatigable efforts and keen understanding are the Enrico Fermi Scholarship Foundation, the Mayor's Community Relations Committee, Westchester Pulaski Association, Hudson River Community Association, Northwest Yonkers Civic Association, Young Women Against Cancer, Legal Awareness of Westchester, Yonkers Historical Society, National Business and Professional Women's Association, and Women in Business.

In the past, she has served with distinction as secretary, treasurer, and a member of the board of the Epilepsy Association of Westchester, treasurer of the United Slavonian American League, president of the Saunders High School Parents Association, and president of Public School No. 9 PTA.

Helen also serves as the vice treasurer and a board member of the Exchange Club of Yonkers, a wonderful organization that contributes greatly to improving the quality of life in Westchester. The club helps to fund the Prevention of Child Abuse Program in White Plains, and promotes the philosophy of service by which Helen Henkel lives.

Tomorrow night, she is going to be entered into the Exchange Club's Book of Golden Deeds, becoming only the ninth person—and the first woman—to receive this prestigious award in the 54 year history of the club. The years of service and dedication to the community for which she is being honored are truly noteworthy. I join the Exchange Club in paying tribute to Helen Ann Henkel, a woman whose golden deeds are sure to continue for many years to come.

1991: NATIONAL LAND TRUST APPRECIATION YEAR

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MAVROULES. Mr. Speaker, I rise today to offer a resolution which will recognize 100 years of successful environmental action, while subsequently providing an outstanding example of an organization which has efficiently worked for the cause of conservation for a considerable period of time.

Since being established in 1891 as the first land trust in the world, The Trustees of Reservations have been highly successful in protecting land tracts of natural significance and historical importance. In the Commonwealth of Massachusetts, the trustees, through a variety of means, have efficiently preserved over 160 separate properties, which play host to over 1 million visitors a year. Clearly, this successful record of environmental protection deserves recognition and praise.

In this age of increased environmental awareness, however, the efforts of the Trustees of Reservations may also be presented as a model for long-term dedication and success.

In recognizing the 100 years of this institution, we not only pay tribute to their own accomplishments, but we also manage to provide budding environmental activists and organizations with a shining example of effective conservation and preservation.

By designating 1991 as "National Land Trust Appreciation Year," we serve two purposes. Not only do we give well earned recognition and credit to an organization which has successfully labored for a century to preserve precious tracts of land, but we consequently provide inspiration to a society which is working diligently to halt the decay of its own environment.

I am introducing the National Land Trust Appreciation Act, in the hopes that this body will take the initiative to further the cause of environmental protection and preservation. I invite my fellow colleagues to sign on to this resolution as cosponsors, so that we may provide the recognition and inspiration required to further the cause of conservation in this Nation.

INTRODUCTION OF THE HUNGER PREVENTION AND NUTRITION ASSISTANCE ACT OF 1991

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MOODY. Mr. Speaker, I am introducing legislation today that takes an important step toward providing the homeless and needy with an essential nutritional dietary component: Milk. The Hunger Prevention and Nutrition Assistance Act of 1991 amends the Emergency Food Assistance Act of 1983 to authorize appropriations to purchase, process, and distribute milk to States for distribution to needy persons in situations of emergency and distress. This legislation will direct the Secretary of Agriculture to purchase $10 million of additional milk to be distributed through the Emergency Food Assistance Program [TEFAP] in order to provide nutritional assistance and hunger relief to needy persons. This bill will also provide relief for dairy farmers who are being devastated by the burdensome surplus in the market. I am honored to be joined in introducing this needed legislation by the distinguished member of Agriculture Subcommittee on Livestock, Dairy, and Poultry, COLLIN PETERSON of Minnesota, and by the distinguished chairman of the Select Committee on Hunger, TONY HALL of Ohio.

Homelessness is on the rise, and the number of people living below the poverty line has grown over the last decade. The most significant aspect of this deplorable growth, however, has been that the largest growth has occurred within the ranks of our country's children. The old stereotypes about the homeless and the poverty-stricken no longer accurately reflects the demographics of those seeking assistance. Sixty-two percent of those seeking assistance are families with children. According to the U.S. Conference of Mayors, requests for emergency food assistance has increased by 19 percent each of the past 3 years. More and more of this needed assistance is for children, who depend upon milk for the irreplaceable nutritional value that is essential during the growth years. However, nutritional needs do not stop when a child becomes an adult. Many needy adults and elderly citizens depend on emergency assistance each day.

The Milwaukee meal coalition in my district, representing over 22 meal programs across the metro area and serving around 696,000 meals per year, has had difficulty providing milk to the needy. In many cases, only water is affordable. The problems experienced in Milwaukee are repeated throughout this country, where the number of homeless and needy persons overwhelms the Government and private resources to alleviate hunger. My bill will make it easier for soup kitchens and homeless shelters across the country to provide milk on a regular basis.

This bill is also good for the ailing dairy industry, which has seen its role in providing milk to the needy through Government programs diminish in recent years. This legislation will guarantee that a stable supply of milk will be available, and that a constant channel of milk is assured. The roller coaster market ride of milk surplus and shortage will not effect the availability of milk for millions of needy Americans.

Mr. Speaker, I hope my colleagues will join me and COLLIN PETERSON and TONY HALL in expanding the access that homeless and needy persons have to one of the most valuable products in the nutritional system.

A TRIBUTE TO DAVIDSON HIGH SCHOOL

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CALLAHAN. Mr. Speaker, during this period of education reform, I feel that it is appropriate to recognize a school in Alabama's First Congressional District that has risen above the problems in today's education system and has gone on to create it's own successful program. The school I'm referring to, Mr. Speaker, is Davidson High School in Mobile, AL.

On Monday, May 13, the principal, Mr. Lewis Copeland, was notified by the Department of Education that Davidson had been selected to receive the National Model School Award. Over 100,000 schools nationwide competed for the award, and Davidson was one of the 220 schools ultimately selected as a recipient.

Mr. Speaker, Davidson was selected because it exemplifies what every high school in this Nation should be working toward—a return to the basics of education. At Davidson, the emphasis is placed on academics, parental support and discipline.

Davidson is well known for its high student test scores, an above average number of national merit finalists, and its several scholarships and appointments that are awarded to it's seniors each year. In addition, it boasts the largest parent, teacher, and student associations in Mobile County.

But even more, Mr. Speaker, I feel it is important to note this school's efforts to create a strong disciplinary program—a program that will help turn these young students toward a good future. These students have learned the importance of their responsibility in this world, and they have learned the importance of team work.

While making a cite visit to Davidson, one committee member from the Department of Education noted his amazement at the students' kindness and friendliness toward each other, and their willingness to work together to make this school one of the Nation's best.

Mr. Speaker, Davidson has succeeded in its efforts, and I congratulate them—the students, faculty, and parents. At the same time, I challenge other schools to work as Davidson has worked and to create an education system that will make them a model school.

RAHALL PRAISES A "JEWELL"

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. RAHALL. Mr. Speaker, nursing is such a noble profession. It is not the stereotype of just bed baths, changing sheets, or plumping pillows. Such a profession requires a person with a caring nature. It often differentiates itself from the medical profession by that one description. The medical profession practices on a curative approach. Physiological, psychosociological, spiritual and cognitive aspects of patient care are taken into account whenever an assessment of a client is done for implementation. A nurse's one-on-one contact requires a personality type that possesses dedication, compassion, strength and stamina.

Such a personality type describes Ms. Karen Jewell, a resident of Chattaroy, WV. She is a senior at the University of Charleston. This intelligent woman had the honored privilege of being inducted into the Nursing Honor Society at her university on April 29. This young woman, through hard work and dedication, won her membership to the Nursing Honor Society. This coveted member status requires a bachelor's of science degree in nursing or be in the last semester of a junior year in a baccalaureate program with a 3.0 grade point average. Only the top one-third of the students are eligible, and Karen Jewell was in that top one-third.

For all your achievements, Karen, I commend and congratulate you. I wish you the best of the best in all your future endeavors.

I will be meeting this weekend, Mr. Speaker, with some of the West Virginia's finest nurses. They work at our veterans hospital in my hometown of Beckley. We will discuss their profession and their problems. Accompanying them will be Mrs. W.W. "Jackie" Withrow, a most respected and shining "point of light" in her own right for her tireless volunteer efforts on behalf of our veterans and her never ending dedication to help her community, State, and Nation.

To all the above individuals, Mr. Speaker, America owes a true word of praise and commendation.

A TRIBUTE TO THE JEWISH CENTER OF FLUSHING

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. SCHEUER. Mr. Speaker, I rise today to celebrate the golden jubilee of the Jewish Center of Kew Garden Hills, an outstanding community center in Flushing, NY.

The Jewish Center was founded in 1941, and has since expanded to service all members of the Queens community. It conducts religious services, adult education programs, and social and recreational activities. For our community's youth, the center holds religious school classes and informal youth groups. The center also operates the Golden Age Club, which organizes social and recreational activities for senior citizens.

As you can see, the Jewish Center takes an inclusive approach to community service. It welcomes all who enter its doors in search of a greater sense of community. The center benefits the entire community, from the smallest children to our most senior citizens. Without community leaders such as Rabbi Sidney Solomon, and center president Nat Henin, our jobs as national legislators would be far more difficult. These people organize on the local level, and foster a real commitment to community service among their peers. By giving something back to their neighborhood, they help ensure that future generations will do the same.

I congratulate these community leaders on the occasion of their 50th anniversary. May the Jewish Center of Kew Garden Hills continue its good work for at least another 50 years.

URGING THE HOUSE TO MEET THE PRESIDENT'S DEADLINE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. RINALDO. Mr. Speaker, the arguments in favor of a major new initiative against crime as proposed by President Bush are compelling. Since 1960, the number of murders has increased from 9,000 to 23,000 last year. Rape has increased an average of 6.3 percent a year since 1960, and similar increases have been recorded in other categories of crime. The United States now ranks as the Nation with the highest rate of violent crime in the industrial world, and it is getting worse despite an $11 billion-a-year crackdown on drugs.

Since President Bush issued his 100-day challenge to Congress on March 11, calling for approval of his proposal, another 3,000 Americans were murdered, another 15,000 women raped, and 75,000 more citizens were robbery victims. Mr. Speaker, the President's deadline for passage of this vital legislation is June 14, and I call on the leadership of this body to provide us with an opportunity to meet his deadline by bringing this important measure to a timely vote.

What makes the crime problem especially frustrating is that the number of arrests and prisoners serving time has reached record levels, and the number of repeat offenders continues to rise. A Justice Department study in 1990 found that two-thirds of the felony defendants were known to have been arrested previously: 79 percent had at least one prior arrest, and a quarter had four or more felony arrests.

Four of every ten persons arrested for felony crimes were out on probation and 34 percent were on pretrial release for a previous case that was still pending.

Behind these statistics are millions of victims whose lives and families have been shattered or in some way greatly upset financially and emotionally by serious crimes.

Despite good intentions and reforms, our courts remain bogged down by appeals and legal challenges. Every State, including New Jersey, has a long list of unresolved criminal cases that have been delayed by legal maneuvers and crowded court calendars. Multiple murderers remain safe from the death penalty as the courts are tied up helplessly in legal knots.

The President's crime package seeks to improve the operations of our courts. It would curb frivolous prisoner petitions, insuring that dangerous criminals are not set free, and it imposes tough mandatory minimum sentences, including the death penalty in cases where the crime is particularly heinous.

Courts would have the discretion to admit evidence obtained by police in good faith; and increased attention would be given to the problems posed by juvenile criminals who commit drive-by shootings and use guns to claim city neighborhoods as their turf.

Together with innovations in our prisons, including boot camps for juvenile offenders and mandatory drug treatment, the President's anticrime program will send a message to our police officers and citizens that the war against crime is serious business, and that we are entering a new phase to recapture our streets and cities from the criminals.

IN HONOR OF RICK RICARDO

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. DE LUGO. Mr. Speaker, I rise to honor an outstanding Virgin Islander, Rick Ricardo, one of the true pioneers of Virgin Islands radio broadcasting.

Rick has been on the scene of literally hundreds of events of historic significance, reporting to the people of his community in times of crisis and in times of celebration, providing expert narrative and insightful commentary, and he has always been the consummate news professional.

Now, as he has completed his final broadcast as news anchor at WVWI–AM Radio One, it is fitting that Rick's achievements be recounted and become a part of the history which he monitored for so many listeners for so many years. This August, Rick will have completed 37 years in the business of broadcasting. He also celebrates 27 years as anchor of Virgin Islands radio news programs, an enviable and unmatched achievement.

A St. Thomas native, I first came to know Rick Ricardo when he came to the radio station where I worked as a young man, WSTA. Later, during his military service, Rick intended to be a radio engineer, but he also became a on-air broadcaster, serving in Armed Forces Radio in Europe, the Middle East, and Africa.

He returned to the Virgin Islands in 1964 on a vacation before going on to a position with the American Broadcasting Corporation, ABC. Robert Noble and Robert Moss, co-owners of WBNB Radio and WBNB–TV, needed a news director for both St. Thomas stations, and Rick took the position, reporting and anchoring news programs on both radio and television. After a brief stint in corporate relations with International Telephone and Telegraph Corp., Rick returned to his first love, broadcast news, and assumed the duties as manager of WVWI Radio as well. His excellence then led to his appointment as executive vice president on the board of directors of the radio station's parent company, Thousand Islands Corp.

Through the years, Rick has been a consistent leader in Virgin Islands broadcast journalism. He expanded a 5-minute news program to a half hour, and later to a full hour, and finally to a 2-hour news program. Perhaps ahead of its time, the 2 hours was later reduced to an hour program again.

Rick has anchored every Democratic Presidential Convention for Virgin Islands listeners since 1964. He remembers well the historic National Governor's Conference hosted by Gov. Ralph Paiewonsky on board the S.S. *Independence*. But his greatest achievement became perhaps the greatest tragedy when the broadcast archive tapes of these and hundreds of other events which he had reported to his Virgin Islands audiences were lost in the destruction of Hurricane Hugo in September 1989.

Rick Ricardo will continue to assist at WVWI Radio One, but he concluded his final, regular broadcast this month, bringing to a close an outstanding career as the Virgin Islands' most senior radio news anchorman. Virgin Islands listeners will certainly miss Rick, for his rock steady professionalism, his incisive commentary, his formidable interviewing techniques, and his always superb pronunciation and delivery.

Mr. Speaker, I commend Rick Ricardo as he concludes this chapter in his career, one that, at one time or another, has touched the lives of nearly every Virgin Islander. He will be missed. And on behalf of the people whom I represent, I offer my best wishes to Rick and the very best in the future.

TRIBUTE TO JAMES AULT

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. TRAXLER. Mr. Speaker, I rise to congratulate Jim Ault of Saginaw, MI on his promotion to executive-in-charge of the automotive components group of the General Motors European operation. We have deeply appreciated his friendship while serving as general manager of the Saginaw Division of General Motors in Michigan. He and his wife, Marilyn, are wonderful friends whose absence will be felt by the entire community.

It is Jim's great sense of humor and serious dedication which has endeared him to many people in Saginaw. These qualities and his ability to work well with others has contributed to many successful community programs.

Jim's finest attributes, beyond those he's given to GM, are exemplified in the many hours he has spent trying to improve the environment of our youth. His passion for our young people has led him to contribute his talents and energies to the boys and girls clubs, Leadership Saginaw, and the Lake Huron Area Boy Scouts. In addition, he's been a member of the boards of the Saginaw County Chamber of Commerce, the United Way of Saginaw County, and the Saginaw Community Foundation.

Jim is a native of Wilkinson, IN. He began his General Motors career as a GM Institute cooperative student with Delco Remy Division in Anderson, IN. He graduated from General Motors Institute in 1958 with a bachelor of science degree in mechanical engineering. Jim completed the executive program in business administration at Columbia University in 1977.

He served Delco Remy Division as an associate engineer and project engineer from 1958 until 1963, when he became superintendent of quality control. In 1967, he was promoted to general superintendent of quality control.

In 1972, Jim was named assistant chief engineer and in 1978 was promoted to director of engineering. He was named general manager of Delco Remy Division in March 1984, the position he held when he transferred to New York as general manager of Rochester Products in December 1987. On September 1, 1988, Jim was appointed as general manager of the Saginaw Division.

Please join me in wishing the very best to Jim and Marilyn Ault and their family as they venture across the Atlantic. I will miss Jim and his enthusiasm for our community. Best wishes and bon voyage.

PLEASE, MR. PRESIDENT, BRING OUR TROOPS HOME

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to ask President George Bush to bring home all of our National Guard troops that participated in Operations Desert Shield and Desert Storm.

I am specifically speaking of one unit in particular, Mr. Speaker, and that is the 838th Military Police, a unit which is headquartered in my 17th Congressional District of Ohio. Mr. Speaker, this unit reported to serve its country in Operation Desert Shield on January 7, 1991, but that unit is still in the gulf. As a matter of fact, the Pentagon tells me that this unit will not return to the States until the middle of September. The middle of September! I say this is an outrage.

To begin with, this is a National Guard unit, not the Regular Army. Why should a Guard unit have to stay well beyond the time of many of the regular forces? Also, in case the President was unaware, the military might of the United States wiped up the Iraqi army and air force in less than 2 months. The war is over, yet by the time the 838th returns, there will be no more tickertape left to celebrate!

Mr. Speaker, I have written Gen. Norman Schwarzkopf asking him to bring the 838th home, and I would love to show our President the pile of mail I have received from mothers, fathers, wives, and husbands who would give anything to see their loved ones from the 838th home again.

I call on Mr. Bush to reassess the need of the 838th in the gulf, and I hope that he sees fit to bring those brave and victorious people home safely and soon.

INTRODUCTION OF A BILL TO PROVIDE FOR THE COORDINATION OF FEDERAL DRUG TREATMENT PROGRAMS IN THE CRIMINAL JUSTICE AREA

HON. GARY CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CONDIT. Mr. Speaker, I rise today to introduce legislation that would improve drug treatment programs in the criminal justice area, without the use of additional taxpayer dollars or contributing to the national deficit.

One of the roles of the Director of the Office of National Drug Control Policy is to establish Federal policy on prevention activities and overseeing the implementation of these policies by Federal agencies. The Director has a responsibility to ensure that the efforts of the agencies involved in drug treatment and prevention are coordinated and improved, so that they are run efficiently and economically.

During the hearings held by the Subcommittee on Government Information, Justice, and Agriculture and in its report adopted by the full committee, it was concluded that there was a lack of cooperation between the HHS and Bureau of Justice in drug abuse treatment programs for correctional settings and nonincarcerated criminal justice populations.

The administration's current drug strategy calls for a ratio of 70 percent for law enforcement efforts and 30 percent for drug treatment and education efforts. The strategy includes a goal of increasing drug treatment to 200,000 Americans during 1992. This is inadequate—even the administration admits that there are approximately 1.7 million hard-core cocaine addicts in our country.

In the criminal justice area, recent data from the U.S. Bureau of Prisons show that drug offenders account for more than half of the Federal prison population. In fact, the number of drug offenders serving time in Federal prisons has more than doubled in the past 2 years.

This legislation will require the Director, by rule, to coordinate drug treatment programs of the Bureau of Prisons, HHS, and the Bureau of Justice Assistance, to provide increased training, technical assistance and information regarding effective substance abuse treatment methods for all areas of the criminal justice system. This will include corrections facilities, courts, prosecutors, and parole officers. The Director would be required to report to Congress within 1 year after enactment.

This legislation would require the Director to share this information, technical assistance, and training with all entities eligible to receive Federal assistance in the criminal justice area. This would enable entities at the local level to benefit directly. This legislation would assure that Federal program money is not diverted for administrative use by agencies.

Mr. Speaker, the cooperation between HHS, the Bureau of Justice Assistance, and the Bureau of Prisons is vital for the future treatment in the criminal justice system. I urge my colleagues to join me in supporting this important legislation.

HONORING LUCIANO PAVAROTTI

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. LAGOMARSINO. Mr. Speaker, today I rise to pay tribute to Luciano Pavarotti's many accomplishments and distinguished musical career.

Luciano Pavarotti has been the focus of milestone appearances on national television. He starred in the first "Live from the Met" telecast of "La Boheme" on March 15, 1977; the first vocal recital from the stage of the Metropolitan Opera House on February 12, 1978; the joint concert with Dame Joan Sutherland on January 22, 1979, was another "Live from Lincoln Center" first; as well as his historic sell-out appearances at the Madison Square Garden in New York, which was also televised live on public television. Mr. Pavarotti can be seen on video cassette in concert performances from the Albert Hall in London, and from Las Vegas, NV. Further Met telecasts include "Tosca," "L'Elisir d' Amore," "Rigoletto," "Un Ballo in Maschera," "Idomeneo," and "Ernani"; concerts with the New York Philharmonic, opera performances of "La Gioconda" and "Aida" from the San Francisco Opera, and "La Boheme" and "Ballo in Maschera" from the Opera Company of Philadelphia, the latter two using winners of the Luciano Pavarotti/Opera Company of Philadelphia Vocal Competition. His special Christmas concert, taped in Montreal's Notre Dame Cathedral, has become a holiday fixture throughout the world.

Beyond the voice and artistry of the man is his enormous personality. He has made a unique personal statement at each and every recital, concert, and opera appearance. Since his very first recital, on February 1, 1973, in Liberty, MO, and at every appearance since, he has created what one critic called Pavarotti pandemonium with his direct and appealing nature, his amazing voice and his larger-than-life persona. His concert career reached a milestone in August of 1984 when he was the first classical artist to offer a recital in the present Madison Square Garden, to a completely sold out audience of some 20,000, and which was repeated and again sold out a short time later. Madison Square Garden hosted the tenor once again in September of 1986, also sold out, in celebration of his 25th anniversary as a performer.

Luciano Pavarotti first studied with Arrigo Pola and then with Campogalliani. In 1961, in Reggio Emilia, he won the Concorso Internationale and made his operatic debut there in "La Boheme" on April 29. He made an immediate impression on the Italian operatic world and was engaged to sing in theaters all over Italy.

It was in 1963 that Pavarotti was first heard outside his native land, and it was a busy and important year for him. He appeared as Edgardo in "Lucia," in Amsterdam and other cities in Holland. Then came appearances in Vienna and Zurick, and in September of the year, he substituted for an ailing Giuseppe DiStefano at London's Convent Garden in "La Boheme," conquering the British public with this one performance. He made his first television appearances at the time, and at the end of the year sang for the first time in Spain, Poland, Hungary, and Czechoslovakia.

In 1964, he returned to Great Britain to sing Idamante in "Idomeneo" at the Glyndebourne Festival, and proceeded to sing in most of the major opera houses of Europe. Following his North American debut in 1965, he went on the Sutherland-Williamson tour of Australia where critics compared the Pavarotti voice with the greatest tenors of the past and were deeply impressed by his musicianship and the warm sonority of his voice. When he returned to Italy that year, his home town of Modena awarded him the Principessa Carlotta prize for his great contribution to the arts.

The year 1966 was his debut at Milan's famed La Scala, once again in "Boheme," conducted by Herbert Von Karajan. In addition to performances at Tybalt in "I Capuletti ed I Montecchi," Pavarotti was chosen by Karajan to sing the Verdi "Requiem" honoring the centenary of the birth of Toscanini. In this year, Parma, home of the most critical opera-goers in the world, awarded him the coveted Verdi d'Oro honor.

In addition to his complete opera recordings, most recent of which is "Un Ballo in Maschera" with Margaret Price, there are now four awaiting release. "Norma," with Dame Joan Sutherland and Montserrat Caballe, Mozart's "Idomeneo," Verdi's "Aida" and "Ernani," the last also with Dame Joan. His solo albums continue to be best sellers, and one, "O Holy Night," has achieved platinum status, having sold in excess of one million copies. His most recent album of songs is entitled "Passione," and he has another awaiting release, called "Volare." Mr. Pavarotti has rerecorded the Verdi "Requiem" and the magnificent Singer's Aria from Strauss' "Der Rosenkavalier," a brief but telling moment, and one which Luciano Pavarotti has now sung in performance at the Metropolitan Opera, the Hamburg State Opera, and the Salzburg Festival.

I feel privileged and honored to have met Luciano and I ask my colleagues to join me in honoring this distinguished artist.

IN MEMORY OF SISTER ROSE ANTHONY SCHMITT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. SKELTON. Mr. Speaker, it is with great sadness that I inform the Members of the House of the death of one of Missouri's most loved and respected educators, Sister Rose Anthony Schmitt of Avila College in Kansas City, MO.

Sister Rose Anthony was a native of Kansas City, and she graduated from St. Teresa's Academy in 1934. In 1936, she graduated from St. Teresa's Junior College, now Avila College. She entered the Sisters of St. Joseph of Carondelet in 1941. She received a bachelor of arts degree in philosophy and history from Fontbonne College in St. Louis in 1949, and a masters degree in philosophy in 1957 from St. Louis University.

Sister Rose Anthony began her teaching career in the St. Louis area elementary schools. From 1950 to 1954, she taught philosophy and was a registrar at Fontbonne College.

In 1954, Sister Rose Anthony returned to Kansas City to join the faculty of Avila College. From 1954 to 1965, she taught philosophy, and for more than 20 years she directed the Avila College Alumni Association, retiring in 1990. Always active in her community, Sister Rose Anthony was president of the Alpha Chi honorary sorority chapter from 1986 to 1988 and was president of the Kansas City-area Presidents' Council of Alpha Delta Kappa—an international honorary society from more than 57,000 women educators—from 1988 to 1990.

Mr. Speaker, Sister Rose Anthony Schmitt was a woman whose life made a difference to countless young people from Missouri and throughout the Midwest. As a teacher, she brought wit, enthusiasm, and knowledge to the classroom. She took these qualities to the alumni office where she worked tirelessly to ensure that all Avila College graduates remained part of the family. In her final years, facing serious illness, she inspired all with her boundless faith and indomitable spirit. All of our lives have been enriched by the love manifested in the life of Sister Rose Anthony. I know the Members of the House will want to join me in sending condolences to her family and many friends.

CONGRATULATIONS, EDWARDSVILLE HIGH SCHOOL BASEBALL TEAM

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. COSTELLO. Mr. Speaker, amidst the significant legislation that this body has considered this week, I rise today on a lighter note to pay tribute to the Edwardsville High School baseball team which is in my congressional district. I want to congratulate the Tigers on claiming the title of No. 1 high school baseball team in the United States. On June 4, USA Today, the top selling newspaper in the country, ranked Edwardsville, IL, the Nation's best high school baseball team. Collegiate Baseball magazine has also bestowed that honor on the Tigers this year.

Head Coach Tom Pile and coaching staff Mike Waldo, Darrell Butler, and Bill Brockhouse have led the Edwardsville Tigers into post-season play with a long and noteworthy list of achievements. With an 11–2 for the class AA sectional championship, Edwardsville advances their record this year to 37–0. Mr. Speaker, a 37–0 record in itself is a commendable accomplishment, yet with that record this team has extended Edwardsville's overall record to 62 consecutive wins, 14 more wins than the previous Illinois consecutive wins record. Clenching the sectional title also puts the Tigers in contention for the Illinois State championship, a title the team won last year. A championship victory at the State tournament in Springfield would put the Tigers three victories from the national record of 68 consecutive wins—a record which has not been broken since 1963.

The achievements earned by this team required more than the outstanding individual talent of the Edwardsville players. It took a coaching staff with both the dedication and the skill to blend those individuals into a true team. It took a community willing to provide the spirit behind the team. And it took the mental and physical ability by the players to give their very best each time they went to bat or took the field.

The enthusiasm and sportsmanship that the entire team has shown on the playing field is a credit to our community. These fine athletes must be acknowledged for their professional manner and winning attitude. Mr. Speaker, I am proud that the Edwardsville baseball program is representative of what athletic talent, hard work, community spirit, and dedication can achieve. And again, I would like to congratulate the 1991 Edwardsville High School baseball team, and wish them the best of luck in the State tournament.

TRIBUTE TO FIREFIGHTER EDDIE ARTHUR

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MFUME. Mr. Speaker, I rise today to pay tribute to not only an outstanding Marylander, but an outstanding U.S. citizen. This citizen, Eddie Arthur, gave his life fighting fires and saving others.

Since the age of 3, Eddie dreamed of being a firefighter. This dream became a reality for Eddie at age 23. Ever since, his life was devoted to being the best firefighter he could be. The 14-year veteran of the Baltimore City Fire Department never became an officer, yet he led by example as both the senior man at his station and a fine human being.

Mr. Speaker, Eddie used to boast, with little argument, of being the best hook and ladder driver in the city. This is why he was chosen to train the newcomers on "his machine" the hook and ladder. A responsibility which led to his death.

Burns, bruises, and falls never discouraged Eddie and an explosion only immobilized him for 6 months. However, on June 1, 1991, Eddie was killed by his machine during a routine training operation. The Baltimore City Fire Department lost a true hero and he will be missed by all.

Again, I pay tribute to Eddie and may God bless his family in their time of mourning. Our hero, Eddie Arthur, will always be remembered as a fine family man and dedicated firefighter.

REGULAR CIVIL SERVICE CAN LEARN SOME LESSONS FROM VA PERSONNEL SYSTEM

HON. G.V.(SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MONTGOMERY. Mr. Speaker, according to a recent report of the U.S. Merit Systems Protection Board [MSPB], the alternate personnel system which covers 75,000 health care workers in the Department of Veterans Affairs [VA] has potential for use in the regular civil service. The report is based on the Board's examination of the title 38 personnel system—named for the title of the United States Code where its legal basis is found—covering certain employees in the medical centers operated by the Veterans Health Administration.

As a part of its mission, MSPB is responsible for conducting studies of the civil service and other merit systems and for reviewing the significant actions of the Office of Personnel Management [OPM]. As MSPB notes in the executive summary of its report: "To a degree unprecedented in their history, [title 5 personnel] laws and the voluminous rules and regulations which flow from them are accused of being outdated or inadequate to the human resource challenges facing the Government today * * * The review identified several provisions of the title 38 system which merit consideration for adoption in any attempts to modify the larger title 5 system to better meet the challenges of a new millennium."

The title 38 system was established following World War II to facilitate rapid staffing of veterans' hospitals. Originally covering VA physicians, registered nurses, and dentists, the system subsequently was expanded to cover additional health care occupations. There are currently 12 occupations covered by the system. All other VA employees operate under regular civil service rules.

Among the unique features of the title 38 system not found in the regular civil service are the assignment of a grade to an employee based on individual qualifications rather than the position occupied and the use of peer panels to make decisions on grade, pay, and performance awards. The MSPB review concludes that "many of the practices of the title 38 system provide greater flexibility and control to line managers, while ensuring that those within [the system] are well qualified and are dealt with in an equitable manner."

The MSPB study found that the title 38 system, which has no formal competitive hiring procedure, allows VA managers to quickly identify and select individuals for positions. The system also allows VA managers greater flexibility in setting individual pay rates, setting special scheduled pay rates in areas where there is heavy competition for health care professionals, and promoting individuals in the system.

The report recommends that consideration be given to the possible adaptation of some of the title 38 concepts and procedures into the regular civil service [title 5] system. In particular, MSPB recommends that Federal policy makers consider using a peer review process for grade and pay setting and consider delegating greater personnel management authorities to line managers.

In examining the operation of the title 38 system, MSPB conducted on-site interviews in eight VA medical centers—two each in Los Angeles, San Francisco, and New York City, plus the veterans' hospitals here in Washington and in Perry Point, MD.

The VA managers interviewed by MSPB for the study "clearly regard the title 38 personnel system as more effective than the title 5 system and * * * more equitable to the employees, especially in the areas of qualifications and pay determinations." This preference for the title 38 system was expressed even by VA managers who must supervise some employees under title 38 rules and other under title 5 rules.

Mr. Speaker, the bottom line is that regular civil service can learn a few lessons from VA's alternate personnel system. I congratulate the U.S. Merit Systems Protection Board for its report and certainly hope that this information will be put to good use. Once again, VA is shown leading the way toward efficiency, and I believe the Department is to be commended.

REMEMBERING CHINESE FREEDOM

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. LIVINGSTON. Mr. Speaker, 2 years ago, the world recoiled in horror as tanks and Army vehicles mowed down Chinese students in Tiananmen Square in Beijing.

We all remember those days: The passions of the Chinese people, so long suppressed by the Communist government, exploded in a tidal wave of discontent. In particular, we remember the footage of a lone Chinese protester in the center of a roadway, facing an advancing column of nearly two dozen Army tanks.

Rarely has a single event so typified the struggle of freedom against tyranny. That millions of Americans could witness it was very important—it brought home the tremendous gamble many Chinese took by opposing their Government.

For America, there was a special poignancy. When Chinese students erected a 30-foot replica of the Statue of Liberty in the capital of the world's largest Communist nation, they made a powerful statement of their goals.

Freedom, whether in the military or at the universities, is a concept by which China's leaders cannot abide. It runs counter to the basic Communist doctrine that salvation can only be found through loyalty to the Government.

Indeed, it must be particularly infuriating to the Communist Chinese leaders to witness the enormous success of the Republic of Taiwan, just miles off their own coast. As that country continues its liberalization, its citizens will only surge further ahead of their compatriots in the People's Republic of China.

I have long believed that one reason the protests in Tiananmen were so difficult to put down was that there was no one leader or group of leaders at the helm. These were truly popular uprisings.

Perhaps most importantly, the turmoil in China signals the incredible constancy of the human spirit. After 40 years and at least three massive purges, the Communists' social engineering programs have totally failed in their attempts to create a "New Man." That is a severe blow to Communist ideology, which, at its root, promises grand improvements in human nature.

As we remember the sacrifices made by the demonstrators—including the ultimate sacrifices made by some—we should also remember that they are still being hounded for their beliefs.

These heroic people include 72-year-old writer Wang Ruowang; Wang Juntao, who is serving a 13-year prison sentence; Zhou Duo, a scholar and electronics genius who negotiated the students withdrawal from Tiananmen Square.

Mr. Speaker, we must remember their situations and the beliefs they have fought for.

The Chinese leaders ultimately crushed the liberty movement. But they cannot crush the ideas driving the movement. This train has left the station and it's not going back.

TRIBUTE TO RICHARD LUNGSTROM

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding individual from my congressional district who is retiring from the American River College after a long and distinguished teaching career.

For well over three decades, Richard Lungstrom has been an influential member of the educational community. He began his teaching career in 1956 at La Sierra High School in the San Juan School District. In 1962 he moved to American River College where he has taught chemistry for the last 29 years. He has served on numerous committees such as the school budget committee and was awarded the 1979 Manufacturing Chemist Award and the 1984 Patron Club Chair. In addition, Richard was very instrumental in developing the highly respected ARC chemistry department.

Over the course of his career, Mr. Lungstrom has taught over 5,000 students. He has served as an exceptional role model to all of his students and inspired many through his dedication and remarkable teaching abilities. It is no coincidence that many of his former students now have successful careers in chemistry and other related sciences.

Mr. Speaker, Richard Lungstrom has served as an outstanding scholar and teacher for many years and I commend him for his contribution to the American River College and to the State of California. I ask that my colleagues join me in saluting him for his many achievements and extending our best wishes for his retirement.

FIFTIETH WEDDING ANNIVERSARY

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. DARDEN. Mr. Speaker, today I would like to ask my distinguished colleagues to join me in honoring a very special couple celebrating their 50th wedding anniversary on June 12.

I know the parents of my wife Lillian, Dr. and Mrs. Warren Candler Budd of Atlanta, to be two exceptionally warm, giving, talented, and unselfish individuals. But I am far from the only one who knows this to be true. This milestone in their lives signifies not only 50 years of successful marriage, but 50 years of touching thousands of others' lives through ministering the word of God.

The Budds were married June 12, 1941, in Vidalia, GA. Dr. Budd has served as a United Methodist minister in north Georgia for more than 60 years, having pastored Glenn Memorial Methodist Church and Northside Methodist Church. He also has served as a district superintendent of the Atlanta-Marietta district. Dr. Budd established Wesley Homes, a division of the United Methodist Church which provides housing and health care to underprivileged elderly citizens. He also had an integral part in the founding of Mountain Top Boys Home and Simpsonwood Retreat Center. He has served on the board of the Methodist Children's Home for more than 40 years.

In addition to her extensive work in the United Methodist Church ministries, Mrs. Budd has been a piano instructor for more than 60 years. She is organist and music director at Martha Brown United Methodist Church in Atlanta.

On Sunday, June 9, Dr. and Mrs. Budd will be honored with a reception at Northside Methodist Church. My wife and I will be hosting the event with the couple's other children and their spouses: Mr. and Mrs. Warren C. Budd of Marshallville; Mr. and Mrs. David O. Budd of Adairsville; and Mr. and Mrs. Niles Murray of Griffin.

I look forward to sharing this special day with Dr. and Mrs. Budd, their children and friends. It is rare in this world that two people choose to dedicate their entire lives to the betterment of others. On this most-special anniversary, I would like to express my personal appreciation and admiration for all they have done, and for all they hope to accomplish in the years to come.

Best wishes, Dr. and Mrs. Budd on your golden wedding anniversary.

TRIBUTE TO THE ARMY NATIONAL GUARD IN OWOSSO

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. CAMP. Mr. Speaker, it is with pleasure and great pride that I recognize the Army National Guard 146th Military Police Battalion and the 144th Military Police Company based in Owosso, MI.

Mid-Michigan residents are extremely proud of the skills and sacrifice exhibited by their family, friends, and neighbors who served in these units and were stationed in the Persian Gulf during Operation Desert Storm. Their contributions helped make Operation Desert Storm a great success.

The 183 men and women, who served proudly in the Persian Gulf, had an additional reason to rejoice since they returned home without any loss of life.

We have known for many years that National Guard and Reserve units are a cost-effective way of providing for the defense and security of our Nation both in peacetime and in war. They are the grass roots support of our military operations. Their outstanding contributions during Operation Desert Storm reinforced their important role in our Armed Forces.

While I certainly hope that the National Guard and Reserve units will never be called on to serve in a military conflict, we can be confident that they would again serve us bravely and skillfully.

Mr. Speaker, I am sure you will join with me in recognizing and commending the 146th Military Police Battalion and the 144th Military Police Company of the Army National Guard for a job well done. They wholeheartedly deserve this special recognition.

THE WASTE EXPORT AND IMPORT PROHIBITION ACT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1991

Mr. TOWNS. Mr. Speaker, today, I and 16 of my colleagues are introducing the Waste Export and Import Prohibition Act.

An important issue confronts the United States today: Are we going to let our environmental problems become the problems of others? I and our colleagues say, "No." We will deal with our problems at home.

Presently, EPA estimates that less than 1 percent of U.S. hazardous waste is exported, so it has yet to become an important disposal option for our country. By prohibiting exports now, Congress addresses a problem before it becomes a crisis. The EPA is receiving a growing number of notices to export waste. In 1990, it received 550 notices, double the number it received in 1986. As our environmental laws become tougher, we can expect exporting waste to become more profitable.

But is that the goal of our environmental laws? Certainly not. We are trying to protect the public health and preserve the environment, not create a new export industry endangering the public health and environments of our neighbors.

Given that our goal is global environmental protection, we can most surely achieve that goal by banning the international waste trade.

The bill seeks to ban imports because we do not want loopholes in our laws to make us a dumping ground for others.

Our own laws result from compromises which are suited to our country, its environment, its business, and the communities we represent in Congress. These laws always have loopholes, generally considered necessary for some activity.

As an example, under current U.S. law, wastes used in cement kilns are exempted from environmental laws. Using this loophole, which may be an acceptable compromise among American interests, the United States is importing huge quantities of Canadian waste.

While the EPA has stated that the United States exports about three times as much waste as it imports, Environment Canada contends that Canada ships as much waste to us as we send to them. Canada is certainly our largest waste trade partner. With our long border and extensive contacts, it is a natural temptation for those disposing of waste in each country to use the loopholes in the other. In this bill, we seek to promote responsible action in each country, that each of us should be responsible for our own waste.

Banning exports supports—and goes beyond—the international agreements we have signed at Basel in 1989, and older commitments we have not yet honored. It also represents good foreign policy.

Both the United States and Canada have been embarrassed by the export of their wastes to other countries. Canada attempted to export toxic PCB's for incineration in Britain aboard the Soviet ship *Khudozhnik Saryan*. Popular protest in Britain, including the dockworkers who were to unload the cargo, caused the port authorities to refuse the cargo. It returned to Canada, but the cargo became so notorious that Canadian dockworkers in the Prime Minister's hometown initially refused to unload the ship.

In 1987, the *Khian Sea* dumped 3,000 to 4,000 tons of Philadelphia incinerator ash on a Haitian beach. Earlier this month, the elected mayor of Port-au-Prince was in my office expressing his frustration at getting anyone in the United States to assume responsibility for its removal.

The people of Haiti have the right to expect American aid in the long and difficult task of rebuilding their country, without the necessity of also accepting the health and environmental hazards of our waste.

It is critical that the United States assume a responsible position for the control of our own wastes, and ensure that we do not wreak havoc on the environment and health of other countries by exporting our wastes to them.

Other proposals exist for handling the international trade in waste. But will they be effective?

Proposals that rely on how the waste is treated abroad will add to the strain on the EPA. We have already had hearings in the Government Operations Committee on which I sit that revealed EPA has difficulty in enforcing our current laws. Its enforcement arm is understaffed. My fear is that EPA will do no better abroad, and that the law will exist on paper only.

Not only will such a policy be hard to enforce, it may be highly offensive to our friends. We will be saying that our law requires our regulators access to their countries, in effect ignoring their sovereignty.

Ironically, this is not because our policy is more progressive than theirs. Already, the European Community and some African-Caribbean-Pacific countries have agreed to ban EC waste exports to developing countries. At the negotiations for the Basel Convention, developing countries sought to ban the waste trade, but the United States fought merely to regulate it.

In this bill, we want to affirm the policy of those nations, including those within the Organizations of African Unity, which have banned the import of hazardous waste.

The problem of such nations is not developing their policy, but the lack of resources to implement it effectively.

The crux of the matter is how we perceive the governments of the developing world. I am not speaking about grand issues of freedom and democracy, but in this case what is crucial are the resources available to those governments. Few of them are exactly like us, with our massive executive with regulators and scientific advisors, with our strong judicial system to enforce laws, and liability laws empowering citizens in their own defense; even the legislators in other countries are likely to have none of the staff resources available to Members of Congress.

This is not to say they do not do an excellent job, but they are not set up to impose our laws. They have their needs and priorities, and do not need the added burden of our waste.

U.S. waste brokers can often find foreign officials willing to accept hard currency for their country if it will accept our waste. But they are often misled about the true contents of the cargo. Under our current law, if a government says it will accept the cargo, then even if the EPA suspects that the importing country is unable to handle the waste the EPA cannot intervene. Too many of the toxic wastes exported from industrialized countries are exempt from the label "hazardous wastes," making it difficult for the receiving country to discover the health hazard before the cargo is unloaded—if then.

If we seek a solution which places additional burdens on such countries to investigate every shipment we send to them for its toxic content, such a solution simply will not work.

I desire a simple solution. A ban is the simplest course. If the waste does not leave the United States, then we need not worry about how it is treated once shipped abroad.

In conclusion, Congress can act best if it acts now. EPA's latest estimate is that less than 1 percent of U.S. hazardous waste is shipped abroad. Yet these small portions, insignificant in helping us deal with our problem, are posing great hazards to people around the world. As our laws become tougher, we can only expect these exports to increase. We must end these practices before we come to rely on dumping our problems on others.

HOUSE OF REPRESENTATIVES—*Friday, June 7, 1991*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. GEPHARDT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 6, 1991.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore on Friday, June 7, 1991.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us always, O God, to honor other people, both those who are a part of our lives and those we scarcely know. We observe our own traditions and we hold to our own ideas, but we also celebrate the gift of unity that You gave us at the foundation of the world. Recognizing our wholeness as a people may we live our lives in respect for one another, acknowledging the ultimate worth of every person.

On this special day, we honor the young men and women who have faithfully served this past year as the pages in the House. May Your blessing be with them and Your benediction accompany them, now and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceeding and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. AUCOIN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

The SPEAKER pro tempore. Does the gentleman from Oregon insist on this point of order?

Mr. AUCOIN. Mr. Speaker, I withdraw my point of order.

So the Journal was approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman for New York [Mr. MCNULTY] please lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce that he will receive five 1-minute addresses on each side.

FAREWELL AND GOOD LUCK TO NICK CALIO

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, although not too many people know it, I was once offered as a junior Member of this Congress the job of head of the White House Legislative Liaison Office back in the Nixon days when things were not going all that well. For various reasons, I had to refuse the honor.

And after years of observing the incredibly difficult work done by the White House legislative staff, I know I made the right decision.

Being White House liaison to the House requires the tact of a diplomat, the patience of a saint, the endurance of a marathon runner, and the hide of an elephant.

You have to know when to "hold 'em and when to fold 'em," and you have to be as good as your word, obviously.

Nick Calio, Deputy Assistant to the President for Legislative Affairs, has all of those virtues and more. That is why we are going to miss Nick so much when he leaves the White House on June 10 to join what is sometimes called the real world out there.

Nick has held his position since January 1989. He has brought to his tasks a knowledge of the issues, sensitivity to the politics of any situation, on both sides of the aisle, and an unswerving loyalty to our great President.

Nick, we are going to miss you. Good luck to you as you leave the pressure cooker and start raking in the lettuce.

ELECTION AS MEMBER OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS AND OF COMMITTEE ON SMALL BUSINESS

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 171) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 171

Resolved, That Representative Johnson of Texas be and is hereby elected to the Committee on Banking, Finance and Urban Affairs and the Committee on Small Business.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WHICH STATE WILL FILE BANKRUPTCY NEXT?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Bridgeport, CT, is the first American city since the Great Depression to officially file bankruptcy.

Powerful Members of Congress today should ask Bridgeport how they feel about foreign aid. How does Bridgeport feel about aid to the Soviet Union? How does Bridgeport feel about fast track? How does Bridgeport feel about free trade? How does Bridgeport feel about supply side? How does Bridgeport feel about trickle down?

Mr. Speaker, how does Bridgeport feel about the Reagan revolution?

And Mr. Speaker, someone should ask from this body, how does Bridgeport feel about Congress who spends more time and money in Tel Aviv and Tokyo than in New York, Philadelphia, Youngstown, Cleveland, or Bridgeport.

And Mr. Speaker, I am asking which State in the great Union will be the first to file bankruptcy?

ON AGAIN, OFF AGAIN SCHEDULING

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, I was about to call for a vote on the Journal. It was only my respect for the chairman, the gentleman from Pennsylvania [Mr. MURTHA] and the ranking member who prevailed upon me and the other Members here that I did not do so.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

My frustration with this body is exceedingly high in the scheduling of votes. This is the first time, the only time, except for Desert Storm, that we have had votes on Friday.

Mr. Speaker, how do we service our constituency when we are on again and off again?

I have inconvenienced 300 miners in the State of Montana by not being able to have the informal hearing I was going to have in Montana because the other Members that were going to attend with me could not come and I could not be there because there were going to be votes.

If it were a matter of just myself, I could have missed the votes; but we had scheduled hearings. I am angry, I am mad, hades or high water, those miners will be able to have their testimony submitted for the committee record.

Let us get our act in order, Mr. Speaker. If we are going to have votes, let us have votes, but let us not inconvenience people and families and cause the disruption that we do with the kind of scheduling we have.

With all due respect, Mr. Speaker, please set out a schedule that we can live with.

SUPPORT TOURISM IN YOUR AREA

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, I rise today to call attention to the importance of tourism in the United States. The fear of terrorism and the current state of our economy have forced many would-be travelers to stay at home. However, tourism does not have to involve a trip across the country. I encourage people to look around their own State and discover what it has to offer.

For instance, in Georgia, tourism in Georgia generates in excess of $9 billion a year. It is the second largest industry in the State of Georgia, second only to agriculture. The travel and tourism industry provides over 230,000 jobs a year in Georgia.

In my district, the Third District of Georgia, we have the home of former President Jimmy Carter. A trip to Plains, GA, will let you see President Carter's first campaign headquarters and memorabilia from his boyhood period of his life through his Presidency.

Mr. Speaker, no matter where you go in Georgia, you will be greeted with gracious southern hospitality. Visitors can vary their stay from a country inn to a modern hotel. The choices for a relaxing and interesting stay are endless.

I was pleased recently to cosponsor House Joint Resolution 103, which designates the second week in May as National Tourism Week. I would like to encourage travelers to come to Georgia and to enjoy the many sights that we have to offer.

H.R. 5—DESIGNED TO HARM U.S. COMPETITIVENESS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, do you feel that some congressional Democrats want to harm U.S. business? Although they talk a great deal about making companies more competitive, in my 5 years in the Congress, the Democratic Party has done the opposite.

It appears that Congress is more interested in developing the economies of Taiwan, Hong Kong, and Mexico. Every year Congress passes more and more laws that help create the idea that an industry will be better off by moving factories to Mexico or to the Far East.

We will soon have before us a real doozy that will compound problems for U.S. businesses—it is H.R. 5, the Strike Incentive Act. H.R. 5 guarantees "no penalty strikes" and will increase labor disputes and costs of doing business.

Last week, you worried about fast track and Mexico. The fastest track to Mexico is passing H.R. 5.

You may recall my earlier question—are some Democrats out to get American business? The answer is yes—move to Mexico, quickly.

☐ 1010

WELCOME HOME PARADE

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, tomorrow, in our Nation's Capital, we will welcome home our Persian Gulf veterans with a $12 million parade. It will be marked by a new scale of splendor and pageantry that most Americans have yet to witness. We will pull out the stops to ensure that 500,000 gulf veterans know how proud our country is of them and how thankful we are that they put their lives on the line to ensure that the people of Kuwait would live free.

But tomorrow among the hundreds of thousands of joyous spectators, there will also be thousands of Vietnam veterans, some homeless, who never received a "welcome home."

Mr. Speaker, amid these celebrations, we cannot forget that 200,000 veterans walk our streets homeless, that thousands of veterans are being turned away from medical care and that as many as 10,000 veterans are on waiting lists for prosthetics ranging from wheelchairs to artificial limbs. We cannot forget that America's VA hospital system is crippled with budget cuts, that claims for benefits take months to process and that our Nation's veterans cemeteries are literally crumbling in disrepair. So my message to each and every American is that yes, we should welcome home our Persian Gulf veterans—they served this Nation admirably. But let us not forget our commitment to the 29 million other veterans who served our Nation just as well and who need our help now.

GAPS IN SECURITY WITH RESPECT TO ARMS SHIPMENTS

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, each and every day tons of military ammunition, tanks, and other materiel is transported across the United States via our rail system. However, information that has been provided to me by sources at the Conrail Corp., and information that has been reported by Douglas Turner in the Buffalo News shows that some of these arms shipments on Conrail trains are being left unguarded in rail yards across America, in violation of Department of Defense security requirements.

Mr. Speaker, the security of these arms shipments is a question of both the national security and public safety. In fact, the Defense Department sent a team of investigators to my community and to communities across the Northeast to investigate these charges, and it has been reported, leaked as a matter of fact, that unexplained gaps in security have been found by those DOD investigators. The DOD has been promising to release this report of their investigation for the past week, but we have not received that yet here at Congress.

Mr. Speaker, we need immediate congressional action on this issue to get the answers and to act before it is too late.

I again call on my colleagues on the appropriate committees, that is Armed Services, Public Works and Transportation, and others, to launch a full congressional investigation into these charges and insure the public safety and national security is protected.

LEGISLATION ALLOWING BELL OPERATING COMPANIES TO MANUFACTURE TELECOMMUNICATIONS EQUIPMENT

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, on Wednesday, by a vote of 71 to 24, the Senate approved legislation that would allow the Bell Operating Cos. to research, design, develop, and manufacture telecommunications equipment.

As the sponsor of the companion bill in the House, I hope this body will move quickly on this issue.

This measure will bring new venture capital to American telecommunications manufacturing.

It will create U.S. telecommunications manufacturing jobs.

And it will bring advanced technologies to market to benefit American consumers.

This bill includes effective regulatory safeguards to ensure a competitive equipment marketplace.

It stands on its own merits and we should consider it this year.

I urge this body to consider the benefits this proposal will bring for American competitiveness in a global economy.

COSPONSORSHIP SOUGHT ON LEGISLATION DISAPPROVING PRESIDENT'S MOST-FAVORED-NATION RECOMMENDATION FOR CHINA

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, I am disturbed by the White House decision to recommend that the People's Republic of China be extended most-favored-nation trading status.

The President noted that China's emigration flow has continued even since the Tiananmen crackdown, and that China easily fills its United States immigration quota of 17,000. Let us face it, for a country of 1.1 billion people, filling this quota is not too difficult a task.

Regrettably, the administration ignored restrictions in exit permit and passport application processes instituted since Tiananmen Square. Such restrictions are helping police apprehend students and scholars believed to be responsible for the so-called crimes of urging democracy and greater individual liberties. On the basis of these emigration restrictions alone, China clearly does not deserve most-favored-nation status.

On May 30, I joined 15 other Members in introducing House Joint Resolution 263, legislation disapproving the President's most-favored-nation recommendation. We need and urge your cosponsorship.

TRIBUTE TO NICK CALIO

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. I thank you for recognizing me.

Mr. Speaker, I just wanted to rise today to say that this is the last day that Nick Calio will be the President's chief liaison to the House. I think on both sides of the aisle there is a real feeling that Nick Calio ably represented George Bush, but also that he very aggressively went back downtown and represented the interests of the Congress, that he was able to work as a mediator for both sides, speaking for the President but also informing the President about the concerns we in the House have had.

Mr. Speaker, we are all going to miss Nick, we wish him well, and I just wanted to say on behalf of all of my colleagues on both sides of the aisle, "Nick, we wish you a great future and we are grateful for the time we have had to work with you."

MIDDLE-CLASS FAMILIES SQUEEZED ON HIGHER EDUCATION ASSISTANCE

(Mr. REED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, as a member of the House Education and Labor Committee's Subcommittee on Postsecondary Education, I have participated in a series of hearings on the reauthorization of the Higher Education Act.

Everything I have heard has strengthened my belief that middle-class families can no longer count on the Government to be their partner in educating their children.

The Martinelli family of Cranston is just one example of a working family who are being squeezed out of the educational assistance pipeline.

Their daughter Lisa just graduated from Salve Regina College in Newport, RI, $17,500 in debt. Lisa's parents took out loans of almost $20,000.

Lisa's parents earned $41,816 in 1989. They have never owned a home, and had only a few hundred dollars in the bank. Lisa herself worked and saved about $3,000 for college.

Lisa received a Rhode Island State grant and a grant from Salve Regina. She took out Perkins loans, Stafford loans, and commercial loans.

But Lisa never even qualified for the minimum Pell grant and the Martinelli's do not know how they can afford to help their second child continue his education.

Lisa Martinelli is one of the many faces of our educational crisis. Her story illustrates why we must reverse the trend in student aid that has left students scrambling for loans and then struggling to pay those loans off once they graduate.

College aid used to be two-thirds grants and now it is two-thirds loans. And for those students who can get a Pell grant, the award itself has lost its purchasing power and only covers one-fourth of an average tuition bill.

The Bush administration proposes to cut even more middle-class families out of the Pell grant formula. Rather than provide sufficient resources to make higher education available for all students, the administration chooses to pit the neediest students against those of moderate means. And worse, pit siblings against each other.

We built this great country on the foundation of opportunity for all. Unless we turn around on student aid, we will continue to destroy that foundation and to destroy the American dream for thousands of middle-class families.

PROVIDING FOR CONSIDERATION OF H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1992

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 165 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 165

Resolved, That all points of order against consideration of the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, for failure to comply with the provisions of clause 2(1)(6) of rule XI and clause 7 of rule XXI are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clauses 2 and 6 of rule XXI are waived: beginning on page 2, line 3 through "$24,526,100,000:" on line 15: beginning on page 2, line 18 through "1992:" on page 8, line 6; beginning on page 9, line 10 through "1992:" on line 23; beginning on page 10, line 18 through "1992:" on page 11, line 1; beginning with "*Provided*" on page 11, line 9 through "$18,599,037,000," on page 12, line 6; beginning with "and" on page 12, line 8 through "poses:" on line 13: beginning with "*Provided*" on page 12, line 17 through "1992:" on line 21; beginning with "*Provided*" on page 13, line 1 through "1994:" on page 22, line 8; beginning with "*Provided*" on page 22, line 14 through "$599,900,000:" on page 26, line 15; beginning on page 26, line 19 through "1996:" on line 22; beginning with "*Provided*" on page 27, line 8 through "1994:" on page 29, line 23; beginning on page 30, line 7 through "1994," on page 31, line 20; beginning with "*Provided*," on page 31, line 22 through "1993," on page 33, line 11; beginning on page 33, line 16 through "1993:" on line 23; beginning on page 34, line 21 through "1993," on page 35, line 3; beginning on page 36, line 1 through "1993," on line 12; beginning on page 37, line 15 through page 39, line 25; beginning on page 40, line 11 through page 42, line 3; beginning on page 45, line 16 through page 46, line 9, beginning on page 84, line 24 through page 86; line 6; and beginning on page 93, line 3 through page 96, line 16. In any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

□ 1020

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 165 is the rule providing for the consideration of H.R. 2521, the bill making appropriations for the Department of Defense for the fiscal year 1992.

Since general appropriations bills are privileged, the legislation will be considered under the normal legislative process for consideration of appropriations bills. The time devoted to general debate will be determined by a unanimous-consent request. The bill will be open to amendment under the 5-minute rule. Any amendment which does not violate the rules of the House will be in order.

The rule before us waives clause 2(L)(6) of rule XI, requiring a 3-day layover, and clause 7 of rule XXI, requiring relevant printed hearings and report to be available for 3 days prior to consideration of a general appropriation bill. These two waivers are necessary in order that the House may consider H.R. 2521 today.

In addition, the rule waives clause 2 of rule XXI, prohibiting unauthorized appropriations or legislative provisions in general appropriations bills, against specific provisions in the bill. The provisions for which waivers are provided are specified in the rule by page and line. This waiver is necessary because, while the House of Representatives has approved the measure authorizing the Department of Defense programs funded in the bill, Congress has not enacted the final version of the bill, and because some of the language constitutes legislation.

The rule we are considering also waives clause 6 of rule XXI, prohibiting reappropriations in a general appropriation bill.

Finally, the rule provides that where points of order are waived against only a portion of a paragraph, a point of order against an unprotected provision in the paragraph may be made only against that provision and not against the entire paragraph.

Mr. Speaker, I urge adoption of this rule so that the House can proceed to consideration of this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California [Mr. BEILENSON] for yielding half of his time, and, Mr. Speaker, the gentleman from California has fully explained the provisions of the rule. This has become the standard rule for consideration of general appropriations bills by the House.

Mr. Speaker, the rule waives points of order against consideration of the bill. It also issues waivers concerning reappropriations, unauthorized appropriations, and legislative language in an appropriation bill. All of these appear in the bill, and all violate the normal procedures of the House.

Mr. Speaker, I applaud the chairman and the ranking Republican member of the Defense Appropriations Subcommittee, the gentleman from Pennsylvania [Mr. MURTHA] and the gentleman from Pennsylvania [Mr. MCDADE], for their hard work in putting this legislation together. Pennsylvania is monopolizing here. They have done an outstanding job. We all appreciate that very, very much.

I would like to point out that the administration does have some concerns about the bill, the Department of Defense appropriations bill. It strongly objects to language that would permit abortions to be performed at U.S. military health facilities overseas in cases other than when the life of the mother is endangered. The President has stated that he would veto any legislation presented to him with this provision, and I, for one, would stand to make that point of order when the bill comes, if the appropriators are not here to do so.

The administration's policy statement also points out that the bill contains a number of objectionable provisions that would severely compromise national defense objectives. If they remained in the bill, the President's advisers would recommend a veto. Of particular concern are the elimination of funding for continuation of B-2 Stealth bomber procurement and the underfunding of the strategic defense initiative, SDI, programs.

Mr. Speaker, under the normal rules of the House, amendments which do not violate any House rules can be offered to the bill under this proposed rule. I am hopeful that the problematic areas the administration is concerned about can be worked out here on the floor and in conference.

Mr. Speaker, I support the rule even with the waivers involved. I hope we can expedite it and get on with the business of the day, and I would urge support of the rule at the appropriate time.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I appreciate the gentleman from California [Mr. BEILENSON] yielding me this time.

Mr. Speaker, I oppose the rule, and I want to describe to my colleagues why I do so.

This morning I came very close to asking for a recorded vote on the Journal. I withdrew my point of order on the Journal because I did not want to inconvenience the Members. But let me explain why I almost did that and why I do oppose the rule.

Mr. Speaker, I oppose the rule because, as the gentleman from New York [Mr. SOLOMON] went through the description of all of the waivers that have been granted on this bill, waivers against points of order, one of the waivers that was not granted to a provision that was added in the Committee on Appropriations by a vote of 18 to 13 was the same amendment that I offered then, being passage on the House floor of the authorization bill which was to provide for servicewomen stationed abroad the ability to purchase with their own funds an abortion in military facilities in countries like the Philippines where there are no safe places to do that. That amendment on the authorization bill carried by a strong majority. I then, because of the threat of a veto on the authorization bill, offered the same amendment in the full Committee on Appropriations, and the full Committee on Appropriations on an 18 to 13 vote approved that amendment again.

□ 1030

Whenever any Appropriations Committee passes a bill and brings it to the Rules Committee, one normally expects that waivers of points of order adopted by the full Appropriations Committee will be sought by the Rules Committee from the leadership of the committee that had the amendment adopted to its bill. In this case that did not happen. I regret that very much because, as I look at the rule today, I find that the Rules Committee was asked for and did grant waivers protecting 21 passages in the Defense appropriation bill. So 21 passages are protected. Up to nine pages of legislative text that would otherwise be subject to a point of order were protected by the rule against a point of order.

Those points of order could be against legislating on an appropriation bill or reappropriating funds. Of 123 general provisions in this bill, 3 are protected against a point of order. That is sections 8006, 8077, and 8092. The one provision that I could best determine was not protected was the amendment that was adopted by the full Committee and adopted by the full House in the authorizing bill only about a week ago.

I must say that I am extremely disappointed to find myself in this position, and I think Members of the House who held that position, members of our committee who voted for that amendment, and Members of the House who passed that amendment on the authorizing bill are being inconvenienced today as well.

I want to tell the Members this, and I hope that those who planned this scenario will listen: It is possible to offer this amendment making legislation on appropriations. It is possible because I drafted it. It is possible to draft my amendment in a simple way that makes it a limitation on expenditures. I cannot offer that amendment today, and if I did so, we would have an abortion debate on the floor and that would inconvenience the leadership of my committee, because I know the leadership of my committee wants to expedite the passage of this bill.

I feel inconvenienced. I think Members have been inconvenienced. But I want to tell the Members something: I am not going to inconvenience the leadership of my committee today. But let me make one thing clear: It is possible to achieve the effect that we achieved when the House passed the authorizing amendment by converting that language into a limitation on abortions.

I just want to serve notice as one Member who feels very strongly about a woman's right to choose, who feels very strongly that our servicewomen who may seek abortion services with their own funds, who are stationed in countries like the Philippines, have to turn to back-alley abortions because they are being denied access to military facilities, to purchase abortions with their own funds. I think they are being inconvenienced, too, and I will never again let this bill go through without offering an amendment that would not be subject to a point of order; it will be a limitation on appropriations against that regulation in the Department of Defense that denies those women those fundamental rights. I will not offer it today.

So let me just sum up the bidding. I am not going to offer that amendment today. This will be the last year that I will not offer it. But by that means in the future, Members can be assured that I will not have to go to the Rules Committee to get their acquiescence in order to work my will on the floor. I am going to offer the amendment on the floor even though that may provide some debate that consumes some time. I know that is an inconvenience to the leadership of my committee, but I think this is an inconvenience, to say the very least, to servicewomen who are stationed abroad. That is an issue that is too important to let go by.

The votes are not here today because all Members are not present, otherwise I might do it today. But this is the last year I will refrain from offering a limitation on expenditures, and I just want everyone to be perfectly clear on that today.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I thank my colleague for yielding this time to me.

I was not expecting to speak this morning. I just rise to set the record straight on one thing about our women in the military or their dependents who get pregnant. No military person or dependent has ever been forced to get a back-alley abortion in some place like the Philippines or anywhere else in this world. Any military person or dependent who finds themselves, to use the biblical words, with child, has been brought back to the United States at taxpayer expense.

As far as I am able to determine—and I am digging hard in the Pentagon to get the exact figure—about 1,250 military personnel of the female gender were brought home from the gulf area during Desert Shield, Desert Storm, and Desert Saber. They were brought back to the United States because they were with child. That is 1,250.

As to the average pregnancy of those on every ship that has naval personnel on board who are female during their cruise, 16.2 percent of all female members of every crew that embarks the continental United States or Hawaii for overseas tours, that is, 16.2 percent gets pregnant, and they are all able to disembark at the next port or they are taken off by helicopter, I guess, and brought back to the United States.

So in our Nation, no American person in uniform who has found themselves with child, or any dependent, has ever had to avail themselves of a back-alley abortion anywhere in the world. They come back home at taxpayer expense and then proceed to make up their minds whether or not to go through with the birth of their child.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I was not going to oppose the rule. I had talked with the chairman of the Subcommittee on Defense of the Appropriations Committee on the buy American amendment.

That buy American amendment would basically say that if it was determined by our Trade Representative that a foreign country which is party to a reciprocal trade agreement with America has violated the terms of that trade agreement, in fact if certain types of products covered under that agreement have been violated, we can take action to right that wrong and make sure they bring their barriers down. It is clearly legislating on an appropriation bill. I was told that the Ways and Means Committee was going to oppose it. They took the time to send a special letter to the Rules Committee. They did oppose it, and I have been instructed that the Ways and Means Committee is going to raise a point of order, which means that my amendment is a dead duck.

But here is what I want to say today: Let us take a look at Bridgeport, CT, and take a look at our policies. I get knocked an awful lot because people say I talk too much about my own party, the Democrats.

Mr. Speaker, the Republicans have given us basically the trade policy that we have, and there are some Republican leaders who have reinforced it. And I am saying today that Bridgeport, CT, is really asking for Democrats to help them.

Now, it has been said that I did not come to the Ways and Means Committee. I have come to the Ways and Means Committee with amendments on buy American. I have come on foreign deferrals of tax profits and foreign subsidiaries having a special ride. When I came to testify, I was the last one to testify, and there was only one Member present and they were not even listening.

I cannot offer this amendment today, so I am going to offer a 1-percent cut, $2.7 billion, to the bill, and if Members want to have cities like New York and Philadelphia to come looking for the money, they can vote for the 1-percent cut.

If that does not work, I am going to offer one-tenth of a 1-percent cut, $277 million. So if you do not want to fund the space station, you can take the money from defense where the NASA bill should be in the first place. I did not like yesterday's voting, with two options: that we are either going to vote for outer space or for inner cities, both American programs.

The money should not come from housing on the space station. It should come from foreign aid and from this Defense budget, and we know it.

I have talked to this chairman and all the other chairmen, and maybe we have a difference of opinion and I will be the first to admit maybe they are right and I am wrong, but after 40 years I think you are wrong and I think you should have some reciprocal trade agreements in this country. Our workers are getting screwed and ripped off. Our products are being denied in other communities. We have fast track and free trade. Just ask Bridgeport, CT, what they think about it.

□ 1040

Ask them what they think about some revenue sharing. Ask them what they think about aid for the Soviet Union. Ask them what they think about $160 billion of our defense money protecting Japan and Europe from the Soviet Union, which is bankrupt. Now we are going to give $150 billion to the Soviet Union so they can be enough of a threat to again attack Japan and Europe, so we will have to give them $160 billion.

Meanwhile, they are all going to have free trade. You know what we are going to have? Unemployment, bankruptcies. I predict that 1 of our 50 States will officially go bankrupt if we do not change our policies.

So I have no choice. The chairman is absolutely right. I do not even know if they will work a way to get around that amendment, and I do not even know if Members are going to vote for it.

But I want to say this to Members: if you do not want money coming out of housing, cut the Defense bill, and let this Congress know we do not want it coming from housing. Let them know we want a space station, and we do not want to cut housing. We will cut defense, we will cut foreign aid, but we are not going to cut housing.

Let me say one last thing: there might as well just be one committee in the House of Representatives. What the hell do we have an authorizing committee for?

I am sure I will not last here long enough, but damn it, if I do, and ever become a chairman, the Committee on Appropriations will have to have some authorization from my committee.

We just might as well have one big committee. When you get an appropriations chairman that wants to help, then another committee screws you. I am speaking to you now, Members. If you are part of an authorizing committee, you had better start standing up.

I appreciate the time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would request Members be watchful with their language.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I really would like to respond to my good friend from Ohio [Mr. TRAFICANT], just to tell him that under the Deficit Reduction Act of last year, it is not possible to transfer money from defense to domestic, or vice versa. Therefore, this very, very frugal bill is before us. I hope it will be adopted.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that I may include extraneous and tabular material, on H.R. 2521, the bill about to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1992

Mr. MURTHA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. MCDADE] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

The motion was agreed to.

□ 1044

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2521, with Mr. OBERSTAR in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I bring to the House of Representatives the fiscal year 1992 Defense appropriations bill.

I'd like to thank all the members of the Defense Subcommittee for the hard work they have performed all year.

The subcommittee held hearings on this bill during the time period of January 24 to May 9.

I'd like to give special thanks to the ranking minority member of the subcommittee, my friend from Pennsylvania, Mr. MCDADE.

The Appropriations Committee is recommending to the House a total of $270.6 billion in new budget authority for fiscal year 1992 for the Defense Department.

This figure is basically at the level of the budget request and is $12.8 billion below the fiscal year 1991 level, including supplementals.

These spending levels do not include funds for the Nuclear Weapons Program of the Department of Energy or for military construction. Those activities are funded in separate appropriations bills.

Mr. Chairman, in past years, we have had significant differences with the executive branch in terms of the bottom line of the level of spending that should be approved for Defense by the Congress.

However, as we all know, the economic summit set funding levels for defense for a number of years and the Congress and the executive branch have agreed to abide by those numbers.

This bill which I am presenting to the House of Representatives today:

Agrees with the Defense figure set in the economic summit;

Agrees with the 602 allocation given to Defense by the full Appropriations Committee; and

Complies with the recently passed authorization legislation in terms of funding levels for major projects such as the B–2 bomber and SDI.

I recognize that some of those recommendations approved by the House on scientific programs are somewhat controversial, but the full House made those recommendations in the authorization legislation and the bill before you complied with those decisions.

I will place in the RECORD at this point a table which outlines the committee's recommendations by major account.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1991 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1992

Agency and item (1)	Appropriated 1991 (enacted to date) [2]	Budget estimates, 1992[1] [3]	Recommended in bill [4]	Bill compared with appropriated, 1991 [5]	Bill compared with budget estimates, 1992 [6]
RECAPITULATION					
Title I—Military Personnel	78,245,467,000	78,016,900,000	78,753,100,000	+507,633,000	+736,200,000
Title II—Operation and Maintenance	83,737,560,000	85,411,800,000	87,720,527,000	+3,982,967,000	+2,308,727,000
Title III—Procurement	67,176,648,000	63,370,700,000	64,645,839,000	−2,530,809,000	+1,275,139,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1991 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1992—Continued

Agency and item (1)	Appropriated 1991 (enacted to date) [2]	Budget estimates, 1992[1] [3]	Recommended in bill [4]	Bill compared with appropriated, 1991 [5]	Bill compared with budget estimates, 1992 [6]
Title IV—Research, Development, Test and Evaluation	35,974,792,000	39,221,533,000	37,185,113,000	+1,210,321,000	−2,036,420,000
Title V—DBOF/Revolving and Management Funds	1,984,200,000	2,979,970,000	2,444,100,000	+459,900,000	−535,870,000
Title VI—Other Department of Defense Programs	1,476,300,000	1,749,600,000	1,729,694,000	+253,394,000	−19,906,000
Title VII—Related agencies	193,500,000	194,819,000	194,819,000	+1,319,000	
Title VIII—General provisions	393,000,000		−300,000,000	−693,000,000	−300,000,000
(Additional transfer authority)	(2,250,000,000)	(3,000,000,000)	(3,000,000,000)	(+750,000,000)	
Title IX—Desert Shield/Desert Storm	15,000,000,000			−15,000,000,000	
Total, Department of Defense	284,181,467,000	270,945,322,000	272,373,192,000	−11,808,275,000	+1,427,870,000
(Transfer authority)	(2,250,000,000)	(3,000,000,000)	(3,000,000,000)	(+750,000,000)	
CONGRESSIONAL BUDGET RECAP					
Scorekeeping adjustments:					
Shipbuilding and conversion, Navy (by transfer)	(44,900,000)	(111,700,000)	(117,600,000)	(+72,700,000)	(+5,900,000)
Aircraft procurement, Navy (by transfer)			(851,600,000)	(+851,600,000)	(+851,600,000)
Other procurement, Navy (transfer out)	(−34,300,000)			(+34,300,000)	
Procurement, Marine Corps (transfer out)		(−29,300,000)	(−29,300,000)	(−29,300,000)	
Weapons procurement, Navy (transfer out)		(−50,600,000)	(−37,600,000)	(−37,600,000)	(+13,000,000)
Other procurement, Navy (transfer out)		(−12,400,000)	(−4,200,000)	(−4,200,000)	(+8,200,000)
RDT & E, Navy (transfer out)		(−4,300,000)	(−853,000,000)	(−853,000,000)	(−848,700,000)
Aircraft procurement, Navy (transfer out)	(−10,600,000)	(−180,100,000)	(−210,100,000)	(−199,500,000)	(−30,000,000)
RDT & E, Navy (by transfer)		(165,000,000)	(165,000,000)	(+165,000,000)	
Operation and Maintenance, Navy (transfer out)	(−300,000,000)			(+300,000,000)	
Coast Guard (by transfer)	(300,000,000)			(−300,000,000)	
O & M, Defense Agencies (transfer out)	(−912,000)		(−20,000,000)	(−19,088,000)	(−20,000,000)
Radiation Exposure Compensation Trust Fund (by transfer)			(5,000,000)	(+5,000,000)	(+5,000,000)
Library of Congress	(912,000)			(−912,000)	
RDT & E, Defense Agencies (transfer out)			(−5,000,000)	(−5,000,000)	(−5,000,000)
Atomic Energy Defense Activities (by transfer)	(30,000,000)		(20,000,000)	(−10,000,000)	(+20,000,000)
DOD transfer to DOE	(−30,000,000)			(+30,000,000)	
Payment of claims	4,749,000			−4,749,000	
Rescissions	−798,140,000		−1,807,400,000	−1,009,260,000	−1,807,400,000
Total adjustments	−793,391,000		−1,807,400,000	−1,014,009,000	−1,807,400,000
Total (including adjustments)	283,388,076,000	270,945,322,000	270,565,792,000	−12,822,284,000	−379,530,000
Amounts in this bill	(284,181,467,000)	(270,945,322,000)	(272,373,192,000)	(−11,808,275,000)	(+1,427,870,000)
Scorekeeping adjustments	(−793,391,000)		(−1,807,400,000)	(−1,014,009,000)	(−1,807,400,000)
Total mandatory and discretionary	283,388,076,000	270,945,322,000	270,565,792,000	−12,822,284,000	−379,530,000
Mandatory	(164,600,000)	(164,100,000)	(164,100,000)	(−500,000)	
Discretionary	(283,223,476,000)	(270,781,222,000)	(270,401,692,000)	(−12,821,784,000)	(−379,530,000)

[1] Includes FY 1992 Budget Amendment (H. Doc. 102–72).

FUNDING DECLINE FOR DEFENSE BECAUSE OF FOREIGN POLICY SUCCESSES

Mr. Chairman, maintaining a strong defense and a consistent foreign policy over the years has paid enormous dividends in the past few years.

The collapse of the Berlin Wall;

The collapse of the Warsaw Pact; and

A much more benign Soviet foreign policy.

As a result of these successes we have been able to substantially scale back the resources expended for America's defense budget.

We are withdrawing large numbers of troops from Europe.

As we are all painfully aware, we are closing down many military bases and facilities.

Over the next few years, the force structure of America's forces will be reduced by about 25 percent.

The budget before you represents the seventh consecutive year of decline of defense spending when measured in constant dollars and not including the one time spike upward for Operation Desert Shield/Desert Storm.

DEFENSE PRIORITIES FOR THE 1990'S

However, despite the dramatic and favorable historical trends of the last few years, we must keep in mind that the men and women of our Armed Forces have been asked to carry out many important and dangerous missions to achieve the foreign policy objectives of America in recent years.

The attack on the terrorist regime in Libya;

The rescue mission in Grenada;

The removal of General Noriega from Panama; and

The defeat of Saddam Hussein—a dictator who would have controlled half of the world's oil reserves had he invaded northern Saudi Arabia.

Mr. Chairman, to ensure the continued high level of capability of our troops, we have reshuffled somewhat the funding priorities requested in the budget submitted to the committee although we have not changed the bottom line.

The committee believes that the funds added for certain programs in this legislation will significantly enhance the military effectiveness of our downsized force structure for the 1990's.

We have emphasized the following areas: Morale, readiness, mobility, deployability, and sustainability.

I would like to say just a word or two about some of these initiatives.

MORALE

We added $300 million to the military personnel account to avoid the involuntary separation of troops. The subcommittee simply found it unacceptable that troops who had served so admirably in the Persian Gulf should face being involuntarily separated from the service upon their return home.

READINESS

In the operation and readiness account we added substantial funds above the budget request for depot maintenance and real property maintenance.

There are substantial backlogs in both these areas.

These initiatives will enhance the quality and readiness of the downsized force structure.

DEPLOYABILITY

As we withdraw large numbers of troops for overseas, having the capacity to deploy those forces should it become necessary becomes vitally important.

The committee has added $1.3 billion for sealift and supported the budget request for strategic airlift.

We have added almost $1 billion to procure new equipment to:

Go onboard the maritime prepositioning ships which have military equipment ready to be deployed to any hot spot in the globe and be married up with the troops brought in by airlift; and

Some of these funds are also to provide new equipment at land based prepositioned equipment locations.

MOBILITY

You need highly mobile troops once they are deployed.

We have added funds for the V-22 Osprey tilt rotor aircraft and for additional landing craft which are deployed from ships.

SUSTAINABILITY

You need a force which can be sustained with consumables once it is deployed;

We have added $600 million for additional spares and repair parts;

We have added $100 million for ammunition; and

Of course, the additional sealift will also help sustainability.

In summary, Mr. Chairman, the Defense appropriations bill for 1992 which we are reporting to the House of Representatives:

Complies with budget figure set for Defense in the economic summit;

Complies with the 602 allocation set by the full Appropriations Committee;

Complies with the funding level for major programs set by the recently passed authorization legislation;

Enhances the morale of our Armed Forces;

Enhances the readiness of our troops;

Enhances the deployability and mobility of our troops; and

Enhances their sustainability once they are deployed.

I urge acceptance of the committee's recommendations.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this particular piece of legislation. Before saying anything about the bill, I would like to express my deep appreciation to the distinguished gentleman from Pennsylvania [Mr. MURTHA], the chairman of our committee, for the fashion in which he has conducted the hearings this year, as he has in so many other years, openly, bipartisanly, objectively, looking for the facts, and, above all, trying to help to shape a solid defense bill, which I think, above all, is committed to the individual soldier, sailor, airman, marine, and their families, and provides what they need to do the job when called upon.

Mr. Chairman, I want to say as well that the members of the staff of the committee on both sides of the aisle have functioned superbly, working long hours with complex, difficult issues, to resolve them, in order that we could bring before Members today a bill which I believe the House ought to send to conference.

Mr. Chairman, I think all of us should also spend a moment and take pride in our former colleague Dickey Cheney, the Secretary of Defense, who has performed with such distinction. We are proud, I know, to call him an alumni of this body, and to recognize his role, not only in the conduct of Desert Storm, but in the difficult problem of engaging in the build-down of the establishment of the Defense Department. He has shown exemplary decisionmaking ability and toughness, as he has tried to work his way through that critical process.

Mr. Chairman, I need to say just briefly that this bill as we see it today mirrors, of course, the authorization bill, which passed the House a few weeks ago. All of us know that that particular bill is not going to be signed by the President.

This bill honors the funding levels that are set in the authorization bill, and thus in its current form, also would not be signed by the President as we take it up today.

I want to make it clear to Members, as I have in previous years, that the process demands that we move this bill over to the Senate and get into conference with the Senate. The administration will begin to negotiate with the authorizing committees of the House and Senate, and the Appropriations Committees. We will be in a position in this bill to work an agreement that will indeed enable the President and the country to have an acceptable and useful defense bill, which can meet the national security interests of this great Nation and the light of liberty that she holds proudly around the world.

☐ 1050

I want to indicate just briefly, Mr. Chairman, that this bill is the seventh straight year of declining defense budgets, 12 percent below in real dollars the bill that was enacted just 2 years ago. It represents substantial cuts in procurement accounts, R&D accounts, and others, as the chairman has indicated so ably. We have made sure that the personnel accounts and O&M accounts have been kept at robust levels because we want to see our people trained and ready to move if need be.

I do think all of us need to be pondering, because this issue is going to keep coming back, about industrial base. We used to produce five submarines a year. We are down to one; we used to have six fighter lines going, we will be at one. The Nation, for more than half a century, has had a warm tank line, and now we are having difficulty just keeping that line going.

So we will have continuing problems as the bill moves along, not just this year but in the outyears, as we continue to do the build-down. It will be our task to make sure that the Nation remains secure and that the lamp of liberty remains bright.

I want to express my deep appreciation to all of the members of the subcommittee who each contributed, and they all contributed mightily, to the shaping of the bill. It comes before the body unanimously recommended by the members of the Defense Subcommittee, all of whom, as I say, worked mightily to shape the final product.

Mr. Chairman, I urge the adoption of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. MURTHA. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 2521, the Department of Defense appropriations bill for fiscal year 1992. This is the 5th of the 13 annual appropriations bills.

Commend the chairman and the ranking member for adhering to the limits of the budget resolution and budget agreement.

The bill provides $270.402 billion in discretionary budget authority and $275.191 billion in discretionary outlays. I am pleased to note that the bill is $52 million below the level of discretionary budget authority and $164 million below the discretionary outlays as compared to the 602(b) spending subdivision for this subcommittee.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the Appropriations Committee on its other bills.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, June 6, 1991.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 2521, the Department of Defense appropriations bill for fiscal year 1992. This bill is scheduled to be considered on Friday, June 7.

This is the fifth regular fiscal year 1992 appropriations bill to be considered. The bill is below the 602(b) subdivision.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact Sheet]

H.R. 2521, DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102–95)

The House Appropriations Committee reported the Department of Defense Appropriations Bill for Fiscal Year 1992 on Tuesday, June 4, 1991. Floor consideration of this bill is scheduled for Friday, June 7, subject to a rule being granted.

COMPARISON TO THE 602(b) SUBDIVISION

The bill, as reported, provides $270,402 million of discretionary budget authority $52 million less than the Appropriations subdivision for this subcommittee. The bill is $164 million under the subdivision total for estimated discretionary outlays. A comparison of the bill with the funding subdivisions follows:

COMPARISON TO DEFENSE SPENDING ALLOCATION

[In millions of dollars]

	Department of Defense appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/ under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	270,402	275,191	270,454	275,355	−52	−164
Mandatory	164	164	164	164	...	...
Total	270,566	275,355	270,618	275,519	−52	−164

Note: BA—New budget authority; 0—Estimated outlays.

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Report # 102–81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

PROGRAM HIGHLIGHTS

The following are the major program highlights for the Department of Defense Appropriations Bill for Fiscal Year 1992, as reported:

[In millions of dollars]

	Budget authority	New outlays
Military personnel	78,753	74,989
Procurement	64,646	11,855
Operations and maintenance	87,721	67,367
Research and development	37,185	20,616

Mr. MCDADE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I want to compliment the members of the subcommittee on producing an excellent bill. I would like to highlight a couple of items in the bill that I think are important, two sections that deal with buy America. I am pleased to see that this bill in sections 8112 and 8113 does require the Defense Department to buy America, where possible, particularly in the area of steel. In conjunction with that, the language of H.R. 2445 was put into this bill creating an Office of Critical Technology Assessment.

The reason for this is that it was determined that in Desert Storm about 50 percent of the high-technology equipment that was used there was sourced offshore. What that means is that our Defense Department was dependent on offshore sources for a significant and important part of their equipment.

I think it is important that we review our industrial base in the United States to determine if we can produce these critical items in the future. What this language does is provide a committee made up of Secretaries from Commerce, Labor, Energy, and Defense to assess the critical industries in the United States and report back to this Congress on the ability to produce the needs that we have, the impact of foreign producers, the affect of domestic laws and definitions of critical technologies so that Congress can make judgments as to how to address this problem in the future.

I do not think we want to long term be dependent on offshore sources for 50 percent of our high-technology or our critical technologies.

There is another element. That is what we are going to be in the very competitive world tomorrow, with the emergence of the European Common Market and the Pacific rim countries. Therefore, if we are going to be a competitive nation in the future, both economically and in terms of our defense, we have to have a manufacturing industry, we have to have the ability to produce the critical materials that are essential to a strong industrial economy. The language that was included in this bill by the subcommittee takes a giant step toward that in the sense that in a year from the establishment of the Critical Technologies Executive Committee created in the bill we should have this kind of an assessment available to all of us so that all the committees in their process of legislating can ensure that the actions we take do provide for a critical materials program in the United States.

Mr. VENTO. Mr. Chairman, I rise in support of the bill, H.R. 2521, the Defense appropriations bill for fiscal year 1992.

While several of the amounts provided for certain weapons systems in this legislation are, in my opinion, still excessive, nevertheless, I believe that the Armed Services Appropriations Subcommittee and the full committee have done an acceptable job in trying to reconcile conflicting demands for defense expenditures in the coming fiscal year.

I am particularly pleased that the distinguished chairman of the Defense Appropriations Subcommittee, Mr. MURTHA, included an amendment which prohibits the U.S. Army Corps of Engineers [USACE] from using any funds in this bill or any prior acts for implementing its reorganization study until such proposed reorganization is specifically authorized by law after the date of enactment of the bill.

Mr. Chairman, I am very strongly opposed to the efforts of those who wish to implement the reorganization of the Corps of Engineers through the base realignment and closure process, also known as BRAC–91. I am not opposed to efforts by the Corps of Engineers to adopt a more rational organizational structure given its missions and functions. However, a vital question of process is at stake here.

On April 12, 1991, Secretary of Defense Cheney announced that he was rejecting the Army's recommendation to include the USACE reorganization in the BRAC–91 process. Secretary Cheney indicated at that time that because of overlapping congressional jurisdiction between several committees, including Armed Services and Public Works and Transportation, as well as the respective appropriations panels in both the House and Senate, that he would be working with these committees of jurisdiction to implement a reorganization plan.

I, along with many other Members, were quite surprised, to say the least, to learn, however, that on May 30, the Commission on base realignment and closure had invited Army Secretary Stone to testify before the Commission regarding the reorganization plan of the USACE. On June 5, General Hatch and Assistant Secretary of the Army Livingstone testified before the Commission regarding the USACE reorganization plan.

The Commission later extended invitations to the chairmen of the committees of jurisdiction, as well as the ranking minority members, to also testify on this issue. Chairman ROE of the Public Works and Transportation Committee appeared, as did the ranking minority member of the Senate Armed Services Committee, Senator WARNER. My colleague from Minnesota, Mr. OBERSTAR, a senior member of the Public Works Committee and I were also permitted to testify before the Commission on June 5.

These Members all urged the Commission not to include the USACE reorganization plan in the BRAC process. The criteria which are applicable to BRAC are inappropriate since they are heavily weighted toward national security considerations. The corps' civil works functions, including wetlands management, issuing permits under the Clean Water Act, building and maintaining locks, dams, and flood control projects, are not related to national security although these activities are extremely vital to the communities which the corps serves.

Most importantly, if the Commission on base closure and realignment includes the USACE reorgnization plan in the BRAC process, and the President concurs, Congress will not have an opportunity to remove the corps from this process unless it defeats the entire BRAC package later this year. The Commission has until July 1 to issue its report.

Mr. Chairman, the manner in which this proposed reorganization has been handled leaves many serious questions in my mind and in the minds of many Members.

It was only 2 weeks ago, on May 24, that the corps formally unveiled its reorganization plan. Prior to that time, the corps had imposed a gag order on its own employees ordering them not to discuss any details of the reorganization with Congress or anyone else.

The details of the plan are also disturbing. Using its own ranking criteria to evaluate which facilities to retain or increase and which ones would be downsized or closed, the corps' own recommendations retain four of the bottom five corps facilities, while reducing or closing others which scored significantly higher using the corps' own internally developed criteria, such as Philadelphia and St. Paul.

It is also of concern to me that the corps seems to be suggesting that it does not currently have the authority to accomplish certain internal administrative functions when, in fact, it not only has such authority, but has used such authority. For example, General Hatch testified before the Commission on June 5 that the USACE is seeking authority to consolidate certain administrative functions, such as human resources, finance and accounting, and information management. It is my understanding, however, that the corps has such authority already. In fact, several years ago, the corps consolidated its Human Resources function for its South Pacific Division in Sacramento, CA. In short, the corps' hands are not tied and the corps does not need authority through the BRAC process to implement certain internal administrative functions.

The corps must, however, give the authorizing and appropriating committees of the Congress an opportunity to carefully scrutinize the details of this reorganization proposal.

I applaud Mr. MURTHA for his actions in preserving the prerogatives of his committee and the other committees to give this plan the full and careful review which it demands.

Mr. GALLO. Mr. Chairman, I join with my colleagues today who support the Defense appropriations bill for fiscal year 1992, because I believe we must move forward with the appropriations process.

In particular, I am pleased that this bill follows the mandate of the authorizing language passed by the House in May to ensure a fair and orderly realignment of our military Reserves and National Guard, without hitting States like New Jersey with a disproportionate share of the cuts.

Other aspects of this bill, frankly, cause me a great deal of concern, because I see too much disparity between the best judgment of the administration and the often conflicting set of priorities repesented in this bill.

I am hopeful that further changes can be made by the Senate and through the conference committee process, so that we can resolve some of these substantive differences in military spending priorities.

I commend my colleagues on the subcommittee for their hard work in bringing this bill to the floor. I understand the constraints under which they were working and appreciate the fact that their options were limited by the earlier actions of the House with regard to authorizations.

Let me emphasize again that I place a great deal of importance on the fair and equitable treatment of our Reserves and National Guard as part of our overall defense posture, as well as the great importance of domestic disaster relief rapid response that we could lose if these cuts are too severe.

I had great difficulty casting a negative vote in May on the President's language to authorize funding for the Department of Defense for fiscal years 1992–93, but I did so because of my strong opposition to the proposed drawdown of the National Guard and Reserve.

The administration's defense bill this year called for a drastic reduction in the Army National Guard and Reserve by over 106,000 over a 4-year period. This equates to a discharge of about one in every three Army guardsmen and reservists and the closing of one out of every three National Guard and Reserve armories in Members' communities across the Nation.

Every State would share the burden of these cuts, however, New Jersey, as well as New York, Pennsylvania, and several other States would have been unfairly required to shoulder a disproportionate reduction in force.

New Jersey alone would be required to shoulder nearly 48 percent of this reduction, while across-the-board estimates indicate that States overall would absorb about 30 percent or less.

Mr. Chairman, I believe we have made our best effort in the House to resolve differences that remain and that we must move the process forward in the hope that the remaining items in contention can yet be resolved. I urge my colleagues to recognize what we have accomplished, as well as those areas of continuing disagreements. Let's move forward.

Mr. DICKS. Mr. Chairman, I want to commend the chairman, Mr. MURTHA and our ranking member, Mr. MCDADE, along with all my colleagues on the Defense Appropriations Subcommittee for the work they have done to bring to the floor a bill that deserves the support of the entire House. I also want to thank the staff of the subcommittee whose long hours of hard work and professional expertise are essential to effective oversight of this the largest single appropriations bill we will consider.

The task this year was especially difficult as we strive to reduce our defense structure to reflect budgetary constraints and changing world realities. Under current plans, defense spending in 1996 will be 34 percent lower than the level appropriated in fiscal year 1985. The Army plans to reduce its forces from 18 to 12 active divisions. We are going down to a fleet of 450 combatants with two fewer carrier battlegroups. The Air Force is cutting out 12 tactical air wings. This House has to realize that this exercise, while necessary, is not going to be painless. There are going to have to be congressional districts where jobs are lost. Some production lines are going to have to be terminated. We can't go on a path where we try to have our cake and eat it too.

Nonetheless, the bill includes some important initiatives in areas such as mobility, readiness, and sustainability that are fully discussed in the committee's report.

In light of the action taken on the Defense authorization bill, there is in my view a critical deficiency in the bill as reported. That is the lack of B–2 production funding.

While there will be no amendment offered on the floor to restore these funds, this promises to be a central issue in the expected conference on this legislation. And the President has clearly indicated that he will veto any defense spending legislation that does not allow this vital production program to proceed.

There are compelling reasons for the President's determination on the B–2. We all agree on the dramatic impact that stealth had on the success of Operation Desert Storm. More than any other single factor, the new stealth technology made the battle against the world's fourth largest standing army a brief encounter of the best kind. The fact that 8 F–117's successfully attacked an Iraqi nuclear facility that an armada of 75 conventional aircraft, with 5 times the life cycle cost, could not is telling testimony to this revolution in war fighting.

But the use of the F–117 in Iraq depended on a number of favorable circumstances that we can not count on to exist in a potential future conflict. First, was the fact that Saddam Hussein chose to stop and wait 6 months for our forces to be deployed and consolidated. Second, was the ability to gain access to local bases. If the scenario had been different—if Saddam Hussein had crossed into Saudi Arabia in those early days before the F–117 and other coalition forces were in place—the story of Desert Storm could have been much different. Victory would still have been achieved, but much more slowly and at much greater cost.

In the future, when the B–2 is available for such a scenario, the fact that it has 5 times the unrefueled range and 10 times the payload will make a critical difference. Analysis done by the Rand Corp. has determined that the planned force of B–2's, equipped with terminally guided munitions now under development, could destroy half a division's equipment a day, enough to thwart a multidivisional attack by itself.

This capability will in fact provide the kind of conventional deterrence that could well convince future would-be conquerors not to take the first step.

The B–2 will also play a critical role in our future strategic nuclear triad. It is the only bomber that will be capable of reliably penetrating Soviet air defenses into the next century, and the only system that can hold a key set of targets at risk. It is also central to our START arms control strategy of reducing the dependence of both sides on destabilizing multiple warhead ICBM's, and placing greater reliance on second strike, recallable systems.

I know the cost of the program has become a symbol for many who are frustrated by budget constraints and the high cost of modern weapons technology. But this frustration can not translate into additional funds for domestic programs under the budget agreement, it will simply go to lower priority defense programs.

As former Secretary of Defense Harold Brown stated in a recent letter,

> We should consider only the remaining cost, because the sunk cost is indeed sunk. * * * The remaining cost of the B–2 program will be less than the cost of the equivalent delivery capability by the next generation of tactical attack aircraft which would require forward bases either on land or on carriers and substantial deployment time to reach attack distance.

For all these reasons I hope that the Members will carefully reevaluate their position on the B–2 in light of the lessons demonstrated in Operation Desert Storm and will support a conference agreement that rightfully restores production funds for this program.

Mr. MILLER of Ohio. Mr. Chairman, today we are considering the fiscal year 1992 appropriations bill for the Department of Defense. The bill provides funding for Defense within the levels contained in last year's budget agreement and the congressional budget resolution. This continues the trend that was established 6 years ago of reducing defense spending. Expenditures in fiscal year 1992 will be $12.8 billion below the current year and represents, when adjusted for inflation, a decline in the Defense budget of 24 percent since 1985.

Implementing these reductions in a manner which does not adversely impact our Nation's defense is a considerable challenge and I want to recognize the leadership provided by the gentlemen from Pennsylvania, Chairman MURTHA and Mr. MCDADE, during the course of this year's deliberations by the Defense Appropriations Subcommittee.

While I disagree with some of the decisions embodied in this bill—such as the termination of B–2 Stealth bomber production and the reductions in the Strategic defense initiative—which were dictated by the positions adopted earlier by the House during consideration of the Defense authorization bill, and it is my hope and expectation that conference action with the Senate will allow us to improve upon them.

With respect to SDI, the administration has made clear that a veto will be recommended if current funding levels remain unchanged. Despite changes in the international security environment, there remains a formidable nuclear threat to the United States. Soviet nuclear forces continue to modernize and, as the Persian Gulf conflict demonstrated, there is a growing ballistic missile capability in developing nations. Strategic defenses could provide a meaningful level of protection to the United States. By crippling SDI research, the funding level proposed in the House authorization and appropriations bill will prevent the United States from exploiting its technological capability to develop defenses which will protect against ballistic missile attacks on the United States as well as our allies and forces overseas.

I also point out to my colleagues the language in the committee report accompanying this bill which directs the Department of the Army to update Congress on an annual basis regarding the potential future use of chemical demilitarization facilities. Our country will be investing $6½ billion—$6.5 billion—over the next 10 years to build, operate and then dismantle facilities which will destroy our chemical weapons stockpile. While current law requires these facilities to be destroyed after the disposal of the chemical weapons stockpile is completed, a recent Army study, conducted at the request of the House Defense Subcommittee, found these facilities could be used for other purposes such as disposing of hazardous material or munitions found on military facilities.

I believe it would be a waste of taxpayer dollars to destroy facilities that could be put to productive use and it is appropriate that the Army continue to consider the option of follow-on uses of chemical demilitarization facilities.

Again, I commend Chairman MURTHA, JOE MCDADE and all the members of the Defense appropriations for working so well together to bring this bill to the House floor, it is a privilege to work with them.

Mr. LANCASTER. Mr. Chairman, as one of four House observers to the chemical weapons talks in Geneva, I want to emphasize the importance of language in the committee report relating to the Chemical Demilitarization Program. That language reflects Congress' frustration with the Army's active promotion of the Jacads baseline technology and its distinct reluctance to consider the possibility that there may exist other technologies equally or more effective than the Jacads approach, and at less cost. Meanwhile, schedule delays, manpower requirements, and program management overruns continue to cause costs for Jacads to soar while test results have fallen far short of expectations. Furthermore, schedule delays call into question United States dependence on Jacads as the sole vehicle for compliance with the United States-Soviet Bilateral Destruction Agreement and with a future multilateral agreement. Thus it is important that we consider the Chemical Stockpile Disposal Program in the larger context of our efforts to achieve a worldwide ban on chemical weapons.

The President recently announced reversal of two policies which had brought the multilateral negotiations to a standstill: U.S. policy now forswears the right to use chemical weapons in any situation and abandons retention of a 2-percent stockpile of chemical munitions, committing instead to complete stockpile destruction. In the wake of this pivotal announcement, the negotiations hold more promise for a swift and successful conclusion than they ever have. Thus, it is absolutely essential that the Army remain open-minded about destruction technologies.

Mr. MCDADE. Mr. Chairman, I have no more requests for time, and I yield back the balance of my time.

Mr. MURTHA. Mr. Chairman, I have no more requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 2521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1992, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $24,526,100,000: *Provided*, That the Army shall not involuntarily separate any military personnel, except for causes consistent with past policy.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,577,700,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $6,086,800,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for oganizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $18,905,500,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,320,800,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,718,600,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $354,900,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $721,500,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United

States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,395,700,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,145,500,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any points of order?

If not, are there any amendments to title I?

The Clerk will read.

The Clerk read as follows:

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $18,362,945,000: *Provided*, That of the funds appropriated and made available in this paragraph, $36,800,000 for Depot Maintenance, $450,000,000 for Real Property Maintenance, and $152,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992: *Provided further*, That $350,000 shall be available for the 1992 Memorial Day Celebration and $350,000 shall be available for the 1992 Capitol Fourth Project: *Provided further*, That notwithstanding section 2805 of title 10, United States Code, of the funds appropriated herein, $4,000,000 shall be available only for a grant to the National D-Day Museum Foundation, and $4,000,000 shall be available only for a grant to the Airborne and Special Operations Museum Foundation. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further*, That $6,800,000 shall be available only as a grant to the Monterey Institute of International Studies: *Provided further*, That $350,000 shall be available only to the Oregon Department of Economic Development: *Provided further*, That $40,000,000 shall be available only for procurement for the Extended Cold Weather Clothing System (ECWCS): *Provided further*, That of the funds appropriated, $22,000,000 shall be transferred by the Secretary of the Army to the local educational authority at Fort Irwin, California for the construction of an elementary and a high school at Fort Irwin. The transfer of funds to the local educational authority at Fort Irwin is contingent upon an agreement from the local educational authority to assume responsibility for the operation and maintenance of such elementary and high school. In addition, impact aid cannot be reduced to the Fort Irwin school district because of this specific increased funding grant.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,609,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $21,394,932,000: *Provided*, That of the funds appropriated and made available in this paragraph, $600,000,000 for Depot Maintenance, $330,000,000 for Real Property Maintenance, and $168,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992: *Provided further*, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards, Naval Aviation Depots and private companies. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards, Naval Aviation Depots, and private companies. Competitions shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A–76. Naval Aviation Depots may perform manufacturing in order to compete for production contracts: *Provided further*, That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $2,082,500,000: *Provided*, That of the funds appropriated and made available in this paragraph, $27,200,000 for Depot Maintenance, $70,000,000 for Real Property Maintenance, and $78,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992: *Provided further*, That none of the funds appropriated in this paragraph may be used for the conversion of facilities maintenance, utilities, and motor transport functions at Cherry Point Marine Corps Air Station, North Carolina, to performance by private contractor under the procedures and requirements of OMB Circular A–76 until the General Accounting Office completes their audit and validates the decision: *Provided further*, That of the funds appropriated in this paragraph $296,195,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,646,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $17,660,213,000: *Provided*, That of the funds appropriated and made available in this paragraph, $136,000,000 for Depot Maintenance, $150,000,000 for Real Property Maintenance, and $100,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $18,599,037,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $15,743,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That of the funds appropriated by this paragraph, $760,535,000 shall be available for the Special Operations Command, of which $76,912,000 shall be transferred to the Operation and Maintenance appropriations of the Reserve Components for execution: *Provided further*, That of the funds appropriated and made available in this paragraph, $102,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992: *Provided further*, That of the funds appropriated in this paragraph, $81,400,000 shall be available only to maintain the operations and personnel levels of a 185-bed facility either at Letterman Hospital or by using contractual services at or near the Presidio, in San Francisco, California: *Provided further*, That of the funds appropriated in this paragraph $8,246,454,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $995,600,000: *Provided*, That of the funds appropriated in this paragraph, $49,050,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $825,500,000: *Provided*, That of the funds appropriated in this paragraph,

$28,803,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $85,900,000: *Provided*, That of the funds appropriated in this paragraph, $7,673,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,091,200,000: *Provided*, That of the funds appropriated in this paragraph, $23,840,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $2,165,600,000: *Provided*, That of the funds appropriated in this paragraph, $68,460,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,275,700,000: *Provided*, That of the funds appropriated in this paragraph, $32,584,000 shall not be obligated or expended until authorized by law.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $5,000,000 of which not to exceed $7,500 shall be available for incidental expenses of the National Board: *Provided*, That of the funds appropriated in this paragraph, $1,000,000 shall not be obligated or expended until authorized by law.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $5,500,000, and not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE
(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $2,152,900,000, to remain available until transferred: *Provided*, That of the funds appropriated and made available in this paragraph, $900,000,000 shall not become available for obligation before September 1, 1992: *Provided further*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That of the funds appropriated in this paragraph, $900,000,000 shall not be obligated or expended until authorized by law.

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $15,000,000, to remain available for obligation until September 30, 1993: *Provided*, That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress: *Provided further*, That of the funds appropriated in this paragraph, $2,000,000 shall not be obligated or expended until authorized by law.

WORLD UNIVERSITY GAMES

For logistical support and personnel services including initial planning for security needs (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the World University Games) provided by any component of the Department of Defense to the World University Games; $3,000,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PARLIAMENTARY INQUIRIES

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry. I would like to inquire of the Chairman if it is in order to ask if there is any legislating on this section of the bill that has not been, in fact, waived from such legislating or allowed to legislate by the Rules Committee. I would then be forced to object to any legislating language that is appropriating in title II of the bill.

Mr. MURTHA. Mr. Chairman, if the gentleman will yield, the only thing that it protected in the language is the normal appropriation paragraph protection that we afford to the bill or to parts of the bill when there is no final authorization. In other words, we normally try to wait until the authorization is passed through the Senate and signed by the President. So in order to proceed and not have to wait until fall for enactment of the authorization, we have to have some waivers.

Mr. TRAFICANT. Further reserving my right to object, I am not so sure I have an answer. I want to know if there is any legislation in title II that has not been specifically protected from objection on the floor.

Mr. MURTHA. Sure.

Mr. TRAFICANT. If there are some that have not been protected by the Rules Committee, then I will object to any section of title II that is not officially protected by the Rules Committee as in fact legislating on an appropriation bill.

The CHAIRMAN. The Chair would advise the gentleman from Ohio that the gentleman must be specific as to the provisions against which he makes points of order.

Mr. TRAFICANT. Is the Chair instructing the Member that a Member cannot request a blanket prohibition of legislation on an appropriation bill in title II of the defense bill?

The CHAIRMAN. The gentleman is correct. The Chair is advising the gentleman that a point of order may be made but it must specify the provision of the bill against which it is made.

Mr. TRAFICANT. The specificity is, in fact, that any part of the legislation that has not been in fact protected from objection and to be stricken by the Rules Committee.

□ 1100

The CHAIRMAN. The Chair would restate for the gentleman from Ohio that he must specify the provisions in the bill to which he objects and on which he wishes to make a point of order.

Mr. TRAFICANT. So the Chair then has ruled that a Member must be specific in stating what legislative language there is?

The CHAIRMAN. Those are the rules of the House. The gentleman may not enter a general objection to "such legislation as may be unprotected by waiver." His point of order must identify text and articulate grounds.

Mr. TRAFICANT. That he cannot ask for a specific blanket objection for all legislative language on an appropriation bill that has not been protected under the rule? Is that what the Chair's ruling is?

The CHAIRMAN. The Chair will elaborate further for the gentleman.

The Chair cannot accept the gentleman's assumption that language may be objectionable merely because there is not a waiver provided for it. That is why the practice and precedents of the House require that such points of order be specific.

Mr. TRAFICANT. Would it be in order then, Mr. Chairman, for the gentleman to read each section of title II and object to them officially and to, in fact, reserve the right to object on each specific section for, in fact, legislating on an appropriation bill?

The CHAIRMAN. If the gentleman objects to opening this title, then the Clerk will read by paragraph.

Mr. TRAFICANT. Well, not to belabor the Members here and make any more enemies that I have, and I do not want to tie this House up for 8 hours, but what the gentleman is prepared to do is to object to every single element of title II on the strength it is legislating and force you to rule even though I may not know, in fact, in advance that it is, in fact, illegal or should be ruled and could be blocked, and so I am prepared to do that. I do not want to do that unless someone will tell me what part of title II is legislating on an appropriation bill that is not protected by the rule, because my city is going to go bankrupt next. I do not know anywhere else to get it, to tell you the truth. I am prepared to do that. I do not want to do that.

We have two fine chairmen and a fine ranking member. I do not want you to take what defense industry I have in my district, but I am prepared to do that.

Mr. MURTHA. This is the operation and maintenance title for the entire armed services. This title provides the training money for the services that you are deleting. This is training money and operation and maintenance money for the services.

Mr. TRAFICANT. Mr. Chairman, I certainly would like to have a Buy American in that section.

Mr. WELDON. Mr. Chairman, I ask for regular order.

The CHAIRMAN. Is there objection to opening up title II of the bill?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

POINTS OF ORDER

Mr. TRAFICANT. Mr. Chairman, I bring a point of order against title II of the bill on page 9, line 10, Operation and Maintenance of the Navy, for language which is, in fact, specifically legislation on an appropriation bill.

The CHAIRMAN. Will the gentleman restate his point of order? The gentleman makes a point of order against which line?

Mr. TRAFICANT. Reserving my right to further object, on page 9, line 10, the section under title II, Operation and Maintenance, Navy, that, in fact, that section from page 9, line 10, through, in fact, page 10, line 17, constitutes legislating on an appropriation bill. I say it should be stricken unless specifically protected by the rule.

The CHAIRMAN. The Chair will advise the gentleman that the text from page 9, line 10 through the first portion of page 9, line 23 is protected under the rule. The balance, beginning with "Provided further" on line 23 through line 17 on page 10 is not protected.

Mr. TRAFICANT. The gentleman then officially objects to title II, starting on page 9, line 23, through and continuously through page 10, line 17, for, in fact, being legislating on an appropriation bill that has not passed through an authorizing committee, and it should be stricken.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. MURTHA] wish to be heard on the point of order?

Mr. MURTHA. We concede it is legislation. However, we want the gentleman to know that he is very seriously harming the defense of this country by making these deletions which he admits himself he is not aware of the impact that they are having on the bill and, you know, as I say, this section is for operation and maintenance. This is one of the most important sections in the bill for the troops that served in Desert Storm. I know he voted against Desert Storm, and I know he was against the operation, and that is his right. But this is the very section of the bill that allows our service people to be able to have the things that they need, and I do not think that because it is not authorized that he would want it to be deleted. But I have to concede the point of order. If you want to knock it out, it would be knocked out under the point of order.

Mr. TRAFICANT. The gentleman wants a specific reciprocal trade agreement language, buy American, put into the agreement. It is, in fact, legislating, constitutes legislating in an appropriation bill. Members have come down here and say we are not going to do it. I am going to go title by title, section by section.

The CHAIRMAN (Mr. OBERSTAR). The gentleman from Ohio will refrain from debating the merits of the bill on his point of order.

The Chair wishes to advise, again, that the point of order is made against the two provisos, one beginning on line 23, on page 9, and the other beginning on line 11 on page 10.

The gentleman from Pennsylvania has conceded the point of order. Accordingly, the two provisos are stricken.

Mr. TRAFICANT. Reserving my right to object to title II.

The CHAIRMAN. Are there any other points of order against the provisions of title II?

Mr. TRAFICANT. Reserving the right to object.

The CHAIRMAN. There is not reservation. There has been no unanimous-consent request made.

Are there any other points of order against title II?

Mr. BURTON of Indiana. Mr. Chairman, later in this section, I have an amendment, but right now I would like to raise a point of order on line 18 and 19 dealing with the Monterey Institute of International Studies. It is on page 8.

The CHAIRMAN. Against which provision does the gentleman raise his point of order?

Mr. BURTON of Indiana. Mr. Chairman, starting on line 17, Mr. Chairman, through line 19, page 8.

The CHAIRMAN. The gentleman makes a point of order against the proviso on page 8, line 17 through line 19?

Mr. BURTON of Indiana. Yes, sir.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. MURTHA] desire to be heard on the point of order?

Mr. MURTHA. I concede the point of order.

The CHAIRMAN. The gentleman concedes the point of order. Accordingly, the point of order is sustained. The proviso is stricken.

Are there any other points of order against title II of the bill?

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Proceeding, and reserving a continuing point of order on each and every section, I raise a point of order in such continuum, starting on page 10, line 18, and continuing through page 11, line 11, for language that is, in fact, constituting legislation on an appropriation bill.

The CHAIRMAN. The gentleman's point of order may be made against the proviso beginning on page 11, line 1, after "September 1, 1992:"

Will the gentleman again state the point of order?

Mr. TRAFICANT. The point of order is legislating on an appropriation bill, page 11, line 1, through line 11, of the section of Operation, Maintenance, Marine Corps, and I ask that it be stricken for legislating on an appropriation bill.

The CHAIRMAN. The gentleman is advised that on page 11, only lines 1 through 8, after "September 1, 1992," are unprotected.

□ 1110

Mr. TRAFICANT. Mr. Chairman, I move that language be stricken.

The CHAIRMAN. Does the gentleman from Pennsylvania wish to be heard on the point of order?

Mr. TRAFICANT. Mr. Chairman, I would like an answer on this.

The CHAIRMAN. The gentleman has made his point of order. The Chair has inquired of the chairman of the committee whether he wishes to be heard on the point of order.

Mr. MURTHA. Mr. Chairman, I concede the point of order.

I will say, Mr. Chairman, it is embarrassing that a Member would take it out on the Armed Forces which have done such a magnificent job in the Persian Gulf, when the gentleman does not even know or understand the impact of what he is doing in the traditional way that we do business in the House, in order to satisfy his own ego.

It is really embarrassing to me. The gentleman from Ohio is a good friend of mine. I know the gentleman from Ohio [Mr. TRAFICANT] is trying to take care of his own district, and I appreciate that. We have tried to accommodate him. The Ways and Means Committee objects to everything that we have tried to work out.

I agree with what the gentleman is trying to do, but what the gentleman is doing here is decimating things under the normal procedure that are important to the defense of this country.

Mr. TRAFICANT. Continuing my point of order, Mr. Chairman, and to respond——

The CHAIRMAN. The Chair will hear argument on the point of order, not on collateral issues.

Mr. TRAFICANT. Continuing on my point of order, Mr. Chairman, this gentleman is not here on any ego trip. I think the procedures of the House have finally brought us to this.

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. TRAFICANT. I insist on my point of order, Mr. Chairman.

The CHAIRMAN. The point of order has been conceded and is sustained, and accordingly, the language on line 1 of page 11 beginning with "Provided further," through line 8, concluding with "decision:" is stricken.

Are there other points of order against the provisions of title II?

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FRANK of Massachusetts. Mr. Chairman, under the rules of the House, those provisions which have now been stricken and others which might be stricken, if under the rules of the House this bill was sent back to the Rules Committee and the Rules Committee came out with a different rule, would there be any obstacle to then adopting these provisions?

The CHAIRMAN. If the bill were to go back to the Rules Committee and that committee reported a different rule, the Chair would have to apply that new rule reported, if adopted by the House.

Mr. FRANK of Massachusetts. Mr. Chairman, the Rules Committee could make all these back in order?

The CHAIRMAN. The Chair cannot speculate on what the House might do. It would depend on the terms of any new rule proposed by the Rules Committee that the House might approve.

Are there other points of order against title II?

If not, are there any amendments to title II?

Mr. MURTHA. Mr. Chairman, we have an agreement with the gentleman from Ohio that he can offer his amendment at the appropriate place, if he would ask unanimous consent to put back the provisions that he has taken out.

Mr. TRAFICANT. Mr. Chairman, I would be glad to do that if I could feel that when we got to conference and got everybody in the back room, that when the law is signed by the President the Traficant amendment would be in there.

Now, if I could have that assurance, I would in fact give that. If I do not have that assurance, I have it done in defense bills now for 6 years. It goes to conference, it comes back, it is like an exercise. You can say what you want. I am going to go down every item here today, unless I have some assurance.

Mr. MURTHA. Mr. Chairman, as the gentleman knows, I will do the best I can with every provision we have put in, including the provisions that the gentleman has put in the bill. We will do the best that we can to hold that provision.

I agree with the gentleman on the provision. I think it is a very important provision, and I agree with the gentleman completely on it.

The CHAIRMAN. Are there any other points of order against title II?

If not, are there any amendments to title II?

VACATING PROCEEDINGS ON PREVIOUS POINTS OF ORDER BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that any provisions of title II stricken by my objections to such provisions for having constituted legislation on an appropriation bill be vacated and the bill stand as it is.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to vacate proceedings under points of order raised by the gentleman from Ohio only, not the gentleman from Indiana, under title II.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Those provisions, accordingly, are restored to title II of the bill.

The Chair will ask again, are there any amendments to title II?

Mr. WHITTEN. Mr. Chairman, I move to strike the last word.

Mr. WHITTEN. Mr. Chairman, I am pleased to comment at this time on the fine job that has been done on the Defense appropriations bill for fiscal year 1992.

I served on the Naval Appropriations Subcommittee in 1943 and continue to serve on the Defense Subcommittee. I want to join in the commendations of the gentleman from Pennsylvania [Mr. MURTHA], the subcommittee chairman; the gentleman from Pennsylvania [Mr. MCDADE], the ranking minority member; and my other colleagues on the Defense Subcommittee.

What we faced in developing this bill to meet the real defense needs of the Nation as a changing world was very challenging.

I am particularly pleased that we did not agree to Guard and Reserve reductions that were proposed by the Department of Defense. We must continue a strong Guard and Reserve where members contribute to the economy during the week and train on the weekends, and that includes this year's final action on military construction by the Congress.

At no time in history has this Nation proposed to reduce its voluntary military force to the extent that is being proposed over the next 5 years. A program is needed to insure that this transition for our military personnel into the civilian sector be as smooth as possible so that troops reductions do not produce undue hardship on either the personnel being displaced or on those areas of our country where facilities are located.

In this connection, we should give attention to using this resource to restore the condition of our roads, our bridges, our highways, harbors, waterway locks and dams, schools, hospitals, and other public facilities. The need for these facilities has been well documented. Programs developed to provide for this asset investment not only provide employment opportunities which help the economy, but the facilities themselves provide benefits and growth for the Nation as they are put to their intended use. Such a program needs to be developed which will phase in with the military build-down and would create productive employment for those crowded out of military production and those who are forced to retire from the military or contractors after devoting their time to the defense of our country.

At the time we discuss the Defense bill, I feel it is appropriate to mention that today I am introducing House Resolution 172 to provide for printing, as a House document, the proceedings of the portrait unveiling ceremony for my predecessor and a former Defense Subcommittee chairman, George Mahon. George was chairman of the full committee for 14½ years and chairman of this subcommittee for 28 years.

Mr. Chairman, this is a fine bill, and I mean every word I say in complimenting the chairman and the ranking member and other members of this subcommittee. I urge adoption of the bill.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to salute the gentleman from Ohio. I think he has pointed out a very serious omission. I am delighted that he gets to offer his amendment, but I want to point out, too, a serious omission in the rule, and that is specifically allowing a point of order against the AuCoin-Machtley provision in the general provisions.

You know, it has been a very bad week for women around here. First of all, we bring out a civil rights bill where everybody is perfectly willing to cap the damages and we tried very hard to get a rule that would allow us to proceed to take the cap off women. We were not allowed to do that. We were instead allowed to present it as an entirely separate bill, which everyone knew would fail.

Now we are getting ready to celebrate a great parade here in the city where the women are going to march down the street and everybody is going to be very happy about the great service that they had overseas.

This body made a historic vote saying we should turn around our choice decisions for women and dependents of the military who are overseas, and now we see we are operating under a rule that is not going to allow us to protect this provision that is in here.

□ 1120

And I really think that this is very unfair. I certainly hope someone is going to move to take this out of the bill. It really tempts me to pick up where the gentleman from Ohio was going and say that we ought to move to strike everything else in the bill if they are going to move to strike that. I mean, we end up with these incredible things going on here. But I just find that very surprising that we cannot protect the women who served this country so well with a rule and, instead, one person will be able to move to strike and knock it out and there will not be anything that we can do. So I am just rising to say I really think that that throws a cast over the whole celebration that is going on and it is not treating all of our service people equally.

I wish we only had a chance to reconsider this in the Committee on Rules. I think we have got to be much more mindful of what kind of rules come out of that place and what we are doing to over half of America's population.

I am not going to do that, because I realize it is Friday and people want to get out of here. But I am going to tell you, I am going to start doing it if I have to sit up in the Rules Committee day after day after day.

I am really outraged as to how we have been treating women around this place, how we have been tokenizing them, and this rule does it again today. And I certainly hope no one Member stands up and overrules the wishes of the majority of this body, moving to strike that language when we get there, because I think it is very important that everybody be able to celebrate equally tomorrow, and they will certainly be saying some are not as equal as others if they do that.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will advise our guests in the gallery that they are guests of the House and they are not to respond to statements made on the House floor.

The Clerk will read.

The Clerk read as follows:

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,730,787,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,109,595,000, to remain available for obligation until September 30, 1994.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,084,813,000, to remain available for obligation until September 30, 1994.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,364,859,000, to remain available for obligation until September 30, 1994: *Provided*, That with funds herein appropriated or otherwise available to the Army and the Navy, the services shall jointly evaluate NATO classified NDI plastic ammunition containers as an alternative to current plans for packaging 81mm mortar ammunition and report the results of such evaluation to the Congress by March 1, 1992: *Provided further*, That of the funds appropriated in this paragraph, $98,459,000 shall not be obligated or expended until authorized by law.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 225 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,021,435,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY
(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $7,683,633,000, to remain available for obligation until September 30, 1994: *Provided*, That $851,600,000 of the funds appropriated in the Department of Defense Appropriations Act, 1991 (Public Law 101-511) under the heading "Research, Development, Test and Evaluation, Navy" shall be transferred to "Aircraft Procurement, Navy": *Provided further*, That the funds transferred are to be available for the same time period as the appropriation from which transferred and for the same purposes as the appropriation to which transferred: *Provided further*, That of the funds appropriated in this paragraph, $174,103,000 shall not be obligated or expended until authorized by law.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, other ordnance and ammunition, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ballistic Missile Programs, $1,204,166,000;
Other Missile Programs, $2,360,879,000;
Torpedoes and Related Equipment, $689,456,000;
Other Weapons, $130,123,000;
Other Ordnance, $234,292,000;
Other, $107,879,000;

In all: $4,726,795,000, to remain available for obligation until September 30, 1994.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

SSN-21 attack submarine program, $1,903,225,000;
DDG-51 destroyer program, $3,330,337,000;
LHD-1 amphibious assault ship program, $972,000,000;
LSD-41 dock landing ship cargo variant program, $245,134,000;
MHC coastal mine hunter program, $231,096,000;
T-AGOS surveillance ship program, $149,000,000;
AOE combat support ship program, $500,000,000;
LCAC landing craft air cushion program, $807,102,000;
Oceanographic ship program, $41,200,000;
Sealift and Preposition ship program, $1,300,000,000;
For craft, outfitting, and post delivery, $510,771,000;
For inflation and Public Law 85-804 settlement, $599,900,000: *Provided*, That up to $75,000,000 shall be available for payments pursuant to settlement of Public Law 85-804 claims for T-AGS 39 and T-AGS 40;
For first destination transportation, $5,939,000;

In all: $10,595,704,000, to remain available for obligation until September 30, 1996: *Provided*, That additional obligations may be incurred after September 30, 1996, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: *Provided further*, That of the funds appropriated in this paragraph, $2,096,504,000 shall not be obligated or expended until authorized by law.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 651 passenger motor vehicles of which 621 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $6,574,568,000, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 45 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,043,218,000, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,444,121,000, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $5,243,841,000, to remain available for obligation until September 30, 1994: *Provided*, That notwithstanding section 163 of Public Law 101-189 funds may be obligated to undertake full-rate production of the Advanced Medium Range Air-to-Air Missile (AMRAAM) after the Director of Operational Test and Evaluation (pursuant to section 138 of title 10, United States Code) submits the beyond low-rate initial production report required by section 2399(b)(2) of title 10, United States Code, stating that AMRAAM is operationally effective and suitable.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 408 passenger motor vehicles of which 285 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $8,001,524,000, to remain available for obligation until September 30, 1994.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $1,292,500,000, to remain available for obligation until September 30, 1994: *Provided*, That of the funds appropriated in this paragraph, $642,500,000 shall not be obligated or expended until authorized by law.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 337 passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $2,708,446,000, to remain available for obligation until September 30, 1994, of which $972,815,000 shall be available for the Special Operations Command: *Provided*, That of the funds appropriated in this paragraph, $132,096,000 shall not be obligated or expended until authorized by law.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $25,000,000, to remain available until expended: *Provided*, That none of these funds shall be obligated for any metal, mineral, or material, unless a Presidential determination has been made in accordance with the Defense Production Act: *Provided further*, That the Department of Defense shall notify the Committees on Appropriations of the House of Representatives and the Senate thirty days prior to the release of funds for any metal, mineral, or material not previously approved by Congress: *Provided further*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

PROCUREMENT OF PREPOSITIONING EQUIPMENT, DEFENSE

For procurement of missiles, tracked combat vehicles, ammunition, other weapons, communications, and other procurement for the Department of Defense prepositioning program, $995,000,000, to remain available for obligation until September 30, 1994: *Provided*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any points of order against title III?

If not, are there any amendments to title III?

The Clerk will read.

The Clerk read as follows:

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,241,621,000, to remain available for obligation until September 30, 1993, of which not less than $6,300,000 is available only for the Vectored Thrust Combat Agility Demonstrator flight test program utilizing the Vectored Thrust Ducted Propeller upon successful completion of Phase I of this demonstration project.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $7,464,910,000, to remain available for obligation until September 30, 1993: *Provided*, That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics—seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: *Provided further*, That none of the funds appropriated in this paragraph are available for development of upgrades to the P-3 aircraft that do not include the AN/UYS-2 Enhanced Modular Signal Processor: *Provided further*, That none of the funds appropriated in this paragraph are available for development of upgrades to the Surveillance Towed Array Sensor System that do not include the AN/UYS-2 Enhanced Modular Signal Processor.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $14,263,941,000, to remain available for obligation until September 30, 1993, of which not less than $30,000,000 is available only for the National Center for Manufacturing Sciences: *Provided*, That not less than $2,500,000 of the funds appropriated in this paragraph are available only for continuing the research program on development of coal based high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels: *Provided further*, That $8,000,000 of the funds appropriated in this paragraph shall be available only for a side-by-side evaluation of the ALR-56M and the ALR-62I radar warning receivers: *Provided further*, That none of the funds appropriated by this paragraph may be used for the B-1B ALQ-161 CORE program or an advanced radar warning receiver, except for costs associated with the side-by-side testing of the ALR-56M and the ALR-62I, until the Air Force submits and Congress approves a plan for correction of B-1B operational shortfalls and the estimated cost of these corrections: *Provided further*, That $5,700,000 is available only for the U.S./U.S.S.R. Joint Seismic Program administered by the Incorporated Research Institutions for Seismology.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,979,141,000, to remain available for obligation until September 30, 1993, of which $266,970,000 shall be available for the Special Operations Command: *Provided*, That not less than $171,000,000 of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT): *Provided further*, That not less than $30,000,000 of the funds appropriated in this paragraph shall be made available as a grant to the National Biomedical Research Foundation for laboratory efforts associated with major research programs in neurology, oncology, virology, cardiology, pediatrics and associated specialty areas of critical importance to the Veterans Administration and the Department of Defense: *Provided further*, That not less than $10,000,000 of the funds appropriated in this paragraph shall be available only for an Experimental Program to Stimulate Competitive Research (ESPCoR) in the Department of Defense which shall include all States eligible for the National Science Foundation Experimental Program to Stimulate Competitive Research: *Provided further*, That the Secretary of Defense shall transfer $20,000,000 of amounts appropriated for research, development, test and evaluation for Defense Agencies for fiscal year 1991 to the Department of Energy for the Environmental and Molecular Sciences Laboratory: *Provided further*, That none of the funds in this paragraph may be obligated for the development of the Superconducting Magnetic Energy Storage System unless its processes, materials, and components are substantially manufactured in the United States.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Director of Defense Research and Engineering (Test and Evaluation) in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $221,300,000, to remain available for obligation until September 30, 1993.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $14,200,000, to remain available for obligation until September 30, 1993.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any points of order against title IV?

If not, are there any amendments to title IV?

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK of Massachusetts: Page 35, line 2, strike out "$14,263,941,000" and insert in lieu thereof "$14,003,859,000".

Mr. FRANK of Massachusetts. Mr. Chairman, this is a rather unusual item for us to be discussing today; it is an amendment to the bill that is in order.

What it does is to save $260 million be canceling low-level research on the MX rail garrison program.

Now, Mr. Chairman, I was going to say we need the MX like we need a hole in the head; but I should have said we need it less than we need a hole in the ground because we have the hole in the ground. That is where the MX's are.

We built 50 of these. We had a great compromise in 1983. Some Members will remember one of the few really successful arms control agreements we had, it was between some of the Democrats here and Ronald Reagan. They made a deal.

Out of it came the MX and the Midgetman, and nobody else remembers the details.

But what we now have is a continued—well, the MX is on life support. I understand if we were talking about a human being, there would be Members here who would not want to pull the plug. I do not mean to get into that.

But when we are talking about a $260 million railroad train for a missile that is never going to be used, that is on life support and is brain-dead, I think we ought to pull it.

Now, lest you think I am exaggerating, let me read from a publication. They put out a nice thing here about the ICBM, it has got a nice picture of the chairman of the subcommittee taken around the time of his bar mitzvah. And it is from the ICBM Education Bureau in Reston. Here is what it says about the MX: "We are going to have low-level research," low-level research beause that is what the administration wants. So the question is do we need $260 million to add to the deficit of the United States for the MX missile?

Now, I offered an amendment the last time to kill the Midgetman. That lost. We have the triad. Now the question is—you saw the thing in the paper today about how good are our kids at mathematics. Well, I hope they are better than we are because we are the only people who think a triad has five sides. And you have to pay for all of them.

You have the MX missile and the Midgetman missile and the Minuteman missile, so that is one side, those three. You have the B-1 and the B-2 bombers, and that is another side, those two.

I take it back, I am up to six sides. I am not that good either.

Then you have the nuclear submarines. So we got a six-sided friend. I am just saying let us cancel one-sixth of the triad, one-third of the extra triad, the triad in reserve. We do not need the MX. Nobody thinks so.

Do you know what this says in the official justification? They say we need this to scare the Russians into a good arms control agreement.

The Russians are lucky to cross the street these days.

The notion that they are really going to be scaring us militarily I think is a little weak.

The President is, simulaneously, of course, preparing to ask us to give them billions of dollars. Then we have to spend $260 million on the MX missile to scare them.

Why don't we just deduct it from the money we give them? Then we could save it. We could make it self-financing.

But what it says in the justification is: We want to do low-level research and then put it on the shelf.

Now, think, if you are a Russian general, are you not terrified? "Oh, my God, the Americans are going to do low-level research and put the program on the shelf, so I had better negotiate to kill it."

Mr. Chairman, this is residual inertial money. If you were for the MX 7 or 8 years ago, maybe it made sense, maybe it did not. The gentleman from California once explained, I think, there were 37 varieties of the MX that they kept coming up with the phasing mode. The back-to-the-rail garrison, Jimmy Carter's bad idea in the first place.

The bill has $260 million. The chairman of the subcommittee has done an admirable job of providing it. He talks about operation and maintenance with justifiable pride because he has been fighting for years to see that the fighting men and fighting women of this country are given what they need. He has worked hard to see that when we do have to defend our national interests militarily, that they are provided what they need.

Spend $260 million on low-level research for a program that is destined for the shelf, and I quote their document, and you detract from the ability of the gentleman from Pennsylvania to do this.

Now, he is the chairman of the subcommittee, he is carrying this forward. I do not believe passing this amendment in any way detracts from the program he has got.

If someone can explain to me what use this foolish railroad train for these 50 missiles is going to be in the future, I will be glad to listen. We are going to be told, well, it is uncertain, you are not sure. $260 million—we fought yesterday over $200 million here, $100 million there. Secretary Kemp made a major effort, and the only thing he got was $150 million. He got a little more than half of what you want to spend on low-level research. So people were up here yesterday fighting hard over $150 million for home ownership. Think what you can do with this $260 million, and vote for my amendment.

Mr. MURTHA. Mr. Chairman, I hope that we can limit the debate on this particular issue. I have had so many members who even wanted to go last night on this thing. I hope we can just vote this as quickly as possible. I do not think we will change many minds on the thing. I wonder if we could limit the debate on this to 10 more minutes, 5 minutes to the gentleman from California [Mr. DELLUMS] and 5 minutes for myself, in just a few minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I have no objection to that.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. MURTHA] have a unanimous-consent request?

Mr. MURTHA. Mr. Chairman, I ask unanimous consent that the time on this amendment be limited to 10 minutes, 2½ minutes for the gentleman from Pennsylvania [Mr. MCDADE], 2½ minutes for myself, and 5 minutes for the gentleman from California [Mr. DELLUMS].

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

☐ 1130

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I rise in enthusiastic support of the amendment offered by my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK], and let me attempt to put the gentleman's amendment in historical perspective.

There was an argument that began to rattle around Washington, DC, in the early 1970's. The argument was known as the window of vulnerability argument. It essentially said that our land-based missiles on the basis of their fixed mode would be vulnerable to Soviet attack, nuclear attack, somewhere in the mid to late 1980's. I argued in the early 1970's that the Pentagon and my colleagues were attempting to fashion a solution to a problem that did not exist, that no rational Soviet planner would attempt to attack one leg of our nuclear triad when we had two remaining surviving legs of our triad that could inflict such incredible damage upon the Soviet Union that they could not emerge as a civilized society. But at that time, in the early 1970's, the argument fell on deaf ears, and the MX missile began to rattle forward. They used a number of different modes. One of them was to put several hundred holes in the ground, and sometime during the late of night we would sneak these missiles from one hole to another. I thought that might have some merit if we dealt 435 holes, one in each congressional district, and once people recognized that these MX missiles would be in their district, maybe we would mobilize our position. That went down the drain. Then we went to the race track concept, and I thought that might have an interesting set of ideas. We could create a lottery around that and decide which missile came in first, second, or third, but then we went to a mass transit concept. I thought that had some genius to it. We could build a mass transit system for these missiles, and then demilitarize it and would have a national mass transit system. That did not work. We ended up with dense pack, pack dense, a whole range of things. Finally we come to rail garrison, and, Mr. Chairman, suddenly then in the Reagan administration they decided to put together a commission and got General Scowcroft to chair it. They labored long and hard, spent hundreds of thousands of dollars studying, finally came out with a recommendation that we place 50 MX missiles, each with 10 warheads in 50 fixed Minuteman silos. Suddenly people rose and said, "Wait a minute, but aren't those the same fixed-based silos that we thought were vulnerable several years ago," and then the Scowcroft Commission stepped forward and said, "But one leg of our nuclear triad doesn't have to be independently survivable. Survivability is in the aggregate." So, they took the argument this gentleman gave them free on the floor of Congress in the early 1970's, spent hundreds and thousands of dollars to come to the same conclusion, and then they gave it a sophisticated name. They called it synergism. Overnight that became the father of synergism.

Mr. Chairman and members of the committee, this MX missile is not needed. We do not need a mobile missile. The Soviet Union is not sitting there waiting to attack the United States. We were supposed to be attacked by the mid to late 1980's. It is now 1991, and there is no attack, and we are even stronger now than we were in the past.

The gentleman from Massachusetts [Mr. FRANK] makes an excellent point. This is an absurd idea, and it seems to me that we ought to end it, terminate it, now, and I conclude by suggesting that all of my colleagues rise with us at the appropriate point in the proceedings and adopt the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

Mr. MURTHA. Mr. Chairman, last year Congress directed DOD to descope the MX missile rail garrison program, directed them to proceed with R&D only and then mothball the system. DOD did exactly as was suggested. They cut the MX budget by $2 billion and will mothball the MX system after 1993.

If we eliminate the 1992 funds, Congress breaks its agreement with DOD, shows that Congress is not willing to live up to its agreement, and is not willing to back its directives.

Mr. Chairman, experience in the Persian Gulf shows that mobile missiles are very difficult to detect and cause us to invest great resources in finding those particular types of missiles. The United States must prove that a mobile nuclear missile is possible and it can be launched in its mobile configuration.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. MURTHA] for yielding, and he did say it is going to be mothballed, but I am intrigued by the notion that we would be breaking a treaty with the Defense Department. I mean was this treaty ratified by some third party? We told them to do this. We did it, and now they are saying we do not need to spend the money. Are they going to say we broke our word to them by saving $260 million?

Mr. MURTHA. Mr. Chairman, I say to the gentleman that we are trying to work with them and mothball a system which all of us agree is not needed now, but we do think we need the ability to respond, and, as the gentleman suggests, it has taken a long time for us to get to this position.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. MURTHA]. I thought it was occasionally unfair to talk about $800 toilet seats because it left some things out, but $260 million worth of mothballs is a very impressive figure.

Mr. McDADE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in opposition to the amendment, and I was going to talk a little bit about the MX and why I think it should not be. Let me instead go to a broader topic, and that is certainly there are two or three things we all agree.

One is we are going to continue to have a strong defense. No. 2, we have already decided to reduce our cost substantially, and, No. 3, if we are going to do that we are going to have to spend those bucks where they are best spent, and I think we do that in large measure by listening to the people who were so proud of their performance in Desert Storm just completed, and the recommendation is that we do this from the Defense Department, and I think we should continue to do that, and I rise in opposition to the amendment of the gentleman from Massachusetts [Mr. FRANK].

Mr. McDADE. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong opposition to the amendment offered by Mr. FRANK of Massachusetts that would terminate the MX Rail Garrison Program. This shortsighted amendment would have an adverse impact on our national security and the credibility of our nuclear deterrence force.

Both the Armed Services and Appropriations Committees responsibly decided to continue funding further research and development of the MX Rail Garrison Program. It has been authorized by the Defense authorization bill that passed this House just 2 weeks ago. The Peacekeeper, which some still call the MX, is our front-line, modern ICBM capable of carrying 10 nuclear warheads. It provides a significant amount of strength to the ICBM leg of our triad, and will carry even more of the burden in the future as Minuteman II's and III's, our only other ICBM's are retired. At present, the MX, like all our ICBM's, is based in hardened silos—silos which can be very easily targeted and destroyed by Soviet missiles. The Peacekeeper, like the older, smaller, less accurate, and more vulnerable Minuteman force, is a very tempting target. The MX—Peacekeeper—Rail Garrison Program would increase the survivability of the Peacekeeper and make first strike targeting by the Soviets or anyone else far more difficult due to this new basing mobility. Complicating the attack plans of our adversaries and increasing the chances that any attack may not achieve a satisfactory level of success increases nuclear stability and provides further incentive to engage in real strategic nuclear arms reduction negotiations.

MX missile procurement was terminated by the administration in fiscal year 1992. So this amendment has nothing to do with building more MX missiles. What this amendment does is terminate a very promising basing mode for our strategic nuclear deterrent. The difficulties we encountered finding the mobile Iraqi Scud missiles, as compared with the easy targets Iraq's fixed Scud missiles sites were, clearly underscores the benefits of mobility. The Frank amendment aims to make our MX missile deterrent just as vulnerable as Iraq's fixed Scuds—missiles taken out in the first hours of the air war. That's silly.

Further, beginning next year we will be retiring Minuteman II missiles. That leaves only the older, smaller, more vulnerable Minuteman III and the MX. The 50—and we've only deployed 50—MX missiles are a very critical and long-term part of our strategic nuclear triad. Due to strategic arms reductions, we can no longer count on quantity—high numbers of ICBM's—to ensure survivability. That's why the mobile Rail Garrison Program is so important.

The Rail Garrison MX Program undergoes intense testing and development at Vandenberg Air Force Base located in my district. In addition to providing critical security benefits to the United States and the free world, this program is also beneficial to the local economy of northern Santa Barbara County. The Vandenberg AFB area was hard hit by the decision not to launch the space shuttle from the west coast. Other space programs, like the advanced launch system, are still off in the future. Vigorous testing of the Peacekeeper would help offset that loss. This added bonus further strengthens my support for this important program.

While we again debate the future of the Peacekeeper, as we have over and over again for the past years—each time reconfirming our support for them—the Soviets are deploying their MX rail garrison and small ICBM. Rail-mobile SS-24, a fifth-generation missile of comparable size and warhead carrying capability to the MX, is being deployed. The smaller SS-25, which like the Midgetman is a single-warhead, road mobile system, joined operational Soviet units in 1985. I urge my colleagues to remember that we cannot look at our programs as if they are in a vacuum. We must factor in our decisions what the Soviets have done and are doing.

I am very encouraged by the extremely positive democratic revolutions in Eastern Europe and the dissolution of the Warsaw Pact. I am also cautiously optimistic that real political and economic reforms can occur in the Soviet Union, though I am troubled by recent crackdowns in the Soviet Union and the recentralization of power in the military and the KGB. During his resignation speech former Soviet Foreign Minister Eduard Shevardnadze warned about the return of a hardline dictatorship in the U.S.S.R. It is a warning we should not ignore. While Gorbachev has been very successful in wooing the West with promises of peristroika and reform, the same Mikhail Gorbachev has continued to modernize and strengthen Soviet strategic nuclear forces. To me, actions speak louder than words. While we hope the words come true, we should not ignore the actions as these Frank amendments do. Despite all the euphoria in the West, we're not out of the woods yet. We cannot take chances with our national security.

We have had this debate many, many times before in one form or another. It's the debate over unilateral disarmament. And, let us not be fooled, this Frank amendment is unilaterally disarming our strategic modernization program.

Unilateral disarmament does not work. We proved it in the 1970's through failures like SALT and we proved it in the 1980's through the success of the Reagan-Bush program of peace through strength. Just look at the successful INF Treaty, which eliminated two entire classes of nuclear weapons, and the Conventional Forces in Europe Agreement which will drastically cut military forces in the European theater. We reached these agreements not through unilateral disarmament, but through tough negotiations backed up by credible, effective military modernization programs. The agreements are guaranteed through tough verification regimes.

I strongly believe that the Soviets, who are developing and deploying their own MX rail garrison and small, mobile ICBM's will be more cooperative in reaching an equitable and verifiable strategic arms reduction agreement if they recognize we are working to counter their recent advances. Our experience with the INF Treaty underscores that. Enactment of the Frank amendment removes that incentive and weakens both our national defenses and our negotiating position. What do we end up with? No American modernization and enhanced survivability, hundreds of new, mobile Soviet missiles we have no way to counter especially with the majority's opposition to the SDI, no new missile reduction agreement, and no way to really verify any agreement we may reach. That's foolish and dangerous.

For both national security and future nuclear arms reduction reasons it is very important for the United States to continue with the MX Rail Garrison Program. To terminate it would severely undercut our negotiators in Geneva, making equal, reasonable strategic arms control agreements much more difficult to achieve. I believe the majority—from both sides of the aisle—in the House, on the Armed Services Committee and now on the Appropriations Committee recognize these facts and have wisely provided funds for its continued development. The short-term political gains from terminating this program do not even come close to offsetting the long-term national security losses. I urge my colleagues to join me in supporting the position of both the Armed Services and Appropriations Committees and oppose this amendment.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose this ill-conceived amendment. I hope we can dispense with it quickly.

I think it is critical for the membership to understand what it is we are talking about here, today, with respect to the MX Program.

We are not talking about deploying any MX missiles here. The Congress settled that issue several years ago when it capped MX deployment at 50 missiles.

We are not talking about funding a development program which leads to MX deployment, either.

You need to understand that there has been a dramatic change in the rail-garrison MX Program, a change made in this budget.

The administration has changed its position on deploying a mobile MX missile. With the lessening of tensions with Moscow, and the overall defense build-down, the administration in this budget decided that given the tough fiscal choices ahead it could forego its long-term goal of deploying rail-mobile MX missiles.

What the budget proposes now is a reasonable and prudent step.

It proposes that we complete the work needed to test out the concept of making the MX mobile. We will proceed to the point where we fire one test missile off a rail car, late next year * * * and then put the rail-garrison option on the shelf. That is it. Nothing more, nothing less.

By doing this we will at least get some benefits from the over 5 years of research and $2 billion that have been invested in developing a mobile MX capability.

And we preserve the option to revisit rail-garrison in the future as a means to decrease the vulnerability of our fixed, land-based missiles, should the situation warrant.

At present, given the state of play between ourselves and Moscow, the President has concluded that we do not need to commit to deploying a mobile ICBM. But we do need to keep our options open.

Today, the United States has no mobile ICBM. The Soviets have two—the SS-24 and the SS-25—and over 330 of these are deployed.

It should be apparent to even the most casual observer of events in the Soviet Union that the United States should keep some flexibility as we try to deal with a most uncertain situation in that country.

The new plan on MX is not unreasonable; it is clearly affordable; and it will provide the Nation with at least an option to consider.

It is not a controversial plan and, my colleagues, you have already endorsed it by passing the Defense authorization 2 weeks ago.

Stay with this reasonable approach—reject the Frank amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 229, not voting 47, as follows:

[Roll No. 144]

AYES—155

Abercrombie
Anderson
Andrews (ME)
Annunzio
Anthony
Applegate
Atkins
AuCoin
Beilenson
Berman
Bonior
Borski
Brooks
Bryant
Cardin
Carr
Clement
Collins (IL)
Collins (MI)
Condit
Conyers
Cox (IL)
DeLauro
Dellums
Derrick
Dooley
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Engel
Evans
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Gephardt
Glickman
Gonzalez
Gray
Green
Hall (OH)
Hamilton
Hayes (IL)
Hertel
Horn
Horton
Hubbard
Hughes
Jacobs
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lantos
Leach
Lehman (CA)
Levin (MI)
Levine (CA)
Long
Lowey (NY)
Manton
Markey
Matsui
Mavroules
McCloskey
McDermott
Mfume
Mineta
Mink
Moakley
Moody
Moran
Murphy
Nagle
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Pease
Penny
Perkins
Peterson (MN)
Petri
Porter
Price
Rahall
Rangel
Reed
Roberts
Roemer
Rohrabacher
Roth
Roukema
Roybal
Russo
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Skaggs
Slaughter (NY)
Smith (FL)
Smith (NJ)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Tanner
Torres
Traficant
Traxler
Unsoeld
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Wolpe
Wyden
Yates

NOES—229

Alexander
Allard
Andrews (NJ)
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Brewster
Broomfield
Browder
Brown
Bruce
Bunning
Burton
Byron
Callahan
Camp
Carper
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Cooper
Costello
Coughlin
Cox (CA)
Coyne
Cramer
Crane
Cunningham
Darden
Davis
DeLay
Dickinson
Dicks
Dingell
Dixon
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fields
Fish
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Johnson (TX)
Jones (NC)
Kanjorski
Kasich
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
LaRocco
Laughlin
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lowery (CA)
Luken
Machtley
Marlenee
Martin
Mazzoli
McCandless
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Molinari
Mollohan
Montgomery
Moorhead
Morrison
Murtha
Myers
Natcher
Nichols
Ortiz
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Peterson (FL)
Pickett
Pickle
Poshard
Pursell
Ramstad
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Rogers
Ros-Lehtinen
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Shuster
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Swett
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wilson
Wise
Wolf
Wylie
Yatron
Young (AK)
Zeliff
Zimmer

NOT VOTING—47

Ackerman
Andrews (TX)
Boehner
Boucher
Boxer
Bustamante
Campbell (CA)
Campbell (CO)
Chandler
Chapman
Clay
Dannemeyer
de la Garza
DeFazio
Donnelly
Dymally
Fazio
Frost
Hastert
Jenkins
Lehman (FL)
Lent
Lewis (GA)
Lipinski
Martinez
McCollum
Miller (CA)
Miller (WA)
Morella
Mrazek
Orton
Payne (VA)
Pelosi
Quillen
Rose
Rostenkowski
Sangmeister
Shaw
Sisisky
Smith (IA)
Sundquist
Thornton
Torricelli
Towns
Vento
Williams
Young (FL)

□ 1156

The Clerk announced the following pairs:

On this vote:

Mr. Vento for, with Mr. Orton against.

Mr. Sangmeister for, with Mr. Fazio against.

Mr. DeFazio for, with Mr. Dymally against.

Mr. Towns for, with Mr. Andrews of Texas against.

Mrs. Morella for, with Mr. Young of Florida against.

Mr. Lehman of Florida for, with Mr. Quillen against.

Messrs. SANDERS, ROHRABACHER, ATKINS, OWENS of Utah, and TORRES changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title IV?

If not, the Clerk will read:

The Clerk read as follows:

TITLE V

DEFENSE BUSINESS OPERATIONS FUND

There is established on the books of the Treasury a Fund to be known as the "Defense Business Operations Fund" under which the following amounts are appropriated to the Defense Business Operations Fund established by this title:

Defense Business Operations Fund, Army Stock Fund Division, $827,300,000; and

Defense Business Operations Fund, Air Force Stock Fund Division, $1,616,800,000: *Provided*, That such divisions shall maintain their separate identity and separate management structures and shall be reflected on the books of the Treasury as divisions of the Defense Business Operations Fund which shall reflect only the balances of such funds appropriated pursuant to this paragraph separately in accordance with the fund to which they applied prior to the enactment of this title: *Provided further*, That during the current fiscal year no functions, activities, funds or accounts may be assigned, transferred or otherwise added to the existing fund as established in this paragraph: *Provided further*, That funds appropriated herein for such funds shall not be transferred between or among the divisions of such funds: *Provided further*, That of the funds appropriated in this paragraph, $24,000,000 shall not be obligated or expended until authorized by law.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title V of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any points of order against title V?

□ 1200

Are there any amendments to title V?

The Clerk will read.

The Clerk read as follows:

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986, as follows: for Operation and maintenance, $208,698,000; for Procurement, $229,202,000 to remain available until September 30, 1994; for Research, development, test and evaluation, $13,900,000 to remain available until September 30, 1993; In all: $451,800,000: *Provided*, That none of the funds in this Act may be obligated or expended for the procurement of equipment for chemical weapon disposal facilities (other than Tooele) until the Secretary of Defense certifies to the Congress that 1) Operational Verification Testing at the Johnston Atoll

Chemical Agent Destruction Facility is complete, 2) a report on the results of the tests has been submitted to the Congress, 3) plant design has been verified, and 4) necessary environmental permits have been secured for the sites for which the equipment is to be procured.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $1,155,994,000: *Provided*, That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further*, That of the funds appropriated by this paragraph, $22,290,000 shall not be obligated or expended until authorized by law.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, as follows: for Operation and maintenance, $121,600,000; for Procurement, $300,000; In all: $121,900,000: *Provided*, That the amount provided for Procurement shall remain available until September 30, 1994: *Provided further*, That of the funds appropriated in this paragraph, $1,000,000 shall not be obligated or expended until authorized by law.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any points of order against title VI?

Are there any amendments to title VI?

The Clerk will read.

The Clerk read as follows:

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $164,100,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $30,719,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any points of order against title VII?

Are there any amendments to title VII?

The Clerk will read.

The Clerk read as follows:

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of the Philippines and foreign national employees of the Department of Defense in the Republic of Turkey: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

SEC. 8005. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

(TRANSFER OF FUNDS)

SEC. 8006. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act.

(TRANSFER OF FUNDS)

SEC. 8007. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds and to the "Foreign Currency Fluctuations, Defense" appropriation account in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8008. (a) None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

(b) None of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe, except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives: *Provided*, That this limitation shall apply to any authority granted pursuant to section 9008 of the Department of Defense Appropriations Act, 1990.

(c) None of the funds available to the Department of Defense in this Act shall be used to enter into any agreement or contract to convert any heating facility at military installations in the Kaiserslautern Military Community (KMC) in the Federal Republic of Germany to district heat, direct natural gas, or other sources of fuel, except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives, and until the Secretary of the Air Force has (1) ensured that the United States coal industry has had the opportunity to provide thermal energy supply to the KMC facilities through participation in a competitive solicitation for proposals for a third-party thermal energy supply, provided such solicitation allows evaluation of innovative technical proposals such as cogeneration to enhance the cost-effectiveness of coal derived thermal energy; (2) thoroughly evaluated the cost-effectiveness of all proposals received; (3) submitted evaluation results to the General Accounting Office for review; and (4) notified the Committees on Appropriations of the Senate and House of Representatives of the evaluation results.

SEC. 8009. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8010. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8011. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other authorized individual health care providers in excess of the amounts allowed in fiscal year 1991 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on an analysis similar to that used pursuant to title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent. The Secretary shall solicit public comment prior to promulgating regulations to implement this section.

SEC. 8012. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1994.

SEC. 8013. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

MK-48 ADCAP Torpedo;
UH-60 Black Hawk Helicopter; and
Army Tactical Missile.

(TRANSFER OF FUNDS)

SEC. 8014. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8015. (a) None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technican to a position to be held by a person in an active duty status or active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicans of the component concerned, below 72,150: *Provided*, That none of the funds appropriated by this Act shall be available to support more than 48,624 positions in support of the Army Reserve, Army National Guard, or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further*, That none of the funds appropriated by this Act may be used to include (civilian) military technicans in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard, or Air National Guard.

(b) None of the funds appropriated by this Act shall be used to include (civilian) military technicians in any administratively imposed freeze on civilian positions.

SEC. 8016. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1992 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1992, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1993 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1993 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1993.

SEC. 8017. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8018. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8019. None of the funds appropriated by this Act or hereafter shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8020. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8021. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for not more than 250 civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8022. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8023. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8024. (a) None of the funds appropriated by this Act, shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act:

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That no contribution to the Fund pursuant to section 2006(g) shall be made during the current fiscal year that represents liabilities arising from the Department of the Army: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8025. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8026. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act or; (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

SEC. 8027. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided*, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8028. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided*, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,600,000,000 expressed in fiscal year 1986 constant dollars to be exceeded: *Provided further*, That none of the funds appropriated or made available by this Act may be used to deploy the Composite Health Care System beyond the initial alpha and beta test sites until system development is completed.

SEC. 8029. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8030. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8031. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8032. None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth: *Provided*, That none of the funds available shall be used to reduce, revise, or terminate the CHAMPUS Reform Initiative contract before February 1, 1994.

SEC. 8033. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided*, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8034. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided*, That this prohibition shall not apply to safety modifications: *Provided further*, That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the country to provide such waiver and so notifies the congressional defense committees in writing.

SEC. 8035. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) and by the Budget Enforcement Act of 1990 (Public Law 101-508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1992, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided*, That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8036. Of the funds appropriated to the Army, $172,072,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided*, That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A–109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

SEC. 8037. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided*, That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further*, That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 8038. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8039. Not to exceed $20,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8040. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 8041. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician and Department of Defense medical personnel pay and medical programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508): *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision.

SEC. 8042. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8043. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service in excess of thirty days in any year, in the case of a patient nineteen years of age or older, forty-five days in any year in the case of a patient under nineteen years of age, or one hundred and fifty days in any year in the case of inpatient mental health services provided as residential treatment care, or for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That these limitations do not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care: *Provided further*, That the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this provision or section 1086 of title 10, United States Code. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries: *Provided further*, That except in the case of an emergency, the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this provision or section 1086 of title 10, United States Code. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission.

SEC. 8044. The designs of the Army LH helicopter, the Navy A–X Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications and must fully comply with all DOD regulations requiring the use of the Ada computer programming language no later than 1998: *Provided*, That effective July 1, 1992 all new Department of Defense procurements shall separately identify software costs in the work breakdown structure defined by MIL–STD–881 in those instances where software is considered to be a major category of cost.

SEC. 8045. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided*, That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further*, That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members engaged in activities related to the INF Treaty: *Provided further*, That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

SEC. 8046. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $300,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1992, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: *Provided*, That this section does not apply to the reserve components: *Provided further*, That not more than $1,188,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Defense.

SEC. 8047. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8048. (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed $10,800,000, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

(c) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.

SEC. 8049. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing or Information Technology Facility consolidation plans, or (2) to make reductions or transfers in personnel end strengths, billets or missions that affect the Naval Regional Data Automation Center, the Enlisted Personnel Management Center, the Naval Reserve Personnel Center and related missions, functions and commands until sixty days after the Secretary of Defense submits a report, including complete review comments by the General Accounting Office, to the Committees on Appropriations of the House and Senate justifying any transfer, reductions, or consolidations in terms of (1) addressing the overall mission and operations staffing of all Naval Automatic Data Processing, Information Technology Facility, and Naval personnel functions for all active and reserve personnel commands and field activities and Automatic Data Processing commands and field activities; and (2) certifying that such reduction, transfer or consolidation plans or operations do not duplicate functions presently conducted; are cost effective from a budgetary standpoint; will not adversely affect the mission, readiness and strategic considerations of the Navy and Naval Reserve; and will not adversely impact on the quality of life and economic benefits of the individual serviceperson or have an adverse economic impact on a geographic area.

SEC. 8050. No funds appropriated by this Act may be obligated or expended to prepare, or to assist any contractor of the Department of Defense in preparing, any material, report, list, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

SEC. 8051. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8052. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8053. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

SEC. 8054. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8055. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.

SEC. 8056. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for the payment of the expenses under the Program for the first $150 of the charges for all types of care authorized under the provisions of section 1079(a) of title 10, United States Code, under plans contracted for under the provisions of section 1079 or section 1086 of title 10, United States Code, and received in an outpatient status after April 1, 1991: *Provided*, That the foregoing limitation shall not exceed the first $300 in the case of a family group of two or more persons covered by section 1079(a) of title 10, United States Code: *Provided further*, That higher deductible amounts and/or total or partial restrictions on the availability of care (other than emergency care) in facilities of the uniformed services may be prescribed by the Secretary of Defense in the case of beneficiaries eligible for enrollment under health care plans contracted for under section 1097 of title 10, United States Code, who chose not to enroll in such plans: *Provided further*, That the provisions of this section shall not apply in the case of dependents of military members in grades E–1 through E–4.

SEC. 8057. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS II program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS II program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS II program elsewhere.

SEC. 8058. Of the funds appropriated by this Act, no more than $4,000,000 shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98–525.

SEC. 8059. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

SEC. 8060. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 8061. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act, and until thirty legislative days after the final General Accounting Office report on the aforesaid contract is submitted for review to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That funds necessary for the care of animals covered by this contract are allowed.

SEC. 8062. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at the Letterman Army Institute of Research until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

SEC. 8063. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five year period beginning on October 1, 1991, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed closures and realignments of military installations and an assessment of the economic impact in each area in which a military installation is to be realigned or closed.

SEC. 8064. None of the funds appropriated in this Act shall be used to reduce the fiscal year 1992 2.5- or 5-ton truck maintenance workload at Letterkenny Army Depot as a direct result of either the proposed consolidation of truck maintenance or an increase in fiscal year 1992 truck maintenance at any other depot; neither shall funds be available for transfer of towed and self-propelled artillery maintenance from Letterkenny Army Depot.

SEC. 8065. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the Government: *Provided further*, That no funds appropriated or made available in this Act shall be used for the relocation into the National Capital Region of the Air Force Office of Medical Support located at Brooks Air Force Base.

SEC. 8066. None of the funds appropriated in this Act shall be used to produce more than two-thirds of the liquid gas requirements inhouse at Andersen Air Force Base on Guam. At least one-third of Andersen Air Force Base's liquid gas requirements shall be met by acquiring liquid gas from commercial sources on Guam.

SEC. 8067. None of the funds available to the Department of Defense in this Act shall be used to reduce the end strength and force structure of the Reserve Components below the levels funded in this Act or be used to reduce or disestablish the operation of units of the Reserve Components below those in existence on April 15, 1991: *Provided*, That the foregoing limitation shall not apply to the modernization or restructuring of units at the same location or to the establishment of new units.

SEC. 8068. Funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia for the fiscal year ending September 30, 1992, may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the armed forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 8069. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

SEC. 8070. None of the funds appropriated by this Act shall be used to begin closing a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House of Representatives and the Senate ninety days prior to such action.

SEC. 8071. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8072. None of the funds appropriated in this Act shall be used for the recruitment or enrollment of a new student or class of students at the Uniformed Services University of the Health Sciences after September 30, 1991.

SEC. 8073. Notwithstanding any other provision of law, after June 1, 1991, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.

SEC. 8074. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 4107(g) of title 38, United States Code.

SEC. 8075. None of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs, except pursuant to the findings and recommendations of the Army Surgeon General's Blue Ribbon Panel as specified in its February and August 1990 meeting minutes: *Provided*, That this training will be performed at Walter Reed Army Medical Center.

SEC. 8076. None of the funds appropriated by this Act shall be used to reduce the military and civilian work force at any military medical facility or medical support facility below the level maintained or authorized for fiscal year 1990: *Provided*, That the foregoing limitation shall apply to all military medical and medical support facilities.

(RESCISSIONS)

SEC. 8077. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Procurement of weapons and tracked combat vehicles, Army, 1990/1992, $10,000,000;

Procurement of weapons and tracked combat vehicles, Army, 1991/1993, $114,000,000;

Procurement of ammunition, Army, 1991/1993, $23,700,000;

Other procurement, Army, 1990/1992, $10,300,000;

Other procurement, Army, 1991/1993, $26,800,000;

Aircraft procurement, Navy, 1990/1992, $893,500,000;

Weapons procurement, Navy, 1991/1993, $300,000,000;

Other procurement, Navy, 1991/1993, $2,700,000;

Procurement, Marine Corps, 1991/1993, $2,000,000;

Guard and Reserve Equipment, 1991/1993, $8,000,000;

Research, Development, Test and Evaluation, Army, 1991/1992, $85,200,000;

Research, Development, Test and Evaluation, Navy, 1991/1992, $41,800,000;

Research, Development, Test and Evaluation, Air Force, 1991/1992, $199,400,000;

Research, Development, Test and Evaluation, Defense Agencies, 1991/1992, $90,000,000.

SEC. 8078. Section 8104 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1898) is amended—

(1) by amending section 3 by adding the following new sentence at the end thereof: "The Commission is established until 30 days following submission of the final report required by section 6 of this section.";

(2) by amending section 6 as follows: (i) by amending subsection (b)—

(A) by striking out "SUBSEQUENT ANNUAL REPORTS" and inserting "FINAL REPORT" in lieu thereof;

(B) by striking out "an annual report for each of the first five years following the" and inserting "a final report one year following" in lieu thereof in the first sentence; and

(C) by striking out the second sentence; and

(ii) by amending subsection (c)—

(A) by striking out "Each report under this section" and inserting "The report under subsection (b)" in lieu thereof in the first sentence; and

(B) by striking out "Each such" and inserting "Such" in lieu thereof in the second sentence; and

(3) by amending section 8(c) to read as follows:

"(c) OBTAINING OFFICIAL DATA.—The Chairman or a designee on behalf of the Chairman may request information necessary to enable the Commission to carry out this Act directly from any department or agency of the United States.".

SEC. 8079. Of the funds made available in this Act, not less than $8,674,000 shall be available for the Civil Air Patrol, of which $4,400,000 shall be available for Operation and Maintenance.

SEC. 8080. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 815th Tactical Airlift Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 8081. Of the funds available in this Act in the operation and maintenance accounts of the Department of Defense, $10,000,000 shall be available only to transport United States beef for resale in Department of Defense commissaries in foreign countries.

SEC. 8082. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

SEC. 8083. Of the funds appropriated in this Act for "Drug Interdiction and Counter-Drug Activities, Defense", $40,000,000 shall be available only for the National Drug Intelligence Center.

SEC. 8084. Restrictions provided under subsection (b)(2) of section 301d of title 37, United States Code, as authorized by the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510), and hereafter, shall not apply in the case of flag or general officers serving as full-time practicing physicians.

SEC. 8085. Any CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) medical provider may voluntarily waive the patient copayment for medical services provided to dependents of active duty personnel from August 2, 1990, until the return of troops from the Persian Gulf theater: *Provided*, That the Government's share of medical services is not increased during the specified time period.

SEC. 8086. Mitchel Field Health Care Facility in the State of New York shall only be funded from the Operation and Maintenance, Navy, appropriation and shall not be funded or included within the congressionally imposed ceiling on the Uniformed Services Treatment Facility account.

SEC. 8087. During the current fiscal year, the Navy may provide notice to exercise options under the LEASAT program for the next fiscal year, in accordance with the terms of the Aide Memoire, dated January 5, 1981, as amended by the Aide Memoire dated April 30, 1986, and as implemented in the LEASAT contract.

(TRANSFER OF FUNDS)

SEC. 8088. During the current fiscal year, there is established an account entitled, "Foreign National Employees Separation Pay Account, Defense": *Provided*, That there shall be deposited to this account: (a) all amounts previously obligated for the separation pay of foreign national employees of the Department of Defense from appropriations which are no longer available for obligation and (b) all amounts obligated for the separation pay of foreign national employees of the Department of Defense from appropriations available for obligation during the current fiscal year: *Provided further*, That amounts deposited to the Account shall remain available until expended.

SEC. 8089. During the current fiscal year and hereafter, none of the funds appropriated for intelligence programs to the Department of Defense which are transferred to another Federal agency for execution shall be expended by the Department of Defense in any fiscal year in excess of amounts required for expenditure during such fiscal year by the Federal agency to which such funds are transferred.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8090. (a) Of the funds appropriated in this Act in title IV, Research, Development, Test and Evaluation, Navy, $625,000,000 shall be available only for the V-22 aircraft program.

(b) Of the funds appropriated for the V-22 program in fiscal years prior to fiscal year 1992 (1) $200,000,000 shall be subject to the provisions of section 204 of the Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991, (Public Law 102-27), and shall be used to initiate a new Phase II V-22 Full Scale Engineering Development program as further described in subparagraph (c)(2); (2) That of the funds appropriated in the Department of Defense Appropriations Act (Public Law 101-511) for fiscal year 1991 under the heading, "Aircraft Procurement, Navy" for the V-22 Osprey program, $165,000,000 shall be transferred to "Research, Development, Test and Evaluation, Navy, 1992/1993", to be merged with and to be available for the same purposes and the same time period as the appropriation to which transferred, subject to the provisions of subparagraph (c).

(c) Funds described in subparagraphs (a) and (b) of this section shall be obligated as follows:

(1) Not less than $164,800,000 shall be obligated by October 31, 1991 to continue the existing V-22 Full Scale Engineering Development program;

(2) Not less than $357,200,000 shall be obligated by November 30, 1991 to fund a Phase II V-22 Full Scale Engineering Development program to provide ten production representative new aircraft which will successfully demonstrate the full operational requirements of the Joint Services Operational Requirement (JSOR) not later than December 31, 1996: *Provided*, That the ten production representative V-22 aircraft shall be produced on tooling which qualifies production design;

(3) The remaining funds shall be obligated in accordance with the plan provided for in subparagraph (d).

(d) The Secretary of Defense shall provide to the Congress, within 60 days of enactment of this Act, the total funding plan and schedule to complete the Phase II V-22 Full Scale Engineering Development program.

SEC. 8091. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

(TRANSFER OF FUNDS)

SEC. 8092. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period of the appropriation from which transferred: *Provided further*, That funds shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Research, Development, Test and Evaluation, Navy, 1991/1992", $1,400,000;

Under the heading, "Weapons Procurement, Navy, 1990/1992", $12,800,000;

Under the heading, "Aircraft Procurement, Navy, 1990/1992", $30,000,000;

Under the heading, "Aircraft Procurement, Navy, 1991/1993", $15,100,000;

Under the heading, "Weapons Procurement, Navy, 1991/1993", $24,800,000;

Under the heading, "Other Procurement, Navy, 1991/1993", $4,200,000;

Under the heading, "Procurement, Marine Corps, 1991/1993", $29,300,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

DDG-51 destroyer program, $46,400,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

USCG Patrol Boat Program, $3,600,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":

TRIDENT ballistic missile submarine program, $28,900,000;

DDG-51 destroyer program, $64,900,000;

AOE-6 fast combat support ship program, $161,200,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989":

TRIDENT ballistic missile submarine program, $17,300,000;

MCM Mine Countermeasures ship program, $7,300,000;

TAO Fleet Oiler program, $3,500,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

SSN-688 attack submarine program, $18,900,000;

MHC coastal mine hunter program, $6,900,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

TRIDENT ballistic missile submarine program, $9,600,000;

SSN-688 attack submarine program, $113,600,000;

DDG-51 destroyer program, $22,100,000;

TAGOS ocean surveillance ship program, $400,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

TRIDENT ballistic missile submarine program, $67,200,000;

SSN-688 attack submarine program, $29,600,000;

LSD(CV) amphibious dock landing (cargo variant) ship program, $5,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

TRIDENT ballistic missile submarine program, $44,400,000;

SSN-688 attack submarine program, $15,600,000;

SSN-21 attack submarine program, $4,500,000;

MHC coastal minehunter program, $13,900,000;

TAGOS ocean surveillance ship program, $10,800,000;

AO auxiliary oiler conversion ship program, $5,500,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

MCM Mine Countermeasures ship program, $12,300,000;

AO auxiliary oiler conversion ship program, $4,500,000;

MTS(C) moored training ship conversion program, $9,000,000.

SEC. 8093. None of the funds in this Act shall be obligated for the procurement of a Multibeam Sonar Mapping System not manufactured in the United States: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8094. Using funds available in the National Defense Stockpile Transaction Fund, during the period of fiscal years 1992 through 1994 and using procedures covered by section 3301 of the National Defense Authorization Act, 1991 (Public Law 101-510; 104 Stat. 1844-45), the President may acquire not less than 50,000 kilograms of germanium from current domestic sources to be held in the National Defense Stockpile.

SEC. 8095. None of the funds appropriated in this Act may be used to implement more than fifteen catchment area management demonstration sites: *Provided*, That each demonstration site criteria must be approved by the Assistant Secretary of Defense for Health Affairs before the demonstration begins and the project must be consistent with the Coordinated Care initiative: *Provided further*, That additional test sites cannot be initiated under any other program if the test contains catchment area management attributes: *Provided further*, That this provision does not apply to the Tidewater TRI-CAM demonstration project.

SEC. 8096. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a medical doctor unless the prospective candidate is a trained professional administrator.

SEC. 8097. Of the funds appropriated by this Act for Operation and Maintenance, Defense Agencies, $20,000,000 shall be available for the Civilian Health and Medical Program of the Uniformed Services for the payment of expenses of former members of the uniformed services who are 100 percent disabled, and the dependents of such members, notwithstanding the coverage by such former members and the dependents of such members of health care insurance benefits under part A and B of title XVIII of the Social Security Act (42 U.S.C. 1395 et. seq.): *Provided*, That expenses under this section shall only be covered to the extent that such expenses are not covered and paid for under part A and B of title XVIII of the Social Security Act: *Provided further*, That no reimbursement shall be made for services provided prior to October 1, 1991.

SEC. 8098. From the amounts appropriated for the Department of Defense in the Department of Defense Appropriations Act, 1991, (Public Law 101-511), Other Procurement, Air Force, funds may be used to purchase not more than 300 passenger motor vehicles, of which 290 shall be for replacement only.

SEC. 8099. During the current fiscal year, the Secretary of Defense may accept burdensharing contributions in the form of money from the Republic of Korea for the costs of local national employees, supplies, and services of the Department of Defense to be credited to applicable Department of Defense operation and maintenance appropriations available for the salaries and benefits of Korean national employees, supplies, and services to be merged with and to be available for the same purposes and time period as those appropriations to which credited: *Provided*, That not later than 30 days after the end of each quarter of the fiscal year, the Secretary of Defense shall submit to the Congress a report of contributions accepted by the Secretary under this provision during the preceding quarter.

SEC. 8100. During the current fiscal year, for the purposes of transactions between the stock and industrial funds of the Department of Defense and the United States Coast Guard, the United States Coast Guard shall not be subject to the surcharges assessed against stock and industrial fund customers.

SEC. 8101. Section 905 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510, 104 Stat. 1621) is repealed.

SEC. 8102. During the current fiscal year, obligations against the stock funds of the Department of Defense may not be incurred in excess of 90 percent of sales from such stock funds during the current fiscal year: *Provided*, That in determining the amount of obligations against, and sales from the stock funds, obligations and sales for fuel, subsistence and repair of spare parts shall be excluded: *Provided further*, That upon a determination by the Secretary of Defense that such action is critical to the national security of the United States, the Secretary may waive the provisions of this section: *Provided further*, That if the provisions of this section are waived, the Secretary shall immediately notify the Congress of the waiver and the reasons for such a waiver.

SEC. 8103. None of the funds appropriated by this Act shall be available for the compensation of military and civilian personnel assigned to each of the headquarters of the Naval Sea Systems Command, Naval Air Systems Command, Space and Naval Warfare Systems Command, Naval Supply Systems Command and Naval Facilities Engineering Command in excess of 75 percent of the number of personnel assigned to each such command headquarters as of September 30, 1991.

SEC. 8104. (a) None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the P-3 squadrons of the Navy Reserve below the levels funded in this Act.

(b) Notwithstanding any other provision in this or any other Act, the Secretary of the Navy shall obligate and expend funds appropriated for fiscal years 1991 and 1992 for modernization of P-3B aircraft of the Navy Reserve.

SEC. 8105. Notwithstanding any other provision of law, none of the funds made available to the Department of the Army for fiscal years 1990, 1991, and 1992 for C-23 aircraft which remain available for obligation may be obligated or expended except to maintain commonality with C-23 Sherpa aircraft already in the Army National Guard fleet, and such funds may not be obligated for acquisition of modified commercial aircraft, unless the modifications are performed in the United States under a license agreement with the original manufacturer and are in accordance with the SD3-30 aircraft type specification as modified for Army mission requirements.

SEC. 8106. None of the funds appropriated in this Act may be obligated or expended for any contract or grant with a university or other institution of higher learning unless such contract or grant is audited in accordance with the Federal Acquisition Regulation and the Department of Defense Federal Acquisition Regulation Supplement or any other applicable auditing standards and requirements and the institution receiving the contract or grant fully responds to all formal requests for financial information made by responsible Department of Defense officials: *Provided*, That if an institution does not provide an adequate financial response within 12 months, the Secretary of Defense shall terminate that and all other Department of Defense contracts or grants with the institution.

SEC. 8107. None of the funds appropriated in this Act may be used for costs associated with a federally funded research and development center if a member of the Board of Directors of such a center simultaneously serves on the Board of Directors of a company under contract to the Department of Defense.

SEC. 8108. Section 361 of Public Law 101-510 is hereby repealed.

SEC. 8109. None of the funds appropriated in this Act may be used to either pay the salaries of more than four Senior Executive Service positions within the Navy Comptroller organization under the Secretary of the Navy or the Chief of Naval Operations, or to compensate individuals in these positions at a rate higher than level three of the Senior Executive Service.

SEC. 8110. None of the funds appropriated in this Act may be used to pay the salaries of debarment/suspension officials unless such personnel are assigned to a consolidated office of Debarment and Suspension within the Office of the Inspector General.

SEC. 8111. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 8112. (a) During the current fiscal year, funds appropriated to the Department of Defense in accordance with section 822(a) of the National Defense Authorization Act, 1991, shall be made available to establish an Executive Committee under the auspices of the Critical Technologies Institute, comprised of the Secretaries of the Departments of Defense, Commerce, Labor, and Energy along with two individuals appointed by each of the above mentioned Secretaries. The Secretaries of Defense and Commerce shall serve as co-chairmen of the committee whose sole function shall be to fulfill the requirements of this section at which time the Executive Committee shall cease to exist. For the purposes of this section—

(1) "critical technology" means the act of a domestic industry in producing a product without which machine tools necessary to support the national defense could not be produced;

(2) "domestic producer" means those producers, situated within the United States, or its territories, wherein over 50 percent of the total voting stock of such producer is owned and controlled by citizens of the United States; and

(3) "national security" means the interest of the United States Government to preserve those basic conditions necessary to a domestic producer, using a critical technology, that are adequate to permit capital investment for needed improvements in technology that will enable the overall domestic industry to remain competitive.

(b) No later than one calendar year from the date of enactment of this Act the Executive Committee shall prepare and deliver to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate, the Ways and Means Committee of the House of Representatives, and the Finance Committee of the Senate a report providing—

(1) a listing and detailing of those products determined to be within the definition of "critical technology";

(2) a summary of the general economic condition of domestic industries producing a product used in a critical technology in the United States (including, but not limited to, productivity, exportation of products, capacity, and profitability);

(3) a summary of—

(A) current and prospective trends in the ability to compete by such industries; and

(B) the effect of such trends on employment and unemployment, individual and corporate income levels, private capital accumulation and investment, the balance of payments, revenues and expenditures of the Federal Government, and other relevant indicators of the economic health of such industries;

(4) a detailed review of policies, programs, and activities of the Federal Government, State and local governments, and nongovernmental entities that adversely affect the economic health (and ability to produce) of domestic industries using a critical technology;

(5) recommendations to—

(A) minimize or eliminate the adverse effects of Federal policies, programs, and activities affecting such industries; and

(B) encourage State and local governments and nongovernmental entities to minimize or eliminate the adverse effects of their policies, programs, and activities affecting such domestic industries;

(6) a detailed review of policies, programs, and activities of foreign governments, particularly major trading partners of the United States, that adversely affect domestic industries using a critical technology in the United States and in the international marketplace, and such policies or activities that would act to impair or threaten to impair our national security; and

(7) recommendations to encourage foreign governments to modify or eliminate policies, programs, and activities that adversely affect such industries.

SEC. 8113. (1) Notwithstanding any other provision of law, none of the funds available to the Secretary of Defense shall be used to purchase bridge or machinery control systems, or interior communications equipment, for the Sealift Program unless, in each case—

(A) the system or equipment is manufactured in the United States; or

(B) more than half of the value in terms of costs has been added in the United States by a United States company under license from a foreign company.

(2) The Secretary may waive the requirement of subsection (1) of this section if, in each case—

(A) the system or equipment described in subsection (1) is not available; or

(B) the cost of compliance would be unreasonable compared to the costs of purchase from a foreign manufacturer.

(TRANSFER OF FUNDS)

SEC. 8114. Of the funds appropriated in this Act for "Operation and Maintenance, Defense Agencies", $5,000,000 shall be transferred to the "Radiation Exposure Compensation Trust Fund" established by section 3 of the Radiation Exposure Compensation Act (Public Law 101–426; 104 Stat. 920) to be available for the same purpose and same time period as that Fund: *Provided*, That funds transferred pursuant to this section shall be identified separately within the foregoing Trust Fund and, notwithstanding the provisions of section 9 of such Act or any contract, no part of the funds transferred pursuant to this section shall be available to pay the representative of an individual for services rendered in connection with the claim of an individual under such Act: *Provided further*, That any representative of an individual who receives such a payment shall be subject to the penalty prescribed by the second sentence of section 9 of such Act.

SEC. 8115. Notwithstanding section 2805 of title 10, of the funds appropriated in this Act for "Operation and Maintenance, Navy", $2,100,000 shall be available for a grant to the Naval Undersea Museum Foundation for the completion of the Naval Undersea Museum at Keyport, Washington: *Provided*, That these funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project.

SEC. 8116. None of the funds appropriated in this Act may be used to procure SQQ–89 systems which do not have the enhanced modular signal processor (EMSP) as the processor.

SEC. 8117. None of the funds provided in title III, Procurement, for Shipbuilding and Conversion, Navy, for fiscal years 1990, 1991, and 1992 may be used to procure vessels which were constructed in foreign shipyards.

SEC. 8118. None of the funds provided in this Act or any other Act may be used by the Department of the Army to acquire four-ton dolly jacks if such equipment is or would be manufactured outside the United States of America and would be procured under any contract, agreement, arrangement, compact or other such instrument for which any provisions including price differential provisions of the Buy America Act of 1933, as amended, or any other Federal buy national law was waived.

SEC. 8119. None of the funds appropriated or made available in this Act or any prior Acts shall be obligated or expended to implement the United States Army Corps of Engineers Reorganization Study until such reorganization proposed is specifically authorized by law after the date of enactment of this Act.

SEC. 8120. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Secretary shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 8121. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101–576.

SEC. 8122. (a) Notwithstanding any other provision of law, funds appropriated under this Act for the Department of Defense shall be made available for the Overseas Workload Program: *Provided*, That a firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally or countries in the European Theater, shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) A contract awarded during fiscal year 1992, or thereafter, to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c)(1) Not later than June 1, 1992, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate a report on the nature of the maintenance, repair, and overhaul work of the Department of Defense performed under the program of the Department of Defense known as the Overseas Workload Program.

(2) The report shall include the following:

(A) a description of the categories of work performed under that program and the costs associated with those categories of work;

(B) a description of the capabilities of facilities that United States firms have established in Europe to perform work under that program;

(C) a description of the capabilities to perform work under that program by firms in the United States, Canada, and countries that are major non-NATO allies of the United States;

(D) a description of the maintenance, repair, and overhaul work under that program that could be performed in the United States or Canada, or in a country that is a major non-NATO ally, on a cost-effective basis and without a significant adverse effect on the readiness of the Armed Forces of the United States;

(E) a description of the Air Force plans to expand the Overseas Workload Program to other depot maintenance activities including: prime weapon systems, aircraft, exchangeables, engine overhaul and repair, engine exchangeables and other major end items.

(d) For purposes only of this section, Israel shall be considered in the European Theater in every respect, with its firms fully eligible for non-restrictive, non-discriminatory contract competition under the Overseas Workload Program.

(e) The Secretary of Defense shall work with Israel to identify new specialized capabilities in depot maintenance and repair for which it is uniquely suited: *Provided*, That the Secretary of Defense shall report to the Committees on Appropriations of the House and Senate, not later than June 1, 1992, on its findings.

(f) No funds appropriated for the Overseas Workload Program for fiscal year 1992 shall be used for contracts awarded in fiscal year 1992 which have not been opened for competition in a manner consistent with this provision.

SEC. 8123. (a) REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICE OUTSIDE THE UNITED STATES.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074b the following new section:

"§ 1074c. Reproductive health service in medical facilities of the uniformed services outside the United States

"(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station in the same manner as any other type of medical care.

"(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost (including indirect costs) of providing the service.

"(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074b the following new item:

"1074c. Reproductive health services in medical facilities of the uniformed services outside the United States.".

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title VIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there any points of order against title VIII?

POINT OF ORDER

Mr. WEBER. Mr. Chairman, I make a point of order against section 8123, beginning on page 113, line 7, through page 114, line 13 of the bill.

This section proposes to change existing law and thus constitutes legislation on an appropriations bill in violation of clause 2(b) of rule XXI.

I ask for a ruling by the Chair.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. MURTHA] wish to be heard on the point of order?

Mr. MURTHA. No, Mr. Chairman.

The CHAIRMAN (Mr. OBERSTAR). For reasons then stated by the gentleman from Minnesota, the point of order is sustained and the section is stricken.

Are there any points of order against title VIII?

Are there any amendments to title VIII?

Mr. AUCOIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, what has just happened is that one Member of this body, because of the legislative circumstances permitted under this rule, one Member of this body has been able to strike a provision dealing with the reproductive freedoms of our servicewomen stationed abroad, irrespective of the fact that the full Appropriations Committee approved my amendment granting those women those rights earlier this week; irrespective of the fact that this House, 1 week ago, worked its will and by a majority granted those servicewomen those rights.

This circumstance today, I think, is highly deplorable. The circumstance which allows one person, one person, one man to thwart the will of the majority of the members of the full Appropriations Committee and the full House of Representatives and to inflict real pain and real injury on servicewomen who are serving proudly in the Armed Services of the United States.

I think that is deplorable in substance. It is deplorable in process. I am extremely frustrated, as I know my colleagues are who supported the AuCoin-Machtley amendment on the authorization bill, which 1 week ago was passed, and colleagues who supported the appropriations amendment which I offered in full committee.

We are in this situation today where one-man rule, and I stress, one-man rule, has created this incredible circumstance for women in the services.

Let me just explain so all Members know, so we do not have to perhaps in the future go through this again. We are in this circumstance today because of the rule, the rule that does not grant a waiver against a point of order with legislation on appropriations.

There are nine pages of text in this bill that are subject to a point of order, but the rule that was sought by the leadership of the Appropriations Committee waived points of order against those nine pages. They did not seek a rule waiving a point of order against these fundamental rights for servicewomen in uniform stationed abroad and serving this country proudly. I think that is extremely regrettable.

My frustration has increased because I cannot really blame the Rules Committee. I cannot blame the Rules Committee. When a committee leadership comes to the Rules Committee and does not seek a rule waiving points of order on work that has been adopted by its committee, it is hard for the Rules Committee to grant such a rule that out of the blue provides a waiver of a point of order. So the Rules Committee cannot be blamed for the situation.

I think we ought to understand that the rule that we nevertheless got has put us in this situation.

I can understand the individual beliefs of Members of the leadership of the Appropriations Committee who in their heart personally disagree with the will of the House, 1 week ago, personally disagree with that. But I have been in the House for 17 years, and it has always been my experience that leaders of committees, when they bring bills to the Rules Committee, should represent the committee's position, represent the committee's position, and then if they choose to vote against the amendment on a vote, they may do so.

By representing the committee's position in this instance, we would be able to have that circumstance, that if anyone objected to the amendment it would be voted on, debated and voted on, and the House would again work its will. But by not representing the committee's position on the Rules Committee, what we have set the stage for is one person who just did it, striking this provision because that one person alone said he did not agree.

What is the result? The result is the personal belief of some leaders of the committee have been reflected now on this bill. The personal beliefs of the person who struck the amendment has been reflected in this bill, by the majority of the Members of this Congress, their beliefs expressed only 1 week ago, have been thwarted today. And I think that is highly deplorable.

The gentleman from Ohio [Mr. TRAFICANT] found earlier today a number of sections of the bill that were not protected under the rule against points of order. He proceeded to raise points of order against them.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. AUCOIN] has expired.

Mr. AUCOIN. Mr. Chairman, I ask unanimous consent to proceed for 1 additional minute.

Mr. GINGRICH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. GINGRICH. Mr. Chairman, I move to strike the last word.

Since the gentleman would not yield to me, I thought I would take the time directly. I find it ironic that a Democratic Member of the majority would be shocked that the House has rules. I would point out to the gentleman that there are, I believe in his own career, instances where he has done exactly what was just done.

□ 1210

He has risen and noted things on appropriations bills precisely, and I believe this is true, precisely as was just done, because under the rules of a democracy, the rules matter.

Now, the gentleman had every opportunity. His side has the majority on the Committee on Rules. He had a chance to try to work his will. He failed.

To come down here and suggest that it is inappropriate for a Member to exercise his rights under the rules, the rules which protect every Member, Democrat or Republican; the gentleman from Ohio [Mr. TRAFICANT] exercised them earlier. It is the right of Members to be protected by the rules.

To suggest that having failed to succeed under the rules it was somehow wrong for those who disagreed with the gentleman to use their rights under the rules which protect all of us, it protects the Member from Vermont who is here by himself with no party structure, it protects the minority, it protects the majority. The thing that distinguishes us from despotism is rule. The fact that all of us have to learn the rules, all of us have to function under the rules, and I will not yield either. We seem to have this game going.

I will just say to the gentleman that I think to get up and attempt to make a statement that would suggest that it was inappropriate for a Member of this House to use his or her rights under the rules is simply inappropriate, and I am astonished that the gentleman would suggest that Members should not defend their position on the rules.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am sorry that the minority leader would not yield, but I think the minority leader missed the whole focus of what the gentleman from Oregon was talking about.

What the gentleman from Oregon was talking about was not rules that would protect one individual Member of the House. We were talking about a provision that protected the rights of every single woman in uniform overseas, protecting all of our rights, protecting the flag, protecting the Constitution, protecting everything else, and to see one Member's personal ability to be able to strike a provision that protected all their rights makes you wonder what democracy is about.

So when you hear the minority whip's words, they sounded so wonderful and eloquent, but when you realize what he was really saying is that one male Member of the House has the right to stand up and deny American women in uniform ordered overseas the same rights they would have if they were here in the United States. That, to me, is shocking.

I am very sorry a Member did that. I said ahead of time I hoped no one would use that right in the rule. They used it, and I think we are very tired of seeing this happen over and over in this House.

Many a time we have thought we have won a victory on this House floor, the majority of people have voted one way, and then we find it disappears whether through a rule or in conference or whatever.

But I think America's women are getting very, very tired of it. I could give you the list; I could give you the list of whether you want to talk about mammograms and Medicare or whether you want to talk about what we saw with caps on damages with women in the civil rights bill; here today, we are talking about equal rights for women who are out protecting our equal rights overseas.

I really find this a very tough day that one Member of this representative democracy would use their right to overrule the rights of those American citizens fighting for our rights.

Mr. ARMEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief, as I return to the point of the gentleman from Minnesota to exercise his rights under the rules.

I was very impressed with the statement made by a former Speaker of this House from Texas very recently when he said, and I quote you that, "I will use every prerogative available to me under the rules of the House to guarantee a Democrat victory." Mr. Chairman, he did that, and he did that well, and I will have to tell you I, for one, admired his workmanship. He was very skillful. He did, in fact, legitimately use his prerogatives at every possible occasion.

That, sir, is what the gentleman from Minnesota did, and I admire your craftsmanship. You did it well.

Mr. MFUME. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman yielding to me, and I regret very much that the majority whip objected to an extension of my time.

Let me make it clear to my colleagues on the floor that I do not object to any single Member making full use of the rules. I thought I made it clear that I felt that we have an injustice in the rule that is presented to this body. That injustice is that under this rule, because of what was sought by the leadership of the Committee on Appropriations, under this rule, the majority, all Members of the House, are denied their opportunity to work their will on the question of our reproductive freedom and the ability to purchase abortion services if one chooses with one's own funds if one is in uniform stationed abroad.

So I do not object. I have no fault with the gentleman who took full advantage of the rules that were the rule that was adopted. He did it very skillfully. I know his view. I knew he was going to do that. In fact, the gentleman from New York [Mr. SOLOMON] said he would do it if the gentleman did not, and so we expected that.

My point is this: I have been here 17 years, and I cannot remember a time when after the House has worked its will, and I am not talking about one Member, I am talking about a majority of the Members of this House, I cannot remember a time when a majority has worked its will and when a committee has worked its will and has adopted a provision like the AuCoin-Machtley amendment, when the leadership of the requisite appropriations committee did not go to the Committee on Rules and seek a waiver of a point of order as this committee normally does.

There are nine pages of text that are subject to a point of order, that the leadership of the committee sought waivers on and got waivers for, and this was one of the only ones that it failed to do.

Now, I just simply want to say that I think it is extremely regrettable. I have great respect for the chairman of my subcommittee. I work with him. I know he is not pleased that I have taken this time today, but I have to say to the chairman I am not pleased with the circumstances I find myself in. I respect my committee chairman. He knows that, through the years of my service with him on the committee.

But respect is a two-way street, my friends, and respect for the majority is a fundamental in this body as well, and I just want to indicate to one and all today that although this battle today has apparently been lost, because a rule permitted one person to skillfully exercise his rights under the rule, that we will have a limitation on expenditures that accomplishes exactly what we did in the authorizing committee next time; we will not have to go to the Committee on Rules next time; we are going to come up with a limitation on expenditures, not go to rules. It will be permitted under the rules on the floor without any points of order waived. We will have that battle out. We will fight it. We will debate it.

I am confident we are going to win, because Americans believe, and a majority of the Members of the House of Representatives believe, that servicewomen abroad, if they want to use their own earnings to purchase abortion services because of circumstances that are unique to their lives, no taxpayers' dollars involved, are stationed abroad, say, in the Philippines, where if they purchased an abortion in the private economy, they would probably have to do so in a back alley, and when that happens, women die.

A majority of the Members of the House know that, and next time we are going to have a limitation on expenditures so we do not have any requests that have to be made to the Committee on Rules. We will have it out right here on the Committee on Rules. We will have it out right here on the floor where the majority, not one Member can work his will skillfully, but a majority of the Members can work their will skillfully in behalf of the brave servicewomen who serve their country proudly and deserve better than they got today.

Mr. MFUME. Mr. Chairman, I associate myself with the remarks of the gentleman from Oregon.

□ 1220

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words. It strikes me that the gentleman from Oregon may have somewhat selective memory. I have been here for 17 years, too, and there have been a number of occasions when the House had its will thwarted. I remind the gentleman of one instance in the last day off the committee he serves on.

Last year, the House passed unanimously a bill for chief financial officers, the committee on which he served has regularly put into the appropriation bills, language canceling the will of the House. In fact, the will of the law of the land on chief financial officers. Maybe he forgot that, but it is, in fact, something that happens regularly in this Congress, when the will of the majority gets thwarted.

I would just point out one other thing. If the gentleman was dissatisfied with the rule, as he now says he was, he did have an opportunity to fight the rule. He could have come to the floor and fought the rule. He could have fought the previous question. He could have made a number of efforts of that type. He specifically chose not to do that. He decided not to use the process that was available to him. This is his choice. That is fine. However, to come here and suggest that somehow the rules were used against him, I would only suggest back to the gentleman that he voted for those rules when they were first on the floor. I do not think the gentleman from Minnesota did.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: On page 114, after line 13, insert:

SEC. . None of the funds appropriated or made available in this Act shall be used to purchase or acquire items from a foreign country if the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an reciprocal trade agreement has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement: *Provided*, That a reciprocal trade agreement is any agreement between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived title III of the Act of March 3, 1933 (43 Stat. 1520; 41 U.S.C. 10a–10c) as amended by the Buy American Act of 1988 (Public Law 100–418; 102 Stat. 1545): *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committee on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis or the cost of compliance would be unreasonable compared to the costs of purchase from a foreign manufacturer.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MCDADE. Mr. Chairman, reserving a point of order, will the gentleman tell me what the subject matter of this amendment is?

Mr. TRAFICANT. This is the buy American amendment that was approved in the authorizing committee.

Mr. MCDADE. Mr. Chairman, reserve my point of order.

The CHAIRMAN. The gentleman from Pennsylvania reserves a point of order against the amendment.

The gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Chairman, none of the funds appropriated or made available in this act will be used to purchase or acquire items from a foreign country if the Secretary of Defense, after consultation with the U.S. Trade Representative, determines that a foreign country which is party to a reciprocal trade agreement has violated the terms of the agreement.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, I have no problem with accepting the amendment. I wonder if we could go to a vote?

Mr. TRAFICANT. Mr. Chairman, I move the question.

The CHAIRMAN. Has the gentleman from Ohio concluded?

Mr. TRAFICANT. I have.

The CHAIRMAN. Does the gentleman from Pennsylvania insist on his reservation?

Mr. MCDADE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: SEC. . Notwithstanding any other provision of this Act, the Department of Defense shall not expend more than $1,000,000,000 for the use of consulting services.

Mr. TRAFICANT. Mr. Chairman, I believe $1 billion is fine for defense programs for consulting services. We will save approximately $150 million, which is a reasonable cut. One billion dollars, I think, to satisfy the needs of our defense industry.

Mr. MURTHA. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, this is a good amendment, and I think his limitation is absolutely accurate. We agree to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VIII?

If not, the Clerk will read.

The Clerk read as follows:

This act may be cited as the "Department of Defense Appropriations Act, 1992."

Mr. MURTHA. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. KOSTMAYER] is recognized for 5 minutes on his preferential motion to strike.

Mr. KOSTMAYER. Mr. Chairman, I will not take very much time except to say that this morning the Acting Director of the Laboratories Consolidation Commission testified before the Base Closing Commission. A number of Members have these laboratories in our districts. The Acting Director of the Laboratory Consolidation Commission told the Base Closing Commission under the chairmanship of our former colleague, Mr. Courter from New Jersey, that the members of the Lab Consolidation Commission had no problem with the Base Closing Commission shutting down the labs as it feels necessary, without any input from the Lab Commission.

That is an outright lie, Mr. Chairman. The fact of the matter is on May 23, the Lab Consolidation Commission, and their minutes reflect this, decided they should—they had an obligation—to evaluate the lab realignments on the base closure list and that they wanted to share their views with the Base Closure Commission later.

The people who work in these laboratories, in my district and in the district of the gentleman from Maryland [Mr. MCMILLEN], the gentlewoman from Hawaii [Mrs. MINK], the gentleman from New Jersey [Mr. PALLONE] are getting a very, very bad shake. This base closing process was not supposed to work this way. It is very, very unfair, and I hope that my good friend, the gentleman from Pennsylvania [Mr. MURTHA] will take into consideration what has happened here, because this morning the Base Closing Commission has misled and given very, very unfair and false information.

I rise on the floor of the House today to make this a point, and to put this on the RECORD.

Mr. MCMILLEN of Maryland. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Maryland.

Mr. MCMILLEN of Maryland. Mr. Chairman, likewise, I regret this decision by the Base Closure Commission and their lack of forthrightness in this dealing with our constituents who are going to be served very badly by this decision. Our constituents deserve better.

Clearly, and this is quoting from the minutes of the Advisory Commission on Labs, "We are supposedly looking at our National Defense Laboratories. It is the consensus that the Advisory Commission has an obligation to comment on the DOD recommendations."

Obviously, they felt an imperative to go forward here. They have misled Members, and I think that this body has to have it on the RECORD that we in the Congress are unhappy with the way that the Defense Department is greasing this process and not allowing the kind of thorough evaluation of laboratories that our constituents deserve.

Mr. KOSTMAYER. Mr. Chairman, reclaiming my time, when we return to the House I will ask to insert in the RECORD the full minutes of the meeting which I hope the gentleman from Pennsylvania [Mr. MURTHA], my very good friend who has done a magnificent and brilliant job in managing this bill, which I am proud to support. I hope the gentleman will stand with Members, defend Members, and help Members.

Mr. DAVIS. Mr. Chairman, I am concerned about the well-intentioned but overly restrictive language in section 8117. That section provides that none of the funds for procurement of vessels in the shipbuilding and conversion, Navy, account for fiscal years 1990, 1991, and 1992 may be used to procure vessels which were constructed in foreign shipyards. I agree that we should be buying U.S.-built vessels. However, there may be some confusion as to what constitutes a vessel constructed in a foreign shipyard.

Unfortunately, this prohibition overlooks the conversion element evident in the name of this account. Foreign hulls that are purchased and brought to a U.S. shipyard for major conversion may not qualify to be purchased for much needed sealift capability. Under the shipping laws a rebuilt vessel or one that undergoes a major conversion may qualify as a U.S. built vessel. Essentially, a vessel would become a new ship or vessel and therefore no longer be considered to be constructed in a foreign shipyard. This major conversion activity provides a substantial amount of work and support for all shipyards in the United States and is a substantial contributor to shoring up the deteriorating U.S. shipbuilding industrial base.

This seems to have been the objective of the committee in including this in its bill as indicated in the report language that accompanied the provision. Leaving out the major conversion option at this point would be a major oversight on our part. I raise this because the language is a little vague on whether major conversions would be excluded. If so, I believe the language is overbroad and needs a new look before a final bill is enacted by Congress and sent to the President for signature. The report language also directs the Department of Defense to submit a well-defined plan within the next 30 days for using these funds for sealift in light of the shortfalls that the experiences of Desert Storm and Desert Shield revealed.

We should not be providing language that would restrict the recommendations of the Department of Defense so that the best mix of vessel acquisitions that contribute to the national defense as well as maintain our shipbuilding industrial base are available. Major conversions and new construction should be considered as part of that sealift plan. I raise this so that this language does not become a cloud over achieving this important strategic objective and I would like to work with my colleagues to achieve it.

The CHAIRMAN. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA] that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BEILENSON) having assumed the chair, Mr. OBERSTAR, Chairman of the Committe of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MILLER of Ohio. I am, in its present form, Mr. Speaker.

The Clerk read as follows:

Mr. MILLER of Ohio moves to recommit the bill, H.R. 2521, to the Committee on Appropriations.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

☐ 1230

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MURTHA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 273, nays 105, not voting 53, as follows:

[Roll No. 145]

YEAS—273

Abercrombie
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Barton
Bateman
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Byron
Callahan
Camp
Cardin
Carper
Carr
Clement
Clinger
Coble
Coleman (TX)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
DeLauro
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Dwyer
Early
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (CA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade

McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Michel
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Ramstad
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Roe
Roemer
Rogers
Ros-Lehtinen
Roukema
Rowland
Sabo
Sarpalius
Sawyer
Saxton
Scheuer
Schulze
Schumer
Sharp
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Smith (FL)
Smith (NJ)
Solarz
Spence
Spratt
Staggers
Stallings
Stenholm
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Torres
Traficant
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Walsh
Waxman
Weber
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Yatron
Young (AK)
Zeliff

NAYS—105

Allard
Archer
Armey
AuCoin
Baker
Ballenger
Barrett
Beilenson
Bereuter
Boehner
Broomfield
Bunning
Burton
Coleman (MO)
Collins (IL)
Combest
Cox (CA)
Crane
DeLay
Dellums
Doolittle
Dreier
Eckart
Edwards (CA)
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Goss
Grandy
Hammerschmidt
Hancock
Hansen
Hayes (IL)
Hefley
Henry
Herger
Hopkins
Hunter
Inhofe
Jefferson
Kolbe
Kyl
Lagomarsino
Leach
Lewis (FL)
Martin
McCandless
McEwen
Meyers
Mfume
Miller (OH)
Molinari
Moorhead
Nichols
Nussle
Oberstar
Owens (NY)
Packard
Paxon
Payne (NJ)
Pease
Petri
Rahall
Rangel
Rhodes
Riggs
Ritter
Roberts
Rohrabacher
Roth
Roybal
Russo
Sanders
Santorum
Savage
Schaefer
Schiff
Schroeder
Sensenbrenner
Serrano
Slaughter (NY)
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Stark
Stearns
Stokes
Stump
Tallon
Thomas (WY)
Unsoeld
Vander Jagt
Walker
Washington
Waters
Weiss
Wyden
Wylie
Yates
Zimmer

NOT VOTING—53

Ackerman
Alexander
Andrews (TX)
Boucher
Boxer
Bustamante
Campbell (CA)
Campbell (CO)
Chandler
Chapman
Clay
Dannemeyer
Davis
de la Garza
DeFazio
Dornan (CA)
Durbin
Dymally
Fazio
Frost
Hastert
Hayes (LA)
Jenkins
Lehman (FL)
Lent
Lewis (GA)
Lipinski
Martinez
McCollum
Miller (CA)
Miller (WA)
Moody
Mrazek
Myers
Orton
Payne (VA)
Pelosi
Pursell
Quillen
Rose
Rostenkowski
Sangmeister
Shaw
Sisisky
Smith (IA)
Sundquist
Thornton
Torricelli
Towns
Traxler
Vento
Williams
Young (FL)

□ 1251

The Clerk announced the following pairs:

On this vote:

Mr. Fazio for, with Mr. Orton against.

Mr. Dymally for, with Mr. Lewis of Georgia against.

Mr. Williams of Montana for, with Mr. Towns against.

Mr. Chandler for, with Mr. Quillen against.

Mr. Young of Florida for, with Mr. Dornan against.

Mr. RANGEL changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DeFAZIO. Mr. Speaker, due to a longstanding commitment to join the graduating seniors of Willamette High School in celebrating their commencement, I was unable to cast a vote on the Defense appropriation for fiscal year 1992. Had I been present, I would have voted "yea" on passage for H.R. 2521, the Defense appropriation for 1992.

PERSONAL EXPLANATION

Mr. WILLIAMS. Mr. Speaker, because of longstanding commitments in Montana I was unable to attend to votes today on the Defense Department appropriations bill for 1991. Had I been present, I would have voted "yea" on passage of the Defense bill.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate insists, upon its amendment to the bill (H.R. 991) "An act to extend the expiration date of the Defense Production Act of 1950, and for other purposes" disagreed to by the House and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. SARBANES, Mr. DIXON, Mr. GARN, and Mr. D'AMATO, to be the conferees on the part of the Senate.

PERSONAL EXPLANATION

Mr. SUNDQUIST. Mr. Speaker, I was absent due to the marriage of my daughter, there were two recorded votes:

Rollcall No. 144, the Frank amendment to the Defense Appropriations bill to strike $260 million of R&D funding for the rail garrison MX missile system; and

Rollcall No. 145, final passage of the Defense Appropriations bill.

Had I been present, I would have voted "no" on the Frank amendment and "yea" on the final passage. Thank you, Mr. Speaker.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from votes. I was unable to vote because I had pressing business in my district. Had I been here to vote, I would have voted in the following way:

On rollcall 144, the Frank amendment to H.R. 2521, the Department of Defense appropriations bill, "aye."

On rollcall 145, final passage of H.R. 2521, "aye."

PERSONAL EXPLANATION

Mr. MILLER of Washington. Mr Speaker, I was unable to be here. Had I been here, I would have cast the following votes:

"Yes" on rollcall No. 144—Frank amendment on the MX missile to the Defense appropriations bill.

"Yes" on rollcall No. 145—Final passage of Defense appropriations bill.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably away from the House. I was unable to vote on two rollcall votes. Please let the record stand that I would have voted "yes" on rollcall 144 to cut the Department of Defense appropriation by $260 million; and, "no" on rollcall 145 which was final passage of the DOD appropriation.

ADJOURNMENT TO MONDAY, JUNE 10, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Ms. SLAUGHTER of New York. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

HEALTH COSTS ARE BANKRUPTING AMERICAN FAMILIES

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McDERMOTT. Mr. Speaker, a record three-quarters of a million Americans filed bankruptcy last year. Household bankruptcies have risen 150 percent since 1984. We usually blame personal bankruptcy on unemployment or credit cards. But bankruptcy experts are discovering another culprit—the soaring and unpredictable cost of health care, even for people with insurance.

A new study has found that many of the debts cited in bankruptcy petitions, apparently owed to credit card issuers and collection agencies, are really for medical care. Bankruptcy lawyers say health care debt is among the top four or five causes of personal bankruptcy.

Health insurance no longer protects families from bankruptcy. Last week the Seattle Post Intelligencer told of two middle-class families with massive health care debts after unexpected illnesses. One family had insurance but still had to file bankruptcy because of the costs insurance did not cover. The other had no coverage because both spouses were self-employed.

Mr. Speaker, no one in a nation as rich as ours should be driven to bankruptcy by an illness. That cannot happen in any other industrial democracy. But more and more Americans are losing their life savings to the lottery that our health care system has become. We must reform that system before it destroys more families.

The article follows:

[From the Seattle Post-Intelligencer, May 31, 1991]

MEDICAL BILLS PARTLY TO BLAME FOR SURGE IN BANKRUPTCIES

(By Tom Paulson)

Charles and Monica live with their three children in a nicely painted, three-bedroom house on the Eastside. Charles is employed and has health insurance.

Last month, the suburban couple filed for personal bankruptcy having accumulated $18,869 of unmanageable debt. The creditors included doctors' groups, hospitals, laboratories and several collection agencies seeking payment on health care debts.

Charles recently spent three days in the intensive care unit at Swedish Hospital Medical Center after a heart attack. Insurance covered only part of the bill.

That expensive stay came on top of unpaid medical bills for their daughter's knee surgery, again only partly covered by insurance. All these bills came due at a time when the couple had only a small amount in savings.

"That threw us over the edge," said Monica.

Charles and Monica agreed to talk to the Post-Intelligencer on condition their full names not be used. Charles said he doesn't want his colleagues to know he has filed for bankruptcy because it might make him "vulnerable" at work. Monica didn't want neighbors or acquaintances to know.

"This is so painful," said Monica, crying softly. "It's overwhelming and embarrassing to the point of shame."

America's nationwide surge in bankruptcy—an increase of more than 150 percent in household filings since 1984—is usually attributed to credit card excesses and unemployment problems. Occasionally, there is passing mention of medical bills as a contributing factor.

But experts in bankruptcy say an increasing number of personal bankruptcies are likely being caused by health care debt, forcing insolvency upon even middle-class families with insurance.

Most experts ranked health care debt as a leading cause of bankruptcy in America, at least among the top five causes. One said its contribution to the problem could be much greater.

"There is a lot of medical debt that tends to be hidden," said Dr. Teresa Sullivan, a professor of sociology and law at the University of Texas, Austin, and the lead author of a recent book on bankruptcy, "As We Forgive Our Debtors."

The primary cause of bankruptcy is not always what it seems, found Sullivan, who worked with Dr. Elizabeth Warren at the University of Pennsylvania and Dr. Jay Lawrence Westbrook also at UT-Austin. For example, Sullivan said, a credit card debt can be a health care debt in disguise.

"On that credit card, you may have medical debt as well," she said. "Doctors and hospitals take credit cards, too."

Creditors listed in bankruptcy court are often collection agencies rather than the original creditors, Sullivan noted. Health care providers, she said, may be turning over their debts to agencies more rapidly than do retail businesses that wish to avoid alienating customers.

Medical bankruptcies are more difficult to identify, said Dr. Michael Staten, director of Purdue University's credit research center.

"It doesn't show up as medical necessarily," Staten said.

There is anecdotal evidence that health care debt plays a part in bankruptcy filings, but he said nobody has taken a comprehensive look behind the numbers to pin down what is causing the national swell of insolvency.

Credit problems are still likely number one, Staten said. But given the high cost of health care, the lack of adequate insurance for millions of Americans and the fact that health care debt is often hidden in bankruptcy filings, he said, health care debt could easily be an unrecognized major force driving much of the increase.

"It's becoming a more significant factor," Staten said. "From a policy standpoint, there's a real need for better data on this."

Nine out of 10 bankruptcies are filed by individuals or households, rather than businesses, said Edward Flynn, an analyst with the bankruptcy division of the Administrative Office of U.S. Courts in Washington, D.C.

Washington State ranked 19th among the 50 states with 16,425 households filing bankruptcy in 1990, Flynn said. That means that one out of every 114 households filed for bankruptcy last year.

"Medical certainly ranks in the top five (causes of bankruptcy) if not number two," said Dennis Wallace, a bankruptcy attorney who practices in Seattle and Spokane.

"It's at least one of the top three of four," agreed David Yando, another bankruptcy attorney in Seattle.

Fred Morgan, president of the Seattle branch of the national Consumer Credit Counseling Service, said his corporation considers health care debt the fourth-leading cause of personal bankruptcy—behind what he called "over-obligation" on credit, unemployment, and divorce or separation.

But Morgan said the definition of over-obligation could include credit problems that were originally caused by health care debts.

Contrary to the contention that the health industry acts quickly to collect on debt, Morgan said he has found many health care providers willing to carry debts for long periods of time without charging interest.

"We find extraordinary cooperation among health care providers for people struggling with medical or hospital bills," he said.

Debbie Lunn of Bellevue would characterize it more as coercion than cooperation.

Lunn, a 40-year-old mother of three girls, was diagnosed with pituitary cancer in 1983 and had no health insurance because the family couldn't afford any. Both Lunn and her husband are self-employed, he as a carpet installer and she in the child care business.

Because she lacked insurance, Lunn said many of the doctors and hospitals she visited after the diagnosis refused to even see her without some guarantee of payment for the cancer treatment.

Lunn was eventually treated at the University of Washington Medical Center—likely because she broke down crying in the lobby, she said. The total bill came to $33,000.

"The hospital, doctors and everyone put the bills right into collection," Lunn said.

The family consulted an attorney and decided not to file for bankruptcy because of the effect this would have on their businesses and perhaps on some of their assets, including their home, she said.

Lunn said the family's attorney suggested they could get a divorce so she could become impoverished, qualify for state Medicaid and avoid putting a financial burden on the entire family.

Lunn said they decided to make arrangements with the creditors to pay off their debts rather than file for bankruptcy. She said the family finally paid off all the obligations last year.

What still makes her angry, she said, is that the financial structure of health care today appears most suited to provide for those with either lots of money or very little.

Those struggling in the middle, she said, get stuck.

"If I were on welfare, I would have had no problems," Lunn said. "We've always paid our bills . . . The one time your back's up against the wall—and you can't get help? That's a sad America."

SPECIAL ORDERS GRANTED

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that today, following legislative business and any special orders heretofore entered into, the following Members may be permitted to address the House, revise and extend their remarks, and include therein extraneous material: Mr. DUNCAN, today, for 5 minutes; Mr. EMERSON, today, for 5 minutes; and the very distringuished gentleman from Texas [Mr. ARMEY], today, for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I just wanted to inquire of my distinguished colleague, the gentleman from Texas [Mr. ARMEY], if he is the brother of the great Charlie Armey of the New England Patiots?

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, is the gentleman referring to the great Charlie Armey, Navy veteran, former professional football coach, currently a director?

Mr. BURTON of Indiana. Yes, I hear he is one of the most famous people out of the gentleman's family, and I want to double-check if he was the same fellow I was thinking of.

Mr. ARMEY. The gentleman from Indiana [Mr. BURTON] is absolutely correct. He is a man of impeccable integrity and extraordinarily good looks.

Mr. BURTON of Indiana. Good looks?

Mr. ARMEY. Good looks.

Mr. BURTON of Indiana. Must not run in the family.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE 196TH FIELD ARTILLERY BRIGADE OF CHATTANOOGA, TN

(Mrs. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LLOYD. Mr. Speaker, this morning, before 7 o'clock, the Mall between the Capitol and the monument was filled with men and women and girls and boys viewing the military equipment used victoriously in Operation Desert Storm. I hope many residents and visitors to our Nation's Capital will take advantage of this spectacular display.

But even more important, Mr. Speaker, I hope all Americans will pause and pay tribute tomorrow during the parade to those women and men who brought this country the great victory in the Persian Gulf that we are all so proud of. I take special pride in the 196th Field Artillery Brigade out of Chattanooga, TN, that will be marching in the parade is one of only two artillery brigades to see action.

Mr. Speaker, all the spectacular smart equipment was an important factor in ensuring our victory, but ultimately it was the skill, dedication, and preparedness of all our All Volunteer Armed Forces including the Guard and Reserve, that made it a resounding success.

WHAT NEEDS TO BE DONE ABOUT AIDS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, we are about to enter the second decade of the dreaded disease AIDS. In 1981, we first heard about this disease in the United States, and this year, at the end of this year, we will see over 200,000 Americans dead or dying from this terrible, terrible disease. This Congress over the past decade has been challenged many times to do something about it, and we have been attacking it in a piecemeal fashion.

What needs to be done, Mr. Speaker, is HHS, Health and Human Services, the Centers for Disease Control in Atlanta and the Congress of the United States, working together, must come up with a comprehensive plan to deal with this pandemic that ultimately will take millions of Americans' lives. We need a program of testing, contact tracing, education, psychological help, and legislation to make sure those who have this dreaded disease are not discriminated against.

We have to get on with this very quickly because every day we wait more people are becoming infected. It is possible to carry this disease up to 10 years without even knowing it, and all that time communicating it to other human beings. We have to come to grips with it, and we have to come to grips with it very, very quickly.

□ 1300

NORTH DAKOTA CHILDREN BEST IN THE NATION ON MATHEMATICAL SKILLS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, when I opened the Washington Post newspaper this morning, I was once again proud to be a North Dakotan. The front page story is a story about a national study of mathematical skills of students across America. Ranking No. 1 in the country are the students from North Dakota.

Those of us from North Dakota, Montana, Nebraska, and Iowa—incidentally, those are the four States that rank one, two, three, and four—take a lot of ribbing sometimes, because they say, "You're way up there in North Dakota," or "You're way out there in Montana." It is true that we are far from the big cities and we are far from the bright lights, but it is also true that we have some very, very bright young people. They are our best resource, nurtured by parents who care, nurtured by excellent teachers who do well in these kinds of studies.

I could not be more proud to be a North Dakotan and read stories like this in the Washington Post. We live in the space age, the age of high technology, and the age of computers. This country will compete best in its future through sound education and through giving opportunities to our children to be the best they can be. I think the demonstration of what we do in North Dakota and the pride we have in our children will be a precursor to what we can do across this country in the future.

A TRIBUTE TO MRS. LEONA TORKELSON, AN OUTSTANDING TEACHER

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, rarely can one have a more precious memory than that of one's most favorite outstanding teacher, certainly the teacher that gave you confidence and inspiration, sometimes correction, but often extraordinary care. That is the teacher you remember.

I would like to take a moment of the body's time today to remember such a teacher in my life: Mrs. Leona Torkelson in Cando, ND, where I grew up, the teacher who had both myself and my brother in the sixth grade, who had so many other young people and who inspired us, corrected us, and moved us on.

My brother has a master's degree and has written a book. I have a Ph.D. degree and have written a book, and I say to Mrs. Torkelson, let me tell you that you will not find a dangling participle or a split infinitive in either book. For that we thank you, and we thank you for your dedicated years of loving care and attention to the children. Good luck in your retirement.

EXPANDED HEALTH COVERAGE SOUGHT UNDER MEDICARE

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, last year some of us waged a kind of mini war around this place to get mammography coverage in Medicare, and we were successful. I personally want to thank Chairman ROSTENKOWSKI, who carried our message vigorously into the budget summit meetings.

We prevailed in that, and it had to be kind of a compromise because it was not the original bill I introduced to get more coverage under Medicare on a biannual basis.

That is why I was really pleased when I saw that Chairman ROSTENKOWSKI of the Ways and Means Committee introduced yesterday H.R. 2565. He would expand preventive and early detection health care under Medicare to include colorectal cancer screening, expand mammography coverage to annual coverage, not biannual, create a demonstration project for preventive services, and provide for flu vaccine and well baby and child services for children with kidney disorders.

Mr. Speaker, I think that is a great step in the right direction, and I want to compliment Chairman ROSTENKOWSKI, and I certainly urge the Members to cosponsor that bill.

THE LATEST ON THE CRYING FILE: FOR WOMEN, REALLY A CRYING SHAME

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, ever since the press pilloried me for shedding some tears as I got out of the Presidential race in 1987, I have kept a crying file. It is really fairly large, and as of yesterday President Bush joined it.

I must say that the good news is for men that crying has almost become a prerequisite for running for President. I think ex-Secretary of State Muskie ought to reconsider, because what was then a stumbling block now seems to be almost a mandatory performance. Yes, the good news for men is that crying is a badge of courage.

The bad news for women is that it is still a scarlet letter. I think when we look at women, we think, "Will she cry?" And now when we look at male candidates, we think, "Can he cry?" And if he can, that is great.

But I want to say to all women in America this week that they ought to cry if they saw how this body dealt with their rights so cavalierly, and you can pick out any day. We can remember what happened. They ought to cry. It is enough to make you cry, and I really hope we have a better week next week.

PROPOSED MEMORIAL AND MUSEUM IN WASHINGTON WOULD HONOR WORLD WAR II VETERANS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, this week marks our national observance of the 50th anniversary of the United States' entry into World War II. Between 1941 and 1945, over 400,000 Americans gave their lives in defense of freedom around the world; over 1 million were seriously injured. Yet there is not a monument in our Nation's Capital to commemorate their sacrifices.

This week I am very pleased to announce a majority of Members of the House have cosponsored H.R. 1623 and H.R. 1624 to authorize the construction of a memorial and museum on Federal land in Washington, DC. This memorial would be paid for by the minting of a commemorative coin to mark the anniversary of the U.S. entry into World War II. I am pleased that both bills have well over the necessary cosponsors—and I am hopeful the committees will soon bring these bills before the Congress for a vote.

The passage of these two bills early in the 102d Congress will send a strong signal of support to our Nation's World War II veterans who offered their lives to maintain one of this Nation's founding principles—to live as free and a self-determining people. World War II profoundly affected the way we live today. As no other war, the events and the people who participated in that conflict have shaped our economic, political, and cultural institutions.

Future generations of Americans will benefit from the lessons of World War II imparted by this memorial. It is a fitting tribute to the veterans both deceased and living who carried this Nation to victory. God bless them.

□ 1310

CIVIL RIGHTS BILL OF 1991—NOT GOOD LEGISLATION

The SPEAKER pro tempore (Mr. KANJORSKI). Under a previous order of the House the gentleman from Tennessee [Mr. DUNCAN] is recongized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, William Raspberry, as most people know, is a nationally syndicated columnist, who is highly respected throughout this Nation. He happens to be a leading black American.

He recently wrote this about the civil rights bill of 1991:

> But are rules governing disparate impact suits and minority set-asides of such overriding importance that they should constitute the number one priority of our leaders? I don't think so. The problems most critically affecting black America are the joblessness and dispair of our young people, the academic indifference of our children, the dissolution of our families, the destruction of our neighborhoods, the economic marginality of our people, and the Civil Rights Act of 1991 won't do a blessed thing about these problems.

Mr. Raspberry then continued and said:

> Worse, it threatens to divide America along racial lines, when in my view, at least, white America stands ready to support racial programs and policies it believes to be fair.

Now, this is a respected, leading black American who has said this about the civil rights bill of 1991. We already have millions of laws, rules, and regulations on the books in this country. So many that they have not even devised a computer that can keep up with them all, much less a human being.

We already have thousands of laws, rules, and regulations on the books at every level, Federal, State, and local, which outlaw every form and every type of discrimination.

The legislation which we passed this week in the House, the civil rights bill of 1991, is unnecessary political legislation. It now goes to the Senate, and the debate will continue, and we will have it back here in the House.

But many people feel, even many black Americans feel, that this is no civil rights bill at all. I would challenge any person, any reporter, anyone to show me in a year or two any average citizen who this bill has really helped. The fact is, this bill will probably make things worse for the things that black Americans and other minorities really want.

I happen to believe that the black people of this country and other minorities want the same things that white Americans want. They want good homes, they want decent jobs, and they want a better life for their children than they had for themselves. The civil rights bill of 1991 will not help in any of those areas.

If we really want to help the minorities and all the people in this Nation, we will work to put more free enterprise into our system. All around this world we see Russia and other nations near collapse because they have governments which are too socialistic in nature, too totalitarian in nature, governments that are being dragged down by gigantic, massive bureaucracies, resistant to change. Yet here are these countries struggling to come in our direction, and yet, at the same time, we seem to be going in their direction by making our Government, our big brother here in Washington, more powerful and more and more resistant to change. So much so that our Nation now has achieved a government that, instead of being one that is of, by, and for the people, as Lincoln envisioned, it has become one at the Federal level that is of, by, and for the bureaucrats.

I have a wonderful relationship with the black community in my district, and they have supported me strongly in my elections. I am very grateful to them for that. I think they know that I would bend over backward and do anything that I could to help them in any way possible. So I very reluctantly voted against the civil rights bill of 1991.

But I can stand up and say to my people that this is no civil rights bill. President Bush, who has a wonderful record in civil rights, would have supported a true civil rights bill, and that is what we really need in this country, instead of unnecessary political legislation like we have at this point.

TRIBUTE TO CONGRESSIONAL PAGES, CLASS OF 1990-91

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, the school year is coming to a close, and school is turning out for the summer months. Today marks the final day of service to the House of Representatives of the outstanding class of pages that we have had throughout the 1990-91 school year.

This has been a very exciting year during which these young people have had the opportunity to serve here in the House. So much has happened. It has really been an historic year.

These pages are here for the most part for their junior year in high school, and most of them were here for last fall's historic budget debates. Certainly I think an overwhelming majority of them were here for the historic debates of this past winter about Operation Desert Storm. They have witnessed the historic address to the Congress by the first reigning monarch of Great Britain, and they have been present for several very historic visits to this Chamber by the President of the United States. I hope that these and other memories will live long with this group of fine young people.

Mr. Speaker, I had the privilege to serve as a page in the last Republican Congress. That was, for a point of reference, the first 2 years of the administration of my boyhood hero, Dwight D. Eisenhower, as President of the United States.

Indeed, during my own period, it was my pleasure to serve with the distinguished current occupant of the Chair, the gentleman from Pennsylvania [Mr. KANJORSKI]. I know that he and I, when we get together in a personal way to reflect upon our experiences, look back on those days as a wonderful opportunity.

Being a page is a wonderful experience. To me, it was perhaps the single most beneficial learning experience of my life, because being a page is an absorptive experience. You learn things that you cannot learn in a textbook. You learn by being here, by listening, by serving, by doing, and by observing. It is a wonderful opportunity, to serve in this great legislative body, that I know most of these fine folks will take with them and carry with them and cherish as long as they live.

We have serving with us today a number of Members who are distinguished former pages. I also want to recognize the distinguished Clerk of the House, Mr. Donnald Anderson, who began his lengthy career of service to this body, and it has been a career of very distinguished service, as a page.

Mr. Speaker, also the gentleman from Arizona [Mr. KOLBE] had this remarkable experience. I take this opportunity to yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman yielding. Like the gentleman from Missouri [Mr. EMERSON], I did have the opportunity to serve as a page here, a wonderful experience for me.

Every group of pages that we have is special, and every group of experiences that they have here are very special ones. I know that you had a remarkable experience as you were a page. I believe it was the time that this House was attacked, and the violence that occurred here on the floor. This is something, of course, that you will never forget.

I was serving in the Senate as a page during the first civil rights filibuster and debate.

Certainly the experiences this time around have been extraordinary. I certainly think of the great budget debate of last fall, and the decision to use force in the Middle East, the first time since World War II this Congress has gone on record formally to use force, and the great civil rights debate we just concluded.

Most important, it is not the events these young men and women will remember, but the people they have worked with and served with. Because Congress is, after all, an institution made up of people who represent others around our country.

I know when I think back on my experience, it was a very formative experience for me, perhaps the most important experience in my lifetime. I think we all can hope that these young men and women will go on to great things, and I know that they will, perhaps better things than even serving in Congress. But whatever they do, the experience they have had here gives them a confidence and understanding of the world and the institution that makes this such a remarkable country.

Mr. Speaker, we could not do this work here in the Congress without the pages. Sometimes I think we take them for granted. But we do appreciate the fine job they do. Most of all, we appreciate the youth, the vigor that they bring to this body, the different perspective of youth that they bring to our deliberations. Sometimes perhaps they do not even realize it, but they have a greater impact on things that we do here on the floor just by their presence.

Mr. Speaker, it reminds us, most of all, that what we do in this body is not done for us so much, but for the next generation, the next generation of leaders.

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They really are the next generation of leaders, these young men and women. I am pleased to join with my colleague today in wishing them Godspeed and good luck next year in their schools and as they go through life.

Mr. EMERSON. Mr. Speaker, I thank the gentleman for his contribution.

I yield to the gentleman from Maryland [Mr. HOYER], the distinguished chairman of the Democratic caucus and a former member of the Page Board.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding to me. Congressman EMERSON was a page. Congressman EMERSON, as much as any Member of this body, has given time and attention to the page program to ensure its quality and to ensure its inclusion for a very positive experience for all of the pages who come and are here with us.

I was not a page. I worked in the office of a Member, as so many others have done here, either working as pages or somehow exposed to the Congress of the United States. However, as president of the Maryland Senate, I and the Speaker of the Maryland House ran the page program in Annapolis.

It was rare indeed that a young person came to participate in that page program, and from my discussions with pages here in Washington in the Congress of the United States, it is rare indeed that they come here, where I think they do not go away with a much more positive view of democracy and those who serve in public office.

The gentleman from Missouri has said, joined by the gentleman from Arizona, that the pages perform a critical function. So not only is it a tremendous learning experience for these young people who will go back to their schools and to their communities and to their families and to their peers and have what really relatively few Americans have, and that is knowledge of the inside, of the day-to-day, week-to-week, month-to-month operations of the Congress of the United States.

Because they have that special knowledge, they will in effect be heralds of democracy around the country. Many of them will seek public office and will, I am sure, in the future be Members of this body, as Mr. EMERSON and Mr. KOLBE and others.

Others will be strong leaders in their community activities on behalf of the critical component of democracy, and that is citizen involvement, informed citizen involvement.

I want to congratulate our young people. They are all outstanding young people from throughout this Nation, representing all races, male and female, regional diversity, ethnic diversity. They strengthen our country as they strengthen the Congress of the United States.

So I am pleased to join the distinguished gentleman from Missouri with whom, as he said, I had the honor of serving on the page board for a period of time, to congratulate them and to thank them and to wish them Godspeed as they return to their families and to their communities.

Mr. EMERSON. I thank the gentleman from Maryland for his very eloquent contribution. I appreciate his remarks, and I know that the pages do as well.

On behalf, I think, of the entire membership of the House, I want to express to the pages, they have been an outstanding class.

I have talked with overseers and chief pages and teachers and others who have to do with the page system on an ongoing basis, and I am very pleased to learn that they have been exemplary in their service and in their conduct.

I want to take this opportunity to wish them well, best wishes in all of their future endeavors, God bless you each and every one. Come back to see us, go out into the communities of America from whence you have come and provide the leadership that this Nation will need into the future.

GENERAL LEAVE

Mr. EMERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ILLEGAL TRASH DUMPING IN RURAL AMERICA

The SPEAKER pro tempore (Mr. KANJORSKI). Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN], is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, the prairie is America's breadbasket, not its wastebasket. Two years ago, we witnessed the dismaying spectacle of medical waste and other garbage washing up on our Nation's beaches. Now, we helplessly stand by watching as garbage washes up on the sea of grasses of the inland prairie.

The growing amount of municipal solid waste America is generating is dangerously overwhelming our ability to dispose of it. No one seems to know how to deal with the quantity of trash we are generating, so the answer for some is to just ship it across the country.

Rural areas from Kansas to Kentucky are quickly becoming the dumping grounds for trash generated in New York and New Jersey. It seems that when illegal dumpers can't get away with throwing their trash into the oceans, they turn to the broad expanse of the Great Plains. We cannot allow trash companies to continue dumping the filth and waste of the big cities in rural America. Long after a landfill is used up and closed, these communities will have to live with leaking waste and polluted water supplies.

Just in the last 2 weeks, a New Jersey company called Environmental Transport has been trucking in bales of east coast trash and dumping them in a landfill in McPherson, KS. The firm's sole business is shipping trash from the east coast. I find it quite ironic that, while they cannot transport waste within their own State, they are transporting it across our Nation's highways to States like Kansas.

Environmental Transport applied to the New Jersey Environmental Protection Department last September for a permit to transport waste within the State of New Jersey. The application was found to be grossly deficient. The Department sent a certified letter to Environmental Transport inquiring about the deficiencies. That letter received no response.

Now, although Environmental Transport has been importing trash into Kansas, the legality of the dumping is seriously in question. The company claims the dumping permit in Kansas was transferred to them when they bought the landfill. However, the Kansas Department of Health and Environment regulations clearly state that the permit is not transferable. The Kansas Department of Health and Environment has not issued Environmental Transport an operating permit. The New Jersey Environmental Protection Department has not issued Environmental Transport an operating permit. This company is illegally operating without a permit, period.

As a spokeman for the Kansas Department of Health and Environment stated,

> These people did not come into McPherson County because they were benevolent. They didn't say, "There's that poor little county. Let's go in there and help them close their landfill." There's obviously a lot of money in it.

Tom Brokaw reported on a similar story in his television program, "Exposé." Prof. Alan Block, who teaches at Penn State University, is one of the country's leading authorities on organized crime and garbage dumping. He says there is so much dumping by organized crime in the Midwest and Appalachia that he has been contacted by more than 70 citizen's groups. He claims that not only has organized crime targeted middle America, but they go as far as looking for small communities with a predominance of older, rural white people. They think that's the best profile of a community that will provide the least interference with their plans. This is outrageous. These people are searching out towns across the Midwest who, in their view, can be misled into accepting tons of garbage from the East.

Big city garbage has been a big-time business of organized crime for more than 50 years, worth billions of dollars. People get killed over control of garbage routes and garbage dump sites. With organized crime running out of places to dump all this garbage, they have simply decided to send the garbage way out of town, turning the interstates into garbage highways. Millions of tons of garbage are moving by truck on the highways and for the most part, local residents find they are defenseless.

That is why I have introduced legislation today which allows States to reject garbage imported from other States. This would prevent these scenarios in which States clear across the country and send their trash to the Midwest for disposal. Further, my bill imposes civil and criminal penalties of up to $1 million or 1 year in jail for any individual who violates these State compacts.

In the 1820's, there were 140 million acres of prairie stretching from Ohio to Kansas and from Oklahoma to North Dakota. Today less than 1 percent of it remains. We should be spending our time and focusing our efforts on ways to preserve the prairie, not destroy it. The tallgrass prairie is the most distinctly American landform. Let's preserve this land and not turn the endless miles of rolling grasslands into another garbage dump.

My bill has three main components:

First, it allows any State to reject waste from other States.

Second, it allows States to form regional compacts in which States can band together to deal with solid waste generated within the compact States.

Third, it imposes criminal and civil penalties for any individual violating the rules of the compact or the regulations imposed by a State.

I hope this legislation sends a signal to the unscrupulous garbage shippers who think the rest of the country is their wasteland to dump on. As long as it is cheap and easy to ship waste to other States, no State will be forced to deal responsibly with the trash it generates. Let's preserve the prairie and not turn the endless miles of rolling grasslands into another garbage dump.

PRINCE GEORGES COUNTY SAYS GOODBYE TO AN EXTRAORDINARY SCHOOL SUPERINTENDENT—JOHN MURPHY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, my home of Prince Georges County, MD, will soon bid farewell to an extraordinary leader and visionary, our superintendent of schools for the past 7 years, John A. Murphy.

He leaves to guide the Charlotte-Mecklenberg school system in North Carolina.

When John Murphy took over as superintendent in 1984, the Prince Georges County school system faced many challenges. It was divided, racially polarized, and its quality was questioned. Standardized test scores were in the 50th percentile range.

Seven years later, John Murphy leaves us a nationally heralded, model school system. It is one which provides quality public education to a unified, racially and ethnically diverse student population; one which is approaching the 75th percentile in test scores. It is a system that works. John Murphy's contributions to the school system are the major factors in the success Prince Georges County has had in its building reputation as the most successful ethnically and racially diverse major suburban county in the Nation.

His achievements are numerous, and too many to list here. But it's important to note that under John Murphy's tenure, the Prince Georges County school system has instituted 13 comprehensive magnet school programs; 19 comprehensive compensatory education Milliken II programs; computer-assisted instruction in grades 2, 3, and 4 in 68 other schools; a comprehensive strategy for improving minority student achievement from kindergarten through high school; a systemwide instructional management system; a principals' academy leadership training program; and a systemwide curriculum revision and systemwide criterion reference testing.

In addition, John Murphy has instituted a national teacher recruitment effort, concentrating on minority teachers; installed standards of excellence and accountability for all employees; instituted a systemwide effective schools model, an advisory council for business and industry, an interfaith advisory council and a community advisory council on magnet and compensatory educational programs. He has also brought $43 million to the system in special education grants.

Keep in mind that all of these accomplishments occurred in addition to the major challenges of just day-to-day management of the 16th largest school district in the country.

Mr. Speaker, John Murphy's contributions have been recognized nationally. In 1989, he received the Leadership for Learning Award for his outstanding contribution to student achievement by the American Association of School Administrators.

In the book "Winning the Brain Race" by David T. Kearns, chairman of the Xerox Corp., and Denis P. Doyle, senior research fellow at the Hudson Institute, Dr. Murphy was described as "superintendent and public sector entrepreneur par excellence" for his initiation of "the most important example in the nation" of public school improvement in offering parential choice.

Most recently, Dr. Murphy's home county newspaper, the Prince Georges Journal, said he was "the best school superintendent Prince Georges County has had, at least in recent memory," and gave him a grade of "A."

John Murphy came to the Prince Georges County school system after serving as superintendent in six other school districts, in Illinois, North Carolina, New Jersey, Massachusetts, Florida, and New Hampshire. He started as an English teacher in 1958, and became a principal for the first time in 1961.

He received his B.S. degree from North Adams State College in Massachusetts in 1958; a master of education from the University of Massachusetts in 1961, and a doctor of education administration from the University of Massachusetts in 1972.

Mr. Speaker, as you can tell, I am very proud of the achievements of John A. Murphy as superintendent of the Prince Georges County school system. He has been a remarkable and superior superintendent, and his achievement will outlast this personal leadership for many years to come. His work is proof that American education can still succeed; that vision and leadership and hard work can yield results even in a heterogeneous school system; and that one man can make a difference.

The contribution he has made to the county schools and to the county is extraordinary, and both myself and the people of Prince George's County wish him all the best as he leaves us. We will miss him.

[From the Wall Street Journal, June 6, 1991]

APPLIED ANXIETY: FORCEFUL EDUCATOR STRESSES TESTING, ACCOUNTABILITY TO TURN A DISTRICT'S SCHOOLS AROUND

(By Gary Putka)

UPPER MARLBORO, MD.—Soon after becoming school superintendent in 1984, John Murphy called Prince George's County principals to his office, a few at a time.

They all got the same treatment, Mr. Murphy confronted them with blue, yellow and red graphs showing a decline in achievement-test scores. "We are not putting people's feet to the fire," Mr. Murphy said.

Henceforth, he declared, the schools were to be run according to a management philosophy he called "applied anxiety."

"The message was clear," and it left many who experienced it feeling uneasy, says Bryan Blavatt, principal of Frederick Douglass High School. Mr. Murphy meant to hold administrators and teachers accountable for students' test results. What's more, principals were going to have to compete for students with a number of well-financed "magnet" schools set up to foster desegregation.

The years that followed produced some big gains. And Mr. Murphy proved true to his word: He demoted principals, transferred teachers and froze salaries when he didn't see results. During Mr. Murphy's tenure, Prince George's, on the eastern border of Washington, D.C., has climbed to 10th from 21st among Maryland's 24 school districts in achievement-test scores. Five Prince George's schools have been called "exemplary" by the U.S. Department of Education. Racial enmity seems to have abated, and systemwide enrollment has increased, after a big drop.

"Applied anxiety works," says Mr. Blavatt. Fellow principal Patricia Green, whose Columbia Park Elementary School won accolades from the Education Department, declares: "John Murphy is a visionary leader."

At the same time, with accountability and competition came anger. Long lines formed for the model magnet schools. Parents were livid if there wasn't room for their kids. Many teachers protested the emphasis on test-taking.

In many ways, Prince George's has been a laboratory for ideas President Bush and his education secretary, Lamar Alexander, now want to apply nationally. The ingredients: letting parents choose their children's school, putting great weight on tests, inviting corporations to help out, letting a few model schools show the way. All are part of Mr. Bush's "Education 2000" program unveiled in April.

Prince George's County shows that such strategies can bear fruit, but also that there are trade-offs in this sort of school reform. A teachers' union said Mr. Murphy's dictum to up the numbers forced teachers to give A's and B's that weren't deserved, and to sacrifice real teaching for coaching in how to take tests. Mr. Murphy's critics eventually got to him. After a bitter salary dispute, he will start a new job as school superintendent in Charlotte, NC in July.

"He undoubtedly did a lot of good things and restored the image and confidence of Prince George's County," says Christopher Cross, the former head of research for the Department of Education. "The quesiton is to what degree it was smoke and mirrors."

Mr. Murphy "isn't as good as his PR," say Marjorie Spirer, president of the Prince George's County Education Association, the district's largest teacher union. "We were already on the rise, and he took the credit." She says success has less to do with Mr. Murphy than with the hard work of teachers, better pay and increases in the school budget—up 87%, to $552 million, during the Murphy years. She says hardball personnel tactics and inequitable school financing, meanwhile, "have left us a district divided and angry."

Mr. Murphy kicked Ms. Spirer out of his office two years ago and hasn't spoken to her since. "Marjorie Spirer stands for Marjorie Spirer, not quality education," he says. "She's the worst thing that ever happened to education in Prince George's County. I am appalled by the level of greed I encountered in dealing with that union."

Like many superintendents, the 55-year-old Mr. Murphy started out as a teacher and became a nomad. A principal at 25, a superintendent at 29, he ran six other school districts before coming to Maryland. In 1968, he took over the Naples, Fla., schools and sized up his 25 principals. "I fired 15 or 20 of them," he says. "They ran a school-board slate, won and fired me." In Raleigh, N.C., he quit after a newspaper said he had hired as a consultant to the schools a firm that sometimes employed him as a consultant to others. An investigation found no wrongdoing.

Prince George's County hired Mr. Murphy to reverse a slide. Whites had begun fleeing court-ordered desegregation in 1972. As more left, there was more busing of children to achieve racial balance. Voter anger helped pass a referendum capping real-estate taxes in 1979, decimating the school budget. By 1984, when Mr. Murphy was hired, enrollment had plunged 28% in 10 years, to 105,000, and learning was fast becoming a side issue.

TYPICAL PROBLEM SCHOOL

Columbia Park Elementary School, in a poor section of Landover, Md., was typical of Prince George's problems. Reading and math test scores were among the lowest in the district. Vandalism and graffiti plagued the school, and drugs were sold on the street. Many parents found teachers hostile or indifferent.

"I would send my kids to school with notes asking teachers to call; they never called," says Virginia Walker, whose three daughters all attended Columbia Park.

Mr. Murphy says that poor performance "was blamed on the youngsters and what they brought to the schools—poverty, race, neglect." He countered by pushing "high expectations" and the belief that "all children can learn."

In 1986, he transferred Columbia Park's principal and replaced him with Ms. Green, a devotee of parental involvement and positive reinforcement. Ms. Green makes demands: harder books, stricter discipline, higher test scores. She pins "caught at being good" ribbons on students, papers the halls with "student of the month" and "Masters of Math" awards, and throws pizza parties for good attendance.

Mrs. Walker now finds Columbia Park "100% better." A new parent-teacher committee instituted biweekly progress reports for students, replacing quarterly ones. It also staggered dismissal times to send younger pupils home earlier then the bigger kids who sometimes harassed them. Third-grade scores on the California Achievement Test have risen from the 76th to the 87th percentile, and eighth-grade scores are at the 73rd, up from the 49th.

IN SINGLE FILE

Columbia Park is strict—and structured. Children walk the halls between classrooms in single file, holding fingers over lips in the "shhh" position. In the classroom, they are pushed hard. Discussing vocabulary in "Where the Red Fern Grows," a tale of childhood in the Ozark mountains, Rosemarie McConnaughey has little trouble getting responses from her well-prepared sixth-graders. Challenged, they reach, straining like writers for just the right word.

Rough-hewn? "Crude," says one child. The side you best hear from in the wilderness? "Leeward." And when the body goes away after death? "Decompose * * * deteriorate * * * decay."

"I think I've heard the word 'hardworking' a few times," says Ms. McConnaughey. "What is a good synonym for that? I am thinking of a word that begins, I-N * * *" The students look puzzled.

"Well, I'm just going to have to give it to you."

"No, give us another letter," insists 12-year-old Sean Swilling. D, says the teacher. Hands wave. "Industrial?" asks one student. Before the teacher can correct him, a second student does it for her: "Oh * * * oh * * * oh * * * industrious."

Suitland High School, in nearby District Heights, saw Mr. Murphy's tactics in action. In April 1984, the Middle States' Association, which accredits the school, put Suitland High on probation—one step short of closing it. "Thirty percent of Suitland faculty have lost interest in the teaching act," the association concluded in a report. In 1985, only 28% of Suitland ninth-graders passed the required Maryland citizenship test; the statewide average was 58.6%.

TRACKING TEACHERS

In 1986, Mr. Murphy replaced Suitland's principal with Joseph Hairston, who implemented a system of tracking teachers according to their grading of students, attendance, test scores and numbers of student suspensions issued. In 1987, Mr. Hairston issued transfer notices to 17 Suitland teachers, including some he says had been caught sleeping in class. The teachers union filed a grievance that resulted in two reinstatements, but the rest of the transfers stuck. Suitland's average score on the Scholastic Aptitude Test has risen to 807 from 679 since 1986.

Students are also being pushed at Central High School, in Capitol Heights. This year, bright kids accustomed to success in school encountered something new—an accelerated humanities program, called the International Baccalaureate. It can be pretty demanding.

Several of the 21 participants complain of homework that takes up to seven hours a night, and fret that their grade-point averages are suffering. Michele Kopenhaver, accustomed to getting A's, got a D on her first English essay. "I died, I died," says the 17-year-old junior, covering her face. Many students considered quitting the program, but just one has. "I honestly tried to get kicked out," says 17-year-old Rodney Frank, "but my mom said if I did, I could forget about college. The thing about IB is that it makes you strive to do better."

Suitland, Central and most of the other schools praised by Mr. Murphy either have magnet programs or, like Columbia Park, get extra federal funds because they're in all-minority neighborhoods, under what is known as the Milliken program. Magnet programs are popular with parents. Students from throughout the county can apply, and are selected at random to participate. But when "regular" schools lose students to magnet schools, they often lose their most motivated kids. And declining enrollment can also mean a loss of teaching and staff positions. Thus, some schools fight back with changes in curriculum, harder work—and marketing.

"The strategy for the Milliken and magnet schools is more than just desegregation," says Mr. Murphy. "It's about overall school improvement, innovating at just a few schools to show that it can be done." John Hagan, the principal of Bowie High School, says, "It's sharpened the knife. We want to keep the kids from going to the magnet schools, and it has made us more competitive."

To compete with Prince George's technology-intensive Eleanor Roosevelt High School, Mr. Hagan and Bowie raised $100,000 with car washes and other fund-raisers for new computer and TV labs, and hired teachers who specialize in advanced-placement classes. After 50% of Bowie ninth-graders failed the Maryland writing test five years ago, students were assigned more essays to write, even in science and math classes. The failure rate on the writing test is down to 4%.

Mr. Hagan is a big fan of Mr. Murphy's strategy, but has reservations about its financial disparities. Prince George's County spends $5,267 per student at Milliken schools, $5,093 at magnet schools, and only $4,578 at regular schools. The difference has its effects. "You don't get the extra staff, the extra material, the extra supplies," says Mr. Hagan.

Teachers say the emphasis on test results has entailed certain sacrifices: less reading time in class, for instance, so that students can work on writing skills.

At District Heights Elementary School, just over the Washington, D.C., line, preparing to take standardized multiple-choice tests has been a big part of the curriculum. Students work on "bubbling in," or filling in mock answer sheets, and practice with "Scoring High," a workbook that resembles the California Achievement Test Maryland students have been required to take. Helen Thiers, a second-grade teacher, estimates that in some grades, 25% of class time has been spent taking and preparing to take standardized tests. She says much is sacrificed: in-depth teaching and time spent on subjects like social studies and science that are stressed less on the tests.

"There's something people call the 'teachable moment,' when the lightbulb goes on in the student's mind," says Mrs. Thiers. "We have fewer teachable moments these days. The flower is dying on the windowsill, but we can't talk about science because the pressure is on to do math."

Under Mr. Murphy, Prince George's has gone a long way toward satisfying a federal court that education for blacks be as good as it is for whites. But the issue hasn't disappeared. Of Prince George's 171 schools, Mr. Murphy has convinced the court that 19 nearly all-black ones can't be integrated and should instead be deemed Milliken schools and given extra funds. The Milliken schools can afford lower student-teacher ratios, and more extras like computers that other schools don't have money to buy.

Fifty other schools get a smaller subsidy to create magnet programs, in fine arts or science for example, that are meant to attract whites to black-neighborhood schools and vice versa. The magnet schools are so popular about 3,000 students are turned away each year.

Mr. Murphy says he has always meant to bring regular school funding up to the special school level, "but this blasted recession has caught us short."

A more personal money issue also cut him short. Partly in search of a bigger pension, Mr. Murphy started job talks with other school districts last year. The Prince George's school board then offered him a big raise and pension in a most unusual 10-year, $2.5 million contract. A storm of protest erupted, much of it from black state legislators who said they wanted a black school chief before 10 more years went by.

As for Mr. Murphys salary, at one community meeting some blacks shouted "here's your raise" and threw quarters at his feet. "That was low," he says. "I don't think they were speaking for the black people in the community."

Mr. Murphy says he is sad that he can't "complete the job" in Prince George's, but he says he was no longer in a position to accomplish much more. His critics also have mixed feelings. "I'll give him credit, some of the credit," says Ms. Spirer, the president of the county education association. "He brought us fresh energy, got money and some good people in."

Adds Mrs. Thiers, the second-grade teacher: "There's a lot to John Murphy. He has angered me to the point of screaming, with his tests, the stress and those little charts in his office. But he has made me thrilled, and very proud—proud to live and work in PG County."

I yield to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Speaker, I thank the gentleman for yielding to me and, as someone who represents the southern part of Prince Georges County, I would like to certainly echo his comments.

John Murphy is a friend and an outstanding superintendent. I think what is extraordinary about his contribution is that he certainly exhibited the kind of vision that we needed across our school systems in this country. I look at the Secretary of Education, the President, talking about school reform as a national priority. John Murphy was there before school reform was in vogue.

I think that is probably the greatest credit we can pay him. I commend the gentleman.

Mr. HOYER. I thank the gentleman for his contribution and I am honored to represent Prince Georges County along with him. He and I have both worked very closely with John Murphy.

☐ 1330

VERY UNFORTUNATE DECISION BY BASE CLOSURE COMMISSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. MCMILLEN] is recognized for 60 minutes.

Mr. MCMILLEN of Maryland. Mr. Speaker, I regret that we have to have this special order today. It is because of a very, very unfortunate decision by the Base Closure Commission that has made a decision 6 to 1 to not take our defense laboratories off the base-closure list.

I know myself and the gentleman from Pennsylvania and the gentleman from New Jersey and many, many others in this body and the other body feel that that is a contravention of congressional intent.

Mr. Speaker, last year in the 1991 defense authorization bill, very clearly an advisory commission on laboratories was set up to study these labs and to report to the Congress no later than September 30 of this year. My concern is, and I am sure that these gentlemen share these concerns, that this has been a very heavyhanded process by the Pentagon. I resent it, and our constituents deserve better.

We have had particular concern about some of the contradictory statements that are being made by the acting director of the advisory commission.

Mr. Speaker, I yield to my colleague, the gentleman from Pennsylvania, who will elaborate on this point.

Mr. KOSTMAYER. I appreciate my friend from Maryland yielding.

This is a tricky and difficult matter to understand, but what I would like to do is that this morning the Base Closure Commission, which has been hearing testimony all around the country on this proposal to close military bases, and as part of that proposal a number of laboratories would be closed as well. I happen to represent one of those laboratories which is located in Warminster in Bucks County, PA. The gentleman from Maryland [Mr. McMILLEN] has one in his district. The gentleman from New Jersey [Mr. PALLONE] has one in his district. My laboratory is called the Naval Air Development Center, and it employs about 2,900 people.

This morning the Base Closure Commission heard testimony from a fellow called Pete Adolph. Mr. Adolph is the acting director of a separate commission which has the responsibility for deciding not whether those bases close but whether those laboratories close.

Mr. Adolph told the commission this morning that the Lab Consolidation Commission had really no objections to the base-closing commission going ahead and closing, if you follow me, Mr. Speaker, going ahead and closing the lab.

In fact, I am sorry to say, Mr. Speaker, that is simply not true, because on May 22, and May 23, the Lab Consolidation Commission, of which Mr. Adolph is the acting executive director, held a meeting, and I happen to have their minutes from that meeting. I would like to read very briefly from those minutes.

> Returning to the question of commenting on the DoD recommendations to the 1991 Base Closure and Realignment Commission, there seemed to be a question of propriety and format. There was a consensus of the members that the Commission had an obligation to comment on the DoD recommendations. The Commission—

And this is the Lab Consolidation Commission—

> felt an obligation to provide some preliminary thoughts to the Base Closure and Realignment Commission on the DoD recommendations, and the commission's preliminary thoughts may consist of recommendations to, in fact, alter the Department of Defense recommendations. It was initially agreed that the Commission had two options: (1) recommend no change to the DoD plan; (2) recommend all actions involving laboratories be removed from consideration now and be revisited during the 1993 deliberations. Subsequent discussion surfaced an additional, or third, option, remove a select number of actions involving laboratories until the Commission has had a chance—

That is, the Laboratory Consolidation Commission—

> has had a chance to study these specific actions in more detail. It was decided that in order to accommodate this obligation, the June meeting would have to be rescheduled to June 12, and that it would be a long 1-day meeting.

Mr. Speaker, the Laboratory Consolidation Commission made the decision to meet on 12 June to come up with recommendations on the lab which they will then give to the Base Closure Commission. Today is June 7, and yet the executive director of the lab commission this morning testified before the Base Closure Commission that that decision had already been made. That decision will not be made until June 12.

Well, I do not like to call the man a liar, but that is what he is. What is at stake, in my congressional district, are 2,900 jobs, and there are jobs at stake in the district of the gentleman from Maryland [Mr. McMILLEN], jobs at stake in the district of the gentleman from New Jersey [Mr. PALLONE], jobs at stake all across the country.

We are prepared to have these laboratories and bases closed if that is the right thing to do. What we are not prepared to be subjected to is this kind of dishonesty and this kind of trickery, and we have called Mr. Adolph, and he will be in my office Monday afternoon, we hope, to explain to us his conduct.

The fact of the matter is that Mr. Adolph works for Secretary Cheney. Secretary Cheney wants the bases closed and the labs closed.

This is a lousy process. It is not working the way it was intended to work.

I hope that the Congress will see that this process goes ahead in an appropriate and fair fashion, because if these facilities are closed within the context of this process, there are going to be not only a lot of angry people, which is OK, but there are going to be very serious mistakes made.

What if the Laboratory Consolidation Commission, which is not to issue its report until September 30 of this year, issues a report which is contrary to the Base Consolidation Closing Commission? This process is crazy. It does not make any sense. It ought to be brought to a screeching halt until we can design a process which is fair to the people who work in Warminster, fair to the people who work in Maryland and New Jersey, and, most of all, fair to the taxpayers of the United States.

I appreciate the gentleman yielding to me.

Mr. McMILLEN of Maryland. I want to commend the gentleman from Pennsylvania for his leadership on this issue.

Mr. Speaker, for the record, I am including in the RECORD the legislation last year, the 1991 Defense Authorization Act, which clearly established an advisory commission on laboratories. It is very clear this lab commission was supposed to make recommendations to the Congress in a thoughtful, evaluative fashion regarding these laboratories.

I would like to echo what the gentleman said. We are going forward restructuring 90 percent of the Navy labs in this country based on Secretary Cheney's recommendations without a single congressional hearing, without any oversight at all, and in contravention to what we intended in last year's Defense authorization.

□ 1340

This is no way to run this in my view, and I know the gentleman from New Jersey [Mr. PALLONE] feels this way, because he mentioned to me earlier, this is in some respects being done in the dark of the night without the kind of full scrutiny that this issue so deserves.

Mr. PALLONE. Mr. Speaker, will the gentleman yield?

Mr. McMILLEN of Maryland. I am happy to yield to the gentleman from New Jersey [Mr. PALLONE] who has also been a leader on this issue in trying to bring some sense and rationality to this process.

Mr. PALLONE. Mr. Speaker, I thank the gentleman for yielding, and I want to join with him and my colleague from Pennsylvania to stress the significance of this issue. It is not just a question of jobs. Obviously, all districts have jobs that are affected, and all people are concerned about their future.

I point out that these labs are at the cutting edge of technology for the Defense Department and for the future of our whole defense establishment and our ability to respond throughout the world. We are talking here about high technology laboratories, people mostly with Ph.D.'s, the type of work that is being done that is not only important to the Defense Department but also important to the future of America's economy in a lot of private fields.

I actually represent, or in my particular district we have the Electronic Technology Devices Lab at Fort Monmouth which employs about 200 people, but I stress again this lab is very important to the communications at Fort Monmouth, and crucial as all the lab facilities in our operations in the Persian Gulf involved in Operation Desert Storm. A lot of the research, a lot of the development, for equipment, for armaments, took place at these laboratory facilities.

When we talk about lab consolidation, Mr. Speaker, we are talking about a large and dramatic undertaking which requires careful study by an independent commission, by a commission of experts who know what labs are all about. That is what this Advisory Commission on Labs was designed to do. That is why we set up the Department of Defense Authorization Bill last fall, because the feeling was, this was not something for the BRAC Commission, the Commission on Base Closings to deal with, but rather something that an independent advisory commission that had the expertise on labs, had the expertise on this particular subject, would be able to deal with.

I think it is very dangerous not only from our particular areas and the people we represent, but for the future of the whole U.S. defense to have the BRAC Commission, which has a very short time period, which does not have the expertise, and in my opinion has not been provided with the documentation to even make any kind of decisions with regard to the future of these labs, to have that Commission make the determination of about whether these labs will be consolidated, as opposed to the Advisory Commission which was specifically set up for that purpose, to make the recommendations, and have them considered by BRAC or the full Congress.

I think that we need to spend some time, and I think it will be very possible for the United States in the long run, perhaps, to convince the BRAC Commission that we made a mistake today, because we do not have the background, and they should allow the independent advisory commission to go on its own and to review the various lab consolidations.

I am hopeful, I am very hopeful we will be able to get the Commission to turn around, and to not make these decisions on its own without waiting for the Independent Lab Commission to issue its report.

I want to thank both of my colleagues for taking the leadership on this. I think it is very important to the future of our defense.

Mr. McMILLEN of Maryland. Mr. Speaker, I would like to add a note, speaking to my colleagues, and certainly I feel that I am not against the base closure process. I supported the legislation initially. We had a major base in my district, and the gentleman from Pennsylvania participated in that effort.

The point I think that is necessary to make here today is we want these bases and labs closed. It will inevitably happen, given our level of defense spending, in a thoughtful, thorough, and rational fashion. I think our constituents deserve that, and I know that I feel very strongly that the Base Closure Commission made a terrible mistake today. I know the gentleman from Pennsylvania has some additional thoughts on that.

Mr. KOSTMAYER. Mr. Speaker, I appreciate the gentleman yielding, and let me conclude by saying, Mr. Speaker, what happened this morning is that the Base Closure Commission took up the laboratory issue. That is why we are so exercised this afternoon, and why we brought this to the floor of the House. This morning they voted 6 to 1 not to delete the labs from the list. They said that one of the reasons they did that is because they heard testimony from the Acting Director of the Laboratory Consolidation Commission who misrepresented the facts and was acting not on behalf of the members of the Laboratory Commission who feel quite differently as their minutes of May 24 and 25 indicate, but acting on behalf of the Secretary of Defense for whom he works, Mr. Cheney. That is not fair. That is not right.

The Congress set up two commissions, a Base Closing Commission, and a Lab Consolidation Commission. Different membership, different obligation, different dates at which they were to report back to the Congress. We are mixing bases and labs; apples and oranges. We are making bad public policy. We will live to regret it. I only hope that before it is too late, we can reverse this process and get it back on the proper track.

I commend the gentleman for his work.

Mr. McMILLEN of Maryland. Mr. Speaker, legislation has been introduced to take labs off the base closure list, and we will continue to pursue that.

What I am concerned about, and I think the gentleman from Pennsylvania articulated, is that the acting director, Peter Adolph, is certainly acting like a mouthpiece for the Department of Defense, not offering the kind of objective analysis that this issue deserves.

These labs are unique national assets. They are part of our science and technological infrastructure in this country. The gentleman from New Jersey understands that. We should not go forward and close these labs with the kind of half-hearted evaluative process that seems to be taking place. That is not the gentleman from Maryland [Mr. McMILLEN] or the gentleman from New Jersey [Mr. PALLONE] saying this. It is the General Accounting Office, who raised many questions regarding the Department of the Navy's data that they used in complying with this recommendation.

In fact, the GAO said they could not really come up with a conclusion. Their analysis was inconclusive because the Navy would not cooperate. The Navy would not give the GAO the necessary information to make these determinations. The GAO does not have it. How is the Base Closure Commission making this broad statement this morning that says labs should be part of this process? We will go forward pell-mell without giving it the thorough analysis that a more independent commission would give this issue.

Mr. PALLONE. Mr. Speaker, will the gentleman yield?

Mr. McMILLEN of Maryland. I yield to the gentleman from New Jersey.

Mr. PALLONE. I think that is a very important point. One of the points I have repeatedly made before the Base Closure Commission is that the data are not there.

In my case, we are talking about an Army lab. I have not seen a single document yet, nor in my opinion, based on my conversations with the Base Closure Commission, has any document been provided to the Commission that specifies the reason, the rationale for this consolidation, nor how it could possibly save money, nor what is going to happen in the future research that is done at the lab. It is evident that the BRAC Commission does not have that information, and that is why it makes so much sense to make for the Advisory Commission on Labs that has the expertise to look at whatever data are available, and come to their own recommendations, which the BRAC Commission can then review at that time. So far, there is a complete paucity of data. That is an important point.

Mr. McMILLEN of Maryland. This process has been very, very wrong, I believe, from the beginning. The whole thing stinks, quite honestly.

Originally, the acting director of the Lab Commission quit, which raises questions as to what kind of process is our Defense Department going for? Did they ever intend to adhere to congressional intent, which said there was supposed to be an advisory commission formed?

Let me repeat what the gentleman from Pennsylvania said. I think it strikes at the heart of the duplicity and the lack of forthrightness by Mr. Adolph and others with regard to this issue. On May 22 and 23, the Lab Commission met. They discussed this issue, and the Lab Commission is supposed to be a well-rounded Commission. As I said, I included this in the RECORD, but they have a number of people from within the research and development infrastructure, people from the Government, private sector, to give this kind of independent look at this. Basically, and the minutes reflect this, it was the consensus of the Advisory Commission on Labs had obligation to comment on the DOD recommendations, and they were going to do so on June 12 next week. That is what they said.

Clearly, given the intent that they wanted to take a look at this issue, and look at it and report back to Congress. However, here we have, just hours ago, Peter Adolph, the acting director of the Lab Commission, coming in front of the Base Closure Commission, saying, "No, no, no, we have no overlap in our jurisdictions. As a matter of fact, it would be a big help if the Base Closure Commission went ahead and included these labs in the process, indicating just the opposite of what his Commission, his own Commission, said in their minutes.

☐ 1350

Now, the gentleman called that a lie. I may not go as far in saying that, but it is certainly duplicitous and a lack of forthrightness by a public official to deal with our constituents in this kind of fashion.

I think we are going to have to hold him to task for that kind of behavior.

I just want to again reiterate those points, because it shows the heavy-handedness by the Department of Defense in trying to grease this issue, without concern to Congress, without concern to public scrutiny, just let us get it done. I think it is wrong.

Mr. Speaker, I yield again to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. All I can say, Mr. Speaker, and I suppose it is somewhat repetitive, it is patently obvious that if the BRAC Commission were to take up the consolidations, that essentially the Advisory Commission on Labs would have practically nothing to do.

I mean, the legislation that the gentleman from Maryland has pointed to specifically says that one of the purposes is to review possible consolidation of laboratories. It is hard for me to imagine what the purpose of the Advisory Commission on Labs would be once the recommendations were set in stone and put together by the BRAC Commission. It simply makes no sense.

As I said, I am not pessimistic on this. I think that once what we are articulating today is brought out and the Lab Commission understands their role, that we can go back to the BRAC Commission to make the point they should take the labs out of their consideration for this round.

Mr. MCMILLEN of Maryland. Well, Mr. Speaker, I thank the gentleman.

I just want to reiterate that the Lab Commission at this point is paying lip-service to this process and to the DOD. It is not the way it was intended.

As a matter of fact, what we are going to do is ask the House counsel to give us an opinion that really clarifies congressional intent in this area, an opinion that hopefully will point out that Congress intended this Advisory Commission to look at this matter, to make a thoughtful recommendation to this body and to provide some oversight.

I mean, here we are restructuring thousands of jobs, 90 percent of our Navy labs, and there is hardly any congressional input in this whole process. I just find that to be mind boggling.

Certainly we have to restructure our defense infrastructure in this country, but we do not have to do it in the back offices of the Pentagon without anybody, without elected officials, duly-elected by our constituents, having input on this matter.

So again I say that this is a process that stinks, but we are going to continue to fight it all the way because we think it is not fair to the people who have labored in the vineyards of our national defense laboratories to try and provide us with quieter submarines, all the technology that has made Desert Storm possible.

Here we are just saying to these constituents that it does not matter. Your elected officials have no say about this. We are going to allow some Pentagon officials with green eyeshades to make these decisions.

I think it is wrong, and I certainly appreciate the chance to offer this special order to continue this fight on behalf of an issue that I know the gentleman from New Jersey, the gentleman from Pennsylvania and others feel strongly about in the Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PAYNE of Virginia (at the request of Mr. GEPHARDT) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ARMEY) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, today.
Mr. EMERSON, for 5 minutes, today.
Mr. ARMEY, for 5 minutes, today.

(The following Members (at the request of Mr. MCMILLEN of Maryland) to revise and extend their remarks and include extraneous material:)

Mr. DORGAN of North Dakota, for 5 minutes, today.
Mr. GLICKMAN, for 5 minutes, today.
Ms. OAKAR, for 5 minutes, today.
Mr. HOYER, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. MCMILLEN of Maryland, for 60 minutes, today.
Mr. KOSTMAYER, for 60 minutes, today.
Mr. PANETTA, for 60 minutes, each day on June 11, 12, 13, and 14.
Mr. SERRANO, for 60 minutes, each day on June 12 and 13.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ARMEY) and to include extraneous matter:)

Mr. SOLOMON.
Mr. COUGHLIN.
Mr. KLUG.
Mr. GUNDERSON.
Mr. SCHIFF.
Ms. ROS-LEHTINEN in two instances.
Mr. CRANE.

(The following Members (at the request of Mr. MCMILLEN of Maryland) and to include extraneous matter:)

Mr. TRAFICANT.
Mr. MAVROULES.
Mr. LEHMAN of Florida.
Mr. SHARP in two instances.
Mr. SANGMEISTER.
Mr. ANDREWS of Texas.
Mr. KLECZKA.
Mr. JACOBS.
Mr. DINGELL.
Mr. WAXMAN.
Mr. BENNETT in two instances.

BILL PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On June 7, 1991:

H.R. 971. An act to designate the facility of the U.S. Postal Service located at 630 East 105th Street, Cleveland, OH, as the "Luke Easter Post Office."

ADJOURNMENT

Mr. MCMILLEN of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, June 10, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1505. A communication from the President of the United States, transmitting amendments to the fiscal year 1992 appropriations requests for the Department of Education, pursuant to 31 U.S.C. 1106(b) (H. Doc. No. 102-97); to the Committee on Appropriations and ordered to be printed.

1506. A letter from the Department of the Army, transmitting notice of decision to convert to contract operations the administrative services function at Oakland Army Base, CA, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

1507. A letter from the Deputy Secretary of Defense, transmitting a copy of Presidential Determination 91-37, regarding end-strength level of U.S. Armed Forces in Europe for fiscal year 1991, and justification thereto; to the Committee on Armed Services.

1508. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation to amend the District of Columbia Public Works Act of 1954, as amended, to require Federal agencies to reimburse the District of Columbia for water and sanitary sewer services; to the Committee on the District of Columbia.

1509. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934 to extend the regulatory authority of the Secretary of the Treasury under the Government Securities Act of 1986, and for other purposes; to the Committee on Energy and Commerce.

1510. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 91-22), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1511. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Jane E. Becker, of the District of Columbia, Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Representative of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador, and members of her family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1512. A letter from the Secretary of Labor, transmitting the semiannual report of the inspector general for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1513. A letter from the Chairman, Federal Election Commission, transmitting the 16th annual report on the Commission's activities for 1990, pursuant to 2 U.S.C. 438(a)(9); to the Committee on House Administration.

1514. A letter from the Secretary of Labor, transmitting the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974 for period ending March 31, 1991, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

1515. A letter from the Deputy Secretary of Defense, transmitting a copy of a Presidential memorandum of May 14, 1991, with respect to end-strength level of United States Armed Forces in Japan for fiscal year 1991, and justification thereto; jointly, to the Committee on Appropriations and Armed Services.

1516. A letter from the Federal Reserve System, Board of Governors, transmitting a copy of a report on concerns relating to the soundness, stability, and integrity of domestic and international capital markets, pursuant to Public Law 101-432, section 8(a) (104 Stat. 976); jointly, to the Committees on Energy and Commerce, Banking, Finance and Urban Affairs, and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Public Works and Transportation. H.R. 470. A bill to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, IN; with an amendment (Rept. 102-102). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 2132. A bill to authorize the Fort Smith Airport Commission to transfer to the city of Fort Smith, AR, title to certain lands at the Fort Smith Municipal Airport for construction of a road (Rept. 102-103). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWETT:

H.R. 2584. A bill to amend title 10, United States Code, to extend the period of eligibility for admission to a military service academy for members of the Armed Forces who serve in a combat zone; to the Committee on Armed Services.

By Mr. WAXMAN:

H.R. 2585. A bill to amend the Public Health Service Act to revise and extend the program of assistance for family planning services; to the Committee on Energy and Commerce.

By Mr. SIKORSKI (for himself (by request), Mrs. MORELLA, and Ms. NORTON):

H.R. 2586. A bill to amend title 31, United States Code, to allow the General Accounting Office to procure the services of additional experts and consultants; to permit the Comptroller General to enter into agreements with other Federal agencies relating to health care for employees serving abroad and their dependents; to exclude temporarily certain positions from the GS-15 pay limitation which would otherwise apply; and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GLICKMAN (for himself and Mr. NICHOLS):

H.R. 2587. A bill to amend the Solid Waste Disposal Act to authorize a private right of action to enforce any such regulation, and to require any such regulation to include certain civil and criminal penalties; to the Committee on Energy and Commerce.

By Mr. CARPER (for himself, Mr. RAVENEL, Mr. SAXTON, Mr. GILCHRIST, and Mr. HUGHES):

H.R. 2588. A bill to provide for the conservation and management of weakfish, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CRANE (by request):

H.R. 2589. A bill to amend the Tariff Act of 1930 to modernize and simplify customs procedures, facilitate the entry and clearance of vessels, increase the effectiveness of the Customs Service in commercial matters, and for other purposes; to the Committee on Ways and Means.

By Mr. GUNDERSON (for himself and Mr. WASHINGTON):

H.R. 2590. A bill to amend the Higher Education Act of 1965 to clarify the legality of race-based scholarships to promote diversity; to the Committee on Education and Labor.

By Mr. MACHTLEY (for himself and Mr. RANGEL):

H.R. 2591. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to distribute funds to units of local government; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.R. 2592. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 2593. A bill to repeal the provisions in the Internal Revenue Code of 1986 relating to the inclusion of Social Security and certain railroad retirement benefits in gross income to the extent such provisions do not apply to nonresident aliens; to the Committee on Ways and Means.

By Mr. THOMAS of Georgia (for himself, Mr. JONES of North Carolina, Mr. JENKINS, Mr. TALLON, Mr. ROWLAND, Mr. FAZIO, and Mr. HEFNER):

H.R. 2594. A bill to provide for the designation of wetlands stewardship trusts, and to amend the Internal Revenue Code of 1986 to establish special rules for contributions of wetlands and riparian lands to wetlands stewardship trusts, and for other purposes; jointly, to the Committees on Ways and Means, Public Works and Transportation, and Merchant Marine and Fisheries.

By Mr. THOMAS of Wyoming (for himself, Mr. PETRI, Mr. KYL, Mr. DELAY, Mr. HANCOCK, Mr. COX of California, Mr. BUNNING, Mr. ROHRABACHER, Mr. TAYLOR of North Carolina, Mr. GINGRICH, Mr. WALKER, Mr. MILLER of Ohio, and Mr. BALLENGER):

H.R. 2595. A bill to limit the growth in the size of Federal civilian work force; jointly, to the Committees on Post Office and Civil Service, House Administration, and the Judiciary.

By Mr. TORRICELLI:

H.R. 2596. A bill to amend the Federal Food, Drug, and Cosmetic Act to define light butter; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself and Mr. DINGELL):

H.R. 2597. A bill to amend the Federal Food, Drug, and Cosmetic Act to enhance the enforcement authority of the Food and Drug Administration, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. KENNELLY:

H.J. Res. 267. Joint resolution to designate the week beginning July 21, 1991, as "National Parents of Multiple-Birth Children Week"; to the Committee on Post Office and Civil Service.

By Mr. STAGGERS (for himself, Mr. ENGLISH, Mr. ESPY, Mr. GILLMOR, Ms. LONG, Mr. MCEWEN, Mr. SKELTON, and Mr. HATCHER):

H. Con. Res. 164. Concurrent resolution expressing the sense of Congress concerning the needs of rural areas under the National Highway Program; to the Committee on Public Works and Transportation.

By Mr. MICHEL:

H. Res. 171. Resolution electing Representative Johnson of Texas to the Committee on Banking, Finance and Urban Affairs and the Committee on Small Business; considered and agreed to.

By Mr. WHITTEN:

H. Res. 172. Resolution authorizing printing of the proceedings of the portrait unveiling ceremony of the Honorable George H. Mahon; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

179. The SPEAKER presented a memorial of the General Assembly of the State of Vermont, relative to the passage of S. 843 or H.R. 534; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 87: Ms. DeLauro, Mr. Hochbrueckner, and Mr. Weldon.

H.R. 88: Ms. Slaughter of New York.

H.R. 103: Mrs. Boxer, Mr. Peterson of Florida, Mr. Blaz, Mr. Marlenee, Mr. Martinez, Mr. Ackerman, and Mr. Jefferson.

H.R. 107: Mr. Engel.

H.R. 323: Mr. Coble.

H.R. 371: Mr. Doolittle.

H.R. 393: Mrs. Roukema.

H.R. 413: Mr. Riggs, Mr. Klug, Mr. Jones of North Carolina, Mr. Clinger, Mr. Fish, Mr. Fascell, Mr. Burton of Indiana, and Mr. Hastert.

H.R. 441: Mr. Wyden.

H.R. 565: Mr. Traficant, Mr. Owens of New York, Mr. Roe, Mr. Dwyer of New Jersey, Mr. Moran, Mr. Richardson, Mr. Johnson of South Dakota, Mr. Applegate, Mr. Cox of California, Mr. Nagle, and Mr. Reed.

H.R. 976: Mr. Ramstad.

H.R. 1080: Mr. Gillmor and Mr. Anderson.

H.R. 1092: Mr. Ritter.

H.R. 1149: Mr. Fields.

H.R. 1178: Mr. Hughes, Mr. Sanders, Mr. Owens of Utah, and Mr. Yatron.

H.R. 1414: Mr. Jones of North Carolina.

H.R. 1426: Mr. Coble.

H.R. 1523: Mr. Clinger.

H.R. 1531: Mr. Bryant, Mr. Hayes of Illinois, Mrs. Boxer, and Mr. Jontz.

H.R. 1543: Mr. Thomas of Wyoming.

H.R. 1597: Mr. Archer.

H.R. 1598: Mr. Roe, Mr. Rahall, Mr. Hutto, Mr. Hochbrueckner, and Mr. Klug.

H.R. 1623: Mr. Ackerman, Mr. Anderson, Mr. Andrews of Texas, Mr. Andrews of Maine, Mr. Applegate, Mr. Armey, Mr. Atkins, Mr. Bacchus, Mr. Barrett, Mrs. Bentley, Mr. Berman, Mr. Bevill, Mr. Bonior, Mr. Borski, Mr. Brewster, Mr. Brooks, Mr. Browder, Mr. Bruce, Mr. Burton of Indiana, Mr. Bustamante, Mr. Callahan, Mr. Carr, Mr. Clement, Mr. Clinger, Mr. Coleman of Missouri, Mr. Coleman of Texas, Mrs. Collins of Michigan, Mrs. Collins of Illinois, Mr. Costello, Mr. Cox of Illinois, Mr. Coyne, Mr. Cramer, Mr. Darden, Mr. DeFazio, Mr. de la Garza, Ms. DeLauro, Mr. Derrick, Mr. Donnelly, Mr. Durbin, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. Eckart, Mr. Edwards of Texas, Mr. Edwards of California, Mr. English, Mr. Espy, Mr. Evans, Mr. Fazio, Mr. Fish, Mr. Flake, Mr. Foglietta, Mr. Ford of Michigan, Mr. Frank of Massachusetts, Mr. Gejdenson, Mr. Gilchrest, Mr. Gonzalez, Mr. Goss, Mr. Gradison, Mr. Gunderson, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hastert, Mr. Hatcher, Mr. Hayes of Illinois, Mr. Hayes of Louisiana, Mr. Hefner, Mr. Hobson, Ms. Horn, Mr. Houghton, Mr. Hunter, Mr. Hutto, Mr. Jacobs, Mr. James, Mr. Jenkins, Mr. Jones of Georgia, Mr. Jones of North Carolina, Mr. Kanjorski, Mrs. Kennelly, Mr. Kildee, Mr. Kolter, Mr. LaFalce, Mr. Laughlin, Mr. Leach, Mr. Lewis of California, Mr. Lightfoot, Mr. Livingston, Ms. Long, Mrs. Lowey of New York, Mr. Luken, Mr. McCloskey, Mr. McCurdy, Mr. McEwen, Mr. McGrath, Mr. McMillan of North Carolina, Mr. Martinez, Mr. Matsui, Mr. Mavroules, Mr. Mfume, Mr. Miller of Ohio, Mr. Miller of Washington, Mr. Moakley, Ms. Molinari, Mr. Mollohan, Mr. Montgomery, Mr. Moody, Mr. Moorhead, Mr. Moran, Mrs. Morella, Mr. Mrazek, Mr. Murtha, Mr. Nagle, Mr. Neal of Massachusetts, Mr. Neal of North Carolina, Mr. Nichols, Ms. Oakar, Mr. Ortiz, Mr. Owens of New York, Mr. Panetta, Mr. Parker, Ms. Pelosi, Mr. Penny, Mr. Peterson of Florida, Mr. Pickett, Mr. Poshard, Mr. Price, Mr. Rahall, Mr. Ravenel, Mr. Ray, Mr. Regula, Mr. Rhodes, Mr. Richardson, Mr. Ritter, Mr. Roberts, Mrs. Roukema, Mr. Rowland, Mr. Roybal, Mr. Sangmeister, Mr. Sarpalius, Mr. Savage, Mr. Sawyer, Mr. Saxton, Mr. Scheuer, Mr. Schiff, Mr. Schulze, Mr. Schumer, Mr. Skaggs, Mr. Skeen, Mr. Skelton, Mr. Slattery, Ms. Snowe, Mr. Solomon, Mr. Spence, Mr. Staggers, Mr. Stallings, Mr. Stearns, Mr. Stokes, Mr. Stump, Mr. Sundquist, Mr. Swift, Mr. Synar, Mr. Tallon, Mr. Taylor of Mississippi, Mr. Thomas of Georgia, Mr. Thornton, Mr. Torres, Mr. Towns, Mr. Traficant, Mr. Traxler, Mrs. Unsoeld, Mr. Upton, Mr. Valentine, Mr. Volkmer, Mr. Washington, Ms. Waters, Mr. Waxman, Mr. Wheat, Mr. Wilson, Mr. Wolpe, Mr. Wyden, Mr. Wylie, and Mr. Young of Florida.

H.R. 1624: Mr. Ackerman, Mr. Anderson, Mr. Andrews of Texas, Mr. Applegate, Mr. Armey, Mr. Atkins, Mrs. Bentley, Mr. Bevill, Mr. Bonior, Mr. Brooks, Mr. Burton of Indiana, Mr. Bustamante, Mr. Clement, Mr. Clinger, Mr. Coleman of Missouri, Mrs. Collins of Michigan, Mrs. Collins of Illinois, Mr. Costello, Mr. Cox of Illinois, Mr. Coyne, Mr. DeFazio, Mr. de la Garza, Ms. DeLauro, Mr. Donnelly, Mr. Dornan of California, Mr. Downey, Mr. Durbin, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. Eckart, Mr. Edwards of California, Mr. Andrews of Maine, Mr. Engel, Mr. Erdreich, Mr. Espy, Mr. Evans, Mr. Fazio, Mr. Ford of Michigan, Mr. Frank of Massachusetts, Mr. Gejdenson, Mr. Gonzalez, Mr. Goss, Mr. Gunderson, Mr. Hall of Ohio, Mr. Harris, Mr. Hastert, Mr. Hatcher, Mr. Hayes of Illinois, Mr. Hayes of Louisiana, Mr. Hefner, Mr. Hobson, Mr. Horton, Mr. Hutto, Mr. Jones of Georgia, Mr. Jones of North Carolina, Mr. Kolter, Mr. LaFalce, Mr. Leach, Mr. Lewis of California, Mr. Lightfoot, Mr. Livingston, Mr. Miller of Ohio, Ms. Long, Mrs. Lowey of New York, Mr. McCloskey, Mr. McCurdy, Mr. McEwen, Mr. McMillan of North Carolina, Mr. Martinez, Mr. Matsui, Mr. Miller of Washington, Mr. Moakley, Ms. Molinari, Mr. Montgomery, Mrs. Morella, Mr. Murtha, Mr. Myers of Indiana, Mr. Nagle, Mr. Nichols, Ms. Oakar, Mr. Ortiz, Mr. Owens of New York, Mr. Panetta, Mr. Parker, Ms. Pelosi, Mr. Poshard, Mr. Price, Mr. Rahall, Mr. Ray, MR. Regula, Mr. Rhodes, Mr. Ritter, Mrs. Roukema, Mr. Rowland, Mr. Roybal, Mr. Sarpalius, Mr. Savage, Mr. Saxton, Mr. Scheuer, Mr. Schulze, Mr. Skeen, Ms. Snowe, Mr. Solomon, Mr. Spence, Mr. Staggers, Mr. Stokes, Mr. Stump, Mr. Synar, Mr. Tallon, Mr. Torres, Mr. Traxler, Mrs. Unsoeld, Mr. Valentine, Mr. Waxman, Mr. Wilson, Mr. Wolpe, Mr. Wyden, Mr. Wylie, Mr. Young of Florida, Mr. Bacchus, Mr. Barrett, Mr. Stearns, Mr. Berman, Mr. Borski, Mr. Brewster, Mr. Browder, Mr. Callahan, Mr. Carr, Mr. Coleman of Texas, Mr. Cramer, Mr. Darden, Mr. Derrick, Mr. Edwards of Oklahoma, Mr. English, Mr. Richardson, Mr. Flake, Mr. Foglietta, Mr. Neal of North Carolina, Mr. Gilchrest, Mr. Gradison, Ms. Horn, Mr. Hunter, Mr. Houghton, Mr. Jacobs, Mr. James, Mr. Jenkins, Mrs. Kennelly, Mr. Kildee, Mr. Laughlin, Mr. Penny, Mr. Luken, Mr. Mavroules, Mr. Mfume, Mr. Mollohan, Mr. Moody, Mr. Moran, Mr. Mrazek, Mr. Peterson of Florida, Mr. Ravenel, Mr. Sangmeister, Mr. Schiff, Mr. Skaggs, Mr. Stallings, Mr. Sundquist, Mr. Taylor of Mississippi, Mr. Thornton, Mr. Traficant, Mr. Volkmer, Ms. Waters, Mr. Wheat, Mr. Washington, Mr. Upton, Mr. Towns, Mr. Thomas of Georgia, Mr. Swift, Mr. Slattery, Mr. Skelton, Mr. Pickett, Mr. Roberts, Mr. Sawyer, Mr. Schumer, and Mr. Moorhead.

H.R. 1662: Mr. Lehman of Florida and Mr. McDermott.

H.R. 1663: Mr. Swift, Mr. Rose, Mr. Ramstad, and Mr. Owens of Utah.

H.R. 1676: Mr. McMillan of North Carolina.

H.R. 1712: Mr. Gibbons.

H.R. 1771: Mr. Boehner, Mr. Eckart, Mr. Johnson of South Dakota, Mr. Lewis of Florida, Mr. Sanders, Mr. Smith of Oregon, Mr. Solomon, Mr. Traficant, Mr. Upton, and Mr. Volkmer.

H.R. 2116: Mr. Ritter, Mr. Paxon, Mr. Stump, Mr. Livingston, Mr. Fields, Mr. Armey, and Mr. Duncan.

H.R. 2117: Mr. Ritter, Mr. Stump, Mr. Livingston, and Mr. Fields.

H.R. 2118: Mr. Ritter, Mr. Stump, Mr. Livingston, Mr. Fields, and Mr. Armey.

H.R. 2119: Mr. Ritter and Mr. Stump.

H.R. 2120: Mr. Ritter, Mr. Stump, and Mr. Livingston.

H.R. 2248: Mr. Shaw and Mrs. Morella.

H.R. 2293: Mrs. Bentley, Mr. Martinez, and Mr. Oberstar.

H.R. 2357: Mr. Kopetski, Mr. Ackerman, and Mrs. Unsoeld.

H.R. 2365: Mr. Guarini, Mr. Gunderson, and Mr. Horton.

H.R. 2374: Mr. Sanders, Mrs. Mink, and Mr. Smith of Florida.

H.R. 2486: Mr. Fascell, Mr. Pursell, and Mr. Perkins.

H.J. Res. 80: Mr. DeLay, Mr. Lewis of Florida, Mr. Traficant, Mr. Burton of Indiana, Mr. Roe, and Mr. Porter.

H.J. Res. 83: Mr. Hefner, Mr. Herger, Mr. Machtley, and Mr. Quillen.

H.J. Res. 88: Mr. DeLauro and Mr. Hoagland.

H.J. Res. 179: Mr. Santorum, Mr. Fish, Mr. Levine of California, and Mr. Coughlin.

H.J. Res. 180: Mr. Andrews of Maine, Mrs. Bentley, Mr. Brewster, Mr. Cramer, Mr. Geren of Texas, Mr. Hobson, Mr. LaRocco, Mr. Perkins, and Mr. Peterson of Minnesota.

H.J. Res. 181: Mr. Chapman, Mr. Doolittle, Mr. Dymally, Mr. Ford of Tennessee, Mr.

MAVROULES, Mr. MOODY, Mr. PICKETT, Mr. RAHALL, Mr. RICHARDSON, Mr. SMITH of New Jersey, Mr. TRAFICANT, Mr. YATRON, Mr. RAVENEL, Mr. RINALDO, and Mr. SAWYER.

H. Con. Res. 130: Mr. ENGEL, Mr. BONIOR, Mr. GORDON, Mr. LANCASTER, and Mr. UPTON.

H. Con. Res. 145: Mr. BURTON of Indiana, Mr. EVANS, Ms. ROS-LEHTINEN, and Mr. SCHEUER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2508

By Mr. BEREUTER:

—Page 705, after line 13, insert the following new chapter 4 and redesignate existing chapter 4 of title X (and sections thereof) accordingly:

CHAPTER 4—HORN OF AFRICA RECOVERY AND FOOD SECURITY

SEC. 1061. FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (the region comprised of Ethiopia, Somalia, Sudan, and Djibouti) is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as by gross violations of human rights, political repression, environmental destruction, and the breakdown of such essential services as primary education and health care.

(2) Famine and war have killed an estimated 2,000,000 people in Ethiopia and Sudan since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and international community. Relief officials now estimate that another 15,000,000 to 20,000,000 people are threatened by starvation as civil war and drought continue to ravage the area.

(3) Governments and armed obligation groups in Ethiopia, Sudan, and Somalia have been guilty of gross violation of human rights, which further erode food security in those countries.

(4) Countries in the Horn of Africa are among the poorest in the world, yet military expenditures by regimes in the region consumed as much as half of all government revenues, thereby diverting scarce resources from development and basic human needs.

(5) Until recently, United States and Soviet security aid in the Horn of Africa has served short-term Cold War objectives. This and other foreign security aid have exacerbated the conflicts and suffering in the Horn of Africa by contributing to the militarization of the region and entrenching undemocratic regimes.

(6) Assistance from the International Development Association and other international financial institutions have not productively addressed the major causes of hunger and poverty in the Horn of Africa. Neither has the International Monetary Fund been effective at achieving economic reform objectives through lending programs in circumstances of conflict such as have existed in the Horn of Africa in recent years.

(7) Such assistance policies have failed in large part because they did not target assistance to assist the poor majority and did not build upon or support the activities of indigenous and international nongovernmental organizations. Programs to achieve sustainable development and food security must support a grassroots approach which aids the poor majority.

(8) Appropriate assistance should also promote real food security which means access by all people at all times to enough food for an active and healthy life and the availability of sufficient income and food to prevent a chronic dependency upon food assistance.

(9) The end of the Cold War rivalries in the Horn of Africa affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the region.

(10) Notwithstanding other pressing needs, the United States must accordingly fashion a new foreign policy toward the Horn of Africa and cooperate with other major donors and the United Nations—

(A) to develop an emergency relief plan which meets the immediate basic human needs that arise as long as civil strife and famine afflict the region;

(B) to promote immediately ceasefires, secure relief corridors, and an end to these conflicts; and

(C) to provide creative development assistance which attacks the root causes of famine and war and assists these nations on the path to long-term food security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace.

SEC. 1062. HORN OF AFRICA RELIEF AND REHABILITATION PROGRAM.

(a) EQUITABLE DISTRIBTUION OF RELIEF AND REHABILITATION ASSISTANCE.—It shall be the policy of the United States in promoting equitable distribution of relief and rehabilitation assistance in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction, to continue supplies to the civilian population located in the territory of the opposing faction;

(2) to provide relief, rehabilitation, and recovery assistance to promote self-reliance, such as seeds, tools, water management technology, training, credit, child immunization and other health care, school construction, animal inoculation, and veterinary and medical supplies; and

(3) to assure that relief shall be provided on the basis of need without regard to political affiliation, geographic location, or the ethnic, tribal, or religious identity of the recipient.

(b) MAXIMIZING INTERNATIONAL RELIEF EFFORTS.—It shall be the policy of the United States in seeking to maximize relief efforts for the Horn of Africa—

(1) to redouble its commendable efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population;

(2) to commit sufficient Food for Peace resources and Office of Foreign Disaster Assistance resources to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources; and

(3) to consult with member countries of the European Community, Japan, and other major donors in order to increase overall relief and development assistance for the people of the Horn of Africa.

(c) HORN OF AFRICA CIVIL STRIFE AND FAMINE ASSISTANCE.—

(1) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance under chapter 6 of title I of the Foreign Assistance Act of 1961 (relating to international disaster assistance) for civil strife and famine relief, rehabilitation, and recovery in the Horn of Africa. During the remainder of fiscal year 1991, such assistance may be provided under chapter 9 of part I of that Act.

(2) DESCRIPTION OF ASSISTANCE TO BE PROVIDED.—Assistance pursuant to this subsection shall be provided for humanitarian purposes and shall include—

(A) relief and rehabilitation projects to benefit the poorest people, including (as needed) the furnishing of seeds for planting, fertilizer, pesticides, farm implements, crop storage and preservation supplies, farm animals and vaccine and veterinary services to protect livestock on which people depend; blankets, clothing, and shelter; emergency health care; emergency water and power supplies; and basic education; and

(B) emergency food assistance (primarily wheat, maize, other grains, processed foods and oils) for the needs of the affected and displaced civilian population of the Horn of Africa; and

(C) inland and ocean transport and storage of emergency food assistance, including the provision of trucks and other such measures.

Assistance pursuant to subparagraphs (B) and (C) shall be in addition to any such assistance provided under title II of the Agricultural Trade Development and Assistance Act of 1954.

(3) USE OF PVOS FOR RELIEF, REHABILITATION, AND RECOVERY PROJECTS.—The maximum utilization of United States, international, and indigenous private voluntary organizations prudent to carry out this subsection is urged.

(4) EMERGENCY HEALTH PROJECTS.—The maximum inclusion of emergency health projects, including efforts to provide primary health care systems, prudent to carry out this subsection is urged.

(5) BASIC EDUCATION PROJECTS.—The maximum inclusion of projects to provide basic education, including efforts to support the teaching of displaced children, prudent to carry this subsection is urged.

(6) MANAGEMENT SUPPORT ACTIVITIES.—Up to two percent of the amount made available each fiscal year under paragraph (7) for use in carrying out this subsection may be used by the Agency for International Development for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian and food assistance for the Horn of Africa pursuant to this subsection and subsection (d).

(7) TRANSFER OF SECURITY ASSISTANCE FUNDS.—To carry out this subsection, the authority of section 6101 of the Foreign Assistance Act of 1961 may be used to transfer unobligated security assistance funds made available for fiscal years 1992 and 1993 for use in carrying out this subsection without regard to the 20-percent increase limitation contained in that section. As used in this paragraph, the term "security assistance funds" means funds available for economic support assistance, foreign military financing assistance, or international military education and training.

(d) EMERGENCY FOOD ASSISTANCE.—The President is urged to use the authorities of title II of the Agricultural Trade Development and Assistance Act of 1961 to provide supplemental emergency food assistance for the various civilian victims of civil strife in the Horn of Africa in accordance with paragraphs (2)(B), (2)(C), and (3) of subsection (c), in addition to the assistance otherwise provided for such purpose.

SEC. 1063. HORN OF AFRICA PEACE INITIATIVE.

(a) SUPPORT FOR GRASSROOTS PARTICIPATION.—It shall be the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies, and programs to contribute effectively to equitable economic development, and to local, national, and regional peace initiatives;

(2) to ensure that all citizens enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary, and representative governmental institutions, regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions working in government-controlled or opposition-controlled territories that have the capacity or potential to promote conflict resolution, to advance development programs, or to carry out relief, which routinely includes rehabilitation activities (as described in section 1062(a)(2)).

(b) CONSULTATIONS.—The President is encouraged to undertake immediate consultations with the Soviet Union and other nations, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations in order to bring about negotiated settlements of the armed conflicts in the region.

(c) MECHANISMS.—It is the sense of the Congress that, to best achieve the policy under subsection (a), the President should—

(1) direct the United States representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make ceasefires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflict; and

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of ceasefires;

(2) play an active and ongoing role in other fora in pressing for negotiated settlements to such conflicts; and

(3) support and participate in regional and international peace consultations that include broad representation from the nations and factions concerned.

SEC. 1064. HORN OF AFRICA FOOD SECURITY AND RECOVERY STRATEGY.

(a) TARGETING ASSISTANCE TO AID THE POOR MAJORITY; USE OF PVOs AND INTERNATIONAL ORGANIZATIONS.—

(1) TARGETING ASSISTANCE.—United States development assistance for the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists) to the maximum extent practicable. United States Government aid institution should seek to—

(A) build upon the capabilities and experiences of United States, international, and indigenous private voluntary organizations active in local grassroots relief, rehabilitation, and development efforts;

(B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and

(C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) PVOs AND INTERNATIONAL ORGANIZATIONS.—While support from indigenous governments in crucial, sustainable development and food security in the Horn of Africa should be enhanced through the active participation of indigenous private voluntary organizations as well as international private voluntary organization and international organizations with demonstrated ability to work as partners with local nongovernmental organizations and a commitment to promote local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) RESTRICTIONS ON ASSISTANCE TO GOVERNMENTS.—United States assistance should not be provided to the Government of Ethiopia, the Government of Somalia, and the Government of Sudan until concrete steps toward peace, democracy, and human rights are taken. Meanwhile, programs of developmental assistance should be promoted by supporting United States, indigenous, and international private voluntary organizations working in the afflicted countries. Assistance of this sort must be expanded as quickly as possible.

(b) EXAMPLES OF PROGRAMS.—Assistance pursuant to this section shall include programs to—

(1) reforest and restore degraded natural areas and reestablish resource management programs,

(2) reestablish veterinary services, local crop research, and agricultural development projects,

(3) educate young people outside of their countries if conflict continues, restore primary education, and rebuild schools,

(4) reconstitute and expand the delivery of primary and maternal health care, and

(5) establish credit, microenterprise, and income generation programs for the poor.

(c) VOLUNTARY RELOCATION AND REPATRIATION.—Assistance pursuant to this section should also be targeted to the voluntary relocation and voluntary repatriations of displaced persons and refugees, once peace arrives. Assistance pursuant to this chapter may not be made available for any costs associated with any program of involuntary or forced resettlement of persons.

(d) DEBT RELIEF, INTERNATIONAL FUND FOR RECONSTRUCTION.—Developmental assistance for the Horn of Africa should be carried out in coordination with long-term strategies for debt relief of countries in the region and with emerging efforts to establish an international fund for reconstruction of developing nations which settle civil wars.

(e) ASSISTANCE THROUGH PVOs AND INTERNATIONAL ORGANIZATIONS.—Unless a certification has been made with respect to that country under section 1066, assistance for the people of Ethiopia, Somalia, and Sudan pursuant to this section shall be provided only through—

(1) United States, international, and indigenous private voluntary organizations (as defined in section 5101(e)(2) of the Foreign Assistance Act of 1961), or

(2) through international organizations with demonstrated effectiveness in working in partnership with local nongovernmental organizations and a commitment to the promotion of local grassroots activities on behalf of development and self-reliance in the Horn of Africa (such as the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program).

(f) UNITED STATES VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS FOR DEVELOPMENT ASSISTANCE FOR THE HORN OF AFRICA.—It shall be the policy of the United States to provide increasing voluntary contributions to United Nations agencies (including the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program) for expanded programs, of assistance for the Horn of Africa and for refugees from the Horn of Africa who are in neighboring counties.

(g) DEVELOPMENT ASSISTANCE AUTHORITIES.—

(1) IN GENERAL.—After the effective date specified in section 1101 of this Act, assistance to carry out this section shall be provided pursuant to the authorities of subchapter A of chapter 2 of title I of the Foreign Assistance Act of 1961 (relating to development assistance) and chapter 1 of title V of that Act (relating to the Development Fund for Africa).

(2) FISCAL YEAR 1991.—For the remainder of fiscal year 1991, assistance to carry out this section shall be provided under chapters 1 and 10 of part I of the Foreign Assistance Act of 1961. Such assistance may be provided through private voluntary organizations pursuant to subsection (e)(1) notwithstanding any provision of law that would otherwise prohibit assistance to Ethiopia, Somalia, or Sudan under the Foreign Assistance Act of 1961.

(h) PROHIBITION ON ASSISTANCE TO GOVERNMENTS.—Assistance pursuant to this section shall not be transferred to the Government of Ethiopia, the Government of Somalia, or the Government of Sudan unless the President makes the certification described in section 1066 with respect to that government. This subsection does not prohibit private voluntary organizations and international organizations receiving assistance pursusant to subsection (e) from working with appropriate ministries or departments of any such government.

SEC. 1065. PROHIBITIONS ON SECURITY ASSISTANCE TO ETHIOPIA, SOMALIA, AND SUDAN.

Economic support assistance, foreign military financing assistance, international military education and training may not be provided for fiscal year 1992 or 1993 for the Government of Ethiopia, the Government of Somalia, or the Government of Sudan unless the President makes the certification described in section 1066 with respect to that government.

SEC. 1066. CERTIFICATION.

The certification required by sections 1064 and 1065 is a certification by the President to the appropriate congressional committees that the government of the specified country—

(1) has begun to implement peace agreement, national reconciliation agreements, or both;

(2) has demonstrated a commitment to human rights within the meaning of section 6302 of the Foreign Assistance Act of 1961;

(3) has manifested a commitment to democracy, has held, or scheduled, free and fair elections, and has agreed to implement the results of those elections; and

(4) in the case of a certification under sections 1064 (e) and (h), has agreed to distribute development assistance without discrimination.

SEC. 1067. REPORTING REQUIREMENT.

Not later than 180 days after the date of the enactment of this Act and each 180 days thereafter, the President shall submit a report to the appropriate congressional committees concerning efforts and progress in carrying out this chapter.

—Page 685, strike out lines 1 through 9; line 10, strike out "(d)" and insert in lieu thereof "(c)"; and page 685, strike out line 22 and all that follows through line 18 on page 686.

—Page 688, strike out lines 12 and all that follows through line 9 on page 689 and insert in lieu thereof the following:

(b) ASSISTANCE FOR BASIC HUMAN NEEDS.—Should any assistance be provided to meet basic human needs in Sudan, the President shall take the necessary steps to ensure that such assistance reaches the intended recipients.

By Mr. HOYER:

—Page , after line , (in Section 242 of the reported bill) insert the following:

SENSE OF THE CONGRESS CONCERNING THE EXCHANGE OF INFORMATION ON WEAPONS SALES

It is the sense of the Congress that the United States should introduce, during the ongoing negotiations on confidence and security-building measures at the Conference on Security and Cooperation in Europe (CSCE), a proposal regarding the international exchange of information on the sale and transfer of major weapons and equipment systems. The proposal should include—

(1) a requirement that participating States exchange annually information on sales and transfers of major weapons and equipment systems;

(2) a requirement that such information be exchanged in an agreed format to all other participating States not later than December 15 of each year;

(3) a requirement that such information include information on any sale or transfer of major weapons and equipment systems (including any such sale or transfer to any nonparticipating State) and information regarding such sale or transfer that specifies—

(A) the quantity and type of weapon or equipment that is the subject of such sale or transfer;

(B) the date of such sale or transfer;

(C) the location of such weapon or equipment prior to such sale or transfer; and

(D) the State or other party receiving such weapon or equipment; and

(4) a requirement that such information be discussed at the annual implementation assessment meeting of the CSCE Conflict Prevention Center.

EXTENSIONS OF REMARKS

PROJECT NEW BEGINNING

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Dade County Public Schools Project New Beginning is a recently developed initiative to provide bilingual instruction services to students who are identified as limited English-proficient children. At last count, the number of students who needed this service in Dade County alone was at 40,540. If this program is initiated, its effect could result in monumental strides in education.

As the fourth largest school district in the Nation, Dade County serves a diversity of racial and enthnic groups in school communities. This county has been the point of entry for many immigrants in recent years. As such, many students entering various schools in the district have little or no knowledge of the English language. Since it takes 2 to 3 years to learn English well enough to complete the regular work of the grade in English, this language difficulty presents a unique educational dilemma. Project New Beginning is one way to address it.

The initial goals of the project are to develop the rapid acquisition of English skills, develop the necessary literacy levels to enable students to enter the current transitional bilingual programs such as ESOL, lower the dropout rates for limited English-proficient students, and promote a positive self-image among these types of students. The program is designed to address the needs of 300 students in grades 6 to 8 of three middle schools highly impacted by recent arrivals. Its success is contingent on a pending grant it must receive from the U.S. Department of Education.

The needs of south Florida's public school system are of a truly unique nature. Dade County School Superintendent Octavio J. Visiedo; Assistant Superintendent Gwendolyn Jennings Kidney; director of grants administration, Katherine Schemel; executive director of bilingual foreign language education, Ralph Robinett; and director of bilingual foreign language education, Mercedes Toural understand the distinctive requirements of the south Florida community. With their leadership, this needed program could begin to solve this educational difficulty.

COMMEMORATING THE SESQUICENTENNIAL OF LYNN, IN

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. SHARP. Mr. Speaker, congratulations are due to the people of Lynn, IN, on the observance of their town's sesquicentennial.

From its earliest days in the 1840's, when Jacob Hinshaw brought his trading post to this spot in east central Indiana, the town of Lynn has experienced triumphs and tragedies, but has remained true to its solid small town strengths and values. Early in the 20th century, when as many as 10 passenger trains a day passed through Lynn, the town was a bustling scene of commerce, attracting merchants, and farmers alike who settled in to raise their families. Tragedy in the form of a cholera epidemic swept the town in 1849, and as recently as 1986, a tornado struck, the town, ultimately causing an estimated $5 million in destruction to property in the area. Yet, even as the 20th century seemed to move its attention away from Lynn as a center of commerce, its population has nearly remained steady at roughtly 1,200 for the past 100 years. This is a town where people know the meaning of "neighborliness," where friends help friends. Throughout its history, the people of Lynn have demonstrated their unwavering belief in the values of small town life.

It is a pleasure for me to give you this brief introduction to Lynn, IN, a town celebrating its 150th birthday with what we call Hoosier pride. Please join me in giving them our warmest congratulations, and best wishes for a peaceful and prosperous future.

A CONGRESSIONAL TRIBUTE TO SCOUTMASTER JERRY FRUHWIRTH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to a man who has served his community with great distinction. I would like to take this opportunity to acknowledge the outstanding achievements of Mr. Jerry Fruhwirth.

Dedicated to the growth and education of this country's young men, the Boy Scouts of America has long stood as one of the United States greatest organizations. If there is one thing that has consistently set the Boy Scouts apart, it has to be the quality of their leadership. I stand here today to salute a man who has exemplified that spirit of dedication and leadership throughout his 14-year affiliation with the Scouts.

Since 1977, Jerry Fruhwirth has been an active member of Boy Scouts. He took over as Scoutmaster for Troop 65 in 1982, and has served in that capacity ever since. Under his guidance, Troop 65 has grown to become the largest Scout program in the Long Beach Area Council. Working together with a group of dedicated adult assistant leaders, Jerry has built an outstanding Scouting program that is based on traditional Scouting values combined with an energetic schedule of troop outings and activities. These factors have combined to create a program defined by its excellence, with more than 25 members reaching the elite rank of Eagle Scout. Troop 65 has been recognized by the Boy Scouts national organization as exemplifying the ideals of a model Scouting program.

Although he prefers to point out the merits of his assistants and his troop, Mr. Fruhwirth's outstanding leadership has not gone unnoticed. He has received numerous Scouting awards, including the Scoutmaster Award of Merit, and just this year the Silver Beaver, the highest honor awarded by the Scouting Council. Most importantly, though, his efforts have been noticed by the countless lives he has touched and influenced throughout his career in Scouting.

On June 6 of this year, Troop 65 will be honoring their respected and beloved Scoutmaster, "Shorty" Fruhwirth, on the occasion of his retirement. The Long Beach Scouting community obviously takes great pride in its association with Jerry, his wife, Sally, and their children, Nancy and Steve.

Mr. Speaker, my wife, Lee, joins me in extending this congressional salute to Scoutmaster Jerry Fruhwirth. We wish him all the best in the years to come.

THE DRUG SCOURGE

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. COUGHLIN. Mr. Speaker, on June 4, the former lead singer of the Temptations, David Ruffin, died of a drug overdose in a Philadelphia hospital. For the past three decades, Mr. Ruffin had blessed the entertainment world with his voice. Today he is no longer a singer, but a drug statistic.

At the time of his death, Mr. Ruffin had no identification on his person and it was not until his fingerprints were identified by the FBI that the John Doe lying lifeless in the hospital became somebody worthy of a grand headline in a newspaper. Unfortunately, there are those who die from drugs every day, but we never hear about them because they are not named David Ruffin or Len Bias.

Mr. Speaker, what it will take to end the drug scourge in our country? This question is

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

especially on the minds of those who do not have a lead singer of a popular music group or a professional athlete as a part of their family, but who do have a son or daughter who may no longer be alive because of a fatal encounter with drugs.

Drugs do not afflict a particular race, religion, or economic stratification. I am sorry to say that last week drugs claimed yet another life, but I am more sorry to say that tomorrow more lives will be lost due to drugs. They, however, probably won't make the headlines. Mr. Speaker, is it not time to take a stand or must we wait for more entertainers, actors, athletes, or perhaps the boy or girl next door to join David Ruffin?

EVERYBODY HAS THE RIGHT TO BE FREE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. MICHEL. Mr. Speaker, one of my constituents, Robert Mason of Glasford, IL, has created a commemorative plaque with the chronology of the Persian Gulf war put to rhyme, and entitled "Everybody Has the Right To Be Free."

The sentiments are well expressed and I submit for the RECORD at this point the text of the poem:

EVERYBODY HAS THE RIGHT TO BE FREE

(A chronology of the Persian Gulf War—By Robert Mason)

(Dedicated to the allied nations who participated in the Persian Gulf war and successfully defended freedom against tyranny in Operation Desert Storm, January 17, 1991–February 27, 1991)

The headlines read Hussein rolls through Kuwait
Denied the very existence of a sovereign state
True, it's not a democracy
But the people lived in harmony
And everybody has the right
To stand up and fight
For what they believe
Everybody has the right to be free.

Many of the countries people fought and died
But the knife in the butchers hand couldn't be denied
He carved out his own boundaries
To suit his own selfish greed
So the world couldn't turn their back
On the danger from Iraq
Or the Saudi Arab plea
Everybody has the right to be free.

Everybody has the right
To feel a sense of pride
For those who fought and died for liberty
Everybody has the right
To raise the flag high
For we fought for the right to be free.

The nations of the world set down a clear mandate
For the soldiers of Iraq to pull out of Kuwait
But their leader didn't advocate
And the allies didn't hesitate
So the sounds of war began
From a line drawn in the sand
To the Persian Sea
Everybody has the right to be free.

Over 25 countries went north to quell the storm
Both the Arabs and the west became comrades in arms
Old enemies that disagreed
United for a common need
Its a very different war
Than the ones we fought before
To defend democracy
Everybody has the right to be free.

The lightning strikes
The thunder roars
And the eagle flies
In the desert storm.

The news of war is high technology
Beamed by satellite to your living room on T.V.
Missiles streaking through the air
Smart bombs landing everywhere
See the prisoners on display
What a price they had to pay
In pride and dignity
Everybody has the right to be free.

The cost of war is always hard to take
The bombing of Baghdad, the killing of Kuwait
Terrorism that no one planned
Has ruined the tide and scorched the land
The oil fields set ablaze
In a senseless act of rage
On the worlds ecology
Everybody has the right to be free.

Everybody has the right
To feel a sense of pride
For those who fought and died for liberty
Everybody has the right
To raise the flag high
For we fought for the right to be free.

Lasting peace is the hope of all mankind
But peace without freedom is only a disguise
Heads of state that rule by force
It's time to choose a different course
Respect the rights of man
And meet with their demands
For more democracy
Where everybody has the right to be free.

TRIBUTE TO THE SOUTH FLORIDA INTERNATIONAL ACADEMY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure today to pay tribute to the South Florida International Academy. This school specializes in helping students who are handicapped and have special needs. But this is not the only thing that makes the academy the unique institution that it is. The academy is not for profit; they are indirectly funded by the Private Industry Council. The payment of tuition is based on the family's ability to pay. The teachers who work at the academy are not working for the money, but working for the cause.

The academy is only 2 years old and has already made unbelievable progress in helping students overcome their disabilities. With only 29 out of 35 students paying tuition, money is thin, yet the teachers never quit. The teachers work hard because the students have an unusual desire to learn. They all have a common will to not give up. There is a wide variety of needs and each student has a different disability to overcome, yet many of the students are gifted in their own ways.

The South Florida International Academy has a unique program in which the students have the opportunity to capitalize on their strengths and improve on their weaknesses by having the program individualized. The academy uses contract learning so that all students become responsible for their achievements and have the opportunity to progress at their own pace. For this reason, the school consists of students who welcome an educational challenge, who want to find ways to achieve academic success, and who are determined to find ways to cope with their disabilities.

Ms. Lise Holash, executive director of the academy and also a teacher, wrote of one of the first students who attended the school named Carmita Souffrant. I was very touched by this young lady's achievements and I would like to take this opportunity to relay them to you. Carmita Souffrant did complete high school, but only with a special certificate for she was reading at a second grade level. Her objectives and the objective of the academy was to raise her reading level to the fifth grade. Her dream was to become a nursing assistant.

Through kinetic exercises, computer assisted learning, auditory exercises, visual discrimination exercises, and other activities that improved reading comprehension, she progressed rapidly. Carmita's will to learn was remarkable. The academy did not tell Carmita that her goal was reached within months, but only told her that she was doing very well. She kept trying and she kept progressing beyond her goal. Now, Carmita has completed all high school graduation requirements and competencies. She has successfully written a published GED, the high school graduation equivalency exam.

Since her achievements at the academy her dreams have changed, she now wishes to become a registered nurse. Soon she will be attending Florida Atlantic University. In 6 years, Carmita Souffrant will complete a 4-year degree, a reality truly beyond her wildest dreams. This young lady is blessed with the will to never give up, to always keep trying. This quality is what makes her an exceptional person and this is the quality that is a part of all the students at the academy.

James Easton, fifth grade, is another student at the academy. He has a great deal of difficulty dealing in an environment where other students can easily distract him. Teachers in his old school could not give him the attention he needed and recommended that he try the South Florida International Academy. From an environment in which learning was virtually impossible, a recent standardized test exam taken at the International Academy proved that James is now achieving a post-secondary level in many subjects such as math, science, and listening comprehension.

The students at the South Florida International Academy are not disabled in the sense that they cannot learn, but these students have learning disabilities. They need to find alternative ways to achieve goals that others might accomplish with ease. Many times, the students need psychological help in order to learn of ways to deal with certain problems they may be having, whether it be something that directly affects their education or a problem at home that is indirectly causing their disability. In these cases, Dr. Marvin Silverman and his team of psychologists work to help the students overcome their problem.

The thrill of the students' achievements are what keeps the school open and the teachers from losing faith. I not only commend the students of the institution, but I especially want to recognize the hard work and dedication of the committed teachers: Wayne Wiltens, administrative principal; Lise M. Holash, executive director; Elizabeth Waddell, Anita Tapiero, Lee Walsky, Dr. Warren Asby, Wanda Alexander, Maryland McFadden, and David Bowder, volunteers. These are the people who make the South Florida International Academy what it is, a truly unique educational institution.

CUSTOMS MODERNIZATION ACT OF 1991

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. CRANE. Mr. Speaker, I am pleased to introduce, by request, the administration's proposed Customs Modernization Act of 1991. This bill amends the Tariff Act of 1930 to simplify customs procedures, facilitate the entry and clearance of vessels, and increase the effectiveness of the Customs Service in commercial matters. This bill represents the first major overhaul of the Tariff Act since 1978, and is viewed by the trade community as the vehicle to give Customs the legal basis to update passenger and cargo processing for the 21st century.

As the Nation moves toward important agreements to liberalize trade in the years ahead, we in the Congress must ensure that the Nation has the adequate capacity to process the expected increase in import and export activity, as well as to protect against violations of our narcotics and trade laws. The Customs Service is the frontline Federal agency charged with balancing this dual mission.

At the heart of the Modernization Act is the important goal of moving Customs processing into the electronic age by providing the authority for full electronic processing of all Customs-related transactions. This change offers the promise of eliminating needless and burdensome paperwork for both Customs and the importing public. Although a great deal of information is now transmitted electronically through Customs' automated commercial system, archaic statutory provisions still require paper documentation for manifests and invoices, for example. Paper is also relied upon as evidence in court proceedings. The administration bill gives Customs authority to waive unnecessary paperwork for most transactions, while still allowing the small importer to continue to use paper if necessary.

A second major proposal in the Modernization Act establishes a new National Entry Processing [NEP] Program. Under current law, Customs entry processing must take place at the same port where goods are imported. Therefore, importers must have a physical presence, usually a broker, in every port where they do business. NEP would allow goods to enter in one port, Customs processing to be handled in the importer's home city, and the goods to arrive at a third destination city. Further, the importing company would have a dedicated Customs customer representative who would process all transactions. Clearly, this is a promising concept that should become the preferred system for doing business.

Another change intended to facilitate the free flow of goods includes periodic entry and payment provisions, which would benefit repetitive, large-volume importers and more closely conform to existing commercial practices. In addition, the Modernization Act includes new and strengthened enforcement, recordkeeping and procedural changes in the Customs laws.

Mr. Speaker, on June 4, I was pleased to become an original cosponsor of a companion Customs bill, H.R. 2512, the Customs Informed Compliance and Automation Act of 1991, introduced by my colleague on the Ways and Means Committee, Mr. PEASE, on behalf of the Joint Industry Group. The Joint Industry Group represents the major elements of the trade community, and is to be commended for assembling the package of legislative proposals contained in H.R. 2512. The Pease-Crane bill mirrors the administration bill in several important respects, since it includes similar provisions for full electronic processing, NEP, and periodic entry and payment. The bill then goes on to incorporate proposals to further facilitate import transactions, such as improving the operation of Customs labs, reforming Customs seizure authority, and clarifying the definition of import fraud.

The two bills taken together will form the basis for consideration of changes to our customs laws by the Ways and Means Trade Subcommittee this year. Both the administration and the JIG are to be commended for their efforts to move this legislation forward.

As the subcommittee begins debate on these bills, I feel there are several key questions that will need to be explored. First, the subcommittee must be assured that Customs has adequately planned and prepared for the large-scale changes that these modernization efforts will bring. In the past, Customs has had difficulties in this area. Second, we must consider the full costs of the modernization proposals, both to the Government and the trade community in the private sector. Third, we must make sure that the needed changes take place within a realistic, predictable timeframe that guarantees success.

I look forward to working with the administration, the JIG, as well as other concerned parties such as the brokers and sureties, to ensure that a fair and equitable bill emerges at the end of the day. In addition, due to the technical nature of the bill and recent GAO projects for the Oversight and Trade Subcommittees, Chairman GIBBONS and I requested and received GAO comments on both proposals, and I thank them for their assistance to the subcommittee.

Finally, Mr. Speaker, the trade community rightfully demands that we move forward to facilitate the movement of goods and people across our borders. To do anything less threatens the competitive advantage of our Nation's key industries and the very future of the American economy. These two legislative proposals set the key parameters of our task. I look forward to working together with Chairman GIBBONS to craft visionary modernization legislation that meets the real-world needs of both business and law enforcement well into the next century.

DEREGULATION IS GOOD FOR THE AIRLINE INDUSTRY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. DUNCAN. Mr. Speaker, many times we hear the problems of the airline industry blamed on something called deregulation.

If we hadn't had very limited deregulation several years ago, I hate to think about all the delays and problems there would be in airline travel today, because demand for this service has gone way up.

However, this industry remains as one of the most heavily regulated in this country today.

If we are ever going to get more competition, and thus better service, into the airline industry again, we need to deregulate much further.

We must work to remove all the artificial barriers to entry that are presently imposed by government at various levels today.

In this regard, I would like to call the attention of my colleagues and others to two very thoughful letters from the June 7, 1991, issue of the Wall Street Journal.

I do not know either of these men, but I am certainly impressed by their comments, and I would like to have their letters reprinted in today's CONGRESSIONAL RECORD.

[From the Wall Street Journal, June 7, 1991]

GUESS WHO DEREGULATION BENEFITS?

Paul Stephen Dempsey's Counterpoint article, "The Disaster of Airline Deregulation" (op-ed page, May 9), deserves a rational response. The facts are: Millions more people can afford to fly under deregulation; other than business people's fares (unrestricted coach, business-class and first-class), airline prices are lower; the author's much-admired foreign carriers charged much higher rates (a flight from Madrid to Paris and back, over a weekend, is $455. For 20% less in the U.S., you can fly coast-to-coast, three times the distance.)

As for fleet aging (Mr. Dempsey accepts aging as a given under deregulation), the aging of aircraft may have been even worse without deregulation. He believes that because airports are publicly owned, the public should own or at least manage the vehicles using the airports. Presumably, he would thus advocate that the government own or manage all automobiles because they use publicly owned roads.

There are five categories of people opposed to airline deregulation: the utopian crusaders who believe the world and its people "ought" to behave in a certain manner that is unnatural; special-interest groups that benefit most from the "protection" of regulation, including airline and travel-industry employees; lawyers and bureaucrats whose lifeblood is regulation, regardless of the ultimate cost; those who believe other people are incompetent and unable to make their own decisions and therefore must be protected with laws and regulations to keep them from hurting themselves; and, those already in the airline business who would like to prevent newcomers from making business tougher.

Stacked against those groups is only one category not opposed to deregulation: the consumer.

BRUCE REICHERT,
Vice President, Leisure Resource.

Mr. Dempsey claims airline deregulation is responsible for higher air fares. He fails to mention that no large U.S. city has completed a new airport since Dallas-Fort Worth in 1974; yet passenger air travel has risen nearly 150% since that time. Thus airport facilities have failed to keep pace with the demand for air travel.

In a market economy a shortage of runway space and gate facilities would result in higher landing fees and new airport construction. But federal rules do not permit market-based pricing for runway use, and (because of the budget crisis) officials have not spent earmarked tax dollars to alleviate the shortage of airport facilities. In this setting, carriers can capture the scarcity value of runway space by raising ticket prices, but the shortage itself is a creation of government policy.

The same analysis predicts that cities that construct new airports will experience significant decreases in air fares when gates become available for competing carriers. Denver is nearing completion of a new airport now, so it is likely to experience a fare war in the near future.

If fares do decline in the Denver market, it should be apparent to the critics of deregulation that recent fare increases are the result of government-created bottlenecks at our airports. Rather than re-regulate carriers, a better response would be to privatize the airports.

THOMAS L. WYRICK,
Professor of Economics,
Southwest Missouri State University.

UNITED STATES CANNOT TURN BLIND EYE TO EVENTS IN LITHUANIA

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. COUGHLIN. Mr. Speaker, United States dealings with the Soviet Union continue, in a general sense, to move forward. The recent announcement that the Conventional Forces in Europe Treaty is virtually complete, the just-concluded agreement on peace in Angola, reports that the Soviet economy is about to undergo wholesale reform, and the prospective popular election of a President of the Russian Republic are all signs of this progress.

Unfortunately, however, it seems that there are still many in the U.S.S.R. who remain resistant to change and are determined to turn back the clock. Clearly, this is evident from this week's report by Soviet Prosecutor General Nikolai Trubin that the violence that we witnessed last January 13 in Lithuania was the fault of Lithuanian demonstrators.

Mr. Speaker, this report is wholly at odds with the truth, and it is nothing less than a total whitewash. The events of last January were observed personally by numerous independent observers, including Western reporters, who have placed the blame squarely on Soviet troops. Mr. Trubin—who also rejected Government responsibility for events that led to civilian deaths in Novocherkassk in 1962 and, more recently, in Tbilisi, is seeking a return to the Neanderthalic days of the Soviet Communist past.

Mr. Speaker, the United States wants continued advancement in the United States-Soviet relationship. But such progress—as American Presidents and congressional Representatives of every political persuasion have stated for years—cannot occur in a human rights vacuum. We all want peaceful and prosperous relations with the U.S.S.R. in the future, but we cannot dismiss Government culpability for serious human rights abuses.

The Soviet leadership wants United States assistance in making the kind of dramatic changes that are necessary to pull the U.S.S.R. out of its current crisis. To the extent that such assistance brings the U.S.S.R. into comportment with international law and standards for human rights, it is in our own interests to support it.

The notion, however, that we will look the other way as innocent, unarmed citizens are threatened or assaulted by Government troops is intolerable.

A CONGRESSIONAL SALUTE TO PAUL CROSHAW IN HONOR OF HIS SELECTION AS 1991 MAN OF THE YEAR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual and public servant of my community. Paul Croshaw will be honored on Sunday, June 9, 1991, as the Los Angeles Democratic Committee's Man of the Year. This occasion gives me the opportunity to express my sincere appreciation for his many years of dedicated service to the Democratic Party.

Paul is an employee of a political direct mail and list company that provides a valuable service to the Democratic Party. His dedication to the Democratic Party extends past the workplace. He has been a tireless worker for Democrats throughout the State and the Nation. Paul's leadership in the Democratic Party of the county of Los Angeles, and the city of Long Beach has strengthened the party throughout the region.

After spending 1988 as a field organizer for Michael Dukakis, Paul spent 1989–1991 serving as an elected delegate from the 57th A.D. to the Democratic State Central Committee. During his tenure as delegate to the committee, Paul also served as a member of the Los Angeles County Committee, 1990; vice president of the Long Beach Democratic Club, 1989; president of that club, 1990 and 1991, and member of the board of directors to Greater Long Beach United Democrats, 1991.

The contributions that Paul Croshaw has made to the Democratic Party are immeasurable. On this occasion, my wife, Lee, joins me in extending our heartfelt thanks and congratulations. We wish Paul all the best in the years to come.

GRANVILLE, NY, CHURCH IS STEEPED IN LOCAL HISTORY AND WELSH TRADITION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. SOLOMON. Mr. Speaker, Americans are a religious people, and my 24th New York Congressional District is one of the most historical in the country.

Put those two facts together, and the result is a number of interesting churches whose records serve as virtual archives of 18th, 19th, and early 20th century American history. I'd like to bring another of those churches to your attention today.

The Peniel Presbyterian Church is located on Quaker Street in Granville, NY, which was the stopping place for a wave of Welsh immigrants in the mid-19th century. The first Welsh service in the village of Granville was held in 1872. The present building was not completed until 1901, and it has been one of our area's most beautiful structures, with its stained glass windows and pipe organ. The Welsh influence has faded, but the church remains a treasurehouse of historical and cultural lore.

The church was featured in a June 2 article in my hometown newspaper, the Glens Falls Post-Star. I submit the article for today's RECORD.

WELSHMEN LIVED BY THE "SOUND OF CHURCH BELLS" FROM GRANVILLE CHURCH

(By Joan Patton)

GRANVILLE.—Sometime around 1853, the first group of about 30 Welsh quarrymen came to Granville to work in the area's new slate quarries.

The earliest area Welsh church was founded in Fair Haven, Vt., in 1952. Non-sectarian, its members included Calvinist Methodists, Congregationalists and Wesleyans. A number of local Sunday schools were established in Vermont and in the Granville area.

The next wave of Welsh immigrants, arriving in 1859 or '60, were mostly Presbyterian. Welsh Presbyterian and Congregational congregations were formed in Middle Granville in 1860, but it wasn't until 1872 that the first Welsh service was held in Granville village.

Gwyneth Wood, whose parents emigrated in the early 1900s, has translated church records into English and has written an as-yet-incomplete history of the Peniel Presbyterian Church.

"Peniel" or Penuel comes from the Hebrew word for the Face of God.

The Rev. R.D. Jones was the first preacher. In 1874, John W. Edwards of West Pawlet and Roberts were called to take care of the new church.

Services were held in various buildings in Granville, including schoolhouses, Percy's Hall, and the Temperance Building.

Some of the early records of what became the Peniel Presbyterian Church were lost, Wood, said, but the surviving Sunday school records paint a clear picture of late 19th century Welsh language religious training. Even the Bibles, Testaments and children's books used in the classes we sent from Wales.

According to Wood, the Welsh Sunday schools were closely supervised by an appointed committee, which not only assigned topics for the term, but met once a month to check into each school's progress.

The Welsh churches in the New York-Vermont border area formed a union, and in 1873 joined with the Welsh Churches of Central New York in a synod.

The Granville congregation soon outgrew its meeting places. In 1883, the governing body bought the former Baptist Chuch on Morrison Street for $1,400.

As the influx of immigrants continued through the 1890s, church membership also grew. The slate business was so good there was a labor shortage and word was sent to Wales in 1891 that 300 workers were needed. Only two years later, the U.S. financial panic idled workers everywhere. The local quarry owners pool, established in 1888 to limit production, failed. However, another was formed in 1895 which lasted 30 years. The quarriers tried unsuccessfully to strike in 1880 and 1890 and tried to orgaznize a union in 1894. There were other strikes in 1907 and 1916.

It is said the Welsh people lived by the sound of the church bells. There was such a large Welsh population in Granville village that every store had at least one Welsh-speaking clerk, and the Granville Sentinel sometimes published articles in Welsh.

In 1900, a committee appointed to find a location for a new church chose two lots on Quaker Street and Temple Place, despite some misgivings on the part of the landowner who hesitated, it is said, to sell property to people speaking a foreign language.

The congregation paid $500 for the lots. The building committee ran into some snags when it tried to sell the church on Morrison Avenue to the Buckley Hose Co., and when it tried to take out a mortgage for $3,000.

They persevered, and the congregation canvassed for pledges for the church. A slate company donated roof slates, people donated church furniture, the clock, memorial windows, dishes, Bibles, and sidewalk flagging.

Worshippers were expected to pay pew rent of 50 cents a year. The church arranged the seating, and no one could change seats without permission.

By 1908, the pew rents were abolished.

Once a month, the chairman of deacons would ask if anyone wanted to join the church. The pastor would speak with the individual, who would have to affirm he was a teetotaler.

The church on Morrison Avenue was sold to the Byzantine Rite Catholic Church, which used it for a number of years.

The first service in the present church was held Sunday, June 30, 1901. The membership had grown to over 330 adults and 120 children.

Puzzling, according to Wood, was the transient nature of membership during the early part of the 1900s. For instance, in 1905, 81 persons joined the church, but during the same years, 32 persons moved to other churches.

The church reached its peak membership during 1910–18.

It was becoming more and more difficult to find Welsh ministers for churches in the United States, and the churches couldn't pay for pension plans.

A committee studied other American churches and decided the Presbyterian Church was the most similar to the Calvinistic Methodist Welsh. The Peniel's request to allow Welsh churches to join the Presbyterian Church was successful, and the local churches voted to join.

The action was made official at the Presbyterian Church General Assembly in May 1920. The Peniel and Middle Granville Presbyterian churches share a pastor to this day.

The first minister chosen under the Presbyterian Church rules was the Rev. Samuel E. Prytherch, of Slatington, Pa., who arrived in Granville in 1932. He was responsible for such innovations as having Communion services alternately in Welsh and English to help young people understand the meaning of the service.

Another Welsh pastor from Slatington, the Rev. R. Lewis Jones, accepted the pastorate in 1943. He was the first minister granted leave to serve as an Army chaplain.

He was followed in 1948 by the last of the Welsh-speaking pastors, the Rev. Maldwyn A. Davies.

It was a time when immigration declined, many older members died, but the church continued to flourish. Davies left in 1950 to serve a church in Chevy Chase, Md. He is now retired and living in Wales.

Today, according to the Rev. James Hutton, the church, "which has always been a stable, small-town church, made up of stable, dedicated people, is experiencing slow but stable growth."

Hutton, a retired U.S. Navy chaplain, graduated from Hartford Theological Seminary, and served pastorates in Nebraska, California, New Jersey and 31 years as a naval chaplain before accepting the two local churches in the early 1980s. Hutton and his wife, Carol-Lynn, parents of two daughters, live in Orwell, Vt.

Many things have changed in the life of the church since the early 20th century, when the Welsh influence was strongest. Gone are the annual St. David's Day celebrations with the traditional Gymanfa Ganu (songfest) and the annual singing, reciting and musical competitions (Eisteddfod) which drew Welsh singers and musicians from all over the area.

Much of the Welsh cultural tradition has been preserved in a study center at Green Mountain College in Poultney, Vt.

Hutton does his part to help his congregation re-invigorate their Welshness. Each year, for St. David's Day in early March, he writes a brochure on an aspect of Welsh culture.

For Rev. Hutton, it's an urgent task to gather together the reminders of Peniel's past, like the silver baptismal bowl, the Welsh bibles and hymnals, communion plates and church memorabilia.

"When someone asked about that baptismal bowl, it started me thinking about what can happen if we don't take care to preserve our records and relics."

The sturdy frame church on Quaker Street, with its handsome stained glass windows and the pipe organ standing majestically behind the pulpit, remains the focal point of religious life for the descendants of Welsh quarriers and others who have sought peace within its doors.

MIDDLE EAST ARMS CONTROL INITIATIVE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an exchange of letters with the President of the United States regarding the important issue of arms control in the Middle East.

On April 4, 1991, a group of Members of the House, including the distinguished majority leader, Mr. GEPHARDT, wrote a letter to President Bush urging him to declare a unilateral pause in arms sales to countries in the Middle East and Persian Gulf. It was believed that such a pause would show United States resolve to address this critical issue and enhance our ability to negotiate a new multilateral arms transfer regime for this troubled region.

On June 3, 1991, National Security Adviser to the President, Lt. Gen. Brent Scowcroft, responded to this congressional letter. His response details the administration's view on arms sales, outlines the President's recent arms control initiative and comments on the lessons learned as a result of the gulf war.

The President's initiative is an important development. It is clear, however, that there will continue to be considerable tension between arms control and the desire to support the legitimate defense priorities of our friends in the region. This is an issue that Congress must monitor closely and work to help define the proper balance between these two objectives.

The correspondence follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, April 4, 1991.

Hon. GEORGE BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We write to urge you to declare a unilateral pause in arms sales to countries in the Middle East and Persian Gulf. We believe a temporary pause is necessary in order to facilitate multilateral negotiations on agreements to restrain the flow of sophisticated conventional weapons systems and other weapons technologies into this region.

Countries in the Middle East and the Persian Gulf are the recipients of roughly one-third of all international arms transfers, making this region the world's leading arms import market. These sales, in our view, help promote an arms race and raise tensions in a region characterized by instability. The proliferation of arms—including chemical, biological, nuclear, and conventional weapons and missile technologies—poses a serious threat to peace in the Middle East and Persian Gulf. The arms race is absorbing resources badly needed for regional economic development.

We believe that a brief pause on arms transfers will not affect the security of nations in the Middle East and Persian Gulf. Such a pause can be used effectively to bring supplier nations and regional states together to pursue a range of arms reduction and arms control proposals, including an arms moratorium.

The United States has a unique opportunity to use its new influence to make progress in this area, an opportunity which should not be squandered. We believe the impressive military victory achieved by the United States and its coalition partners last month needs to be buttressed by postwar agreements that enhance long-term peace and security.

We appreciate your consideration of this matter and look forward to working with you on these issues. We are, of course, available to meet with you to discuss these issues further.

With best regards,

Sincerely yours,

Dante B. Fascell, Chairman, Subcommittee on Foreign Affairs.

Lee H. Hamilton, Chairman, Subcommittee on Europe and the Middle East.

Sam Gejdenson, Chairman, Subcommittee on International Economic Policy and Trade.

Richard A. Gephardt, Majority Leader, U.S. House of Representatives.

David R. Obey, Chairman, Subcommittee on Foreign Operations, Export Financing, and Related Programs.

THE WHITE HOUSE,
Washington, DC, June 3, 1991.

Hon. Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The President has asked me to respond to your letter of April 4. The President's recent Middle East arms control initiative demonstrates his firm commitment to promote supplier guidelines on conventional arms exports to the Middle East, to build barriers against exports that contribute to weapons of mass destruction, and to take other steps to enhance long-term peace and security. I have enclosed a fact sheet on the initiative for your information.

If any lesson can be drawn from the success of Operations Desert Shield and Desert Storm, it is that multilateral cooperation is essential to success in this arena. To depart from our collaborative approach and announce a unilateral pause could be seen as turning our backs on our allies for the sake of a political gesture.

Moreover, a unilateral pause would imply that arms sales per se are destabilizing. This is not the case. While the recent conflict clearly showed that excessive arms sales to one country can fuel dangerous ambitions and threaten regional stability, it also demonstrated that reasonable arms transfers which meet legitimate defense needs are necessary if our friends and allies are to contribute to the common defense. The weapons we provided to the Gulf States allowed them to fight at our side in the recent war, and the interoperability between Gulf states and U.S. forces made possible by U.S. transfers contributed significantly to our success.

I can assure you that the President intends, through his Middle East arms control initiative, vigorously to pursue all available means to reduce destabilizing conventional arms transfers while seeking to halt the proliferation of nuclear, chemical and biological weapons and the missiles to deliver these weapons. We hope to work together with you to advance these shared objectives.

Sincerely,

Brent Scowcroft.

FACT SHEET ON MIDDLE EAST ARMS CONTROL INITIATIVE

Fulfilling the pledge he made in his March 6 address to a joint session of Congress, the President announced today a series of proposals intended to curb the spread of nuclear, chemical and biological weapons in the Middle East, as well as the missiles that can deliver them. The proposals also seek to restrain destabilizing conventional arms build-ups in the region.

The proposals would apply to the entire Middle East, including Iraq, Iran, Libya, Syria, Egypt, Lebanon, Israel, Jordan, Saudi Arabia, and the other states of the Maghreb and the Gulf Cooperation Council. They reflect our consultations with allies, governments in the region, and key suppliers of arms and technology.

The support of both arms exporters and importers will be essential to the success of the initiative. Since proliferation is a global problem, it must find a global solution. At the same time, the current situation in the Middle East poses unique dangers and opportunities. Thus, the President's proposal will concentrate on the Middle East as its starting point, while complementing other initiatives such as those taken by Prime Ministers John Major and Brian Mulroney. It includes the following elements.

SUPPLIER RESTRAINT

The initiative calls on the five major suppliers of conventional arms to meet at senior levels in the near future to discuss the establishment of guidelines for restraints on destabilizing transfers of conventional arms, as well as weapons of mass destruction and associated technology. France has agreed to host the initial meeting. (The United Kingdom, France, the Soviet Union, China, and the United States have supplied the vast majority of the conventional arms exported to the Middle East in the last decade.) At the same time, these guidelines will permit States in the region to acquire the conventional capabilities they legitimately need to deter and defend against military aggression.

These discussions will be expanded to include other suppliers in order to obtain the broadest possible cooperation. The London Summit of the G-7, to be hosted by the British in July, will provide an early opportunity to begin to engage other governments.

To implement this regime, the suppliers would commit:

To observe a general code of responsible arms transfers;

To avoid destabilizing transfers; and

To establish effective domestic export controls on the end-use of arms or other items to be transferred.

The guidelines will include a mechanism for consultations among suppliers, who would

Notify one another in advance of certain arms sales;

Meet regularly to consult on arms transfers;

Consult on an ad hoc basis if a supplier believed guidelines were not being observed; and

Provide one another with an annual report on transfers.

MISSILES

The initiative proposes a freeze on the acquisition, production, and testing of surface-to-surface missiles by states in the region with a view to the ultimate elimination of such missiles from their arsenals.

Suppliers would also step up efforts to coordinate export licensing for equipment, technology and services that could be used to manufacture surface-to-surface missiles. Export licenses would be provided only for peaceful end uses.

NUCLEAR WEAPONS

The initiative builds on existing institutions and focuses on activities directly related to nuclear weapons capability. The initiative would:

Call on regional states to implement a verifiable ban on the production and acquisition of weapons-usable nuclear material (enriched uranium or separated plutonium);

Reiterate our call on all states in the region that have not already done so to accede to the Non-Proliferation Treaty;

Reiterate our call to place all nuclear facilities in the region under International Atomic Energy Agency safeguards; and

Continue to support the eventual creation of a regional nuclear weapon-free zone.

CHEMICAL WEAPONS

The proposal will build on the President's recent initiative to achieve early completion of the global Chemical Weapons Convention.

The initiative calls for all states in the region to commit to becoming original parties to the Convention.

Given the history of possession and use of chemical weapons in the region, the initiative also calls for regional states to institute confidence-building measures now by engaging in presignature implementation of appropriate Chemical Weapons Convention provisions.

BIOLOGICAL WEAPONS

As with the approach to chemical weapon controls, the proposals build on an existing global approach. The initiative would:

Call for strengthening the 1972 Biological Weapons Convention (BWC) through full implementation of existing BWC provisions and an improved mechanism for information exchange. These measures will be pursued at the five-year Review Conference of the BWC this September.

Urge regional states to adopt biological weapons confidence-building measures.

This initiative complements our continuing support for the continuation of the UN Security Council embargo against arms transfers to Iraq, as well as the efforts of the UN Special Commission to eliminate Iraq's remaining capabilities to use or produce nuclear, chemical, and biological weapons and the missiles to deliver them.

H.R. 1—THE CIVIL RIGHTS ACT

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. SANGMEISTER. Mr. Speaker, Abraham Lincoln once said: "Let us have faith that right makes might, and in that faith let us to the end dare to do our duty as we understand it." As a member of the House Judiciary Committee and an attorney, I have sat and listened intently to lengthy testimony both for and against various versions of H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991. I can confidently state that voting for the Brooks-Fish substitute was the right decision for those who support the advancement of justice and equality for all Americans. Along with the overwhelming majority of the House of Representatives, I voted for the Brooks-Fish substitute and final passage of H.R. 1.

I fully understand the fears of those who believe this legislation will mandate quotas for women and minorities. I also understand these fears are not justified by the facts relevant to this legislation. This civil rights legislation emphatically does not mandate quotas. Clearly, no bill could ever have received such large support if it did mandate quotas because the American people would not stand for it and neither would I.

In fact, this legislation explicitly prohibits the use of quotas by employers and makes their use a violation of title VII. For the first time, this bill allows women to initiate legal action against discrimination in the workplace. In addition, this legislation bans race-norming or employment test scores, thereby assuring no preferential treatment: Everyone taking a test is doing so on an equal basis.

What H.R. 1 does accomplish is to give Americans who are being discriminated against due to their gender or race an equal opportunity of employment. I believe the overwhelming number of Americans agree with this position because they realize a democracy can only be strong if job opportunities are based on merit. Unfortunately, some people are exploiting the fears of others for their own political purposes. Many thousands of women and minority military personnel are now returning from the Persian Gulf after making great sacrifices in the interest of the United States. Is it fair to play with their future, as if it were a football, for narrow political purposes? I think not.

In many ways, this legislation takes a conservative position in the sense that it restores the Griggs standard of business necessity that employers must meet to defend employment practices having disparate impacts on women and minorities—a standard used by the courts from 1971 to 1989. The Griggs standard was overturned in the Supreme Court's Wards Cove decision of 1989. During the 18 years the Griggs standard was in effect, there is no evidence it led to quotas in businesses and there is no reason to believe it will lead to quotas if Griggs is restored.

I believe it is time to unite the Nation and not divide it by catering to narrow political interests. The key question is not who will get a job but whether there will be enough jobs for everyone. Let's get beyond this issue and on to the task of rebuilding the American economy.

FOOD, DRUG, COSMETIC, AND DEVICE ENFORCEMENT AMENDMENTS OF 1991

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. WAXMAN. Mr. Speaker, I am pleased to introduce, with my distinguished colleague, the Honorable JOHN DINGELL, chairman of the Committee on Energy and Commerce, the Food, Drug, Cosmetic, and Device Enforcement Amendments of 1991. These amendments would provide the Food and Drug Administration with long-overdue and long-needed additional tools to enforce the requirements of the Federal Food, Drug, and Cosmetic Act.

Mr. Speaker, the Food and Drug Administration may be our most important regulatory agency. It regulates products that account for 25 cents of every dollar that we spend in this country. It accomplishes this regulation with a staff of fewer than 9,000 employees and a budget of less than $700 million.

Mr. Speaker, the only way that the FDA can fulfill its mission is by vigorous enforcement of the law. Yet the agency does not have some of the routine authorities that other Federal regulatory agencies have. For example, it does not have authority to subpoena documents and witnesses in connection with an administration investigation. It does not have recall or administrative civil penalty authority, except in the case of medical devices. And it does not have adequate inspection and embargo authority.

The reason for these omissions, Mr. Speaker, is simple: The FDA operates under a 50-year-old statute that has not been amended to update its enforcement authorities, except in the case of medical devices.

In recent years, particularly during the 1980's, the FDA has ignored its enforcement responsibilities under the Federal Food, Drug, and Cosmetic Act. During those years, its officials argued that it did not need additional enforcement authorities, and I support there was not much reason to give the agency additional powers when it was so frequently refusing to bring enforcement actions with the powers that it had.

Fortunately, Mr. Speaker, all this appears to have changed. The FDA has a new Commissioner, Dr. David Kessler, who is committed to enforcing the law. In connection with this effort, he has testified before the Subcommittee on Health and the Environment and the Senate Committee on Labor and Human Resources that the agency needs the additional authorities that are included in the Food, Drug, Cosmetic, and Device Enforcement Amendments of 1991. Other experts have offered the same opinion.

Mr. Speaker, specifically those amendments would accomplish the following:

Section 2 would give the Federal courts the authority to order the recall of products in violation of the act where the violation involved fraud or presented a significant risk to human or animal health.

Section 3 would give the Agency authority to order an administrative recall under similar circumstances. This same authority was granted for medical devices under the Safe Medical Device Amendments of 1990.

Section 4 would refine the Agency's seizure authority, and give the Agency authority to embargo products while it is obtaining a seizure order from court. It currently has this authority for medical devices only.

Section 5 would give the Agency subpoena authority in connection with an administrative investigation. It currently has this authority only in connection with a civil penalty hearing for medical devices.

Section 6 would give the Agency administrative civil penalty authority for all the products that it regulates. It currently has this authority only for medical devices.

Section 7 would give the Agency stronger inspection authority. Most significantly, it would make food facilities subject to the kinds of inspections that drug and device facilities are already subject to.

Section 8 would give the Agency new, important authorities with respect to imported products. The most significant new authority would be the authority to order the destruction of products that are hazardous to health.

Section 9 would provide that the Agency would be required to prove only that the product affected interstate commerce in connection with enforcement actions brought under the act. By defining the interstate commerce requirement in this way, the bill would save the Agency a significant amount of enforcement resources.

Sections 10 and 11 are technical and would not accomplish any substantive change.

Mr. Speaker, it is in the interest of everyone in this country that the Food and Drug Administration be a vigorous, effective regulatory Agency. The Commissioner has indicated that he needs these authorities. It is my hope that the Food, Drug, Cosmetic, and Device Enforcement Amendments of 1991 will be expeditiously enacted into law.

A CONGRESSIONAL SALUTE TO SUZANNE TORMAY DOMINGUEZ IN HONOR OF HER SELECTION AS THE "WOMAN OF THE YEAR"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding citizen and a person I hold in the highest regard, Suzanne Tormay Dominguez. Mrs. Dominguez, in recognition of her enormous contributions, has been named the "1991 Woman of the Year" by the Los Angeles County Democratic Committee. It is an honor to bring Suzanne Tormay Dominguez to your attention.

Suzanne was born in Morristown, NJ. She graduated from Long Beach Polytechnic High School, and received her B.A. from Loyola Marymount University. Suzanne's commitment to the Democratic Party could be seen as early as junior high school. She has long been regarded as a valued campaign assistant. She has actively campaigned on my behalf, as well as offering her talents to the campaigns of Robert and John Kennedy, John Tunney, Hubert Humphrey, Walter Mondale, Jimmy Carter, JOE BIDEN, Michael Dukakis, and numerous State and local candidates.

In addition to her campaign efforts, Suzanne has been a member of the California State Central Committee since 1976. Because of her dedication and ability I appointed her to the 57th A.D. State Committee, where she sits as secretary.

Mr. Speaker, I take great pride in recognizing Suzanne Tormay Dominguez for all her vast achievements and activities in the Democratic community. She has done a great deal to make the Democratic Party in southern California stronger. My wife Lee joins me in saluting Suzanne on being named the 1991 Woman of the Year. We wish Suzanne, her husband Louis, and her children, Christiana and Mallory, all the best in the years to come.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. LEHMAN of Florida. Mr. Speaker, although dramatic changes have occurred in the

Soviet Union, undoubtedly activities reminiscent of the Stalin era are still, unfortunately, happening. I refer in particular to ongoing human rights violations so egregious as to make one wonder if the downside of glasnost is of any concern to Mr. Gorbachev.

Yakov Aronovich Bekker is a geologist from Tadzhikistan. After he, his wife, and daughter applied for permission to emigrate, they were told in August 1990 that, since Mr. Bekker held a second-class clearance, his application would be postponed for 5 years. Subsequently, Mr. Bekker was denounced to the KGB by coworkers and was expelled from the Tadzhik Geological Society. His wife was demoted and given a cut in salary. The family is now struggling simply to survive.

Mr. Bekker used no secret material in his work whatsoever. It is said to be common practice at his place of employment to attach classified documents to routinely requested nonsecret material so that there might be a formal reason for refusal to emigrate. In a private conversation, a Soviet official told Mr. Bekker that the real reason for his refusal was "his performance at work and a shortage of such specialists in Tadzhikistan."

Recent proposed changes in U.S.S.R. emigration law will not help Mr. Bekker and his family. President Bush's policy linking most-favored-nation [MFN] trade status to the passage and implementation of democratic emigration legislation prompted Mr. Gorbachev to push the Supreme Soviet to approve the U.S.S.R. Law on Entry and Exit, scheduled to go into effect in January 1993. However, this legislation codifies the arbitrary nature of Soviet emigration practice. The right to appeal refusals will apply only in certain cases to be determined later, and the supposed 5-year limit on secrecy refusal may be extended indefinitely. Moreover, the law does not clarify what constitutes a state secret, leaving this open to broad interpretation by central authorities or by individual ministries. Article 12 of the Entry and Exit Law refers to a law on the protection of state secrets which does not exist, and, to my knowledge, has not even been drafted. Thus, this nonexistent law will apparently define state secrets. The prospects for Mr. Bekker and his family's successful emigration look dim.

I applaud the new spirit in the Soviet Union and improved United States-Soviet relations. But I cannot condone the continuation of a dehumanizing system which robs innocent people like the Bekker family of their dignity, their ability to earn a living, and their right to freedom of movement. For this reason I hope my colleagues will join with me in calling Mr. Bush not to grant MFN to the U.S.S.R. until emigration laws meeting international human rights standards are enacted and implemented. In the meanwhile, as part of the Congressional Call to Conscience Vigil for Soviet Jews, I ask the authorities in the U.S.S.R. to promptly review Mr. Bekker's case.

D.C. BUDGETARY EFFICIENCY ACT OF 1991

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. DELLUMS. Mr. Speaker, on Tuesday, June 11, 1991, the House will consider H.R. 2123, a bill to establish a fair, equitable, and predictable method for determining the amount of the Federal payment for the District of Columbia. On Tuesday, April 30, 1991, the Committee on the District of Columbia completed legislative work on H.R. 2123. Often misunderstood, the payment is for the following: First, compensation to the local government for specific services requested by and provided to the Federal Government; Second, the statutory prohibition on taxation of income earned in D.C. by any individual who is not a resident of the District; and third, compensation to the local government for revenues denied as the result of federally imposed requirements, for example, large parcels of open space, no tall buildings, and federally chartered tax-exempt property. In part, these restrictions add to the enjoyment of the Nation's Capital by the 18 to 20 million tourists who come here each year.) The fact is, the Federal Government has not been fair in paying the cost of what it requires of the District. In a bipartisan vote of 10 to 2, the committee ordered the bill reported to the House for consideration.

H.R. 2123 authorizes an increase of $33.5 million over the aggregate appropriated amount for fiscal year 1991 as the District's Federal payment for fiscal year 1992. In addition, it establishes a predictable and equitable Federal payment formula for fiscal years 1993, 1994, and 1995. It authorizes to be appropriated as the annual Federal payment to the District of Columbia an amount equal to 24 percent of locally raised revenues, which is to be determined by an independent audit of those revenues of 2 years prior—this represents 19.1 percent of the overall operating budget of the District of Columbia. That is, fiscal year 1993 will be based on an independent audit of fiscal year 1991 and so on. The independent audit will be reviewed by the General Accounting Office and a report submitted to Congress by March 1 of each year, at which time this committee will commence its authorizing responsibilities. Locally raised revenues are defined in H.R. 2123 as being those revenues derived by D.C. from sources other than the Federal Government.

It is important to note that this legislation does not establish 24 percent of locally raised revenues as an entitlement. Rather, it sets the cap at 24 percent of locally raised revenues. The Federal payment formula is subject to the regular appropriations process.

As long ago as 1948, Everett Dirksen, then chairman of the District of Columbia Committee, introduced legislation that included a Federal payment formula. President Richard M. Nixon summarized a longstanding Republican policy in a message to Congress (H. Doc. 91-108) 2 months after taking office in 1969. President Nixon recommended a home rule government for the District of Columbia and in so doing specifically argued:

> That the Congress authorize a Federal payment formula, fixing the Federal contribution at 30 percent of local tax and other general fund revenues. This formula would equitably reflect the Federal interest in the District of Columbia.

In its report, "Financing the Nation's Capital," submitted in November 1990, the Rivlin Commission, chaired by Ms. Alice Rivlin, former head of the Congressional Budget Office, also recommended a Federal payment formula of 30 percent as being fair and equitable. This position was vigorously supported during the full committee hearing by Mr. Frank J. Fahrenkopf, Jr., former Chair of the Republican National Committee, and Cochair of the Rivlin Commission Revenue Committee. However, the committee concluded 24 percent to be reasonable and achievable.

H.R. 2123 is a good bill worthy of your support.

TO ACCOMPANY INTRODUCTION OF THE DIVERSITY IN EDUCATION ACT OF 1991

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. GUNDERSON. Mr. Speaker, today, with Representative CRAIG WASHINGTON, of Texas, I am introducing The Diversity in Education Act of 1991. The bill is intended to allow the use of minority scholarships for the purpose of promoting diversity in higher education institutions.

Last December, the Department of Education issued a directive regarding prohibitions against race-based scholarships in institutions of higher education. The Assistant Secretary of Education wrote to the executive director of the Fiesta Bowl regarding a Martin Luther King, Jr. scholarship fund for minority students. The letter notes that title VI of the Civil Rights Act of 1964 prohibits discrimination on the grounds of race, color, or national origin in any program or activity receiving Federal financial assistance.

On February 7, then Secretary-designate Lamar Alexander announced he would rescind the directive pending a thorough review of the issue. After his confirmation, the Secretary did rescind the directive, and since has instituted a 6-month study and review of the issue.

During this time, higher institutions have been left to operate their scholarship programs in a legal vacuum, wondering whether they should proceed with business as usual, or eliminate their minority scholarships. It is my concern—shared by Representative WASHINGTON—that these scholarships must be allowed to continue.

I do not disagree with the Assistant Secretary's legal finding; title VI does in fact legally prevent the use of minority scholarships at institutions receiving Federal assistance. But the fact is, the prohibition has been overlooked for years by well-intentioned institutions. We have a case where the law does not reflect the overwhelming majority of American opinion that racial diversity on our campuses should be promoted through such financial assistance initiatives.

My legislation will amend the Higher Education Act of 1965 to clarify the legality of race-based scholarships for the purpose of promoting diversity. Even though the percentage of minority students enrolled in higher education has increased since 1978, due largely to the increase in Hispanic and Asian-Pacific Islands students, the percentage of black students has decreased. Furthermore, in 1988, 38 percent of white high school graduates, aged 18–24, enrolled in 2- or 4-year colleges, compared to just 28 percent of black students, and 31 percent of Hispanic students.

To assist minority students, many postsecondary institutions have made policy decisions to create education programs for them. The policies help improve each school's educational environment by bringing together students from different ethnic backgrounds. The policies also create opportunities for traditionally under-represented groups in higher education.

There are 5,147 separate minority scholarship programs now in place among 2- and 4-year institutions in the United States. Of these, 743 scholarship programs use minority status as the sole criterion for eligibility. About 4,404 programs use minority status as one of several criteria to award roughly $131.8 million in aid. The Secretary's willingness to thoroughly review this issue is encouraging. However, I fear that, regardless of his ruling, schools may find themselves vulnerable to litigation by continuing their policies.

My legislation would allow the use of scholarships based on race, color, or national origin if the purpose of such scholarships is to promote diversity in the relevant student body. Diversity has been referenced to invoke the reasoning of the Bakke and Metro decisions. Other areas in which current law allows preferential treatment, for example, to remedy past, proven discrimination, are not implicated.

About 1 percent of all college students receive scholarship aid available only to minority students. Roughly 3 percent of minority students receive aid available only to them. Further, such targeted aid amounts to only 7 percent of all institutional funds awarded to students.

The bill will allow this relatively small number of progressive efforts to continue. I have indicated my willingness to work closely with the Secretary of Education in instituting this change. I applaud his efforts so far, and look forward to his comment on this legislation after he has completed his own study later this fall.

It is my hope, Mr. Speaker, that this legislation will be considered during reauthorization of the Higher Education Act this year. As a member of that committee, and as a member of the Postsecondary Subcommittee with jurisdiction on the reauthorization, I look forward to working with my colleagues to enact my bill to continue our policy of promoting diversity on America's campuses.

COMMEMORATING ARMENIAN INDEPENDENCE DAY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. MAVROULES. Mr. Speaker, last week witnessed the 73d anniversary of Armenian Independence Day, and I would like to take this opportunity to commemorate the plight of this remarkable people. On May 28, 1918, Armenians finally attained a position of independent sovereignty after having struggled to assert themselves while under the control of the Ottoman Empire. Not only did they strive to preserve their unique national identity; they worked to overcome the horrible genocide of their people in 1915 and 1916.

Although the Soviet Union works consistently to improve the security of the Balkan region, the recent conflicts in Armenia remind us that internal stability is far from a reality. The Armenian roots in the Balkans date back 2,500 years, and they were among the first to adopt Christianity. Having endured the patronage of several empires, Armenians remain a distinctive people who deserve a free and secure existence.

More importantly, Armenia holds the interest of the Soviet Union in their pursuit of autonomy. Support of the Armenians is support of the Soviet Union. Unlike other Soviet states, Armenia does not request complete independence, nor does it threaten to secede. Indeed, these people merely wish to live without the threats of blockaded supplies, forced deportation, and armed aggression.

My colleagues, I urge you to consider the plight of the Armenians, both those abroad and those in the United States who are concerned with the conditions of their families and homeland. Let Armenian Independence Day remind you that the freedom of this people is central to the democratic development of the Soviet Union. Through dialog and patient cooperation, I hope that when peace is achieved in Armenia, it will serve as an example of unity for the other Soviet Republics.

DORIS BLANK: AN EDUCATOR WHO HAS MADE A DIFFERENCE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mrs. LOWEY of New York. Mr. Speaker, of all the professions that serve our country, I know of none more honorable or more underappreciated than teaching. And I know of no one more dedicated to service as an educator than Doris Blank. Her years of service have been outstanding. She has left her mark on literally thousands of young people in Westchester over several decades of service. And for years to come we will all see the rich rewards of her commitment as her students serve in our immediate community and elsewhere and in every conceivable walk of life. Now that she is retiring, she will be sorely missed.

Thomas Jefferson once said that "If a nation expects to be ignorant and free * * * it expects what never was and never will be." Without education, our precious liberties will crumble, and it is the role of the teacher to preseve those liberties by imparting to our children the gifts of knowledge and reason. Teachers also preserve the American dream of opportunity by serving as guides along the road to success through learning. By opening up to our children the magnificent world of knowledge and imagination, teachers preserve and enhance for generations to come the heritage of innovation and vitality which is so essential to the ability of young people to lead full lives and to our ability as a Nation to grow and prosper.

All of these responsibilities are fulfilled by the teachers of this country with dedication and admirable skill. For many years, Doris Blank has been one of the most dedicated and skilled among them. She has also been one of their leaders, working to enhance the stature and quality of the teaching profession. Her prodigious efforts have made a real difference to her profession and in the lives of countless Port Chester students. Now, she has decided to retire, and it is clear that she will be sorely missed. There are many who will strive with dedication and intellect to take her place, but she is truly irreplaceable. Her spirit, her commitment, her love of learning and of sharing with eager young minds has been her hallmark, and it will be impossible to fully replicate.

Doris is among the retirees being honored tonight at the 1991 teachers association retirement banquet. It will be an enjoyable evening, but there will be a touch of sadness as we think of the students who will now be denied the gift of her teaching and her enthusiasm. I am sure that all of my colleagues join me in thanking Doris Blank for her years of excellent service, and in wishing her a happy and enjoyable retirement. Likewise, I am confident that, even in retirement, Doris Blank will continue teaching everyone with whom she comes in contact.

SOVIETS EXCUSE BALTIC KILLINGS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. HOYER. Mr. Speaker, I received yesterday a truly incredible document—an item from the Soviet news agency TASS stating that a preliminary report by the Moscow Procuracy has determined that the Lithuanians killed in Vilnius in January of this year were killed and wounded not by Soviet troops, but, and I quote, "by shots from Lithuanian fighters gathered around the television center, by being run over by cars, and by other causes".

The report further contends that Lithuania "attacked soldiers with knives, truncheons, and metal prods . . . while there was intensive automatic weapon fire from the crowd surrounding the building and from the rooves of nearby houses." In retaliation, says the report, the servicemen used butts of their rifles to defend themselves, "firing, as a warning, blanks and an odd cartridge into the air".

All of this, of course, contradicts eye-witness reports and filmed accounts of the shootings which showed unarmed protestors being crushed by Soviet tanks, beaten with rifle butts and fired upon by elite paratrooper squads. Moscow also claims that the young woman crushed by a Soviet tank, whose pitiful image was featured throughout the international press, was deliberately pushed under the tank by the crowd.

This report is not only incredible, it is insulting and outrageous. Think of it. An investigation by the highest organ in the Soviet Government empowered to uphold law and order in the Soviet Union comes out with this nonsense. Perhaps it is only a trial balloon, sent up to see if the West will take it seriously.

After all, for the last 2 weeks Soviet black beret troops have been raiding and burning border posts in Lithuania and Latvia. Two people are dead, and another dozen are in the hospital. In addition, there were two incidents of attacks by armed men—reportedly Soviet Army officers in civilian dress—on unarmed Estonian guards at the Estonian-Latvian border on May 19 and May 21.

While this is occurring, Moscow has been seeking more financial aid or credits from the West. A clear message must be sent in reply. The United States is very interested in seeing and assisting the Soviet Union move toward greater democracy, but it will not finance or underwrite steps taken to impose greater control at the expense of individual freedoms.

TRIBUTE TO DR. WARREN V. PORTER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Dr. Warren V. Porter, pastor of Westminster Presbyterian Church in Port Hueneme, CA. This month Dr. Porter is not only celebrating his 65th birthday, he is retiring from the pastorship he has held for nearly 30 years.

Warren V. Porter was born in Nebraska and was educated in the public school system there. He did a term of service in the U.S. Army during World War II and then attended college at a small church school in Nebraska. He graduated salutatorian of the class.

In 1950, he went to San Francisco Theological Seminary in Marin County and was graduated with his master degree in 1953. He served a small church in Richmond, CA, for 2 years and a small country church, Prairie Gem, for 2 years during his last 2 years of college. Both of these were served as a weekend pastor.

He was pastor of the First Presbyterian Church, Ord, NE, from 1953 to 1957; and from 1957 to 1962 served as pastor of the Community Presbyterian Church in Morro Bay, CA.

In January 1962 he became pastor of Westminster Presbyterian Church of Port Hueneme; years later, the Westminster Church and the Community Presbyterian Church of Hueneme merged into one congregation of which he became pastor. During the Oxnard pastorate he worked toward and received a doctorate from San Francisco Theological Seminary in 1972.

Warren served as moderator of the Presbytery of Santa Barbara from September 1965 to September 1966; as chairman of the ministerial committee for the Presbytery of Santa Barbara; as president of the Oxnard/Port Hueneme Ministerial Association; served in the camp and conference programs for many years as dean; in 1984 became a member of the governing board of the ZOE Homeless Shelter and has continually served as a member of the board.

In 1988, Warren was awarded the George Washington Medal of Honor for a sermon he gave on July 5, 1987, "Biblical Roots of Our Constitution." This award is given to one pastor annually, from the Freedoms Foundation at Valley Forge.

Warren and his lovely wife, LeNore, have been married for 17 years and have three children and three grandchildren. He enjoys playing tennis, reading, and listening to music. Upon retiring, Warren plans to do some writing and traveling.

Mr. Speaker, on behalf of the U.S. House of Representatives, I would like to thank Warren for devoting his life to the service of God and his fellow man, and I wish him the very best in all of his future endeavors.

THE HIGHER EDUCATION ACT

HON. SCOTT L. KLUG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. KLUG. Mr. Speaker, yesterday, we received additional confirmation of what most of the Members of this body and most Americans already knew: public elementary and secondary school systems across the Nation aren't working. In not one single State across the Nation could students who were tested perform at their grade level in math.

Later this year we'll be considering a reauthorization of the Higher Education Act; we'll be looking for ways to make college education available to more American students. But will those students be prepared to enter college, will they be prepared to take advantage of the opportunities that we want to provide. The test results we received yesterday suggests that a great many of them will not.

We have to do better. And that is going to mean more than simply spending more money. Washington, DC, spends more money per student than almost any State or territory that participated in the test, yet DC students ranked last among the students of every State that was tested. What's needed is real reform and some fresh thinking about how to infuse a heightened sense of dedication, accountability, and commitment to achievement in our education system.

The President has offered a bold plan for Federal action and for a challenge to the status quo in American education. Yesterday's bad news suggests the need to move forward with that plan and to break the mold of mediocrity before it sets permanently around us.

THE FOOD, DRUG, COSMETIC AND DEVICE ENFORCEMENT AMENDMENTS OF 1991

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. DINGELL. Mr. Speaker, I am proud to join with my distinguished colleague, HENRY A. WAXMAN, the chairman of the Subcommittee on Health and the environment, in cosponsoring the Food, Drug, Cosmetic and Device Enforcement Amendments of 1991.

The Food and Drug Administration [FDA] regulates approximately 25 percent of our Nation's GNP, and is the lead Government agency responsible for the protection of public health.

Unfortunately, the FDA has suffered through a long decade of neglect. Morale is down, resources are thin and personnel levels are unreasonably low. This has all occurred at a time when the Agency's responsibilities have increased significantly. The U.S. food, pharmaceutical, device, and cosmetic industries continue to develop innovative new products and the public continues to look for greater assurances concerning the safety of these products.

The FDA currently functions on an annual budget of less then $700 million, and it has to fight for every penny of that amount. After years of inadequate support, the capacity of FDA to discharge its basic public health mission has been seriously compromised. The administration's proposed fiscal year 1992 levels of funding will do little to alleviate the FDA's resource problems.

The Agency is in serious need of new and additional resources. I am exploring a number of legislative options to help improve the FDA's ability to carry out its important regulatory functions. Crucial among these are: A restructuring of FDA within HHS; the imposition of fees to increase agency resources; and the enactment of adequate statutory authorities to enable the enforcement of the Federal Food, Drug, and Cosmetic Act.

This bill is designed to provide FDA with the increased across-the-board enforcement authorities needed to carry out its multiple regulatory responsibilities.

Specifically, the bill will provide for:

Expanded recall, seizure, embargo and subpoena authorities, similar to those which currently apply to medical devices;

New administrative civil monetary penalties;

Increased authority for inspections and expanded access to company records and reports;

New sanctions for violative imported products; and

Extended coverage of the Federal Food, Drug, and Cosmetic Act to all goods which affect interstate commerce.

What is at stake here is public confidence—if the public has confidence in FDA's ability to enforce the Food, Drug, and Cosmetic Act, then it will have confidence in the safety of the products regulated by the FDA.

Therefore, I urge my colleagues to support this bill.

IN PRAISE OF A WHITE HOUSE CONFERENCE ON AGING

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. RINALDO. Mr. Speaker, I rise today to praise President Bush for his decision to convene a White House Conference on Aging in 1993. Unquestionably, this important event will help draw public attention to the need for health care reform and other issues that will become more critical as the baby boom generation retires.

With one-fourth of the Federal budget spent on programs for senior citizens, compared to one-sixth 20 years ago, the White House, Congress, and representatives of major senior citizens organizations need to work together to tackle serious problems with Medicare funding and paperwork, long-term health care, job discrimination against older Americans, and the security of pension and insurance benefits.

Mr. Speaker, the House last year passed legislation expressing support for such a White House Conference on Aging in 1991. While I am disappointed that the conference will not be convened this year, I am well satisfied that it would have been impossible to properly organized such a huge event this year. In my view, 2 years of extra planning will result in greater success.

The President is right not to attempt too much in too little time. As the conference is now scheduled, we can be certain of the broadest possible participation by senior citizens and the greatest examination of all the issues facing them.

In the past 20 years, the life expectancy of Americans has increased to nearly 80 years. This success has raised demands to devote more of our resources to the elderly. We need to develop a broader national consensus on one of the major issues of our time: How American society will be able to care for millions of older people during the next 20 years.

It is my hope that the conference will address the important questions arising from the fact that young workers will be supporting a growing population of elderly Americans in the next century. With this goal in mind, I would like to see members of the younger generation participate in the conference to express their views.

It would be a mistake, in my view, to hold a White House Conference that produces a something-or-everybody shopping list of demands without considering the potential costs and the opinions of those who must pay for it in future years.

Realistically, health care for seniors should top the conference agenda as Medicare's financial deficits mount and the elderly are confronted with more deductions, higher premiums, complex regulations they find hard to interpret, and the lack of affordable, accessible long-term protection.

As a chief sponsor of long-term nursing home and home health care legislation, I would certainly like to see a comprehensive discussion of this crucial problem facing the elderly and their families. Care in a private nursing home can cost $25,000 or more a year and can reduce even affluent individuals and their families to bankruptcy.

Mr. Speaker, I commend the President, and I look forward to a White House Conference on Aging in 1993.

POLISH DEBT AND COMMERCIAL BANKS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. KLECZKA. Mr. Speaker, as many of my colleagues are aware, in March of this year the Paris Club of government creditors decided to forgive half of the $33 billion in Polish debt held by various nations.

This progressive step will have a profound, positive impact on the Polish economy. According to one estimate, it will reduce Poland's annual interest payments from over $3 billion to approximately $660 million a year. Capital can instead be directed to more productive, job-creating uses.

Poland is now preparing to enter into debt reduction negotiations with commercial banks, scheduled to begin in Frankfurt June 18. If commercial banks follow the lead of the Paris Club, and write down the debt held by 50 percent, the effort to rebuild the Polish economy in a democratic image will receive another, much needed boost.

By the debt-reduction actions of the Paris Club, the taxpayers of the nations to whom money was owed are helping make the Polish economy strong and competitive. It is now time for commercial banks to do their part and consider debt reductions similar to those agreed to by the Paris Club.

TRIBUTE TO PEIRCE MIDDLE SCHOOL SCIENCE OLYMPIAD TEAM

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. SCHULZE. Mr. Speaker, I would like to command the members of this year's Peirce Middle School Science Olympiad Team from West Chester, PA. These students, along with the help of teachers and parents dedicated to excellence in education, have reached a goal the entire country should be proud of. For the second year in a row, the Peirce Olympiad Team has won both the Pennsylvania State Championship and the bronze medal in the oveall national competition. Out of 3,500 schools across the country, Peirce Middle School has once again proven its academic strength.

The Science Olympiad is an international, non-profit organization devoted to improving the quality of science education, increasing interest in science, and providing recognition for outstanding achievement in science education by both students and teachers. This annual competition is based on an olympic model and allows pairs of students from various schools to compete in many science-related categories such as astronomy, anatomy, weather, geography, and computers, to name just a few.

The members of this year's team are Jeff Becker, Jason Bugg, Jeff Cain, Billy Carroll, Kristin Carroll, Josh Culp, Casey Frantz, Thatcher Gearhart, Justin Ging, Josh Griffith, Eric Hebble, Michael Iachini, Matt Keller, Cathy Kovalesky, Ken Lidle, Andrew Lonsbarry, Luke Lorenz, Peter Lu, Justin Olexy, Josh Rea, Willie Scott, Azim Siddiqui, Carly Silvesti, Gwen Staub-Leifeld, Daivd Tam, Mary Thorne, Steve Whittam, Mark Wiening, and Ruth Yang. The coaches of this team, Charlotte Knighten and Paul Wojcik, are also to be commended for all their hard work.

I offer my congratulations to the team for a job well done. Excellence in education is thriving in West Chester, PA, and for the second year in a row, it is my pleasure to recognize such an extraordinary accomplishment.

IN TRIBUTE TO DR. E. WAYNE BUNDY

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. SCHIFF. Mr. Speaker, I have the distinct priviledge and honor of paying tribute today to a great New Mexican and one of this Nation's most foremost proponents of public radio, Dr. E. Wayne Bundy of Albuquerque, NM.

Dr. Bundy received public radio's highest honor last month when he was presented with the prestigious "1991 Edward R. Murrow Award" from the Corp. for Public Broadcasting during its annual public radio conference in New Orleans.

Dr. Bundy is the head of the Rocky Mountain Corp. for Public Broadcasting, an organization created by the eight States of the Rocky Mountain region in 1968 to enhance the development and operation of public broadcasting in the region. Dr. Bundy has been the executive director of the corporation for 22 years.

Dr. Bundy began his radio career in 1937 when be became a staff announcer at radio station KLO in his home town of Ogden, UT. He began his career in public broadcasting as director of radio and television and assistant professor of speech at Louisiana Polytechnic Institute, 1948–54, and later as executive secretary of the Louisiana ETV Commission.

Dr. Bundy subsequently taught at the University of Michigan, where he received his doctorate in broadcasting, and later at the University of New Mexico.

Dr. Bundy came to New Mexico in 1959 when he became program and then production manager at KNME–TV, the public television station that we are very proud to have in Albuquerque.

Dr. Bundy's wife, Louise, is former special assistant to then-Interior Secretary Walter J. Hickel. They have three daughters and three sons.

The Edward R. Murrow Award is named for the veteran broadcaster, reporter, producer, executive and Government administrator who symbolized responsible, courageous, and imaginative use of the electronic media. Every year since 1977 CPB has honored individuals who have made outstanding contributions to public radio by fostering its growth, quality, and public image.

Previous winners of the Edward R. Murrow Award include Garrison Keillor, creator and host of "A Prairie Home Companion," and Cokie Roberts, National Public Radio's congressional correspondent.

Now added to the list is the distinguished name of Dr. E. Wayne Bundy—a great New Mexican who has devoted more than 20 years of his life to providing the highest quality public broadcasting possible throughout the Rocky Mountains.

ISRAELI BOMBING RAIDS ON LEBANON

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. TRAFICANT. Mr. Speaker, Israel has launched 3 air raids into southern Lebanon this week, killing as many as 16 people and wounding at least 49. According to a Reuters News Agency report carried by the Washington Times, a dozen school children are among the wounded. Congress should condemn these violent actions by Israel.

The Reuters News Agency report described the air raid of June 3, 1991, as "one of the largest air raids of the past nine years in southern Lebanon." The report detailed the air raid.

> Israeli warplanes pounded guerrilla bases * * * made 18 passes over a period of two hours on training bases, ammunition depots, artillery and anti-aircraft guns in and near three villages about three miles east of Sidon.

A New York Times report also described the devastation wrought by the June 3 air raid.

> Black smoke billowed from a two-story building flattened by air-to-surface missiles dropped by two jets as the loud explosions sent hundreds of residents fleeing to safer places.

Israel claims that it attacks are aimed at military targets. However, the nation strikes at sites that are in crowded refugee camps and each attack brings a new wave of civilian deaths. I urge my colleagues in Congress to exert pressure on Israel to halt these bombing raids now, before one more needless civilian death occurs.

SOLID WASTE MANAGEMENT—A STUDENT'S PERSPECTIVE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 7, 1991

Mr. McEWEN. Mr. Speaker, I rise today to commend to the attention of the House a term paper written by Mr. Tommy Schwab of Wilmington, OH, on March 25, 1991, which focuses on the basic issues surrounding America's growing solid waste management crisis.

His report, entitled "How Should the U.S. Clean Up Its Solid Waste Problem?" thoughtfully outlines the causes behind the tremendous increase in waste materials, and examines potential alternatives to disposing municipal solid waste, including incineration, recycling, and landfilling. Because greater Federal leadership may be necessary if acceptable waste management methods are to be found, I hope all of my colleagues will take a moment to read Mr. Schwab's presentation.

HOW SHOULD THE U.S. CLEAN UP ITS SOLID WASTE PROBLEM?

(By Tommy Schwab)

"It's one of those great mysteries of life in America. In just one day, how do two bags of ordinary groceries turn into three bags of garbage?" ponders the cartoon character Shoe.[1]

Where are we storing our solid waste products now? How long can we expect to be able to continue to do so? Why is it so important for us to change our ways now, before we run out of landfills?

Since 1960 the garbage volume for the U.S. has gone up 80% and is expected to go up another 20% by 2000. Each day the average American throws away four lbs. of trash. That equates to 179.6 million tons of garbage each year: enough to cover 1,000 football fields 30 stories high.[2] By the year 2000, the EPA predicts that the annual waste disposal will be a staggering 216 million tons. With 73% of solid waste currently going into landfills and 2,000 landfills closing by 1993, an alternative source will have to be found. One method would be to incinerate our wastes. Incineration burns garbage and leaves one-tenth of the original volume of garbage, but incineration has the potential to pollute the air. Recycling allows the reuse of our glass, cans, paper, and plastics. The best method, however, may be a combination of landfills, incinerators, recyling, and reducing the amount of garbage generated. This method is called integrated waste management.

According to a recent survey, Americans throw away 16 billion disposable diapers, 12.4 billion glossy mail order catalogs, 1.6 billion pens, 2 billion razors and blades, 1 billion foil-lined fruit juice cartons with attached straw, and 220 million tires which translates into 350 bags of trash per year for the average American household.[3] We throw away enough aluminum in three months to completely rebuild the entire U.S. commercial air fleet. Looking at the different types of garbage, we note that 40% of it is paper, 17.6% is yard waste, 8.5% is metals, 8% is plastics, and 7% is glass—all of which can be recycled. By 1992 the EPA hopes to cut the solid waste production by 25% and to recycle 25% of the new total.

One method of disposing of waste is the landfill, but it has some problems. The government has become stricter in the running of the nation's landfills. With 80% of the landfills in the United States closing in the next 20 years, new ones will have to be built and the cost will be significantly higher than just the value of the land. The new landfills must be placed where ground water will not be contaminated. There should be impermeable clay liners to prevent leaks into the surrounding ground. Since soil takes up 20% of the landfills, companies have developed foam products to replace soil as daily covers.[4] When the landfill is full, a clay cap with a venting system is placed over it. (This capping system is especially important because 35,000 to 50,000 West German landfills had to be closed because of a threat of water contamination.[5]) A recent survey at Argonne National Laboratory in Argonne, Illinois, found that adding water to landfills triples the breakdown speed; however, microorganisms do not eat hazardous materials and if the landfill settles, then the new landscaping will also settle.[6] So even though this may help get rid of garbage, the land above it will not be able to be developed and the hazardous materials will have to be removed.

Incineration is a newer process and is another possible solution. It is constantly being investigated by the EPA to see if they are polluting the air or have contaminated ash. Incinerators make up 14% of the waste disposal programs and cut garbage volume by 90% and weight by 75%. There are 160 incinerators in operation in the U.S. today and new incinerators can cost $500 million. There are two different types of incinerators: mass-burn and waste-to-energy. The mass-burn plants burn mixed garbage in a chamber at temperatures in excess of 1800 F. The waste-to-energy plants use heat to boil water which burns the garbage and turns a turbine to generate electricity. The Semass Waste-to-Energy Facility in Rochester, Mass. generates 50 megawatts of energy for the communities around it. At the Bay County plant in Michigan, each year 700 tons of garbage are shredded and turned into pellets, which yield 8–10 megawatts of energy. Excess waste is buried in landfills like other garbage. The critics of incinerators say they hinder recycling, may pollute the air, and produce ash that may be contaminated. The incinerationists say pollution and ash are not a problem because of the numerous types of filters and care used in the building and maintenance of the facilities, but statistics show that there is an additional .118 cancer rate per million people from incinerator pollution.[7]

As President George Bush was giving high school student Allen Graves an environmental award for recycling, Allen asked, "Does your office recycle?" The President replied, "I don't know."[8] Even though the President might not, eight million Americans now sort their garbage for recycling and that is expected to double by 1992. Recycling takes up 13% of trash disposal and reuses many things. Recycling centers can recycle glass, cans, paper, and plastics. Ten percent of all glass is recycled. It is easier because after it is sorted by color, the recyclers crush it, and sell it to companies. Recycling the 42.5 million aluminum cans is 10 times cheaper than turning bauxite into aluminum. The U.S. recycles about 30% of its paper each year. It becomes cereal boxes, toilet tissue, and bedding for animals. Some of the unrecycled paper is sold to countries needing paper, such as Korea and Taiwan. The recycling centers could process even more paper than they are handling right now. Only about 1% of the U.S.'s plastics are recycled, possibly because of their complexity; one example is a Heinz squeezable ketchup bottle because it has six different types of plastic in it.[9] Although recycled plastic cannot be used to serve or store food, it can be used as carpet fibers, filling for jackets, "lumber" for park benches, and highway maintenance markers. Procter & Gamble will use plastic bottles made from recycled milk jugs and soda bottles for some products. McDonald's will use $100 million to buy recycled plastic products for their buildings and are asking consumers to put their polystyrene cups and containers in separate recycling bins. The CRInc. of North Billeria, Mass. has a machine that shakes, grinds, and screens glass, plastics, and cans into separate bins. Six workers are needed to separate the specific plastics and glass. Within two years, they hope to have fully automated machines.[10] This type of recycling will have to continue and expand if Americans start recycling so solid waste does not pile up.

Integrated waste management is probably the best and most efficient means of solid waste disposal. It deals with all aspects covered in this paper. All of the valuable items, such as glass, paper, aluminum, and plastics, are recycled. What's left is then taken to an incinerator and burned. The ash from the incinerator goes to a landfill and buried.

To help lower the amount of solid waste, families should separate their recyclables and put them in a container which would be collected free of charge. The rest of their garbage should be put into cans and then the customer should be charged by the number of cans picked up. Local governments should make retailers charge a deposit on all recyclable items. The U.S. must try to produce less garbage. Since packaging is ⅓ of the total volume of solid waste, companies need to design better packaging using less material. In addition, yard wastes should be composted and used as fertilizer, not added to our incinerators or landfills.

Seattle, Rhode Island, and Japan have solid waste programs that mirror an integrated waste management program. Since 1981, Seattle residents have paid for garbage pick-up by the amount of waste generated. Yard waste pick-up is prohibited and recyclables are picked up free. Seventy-eight percent of the population participates in a voluntary recycling program—44% of their garbage is recycled. Since Seattle started the program, the city government has saved $2 million a year on garbage management.[11] Rhode Island passed legislation in 1986 making recycling mandatory. For this program, residents got a 12-gallon container to put glass, cans, and plastics in and with newspapers being put on top. The recyclables are sent to the materials-recovery facility (MRF). MRF's recycle 200 of 4,000 tons of Rhode Island's garbage each day. In addition to that, waste-to-energy plants have been built to decreasse the volume of trash going into landfills by 90% by 1994. These incinerators burn 2,200 tons each day.[12] The Japanese recycle 50% of waste paper, 55% of glass bottles and 66% of beverage and food containers. Even with all of this recycling, they have 1,899 incinerators and 2,411 landfills, but these landfills do not become huge mountains like those in the U.S.[13] After the landfills are capped, they build soccer fields, baseball diamonds, and bicycle courses on top.

Over the years, there have been many attempts to dispose of solid waste and many have failed. Sorting our solid waste into recyclable and non-recyclable groups is the first step. Burning the non-recyclable items in incinerators and properly disposing of the ash in landfills is next. These steps are the basis for integrated waste management. Integrated waste management is the wisest and most cost efficient method of solid waste disposal at the present time. With a little planning, capped landfills can be used for parks and golf courses.

FOOTNOTES

[1] Melinda Beck, "Buried Alive," Newsweek, 27 November 1989, pg. 69.

[2] Beck, pg. 67.

[3] John Langone, "A Stinking Mess," Time, 2 January 1989, pg. 45.

[4] Mariette DiChristina, "How We Can Win the War Against Garbage," Popular Science, October 1990, pg. 61.

[5] Langone, pg. 45.

[6] DiChristina, pg. 61.

[7] Beck, pg. 71.

[8] Beck, pg. 75.

[9] DiChristina, pg. 58.

[10] Peter Nulty, "Recycling Becomes a Big Business," Fortune, 13 August 1990, pg. 86.

[11] DiChristina, pg. 95.

[12] William J. Cook, "A Lot of Rubbish," U.S. News & World Report, 25 December 1989/1 January 1990, pg. 61.

[13] Beck, pg. 70.

BIBLIOGRAPHY

Beck, Melinda. "Buried Alive." Newsweek, 27 November 1989, pg. 66–76.

Cook, William J. "A Lot of Rubbish." U.S. News & World Report, 25 December 1989/1 January 1990, pg. 60–61.

DiChristina, Mariette. "How We Can Win the War Against Garbage." Popular Science, October 1990, pg. 57–63; 95.

Langone, John. "A Stinking Mess." Time, 2 January 1989, pg. 44–47.

Nielson, Susan. "America's Waste Crisis: How You Can Help Solve It!" Good Housekeeping, September 1989, pg. 272.

Nulty, Peter. "Recycling Becomes a Big Business." Fortune, 13 August 1990, pg. 81–86.

Samuelson, Robert J. "Diapers: The Sequel." Newsweek, 16 April 1990, pg. 65.

SENATE—*Monday, June 10, 1991*

(Legislative day of Monday, June 3, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 10, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

ADJOURNMENT UNTIL TUESDAY, JUNE 11, 1991, AT 9 A.M.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in adjournment until 9 a.m., Tuesday, June 11, 1991.

Thereupon, at 10 o'clock a.m. and 25 seconds, the Senate adjourned under the order of Thursday, June 6, 1991, until Tuesday, June 11, 1991, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Monday, June 10, 1991*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 10, 1991.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

On this new day when all creation breathes the fullness of life, we pray, O God, that our lives might be filled with a new spirit and our voices sing a new song. May we put aside the errors of the past, the disappointments and all the times we have missed the mark, and be clothed instead with an attitude of thanksgiving and praise for the opportunities of this day. We offer this prayer in gratefulness, O God, for all Your promises and Your presence. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Pledge of Allegiance will be led today by the gentleman from Iowa [Mr. LEACH].

Mr. LEACH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

CELEBRATING THE MEN AND WOMEN OF DESERT SHIELD AND DESERT STORM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, along with many hundreds of thousands of people here in Washington and certainly by television tens of thousands more, I attended the celebration on Saturday during which America, not just we who were there, but America, extended thanks to the men and women of Operation Desert Shield and Desert Storm.

I have been very proud to be an American all my life. I have also been very proud to be a Member of Congress, but to be both an American and a Member of Congress watching that parade and watching those men and women really was a high point of my life.

So I want to take this one moment more to extend our thanks to those good people. We appreciate what they did for us. We appreciate what they stood for and we certainly, now that they are back home, intend to follow through on our responsibilities to make sure that suitable educational and other programs are provided to the returning veterans of the gulf crisis.

So thank you very much. You did a good job. Well done.

POLICY DEBATE ON EL SALVADOR POSTPONED WHILE PEACE PROCESS CONTINUES

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, the House Rules Committee has acted with great wisdom and responsibility in deciding to postpone a divisive and counterproductive debate on United States policy toward El Salvador to give the ongoing negotiations a chance to reach completion.

According to President Freddy Cristiani, the 11-year-old guerrilla war going on in El Salvador may be on the verge of coming to an end. That is a goal all of us in this House urgently seek.

President Cristiani, in a Washington Post commentary on May 14, makes several important points about the lengthy conflict which has afflicted the Salvadoran people over the last decade: the war has cost billions of dollars and thousands of lives, but the support of the United States has been essential for the promotion and strengthening of democratic government.

The key element in U.S. support which I want to emphasize, and which President Cristiani refers to, is the absolute necessity of U.S. assistance to preserve the democratic process in that country. A debate at this time on a cutoff or severe restrictions on U.S. aid would only serve to make the FMLN guerrillas more intransigent in the ongoing negotiations for a cease-fire. It is imperative that the U.S. Congress not act in a way that adversely affects the peace process. That is why I strongly endorse the Rules Committee decision to avoid a debate on El Salvador at this time.

I urge my colleagues to consider President Cristiani's assessment of the ongoing peace process and accept for now the wisdom of not taking action on United States aid for El Salvador.

I am placing President Cristiani's commentary in today's Extensions of Remarks for my colleagues to read.

COMMENDING THE HOMECOMING FOUNDATION FOR A GREAT PARADE

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, let me commend the Desert Storm Homecoming Foundation. The gentleman from Kentucky mentioned about the homecoming festivities.

Let me say that the Homecoming Foundation had a responsibility for putting together and coordinating the Persian Gulf celebration for our military forces last Saturday in Washington, DC.

I want to commend Mr. Harry Walters, the general chairman, and Chuck Hagel, who was the assistant chairman, and many thousands of volunteers.

Mr. Speaker, I guess that was the largest number of volunteers that we have had for putting on a function like this. It was nothing but a wonderful day.

We had a memorial service at Arlington Cemetery for over 367 Americans who lost their lives in support of the Persian Gulf operation, a tremendous parade, probably the finest parade that has ever been seen in Washington that I know of at least for 45 years, and then after that we had a picnic on the grounds near the White House for all the Armed Forces, including all our service personnel; then the USO show late that afternoon and then the fireworks.

The best way to sum it up, Mr. Speaker, it is great to be an American.

□This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A GREAT DAY IN WASHINGTON, DC, AND GREEN BAY, WI

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I want to join the Chair and our friend, the gentleman from Mississippi, in those remarks.

The only time we had more volunteers than in the parade on Saturday was when the gentleman from Mississippi [Mr. MONTGOMERY] was running for Congress back in Mississippi.

As did the gentleman, I enjoyed the parade on Saturday. It was a real honor and privilege to attend such a spectacular parade and the display of military hardware in Washington was really awesome, was it not?

We thank all the men and women who served.

The following day, which was yesterday on Sunday, I attended an event in Green Bay, WI, to celebrate the return of the 890th Transportation Company, an Army Reserve unit that served in the Persian Gulf area with distinction. This parade was no less emotional for the families, friends, and neighbors of the 170 reservists than the one right here in Washington. We are all very proud of them.

Unfortunately, there are still some reservists in the Persian Gulf. The 395th Ordnance Army Reserve unit based in Appleton, WI, was activated last November and is still in the gulf. We hope they can come home very soon. They are there long after the shooting has stopped.

We should make sure that all come home as quickly as possible. There are many other Reserve units, such as the 432d also of Green Bay, WI, who will be coming home very shortly.

Please join me in urging the Pentagon to bring all of our reservists home before the July 4th event, if you can cosponsor House Concurrent Resolution 122. Let us let everyone enjoy a parade and celebrate the homecoming of the reservists on July 4.

□ 1210

LEGISLATION TO REPEAL LUXURY EXCISE TAXES

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, today I have introduced a bill to repeal all the luxury excise taxes.

The Democrats forced a luxury excise tax into last year's budget reconciliation bill in a sincere attempt to soak the rich.

They have now succeeded in drowning thousands of working men and women across the country in a wave of unemployment.

This dramatic job loss is a direct result of the Democrats' obsessive quest to get the rich.

The only people this foolhardy tax has managed to get so far is the mechanic, the craftsmen, and the hard working sales personnel who sell and service these goods.

But this is the kicker, Mr. Speaker: It doesn't even raise any money.

That's right, not only does this tax throw middle-class mechanics and salesmen out of work, it actually loses revenue for the Government.

The bottom line is that we're spending a quarter of a billion dollars to throw, at the least, thousands of American workers out of their jobs.

This is absurb. I encourage my colleagues to join me in my efforts to repeal these taxes.

Mr. Speaker, incidentally, I may say this is exactly the kind of result we get when we analyze taxes without realizing their real effect on real people and their real opportunities to have real jobs to feed their real families.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on both motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken tomorrow, Tuesday, June 11, 1991.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS OF 1991

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 26) to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes, as amended.

The Clerk read as follows:

H.R. 26

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Money Laundering Enforcement Amendments of 1991".

SEC. 2. AUTHORITY TO APPOINT CONSERVATOR FOR DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING.

(a) NATIONAL BANKS.—

(1) IN GENERAL.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended—

(A) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(B) by inserting after paragraph (5) the following new paragraph:

"(6) The Attorney General notifies the Comptroller in writing that the bank has been found guilty of a money laundering offense.".

(2) FACTORS REQUIRED TO BE CONSIDERED; EXCEPTION IN CASE OF CHANGE IN CONTROL.—Section 203 of the Bank Conservation Act (12 U.S.C. 203) is amended by adding at the end the following new subsection:

"(f) SPECIAL RULES RELATING TO APPOINTMENT OF CONSERVATOR UNDER SUBSECTION (a)(6).—

"(1) FACTORS FOR CONSIDERATION IN APPOINTING CONSERVATOR.—In making any determination under subsection (a)(6) to appoint a conservator for any national bank, the Comptroller of the Currency shall take into account the following factors:

"(A) The extent to which directors or senior executive officers (as defined by the Comptroller pursuant to section 32(f) of the Federal Deposit Insurance Act) of the national bank knew of, or were involved in, the commission of the money laundering offense of which the bank was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the national bank has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank was found guilty.

"(D) The extent to which the national bank has implemented additional internal controls (since the commission of the offense of which the national bank was found guilty) to prevent the occurrence of any other money laundering offense.

"(2) CHANGE IN CONTROL EXCEPTION.—If the ownership or control of any national bank referred to in subsection (a)(6) is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act)—

"(A) after the commission of any money laundering offense;

"(B) by any person who was not an institution-affiliated party of the bank, or any affiliate of any such party (as such terms are defined in section 3 of the Federal Deposit Insurance Act) at the time of the offense; and

"(C) in an arms-length transaction (as determined by the Comptroller) which was entered into in good faith by such person,

subsection (a)(6) shall not apply to such national bank with respect to such offense.

"(3) MONEY LAUNDERING OFFENSE DEFINED.—For purposes of this subsection and subsection (a)(6), the term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(b) INSURED SAVINGS ASSOCIATIONS.—

(1) FEDERAL SAVINGS ASSOCIATIONS.—Section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) is amended—

(A) by redesignating clauses (vii) and (viii) as clauses (viii) and (ix), respectively; and

(B) by inserting after clause (vi) the following new clause:

"(vii) the Attorney General notifies the Director in writing that the association has been found guilty of any money laundering offense;".

(2) STATE SAVINGS ASSOCIATIONS.—Section 5(d)(2)(C) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(C)) is amended—

(A) by redesignating clauses (v) and (vi) as clauses (vi) and (vii), respectively; and

(B) by inserting after clause (iv) the following new clause:

"(v) the Attorney General notifies the Director in writing that the association has been found guilty of any money laundering offense;".

(3) FACTORS REQUIRED TO BE CONSIDERED; EXCEPTION IN CASE OF CHANGE IN CONTROL.—Section 5(d)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)) is amended by adding at the end the following new subparagraphs:

"(J) FACTORS FOR CONSIDERATION IN APPOINTING CONSERVATOR OR RECEIVER UNDER SUBPARAGRAPH (A)(vii) OR (C)(v).—In making any determination under subparagraph (A)(vii) or (C)(v) to appoint any conservator or receiver for any savings association, the Director shall take into account the following factors:

"(i) The extent to which directors or senior executive officers (as defined by the Director pursuant to section 32(f) of the Federal Deposit Insurance Act) of the savings association knew of, or were involved in, the commission of the money laundering offense of which the association was found guilty.

"(ii) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

"(iii) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

"(iv) The extent to which the savings association has implemented additional internal controls (since the commission of the money laundering offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

"(K) CHANGE IN CONTROL EXCEPTION UNDER SUBPARAGRAPH (A)(vii) OR (C)(v).—If the ownership or control of any savings association referred to in subparagraph (A)(vii) or (C)(v) is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act)—

"(i) after the commission of any money laundering offense;

"(ii) by any person who was not an institution-affiliated party of the association, or any affiliate of any such party (as such terms are defined in section 3 of the Federal Deposit Insurance Act) at the time of the offense; and

"(iii) in an arms-length transaction (as determined by the Director) which was entered into in good faith by such person,

subparagraph (A)(vii) or (C)(v), as the case may be, shall not apply to such association with respect to such offense.

"(L) MONEY LAUNDERING OFFENSE DEFINED.—For purposes of subparagraphs (A)(vii), (C)(v), (J), and (K), the term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(4) CONFORMING AMENDMENT.—Section 5(d)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(D)) is amended by adding at the end the following new clause:

"(iii) In the case of any determination by the Director that the ground specified in subparagraph (C)(v) exists with respect to any insured State savings association, clause (ii) of this subparagraph shall be applied by substituting '10 days' for '30 days'.".

(c) INSURED STATE BANKS.—

(1) IN GENERAL.—Section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)) is amended by adding at the end the following new paragraph:

"(10) APPOINTMENT OF CONSERVATOR UPON CONVICTION FOR MONEY LAUNDERING.—

"(A) IN GENERAL.—Upon receipt of written notice from the Attorney General that an insured State bank has been found guilty of a money laundering offense, the Board of Directors may appoint itself conservator for the bank.

"(B) FACTORS FOR CONSIDERATION IN APPOINTING CONSERVATOR.—In making any determination under subparagraph (A) to appoint the Corporation conservator for any insured State bank, the Board of Directors shall take into account the following factors:

"(i) The extent to which directors or senior executive officers (as defined by the Corporation pursuant to section 32(f)) of the bank knew of, or were involved in, the commission of the money laundering offense of which the bank was found guilty.

"(ii) The extent to which the offense occurred despite the existence of policies and procedures within the bank which were designed to prevent the occurrence of any such offense.

"(iii) The extent to which the bank has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank was found guilty.

"(iv) The extent to which the bank has implemented additional internal controls (since the commission of the offense of which the bank was found guilty) to prevent the occurrence of any other money laundering offense.

"(C) NOTICE AND OPPORTUNITY FOR APPOINTMENT OF CONSERVATOR BY STATE BANKING SUPERVISOR.—If the Board of Directors determines that the Corporation should be appointed conservator under subparagraph (A) for any insured State bank—

"(i) the Board of Directors shall promptly notify the State banking supervisor of such bank of such determination; and

"(ii) the authority to appoint the Corporation conservator for such bank under subparagraph (A) shall be effective only if no conservator has been appointed by such supervisor for such bank before the end of the 10-day period beginning on the date such supervisor receives notice under clause (i).

"(D) CHANGE IN CONTROL EXCEPTION UNDER SUBPARAGRAPH (A).—If the ownership or control of any insured State bank referred to in subparagraph (A) is acquired (as defined in section 13(f)(8)(B))—

"(i) after the commission of any money laundering offense;

"(ii) by any person who was not an institution-affiliated party of the bank, or any affiliate of any such party at the time of the offense; and

"(iii) in an arms-length transaction (as determined by the Board of Directors) which was entered into in good faith by such person,

subparagraph (A) shall not apply to such bank with respect to such offense.

"(E) MONEY LAUNDERING OFFENSE DEFINED.—For purposes of this paragraph, the term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(9)) is amended by striking "paragraph (4) or (6)" and inserting "paragraph (4), (6), or (10)".

(d) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Attorney General notifies the Board in writing that an insured credit union has been found guilty of a money laundering offense;".

(2) FACTORS REQUIRED TO BE CONSIDERED; DEFINITION.—Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(A) by redesignating paragraph (9) as paragraph (10); and

(B) by inserting after paragraph (8) the following new paragraph:

"(9) FACTORS FOR CONSIDERATION IN APPOINTING CONSERVATOR UNDER PARAGRAPH (1)(C); DEFINITION.—

"(A) FACTORS FOR CONSIDERATION IN APPOINTING CONSERVATOR.—In making any determination under paragraph (1)(C) to appoint itself conservator for any insured credit union, the Board shall take into account the following factors:

"(i) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(ii) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(iii) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was convicted.

"(iv) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(B) MONEY LAUNDERING OFFENSE DEFINED.—For purposes of this paragraph and paragraphs (1)(C) and (2)(C), the term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(3) CONFORMING AMENDMENT.—Section 206(h)(2) of the Federal Credit Union Act (12 U.S.C. 1786(h)(2)) is amended by adding at the end the following new subparagraph:

"(C) APPLICATION IN CASE OF MONEY LAUNDERING OFFENSE.—In the case of any determination by the Board that the ground specified in paragraph (1)(C) exists with respect to any insured credit union, subparagraph (B) of this paragraph shall be applied by substituting '10 days' for '30 days'.".

SEC. 3. REVOCATION OF CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS AUTHORIZED FOR MONEY LAUNDERING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following new subsection:

"(d) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO DECLARE CHARTER FORFEITED.—

"(A) IN GENERAL.—If the Comptroller of the Currency receives written notice from the Attorney General that any national bank and directors or senior executive officers of the bank have been found guilty of any money laundering offense, the Comptroller may issue a notice to the national bank of the Comptroller's intention to declare all rights, privileges, and franchises of such bank to be forfeited.

"(B) NOTICE REQUIRED IN CERTAIN CASES.—If the money laundering offense of which any national bank and directors or senior executive officers of the bank have been found guilty is an offense under section 1956 or 1957 of title 18, United States Code, the Comptroller shall issue the notice described in subparagraph (A) to the national bank.

"(2) CONTENTS OF NOTICE.—Any notice issued by the Comptroller pursuant to paragraph (1) shall contain the date (not to exceed 90 days after the date such notice is issued) and the place of a hearing on the proposed forfeiture.

"(3) HEARING, FORFEITURE OF CHARTER.—If, on the basis of the evidence presented at a hearing conducted in accordance with section 554 of title 5, United States Code, before the Comptroller of the Currency (or any person designated by the Comptroller for such purpose), the Comptroller finds that, taking into account the factors required to be considered under paragraph (4), the gravity of the offense of which the national bank was found guilty outweighs the benefits which the continued operation of the bank may provide (taking into account whether there will be significant losses to the Bank Insurance Fund), the Comptroller may issue an order declaring all rights, privileges, and franchises of such bank to be forfeited.

"(4) FACTORS FOR CONSIDERATION IN CHARTER REVOCATION PROCEEDING.—In making any determination under paragraph (3) to declare the forfeiture of all rights, privileges, and franchises of any national bank, the Comptroller of the Currency shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the national bank knew of, or were involved in, the commission of the money laundering offense of which the bank was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the national bank has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank was found guilty.

"(D) The extent to which the national bank has implemented additional internal controls (since the commission of the offense of which the bank was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) APPEARANCE, CONSENT TO FORFEITURE.—Unless the national bank shall appear at the hearing by a duly authorized representative, the bank shall be deemed to have consented to the forfeiture of all rights, privileges, and franchises of the bank and the order referred to in paragraph (3) may be issued.

"(6) JUDICIAL REVIEW.—Any order issued by the Comptroller of the Currency under this subsection may be reviewed in the manner provided in chapter 7 of title 5, United States Code.

"(7) CHANGE IN CONTROL EXCEPTION.—If the ownership or control of any national bank referred to in paragraph (1) is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act)—

"(A) after the commission of any money laundering offense;

"(B) by any person who was not an institution-affiliated party of the bank, or any affiliate of any such party (as such terms are defined in section 3 of the Federal Deposit Insurance Act), at the time of the offense; and

"(C) in an arms-length transaction (as determined by the Comptroller) which was entered into in good faith by such person,

this subsection shall not apply to such national bank with respect to such offense.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) MONEY LAUNDERING OFFENSE DEFINED.—The term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.

"(B) NATIONAL BANK.—The term 'national bank' includes any Federal branch (as defined in section 3(r) of the Federal Deposit Insurance Act).

"(C) SENIOR EXECUTIVE OFFICERS.—The term 'senior executive officers' has the meaning given to such term by the Comptroller of the Currency pursuant to section 32(f) of the Federal Deposit Insurance Act.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following new subsection:

"(w) FORFEITURE OF CHARTER FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO DECLARE CHARTER FORFEITED.—

"(A) IN GENERAL.—If the Director receives written notice from the Attorney General that any Federal savings association and directors or senior executive officers of the association have been found guilty of any money laundering offense, the Director may issue a notice to the Federal savings association of the Director's intention to declare the charter of the association to be forfeited.

"(B) NOTICE REQUIRED IN CERTAIN CASES.—If the money laundering offense of which any Federal savings association and directors or senior executive officers have been found guilty is an offense under section 1956 or 1957 of title 18, United States Code, the Director shall issue the notice described in subparagraph (A) to the association.

"(2) CONTENTS OF NOTICE.—Any notice issued by the Director pursuant to paragraph (1) shall contain the date (not to exceed 90 days after the date such notice is issued) and the place of a hearing on the proposed forfeiture.

"(3) HEARING, FORFEITURE OF CHARTER.—If, on the basis of the evidence presented at a hearing conducted in accordance with section 554 of title 5, United States Code, before the Director (or any person designated by the Director for such purpose), the Director finds that, taking into account the factors required to be considered under paragraph (4), the gravity of the offense of which the Federal savings association was found guilty outweighs the benefits which the continued operation of the association may provide (taking into account whether there will be significant losses to the Savings Association Insurance Fund or the Resolution Trust Corporation), the Director may issue an order declaring the charter of the association to be forfeited.

"(4) FACTORS FOR CONSIDERATION IN CHARTER REVOCATION PROCEEDING.—In making any determination under paragraph (3) to declare the forfeiture of the charter of any Federal savings association, the Director shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the savings association knew of, or were involved in, the commission of the money laundering offense of which the association was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

"(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) APPEARANCE, CONSENT TO FORFEITURE.—Unless the Federal savings association shall appear at the hearing by a duly authorized representative, the association shall be deemed to have consented to the forfeiture of the charter of the association and the order referred to in paragraph (3) may be issued.

"(6) JUDICIAL REVIEW.—Any order issued by the Director under this subsection may be reviewed in the manner provided in chapter 7 of title 5, United States Code.

"(7) CHANGE IN CONTROL EXCEPTION.—If the ownership or control of any Federal savings association referred to in paragraph (1) is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act)—

"(A) after the commission of any money laundering offense;

"(B) by any person who was not an institution-affiliated party of the association, or any affiliate of any such party (as such terms are defined in section 3 of the Federal Deposit Insurance Act), at the time of the offense; and

"(C) in an arms-length transaction (as determined by the Director) which was entered into in good faith by such person,

this subsection shall not apply with respect to such association.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) MONEY LAUNDERING OFFENSE.—The term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.

"(B) SENIOR EXECUTIVE OFFICERS.—The term 'senior executive officers' has the meaning given to such term by the Director pursuant to section 32(f) of the Federal Deposit Insurance Act.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 130. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OFFENSES.

"(a) NOTICE OF INTENTION TO DECLARE CHARTER FORFEITED.—

"(1) IN GENERAL.—If the Board receives written notice from the Attorney General that any Federal credit union and directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union have been found guilty of any money laundering offense, the Board may issue a notice to the Federal credit union of the Board's intention to declare the charter of the credit union to be forfeited.

"(2) NOTICE REQUIRED IN CERTAIN CASES.—If the money laundering offense of which any Federal credit union and directors, committee members, or senior executive officers of the credit union have been found guilty is an offense under section 1956 or 1957 of title 18, United States Code, the Board shall issue the notice described in paragraph (1) to the credit union.

"(b) CONTENTS OF NOTICE.—Any notice issued by the Board pursuant to subsection (a) shall contain the date (not to exceed 90 days after the date such notice is issued) and the place of a hearing on the proposed forfeiture.

"(c) HEARING, FORFEITURE OF CHARTER.—If, on the basis of the evidence presented at a hearing conducted in accordance with section 554 of title 5, United States Code, before the Board (or any person designated by the Board for such purpose), the Board finds that, taking into account the factors required to be considered under subsection (d), the gravity of the offense of which the Federal credit union was found guilty outweighs the benefits which the continued operation of the credit union may provide (taking into account whether there will be significant losses to the National Credit Union Share Insurance Fund), the Board may issue an order declaring the charter of the credit union to be forfeited.

"(d) FACTORS FOR CONSIDERATION IN CHARTER REVOCATION PROCEEDING.—In making any determination under subsection (c) to declare the forfeiture of the charter of any Federal credit union, the Board shall take into account the following factors:

"(1) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(2) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(3) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(4) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(e) APPEARANCE, CONSENT TO FORFEITURE.—Unless the Federal credit union shall appear at the hearing by a duly authorized representative, the credit union shall be deemed to have consented to the forfeiture of the charter of the credit union and the order referred to in subsection (c) may be issued.

"(f) JUDICIAL REVIEW.—Any order issued by the Board under this subsection may be reviewed in the manner provided in chapter 7 of title 5, United States Code.

"(g) MONEY LAUNDERING OFFENSE DEFINED.—For purposes of this section, the term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

SEC. 4. AUTHORITY TO TERMINATE THE INSURED STATUS OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING.

(a) STATE DEPOSITORY INSTITUTIONS OTHER THAN STATE CHARTERED CREDIT UNIONS.—

(1) TERMINATION AUTHORIZED UPON CONVICTION OF DEPOSITORY INSTITUTION.—Section 8(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(2)(A)) is amended—

(A) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(B) by inserting after clause (i) the following new clause:

"(ii) the Attorney General has provided written notice that an insured State depository institution has been found guilty of any money laundering offense;".

(2) EXCEPTION IN CASE OF CHANGE IN CONTROL.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended by adding at the end the following new paragraph:

"(11) CHANGE IN CONTROL EXCEPTION.—If the ownership or control of any State depository institution referred to in paragraph (2)(A)(ii) is acquired (as defined in section 13(f)(8)(B))—

"(A) after the commission of any money laundering offense;

"(B) by any person who was not an institution-affiliated party of the institution, or any affiliate of any such party, at the time of the offense; and

"(C) in an arms-length transaction (as determined by the Board of Directors) which was entered into in good faith by such person,

paragraph (2)(A)(ii) shall not apply to such depository institution with respect to such offense.".

(3) HEARING ON TERMINATION REQUIRED UPON CONVICTION OF INSTITUTION AND DIRECTORS AND OFFICERS.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO TERMINATE INSURANCE.—

"(A) IN GENERAL.—If the Board of Directors receives written notice from the Attorney General that any insured State depository institution and directors or senior executive officers of the depository institution have been found guilty of any money laundering offense, the Board of Directors may issue a notice to the depository institution of the Board of Directors' intention to terminate the insured status of such depository institution.

"(B) NOTICE REQUIRED IN CERTAIN CASES.—If the money laundering offense of which any insured State depository institution and directors or senior executive officers of the depository institution have been found guilty is an offense under section 1956 or 1957 of title 18, United States Code, the Board of Directors shall issue the notice described in subparagraph (A) to the depository institution.

"(2) NOTICE TO STATE BANKING SUPERVISOR.—A copy of any notice issued by the Board of Directors under paragraph (1) to any insured State depository institution shall promptly be transmitted by the Board of Directors to the appropriate State banking supervisor of such depository institution.

"(3) CONTENTS OF NOTICE.—Any notice issued by the Board of Directors pursuant to paragraph (1) shall contain the date (not to exceed 90 days after the date such notice is issued) and the place of a hearing on the proposed termination of insured status.

"(4) HEARING, TERMINATION OF INSURED STATUS.—If, on the basis of the evidence presented at a hearing conducted in accordance with section 554 of title 5, United States Code, before the Board of Directors (or any person designated by the Board of Directors for such purpose), the Board of Directors finds that, taking into account the factors required to be considered under paragraph (5), the gravity of the offense of which the depository institution was found guilty outweighs the benefits which the continuation of the insured status of the depository institution may provide (taking into account whether there will be significant losses to the Bank Insurance Fund, the Savings Association Insurance Fund, or the Resolution Trust Corporation), the Board of Directors may issue an order terminating the insured status of such State depository institution effective not earlier than the end of the 10-day period beginning on the date the State banking supervisor (of such depository institution) receives notice of the issuance of such order from the Board of Directors.

"(5) FACTORS FOR CONSIDERATION IN PROCEEDING TO TERMINATE INSURED STATUS.—In making any determination under paragraph (4) to terminate the insured status of any State depository institution, the Board of Directors shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the depository institution knew of, or were involved in, the commission of the money laundering offense of which the institution was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the depository institution which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the depository institution has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the institution was found guilty.

"(D) The extent to which the depository institution has implemented additional internal controls (since the commission of the offense of which the depository institution was found guilty) to prevent the occurrence of any other money laundering offense.

"(6) APPEARANCE, CONSENT TO TERMINATION OF INSURED STATUS.—Unless the State depository institution shall appear at the hearing by a duly authorized representative, the depository institution shall be deemed to have consented to the termination of the insured status of the depository institution and the order referred to in paragraph (4) may be issued.

"(7) JUDICIAL REVIEW.—Any order issued by the Board of Directors under this subsection may be reviewed in the manner provided in chapter 7 of title 5, United States Code.

"(8) CHANGE IN CONTROL EXCEPTION.—If the ownership or control of any depository institution referred to in paragraph (1) is acquired (as defined in section 13(f)(8)(B))—

"(A) after the commission of any money laundering offense;

"(B) by any person who was not an institution-affiliated party of the institution, or any affiliate of any such party, at the time of the offense; and

"(C) in an arms-length transaction (as determined by the Board of Directors) which was entered into in good faith by such person,

this subsection shall not apply to such depository institution with respect to such offense.

"(9) DEFINITIONS.—For purposes of this subsection and paragraphs (2)(A)(ii) and (11) of subsection (a)—

"(A) MONEY LAUNDERING OFFENSE.—The term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.

"(B) SENIOR EXECUTIVE OFFICERS.—The term 'senior executive officers' has the meaning given to such term by the Board of

Directors pursuant to section 32(f) of the Federal Deposit Insurance Act.".

(b) STATE CHARTERED CREDIT UNIONS.—

(1) TERMINATION AUTHORIZED UPON CONVICTION OF DEPOSITORY INSTITUTION.—The 1st sentence of section 206(b)(1) of the Federal Credit Union Act (12 U.S.C. 1786(b)(1)) is amended by inserting "or the Board is notified in writing by the Attorney General that an insured credit union has been found guilty of any money laundering offense," after "entered into with the Board,".

(2) HEARING ON TERMINATION REQUIRED UPON CONVICTION OF INSTITUTION AND DIRECTORS AND OFFICERS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO TERMINATE INSURANCE.—

"(A) IN GENERAL.—If the Board receives written notice from the Attorney General that any insured State chartered credit union and directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union have been found guilty of any money laundering offense, the Board may issue a notice to the credit union of the Board's intention to terminate the insured status of such credit union.

"(B) NOTICE REQUIRED IN CERTAIN CASES.—If the money laundering offense of which any insured State chartered credit union and directors, committee members, or senior executive officers of the credit union have been found guilty is an offense under section 1956 or 1957 of title 18, United States Code, the Board shall issue the notice described in paragraph (1) to the credit union.

"(2) NOTICE TO STATE CREDIT UNION SUPERVISOR.—A copy of any notice issued by the Board under paragraph (1) to any insured State chartered credit union shall promptly be transmitted by the Board to the appropriate State credit union supervisor of such credit union.

"(3) CONTENTS OF NOTICE.—Any notice issued pursuant to paragraph (1) shall contain the date (not to exceed 90 days after the date such notice is issued) and the place of a hearing on the proposed termination of insured status.

"(4) HEARING, TERMINATION OF INSURED STATUS.—If, on the basis of the evidence presented at a hearing conducted in accordance with section 554 of title 5, United States Code, before the Board (or any person designated by the Board for such purpose), the Board finds that, taking into account the factors required to be considered under paragraph (5), the gravity of the offense of which the credit union was found guilty outweighs the benefits which the continuation of the insured status of the credit union may provide (taking into account whether there will be significant losses to the National Credit Union Share Insurance Fund), the Board may issue an order terminating the insured status of such State chartered credit union effective not earlier than the end of the 10-day period beginning on the date the State credit union supervisor (of such credit union) receives notice of the issuance of such order from the Board.

"(5) FACTORS FOR CONSIDERATION IN PROCEEDING TO TERMINATE INSURED STATUS.—In making any determination under paragraph (4) to terminate the insured status of any State chartered credit union, the Board shall take into account the following factors:

"(A) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(D) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(6) APPEARANCE, CONSENT TO TERMINATION OF INSURED STATUS.—Unless the State chartered credit union shall appear at the hearing by a duly authorized representative, the credit union shall be deemed to have consented to the termination of insured status of the credit union and the order referred to in paragraph (4) may be issued.

"(7) JUDICIAL REVIEW.—Any order issued by the Board under this subsection may be reviewed in the manner provided in chapter 7 of title 5, United States Code.

"(8) MONEY LAUNDERING OFFENSE DEFINED.—For purposes of this subsection and subsection (b)(1), the term 'money laundering offense' means any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The last sentence of section 8(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(2)(A)) is amended by inserting "and shall not apply with respect to any notice under clause (ii)" before the period.

(2) Section 8(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(6)) is amended by striking "such termination" the 1st place such term appears and inserting "any termination of the insured status of any depository institution under this subsection or subsection (w)".

(3) The 1st sentence of section 8(a)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(7)) is amended by striking "this subsection," and inserting "this subsection or subsection (w),".

(4) The 1st sentence of section 206(c) of the Federal Credit Union Act (12 U.S.C. 1786(c)) is amended by striking "(a)(2) or (b)" and inserting "(a)(2), (b), or (v)".

(5) The 1st sentence of section 206(d)(1) of the Federal Credit Union Act (12 U.S.C. 1786(d)(1)) is amended by striking "(a)(1) or (b)" and inserting "(a)(1), (b), or (v)".

SEC. 5. REMOVAL OF PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the appropriate Federal banking agency determines that—

"(i) any institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code (unless such violation was inadvertent or unintentional);

"(ii) any director or officer of any insured depository institution has knowledge that any other institution-affiliated party (with respect to such institution) has committed—

"(I) any violation of such subchapter II; or

"(II) any criminal violation of section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31 of such Code; or

"(iii) any director or officer of any insured depository institution has committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, director, or officer a written notice of the agency's intention to remove the person from office.

"(B) FACTORS TO BE CONSIDERED UNDER SUBPARAGRAPH (A)(ii).—In determining whether an officer or director should be removed under the circumstances described in subparagraph (A)(ii), the agency shall consider whether the director or officer took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking "(g)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(g) PROVISIONS APPLICABLE IN THE CASE OF FELONY CHARGES AGAINST INSTITUTION-AFFILIATED PARTIES.—

"(1) SUSPENSION OR PROHIBITION AUTHORIZED.—

"(A) IN GENERAL.—If—

"(i) any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(I) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding 1 year under State or Federal law, or

"(II) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense under section 5322 of title 31, United States Code; and

"(ii) the appropriate Federal banking agency determines that the continued service or participation by such party may—

"(I) pose a threat to the interests of the depository institution's depositors; or

"(II) threaten to impair public confidence in the depository institution,

the agency may, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) PROVISIONS APPLICABLE TO SUBPARAGRAPH (A) NOTICE.—

"(i) NOTICE TO INSTITUTION.—A copy of any notice issued under subparagraph (A) shall be served upon the depository institution referred to in such subparagraph.

"(ii) EFFECTIVE PERIOD.—Any suspension or prohibition notice under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the agency.

"(C) REMOVAL OR PROHIBITION UPON CONVICTION.—If—

"(i) any judgment of conviction or any agreement to enter a pretrial diversion or other similar program is entered, and has become final, against any institution-affiliated party in connection with any crime described in subparagraph (A)(i)(I); and

"(ii) the appropriate Federal banking agency determines that continued service or participation by such party may—

"(I) pose a threat to the interests of the depository institution's depositors; or

"(II) threaten to impair public confidence in the depository institution,

the agency may issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(D) REMOVAL AND PROHIBITION REQUIRED FOR CONVICTION OF CERTAIN OFFENSES.—If any judgment of conviction or an agreement to enter any pretrial diversion or other similar program is entered, and has become final, against any institution-affiliated party in connection with any crime described in subparagraph (A)(i)(II), the appropriate Federal banking agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(E) PROVISIONS APPLICABLE TO SUBPARAGRAPH (C) OR (D) NOTICE.—

"(i) NOTICE TO INSTITUTION.—A copy of any order issued under subparagraph (C) or (D) shall also be served upon the depository institution referred to in such subparagraph.

"(ii) EFFECTIVE DATE OF CERTAIN ORDERS.—If the institution-affiliated party against whom an order is issued under subparagraph (C) or (D) is a director or officer of any insured depository institution, such party shall cease to be a director or officer of such depository institution upon receipt of notice by the institution under clause (i).

"(F) AUTHORITY OF AGENCY TO PROCEED IN OTHER CASES.—A finding of not guilty or other disposition of any charge described in clause (i) of subparagraph (A) shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in the affairs of an insured depository institution pursuant to paragraph (1), (2), or (3) of subsection (e) of this section.

"(G) EFFECTIVE PERIOD OF NOTICE OR ORDER.—Any notice of suspension or order of removal or prohibition issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the Board determines that—

"(i) any institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code (unless such violation was inadvertent or unintentional);

"(ii) an officer or director of an insured credit union has knowledge that any other institution-affiliated party (with respect to the insured credit union) has committed—

"(I) any violation of such subchapter II; or

"(II) any criminal violation of section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31 of such Code; or

"(iii) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of the Board's intention to remove such person from office.

"(B) FACTORS TO BE CONSIDERED UNDER SUBPARAGRAPH (A)(ii).—In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION AUTHORIZED.—

"(A) IN GENERAL.—If—

"(i) any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(I) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding 1 year under State or Federal law; or

"(II) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense under section 5322 of title 31, United States Code; and

"(ii) the Board determines that the continued service or participation by such party may—

"(I) pose a threat to the interests of the credit union's members; or

"(II) threaten to impair public confidence in the credit union,

the Board may, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) PROVISIONS APPLICABLE TO SUBPARAGRAPH (A) NOTICE.—

"(i) NOTICE TO INSTITUTION.—A copy of any notice issued under subparagraph (A) shall be served upon the credit union referred to in such subparagraph.

"(ii) EFFECTIVE PERIOD.—Any suspension or prohibition notice under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Board.

"(C) REMOVAL OR PROHIBITION UPON CONVICTION.—If—

"(i) any judgment of conviction or any agreement to enter a pretrial diversion or other similar program is entered, and has become final, against any institution-affiliated party in connection with any crime described in subparagraph (A)(i)(I); and

"(ii) the Board determines that continued service or participation by such party may—

"(I) pose a threat to the interests of the credit union's depositors; or

"(II) threaten to impair public confidence in the credit union,

the Board may issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union.

"(D) REMOVAL AND PROHIBITION REQUIRED FOR CONVICTION OF CERTAIN OFFENSES.—If any judgment of conviction or any agreement to enter a pretrial diversion or other similar program is entered, and has become final, against any institution-affiliated party in connection with any crime described in subparagraph (A)(i)(II), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union.

"(E) PROVISIONS APPLICABLE TO SUBPARAGRAPH (C) OR (D) NOTICE.—

"(i) NOTICE TO INSTITUTION.—A copy of any order issued under subparagraph (C) or (D) shall also be served upon the credit union referred to in such subparagraph.

"(ii) EFFECTIVE DATE OF CERTAIN ORDERS.—If the institution-affiliated party against whom an order is issued under subparagraph (C) or (D) is a director or officer of any insured credit union, such party shall cease to be a director or officer of such credit union upon receipt of notice by the credit union under clause (i).

"(F) AUTHORITY OF BOARD TO PROCEED IN OTHER CASES.—A finding of not guilty or other disposition of any charge described in clause (i) of subparagraph (A) shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in the affairs of an insured credit union pursuant to paragraph (1), (2), or (3) of subsection (g) of this section.

"(G) EFFECTIVE PERIOD OF NOTICE OR ORDER.—Any notice of suspension or order of removal or prohibition issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

SEC. 6. MONEY LAUNDERING ENFORCEMENT ACTIVITIES.

(a) INCLUSION IN ANNUAL REPORTS REQUIRED.—Section 918(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833) is amended—

(1) by redesignating paragraph (6) as paragraph (8); and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) The names and locations of all insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), insured credit unions (as defined in section 101(7) of the Federal Credit Union Act), and institution-affiliated parties (as defined in section 3(u) of the Federal Deposit Insurance Act and section 206(r) of the Federal Credit Union Act, respectively) which were found guilty of any offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.

"(7) The actions taken by the appropriate agency described in subsection (b) with respect to any insured depository institution, insured credit union, or institution-affiliated party described in paragraph (6) as a result of such institution, credit union, or party having been found guilty of an offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(b) NO PARTICIPATION IN AFFAIRS OF DEPOSITORY INSTITUTION AFTER CONVICTION FOR MONEY LAUNDERING OFFENSE.—Section 19(a)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)(A)) is amended by inserting "or any money laundering offense (as defined in section 8(w)(9)(A))" after "breach of trust".

(c) ATTORNEY GENERAL NOTICE REQUIREMENT.—Section 1956 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957, or section 5322 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.".

(d) TECHNICAL CORRECTIONS TO PROVISIONS RELATING TO MONEY LAUNDRY ENFORCEMENT ACTIVITIES.—

(1) Section 5318(a)(1) of title 31, United States Code, is amended—

(A) by striking "or the Postal Inspection Service"; and

(B) by inserting "United States" before "Postal Service".

(2) Section 5322(a) of title 31, United States Code, is amended by striking "imprisonment" and inserting "imprisoned for".

SEC. 7. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—Section 5321(a)(6) of title 31, United States Code, is amended to read as follows:

"(6) NEGLIGENCE.—

"(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

"(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than $50,000 on the financial institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to violations committed after the date of the enactment of this Act.

SEC. 8. AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN COPIES OF CTRS FROM CUSTOMERS WHICH ARE UNREGULATED BUSINESSES.

Section 5326 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection:

"(b) AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN REPORTS FROM CUSTOMERS.—

"(1) IN GENERAL.—The Secretary of the Treasury may, by regulation or order, require any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) to request any financial institution (other than a depository institution) which engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution under this subtitle with respect to any prior transaction (between such financial institution and any other person) which involved any portion of the coins or currency (or monetary instruments) which are involved in the reportable transaction with the depository institution; and

"(B) if no copy of any report described in subparagraph (A) is received by the depository institution in connection with any reportable transaction to which such subparagraph applies, to submit (in addition to any report required under this subtitle with respect to the reportable transaction) a written notice to the Secretary that the financial institution failed to provide any copy of such report.

"(2) REPORTABLE TRANSACTION DEFINED.—For purposes of this subsection, the term 'reportable transaction' means any transaction involving coins or currency (or such other monetary instruments as the Secretary may describe in the regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.".

SEC. 9. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following new section:

"§ 5327. Identification of financial institutions

"(a) REGULATIONS REQUIRED.—By October 1, 1991, the Secretary shall prescribe regulations requiring each depository institution to identify any customer (of the depository institution) which—

"(1) is a financial institution described in—

"(A) any subparagraph of section 5312(a)(2) other than subparagraphs (A) through (G); or

"(B) any regulation under any such subparagraph; and

"(2) has any account with the depository institution.

"(b) REPORTS REQUIRED.—Each depository institution shall report the names of and other information about financial institution customers required to be identified under subsection (a) to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation.

"(c) REPORTING OFFENSES.—No person shall cause or attempt to cause any depository institution to fail to file a report required by this section or to file a report containing a material omission or misstatement of fact.

"(d) AVAILABILITY OF REPORTS.—The Secretary shall provide reports filed under subsection (b) to appropriate State financial institution supervisory agencies for supervisory purposes.

"(e) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution' means any financial institution described in subparagraph (A), (B), (C), (D), (E), or (F) of section 5312(a)(2).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(7) FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.—

"(A) PENALTY AUTHORIZED.—The Secretary may impose a civil penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.".

(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5326 the following new item:

"5327. Identification of financial institutions.".

SEC. 10. UNIFORM STATE LICENSING AND REGULATION OF CHECK CASHING SERVICES.

(a) UNIFORM LAWS AND ENFORCEMENT.—For purposes of preventing money laundering and protecting the payment system from fraud and abuse, it is the sense of the Congress that the several States should—

(1) establish uniform laws for licensing and regulating businesses which—

(A) provide check cashing services, transmit money, or issue or redeem money orders, travelers' checks, and other similar instruments; and

(B) are not depository institutions (as defined in section 19(b)(1)(A) of the Federal Reserve Act); and

(2) provide sufficient resources to the appropriate State agency to enforce such laws and regulations prescribed pursuant to such laws.

(b) MODEL STATUTE.—It is the sense of the Congress that the several States should develop, through the auspices of the National Conference of Commissioners on Uniform State Laws, the American Law Institute, or such other forum as the States may determine to be appropriate, a model statute to carry out the goals described in subsection (a) which would include the following:

(1) LICENSING REQUIREMENTS.—A requirement that any issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments, and any transmitter of money, other than a depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), be licensed and regulated by an appropriate State agency in order to engage in any such activity within the State.

(2) LICENSING STANDARDS.—A requirement that—

(A) in order for any issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments, and any transmitter of money to be licensed in the State, the appropriate State agency shall review and approve—

(i) the business record and the capital adequacy of the business seeking the license; and

(ii) the competence, experience, integrity, and financial ability of any individual who—

(I) is a director, officer, or supervisory employee of such business; or

(II) owns or controls such business; and

(B) any record, on the part of any business seeking the license or any person referred to in subparagraph (A)(ii), of—

(i) any criminal activity;

(ii) any fraud or other act of personal dishonesty;

(iii) any act, omission, or practice which constitutes a breach of a fiduciary duty; or

(iv) any suspension or removal, by any agency or department of the United States or any State, from participation in the conduct of any federally or State licensed or regulated business,

may be grounds for the denial of any such license by the appropriate State agency.

(3) PROCEDURES TO ENSURE COMPLIANCE WITH FEDERAL CASH TRANSACTION REPORTING REQUIREMENTS.—A civil or criminal penalty for operating any business referred to in paragraph (1) without establishing and complying with appropriate procedures to ensure compliance with subchapter II of chapter 53 of title 31, United States Code (relating to records and reports on monetary instruments transactions).

(4) CRIMINAL PENALTIES FOR OPERATION OF BUSINESS WITHOUT A LICENSE.—A criminal penalty for operating any business referred to in paragraph (1) without a license within the State after the end of an appropriate transition period beginning on the date of the enactment of such model statute by the State.

(c) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of—

(1) the progress made by the several States in developing and enacting a model statute which—

(A) meets the requirements of subsection (b); and

(B) furthers the goals of—

(i) preventing money laundering by businesses which are required to be licensed under any such statute; and

(ii) protecting the payment system, including the receipt, payment, collection, and clearing of checks, from fraud and abuse by such businesses; and

(2) the adequacy of—

(A) the activity of the several States in enforcing the requirements of such statute; and

(B) the resources made available to the appropriate State agencies for such enforcement activity.

(d) REPORT REQUIRED.—Before the end of the 3-year period beginning on the date of the enactment of this Act and by the end of each 1-year period beginning after the end of such period, the Secretary of the Treasury shall submit a report to the Congress containing the findings and recommendations of the Secretary in connection with the study under subsection (c), together with such recommendations for legislative and administrative action as the Secretary may determine to be appropriate, including any recommendation pursuant to subsection (e).

(e) RECOMMENDATIONS FOR INCENTIVES OR SANCTIONS IN CASES OF INADEQUATE REGULATION AND ENFORCEMENT BY STATES.—If the Secretary of the Treasury determines that any State has failed—

(1) to enact a statute which meets the requirements described in subsection (b);

(2) to undertake adequate activity to enforce such statute; or

(3) to make adequate resources available to the appropriate State agency for such enforcement activity,

the report submitted pursuant to subsection (d) shall contain recommendations for legislation establishing incentives which may be provided or sanctions which may be imposed to remedy such failure.

(f) FEE LIMITATIONS.—

(1) CONSIDERATION.—It is the sense of the Congress that the several States should consider, in connection with the enactment of any statute described in this section, whether or not limitations on any fee imposed, charged, or collected for cashing or redeeming any checks, money orders, travelers' checks, or other similar instruments are appropriate.

(2) SUBSECTION (e) NOT APPLICABLE.—Subsection (e) shall not apply with respect to paragraph (1).

SEC. 11. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) IN GENERAL.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) OFFENSE ESTABLISHED.—Whoever conducts, controls, manages, supervises, directs, or owns all or part of any business with the knowledge that such business is an illegal money transmitting business shall be fined in accordance with title 18, or imprisoned not more than 5 years, or both.

"(b) DEFINITIONS.—As used in this section—

"(1) ILLEGAL MONEY TRANSMITTING BUSINESS.—The term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law.

"(2) MONEY TRANSMITTING.—The term 'money transmitting' includes transferring funds on behalf of the public by any means including transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier.

"(3) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) CIVIL FORFEITURE.—

(1) IN GENERAL.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

(2) ENFORCEMENT PROVISION.—Section 981(b)(1)(A)(ii) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

(c) CRIMINAL FORFEITURE.—Section 982(a)(1) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 95 of title 18, United States Code, is amended by adding at the end the following new item:

"1960. Prohibition of illegal money transmitting businesses.".

SEC. 12. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN FUNDS TRANSFERS.

(a) RECORDKEEPING REGULATIONS REQUIRED.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following new paragraphs:

"(2) DOMESTIC FUNDS TRANSFERS.—Whenever the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') determine that the maintenance of records, by insured depository institutions, of payment orders which direct transfers of funds over wholesale funds transfer systems has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, the Secretary and the Board shall jointly prescribe regulations to carry out the purposes of this section with respect to the maintenance of such records.

"(3) INTERNATIONAL FUNDS TRANSFERS.—

"(A) IN GENERAL.—Before May 15, 1991, the Secretary and the Board shall jointly prescribe, after consultation with State banking supervisors, such final regulations as may be appropriate to ensure that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments,

as will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary or the Board upon request.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 21(c) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(c)) is amended by striking "Each insured" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), each insured".

(2) Section 21(e) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(e)) is amended by striking "Whenever any" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), whenever any".

(3) Section 21(f) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(f)) is amended by striking "In addition to" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b) and in addition to".

SEC. 13. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by inserting after subsection (b) (as added by section 8 of this Act) the following new subsection:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of or terms of the order to any person except as prescribed by the Secretary.".

SEC. 14. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENT.

The last sentence of section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended—

(1) by inserting "in good faith" after "disclosure of information";

(2) by striking "or" after "such disclosure" and inserting a comma; and

(3) by inserting before the period the following: ", or for a refusal to do business with that customer after having made such disclosure".

SEC. 15. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF FINANCIAL INSTITUTIONS OTHER THAN DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5327 (as added by section 9(a) of this Act) the following new section:

"§ 5328. Whistleblower protections

"(a) PROHIBITION AGAINST DISCRIMINATION.—No financial institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or 1960 of title 18, or any regulation under any such provision, by the financial institution or any director, officer, or employee of the financial institution.

"(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the financial institution which committed the violation to—

"(1) reinstate the employee to the employee's former position;

"(2) pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5327 (as added by section 9(c) of this Act) the following new item:

"5328. Whistleblower protections.".

SEC. 16. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

SEC. 17. ADVISORY GROUP ON REPORTING REQUIREMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986.

(b) PURPOSES.—The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

(c) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).

SEC. 18. INFORMATION FROM CURRENCY SURPLUS REPORTS REQUIRED TO BE PROVIDED TO THE ATTORNEY GENERAL AND THE SECRETARY OF THE TREASURY.

At the request of the Attorney General of the United States or the Secretary of the Treasury, the Board of Governors of the Federal Reserve System shall provide any information and data contained in or related to the cash surplus reports of the Federal Reserve banks (relating to currency held by each such bank and depository institutions within the Federal Reserve bank districts) which may be relevant or useful for detecting violations of money laundering, recordkeeping, and reporting requirements to the Attorney General and the Secretary of the Treasury.

SEC. 19. GAO FEASIBILITY STUDY OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a feasibility study of the Financial Crimes Enforcement Network (popularly referred to as "Fincen") established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

(b) SPECIFIC REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine and evaluate—

(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

(A) who is to be given access to the information in the system;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

(c) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

SEC. 20. REPORTS ON AMOUNTS AND DENOMINATIONS OF CURRENCY CONFISCATED IN CONNECTION WITH DRUG SEIZURES AND DRUG-RELATED MONEY LAUNDERING.

(a) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall collect and maintain information on—

(A) the total dollar amount of Federal Reserve notes (and any other currency) which are confiscated by law enforcement agents in connection with the seizure of any controlled substance or any enforcement action with regard to a drug-related money laundering operation; and

(B) the total dollar amount of each denomination of such notes and other currency.

(2) INFORMATION PROVIDED BY OTHER AGENCIES.—In the case of any confiscation described in paragraph (1) by any Federal law enforcement agents who are not employed within the Department of the Treasury, the head of the department or agency in which such agents are employed shall promptly provide the information referred to in such paragraph to the Secretary of the Treasury.

(b) PLAN FOR COLLECTION OF INFORMATION FROM STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—The Secretary of the Treasury shall develop a plan for obtaining from appropriate agencies and departments of State and local governments information on the amounts and the denominations of Federal Reserve notes (and any other currency) which are confiscated by State or local law enforcement agents in connection with the seizure of any controlled substance or any enforcement action with regard to a drug-related money laundering operation.

(2) REPORT.—Before the end of the 90-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the plan developed pursuant to paragraph (1), including such recommendations for legislative or administrative action as the Secretary determines to be necessary to implement the plan.

(c) PERIODIC REPORTS ON COLLECTED INFORMATION.—The Secretary of the Treasury shall submit a report to the Congress containing a summary of the information collected and maintained by the Secretary under this section at the end of each 6-month period beginning after the date of the enactment of this Act.

(d) REPORT ON NEED FOR ADDITIONAL INFORMATION.—Before the end of the 90-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on what other information (in addition to the information maintained pursuant to subsection (a)) would be needed in order to determine—

(1) whether Federal Reserve notes in denominations of $50 and $100 are used primarily for drug trafficking and other illegal activities; and

(2) the feasibility of withdrawing Federal Reserve notes in denominations of $50 and $100 from circulation and the deterrent effect such withdrawal would have on drug trafficking and other illegal activities.

(e) REPORT ON CURRENCY CHANGES.—Before the end of the 90-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Attorney General and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 21. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "or only for criminal investigative or prosecutive purposes relating to money laundering by the Department of the Treasury" after "the Department of Justice".

SEC. 22. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) Additional Coverage Established Under Federal Deposit Insurance Act.—

(1) In general.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) In General.—

"(1) Employees of depository institutions.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution or any director, officer, or employee of the institution.

"(2) Employees of banking agencies.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency which employs such employee.".

(2) Technical and conforming amendment.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) Definition.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) Federal Banking Agency Defined.—For purposes of subsections (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.".

(4) Effective date.—Paragraph (2) of section 33(a) of the Federal Deposit Insurance Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 33(b) of such Act shall be deemed to begin on such date of enactment.

(b) Additional Coverage Established Under Federal Credit Union Act.—

(1) In general.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) In General.—

"(1) Employees of credit unions.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) Employees of the administration.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union the Administration;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the Administration.".

(2) Technical and conforming amendment.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(3) Effective date.—Paragraph (2) of section 213(a) of the Federal Credit Union Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment.

(c) Coverage for Employees of RTC and RTC Contractors.—

(1) Coverage established.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC and RTC Contractor Employee Protection Remedy.—

"(1) Prohibition against discrimination.—The Corporation and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation in such corporation's capacity as manager of the Corporation or any personnel referred to in subsection (b)(9)(B)(ii)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation or such person or any director, officer, or employee of the Corporation or the person.

"(2) Enforcement.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(3) Remedies.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) Limitation.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

(2) Effective date.—Subsection (q) of section 21A of the Federal Home Loan Bank Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.

SEC. 23. CURRENCY REPORTING REQUIREMENTS APPLICABLE TO CONGRESS.

(a) In General.—Any officer of the Senate or the House of Representatives who provides check cashing or deposit services for Members of Congress shall provide such services in accordance with such procedures as may be necessary to ensure compliance with subchapter II of chapter 53 of title 31, United States Code.

(b) Exercise of Rulemaking Power.—Subsection (a) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it shall be considered as part of the rules of each House, and shall supersede any other rule only to the extent of any inconsistency with such other rule; and

(2) with full recognition of the constitutional right of either House to change such rule (so far as relating to such House) in the same manner and to the same extent as in the case of any other rule of such House.

SEC. 24. RESTRICTIONS ON STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSE.

(a) Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

"(e) Limitation on Activities After Conviction for Money Laundering Offenses.—

"(1) Notice of intention to issue order.—

"(A) In general.—If the Board finds or receives written notice from the Attorney General that any foreign bank which operates a State agency or a State branch which is not an insured branch, any State agency, any State branch which is not an insured branch, or any director or senior executive officer of any such foreign bank, agency, or branch has been found guilty of any money laundering offense, the Board may issue a notice to the agency or branch of the Board's intention to issue an order which prohibits the agency or branch from—

"(i) participating directly or indirectly in any aspect of the payment system, including any clearing or electronic fund transfer system;

"(ii) accepting deposits, offering or providing payment services, holding credit balances, and making loans; and

"(iii) engaging in any other activity which is similar to any activity described in this subparagraph.

"(B) NOTICE REQUIRED IN CERTAIN CASES.—If the money laundering offense of which any foreign bank, State agency, State branch, or director or senior executive officer referred to in subparagraph (A) has been found guilty is an offense under section 1956, 1957, or 1960 of title 18, United States Code, the Board shall issue the notice described in subparagraph (A) to the agency or branch.

"(2) CONTENTS OF NOTICE.—Any notice issued by the Board pursuant to paragraph (1) shall contain the date (not to exceed 90 days after the date such notice is issued) and the place of a hearing on the proposed order.

"(3) HEARING, ISSUANCE OF ORDER.—If, on the basis of the evidence presented at a hearing conducted in accordance with section 554 of title 5, United States Code, before the Board (or any person designated by the Board for such purpose), the Board finds that, taking into account the factors required to be considered under paragraph (4), the gravity of the offense of which the State agency or branch was found guilty outweighs the benefits which the continued operation of the agency or branch may provide, the Board may issue the order described in paragraph (1)(A).

"(4) FACTORS FOR CONSIDERATION IN PROCEEDING.—In making any determination under paragraph (3) to issue an order described in paragraph (1)(A) to any State agency or branch, the Board shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the agency or branch knew of, or were involved in, the commission of the money laundering offense of which the bank was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the agency or branch which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the agency or branch has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the agency or branch was found guilty.

"(D) The extent to which the agency or branch has implemented additional internal controls (since the commission of the offense of which the agency or branch was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) APPEARANCE, CONSENT TO FORFEITURE.—Unless the State agency or branch to which a notice was issued under paragraph (1)(A) shall appear at the hearing by a duly authorized representative, the agency or branch shall be deemed to have consented to the forfeiture of all rights, privileges, and franchises of the agency or branch and the order referred to in paragraph (3) may be issued.

"(6) JUDICIAL REVIEW.—Any order issued by the Board under this subsection may be reviewed in the manner provided in chapter 7 of title 5, United States Code.

"(7) CHANGE IN CONTROL EXCEPTION.—If the ownership or control of any State agency or branch referred to in paragraph (1) is acquired (as defined in section 13(f)(8)(B) of the Federal Deposit Insurance Act)—

"(A) after the commission of any money laundering offense;

"(B) by any person who was not an institution-affiliated party of the agency or branch, or any affiliate of any such party (as such terms are defined in section 3 of the Federal Deposit Insurance Act), at the time of the offense; and

"(C) in an arms-length transaction (as determined by the Board) which was entered into in good faith by such person,

this subsection shall not apply to such agency or branch with respect to such offense.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) INSURED BRANCH.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) MONEY LAUNDERING OFFENSE DEFINED.—The term 'money laundering offense' means any offense under section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code.

"(C) SENIOR EXECUTIVE OFFICERS.—The term 'senior executive officers' has the meaning given to such term by the Board pursuant to section 32(f) of the Federal Deposit Insurance Act.".

SEC. 25. TECHNICAL CORRECTION TO MONEY LAUNDERING PROVISION.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),".

SEC. 26. STRUCTURING TRANSACTIONS TO EVADE CMIR REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by striking "No person" and inserting "(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS.—No person"; and

(2) by adding at the end the following new subsection:

"(b) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file a report required under section 5316;

"(2) file, or cause or attempt to cause a person to file, a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

SEC. 27. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY.

Section 102 of the Crime Control Act of 1990 is amended to read as follows:

"SEC. 102. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY.

"Before the end of the 30-day period beginning on the date of the enactment of the Money Laundering Enforcement Amendments of 1991, the Secretary of the Treasury shall initiate a study by the Department of the Treasury under which—

"(1) a survey shall be conducted of the methods and technologies that may be used in the production of Federal Reserve notes issued under the 1st undesignated paragraph of section 16 of the Federal Reserve Act in denominations of $10 or more to make such notes traceable through the use of an electronic scanning device (including any such notes in circulation on such date); and

"(2) an assessment and evaluation shall be made of the cost of implementing the methods and technologies surveyed pursuant to paragraph (1) and the amount of time which would be needed to implement each such method or technology.".

SEC. 28. GAO STUDY OF CASH TRANSACTION REPORTING SYSTEM.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the manner in which the Secretary of the Treasury has implemented and is enforcing compliance with the recordkeeping and reporting requirements of subchapter II of chapter 53 of title 31, United States Code and section 6050I of the Internal Revenue Code of 1986.

(b) CERTAIN ISSUES TO BE INCLUDED IN STUDY.—The study conducted pursuant to subsection (a) shall include—

(1) a review of the operation of the system established for receiving cash transaction reports from financial institutions pursuant to such requirements and the extent to which—

(A) the manner in which such reports have been obtained and used by the Secretary has improved compliance with criminal, tax, and regulatory provisions of law; and

(B) the reports have been useful to the Secretary in criminal, tax, or regulatory investigations or proceedings; and

(2) an assessment of the tangible and intangible costs which compliance with the recordkeeping and reporting requirements described in subsection (a) directly or indirectly imposes on the payment system and financial institutions which are part of the payment system.

(c) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing—

(1) the Comptroller General's finding and conclusions in connection with the study conducted pursuant to subsection (a); and

(2) such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

SEC. 29. PROHIBITION ON DISCLOSURE OF SUSPICIOUS TRANSACTION REPORTS.

Section 5318 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g) NONDISCLOSURE OF SUSPICIOUS TRANSACTION REPORTS.—If any financial institution or any officer, director, employee, or agent of any financial institution provides information described in the second sentence of section 1103(c) of the Right to Financial Privacy Act which may be relevant to a possible violation of this subchapter or section 1956, 1957, or 1960 of title 18 to the Secretary or any appropriate supervisory agency, the fact that such information has been provided to the Secretary, the Attorney General, or the agency may not be disclosed, directly or indirectly, by the financial institution or any officer, director, employee, or agent of the financial institution to any person named in or otherwise the subject of the information provided to the Secretary or agency except as prescribed by the Secretary.".

SEC. 30. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) IN GENERAL.—

"(1) CERTAIN DEFENSES PRECLUDED.—In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution, or other fungible property, it shall not be—

"(A) necessary for the Government to identify the specific property involved in the offense giving rise to the forfeiture; and

"(B) a defense that the property involved in such offense has been removed and replaced by identical property.

"(2) IDENTICAL PROPERTY FOUND IN THE SAME PLACE.—Except as provided in subsection (b), any identical property found in the same place or account as the property involved in the offense giving rise to forfeiture shall be subject to forfeiture under this section.

"(b) STATUTE OF LIMITATIONS.—The Government may not rely on this section to forfeit property not traced directly to the offense giving rise to forfeiture unless the action for forfeiture is commenced before the end of the 1-year period beginning on the date of the offense giving rise to the forfeiture.

"(c) SCOPE OF APPLICATION.—This section shall apply to any action for forfeiture brought by the Government in connection with any offense under section 1956, 1957, or 1960 of this title or section 5322 of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 46 of title 18, United States Code, is amended by adding at the end the following new item:

"984. Civil forfeiture of fungible property.".

(c) RETROACTIVE APPLICATION.—The amendments made by this section shall apply retroactively.

SEC. 31. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by inserting after section 984 (as added by section 30 of this Act) the following new section:

"§ 985. Administrative subpoenas

"(a) For the purpose of conducting a civil investigation in contemplation of a civil in rem forfeiture proceeding in connection with any suspected violation of section 1956, 1957, or 1960 of this title or section 5322 of title 31, the Attorney General may—

"(1) administer oaths and affirmations;

"(2) take evidence; and

"(3) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(b) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this section. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(c) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under subsection (b) not later than 5 days after the date of service.

"(d) A subpoena may be issued pursuant to this section at any time up to the commencement of a judicial proceeding under this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 46 of title 18, United States Code, is amended by inserting after the item relating to section 984 (as added by section 30 of this Act) adding the following new item:

"985. Administrative subpoenas.".

SEC. 32. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by inserting after section 985 (as added by section 31 of this Act) the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture in rem brought by the Government under any law of the United States, any party may request the clerk of the court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution (as defined in section 5312(a) of title 31) to produce books, records, and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any records called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 46 of title 18, United States Code, is amended by inserting after the item relating to section 985 (as added by section 31 of this Act) the following new item:

"986. Subpoenas for bank records.".

SEC. 33. USE OF GRAND JURY INFORMATION FOR BANK FRAUD AND MONEY LAUNDERING FORFEITURES.

Section 3322(a) of title 18, United States Code, is amended—

(1) by striking "section 981(a)(1)(C)" and inserting "section 981(a)(1)"; and

(2) by inserting "or money laundering" after "concerning a banking law".

SEC. 34. MONEY LAUNDERING CONSPIRACIES.

Section 371 of title 18, United States Code (relating to conspiracy to commit offense or to defraud the United States) is amended—

(1) in the 1st undesignated paragraph, by striking "If two or more" and inserting "(a) IN GENERAL.—If 2 or more";

(2) in the 2d undesignated paragraph, by striking "If, however, the offense" and inserting "(b) PUNISHMENT IN CASE OF CONSPIRACY TO COMMIT A MISDEMEANOR.—Notwithstanding the punishment provided in subsection (a), if the offense"; and

(3) by adding at the end the following new subsection:

"(c) PUNISHMENT IN CASE OF CONSPIRACY TO COMMIT A MONEY LAUNDERING OFFENSE.—Notwithstanding the maximum punishment provided in subsection (a), if the offense, the commission of which is the object of the conspiracy, is an offense under section 1956 or 1957, the person conspiring to commit such offense shall be subject to the same penalties as the penalties prescribed under such sections for the offense.".

SEC. 35. MONEY LAUNDERING.

(a) ANNUAL REPORTS.—Section 481(e) of the Foreign Assistance Act of 1961 is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Each report pursuant to this subsection shall include a report on major money laundering countries. This report shall specify—

"(i) which countries are major money laundering countries;

"(ii) which of the countries identified pursuant to clause (i) have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(iii) which countries identified pursuant to clause (ii) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

"(iv) which countries identified pursuant to clause (iii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel of adequate records in connection with narcotics investigations and proceedings.

"(B) In addition, for each major money laundering country, the report shall include findings on the country's adoption of laws and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required financial institutions to record large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required financial institutions to report suspicious transactions;

"(iv) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(v) enacted laws for the sharing of seized narcotics assets with other governments; and

"(vi) cooperated when requested with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government to address such obstacles, including the imposition of sanctions or penalties.

"(C) The report shall also include information on multilateral and bilateral strategies pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries.

"(D) As used in this paragraph, the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.".

(b) DEFINITION OF MAJOR DRUG-TRANSIT COUNTRY.—Section 481(i)(5) of that Act is amended—

(1) by inserting "or" at the end of subparagraph (A);

(2) by striking out "; or" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 26, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring this bill to the floor today. The Money Laundering Enforcement Amendments of 1991 is carefully crafted legislation designed to get tough with banks and other financial institutions convicted of laundering money.

Last year, Congress came within a whisker of enacting nearly identical legislation. On two separate occasions, the House passed money laundering bills. Unfortunately, the Senate failed to enact this legislation before the 101st Congress adjourned. This legislation takes up where we left off last year.

I appreciate the assistance and cooperation in crafting this legislation received from the chairman of the Banking Committee, Mr. GONZALEZ. Without his assistance and efforts, we would not be considering this bill today.

I also want to recognize the special efforts of the ranking minority member of the Subcommittee on Financial Institutions and my close colleague, Mr. WYLIE. He has worked very hard on this legislation, both this year and last year, and he deserves much credit for this bipartisan effort on preventing money laundering. As always, it has been both an honor and a pleasure working with him.

Unfortunately, Mr. WYLIE could not be on the floor for consideration of this legislation. However, I am pleased to recognize the presence of the distinguished gentleman from Iowa [Mr. LEACH] who was also very instrumental in the development of this legislation.

At the outset, I want to make one fact perfectly clear. Money laundering is not some victimless, inconsequential byproduct of illegal drug activity. Nothing could be further from the truth.

Money laundering is the very core of the illegal narcotics business. It is just as essential to dealers as the drugs they sell. Without money laundering, the drug trade in this Nation could be reduced to little more than a trickle.

Let us remind ourselves of one core fact of the drug business: dealers do not sell drugs out of a sense of charity. Their motivation is greed. Extraordinary profits result from the sale of drugs, sometimes tens of thousands of dollars a day, or more.

Another core fact of the drug business is that it is a cash business. Drug dealers do not use checks, and they do not accept credit cards.

They accept cash, and nothing else. However, rooms filled with $10, $20, and $50 bills don't have much real value. Sure, you can buy mink coats, fancy jewelry, and maybe even expensive cars with cash, but drug dealers can take in hundreds of thousands of dollars each week.

After a certain point, all these rooms filled with millions in currency have little real value, unless these ill-gotten profits can be converted into bank credit. Unless this cash can be laundered, the drug dealer becomes awash in dollar bills, and his millions are worth only what he can wear, drive, or carry. Those dollars are nothing but pieces of paper until the dope dealer converts them to bank credit.

Thus, money laundering is the drug dealer's lifeline to profitability. Without money laundering, a vast majority of the drug dealer's profits would be choked off. Without extraordinary profits, there would not be much of a drug business in this country.

That is why money laundering is so important to the drug trade, and why it is so important that Congress take every effort to eliminate money laundering in the United States.

Those who launder drug money are accomplices to every drug-related murder in this country. Murderers can go to the electric chair but, until now no one has devised a way to execute a bank.

The bill before us today amends the Bank Secrecy Act. This law was designed to enable law enforcement authorities to track the deposits of large sums of cash into the banking system. The law has been strengthened over the years and remains the prime tool for detecting money laundering. H.R. 26 further strengthens this law, by taking money laundering out of banks, and banks and bankers out of money laundering.

The bill permits financial institution regulators to revoke the charters of banks engaged in money laundering when two or more officers or directors are also convicted. Thus, this legislation puts grossly negligent institutions out of business. The threat of fines and forfeitures have proven to be totally inadequate. All too often, it is merely a cost of doing business.

This bill also banks individuals convicted of money laundering from future bank employment. It allows Federal regulators to remove the management of banks convicted of money laundering.

Money laundering threatens the safety and soundness of banks and corrupts the banking system. It is no coincidence in my mind that money laundering occurred in the two biggest bank failures of the past year, the National Bank of Washington and the Bank of New England.

These convictions occurred because bank management had little interest and fewer procedures in place to prevent money laundering. We have since learned that the same attitude extended to these bank's lending practices, where there was little or no attempt to monitor asset quality.

My legislation gives the regulators the authority to revoke the charter of money laundering financial institutions. We can only speculate how much money would have been saved if the management of these banks had been removed or the institution put into conservatorship. New management might not have saved these banks, but it certainly couldn't have done much worse than the management which allowed them to launder money and make bad loans.

This legislation not only takes the profit out of money laundering, it takes the management out of money laundering institutions. H.R. 26 deserves the support of this House.

Mr. Speaker, I urge passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I rise today in support of H.R. 26, the Money Laundering Enforcement Amendments of 1991. I want to congratulate Mr. ANNUNZIO, chairman of the Subcommittee on Financial Institutions, for his tireless efforts in bringing this bill forward. Thanks to his efforts, we will soon have the tools to more effectively combat drug traffickers and money launderers.

I want to remind my colleagues that this important legislation was first brought before this House, and passed, in similar form, last year. Unfortunately, it did not become law when the Senate failed to take it up.

At the start of the 102d Congress, the subcommittee immediately began hearings and passed out a bill for the full committee's consideration. The full committee supports this bill and passed it by voice vote in early March.

This bill is designed to keep our Nations' law enforcement agencies a step ahead of the drug dealers, the foreign cartels, and the underworld kingpins that launder their illegal profits through banks and cash businesses. I urge my colleagues to support this legislation as the next step in addressing the drug trade that tears at the heart of our communities.

Mr. LEACH. Mr. Speaker, I also rise in strong support of this legislation. Many of the provisions of this bill may seem familiar to my colleagues. The last Congress, the House then passed two similar pieces of legislation. One passed unanimously, 406 to 0, the other passed by a voice vote. Unfortunately, the other body did not pass either bill.

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For the last 2 years, under the leadership of the subcommittee chairman, the gentleman from Illinois [Mr. ANNUNZIO], and the ranking Republican, the gentleman from Ohio [Mr. WYLIE], the Committee on Banking, Finance and Urban Affairs has held hearings to get understanding of how best to curb or to strengthen Federal efforts to curb money laundering. The main thrust of the committee has been the initiative to impose the death penalty on financial institutions which launder money.

Under H.R. 26, federally chartered banks, thrifts, and credit unions could have their charters revoked and State institutions could lose Federal deposit insurance if they are caught laundering money. Bank officers or directors convicted of money laundering would be barred from future employment with financial institutions.

Mr. Speaker, as this body understands, putting banks out of business for channeling illegal moneys is a very serious and very severe penalty. Accordingly, this penalty is reserved only for institutions where the felonious conduct is pervasive within the institution and where the gravity of the offense outweighs the benefits the institution may provide to its community in the future.

The bill also includes provisions making it easier for the Government to seize, through civil forfeiture proceedings, money laundered funds and increasing penalties for money laundering offenses. These provisions were added by the gentleman from Ohio [Mr. WYLIE].

Mr. Speaker, financial markets are rapidly changing. Organized crime syndicates and drug traffickers are finding new ways to mainstream the loot gained from their criminal activities. Financial institutions willing to assist traffickers in recycling drug profits stand to gain huge profits themselves. The lure of such illegal profits must be curbed, and that is exactly what this legislation is designed to do.

Mr. Speaker, the administration supports House passage of this legislation but will seek certain amendments in the other body to, among other things, change the bank secrecy law to implement recommendations of the G-7 Financial Action Task Force on Money Laundering.

The gentleman from Illinois [Mr. ANNUNZIO] and the gentleman from Ohio [Mr. WYLIE] have done yeoman-like work in this legislation. They are to be commended. I compliment them in this legislation, and I urge unanimous support for passage of this particular bill.

Mr. WYLIE. Mr. Speaker, I want to go on record in support of H.R. 26, the Money Laundering Amendments of 1991. This bill represents 2 years of bipartisan effort. I commend my colleague, Chairman ANNUNZIO, for his untiring efforts to pass this much needed money laundering legislation. I support all of the provisions in H.R. 26 except for one section that was changed after this bill was reported out of the Banking Committee. I will address my concerns about this section, involving international negotiations, later.

Mr. Speaker, money laundering is the lifeblood of any large criminal enterprise involving the sale of drugs. Drug dealers must rid themselves of vast quanitities of cash in order to legitimize their profits. Many drug dealers use couriers to carry cash out of the country in suitcase. Some of these criminal have been able to gain access to domestic banks and branches of foreign banks in the United States. The most notable example of a rogue bank is the Bank of Credit and Commerce International. This Arab-owned, Luxembourg-based bank used its branches in Florida to launder millions in drug proceeds for several Colombian cartels. In 1988, BCCI pleaded guilty to money laundering and paid a $14 million fine.

H.R. 26 will allow the Government to shut down banks, such as BCCI, if there is a conviction for money laundering. I believe that this sanction, the loss of the bank's charter, will prove to be a very effective deterrent to those individuals who are considering using banks to convert their cash. This is especially true when you look at all of the activities in which BCCI was involved. Since BCCI's indictment we have discovered that BCCI had an international reputation for capital flight, tax fraud, and money laundering that far exceeded its Florida operation. Equally disturbing is the clandestine control that BCCI had over some other banks in this country. You only need to look as far as First American Bankshares here in Washington. I am hoping that the House Banking Committee will look into the operations of these banks with more scrutiny.

Mr. Speaker, H.R. 26 contains a number of other provisions that will go a long way toward fighting money laundering. People operating illegal money transmitting businesses will be subject to fine or imprisonment. The Federal Reserve will be authorized to shut down foreign branches and agencies that are convicted of money laundering. Additionally, the bill contains a number of provisions to allow the Justice Department to seize laundered funds through civil forfeiture proceedings. I proposed these amendments adding this new civil forfeiture authority. It will make it easier for U.S. attorneys to seize fungible property, such as funds that have been converted to other accounts or other financial products. The Attorney General will also be able to use administrative subpoenas to pursue civil forfeiture investigations rather than having to use the grand jury process.

There is, however, one section of H.R. 26 that troubles me and I hope to be able to improve it when we go to conference. I offered an amendment during committee markup of this bill to assist the Treasury Department in its attempts to negotiate agreements with countries whose financial institutions are suspected of engaging in money laundering. These agreements would allow for the exchange of information regarding drug traffickers and would also act as an incentive for countries to adopt their own money laundering laws. Unfortunately, a provision in the 1988 drug bill provided for explicit, mandatory sanctions for countries that do not sign agreements. These sanctions include a prohibition on accounts in U.S. banks and the exclusion of a country from the international payments system. This has resulted in a number of countries refusing to even talk about money laundering agreements, even though they are more than willing to negotiate on any other kind of law enforcement treaty. The Banking Committee passed an amendment giving Treasury a broader mandate to negotiate these agreements, and requiring Treasury to report to Congress what progress is being made. The amendment also allowed Treasury to recommend what sanctions would be appropriate. I am confidant that if we passed the Banking Committee's language we would get more cooperation from other countries and still have the ability to apply sanctions on a case-by-case basis.

Regrettably, the Foreign Affairs Committee thought otherwise and reinstated the sanctions from the 1988 drug bill, which I believe will inhibit international negotiations. As defined in section 35, virtually every country in Latin America, and many others throughout the world, would fall under the label major money laundering country because of the large number of drug dollars which, wittingly or unwittingly, pass through financial institutions. The bill does not sufficiently address the problem of the laundering of drug proceeds through means other than currency transactions, such as funds transfers by wire and the purchase or sale of checks, money orders, or other monetary instruments. Finally, by requiring identification of pending discussions and negotiations, the Foreign Affairs amendment could jeopardize talks now underway and may preclude the initiation of others. The Treasury Department has consistently assured countries that the U.S. Government would not comment on the status of these talks in a public forum.

Despite these reservations, I am still strongly in favor of H.R. 26. I just wanted to share my concerns with my colleagues and hopefully work with them to improve the international provisions.

Mrs. PATTERSON. Mr. Speaker, Members of the House will vote on H.R. 26, the Money Laundering Enforcement Amendments of 1991. As a member of the Banking Committee, I strongly support this bill.

Money laundering conceals a source of funds derived from unlawful activity. Those engaged in illegal activity often use the American banking system to convert their criminal proceeds into clear profits. More often than not, the illegal activity I am referring to is the drug trade.

The drug trade is, for the most part, a cash and carry business. It is a business that generates a huge amount of cash. In a briefing, the Subcommittee on Financial Institutions listened to officers from various metropolitan law enforcement agencies tell incredible stories—true stories—of drug traffickers bringing suitcases full of cash to deposit into the U.S. banking system.

H.R. 26 is designed to expose the criminal and take the profit out of crime. More importantly, it is designed to target not only the criminal on the corner, but the criminal in the corner office.

H.R. 26 contains provisions that will impose sanctions on those institutions that knowingly participate in money laundering schemes. Bank managers will no longer be able to look the other way as tellers count up thousands of dollars for deposit. The bill would allow regulators to impose the death penalty—shutting down a nationally chartered institution where the senior managers are convicted of money laundering. State chartered institutions whose senior level managers are found guilty would face termination of the Federal deposit insurance.

H.R. 26 provides job protection for bank employees who report suspicious activities to banking regulators or the Justice Department. It also closes a loophole by requiring the Treasury and the Federal Reserve to adopt rules governing Federal wire transfers. Too often, criminals who make their profits on Main Street wire it out of the country to avoid investigation.

Mr. Speaker, H.R. 26 gives this Congress the opportunity to do something about drug profits. It will stop criminals from making a clean getaway with dirty money.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman from Iowa [Mr. LEACH], my friend, for yielding, and I just want to add a few brief thoughts on this very important issue. I want to compliment the gentleman from Illinois [Mr. ANNUNZIO], the gentleman from Ohio [Mr. WYLIE] and, of course, my good friend, the gentleman from Iowa [Mr. LEACH], for all the time they have put into this effort.

Mr. Speaker, this is very important legislation. If we are going to win this war, the war on drugs, then this is one of the things that we have to implement, and money laundering must be stopped in order to win this war essentially.

Mr. Speaker, we have looked at this legislation in our Committee on Banking, Finance and Urban Affairs for a long time. There are only two ways we can win the war on drugs basically, and that is impede the sale of drugs; that is, to get at the supplier and/or after the user, and we must do that to get after money laundering. This legislation has had a good deal of study and consideration by the members of the committee. It is a type of legislation that we can all support. The legislation does not run roughshod over due process. It is not perfect, but it goes a long way to solving this problem and helping us win the war on drugs.

One of the other issues that I think we have to bring up which dovetails with this is that we do need a strong crime bill. We have to get after the drug pusher. We have to get after the people who violate the law, and, once they know we mean business, I think that we can go a long way to winning the war on drugs, and nothing would please me more than to get up on the floor of Congress and to say that the new Norman Schwarzkopf is the man from Chicago, Mr. ANNUNZIO.

Mr. Speaker, I say to the gentleman from Illinois [Mr. ANNUNZIO], "I think we are going to go a long way in making it possible for us to win this war which is so essential for the future of this country and to the young people of our country, the children of this country, so I compliment the people in this Congress who have worked so long and hard on this legislation."

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman from Wisconsin [Mr. ROTH].

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, let me briefly draw attention to a very important issue included in H.R. 26, as amended: Reporting on international money laundering.

The 1988 drug bill included a provision known as the Kerry amendment. That amendment attempted to focus attention on an increasingly important issue: international money laundering.

It required the Secretary of the Treasury to identify foreign countries which are major money launderers.

It required negotiations with those countries to enable the United States to obtain information on drug-related currency transactions.

And it held out the threat of denying access to U.S. financial markets to countries which failed to reach agreement on providing such information. A final report on these negotiations was submitted in November 1990.

Unfortunately, the executive branch has dragged its feet in complying with the Kerry amendment's requirements. Many U.S. embassies were not notified until the last minute that a country had been identified as a major money laundering country. During 2 years, only one agreement was signed.

And the final report submitted to the Congress was classified, which prevented any public discussion of which countries were considered to be major money laundering countries by the executive branch, much less the degree to which they were willing to exchange information with the United States.

The reporting requirement contained in the Kerry amendment has now expired, but the important issue addressed by that amendment has not. Drug-related money laundering continues to be a major problem. In fact, some have suggested that attacking the profits of the drug trade will eventually prove more effective than all of our efforts on eradication and interdiction. But in an age of wire transfers, we can only attack the money laundering problem if we have international cooperation.

The bill which we have before us, H.R. 26, contains in section 35, a follow-on provison which I sponsored. Section 35 builds on an important lesson we have learned since the Kerry amendment was adopted: Drug traffickers are getting more sophisticated with their financial shenanigans. The world of money laundering extends far beyond the currency transactions on which the Kerry amendment focused. We also need to look at suspicious transactions, cross-border transactions, a country's ability to identify, trace, freeze, seize, and forfeit drug-related assets, and other such issues. This amendment would require reporting on all of those areas.

Second, the reporting on these issues is to be done in the annual INCSR report, the State Department drug control report. There are two reasons for this; one is to consolidate reporting wherever possible instead of requiring separate reports. The other is to bring this information out into the open. We already require substantial unclassified reporting on other areas of international cooperation in the drug arena. There is no convincing reason as to why problem countries, or cooperative countries for that matter, shouldn't be named publicly.

Third, section 35 will give us information on money laundering initiatives carried out by all U.S. Government agencies. It also suggests the need for those agencies to develop common strategies. The Departments of State, Justice, and Treasury all have international money laundering initiatives underway. We need to be aware of all of them, and try to ensure some degree of commonality among them. Rather than take the side of one agency or the other, we give this reporting authority to the President.

Finally, my amendment retains that part of current law which allows the President to impose sanctions on countries which he deems to be less than forthcoming in sharing financial information with us. My amendment does not require the President to impose sanctions, but leaves him the flexibility to do so.

I believe that section 35 of the bill before us, as approved by the Foreign Affairs Committee, and agreed to by the Banking Committee, strengthens and improves current law. I would like to thank Chairman GONZALEZ, ranking minority member CHALMERS WYLIE, and subcommittee Chairman FRANK ANNUNZIO and their respective staffs for their assistance and cooperation in bringing this matter to the floor. I hope that all Members will support this important initiative.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. FEIGHAN. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I appreciate the gentleman from Ohio [Mr. FEIGHAN] yielding, and I just want to acknowledge the outstanding job that he has done on the Committee on Foreign Affairs. His contribution has made this a better bill. I am looking forward to having the bill passed by the House, and we are going to take it to the Senate once more.

□ 1230

Mr. LEACH. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank my friend, the gentleman from Iowa, for yielding time to me, and I would like to compliment him on his fine work. I would also like to take this time to compliment the chairman of the subcommittee, the gentleman from Illinois [Mr. ANNUNZIO] for his fine work on this legislation.

I am from California, and we certainly do have a very serious problem with the flow of drug trafficking dollars which have come into our State, as do many of the States which are considered to be in the southern part of this country.

As we look at this challenge, it really is a war. Some people have said we should not call this a war on drugs, but it obviously is, and we know that as we look at the many different ways in which we deal with this war through the interdiction at the borders. We deal with that in Mexico, and we are seeing improvement in that area.

So it seems to me that as we improve our results in the interdiction of drugs at the border, it is apparent that we should do everything possible to attack the problem we face in the area of drug trafficking dollars. That is exactly what this legislation does.

I had the opportunity to work on this when I was a member of the Committee on Banking, Finance and Currency, and I am delighted to have the opportunity to compliment my colleagues on their results. It took my departure from the committee for the Members to get this legislation out. I look forward to more of their fine work, and I look forward to the time when this bill becomes law.

Mr. LEACH. Mr. Speaker, I have no further requests for time, but before yielding back my time, I would like to say that this truly is an ornament to the career of the gentleman from Illinois [Mr. ANNUNZIO], and the Members should be very appreciative of his initiative.

Mr. ANNUNZIO. Mr. Speaker, the gentleman from Texas [Mr. PICKLE] is a member of the Committee on Ways and Means, and I am delighted that he is here with us. I want to express my deep thanks to him and the Committee on Ways and Means for their contribution to this bill and what they have done to make this a better bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Illinois for yielding time to me.

Mr. Speaker, the Committee on Ways and Means has jurisdiction over section 6050I of the Internal Revenue Code which is the subject of a number of provisions in this legislation. I believe that the Committee on Ways and Means should have had an opportunity to consider the provisions relating to the Internal Revenue Code. However, I also believe strongly that action by the Congress to address money laundering in this country is of utmost importance. As such, I do not intend to raise jurisdictional concerns at this time. I would like to use the consideration of H.R. 26 as an opportunity to make the House aware of the recent activities of the Committee on Ways and Means and the Internal Revenue Service to address money laundering.

The Ways and Means Committee's Subcommittee on Oversight, which I chair, conducted an extensive investigation into compliance with section 6050I last year resulting in significant legislative reforms to improve the business community's compliance large cash transaction reporting. As a result of the Oversight Subcommittee's efforts, section 6050I was modified to prevent the structuring of transactions to avoid reporting and strengthen sanctions of noncompliance.

Administratively, the IRS has developed a comprehensive money laundering action plan to increase compliance through enforcement and public education. The IRS is also conducting sweeps in various cities to detect business noncompliance with the cash reporting requirements.

The Subcommittee on Oversight is continuing to monitor developments relating to section 6050I and the form 8300 program. The Ways and Means Committee looks forward to receiving the results of the studies contained in H.R. 26.

Money launderers are notorious for devising new and ingenious ways to clean or disguise their cash. That makes it necessary for Congress to continually reexamine our existing laws and procedures to determine if they are adequate to the task.

Mr. Speaker, I wish to include with my remarks two articles, one of the Associated Press dated May 24, 1991, and the other an article appearing in New York Newsday on May 25, 1991, on this subject matter. The articles are as follows:

[From the Associated Press, May 24, 1991]

IRS PROPOSES NEW MONEY LAUNDERING REGULATIONS

(By Carolyn Skorneck)

WASHINGTON.—People who hope to spend ill-gotten gains and hide the transactions from the government by paying with a combination of cash, bank drafts and traveler's checks had better think again.

The Internal Revenue Service has proposed new regulations to crack down on money laundering by drug-traffickers and tax cheaters who want to hide their income.

"We're trying to hinder people with stacks of $100 bills," IRS spokesman Don Roberts said Thursday. "There's nothing as useless as a $100 bill if you can't spend it. We want to make it difficult if not impossible for them to convert the bales of cash they have into the consumer goods they want."

Under current regulations, businesses of all kinds must tell the IRS about cash payments when they are $10,000 or more by filing something called a Form 8300.

The new twist is that cashier's checks, bank drafts, traveler's checks and money orders would be considered the same as cash and would be reported if the combination totals $10,000 or more.

"We've heard of some businesses that advise customers in some cases not to give $10,000 in cash, but to break it up and give them less than $10,000 in some kind of other instrument, money order or traveler's check," said Wilson Fadely, another IRS spokesman.

In an example cited by the IRS of how the proposed regulations would work, a jewelry store that accepts a $9,000 money order and $9,000 in cash for an $18,000 diamond ring would have to file a Form 8300. That's not required under the current rules.

The proposed changes were prompted by a congressional hearing on such evasions held last fall by the House Ways and Means Committee's oversight subcommittee headed by Rep. J.J. Pickle, D-Texas.

Pickle praised the proposed changes as a "good start," but he said businesses have failed to report all the cash transactions they should have reported under the current rules.

"Without their help, government will never be able to stamp out money laundering and tax evasion," Pickle said. "Businessmen must stop doing business under the table. It's illegal.

The civil penalties for failing to file the form range from $50 for an inadvertent failure to $100,000 for intentionally disregarding the rules, Fadely said. Those guilty of the latter may also face money laundering charges.

Since the law requiring Form 8300 filings for cash purchases took effect in 1985, businesses have filed some 107,000 of the forms, the IRS said.

The proposed changes will not take effect for at least a few months.

Written comments on the proposal are due June 14, and a public hearing is scheduled for June 28, Fadely said. After that, final regulations will be drawn up, and they will become law 60 days after they are issued.

[From New York Newsday, May 25, 1991]

IRS TARGETS ILL-GOTTEN GAINS: BANK DRAFTS, TRAVELER'S CHECKS, MONEY ORDERS REDEFINED AS CASH

WASHINGTON.—People who hope to spend ill-gotten gains and hide the transactions from the government by paying with a combination of cash, bank drafts and traveler's checks has better think again.

The Internal Revenue Service has proposed new regulations to crack down on money laundering by drug-traffickers and tax cheaters who want to hide their income.

"We're trying to hinder people with stacks of $100 bills," IRS spokesman Don Roberts said, "There's nothing as useless as a $100 bill if you can't spend it."

Under current regulations, businesses of all kinds must tell the IRS about cash payments when they are $10,000 or more by filing a special form.

The new twist is that cashier's checks, bank drafts, traveler's checks and money orders would be considered the same as cash and would be reported if the combination totals $10,000 or more.

In an example cited by the IRS of how the proposed regulation would work, a jewelry store that accepts a $9,000 money order and $9,000 in cash for an $18,000 diamond ring would have to file a Form 8300. That's not required under the current rules.

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Pickle praised the proposed changes as a "good start," but he said businesses have failed to report all the cash transactions they should have reported under the current rules. "Without their help, government will never be able to stamp out money laundering and tax evasion," Pickle said.

The civil penalties for failing to file the form range from $50 for an inadvertent failure to $100,000 for intentionally disregarding the rules, the IRS said. Those guilty of the latter may also face money laundering charges.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman from Texas [Mr. PICKLE] for his very excellent statement and for his support of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 26, as amended.

The question was taken.

Mr. ANNUNZIO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION FOR MEMBERS TO FILE AMENDMENTS TO H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991

Mr. FEIGHAN. Mr. Speaker, I ask unanimous consent that all Members may have until 5 p.m. today to file amendments to H.R. 2508, the International Cooperation Act of 1991, pursuant to the rule.

I understand that this unanimous consent has been acquiesced in by the minority side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1240

NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING ACT

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2435) to establish a National Council on Education Standards and Testing, as amended.

The Clerk read as follows:

H.R. 2435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Council on Education Standards and Testing Act".

SEC. 2. PURPOSE OF FINDINGS.

(a) PURPOSE.—The purpose of this Act is to create a national council to provide advice on the desirability and feasbility of national standards and testing in education.

(b) FINDINGS.—The Congress finds that—

(1) organizations have begun developing national education standards for various subject areas and grade levels;

(2) groups have called for the expansion of national testing for school children;

(3) decisions regarding the desirability and feasibility of additional national testing should follow such decisions on national standards for education;

(4) efforts regarding national standards and testing should be undertaken with the broadest possible participation by the public; and

(5) a major national council is needed to assure broad participation by the public, to provide a focus for national debate on national education standards and testing, and to provide advice on the desirability and feasibility of developing national standards and testing.

SEC. 3. ESTABLISHMENT.

There is established a council to be known as the National Council on Education Standards and Testing (in this Act referred to as the "Council").

SEC. 4. DUTIES.

The Council shall advise the American people on—

(1) whether suitable specific education standards should and can be established, such as world class standards, for—

(A) the knowledge and skills that students should possess and that schools should impart in order that American students leave grades 4, 8, and 12 demonstrating competency in challenging subject matter including English, mathematic, science, history, and geography; and

(B) every school in America to ensure that all students learn to use their minds well so that they will be prepared for responsible citizenship, further learning, and productive employment in our modern economy; and

(2) whether, while respecting State and local control of education, an appropriate system for voluntary national tests or examination should and can be established, such as American achievement tests, that will provide prompt, accurate information to parents, educators, and policymakers on the progress being made toward the specific education standards by individual students, schools, school systems, States, and the Nation as a whole (if such system shall be to foster good teaching and learning, as well as to monitor performance.

SEC. 5. REPORTS.

(a) FINAL REPORT.—The Council shall, as soon as possible, but not later than December 31 1991, submit a report to the Congress, the Secretary of Education, and the National Education Goals Panel that contains recommendations regarding long-term policies, structures, mechanisms, and other important considerations with respect to the objectives described in paragraphs (1) and (2) of section 4. A discussion of the validity, reliability, fairness, and costs of implementing a system of voluntary national tests or examinations shall also be included in such report.

(b) INTERIM REPORTS.—The Council may submit to the Congress, the Secretary of Education, and the National Education Goals Panel interim reports it considers appropriate.

SEC. 6. MEMBERSHIP.

(a) IN GENERAL.—The Council shall be composed of 32 members as follows:

(1) The Secretary of Education shall appoint 22 members to include at least one representative from each of the following:

(A) The Administration.

(B) The Commission on Achievement of Necessary Skills.

(C) The National Assessment Governing Board.

(D) State legislators.

(E) Chief State school officers.

(F) School administrators.

(G) Elementary or secondary school teachers.

(H) Institutions of higher education.

(I) Individuals with expertise in education standards and testing.

(J) National teacher organizations.

(2) The Chairperson or a designee of the National Education Goals Panel.

(3) The Governor designated to serve as Chairperson of the National Education Goals Panel for the year succeeding the year in which such panel is meeting (or a designee).

(4) The Speaker of the House of Representatives shall appoint 1 member (excluding Members of Congress).

(5) The minority leader of the House of Representatives shall appoint 1 member (excluding Members of Congress).

(6) The majority leader of the Senate shall appoint 1 member (excluding Members of Congress).

(7) The minority leader of the Senate shall appoint 1 member (excluding Members of Congress).

(8) The Chairman of the Committee on Education and Labor of the House or a designee.

(9) The ranking minority member of the Committee on Education and Labor of the House or a designee.

(10) The Chairman of the Committee on Labor and Human Resources of the Senate or a designee.

(11) The ranking minority member of the Committee on Labor and Human Resources of the Senate or a designee.

(b) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(c) TERM OF APPOINTMENT.—Members shall be appointed for the life of the Council.

(d) QUORUM.—17 members of the Council shall constitute a quorum.

(e) COCHAIRPERSONS.—The Chairperson of the National Education Goals Panel or a designee and the Governor designated to serve as the Chairperson for the succeeding year in which the panel is meeting (or a designee) shall serve as cochairpersons of the Council upon the date of the enactment of this Act.

(f) COMPENSATION.—

(1) MEMBERS.—Except as provided in paragraph (2), members of the Council shall each be reimbursed at a rate not to exceed the rate of pay for level III of the Executive Schedule for each day (including travel time) during which they are engaged in the performance of duties vested in the Council.

(2) EXCEPTION.—Members of the Council who are full-time officers or employees of the United States or Members of Congress shall receive no additional compensation by reason of their service on the Council.

SEC. 7. DIRECTOR AND STAFF; EXPERT AND CONSULTANTS.

(a) DIRECTOR.—The cochairpersons of the Council shall, without regard to the provisions of title 5, United States Code relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay for level III of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The cochairpersons may appoint personnel as they consider appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Council may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Council shall not exceed the rate of basic pay for level V of the Executive Schedule.

(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Council, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Council to assist the Council in its duties under this Act.

SEC. 8. POWERS OF COUNCIL.

(a) HEARINGS.—The Council may, for the purpose of this Act, hold hearings, sit and act at the times and places, take testimony, and receive evidence, the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before it.

(b) DELEGATION OF AUTHORITY.—Any number or agent of the Council may, if authorized by the Council, take any action the Council is authorized to take by this section.

(c) INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Council, the head of a department or agency shall furnish the information to the Council to the extent permitted by law.

(d) GIFTS AND DONATIONS.—(1) Subject to the regulations established under paragraph (2), the Council may accept, use, and dispose of gifts or donations of services or property.

(2) The Cochairpersons of the Council are authorized to establish regulations setting forth the criteria the Council shall use to determine whether the acceptance of gifts or donations of services under paragraph (1) would reflect unfavorably upon the ability of the Council or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a government program or any official involved in such program.

(e) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) SUPPORT SERVICE.—The Secretary of Education shall provide to the Council, on a reimbursable basis, administrative support services as the Council may request.

SEC. 9. FEDERAL ADVISORY COMMITTEE ACT.

Sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.) are the only sections of such Act that shall apply with respect to the Council.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 to carry out this Act which shall remain available until expended or until the termination of the Council, whichever occurs first.

SEC. 11. TERMINATION.

The Council will cease to exist 90 days after submitting its final report.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. GUNDERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2435 proposes the establishment of a National Council on Education Standards and Testing to make recommendations to the Congress, the Secretary of Education and the National Educational Goals Panel regarding the desirability and feasibility of national education standards and a system of national testing.

Its provisions are the result of a subcommittee hearing on testing and conversations I have had with the Secretary Alexander and Governor Romer, chair of the National Education Goals Panel.

We all agree that combining the efforts of the National Education Goals Panel and the Congress concerning the questions of standards and testing is a constructive way to proceed.

The issues of national education standards and national testing have tremendous implications for our Nation's public education.

The collaboration provided for in this bill should help us find out more about both the desirability and the feasibility of such proposals, and should clarify what further action, if any, the Congress ought to take in this area.

The National Council on Education Standards and Testing would supercede an interim advisory panel recently organized by the National Education Goals Panel.

As part of our agreement, those individuals previously identified to serve on the interim panel will now serve on the National Council on Education Standards and Testing.

Four Members of Congress will serve on the Council and the House and the Senate will each appoint additional members of the Council.

The Council would be asked to issue its recommendations as quickly as possible, but no later than December 31, 1991.

One million dollars is authorized for the Council's operation.

The issues addressed by H.R. 2435 require careful, deliberate, and timely consideration, and that is what the bill provides.

H.R. 2435 represents both an agreement between the House and executive branch as well as a bipartisan agreement within the House.

The following is the joint statement on the bill which Secretary Alexander, Congressman GOODLING, and I have agreed to:

> Secretary Alexander and I have talked with Governors, both Democrat and Republican, who are working on these matters. They think, as we do, that combining the efforts of the National Education Goals Panel and Members of Congress on these questions of standards and testing is a constructive way to work together. This should help us know more about how to go about encouraging or creating a national examination system as well as whether there ought to be one. As these discussions continue, it should become clearer what further action, if any, the Congress ought to take in this area.

I urge the adoption of this bill.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of H.R. 2435, a bill to create a National Council on Education Standards and Testing.

There are few more important issues that will be debated this year affecting education than whether we ought to have national standards and national testing in elementary and secondary education. Over the last several months, the President and several organizations have called for such national standards and testing.

During the entire course of our Nation's history, the operating principle in public education has been local control. Yet, for a variety of reasons the President and other prestigious groups and individuals have decided that we must alter this tradition for the sake of the country.

Mr. Speaker, I myself do not know whether I agree or disagree with this call for national standards and testing. But cearly it is an issue that ought to be debated thoroughly with the full involvement of all parts of our population. The adoption of national standards and testing, even if voluntary, will have an enormous influence on what is taught in our schools, and, therefore, we must be highly thoughtful in deciding these issues.

Congressman KILDEE has offered a good approach to dealing with this matter. Earlier this year Mr. KILDEE perceived that these issues would be of prime importance and, therefore, he scheduled hearings and began drafting legislation in this area. The bill we are considering today is the legislation that Mr. KILDEE has been writing for the last several months.

Two weeks ago the administration announced its intent to appoint a council to consider the same issues of national standards and testing. Fortunately, Mr. KILDEE and Secretary Alexander were able to mesh their proposals so that we have before us today a council which is supported by both the Congress and the administration.

A key difference between the Secretary's proposal and Mr. KILDEE'S is that Mr. KILDEE wanted the council to consider the desirability as well as the feasibility of national standards and testing. The Secretary, reflecting the President's decision to advocate such standards and tesing, limited his proposal to considering how best the President's recommendations could be implemented. I am pleased that Secretary Alexander has seen the wisdom in Mr. KILDEE'S approach and has agreed that this Council should consider both the desirability and feasibility of national standards and testing.

Another key aspect of the legislation is that the Congress will appoint eight members to this Council. We understand that the Secretary will appoint to the council the people whom he recommended as his appointees 2 weeks ago. However, Congress reserves the right to appoint additional people under this bill in order to assure the broadest participation involving all points of view in the deliberations of this Council.

Mr. Speaker, again let me commend Congressman KILDEE and Secretary Alexander for agreeing on this proposal. Our Nation needs cooperation from the highest level in Washington down to the classroom level if we are all to work together to improve education. This bill serves as a good beginning.

Mr. GUNDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us is important for at least two reasons. First, H.R. 2435 is really the first component of President Bush's and Secretary Alexander's education initiative, America 2000, to reach the House floor. The fact that the minority and majority of our committee along with the Secretary were able to reach agreement on this proposal signals that we will be able to have a constructive debate on reforming education in the House and produce legislation that will be truly revolutionary. In addition, this bill makes the Congress and the Committee on Education and Labor a player in this important policy area.

This legislation is also important for what it proposes, that America come together and decide whether it is in the national interest to have national education standards. These standards would represent what it is students need to know if they are to be successful, and if America is to be successful. Further, the Council created by H.R. 2435 would debate the pros and cons of a voluntary national examination system. A system that would tell every parent who elects to participate how his or her child is doing relative to these agreed upon goals.

I will admit that this is a major departure from how Americans have viewed education in the past. Several concerns have been raised about creating national standards and a voluntary national test. Many of these concerns are valid and need to be discussed openly and weighed carefully. The challenge facing this Council will be to balance the desirability of an exam system that would provide public accountability and improvement of instruction while ensuring that such a system is fair, reliable, valid, and cost effective.

The results of the National Assessment of Educational Progress [NAEP] released last week underline the need for dramatic and swift action to improve our school system. While I was pleased to see my own State of Wisconsin among the top States in math achievement, the Nation must be given a C− overall for its performance. Let me quote from the NAEP report:

> Fewer than half the high-school seniors (46 percent) demonstrated a consistent grasp of decimals, percents, fractions, and simple algebra, and only 5 percent showed an understanding of geometry and algebra that suggested preparedness for the study of relatively advanced mathematics. These figures show that many students appear to be graduating from high school with little of the mathematics understanding required by the fastest growing occupations or for college work.

More disturbing than the scores, or output measures, were the findings that many math teachers are not properly prepared to teach math, that many students are not exposed to math concepts tested by NAEP, and that students do very little math homework. Most troubling, however, was the finding that students generally have a positive view of their math abilities despite their dismal performance.

So, it appears that we have a long way to go as a nation to improve our teacher preparation, support for learning in the home, improved curriculum and instruction, and better measures of student performance. H.R. 2435 is a good start toward achieving these objectives and the Nation's education goals set out by the President in American 2000.

I congratulate Mr. KILDEE for his work in bringing this bill to the floor and urge my colleagues to vote in favor of its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the bill, H.R. 2435, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. KILDEE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 64

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Table of contents.

TITLE I—NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

Sec. 101. Short title.
Sec. 102. National Commission on a Longer School Year Act.

TITLE II—NATIONAL WRITING PROJECT

Sec. 201. Findings.
Sec. 202. National writing project.

TITLE III—MISCELLANEOUS

Sec. 301. Instruction on the history and principles of democracy in the United States.

TITLE I—NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

SEC. 101. SHORT TITLE.

This title may be cited as the "National Commission on a Longer School Year Act".

SEC. 102. NATIONAL COMMISSION ON A LONGER SCHOOL YEAR ACT.

(a) ESTABLISHMENT.—There is hereby established a National Commission on a Longer School Year Act (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall consist of nine members, of whom—

(A) three members shall be appointed by the President from among the Secretaries of the executive departments as set forth in section 101 of title 5, United States Code;

(B) three members shall be appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives; and

(C) three members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and Minority Leader of the Senate.

(2) REQUIREMENTS.—

(A) Members of the Commission shall be appointed on the basis of exceptional education, training, or experience from—

(i) individuals who are representatives of nonprofit organizations or foundations committed to the improvement of American education;

(ii) individuals who are engaged in the professions of teaching;

(iii) individuals engaged in school administration, members of school boards, parents or representatives of parents or parent organizations;

(iv) individuals who are State officials directly responsible for education; and

(v) individuals representing organizations with an interest in lengthening the academic year or lengthening the school day.

(B) The first nine members of the Commission shall be appointed no later than 60 days after the date of enactment of this Act.

(3) Vacancies.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(4) Terms.—Members of the Commission shall be appointed to serve for the life of the Commission.

(5) Compensation.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(6) Activity of commission.—The Commission may begin to carry out its duties under this subsection when at least 5 members of the Commission have been appointed.

(c) Functions of the Commission.—

(1) Study.—The Commission shall study and make recommendations regarding the advisability of lengthening the school day to a predetermined minimum number of hours and lengthening the academic year in all United States public elementary and secondary schools. Such recommendations shall include—

(A) a comparative analysis of the length of academic days and academic years in schools throughout the United States and in schools of other nations;

(B) a recommendation of the appropriate number of hours per day and days per year of instruction for United States public elementary and secondary schools;

(C) an examination as to whether an increase in the length of school days and school years should be accompanied by an appropriate increase in teacher compensation;

(D) a model plan for adopting a longer academic day and academic year in all United States public elementary and secondary schools by the end of this decade, including recommendations regarding mechanisms to assist States, school districts, schools, and parents in transitioning from current academic day and year to an academic day and year of a longer duration;

(E) suggestions for such changes in laws and regulations as may be required to facilitate States, school districts, and schools in adopting longer academic days and years;

(F) an analysis and estimate of the additional costs, including the cost of increased teacher compensation, to States and local school districts if longer academic days and years are adopted; and

(G) a plan to assist States and local districts in meeting all such additional costs.

(2) Report.—The Commission shall submit a final report and plan pursuant to subsection (d).

(d) Commission Report.—

(1) Requirement.—Not later than September 1, 1991, or one year after the Commission concludes its first meeting of members, whichever is longer, the Commission shall submit a report to the President and the Congress on the study and recommendations required pursuant to the provisions of this subsection.

(2) Considerations.—The report described in paragraph (1) shall consider current educational policies and practices regarding the length of the school year and school day throughout the United States and the world.

(e) Powers of the Commission.—

(1) Hearings.—The Commission may, for the purpose of carrying out this subsection, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Testimony; public hearings.—In carrying out this subsection, the Commission shall receive testimony and conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the advisability of lengthened academic day and year.

(3) Information.—The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this subsection. Upon request of the Chairman of the Commission, the head of the agency shall furnish such information to the Commission.

(4) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) Use of mails.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(6) Support services.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(f) Administrative Provisions.—

(1) Meetings.—The Commission shall meet on a regular basis, as necessary, at the call of the Chairman or a majority of its members.

(2) Quorum.—A majority of the appointed members of the Commission shall constitute a quorum for the transaction of business.

(3) Chairman and vice chairman.—

(A) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission for the life of the Commission.

(B) The Chairman of the Commission, in consultation with the Vice Chairman, shall appoint and fix the compensation of a staff administrator and such support personnel as may be reasonable and necessary to enable the Commission to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates.

(4) Other federal personnel.—Upon request of the Chairman of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any personnel of such agency to the Commission to assist the Commission in carrying out its duties under the subsection. Such detail shall be without interruption or loss of civil service status or privilege.

(g) Termination of the Commission.—The Commission shall terminate 90 days after submitting the final report required by subsection (d).

(h) Authorization of Appropriations.—There are authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1992 through 1994 to carry out the provisions of this title.

TITLE II—NATIONAL WRITING PROJECT

SEC. 201. FINDINGS.

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) only 25 percent of 11th grade students have adequate analytical writing skills;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) most teachers in the United States elementary schools, secondary schools, and colleges, have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs in other academic fields;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year approximately 85,000 teachers voluntarily seek training through word of mouth endorsements from other teachers in National Writing Project intensive summer workshops and school-year inservice programs through one of the 141 regional sites located in 43 States, and in 4 sites that serve United States teachers teaching overseas;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) 13 National Writing Project sites in 8 different States have been discontinued in 1988 due to lack of funding; and

(18) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support.

SEC. 202. NATIONAL WRITING PROJECT.

(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the "grantee"), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance; and

(3) to pay the Federal share of the cost of such programs.

(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as "contractors") under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term "Federal share" means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

(3) MAXIMUM.—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least 5 sites throughout the State.

(4) SPECIAL RULE.—For the purposes of paragraph (1), the costs of teacher programs do not include the administrative costs, publication cost, or the cost of providing technical assistance to the grantee.

(e) CLASSROOM TEACHER GRANTS.—

(1) IN GENERAL.—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to enable such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(2) SUPPLEMENT AND NOT SUPPLANT.—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

(3) MAXIMUM GRANT AMOUNT.—Each grant awarded pursuant to this subsection shall not exceed $2,000.

(f) NATIONAL ADVISORY BOARD.—

(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

(2) COMPOSITION.—The National Advisory Board established pursuant to subsection (a) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project deems necessary.

(3) DUTIES.—The National Advisory Board established pursuant to subsection (a) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(g) EVALUATION.—The National Writing Project may reserve up to $100,000 from the amount authorized to be appropriated pursuant to the authority of this section to evaluate the teacher training programs conducted pursuant to this Act. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(h) RESEARCH AND DEVELOPMENT ACTIVITIES.—

(1) GRANTS AUTHORIZED.—From amounts available to carry out the provisions of this subsection, the Secretary, through the Office of Educational Research and Improvement, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.

(2) PRIORITY.—(A) In awarding grants pursuant to paragraph (1), the Secretary shall give priority to junior researchers.

(B) The Secretary shall award not less than 25 percent of the funds received pursuant to subsection (i)(2) to junior researchers.

(C) The Secretary shall make available to the National Writing Project and other national information dissemination networks the findings of the research conducted pursuant to the authority of paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the grant to the National Writing Project, $10,000,000 for fiscal year 1991 to carry out the provisions of this section.

(2) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated $500,000 for fiscal year 1991 to carry out the provisions of subsection (h).

(j) DEFINITION.—As used in this Act—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(2) the term "junior researcher" means a researcher at the assistant professor rank or the equivalent who has not previously received a Federal research grant; and

(3) the term "Secretary" means the Secretary of Education.

TITLE III—MISCELLANEOUS

SEC. 301. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4608 (as added by Public Law 100–297) as section 4610; and

(2) by inserting before section 4610 (as redesignated by paragraph (1) of this section) the following:

"SEC. 4609. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

"(a) GENERAL AUTHORITY.—

"(1) PROGRAM ESTABLISHED.—The Secretary shall carry out a program to educate students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and civil responsibility. Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

"(2) EDUCATIONAL ACTIVITIES.—The program required by paragraph (1) shall continue and expand the educational activities of the National Bicentennial Competition of the Constitution and Bill of Rights administered by the Center for Civic Education.

"(3) CONTRACT AUTHORIZED.—The Secretary is authorized to enter into a contract with the Center for Civic Education to carry out the program required by paragraph (1).

"(b) PROGRAM CONTENT.—The education program authorized by this section shall provide—

"(1) a course of instruction on the basic principles of our constitutional democracy and the history of the Constitution and Bill of Rights;

"(2) school and community simulated congressional hearings following the course of study at the request of participating schools; and

"(3) an annual competition of simulated congressional hearings at the congressional district, State, and national levels for secondary students who wish to participate in such program.

"(c) PROGRAM PARTICIPANTS.—The education program authorized by this section shall be made available to public and private elementary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) SPECIAL RULE.—Funds provided under this section may be used for the advanced training of teachers about the Constitution and Bill of Rights after the provisions of subsection (b) have been implemented.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the provisions of this section.".

MOTION OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KILDEE moves to strike all after the enacting clause of the Senate bill, S. 64, and to insert in lieu thereof the text of H.R. 2435, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to establish a National Council on Education Standards and Testing."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2435) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. KILDEE. Mr. Speaker, I ask unanimous consent to insist upon the House amendment to S. 64 and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 1250

The SPEAKER pro tempore (Mr. MAZZOLI). The Speaker will appoint conferees upon his taking the chair.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2534 and S. 64.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REREFERRAL OF H.R. 2009, MECHANISM FOR MAKING GRANTS TO INDIAN TRIBES FOR POST-SECONDARY GRANT PROGRAMS

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the bill (H.R. 2009) to establish a mechanism for making grants to tribes to administer postsecondary grant programs for Indian students and for other purposes, be rereferred to the Committee on Education and Labor.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

INTRODUCTION OF LUXURY TAX REPEAL BILL

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, today I am introducing legislation to repeal the luxury tax included in the Omnibus Budget Reconciliation Act of 1990. This is the same legislation that Senator DOLE will be introducing in the Senate later this week.

The purpose of my bill is not to protect the rich. It is to restore and preserve the jobs of working men and women in this country who produce these goods and revitalize the industry they work in which have been severely and negatively impacted.

The luxury tax was included to add a 10-percent excise tax on newly manufactured products Congress considered luxuries. These included aircraft over $250,000, boats over $100,000, vehicles over $30,000, furs over $10,000, and jewelry over $5,000. Remember, those persons who purchase these products have always had to pay all State and local sales taxes.

The luxury tax is a misnomer, it does not place an additional tax burden on potential buyers of these goods. They can simply forgo the purchase of these products, or they simply buy used products. For instance, under the law a person wishing to purchase an aircraft which would cost $300,000 new, can buy the same aircraft used and not have to pay the excise tax, even if the aircraft cost more than $250,000.

It's simple economics. When prices get too high people stop buying the product—and they have. Sales of these products has been significantly affected by the luxury tax. The fact of the matter is the wealthy have not been hurt, but the working people have.

The purchase of these items may be a luxury to the purchasers, but to the men and women producing these goods their jobs and salaries are a necessity. It is not fair to punish working men and women who produce goods simply because they produce goods Congress labels as luxuries.

Beech Aircraft in my State has been devastated by the luxury tax. In the first 3 months of 1991, the company lost new retail orders totaling $77.6 million for 39 new aircraft specifically due to the luxury tax. That represents a loss of 255 jobs for 1 year for working men and women.

That amounts to a net loss to the Federal Government of $1.6 million. How much revenue did the luxury tax generate? $16,000. That's not even enough to pay for the collection of the tax.

According to a study done by Temple, Barker, & Sloane for the Fair Tax Coalition the luxury tax on automobiles, effective January 1, 1991, has created a permanent drop in demand of at least 20 percent for vehicles priced over $30,000. The drop will lead to a $135.5 million loss in revenue to State and local governments in 1991. Also, at least 3,320 Americans will lose their jobs.

The luxury excise tax has contributed to the impending loss of up to 19,000 blue-collar manufacturing jobs and bankruptcy for countless small, family-owned businesses across the United States. According to the National Marine Manufacturers Association, the boat tax cripples America's ability to compete abroad with domestically manufactured boats. The unit level of sales of inboard cruisers in January and February were off by 62 percent and 56 percent respectively from forecast levels.

The Congress, in its haste to point the tax gun at wealthy Americans, has shot the working men and women of this Nation in the back.

It is more and more apparent that the luxury tax will not generate additional revenue but actually result in a total net loss to our economy. With the Nation's economy trying to climb out of recession the continuation of a tax which cripples industry and puts working men and women in the unemployment line is misguided and reckless.

There are other bills out there which would repeal the excise tax on specific products impacted by the Budget Reconciliation Act. I support these measures, however, if you are philosophically opposed to this tax as I am, you should support an across-the-board repeal of this unjust tax. I urge my colleagues to support this legislation and help put our economy back on track.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Veterans' Affairs; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, May 29, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Section 5004 of title 38, United States Code, requires that the Committees on Veterans' Affairs adopt a resolution approving major medical construction projects costing $2 million or more and leases of $500,000 or more proposed by the Department of Veterans Affairs for each fiscal year.

The House Committee on Veterans' Affairs met on May 29, 1991, and authorized leasing and construction of various projects for fiscal year 1992 by unanimous voice vote.

A copy of the Resolution adopted by the Committee and a listing of the projects authorized are enclosed.

Sincerely,
G. V. (SONNY) MONTGOMERY,
Chairman.

RESOLUTION OF THE COMMITTEE ON VETERANS' AFFAIRS

Resolved by the House Committee on Veterans' Affairs, That pursuant to the provisions of Section 5004, title 38, United States Code, the attached listing of major medical construction projects is approved. This approval is by project and includes funds authorized in Fiscal Year 1992 and future fiscal years.

There was no objection.

DOMESTIC POLICY AGENDA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER of California. Mr. Speaker, as I said, I will not take the entire 60 minutes. I have taken this special order out this afternoon to talk about an issue that came to my attention, frankly, over the weekend.

I was in my district in southern California, and a number of people talked about the domestic policy priorities that we face.

Then when I returned to Washington, I saw last night a clip on the news in which a number of people were raising the fact that we have, as a Congress, been unable to meet a very important charge that was given to us right here in this Chamber on March 6 of this year.

It was on March 6 that President Bush stood here and talked about the tremendous victory of Operation Desert Storm. We were heralding the return of our half a million troops. There was a parade over the weekend here in Washington, which unfortunately, as I said, I had to be in California so I missed. But I just saw a little clip on the cable news network. They are arranging a ticker tape parade that is going on in New York City at this time. And it really started with this victory, which President Bush talked about here on March 6.

During Operation Desert Storm, the Persian Gulf war, a number of people said, "George Bush does a great job of dealing with foreign policy." And our colleagues on the other side of the aisle acknowledge the fact that he obviously handled Operation Desert Storm extraordinarily well and demonstrated that he clearly is a superb Commander in Chief.

"But," they said, "when it comes to domestic issues, George Bush doesn't care about them and even if he cared about them, he really hasn't been doing much and we really don't have an agenda put forth to deal with those things."

Well, it was fascinating that when we were heralding the success of Operation Desert Storm, the President stood right behind me here and spoke about domestic policy agenda. He talked about a wide range of things that we need to address.

In fact, in that March 6 speech, and I am going to quote a few things here, he said:

> Let's begin with two initiatives we should be able to agree on quickly: transportation and crime. And then let's build on success with those and enact the rest of our domestic policy agenda.

He said:

> If our forces could win the ground war in 100 hours, then surely the Congress can pass this legislation in 100 days. If we can selflessly confront evil for the sake of good in a land so far away, then surely we can make this land all that it should be.

It seems to me, Mr. Speaker, that those were very clear words that came to us in that address to Congress on March 6. Some of the President's other initiatives which he has unveiled in his State of the Union Message and in other speeches that he has given include his call for one of the most important jobs creation bills manageable. That is a rollback in the capital gains tax so that we can get this economy rolling and create an incentive for small business men and women and other investors in this country to create jobs and opportunity.

He has unveiled a national energy strategy to lessen America's dependence on foreign oil. He has called for the expansion of choice in education.

I mentioned crime. He has a comprehensive crime package which clearly strengthens our laws against illegal firearms, gang violence, drug trafficking, child abuse and terrorism. He has called for one of the most important things, if we are going to compete internationally, that being reform of the banking system to improve safety and soundness and again increase the opportunity for us to compete internationally.

□ 1300

Antijob discrimination legislation that will not lead to quotas and excessive litigation clearly has been a priority, and we all know from the vigorous debate which went on in this House last week that that is something the President feels very strongly about, and we are still trying to work on civil rights legislation.

Also, the President has called for a new highway bill which is designed to rebuild our Nation's infrastructure, and that is a priority item.

Again, I come from southern California, and in southern California we have a very important transportation crisis. Unfortunately, the 100 days since March 6 come up to an end this Friday, and as I look at the schedule that we have for this week, it is apparent that we are not going to be bringing it up, and the President has, I believe correctly, pointed to the fact that Congress has been dilatory and we have not responded to his domestic policy agenda. So anyone who chooses to stand here on the other side of the aisle and say President Bush does not have a domestic policy agenda obviously is dead wrong, Mr. Speaker.

I believe that we need to move as quickly as we can to try and respond to these domestic policy needs which the American people face and which those of us on this side of the aisle very much want to address. Unfortunately, we have seen people use really what I call sleight of hand when it comes to legislative action on a number of these issues.

Last Thursday we had a very good success and a great victory because of a package which we had been working on for a number of years, and we were able to get it here to the House floor. I am speaking specifically of the President's program to create the opportunity for what is known as HOPE, the acronym meaning Homeownership for People Everywhere. Our great Secretary of Housing and Urban Development, our former colleague, Jack Kemp, and President Bush have worked diligently to create an opportunity for people in blighted urban areas who are living in substandard housing and dealing with all the problems that that creates, drug trafficking and crime and poor living conditions. We have worked hard to try, on a task force on which I have been working over the last several years and legislatively on the Housing Subcommittee, to push forward with a bill, which would, as we debated here in the House last week, create the opportunity for people in blighted urban areas to have that pride of ownership which gives them a little individual responsibility, and we all believe will have a chance, as this House determined, will have the opportunity to do that and take care of their homes.

Well, the leadership on the other side of the aisle, Mr. Speaker, has consistently tried to prevent us from having an opportunity to even offer that legislation here on the House floor. I am very pleased that we were able to have bipartisan support in the Committee on Rules to bring this measure to the floor. Unfortunately, the majority, which has a 2-to-1 plus 1 control over the Committee on Rules over those of us on the minority, has blocked this legislation in years past from coming to the floor, and while we did authorize it in August last year when it actually came to the appropriations process, we unfortunately were not allowed to consider it because of some activities that had gone on upstairs in the Committee on Rules. We did put together a bipartisan coalition that, first, in the Committee on Rules, gave us a chance to offer it and when we did have the chance to offer it here on the floor, by roughly a 50-vote margin, because there was so much common sense to this legislative-reform agenda that the President had dealing with the opportunity for people in blighted urban areas to own their homes, we by a 50-

vote margin were able to pass it here on the House floor.

Mr. Speaker, I am convinced that if the Democratic leadership will allow us to deal with these other issues, crime, transportation, education, all of these issues which I have just outlined, that we could put together a bipartisan coalition here in the House which would allow us to bring the American people what it is that they so desperately want.

Critics naturally say this is nothing more than politics as usual. The President proposes and Congress disposes, as the old saying goes. Well, Mr. Speaker, I believe very strongly that if Congress gets a chance to consider these things here on the House floor, because they are such very important and positive programs, that we, just like we did last week on the Homeownership for People Everywhere program, which the President pushed forward, I think that we would have the chance to put together a bipartisan coalition, because there are many of our colleagues on the other side of the aisle who do bring the same kind of common sense which emanates in great loads from the Republican side.

I think that we could then put together a package of passing these domestic policy items. So that this is not simply politics as usual other than the fact that it is a Congress which, frankly, has been recalcitrant.

Some in the other body have said Republicans have held up this legislation. Now, as I read the Constitution, as I look at the way this place has been run, Republicans really do not guide the rudder in either this House or the other body, Mr. Speaker. It is the Democrat majority which makes the determination, their leadership, as to whether or not bills are going to be considered here on the floor.

So I hope very much that as we look toward this Friday and attempt to implement this 100-day agenda which on March 6 the President talked about here, we can do something. Again, it does not look like we are planning to by this Friday, but even if we do not do it by this Friday, I think that President Bush could understand if maybe next week we would complete his domestic policy agenda.

But if we could take that action, I think the American people would have a greater degree of confidence in their Government, and I believe that they would all be much better off.

Mr. Speaker, I hope that we are able to put this together, and I thank my colleagues who have been supportive in this attempt. I know President Bush is very appreciative of those who want to move ahead with this very important domestic policy agenda.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. ROUKEMA (at the request of Mr. MICHEL), for the week of June 10, on account of family obligations.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. DREIER of California) to revise and extend his remarks and include extraneous material):

Mr. DREIER of California, for 60 minutes, today.

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous material):

Mr. HUTTO, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ANDREWS of New Jersey, for 5 minutes, on June 12 and 15.

Mr. MCCURDY, for 60 minutes, on June 18, 19 and 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter):

Mr. KOLBE.
Mr. LAGOMARSINO.
Ms. ROS-LEHTINEN.
Mr. NICHOLS.
Mr. DREIER of California.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter):

Mr. TOWNS.
Mr. ROE.
Mr. HOYER.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN.
Mr. CLEMENT.
Mrs. KENNELLY.
Mr. VENTO.
Mr. LEHMAN of California.
Mr. WAXMAN.

ADJOURNMENT

Mr. DREIER of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 11, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1517. A letter from the Assistant Attorney General—Legislative Affairs, Department of Justice, transmitting their views on H.R. 2427; to the Committee on Appropriations.

1518. A letter from the Secretary of the Air Force, transmitting factsheets providing details of the recommended closure of 15 Air Force bases located in the United States; to the Committee on Armed Services.

1519. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 05-91, concerning a proposed memorandum of understanding cooperative project with the defense establishments of France, Germany, Italy, and Spain, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

1520. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1521. A letter from the Secretary of Agriculture, transmitting the semiannual report of the inspector general, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1522. A letter from the President, National Railroad Passenger Corporation, transmitting a report on the activities of the Office of Inspector General, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1523. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide a remote maintenance allowance to certain officers and employees of the United States assigned to Johnston Island; to the Committee on Post Office and Civil Service.

1524. A letter from the Deputy Administrator, General Services Administration, transmitting prospectus proposing a building project or lease, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1525. A letter from the Director, Office of Management and Budget, transmitting a report entitled "Budgeting for Federal Deposit Insurance," pursuant to Public Law 101-508, section 13201(a) (104 Stat. 1388-614); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 2435. A bill to establish a National Council on Education Standards and Testing; with an amendment (Rep. 102-104). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARMEY (for himself, Mr. DELAY, and Mr. WALKER):

H.R. 2598. A bill to amend the Internal Revenue Code of 1986 to repeal the excise taxes on luxury items; to the Committee on Ways and Means.

By Mr. BENNETT (for himself, Mr. Spence, and Mr. Roth (both by request)):

H.R. 2599. A bill to authorize the disposal of certain strategic and critical materials from the national defense stockpile during fiscal years 1992 and 1993 and to amend the Strategic and Critical Materials Stock Piling Act to improve the management of the stockpile; to the Committee on Armed Services.

By Mr. WYDEN (for himself and Mr. Kasich):

H.R. 2600. A bill to amend the Petroleum Marketing Practices Act; to the Committee on Energy and Commerce.

By Mr. DANNEMEYER:

H.R. 2601. A bill to provide for a resumption of the gold standard; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DREIER of California:

H.R. 2602. A bill to repeal the outside earnings limitation under title II of the Social Security Act, to repeal taxation of Social Security and tier 1 railroad retirement benfits, and to eliminate FICA and SECA taxes for individuals who have attained age 70; to the Committee on Ways and Means.

By Mr. LANTOS:

H.R. 2603. A bill to provide for the payment of death benefits to members of the armed forces of the United Kingdom killed by friendly fire during the Persian Gulf conflict; jointly, to the Committees on Armed Services and Veterans' Affairs.

By Mr. NICHOLS:

H.R. 2604. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 2605. A bill amending the Hazardous Liquid Pipeline Safety Act of 1979 to require the installation of remote control valves and supervisory control and data acquisition systems on certain pipeline facilities, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

MEMORIALS

Under clause 4 of rule XXII,

180. The SPEAKER presented a memorial of the Legislature of the State of Hawaii relative to humanitarian assistance to the people of Rongelap Atoll, Marshall Islands; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 318: Mr. Zimmer.

H.R. 392: Mr. Peterson of Florida, Mrs. Collins of Michigan, Mr. Campbell of Colorado, Mr. Ravenel, Mr. Leach, Mr. Clay, Mr. Zimmer, Mr. Chandler, and Mr. LaRocco.

H.R. 467: Mr. Rohrabacher, Mr. Slaughter of Virginia, Mr. Walsh, Mr. Ritter, Mr. Owens of New York, and Mr. Hochbrueckner.

H.R. 917: Mr. Oberstar, Mr. Ravenel, Mr. Henry, Mr. Clay, Mrs. Boxer, Mr. Stark, Mr. Murtha, Mr. Foglietta, Mr. Gallegly, Ms. Horn, Mr. Dooley, Mr. Smith of Iowa, and Mr. Torricelli.

H.R. 1048: Mr. Yatron.

H.R. 1355: Mr. Horton, Mr. Duncan, Mr. McGrath, Mr. Hochbrueckner, and Mr. Jontz.

H.R. 1473: Mr. Schaefer and Mr. Hayes of Illinois.

H.R. 1774: Mr. Bustamante.

H.R. 2049: Mr. Crane and Mrs. Meyers of Kansas.

H.R. 2391: Mr. Fascell.

H.R. 2392: Mr. Fascell.

H.J. Res. 191: Mr. Fish, Mr. Shays, Mr. Dwyer of New Jersey, Mr. Burton of Indiana, Mr. Bilirakis, Mr. Berman, Mr. Lent, Mr. Annunzio, Mr. Bateman, Mrs. Bentley, Mr. Callahan, and Mr. Bryant.

H.J. Res. 252: Mr. Saxton, Mr. Wise, Mr. Lehman of Florida, Mr. Horton, Mr. McMillen of Maryland, Mr. Wilson, Mr. Gonzalez, Mr. Harris, Mr. Faleomavaega, Mr. Erdreich, Mrs. Collins of Illinois, and Mr. Ackerman.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2508

By Mrs. BENTLEY:

—At the appropriate place, insert the following new section—

SEC. . SITUATION OF THE SERBIAN MINORITY IN THE REPUBLIC OF CROATIA.

It is the sense of Congress that—

(1) ethnic Serbians living in the Republic of Croatia and in other parts of Yugoslavia should not be discriminated against because of their ethnicity;

(2) ethnic Serbians in the Republic of Croatia should retain their full ethnic, linguistic, religious, and political rights and the government of the Republic of Croatia should take the necessary steps to ensure these rights.

(3) Serbian leaders in the Republic of Croatia and other Yugoslav and Croatian leaders should resolve their differences through negotiations and should not, under any circumstance, resort to violence or repression.

By Mr. BEREUTER:

—Page 63, after line 11, insert the following:

"(2) that imported through private or governmental sectors from the United States, in the most recent year for which trade statistics are available, an amount of United States goods and services equal to or greater than the amount of the cash transfer;

—Page 63, line 12, strike out "(2)" and insert in lieu thereof "(3)".

—Page 64, line 7, strike out "(3)" and insert in lieu thereof "(4)"; and line 16, strike out "(3)" and insert in lieu thereof "(4)".

—Page 64, line 23, after "so" insert "or that failure to waive the provisions of this section would impair the competitiveness of United States exports".

—Page 63, after line 11, insert the following:

"(2) that has a mortality rate for children under 5 years of age greater than 70 per 1,000 live births;

"(3) that has a primary education completion rate of fewer than 80 percent of primary school age children;

—Page 63, line 12, strike out "(2)" and insert in lieu thereof "(4)".

—Page 64, line 7, strike out "(3)" and insert in lieu thereof "(5)"; and line 16, strike out "(3)" and insert in lieu thereof "(5)".

—Page 64, line 21, strike out "with respect to a country".

—Page 65, after line 5, insert the following:

"(g) Expiration.—This section shall not apply after fiscal year 1993.

—Page 62, line 11, delete "Country" and insert the following: "recipient government".

—Page 62, line 17, after "purchased". insert the following: "by the recipient government".

By Mr. BROOMFIELD:

—On page 128, insert the following new section after line 2:

"SEC. 2208. COMMITMENT OF PRIOR-YEAR GRANT FINANCING.

"If the President at any time notifies the Congress that no further sales will be made pursuant to the Defense Trade and Export Control Act after the date of such notification to a specified country under circumstances then prevailing, any uncommitted funds allocated for such country that, prior to the effective date of title II of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of the Foreign Assistance Act of 1961 or section 23 of the Arms Export Control Act for the purpose of financing such sales may be committed to finance such sales to other eligible countries subject to advance notification to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives.".

—On page 171, strike out lines 14 and 15 and insert in lieu thereof:

"(3) the collection of evidence of any unauthorized end use or transfer by recipient countries of defense articles and the transmission of such evidence to the Secretary of State;".

—On page 186, strike out lines 3 through and including line 7 and insert in lieu thereof:

"(b) Cooperative Training Agreements.—Section 21(g) of the Defense Trade and Export Control Act is amended in the first sentence by striking out 'similar agreements' and all that follows through 'allies' and inserting in lieu thereof 'similar agreements with countries that are major non-NATO allies or that received assistance under the former authorities of Chapter 5 of part II of the Foreign Assistance Act of 1961 in fiscal year 1990'.".

—On page 171, strike out the word "supervision" in line 14 and insert in lieu thereof the word "monitoring".

—Page 79, line 21, strike "and" and insert "or";

—Page 79, line 24, insert "and medium-sized" after "small";

—Page 79, line 25, insert "and capital" after; "credit";

—Page 80, after line 2, insert:

"(2) Privatization.—The activity makes credit available to support the privatization of state-owned commercial enterprises and the private provisions of public services."

"(3) Environment.—The activity demonstrates that projects having a positive environment impact can be commercially feasible investments for the private sector."

—Page 80, line 3, strike (2) before "United";

—Page 80, line 3, insert "(4)" before "United";

—Page 80, line 11, insert "investments in guarantees of or" after "with";

—Page 81, strike lines 5 through 25;

—Page 82, strike lines 1 through 12;

—Page 82, line 13, strike "(D)" after "The";

—Page 82, line 13, insert "(C)" before "The";

—Page 83, line 4, strike "(E)" before "Not";

—Page 83, line 4, insert "(D)" before "Not";

—Page 83, line 5, strike "Of funds loaned and" after "of";

—Page 83, line 8, strike "(F)" after "In";

—Page 83, line 8, insert "(E)" before "In";

—Page 83, line 9, insert "and medium-sized" after "small".

—Page 83, line 17, insert "s" after "obligation";

—Page 83, line 17, strike "qualifies" after "contracted";

—Page 83, line 17, insert "qualify" after "contracted".

—Page 79, line 21, strike "and" and insert "or";

—Page 79, line 24, insert "and medium-sized" after "small";

—Page 82, line 10, strike "85" and insert "66";

—Page 83, line 9, insert "and medium-sized" after "small".

By Mr. BRYANT:

—Page 549, insert the following after line 21:

(e) LIMITATION ON ASSISTANCE.—

(1) STATEMENT OF POLICY.—(A) The Congress strongly supports the preservation of the security and freedom of the State of Israel, and recognizes the extraordinary burden borne by Israel in accommodating the influx of Soviet Jews. The Congress also appreciates Israel's policy of restraint in the Persian Gulf conflict.

(B) The Congress recognizes that the United States commitment of $3,000,000,000 annually to Israel is a significant one, and one which will likely continue until obstacles to peace in the Middle East region are removed. Accordingly, the removal of obstacles to peace is a matter of significant importance to the United States.

(2) REPORTS ON INVESTMENT BY ISRAEL IN WEST BANK AND GAZA.—The President shall submit to the Congress, not later than February 1, 1992, and not later than February 1, 1993, a report on the extent of investment by the Government of Israel in new and expanded settlements in the West Bank and Gaza, other than in Jerusalem. The first report shall cover such investment during the 1991 fiscal year of Israel, and the second report shall cover such investment during the 1992 fiscal year of Israel.

(3) RESTRICTION ON ASSISTANCE FOR FISCAL YEAR 1992.—(A) Of the amounts otherwise made available under subsection (a) for fiscal year 1992, $82,500,000 shall be withheld, notwithstanding subsection (a)(2).

(B) The restriction contained in subparagraph (A) shall cease to apply if and when the President certifies to the Congress that the Government of Israel has demonstrated that it is not investing in new and expanded settlements in the West Bank and Gaza, other than in Jerusalem.

(4) RESTRICTION ON ASSISTANCE FOR FISCAL YEAR 1993.—(A) If a certification has not been made under paragraph (3)(B) by September 30, 1992, then of the amounts otherwise made available under subsection (a) for fiscal year 1993, an amount shall, notwithstanding subsection (a)(2), be withheld which is equal to the amounts expended by the Government of Israel in investment described in paragraph (2) as reflected in the report submitted under paragraph (2) by February 1, 1992.

(B) The restriction contained in subparagraph (A) shall cease to apply if and when the President makes a certification described in paragraph (3)(B).

(5) AVAILABILITY OF WITHHELD FUNDS.—Amounts withheld under paragraphs (3) and (4) shall remain available until expended, notwithstanding any conflicting provision contained in any appropriation Act.

By Mr. BURTON of Indiana:

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) REPORT ON ACCESS OF HUMAN RIGHTS MONITORING ORGANIZATIONS.—Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) TERMINATION OF DEVELOPMENT ASSISTANCE PROGRAMS.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, all development assistance for India shall be terminated, except for assistance to continue the vaccine and immunodiagnostic development project, the child survival health support project, and the private and voluntary organizations for health II project.

(c) RESUMPTION OF ASSISTANCE.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

—Page 657, after line 25, insert the following:

SEC. 927. FREEDOM FOR KASHMIR.

(a) FINDINGS.—The Congress finds that—

(1) the historically independent people of the State of Jammu and Kashmir (commonly referred to as "Kashmir") have been denied the plebiscite that was promised them by resolutions adopted in 1948 and 1949 by the United Nations Commission for India and Pakistan;

(2) those resolutions were agreed to by the Government of India and the Government of Pakistan, with the firm support of the United States;

(3) the United States, as the world's most powerful democracy, has supported the principle that the status of the State of Jammu and Kashmir should be decided by the democratic method of a plebiscite under impartial control and supervision;

(4) despite those resolutions, during the past 40 years the people of the State of Jammu and Kashmir have suffered through 2 wars and continuous unrest while being denied the right to self-determination by the Government of India;

(5) the inevitable frustrations of a people being governed without their consent have recently resulted in an upsurge of conflict and violence in the State of Jammu and Kashmir;

(6) the Government of India has responded to this situation by isolating the State of Jammu and Kashmir from the outside world;

(7) there have been an increasing number of reports of unwarranted use of deadly force, as well as torture, rape, beatings, restriction of medical services, and other violations of basic human rights;

(8) the Government of India has continued to refuse the requests of Amnesty International and the International Committee of the Red Cross, to enter the State of Jammu and Kashmir to investigate and evaluate the situation;

(9) the Government of India has refused to respond to unofficial offers by the International Committee of Red Cross to provide humanitarian assistance to the State of Jammu and Kashmir; and

(10) the United States supports the Universal Declaration of Human Rights and the internationally recognized rights of freedom of speech, assembly, and press, and due process of law.

(b) POLICY DECLARATIONS.—The Congress—

(1) deplores the excessive use of force and violence, including torture, by the security forces of the Government of India against civilians in the State of Jammu and Kashmir;

(2) demands that the Government of India open the borders of the State of Jammu and Kashmir to Amnesty International and the International Committee of the Red Cross to permit an accurate assessment of the human rights situation in the State of Jammu and Kashmir;

(3) reaffirms that the question of the future status of the State of Jammu and Kashmir be decided through the democratic method of a free and impartial plebiscite; and

(4) calls on the President, the United Nations, and the international community to use all measures at their disposal to establish the conditions necessary for a free and impartial plebiscite in the State of Jammu and Kashmir.

—Page 688, after line 3, insert the following:

(c) LIMITATION ON ASSISTANCE.—Assistance for any fiscal year under the Foreign Assistance Act of 1961, including assistance with funds appropriated before the date of enactment of this Act, may not be delivered to any organization or institution in South Africa which—

(1) is formally linked to the Communist Party of South Africa;

(2) is engaged in violations of internationally recognized human rights, including the unlawful detention of individuals; or

(3) does not have in place democratic processes for internal decisionmaking and the selection of leaders.

This subsection does not prevent the provision of training, instruction, or education in democratic processes for individual members of an organization or institution that is ineligible for assistance under this subsection.

—Page 568, after line 14, insert the following:

SEC. 818. JORDAN.

The Congress is extremely distressed at Jordan's behavior and attitude during Operation Desert Storm. Assistance may not be provided to Jordan for fiscal year 1992 under the Foreign Assistance Act of 1961.

—Page 707, after line 23, add the following:

(c) DISAPPROVAL OF ACTIONS AND STATEMENTS IN OPPOSITION TO UNITED STATES POLICIES.—The Congress is disappointed in those countries in Africa that opposed United States policy during Operation Desert Storm. The Congress expresses special displeasure with the actions of Zambia, whose President traveled to Baghdad at the height of the Gulf crisis in a show of support for Saddam Hussein. Finally, the Congress completely rejects statements of leaders of the African National Congress equating United States and Iraq actions in the Middle East.

—Strike out section 1024 (page 673, line 9, through page 676, line 22), and redesignate sections 1025 through 1031 as sections 1024 through 1030, respectively.

By Mr. CAMPBELL of California:

—Page 568, after line 14, insert the following:

SEC. 826. SYRIAN POLICY TOWARD ISRAEL.

(a) FINDINGS.—The Congress finds that—

(1) the State of Israel suffered significant damage from Iraqi SCUD attacks during the recent Persian Gulf war;

(2) Syria possessed SCUD capabilities before the war;

(3) Syria increased its SCUD supplies during the Persian Gulf war, including missiles with chemical capabilities;

(4) Syria remains implacably opposed to Israel's right to exist and has waged war on Israel in 1948, 1967, and 1973;

(5) the Syrian Government has sponsored terrorist groups that have repeatedly attacked Israel; and

(6) the Syrian Government has violated the sovereignty of Lebanon and claims sovereignty over Israel.

(b) POLICY DECLARATIONS.—It is the sense of the Congress that—

(1) Syria remains a threat to the State of Israel; and

(2) it should be the policy of the United States to limit Syria's offensive capabilities and encourage the Syrian Government to unequivocally recognize Israel's right to exist as a sovereign nation.

By Mr. CUNNINGHAM:

—Page 568, after line 14, insert the following:

SEC. 818. PROHIBITION ON ASSISTANCE FOR JORDAN.

Assistance may not be provided for Jordan for fiscal year 1992 or 1993 under the Foreign Assistance Act of 1961.

—Page 568, after line 14, insert the following:

SEC. 818. PROHIBITION ON ASSISTANCE FOR JORDAN.

Assistance may not be provided for Jordan for Fiscal Year 1992 under the Foreign Assistance Act of 1961, unless the President certifies that such assistance is in the national interest of the United States.

By Mr. DE LA GARZA:

—Amend chapter 4 of title V of the Foreign Assistance Act of 1961, as amended by section 501 of the bill, to read as follows:

"CHAPTER 4—ENTERPRISE FOR THE AMERICAS INITIATIVE

"SEC. 5401. REDUCTION OF CERTAIN DEBT.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) In addition to the debt specified under section 604 of the Agricultural Trade Development and Assistance Act of 1954 (7 USC 1738c), the President may reduce the amount of debt owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1990, as result of concessional loans made by the United States pursuant to the former authorities of Part I of this Act (or predecessor foreign economic assistance legislation) to a country eligible for benefits under the Facility established pursuant to section 601 of the Agricultural Trade Development and Assistance Act of 1954 (7 USC 1738).

"(2) LIMITATIONS.—

"(A) FEDERAL CREDIT REFORM ACT REQUIREMENTS.—The authority of this section may be exercised only to the extent that the budget authority for the resulting additional cost (within the meaning of the Federal Credit Reform Act of 1990) has been provided in advance in appropriations Acts.

"(B) LIMITATION OF AUTHORIZATION AMOUNTS.—Notwithstanding section 505(a) of the Federal Credit Reform Act of 1990, the following amounts only are authorized to be appropriated for such costs for fiscal years 1992 and 1993: $242,356,000 for fiscal year 1992 and $224,644,000 for fiscal year 1993.

"(C) Except as otherwise specifically authorized under this section, any debt reduced pursuant to this section shall be subject to the conditions, limitations, and administrative procedures prescribed for the reduction of debt under title VI of the Agricultural Trade Development and Assistance Act of 1954.

"(3) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(b) IMPLEMENTATION OF DEBT REDUCTION.—

"(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility established pursuant to section 601 of the Agricultural Trade Development and Assistance Act of 1954 by the exchange of a new obligation for obligations outstanding as of January 1, 1990.

"(2) EXCHANGE OF OBLIGATIONS.—Such Facility shall notify the administering agency of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection; and at the direction of such Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the administering agency shall make an adjustment in its accounts to reflect the debt reduction.".

By Mr. DORGAN of North Dakota:

—Page 17, line 16, after "issues," insert "policies concerning the furnishing of foreign military financing assistance,".

—Page 127, line 1, strike out "$4,411,444,000" and insert in lieu thereof "$3,907,299,000".

—Page 127, line 1, strike out "$4,411,444,000" and insert in lieu thereof "$4,151,000,000".

—Page 107, after line 4, insert the following:

"(e) POLICY REGARDING CONSISTENCY WITH ACHIEVEMENT OF ECONOMIC ASSISTANCE OBJECTIVES.—Military assistance should not be provided to a country under this title if such assistance would hinder the achievement of the four basic objectives set forth in section 1102 of promoting sustainable economic growth, sustainable resource management, poverty alleviation, and democracy.

—Page 126, strike out lines 11 through 21 and insert in lieu thereof the following:

"SEC. 2206. CONSIDERATIONS IN FURNISHING ASSISTANCE.

"Decisions to furnish assistance under this chapter—

"(1) shall be made in coordination with the administering agency for title I and the United States Arms Control and Disarmament Agency; and

"(2) shall take into account—

"(A) the opinion of the administering agency for title I as to whether such assistance will hinder the achievement of the four basic objectives set forth in section 1102 of promoting sustainable economic growth, sustainable resource management, poverty alleviation, and democracy in the recipient country; and

"(B) the opinion of the United States Arms Control and Disarmament Agency as to whether such assistance will—

"(i) contribute to an arms race;

"(ii) increase the possibility of outbreak or escalation of conflict; or

"(iii) prejudice the development of bilateral or multilateral arms control arrangements.

By Mr. DREIER of California:

—Page 588, after line 24, insert the following:

(h) PROGRAM FOR EAST EUROPEAN POLITICAL EDUCATION (PEEPLE).—Title II, as amended by subsection (g) of this section, is further amended by adding at the end the following:

"SEC. 209. PROGRAM FOR EAST EUROPEAN POLITICAL EDUCATION (PEEPLE).

"(a) ESTABLISHMENT OF PROGRAM.—In order to assist with encouraging the transition from totalitarianism to democratic society by empowering Eastern Europe's indigenous forces for political and economic freedom, the Director of the United States Information Agency shall establish a Program for East European Political Education. This program shall be designed to provide training and hands-on experience for East European leaders with the United States Congress, in political campaigns in the United States, with the United States media, and with United States business by awarding Congressional Gift of Democracy Fellowships.

"(b) CONGRESSIONAL GIFT OF DEMOCRACY FELLOWSHIPS.—Congressional Gift of Democracy Fellowships pursuant to this section shall be awarded by no more than 2 nongovernmental organizations selected by the Director of the United States Information Agency to develop and administer the Program for East European Political Education. In selecting such organizations, the Director shall consider an organization's past experience in conducting Eastern European internship programs and its ability to coordinate activities with East European democratic and educational organizations.

"(c) MATCHING FUNDS.—Each organization selected pursuant to subsection (b) shall be required to use its own funds or other funds derived from nongovernmental sources, in an amount not less than the amount of funds made available to that organization under this section, for fellowships and its expenses in administering the Program for East European Political Education.

"(d) PERIOD OF FELLOWSHIPS.—Each fellowship pursuant to this section shall be for a period not to exceed 5 months.

"(e) FUNDING.—Of the funds made available to carry out section 204, up to $300,000 for each of the fiscal years 1992 and 1993 shall be transferred to the United States Information Agency for use in carrying out this section.

"(f) TERMINATION.—The Program for East European Political Education shall terminate as of September 30, 1993, unless extended by the Congress, and Congressional Gift of Democracy Fellowships may not be awarded after that date.".

(i) BUSINESS TO BUSINESS PROGRAM.—Title II, as amended by subsections (g) and (h) of this section, is further amended by adding at the end the following:

"SEC. 210. BUSINESS TO BUSINESS PROGRAM.

"The Congress—

"(1) finds that the Peace Corps, the Department of Commerce, and the Small Business Administration are working together to develop a Business to Business Program to send experienced United States businessmen and businesswomen as volunteers to Central and Eastern Europe for an extended period of time to work with private companies and individuals in order to teach basic business and management skills;

"(2) commends the Peace Corps, the Department of Commerce, and the Small Business Administration for developing their Business to Business Program and for recognizing the importance of sending business experts to help in the development of free-market economies; and

"(3) authorizes the Peace Corps to use funds made available to carry out the Peace Corps Act to implement the Peace Corps' responsibilities under the Business to Business Program.".

—Page 589, line 1, strike out "(h)" and insert in lieu thereof "(j)".

—Page 590, in the text following line 2, strike out the closing quotation marks and the second period and after the item relating to section 208 insert the following:

"Sec. 209. Program for East European Political Education (PEEPLE).

"Sec. 210. Business to Business Program.".

—Page 611, after line 22, insert the following:

(10) PROGRAM FOR EAST EUROPEAN POLITICAL EDUCATION (PEEPLE).—By adding at the end the following:

"(29) PROGRAM FOR EAST EUROPEAN POLITICAL EDUCATION (PEEPLE).—Programs to provide training and hands-on experience for young East European leaders with the United States Congress, in political campaigns in the United States, with the United States media, and with United States business.".

(11) BUSINESS TO BUSINESS PROGRAMS.—By adding after paragraph (29), as added by paragraph (10) of this section, the following:

"(30) BUSINESS TO BUSINESS PROGRAMS.—Sending experienced United States businessmen and business women to eligible East European countries to work with private companies and individuals in order to teach basic business and management skills.".

—Page 574, line 6, strike out the closing quotation marks and the second period; and after line 6, insert the following:

"(d) FINDINGS REGARDING ECONOMIC FREEDOM.—The Congress finds as follows:

"(1) The development of a free and open society is a prerequisite for sustained economic growth.

"(2) The United States, in partnership with eligible East European countries, would derive mutual benefits from economic freedoms that generate economic growth, increased trade, and investment opportunities.

"(3) United States assistance to eligible East European countries should be used to encourage policies that further sustain economic growth, rather than offset the costly effects of policies which discourage individual initiative, produce capital flight, and subsidize environmentally destructive or wasteful use of resources.

"(4) The American offer of assistance to eligible East European countries constitutes a partnership based on mutual benefit, devotion of resources, and commitment to the achievement of policies conducive to the sustainable economic growth necessary for the alleviation of poverty. United States economic assistance, which is a limited resource, should be primarily directed to those countries that exhibit the greatest commitment to the partnership for development through policies conducive to economic development.

"(5) Economic reforms leading to sustainable economic growth can require short-term assistance for economic sectors where the previous growth-impeding policies which distort the allocation of resources. The United States should work with international financial institutions and eligible East European countries to alleviate possible short-term costs associated with economic reform in those countries.

"(6) To be effective, United States assistance should be accompanied by a policy framework that promotes long-term, self-sustainable economic growth and development.

"(e) INDEX OF ECONOMIC FREEDOM.—In determining whether United States assistance should be provided for an eligible East European country, the President should consider the following factors:

"(1) PROPERTY RIGHTS.—The extent to which poor or landless individuals are illegally or otherwise artificially constrained from acquiring land or other forms of property or are unable to gain secure legal title to land, the degree to which laws and an independent judiciary protect private property and enforce contracts for individuals against the government, the extent of nationalization of property and the state's power to nationalize private property, and the degree of access of private parties to the judicial system.

"(2) REGULATIONS.—The difficulty and costliness of securing a business license, regulations which inherently favor established business at the expense of newcomers, and limitations on the freedom and ability of citizens to establish businesses or add prohibitive costs or additional risks to maintaining such businesses.

"(3) INFORMAL SECTOR.—The extent to which government policies force economic activity into nominally illegal informal sectors where otherwise legal activities are conducted outside of government regulations and requirements, and the extent to which those policies discourage the development of locally controlled nongovernmental institutions.

"(4) WAGE AND PRICE CONTROLS.—The identity of industries or goods which are subject to government mandated wages or prices, the value of goods sold wholesale and retail subject to price controls, the degree to which private farmers are forced to sell produce at government established prices, and the degree to which farmers are not allowed to profit from the real market price of their products.

"(5) TAXATION.—The highest rate of taxation, the income level at which this rate takes effect, the relationship between per capita income and the level at which the highest rate of taxation takes effect, rate of any value added tax (VAT), the level of taxation on assets, and the rate of monetary inflation.

"(6) TRADE POLICY.—Customs duty rates, quantitative restrictions on imports, import quotas, import prohibitions, foreign exchange availability for those engaged in international trade, export taxes, restrictive export practices, market-distorting export incentives such as subsidies, import license, and country-of-origin restrictions.

"(7) RESTRICTIONS ON INVESTMENT AND CAPITAL FLOWS.—Limitations on foreign investment and foreign ownership, limits on repatriation of principal and profits for foreign investors, and restrictions on removal of foreign or domestic capital from the home country.

"(8) SIZE OF STATE SECTOR.—The value of industries owned by the government, the percentage of gross national product produced by state-owned industries, prohibitions on private economic activities in certain sectors, the value of the state sector assets, and the progress being made toward reducing state ownership of the means of production.

"(9) BANKING.—The degree of government ownership of banking sector, private citizens rights to own and operate banks, and citizens' access to private sources of credit.

"(f) USE OF PRIVATE ASSISTANCE CHANNELS.—The President shall funnel assistance for eligible East European countries through nongovernmental organizations or private individuals whenever possible.".

(b) CLARIFICATION OF PROHIBITION ON BENEFITS FOR COMMUNIST PARTIES.—Section 3 (as so redesignated by subsection (a) of this section) is amended in subsection (b)(3)(A) by striking out "or" the first place it appears and inserting in lieu thereof "parties or political organizations or to any".

—Page 574, line 7, strike out "(b)" and insert in lieu thereof (c)".

—Page 611, after line 22, insert the following:

SEC. 852. TASK FORCE ON REGULATORY REFORM.

(a) FINDINGS.—The Congress finds that—

(1) American businesses and private voluntary organizations have complained publicly that the Agency for International Development's applications and requirements are "unnecessarily complicated and enormously time-consuming"; and

(2) the Agency's regulations and the lengthy application process discouraged many organizations from applying for funding, and have delayed the implementation and approval of programs for Eastern Europe that could further the transition to a market economy.

(b) TASK FORCE TO REFORM THE APPLICATION PROCESS FOR UNITED STATES ASSISTANCE TO EASTERN EUROPE.—

(1) ESTABLISHMENT AND FUNCTIONS.—The Administrator of the Agency for International Development shall establish a task force to review, and recommend revisions to, the Agency's regulations governing the application process for private voluntary organizations and businesses to receive funding from the Agency for activities relating to Eastern Europe. The task force shall have 5 members appointed by the Administrator, as follows:

(A) 2 officials from the Agency for International Development.

(B) 1 representative of private voluntary organizations.

(C) 1 representative of the United States business community.

(D) 1 individual who is a representative of either private voluntary organizations or the United States business community.

(2) REPORT AND IMPLEMENTATION.—The task force shall report the results of its review and its recommendations for revisions to such regulations to the Administrator, who shall implement those recommendations within 1 year after the date of enactment of this Act.

—Page 601, strike out line 12 and all that follows through line 14 on page 602 and insert in lieu thereof the following:

(1) FINDINGS.—The Congress finds that—

(A) the free flow of information is an essential component of modern commerce and is conducive to economic development and democracy;

(B) the United States is the world's leader in the development of commercial information systems for business and government;

(C) the United States business community urgently requires thorough and timely information on enterprises, government commercial policies, and investment opportunities in the emerging democracies of Eastern Europe; and

(D) it is the policy of the United States to favor efficient private sector delivery of government services where possible.

(2) PRIVATIZATION OF INFORMATION SYSTEM.—Section 602 (22 U.S.C. 5462) is amended to read as follows:

"SEC. 602. EASTERN EUROPEAN BUSINESS INFORMATION CENTER SYSTEM.

"(a) PURPOSE.—The President shall encourage and facilitate United States investment in East European business enterprises through the widest possible dissemination of commercial and legal information on Eastern Europe to the United States business community through United States information services companies.

"(b) ESTABLISHMENT.—Under the direction of the President, the SEED Program coordinator shall promptly establish a Eastern European Business Information Center System, employing the services and expertise of a United States information services company. This system shall work in coordination with the Foreign Commercial Service and the governments of eligible East European countries.

"(c) FUNCTIONS.—

"(1) IN GENERAL.—The Eastern European Business Information Center System shall serve as a central clearinghouse and data resource service for United States and Eastern European businesses, providing information relating to—

"(A) business conditions in Eastern Europe;

"(B) legal and regulatory information needed by United States companies seeking to do business in Eastern Europe;

"(C) investment and trade opportunities for United States companies resulting from the region's efforts to privatize state enterprises and move toward a market economy; and

"(D) voluntary assistance efforts to countries in Eastern Europe.

"(2) PRIVATE ENTERPRISE DEVELOPMENT.—The Eastern European Business Information Center System shall be established, among other purposes—

"(A) to encourage United States information companies to invest in and develop an infrastructure for gathering and disseminating information on business in Eastern Europe to the United States business community;

"(B) to provide the widest possible dissemination of such information to United States business interested in investment in Eastern European private enterprises and in trade with such enterprises;

"(C) to encourage the submission of economically sound business proposals to the Polish-American Enterprise Fund, the Hungarian-American Enterprise Fund, and similar entities that may be established; and

"(D) to encourage the involvement of United States businesses in voluntary development efforts in Eastern Europe.

"(d) INFORMATION ACCESS.—The Eastern European Business Information Center System shall be made accessible to the widest possible number of United States businesses through commercially available on-line information services. The SEED Program coordinator shall also endeavor to make information accessible to local enterprises in Eastern Europe seeking trade with or investment from the United States through the establishment of Eastern European trade information centers in Budapest, Hungary; Warsaw, Poland; and such other locations as the coordinator my designate.

"(e) REQUIREMENT FOR PRIVATE MATCHING FUNDING.—Funds made available to carry out this section may be provided to a United States company on a grant or contract basis for use in carrying out functions under this section only if that company, in carrying out those functions, uses either its own funds or other funds derived from nongovernment sources in an amount not less than twice the amount of the grant or contract.

"(f) FUNDING.—The Secretary of Commerce may use up to $500,000 of the funds appropriated for the International Trade Administration for each of the fiscal years 1992 and 1993 to carry out this section.".

—Page 602, line 15, after "602" insert ", as amended by paragraph (2) of this subsection,"; and line 17, strike out "(d)" and insert in lieu thereof "(g)".

—Page 604, in the text following line 7, after "Center" insert "System".

By Mr. DURBIN:

—Insert the following at the end of Section 862.

(g) RESTRICTION OF AID TO THE CENTRAL GOVERNMENT OF THE SOVIET UNION.

(1) PROHIBITION.—Except as provided in paragraph (2), no funds authorized under this section shall be awarded to the Central Government of the Soviet Union.

(2) WAIVER.—Assistance otherwise prohibited by paragraph (1) may be provided if the President certifies that:

(i) Such aid will be distributed equitably to the Baltic States and the Soviet Republics as shown through a detailed statement of proposed distribution;

(ii) All suppressive action by the central government against the people and governments of the Baltic States and the Republics has ceased; and

(iii) The central government has returned control of all communication centers within the Baltic States to the freely elected governments of the Baltic States.

—At the end of the bill (page 721, after line 16), insert the following:

SEC. 1109. RESTRICTION ON SECURITY ASSISTANCE TO COUNTRIES HAVING AN OFFENSIVE CHEMICAL WEAPONS PROGRAM.

(a) PROHIBITION.—Except as provided in subsection (b), security assistance may not be provided to any country that—

(1) has an offensive chemical weapons program; and

(2) has not expressed a willingness to be an original signatory to the chemical weapons convention being negotiated in Geneva, Switzerland.

(b) WAIVER.—Assistance otherwise prohibited by subsection (a) may be provided to a country if the President determines, and certifies in writing to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate, that security assistance for that country is vital to United States national security interests.

(d) DEFINITIONS.—For purposes of this section—

(1) a country shall be considered to have an offensive chemical weapons program if that country possesses any chemical weapons, is producing any chemical weapons, is developing any chemical weapons, or is conducting any research relating to the development or production of chemical weapons;

(2) the term "security assistance" means economic support assistance, foreign military financing assistance, and international military education and training; and

(3) the term "willingness to be an original signatory to the chemical weapons convention" means that either the executive branch or the legislative branch of the government of the country has officially stated that that country plans to sign the chemical weapons convention when it is opened for signature.

(e) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress—

(1) a report on the status of the negotiations on a chemical weapons convention that are being conducted in Geneva, Switzerland; and

(2) a report identifying those countries that are not participants in or observers of those negotiations and that have not expressed a willingness to become original signatories to that convention.

—At the end of the bill (page 721, after line 16), insert the following:

SEC. 1109. RESTRICTION ON SECURITY ASSISTANCE TO COUNTRIES HAVING AN OFFENSIVE CHEMICAL WEAPONS PROGRAM.

(a) PROHIBITION.—Security Assistance may not be provided to any country that—

(1) has an offensive chemical weapons program; and

(2) has not expressed a willingness to support a total ban on offensive chemical weapons such as is being negotiated at the Chemical Weapons Convention in Geneva.

(b) DEFINITIONS.—For the purpose of this section—

(1) the term "security assistance" means economic support assistance, foreign military assistance, and international military education and training.

—At the end of the bill (page 721, after line 16), insert the following:

SEC. 1109. RESTRICTION ON SECURITY ASSISTANCE TO COUNTRIES HAVING AN OFFENSIVE CHEMICAL WEAPONS PROGRAM.

(a) PROHIBITION.—Security Assistance may not be provided to any country that—

(1) has an offensive chemical weapons program; and

(2) has not expressed its support for the Chemical Weapons Convention being negotiated in Geneva.

(b) DEFINITIONS.—For the purpose of this section—

(1) the term "security assistance" means economic support assistance, foreign military assistance, and international military education and training.

—Page 615, add the following after line 24:

(g) RESTRICTION OF AID TO THE CENTRAL GOVERNMENT OF THE SOVIET UNION.—

(1) PROHIBITION.—Except as provided in paragraph (2), no assistance may be provided pursuant to this section to the central government of the Soviet Union.

(2) WAIVER.—Assistance may be provided under this section notwithstanding paragraph (1) if the President certifies to the Congress that—

(A) such assistance will be distributed equitably to the Baltic states and the Soviet republics as shown through a detailed statement of proposed distribution;

(B) all suppressive acts by the central government against the people and governments of the Baltic states and the republics has ceased; and

(C) the central government has returned control of all communication centers within the Baltic states to the freely elected governments of the Baltic States.

By Mr. GILMAN:

—At the end of the bill (page 721, after line 16), add the following:

TITLE XII—INTERNATIONAL INDIGENOUS PEOPLES PROTECTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "International Indigenous Peoples Protection Act of 1991".

SEC. 1202. FINDINGS.

(a) DETERIORATING SITUATION FACING INDIGENOUS AND TRIBAL PEOPLES.—The Congress makes the following findings:

(1) The situation of indigenous and tribal peoples is deteriorating world-wide.

(2) Many of these populations face severe discrimination, denial of human rights, loss of cultural and religious freedoms, or in the worst cases, cultural or physical destruction.

(3) If current trends in many parts of the world continue, the cultural, social, and linguistic diversity of humankind will be radically and irrevocably diminished.

(4) In addition, immense, undocumented repositories of ecological, biological, and pharmacological knowledge will be lost, as well as an immeasurable wealth of cultural, social, religious, and artistic expression, which together constitute part of the collective patrimony of the human species.

(5) The pressures on indigenous and tribal peoples, about 10 percent of the world's population, include denial of political and civil rights and of opportunities for self-determination, destruction of natural resources necessary for survival, and ethnic, racial, and economic marginalization.

(6) In many cases, unsound development policy that results in destruction of natural resources seriously jeopardizes indigenous and tribal peoples' physical survival and their cultural autonomy, frequently also undermining the possibility for long-term sustainable economic development.

(7) The loss of the cultural diversity of indigenous and tribal peoples is not an inevitable or natural process.

(8) In light of United States concern and respect for human rights and basic human freedoms, including rights to express cultural and religious preferences, as well as the United States desire for sustainable economic development, it is incumbent on the United States to take a leadership role in addressing indigenous and tribal peoples' rights to physical and cultural survival.

(b) DEFINITION OF INDIGENOUS AND TRIBAL PEOPLES.—Indigenous and tribal peoples are those populations that are ethnically, culturally, or socially distinct from the politically dominant society on the regional or national level. These people are often (but not invariably) minorities, and invariably have little, if any political representation or influence in governments. Many such peoples are marginally integrated into market economies and practice traditional, partially or wholly subsistence-based forms of economic activity.

SEC. 1203. PROMOTING AND PROTECTING THE RIGHTS OF INDIGENOUS AND TRIBAL PEOPLES.

The Secretary of State and the Administrator of the Agency for International Development shall ensure—

(1) that United States foreign policy and foreign assistance vigorously promote the rights of indigenous and tribal peoples throughout the world; and

(2) that United States foreign assistance is not provided for any project or program detrimental to the rights of indigenous or tribal peoples or to their livelihood.

The rights of indigenous and tribal peoples to be promoted and protected pursuant to this section include the right to maintain their cultural, religious, and other traditions, customs, and institutions.

SEC. 1204. BASELINE REPORT ON INDIGENOUS AND TRIBAL PEOPLES.

(a) PURPOSE.—The purpose of this section and section 1205 is to help—

(1) guide future United States foreign assistance and other actions that could affect indigenous and tribal peoples, and

(2) permit United States actions that would assist these peoples.

(b) PREPARATION OF REPORT.—The Administrator of the Agency for International Development, in consultation with the Secretary of State, shall prepare a report on indigenous and tribal peoples in all countries that are reported on pursuant to section 6302(d) of the Foreign Assistance Act of 1961 (relating to the annual human rights reports). This report shall include the following:

(1) A description of the economic, political, and social situation of indigenous and tribal peoples.

(2) A discussion of the effects of United States bilateral foreign assistance and United States-supported multilateral assistance on indigenous and tribal peoples, including a description of those projects and activities currently being funded by the Agency for International Development—

(A) which have a positive impact on indigenous and tribal peoples, or

(B) which have negative impact on indigenous and tribal peoples.

(3) A comprehensive strategy for regulatory monitoring and improving the situatioin of indigenous and tribal peoples, including—

(A) a description of the methodology and the guidelines to be used in carrying out the monitoring required by section 1205, and

(B) a description of the specific actions that the Agency for International Development proposes to take to improve the situation of indigenous and tribal peoples.

(c) CONSULTATION WITH NGOS.—The Administrator shall consult with nongovernmental organizations with experience in monitoring and reporting on human rights and on indigenous and tribal peoples, and with other interested persons, throughout the preparation of the report required by subsection (b), but in particular—

(1) in determining the scope of that report; and

(2) in developing the methodology to be used in preparing that report.

(d) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit the report prepared pursuant to subsection (b) to the Congress.

SEC. 1205. MONITORING REGARDING INDIGENOUS AND TRIBAL PEOPLES.

(a) MONITORING.—The Administrator of the Agency for International Development (in consultation with the Department of State), on a regular basis, shall collect information concerning and shall analyze the situation of indigenous and tribal peoples in the countries for which reports are required under section 1204(b).

(b) USE OF NGOS.—In carrying out subsection (a), the Administrator shall, wherever appropriate, use nongovernmental organizations with experience in monitoring and reporting on human rights and on indigenous and tribal peoples.

(c) ANNUAL REPORTS TO CONGRESS.—Following completion of the report required by section 1204, the Administrator shall submit to the Congress, not later than February 1 each year, a report which—

(1) presents the findings resulting from the monitoring of indigenous and tribal peoples carried out pursuant to subsection (a);

(2) updates the information provided in the report submitted pursuant to section 1204; and

(3) describes the activities which the Agency for International Development proposes to fund for the coming fiscal year to address the problems facing indigenous and tribal peoples, specifying which activities will be carried out by the Agency and which will be carried out by nongovernmental organizations.

SEC. 1206. ANNUAL HUMAN RIGHTS REPORTS.

In each report submitted to the Congress pursuant to section 6302(d) of the Foreign Assistance Act of 1961, the Secretary of State shall include a description of each country's practices regarding the observation of and respect for the internationally recognized human rights of indigenous and tribal peoples in that country.

By Mr. HALL of Ohio;

—Page 214, line 8, strike the period and insert the following:

, that—

(A) includes a linkage of humanitarian and developmental objectives with security objectives in Third World countries, particularly the poorest of the poor countries; and

(B) encourages countries selling military equipment and services to consider the following factors before making conventional arms sales: the security needs of the purchasing countries, the level of defense expenditures by the purchasing countries, and the level of indigenous production of the purchasing countries.

—(1) Page 22, line 7, after "promoted" insert "through research and".

—Page 22, line 17, before the semicolon, insert ", maintenance of soil structure and fertility, and minimization of soil erosion and soil and water contamination".

—Page 22, after line 17, insert the following new clause (ii), and redesignated existing clauses (ii) through (viii) as clauses (iii) through (ix), respectively:

"(ii) adoption of appropriate use of fertilizer and pesticides;

—(2) Page 40, line 14, strike out "AND" and after "DEFICIENCY" insert ", AND BASIC EDUCATION"' and page 41, after line 20, insert the following:

"(c) BASIC EDUCATION.—Of the aggregate amounts made available for development assistance under section 1202, assistance from the Development Fund for Africa, and economic support assistance, not less than $135,000,000 for fiscal year 1992 and not less than $175,000,000 for fiscal year 1993 shall be available only for programs in support of basic education, including early childhood education, primary education, teacher training, and other necessary activities in support of early childhood and primary education, and literacy training for adults.

—(3) Page 41, after line 9, insert the following:

"(3) CHILD SURVIVAL ACTIVITIES.—Of the aggregate amounts made avaialble for development assistance under section 1202, assistance from the Development Fund for Africa, and economic support assistance, not less than $275,000,000 for fiscal year 1992 and not less than $335,000,000 for fiscal year 1993 shall be available only for activities described in section 1201(d)(4), relating to child survival activities.

—(4) Page 415, after line 16, insert the following:

"(4) A detailed description of United States contributions to the achievement of the goals and strategies enunciated in the World Declaration on the Survival, Protection and Development of Children; the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children; the World Declaration on Education for All; and the Framework for action to Meet Basic Learning Needs; including a detailed description of the funding provided for child survival activities and for basic education under United States foreign assistance programs for the current fiscal year and the pending fiscal year, as well as planned funding levels for at least the next 2 fiscal years.

—Page 510, line 10, after "709," insert "section 712,".

—Page 718, strike out lines 18 and 19 and insert in lieu thereof the following:

SEC. 1106. FOOD AS A HUMAN RIGHT.

(a) FINDINGS.—The Congress finds that—

(1) the right to food remains an unfulfilled promise for hundreds of millions of people in many countries around the world; and

(2) an international convention on the right to food could be a useful tool in increasing international respect for the right

to food, especially among governments and armed opposition groups.

(b) THE RIGHT TO FOOD AND UNITED STATES FOREIGN POLICY.—

(1) IN GENERAL.—The United States shall, in accordance with its international obligations and in keeping with the longstanding humanitarian tradition of the United States, promote increased respect internationally for the rights to food and to medical care, including the protection of these rights with respect to civilians and noncombatants during times of armed conflict (such as through ensuring safe passage of relief supplies and access to impartial humanitarian relief organizations providing relief assistance).

(2) RESPONSIBILITIES OF THE ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS.—The responsibilities of the Assistant Secretary of State for Human Rights and Humanitarian Affairs shall include promoting increased respect internationally for the rights to food and to medical care in accordance with paragraph (1).

(c) UNITED NATIONS CONVENTION ON THE RIGHT TO FOOD.—

By Mr. HYDE:

—Page 382, line 10, strike "(1) IN GENERAL.—";

—Page 382, lines 17-18, strike the words ", subject to paragraph (2)";

—Page 382, line 19, strike all through page 384, line 14;

—Page 637, line 4, strike all through line 12;

—Page 637, line 13, strike "(B)";

—Page 637, line 17, insert a period after the word "Pacific" and strike all else through line 18.

—Page 643, line 3, strike all through line 10;

—Page 643, line 11, strike "(2)";

—Page 643, line 14, insert a period after the word "Pacific" and strike all else through line 16.

—Page 653, line 6, strike all through line 14;

—Page 653, line 15, strike "(B)";

—Page 653, line 19, insert a period after the word "Pacific" and strike all else through line 20.

—Page 215, line 23, strike out "shall" and insert in lieu thereof "should".

—Page 217, beginning in line 23, strike out "on or after May 21, 1991," and insert in lieu thereof "after the date of enactment of this Act".

—Page 221, line 19, strike out "May 21, 1991" and insert in lieu thereof "the date of enactment of this Act".

By Mr. KASICH:

—Page 568, after line 14, insert the following:

SEC. 818. SADDAM HUSSEIN'S WAR CRIMES.

It is the sense of the Congress that the United States Government should significantly increase its efforts in cooperation with the United Nations Security Council, the International Court of Justice, and other appropriate international organizations, to apprehend the President of the Republic of Iraq, Saddam Hussein, and to bring about his trial for crimes against peace, violations of the laws of war, and crimes against humanity.

By Mr. KOLTER:

—Page 622, insert the following after line 5:

SEC. 869. RESTRICTION ON ASSISTANCE TO THE SOVIET UNION.

(a) RESTRICTION ON ASSISTANCE.—No assistance may be provided under this Act to the Soviet Union for fiscal year 1992 or 1993 unless the President certifies to the Congress that the Government of the Soviet Union has paid all overdue debts it owes, on the effective date set forth in section 1101, to any business concern organized under the laws of the United States whose principal place of business is in the United States.

(b) CERTAIN ASSISTANCE NOT AFFECTED.—Subsection (a) shall not apply to assistance under this Act to the government of, or through nongovernmental organizations to, any of the Baltic states or any eligible recipient in the Soviet Union as defined in section 862(f).

By Mr. KOSTMAYER:

—On Page 43, after line 15, insert the following Section, and renumber the successive Sections accordingly:

"SEC. 1206. SENSE OF THE CONGRESS REGARDING ALLEGATIONS OF COERCIVE ABORTION IN CHINA.

"It is the sense of the Congress that the Peoples Republic of China should be subject to export controls or other trade sanctions until the President certifies to the Congress that the Chinese Government is not engaged in a program of coercive abortion or involuntary sterilization.

—On Page 645, after line 15, insert the following Section, and renumber the successive Sections accordingly:

"SEC. 911. SENSE OF THE CONGRESS REGARDING ALLEGATIONS OF COERCIVE ABORTION IN CHINA

"It is the sense of the Congress that the Peoples Republic of China should be subject to export controls or other trade sanctions until the President certifies to the Congress that the Chinese Government is not engaged in a program of coercive abortion or involuntary sterilization.

By Mr. LAGOMARSINO:

—Page 567, line 9 strike subsection (a) part (4) and insert in lieu thereof:

(4) there is a lack of full political rights in Kuwait, manifest in part by the 1986 suspension of the elected national assembly and the restricted nature of the franchise in Kuwait.

—Page 567, line 13, strike subsection (b) and insert in lieu thereof:

(b) CONSIDERATIONS IN MAKING MILITARY SALES.—During fiscal years 1992 and 1993, in determining whether to make any sales of defense articles or defense services to Kuwait under the Defense Trade and Export Control Act the President shall take into account whether the Government of Kuwait has—

(1) has taken serious and substantial steps designed to end the occurrences of arbitrary arrest, torture, and extrajudicial killing by Kuwaiti armed forces and is making a genuine effort to stop such acts by non-governmental resistance groups;

(2) has clarified the legal basis for arrest and detention in Kuwait;

(3) has ensured that those detained have access to legal counsel and to humanitarian and human rights groups;

(4) has ensured that the rights to a speedy trial, due process, and a meaningful appeal of any sentence are accorded to each and every detainee;

(5) has the intention to expand the right to vote to all citizens irrespective of sex or literacy and in accordance with the 1962 Kuwaiti Constitution; and

(6) established a date certain, that is not later than December 31, 1992 (unless the government and the opposition agree on another date), on which parliamentary elections will be held.

—Page 658 Following section 926, add the new section:

SEC. 927. INDIA.

"(a) AUTHORITY TO WAIVE PROHIBITION.—

"(1) IN GENERAL.—The President may waive the prohibitions of section 6201 (a) (5) of this Act with respect to paragraph (1) of section 6206 at any time during the period beginning on the date of enactment of this section and ending on September 30, 1993, to provide assistance to India during that period if he determines that to do so is in the national interest of the United States, subject to paragraph (2).

"(2) LIMITATION.—The President may not exericise the waiver authority of this subsection unless a certification under subsection (b) of this section is in effect.

"(b) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance to be furnished or military equipment or technology is to be sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

"(c) FURTHER RESTRICTION ON ASSISTANCE.—Subject to subsection (d), unless a certification under subsection (b) of this section is in effect on September 30, 1992, no funds may be allocated for fiscal year 1993 for assistance to India, or for the sale or transfer of defense articles or defense services to India.

"(d) IF A CERTIFICATION IS MADE.—If a certification under subsection (b) is made in a fiscal year after the prohibition in subsection (c) applies, funds for assistance, sales, or transfers described in subsection (c) may be allocated for India pursuant to the reprogramming provisions of section 6304 of this Act or pursuant to a subsequent appropriation Act.

"(e) PRESIDENTIAL DETERMINATION AND WAIVER.—

"(1) The President may provide the assistance described in paragraph (2), notwithstanding the provisions of subsections (a), (b) and (c), if he determines that it is in the national interest of the United States to do so.

"(2) The assistance referred to in paragraph (1) includes—

"(A) assistance provided under Title I, Chapter 2 of the International Cooperation Act of 1991 (related to development assistance);

"(B) assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

"(C) assistance authorized under Title I, Chapter 3 of the International Cooperation Act of 1991 (related to economic support assistance) which is made available pursuant to subparagraph (A).

—Page 566, beginning on line 18, section 817, Democratic Reform and Human Rights in Kuwait.

Strike section 817. Redesignate the following sections accordingly.

—Page 553, lines 21 and 22, section 808, Subsection (a), paragraph (7) after "American University of Beirut" strike the word "and" and insert "," in lieu thereof. Following "Beirut University College" insert "and International College".

—Page 384, line 14, section 5504, after subsection (g) add the following new subsection:

"(h) PRESIDENTIAL DETERMINATION AND WAIVER.—

"(1) The President may provide the assistance described in paragraph (2), notwithstanding the provisions of subsection (d), (e) and (f), if he determines that it is in the national interest of the United States to do so.

"(2) The assistance referred to in paragraph (1) includes—

"(A) assistance provided under Title I, Chapter 2 of the International Cooperation Act of 1991 or under Part I, Chapter 1 of the Foreign Assistance Act of 1961 (related to development assistance);

"(B) assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

"(C) assistance authorized under Title I, Chapter 3 of the International Cooperation Act of 1991 (related to economic support assistance) or Part II, Chapter 4 of the Foreign Assistance Act of 1961 (related to the economic support fund) which is made available pursuant to subparagraph (A).

By Mr. McCOLLUM:

—Page 712, after line 12, insert the following:

(c) Restriction on Programs in Laos.—The Peace Corps may not carry out programs in Laos until the President determines, and so reports to the appropriate congressional committees, that—

(1) free and fair elections have been held in Laos under the auspices of an international observer team;

(2) all political prisoners in Laos have been released; and

(3) there has been a fair, full, and complete accounting with regard to all POW/MIA cases in Laos that are still pending.

—Page 627, strike out lines 1 through 4, and redesignate paragraphs (6) and (7) as paragraphs (5) and (6).

—Page 629, before the period at the end of line 4, insert the following: ", except that such assistance may not be provided in areas of Cambodia under the control of the Phnom Penh regime until the President and the member nations of the Association of Southeast Asian Nations (ASEAN) have confirmed that all Vietnamese troops, including paramilitary troops, have left Cambodia.".

—Page 631, before the period at the end of line 23, insert the following: ", except that such assistance may not be provided in areas of Cambodia under the control of the Phnom Penh regime until the President and the member nations of the Association of Southeast Asian Nations (ASEAN) have confirmed that all Vietnamese troops, including paramilitary troops, have left Cambodia.".

By Mr. McHUGH of New York:

—On p. 88, lines 6 and 7, strike "$40,000,000" in both places and insert "$70,000,000" in both places; and on p. 88, line 10, strike "$100,000,000" and insert "$70,000,000".

By Mr. MILLER of Washington:

—Page 568, after line 14, insert the following:

SEC. 818. JORDAN.

The Congress is extremely distressed at Jordan's behavior and attitude during Operation Desert Storm. Assistance may not be provided to Jordan for fiscal year 1992 under the Foreign Assistance Act of 1961.

By Mr. OWENS of Utah:

—Page 622, after line 5, insert the following:

SEC. 869. NAGORNO-KARABAKH CRISIS.

(a) Findings.—The Congress finds that—

(1) the Government of the Soviet Union and Government of the Azerbaijan Republic have dramatically escalated their attacks against civilian Armenians in Nagorno-Karabaakh, Azerbaijan, and Armenia itself;

(2) the Government of the Soviet Union has refused Armenia's request to convene a special session of the Supreme Soviet of the Union of Soviet Socialist Republics to resolve the Nagorno-Karabakh crisis;

(3) Soviet and Azerbaijani forces have destroyed Armenian villages and depopulated Armenian areas in and around Nagorno-Karabakh in violation of internationally recognized human rights; and

(4) armed militia threaten stability and peace in Armenia, Nagorno-Karabakh, and Azerbaijan.

(b) Congressional Declaration of Policy.—The Congress—

(1) condemns the attacks on innocent children, women, and men in Armenian areas and communities in and around Nagorno-Karabakh and in Armenia;

(2) condemns the indiscriminate use of force, including the shelling of civilian areas, on Armenia's eastern and southern borders;

(3) calls for the end of the blockades and other uses of force and intimidation directed against Armenia and Nagorno-Karabakh, and calls for the withdrawal of Soviet forces newly deployed for the purpose of intimidation;

(4) called for dialogue among all parties involved as the only acceptable route to achieving a lasting resolution of the conflict;

(5) reconfirms the commitment of the United States to the success of democracy and self-determination in the Soviet Union and its various republics, by expressing its deep concern about any Soviet action of retribution, intimidation, or leverage against those republics and regions which have chosen to seek the fulfillment of their political aspirations; and

(6) calls for an immediate end to deportations of Armenians from Nagorno-Karabakh and the freedom for all refugees to return to their homes.

By Mr. ROGERS:

—Page 61, line 19, before the period insert the following: ", except that this sentence does not apply with respect to any United States coal purchased pursuant to such an agreement".

—Page 64, line 18, before the comma insert "(except that this clause does not apply with respect to any United States coal purchased pursuant to such an agreement)".

—Page 62, strike out line 1 and all that follows through line 5 on page 65 (section 1303).

By Mr. ROHRABACHER:

—Page 403, after line 18, insert the following:

"(4) Exception for Assistance to Democratically Elected Governments of Republics.—Subsection (a)(1) does not apply with respect to assistance provided directly to democratically elected governments within any country that has a federal system of government in which the federal government has a ruling communist majority or provided directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States. As used in this paragraph, the term 'democratically elected' means elected through open, free, and fair elections.

—Page 575, strike out lines 5 through 9 and insert in lieu thereof the following:

"(b) East European Countries.—For purposes of this Act, the term 'East European country' includes Yugoslavia, any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and that has a democratically elected government, and any republic within the Union of Soviet Socialist Republics or Yugoslavia that has a democratically elected government. As used in this subsection, the term 'democratically elected' means elected through open, free, and fair elections.".

—Page 29, after line 2, insert the following:

"(D) With regard to economic assistance under this Act or the Support for East European Democracy (SEED) Act of 1989 for countries that are in transition from communism to democracy, it shall be the policy of the United States, to the extent feasible, to provide assistance directly to democratically elected governments of republics within any country that has a federal system of government in which the federal government has a ruling communist majority, as well as directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States). As used in this subparagraph, the term 'democratically elected' means elected through open, free, and fair elections.

—Page 107, after line 4, insert the following:

"(e) Military Assistance for Democratically Elected Governments Within Communist Countries.—

"(1) Policy.—With regard to any military assistance provided under this title for any country that is in transition from communism to democracy, it shall be the policy of the United States, to the extent feasible, to provide assistance directly to democratically elected governments of republics within any country that has a federal system of government in which the federal government has a ruling communist majority, as well as directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States.

"(2) Authorization for Direct Military Assistance.—In order to allow military assistance to be provided consistent with paragraph (1), military assistance is authorized to be provided for military forces under the control of democratically elected governments described in paragraph (1).

"(3) Definition.—As used in this subsection, the term 'democratically elected' means elected through open, free, and fair elections.

By SMITH of New Jersey;

—Page 42, strike out line 18 and all that follows through line 15 on page 43 (section 1205), and redesignate section 1206 as section 1205.

—Page 43, strike out lines 16 through 23 (section 1206).

—Page 42, strike out line 18 and all that follows through line 23 on page 43 (sections 1205 and 1206).

By Mr. SOLOMON:

—Page 379, after line 13: Insert the following new sentence: "Grants may not be made under this subsection to any organization which has a functional relationship with the South African Communist Party."

—Page 383, line 3: After the words "Annual Certification."—insert "(1) Certification of Pakistan.—".

—Page 383, after line 15: Insert the following new paragraph:

"(2) Waiver.—Notwithstanding the provisions of paragraph (1), the President may provide funds for the International Military Education and Training Program (IMET) and for the maintenance of previously-supplied U.S. equipment. Such funds may be made available for fiscal years 1992 and 1993 for assistance to Pakistan."

—Page 383, line 15: After the period, insert the following new sentence: "Notwithstanding any other provision of law, this prohibition shall not apply to P.L. 480 food assistance or Development Assistance."

—Page 383, line 15: After the period, insert the following new sentence: "Notwithstanding any other provision of law, this prohibition shall not apply to P.L. 480 food assistance, Development Assistance, of Economic Support Funds which support the basic objectives of Chapter 1, Title I of the Foreign Assistance Act of 1961; nor shall this prohibition apply to narcotics control-related projects."

—Page 644, lines 4 and 5: Delete, "Iran, Iraq, Libya, Pakistan, and Syria", and insert in lieu thereof, "Countries Listed Pursuant to Section 6(j) of the Export Administration Act of 1979".

—Page 417, line 10: After the period, insert the following new sentence: "Such reports shall also include a description of the policies and practices in force in each country concerning military conscription."

—Page 644, lines 4 and 5: Delete, "Iran, Iraq, Libya, Pakistan, and Syria", and insert in lieu thereof, "Terrorist States".

—Page 645, after line 15: Insert the following new section:

"SEC. 911. TAIWAN'S ADMISSION INTO THE GATT.

(a) FINDINGS.—The Congress finds that—

(1) Taiwan is a rapidly industrializing country that has become one of the most important commercial powers in the global economy;

(2) Taiwan is the thirteenth largest trading entity in the world, possesses the world's second largest reserve of foreign exchange, and is the United States' fifth largest trading partner;

(3) Taiwan has substantially liberalized its trading regime in recent years and has expressed an active interest in playing an even more cooperative role in the global economy;

(4) On January 1, 1990, Taiwan applied for membership in the General Agreement on Tariffs and Trade (GATT);

(5) By applying to GATT membership as a separate customs union, 'The Customs Territory of Taiwan, Penghuy, Kinmen and Matsu,' Taiwan deliberately sought to avoid controversy over the question of political sovereignty; and

(6) The purposes of GATT, to regulate and strengthen a free system of international trade, will be enhanced if Taiwan is admitted as a member.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should actively support the application of 'The Customs Territory of Taiwan, Penghuy, Kinmen and Matsu' for membership in GATT."

—Page 670: Strike line 18 and all that follows through page 673, line 8, and insert in lieu thereof the following:

(a) STATEMENT OF POLICY.—The Congress—

(1) believes the demise of the regime in Ethiopia headed by Mengistu Haile Mariam represents the first important step toward realizing the hope of reconciliation and reconstruction in that country;

(2) commends those American officials and envoys who were instrumental in facilitating the departure of Mengistu Haile Mariam from Ethiopia and in arranging a cease-fire between the various warring factions in Ethiopia;

(3) further commends those American officials and envoys who were instrumental in facilitating the success of "Operation Solomon," the swift and safe airlift of 14,000 Ethiopian Jews to Israel;

(4) finds that thirty years of civil war, recurring cycles of drought, widespread and systematic abuses of basic human rights by the Mengistu regime, and the destructive political, economic, and social policies of the Mengistu regime have left the Ethiopian state in a condition of profound crisis and internal disarray;

(5) finds that without fundamental reform of the Ethiopian state or peaceful resolution of Ethiopia's internal wars, there will be no end to Ethiopia's deep social crisis, no prospects for a transition to stability, growth, and liberty in Ethiopia, and minimal hope that the Horn of Africa will reverse the spread of devastating internal wars that have created massive human dislocation across the region;

(6) calls upon the authorities who now exercise control over the central government in Ethiopia to protect the basic human rights of all citizens, to release from detention all political prisoners and other detainees who were apprehended by the Mengistu regime, and to facilitate the distribution of emergency humanitarian assistance throughout the country;

(7) calls upon the authorities in Eritrea to open the ports of Mitsiwa and Aseb with all deliberate speed and to permit the restoration of commerce through those ports, as well as the use of those ports in the delivery and distribution of emergency humanitarian assistance to Eritrea and to Ethiopia as a whole;

(8) urges all authorities in Ethiopia to make good faith efforts to—

(A) make permanent the cease-fire now in place and to permit the restoration of tranquility in the country, and

(B) make arrangements for a transitional government that is broadly-based, that accommodates all appropriate points of view, that respects basic human rights, and that is committed to a process of reform leading to the writing of a Constitution and the establishment of a representative government;

(9) favors the resumption of economic assistance to Ethiopia for development and reconstruction in the event there is a permanent cease-fire, clear progress in resolving Ethiopia's internal disputes, protection of basic human rights, and implementation of economic reforms.

(10) urges the President to continue active diplomatic efforts on behalf of reconciliation and reconstruction in Ethiopia.

(b) REPORTS TO CONGRESS.—Not more than 90 days after the date of enactment of this Act and at the end of each 90-day period thereafter, the President shall submit to the appropriate congressional committees a report describing the actions of authorities in Ethiopia during the preceding 90 days with regard to the settlement of internal disputes, the protection of human rights, the implementation of economic reforms, and the establishment of a constitutional, representative government. Each such report shall describe the response of the United States to progress, or lack of progress, by authorities in Ethiopia in these critical areas.

EXTENSIONS OF REMARKS

MINING LAW OF 1872 REFORM

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. RAHALL. Mr. Speaker, the Subcommittee on Mining and Natural Resources has completed a series of field hearings on H.R. 918, legislation to reform the Mining Law of 1872.

Under the mining law of 1872, mining claims are located on public domain lands for minerals such as gold, silver, lead, copper and zinc. No payments of any kind for the use of Federal lands are required. In order to maintain the claim, its holder need spend only $100 per year in prospecting, exploration or development work. Moreover, if valuable minerals are found, the claim holder can receive title to the land from the Federal Government. The return to the Government for these sales is $2.50 or $5 an acre.

In my view, much has changed in the area of public land policy and mineral exploration and development techniques since 1872. While the mining law remained static, the world around it has evolved. As such, despite administrative and judicial attempts to twist and mold the mining law of 1872 into some semblance of compatibility with the mineral requirements, modern business practices, and public land use philosophies of today's America, some of the more archaic provisions of the law that thwart these goals remain. Nothing short of legislation can fix this situation.

The field hearings conducted by the subcommittee were held in Denver, Reno, Santa Fe and Fairbanks. We heard testimony from 166 witnesses and received countless other written submission for the record. In addition, this past weekend, I traveled to Montana in order to discuss mining law reform with both industry and environmental group representatives. Further, on June 18 and 20, the subcommittee will hold hearings on the legislation here in Washington, DC. Suffice it to say that the subcommittee is making every effort possible to obtain public input in this matter.

While reform of the mining law of 1872 is an emotionally charged issue, in two particular States, Montana and Alaska, this is perhaps more the case than elsewhere. It is for this reason that I would like to share with my colleagues editorials in support of reform from the Billings, MT, Gazette, dated May 16, 1991, and from the Anchorage, AK, Daily News, dated June 2, 1991.

[From the Billings Gazette, May 16, 1991]

Mining Law Needs Reform

Finders keepers; losers weepers.

That's the precept behind the 1872 Mining Law.

Finders have been keepers since the law was enacted. For more than a century, mining interests have had basically free access to the nation's mineral resources.

In that regard, the law has worked well.

In 1872, Congress was more interested in developing the great desert west of the Mississippi than in protecting the lands. Dredges and high-pressure water systems virtually destroyed some mineral-bearing watersheds. Vestiges of this time are clearly etched on western landscapes.

But now times have changed and the laws haven't changed enough, and the losers are weeping.

Jim Baca, New Mexico's elected lands commissioner, says of the law, "It developed the West, but now it's giving it away."

Mining companies won't be paying royalties to develop mines on state lands if they can mine for free on federal lands in the West, Baca said.

"They don't pay the taxpayer a nickel for what they're taking off of the public grounds, they're getting something for nothing. Why should they want to change that?"

The issue isn't that simple. The fact is that all Americans own all of America's natural resources on public lands. The fact is that we give these resources—in some cases for a leasing fee—to the people with the expertise, initiative and financial standing to develop them within reasonable limits. In return, they provide jobs and tax bases.

Certainly, mining is not the search and destroy industry it once was. Environmental interests are an important consideration in approving mine sites, and modern companies are much more concerned about the economic and natural environment than their predecessors.

Certainly, we need to develop this nation's mineral resources.

But the 1872 mining law is outdated and needs reform. The mining law should better reflect today's needs and not those of more than a century ago.

[From the Anchorage Daily News, June 2, 1991]

1872 + 119=Trouble—Federal Mining Law Is Frontier Relic

A lot of things have changed in 119 years. Back in 1872, the country was run by a war hero named Ulysses S. Grant. Settlers headed west by the thousands, and bloody battles with indigenous Indians often followed. Alaska had been U.S. territory for all of five years. Four dollars was a good day's wage.

But in all those 119 years, one thing hasn't changed: the essential elements of the federal mining law of 1872.

That law allows prospectors to enter vast reaches of federal lands and stake mining claims. Holding onto a claim requires only $100 worth of work a year. If the site yields an economically valuable deposit, the miner can buy the whole package—minerals and land—for a token price of no more than $5 an acre. The claim buyer gets a perpetual right to cart off a formerly public resource—without having to pay another penny for the privilege.

This framework has undeniably done what it was intended to do: Encourage the discovery and development of minerals. The law, and the energy of those who took advantage of it, helped build the economies of the western states, especially Alaska.

But the law is generous and open to abuse. In a major study two years ago, Congress' General Accounting Office found many serious flaws.

Patented claims obtained for token sums proved to be worth several hundred times what the buyers paid. In one case, 17,000 acres were bought for $42,500. Weeks later the same claims were sold for $37 million. The GAO reviewed 20 cases where miners paid $4,500 for lands that less than two decades later proved to be worth a minimum $13.8 million.

The GAO also found the law had harmful environmental side effects. Mining on patented claims can conflict with recreation or wildlife values on nearby federal lands. The $100 annual work requirement sometimes leads claimholders to gouge up the land as proof they have done some work.

Also, as owner of the land to be mined, the federal government could insist on special environmental protections and proper reclamation—opportunities the current system squanders.

These flaws have provoked a nationwide call for reform. Key proposals include keeping the underlying land in public hands; replacing the work requirement, which is easy to cheat on, with an annual rent fee; and charging a royalty on mineral production.

Such reforms needn't drive the small miner out of business or wreak havoc on the industry. In the past few years, Alaska has started charging rent on claims and a production royalty because the state constitution demands them. The sums involved are hardly burdensome: just $20 a year per claim and 3 percent of the net profits. And unlike the feds, the state doesn't let a miner buy clear title to the land.

The 1872 federal act made a lot more sense when we were a young and growing country, ignorant of the mineral wealth hidden across a vast and inaccessible frontier. But modern life demands modern laws.

The challenge for Congress is to craft a new mining law that does right by the federal taxpayer, lessens the potential for environmental harm, and doesn't drive the small miner out of business.

EL SALVADOR DESERVES THAT AID

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. LAGOMARSINO. Mr. Speaker, I wish to call to the attention of my colleagues the following commentary by Salvadoran President Freddy Cristiani, which appeared in the May 14 edition of the Washington Post.

President Cristiani makes several important points about the lengthy conflict which has afflicted the Salvadoran people over the last decade: the war has cost billions of dollars and thousands of lives, but the support of the United States has been essential for the pro-

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

motion and strengthening of Democratic government.

The key element in U.S. support which I want to emphasize, and which President Cristiani refers to, is the absolute necessity of U.S. assistance to preserve the democratic process in that country. A cutoff or severe restrictions on U.S. aid will only serve to make the FMLN guerrillas more instransigent in the ongoing negotiations for a cease-fire. It is imperative that the U.S. Congress not act in a way that adversely affects the peace process.

[From the Washington Post, May 14, 1991]

EL SALVADOR DESERVES THAT AID

(By Alfredo Cristiani)

What I am about to say may come as a shock to many Americans, but El Salvador, regarded by some as the quagmire of Central America, is on the verge of becoming El Salvador, a triumph for democracy in Central America with thanks to a considerable assist from the United States.

How dare we be so optimistic? Consider the ground we have covered in the past 12 months toward a just peace and sound economic development.

We are close to ending the 11-year-old guerrilla war with a peace agreement that would make winners out of all Salvadorans and strengthen our democratic process. The only losers are the extremists on the left and the right who tried to impose their own nondemocratic systems on us.

Despite predictions that we would never investigate much less prosecute military officers for criminal acts, four army officers and five enlisted men accused of the barbarous murder of six Jesuit priests and their two women housekeepers 18 months ago will go on trial, possibly within the next three months.

In the economy, we have suffered through the first difficult steps to reverse the downward spiral brought on by heavy-handed state interference and to lay the groundwork for a market-oriented system that rewards individual initiative. Last year inflation dropped significantly, agricultural production and exports turned around, and our overall economic growth was the highest since 1979, before the war began. We have high hopes for continuing this trend and achieving our electoral promise of reducing severe poverty. Meanwhile, a special Social Emergency Program is doing much to minimize the adverse impact on the lowest income groups of the drastic measures we were forced to implement.

Nothing will improve our economy so much as peace. Last month after three weeks of intense negotiations with the Farabundo Marti National Liberation Front (FMLN) in Mexico City under the auspices of the United Nations, we laid the constitutional foundation for a final truce agreement that we hope to reach when we reconvene negotiations. The constitutional reforms, which we are already in the process of enacting, place the military firmly under civilian control, set up a civilian police force, strengthen the independence of the judiciary branch and establish a special prosecutor for crimes against human rights.

These reforms go to the heart of the critical problems that plunged our country into a decade of violence. When we took office in 1989, it was the first time in our history that the administration was passed from one elected civilian president to another. Every other elected government had been ousted by a military strong man. It is a major sign of our growing maturity as a democratic nation that our military men are now willing to accept civilian control.

The stage is set for all of these reforms to be cemented into law as soon as the FMLN accepts a cease-fire. It is now up to the FMLN to forswear its terrorism and back off its attempt to impose a bankrupt Marxist system on unwilling Salvadorans. We are encouraged that Joaquin Villalobos, one of their five top leaders, declared that he has given up Marxism to become a Social Democrat. Actually, without admitting it, the left has already become a part of our democratic system; as a result of our March 10 legislative elections, Ruben Zamora, a member of the left's political front, has been chosen vice president of the new National Assembly, and a member of Schafik Handal's Communist Party has one seat in the assembly. Handal is another of the five guerrilla leaders.

Those popular elections, the seventh we have held in the last 10 years, were an important watershed for our efforts to fulfill our campaign promise of bringing peace and unity to El Salvador. While on the surface it appeared that our party, Arena, lost ground to the Convergence of the Left, which won eight seats, the real significance is that the left finally participated in our democratic system and discovered that it could win a meaningful role. Even though Arena remains the most popular single political party, the way is clearly open for the left to have a genuine opportunity to influence policies through political compromise within our democratic system, making violence unjustifiable.

These are the very goals the United States set when it began assisting us in the 1980s. With success for your policy so near at hand, we urge Congress to see us through to the end by continuing its aid program. However, last year's action of withholding military aid to supposedly force the Salvadoran military to support the peace process sent the wrong signal to the FMLN. While we made concessions, the FMLN sought to exploit the situation by smuggling in arms and launching a bloody offensive against the civilian population, which included the cold-blooded murder of two downed American pilots. Wisely, President Bush, citing the FMLN aggression, decided to restore the aid.

We urge Congress this time to demonstrate its support for the democratic forces in the new aid bill in order to send the FMLN a clear signal that it must accept a cease-fire without further delay. Once a cease-fire is in place, we guarantee to redirect military funds toward assisting and retraining the combatants on all sides for useful civilian roles and to rebuilding the infrastructure of our war-ravaged rural areas. Then, we will be truly beating our swords into plowshares.

WHEN THOSE CREDIT REPORTS ARE WRONG

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. LEHMAN of California. Mr. Speaker, I include the following editorial from the Los Angeles Times in today's CONGRESSIONAL RECORD:

[FROM THE LOS ANGELES TIMES, JUNE 10, 1991]

WHEN THOSE CREDIT REPORTS ARE WRONG: RIGHT NOW THERE'S LITTLE YOU CAN DO; THAT COULD, AND MUST, CHANGE SOON

A credit report cost James Russell Wiggins of Washington his job because it erroneously said he had pleaded guilty to cocaine possession. Bill collectors hassled Gregory N. Evans of Englewood, Colo., for months to collect debts that were mistakenly listed as his by a credit reporting company.

Who needs such grief? No one, yet thousands of consumers have been denied a car, house or even a job because of sloppy credit reports compiled by one of the 1,000 credit reporting companies. That consumers have to suffer so is an outrage.

So it's no surprise that a consensus is emerging in Congress that it's time to update the 1970 Fair Credit Reporting Act. When the law was enacted, credit reports were compiled by hand. Today, sophisticated computer systems enable credit reporting companies to amass huge collections of consumer credit files and sell their lists and files to other businesses.

Major credit reporting bureaus spew out 450 million reports a year with errors in as many as 40% of the files, U.S. Rep. Richard H. Lehman, a Democrat from Sanger, Calif., told a House consumer affairs subcommittee last week. He has introduced a bill to strengthen protections in the credit reporting laws by giving consumers the right to see all their files and to receive a free copy of their own report once a year. Consumer advocates also want provisions that would provide prompt correction of errors, require credit bureaus to notify consumers after adverse information is placed on their record and bar the release of information for marketing lists without consent.

These are badly needed changes, considering that the Federal Trade Commission reports that complaints about the privacy and accuracy of credit reports rose 50% in 1990, to 9,000 and now are No. 1 in consumer complaints to the agency. A spot check by the California Public Interest Group showed that consumers who complained to the FTC had tried on average for nearly six months to resolve their problems and many had made more than five phone calls, with no success at getting errors corrected.

Erroneous credit reports that cause consumers to lose jobs or credit are inexcusable. Credit reporting is a $1-billion-a-year business that should not make mistakes, especially with computers that make it so easy to add or delete information.

Greater consumer protection will give greater incentives to companies to be error-free.

SPECIAL TRIBUTE TO REV. MSGR. LADISLAUS J. FLEK, MARKING THE GOLDEN JUBILEE OF HIS ORDINATION TO THE PRIESTHOOD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. ROE. Mr. Speaker, it is with distinct pleasure that I rise today to honor an exceptional man and a distinguished member of the clergy in my Eighth Congressional District of New Jersey. On Sunday, June 16, Rev. Msgr. Ladislaus J. Flek, pastor of St. Joseph's

Roman Catholic Church in Passaic, NJ, will mark the golden jubilee of his ordination to the priesthood. After this very special mass, parishioners and friends will honor him with a dinner at the Sevilla Restaurant in Passaic.

Mr. Speaker, Monsignor Flek has truly served his flock for his entire life. He was born and raised in the very parish he now presides over. To serve and nurture the spiritual needs of a religious community is a calling of profound responsibility, but one which may yield many rewards. It must be a special source of honor and extraordinary satisfaction for Monsignor Flek to have come home to guide and attend the friends and family of the community which he knew as a young man.

Monsignor Flek's parishioners have prepared a special biography outlining his many contributions to the communities he has served. At this point, Mr. Speaker, I would like to read that statement into the RECORD so that all my colleagues may know and share in the love and respect held by all those who have been touched by this remarkable individual.

BIOGRAPHY OF REV. MSGR. LADISLAUS J. FLEK

In our Parish Baptismal records, in the year 1916, there proves to be among the hundreds of babies born in St. Joseph's Parish in Passaic, that of our own Pastor, the Rev. Msgr. Ladislaus Flek. His first home was on Jackson Street, only two blocks from the church. His good parents, the late Sophia and Valentine Bielecki, who migrated from Poland to make their home in Passaic, were also married at St. Joseph's. Monsignor is the second of three children; he has two sisters, Mrs. John (Mary) Ulaszewski, and Mrs. Anthony (Angela) Gawell.

The future priest and pastor was graduated from St. Joseph's School in 1929; he pursued his high school studies at Don Bosco Preparatory School, Ramsey, N.J. under the guidance of the Salesian Fathers and Brothers. His college studies were taken at Seton Hall University, South Orange, N.J., followed by theological studies at Immaculate Conception Seminary, Darlington, N.J. On June 7, 1941, the Sacred Priesthood of Our Lord Jesus Christ was bestowed upon him in the Cathedral of St. John the Baptist by the late Most Rev. Thomas H. McLaughlin, the first bishop of the Diocese of Paterson. On the following day, this new young priest offered his first solemn Mass at the same altar, here at St. Joseph's, where he had served as an altar boy for many years.

Father Flek's first six months of priesthood were spent at Holy Rosary Parish, Passaic, under the late very Rev. Canon Stanislaus Kruczek. In January, 1942, he was assigned to St. Anthony's Church, Hawthorne, N.J., where he served until July, 1954, when he was first named a pastor at St. Simon the Apostle Church, Green Pond. Here, he also had the responsibility for the parishioners of St. Thomas the Apostle Church in Oak Ridge. In September, 1961, Father Flek was named Pastor of Our Lady of Mt. Carmel Church, Boonton. During his eight years there, he had the privilege of rebuilding one of the oldest and most beautiful churches in the diocese.

In June, 1969, Father Flek received the unusual honor of being named Pastor of the parish in which he was baptized, the parish which was the scene of his childhood, the parish which included his own parents as part of his flock, our dear parish of St. Joseph's.

The parishioners are all well aware of Monsignor's keen interest and ability in administering the needs of the parish, both physical and, above all, spiritual. Our beautiful grounds, our church building and the many inspiring and enlightening Spiritual Devotions give testimony to this. Most especially Monsignor Flek evidences a priestly zeal in his deep concern for the sick and elderly.

In recognition of our pastor's zeal and many years of dedicated service to Holy Mother Church, on January 7, 1981, our Holy Father, Pope John Paul II, on the recommendation of His Excellency, Most Rev. Frank J. Rodimer, Bishop of Paterson, bestowed upon him the honor and title of "Prelate of Honor to the Holy Father", bearing the title of Rev. Monsignor. The entire parish family of St. Joseph's rejoiced with Msgr. Flek for this well-deserved honor. A portion of the letter, which announced the good news to our pastor, follows: "It is my great pleasure to inform you that our Holy Father, Pope John Paul II, has named you Prelate of Honor. I hope that this recognition of your zeal and dedication to the work of Christ will bring added encouragement and joy to you, your family, friends, and the people of God to whom you have continued to minister so faithfully through the years". The letter was signed, "Fraternally yours in Christ, Most Rev. Frank J. Rodimer, Bishop of Paterson".

We lift up our minds and our hearts in thanking Almighty God for this great honor and for His gift of Fifty Years of fruitful and inspiring priestly service to our Pastor, Monsignor Flek. May our Dear Lord, the Eternal High Priest and Good Shepherd, continue to bestow upon our pastor His many blessings and graces for many more years to come. Ad Multos Annos!

QUEEN OF THE CLERGY, PRAY FOR HIM

Mr. Speaker, as Msgr. Ladislaus J. Flek celebrates his 50th anniversary of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join me in extending our warmest greetings and felicitations for the excellence of his service to his faith, our Nation, and all of mankind. We do indeed salute an esteemed clergyman, exemplary pastor, and great American—Rev. Msgr. Ladislaus J. Flek.

INTRODUCING LEGISLATION TO DESIGNATE THE LAST WEEK IN JULY AS NATIONAL PARENTS OF MULTIPLE BIRTH CHILDREN WEEK

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mrs. KENNELLY. Mr. Speaker, recently the Mothers of Twins Association of Connecticut wrote to me describing the activities of their organization. They engage in educational and research pursuits as well as exchange information on the joys and challenges of multiple births. Having twin siblings myself, I know first hand of this phenomenon. Today, I am introducing legislation to designate the last week of July as National Parents of Multiple Birth Children Week.

The National Organization of Mothers of Twins Clubs, Inc. was founded in 1960 exclusively for the purpose of educating parents, researchers, educators, and the general public to promote better understanding of the unique aspects of child development presented by multiple births.

This organization sponsors workshops, forums and social activities so that mothers of twins can provide a happy and secure environment for their children. It also serves as a clearing house for research studies in genetics and behavioral science. Finally, it is affiliated with the International Society for Twin Studies.

Mr. Speaker, it is clear that multiple births require special parenting skills and create a unique set of circumstances in which to grow up. I believe we can learn a lot from them. I encourage my colleagues to enact legislation to designate the last week in July as National Parents of Multiple Birth Children Week and recognize the special contributions these families make in our quest for improvements in child welfare.

TAX FAIRNESS FOR OLDER AMERICANS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. DREIER of California. Mr. Speaker, with the rising costs of quality medical care and of long-term health care options, it is time to do something that will make older Americans more financially independent and less victimized by the whims of seemingly random budget cuts. For this reason, I have introduced the Retirement Equity Act to give seniors this independence by repealing gross inequities in the Social Security System and our tax system. This bill will encourage more older Americans to work and to remain financially independent.

Specifically, the Retirement Equity Act eliminates the Social Security outside earnings limitation. The earnings limitation imposes a great burden on those older Americans with the greatest need—those who have had a career of low earnings and who did not qualify for employer pensions. This limitation requires Social Security to deduct $1 for every $3 earned above the exempt annual amount. This translates into a substantial tax on those older workers who want, or need, to continue working. The earnings limitation almost forces these people into full retirement.

Let me suggest that the earnings limitation is one of the few remaining—though indirect—mandatory retirement policies imposed by the Federal Government. And this policy affects a significant number of elderly. Last year, 1 million people had their benefits reduced because of the test; another million lost their benefits entirely; and labor economists estimate that the test deters another 1 million from working. This is happening at a time when we are expecting a labor shortage in the 1990's.

The Retirement Equity Act would eliminate the tax on Social Security beneficiaries who earn above the arbitrary annual limit. We continue to encourage today's workers to plan ahead for retirement, reminding them that Social Security is only a partial retirement plan. Yet, we tax up to one-half the benefits of retirees if their full retirement earnings amount to more than the arbitrary cap: $25,000 for an individual, or $32,000 for a couple filing jointly. To add fuel to the fire, these income thresholds are not indexed for inflation.

Finally, the Retirement Equity Act eliminates the FICA and SECA tax on individuals over age 70. It makes no sense that these individuals must continue to pay into a retirement system for which they may never see a return. Not only are they forced to continue paying into the system, but should they make more than $25,000, they are subject to the Social Security tax.

Seniors who have been productive members of our society should not be made to feel that their survival is based on Government assistance. And yet, this occurs with our current Social Security and payroll tax policies. A pension recipient can earn any amount of income on top of the benefits received, without penalty. Under Social Security, benefits are reduced for those who planned well or want to keep working. This sends the wrong message to today's workers. Our policies say: Don't plan ahead; rely totally on Social Security. We must not lock our elderly into one retirement plant of questionable solvency We should give them incentives to save, and to work.

Mr. Speaker, let us work to eliminate these restrictions on older Americans for their sake and for the good of the economy. At a time when our population is aging, we must devise solutions beyond more Government programs and increased Medicare budgets. Let's work for long-term care solutions to these programs by allowing our senior citizens to achieve a greater sense of financial independence. I urge my colleagues to support this legislation.

THE SAFE PIPELINE ACT OF 1991

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. VENTO. Mr. Speaker, today I am introducing the Safe Pipeline Act of 1991, to amend the Hazardous Liquid Pipeline Safety Act of 1979, to mandate the installation of remote control valves [RCV's] on hazardous liquid pipelines in major urban and suburban communities within 5 years and to provide greater safety for pipelines in environmentally sensitive areas and in substantial risk areas.

This legislation stems from the results of an extensive Department of Transportation study, entitled, "Emergency Flow Restricting Devices Study," which Congress mandated nearly 3 years ago in section 305 of the Pipeline Safety Reauthorization Act of 1988—Public Law 100-561. The study concluded that based on current technology, the only emergency flow restricting devices that are technically feasible, effective, and cost beneficial are remotely controlled valves and check valves on certain hazardous liquid pipelines.

The Department of Transportation estimates that approximately 7 percent of all hazardous liquid main pipeline mileage, 10,850 miles, is located in populated areas. According to the Census Bureau, 193 million Americans, or 77 percent of the total U.S. population, lives in 1 of the 284 Metropolitan Statistical Areas [MSA's]. An MSA has a threshold population of at least 50,000 people.

Based on the information provided by the pipeline industry, the Department of Transportation has determined that remote control valves on hazardous liquid pipelines in urban areas would provide a benefit of $1.59 for every $1 of cost to the operators. The legislation which I am introducing today will require the installation of remote control valves with leak detection systems in densely populated metropolitan areas.

In 1986, a gasoline pipeline explosion in Mounds View, MN, in the district which I represent, killed a young mother and her 7-year-old daughter, severely injured another woman, and caused well over $1 million in property damage. The accident was caused by a seam failure in an electric resistance weld segment of pipeline. This tragedy was exacerbated by a back flow or draining from the pipeline after manually operated valves on either side of the ruptured section of the pipeline were not closed. It took the pipeline operator over 1 hour and 40 minutes from the time of the rupture to isolate the ruptured section of pipeline using manually operated valves. During that time period, approximately 714 barrels—30,000 gallons—or 21 percent of the total volume in the 10-mile manually valved section of the pipeline, spilled into the surrounding residential area.

Since the 1986 accident, the operator, Williams Pipeline Co., has installed RCV's on either side of the Mounds View section of the pipeline, spaced 5.7 miles apart. While an operative RCV system might not have prevented this tragedy, it certainly would have permitted a much faster response from the operator in closing down the pipeline to prevent a backflow from the pipeline. The DOT study also cites other examples where RCV's would have mitigated the damages caused in pipeline accidents in both urban and rural areas. These facts underscore the need for the policy change which I am advocating today.

The bill also mandates the installation of RCV's on either side of a water crossing that is more than 100 feet wide or of a body of water with an average flow rate of 5 cubic feet per second or greater. RCV's would also be required on either side of any reservoir which holds a drinking water supply. The potential threat to drinking water supplies and the threat of severe environmental damage to soil, ground water, rivers lakes, as well as wildlife, birds, and waterfowl from a pipeline accident near certain bodies of water makes it imperative that we impose the strictest possible safety standards at these locations.

This legislation also provides for the installaiton of SCADA [supervisory control and data acquisition] systems with leak detection subsystems on pipelines in urban and suburban areas within 5 years. DOT would also be required to develop standards for both RCV's and SCADA systems within 1 year. SCADA systems which monitor flow rates, operating pressures, and temperature, along with other data, are an essential component of an effective system for isolating a section of pipeline in an emergency situation.

The bill directs the Department of Transportation to initiate within 1 year an assessment of whether to require the installation of RCV's and SCADA systems with leak detection subsystems on pipelines in substantial risk locations. Substantial risk locations are defined as those locations where the risk to public safety, property, wildlife, and the environment would be great in the event of a pipeline accident. This would also include those areas, such as California, which are regularly subject to seismic or earthquake activity.

Currently, pipeline operators are not required to report to the Department of Transportation about the environmental impact of a pipeline accident or spill. Under this legislation, the Department would be directed to amend the hazardous liquid accident report form, as well as relevant regulations, to require operators to report the environmental effects, including, but not limited to, water pollution, soil contamination, and the impact upon wildlife, birds, fish, and waterfowl resulting from any pipeline accident.

Mr. Speaker, I want to recognize the outstanding leadership of the chairman of the Subcommittee on Energy and Power, Mr. SHARP, whose subcommittee is currently considering the reauthorization of the hazardous liquid and natural gas pipeline safety programs. Chairman SHARP has always been very receptive to effective measures for strengthening pipline safety. I was particularly pleased to have had the opportunity to work closely with him and his staff in 1988 to include additional safety provisions in the last reauthorization bill. Earlier this year, Chairman SHARP and I sent a letter to Secretary Skinner urging the Department of Transportation to release this congressionally mandated study on emergency flow restricting devices.

This study lays out a clear path which I believe we should follow. Remote control valves on hazardous liquid pipelines in densely populated areas is certainly an idea whose time has come. I hope that my colleagues will join me in supporting this measure to further strengthen the safety of hazardous liquid pipelines.

CONGRATULATIONS B'NAI B'RITH

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. CLEMENT. Mr. Speaker, I would like to take this opportunity to congratulate and pay homage to an outstanding organization and a distinguished constituent who has recently been elected president of that group.

District seven of B'nai B'rith includes Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, and Tennessee. However, this organization consists of more than geographic boundaries. For 117 years district seven of B'nai B'rith has defined the parameters of honesty, fairness, courage, and dignity. On June 17, 1991, they will hold their 116th convention in Ft. Worth, TX, and install new officers.

At that time Mr. Jim Blumberg of Nashville, TN, will become president of B'nai B'rith district seven. On his path to the presidency he has established a record of integrity and effective leadership second to none. He has stood courageously against the forces of hate and discrimination which B'nai B'rith has traditionally opposed, and there is no doubt that his era will develop impressive new boundaries of service and distinction.

Additionally, this is a particularly sentimental occasion for both Mr. Blumberg and myself. On June 17, 1951, Jim Blumberg's father was installed as president of district seven, and my father, Frank G. Clement had the honor of being a quest at that dinner.

Mr. President, Nashville is proud that one of its own is assuming the presidency of this dynamic organization. I invite you and our colleagues to join me in wishing district seven of B'nai B'rith a successful convention, and in saluting an organization which will continue its tradition of productivity under Jim Blumberg's capable leadership.

TRIBUTE TO ABNER TURNER

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly outstanding individual in mid-Michigan, Mr. Abner Turner of St. Johns, MI. The St. Johns Lions Club has submitted Mr. Turner's name for consideration for the Points of Light Program which recognizes outstanding community volunteers. I am sure that you will agree that Mr. Turner is deserving of this honor.

For the past 13 years Mr. Turner has volunteered more than 1,200 hours per year knitting caps and scarves for the needy in his area. Mr. Turner's selfless nature has meant that many children in the St. Johns area have been a little warmer in the winter. One year he made 65 hat and scarf sets for the Big Brothers/Big Sisters organization. This is no small feat, especially when you consider that each set means 7 hours of labor.

Mr. Turner has devoted many hours to the charitable organizations of his community. Organizations that have benefited from his charitable work include the local Lions Club, Big Brothers/Big Sisters, Head Start, Recovery After Violent Encounter, and Community Services.

It is through his volunteer work that 87-year-old Mr. Turner has directed his life to help others. He has used his special skills to enhance the lives of many young people and adults in his community.

Mr. Speaker, I know that you will join me in thanking and commending this truly exceptional man for all his years of dedication to the community of St. Johns, MI. We all wish this extraordinary gentleman well, and continued success in all his endeavors.

YOUTH CRIME WATCH OF AMERICA PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Youth Crime Watch of America is a partnership with our young people which has helped bring sensibility, law, order, and constructive change back into our schools. We have happily discovered that our young people, the very segment most threatened by crime and drugs, are an extremely potent force in this all-important effort. It is the goal of Youth Crime Watch to provide our young people with crime and drug resistance education and vital leadership skills.

This organization takes several different approaches to the problem of crime. It promotes workshops, provides reference materials, encourages an exchange of ideas, sponsors the National Youth Crime Prevention Conference, and goes to schools and communities to deliver onsite training of crime prevention. It encourages drug-free environments, instills positive values, fosters patriotism, and teaches students to cooperate and help each other fight against crime.

The results are astonishing. Over the 5-year period after it was established in the Dade County public school system in 1980, robberies decreased by 52 percent, arson by 50 percent, breaking and entering by 45 percent, assaults by 40 percent, narcotics by 40 percent, vandalism by 37 percent, and larceny by 18 percent. It has become one of the most comprehensive, popular, anticrime, antidrug, student-led programs in the country.

Many people are to be thanked for its endeavors. The executive director Ann Whitten Lisk; staff members Virginia Hill, Patricia Redmend Waters, and Jan Poole; the 1991 executive board consisting of Betty Ann Good, president; Louis Wolfson III, first vice president; Roger Fritze, second vice president; Maj. Doug Hughes, third vice president; Marilyn Morris, secretary; Joyce Nunez Bell, treasurer; Jane McMillan, Esq., legal adviser; Linda Brown; Sgt. James DiBernardo; William Flanagan; James Kelly; E.O. McAllister; Jeff Miller; Kip Parsons; Howard Rasmussen; Donna Uzzell, and Harry Wright. Also, the 1991 new advisory board members including Dr. William Butler, Tom Cash, Chief Robert Rossman, Fred Taylor of the Metro Dade Police Department, Sheriff Guy Tunnell, and William Turner.

A second-based crime prevention program has impacts far beyond the confines of the classroom. In supporting the Youth Crime Watch, I continue my effort to safeguard the rights of crime victims and prosecute the offenders. While there is no easy solution to the problem of crime, the Youth Crime Watch is a step in the right direction. It is my privilege to bring it to the attention of the House and the American public.

A TRIBUTE TO NED SAXON

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to my longtime friend, Ned Saxon, who died February 8, at his home near Mayfield, KY.

Ned Saxon, 77, was a retired pipefitter, an active member of Mayfield's First United Methodist Church and Landrum Masonic Lodge No. 448. But Ned Saxon was also a tremendous man—well-liked, admired, personable, a devoted Christian husband, father, and grandfather—who is already very much missed by those of us who knew him.

Ned Saxon and his lovely wife Louise, who celebrated their 50th wedding anniversary last October 13, were a terrific couple. Louise Saxon worked for many years at Mayfield's Liberty Savings Bank—now Liberty Bank and Trust Co.—where she served as secretary, teller, then vice president.

In addition to his wife Louise, Ned Saxon was survived by three daughters: Sharlotte Kelley, who was my first secretary when I began a solo practice of law at Mayfield in 1968, and she was also my first secretary at Mayfield as a State senator in 1968; Nedra Nall and Patricia Morris, all of Mayfield; three brothers, David Saxon, Wingo, KY, Billy Saxon, Cuba, KY, and Glenn Saxon, Pryorsburg, KY; two sisters, Faye Gillum, Pryorsburg; and Fern Combs, Evansville, IN, who died last month. He is also survived by five grandchildren, several nieces and nephews, and several brothers-in-law, including Graves circuit court clerk Joe Stewart, Mayfield.

My wife Carol and I extend our sympathy to the family of the late and beloved Ned Saxon.

IN RECOGNITION OF BRADFORD COUNTY VETERANS APPRECIATION DAY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. McDADE. Mr. Speaker, I rise today to bring to my colleagues' attention a very special event that will be held in Bradford, County, PA, on June 16. The third annual Bradford County Veterans' Appreciation Day will be held at Hornbrook Park in my district to show the community's gratitude for the efforts of the men and women who have served our country so selflessly in our history.

In the wake of the grand success of Operation Desert Storm, communities throughout this Nation have organized tributes to our veterans, who have given so much to us by answering the call to duty. But what makes this third annual celebration in Bradford County so special is the effort to bring out veterans who seldom have the opportunity to spend an afternoon out—veterans who are homebound or who live in hospitals, many in wheelchairs. A considerable effort is made to find and transport veterans from their homes and the hospitals to Bradford County Veterans' Appreciation Day, where they are treated to an afternoon of food, companionship, and entertainment.

Volunteers from the local Vietnam Veterans Post put together the first Veterans' Appreciation Day in Bradford County in 1989. The group decided after that first celebration to make the event an annual one. I would like to share with my colleagues the reflections of Joe Larnard, a Vietnam veteran and one of the organizers, of that first celebration:

> A young lady was asked to take a Polaroid picture of each guest. When she approached one older gentleman in a wheelchair, he was shaking his head "no." It was hard to tell what he was trying to say. When I was asked to come over to see if I could help, it didn't take long to see what he wanted—he wanted her in the picture with him! As I got ready to take the picture, another young lady gave him a kiss on the cheek. When I handed him the grayish Polaroid, he looked disappointed. As the photograph slowly developed you could see his face light up, and when it was finished, off he went to show all his buddies. You knew for him, that one picture made his whole day.
>
> Later that day, as the last wheelchair was loaded on the bus to leave, we all sat down together totally exhausted—some had not slept in over 60 hours. Donnie said, "When I saw the look on their faces, it made it all worthwhile." We did it for them, but we knew we got much more out of it than they did.

More volunteers from the community came forward to offer their services, and the second celebration grew to include bands, shows, t-shirts, and caps. Then and now, the support of local businesses has been invaluable in the success of the celebration. The second annual Veterans' Appreciation Day gave special recognition to America's POW's and MIA's.

The Veterans' Appreciation Day on June 16 in Hornbrook Park will pay special tribute to veterans of the Korean war, as we near the 40th anniversary of the beginning of that conflict. Special guests will be homebound veterans of Bradford County and residents from the Veterans' Administration Medical Centers in Wilkes-Barre, PA, and Bath, NY. It again promises to be a memorable event for the special guests, thanks to the tremendous volunteer effort that has allowed this celebration to become an annual occurrence.

Mr. Speaker, I ask my colleagues to join me in commending the volunteers who have made Bradford County Veterans' Appreciation Day such a resounding success, and in sending our best wishes to those who will join in the celebration June 16 at Hornbrook Park.

TRIBUTE TO VIRGINIA NOVAK

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. KOLBE. Mr. Speaker, I rise today to pay tribute to Virginia Novak. Recently, Virginia was named Employee of the Year at the Carondelet St. Joseph Hospital in my district. Although her work as a medical records clerk rarely brings her into direct contact with the patients she serves, she nevertheless plays a vital role in the delivery of quality health care services. Indeed, in many ways a patient's life is dependent on the precise, correct, and diligent work of Virginia.

Our health care delivery system has been under much scrutiny lately. Although there are serious flaws in our current system, there is still a valuable core foundation present which will, I believe, help us restore the high level of quality we've grown to expect from our health care system. Virginia Novak is an important part of this foundation, and I am proud to commend her and all members of the medical community who serve our Nation.

TRIBUTE TO ROBERT E. FREEMAN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. WAXMAN. Mr. Speaker, on June 19, 1991, the Family Service of Los Angeles [FSLA] will be celebrating its 60th annual meeting and bidding farewell to its current chairman of the board, Mr. Robert Freeman.

Mr. Freeman's steadfast commitment to enhancing our community through the strengthening of families has been of tremendous benefit to Family Service of Los Angeles. He has served on the board of directors of FSLA for many years, actively supporting all agency activities, as well as serving on many specialized board committees.

Mr. Freeman has brought strong leadership, cohesiveness, integrity, and direction to Family Service of Los Angeles during his tenure as chairman of the board of directors. Mr. Freeman's commitment helped FSLA to provide essential programs and services, including a suicide prevention center and a community center, in order to meet the changing needs of our community.

In addition to being a longtime member of Family Service of Los Angeles, Mr. Freeman also serves on the board of directors for the Southern California Business Association, the Universal City/North Hollywood Chamber of Commerce, and the AMI Medical Center of North Hollywood.

I ask my colleagues to join with me in congratulating Robert Freeman and his familly on this special occasion and commending him for his dedicated efforts and outstanding contributions to the Family Service of Los Angeles.

TRIBUTE TO JAMES F. SULLIVAN, JR.

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. ATKINS. Mr. Speaker, I rise today to pay tribute to James F. Sullivan, Jr., on the occasion of his retirement from 33 years of dedicated service to the Lowell Public School System. Jim has contributed immeasurably to the growth, character, and intellectual capacity of thousands of students who have been the recipients of his knowledge, kindness, and understanding. Throughout his life in the field of education, he's always exemplified the highest ideals of a teacher and administrator. He has earned the respect and admiration of students, parents, and faculty members. Jim first began as a teacher in the Lowell Public School System in 1958, at the Butler Junior High School as a math teacher, it is here that he became a junior high football coach under the legendary Ray Riddick. He was at the Butler School for 7 years before he was elected principal of the Moody Junior High School in 1965. He has held this position for 26 years and exemplifies the highest quality that our Nation has to offer in the education profession. I join Jim's wife, Louise, their two children, Nancy and Maura, friends and colleagues in congratulating him on his well-earned retirement and in wishing him well in all future endeavors.

TRIBUTE TO SANTIAGO B. LOPEZ

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. TORRES. Mr. Speaker, I rise today to posthumously recognize a special individual, Mr. Santiago Banuelos Lopez. Extraordinary father, supportive grandfather, writer, musician, church activist. Mr. Lopez was all these things.

This year as his family celebrates the 102d year of his birth, Mr. Lopez's legacy lives on. The father of 7 daughters, 23 grandchildren, 57 great-grandchildren, and 7 great great-grandchildren, Mr. Lopez is still annually honored by a family whose lives were all indelibly influenced by the support and kindness of a man whose story epitomizes the opportunity which continues to burn brightly in this country.

Mr. Lopez was born on November 27, 1889, in Zacatecas, Mexico. He and his bride Perfecta Lopez, economic refugees of the Mexican Revolution, emigrated to the United States in 1918, and became naturalized citizens of the United States in 1925. Before leaving Mexico, Mr. Lopez had studied at the School of Priesthood, University of Mexico City. But the economic devastation that accompanied the Revolution of 1910 dramatically changed the circumstances of Mr. Lopez's life. Undaunted, he struggled to overcome the language and racial barriers that were so prevalent and so much a part of the lives of those hundreds of thousands of Mexican immigrants who migrated to the United States in the wake of the Revolution.

Working as a laborer and migrant worker in the fields of California during the 1920's Mr. Lopez lost his wife during childbirth in 1929, because the policy of the rural hospital in the area where he and his family were picking fruits and vegetables was to admit Mexican-Americans on a cash only basis. Possessing inadequate resources to gain proper medical treatment for his spouse, he watched helplessly as his wife died from complications of childbirth in a tent in Santa Clara County.

A widower, Mr. Lopez went on to successfully raise seven daughters, Esther L. Reymont, Beatrice L. Hernandez, Frances L. Granados, Ruth L. Juntilla, Margaret L. Hamilton, Sarah L. Varela, and Catalina Adams, with the help of his mother Refugia, and eventually worked his way from campesino to trusted employee of the Rapid Transit District of Los Angeles. He eventually retired from the RTD and remained an active Mason in the Quovadis Chapter in Los Angeles until his death on December 12, 1963.

Mr. Speaker, Mr. Lopez's family will be holding an event to honor the 102d anniversary of his birth in Fountain Valley, CA, on June 15, 1991. I ask my colleagues to join me in saluting Santiago Banuelos Lopez for the marvelous example he has represented for his over 87 direct descendants.

"BUILDERS OF COMMUNITY" AWARD GOES TO THE BIRNS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. LEVINE of California. Mr. Speaker, I rise today to ask my colleagues in the U.S. House of Representatives to join me as the Westwood Kehilla, a modern orthodox synagogue in west Los Angeles, honors two extraordinary people, Jack and Shayne Birns, whose drive, courage, and spirit of adventure have inspired friends, family, and professional colleagues with each new challenge and achievement. This joyous event will take place on Thursday, June 13, 1991.

After graduating from Cleveland's East Technical High School and Ohio Northern University, Jack began his career as a journalist, working for United Press, Scripps-Howard Feature Service, and International News Service.

He moved to Los Angeles in 1946 and, in 1947, married Shayne Lee Golsen, a graduate of Venice High School, in Los Angeles, and the University of California at Los Angeles [UCLA].

Jack was doing photo assignments for Coronet, Cosmopolitan, Fortune, Holiday, Pageant, Redbook, and Time magazines when Life magazine discovered him. Within 6 months he had set a record for Life freelancers of 30 pages and a cover, exceeding the annual output of many staffers. Life offered him a full-time job and a plum assignment as foreign correspondent, covering Southeast Asia generally and the Chinese civil war in particular.

Thus began the Birns odyssey from Shanghai to Hong Kong to Rome. Again, Jack set a record for the number of photographs and pages published, ultimately receiving the first Overseas Press Club of America Award for best coverage of foriegn news by a photographer. Meanwhile, Shayne was working on her own prodigious output: Michael, born in Shanghai, Jeffrey, born in Hong Kong; and Rebecca, born in Rome, Italy.

Finally they returned to Los Angeles in 1951. Jack opened a camera store and, later, a professional motion picture equipment company, Birns and Sawyer, where he developed an entirely new type of underwater light. In 1978 Jack started Birns Oceanographics, making underwater light products in the fields of energy and the environment.

In Los Angeles, Shayne's career burgeoned as she added Eliav, Debby, Eric, and Abby to the roster of Birns offspring. Not finding enough of a challenge to manage a household of nine, Shayne took on leadership, training, and management positions in PTA, Valley Jewish Community Center—now Adat Ariel Synagogue—Hadassah, ORT, and both neighborhood and Council levels of Girl Scouts. In her, no doubt, voluminous part time, she became a Braille transcriber certified by the U.S. Library of Congress, transcribing more than 16,000 pages.

In 1972, Jack and Shayne took another giant step into the unknown: They moved to Israel. While Jack shuttled between Jerusalem and Los Angeles, Shayne worked as a teacher at Bikur Holim Hospital Nursery School for Neurologically Damaged Children. In 1975, however, business affairs forced the couple to return to Los Angeles. That same year Shayne received her master's degree from California State University, Los Angeles, with a major in special education, besides picking up four teaching credentials: In secondary education [Spanish] and special education [visually handicapped, learning handicapped, and severely handicapped]. By 1981 Shayne was assistant director of the Foundation for the Junior Blind, and from 1983 to 1987 she served as adjunct assistant professor at the University of Southern California School of Education, department of counseling and special education. In 1982, she received her doctorate from USC in special education with a minor in education psychology.

Ten grandchildren later—Kayla, Sarah, Avi, Simha, Liora, Moshe, Shmuel, Rina, Yisrael, and Malkiel—the Birnses are an inspiration to their vast network of relatives, friends, and associates. This all the more true as they have coped with catastrophe: Their eldest son, Michael's death, in 1987; a grandchild's cancer and cure; and Shayne's own unyielding struggle with cancer. And through it all their irrepressible geniality and calm pragmatism there was never a complaint, never a harsh word.

In 1982, in response to a small announcement in the Jewish press, Jack and Shayne became founding members of a fledgling orthodox congregation, joining five other families in this endeavor. From that core of pioneers grew the Westwood Kehilla, a vibrant, welcoming, tolerant, and caring community of Jews committed to learning and worship, involved in the larger Jewish community and its institutions, and dedicated to Zionism and the State of Israel.

It is a genuine pleasure to share with you the life and times of Jack and Shayne Birns, a truly dynamic couple.

HONORING QUEENS COUNTY CLERK JOHN J. DURANTE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 10, 1991

Mr. MANTON. Mr. Speaker, on May 8, 1991, the Honorable John J. Durante retired after serving for more than 21 years as Queens County clerk in New York. He was appointed clerk on November 1, 1969.

John Durante was born and raised in New York City. John met with tragedy early in his life when he lost his father at the age of 3 and was placed in the care of the Mission of the Immaculate Virgin, Mount Loretto in Staten Island. John survived this tragedy and became an outstanding student, at DeWitt Clinton High School and later graduated from my alma mater St. John's University.

During World War II, John fought bravely and honorably in the China-Burma-India theater as a member of the Army Air Corps.

After the war, John became active in government and politics. He served as chairman of the Frank Kenna Republican Club of Astoria, and later became the leader of the Queens Republican Party. John also worked for the New York State Legislature. John was an effective legislative professional for the division of veterans affairs, the ways and means committee, and the court reorganization committee.

Mr. Speaker, on June 11, 1991, a group of friends and colleagues will gather at Russo's on the Bay in Queens, NY, to honor John J. Durante for his outstanding career in public service. I know all of my colleagues join me in congratulating John Durante on the important contributions he has made to New York and the Nation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 11, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 12

9:00 a.m.

Armed Services

To hold a briefing on the Persian Gulf War.

SH-216

Select on Indian Affairs

To hold hearings on S. 962, and S. 963, bills to confirm the jurisdictional authority of tribal governments in Indian country.

SR-485

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to examine certain issues relating to conventional weapons trade.

SD-342

Veterans' Affairs

To hold hearings on S. 775 and S. 23, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain disabled veterans, sections 111 through 113 of S. 127, and related proposals with regard to radiation compensation, and proposed legislation providing for VA hospice-care.

SR-418

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nomination of Ann M. Veneman, of California, to be Deputy Secretary of Agriculture.

SR-332

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of State.

S-146, Capitol

Banking, Housing, and Urban Affairs

To hold hearings on issues relating to lender liability.

SD-538

Finance

Taxation and Debt Management Subcommittee

To hold hearings on miscellaneous tax bills, including S. 90, S. 150, S. 267, S. 284, S. 649, and S. 913.

SD-215

Judiciary

Constitution Subcommittee

To hold hearings on proposed legislation authorizing funds for the Civil Rights Commission.

SD-226

Labor and Human Resources

To continue hearings to examine universal access to health care and health care cost containment.

SD-430

2:00 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the safety and restart issues.

SR-222

Banking, Housing, and Urban Affairs

Securities Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Government Securities Act.

SD-538

Finance

Deficits, Debt Management, and International Debt Subcommittee

To hold hearings on the impact of capital flight on Latin American debt and development prospects.

SD-215

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on S. 654, to revise Federal patent law to provide for the patentability of certain processes along with a machine, manufacture, or composition of matter with which they are associated, and S. 756, to revise Federal copyright law to provide an automatic copyright renewal system for all works copyrighted before January 1, 1978.

SD-226

2:15 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

4:00 p.m.

Appropriations

Business meeting, to mark up H.R. 2506, making appropriations for fiscal year 1992 for the Legislative Branch, and H.R. 2427, making appropriations for fiscal year 1992 for energy and water development.

S-128, Capitol

JUNE 13

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of James H. Quello, of Virginia, to be a Member of the Federal Communications Commission.

SR-253

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nominations of Carolyn R. Bacon, of Texas, Martha Buchanan, of Texas, and Sheila Tate, of Virginia, each to be a Member of the Board of Directors of the Corporation for Public Broadcasting.

SR-253

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on proposed legislation on municipal pollution control, including S. 1081, authorizing funds for water pollution prevention and control programs of the Clean Water Act.

SD-406

Foreign Relations

East Asian and Pacific Affairs Subcommittee

To hold hearings to evaluate China's policies two years after Tiananmen.

SD-419

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings of enforcement of anti-dumping and countervailing duties.

SD-342

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance and Monetary Policy Subcommittee

To hold oversight hearings on activities of the Export-Import Bank of the United States.

SD-538

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on proposed legislation authorizing funds for the Office of Educational Research and Improvement, Department of Education.

SD-430

Labor and Human Resources

Aging Subcommittee

To hold hearings to examine issues relating to nursing home reform.

SD-608

10:30 a.m.

Armed Services

To hold hearings on the nominations of Gen. Gordon R. Sullivan, USA, to be Chief of Staff of the Army, and Lt. Gen. Carl E. Mundy, Jr., USMC, to be Commandant of the Marine Corps.

SR-222

1:30 p.m.

Judiciary

Constitution Subcommittee

To hold joint hearings with the House Committee on Judiciary's Subcommittee on Civil and Constitutional Rights on certain issues relating to standards for forensic DNA analysis.

2226 Rayburn Building

2:00 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To continue hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on chemical defense and chemical demilitarization issues.

SR-222

Foreign Relations

To hold hearings on the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, with Annex, signed at Washington, June 1, 1990 (Treaty Doc. 101-22).

SD-419

2:30 p.m.

Finance

Energy and Agricultural Taxation Subcommittee

To hold hearings to examine conservation and renewable energy tax incentives.

SD-215

JUNE 14

9:30 a.m.

Armed Services

Projection Forces and Regional Defense Subcommittee

To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on naval force issues.

SR-222

Finance
Energy and Agricultural Taxation Subcommittee
To continue hearings to examine conservation and renewable energy tax incentives.
SD-215

JUNE 18

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1029, to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System.
SD-366

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation to modernize the National Weather Service of the National Oceanic and Atmospheric Administration, Department of Commerce.
SR-253

Judiciary
To resume hearings on legislative proposals to strengthen crime control.
SD-226

JUNE 19

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on the National Native American Advisory Commission.
SR-485

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine dairy supply management options.
SR-332

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 49, to establish an Ocean and Coastal Resources Enhancement Fund and a Coastal Zone Impact Assistance Fund, and to require the Secretary of Commerce to provide States and local governments with block grants from moneys in the Funds.
SR-253

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 481, authorizing funds for research into the desalting of water and water reuse.
SD-406

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine the future of the Soviet economy.
SD-419

1:30 p.m.
Agriculture, Nutrition, and Forestry
To continue hearings to examine dairy supply management options.
SR-332

2:00 p.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 933, to provide fair funds to consumers of natural gas who are found to have been overcharged.
SD-366

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review broadcasters' public interest obligations.
SR-253

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Dennis A. Yao, of Pennsylvania, to be a Federal Trade Commissioner.
SR-253

JUNE 21

9:00 a.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the Defense Environmental Restoration Account and the service environmental compliance funds accounts.
SR-232-A

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 884, to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing, and related issues.
SR-253

JUNE 25

2:30 p.m.
Foreign Relations
To hold hearings on the nominations of Mary Ann Casey, of Colorado, to be Ambassador to the Democratic and Popular Republic of Algeria, John Thomas McCarthy, of New York, to be Ambassador to the Republic of Tunisia, Robert H. Pelletreau, Jr., of Connecticut, to be Ambassador to the Arab Republic of Egypt, and Nicholas Platt, of the District of Columbia, to be Ambassador to the Islamic Republic of Pakistan.
SD-419

JUNE 26

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR-418

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 362, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.
SR-485

JULY 9

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on the Navajo-Hopi relocation program.
SR-485

JULY 10

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine national tourism policy.
SR-253

JULY 11

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on employment on Indian reservations.
SR-485

JULY 16

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for rail safety programs.
SR-253

JULY 17

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.
SR-485

JULY 23

9:30 a.m.
Rules and Administration
To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.
SR-301

JULY 25

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review revenues from additional radio spectrum allocations.
SR-253

CANCELLATIONS

JUNE 20

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on the Navajo-Hopi relocation program.
SR-485

POSTPONEMENTS

JUNE 19

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the Corporation for Public Broadcasting.
SR-253

SENATE—*Tuesday, June 11, 1991*

(Legislative day of Monday, June 11, 1991)

The Senate met at 9 a.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

Beloved, let us love one another: for love is of God; and every one that loveth is born of God, and knoweth God. He that loveth not knoweth not God; for God is love.—I John 4: 7–8.

Eternal God, obviously love is the biggest word in the Bible for "God is love." We acknowledge that in the midst of the pragmatism of politics, love seems irrelevant. Forgive the way we have reduced this fundamental reality to emotion, to instant gratification. Help us to understand that all the law and the prophets are fulfilled when we love God and neighbor and self. In the words of the Apostle Paul, "Love is the fulfilling of the law."

Gracious Father whose love covers everyone in this legislative body where differences are often deep and alienating, teach us that love is first volitional, not emotional. To love even our enemies is to obey God. As pressures increase and feelings rise, grant to each of us the will to obey God, to love one another.

We pray in His name who is incarnate love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 11, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF BUSINESS

Mr. MITCHELL. Mr. President, under a prior action, there had been scheduled for this morning 2 hours of debate on a motion to invoke cloture on the motion to proceed to S. 1204, the Surface Transportation Efficiency Act. This followed a discussion between myself and the distinguished Senator from Virginia [Mr. WARNER] and others, late last week.

Last evening I was advised by Senator WARNER, who spoke with a member of my staff, that he and those who joined him in opposing proceeding to the bill were agreeable to vitiate the cloture vote and proceed directly to the bill this morning.

Therefore, shortly I will seek unanimous consent to vitiate the cloture vote, thereby permitting the Senate to proceed immediately to the bill. It is my intention, if agreeable to the distinguished Senator from Virginia, to seek consent that the time between now and 12:30 today be for debate only on the bill, and that following the respective party luncheon caucuses, we would then proceed with what will hopefully be the first amendment shortly thereafter and, it is my hope, dispose of the bill as soon as possible, although I understand that there is no agreement with respect to the manner of proceeding once we do get on the bill.

Mr. WARNER. If the Senator will yield.

Mr. MITCHELL. Mr. President, I yield.

Mr. WARNER. Mr. President, the distinguished leader has very correctly, as always, stated the facts. Yesterday, there was a bipartisan meeting of the various Senators who have a strong, I repeat, very, very strong, basis for dissatisfaction with the committee bill as reported out by the committee of which I am a member, along with the distinguished subcommittee chairman, the Senator from New York.

We, as a group, have been working for some weeks now to try to fashion a substitute bill and, should that fail, a series of amendments. I say to the distinguished majority leader and colleague, that the tenacity and the commitment of the group with whom I am associated in no way has diminished, but we felt, on reflection, that given the traditions of this body with respect to the right of the majority leader to order the business of the Senate and the right of a committee chairman at least to have the opportunity to lay down and present a bill, we will defer to those traditions, and at such time as we deem appropriate, we will come forth here on the floor with such action as we feel is appropriate to advance our causes. I close by saying that our determination, our commitment, has not wavered, my dear friend, one bit. I thank the distinguished leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture vote scheduled for today be vitiated; that the motion to proceed to S. 1204 be withdrawn; that the Senate now proceed to the consideration of S. 1204; that the time between now and 12:30 p.m. today be for debate only on the bill, and that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. in order to accommodate the respective party conferences.

Mr. BYRD. Mr. President, reserving the right to object—I have not discussed this with the majority leader—I have an amendment or amendments with which I am prepared to go forward once the bill is before the Senate. My only problem is, if I do not offer the amendments at this time, and if I have to wait until the Senate is back in following the conferences, then I may or may not be able to offer my amendments ahead of someone else. I am prepared as of now to offer the amendments. I have no objection to the first parts of the majority leader's request; namely, that the cloture motion be vitiated and the motion be withdrawn and the Senate immediately proceed on the bill. But it is merely the delay which would result from the debate which would then in turn shut me out of offering my amendment at this point. I am not saying that I intend to object to the request. I am simply stating that I have certain rights, once the Senate goes on the bill, which I would not have if the request were to be agreed to. Not that I would be necessarily shut out from offering my amendment once we proceed beyond the time for debate that is included in the request, but, conceivably, I might not be in the position that I now am.

Mr. WARNER. Mr. President, if I may——

Mr. MITCHELL. Mr. President, do I have the floor?

The ACTING PRESIDENT pro tempore. The majority leader has the floor. There is a unanimous-consent request now pending before the Senate.

Mr. MITCHELL. I yield to the Senator from Virginia.

Mr. WARNER. I thank the leader. I simply say, in response to my good friend from West Virginia, that in trying to formulate a manner to break the impasse here for a period of time, it was sort of understood that this morning period prior to the caucuses would be utilized for debate on the bill.

During the course of the caucuses, members of my coalition, should I say, or the coalition with which I am associated, would have the opportunity to visit with their caucus and explain the various positions, because he who comes to the floor with the first amendment could well dictate the course of this bill for some period of time.

Therefore, I would wonder if the unanimous-consent request with which I and others heartily concur, could not be left standing until we have had an opportunity maybe to learn from our distinguished colleague from West Virginia the nature of his amendment and the extent to which it may or may not impact on the strategy, which the group that I am associated with is now charting.

The ACTING PRESIDENT pro tempore. There is now pending before the Senate a unanimous-consent request. Is there objection?

Mr. BYRD. Mr. President, I reserve the right to object.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia reserves the right to object.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I remove the reservation.

The ACTING PRESIDENT pro tempore. There is now a unanimous-consent request pending stated in detail by the majority leader. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, if I understand now there will be no amendments under the pending unanimous-consent request until following the caucus and then the bill will proceed with amendments by virtue of recognition.

Mr. MITCHELL. That is correct. Just so there will be no misunderstanding, if this consent request is agreed to, the Senate will proceed immediately to the bill. We will be on the bill.

Mr. WARNER. Correct.

Mr. MITCHELL. It will be for debate only this morning.

Mr. WARNER. That is the key phrase.

Mr. MITCHELL. Then when the Senate resumes session at 2:15 p.m., we will be on the bill and open to amendment at that time.

The ACTING PRESIDENT pro tempore. If there is no objection, the majority leader's unanimous-consent request is granted.

Mr. MITCHELL. Mr. President, I wish to thank my colleagues, the distinguished Senator from Virginia, the distinguished Senator from New York, and the distinguished Senator from West Virginia for their cooperation in this regard. It is my hope that we can proceed in a manner that will permit early disposition of this measure.

SURFACE TRANSPORTATION EFFICIENCY ACT

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1204) to amend title 23, United States Code, and for other purposes.

The Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President, I am pleased to bring before the Senate S. 1204, the Surface Transportation Efficiency Act of 1991. The Public Works Committee has written highway legislation for more than 40 years. This bill constitutes a major departure from any previous highway legislation.

This is not just a highway bill.

This is an integrated approach to a more broadly defined surface transportation system for the post-Interstate era.

Highways will continue to be an important part of such a system, but this bill also addresses mass transit, rail, magnetic levitation and other innovative alternatives.

S. 1204 recognizes that sparsely populated rural States in the West have different priorities than older urban areas and fast-growing Sun Belt States.

To address these divergent needs, almost half of the $105 billion authorized in this bill goes to a new surface transportation program.

These Federal funds can be used to repair roads and bridges or to reduce congestion and pollution.

I believe this is good, balanced legislation that meets the needs of all parts of our country.

The Environment and Public Works Committee has shaped this important bill over the last 2 years. Every member of my committee had input in this legislation, and I appreciate all their hard work.

Senators DANIEL PATRICK MOYNIHAN and STEVE SYMMS deserve special mention as the chairman and ranking member of the Subcommittee on Water Resources, Transportation and Infrastructure.

Senator JOHN CHAFEE, ranking member of the full committee, also played a significant role in developing this bill.

Mr. President, this is historic legislation in every sense of the word.

I urge all Members to support S. 1204 to move our Nation into the 21st century.

Mr. MOYNIHAN. Mr. President, I just want to express the appreciation of every Member of this body for the leadership that QUENTIN BURDICK has given this committee and this Senate, this body itself, in this really large event. It is the first new transportation legislation in a third of a century. It will define the role of the Federal Government and the purposes of the program into the next century.

It is very fitting that he should have done this having been with these matters so long, having guided them so wisely, and well and I know that Senator SYMMS, and his distinguished counterpart, the Senator from Rhode Island [Mr. CHAFEE] would agree with me.

I want to thank you, I say to Senator BURDICK, and say, do not go far from the floor because we shall need you in the travails to come.

Mr. BYRD. Mr. President, I take the floor at this time to explain the amendment which I expect to offer today and which I shall offer if I am able to get recognition at the close of the time allotted for debate under the unanimous-consent order.

Mr. MOYNIHAN. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. MOYNIHAN. It had been thought that the distinguished floor manager on the Republican side would make an opening statement at this point. I see that Senator CHAFEE has come to the floor. I think he might wish to do the same. Would the Senator from West Virginia be willing to postpone his remarks momentarily to hear our colleagues?

Mr. BYRD. I would be happy to do that, and I yield the floor.

Mr. SYMMS. Mr. President, I thank the distinguished Senator from New York, and I certainly do not want to interfere with the distinguished President pro tempore, because I think his amendment sounds like something that might be of great interest to this Senator and others.

I wish to thank Chairman BURDICK, and Senators MOYNIHAN, CHAFEE, the majority leader, and my other colleagues that we finally are now beginning consideration of S. 1204. On May 22, the Environment and Public Works Committee voted out this bill by a vote of 15 to 1. I am sure that we now finally have it before the Senate. We are trying, as Senator MOYNIHAN has said, Mr. President, to pass this bill through the Senate at least prior to the 100 days that the President asked us to do on that night when he spoke last January.

It is most important that we act to reauthorize these transportation programs prior to September 30.

It has been somewhat unusual, but the other body has been uncharacteristically slow to move forward on this package. And I am hopeful that the Senate's moving the bill, working it out—I know we have many difficult issues to deal with—but I am hopeful we will accomplish this week and that this will stimulate our colleagues in the other body to push ahead with a surface transportation proposal in time to begin the conference and negotiations during the August recess.

In the Surface Transportation Efficiency Act, we propose a dramatic restructuring of the Federal-aid highway program and a substantial increase in funding. It includes, in this bill as it is now written, $7.2 billion to complete the Federal funding of the 42,799-mile Interstate and Defense Highway System. That means that the largest public works project in history, having contributed in unparalleled dimensions to the economic growth, personal mobility, and security of the entire Nation, will be completed during the life of this bill. Our transportation programs must evolve to account for the completion of this important national enterprise.

Mr. President, our bill is a 5-year transition bill to move us out of the interstate construction period into a new, efficient and, we hope, productive transportation program. A central theme of the bill is that transportation decisions, including project prioritization and program administration, can be made more efficiently by State and local elected officials in cooperation with the private sector than by Members of the Congress and the Federal bureaucrats here in Washington. That theme is at the core of the new $45 billion surface transportation program which I will describe in more detail shortly. It is a theme running throughout the legislation in the structure and administrative mechanics of the highway program to be created by this bill.

S. 1204 provides $92 billion in budget authority to the Federal-aid Highway Program through fiscal year 1996. That is a $23 billion increase over the highway program authorizations in the 1987 act. I am pleased the committee has approved a substantial increase in funding for the program. However, several points regarding those authorization levels should be noted.

First, the $92 billion 5-year funding level pales in comparison to our transportation and infrastructure needs.

Second, the highway account will have a balance of $11.1 billion at the end of fiscal year 1991 and that balance will grow to $18.6 billion when this 5-year authorization is finished.

I might just note, as an aside, when this comes to the Finance Committee, this Senator intends to offer a motion in the committee that that 2.5 cents a gallon that now goes for transportation funding be put back in the transit and highway trust funds where it belongs so it will even make those balances higher unless more money is apportioned at some time during this 5-year period.

Third, the Nation's highway users will pay over $100 billion in fuel taxes over the next 5 years, though approximately $15 billion—unless my motion is carried—will be diverted to the general fund, unless Congress alters that provision with the 1990 budget agreement. I think it is important that we do alter that because the necessity for improving transportation efficiencies in the country are very apparent to all of us and it just lacks common sense to be taking what should be transportation funding and spending it on nontransportation programs, which is what is happening today with that 2.5 cents a gallon.

I make those points to remind my colleagues that this is not a typical Government spending program. The Highway Program we have before us today, the Transportation Program, is a user-financed, pay-before-you-go program. The identifiable needs are far greater than we have funds to support them. I want to say that again, it is a pay-before-you-go program. These projects are paid for as they are built.

Let me outline briefly the provisions of the Surface Transportation Efficiency Act. We provide $8 billion in the first 4 years of the act to complete the construction of the Interstate Highway System and the interstate substitution projects. Both in statutory declaration of policy and in the structure of the interstate construction funding, the committee has attempted to make clear that this will be the last authorization of a separate categorical funding to finish the few remaining miles of the 42,799-mile Interstate and Defense Highway System.

We have continued separate categorical funding of $14.2 billion over 5 years to maintain those important interstate highways. We continue the permission granted in current law for States to transfer up to 20 percent of the interstate maintenance apportionment for use on noninterstate projects. But the centerpiece, Mr. President, of this bill, is the new Surface Transportation Program, funded at $45 billion over the next 5 years.

The Surface Transportation Program is a highly flexible program designed to allow States much greater authority to establish their own transportation project priorities. Projects eligible for Surface Transportation Program funds include construction, reconstruction, operational improvements to highways and bridges, capital costs for mass transit, passenger rail, bus terminals, a mag-lev R&D project, carpool and corridor parking facilities, highway safety construction projects and transportation research and development programs and planning.

The Surface Transportation Program is a single category for projects currently funded out of six categories. By collapsing the primary, secondary, urban, rail-highway grade crossings, hazard elimination, and FHWA section 402 categories into a single apportionment category, the committee has attempted to eliminate Federal funding constraints that inhibit the States' ability to establish their own project priorities. It is our hope and belief that this new funding flexibility will result in a more efficient Highway Program, better integration of various transportation modes, and substantial productivity gains in the transportation sector of the economy.

The bill requires that each State divide the first 75 percent of the Surface Transportation Program funds among the metropolitan and nonmetropolitan areas of the State. We have modified the original language to define those metropolitan areas as metropolitan statistical areas over 250,000 in population.

Although this Senator would like to be even less prescriptive than is in the bill with respect to the amount of Surface Transportation Program funds each State must program in its metropolitan areas, I am pleased that the committee has altered this substantially from where we started. It was a 50,000 population level instead of 250,000.

This section also requires States to develop the method of distributing the nonmetropolitan funds fairly and equitably among those local jurisdictions with responsibilities for highways and bridges.

What that is all about, Mr. President, is, as the distinguished occupant of the chair knows, in his State, for example, Nevada—to my colleagues who are interested in what we are talking about here—with the huge population in Las Vegas, we need to be careful to be sure we protect those people who live in the outreaches and northern Nevada, that they are able to get some of those funds, because the States, as we all know, due to court rulings, do not enjoy the protection of their State Senates that they used to enjoy. So we have to be careful that those States are protected so the metropolitan areas do not take all the money and leave the rural areas with no funds. This program, I think, will do that in large part.

In addition, we have a continued separate category for bridge replacement and rehabilitation. The committee has adopted the administration's proposed level of service criteria to apportion the bridge funds and defined which bridges are eligible for the bridge funding.

At the request of Senator JEFFORDS and the other members of the committee and the National Association of Counties, the committee approved a modification of the original bridge language, allowing States to use up to 35 percent of their bridge funds for replacement and rehabilitation of bridges that are not included on the level of service industry.

It should be noted that Surface Transportation Program funds would also be available for use on any bridge. This gives great flexibility to the States to use the bulk of this money. We have continued the Federal Lands Highway Program, which is very important to those Government-held States in the Western part of the United States—nearly doubling the funds authorized for this program under current law.

The committee has followed the administration's lead by collapsing the existing public lands highway category and the forest highway category into one account. Two-thirds of the new Public Lands Highway Program will be allocated to the Forest Service regional office to be programmed for forest highways and other roads serving Federal lands in States covered by the various Forest Service regions. One-third of the Public Lands Program will be distributed to the States in discretionary grants for use on any public road running through or serving the Federal lands.

The committee has authorized $200 million per year for the Public Lands Highway Program, $150 million per year for the Indian lands highways, and $100 million per year for the park roads, and parkways.

We have also codified an important new section called program efficiencies. This section will streamline Federal oversight project review and administrative requirements, thereby reducing the cost of projects constructed under title XXIII.

The provision delegates to the States a variety of engineering and design decisions which currently can be made only with the approval of the Federal Highway Administration.

I am very pleased about this section of the bill the committee has adopted because these are important modifications of existing law and regulations, and I will work to see this streamlining of the Federal-Aid Program is incorporated in the bill that we ultimately will present to the President.

I think this is most important because it will allow States to use the expertise they have developed in the last 35 years and will reduce their dependence on having to have every project approved and be replanned and replanned and replanned by the Federal administrators.

The committee also approved the national recreation trails program to provide funds for development and improvement of recreational trails.

We have also a timber bridge research and construction program to encourage the use of timber bridges in certain Federal aid projects; also an amendment to repeal the speed limit compliance criteria and related funding sanctions; all of which are provisions this Senator offered, along with others in the committee. I think they are all a very good, sound part of the bill.

I also would like to mention briefly that the centerpiece of the administration's proposed highway bill is the National Highway System. The administration, Mr. President, has proposed to designate a 150,000-mile highway system comprised of 43,000 miles of interstate and an additional 110,000 miles of principal arterial highways. They also propose to devote approximately two-thirds of the Federal aid fund to projects on the National Highway System.

We did not take that course. We have provided categorical funding to preserve the National Highway System already in existence; namely, the Interstate System. We have modified the original proposal to require FHWA and the States to agree on which roads would be included in a National Highway System and report back to the Congress within 2 years.

Speaking for myself only, Mr. President, and not for the committee, I believe the administration's proposal to designate a National Highway System has some very fine merit in designating a network of highways in addition to the interstate to be built and maintained at higher design standards than other routes for which the States would be required to devote a minimum percentage of Federal aid dollars.

I know, Mr. President, how strongly President Bush, Secretary Skinner, and Dr. Larson feel about this proposal. So I believe we can and will ultimately agree to reserve a significant amount of the Federal aid fund for use on highways to be designated in a National Highway System, but that decision has not yet been reached. I will not propose it on this bill. I will stick with what we have done in the committee.

But I only want to indicate publicly that the Secretary and Dr. Larson's message has been heard. I believe we will reach an agreement in the future that will satisfy the request of the administration. Senator MOYNIHAN has been very clear on this.

I will be happy to yield to my colleague.

Mr. MOYNIHAN. Mr. President, that is very generous of Senator SYMMS. I believe I heard him say he was not speaking for the committee as regards the National Highway System. What I heard him then say I think could have been said for the committee. We are not opposed to this measure. We simply need to know what is the system we are asked to approve.

Mr. SYMMS. Correct. I might just say what Chairman MOYNIHAN, chairman of the subcommittee, repeatedly stated in the committee and working with the administration, which was if in 2 years we can come back with a recommended list of which roads they believe should be on the list, then we would look upon it favorably to incorporate it into the already 43,000-some miles of the National Interstate and Defense Highway System we already have. That is basically it.

There is one other point I will say on this, Mr. President. In the first recommendations the Federal Highway Administration made—just a rough draft recommendation—it appears some of the roads the States are coming up with are going to be basically the same roads we will be funding in this bill.

I do not believe we are losing any time on it in terms of where the President wants to go and where Secretary Skinner wants to go. I think we will find most of the money.

I know, speaking from experience in my own State, those roads that will ultimately be designated as part of a National Highway System, which would be U.S. 93, which goes north and south from Nevada up to Missoula, MT, and through Idaho; U.S. 95, that goes from Oregon to the Canadian border along the western side of the State, up through the panhandle of the State; those highways are already receiving a big percentage of these dollars. They will be, in anybody's estimate of the National Highway System, part of it.

I think Chairman MOYNIHAN has been very cooperative with the administration on this. I hope we can iron this out so it does not become some kind of a big issue that could ultimately lead us to some kind of a conflict that this committee does not wish to have with the administration. We basically agree with them and we are working toward that goal.

There is always the problem of where the money is coming from. If too much money goes to a National Highway System, then we lose the centerpiece of this bill, which is flexibility and then the States do not have the flexibility and they cannot fix those problems they have been waiting to complete for years and years.

Mr. President, let me say one word about matching ratios. This is an issue of great concern to the States and it has always been an issue of great concern to the Office of Management and Budget; the other issue being the absence of the National Highway System in concrete, so to speak, in this bill.

But this one, the matching ratios, has also raised the talk and the postulation it could bring about some major conflict, such as a veto from the administration. OMB wants to increase the State and local share of projects to be funded under this program.

We propose in the bill an overall share for the State and local governments to be increased. But the committee did not take the big change the administration recommended. The administration proposed 60-40 Federal-State match for a substantial share of the program.

I hope we can reach an agreement on this issue during the conference. But the President, I think, should not be put in the position of having to veto this important legislation over an issue for which there is absolutely little, if any, political support.

I appreciate OMB's interest in leveraging greater State and local investment of transportation. But, to date, I have not heard from a single Senator who thinks we should substantially reduce the Federal match on projects funded under this bill.

I look forward to working with my friends in the administration on this issue because I know it is a serious concern. But I think realistically, when you look at the funding of the States and the burden they are already faced with respect to fuel taxes, and trying to come up with their share of matching dollars to match Federal funds, it simply is not possible for most States to comply with a 60-40 match. This bill has 80-20, which goes away from the old 90-10 formula which is a major step for States to have to meet and to match.

I think also there are some adjustments made for certain States that have Federal ownership existing in over half the land in the States that gives them a little better break.

But I do think these are two issues we need to work on. I think they can be resolved.

I think generally this is a bill I hope all of our colleagues will vote for. I know there have been some objections from some of the States. Senator WARNER, Senator BOND, and others have objected about the donor versus the donee States. But I remind all my colleagues this is a national highway program. It is a national system and when we look at a State like Montana, with 700,000 people, and more interstate miles than the State of Virginia, they simply do not have the financial wherewithal to have a National Highway System. But all Americans need to be able to get across Montana with commercial transportation, with trucks, with people. And it is important that we do not lose sight of this fact. It is true that all States do not get back the total amount of money they put in. But it would be impossible to have it work out that way. Even the State of Virginia, which is getting slightly less than $1 back now for the $1 that they put in, over the life of the program, they have done quite well on the program. During the years of construction of U.S. 95 down through Virginia, and U.S. 81 through Virginia, they got back well over $1 during those years.

The fact is, if you look at the life of the program, the State of Virginia, for example, has gotten back $1.27 for every dollar they put in. I appreciate my friend from Virginia looking out for his State. I will say more about this later when we get to that. I think a very good case can be made that the Senator's State is being treated fairly, and that all States are being treated fairly, in order to have and preserve an efficient National Highway System that allows for commercial trucking interests to move the goods and services from the fields and the forests and the mines to the urban areas and the cities where the people are; and it also provides great flexibility and mobility for the American people to be able to maximize their own personal liberty to get in their automobiles and drive anywhere in this great Nation that they wish to go, and know that they are going to have a good, safe highway to drive on.

So I think that the committee has come up with a fair compromise, and I hope the Senators look at this and see what the committee has done, and that we will not alter this formula substantially from where it is now.

I also say one other thing on that subject: This is just one step, my colleagues, when we pass this bill through the Senate.

It is just one step, and then we do have to go through a very difficult conference. This Senator has been through about three or four of those conferences with the other body, and it is not easy. It is not the position of the Senate to protect the smaller States. If the Senate yields to what some of the bigger States are asking for here in the minimum allocation, they will only weaken the position of the conferees when we go to conference.

I might also say that we have many programs of national importance in addition to highways—national defense, for example. Proportionately, some States, like North Dakota and Idaho and others, get much less spending with respect to national defense. For example—there is very little money spent in Iowa on national defense. There is a great deal of money spent on national defense in Virginia. And in some of the other States up and down the eastern seaboard, they get a lot of money on national defense spending that other States in the interior do not get so much of.

I think these things have a way of working themselves out. I remind my colleagues when we get into that debate that I will have more speeches on it.

I want to thank Senator MOYNIHAN, Senator BURDICK, Senator CHAFEE, and all the other members of the committee for their efforts on this bill because I think we have come up with a big step forward for more efficient use of our transportation dollars in this country.

I yield the floor.

Mr. CHAFEE. Mr. President, I am pleased to join my distinguished colleagues as a cosponsor of the Surface Transportation Efficiency Act of 1991. I commend in particular our chairman, Senator BURDICK, Senator MOYNIHAN, and Senator SYMMS for their diligent efforts in crafting this bill and in bringing it to the floor for debate in such a timely manner. This bill was reported to the floor by a vote of 15 to 1.

I believe that this legislation represents a leap forward for our Nation's transportation system, toward and efficient, well-maintained, cost-effective transportation program of the 21st century. With a comprehensive Interstate System nearly complete, we can now focus on maintaining the system and on using it more efficiently.

We can and should also turn our attention to the task of developing a transportation system with many well-integrated components, including private automobiles, various forms of mass transportation such as carpools, buses, light rail and subways, magnetic rail and high-speed trains. There is even money for bicycle paths if the States so desire. In this legislation, we strive to achieve these goals by emphasizing productivity and accountability, and by encouraging innovation and competition to develop new mass transit and other transportation forms of the future. The transportation system which we must work toward will move our country's people and goods in the most safe, efficient, cost effective, and environmentally sound manner possible.

With limited resources in general, transportation dollars must be used wisely and more efficiently. There is not enough money to give the States all they want. More money will not necessarily solve all our transportation problems. This bill gives the States a tremendous amount of flexibility. After providing for interstate completion and maintenance, States are allowed to spend half the money in this bill on the type of transportation projects that will solve their problems. This can be better management, more highways, transit, better inter-modal connections, congestion pricing, or toll roads. In this way, Federal funds can be used in the most sensible, efficient manner possible. In addition, those States and cities that choose to construct new, innovative transportation or management systems can serve as models for other States and cities.

S. 1204 takes a giant step in sending the message that we have to take care of the facilities we have, and we have to manage these facilities better. The bill requires States to do multimodal, coordinated, long-range planning and to make certain that transportation decisions made by State and local officials are carried out. Also, except for completing the Interstate, there is no more 90 percent Federal money. States will have to contribute at least 20 percent of the cost of a project. I would support an even larger contribution for highway projects, as the administration's transportation proposal requires, but I believe it would be difficult to convince enough Members of that at this time. It is clear that the more investment a State or local government makes in a project, the more efficient it will be.

There is another incentive for States to use existing facilities more efficiently. The State share for improving and maintaining existing highway facilities is 20 percent. The State share for new roads or bridges or for adding new lanes is 25 percent.

A key component of this legislation is its environmnental sensitivity. As essential as transportation is, especially autombile transportation, it is also a major contributor to air quality problems. Last year, Congress passed and the President signed into law a landmark Clean Air Act, designed to achieve marked improvements in air quality around the Nation by the beginning of the next century, and even as early as the year 1995. The legislation being debated here today takes important steps to ensure that transportation will be part of the solution in meeting our clean air goals, instead of part of the problem.

ENVIRONMENTAL AND PLANNING REQUIREMENTS

A strong cooperative planning process will ensure that transportation planning in nonattainment areas will complement, rather than conflict with, clean air planning requirements. The bill also creates a new Congestion Mitigation and Air Quality Improvement Program. This program will provide funds to States with nonattainment areas for projects which will directly benefit air quality. The bill also provides a higher Federal match for maintaining the existing highway system, for operational improvements, and for projects such as HOV [high occupancy vehicle] lanes that encourage vehicles carrying mulitiple passengers. The aim of these provisions is to ensure that in the future, transportation planning will be coordinated with environmental, land use, and water quality planning, along with the other kinds of efforts that State and local officials undertake.

REDUCING VMT

This legislation is environmentally sensitive in other ways too. The bill includes an incentive bonus program to encourage large cities to reduce the vehicle miles traveled [VMT] per capita. These are strategies that some cities in nonattainment will have to implement in order to meet the requirements of the Clean Air Act. S. 1204 encourages and rewards these kinds of activities that will benefit air quality. The bill also requires that at least 8 percent of Surface Transportation Program funds be used for transportation enhancement activities including historic preservation, bicycles, scenic easements, and mitigation of water pollution due to highway runoff.

RUBBERIZED ASPHALT

S. 1204 encourages the recycling of old tires through a provision that requires States and localities that receive Federal assistance through the highway program to use a small amount of rubber for old tires in producing asphalt for highways. This provisions requires that States utilize the equivalent of 6 pounds of rubber from old tires for every 2,000 pounds of asphalt. Many States, most notably California and Arizona, have experimented with rubberized asphalt. California, in hearings before the Environment and Public Works Committee, testified that its experiment with rubberized asphalt in both hot and cold climates has been so positive that it has requested the FHWA no longer consider its use experimental. Waste tires are currently accumulating in dumps and other areas all across the country at extremely high rates. It is estimated that 2½ to 3 billion tires have accumulated in aboveground stockpiles and dumps. These tires pose serious risks of fires and disease; by reusing them in asphalt, we will reduce these risks and find a constructive use for millions of old tires.

BILLBOARDS

I am particularly pleased that the Visual Pollution Control Act, which I introduced earlier this year, has been incorporated into this bill. Section 137 of S. 1204 restores to the States important authority to control billboards through the use of amortization. That authority was withdrawn by Congress in 1965, in previous amendments to the Highway Beautification Act. Specifically, section 137, which was approved by the Committee on Environment and Public Works, by a vote of 12 to 4, during consideration of this year's highway bill, allows States removing nonconforming billboards to decide whether to pay a billboard owner cash compensation immediately, or to allow the owner to amortize the billboard for purposes of recouping his or her investment over a period of time.

Congress has penalized the States for using amortization for more than two decades. As a consequence of this Federal penalty, the States have been unable to implement the purpose of the Highway Beautification Act—that of removing nonconforming billboards. This prohibition has been in effect despite the fact that a majority of courts have upheld amortization as a valid exercise of the police power under the fifth amendment of the U.S. Constitution and under State constitutions as well. And that is not just my reading of the cases, but also that of the general counsel of the U.S. Department of Transportation and the General Accounting Office, as expressed in recent legal opinions submitted to the Environment and Public Works Committee.

Mr. President, those who may offer amendments to delete or effectively kill section 137 are prohibiting States from exercising their right to control billboards in a manner long upheld by the courts as fair and equitable to billboard owners. Section 137 properly returns that right to the States, giving them the freedom to choose either amortization, cash, or to leave the nonconforming billboards standing.

This provision of the bill also establishes a moratorium on the erection of new billboards on the Interstate and Primary system. This will give States and localities an opportunity to determine how they want to regulate billboards without undue pressure to put up new billboards before a decision is made.

HELMETS AND SAFETY BELTS

I am gratified that the National Highway Fatality and Injury Reduction Act, which I introduced in 1989, has been incorporated into this bill as well. Along with efficiency and environmental sensitivity, safety is one of the most important goals of our national tranportation system. Far too many lives are lost each year on our Nation's highway system; indeed, over 45,000 people die and millions more are injured on the highways every year. Strong measures must be taken to prevent as many of these terrible deaths and injuries as possible. Safety belts and motorcycle helmets make a difference, and laws dramatically increase their usage. This bill encourages States to pass safety belt and helmet laws by providing incentive grants to States that already have them or that pass them. If a State has not passed both laws within 3 years, it will have to spend a small amount of its highway money—1½ percent the first year, and 3 percent thereafter—on safety programs within the State.

CONCLUSION

Mr. President, these components of the bill, along with many others, combine to make the Surface Transportation Efficiency Act of 1991 a comprehensive bill that will guide this country's transportation system into a new era in transportation.

Finally, I would like to commend President Bush and the Secretary of Transportation for submitting a surface transportation bill to Congress early this year. Theirs was a timely and thoughtful bill, and the culmination of lengthy study and discussions with people all around the country. Although our legislation differs in some respects from the Administration bill, it builds on many of the basic concepts contained in the administration bill, including flexibility in funding for highway and transit projects, consolidation of categories, and an emphasis on maintaining the existing system and using it more efficiently.

Mr. President, I thank and pay tribute to Senators BURDICK, MOYNIHAN, and SYMMS for the work they have done on this legislation. I think this is absolutely landmark legislation, and I believe that everybody who has been associated with it should feel very, very proud.

What this bill, in essence, does is provide for greater latitude for alternate methods of transportation other than solely road construction. That is the breakaway in this bill. Never before have we had a surface transportation bill—and I stress that it is called surface transportation; it is not a highway bill—never have we had this legislation before us where up to half of the money spent can be spent on alternate methods of transportation other than solely building roads. That is the first point.

Second point: There is a disincentive in this legislation from widening or increasing the roads we currently have. No longer can we simply make roads wider and wider and add lane after lane, more and more automobiles, greater and greater density, greater and greater traffic jams. That is the formula we have used in the past. That has changed. If a State wants to widen its road, then it must put up 25 percent of the funds. If, instead, it wants to improve the roads that it has through strengthening the bridges or doing better maintenance, then its contribution is 20 percent, not 5 percent. That is a very significant difference, Mr. President.

There is just one provision that I would like to dwell on, if I might, briefly, and that is the Visual Pollution Control Act provision that is incorporated in this bill; namely, some authority given to the States to control the billboards, and that is through a power that the States have always had up until about two decades ago, to use what is called amortization. All States have been able to exercise their police powers through amortization, saying to an offender, whether it is a pawnshop or whether it is a beer hall or whether it is a billboard that has been set up and is no longer conforming, States have always had the powers to say, you can keep this billboard, or whatever the offending structure is, for *x* number of years during which time you can recover your money. Two decades ago, under the highway bill that passed in 1978, it said States can no longer use the power of amortization; they have to pay the entire amount of money up front, 100 percent if it is in an interstate or if it is in a primary road. The result, no billboards came down. So what we have provided in this legislation is that the power of amortization once again is provided to the States. They do not have to use it. If they love lots of billboards along their primary and interstates, three cheers, they can keep them. If they wish to take them down—and initially these are nonconforming, in other words, they do it to conform to the current zoning—then the States can use amortization.

Some say this is an encroachment on the fifth amendment; there cannot be a taking under the Constitution. Nonsense. These cases have been decided time and time again, that the power of amortization is a proper power under the fifth amendment to the U.S. Constitution.

So I do hope this is fair to the billboard owners and it is fair to the cities and towns and the States. That is why the League of Mayors, the League of Cities, the innercity mayors particularly, are supportive of this provision so they can get rid of those billboards that tout liquor, that tout beer, that tout cigarettes, and desecrate the highways in their areas.

Mr. President, I suspect there will be an amendment presented to eliminate that provision. I hope that my colleagues will rally in support of this legislation, which, in essence, is a power to the State that they have always had until it was taken away from them about 15 to 20 years ago.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, just on behalf of myself and Senator SYMMS, I would like to express our appreciation to Senator CHAFEE for drafting the legislation and his generosity to us. May I point out with respect to what I call the Chafee Act, section 137 in the report, on page 55—turn to page 60 and you will find the opinion of the general counsel, U.S. Department of Transportation, with respect to the Chafee Act and entering explicitly that is a constitutional taking, as the Senator has stated.

Mr. CHAFEE. I thank the distinguished Senator from New York.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I want to thank my associates, Senator BURDICK and Senator CHAFEE. Senator SYMMS has been absolutely indefatigable in learning this legislation—it is not simple legislation—learning the subject over the years. It is as complex and as important as a subject could be. But I note that the Senator left something out, which is part B of the legislation. There are three parts.

The first one the Senator has discussed: Surface transportation. The third is an act offered by the Senator from New Jersey [Mr. LAUTENBERG], which he will discuss, is an Intelligent vehicle-highways system. And part B is the National Recreational Trails Trust Fund Act. That will want to be known as the Symms Act in history, and it is an extraordinary measure which takes the taxes collected from gasoline, basically used in recreational settings, national parks mainly, and applies those revenues to a trust fund for the development of recreational trails for hikers, joggers, horseback riders, bicyclists, snowmobilers, trail bikers, and others.

This is the work of Senator SYMMS. It was unanimously accepted by the committee. I know an occasion will arise in the course of this debate when I hope that the Senator will want to discuss it at greater length.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, that closing remark of my distinguished friend and the chairman points up precisely why a group of Senators, 18 in number, and growing by the hour, is going to fight this bill.

It is now 10 o'clock in the morning. We are talking about bicycle trails. People have spent an hour, 2 hours, in gridlock traffic all over this country trying to get to their destinations to provide for their families, and to contribute to the welfare, the economy, and the strength of this Nation.

Therein is precisely one of the major differences between our group and the committee bill and its sponsors. I love Montana and Idaho. I hope to spend some time with my good friend this summer visting those trails, traveling in a period of 2 hours 100 miles through sylvan country and God-given, beautiful countryside.

But I am standing here fighting for the people who are barely crawling into their places of work, exhausted, time wasted, energy wasted. That is what we have to address in this bill. That is why we have our coalition working for simple principles: No. 1, equity and fairness of the allocation between the several States.

For generations now we have operated on the principle that the more affluent States, the more developed States, can contribute to those that are coming along. We have done that through the National Highway System. The system is basically built.

But now the time has come to fight for those people struggling through this gridlock that is gripping our modern Nation. That is the essence of this fight: Fairness in that allocation.

My good friend from Idaho said the State of Virginia is going to get something less than a dollar back for those taxes. Well, I say it is considerably less than $1 back. In the course of this debate, we will point out the margins of difference between the donor States and the donee States. We simply have to adjust that formula before this bill leaves the floor. Our group of Senators will exercise every single right they have to get that readjustment.

Here is the place, now is the time to stop this perpetuation, this archaic formula between the donor and the donee States. Fairness is principle No. 1. Principle No. 2 is flexibility. What that word means is power given to the individual States to decide for themselves how to spend those dollars.

I stand here today as a proponent of a bill that has been fashioned not by me, not by Virginia, but by a group of highly intelligent individuals, highway or otherwise transportation officials of the several States, who spent several years working on this concept commonly known as FAST. This is their work product that I advocate. It is their genius, their practical in every day confronting the problems of their State, and our bill gives them greater flexibility, gives them recognition of what they have had to deal with day after day in terms of the transportation needs of their States.

Mr. President, I will have much more to say. I do not want to monopolize the time here on my view. I see in the Chamber my distinguished colleague from Missouri, who has been working by my side throughout the formulation of this debate.

But I want to say before I step down here that Secretary Milliken, the Transportation Secretary for the Commonwealth of Virginia, has been of invaluable assistance to me and others. Last week, through his leadership, we convened here in Washington in a meeting attended by transportation officials from a number of States, and, as we speak, those individuals are coming into the Nation's Capitol to counsel with the Senators to try to bring about a better understanding of the problems and the gap between the committee bill and the FAST proposal.

So it is my hope that during the course of this debate, which has been a very helpful one——

Mr. SYMMS. Mr. President, will the Senator yield since he mentioned my State?

Mr. WARNER. I yield.

Mr. SYMMS. I appreciate what the Senator is saying. I think there is no one in this Senate that doubts for 1 minute that JOHN WARNER is looking out for the people of Virginia. That is a given. I think that the Senator has made that case over and over again throughout the years I have worked with him here in the Senate.

But when we talk about flexibility and efficiencies and gridlock, this bill that the committee passed will give the States more flexibility and more ability to use the funds to untie the knots in the gridlock in transportation problems than the bill that the Senator offers. His bill will tie up 50 percent of all the funds in a national highway system which will not give the States any flexibility. This bill puts most of this money in the surface transportation programs which can be used for a wide variety of things, to make inner city urban problems less gridlocked. It also will give States like mine greater flexibility to fix the roads which have been waiting for years while they had to dedicate all their moneys to a national highway system, the interstate, or a big share of it. Now they will have a chance to fix those north-south highways and others to improve the States. So I think our bill, to a large part, does much what the Senator is arguing for.

Mr. WARNER. Mr. President, I disagree obviously, and we will, during the course of debate, hopefully clarify that point for the Senate. We feel that our bill provides greater flexibility.

But at this time, Mr. President, I have taken more allocation of time. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I was most impressed by what my colleague from Idaho had to say. He said much of what I could agree with. Unfortunately, what he says and what this bill does are two very different things. Yes, I have joined with my colleague from Virginia to urge this Senate to make major changes in the bill that has been reported out of the committee. We testified before the committee and said that this bill does not meet the pressing highway and transportation needs of our State, and we are fighting for safety, for economic development, for convenience for people throughout the country.

We have completed the interstates, and in the great open spaces you can fly through on interstates. Now, however, when those same motorists hit the more populous States, when they get to Missouri or Virginia or Texas or California, they find that there are real highway problems there. The alternative to be proposed, in which I will join my colleagues from Virginia, will do something about it.

But if we get to the question of whether this bill accomplishes what its proponents say it does, I think it is appropriate that my colleagues know some of the things that are in it. I would like to go through some of these provisions so that everybody may understand that this is not a bill designed to meet the pressing needs of highway transportation, the surface transportation that is the very important lifeline for much of this Nation.

First, the bill before us takes only half of the highway account of the trust fund for any surface transportation project. It takes the other half to fund bridges, congestion mitigation to comply with the Clean Air Act, interstate maintenance and completion, local planning requirements, a rail demonstration project, intelligent vehicle highway programs, and the creation of a national recreation trails program. Beyond that, it retains the current law allocation formula and the 85-percent minimum allocation for the States.

Now, the 85-percent minimum allocation is a snare and a delusion because, under the current system, you take off administrative expenses and other things before you allocate those dollars. That is why, for example, Arkansas, from 1987 to 1991, only got 78 cents back, California only got 81 cents back, Florida 77 cents back, Georgia 79 cents back, Indiana 81 cents, Kentucky 79 cents, Michigan 85 cents, Mississippi 80 cents, Missouri 80 cents, North Carolina 82 cents, Ohio 82 cents, Oregon 84 cents, South Carolina 87 cents, Tennessee 82 cents, Texas 86 cents, Virginia 82 cents, and Wisconsin 81 cents.

In addition, there is an additional deduction off the top before you get around to allocating. In just a moment I will get to the point where we talk about some of the things that are taken off the top before this money is returned to the States.

As has already been pointed out, the bill proposes a study. It does not propose, as the administration has recommended, the establishment of a National Highway System. It has provisions for prompt removal of nonconforming billboards and a new means of allowing the States to require the billboard owners to amortize the boards rather than paying them for removal. It prohibits cutting vegetation to enhance the visibility for billboards. It bans double- and triple-trailer trucks in all States that do not now permit them.

The total highway fund trust collection for 1991 is projected to be approximately $16.8 billion and, in fiscal year 1992, $17.8 billion. But this bill only authorizes $15.2 billion.

My distinguished colleague from Idaho appeared to decry the fact that we already built up $11 billion in the highway trust fund as a surplus to mask overspending elsewhere. But he further notes that this bill will continue that buildup. Highway users will continue to put money into a trust fund that will not give a return for pressing transportation needs, and that is on top of the 2½ cents in the budget agreement that I think wrongly went from highway users fees into the general revenue.

Now that we have explicitly allocated highway user funds to go in the general revenue, I see no reason why we should deny to the States that are severely pressed for highway improvements the ability to get that money back to meet those improvements.

Mr. President, I have traveled all over my State from the large cities to the small towns, to the suburban areas to the rural areas, and, if there is one thing that our State needs, it is better highways, better roads, and better bridges. I do not believe this bill achieves that.

Mr. President, the 85-percent minimum State allocation, so to speak, is based on an outdated dinosaur of a formula, a formula that goes back to the early 1900's, that includes things like miles of postal roads. How many faxes depend upon postal roads? This formula funded the interstate highway projects. Those are almost complete. We now have great needs elsewhere in this country for highway funds, but the bill before us takes additional reductions before making the allocation.

Now, for example, there is a reduction for the magnetic levitation rail demonstration program and also for an intelligent vehicle highway program for research expenses. That is going to be another $1.5 billion in additional reductions coming off of the top before the allocations are made.

Under the surface transportation part of the program, as I said, half of the total highway account of $44.8 billion going for surface transportation projects. In addition to highway and bridge expenses, bridge painting, seismic retrofit, capital costs for mass transit, bus and rail systems, carpool projects, magnetic levitation systems, fringe parking, bicycle facilities, surface transportation safety improvements, transportation enhancement—I will get to that in a minute—and funds to mitigate what gridlock in future highway constructions.

The definition of highways has been also changed to include scenic easements. So the people who are jammed up on our highways because of traffic jams are going to have beautiful scenes to look at. It is somehow going to improve their life when they are caught in traffic jams to be able to see beautiful scenery.

Somehow that does not fit my definition of meeting the needs for transportation and improved transportation systems for this country. I urge, I beg my colleagues to take a look at this bill and see what it does. Some may find one part to be very desirable and another may find an additional part to be desirable. I suggest that under the proposal we would offer, the States would continue to have that flexibility. But to mandate and to limit, as this bill does, the ability of States to put their funds into improving the roads, highways, and bridges, makes no sense to me. Transportation enhancement——

Mr. SYMMS. If the Senator will yield, I appreciate what the Senator is saying, but would the Senator not agree that the way this bill is written, regarding all of those things he talked about, obviously the people in St. Louis and Kansas City and other gridlock areas in Missouri are not going to spend on those projects; they are going to spend it to untie the gridlock. We are giving them the flexibility. You are saying they will be doing this. It does not mandate that they do any of the things the Senator said.

Mr. BOND. Mr. President, I would respond by taking the magnetic levitation and intelligent vehicle highway program off the top. Take away those dollars, which could go to meet the highway needs of our States.

My colleague from Idaho has mentioned the need to have a national program. Under the existing formula, the State of Idaho has received $1.84 in the last 5 years from every dollar put in. Under this bill, it would receive $1.71. Under the proposal of my colleague from Virginia, he would still receive $1.27. There are limitations in here, which I will get to, that are, I think, totally unworkable and totally objectionable from the view of the people who need to use the roads and highways. Bicycle paths may be fine in those States where the great need is for bicycle paths. Maybe we can tell an elderly couple we will give them a bicycle path so they can ride it to town. Maybe they can have bicycle paths used to drive cattle to town. Perhaps we will find a means of generating the energy to run the magnetic levitation programs to get cattle to town.

Transportation enhancement activities are described in the committee report as designed to enhance community benefits of transportation investments, and they are eligible for the 80-20 match. The quote from the report, these include with respect to any project to be served: Highway safety improvement, railway, highway crossing projects, provision of facilities for pedestrians and bicycles, and acquisition of scenic easements in scenic or historic cities. In the State of my good friend, the distinguished senior Senator from Virginia, some people may be on 66 long enough to be included in the highway designation of historic rail facilities and canals, preservation of abandoned railway corridors, including the conversion and use thereof for pedestrian or bicycle trails. Control and removal of outdoor advertising, archeological planning and research, and mitigation of water pollution due to highway runoff.

The remaining half of the trust fund, $13.3 billion, goes to bridges.

Well, in my State we need a lot of work on bridges. I told this body a few days ago about my experience of coming over the hill on a highway between Clinton and Butler and finding at the bottom of the hill a one-way bridge, traffic coming in both directions at 55 miles an hour. We certainly need bridges improved. The substitute that we propose will provide that.

But then there is another congestion mitigation program, $5 million for new traffic congestion and Clean Air Act compliance. I ask my colleagues from the Western States whether they are going to get a great deal of use out of that congestion mitigation program. The interstate maintenance program has $14.2 billion to maintain existing interstate highways, but these funds cannot be used to expand capacity.

I assume most of my colleagues have not tried to drive on I-70 as you go through Columbia, MO. There are not adequate lanes to carry the traffic. It is dangerous. There is traffic congestion, delays, and also safety hazards. That is why that needs to be expanded. A month ago, I was driving I-70 from Mexico, MO to St. Louis, a two-lane divided interstate. A wreck on that interstate delayed traffic for 45 minutes. The Warren County, St. Charles County line. This is an area that needs to have three lanes to accommodate the interstate traffic. I can tell you, as much as the Warren County and St. Charles County area is developing, it is not ready for mass transit yet. I support, and will continue to support, light rail projects and other mass transit programs as they are already provided for, because they do deal with the needs of the congested urban areas. But in my State—and I suggest in States of many of my colleagues—you will find that the areas of congestion exist on current highways. There are not adequate lanes.

I have told about looking at and traveling down Highway 60, across the southern part of Missouri, a narrow two-way traffic, two-lane highway that is not adequate to carry the traffic going through our beautiful tourist and vacation lands of southern Missouri in the Ozarks. We need the flexibility to expand those.

There is money for interstate highway congestion, but a good portion of that goes to Boston. There are provisions for State and local planning, metropolitan areas over 50,000, out of compliance with the Clean Air Act, and all metropolitan areas of 250,000 or more would have to prepare congestion management plans. State Governors would have to approve those plans.

I submit that there are bodies already planning on the mitigation of congestion. We do not need to mandate another study, another planning organization. I have already talked about the $750 million for magnetic levitation demonstration and the $750 million for the Intelligent Vehicle Highway Program. And then there is direct spending for national recreation trails.

Certainly there was a provision in this bill saying that some additional funding will come by repealing the refund of taxes on motor fuel used in off-highway recreational trails such as ski resorts, motor cross racing, and snowmobile excursion operators. But this bill takes $215 million out of the highway trust fund to be used for national recreational trails.

Those national recreation trails do not meet the needs of the people who are jammed up in traffic on interstates, who are traveling on unsafe two-way, two-lane highways. The bill has included other provisions, as I mentioned, with billboards, limitations on big rigs, requirements of tire recycling, and a superstate legislature mandate.

Once again this body is being asked to tell State legislatures what to do. They say, as if it were Federal money, it did not come from the States, as if it did not come from the highway users, that any State not imposing motorcycle helmet and safety belt use laws by 1994 will have to spend 1½ percent of its surface transportation program funds on related safety programs and 3 percent of such funds each year thereafter.

Now that is a decision, for better or for worse, that is to be made by State legislatures. Yet we are saying we are going to hold back 3 percent of the money unless you in the State legislature do what we in Congress think you should do. I submit, Mr. President, that we have enough problems here in Washington in this body trying to do what we need to do without spending our time telling State legislatures what they need to do.

Then another one that I just find extraordinary. The penalty for increased vehicle usage in urban areas. I had not heard of this one before, and I ask all my colleagues to think about it. It encourages States to control vehicle miles traveled per capita. States with metropolitan areas over 250,000 which have more than a 10-percent increase in per capita vehicle miles traveled over 1990 levels will lose 10 percent of that State's annual surface transportation funds allocated to metropolitan areas.

Mr. President, we are looking in Kansas City and in St. Louis at major economic development projects, some offer great potential for providing work to the unemployed people in my State, a better livelihood. But the people will have to drive to get there. If these new economic development opportunities for people in regions which have high unemployment throw them over this VMT per capita, lo and behold they lose 10 percent of their funds which are badly needed to provide the roads to get to new plants or to new facilities. This to me is just one more reason why this bill does not work.

I would ask my colleagues to consult with their Governors, to consult with the chief highway officer, maybe chief engineer, maybe highway commissioner, highway and transportation officer, ask them if this bill meets the surface transportation needs in their States. Now, if you do not like highways, if you think highways are bad and we should not have anymore highways, then vote for the bill. Do not even bother to ask.

Mr. WARNER. Will the Senator yield for one other observation?

Mr. BOND. I am pleased to yield to the Senator from Virginia.

Mr. WARNER. I urge our colleagues also to refer to a GAO report which, although it was issued in context of the last bill, I have checked and it is still the view of the GAO. I will read it.

> The factors used in formulas to apportion highway funds should reflect extent and usage of today's highway system. The factors used in the primary, secondary, and urban highway apportionment formulas, land area population, and postal mileage are not closely related to today's highway systems. These factors were chosen between 40 and 70 years ago on the basis of data available at that time. Other factors that better reflect highway activity are now available.

I say to my good colleague, the bill that you and I are working with recognizes fuel consumption as a factor and vehicle miles traveled as a factor. Those are the key things.

The good citizens of the State of Idaho can travel 100 miles in the same amount of time that the citizens of Virginia this morning have traveled 1 mile. They are traveling primarily to see the wonderful beautiful land.

Mr. SYMMS. The Senator can walk a mile in 20 minutes, and at 65 miles an hour you cannot drive 100 miles that fast.

Mr. WARNER. I have been with the Senator driving that fast. [Laughter.]

Mr. President, the people of my State are driving 1 mile while the people in his State can drive 100. My people are going to their jobs, their work, their livelihood. It is energy consumption.

Mr. BOND. I point out to the distinguished Senator from Virginia, we will have scenic easements, so, as you spend that hour going 1 mile, you will have a beautiful view under this bill. They will have a beautiful scene to see and they will watch the people on the bicycle paths going by them.

Mr. SYMMS. Only if they want to do it, I say to the Senator.

Mr. BOND. Mr. President, reclaiming my right to the floor, let me conclude by saying that I totally agree with my colleague from Virginia. Highways are extremely important. Roads and bridges are important.

We are making provision for, and I would agree with the provision for, funds for mass transportation for light rail, for bus, and maybe there will be a use for magnetic levitation. I do not think it is going to help the Warren County-St. Charles County link. I do not think it is going to help the people from Joplin going to South West City.

Maybe magnetic levitation will be usable sometime in the future, but right now we have needs in our States based on usage. I submit to my colleagues that the time has come to think seriously about the radical changes that are proposed in this bill and assure that we do not destroy the vital transportation links that build our economy, strengthen our country, and protect the safety of the traveling public.

I yield the floor.

Mr. SYMMS. Will the Senator yield for one more question?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I know the Senator from California wants to speak, but I know my colleague from Missouri would not want to leave the misimpression that he has left with respect to the National Trails Act. The National Trails Act trust fund that will pay for these trails through national forest and other land in the country will not take one penny away from any highway user contribution to the trust fund. It will only be funded by dollars that are used in off-road vehicles that are not used on the highways. So it is not an accurate statement to say it deprives highway users from any dollars. It is a very small amount of money in the context of this legislation.

Mr. BOND. Mr. President, if I may respond to that by saying I was citing the Republican Policy Committee analysis of June 6 which states that the bill authorizes $215 million in new budget authority and outlays of $200 million to be funded by outlays from the highway trust fund. And if that is not the case and the bill has been changed, I would appreciate knowing about it.

Mr. SYMMS. It is not money paid by highway users. It is not paid by highway users. It is money that is paid by people who buy gas for snowmobiles or gas for off-road vehicles like motorcycles.

Mr. BOND. Mr. President, I would assume that that makes the assumption that there would be $15 million coming from those sources. As I read this, if there is not that amount of money coming in, the money would come out of the highway users trust fund.

Mr. SYMMS. After the first year, when the refundability is repealed, then the Secretary has to make an estimate of how much money it is and that is how much money goes in the trails fund trust fund. It does not take away anything from highway users. It is just those vehicles. I think the Senator will find it is going to be a very, very popular program throughout the country.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I, too, would like to see a revision of the formula for fund distribution in this bill. My State of California is one of the donor States. It gets less money back for highways than it pays out in revenues from the National Government.

My State also has gridlock. I know there is a great deal in Virginia. I have been in the gridlock in Virginia, but it is far worse in California.

Nonetheless, I am not joining in efforts to block the bill until a change is made because this, I believe, is the most important transportation bill to come before the Congress since the Eisenhower measure was brought here in the 1950's that led to the development of the Interstate Highway System.

This bill will ease gridlock in Virginia and California and every other State by getting many people out of the highways and freeways and onto other modes of transportation.

Many people have to be on the freeways and highways. They will benefit if others who do not have to be there and would not be there if there were other modes of transportation available will leave the freeways, and leave greater space on them for greater mobility and greater speed for those who have to be there.

Second, this bill is extremely important because it will relieve, to some degree, our dangerous dependence on Arab oil. As we develop other modes of transportation that do not depend upon oil, we will have less vulnerability due to that dependency.

And the third great benefit of this bill is that it will contribute to meeting the Clean Air Act needs of the people of our country. As we move to other modes of transportation and other modes of energy, we will begin to deal in a sensible way with that problem.

The measure that came from the Environment and Public Works Committee is a very creative effort that stems in good part from the many, many years that Senator MOYNIHAN of New York has put into this particular realm of interest in our society. I pay tribute to him and to Senator BURDICK and Senator CHAFEE and Senator SYMMS for the leadership they provided in bringing this bill together. That is a remarkable quartet because it represents rural States, a huge metropolitan State, and another State with a large metropolitan area.

In the Committee on Banking, Housing, and Urban Affairs, I am chairman of the Subcommittee on Housing and Urban Affairs. We have brought out a like measure that will help, again, in dealing with the transit aspects, the alternative aspects of transportation that will become, through amendment, a title on this bill. That, too, came out of our committee with very great support from people from all kinds of States—large, small, rural, and metropolitan.

This measure, I believe, is very, very significant. It needs support. It can be improved, but let us get to it and start the process of improving it and not just delay until some bargain can be forced. I do not want to deal with this very significant measure and this great need in our country in that sort of a way.

Let me finally say, the measure that will come from the Banking Committee. I will describe in detail later when it comes to the floor. But it will provide greater flexibility, as this bill does; it will provide for alternate uses of funds in the highway trust fund, which I think is great, and much more decisionmaking at the local level which people in all of our States and in the entire Nation support.

I urge everyone to vote for cloture so we get to this measure, despite what the impact may be on his or her State. In terms of a few dollars more or less, the benefit from this bill will go to people in every State of our country.

Finally, Mr. President, I ask unanimous consent my remarks be followed by having printed in the RECORD a speech I made to the UMTA annual conference a few days back in Florida.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR ALAN CRANSTON AT THE UMTA ANNUAL CONFERENCE, ORLANDO, FL, MAY 29, 1991

Thank you for that warm introduction. I am delighted to be with you today at this historic moment for our nation's transportation.

I want to pay tribute to Brian Clymer for the work he has done as UMTA Administrator. As most of you already know, Brian Clymer is bringing a very high level of commitment, creativity and energy to his high office. UMTA has already made important strides under his leadership.

I intend to cooperate with you, Brain, so together we can achieve, a great deal.

With cooperation between Congress and the Administration, we will put an excellent transit bill on the President's desk.

Twenty five years ago, when Congress first acted to strengthen public transit, the consequences of federal neglect had become ominous. Public transit systems were failing across the country. Transit facilities were in disrepair and inefficient. Fares were skyrocketing, ridership was plummeting.

All of us here today can take pride in what has been achieved since then. Mass transit has become a vital industry—based on a strong partnership between government and the private sector.

Thanks to past efforts, mass transit now serves millions of Americans with a wide array of services—from the heavy rail transit that is expanding in our largest cities, to bus service in our medium-sized cities, to van-based paratransit services that meet special needs in smallar communities.

Despite that achievement, the unmet need for modern, efficient public transit is even greater today than it was 25 years ago. Fortunately, we have a great opportunity to begin closing that gap. The transportation bill now before Congress is the most important piece of transportation legislation in many years.

For the first time in thirty-five years, we are finally free to decide the future of federal transportation policy without the cost burdens of completing the interstate highway system. The nation now has that vital asset. It needs to be preserved, of course.

The interstate commitment was based on the Eisenhower era dream that we could achieve nationwide mobility by building bigger and better roads to accommodate more and faster motor vehicles.

My own state of California embraced the dream early on. No state threw itself into the task with more fervor. California's vast and sophisticated network of superhighways is second to none.

But now we also know that the dream of thirty-five years ago can carry us only so far—and then it creates severe problems. In our economic and population centers, more highways do not bring mobility—new highways tend to generate new congestion.

As Jessica Mathews, of the World Resources Council wrote, "We now know that new roads generate more traffic than they serve. * * * We now know that we cannot build roads fast enough to meet demand under a highways-only policy."

The costs of highway construction are far greater than the $129 billion in direct spending on the interstate system.

We pay the cost through increasingly intolerable traffic congestion in the nation. In my state of California, some 6,000 miles of the main roads are choked to capacity in peak hours, and California's workforce spends 300,000 hours each day in traffic gridlock.

We pay the cost through rising and atrocious air pollution in America. Eight of every ten Californians now live in areas with polluted air, much of it transportation related.

Two recent studies by the University of Southern California made the shocking finding that "children rasised in the South Coast Air Basin already had 10 to 15 percent less lung function by the time they were in the second grade than youngsters growing up in relatively smog-free Houston."

We pay the cost through over-reliance on foreign oil from the gulf.

These problems can only worsen if we continue current transportation policies. California's freeway congestion is expected to rise by more than 400% during the next twenty years. Some states may not yet have the highway-related crisis that has already hit us in California. But many do, and the trends are ominous throughout the country.

Continuing with a narrow-viewed highway policy will lead us up a blind alley. The Senate must find a better path.

The President's transportation bill unfortunately fails to do that. It would trap the country in an even deeper quagmire of highway spending for decades to come by stretching federal aid out over three times the mileage of the interstate system.

The President's National Highway System proposal is already huge and unfocused in purpose. And political pressures are sure to bloat the proposal even further as every district competes for a nice chunk of new mileage and the federal spending that might come with it.

The President's bill offers far too little help for states and local areas to solve their most urgent transportation problems most efficiently.

Going that route would be a tragedy of poor vision, failed leadership, and missed opportunity.

I am confident that a new transportation bill can move the country toward a more balanced, integrated, and efficient transportation system. We can do a better job of linking highways, mass transit, ports, railroads and airlines. We can move goods more efficiently within urban centers and to distant markets. We can help people move quickly to and from home, jobs, and other destinations.

Of course, we can expect strong resistance to policy reform from some quarters. But his goal is worth the struggle.

I believe the Senate is stepping up to that challenge.

The Committee on Environment and Public Works has taken a bold step in reporting the Surface Transportation Efficiency Act. Senator Pat Moynihan deserves great credit for his leadership in crafting a bill that sets out a far-sighted framework for national transportation policy. So do the Senators who joined with Senator Moynihan in this initiative: Senator Quentin Burdick, of North Dakota, chairman of the Committee on Environment and Public Works; Senator John Chafee, of Rhode Island; and Senator Steve Symms, of Idaho. This remarkable coalition of Senators is not only bipartisan, but in a cross-section sense of the country, represents huge metropolitan areas and remote rural communities.

The Moynihan bill is particularly strong on several points. I'm pleased the bill concentrates on improving the efficiency of our existing transportation networks and rejects the Administration's ill-considered "National Highway" proposal. I'm glad the bill makes highway funds available for use in transit projects and other projects where those uses are more appropriate. And I strongly support the bill's strong linkage between transportation decisions and national efforts to clean our air.

In the Senate, the Public Works Committee and the Banking Committee have been working together closely to develop a comprehensive transportation bill that deals with both highways and transit.

The Banking Committee's Subcommittee on Housing and Urban Affairs, which I chair, is responsible for public transit legislation. Our process is well along. Several months ago, the subcommittee invited policy recommendations from transportation leaders across the country. We convened a national symposium on public transportation. We've held hearings in Washington and elsewhere.

Many of you responded with very thoughtful advice. And we have turned your recommendations into strong legislation that I introduced as S. 1194, last Friday in the Senate—together with Senators Don Riegle and Alan Dixon.

I will bring that bill to the Banking Committee very soon after the Senate reconvenes next week. The Banking Committee's legislation will be added as Title IV of the Surface Transportation Efficiency Act when it is considered on the Senate floor early next month.

My bill would make a number of important changes in transportation policy.

First, the bill will not just try to accommodate more vehicles. It will focus instead on moving people, goods and information in the most efficient way possible.

Second, the bill will provide comparable funding increases for highways and public transit. Over the past decade, federal aid to public transit was cut from $4.6 billion in fiscal 1981 to $3.2 billion today. After inflation, that's a cut of 50 percent. The Administration's bill would expand highway spending by 39 percent but proposes essentially flat funding for public transit. The President suggests a token increase way out in the last year of the proposal. But after inflation, mass transit would continue to be cut for five more years.

My bill will provide real growth in transit funding—equal to the increase provided for highways. Both the discretionary grant program and the formula grant programs will be funded partly out of the transit account of the highway trust fund and partly out of general funds.

I believe higher funding levels for transit are clearly justified. And there is, of course, some temptation to mount a big fight for authorizations that are above the levels the Congressional budget is likely to permit within the foreseeable future, in view of our huge budget deficit.

A word of caution, however. Even if we provided big increases in authorizations, big increases in appropriations are not likely to follow.

We don't need symbolic victories—we need to focus our energies on real changes that will increase real transit services in real communities across this country.

The bill rejects the President's scheme for exhausting the trust fund balance over a five or six year period and then throwing transit funding into a crisis. My bill will provide transit with sources of funding that can be sustained on into the future.

Third, the bill does something important that we can do in a time of tight budgets—the bill will open up the highway trust fund so that highway dollars can be used to improve mobility in the most efficient way—whether that is with roadways, or transit, or some multi-modal solution.

In some areas, new roads may be the answer. But in other areas, mobility would be improved much more efficiently through improved mass transit—or perhaps through ramp-metering, HOV lanes, or car pool programs. Metropolitan areas should be able to choose the best use of scarce funds.

We will have to offer comparable flexibility for transit funding.

Frankly, I share the concerns of many who are uneasy about funding flexibility because, historically, the highway interests have had such dominant power in many states.

But I believe we can fashion a solution that provides funding flexibility where it really is needed—in those metropolitan areas that are struggling with severe problems of congestion and air pollution. We should do it with adequate protections so that funds will not be drained from basic transit needs.

Fourth, the bill does something important that we must do in a time of tight budgets—the bill helps us get a bigger "bang" of transportation service for every transit buck that is made available.

One section of the bill will improve full funding grant agreements to stretch available funding over more projects and enable transit operators to finance and manage long-term projects more efficiently. Another section of the bill will permit operators to enter into long-term purchasing agreements for busses and rail cars to provide fleets of compatible vehicles that can be operated and maintained more efficiently. Yet another section of the bill will provide new authority that is needed for "turnkey" procurement of high technology transit systems.

Fifth, the bill will address the differing needs of mass transit systems across the country. Some cities have a great need to build new transit systems—for them, the bill would improve capital project management. Other cities have mature transit systems and need assistance in operating, modernizing and extending their facilities—for them, rail modernization would be distributed on a more predictable formula. All cities need adequate bus service—for them, funding for bus procurement would be increased. The bill reflects the needs of smaller communities and rural areas—for them, funding for the Section 18 program would be doubled.

Sixth, the bill will give priority to maintenance of our existing infrastructure. The Senate's highway title provides protection of the interstate investment and maintenance of our bridges. The public transportation title will also provide for adequate maintenance of our public transportation services.

Seventh, the new bill will give metropolitan areas responsibility to develop comprehensive strategies for meeting their long-term transportation needs. Integrated transportation planning is especially important in areas with severe air pollution and traffic congestion.

But that will only work if metropolitan areas are allocated a fair share of federal transportation aid and are given authority to select projects for new or expanded capacity. Projects will be approved through a comprehensive local decision making process in which states and other interested parties participate.

This authority to approve capacity expansion projects need not be given to every metropolitan area, but the bill will give that authority to those areas that are trying to carry out a comprehensive strategy for reducing severe congestion and air pollution.

Eighth, the bill will remove the bias against the choice of the most efficient use of federal transportation funds. Federal policy now stacks the deck heavily against public transit. The bill will provide metropolitan areas with a "level playing field" when they choose among transportation modes. Application procedures will be more standardized. Extra UMTA requirements for alternatives analysis and some other application steps would be waived if Section 3 funds will be less than 30 percent of a project's cost—and federal highway funds could be used to reduce funds required under Section 3.

State and local match requirements will be more uniform across alternative transportation solutions. The bill would apply the highway match requirements to public transit projects—that is a 75/25 match for new capacity; and an 80/20 match for maintenance activities and more efficient use of existing systems.

Finally, the bill will reinforce the Clean Air Act, the Americans with Disabilities Act and other important national objectives. The bill is drafted to prevent some provisions of the Clean Air Act from having the unintended effect of diverting federal transportation assistance away from areas of the country that have the greatest congestion. And it is drafted to prevent some requirements of the Americans with Disabilities Act from having the unintended effect of weakening transit systems that are already financially strained.

The bill reflects the suggestions of many people here today. The bill breaks some new ground to provide for more effective mass transit.

We have a sound bill. Now we need to get it enacted.

The Senate is under tight time pressure for moving a transportation bill. Majority Leader George Mitchell has made clear that the Senate has to complete action on a transportation bill before the July recess. I intend to meet that timetable.

I want to leave you with a sense of urgency today. The key decisions are being made in Congress right now. So you need to make your views known without delay. The voices for transit have to be heard as clearly as any other voices.

This conference gives all of us who care about improved transit a great opportunity—an opportunity not just to become informed, but to become mobilized. We need the active help of each one of you.

By pulling together we can produce a surface transportation act that will give this country the advanced, integrated transportation system we need—a system that will help conserve our fuel, reduce our dependence on imported Arab oil, cut our air pollution, and clear our roadway congestion for decades to come.

Thank you very much.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, on behalf of the committee, I express our indebtedness and gratitude to the Senator from California. He has been luminous and farsighted beyond any person's capacity that I have observed in this body with respect to this subject. He comes from that part of the world which has truly encountered the freeway and the automobile in all its capacity to liberate and to ensnare and to gridlock, if you will.

Mr. CRANSTON. If my colleague will yield, I thank the Senator very much for his very generous comments and praise his leadership in this matter.

I was informed by my colleague, Senator LAUTENBERG, that the cloture vote scheduled for 11 has been vitiated But I gather this does not mean that there are not opponents who, according to the Senator from Virginia, will not use every measure and means of delay that serve the ends they want. I will work together with the leadership on this bill to see to it we improve the bill as best we can but we do not delay passage of a very, very important measure.

Mr. MOYNIHAN. And we will not delay. The President has asked us to deliver this bill within the 100th day of his address and we shall do it. And we shall because, in large measure, of the spirit of the senior Senator from California. Of course he is from California. He happens, also, to be from the United States. And he can think of the interests of the Nation and of the problems of the transportation system which is both brilliant and not so brilliant and needs some attention. And he speaks for the consensus that is emerging in our two committees, in the professions, in the practitioners in this field. His measure came out of the Committee on Banking, Housing, and Urban Affairs unanimously. Ours came out 15 to 1. We will merge them.

The Senator typically will offer his amendment to our committee's bill. His is just as important. We will move ahead and we will do it because of the spirit of the ALAN CRANSTON's of this Nation, of which there are many but never enough, never as many as we would hope for.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, as an original cosponsor of this legislation, I rise in support of the Surface Transportation Efficiency Act of 1991.

First, I commend my good friend and colleague from across the river; that is, across the Hudson, Mr. President, not across the Potomac. We are both on the same side of the Potomac.

But I also want to commend the chairman of the Environment and Public Works Committee, Senator BURDICK, and Senator SYMMS. Though from a much more rural part of the country than I, from the beautiful Far West, he has joined to fashion a compromise that we believe will satisfy the needs of the country and to move ahead with this bill.

Senator MOYNIHAN's leadership always gets my attention because of his knowledge and his eloquence. He has created, with the help of other members of the committee, a piece of truly revolutionary—more accurately, perhaps, revolutionary, transportation legislation. It is a bill that can help keep this country moving into the next century.

He has brought the bill to the floor in record time, in fact moving faster than much of the traffic on our roads. He just mentioned that the President had put out a request to get it done. The President stood in the House Chamber, and said, "Get it done in 100 days"—throwing out a challenge, a goal, almost a dare.

Here we are. As a matter of fact, we may be preempting something I believe the President is about to say today about the slowness of the Congress in getting things going, citing in particular the transportation bill. I urge my colleagues, instead of looking for ridicule, instead of dismissing significant parts of the bill, to work together to fashion a bill that answers, as much as possible, the needs of each and every one of the States that we represent here.

So, I once again commend my colleague from New York and remind everybody that the outcome of this debate is probably going to shape Federal transportation policy for years to come.

Keeping that in mind, it is essential that we look not only at the needs we face today, but also at the problems tht this country is going to be looking at over the next decade and beyond. This bill meets that test. Unfortunately, the current highway program does not.

Under the current program, we are trying to deal with problems of the 1990's with programs and policies that were designed in the 1950's.

We all know times have changed, and so must our transportation policies. For the last 35 years, the focus of Federal surface transportation policy has been on moving people and goods in automobiles, on highways, from the east coast to the west coast, from the northern border to the southern border.

That policy has been successful. We now have a 43,000-mile Interstate System linking up our Nation. But we have ignored other needs. We now need also to focus on how to move people from suburb to suburb and from uptown to downtown. Those goals do not have to be mutually exclusive. We can have a balanced transportation program that meets those needs. This bill attempts to do that. It authorizes $22 billion to complete and maintain the Interstate System and another $13 billion for bridges that link the country's vast network of roads.

The bill then makes a dramatic departure from current policy and from the administration's reauthorization proposal. S. 1204 would eliminate the rigid categories of the existing program and authorize $45 billion, half of the bill's funding, for this surface transportation program.

This new program would provide State and local governments with true flexibility to meet their particular needs. This flexibility is essential to a surface transportation agenda for the 1990's and the next century. It means States can use their money more efficiently, promoting mobility in the manner that best meets their own needs.

For my State, New Jersey, this means more transit and rail service and less focus on building new roads. In other States, the appropriate choice may be roads. We heard the Senator from Missouri state his preference for more pavement, as I drew the conclusions from his comments. The key is they are going to have their choice. But also, I am reminded, as chairman of the Transportation Subcommittee of appropriations, I often hear from the disinguished Senator from Missouri and from others who want help building rail systems and improving transit in their major cities. That too, is a choice offered in this bill.

This bill, for the first time, gives real meaning to the idea of a balanced national transportation network. It acknowledges the reality that this country's transportation needs cannot be met through any one means. That requires a mix. The flexible funding of this bill will provide that mix. As its name implies, it is not just a highway bill; it is a surface transportation bill.

This bill also makes great strides in meshing transportation policy with environmental and energy policy. Last year we put a great deal of effort and time into crafting new clean air legislation. That bill is now law, and it is a law we can live with—or perhaps, more appropriately, cannot live without.

For States like New Jersey, cleaning up the environment is a top priority. It is a question of making our State, our country, our world, a more livable place, and leaving future generations an inhabitable Earth.

Today, transportation is too much a part of the problem. Our legislation can help make it more a part of the solution. Transportation new consumes 63 percent of all of the petroleum used in this country, and yet the administration's energy strategy gave nothing more than lip services to energy conservation through transportation.

The administration's bill would actually have encouraged more consumption, by basing 70 percent of a State's highway allocation on its use of motor fuels. Our bill takes a more progressive approach, in keeping with the environmental and energy needs of this country. Surface transportation funds could be used on more efficient modes of transportation, such as mass transit and rail.

The bill has an incentive for States to focus on fuel efficient and environmentally sensitive transportation. The bill also integrates transportation policy with energy and environmental concerns through better planning. For years, there has been no real incentive for State and local planning. Funds were distributed in categories, and had to be spent within those categories.

Federal policy focused on road building, so that is what the States and local governments did. The bill changes that. A great deal of focus is placed on planning ahead. Greater roles are ensured for State and local entities. There is more flexibility. More funds are directed for developing those programs. Most important, there is a point to planning. The flexibility of our bill means planners will have real choices with the ability to implement those choices.

In keeping with the bill's theme of making more efficient use of our roads, bridges, and tunnels, I am pleased to note that S. 1204 contains my legislation to authorize a comprehensive Federal program on intelligent vehicle and highway systems.

We heard comments earlier about IVHS and the sums of money that would be spent on it, and raising the question about whether or not States like Missouri would benefit. We believe it is going to do a lot of good; it may be able to get the highway productivity we need in all of our States without expanding and pouring more concrete and taking up more space.

The realities of growing populations and environmental concerns mean we just cannot keep building roads. We need to provide alternatives, such as mass transit, and we need to make better use of the roads that we now have.

In New Jersey, and throughout the country, traffic congestion is a very serious problem. It is estimated, Mr. President, that collectively Americans waste 2 billion hours annually and well over 1 billion gallons of fuel stuck in traffic. We know a significant part of our economic problems relate to productivity. If people were able to get to work more quickly or return from work sooner and pay attention to the family structure we talk so much about, we might improve the quality of life in addition to improving America's economic position.

That congestion we now experience worsens air quality, reduces productivity, and keeps people from doing the things they are obliged to do, like jobs, or what they would like to do, like spending time with their family, and at their leisure.

The General Accounting Office has projected that congestion in metropolitan areas could worsen by 300 to 400 percent in the next 15 years unless significant changes are made. However, we cannot just pave our way out of this problem. More and more roads are not the answer.

One part of the solution is to make, as I said earlier, more efficient use of existing roads, bridges, and tunnels. That is the goal of IVHS and of this legislation.

IVHS is also known as the smart cars and smart highways program. As defined in this legislation, it is the development or application of electronics, communications or information processing used to improve road safety and efficiency. It ranges from the use of off-the-shelf technology, such as variable messages signs to alert drivers to traffic problems ahead and to propose alternative routes; to the development or application of new technologies to allow individual automobiles to communicate with external systems, like electronic toll collection; or in-dashboard displays that would provide information, even including electronic maps, to drivers to find alternative routes to the ones they are on.

A GAO review I requested of the field and analytical tests of IVHS indicates the tremendous promise it holds. There is a reduction of travel times and congestion by as much as 50 percent; essentially it can mean the expansion of our highway system without having to lay down more concrete or asphalt.

There can be a reduction of fuel consumption as much as 10 percent. We just concluded a war in the Persian Gulf. Despite the fact that it was not talked about an awful lot, one of the objectives of that conflict was to assure the world's energy supply. And not once did it seem to occur in this administration to talk about saving fuel, encouraging the average citizen to participate in the effort by driving less or slowing down, or driving more efficiently.

Well, here is a way to do that painlessly, and to save as much as 10 to 15 percent of the energy that we use; and if we use a system properly, reduction of up to 15 percent in the emission of pollutants from automobiles. The widespread use of IVHS will improve productivity, help obtain clear air goals, reduce traffic congestion, and improve highway safety.

This bill would make it an integral part of the Nation's surface transportation program.

Finally, I want to note another provision of this bill, section 138. This section freezes the use of longer combination vehicles, or LCV's, at their June 1, 1991 status. For my colleagues who may not be familiar with this subject, LCV's are trucks with two long trailers, or even three trailers. They can be over 100 feet long and weigh 70 tons. That is 8 times as long as the average passenger car, and many times heavier. The vast majority of Americans do not want to be forced to share the road with these big rigs. My amendment would make sure that more Americans do not have to do so.

The Environment and Public Works Committee looked closely at the use of LCV's. We found that the safety record shows that more extensive use of LCV's just does not make sense. This bill would put a stop sign in front of the big rigs and keep them off the more crowded roads throughout the country.

Mr. President, S. 1204 is good for the Nation; it is good for New Jersey. My State's Federal highway funds would grow to $2.568 billion, an increase of 22 percent over the last 5 years. That is $228 million more than the present administration would have given New Jersey. It would, for the first time consistently return to New Jersey what it pays into the highway trust fund. After years of being a donor State, New Jersey would receive $1.13 back for each new dollar our drivers contribute.

Mr. President, this bill is not everything to everybody. But it answers a need to get on with improving our transportation system. As I said earlier, it will help us meet out clean air goals, reduce our dependency on foreign oil, improve our productivity, and it perhaps will lead America back into the economic leadership role that all of us believe we should have.

I want to submit for the RECORD, Mr. President, a story that was in yesterday's New York Times. It is dated June 10. The title of the story is "Report Critical of Drop In Savings." But we are focused here in particular on infrastructure. In particular the article cites the Coordinating Bank for the World Central Banks, and that is the organization that is the central bankers' bank.

It said that long-term economic growth in the industrial world was slipping because of a sharp drop in savings, as well as a decline in public investment by many governments. The bank's annual report added that many governments, but most notably the United States, are also undermining economic growth by curtailing investments in core public infrastructures like roads and public transportation. The report said imperical evidence showed a link between such investment and the rate of economic growth.

The report stated that net public investment in the United States for projects like roads, bridges, and airports has dropped to one-quarter of 1 percent of total economic output, by far the lowest of all major industrial nations. In Japan, net public investment is 5.7 percent of output; and in Germany, 3.7 percent. Regions, it says, investing more in infrastructure tend to have higher output, productivity, and employment growth.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 10, 1991]

REPORT CRITICAL OF DROP IN SAVINGS

(By Steven Greenhouse)

PARIS, June 9.—Criticizing the United States in particular, the coordinating bank for the world's central banks said today that long-term economic growth in the industrial world was slipping because of a sharp drop in savings as well as a decline in public investment by many governments.

In a report issued today, the Bank for International Settlements said the drop in savings—which provides the money for investment for future growth—could also hurt Eastern Europe and the third world because they need to attract investment money to spur their economies.

The bank, which is often called the central bankers' central bank, said the budget deficits in the United States and many other countries are the main reason for the decline in savings. The bank said the imbalance between the supply of savings and the demand for investment money has created a capital shortage that has pushed real interest rates to near-record levels.

"The high level of real long-term interest rates in virtually all countries is widely seen as a reduction of such a shortage," said the bank, which is based in Basel, Switzerland.

The bank's annual report added that many governments, but most notably the United States Government are also undermining economic growth by curtailing investment in core public infrastructure, like roads and public transportation. The report said empirical evidence showed a link between such investment and the rate of economic growth.

"A deterioration in infrastructure over the past decade is clearly evident in the United States, where the problem is concentrated in major cities," said the bank, which is known more for conservative views than Keynesian ones. "Decisions on government spending priorities must take account of the growth-enhancing aspects of appropriate public investment."

DROP IN PUBLIC INVESTMENT

The report stated that net public investment in the United States, for projects like roads, bridges and airports, has dropped to one-quarter of 1 percent of total economic output, by far the lowest of all major industrial nations. In Japan, net public investment is 5.7 percent of output, and in Germany, 3.7 percent.

"Regions investing more in infrastructure," the bank stated, "tend to have higher output, productivity and employment growth. Public investment often stimulates output growth by providing a base on which private investment can build."

The report said an increase in national savings was important not just to spur growth but to help relieve pressures expected to arise from a projected long-term increase in the proportion of the elderly in the industrial world.

LOW U.S. SAVINGS RATE

"The decline in national saving may be an important factor in the slower improvement in living standards in a number of industrial countries," the bank said.

The bank noted that net national saving in the United States dropped from 10.8 percent of gross national product in the 1960's to 4 percent in the 1980's. That compares with a 20.9 percent rate in Japan in the 80's and an 11.6 percent rate in what had been West Germany.

Some economists have argued that the drop in national saving is a result, not a cause, of slower economic growth. But the bank, backing the argument that low savings rates cause low growth, noted that in the 1980's Japan had the highest savings rate and highest real wage growth rate of the major industrial countries. In contrast, the United States had the lowest savings rate and lowest growth in real wages.

The bank noted that the industrial world's recent economic slowdown has helped raise the savings rate. But it added that "the longer-term decline in national saving in many countries remains a constraint on capital investment and, ultimately, growth in the world economy."

The report said that in the short term, Eastern Europe and the developing world will not make significant demands on Western capital because Western corporations and banks will not find them an attractive place to invest. But if the reform process is successful in Eastern Europe, the report said, a much greater strain on the West's savings could result.

The bank noted that net saving among the major industrial countries dropped to 10 percent of gross national product in the 1980's, from 13.5 percent in the 60's. Almost all the drop was caused by a decline in government saving, rather than in private saving. The bank's report noted that the United States, France, Britain, Italy and Canada all went from budget surpluses in the 1960's to deficits in the 80's.

PLANNING STIMULUS

The bank did not call for immediate moves to slash budget deficits, recognizing that this could worsen the current economic slowdown. Instead, it said deficit-cutting efforts "in the industrial countries should be reinforced, particularly once an upturn in economic activity allows greater flexibility in the design of fiscal policy."

Eager to shelter central banks from political pressures, the bank said the large increase in public deficits had limited the scope for countercyclical fiscal policy actions "and placed the burden of discretionary policy on the monetary authorities."

It questioned the wisdom of using monetary stimulus to help lift countries out of recession, suggesting that there is a lag between the time of such stimulus and its having an effect. The bank added that such stimulus could spur inflation after a few years and result in lower long-term growth.

"Few now believe that monetary policy is in fact capable of imparting a lasting stimulus to economic activity," the report concluded.

Mr. LAUTENBERG. Mr. President, in sum, in addition to getting on with moving our country more rapidly, more efficiently, this legislation also calls for an investment in the economic future of all of our citizens.

I hope that we will be able to move this bill expeditiously, make the amendments that we have to, and get on with the job.

I commend once again my colleagues.

Mr. MOYNIHAN. Mr. President, I could not be more grateful to the Senator from New Jersey, whose signature is all over this legislation, for his statements about Senator BURDICK, Senator SYMMS, and the rest of us. I would like to make three points, if I could, in response to his statement.

First, he could not be more right, as our report states. The investment in infrastructure in our country is going down. It is the lowest of any large industrial nation. This bill will increase this investment by 30 percent over the next 5 years. That is not as much as the Senator might wish or I might wish. But that is our reality.

Over the past decade, Mr. President, we spent our money on other things. As a result, we are now under a budget agreement that we will be hearing about shortly. We have $105 billion. It is more than we have been spending, but not as much as we ought to.

Therefore, what you do is you turn to try to get more out of the money you spent. It is called productivity. In transportation in the last 15 years productivity has grown 0.2 percent. That is a medieval rate of growth. It takes 350 years to double. That is about the growth of Western Europe from the year 1000 to the year 1350. That is what we are currently looking at. So what do you do? You look to productivity.

The Senator from New Jersey has heard the Senator from New York describe, as a boy, how I watched the opening of the Triborough Bridge, which connects Long Island, Queens County, Queens, Manhattan, and the Bronx, the great project of Robert Moses. As I watched that, I counted cars, as all kids do.

I go over that bridge once a week. And the same people are standing in the same tollbooth 54 years later collecting by hand no longer your 15 cents. Now it is $2.50. A zero increase in productivity—no difference of any kind from the 1930's, the depression years.

That is the point of part C of this bill; the Lautenberg Act, sir, which is to bring electronics into this world.

You cross the Triborough Bridge, the George Washington Bridge, name any bridge, with a 75 cents electronic device on your dashboard that would record that you used the bridge. Bills would be sent once per month, like a bill. If you do not pay it once a month, they take your license away. It would, in the least, get those people out of those booths. That is no place for a person to live, in the midst of the fumes and soot.

That is Senator LAUTENBERG's part of this bill. It tells you how it built up his own firm; what we used to do in this country, and we do not anymore—or do not enough anymore.

We have been making the point that congestion is a pricing system. The Senator from Virginia is eloquent about how long it takes to get to work in northern Virginia. That is because they are not getting productivity out of their highways, not because they do not have enough of them.

We have this wonderful remark by Prof. Steven Morrison of Northeastern University—it is in our report on page 11—who likened the situation at rush hour in northern Virginia to the long lines in front of food stores in Moscow. He said our highway congestion has the same basic cause—although a more ready solution—as the long lines we see in the news reports from the Soviet Union.

> Both reflect shortages induced by prices set too low. The price system which we rely on to ration nearly all goods and services in our economy is usually ignored in seeking solutions to highway congestion.

It is not complicated, unless you have, as we have, public sector disease, and that is what you are trying to do something about in the Lautenberg Act.

One last point, Mr. President, if I may. The Senator from New Jersey noted that in the bill sent to us by the administration, 70 percent of the allocation resources were directly based on the consumption of fuel, such that you could say it was really an energy policy more than a transportation policy. The more imported oil you use, the more the Federal Government rewards your consumption.

I have to say that the FAST Act which is being proposed as an alternative formula here, in all truth, reduces the formula reward for oil consumption, but it reduces it from 70 percent to 66 percent. Two-thirds of the resources to be allocated under the alternative we are going to hear about will be based on how much imported oil you use. The more you use, the more you are rewarded. That is exactly the incentive I do not think we should put into place. I think the record should show that.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. DANFORTH] is recognized.

Mr. DANFORTH. Mr. President, I was disheartened to learn that the same people who were in tollbooths 54 years ago are now in the same tollbooths.

We do not have tollbooths in our State. But, Mr. President, I am very concerned about this legislation, and mystified by it, mystified by maintaining a spending formula that is now in existence that creates such a disproportionate disadvantage for States that are most in need of highway funds. My State of Missouri, last year, under the formula that would be continued by this legislation, sent $370 million to the highway trust fund and received, in return for that $370 million, $286 million for its highway needs. For every dollar that the motorists of Missouri sent to the highway trust fund, they received but 77 cents in return.

Mr. President, how can I possibly justify to my constituents a formula that takes $1 out of their pockets and returns 77 cents for their highways? How can I explain that to my constituents? What possible rationale is there for that kind of formula?

It cannot be that the highway concerns of the State of Missouri are of no national concern. Our State, Mr. President, is not a State that is tucked away in some corner of the United States. We are in the center of the country. We are halfway up and halfway down and halfway across both sides. It is hard to go anywhere without going through the State of Missouri. If there is a central State in the Union, it is the State of Missouri. And we are told, well, our job is to send $1 to the highway trust fund and get 77 cents back. The justification cannot be that the traffic is not dense or that the needs are not great, because between 1980 and 1988 traffic volume in the State of Missouri grew by 34 percent—34 percent in just 8 years. And at the same time, traffic density increased by 41 percent. It is said that despite the fact that volume is going up and density is going up at a dramatic rate, our job should be to send $1 to Washington, and we should be grateful to get 77 cents back in return. I do not understand why my constituents should feel grateful. I do not understand how I should explain that or could explain it.

Mr. SYMMS. Will the Senator yield for a point?

Mr. DANFORTH. Yes.

Mr. SYMMS. Under this bill you will get back 96. So you are coming up from 74.

Mr. DANFORTH. That is some consolation; 77 is what we are getting now.

Mr. SYMMS. Over the life of the program, Missouri has received $1 for every dollar put in.

Mr. DANFORTH. I doubt that. I do not know when the life of the program started, but I do know that over the last 5 years we have been severely disadvantaged to the point that, in 1989, we are getting back 77 cents on the dollar.

Mr. SYMMS. I might say that over the life of the program, since 1957, the Federal Highway Administration advises me that Missouri is right at a break-even point. I would have to check those numbers that he has, because in 1982 this Senator, who was then chairman of the Highway Committee, working with Senator BENTSEN from Texas, raised the level to 85 cents. There is a minimum allocation of 85 cents in each State of the money they put in. I do not know what the aberration is of the numbers, but we will sure look at those. I appreciate and I am sympathetic with the Senator, and we are willing to work with him to see that his State is fairly treated.

But there is a reason why this has happened over the period of the program in the National Highway System. Some States have gotten their interstate bill earlier, and it puts a tilt on it, and some States are lagging behind on construction, and so forth, so they have gotten slightly more. Then there are States, such as Montana and Idaho, that are largely owned by the Federal Government and have small population and long distances to travel, and they have done slightly better. But there is a reason for that. I think it is justifiable in a National Highway System.

Mr. DANFORTH. My understanding of the program is that it is skewed toward building new highways. Our great need is to repair and revitalize the highways that are now in existence.

Mr. SYMMS. This bill is skewed toward maintaining the current system. There is about $7 billion appropriated in this bill to complete the Interstate System. When that is completed, then there will be no more new interstate miles constructed, and the States will have huge flexibility with most of this money to use it as they see fit, to untie the gridlock in the inner cities, or to build the roads and bridges in the rural communities they think are a priority.

Mr. DANFORTH. Well, Mr. President, my understanding is that the formula now severely disadvantages the State of Missouri, that the program which is being continued by the legislation that is now on the floor of the Senate is fundamentally a continuation of the status quo, which is a disadvantage to our State and, as I pointed out, our State is truly central, a hub, if you will, to the transportation system in the United States.

The fact is that in the State of Missouri, more than 70 percent of our roads now require resurfacing or reconstruction—70 percent. And it is said that the cost of the present condition of the roads and highways in Missouri cost the average motorist about $208 per year and, in the urban areas, considerably more than that. In St. Louis and Kansas City, heavy congestion cost the average motorist an additional $992 in 1989 in wasted fuel and in lost time.

Mr. President, I want to say a word about the bridges in our State. It is said that 64 percent of the bridges in the State of Missouri are deficient, that our State ranks second from the bottom in the condition of our bridges, in the deficiency of bridges. The second worst bridges in the Nation are in the State which is right in the middle of the Nation.

Mr. President, my hope would be that somehow a way can be found to bring a degree of equity in the legislation that is before us. If we end up with a formula that disadvantages the State of Missouri, if we end up with formula that does not recognize the considerable needs that we have in our State for road repair, for bridge repair, it is not possible for me to explain this legislation to my constituents much less end up voting for this legislation.

So I look forward to working with interested Senators to attempt to accomplish a degree of equity as we move forward with this bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina [Mr. SANFORD].

Mr. SANFORD. Mr. President, I am glad to join my colleague from Missouri in making the point that for all these years there has been something extremely unfair about the way the Federal highway gasoline taxes have been divided up. I took great heart when I heard the distinguished Senator from the State of New York remind a fellow Senator that he was not just a Senator from his State but was a U.S. Senator concerned with all of America. That is indeed the attitude, and I hope the attitude that will prevail is the States who have been getting this additional money from other States show a willingness now to be fair in reexamination of that forumla and allocation in view of all the changes.

I got the impression last week, as I talked to Senators from States that are already on the winning side, that they do not care much about the losers, and that maybe this would be voted out on the basis of how many States are getting theirs and so why should they care about the other States? By the chance of history, more than half of the States get more than they pay in, and less than half of the States get less than they pay in, and consequently the cards are stacked and they can keep them stacked year after year after year. They perpetuate this difference in this new bill. That is exactly what it does. It says what you got the last 5 years you will get those same proportions the next 5 years.

There is nothing fair about that. That is what we were talking about in the first place. I do not believe when we finally come to working this out that the Senators from States that have been on the receiving end will object and refuse to look at a new formula to look for new fairness in the formula.

I was beginning last week to understand for the first time how the Kurds feel to other people who got the votes. So for generations the Kurds have got whatever they wanted to give them. Right now since history has favored a majority of the States, those majority of the States through their Senators can keep their special privileges and rule out those States that have been donors all of these years, helping them build their roads and bridges.

There might have been some justification in the past for the formula. Certainly not for a second would I deny, as we built the Interstate System, we had to pay for it where it had to go. You might not want to go to Idaho, and you might not want to stay there. But if you were going to go from one side to the other, in order to get across the country we had to help them build the road across the State. That is fair enough.

But now we do not have to keep on giving them additional money because they do not need another interstate. You can get around that State now.

So, Mr. President, I suggest that we take a fair and honest look at the formula and the best place it seems to me to start taking a fair and honest look at anything that we might be concerned with in Congress is to see what the GAO says about it. The Government Accounting Office has had as fine a reputation for honesty, for intelligent approaches to problems of Government, to an impartial attitude about partisan attitude, a public spirited attitude of any Federal agency. In 1986 at the request of Senator Chiles the GAO conducted a study of the Federal distribution formulas for highway programs and having studied them made recommendations for how they might be changed. Generally, the apportionment formula consists of several factors. We are using those same factors again for the next 5 years.

Land area; I will talk about that a little more in a minute.

Postal mileage; now certainly postal mileage as a factor in highway construction comes from some distant past concern for getting rural free delivery out and has very little to do today with the cost of roads or the need of repairing roads or the need of building roads, very little relationship to population and miles traveled, but it illustrates so aptly that here at a time probably in the 1920's that was an important consideration keeping roads in good shape so the mail could get out in an essentially rural America. That is still in the formula. And about everything else that stacks up unfairly is still in the formula.

We need to bring it up to date. We need to look at America as America is today not as it was in 1924. We need to get our formula building highways, maintaining highways, repairing highways, building bridges, maintaining bridges, up to date. And the GAO has attempted to do that for us. Legislation has been drawn that brings forward the fast approach, which is a different formula from the old formula, a modernized formula based essentially on what GAO told us we ought to consider.

These are their principal findings, Mr. President: Land area was included in 1916. You barely had the model T Ford in mass production by then to balance population and reflect future highway needs so land area was taken into consideration. But it now results in large but sparsely populated States receiving larger apportionments, apportionments that have no relationship to land in use for highways, than otherwise would be possible. In addition land area no longer bears a close relationship to the extent of today's highway system and very little relationship to tomorrow's needs by highways. It is just not a system, just not a device, not a measure that is related to the growing need for transportation—for highway transportation.

The Interstate System is virtually complete. At least distance if not area certainly had a valid consideration there, but that is behind us. Now Congress included postal mileage as a formula factor and again in 1916, because of the justification for the involvement of highways. How did the Federal Government get itself into the highway business? Because of the constitutional requirement to deliver the mail; commerce, that is how they got in it in the first place. It did not have any real meaning then, maybe, but maybe it did. They had to get the mail out to a rural America, but since postal mileage is computed on the basis of distance traveled both on and off the Federal-aid highway system that is RFD mail, it is just unrelated and unrealistic and points up once again how far out of date, 74 years ago, when that item was put in as a measure for dividing up the gasoline taxes paid in the individual States.

Now population is used in the formula and surely one would say, is that not a pretty good measure? Yes and no. In the first place we get that figure every 10 years, this bill goes back to 1980, to pick up those census figures and using population as an item of measure in this legislation.

But population does not do it. Population changes constantly. There is no way that is counted in this experience. There are better ways than picked up on 10-year intervals to figure what the highway needs in America ought to be, and so says the GAO.

The GAO specific formula recommendations include the following which are included in the substitute legislation which will be offered: Land area should be deleted, population either rural or urban, which is an inexact measure of highway use, should be replaced by motor fuel consumption which certainly closely reflects highway use and it reflects the constant changes in the use in various parts of the country.

Postal mileage, except for sentimental reasons, has no place in this legislation and certainly by all fairness should be deleted in any of the formulas.

Lane miles GAO suggests should be added to the Federal aid urban highway apportionment formula which is now based only on urban population to provide a measure of the extent of the urban system. This would be consistent with our model which shows that a highway formula should contain both a measure of the extent of the highway system and a measure of its use. In the case of the urban formula, lane miles would provide the measure of the urban system's extent. We also recommend that formula factors be weighted in to reflect road and bridge deterioration.

Mr. President, there are a great many other points to be made; a great deal to be said about fairness, a great deal to be said about what States are doing for themselves in addition to and beyond what we are doing through Federal funds to help those States.

Certainly we should have a formula that requires the States to contribute more than they have contributed in the past. It is the only way we are going to begin to get the highways up to proper standards.

But, by and large, this comes down to a decision, as the distinguished chairman, the Senator from New York, said initially. We are all Senators for the full United States, not just one State, and what is fair is fair. I hope that this body, in considering how we go about dividing up the Federal funds that belong to all of us, will go about dividing up those funds in a manner more equitably reflecting a concern for those who paid those funds into the system.

There is not any way that these donor States of many years are going to become donee States unless we just handed back to each State the money paid, which certainly is not a good idea. No one should deny that there are differences that should be taken into consideration, that we should in all parts of the United States be willing to see that money fairly spread out among all of the States.

But it is no longer a case of it being done fairly. It might have been in 1916. It might have been in 1924. It might have been in 1950. But it was not fair in 1960 because I was there and I know how much we were paying out of our State into other States. I know what our needs were. I know that the western part of the State's economic development was stymied because of the tremendous cost of building roads in mountainous areas, something that is not in our formula, tremendous costs, 10 times the costs of building in the flat lands. Because of all of that, we had to find ways to boost our economy other than the kind of assistance that we are talking about now.

I know it was not so in 1987 when we last renewed this legislation. I made the point then—I made the point as strongly as I knew how—that that formula was not fair to my State and I suspected not fair to a great many other States, and it is not fair today.

So all that I have asked for is that we attempt to make the formula, now as we vote, later on as we go to conference, that we try to make it fairer, so that the donor States get a little bit more than they have received in the past on a formula that is more realistic than the formula we have inherited from the past.

That is not much to ask the Members of the U.S. Senate; that they look at this, as we have continued to look at it, as a nationwide need for a proper system of highways across the Nation, to look at it in that manner, concerned not only with special needs but special burdens; concerned with the fact that some States have received additional money where it was needed, some have received money beyond their fair share by any fair measure, and a great number of States feel that they have contributed over the years far more than their share of making it a nationwide system of highways.

I hope that all Members of this body, as we bring it down to the wire, will begin to say, well, let us be fair about it. I hope the U.S. Senate will never take any other view toward the problems. Let us be fair about it.

Thank you, Mr. President.

Mr. MOYNIHAN. Mr. President, I could say no more than I hope that the debate in which we are embarked could conceivably attain in some measure the degree of understanding, of patriotism, and legitimate concern for State issues that the Senator from North Carolina has brought to this debate, and has brought to this Nation over a half century of extraordinary service. I have heard every word he said. I have found not a thing with which I would seriously disagree. I do not know how much of it can be accommodated but as much as can be on the part of this Senator will be. I thank the Senator.

Mr. BYRD. Mr. President, I note that the distinguished Senator from Wisconsin [Mr. KOHL] is on his feet. Does he wish to address this subject?

Mr. KOHL. Yes.

Mr. BYRD. Could he tell the Senator from West Virginia approximately how much time he would need?

Mr. KOHL. Perhaps 10 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Wisconsin for not to exceed 10 minutes, and that I may retain my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, as we begin this week's debate over the future of Federal transportation priorities, let me start by saying that I come into it with an open mind. I carry no historical baggage, no scars from past fights, no bitterness over past decisions. I begin only with the premise that I am here to represent the best interests of the people of my State of Wisconsin.

Which is what brings me to the floor this morning. Because I do not believe the best interests of my State will be served by the legislation before us.

I have enormous respect for the manager of this bill—the distinguished chairman of the subcommittee, Senator MOYNIHAN. And I have enormous respect for his—and the committee's—work on this legislation. The committee's bill breathes a breath of fresh air into Federal transportation policy. It offers flexibility, it rewards planning, it encourages mass transit. These are long-overlooked and long-overdue goals.

It is therefore a bill I wish I could support. And I hope that at some point I will be able to support it. But I cannot in its current form.

For all of its forward thinking, the committee unfortunately chose to retain one of the more archaic parts of Federal transportation policy—the method used to apportion Federal highway funds to States. In a bill filled with new ideas, the retention of this particular dinosaur strikes me as peculiar.

Now, Mr. President, I can appreciate why the committee chose not to expand its new thinking into the area of funding formulas. A majority of the members of the committee are from States that have done well under the current system. So there was no little reason for the committee to change a system that works well for their States.

But the system has not worked so well for many States—States such as Wisconsin—that have consistently contributed more in Federal gas tax dollars than we have received back in Federal aid.

Perhaps there was a reason back in the 1950's when the Interstate System was created to ask certain States to contribute more than their fair share in Federal gas tax dollars. But I would submit to my colleagues that, even then, the people of Wisconsin were under the impression that their Federal tax gas dollars would be returned to them dollar for dollar in the form of Federal highway aid.

Let me quote two sentences from a story on the subject that ran in a 1954 Milwaukee Journal article. The story said:

> The federal tax is 2 cents a gallon. Under a new federal law, it now works out so that Wisconsin will get back in federal highway aid an amount equivalent to 2 cents for every gallon of gas sold in the State.

Little did we know how wrong that assumption was. Little did we know that, for every gas tax dollar we sent to Washington, we would actually get only 74 cents back. Little did we guess that, by 1991, Wisconsin would be shortchanged to the tune of $1.15 billion.

Now, Mr. President, I cannot right past wrongs. I cannot return to the people of Wisconsin their $1.15 billion in gas taxes that were used elsewhere to help develop the Interstate System. And perhaps Wisconsin's healthy contribution to the national development of the Interstate System was justified at a time when we were building a National Interstate System.

But we can do something about the here and now. And that means correcting an outdated formula based on the Interstate System that penalizes donor States such as Wisconsin.

For the past 2 years, the Wisconsin Department of Transportation has worked with other DOT's around the country to develop a more equitable funding formula—a formula that better reflects the postinterstate era, as the distinguished Senator from Florida [Mr. GRAHAM] put it last week. A formula that is not based on the Interstate System, but on a number of other factors more relevant to today's transportation system. This formula—the FAST formula—deserved to be considered by the committee as it was developing this legislation.

But the plain truth is that the committee did not really look at formula fixes. And not only did they not look at them, they would not really talk with those of us who are concerned about them.

The FAST formula did not appear overnight. It is the product of weeks and months and years of study. But apparently, in reaction to some arbitrary 100-day challenge, we are being told we can't take the time to look at formulas. Rather than wait so that we can legislate wisely, we are being told to legislate quickly. And that, Mr. President, makes no sense.

We do a surface transportation reauthorization bill only once every 5 years. We ought to do it right. There is a great deal which is right about the Moynihan bill. But there remains a part of it which is inequitable. A part of it which needs to be fixed before I and many of my colleagues can support the bill.

Those of us from donor States are only asking that all sides come to the table and forge a compromise. That compromise will not, I am sure, fully satisfy donor States like Wisconsin. I cannot defend this bill—and I cannot vote for it until I am sure that its basic character is acceptable.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Chair would remind the Senator from New York that, under the previous order, the Senator from West Virginia retains the floor.

The Senator from West Virginia is not on the floor. The Chair will recognize the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, I do appreciate that. The Senator from West Virginia will be here shortly.

I simply wanted to respond with appreciation to the statement by the Senator from Wisconsin, who raises altogether legitimate issues. They somehow come with more salience because allocation issues are more stark in a matter such as transportation. You can look at formulas, and you can look at outcomes, and you know their differences. They are nothing compared to the differences in orders of magnitude of say defense spending, or agriculture spending, or public housing, or transit. Transit also comes out very clearly.

There is no very great answer to this. The same issue was there in Philadelphia in 1787 and the House and Senate compromised. The Senate was never meant to respond to either population size or geographical size, two determinants of transportation, or largely that. We have been poking along since 1806 and the National Road.

I could not be more sympathetic and more concerned to see if we could not work this out. Where there is still interstate construction money flowing, it enlarges the return at this point but does not reflect the underlying formulas. I understand that. Let us see what we can do, and I thank my friend very much.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I will suggest the absence of a quorum, pending the arrival of the President pro tempore who has the floor. He yielded the floor and will be back any moment.

Accordingly, Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the President pro tempore, Senator BYRD.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from New York [Mr. MOYNIHAN] for his courtesy in putting in the quorum. As one who is conversant with the rules of the Senate, I am very well aware that when a Senator walks off the floor, he loses the floor. But through the courtesy of Senator MOYNIHAN, I was protected.

Mr. President, I very well understand the political reasons for the President's challenge to the Congress that it pass this bill and a crime bill within 100 days from a certain date. And I also understand the desire of the distinguished manager of this bill to comport with that, shall I say political or ideological or arbitrary, deadline.

It would be well and good if we could pass this bill and have it become law by Friday. I understand Friday is the 100th day. How the numerals "100 days" had their genesis I, of course, have no idea. I do know that King Edward III launched the Hundred Years' War in 1337 when he declared war on France. But, indeed, it was not a Hundred Years' War. It lasted 116 years and ended in the year 1453.

I think the important thing is that we pass a good bill. That is the important thing, because we are going to have to live with that bill for 5 years if the bill so provides for 5 years, and that is what I think our objective is.

So whether it is completed on the 100th day or the 99th day or the 125th day is not the important thing to consider here. The important thing to consider is how good a bill is it? What does it do to rebuild the infrastructure of this country?

Everybody, I think, is fully aware of the fact that our infrastructure is crumbling; that our roads are deteriorating; that our bridges are dangerous or becoming dangerous, functionally obsolete, or they are deficient and need to be replaced.

Who will remember by September 30 whether or not the Congress finished its work on this highway bill within 100 days? Few people; few people will care. We should keep in mind that that is the real date, September 30, when the current highway bill will expire.

What good will it do us, as elected representatives of the people, to pass a highway bill that is flawed, pass it in haste just in order to comport with somebody's—and this somebody in this instance is a very distinguished personage, the President of the United States—arbitrary deadline of 100 days?

I have heard that the 100 days was thought of because the Persian Gulf war ended in 100 hours. Well, as one who voted to delay a little while longer before using military force, but not ruling out military force, but as one who voted to delay a little while longer use of military force, in the meantime staying with the sanctions which were working, I am not constrained to believe, as I have the benefit of hindsight now, which is 20-20, I am not constrained to believe personally that we should have stopped at 100 hours.

I read in the newspapers today that Saddam Hussein's potential for nuclear weapons is still very much a terrible threat.

In that regard, I ask unanimous consent to include in the RECORD an article from today's Washington Times entitled "Saddam Close to Nuclear Weapon."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SADDAM CLOSE TO NUCLEAR WEAPON

(By Bill Gertz)

A significant portion of Saddam Hussein's secret nuclear weapons program remains intact and Iraq continues efforts to construct its first nuclear bomb, a senior Iraqi scientist has told U.S. intelligence agencies.

The scientist, who defected to U.S. military forces in northern Iraq late last month, has revealed that Saddam had planned to finish the bomb this year.

Despite tons of bombs dropped on Iraq during the Persian Gulf war, about 40 kilograms of Saddam's weapons-grade material was protected and remains hidden from the international agency that monitors Iraq's nuclear materials.

The defector's information supports the findings of a new national intelligence estimate—an intelligence community analysis—that Iraq is continuing to build a nuclear weapon, more than three months after the war ended.

According to Bush administration officials, the Iraqi scientist provided the locations of four nuclear weapons development facilities in Iraq—including a large underground complex inside a mountain in the north—that were not known to allied forces during the war and thus were not targeted by allied bombers.

Nuclear weapons material and equipment was transferred to those four sites from three other known sites before the Gulf war began for protection, according to officials familiar with the defector's revelations.

The three known Iraqi nuclear facilities suffered heavy bomb damage during the war but were not destroyed, according to the officials.

The 40 kilograms of weapons-grade material—88 pounds—was described by the defector as highly enriched uranium.

The bomb that was detonated over Hiroshima in 1945 contained about 60 kilograms of enriched uranium and created a blast equal to 15,000 tons of TNT.

The Iraqi scientist stated that the uranium has been enriched for potential weapons use by a process known as "electromagnetic separation"—the same process used to create nuclear weapons material for the Manhattan Project during World War II, according to the officials.

The electromagnetic process uses huge magnets in the process of creating uranium 235, the material used in the bomb exploded over Hiroshima.

The defector also disclosed other details about Saddam's nuclear program, including the use of gas centrifuges in the process of creating weapons-grade uranium, and research on chemical high explosives to trigger nuclear blasts.

Administration spokesmen declined to comment on the defection or the details of the Iraqi nuclear weapons program.

"We didn't touch Saddam's nuclear weapons program," said one official familiar with the intelligence reports of the defector. "He's still in business."

A second official said the defector's disclosures are indications that International Atomic Energy Agency safeguards are "ineffective" in monitoring controls of nuclear materials.

"This has crucial implications for American nuclear proliferation policy," the official said. "There is no substitute for on-site inspection and one inspection a year is not enough. We need serious inspections."

Iraq is a signatory to the 1969 Nuclear Non-Proliferation Treaty and has agreed to IAEA monitoring of nuclear materials.

Two small research reactors—one French and one Soviet—near the city of Tawaitha, south of Baghdad, were destroyed by allied bombers during the air campaign in January and February.

According to the officials, the scientist fled from the secret nuclear weapons development complex located deep within a mountain north of the Iraqi city of Mosul and about 40 miles south of the border with Turkey. The underground complex is said to be near a dam that provides electrical power to the facility.

The Iraqis are known to be mining uranium ore in the Gara Mountains in the northern part of the country near the underground complex, which officials said was built to be out of range of Israeli aircraft.

National Public Radio, quoting U.S. sources in Iraq, first disclosed the defection in a June 3 broadcast. U.S. officials have since described the defection as one of the most significant intelligence breakthroughs in efforts to monitor Middle East weapons.

The scientist and three other people reportedly drove a car to a U.S. Marine checkpoint near Dohuk and turned themselves in.

The scientist was not identified by name. He has been declared a bona fide defector by the CIA. Information the scientist supplied confirms other information collected by intelligence agencies on the Iraqi nuclear program.

The new information about the Iraqi nuclear weapons program was made available during debriefing sessions with U.S. intelligence officials. Administration officials discussed some details of the defector's testimony on condition of anonymity.

Asked about the defector, Defense Secretary Dick Cheney told reporters during a recent trip to Europe and the Middle East that "obviously we are interested in what remains of the Iraqi nuclear capability."

"We know we did a lot of damage to that capability," Mr. Cheney said. "But we are interested in pursuing from whatever source possible any information about what remains."

Mr. Cheney declined to be more specific about "what sources we may have or what sources provide what information, but it is a subject we are very interested in," he said.

State Department spokeswoman Margaret Tutwiler also declined to comment on the defection but said Iraqi reporting to the United Nations on its nuclear facilities "fell well short of reality." A revised list was "closer to reality," she said without elaborating.

Mr. BYRD. So, Mr. President, perhaps 101 hours or 102 hours or 110 hours or 120 hours would have finished that potential and also finished Hussein.

I do not take a backseat to anyone in being grateful that our boys have been allowed to come home, but we lost, I believe, 346 Americans in that war. So we lost some people.

When we talk about what we ought to do in 100 days, of course, one might at least conjecture that, if the war had continued another 10 hours or 15 or 20 hours, whatever, since we were there, we might have disposed of Hussein and the problems facing the Kurds.

So I do not think it helps too much to toy with the figure of "100 days" in acting to pass this bill. It is a challenge; it is a political challenge, of course. It will make a headline, but who will remember it? But what the people will remember is for a long time how good a bill we enact. Everybody in this country is aware that we need to pass some legislation. We need to do something about the Nation's infrastructure.

I went to the summit, along with several others on both sides of the aisle, on both sides of the Hill and with representatives of the administration, and I made the fight for infrastructure. I went up to the cannon's mouth and down the cannon barrel. There were some others who supported me strongly—Senator SASSER, Senator FOWLER, and others—but as to the captain who led that charge, I was the one who smelled the acrid smoke from the cannon's mouth. I was the one who charged the barricades in the interest of domestic discretionary initiatives and, in the main, rebuilding the country's infrastructure—physical and human infrastructure.

So I do, I think, come to the floor at this moment with some credibility in urging us to do the right thing about infrastructure.

Hannibal recognized the importance of good roads when he left Spain in 218 B.C. and crossed the Alps. It took him 15 days to cross the Alps. It took him 5 months to make the entire trip from Spain to the Po River Valley in Italy. He started from the Rhone River with 46,000 men but when he got into the Po Valley he had only 26,000. He had lost 20,000 men, quite a number of his elephants, and a lot of his beasts of burden. But he made the trip over the Alps. There is a great deal more to talk about in that regard. We will put that off until another day, a more appropriate day.

When Napoleon recognized the need for good roads, there were those who objected, or who raised questions, as to the wisdom of crossing the Alps. Napoleon said, "There shall be no Alps." And he built his perfect roads, climbing by graded galleries, the most dangerous precipices, until Italy lay as open to Paris as did any other town in France. One of the things that Napoleon left that was good was roads.

Darius I, Darius the Great, Darius Hystaspis, was the Great King of Persia for the years 522 B.C. to 485 B.C. He recognized the importance of improving and expanding the roads of his country. The old Royal road that ran from Babylon to Carchemish, with a spur down to Nineveh, was extended westward and southward into Egypt and the road connecting Nineveh and Ecbatana was rebuilt, as was a road connecting Sardis with Smyrna, and other various highways. He recognized the importance of good roads.

We in our day must come to grips with the problem that confronts this country in the matter of roads, bridges, mass transit and so on.

I am not a member of the committee that conducted numerous hearings on this bill. I understand that the committee held 11 hearings this year, and numerous hearings in years gone by. The very able and distinguished senior Senator from New York [Mr. MOYNIHAN] has undoubtedly spent numerous additional hours on this legislation. I have no way of knowing this, but I would surmise that he has spent more time on this legislation than has any other Senator on that committee. No Senator off the committee has spent much time on it, if any. The very able, distinguished chairman of the committee, Mr. BURDICK, has also spent a great deal of time and effort. Not only have they spent time, but they have also given mental and physical strength. They have poured their hearts into this legislation only to have it, when it reached the floor, attacked.

I understand that Senators have a right to amend it, to be disappointed with it, to disagree with the actions of the committee. The committee are not neophytes in this Chamber. They very well understand how these things work.

I am not a member of the committee. From that standpoint, I do not speak with a great deal of authority here. But I do represent a State, a mountain State where the costs of building roads are extremely high. The average cost of constructing a mile of the Appalachian corridor in Appalachia is something like $11 million, whereas, in West Virginia, it is something like $18.5 million per mile. We have difficult terrain, we have freezing and drainage conditions, and other physical phenomena that make it very difficult and costly to build highways.

The legislation which the President sent to the Congress is not a good bill, certainly insofar as West Virginia is concerned. And I cannot understand how it could be a good bill in relation to any other rural State from the standpoint of the matching formula, and from the standpoint of the total mileage that would qualify for Federal matching.

So the bill by Mr. MOYNIHAN has many good features about it. He is the chairman of the subcommittee. So that is why I am referring to it as the bill by Mr. MOYNIHAN.

I do not complain about the bill. I want to make it better as far as my State is concerned. I recognize there are 49 other States, and that each of us cannot have his own way as much as one would like to; it is a question of give and take; we only have so much money to spread around.

To begin with, we have a total of, looking at it from the standpoint of the budget resolution, for fiscal year 1992, $16.014 billion. For fiscal year 1993, it is $18 billion; 1994, $20 billion; 1995, $22 billion; 1996, $24 billion. Those are the figures in the budget resolution which, in turn, reflect the actions taken in the budget summit, and later by the Senate and House and President in passing the package agreed on at the budget summit.

S. 1204 would utilize not all of those amounts, but it would use considerable of those amounts. It does not use all of them. There is available a sizable cushion.

Mr. President, I have amendments which will, to some degree, erode that available cushion which the committee reporting the bill has left remaining from the amounts that are in the budget resolution. But my amendments, if adopted, would not absorb the entire cushion. My amendments, if adopted, would leave available over a period of 5 years something like $2.802 billion or $2.052 billion, depending on which of my amendments ends up being adopted, if either.

More to the details of my amendment I had expected a few more days of debate before we really got on the bill. I had thought as of last night when I went home that there would be a vote on cloture on the motion to proceed today. Of course, under the rule there would then be 30 hours of debate. I did not anticipate that Senators would take all of that time, but I anticipated that at least somebody would talk awhile, and perhaps we would have another day before going to amendment. But upon getting home last night I was called and told that Mr. WARNER was going to let the Senate get right on the bill the first thing this morning.

If I had a little more time, I could have been better prepared with my amendment, but I am ready to proceed now.

The amendment I am offering today is offered in the pursuit of equity. My amendment would provide additional highway funds to those States that impose a State gasoline tax above the national average, and provide the additional funds to those States that impose a gas tax above the national average when that State's per capita disposable income is below the national average. Of course, West Virginia is one of the States that would qualify for more money under this approach.

The purpose of the amendment is to reward States that are doing all they can do to come up with the tax revenues necessary to make the needed infrastructure improvements themselves, in their own States.

When the administration submitted its surface transportation bill for consideration, it called upon the States to do more. The approach that the administration used, however, was not very heartily embraced. The administration's proposal unilaterally lowered the Federal share on all categories of highways without regard to what the individual States were already doing to raise highway revenues. Also, the administration's bill did not consider each individual State's ability to raise additional funds.

The approach that I am offering, rather than using the "stick approach,"—as the administration does to encourage the States to do more, offers the "carrot approach." Carrots, as they say, are good for the eyesight, so I hope that as people bear upon this amendment and examine it more closely, their eyesights will improve, and they will like what they see over and above what the administration has offered. And there also are some advantages over the bill that is pending. My amendment says that if a State imposes a gas tax above the national average, it will be rewarded by receiving additional Federal highway funds.

My amendment goes further by recognizing each individual State's ability, or financial wherewithal, to raise that State's gas tax by factoring in each State's per capita disposable income.

The amendment I am offering—and this is exceedingly important, so I shall stress it—does not reduce the funding for any State. It does not adjust the formulas or change the dollar amounts for any of the programs currently contained in the bill before us. The amendment leaves the underlying bill intact so that States would receive what is called for under S. 1204. But at least 33 States would receive additional funds. That sounds like a pretty good deal.

The funding for my amendment is covered by the difference between the amount of funding provided by the bill and the amount of funding allowed for highway programs in the budget resolution.

Mr. President, my amendment uses only what is available under the agreed-upon budget resolution. It does not bust the budget. The amendment in the outyears, the third, fourth, and fifth year, would use less than the amount agreed upon in the budget resolution.

As a country, we need to make the investments necessary to shore up our aging infrastructure, add capacity when and where necessary, and to increase our Nation's productivity to meet the challenges imposed by international competition. If the people are taxed for these purposes, as they were when the gas tax was raised following last summer's budget summit, then as stewards of the people's trust and their money, we need to keep the faith that they have given and make the necessary investments. My amendment does that.

Besides the basic programs that currently exist in the bill for interstate maintenance, bridges, and surface programs, there also exists other special programs. These programs include interstate completion, the air quality-congestion program, and the minimum allocation program.

Not all States receive funding under these programs. The funds are distributed to the States based on particular circumstances, which could include the need to complete designated interstate segments or mitigate the problems faced by nonattainment air quality areas, or to ensure that each State receives a minimum return from the Federal Government for the funds that the State deposits into the highway trust fund.

I do not begrudge any State the funding that it would receive under any of these special programs. My amendment simply creates another program that rewards a special effort that I believe also needs to be recognized, and it rewards that special effort without taking anything away from anybody. Not every State participates in the programs that address those special needs. Not all States would immediately participate in the level-of-effort program that I am offering today.

Thirty-three States, however, would receive funding under the amendment that I shall be offering at the very first opportunity, which I hope will come today.

A very important point is that if a State is not immediately eligible under my amendment's criteria, a State could become eligible if it sufficiently raises its own State gas tax so that it is above the national average for State-imposed gas taxes.

My amendment does not force a rise in taxes, but it does provide an incentive for a State to take that step.

Mr. President, I believe that we must make our highways more productive. They must move people and must move goods efficiently, provide a return on the investment we make, stimulate economic activity, and generate benefits for the people.

I believe that one of the best indicators on how important a State considers highway investment is the extent to which it is willing to, and can, tax itself, and the relationship of that State-imposed tax to the State's ability to raise the funds, as measured by the per capita disposal income.

Before closing, I want to mention another possible benefit to the proposal that I am offering. That is the disincentive to consume fuel. Some would argue that a part of an effective international energy policy is a necessity to reduce fuel consumption and a reduced reliance on foreign countries for our energy needs, and I am one who believes that. If the States or Federal Government do not collect the incremental amount associated with the fuel tax, we will see, as we have in the recent past, others outside of the country collecting the money the next time the price of gas is increased.

I welcome the support of my colleagues. I hope that in the final analysis, my amendment will be agreed to. And I very strongly recommend it to the attention of other Senators.

In summary, the level-of-effort program is fair, it does not prevent any State from participating, and it is special only to the extent that there are other programs that address special circumstances. It takes nothing away from the bill that has been offered by the committee and is being managed by the distinguished Senator from New York [Mr. MOYNIHAN]. It rewards States for doing all that they can in making necessary infrastructure investments themselves. It takes money from no one, but provides additional funds for 33 States. It does not upset the formulas for distributing funds to the basic highway program presently contained in the bill. It is not biased toward or against any particular region of the country or population composition.

I will urge the adoption of my amendment once I have had the opportunity to offer it.

At this point, I ask unanimous consent that there be printed in the RECORD copies of both of my amendments. I have two: One in the first degree, and one in the second degree.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

BYRD FIRST-DEGREE AMENDMENT

On page 131, after line 22, insert the following new section:

SEC. 140. LEVEL OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years commencing with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall provide each State in which the rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title; or

"(2) the percentage by which the State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall provide each State with a bonus apportionment equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which the State's rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment provided any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposal income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate allocations under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the allocations to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"Sec. 159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to be available for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $769,000,000.

(B) For fiscal year 1994, $1,350,000,000.

(C) For fiscal year 1995, $1,500,000,000.

(D) For fiscal year 1996, $1,800,000,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

BYRD SECOND-DEGREE AMENDMENT

In the amendment, strike out "OF EFFORT APPORTIONMENT BONUSES" and all that follows through "available until expended." and insert in lieu thereof the following:

OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years commencing with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall provide each State in which the rate of tax on gasoline, as of July 1, preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title for fiscal year 1993 or ten percent of such total apportionment for fiscal year 1994, 1995, or 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall provide each State with a bonus apportionment equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment provided any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposal income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate allocations under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the allocations to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"Sec. 159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to be available for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $769,000,000.

(B) For fiscal year 1994, $1,600,000,000.

(C) For fiscal year 1995, $1,750,000,000.

(D) For fiscal year 1996, $2,050,000,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, as has been repeatedly the case for a generation, the Senate is very much in the debt of the Senator from West Virginia, now our President pro tempore. He has offered an amendment of large consequence. He made his case with clarity and restraint, and he has done one thing that I very much acknowledge having been done, which is that he has pointed to the problem we have been having so much with other bills, other measures, other proposals which reward the consumption of petroleum products rather than restrain the consumption. That is a matter that has to be attended to that, characteristically, the Senator from West Virginia, our President pro tempore, has done. I thank him, and, of course, we will return to the subject later.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise today to speak briefly in support of S. 1204, the Surface Transportation Efficiency Act of 1991.

Following our victory in the Persian Gulf, the President came before Congress and challenged us to take action on a number of domestic policy items, including reauthorization of the highway bill.

The leadership of this body, the majority leader, Senator MITCHELL, and the leadership of the Environment and Public Works Committee took the President's challenge to heart, and, in recordbreaking time, Senator MOYNIHAN, chairman of the subcommittee; Senator BURDICK, the chairman of the full committee; Senator CHAFEE, the ranking member of the full committee; and Senator SYMMS, the ranking member of the subcommittee, turned their backs on parochial, regional differences and came forward with legislation representing a landmark in both transportation and environmental policy. I credit them; I take off my hat to them. They have worked very hard, diligently, creatively, and I think they have presented this body with a very, very good, solid, balanced, creative piece of legislation.

Perhaps the most important characteristic of S. 1204 is that it authorizes a truly national highway program.

The legislation recognizes that large, sparsely populated States face a major challenge in maintaining their existing network of highways and bridges.

At the same time, this legislation contains a number of innovative new policy initiatives that will greatly improve the quality of life in urban America. The 5-percent clean air and congestion management fund, the increased flexibility to move highway dollars to mass transit, the intelligent vehicle highways system, and the magnetic levitation pilot project are designed to address the air quality, congestion management, and traffic safety problems facing our cities and our suburbs.

As the sponsor of last year's Clean Air Act, I am especially pleased to note the formula in S. 1204 is not based upon fuel consumption or vehicle miles traveled. Unfortunately, both the administration proposal and the so-called FAST formula contain such a factor; that is, vehicle miles traveled and fuel consumption.

Last year, we took bold action by passing a strong Clean Air Act. We must not now take a giant leap backward. It would be sheer folly to establish a Federal policy that rewards fuel consumption and thereby encourages air pollution and our dependence on foreign oil. It makes no sense whatsoever for this body to adopt an amendment to the Surface Transportation Act which encourages consumption rather than discouraging consumption and which will make our cities dirtier rather than cleaner.

Mr. President, we are beginning what promises to be a difficult and contentious debate. As amendments are brought up, I will have much more to say in support of S. 1204.

In the meantime, I urge my colleagues to stay the course with this innovative, balanced, and environmentally responsible piece of legislation, and let us not, on a parochial basis, consider only our own States. Remember the motto over the chair, E Pluribus Unum. We are one place. There are many States; we are one Nation. This is truly a national bill. I again commend the chairman of the committee for bringing the bill before us.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, it could not be said better than the Senator from Montana has done. We are grateful for his remarks. If we can do half so well with this legislation as he did with the Clean Air Act of 1990, we will deserve a footnote in history, even as he will deserve a chapter in these matters. We are trying to respond to his legislation and build on it. We are very grateful to him for his comment.

Mr. BAUCUS. I thank the Senator and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have a statement to give. It is my understanding the Senator from Michigan requires time on this. I will ask the Senator from Michigan, does he wish to speak now or later? He said he needed 2 minutes.

Mr. LEVIN. I have an inquiry of the Chair. I thank the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, are we scheduled to recess at 12:30?

The PRESIDING OFFICER. The Senator is correct. The Senate, under the previous order, is scheduled to recess at the hour of 12:30.

UNANIMOUS-CONSENT AGREEMENT

Mr. REID. Mr. President, I ask unanimous consent that the time be extended to allow the Senator from Michigan and the Senator from Nevada to complete their opening statements.

The PRESIDING OFFICER. Is there objection?

Mr. MOYNIHAN. No objection.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I am happy to accommodate the colleagues.

The PRESIDING OFFICER. Without objection, the standing order will be modified to permit the Senator from Michigan and the Senator from Nevada time to make their statements.

It is so ordered.

Mr. REID. Mr. President, Nevada is a bridge State. If someone who lives in Utah wants to visit Yosemite, he has to drive through Nevada. If someone living in Oregon wants to see the Grand Canyon, he drives through Nevada. Families in Idaho, of course, wishing to visit the Great Basin National Park, America's newest national park which is located in Nevada, have to drive through Nevada. Our rural roads in Nevada are important not only to Nevadans but to all those 30 million tourists who visit the State of Nevada every year and, of course, all those who are passing through Nevada and are not actually visiting Nevada.

The Federal-aid highway system is truly a national system. The needs of no one State can have precedence over another. This is why we needed compromise in this surface transportation bill and that is why we have found compromise in this surface transportation bill. This bill is one that a lot of people are not happy about. I am not entirely pleased with this bill, but it is because there are so many people that are unhappy, that is why the bill will pass.

I say that, Mr. President, because any highway bill must meet all the diverse needs of America. The roads from Lovelock, NV, clear across this country to New York City all need proper care. These needs are diverse, to say the least. The roads in Nevada in some areas need to be widened because of rapid growth.

There is a new gold rush in northeastern Nevada in Elko County, where mining has boomed and growth is very fast. In southern Nevada, there are as many as 4,000 people a month moving into new residences. In order to accommodate this increased capacity and to meet the clean air standards that the Senator from Montana just spoke about, some of our roads perhaps need to be widened.

On the other hand, New York's population is mostly stable, but its bridges need to be repaired, rebuilt, repainted, and repaved.

So such a diverse bill will, by necessity, be a compromise bill.

Mr. President, prior to coming to Washington as a Member of Congress, I practiced law and I was a trial attorney. I can remember back to those days when I tried cases that the best settlement, the one you knew was a good settlement, was where everyone was unhappy. I was unhappy, my client was dissatisfied, the other side, the same, and when you had a situation like that, you knew you had a pretty good settlement.

That is what I see in this bill. We have a lot of people that would like a little bit more. It is not quite what they want. They would like a little bit more. That is what we have in this bill. Nobody is entirely happy with it. That is what makes it an acceptable compromise.

This legislation now has more in it to help Nevada and its highway needs. I would like to see more, of course, but it has a great deal to help Nevada and other States that are similarly situated.

There are things I would like to see added to this bill. For instance, I believe there is not enough money in this bill for interstate maintenance—the repair of already constructed roads. We heard testimony to this effect from the General Accounting Office. If you drive from Las Vegas to Salt Lake, it is about 500 miles. If you drive from Reno to Salt Lake by different interstates it is about 500 miles. There have been sections of that road that have been in such a state of disrepair that there are actually signs along the road saying "stay out of this lane, it is not safe to travel." These are the kinds of repair that we need.

I would like to see the match for interstate maintenance raised from 80 to 58 percent. But it is not.

I would also like to see a bonus apportionment for level of effort, an apportionment that rewards States that made a high per capita contribution to its highways.

Mr. President, in the same year the Federal Government increased the motor fuel tax by 5 cents a gallon, without committing to spend any of it for highways, Clark County, NV—an area around Las Vegas—voters approved a revenue package for transportation improvement that would raise $100 million a year for highway improvement, construction during the next 10 years, a total of $100 million a year.

We have in the State of Nevada the highest State fuel tax of any State in the Union. I think we should be rewarded. We are not in this bill.

To have State and local tax increases while the Federal Government withholds tax spending without spending the receipts it takes in is not a defensible situation. Gas tax revenues should be spent for highways and the highway trust fund should be spent down. I am cosponsoring a bill to do just that.

I would like to see other bonus apportionments for low population density, adverse weather, and high level Federal lands.

In Nevada, for example, the temperatures can range from 35 degrees below zero to 125 degrees above zero. We have in Nevada not only the Black Rock and Mojave Deserts and others, but we have high mountains, 13,000 feet, 12,000 feet, Mount Wheeler and Mount Charleston. Such diverse and severe weather conditions mean that Nevada must spend extra money maintaining its share of the National Highway System.

Mr. President, 87 percent of the State of Nevada is Federal land. It is owned by the Federal Government. Nevada has contributed a great deal to our national defense by giving up large tracts of land—Nellis Air Force Base, the Nevada Test Site, Fallon Naval Air Station, Hawthorne Ammunition Depot. But in any partnership there is responsibility. If the Federal Government is going to control such a large portion of the land, it has a responsibility to give a little extra care for the roads.

Senator CHAFEE, my friend from Rhode Island, talked about the billboard section. I think that is one of the bad parts of this bill. I will move to delete that from the bill at the appropriate time. The facts and the law are on the side of those Senators who do not wish that provision in the bill. We'll debate that and the Senate will speak its will.

Mr. President, when I first started, I talked about the bill not being a perfect bill. The bill at one time had a lot of problems. Senator BAUCUS and I introduced a bill, but I say that through the work of the staff of the Environment and Public Works Committee, Senator MOYNIHAN, personally, and his staff, we were able to work out and negotiate a compromise and to place certain things in this bill that make it a good bill. I have talked about some of the negative things in the bill but realistically the bill has far more in it that is really good. It is an outstanding bill.

One of the provisions that is in the bill now is the redistribution of unused obligation authority. It states that if there is unused obligation authority to be redistributed on July 1, the first dollars are to be redistributed to prevent lapses of authority not intended by States. Next, it is to be redistributed to States that are ready to use this money—States that have projects that in effect are on line ready to go. This gives small States the same opportunity as large States and it helps rapidly growing States like Nevada that have many projects that are on line.

One of the other provisions that is now in the bill involves funds for advance construction. The State of Nevada and other States have sold bonds to pay for construction in advance of receiving Federal money. Nevada has sold bonds that total up to about $93 billion. The provision in this bill that is now before the Senate ensures that States will be able to pay off those bonds with Federal highway dollars, as was intended all along. At the rate Nevada is growing, we cannot wait for these Federal dollars to be given before we can start these projects.

Apart from what I have indicated I do not like about the bill and the changes I think have been made responsibly, I repeat, the bill is an outstanding bill. Senator MOYNIHAN is noted throughout the country and in the Senate as a scholar. Perhaps to a lot of people—I have only been here 5 years—do not recognize in addition to his scholarly abilities his ability to be a legislator. Legislation is the art of compromise. And Senator MOYNIHAN with this legislation certainly epitomizes what is a good legislator. I have been in legislatures, worked in legislatures most of my adult life. I think the work that has been done by Senator MOYNIHAN with this legislation has been outstanding. I have never seen legislation that is as difficult move with as much ease. And of course, Senator MOYNIHAN has been the spokesperson for our able full committee chairman Senator QUENTIN BURDICK. I certainly compliment Senator MOYNIHAN and, of course Senator BURDICK.

One thing I must talk about that is so outstanding in this bill is that provision in the bill that gives $570 million for magnetic levitation. In the 5 years I have been in the Senate, Senator MOYNIHAN has been a person that would listen to me, talk to me, and be a leader with those that were interested in magnetic levitation. As a result of the work that he has done and, hopefully, with my assistance, there has been a great deal done with magnetic levitation. But more has to be done than is in this bill.

We invented magnetic levitation. A couple of scientists stuck in traffic in New York said we should not have to put up with this. They went back to the laboratories at MIT and invented magnetic levitation. The Federal Government got involved for a little while then dropped out of it. The technology went to Germany and Japan. They are the ones that are developing the American genius that developed and invented magnetic levitation. The Federal Government should be involved. We can go back and look at history and find that money that the Federal Government has spent on research and development has been well spent.

In 1844, in these Chambers, a man came and convinced the Congress, the House and the Senate, that if they spent $40,000 building a telegraph line between Washington, DC, and Baltimore, MD, he said we will revolutionize the communications industry, not only in the United States but the world. That money was appropriated, the telephone line was built and, sure enough, it did revolutionize communications.

The telegraph took over. The Federal Government did not have to invest another penny, and, as a result of that, the United States led the way with this new invention.

We need to do the same with magnetic levitation. We have to start spending some money for research and development. We are spending paltry sums of money. I can remember when we received $1 million a year or so ago. Senator MOYNIHAN and I celebrated, and that really was an appropriate celebration, but certainly there should have been more money spent a lot earlier than what was spent. I am happy to see this provision in the bill. It truly changes the outlook for the future of this country.

Magnetic levitation is good for the environment; it is good for energy independence; it is good for creating American jobs, good for the U.S. balance of trade, good for our country's economic competitiveness, and for reducing traffic congestion throughout the country. We heard testimony before our committee that airports are jam packed. If we are lucky, we can build two more airports in the future, period. If we are lucky, we probably can build more than one in Denver. We may be able to build one more.

What are we going to do with highways? We heard testimony before our committee that the State of Florida will need 22 lanes of traffic in the next decade going both ways, 44 lanes of traffic. That is why it is necessary that we develop magnetic levitation to take that burden off our highways and our airports. But we must provide money for it, and this bill does that.

I compliment and applaud the Senator from New York for the work done in this regard. It is, as far as I am concerned, one of the real good pieces of legislation, not only for this bill but for the future of our country.

One of the greatest assets of this bill, of course, is its flexibility. I think it is important that we understand the flexible nature of this legislation. Over 80 percent of Nevada's population live in two cities, Reno and Las Vegas. They are separated by almost 500 miles. This is equivalent to the distance between Washington, DC, and Boston. In order to maintain the great expanse of roads across the State, a large degree of flexibility is needed. This bill provides that flexibility.

Under the current system for allocating highway funds, certain States are donors to the Federal highway program and other States are donees. These labels alone realistically mean absolutely nothing. This terminology overlooks the important fact that all citizens, both those in rural America and those in urban America, are beneficiaries of a well-developed National Highway System, one which serves diverse national interests.

Mr. President, there are no canals in Nevada, there are no locks, there are no inland waterways, there are no ports, yet taxes paid by the citizens of the State of Nevada have gone to build all these projects. Why? Because these projects benefit the entire country, and also, of course, the State of Nevada.

Mr. President, I want to, again, commend the Senator from New York, Senator MOYNIHAN; the chairman of the full committee; and, of course, the person who has been the stalwart in the committee, Senator SYMMS of Idaho. He has represented the Western interests. I think he has done a good job. It has been difficult because there are a lot of competing interests to balance.

I repeat, we did not get everything we wanted in this bill. There is a lot we did not get but we have, I think, the best possible bill that we can get. I hope the Senate will recognize that. This legislation is important legislation.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I wish we could hear more often in this Chamber the kind of counsel we received from the Senator from Nevada. He has been generous beyond any measure of balance to his colleagues, in every other regard an exemplar of perspective and the legislative process of compromise and accommodation. He was deficient in one respect in that he did not say enough about his role in writing this legislation.

The interests of Nevada are singular, but they are also in that sense representative of a State in which 85 percent of the population is in two cities separated by the distance of between Washington and Boston. We tried to write a bill that was satisfactory to the Senator from Nevada and his colleague, Senator BRYAN, with respect to the very specific needs of Nevada and then immediately to the general needs of the United States. I thank him and salute him.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank the Chair.

Mr. President, first, if I could, let me address also my friend from New York, as well as the manager on the Republican side. They put a tremendous amount of effort into this bill. Obviously, there are many parts of this bill which are, indeed, in my opinion, innovative, imaginative, and worthy of this Senate's support.

One of the grave problems in this bill is the continuation of certain formulas which have been in here historically, which means to some States without just reason, without a rational basis, being so-called donor States, taxing their people more in order that we can have other States that get more. In many instances, some of those so-called donee States, those that take back much more in terms of Federal gas money than they put into the pot, in many instances, there are legitimate reasons, fair reasons, reasons which I think would appeal to most people of fairness, of conscience, and justice.

We do know in Wyoming that if they only could get back the amount of money they put in that we would not have an interstate across Wyoming and other States. There is clearly a rational basis for that.

But there are some of these formulas that have been put in historically that do not have that kind of justification and that lead to a result where some of our States year after year, decade after decade, are donor States, significantly losing in this transfer of tax dollars from one State to another. Whereas other States, decade after decade, are States which are donee States, are the recipients of the extra money.

I appeal to my friend from New York. He is what my friend from Nevada said he is, which is a supremely good legislator. He is also a fair man. What I suggest to him, as I have to the majority leader, is that there is some unfairness that is built into these formulas which are being perpetuated. That unfairness can be seen in a chart which has been prepared, in the numbers which have been prepared by the Highway Administration. I believe the floor manager has seen this chart, which is dated June 10, 1991. In fact, they put a time on these charts because I gather the numbers change sometimes very little but nonetheless change so that you have to actually put a time on the chart.

The basic pattern is the same. There are States which for decades are donor States and States which are for decades donee States. And there are some States that are kind of on the borderline and can go above or below. This chart dated June 10, 1991, is a chart which I believe has been made available to the committee as well as to us. I am wondering whether or not the floor manager has seen this chart. Has the floor manager seen this chart?

Mr. MOYNIHAN. Mr. President, the floor manager has and it was done under the arrangements we agreed to, I think usefully last week, that will have Dr. Larson at the Federal Highway Administration give us these numbers. It might be useful to print it in the RECORD.

Mr. LEVIN. Mr. President, I also ask unanimous consent that a table which has been prepared from that table which simply shows the return on investment using those numbers and shows the return on investment for both the years 1987 through 1991 taken from that table and the numbers that would be produced by S. 1204, which is the second column. So the table I will print in the RECORD in addition to the one I referred to shows columns 1 and 2 alone, so that it can be simple. I ask unanimous consent that this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RETURN ON INVESTMENT FOR THE HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND CUMULATIVE FROM FISCAL YEARS 1992 TO 1996

[Expressed as dollars returned per dollar contributed; figures in parentheses represent cumulative from 1987 to 1991]

	Amount	Average
Above 2.0—7 States:		
Alaska	$6.56	($5.49)
Massachusetts	2.64	(2.50)
Hawaii	2.54	(5.42)
Montana	2.38	(1.77)
South Dakota	2.18	(1.72)
Rhode Island	2.09	(2.60)
Vermont	2.03	(1.93)
1.5 to 2.0—5 States:		
North Dakota	2.00	(1.68)
Connecticut	1.84	(2.47)
Idaho	1.71	(1.84)
Delaware	1.60	(1.26)
Wyoming	1.58	(1.29)
1.0 to 1.5—19 States:		
New Mexico	1.47	(1.05)
West Virginia	1.41	(1.24)
New Hampshire	1.38	(1.13)
Colorado	1.37	(1.43)
Nebraska	1.36	(1.12)
New York	1.33	(1.18)
Nevada	1.28	(1.10)
Utah	1.27	(1.34)
Washington	1.17	(1.41)
Pennsylvania	1.17	(1.08)
New Jersey	1.13	(1.07)
Iowa	1.11	(1.19)
Maryland	1.06	(1.44)
Maine	1.05	(.86)
Kansas	1.05	(.89)
Minnesota	1.04	(1.17)
Oregon	1.02	(.84)
Wisconsin	1.02	(.81)
Arizona	1.01	(.85)
Below 1.0—19 States:		
Oklahoma	.92	(.86)
Illinois	.91	(.94)
Tennessee	.91	(.82)
Virginia	.91	(.82)
Mississippi	.91	(.80)
Kentucky	.90	(.79)
Louisiana	.89	(1.06)
Michigan	.89	(.83)
California	.89	(.81)
Texas	.89	(.86)
Missouri	.89	(.80)
Florida	.89	(.77)
Alabama	.88	(1.10)
Ohio	.88	(.82)
North Carolina	.88	(.82)
Indiana	.88	(.81)
Georgia	.88	(.79)
Arkansas	.88	(.78)
South Carolina	.86	(.87)

Source: Federal Highway Administration June 10, 1991. Total projected highway trust fund payments based on treasury estimates which assume expiration of 2.5 cents tax increase of October 1990 Budget Agreement. FY90–96 individual states' attributions based on FY90 attribution payments for each state.

Mr. LEVIN. Mr. President, this table, again, shows that about 30 States, actually 31 donee States, for the most part are the same States that have been the donee States, and it shows that 19 States are the ones that put much more in than they get back and, for the most part, with some exceptions, they are the same States which have been consistently on the short end of this tax transfer.

May I just make two other points. One, this is not a typical bill where there are winners and losers. This is not a bill where we say that we want to reduce the infant mortality rate in America and we will then transfer to those States which have a high infant mortality rate some funds in order to reduce that rate and if there are States which get more than other States, we are achieving a particular understandable national purpose, which is to all.

This is a case where we have some very arcane formulas, some of which are flatly unjustifiable. I think most people looking at it, if they were looking at it from scratch, would feel that could not be justified.

Minimum floors: This is not based on how much money you send into the system. This is not based on how many miles you have to cross with an interstate highway.

This is going to help serve the States that are small States—not the large States but the small States.

There are other formulas here which are historically part of this process which have produced a situation which is keenly unfair to about 19 States.

I would only make this appeal to my friend from New York because he is not only someone who is an eminently first top of the tier legislator who understands the need for compromise and conciliation. He also understands the need for reconciliation. And there is a need for reconciliation on these formulas. There is a need to provide to the donor States—the ones who have decade after decade put in more than I believe could have fairly been justified—some justice in their bill. And when you look at the chart that we have just put in the RECORD, there is an injustice. It is injustice which is perpetuated because for the most part continuing prior formulas which have produced this kind of an injustice.

I will just say one other thing in closing. Our friend, the President pro tempore, introduced an amendment. I have not had a chance to fully analyze that amendment. I simply urge my friend, the floor manager, as well as our friend from West Virginia, to step back from dividing up any additional funds in this bill until we can address an injustice which is keenly felt by the donor States.

Some of the amendments of the Senator from West Virginia, as I analyze it quickly—and I hope I am being fair to this amendment—most of the benefits go to the States that are already donee States. Are some donor States benefited? They are. I want to be absolutely as fair as I can given the fact that we have only had about an hour to analyze it.

There are some so-called donor States, some of us that contribute significantly more than we get back, that are also benefited. But most of the benefit of the amendment that is introduced by the Senator from West Virginia, as I read it quickly, go to States that are already getting more than they put into this fund. That makes it more difficult for us to try to come to a reconciliation of the injustice which is so keenly felt by those of us who are already donor States.

Some of us again may be helped enough by the Byrd amendment so that injustice is corrected. For that, I applaud them and their situation. But some of us—many of us—are not helped at all by the amendment that is introduced by the Senator from West Virginia. The reason why we will be hurt by it is because—and here my friend from New York can help me because he is much more of an expert than I am—that amendment will use funds, apportion funds, in this bill which otherwise might be used for some other purpose or apportion—let me put it more accurately—in a different way. Would that be correct?

Mr. MOYNIHAN. That is correct.

Mr. LEVIN. They could be apportioned in a way that would meet this very keenly felt sense by those of us who have been donor States—that we have to do something to address that injustice. Just to pick an example, actually, the State that I represent is one of the states that has consistently been a donor State.

But to take the situation in Virginia, for instance, a consistent donor State, I think we should address that issue in this bill. I plead with my friend from New York to help us address this issue in behalf of the donor States.

As I read the amendment of our dear friend from West Virginia, the State of Virginia would get $2.7 million which would not do much at all to correct the donor-donee problem but, in fact, because it apportions that $768 million, would make it more difficult to apportion that same amount of money in a different way so that the donor-donee State problem could be met.

Would that be a fair statement, an accurate statement in the eyes of the Senator from New York?

Mr. MOYNIHAN. Mr. President, if I may say to my friend from Michigan, I too thought until the end of yesterday that there would be extended debate on the motion to proceed to the bill, and that amendments could be prepared and shown around. As it turned out, this did not occur.

So there are some edges to be worked out. We need to sit down with our feet on the floor and look at this thing. There are also some questions of estimates from the Congressional Budget Office.

But I would like to say to the Senator that I have no disagreement with anything he says. I thank him for his kind words. There has always been some measure of redistribution in the programs. The original 1916 legislation, the Federal Highway Act of that year, began the modern era. We had the National Road under Thomas Jefferson, but then came canals and railroads.

The stress on rural wide-open populations and rural delivery was meant to take money out of the cities, out of the Chicago's, and New York's and into the countryside that reflected this body then. It is archaic now.

May I say to the Senator that it is the influence on this country which is much more homogeneous than it ever was. It certainlly was then. It was then predominantly a rural society. Not until 1920 did we become urbanized. Urbanized according to a very broad definition of what is urban—small towns by the standard of the Senator from Michigan and myself.

In any event, let us not rush into anything. We have the possibility of allocating more funds in this bill. Let us try to do it in as equitable a fashion as is possible in a system where size of population and geographic size are necessarily determinants.

Mr. LEVIN. I thank my friend. Obviously, some of the reallocation that exists is absolutely essential and has been essential. The question is has it now either lost its original purpose or to no longer be justified for other reasons? There the plea, that just cries out from this page of the historic pattern which is not based just on rural-urban, but based on some other factors which cannot be justified, I think just comes right off that page.

So I thank my friend from New York, and I look foreward to working with him to try to come up with an equitable apportionment of these funds so that States which have consistently been on the short side of the donor-donee equation are given some additional justice in this bill.

Mr. MOYNIHAN. I thank my friend.

Mr. President, the able and valiant Senator from California is on the floor. I believe he wishes to speak to another matter. If it is agreeable to my comanager, I think we will yield the floor to other Senators.

We ask unanimous consent that we might hear from the junior Senator from California, and thereafter stand in recess.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. SEYMOUR. Thank you very much, Mr. President.

THE LONG BEACH NAVAL SHIPYARD: A NATIONAL TREASURE

Mr. SEYMOUR. Mr. President, last week, the Base Closure and Realignment Commission released a new list of domestic military facilities that it would analyze apart from the original list submitted to it by the Department of Defense on April 3 of this year.

Amazingly, the Long Beach Naval Shipyard appeared on the new list, and I have just returned from two weekend visits to this installation. On the second of these visits, I briefed a member of the Base Closure Commission on the need to keep this shipyard open with 100 percent of its current labor force.

I maintain that the Commission's consideration of Long Beach for closure is amazing not because I fear a critical study of this shipyard. On the contrary, I welcome it because of the outstanding and cost-effective work that the men and women of this facility have done for the taxpayers over the past 12 years.

The selection of Long Beach for a closure study is amazing because it stands as one of the premier examples of a military base that the Defense Department needs precisely as the budget goes down and the security threats to our country change.

First, the men and women of the Long Beach work force save money by making it. For the past several years, Long Beach has been the only one of the eight naval shipyards to make a profit. So far in this fiscal year, it has returned more than $50 million to the American taxpayers. Every one of the other shipyards continue to operate at losses of between $7 and $75 million.

Second, the 4,100 civilian employees of this shipyard, which offers more than 130 different labor techniques, competitively earned their jobs based on their training and potential.

Furthermore, they have kept their jobs, based upon a rigorous system that measures both the quality and the quantity of their output.

Mr. President, as the Senate prepares to take up the civil rights bill, we should think about people like those who work at the Long Beach Naval Shipyard; 54 percent of the employees at this facility are minorities or women, but they did not depend upon Government-mandated programs to give them employment; they did not rise to their positions because of arbitrarily determined quotas; they did not apply for their jobs on the basis of special preferences, but on the basis of their special skills.

We will soon begin a healthy debate on what obligations the Government has to protect or compensate men and women who continue to suffer from employment discrimination. But the workers at Long Beach are not asking for protection or compensation. Amazingly, Mr. President, they are only asking for the chance to compete openly and fairly for more ship repair work in a market that gets tougher by the year. They are also not asking for more Government money, but for a recognition of how much money they give back to the Government time and time again.

Mr. President, it should therefore come as no surprise that, for reasons important to our national defense as well as the most effective use of taxpayer dollars, neither the Navy nor the Department of Defense recommended the Long Beach Naval Shipyard for closure. Why, then, would the Government close an institution that makes money, returns money, competes successfully against the private sector, and then only requests an acknowledgment for a job well done? Mr. President, how many other Federal agencies can we name that meet these outstanding performance standards?

What are the costs, should the base be closed? Well, an internal study completed by the Navy indicated the cost to the American taxpayers would be close to three quarters of a billion—yes, $750 million. In order to return that amount to the taxpayers, it would take 75 years of performance somewhere else.

Mr. President, in the days ahead, before the Base Closure Commission forwards its final recommendations to the President, I am going to rally my congressional colleagues, the Navy, and the workers of Long Beach to this noble cause. We will not be defending a poor record of performance, a drain on the Federal Treasury, or just one more subsidy program for one more congressional district; we will be defending a miracle of profitability, competitiveness, and quality. The case for the Long Beach naval shipyard, Mr. President, has never been so clear, and we will never make it so forcefully.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

THE HEALTH CARE SYSTEM

Mr. KERREY. Mr. President, I was struck this morning by a column in the Washington Post by Robert Kuttner. Mr. Kuttner relates, in rather moving detail, how two of his friends have approached decisions about their own deaths—how a middle age man decided to die with dignity at home as he lost a battle with cancer, and how an elderly woman has reacted to the onset of physical frailty by contemplating suicide.

Mr. Kuttner argues that in both cases, our Nation's health care system failed his friends by failing to provide for services, such as home health care. He concludes by stating, quite correctly:

> Dilemmas that join questions of medical ethics and public policy are invariably painful, but our failure to have a coherent health care system makes them excruciating.

What struck me most, however, was what Mr. Kuttner described as the argument used by the health care establishment against providing such services as home health care on a universal basis. Mr. Kuttner writes.

> While many insurance companies now pay for hospice care as an alternative to hospitalization for terminal diseases, few pay for extended home-nursing care. Yet an entitlement to a daily visit from a nurse, as part of a treatment plan, would cost the health system perhaps one-tenth the cost of an extended hospitalization. Private insurers resist this approach because of belief in the "woodwork effect." An entitlement to nursing care would bring potential claimants who now suffer in silence out of the woodwork.

Those words stopped me, because that is an argument I have often heard as I have worked over the past 2½ years to develop a national plan for universal health care coverage. I often heard people in the health care establishment say:

> If you provide universal coverage, utilization will explode. If you pay for prescription drugs, it will bust the bank. If you cover long term care, people who got by just fine without it before will demand it. In other words, people will come out of the woodwork.

Coming out of the woodwork refers, of course, to vermin; insects, like ants and termites, who swarm mindlessly out of a piece of wood when it gets hot or damp. It is not a pretty image, Mr. President. But I believe it is a very telling metaphor.

It tells us something about the attitude of too many of those who have power in our health care system toward those who do not. Fundamentally, it implies a lack of trust in people to regulate their consumption of health care services in a responsible manner. Scratch the woodwork metaphor, and you will hear a comfortable, elitist voice grumbling to itself:

> If you make basic health care a universal entitlement, I would consume it responsibly; my family would consume it responsibly; the people in my neighborhood would consume health care responsibly; but those people—those people—simply can't be trusted; they'll break the bank.

The fact is, Mr. President, the bank is already broken. The costs of our health care system are so out of control that they conjure up the image of some malignancy, relentlessly feeding off the body of its host. For despite the miracles that American medicine delivers, that system is consuming well over $600 billion of our national income each year; sometime this decade it will consume over $1 trillion. Those costs are chipping away at the paychecks of our workers, the savings of our retirees, the budgets of our States, and the competitiveness of our firms. Our patchwork system of financing health care has led to cost shifting and risk skimming; it has resulted in more deductibles and less coverage; it has caused wasteful redundancy and crimped accountability.

And still we hear, Mr. President, that we cannot afford to have those people come out of the woodwork. Mr. President, I have a different idea about what a universal system of health care would accomplish.

I do not believe universal access to home health care would bring unworthy consumers out of the woodwork. I believe it would afford dignity to millions who could be cared for in their own homes rather than in some expensive, antiseptic institution.

I do not believe universal access to prenatal care would be a windfall to the undeserving. It would be godsend to a nation where too many children reach school unable to learn because their brains and bodies lacked adequate care during gestation.

And I do not believe universal access to diagnostic screening would open the gates to a stampede of hypochondriacs. It would open an era in which American women could reach middle age with far less worry about dying from ovarian cancer or breast cancer.

Throughout our history, the working men and women of America have had to press the case for the full exercise of their rights against the smug and the comfortable who maintained that an expansion of rights was not necessary. Women, America was told, are not well informed enough to vote. Workers do not need the right to organize in order to protect themselves. Blacks do not really want to sit in the same restaurants as white folks.

In this age, we are told that the American people do not really need a universal system of financing health care. And lurking behind all the cost estimates, and all the utilization charts, and all the econometric studies are the same self-satisfied voices who have forever seen the extension of rights as a problem of people coming out of the woodwork, rather than an opportunity to bring people out into the sunlight.

Mr. President, the time has come to turn away from those cynical, mistrusting voices, and toward a universal system of financing health care that can save our Nation money, strengthen America's economy, improve our country's health, and enhance the dignity and happiness of our people.

Mr. President I ask unanimous consent that Mr. Kuttner's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY NOT HOME HEALTH CARE?

(By Robert Kuttner)

Last year, I lost a good friend to cancer. He was 58. When his cancer was diagnosed as incurable, he decided that he would forgo heroic treatment and eventually die at home in his own bed.

His wife and daughter served as his primary care-givers, seeking to make him as comfortable as possible. His health-insurance plan, more flexible than most, allowed for an occasional visiting nurse.

At times, however, when his fever spiked and the nurse was urgently needed, she was hard to reach. The health-care system is not geared up for this manner of dying. Visiting him during one such moment, I figured his wife deserved better than unanswered phone calls. She deserved a medal.

Not only did my friend die with more dignity than people whom I have watched expire helplessly, hooked up to futile high-tech contraptions, his manner of dying saved the health system hundreds of thousands of dollars.

A day in a hospital now costs several hundred dollars just for the bed. Cancer treatment can easily run to $1,000 a day. Six figures is normal for the full course of the disease. A home visit from a registered nurse averages about $60, according to the Visiting Nurse Association.

While many insurance companies now pay for hospice care as an alternative to hospitalization for terminal diseases, few pay for extended home-nursing care. Yet an entitlement to a daily visit from a nurse, as part of a treatment plan, would cost the health system perhaps one-tenth the cost of an extended hospitalization.

Private insurers resist this approach because of belief in the "woodwork effect." An entitlement to nursing care would bring potential claimants who now suffer in silence out of the woodwork.

I have another friend, an elderly woman, who is rationally contemplating suicide. She is now in her 80s and has lived a full, rich life. Mentally, she retains all her faculties, though she is beginning to fail physically.

Her concern is that when she becomes more frail, or seriously ill, the choice of whether to end her life will be taken from her. Once she is in the clutches of any sort of institution, dignified suicide will be logistically impossible and institutionally impermissible.

She is also, quite rationally, hesitant even to consult a psychiatrist to discuss her concerns. She is worldly wise enough to know that one does not visit a psychiatrist to obtain advice on whether to commit suicide, much less on how to do it. A psychiatrist would likely pronounce her "depressed," and prescribe medication or, worse, institutionalization.

She is, of course, not depressed at all. As her expected life span draws near its end, she is contemplating her options rationally, with far more realism than the health system.

These dilemmas, and others like them, occur at the crossroads of the ethical, the financial and the political. We would like to think that moral choices about how to die are entirely personal. Unfortunately, they are hopefully bound up with the fabric of law, policy, regulation and reimbursement.

The choice of whether to pursue heroic treatment in a hospital versus a potentially more dignified terminal illness at home is complicated by the vagaries of health insurance, professional liability and the deeply ingrained reluctance of the medical profession to permit death to take its course. The issue of suicide is even thornier.

As a nation, we deceive ourselves into thinking that by not having a comprehensive system of health care or coherent policies, we somehow facilitate personal choice. In truth, this form of freedom, as that moral philosopher Janis Joplin once observed, is just another word for nothing left to lose.

Our present non-system permits choices only for those with extremely deep pockets. For the rest of us, our choices are constrained by the arbitrariness and social irrationality of what insurance will pay for. And you can be sure that as costs keep escalating, insurance will pay for less and less.

A comprehensive system—besides its other virtues of universal coverage and reduced administrative costs—would force doctors, hospitals, policy makers and the public to look these issues in the eye. It would force the system to come up with defensible criteria instead of backing into these decisions as the incidental byproducts of scattered cost-containment or liability-avoidance maneuvers.

Surely a national system would decide that home health care, not just for terminal patients but also as an alternative to expensive nursing-home care, should be far more broadly available. That might also ease the fear of an elderly person contemplating suicide as a way of avoiding institutionalization.

Dilemmas that join questions of medical ethics and public policy are invariably painful, but our failure to have a coherent health systems makes them excruciating.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Pursuant to a previous order, the Senate now stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:09 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business until the hour of 3:30 p.m. with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

MFN STATUS AND UNITED STATES-CHINA TRADE

Mr. BAUCUS. Mr. President, within a few weeks the Senate will vote whether or not to extend most-favored-nation trading status to China. Obviously, the most important issue in all of our minds is how do we best promote human rights in China. I have spoken to that issue previously and will do so again next week.

But today I will address the economic impact of an MFN cutoff on trade between the United States and China. I will also suggest measures that could be taken to further open the Chinese to United States exports.

MOST-FAVORED-NATION STATUS

The term "most-favored-nation" status implies that it is an unusual trade 5benefit extended ony to our closest trading partners. But nothing could be further from the truth.

MFN status dates back to the Smoot-Hawley Tariff Act of the Great Depression era. After the United States recognized that the high tariffs imposed by Smoot-Hawley were devastating the U.S. economy, we begin to negotiate reciprocal trade agreements to lower tariffs here and abroad. When the General Agreement on Tariffs and Trade was concluded after World War II, trading nations settled on the principle of granting all trading partners the lowest tariff rate extended to any nation. This principle is known as most-favored-nation treatment.

After many successive rounds of tariff negotiations, most nations can now export to the United States at tariff rates averaging around 4 percent. However, the old Smoot-Hawley tariff schedule remains largely intact for those few nations to which the United States does not extend most favored nation treatment. MFN status is extended by the United States to 112 nations, including Lybia, South Africa, and Iraq—though those nations are subject to other trade restrictions. Only a handful of nations are denied MFN status by the United States.

In fact, because of the Generalized System of Preferences, the Caribbean Basin Initiative, free trade agreements, and other special tariff arrangements, most of our trading partners—about 100 nations—have better than MFN status.

If China were denied MFN status, tariffs on imports from China would rise to Smoot-Hawley levels. Tariffs on Chinese products would shoot up from 4 percent to as high as 110 percent. Tariffs on footwear would go from 6 to 35 percent. For sweaters tariffs would rise from 6 to 60 percent, and for some toys tariffs would rise from 7 to 70 percent.

As one would expect given these tariffs, before MFN status was extended to China, United States-China trade was only about 10 percent of its current level. Trade could very well fall back to this level if the United States denied MFN status to China. We would see a repeat of the Smoot-Hawley experience, albeit on a smaller scale.

UNITED STATES-CHINA TRADE

We should keep in mind that trade with China is a two way street.

China is a major source of apparel, footwear, and toys. But China is also a major market for many United States products. For example, in 1990, China imported $512 million in United States wheat, $749 million in United States aircraft and aircraft parts, and $544 million in United States fertilizer. China is also a major export market for United States computers, cotton, timber, and paper.

China is a particularly important market for United States wheat. About 20 percent of United States wheat exports find their way to China. These exports are critical to American farmers. According to the Congressional Research Service, if wheat exports to China were cut off, American wheat farmers would get 27 cents a bushel less for their wheat.

If the United States were to cut off MFN status for China, there can be little doubt that China would retaliate by cutting purchases of United States wheat, aircraft, and fertilizer. Other nations have no plans to cut off MFN status for China. Australia, Canada, the European Community, and Japan would be happy to replace United States sales to China. This is not just speculation. In 1983, China cut off wheat purchases from the United

States for 3 years in retaliation for United States textile restrictions. There can be little doubt that they would do so again if the United States raised tariffs on Chinese products to prohibitive levels by revoking MFN.

TRADE DISPUTES

Recently, some have pointed to Chinese trade barriers to justify revoking MFN for China. United States exports to China have always been subject to various trade barriers, but those barriers have risen in recent years. U.S. exports are not blocked by import licenses, quotas, import bans, discriminatory testing requirements, and a range of other trade barriers. In addition to traditional trade barriers, China has allowed rampant piracy of United States intelligence property: books, pharmaceuticals, recordings, etc. This piracy costs the United States hundreds of millions of dollars in lost exports each year.

In large part because of these trade barriers, the United States trade deficit with China is widening while our trade deficits with all other trading partners are narrowing. In 1990, the United States-China trade deficit was $10.4 billion, up $4.2 billion from 1989. In 1991, the United States deficit with China will likely be second only to the deficit with Japan.

USING SECTION 301

These trade barriers require action by the United States. They do not, however, justify denying China MFN status. The United States has already launched a campaign to open the Chinese market. On April 30, at the urging of myself and other Senators, the United States launched investigations under the 1988 Trade Act aimed at ending piracy of U.S. intellectual property in China. If those cases are not satisfactorily resolved within 6 to 9 months from the date they were initiated, the United States may retaliate against Chinese exports.

The United States has also launched bilateral consultations to eliminate other Chinese trade barriers. A United States negotiating team is now in China for another round of those negotiations which begin tomorrow. If those negotiations do not rapidly yield concrete, substantial results, section 301 investigations should be launched against major Chinese trade barriers. And if those section 301 investigations are not successful, the United States should retailiate against Chinese exports to the United States.

But denial of MFN is too blunt a tool to make progress toward eliminating Chinese trade barriers. MFN status has never previously been linked to market opening negotiations. The time limits for MFN consideration do not correspond to the time limits of trade negotiations. Further, denial of MFN is not a proportionate response to our trade concerns. It simply does not make sense to retaliate against $15.2 billion in Chinese exports in response to trade barriers that block at most $2 to $3 billion in United States exports.

In contrast, section 301 has been carefully tailored to open markets. Time limits have been set with negotiations in mind and measured retaliation has been provided for if negotiations fail. Section 301 has been carefully tuned to help the United States open foreign markets without retaliating. Section 301 could help us expand trade with China. Denial of MFN would merely cut it off.

TAIWAN'S GATT APPLICATION

The debate over MFN for China also gives us an opportunity to address another critical issue: Taiwan's effort to join the GATT. For years, the United States has let China dictate United States policy toward Taiwan. Now, Taiwan is attempting to join the world's trading organization, the General Agreement on Tariffs and Trade. Taiwan's joining the GATT is clearly justified. Taiwan is now one of the world's major trading nations. Further, if Taiwan joined the GATT it would be willing to lower its tariffs and other trade barriers, providing a clear benefit for the United States exporters. As we extend most-favored-nation trading status to China, the administration should also throw its weight behind Taiwan's GATT application.

CONCLUSION

Let me repeat a point I have made several times before. I favor strong action against China on a number of fronts. We cannot tolerate China's blatant abuse of its own citizens nor its attempts to spread weapons and nuclear weapons technology.

On trade front, I believe we should take action under section 301. But denial of MFN would not help us open the Chinese market. In fact, it is almost certain to result in more trade barriers. We cannot open the Chinese market by simply closing our own.

Of course, the trade issues are only one concern that needs to be addressed in the debate on MFN status for China. But it is important to recognize that an effort to lash out at China by denying MFN could cost us American jobs and American exports.

I ask unanimous consent that a Congressional Research Service study on United States wheat exports to China, a letter from the Wheat Export Trade Education Committee, and a factsheet on United States-China trade statistics appear in the RECORD immediately following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[CRS Report for Congress]

CHINA'S MOST-FAVORED-NATION STATUS: U.S. WHEAT EXPORTS

(By Susan B. Epstein, Specialist in Agricultural Policy, Environment and Natural Resources Policy Division)

SUMMARY

On May 27, 1991, President Bush announced that he intends to renew China's Most-Favored-Nation or MFN[1] (nondiscriminatory) trading status under the provisions of the freedom-of-emigration (Jackson-Vanik) amendment. If recommended by the President, such renewal is automatic and does not require specific congressional approval. It can be blocked, however, by the enactment of a joint resolution of disapproval considered under a special fast-track procedure, which must be completed within about 3 months. The Congress can also restrict or deny outright MFN status to China by specific legislation considered under regular procedure. Some Members are calling for such action because of China's human rights violations in recent years and because China has been selling nuclear technology to countries such as Pakistan and Algeria. (For more details on denial procedure, see IB90107.)

Some trade experts contend that China may retaliate by prohibiting imports from the United States if MFN is denied this year. While China is a major market for a wide array of U.S. products, it is especially important for U.S. agriculture, particularly wheat. In the past 3 years, wheat amounted to between 60 and 92 percent of China's agricultural imports from the United States. Furthermore, China is often among the largest importers of U.S. wheat, buying as much as 20 percent of total U.S. wheat exports in some years.

As Congress debates whether or not to support the extension of MFN status to China, an examination of possible effects of the outcome of this debate on the U.S. wheat sector might be useful.

BACKGROUND

China is considered a major U.S. agricultural export market, although its rank fluctuates widely from year-to-year. For example, in 1986, it ranked 60th; the next year, it ranked 17th. In 1989 China was the eighth largest foreign market for U.S. agricultural exports, purchasing more than $1.4 billion worth of products. Just last year, China ranked 11th among U.S. foreign agricultural markets, importing about $800 million worth of agricultural products.

China imports an array of agricultural goods including wheat, corn, soybeans, cotton, livestock products, horticultural products, even wine and tobacco from the United States each year. Wheat, by far, makes up the largest portion of U.S. agricultural exports to China. In 1990, wheat accounted for more than 60 percent of U.S. exports to China; in 1989, it accounted for 80 percent; and in 1988, it accounted for 92 percent. The type of wheat China typically imports from the United States is high quality protein wheat such as hard red spring or winter wheat for use as flour for bread and other baked goods.

U.S. wheat exports often make up a large portion of China's market share; for example, U.S. wheat exports held more than 30 percent of China's market share in 7 out of the past 10 years. However, on a year-to-year basis, both quantity of wheat exports and U.S. market share of China's wheat market fluctuate significantly. This supports the claim by some agricultural economists that the United States is a residual supplier of wheat to China. (See figure 1.)

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[1] Most-Favored-Nation status means that trade privileges or concessions that the United States grants to any nation would automatically apply to the MFN country.

[Figures not reproducible in the RECORD.]

China has participated in two U.S. agricultural export promotion programs in recent years—the Export Enhancement Program (EEP) and the Targeted Export Assistance (TEA) program. China has never imported U.S. commodities under the export credit guarantee programs (GSM-102 and GSM-103), although it is eligible to participate in both. China's eligibility to participate in the P.L. 480 concessional sales program has not yet been established by the Administration.[2]

Since 1987, when China first became eligible for EEP commodities, it has imported more than 17.5 million metric tons of EEP-subsidized wheat. The Targeted Export Assistance (TEA) program, currently named the Market Promotion Program (MPP), has promoted in China more than $2 million worth of exports of wheat, feed grains, plywood, seeds, table grapes, ginseng, meat and meat by-products, tobacco, and wine.

THE U.S. WHEAT SECTOR AND EXTENDING CHINA'S MFN STATUS[3]

A best case scenario for the wheat sector includes the assumption that China's MFN status will be extended, and China will continue buying U.S. wheat. So far this year, the United States has shipped a total[3] of 3.8 million metric tons of wheat to China.[4]

A worst case scenario is based on the assumption that China is denied MFN status this year and will retaliate by not importing any wheat from the United States. For the purpose of this analysis, the loss of U.S. wheat export sales was set at 4.2 million metric tons (or about 155 million bushels), which is the long run average of China's wheat imports from the United States. Important to note is that other wheat producing countries currently have wheat carryover stocks that are sufficient to fill China's lost supplies from the United States, if China chose to reject U.S. wheat exports altogether. (See figure 2.) Thus, while trading patterns would likely change over time, worldwide wheat export and import patterns would not have to change in the current year.

According to WEFA analysis, in the worst case scenario, the U.S. wheat sector would experience a net loss of 89 million bushels in sales over the best case scenario. Except sales would decline by 137 million bushels, but domestic sales would increase by 48 million bushels, since the lower export demand would result in a reduction in wheat prices. The loss of exports amounting to 137 million bushels is less than the 155 million bushels assumed to be lost in sales in China, because other foreign markets would import more than they otherwise would have due to lower wheat prices. (See table 1.)

If China refuses to buy U.S. wheat, the resulting weaker demand and larger U.S. stocks could combine to reduce U.S. wheat prices. (In contrast, however, world wheat prices may rise initially, since closing China's market off from the U.S. supply would effectively raise demand for non-U.S. wheat and reduce the world supply.) The U.S. wheat price is estimated to drop by 27 cents per bushel or about 10 percent from the levels expected in the best case scenario. In addition, psychological effects of losing one of our biggest foreign wheat markets might push prices down even further in future time periods.

U.S. wheat ending stocks would drop from year earlier levels in either scenario. In the best case of renewing China's MFN status, the 1991/92 wheat stocks are expected to drop by 267 million bushels from 1990/91 levels. In the worst case scenario of not extending MFN and loss of the China wheat market, wheat ending stocks are expected to drop by 178 million bushels.

Reduced wheat sales and lower prices would reduce farm cash receipts and aggregate farm income. Income of wheat producers that participate in price support program (80 percent) would be supported by Government deficiency payments. Therefore, Government costs would increase if China refused to purchase U.S. wheat. Because of the triple-base feature of the 1991 program, wheat farmers would lose income from the marketing of wheat from nonpayment acres at the lower wheat price. Other crop farmers might face more competition if, in the next crop year, wheat farmers plant other crops such as soybeans and cotton, causing the price of those commodities to decline.

It is possible to estimate potential Government and farm losses if wheat prices were to have dropped last year by 27 cents per bushel. If this worst case scenario had occurred last year, based on USDA's 1990 U.S. wheat production level estimates of 2,739 million bushels, and using USDA's estimates that 80 percent of wheat acreage was covered under the wheat program, the potential increased cost to the Government in deficiency payments might have been as much as $592 million in that crop year. Furthermore, wheat farms might have lost an additional $148 million in market receipts last year. Therefore, estimates of the worst case scenario using 1990 wheat production data result in a total Government and wheat sector cost estimate of more than $740 million. Although 1991 production levels and program participation data currently are unavailable, and wheat farmers may make decisions and adjustments over the crop year that would change this scenario somewhat, the above calculations suggest the potential losses that might be attributed to denying China MFN status.

TABLE 1.—WHEAT SITUATION, 1991–92

[In millions of bushels]

	With most favored nation	Without most favored nation
Beginning stocks	893	893
Production	2,105	2,105
Total supply	2,888	2,998
Domestic use	1,214	1,262
Exports	1,158	1,021
Total use	2,372	2,283
Ending stocks	626	715
Kansas City price	3.17	2.90
Farm price	2.96	2.69

Source: Agriculture Service, The WEFA Group, May 17, 1991.

UNITED STATES WHEAT EXPORT TRADE WITH CHINA

The People's Republic of China is the world's largest producer and consumer of wheat. Despite very large domestic production, ranging most years between 85 mmt–95 mmt, Chinese domestic utilization typically exceeds 100 mmt each year. According to USDA, total annual wheat imports from all sources have averaged 13.0 mmt over the last five marketing years (July/June).

The United States has been an active exporter of wheat to the PRC since the 1970's. Chinese purchases of U.S. wheat have increased fairly steadily throughout the 1980's due to continued growth in per capita income and in consumer demand for better quality, varied and convenient food products.

China traditionally buys U.S. wheat on purely commercial terms through the National Cereals, Oils and Food Stuffs Import-Export Corporation (Ceroils). Before being targeted for the Export Enhancement Program (EEP) in January 1987, the PRC had never participated in any USDA export promotion program such as the GSM credit guarantee programs or PL-480 concessional credits. Not surprisingly, most of the Chinese buying agency's purchasing decisions were based on price, although lately the PRC has been diversifying its sources of supply in order to meet different end uses. In 1990/91, the PRC ranked as the U.S.' Number 1 customer for wheat purchasing quantities worth $500 million.

The Export Enhancement Program (EEP) has greatly facilitated the import of U.S. wheat into the PRC and allowed the U.S. to maintain a larger market share. Since becoming active in EEP, the Chinese have purchased 20.2 mmt of U.S. wheat—mostly soft red winter and hard red winter wheat. In 1990/91, the U.S. exported over 5.0 mmt of wheat, 55 percent of total PRC imports, to China. This year, USDA estimates China's overall demand to be slightly higher than last year at 10.5 mmt and the U.S. share to be approximately 57 percent or 6.0 mmt. The U.S. competes mainly with Canada and Australia for the Chinese wheat business. Other exporters, like the EC and Argentina, sell to China on a less consistent basis.

It is absolutely essential to the health of the U.S. wheat industry to maintain good economic and trade relations with China. At this time, we support the President's position regarding China and strongly advocate the extension of most-favored-nation trading status to the People's Republic of China.

CHINA

[Wheat supply and demand situation: Thousand metric tons]

MY[1]	Production	Total use	Imports	U.S. imports
1969/70	27,285	32,909	5,125	0
1970/71	29,185	32,343	3,661	0
1971/72	32,575	33,538	2,968	0
1972/73	35,985	37,270	5,290	591
1973/74	35,225	41,365	5,645	3,190
1974/75	40,865	41,606	5,746	1,496
1975/76	45,310	43,510	2,200	0
1976/77	50,385	48,543	3,158	0
1977/78	41,075	51,675	8,600	283
1978/79	53,840	52,887	8,047	2,600
1979/80	62,730	66,595	8,865	2,080
1980/81	55,210	75,999	13,789	8,698
1981/82	59,640	78,840	13,200	8,245
1982/83	68,420	79,420	13,000	4,206
1983/84	81,390	82,990	9,600	3,072
1984/85	87,820	92,220	7,400	2,440
1985/86	85,810	100,410	6,600	510
1986/87	90,040	101,540	8,500	270
1987/88	85,840	102,840	15,000	4,426
1988/89	86,360	104,360	15,500	7,257
1989/90	91,000	104,600	14,000	5,549
1990/91	97,500	105,600	10,000	3,840
1991/92[2]	95,000	105,600	10,500	3,700

[1] Marketing year (July/June).

[2] Estimated.

Source: USDA, Foreign Agricultural Service.

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[2] Congress gave the President authority to designate China as a "friendly country" and determine if China satisfies the criteria for participating in P.L. 480's Title I program. U.S. Congress. Senate. Report of the Committee on Foreign Relations, International Security Enhancement Act of 1982, 97th Congress, 2d Session, May 28, 1982, pp. 38–39.

[3] Some of the estimates in this section were calculated by the WEFA Group, a consulting firm located in Bala Cynwyd, Pennsylvania. For this analysis, years referred to in this section are wheat crop years—July/June years.

[4] Telephone conversation with Rennee Schwartz, Grain and Feed Division, Foreign Agricultural Service, USDA, May 20, 1991.

UNITED STATES-CHINA TRADE AND INVESTMENT

[Dollar amounts in billions]

	1979[1]	1988	1989	1990	Percent change 1989–90
United States-China trade:					
Total trade	$2.3	$13.5	$17.8	$20.0	12
U.S. exports	1.7	5.0	5.8	4.8	−17
U.S. Imports	.6	8.5	12.0	15.2	27
Trade balance	1.1	−3.5	−6.2	−10.4	−68

[1] Last year before United States granted MFN status to China.

[In millions of dollars]

	1989	1990	Percent change
United States exports to China:			
Cereals	1,127	512	−55
Computers and Electric products	1,045	860	−27
Aircraft and parts	536	749	40
Fertilizer	487	544	12
Chemicals	374	273	−27
Professional and Sci. Instruments	271	227	−16
Iron and steel	268	44	−84
Cotton yarn and fabric	260	281	8
Electric machinery	244	264	8
Plastics and resins	219	166	−24
Chinese exports to the United States:			
Apparel	2,657	3,197	20
Toys, games, sporting goods	1,725	2,139	24
Electric machinery	1,638	1,926	18
Footwear	721	1,447	105
Travel goods	683	874	28
Petroleum	504	661	31
Fish	279	396	42
Plastics	237	387	63
Iron and steel	226	247	9
Furniture, lamps, bedding	165	276	67

Commodity	MFN tariff (percent)	Non-MFN tariff (percent)
Selected Chinese import tariffs:		
Wheat	0	0
Aircraft and parts	6	11
Fertilizers	30	40
Cotton	30	40
Rough wood	3	8
Polycarboxylic acids	15	20
Specialized machinery	20	30
Selected U.S. import Tariffs:		
Manufactured articles	0–32	0–110
Apparel	0–34.6	25–90
Telecommunications	2.4–8.5	35
Footwear	0–48	10–84
Travel goods, handbags	4.6–20	35–90
Petroleum, oils	.105/bbl	.21/bbl

SOURCES OF FOREIGN INVESTMENT IN CHINA, 1979–89

[Contracted value, dollar amounts in billions]

	1979–86	1987	1988	1989	Cumulative total	Percent share
National total	$19.99	$4.32	$6.19	$6.29	$36.80	100.0
Hong Kong, Macau	12.40	2.36	4.16	3.73	22.66	61.6
United States	2.72	.36	.38	.65	4.11	11.2
Japan	1.91	.39	.37	.52	3.18	8.7
Others	2.96	1.21	1.27	1.39	6.84	18.6

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with consideration of the bill.

Mr. LOTT. Mr. President, I ask for this time to address my concerns about the highway bill now pending, S. 1204.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. LOTT. Mr. President, many States, all States but especially Mississippi, need new and better highways, new and better bridges, we need bridges replaced. There are very few issues that touch every section of a State more than the question of accessibility on highways. It is emotional. It is personal. It affects every one of us.

There is no question that this bill will be one of the most hotly debated by assiduously courted pieces of legislation we will have this year because it is so important to every Senator, to every State, and we are talking about a bill that will provide authorization for a number of years, 5 years. So this is our last chance, as the train will be pulling out of the station this year, and the future of our States will be determined in transportation so much by this one bill.

It is an emotional issue. I feel that narrow, dangerous, two-lane roads are holding back my own State of Mississippi, the poorest State in the Nation, that needs help.

So it is a question of ability to just move about in a State like Mississippi, let alone be connected to the major metropolitan areas of our region—Memphis, TN; New Orleans, LA—as well as go all the way to Washington, DC and New York. It is great to have good roads between Memphis and Washington, but you have to be able to get out of your own State to get there. And that is the point that we are locked in right now.

There is also no doubt that there is a question of safety here. My father was killed on a narrow, two-lane, dangerous road. I blame inadequate road construction in my own State for that unnecessary death. That story can be told hundreds of times in the cities, but in the rural areas where these narrow, hilly, curved roads are not safe. They should be four lanes. They should have been four lanes 10 or 20 years ago. And yet it is so impossible for a State with a per capita income of under $10,000 trying to provide an adequate transportation system. So it is accessibility, it is safety, but it is also economic development.

My State is trying to reach down and pull itself up out of an economic mess we have been in for 130 years. But we have to have an infrastructure to do it. We have to have decent roads to do it. And we do not have them.

If you look at Interstate Highway System or even the Federal highway systems that were not necessarily in the Interstate System you could find economic development right along those routes. If you come down Interstate 5 from Memphis, TN, going to Jackson, you can see economic development in places like South Haven and Batesville and Grenada. But if you get 50 miles on either side of the interstate road they are destitute.

So in my State it is a question of economic development—jobs. If we are going to attract small business development, major industries to come in, if we are going to help people get off of poverty in the State of Mississippi, we have to have roads and bridges and general aviation facilities and train service. We have to have this intermodal system available to Mississippi as well as New York and California. We want to be a part of the National System.

And so in our case, it is not a question of recreational roads, it is not a question of Amtrak; it is not a question of urban mass transportation; it is a question of having a minimal paved road to move around. When you look at the roads in Mississippi that should have been four lanes years ago, you have to stop and say, "What happened?" Somebody shortchanged us.

Was it all in the State? Yes, probably a lot of it. But a lot of it was because of the Federal formula and that is how I want to begin to get into the administration and the committee bill proposals. I do want to say that I am pleased that the administration moved out and said, "Look, we have a proposal here." I think they gave us a good starting point to work on here in the Congress. I do not agree with parts of it, but it was a major proposal.

I think Secretary of Transportation Sam Skinner is doing an excellent job trying to emphasize the importance of this overall transportation system that we need in America. I am pleased that the committee here in the Senate moved expeditiously and got a bill out on the floor. But I have many problems with it. As a matter of fact, I have problems with both the administration proposal and the committee bill because in neither instance do I think they address some of the fundamental problems that must be addressed.

The first one is the Federal matching question. We cannot afford to have to come up with matching funds at the State level of 20 percent or even 15 percent. What happens if we have to come up with 20 percent in my State of Mississippi for bridge replacement and rehabilitation? And if we cannot match that, we get no bridge replacement and rehabilitation.

I understand the bill cuts Federal matching back to 80 percent. We cannot come up with that.

So I hope the administration remembers that the last time they vetoed a highway bill in the previous administration, the veto was overridden. So when there is a threat out there that a highway bill may be vetoed because the Federal share is too high, it falls on deaf ears. I will vote to override a veto if that is the reason for the veto.

And then the formula allocation. That is the thing that really begins to bring clearly to my mind why Mississippi is in the pit that we are in. Mississippi is a donor State. We give more to the highway trust fund than we get back. In fact, over the past 5 years we got back 80 cents on a dollar. So that is why we are behind in a four-lane system in Mississippi, we do not have an adequate Federal highway system, even though our minimal Interstate Systems are completed.

When you look at this formula of dollars going back to the poorest State in the Nation, Mississippi gets 80 percent while I see other States getting 113 percent back, 120 percent, 127 percent. Some of the richest States in the Nation are getting this astronomical return and Mississippi is paying for it.

That is one of my problems with turning a highway bill into an urban mass transportation bill. I understand if New York wants to use its money for mass transportation, but not if poor Mississippians are going to be paying for it. They say, it is discretion, flexibility; New York can make up its own mind of where they want to spend that money. If 20 percent or 15 percent or 10 percent of the money that we are paying in Mississippi is winding up in New York to pay for their urban mass transportation problems, that is not adequate. That is unacceptable.

I do not want this to get to be a battle between rural and urban or rural and suburban versus urban. I am not sure anybody does. I think Mississippi needs an adequate road system. I also think Washington, DC, New York, Detroit, and Boston ought to have a mass transportation system, but not if we are paying for it. So we have a lot of work to do on this legislation.

The matching formula is not acceptable. The allocation formula is not acceptable.

Then when I look at what we are doing here, we are spending the highway trust fund on magnetic levitation. That is great. I think it is a technology that we should study, we should look into. We probably should do it, but not with highway trust fund, thank you very much. Let us pay for it some other way. Let us not take money that we need desperately for bridges and highways to expend for this sort of experimental program, which is innovative, and again I am all for it.

Some people are saying we need more environmental considerations, we need more recreational roads. Again, I realize there is a separate system to pay for that. I would like us to have these recreational roads designated. But, again, give me a chance to at least move around my own State or get out of my own State before we start spending funds on these desirable things. Let us take care of the mandatory things first, and then look at some of the other issues.

I want to work with anybody who will come up with a fairer system, fairer to everybody. I want to build in California and in Washington and Idaho and Mississippi so we all feel we are basically being treated fairly. But now I do not feel the existing system is fair to my State. I feel we have been cheated. We are being cheated. And under the committee bill we are continuing to look down gravel roads, bumpy roads, decaying bridges. It is not fair.

I ask the chairman of the committee and the ranking member on the committee: Work with us to come up with a better formula. This is not partisan. It is not even, really, regional. There is a mixed bag. But the hodge-podge, mixed bag we have is not a fair one.

When a State the size of my home State of Mississippi, 400 miles long and 175 miles wide, does not have the basic infrastructure of roads and bridges, and is one that is paying for other States, when you look at our own poverty situation, it is a totally unacceptable set of circumstances. No issue that will be debated this year will affect our State more than this one. I am going to be looking for some compromise and negotiations. I am flexible in what we come up with. All I know is what we have now will not do the job.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. MCCAIN pertaining to the introduction of S. 1270 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE MOUND CITY GROUP NATIONAL MONUMENT

Mr. BINGAMAN. Mr. President, I want to lend my strong support and cosponsorship to Senator METZENBAUM'S bill, S. 749, which would rename and expand the boundaries of the Mound City Group National Monument in Ohio. This bill would save some of the Nation's cultural and archaeological heritage for future generations.

Four sites have been identified as worthy for inclusion in what will become the Hopewell Culture National Historical Park. These sites have been selected as the best preserved, diverse and scientifically valuable sites from among over 100 sites in Ross County, OH. I understand that one of these sites, Hopeton Earthworks, was scheduled to be bulldozed for a gravel pit. While discussions are taking place regarding its acquisition, the site is still vulnerable to destruction.

My home State of New Mexico is rich in cultural resources and I have been a strong supporter of historic preservation in my State. I feel that all of us have an obligation to protect not only our own State's cultural heritage, but our Nation's and international heritage as well. And that is why I am cosponsoring S. 749.

The Hopewell sites of southern Ohio are known internationally for their complex material culture and elaborate ritual life as expressed in the development of earthworks, moundsites and the crafting of culturally important artifacts. The Hopewell system, with its particular economic, political and religious dimensions, thrived in eastern North America between 100 BC and AD 500. Little is known about the daily life of the Hopewellian people. All the more reason for us to protect the archaeological sites that serve as virtually the only record we have of this era of human history. Relatively few of these sites are left after decades of construction and development.

As one of the world's richest nations, certainly we can afford to protect our priceless, irreplaceable heritage resources. I urge my colleagues to join me in support of S. 749.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING.

The Mound City Group National Monument established by proclamation of the President (Proclamation No. 1653, 42 Stat. 2298) and expanded by section 701 of Public Law 96-607 (94 Stat. 3540), shall, on and after the date of enactment of this Act, be known as the "Hopewell Culture National Historical Park". Any reference to the Mound City Group National Monument in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Hopewell Culture National Historical Park.

SEC. 2. EXPANSION OF BOUNDARIES.

(a) IN GENERAL.—The boundaries of the Hopewell Culture National Historical Park (referred to as the "park") are revised to include the lands within the areas marked for inclusion in the monument as generally depicted on—

(1) the map entitled "Hopeton Earthworks" numbered 353-80025 and dated July 1987;

(2) the map entitled "High Banks Works" numbered 353-80027 and dated July 1987;

(3) the map entitled "Hopewell Mound Group" numbered 353-80029 and dated July 1987; and

(4) the map entitled "Seip Earthworks" numbered 353-80033 and dated July 1987.

(b) PUBLIC INSPECTION OF MAPS.—Each map described in subsection (a) shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

(c) ADJUSTMENT OF BOUNDARIES.—The Secretary of the Interior (referred to as the "Secretary") may, by notice in the Federal Register after receipt of public comment, make minor adjustments in the boundaries of areas added to the park by subsection (a) and other areas of the park except to the extent an adjustment would cause the total acreage of the park to exceed by more than 10 percent the total acreage of the park as of the date of enactment of this Act.

(d) ACQUISITION OF LANDS.—(1) Subject to paragraph (2), the Secretary may acquire lands and interests in land within the areas added to the park by subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

(2)(A) Lands and interests in land owned by the State of Ohio or a political subdivision thereof may be acquired only by donation or exchange.

(B) Lands and interests in land may be acquired by purchase at price based on the fair market value thereof as determined by independent appraisal, consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 3. COOPERATIVE AGREEMENTS.

The Secretary may enter into a cooperative agreement with the Ohio Historical Society, the Archeological Conservancy, and other public and private entities for consultation and assistance in the interpretation and management of the park.

SEC. 4. STUDIES.

(a) AREAS ADDED BY THIS ACT.—The Secretary shall conduct archeological studies of the areas added to the park by section 2(a) and adjacent areas to ensure that the boundaries of those areas encompass the lands that are needed to provide adequate protection of the significant archeological resources of those areas.

(b) OTHER AREAS.—The Secretary shall conduct archeological studies of the areas described as the "Spruce Hill Works", the "Harness Group", and the "Cedar Bank Works", and any conduct archeological studies of other areas significant to Hopewellian culture, to evaluate the desirability of adding them to the park, and shall report to Congress on any such areas that are recommended for addition to the park.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary for the acquisition of lands and interests in land within the park, the conduct of archeological studies on lands within and adjacent to the park, and the development of facilities for interpretation of the park.

TRIBUTE TO THE LATE LT. GEN. ARTHUR TRUDEAU

Mr. THURMOND. Mr. President, I rise today to pay tribute to a good friend and a true American patriot, Lt. Gen. Arthur Trudeau, who passed away on June 5, 1991. General Trudeau was a man of character, courage, and compassion, and his death is a great loss for this Nation.

General Trudeau's distinguished military career spanned more than four decades. A native of Vermont, he was graduated from the U.S. Military Academy at West Point in 1924. Early in his career he established himself as a staunch opponent of communism and he remained unwavering in his commitment to freedom throughout his life.

In the Army, General Trudeau served with honor in a variety of positions, including Director of Research and Development, Chief of Army Intelligence, and Chief of Manpower Control. During World War II, he was Chief of Staff of the Army Amphibious Engineers and then commander of Camp X in the Philippines.

He went on to command the First Army Corps in Korea during the period immediately after the end of the Korean conflict. He served with honor, earning many military decorations, including two Silver Stars; the Distinguished Service Medal with two oak leaf clusters; the Legion of Merit; the Bronze Star; an Air Medal and the Army Commendation Medal.

The general was well-known among his colleagues for his keen intellect and boundless energy. He had a warm sense of humor and enjoyed demonstrating his prowess on the banjo. He was also an expert marksman, shooting with either hand, and showed a lifelong commitment to learning. While in the Army, he earned a master's degree in civil engineering from the University of California and graduated from Army Engineer School, the Command and General Staff College, and the Army War College.

After retiring from the military, General Trudeau was active in business, holding key positions with Gulf Research & Development Co. and Rockwell International. He also founded two companies of his own.

Mr. President, Arthur Gilbert Trudeau was an able general, a true patriot, and a man of action. He was a devoted husband and father, and his integrity and commitment to lofty ideals earned him the respect and admiration of all who knew him. He was one of the finest men I have known, and I shall miss him very much.

I would like to take this opportunity to extend my deepest condolences to General Trudeau's lovely wife, Rosalie Camalier Trudeau; his children and stepchildren, Joan Kane, Susan Walsh Day, Mary Ellen Lozano, Margaret Eileen McCloskey, and Raymond Walsh, Jr.; and his 11 grandchildren and 12 great-grandchildren.

SERVICE OF REAR ADM. THOMAS J. KELLY, USN (RETIRED)

Mr. NUNN. Mr. President, I was saddened recently when a distinguished naval officer, retired Rear Adm. Thomas J. Kelly, passed away at the age of 97. Admiral Kelly and his wife, Virginia, have been friends of my family for many years.

After graduating from the Naval Academy in 1920, Admiral Kelly served for almost 30 years in several important military positions. His career included extensive duty in the Pacific theater of operations during World War II. In particular, he took part in landing operations in the Philippines.

After World War II, Admiral Kelly served in the office of the chief of naval operations and as head of the petroleum division of the National Security Resources Board. His postwar assignments also included several liaison missions to Turkey.

In 1948, Admiral Kelly retired from the Navy and entered the private sectror. For many years, he worked for the Mobil Oil Corp. and Mercedes Benz of North America.

Mr. President, I would like to extend my condolences to Mrs. Virginia Kelly. As a mark of respect to Admiral Kelly, I ask unanimous consent that an obituary from the Washington Post appear at the end of my remarks.

There being no objection, the obituary is ordered to be printed in the RECORD, as follows:

THOMAS KELLY, NAVY ADMIRAL IN WWII, DIES

Thomas J. Kelly, 97, a retired Navy rear admiral who commanded the cruiser Springfield in the Pacific in World War II, died of pneumonia April 27 at Georgetown University Hospital.

Adm. Kelly, a resident of Washington, was born in Van Buren, Ark. He graduated from the U.S. Naval Academy at Annapolis in 1920. He also studied mechanical engineering at the Naval Postgraduate School, and received a master's degree in petroleum engineering from the University of Pittsburgh.

A gunnery officer; Adm. Kelly served at various naval stations in the United States and on various ships prior to World War II. He also taught petroleum engineering at the Naval Academy. In the war, he took part in landing operations in the Philippines.

His postwar assignments included duty in the Office of the Chief of Naval Operations and a period as head of the petroleum division of the National Security Resources Board. He also had a number of liaison missions to Turkey.

In 1948, Adm. Kelly retired from the Navy and settled in Washington. For the next 15 years he commuted to New York as assistant to the chairman of the Mobil Oil Corp. In the early 1960s, he became the Washington representative of Mercedes-Benz of North America. He retired 10 years later.

His personal military decorations included three awards of the Bronze Star with combat V.

Adm. Kelly was a member of the New York Yacht Club, the Metropolitan Club, the Cosmos Club, the Army & Navy Club, the 1925 F Street Club, and the King and Queen Rod and Gun Club.

Survivors include his wife, Virginia Weldon Kelly of Washington.

The PRESIDING OFFICER. As a Senator from the State of Washington, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senator will be informed that we are in morning business with 10 minutes allocated to each Senator.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as in morning business for that period of time in connection with the introduction of a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1263 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. Mr. President, I ask unanimous consent to proceed on another subject matter at this point in time and for the period allowed under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for the period under the standing order.

HAPPY BIRTHDAY, PEZZOO

Mr. DIXON. Mr. President, once in a while you have the pleasure to rise on a grand occasion for a great friend. And the good news is that on June 30 of this year, Harry Pezzullo will be 80 years old. Mr. President, the Great Pezzoo will be 80 years old June 30 of this year.

Mr. President, Harry Pezzullo and I have been friends for a long time. Following World War II, Harry Pezzullo, the Great Pezzoo, was appointed golf professional at Mission Hills in Northbrook, IL, a position he held for 5 years with great distinction before becoming head pro at Plum Tree National near Harvard, IL. There, he remained in his profession until he joined JDM Country Club in Palm Beach Gardens, FL, some years ago.

He became a leader in his profession and went on to become president of the Illinois section of the PGA of America, an honor he held for 14 years.

He was elected vice president of the National PGA and served for 2 years, during which time he was named Golf Professional of the Year. Later, he was again selected vice president of the National PGA, and during his 3-year post was named to the PGA Tournament Policy Board.

Mr. President, old Pezzoo was a touring pro when he was 19 years of age. He played in the first tournament that Bing Crosby originated back in the middle 1930's and played on the tour with a lot of famous golf firsts, like Sam Snead and others, that are best remembered from another distinguished era.

But I am here to tell you, Mr. President, that old Pezzoo can still play. Just think of this: For anyone who plays golf—and I take note of the fact that the President in the presiding chair from time to time indulges in that sport—it is meaningful to observe that the man I am talking about, Pro Pezzoo, can break his age's score every day. Here is an 80-year-old gentleman who can go out there every day and beat his age on the golf course and shoot under 80.

I just want to tell you a couple of remarkable events about Pro Pezzoo. I read here from the Providence Sunday Journal, Providence, RI. My friends, the distinguished Senators from Rhode Island, Senators PELL and CHAFEE, know Pro Pezzoo and probably remember many of the things he has done.

Providence Sunday Journal, May 20, 1984:

> One day this past summer Harry Pezzullo fired a course record 65 over the south course of JDM Country Club, Palm Beach Gardens, Florida.
>
> Although noteworthy on a local level, such a feat normally wouldn't make national news * * * except that Harry today happens to be well into his 74th year.

Think of it: In his 74th year he shot a 65 at the south course at JDM Country Club.

I had the pleasure of playing that course, and I know this was a phenomenal achievement.

Now let me tell you another thing: On another occasion on the North Course, he shot a 66, then topped it all off with an eagle three at the 506-yard, 17th hole. And on another occasion, on the North Course, Pro Pezzoo caused a stir when he double-eagled JDM's 520-yard, sixth hole.

Mr. President, I have played that hole, I have the honor to say, with Pro Pezzoo and others who are friends of the pros. That hole has since been eliminated in the reformation of the North Course at JDM Country Club. But they used to have to make it at the point on that par 5 where Pro Pezzoo hit his second shot to double-eagle the then existing sixth hole of the North Course at JDM Country Club.

On the occasion I last made that hole with him, Mr. President, I had the pleasure of playing with him and his very dear friend and close companion, Perry Como, who plays with him on a regular occasion there at that country club.

This is a charming man, a friendly man, a man who remembers everybody's name, always has a kind word for everybody, a man who has been devoted to his profession and been an individual golfer for all of his lifetime, and at the age of 80, Mr. President, can do something tomorrow morning that you and I cannot do and that almost every Senator cannot do, Mr. President. Think of it. Tomorrow morning, perhaps with some luck, SAM NUNN could break 80. Perhaps with some luck, MALCOLM WALLOP could break 80. Tomorrow morning, Mr. President, with some luck, DON NICKLES could break 80. But, Mr. President, for the other 97 of us in the greatest deliberative body in the world, that pleasure is withheld from us. Day after interminable day, we struggle. We fight, we pray, and yet we are denied the pleasure of shooting 80 or less than 80. But on each and every day, Mr. President, the old Pro Pezzoo takes his 80-year old body out on that golf course and shoots less than 80 strokes.

So, I am delighted, Mr. President, on this occasion to send along to a beloved friend, my very best wishes for a happy birthday on June 30, with this one request: He is welcome to come here anytime and be my guest here around the U.S. Senate if he will only teach me how to break 80 once in a while.

I yield the floor.

The PRESIDING OFFICER. The Senator has yielded the floor.

The Senator from Ohio.

Mr. GLENN. Mr. President, after that, I can only ask why it always seems to be my fate to follow ALAN DIXON whenever we are speaking because I am sure that will be far more entertaining than my views.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Mr. GLENN. Mr. President, with regard to the Surface Transportation Efficiency Act that we are involved with here in the Senate right now, there are a lot of negotiations going on behind the scenes right now trying to come up with a package. There have been a lot of activities, some of which I have been included in and taken an active part in, a meeting with regard to the Surface Transportation Efficiency Act in which I expressed my feelings about it representing my home State of Ohio.

Mr. President, the lack of my being here on the floor does not mean that I have not been working on this particular issue, and I want to rise today on the floor, while we have a few minutes while other negotiations are going on, to state my general proposition with regard to the Surface Transportation Efficiency Act.

Mr. President, I must rise today to express my opposition to what I view as the very inequitable distribution of highway funds under the Surface Transportation Act. Existing apportionment formulas very systematically disinvest Ohio and other donor States.

Ohio and other donor States, as they are called, in other words, States that contribute more than they receive back in highway funds according to the Federal formula, contributed over $5 billion in excess of the highway funding that they received last year.

Last year, Ohioans received approximately $496 million in Federal aid highway funds but they paid approximately $531 million in Federal tax on the gas tax.

So, Mr. President, in total, Ohioans lost some $35 million in just 1 year. This is not something brand new to us because Ohio has consistently paid in more than it received according to the formula, and the legislation before us would continue this pattern of unfairness.

Mr. President, we have a lot of statistics from the Department of Transportation that show that the efficiencies in the highway system are increasingly concentrated in the donor States. At the same time data from the Department of Commerce confirms that the 19 donor States generate more than half of the industrial and agricultural production in this Nation. This information graphically illustrates that we are not putting our Federal highway dollars where they are most needed or provide the greatest economic benefit to the Nation. We have a lot of GAO studies.

A report by the GAO in 1986 recommended specific changes in the formula factors used in apportionment of highway funds. The recommendations by GAO stated that current factors are "not closely related to today's highway system." That is the nub of the argument. Yet despite these recommendations and other evidence, we have a bill before us that will perpetuate the use of these outdated apportionment factors.

Why has this occurred and why has it gone on all this time? Well, the transportation needs of our Nation have changed since the Federal highway system was established more than 30 years ago. At that time, the objective was to put through a big interstate system for the United States. Funds were needed to construct that Interstate Highway System. It was for critical defense needs and for commerce needs, for business needs. My State and the other donor States willingly contributed to these national objectives because some of the States could not afford to put through the Interstate System.

If you take a State like Wyoming or Montana, where there are lots of miles and few people, you wind up with their not having the tax base nor the wherewithal to really pay for their portion of the system, no matter how advantageous it might be for the United States as a whole. So the formula was set up so those deficiencies in particular States—lack of money—could be taken care of by other States who became the donor States so we could put through our Interstate Highway System.

Mr. President, that time is now behind us. The Interstate System is at least 95 percent complete. Figures are a little debatable, but the usual figures are somewhere over 80 percent completed. Yet we stick with the formula as though we were just building this highway system for the first time.

Are some of these States going to need some help just for maintenance of the Interstate System? Yes, they are, of course. And I would not stop that. But it is time to establish formulas that adequately address the needs of the highway system now—not what they were 30 years ago or so when the system was being planned—and that also address the needs of the highway system into the future.

Mr. President, to me it is a matter of simple fairness. We were fair in taking some of this money from donor States, allocating it to those who do not have a sufficient resource in their States to pay for their part of the Interstate System. But that time has passed.

Now simple fairness says my State and the other donor States have long sent more money to Washington than they receive under this program. My State and the other donor States have long produced a great amount of goods and services in our Nation. My State and the other donor States have long had a disproportionate amount of the aging and deficient infrastructure in our Nation.

Mr. President, we were very fair, I think, in helping the other States in the construction of this system.

It is now time for my State and the other donor States to receive a fair return on their tax dollars. I urge my colleagues to join me in this effort.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senate will be advised that the period for morning business has expired.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senate will resume consideration of S. 1204.

The President pro tempore, the Senator from West Virginia, is recognized.

AMENDMENT NO. 295

(Purpose: To allot bonus apportionments based on the level of effort shown by each State)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 295.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, after line 22, insert the following new section:

SEC. 140. LEVEL OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years commencing with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall provide each State in which the rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall provide each State with a bonus apportionment equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment provided any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposable income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate allocations under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the allocations to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State."

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"Sec. 159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the

Mass Transit Account) to be available for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $769,000,000.

(B) For fiscal year 1994, $1,350,000,000.

(C) For fiscal year 1995, $1,500,000,000.

(D) For fiscal year 1996, $1,800,000,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 296 TO AMENDMENT NO. 295

(Purpose: To perfect language relating to the allotment of bonus apportionments based on the level of effort shown by each State.)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 296 to amendment No. 295.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment, strike out "OF EFFORT APPORTIONMENT BONUSES" and all that follows through "available until expended." and insert in lieu thereof the following:

OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years commencing with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall provide each State in which the rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title for fiscal year 1993 or ten percent of such total apportionment for fiscal year 1994, 1995, or 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall provide each State with a bonus apportionment equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment provided any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposal income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate allocations under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the allocations to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"Sec. 159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to be available for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $769,000,000.

(B) For fiscal year 1994, $1,600,000,000.

(C) For fiscal year 1995, $1,750,000,000.

(D) For fiscal year 1996, $2,050,000,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

Mr. BYRD. Mr. President, if no Senator seeks recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, was leader time reserved today?

The PRESIDING OFFICER. Yes, it was.

Mr. DOLE. If I may proceed, then, using my leader time.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 1262 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 1261 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

(The remarks of Mr. SIMPSON pertaining to the introduction of Senate Joint Resolution 159 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. Madam President, a parliamentary inquiry. Is it appropriate for this Senator to speak as in morning business?

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator may speak out of order. It will take consent to introduce legislation.

Mr. DOMENICI. I ask that I be permitted to speak for no longer than 5 minutes out of order.

The PRESIDING OFFICER. The Senator has that right.

A PROGRESS REPORT ON SEMATECH

Mr. DOMENICI. Madam President, it is my privilege today to share with my colleagues some of the success stories of one of the best investments the Federal Government has ever made.

I am referring to Sematech, the Government-industry consortium whose mission it is to provide the U.S. semiconductor industry the domestic capability for world leadership in manufacturing.

I have been a strong supporter of Sematech and I am pleased to report that after 4 years of Federal funding, we are beginning to see some remarkable results.

As you know, the President has included a recommendation in his fiscal year 1992 Defense budget that the Department of Defense be authorized and appropriated $100 million for Sematech. The Senate Budget Committee concurs with that recommendation.

As you are well aware, Sematech was formed in 1987 as an industry-driven initiative. Sematech's 14-member companies—AMD, AT&T, Digital Equipment, Harris, Hewlett-Packard, Intel, IBM, LSI Logic, Micron, Motorola, National Semiconductor, NCR, Rockwell, and Texas Instruments—represent 80 percent of our Nation's semiconductor production base and more than 700,000 American jobs. Those companies are investing approximately 1 percent of their annual semiconductor sales to more than match Federal moneys in the pursuit of Sematech's national mission.

Sematech's 14 companies include the top 7 suppliers of integrated circuits to the Department of Defense, and supply approximately 80 percent of DOD's integrated circuit needs. Sematech's Centers of Excellence Program works closely with 29 universities in 11 States and with 3 important national laboratories: Sandia, in my home State; Oak Ridge in Tennessee; and the National Institute of Standards and Technology in Maryland.

Before I discuss some of the consortium's specific successes, I would like to share with you some detailed information on how our Federal dollars are being leveraged by private industry.

To date, DARPA has invested $298.3 million in Sematech. The consortium's private industry members have invested $321.1 million. In turn, Sematech has invested $333.1 million into the U.S. semiconductor materials and equipment industry through the purchase of manufacturing and process supplies; the Sematech Centers of Excellence; developed contracts; capital equipment; etc.

Semi/Sematech, an adjunct organization comprised of more than 130 U.S. semiconductor equipment and materials companies, reports that its members leverage Sematech investment dollars by a factor of 4 to 1. The overall R&D investment by Semi/Sematech's members is nearly $1.4 billion, which Sematech obviously influences. Sematech's 14 member companies will spend an estimated $15 billion to $20 billion on R&D in 1991, some of which will be influenced by Sematech.

Each dollar that the Department of Defense invests in Sematech is matched by the 14 member companies. Furthermore, the money that Sematech spends on joint development projects or equipment programs is leveraged 3 to 4 times as the selected supplier companies invest their own money projects.

I believe that it is a most impressive return on our investment and that's one reason why I am pleased to support Sematech.

Furthermore, the Federal Government's investment in Sematech is fundamentally a procurement decision. The Department of Defense is purchasing critically needed semiconductor manufacturing R&D at well under half of what it would cost to acquire from individual suppliers.

DARPA's stated mission is to maintain U.S. technological superiority over our potential adversaries. The Department of Defense relies on the most advanced technology for today's weapons and without the knowledge and ability to manufacture leading edge semiconductors, the United States would have to rely on foreign suppliers.

I believe there is a direct correlation, therefore, between DARPA's mission and Sematech's mission.

Let me cite a few brief examples of how Sematech is making a difference.

I am sure that you followed Operation Desert Storm with great interest as did I. You will undoubtedly recall the dramatic television footage of our "smart weapons" in action. From the Patriot missile to the F-117A to the Abrams M-1 tank, it was an impressive demonstration of U.S. technological superiority. I am convinced that the excellence of those weapons was greatly responsible for keeping American and coalition force casualties at a very minimum.

None of that would have been possible without semiconductors. Every one of the weapons used so successfully in the Persian Gulf contained hundreds of computer chips. And it goes without saying that integrated circuits also gave our forces the very best capability for communications systems and radar systems. The war was graphic evidence of the importance of having superior technology.

But if the United States wants to maintain that technological superiority, which can be readily converted from peacetime use to a war effort, we must continue to invest in the semiconductor infrastructure. I am told that many of the chips in the weapons used so effectively in the Persian Gulf were 10 to 15 years old.

Furthermore, there have been reports that Japan supplied many of the chips that were included in some of our most sophisticated weapons.

That is unsettling to me. I believe that we cannot afford to allow ourselves to be put into a situation where we would be dependent on a foreign country for the most advanced technologies for our future weapons systems.

I do not want to take a chance that the United States will have to rely on the good will of its allies to obtain the most advanced integrated circuits that will be essential ingredients for the next generation of smart weapons such as the advanced tactical fighter that Lockheed will build with its partners, General Dynamics and Boeing.

The possibility that Japan—or any other country—could reduce or shut off its supply of electronic components to the United States should continue to be cause for concern among United States defense officials.

Although it was true in the years following World War II that military technology drove commercial technology, that is no longer the case.

In fact, the computer chips in such consumer electronics products as the compact disk player and the hand-held video camera are far more sophisticated than those found in some of our present weapons systems. Furthermore, the Japanese lead the United States in many other high-technology ingredients that would be used for future weapons technologies.

Therefore, it stands to reason that we must continue to invest in our domestic technological base so we will have the capability to independently develop the next generation of weapons.

Our national security depends on using our tremendous capability in technology to be the world leader in industries such as computers. Our continued support of Sematech will help make that a reality.

DARPA and DOD are further benefiting from Sematech in that much of the technology developed at Sematech is now being utilized in DOD and member company facilities.

In the past year, Sematech has transferred 187 confidential reports to DARPA and Sematech member companies. These reports are made available to the directors of defense labs for the Air Force, Army, Navy, and the National Security Agency.

For example, the knowledge that Sematech gained in constructing its clean room facility was shared with, and used by NSA in the construction of their Special Products Laboratory which makes top secret chips at Fort Meade, MD. That state-of-the art lab was dedicated in December.

Working together Sematech, the member companies, and the Department of Defense have converted a dusty warehouse into a world-class semiconductor research facility in world-record time. They have established a notional consensus on the technology road maps to restore world competitiveness for U.S. industry.

Bob Galvin, the retired chairman of Motorola and acknowledged electronics industry leader, has come forward to serve as chairman of Sematech's board of directors. Mr. Galvin has recognized the great importance of this mission to the semiconductor industry and to the Nation.

These American companies are making some of their best engineers and scientists available to Sematech. The fact that these fiercely competitive companies would put aside their differences and work together for the common good of the country and the industry speaks highly of Sematech's spirit of precompetitive cooperation.

Dedicated to the formidable challenge before them, the men and women of Sematech have made great strides in a very short time by uniting business, academia, and government in a common effort.

Sematech has profoundly improved the relationship between suppliers and users in the semiconductor manufacturing process and equipment.

I ask you to keep in mind that each lost market share point in the semiconductor industry conservatively represents a loss of 2,982 American jobs, $59 million in research and development funds, $130 million in lost wages and $40 million in lost Federal tax revenues from corporate and personal income.

As you may have read in the New York Times last month, Sematech's work is beginning to give industry the capability to stop the slide and regain those jobs to foreign competition.

As evidence of this, Sematech achieved an important milestone last August by demonstrating leading-edge semiconductor technology using exclusively American-made tools and Sematech-trained manufacturing specialists.

While the consortium's successes have been widely reported by the media, I would respectfully call attention to further highlights in Sematech's growing list of significant accomplishments.

Sematech now funds Centers of Excellence programs at 29 universities in 11 States designated to improve our research capability, stress the importance of manufacturing in curricula, and forge the foundation for America's next generation of tools and semiconductors. In a related program, Sematech has contracted with Sandia National Laboratories to establish the Semiconductor Equipment Technology Center. Through this partnership, Sandia will use its expertise in reliability to also develop tool design models and methods for improving future generations of manufacturing equipment.

In Austin, TX, Motorola just opened its newest semiconductor fabrication facility, known as MOS-11, that is equipped with more than 80 percent American-made equipment. Before Sematech began partnering with U.S. equipment suppliers, Motorola had planned to purchase 80 percent of its tools from foreign suppliers.

Amray, Inc. of Bedford, MA is a small American manufacturer of scanning electron microscopes, a product area regarded by industry as an important part of the semiconductor manufacturing tool set and traditionally dominated by the Japanese. As a result of an equipment improvement program with Sematech, Amray's sales have increased significantly as they have developed a world class tool that is competitive with Japan's best.

Sematech is now investing more than 50 percent of its external budget in joint development projects and equipment improvement programs with U.S. suppliers of materials and equipment in order to produce more successes like those at Motorola and Amray.

The adoption of Sematech-sponsored quality guidelines is altering the way suppliers and manufacturers deal with each other. After overcoming initial reluctance, semiconductor companies now talk to one another about manufacturing problems, while still competing on chip design.

And the chip companies are working more closely with their equipment suppliers, rather than merely bargaining them down to the lowest price and demanding delivery. Such cooperation, which runs counter to the American corporate culture, is considered one of the reasons for Japan's success.

The new openness in communication and resulting benefits to the industry come none too soon. There have been 22 acquisitions of United States semiconductor equipment and materials companies by the Japanese alone since 1987 and the trend is continuing. The Department of Defense laboratories cannot develop world-class, leading-edge systems without ready access to world-class, leading-edge components. And the only way to assure continued, uninterrupted access to such components is to have American suppliers, through a strong commercial manufacturing base in this country.

I would like to call the Senate's attention to some of the comments made by Government agencies that have studied Sematech and issued reports on this bold and unique American industry-government partnership.

The Advisory Council on Federal Participation in Sematech writes:

> A withdrawal or significant reduction of Federal support for the consortium could seriously impair Sematech's ability to consolidate its recent accomplishments and move toward its phase 2 and phase 3 technology development goals.

From the General Accounting Office:

> Senior executives from 28 of the 31 Semi/Sematech suppliers we surveyed support Sematech's efforts to address their needs.

From the Congressional Budget Office:

> The process of organizing Sematech has provided the industry with a clearly defined research agenda.

And, from the chairman of the National Advisory Committee of Semiconductors:

> Sematech continues to be supported by industry and government. Sematech is producing results. Sematech is a good, solid example of precompetitive technologies.

On August 2, the day that Iraq invaded Kuwait, President Bush made the following comments in a speech in Aspen, CO, He said:

> Time and time again, we have seen technology revolutionize the battlefield. The U.S. has always relied upon its technological edge to offset the need to match potential adversaries' strength in numbers. Cruise missiles, Stealth fighters and bombers, today's "smart" weapons with the state-of-the-art guidance systems, and tomorrow's "brilliant" ones. The men and women in our Armed Forces deserve the best technology America has to offer.

I believe that statement by the President summarizes the importance of funding research and technology programs such as Sematech and I urge my colleagues to continue to support this unique government-industry venture which is beginning to give a critical American industry a fighting chance to compete.

After all, our investment in Sematech and America's high-technology infrastructure is really an investment in America's security and in the security of the free world.

Seeing no one present who seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, are we still in morning business?

The PRESIDING OFFICER. No. The bill is pending.

Mr. DOLE. I ask unanimous consent, notwithstanding, I may proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORT CREDIT GUARANTEES FOR THE SOVIET UNION

Mr. DOLE. Madam President, earlier I indicated shortly after 4 o'clock that I thought there would be welcome news coming from the White House with reference to export credit guarantees for the Soviet Union. The announcement has come now from the administration that it will offer the food-strapped Soviet Union $1.5 billion in agriculture credit guarantees. I believe the announcement is certainly welcome news for American farmers. It was a tough issue, and a tough call for Congress and the President, and I salute his leadership as America deals with the Soviet Union in these challenging times.

Let me make it very clear at the outset because some of us from farm States are at least suspect, if it helps farmers we are going to be for it, whoever buys it, whoever does not buy it, whoever pays for it. Let me make it clear in a resolution that passed the Senate by about a 3-to-1 margin, a number of us from farm States and others, like the distinguished Senator from Michigan, [Mr. LEVIN] I recall specifically, not a big farm State but certainly agriculture is important in Michigan, we made two or three points very clear. First of all, if we are going to extend credit guarantees to the Soviet Union, we want to be repaid. We have already extended $1 billion in credit guarantees. The first interest payment on that billion dollars is due in July of this year, $31 million. We expect it to be paid.

We also want to be certain if there are any additional export credit guarantees to the Soviet Union, in this case $1.5 billion, that that amount is repaid. I visited with Mr. Primakov, who represented Mr. Gorbachev, who was in Washington, DC, a couple weeks ago. He said we always paid in the past; we never defaulted on any sale of agricultural commodities before. I believe that the Soviet Union will repay the $1 billion that is now out there plus the new $1.5 billion announced today.

We have a provision in the 1990 farm law that says, in effect, we cannot make any deal with any country unless they are creditworthy because we recognize the American taxpayer does not want to take up the tab if there is a default. So we want that country to pay us back and we believe the action by the Senate in outlining what would make a country creditworthy: First, the fact it never defaulted before; second, their assets; plus three or four provisions we included in the Senate-passed resolution, I think helped the administration in making a judgment.

In addition, we wanted to make certain the Soviet leadership understood we still want freedom and independence for the Baltic States. I recall meeting with the President of Lithuania and the Prime Ministers of Latvia and Estonia when they were here about 3 or 4 weeks ago. They said we prefer you put in the resolution there be no credit guarantees until we have our independence. I said that probably is not reasonable but certainly one to stress in the resolution, as we did—that we still encourage the Soviet Union, Mr. Gorbachev, whoever, to grant freedom and independence to the Baltic States and other Soviet republics who also expressed their hope for independence. So that was included.

Finally, in the resolution, we wanted to make certain if, in fact, we did extend export credit guarantees that any food purchased or any grain with those guarantees be distributed fairly and that no republic in the Soviet Union be discriminated against.

So they should not intimidate by saying to one republic that you cannot have the food unless you agree to A, B, or C. That was made clear. I am pleased that was also considered in the President's announcement.

We also suggest in our resolution that the credits be offered in three installments. That is precisely what the administration did. The President has accepted our recommendation that these credits be offered in three installments, beginning with the initial $100 million offer, and that important condition will protect taxpayers in making certain the credits are repaid.

In other words, we do not give them $1½ billion; we give them $600 million, take a look at whether the repayment is paid, whether the interest is paid, and then we make a decision on the second and third installment. The bottom line is that we expect to be repaid. We expect to see a fair distribution.

I ask unanimous consent to have printed in the RECORD at this point a factsheet and additional materials distributed by the White House.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTSHEET—PRESIDENT BUSH ANNOUNCES AVAILABILITY OF AN ADDITIONAL $1.5 Billion in Agricultural Credit Guarantees for USSR

President Bush today announced that the USSR will receive an additional $1.5 billion of agricultural credit guarantees under the GSM-102 program operated by the Commodity Credit Corporation. The guarantees will be made available in stages with $600 million available immediately, an additional $500 million in October, 1991, and $400 million in February, 1992. The President announced this decision in response to a request from President Gorbachev.

Under this program, the USSR may purchase any U.S. agricultural commodity. Discussions will be undertaken by the Department of Agriculture immediately to determine the terms and the commodity mix for the new allocation.

The $1.5 billion in credit guarantees makes a total of $2.5 billion made available since the USSR became eligible when the President waived the Jackson-Vanik Amendment in December, 1990. The first $1 billion was used to purchase $600 million in feed grains, $165 million in wheat, $143 million in protein meal, $58 million in soybeans, $25 million in poultry and $9 million in almonds.

The President also announced that the United States will work with the USSR in a long-term effort to improve its food distribution system. At the heart of this effort will be the introduction of market oriented systems to improve handling of agricultural products from the field to the consumer as well as providing technical assistance in food distribution. The Department of Agriculture will coordinate U.S. efforts on this project, drawing heavily from expertise in the U.S. private sector.

QUESTIONS AND ANSWERS ON THE USSR

Question. What did the Presidential Delegation learn on its visit to the USSR? Did this change the analysis of the USSR's creditworthiness?

Answer. The team had a chance to assess the food, feed and commodity distribution systems first hand. It also met extensively with top Soviet leaders including President Gorbachev.

With regard to creditworthiness, we have said all along that it is not a question of the USSR's creditworthiness, but whether the Commodity Credit Corporation should take risk in addition to the $1 billion of exposure it already has with respect to the USSR. The Delegation gained a better understanding of actual Soviet needs and the Soviet leadership's commitment to market oriented economic reform, both of which were helpful in analyzing the request for credit guarantees.

Question. Why did it take so long for a decision? Couldn't this have been done a month ago?

Answer. The request from President Gorbachev to President Bush posed some very serious questions that demanded careful consideration and analysis. Further, careful study had to be given to the impact of the new farm bill language on credit exposure. It was only after input from the Congress and the Presidential Delegation made its visit to the USSR and returned that we felt we had a sufficient information base upon which to make a decision.

Question. What is different now that enables you to go ahead?

Answer. Several things. First, we have a better understanding of the Soviet situation and the steps they are beginning to take towards reform. Second I would stress that in the Delegation's meetings it received assurances that the Soviet leaders are fully aware of what they are requesting and have every intention of meeting their financial commitments. Third, we have helpful statements from Congress on the intent of the language in the 1990 FACT Act (farm bill).

Question. In making this allocation to the Soviet's are we making an exception of some sort? Are we singling them out from other program participants for special treatment?

Answer. No. The process and information used in the Soviet decision were the same as in all GSM decisions. The single difference is that, since the Soviet request came to the President, the final decision was made by him rather than within the Department of Agriculture.

Question. How does this allocation compare to others for other countries participating in the GSM program? Is the CCC assuming more risk with respect to the USSR?

Answer. The Soviet allocation, and CCC's total exposure, is now on a par roughly with the largest participating countries. The only difference is that this program is larger for a single fiscal year than the others.

Question. Will the USSR receive another sizeable allocation in FY1992? Wouldn't that make the Soviet allocation, and CCC's risk, much larger than that for other countries?

Answer. The largest part of this allocation will be in FY1992. Beyond this, no programming decisions have been made for FY1992 yet for any countries. The possibility of additional credit guarantees for the USSR will be considered along with others, and the CCC's total exposure with respect to the USSR will be a factor in that consideration as it is for every country.

Question. What are the prospects for repayment?

Answer. We have every reason to expect full and timely repayment. The Soviet side has given the strongest possible indications of its intentions in this regard.

Question. Did the Dole Resolution play a role in your decision? Does it help alleviate your concern's with respect to creditworthiness?

Answer. The Dole Resolution and other expressions of Congressional views in a joint letter from many members of the House, were helpful in our review. They provided not only a useful guage of Congressional opinion, but also clarification of the intent of the 1990 FACT Act with respect to this program.

Question. What will be the commodity mix for the new tranche?

Answer. That will be determined in discussions with the Soviets.

Question. When will the negotiation on commodity mix take place?

Answer. A USDA team headed by Under Secretary of Agriculture Crowder will meet with its Soviet counterpart as soon as possible.

Question. Will purchases be by the Union or by individual republics? How will you ensure access by republics?

Answer. Actual purchasing will be through central organizations as was the case with the first allotment. We have, however, requested and received strong assurances regarding fair access by all republics according to need.

Question. Will freight be covered under these credit guarantees?

Answer. Some freight coverage was provided in the initial $1 billion made available to the USSR earlier. It is expected that the Soviets will ask for some freight coverage within the $1.5 billion. How much, if any, will be negotiated.

Question. What assurances do we have that all republics within the USSR will share fairly in these additional credit guarantees?

Answer. We have assurances from all levels of the Soviet Government that the credit guarantees will not be used for political purposes.

Question. What follow-up activities are planned with respect to improving the food distribution system in the Soviet Union?

Answer. The United States has offerred to the USSR its help in a long term effort to improve the food distribution system through the introduction of market mechanisms. We believe that over time this will have the strongest impact on the situation. We plan to draw heavily from the U.S. private sector, as well as involving government experts, in various specific activities. Some initial discussions in this regard have already been held by the Department of Agriculture, and these will continue.

PRESS STATEMENT ON EXTENSION OF U.S. CREDIT GUARANTEES TO THE U.S.S.R.

The President informed President Gorbachev today that the U.S. would meet the Soviet request for up to $1.5 billion in credit guarantees toward Soviet purchase of American agricultural products. Secretary of Agriculture Ed Madigan will follow up immediately with Soviet officials to work out the details of this agreement. The President's offer specifies U.S. willingness to make the credit guarantees available in three tranches over the next nine months—$600 million this month, $500 million in October 1991, and $400 million in February 1992. I would refer you to USDA for details on this decision.

The President made this decision after having received the views of the Presidential delegation he sent to the U.S.S.R. in late May to study the grain request and the food distribution system. In addition to meeting the Soviet request for credit guarantees, the President also communicated to President Gorbachev today continued U.S. interest in collaborating on a long-term effort to improve the food distribution system in the U.S.S.R., primarily through the introduction of market measures. The U.S. is prepared to form a high-level team of government and private experts to assist the Soviets in this effort.

In making this decision, the President took into consideration the record of the Soviet government in meeting its official obligations and the positive discussions we have had with Soviet officials during the last two months. The President's decision also followed assurances from the Soviet government that the grains made available through the credit guarantees would be fairly distributed among Soviet republics and the Baltic states.

The President's decision reflects the Administration's desire to promote a continued positive evolution in the U.S.-Soviet relationship. The President believes that by granting the credit guarantees, the U.S. will help to promote continued economic and political reform in the U.S.S.R. In particular, we hope that this assistance will help to stabilize the food situation in the U.S.S.R.

PRESS GUIDANCE ON GRAIN DECISION

Question. How did the President inform Gorbachev of the grain decision?

Answer. The President sent a letter to President Gorbachev which was delivered today by the U.S. Embassy in Moscow.

Question. Why did the President decide to extend the credit guarantees in tranches instead of in a single sum?

Answer. That decision was made primarily due to the fact that the Commodity Credit Corporation lacked sufficient funds to meet the full request in FY-91. In addition, we believe the three credit guarantee extensions over the next nine months will be the most helpful way to assure a stable food situation in the USSR.

Question. Several weeks ago, the President publicly doubted Soviet creditworthiness. Why did he change his mind and decide to authorize the credit guarantees?

Answer. First, the Soviet Union has an excellent record in meeting its official obligations. Second, as you remember, the President decided to send the Presidential delegation on the food situation to the USSR to look into all aspects of the Soviet request and the food situation in general. Based on the findings of the delegation and discussions between the President and President Gorbachev, the President determined that there was no reason to believe the Soviets would not be able to meet their responsibilities to the U.S.

Question. How will the U.S. be assured that the Soviet government is not withholding from certain republics grain purchased through the credit guarantees?

Answer. We have received assurances from the Soviet government that the agricultural commodities purchased through this program will be distributed fairly among the republics. We intend to monitor the situation carefully and will discuss any perceived problems directly with the Soviet government.

Question. What will you do if it becomes apparent that the Soviets are, in fact, withholding grain from the republics? Would you stop extension of the second or third tranches in late 1991/early 1992?

Answer. We have been assured there will be no such problems but would obviously consult closely with the Soviet government and the republics involved should there be such allegations.

Question. When will the U.S. start its food distribution project with the USSR?

Answer. The President's offer was the first step. Under Secretary of Agriculture Richard Crowder will follow up with his Soviet counterparts.

Question. What reforms do you expect in food distribution?

Answer. The Presidential delegation found private entrepeneurs already working in the food processing and distribution sectors, with dramatic results. They encouraged the Soviets to move quickly in giving a "green light" to private enterprise in the food sector, and the Soviets—from President Gorbachev on down—responded positively to the recommendation. We will be working now with the Soviets to act on our findings.

Question. Why hasn't the President announced other economic measures for the USSR, such as MFN?

Answer. The Administration is studying a variety of other ways to further U.S.-Soviet economic relations. As for MFN, we are now finishing our review of the recently passed bill on free emigration. I would expect a recommendation to be made to the President shortly.

Mr. DOLE. Mr. President, I will make just one or two observations. There would be $600 million available immediately, an additional $500 million in October 1991, and $400 million in February 1992. Second, they can purchase any U.S. agriculture commodity. There are a number of Senators who represent different agricultural products in different parts of the country. Some were saying they ought to buy poultry; some say they ought to buy corn, they ought to buy wheat; some say they ought to buy rice, peanuts, whatever. We believe that this announcement leaves that up to the Soviet Union.

I think one other point that should be made is that the President also indicated in the announcement that we will work with the Soviet Union in the long-term effort to improve its food distribution system. We know the heart of it is going to be market-oriented systems. A lot of the food they have is wasted. It never gets to market, and it never gets off the farm. They do not have any distribution system.

So, Madam President, it seems to me that the President took a step in the right direction. In my view, we will be repaid by the Soviet Union, and in my view, there will be fair distribution. In my view, the Soviet leadership clearly understands that we have not backed away 1 inch from our hope and our insistence that there be freedom granted to the Baltic States and other Soviet republics who want their freedom and independence.

Madam President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. SIMON). Without objection, it is so ordered.

The Senator from Maryland is recognized.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Ms. MIKULSKI. Mr. President, I want to address the Senate on the issue of the Surface Transportation Efficiency Act, which is pending before the body this minute. I am sure when people both in the gallery and watching C-SPAN are taking a look at the Senate floor, they wonder how could legislation be pending and there be an empty Chamber. Where is the robust debate, the clash of ideas, the sharing of experiences? I would like to point out that there is a great deal of debate. Right now, Senators are huddled attempting to work out a compromise on a very important amendment. Even though there might not seem to be floor action, there is a lot of discussion going on regarding this bill.

Mr. President, discussion on the bill should go on because the Surface Transportation Efficiency Act will probably be one of the most important legislative acts that the 102d Congress will pass. Why is it important? It will be the single most important legislative initiative in terms of what the Congress is going to do about physical infrastructure within the United States of America. One thing is absolutely clear, that we need to be able to make public investments in our physical infrastructure. Without highways, without transit systems, and without funding research and new modalities of transportation, our country will fall behind.

Mr. President, the current highway system was conceived under Dwight Eisenhower in the 1950's to be sure that we had a transportation network to move men and material in the event of a war. Now we continue to move people, goods, and services throughout the United States of America, and it is our transportation network that built America and certainly built the suburban communities.

Now, however, what we see is an interstate system that needs rebuilding, needs modernization and, also, when we look at State governments, we need flexibility to be sure we have a transportation system suited to the needs of the community, which might be different than a highway system.

I advocate the Moynihan bill because I think it provides State flexibility. The State of Maryland is different from the State of New York, and different from the State of Nebraska, and different from the State of California. We have within my own community the need for an adequate, well-constructed highway system, but we also need mass transit to move a substantial number of Marylanders back and forth to their jobs or into the great metropolitan areas. We not only need subway systems, we need light rail to gather people in from the farther reaches of our State, and in my own rural communities, we need to be able to have a combination of both highway and bus service. So I would like my Governor to have the flexibility of a return on the dollar of the highway trust fund to be able to manage Maryland's transportation needs according to Marylander's needs and yet be able to integrate with an overall system. I believe that the Moynihan bill does that, and that is why I am supporting it.

I am also supporting it as a matter of economic development and, really, economic recovery. This highway or surface transportation legislation would be a public investment that would create jobs. There is nothing like building highways, byways, beltways, subways, any way, that would then get people who are currently out of work in the construction industry back out of the unemployment line and back on the work line, building a transportation system.

So we see it as a very important tool for economic development and jobs. So as we go through this, my framework will be what is good for the United States of America and what is good for the State of Maryland. One great thing about the Surface Transportation Act is that we will actually be spending our own money in our own country, creating jobs for our own people and improving our own condition.

I also like this not only because it meets today's day-to-day needs of transportation in getting commuters and business and cargo and others around, but the fact is that it has a very important component in terms of research. One of the areas of research will be the idea that Senator MOYNIHAN and I advocate, called the mag-lev train. This is a whole new technology which offers the potential of trains to travel on magnets at the speed of 300 miles an hour.

No, Mr. President, I have not been hanging out with Buck Rogers. This is not some Star Trek, outlandish idea. We started to develop this technology in the 1970's. We were well ahead in developing it, and in 1974 we decided we were not going to pursue it anymore. While a lot of research had already been done, our counterparts, particularly the Germans and Japanese, have taken the technology, and they are now within the demonstration area.

I would like to have a bullet train in the United States of America, a bullet train that says, "Made in the U.S.A." We are very good at making bullets, and I want to be eqully as good as making bullet trains. Again, it would be a very important tool in the Northeast corridor in moving people rapidly, and it would be a product we could make in this country and export. Once again, we could become the Yankee peddlers that made our country great, where we are not only consumers of products.

So this is why this bill is important. It has research into ideas like that. Mag-lev might not go, but I want to make sure we have the research to develop a bullet train.

Mr. President, let me also bring up another issue that I know will be an amendment on the floor, probably tomorrow, on billboards. I know that the Senator from Rhode Island is a strong advocate of eliminating what he calls "visual pollution," and he has placed in the bill legislation to eliminate billboards on certain highways.

Mr. President, when we have the debate on that, I am going to support the amendment to strike the anti-billboard provision. I happen to like billboards. I like billboards a lot. I think billboards play an important function. They inform, they give information about products, they often give drivers on highways very important information about when is the next telephone, or turn right to visit a certain historic sight, or any number of other things. Billboards are important. I know that billboards play an important role in political campaigns. When I first ran for the Baltimore City Council—by the way, Mr. President, that was 20 years ago this week. Twenty years ago this week, this Senator announced for her first political office. I challenged two political machines. I got out there, and I knocked on 15,000 doors, and I had a sweat equity campaign. I did not have big radio, big TV, but I sure had big billboards, because I could afford it.

Billboards were my first media investment and I would like the idea of while I was going out door-to-door there were billboards in the ethnic neighborhoods of Baltimore with my name and my neighbor's number helping me get my message out. They were a low-cost, no-frills way of me communicating with a large number of people.

So billboards, I think, play a very important role. But the question is should they be on highways. I think they should.

Under the language proposed in this legislation I think they constitute an amendment that really borders on some very serious issues. I happen to believe that the Government should only take private property in rare, absolutely necessary circumstances. Under this legislation it looks like we are about to take private property. When the Government takes private property, it should pay cash to compensate the owners. That is a basic constitutional right.

So there is this whole issue of how you would acquire the billboards—is the government engaged in the taking—and a whole set of others.

Others say that billboards are a serious environmental problem. Good people could differ on that and I am one who differs on that. You see I chair the Appropriations Subcommittee that funds the EPA, so I am kind of up to my earrings in environmental problems.

I just spent yesterday in Maryland touring a waste sewage treatment plant, seeing them cleaning up sludge from the Washington suburban area so it does not pollute the Chesapeake Bay. The pollution in the Chesapeake Bay is a real environmental problem that threatens business and marine species. That is a real environmental problem.

I know that because not only do I see the pollution in the bay and the progress we have made, but I have watermen and skipjacks struggling to survive because of the environmental problems in the bay and decline of species.

I live in a large urban area that does manufacturing. I have urban areas with skies full with soot and we need to spend millions, maybe billions, in trying to comply with the Clean Air Act. Right now I worry if the General Motors plant in my old congressional district, in that old city council district, is going to move to a cleaner environment. So when we are worrying about the environment, I worry about the environment, compliance with the Clean Air Act and keeping those General Motors jobs, 4,000 of them in the State of Maryland. That is a real environmental problem.

I have communities working to clean up Superfund toxic waste sites, some of which are even at military bases in my own State. And how do we do that? That is the real environmental problem.

We need to find solutions to environmental problems, and this is one Senator who has worked on the authorizing legislation and to fund EPA to do it. Let us not get into environmental issues calling them billboards. I have not found billboards to be polluters. They are not a hazardous substance; they are not a toxic substance. I am sure billboards are even recyclable. They do not make noise; they do not end up as a Superfund site; they do not give off emissions; they do not pollute the bay; they do not pollute Baltimore; they do not pollute Maryland. I do not know how they pollute.

If we talk about visual pollution, I am sure that if anybody reads some of the magazines in our country or watches some of the things that have been on TV and see some of the stuff that passes for TV, that in my father's day would have been called soft porn. I think that is what we call visual pollution.

So, Mr. President, I would hope that we would pass the antibillboard provisions in that bill recognizing the people who have those concerns. But you know we have to pass this legislation. We have to get America on the road again, literally and figuratively, and we have to get Americans traveling, have mass transit on light rails and make sure that our bullets have a train behind them as well as the Patriot missiles.

Mr. President, those are my views on the Surface Transportation Efficiency Act of 1991.

I hope we do pass that bill. I hope we do give the States the flexibility they need, and when we concentrate on environmental problems, let us concentrate on the ones that really are hazardous to our health and to our safety.

Mr. President, I yield back the floor.

The PRESIDING OFFICER. The Chair takes the liberty of congratulating the Senator from Maryland on her 20th anniversary.

If there is no request for time, the Chair in his capacity as a Senator from the State of Illinois suggests the absence of a quorum, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is now recognized.

Mr. GRASSLEY. Mr. President, I shall take just a few moments to speak to the issue before this body, the Surface Transportation Efficiency Act. As we begin debate, and we have done that now—this is a very important debate—I have some concerns about the legislation that I would like to share with my colleagues.

But I want to make very clear that I consider this a very important piece of legislation and, even though I have some regrets about some portions of the legislation, I think there is a real opportunity for us to give some words of praise to the people who have been involved with the writing of this legislation, mostly the members of the committee and particularly the leaders of the committee.

I would like to describe the Surface Transportation Efficiency Act of 1991 with a positive use of the word "vision." The members of the Senate Environment and Public Works Committee have crafted a bill that sees an exciting tomorrow for our American transportation system. They have, in my estimation, produced a bill that takes a radical approach, but a positive radical approach, and an approach that moves this country transportationwise in a position of positive progress that can take place in the next century. In short, they have produced a bill with vision.

I commend the committee chairman and ranking member, Senators BURDICK and CHAFEE, and the subcommittee chairman and ranking member, Senators MOYNIHAN and SYMMS. The legislation they have produced is impressive.

Having said that, Mr. President, I do have some concerns with certain aspects of the legislation that I want to share. The first deals with the issue of congestion mitigation and air quality improvement program.

This special categorical program is created to provide extra transportation funding to nonattainment areas. Funds can only be spent on projects that are likely to contribute to attainment of air quality standards and only if the project does not result in the construction of new capacity available for single occupancy vehicles. It provides $1 billion per year over 5 years.

Mr. President, I do not believe that States should be penalized for not having any nonattainment areas. All transportation projects should consider environmental concerns and issues, and this program only moves money away from attainment States to nonattainment States.

The interstate construction program is another part of this bill that I have concerns about. This program would apportion money to the States to finish outstanding interstate system projects. It provides $7.2 billion over a 4-year period of time for this portion of the bill. Of that, $2.55 billion has been earmarked specifically for Boston.

Mr. President, while I might concur that this program is necessary in order to complete the Interstate System, quite honestly I am tired of having to continue this enterprise. There is language in the bill saying that this is the last money to be spent on interstate completion. We have heard that story before. I would like to be on record as stating that I am adamantly opposed to any future reauthorization of moneys for interstate construction and, in fact, would work actively against any proposal to do so.

The few States that have yet to complete their portion of the Interstate System should know that the body will not look kindly toward any future requests for interstate construction.

I know this may be a view of just certain portions of the United States, but somewhere, sometime, we have to move on to something beyond the Interstate System.

I would point out that one of those places to move is the National Highway System. The bill calls for a 2-year study of the administration's proposed National Highway System Program. With all due respect to the committee that has worked very hard to push a bill that generally I applaud, I believe that we need not a 2-year study for a National Highway System, but we need to make a decision to establish such a National Highway System right now.

This is Federal legislation, and a national interest must be reflected. The inclusion of a National Highway System is a very important aspect of maintaining the integrity of a nationwide transportation system, building upon a very successful program that has taken 35 years now for near completion, the interstate system. This is a natural next step in the evolution of a truly National Highway System.

I, of course, have a few other concerns beyond the three that I have just briefly discussed, and I am going to take an opportunity to address these during the continuing debate on this very important piece of legislation.

But I do want to close my comments on a positive note by once again commending the committee leadership for their efforts regarding this legislation. I look forward to working with them to create a transportation bill that will meet the needs of our Nation.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Mr. LIEBERMAN. Mr. President, I am pleased to rise today as a cosponsor of S. 1204, the Transportation Efficiency Act, and speak in favor of that proposal. Under the leadership of Senators BURDICK, MOYNIHAN, CHAFEE, and SYMMS, I think we have before us a bill that will, as one commentator put it, revolutionize how transportation funds are spent and could alter the face of America.

This highway bill will take America literally into the 21st century. And I think it will have an awful lot to do with how we move around this country, and how Americans will look and how Americans will live for generations to come.

By redesigning the Nation's surface transportation program, this bill will help us achieve some of our most important national goals. Obviously, mobility; that is what roads and transit systems are all about. But also economic growth, energy efficiency, environmental protection and preservation——

Mr. MOYNIHAN. Mr. President, may we have order? The Senator from Connecticut is speaking to the bill.

The PRESIDING OFFICER. The point of the Senator from New York is well taken. If we could recess that caucus in the back of the Senate Chamber, the Senator from Connecticut may proceed.

Mr. LIEBERMAN. Thank you, Mr. President. I thank the Senator from New York.

I was saying that by redesigning our transportation programs, we will achieve some important national goals, one of them being preservation of the structure and the integrity of our communities where we live.

Several days ago, the Office of Technology Assessment issued a major study analyzing the needs and priorities of our Nation's surface transit program. OTA concluded that major problems facing surface transportation in the nineties and beyond include rehabilitation and maintenance of existing facilities, urban mobility and congestion relief, transportation system efficiency, and compatibility with a healthy environment.

S. 1204 addresses each of these pressing problems in a comprehensive manner. I would like to take a few moments to discuss for my colleagues the nature of the problems that OTA has cited, and the very, very important solutions that this bill offers.

First, across the country, highways, bridges, and transit facilities require major repair or reconstruction to maintain adequate service levels. Under current law, the rewards for regular maintenance are minimal compared to those for other more visible types of transportation spending.

As a result, according to OTA, investment and rehabilitation and maintenance have lagged seriously behind the need for decades. We are paying the price of that gap today. We face a crisis in maintenance. If our highways were a heart, I feel they would all be in intensive care.

According to OTA, a staggering one-third of the Nation's noninterstate arterials are deteriorated or deteriorating. Almost one-half of all bridges are structurally deficient, functionally obsolete. That is an astounding conclusion by a very reputable, able body that in this great Nation of ours, at the end of this century, one-half of all of our bridges are structurally deficient or functionally obsolete. Disasters are quite literally waiting to happen. We know in our State of Connecticut that some disasters have already happened.

The Federal Highway Administration estimated that in 1987, despite an active bridge refurbishment program, the cost of repairing identified deficiencies in the Nation's bridges would be about $51 billion. That is 10 times more than is spent each year to fix bridges.

This bill, S. 1204, meets these challenges head on. First, it guarantees that the Nation's tremendous investment in our Interstate System will be protected by a separate interstate maintenance and rehabilitation program.

Second, the bill recognizes that the national interest does not end at the protection of the Interstate System. There is a compelling Federal interest in maintaining and rehabilitating a full network of the country's highways, bridges, and transit facilities. Accordingly, the money available to States under the bill's program will be funded at a higher Federal share for those projects which will maintain existing facilities or use them more efficiently.

That approach is consistent with the conclusion in the OTA report that addressing system rehabilitation and maintenance problems is the No. 1 priority for new highway legislation. We met that challenge in this bill.

The second major system problem identified by OTA is the need to address urban mobility and congestion relief. Mr. President, congestion is more than a nuisance for those that drive on our highways. It actually costs Americans billions of dollars every year in lost productivity and adds significantly to air pollution.

The total price to the public for delays—that is, lost work time and delays in shipping caused by highway congestion—is a mind-boggling $30 billion annually. Federal experts state unofficially that the costs of congestion may now equal or exceed all Federal, State, and local highway expenditures, which were $72 billion in 1989.

By 2005, 15 years from now, according to the GAO, urban traffic congestion will jump by 300 percent, which will waste 7.3 billion gallons of motor fuel annually. I urge commuters who travel on the nearby Shirley Highway or on I-95 in my own State of Connecticut to consider on their ride home tonight the implications of a 300-percent increase in the traffic jam they are probably in right now.

S. 1204 takes bold steps forward in dealing with the nationwide congestion crisis by providing States and localities greater discretion in determining how to spend their transportation money. This bill allows them to adopt flexible solutions to deal with congestion, air quality, and energy consumption. They can design aggressive programs to better manage transportation demands.

Third, the OTA report lists transportation system efficiency as one of the Nation's priorities. My distinguished colleague, the senior Senator from New York [Mr. MOYNIHAN], has spent a significant amount of time already discussing how this bill emphasizes efficiency, and he has done it with his normal brilliance. His concern with this issue is reflected in the title he gave this bill, which is the Surface Transportation Efficiency Act of 1991. Projects which help States and localities to use their existing facilities more efficiently will just plain be funded at a higher Federal share, and that is the way it ought to be.

During the hearings before the Environment and Public Works Committee on this legislation, efficiency was emphasized repeatedly. For example, the representatives of our Nation's Governors testified that:

> Our Nation's economic performance is directly tied to the quality of our transportation services and facilities, in part because the cost of doing business is influenced by the efficiency with which we move things, from coal to computers, from raw materials to finished products.

They noted that efficient transportation systems have displaced the need for holding large industrial inventories, which has helped American businesses to become more competitive, and has helped to save us from an even worse recession than the country is now in. That is especially important for small businesses, upon which much of the potential for economic growth depends, because they are so reliant on efficient transportation systems.

Fourth, the OTA report stresses the need to ensure that transportation plans, environmental protection, energy consumption, and land use planning are closely linked. In particular, the new amendments to the Clean Air Act must be considered in the planning process of metropolitan transportation policymakers and decisionmakers. Under this new act, my home State of Connecticut, and many other States with nonattainment areas, risk the possibility of losing many of our highway funds if we are not implementing measures that achieve reductions that are mandated by the Clean Air Act. To meet those new requirements, major changes must take place in how decisions are made about transportation planning and investment.

S. 1204 includes provisons on planning that ensure that environmental considerations are included in the earliest stages of transportation policy planning and project development. The linkage has, of course, always been there, in fact, but it has not always been recognized in law and, certainly, not always adequately planned for. Too many highways were built with too little regard for the development and pollution they engender. The result: the depopulation of some of our major urban areas, overcrowding of suburbs, damaging smog, and the nightmare of congestion. If the provisions of this bill had been in place these last 30 years, I daresay that America would be a vastly different and more livable place than it is today. Our air would be cleaner, our cities would be more vibrant, and our highways would be less crowded.

Mr. President, I would like to take a moment or two to address some of the arguments made by those who are concerned about the allocation formula in this bill, including particularly the senior Senator, our friend and colleague from Virginia, Mr. WARNER.

First, let me say that the notion that States should receive funding under this highway program in direct correlation to the amount of money they contribute into the program stands in sharp contrast to the approach that this Senate, the House, and our Government take in determining how to allocate Federal money generally.

Let us look at a few of the statistics and how the Northeast, which contains many States that have been labeled donee States, would fare, and then compare how Virginia, a donor State, would do if the overall philosophy of the approach argued by our friend and colleague from Virginia, Mr. WARNER, were adopted in regard to all Federal spending.

Over the past 10 years, if the Northeast share of allocable Federal expenditures had equaled its share of the tax burden, our region would have received an additional $152 billion, and that, may I say, is a conservative estimate. Over the past 10 years, Virginia, as an example, has paid 2.4 percent of the Nation's taxes but has received 3.7 percent of the allocable Federal expenditures. That is an enormous difference. It may appear slight in the percentages, but in fiscal year 1990 alone, it amounted to $11.842 billion. In other words, the State of Virginia would have received almost $12 billion less in 1990, if its share of allocable expenditures had equaled its share of the tax burden. Between fiscal years 1981 and 1988, allocable Federal spending, not adjusted for inflation, grew by 49.9 percent nationwide. However, Federal spending in Virginia grew by 87 percent, nearly twice the Federal average, from $19.1 billion to $35.7 billion. Virginia's return on the Federal dollar grew from $1.45 cents in 1981 to $1.66 in 1988. In fact, only two States in the country had a higher return on the dollar than Virginia in fiscal 1988.

Mr. President, if we want to adopt the philosophy offered by the Senator from Virginia and the other so-called donor States, let us apply it across the board to all Federal funds. Let us say to Virginia that it might think about returning that extra $11.8 billion it received in fiscal year 1990 alone.

To replace the formula in the bill we have before us, the Senator from Virginia and other proponents of what had earlier been called the fast-track approach offer a formula which relies two-thirds on diesel fuel consumption.

Unfortunately, this proposal, and others like it, will work in direct contradiction to a major and critical portion of our work during the Clean Air Act. During those proceedings, our committee stated that,

> To reduce or even avoid increases in vehicle pollution, it is not enough to control the pollution each car emits. The use of a car must be examined as well, because growth in vehicle miles traveled threatens to overwhelm what could be achieved through tailpipe standards.

The alternative proposal we have to the allocation formula in this bill will reward States for burning more diesel fuel. It rewards States for increasing vehicle miles traveled. That is the opposite of sound environmental and energy policy.

Mr. President, let us remember what we said last year during the Clean Air Act: It is the opposite of sound public health policy, because hundreds of thousands of people in this country are getting ill, thousands are dying prematurely because of dirty air.

Aside from these environmental and conservation implications, gasoline sales are in fact an obsolete and incomplete measure of needs of a State. For example, the commissioner of transportation in my own State of Connecticut testified before our committee that fuel consumption is a particularly inaccurate measure in a small State like Connecticut, where commercial and passenger vehicles place a very significant burden on our transportation system without necessarily stopping to buy gas, because they can get through our State so quickly. Mr. President, the fact that we tax gas more than, I believe, any other State in the country is a deterrent to those commercial and passenger vehicles that go through our State from stopping and buying gas in the State.

At a time when we are all striving to make America more energy dependent, it seems almost perverse to put into law a formula that would encourage the increased use of fuel. On the basic question of trying to relate output to input, or what you get to what you give, it cuts at the heart of what our Federal system is all about, and it cuts at the heart of the way we have raised and allocated and spent money in this country for a long time. It is wrong and we ought to reject it.

Finally, let me just say that it has been 35 years since we began to build what has turned out to be one of the greatest public works projects of all time, our Interstate Highway System. We have a lot to be proud of in that accomplishment, but as we have grown and prospered, our Government's vision of that expenditure has not kept pace with the expenditure. On too many occasions we have approved projects that were not well managed, and we have unwittingly "unleashed rampant development which has depopulated cities, overcrowded suburbs, paved over scenery and history, and spread pollution." That final sentence is a quote from the American Institute of Architects.

We have also learned that productivity in the transportation sector has been far too low, which tells us that we need to use our Federal investment much more efficiently.

The policies outlined in S. 1204 are designed to help increase our economic productivity and competitiveness at the same time the bill ensures that our national policy compliments our present and future need in areas we were not forced to consider 35 years ago, including energy consumption, the environment, and the character of our communities.

Mr. President, as the chairman of the Public Works Committee, the distinguished Senator from New York has said and preached to us that roads determine a nation. Transportation sytems do not just help us get from one place to another, they really determine what kind of country we are going to live in. This bill sets a broad new transportation agenda that will serve us well for decades to come by making America truly the kind of country we all want to live in.

I thank the chair and yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, I hope my learned distinguished friend can stay on the floor just a minute or two. Let me ask if he will not expand just a bit on his remarkable comments.

The fact is that the administration's bill, and the FAST bill, propose to continue the mindless dependence on the use of petroleum as the basis of the economy and the transportation system by rewarding it. When the Interstate System was authorized in 1944 the United States was the world's largest exporter of oil. Half a century later we are approaching a point where we import half our oil. This has had more effect on our foreign policy than perhaps any other event in the century.

The highways have dictated our foreign policy and they have not produced the productivity growth we hoped for. Over the last 15 years, transportation on the whole has grown at the rate of a productivity rate of 0.2 percent. That is a medieval rate. It would take 350 years to double; about the rate of growth in western Europe in the year 1,000 to 1350.

By contrast, durable manufacturing of the kind that we associate with Connecticut—high-technology manufacturing—has grown at 6.0 which doubles in 12 years. But these goods have to move in a transportation system that is not responding to overall demands. There is a provision, Mr. President, in this bill that has never before been included in any legislation. One which 20 years ago, would not have passed on the floor of the Senate. It is the provision offered by the Senator from Connecticut which actually builds an incentive into our highway system to reduce the consumption of gasoline.

I do not presume to tell the Senator what Lieberman's Law will cost, but it provides a 10 percent bonus to those States that reduce their vehicle miles traveled. The report States that paragraph 133(B)(1)(A): "provides an energy conservation, congestion mitigation and clean air bonus program * * * to provide incentive for States and metropolitan areas to use enhanced flexibility in the Surface Transportation Program to reduce traffic congestion, improve air quality and lower fuel consumption." That has never happened before.

The Senator very modestly, quietly and incisively put this provision in this bill. And if we can just keep it, it will probably shock some Members of the Senate to find it is there. It will stay there and it will become law, thanks to you, sir. Lieberman's Law we might even say, if we can elevate it to the area of physics and in the game of nations. This is a law of physics. We shall call it Lieberman's First Law, which is reduce your dependence on Middle Eastern oil.

Mr. LIEBERMAN. Mr. President, I thank my colleague, the Senator from New York for his kind words.

Lieberman's Law, if you will call it that, is proud to be a small part of Moynihan's greater law, which is what this bill is all about. And as the distinguished occupant of the chair knows so well from his own sponsorship of fuel efficiency measures, we have a crying need in this country to deal with our consumption of fossil fuels, to establish our independence, to protect our environment and for the very fact that no matter how much we twist and turn, by the expert estimates that I have seen we have about 3 percent of the world's oil reserves in the United States of America. The rest is elsewhere. About 50 percent of it, at least, is in the Persian Gulf.

The truth is, if we want to remain independent we are not going to be able to do it from within our own resources. We have to conserve, and that is why this bill is an extraordinary act of leadership not only because of what it does for our transportation system, the jobs that that system will create, and what it does for our environment, but for the fact that while we argue and the Nation cries out for leadership on energy, this bill I think has concretely, no pun intended, as tangibly as anything we have done, really provides energy leadership for America by urging conservation.

I am proud to have worked on the committee with Senator MOYNIHAN, and others, to have brought it to the floor and I hope that together we can move forward to see it adopted.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I express my deep disappointment and regret at the inability of the Senate to proceed more promptly with respect to this legislation. I know the managers have been struggling to move forward and to have Senators who say they have amendments come over and offer amendments. I simply want to remind the Members of the Senate that it was last week that we attempted to bring this bill up. We have now been on it what will be the equivalent of the fourth workday after that, and we still have not had a vote or an amendment disposed of.

I am momentarily going to seek consent to temporarily lay aside Senator BYRD'S amendments to permit consideration of one technical amendment this evening and then one nontechnical and substantive and controverted amendment tomorrow morning.

I simply want to say to Senators this is a very important bill. It has taken us 4 days to get to the bill and we are going to finish this bill. And it means if Senators are unwilling to proceed with dispatch today, there will simply be longer days beginning tomorrow.

So I first want to put Senators on notice that the regular schedule under which I seek to have no rollcall votes after 7 p.m. other than on Thursday evening will necessarily not apply tomorrow, and that if we can get going, as I hope we can, then we will confront the possibility of rollcall votes beyond 7 p.m. tomorrow evening.

I know the managers have been trying very hard to proceed, but we are encountering what is, unfortunately, a regular or recurring circumstance.

Accordingly, Mr. President, I ask unanimous consent that the Byrd amendments numbered 295 and 296 be temporarily laid aside; that Senator SYMMS be recognized to offer a technical amendment regarding the obligation limits on the recreational trails trust fund; and that when the Senate resumes consideration of the bill tomorrow, Wednesday, June 12 at 10 a.m., Senator REID be recognized to offer an amendment regarding billboards.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, if I might, if the Senator will permit me to proceed now, Senator BYRD has graciously consented to temporarily laying aside his amendment for the purpose of considering these others. His amendment will recur upon disposition of the other amendments.

It is my hope that we can complete action tomorrow with dispatch on the agreed billboard amendment; that is a controverted amendment with respect to which there will have to be a recorded vote. There are a number of Senators who oppose the amendment, and we will hope that during the course of the morning they will be able to adjust their schedules in a way that will permit them to express their opposition on the floor during the debate and then we can proceed to completion of it.

Under these circumstances and given our inability to proceed any further, it appears that there will not be any rollcall votes this evening and that we will complete action on this technical amendment with respect to which consent has been obtained, and then begin tomorrow at 10 a.m. on Senator REID's amendment.

In the meantime, it is my understanding that additional data will be received from the Transportation Department regarding the subject matter of Senator BYRD's amendment and other related proposals dealing with the formula for allocation of funds under this bill. It is my hope that we can proceed to resolve that matter tomorrow and then get on with the several remaining amendments.

I request of the managers that during the discussion on the amendments tomorrow morning they compile a list of all known possible amendments with, if it is possible to do so, a list of potential time so that we could attempt to begin to move these amendents one at a time during that period.

Mr. SYMMS. If the leader will yield, Mr. President, just to assure the leader that I was not sure that the President pro tempore was willing at the point earlier today to set his amendment aside, but if the majority leader is willing to set the one amendment aside as we go forth, I have two amendments that will be prepared to be offered following the Reid amendment tomorrow, so we will be able to get right in and move on some of these amendments. There is one tonight that is a technical amendment, but tomorrow morning if we can have assurances we can do this, then operate under that kind of a rule. I could start bringing in amendments, and there are several from this side. I would say that I will make my level best effort to move forward on this while the formula issue is being discussed in the back rooms.

Mr. MITCHELL. I thank my colleague. We did receive consent, I was advised, to permit other business to go forward. As of now, of course, we agreed to proceed to the Reid amendment.

We will discuss the matter again in the morning, but I think that is an excellent suggestion.

Mr. SYMMS. I have two amendments already prepared to go.

Mr. MITCHELL. I think that is an excellent suggestion. We can try to see the pace and try to make some progress. I thank my colleague.

I repeat my announcement, therefore, that regretfully, because of the inability to proceed as I had hoped, there will not be any rollcall votes this evening, but Senators should be aware that rollcall votes are possible well into the evening tomorrow. There will not be any 7 o'clock or other time limit with respect to this measure. On Thursday evening, which is traditionally scheduled for a long evening, Senators should be aware that there is likely to be a very late evening as we attempt to make more progress on this bill.

Mr. WARNER. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. WARNER. Mr. President, I would like to say, first to the leader and the chairman and others, that very constructive dialog is going on on the issues that I and others have raised, and I just want to inform those Senators that I feel that we should continue these discussions. I think they are serious and constructive and they may well lead to a resolution of the apportionment issue.

I thank the Senator.

Mr. SYMMS. Mr. President, I wanted to say to the leader that I know no one is envious of the job he has as majority leader, but I might just mention that there is a little event of President Bush and 5,000 of his close, personal friends who are going to have dinner down at the Convention Center this Thursday night. I do not know if we can work around that or not.

Mr. MITCHELL. Mr. President, I just say to the Senator, my good friend and colleague, I hope the President does not use the occasion to criticize us for not completing action on this bill. Under the circumstances, there would be a rather spectacular irony to it.

I obviously want to be as accommodating as I can but, as the Senator knows, every Senator has something scheduled at virtually all hours of the day and night. We will do the best we can and attempt as always to accommodate as many people as possible.

I thank my colleagues.

Mr. SYMMS. I thank the majority leader.

AMENDMENT NO. 303

(Purpose: To set aside tax revenues collected on recreational fuels not used on highways for the purposes of improving and maintaining recreational trails.)

Mr. SYMMS. Mr. President, I have a technical amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], proposes an amendment numbered 303.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 8, line 19, after the "programs" insert the words "or state allocations made pursuant to section 143".

Strike all of Part B and inset in lieu thereof the following:

"PART B. NATIONAL RECREATIONAL TRAILS FUND ACT.

"SEC. 141. SHORT TITLE

"This Part may be cited as the "National Recreational Trails Fund Act of 1991".

SEC. 142. CREATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Recreational Trails Trust Fund', consisting of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available for making expenditures to carry out the purposes of the National Recreational Trails Fund Act of 1991."

(b) DEPOSIT OF UNREFUNDED HIGHWAY TRUST FUND MONEYS.—Section 9503(c) of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) is amended—

(1) by adding at the end thereof the following new paragraph:

"(6) TRANSFERS FROM THE TRUST FUND FOR NONHIGHWAY RECREATIONAL FUEL TAXES.—

"(A) TRANSFER TO NATIONAL RECREATIONAL TRAILS TRUST FUND.—The Secretary shall annually pay from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by the Secretary) equivalent to 0.3 per centum of total Highway Trust Fund receipts, as adjusted by the Secretary pursuant to subparagraph (B).

"(B) ADJUSTMENT OF PERCENTAGE.—

"(i) FIRST YEAR.—Within one year after the date of enactment of this Act, the Secretary shall, based on studies of nonhighway recreational fuel usage in the various States, adjust the percentage of receipts paid into the National Recreational Trails Trust Fund to correspond to the revenue received from nonhighway recreational fuel taxes.

"(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received from nonhighway recreational fuel taxes.

"(iii) AMOUNT OF ADJUSTMENT.—The amount of an adjustment in the percentage stated in clause (ii) shall be not more than 10 per centum of that percentage in effect at the time the adjustment is made.

"(iv) USE OF DATA.—The Secretary shall make use of data on off-highway recreational vehicle registrations and use in making adjustments under clause (i) and (ii).

"(C) DEFINITIONS.—For the purposes of this paragraph—

"(i) NONHIGHWAY RECREATIONAL FUEL TAXES.—The term 'nonhighway recreational fuel taxes' means the taxes under sections 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to fuel used as nonhighway recreational fuel.

"(ii) NONHIGHWAY RECREATIONAL FUEL.—The term 'nonhighway recreational fuel' means—

"(I) fuel used in vehicles and equipment on recreational trails or back country terrain, including use in vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain; and

"(II) fuel used in campstoves and other outdoor recreational equipment."; and

(2) by striking paragraph (2)(C) and inserting the following:

"(C) EXCEPTION FOR USE IN AIRCRAFT AND MOTORBOATS, AND AS NONHIGHWAY RECREATIONAL FUEL.—This paragraph shall not apply to amounts estimated by the Secretary as attributable to—

"(i) use of gasoline and special fuels in motorboats or in aircraft, and

"(ii) use of gasoline as nonhighway recreational fuel as defined in paragraph (6)(C)(ii).".

(c) CONFORMING AMENDMENT.—Section 6421(e)(2) of the Internal Revenue Code of 1986 (defining off-highway business use) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR USE AS NONHIGHWAY RECREATIONAL FUEL.—The term 'off-highway business use' does not include any use as nonhighway recreational fuel as defined in section 9503(c)(6)(C)(ii).".

(d) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund.".

SEC. 143. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAMS.

(a) IN GENERAL.—The Secretary, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) STATEMENT OF INTENT.—Moneys made available under this Act are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act.

(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails; and

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this Act as provided in subsection (e).

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 per centum of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this Act;

(B) paying expenses of the National Recreational Trails Advisory Committee;

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this Act; and, if any such funds remain unexpended, for—

(D) research on methods to accommodate multiple trail uses and increase the compatability of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et al).

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 per centum of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 per centum of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off highway vehicle registrations in each State.

(3) LIMITATION ON OBLIGATIONS.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;

(B) $50,000,000 for fiscal year 1993;

(C) $54,000,000 for fiscal year 1994;

(D) $56,000,000 for fiscal year 1995;

(E) $56,000,000 for fiscal year 1996.

(e) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this Act for—

(A) in an amount not exceeding 7 per centum of the amount of moneys received by the State, administrative costs of the State:

(B) in an amount not exceeding 5 per centum of the amount of moneys received by the state, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as otherwise permissible, and where necessary and required by a State Comprehensive Outdoor Recreation Plan, construction of new trails crossing federal lands, where such construction is approved by the administering agency of the State, and the federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this Act for—

(A) condemnation of any kind of interest in property, or

(B) construction of any recreational trail for motorized use on or through lands—

(i) recommended by any agency of the federal government for inclusion in the National Wilderness Preservation System, or

(ii) inventoried in the first or second Roadless Area Review and Evaluation, or pursuant to section 603(A) of the Federal Land Management Policy Act; provided that, nothing in this clause shall prohibit a State from using moneys where it would be otherwise permissible in the absence of this Act; and

(C) upgrading, expanding or otherwise facilitating motorized use or access to trails predominantly used by non-motorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS—

(A) IN GENERAL.—A State may provide moneys received under this Act as grants to private individuals, organizations, city and county governments, and other government entities as approved by the state after considering guidance from the recreational trail advisory board satisfying the requirements of section 143(c)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 per centum of the moneys received annually by a State under this Act shall be reserved for uses relating to motorized recreation, and not less than 30 per centum of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this Act in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a state has allocated not less than 40 per centum of moneys received under this Act in the aforementioned manner.

(B) COMPLIANCE.—The state shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of section 143(c)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than one per centum of all such fuel use in the United States, shall be exempted from the requirements of paragraph (4) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—Moneys made available to the States pursuant to this Act shall be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—

(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within 4 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of section 143(c)(2)(A), may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreational trail pursuant to this Act is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this Act diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—the term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the National Recreational Trails Trust Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6)(C)(ii) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive, or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not include motorized conveyances used by persons with disabilities, such as self-propelled wheelchairs, at the discretion of each State.

SEC. 144. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be 11 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) Hiking,

(B) Cross country skiing,

(C) Off-highway motorcycling,

(D) Snowmobiling,

(E) Horseback riding,

(F) All terrain vehicle riding,

(G) Bicycling,

(H) Four-wheel driving;

(2) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations; and

(4) 1 member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least 5 of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of 3 years, except that the members filling five of the eleven positions shall be initially appointed for terms of 2 years, with subsequent appointments to those positions extending for terms of 3 years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trialside and trial-head facilities that quality for funding under this Act; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this Act.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBUSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but to the extent funds are available pursuant to section 143(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works in the Senate, and the Committee on Public Works and Transportation in the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this Act, and contains recommendations for changes in federal policy to advance the purposes of this Act.

Mr. SYMMS. Mr. President, this is a technical amendment to place an obligation limitation on the recreational trails fund. These obligations are limited to the levels of the nonhighway recreational new tax revenues projected by OMB for the years 1992 through 1996.

The PRESIDING OFFICER. Is there debate?

Mr. MOYNIHAN. Mr. President, this is exactly, of course, as the Senator from Idaho has stated, and there is no objection on this side.

The PRESIDING OFFICER. Is there further debate? The Chair hearing non, the question is on agreeing to the amendment.

The amendment (No. 303) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the majority leader, pursuant to Public Law 96-114, as amended by Public Laws 98-33, 99-161, and 100-674, his appointment of Mr. Walker F. Nolan, of Maryland, and Mr. Edwin S. Jayne, of Virginia, as members of the Congressional Award Board.

The Chair announces on behalf of the majority leader the appointment of the following Senators as members of the Senate delegation to the British-American Parliamentary Group meeting during the 1st session of the 102d Congress, to be held in London, England, June 29–July 3, 1991:

The Senator from Tennessee [Mr. SASSER]; The Senator from Georgia [Mr. FOWLER]; and The Senator from Nevada [Mr. REID].

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-29, as amended by Public Law 98-459, appoints Cornelia Hadley, of Kansas, to the Federal Council on the Aging.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair announces on behalf of the Republican leader the designation of the Senator from Alaska [Mr. STEVENS] as vice chairman of the Senate delegation to the British-American Parliamentary Group.

The Chair announces on behalf of the Republican leader the appointment of the following Senators as members of the Senate delegation to the British-American Parliamentary Group meeting during the 1st session of the 102d Congress, to be held in London, England, June 29 to July 3, 1991:

The Senator from Oregon [Mr. HATFIELD]; the Senator from New Mexico [Mr. DOMENICI]; the Senator from Virginia [Mr. WARNER]; and the Senator from Washington [Mr. GORTON].

MORNING BUSINESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent at this point that there be a period of morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

J. RAYMOND JONES

Mr. MOYNIHAN. Mr. President, New Yorkers and natives of the Virgin Islands, and a wide range of Americans as well, will have learned with sorrow of the death of J. Raymond Jones of New York City at the fine old age of 91, and will want to use the occasion in a sense to celebrate his life.

In the history of our State, in the middle third of the century, there were few men as important or influential or significant as J. Raymond Jones.

He arrived in this country, Mr. President, a citizen of Denmark, if I am not mistaken, and in the great tradition of the immigrant in the city of New York, and his beloved Tammany Hall, he got a job as a chauffeur for Charles Francis Murphy, who for so many years was the head of the New York County Democratic Committee, who helped bring us such persons as Al Smith and Robert Wagner, just to mention a few. And in the great tradition of ethnic succession from having been chauffeur of the New York County Democratic Committee, he rose to be head of the committee himself.

I once had the great experience of being a candidate in a New York mayoral contest. I was a candidate for city council in 1965. J. Raymond Jones was Manhattan leader and I was a Manhattan youth at that time. I will not ever forget him taking me in to meet with the people working at the then much-diminished site of the county committee, having left the great building on Union Square which was the last Tammany Hall properly built, in an office. A nice office, but nothing more, on Madison Avenue.

He took me into the little supply room where supplies were kept and there was a large, ornate, framed oil painting facing to the wall. He tipped it back to show me who it was. I said, "My God, that is Mr. Murphy. Surely, Ray, it ought to be hanging outside, don't you think?" And he said, "Sir, I would not allow Mr. Murphy to see us in our reduced circumstances."

He was an African-American, Caribbean-American—as you like—of extraordinary genius, rare range, who brought his own distinctive qualities to a political tradition he immediately absorbed and enhanced. He became a district leader and would speak with vigor to the end of his life about the head of Tammany Hall who first recognized him and gave him his share of patronage at the absolutely historic Carver Democratic Club, where he helped bring into being a whole generation of New York leaders: Adam Clayton Powell, Jr., CHARLES B. RANGEL, Judge Constance Baker Motley, Percy E. Sutton, Robert C. Weaver, who was our first Secretary of Housing and Urban Development, Senator Basil A. Paterson—persons of the greatest quality. Not the least, our own beloved Mayor David N. Dinkins.

Yesterday, Mayor Dinkins said of Raymond Jones:

> Without his counsel and guidance, Percy Sutton, Constance Baker Motley, Fritz Alexander, Charlie Rangel, Charlie Weaver, and, I might add, David N. Dinkins, would not have achieved as much. He was a true political pioneer and a deeply committed individual who dedicated his life to serving the people of New York.

I would mention as well Judge Herbert Evans, Mark Mitchen, Robert O. Lowery, Judge Harold Stevens, Edward Dudley and my dear friend, Judge James Watson. All these men came out of that clubhouse and that much-denigrated tradition, Mr. President. Yet no institution has yet succeeded that Tammany Hall of which J. Raymond Jones was the last leader. No one has proved as capable of bringing in large public figures, not just political figures, but people who make the transition as Judge Constance Baker Motley has done, as Herb Evans has done, as Jim Watson has done. These are friends from my youth, I could say.

He lived a large life with his beloved wife, Ruth Holloway Jones, who was the collector of customs in Charlotte Amilie. He retired to his own Virgin Islands. He had his own great house overlooking Rig's Passage. He had an endless supply of anecdote and insight. We shall not see his like again. And we are the lesser for it. But to have known him is to have known one superb American political leader.

My wife and I would like to express our own personal regret at his passing.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,278th day that Terry Anderson has been held captive in Lebanon.

On Friday, Terry Anderson's daughter, Sulome, celebrated her 6th birthday. She has never met her father, but she has pictures, her mother's stories, and the untarnished hope of a child.

According to Associated Press reports, three of Beirut's television stations broadcast a taped message from Sulome to her father. And we know from former hostages that Terry Anderson's captors have permitted him to view messages from Sulome in the past. Let us hope he sees this one.

Mr. President, I ask unanimous consent that the report by Mohammed Salam commemorating Sulome's birthday be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TV STATIONS SCREEN MESSAGE TO ANDERSON FROM DAUGHTER

(By Mohammed Salam)

BEIRUT, LEBANON.—Beirut's three main television stations screened a taped message Friday from American hostage Terry Anderson's daughter, Sulome, marking her sixth birthday.

"I miss you, daddy," said Sulome, who was born during Anderson's captivity and has never seen her father. "We hope you come home, we love you very much. We send you this message because I want to talk to you."

The tape was recorded in Nicosia, Cyprus, where Sulome lives with her Lebanese mother, Madeleine.

Anderson, 43, is the chief Middle East correspondent for The Associated Press and the longest-held Western hostage in Lebanon. He was kidnapped March 16, 1985.

His elder daughter, Gabrielle, was 10 when her father was kidnapped. Sulome was born June 7, 1985, nearly three months after his abduction.

Asked by an interviewer what she wanted for a birthday present, Sulome said: "Something for daddy, and a Barbie house."

"I really want a Barbie house. I have so many Barbies but I don't know where to keep them, so some I lost," she added.

The message was broadcast on state-run Lebanon Television, the privately owned Lebanese Broadcasting Corp. and the Al-Mashrek station.

Throughout the day, in the hope that Anderson's captors would allow him to watch his daughter, local radio stations announced that Sulome's message would be screened after the evening news broadcast.

"Our promotion for the videotape is meant to inform the kidnapers that there will be something for Anderson on TV," said a radio editor, who spoke on condition of anonymity. "So that they might allow him to watch it or at least tape it and show it to him later."

Former hostages have said that Anderson's kidnapers, who belong to Islamic Jihad, have permitted him to watch previous television messages from Sulome.

Eleven months after Anderson was kidnapped, his 69-year-old father, Glenn R. Anderson, died of cancer. Anderson's older brother, Glenn Jr., also died of cancer in 1986 after making a videotape from his sickbed pleading for his brother's release.

Several freed hostages who shared Anderson's cell said he did not know about the deaths.

In all, 13 Westerners are missing in Lebanon. Most are believed held by pro-Iranian Shiite Muslim extremists. They include six Americans, four Britons, two Germans and an Italian.

CLARKSON CENTER'S 20TH ANNIVERSARY

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that this year marks the 20th anniversary of the Clarkson Center for Human Services in Buffalo, NY. This fine institution is dedicated to servicing the frail and ill elderly, the chronically unemployed, abused and neglected children, recovering substance abusers, functionally illiterate youths and adults, and others in need. Buffalo is fortunate indeed to have such a worthwhile and helpful organization.

The Clarkson Center is to be commended for its continuous efforts in helping the people of Buffalo. Its valuable contributions to the Buffalo community are much appreciated, and, regrettably, too often unnoticed. I praise its director, Kenneth Cowdery, its clients and board members for working together and making such a positive impact on the lives of so many. Buffalo is blessed to have the Clarkson Center. I wish it many more years of continued success.

DEVASTATION OF THE BOAT BUSINESS

Mr. PELL. Mr. President, as part of the Budget Reconciliation Act last year, the Congress enacted a package of so-called luxury excise taxes, including an excise tax on luxury recreational boats. At that time, I opposed enactment of the luxury taxes, particularly the taxes on recreational boats and jewelry. I predicted that the well-off would easily avoid the tax by buying other products, and that the real burden of the tax would be borne by the workers in the boating and jewelry industries, including many workers in my State.

Mr. President, that is exactly what has happened, particularly in the recreational boat industry. Nationally and in Rhode Island the boat manufacturing industry is being devastated by plummeting sales, bankruptcies, layoffs, and unemployment. It is for this reason that I have joined with Senator BREAUX and Senator CHAFEE in proposing legislation to repeal the luxury tax on recreational boats.

Recently, William G. Ramos, vice president of the Shannon Boat Company, Inc., in Bristol, RI wrote an excellent article on the impact of the luxury tax on the boating industry. The article was printed in the Providence, RI, Journal on Monday, June 10, and I ask that the article be reprinted in the RECORD. I hope my colleagues will take the opportunity to read it and better understand the need to repeal the excise tax on recreational boats.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence (RI) Journal, June 10, 1991]

DEVASTATION OF THE BOAT BUSINESS

(By William G. Ramos)

In 1767, the British government had to raise taxes to stem the tide of growing deficits caused by military expenditures for the French and Indian War. Alarmed by the public outcry against more taxes, Lord Townshend tried to deflect the discontent by placing a duty on the importation of glass, paper, tea, etc., to America, believing that the wealthy colonial merchants could easily absorb these new tariffs.

The sharply negative reaction of the colonists to the Townshend Acts caused an immediate slowdown in commerce, with artisans and laborers particularly hurt by the resulting recession. The British treasury received very little money from these taxes, and the outcry against the Townshend Acts was a primary cause of our Declaration of Independence in 1776.

In the young United States, a tradition of shipbuilding excellence established by *Constitution* class frigates in the War of 1812 was continued by the success of *America* in outracing the best English yachts in 1851. America's claim to be the home of the world's best yacht builders was enhanced by the 1958 introduction of the first fiberglass production sailboat by Clint and Everett Pearson in Bristol.

Until today, American boatbuilders have set the international standard for innovation, quality and competitiveness. During the fall of 1990, the United States faced a situation similar to Britain's in 1787: Enormous deficits from a decade-long military buildup and disgruntled taxpayers. A new tax plan that included a 10 percent excise tax on boats costing more than $100,000, aircraft over $250,000, and cars more than $30,000 was devised hastily by a few members of the Congress and President Bush's advisers during their secret summit meeting at Andrews Air Force Base. To offset the rising resentment against higher taxes on beer, cigarettes and gasoline, legislators like Rep. Richard Gephardt of Missouri sought to appease the American working man by taxing these "toys" of the rich.

Sen. Robert Dole saw to it that the tax was written to shield the private airplane workers in his home state of Kansas, and the strong United Auto Workers lobby made sure that the tax on cars was an effective protective tariff against BMW, Mercedes Benz, and other high-priced foreign cars. With only $17,000 in contributions for the 1990 congressional campaign from boating Political Action Committees (PACs), compared with almost $900,000 from general-aviation PACs and $2.7 million from PACs representing automobile makers and dealers, the boatbuilders of America had no powerful friends in Washington.

Like the Townshend Acts of George III's England, this excise tax on boats has caused economic devastation. Some 10,000 jobs have been lost, and the National Marine Manufacturers Association has estimated that at least another 10,000 will be gone soon. Like the colonists, over-burdened middle class Americans have decided not to buy, and so not to pay the tax. But this tax is easily circumvented by wealthy people with their megayachts, professional captains and offshore registrations.

The IRS has informed Congress that the cost of collection will exceed the projected $3 million in 1991 revenues from this tax. The lost payroll taxes, increased unemployment benefits and welfare costs of the displaced boatbuilders will greatly exceed the tax-revenue projections of even ardent supporters of this tax, further increasing the federal deficit—by at least $30 million in 1991 alone.

Unfortunately, Congress last fall underestimated the true cost of this tax, not realizing that the tax would be, in fact, revenue negative. Legislation to repeal the boat excise tax has been introduced in the House of Representatives and the Senate, but if the repeal effort follows the usual glacial pace of tax legislation, the US boatbuilding industry will cease to exist.

One-third of the 450 American companies building boats, or supplying such equipment as engines, masts and sails, will close forever. A bankruptcy court has ordered the sale of Pearson Yachts, America's oldest and most famous fiberglass-boat builder, as a result of the absence of any orders because of this tax. Pearson, its O'Day division, and Cape Dory Yachts of Taunton, Mass., also up for auction in bankruptcy, employed 1,000 New Englanders at their peak.

American boat builders come from hardy stock and have weathered recessions before, without requesting privileges from the Government, but they will not survive this tax. As Congress unintentionally placed the final straw breaking the back of a once vibrant US industry, the planners at Japan's Ministry of International Trade and Industry probably were designing the new Japanese factories that will produce the Pearson sailboats and motor-yachts of tomorrow.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider Calendar No. 1, Executive Resolution 104, to return certain treaty amendments to the President; that the resolution be considered and agreed to; that the motion to reconsider be laid upon the table, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Exec. Res. 104) is as follows:

S. EXEC. RES. 104

Resolved, That the Secretary of the Senate is directed to return to the President of the United States, as requested in his message to the Senate under date of March 19, 1991, the following treaties:

(1) A 1979 Amendment to Regulation 49(4)(b) of Annex II of the International Convention on Load Lines, 1966, adopted at London, November 15, 1979 (Treaty Document 97-14, Ninety-seventh Congress, first session).

(2) The 1983 Amendments to Regulations 47 and 48 of Annex II of the International Convention on Load Lines, 1966, adopted at London, November 17, 1983 (Treaty Document 100-12, One Hundredth Congress, second session).

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate now consider the following nominations:

Calendar 178. Louise M. McClure, to be a member of the National Council on the Arts; and

Calendar 179. Daphne W. Murray, to be a member of the National Museum Services Board.

I further ask unanimous consent that the nominees be confirmed, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Louise M. McClure, of Idaho, to be a member of the National Council on the Arts for a term expiring September 3, 1996.

Daphne Wood Murray, of California, to be a member of the National Museum Services Board for a term expiring December 6, 1995.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

Mr. MOYNIHAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 64.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 64) entitled "An Act to provide for the establishment of a National Commission on a Longer School Year, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Ford of Michigan, Mr. Kildee, Mr. Miller of California, Mr. Goodling, and Mr. Gunderson be the managers of the conference on the part of the House.

Mr. MOYNIHAN. Mr. President, I move that the Senate disagree with the House amendments and agree to the request for a conference and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. HATCH, and Mrs. KASSEBAUM conferees on the part of the Senate.

RELIEF OF ABBY COOKE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 103, S. 426, a private relief measure.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk reported as follows:

A bill (S. 426) for the relief of Abby Cooke.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Abby Cooke shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees.

SEC. 2. REDUCTION OF THE NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Abby Cooke as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current or the next fiscal year—

(1) the total number of immigrant visas available to natives of the country of the alien's birth under section 23(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)); or

(2) if applicable, the total number of immigrant visas available to natives of the country of the alien's birth under section 202(e) of that Act (8 U.S.C. 1152(e)).

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES TO BE PLACED ON THE CALENDAR—H.R. 2312 AND H.R. 2313

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that H.R. 2312, technical amendments to Head Start, and H.R. 2313, school dropout assistance, be placed on the calendar when received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREDIATRIC AIDS AWARENESS WEEK

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 91, designating "Pediatric Aids Awareness Week," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read a third time and passed; and that the motion to reconsider be laid upon the table and the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CIVIL RIGHTS ACT OF 1991

Mr. MOYNIHAN. Mr. President, under rule XIV, the Senate has received from the House H.R. 1, a bill to strengthen the civil rights laws that ban discrimination in employment. On behalf of Senator KENNEDY, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

Mr. MOYNIHAN. Mr. President, I now ask for a second reading of the bill.

Mr. SYMMS. I object.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar pursuant to rule XIV.

Mr. MOYNIHAN. That will enable it to be considered again tomorrow, I believe.

The PRESIDING OFFICER. The Senator is correct.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on June 10, 1991, during the adjournment of the Senate, received a message from the President of the United States transmitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on June 10, 1991 are printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:35 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1. An act to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes;

H.R. 2506. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2519. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes; and

H.R. 2521. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

At 1:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. FORD of Michigan, Mr. KILDEE, Mr. MILLER of California, Mr. GOODLING, and Mr. GUNDERSON as managers of the conference on the part of the House.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 292. An act to expand the boundaries of the Saguaro National Monument;

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991"; and

H.J. Res. 219. Joint resolution to designate the week beginning June 9, 1991, as "National Scleroderma Awareness Week".

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2506. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.R. 2519. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.R. 2521. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2312. An act to make certain technical and conforming amendments to the Follow Through Act and the Head Start Transition Project Act; and

H.R. 2313. An act to amend the School Dropout Demonstration Assistance Act of 1988 to extend authorization of appropriations through fiscal year 1993, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 1. An act to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1325. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a draft of proposed legislation to recover costs of establishing standards and specifications for agricultural products; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1326. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the first Intermarket Coordination Report; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1327. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to recover costs of carrying out Federal marketing agreements and orders; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1328. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Land and Water Conservation Fund Act of 1965, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1329. A communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to enhance the financial safety and soundness of the Farm Credit System, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1330. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a certification with respect to Yugoslavia; to the Committee on Appropriations.

EC–1331. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period October 1, 1990 through March 31, 1991 from moneys appropriated to the Architect of the Capitol; to the Committee on Appropriations.

EC–1332. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the Secretary concerned to transport the remains of a dependent of a retired member of the armed forces when the dependent dies in a military medical treatment facility; to the Committee on Armed Services.

EC–1333. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law a cost-comparison study of the commissary storage and warehousing function at Fort Monroe, Virginia and the decision to retain the in-house operation of the function; to the Committee on Armed Services.

EC–1334. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report covering certain properties to be transferred to the Republic of Panama; to the Committee on Armed Services.

EC–1335. A communication from the Coordinator for Drug Enforcement Policy and Support, Department of Defense, transmitting, pursuant to law, the report of the Department of Defense on Drug Interdiction and Counter-Drug Activities for Fiscal Year 1991; to the Committee on Armed Services.

EC–1336. A communication from the Director of the Office of Environmental Restoration and Waste Management, Department of Energy, transmitting, pursuant to law, notice of a delay in the submission of a report on safety measures for waste tanks at Hanford Nuclear Reservation; to the Committee on Armed Services.

EC–1337. A communication from the Director of the Office of Environmental Restoration and Waste Management, Department of Energy, transmitting, pursuant to law, notice of a delay in the submission of a report on the suitability of certain training; jointly to the Committee on Armed Services and the Committee on Appropriations.

EC–1338. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision to retain the Logistics Services function at the Sacramento District, USACE as an in-house function; to the Committee on Armed Services.

EC–1339. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 37, United States Code, to permit members of the uniformed services and their dependents to defer travel authorized in conjuction with a consecutive overseas tour for up to one year; to the Committee on Armed Services.

EC–1340. A communication from the Secretary of the Navy, transmitting, pursuant to law, notice of the Navy's intention to construct a Research and Development Underwater Explosion Test Facility at Aberdeen Proving Grounds; to the Committee on Armed Services.

EC–1341. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Government-Sponsored Enterprises—A Framework for Limiting the Government's Exposure to Risks", to the Committee on Banking, Housing, and Urban Affairs.

EC–1342. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to repeal the requirement that United States currency notes be reissued after redemption; to the Committee on Banking, Housing, and Urban Affairs.

EC–1343. A communication from the President of the United States, transmitting, pursuant to law, a report on developments concerning the national emergency with respect to Iran; to the Committee on Banking, Housing, and Urban Development.

EC–1344. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report on retail fees and services of depository institutions dated June 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC–1345. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States exports to Venezuela; to the Committee on Banking, Housing, and Urban Affairs.

EC–1346. A communication from the President of the Oversight Board of the Resolution Trust Corporation, transmitting, pursuant to law, a report on certain asset data; to the Committee on Banking, Housing, and Urban Affairs.

EC–1347. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report on the subject of intermarket coordination; to the Committee on Banking, Housing, and Urban Affairs.

EC–1348. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, a report on intermarket coordination; to the Committee on Banking, Housing, and Urban Affairs.

EC–1349. A communication from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation to improve the supervision and regulation with respect to financial safety and soundness of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC-1350. A communication from the Secretary of Transportation, transmitting, pursuant to law, a draft of proposed legislation to amend the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203); to the Committee on Commerce, Science, and Transportation.

EC-1351. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations for the National Telecommunications and Information Administration for fiscal years 1992 and 1993; to the Committee on Commerce, Science, and Transportation.

EC-1352. A communication from the Secretary of Transportation, transmitting, pursuant to law, a draft of proposed legislation to authorize the Secretary of Transportation to deny or revoke an endorsement on a document issued under chapter 121 of title 46, U.S. Code, to a vessel whose owner has not paid an assessment of a civil penalty, after final agency action, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-1353. A communication from the Secretary of Transportation, transmitting, pursuant to law, a draft of proposed legislation to amend Rules 1 and 8 in the Navigational Rules Act of 1980 (33 U.S.C. chapter 2001 et seq.) in order to conform them to the International Regulations for Preventing Collisions at Sea; to the Committee on Commerce, Science, and Transportation.

EC-1354. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, a report on Indoor Air Quality; to the Committee on Commerce, Science, and Transportation.

EC-1355. A communication from the Deputy Assistant Secretary of the U.S. Department of the Interior, transmitting, pursuant to law, a draft of proposed legislation to provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System, for operation of the Volunteers in Parks Program, and for other purposes; to the Committee on Energy and Natural Resources.

EC-1356. A communication from the Secretary of the Interior, transmitting, pursuant to law, an application for a loan and grant under the Small Reclamation Project Act; to the Committee on Energy and Natural Resources.

EC-1357. A communication from the Director of Environmental Restoration and Waste Management, Department of Energy, transmitting, pursuant to law, a report on progress in developing a mechanism for establishing priorities for cleanup at Department of Energy facilities; to the Committee on Energy and Natural Resources.

EC-1358. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1359. A communication from the Chairman of the Prospective Payment Assessment Commission, transmitting, pursuant to law, a report entitled "Medicare and the American Health Care System"; to the Committee on Finance.

EC-1360. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to improve the collection of special (Occupational) taxes from retail dealers in distilled spirits, wines and beer; to the Committee on Finance.

EC-1361. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the report on the Fee Update and Medicare Volume Performance Standards for 1992; to the Committee on Finance.

EC-1362. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member nations; to the Committee on Foreign Relations.

EC-1363. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, a report on recommendations of the Advisory Commission on Public Diplomacy; to the Committee on Foreign Relations.

EC-1364. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty days prior to May 23, 1991; to the Committee on Foreign Relations.

EC-1365. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the twenty-third 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico; to the Committee on Foreign Relations.

EC-1366. A communication from the Chairman of the Federal Trade Commission, transmitting pursuant to law, the semiannual report of the Office of Inspector General, Federal Trade Commission, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1367. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report entitled "Budgetary Treatment of Deposit Insurance: A Framework for Reform"; pursuant to the order of January 30, 1975, referred jointly to the Committee on Governmental Affairs and the Committee on the Budget.

EC-1368. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Office of Personnel Management, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1369. A communication from the Chairman of the Corporation for Public Broadcasting, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Corporation for Public Broadcasting, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1370. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the Commission, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1371. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Panama Canal Commission, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1372. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Agriculture, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1373. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Smithsonian Institution, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1374. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Education, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment.

S. 230: A bill to authorize the transfer of certain programs and functions of the National Oceanic and Atmospheric Administration to the Department of the Interior, and for other purpsoes (Rept. No. 102-77).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 900: A bill to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities (Rept. No. 102-78).

By Mr. RIEGLE, from the Committee on Banking, Housng, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1194: A bill to amend the Urban Mass Transportation Act of 1964, and for other purposes (Rept. No. 102-79).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANFORD (for himself, Mr. BREAUX, Mr. COCHRAN, Mr. SYMMS, and Mr. HATCH):

S. 1253. A bill to protect the right to carry out a lawful hunt within a National Forest; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 1254. A bill to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEVIN:

S. 1255. A bill to amend chapter 43 of title 38, United States Code, to provide for the treatment for the purposes of pension benefits of the absences of certain veterans who are reemployed under that chapter; to the Committee on Veterans Affairs.

By Mr. MOYNIHAN:

S. 1256. A bill to direct the Secretary of Health and Human Services to develop and implement an information gathering system to permit the measurement, analysis, and reporting of welfare dependency; to the Committee on Labor and Human Resources.

By Mr. BOREN (for himself, Mr. SYMMS, Mr. BREAUX, Mr. DANFORTH, Mr. RIEGLE, Mr. ROTH, Mr. BURDICK, Mr. KASTEN, Mr. DIXON, Mr. BROWN, and Mr. HARKIN):

S. 1257. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities; to the Committee on Finance.

By Mr. GORE:

S. 1258. A bill to require the Administrator of General Services to issue regulations to establish standards for the hiring of Federal security officers, to establish a grant program to assist States in establishing standards for the hiring of security officers by public and private employers, to require a study and report by the Administrator of the General Services Administration, and for other purposes; to the Committee on Governmental Affairs.

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. CRANSTON, and Mr. PELL):

S. 1259. A bill entitled the "Steel Jaw Leghold Trap Prohibition Act"; to the Committee on Environment and Public Works.

By Mr. MITCHELL (for himself, Mr. KOHL, and Mr. GORE):

S. 1260. A bill to facilitate the objective of a national background check on handgun buyers; to the Committee on the Judiciary.

By Mr. DOLE (for himself and Mr. SYMMS):

S. 1261. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. DOMENICI, Mr. LUGAR, Mr. PRESSLER, Mr. D'AMATO, and Mr. SIMPSON):

S. 1262. A bill to support democracy and free enterprise in Central and Eastern Europe; to the Committee on Foreign Relations.

By Mr. DIXON (for himself, Mr. D'AMATO, Mr. BRYAN, Mr. RIEGLE, Mr. GORE, Mr. MCCONNELL, and Mr. EXON):

S. 1263. A bill to amend title 18 of the United States Code to punish as a Federal criminal offense the acts of international parental child kidnapping; to the Committee on the Judiciary.

By Mr. SIMON:

S. 1264. A bill to extend the United States Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

By Mr. CRANSTON (by request):

S. 1265. A bill to amend title 38, United States Code, to target the rehabilitation program entitlement to service-disabled veterans rated at 30 percent or more; target eligibility of stepchildren for Survivors' and Dependents' Educational Assistance to natural and adopted children; and for other purposes; to the Committee on Veterans Affairs.

S. 1266. A bill to amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to establish nonprofit research corporations, to contract for alcohol or drug treatment services, to make State home grants, to contract for the care of United States veterans in the Philippines, to furnish adult day health care services, and for other purposes; to the Committee on Veterans Affairs.

S. 1267. A bill to authorize the Secretary of Veterans' Affairs to accept gifts for the benefit of all Departmental programs; to the Committee on Veterans Affairs.

S. 1268. A bill to authorize the Secretary of Veterans Affairs to remove any restrictions and conditions on land conveyed by the VA to Temple Junior College, Temple, Texas; to the Committee on Veterans Affairs.

By Mr. HARKIN:

S. 1269. A bill to require the Secretary of Energy to expedite the development of hydrogen derived from renewable energy sources as an alternative energy system for residential, industrial, utility, and motor vehicle use, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN:

S. 1270. A bill to require the heads of departments and agencies of the Federal Government to disclose information concerning United States personnel classified as prisoners of war or missing in action; to the Committee on Armed Services.

By Mr. CRANSTON (by request):

S. 1271. A bill to amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services, and for other purposes; to the Committee on Veterans Affairs.

S. 1272. A bill to amend title 38, United States Code, to improve the housing loan program for veterans by reducing administrative regulation, enhancing the financial solvency of such program, and for other purposes; to the Committee on Veterans Affairs.

By Mr. FOWLER (for himself, Mr. CRANSTON, and Mr. WIRTH):

S. 1273. A bill to establish national standards for the manufacture and labeling of certain plumbing products in order to conserve and protect water resources, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1274. A bill to provide for the improved management of the nation's water resources; to the Committee on Environment and Public Works.

By Mr. PELL (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH):

S. 1275. A bill to reauthorize funding for the Office of Educational Research and Improvement, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself and Mr. RIEGLE):

S. 1276. A bill to establish a Presidential Commission on Insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRESSLER (for himself, Mr. WARNER, Mr. HATFIELD, Mr. MACK, Mr. FOWLER, Mr. DASCHLE, Mr. DOLE, Mr. BRADLEY, Mr. DIXON, Mr. LEAHY, Mr. SHELBY, Mr. GORE, Mr. DODD, Mr. ADAMS, Mr. KERRY, Mr. HOLLINGS, Mr. GLENN, Mr. BURNS, Mr. CONRAD, Mr. HEFLIN, Mr. PACKWOOD, Mr. BIDEN, Mr. STEVENS, Mr. PELL, Mr. INOUYE, Mr. DECONCINI, Mr. KASTEN, Mr. LEVIN, Mr. GRAHAM, Mr. D'AMATO, Mr. COCHRAN, Mr. CHAFEE, Mr. DURENBERGER, Mr. SPECTER, Mr. MOYNIHAN, Mr. JEFFORDS, Mr. CRANSTON, Mr. ROCKEFELLER, Mr. SASSER, Mr. SIMON, Mr. THURMOND, Mr. COHEN, Mr. BROWN, Mrs. KASSEBAUM, Mr. METZENBAUM, Mr. HATCH, Mr. GARN, Mr. SARBANES, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. NUNN, Mr. ROTH, and Mr. MURKOWSKI):

S.J. Res. 158. Joint resolution to designate the month of November 1991, as "National Alzheimer's Disease Month"; to the Committee on the Judiciary.

By Mr. SIMPSON (for himself, Mr. WALLOP, Mr. DOLE, Mr. AKAKA, Mr. BAUCUS, Mr. BINGAMAN, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. COATS, Mr. COHEN, Mr. CRAIG, Mr. DASCHLE, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GARN, Mr. GLENN, Mr. GORTON, Mr. HATFIELD, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KASTEN, Mr. KENNEDY, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRYOR, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SHELBY, Mr. SPECTER, and Mr. THURMOND):

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANFORD (for himself, Mr. BREAUX, Mr. COCHRAN, Mr. SYMMS, and Mr. HATCH):

S. 1253. A bill to protect the right to carry out a lawful hunt within a national forest; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL FORESTS HUNTING ENHANCEMENT ACT

• Mr. SANFORD. Mr. President, I rise to bring to the attention of this body a threat to one of our Nation's oldest and proudest traditions. I am referring to the number of individuals and groups in this country which oppose sport hunting and are set on seeing this pastime abolished. Recent polling indicates that over two-thirds of Americans sampled oppose a ban on hunting which extremists actively promote. The active minority to which I refer has little understanding of sport hunting, its contribution to wildlife management, or the habitat and species preservation that responsible hunters have accomplished.

The measure that Senator BREAUX and I are introducing follows the lead of 38 States which have enacted legislation to protect law-abiding hunters from harassment. This bill takes a large step in having the Federal Government deal with a growing problem: the bill will establish civil penalties for those persons who knowingly and intentionally obstruct a lawful hunt taking place within a national forest.

The funds collected from civil penalties imposed under this act will be deposited in a trust fund to be used by the National Fish and Wildlife Foundation to help carry out the North American Waterfowl Management Plan. I believe that it is entirely appropriate that such funds be allocated to help accomplish the worthy goal of improving migratory waterfowl populations.

Each year many Americans enjoy the natural beauty of our national forests and help maintain controlled populations of wildlife by hunting in these unspoiled areas. What began as a trend in the New England States has recently begun to spread. From Maine to Florida to California, pheasant hunters and deer hunters alike are being trailed into the fields and woods by noisy, protesting anti-hunting advocates. Air horns, loud music, and shouting arguments are increasingly taking the place of otherwise uninterrupted hunts. Vandalism and the threat of physical violence are also likely to become more widespread as groups opposing hunting become larger and more active.

In Montana, a protestor was charged with positioning himself between the hunter and his target. Another Montana sportsman was struck twice with a ski pole and then over the kidney as he turned his back. In Connecticut, a hunter fractured his neck after someone sawed almost entirely through the struts supporting his tree stand. And, after legally releasing game birds, members of a New Jersey wingshooting club found that the tires on eight of their vehicles had been destroyed by spikes and roofing nails planted by anti-hunting activists. The dogs of these sportsmen were caught in a number of leghold traps that were also presumably set in protest of the hunt.

The above are extreme examples of tactics used by overzealous protestors of the taking of game; however, once again, it does not seem unreasonable to assume that, as hunting opposition groups continue to grow in number and support, similar incidents will become more common. Protestors do not limit themselves to private lands. Our national forests are Government multiple-use areas and lawful hunts are sanctioned recreational activities that must be preserved.

It has become difficult to characterize this as a regional issue. Many of you may have read in the Washington Post last year of the arrests that were made in the Mason Neck National Wildlife Refuge in Fairfax County, VA, and in the McKee Beshers Wildlife Management Area near Poolesville, MD. Activists attempted to block hunts from taking place on these properties, and in both cases, hunter harassment charges were filed under provisions of applicable State laws. As a Maryland judge found the defendants in the McKee Beshers case guilty, he also cited their lack of "regard for public safety".

Mr. President, entire organizations have been established for the sole purpose of obstructing sportsmen from taking wildlife. Booklets with specific instructions regarding how to obstruct a hunt have been written and distributed. Vandalism of property and harassment techniques are promoted in such literature.

I believe that members of the sporting community have generally responded appropriately to the threats of harassment that confront them. Hunters are advised by their major advocacy organizations to unload their firearms in the presence of a protestor, to leave an area if confrontation appears likely, and never to resort to threats or violence.

Hunters and fishermen were among this country's first conservationists at a time when conservation was unfashionable. These men and women have never lessened their commitment to maintaining healthy populations of wildlife through the wise use of our natural resources.

Wildlife managers and scientists agree that regulated harvesting of game animals is necessary for the productive maintenance of these species. Sportsmen-conservationists played a key role in stopping the alarming decline of elk, deer, and antelope which was taking place in the early part of this century. Jay Hair, president of the National Wildlife Federation, adds to this list such recent success stories as wild turkeys and wood ducks, which "have made dramatic comebacks as a result of sportsmen and women's efforts." Hair also points out that:

> Through federal user fee programs, including Pittman-Robertson and Wallop-Breaux, hunters have contributed millions of dollars to aid the restoration of habitat for both game and non-game species.

As I have mentioned, this Hunting Enhancement Act will aid the Waterfowl Management Plan, which similarly benefits wildlife.

In 1989, American hunters spent more than $517 million for licenses, duck stamps, and excise taxes on equipment and ammunition. Much of that money was used to finance game research-and-management programs and also to purchase important wildlife habitats that advantaged all resident flora and fauna.

Mr. Hair makes clear that sportsmen "are under attack by anti-hunting * * * groups" and that these attacks "detract from the critical environmental issues we face." This is sound thinking, and I am hopeful that we can allow the hunter to do what he or she has done for many years—enjoy and protect wild America.

Mr. President, as I have stated, our national forests are treasures to be maintained for continuing supplies of natural resources and also for the recreational needs of our citizens. As larger numbers of Americans have little real connection with our wild resources, national forests should be a place that this connection can be established. I ask my colleagues to join me in supporting this measure that will protect hunters—and the property of hunters—who abide by all Federal and State game laws in the taking of animals within a national forest.•

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 1254. A bill to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes; to the Committee on Energy and Natural Resources.

INCREASE IN ACREAGE LIMITATION FOR ASSATEAGUE ISLAND NATIONAL SEASHORE

• Mr. SARBANES. Mr. President, today I am introducing legislation, together with my colleague, Senator MIKULSKI, to extend the boundaries of the Assateague Island National Seashore on the Maryland mainland. This boundary expansion will help protect the park from encroaching development by enabling the National Park Service to acquire a 96-acre parcel of private land, immediately adjacent to the National Seashore's headquarters area, which is in jeopardy of being sold and developed.

Assateague National Seashore is one of the crown jewels of our National Park System. A barrier island which stretches along the Maryland and Virginia coasts, Assateague is a natural haven containing a wide variety of ecosystems—a marine environment of the ocean and the bay, dunes, meadows, marshlands, and pine forests. It is home to a spectacular heritage of wildlife—rare and beautiful plants, the endangered Piping Plover, the Loggerhead sea turtle, mollusks, and, of course, the famous Assateague wild ponies. It provides a special environment for the 2 million people who visit this retreat each year to enjoy its beach-oriented recreational opportunities. Assateague is also one of the last unspoiled seashore areas on the Atlantic coast.

The Congress recognized this area as an important national resource and authorized the establishment of the Assateague Island National Seashore in 1965. In October, 1976, the 1965 Act was further amended and the Secretary of Interior was directed to develop a comprehensive plan for the protection and management of the seashore and adjacent lands "which would reasonably be expected to influence the administration, use and environmental quality of the seashore."

Unfortunately, the very things that make Assateague such a terrific and beautiful retreat, also make the area attractive to private development and the seashore is increasingly faced with external threats from adjacent land use and development. The Route 611 corridor which leads into Assateague from West Ocean City has been experiencing explosive growth in commercial and residential development.

Of immediate concern to the National Seashore is a 320-acre tract of private land adjacent to the southern boundary of the park where the park headquarters is located. Since the National Seashore was established, this land has been farmed—a use considered compatible with the needs of the National Seashore. However, the current landowner's personal circumstances may force the sale of the property, which is highly desirable for development. It includes approximately one mile of frontage on Sinepuxent Bay with commanding views of the bay and Assateague Island as well as frontage on Route 611. It would also provide the nearest location to Assateague for motel and restaurant development. Portions of the property are presently zoned for such development and other portions are zoned for one-acre residential development. Worcester County officials are currently working to adopt a new land use plan for the county, but even the most favorable zoning regulations could be subject to modification is the future and offer no firm guarantees of protection to the park.

The legislation I am introducing today would expand the Park Service's boundary to include approximately 96 acres of the 320-acre tract. It encompasses the shore frontage immediately adjacent to and south of the National Seashore headquarters and planned Barrier Island Visitor Center. This is the area that would pose the most severe threat to the seashore. The proposed tract meets or exceeds all the criteria for Federal land acquisition. A number of options are currently being explored for acquisition, including purchase by a non-profit organization and donation to the Service. However, the boundary change is absolutely essential for this to occur.

The legislation is supported by the National Park Service, the Committee to Preserve Assateague Island, the State of Maryland and local elected officials. I urge my colleagues to join in supporting this measure and ensuring its swift enactment.•

By Mr. LEVIN:

S. 1255. A bill to amend chapter 43 of title 38, United States Code, to provide for the treatment for the purposes of pension benefits of the absences of certain veterans who are reemployed under that chapter; to the Committee on Veterans' Affairs.

PENSION BENEFITS OF CERTAIN VETERANS

Mr. LEVIN. Mr. President, today I am introducing legislation to ensure that after 45 days or more of active military duty, service personnel would be entitled to buy back into employee pension benefits plans as if they had been continuously employed without interruption. This bill would guarantee that such persons could buy back into either a defined benefit or defined contribution plan. It further stipulates that the contribution ratio between employer and employee for certain benefit plans would remain the same as when the employee left for active duty.

A defined benefit plan is a pension plan that specifies the benefits received under the plan but does not specify the rate of contribution. An employer, for example, can define the benefit under this type of pension plan for an employee in a variety of ways: from paying a specified amount each month payable at retirement, to paying a set percentage of compensation for each year the employee serves. Under a defined benefit plan, the employer must advance fund the plan's liability and bears the risk of investment performance.

Defined contribution plans specify the contributioins to the plan, but not the benefits. This type of pension plan provides for an individual account for each employee. Both the employer and employee make contributions to this account and benefits are restricted solely to the amount contributed and the investment earnings of the account.

Existing law now ensures that a veteran or reservist returning from service in the Armed Forces is entitled to the same status of employment had he or she continued in such employment uninterrupted. However, in a recent case in the Federal district court in Denver, the Department of Labor argued that pension buy back rights should apply to defined contribution plans. The court decided against this position and held that current law limited buy back rights solely to defined benefit plans.

This legislation would have an effective date of August 2, 1990, therefore applying to those who were covered by the Desert Storm call-up, as well as those in the future who are called up for more than 45 days.

Mr. President, I believe that the men and women who served our country so nobly in Operation Desert Storm should be able to get on with their livelihood once they return home. As part of that goal, it is important that service personnel be given the opportunity to put themselves back in the position that they would otherwise have been in with respect to their pension benefits. Returning personnel should not have to worry about any kind of ambiguity in the law regarding these rights.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF CERTAIN ABSENCES OF REEMPLOYED VETERANS UNDER PENSION BENEFITS PLANS OR LAWS.

(a) TREATMENT OF ABSENCES.—Section 2021 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) For the purposes of determining the right to receive, and computing the amount of, pension benefits of a person referred to in paragraph (3) under an employee pension benefit plan or any Federal or State law governing the receipt of such benefits, such person shall (upon the election of such person) be considered to have been continuously employed in the position of employ referred to in clause (A) of such paragraph during the period of absence of such person described in such clause.

"(2) The liability of a person referred to in paragraph (3) and the employer or employers of such person to fund the obligation to provide pension benefits under paragraph (1) shall be allocated between the person and the employer or employers of the person in the same manner as such liability was allocated under the pension plan or laws governing pension benefits in effect at the time the person commenced the person's period of absence.

"(3) A person entitled to the benefit referred to in paragraph (1) is a person who—

"(A) is absent from a position of employ with an employer or employers for more than 45 days by reason of training or service in the Armed Forces; and

"(B) is restored to or employed in such position in accordance with the provisions of clause (A) or (B) of subsection (a).

"(4) For the purposes of this section, the term 'employee pension benefit plan' shall mean any such plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)), including a defined benefit plan and a defined contribution plan.".

(b) EFFECTIVE DATE.—Section 2021(d) of title 38, United States Code (as added by subsection (a)), shall apply with respect to determinations and computations regarding pension benefits for absences of persons referred to in paragraph (3) of such section (as so added) that commence after August 2, 1990.

By Mr. MOYNIHAN:

S. 1256. A bill to direct the Secretary of Health and Human Services to develop and implement an information gathering system to permit the measurement, analysis, and reporting of welfare dependency; to the Committee on Labor and Human Resources.

WELFARE DEPENDENCY MEASUREMENT AND ASSESSMENT ACT

• Mr. MOYNIHAN. Mr. President, I rise today to introduce the Family Dependency Measurement and Assessment Act of 1991. The purpose of the bill is to help us find out whether welfare dependency is increasing or decreasing, and what, if anything, government programs are doing about it.

Under the bill, the Secretary of Health and Human Services would conduct a study to determine which statistics, if collected and analyzed on a regular basis, would be most useful in tracking and predicting welfare dependency. Within 2 years, the Secretary would report his conclusions to Congress, and, a year later, submit his first report on dependency. Thereafter, reports would be submitted annually.

Data collection of this sort is overdue. For too long we have been trying to measure a postindustrial phenomenon—dependency—with statistics designed to track industrial-era phenomena. It is time we had more sophisticated, up-to-date tools.

During the 19th century, data were conceived to track the main issues brought on by industrialization: unemployment, wage levels, labor force participation. Years and years of study of the "business cycle" provided the statistical clues which we now use to great advantage.

These data used to serve as good predictors of welfare dependency. We could show, for example, that over a long postwar spell, the male unemployment rate closely predicted the number of new AFDC cases 6 months later. This is because the poverty rate was closely linked to economic conditions: if the economy was good, family breadwinners had steady jobs and families and children stayed off the dole. Back then, children were as well or as badly off as their parents.

Then, suddenly, the old social indicators started to fail us. Welfare caseloads remained stuck, even as unemployment rates fell. For the first time ever, children became the largest proportion of poor persons in the United States, indeed—as it turned out—in the industrialized world. We concluded that something new was at hand, even if we did not—and do not—entirely understand it.

The reason our data failed us is that we were no longer dealing with poverty but with an emerging new social issue, indeed the issue. The issue of dependency.

Dependency, as I wrote 20 years ago in "The Politics of a Guaranteed Income":

> * * * is different from poverty. To be poor is an objective condition; to be dependent, a subjective one as well. That the two circumstances interact is evident enough, and it is no secret that they are frequently combined. Yet a distinction must be made. Being poor is often associated with considerable personal qualities; being dependent rarely so. This is not to say that dependent people are not brave, resourceful, admirable, but simply that their situation is never enviable, and rarely admired. It is an incomplete state in life; normal in the child, abnormal in the adult. In a world where completed men and women stand on their own feet, persons who are dependent—as the buried imagery of the word denotes—hang.

The defining criterion of dependence is family structure. As Prof. Lawrence Mead of New York University states:

> The inequalities that stem from the work place are now trivial in comparison to those stemming from family structure. What matters for success is not whether your father is rich but whether you had a father at all.

Three decades ago there was nothing notably amiss with the traditional family. American divorce rates were high, but stabilizing. The traditional family of parents with children was the norm. As recently as 1970, 40 percent of the Nation's households were made up of a married couple with one or more children. The proportion dropped to 31 percent in the next decade. It is now barely over one-quarter—26 percent.

Simultaneously, the proportion of families headed by a single mother has exploded. In 1970, 11.5 percent of all families with children were headed by a single mother. In 1980, 19.4 percent. In 1990, 24.2 percent. Never-married mothers made up 28.5 percent of these families, a fourfold increase in the 2 decades. Similarly, a quarter of all live births at present are out of wedlock.

Newly available data has given us a far better look at the true extent of welfare dependency over the last several decades. Back in the 1960's the Office of Economic Opportunity had the good sense to put up money for a longitudinal study of family incomes at the Institute for Social Research at the University of Michigan. The researchers computed the incidence of welfare dependency among children, defined as the proportion of children who have been dependent on the Federal Aid to Families With Dependent Children Program at some time during their childhood.

The findings are dismaying. Almost one-quarter—22.1 percent—of children born between 1967 and 1969 were dependent on AFDC for at least 1 year before reaching their 18th birthday. By race, that's 72.3 percent of black and 15.7 percent of nonblack children. On the basis of experience during the first 7 years of life, we project that 30.4 percent of children born in 1979–80 will be dependent on welfare before reaching age 18.

But our data collection needs to become more systematic and institutionalized. This past March, we held hearings before the Senate Finance Subcommittee on Social Security and Family Policy on indicators of welfare dependency. We heard from representatives of the Deparment of Health and Human Services, the Bureau of Labor Statistics, the Council of Economic Advisors as well as a long list of researchers and demographers. All agreed on the importance of this effort. Now we have a bill which I urge my colleagues to support.

There is a rule: you never do anything about a problem until you have learned to measure it. There is also a rule that you never learn to measure a problem until you have decided to do something about it. It is time we finally do something about welfare dependency.•

By Mr. BOREN (for himself, Mr. SYMMS, Mr. BREAUX, Mr. DANFORTH, Mr. RIEGLE, Mr. ROTH, Mr. BURDICK, Mr. KASTEN, Mr. DIXON, Mr. BROWN, and Mr. HARKIN):

S. 1257. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities; to the Committee on Finance.

TAX TREATMENT OF CERTAIN REAL ESTATE ACTIVITIES

• Mr. BOREN. Mr. President, I join today with Senators SYMMS, BREAUX, DANFORTH, and others in introducing legislation to modify the passive loss rules to allow qualifying real estate professionals to offset their real estate losses against their income on the same basis as taxpayers in all nonrental businesses.

Real estate is a major sector of the U.S. economy and is a principal asset of banks, insurance companies, and pension funds. When the asset base is in trouble so are these financial institutions. Therefore, it is clearly in the best interest of our Nation's economy to have a fundamentally sound real estate market.

However, Mr. President, our current tax system, through the passive loss rules, is contributing to the current destabilization of real estate markets which, in turn, has dragged down our financial institutions.

Under the passive loss rules enacted by the so-called Tax Reform Act of 1986, taxpayers generally may offset losses incurred in activities in which they materially participate against any income. An exception to this rule is made for all taxpayers engaged in rental activities, including rental real estate. Such taxpayers are treated as passive investors regardless of the extent of their involvement in a rental real estate activity. Because of this treatment they may not offset their real estate losses against other income, including income earned from real estate activities, even if they participate in the real estate business on a full-time basis.

This treatment unfairly discriminates against taxpayers in the real estate business and is exacerbating the financial institution crisis by inhibiting the carrying and work-out of distressed properties. The legislation would remedy these problems without allowing a return to tax sheltering through real estate investments.

This bill provides that the rental real property activities of an individual engaged in the real property business will be treated in the same manner as nonrental activities under the passive loss rules. To quality under the bill, an individual must spend at least 50 percent of his or her working time and more than 500 hours in rental property operations during a taxable year. Individuals who meet these tests would then be allowed to establish their material participation in real estate activities on the same basis as individuals in any other nonrental trade or business.

Mr. President, let me make very clear that tax shelter investors in real estate and others whose principal occupation is not the real property business would receive no benefit from the bill.

In addition to removing an inequity in the tax code, this bill could have a significant beneficial impact on the financial institutions crisis in many States. By allowing real estate professionals to offset losses from distressed properties against their income, the bill would limit defaults on S&L and bank loans for such properties and work out the distressed properties now overhanging the real estate markets in many areas. This would prevent further deterioration in property values in many markets and a further negative spiral of the problems of financial institutions.

Mr. President, this bill is identical to legislation which I introduced last year. The issue has not changed. The only thing that has changed is the condition of the real estate industry and therefore the soundness of our financial system—and it has not been a change for the better.

I urge my colleagues to study this legislation and the problem inequity it addresses and join us as co-sponsors of the bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 469 of the Internal Revenue Code of 1986 (relating to passive activity losses and credits limited) is amended by adding at the end the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings, and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development redevelopment, construction, reconstruction, acquisition, conversion, rental, operations, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b)(1) Paragraph (2) of section 469(c) of such Act is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passsive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1991.●

● Mr. SYMMS. Mr. President, prior to the 1986 Tax Reform Act there was a strong feeling throughout the Nation that the Tax Code was unduly generous to real estate activities. There was apparent widespread overbuilding and the tax code was blamed.

Some of that blame may have been on target. But in its zeal to correct the problem, the Congress acted precipitously and imposed new tax rules that, in my opinion, clearly swung the pendulum too far in the other direction.

I am talking about the changes made to the passive loss rules as they apply to taxpayers who are actively engaged in real estate activities. And that is why I am happy to join with my colleague, Senator BOREN, in sponsoring this legislation to swing the pendulum back towards center.

Under the current rules, taxpayers must separate their income and expenses into an active and a passive basket. The importance of this is that if the taxpayer has a net loss in the passive basket, he won't be able to charge those losses against taxable income in the active income basket. Obviously, any taxpayer in such a situation is going to be subject to a much higher level of current tax than if he could mix active income and passive losses.

Because of these new passive loss rules, even if a taxpayer is actively engaged in real estate activities such as development, construction, rentals, management, leading, or sales, any income or loss arising from such activity must be treated as passive. His nonreal estate activities, of course, continue to be treated as active income or loss. Since passive losses generally cannot be deducted against nonpassive income, an active real estate professional is forced to carry his passive losses on the books while paying the full tax on his active income.

When these new rules were originally passed, real estate was a pretty good line of business to be in. There were trouble areas, but by and large real estate people were making money. Since then, real estate has been in real trouble, and many taxpayers in the industry have suffered losses. Fortunately for them, they tend to have some other, outside income to carry them through the tough times. But under these tax rules, they have to pay the full amount of tax on their active income even though, on any rational basis, they would show a net loss for the year and owe no tax.

No other taxpayers are discriminated against in this way. If an engineer or a doctor generates losses from his professional activities he is able to use these losses to offset other taxable income. There is no reason to penalize real estate professionals for their choice of profession.

The bill we are introducing simply treats real estate professionals like nonreal estate professionals. We avoid the problem of opening the Tax Code to abuse by stating that the taxpayer must be engaged in the real property business in order to exclude his real estate income or loss from the passive income basket. The taxpayer establishes that he is so engaged by showing that he materially participates with respect to the property.

The test of whether he materially participates is a simple one. An individual is engaged in the real property business if he or she spends at least 50 percent of his or her working time in real estate property operations and spends more than 500 hours during the taxable year in real property operations.

Mr. President, it doesn't overstate the case to say that the real estate markets around the country have been hammered by the changes made as part of the 1986 Tax Reform Act, including passive loss and the increase in the capital gains tax. Some of these changes may have been necessary, but they were effectively applied retroactively, and our economy suffered as a result. I don't think there's much question, for that matter, but that these changes vastly increased the costs of the S&L crises.

We have an opportunity now to repair some of this damage by removing the tax penalty now imposed on individuals who have chosen real estate as their profession. There was never any reason to punish these entrepreneurs, and it is way past time we stopped the punishment and treated them in the Tax Code like any other taxpayer.●

● Mr. KASTEN. Mr. President, I am pleased to join as a cosponsor of S. 1257 which will restore a level playing field for real estate entrepreneurs. This legislation provides that the rental real property operations, undertakings and activities of a taxpayer engaged in the real property business will be treated, for purposes of the passive loss rules, in the same manner as any other trade or business operation of the taxpayer.

Although there were many positive changes enacted as part of the Tax Reform Act of 1986—including the reduction of high marginal income tax rates—a number of mistakes were made. One mistake was defining all losses from rental real estate as passive losses irrespective of the level of the owners involvement in the real estate business.

While the passive loss changes were designed as an attack on real estate tax shelters utilized by taxpayers with occupations unrelated to real estate, they also unfairly hurt those who make their living actively engaged in the real property business.

In addition to unfairly punishing real estate entrepreneurs, the 1986 passive loss revision has had the effect of worsening the S&L debacle and increasing the cost of the bailout to the Government. Because the passive loss tax change eliminated the ability to deduct legitimate losses against real estate income, entrepreneurs are discouraged from purchasing properties held by financial institutions and properties held by the Resolution Trust Corporation. This reduction in demand obviously reduces the value of distressed properties and thereby weakens financial institutions that own properties.

This legislation will not restore tax shelters. Only those persons actively engaged in the real property business would be helped. An individual would be treated as active if he or she spends at least 50 percent of his or her working time in real property operations and spends more than 500 hours during the taxable year in real property operations. These active real estate entrepreneurs will then be able to deduct real estate losses from their income.

In addition to aiding individual entrepreneurs, this legislation would benefit the economy by helping restore health to the real estate industry. By boosting real estate values it would save taxpayers money by reducing the cost of the S&L cleanup and perhaps save some marginal financial institutions from failure.●

By Mr. GORE:

S. 1258. An act to require the Administrator of General Services to issue regulations to establish standards for the hiring of Federal security officers, to establish a grant program to assist States in establishing standards for the hiring of security officers by public and private employers, to require a study and report by the Administrator of the General Services Administration, and for other purposes; to the Committee on Governmental Affairs.

SECURITY OFFICER EMPLOYMENT STANDARDS ACT

● Mr. GORE. Mr. President, I am introducing today the Security Officer Employment Standards Act of 1991. The United States has become increasingly dependent on private security, and that trend will continue. Rising crime rates and the inability or refusal of our society to provide matching budget increases for public law enforcement are the primary reasons.

Privatization frees up public sector law enforcement personnel to combat serious and violent crimes, which are on the rise. Many of the duties which were once performed by police officers have been assumed by private security personnel. In 1980, there were 1 million private security officers and only 600,000 public law enforcement personnel. By 1990 private security officers had grown to 1.5 million to only 622,000 public law enforcement officers. By 2000 there will be nearly 2 million private security officers and only 684,000 public law enforcement officers, or almost 3 security officers for each public law enforcement officer.

Because private security officers have supplanted public law enforcement personnel in so many areas, people naturally believe that security officers are screened and trained with the same diligence as law enforcement personnel. In fact, that is not always the case.

As surprising as it may seem, in some States security service firms can hire people off the street, put them in uniforms, and assign them to their posts before lunch time. Their background is not checked at all to determine whether they are suitable to work in these positions of trust. A convicted rapist out on parole could be assigned to guard a college women's dormitory, and no one would know until it is too late.

While this is an extreme example, it is not unimaginable. Ten States have no statutes or regulations of any kind regulating the hiring and employment of private security officers. Other States have a patchwork of uneven and often ineffective laws and regulations.

In some States regulatory agencies are required by law to check an applicant's criminal history before the person can begin to work. However, in many of these States these agencies check only local or State records, rather than checking with the nationwide records on file with the FBI—which are fully entitled to do under Federal law—a simple move across State lines gives the convicted felon a clean criminal history.

In other States, the agencies collect a fee for checking the FBI records, but they do not actually do the work. They use the process as a revenue enhancement. In still other States, the delay in processing the criminal history checks frustrates the goal. By the time it is discovered that the person has been convicted for rape, the felon masquerading as a trusted security officer has committed another crime.

Such officers are in no way representative of the industry. Security officers, like most people in general, are not criminals. But the nature of the position, the access to people and property, attracts the criminal element if safeguards are not present. Security officers do not often commit crimes, but when they do, the cost to society can be enormous, in terms of money, property, and, more tragically, human life.

Crimes committed by security officers are well documented. On July 4, 1988, the Los Angeles Times reported that a 25-year-old San Jose guard was sentenced to death for luring two teenage girls into a vacant mansion he was protecting and killing one of them after hours of rape and torture. On April 27, 1988, the New York Times reported that a security guard charged with killing a teenager in a Brooklyn shopping mall had served 18 months in prison for armed robbery, but because the State agency was required to keep his criminal record secret, the company that hired him never learned of his conviction. On February 20, 1990, the New York Times reported that a 28-year-old Manhattan security guard arrested in the dormitory room rape of a freshman at Columbia University worked for months despite a police record, including convictions for gambling and impersonating a police officer. On February 16, 1991, the Santa Monica Outlook described a jury struggling to decide whether to impose the death penalty on a former security guard convicted of the murder and attempted rape of a high school senior. These are but a few examples. There are thousands of such incidents across the country every year.

Security officers work at nuclear power plants, airports, banks, brokerage houses, chemical companies, pharmaceutical firms, high rises, libraries, malls, schools, and countless other places where people's safety and property can be at risk. Private security officers even work for the military at installations around the country. The potential for damage by unfit security officers is obvious. The need for screening is critical.

The lack of adequate screening goes beyond the failure to check criminal records. To determine whether a person is suitable to be a security officer, the security service firm should check the applicant's prior employment history, perform a psychological profile, assess physical fitness, and require proof of U.S. citizenship or intent to reside in this country according to its laws.

Adequate training is also a serious concern. Many States require no initial training at all, much less ongoing training. Yet security officers should be trained in such areas as fire protection and prevention, first aid, powers of arrest, building safety, crowd control, and emergency response. They should be tested on these issues before they are assigned to work, and they should complete refresher courses periodically to maintain their competence.

The Security Officer Employment Standards Act addresses these concerns. It would establish screening and training standards for security officers.

The standards would apply to any security officers hired by the Federal Government or by government contractors. This bill recognizes that security is a traditional function of a locality's police powers, and it does not usurp regulation of the private security industry. Rather it seeks to establish a grant program to encourage all States to adopt a statutory licensing and regulatory scheme consistent with the standards in the bill.

For example, under the bill, an employer would have to check an applicant's criminal history record before hiring the person to work as a security officer. The check must include a cross reference with the FBI's records.

An employer would have to assess physical and psychological fitness according to regulations issued by the GSA. An employer would also have to check prior employment history.

Immediate posthire training would be required, according to regulations adopted by the GSA, and no one can work with a dangerous weapon until the training is completed. Periodic refresher training will also be required.

This bill seeks to educate the general public on an industry that is generally misunderstood. It encourages badly needed minimum standards, while superior service firms are free to exceed those standards. This bill will improve the safety of all citizens.

I ask unanimous consent that the text of this bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Security Officer Employment Standards Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) more than 1,100,000 security personnel in the United States protect the citizens and property of this Nation;

(2) for many entities, private security officers from private security companies are rapidly replacing public sector law enforcement officers;

(3) such private security officers provide protection, on a proprietary or contract basis, to such diverse operations as banks, hospitals, chemical companies, airlines, and nuclear installations; and protect individuals, tangible and intangible property and proprietary information;

(4) the trend in this Nation towards privatization in such security services has accelerated rapidly as the per capita number of public sector law enforcement officers has decreased;

(5) the trend towards such privatization is to be applauded, as such privatization frees up public sector law enforcement officers to combat serious and violent crimes;

(6) such trend creates a concomitant increase in the need for highly qualified professional private security officers;

(7) possible applicants for such private security officer positions should be screened as thoroughly as possible;

(8) industry standards in the private security industry are essential for the selection, training, and supervision of qualified security personnel;

(9) if such industry standards are not developed, there will be an excessive burden on public sector law enforcement officers; and

(10) there is a need to balance the rights of an applicant for a security officer position and the need of the private security industry to ensure highly qualified professional service.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "security officer" means any person, other than an individual employed in active military service or a law enforcement officer employed by any governmental unit, who performs one or more of the following functions:

(A) Prevention of intrusion, entry, larceny, vandalism, abuse, fire, or trespass on public or private property.

(B) Prevention, observation, or detection of any unauthorized activity on public or private property.

(C) Control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of property.

(D) Protection of individuals from bodily harm.

(E) Protection of tangible and intangible property and proprietary information.

(F) Providing secured transportation and protection from one place or point to another.

(2) The term "security services contractor" means any private entity which contracts to provide the services of a security officer.

SEC. 4. SCREENING REQUIREMENTS FOR OFFICERS EMPLOYED IN FEDERAL AGENCIES AND EMPLOYED BY A SECURITY SERVICES CONTRACTOR UNDER CONTRACT WITH THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—Notwithstanding any other law, not more than 180 days after the date of the enactment of this Act, the Administrator of the General Services Administration (hereinafter referred to as the "Administrator") shall issue regulations that provide that, on or after the effective date of such regulations, any applicant for a position with the Federal Government as a security officer and any applicant for a position as a security officer to be employed by a security services contractor and who shall perform work as part of a contract with the Federal Government shall be subject to the screening requirements under this section.

(b) GENERAL SCREENING REQUIREMENTS.—The regulations issued under subsection (a) shall contain provisions that require that before an applicant may be hired, or within a reasonable time thereafter (as determined by the Administrator) such applicant shall submit to—

(A) a check of references from former employers;

(B) a test or a presentation of evidence of a level of physical fitness commensurate with the demands of the security officer position for which the applicant is applying, conducted by a person that the Administrator determines to be qualified;

(C) a check of proof of United States citizenship, or intent to achieve such status;

(D) a credit check carried out according to methods authorized by the Administrator; and

(E) a psychological test, including the Minnesota Multiphasic Personality Inventory, or other similar test approved by the Administrator, conducted by a person that the Administrator determines to be qualified.

(c) SCREENING OF CRIMINAL RECORDS.—(1) Section 552a(b) of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting "and"; and

(C) by adding at the end thereof the following new paragraph:

"(13) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States or any State for the sole purpose of conducting a background check with respect to employment as a security officer, as defined in the Security Officer Employment Standards Act of 1991.".

(2) Not more than 180 days after the date of the enactment of this Act, the Administrator shall issue regulations that require a background check for the criminal record of an applicant for a security officer position under this section, to be conducted from information acquired in accordance with section 552a of title 5, United States Code, as amended by this Act, as part of the screening process under this section. Such regulations shall prescribe standards by which the governmental entity responsible for screening an applicant for a security officer position shall review a criminal record to determine whether such record is relevant to the suitability of an applicant for employment as a security officer and establish a procedure for the issuance of a recommendation by the governmental entity reviewing such record to the potential employer of such applicant. Such procedure shall include a comparison of the applicant's fingerprints to the fingerprints on file with the Federal Bureau of Investigation. Such regulations shall ensure that the use of any information concerning any applicant be limited to the restrictions for the use of such information under this subsection.

SEC. 5. TRAINING REQUIREMENTS FOR OFFICERS EMPLOYED IN FEDERAL AGENCIES AND EMPLOYED BY A SECURITY SERVICES CONTRACTOR UNDER CONTRACT WITH THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—Not more than 180 days after the date of the enactment of this Act, the Administrator shall issue regulations which provide that any applicant for a position as a security officer who is hired for such position by the Federal Government on or after the effective date of such regulations and any applicant for a position as a security officer to be employed by a security services contractor and who shall perform work as part of a contract with the Federal Government on or after the effective date of such regulations shall be subject to the training requirements under this section. Such requirements shall be met prior to employment, or within a reasonable training period, as determined by the Administrator, during which period the activities of such security officer shall be supervised or restricted, as determined by the Administrator.

(b) BASIC TRAINING PROGRAM.—The regulations issued under subsection (a) shall establish the minimum requirements for a basic training program. Such program shall include—

(1) fire protection and fire prevention;

(2) first aid;

(3) legal information relevant to providing security services;

(4) investigation and detention procedures;

(5) building safety;

(6) methods of handling crisis situations;

(7) methods of crowd control;

(8) the use of equipment needed in providing security services; and

(9) technical writing for reports.

(c) EXAMINATIONS.—The Administrator shall determine which examination and certification procedures are necessary to ensure the quality of the basic training program under subsection (b), and issue regulations to establish such procedures.

(d) REFRESHER COURSES.—The Administrator shall issue regulations which require refresher courses and which prescribe the minimum requirements for such courses which shall be taken by all security officers who have completed a basic training program described in subsection (b), at an interval of time determined by the Administrator.

SEC. 6. GRANT PROGRAM TO ASSIST STATES IN SCREENING AND TRAINING SECURITY OFFICERS.

(a) IN GENERAL.—(1) Not later than 180 days after the date of the enactment of this section, the Administrator is authorized to establish and carry out a grant program under which the Administrator would make grants to States to assist any such State in developing and implementing rules to establish standards for hiring and training a security officer in accordance with the requirements of this section.

(2) In awarding a grant under this section, the Administrator shall enter into an agreement with the administrator of the State agency responsible for overseeing the promulgation of rules to accomplish the requirements of this section. Such agreement shall state conditions for the use of the funds authorized under subsection (f) and conditions for repayment of such funds by such State if the administrator of such State does not meet the conditions of such agreement.

(b) GENERAL SCREENING AND TRAINING REQUIREMENTS.—Each State that receives a grant under this section shall promulgate rules which require that all non-Federal employers including security services contractors, which hire a security officer shall only hire an applicant for a security officer position who—

(1) submits to the general screening requirements described in section 4(b) of this Act;

(2) receives, within the period of time established by rule or regulation, a positive recommendation from the State agency responsible for making such recommendation concerning the suitability of such individual for such position, based on a background check, as described in subsection (c) of this section;

(3) receives, or subsequently receives during the period of time established for a training period described in section 5(a) of this Act, training in a basic training program that meets the requirements of section 5(b) of this Act; and

(4) takes any examinations which the Administrator may prescribe under section 5(c) of this Act, and receives any certification that the Administrator may require under such subsection, in accordance with any certification procedures that the Administrator may establish under such subsection.

(c) SCREENING OF CRIMINAL RECORDS.—(1) Each State that receives a grant under this section shall designate a State agency to have the responsibility for conducting background checks for the criminal records of applicants for a security officer position under this section.

(2) Such background checks shall be conducted, in part, from Federal information acquired in accordance with section 552a of title 5, United States Code, as amended by this Act, as part of the screening process under this section.

(3) Each such State shall promulgate rules to govern such background checks. Such rules shall prescribe standards by which the governmental entity responsible for screening an applicant for a security officer position shall review a criminal record to determine whether such record is relevant to the suitability of an applicant to employment as a security officer and establish a procedure for the issuance of a recommendation by the governmental entity reviewing such record to the potential employer of such applicant. Such procedure shall include submitting the applicant's fingerprints to the Federal Bureau of Investigation for a fingerprint check with the Bureau's records. Such rules shall allow an applicant to work as a security officer pending the recommendation if the employer submits the applicant's fingerprints to the State agency at the time of hiring. The rules shall provide that the recommendation be made within 60 days after the hiring of the applicant and that no applicant may be armed with a firearm, night stick, or any weapon that carries deadly force within the 60-day period.

(4) The regulations issued under this subsection shall ensure that the use of any information concerning any applicant shall be otherwise subject to the restrictions for the use of such information under this subsection and that any recommendation received by a potential employer shall be in the form of a one-word recommendation in the affirmative or negative.

(d) REFRESHER COURSES.—Each State that receives a grant under this section shall promulgate rules which shall require refresher courses and which prescribe the minimum requirements for such courses to be taken by all security officers who have completed a basic training program described in section 5(b), at an interval of time determined by the Administrator under section 5(d) of this Act. Such rules shall incorporate the minimum requirements for such courses under section 5(d) of this Act.

(e) APPLICABILITY OF RULES.—Each State that receives a grant under this section shall also promulgate rules which provide that any person who is employed as a security officer on the date this Act becomes effective with regard to such State, shall have one year within which to submit to the screening requirements of this section.

(f) PENALTIES.—Each State that receives a grant under this section shall also promulgate rules which provide for penalties for employers who do not abide by the rules.

(g) MORE STRINGENT STATE RULES.—Nothing in this section shall preclude any State from adopting more stringent rules than those required under this section.

(h) APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 7. REPORT TO CONGRESS.

Not later than 180 days after the date of the enactment of this Act, the Administrator shall issue a report to the Congress that summarizes the regulations issued under sections 4 and 5 of this Act.

SEC. 8. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of this Act shall take effect on the date of the enactment of this Act.•

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. CRANSTON, and Mr. PELL):

S. 1259. A bill entitled the "Steel Jaw Leghold Trap Prohibition Act"; to the Committee on Environment and Public Works.

STEEL JAW LEGHOLD TRAP PROHIBITION ACT

• Mr. AKAKA. Mr. President, scattered throughout our Nation's forests, public lands, and wilderness areas are thousands of steel jaw leghold traps. They wait in ambush for unwary prey. Once the prey steps into the trap, the silence of the forest gives way to the entrapped animal's cry of pain and agony.

Certainly, there is no valid excuse to continue the use of the steel jaw leghold trap when alternative traps exist, including the collapsible box trap, legsnares, and rapid-kill traps. These alternative traps are effective, economical, and far less cruel.

I do not oppose hunting as a popular recreational pursuit or as a means to make a living. But I do oppose the indiscriminate nature of the trap and its appalling cruelty, which is why I am offering legislation to end its use.

Mr. President, for myself and Sentors INOUYE, CRANSTON, and PELL, today I am introducing the Steel Jaw Leghold Trap Prohibition Act to prohibit the shipment in interstate or foreign commerce of the steel jaw leghold trap and of articles of fur from animals caught by these traps. This bill complements a House measure, H.R. 1354, introduced by Representative JAMES SCHEUER (D-NY), which has already received over 80 cosponsors.

The steel jaw leghold trap is a needlessly cruel and inhumane device, which causes many trapped animals to gnaw off their caught limbs in a frenzied attempt to escape. The animals are also subject to death by starvation, dehydration, and exposure to the elements, and are defenseless against other predators. Moreover, family pets, deer, raptors, songbirds, and other wildlife are too often the unintended victims of the traps.

Over 60 countries have banned the use of the trap, and the European Economic Community is currently considering a ban on the importation of certain furs from nations, including the United States, which allow the use of the steel jaw leghold trap. At least seven States, including Rhode Island, Delaware, Connecticut, Florida, Massachusetts, New Jersey, and Tennessee, have also enacted measures to curb the use of the trap.

Mr. President, it is time that we retire the steel jaw leghold trap. I invite all my colleagues to join me in this effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF POLICY.

It is the policy of the United States to end the needless maiming and suffering inflicted upon animals through the use of steel jaw leghold traps by prohibiting the shipment in interstate or foreign commerce of the traps and of articles of fur from animals that were trapped in the traps.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "article of fur" means—

(A) any furskin bearing hair, raw or not dressed, or dressed; or

(B) any article, however produced, that consists in whole or part of any furskin.

For purposes of subparagraph (A), the terms "furskin", "raw or not dressed", "dressed" have the same respective meanings that are given the terms in headnote 2 of subpart B of part 5 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202).

(2) The term "interstate or foreign commerce" shall have the same meaning as that given to the term in section 10 of title 18, United States Code.

(3) The term "import" means to land on, bring into, or introduce into, any place in the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the Federal Government.

(4) The term "person" includes any individual, partnership, association, corporation, trust, or any officer, employee, agent, department, or instrumentality of the Federal Government or of any State or political subdivision thereof, or any other entity subject to the jurisdiction of the Federal Government.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "steel jaw leghold trap" means any spring-powered pan- or sear-activated device with two opposing steel jaws which is designed to capture an animal by snapping closed upon a limb of the animal or any part of the limb.

(7) The term "United States" means the several States, the District of Columbia, and territories and possessions of the United States, including Puerto Rico.

SEC. 3. PROHIBITED ACTS AND PENALTIES.

(a) IN GENERAL.—No article of fur shall be imported, exported, or shipped in interstate or foreign commerce if any part or portion of such article is derived from an animal that was trapped in a steel jaw leghold trap.

(b) PROHIBITIONS.—It is unlawful for any person knowingly—

(1) to import, export, ship or receive any article of fur in contravention of subsection (a);

(2) to deliver, carry, transport, or ship by any means whatever, in interstate or foreign commerce, any steel jaw leghold trap;

(3) to sell, receive, acquire, or purchase any steel jaw leghold trap that was delivered, carried, transported, or shipped in contravention of paragraph (2); or

(4) to violate any regulation prescribed by the Secretary under this section.

(c) PENALTIES.—Any person who knowingly commits an act which violates subsection (a) or (b), or any regulation issued under this section to carry out the provisions of subsection (a) or (b), shall—

(1) upon conviction for the first such violation, be fined not more than $1,000; and

(2) upon conviction for the second and each subsequent violation, be fined not more than $5,000, and imprisoned for not more than two years.

SEC. 4. REWARDS.

(a) IN GENERAL.—The Secretary shall pay to any person who furnishes information that leads to a conviction of a criminal violation of any provision of this Act (including regulations promulgated to carry out the provision) in an amount equal to half of fine paid by the person convicted of the criminal violation.

(b) EXCLUSION.—An officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of official duties is not eligible for payment under this section.

SEC. 5. ENFORCEMENT.

(a) IN GENERAL.—The provisions of this Act and any regulations issued pursuant to this Act shall be enforced by the Secretary. To the extent allowable by law, the Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(b) WARRANTS.—Any judge of a district court of the United States and any United States magistrates may, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued under this Act.

(c) SEARCHES.—To the extent allowable by law, any individual authorized to carry out the enforcement of this Act may—

(1) detain for inspection, search, and seize any package, crate, or other container, including its contents, and all accompanying documents;

(2) make arrests without a warrant for any violation of this Act; and

(3) execute and serve any arrest warrant, search warrant, or other warrant or criminal process issued by any judge or magistrate of any court of competent jurisdiction for enforcement of this Act.

(d) TREATMENT OF SEIZED ITEMS.—(1) Any item seized pursuant this Act shall, pending the disposition of criminal proceedings or the institution of an action in rem for forfeiture of the item under subsection (e), be held by any person authorized by the Secretary.

(2) The Secretary may, in lieu of holding the item described in paragraph (1), permit the owner or consignee to post a bond or other surety satisfactory to the Secretary. Upon forfeiture of the item to the United States, or the abandonment or waiver of any claim to the item, the item shall be disposed of (other than by sale to the general public) by the Secretary in such manner, consistent with the purposes of this Act, as the Secretary shall prescribe by regulation.

(e) ITEMS SUBJECT TO FORFEITURE.—Any article of fur or steel jaw leghold trap taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this Act or to any regulation made pursuant thereto, shall be subject to forfeiture to the Federal Government.

(f) ACTION BY ATTORNEY GENERAL.—The Attorney General of the United States may seek to enjoin any person who is alleged to be in violation of any provision of this Act or regulation issued under this Act.

SEC. 6. REGULATIONS.

The Secretary shall prescribe such regulations as the Secretary determines to be necessary to carry out the provisions of this Act.

SEC. 7. EFFECTIVE DATE.

The provisions of this Act shall become effective on the date that is 1 year after the date of the enactment of this Act.●

By Mr. DOLE (for himself, and Mr. SYMMS):

S. 1261. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax; to the Committee on Finance.

REPEAL OF LUXURY EXCISE TAX

Mr. DOLE. Mr. President, last fall, when Congress was putting together the biggest deficit reduction package in history, we heard a lot of talk about fairness. Some of my colleagues on the other side of the aisle thought a good way to inject fairness in the agreement was to slap a hefty tax on certain high-priced consumer goods, so-called luxuries—small planes, big cars, boats, jewelry, and coats. It sounded good. And it made politicians feel good. What could be better than taxing the fat cats? That's why many leading Democrats demanded the inclusion of a soak-the-rich tax in the final budget agreement.

Those who dreamed up the so-called luxury tax told us it would help rescue the middle class, and raise mountains of tax dollars from millionaires and billionaires. Well, guess what—8 months after the promises of this feel-good policy, the middle class has had all the rescuing and luxury taxes it can take. That is why today I am introducing legislation to repeal all of the luxury taxes.

What the luxury tax collectors didn't realize was that the Americans whose livelihood depends on these so-called luxuries are not the millionaires and the fat cats, but the blue-collar workers who make the boats, the planes, the coats, and sell the cars and jewelry. The last time I checked, those people were proud to be called middle-class Americans.

PINK SLIPS FOR WORKING AMERICA

Under the misguided Democrat luxury tax, the promised windfall of greenbacks has turned into pink slips, red ink, and a chilling effect on consumer demand.

Ask the airplane workers in Wichita, where new plane sales have nosedived in the Nation's air capital, and where one leading manufacturer, Beech Aircraft, reports a loss of up to $77 million in retail orders for new airplanes, according to its salesmen in the field.

Ask the 19,000 men and women in the boating industry who have lost their jobs in the name of fairness.

Ask your local car dealer, where sales of high-line autos have plummeted 45 percent in the first quarter, shutting down 50 car dealerships nationwide, and putting at least 1,200 salespersons out of work.

And ask small businesses in every State—your local jeweler and clothier—who have been picking up the tab for middle-class salvation.

No doubt about it, times have been tough enough for American small businesses without Congress tying another anchor around their necks. All of these industry disasters are a direct result of the Democrats' insistence on a so-called luxury tax: That does not sound like "fairness" to me.

FLUNKING THE TAX TEST?

If the impact on the American middle class has not been bad enough, industry estimates suggest that the luxury tax has not even done what it was supposed to do—raise a lot of money. I remember all the discussion in the budget summit, and we will raise a lot of money. It will come from the rich. Everybody else is going to benefit.

The sponsors of the luxury tax promised $1.5 billion in revenue during the next 5 years, $25 million in 1991 alone. Well, some of the first numbers are in, and the luxury tax collectors may be disappointed.

In the first quarter of this year, one major airplane manufacturer says its sales produced $16,000 in luxury taxes. According to the luxury taxers, the new tax on planes is supposed to raise $1 million this year.

At this rate, I am not sure the IRS is licking its chops over this tried-and-failed tax experiment. I guess some people never learn—it is easy to score some cheap political points with class warfare rhetoric; it's easy to buy-on to all the soak-the-rich hype. But what is not so easy now—8 months after all the promises and projections—is telling working men and women that they have lost their jobs because some politicians wanted to grab headlines with a phony fairness campaign.

In all fairness, let us retire the luxury tax, before it retires more middle-class American workers: sitting back and watching their jobs go to foreign competitors is a luxury American workers can do without.

Mr. President, I ask unanimous consent that the bill be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I yield the floor.

Mr. SYMMS. Mr. President, is the distinguished leader looking for cosponsors?

Mr. DOLE. We welcome cosponsors from both sides of the aisle.

Mr. SYMMS. I ask unanimous consent that I be added as a cosponsor. I would like to compliment the leader for offering this bill.

Mr. DOLE. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF LUXURY EXCISE TAX.

(a) IN GENERAL.—Chapter 31 of the Internal Revenue Code of 1986 (relating to retail excise taxes) is amended by striking subchapter A and by redesignating subchapters B and C as subchapters A and B, respectively.

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 4221(a) of the Internal Revenue Code of 1986 is amended by striking "subchapter A or C of chapter 31" and inserting "section 4051".

(2) Subsection (a) of section 4221 of such Code is amended by striking the last sentence.

(3) Subsection (c) of section 4221 of such Code is amended by striking "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)" and inserting "section 4053(a)(6)".

(4) Paragraph (1) of section 4221(d) of such Code is amended by striking "taxes imposed by subchapter A or C of chapter 31" and inserting "the tax imposed by section 4051".

(5) Subsection (d) of section 4222 of such Code is amended by striking "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)" and inserting "sections 4053(a)(6)".

(6) Section 4293 of such Code is amended by striking "subchapter A of chapter 31,".

(7) The table of subchapters for chapter 31 of such Code is amended to read as follows:

"SUBCHAPTER A. Special fuels.
"SUBCHAPTER B. Heavy trucks and trailers."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 11, 1991.

Mr. SYMMS. Mr. President, I said it here on the floor at the time this passed when I was in such opposition to it, regarding the mink industry in my State, that we are the fourth largest fur-producing State in the Union already under severe attack. This luxury tax has had a very negative impact on that industry, and it damages us greatly. The boat industry and airplane industry and automobiles and all of these hurt, as the leader says, middle-income working Americans who earn their living manufacturing boats, working on mink farms, and automobiles, and so forth. It is true, it is a tax that should be repealed. It should not have been passed in the first place. It is self-defeating.

I thank the leader for offering it.

Mr. DOLE. I thank my colleague, and ask unanimous consent that he be made a cosponsor.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, the Senator will be added as a cosponsor.

Mr. DOLE. Mr. President, I add one additional comment. It is my understanding that shortly after 4 o'clock—the market closes at 4 o'clock—the President will be announcing his decision to export credit guarantees to the Soviet Union, and until we have had that official word from the White House, I will not say anything further.

I do want to thank my colleagues in the Senate, including particularly the Presiding Officer, who was very helpful in getting the resolution passed in the Senate, which I believe gave the administration some guidelines they seriously needed on what made the Soviet Union creditworthy, and upon our insistence that we keep demanding freedom and independence for the Baltics and that there be a fair distribution of any grain that might be purchased with credit guarantees, fair distribution among the Soviet republics, and it should not go to the central government where it might be used to intimidate the different republics. I believe the announcement will be received and will be welcome news, and I think well deserved.

By Mr. DOLE (for himself, Mr. DOMENICI, Mr. LUGAR, Mr. PRESSLER, Mr. D'AMATO, and Mr. SIMPSON):

S. 1262. A bill to support democracy and free enterprise in central and eastern Europe; to the Committee on Foreign Relations.

SUPPORT FOR DEMOCRACY AND FREE ENTERPRISE IN CENTRAL AND WESTERN EUROPE

Mr. DOLE. Mr. President, all of us have witnessed and marveled at the explosion of democracy in Eastern Europe over the past couple of years.

I can still recall vividly a visit I made to Poland in the summer of 1989. I happened to arrive in Warsaw on the day the first freely elected government in Poland in a half-century took office. It was a remarkable experience—an atmosphere akin to what must have been the mood two centuries ago in Philadelphia, when our own fledgling National Government was formed.

Much has happened since those "heady days" in Warsaw. Democracy has taken a firm hold in Poland, in Hungary, and in Czechoslovakia. Germany has reunited as a democratic nation. And freedom has taken some important steps forward—and on occasion, a misstep or two backward—in the Soviet Union, and the other nations of Eastern Europe.

But two fundamental things have not changed. First, the struggle to consolidate democracy and free enterprise where they have taken root, and to nurture them where they still struggle to flower, remains very much a front-burner issue—not only for the nations involved, but for us and for the entire free world.

And, second, it continues to be in our own national interest to do everything we can to help the forces of democracy, and free enterprise, achieve their goals. A democratic Soviet Union and Eastern Europe, economically stabilized and invigorated by free market economies, will mean for us a vastly reduced military threat; a vastly expanded potential for diplomatic and political cooperation; and vastly greater markets for our investment and our trade. So it remains in our interest to provide assistance—not only moral support, but concrete material assistance—to the democratic and free enterprise governments and movements of the Soviet Union and Eastern Europe.

That is what gave rise last year to the bipartisan effort to pass a so-called SEED bill—"SEED" being the acronym for "Support for Eastern European Democracy".

And that is why, this year, there have been various groups working on a new SEED bill—commonly called SEED II—to update and expand the SEED program, to cover new nations and new problems.

I have convened a group of Senators that has been working for some weeks on a SEED II proposal. I know that the Foreign Relations Committee has been working on this legislation, too. At times, the two groups have worked independently, and at times have been in contact, to see if a consensus document could be achieved.

I am pleased that, as a result of these efforts, the two sides have dramatically narrowed the differences in the two drafts. The committee's draft, which at one time was more than 200 pages long, has been drastically pared back, and now very closely approximates both the substance and form of our draft. In fact, we're now not all that far apart.

I understand that the committee will be marking up its new draft this week, and I am hopeful that the differences between the two drafts could be eliminated, or at least narrowed, in that markup. If not, though, it may be that we will be offering floor amendments to take care of the few remaining areas where we think our draft continues to represent an improvement over the committee's draft—principally in the areas of setting criteria for eligibility, and encouraging the development of free market economies.

Again, I would underscore that the differences are not all that great, and I would hope they can be worked out one way or another. Surely, this is not a matter for partisanship.

In any event, I wanted the Senate to be aware of our draft, and of the evolution of events. To that end, I am introducing it now. Noting that the committee has already had it in substance for some time, it will now be formally referred to the committee, and hopefully taken into account as the markup proceeds.

The bill authorizes $400 million for SEED II programs—the level of the administration's request, and the level included in the committee draft, too.

The bill lays out criteria for eligibility that insures that our aid dollars will help foster real democratic and free market reform—and not be misused to prop-up failing regimes still dominated by Communists, or wasted in projects that don't really generate long-term development. This is one of those areas where I still believe the committee draft needs a little work.

The bill accepts the principle of my bill, S. 9., in authorizing aid for constituent republics of countries like the Soviet Union and Yugoslavia—where federal governments, and some republican governments, are still Communist dominated, but where some Republics have democratic governments that deserve our support.

The bill emphasizes support for free market economics—the only real engine of long-term development. Again, this is an area where we hope to amend the committee draft.

And the bill, while laying out policy guidelines and means for oversight, avoids the micro-management of programs that is really the responsibility of the executive branch.

Mr. President, let me conclude by reiterating the basic points. It is in our interest to help democracy and free enterprise in the Soviet Union and Eastern Europe. It is important that we do so prudently, with a clear eye on our national interest and our own budget problems. It is important that we proceed on a bipartisan basis.

I believe this legislation meets all those criteria, and I am proud to introduce it. I hope all Senators will give it their careful consideration, and that we will obtain a large number of cosponsors, from both sides of the aisle.

Mr. President, I send the bill to the desk and ask for its appropriate referral. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows.

S. 1262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. UNITED STATES POLICY REGARDING CENTRAL AND EASTERN EUROPE.

(a) IN GENERAL.—It is the policy of the United States to facilitate the reintegration of Central and East European countries into the community of democratic nations and to end the artificial division of Europe. United States programs can continue to make a substantial contribution to these objectives by building on earlier initiatives, including important ongoing initiatives that were established under the Support for East European Democracy (SEED) Act of 1989. In furtherance of these objectives, the United States should support economic and political reform in Central and East European countries, both through—

(1) the promotion of a United States commercial presence in those countries.

(2) the provision of assistance to governments and private individuals and entities in those countries, and

(3) the provision of assistance directly to democratic governments at the republic level that exist within countries which include a ruling communist majority in other republic governments and/or at the Federal level, as well as states that the United States government has never recognized as part of the Soviet Union.

(b) ASSISTANCE.—Pursuant to subsection (a)(1), the United States shall provide assistance for eligible Central and East European countries under the authorities of this Act only to the extent that such countries are taking steps toward—

(1) constitutional democracy and political pluralism, based on free and fair elections, an end to the monopoly of the communist party, and a multi-party political system.

(2) economic reform, based on significant progress toward a market-oriented economy, based on the concept of private property;

(3) respect for internationally recognized human rights, and the protection of fundamental civil liberties based on significant progress toward democratic and independent judicial institutions, and including those defined by the Commission on Security and Cooperation in Europe;

(4) a willingness to build a constructive and lasting relationship with the United States based on shared values and principles.

(c) DEFINITION OF "ELIGIBLE CENTRAL AND EAST EUROPEAN COUNTRY".—

(1) For purposes of this Act, the term "eligible Central and East European country" means—

(a) any Central and East European country if the President has determined that such country is taking the significant steps described in subsection (b), and so notifies the Congress.

(b) democratic governments at the republic level that exist within countries which include ruling communist majority in other republic governments and/or at the Federal level as well as states which the United States government has never recognized as part of the Soviet Union.

(c) any Central or East European country not eligible under law may receive urgent humanitarian assistance if the President so notifies the Congress.

SEC. 102. BASIC OBJECTIVES OF ASSISTANCE.

(a) BASIC OBJECTIVES.—In furtherance of the policy contained in section 1 of this Act; assistance programs authorized by this Act should have as their purposes the enhancement of the ability of the countries of Central and Eastern Europe to address the following interrelated and mutually reinforcing objectives.

(1) PROMOTION OF DEMOCRACY.—Fostering political pluralism, the development of open and independent media, and the establishment of an open, accessible, fair, and predictable rule of law that guarantees individual liberty, equal justice, respect for private property, and that establishes and protects the functioning of democratic and free market systems.

(2) ENCOURAGEMENT OF FREE MARKET SYSTEMS.—Fostering economic growth through market-oriented economies, free enterprise, and private property principles.

(b) TYPES OF ASSISTANCE.—In pursuing the above objectives the President is authorized to undertake actions such as—

(A) the provision of technical assistance to ensure open and free elections;

(B) strengthening newly established democratic institutions and the skills of governing such as democratically elected legislatures and local governments, independent judiciaries, and unions; and enhancing the effectiveness and impartiality of the administration of justice and law enforcement, and supporting the principle of civilian control over military and paramilitary forces;

(C) strengthening nongovernmental organizations such as professional associations, indigenous private voluntary organizations, and independent institutions and foundations;

(D) promoting cultural and educational exchanges;

(E) promotiong the establishment of open and independent media; and

(F) support for participation in multilateral institutions and in stabilization and structural adjustment programs, and for debt relief, to the extent that they contribute to the principles in section 101(b)(1–4);

(G) provision of most-favored-nation status and benefits under the Generalized System of Preferences consistent with existing legislation;

(H) encouragement of trade, investment, and economic agreements;

(I) mobilization of capital for private sector investment through such vehicles as enterprise funds, guarantees, financial and capital market development;

(J) provision of technical assistance, technical training and scholarships in relevant areas such as sanitation, management, banking, economics, accounting, agribusiness, law, and privatization;

(K) provision of food assistance under the Agricultural Trade Development and Assistance Act of 1954 and other food assistance programs, consistent with the need to avoid disincentives domestic production and marketing'

(L) provision of technical assistance for the implementation of labor market reforms and to facilitate adjustment during economic transition and reform;

(M) encouragement and support of small- and medium-sized United States firm activities in eligible Central and East European Countries and democratic republics, and encouragement of the entry of United States firms into the market to stimulate increased bilateral trade and investment in ways that encourage the growth of the private sector; and

(N) promotion of sound environmental policies and practices that address the problems of environmental pollution.

(b) EXTRAORDINARY NATURE OF ASSISTANCE.—The Congress recognizes that—

(1) change is occurring quickly but unevenly in the countries of Central and East Europe, and it has not been possible, and will not be possible, to anticipate with certainty how United States assistance would best serve to facilitate the political and economic democratization processes in Central and Eastern Europe:

(2) the pace of events in Central and East Europe requires that the President have the ability to provide United States assistance and resources expeditiously if the United States is to be able to influence events as they occur;

(3) the ability of the United States to participate effectively in the rebuilding of Central and East Europe will be directly related to how well United States assistance efforts are coordinated and integrated with the similar activities of friendly and allied donor countries, and international financial institutions; and

(4) the success of United States efforts to encourage political, economic, and social change depends in large measure on providing the President with the authority to use the resources available to him in those countries of Central and Eastern Europe, and for activities in those countries, which will most effectively promote the objectives of the Act and the support for East European Democracy (SEED) Act of 1989.

SEC. 103. ASSISTANCE ACTIVITIES.

(a) AUTHORITY.—In order to carry out section to foster the transition of the countries of Central and Eastern Europe to a system of free market economies and to political democratization, the President is authorized to furnish assistance notwithstanding any other provision of law for eligible East European countries. Such assistance may include any of the SEED Actions contained in section 2(c) of the Support for East European Democracy (SEED) Act of 1989.

(b) APPLICABILITY OF SEED ACT TO ELIGIBLE CENTRAL AND EAST EUROPEAN COUNTRIES.—

(1) Subject to section 101 of this Act, any authority in the Support for East European Democracy Act of 1989 to provide assistance for, or take other action with respect to, Poland or Hungary may be deemed to be an authority to provide similar assistance for, or take similar action with respect to, any eligible Central and East European country.

(2) In addition, upon enactment of this Act, the President is authorized to use any funds made available for Assistance for Eastern Europe under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, to provide balance of payments support with respect to any eligible Central or East European country.

(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing assistance authorized by this chapter, there are authorized to be appropriated to the President $400,000,000, for fiscal year 1992. Amounts authorized to be appropriated by this subsection are authorized to remain available until expended.

SEC. 104. ENTERPRISE FUNDS.

(a) AUTHORITY.—The President may provide funds and support to Enterprise Funds designated in accordance with subsection (d) that are established for the purposes of promoting—

(1) development of the private sectors of eligible East European countries, including small businesses, the agricultural sector, and joint ventures with United States and host country participants; and

(2) policies and practices conducive to private sector development in eligible East European countries; on the same basis as funds and support may be provided with respect to Enterprise Funds for Poland and Hungary under the Support for East European Democracy (SEED) Act of 1989.

(b) TREATMENT EQUIVALENT TO ENTERPRISE FUNDS FOR POLAND AND HUNGARY.—Except as otherwise specifically provided in this section, each of the authorities and limitations applicable to the Enterprise Funds for Poland and Hungary pursuant to the Support for East European Democracy (SEED) Act of 1989 shall apply to any Enterprise Funds that receive funds and support under this section. The officers, members or employees of an Enterprise Fund that receives funds and support under this section shall enjoy the same status under law that is applicable to officers, members, or employees of the Enterprise Funds for Poland and Hungary under the Support for East European Democracy (SEED) Act of 1989, including without limitation the status that they have pursuant to section 201(d)(5) of that Act.

(c) REPORTING REQUIREMENT.—Notwithstanding any other provision of this section or section 201 of the Support for East European Democracy Act of 1989, the requirement that an Enterprise Fund that receives funds and support under this section shall be required to publish an annual report not later than January 31 each year shall not apply with respect to an Enterprise Fund that receives funds and support under this section for the first twelve months after it is designated as eligible to receive such funds and support.

(d) COUNTRIES ELIGIBLE FOR ENTERPRISE FUND.—The President is authorized to designate a private nonprofit organization as eligible to receive funds and support pursuant to this section with respect to any country in Central and East Europe in the same manner and with the same limitations as set forth in section 201(d) of the Support for East European Democracy Act of 1989.

(e) FUNDING.—Funds authorized to be appropriated under section 713 of this chapter may be made available to Enterprise Funds designated by the President under subsection (d) and used for the purposes of this section notwithstanding any other provision of law.

SEC. 105. PROGRAM ADMINISTRATION.

(a) AUTHORITY OF UNITED STATES GOVERNMENT AGENCIES.—United States Government agencies which are authorized to provide assistance or conduct programs for Poland or Hungary under the provision of the Support for East European Democracy (SEED) Act of 1989 are hereby authorized, notwithstanding any other provision of law, to provide such assistance or conduct such programs as the President may determine for eligible Central and East European countries. Any administrative authorities provided by the SEED Act available to any such agency to assist it to carry out programs for Poland or Hungary shall be applicable for programs, as designated by the President, for other eligible Central and East European countries.

(b) PRIVATE SECTOR DEVELOPMENT.—The President may authorize such agency or agencies as he may designate to develop and implement in consultation with representatives of business organizations in the United States, programs for management and technical assistance to governments and private enterprises in Central and East European countries.

(c) PERSONAL SERVICES.—Appropriations to carry out the provisions of this chapter may be made available for contracting with individuals for personal services abroad or in the United States; provided that such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

(d) RELATIONSHIP TO THE FOREIGN ASSISTANCE ACT OF 1961.—Except to the extent inconsistent with this chapter, assistance under this chapter shall be considered to be economic assistance under Title I of the Foreign Assistance Act of 1961 for purposes of making available the authorities contained in that or other Acts (including the authority of the President under section 5201 of the Foreign Assistance Act of 1961 to allocate or transfer to any agency any part of those funds).

Mr. PRESSLER. Mr. President, the administration recently sent its Support for East European Democracy [SEED II] proposal to the Senate, outlining its request for East European democracy assistance for fiscal years 1991 and 1992. I commend Senator BIDEN for his leadership in developing a comprehensive East European assistance package. And today, Senator DOLE, myself, Senators LUGAR, DOMENICI, ROTH, D'AMATO, and SIMPSON are introducing a Republican Senators' version.

Our Republican version differs from the other approaches in two significant ways. First, our approach stresses the importance of U.S. private sector involvement in Eastern and Central European economies. It also stresses the need for stricter eligibility criteria for assistance—including meaningful and significant steps towards a market-oriented economy, based on the concept of private property.

Mr. President, the administration proposal contains a list of specific countries to receive aid, including Poland, Hungary, Czechoslovakia, Bulgaria, Romania, and Yugoslavia. Rather than setting forth strong eligibility criteria for assistance, the administration proposal names specific countries it feels have met its criteria. I question that approach.

While Poland, Hungary, and Czechoslovakia are clearly on the road to democracy, freedom, and free markets—Yugoslavia clearly is not. In Croatia, the Communist Federal Army has intervened militarily with the excuse of mediating ethnic disputes between Serbians and Croatians. The army's presence has escalated any tensions that may have existed and is sadly reminiscent of the same tactics used against the democratic movement in Kosovo over the last few years.

Serbians themselves are the victims of communism's war against democracy. The institution of democracy in Yugoslavia will protect the human rights of all citizens, including minorities. Yet, the Serbians Communists who dominate Yugoslavia's economy and run the military refuse to follow the lead of Slovenia and Croatia, republics which have voted in free elections for their leaders and for sovereignty. The Communists should not be rewarded with foreign assistance.

Second, our version incorporates the main features of Senator DOLE'S bill, S. 9, of which I am a cosponsor. This bill would permit the channeling of United States foreign assistance to the truly democratic governments at the republican level in the Soviet Union, in Yugoslavia and the Baltic States.

Mr. President, may I state I recently met with the Prime Minister Ivan Silayev of the Russian Republic, the largest Soviet republic. He and the Russian foreign minister are prepared to negotiate directly with the United States Government and United States businesses. I think we should deal more directly and more often with the individual republican leaders in the Soviet Union and the Baltic States. We need to get away from the practice of dealing solely with the central Communist bureaucracy. By dealing with the republican leaders limited U.S. assistance will be spent more wisely. These leaders want to implement a free-market system and initiate trade with companies in the United States. They deserve our support.

This approach will reward only those republics that have held open and fair elections and have taken significant steps towards a free market and democracy. Just a glance at a map proves that Hungary and Poland will not be secure until all of Europe is free—including Moldavia, and the Albanians, Croatians, and Serbians of Yugoslavia.

Mr. President, nations from Slovenia to Armenia need our support to achieve their goals of freedom and self-determination as they face occupying military forces and economic upheaval.

Over the last few weeks, Soviet military troops have attacked dozens of Lithuanian and Latvian customs posts—setting them on fire, beating customs officials, and murdering at least two. Last week, Soviet tanks surrounded the Lithuanian Parliament and various points in the Lithuanian Parliament and various points in the Lithuanian capital. On the same day, the Soviet prosecutor's office issued a report clearing the military of killing civilians on January 13, 1991. Such disturbing events suggest that the Soviets have never abandoned the use of force to prevent the Baltic States from achieving their independence.

Mr. President, may I say that the report issued by the Soviet prosecutor, is clearly an attempt to white wash the central role played by the Soviet military in the murder of innocent Lithuanians that evening in January. It is an action that the world should protest.

Mr. President, I ask unanimous consent that a summary of the report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, almost 2 years have passed since the people of Poland, Hungary, and Czechoslovakia brough communism to its knees. Communist leaders were forced to resign one by one to make way for democracy and the free market. Yet, it has taken far longer for the newly freed nations of Europe to rid themselves of communism's legacy—including a disastrous economy, a nearly nonexistent private sector, and a backward industrial and agricultural base. Communism's moral bankruptcy has left a legacy of inertia and low work initiative that is largely misunderstood by Western foreign aid enthusiasts.

I believe it is time for some basic changes in our foreign aid policy. Foreign assistance should encourage the growth of the free enterprise system in the nations we have targeted for assistance. To achieve this goal, assistance benefits must get to the small businesses where creative and entrepreneurial actions are taken.

In the early 1960's we saw a lot of foreign aid go to the developing countries, in Africa, most often directly benefiting the centralized state system. The United States did not require these African nations to dismantle the institutions of state planning before the aid was granted. As a result, nearly all of these nations have failed to improve their standard of living. These nations would have benefited greatly from U.S. encouragement of free enterprise.

The same thing is true of Eastern Europe and the Soviet Union. All aid must be designed to help the reformers dismantle the state system and other obstacles to a free enterprise economy.

In addition, the legal system in which entrepreneurs and democrats must work is entirely inadequate. The daunting job of rewriting the legal framework requires the assistance of lawyers educated in Western principles of the rule of law. Despite these difficulties, the determination of the peoples of Eastern and Central Europe runs high. In time, they will achieve their goals.

The United States can help these brave people achieve their goals through education. For example, in my home State of South Dakota, Northern State University in Aberdeen has established a strong relationship with Warsaw University, one of the oldest universities in Europe. Beginning this fall, the first student and professors of Northern State University will trade places with their counterparts in Warsaw. Polish students, the lifeblood of the Solidarity movement, are full of enthusiasm in their quest to learn modern business practices. Situated in Poland's capital, American students can experience firsthand Poland's rich history. They will witness the rebirth of a capitalist economy.

This program is in large part due to the work of Dr. William Wallisch, vice president for university, government, and international relations at Northern State University, Dr. Wallisch made his first trip to Poland in 1990. Just 1 year later, the two universities have held a joint business conference designed to promote investment and trade opportunities in Eastern Europe. I applaud their success. It is my hope that more universities in South Dakota, and elsewhere, will follow the lead of Northern State University.

Mr. President, we must invest our assistance wisely and efficiently. Within the next few weeks, the Senate will have the opportunity to debate our next round of assistance to Eastern Europe. The Republican bill offers a sound approach. According to the General Accounting Office, in 1989 the United States authorized and appropriated $430 million for fiscal year 1990 assistance to Eastern Europe; $720 million was appropriated for fiscal years 1990 and 1991. Now the administration is asking for $400 million for this purpose in fiscal year 1992, as well as $70 million for the European Bank for Reconstruction and Development and $85 million in food assistance.

The United States took the first step in 1989 with the adoption of the Support for East European Democracy Act [SEED I]. The cornerstone of the United States assistance package was the creation of Enterprise Funds for Poland and Hungary. Although the Polish and Hungarian Enterprise Funds have just completed their first year, enough progress has been made to suggest a promising future for this approach.

The Polish Enterprise Fund has stimulated the Polish private sector in several important ways. Its strategy is to make investments in and loans to commericially viable business and to provide technical assistance and training in connection with these projects. No funds will be disbursed for proposals that do not offer the propsect of financial return.

Through the Enterprise Credit Corporation, the Enterprise Fund has given Polish small entrepreneurs a chance to borrow capital at modest rates and on an unbiased basis. With investment capital of $13 million, the corporation finances commerical loans of up to $20,000 with the corporation of private Polish banks.

Mr. President, I think this is very important because these are basically small businesses loans—$20,000 and below. The United States should be able to identify with, and assist the small businessman, the developing farmer, and the entrepreneur in these countries.

There was a time when our foreign aid had a megastructure approach. We would go into a country and help build a large airport or help build a large industrial plant. Perhaps these activities are important in some cases but they should not be undertaken by the U.S. Government. The fact of the matter is, in this age of budgetary restraint, of tight budgets, of a high deficit, we have to realize that our American people want to take care of problems here at home first. We must spend every penny abroad sparingly and in a fashion that will reap rewards for those nations and for the American people.

The corporation has begun to receive a flow of loan repayments from these small businessmen, giving still more small entrepreneurs the opportunity to invest in Poland's economy. In time, the Enterprise Fund should be self-supporting and self-financed.

The Hungarian Enterprise Fund, a private, not-for-profit United States corporation, also is completing its first year of operation. It has also funded small businesses in Hungary in industries where Hungary appears to have a comparative advantage. The fund's notable goals include:

The privatization of state-owned enterprises;

Encouraging the growth of private enterprises, including small businesses, whose managers share in ownership and conduct their business to enhance profits and capital investment in a competitive environment and contribute to the progress of the Hungarian economy;

Developing the business infrastructure of Hungary;

Expanding and broadening Hungary's capital markets;

Strengthening and diversifying Hungary's economy; and

Broadening the understanding of private enterprise among managers and the Hungarian public.

In order to achieve these goals, the fund offers equity investments, loans, grants, feasibility studies, technical assistance, training, insurance, guarantees, and other measures. Most importantly, the fund seeks additional capital from the private sector. The fund finances only those small businesses, agricultural projects, and joint ventures between the United States and Hungary that offer the fund the prospect of a financial return. I am pleased with the early success of these projects. I support the President's request for additional authorization, under the support for Eastern Europe II legislation, for the Polish and Hungarian Enterprise Funds. I commend these funds for their specific attentions to the needs of small businesses. Small businesses are the engine that will power the economic transformation of these countries from state-owned to privately owned enterprises.

Mr. President, although the United States is the No. 1 foreign investor in Hungary, our strength there is due mainly to investment by large businesses, such as General Electric. With a few exceptions, U.S. small businesses have not been able to make much headway in the East and central European market. U.S. small businesses have found it almost impossible to get a loan in amounts varying from $5,000 to $20,000. Interest payments that small businesses are required to pay for these small loans are prohibitively high. And herein lies our greatest problem.

We are a nation of small businessmen and we are a nation where most of our employment comes from small business. The People of Eastern and central Europe need and want the advice and expertise of American small businessmen. The fact that American small businesses are having a hard time moving into these markets is a shame. The people of these nations look to the United States as the standard for individualism and entrepreneurship—and the symbol of American entrepreneurship is the small businessman. Let us devote more of our attention to helping U.S. small businesses enter the new markets of Eastern and central Europe.

Private U.S. foundations were among the first to offer assistance to Eastern Europe. The work of these foundations complements governmental assistance. The principal foundations include the following: the Ford Foundation, Pew Charitable Trust, the Soros Foundation, the Rockefeller Brothers, the Mellon Foundation, and the Carnegie Endowment. For example, the Ford Foundation has spent $3 million this past year on grants for political, legal, and economic reform as well as environmental improvement projects in Eastern Europe. The Ford Foundation has provided important practical training for these nations. It has been involved in activities ranging from parliamentary training to bringing clean water to Poland.

Mr. President, since our goal is to strengthen the private sector, then let us tap the minds of entrepreneurs in these nations and our own experts here at home. Let us ask them to identify what forms of support are needed in Eastern Europe. For these reasons, I have asked for a Senate Foreign Relations Committee hearing with witnesses from small- and medium-sized American businesses that have ventured into Eastern Europe. I suspect that these businessmen will encourage a linking of our assistance to systemic reforms. I also hope to hear from private institutes which have monitored Western assistance efforts to Eastern Europe.

In several months, the Institute for East-West Security Studies will issue the conclusions of its Task Force on Western Assistance. This past weekend, the president of the institute, Mr. John Mroz, held an international conference on Western Assistance to East-Central Europe in Prague. The conference allowed serious debate as to whether the assistance, both financial and material, that has poured into the region over the past 18 months is sufficient and properly allocated.

The Task Force on Western Assistance will seek to respond to the following questions: Have need in the region changed enough over the past 18 months to make some assistance programs obsolete? Could greater cooperation between the West and the East lead to more effective results on the ground, especially when dealing with the most intractable problem areas—such as infrastructure, the environment, and health care? How can the special advantages of Western private sector spending be emphasized?

In its preliminary findings, the task force has reported, for example, that our assistance is not getting to the small cities of the region, while large cities are inundated with programs.

This is the same old story. We tend to prefer the big cities and, the big businesses and our aid does not get out in the countryside or the small rural areas. It was the same way, I might say, when I served as a second lieutenant in the Army in Vietnam on a CORDS Program which is a combination military and aid program designed to get materials, supplies and seed out to the small villages. At first, our effort was so concentrated in the big cities and with mega projects that the Vietcong were able to persuade the country folk and small town folk that the United States was not on their side. Through its actions, the CORDS Program proved to the Vietnamese that was not the case. The United States did want to help them. I fear that our assistance may once again ignore the people in small towns—this time in Eastern Europe.

We should bear in mind the preliminary conclusions of this nongovernmental institute. I look forward to hearing the final conclusions from its conference in Prague.

Mr. President, the United States is not the only government to institute assistance programs for Eastern Europe. In order to minimize a duplication of efforts, the United States, along with the other member states of the Group of 24 agreed to coordinate their assistance efforts through the Phare Program. The Phare Program is chaired by the Secretariat of the European Community, situated in Brussels. The Phare operation originally coordinated assistance to Poland and Hungary but has since expanded its operation to include other nations of Eastern and central Europe that have been recipients of international assistance.

The Group 24 meets at both the summit and working group levels throughout the year. The Phare Program issues a scorecard totaling all contributions, but such a numerical scorecard has a tendency to be misleading. While the United States includes only grants in its assistance package, nations such as Japan include loans and debt forgiveness to the total—in effect overinflating the value of their contribution.

Although soon to be the number one foreign investor in Western Europe, the Japanese have not been very forthcoming in their assistance to Eastern Europe.

Japan's initial fiscal year 1991 foreign aid budget included only $31.9 million for Eastern Europe. Past contributions since 1989 have been equally meager from Japan. For the most part, the Japanese have concentrated their efforts on loans rather than grants for these nations—leaving the risk that these nations will incur new debts that will be too high to bear. Japanese commodity loans and Export-Import Bank loans total just over $1 billion for Poland and Hungary.

In comparison, the United States has committed about $1.5 billion in grants and other assistance to central and Eastern Europe since 1989. While the United States has forgiven 70 percent of Poland's external debt, increasing our total commitment through fiscal year 1991 to about $2 billion, the Japanese have increased Poland's and Hungary's debt exposure.

Let me say, frequently Japanese technical assistance includes buying Japanese products which will have to be serviced by Japanese technicians in the future. In effect, tying these nations to the Japanese economy. The Japanese do business through their aid.

Japanese technical assistance has totaled just $25 million over a 5-year period.

Future assistance plans include the same amount for Czechoslovakia, Yugoslavia, and Bulgaria. The strong Japanese economy and Japan's technological strength demonstrate that it certainly could shoulder a greater contribution.

Although the Japanese will contribute an 8.5 percent share to the European Bank for Reconstruction and Development, equal to the United States share, the total monetary amount given by Japan suggests a Japanese reluctance to do as much as they could to invest in Central and Eastern Europe's future.

The Japanese have also been hesitant to invest in these nascent free markets, apparently considering them too politically unstable and geographically too distant. Investment loans for Japanese companies total only $350 million over 2 years in Poland and $400 million in Hungary.

Clearly, the Japanese do not want to invest their money in economies that are still in a transition stage from planned economy to market economy. The Japanese have instead concentrated their efforts on the West European market—raising concerns in Europe that their consumer electronics, auto, steel, and machine-tool industries will soon be bought out or merged with Japanese companies. While the West is attentive to the East, the Japanese seem to prefer to spend their energies on increasing their share of Western markets.

Mr. President, I request that a recent article from Business Week magazine on Japanese investment in Western Europe be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. Mr. President, I fear that the American taxpayer, as well as the people of Eastern and Central Europe, will be shortchanged unless we learn from our previous assistance programs. We can make appropriate changes in future aid programs. The time has come for the United States to play a more visible and effective role in the establishment of democracy and private property rights in the former Soviet empire.

Mr. President, let me conclude by saying that we are in a situation where we are struggling to help Eastern Europe; we want to help the democratic republics of the Soviet Union and the Baltic States, yet, the traditional United States foreign assistance approach has not worked in Africa and Latin America and it will not work in Eastern and Central Europe. Our economic recession here at home, and our budgetary problems, prevent us from doing something like the Marshall plan for Eastern and Central Europe on our own. We must put more pressure on Japan and Europe to help out with real aid, and with the technical and educational training that will keep the engine of free enterprise running in those countries.

The transition from a plan economy to the free market in the newly freed nations of Europe poses a different kind of a challenge. As a result, we should have a different type of an aid bill. I believe that the Republican version of Support for East European Democracy [SEED II] offers just the approach the people of Central and Eastern Europe deserve.

Mr. President, I yield the floor.

EXHIBIT 1

USSR SUPREME SOVIET HEARS RESULTS ON JAN VILNIUS EVENTS

(By Vladimir Isachenko)

MOSCOW, June 3 (TASS).—The USSR procuracy did not find proof that the people who died during the January events in Vilnius during the seizure of the television center by troops were killed by soldiers.

In a note on the preliminary results of the investigation distributed today to deputies of the USSR supreme soviet, USSR Procurator General Nikolay Trubin puts into "serious doubt" the objectiveness of the information produced by the Lithuanian procuracy on the circumstances of the deaths and injuries of the victims.

According to the report of the Lithuanian procuracy, on the night of 12–13 January, KGB Lieutenant Viktor Shatskikh and 13 civilians died near the television center in Vilnius as a result of actions by the troops (nine of them as a result of shots aimed at them or from stray bullets, and four by being run over by tanks), (Tass paparentheses), while another 18 people received gunshot wounds and more than 550 had bodily injuries.

The USSR General Procurator notes that in spite of the obstruction of the investigation by the Lithuanian procuracy, investigators of the union procuracy found information showing that the casualties were caused not by shots from troops and by being run over by tanks, but by shots from Lithuanian fighters (Boyevik) gathered around the television center, by being run over by cars, and by other causes. This is indicated by eyewitness accounts and data from the expert forensic report, according to Nikolay Trubin.

The USSR General Procurator stresses that the tragic events were provoked by the anticonstitutional activity of the leadership of the Lithuanian Republic," as a result of which "by 13 January the danger of open confrontation and clashes between opposing groups of the population had arisen in Vilnius."

The note observes that in the conditions that had arisen, the command of the internal troops of the USSR Ministry of Internal Affairs and the Vilnius garrison fulfilled the request of the Committee of National Salvation of Lithuania to give help to the volunteer workers' detachments to establish control over the republican television center. The military subunits were permitted to use live fire only at the command of officers should there be an attack using firearms. In order to get through the obstructions around the television center, one group was given four tanks and another three tanks, equipped with blank cartridges, which are only allowed to be fired into the air. The USSR Procurator General says that during the seizure of the television center, "the militants attacked soldiers with knives, truncheons, and metal prods, . . . while there was intensive automatic weapon fire from the crowd surrounding the building and from the roofs of nearby houses." In retaliation, the servicemen used butts of their automatic rifles to defend themselves, "firing, as a warning, blanks and an odd cartridge into the air."

The note says that judging by the expert medical and forensic report, six of those who died were killed by bullets fired from above and into the back, in other words, "not by servicemen, who faced them in direct confrontation, but by the fighters who fired shots at the servicemen from the building of the television center and from the roofs of the adjacent buildings." No traces of shots have been detected in the facade of the television center. That means that those who perished could not have been killed by bullets on the rebound, the document says.

EXHIBIT 2

THE BATTLE FOR EUROPE: JAPAN MUSCLES IN ON THE WEST—AND A SHAKEOUT BEGINS

France's new Prime Minister has a single big item at the top of her agenda, and she's not shy about discussing it. Leaning back in her Paris office, Edith Cresson gathers herself for a forceful thrust. "The Japanese have a strategy of world conquest," she says. "They have finished their job in the U.S. Now they're about to devour Europe."

With such tough talk, Cresson is voicing a growing anxiety across Europe. Industrialists and politicians of every stripe see the Japanese coming their way, and many are worried. Hardly a week passes without an announcement of a major Japanese deal. Fujitsu last November snapped up ICL, Britain's last full-fledged computer maker. NEC is negotiating to buy a small stake in Groupe Bull, the tarnished symbol of France's ambitions in computers. And Mitsubishi Motors Corp. has struck a deal to team up with Volvo in Holland.

From metal fasteners to memory chips, the Japanese are suddenly everywhere. Europe's fearsome fortress is beginning to look like Swiss cheese. Japanese investors are pouring in their dollars and yen, totaling $54 billion as of April, leaping over Europe's hurdles, and establishing manufacturing footholds from Manchester to Milan. For Europeans smug in the belief they could avoid making "American mistakes" in dealing with Japan, it's a big shock. Europe is looking a lot more like America in the early 1980s, when U.S. consumer-electronics, auto, steel, and machine-tool industries were hit hard.

Reddest Carpet: Cresson could galvanize Europeans who fear Japan's challenge. "We cannot close our eyes to the Japanese as the Americans did," she says. Europe's concerns are the underlying reason for the official trip to Tokyo on May 22 to May 25 by European Commission President Jacques Delors. Before his arrival, the news hit that Europe's trade deficit with Japan soared 63% in the first quarter, to $9.9 billion, and in April topped the U.S. deficit with Japan. To ease the pain, Japanese officials rolled out their reddest carpet: Delors and his wife lunched with the Emperor and Empress, a privilege usually reserved for heads of state.

Delors' high-level treatment shows just how much is at stake in the world's largest market. Western Europeans are already the biggest buyers of cars and consumer electronics. Soon Europe will be the No. 1 outlet for computers and other key products as well. With boundaries being wiped from the map as 12 nations prepare for a vast single market by the end of next year, the Old World is about to become an even juicier plum.

A steadily growing giant whose native companies often lack global fighting power, the new Europe is a tempting market for Japanese and American companies. And as the world's last such industrial market up for grabs, Europe is likely to become the fulcrum of the world's economic power balance for the new century. It's a booming base from which multinationals will consolidate the financial strength and the economies of scale essential to compete around the world. As a result, a three-way fight is now shaping up among Americans, Japanese, and the Europeans themselves to determine who will reap the benefits.

For American companies, many battered by the Japanese at home, the fight for Europe may be a final, winner-take-all showdown against the Japanese. That comes as a nasty jolt: Since the 1950s, Europe has been the bastion of American industrial might abroad and in recent years has become a cozy haven for profits for many American blue chips. IBM, Ford, and GM have been raking in more money in Europe than in the U.S.

Now, the easy life is over, "Europe has put together a fantastic market, and now look who's marching through the door," mutters Mark R. McCabe, chief executive of General Motors Corp's European components operation. For industry after industry, including semiconductors, "whoever wins in Europe will win the war," predicts Marco Landi, European marketing vice-president of Texas Instruments Inc.

American companies are rushing to get in shape for this last-stand fight. They're scrambling to cut costs, tie down customers, and build alliances. Some U.S. companies should emerge stronger. They include GM and American Telephone & Telegraph Co., which is managing to build new ties with Europe's phone-equipment buyers and break old national monopolies. But IBM, Ford, Caterpillar, Eastman Kodak, Xerox, Goodyear, and other American icons are likely to feel pressure on profits and market share.

For protected Europeans facing the Japanese for the first time, the shock will be greater. Some of Europe's six big automobile makers—possibly Fiat or Renault—will almost certainly be forced into mergers. As for computers, chips, and consumer electronics, the chances appear strong that many Europeans will be squeezed out of the market entirely.

So far, Japan's presence is still far greater in the U.S. than in Europe, and conversely, American direct investment in Europe is greater than Japan's, at $150 billion by 1989. But in response to the threat of Fortress Europe, the Japanese have accelerated the pace at which they sink their roots into the continent. "In the first part of the 1980s, we concentrated our major resources on North America," says Seigo Nishino, chairman of Mitsubishi Electric Europe. "Now we have started to look at Europe." Indeed, Mitsubishi Electric, after buying British computer maker Apricot last year, is hiking its investment in Europe by as much as 30% a year.

The Europeans have been trying hard to fight back—with quotas on autos, with dumping charges on VCRs, and with large, government-funded research grants aimed at bolstering European high-tech industries.

Good citizens. "Such attempts have simply spurred the Japanese to find new avenues. They have systematically forged strategic alliances with companies short of cash and hungry for technology. When local production was required, they launched investments in plants, sometimes from scratch. And most recently they have been buying big chunks in companies outright, from clothing makers such as Laura Ashley and Hugo Boss to Germany's construction-gear maker Hanomag. They have also worked at becoming good "corporate citizens," funding soccer teams, university chairs, and museums and art galleries across Europe.

Add it all up, throw in a recession and high unemployment, and suddenly there's a danger that some critical European industries will be hollowed out. ICL turned over key mainframe computer manufacturing to Fujitsu in the early 1980's, leading to its takeover last year. Similar gears may be grinding at other European corporations. Olivetti depends on Canon and Sanyo for office equipment, Fiat on Hitachi for construction gear, and Bull on NEC for mainframes. While some industry executives argue that such alliances are keeping the Europeans afloat in critical technologies, in Prime Minister Cresson's view, it all spells trouble. The Japanese aim is to "dominate" key industries, she says.

Japan's strong presence is putting a heavy damper on the Europhoria of 1992. Suddenly, the policy decisions that swirl around 1992 are about Japan and not much else. France's Cresson is readying proposals for EC industrial aid and other Japan-fighting moves. But Britain—where the Japanese have put 40 percent of their EC investments—will oppose the French. German officials, confident about their staying power vs. Japanese rivals, are against protectionist measures. France's protestations merely prove that "the weakest always cry the loudest," says Jürgen Böhle, head of Asian-Pacific relations at the Federation of German Industry. All these national divisions are threatening to stall the 1992 marriage.

The lure of Japanese investment has deepened this European schizophrenia toward Japan. Just as in the U.S., where Washington is often at odds with U.S. states over Japanese investment, Brussels tries to craft an EC-wide response to Japan in the face of national rivalries. Individual governments trip over each other to woo Japanese investors, promising juicy tax subsidies and outright grants.

Last December, for example, the EC granted Mitsubishi Electric Corp. an $8 million subsidy to build a $350 million DRAM memory-chip plant near Aachen, Germany, at the request of Aachen City Hal, which needed jobs in that depressed coal region. Never mind that the Japanese giant had been previously accused of dumping memory chips in Europe or that Japan already has 70% of the market for the chips the Aachen plant will produce.

American Connections: As gridlock threatens a common policy response, some Europeans, including Prime Minister Cresson, are preaching alliances with American companies to resist Japan. Throwing off postwar rivalries, they are eager to team up with U.S.

companies, with which they feel most comfortable culturally. "The Americans integrate, they're like European companies," says Wisse Dekker, chairman of the supervisory board of Dutch giant Philips Electronics. "But the Japanese desire is to dominate."

The Americans, too, are trying to deepen their European corporate hookups. IBM, for example, is scared that Japanese rivals will buy weak European electronics companies as a springboard into the market. So Big Blue is building a defensive network of partnerships to keep the Europeans independent. Last year it launched joint chip research with Germany's Siemens, a big switch for the normally solitary U.S. giant. "We want to cooperate with Europeans any way we can," says David E. McKinney, chairman of IBM Europe. Likewise, Texas Instruments Inc. is hoping to use such alliances to lock up a piece of the European chip market.

America's good-guy image helped Digital Equipment Corp. snatch a German acquistion from Fujitsu a few months ago. DEC's $200 million bid for computer maker Mannesmann Kienzle was below Fujitsu's, but the German company feared it would disappear under a Japanese owner.

But European and American companies alike have extensive webs of relationships with Japanese partners. As Toshiba Corp. expands its chip operations in Europe, there's a good chance its partner will be none other than Motorola Inc. Over the next five years, IBM laptops sold in Europe will almost certainly be fitted with color liquid-crystal screens supplied from IBM's own manufacturing joint venture with Toshiba in Japan. It's hard to see American-European alliances accomplishing what the Eurocrats in Brussels cannot.

Less red tape. In some senses, the Japanese have beaten the '92 process even before it officially starts. Europe's unification, while aimed at a strengthening homegrown companies is turning out to make the 12-nation Eupropean community a much easier place for foreigners to do business, as well. Standardization of Europe's diverse national markets will open up areas long dominated by national monoplies and protected by arcane regulations, which Japan's lobbyists monitor zealously.

One telling example is in mobile telephones. Until now, European markets have been splintered by six different technical standards. That keeps manufacturing runs low—and has held volume-minded Japanese producers at bay. But in July, Europe begins switching to a single standard. The floodgates will open, and the Japanese will start moving in. NEC, Panasonic, and Mitsubishi have already built niches in Europe's mobile-phone markets. Sony Corp. and Toshiba started getting ready last year. The Japanese will probably build European factories and touch off price wars for control of this enticing market, which market researcher Dataquest Inc. predicts will grow 54 percent, to $3.4 billion, by 1995. Leaders Motorola, with a 25 percent market share, and Finland's Nokia, with 11.5 percent will feel the pressure.

The Japanese presence undoubtedly carries benefits for Europe. New factory jobs are an obvious boon, which even Japan-baiters like France are fighting their EC neighbors to win. Japan's famed manufacturing skill should also diffuse into Europe industry. Economists say that is clearly happening in Britain. Barry Wilkinson of the University of Wales studied the Welsh auto components industry and found that Japanese-inspired techniques such as total quality management and just-in-time production are revitalizing a tired auto-supply sector.

Some economists think Japanese investment will be crucial to Britain's manufacturing future. Thanks to Sony, Matsushita, and others, Britian, with no indigenous TV makers, is now a net exporter of televisions. By the year 2000, an astonishing 16 percent of British factory workers will have Japanese bosses, predicts Douglas F. McWilliams, chief economist at the Confederation of British Industry.

That pattern could be repeated around Europe, because many Japanese companies are getting ready to jump off from Britain onto the Continent in a big way. Their motive: Spread the wealth and prevent political backlash. That's one reason Mitsubishi Electric gritted its teeth at "red tape, bureaucracy, and regulations" in France and picked that country for a new mobile-phone plant, says European boss Nishino. Despite France's official hositility toward Japan, it has now become a major recipient of Japanese investment.

Germany, the biggest and most attractive market for Japanese electronics giants, is already home to a thriving Japanese presence. Germany buys fully 40 percent of Japanese exports to Europe. And now, German and Japanese heavy-weights are signing up together to make and market everything from trucks to plane engines. U.S. investment in Germany is still bigger, at a cumulative $23 billion in 1989, or more than four times Japan's $5 billion-plus in the same year. But the Japanese are catching up: Direct investment in the North Rhine-Westphalia region, for example, has grown between 20 percent and 30 percent a year in the past few years and may overtake American investment in the state. And in the Bavarian heartland, Toshiba is planning to triple its local production of laptop computers by 1994. That will make it the base for 60 pecent of all the laptops it sells in Euorpe.

New plants: Auto makers are a big part of this investment plunge. Every major Japanese carmaker except Mazda Motor Corp. has announced plans for European factories. While much of southern Europe has quotas on Japanese cars—3 percent of the market in France, 1 percent in Italy—most northern countries have none. To create a common policy across Europe, Brussels proposes a six-year transition to a free market. But France wants British-built Nissans, Toyotas, and Hondas counted as Japanese and not European, thereby limiting them. Peugeot Chairman Jacques Calvet has even accused Britain of allowing itself to become an "aircraft carrier" for the Japanese.

Britain and Germany, along with Japan, are fighting the French plan. Nor are the French likely to get much help from the Dutch or the Danes. Because of their national differences, compounded by huge Japanese auto investments and growing alliances, it seems unlikely the Europeans will put up a rock-solid front against Japan beyond the six or so years. Indeed, cross-border competition among the Europeans themselves is heating up. Japanese or no Japanese, "I don't expect all six auto companies to survive," says GM Europe President Robert J. Eaton.

GM-Europe, which produced $1.9 billion in profits to counter its parent's $4.6 billion in U.S. losses last year, seems a sure survivor. Already strongly productive, the company is launching a campaign to cut its manufacturing costs by $500 a car. It will merge parts plants in Britain, and it is building a new factory in eastern Germany that will emulate Japanese techniques. And GM's European model lineup is strong. But if it treats Europe as a cash cow and fails to invest, or if its profitless Saab subsidiary, acquired last year, proves to be a long-term drain, problems could arise.

Rival Ford is in worse shape. Its European models are humdrum, and its strongest market is Britain, whose economy is the weakest among Europe's major nations. It's also where the Japanese are likely to be strongest. To spread its bets around, Ford is pushing hard into Italy. And it is discussing joint European manufacturing with Mazda, of which Ford owns 25 percent. Still, "Ford is vulnerable," says analyst Maryann Keller of Furman Selz Inc.

Electronics companies think they also are in harm's way. Recently, the EC set up a task force to consider a rescue plan. Sources say it will consider tougher antidumping measures on Japanese chips, limitations on opening public procurement bidding to foreigners, and holding chip tariffs at 14 percent rather than cutting them as proposed under the General Agreement on Tariffs & Trade (GATT). But at the same time, European computer makers depend on Japanese memory chips and therefore want a freer market. That's similar to the dilemma that has haunted American semiconductor negotiations with Japan for years.

High technology is one area where Prime Minister Cresson wants to target government aid. She thinks expanded, better-managed EC research programs can make a big difference—despite poor results in such efforts to date. In her first major address to French lawmakers on May 22, she called for "a new European electronics community." U.S. companies should be involved she believes, because they are developing products in Europe and integrating into local economies. IBM is already a member in good standing of EC-sponsored research programs. But ICL was kicked out of several such programs after Fujitsu bought it last year.

Hidden message: Still, Europe's chances in high tech are waning. It lacks world scale in the key semiconductor industry, and its No. 1 electronics company, Philips, ranks a mere 10th globally. Europe's two other chipmakers, Germany's Siemens and the Franco-Italian SGS-Thomson, are discussing a possible merger—with technology backing from IBM. A growing dependence on foreign chips will make it tougher for Old World companies to keep pace in a growing gamut of industrial and consumer products.

With the stakes so high Japanese officials are trying to manage an increasingly delicate relationship. As for France's new Iron Lady, "we should not overract," says Kaoru Ishikawa, director of the Japan Foreign Ministry's First International Economic Affairs Div. He suggests that Cresson's remarks are mainly for domestic consumption and that they boil down to a "hidden message" to prod France to work harder.

Cresson, however, argues that she is approaching her new job with a sense of mission: to avoid coddling the Japanese as she feels the Americans did. "The Americans thought everybody was the same" she says. "They didn't realize that the Japanese are different." Cresson's goal is to help give Europe a strong new industrial strategy that will prevent it from becoming "a Japanese colony."

But Cresson may find herself at odds with her free-market European partners. Britain, Germany, Holland, and Spain either hesitate to erect a European fortress on philosophical grounds or because they covet the jobs Japanese companies are bringing. For that matter, France itself is hungrily eyeing Japanese investment and technology. Cresson faces crucial decisions soon that will show clearly whether her call to arms is a genuine attempt to galvanize Europe or whether it is merely populist rhetoric that plays well at home. At issue is whether the Prime Minister will go along with Mitsubishi's proposed purchase of a stake in Volvo/Holland. The French became Volvo's biggest shareholder last year via a 27 percent stake owned by Renault, the state-run auto maker.

Wrenching process: Cresson is likely to ecounter lots of other such tests of her fighting mettle, as Japanese industry spreads throughout Europe and dangles new jobs and investment. Her dilemma is Europe's dilemma of the 1990s, as well. The double-edge sword of Japan cuts to the heart of how Europeans want their promised union to evolve. Given this heavy political backdrop, dealing with the Japanese challenge may prove even more wrenching for Europe than it has for America. How the Europeans react will shape not just their own economy, but also America's place in the world economic order for decades to come.

(By Stewart Toy and Jonathan B. Levine in Paris, Mark Maremont in London, and Karen Lowry Miller in Tokyo, with Igor Reichlin in Bonn and bureau reports.)

By Mr. DIXON (for himself, Mr. D'AMATO, Mr. BRYAN, Mr. RIEGLE, Mr. GORE, Mr. MCCONNELL, and Mr. EXON):

S. 1263. A bill to amend title 18 of the United States Code to punish as a Federal criminal offense the acts of international parental child kidnaping; to the Committee on the Judiciary.

INTERNATIONAL KIDNAPING ACT

Mr. DIXON. Mr. President, I rise to reintroduce legislation designed to fill the vacuum in current Federal law which allows the unabated international parental kidnaping of more than 300 American children each year. The victims are children from every State of this country, who have been kidnaped and are being held hostage in countries around the world. I am pleased to be joined in this effort by my distinguished colleagues, Senators D'AMATO, BRYAN, RIEGLE, GORE, MCCONNELL, and EXON.

International parental child kidnaping is a crime, Mr. President, and it should be recognized as such. This bill makes it a Federal felony.

As my colleagues may recall, the Senate adopted legislation very similar to this at the end of the 101st Congress. However, the House was not able to act on it prior to the end of the session. The Senate adopted international parental child abduction legislation in the 100th Congress, as well, as part of the State Department Authorization Act. Unfortunately, it was dropped in conference.

Mr. President, this legislation is just as important and necessary today as it was when I first started working on this issue 5 years ago. The magnitude of this problem is shocking. The State Department has recorded over 2,800 of these cases since 1975, but many experts believe this number is low. We simply do not know how many cases have not been reported. Some people believe the total is closer to 10,000.

The rate at which this crime is increasing is disturbing. Since May of 1983, the number of cases known to the State Department has jumped 84 percent. In my home State of Illinois alone, the number shot up 60 percent in 1987. Ten more cases were documented in Illinois in 1988. There were nearly 300 new cases nationwide in 1990, according to the State Department.

Who is hurt by international abduction? First, the child. Child psychologists from the Illinois State Police assert that the trauma associated with an abduction of this kind, and the subsequent deprivation of one parent's love, is one of the most horrendous forms of child abuse. After they are kidnaped, the children are frequently told that their other parent has abandoned them, hates them, and never wants to see them again.

Second, the left-behind parent suffers, as well. They are left with an empty life, deprived of the children they loved and that gave them reason to live. Certainly, this expereince is one of the most tragic any parent can suffer.

Yet, while the majority of the States recognize this crime as a felonious offense, the Federal Government still does not. The absence of Federal legislation denies the victim parent Federal assistance and allows the abductor to escape Federal prosecution.

Parental child kidnaping is a State crime. It should be a Federal crime. It must be a Federal felony.

There are at least four reasons this legislation is so urgently needed. First, it will provide a necessary deterrent to parents contemplating an abduction. Currently, the abducting parent can flee to safe havens around the world knowing that the U.S. Government will not pursue them. While this law will obviously not prevent every abduction, each abduction deterred is extremely significant for both the young child and their American parent.

Second, without Federal criminal charges, extradition of these abductors is not possible. This legislation will enable the United States to extradite parental child abductors in many cases where extradition treaties currently exist.

Third, the criminalization of international parental child abduction will strengthen the hand of the State Department when negotiating for the return of these children. This legislation will put an important new tool into the hands of State Department officials. If this bill passes, a U.S. ambassador will be armed with a Federal warrant when asking a foreign government to intervene and assist in the return of an American child. This will greatly strengthen our negotiating position.

Finally, by passing this measure, we will send a strong message to the international community that the United States views international parental child abduction as a serious crime, and will not tolerate the kidnapping of its young citizens.

Let me offer some background on where we have come on this issue.

In 1987, I met with Joan Clark, the then-Assistant Secretary of State for Consular Affairs, to impress upon her my deep concerns about the lack of assistance this Government provided parents whose children had been abducted. At that time the State Department had been little more than a legal referral service. They only conducted a whereabouts and welfare search, and provided a list of attorneys working in the country to which the children were taken. That is all they did. They were simply a source of information. Victim parents could expect no additional help from their Government.

Mr. President, the problem of international parental child abduction was such a low priority at the State Department that there was not one person in any U.S. Embassy, anywhere in the world, specifically assigned the job of trying to resolve these cases, and recover these young American citizens. Furthermore, the State Department did not even have a central desk in Washington to assist in handling these cases. Instead, victim parents faced an endless line of new faces. Again and again they had to fully explain their problem and ask for help getting their children. Almost every time they heard the same answer, "There is nothing we can do."

Mr. President, through my office I heard the same story from hundreds of frustrated and distraught parents. "There is nothing we can do" is just not good enough! Not from a country as great, and with as much influence in the world, as our own.

At my urging, the State Department implemented a number of significant improvements in the way it handles international parental child abduction cases. First, the Department established a unit within the Consular Affairs Office to coordinate and direct action on these cases. The staff of the unit are to be commended for the work they have done since it was established. Second, the Department assigned one person in each U.S. mission around the world to be responsible for actively working on behalf of American parents to get these children back. At last the State Department has introduced some accountability into the system. There is someone in Washington, and someone in each country of the world, that is responsible. Someone that you can call, or I can call, or any constituent can call to ask how a particular case is progressing. If nothing is happening, someone is now accountable.

Further, every U.S. Ambassador is made aware of the importance of international abduction cases. The Ambassadors have been instructed to use every avenue, including legal and diplomatic, to pursue the return of these children. Finally, each post has received a list of the cases in that country.

Mr. President, I am pleased that the State Department has made these important changes. However, the proof is in the pudding. I will continue to watch carefully, and hopefully.

The State Department cannot do this job alone. Congress must do its part as well.

In 1988, Congress passed implementing legislation for the Hague Convention on International Parental Child Abduction. I am proud to have been the leader in the effort to pass that legislation. As a signator to the convention, the United States joins other ratifying nations in the effort to return abducted children to the parent who has legal custody. In effect, the countries who have signed the convention will recognize each others custody decrees, thereby facilitating the return of abducted children.

The Hague Convention is a great tool for positive resolution of these cases, but most countries are not signatories to the convention, which means other methods to resolve these cases must be pursued. My Federal felony bill is the answer!

Mr. President, every month, 30 to 40 more young Americans are kidnapped and held hostage in countries around the world.

It is time for Congress to act. Each week, eight more children are abducted. How many of those could be prevented by this bill?

Let me just take a moment to call your attention to one of the grim realities of this problem. In January 1986, a constituent of mine, Patricia Rousch, saw her two daughters Alia and Aisha off for an overnight stay with their father, a Saudi national, who at that time was legally divorced from Pat, but had gained limited visitation rights. Pat had legal custody of the children. That cold January night was the last time Pat Rousch saw her children. Her ex-husband stole the children out of the country on a plane to Saudi Arabia. He had obtained passports for the children from the Saudi Government. Pat Roush's case is heart-breaking.

She has not seen her children since January 25, 1986. In 5 years, she has talked to her children just once! After 5 years, she still does not know where her children live, if they attend school, what they are told about their mother, or if she will ever see them again.

Hers, Mr. President, is one of thousands of cases that are continuous nightmares for such parents, and enduring tragedies for the abducted children.

Just as Pat never gives up hope that she will get her children back, where they rightfully belong, so must we, as a government, never cease fighting for the return of abducted children. I urge my colleagues to join me in this fight for the children of Pat Roush, and the children of American custodial parents across the country. They are counting on us.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1263

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—(1) Chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1204. International Parental Child Kidnapping

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'child' means an individual under the age of 16 at the time the offense occurred;

"(2) the term 'person' means a parent, putative parent, or family member related to the child victim by blood or marriage.

"(3) the term 'lawful custodian' means—

"(A) an individual or individuals granted legal custody or entitled to physical possession of a child pursuant to a court order; or

"(B) the mother of the child when the parents have not been married to each other, the father's paternity has not been established by a court of law, and no other individual has been granted custody of the child by a court of law.

"(b) Any prson who—

"(1) intentionally removes a child from, or conceals or detains a child outside the territorial jurisdiction of the United States,

"(a) without the consent of the individual who has been granted sole or joint custody, care possession or guardianship of the child; or in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State or the United States; or

"(b) without the consent of the mother or lawful custodian of the child if the parents have never been married to each other and the father has never established paternity in a court of law; or

"(c) during the pendency of a judicial proceeding affecting marriage, custody or paternity, but prior to the issuance of a temporary or final order determining custody; or

"(d) when the child was taken with physical force or the threat of physical force; or

"(e) if the parents of such child are or have been married to each other, or have never been married to each other, but paternity has been established by a court of law, and there has been no court order of custody, and conceals the child for 15 days outside the jurisdiction of the United States, and fails to make reasonable attempts within the 15 day period to notify the other parent, as to the whereabouts of the child or to arrange reasonable visitation or contact with the child;

"(2) being a parent of the child, instructs another person to remove, detain or conceal the child when that act when committed by the instructing parent would be a violation of this Act;

"(c) Any individual who removes a child from, or conceals, or detains a child outside the territorial jurisdiction of the United States, for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law,

shall be guilty of child kidnapping and shall be fined in accordance with this title or imprisoned not more than 3 years, or both.

"(d) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or patterns of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(e) There is criminal jurisdiction over conduct prohibited by this Act if any court in the United States has or could have jurisdiction to determine custody of the child subject to the prohibited conduct pursuant to the provisions of the Uniform Child Custody Jurisdiction Act."

(2) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child kidnapping".

"(f) INCREASED PENALTY.—Section 994 of title 28, United States Code, is amended by—

(1) redesignating subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x) as subsections (p), (q), (r), (s), (t), (u), (v), (w), (x), and (y), respectively; and

(2) inserting after subsection (n) the following new subsection:

"(o) The Commission shall ensure that the guidelines reflect the appropriateness of imposing a greater sentence than would otherwise be imposed for an offense under section 1204 if—

"(1) the defendant abused or neglected the kidnapped child during the removal, retaining, or concealment of the child or placed or caused the child to be placed in the care of another inividual who abused or neglected the child;

"(2) the defendant inflicted or threatened to inflict physical harm on the child or on a parent or lawful custodian of the child with the intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

"(3) the defendant demanded payment in exchange for return of the kidnapped child or demanded that the defendant be relieved of the financial or legal obligation to support the child in exchange for return of the child;

"(4) the defendant committed the offense while armed with a deadly weapon or the removal of the child resulted in serious bodily injury to another individual, the sentence imposed by the court in accordance with this title shall be more severe than in the absence of such factors.

SEC. 2. EFFECT OF PRIOR REMOVAL.

If a child was removed from the territorial jurisdiction of the United States prior to the date of enactment of this Act, charges under section 1204 of title 18, United States Code, as added by this Act, may be approved only in cases involving the concealing or detaining of the child in violation of a court order that existed at the time of the child's removal from the territorial jurisdiction of the United States.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING AND EDUCATIONAL PROGRAMS.

There is authorized to be appropriated $250,000 to conduct national, regional, and State training and education programs on criminal and civil aspects of international and interstate parental child abduction under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.).

SEC. 4. EFFECTIVE DATE

This Act and the amendments made by this Act shall take effect immediately from date of enactment of this Act.

By Mr. SIMON:

S. 1264. A bill to extend the United States Commission on Civil Rights, and for other purposes; to the Committee on the Judiciary.

UNITED STATES COMMISSION ON CIVIL RIGHTS ACT

• Mr. SIMON. Mr. President, I rise today in order to introduce legislation to reauthorize the U.S. Commission on Civil Rights. Authorization of the Commission is set to expire on September 30, 1991, and the Constitution Subcommittee which I chair has jurisdiction over reauthorization.

Since 1957, when the U.S. Commission on Civil Rights was first established, our Nation has made tremendous progress in fulfilling the promise of equal rights. But the problems of discrimination have not been solved; indeed, they have grown more complex. I believe the mission of the Commission is too important to let it die. The Nation needs a Civil Rights Commission that is true to its original purpose as an independent, non-partisan, fact-finding agency.

The legislation I offer today will reauthorize the Commission for a 4-year period through the end of fiscal year 1995. It retains the basic organization of the Commission and expands its authority to address language discrimination and gives it the authority to file amicus briefs before the U.S. Supreme Court on matters relating to civil rights.

Mr. President, the Commission historically has not had any specific powers, but it has been most persuasive. Prior to the turmoil and crisis it suffered in the 1980's, the Commission was considered the conscience of the Nation on civil rights matters. When it recommended legislation, the Congress and the President listened. I want to see a Commission that returns to that spirit of equal protection of the laws for all Americans.

In 1989, Congress and the President reauthorized the Commission for a period of 22 months. I, for one, felt that the Commission could use this period to demonstrate a renewed commitment to civil rights and to restore much of the credibility it had lost in the 1980's. While I am heartened to see that the Commission is beginning on the way to accomplishing that, it has a lot of ground to cover. It not only must be responding to civil rights issues of the day, but I want to see the Civil Rights Commission taking a leadership role once again.

The President has appointed a chairman, Arthur Fletcher, who has a real history in civil rights, and our colleague Senator DOLE appointed the first member of the disability community to the Commission. The Nation's complexion is changing and I am pleased that the Commission has spent some time looking at the civil rights concerns of Hispanics and Asian-Americans, the Nation's fastest growing ethnic groups.

Finally, Mr. President, let me just add that I am aware that there still exists skepticism among some of those who are most closely involved in civil rights about the viability of the Commission. Frankly, the Commission must do more to reach out to organizations and communities with which it has worked closely in the past. The Commission needs continued oversight by Congress just as the whole area of civil rights itself merits continued vigilance by the American people.

I will hold a hearing on my and another reauthorization bill in the Constitution Subcommittee later this week. I look forward to working with any interested Senators on reauthorizing the Commission and restoring it to its place in the forefront of eradicating the poisons of bigotry and discrimination from wherever they exist in our country.

Mr. President, I ask unanimous consent that my legislation, the United States Commission on Civil Rights Act, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Commission on Civil Rights Act of 1991".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975 et seq.).

SEC. 3. ESTABLISHMENT OF THE COMMISSION.

Section 2 (42 U.S.C. 1975) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "The Commission shall be an independent, nonpartisan, fact-finding body.";

(2) in subsection (b)(1)(A), by inserting before the semicolon the following: ", and of the members appointed not more than three shall be appointed from the same political party"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c)(1) There shall be a Chairperson and a Vice Chairperson of the Commission (hereafter in this Act referred to as the 'Chairperson' and the 'Vice Chairperson', respectively), who shall be selected by a majority of the members of the Commission, from the membership of the Commission.

"(2) The Chairperson and Vice Chairperson shall serve for terms of 3 years and may serve successive terms.

"(3) The Vice Chairperson shall act in the place of the Chairperson in the absence of the Chairperson.

"(4) In the absence of the Chairperson and the Vice Chairperson, the senior member of the Commission shall serve as the Acting Chairperson of the Commission.".

SEC. 4. EVIDENCE OR TESTIMONY IN EXECUTIVE SESSION.

Section 3(g) (42 U.S.C. 1975a(g)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as designated by paragraph (1) of this section), by striking "Whoever" and inserting "A party who"; and

(3) by adding at the end the following new paragraph:

"(2) The term 'party' means—

"(A) a person whose services are compensated by the Federal Government; or

"(B) an individual appointed under section 6(c) who provides voluntary services to the Commission.".

SEC. 5. COMPENSATION OF MEMBERS OF THE COMMISSION.

Section 4(a) (42 U.S.C. 1975b(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as designated by paragraph (1) of this paragraph), by striking "shall receive a sum equivalent" and all that follows through "work of the Commission, shall" and inserting "shall receive compensation equal to the hourly equivalent of the rate specified for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each hour the member is engaged in the work of the Commission, and, while engaged in the work, shall"; and

(3) by adding at the end the following new paragraph:

"(2) The total compensation that a member of the Commission may receive under subparagraph (a) in any one calendar year shall not exceed one-half of the rate specified for level IV of the Executive Schedule under section 5315 of title V, United States Code.".

SEC. 6. DUTIES OF THE COMMISSION.

Section 5 (42 U.S.C. 1975c) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) The Commission shall—

"(1) investigate allegations that—

"(A) are made in writing;

"(B) are made under oath or affirmation;

"(C) set forth facts on which such allegations are based; and

"(D) allege that certain citizens of the United States—

"(i) are being denied the right to vote, and have such vote properly counted, on the basis of the race, color, religion, sex, age, language, disability, or national origin, of the citizens; or

"(ii) are unlawfully being accorded or denied the right to vote, and have such vote properly counted, in any election of a Presidential elector, Member of the Senate, or Member of the House of Representatives, as a result of a pattern or practice of fraud or discrimination in the conduct of such election;

"(2) study and collect information, and appraise the laws and policies of the Federal Government, concerning legal developments constituting discrimination, or a denial of equal protection of the laws under the Constitution, on the basis of race, color, religion, sex, age, language, disability, or national origin, with respect to—

"(A) administration of justice;

"(B) educational opportunity;

"(C) employment opportunity; and

"(D) equal housing opportunity; and

"(3) serve as a national clearinghouse for information concerning discrimination, or denial of equal protection of the laws under the Constitution, on the basis of race, color, religion, sex, age, language, disability, or national origin, with respect to activities including—

"(A) voting;

"(B) education;

"(C) housing;

"(D) employment;

"(E) use of public facilities;

"(F) transportation; and

"(G) administration of justice.";

(2) by striking subsection (c) and inserting the following new subsection:

"(c)(1) The Commission shall submit an annual report to the appropriate committees of Congress and to the President containing information concerning—

"(A) the existing status of civil rights in the United States;

"(B) the enforcement of civil rights laws by Federal, State, and local governments;

"(C) the existing status of the political, social, and economic equality of minorities and women;

"(D) the impact of Federal fiscal policies, programs, and activities on minorities and women; and

"(E) any other information that the Chairperson determines to be appropriate.

"(2)(A) The Commission shall appraise the laws and policies of each State and the Federal Government to determine the impact of the laws and policies on—

"(i) denial of the right of minority groups, including African Americans, Hispanic Americans, Asian Americans, Native Americans, Americans from the Pacific Islands, women, and disabled individuals, to vote; and

"(ii) the political participation of the minority groups.

"(B) The Commission shall include the result of the appraisals conducted under subparagraph (A) in the reports required under paragraph (1).";

(3) by striking subsection (d) and inserting the following new subsection:

"(d) The Commission may submit an amicus curiae brief to the Supreme Court of the United States on any matter within the jurisdiction of the Commission, if a majority of the members of the Commission approve the submission of such brief."; and

(4) by striking subsection (f).

SEC. 7. POWERS OF THE COMMISSION.

Section 6 of the Act (42 U.S.C. 1975d) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting "(A)" after the paragraph designation;

(ii) in subparagraph (A) (as designated by subparagraph (A) of this paragraph), by—

(I) striking "staff director" and inserting "Executive Director"; and

(II) striking "appointed" and all that follows and inserting "selected by a majority of the members of the Commission."; and

(iii) by adding at the end the following new subparagraphs:

"(B) The Executive Director shall serve as the chief operating officer of the Commission and shall be responsible for the day-to-day operations of the agency, including matters pertaining to employment, use and expenditure of funds, and general administration, consistent with policies determined by the Commission.

"(C) In the event of a vacancy in the position of Executive Director, the Chairperson shall designate, with the concurrence of a majority of the members of the Commission, an employee of the Commission to serve as Acting Executive Director.

"(D) The Executive Director shall receive compensation at the rate specified for level II of the Executive Schedule under section 5313 of title 5, United States Code."; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Notwithstanding any other provision of law, the Commission shall be bound by the provisions of title 5, United States Code, by which the Commission on Civil Rights, established by the Civil Rights Act of 1957, was bound.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b)(1) Except as provided in section 3111 of title 5, United States Code, and in paragraph (2)(B), the Commission shall not accept voluntary services.

"(2) Subject to paragraph (4), the Commission may, in order to carry out the duties of the Commission—

"(A) accept, use, and dispose of gifts or donations and property, made by Federal, State, or local agencies, or individuals appointed under section 2(b)(1) or section 6(c); and

"(B) notwithstanding section 1342 of title 31, United States Code, accept voluntary services provided by an agency described in subparagraph (A) or an individual appointed under section 6(c).

"(3) Subject to paragraph (4), and in accordance with the policy and program direction established by the members of the Commission and with the clearinghouse function of the agency, the Commission may enter into cooperative agreements with Federal, State and local agencies to participate in—

"(A) public information programs, including forums, conferences or other educational events; and

"(B) such other activities as, from time to time, may be necessary to carry out the duties of the Commission.

"(4)(A) The Commission may accept, use, and dispose of the gifts and donations of property described in subparagraph (A), and accept the voluntary services described in subparagraph (B), of paragraph (2), and enter into the cooperative agreements described in paragraph (3), to the extent the acceptance, use, disposal, or entry into agreements—

"(i) does not create the appearance of a conflict of interest because of the nature of—

"(I) the persons, or affiliates of the persons, providing the gifts, donations, or voluntary services, or entering into the agreements; or

"(II) the activities that are the subject of the agreements; or

"(ii) does not constitute or imply an endorsement by the Commission of the products or services of the persons or affiliates described in clause (i)(I).

"(B) The Commission shall ensure that a person entering into the cooperative agreements described in paragraph (3) shall receive appropriate recognition in the activities that are the subject of the agreements, to the extent that the recognition does not constitute or imply an endorsement by the Commission of, or give undue recognition to, the person.";

(3) in subsection (c)—

(A) by inserting "(1)(A)" after the subsection designation;

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph), by adding at the end the following new subparagraph:

"(B) As used in this paragraph, the term 'State' includes the District of Columbia, Puerto Rico, and any commonwealth or territory of the United States."; and

(C) by adding at the end the following new paragraphs:

"(2) An advisory committee established under paragraph (1) shall have the same investigative authority as the Commission has under section 3 except that such committee shall not—

"(A) subpoena a witness or require such witness to produce written or other material for the Commission; or

"(B) conduct investigations beyond the boundary of the State in which such committee is located.

"(3) A member of an advisory committee shall not be considered to be an 'officer' or 'employee', as defined in sections 2104 and 2105, respectively, of title 5, United States Code."; and

(4) by adding at the end the following new subsection:

"(j) The Commission may use not more than 0.1 percent of the funds appropriated under section 7 for official representation and reception.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 7 (42 U.S.C. 1975e) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this Act such sums as may be necessary for each of the fiscal years 1992 through 1996.".

SEC. 9. TERMINATION.

Section 8 (42 U.S.C. 1975f) is amended by striking "1991" and inserting "1995".

SEC. 10. CONFORMING AMENDMENTS.

Subsections (a), (d), and (f) of section 3, and section 6(f) (42 U.S.C. 1975a(a), (d), and (f), and 1975d(f)) are amended by striking "Chairman" each place the term appears and inserting "Chairperson".●

By Mr. CRANSTON (by request):

S. 1265. A bill to amend title 38, United States Code, to target the rehabilitation program entitlement to service-disabled veterans rated at 30 percent or more; target eligibility of stepchildren for survivors' and dependents' educational assistance to natural and adopted children; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' VOCATIONAL REHABILITATION AND EDUCATION BENEFIT BUDGET AMENDMENTS

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1265, a bill to amend title 38, United States Code, to eliminate the VA vocational rehabilitation entitlement of service-disabled veterans rated as 20 percent disabled and eliminate the survivors' and dependents' educational assistance of certain stepchildren of service-disabled veterans. The Secretary of Veterans Affairs submitted this legislation by letter dated May 24, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 24, 1991, transmittal letter, and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Vocational Rehabilitation and Education Benefit Budget Amendments of 1991."

(b) REFERENCES TO TITLE 38.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2 LIMITATION OF REHABILITATION PROGRAM ENTITLEMENT TO SERVICE-DISABLED VETERANS RATED AT 30 PERCENT OR MORE.

(a) IN GENERAL.—Section 1502(1) is amended—

(1) by striking out "at a rate of 20 percent or more" both places it appears;

(2) in subclause (A), by inserting "at a rate of 30 percent or more," after "title"; and

(3) in subclause (B), by striking out "under chapter 11 of this title" and inserting in lieu thereof "as described in subclause (A) of this clause".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to veterans and other persons originally applying for assistance under chapter 31 of title 38, United States Code, on or after October 1, 1991.

SEC. 3. LIMITATION OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE TO NATURAL AND ADOPTED CHILDREN.

(a) IN GENERAL.—Section 1701(a)(2) is amended by inserting before the period, "but does not include individuals who are not the natural or legally adopted children of the parent from whom eligibility under this chapter is derived".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to persons originally applying for educational assistance under chapter 35 of title 38, United States Code, on or after October 1, 1991.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; references to title 38, United States Code

Subsection (a) provides that the draft proposal may be cited as the "Veterans' Vocational Rehabilitation and Education Benefit Budget Amendments of 1991."

Subsection (b) provides that, unless otherwise specified, whenever in the proposal an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Section 2. Limitation of rehabilitation program entitlement to service-disabled veterans rated at 30 percent or more.

This section would amend chapter 31 of title 38, United States Code, to generally limit entitlement to a rehabilitation program under that chapter to veterans entitled to compensation (or who would be so entitled if not for receipt of military retired pay) under laws administered by VA for a service-connected disability rated at 30 percent or more.

Chapter 31 currently authorizes VA to provide a rehabilitation program for veterans with service-connected disabilities to enable them to achieve maximum independence in daily living and, to the maximum extent feasible, become employable, and obtain and maintain employment. Basic program entitlement under existing law requires that a veteran have a service-connected disability which is, or but for receipt of retired pay would be, compensable at 20 percent or more under laws administered by VA. This amendment would make a veteran with a service-connected disability rated at less than 30 percent ineligible for a rehabilitation program under chapter 31.

This section would have prospective effect, applying only to persons who originally file a claim for a chapter 31 rehabilitation program after September 30, 1991.

Section 3. Limitation of eligibility for survivors' and dependents' educational assistance.

This section would amend 38 U.S.C. §1701(a)(2) to target to natural and adopted children the definition of the term "child" for purposes of the Survivors' and Dependents' Educational Assistance program under chapter 35 of title 38, United States Code. As a result of this, stepchildren could not be considered "eligible persons" for such purposes and would not be entitled to educational assistance under that chapter.

The proposal would be effective October 1, 1991, applying only to persons who originally file for chapter 35 educational assistance after September 30, 1991.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 24, 1991.

Hon. DAN QUAYLE,
President of the Senate,
The Capitol, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to target the rehabilitation program entitlement to service-disabled veterans rated at 30 percent or more; target eligibility for Survivors' and Dependents' Educational Assistance to natural and adopted children; and for other purposes." I request that this measure be referred to the appropriate committee and promptly enacted.

This measure, entitled the "Veterans' Vocational Rehabilitation and Education Benefit Budget Amendments of 1991," would make amendments to the education benefit and vocational rehabilitation programs administered by the Department of Veterans Affairs (VA) to better target resources on those persons most in need and deserving of the benefits such VA programs were intended to provide.

More particularly, section 2 of the draft bill would amend chapter 31 to generally target rehabilitation program entitlement to service-disabled veterans rated 30 percent or more, and section 3 would amend the definition of "child" for purposes of chapter 35 to exclude stepchildren from education benefit eligibility under that chapter. Both provisions would be effective only as to persons initially applying for assistance under those programs after September 30, 1991.

The effect of this draft bill on the deficit is:

[Fiscal years, in millions of dollars]

	1992	1993	1994	1995	1996	1992–96
Outlays	−8.8	−18.0	−27.3	−27.9	−28.5	−110.5
Receipts						

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. The "Veterans' Vocational Rehabilitation and Education Benefit Budget Amendments of 1991" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

However, the President's FY 1992 Budget includes several proposals that are subject to the pay-as-you-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, this bill should be considered in conjunction with the other proposals in the FY 1992 Budget.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.•

By Mr. CRANSTON (by request):

S. 1266. A bill to amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to establish nonprofit research corporations, to contract for alcohol or drug treatment services, to make State home grants, to contract for the care of United States veterans in the Philippines, to furnish adult day health care services, and for other people; to the Committee on Veterans' Affairs.

VETERANS' RESEARCH CORPORATION AND MEDICAL CARE EXTENSION ACT

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1266, a bill to amend title 38, United States Code, to extend expiring laws authorizing various Department of Veterans Affairs health-care programs. The Secretary of Veterans Affairs submitted this legislation by letter dated May 9, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 9, 1991, transmittal letter, and enclosed bill analysis.

S. 1266

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Research Corporation and Medical Care Extension Act of 1991".

(b) Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Section 4168 is amended by striking "September 30, 1991" and inserting in lieu thereof September 30, 1994".

SEC. 3. Section 620A is amended by striking subsections (e) and (f) and redesignating subsection (g) as subsection (e).

SEC. 4. Section 5033(a) is amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1996".

SEC. 5. (a) Sections 632(a) and 632(b)(1) are each amended by striking "September 30, 1990" and inserting in lieu thereof "September 30, 1995".

(b) Section 632(b)(1) is amended by striking "$1,000,000" and inserting in lieu thereof "$500,000".

(c) Section 632(b)(1) is further amended by inserting before the period ", of which the first $50,000 shall be used for the specific purpose of educating and training personnel of the Veterans Memorial Medical Center".

SEC. 6. Section 620(f)(3) is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1994".

ANALYSIS OF BILL

Section 1 of the bill designates the proposal as the "Veterans' Research Corporation and Medical Care Extension Act of 1991" and provides that the bill's amendments to the law would amend title 38, United States Code, unless otherwise expressly stated.

Section 2 would amend section 4168 of title 38 to extend VA's authority, scheduled to expire on September 30, 1991, to establish independent nonprofit research corporations at VA medical centers to serve as flexible funding mechanisms for approved VA research. Since 1988, when research corporations were first authorized by statute, approximately 50 percent of VA medical centers with research programs have established such corporations. The proposed extension in statutory authority, which would not result in costs being borne by VA, is necessary to give remaining medical centers which are interested in establishing independent research corporations time to do so.

Section 3 would amend section 620A of title 38 to provide ongoing authority for VA to contract for care, treatment, and rehabilitative services relating to alcohol or drug dependence or abuse in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities. Section 3 would also eliminate the requirement, set forth in subsection (f) of section 620A, for costly evaluations of the program which are not necessary in view of the proven record of success of the program. Extension of this contract authority would entail costs of approximately $5.4 million per year for a five year period.

Section 4 would amend 38 U.S.C. §5033(a) to extend through Fiscal Year 1996 VA's program of making grants to the States to assist them in the construction and acquisition of new State home facilities for the furnishing of domiciliary and nursing home care, and the expansion, remodeling, or alteration of existing State home facilities for the furnishing of domiciliary, nursing home, or hospital care. The authority for this program expires on September 30, 1992.

Section 5 would amend section 632 of title 38 to extend, through Fiscal Year 1996, VA's authority to enter into contracts with the Veterans Memorial Medical Center (VMMC) to provide care to United States veterans in the Republic of the Philippines. It would also extend VA's authority to make grants to VMMC of up to $500,000 per year. The first $50,000 of such grants would be earmarked for the education and training VMMC personnel; otherwise, such grants would be for the replacement and upgrading of VMMC equipment, and the rehabilitation of its physical plant and facilities.

Section 6 would amend section 620(f) of title 38 to extend for an additional three years the specific authority to operate Adult Day Health Care (ADHC) programs. ADHC is a therapeutically-oriented ambulatory day program which provides health maintenance and rehabilitative services to frail individuals who might otherwise be subjected to institutionalization. The estimated cost of providing ADHC services over the period of three years requested would be $16,000,000.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 9, 1991.

Hon. DAN QUAYLE,
President of the Senate, The Capitol, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith, a draft bill "To amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to establish nonprofit research corporations, to contract for alcohol or drug treatment services, to make State home grants, to contract for the care of United States veterans in the Philippines, to furnish adult day health care services, and for other purposes." We request that the draft bill, which has the principal objective of extending current statutory authorities, be referred to the appropriate committee for prompt consideration and enactment.

EXTENSION OF AUTHORITY TO ESTABLISH RESEARCH CORPORATIONS

The bill would extend VA's authority, currently scheduled to expire on September 30, 1991, to establish independent nonprofit research corporations at VA medical centers. Such research corporations, which serve as flexible funding mechanisms for approved VA research, were first authorized by statute in 1988. Since then, research corporations have been established at approximately 50 percent of the VA medical centers which have research programs. The proposed extension in statutory authority, which would not result in costs being borne by VA, is necessary to give remaining medical centers which are interested in establishing independent research corporations time to do so.

EXTENSION OF CONTRACT ALCOHOL AND DRUG TREATMENT PROGRAM

The bill would establish, on an ongoing basis, VA's authority to contract for care, treatment, and rehabilitative services for eligible veterans in halfway houses and other alcohol or drug treatment facilities. The VA has had considerable experience with this cost-effective contract program, which benefits a core group of veterans who are critically deficient in competitive job skills and/or social and family supports. The authority for this program, if not extended will expire on September 30, 1991. Its major medical advantages—including maintained sobriety and increased employment and monthly income—have long been demonstrated. The program is an important component of VA's treatment milieu for veterans suffering from substance abuse. The established cost of this provision is $5.4 million per year through Fiscal Year 1996.

EXTENSION OF STATE HOME GRANT AUTHORITY

The proposed legislation would extend through Fiscal Year 1996 the State home grant program which assists the State with the construction and acquisition of State home facilities for veterans. Over the years, these grants have created a network of 54 State veterans facilities in 36 States. These facilities make it possible to provide medical care to many more veterans than can receive care in VA facilities. It is a cost-effective program in which Federal participation is limited to no more than 65 percent of the cost of any one project. Extension of this grant program would result in estimated costs of $85 million per year through Fiscal Year 1996.

EXTENSION OF AUTHORITY TO SUPPORT CARE IN THE PHILIPPINES

The bill would extend, through Fiscal Year 1996, authority to enter into contracts for the provision of hospital and nursing home care to United States veterans in the Philippines. It would also extend the Secretary's authority to make grants of up to $500,000 per year through Fiscal Year 1996 to the Veterans Memorial Medical Center (VMMC) in the Philippines. The first $50,000 of such grants would be earmarked for the education and training VMMC personnel; otherwise, such grants would be for the replacement and upgrading of VMMC equipment, and the rehabilitation of its physical plant and facilities. The United States has long recognized a moral obligation to provide care to Filipino veterans who have served in components of the U.S. Armed Services, and the

Congress has consistently renewed this cost effective, and still-needed, authority in support of high quality medical care to such veterans.

EXTENSION OF AUTHORITY TO PROVIDE ADULT DAY HEALTH CARE

Finally, the proposed legislation would extend, through Fiscal Year 1994, the specific statutory authority set forth in 38 U.S.C. §620(f) for operating a program of Adult Day Health Care (ADHC). Under this authority, scheduled to expire on September 30, 1991, VA provides a therapeutically-oriented ambulatory day program which provides health maintenance and rehabilitative services to frail individuals who might otherwise by subjected to institutionalization. To date, VA has established 15 ADHC programs at VA facilities, and has authorized 22 other VA facilities to contract for ADHC services in the community. The estimated cost of providing ADHC services over the period of three years requested would be $16,000,000.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.•

By Mr. CRANSTON (by request):

S. 1267. A bill to authorize the Secretary of Veterans Affairs to accept gifts for the benefit of all departmental programs; to the Committee on Veterans' Affairs.

ACCEPTANCE OF CERTAIN GIFTS BY THE SECRETARY OF VETERANS AFFAIRS

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1267, a bill to authorize the Secretary of Veterans Affairs to accept gifts for the benefit of all departmental programs. The Secretary of Veterans Affairs submitted this legislation by letter dated May 3, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 3, 1991, transmittal letter and enclosed bill analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision, of title 38, United States Code.

SEC. 2 (a) Section 213 is amended by adding "(a)" at the beginning of the section;

(b) by inserting at the end of the section the following new subsections:

"(b) The Secretary may, for purposes of all laws administered by the Department of Veterans' Affairs, accept gifts, devises, and bequests of property, whether real or personal, in cash, or in kind, provided acceptance would not reflect unfavorably on the Department's or any employee's ability to carry out departmental responsibilities or official duties in a fair and objective manner, and would not compromise the integrity of or the appearance of the integrity of a government program or any official involved in that program.".

"(c) The Secretary is required to establish regulations setting forth the criteria the Department of Veterans' Affairs will use in determining whether the acceptance of gifts, devises, and bequests (pursuant to 38 U.S.C. §5101) would reflect unfavorably upon the ability of the Department or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a government program or any official involved in that program."

(c) by amending the hearing of section 213 to read as follows:

"§213 Contracts and personal services; gifts, bequests and devises"

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 3, 1991.

Honorable DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith, a draft bill "To authorize the Secretary of Veterans' Affairs to accept gifts for the benefit of all departmental programs." We request that it be introduced so that it may be considered for enactment.

The Comptroller General has long taken the position that in the absence of specific statutory authority, a department cannot accept gifts or donations which would augment or supplement its appropriations. The VA has for many years had such specific authority to accept gifts, devises, and bequests for the benefit of programs conducted by the Veterans Health Services and Research Administration, and the National Cemetery Service. Over the years many veterans have benefited from the generosity of persons who make gifts to enhance those programs. However, the VA divisions without specific gift acceptance authority, such as the Veterans Benefits Administration, are unable to benefit from such generosity.

The proposed draft bill would remedy the situation by providing the Secretary with general authority to receive property or funds made to any VA element by gift, devise, bequest, or otherwise.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress from the standpoint of the administration's program.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF PROPOSED BILL

The draft bill amend 38 U.S.C. §213 to authorize the Secretary to accept gifts for the benefit of all Departments of Veterans Affairs programs. The VA now has specific statutory authority to accept gifts, devises and bequests for very specific purposes and primarily for the benefit of programs conducted by the Veterans Health Services and Research Administration, and the National Cemetery Service. VA divisions without specific authority are unable to benefit from gifts because principles of appropriations law preclude acceptance of gifts or donations which would augment or supplement appropriations unless a specific law authorizes the gift acceptance. The proposed draft bill would remedy that situation. It would also clarify that VA has authority to accept all manner of property, eliminating long-standing confusion over the Department's authority to accept gifts, whether in cash or in kind, to fund official employee travel. The bill is not intended to limit existing law, or to limit the programs which could benefit from receipt of gifts or donations.

The proposed amendment also contains language precluding acceptance of a gift, bequest or devise that would reflect unfavorably on the ability of VA or any VA employee's ability to carry out duties in a fair manner, or compromise the integrity, or appear to compromise the integrity of a VA program or any official involved in a VA program. Moreover, the draft bill would require the Secretary to promulgate regulations setting forth the criteria the Department will use to determine whether acceptance of a gift, bequest or devise would reflect unfavorably on the ability to either the Department or any employee to carry out official duties in a fair and objective manner that would not compromise the integrity of, or the appearance of the integrity of a government program, or any official involved in that program.•

By Mr. CRANSTON (by request):

S. 1268. A bill to authorize the Secretary of Veterans Affairs to remove any restrictions and conditions on land conveyed by the VA to Temple Junior College, Temple, TX; to the Committee on Veterans' Affairs.

CONVEYANCE OF CERTAIN LAND

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 1268, a bill to authorize the Secretary of Veterans Affairs to remove any restrictions and conditions on land conveyed by the VA to Temple Junior College, Temple, TX. The Secretary of Veterans Affairs submitted this legislation by letter dated May 9, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 9, 1991, transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the restrictions imposed on the transfer of a tract of seventy-three acres of land, more or less, to Temple Junior College, Temple, Texas, by Public Law 90-197, December 14, 1967, are hereby removed, including the right of reverter, for such appropriate monetary consideration as the Secretary of Veterans Affairs shall determine, to be deposited in the general fund of the Treasury, and further, that the Secretary of Veterans Affairs is authorized to execute such legal documents as are necessary to remove any restrictions, or conditions, which appear in a Quitclaim Deed executed March 8, 1968, pursuant to Public Law 90-197 by the VA to Temple Junior College. The execution of such legal documents may contain such terms, conditions, reservations, easements, and restrictions as the Secretary deems necessary to protect the interest of the United States.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 9, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To authorize the Secretary of Veterans Affairs to remove any restrictions and conditions on land conveyed by the VA to Temple Junior College, Temple, Texas", with the request that it be introduced and considered for enactment.

In 1967, Congress enacted Public Law 90-197, authorizing the VA to convey certain lands, constituting a portion of the VA Medical Center, Temple, Texas, to Temple Junior College with the requirement that the land be used for educational purposes in a manner that does not interfere with patient care, that the VA could impose any other restrictions or conditions in the deed of conveyance, and that violation of any of the provisions in the Deed, or any attempt to alienate all or part of the land, would result in the property and improvements reverting to the United States.

On March 8, 1968, the VA conveyed the property to Temple Junior College by Quitclaim Deed, reflecting the restrictions required in Public Law 90-197, as well as the requirement that Temple Junior College maintain a swiming pool and golf course on the conveyed property, with the Medical Center having the right to use those facilities without cost.

Temple Junior College has asked the VA to remove from the Deed the provision for automatic reversion to the VA should any provisions be violated or if Temple Junior College attempted to alienate all or a portion of the land. These restrictions have hampered the ability of Temple Junior College to obtain bond financing to finance additional facilities.

The draft bill would allow the Secretary to remove those restrictions, which restrict Temple Junior College's ability to obtain sound financing, for an appropriate monetary consideration, to be determined by the Secretary, while giving the Secretary the discretion to retain or add provisions to protect the interests of the United States if the Secretary determines they are needed. The money realized from the release of the use restrictions would be deposited in the general fund of Treasury.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. This draft bill would be subject to the pay-as-you-go requirement of OBRA because it would increase receipts. The preliminary estimate is that the draft bill would generate less than $50,000 in receipts.

We are advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress from the standpoint of this Administration's program.

Sincerely yours,

EDWARD J. DERWINSKI.

By Mr. HARKIN:

S. 1269. A bill to require the Secretary of Energy to expedite the development of hydrogen derived from renewable energy sources as an alternative energy system for residential, industrial, utility, and motor vehicle use, and for other purposes; to the Committee on Energy and Natural Resources.

RENEWABLE HYDROGEN ENERGY RESEARCH AND DEVELOPMENT ACT

• Mr. HARKIN. Mr. President, what would you think if someone suggested that our Nation could derive much of its energy from a source so clean that it created no acid rain, no global warming greenhouse gases, no ozone depleting chemicals, no carbon monoxide, no urban smog, no radioactive waste or other toxic chemicals? Furthermore, this source would not depend on foreign imports of oil and would be completely renewable.

Does this sound too good to be true? Such a clean, renewable source is technically feasible today. It is the solar hydrogen economy.

In a solar hydrogen economy, energy from solar thermal, photovoltaic, wind, biomass, or hydroelectric sources would be used to generate hydrogen gas. The hydrogen would be stored for later use as the primary energy source in our homes, factories and motor vehicles.

Burning hydrogen would produce primarily clean, pure water. The space shuttle uses hydrogen and oxygen to produce electricity and water for our astronauts in a fuel cell. This same fuel cell technology could provide the electricity to drive electric vehicles and eliminate the emissions leading to urban smog in our cities.

Small quantities of nitrous oxides are produced when hydrogen is burned in air, but the quantities are negligible when hydrogen is chemically combined with the oxygen in air inside a fuel cell. And hydrogen catalytic burners for furnaces and stoves would also reduce nitrous oxides to very small levels when burning hydrogen gas.

Today most hydrogen is produced from methane, the main ingredient of natural gas. Carbon dioxide, the primary global warming gas is generated in this process, and natural gas supplies, while more plentiful than petroleum, are limited.

However, hydrogen can be generated by renewable sources such as photovoltaics—solar cells—solar thermal generators, wind generators, and hydroelectric plants. These sources of energy are totally renewable, and do not depend on foreign sources of oil. The electricity from these renewable sources would split water in an electrolyzer into oxygen and hydrogen gas, much like the high school chemistry experiment. The hydrogen would be stored and shipped via natural gas pipelines or compressed gas tanks to the end user.

If renewable hydrogen is so promising, why are we not using it today?

The primary roadblock is cost. The electricity produced by solar cells today would cost about 20 to 30 cents per kilowatt hour, compared to an average price of 8 cents per kilowatt hour for electricity produced by fossil fuels. Wind and solar thermal generators are more cost-effective today, producing electricity in the 8 to 10 cents per kilowatt hour range.

The cost of photovoltaic cells is also dropping. Researchers such as Joan Ogden and Robert Williams of the Princeton's Center for Energy and Environmental Studies have concluded in their book, "Solar Hydrogen: Moving Beyond Fossil Fuels," that photovoltaics could produce electricity for costs as low as 2 to 4 cents per kilowatt hour with aggressive development. Others conclude that PV costs could be reduced below 10 cents per kilowatt hour by the year 2000, with adequate funding for R&D and manufacturing technologies.

Increased use of hydrogen as an energy carrier would also require new equipment and infrastructure. Initially, hydrogen can be used to augment our supplies of natural gas. One company is now adding hydrogen to natural gas for use in motor vehicles to reduce air pollution. This mixture of hydrogen and natural gas is called Hythane.

Hydrogen-powered internal combustion engines have been demonstrated, but they still produce nitrous oxides. To eliminate virtually all air pollution and global warming greenhouse gases, we should be developing electric vehicles powered by fuel cells, with the fuel cells supplied with renewable hydrogen.

Other countries are pursuing this route to a clean, renewable energy future. Germany spends about $50 million per year on renewable hydrogen. They are converting a 350 kilowatt PV facility in Saudi Arabia to produce solar hydrogen, and have an operating 10-kilowatt solar-hydrogen facility in Stuttgart. For comparison, the United States will spend only $2.6 million this year on hydrogen energy, supporting four small university basic research programs.

The bill I am introducing today will build on the legislation by Senator SPARK MATSUNAGA that Congress adopted last year. The Matsunaga bill requires the Department of Energy to establish a technical advisory panel of experts, and to develop a 5-year management plan to develop hydrogen as an energy source, with priority given to renewable energy sources. Sparky Matsunaga was the champion of hydrogen here in Congress, and we owe so much to his vision.

My bill authorizes five specific research projects and three joint venture demonstration projects. The research projects would require the Secretary of Energy to design and build systems to produce hydrogen from renewable energy sources; develop low-temperature, high-efficiency catalytic hydrogen burners; evaluate the ability of natural-gas pipelines to carry hydrogen gas; design, build, and test hydrogen storage systems for electric vehicles; and develop fuel cells to power electric vehicles. The industry/government cost-shared joint ventures would require the demonstration of renewable hydrogen production, a utility hydrogen load-leveling system, and a renewable hydrogen fuel cell powered motor vehicle demonstration.

The intent of these projects is to move the United States down the road toward a renewable hydrogen economy. The time for planning and study is past. If we are to remain competitive in the 21st century, the United States must have an aggressive program to develop clean, sustainable energy sources such as solar hydrogen.

Mr. President, I ask unanimous consent that the bill be printed in full in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Renewable Hydrogen Energy Research and Development Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) alternative fuels to replace or augment fossil fuels must be developed;

(2) hydrogen is the most plentiful element in the universe;

(3) hydrogen is a promising alternative fuel that can be manufactured from a variety of energy sources, including renewable energy sources such as solar thermal, photovoltaics, wind, biomass, hydroelectric, and geothermal;

(4) hydrogen can serve as an effective storage medium for intermittent energy sources such as solar and wind;

(5) hydrogen is the fuel for the Space Shuttle main engines and provides electricity and water for the astronauts by way of clean-burning fuel cells;

(6)(A) the use of hydrogen has been demonstrated in commercial aircraft; and

(B) hydrogen is the only fuel suitable for hypersonic aircraft;

(7) hydrogen is an environmentally attractive, carbon-free fuel that produces—

(A) no global warming greenhouse gases;

(B) no acid rain;

(C) no ozone precursors that generate urban smog;

(D) no stratospheric ozone depleting chemicals;

(E) no radioactive waste;

(F) no toxic air pollution; and

(G) if used in a fuel cell to produce electricity, negligible nitrous oxides;

(8) hydrogen can meet the requirements for zero emission vehicles;

(9) when the hydrogen is produced from a renewable energy source, a system of electric vehicles powered by hydrogen by way of fuel cells produces no environmentally significant greenhouse gas or air pollution emissions of any kind, in either fuel production or use, and is therefore a zero emission transportation system;

(10) hydrogen, when added to conventional hydrocarbon fuels, reduces emissions from the combustion process;

(11) hydrogen has been studied for use in rail locomotives, particularly for transport of liquid hydrogen;

(12) the practical use of hydrogen as a vehicle fuel can build logically on prior experience with natural gas and electric vehicles; and

(13) current hydrogen production and combustion technologies can be useful components of a transition strategy that would lead to future zero-emission hydrogen production and end-use systems.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) reduce the United States' dependence on imported oil;

(2) accelerate the development of renewable hydrogen as an alternative energy source to fuel homes, factories, utilities, and motor vehicles;

(3) plan for and accelerate research and development programs on components of a renewable hydrogen energy system;

(4) reduce emissions of—

(A) greenhouse gases;

(B) acid rain;

(C) precursors to urban smog; and

(D) other air pollution; and

(5) establish industry and government cost shared projects to speed the development of renewable hydrogen energy systems.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) Greenhouse gas.—The term "greenhouse gas" means a gas that, when released into the atmosphere, contributes to global warming by trapping infrared radiation.

(2) Renewable energy source.—The term "renewable energy source" means a source of energy (such as solar thermal, photovoltaics, wind, hydroelectric, and geothermal) that is not depleted by continued use.

(3) Secretary.—The term "Secretary" means the Secretary of Energy.

(4) Zero emission.—The term "zero emission" means resulting in the emission of no environmentally significant quantities of—

(A) greenhouse gases (primarily carbon dioxide and methane);

(B) carbon monoxide;

(C) precursors to acid rain or smog;

(D) nitrous oxides;

(E) formaldehyde; or

(F) other toxic air pollutants.

SEC. 5. RENEWABLE HYDROGEN ENERGY SYSTEM RESEARCH AND DEVELOPMENT.

(a) Research and Development Programs.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall, in accordance with the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901), solicit proposals and award contracts to conduct—

(1) at least one program to develop, build, and test a system for generating hydrogen from renewable energy sources;

(2) at least one program to develop, build and test catalytic hydrogen gas diffusion burners for residential furnaces and stoves to permit low temperature, high efficiency combustion of hydrogen without the need for exhaust fans or chimneys, with a goal of greater than 95 percent combustion efficiency;

(3) at least one program to evaluate the ability of existing natural gas pipelines to carry hydrogen gas, including experimentation if needed, with a goal of determining those components of the natural gas distribution system that would have to be modified to carry (A) more than 20 percent hydrogen mixed with natural gas and; (B) pure hydrogen gas;

(4) at least one program to develop, build, and test at least one hydrogen storage system suitable for electric vehicles powered by way of fuel cells, with emphasis on—

(A) improved metal hydride hydrogen storage;

(B) activated carbon-based hydrogen storage;

(C) high pressure compressed hydrogen; or

(D) other novel hydrogen storage techniques;

(5) at least one program to design, build, and test a fuel cell suitable to power an electric motor vehicle; and

(6) such other research and development programs as are considered necessary by the Secretary to carry out this Act.

(b) Plan.—

(1) In general.—The Secretary, in consultation with the Hydrogen Technical Advisory Panel established by section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12407), the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and other State and local public and private organizations that the Secretary considers appropriate, shall prepare a comprehensive multi-year research and development plan to facilitate the development of renewable hydrogen energy systems at the earliest feasible date.

(2) Components of plan.—The plan shall include—

(A) an evaluation of the critical technologies required to implement a hydrogen energy system, including—

(i) renewable hydrogen generation, including electrolyzers designed to operate with renewable energy sources;

(ii) hydrogen fixed storage and transmission;

(iii) hydrogen on-board mobile storage and refueling;

(iv) fuel cells;

(v) hydrogen catalytic combustion burners; and

(vi) electric vehicles powered by fuel cells;

(B) a review of hydrogen research and development programs established by foreign countries;

(C) projections of the manufacturing costs over the next 30 years of all elements of renewable hydrogen energy systems, including—

(i) systems to generate hydrogen from renewable energy sources;

(ii) systems to store hydrogen for residential, industrial, utility, and transportation purposes;

(iii) systems, such as catalytic combustion burners, to burn hydrogen efficiently;

(iv) fuel cells for stationary and mobile applications;

(v) passenger vehicles with similar acceleration and ranges as vehicles with gasoline powered internal combustion engines; and

(vi) passenger vehicles with lesser ranges than vehicles with gasoline powered internal combustion engines, but suitable for commuting to and from places of employment within typical metropolitan areas;

(D) projections of the costs of producing hydrogen over the next 30 years from renewable energy sources, as compared to the projected costs of petroleum-based fuels and other alternative fuels;

(E) projected life-cycle costs of owning and operating electric vehicles powered by hydrogen by way of fuel cells over the next 30 years, as compared to life-cycle costs of owning and operating—

(i) vehicles with gasoline powered internal combustion engines; and

(ii) electric vehicles powered by storage batteries;

(F) the necessary technical milestones and cost objectives for critical technologies such that renewable hydrogen energy systems become cost competitive with fossil fuels within the next 10 through 20 years for applications including—

(i) residential use, including catalytic combustion burners;

(ii) commercial co-generation of electricity and heating by way of fuel cells;

(iii) industrial use;

(iv) utility load-leveling; and

(v) motor vehicle use including passenger cars, trucks, buses, and rail locomotives;

(G) a plan for and prioritization of research activities to attain the milestones and cost objectives established in subparagraph (F), including an estimate of the research costs and schedule necessary to achieve the milestones and cost objectives, with emphasis on government and industry cost-sharing joint ventures to accomplish major tasks; and

(H) a plan and cost estimate for producing a quantity of electric vehicles powered by hydrogen by way of fuel cells, and renewable hydrogen production equipment, sufficient to permit the evaluation of a renewable hydrogen transportation system with zero emissions in at least one centrally fueled fleet application.

(3) SUBMISSION OF PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the final plan to the—

(A) Committee on Energy and Natural Resources of the Senate; and

(B) Committee on Science, Space, and Technology of the House of Representatives.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

SEC. 6. RENEWABLE HYDROGEN ENERGY SYSTEM JOINT VENTURE DEMONSTRATION PROJECTS.

Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005) is amended—

(1) in subsection (b), by striking paragraph (4) and inserting the following new paragraph:

"(4) DRAFT SOLICITATIONS AND PUBLIC COMMENT.—The Secretary shall issue a draft solicitation for joint ventures under paragraphs (1) through (5) of subsection (c) by September 30, 1990, and draft solicitations for joint ventures under paragraphs (6) through (8) of subsection (c) by September 30, 1992. After issuing a draft solicitation, the Secretary shall, before issuing a final solicitation, provide for a period of public comment of not to exceed 60 days."; and

(2) in subsection (c), by adding at the end the following new paragraphs:

"(6) RENEWABLE HYDROGEN ENERGY PRODUCTION.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least two joint ventures for the demonstration of the production of hydrogen using renewable energy sources.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, build, test, and demonstrate the production of hydrogen using renewable energy sources. The joint ventures shall operate the hydrogen production system and collect sufficient data to allow estimation of hydrogen production costs and system reliability.

"(C) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this paragraph.

"(D) As used in this paragraph, the term 'renewable energy source' means a source of energy (such as solar thermal, photovoltaics, wind, biomass, hydroelectric, and geothermal) that is not depleted by continued use.

"(7) UTILITY LOAD-LEVELING SYSTEM.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of an electric utility load-leveling system with hydrogen as the storage medium.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, build, test, and demonstrate an electric utility load-leveling system that produces hydrogen during off-peak hours, and consumes that hydrogen in a fuel cell during the hours of maximum utility electricity demand, in order to cut the peak power level required from the utility by at least 10 kilowatts. The joint venture shall operate the system and collect sufficient data to predict the costs, efficiency, and reliability of the systems.

"(C) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this paragraph.

"(8) RENEWABLE HYDROGEN TRANSPORTATION SYSTEM.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least two joint ventures for the demonstration of a renewable hydrogen zero emission transportation system in accordance with this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, build, test and demonstrate the operation of at least four prototype electric vehicles powered by hydrogen by way of fuel cells, with the hydrogen derived from a renewable energy source. The vehicles shall be suitable for commuting use within metropolitan ozone nonattainment areas (as designated pursuant to section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))), or for other centrally fueled fleet operations within the areas.

"(C) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this paragraph.

"(D) As used in this paragraph:

"(i) The term 'greenhouse gas' means a gas that, when released into the atmosphere, contributes to global warming by trapping infrared radiation.

"(ii) The term 'renewable energy source' means a source of energy (such as solar thermal, photovoltaics, wind, biomass, hydroelectric, and geothermal) that is not depleted by continued use.

"(iii) The term 'zero emission transportation system' means a system that results in the emission of, either during normal production of the fuel or in operation of the transportation system, no environmentally significant quantities of—

"(I) greenhouse gases (primarily carbon dioxide and methane);

"(II) carbon monoxide;

"(III) precursors to acid rain or smog;

"(IV) nitrous oxides;

"(V) formaldehyde; or

"(VI) other toxic air pollutants.".●

By Mr. McCAIN:

S. 1270. A bill to require the heads of departments and agencies of the Federal Government to disclose information concerning U.S. personnel classified as prisoners of war or missing in action; to the Committee on Armed Services.

DISCLOSURE OF INFORMATION ON PRISONERS OF WAR AND AMERICANS MISSING IN ACTION

Mr. McCAIN. Mr. President, today, I rise to introduce a bill that directs Government agencies to disclose information concerning the fate of Americans still classified as missing in action or prisoners of war. I am not the first member of Congress to do so. In fact, I have been reluctant to support similar legislation in the past.

In the House, Representative JOHN MILLER has reintroduced what has come to be known as the truth bill. Senator SMITH introduced that legislation in the last Congress while still a Member of the other body.

I would like to pay special credit to Senator SMITH for his hard work and dedication to resolving this very difficult issue, for many years.

On both occasions, while I appreciated the reasoning of the truth bill's sponsors, I was concerned that the bill could threaten the safety of POW/MIA's who may be alive, jeopardize the security of American intelligence operations, compromise our foreign intelligence sources, violate the privacy of the families of POW/MIA's, and place too great a burden on the limited resources of the POW/MIA office within the Defense Intelligence Agency.

For these reasons and others I have previously declined to support the truth bill. However, Mr. President, it is increasingly apparent that the public's trust and confidence in the integrity of our Government's efforts to resolve the questions surrounding the fate of American POW/MIA's is waning. I need not elaborate on the several controversies that have contributed to this decline in public confidence. It is enough to note that the process by which we seek information on our POW's and MIA's has become clouded by doubt and suspicion to the extent that the people involved in the process—many good and honorable people—have had their competency and their reputations called into question.

Consequently, Mr. President, I now feel compelled to offer my own truth bill. I have come to believe that it is in the best interests of the Government,

the American people, the thousands of Americans who were lost or captured and never accounted for in the Second World War, the Korean war, and the Vietnam war and their families that information regarding the fates of these men be open to public scrutiny.

A little daylight, Mr. President, may go a long way to restoring public confidence in the personnel and policies that seek to resolve the POW/MIA question. And if there have been failures or mistakes made in the past, public attention will be the first step toward remedying them.

As I said, I have had some very grave concerns about the impact of the truth bill on the safety of POW/MIA's, the security of our intelligence collection methods and on the privacy of the families of POW/MIA's. I feel very strongly that these imperatives must be reconciled with the public's right to know.

Accordingly, the bill I am introducing today requires that all POW/MIA information be disclosed in compliance with the conditions of the Freedom of Information Act and the Privacy Act. Observing the provisions of these two laws ensures that any information that would compromise POW/MIA's, or our intelligence operations and sources were it publicly known would be exempt from the disclosure requirements of this legislation. Neither would any information that specifically mentions a POW or MIA by name be released to the public without the express written consent of the closest living relative.

These are important exceptions to the disclosure requirements that were not included in previous legislation on this subject. Their inclusion in this bill is a reasonable attempt to reconcile the interests of POW/MIA's, the Government, the families and the public—interests that need not be incompatible.

Neither will these exceptions place impediments to disclosure that are impossible to overcome. If any agency declines to disclose information based on the Privacy Act or the Freedom of Information Act, appeal processes are available to review these determinations. Should a government agency decline to disclose information on the grounds that it would threaten the security of POW/MIA's, or our intelligence methods and assets, that agency must immediately notify the intelligence committees of the Congress of the reasons for that determination.

Speaking for myself, Mr. President, I would not expect the Government to abuse this national security waiver. It is difficult to make a credible argument that our intelligence operations would be compromised by the release of much of our information on POW/MIA's from the Second World War and the Korean war. Should this exception to disclosure be abused by the relevant Government agencies, I, and many other members of Congress, would be compelled to sponsor additional legislation limiting the Government's ability to invoke this exception.

Neither are the provisions of the Privacy Act contained in this legislation intended to unnecessarily complicate disclosure. It is the minimum respect that Congress and the Government owe to the families of our POW/MIA's. All Americans, of course, have a genuine interest in determining the fate of our POW/MIA's. But the public's interest does not supersede that families' interest or their right to privacy. The families will know, better than the rest of us, what is in the best interest of their missing loved ones.

Mr. President, another concern frequently cited by opponents of the truth bill is that it would impose too great a burden on the limited resources of the Federal departments and agencies responsible for collecting information on POW/MIA's. That is a reasonable concern. No less an authority than Col. Mike Peck, the former director of the POW/MIA Office in the Defense Intelligence Agency whose abrupt resignation has occasioned considerable controversy, has argued this point convincingly.

However, determining the fates of our POW/MIA's has been proclaimed the highest national priority by the President, by Congress, by the Secretaries of State and Defense and by the Armed Forces. It is most certainly a priority of the American people. And rather than limit the responsibilities and capabilities of the offices required to act on the national priority, we should provide those offices with the necessary resources to do their job effectively.

If our POW/MIA's are our highest priority, then it is time that the importance we place on them is appropriately reflected in the funds and personnel we devote to determining their fate, and, if any are alive, to bringing them home. Budget considerations are not nearly as compelling reasons for Government action as is the uncertainty that POW/MIA families must contend with every day.

Mr. President, we will make little progress toward resolving these uncertainties while the Government's efforts to find their loved ones suffer from a rapid decrease in public confidence. The men and women who are responsible for acting on this national priority will not do their job any more effectively while their commitment to their responsibilities is suspect.

As I said, Mr. President, many good, honorable, and dedicated people are working very hard to find out what has happened to the thousands of Americans who are still classified as POW and MIA. Gen. John Vessey, the President's special emissary to Vietnam for POW/MIA affairs, has devoted considerable time and effort to resolving this difficult question when he could be enjoying a well-deserved retirement. He is as good, and honorable, and dedicated an American as I have ever had the fortune to know. That recent controversies should cause anyone to doubt his effectiveness or his commitment is appalling. If the process is not working effectively it is not for lack of commitment by General Vessey or the many other honorable people involved in this issue.

My purpose in seeking to open up the process to public scrutiny is to restore confidence in these good men and women. And by revealing what, if any, problems persist in the Government's methods for resolving this question, we can begin to correct those problems and demonstrate the true measure of our devotion to America's POW's and MIA's.

Mr. President, for thousands of American families, the uncertain fate of our POW/MIA's has left open wounds that have long since healed in other homes. War after war, this issue has painfully lingered in the hearts of Americans. This should not be a question that divides us. It should be the one question in our national affairs that firmly unites every single American. This legislation is an attempt to do just that; it is an attempt to unite all Americans in what must be our highest national priority.

Mr. President, in recent months there have been books written, there have been allegations of coverup, there have been front page stories in the newspapers concerning allegations by men with incredible records of service, such as Colonel Peck, who holds some of our Nation's highest honors. This issue is not going to go away.

I am not sure, Mr. President, that we can get it fully resolved without convincing the American people that they have access to information which is relevant to this issue, so that they can judge for themselves what kind of effort has been made, the quality of the work that has been done, and the priority that the administration has accorded this issue.

We owe it to our POW/MIA's and to the public, Mr. President, to get this issue resolved. We owe it to future generations of Americans who may be asked to serve this Nation in time of war. They must know with confidence that if the same fate befalls them that befell others who are still missing in action, that the United States will make every effort to bring them home. And if we cannot bring them home, that we will ascertain to the very best of our ability, their fate.

Mr. President, I hope we can act quickly on this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISCLOSURE OF INFORMATION CONCERNING UNITED STATES PERSONNEL CLASSIFIED AS PRISONER OF WAR OR MISSING IN ACTION.

(a) In General.—(1) Except as provided in section 2, the head of each department or agency of the Federal Government holding or receiving any information referred to in paragraph (2) relating to any United States personnel currently classified as prisoners of war or missing in action shall make such information available to the public.

(2) Paragraph (1) applies to any record, live-sighting report, or other information relating to the location, treatment, or condition of any person referred to in such paragraph on or after the date on which such person passed from control of the Armed Forces of the United States into a status ultimately classified as prisoner of war or missing in action, as the case may be.

(b) Department of Defense Information.—At the same time that the Secretary of Defense makes available to the public the records and other information that is subject to the deadline established by section 3(a), the Secretary shall also make available to the public a complete list of United States personnel classified as prisoners of war, missing in action, or killed in action (body not returned) after 1940, including during a period of war. The list shall include—

(1) the current classification of each listed person for Department of Defense purposes; and

(2) each change that has occurred in the listed person's classification (for Department of Defense purposes) since the original classification.

SEC. 2. EXCEPTIONS TO DISCLOSURE REQUIREMENT.

(a) In General.—A record or other information, including any fatality report, may not be made available to the public pursuant to section 1 if—

(1) such record or other information is exempt from the disclosure requirements of section 552 of title 5, United States Code, by reason of subsection (b) of such section;

(2) the record or other information is in a system of records exempt from the requirements of subsection (d) of section 552a of such title pursuant to subsection (k) of such section; or

(3) the record or other information specifically mentions a person by name unless such person or, in the case of a dead or incapacitated person or a person whose whereabouts is unknown, the closest living relative of such person (as determined by the official custodian of such record or information) expressly consents in writing to the disclosure of such record or other information.

(b) Inapplicability of Prohibition to Members of Family.—The prohibition contained in subsection (a)(3) does not apply to the access of a member of the family of a person to any record or information to the extent that the record or other information relates to such person.

(c) Delegability of Consent Authority.—The authority of a person to consent to disclosure of a record or other information for the purposes of subsection (a)(3) may be delegated to another person or an organization only by means of an express legal power of attorney granted by the person authorized by such subsection to consent to the disclosure.

SEC. 3. DEADLINES.

(a) Existing Records and Information.—In the case of records or other information that are required by section 1(a) to be made available to the public and are held by a department or agency of the Federal Government on the date of the enactment of this Act, the head of such department or agency shall make such records and other information available to the public pursuant to this Act not later than 1 year after such date.

(b) New Records and Information.—Whenever after the date of enactment of this Act a department or agency of the Federal Government receives any record or other information referred to in section 1(a) that is required by this Act to be made available to the public, the head of such department or agency shall make such record or other information available to the public pursuant to this Act not later than 1 year after it is received by that department or agency.

(c) Exceptions.—If the head of a department or agency determines that his disclosure of any record or other information referred to in section 1(a) by the date required by subsection (a) or (b) will compromise the safety of United States personnel known or thought to be held as prisoners of war, then the head of such department or agency may withhold such record or other information from the disclosure otherwise required by this Act and shall immediately notify the President and the congressional intelligence committees of that determination.

SEC. 4. DEFINITIONS.

In this Act:

(1) The term "period of war" has the meaning given such term in section 101(11) of title 38, United States Code.

(2) The term "congressional intelligence committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

By Mr. CRANSTON (by request):

S. 1271. A bill to amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services, and for other purposes; to the Committee on Veteran's Affairs.

MEDICAL CARE COST RECOVERY AMENDMENTS

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1271, a bill to amend title 38, United States Code, to repeal the September 30, 1993, sunset date on the Department of Veterans Affairs' authority to recover the cost of medical care and services furnished to veterans with a service-connected disability for the treatment of a non-service-connected disability and to provide expressly that VA's authority to recover the cost of medical care includes the right to recover from insurance policies that supplement Medicare coverage. The Secretary of Veterans Affairs submitted this legislation by letter dated May 24, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point, together with the May 24, 1991, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. (a) This Act may be cited as the "Medical Care Cost Recovery Amendments of 1991".

(b) Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Sec. 2. Section 629 is amended—

(a) in subsection (a)(2)(E) by striking out "before October 1, 1993,";

(b) in subsection (i)(1)(A) by adding at the end thereof the following new sentence:

"For purposes of this section, such term includes a Medicare supplemental insurance policy, including a policy as defined in section 1882(g) of the Social Security Act (42 U.S.C. 1395ss(g)), and with respect to such a policy, Department of Veterans Affairs medical facilities and personnel shall be deemed Medicare-participating providers, and medical services covered by such a policy and furnished by the Department of Veterans Affairs shall be deemed Medicare-covered services."

Sec. 3. Subsection (a) of section 2 of this Act shall take effect on the date of enactment of this Act. Subsection (b) of section 2 of this Act shall apply with respect to care and services furnished on or after April 7, 1986.

Section-by-Section Analysis

Section 1(a) of the draft bill states the bill's title: "Medical Care Cost Recovery Amendments of 1991".

Section 1(b) of the draft bill states that except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subsection 2(a) would remove the sunset provision in the statute with respect to recoveries from health insurance of veterans with service-connected disabilities when they are treated for their nonservice-connected conditions. The sunset provision was included in the authority to pursue these recoveries as part of the Omnibus Budget Reconciliation Act of 1990.

Section 2(b) of the bill would clarify the VA's authority to collect form Medicare supplemental insurance (medigap) policies. Section 19013 of Public Law 99-272, which reenacted 38 U.S.C. §629, gave VA authority to collect from health care plans the cost of medical care furnished to veterans with no service-connected disabilities. The Medicare and Medicaid programs, however, were explicitly excluded from the definition of health-plan contract. Medigap plans are offered to individuals who are eligible for Medicare, and provide reimbursement for the costs of care for which payment may be made under Medicare but which are not reimbursable by reason of deductibles, coinsurance amounts, or other limitations imposed by the Medicare law. While many insurers who offer these plans reimburse VA, a number of insurers have taken the position that, because VA may not collect from Medicare, there is no liability on medigap policies. It should be noted that the Department of Defense was granted specific authority to recover from these policies in section 713(c) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, to be codified as 10 U.S.C. §1095 (h)(2).

The specific reference to Medicare supplemental plans added by the bill is designed to allay any doubts as to whether medigap plans are required to reimburse VA under the program. For purposes of the recovery provisions in section 629, medigap insurers must treat VA medical centers and personnel as if they were non-Federal hospitals and health care providers participating in the Medicare program. The medigap insurer must reimburse VA as if the claim had been previously submitted to and processed under Medicare. For most policies, the reimbursement would equal an amount representing the copayments and deductible amounts that Medicare does not reimburse and which are normally covered by supplemental policies. If the insurer is unable to determine its liability from the VA bill and treatment records, it may instead make payment in an amount it can demonstrate to the statisfaction of the Secretary it would pay for the care and services if they had been furnished by a non-Federal Medicare provider.

Section 3 of the bill would make the amendments with respect to the sunset provision effective on the date of enactment. The amendment with respect to medigap policies would be effective retroactive to the date of enactment of Public Law 99-272 which authorized recovery by VA from health-plan contracts.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, May 24, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services furnished for a nonservice-connected disability, and for other purposes."

Subsection 2(a) of the draft bill would repeal the October 1, 1993, sunset provision in section 629 of title 38, United States Code, which applies with respect to recoveries from health insurance of veterans with service-connected disabilities when they are treated for their nonservice-connected conditions. The sunset provision was included in the authority to pursue these recoveries as part of the Omnibus Budget Reconciliation Act of 1990.

Another provision of the draft bill, subsection 2(b), would clarify VA's authority to collect from Medicare supplemental ("medigap") insurance policies. Section 629 excludes from the definition of "health-plan contract" the Medicare and Medicaid programs, and VA, therefore, does not submit bills to either program. While many medigap insurers reimburse VA, a number of insurers have taken the position that, because VA may not collect from Medicare, there is no liability on medigap policies. The amendment will make it clear that such policies are, indeed, liable to reimburse VA as if the care had been furnished by a private Medicare provider.

The effect of this draft bill on the deficit is:

FISCAL YEARS
[In millions of dollars]

	1991	1992	1993	1994	1995	1991–1995
Outlays	......	......	......	......	......	......
Receipts	......	......	......	225	255	480

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. The "Medical Care Cost Recovery Amendments of 1991" would increase receipts. Considered alone, it meets the pay-as-you-go requirement of OBRA.

However, the President's FY 1992 Budget includes several proposals that are subject to the pay-as-you-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, this bill should be considered in conjunction with the other proposals in the FY 1992 Budget.

We are advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress, and its enactment would be in accord with the program of the President.

Sincerely yours,
EDWARD J. DERWINSKI.●

By Mr. CRANSTON (by request):

S. 1272. A bill to amend title 38, United States Code, to improve the housing loan program for veterans by reducing administrative regulation, enhancing the financial solvency of such program, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS HOUSING AMENDMENTS ACT

● Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1272, the proposed Veterans' Housing Amendments Act of 1991. The Secretary of Veterans Affairs submitted this legislation by letter dated May 24, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 24, 1991, transmittal letter and section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Housing Amendments Act of 1991".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

REVISION OF LOAN FEE

SEC. 2. (a) Section 1829(a)(2) is amended by—

(1) Striking out "Except as provided in paragraph (6) of this subsection, the" and inserting in lieu thereof, "The";

(2) Further striking out "1.25" and inserting in lieu thereof "1.875";

(3) In clause (A)—

(A) Inserting "(other than a case referred to in clause (E) of this paragraph)," immediately after "case";

(B) Striking out "title or for any purpose specified in section 1812 of this"; and

(C) Striking out "one" and inserting in lieu thereof "1.625";

(4) In clause (B)—

(A) Inserting "(other than a case referred to in clause (E) of this paragraph)" immediately after "case";

(B) Striking out "0.75" and inserting in lieu thereof "1.375"; and

(C) Striking out "and" at the end of such clause;

(5) In clause (C)—

(A) Inserting "(other than a case referred to in clause (E) of this paragraph)" immediately after "case";

(B) Striking out "0.50" and inserting in lieu thereof "1.125"; and

(C) Striking out "amount." and inserting in lieu thereof "amount;"; and

(6) Inserting at the end thereof the following new clauses;

"(D) in the case (other than a case referred to in clause (E) of this paragraph) of a loan made for any purpose specified in section 1812 of this title, the amount of the fee shall be two percent of the total loan amount; and

"(E)(i) except as provided in subclause (ii) of this clause, in the case of a veteran who has previously obtained a loan guaranteed under this chapter, or made under section 1811 of this title, notwithstanding any other provision of this paragraph, and without respect to the purpose for which the loan is obtained or the amount of any downpayment made by the veteran, the amount of such fee shall be 2.5 percent of the total loan amount.

"(ii) This clause shall not apply to a person on active duty at the time the loan is closed, or to a loan obtained for the purpose specified in sections 1810(a)(8) or 1833(a) of this title.".

(b) Section 1829(a) is amended by striking out paragraph (6) in its entirety.

PROCEDURES ON DEFAULT

SEC. 3. Section 1832(c) is amended by—

(a) In paragraph (1)(C)(ii) striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),";

(b) In paragraph (8)(A)—

(1) inserting at the beginning thereof "(i) except as provided in division (ii) of this subparagraph,"; and

(2) striking out "and'"and inserting in lieu thereof the following new divisions

"(ii) in the case of GNMA loan, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the net value of the property;

"(iii) as used in this paragraph, (I) the term 'Association' means the Government National Mortgage Association; and (II) the term 'GNMA loan' means a loan which was in an Association mortgage-backed security pool, and the President of the Association has determined that, with respect to such mortgage-backed security pool, the issuer of the security has defaulted under its guaranty agreement with the Association; and"; and

(c) Striking out paragraph (11) in its entirety.

DIRECT LOAN REVOLVING FUND

SEC. 4. (a) Subchapter III of chapter 37 is amended by striking out section 1823 in its entirety.

(b) Section 1824 is amended by—

(1) Striking out "chapter," in the first sentence of subsection (b), and inserting in lieu thereof, "chapter and direct loan operations under section 1811 of this title,"; and

(2) Inserting after "chapter" in clause (3) of subsection (c), "and direct loan operations under section 1811 of this title, including all moneys in the revolving fund established by section 513 of the Servicemen's Readjustment Act of 1944 on the effective date of the Veterans' Housing Amendments Act of 1991,".

(c) Section 1811(k) is amended by striking out "and section 1823 of this title" both places it appears.

MAXIMUM LOAN AMOUNT

SEC. 5. Section 1810(b) is amended by—

(a) In clause (5) striking out "clause (7) or (8)" and inserting in lieu thereof "clause (7), (8), or (9)";

(b) In clause (7)(C), inserting "obtained or" immediately before "assumed";

(c) In clause (7)(ii)—

(1) inserting "the greater of (I)" immediately before "the sum"; and

(2) striking out "regulations; and" and inserting in lieu thereof "regulations, or (II) 90 percent of the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 1831 of this title;";

(d) In clause (8), striking out "title." and inserting in lieu thereof "title; and"; and

(e) Inserting at the end thereof the following new clause 6.

"(9)(A) except as provided in subclause (B) of this clause, in the case of a veteran who has previously obtained a loan guaranteed under this chapter, or made under section 1811 of this title, notwithstanding any other provision of this subsection, and without respect to the purpose for which the loan is obtained, the amount of the loan to be guaranteed or made does not exceed 90 percent of the reasonable value of the dwelling or farm residence securing the loan as determined pursuant to section 1831 of this title;

'(B) this clause shall not apply to a person on active duty at the time the loan is closed, or to a loan obtained for the purpose specified in subsection (a)(8) of this section.".

TECHNICAL CORRECTION REGARDING PROPOSED CONSTRUCTION

SEC. 6. Section 1805(a) is amended by striking out "approved" both places it appears, and inserting in lieu thereof, "appraised".

EXTENSION OF LENDER REVIEW OF APPRAISALS

SEC. 7. Section 1831(f)(3) is amended by striking out "1990" and inserting in lieu thereof, "1993".

PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS

SEC. 8. Section 1804 is amended by—

(a) striking out subsection (e) in its entirety; and

(b) redesignating subsection (f) as subsection (e).

TIME LIMIT FOR HOUSING DEBT WAIVER

SEC. 9. Section 3102(b) is amended by inserting at the end thereof, "An application for relief under this subsection must be made (1) within 180 days from the date of notification of the indebtedness by the Secretary to the debtor, or within such longer period as the Secretary determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Secretary that such notification was not actually received by such debtor within a reasonable period after such date; or (2) September 30, 1993, if notice of such debt was provided before October 1, 1991.".

CERTIFICATES OF VETERAN STATUS FOR NATIONAL HOUSING ACT BENEFITS

SEC. 10. Subchapter III of chapter 37 is amended by inserting at the end thereof the following new section:

"§1835. Certificates of veteran status under the National Housing Act

"(a) For purposes of this section, the term 'HUD Secretary' shall mean the Secretary of Housing and Urban Development.

"(b) The Secretary shall, at the request of the HUD Secretary, without any reimbursement, certify to the HUD Secretary whether a prospective mortgagor of an insured mortgage under the National Housing Act, or an applicant for assistance under any law administered by the HUD Secretary, is a veteran.".

EXEMPTION FROM LOBBYING REPORTING REQUIREMENTS

SEC. 11. Subchapter III of chapter 37 is amended by inserting after section 1821 the following new section:

"§1822. Exemption from lobbying reporting requirements

"The application for or obtaining of a loan guaranteed, insured, or made under this chapter shall not be deemed as the requesting or receipt of a Federal contract, grant, loan, loan guaranty, loan insurance, or cooperative agreement for purposes of any other law that requires persons requesting or receiving a Federal contract, grant, loan, loan guaranty, loan insurance, or cooperative agreement to report or declare payments made to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a member of Congress.".

MANUFACTURED HOME LOAN DOWNPAYMENT

SEC. 12. Section 1812(c)(5) is amended by striking out "95" and inserting in lieu thereof "90".

TABLE OF SECTIONS

SEC. 13. The table of sections for subchapter III of chapter 37 is amended by—

(a) striking out the items relating to sections 1822 and 1823 and inserting in lieu thereof:

"1822. Exemption from lobbying reporting requirements.

"1823. [Repealed.]"; and

(b) inserting at the end thereof the following new item:

"1835. Certificates of veteran status under the National Housing Act.".

EFFECTIVE DATES

SEC. 14. (a) The amendments made by sections 2, 5(e), and 12 of this Act shall apply to all loans closed on or after October 1, 1991.

(b) The amendments made by section 3 of this Act shall apply to all liquidation sales conducted on or after October 1, 1991.

(c) The amendments made by section 4 of this Act shall take effect October 1, 1991.

SECTION-BY-SECTION ANALYSIS—DRAFT BILL—VETERANS' HOUSING AMENDMENTS ACT OF 1991

Technical note: Unless otherwise clearly indicated, all references to sections, chapters, etc., in the bill and this analysis refer to provisions in title 38, United States Code.

SECTION 2—REVISION OF LOAN FEE

Subsection (a) would amend section 1829 which imposes fees on persons obtaining loans guaranteed, insured or made by the Secretary of Veterans Affairs (VA). This amendment would make permanent the increase of 0.625 percentage points made by the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508 (OBRA 90). The OBRA 90 increases expire September 30, 1991. Fees to be made permanent are:

Guaranteed home loans: Less than 5 percent down, 1.875 percent.

Guaranteed home loans: At least 5 but less than 10 percent down, 1.375 percent.

Guaranteed home loans: At least 10 percent down, 1.125 percent.

Vendee loans, 1.625 percent.

The fee imposed on manufactured home loans would be increased from 1.625 percent under OBRA 90 to 2.0 percent.

This subsection would also require a fee of 2.5 percent from veterans who have previously obtained a VA guaranteed or direct housing loan. That fee would apply regardless of the purpose of the loan or the amount of the downpayment. This new fee on subsequent use of loan entitlement would not apply, however, to persons on active duty in the Armed Forces, or to veterans refinancing existing VA loans with a new loan at a lower rate of interest.

The exemption to the fee in current law for disabled veterans and certain surviving spouses would not be altered.

Subsection (b) would make conforming amendments.

SECTION 3—PROCEDURES ON DEFAULT

Subsection (a) would revise the definition of "net value" to require VA to take into account the losses sustained on the resale of properties in determining whether or not to acquire a foreclosed property.

Subsection (b) would exempt the Government National Mortgage Association (GNMA) from VA "no-bids." A "no-bid" occurs when the net value of the property securing the loan does not exceed the total indebtedness minus VA's guaranty. In a "no-bid" case, the loan holder does not have the election to convey the property to VA following the foreclosure.

Subsection (c) would make permanent the claim payment and property acquisition provisions (the so-called "no-bid" formula) contained in section 1832(c). The current sunset for these provisions is October 1, 1991.

SECTION 4—DIRECT LOAN REVOLVING FUND

Subsection (a) would repeal section 1823 which provides for the Direct Loan Revolving Fund (DLRF).

Subsection (b) would amend section 1824 to provide that the existing Loan Guaranty Revolving Fund (LGRF) would pay for direct loan operations. The balance in the DLRF would be transferred to the LGRF. Future direct loan proceeds would be deposited into the LGRF.

Subsection (c) makes a perfecting amendment.

SECTION 5—MAXIMUM LOAN AMOUNT

Subsections (a) through (d) would amend section 1810 to clarify the maximum refinancing loan VA may guarantee. These amendments would permit a veteran to refinance the full outstanding balance, provided it does not exceed the value of the property securing the loan, of an outstanding FHA or conventional loan obtained by the veteran with a VA loan at a lower interest rate. The veteran generally could not receive any cash for his or her equity, unless the new VA loan would not exceed 90 percent of the value of the security. Current law allows veterans to refinance the full outstanding balance, up to the value of the property, of FHA or conventional loans assumed by the veteran, but not loans originally obtained by the veteran. Refinancing loans where the veteran cashes out equity are currently limited to 90 percent of the value of the security.

Subsection (e) would require a 10 percent downpayment from veterans who have previously obtained a VA guaranteed or direct housing loan. This requirement would apply regardless of the purpose of the loan. It would not apply, however, to persons on active duty in the Armed Forces, or to veterans refinancing existing VA loans with a new loan at a lower rate of interest.

SECTION 6—TECHNICAL CORRECTION REGARDING PROPOSED CONSTRUCTION

Would clarify section 1805(a), which requires a limited warranty from builders on loans for newly constructed homes purchased with VA financing, by changing the term VA "approved" to VA "appraised" construction.

SECTION 7—EXTENSION OF LENDER REVIEW OF APPRAISALS

Would extend the sunset for section 1831(f), which authorized lenders to review the appraisal report, from October 1, 1990, to October 1, 1993.

SECTION 8—PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS

Would repeal section 1804(e) which prohibits VA from guaranteeing loans for newly constructed residences in areas not served by public or community water and sewerage systems where local officials certify that the establishment of such systems is feasible. It would also make a perfecting change.

SECTION 9—TIME LIMIT FOR HOUSING DEBT WAIVER

Would amend section 3102(b) to impose a time limit of 180 days after receiving notice of a housing loan debt for a veteran to request that VA waive that debt. Veterans who received notice of debts before October 1, 1991, would have until September 30, 1993, to request waiver.

SECTION 10—CERTIFICATION OF VETERANS STATUS FOR NATIONAL HOUSING ACT BENEFITS

Would add a new section 1835 which provides that VA will, at the request of the Secretary of Housing and Urban Development (HUD), issue certificates of veteran status to persons seeking benefits under the National Housing Act or other programs administered by HUD. VA will not be reimbursed by HUD for performing this function.

SECTION 11—EXEMPTION FROM LOBBYING REPORTING REQUIREMENTS

Would add a new section 1822 which provides that persons applying for or obtaining loans guaranteed, insured or made by VA will not become subject to requirements contained in the Department of the Interior and Related Agencies Appropriation Act of 1990, codified at 31 U.S.C. §1352, that persons obtaining loans exceeding $150,000 which are guaranteed, insured or made by a federal agency must disclose their lobbying activities.

SECTION 12—MANUFACTURED HOME LOAN DOWNPAYMENT

Would amend section 1812(c)(5) to increase the downpayment required on manufactured home loan from 5 percent to 10 percent.

SECTION 13—TABLE OF SECTIONS

Would make conforming amendments to the table of sections for subchapter III of chapter 37.

SECTION 14—EFFECTIVE DATES

Subsection (a) would apply sections 2 (revision of loan fee), 5(e) (downpayment on subsequent use of loan entitlement), and 12 (manufactured home loan downpayment) to all loans closed on or after October 1, 1991.

Subsection (b) would apply section 3 (procedures on default) to all liquidation sales held on or after October 1, 1991.

Subsection (c) would make section 4 (Direct Loan Revolving Fund) effective October 1, 1991.

THE SECRETARY OF VETERANS AFFAIRS,
WASHINGTON, MAY 24, 1991.

Hon. DAN QUAYLE,
President of the Senate, The Capitol, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill "To amend title 38, United States Code, to improve the housing loan program for veterans by reducing administrative regulation, enhancing the financial solvency of such program, and for other purposes." I request that this measure be referred to the appropriate committee and promptly enacted.

This measure, entitled the "Veterans' Housing Amendments Act of 1991" would make amendments to the Department of Veterans Affairs (VA) housing loan guaranty program to reduce administrative regulation, reduce the risk and costs of this program, and enhance revenues. This measure includes legislative initiatives contained in the President's budget for Fiscal Year 1992.

A detailed section by section analysis of the draft bill is also enclosed.

In summary, the bill would make permanent the increased loan fees enacted for the current fiscal year by the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508. This provision would produce savings of approximately $88.25 million in Fiscal Year 1992, and a total 5 year savings of $381.6 million.

The bill would also require veterans who have previously obtained a VA guaranteed or direct home loan and, after October 1, 1991, wish to obtain another VA guaranteed loan, to pay a fee of 2.5 percent of the loan amount and make at least a 10 percent downpayment. The VA loan program was originally enacted as a readjustment benefit. We believe it is equitable to impose additional requirements on veterans who are not first time homebuyers and have previously taken advantage of this program. These new requirements will not apply, however, to active duty service personnel, or to veterans obtaining interest rate reduction refinancing loans. The savings from this proposal would be approximately $59 million in Fiscal Year 1992, and a total 5 year savings of $260.5 million.

The bill would also revise the no-bid formula to take into account VA's loss on the resale of the property, and would exempt the Government National Mortgage Association from no-bids. This proposal would produce savings of approximately $146.9 million in budget authority in Fiscal Year 1992, and a total budget authority savings over 5 years of $459.4 million.

The remaining proposals would produce insignificant costs or savings.

The VA home loan program has been and continues to be of great importance to present and former members of the Nation's Armed Forces who seek to become homeowners. We are mindful that the cost to the taxpayers of operating the program and paying claims on loans resulting in foreclosure are significant. Since the loan guaranty program provides a unique benefit for a select group of beneficiaries, we believe the measures proposed are reasonable, and are necessary to preserve this important benefit.

The effect of this draft bill on the deficit is:

[Fiscal years in millions of dollars]

	1991	1992	1993	1994	1995	1991–95
BA	N/A	294.1	218.5	235.3	177.4	925.3
Outlays	N/A	307.9	237.7	202.3	177.4	925.3

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. The Veterans' Housing Act of 1991 would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

However, the President's FY 1992 Budget includes several proposals that are subject to the pay-as-you-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, this bill should be considered in conjunction with the other proposals in the FY 1992 Budget.

The Office of Management and Budget advises that there is no objection to the submission of this legislative proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.•

By Mr. FOWLER (for himself, Mr. CRANSTON, and Mr. WIRTH):

S. 1273. A bill to establish national standards for the manufacture and labeling of certain plumbing products in order to conserve and protect water resources, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1274. A bill to provide for the improved management of the nation's water resources; to the Committee on Environment and Public Works.

NATIONAL PLUMBING PRODUCTS EFFICIENCY ACT AND THE MUNICIPAL AND INDUSTRIAL WATER CONSERVATION ACT

• Mr. FOWLER. Mr. President, I rise to reintroduce a package of water conservation legislation I previously submitted with Representative ATKINS of Massachusetts in the House. These measures, designed to make more efficient use of our Nation's water resources are needed now more than they were before.

We have just been through a decade of drought. We saw building moratoria threatened from Gwinnett County in Georgia to the Princeton corridor in New Jersey. We saw massive lawsuits over Federal water projects in Colorado, and a continuing drought in California. We have spent millions of dollars on drought relief for the West, but I can tell you with assurance that farmers across the Nation are still suffering from an unbroken series of dry summers and record high temperatures.

Pressure on this Nation's water resources is now affecting even the South, a land of lakes and rivers, wetlands and underground aquifers. The city of Atlanta does not expect to be able to meet its water needs for more than 15 years without major public works or reallocations. Officials from small towns in south Georgia tell me that one of the things they need most is funding for waste water treatment plants. Last summer I attended town meetings in north Georgia where the citizens were in near revolt over low lake levels.

Georgia, Florida, and Alabama—arguably the three States most blessed with water—are now engaged in a difficult contest over withdrawals from the lakes and rivers of the region.

Many States and municipalities throughout the country are taking steps on their own to use water more efficiently to avoid this kind of problem. Georgia and Massachusetts, I am happy to say, are two of the States who have led the way by implementing many of the provisions contained in this legislative package.

I think it is important to address these issues on a national level, because rivers and underground aquifers do not respect political subdivisions. They run over, through and under all our imaginary boundaries. We cannot legislate, negotiate, or compromise away this simple truth.

In a day when, increasingly, one jurisdiction can only take water or treat water at the expense of another, there is only one real solution: more efficient use of our water resources. That is the approach Representative ATKINS and I have taken, by putting a stop to the massive waste of water in faucets, water closets, showerheads, which use much more water than is necessary to get the job done.

The Plumbing Products Efficiency Act sets national water efficiency standards for the manufacture and labeling of plumbing products sold in interstate commerce. Our bill addresses the issue at the level where it makes the most sense: At the source, with the manufacturers of plumbing fixtures. National standards will prevent a hodgepodge of standards from State to State and city to city that can only create a marketing nightmare for everyone and that are, in any case, almost impossible to enforce at the level of the local building inspector.

The alternative proposed by the critics—with all their clever outhouse humor—is to stick with the status quo. But let's look at what the status quo has to offer.

The U.S. Geological Survey estimates a 31-percent increase in demand on water utilities from 1975 to the end of the century, surpassing economically available supplies in many areas and constraining economic growth. I have already mentioned building moratoria. In some communities, the complete depletion of groundwater supplies could result in economic disaster.

What is the answer, according to business as usual? It is estimated that taxpayers and consumers in more than 170 urban areas in all parts of the country will be required to finance—at tremendous cost, billions of dollars—projects to increase water supply in the 1990's. Nationwide, States, and municipalities face an estimated $83,500 million in necessary sewage treatment costs, as a result of existing requirements and needs.

While this legislation will not completely erase the need for all these expenditures, it will clearly save billions of dollars in public works costs over the next few decades, at an estimated cost to the Federal Government of $1.5 million per year. There are few areas in which the taxpayers can invest so little and receive so much relief.

The objections about performance of efficient water products are a red herring. These products already exist. They are proven to work. States and municipalities from New York to California are already adopting the standards Representative ATKINS and I have proposed, though on a piecemeal basis which will not benefit manufacturers or consumers. Products that meet these standards have already been in use for 20 years in other countries which have never been able to afford our illusions of largesse.

This country is so large and has enjoyed such vast resources that efficiency in the use of those resources has never been a prime consideration. But it is time to bring the days of the ten gallon hat to a close. We need careful stewardship of our funding sources and our water supplies.

We need national leadership to develop and instill a strong conservation ethic in our citizens. Few incentives currently exist for manufacturers to educate consumers about the water use of their plumbing fixtures. This legislation calls for labeling of plumbing products, to encourage consumers to consider water efficiency in their purchasing decisions.

This is similar to what we have already done successfully with the National Appliance Energy Conservation Act. As with our bill, opponents of the Appliance Energy Program said it wouldn't work, that national energy efficiency standards for home appliances would unduly burden manufacturers and wouldn't put a dent in our energy use. Well, millions of dollars in consumer savings with no sacrifices in lifestyle, together with substantial reductions in household energy use have proven them wrong. We now have the opportunity to realize the same painless savings in residential and commercial water use. The fact is that more efficient fixtures could reduce consumer use by 30-50 percent and save 7 billion gallons of water a day in this country.

Still, I understand that water efficiency in the home is only a small part of the equation, that residential customers account for only a fraction of our water use. That is why I have introduced this bill in conjunction with the Municipal and Industrial Water Conservation Act.

This companion legislation would establish an office of water conservation at the Environmental Protection Agency, charged with providing technical assistance to cities and industries in order to eliminate wasteful water use.

A variety of States, institutions and public authorities would have the opportunity to contract with the EPA to develop model conservation programs. In turn, EPA would offer systemwide water audits for municipalities, businesses, and institutions and provide efficiency recommendations. The bill would also establish a National Clearinghouse on Water Conservation at EPA, to exchange information on programs and plans for more efficient water use.

These are constructive steps we can take to preserve and protect this precious natural resource. We can actually save the taxpayers money and safeguard industrial water supplies in the long run, while we prevent destruction of freshwater ecosystems, falling water tables and degradation of water quality.

The alternative in a steady progression of drought, contamination and increased competition for ever-scarcer water. From one end of this country to the other—in water allocation wars, in local water efficiency legislation, in controversies over the billions of tax dollars spent on water treatment and supply, and over the massive environmental damage of these public works projects—the public is crying out for more efficient use of our water resources.

Mr. President, I ask unanimous consent that a section-by-section analysis of each bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL PLUMBING PRODUCTS EFFICIENCY ACT SECTION-BY-SECTION ANALYSIS

Section 1. Congressional Findings. There are 10 findings listed. The primary findings are that:

Demand for clean water supplies continues to increase while the costs of meeting such demand also increases.

Technology is commercially available that will save water and decrease demand for new water supplies by improving the efficiency of plumbing products.

Some local jurisdiction have already mandated the use of water-saving products.

Industry consensus standards are laudable, but they have not kept pace with technological change and national water needs and are not uniformly enforced.

Sec. 2. Purposes of the Act. There are several general purposes listed. The three primary objectives of the bill are to:

Save water and money by promoting greater efficiency in residential and commercial water use.

Generate consumer awareness of the need to save water.

Facilitate interstate commerce and maintain an orderly market for certain plumbing products.

TITLE I—WATER USE PERFORMANCE STANDARDS FOR PLUMBING PRODUCTS

Sec. 101. Coverage. The covered products are toilets, urinals, faucets, and showerheads. The Secretary of Commerce would be empowered to use his or her discretion in classifying other products as covered products.

Sec. 102. Test Procedures. The Commerce Department is directed to develop new and/or amend existing performance and test procedures for covered products.

Restrictions on Certain Representations

No manufacturer, distributor, retailer, or private labeler may make any representation with respect to water use, efficiency or cost of a covered product based on water use unless such product has been tested in accordance with the test procedures developed by Commerce. This provision would take effect 90 days after the development of a new or amended test procedure, unless the Secretary determines that the requirements would impose an undue hardship on a manufacturer, distributor, retailer or labeler who petitions the Secretary.

Amendment of Test Standards

In the case of any amended test procedure, the Secretary must determine to what extent the proposed procedure would alter the measured water efficiency or measured water use of any covered product as determined under the existing test procedure. If a change exists, the Secretary may amend the test standard based on a representative sample of covered products that minimally comply with the existing standard.

Sec. 103. Water Use Performance Standards.

Applicablity.

This section applies to all covered products manufactured and/or sold in the U.S.

Standards to be Implemented by Commerce Department

1. Water Closets and Toilets: ≤ 1.6 gpf.
2. Urinals: ≤ 1.0 gpf.
3. Showerheads: ≤ 2.5 pgm.
4. Faucets (Lavatory): ≤ 2.0 gpm. Faucets (Kitchen): ≤ 2.5 gpm.

All standards should be implemented by July 1, 1992.

Commerce shall periodically review these standards and/or revise them.

Certain covered products may be exempted when the Secretary determines that certain special uses cannot be accommodated by existing technology or products.

The Secretary has the authority to set standards for other water-use products that are developed in the future or are not specifically covered under this Act.

Sec. 104. Labeling.

All covered products must be labeled unless technologically infeasible. Any labeling requirement must be published in the Federal Register. The content of the label is specified to include the results of test procedures, as well as the estimated annual operating cost of the product. Labeling requirements are to be enforced by the Federal Trade Commission.

Sec. 105. Required Testing and Test Data. Test records must be kept on file by the manufacturer for two years after production of the model has been terminated.

Manufacturers must supply samples of covered products for verification of estimated annual water cost of water efficiency rating.

Sec. 106. Assistance from National Institute of Standards & Technology. The NIST shall provide such assistance as the Secretary of Commerce considers necessary, including the development of water use standards and test procedures.

The NIST shall maintain a water use database relating to water use and consumption in the U.S. (with the U.S.G.S.).

Sec. 107. Imports. The requirements of this Act shall apply to all covered products imported into the U.S.

Sec. 108. Prohibited Acts. It shall be unlawful for any manufacturer or private labeler to distribute for commerce any new covered product that does not meet above requirements.

Sec. 109. Enforcement. Any person who knowingly violates any provisions of this Act shall be subject to a civil penalty of $100 for each individual violation to be assessed by the Secretary of Commerce or the FTC.

Sec. 110. Citizen Suits. Any person may commence a civil action against any manufacturer or private labeler who is alleged to be in violation of this title; any Federal agency which has allegedly failed to carry out its responsibilities under this title; or the Secretary of Commerce for any alleged failure to carry out his responsibilties under this title.

Sec. 111. Effect on State law. State regulations are superseded when new standards go into effect. States, localities or local water districts may petition the Secretary for the right to set standards that are more stringent if extraordinary conditions exist.

Sec. 112. Advisory Committee. The Secretary shall establish an advisory committee which shall report annually to Congress on the progress of this Act. Representatives of engineering, plumbing, scientific, environmental and conservation communities shall be included.

Sec. 113. Annual Report. The Secretary shall report to the Congress and the President on the water use impact of this title.

Sec. 114. Definitions. These are standard. Note that the department with jurisdiction to set and enforce the standards is the U.S. Department of Commerce. The National Institute of Standards and Technology (formerly the National Bureau of Standards) would be assigned the task of researching and developing new standards. The Federal Trade Commission would oversee and enforce the labeling requirements.

Sec. 115. Authorizing for Appropriations. $8,000,000 shall be authorized for the purposes of carrying out this Act in the next five years.

TITLE II—WATER USE PERFORMANCE STANDARDS FOR DISHWASHERS AND CLOTHES WASHERS

The Energy Policy and Conservation Act is amended to require the Department of Energy to set not only energy efficiency standards, but also water efficiency standards for clothes washers and dishwaters. Test procedure and labeling requirements of the Energy Policy and Conservation Act should be followed in setting water efficiency standards.

MUNICIPAL AND INDUSTRIAL WATER CONSERVATION ACT SECTION-BY-SECTION

Section 1 states the bill's title.

Section 2 lists the findings on which the bill is based.

Section 3 states the bill's purpose: "to promote the wise and efficient use of water in American homes, businesses, factories, offices, and institutions." No changes will be made in current law under which states and municipalities control their own water policies.

Section 4 defines several terms used in the bill.

Section 5 establishes an Office of Water Conservation at the EPA and describes its functions and structure. Most of the on-the-ground work will be carried out by non-profits, universities, and states under contract with the EPA.

Section 6 makes the EPA the primary coordinator of federal policies related to municipal and industrial uses of water. It also makes clear that EPA is to work closely with other federal agencies in carrying out these duties.

Section 7 outlines the types of technical assistance to be offered to municipalities. The EPA will be proactive in targeting its resources to communities facing potential water shortages in order to head off crises and disputes over water supply projects. EPA will also conduct studies of municipal water supply needs and water conservation alternatives upon request, the costs of which will be shared. States will be permitted to finance water conservation activities through the State Revolving Funds, which are replacing the Construction Grants program.

Section 8 outlines the types of technical assistance to be offered to businesses and institutions. EPA is also to be proactive in this area, targeting its resources to the largest water-users. EPA will conduct studies upon request, the costs of which will be reimbursed by the requesters.

Section 9 establishes a National Clearinghouse on Water Conservation as a technical library of information and materials related to water conservation for the EPA, communities, businesses, and individuals.

Section 10 establishes an Advisory Council on Water Conservation to provide advice and direction to the EPA in its administration of these programs.

Section 11 clarifies that water conservation is to be considered in the NEPA process and relevant environmental impact studies.

Section 12 authorizes $10 million per year for five years for these activities.•

By Mr. PELL (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, and Mr. HATCH):

S. 1275. A bill to reauthorize funding for the Office of Educational Research and Improvement, and for other purposes; to the Committee on Labor and Human Resources.

REAUTHORIZATION OF THE OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Mr. PELL. Mr. President, today I am introducing, along with my colleagues Senators KENNEDY, KASSEBAUM, and HATCH, a bill which provides for a simple extension of the Office of Educational Research and Improvement. It is my intent that this bill serve as the vehicle upon which we hang our substantive reauthorization work later on this year.

We have a golden opportunity in this reauthorization to focus upon quality in education as never before. We should charge the Office of Educational Research and Improvement with the mission of identifying proven models of educational excellence and of developing mechanisms for translating that excellence into our Nation's schools.

Research should be brought out of the hallowed halls of ivy-covered buildings and into the frontlines of instruction in our elementary and secondary schools. Where there is a need for improvement or restructuring, the Office should make state-of-the-art research available. Where research might have an impact, the Office should insure that its findings are brought to bear on school practices. To my mind this Office should serve as the beacon of educational excellence, and it should be on the cutting edge of new, innovative and even controversial educational ideas, concepts and programs.

In March, the Subcommittee on Education, Arts and Humanities held its first hearing on reauthorization. That hearing focused upon the issue of a national test. Later on this week we will hold a hearing on the broader issues of educational research and dissemination, and Secretary Alexander will be there to discuss the administration's views.

I look forward to working with my colleagues on this critical reauthorization, and I anticipate that the same spirit of bipartisan cooperation which has been the hallmark of the work of the Education Subcommittee will continue to guide our efforts as we work on this reauthorization. Mr. President, I ask that the full text of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION.

Paragraph (1) of subsection (e) of section 405 of the General Education Provisions Act (20 U.S.C. 1221e(e)(1)) is amended by striking "1987" and inserting "1992".•

By Mr. DODD (for himself and Mr. RIEGLE):

S. 1276. A bill to establish a Presidential Commission on Insurance; to the Committee on Banking, Housing, and Urban Affairs.

PRESIDENTIAL INSURANCE COMMISSION ACT

• Mr. DODD. Mr. President, today I am introducing legislation to establish a Presidential Commission to assess the condition of the property/casualty, life, health, and reinsurance industries. I am pleased to be joined in introduction by the distinguished chairman of the Banking Committee, Senator RIEGLE.

Over the last decade, the country, for the first time since the Great Depression, has become fearful about the stability of some of its financial institutions—and, ultimately, about the ability of those institutions to meet their promises. First, the savings and loan industry, the mom and pop stores of the banking industry, changed from the George Bailey operations portrayed in the movie "It's a wonderful life" to the go-go operations of a Charles Keating. The only way that the depositors in failed S&L's have been able to recover their money is through the protection of the Federal deposit insurance net—and at a huge cost to the taxpayers in foregone programs and new taxes.

Now, for a a different set of reasons, the banking industry has fallen upon hard times and the Banking Committees on both sides of the Hill are hard to work trying to shore up the bank insurance fund and to modernize the banking industry.

In the midst of these two serious problems, over the past 6 months, there has been a series of articles in newspapers and magazines questioning the financial strength of some property/casualty and life insurers. Most recently, the failure of Executive Life has increased fears about the industry's solvency.

These events have brought the Congress four square into the insurance debate—both with respect to solvency and with respect to the industry's antitrust exemption. Unfortunately, these issues are handled by more than one committee in the Senate, which prevents us from addressing the interconnecting pieces of this puzzle. Further, congressional ability to address these issues is limited by the historic regulation of almost all insurance issues at the State level.

Despite State sovereignty over insurance issues, over the last 15 years, the Congress has considered more proposals to intervene in insurance matters than at any time since adoption of the McCarran-Ferguson Act ceding jurisdiction over the industry to the States in 1945. The nature of the insurance product, its cost and how it would be regulated, all would have been significantly affected by adoption of Federal legislative proposals to mandate the substitution of no-fault automobile insurance for State fault and liability insurance systems; to mandate the use of airbags in automobiles; to establish either Federal standards for product liability laws or to establish an alternative compensation system for product injuries; and to repeal, in one form or another, the McCarran-Ferguson antitrust exemption.

During this time, other Federal laws have been adopted affecting insurance, including laws governing permissible insurance activities under the Bank Holding Company Act and creating a table of compensable events for people injured by vaccines.

Now, the House Energy and Commerce Committee is drafting legislation that might establish a Federal role in shoring up the State guaranty funds. This time, as was the case in no-fault auto insurance and airbags, a significant part of the industry has expressed a willingness to consider a role for the Federal Government.

As I indicated earlier, one of the problems in dealing with these issues, as well as the kind of issues presented by State efforts to rollback insurance premiums, is that we have tended to consider these issues in insolation rather than as part of a seamless garment.

Can we talk about insurer solvency without considering the implications of rate rollbacks? Is the goal of repealing the McCarran-Ferguson antitrust exemption tighter State regulation of rates or open competition where the antitrust laws, not regulation, assure competitive pricing?

Above all, it is possible to address insurance without examining the underlying system that is being insured? While the S&L and banking industry's problems are the results of bad assets—too much lending to the governments of lesser developed countries, to the oil and agriculture sectors, and most recently to the real estate industry—the solvency of the property/casualty industry is tied to unknown liabilities associated with such long-tail products as environmental and product liability. How does an industry price a product when the event that could trigger liability will occur some time long in the future when the rules governing liability may have changed entirely?

I have come to the conclusion—one that I might add is not supported by many in the insurance industry, so much of which is located in my home State—that the present system can be reformed for the betterment of both consumers and the insurance industry only if there is first a comprehensive look at how all the pieces fit together. While many insurers believe that insurance is and should remain a State matter only, I simply do not buy that notion at a time when the people and products insurance covers travel both between and among the States but across national boundaries as well. Moreover, because the insurance industry manages huge investments in nearly every economic activity of this Nation—from mortgages to pension funds—I think we can no longer afford to hide our head in the sand and say, "leave it to the States."

At the same time, I am not saying that the Federal Government should regulate the insurance business and the tort system. We have had many years of State consideration of both matters and it would be foolish to abandon what has been developed.

What I am proposing, in the first instance, is a Presidential Commission to assess just how the industry is doing now.

Is it doing a good job for itself and for consumers?

What is its capital and profitability, and how does that compare to the performance of other industries?

Is it a competitive industry and, if not, why not?

How adequate are the State guaranty funds in assuring protection for consumers when insurers fail, and is there a Federal role in assuring solvency?

Would application of the Federal antitrust laws improve the competitiveness of the insurance industry and, if so, should the States be precluded from regulating prices so the antitrust laws could, in fact, operate?

Should tort law and insurance law continue to be the almost exclusive province of the States or are there some areas of activity that are so inherently interstate and/or international that State law should be preempted?

Should we continue to tinker with tort law, on either a State of Federal level, or are there alternative compensation systems or systems where one could choose to be governed either by tort law or an alternative compensation system that would be better for consumers and easier for insurers to administer?

These are just some of the questions I expect the Presidential Commission I am proposing to answer. In order to develop a comprehensive report, the Commission would be composed of all the relevant Federal officials—the Secretary of the Treasury, the Attorney General, the Secretary of Transportation, the Secretary of Commerce, and the Chairman of the Federal Trade Commission—as well as experts in insurance, State regulation of insurance, financial services, antitrust, tort law and consumer affairs.

After the Commission develops its findings—by November 30, 1992—it will be required by the act to make recommendations for legislative and regulatory changes to: First, improve the financial health and competitiveness, both domestic and international, of the insurance industry; and second, assure consumers the availability of adequate insurance coverage when an insured event occurs, and of the best possible range of products at competitive prices.

Mr. President, this legislation presents quite a challenge to the Commission but it is one that I believe must be undertaken if we want the insurance industry to be able to be competitive in the 21st century, to assure consumers a broad range of useful products at competitive premiums—and to guarantee consumers that the industry will make good on its promises of insurance when an event that should trigger coverage occurs.

I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Presidential Insurance Commission Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the property and casualty insurance, life insurance, health insurance, and reinsurance industries play a major and vital role in the capital formation and lending in the United States economy;

(2) at the end of 1989, life and health and property and casualty insurers combined controlled just under $1,800,000,000,000 in assets invested in the United States;

(3) these insurer assets represented slightly less than 18 percent of the financial assets of all non-governmental financial intermediaries in the United States;

(4) of total United States assets, insurers controlled—

(A) 50.7 percent of all United States held corporate and foreign bonds;

(B) 32.1 percent of all tax-exempt bonds;

(C) 13.8 percent of United States Treasury securities;

(D) 18.2 percent of Federal agency securities;

(E) 12.2 percent of mortgages;

(F) 14.7 percent of corporate equities;

(G) 10.3 percent of open market paper; and

(H) 12 percent of all other United States assets; and

(5) a Presidential commission should be established—

(A) to assess the condition of the insurance industry;

(B) to make recommendations to improve the financial health and competitiveness of the insurance industry; and

(C) to assure the availability of insurance to consumers at competitive prices.

SEC. 3. ESTABLISHMENT.

There is established a Presidential Commission on Insurance (hereafter in this Act referred to as the "Commission").

SEC. 4. DUTIES OF THE COMMISSION.

The Commission shall—

(1) assess the condition of the property and casualty insurance, life insurance, health insurance, and reinsurance industries, including consideration of—

(A) the present and projected long-term financial health of such industries;

(B) the adequacy of assured payout to policyholders, including an assessment of the sufficiency of existing State guaranty funds, the likely effect of proposed changes in these funds by the National Association of Insurance Commissioners, and the need and shape of any Federal role in assuring insurer solvency;

(C) the appropriateness of the extent of solvency protection provided to individual policyholders and corporate policyholders;

(D) the impact of changes in the State and Federal liability systems, particularly with respect to long-term liability, on insurance industry solvency;

(E) the effect of the McCarran-Ferguson Act and State regulation on consumer protection and competition, including pricing, product development, and solvency, in these industries;

(F) the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance and the underlying liability systems; and

(G) whether there are some forms of catastrophic risks, such as earthquakes, that deserve special insurance treatment; and

(2) recommend, on the basis of the Commission's findings under paragraph (1), any necessary legislative and regulatory changes that will improve the domestic and international financial health and competitiveness of such industries, and thereby assure consumers of the availability of adequate insurance coverage when an insured event occurs, and of the best possible range of products at competitive prices.

SEC. 5. MEMBERSHIP AND COMPENSATION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 13 members, including—

(1) the Secretary of the Treasury;

(2) the Attorney General of the United States;

(3) the Secretary of Transportation;

(4) the Secretary of Commerce;

(5) the Chairman of the Federal Trade Commission; and

(6) 8 members from the private sector having expertise in insurance, financial services, antitrust, liability law, and consumer issues, and at least 1 of whom has expertise in State regulation of insurance, to be appointed by the President.

(b) DESIGNEES.—An appropriate designee of any member described in paragraphs (1) through (5) of subsection (a) may serve on the Commission in the place of such member and under the same terms and conditions as such member.

(c) CONSULTATIONS BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall consult with—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Chairperson of the Federal Deposit Insurance Corporation; and

(3) the Chairman of the Securities and Exchange Commission,

with respect to all financial and other matters within their respective jurisdictions that are under consideration by the Commission.

(d) ELIGIBILITY.—No member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government or any State government may be appointed to be a member of the Commission pursuant to paragraph (6) of subsection (a).

(e) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(f) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission appointed pursuant to subsection (a)(6) shall be compensated at a rate equal to the annual rate of basic pay for GS-18 of the General Schedule.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) QUORUM.—

(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) APPROVAL OF ACTIONS.—All recommendations and reports of the Commission required by this Act shall be approved only by a majority vote of a quorum of the Commission.

(h) CHAIRPERSON.—The President shall select 1 member appointed pursuant to subsection (a)(6) to serve as the Chairperson of the Commission.

(i) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 6. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may—

(1) hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate; and

(2) administer oaths or affirmations to witnesses appearing before the Commission,

for the purpose of carrying out this Act.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this Act.

(c) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FEES AND TRAVEL EXPENSES.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) NO LIABILITY FOR OTHER EXPENSES.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(3) CONFIDENTIALITY.—Information obtained under this section which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Commission determines that the withholding thereof is contrary to the national interest. The provisions of the preceding sentence shall not apply to the publication or disclosure of data that are aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(4) FAILURE TO OBEY A SUBPOENA.—

(A) APPLICATION TO COURT.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) JURISDICTION OF COURT.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(5) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(6) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this Act.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

SEC. 7. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS–18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

SEC. 8. REPORT.

Not later than November 30, 1992, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 4.

SEC. 9. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the report required by section 8.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 to carry out the purposes of this Act.•

• Mr. RIEGLE. Mr. President, I rise briefly to commend my colleague, Senator DODD, for his introduction today of the Presidential Insurance Commission Act of 1991. I am proud to be a cosponsor of this legislation.

America's financial services sector is suffering through its worst period since the 1930's. Congress and the media have focused on the problems of the savings and loan industry and the banking industry, but the insurance industry, too, is under considerable stress. In just the past 2 months, we have witnessed two of the largest insurance failures in American history, the collapse of Executive Life Corp., First Capital Corp., and their various affiliates. The damage from these failures alone will be considerable. Thousands of policyholders and annuitants are at risk of losing some or all of their benefits.

The problems of the insurance industry urgently demand the attention of the Federal Government. Congress and the American people need to know if recent failures are mere aberrations or portents of things to come. But reliable information in this area is impossible to come by. The insurance industry lacks uniform accounting rules. No Federal agency maintains comprehensive, reliable, statistics on the industry's condition and prospects.

The Presidential Insurance Commission will not solve these problems, but I am hopeful it will identify issues that Congress or the States should address to safeguard the stability of the insurance industry and the safety of America's policyholders.

Last December, I wrote to the Treasury asking it to investigate and report on some of the same issues this Commission will address. By cosponsoring this legislation, I do not mean to suggest that the need for Treasury's consideration of these issues is any less urgent today than it was in December. We do not know how serious the problems of the insurance industry are. I hope Congress can wait for the Commission to finish its work on these issues, but Congress and the administration need to be prepared in case events overtake us.

Let me also note that in cosponsoring this legislation, I do not mean to prejudge in any way whether there is any need for Federal legislation. It may well be that the existing regulatory system can overcome the challenges it now faces without such legislation. But Congress and the administration cannot afford to consider that question in the dark. We need more information, and more focused consideration of both the weaknesses and the strengths of the current system.

Again, let me commend Senator DODD for his work in developing this legislation and reiterate that I am proud to be a cosponsor.•

By Mr. SIMPSON (for himself, Mr. WALLOP, Mr. DOLE, Mr. AKAKA, Mr. BAUCUS, Mr. BINGAMAN, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. COATS, Mr. COHEN, Mr. CRAIG, Mr. DASCHLE, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GARN, Mr. GLENN, Mr. GORTON, Mr. HATFIELD, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KASTEN, Mr. KENNEDY, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRYOR, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SHELBY, Mr. SPECTER, and Mr. THURMOND):

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month"; to the Committee on the Judiciary.

NATIONAL FOREST SYSTEM MONTH

Mr. SIMPSON. Madam President, I rise today to mark the 100th anniversary of congressional legislation, the Forest Reserve Act, which created our National Forest System. To celebrate and honor this anniversary, I also rise to introduce commemorative legislation to mark this important centennial.

As a Senator for Wyoming, I have a strong personal knowledge of how national forests can play a significant role in the daily lives of Americans. In my home State of Wyoming, we have 10 national forests which encompass more than 9 million acres. These forests provide opportunity for recreation, energy, tourism, hunting, ranching, and timbering. These activities translate into individual jobs, and just as importantly, economic diversity which helps to keep our communities from becoming captive to any single industry or financial enterprise.

Madam President, I admit I have a special personal stake in sponsoring this commemorative legislation, along with my good friend and colleague from Wyoming, MALCOLM WALLOP. The first forest created by the Forest Reserve Act back in 1891 was the Yellowstone Park Timber Land Reserve which bordered on my hometown of Cody, WY, and included much of our surrounding Park County.

This particular timber reserve was so large that it was later broken up into what is now two national forests, the Shoshone and the Bridger-Teton Forests. But what is most important for us to remember about this event is that when President Benjamin Harrison signed the Forest Reserve Act, with a stroke of the pen he changed the way we would come to think of public land—away from the notion that public land resources should be exhausted or sold as a source of revenue—to a policy of conservation and protection of this precious resource.

Not only did the Forest Reserve Act mark a milestone for conservation and the protection of our forest lands, it also helped to create the philosophy of multiple use which has guided public land managers for more than a century. This act helped to recognize that our renewable resources could serve numerous interests and that our national forests could be places where ranchers, loggers, and hikers could all benefit from these forests without any special interest dominating their use.

Madam President, today the National Forest System covers some 191 million acres in 43 States and Puerto Rico. This land mass is equal to 8½ percent of the entire United States. The vast majority of our wilderness areas are in national forests. Most of our ski areas are in forests, while at the same time more than 200 endangered species are protected in national forests. Managed for public and multiple use, our national forests contribute $1.6 billion in annual revenues.

Finally, I hope my colleagues will join me in supporting this commemorative and in celebrating this 100-year anniversary. It is not only an important milestone, but this opportunity to look back also provides us with a chance to look forward. As we consider the past and what has led us to this point, I hope we also take a moment to look "down the road" and understand how, in the coming century, our national forests will play an even larger role in the lives of future generations of Americans.

Later this month I will be right there in Cody, WY, for a number of ceremonies to kick off the celebration of this anniversary. Aside from the opening of an exhibit at the Buffalo Bill Historical Center, of which I am very proud to be a member on the board of trustees, and which will run all summer, we also plan a rededication ceremony of the Wapiti ranger station there on the Shoshone Forest.

Madam President, I honestly personally cannot imagine what summer could be like without time spent fishing or hiking in a forest. It is something I have been fortunate to try to do all my life, and it is one of the many things which gives me great pleasure, reflection, and personal growth. I hope all Americans will take the opportunity to visit a national forest this summer and to help us celebrate the centennial of our Nation's commitment to this very important natural resource.

Madam President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 159

Whereas 1991 marks the 100th anniversary of the National Forest System with the establishment of the first forest reserve in 1891, the Yellowstone Park Timber Land Reserve;

Whereas the establishment of this first forest reserve marked a fundamental change in United States conservation policy towards the administration of public lands;

Whereas the purpose of the National Forest Service is to conserve a portion of America's forests for the people of the United States, recognizing the important environmental and economic values in holding such public lands in trust and managing them for the greatest good;

Whereas the National Forest Service is one of the few examples in the world where a public effort is being made to manage natural resources in an economically efficient, environmentally sound, and socially responsible manner;

Whereas the National Forest System has introduced new ideas for sound resource management, such as multiple use, sustained yield, and preservation of both wilderness and wild and scenic rivers; and

Whereas the 191,000,000 acres of National Forests, National Grasslands, and experimental forests that now make up the National Forest System stretch from Alaska to the Commonwealth of Puerto Rico and from California to Maine: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of June 1991 is designated as "National Forest System Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate activities and programs.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. SYMMS, the names of the Senator from New Mexico [Mr. DOMENICI] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 50, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 98

At the request of Mr. PRESSLER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

S. 102

At the request of Mr. COHEN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 102, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of title IV student loans while completing accredited resident training programs.

S. 104

At the request of Mr. PRESSLER, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 104, a bill to amend the Internal Revenue Cole of 1986 to allow a deduction for amounts paid for a physician as principal and interest on student loans if the physicians agrees to practice medicine for 2 years in a rural community.

S. 167

At the request of Mr. RIEGLE, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 167, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 190

At the request of Mr. GRAHAM, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 190, a bill to amend 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retire pay reduced on the basis of the degree of the disability rating of such veteran.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 267

At the request of Mr. REID, the names of the Senator from Connecticut [Mr. DODD], the Senator from Delaware [Mr. ROTH], and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 284

At the request of Mr. BRADLEY, the names of the Senator from Florida [Mr. MACK], the Senator from Wisconsin [Mr. KASTEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 329

At the request of Mr. PELL, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 329, a bill to strengthen the teaching profession, and for other purposes.

S. 416

At the request of Mr. DANFORTH, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 416, a bill to amend the Internal Revenue Code of 1986 to make permanent the tax credit for increasing research activities.

S. 463

At the request of Mr. HATFIELD, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 463, a bill to establish within the Department of Education an Office of Community Colleges.

S. 492

At the request of Mr. SIMON, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 492, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 511

At the request of Mr. DODD, the names of the Senator from Nebraska [Mr. EXON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Iowa [Mr. HARKIN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 511, a bill to establish programs to improve foreign instruction and to amend the Higher Education Act of 1965 in order to promote equal access to opportunities to study abroad, and for other purposes.

S. 544

At the request of Mr. HEFLIN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 544, a bill to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes.

S. 566

At the request of Mr. NICKLES, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 566, a bill to provide restitution to crime victims.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 581

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 645

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 645, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 701

At the request of Mr. COATS, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $3,500, and for other purposes.

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 701, supra.

S. 734

At the request of Mr. GRAHAM, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 734, a bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 747

At the request of Mr. PRYOR, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 772

At the request of Mr. DOMENICI, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 772, a bill to amend title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes.

S. 846

At the request of Mr. SHELBY, his name was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 866

At the request of Mr. BREAUX, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 895

At the request of Mr. PRESSLER, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffer from Alzheimer's disease or related organic brain disorders.

S. 922

At the request of Mr. DASCHLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 922, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by electric utilities to customers to subsidize the cost of energy conservation services and measures.

S. 1002

At the request of Mr. SHELBY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

S. 1010

At the request of Mr. INOUYE, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1010, a bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants.

S. 1072

At the request of Mr. LAUTENBERG, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1072, a bill to amend title 23, United States Code, with respect to gross vehicle weights on the National System of Interstate and Defense Highways, and for other purposes.

S. 1112

At the request of Mr. HOLLINGS, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1112, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 1121

At the request of Mr. WARNER, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 1121, a bill to authorize funds for construction of highways, for highway safety programs, for mass transportation programs, and for other purposes.

S. 1125

At the request of Mr. KERREY, his name was added as a cosponsor of S. 1125, a bill to provide incentives to health care providers serving rural areas, to provide grants to county health departments providing preventative health services within rural areas, to establish State health service corps demonstration projects, and for other purposes.

S. 1159

At the request of Mr. GORE, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1159, a bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States.

S. 1165

At the request of Mr. LEVIN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1165, a bill to extend the patent term of certain products.

S. 1216

At the request of Mr. GORTON, the names of the Senator from California [Mr. CRANSTON] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1216, a bill to provide for the deferral of enforced departure and the granting of lawful temporary resident status in the United States to certain classes of nonimmigrant aliens of the People's Republic of China.

S. 1222

At the request of Mr. BIDEN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1222, a bill to amend the provisions of the Higher Education Act of 1965 relating to treatment by campus officials of sexual assault victims.

S. 1226

At the request of Mr. JEFFORDS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1234

At the request of Mr. DIXON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1234, a bill to amend the Internal Revenue Code of 1986 to provide tax relief to utilities installing acid rain reduction equipment.

S. 1249

At the request of Mr. KENNEDY, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1249, a bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing.

S. 1251

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1251, a bill entitled the "Disaster Assistance Act of 1991."

SENATE JOINT RESOLUTION 18

At the request of Mr. SIMON, the names of the Senator from Wyoming [Mr. WALLOP] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from Nebraska [Mr. EXON], the Senator from Hawaii [Mr. INOUYE], the Senator from North Dakota [Mr. CONRAD], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 99

At the request of Mr. GLENN, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 99, a joint resolution designating November 24–30, 1991, and November 22–28, 1992, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 107

At the request of Mr. MOYNIHAN, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from Kentucky [Mr. FORD], the Senator from Utah [Mr. HATCH], the Senator from North Carolina [Mr. HELMS], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 107, a joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day."

SENATE JOINT RESOLUTION 109

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 109, a joint resolution designating August 12 through August 18, 1991, as "National Parents of Murdered Children Week."

SENATE JOINT RESOLUTION 115

At the request of Mr. MOYNIHAN, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from Maine [Mr. MITCHELL], the Senator from Alabama [Mr. SHELBY], the Senator from Wisconsin [Mr. KASTEN], the Senator from Florida [Mr. GRAHAM], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Tennessee [Mr. GORE], the Senator from Wisconsin [Mr. KOHL], the Senator from Michigan [Mr. RIEGLE], the Senator from Georgia [Mr. FOWLER], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Idaho [Mr. SYMMS], the Senator from West Virginia [Mr. BYRD], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mr. DOLE], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Dakota [Mr. PRESSLER], the Senator from Oregon [Mr. PACKWOOD], the Senator from Indiana [Mr. LUGAR], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 115, a joint resolution to designate the week of June 10, 1991, through June 16, 1991, as "Pediatric AIDS Awareness Week."

SENATE JOINT RESOLUTION 125

At the request of Mr. SIMON, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Indiana [Mr. COATS], the Senator from Kansas [Mr. DOLE], the Senator from Iowa [Mr. GRASSLEY], the Senator from Wisconsin [Mr. KASTEN], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from Virginia [Mr. ROBB], the Senator from California [Mr. SEYMOUR], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 125, a joint resolution to designate October 1991 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 132

At the request of Mr. LAUTENBERG, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 132, a joint resolution to designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week."

SENATE JOINT RESOLUTION 133

At the request of Mr. HOLLINGS, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 133, a joint resolution in recognition of the 20th anniversary of the National Cancer Act of 1971 and the over 7 million survivors of cancer alive today because of cancer research.

SENATE JOINT RESOLUTION 143

At the request of Mr. RIEGLE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 143, a joint resolution to designate the week of August 4 through August 10, 1991, as the "International Parental Child Abduction Awareness Week."

SENATE JOINT RESOLUTION 154

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Joint Resolution 154, a joint resolution to designate August 1, 1991, as "Helsinki Human Rights Day."

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the names of the Senator from Maine [Mr. COHEN] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

GORTON (AND ADAMS) AMENDMENT NO. 292

(Ordered to lie on the table.)

Mr. GORTON (for himself and Mr. ADAMS) submitted an amendment intended to be proposed by them to the bill (S. 1204) to amend title 23, United States Code, and for other purposes, as follows:

(1) On page 13, line 19, after the phrase "bus terminals and facilities," insert "ferries,".

(2) On page 39, line 18, after the word "construction", insert "and refurbishment".

(3) On page 40, line 3, replace the period with a comma and insert "except that, in the case of ferry systems that serve such routes and other routes in an integrated system, such ferry may operate throughout the entire service area of the ferry system."

ADAMS (AND GORTON) AMENDMENT NOS. 293 AND 294

(Ordered to lie on the table.)

Mr. ADAMS (for himself and Mr. GORTON) submitted two amendments intended to be proposed by them to the bill S. 1204, supra, as follows:

AMENDMENT NO. 293

On page 4 of the bill, between lines 2 and 3, insert the following new subsection:

(c) Section 101(a) of title 23, United States Code, is amended by inserting after the paragraph defining the term "forest highway" the following new undesignated paragraph:

"The term 'high occupancy vehicle facility' means any existing or new freeway lane which is dedicated exclusively to usage by automobiles, vans, public and private transit vehicles, including intercity buses with multiple occupants during peak rush hour periods, connecting ramps, interchanges, and parking lots, terminals and loading areas, for such vehicles and motorist and passenger information programs.".

On page 26 of the bill, line 14, strike "In the ratio" and insert "90 percent in the ratio".

On page 27 of the bill, line 11, strike "monoxide."." and insert "monoxide. 10 percent based on a State's number of freeway lanes and miles dedicated to the useage of high occupancy vehicle lanes during peak rush hours (except that no State shall receive more than 20 percent of such 10 percent so apportioned).".

On page 75 of the bill, between lines 22 and 23 insert the following new subsection;

"(c) HOV PROJECT GUIDELINES.—Not later than 6 months after the date of enactment of the Surface Transportation Efficiency Act of 1991, the Federal Highway Administration shall issue minimum design criteria for high occupancy vehicle facilities which specifies a standard lane width to accommodate automobiles, transit vehicles, and intercity buses. The guidelines would also require that new high occupancy vehicle facilities contain ramps and interchanges, or the capability for such, for connection with existing or planned adjacent parking and loading areas. When part of a high occupancy vehicle facility project, as defined in section 101, ramps, interchanges, and parking and loading areas would also qualify for any preferential match accorded high occupancy vehicle facilities in this title.

On page 75 of the bill, line 23, strike "(e)" and insert "(f)".

On page 131 of the bill, after line 22 insert the following new section:

SEC. 139A. SHARED RIDE PROJECTS.

Section 146(a) of title 23, United States Code, is amended—

(1) by striking "carpools and vanpools. (As used hereafter in this section, the term 'carpool' includes a vanpool.)" and inserting "shared rides."; and

(2) in the last sentence thereof—

(A) by striking "carpooling" and inserting "shared ride";

(B) by striking "carpool" and inserting "shared ride"; and

(C) by striking "carpools" and inserting "shared rides".

AMENDMENT NO. 294

On page 131, after line 22, add the following new section:

"SEC. 140. EMERGENCY RELIEF ADVANCES.

The Secretary shall advance emergency relief funds to the State of Washington for the replacement of bridges on the Interstate System damaged by November, 1990 storms notwithstanding the provisions of section 125 of title 23, United States Code. The State of Washington shall repay such advances to the extent that a final court judgment declares that damage to such bridges was a result of human error."

BYRD AMENDMENT NO. 295

Mr. BYRD proposed an amendment to the bill S. 1204, supra, as follows:

On page 131, after line 22, insert the following new section:

SEC. 140. LEVEL OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years commencing with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface

Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall provide each State in which the rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall provide each State with a bonus apportionment equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment provided any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposal income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate allocations under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the allocations to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"Sec. 159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to be available for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $769,000,000.

(B) For fiscal year 1994, $1,350,000,000.

(C) For fiscal year 1995, $1,500,000,000.

(D) For fiscal year 1996, $1,800,000,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

BYRD AMENDMENT NO. 296

Mr. BYRD proposed an amendment to amendment No. 295 proposed by him to the bill S. 1204, supra, as follows:

In the amendment, strike out "OF EFFORT APPORTIONMENT BONUSES" and all that follows through "available until expended." and insert in lieu thereof the following:

OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years commencing with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall provide each State in which the rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under section 133, 144, and 119 of this title for fiscal year 1993 or ten percent of such total apportionment for fiscal year 1994, 1995, or 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall provide each State with a bonus apportionment equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the start of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment provided any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposal income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate allocations under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the allocations to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

'Sec. 159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to be available for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $769,000,000.

(B) For fiscal year 1994, $1,600,000,000.

(C) For fiscal year 1995, $1,750,000,000.

(D) For fiscal year 1996, $2,050,000,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

BURNS (AND OTHERS) AMENDMENT NO. 297

(Ordered to lie on the table.)

Mr. BURNS (for himself, Mr. CONRAD, Mr. DANFORTH, Mr. GARN, Mr. GORTON, Mr. JEFFORDS, Mr. KASTEN, Mr. LOTT, Mr. MCCAIN, Mr. PRYOR, Mr. WALLOP, Mr. SIMPSON, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HOLLINGS, Mr. MCCONNELL, and Mr. STEVENS) submitted an amendment intended to be proposed by them to the bill S. 1204, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . RURAL TOURISM DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the "Rural Tourism Development Act of 1991".

(b) RURAL TOURISM DEVELOPMENT FOUNDATION.—

(1) FINDINGS.—The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) ESTABLISHMENT OF FOUNDATION.—In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(3) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(A) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(B) development of educational resources to assist in private and public rural tourism development; and

(C) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(4) BOARD OF DIRECTORS.—

(A) ESTABLISHMENT.—

(i) COMPOSITION.—The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(I) during its first two years shall consist of nine voting members; and

(II) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(ii) APPOINTMENT.—

(I) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(II) The voting members of the Board, other than those referred to in subclause (I), shall be appointed in accordance with procedures established by such bylaws.

(iii) QUALIFICATIONS.—The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(iv) TERMS OF OFFICE.—Voting members of the Board shall each serve a term of six years, except that—

(I) initial terms shall be staggered to assure continuity of administration;

(II) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(III) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(B) EX-OFFICIO MEMBERS.—The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(C) CHAIRMAN; VICE CHAIRMAN.—The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(D) MEETINGS; QUORUM; OFFICIAL SEAL.—The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(5) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(6) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—

(A) IN GENERAL.—The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(B) GIFTS, DEVISES, AND BEQUESTS FOR BENEFIT OF INDIAN TRIBES.—A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservation.

(7) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(8) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

(9) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personnally liable, except for malfeasance.

(10) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(11) ADMINISTRATION.—

(A) IN GENERAL.—In carrying out the provisions of this section, the Board may adopt bylaw, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(B) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(C) TREATMENT AS FEDERAL EMPLOYEE.—Neither an officer or employee hired under subparagraph (A) nor an individual who provides services under subparagraph (B) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(12) EXEMPTION FROM TAXES: CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom, if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(13) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(14) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(15) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1991, 1992, and 1993 not to exceed $500,000 to—

(A) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(B) provide administrative services for the Rural Tourism Development Foundation.

(16) DEFINITIONS.—As used in this section, the term—

(A) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(B) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)):

(C) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(D) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(17) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

(A) by striking "and" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting in lieu thereof"; and"; and

(C) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Rural Tourism Development Act of 1991, in the development and promotion of rural tourism.".

BURNS (AND SYMMS) AMENDMENT NO. 298

(Ordered to lie on the table.)

Mr. BURNS (for himself and Mr. SYMMS) submitted an amendment intended to be proposed to the bill S. 1204, supra, as follows:

On page 37, line 18, insert the following after 'title'.":

(4) Section 204 is amended of title 23 United States Code, is amended by striking subsection (h) and inserting instead:

Subsection (h) funds available for each class of Federal Lands Highways may be available for the following:

"(1) transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development;

"(2) adjacent vehicular parking areas;

"(3) interpretive signage;

"(4) acquisition of necessary scenic easements and scenic or historic sites;

"(5) provision for pedestrians and bicycles;

"(6) construction and reconstruction of roadside rest areas including sanitary and water facilities; and

"(7) other appropriate public road facilities such as visitor centers as determined by the Secretary.".

"(i) The Secretary shall transfer to the Secretary of Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.".

Section 205(c) is amended by striking $15,000 in 4 places and inserting in lieu thereof $50,000.

BURNS (AND SIMPSON) AMENDMENT NO. 299

(Ordered to lie on the table.)

Mr. BURNS (for himself and Mr. SIMPSON) submitted an amendment intended to be proposed to the bill S. 1204, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code is amended by adding in an appropriate place the following new section:

"Education and Training Program.

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support service that will: (1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas, including pavement, bridge and safety management systems; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; and a tourism and recreational travel technical assistance program; (2) identify, package and deliver usable highway technology to local jurisdiction to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems: (3) establish cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance programs centers: *Provided*, That not less than four centers be designated to provide transportation assistance that may include, but not necessarily limited to, a "circuit-rider program, training on intergovernmental transportation planning and project selection, and a tourism recreational travel component to American Indian tribal governments.

"(2) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds authorized by section 104(a). The sum of $8 million per fiscal year for the fiscal years 1992, 1993, 1994, 1995, and 1996 is authorized to be appropriated from the highway account of the highway trust fund for the purpose of providing technical and financial support for these centers, including up to 100 per centum for services provided to American Indian tribal governments. An additional sum of $5 million is authorized to be appropriated from the highway account of the highway trust fund to establish and carry out a tourism and recreational travel technical assistance program in nonurbanized areas to remain available until expended.

BURNS (AND OTHERS) AMENDMENT NO. 300

(Ordered to lie on the table.)

Mr. BURNS (for himself, Mr. DOLE, Mr. NICKLES, Mr. GRASSLEY, Mr. CONRAD, Mr. HATCH, Mr. SIMPSON, Mr. STEVENS, Mr. PRYOR, Mr. MACK, Mr. HELMS, Mr. EXON, Mr. DASCHLE, Mrs. KASSEBAUM, Mr. WALLOP, Mr. MCCAIN, Mr. BAUCUS, and Mr. COHEN) submitted an amendment intended to be proposed by them to the bill S. 1204, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . COMMERCIAL DRIVERS LICENSE WAIVER.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313–37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

BURNS AMENDMENT NO. 301

(Ordered to lie on the table.)

Mr. BURNS submitted an amendment intended to be proposed by him to the bill S. 1204, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . BORDER CROSSING STUDY.

"(a) The Secretary of Transportation shall conduct a review of current Federal highways that access border crossings between the United States and Canada in order to: (1) determine whether or not they are in compliance with current federal highway regulations and adequately designed for future growth and expansion; (2) assess their ability to accommodate increased transfer of commerce due to the United States-Canada Free Trade Agreement; and (3) assess their ability to accommodate increasing tourism-related traffic between the United States and Canada. The review shall specifically address issues related to the alignment of U.S. and Canadian highways at the border crossings, the development of bicycle paths and pedestrian walkways, potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

"(b) The Secretary shall issue a report of the findings of this review to the Senate Environment and Public Works Committee and the House Public Works Committee within 60 days after the date of enactment of this Act."

ADAMS AMENDMENT NO. 302

(Ordered to lie on the table.)

Mr. ADAMS submitted an amendment intended to be proposed by him to the bill S. 1204, supra, as follows:

At section 119, on page 72, after line 10, add a new subsection (c) as follows:

(c) SMALL ASPHALT REFINER PROVISION.—Section 106(c)(2)(A) of such 1987 Act is amended by adding after the phrase "except that" the phrase ",with respect to all concerns except small refiners falling within standard industrial classification 2911 which manufacture asphalt,".

SYMMS AMENDMENT NO. 303

Mr. SYMMS proposed an amendment to the bill S. 1204, supra, as follows:

On page 8, line 19, after the "programs" insert the words "or state allocations made pursuant to section 143".

Strike all of Part B and insert in lieu thereof the following:

"PART B. NATIONAL RECREATIONAL TRAILS FUND ACT.

"SEC. 141. SHORT TITLE.

"This Part may be cited as the "National Recreational Trails Fund Act of 1991."

SEC. 142. CREATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) In General.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'National Recreational Trails Trust Fund', consisting of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) Expenditures From Trust Fund.—Amounts in the National Recreational Trails Trust Fund shall be available for making expenditures to carry out the purposes of the National Recreational Trails Fund Act of 1991."

(b) Deposit of Unrefunded Highway Trust Fund Moneys.—Section 9503(c) of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) is amended—

(1) by adding at the end thereof the following new paragraph:

"(6) Transfers from the trust fund for nonhighway recreational fuel taxes.—

"(A) Transfer to national recreational trails trust fund.—The Secretary shall annually pay from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by the Secretary) equivalent to 0.3 per centum of total Highway Trust Fund receipts, as adjusted by the Secretary pursuant to subparagraph (B).

"(B) Adjustment of percentage.—

"(i) First year.—Within one year after the date of enactment of this Act, the Secretary shall, based on studies of nonhighway recreational fuel usage in the various States, adjust the percentage of receipts paid into the National Recreational Trails Trust Fund to correspond to the revenue received from nonhighway recreational fuel taxes.

"(ii) Subsequent years.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received from nonhighway recreational fuel taxes.

"(iii) Amount of adjustment.—The amount of an adjustment in the percentage stated in clause (ii) shall be not more than 10 per centum of that percentage in effect at the time the adjustment is made.

"(iv) Use of data.—The Secretary shall make use of data on off-highway recreational vehicle registrations and use in making adjustments under clause (i) and (ii).

"(C) Definitions.—For the purposes of this paragraph—

"(i) Nonhighway recreational fuel taxes.—The term 'nonhighway recreational fuel taxes' means the taxes under sections 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to fuel used as nonhighway recreational fuel.

"(ii) Nonhighway recreational fuel.—The term 'nonhighway recreational fuel' means—

"(I) fuel used in vehicles and equipment on recreational trails or back country terrain, including use in vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain; and

"(II) fuel used in campstoves and other outdoor recreational equipment."; and

(2) by striking paragraph (2)(C) and inserting the following:

"(C) Exception for use in aircraft and motorboats, and as nonhighway recreational fuel.—This paragraph shall not apply to amounts estimated by the Secretary as attributable to—

"(i) use of gasoline and special fuels in motorboats or in aircraft, and

"(ii) use of gasoline as nonhighway recreational fuel as defined in paragraph (6)(C)(ii).".

(c) Conforming Amendment.—Section 6421(e)(2) of the Internal Revenue Code of 1986 (defining off-highway business use) is amended by adding at the end thereof the following new subparagraph:

"(C) Exception for use as nonhighway recreational fuel.—The term 'off-highway business use' does not include any use as nonhighway recreational fuel as defined in section 9503(c)(6)(C)(ii).".

(d) Clerical Amendment.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund.".

SEC. 143. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAMS.

(a) In General.—The Secretary, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) Statement of Intent.—Moneys made available under this Act are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies, and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act.

(c) State Eligibility.—

(1) Transitional provision.—Until the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) Permanent provision.—On and after the date that is 3 years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails; and

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this Act as provided in subsection (e).

(d) Allocation of Moneys in the Fund.—

(1) Administrative costs.—No more than 3 per centum of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this Act;

(B) paying expenses of the National Recreational Trails Advisory Committee;

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this Act; and, if any such funds remain unexpended, for—

(D) research on methods to accomodate multiple trail uses and increase the compatability of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et al).

(2) Allocation to States.—

(A) Amount.—Amounts in the Fund remaining after payment of the adminiistrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) Equal amounts.—50 per centum of such amounts shall be allocated equally among eligible States.

(ii) Amounts proportionate to nonhighway recreational fuel use.—50 per centum of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) Use of data.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off highway vehicle registrations in each State.

(3) Limitation on Obligations.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;

(B) $50,000,000 for fiscal year 1993;

(C) $54,000,000 for fiscal year 1994;

(D) $56,000,000 for fiscal year 1995;

(E) $56,000,000 for fiscal year 1996.

(e) Use of Allocated Moneys.—

(1) Permissible Uses.—A State may use moneys received under this Act for—

(A) in an amount not exceeding 7 per centum of the amount of moneys received by the State, administrative costs of the State:

(B) in an amount not exceeding 5 per centum of the amount of moneys received by the state, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as otherwise permissible, and where necessary and required by a State Comprehensive Outdoor Recreation Plan, construction of new trails crossing federal lands, where such construction is approved by the administering agency of the State, and the federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this Act for—

(A) condemnation of any kind of interest in property, or

(B) construction of any recreational trail for motorized use on or through lands—

(i) recommended by any agency of the federal government for inclusion in the National Wilderness Preservation System, or

(ii) inventoried in the first or second Roadless Area Review and Evaluation, or pursuant to section 603(A) of the Federal Land Management Policy Act; provided that, nothing in this clause shall prohibit a State from using moneys where it would be otherwise permissible in the absence of this Act; and

(C) upgrading, expanding or otherwise facilitating motorized use or access to trails predominantly used by non-motorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS—

(A) IN GENERAL.—A State may provide moneys received under this Act as grants to private individuals, organizations, city and county governments, and other government entities as approved by the state after considering guidance from the recreational trail advisory board satisfying the requirements of section 143(c)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 per centum of the moneys received annually by a State under this Act shall be reserved for uses relating to motorized recreation, and not less than 30 per centum of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this Act in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a state has allocated not less than 40 per centum of moneys received under this Act in the aforementioned manner.

(B) COMPLIANCE.—The state shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of section 143(c)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than one per centum of all such fuel use in the United States, shall be exempted from the requirements of paragraph (4) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—Moneys made available to the States pursuant to this Act shall be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—

(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within 4 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of section 143(c)(2)(A), may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreational trail pursuant to this Act is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this Act diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the National Recreational Trails Trust Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6)(C)(ii) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive, or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not include motorized conveyances used by persons with disabilities, such as self-propelled wheelchairs, at the discretion of each State.

SEC. 144. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be 11 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) Hiking,

(B) Cross country skiing,

(C) Off-highway motorcycling,

(D) Snowmobiling,

(E) Horseback riding,

(F) All terrain vehicle riding,

(G) Bicycling,

(H) Four-wheel driving;

(2) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations; and

(4) 1 member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least 5 of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of 3 years, except that the members filling five of the eleven positions shall be initially appointed for terms of 2 years, with subsequent appointments to those positions extending for terms of 3 years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trialside and trial-head facilities that quality for funding under this Act; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this Act.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBUSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but to the extent funds are available pursuant to section 143(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than 4 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works in the Senate, and the Committee on Public Works and Transportation in the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this Act, and contains recommendations for changes in federal policy to advance the purposes of this Act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 979, the Department of Energy critical technologies of 1991.

The hearing will take place on Thursday, June 27, 1991, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Attention: Paul Barnett.

For further information, please contact Paul Barnett of the committee staff at 202/224-7569.

Mr. FORD. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on the Department of Energy's role in math and science education.

The hearing will take place on Monday, July 15, 1991, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Attention: Mary Louise Wagner.

For further information, please contact Mary Louise Wagner of the committee staff at 202/224-7569.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation will be holding a hearing on the Agriculturally derived renewable fuels—"Current Status and Prospects for the Future." The hearing will be on Thursday, June 20, 1991, at 10 a.m., in SR-332. For further information please contact Ray Dobert of the subcommittee staff at 224-2321.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 11, at 2 p.m., to mark up fiscal year 1992 foreign assistance authorization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 11, at 10 a.m., to mark up fiscal year 1992 foreign assistance authorization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Mineral Resources Development and Production of the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., on Tuesday, June 11, 1991, to receive hearing testimony on S. 433, the Mining Law Reform Act of 1991 and S. 785, the Minerals Policy Review Commission Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, June 11, 1991, at 10 a.m., for a hearing on universal access to health care and health care cost containment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH AND DEVELOPMENT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, June 11, beginning at 3 p.m., to conduct a hearing on electric and hybrid vehicle technologies.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, June 11, beginning at 10:30 a.m., to conduct a hearing on ozone depletion.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Tuesday, June 11, 1991, at 2:15 p.m., to receive classified briefings on, and to inspect, the B-2 bomber, the F117A stealth fighter, YF-22 tactical aircraft, and other special access programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet on Tuesday, June 11, 1991, at 9:30 a.m., to receive testimony on the policy and procedures of the Department of Defense with regard to the return and release from active duty of National Guardsmen and Reservists called up for operation Desert Shield/Desert Storm.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 11, at 8:30 a.m. to conduct a briefing on Moscow Embassy construction plans.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, June 11, 1991, at 10 a.m. to conduct a hearing on streamlining the Resolution Trust Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SOVIET REPORT: WHITEWASH OF KILLING IN LITHUANIA

• Mr. DECONCINI. Mr. President, last week the Soviet procuracy in Moscow released a report that did not find proof that the people who died during the Soviet Army's takeover of the television station in Vilnius, Lithuania on the night of last January 12–13, were killed by Soviet soldiers. Instead, the report said that the casualties were caused—and I am quoting the Soviet news agency TASS—"not by shots from troops and by being run over by tanks, but by shots from Lithuanian fighters gathered around the television center, by being run over by cars, and by other causes."

Furthermore, the report claims that the Lithuanians attacked Soviet soldiers with knives, truncheons, and metal prods, while there was intensive automatic weapon fire from the crowd surrounding the building and from the roof of nearby houses. So the soldiers allegedly defended themselves by firing warning shots in the air.

The report did not find proof that the Lithuanians were killed by the Soviet Army because obviously the procuracy didn't look for any.

Dozens of witnesses, including Western journalists, have reported that unarmed people were attacked by soldiers with rifle butts and shot at, while Soviet tanks plowed into the crowds. Films taken of the events are readily available if the Moscow procuracy would like to see them.

Mr. President, this report is a travesty; it is outrageous. I have no idea why it was reported. Some say to exonerate Gorbachev; some say to discredit him; others say it's just the old party-military-KGB apparatus going on with business-as-usual.

In any event, we should not be going on with business-as-usual. The front page of the Washington Post of last Tuesday features a headline reading "President Extends Soviet Trade Benefits," and right below it, another headline, "Soviet Report Exonerates Troops in Vilnius Killings."

So while we are considering loosening the purse strings for the Soviet economy, Moscow is saying that it's OK to kill Lithuanians in the streets. And just last month, while everyone's attention was focused on the so-called grand bargain bailout, two Lithuanians were killed and 24 injured in clashes with Soviet troops at Lithuanian border control posts. Meanwhile, in Oslo, Norway, Mr. Gorbachev says "just give us money, but don't tie any reform strings to it." Incidentally, on May 20, Jane's Fighting Ships reported that the Soviet Union launched 10 new submarines last year; we launched 3; something is wrong with this picture.

Mr. President, it is incredible that the Soviet Government could produce a report that completely contradicts eyewitness accounts of thousands of Lithuanians and dozens of Western journalists. For the sake of his own credibility, President Gorbachev should get to the bottom of this outrage, and the United States should keep its checkbook in its pocket.•

THE SAT GOES PC

• Mr. GRAMM. Mr. President, I wish to bring to the attention of the Senate an article written by a high school student named David Reich which appeared on the New York Times op-ed page on June 3.

I direct the attention of my colleagues to the article, headlined, "The S.A.T. Goes P.C.". In it, one can hear the voice of the next generation speaking on a topic of primary importance to all Americans.

It remains true, Mr. President, that sometimes only children can see clearly enough to determine that the emperor has no clothes.

That is clearly the case here as young Mr. Reich outlines the absurd lengths to which the scholastic aptitude test [SAT] has gone in a well-intentioned but misguided effort to defend itself against criticism.

The article follows:

[From the New York Times, June 3, 1991]

THE SAT GOES PC

(By David Reich)

WASHINGTON.—Like many high school juniors, I just took the Scholastic Aptitude Test. I emerged from the three-and-one-half-hour ordeal struck by the too large number of questions that emphasized the achievements of minorities, women and third world countries; bemoaned the shortcomings of American society, and advanced fashionable causes.

That such causes are presented in what is supposed to be an objective test is surprising; that they are advanced in a way that ultimately compromises them is sad.

The questions [verified with the Educational Testing Service last week] informed us that the writer Zora Neale Hurston had been exposed to black folklore at an early age; that "Invisible Man" by Ralph Ellison was considered a great book when it was published and probably will always be considered one, and that "The Piano Lesson" by August Wilson chronicles his experience and is set in Pittsburgh.

So far, so good. There's nothing wrong with references to the lives of writers or a celebration of their works. As it happens, I admire these writers.

The problem is that the unrelieved piling up of such citations amounted to a racial focus of skewed proportions. The questions cited Richards Wright, Gwendolyn Brooks, Lorraine Hansberry and Jackie Robinson, twice. It seemed as if almost half the questions that named real people named blacks. Furthermore, the fiction-reading comprehension section was from Maya Angelou's "I Know Why the Caged Bird Sings."

The Educational Testing Service also took pains to focus on other minorities. There were questions about Mexican-Americans, native Americans and Eskimos. And, as a nod to third world supporters, the test mentioned Zimbabwe's celebration in 1982 of its second year of independence.

Other questions emphasized women. Doris Lessing, we were reminded, is the 20th century's Jane Austen. There was a reading-comprehension section about the English author Fanny Wright and her book about the early U.S.—a book, we were told, that recognized some of the country's problems but failed to understand how difficult solutions would be.

I, too, think that recycling paper is a good idea. But when a question that mentions white men stresses Theodore Roosevelt's contribution to wilderness conservation, and a reading-comprehension passage speaks of delicate lake ecosystems, it all begins to seem a bit simple-minded.

Stung by criticism that the S.A.T. has been culturally biased, the E.T.S. has, it seems, tried to redeem itself and perhaps avert future criticism by emphasizing the achievements of minorities and women. The trouble is that this emphasis reveals as much about stereotypical thinking as anything could and may well offend many students—minority and majority, male and female—who take the test.

African-Americans, women and Asians should complain because the E.T.S., in so pointedly turning stereotypes upside down, highlights them. Jews should complain because Albert Einstein and Saul Bellow seem not to be subjects of questions. Men should complain because they rarely seem to achieve anything unless they're of minority origin. Everyone should complain because, in one way or another, the S.A.T. distorts reality.

This imbalance reflects a conformism that is prevalent in America and that hurts all of us, particularly those whose causes it seeks to advance.

By painting reality in the hues of wishful thinking, it lulls us into believing serious inequities have been set right, and it strangles the openness, dynamism and complexity that define and give hope to our still evolving, ever more inclusive democracy.•

LET'S ENCOURAGE TALENTED YOUTH

• Mr. SIMON. Mr. President, one of the more widely read columnists in the Chicago area is Vernon Jarrett, who recently has a column about a 15-year-old who will be playing the flute, for the second time, with the Chicago Symphony Orchestra as a soloist.

We make a great deal out of our athletic heroes who do well, but we also ought to pay attention to other talented young people who do well.

Demarre L. McGill, obviously, is one of those.

The fact that he is an African-American adds to the luster of this story.

I ask to insert the Vernon Jarrett piece in the RECORD at this point.

The article follows:

[From the Chicago Sun-Times, May 23, 1991]

LET'S ENCOURAGE TALENTED YOUTHS

(By Vernon Jarrett)

Congratulations go to Mr. Michael Jordan. He deserves every accolade he's received as the 1991 Most Valuable Player of the National Basketball Association.

But what about Demarre L. McGill?

Demarre who?

Demarre L. McGill, 15, is a 10th grader at Hyde Park's Kenwood Academy, a public high school on the South Side. He is what is known in sophisticated circles as a flautist. That's what they call people who *excel* at playing a flute.

Tuesday evening at Orchestra Hall, McGill won a tie for first place in the junior division at the Seventh Annual Illinois Young Performers Competition. He shared the title with violinist Jeremy Black, another phenom.

When you scan a photo of the youthful McGill, you can easily visualize a 15-year-old Jordan.

The big difference is that McGill at 15 is far more advanced as a flautist than was Jordan as a basketball player at the same age.

But they share a willingness to become truly good at what they wanted to do.

McGill not only practices every day after school, he is up at 5 a.m. to spend a disciplined hour and a half with his instrument. Moreover, during his eight-year romance with the flute, he's been a willing student of excellent teachers who also insisted on disciplined study.

In 1988, he began spending summers at the Interlochen National Music Camp in Michigan, where he had an opportunity to hang out with other dedicated youths.

I met McGill last year when his parents enrolled him in the NAACP's ACT-SO competition, where he won a gold medal and a trip to Los Angeles. Although I'm nothing more than a lay music lover, it was obvious to me that this youngster was a rare talent.

However, one must note that youngsters of his caliber will not become widely known for the dues they pay during their early years. Here's a boy who has been the principal flautist for the Chicago Youth Symphony Orchestra, the South Suburban Youth Symphony and the Hyde Park Youth Sinfonia—and Tuesday night was in his second performance with the great Chicago Symphony Orchestra—but to most Chicagoans there is this question:

Who is Demarre L. McGill?

Well, I can tell you that there are other Demarre L. McGills in the black community, not to mention the potential ones, who can do with flutes, pianos, horns, test tubes, beakers and words what Michael Jordan does with a basketball. What they need is a little encouragement to learn and practice, practice, practice—just like Demarre and Michael.●

THE FUTURE OF AGING RESEARCH AND POLICY

• Mr. GRAHAM. Mr. President, it is my pleasure to congratulate the Institute of Medicine [IOM] on releasing its report and recommendations on the future of aging research and policy.

Approximately 120 scientists, advocates, and other health and aging experts helped the IOM develop their priorities on age-related research for the next 2 decades. In their report, the IOM recommended a $913 million annual spending level for aging research, consistent with the Pepper Commission's recommendations.

Specifically, the IOM hopes future research will reflect the needs of those over age 85, the fastest growing component of the U.S. population. The IOM suggested further research in the areas of Alzheimer's disease, functional impairment and disability, behavioral, and social research, health services, delivery research, and biomedical ethics.

Such research is imperative for our Nation to deal adequately and appropriately with the needs of our swiftly aging society. In the State of Florida, over 2.3 million persons are over age 65, including over 200,000 who are over 85 years. The over 65 group represents about 18 percent of the entire State population.

Mr. President, it is a priority of mine and many others in the Senate, including the distinguished majority leader, to enact a thoughtful and humane long-term care policy. Reports such as the IOM recommendations further us in that important goal.●

UNDER SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

• Mr. SASSER. Mr. President, I hereby submit revised budget authority allocations to the Senate Committee on Environment and Public Works and aggregates under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 121.

Section 9(e) of the budget resolution states:

> (e) To FUND SURFACE TRANSPORTATION.—
>
> (1) IN GENERAL.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding for surface transportation within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously-passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.
>
> (2) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.
>
> (3) REPORTING REVISED ALLOCATIONS.—The appropriate committee may report appropriately revised allocations pursuant to section 302(b) and 602(b) to carry out this subsection.

The report of the Senate Budget Committee to accompany the budget resolution makes clear one of the available applications of this language. On page 55, the report states:

> The Surface Transportation Act reserve fund is designed to cover, among other initiatives, deficit-neutral Federal-Aid-Highway, Section 3 Mass Transit Capital Grant, and Highway Safety Grant initiatives.

On June 4, 1991, the Environment and Public Works Committee reported S. 1204. S. 1204 plainly qualifies as "legislation that increases funding for surface transportation within such a committee's jurisdiction," in the words of the budget resolution. It addresses matter discussed in the report of the Budget Committee. S. 1204 also meets the other requirement of section 9 of the budget resolution that—

> To the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit * * * in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

As S. 1204 complies with the conditions set forth in the budget resolution, under the authority of section 9(e)(2) of the budget resolution, I hereby file with the Senate appropriately revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection.

The revisions follow:

Revised resolution totals pursuant to section 9(e) of the concurrent resolution on the budget for 1992

[In millions of dollars]

Budget authority allocation to Environment and Public Works:	
1992	18,614
1992-96	112,049
Transportation budget authority function total: 1992	35,321
Resolution budget authority total: 1992	1,270,021

A TRIBUTE TO THE MITCHELL COUNTY AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE FOR ITS SERVICE TO THE STATE OF GEORGIA

• Mr. FOWLER. Mr. President, I rise today to honor the Mitchell County Agricultural Stabilization and Conservation Service for its outstanding efforts in providing agricultural assistance to Georgia.

The Mitchell County ASCS staff has received the 1990 Administrator's Award for Service to Agriculture for providing information to farmers through monthly newsletters, publication of over 35 newspaper articles and countywide farmer meetings on assistance programs. The staff, which has one of the largest workloads in the State, also processed over 500 applications for 1989 disaster relief.

The 1990 Administrator's Award for Service to Agriculture is the highest recognition that ASCS can give an individual or group of individuals.

I would like to take this time to commend J. Ronald Lanier, county executive director; Lila Adela M. Lane, program assistant; Elisha D. Chambless, program assistant; Pamela D. Dennis, program assistant; Sherry L. Dupire, program assistant; Cynthia B. Edwards, program assistant; John Michael Blackburn, program assistant; Angela M. Singleton, program assistant; Steve Morrell, county committee chairperson; Ronald Morey, county committee vice chairperson; J.E. Foister, county committee regular member and Ulysses Johnson, county committee minority adviser for their commitment and hard work in achieving this prestigious award.

I am greatly impressed by the maturity and dedication shown by the members of this staff, who have set an outstanding example for public servants throughout Georgia and the Nation. Their extraordinary efforts have made a positive impact on the agricultural economy of Georgia and this Nation.•

THE HONORABLE MARTIN C.M. LEE

• Mr. SIMON. Mr. President, a few days ago, I addressed the Senate expressing my serious concerns about our policy on Taiwan and Hong Kong.

In that speech I mentioned that I was very much impressed by Martin C.M. Lee, a member of the Legislative Council of Hong Kong, the parliamentary body of that colony.

I have a statement that he made in July of 1990 that is still current in expressing needs.

Its title is "The Need for a U.S. Policy Toward Hong Kong."

I urge my colleagues in the House and the Senate to read his statement.

I ask to insert his statement into the RECORD at this point.

The statement follows:

THE NEED FOR A U.S. POLICY TOWARD HONG KONG

One of the most noteworthy aspects of the current debate over the extension of China's Most Favored Nation status is that, for the first time in discussing United States policy towards China, the President and senior Government officials are directly considering the ramifications on Hong Kong. Such consideration of Hong Kong is long overdue.

Despite a strong—and growing—U.S. stake in the future of Hong Kong, the United States Government has no comprehensive policy towards the British-controlled territory, which in 1997 will revert to China. Hence, it is imperative that the United States formulate a Hong Kong policy that will help ensure the bustling territory to continue both before and after 1997 as the international trading center it is today.

The United States currently has over $6 billion in investments and $25 billion in total annual trade with the British colony. Hong Kong's importance to the U.S., however, transcends these figures, for as the financial, communications, and trade centre of Southeast Asia, Hong Kong serves as the linchpin of a rapidly expanding area that includes Thailand, Taiwan, the Philippines, and Southern China. The future economic development of this region, which has close economic ties with the United States, hinges to a large degree on the future of Hong Kong.

The Administration's silence on Hong Kong is a result of not wishing to affront China and Britain, the two signatories to the 1984 Sino-British Joint Declaration on the Future of Hong Kong. It is based on the premise that the Joint Declaration represents the wishes of all three sides of the Hong Kong "triangle": China, Britain, and the people of Hong Kong.

Though such a premise may have been accurate in 1984, the 1989 Tiananmen Square Massacre and the brutal post-massacre crackdown have shattered any illusion that the interests of Hong Kong are still in harmony with the interests of China and Great Britain. The people of Hong Kong are convinced that only a democratic legislature can preserve the autonomy and freedoms guaranteed under the Joint Declaration; on June 3 and 4, 1990, hundreds of thousands of Hong Kong residents marched to demand democracy and commemorate the 1989 student movement in China.

The dictators in Beijing, on the other hand, have repeatedly made clear that firm political control over Hong Kong is more important than the territory's continued prosperity. And Great Britain, desperate to avoid an embarrassing confrontation with China and eager to have the world see its handover of Hong Kong to the Beijing Government in a good light, has followed a policy of appeasement and non-confrontation with China. Hence, in the past year China and Britain have rejected the demand of the people of Hong Kong for the implementation of the key provision in the Joint Declaration—a democratically elected Hong Kong legislature.

And, while the Hong Kong Legislature has voted overwhelmingly that the much-flawed Basic Law (the PRC-drafted, post-1997 Hong Kong constitution) must be extensively amended, the British Government has officially hailed the Basic Law as a "remarkable document" and Deng Xiao Ping has labelled it a "creative masterpiece." It is no wonder, then, that over 90% of Hong Kong civil servants in a recent poll stated that they did not trust either the British or Chinese Governments.

Though our national policy is to support democracy everywhere in the world, the United States has remained silent about the lack of democracy in Hong Kong. We were the first country in the world to applaud publicly the Joint Declaration in 1984, yet we have not issued a single comment on the undemocratic post-1997 Basic Law or on Britain's failure to implement a democratic system in the thirteen years between 1984-1997.

The United States must end its charade that Britain and China will act to protect Hong Kong's interests. The 62,000 people who will emigrate from Hong Kong this year and the hundreds of thousands who plan to emigrate before 1997 do not share this belief. The U.S., instead, must enact a forward-looking policy now. For if the outflow of people and capital continues to increase, Hong Kong will face a crisis long before 1997, and any such crisis will gravely damage U.S. interests.

Our policy towards Hong Kong ought to emphasize the following points:

(1) Support the full implementation of the 1984 Joint Declaration, and demand that the Basic Law be fully consistent with the Joint Declaration.

(2) Support the establishment of a democratic legislature, as mandated by the Joint Declaration.

(3) Recognize the importance of Hong Kong in the international economy by encouraging Hong Kong's participation in multi-lateral organizations, particularly the newly established Asian Pacific Economic Cooperation forum (APEC).

(4) Conclude bi-lateral agreements with Hong Kong (rather than Britain now or China after 1997) in fields such as air services, trade, and educational exchanges. Note that Hong Kong's power to reach such agreements is specifically recognized in both the Basic Law and Joint Declaration. (At least six countries, including Canada, have already concluded air services agreements with Hong Kong.)

(5) Establish an immigration safety net policy under which Hong Kong's annual quota would be that of a nation (20,000) rather than a colony (5,000). In addition, we should permit their entry visas to the United States to be valid until the year 2002, thus allowing those who obtain entry into the United States to remain in Hong Kong.

(6) Reaffirm our commitment towards free and open trade towards Hong Kong and take steps to liberalize our barriers against the importation of textiles from Hong Kong.

(7) Make clear to China that its policy towards Hong Kong is a significant factor in U.S.-China relations.

Clearly the central aspect of the policy is the demand that China fully adhere to the terms of the 1984 Joint Declaration. In doing so, the United States would explicitly reaffirm its recognition of Chinese sovereignty over Hong Kong after 1997, for it is the Joint Declaration under which China will assume sovereignty in 1997. Yet, it damands that China resume sovereignty under the terms it promised in a binding international agreement.

The adoption of a specific Hong Kong policy would let the people of the territory know that this country is concerned about them and respects their aspirations for democracy. Hong Kong is truly a place where the United States' support for democracy and its economic interests coincide, for the establishment in Hong Kong of a democratic legislature is the only way to halt the current emigration and confidence crises in the territory.•

REMARKS BY GEN. COLIN L. POWELL, CHAIRMAN OF THE JOINT CHIEFS OF STAFF, ON MEMORIAL DAY, 1991 AT THE VIETNAM VETERANS MEMORIAL

• Mr. WARNER. Mr. President, on May 27, 1991, Gen. Colin L. Powell, Chairman of the Joint Chiefs of Staff, spoke at the Memorial Day ceremony at the Vietnam Veterans Memorial. Although I was unable to attend the ceremony myself, I have read the remarks General Powell delivered.

I rise today to single out that speech for both its insight and sincerity. General Powell, through a description of his visit to the Vietnam Veterans Memorial with Gen. Mikhail Moiseyev, the Chief of the Armed Forces of the Soviet Union, touched on issues that highlighted the history, spirit, and dedication of the U.S. military. By highlighting key aspects of the U.S. Armed Forces' proud tradition, General Powell underscored the pride that should be felt by all of our veterans.

Although Operation Desert Storm is in the spotlight now, all of America's veterans deserve the kind of respect and gratitude that General Powell so eloquently expressed in his speech. I ask that General Powell's speech be included in the RECORD at the conclusion of my remarks.

The remarks follow:

REMARKS BY GEN. COLIN L. POWELL

Thank you, thank you very much Jan for that very, very kind introduction. And thank you, my fellow veterans, for that very warm reception.

My friends, on this Memorial Day, we have much to be thankful for. We are thankful for the contributions of all our brave veterans of wars past, and especially those veterans present here today from World War II, Korea, Operation Just Cause, and especially from Vietnam. We know what sacrifices they made.

And we are thankful for a clear victory of American arms in the gulf war with a blessedly small number of casualties, and we are very thankful that the magnificent troops of Operation Desert Storm will soon all be home.

We are also thankful that Americans are not in combat on this Memorial Day. Instead, American troops are performing superb humanitarian service in Iraq in Operation Provide Comfort, and in Bangladesh in Operation Sea Angel. They're helping people, feeding people, building shelter for them, and giving people hope.

You've seen the pictures on television and in the newspapers. You've seen the outstretched hands. You've seen the change that comes over a little Kurdish boy when an American GI reaches out to him. You're seen the disaster-stricken people of Bangladesh greet our Marines with cries of "Angels, Angels." What you've seen over and over in these scenes is American troops bringing hope back to people who had lost hope, and what a marvelous thing that is to see.

Yes, we have much to be thankful for on this Memorial Day. How much we have to be thankful for, I began to realize last week during a meeting I had with Gen. Mikhail Moiseyev of the Soviet Union. General Moiseyev is my counterpart, the Chief of the Armed Forces of the Soviet Union, and he was here last week just for a day or two. And it was the first time I'd seen him since last October when I took him around America, when I tried to show him what America was all about. When I also brought General Moiseyev to this Wall. To show him this Wall. To try to explain to him what this Wall meant to all Americans.

But I didn't bring him directly here to this Wall. He wasn't ready for it. I had to show him other things first. I had to show him what America was really about, what we really stood for. I had him look into the very crucible where America's values were fired.

So last Fall, on a very beautiful morning I took him first to the Jefferson Memorial—over your right rear shoulder. I showed him Jefferson's words carved into the walls of that Memorial. His nation-building words about our Constitution. His freedom-loving words about the abomination of slavery. His God-given words about religion. His ageless words from the Declaration of Independence.

I showed General Moiseyev the extraordinary words at the end of that Declaration of Independence—words that have a special meaning for every man and every woman who has ever served in America's Armed Forces. Words that were to stir every patriot's heart. To these ends, Jefferson wrote, "We mutually pledge our lives, our fortunes, and our sacred honour." This is what every one of us in the military does. We pledge our lives. We pledge our fortunes. We pledge our sacred honor. We pledge them all to the preservation of America.

And I told General Moiseyev to look up, above the statue of Jefferson. Look up to the words that encircle the monument's interior. Words written in letters two feet high. Words bigger than life. Words that distill the very essence of Thomas Jefferson and the very essence of America. Those words read: "I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

I told General Moiseyev that here are our roots. Captured in this Memorial, in this man Jefferson, in these words, you see our beginnings. You see the foundation of America, a nation where "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness."

And I told General Moiseyev that, like Washington and Jefferson and all our Founding Fathers, every American is ready to fight and to die for these unalienable rights. To show him how hard we are willing to fight and the kind of sacrifices Americans are willing to make, I then took him to the second stop of our tour—over your left shoulder—to the Lincoln Memorial.

We read the words of Lincoln's address at Gettysburg. We read those electrifying words that tell eloquently why we fought the bloodiest war in our history. We fought that War so that this nation could "have a new birth of freedom," he said, and so that "government of the people, by the people, and for the people shall not perish from the earth."

And I believe General Moiseyev began to realize how sacred these words and these ideas are to Americans. And he began to see the values that they represent, and to feel the foundation upon which America stands. And I believe it was the infantry soldier in him, not the Russian, or the Marxist, or the Soviet bureaucrat, that began to see and to feel these things.

And I showed the General the final words of Lincoln's Second Inaugural Address, which mean so much to me. I wanted him to see that before we came down here to the Wall.

So we slowly read the final words of that Second Inaugural Address together, with the help of an interpreter. We read: "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow and his orphan. . . ."

When we had read these words, and we had pondered them and let them sink in, we left President Lincoln, we came down those long steps and we crossed over and we were ready to visit the Wall.

As we walked, I wasn't exactly sure how to describe to him what he was to see next. I knew my own feelings were wrapped up in this beautiful monument and I knew I wanted to communicate some of those feelings to General Moiseyev. But I just wasn't sure how to do it.

As we approached the monument, my thoughts began to form. I looked at the people gathered around. I noticed how heavily worn the pathways are—as if centuries rather than a few years have trod these walkways. And I felt the emotional power of this place begin to affect me as it always does. And I looked at General Moiseyev and I could see it was touching him as well.

So I took him to one of the stands and I showed him how we look up the name of a fallen comrade and how we locate that name on the Wall.

Together, we looked up the name of Major Tony Mavroudis. Tony and I went to college together. We grew up together in the streets of New York. We were pals together. We became infantrymen together.

And in 1967, on his second tour, Tony was killed.

And we found his name in the book, we moved to Panel 28 East and we found his name on the Wall. It was an emotional moment. And not just for me.

General Moiseyev was moved as well. Staring at this black marble immensity of grief and pain, disappearing into the earth in both directions, he told me, a fellow soldier, that monuments such as this were what he wanted also—for the veterans of Afghanistan and also for their Great Patriotic War—World War II—where they suffered over twenty million casualties; many unknown.

And he was moved by the exquisite detail of this Wall. The painstaking effort to recognize every friend who fell or was lost. The meticulous attention to keeping everything in balance, everything proportional. The powerful, powerful effort to remember.

I told him Americans do remember. I told him that this Wall will never be complete until the fate of every name is known. I told him we would never rest until everyone—every Vietnam POW and MIA—is accounted for.

And I pointed out to General Moiseyev the three soldiers, the ones who watch the Wall. From their position in the trees there, they search—for the names of friends or perhaps their own names. They pay homage to their buddies and they guard the Wall. They symbolize the eternal vigilance of America's warriors, of America's Armed Forces.

I believe that as a fellow soldier, General Moiseyev understood. He reached out gently and touched the Wall. And I believe he understood.

On this Memorial Day, we again reach out and touch the Wall. We again run our fingers softly over the names. We again draw near to feel its grief and its dark pain. We again experience the terror and the horror of war—all war.

My friends, many young men and women suffered during operation Just Cause and Desert Shield and Desert Storm. Recently, I visited Water Reed and Bethesda to see some of these young heroes.

I talked to one young man who was grievously injured and lost multiple limbs. I told him how proud we were of him, how much we loved him. He said "General, I'm a professional. We had a job to do. We did it. I was hurt. But I'm an American soldier and I did my job."

My friends, when you see these kind of young Americans, when you see these hurt warriors you chest fills with pride, and at the same time you also see the horror of war.

But you see something else just as important. You see that if and when war becomes necessary, as it clearly did in Operation Desert Storm, you must do it right. You've got to be decisive. You've got to go in massively. You've got to be wise and fight in a way that keeps casualties to a minimum. And you've got to go in to win!

And once you win, you get back quickly to what Americans do best: helping people, restoring hope to people, and keeping the peace. That is what Desert Storm was all about.

And in the peace that follows you must never forget. That's what Memorial Days are for. That's what events such as this one are for. And that's what this beautiful Wall is for. This wall where people run their fingers softly over the engraving and feel the spirit of their fallen comrades. This wall where I have seen people weep openly. Where I have felt the tears many times come to my own eyes. Where I have stood and tried to visualize the long history of American arms and to put the Vietnam War in its place in that history.

For those of us who fought in the Vietnam War, this wall overwhelms the long history of American arms so completely that there is little room to see anything else. So, if you fought in this war, you need to step back a little to regain your perspective.

And when you do, and the long history of American arms becomes discernible, you know that you should be every bit as proud of every name on this wall, every bit as proud of every man and woman who fought in Vietnam, as you are of any veterans America has ever had.

The parades that we are now having across America for the men and women of Operation Desert Storm are important national celebrations. The motivation behind them flows directly from the hearts of the American people. And we will all participate in them and be very grateful for the outpouring of support they symbolize.

If you're a veteran of Vietnam, you will be at every parade and at every celebration. You will be there in person or in the hearts and minds of all Americans. The parades will be for you too.

But you won't be there to redeem yourself. You need no redemption. You redeemed yourself in the A Shau Valley. You redeemed yourself at Hue. You redeemed yourself at Dau Tieng, at Khe Sanh, in the South China Sea, in the air over Hanoi or launching off Yankee Station, and in a thousand other places.

So you won't be in parades in Washington, or in New York, or anywhere else in this great country for the purpose of redemption. You'll be there to share in the adulation, to accept some of the applause you were denied, and to be recognized for the true and brave patriots that you are.

The parades and celebrations are not needed to restore our honor as Vietnam veterans because we never lost our honor. They're not to clear up the matter of our valor because our valor was never in question. Two hundred and thirty-six Medals of Honor say our valor was never in question. Fifty-eight thousand, one hundred and seventy-five names on this Wall say our valor and the value of our service were never in question.

Today, my friends, we are very, very proud of our Desert Storm heroes. They fought brilliantly. They put their names in the record book of American arms. They liberated Kuwait. And now, thank God, they're almost all home. We grieve for those we lost and we ask God to comfort their families.

And we are equally proud of the heroes of Vietnam. Although those veterans didn't get a parade, the Wall shows that they earned America's love, America's respect, and our devotion to their memory. The Desert Storm parades may also serve to finally, as Lincoln said, bind up the wounds of Vietnam.

My friends, Americans have placed their lives, their fortunes, and their sacred honor in harm's way from Concord Bridge to Gettysburg, from Normandy to Pork Chop Hill, from the A Shau Valley to the Valley of the Euphrates.

And today, we are proud of all who served. Today we remember and honor all who gave their lives for our beloved America. Today—we remember.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Ruth Cymber, a member of the staff of Senator GRAMM, to participate in a program in Paris, sponsored by the German Marshall Fund and the Franco-American Foundation, from June 30–July 5, 1991.

The committee has determined that participation by Ms. Cymber in the program in Paris, at the expense of the German Marshall Fund and the Franco-American Foundation, is in the interest of the Senate and the United States.•

BAD SCHOOLS HURT GOOD SCHOOLS

• Mr. SIMON. Mr. President, much of the recent news in the print and electronic media about the Nation's private career and vocational schools has been negative. As a former journalist, I know that bad news makes news, and there have been abuses by some of the proprietary schools, though, they are the exception rather than the general rule.

We lose sight of the fact that the private career schools are making a tremendous contribution to the Nation. The abuses that have taken place have largely been because of the laxity on the part of the Department of Education in dealing with accrediting agencies and in supervision. The report issued by Senator SAM NUNN and his subcommittee outlines that clearly.

I want to reassure my colleagues in the Senate about the good schools in the tax-paying sector of higher education. The May 27, 1991, issue of Forbes magazine contains an excellent article on the DeVry Schools and the Keller School of Management [MBA] and the contributions they are making in the technical training of personnel for the work force of the future. The DeVry and Keller schools are privately capitalized, low cost, regionally accredited postsecondary institutions with headquarters in Chicago, IL.

I am proud of the fine work that Dennis Keller and Ronald Taylor are doing to not only produce high quality graduates in the technical and management areas, but to add to the number of African-Americans entering the field of engineering. DeVry, with its diversity of course offerings—associate, baccalaureate and MBA—is an excellent example of the contribution being made to higher education—and student choice—by private career schools.

I ask to include in the RECORD at this point the Forbes article "Good School Story" by Leslie Spencer. I hope my colleagues will pick up the May 27, 1991, edition of Forbes and review two other articles—one by Milton Friedman and a second one by Leslie Spencer.

The article follows:

GOOD SCHOOL STORY

(By Leslie Spencer)

Ronald Taylor recalls the day in September 1973 when he and his partner, Dennis Keller, opened the Keller Graduate School of Management in a Chicago office building. "Dennis and my wife and I had to carry a 12-foot chalkboard up 21 floors because it wouldn't fit in the elevator," Taylor says. "We had seven students, one of them our secretary."

Keller and Taylor are entrepreneurs in, of all businesses, education. Their for-profit management school offers a good-quality M.B.A. for $5,600 a year, about a third of the cost of an M.B.A. at places like the University of Chicago and Stanford, where Keller and Taylor (respectively) earned theirs in the late 1960s.

Taylor graduated from Harvard in 1966. Keller earned a B.A. from Princeton in 1963. After business school, and for Taylor a stint in Vietnam, they both went to work for the DeVry Institute of Technology, a proprietary school then owned by Bell & Howell that offered associate and bachelor programs in electronics. At DeVry, the pair learned something not often taught at the prestige business schools: the economics of for-profit education.

In 1973 Keller and Taylor raised $150,000 from parents and friends to fund their management school. For two years Keller and Taylor operated their business as a full-time, nonaccredited day school offering a one-year certificate in business administration. They did most of the work—teaching and administration—themselves, sometimes without pay. By the end of 1974 they had a staff of five teachers, about 25 students, still no accreditation and a bank account that was near the vanishing point.

Even though they kept costs and tuitions low, they still couldn't compete with charitable subsidies and tax advantages of established, nonprofit schools. Many prospective students could not afford to enroll: As the school was unaccredited and still didn't offer degrees (as opposed to certificates), they were ineligible for federal loans.

Taylor and Keller decided to switch emphasis to an evening program for working adults. The new formula worked. They were offering M.B.A.s by 1976 and were fully accredited the following year. By 1987 they were grossing $5 million a year from an enrollment of 1,300.

It was time to branch out. Their old employer, Bell & Howell, wanted to unload its 85% stake in DeVry. A venture capital group led by Chicago-based Frantenac Co. provided the Keller management school with $24 million in equity to buy DeVry for $182 million. It was a highly leveraged transaction, but since then the company has paid down $58 million of the acquisition debt while a pending public offering of DeVry Inc. should bring in enough to pay down another $44 million.

The Keller management school is still cranking out would-be executives, but it is now overshadowed by the rest of the company. The DeVry Institutes enroll 24,000 students on 11 U.S. and Canadian campuses, accounting for all but a sliver of DeVry Inc.'s June 1990 fiscal year revenues of $156 million. Popular majors are electronics, data processing and accounting.

Education can be a profitable line of work. De Vry's operating income (profits before interest, depreciation and taxes) ran to $21 million on sales of $122 million in the last nine months.

How have the education authorities reacted to the invasion of capitalism on their turf? Without enthusiasm. Until recently, New Jersey, for instance, did not have legislation allowing for-profit schools to offer bachelor's degrees. DeVry's degree-granting status is now being considered by New Jersey. But the educational authorities see another fatal flaw in the operation: The teachers work too hard, putting in 20 classroom hours a week. Steven Brown, dean of administration at DeVry's Woodbridge, N.J. campus, says the state wants him to limit his teachers to 15 hours a week.

New Jersey, groaning under a huge state budget and higher taxes, might be better off taking a leaf from DeVry's book. For now, the school copes as best it can: Each year it packs off about 100 degree students to sister schools in Atlanta or Chicago for two semesters, allowing them to earn their degrees in Georgia or Illinois before returning.

Despite the hurdles set up by laws in some states, Keller and Taylor easily overcame the other obstacle; accreditation, controlled by regional associations. Keller Graduate School was the first for-profit school the North Central Association of Colleges & Schools ever accepted for membrship. Of course, its unconventional approach to the M.B.A. curriculum worried the educational establishment. But today the president of the Council on Postsecondary Accreditation, Thurston Manning, is on DeVry Inc.'s board and Keller and Taylor have become active accrediting consultants.

At a DeVry Institute campus in Lombard, Ill., just off the beltway that circles Chicago, one of the classrooms in a concrete block building is stuffed with tense-looking students taking exams. What they've retained of applied calculus and cost accounting is being tested. Most of these kids have parents who never went near college, and they are relying on federal loan programs to help manage the $4,750 in tuition and fees for an academic year at DeVry. That figure is almost twice the $2,500 a DeVry student would pay to go to nearby Northern Illinois University. But Taylor says that students are willing to pay the difference because they think that a degree from DeVry pays off in the job market.

Taylor and Keller have big dreams for the DeVry Institutes. For one, down the road they are interested in offering management contracts to public schools (kindergarten through grade 12). If this works, both students and taxpayers could be better off, but the bureaucrats and teachers' unions will probably do everything possible to stop it.

"Education is hurting deeply," says Keller with a grin. "We can help." Is anybody listening?•

PORTRAIT OF A CHICAGO TEEN

• Mr. SIMON. Mr. President, I would like to insert in the CONGRESSIONAL RECORD an article from the Christian Science Monitor, commending Anthony Moultrie of Chicago, IL for surmounting the obstacles faced by a teenager living in an inner-city housing project.

Anthony is a junior at Sullivan High School and plans to eventually graduate from college with a degree in sociology. This young student has definite goals, and the determination and ability to achieve them. Anthony has found the strength to overcome encumbrances from his devout belief in God.

Anthony does a great deal of volunteer work that has resulted in his being named "Outstanding Youth of the Year" by his local boys and girls club. He has also been nominated for the Golden Apple Award, which is a college scholarship for Chicago-area high school juniors interested in a teaching career. He has shown himself to be a responsible and motivated young man.

Our country needs more impressive young people like Anthony Moultrie, and I congratulate him on his accomplishments.

The article follows:

[From the Christian Science Monitor, May 14, 1991]

BUILDING FOR A DIFFERENT FUTURE

(By Scott Pendleton)

CHICAGO.—When Anthony Moultrie was 12, a friend of the same age was pushing drugs and "messed up the drug dealer's money or something like that." The dealer killed him.

Around that time Anthony and his mother came home one night to their apartment in a south Chicago housing project. A man robbed them at knifepoint at their front door.

"I was really helpless," says Anthony, who recalls the incident as his most terrifying moment growing up.

A lot of kids don't make it to 16 in neighborhoods like his. Of those who do, one in four black American men aged 18 to 29 are in jail, on probation, or on parole.

Anthony, a 16-year-old junior at Sullivan High School here, is building for a different future: graduation, a university degree, and a teaching career. "Everything is falling into place," he says.

No change of circumstances deserves the credit. Home is still the Jane Adams housing project in the neighborhood where he grew up. The cheerless if solid-looking set of three-story brick buildings have their share of drugs, guns, and gangs. In fact, the project was used as the scene of the crime in a TV movie.

Anthony shares a three-bedroom apartment with his mother, grandmother, four sisters, and a baby brother. Inside, it's tidy but crowded. A lift-top freezer nearly blocks the hallway. A rollaway bed stands behind the front door.

"Girls, go do your homework," orders Marie, Anthony's mother, so he can talk to a visitor in the living room.

"I don't have any," one sister answers. "Then get a book and read," Marie says. The sister takes one from a full cardboard carton—there's no bookshelf—and disappears into a bedroom.

Sitting on a couch, Anthony looks serene. It's not that he's getting used to publicity after being named "outstanding youth of the year" at his branch of the Boys and Girls Club. Rather, he seems to reflect a conviction that he states over and over: The decision he made a year ago to "live for God" is being rewarded. Says Anthony: "I know it's God who helped me."

Always a responsible child, Anthony got his first job at 10, sweeping the floor of a currency exchange. He would spend his $12 weekly pay on groceries for the family. "I would just cry," Marie says. "I'd say, 'Tony, you don't have to spend your money.' And he'd say, 'That's all right. That's all right, Mama.'"

His current after-school job at the Boys and Girls Club pays just $35 a week—minimum wage. But it's a big help to Marie, who raises children on $574 per month in public aid.

"It's not ever enough," she says. Anthony's grandmother contributes $110 toward the family's $100 rent.

Anthony's sense of responsibility and years of attending church didn't keep him from temptations when he made the high school football team as a freshman and discovered the way girls "throw themselves" at athletes.

Sexual promiscuity is "the basic attitude of today" in high school, Anthony says. "When I was doing it, I wanted to be with the 'in' group." He says others want to prove their manhood, or are looking in vain for the love they don't get at home.

By last year, Anthony had had enough of that life.

"I tried to be the playboy but I was not the playboy type. What really made me give my life to God was that I just really got sick and tired of the things I was doing," Anthony says. "I really felt that you could have fun just living for God, following His commandments," He attends the International Intercessory Prayer Guild, and Evangelical Protestant church.

Now Anthony says he doesn't want a girlfriend. He hopes to finish college before getting married, and states flatly: "I will not sleep with my wife 'til I marry her." He will look for someone who "also lives for God . . . and has a sense of humor. Somebody who's real."

Anthony's new stance caught his best friends by surprise. "What? You don't talk to the girls anymore?" they asked. "No, not in that way, I don't," Anthony told them. Now he's known as "the sanctified holy boy" at school, but he says it doesn't bother him. "People really treat me with respect," Anthony says.

He still enjoys playing basketball, reading Sports Illustrated, and attending professional sporting events. Isiah Thomas, the Chicago-born basketball star of the Detroit Pistons, is one of two national figures Anthony says he admires. The other is black Detroit surgeon Ben Carson, whose autobiography Anthoney recently read.

Anthony turned his life around in other ways as well. Though capable, he had never applied himself in school. Suddenly he went from being a "D" student to making the honor roll. His teachers rave about him with words like reliable, conscientious, polite, respectful, mature.

"Anthony's never been in here," says Joy Alfonsi, who at that moment is presiding over Sullivan's detention hall. As his French teacher, Ms. Alfonsi says, she counts on Anthony to come up with the right answer and help move the class along. (Asked to speak French, Anthony Offers a very suave "*Comment vous appelezvous?*")

Charles Matthews, the senior program director at the Boys and Girls Club branch where Anthony works, says Anthony was named outstanding youth because of all the volunteer work he does.

He recalls that when some 10-year-olds at the club got into an argument over a pool game, Anthony was able to stop it and get the boys to shake hands. "I didn't have to do anything. That's the good part," Matthews says.

Anthony has been nominated for a Golden Apple Award, a college scholarship for Chicago-area high school juniors interested in teaching. He would like to get a sociology degree from Northwestern University and work with children with emotional problems.

Anthony's heard what others say about more money in other careers, but he says he isn't interested. "I really feel this is what I'm supposed to do, I want to be a help. I feel that I'm qualified to be a help."

He says he's already getting valuable experience through the Leader Education Assistance Program at the Boys and Girls Club. LEAP teens help younger kids.

Anthony has worked with one boy on schoolwork and self-esteem. "I let him know that I really care for him. He's doing real good," says Anthony. "He's going to be a really nice young man when he gets older."●

GAO CHARGES RTC WITH SLOPPY S&L BAILOUT EFFORT

• Mr. KOHL. Mr. President, it is not all that unusual for a Senator to say "I told you so" when events unfold as he or she predicted. And, with a great deal of regret, that is precisely what I am going to say today—I told you so.

Last February, Senator HARKIN and I offered an amendment that would have cut in half the funds authorized for the Resolution Trust Corporation [RTC], the thrift bailout agency. Senator HARKIN and I would have given the RTC $15 billion rather than the $30 billion that eventually made it into law. We argued then that we need to keep the RTC on a tight leash so that we could evaluate their behavior, do oversight of their policies, and make sure they were on the right track.

During that debate, not many people disagreed with the need to have some control over the RTC, but they did dispute the political wisdom of doing so. We were told repeatedly that our amendment would have forced Congress to do another RTC funding bill as early as this month. No one wanted to do that. But now we know that we should have.

Yesterday, the General Accounting Office [GAO] sent to the Secretary of the Treasury, Nicholas Brady, a letter spelling out the GAO's serious concerns about the management of the RTC. The GAO details a history of inadequate tracking of the disposition of RTC assets, shady or confused dealings with private contractors, little or no control over day-to-day cash operations, a slowly developing public information system, and a poor record of ensuring fair treatment of minority- and women-owned businesses.

What can the Congress do about this simply awful report? At the moment, not much. We can issue press releases, wring our hands, hold hearings, blame the administration. But because we do not have control over the RTC's funds—at least not until September at the soonest—we have no "lambaste" with which to back up our laments.

If Congress ran the RTC like a businessman runs his or her business, how would we respond to a report like that issued by the GAO? The answer is simple. We would fire some managers, we would cut salaries, we would withhold raises, we would stop putting money into certain divisions until they improved their performance. Congress does not have that option. In February, with a collective sigh of relief, we turned over the purse strings of the RTC. We cannot respond to a management crisis today because we gave away control over the money yesterday.

I do not mean to focus blame on the RTC with this complaint. That agency has one of the most difficult jobs in Government. On its first day of business in August 1989, RTC was instantly responsible for 262 failed or failing S&L's with $114 billion in assets. To quote from the RTC inspector general's latest report: the RTC "is an extremely diversified organization with management responsibilities for over 40,000 properties, contracting efforts second only to those of the Department of Defense, investment banking transactions comparable to those handled by major Wall Street firms, and numerous other responsibilities associated with operating and liquidating financial institutions." A new agency with this much responsibility dealing with this difficult and complex a problem cannot be expected to perform perfectly, but we can expect the Congress to help it do a better job.

I cannot say I completely blame those who want to run as far as possible from the potential scandal and waste represented by the RTC. That's the wisest course for the savvy politician—and the worst course for the Nation.

Before long, the scandal of the S&L industry collapse is going to become the scandal of the Government's S&L bailout. It is the job of Congress to manage that bailout and manage it much more fairly and cost effectively than its been managed to date. That means Congress should keep RTC on a funding leash so tight that we can reign in that agency whenever we get a report as disgraceful as the one we received from GAO yesterday.

And, yes, that means more votes in Congress on RTC funding and more accountability from the administration for how they're using those funds. When a new request for RTC funds comes to Congress—perhaps as early as September—I plan again to offer an amendment that would cut down the level of funding. I don't do this to slow RTC operations or deprive depositors of insurance coverage. My aim is to make sure that Congress discusses, oversees, manages, and take responsibility for the agency we created to run the biggest taxpayer bailout in history—no matter how politically uncomfortable that may make us all. We should have been willing to do that last February. It is my sincere hope we will be ready to do that this fall.●

AMERICA'S NATIONAL TREASURES OF THE PERSIAN GULF WAR

• Mr. DURENBERGER. Mr. President, I would like to take this opportunity to share with you a wonderful story that came out of the Persian Gulf war. It's a story about two living national treasures, who reached out to their country and their fellow citizens to prove that generosity of spirit spans all generations.

During the Persian Gulf war, when America once again stood at the forefront of peace, one woman was responding to the need to support and strengthen our troops in the gulf. Like so many Americans, Helen Roettiger, a 97-year-old resident of the St. Anne's Hospice in Winona, MN, expressed her support by sending a to-any-serviceman letter. Little did she know how her letter would touch a young serviceman in Saudi Arabia and change her life forever.

Thousands of miles away was S. Sgt. John Governale, of Norway, ME, stationed in the Saudi Arabian Desert. John was the recipient of Helen's letter, which coincidentally arrived on his 42nd birthday. Included in John's humorous and eloquent reply was a promise to dance with Helen should he ever journey to Minnesota on a Saturday night. Unbeknown to him, that promise spawned Operation Homecoming for S. Sgt. John Governale, Helen Roetteiger, and the residents of Winona, MN.

Operation Homecoming consisted of bake sales, letter campaigns, phone calls, and solicitations of support, all done with the goal of getting S. Sgt. Governale to Minnesota to fulfill his promise. With the help of numerous wonderful individuals, John and his family were on their way to the annual resident spring dance at St. Anne's Hospice.

Mr. President, Thursday, May 16, was as special a day as they come. After spending 2 days in Winona, S. Sgt. Governale got his dance and Helen had her wish come true. The couple danced to "Let Me Call You Sweetheart," at Helen's request, and a new friendship blossomed.

Mr. President, perhaps Helen best described after the dance the feelings of those who were part of Operation Homecoming when she said, "I feel like a million dollars. I have a zest for living, a zest for life, a zest for everything. I live right." At 97 years of age, we as a nation can learn from her. I know that the rest of America shares my view that John and Helen are truly living national treasures.•

CUBA'S HUMILIATING DEFEAT IN AFRICA

• Mr. DECONCINI. Mr. President, I want to direct the attention of the Senate to an article in the Christian Science Monitor, dated May 30, 1991, which discusses Cuba's humiliating retreat from Africa, in particular, and international affairs in both hemispheres in general. I applaud the tremendous perseverance of the Angolan anti-Communist forces over the Cuban troops attempting to extend communism's rule in Africa. On May 25, all Cuban troops withdrew from Angola, 5 weeks earlier than required under the December 1988 Tripartite Accords. This was achieved in large part because the National Union for the Total Independence of Angola [UNITA] stayed the course. Combined with United States diplomatic and political leadership, UNITA and the Angolan Government can now begin the journey toward democracy together.

The accords, signed by South Africa, Cuba, and Angola, removed the direct involvement of Cuba and South Africa from Angola, and also launched the process leading to Namibia's independence. The cease-fire agreement signed by UNITA and the Angolan Government on May 31, 1991, is a major step in the long and difficult journey toward African democracy. Perhaps Castro's Cuba can also learn a lesson which the Africans, as well as most nations in this hemisphere, have already learned; that democracy and self-determination work for, and are desired by the people.

The chapter of Cuban intervention in Africa has come to a humiliating end. Mr. Castro also faces the loss of his longtime financial crutch, the Soviet Union, and must now respond to the disillusionment of his people at home over Cuba's multiple failures in Africa. Clearly, the days of Cuban adventurism and hollow Marxist rhetoric are quickly fading.

I ask that the article referred to in my statement be printed in full at this point in the RECORD.

The article follows:

CASTRO'S AFRICAN ADVENTURISM ENDS WITH A WHIMPER

(By John Hughes)

In the past 15 years, half a million Cuban troops have fought in Angola. Some 100,000 Cuban troops have fought in Ethiopia. The last Cuban troops left Ethiopia last year, after efforts to install Marxism-Leninism by Mengistu Haile Mariam left that country in a state of blight and despair. Mengistu himself fled Ethiopia last week.

This past weekend the last Cuban troops departed Angola, leaving the Marxist government to make peace with the anti-communist guerrillas it could not vanquish in one of Africa's longest civil wars.

So ends a chapter of Cuban intervention in Africa designed to extend communism's hand and heighten Cuba's international prestige. Instead, communism in both countries is in retreat, and Cuba's major expedition into Africa is ending in embarrassment and failure.

Cuba is considered so internationally inconsequential that it is not even present at the Angola peace talks.

The less-than-triumphant end to the Cuban presence in Africa is a humiliation that will complicate Cuban leader Fidel Castro's burgeoning problems at home. Says one Washington expert on Cuba: "With that many Cuban troops involved in Africa, not a single Cuban family has remained untouched by Fidel's African adventure. Everybody has some family member or friend who has served here. Now they'll be asking: 'What did we get from it? What was the point of it all?' "

Aside from questioning the merits of this foreign venture, the troops from Angola are returning to a homeland that is beset by shortages and decay. In Havana, families are given quotas for electricity consumption. Recent refugees from Cuba say families that exceed the quota have their power cut off for a few days. A second offense means permanent disconnection.

Mr. Castro has long been proclaiming a "special situation in peacetime," which essentially means rekindling a kind of revolutionary, guerrilla fervor even though Cuba is not at war.

Two weeks ago he demanded in a speech that Cubans prepare for the "zero option." This means that Cubans must prepare for a zero commitment from the Soviet Union, which has long been Cuban's patron. With changes in Eastern Europe, Cuba has lost much of the support it once received from Eastern Europe's erst-while communist governments. But now Castro is warning that support from Moscow may vanish too; that Cubans must prepare to do without oil and machinery and other essentials from the Soviet Union.

Castro has his eye on the Soviet Union's own internal economic problems, and on the breakaway trend in a number of Soviet republics. If Boris Yeltsin is reelected president of Russia next month, that will be bad news for Castro. Mr. Yeltsin told former President Richard Nixon recently that if reelected, he will cease Russian support for Cuba.

Even without the Yeltsin factor, Soviet aid to Cuba is becoming leaner. Instead of the usual five-year trade agreement, the Soviets this year signed only a one-year pact with Cuba. At the end of this year, favored Soviet treatment is expected to end, and Cuba will have to sell its exports at competitive market prices and will have to pay in dollars for what it imports. Hence Castro's urgings that Cubans prepare for the "zero option."

With eroding Soviet support, what Castro needs to repair his economy is recognition by the United States and renewed trade ties, President Bush has said that this could come about if Castro held free elections and discontinued abuse of human rights in Cuba. But there is no hint of such reform. Indeed, a new report on religious rights by the Puebla Institute in Washington says the status of human rights in Cuba is "abysmal." Both Roman Catholics and non-Catholics continue to be imprisoned for holding public religious services and publishing religious literature. The institute is a lay Catholic human rights group defending religious freedom around the world.

It is into this atmosphere of repression and hardship that Cuban's veterans of the Africa campaign are returning.•

COMMENDATION OF THE MITCHELL COUNTY AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

• Mr. NUNN. Mr. President, I rise today to recognize the Mitchell County Agricultural Stabilization and Conservation Service [ASCS] employees for their exceptional contributions to Georgia's agricultural community. I was delighted to personally congratulate them earlier today here at the Capitol.

The Mitchell County ASCS staff recently received the most distinguished award that can be bestowed by its parent organization. The 1990 Administrator's Award for Service to Agriculture was awarded to the Mitchell County office for its outstanding communications system in providing agricultural news to Mitchell County farmers. Through newsletter distribution and county-wide meetings on assistance programs, among other projects, the staff was able to successfully establish a strong link within the county's agriculture community.

I would like to commend the following staff members for their hard work and dedication: J. Ronald Lanier, county executive director; Steve Morrell, county committee chairperson; Ronald Morey, county committee vice-chairperson; J.E. Foister, county committee regular member; Ulysses Johnson, county committee minority advisor; John Michael Blackburn, program assistant; Elisha D. Chambless, program assistant; Pamela D. Dennis, program assistant; Sherry L. Dupire, program assistant; Cynthia B. Edwards, program assistant; Lila Adela M. Lane, program assistant; and Angela M. Singleton, program assistant.

I am proud of the service's accomplishments and praise the Mitchell County ASCS staff for its commitment to Georgia agriculture.•

COMMEMORATING THE 10TH ANNIVERSARY OF THE "I HAVE A DREAM" PROGRAM

• Mr. SIMON. Mr. President, today I am introducing a letter of commendation to Mr. Eugene Lang, founder of the "I Have a Dream" Program. This letter has been signed by all the members of the Subcommittee on Education, Arts and the Humanities, who join me in congratulating Mr. Lang and the "I Have a Dream" Foundation on their anniversary.

On June 25, the "I Have a Dream" Program will celebrate 10 years of helping disadvantaged youth to define worthy and inspiring lifetime goals and to accept education as essential to their fulfillment. The "I Have a Dream" Program is built on the concept that disadvantaged children, when provided with sustained, caring personal support from elementary school through high school, together with an assured college opportunity, will be motivated to stay in school and to succeed as proud and productive citizens.

The program was founded in 1981 when Eugene M. Lang, a successful New York businessman, adopted the entire sixth grade of his original alma mater, P.S. 121 in East Harlem. He promised to send them to college if they stayed in school and earned their high school diplomas. However, recognizing that most of these inner-city students were projected dropouts, he also undertook to devise a multifaceted program of personal support and intervention that would encourage the children to stay in school and, ultimately, take advantage of his promise of college. From this undertaking, "I Have a Dream" was born and 61 P.S. 121 students became Eugene Lang's dreamers. Today, 10 years later, more than 90 percent of these dreamers have achieved high school diplomas or GED certifications and more than half of them are attending college.

No less inspiring has been the remarkable growth of the program. In 1986, to assist others who desired to follow his example, Eugene Lang established the "I Have a Dream" Foundation. Today, almost 200 individuals are sponsoring 141 projects in 41 cities across the country. These projects include almost 10,000 dreamers. All of them, with the caring personal attention of their sponsors, have established a good education as their immediate objective. In addition, each project has attracted wide support from its community. Local corporations, church and civic groups, school systems and colleges, plus many individual mentors are every day contributing their services and resources to enrich dreamer activities with academic, cultural, social, and recreational support.

The outreach of the "I Have a Dream" Program has gone far beyond the program itself. Under Eugene Lang's enthusiastic leadership, the "I Have a Dream" concept has inspired many other individuals and institutions, in their own way, to provide continuing guidance and support to help elementary school children make it all the way. This focus and quality of commitment, starting at elementary school level, is critical if we are to satisfy the massive and complex educational needs of America's children.

Eugene Lang and his "I Have a Dream" colleagues are to be commended for their devotion to their dreamers. They have demonstrated an effective response to the basic problems of educating our disadvantaged youth. They have created a replicable format for mobilizing the resources of the community—individual and institutional, public and private—that is enabling our disadvantaged children to add their vitality to the mainstream of our democratic society.

On June 24–26, more than 300 "I Have a Dream" sponsors and program participants will convene in New York for their annual convention—this year a 10th anniversary convention. In conveying my congratulations and deep regard. I also wish to express my gratitude to Eugene Lang and to the many people who have caught his spark. On behalf of the Education Subcommittee of the U.S. Senate, I would like to thank them all for their dedicated service to our children. Eugene Lang has been quoted as saying, "The future belongs to children who believe in the beauty and glory of their dreams." Let us all become part of the "I Have a Dream" spirit and help our children to believe.

I ask that the letter be printed in full in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 4, 1991.

MR. EUGENE M. LANG,
"I Have a Dream" Foundation,
New York, NY.

DEAR MR. LANG: As the members of the Senate Education, Arts, and the Humanities Subcommittee, we are writing to commend you for your outstanding work to increase the educational opportunity for disadvantaged students in the United States.

We are deeply grateful to you for your exemplary public service, which began 10 years ago when you founded the "I Have a Dream" program. Your program is an inspiration not only to the children you have helped, but to us all.

You have demonstrated just how tremendous a difference one citizen can make both in the lives of other individuals and on behalf of our society as a whole. Your creativity, generosity, and diligent pursuit of your vision of offering hope to disadvantaged youth have enabled the "I Have a Dream" program to serve nearly 10,000 children from 41 cities.

Thanks to the "I Have a Dream" program, these children have, in most cases, beaten the odds by completing high school and using an "I Have a Dream" scholarship to attend college, where they continue to pursue their dreams.

Our nation needs more citizens like you and the other special people who are involved in the "I Have a Dream" program, who care enough to intervene personally on behalf of the less fortunate.

It is heartening to see such a comprehensive private sector initiative for education. We are hopeful that your admirable work will inspire other members of the business community to develop similar programs. In addition, "I Have a Dream" has helped to reinvigorate the communities involved in these programs—not only are the children helped, but their families, teachers and neighbors are offered a new glimmer of hope by "I Have a Dream" as well.

Again, congratulations on 10 years of remarkable success. You, along with everyone else involved in "I Have a Dream," should be very proud of all the good work you have accomplished. We hope the "I Have a Dream" program will continue to grow and flourish.

Our best wishes.

Cordially,

Claiborne Pell, Howard Metzenbaum, Christopher Dodd, Paul Simon, Barbara Mikulski, Jeff Bingaman, Edward Kennedy, Paul Wellstone, Nancy Kassebaum, Thad Cochran, Orrin Hatch, James Jeffords, Strom Thurmond, and Dan Coats.•

BECKWITH HORTON: NATIONAL SMALL BUSINESS EXPORTER OF THE YEAR

• Mr. DURENBERGER. Mr. President, I rise today to recognize and honor Beckwith Horton, president of Juno Enterprises, Inc. of Minneapolis, MN, for his selection by the Small Business Administration as National Small Business Exporter of the Year.

Beck Horton founded Juno Enterprises in the mid-1970's to fulfill a need in the market for high quality electronic computer components. His firm's growth demonstrates the rewards to be reaped by businesses providing attentive service and innovative products to their customers. This American manufacturer not only competes in the U.S. market with electronic components made by foreign manufacturers, but successfully competes in the markets of seven foreign nations against their own products.

Innovative manufacturing was not, however, the only element contributing to the success of Juno. Innovative and energetic marketing also played a role. As a small businessman, Beck Horton parlayed exposure into prosperity. Capitalizing on the contacts which he made through the broad exposure of trade fairs in the United States, Mr. Horton followed up with his customers by traveling to them to close his deals. The other main factor was Juno's Minneapolis-based work force. Their skill and determination, commodities we have plenty of in Minnesota, played an essential role in this success story.

The commitment to service, innovation and quality by Beck Horton and his people over the past 15 years, kept this business prosperous and growing. Through its continuing strong performance, Juno Enterprises has created jobs for over 100 people.

Beck Horton proves that a little American knowhow and a lot of Midwestern commitment and hard work continue to be a formula for success. Mr. President, I applaud both his example and success and congratulate him on his recognition as National Small Business Exporter of the Year.●

ORDERS FOR TOMORROW

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m., Wednesday, June 12; that following the prayer, the Journal of Proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL WEDNESDAY AT 9:45 A.M.

Mr. MOYNIHAN. Mr. President, seeing no Senator seeking recognition, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 9:45 a.m., Wednesday, June 12, 1991.

There being no objection, the Senate, at 6:41 p.m., recessed until Wednesday, June 12, 1991, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate June 10, 1991, under authority of the order of the Senate of January 3, 1991:

DEPARTMENT OF STATE

RICHARD W. CARLSON, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

NUCLEAR REGULATORY COMMISSION

E. GAIL DE PLANQUE, OF NEW JERSEY, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF 5 YEARS EXPIRING JUNE 30, 1995, VICE THOMAS MORGAN ROBERTS, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

JOHN D. ALTENBURG [redacted]
CHARLES W. BEARDALL [redacted]
RICHARD W. CAIRNS [redacted]
DEMMON F. CANNER [redacted]
LARRY R. DEAN [redacted]
JOHN C. GREENHAUGH [redacted]
WARREN D. HALL [redacted]
PATRICK K. HARGUS [redacted]
GLEN D. LAUSE [redacted]
STEVEN B. LUNDBERG [redacted]
MICHAEL J. MARCHAND [redacted]
LARRY S. MERCK [redacted]
TIMONTHY NACCARATO, [redacted]
KEVIN E. OBRIEN [redacted]
STEVEN M. PORTER [redacted]
JAMES H. ROSENBLATT [redacted]
STEPHEN V. SAYNISCH [redacted]
DAVID A. SHULL [redacted]
JAMES J. SMITH [redacted]
PAUL C. SMITH [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

CHAPLAIN

To be major

RONNY BERRY [redacted]
JAMES L. BIXLER [redacted]
GREGORY, L. BLACK [redacted]
ALLEN B. BOATRIGHT [redacted]
EDWIN E. BOWEN [redacted]
MARILYN H. BRANNON [redacted]
PHILIP J. BRIGANTI [redacted]
KENNETH N. BROWN [redacted]
STEPHEN L. COOK [redacted]
STANLEY R. COPELAND [redacted]
JAMES D. DANFORD [redacted]
CHARLES M. EHRHART [redacted]
DANNY R. FRANKLIN [redacted]
MERLE H. GATHERS [redacted]
ROBERT A. HARMS [redacted]
RAYMOND A. HARPER [redacted]
ROGER D. HEATH [redacted]
CARL J. HEDMAN [redacted]
MARK A. HENRY [redacted]
MICHAEL HONOR [redacted]
JACK H. ISBELL [redacted]
WILLIAM A. JOKELA [redacted]
JERRY L. JONES [redacted]
KEITH I. JONES [redacted]
JAMES M. LEWIS [redacted]
RICK D. MATHIS [redacted]
JAMES K. MCNEAL [redacted]
GEORGE L. ONSTAD [redacted]
ARTHUR C. PACE [redacted]
DANIEL M. PARKER [redacted]
JAMES P. ROBERTS [redacted]
KENNETH L. SAMPSON [redacted]
DAVID W. SMARTT [redacted]
CHARLES E. SMITH [redacted]
FLOYD J. SULLIVAN [redacted]
ALVIN C. SYKES [redacted]
SONJA C. THOMPSON [redacted]
MICHAE TRAVAGLIONE [redacted]
THOMAS R. WESLEY [redacted]
RICHARD A. WHITESEL [redacted]
DOUGLAS R. WOOTTEN [redacted]
JOHN L. WYDEVEN [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate June 11, 1991:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

LOUISE M. MCCLURE, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996.

DAPHNE WOOD MURRAY, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1995.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, June 11, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our hearts go out in prayer to those who are separated from those they love by the circumstances of hostility and enmity between people. We remember the hostages who do not know the freedoms that we enjoy nor the opportunities of a free land, and we recall the refugees of other lands who seek their own home. We pray also for their families and all those they love that they will experience the joy of reunion and the satisfaction that comes when lives are lived in peace and without the fear and pain of hostility. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. ROEMER] please come forward and lead the House in the Pledge of Allegiance?

Mr. ROEMER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, 1992

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

Mr. ROGERS reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

REPUBLICANS SAY: CUT TAXES ON THE RICH; DEMOCRATS SAY: CUT TAXES FOR THE MIDDLE CLASS

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, for those of my colleagues who thought trickle-down economics had gone the way of the hula-hoop, the hustle, and the toga party: Think again.

The Republicans believe they can end the recession by repealing the luxury tax. It's their worst idea in 100 days.

Repeal the luxury tax, so Walter Annenberg can buy a yacht. Repeal the luxury tax, so Robin Leach can buy a second Porsche. Repeal the luxury tax, so Elizabeth Taylor can buy a diamond necklace, and Zsa Zsa can buy another fur.

Don't the Republicans get it? Trickle-down doesn't work. It's voo-doo economics.

Herb Stein, the former economic adviser to President Nixon, calculates that a 1-percent increase in the incomes of the rich will trickle down to the rest of us in 58 years.

Democrats say: We don't have 58 years to end the recession. Let's get the economy moving by cutting taxes on the middle class.

So, I say to my Republican colleagues, if you must repeal the luxury tax, let's replace it with a millionaire's surtax. Trickle down shouldn't leave the middle class holding the bag.

CRIME AND TRANSPORTATION

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, 97 days ago on March 6, President Bush stood right here in this Chamber celebrating the victory of Operation Desert Storm. Many of his critics have said over the past several years that George Bush loves foreign policy, but he cannot deal with domestic issues and has no agenda.

The fact of the matter is, on March 6 when we were marking the victory in Desert Storm, he laid forth a very bold and dynamic domestic policy agenda. In it he talked about the fact that we in 100 hours were able to proceed and successfully bring about a resolution to the ground conflict. We should within 100 days be able to do with two very simple items, crime and transportation.

Well, Mr. Speaker, we have seen both of those items move ahead. They have come to this House and we have done next to nothing on them.

So for those who want to criticize President Bush for not offering a domestic policy agenda, they should look at the proposal that he laid before us 97 days ago on March 6.

APPOINTMENT OF CONFEREES ON S. 64, NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING ACT

The SPEAKER. The Chair appoints the following conferees on the Senate bill (S. 64) to establish a National Council on Education Standards and Testing, and without objection, reserves the right to appoint additional conferees: Messrs. FORD of Michigan, KILDEE, MILLER of California, GOODLING, and GUNDERSON.

There was no objection.

WHERE IS PRESIDENT'S PLAN FOR UNEMPLOYMENT AND HEALTH CARE?

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, the President has a calendar. What that calendar lacks is an agenda for working families and American families and people in this country without health care and without proper unemployment compensation insurance.

The President has been in office for nearly 900 days. Where is his plan for the 37 million Americans who have no health care in this country?

The President has been in office for 900 days since this Congress began. Where is his plan to deal with the literally 8.6 million people who are unemployed in this country?

Since this Congress began, the President has not addressed the fundamental questions of unemployment that our people are suffering greatly in all parts of our country.

I ask, Mr. Speaker, we need to get the President to address these fundamental issues of unemployment, of health care, of education, the things that the American people are longing for.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MINIMUM WAGE OVERSIGHT COSTS SMALL-BUSINESS JOBS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, we in Congress should be actively encouraging the growth of the small-business sector of the American economy. Yet, we appear to be dragging our feet on correcting a serious problem with the Fair Labor Standards Act that is costing small-business jobs.

I am speaking of the small business exemption to the minimum wage provisions of that act that was dropped from the bill during last year's rewrite of the act.

We were told that this was simply a drafting error. And yet, 6 months into the next session of Congress, absolutely nothing has been done to fix it.

In the meantime, owners of smaller firms, faced with mandated higher wages and a finite amount of money available for payroll, have only one way to meet the terms of the law: pay fewer employees higher wages.

My distinguished colleague from Mississippi, MIKE ESPY, has introduced a bill to fix his problem. It has more than 130 cosponsors.

Mr. Speaker, I urge my colleagues to cosponsor this bill, and to push for its speedy passage. It is easy to say you're for small business. But it is how you vote that really counts.

PRESIDENT'S VERSION OF TALE OF TWO AMERICAS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, President Bush is writing the next chapter of his version of the "Tale of Two Americas."

This one is titled "Education."

You know the story.

If you are rich and want to read to your children you simply go to a private bookstore and buy a book.

But if you are not rich you must find a public library that is still open and hope they have the funds to buy the book you need. That is because the education President requested a cut of 75 percent in Federal library funds for next year.

You know the story.

The education President asks for changes in the Pell Grant Program that squeezes 400,000 students out of the program—primarily the daughters and sons of the middle class.

Let the privileged go to private ivy covered universities while foreclosing the same opportunity for the middle class.

Maybe that is why there is an education problem in this country.

□ 1210

AGAINST A GAS TAX INCREASE

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, as if last year's budget agreement which raised the Federal excise tax on motor fuels by 5 cents was not enough, many want to increase the Federal gas tax even further to reduce the Federal budget deficit.

Do they not know that for every penny increase in the motor fuel tax, our GNP is reduced by more than $1 billion?

Don't they know that the Congressional Budget Office estimates that families earning less than $20,000 a year, spend at least eight times as high a percentage of their income for gasoline as do families that earn $50,000 or more?

And don't they know that rural families have to pay almost twice as much in motor fuel taxes as families in urban areas?

No doubt about it, Mr. Speaker, raising the gasoline tax could bring our economy to a screeching halt.

That's why my colleague BILL PAXON and I are introducing a resolution opposing further increases in the Federal excise tax on motor fuels.

I urge my colleagues to join us, and cosponsor this resolution and send a strong message, that Federal excise taxes on motor fuels shouldn't be increased.

A WEEKEND OF HEARTWARMING EXPERIENCES

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SPEAKER. This past weekend I had two inspiring, edifying, and heartwarming experiences. One was on Saturday, witnessing the national victory celebration, seeing all the returning men and women of Operation Desert Shield and Desert Storm and certainly being very proud to be an American.

The other experience was on Friday night when I had the great privilege of addressing the graduation/departure ceremony of the 1990-91 page group. As I looked into the eyes of those young people, those vibrant, enthusiastic and really very talented young people, I saw two things: I saw the future of America, and I saw the promise of America.

We are in good shape on both counts.

So, Mr. Speaker, I send the very best wishes to the young people, wish them much success, much health, and happiness in the years ahead.

SALUTE TO HARVEY COUNTY ASCS

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, agriculture is the lifeblood of my district in Kansas. As agriculture goes, so goes the rest of the Fifth District.

That is why I am honored today to recognize 12 individuals who are giving their all to assist the Agribusinessmen of Harvey County. Harvey County ASCS employees Jack Kelly, Annetta Gehring, Gloria Girrens, Linda Olsen, Lynette Guhr, Lisa Niblett, Kathleen Meacham, Otto Quiring, Wilbert Schmidt, Larry Buller, Jerry Sommerfeld, and Albert Nattier were recognized by the U.S. Department of Agriculture for their exceptional knowledge, productivity, and ability in administering ASCS operations in an effective manner.

The hard work of these individuals is yet another display of the strong work ethic so prevalent in the Fifth District of Kansas.

Congratulations to these constituents for receiving the Administrator's Awards for Service to Agriculture.

EFFECTS FROM THE LACK OF ACCESS TO HEALTH CARE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, in my weekly program of introducing West Virginians to the House, West Virginians who suffer from lack of access to health care, this week I want to introduce to you the McQuillens.

The McQuillens are from Raleigh, WV. Eric is 19 years old and has hemophilia. His father Michael works for a machinery service company. His mother works for a grocery store. It is not enough. Eric's medicine costs $50,000 to $75,000 per year. His father has insurance through his employer, but the company kept raising rates so high for the 15 employees that they had to switch the carrier. Mike McQuillen's premium now has increased from $327 a month with a $100 deductible in 1987 to $900 today with a $500 deductible.

Eric's medicine is needed to stop bleeding in his joints. To save money, his mother dropped off of the family policy and, happily, was able to pick up insurance through her own place of employment. Today the McQuillens live in fear, knowing the medical costs and their insurance premiums are still going up.

Mr. Speaker, both parents work, both parents pay taxes, both have insurance, and they still may lose their health care. How long, they ask, will the administration and the Congress let this continue? How long until the Congress and the administration pass legislation providing adequate access to health care? The McQuillens ask us here, "Do it now."

WELCOME TO MY GRANDDAUGHTER AMY CHRISTINE HANCOCK

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, last Saturday morning, June 9, I was privileged to welcome into the world a beautiful, new, baby granddaughter, Amy Christine Hancock, certainly one of the greatest thrills any man can possibly enjoy.

As I was admiring her through the nursery window at the hospital, I was suddenly overwhelmed with a sense of responsibility for her future.

The birthright of every American is individual freedom and economic opportunity—a guarantee which is seriously threatened by what we have been doing in Congress.

I plead with each and every one of you to examine and reexamine every vote we cast by asking ourselves these simple questions:

Do we need it? Can we afford it? And finally, How in the world did we ever get along without it?

If we don't exercise some responsibility soon, we jeopardize the future hopes and dreams of all Americans.

Yes, Amy, the American dream is still alive. Ours is still a land where one can make their dreams come true with hard work, dedication, and personal responsibility. Ours is still a land of hope, freedom, and opportunity.

And, if we here in the Congress live up to our responsibility, it will still be that way throughout your lifetime and beyond.

That is my dream for you and all future generations.

RESOLUTION TRUST CORPORATION, OR RIP-OFF TRESPASS CORPORATION?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, according to the GAO, the Resolution Trust Corporation wants Congress to believe that, No. 1, junk-bond kings built imaginary castles in the sky; No. 2, ET and his friends moved into them; No. 3, the savings-and-loan people tried but could not collect the rent. So, No. 4, the RTC is now stuck holding the bag.

But the GAO says that is not the truth. They said the truth is the RTC does not even know what property it has, the RTC does not even know what property it sold, and the RTC does not even know what to charge for the properties it does not even know they have but which they have to sell.

The Resolution Trust Corporation, my eye, Mr. Speaker; this is the Rip-Off Trespass Corporation of America, and Congress had better stop giving them money, because it is now up to $500 billion.

Before it is over, I predict it will be $1.5 trillion.

ONE HUNDRED DAYS: THE PRESIDENT'S CHALLENGE

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, 100 days ago this coming Friday, the President challenged the Congress to move on two domestic issues, the crime package and transportation. The Congress has made little, if any, progress. Part of that delay, I think, has to do with Presidential politics. Part of it reflects a poor use of our time and resources.

Mr. Speaker, the chart shows graphically that we have made little progress. In 100 days we have met on 50 days and voted only 30 days. This is not good use of our time, nor does it demonstrate any commitment to meeting the needs of the American people. Mr. Speaker, we can do better. Most of us have served in State legislatures where we utilized our time much better.

Mr. Speaker, in my State the complete legislative process took 40 days. We had to move forward with solving problems. We are not doing that here.

This country deserves better. We should not let Presidential politics keep us from solving our problems and serving the people of this country.

IS THIS GOOD NEWS?

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, the Commerce Department this week has some wonderful news for us. Last week we were a debtor nation to the tune of $664 billion, but this week, through the magic of statistics, the number is only $464 billion or perhaps even $281 billion, depending on how you count. But no magic can change the reality.

Americans remember that from World War I until the 1980's, this Nation was the world's dominant creditor nation. Our investments abroad far exceeded investments of foreigners in this country. Today, with private and public debt skyrocketing, with our Nation's economic clout weakening every day, our children's economic future is increasingly dependent on decisions of foreign investors.

□ 1220

Mr. Speaker, we need real improvements to strengthen our economy, not just statistical adjustments, and, until the administration and this Congress face up to the tough decisions about resources and investments that must be made, our children will continue to face a very precarious economic future, and no statistical revision can change that reality.

WHY THE PRESIDENT'S 100-DAY CHALLENGE IS SO IMPORTANT

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, 97 days have elapsed since the President challenged this body to pass crime legislation, his crime bill particularly, within a hundred days. That is very important when we reflect on what happened last year.

Last year, near the end of the last Congress, this body overwhelmingly passed most of the President's crime package. They called for a restoration of the death penalty procedures which had been declared unconstitutional all the way back in 1972 for a myriad of Federal crimes, for a new death penalty for drug kingpins who traffic in a large quantity of drugs. We passed an amendment and a provision of the President's crime bill making it easier to get evidence in to prove convictions of drug dealers and other hardened criminals, and we overwhelmingly passed a provision which would end the endless appeals that death row inmates and others have through the court systems through a process of using the Federal system of habeas corpus. All of that we passed overwhelmingly, but we got it to conference with less than 3 days before Congress adjourned, a conference with the Senate that led to the opportunity for a handful of liberals who did not agree with this policy to kill the bill.

Mr. Speaker, we need to do what the President suggested and get on with passing a crime bill early this time so we do not have that kind of obstruction possible, and that is why the 100-day challenge was so important and why it is so disappointing to see, with only 3 days left in it, there has been no movement out of any of our committees. I hope that our leadership on the other side of the aisle, the Democratic leadership, will indeed pass legislation in a timely fashion out of the Committee on the Judiciary and on to this floor very, very soon so we do not see a whole other scenario at the end of this Congress like we did the last. That is again why the President's challenge of a hundred days not being met is a big disappointment.

AMERICANS MUST PROMOTE ACADEMIC COMPETITIONS

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, last month I had the pleasure of watching the 64th annual National Spelling Bee. This national competition, which began in 1925, is sponsored by Scripps-Howard Newspapers in 13 cities and 208 other daily, weekly, and Sunday newspapers. A record 227 children—113 girls and 114 boys from across the country—ages 10–15, participated in this year's event.

I would like to extend special recognition to Richard Maupin, a LaCrosse, IN, eighth-grader from Wanatah Middle School in my district. Richard was one of only six contestants making an appearance at the bee for the third time. He spelled his way into the fourth round.

The young people who participated in the National Spelling Bee should be commended for their hard work in preparation for this event. While many other kids enjoyed hours of spare time each day, these young people were reading and studying. I am delighted to see that their hard work is being recognized with this national event.

This spelling competition reminded me that each year, Americans spend millions of dollars on athletic competition. As a former high school football player and a sports enthusiast, I believe this is money well spent. Athletic competition encourages teamwork, promotes good health, and inspires participants to succeed.

Sadly, in contrast, Americans spend a fraction of the cost of athletics on academic competitions like spelling bees and citizen bees. As a member of the Committee on Education and Labor, I hope to work to see that academic competitions become more than just an annual event.

AN UNMET CHALLENGE

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, this Friday marks the 100th day since President Bush challenged Congress to take action on the crime bill. Unfortunately for Americans, the challenge will go unmet.

House Democrats do not appear interested in solving the growing problem of crime in our society. The House Judiciary Committee has held only two hearings on the President's bill.

Meanwhile in America, the crisis spreads. America's new murder capitals are cities with populations under 1 million. The FBI says the number of murders and other violent crimes jumped 16 percent last year in cities with populations of 500,000 to 1 million.

The numbers are incredible: Milwaukee has experienced a 126-percent increase in murders between 1985 and 1990; New Orleans 101 percent; Jacksonville 84 percent; Memphis 71 percent; and Charlotte 60 percent.

But these are not just numbers, they are lives, lives lost to violence.

Mr. Speaker, Congress should take action when there's a demonstrated need for action. If these statistics do not demonstrate a need, then I'm confused.

Let's act on tough crime legislation soon.

WHERE ARE THE PRESIDENT'S PRIORITIES?

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, President Bush still wants to give most-favored-nation status to China. My God, where are his priorities? After he does this for China, then who is he going to give most-favored-nation status to? Hussein? Qadhafi? Castro? Or maybe he just wants to free Noriega and send him back down to Panama, and we will give it to him, too.

My colleagues, what is the difference between the two? And now he is looking at wanting to give it to the Soviet Union.

The President for some reason wants to recognize the deprivation of human and civil rights and the degradation of the human soul by continuing to give China virtually free access to our free American market to send in their cheap products made with slave labor to take away American jobs. It is a damn shame when our President does not stand up for what America stands for.

INTERNATIONAL PARENTAL CHILD ABDUCTION AWARENESS WEEK

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I am pleased to join my colleague from New York, Mr. SOLARZ, in introducing a resolution to designate the "International Parental Child Abduction Awareness Week."

Over the past 13 years, the Department of State has been actively involved with more than 2,800 cases of American children who were abducted from the United States and hidden in foreign countries. Currently, the Department has some 700 active cases that have not been resolved.

I congratulate and thank Congressman SOLARZ for his interest and help with this critical issue. With the support of Congress, this significant resolution will increase awareness of the problem, and will be helpful in aiding the children and families affected by international kidnappings.

These statistics alone exemplify the need for public awareness and information on the subject of international parental child abduction.

I further believe this resolution will be influential in promoting legislation currently before the House Committee on Judiciary. In April, I was pleased to join in introducing the International Kidnapping Crime Act which will recognize international kidnapping as a Federal offense.

PAYING THE FOXES TO GUARD THE CHICKEN COOP

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, earlier today the head of the General Accounting Office announced that the cost of the S&L bailout has risen by $50 billion. Much, if not most, of this amount is a direct result of the careless and wreckless way in which the Bush administration is conducting this bailout effort. It is becoming perhaps the single largest squandering of taxpayer dollars in the history of the Nation. Contracts are awarded without any evidence of competition, or without even the most basic checks on those who want to do business with the Government. One arm of the bailout agency awarded a $2 million contract to a company whose CEO happened to also be a senior officer at an S&L. Another company has been billing the bailout agency $120,000 per month in unspecified, miscellaneous operating expenses—and yet the agency has not even bothered to question what those expenses are.

Mr. Speaker, this administration is paying the foxes to guard the chicken coop. The taxpayers of America are being taken for a ride. It is time for the administration to stop being accountable to everyone but the average Americans who are being asked to foot the bailout bill. If George Bush can ask for hundreds of billions of dollars from the people, then the people are entitled to have every dime of their hard-earned tax dollars spent wisely. We in Congress should expect no less. We should withhold every dollar in future bailout funding until President Bush cleans up the costly mess he's allowed this bailout to become. And we should pay for it as we pay for defense, health care, housing, and all other programs—on a pay-as-you-go basis.

□ 1230

NO AID TO THE KREMLIN

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, there are powerful people in this town who are seriously considering a massive aid program to the Soviet Union. I say, no way, no aid to the Communists in the Kremlin.

I would ask my colleagues to join me in an amendment to the foreign aid bill which states the principle that if there is aid, it should go to democratic republics if the central government is controlled by the Communists. Common sense dictates that we do not give scarce tax dollars to the Kremlin while they are spending billions of dollars in aid to Castro, tens of billions of dollars to produce weapons aimed at us. The Kremlin is still also supplying billions to the regime in Afghanistan that is murdering people around the world.

There are democratic forces in the Soviet Union and in Yugoslavia. They are the ones we should be supporting. We should be on the side of the democrats and the democracies, not the Communists and now the power structure in the Soviet Union.

Mr. Speaker, I say, no aid to the Kremlin. I ask my colleagues to join me in supporting my amendment. The American people do not want their scarce tax dollars going to the Kremlin or any other Communist governments around the world.

RTC PROMISES TO BE A FINANCIAL DISASTER

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

(Mr. McMILLEN of Maryland. Mr. Speaker, here is another indictment of the RTC. I am referring, as the gentleman from Massachusetts [Mr. KENNEDY] did earlier, to the General Accounting Office findings of the enormous problems with the asset disposition process of the Resolution Trust Corporation.

Mr. Speaker, the GAO yesterday portrayed the RTC as unable to keep track of the money it is supposed to be recovering for taxpayers, while it continues to dole out millions in contracts.

It is ironic that we are encountering the same kinds of problems in cleaning up the mess as that which caused it in the first place. A lack of oversight.

It was the absence of regulatory oversight and intervention that allowed hundreds of savings and loans to wreck an industry and almost derail our entire financial system. Now we are seeing a lack of oversight in administering the cleanup.

As I have mentioned in the RTC refunding debate earlier this year, the only way we are going to recover the billions of dollars in working capital which we have committed to the bailout, is to ensure the RTC's contracting system is efficient and effective so that the assets which have been seized can be sold off. If we do not ensure this, we will be back here every year asking for more money to fund the S&L bailout.

GAO has found that where the RTC used individuals with appropriate skills and business knowledge and acted like an owner, properly overseeing the work of its agents, many successes were achieved.

Those skills exist and it the RTC uses them, further successes can be achieved.

Mr. Speaker, we must straighten up the RTC. We are headed for the biggest financial disaster in the history of the country.

LEVEL OF SOVIET AID TO CUBA CRITICAL IN CONSIDERING ASSISTANCE TO THE SOVIETS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute.)

Ms. ROS-LEHTINEN. Mr. Speaker, any request for assistance from the Soviet Union, both financial and in-kind, must be met with a firm response about the level of Soviet aid to Cuba, which is anywhere from $4.5 billion to $7 billion annually. That would be an impressive figure coming from an economically healthy country, but this aid is coming from an almost bankrupt Soviet Union. The Soviets obviously feel that having Cuba as a client state is very important to them.

President Bush must make Cuba an important part of the coming summit with President Gorbachev. Cutting all Soviet aid to Cuba would be a key indictor of how real Soviet reforms are. The brutal Communist regime in Cuba has caused more misery, and instability, in this hemisphere than we have time to recite. We cannot be expected to underwrite any extension of this brutal Cuban regime by giving assistance to a Soviet Union that is really continuing its cold war ways.

THE NATIONAL VICTORY CELEBRATION

(Mr. RAY asked and was given permission to address the House for 1 minute.)

Mr. RAY. Mr. Speaker, I rise today to congratulate everyone who contributed to the national victory celebration.

What a sight it was to see General Schwarzkopf lead his troops down Constitution Avenue, pausing in front of our Commander in Chief, extending his hearty salute.

There was a time when U.S. soldiers returning home from battle were shunned and ostracized, often changing out of their uniforms in airport bathrooms to avoid having eggs thrown at them. How happy we are that those those times are over.

Let us commit to the men and women that we send into battle that we will always be proud to have them represent the United States anywhere in the world.

This weekend thousands of Americans flocked to the Mall to marvel at the military hardware that overwhelmed the Iraqis in Operation Desert Storm. One could not miss the pride of our men and women in uniform as children anxiously awaited their autographs. Huge lines formed behind aircraft as thousands waited for the opportunity to peer into the cockpit of a marine Harrier.

Our troops deserved this welcome home, and America deserved the opportunity to tell them how proud we are of them. I thank those who made the victory celebration possible, and I thank the soldiers and their families for the sacrifices they made when we needed them.

THE LUXURY TAX, A TAX TRICKLEDOWN

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, earlier today the Democratic majority leader came to the floor and defended the luxury tax as being a good thing for America. He made the typical appeal that we often get with this kind of tax to class envy.

I think we ought to look at the facts about the luxury tax. The fact is that the rich would not pay it because they are not buying the products that the luxury tax is imposed upon. What does that mean? Well, it means that people who build boats are out of jobs. In my district there are 400 workers now out of jobs who originally were building boats and paying taxes. Automobile dealers across the country are closing down.

Does that hurt the rich? No, it means that mechanics and salesmen and clerical help are out on the streets. They have lost their jobs.

What we have in the luxury tax is a good example of Democratic tax trickledown. Democratic tax trickledown is when Washington imposes taxes and Main Street, middle class America loses its businesses and loses its jobs.

DESPITE VICTORY PARADES, THE WORLD REMAINS DANGEROUS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I, too, enjoyed myself tremendously on The Mall and on Constitution Avenue watching that beautiful parade, and I was stunned by the city of my birth, the island of Manhattan, making good on its promise to really give us the mother of all parades—4.7 million people, 4 million more than turned out here in Washington. It was a stunning sight to see the joy and adulation for our fighting men and women in both New York City and Washington, DC.

I do not scorn anybody who could not enjoy that loving explosion of patriotism. I pity them. I pity anybody who could not have enjoyed the rather humble parade we had here in Washington, DC—two tanks, a few personnel carriers, one F-15, and one F-16. It was hardly a Roman legion returning from its conquests and victories.

However, does it mean that we are invincible? It certainly does not. On Sunday, in between the two parades, Thomas Sutherland, a fine American citizen, began his seventh year of captivity in the tiny geographical area of the Bakaa Valley. Terry Anderson, the AP bureau chief in that area, finished his sixth year and began his seventh year of captivity on March 16. There are six Americans and six other Europeans held in that area of the world.

How is it that this Nation, with all its diplomatic skill and all its military might, is unable to rescue those 12 suffering people? It is a difficult and a dangerous world that we still operate in, and I hope everybody remembers that as we revel in these great parades.

□ 1240

DISTRICT OF COLUMBIA BUDGETARY EFFICIENCY ACT OF 1991

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 2123) to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "District of Columbia Budgetary Efficiency Act of 1991".

(b) PURPOSE.—It is the purpose of this Act to assist the District of Columbia in compensating for revenue shortages resulting from the unreimbursed services provided by the District to the Federal Government and the significant deficiencies in the District's tax base resulting from federally imposed limitations on the District's ability to raise revenue, including (but not limited to)—

(1) the exemption from taxation of property owned by the Federal Government or by any foreign government which uses such property for diplomatic purposes;

(2) the statutory prohibition on taxation of income earned in the District by any individual who is not a resident of the District; and

(3) limitations on the height of buildings located in the District.

SEC. 2. ANNUAL FEDERAL PAYMENT TO DISTRICT OF COLUMBIA.

(a) AMOUNT.—The first sentence of section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47-3405(a), D.C. Code) is amended by striking "$386,000,000" and all that follows and inserting the following: "$386,000,000; for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988, the sum of $474,500,000; for each of the fiscal years ending September 30, 1989, and September 30, 1990, the sum of $494,500,000; for the fiscal year ending September 30, 1991, the sum of $596,500,000; and for the fiscal year ending September 30, 1992, the sum of $630,000,000.".

(b) FORMULA.—Title V of such Act is amended by adding at the end the following new section:

"FEDERAL PAYMENT FORMULA

"SEC. 503. (a) There is authorized to be appropriated as the annual Federal payment to the District of Columbia an amount equal to 24 percent of the following local revenues:

"(1) For the Federal payment for fiscal year 1993, the local revenues for fiscal year 1991.

"(2) For the Federal payment for fiscal year 1994, the local revenues for fiscal year 1992.

"(3) For the Federal payment for fiscal year 1995, the local revenues for fiscal year 1993.

"(b) For purposes of subsection (a), the term 'local revenues' means, with respect to a fiscal year, the independently audited revenues of the District of Columbia that are derived from sources other than the Federal Government during that year, as reviewed by the Comptroller General under section 715(e) of title 31, United States Code.".

(c) BREAKDOWN OF DISTRICT REVENUES.—

(1) DETERMINATION UNDER INDEPENDENT ANNUAL AUDIT.—The first sentence of section 4(a) of Public Law 94-399 (sec. 47-119(a), D.C. Code) is amended by striking the period and inserting the following: ", and shall include in such independent audit a report of the revenues of the District of Columbia for the fiscal year, broken down by revenues derived from the Federal Government and revenues derived from sources other than the Federal Government during that fiscal year.".

(2) REVIEW BY COMPTROLLER GENERAL.—Section 715 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(e) Not later than March 1 of each year, the Comptroller General shall submit to the Committee on the District of Columbia of the House of Representatives and the Subcommittee of General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the Senate a review of the report of the breakdown of the independently audited revenues of the District of Columbia for the preceding fiscal year by revenues derived from the Federal Government and revenues derived from sources other than the Federal Government that is included in the independent annual audit of the funds of the District of Columbia conducted for such fiscal year.".

(d) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 502 the following new item:

"Sec. 503. Federal Payment Formula.".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

The SPEAKER pro tempore. The gentleman from California [Mr. DELLUMS] is recognized for 5 minutes.

Mr. DELLUMS. Mr. Speaker, today we will take up legislation to provide equity and fairness in the financial relationship between the Federal and the local government. This legislation will also improve the ability of the District of Columbia government to manage its financial affairs and to conserve the time of the Congress by authorizing a Federal payment formula and to authorize the fiscal year 1992 Federal payment.

We are keenly aware that the District has new political leadership in Mayor Sharon Pratt Dixon, who is pursuing an enlightened agenda which is heartening and suitable for our National Capital.

The purposes and needs of H.R. 2123 are to compensate the local government for:

First, specific services requested by and provided to the Federal Government by the District of Columbia;

Second, losses due to the statutory prohibition on taxation of income earned in the District by any individual who is not a resident of the District—that is, no commuter or reciprocal tax can be be levied by the local government; and

Third, revenues denied as the result of federally imposed requirements, for example, large parcels of open space, no tall buildings, tax-exempt Embassies, and also revenues denied on the tax-exempt Federal land in the city. This land comprises 50 percent of the land area, which when combined with other federally chartered tax-exempt properties, totals 67 percent of the land in the District of Columbia.

Mr. Speaker, congressional support for a Federal payment formula for the District of Columbia is not new. In fact, a Federal payment formula concept was initiated and supported by the late Everett McKinley Dirksen, a former distinguished chair of this committee. Mr. Dirksen was a member of the D.C. Committee from 1936 until 1950. In 1948, with Mr. Dirksen as the chair, this committee reported the first home rule bill in this century, H. Rept. 80-1876, which included a Federal payment formula for the District of Columbia. Unfortunately, the bill became entangled on the House floor in a procedural fight and did not pass.

Mr. Speaker, every Republican and Democratic President since 1948 has supported a continuing Federal payment formula authorization.

In September 1978, President Jimmy Carter made the following statement:

> We must bring stability and predictability to the Federal payment process * * * I favor the establishment of a formula which would consider the various factors involved in the Federal presence to determine the appropriate amount of the payment each year * * *.

President Nixon summarized a longstanding Republican policy in a message (H. Doc. 91-108) to Congress only 2 months after taking office in 1969. In recommending a home rule government for the District of Columbia, President Nixon specifically recommended:

> That the Congress authorize a Federal payment formula, fixing the Federal contribution at 30 percent of local tax and other general fund revenues.

President Nixon continues:

> The District of Columbia cannot achieve strong and efficient government unless it has ample and dependable sources of financing. Sound financing can be achieved only if the Federal Government pays its appropriate share.
>
> This formula would equitably reflect the Federal interest in the District of Columbia * * *.

Mr. Speaker, enactment of a formula approach as outlined in H.R. 2123 would be a significant step toward increased effective government in the District. It would provide the District with a predictable estimate for use in the annual budget process, thus allowing it to plan its expenditures more accurately and imaginatively for the growing needs of our Capital.

Mr. Speaker, I stress the proposed Federal payment formula is not an entitlement. Rather, it sets a cap of 24 percent of locally raised revenues and would still have to be reviewed and appropriated by Congress. This translates into approximately 19.1 percent of the District's operating budget.

Mr. Speaker, contrary to popular misunderstanding, the Federal payment is not a gift from the Federal Government to the citizens of the District of Columbia, it is payment in fairness and equity for Federal impositions. The Federal Government, the Congress, and the citizens of the United States want certain things of the District of Columbia and the Nation's Capital. They want services rendered, they want an ambiance maintained that reflects the grandeur of the Capital of a great Nation and they want it at a cost that is reasonable. However, since 1985, the Federal payment has decreased by 6 points, from 20 percent of the revenues raised by the District of Columbia in 1985 to 13.8 percent in 1990, with no decrease in Federal requirements. In aggregate dollars that amounts to a reduction of $725.6 million or $120 million per year.

Mr. Speaker, in the past few years we have witnessed an unprecedented rise in drug-related crime and addiction with almost all of the cost for law enforcement and treatment being borne by the citizens of the District of Columbia.

In short, we have asked the citizens of the District of Columbia to do many things at once while at the same time decreasing the Federal payment which many persons on both sides of the aisle have agreed is both unfair and unjust.

To conclude, Mr. Speaker, H.R. 2123 accomplishes several important things:

First, it increases the Federal payment authorization for fiscal year 1992 by $33.5 million over the aggregate appropriation for fiscal year 1991, an increase of about 5½ percent.

Second, it establishes a cap of 24 percent of locally raised revenues for the Federal payment formula authorization for fiscal year 1993 through fiscal year 1995. This is 19.1 percent of the District's operating budget.

Mr. Speaker, locally raised revenues are those revenues from sources other than the Federal Government. To determine the accuracy of the accounting, the legislation calls for the District of Columbia government, through the Comptroller General, to transmit to the Congress a report for the fiscal year that ended on September 30 of the preceding calendar year. That is, the Federal payment for fiscal year 1993 is to be based on the aforementioned audit and reports for fiscal year 1991, fiscal year 1994 on fiscal year 1992, and so on.

Mr. Speaker, I truly believe that H.R. 2123 is a good bill, a bipartisan effort with our distinguished colleague, the ranking minority member, the gentleman from Virginia [Mr. BLILEY] and cosponsored by the gentlewoman from the District of Columbia, Ms. ELEANOR HOLMES NORTON.

Mr. Speaker, H.R. 2123 deserves the support of all the Members of this body and I therefore ask that support.

Mr. BLILEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, it has been a privilege to work with the distinguished chairman to bring H.R. 2123 to the floor. It is an honor to help shape the history we are making today in the restoration of the fiscal health of our Nation's Capital. Just as importantly, we are also restoring dignity and mutual trust in the relationship between the Congress and the District of Columbia which has been missing for too long.

As we vote on this legislation today, we will be adding to the process of renewal which was begun last November in the District with the election of a new Mayor and a new city council.

Shortly after the beginning of the 102d Congress, we began our work on what would become H.R. 2123, the District of Columbia Budgetary Efficiency Act of 1991, based on the following concepts:

First, as the distinguished chairman has already explained, the Federal payment is not a gift to the district. It is payment for services actually provided to the Federal Government. The Federal payment, as provided for in the Home Rule Act is also compensation for the restrictions Congress has placed on the local government's ability to raise revenue. These restrictions include a prohibition on commuter taxes and limitations on the height of buildings in the District.

Second, the unpredictable nature of the Federal payment hurts the District's budget planning ability and costs the District millions of dollars in additional interest payments on its bonds because of revenue uncertainty.

Third, any formula based on a percentage of local revenue must be somehow divorced from direct and immediate impact by actions of the council.

Fourth, any agreement we reached must not violate the budget agreement reached last fall between the Congress and the White House.

Fifth, the request from the District and propounded by the Rivlin Commission for a Federal payment based on 30 percent of local revenues was unacceptable and politically not feasible.

The result of months of intensive negotiations between members of the committee is before the House today as H.R. 2123. This bill is a bipartisan compromise in the truest sense of the word and meets all of the criteria I just mentioned for helping the District of Columbia while preserving congressional responsibility.

There are four principle reasons Members should support this legislation. The first three reasons are graphically illustrated in the following charts.

CHART 1.—FEDERAL PAYMENT

[Constant 1982 dollars]

X data	Series 1
1977	445.161
1978	417.549
1979	351.617
1980	355.856
1981	348.028
1982	360.385
1983	363.3
1984	398.472
1985	413.922
1986	358.91
1987	375.74
1988	350.285
1989	368.687
1990	366.025

First, as this chart illustrates, the District has faced overwhelming instability and uncertainty with respect to the Federal payment. As you can see the Federal payment between 1977 and 1990 looks more like the Anaconda roller coaster ride at King's Dominion than a rational payment to the Nation's Capital. No level of Government, local or State, nor any Federal agency can engage in any semblance of rational planning with this kind of instability. The Federal payment has been patently unfair.

CHART 2.—FEDERAL PAYMENT H.R. 2123

[Constant 1982 dollars]

X data	24 percent
1990	366.025
1991	422.151
1992	420.623
1993	414.45
1994	423.078
1995	431.643

As you can see from this next chart H.R. 2123 ends the uncertainty and unpredictability of the Federal payment. Basing the authorized level of the payment on a formula of 24 percent of local revenue raised 2 years before will allow the Mayor, the Council and the District's bond underwriters to know what the cap will be well in advance of the money actually being budgeted by the District and appropriated by the Congress. This new predictability for the Federal payment should save millions of dollars as well as allow the District to manage its fiscal affairs in a more responsible manner.

Let me point out that the Congress has already provided the noticeable increase between 1990 and 1991. We cannot go back to 1990 without dire consequences. From 1991 and beyond, the level of funding is really just keeping pace with inflation.

CHART 3.—H.R. 2123 FEDERAL PAYMENT

[Constant 1982 dollars]

X data	24 percent	30 percent
1991	422.151	
1992	420.623	520.37
1993	414.45	513.779
1994	423.078	528.907
1995	431.643	539.498

The third reason Members from both sides of the aisle can support H.R. 2123 is that it is a fair compromise. This chart illustrates the differences in projected costs between the 30 percent requested by the District and the 24 percent contained in H.R. 2123. Looking at projected payment figures, it is clear that 30 percent is far more money than Congress would be willing to authorize with a Federal deficit of $300 billion. The difference between a 24-percent and a 30-percent formula comes out to $500 million over the 1993–95 period covered by this bill. That is $500 million that we would have to take from some other deserving program or project. As it is, H.R 2123 provides the District with the stability to get its fiscal house in order without committing a mass assault on the Federal Treasury.

As we develop this legislation, we were acutely aware that a Federal payment formula should not violate the budget agreement and that it must be in line with the plans of the Appropriations Committee. I thank the chairman for his sharing my interest in this matter. At this time I will yield to the ranking minority member of that Appropriations Subcommittee, the distinguished Congressman from New Jersey [Mr. GALLO] for the purpose of a similar colloquy. I would ask my colleague to confirm my belief that H.R. 2123 does not violate the terms of the budget agreement and I yield to him.

Mr. GALLO. I thank the gentleman from Virginia for his efforts on this important matter and I can confirm his understanding—H.R. 2123 is in conformance with the budget agreement.

Mr. BLILEY. Reclaiming my time, I thank the gentleman for his answer and ask if this bill will cause concern on the Appropriations Committee or if it will obligate the appropriation of any set amount for the Federal payment?

Mr. GALLO. The Appropriations Committee will continue to examine proposed District budgets with a sharp eye and we will not approve any budget or appropriate any Federal moneys in excess of what is reasonable and necessary for the effective governance of the District of Columbia. If the gentleman will continue to yield to me, I would add further that I join Mr. DIXON in support of this legislation and I believe that it will give the Appropriations Committee necessary leeway to fit the Federal payment to the needs of the District and to a fair and reasonable amount of taxpayer funds.

Mr. BLILEY. Reclaiming my time, I thank my colleague for his support and for his answers to my questions. My desire to stay within necessary restraints and guidelines thus has been met in the provisions of H.R. 2123.

My most important reason for negotiating this bill and for supporting it so strongly is that it is in the interest of this Congress and of all of the American people that this city—this Federal city which is the seat of our Government—renew itself and become once again a Capital of which we can all be proud. Across the country, the citizens of this Nation expect our help to make the District of Columbia once again a place where they can visit without fear and visit the monuments commemorating our past achievements, and, as so many did this past weekend, view history in the making. We want Mayor Dixon to succeed. We must do our part or else I see no way that she can lead the District back from the brink. I would like to thank Mayor Sharon Pratt Dixon and Council Chairman John Wilson for working so hard at the other end of Pennsylvania Avenue to restore our confidence and trust in the District government.

Washington and Jefferson envisioned a great city worthy of our great experiment in democracy. The Federal city cannot fulfill our forefathers' expectations without national participation in its fiscal affairs. H.R. 2123 institutes a stable, predictable, rational, and equitable funding formula for our Nation's Capital and provides just that mechanism needed for meeting our obligations to the District of Columbia's 250 million constituents. The Nation's Capital belongs to each and every one of us and it is our responsibility to help ensure that it is a Capital of which we can all be proud.

I urge my colleagues to support this bipartisan compromise as the principle means in the 102d Congress to restore that pride.

□ 1250

Mr. MICHEL. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I want to commend my colleagues, the gentleman from California [Mr. DELLUMS] and the gentleman from Virginia [Mr. BLILEY] for working together to fashion a true compromise on H.R. 2123, the District of Columbia Budgetary Efficiency Act of 1991.

I think the election of Mayor Sharon Pratt Dixon marks a new era in the history of D.C. politics, and hopefully the end of the confusion and bitterness which so often characterized the Congress' relationship with the previous D.C. administration. This bill is, in my judgment, the product of this new era.

The formula devised in the measure will give the District a dependable, predictable, and equitable revenue source. It will allow the District to act more responsibly on its current obligations, and give the District more confidence to accurately predict its ability to undertake additional responsibilities.

□ 1300

I would remind our colleagues that the Congress will not forfeit its traditional oversight role with this piece of legislation. It is not an entitlement. It is an authorization. The funding still must go through the appropriation process as has been alluded to by previous speakers. Congress will merely give the District the opportunity to govern more effectively and efficiently.

The healthy dose of bipartisanship that characterized this bill is a reminder, I think, to all of our colleagues that the process can work as long as reasonable people from both sides negotiate in good faith.

The District has been my home away from home now for more than 40 years. No one wants to see this Capital City undergo a renaissance more than I do, so there is quite a bit riding on what we do today, and what is involved is more than a legislative act. What is involved is an implicit promise to the people of the District under Mayor Dixon's leadership.

Once again, I want to commend my colleagues of the District of Columbia Committee on both sides of the aisle for working together on the measure and certainly urge its prompt and speedy approval.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman very much for his statement that he made in support of H.R. 2123. I thank the gentleman for his generous remarks directed at this gentleman and my distinguished colleague, the gentleman from Virginia [Mr. BLILEY]. We certainly thank the gentleman for his enthusiastic support. It is paramount to the passage of this legislation.

Mr. MICHEL. I thank the gentleman.

Ms. NORTON. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, H.R. 2123 has a routine number, but it is not a routine bill. Its extraordinary and gratifying support from the entire Democratic and Republican leadership is a hallmark of its importance. The bill's authorization for a 24 percent Federal payment formula for the District of Columbia is a historic breakthrough toward fiscal stability that we in the District have been hoping for almost 200 years.

Indeed, this is the bicentennial of the District. We know that this historic legislation has not been timed for this historic year, Mr. Speaker, but we choose to include it in our celebration anyway. If the Senate approves this bill as well, it will mark the first structural change and the most important since this body granted the District home rule.

It would be difficult to overestimate the importance of this legislation to the District. Mayor Sharon Pratt Dixon, whose extraordinary first 6 months in office have been marked by bold reform and courageous action, has given this legislation the priority it deserves. Council Chairman John Wilson, the District's knowledgeable financial wizard, has linked the District government's ability to restructure its operations to a predictable formula. The 13 members of the D.C. City Council have both supported reform and put forth excellent ideas of their own.

H.R. 2123 has been drawn to meet not only the District's needs but the budget strictures embraced by the Congress last year. First, the formula is tied to revenues raised by the District alone, excluding all Federal funds, in the preceding two years. This means that the formula will not reflect current revenue figures and thus inevitably will be behind the District's actual needs and the Federal Government's fair share. Second, the authorized formula, a payment not a grant, is tied to 24 percent of the revenues that we ourselves raise. Yet, the blue ribbon Rivlin Commission, chaired by Alice Rivlin, who served this body as director of the Congressional Budget Office, recommended 30 percent, the same figure sought by President Nixon in 1975, the year of home rule. Perhaps the best evidence of the soundness of the 30 percent figure is that even without a formula, OMB, as recently as 1980 through 1985, consistently recommended amounts that equaled 30 percent of the revenues the District had raised during the preceding year.

Mr. Speaker, between 1985 and 1990 the base payment was kept at a constant of $430 million. The effects on the District were devastating. We were caught in a confluence of reduced Federal spending for urban areas and increased pressure from baffling new problems, such as AIDS and drug and crime escalation. District residents dug into their own pockets as no jurisdiction in this country has. We taxed ourselves. District residents incurred a 50-percent increase in local taxes in just 5 years between 1985 and 1990. At the same time, we paid a billion dollars in taxes to the Federal Treasury last year. Today we are second per capita in the United States in taxes paid by D.C. residents.

The 24 percent Federal payment will neither lower District taxes nor relieve the unusual pressure under which the Mayor, City Council, and other District officials are now working. What the formula will do is to facilitate the hard-headed planning and restructuring of government that Congress has long sought.

Mr. Speaker, there are great benefits to being the Capital City, and most of us who live in the District would not want to live anywhere else. My own family has been in the District for more than a century. But there are also restrictions that come with the Federal presence that keep us from raising revenue that otherwise would be available to us. We cannot make up for the 67 percent of the land that Federal action has taken off our tax rolls. We cannot make up for our limited land mass by building high, as other cities do. We cannot tax neighbors who work here and take home most of the income generated in our city. The Federal formula will partially reimburse us for these limitations.

Finally, Mr. Speaker, on behalf of the residents of the District, I speak today for a grateful city. We thank Speaker THOMAS S. FOLEY and Minority Leader ROBERT MICHEL for their unusual action in lending their great respect and authority to the support for this bill. We thank the members of the District Committee whose hearings and hard work clarified H.R. 2123. We have nothing but endless rounds of applause for Chairman RONALD V. DELLUMS who was the chief sponsor of the bill through hard times and who for 20 years has been the District's devoted and articulate champion. We are deeply grateful to ranking District Committee member TOM BLILEY, who, though new to his post as ranking member, has skillfully and enthusiastically taken up this and other of the District's most urgent problems and priorities. Our thanks go also to the other members of the Republican leadership, the minority whip, Mr. NEWT GINGRICH, and the other leaders, Mr. JOE MCDADE, Mr. DEAN GALLO, and Mr. JERRY LEWIS. Our thanks as well are due to the other members of my own leadership without whom the formula would not be a possibility, Majority Leader RICHARD A. GEPHARDT, the majority whip Mr. WILLIAM GRAY, Mr. STENY HOYER, and Mr. JULIAN DIXON.

Mr. Speaker, we all know that the Federal amount of the District budget is a payment, not a gift. I hope that you will forgive us this year, however, should H.R. 2123 pass, if we regard the Federal formula as a bicentennial gift from this House.

The SPEAKER pro tempore (Mr. MAZZOLI). The time of the gentlewoman from the District of Columbia [Ms. NORTON] has expired.

(At the request of Mr. DELLUMS and by unanimous consent, Ms. NORTON was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Speaker, will the gentlewoman yield?

Ms. NORTON. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, let me first thank the gentlewoman for a very articulate statement and for her generous remarks.

I might just say that back in 1971 this gentleman introduced the first piece of legislation calling for a formula-based Federal payment, so it has been a long time and a very difficult journey to this moment.

I would like to say to the gentlewoman that I am very pleased and very proud, on the basis of cooperation and bipartisan efforts, we have been able to come to this moment during the gentlewoman's tenure as the Representative from the District of Columbia.

Ms. NORTON. And may I say to the gentleman from California that it all would not have been possible without his leadership and his endless devotion to a city in which he lives only by virtue of having been sent here by the citizens of California. We are eternally grateful to the gentleman.

Mr. DELLUMS. The gentlewoman is very generous.

Mr. WOLF. Mr. Speaker, I move to strike the last word.

Mr. Speaker, representing the congressional district just across the river, I am in a unique position to comment on the relationship of the District of Columbia to the Federal Government.

I have worked closely with the honorable chairman from California and the ranking Member from Richmond on a variety of issues, and I am pleased to give my support to H.R. 2123 today.

H.R. 2123 is a bill whose time has come. The time has come for Congress to take a fresh approach to the manner in which the District of Columbia is compensated for the services it provides to the Federal Government. It is time that the payment reflect the extraordinary costs of the Federal presence which also prevents the raising of revenue through more traditional sources.

Article 1, section 8, paragraph 17 of the Constitution provides that an independent seat of government be created in which Congress would have exclusive legislative authority. With exclusive authority comes responsibilities which need to be addressed by providing a formula Federal payment—a payment which the District of Columbia can use to accurately predict the amount of revenue the District will receive from the Federal Government.

Last, I would like to commend Mayor Dixon and the city council on their efforts to restore integrity to the District and foster a partnership with the Congress. The evidence of their success lies in the fact that we are here debating this bill which enjoys bipartisan support. Mayor Dixon cannot put this city back on the course of fiscal responsibility without our help. I urge my colleagues to recognize not only their historic responsibility, but also the importance of helping the District of Columbia make our Nation's Capital a city worthy to be the home of our great experiment in democracy.

□ 1310

Mr. HOYER. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise with the gentleman from California [Mr. DELLUMS], the gentleman from Virginia [Mr. BLILEY], and other Members of this community in strong support of H.R. 2123. It is, like so many ideas, late in its realization. The gentleman from California, as has been so rightly noted by the gentlewoman from the District of Columbia, has, for 20 years, stood, sometimes alone, but always with great integrity and intellectual force, in stating the case for formula funding. Now, for a commitment of this Congress to the Nation's Capital.

The Framers of the Constitution provided for creation of an independent Federal seat of government in article 1, paragraph 17 of the Constitution:

> The Congress shall have the power * * * to exercise exclusive legislation in all cases whatsoever, over such district * * * as may by cession of particular States, and acceptance of the Congress become the seat of government of the United States.

Pursuant to the Home Rule Act of 1973, section 602(A)(5) specifically provides that:

> The (District of Columbia) council shall have no authority to * * * impose any tax on the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District.

That has been a contentious item in our Washington metropolitan area, but it is not a contentious item that undercuts the close cooperative feelings that we have for one another. Another restriction is that the District of Columbia is unique because both the U.S. Constitution and the Home Rule Act result in the following restrictions:

First, all real property owned by the Federal Government and foreign missions are exempt from the real property tax;

Second, the Federal Government is exempt from sales taxes on purchases made in the District;

Third, a height restriction on buildings in the District limits the amount of commercial space that can be constructed;

Fourth, the District is not permitted to impose a tax on income at its source.

The 1973 Home Rule Act provided for limited self-government, but this city's unique character, including the benefits and the very significant costs which have been spoken of earlier, attendant with being the Federal City, have not changed with home rule.

Along with the restrictions imposed upon this community in order to protect Federal interests and rights, and therefore the rights and interest of all Americans, comes the equally important responsibility and duty to adequately compensate the District of Columbia for the unique burdens associated with its unique status.

The Home Rule Act itself says:

> It shall be the duty of the mayor, in preparing an annual budget * * * to identify the elements of cost and benefits to the District resulting from its unique role.

Among the concerns the mayor is to take into account are some of the arguments you have heard expressed today in support of H.R. 2123, including: estimates of unobtainable revenues because of the lack of taxable commercial property; estimates of potential revenues that would be realized if exemptions from District taxes were eliminated; estimates of the net cost of services to tax-exempt and corporate offices doing business with the Federal Government; and evaluations of the relative tax burden on District residents compared to that of residents in comparable cities and neighboring communities.

Although the Home Rule Act does not proscribe how the various factors are to be specifically determined in the annual Federal payment, it is clear that the Congress, America, and all of its citizens, have a responsibility to the people who live in this community and to the citizens of this Nation who visit it regularly, to fairly and adequately compensate them for the cost of operating the Nation's Capital.

Let me share a few facts with Members: 55 percent of the real property in the city is exempt from taxation. Half of all sales are to the Federal Government or other tax-exempt organizations. Recent estimates of revenues foregone because of the District's special status is approximately $1.8 billion, almost $2 billion.

This figure has been referenced before, but it ought to be remembered by every Member who comes to this floor to vote. This is a cap, a target of 24 percent. The Federal Government provided 40 percent of all local revenue from 1790 to 1878, some 90 years of our history. We worked 40 percent, almost two-thirds above the figure that has been set here. After the Federal Government began making lump-sum payments in 1925, the Federal payment was still as high as 35 percent of the District's own general revenue local collections in 1974.

As a percent of its own source revenues, the level of Federal compensation to the District slipped to under 17 percent in fiscal year 1990. Members have seen the chart put forward by the gentleman from Virginia [Mr. BLILEY].

(By unanimous consent, Mr. HOYER was allowed to proceed for 5 additional minutes.)

Mr. HOYER. The Federal Government must bear the responsibilities associated with its presence here in the Nation's Capital. It has the duty to do so, and I am pleased that we have joined together to accomplish that objective. However, there are other issues of impact in this debate. Along with the limited powers of home rule, the Federal Government also ceded responsibility for several large and burdensome financial obligations to the District of Columbia. The unfunded pension liability for police, fire fighters, judges and teachers is literally enormous, and the Federal Government is presently responsible for only one-fourth of this liability.

At the time of transfer, the unfunded liability was approximately $3 billion; today, it is approximately $5.4 billion. The Federal Government also passed along a $300 million accumulated operating deficit. We are talking about that now, and it has yet to provide the funds that would support the infrastructure improvements at St. Elizabeths Hospital which we transferred to the District.

H.R. 2123 is fair and appropriate in its authorization of a stable and reasonable Federal commitment to compensate the people of the District of Columbia for the costs associated with the Federal presence.

Mr. Speaker, this is an extraordinary time in the history of the Nation's Capital. The Nation's Capital has gone through a very difficult, distressing time for its citizens and for the Nation. We have noted before when this House and the Senate and the President made a determination to give some additional resources for this fiscal year, that was accomplished because the District of Columbia voters did an extraordinary thing. They stood up, they walked to the polls, and they spoke with a very strong voice, and they elected a new leadership in the District of Columbia. They elected a mayor who, when she was inaugurated said, "We can do it. We can be the city that we want to be."

We can, indeed, be that city, shining on the hill, of which President Reagan spoke, to which all Americans will look with pride and with satisfaction that local government works to create the kind of city that we want to share in the pride as being the Capital of our Nation.

☐ 1320

Sharon Pratt Dixon has shown herself to be an individual of extraordinary talent and commitment, and yes, courage in facing directly and squarely the problems that every urban area of America faces, and because she has done so this Congress and the Nation has responded.

She has been joined in this House by another extraordinary American, a woman elected to the Congress to represent the District of Columbia. She has, unlike the other 435 of us, a debility that we do not have. She cannot vote. That is unfortunate. That perhaps is clearly the next step we ought to take, but she has even without a vote made a very substantial impact on this House and the Senate in representing her city.

So I join with the Mayor, I join with ELEANOR HOLMES NORTON, I join with the ranking Member, the gentleman from Virginia [Mr. BLILEY] whose leadership on this issue has been so outstanding, I join with the gentleman from California [Mr. DELLUMS], the chairman of the District of Columbia Committee, and Mr. Speaker, I speak on behalf in this well of the leadership on my side of the aisle. As chairman of the Democratic Caucus, I am pleased to say that Speaker FOLEY, Majority Leader GEPHARDT and the whip, the gentleman from Pennsylvania [Mr. GRAY] all are enthusiastic supporters, along with the gentleman from California [Mr. FAZIO] and the gentleman from Michigan [Mr. BONIOR], in favor of this legislation and urge its passing.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I am very pleased to yield to the gentleman from California [Mr. DIXON], the chairman of the District of Columbia Appropriations Subcommittee.

Mr. DIXON. Mr. Speaker, I thank the gentleman from Maryland for yielding me.

I would like to associate myself with the gentleman's remarks and to say to the gentleman that one of the things that he may have mentioned is that this leadership, made up of Mayor Dixon and Representative NORTON have developed a financial plan that I feel and the committee feels is very sound. Not only have they developed a plan, but they are implementing a plan.

The Federal payment and formula that is before us is the only fair way for the District to reasonably predict what their revenues should be. We all like to know what the paycheck is going to be at the end of the month or the end of the year. This is the appropriate way to hold them accountable and they have demonstrated thus far that they intend to be accountable.

Mr. HOYER. Mr. Speaker, I would simply like also to state, as Congresswoman NORTON has stated, that we want to give credit as well to John Wilson, the chairman of the Council and the Council itself. All of us know in this body, the Executive cannot, nor should, do it alone.

So it has been Mayor Dixon, Chairman Wilson, Delegate NORTON and the members of the Council who have given us all this confidence that we are indeed recognizing a new day in the District of Columbia.

Mrs. MORELLA. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this a good bill. I rise in support of H.R. 2123, a bill to establish a more equitable means to repay the District of Columbia for the Federal prisons in that city.

As a matter of fact, I also want to extend my appreciation and commendation to the chairman of the committee, the gentleman from California [Mr. DELLUMS], to the ranking member, the gentleman from Virginia [Mr. BLILEY], who have worked so hard, and all those other members of the committee who have supported this long needed legislation, to Congresswoman ELEANOR HOLMES NORTON who has also worked very hard behind the scenes and on the scenes to assure that a bill of this nature would come before this Congress.

This annual Federal payment is not a handout. It is not a charitable gesture representing preferential treatment for the District. Rather, it is a compensation for specific services provided by the local government at the request of the Federal Government. It is a compensation for money that is denied the District of Columbia as a result of federally imposed requirements.

It is estimated that the presence of the Federal Government costs the District of Columbia $2 billion in lost revenue. For example, 57 percent of the its land is tax exempt, because this land belongs to the Federal Government. These revenue restraints also include a limitation on building heights to 90 feet throughout the District. Moreover, the District government must bear the responsibility for accommodating large gatherings of citizens from all over the country. Whether these citizens converge on the District of Columbia to exercise their constitutional rights to petition their Government, or to honor their fellow citizens who fought in the Persian Gulf, as they did this past weekend, the District must bear the burden of taking care of them.

Over the last 5 years, the Federal payment to the District of Columbia has remained practically stagnant. The Federal payment to the District government has dropped from approximately 23 percent of the District's operating budget in 1974 to approximately 13 percent in the current fiscal year. Numerous studies recognize that the Federal payment is insufficient to offset the costs and lost revenue caused by the Federal presence in the District.

H.R. 2123 would increase the Federal repayment to the District of Columbia for the costs of the Federal presence, and it would institute a formula to ensure a payment that is consistent with the increases in the District of Columbia's own tax effort. This formula would be an amount equal to 24 percent of locally raised revenues, with 24 percent representing a cap rather than an entitlement.

Mr. Speaker, I have a great deal of confidence in Mayor Sharon Pratt Dixon and the new leadership in the District of Columbia. Mayor Dixon has traveled to the Hill numerous times in a good faith effort to obtain assistance in putting the District back on the road to fiscal responsibility. We need to provide her with every means to fully achieve her goal.

I am particularly concerned for the poor and vulnerable citizens of the District of Columbia. These are the residents who suffer the most from the program cuts and the insufficient services that result from insufficient funds.

I urge my colleagues to join me in voting in favor of H.R. 2123 to establish a more equitable Federal payment to the District of Columbia at last. The residents of the District deserve a payment that is more predictable and fair. We, in Congress, can take a very important step in establishing a new cooperation and partnership between the Federal Government and the District of Columbia by supporting this legislation.

To paraphrase John Donne, no man or woman is an island, and all of us in this region are connected with all of us in this great country and we need to support our Capital City.

Mr. DELLUMS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I do not choose to use the entire 5 minutes, but I yield to my distinguished colleague, the gentleman from California [Mr. DIXON] for the purpose of a clarification.

Mr. DIXON. Mr. Speaker, I thank the gentleman for yielding to me.

In case Members are concerned as it relates to the 1992 budget and the level of funding, the 602 allocation from the Appropriations Committee takes into consideration the $200 million, so the $200 million additional figure for the 1992 appropriation has already been included by the Appropriations Committee.

Mr. DELLUMS. Mr. Speaker, I thank the gentleman for that clarifying information.

Mr. MORAN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I, too, would like to underscore the appreciation that has been expressed on this floor today for the leadership on both sides of the aisle that has brought us to this point today, and also to express the admiration and respect for the current leadership of the District of Columbia, because it is a major factor in the fair and the equitable legislation that we are about to pass today.

□ 1330

I cannot express the thoughts that have been said by speakers prior to me today any more eloquently than they have. That is, the gentleman from Maryland [Mr. HOYER], the gentlewoman from the District of Columbia [Ms. NORTON], all of the speakers.

I would like to associate myself with all of their remarks.

But rather than be repetitive, perhaps I can set some historical perspective on this vote today.

Mr. Speaker, it was exactly 200 years ago that the District of Columbia was established. It was established because our first President insisted that this be our Nation's Capital. In fact, he was adamant that his hometown be included in the District of Columbia.

He loved this area, and in fact we see repeated references during his term to his determination that the District of Columbia be economically healthy, well-run, and, in fact, the model city in the Nation that he loved so well. In fact, George Washington's vision was sustained for 50 years.

In 1846 the Scottish merchants in Alexandria who were thriving but felt that they were missing much forgone revenue from the fact that the District of Columbia did not allow slavery, so they called for a referendum for retrocession from the District of Columbia. There was a compelling edition of the Alexandria Gazette on that day that describes the men and women and children of African-American descent on their knees, begging the white males, who were the only ones who were allowed to vote in those days, begging them not to break off from the District of Columbia, not to retrocede. But it was all in vain.

Alexandria soon became a major slave-trading center on the east coast. There is a substantial amount of history in the relationship between the District of Columbia and the jurisdiction that I now represent. There is no need to go through it all, because much of it is fast becoming past history. But it is to some extent because of that history that I am so proud to be able to vote today for the fairest, most equitable payment to the District of Columbia that we have had in modern history.

It did not come about easily, but it is a reflection of the responsive leadership that we have on both sides of the aisle, the chairman, the gentleman from California [Mr. DELLUMS] and the ranking member, the gentleman from Virginia [Mr. BLILEY] on the Committee on the District of Columbia, the authorizing committee, and my colleagues in the House.

A new day is dawning. It is a bright day, and it is a day that everyone in this Nation, particularly in the Washington region, of which they can be very proud.

Mr. Speaker, I urge my colleagues to support H.R. 2123 and also, when we can afford it, a payment of 30 percent. That will come to the floor one day when we know we cannot afford it, and I am prepared to support that then.

But for the time being, this is right, it is equitable, it is the least we can do, and I am proud to lend my support to it.

Mr. RAY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I want to congratulate the chairman of the committee, the gentleman from California [Mr. DELLUMS] for the outstanding leadership he has given in this legislation, and also the ranking Member, the gentleman from Virginia, [Mr. BLILEY] and the delegate from the District of Columbia [Ms. NORTON] for the leadership they have provided on this legislation.

Mr. Speaker, I rise in support of this legislation, H.R. 2123, which authorizes a Federal payment to the District of Columbia and also establishes a new funding formula for providing Federal money for the District.

This is a good compromise, and I want to commend the committee members for working in a bipartisan fashion to draft this legislation.

I also want to commend Mayor Sharon Pratt Dixon for the role she has played in addressing the many budget problems facing the district. She won the mayor's race against long odds, and she has done an outstanding job since her election. She has brought stability and integrity to the District's government.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the gentleman from California [Mr. DELLUMS] is recognized for 5 minutes.

There was no objection.

Mr. DELLUMS. Mr. Speaker, just prior to calling for a vote on the previous question, I would simply like to take this time to, in a very pointed fashion, thank the distinguished gentleman from Virginia [Mr. BLILEY], who acts as the ranking member on the Committee on the District of Columbia.

Mr. Speaker, it is a sheer delight to work with my distinguished colleague. Whether we agree or disagree, the relationship is extraordinary, the cooperation is exemplary, and it is very clear, and I would like to state to you, Mr. Speaker, and to the Members of this House that there is no way that this piece of legislation could have come to the floor of this House in a timely fashion had it not been for the willingness, the diligence, the hard work of my distinguished colleague from Virginia, Mr. BLILEY.

I cannot underscore enough what it meant to work with this gentleman and what it means to bring the legislation to the floor of this Congress with my distinguished colleague's diligent support.

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Virginia.

Mr. BLILEY. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman from California for his kind words. Mr. Speaker, if he keeps on going, I am going to have to get the chaplain over here to hear his confession.

Seriously, it has been a pleasure to work with the gentleman. This has been a good bill. It is a pleasure to work with the new Mayor and the new council president.

Mr. Speaker, I look forward to working with the gentleman from California [Mr. DELLUMS], and the Mayor, and the new team at city hall on other issues as well.

Mr. DELLUMS. I thank the gentleman.

Mr. Speaker, reclaiming my time, I would point out to my distinguished colleague from Virginia that I do have a member of the clergy sitting next to me. So I am well covered.

Mr. LOWERY of California. Mr. Speaker, I rise in support of H.R. 2123 and request permission to revise and extend my remarks. I would like to commend my colleagues Chairman DELLUMS and the ranking minority member, Congressman BLILEY for bringing this legislation to the floor.

This past weekend demonstrated the stage this beautiful city, our Nation's Capital, so wonderfully provides. The District of Columbia belongs to our troops, and the millions of Americans all over this Nation and world, who come here to claim their history. But with that, it is also home to a concerned and vibrant population. Today we have an opportunity to demonstrate our commitment to ensuring that the District continues to flourish for all Americans.

H.R. 2123 is a solid compromise bill and goes a long way toward establishing a fair and equitable payment for the District of Columbia. As my colleagues have explained, this bill will establish a predictable funding formula which will provide the city an essential tool for efficiently managing the Nation's Capital. The Congress has an obligation to the District of

Columbia and H.R. 2123 is a major step in restoring equity to the Federal Government's relationship with the city.

Without a doubt, the city's new mayor, Sharon Pratt Dixon, should be commended for her leadership and diligence in working toward bringing fiscal responsibility to the District of Columbia. The city's commitment to this endeavor is certainly matched by this body and H.R. 2123 is an appropriate demonstration of that commitment.

In closing, Mr. Speaker, it should be noted that this legislation has widespread bipartisan support, with the leadership from both sides of the House supporting H.R. 2123. This bill is a fair and equitable compromise and I urge my colleagues to support it.

Mr. DYMALLY. Mr. Speaker, I rise in strong support of H.R. 2123, the District of Columbia Budgetary Efficiency Act of 1991, a bill authorizing a specific formula for determining the dollar amount of the Federal payment to the District of Columbia. As a member of the House District Committee, I welcome the bipartisan support for this initiative. While 24 percent falls short of the recommended increase of 30 percent, the increase called for in the bill will go a long way toward helping the D.C. government to properly plan their budgetary expenditures. Moreover, let me add that no more eloquent argument can be made for an increase in the Federal payment than the one offered today in a Washington Post op-ed by our colleague, the gentlewoman from the District of Columbia [Ms. NORTON] I commend it to the attention of my colleagues and I urge support for H.R. 2123.

THE DISTRICT'S BELATED FEDERAL PAYMENT

(By Eleanor Holmes Norton)

During this year of bicentennial hoopla, D.C. residents probably will have something concrete as well as historic to celebrate if all goes well today. H.R. 2123, authorizing a specific formula for determining the dollar amount of the federal payment, will go to the House floor with the remarkably broad support of the entire Democratic and Republican leadership. No change since home rule itself has been as important to the District.

District residents were elated when Congress appropriated a $100 million emergency supplemental in March, but it was the first increase in the federal payment in six years, and it was truly an emergency. Although the federal payment has been as low as 8.5 percent and as high as 50 percent, supplementals are not the way to run a large, complicated city.

While the federal payment formula is not an entitlement, it is a preauthorized amount and is thus a reliable expectation of the payment. Nevertheless, the actual appropriation must still be voted by Congress every year.

Mayor Sharon Pratt Dixon, D.C. Council Chairman John Wilson and our Council members need a predictable estimate of revenues if they are to do the planning and reform that District residents and Congress expect. Moreover, a predictable formula will raise our bond rating and lower the interest we pay to the bond markets, a premium extracted because the significant federal portion of our budget is an unknown. This wasteful cost, of course, is passed on to District and federal taxpayers.

The payment to the District is called a payment for a reason. Ever since 1800, the federal government has recognized its obligation to pay the D.C. government for protective and other services, for revenues denied because of restrictions on our development such as height limitations, for tax exempt federal and federally chartered land amounting to a hefty 67 percent of our land area and for restrictions on our taxing authority.

The House District Committee bill calls for a payment of 24 percent of revenue raised by the District rather than the 30 percent that Mayor Dixon, Chairman Wilson and I preferred and that the Rivlin Commission recommended. In a year when budget caps have reduced much federal spending, 30 percent could not be achieved. The 24 percent figure is well above the 13 percent figure at which the base payment was kept for five years, leaving the District with an 18 percent decrease in the federal payment while the overall federal budget for other national obligations increased by 56 percent. Consequently, between 1985 and 1990 the District lost $725.6 million, or $120 million a year.

Looked at this way, the 24 percent figure is gratifying for the way it at least recoups most of what we have lost (in 1977 dollars). In effect, we are getting the functional equivalent of most of our "back pay." In 1995, when this formula is reviewed, we may be in a position to achieve the 30 percent recommended by President Nixon when the District achieved home rule in 1973.

If there was any doubt the Congress wants the District to succeed, it should be allayed by the "Dear Colleague" letters we have been able to get from the leadership on both sides of the aisle. In a rare action, letters of support from House Speaker Thomas Foley and the entire Democratic leadership and from Minority Leader Robert Michel and the entire Republican leadership have been distributed to members.

Moreover, District Committee Chairman Ronald Dellums (D-Calif.) and ranking Republican member Tom Bliley (Va.) have worked together with me as if they directly represented the District. They and all of the other members in fact do, and as Tom Bliley says, they have "inherited historical and legal ties and obligations to the citizens of the federal city." With the work done to craft and pass H.R. 2123, the Democratic and Republican members of Congress have found a striking and historic way to meet these obligations.

Mr. DELLUMS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2123, the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISTRICT OF COLUMBIA MENTAL HEALTH PROGRAM ASSISTANCE ACT OF 1991

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 1720) to amend the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act to permit the Secretary of Health and Human Services to enter into an agreement with the Mayor of the District of Columbia with respect to capital improvements necessary for the delivery of mental health services in the District, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill as follows:

H.R. 1720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Mental Health Program Assistance Act of 1991".

SEC. 2. CAPITAL IMPROVEMENTS RELATING TO MENTAL HEALTH SERVICES IN THE DISTRICT OF COLUMBIA.

Section 4(f)(2) of the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (sec. 32-623(f)(2), D.C. Code) is amended—

(1) in subparagraph (A), by striking "and complete" and inserting "and, except as provided under an agreement entered into pursuant to subparagraph (C), complete"; and

(2) by adding at the end the following new subparagraph:

"(C) The Secretary may enter into an agreement with the Mayor under which the Secretary shall provide funds to the Mayor to complete the repairs and renovations described in subparagraph (A) and to make other capital improvements that are necessary for the safe and cost effective delivery of mental health services in the District, except that $7,500,000 of the funds provided to the Mayor under such an agreement shall be used to make capital improvements to facilities not located at Saint Elizabeths Hospital. Of the $7,500,000 provided for improvements to facilities not located at the Hospital, not less than $5,000,000 shall be used to make capital improvements to housing facilities for seriously and chronically mentally ill individuals.".

SEC. 3. EXTENSION OF DEADLINE FOR DISTRICT ASSUMPTION OF MENTAL HEALTH FUNCTIONS, RESOURCES, AND PROGRAMS.

(a) IN GENERAL.—The Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (sec. 32-621 et seq., D.C. Code) is amended by striking "October 1, 1991," and inserting "October 1, 1993," each place it appears in section 2(b)(1) and subsections (a)(2) and (f)(2)(A) of section 4.

(b) CONGRESSIONAL AUTHORIZATION OF TRANSFER OF SAINT ELIZABETHS CAMPUS TO DISTRICT, SUBMISSION OF MASTER PLAN FOR USE OF REAL PROPERTY.—Section 8(b) of such Act (sec. 32-627, D.C. Code) is amended—

(1) by striking "October 1, 1991" and inserting "October 1, 1992"; and

(2) by striking "twelve-month" and inserting "2-year".

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, H.R. 1720 amends the St. Elizabeths Hospital and District of Columbia Mental Health Services Act—Public Law 98-621—to permit the Secretary of Health and Human Services to enter into an agreement with the Mayor of the District of Columbia with respect to capital improvements necessary for the delivery of mental health services in the District of Columbia.

Mr. Speaker, H.R. 1720 was drafted at the beginning of the 102d Congress following a series of staff level meetings with officials of the Department of Health and Human Services, the District of Columbia Commission on Mental Health Services, and representatives of the Mental Health Law Project who represent patients at St. Elizabeths Hospital and in the community.

Mr. Speaker, H.R. 1720 allows the Secretary of Health and Human Services to enter into an agreement with the Mayor of the District of Columbia to allow funds presently allocated to the District of Columbia for capital improvements on the St. Elizabeths Hospital campus to be used instead for capital improvements to community residential facilities not located on the St. Elizabeths Hospital campus.

At present, there exists a serious shortage of available housing in the District of Columbia for St. Elizabeths Hospital outpatients. At the same time, the District of Columbia and the Department of Health and Human Services are under the 1976 Federal court decision, Dixon versus Sullivan and Dixon to outplace patients residing in St. Elizabeths Hospital into community residential facilities. The facilities are to be both therapeutically and environmentally in compliance with the aforementioned Federal court decision. Section 2 of H.R. 1720 amends Public Law 98-621, the St. Elizabeths Hospital Transfer Act, to allow for capital improvements in community facilities for the needed outpatient housing.

Mr. Speaker, it is important to note that H.R. 1720 does not, I repeat does not authorize new moneys. Instead, it allows the Mayor of the District of Columbia to enter into an agreement with the Secretary of Health and Human Services to use moneys transferred in 1988 from Health and Human Services to the District of Columbia under Public Law 98-621.

Mr. Speaker, at the request of Health and Human Services, with the full agreement of the committee, the following clarification language regarding the proposed aforementioned agreement between the Mayor of the District of Columbia and the Secretary of Health and Human Services is included in the committee bill Report—H. Rept. 102-91—that accompanies H.R. 1720. It states and I quote:

> The Secretary transferred $26,751,000 to the mayor in fiscal year 1988 to complete the repairs and renovations described in subparagraph (A) and to make other capital improvements that are necessary for the safe and cost effective delivery of mental health services in the District of Columbia. The mayor is hereby required to use $7,500,000 of the funds provided to make capital improvements to facilities not located at Saint Elizabeths Hospital. Of the $7,500,000 provided for improvements to facilities not located at the hospital, not less than $5,000,000 shall be used to make capital improvements to housing facilities for seriously and chronically mentally ill individuals.

The balance of the funds transferred in 1988 will continue to be used as intended under Public Law 98-621.

Mr. Speaker, in addition to amending subsection 4(f)(2) of Public Law 98-621, section 3 of H.R. 1720 amends other pertinent sections to achieve the intended result. Also in accordance with the recommendation of the General Accounting Office in its reports to the Committee on the District of Columbia in June 1990, H.R. 1720 now before us, amends Public Law 98-621 to change the final date of transfer from October 1, 1991 to October 1, 1993.

Finally Mr. Speaker, H.R. 1720 amends Public Law 98-621 to change the due date from October 1991 to October 1992 by which the District must submit a master plan for use of the west side of the hospital. It also requires the Congress to take action on such plan not later than October, 1992.

Mr. Speaker, H.R. 1720 has the full support of the Committee and was ordered reported by a vote of 12 to 0.

□ 1340

Mr. BLILEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, the District of Columbia Mental Health Program Assistance Act of 1991, introduced by Mr. DELLUMS and cosponsored by Ms. NORTON, Mr. STARK, Mr. MCDERMOTT, and myself is a simple and noncontroversial bill. H.R. 1720 contains several provisions that are beneficial to St. Elizabeths Hospital, the District of Columbia, and its citizens. The legislation enjoys bipartisan support and passed through committee on a unanimous vote.

H.R. 1720 allows $7.5 million of already appropriated funds to be used for capital improvements of off-campus facilities and the development of housing for chronically mentally ill persons. I want to stress this very important point to my colleagues. These capital improvement funds have already been appropriated. We are simply allowing them to be used in the community, as the Mayor deems necessary, rather than on the St. Elizabeths campus.

H.R. 1720 also provides for the extension of the transition period for the transfer of St. Elizabeths Hospital to the control of the District government by 2 years. Finally, the submission date of a master plan for the usage of the west campus have been lengthened by 1 year. The Mayor's office, the U.S. Department of Health and Human Services, the D.C. Commission on Mental Health Services all support this legislation. The Congressional Budget Office has reviewed the legislation and determined that H.R. 1720 does not require the appropriation of new or additional Federal funding.

Allowing currently unused renovation funds to be applied to off-campus renovation of facilities, housing, and other capital improvements will allow for the most efficient use of those moneys. The deadline extensions provided for in H.R. 1720 are also justifiable. Representatives from the General Accounting Office confirm that, in order for the District to complete the transfer process as Congress intended, the extensions are necessary. The District of Columbia's Commission on Mental Health has endorsed both of these provisions.

I should emphasize that the provisions of this bill freeing moneys for new uses and the deadline extensions granted in H.R. 1720 do not require new or additional Federal financial obligations to the hospital.

It is essential to the welfare of the District that all of its citizens receive adequate mental health care. Affordable off-campus housing will allow the hospital to provide adequate outpatient care to its patients. And such care is far more preferable than the costly alternative of institutionalization. The hospital's move toward expanding its commuity-based treatment facilities will allow it to reach out to more citizens of the District. Furthermore, a community-based mental health care system is a key ingredient for assisting the large homeless population of the District.

As ranking minority member of the District of Columbia Committee, I am pleased to support this legislation. H.R. 1720 is beneficial by providing a reasonable extension of the deadlines and avoids errors which would be inevitable under an unnecessarily hasty transfer. In the long term, it will be beneficial by providing a foundation by which the District can address it's mental health care needs. I urge my colleagues to support H.R. 1720.

Ms. NORTON. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I want to associate myself with the words of the chairman of the Committee on the District of Columbia, the gentleman from California [Mr. DELLUMS], and of the ranking minority member, the gentleman from Virginia [Mr. BLILEY], and to express my appreciation to each of them for their continual and extraordinary work to bring to the citizens of the District of Columbia the highest level of mental health care.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Traficant.

Page 3, add after line 24 the following new section:

SEC. 4. BUY AMERICAN PROVISIONS.

The Saint Elizabeths Hospital and District of Columbia Mental Health Services Act (sec. 32-621 et seq. D.C. Code) is amended—

(1) by redesignating section 11 as section 12; and

(2) by inserting after section 10 the following new section:

SEC. 11. BUY AMERICAN PROVISIONS.

(A) The mayor shall insure that the requirements of the Buy American Act of 1933 as amended apply to all procurements made under this Act.

(B) Determination by the Mayor.— (1) if the mayor, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the U.S. trade rep shall rescind the waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement, between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(b) Report to Congress.—The mayor shall submit to Congress a report on the amount of purchases from foreign entities under this Act from foreign entities in fiscal year 1992 and 1993.

Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19) U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) Buy American Act Defined.—For purposes of this section, the term "Buy American Act" means the title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(C) Restrictions on Contract Awards.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(a)). Any such determination shall be made in accordance with section 305.

(D) Prohibition Against Fraudulent Use of "Made in America" Labels.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract under this Act, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

Mr. TRAFICANT (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. No. 1, Mr. Speaker, this is a basic buy American amendment that affords the Mayor the opportunity to try and get some of these jobs for needy workers in the Dictrict of Columbia; and, second of all, I am hoping, under the leadership of the new Mayor, Mayor Dixon, that the gentlewoman from the District of Columbia [Ms. Norton] will become a full voting Member.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, we have examined the contents of the amendment offered by my distinguished colleague, the gentleman from Ohio [Mr. Traficant], and we are prepared to accept the amendment.

Mr. BLILEY. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, we have examined the amendment. We have no objection on this side of the aisle.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. Traficant].

The amendment was agreed to.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I shall not use the 5 minutes, however I want to thank my good friend and colleague, the ranking Republican of the Committee on the District of Columbia, Mr. Tom Bliley, for his work with this gentleman to bring to the House today the two bills H.R. 2123 and H.R. 1720. Without his willingness to work in a bipartisan manner, neither piece of legislation would have reached the floor in such a timely manner. Also, Mr. Speaker, I want to extend my personal thanks to the staff for their excellent work. For the majority, Mr. Edward C. Sylvester, Jr., staff director; Mr. Dale MacIver, senior staff counsel; and Mr. Ronald C. Willis, senior staff associate; and for the minority, Mr. Dennis Smith, minority staff director; Mr. Ronald Hamm, minority senior staff assistant; and for his work on H.R. 1720, Mr. Sam Jefferson, minority staff assistant.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. Mazzoli). Is there objection to the request of the gentleman from California?

There was no objection.

INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 169 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 169

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for the intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence, the bill shall be considered for amendment under the five-minute rule, by title instead of by section, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. Beilenson] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. Solomon], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 169 is the rule providing for the consideration of H.R. 2038, the Intelligence Authorization Act for fiscal year 1992. This is an open rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Permanent Select Committee on Intelligence.

The rule provides that the bill shall be considered by title instead of by section, with each title considered as having been read.

Finally, the bill provides for one motion to recommit.

Mr. Speaker, the bill for which the Rules Committee has recommended this rule, H.R. 2038, authorizes funding for the Central Intelligence Agency and other United States intelligence agencies and intelligence-related activities. The bill also provides for some consolidation of intelligence activities, sets ceilings for personnel, and substantially increases funds for intelligence agency foreign language programs.

The amounts provided for the activities authorized by H.R. 2038 are contained in a classified annex to the bill, available to Members for viewing in room H-405.

Mr. Speaker, to repeat: House Resolution 169 is a simple open rule; any germane amendment is in order. I urge adoption of this rule so that the House can proceed to consideration of this important measure.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the gentleman from California [Mr. BEILENSON], the former chairman of the House Intelligence Committee, in support of the rule he so ably described. It is a distinct pleasure to do so because this rule is a relatively rare thing to behold: An open rule that respects the traditional minority right of recommittal. In layman's language, that means the House will enjoy the luxury of 1 hour of unfettered debate, and that the minority gets a chance to offer their version of the bill for consideration by the House.

That is important, and right, and for that I want to express thanks to both the Intelligence Committee chairman, the gentleman from Oklahoma, and the ranking member, Mr. SHUSTER of Pennsylvania. Chairman MCCURDY requested an open rule, and he deserves our commendation for that. Likewise I would wish to express gratitude to Chairman MOAKLEY of the Rules Committee who, along with the ranking member, Mr. SOLOMON of New York, worked to honor Mr. MCCURDY's request.

This is an especially important rule because it deals with an especially important topic—our Nation's secrets. For those of us who serve in the House, I think it is fair to say that there is no higher form of public trust than to serve on the Intelligence Committee.

The average American watching at home on his television probably assumes that this is one area in which partisanship is set aside in the cause of protecting our Nation's secrets. Usually that is the case, and certainly it was the general rule during the chairmanship of Mr. BEILENSON. But all too often, it seems to me, that the American watching at home sees an unseemly display here on the floor, a display of bickering and backbiting—more often than not aimed at the previous administration of Ronald Reagan.

The contempt which many in the majority continue to feel for our former President has fueled a very political attack on the right of any future President to execute his national security duties as Commander in Chief. They have pushed hard for a 48-hour reporting requirement in order to force the President—any President—to tell Congress within 48 hours about the special operations that this country may be conducting.

Wisely, this bill avoids that debate—and thereby avoids the certain veto that it would elicit from virtually any White House. I commend all the members of the committee for sparing us the acrimony that such a provision would have brought.

In fact, with that provision left out, the bill really is, as the ranking member described it in his testimony before the Rules Committee, "a bare bones authorization."

There are differences between the majority and the minority regarding the proposed reorganization of the Defense Department's science and technology. The majority would rush to make changes rather than study the proposed reorganization a bit more thoroughly. It strikes me as the antithesis of the fly-before-you-buy mentality that so many of us in the House have endorsed for other defense-related programs. Additionally, many of us remain confused as to why it is better to construct a new portion of our Embassy in Moscow to sit atop the floors we know are laced through and through with bugging devices. Putting a cone of silence on top of a huge electronic bug strikes many of us as penny wise and extraordinarily pound foolish.

Beyond those two issues, there really is only one essential element missing in my judgment. What is missing is a requirement for a secrecy oath to be administered to the members and staff of the Intelligence Committee. Such an oath would not serve in any way to draw into question the patriotism of any member, nor of any staff member. Rather, it would serve as a sobering reminder of the very solemn duty charged to this particular committee.

My understanding is that the ranking member, Mr. SHUSTER, will be offering such an amendment later during consideration of the bill. I will wholeheartedly support it, and take this opportunity to encourage my colleagues of the House to do likewise.

The reason that an oath is necessary is to remind members and staff that, quite literally, lives are on the line. And those lives depend, in part, upon committee members and staff keeping their lips sealed. An oath would serve to underscore that vital fact.

Indeed, this issue is all the more important in light of Operation Desert Storm. Based upon that experience, the committee is renewing its call for greater reliance on human intelligence. That is, in my judgment, a wise and good decision. However, it means that human lives—not mere machines—will hang in the balance, will rely on secrets being kept, will rely on people not leaking stories to the press.

As the committee's report stated, more eloquently than I:

> There will always be secrets worth knowing. If what is truly important requires significant personal and political risk, then our country must be willing to pay the price—a price which may include compromised operations and the arrest of U.S. citizens or their agents.

I agree 100 percent. Allow me to simply paraphrase.

> There will always be secrets worth protecting. If what is truly important requires significant personal and political risk, then our country's elected representatives must be willing to pay the price—a price which includes doing everything possible to avoid compromising operations or the arrest of U.S. citizens or our agents.

Mr. Speaker, it is so little to ask of members and staff of this committee that they reaffirm their commitment to protecting the secrets—and therefore the lives—of those who risk their lives on a daily basis so that we might enjoy the sweet fruits of freedom.

All they need say is this:

> I do solemnly swear that I will not directly or indirectly disclose to any unauthorized person any classified information received in the course of my duties on the Permanent Select Committee on Intelligence, except with the formal approval of the committee or the House.

I submit that such an oath is not too much to ask.

So, I look forward to supporting the Shuster amendment, and respectfully request that my colleagues do the same recognizing that it is the very least that can be done to show our support and solidarity with those brave men and women who collect sensitive information on behalf of the American people.

I hope and trust that we will have that opportunity under this open rule. I urge all Members to support the rule.

Mr. Speaker, over this past weekend our Nation's Capital witnessed a tremendous demonstration of the military strength that led to our recent victory in the Persian Gulf. The investment that our former President, Ronald Reagan, made in our conventional weapons and in the morale and training of our troops was on display for all to clearly see.

And Mr. Speaker, just as our victory over Iraqi aggression was due in large part to President Reagan's commitment to military preparedness, we also must give him credit for much of our recent progress in negotiating new arms reduction treaties with the Soviet Union.

Not only did he modernize our strategic forces, compelling the Soviets to go back to the table and negotiate in earnest, he also adhered to basic, commonsense principles of arms control. How many times have we all heard him say, "Trust but verify"?

I raise this point today because I am pleased not just that we have before us an open rule, but also the report on the fiscal year 1992 intelligence authorization bill, a document that is equally frank and open in its admonition to our arms control negotiators.

Allow me to quote from the report:

> The monitoring of new arms control agreements will present a considerable challenge to U.S. intelligence * * *. The intelligence community cannot afford major new systems or expeditures because of U.S. oversights or misjudgments during treaty negotiations.

Mr. Speaker, today we stand on the threshold of a new era in arms control, with agreements on reductions in strategic arms, conventional forces in Europe, and chemical munitions stockpiles all close at hand.

If this new era is to serve our national security interests and the interests of peace—and if it is to set the stage for global arms control agreements—it is absolutely vital that our negotiators ensure that inspection and verification procedures under such agreements are stringent and thorough.

Now, more than ever, there is little room for error in these important areas during treaty negotiations and I am hopeful that our arms negotiators, in the State Department and elsewhere, will heed the admonition of the Intelligence Committee. Our Nation's future security from a treacherous attack—either strategic or terrorist in nature—depends on it.

I urge support of this open rule.

Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 169 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2038.

The Chair appoints the gentlewoman from New York [Ms. SLAUGHTER] as chairman of the Committee of the Whole and asks the gentleman from California [Mr. BEILENSON] to assume the chair temporarily.

□ 1355

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2038), to authorize appropriations for fiscal year 1992 for intelligence activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with Mr. BEILENSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Oklahoma [Mr. MCCURDY] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 2038, the Intelligence Authorization Act for fiscal year 1992.

H.R. 2038 authorizes all of the funds for the coming fiscal year for the intelligence and intelligence-related activities of the U.S. Government. The term intelligence activities includes all of the activities of the Central Intelligence Agency, the Defense Intelligency Agency, and the National Security Agency; as well as the activities of other intelligence components of the Department of Defense and the Departments of the Army, Navy, and Air Force. Included as well are the activities of the Bureau of Intelligence and Research of the Department of State, the intelligence division at the Federal Bureau of Investigation, intelligence elements of the Departments of the Treasury and Energy, the Drug Enforcement Administration, and the intelligence community staff of the Director of Central Intelligence. These activities provide intelligence for the use of national leaders like the President, the Cabinet, the National Security Council, and the Joint Chiefs of Staff.

This legislation also authorizes the tactical intelligence and related activities programs of the Department of Defense which have as their primary responsibility the provision of intelligence to military commanders, but which may be tasked, particularly in peacetime, for national intelligence purposes. The similarity of programs and functions between the national intelligence programs and the intelligence related activities of the Department of Defense is the reason that both are considered by the Intelligence Committee and authorized in this bill. The sequential referral of the bill to the Committee on Armed Services ensures that the judgments we have made are sound from the standpoint of both intelligence and military perspectives. On behalf of the Intelligence Committee, I want to extend my appreciation to the members and staff of the Committee on Armed Services for their assistance in our work.

Most intelligence activities are cloaked in a mantle of secrecy, and necessarily so. In some cases, the very existence of programs or activities is highly classified, and the ability to discuss them in an open setting such as this is therefore extremely limited. Those programs and activities are, however, set forth in a classified schedule of authorizations, which is incorporated by reference into H.R. 2038, and described in detail in a classified annex to the committee's report. Those documents are available for review in the committee's offices, and I urge those Members who have not already done so to review this material.

H.R. 2038 is the product of approximately 45 hours of hearings by the Program and Budget Authorization Subcommittee. I want to commend the committee staff and in particular the staff of the subcommittee—Bob Fitch, Jeannie Seelbach, Ken Kodama, Larry Prior, and Dee Jackson—for their dedicated and effective work. That the bill enjoys the bipartisan support of committee members is, I believe, evidence that it is a balanced and thorough assessment of the budgetary needs of our Nation's intelligence and intelligence-related programs and activities. I am especially grateful for the time and effort the committee's ranking Republican, the gentleman from Pennsylvania [Mr. SHUSTER], put into this legislation. His commitment to the work of our intelligence agencies is reflected in all aspects of H.R. 2038.

Madam Chairman, as was vividly demonstrated in the past year, the end of the cold war has not eliminated international challenges to which the United States must respond. Effective intelligence capabilities will be essential if threats such as the proliferation of weapons of mass destruction, terrorism, Third World instability, and the international narcotics trade are to be successfully addressed. We must ensure that U.S. intelligence agencies are able to provide the information which policymakers will need to deal with the complex crises and contingencies we are likely to confront. Adequate resources and an intelligence community structure that will enable those resources to be employed with maximum effectiveness, will be necessary if that goal is to be met. H.R. 2038 contributes to this end in two ways. First, the bill authorizes an appropriate level of resources. While less than requested by the President, the level of authorizations is, in conformance with the budget agreement, more than was made available in fiscal year 1991. Second, the bill encourages, and in some cases accelerates, the structural changes already underway in some components of the intelligence community. It is imperative that unnecessary duplication of effort be eliminated, and that management be able to provide centralized direction and coordination. The committee looks forward to working with representatives of the Department of Defense and the Director of Central Intelligence in particular, to ensure that changes are made, where appropriate, in the current organizational framework of the intelligence community to produce these results.

In addition, the bill authorizes resources to correct some deficiencies noted throughout Desert Shield and Desert Storm. For example, an increase in funding is recommended for innovative language training and standardized testing and evaluation for linguists. I believe this initiative is the beginning of a long-term program which could help reshape our thinking on the recruitment and retention of linguists and analysts who support the intelligence community. Also, funding adjustments are recommended to enhance reconnaissance support to deployed military commanders.

Madam Chairman, I want to take a moment to commend the many professionals throughout the intelligence community who came together and worked long hours in support of our deployed forces. Intelligence played a vital role in the outcome of Desert Storm.

At this time, I want to briefly summarize the provisions of H.R. 2038.

It should be noted that the administration's legislative requests for the intelligence agencies were not received by the committee until May 2. Our Subcommittee on Legislation has begun work on those requests, and a separate bill reflecting the judgment of the committee on them may be reported later in this session. H.R. 2038 is therefore strictly an authorization measure.

Title I provides authorizations for the majority of U.S. intelligence and intelligence-related activities. As I explained earlier, specific authorization levels and program details are in the classified schedule of authorizations and the annex to the report.

Title II provides for the intelligence community staff whose function is to assist the Director of Central Intelligence coordinate the activities of the various elements of the intelligence community, and prepare the community's budget. A reduction of 27 personnel is recommended.

Title III provides an authorization of $164.1 million for the Central Intelligence Agency's retirement and disability system. This system provides benefits to those CIA employees performing hazardous duties or serving in special situations, usually overseas, which may limit the lengths of their careers.

Finally, title IV contains two recurring general provisions, one of which provides for adjustments to pay which may occur as a result of general pay raises and other personnel legislation. The other provides that authorizations in the bill are not to be construed as authorizing intelligence activities not otherwise permitted by the Constitution or laws of the United States.

Madam Chairman, H.R. 2038 seeks to address our Nation's near-term intelligence needs as well as encouraging the kinds of structural changes that will give our intelligence agencies the flexibility to deal with future challenges. I urge the passage of the bill.

□ 1400

Mr. SHUSTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this intelligence authorization bill, H.R. 2038, is a simple, basic, indeed bare bones authorization for our country's intelligence activities for the coming fiscal year. My good friend from Oklahoma, the distinguished chairman of the Intelligence Committee, has ably summarized its significant provisions.

As Chairman McCURDY noted, the administration's fiscal year 1992 request includes a number of legislative proposals which are not contained in H.R. 2038. I would hope and expect that the Intelligence Committee will have an opportunity later in this session to fully consider those legislative proposals and, where appropriate, take action on them. The Legislation Subcommittee of the Intelligence Committee did, in fact, hold a hearing on two of the administration's fiscal year 1992 legislative proposals last week. A subcommittee hearing on another initiative is scheduled for tomorrow.

Those Members who have had an opportunity to look at the minority views in our committee report to accompany H.R. 2038 will observe that the principal issue on which we differed with our majority colleagues involved the committee's decision on reorganizing the Defense Department's science and technology intelligence components. The minority dissented from that conclusion not because we think it necessarily incorrect, but because we believe that there has been insufficient study of the issue to support any particular conclusion at this time.

In addition to this issue, the minority has reservations about the Committee's treatment of certain CIA programs discussed in the minority views to the classified annex to the report. We remain sensitive to most of the administration's concerns about the Committee's actions with respect to these classified programs. Hopefully, these concerns and reservations can be constructively addressed by the time we reach the conference stage on this legislation.

Apart from these issues, members of the Intelligence Committee were in substantial agreement on almost all other matters in the bill and report. Therefore, barring the adoption of harmful amendments during consideration of the bill on the floor today, I expect to vote in favor of its passage.

As you may recall, I continue to hold the view that members and staff of the Intelligence Committee ought to take an oath of secrecy as formal evidence of our solemn commitment to diligently protect the sensitive intelligence information to which we are privy by virtue of our committee duties. Therefore, at the appropriate point during consideration of the bill, I expect to offer an amendment to require such an oath of secrecy. Because of potential germaneness problems with an amendment addressing this issue, I requested that the Rules Committee include a waiver of points of order for my amendment in the rule for consideration of H.R. 2038. Regrettably, by a 5-to-4 vote the Rules Committee declined.

Some of us have long endeavored to give the House an opportunity to consider and vote on this matter. For the life of me, I cannot understand the stiff-necked, foot-dragging, teeth-pulling resistance to letting the House have that opportunity. One would think that we were proposing that Members and staff of the Intelligence Committee be strip-searched in the well of the House. Instead, we are merely proposing a modest measure, the thrust of which is educational. It is intended to raise the consciousness of Intelligence Committee members and staff and to engrave more effectively in their minds the rules and corresponding responsibilities pertaining to the constant protection of sensitive intelligence information to which our sensitive positions give us access.

I want to emphasize that thanks to the chairman and members on both sides of the aisle of this committee, there have been very strong bipartisan support as we come to the floor today.

□ 1410

In discussing these matters last week with the distinguished chairman of the Rules Committee, he reminded me of the high caliber of the Members who served as chairmen of the Intelligence Committee and of their diligence in trying to assure that Members and staff remember their responsibilities in this area. I do not dispute that at all. I would argue that my amendment complements those very efforts.

I would also like to remind the distinguished Rules Committee chairman that our former colleague, Eddie Boland, the first and longest serving Intelligence Committee chairman, in a letter to Chairman MOAKLEY on June 26, 1990, just last year, stated that he did not oppose secrecy oaths of the nature of the one I propose.

If today is not the day when the House finally gets to consider this issue, then I will keep looking for every opportunity which may present itself in the future. Perhaps one day the pigeonholing and the gag rules will end and this proposal can be openly debated on the floor of the House.

Two final points, Madam Chairman. First, I would like to emphasize the point our distinguished chairman made with regard to the outstanding performance of U.S. intelligence activity in the Persian Gulf. The performance of U.S. intelligence in Desert Storm and Desert Shield was absolutely extraordinary.

Never, never in the history of our country have our military people had the kind of precise targeting information which was available to them and available to them because of the outstanding performance of our intelligence agencies. Never before have we had the kind of detailed order of battle information that was provided by our intelligence capabilities. And yes, the performance of our intelligence agencies with regard to thwarting terrorism was absolutely heroic. I wish I could go into more detail to tell some of the stories of the tremendous efforts on the part of the CIA and FBI around the world to stop terrorism before it really inflicted its deadly awesome pain on American citizens here in the United States and around the world. Major terrorists act were blocked because of U.S. intelligence efforts.

If there is any one area where I think our intelligence activities have been criticized, and in a sense unfairly, it is that we have heard that the intelligence activities of our country were not able to foresee Saddam Hussein's intentions. We have been holding hearings on this, and I have looked at this issue quite carefully. I have come to the conclusion that our intelligence people would have had been fortune tellers to be able to divine the intentions of Saddam Hussein. There is absolutely no credible evidence that shows that he knew what his intentions were going to be until a few days before he invaded Kuwait.

Indeed, our allies in the region unanimously informed us that they believed he was not going to invade, the Saudis, the Kuwaitis, the Egyptians, et cetera. So I think on balance, while there certainly always is room for improvement in human endeavor, the intelligence performance of our agencies in the gulf war was absolutely extraordinary, and the American people can be very proud of that performance.

Last, on the subject of counternarcotics we hear a lot about the need to shift priorities in a post cold war world. I can assure my colleagues that the intelligence community is indeed reordering priorities, and one of those reordered priorities, which is very critical, is the increased emphasis on counternarcotics.

Around the world, our intelligence activities are performing extremely well to provide both the strategic and the tactical intelligence necessary to rollup drug organizations and indeed drug lords. I certainly would not want to be a drug lord in one of these far away countries today, knowing what I know about the tremendous capability and effort and accomplishment of our intelligence agencies around the world. It is something else that the American people can be very proud of, the role that is being played in this spectacular effort. We bring a bill to the floor today which supports sound, well thought out intelligence capabilities for our country in the coming fiscal year, and I urge my colleagues to vigorously support this legislation.

Mr. McCURDY. Madam Chairman, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY], chairwoman of the Subcommittee on Legislation of the Permanent Select Committee on Intelligence.

Mrs. KENNELLY. Madam Chairman, I rise in support of the intelligence authorization bill for fiscal year 1992, and I want to compliment our chairman, Mr. McCURDY, and his leadership in this year's authorization process.

This is a bill which is difficult to discuss on the floor because so many of the program details and authorization levels are classified. Classification is necessary because an awareness that an intelligence activity even exists may reduce or eliminate its effectiveness, endanger lives, or lead to the collection of false information contrived by our adversaries to confuse or mislead us. However, I recognize that classification does produce a certain sense of frustration on the part of Members who are uncertain about whether we are spending too much, or too little, on intelligence.

I believe this bill provides the right level of resources for our intelligence agencies for the coming fiscal year. It does not give the President all he requested in the aggregate, nor does it match his specific requests for each and every program and activity. The bill does, however, provide a level of resources that the members of the committee, Democrats and Republicans alike, were convinced, after many hours of hearings and briefings, is necessary for our intelligence agencies to carry out their important responsibilities.

This legislation also moves us in the direction of ensuring that those agencies are working together to provide a reliable and timely intelligence product with an absolute minimum of duplication and wasted effort. Our committee's efforts to streamline the intelligence community begins with this bill. That effort is not one in which we engage on our own. The Department of Defense has completed a review of its intelligence structure and recommended a number of changes. The CIA has a similar review underway, and with a new Director of Central Intelligence on the horizon, I am certain that the organization of the entire intelligence community will be closely examined.

This is as it should be because a robust intelligence capability will be every bit as important as the United States enters a new century, as it was at the height of the cold war. International challenges may be of a different character, but they are not going to go away. The task before us is to determine whether the intelligence structure that developed as a response to the threats of the past is the best possible structure with which to confront the threats of the future.

I believe that it is clear that intelligence is going to have to do more with less in the years ahead. Budget constraints will affect both equipment purchases and personnel levels. Resources for new technologies and the people to use them will be stretched, making sound investment decisions in all categories of spending essential.

To operate successfully in this environment, our intelligence agencies will need to stress intracommunity cooperation and eliminate redundancy. Consolidation of activities within agencies should be a priority. I am especially pleased, therefore, that H.R. 2038 recommends consolidation within elements of the Department of Defense, of defense scientific and technical intelligence, human intelligence, and theater intelligence. These kinds of consolidation efforts should produce the type of effective centralized management of intelligence activities that will be crucial in the years ahead. I'm sure that the committee will encourage greater efforts in this regard in next year's bill, but I want to commend our chairman for his insistence that we take these first, but important steps this year.

Madam Chairman, I urge that the House endorse H.R. 2038.

☐ 1420

Mr. SHUSTER. Madam Chairman, I yield 5 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Madam Chairman, I thank the gentleman for yielding me this time. I will not use that time.

But I just would be remiss if I did not stand for a moment and say how difficult it is to talk about a subject you cannot talk about, Madam Chairman, but I do want to pay the accolades where they are due. This is a very good committee on which to serve, and I appreciate very much the cooperative spirit in which there is a bipartisan effort on that committee.

I would be very remiss if I did not compliment the staff. I do not know, and I am not familiar with, all of the staffs on the Hill, but I think it would be impossible to have a staff that is more professional, more courteous, or more knowledgeable than the staff on the Permanent Select Committee on Intelligence and the great works that they do. They are the one continuity in that committee which continues with the rotation of the membership.

Then, very briefly, with the matter for which we are here, Madam Chairman, I would rise in strong support regardless of the disposition of any of the other matters that are currently not a part of this authorization bill, to rise to very strongly support it and encourage my colleagues to support it and to say that those people, particularly on my side, who know where I am philosophically, this is a bill in which I think they can firmly support and place their confidence in.

Mr. McCURDY. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Kansas [Mr. GLICKMAN], a very active and hard-working member of our committee.

Mr. GLICKMAN. Madam Chairman, I rise in support of this bill.

It is a good bill, and as the gentleman from Pennsylvania [Mr. SHUSTER] said, most of it has been agreed to in a bipartisan context.

I would like to make a couple of comments about the intelligence community and intelligence legislation and activities at this time. We are at an intelligence crossroads in two areas, one substantively and one procedurally. On a substantive basis, we are at a crossroads in this world from an intelligence base that was directed almost exclusively at the Soviet threat. We are now moving to an intelligence base which is directed at, first, economics, to make sure that we know what is happening to us in the economic theater of the world, at terrorism, at counternarcotics and particularly at the Third World and areas like the Middle East.

The question is: Can our intelligence community adopt and adapt its functions, functions that since 1945 have been geared to the cold war, and adapt to those functions, to threats which are a lot more serious and a lot more modern? What we on the committee try to do all the time is to try to ensure that the intelligence community focuses on what are the current threats to this country, and not merely get locked into historic threats.

I compliment both the gentleman from Oklahoma [Mr. MCCURDY], the gentleman from Pennsylvania [Mr. SHUSTER], and the committee for putting together a bill that is focused on that.

I would reiterate one of my great interests, which is economic intelligence. In a modern world, in a global economic world with a lot of very serious competitors to the United States, we must make sure that what we know about what is happening to America economically, particularly from threats from other countries, that that should remain a very high priority of the intelligence community.

The other intelligence crossroad is organizationally oriented. We see we will have a new director of the CIA hopefully fairly soon, one who will have great influence on the future of American intelligence. In that connection, we see that relationships between the intelligence communities, the intelligence agencies, are under very serious discussion. We also look at relationships between the intelligence community and policymakers such as those within the State Department and the administration, and we see in some cases things are working well, and in other cases, areas of great confusion.

One of the reasons we are at a crossroads right now is because a new director of the CIA will have the opportunity to put together organizationally an intelligence network which makes more sense in a modern world; to not only focus the intelligence community substantively at economics and terrorism and counternarcotics, but also organizationally to maybe break the yokes of the organization of the cold war era and look to a modern organization of intelligence which makes sense and which makes us leaner and meaner when it comes to our organization of intelligence.

Intelligence can be the eyes and the ears to keep America on top in this world economically or militarily, or it can be an expensive albatross which keeps us from being as innovative as we need to be in meeting our threats.

The jury is still out on how well the intelligence community functioned in the Middle East crisis of the Iraq-Kuwait war. I agree with the gentleman from Pennsylvania [Mr. SHUSTER] that most of the time I think it operated in a very fine sense. I am not so sure it operated well in conjunction with how it related to the policymakers in the State Department and the administration, who were making poor decisions prior to Iraq's invasion of Kuwait.

One of the things we have to focus on is how well intelligence relates to the policy people in the State Department, the National Security Council and the administration who were actually making and carrying out the decisions in Kuwait, Iraq, and Saudi Arabia which affected the lives of our servicemen and women in the future of this great country of ours. So we have a lot of issues to face in this area, a lot of challenges to make intelligence activities function more effectively.

I compliment, again, the chairman of the committee and the staff of the committee for putting together a bill which I think pushes the intelligence community into areas that if needs to be focused on.

Mr. SHUSTER. Madam Chairman, I yield 4 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS], a member of the committee.

Mr. GEKAS. Madam Chairman, to the members of the committee, I am grateful for the yielding accorded to me by the gentleman from Pennsylvania.

I, too, want to pay my compliments to the chairman of the committee and the ranking Republican.

As a new member of this committee, I have learned a lot fast, and I appreciate the solicitude which has been offered to me by the staff on both sides and by the individuals and women of the committee.

The important opening statement made by the gentleman from Oklahoma brings to mind a pet concern of mine. The gentleman from Oklahoma, the chairman, quite rightly said that one of the focuses of our committee is to make sure that the agencies within the intelligence community can work better together. In some cases, perhaps their activities should be merged or some other accommodations made for a concentration of effort and a minimum of cost to be applied to these functions. I would have to say that that same concern applies to my pet peeve, the necessity for having two intelligence committees, one on the House side and one on the Senate side.

The very same concern that the gentleman from Oklahoma proscribes with respect to cost can apply to two committees working as an intelligence committee as these two are, the permanent select committees on both sides of the Chambers, and the other one, and it is more important than anything, and it does not apply to any other committee, the argument that other committees have the same face and the same function on both sides of the Capitol which does not apply to this, because in this particular case, we have to deal with the national security, and the one most sickening aspect of some of the news that we have heard over the past years has been the extent of the leaks by Members and perhaps by staff of vital information that could have led to threaten the very existence of our country and the lives of our servicemen and, indeed, our agency people throughout the world.

Madam Chairman, the existence of leaks perhaps can never be forbidden or protected against. But would it not be a certainty that the number of leaks and the ferocity of leaks could be diminished if we had but one Select Committee on Intelligence, a joint committee, House and Senate? One set of people would be testifying. One set of documents would be proffered. One set of testimony would come to the ears of the Intelligence Committee members and nothing more. That automatically would diminish and reduce the chances for leaks of vital national security information.

I intend to pursue this subject. Just as the gentleman from Pennsylvania wants very much to insert an oath into the process, I want to explore fully the possibility of joining up the committees, and at the appropriate time I will ask the gentlewoman who heads the Subcommittee on Legislation of the Intelligence Committee to offer a hearing on this question.

I feel very strongly about this.

Mr. MCCURDY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, just in response to my friend and colleague, the gentleman from Pennsylvania [Mr. GEKAS], who is a member of the committee, first of all, I want to commend him for his participation in the committee. I think, as he indicated, he has learned a great deal in a short amount of time as we all do on this committee.

□ 1430

It is one of the most fascinating jurisdictions that the Congress is involved in because it is a window onto the world in a number of respects, and it is obviously very important to our national security and the foreign policy of our country.

I just wanted to respond briefly to one of the comments made regarding the function of the committee, and perhaps even the other gentleman from Pennsylvania [Mr. SHUSTER] had referred to it as well in his comments regarding the secrecy oath. As chairman of this committee, and I have had the pleasure of serving under four distinguished chairmen including the original chairman, Mr. Boland from Massachusetts, the distinguished gentleman from Indiana [Mr. HAMILTON], the distinguished gentleman from Ohio [Mr. STOKES], and the distinguished gentleman from California [Mr. BEILENSON]. Each of the Chairs that preceded me have undertaken that unique responsibility that we hold with the utmost seriousness in trying to maintain the security of the committee. We have taken renewed precautions to improve the physical security of the committee room, the suites. We have tried to impress upon Members and staff the importance of information with which we deal and the procedures under which we operate which are protected under the rules of the House and governed by the rules of the House regarding the disclosure of any classified, unlawful disclosure of any classified material.

I would say during my tenure, I think the record has been very good within the committee. Specifically, to the reference of the joint committee, I only just want to say rather parenthetically that there has been great progress over the years in references to this issue. At one point the community had to report to eight separate committees of the Congress in the House. Eight separate committees. Now, they report to one committee of each House. I believe that by that consolidation we have addressed much of the concern of the gentleman from Pennsylvania.

We do not control the other body. We deal with them at times, but there are substantive issues of difference between the two bodies. There are areas of jurisdiction that, although they may overlap, that obviously require that we investigate and oversee different degrees of detail, and it has always been the prerogative of the chair of the committee to lay out the agenda for the committee to follow for the tenure of that particular chair and for the term in Congress.

This year, we have looked very aggressively at the issue of lessons learned from Desert Shield/Desert Storm to improve the overall effectiveness in the intelligence community. As I have said, and I think other Members have said, in my opinion the intelligence community performed admirably and well, and in many cases spectacularly, in support of these operations. I believe that they were on the mark prior to the full invasion in many respects.

Nonetheless, there are other areas of importance. The whole issue of the end of the cold war, the tremendous turmoil internationally, potential for chaos in the Soviet Union, and the unique challenges that face vital United States interests around the globe are also, I think, coming at a time when we are having diminished resources in the Department of Defense, and I think over time within the intelligence community as well. Therefore, we have to get more out of these agencies, greater requirement, and more demand, with fewer funds. So it is important that we have the utmost efficiency and effectiveness in these operations and in these agencies.

Having said that, I still believe that there is a strong sense of bipartisanship within our committee. I have made it a point to try to depoliticize the debate and the agenda to make sure we get an agenda that is looking at improving the overall national security and effectiveness in our community. I believe we are making real progress toward that end.

Madam Chairman, I reserve the balance of my time.

Mr. SHUSTER. Madam Chairman, I yield 5 minutes to the distinguished gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Madam Chairman, I commend the members of the select committee for their work and rise in support of the intelligence authorization bill for fiscal year 1992. I also want to take a moment to discuss a matter which is addressed in the report which accompanies this measure. The matter involves pending discussions on a consolidated Washington-area CIA facility.

Officials at the CIA are currently involved in a site selection process for what would be the consolidation of several CIA offices that are outside of the Langley headquarters complex. I am not predisposed one way or another about the desirability or need for a consolidation. But I believe that as this process moves forward the CIA should carefully consider the effect that a relocation and consolidation would have upon the employees involved and their families, as well as on the mission of the Agency.

I have a strong record of support for the Agency over the years, and have worked to secure many Federal employee programs—such as child day care, leave sharing, and flexible work schedules—that benefit CIA employees. So I have a longstanding interest in the well-being of CIA employees. My concern is that all of the efforts that have been made at the CIA to institute profamily employee programs would be made meaningless unless employee considerations are taken into account as discussions on the consolidation progress.

The CIA employees at the satellite offices have become part of their communities in Virginia, Maryland, and the District of Columbia. They have joined places of worship, are involved in community service groups, have spouses who are employed here, and have children active at local schools. As the ranking member of the Select Committee on Children, Youth, and Families, I am very concerned about the disruption that a major relocation would have on these families.

The American family is under pressure today such as it has never faced before. And the state of the economy compounds these pressures. If the consolidated site was to be outside of this commuting area, the families involved would face difficult decisions. Employees who move their homes may have spouses who would be unable to find similar employment near the new location. Many who have invested in homes simply would not be able to sell these homes in the current market. Those who decide to make the long commute would have less time to spend with their spouses and children. And my understanding is that some of the locations under consideration would be almost impossible to commute to for CIA employees who currently live in parts of Maryland, the District of Columbia, and Virginia. In short, there is the potential that the consolidation would have a major effect on the morale of CIA employees.

Just as important is the impact of a consolidation on the ability of the CIA to perform its mission. As the select committee has recognized in this bill, the Agency must change to keep pace with the profound developments in the world community. The CIA will need to be unified to meet the intelligence challenges of the new world order. It would be ill-advised to consolidate if it would create operational and organizational separation at this time when unity is essential.

When discussing a possible consolidation it is important to keep in mind that the CIA is not just another Federal agency: It is the central intelligence function of our Government. It coordinates and oversees the entire intelligence community, and must be close to these and other arms of the Federal Government if it is to carry out its vital mission.

For these reasons, I believe that careful thought must be given to plan for consolidation.

Madam Chairman, at this point I insert a letter addressed to the Director of the Central Intelligence Agency.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 11, 1991.

Hon. WILLIAM H. WEBSTER,
Director, Central Intelligence Agency, Washington, DC.

DEAR JUDGE WEBSTER: I am writing to supplement our recent discussion about the pending decision on a consolidated Washington-area CIA facility.

As the record of Operation Desert Storm indicates, intelligence is critical to the advancement of U.S. national interests in the world community. The significant changes that have taken place in recent years will require the CIA to face great challenges in the years ahead. Although the consolidation of CIA offices may at first glance seem far removed from these broad matters, I believe that the location of the proposed facility will have a profound effect of the ability of the CIA to effectively meet the challenges of the 1990s and beyond. In the long-term, the location of the facility will affect the way that the CIA institutionally performs its vital mission. In the near-term, the location of the consolidated site and the manner in which the relocation is carried out will determine whether CIA employees face disruption at home and at work, just as they are being called upon to carry out the changing mission of the agency.

As you know, I have supported the CIA over the years and have worked to secure federal employee benefits that have benefited CIA employees. The agency has implemented many problems that I have authored, including on-site child care, leave sharing, and flexible work schedules. We have worked together to resolve disputes with local residents on the physical aspects of the Langley headquarters complex. So I bring to the matter of the consolidation the hope that we can continue our cooperation and comity.

I was deeply concerned to learn of discussions by some at the agency to move forward with a consolidation of several satellite offices in what could be a location far from current headquarters. It also concerns me that I was not informed about the proposal by CIA officials but had to learn about it through a third party.

I have a strong interest in the proposed consolidation not only because it would affect many of my constituents and would involve hundreds of millions of taxpayers dollars, but also because a consolidation in a remote location could jeopardize the very future of the central intelligence function of the U.S. government. In the mid-1980s a decision was made to bring several offices of the CIA together in the current headquarters at Langley, in an effort to improve the coordinated operations and efficiency of the agency. The clandestine nature of the operations of the CIA directorates has a centrifugal effect, but many who are knowledgeable about the CIA have told me that the current headquarters setup has made important strides in unifying the operations of the agency. This could be lost if a second consolidation were effected at a site too far from Langley. Geographic separation would bring operational separation and could effectively weaken the integrity of the agency. It could have a very negative effect on the morale and espirt d'corps of CIA employees, and foster an "us" versus "them" attitude that would debilitate the agency.

In addition, it is important when discussing a consolidation and relocation of satellite offices to keep in mind that the CIA is not just another federal agency: it is the central intelligence function of our government. It coordinates and oversees the entire intelligence community, including the departments of Defense, State, Commerce, and Justice. Close proximity to these and other arms of the federal government is essential to the CIA carrying out its mission.

For these reasons, I hope that as the proposal comes up to you for decision, you will give serious thought to its potential impact upon the employees involved and their families, as well as on the ability of the CIA to perform its mission.

As I have looked into the human and capital costs involved, it has grown clear that the farther away the new facility is placed from Langley and Washington, the greater the negative impact of the CIA's mission and on its employees. Since Congress is ultimately responsible for the federal expenditures involved in a consolidation and relocation, I would appreciate the agency providing answers to the following questions. I recognize that in order to be complete, some of the answers might have to get into areas that are sensitive from a national security standpoint. I would appreciate your staff answering these questions at a non-classified level, and then providing separate supplementary answers in a classified document.

1. A primary question involves what the CIA would hope to achieve by consolidating Washington-area facilities. I know that this is an areas of interest to members of the House Permanent Select Committee on Intelligence, as reflected by the report to the Fiscal Year 1992 Intelligence Authorization Act, which calls for a review of CIA facilities and activities to insure that the analysis conducted to support the consolidation is sound. Some who I have spoken with regarding the consolidation suggest that it would affect not only satellite offices, but could also involve employees now assigned to the Langley facility.

(a) What offices in the Washington area would be involved in the consolidation?

(b) How do these offices currently interact with Langley and with federal agencies downtown?

(c) How many trips are required annually between these existing offices and CIA headquarters?

(d) How many trips are required between these offices and other federal agencies in Washington, D.C.?

(e) How would a consolidation affect the current method of interaction between the satellite offices, main CIA headquarters, and federal agencies?

(f) What additional travel costs, including time lost in travel, would be involved?

(g) What modes of travel would be involved?

(h) Would the consolidated site be located near a major airport?

(i) Would it be proximate to a major interstate highway, with direct access to Langley and Washington?

(j) Would it be located near other means of mass transit?

(k) How would a consolidation impact the operations of these offices?

(l) How would the distance of the consolidated site from main headquarters affect the operations of the functions involved?

(m) Would it affect the way that information is transmitted between headquarters and other functions?

(n) What steps would be taken to prevent the consolidated site from developing a separate organizational identity from headquarters?

2. The CIA employees at the satellite offices have become part of their communities in Virginia, Maryland, and the District of Columbia. They have joined places of worship, are involved in community service groups, have spouses who are employed here, and have children active at local schools. As the ranking member of the Select Committee on Children, Youth, and Families, I am very concerned about the disruption that a major relocation would have on the families involved.

A consolidation in a remote location would be a serious burden on families at a time when the family is already under great pressure. The state of the economy would compound the disruption caused by a major relocation, and families who have invested in their homes would face difficult decisions. Employees who decide to move might have spouses who would be unable to find similar employment at the new location. Those who decide to commute would have less time to spend with their spouses and children. And some of the locations under consideration would be almost impossible to commute to for CIA employees who currently live in Maryland and Washington and parts of Virginia.

(a) How many employees would be involved in the consolidation?

(b) Where do these employees now live?

(c) How does that break down by Congressional district?

(d) What are the pay grades of the employees involved?

(e) How would the consolidation affect commuting patterns?

(f) If the consolidation were to occur in a location far from the current offices, how many employees would willingly relocate?

(g) Would you offer employees who do not wish to relocate other positions of equal pay and tenure within this commuting area?

(h) Do you have assurances that top management at the various offices involved would relocate?

(i) What assistance would be provided to employees who choose not to relocate?

(j) Would eligible employees be offered early-outs?

(k) How many of the employees involved have school-age children?

(l) How many have spouses who also work?

(m) How many of these spouses are employed by the federal government, or in work related to the federal government?

(n) How many of the employees involved are single parents?

(o) Would the relocation of individual employees to timed to consider the needs of school-age children?

(p) Are there employees involved who have children with special educational, physical, or emotional needs that are being met today but might not be met if they were relocated to a remote site?

(q) How are quality of life factors—such as school systems, libraries, transportation systems, medical facilities, higher educational facilities, parks and recreation, and employment opportunities for spouses—being addressed in the evaluation of potential sites?

3. The CIA currently benefits when hiring new employees by recruiting them for service in the Nation's Capital.

(a) How would a consolidation in a remote location affect recruitment efforts?

(b) What provisions would be made for hiring new employees, including recruitment and training, if some current employees chose not to relocate?

4. Moving a federal office entails many incidental costs that must be considered by the agency when determining whether a planned move will be cost-effective.

Because of the present downturn in the real estate market in the Washington areas, many employees would simply be unable to sell their houses if they were relocated to a distant site. Many would choose to commute, regardless of the distance, and this of course would affect moral as well as work performance.

(a) For those who did move their homes, what would be the costs of the federal government in terms of employee relocation allowances such as household goods move, home marketing, new home search and purchase assistance, present home carrying costs, family move, and temporary living costs?

(b) What would be the costs associated with relocating the physical offices of the satellite facilities involved in terms of equipment relocation costs, ADP costs, furniture, communications equipment, and other costs?

(c) What would be the construction costs at the new location?

(d) What have been the capital improvements made at each of the satellite offices involved in the past three years?

(e) What lease penalties at current locations would be due to private lessors?

(f) What would be the additional costs in terms of communications and travel if the consolidated facility is at a remote location?

(g) What other incidental costs would be incurred by the federal government?

5. Concerns have been raised about the manner in which the current site selection process has been conducted.

(a) How many sites have been surveyed in the current site selection process?

(b) What is the preferred size of the site for the proposed consolidation?

(c) Has the CIA considered better use of the space at its present locations?

(d) Has the CIA made attempts to take advantage of the currently depressed real estate market by considering long-term leased space, with an option for federal purchase?

(e) What is the delineated geographic area under consideration for the consolidated?

(f) How was this area determined?

6. Considering each of the items mentioned above, what would be the total costs of a relocation and consolidation, including incidental and employee-related costs?

My hope is that by considering the effects of the proposed consolidation and relocation you will conclude that it is in the best interest of the CIA to keep the proposed limited to an area that is close to CIA headquarters and to Washington D.C. Given that officials at the CIA have been working on the concept for several years and may have already determined the requested information, I would appreciate a response to these questions by July 8.

Thank you for your attention to this request.

Sincerely,

Frank R. Wolf,
Member of Congress.

□ 1440

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, I would say to my good friend that our committee has informed the CIA that we expect to be fully kept abreast of this study and expect to be fully involved in any such decision.

I would also say to my friend, in addition to the reference to this matter in our report, in the open report before the body, there is further reference in our classified annex, so the gentleman may want to peruse that at his convenience as well.

Mr. WOLF. Madam Chairman, I appreciate the gentleman doing that. It is important that the Agency knows that this is in here so they cannot move ahead on anything until they come back to the Agency, and I will follow up on that, and I thank the gentleman.

Mr. SHUSTER. Madam Chairman, I yield 5 minutes to the gentleman from Florida [Mr. Goss].

Mr. GOSS. Madam Chairman, I greatly appreciate the opportunity to have a few minutes to speak on this subject because it is one that is very personal to me, as most of you know.

I was a classified intelligence officer for the Central Intelligence Agency for 12 years. I bring that perspective to this debate and to the question of the oversight of Congress on our intelligence operations.

I think today's debate on the future of our Nation's intelligence gathering really does miss an opportunity, perhaps even a golden opportunity, to discuss an issue very crucial to the success of our operations, and I want to emphasize the success of our operations is something that we do read about in the papers, because when we fail we hear about that and there is a great hue and cry for accountability of what went wrong; so it is incumbent upon us to do our best to provide every possible edge that our operations in the intelligence theater will succeed.

The issue that I am speaking of is an oath of secrecy. It is a very simple oath. It is given to members of the Permanent Select Committee on Intelligence and to their staffs.

Let me quickly say, by the fact that we do not have this oath of secrecy now I am in no way making any suggestion that we are not doing the job properly. I am talking about sending a signal for the future.

It may seem to some to be a symbolic step, but it is one that could go a long way in shoring up what I think is a waning confidence in Congress, sending a message to our allies and our operatives in the field that we take their work most seriously and that we in fact will not take any chances on betraying their trust for political reasons or for political gain.

Of course, this is not a new idea. Every year I have been here it has been mentioned. It has been discussed at this time. The concept of an oath of secrecy for committee members and staff has been around for a long time. I think we eventually are going to have to implement it.

Repeated efforts to have an open vote on the issue I think have fallen victim to partisan politics, sadly. Take it from somebody who knows, we need better safeguards to insure that classified material remains classified. It seems to me common sense to demand a little accountability from the people to whom we trust some of our most sensitive information and the lives of many loyal, hard-working people around the world.

A few simple words of commitment does not seem that much to ask.

Having said that, I honestly do not think that there would be much resistance from any members of the staff or of the committee to take such an oath. I think that we are kidding ourselves by not making a requirement of it. I think it is a simple way to send a signal that is so terribly important.

Madam Chairman, I thank the gentleman for the opportunity to be able to make these remarks again. Until we get this provision, I am going to try to have the opportunity to make these remarks at every occasion like this.

The reason I say that is that I know of very few places in the whole intelligence network where there is such a concentration of vital information as in the House Select Committee on Intelligence. I think we have to go the extra step to provide those safeguards and assurances that the people who depend on us handling that information wisely know that we are taking every step.

Mr. RAY. Madam Chairman, I rise today in support of H.R. 2038, the fiscal year 1992 intelligence authorization bill. I would like to commend Chairman McCurdy and the ranking minority member from Pennsylvania [Mr. Shuster] for their efforts on this legislation.

I recognize that it is not easy to craft legislation which addresses the issue of intelligence and intelligence-related programs. However, Operation Desert Storm has shown us the importance and critical need for good intelligence gathering capabilities.

I applaud the bipartisan effort of the Select Committee on Intelligence in reporting a bill which provides the direction we need in this area.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered under the 5-minute rule by titles and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 2038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1992".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1992 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) Specification of Amounts and Personnel Ceilings.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1992, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany H.R. 2038 of the One Hundred Second Congress.

(b) Availability of Classified Schedule of Authorizations.—The Schedule of Authorizations described in subsection (a) shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) Authority for Adjustments.—The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1992 under sections 102 and 202 of this Act when he determines that such action is necessary for the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 percent of the number of civilian personnel authorized under those sections for that element.

(b) Notice to Intelligence Committees.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by subsection (a).

SEC. 104. TRANSFER AUTHORITY.

(a) Purpose and Amounts of Transfer.—Of the funds authorized to be appropriated under section 101, an amount specified in the classified Schedule of Authorizations referred to in section 102 may be transferred, in accordance with the provisions of section 502(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)), by the Director of Central Intelligence to a special program identified in that classified Schedule of Authorization.

(b) Transfer Schedule.—The Director may exercise the transfer authority provided by subsection (a) only in three increments, as follows:

(1) The first increment of funds may be transferred only during the three-month period beginning on January 1, 1992, in an amount not to exceed one third of the amount referred to in subsection (a).

(2) The second increment of funds may be transferred only during the three-month period beginning on April 1, 1992, in an amount which, when added to any amount transferred in the first increment, does not exceed two thirds of the amount referred to in subsection (a).

(3) The third increment of funds may be transferred only during the three-month period beginning on July 1, 1992, in an amount which, when added to any amounts transferred in the first and second increments, does not exceed the full amount referred to in subsection (a).

(c) Identification of Sources of Funds.—Not later than 15 days before the date of the transfer of each increment, the Director shall identify for the intelligence committees of the Senate and House of Representatives each specific program, project, or activity within the National Foreign Intelligence Program that is proposed as a source of the funds to be transferred.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendments: Page 3, at the beginning of line 11, insert "2038".

Page 4, after line 11, insert the following new section:

SEC. 104. TRANSFER AUTHORITY.

(a) Purpose and Amounts of Transfer.—Of the funds authorized to be appropriated under section 101, an amount specified in the classified Schedule of Authorizations referred to in section 102 may be transferred, in accordance with the provisions of section 502(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)), by the Director of Central Intelligence to a special program identified in that classified Schedule of Authorizations.

Mr. McCURDY (during the reading). Madam Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. McCURDY Madam Chairman, I move to strike the last work.

Madam Chairman, among other things, the committee amendment authorizes the transfer of funds to a single program identified in the classified schedule of authorizations incorporated by reference in the bill. The scope of this authority and limitations on it, are set forth in the classified annex to the report.

It is the committee's intention that, before each and every occasion in which this authority is used, the proposed sources of funds will be identified, and the committee will render its judgment on them. The committee believes this procedure is entirely consistent with the meaning of section 502(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)), and the legislative history applicable to that provision.

Mr. SHUSTER. Madam Chairman, I rise in support of the committee amendments.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. Are there any amendments to title I?

Mr. McCURDY. Madam Chairman, I ask unanimous consent that the remainder of the bill be printed in the Record and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The text of the remainder of the bill is as follows:

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1992 the sum of $30,719,000.

SEC. 202. AUTHORIZATION OF PERSONNEL END-STRENGTH.

(a) Authorized Personnel Level.—The Intelligence Community Staff is authorized 240 full-time personnel as of September 30, 1992. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) Representation of Intelligence Elements.—During fiscal year 1992, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) Detailees To Be on Reimbursable Basis.—During fiscal year 1992, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

SEC. 203. INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.

During fiscal year 1992, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1992 the sum of $164,100,000.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 402. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 6, line 10, strike out "240" and insert in lieu thereof "213".

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 8, after line 15, insert the following new subsection:

SEC. 403. INTELLIGENCE COMMUNITY CONTRACTING.—The Director of Central Intelligence shall direct that elements of the Intelligence Community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, shall award contracts in a manner that would maximize the procurement of products in the United States. For purposes of this provision, the term "Intelligence Community" has the same meaning as set forth in paragraph 3.4(f) of Executive Order 12333, dated December 4, 1981, or successor orders.

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there any objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, this is the same language that was added to last year's Intelligence Authorization Act.

I want to commend the new chairman, a young chairman, for giving everybody an equal opportunity and access to look at the bill and have an opportunity in their own minds to try to enhance it.

I also want to thank the ranking minority member that I served with on the Committee on Public Works and Transportation for the fine job he has done.

It is the same language that was in the bill last year.

Mr. MCCURDY. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the committee chairman.

Mr. MCCURDY. Madam Chairman, I thank the gentleman for yielding to me.

Madam Chairman, the amendment offered by the gentleman from Ohio is identical to language included in the conference report on the fiscal year 1991 intelligence authorization bill. Although that measure was vetoed, the same language on intelligence community contracting is contained in the revised authorization bill for fiscal year 1991 which is now before the Senate.

I would have preferred that the gentleman wait to offer his amendment until the committee could evaluate how the intelligence community responds to the directives on this issue contained in the 1991 bill. That would have allowed the committee to work with the gentleman to address any problems identified as a result of the community's experience with the implementation of this kind of provision. Nevertheless, I understand the gentleman's desire to further express his concerns in this area.

As the language in the amendment is identical to a provision we hope will soon be enacted into law in another intelligence bill, I have no objection to accepting the amendment.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

□ 1450

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 8, after line 15, add the following new section at the end of Title IV:

SEC. 403. OATH OF SECRECY.

In order to promote an enhanced consciousness by the Members and staff of the Permanent Select Committee on Intelligence of their special responsibilities for the protection of sensitive classified intelligence information, and thereby to promote an increased readiness on the part of the Executive Branch to provide information to the Committee necessary for it to most effectively carry out its legislative and oversight responsibilities for programs for which funds are authorized in this Act, Rule XLVIII (Rule 48) of the Rules of the House of Representatives is amended—

(a) at the end of clause 1 by adding the following new paragraph:

"(d) At the time a Member is appointed to serve on the select committee, or within thirty days after the adoption by the House of this provision, whichever is later, the member shall take the following oath:

"I do solemnly swear (or affirm) that I will not directly or indirectly disclose to any unauthorized person any classified information received in the course of my duties on the Permanent Select Committee on Intelligence, except with the formal approval of the committee or of the House."

The oath shall be administered by the Speaker of the House of Representatives. The Clerk of the House of Representatives of the One Hundred Second Congress and each succeeding Congress shall cause this oath to be printed, furnishing two copies to each Member appointed to the select committee who has taken this oath, which shall be subscribed to by the Member, who shall deliver them to the Clerk, one to be filed in the records of the House of Representatives, and the other to be recorded in the Journal of the House and in the Congressional Record.":

(b) at the end of clause 5 by adding the following new sentences: "Each employee of the select committee and any person engaged by contract or otherwise to perform services for or at the request of the select committee who is required to subscribe to the agreement in writing referred to in the first sentence of this clause shall, at the time of signing or within thrity days after the adoption by the House of this provision, whichever is later, also take the oath set out in clause 1(d) of this rule. The oath shall be administered by the chairman or by any member of the committee or of the committee staff designated by the chairman. The Clerk of the House of Representatives of the One Hundred Second and each succeeding Congress shall cause this oath to be printed, furnishing two copies to each of such persons taking this oath, which shall be subscribed by each such person, who shall deliver them to the Clerk, one to be filed in the records of the House of Representatives, and the other to be recorded in the Journal of the House and in the Congressional Record.":

(c) in clause 7(d) by inserting immediately after the words "paragraph (c)" the words "or of the oath required by clause 1(d) or by clause 5," and by adding immediately after the last sentence of clause 7(d) the following new sentences: "The select committee may refer cases of unauthorized disclosure and violations of the required oaths to the Committee on Standards of Official Conduct for investigation. While a member of the committee is the subject of such a pending investigation, the select committee may determine by majority vote that the member shall not be given access to classified information.": and

(d) by adding the following new sentence at the end of clause 7(e): "If the Committee on Standards of Official Conduct determines that any member of the select committee or any person on its staff who is the subject of any such investigation has violated the oath required by clause 1(d) or clause 5, such person shall be permanently expelled from membership on the select committee or have his employment in any capacity by the select committee terminated permanently, as the case may be, in addition to being subject to such other actions as the House may determine are appropriate.".

Mr. SHUSTER (during the reading), Madam Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

POINT OF ORDER

Mr. MCCURDY. Madam Chairman, I make a point of order against the amendment.

Madam Chairman, the amendment proposes a change in the rules of the House. Changes in House rules are outside of the jurisdiction of the Permanent Select Committee on Intelligence, and within the jurisdiction of the Committee on Rules. H.R. 2038 therefore contains no changes to House rules.

The amendment fails the test of committee jurisdiction under section 798c of the Rules and Practices of the House of Representatives by including matters within the jurisdiction of a committee not reporting the bill, the Committee on Rules. As a result, the amendment is not germane, and therefore it violates clause 7 of rule XVI (16).

Madam Chairman, I insist on my point of order.

Mr. SHUSTER. Madam Chairman, I regret that once again the House will not apparently be given the opportunity to vote on this amendment, and I am prepared for the ruling of the Chair.

Mr. SOLOMON. Madam Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman wish to speak on the point of order?

Mr. SOLOMON. Madam Chairman, did the gentleman reserve a point of order or did he make a point of order?

Mr. McCURDY. I made a point of order.

The CHAIRMAN. The gentleman has made a point of order.

Mr. SOLOMON. So it is not debatable and I cannot engage in a colloquy with the sponsor of the amendment then?

The CHAIRMAN (Ms. SLAUGHTER of New York). The gentleman is correct.

The Chair is ready to rule on the point of order of the gentleman from Oklahoma [Mr. McCURDY].

For the reasons stated by the gentleman from Oklahoma, and based on the Chair's ruling of May 1, 1991, on the question, the Chair agrees that this amendment is not germane to the bill before the committee and, accordingly, the point of order is sustained.

Are there further amendments?

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Madam Chairman, in the spirit of compromise, I offer another amendment which I trust will be acceptable.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 8, after line 15, insert the following new section:

SEC. 403. LIMITATION ON SUBMISSION OF INFORMATION—OATH OF SECRECY.

(a) Notwithstanding any other provision of this Act, during fiscal year 1992, no element of the United States Government for which funds are authorized by this Act may provide any classified information concerning or derived from the intelligence or intelligence related activities of any such element to a Member or employee of the House Permanent Select Committee on Intelligence unless and until a copy of the oath set out in subsection (b), signed by that Member or employee, as the case may be, has been published in the Congressional Record.

(b) The oath referred to in subsection (a) is as follows:

"I do solemnly swear (or affirm) that I will not directly or indirectly disclose to any unauthorized person any classified information received in the course of my duties on the Permanent Select Committee on Intelligence, except with the formal approval of the committee or of the House.".

POINT OF ORDER

Mr. McCURDY. Madam Chairman, as with the previous amendment, I would raise a point of order that this amendment, too, is not germane. I would argue, Madam Chairman, that the amendment restricts the ability of the Speaker to appoint members to the committee and is therefore an amendment to House rules. It conditions and amends the implementation of an existing law, the National Security Act of 1947, which is outside the scope of the bill.

Therefore, Madam Chairman, it violates rule XVI, that is clause 7 of rule XVI, and I insist upon my point of order.

Mr. SHUSTER. Madam Chairman, this clearly is within the rules of the House. First of all, the Speaker may appoint anybody he chooses. This does not limit the Speaker's ability to appoint. And second, this does not amend the National Security Act referred to by the gentleman. Rather, this amendment is limited specifically to the piece of legislation that is before us today. It simply prohibits the intelligence components of the Government for which funds are authorized in this bill from providing classified intelligence-related information to members or employees of the Inteligence Committee unless and until a simple oath of secrecy, signed by them, has been published in the CONGRESSIONAL RECORD. And I emphasize, this amendment is limited to fiscal year 1992. This is limited to this bill before us today.

Its primary purpose is to promote an increased readiness on the part of the executive branch agencies covered to provide information to the Intelligence Committee necessary for it to most effectively carry out its legislative oversight of the activities for which the funds are authorized in this bill. Making the provision of this classified intelligence information to members and staff of the Intelligence Committee contingent on the solemn commitment represented by their taking this oath to protect the information will strongly encourage the full candor we seek. It does not change any rules of the House. It does not go to any law beyond that which we are considering today. This clearly is within the rules of the House and is indeed germane and is a much more modest amendment than that which I previously offered.

Furthermore, Madam Chairman, may I emphasize that there are two other provisions of this bill, as amended here today, that already deal with the transfer of information by the executive agencies to Congress. Section 103(b) regards information on exceeding personnel ceilings, section 104(c) concerns information on funding accounts from which funds are transferred.

So, if these two provisions are within the scope of this bill, then certainly my amendment is within the scope of this bill.

The CHAIRMAN (Ms. SLAUGHTER of New York). The Chair finds that this amendment does differ from the previous one ruled upon. This amendment constrains the flow of information from the entities that are funded by the bill for this fiscal year to the Congress only for the period of such funding. In addition, the bill directly addresses the flow of information from the intelligence community to the Congress. Accordingly, the Chair finds that the amendment is germane to the bill.

□ 1500

Mr. SHUSTER. I thank our distinguished Madam Chairwoman, thank her for her very fair treatment, and I am delighted that finally, through the persistence of many fine people, we have been able to bring this very important issue to the floor of the Congress.

My colleagues, this is a simple amendment that asks only that those members of the Permanent Select Committe on Intelligence and the employees who have the distinct honor and privilege of being responsible for the handling of our Nation's most sensitive secrets are required to take an oath of secrecy.

Madam Chairman, there is nothing new about this. When a predecessor to the Permanent Select Committee on Intelligence, the Committee of Secret Correspondence, met in the Second Continental Congress, Benjamin Franklin and others who handled the Nation's sensitive material at that time indeed did take a similar oath of secrecy.

Beyond that, I referred earlier today to a letter the committee received just last year from the distinguished Eddie Boland, the first chairman of the Permanent Select Committee on Intelligence, in which he said that he was not opposed to such an oath of secrecy.

Beyond that, in the Iran-Contra report provided this body not too many years ago there are repeated references to specific leaks which occurred in the House, in the Senate, leaks which occurred from sitting members of the House Permanent Select Committee on Intelligence, sitting members of the Senate Intelligence Committee, and so we are not talking theory here. We are talking about direct experience in the past.

Madam Chairman, having said that, I emphasize that I believe the chairman has done an outstanding job in emphasizing the importance of protecting leaks so that we do not divulge classified information, and I believe that my colleagues on both sides of the the aisle are indeed sensitive to this issue.

However, Madam Chairman, this goes beyond the question of simple sensitivity of the members sitting on the committee. It goes fundamentally to the issue of our setting an example, our setting the best example in this town, so when others in this town and in this official Government community, particularly those in the executive branch, as well as our colleagues in both bodies, deal with sensitive, classified information, they know that, like Caesar's wife, we on the Permanent Select Committee on Intelligence are going to be very, very concerned and sensitive. We on the Permanent Select Committee on Intelligence are taking an oath to protect that secrecy.

Madam Chairman, this is extremely important because there has been example after example of leaks, most of which we think of coming from the executive branch, but, nevertheless, there have been very specific examples of classified leaks in the past out of the House Permanent Select Committee on Intelligence, out of the Senate Intelligence Committee. Indeed it has been published that a former Member of the Senate of the other body's Intelligence Committee threatened to disclose two covert actions as a method of stopping those covert actions from being implemented.

So, there is a clear need, not only for us to address this issue ourselves, but, even more importantly, for us to set a good example.

In closing, Madam Chairman, I cannot understand for the life of me why my colleagues are so opposed, so afraid, of our taking a simple oath of secrecy to preserve our Nation's most sensitive secrets. What is wrong with this simple amendment? Why are we afraid? In fact I would suggest that several colleagues on the other side of the aisle have told me that they have no problem with this, but that it is a Democratic leadership position, and so they have got to march in lockstep to support the opposition to this amendment. I say we should all think for ourselves. I cannot believe that the Democratic leadership has in fact attempted to muzzle our colleagues on the other side of the aisle on this issue. Let us vote on this. Let us be free to vote on both sides of the aisle, and let us support this modest amendment which indeed will improve the security of the United States of America.

Mr. McCURDY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have been somewhat perplexed this year since I have taken over the chair of the Permanent Select Committee on Intelligence at the amount of time spent on this amendment, and I am also a little perplexed by the statement of the gentleman from Pennsylvania [Mr. SHUSTER], my friend and colleague, when he obviously has become very worked up on this position and says that he cannot understand why anyone would oppose this amendment. On the face of it there is very little to oppose, but, as we sit here and we see the gentleman from New York [Mr. SOLOMON] with his amendment on drug testing, we see the gentleman from Pennsylvania [Mr. SHUSTER] with his amendment on an oath, we have seen amendments here on saluting the flag, it appears that, in spite of the multibillions of dollars in our bill, in spite of the incredible authorization authority that we have and the jurisdiction that we cover, we spend all of our time on provisions such as this.

Mr. Chairman, the fact of the matter is it irritates me because it seems as if people are trying to take partisan advantage or create some partisan position here by placing people in a position. If we accept the oath on this, what is next? Polygraphs? And after polygraphs do we have to do random drug testing to Members?

Mr. Chairman, the gentleman is shaking his head that he would like to see that as well.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, this gentleman did not shake his head yes.

Mr. McCURDY. Mr. Chairman, it was the gentleman from New York [Mr. SOLOMON].

Mr. SHUSTER. Mr. Chairman, I thank the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, as my colleagues know, I have extended my hand in an attempt to be fair in the Permanent Select Committee on Intelligence. We come here with an open rule, we come here, and the gentleman knows in the committee we have taken extra precautions to admonish and advise Members about the information that we deal with, and now he is saying we are just here to set an example.

My colleagues, I think, more importantly for the American public, we need to really put this issue to rest here today and discuss this. Members of Congress are elected in each of our individual districts across the United States, 435 Members of Congress, by roughly 500,000-plus individuals; some districts more, some a little less. We come to this body, and we take an oath to uphold and defend the Constitution of the United States. Every single Member of Congress takes the oath. It is the same that the President of the United States takes, an oath to uphold and defend.

Now, Mr. Chairman, if we single out this committee as being so unique, then maybe another symbolic step would solve this problem. But then the next question will be: What about the R&D Subcommittee of the Committee on Armed Services, which I also serve on? That also handles classified information. And what about the Committee on Appropriations' Subcommittee on Defense? They, too, happen to get involved in appropriating on matters involving intelligence. Are we going to require them to do it? All of a sudden we might as well bring in the whole Congress and start swearing them in.

The point of the matter is that we already take an oath of office, and I believe that the amendment of the gentleman from Pennsylvania [Mr. SHUSTER] is redundant. Again I think there are those who are looking for a position which not necessarily advances the posture of the committee. The gentleman is continually; he said it a few weeks ago; talking about leaks. I do not know of an example of a leak from the committee that has been pointed out to a Member. In addition, the gentleman mentioned the Senate, but we, quite frankly, do not have jurisdiction over the other body.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I refer to the Iran-Contra minority report which refers to a former distinguished Member of this body who at that time sat on the Permanent Select Committee on Intelligence, who admitted to staff that he was the leak of a Newsweek article, and it is in chapter 13, entitled "The Need To Patch Leaks," and the gentleman's name is included there.

□ 1510

Madam Chairman, this is not a retroactive amendment, so it does not apply to former members of the committee. There have been instances, I will point out to the gentleman, where Members have been basically removed from committee positions.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. McCURDY] has expired.

(By unanimous consent, Mr. McCURDY was allowed to proceed for 5 additional minutes.)

Mr. McCURDY. Madam Chairman, there have been instances where Members have actually been removed. I think the other body has made tremendous strides in improving the situation, and I commend the distinguished chairman on the Senate side, Mr. BOREN, for his efforts to correct any potential abuses over there. They do not have an oath of office or an oath of secrecy. I commend the gentleman from Alaska [Mr. MURKOWSKI] as well.

I think we, too, on this side have taken precautions and continue to take precautions to protect information. I know the gentleman has raised earlier concerns about the requirement under the rules of the committee that were already there, that testimony before our committee be taken under oath. We talked about Iran-Contra, where the administration obviously appeared before committees, including ours, and there have been allegations of misleading or false testimony, but this rule applies to all committees in the Congress. It applies to the Committee on Appropriations and other committees as well. Even the Science Committee has that same provision in the rule. So we did not set a new precedent by using that rule. It has been used at times in other committees as well.

So again, I am a little surprised at the vigor and the persistence of the gentleman on this point since he admits, and I think the gentleman would have to admit, that during his tenure, since he has been the ranking member and I have been chairman of this committee, we have not had abuses, and I would hope we could maintain that record as well.

Mr. LAGOMARSINO. Madam Chairman. I move to strike the requisite number of words, and I yield to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Madam Chairman, I thank my good friend for yielding, and I take this oppportunity to respond to my good friend, the gentleman from Oklahoma, on several of the points he has made.

First of all, I could not agree more that there appear not to have been any leaks from our committee in the past 5 months or so. That is not the point I am making here. The point I am making here is that there have been leaks in the past. This city leaks like a sieve, and we need to set an example.

Beyond that, my good friend, the gentleman from Oklahoma, apparently complains about the amount of time spent on this amendment. The reason we have spent time on this amendment is because of the gentleman's opposition. We could have solved this in 3 minutes 5 months ago. So it is not this gentleman who has caused the time to be spent, but it is the opponents of this amendment.

Beyond that, my good friend, the gentleman from Oklahoma, says—and let me quote him, if I wrote the words down accurately—"On its face, there is very little to oppose in this amendment."

I agree with that. If there is so very little to oppose, why all the opposition?

Beyond that, my good friend said, "What's coming next, a drug amendment?" Well, this is not a drug amendment.

Then he says, "What's coming next?" He refers to our already having passed one on saluting the flag. This is not saluting the flag.

Then he says, "Are we going to have polygraph tests?" This is not a polygraph test.

So we should not be dredging up straw men and indicating this amendment is about something it is not. This amendment is only about Members and staff of the committee taking an oath of secrecy, Members who deal with our Nation's most sensitive secrets.

The gentleman suggests, darkly perhaps, that there might be those here wanting to take partisan advantage by offering this amendment. This amendment was not meant to be partisan. It was only made partisan by the majority who opposed it. This was not offered in a partisan way at all. So that point should be emphasized as well.

We should emphasize also that this goes to the question of trust with our allies. We know there have been cases where our allies have refused to share intelligence with us. So this is one more step to say to our allies that we are setting a good example.

Beyond that, the gentleman referred to our requiring an oath by those in the executive branch who come before us to testify. Yes, we do. Those very same officials who come before us have also previously, when they assumed their office, held up their right hands and taken an oath to preserve and protect the Constitution of the United States, just as we have. The gentleman said that because we took that oath, somehow we do not need to take this oath. Those very people who came before us took that same oath that we took, and we require another oath of them.

So it seems to me that this is simply one more reason to support the amendment.

Finally, we should also never forget that our Founding Fathers took this kind of an oath as they dealt with the top secrets of their country in their day and age.

So, Madam Chairman, for all those reasons, on a bipartisan basis, we should pass this simple amendment.

Mr. LAGOMARSINO. Madam Chairman, I just want to say that I rise in very strong support of this amendment. It seems to me that if we went out and asked the American public what they thought about this, whether they thought members of this committee should take such an oath, they would overwhelmingly say yes.

Mr. DORNAN of California. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, let me say to the chairman of our distinguished committee and Members on both sides that I truly also underscore what the distinguished gentleman from Pennsylvania [Mr. SHUSTER] has said. This is not a partisan amendment.

Now, I understand deep in the liberal soul, particularly if Members are over about 45 years of age, this can conjure up the image of loyalty oaths, which strikes terror in the hearts of some of our most senior liberals who are long of tooth. But I would remind the Members here what I have just reaffirmed from my own knowledge, that our staff members on both sides—and they are good, loyal Americans, all of them; I know some well and some not so well and some I have just only been introduced to—do not as members of the staff of the Intelligence Committee ever come into this job and raise their hands and swear or affirm to uphold the Constitution of the United States. They sign certain documents that have the same effect, but they do not do that.

Now, I know that our chairman, the gentleman from Oklahoma, is an Air Force officer in the Reserves. I do not know whether he was ever an enlisted man, but I know that when he got that Air Force commission, he raised his hand and swore to defend the Constitution, as he has done here every 2 years from 1980 on. And knowing the gentleman pretty well, I will bet that he and I and most of the Members in this Chamber get goose pimples, no matter how many times we have done it, even those who are senior Members, Mr. MICHEL and Mr. BROOMFIELD on this side, and our Speaker and all the way to JAMIE WHITTEN, the distinguished chairman of the Committee on Appropriations on the other side. I know they get goose pimples; I can see it on everybody's face. I know when we do that at the beginning of each two years of Congress, we get goose pimples. We like doing it. Yet once we have done it, if we are incumbents, is there any other reason to do it over again except for the ceremony to indicate that this is a new Congress and we are just doing it over again?

I did it as an enlisted man, a teenager, when I joined the Air Force for 4 years. I did it within a year or so later when I became an aviator cadet. I did it again a year and a half after that when I got my wings, and I have done it seven times on the floor of this Chamber, sometimes holding the hand of my youngest daughter when I first came here and she was still a teenager, and then with four or five different grandchildren over the years, holding their hands with my left hand and raising my right hand and swearing to defend the Constitution.

Now, certainly if somebody were to break this down for staff and we would get a vote on this, every Member knows that it is going to be an overwhelming vote for the staff of the Intelligence Committee, this powerful and important select committee; we know that is going to win overwhelmingly. Our staffers, some of them young people without military service, will for the first time in their lives get the goose pimples connected with raising their hands and swearing to defend the Constitution and defend it against every enemy, foreign and domestic.

☐ 1520

Did you hear that last word, folks? "Domestic." Yes, there are some people who call themselves Americans, that in their hearts have already betrayed their country, that we have to defend the Constitution against those people. I would simply say that since it would win overwhelmingly to have our intelligence staffers do what we do at the beginning of each Congress, and do it proudly and willingly and get a lump in our throat doing it, if we are going to do it to the staff, then why can we not lead by example, as the gentleman from Pennsylvania [Mr. SHUSTER] has said so eloquently, and merely have the Members and the staff do it one more time?

I have done it as an enlisted man, a cadet, a young Air Force officer, and seven times in this Chamber. I think I have done it in between testifying at certain committees. We have now taken to swearing in certain people, and I am sure if we had a Member, a Senator or Congressman testifying with other Members, and you asked the panel to stand, which I support your doing it every time, a Member would stand and take the oath. I have seen them do it over in committee hearings in the Rayburn and Longworth Buildings.

Madam Chairman, in conclusion, I would ask the gentleman from Oklahoma [Mr. McCURDY], quite simply, is it really anything but another goose pimple moment for Members and staffers?

Mr. McCURDY. Madam Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I actually think that I would concur and agree with the gentleman that every time we take the Oath of Allegiance to our country, I get goose bumps. I get goose bumps every time I salute the flag.

Mr. DORNAN of California. Madam Chairman, reclaiming my time, I knew the gentleman did, because I do, too.

Mr. McCURDY. Madam Chairman, I actually get goose bumps when I walk up these stairs.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. McCURDY. Madam Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Oklahoma is recognized for 5 minutes.

There was no objection.

Mr. McCURDY. Madam Chairman, as chairman of this committee I felt constrained to resist this on the germaneness issue earlier because it was a rules change. Now that the Parliamentarian has ruled that it is germane, if I could engage with the gentleman from Pennsylvania [Mr. SHUSTER] for just a moment.

As I indicated, on the face of this I have no problem. I have not had problems with that. What I am concerned about though is, having done this, that now we are going to hear about drug testing, or polygraphs, or other amendments, that all of a sudden our committee becomes so unique with regard to responsibility requirements, that it becomes almost unworkable.

Madam Chairman, I honestly do not believe that we should impugn the honor of any member of our committee.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, that is certainly not my intention, I would say to my good friend, the gentleman from Oklahoma [Mr. McCURDY], as I am sure the gentleman knows.

Mr. McCURDY. Madam Chairman, reclaiming my time, before we start loading up requirements into this bill, will this now become the next standard amendment on the floor, like the Walker amendment on 2 percent, or the Solomon drug amendment?

Mr. SHUSTER. Madam Chairman, if the gentleman will yield further, that is certainly not this Member's intention.

Mr. McCURDY. Madam Chairman, if the gentleman would agree to that then, if that is not going to be the case, then I personally could accept the amendment.

Mr. SHUSTER. Madam Chairman, if the gentleman will yield, I thank the gentleman from Oklahoma [Mr. McCURDY] and give him my assurance it is not my intention to offer a series of amendments as he has described.

Mr. McCURDY. Would the gentleman from Pennsylvania [Mr. SHUSTER] resist the other amendments if offered?

Mr. SHUSTER. Madam Chairman, I would have to vote my conscience on any of them. I would not intend to actively participate.

Mr. McCURDY. Madam Chairman, I would accept the amendment.

Mr. McEWEN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I thank the gentleman from Oklahoma [Mr. McCURDY] for his colloguy with the ranking Member, the gentleman from Pennsylvania [Mr. SHUSTER]. I commend him for it.

Madam Chairman, I intended to rise for the purpose of taking just a selection from the reports of the Iran-Contra Committee to the Congress in which it has various subtitles, one being, "The Leaky 1970's," and the other being, "The Still Leaky Congress During the Reagan Years." Then it begins to cite specific examples in which one member of the Committee on Intelligence allowed as how he had leaked certain documents. The final conclusion was that this member was set straight by the House Intelligence Committee chairman, but who decided to take no action against this member since leaks were so epidemic.

Madam Chairman, I think that the conclusion that is made here by the acceptance of the amendment of the gentleman from Pennsylvania [Mr. SHUSTER] is a step in the right direction. My father used to urge me, as I would run home with some dire explanation as to a crisis at hand, he would look at me and say, "Young man, you must learn to not fight battles not worth winning."

Madam Chairman, the opposition to a cause such as this is not worth the fight. The people in this country want to know that their secrets are secure, and there is no reason to oppose it. I commend the gentleman from Oklahoma [Mr. McCURDY] for accepting it.

Madam Chairman, the final point would be that there are people, and when I say people, I mean not only just Members, I mean families, wives, husbands, and children, whose parents serve this country in a very, very dangerous position. They carry within their brain information that makes them subject to attack, to abuse, to capture, and to destruction, because they house our Nation's most vital secrets.

If someone, on purpose or inadvertently, leaks that information and makes them a target, that father, that mother, that serves our Nation so ably, is placed at risk.

For their benefit, if for no one else's, for their benefit we want to assure them that the one composite, if you go to the Central Intelligence Agency, that agency is what we call compartmentalized. The person working next door to another person does not know what that person is doing. The only place in the Government where all of that is compiled in one central location is in the hands of the Intelligence Committees of the Congress.

Therefore, we have a very, very sacred obligation and responsibility. I think the gentleman from Pennsylvania [Mr. SHUSTER] is trying to say to those employees, trying to say to those families, trying to say to those who place their lives at risk, that we are going the extra mile to assure you that every staff member and every member of the committee is committed to that protection, and, thereby, your safety as well.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, I would say to my good friend, the gentleman from Oklahoma [Mr. McCURDY], I thank him for accepting my amendment, and give him the assurances he requested from me. I would also say for the RECORD it is my understanding from the gentleman that he indeed will support the House position as we go to conference on this issue.

Mr. McCURDY. Madam Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Madam Chairman, that is correct. The gentleman from Pennsylvania [Mr. SHUSTER] can count on the word of the gentleman from Oklahoma.

I would just for the RECORD state one thing. It has often been reported now from the Iran-Contra affair about the leaks. I just want to state for the RECORD that this is a position held within the minority views of the committee, the Iran-Contra Committee, and was not the full committee.

Mr. McEWEN. Madam Chairman, reclaiming my time, that was an excellent addition to the report.

Mr. McCURDY. Madam Chairman, If the gentleman will yield further, I also say with all the pounding on the Congress on this, that in many respects I think it unjustified, I would like to point to the RECORD that the principal leaks are coming from the administration. When the Secretary of Defense instructs members of the intelligence community to give interviews to report on the record during a conflict, I for one believe that is what has to stop as well. I do not think we ought to be taking potshots at the Congress. Our record is good.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, the gentleman from Oklahoma [Mr. MCCURDY] makes an excellent point. As the gentleman knows, I have dealt with that particular issue earlier today.

Mr. McEWEN. Madam Chairman, reclaiming my time, let me emphasize that that which I quoted was a quote from the chairman of the committee as reported in Newsweek. That is what I was reporting in the minority report.

Madam Chairman, let me conclude by saying I commend the gentleman from Oklahoma [Mr. MCCURDY] the chairman of the Committee on Intelligence. He is an excellent leader. I believe the choice by the Speaker to choose him as chairman was an excellent choice. It has been my privilege to serve with him on the Committee on Intelligence. In handling the rule I intended to say so.

Madam Chairman, I especially commend the gentleman now for accepting this amendment, which he has opposed in the past. That shows, again the reason that he is held in such high esteem and regard by this body.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: At the end of title IV (page 8, after line 15), insert the following new section:

SEC. 403. CONTROLLED SUBSTANCES TESTING PROGRAM FOR EMPLOYEES OF THE CENTRAL INTELLIGENCE AGENCY.

(a) ESTABLISHMENT OF PROGRAM.—The Director of Central Intelligence shall establish and carry out a program for random testing of the officers and employees of the Central Intelligence Agency for the use of controlled substances.

(b) DEFINITION.—For the purposes of this section, the term "controlled substance" has the meaning given that term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(c) IMPLEMENTATION.—The program of random testing for the use of controlled substances required by subsection (a) shall be implemented not later than October 1, 1991, or the end of the 90-day period beginning on the date of the enactment of this Act, whichever is later.

Mr. SOLOMON (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Madam Chairman, let me just say this same amendment was offered last year to this same authorization bill, and it was accepted. It is one of two amendments that I am offering to all authorization bills affecting all branches of Government from now through the end of this Congress.

Madam Chairman, I regret that it is necessary to offer this amendment to each authorization bill, but the reason is that the committee of jurisdiction has not seen fit to allow my all-encompassing bill to be considered. That bill has been languishing in the House Administration Committee for several years now.

□ 1530

I wish it could be brought to the floor because then we could settle once and for all this issue. We could bring to the floor the concept of random drug testing of all Federal employees. Then that law could be tested in the courts and we would know once and for all whether it was constitutional or not.

I for one believe it is. I have sponsored a number of amendments that have been upheld in the courts; namely, the Solomon amendment which required all young men to register for the draft or be disqualified from any kind of Federal benefits. Many Members on this floor, a minority, but many Members said that amendment was unconstitutional. The same Members are now saying that this amendment today is unconstitutional.

All this does is establish, in the Central Intelligence Agency, a Random Drug Testing Program that would be set up by the Director of Central Intelligence.

Let me tell my colleagues something, Federal employees are no different than anyone else. I happen to think that they are some of the finest people in the entire world; I am not here to pick on Federal employees. I think my colleagues all know that I am one of the major sponsors of the repeal of the Hatch Act, which I consider to be a totally, totally unconstitutional law on the books. And it should be repealed, it should be repealed today on a bipartisan basis.

Having said that, let me say to my colleagues that back in the early 1980's, when Ronald Reagan was elected President of this country, and what a great President he was, he, at the urging of myself and others established in our military a Random Drug Testing Program for all Members of the military, all branches of the military. And it was not just for privates PFC's, corporals, and sergeants. It was for admirals and generals and five-star generals, four-star admirals as well. At that time, according to studies, there was casual drug use by 27 percent of the people in our military. My colleagues all know what kind of shape our military was in back in the late 1970's, when our American hostages were being held in Iran and we had to cannibalize about 14 helicopter gunships just to get 4 that would work. We attempted to rescue those hostages, and those four helicopters did not even work. The rescue mission failed miserably. At that time we were losing a lot of our capable noncommissioned officers and commissioned officers to the private sector because we had such serious problems in our military.

Yes, Ronald Reagan and this Congress, all of us together in a concerted effort, established random drug testing. And do my colleagues know what happened? In a period of 5 years, that casual use of drugs by 27 percent of the people in our military dropped to 4.5 percent, just 4.5 percent.

Do my colleagues know that is an 82-percent drop, 82 percent?

It is considered an average nationwide in the private and public sectors, that 10 percent of the American people are on illegal drugs today. Suppose we dropped the use of illegal drugs in the Federal Government employees by 82 percent. Suppose we enacted this law on the State and local government, the second largest employers in the Nation. And suppose the illegal drug use dropped by 82 percent among all State employees in the 50 States and all of the thousands of local government employees around the country. And then, because of the example that we set here in this Congress today, suppose the large corporations like IBM, General Electric Corp., General Motors, and the Ford Motor Co., and even the little corporations, all adopted the same policy. What do my colleagues think would happen to the illegal drug use in America?

First of all, all of the drug kingpins would go out of business. There would not be any more profit because nobody would be using drugs except a finite number of people.

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has expired.

(By unanimous consent, Mr. SOLOMON asked and was given permission to proceed for 5 additional minutes.)

Mr. SOLOMON. My point is, my colleagues, we do need to be setting the example here, just as we were told by the ranking member of the Permanent Select Committee on Intelligence. We want to set the example. I do not believe that there is a vast, huge amount of drugs being used by Federal employees, but there is a Rand study, recently completed, about this Greater Washington, DC Capital District area. That Rand study said that 75 percent of all the illegal drugs used in this area are used by casual drug users not living here in Washington, DC, but coming from the suburbs, out there where my colleagues and I live in Maryland and Virginia.

They are driving their brand new Volvos and Saabs into Washington, DC and buying these drugs from people who live here.

The point is that if 75 percent of all the drug use in America is used by casual drug users, they are the ones that we need to go after. Let us set the example.

I know last year and the year before that my amendments were passing on this floor by overwhelming margins. I think the last time was by a vote of 405 to 3. All of a sudden a public union gets its back up because some of the members of that public union, probably 1 or 2 percent, do not like to be drug tested.

So they went to their leaders in the union and they started raising cain. So all of a sudden, there are "Dear Colleague" letters roaming around in all of our offices here, signed by a lot of distinguished Members, who all of a sudden are opposing my random drug testing amendment.

I say to those Members, why do they not stand up and be counted? Seriously, there is no difference today in what I am offering than what I offered last year and the year before that. If they really want to be fair, go to the House Administration Committee, tell them to let my bill out so that I do not have to waste their time and mine debating these individual amendments for each authorizing bill which comes on the floor. Let us do it once and for all for all Federal employees.

If they let my bill out, put it on the floor, I will never offer this amendment again because we will have a legitimate up and down vote once and for all.

Last, let me just tell my colleagues from a political point of view, that I do not want to be partisan. I want to be absolutely fair and bipartisan. But I am going to tell my colleagues something. I would not want to be in the shoes of any Member of Congress who 17 months from now is faced with an opponent who all of a sudden is running TV ads out there that say, "Do you know your Congressman voted 17 different times to prevent random drug testing of himself and his staff and Federal employees?" Do not do that to yourselves. That is not fair to Members.

Mr. DORNAN of California. Madam Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. DORNAN of California. Madam Chairman, I want to let the gentleman from New York know before his time ran out, I did not mean to destroy his rhythm because, frankly, his rhythm is marvelous. But I wanted to tell him, we are prepared to accept his amendment on the Republican side. So if he wants to take that into consideration as he closes, be so advised.

Mr. SOLOMON. I would hope that the amendment would be accepted, but if it is not, I am going to call for a vote because I have promised those Federal employees who are now subjected to random drug testing, and it is about 25 percent of them out there, that they ought to be treated just as fairly as everyone else. They should not be discriminated against.

If we are going to have some people drug-tested, then let us random drug test them all so that they know it is fair. Let us also adopt my amendment for pre-application drug testing of all Federal employees so that they know once and for all if they are going to work for the Federal Government, if they are going to be paid by the taxpayer, they are going to be subject to random drug testing; that is going to be a part of their job.

Mr. McCURDY. Madam Chairman, I move to strike the last word, and I rise in opposition to this amendment.

I do appreciate the rhythm of the gentleman from New York. Several weeks ago, when the revised fiscal year 1991 intelligence authorization bill was before the House, we accepted an amendment similar to the one now being offered by the gentleman from New York.

☐ 1540

Madam Chairman, I was reluctant to do that not because I disagreed with the purpose of the amendment but because I was not certain that it was necessary. After additional consideration, I have concluded that the Solomon amendment would not significantly add to the aggressive and effective drug awareness and prevention program already in place at the CIA.

That the CIA is actively committed to preventing and detecting drug use among its employees cannot be seriously questioned. Before an employee is hired by the Agency, he or she must undergo a background investigation which focuses on use or abuse of drugs or alcohol, a medical examination which screens urine and blood samples, and a psychological assessment which is meant to identify behavior indicative of the abuse of drugs or alcohol. Potential employees who clear those hurdles still may not be hired until they complete a polygraph examination to determine if they have abused alcohol or drugs.

The Agency's concern with drug use does not end with the acceptance of an applicant for employment. New employees are subject to reinvestigation after 3 years on the job. In the course of the reinvestigation, another medical examination is administered, and the employee is subjected to another polygraph focused on substance abuse during the time of his or her employment at the Agency.

In addition to the scheduled reinvestigation, periodic routine investigations involving the same types of tests and examinations are administered. If there are indications of drug abuse, a specific-issue polygraph examination and/or fitness-for-duty medical examination may be conducted at any time.

Madam Chairman, I know of no Federal agency with a more vigorous program to ensure a drug-free workplace than that administered by the CIA. Given the sensitivity of the information to which Agency employees have access, it is altogether appropriate that such a program be implemented.

The point is that program is already in place. The Solomon amendment does not add to it in any significant way, and I should think that with all the talk we hear on this floor about the dangers of Congress micromanaging the affairs of executive branch agencies, we would want to avoid adding any redundant requirement to a drug-detection program that is thorough and effective.

I urge the rejection of the amendment.

Madam Chairman, I would say that of all the agencies out there, this is the most intrusive when it comes to drug testing. We have voted on this amendment three times previously in the House, and I believe that it has only been done just to get the record so they can have the position that the gentleman seeks.

However, in this particular instance, I am not sure one can find a better model, a more effective model than what is already in place in the CIA.

Mr. SOLOMON. Madam Chairman, will the gentleman yield?

Mr. McCURDY. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Madam Chairman, let me just say that I concur 100 percent with what the gentleman is saying. The CIA is, first of all, one of the finest organizations anywhere. They do have one of the best models.

The only reason I offer it to this particular bill is because of a pledge that I am going to offer it to every authorization bill for every branch of Government, and the CIA knows that.

So, otherwise, I would not be offering it.

Mr. McCURDY. I understand that, and because of that, I would urge that we, since we voted on this three times, that we move the amendment. We have heard the debate before, gentleman. There are other bills scheduled. I would just as soon that we take the vote. If the gentleman is going to ask for a vote, fine.

The Agency here is not in question. They have a good program, but if the gentleman wants to get the record in, let us do it and save the time, and let me finish the bill.

Mr. SOLOMON. Or the gentleman could just accept the amendment, and you could work it out in conference.

Mr. McCURDY. We have had this vote. We know what the vote is going to be. So let us proceed with the amendment.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. McCURDY. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman had indicated that the amendment of the gentleman from New York is not different in any significant way from what the Agency now does. Can the gentleman tell me what the differences are?

Mr. McCURDY. As I understand it, his is purely random. Theirs at the CIA is a periodic examination of employment, and also verification of behavior that may pose a national security risk in addiction to drugs, and, by the way, it is even more intrusive, because it has a polygraph. We go much further than the gentleman from New York. I am not suggesting that the gentleman ought to adopt that kind of provision. I am just saying that if there is an intrusive program, this is the one.

Mr. WALKER. If the gentleman will yield further, that is helpful. In other words, the CIA is presently going much further than anything the gentleman from New York recommends in his amendment, and the one thing that the gentleman from New York would add that they are not now doing is the potential of random testing of employees?

Mr. McCURDY. Correct.

Mr. WALKER. Over and above that which the Agency now does, and now, how would that significantly harm the program that the Agency now has?

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. McCURDY] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. MCCURDY was allowed to proceed for 1 additional minute.)

Mr. WALKER. I am not certain how that would significantly harm it.

Mr. McCURDY. I appreciate the gentleman's point. The fact of the matter is I do not believe it is broken at the CIA, and the gentleman's amendment is trying to fix something that is not broken.

I understand the pride of authorship. I understand the need to try to develop a record and wanting to put people on record on this particular position, but, quite frankly, as it pertains to this Agency, I think this amendment is irrelevant.

Mr. WALKER. I thank the gentleman.

Mr. HOYER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I appreciate the chairman wanting to bring this to a vote, and I understand that. But I just want to make sure that we do understand the amendment.

I have great faith in democracy. I want to tell my friend from New York that I am convinced that America is going to survive 30-second ads. I am convinced that America is going to survive the simplification of politics by 30-second sound bites. I am convinced that America has survived for more than two centuries, and will continue to survive, even though we have 17 redundant amendments on which we are asked to vote, and we are informed that we may have to respond in 30-second sound bites.

I want to tell the gentleman from New York that I do not believe there is a Member, and I hope there is not a Member on this floor, who votes intimidated by the specter of 30-second sound bites.

Now, let me tell the Member what is wrong with this amendment. It does not do anything. What it does, it provides opportunities for 30-second sound bites.

The gentleman from New York has said that the CIA does this right now. There is not a Member on this floor who disagrees with that.

This Member worked very hard to come up with this policy in conjunction with the then Director of OPM, Connie Horner, members of the Defense Department, the executive department, Mr. Taft, who was then the Deputy Secretary of Defense, I believe, members of OMB and the White House, and one thing we said was that if a person is in a security position where the security of this country may be at risk, then that person ought to be subject to random drug testing. CIA employees are. We said, further, that employees who are in a position where they might damage the safety of individuals, they fly an airplane, drive a train, drive a truck, et cetera, et cetera, carry a gun, that they ought to be sure that Americans can be secure in those persons' being substance abuse free.

In fact, the CIA goes further. Their tests cover alcohol which, of course, this would not necessarily cover, because the definition to which the amendment refers does not cover alcohol.

Let me say that I am hopeful that we will reject this amendment. We will reject this amendment because, first, it is redundant; second, because the administration and the leadership of the CIA are carrying out the now-existing program. There ought not to be an implication on this floor that the Members of Congress and, I might say, the administration of whose party I am not a member, as will come as no surprise to all of you, who is carrying out the policy carefully crafted to protect the security and safety of American citizens, the constitutional rights of Government employees and the integrity of the tests; there is no need for these amendments. The administration is carrying out a program, the administration that I did not support. Either the prior administration or this administration has not come to us and said, "We need to change the policy." They have not requested anybody on this floor to introduce these amendments. The Commander in Chief is not saying that the security of America is at risk if we do not pass the Solomon amendment.

As a matter of fact, the Agency informally is opposed to this amendment. Why? Because it imposes upon them additional costs that they think are totally unjustified and unnecessary.

I respect and enjoy my friendship with the gentleman from New York. We disagree on this issue.

□ 1550

If it is the subject of a 30-second sound bite, I will tell Members that I am hopeful that every Member will be able to stand up and say with confidence and with clarity that this amendment is not necessary and clouds the issue that Congress and the administration have responded to the concerns upon which it is positive. All Members in this body are concerned about the abuse of drugs. All Members are concerned about the security of America. We just accepted an amendment on our side of the aisle that the gentleman from Pennsylvania offered. Why? Because we think that people ought to keep secrets, that not kept can damage the safety of employees in our security agencies or the welfare of our Nation.

However, this amendment is not necessary. This amendment costs unnecessary money to effect an end where there is not a problem.

The gentleman from New York said that we did this in the armed services and we had 27-percent drug abuse in the armed services. Let me tell Members that is 54 times the rate of abuse that was found in random testing in the Defense Department, a less security agency than this one. Listen to that: One fifty/fourth of the problem exists as the result of testing that we found out. One fifty-fourth of the problem in the Defense Department. A half a point subject to random testing.

I would suggest to Members that CIA authority has this authority. Let Members reject this amendment. If we have to reject it 14 more times, let Members stand with the same conviction when we rejected this amendment 269 to 157; and 262 to 145 just recently. We were right then, we are right now, in our hearts we will continue to know we are right.

Mrs. KENNELLY. Madam Chairman, I move to strike the last word.

Madam Chairman, I stand in strong opposition to the Solomon amendment on the grounds that it is redundant and unnecessary. Madam Chairman, we have all debated mandatory drug testing on its merits and on philosophical grounds, carefully weighing the civil liberties of the employees with the right of an employer to institute policy to maintain a drug-free workplace. We've all formulated opinions on drug testing, but this question is not what is being debated today.

This amendment would call for duplicated efforts. The CIA currently conducts the most extensive and comprehensive drug testing program in the Government. Not one single individual who is not already tested for drug abuse would be tested under the Solomon amendment. And need I remind everyone how expensive drug testing is. To overlay another drug testing program where one exists in order to retest the same employees is a waste of time, money, and energy—it's as simple as that.

I urge my colleagues to oppose this amendment. We all want to eradicate the problem of drug abuse in workplaces throughout America. But the Solomon amendment is unnecessary. I hope it is defeated as it has been in previous efforts.

Mr. WALKER. Madam Chairman, I move to strike the last word. I was interested in the direction, Madam Chairman, that the debate has taken. I was interested in the gentleman from Maryland claiming piety on the issue of 30-second commercials.

We are going to have a whole series of votes here, at some point over the next couple of months, on an entire labor agenda, all of which we know is going to be vetoed at the White House, and all of which will be subject to the veto being sustained on Capitol Hill, and no one will care about that because that will be the Democratic Party, lining up their 30-second ads for the upcoming election. All Members know it. So let Members be clear that that is not a technique which does not have precedence in much of what we do in the House.

I am also fascinated by the contention that we ought not vote on these things all the time. The only reason why we end up voting on a number of these things all the time is legislation dealing with the issue in an overall sense never moves out of the committees controlled by Democratic chairmen. If a Member wants a good example of it, it was the drug-free workplace amendment a few weeks ago. A drug free workplace amendment came on the floor and we heard many of the same arguments. This is not necessary, we ought not do it. However, after we had voted on it a few times, and after we actually had it out on the floor and had a system that the Members had voted on, we decided maybe we could move some legislation on that, and we ended up with a Drug Free Workplace Act of 1988 which most people think is working pretty well.

However, the only reason why it came about is we managed to force some votes on the House floor that put the Members on record, and decided we needed to have an overall bill. Perhaps if the gentleman from New York were successful in a few of his amendments, we would actually get an overall bill dealing with drug testing that would deal with all the agencies, and we would not have to go through this exercise. However, we do not see that kind of legislation emerging. That is not happening out of the various committees. For that I am disappointed.

That is the problem the minority faces. If we cannot get it done the right way, what we have to do is, we have to come to the floor and offer a series of amendments, hopefully, to put the House on record despite the fact it is not being done right.

Mr. HOYER. Madam Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Maryland.

Mr. HOYER. Madam Chairman, I just want to make the comment with respect to the partisanship that the gentleman seems to refer to, with reference to the legislation that the gentleman has in the Committee on House Administration, or that the Committee on Post Office and Civil Service have jurisdiction over, either one, I do not believe the administration which is, of course, of your party, has asked for this legislation nor has supported these amendments.

Mr. WALKER. Reclaiming my time, my experience has been that we do not pay much attention to that unless the committee chairman happens to agree with the administration. We often move legislation around here.

I would tell the gentleman that I do not remember the administration asking for the parental leave bill. Members are going to move at some point in the near future, along the way, and Members will not care a hoot about what the administration's opinion is on that, because what Members want to do is force the President into a veto of that bill. I just would remind the gentleman that that is a partisan way of dealing with national issues, too.

Mr. CLAY. Madam Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. CLAY. Madam Chairman, in regard to the parental leave bill, as I recall, when the President of the United States was a candidate for President, in his acceptance speech at the convention, he said he wanted parental leave.

Mr. WALKER. Madam Chairman, I thank the gentleman for his contribution. Has he asked to bring forward that bill? I do not think so. That is the gentleman from Maryland's point, and the gentleman can make any issues that he wants in that regard.

The fact is, they have an agenda, and they are pushing it forward, and if need be, they will use that agenda for 30-second spots.

I would certainly like to also make the point that this is not useless legislation. This is something that can be blended in with what is going on. I was fascinated to hear many of the people coming to the floor, indicating the CIA did this problem and does it well. A couple of weeks ago Members were on the floor arguing that we ought not have any program for another agency, and at that time their arguments were that we ought not be testing Federal employees. Somewhere along the line we ought to have a bit of balance. The gentleman from New York is balanced. He is offering his amendment all the time. It would be nice to hear the same arguments.

Mr. HOYER. Madam Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Maryland.

Mr. HOYER. So we do not mischaracterize what the debate was, the present policy which I worked on, and a number of people on both sides of the aisle and the former administration, President Reagan's administration worked on it, covers employees involved in security endeavors.

Mr. WALKER. Reclaiming my time, the gentleman from New York believes it ought to.

Mr. HOYER. All of these employees are involved in security-sensitive positions.

Mr. WALKER. The gentleman from New York believes it ought to go beyond that, and at that point the gentleman from Maryland argues, "No, we ought not test people involved in the narrow categories of duties that I personally support." The gentleman from New York suggests that perhaps having it broadened across the whole Federal Government might, in fact, save Members from having some people on drugs that are presently users and abusers. I happen to agree with the gentleman from New York. The gentleman from Maryland is entitled to his opinion. Only I am suggesting, there needs to be some consistency in what we are doing in terms of policy.

Mr. SIKORSKI. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the Solomon amendment.

Madam Chairman, As chairman of the House Subcommittee on the Civil Service, I rise in opposition to the amendment offered by my good friend, the distinguished gentleman from New York.

Here we go again. This is the third time this body has unnecessarily returned to the floor to debate this amendment. The House has spoken decisively on drug testing of Federal employees: they have overwhelmingly defeated two times this needless, duplication, and costly proposal.

Madam Chairman, the Central Intelligence Agency has the most aggressive drug testing plans in the whole Federal Government. They check the blood and urine and strap on the detectors and it starts with applicants—everyone of them. All applicants undergo a background check; a medical review which includes urine and blood screening tests; a psychological assessment; and a polygraph exam, questioning whether an applicant has abused drugs or alcohol in the past.

Once a candidate is hired, every new employee is subject to reinvestigation after 3 years. This reinvestigation includes another medical exam and a polygraph that specifically asks about substance abuse during the time of employment at the Agency. After the 3-year reinvestigation, Agency personnel are subjected to periodic routine reinvestigations. Finally, if there are any indications of drug use, a CIA employee may be required to take a polygraph exam and a fitness-for-duty medical exam.

Madam Chairman, the CIA does not need another drug testing program. It and the administration doesn't want it. They do this now and basically do—alot more thoroughly and effectively. Adding another drug testing layer would be a foolish and expensive mistake. The CIA already has in place a rigorous program aimed at deterring drug use. In addition, the Agency is currently covered by the President's Executive order mandating drug testing programs. Finally, if Mr. SOLOMON'S proposal does not receive additional funding, money will have to be taken from critical, ongoing intelligence and security programs in order to pay for this unneeded program.

Madam Chairman, for all these reasons, I strongly urge all Members to oppose the amendment and vote "no" on Solomon.

Mr. CLAY. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the Solomon amendment.

Madam Chairman, I rise in opposition to the amendment by the gentleman from New York [Mr. SOLOMON]. Currently, the CIA, the only agency affected by the amendment, not only drug tests all applicants and employees, it also polygraphs those individuals regarding drug usage as well. As a practical matter then, this amendment will have no effect on the existing policy of the CIA. The gentleman from New York would have us needlessly consider an amendment that will not result in any additional drug testing.

The amendment is not simply redundant, however, it is also potentially damaging and deserves to be defeated. The Government currently has authority to test all employees in sensitive positions or in positions affecting public safety and health. The gentleman from New York proposes that we enact a law requiring drug testing of employees for no other reason than that they work for the Federal Government. Such an amendment not only wastes Government resources and gratuitously insults Federal employees, it jeopardizes the constitutionality of the Govenrment's existing efforts to combat drug abuse.

The CIA, as well as any other Government agency, should be able to design drug deterrence programs to meet the special needs of the individual agency and its personnel. A congressionally imposed policy mandating the testing of all employees will inevitably interfere with the ability of agencies to devote resources to those areas where a greater concentration of resources would better serve the interests of the agency. The CIA not only tests for drug abuse, it also tests for alcohol abuse. One may well wonder whether enactment of this ill conceived amendment would jeopardize that effort. Within the parameters established by the Constitution, and pursuant to the direction of the President, each agency should be able to develop its own drug deterrence program that best meets its needs.

The Solomon amendment deserves rejection. As the distinguished chairman of Energy and Commerce has pointed out, an inaccurate or poorly administered drug testing program does far more damage than good.The amendment proposed by the gentleman from New York is wholly bereft of any requirements to ensure the accuracy of the drug tests the gentleman proposes to impose upon all Federal employees. No committee of the House would report such an obviously flawed amendment, nor should the Committee of the Whole.

The Solomon amendment does not authorize the testing of any employee who is not already subject to testing. It needlessly jeopardizes both the constitutionality of the CIA's existing drug testing program as well as the ability of that agency to tailor its testing program to meet its specific needs. Finally, this amendment lacks any protection for either employees or the Government regarding the validity of the program implemented. In effect, it adds injury to insult. This body has rejected similar amendments to the State Department authorization bill and the Defense authorization bill. I urge it to do so again and reject this amendment.

Mr. MFUME. Madam Chairman, as a member of the Select Committee on Narcotics, I rise in opposition to this amendment. It is bad Federal policy. It discriminates against the work force.

Madam Chairman, I vehemently oppose the random drug testing of this Nation's Federal employees. The benefit of subjecting thousands of Government employees to drug testing is minuscule at best and is far outweighed by the associated disadvantages.

Moreover, at every turn it seems that Federal employees are being assailed at this Nation's public servants. Most recently, Federal employees' cost-of-living adjustments [COLA's] were on the chopping block to help balance the budget. Now, the rights of Federal employees are being sacrificed to ameliorate America's drug problem. This certainly isn't equity.

Many dedicated individuals have pledged their entire careers to advance America as a nation and to ensure the well-being of American citizens. Drug testing seems a rather onerous an inappropriate response to their dedication and commitment.

Madam Chairman, in my district alone, I have over 50,000 Federal employees who daily contribute to the functioning of the U.S. Government in almost every capacity. They ensure that Social Security recipients are served well through the Social Security Administration [SSA]; they ensure that America continues to develop a solid health care policy at the Health Care Financing Administration [HCFA]; and myriad other services.

Madam Chairman, not only is random drug testing inappropriate in this instance, its cost is also prohibitive and it represents poor judgment with regard to policy development. In instances where drug testing is warranted, a solid policy must be developed so that the rights of those involved are protected.

Drug testing is intrusive and in many instances inconclusive. Federal employees as subjects of drug testing deserve accuracy and dignity, particularly when most are career civil service. Random, high-priced, marginally accurate drug testing has no place as policy for America's Federal employees and I oppose it.

I remain committed to the rights and causes of Federal employees as public servants and will continue to voice concern for their fair treatment as well as for equitable policies in this regard. Random drug testing for Federal employees should be opposed.

Mr. STOKES. Madam Chairman, I rise in opposition to the Solomon amendment.

There is no doubt that substance abuse is a major problem in our society, and that this abuse is having a deleterious effect in the work place. To help remedy this problem in the Federal Government, in September 1986, former President Reagan signed Executive Order 12564, which required each agency to develop a plan with provisions for conducting drug testing on a controlled and carefully monitored basis.

The CIA developed such a plan, and maintains an active drug awareness and prevention program. I think that the CIA has demonstrated its commitment to detection of drug use by CIA employees, and has done so in compliance with the law. Furthermore, the CIA polygraphs its employees, and the polygraph examination includes questions regarding drug usage. The CIA has one of the most extensive drug testing programs in Government.

I am opposed to expansion of the scope of the CIA drug-testing program to include random testing of all employees. In effect, the Solomon amendment seeks to deny Federal agencies like the CIA the discretion to develop drug testing programs best suited to each agency's needs and interests. Moreover, this amendment treads on unconstitutional ground by intruding on the privacy of employees whose positions or duties do not warrant random drug testing.

Madam Chairman, I am not opposed to drug-testing of Federal Government employees where there is a clear nexus between the job responsibilities of the employee and national security or public safety, or where there are other compelling Government interests. As former chairman of the House Permanent Select Committee on Intelligence, I am well aware of the importance of protecting classified information. However, we must be circumspect. We must restrict drug testing to the particular groups of employees who should be tested based on their job responsibilities, and not risk costly litigation which would jeopardize current, effective Federal drug-testing programs.

Madam Chairman, we must ensure that drug testing is narrowly tailored to specific groups of Federal Government employees. We need to support Federal Government agencies who are complying with the law and who have been effective in achieving the goal of a drug-free Federal workplace. I urge the defeat of this amendment.

Mr. MORAN. Madam Chairman, I rise in opposition to the Solomon amendment. It is bad legislation, and in fact beyond that it is demeaning to our finest civil servants who are dedicated in their professionalism to serving this country.

I trust that this body will reject any such attempt to demean their professionalism.

Mr. McCURDY. Madam Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Oklahoma is recognized for 5 minutes.

There was no objection.

Mr. McCURDY. I just want to commend these gentlemen for truncating their statements. In the interest of moving this amendment, I would urge others to do so as well.

Mr. CUNNINGHAM. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I will not take but just a couple of seconds.

I do not plan on doing any 30-second sound bites, but I would like to give the Chair a look from a freshman's perspective. It seems like every single item that we want to do to limit the flow of drugs, to stop drugs, that there is opposition to it from the other side of the floor, and I cannot understand that.

Our country is being devastated by drugs. If I were a betting man, I would say someone in the CIA, someone in the FBI, we had a mayor of this city, pilots in my own command, air crews, policemen, across the board, and, yes, even in some cases casual use by Members of Congress, that everything we can do to stop to flow of drugs, we should try to do.

Let me give you something from a personal perspective. In a squadron, as a commanding officer, in the last 20 years drugs were rampant when I first joined the Navy. We put random drug testing to use. Over a period of time, we cut that utilizations, but still 95 percent of all the cases that I saw in captains mast were drug-related.

Now, we had regular tests. We had a good program, but the only way that I was able to catch some of these rascals was through random tests. They used diuretics. They knew what period of time the tests were going to come. They would abstain from utilization, and even on deployment we would take the antidrug team and catch these rascals.

I submit, my colleague saying this is a demeaning bill, it is demeaning for the flow of drugs and utilization in this country and our inability to stop it.

In my opinion, from a freshman's perspective, we cannot continue not to support legislation that will improve that.

The amendment of the gentleman from New York [Mr. SOLOMON] will do just that, add one more step in catching these rascals and I think we ought to support it.

Mr. MFUME. Madam Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Maryland.

Mr. MFUME. Madam Chairman, is the gentleman aware that the CIA currently conducts the most extensive drug testing program in the Federal Government?

Mr. CUNNINGHAM. Yes, I am, and I am saying that regardless of how extensive it is, I bet we would find a member from the CIA who is a casual user of drugs. Would the gentleman say that is wrong?

Mr. MFUME. Well, I will just remind the gentleman that this is the most extensive drug testing program in the Government, conducted by the CIA on its employees.

I would just ask the gentleman further if the gentleman is aware that the Government spends $77,000 for each positive test that it conducts.

Mr. CUNNINGHAM. Yes, I am.

Mr. MFUME. Madam Chairman, I thank the gentleman for yielding to me.

Mr. SOLOMON. Madam Chairman, will the gentleman yield?

Mr. CUNNINGHAM. Yes, I yield to the gentleman from New York.

Mr. SOLOMON. Madam Chairman, the gentleman is also aware that it costs $10 per test, according to the CIA, according to the Department of Transportation, and every other Federal agency presently conducting random drug testing. That's $10 a test, and it is worth it.

Mr. CUNNINGHAM. How much did it cost this Government when Mayor Barry used drugs in the city?

Mr. MFUME. Madam Chairman, if the gentleman will yield further, I will answer his question.

Mr. CUNNINGHAM. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 234, not voting 28, as follows:

[Roll No. 146]

AYES—169

Allard
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Browder
Bunning
Burton
Byron
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Fish
Gallegly
Gaydos
Gekas
Geren
Gibbons
Gilchrest
Gilman
Glickman
Goodling
Goss
Gradison
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Luken
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Murphy
Nichols
Nussle
Orton
Oxley
Packard
Patterson
Paxon
Payne (VA)
Penny
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Traficant
Upton
Valentine
Vucanovich
Walker
Weldon
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—234

Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Berman
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers

Cooper
Costello
Cox (IL)
Coyne
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gillmor
Gonzalez
Gordon
Grandy
Gray
Green
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Long
Lowey (NY)
Machtley
Manton
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Ridge
Rose
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torres
Towns
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden

NOT VOTING—28

Abercrombie
Ackerman
Campbell (CA)
Condit
DeLay
Dingell
Dymally
Ford (TN)
Franks (CT)
Gingrich
Guarini
Gunderson
Hopkins
Houghton
Lent
Markey
Marlenee
Michel
Molinari
Rinaldo
Ritter
Roe
Rostenkowski
Roukema
Smith (FL)
Vander Jagt
Wylie
Yates

□ 1640

The Clerk announced the following pairs:

On this vote:

Mr. DeLay for, with Mr. Ackerman against.

Mrs. Roukema for, with Mr. Dymally against.

Mr. Marlenee for, with Mr. Guarini against.

Ms. Molinari for, with Mr. Dingell against.

Messrs. VOLKMER, LEWIS of Georgia, WEBER, HUCKABY, and ANNUNZIO changed their vote from "aye" to "no."

Messrs. BREWSTER, ERDREICH, CRAMER, and BROWDER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF WASHINGTON

Mr. MILLER of Washington. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Washington: At the end of the bill add the following new title:

TITLE V—DISCLOSURE OF INFORMATION CONCERNING CERTAIN PRISONERS OF WAR AND MISSING IN ACTION

SEC. 501. DISCLOSURE OF INFORMATION CONCERNING UNITED STATES PERSONNEL CLASSIFIED AS PRISONER OF WAR OR MISSING IN ACTION AFTER 1940.

(a) IN GENERAL.—Except as provided in section 502, the head of each department or agency which holds or receives any records and information, including live-sighting reports, which have been correlated or possibly correlated to United States personnel listed as prisoner of war or missing in action after 1940, including from World War II, the Korean conflict, and the Vietnam conflict, shall make available to the public all such records and information.

(b) DEPARTMENT OF DEFENSE.—The head of a department or agency referred to in subsection (a) in the Department of Defense shall make available to the public with its records and information made available under subsection (a) a complete listing of United States personnel of the agency classified as prisoner of war, missing in action, or killed in action (body not returned) after 1940, including from World War II, the Korean conflict, and the Vietnam conflict. The listing shall include—

(1) the current classification for each person listed; and

(2) any changes which have occurred in the person's classification during or after the conclusion of hostilities of World War II, the Korean conflict, and the Vietnam conflict.

(c) CONFORMING AMENDMENT.—Section 552a of title 5, United States Code, is amended—

(1) in paragraph (11) by striking "and" after the semicolon at the end;

(2) in paragraph (12) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(13) required by title V of the Intelligence Authorization Act, Fiscal Year 1992.".

SEC. 502. LIMITATIONS ON DISCLOSURE.

(a) PROTECTION OF SOURCES AND METHODS.—Section 501 does not apply with respect to information that would reveal sources and methods of intelligence collection that if released would compromise national security.

(b) SPECIFIC MENTION BY NAME.—

(1) CONSENT REQUIRED FOR DISCLOSURE.—No record or information, including a fatality report, which specifically mentions by name a United States service member who is classified by the Secretary of Defense as a prisoner of war, missing in action, or killed in action shall be made available to the public pursuant to this title unless—

(A) express consent for the disclosure is provided by the primary next of kin, or in order, the living—

(i) spouse,

(ii) child,

(iii) parent, or

(iv) sibling,

of the service member; or

(B) no relative of the service member listed in subparagraph (A) is alive.

(2) DISCLOSURE TO RELATIVE HAVING AUTHORITY NOT PROHIBITED.—Paragraph (1) shall not be considered to prohibit disclosure of information to a person authorized to consent to disclosure of the information under paragraph (1)(A).

(3) LIMITATION ON DELEGATION OF AUTHORITY TO CONSENT.—The authority of a person to provide consent under paragraph (1)(A) may not be delegated to any other person without execution of an express legal power of attorney delegating that authority from the person having that authority to the other person.

SEC. 503. DEADLINES.

(a) EXISTING RECORDS AND INFORMATION.—The head of a department or agency referred to in section 501(a) shall make records and information available pursuant to this title not later than 180 days after the date of the enactment of this Act.

(b) NEW RECORDS AND INFORMATION.—If the head of a department or agency referred to in section 501(a) receives records and information after the date of the enactment of this Act, such records and information shall be made available pursuant to this title not later than 180 days after it is received by the department or agency.

Mr. MILLER of Washington (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. McCURDY. Madam Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Madam Chairman, I would inform the committee that the chairman intends to accept the amendment offered by the gentleman from Washington [Mr. MILLER]. Therefore, there will not be a recorded vote on that amendment. It is also not my intention to request a recorded vote on final passage. So if we could have the patience of Members and quiet in the House, I think, we can resolve this matter very quickly.

Madam Chairman, I do not know the schedule after this bill, but if we can have the attention of Members for just a few minutes, we will finish this bill without further votes.

Mr. SOLOMON. Madam Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from New York.

Mr. SOLOMON. Madam Chairman, I would inform Members that the next order of business after this bill passes is the rule on the foreign aid bill. We do not intend to ask for a vote on that.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, it is our intention to support the amendment of the gentleman from Washington [Mr. MILLER] as well.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. MILLER of Washington, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Madam Chairman, I do not want Members to get the impression there are not going to be more votes today. There is a suspension bill left over from yesterday. Even after this bill is completed and the rule is completed, the suspension bill will come up. There is at least one more vote left for the day.

Mr. MILLER of Washington. Madam Chairman, I offer this amendment on behalf of the distinguished gentleman from Delaware [Mr. CARPER] and myself.

Madam Chairman, for years families and friends of POW/MIA's from across the United States have waited for information on the fate of their loved ones. For some, the wait has been since Vietnam. For others, like Bill Sowles in my district, the Korean conflict. Still others have waited since as long as World War II. Today, I say enough is enough. Let us join together to pass an amendment that would open up Federal Government files to families of POW/MIA's.

This provision seeks to protect the rights and privacies of families of POW/MIA's by ensuring that no information mentioning a serviceman's name could be released without the consent of the family. At the same time, this amendment would protect Government sources because it does not require the release of information that might compromise national security.

Many Federal agencies have information about missing servicemen, including live sighting reports, which have been kept classified. But, beyond protecting intelligence sources and intelligence gathering methods, there are no other security considerations to justify keeping this information secret any longer.

It is high time that we make these files public—for our national conscience, for the morale of our veterans, and for the families of these soldiers.

Passage of this amendment is critical to obtaining the fullest possible accounting of literally thousands of missing military personnel from World War II, Korea, and Vietnam. Many Members of Congress are now questioning why live-sighting reports on missing soldiers dating back to World War II are still kept classified by Federal agencies on national security grounds. The Miller-Carper amendment will solve this perplexing dilemma by requiring the information to be declassified unless an agency can explain why it should remain classified.

This legislation is endorsed by a broad coalition of veterans and family groups including the Vietnam Veterans of America, the American Ex-Prisoners of War, and the National Alliance of Families of POW/MIA's. Together, we must seek answers from Federal departments and agencies on what POW/MIA information remains classified after all these years and why.

The families of World War II, Korean, and Vietnam soldiers, as well as the families of those now deployed in the Persian Gulf, need to know that Congress will do everything possible to ensure that Americans will never be forgotten or abandoned in a foreign land.

I hope that you will join me in supporting this amendment. The families of POW/MIA deserve to know of information that the Government may have about loved ones. It is the right thing to do.

Mr. CARPER. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, I will remind Members there are 2,000 American men who are still classified as missing in action, and the kind of discussion that is going on on this floor today does disrespect to them and their families. We will be very brief in describing this amendment.

Madam Chairman, the families of American men who are missing in Vietnam, in Laos, in Korea, deserve to know what our Government knows about their husbands, their fathers, their brothers, and their uncles. This legislation offered by my friend, the gentleman from Washington [Mr. MILLER], a version of the truth bill the gentleman introduced earlier this year, does just that.

☐ 1650

It does so in a way to protect our intelligence sources. I want to thank him for his leadership. I want to thank the gentleman from Oklahoma [Mr. McCURDY] for accepting this amendment and the gentleman from Pennsylvania [Mr. SHUSTER], as well. It deserves unanimous support.

Mr. McCURDY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, let me state at the outset that I am fully in sympathy with the motivation behind the Miller amendment. All of us want a full and final accounting of American servicemen who are missing and unaccounted for in foreign conflicts. We owe those individuals no less than a vigorous exploration of every lead that can reasonably be expected to shed some light on their fate. To the families of the missing in action, we owe as complete a disclosure as possible of available information about their loved ones. That is why I fully support the requirements in existing law and defense department regulations that the primary next of kin of all Americans unaccounted for in Southeast Asia be provided with all information which correlates or may correlate to their missing relative.

Most of the work done to collect and analyze information about those listed as missing in action is done by our intelligence agencies. It is extremely important that the sources and methods employed by those agencies to collect reports on missing Americans not be compromised. Once it becomes clear from whom a report was received, or how information was collected, the future utility of that source or method is substantially degraded. Nothing would more directly detract from our ability to obtain the type of information sought by the Miller amendment than to disclose, even inadvertently, the sources and methods by which the information is obtained and reviewed.

The original version of the Miller amendment would not, in my judgment have adequately protected intelligence sources and methods.

The version now before the House is a significant improvement in this area over its predecessor. As a result, we will accept the amendment on this side. It still may not be acceptable to the administration, but we will work with administration representatives, and the gentleman from Washington to address those concerns.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we are happy to accept the gentleman's amendment.

Mr. LAGOMARSINO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, as Chairman of the Task Force of POW/MIA in Southeast Asia, I appreciate and share my colleague from Washington's deep concern about the fate of Americans still missing from the Vietnam, Korean, and Second World Wars. Both Presidents Reagan and Bush have made the fullest possible accounting of American POW/MIA's a highest national priority. We all should continue to support positive, responsible measures designed to enhance the return home of these missing Americans and, at the minimum, satisfactorily resolve their final fate. While I have some important reservations about this amendment, which I will describe and hope they can be addressed by the amendment's sponsor, in general I support it.

As Chairman of the House POW/MIA Task Force, I believe beyond a doubt and based on seven different investigations, including at least two by the House Foreign Affairs and Intelligence Committees, that the real answers to the fate of most of these men lie in Hanoi and Pyongyang, not in Washington in some secret Pentagon file.

For those who may not remember, on May 26, 1988, this House passed an amendment to the fiscal year 1989 Intelligence Authorization Act, which was subsequently signed into law, providing primary next of kin with all live sighting information that is related or could possibly be corelated to their missing relative. This information and any new reports are automatically provided to the next of kin—they don't even have to ask for it. This is already the law. The other contents of the missing serviceman's record are also already available to the primary next of kin. Should the family release this information, it is free to do so.

However, this 1988 amendment which I helped enact applies only to those POW/MIA's in Southeast Asia—those from the Vietnam War. I concur with Mr. MILLER that the families of Korean war and World War II POW/MIA's also deserve the same service. These primary next of kin should receive all the information that is reasonably available that is related or could be corelated to their missing loved one.

The Miller amendment would allow the closest living relative to provide written consent to others in the public to be given access to the information to which the family is entitled. Because the family is already free to share whatever it likes with whomever it likes, I do not have problems with this provision. It retains family control over information about the missing member of the family. However, I believe it should be clear that the intent of Congress is for the public to access this information through presently available channels and within presently established guidelines, like the Freedom of Information Act.

I am concerned by the time frame by which the various U.S. Government agencies must fulfill the obligations of this amendment. In the 1988 amendment, Congress specified that this information shall be made "in a timely manner." And, it was. To arbitrarily assign a certain period of time, such as 180 days, can limit the flexibility of agencies like the Defense Intelligence Agency to accommodate the provisions of this amendment with conducting investigations and operations on any new live-sighting or other intelligence reports received. The last thing we want to do is create an unnecessary obstacle to today's efforts to followup on new intelligence. Our first and foremost goal must remain the repatriation of any live Americans.

I hope my concern will be satisfactorily addressed. Making the changes I have recommended will make this a more workable and more responsive provision. In general, I support the Miller amendment.

One concern I do have, however, is that providing this information may take away the time and talent and availability of personnel from what I think is the most important task and that is running down life sighting reports of people who may still be alive in Southeast Asia.

I would like to ask my colleague, the gentleman from Washington [Mr. MILLER], if it is his intention that that not happen?

Mr. MILLER of Washington. Madam Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Washington.

Mr. MILLER of Washington. That is certainly my intention. We do set a time limit on providing this information because many of our constituents have explained and complained about the delays and frustration. But it is not my intent that man or women power be diverted from doing intelligence operations. And as the gentleman from California [Mr. LAGOMARSINO] said, two Presidents have said this is the highest national priority.

If it takes another couple of people in order to supply the information that those who are inquiring need, then I am sure this Congress and the administration will supply those people and we should.

Mr. DREIER of California. Madam Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. DREIER of California. Madam Chairman, I thank the gentleman for yielding. I simply rise in strong support of this amendment. I would like to compliment the chairman of the POW-MIA task force. The gentleman from Washington [Mr. MILLER], has pursued this in other legislation that we have had earlier this year. I would like to thank the gentleman from Oklahoma [Mr. MCCURDY] and the gentleman from Pennsylvania [Mr. SHUSTER], for accepting the amendment.

Mr. McCURDY. Madam Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection the gentleman from Oklahoma is recognized for 5 minutes.

There was no objection.

Mr. PENNY. Madam Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Minnesota.

Mr. PENNY. Madam Chairman, I thank the gentleman for yielding. I simply want to rise in support of the amendment as well and thank the chairman, the gentleman from Oklahoma [Mr. MCCURDY], for his cooperation in getting this issue addressed.

Mr. McEWEN. Madam Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Ohio.

Mr. McEWEN. Madam Chairman, I thank the gentleman for yielding. I rise in strong support of the amendment.

Mrs. MEYERS of Kansas. Madam Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentlewoman from Kansas

Mrs. MEYERS of Kansas. Madam Chairman, I rise in strong support of this amendment. I think there are sufficient safeguards in here so that our sources and our methods of intelligence would be protected.

Madam Chairman, I rise in support of the amendment of the gentleman from Washington. There are over 2,200 Americans who remain unaccounted for from the war in Indochina—who disappeared in or over Vietnam, Cambodia, or Laos—and many people believe that some of them may still be alive. The American people have the right to know what information has been gathered on the fates of those servicemen.

I do not want information that would jeopardize our intelligence capabilities to be declassified. I believe this amendment has been drafted carefully enough to prevent this from happening. Our sources and methods of collecting intelligence must be preserved. But this information can be sanitized so as to protect them and still allow this information to be released.

The treatment of the POW/MIA issue has caused a bitter suspicion in the hearts of many Americans, and the recent revelations from the former director of DIA's POW/MIA office has just added fuel to the fire. There has been the sense that the Government abandoned these men for political purposes. To restore trust in the integrity of our Government, this information must be released to stop the accusations of stonewalling that have plagued this issue for 20 years.

Madam Chairman, there can be nothing more agonizing than having a loved one be missing in action. It is tragic when a loved one does, but then the loss can be accepted. It is more difficult to have the faint flicker of doubt and hope continue to eat away at your soul. Yet even worse would it be to abandon those who put their trust in their leaders and did their duty in the uniform of our country. If we are to expect young men and women to risk their lives to defend this great Nation, we must demonstrate that this country will make every rseasonable effort to recover them, should they fall into the hands of the enemy. That is why this House must approve this amendment, to end the gnawing suspicion that the military and political leadership did not make that necessary effort, and abandoned Americans to Communist prisons.

Mr. RAY. Madam Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Georgia.

Mr. RAY. Madam Chairman, I rise today in support of H.R. 2038, fiscal year 1992 intelligence authorization bill.

Mr. RAMSTAD. Madam Chairman, today I rise to commend my distinguished colleague from Washington for sponsoring H.R. 1147, the truth bill, and I rise in full support of this measure as an amendment to the intelligence authorization bill.

This important legislation requires information on missing soldiers to be declassified unless an agency can demonstrate to the appropriate committees in Congress why is should remain classified. It also protects sources and methods of intelligence collection as well as family privacy.

It is time to resolve the POW/MIA issue, Madam Chairman. We need to know what POW/MIA information remains classified after all these years and why. We must seek these answers from Federal agencies and departments now.

The families of World War II, Korea, and Vietnam soldiers deserve to know that those Americans have not been forgotten. They deserve to know that Congress is doing everything it can to make certain that never again will Americans be abandoned in a foreign country.

I give my full support to POW/MIA truth bill as an amendment to the intelligence authorization bill and urge my colleagues to do the same.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. MILLER].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to this bill?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PANETTA) having assumed the chair, Ms. SLAUGHTER of New York, Chairman of the Committee on the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2038) to authorize appropriations for fiscal year 1992 for intelligence activities of the U.S. Government, the Intelligence Community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, pursuant to House Resolution 169, she reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FRANKS of Connecticut. Mr. Speaker, I was unable to vote due to the birth of my first child, Jessica Lynn.

Jessica was born in Waterbury at 12:49 p.m.; she weighed 7 pounds, 2 ounces, and she is 19 inches long.

Mr. Speaker, had I been here, I would have voted in favor of the following legislation: H.R. 26 and the Solomon amendment to H.R. 2038.

☐ 1700

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2038, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1992

Mr. McCURDY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2038, the Clerk be authorized to make such technical and conforming changes as may be necessary to correct such things as spelling, punctuation, cross-referencing, and section numbering.

The SPEAKER pro tempore (Mr. PANETTA). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

GENERAL LEAVE

Mr. McCURDY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 2038, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

MONEY LAUNDERING ENFORCEMENT AMENDMENTS OF 1991

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 26, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 26, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 406, nays 0, not voting 25, as follows:

[Roll No. 147]

YEAS—406

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
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Hoyer
Hubbard
Huckaby
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Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
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Jones (GA)
Jones (NC)
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Kennedy
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Leach
Lehman (CA)
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Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
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Moakley
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Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
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Porter
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Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius

Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
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Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—25

Ackerman
AuCoin
Campbell (CA)
Condit
Coughlin
DeLay
Dickinson
Dymally
Ford (TN)
Franks (CT)
Guarini
Gunderson
Hopkins
Houghton
Marlenee
Mrazek
Neal (NC)
Ritter
Rostenkowski
Roukema
Smith (FL)
Solarz
Vander Jagt
Wylie
Yates

□ 1718

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1720

INTERNATIONAL COOPERATION ACT OF 1991

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 170 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 170

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(1)(6) of rule XI and clause 3 of rule XIII are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be considered for amendment under the five-minute rule, by titles instead of by sections, and each title shall be considered as having been read. No amendment on the subject of military assistance to El Salvador shall be in order in the House or in the Committee of the Whole. Subject to clause 6 of rule XXIII, debate on all amendments to the bill shall not exceed eight hours. No amendment to the bill, except as provided in the following sentence, the amendment in the nature of a substitute offered by Representative Broomfield specified in this resolution and pro forma amendments for purposes of debate, shall be in order except those printed in the Congressional Record. It shall be in order for the chairman of the Committee on Foreign Affairs, or his designee, at any time to offer en bloc amendments printed in the Congressional Record, including modifications in the text of any amendment which are germane thereto. Such amendments en bloc shall be considered as having been read and shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole. Such amendments en bloc shall be debatable for not to exceed twenty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. It shall be in order to consider en bloc amendments, if offered by Representative Hall of Ohio, said amendments en bloc shall be considered as having been read, said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and may amend portions of the bill not yet considered for amendment. At the conclusion of the consideration of the bill for amendment, it shall be in order to consider an amendment in the nature of a substitute, if offered by Representative Broomfield of Michigan or his designee, said substitute shall be considered as having been read, and debate on said substitute shall not exceed one hour, notwithstanding any other provision of this resolution. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. (Mr. PANETTA). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] for purposes of debate only, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. HALL of Ohio. Mr. Speaker, House Resolution 170 is a modified open rule providing for the consideration of H.R. 2508, the International Development Cooperation Act of 1991. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

According to the rule, the bill shall be considered for amendment by titles, instead of by sections, and each title shall be considered as having been read. The rule also waives points of order against consideration of the bill for failure to comply with clause 2 (L)(6) of rule XI, relating to the 3-day layover, and clause 3 of rule XIII, the "Ramseyer" rule.

Mr. Speaker, the rule prohibits amendments on the subject of military assistance to El Salvador. This is necessary because of current sensitive negotiations going on with respect to a peaceful settlement in El Salvador.

Subject to clause 6 of rule XXIII, debate on all amendments to the bill, shall be limited to 8 hours. Except as follows, all amendments to the bill must be printed in the CONGRESSIONAL RECORD prior to the consideration of the amendment: An amendment in the nature of a substitute to be offered by Representative BROOMFIELD or his designee, pro forma amendments and en bloc amendments to be offered by Chairman FASCELL.

Under the rule, Chairman FASCELL may offer at any time en bloc amendments consisting of the amendments printed in the CONGRESSIONAL RECORD, including modifications in the text of any amendments which are germane. This will facilitate the efficient use of floor time, and provide for the orderly consideration of the lengthy legislation. The Fascell en bloc amendments are not amendable or subject to a demand for a division of the question and are debatable for 20 minutes, to be equally divided and controlled by the chairman and the ranking minority member.

The rule also makes in order the Hall of Ohio en bloc amendments which are not subject to a demand for a division of the question in the House or the Committee of the Whole. Mr. Speaker, these are amendments I will offer as Chairman of the Select Committee on Hunger, which are tenets of my Freedom From Want Act. These amendments include agricultural, child survival, and basic education initiatives, as well as human rights reform.

Under the rule, Representative BROOMFIELD may offer a substitute at the conclusion of consideration of the bill for amendment. The Broomfield substitute shall be considered as having been read, and is debatable for 1 hour.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 2508, the International Cooperation Act of 1991, seeks to rewrite certain authorities under the Foreign Assistance Act of 1961 in order to establish more effective aid programs and to eliminate outdated and inconsistent provisions of the current law. The bill also authorizes foreign aid programs for fiscal years 1992 and 1993.

I would like to express my support for this bill. Chairman FASCELL and ranking minority member, Representative BILL BROOMFIELD have done an outstanding job in putting together a package that is a meaningful rewrite of existing law. In particular, I would like to express strong support for section 242, which addresses the subject of arms transfers, and incorporates many of the provisions of my conventional arms control resolution.

I also commend the committee for including provisions I authored calling for meaningful U.N. reform. In particular, I would like to thank my colleague Representative BEN GILMAN, who offered my U.N. proposals as amendments to the bill. These include the proposal in section 1106 on the U.N. Convention on the Right to Food, as well as the provisions in section 1107 to reform the U.N. response to international disasters. Both of these sections will help the U.N. in its humanitarian relief duties.

Mr. Speaker, this is a bipartisan rule which will allow fair consideration of important foreign aid and foreign policy questions. The Rules Committee passed this rule in a voice vote. I urge my colleagues to adopt it.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I thank the gentleman for yielding me half his time.

I rise in support of the rule. Its only significant modification is the postponement of consideration of the section dealing with El Salvador. All Members can support this rule because no one is being gagged on either side of the aisle.

The gentleman from Ohio has presented a thorough explanation of the rule. There are several important points that I would like perhaps to reiterate.

All germane amendments to H.R. 2508 are permitted under this rule, with three important modifications.

First, all amendments must be printed in the RECORD prior to their being offered.

Chairman MOAKLEY sent out a Dear Colleague letter to this effect last Thursday.

All amendments can still be printed in today's RECORD and be eligible for consideration on the floor tomorrow; I think Members ought to take note of that.

Mr. Speaker, I normally take a rather skeptical view toward preprinting requirements for amendments. But the bill before us is so massive, all 721 pages worth, as Ronald Reagan used to say, "That is some bill."

□ 1730

I suppose that a preprinting requirement might make some sense in trying to manage this bill a little more efficiently. But preprinting requirements should only be in order when the rule is otherwise open, Mr. Speaker, as this one is.

The second modification this rule makes is an 8-hour time limit on the amendment process. However, Members should be assured that any amendments to titles still to be considered when the 8-hour time limit expires will still have a chance to be offered. These amendments will be considered under a strict 5-minute rule, 5 minutes pro, 5 minutes con. Then it will be disposed of. There will be no striking the last word and so on.

But considering 8 hours of amendment debate, I personally think that is fair and every Member will be heard.

Finally, the rule prohibits any amendment concerning military aid to El Salvador. This was agreed to by the bipartisan leadership of the House and the administration. There are some very sensitive negotiations between the various factions in El Salvador scheduled to resume this summer. It is the intent of every responsible Member of this Congress to let those negotiations proceed without external interference from us. Again, I think it is a far-sighted attitude on the part of this Congress.

Any amendment, even a well-intentioned one, could send the wrong signal or be misinterpreted in the present atmosphere.

So El Salvador is off limits as far as this bill is concerned. We will revisit that issue if necessary, as I understand it, after Labor Day.

Mr. Speaker, we have before us a modified open rule. All germane amendments will be in order, subject to the three modifications I have just outlined.

Mr. Speaker, I thank the leadership of the Committee on Foreign Affairs for requesting this fair rule, a reasonable rule, and the Committee on Rules certainly is to be commended for writing it.

I would urge all Members to support it on the floor today.

Turning now to the bill itself, I have to say it needs quite a bit of work. Indeed, it may be beyond redemption. As always, the intent was laudable; the end product is something altogether different.

Much attention has been drawn to the fact that this bill rewrites the core legislation for the foreign aid program, the Foreign Assistance Act of 1961. That is indeed a worthy goal.

More than 600 reporting requirements and at least 50 policy initiatives, many of which then conflict with each other, have accumulated like barnacles on the Foreign Assistance Act over the past 30 years. But this new bill merely replaces one set of reporting requirements and policy initiatives with another. This bill is fraught with provisions that micromanage virtually every aspect of U.S. foreign policy, something that should be the purview of the President of the United States of America.

And that leads me to the real problem in this bill, a problem that can be summed up in one word, "earmarks."

Earmarks are the bane of any foreign aid bill. The administration has correctly identified earmarking as the single most important factor in preventing flexibility and consistency in the conduct of U.S. foreign policy.

Earmarks practically preclude our foreign aid programs from being integrated effectively into the overall foreign policy objectives of the country.

Of the funds for fiscal year 1992 that are authorized in this bill, fully 68 percent, more than two-thirds, are earmarked in some fashion or another.

Mr. Speaker, this is not a reform bill. This is a bill that takes an existing problem and makes it worse, much, much worse.

Mr. Speaker, if Members were to delineate fully all of the problems in this bill, we would be here until after midnight just on the general debate. Needless to say, if this bill or anything like it ever lands at the White House, it will be dead on arrival, vetoed right on the spot. We will have wasted all of our time here this evening and tomorrow.

Suffice it to say that the provision in the bill that reverses the so-called Mexico City policy concerning funding for foreign organizations that promote abortion as a method of family planning and the provision that earmarks funds for the United Nations Fund for Population Activities are enough to prompt a veto. We have been assured that the bill will be vetoed, and well it should be.

This is not so much a foreign aid bill as it is a wish list by the left wing of the Democrat Party, and as such there is no way I or any other conscientious Republican can support it in its present form.

I urge support of the rule, but the bill is another story. Let us at least pass the rule so that we can attempt to repair the damage in the bill itself.

I personally have a few amendments I would like to offer to it tomorrow.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, as has already been pointed out, this bill contains no specific provisions regarding the issue of military aid to El Salvador—and the rule would bar any amendments relating to this matter. It is the invention of the leadership to bring a bill on El Salvador to the floor shortly after Labor Day—at which time Members will have a full opportunity to debate and vote on the issue. For the record, as one of those who advocated this change in procedure, let me make clear exactly what we are attempting to do here today by moving a vote on El Salvador to September.

We are keeping the pressure on both sides in the conflict. In the coming months we will all have the opportunity to monitor the negotiations, the level of violence and the progress on the Jesuits' case and then determine what is the appropriate course in terms of United States military assistance to El Salvador.

Both the FMLN and the Salvadoran Armed Forces should be put on notice.

If the FMLN deliberately stalls the negotiations, if the FMLN is assassinating civilians, if the FMLN fails to meet its international legal obligations in the helicopter case, or if the FMLN continues to get significant shipments of arms from outside El Salvador—then that misbehavior will be reflected in the level of military assistance this Congress provides to the Salvadoran Armed Forces.

If, on the other hand, the Salvadoran Government stalls the negotiations, if the Salvadoran Army assassinates civilians, and unless there is a breakthrough in the Jesuits' case—then these facts will be reflected in the level of military assistance—or lack of military assistance—this Congress provides the Salvadoran Armed Forces.

And let me emphasize my belief, at this point in time, that the cooperation of the Salvadoran Armed Forces on the Jesuits' case has not been at all satisfactory. The lies, the obstruction of justice, and the general level of non-cooperation by the Salvadoran Armed Forces cannot be tolerated and I believe—unless there is a change in that attitude—will not be tolerated by this Congress in September.

It should also be made clear that our silence on the foreign aid bills at this time should not—in any way—be interpreted as a lessening in our unequivocal support for the efforts of the United Nations Secretary General in mediating the negotiations between the government and the FMLN. And we are pleased to note that over 100 U.N. personnel will soon arrive in El Salvador to monitor human rights.

I believe temporarily witholding congressional action on this matter will keep the pressure on both the FMLN and the Salvadoran Government to negotiate seriously an end to the war. And I would hope that the Bush administration will follow our lead and refrain from doing anything that might jeopardize this delicate process. Specifically, I would urge that they continue to withhold $42.5 million in fiscal year 1991 U.S. military assistance that has not yet been obligated. I also hope that the administration will give unequivocal and unambiguous support to the U.N. Secretary General's efforts in the negotiations.

Mr. Speaker, let me close by urging my colleagues to support this rule.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I my consume.

Mr. Speaker, I rise in support of this rule. I would specifically like to take this time to talk about the work of the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY]

Mr. Speaker, I had the privilege of serving with him on the task force on El Salvador specifically dealing with the very tragic murder of Ignacio Ellacuria and the other Jesuits and their housekeeper and her daughter. We went to El Salvador investigating this case, and we have very diligently been trying to pursue it and at the same time encourage the Government of El Salvador through their judicial process to bring about a resolution to this.

Tragically, we have not seen the kind of success that we would like and that the chairman of the full committee, the chairman of our task force would like to have.

But I would like to say that it is difficult to look at a rule which is going to actually preempt Members from at this point being able to offer amendments on El Salvador; but we are in fact dealing with an extraordinarily delicate situation. The fact that we are seeing these negotiations between the Faribundo Marti National Liberation Front and the Government of El Salvador struggling to do what we all want to see happen, that is bring about peace with democracy and freedom in El Salvador.

□ 1750

Mr. Speaker, it has been a tough, tough time, and I should say that the gentleman from Massachusetts [Mr. MOAKLEY], chairman of the Committee on Rules, has, while dealing with, frankly, extremes on both ends of the spectrum, he has done a very good job, and I would like to, Mr. Speaker, compliment him for his work. I hope very much that the way we are going to be bringing up this issue under the foreign aid authorization bill will play a role in encouraging what we all want to see happen.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FROST], a member of the Committee on Rules.

Mr. FROST. Mr. Speaker, I rise in support of House Resolution 170 which provides for the consideration of H.R. 2508, the International Cooperation Act of 1991. During the past 14 months I have been directly involved in a facet of democratic institution building in Eastern Europe and I am particularly pleased that H.R. 2508 contains authorization for the continuation of these most important activities in the region.

In April 1990, following the tumultuous events in Eastern Europe during the fall of 1989, Speaker FOLEY appointed a special bipartisan task force that was charged with developing a plan of assistance to the new democratically elected parliaments in Eastern Europe. The Special Task Force on the Development of Parliamentary Institutions in Eastern Europe, which I am honored to chair, with the cooperation and assistance of the distinguished chair of the Foreign Affairs Committee, Mr. FASCELL, and the chair of the Europe and Middle East Subcommittee, Mr. HAMILTON, has developed a comprehensive plan of support to the parliaments of Hungary, Czechoslovakia and, in cooperation with the U.S. Senate Gift of Democracy Program, Poland.

The task force found, to no one's surprise, the national legislatures of these three countries had been no more than rubberstamps for the Communist governments which ruled those countries since the end of World War II. These parodies of representative government existed only to be convened once or twice a year to approve decisions that had already been made by the Communist party leaders. As a result, we found these parliaments lacking in office space and office equipment, trained staff, and the capacity to gather the kind and quality of information and analysis required to make independent policy assessments. On the other hand, the task force found the members of these new freely elected parliaments to be full of enthusiasm and belief that pluralistic democracy would bring them the freedom they had so long been denied.

Based on these findings, the task force recommended to Speaker FOLEY that a coordinated program of technical assistance be instituted and recommended that the Congressional Research Service be enlisted to serve as a lead agency in the U.S. Government to provide and coordinate a comprehensive program. The task force also recommended, and the Speaker concurred, that $6 million be allocated in fiscal year 1991 to fund these efforts. Working with our colleagues on the Foreign Affairs Committee, and the Foreign Operations Subcommittee of the Committee on Appropriations, the task force was able to secure a commitment from the Department of State that $6 million of the $19 million set aside for democratic institutions building in Eastern Europe in the fiscal year 1991 foreign assistance appropriation would be made available to implement the parliamentary assistance programs of the House task force and the programs initiated by the U.S. Senate. In January 1991, $4.25 million was transferred by AID to the Library of Congress and CRS to purchase equipment, books and library materials, and to provide training, and technical assistance to the parliaments of Poland, Hungary, and Czechoslovakia. Another $750,000 of the $6 million was set aside for the continuation of the Senate's Gift of Democracy Program and the remaining $1 million was held in reserve by AID for other parliamentary support programs consistent with the activities being undertaken by the House and Senate in the region.

Mr. Speaker, your task force is happy to report that by early August the first delivery of computer and office equipment will be made to the Parliament of the Czech and Slovak Federal Republic and the first delivery to the Hungarian Parliament should be made early this fall. In addition, several hundred books and periodicals are in the process of being delivered to the libraries of all three parliaments. Training for the core staffs of these three parliaments is underway. An important component of that training program involves the development of research and analysis components within the parliaments in order that members and staff might have ready access to the information they need in order to make the important decisions they must make during their transition to free market economies.

The task force has recommended that during fiscal year 1992 that another $6 million be dedicated to the development of the parliaments of Hungary, Czechoslovakia, and Poland. And, upon the recommendation of the Department of State with whom the task force has been working in an unprecedented spirit of cooperation between the executive branch and the legislative branch, we have also begun examining the situation in Bulgaria. It is likely that our assistance project will be extended to Bulgaria if funding for the program is fully funded in the coming fiscal year. The task force commends the Committee on Foreign Affairs for including $20 million for democractic institution building in Eastern Europe in its authorization and hopes that the significant progress we have seen in Eastern Europe in the past year can be carried forward in the coming fiscal year.

Mr. Speaker, I would like to take this opportunity to thank the members of the task force for their dedication to this project. During the 101st Congress, members of the task force included BART GORDON of Tennessee, DOUG BOSCO of California, GERALD SOLOMON of New York, and JIM LEACH of Iowa. In the 102d Congress, the Members include BART GORDON, MATT MCHUGH of New York, HOWARD BERMAN of California, GERALD SOLOMON, JIM LEACH, and DAVID DREIER of California.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the very thoughtful and hard-working ranking member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, while I am opposed to the foreign aid bill in its current form. I am nevertheless hopeful that this legislation can be substantially improved as a result of floor debate.

Toward that end, I wish to commend the distinguished chairman of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY] for designing a rule that should ensure a fair and open floor debate. I also commend the gentleman from New York [Mr. SOLOMON] the ranking Republican member, for helping see to it that we can have a full and fair debate on this bill.

In particular, I wish to draw attention to those parts of the rule which allocate 8 hours for the consideration of amendments, create an orderly process for submitting amendments prior to floor consideration, and enable an amendment in the nature of a substitute at the conclusion of debate.

The opportunity to offer a substitute amendment will enable us to combine the best parts of H.R. 2508 with the most constructive amendments adopted on the floor. In essence, it may offer the only real hope for producing legislation that can be enacted into law.

In conclusion, I support this rule and look forward to a constructive debate on the foreign aid authorization bill.

Mr. Speaker, I will submit extraneous matter for the RECORD during consideration of this bill under general debate.

Mr. DREIER of California. Mr. Speaker, I yield 7 minutes to my very able friend and colleague, the gentleman from Ohio [Mr. MCEWEN], a member of the Committee on Rules.

Mr. MCEWEN. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding.

Mr. Speaker, it is a pleasure to rise in support of the rule for H.R. 2508, the Foreign Assistance Authorization Act for Fiscal Years 1992 and 1993. The chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], along with the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD], deserve commendation for requesting an open rule. Likewise I would like to commend my colleagues on the Committee on Rules, led so capably by the gentleman from Massachusetts [Mr. MOAKLEY] and our vice chairman, the gentleman from New York [Mr. SOLOMON], for granting the Foreign Affairs request by proposing an open rule.

Mr. Speaker, the United States of America is the beacon of the world and in all corners of the globe stands for free speech and vibrant democratic values. Our foreign assistance programs lie at the heart of our Nation's foreign relations in expressions of those values. It is especially appropriate that on this major foreign policy measure, as it is debated on the floor in an environment of totally free discussion, the rule allows the cornerstone of our system, free speech, to be practiced here in the House. I hope that other committees will take the lead of the gentleman from Florida [Mr. FASCELL] and follow suit by seeking open rules like this so that the people's Representatives are permitted to fully air their views, and cast their votes and settle their differences.

Although the rule for consideration of H.R. 2508 deserves unanimous support, I am sorry to say that the bill itself is seriously flawed. It falls short of the original goal of the chairman and the ranking member of the Committee on Foreign Affairs to reform the process by which the United States provides foreign assistance. The chairman's original bill attempted to implement many of the reforms recommended by the 1989 Hamilton-Gilman Task Force on Foreign Assistance. Unfortunately the subcommittee recommendations, which were incorporated into the bill and now make up more than half of the measure that will be before the House, will fail to include these excellent reforms. The subcommittee recommendations often demonstrated the same tendency to earmark, to mandate, to micromanage foreign policy that have heretofore been practiced much too much. That is one reason why this bill in its present form will be vetoed and the Committee on Foreign Affairs will be denied its significant impact into our foreign aid policy which it deserves.

Mr. Speaker, the bill authorizes $12.4 billion in foreign assistance in fiscal year 1992, $13 billion in 1993. These figures are $99 million below the President's request, $630 million above fiscal 1991 levels. I would like to note that $8.5 billion of the 1992 authorization is earmarked 68 percent of the total. Along with the earmarks are an abundance of reports that are mandated of the administration.

Mr. Speaker, although the committee bill touches just about every foreign policy issue imaginable, on one it is noticeably silent. That is the issue of direct foreign assistance to the Soviet Union. The bill reported by the Committee on Foreign Affairs proceeds with caution on this matter, and I commend the committee for doing so. The only assistance provided the Soviet Union is in the form of specialized technical assistance for the democratically elected governments of the Baltic Republics. There is no direct foreign aid, and there is no mention of prospective aid.

Mr. Speaker, following the terrible incidents of the spring in the Baltics, when unarmed civilians were machinegunned and crushed under tank treads, it appeared that no serious talk of Soviet aid would emerge for some time. Alas, the continued rapid collapse of the Soviet economy has caused serious talk of direct aid to begin anew despite this chill.

For example, President Gorbachev has very recently made pleas for billions of dollars of Western aid included in every major story in every major newspaper today. An article in the Washington Times mentions 250 billion American dollars.

Mr. Speaker, now is the time for the House of Representatives to make a clear statement outlining responsible conditions to be met before the American taxpayer provides any direct financial assistance to the Soviet Union. Doing so, we can provide guidance to both the administration and to the Soviet Government regarding the type of policies the Soviet Government must pursue if it is to receive aid. This bill is the appropriate legislation to make that statement, and I believe that my amendment outlines four general conditions that a vast majority of the Members of the House can support. They are:

Major reforms of the Soviet economic and legal systems must first be established to protect democratically elected government, a market economy, and human rights.

□ 1750

Second, before we aid the Soviet Union with direct American dollars, I believe a significant reduction in Soviet defense expenditures and a reduction in the number of their ballistic nuclear missiles should be first obtained.

Third, I recommend the removal of the occupation troops that are now occupying the Baltic Republics, and finally, I believe that we should request the elimination of economic and military aid to belligerent totalitarian states such as Cuba.

I would like to note in closing that these reasonable and responsible conditions are similar to those that have recently been proposed by such leading sources as Zbigniew Brzezinski, former President Nixon, the Washington Post, and a number of administration officials, including the President in his speech at the Houston economic summit last July.

Mr. Speaker, this open rule deserves the support of every Member. On the other hand, I hope the Members take advantage of the open rule to correct the deficiencies I have outlined in the bill so that we can approve a bill acceptable to the President.

Mr. HALL of Ohio. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I thank my friend and colleague, the gentleman from Ohio, for yielding time to me.

Mr. Speaker, I rise in support of the rule, but I have some difficulties with the entire bill. I am hopeful that there will be an amendment allowed that will shift some of this money over to domestic programs rather than spending the $12 billion plus in foreign aid, all overseas.

I heard my good friend and colleague, the gentleman from Ohio [Mr. MCEWEN], who was just standing here talking about the "beacon of the world," which is what the United States is, but that light is slowly dimming, particularly the economic portion of that light, and we are sinking deeper and deeper into debt.

I think our priorities are all wrong in this area. If the doctor is not feeling well, if he has an illness, it is going to be very difficult for him to be able to treat the patient. That is the situation I think we are in.

I agree and I think the whole House agrees that there is a need to help starving and diseased people. I think we can do that, and I think we should help them, but we should also help from the standpoint of doing something besides just pumping money in there to help develop new technologies so they can help to educate their own people, so that they will be able to clothe themselves and to feed themselves.

Americans are a caring people. We are here to help the desperate people, but why do we forsake our own people? Why do we forsake Americans, those who are sick, 38 million people who do not have any health insurance, the hungry and the homeless in this country?

Let me tell you why. It is because those who help themselves are using the United States for their own well-being and their own profit. President Bush's foreign policy has gone awry. Let us just take a look at China. Let us see what he wants to do in China. He wants to give them most favored nation status, and here is a country that has been depriving its own people of civil and human rights. Look at what they did to Tibet. They just had a big celebration of 40 years after they have taken over Tibet and taken away the human and civil rights of the Tibetans.

China sold arms to Iraq while we were trying to fight those people, and yet we are going to recognize this deprivation of human and civil rights and this degradation of the human soul. They employ slave labor, and they produce cheap products which they are going to send into the United States to steal jobs from Americans.

Then we are going to do the same thing with the Soviet Union, because in our foreign policy what they want to do is give them most favored nation status while Gorbachev is turning his back on the Baltic States, going back on the promise he made that he would make free the republics within the Soviet Union.

Why do we recognize these abuses? Is this not against what all our American veterans have fought for in this country when we fought for freedoms? I think it is an insult to them.

We spent billions of dollars, tens of billions of dollars and over 300 lives in Kuwait and Saudi Arabia, and how do they honor America's sacrifice? Well, Kuwait is not giving all of their contracts to us, and I suppose maybe they ought not give them all to us, but at least they could take a look. The first contracts went to Venezuela and Japan for 25,000 metric tons of steel, which could have gone to Wheeling-Pittsburgh Steel or it could have gone to any number of steel mills in Ohio, in western Pennsylvania or eastern Ohio.

In Saudi Arabia they built a desalinization plant. So what do they do? They gave the general contract to the Italians, the Italians gave a subcontract to the British, and the British went to Japan to get the titanium. So my titanium plant loses. That would have meant an increase of 10 percent in the production of titanium in my area.

In Japan we spent billions and billions of dollars and we spent 300 lives to help secure their energy policies. And how do they honor us? They renege on a commitment to pay us over $10 billion. They have only paid a small part of it. Of course, they restrict our right to their marketplace. They restrict our productivity, and they do not allow Americans to come in and invest.

The Government is abandoning the Appalachian coal fields. You may ask, how does that get into foreign policy? Well, they are not pumping any money into the Appalachian coal fields, but what they did was to build a scrubber in Krakow, Poland. We need it over here to keep our jobs.

Our American allies soon forget World War II and NATO and the moneys we pumped in and the thousands of American lives that went into keeping them free. All I am saying is that while we have need for a foreign policy to help them, let us take a look at a domestic assistance program and help Americans who deserve it, who helped to build our country, Americans who have lost their jobs. Let us help them to get their jobs back. Let us fight to keep an equity in our trade policies, or to get one. We do not have one right now. I think that is very important.

I think our directions are misguided, and I am just wanting to see that the American workers in this country do not go on the endangered species list, and that they get what they have worked and fought for.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the very distinguished former Mayor of Ojai, CA, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of the rule contained in House Resolution 170 which, among other things, provides that no amendments are in order on the subject of military assistance to El Salvador.

While I might normally have problems with such a provision in a rule, I believe in the case of today's rule on El Salvador, the leadership, particularly JOE MOAKLEY, the chairman of the Rules Committee and JERRY SOLOMON, ranking member, have acted responsibly to prevent any adverse affect on the delicate negotiations that are going forward between the government and the FMLN guerrillas.

For the House, or the Congress, to take action or to debate conditions or restrictions on United States aid to the Government of El Salvador at this time, it could be misinterpreted by either side involved in the peace talks. It could very well cause the collapse of the negotiations if one side or the other viewed congressional action as damaging its cause or favoring the other side.

I particularly wish to commend the chairmen of the Western Hemisphere Affairs Subcommittee and the full Foreign Affairs Committee Representatives FASCELL and TORRICELLI as well as ranking member BILL BROOMFIELD for their statesman-like position on this issue. The government of El Salvador has been engaged in unprecedented peace talks with the opposition guerrilla forces in El Salvador with several dramatic agreements already reached. The hardest part of the negotiation still remains: To achieve a cease-fire and to agree on the reorganization of the armed forces. It is to the benefit of all sides that the U.S. Congress not be seen as interfering in these sensitive talks, and the decision to wait an additional 3 months to see if some agreement can be reached on the remaining issues is a wise and responsible decision.

I think the government of El Salvador deserves a great deal of credit for negotiating seriously and in good faith with the armed FMLN guerrilla opposition. For the Congress to wait an additional 3 months before taking a position on United States aid to El Salvador gives an opportunity to determine if the FMLN is also negotiating seriously and in good faith.

Once again, I want to commend the leadership of the House, of the Central American task force, the Foreign Affairs Committee and of the subcommittee on Western Hemisphere Affairs for their responsible position in urging postponement of action on United States aid to El Salvador. I fully concur with their decision that we will be better able to determine what our policy should be after seeing how negotiations progress over the next 3 months.

I urge my colleagues to support this rule.

□ 1800

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise today to congratulate the committee on holding the line on foreign debt writeoffs.

By refusing to go along with the administration's request to convert $270 million in foreign military loans to grants, the committee has sent the right message: Uncle Sam is tired of being taken for Uncle Sucker.

For the past 10 years, the administration has refused to deal effectively with foreign debt collection.

Many of the foreign debts owed to the United States have been restructured, sidestepped, hidden in smoke, swept under the rug and generally ignored.

Americans expect repayment of just debts.

Our process should be a simple one: Debts owed, should be debts paid.

While the policy of the last 12 years or so has been to soft pedal foreign debt collection, the Government has continued to foreclose on American farmers, homeowners and others who are unable to pay back loans they have with the Farmers Home Administration and other Federal agencies.

The people I represent do not understand this.

I do not understand this and have tried to fix it.

The speaker may remember helping me back in 1975, when I was the House sponsor of what became known as the Alexander-Brooks amendment.

The purpose of that legislation was to cutoff foreign aid if a country falls behind in its debt repayment.

The amendment was based on the simple premise that the United States expects repayment of debts owed to it by other countries.

I did not think that was too much to ask then. As a result of the Alexander-Brooks amendment hundreds of millions of dollars of debts were paid by foreign countries. Foreigners will pay their debts owed to the United States if they believe that we expect them to pay what is owed.

I do not think that is too much to ask now.

Through restructuring of these foreign debts, the Bush administration and the Reagan administration before it, have been able to knock the teeth out of the amendment, circumventing the will of Congress—and the American taxpayer.

If we are to meet our needs here at home—including reducing the deficit, making needed infrastructure improvements, fighting drugs and crime, and providing better health care and education for our people—we should insist that foreign debt collection procedures be toughened.

Again, Mr. Speaker, I rise to congratulate the committee for holding the line.

The American taxpayer also thanks you.

Mr. DREIER of California. Mr. Speaker, to close the debate on our side, I yield 5 minutes to a dynamic speech writer from Long Beach, the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise in support of the rule. It will give us the opportunity to confront some serious issues. And there are questions that we need to answer dealing with American foreign aid.

Should our scarce taxpayer dollars be used to prop up the last vestiges of Communist power?

No way. Should the U.S. taxpayer be forced to subsidize Mikhail Gorbachev and his forces of repression in the Kremlin, even if it ends up costing the taxpayer tens, if not hundreds, of billions of dollars?

Again I say: No way. A new world is in the making. The forces of freedom and democracy are on the march. The evil empire is crumbling from Armenia to Georgia, from the Baltics to Yugoslavia. At this time, it is fair to ask at this historic moment:

What side are we on?

Will America be with the people or the Politburo. The Ivy-League-educated elites in the State Department argue that the unelected Mikhail Gorbachev must be kept in power. They argue in the Soviet Union and in Yugoslavia for stability over freedom even it means favoring commissars, comrades, and Communists over reformers, republics, and human rights. I will offer an amendment tomorrow, and, under this rule, it will be considered. I appreciate that.

My amendment will ensure that if taxpayer funds are appropriated for foreign aid, and that is a big "if," those funds should be given to the democratically elected republics, rather than the Communist controlled central governments. As written. It affects two countries, the Soviet Union and Yugoslavia.

When the Communist government in Ethiopia fell several weeks ago, Herman Cohen, Assistant Secretary of State, said, "No democracy, no cooperation." We should apply the same principle elsewhere.

With democracy everything—without democracy nothing. Aid to the Kremlin would pour our dollars down the world's largest and most inefficient rat hole. The brutal repression of the Baltic States, continued Soviet support for Castro and other dictator's massive military spending—all call into question whether we should be giving aid at all.

Support for the Kremlin or any other central government still in the hands of the Communists is wrong on all counts. Keeping tyrants and militarists in power in the name of stability is ludicrous.

How can anyone request funds for our own costly defense projects and then ask us to give money to the Kremlin bosses as they keep spending for weapons? It doesn't compute.

Gorbachev sends billions to Castro, keeps spending hundreds of billions on his military machine, sends Scuds and jets to Afghanistan. If he needs resources, let him cease wasting his people's money on weapons and overseas adventures rather than looking for a handout from America's hard-working people.

Gorbachev, his public image not withstanding, is communism's last gasp in the Soviet Union. United States foreign aid must not be used as a club to beat the forces of democracy into submission, whether it be in the Soviet Union, Yugoslavia, or anywhere else. It should be used to build a more democratic, freer more peaceful world. Great strides have been made. Competitive forces are pulling at the Soviet Empire from within and without. In Eastern Europe, progress, perhaps irreversible progress, has been made.

In Yugoslavia, there is great hope. The clock cannot be turned back to despotism there or in the Soviet Union itself. But the old regime has proceeded as far as it will go down the road to reform. If Gorbachev is not willing to make the radical reform needed to make a sea-change in the direction of his country, Yeltsin's democratic forces are ready, willing and able.

Reformers, democratically elected, are in the Republics, anxious to build a peaceful, free and more prosperous world.

Let us play an active role in this defining moment in history. Let us, as Winston Churchill once said, "never cease to proclaim in fearless tones the great principles of freedom and the rights of man."

Let us support the freedom movement in the East and let us pray for, and, yes, work for a world order among free peoples, where communism and other forms of tyranny will be as distant a memory as the despotism of ancient times.

I ask my colleagues to support my amendment. I seek and my colleagues will seek no U.S. aid to prop up the Communists in the Kremlin.

We seek support for the democratic republics, not the Communists.

I will ask Members to support my amendment, and rise in support of the rule.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 2508. I want to commend Chairman FASCELL and Mr. BROOMFIELD, for once again working together in a bipartisan spirit to bring this legislation to the floor.

Mr. Speaker, if the American public is to have confidence in the budget process, then Congress must adhere to its own procedures as called for by the rules. The budget resolution should be followed by consideration of the authorization bills, and then the appropriations bills.

Authorization bills guarantee the fullest possible participation of all Members, allow for more open rules, and ensure that policy decisions are made with the full knowledge of the American public.

H.R. 2508, gets the process back on track in an open and fair manner. Enactment of this authorization will enable the Appropriations Committee to concentrate on funding matters without being saddled with authorization responsibilities. H.R. 2508 will restore balance and coherence to the budget process.

Mr. Speaker, H.R. 2508 affords the American people, through their elected representatives, a say in setting the foreign policy priorities of the United States.

It was through the authorization process that human rights was first legislated into American foreign policy. It was through the authorization process that U.S. policy committed itself to combating illicit narcotics trafficking abroad, and it was through the authorization process that U.S. policy has isolated those countries involved in acts of international terrorism.

Mr. Speaker, H.R. 2508 addresses the dramatic changes taking place throughout the world by assisting governments in the consolidation of democratic institutions and the rule of law, preserving the environment, vaccinating the world's children from deadly diseases, and creating free markets for American exports.

H.R. 2508, reflects our democratic values and serves U.S. interests in an increasingly interdependent international community.

I urge my fellow colleagues to follow the lead of Chairman FASCELL during consideration of this bill and to vote for final passage.

□ 1810

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, I want to commend my friend, the gentleman from Florida [Mr. FASCELL], and also the gentleman from Michigan [Mr. BROOMFIELD], for the job they have done on this important piece of legislation. This really is the foreign policy of the United States, and it is an enormously difficult task. They deserve our thanks.

I offered, during the markup, an amendment which was agreed to which said very simply that we would not sell arms to Kuwait until they dealt with the problems they have had in that country in terms of trying people for crimes, allegedly committed. But today I read in the New York Times very distressing news, Mr. Speaker.

> The Kuwaiti Government has begun expelling civilian prisoners to Iraq, and some of those deported apparently have been sent against their will. Any such forcable expulsions would be a violation of an agreement signed by all parties at the end of the Persian Gulf War.

This is not the worst of it. On the op-ed page of the New York Times, there is an article today entitled "Mass Graves in Kuwait." And I will read just a very small part of it.

"Those who have died in Kuwaiti hands since liberation."

"Those", are not people killed by the Iraqis. These were people apparently, according to these allegations made in today's New York Times, Kuwaitis killed by the Kuwaiti Government or its agents since the liberation. I do not think that this is what Americans sacrificed their lives for, I do not think it is what this country sacrificed billions of dollars for.

I think the Emir ought to get his act together. I think the Emir and his family ought to take a walk and allow free and fair elections in Kuwait.

I am going to offer an amendment tomorrow adding to those conditions, which are already in the bill, that these bodies in Kuwait be exhumed, that we find out whether or not these people were tortured, and that we find out precisely what happened. This condition should be added to the conditions which already exist in the legislation conditions which, Mr. Speaker, the President must certify are being met before another bullet is sold to Kuwait.

Mr. Chairman, this is not what Americans died for in the Middle East. It is not what Americans paid for in the Middle East. It is unacceptable, and I hope that tomorrow the House will support by amendment.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. PANETTA). Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2508.

The Chair designates the gentleman from Oregon [Mr. AUCOIN] as Chairman of the Committee of the Whole, and requests the gentleman from Ohio [Mr. HALL] to assume the chair temporarily.

□ 1815

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, with Mr. HALL of Ohio, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

I rise in strong support of H.R. 2508, the International Cooperation Act of 1991.

Let me say that this is a comprehensive foreign assistance authorization bill for the next 2 fiscal years. It consolidates, streamlines, makes more effective the global or the generic provisions of the Foreign Assistance Act and represents a continuing effort by the Committee on Foreign Affairs to rewrite and update the act.

Let me say at this point that I appreciate the cooperation from the ranking Republican member, my distinguished colleague, the gentleman from Michigan [Mr. BROOMFIELD], and the Republican members who worked with us in fashioning this bill.

The administration, of course, had its own bill down here. Two years ago, when we passed the foreign aid bill, we got the administration to focus in on a rewrite, which they did, and their rewrite was introduced by request by the gentleman from Michigan [Mr. BROOMFIELD] and I. We did our level best to incorporate as many of those provisions as we could work out in this particular bill. So 90 percent of the administration's requests are in here.

The others, of course, have not been worked out and the administration, of course, is not really happy with the ones that have been left out. But this is a first step in a long process, and I hope that in the interim, as we consider the legislation here and other places, that we can get even closer together than we have already.

Nevertheless, the point I wish to stress is that a very strong effort has been made by both parties and the administration to achieve as much of a consensus as we possibly could on this bill as we present it to the House so that we can have a bipartisan position with regard to many of these matters.

Now, Members will recall that in 1989, the House considered and passed H.R. 2655, which was a similar rewrite of the Foreign Assistance Act, and that was based on recommendations that came from a year-long task force. The gentleman from Indiana [Mr. HAMILTON] and the gentleman from New York [Mr. GILMAN] headed that up, and that bill incorporated many of the recommendations of that task force. And it was adopted by the House by an overwhelming majority of 314 ayes and 101 nays.

Now, there will be many amendments to this bill, but hopefully there will not be as many as we had last time.

□ 1820

One never knows, but one can hope.

I think we had over 250 amendments last time, Mr. Chairman, and so far we probably have about 100 noticed, maybe more. I am not sure of the exact count. All I can say to my colleagues is we will do our best in working the amendments to accommodate all of those who have amendments.

I am not saying we will accept them all, but we will do our best to work with the Members as we did last time in the consideration of this authorization bill. We have got a long road ahead of us.

We will finish general debate tonight in short order, I would hope. I only have one speaker on my side besides myself. Tomorrow we will start in the House at 10 o'clock, as I understand it. Under the rule, as the gentleman from Michigan [Mr. BROOMFIELD] has pointed out, we have an open rule that allows for 8 hours of debate on all amendments and amendments thereto. If the amendments are in the RECORD, of course, under the rules of the House the individual is protected. If we run out of the 8 hours of time, they would have 10 minutes in the discussion of their amendment if there is no more time left. I am hopeful, however, that we will not have that difficulty.

That means that the gentleman from Michigan [Mr. BROOMFIELD] and I will have to agree and make judicious use of the time that is available to us.

Last time we had this similar kind of rule we had excellent cooperation from our colleagues, and I ask them again to work with us and give us the same kind of cooperation this time so that perhaps we can get through with this bill tomorrow night. It would be very important to see if we cannot get through this bill before 10 o'clock tomorrow night, and I think we can if we get the kind of cooperation that we have had in the past in assuring everybody gets some consideration on whatever their amendments might be.

In terms of the entire bill, as I said, it covers fiscal 1992 and 1993.

Mr. Chairman, I rise in support of H.R. 2508, the International Cooperation Act of 1991. This bill is a comprehensive foreign assistance authorization for the next two fiscal years. This bill, which consolidates, streamlines, and makes more effective the global or generic provisions of the Foreign Assistance Act, represents a continuing effort by the Committee on Foreign Affairs to rewrite and update the act.

Members may recall that in 1989 the House considered and passed H.R. 2655, a similar rewrite of the Foreign Assistance Act, based on recommendations of a yearlong task force of the Foreign Affairs Committee which had been chaired by Representative LEE HAMILTON and Representative BEN GILMAN. That bill passed the House by an overwhelming majority, with 314 ayes and 101 nays. Unfortunately, the Senate did not take a foreign aid authorization to the Senate floor during the 101st Congress, and H.R. 2655 was never enacted into law.

The first six titles of H.R. 2508 are based substantially on H.R. 2655. In addition, this year the administration also drafted a revised foreign assistance act, which Representative BROOMFIELD and I introduced by request. The administration's draft bill was also based in large measure on the recommendations in the 1989 Hamilton-Gilman task force report. In preparing H.R. 2508, an effort was made to incorporate provisions from the administration's draft.

H.R. 2508 authorizes a total of $12.399 million for fiscal year 1992 and $13.035 million for fiscal year 1993. It should be noted that the Committee on Foreign Affairs, in keeping with the spirit of the Budget Enforcement Act and the conference report on the budget resolution for fiscal year 1992, has kept the authorization levels for this legislation within the ceiling for the international affairs (150) function. H.R. 2508 is $226 million below fiscal year 1991 levels and $100 million less than requested by the executive branch.

H.R. 2508 is an attempt to set new priorities for foreign assistance. Recognizing budget constraints, the bill makes substantial cuts in overall spending. In addition, it alters the balance in favor of economic assistance over military assistance, cognizant that "economic issues increasingly dominate the international agenda," as noted in the 1989 Hamilton-Gilman task force report. H.R. 2508 is a serious effort to update U.S. foreign assistance law in a time of worldwide political and economic changes.

H.R. 2508 marks a shift away from military assistance and toward a greater emphasis on economic assistance. Economic assistance levels in the bill are $680 million higher than current levels, and $314 million greater than requested by the executive branch.

At the same time, military assistance levels in H.R. 2508 are $907 million lower than current levels; and $414 less than requested by the executive branch.

This bill is fiscally responsible, Mr. Chairman, and it deserves support.

I wish we did not have to spend money on military assistance and economic development and humanitarian programs around the world. But the truth of the matter is that this bill is absolutely essential. The United States cannot build a fence high enough to isolate ourselves from the rest of the world. We cannot deny our Government, or the American people, the tools by which we say to the rest of the world that we are a part of the world, interested in your development. We know that economic development and growth are two-way streets, and that if other countries grow we will have increased chances to trade and sell U.S. products to the rest of the world. We cannot walk away from the rest of the world. We Americans are compassionate people and we do our best to help the poor and hungry around the world. I urge all members to support this important and responsible bill.

Significant provisions in H.R. 2508 are as follows:

Endorsement of a multilateral embargo on the transfer of new major arms to the Middle East, and implements a U.S. arms moratorium unless another major arms supplier nation breaks the U.S. moratorium or until it is replaced by a multilateral arms restraint regime;

A rewrite of the Foreign Assistance Act of 1961 to streamline the statute, eliminating many outdated and unnecessary provisions, consolidating restrictions, and establishing the overall objective for U.S. development policy as "broad-based sustainable development", the components of which are sustainable economic growth, sustainable resource management, poverty alleviation, and promotion of democracy;

Provision of a total of $400 million for family planning programs;

An earmark of a total of $327 million for health, child survival, and AIDS;

An increase in funding for the Development Fund for Africa to $1 billion;

Provision of necessary legislative authority for the debt reduction element of the President's Enterprise for the Americans Initiatives;

Establishment of the Trade and Development Agendy as a separate agency and an increase in funding to $55.7 million;

Authorization $200 million for the Peace Corps;

An earmark of $85 million for microenterprise;

An earmark of $275 million for assistance through private voluntary organizations;

Authority for debt-for-development exchanges;

A mandate for enhanced evaluation of foreign assistance projects;

Establishment of a policy framework for assistance to the nations of the Caribbean;

Creation of a democracy contingency fund to provide assistance to countries emerging from civil strife or into democracy;

Consolidation of all generic restrictions on assistance to countries and the addition of a new restriction on assistance to countries selling arms to countries supporting terrorism;

Enhancement of congressional oversight of security assistance, while maintaining basic assistance levels;

A streamlining of the narcotics control certification process, while increasing the focus on money laundering and precursor chemical flows form other countries;

A prohibition on military assistance to Guatemala with certain restrictions placed on economic assistance;

Maintenance of restrictions on negotiations with the PLO;

Provision of $1.2 billion in economic assistance and $1.8 billion in military financing for Israel and $815 million in economic assistance and $1.3 million in financing for Egypt;

Restrictions on assistance to Syria;

Conditions on military assistance to Kuwait concerning respect for human rights and steps to institute democracy;

Continued restrictions on assistance to Pakistan because of its nuclear capability;

Restriction on the sales of military equipment to the People's Republic of China; and

Conditions on assistance to several African countries, including Sudan, Kenya, Liberia, Mozambique, and Somalia, because of concerns over violations of internationally recognized human rights and conditions resulting from civil strife.

The Commission for the Study of International Migration and Cooperative Economic Development, in its report on "Unauthorized Migration: An Economic Development Response," recommends that U.S. foreign assistance address the root causes of emigration through a more targeted aid program. I agree that migration should be a factor in evaluating both the potential and the effectiveness of foreign assistance programs. I therefore am requesting that the AID Administrator, in cooperation with the Secretary of the Treasury, develop methodology and criteria for assessing the migration impact of bilateral and multilateral assistance programs to migrant sending regions, especially in Central America and the Caribbean, and for evaluating the effects such programs have on migration trends from the aid recipient areas. I hope that such a plan can be made available by January 31, 1991.

□ 1830

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last December, Chairman FASCELL and I urged the administration to work with the committee on an overhaul of the Foreign Assistance Act.

The administration made a good-faith effort to engage in this process. They submitted a bill to the Congress in mid-March. It was a good first step.

But the spark of reform was snuffed out. It was smothered during markup by subcommittee recommendations that earmarked billions of dollars, mandated numerous reports from the administration, and sought to micromanage U.S. foreign policy in every corner of the globe.

The goal of the administration was to reform and streamline the U.S. foreign aid program. However, in a letter I received from Deputy Secretary of State Lawrence Eagleburger today, he states:

> In our view, however, the International Cooperation Act reported last week by the Committee on Foreign Affairs does not meet this challenge. While several of the provisions that the Committee has included would be helpful, there are so many new or repackaged restrictions and limitations that the bill as a whole in fact would represent far more the business-as-usual approach of the past decade than a new direction.

I have served on this committee for many years now under Presidents from both parties. I have witnessed numerous attempts—both successful and unsuccessful—to enact foreign aid bills into law. Successful foreign aid bills have two virtues: They reflect bipartisanship and they reflect a willingness to cooperate with the President. This bill has neither virtue.

In my view, without substantial revisions, this legislation will be dead on arrival. The administration has said as much in its message to Congress. It believes this bill is worse than the act it seeks to reform. If it doesn't die in the Senate, the President will kill it off with a veto.

This is a bill that needs major repairs. Without such repairs, I will recommend that my Republican colleagues vote "no".

The Foreign Affairs Committee once had the power to set policies and budget authority for foreign aid. It no longer has this power. It lost that power to those who were able to use the legislative process to achieve realistic goals.

If this bill fails to become law, we will once again leave the field to the appropriators. The appropriators alone will decide the composition of foreign aid policy, progams and dollars. We will become further irrelevant to the foreign aid process.

The Rules Committee has been generous enough to allow me the opportunity to offer an amendment in the nature of a substitute at the end of consideration of the bill. I will offer such an amendment—aimed at salvaging this legislation—if there is a possibility that it could successfully delete many of the troublesome provisions in H.R. 2508.

In the meantime, I urge my colleagues to work toward improving this bill in an effort to pass meaningful reform legislation that will truly help the needy in developing countries.

Mr. Chairman, at this point I insert for the RECORD a statement of administration policy from the Executive Office of the President as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, June 6, 1991.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.R. 2508—INTERNATIONAL COOPERATION ACT OF 1991—(FASCELL (D) FLORIDA AND 19 OTHERS)

H.R. 2508, as reported by the House Foreign Affairs Committee, falls well short of the goals outlined by the President in his letter to the Speaker of the House endorsing the Administration's proposed "International Cooperation Act of 1991." In recognition of rapidly changing world events, the President sought to delete the many restrictions, prohibitions, burdensome and unnecessary reporting requirements, and statutory waiting periods that have accumulated over the several decades since enactment of the Foreign Assistance Act of 1961. H.R. 2508 does not meet these goals. If H.R. 2508 were presented to the President in its current form, his senior advisers would recommend a veto of the bill.

On particular concern are two provisions that overturn the Administration's antiabortion policy:

Section 1205 earmarks funding for the United Nations Population Fund, which participates in the management of a program of coercive abortion or involuntary sterilization.

Section 1206 reverses the Mexico City policy of denying U.S. foreign assistance to foreign non-governmental organizations that promote abortion as a method of family planning.

The President has indicated that he would veto any legislation presented to him containing such provisions.

In addition, H.R. 2508 includes unworkable cargo preference requirements, contains numerous earmarks (more than 60 percent of the funds authorized), and imposes many country-specific conditions, notification requirements, and other restrictions. These would impede the Administration's ability to respond to changing circumstances, limit the President's flexibility in administering foreign air programs, and decrease the effectiveness of U.S. foreign assistance.

H.R. 2508 includes several provisions that raise constitutional concerns, by infringing on the President's authority to conduct foreign relations. The bill also contains substantial new formal reporting requirements that would divert resources from productive pursuits to activities that appear to duplicate congressional oversight, especially an expanded global International Narcotics Control Strategy Report.

While H.R. 2508 does contain several components of the President's request which provides needed program flexibility, other essential provisions are absent or unacceptably revised. Even if sections 1205 and 1206 are deleted, the cumulative effect of the added requirements and missing or weakened Administration proposals would require the President's senior advisors to recommend a veto of the bill.

Mr. Chairman, at this point in the RECORD I insert a letter addressed to me from the Deputy Secretary of State, Mr. Lawrence S. Eagleburger.

THE DEPUTY SECRETARY OF STATE,
Washington, DC, June 11, 1991.

Hon. WILLIAM S. BROOMFIELD,
House of Representatives.

DEAR MR. BROOMFIELD: Following last week's statement of administration position, I wanted to take this opportunity to express more fully our concerns regarding the proposed International Cooperation Act of 1991.

Efforts to re-write the Foreign Assistance Act grew out of the work of the Hamilton-Gilman task force during 1988 and 1989. The task force report unequivocally recognized the need for greater clarity of purpose in the legislation governing foreign aid, as well as the need to reduce substantially the reporting requirements, earmarks and other restrictions that hamper U.S. foreign assistance programs. This Administration agrees that substantial overhaul of foreign assistance legislation is needed. In this spirit, and encouraged by your letter last December to work together toward reform, the Administration in early April submitted a major foreign aid legislative package. It contained what we see as the essential elements for effective reform in this area; clarity of purpose, simplification of the law, accountability, and flexibility to ensure that the United States is well-positioned to respond to opportunities and challenges in a rapidly changing world.

The President underscored the importance he attached to the enactment of such legislation in his letter to you dated April 12. The vision presented in our legislation was one of strengthened cooperation between the branches of government, and a reinvigoration of the old adage that partisan politics must stop at the water's edge. It was a vision based on the need to move beyond the mistrust between the branches of government that has appeared all too frequently over the last decade, and beyond the gridlock created by the many layers of restrictions, prohibitions, burdensome reports, unnecessary reporting requirements and statutory waiting periods that have accumulated over time as a product of this mistrust. For his part, the President pledged as part of this package to work closely and cooperatively with the Congress throughout each stage of the foreign policy-making process so that Congress could fully meet its responsibilities under the Constitution.

In our view, however, the International Cooperation Act reported last week by the Committee on Foreign Affairs does not meet this challenge. While several of the provisions that the Committee has included would be helpful, there are so many new or repackaged restrictions and limitations that the bill as a whole in fact would represent far more the business-as-usual approach of the past decade than a new direction.

Thus, beyond the inclusion of provisions earmarking funds for UNFPA and overturning Mexico City policy, provisions that the President has already stated would result in a veto, the bill is laced with country specific prohibitions, restrictions, and conditionality that would also compel the President's senior advisers to recommend a veto. While some country-specific legislation may be unavoidable in a bill containing annual foreign aid authorizations of appropriations, the extent to which this occurred on a business-as-usual basis in response to a Presidential initiative for foreign aid reform is distressing. The bill contains restrictions or prohibitions on countries in every region of the world. Several provisions would restrict the Administration's flexibility on the delicate issue of Middle East peace or raise constitutional issues. New restrictions would limit our ability to use DOD personnel in certain Latin American programs. IMET for sub-Saharan Africa is conditioned. Sales to Kuwait would be subject to Presidential certification. New China provisions would be included, including objectionable provisions imposing conditions on private businessmen in China and Tibet. New reporting requirements abound.

Section 1303 of the bill, the cargo preference provision, would establish drastic new restrictions on furnishing assistance from the ESF account. It would sharply reduce the usefulness of such assistance for achieving important foreign policy objectives, and is fundamentally inconsistent with the objective of making foreign aid a more useful tool of foreign policy.

Other provisions would undermine the effectiveness of our development assistance. For instance, section 1102(g) (4) and (5) of the bill would require establishment of child survival and basic education programs in certain countries, regardless of whether there were higher priority programs that needed funding. These provisions are fundamentally inconsistent with the basic tenets of the bill—set forth by the Committee itself, in section 1202(g), that assistance "should be concentrated in countries that will make the most effective use of that assistance" and "focus on those activities which the United States can provide most effectively." They should be eliminated.

Title IV of the bill contains new requirements for a worldwide international narcotics control strategy report on every member country of the United Nations. The new requirement would blur the focus of the present INCSR, which concentrates on the most important countries and aspects of our anti-narcotics program, and require a substantial diversion of resources to prepare. To make matters worse, the new INCSR, along with new certification procedures, would be established for only a two year period, so that the new administrative procedures that the Executive branch would need to develop would outlive their usefulness almost immediately.

Section 1604 limits disaster assistance borrowing authority to a maximum of thirty percent from development assistance and the Development Fund for Africa. This mechanistic formula would substantially reduce our ability to use this authority to respond to emergencies, and should be eliminated.

We are also disappointed with the provisions in title VI on ineligible countries and projects. The Administration proposed a rational set of categories of countries for which assistance would be prohibited, subject to certain exceptions—including one based on a Presidential national interest determination. Besides retaining country-specific restrictions, like that for Pakistan, in the re-written Foreign Assistance Act, the committee's insertion during mark-up of a provision making the national interest provision subject to 15-day congressional notification procedures in many cases actually decreases Presidential flexibility beyond current law. In addition, the prohibition on assistance to exporters of lethal military equipment to countries covered by section 6(j) of the Export Administration Act should be deleted.

Several other proposals suggested by the Administration were not adopted. For instance, the committee failed to adopt the proposal, based on current section 533 of the Foreign Assistance Act for using otherwise earmarked funds to provide emergency assistance; the committee's proposed section 6109 would make clear that activities under a series of other acts are not ordinarily affected by prohibitions on foreign assistance, but the activities listed by the committee fall short of those contained in the administration bill; the broad and uncertain definition of "United States assistance" contained in section 481 has not been modified; the committee has included new language to govern the so-called Democracy Contingency Fund that could greatly limit its availability for countries undergoing rapid change (a limitation that did not appear when the committee itself proposed a similar provision in 1990); and the bill provides insufficient funding authority for the debt restructuring components of the President's Enterprise for the Americas Initiative.

Although Title II contains many positive features, section 242, regarding Middle East arms transfers, should be deleted in view of the initiative recently announced by the President. Issues of this type can only be addressed effectively through diplomatic channels, and we do not believe it is helpful to attempt to resolve such issues through legislation. We are disappointed also with several other aspects of Title II, including the committee's failure to include language like that proposed as section 203(b) of the Administration bill; the inclusion of new language such as that on peacekeeping activities and a series of new 15-day notification provisions; and the inclusion of the provision on earmarking of the FMF account, which appears tacitly to accept the new notion of continued pervasive earmarks of that account. In that regard, we are disappointed at the continued high level of earmarking in the bill, especially in the ESF and FMF accounts, and particularly with limitations on our ability to provide military aid to Turkey—an ally whose fundamental importance to Western security was underscored by its key role during the Persian Gulf crisis.

Even more fundamental, we are disappointed that the committee bill raises the thresholds on reporting certain arms transfers only to $18 million, rather than the $25 million figure requested by the Administration. The $18 million figure would not reverse the substantial decrease when adjusted for inflation that has occurred since the present $14 million figure was enacted in 1981.

Sincerely,

LAWRENCE S. EAGLEBURGER.

Mr. FASCELL. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I have listened to some of the debate on the rule because it was really general debate. It seems that the more democratized the countries get, the more challenging they are as nations. We probably should leave them Communist, and they could not find their way out of a paper bag, and the economy would collapse.

I would like to say that I probably, as much as any Member, have questioned the foreign aid policy of our country, where I think we are paying our neighbor's rent bill while they are foreclosing on our homes. I do not want to be misunderstood. I think the chairman of the committee, the gentleman from Florida [Mr. FASCELL], is probably one of the finer chairmen we have, and he has a most difficult job because he has to put up with Members like me who represent districts which are very hard hit. I want to apologize in advance for some of the things I have said, but I have never really taken any Member on personally. Without question, I am sure that this chairman has helped the world as much as he has helped our country.

I have a situation, and I will not talk about a number of amendments I have tomorrow, but I have a problem that has existed in my district for some 10 years. I had a company, a small business, by the name of Bucheit Construction Co., that built a mall in Riyadh, Saudi Arabia 10½ years ago. They did business with a Prince Mishael bin Adbu Aziz, the brother of the King. Let me tell Members what happened. This Prince ripped my small business company off, and he also ripped off nine other American companies that chose not to go after him because it is a lucrative marketplace, they feel over there. I have the names of those companies if any Member wants their names. I will not bring them out on the House floor.

Let me tell Members what happened: The Prince changed the rules in the midst of the stream. He changed Saudi law. He forced his company to do things outside of the contract. Then he did not pay them. When the Bucheit Co. objected, they took their foreman and kept him hostage until they made some of those improvements on the contract that were not even covered under the contract. Then they proceeded to keep 16 of their workers hostage, and it took our Government at the top levels to get these 15 workers released.

□ 1840

They forced him to put up a $1.3 million line of credit. Then he went into the bank and stole the money from the company, almost bankrupting them today.

Mr. Chairman, as we are here right now, all the construction equipment of the Bucheit Co. is still being held in Saudi Arabia.

Now, I do not know what anybody is doing about this. We are in the midst of trying to mitigate and negotiate this matter; but to be quite honest, this Prince said, "I'll spend $10 for every $1 that Bucheit can spend," and he is just stonewalling us.

So there is no last resort to bring a grievance on behalf of the company.

Now, I do not want to micromanage and I do not want to get us involved in the dispute of a small company; but let me say this. I agree wholeheartedly with one thing this committee has done, this chairman has done and the ranking member. They have had and developed a very responsible arms program and an arms sales agreement. I commend what they have done in this bill.

Let me say this. If Saudi Arabia is going to allow this prince to literally dump on international law and rip off American companies and nothing can be done about it in the courts, then it is the Congress that is going to have to address itself to it.

Now, I want some assurances that if this prince continues to say, "Go to hell, Bucheit," that he is not going to be able to flirt about the law.

I am looking for Congress now if necessary to hold hearings in this particular regard, and I would like to engage in a colloquy with the chairman.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I certainly am glad to yield to the gentleman from Florida.

Mr. FASCELL. Well, Mr. Chairman, the gentleman has brought this matter to the attention of not only me as chairman, but others in the Foreign Affairs Committee on this dispute between the Bucheit Construction Co. and Saudi Arabia.

As the gentleman knows, we are very interested in this problem. I would like to say this is the only one that exists around the world. It is not, unfortunately; nevertheless, it does not change the correctness of the gentleman's position that the matter ought to be resolved properly, especially after this long period of time.

The gentleman has been working very diligently to raise the level of consciousness and attention of the Saudi officials, as well as our own Government.

It is my understanding that within the past several weeks after the gentleman called this matter to our attention that a cable was sent to Riyadh and the Department of State has officially contacted the Saudi Embassy here in Washington on the matter; so I am fully supportive of the gentleman's effort and I can assure the gentleman that if this matter is not attended to in a reasonable period of time, it seems to me enough time has long expired, that the committee through the subcommittee or otherwise will continue to help the gentleman and have a hearing in order to raise the issue.

Mr. TRAFICANT. Mr. Chairman, if the gentleman will allow me to continue, I would like to engage in a further colloquy.

First of all, let me say this, that the Department of Commerce officials have met with me and said literally they treated our Department of Commerce officials like they are flies.

The CHAIRMAN pro tempore (Mr. HUBBARD). The time of the gentleman from Ohio has expired.

Mr. FASCELL. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. TRAFICANT. The Department of Commerce people will tell you right out that they more or less have treated them as if they are flies on their face and really did not give our Department of Commerce any real respect.

Mr. FASCELL. Well, if the gentleman will yield further, that is the reason we went to the State Department to raise this at a diplomatic level.

Mr. TRAFICANT. The Department of Commerce did a fine job, Mr. Chairman.

What I am asking the committee chairman is this: Failing all else, if the committee would look into this matter and if necessary because of the impact of many other companies that have experienced this type of international chicanery, if the committee will hold a hearing on this particular matter to highlight such affairs, I would appreciate it.

Mr. FASCELL. I can assure the gentleman that will be done.

Mr. TRAFICANT. I appreciate it.

Mr. Chairman, I hope this matter can be resolved peacefully, but if not, I would appreciate the gentleman's help on this matter.

Mr. FASCELL. Mr. Chairman, I reserve the balance of my time.

Mr. ROTH. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, it is with great concern that I see once again this body undertaking consideration of a foreign aid authorization bill that indulges itself in micromanagement and earmarking to the detriment of a constructive, bipartisan foreign aid policy.

The administration and many Republicans on the Foreign Affairs Committee cannot support the bill in its present form. Unless a series of changes are made in the provisions of this bill, I believe it is unlikely that it will ever be signed into law.

I am particularly concerned about changing the Mexico City policy, which the President has said is reason alone to veto the bill. Also of concern to me are some of the provisions on Pakistan, for which I will be offering amendments in an effort to correct. And as in past years, this bill contains the general problems of earmarks and micromanagement which, for the most part, reflect a liberal bias against private enterprise and private investment solutions to development problems. The liberal approach is the usual policy favoring the discredited notion that Government intervention will promote both economic growth and more equitable social development.

In reference specifically to title VII of this bill, which evolved from the recommendations of the Subcommittee on Western Hemisphere Affairs, where I serve as vice chairman, I am gratified that the final outcome of the language in this title, for the most part, reflects changes which the minority and the administration consider a great improvement over the original majority provisions.

Without the constructive leadership of the chairman of the committee and the chairman of the subcommittee, BOB TORRICELLI, and the close cooperative efforts between the administration, the Assistant Secretary of State Bernie Aronson, and the members of the subcommittee, I am certain we could not have achieved a compromise on the Western Hemisphere provisions. Of particular concern for the administration in the beginning was the subcommittee's action on Guatemala. I am pleased to note that the final language reflects both the administration's and the Congress's concern about improved human rights performance in Guatemala. The cooperation exhibited between the administration and the Congress on Guatemala is an encouraging sign that perhaps in other areas as well we can return to the days of a foreign policy that truly reflects a bipartisan consensus.

Another policy action which merits praise is the leadership's decision to postpone debate and action on U.S. aid to El Salvador. It reflects the recognition that at this time of sensitive talks between the Government of El Salvador and the FMLN armed guerrillas opposing that government that it would be imprudent to send signals which might lead to the breakdown of those negotiations. It is essential that we give the Government the chance to reach agreement on the remaining issues in dispute with the FMLN guerrillas and to support the Government's efforts to achieve a cease-fire in El Salvador, while at the same time continuing our concern on the Jesuits case.

I strongly commend the leadership of the House, particularly JOE MOAKLEY, chairman of the Rules Committee and subcommittee for their responsible action on this very important, but very sensitive issue.

Until all action is completed on this foreign aid bill, it will be difficult to know whether the administration and the majority of Republicans will be able to support this measure, or whether we end up, as in the past, without a foreign aid authorization bill. If that occurs, it should come as no surprise to anyone because until this body as a whole, and the Foreign Affairs Committee specifically, is able to develop a foreign aid policy that reflects both the needs and the concerns of the administration as well as the Congress, there will not be sufficient support to have signed into law an authorization bill like this one and like those in the past which have failed to become law.

I urge my colleagues to consider carefully those actions taken during floor consideration of this bill before deciding whether to give their support to the final product.

Mr. ROTH. Mr. Chairman, I yield 3 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me this time.

Mr. Chairman, I would like to say a few words in support of foreign aid in general, not necessarily this bill. I think all of us recognize this bill has some problems.

No one wants to spend $12 billion when we have deficits and debts and when we have needs here at home. Although Americans are compassionate and good-hearted, make no mistake about it, this money is spent in the self-interest of the United States, and I think that is something that we should remind ourselves of from time to time.

In other words, the goals of our foreign assistance are twofold: To relieve human suffering and to promote the national interests of the United States.

Of the money authorized in this bill, 36 percent of it goes to security assistance, military assistance in those areas, and in those countries in the world where it is very important to us; 27 percent of it is economic aid to countries that we support for strategic reasons, cash that helps them pay their debts. A great deal of this money goes to countries in Central and South America.

□ 1850

Twenty-seven percent of it is economic aid, and 35 percent of it goes for developmental and humanitarian aid to ameliorate poverty and misery, and about 1.5 percent of it is for narcotics control.

There are legitimate questions whether aid in certain cases actually accomplishes these objectives, and these should be debated on their merit. But the blanket statement that all foreign aid is a waste of money I believe is wrong.

I would like to mention additionally one section of the bill that I think both relieves human suffering and promotes our national interest. During the consideration of the Foreign Assistance Act, Representative SMITH of New Jersey will offer an amendment to strike section 1206 from the bill. I would urge any of my colleagues present or who are listening in their offices to vote against that amendment.

Section 1206 repeals the Mexico City policy. Section 1206 should stay in the bill and the Mexico City policy should stay repealed.

It is the international version of the gag order.

The specific language of this policy forbids money from going to organizations for family planning that promote, and this is a quote, "that promote abortion as a method of family planning."

The language is clever and subject to interpretation. It has been interpreted by the Reagan and Bush administrations as meaning that no U.S. money can go to any organization that even mentions abortion as an alternative, even if that abortion is performed with private money or money from other sources.

If you look up the word "promote" in the dictionary, you will see that it means advocate or urge the adoption of. No family planning organization in the world advocates the use of abortion as family planning. They advocate contraception just as we do in the U.S. Congress.

The international gag order, the Mexico City policy, I think, has served only one purpose, and that is to destroy our efforts at trying to provide effective family planning. I do not see the Mexico City policy as being a debate about abortion. I see it as being a debate about family planning.

I do not discuss abortion, nor debate abortion on this floor. I feel that is a very personal decision that Members in this body make. I will debate family planning all day.

The world needs it, and section 1206 should stay in the bill.

Mr. ROTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had a good deal of discussion here on this particular piece of legislation and why it is important, why people are for it. I would like to analyze the legislation for a bit to tell you where I come from.

I am opposed to this legislation. This legislation is not some small bill. This is $25 billion. And $25 billion, as I see it, is lot of money.

Many people say, most people say, that we have to have foreign aid. Well, I think we live in a new world. We have to think anew and we have to act anew. We are facing in our own country this year over $300 billion in deficits. I ask you is it fair to our children, is it fair to the future of this country to take money and to pour it overseas?

Now, some people say it is hard to vote for foreign aid. Don't you believe it. The easiest vote we can cast in this House is foreign aid.

There are 900 registered lobbyists for foreign aid right here in Washington, DC.

We have to look at the future, where we want to take this country.

You know, yesterday New York City did not have enough money to pay for a victory parade for our own soldiers. But we are going to sent $25 billion overseas.

The day before yesterday we were told that Bridgeport, CT, the largest city in Connecticut, is going bankrupt or has gone bankrupt. But we are spending $25 billion overseas.

We are cutting back on our senior citizens, Medicare, on roads, cutting back on education. But we are increasing the foreign aid budget. That does not make a lot of sense to me. You know, sometimes the countries that we give the most money to are the most difficult with which to deal.

Benjamin Franklin said if you want to make a man your enemy, loan him money. I think that is what happens with countries, many times.

Now, we have to analyze this bill. We have, for example, $87 million in this bill so that we can go all over the world, not in the United States but all over the world, and drop $300 to $500 to everyone who runs a fruit stand or to someone to start a small business, $300 to $500 all over the world, whether it is Brazil, Chile, wherever it may be.

I ask is this fair to our people?

You know, we put so much money into foreign aid that they cannot spend it fast enough. We have what is called a pipeline. We push millions and billions of dollars through that for the last 10 years, we now have a backup in our pipeline of $8.8 billion.

We have run huge deficits, but tomorrow we are going to spend another $25 billion, sending it overseas. Is this fair to the United States of America? Is this fair to our people? I do not think so.

I know it is not popular to speak out against foreign aid, but we have to do it, in my opinion, if we are going to be fair with our taxpayers and with our people.

I think it is about time we take care of our own people and our own problems for a change.

I ask you to read the fineprint, not just to look at the legislation and say, "It is foreign aid, I am going to vote for it."

Read the fineprint and see where this money is going. Then ask yourselves in good conscience, "Can I vote for this legislation?" I think you will come to the conclusion that I have come to: "No, I cannot vote for this legislation in good conscience and do the right for my country."

Mr. GOODLING. Mr. Chairman, after serving on the Budget Committee for 6 years, I returned to the Foreign Affairs Committee in the 102d Congress. While I was away concentrating on budget authority, baselines, outlays, and sequesters, the world around us changed dramatically. When I came back to the committee, I found earmarks, restrictions, policy directives, and micromanagement of specific foreign assistance programs pretty much the same as when I left. Quite frankly, this is disappointing.

I am not referring to the able leadership of Chairman FASCELL or the work of my ranking member, Mr. BROOMFIELD, however. They should both be commended for their efforts in bringing this authorization bill to the floor and for working year after year, under what can best be described as difficult circumstances, to improve the way the committee deals with foreign aid.

After my time away from the Foreign Affairs Committee, I had hoped to return to find an improved method for disbursing U.S. foreign assistance. A sincere effort was made 2 years ago to craft a bill which reflected the changing nature of international affairs and incorporated many of the recommendations of the Hamilton/Gilman task force. As we all know, this legislation never became law, the appropriators assumed responsibility, and the Foreign Affairs Committee was left to start again this year.

In April, the President submitted his International Cooperation Act of 1991. This was another attempt to give the administration more flexibility in spending foreign assistance dollars and to reflect new priorities for U.S. assistance. During its deliberations in May, the committee did incorporate some of the President's organizational reforms, but little progress was made in liberating the bill from the usual web of earmarks, restrictions, and policy pronouncements which limit the administration's ability to effectively manage U.S. foreign aid programs. As we will hear more than once today, 68 percent of the authorizations in H.R. 2058 are earmarked, and specific congressional policy directives are too numerous to count.

I must say that I have to agree with the administration's view of the bill, as it is currently written. I share the frustration of many of my colleagues with congressional micromanagement of foreign aid programs, but also feel that progress can be made, if not this year, then at some point in the near future. We are slowly moving in the right direction, but world events have unfolded with much greater speed. The world in 1991 is not what it was in 1989, and bears no resemblance to 1961, the year the current foreign aid law was written.

We all know that foreign aid does not enjoy the political or popular support of other Government programs. This is why it is so important that these funds be spent as effectively as possible. As long as Congress insists on dictating how the majority of foreign aid dollars will be spent, the President's ability to formulate and implement foreign policy will suffer, and with it, our nation's ability to maintain its position of world leadership. I hope that the committee will see the light and act to substantially reform the system so that both the Foreign Affairs Committee, and Congress as a whole, can play a constructive and complementary role in assisting the President in the conduct of our Nation's foreign policy.

Mr. TORRICELLI. Mr. Chairman, I rise in support of H.R. 2508, the International Cooperation Act of 1991.

This bill reflects the Foreign Affairs Committee's rewrite of the Foreign Assistance Act of 1961. As such, it would make a significant contribution to making sense of our foreign aid programs and getting them back to their original purpose of fostering development. I urge my colleagues to support this foreign assistance reform package. It would give us far more bang for the buck.

Mr. Chairman, in January my colleagues on the committee did me the honor of electing me chairman of the Subcommittee on Western Hemisphere Affairs. This bill contains several provisions of importance to our region, on which I have had the pleasure of working with the distinguished ranking member of the subcommittee, Mr. LAGOMARSINO. These provisions include:

The Caribbean Regional Development Act, which would reorient our development policy in the Caribbean on the basis of extensive consultations with the governments and people of the region;

Legislation to authorize the President's Enterprise for the Americas Initiative as it relates to the reduction of foreign assistance debts;

A prohibition on foreign military financing assistance for Guatemala, and a provision that ESF for Guatemala cannot be used for balance-of-payments support unless the President reports that the Government of Guatemala has made progress in eliminating human rights violations and bringing to trial those responsible for such violations;

The authorization of funds necessary to help Central America deal with some 800,000 refugees and displaced persons that were created by the conflicts and troubles of the past decade;

A statement of support for the newly democratic Government of Haiti;

Withholding of $1,000,000 in ESF for the Dominican Republic until the Government of that country takes steps to improve the situation of Haitian sugar cane harvesters, who now work in virtual slavery in the Dominican Republic;

Withholding of assistance for the Government of Guyana unless that country holds free and fair elections;

Reauthorization of our assistance programs for reducing narcotics production and trafficking in the Andes;

Authorization of law enforcement assistance programs for Latin America and the Caribbean, and the careful limitation of these programs to ensure that they respect and promote human rights; and

Funding for the Inter-American Foundation, and amendments to the foundation's charter to ensure its continued independence and nonpartisanship.

Mr. Chairman, these are some of the significant provisions in this bill that pertain to our own hemisphere. I believe they are important for the foreign policy of this country and for our relations with our neighbors in this region, and are worthy of the support of the House.

I appreciate the cooperation of our chairman, Mr. FASCELL, my colleague, Mr. LAGOMARSINO, and all the members of the subcommittee in enabling us to bring these provisions to the floor. I ask my colleagues to support the bill.

I would also like to address two other provisions of H.R. 2508. One is extremely important to the economic health of the United States, and the other is crucial to the physical health of women throughout the developing world and the environmental health of our planet.

H.R. 2508 contains the Torricelli amendment on cash transfer reform. This amendment would ensure that foreign recipients of U.S. cash aid purchase American goods, products and agricultural commodities, and transport a portion of those purchases on American flagged vessels. Presently, recipients of U.S. cash aid have no obligation to buy and ship American, but are free to spend all their U.S. cash aid on foreign products. This creates a situation in which U.S. cash aid, provided by American taxpayers, can be used to subsidize foreign jobs and to purchase foreign products. In light of our own economic problems and our enormous foreign trade deficit, it is only common sense to ensure that we receive some payback for our generosity to foreign nations.

H.R. 2508 also contains provisions to reverse the Mexico City policy, which states that AID cannot provide funds to nongovernmental organizations in foreign countries that provide information about abortion, and it provides $20 million to the United Nations population fund contingent on a requirement that none of those funds go to China. Both of those provisions would drastically improve family planning in the developing world and contribute to the effort to curb the growing environmental threat posed by escalating world population growth.

The Mexico City policy, like the administration's gag rule on title X funding for domestic family planning agencies, has not and will not lead to any reduction in the incidence of abortion. Instead, it simply hampers the efforts of women in developing countries to get adequate family planning advice and assistance. The same holds true for the refusal of the Bush administration to contribute funds to the UNFPA, which is the world's largest multilateral provider of population and voluntary family planning aid. UNFPA does not support abortion anywhere in the world, and it even modified its China program in 1990 to clarify that its activities there have nothing to do with abortion. By withholding funds from UNFPA, the United States only succeeds in impeding the effectiveness of a vital dispenser of population and voluntary family planning aid.

Mr. MATSUI. Mr. Chairman, I rise today in support of the proposed $350 million in military aid for Greece. Greece has been a recipient of United States foreign assistance since 1947, when the Truman administration began a postwar recovery program focused on containing communism throughout the region. Although the threat of communism has been diminished with the ending of the cold war, we remain committed to the philosophy of maintaining the present balance of military strength among countries of the region, including Greece.

The Committee's recommendation for military aid funding to Greece and Turkey also sustains the long-established funding ratio between these two countries. I believe maintenance of this ratio is important to the continued improvement of relations between Greece and the United States. In the summer of 1990, Greece elected to power the New Democracy government led by Constantine Mitsotakis. Prime Minister Mitsotakis has made a determined effort to improve relations with the United States. In order to continue improved relations between the United States and Greece we must maintain a consistent attitude toward the countries of the region.

Again, I commend the committee's military funding recommendations for Greece and I urge my colleagues' continued support for our ally in the Eastern Mediterranean.

Mr. ROTH. Mr. Chairman, I yield back the balance of my time.

Mr. OWENS of Utah. Mr. Chairman, we have no further speakers on this side, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. HUBBARD). All time for general debate has expired.

Mr. OWENS of Utah. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose, and the Speaker pro tempore [Mr. HATCHER] having assumed the chair, Mr. HUBBARD, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. DAVIS. Mr. Speaker, unfortunately I was unable to be present in the House of Representatives during votes on H.R. 2508, Authorizing Foreign Assistance and Related Programs. I wish to note for the RECORD that my absence was unavoidable as I had to be in my district for a tour of Wursmith Air Force Base with the chairman of the Defense Base Closure and Realignment Commission. This is a crucial matter to my constituents.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas or nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken on Wednesday, June 12, 1991.

EXTENDING AN INVITATION TO THE INTERNATIONAL OLYMPIC COMMITTEE TO HOLD THE 1998 WINTER OLYMPIC GAMES IN SALT LAKE CITY, UT

Mr. OWENS of Utah. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 142) extending an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, UT, and pledging the cooperation and support of the Congress of the United States, as amended.

The Clerk read as follows:

H. CON. RES. 142

Extending an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, Utah, and pledging the cooperation and support of the Congress of the United States.

Whereas the International Olympic Committee will meet on June 15, 1991, at Birmingham, England, to consider the selection of a site for the 1998 winter Olympic games;

Whereas Salt Lake City, Utah, has been selected by the United States Olympic Committee as the United States candidate for the 1998 winter Olympic games;

Whereas it is the consensus of the Members of Congress of the United States that the designation by the International Olympic Committee of Salt Lake City, Utah, as the site of the 1998 winter Olympic games would be a great honor for all the people of the United States; and

Whereas the people of Utah, who symbolize the heart of America's pioneer spirit, and who have for a number of years fully supported the effort to bring the winter Olympic games to the United States, have fashioned their Olympic bid with the goal of establishing the world's finest winter sports center based upon Olympic ideals: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the International Olympic Committee be advised that the Congress of the United States would welcome the holding of the 1998 winter Olympic games in Salt Lake City, Utah, the site so designated by the United States Olympic Committee; and be it further

Resolved, That the Congress of the United States expresses the sincere hope that Salt Lake City, Utah, will be selected as the site for the 1998 winter Olympic games, and pledges its cooperation and support of their successful fulfillment in the highest sense of the Olympic tradition.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. OWENS].

□ 1900

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1989 the U.S. Olympic Committee gave Salt Lake City in my home State of Utah the honor of being this Nation's candidate to host the 1998 Winter Olympic games. Since that selection was announced to the International Olympic Committee hundreds of dedicated Utahns who have worked literally night and day to show that Salt Lake City, to paraphrase Brigham Young, is the place for those games.

Foremost among the goals of the Salt Lake Olympic Bid Committee has been the advancement of the Olympic ideal. Inspired by this ideal, an athlete can prepare a lifetime for an opportunity to compete in the Olympics. If they make the grade, these Olympic competitors come from around the world to put aside differences in politics and culture and compete in something which is as old as one of the foundations of our civilization and could be considered the original field of dreams. Thus, every effort is made to ensure that the site for these games is the finest available. Salt Lake City is indeed the place.

The United States along with the world community recognizes this ideal and embraces it, watching its athletes, celebrating their skills, and sharing their hopes. The site for the games, then, becomes the focus of the world and Salt Lake City is enthusiastic about this opportunity to show an example of the excellence our Nation has to offer.

This concurrent resolution, which I introduced along with my colleagues from Utah, expresses the sense of Congress that the International Olympic Committee should select Salt Lake City as the site for the 1998 Winter Olympic Games. It pledges congressional support and cooperation for Salt Lake City's stated pledge of fulfillment of the Olympic tradition. This message is timely because the IOC is meeting this coming Saturday June 15 to make its selection for the 1998 games.

In the months leading up to this Saturday's momentous decision, a strong majority of the members of the IOC have visited Salt Lake City and seen the commitment of the people of Utah to the Olympic ideal. They have seen this commitment in the form of facilities under construction but most importantly heard from Utahns themselves of their great desire to proudly represent the United States.

Mr. Speaker, Salt Lake City says the world is welcome here. This is not only in keeping with the Olympic tradition it is the American tradition as well.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a pleasure to join with my colleagues, the gentleman from Utah [Mr. OWENS] and the gentleman from Utah [Mr. ORTON], and I appreciate the opportunity to speak about America's choice for the 1998 winter Olympic games. The hidden beauty of Utah has been discovered. The secret is out that Utah offers the finest winter sports experience in the world.

Utah stands ready to host the 1998 winter Olympics with the available facilities and the greatest snow on Earth. Salt Lake City continues a dedicated commitment to becoming the premiere winter sports capital of the world.

Utah boasts facilities second to none. Salt Lake City presently has 1,500 more hotel rooms than Calgary, Canada, and the transportation infrastructure needed to efficiently transport millions of visitors.

You can fly into Salt Lake International Airport, and be on the slopes within 30 to 40 minutes. As one of Delta Airline's principle hubs, flights to Salt Lake are numerous and frequent. All the planned Olympic facilities are no more than 1 hour drive from the airport. With 15 resorts statewide and a climate that promotes the lightest powder in the world, the U.S. Olympic Committee has made the correct choice in making Salt Lake City "America's choice."

In May, Juan Antonio Samaranch, the President of the International Olympic Committee, visited the Salt Lake area.

During his visit he was treated to a very sizable storm that dumped more than a foot of famous Utah snow on the mountains. The snow provided the hosts the ability to show off our world class facilities and the greatest snow on Earth. His reaction to Utah was extremely positive.

What Mr. Samaranch was treated to was rugged glacier cut peaks, open bowls and spectacular resort facilities that provide for an incredible winter sports experience.

In addition to the winter sports facilities, Utah contains some of the world's most beautiful scenery. The Wasatch and high plateau ranges of the Rocky Mountains span the heart of the State for 300 miles from north to south. To the east lie the Uinta Range, Utah's most rugged and highest mountains. To the southeast is the Colorado plateau with its famed Red Rock Country. In the center of the State, the Rocky Mountains border Utah's major communities and rural areas that skirt remote mountain ranges. Covering a large portion of the State are the Great Salt Lake and the Bonneville Salt Flats.

The State's scenic wonders are readily accessible by way of an excellent transportation infrastructure. Utah has been discovered and is committed to being the winter sports capital of the world. On behalf of the citizens of the State of Utah I would like to extend an invitation to the world and the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, UT.

Mr. OWENS of Utah. Mr. Speaker, I yield 3 minutes to my colleague from the Third District, the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I, too, commend the chairman and the committee for their support of this resolution. In my district, in Park City, UT, we are extremely proud to be the home of the U.S. ski team. It is with great pride that I rise in support of this resolution to invite the 1998 Winter Olympics to the State of Utah.

Mr. Speaker, I am particularly proud because I know that Utah can provide the world with the best Winter Olympics in the history of the games. As we consider this resolution, Governor Bangerter, Mayor DePaulis, and the Utah Olympic Committee are in Birmingham, England, to present America's bid before the International Olympic Committee.

Mr. Speaker, as my friend and colleague, Mayor DePaulis, recently noted, there are three major reasons why Utah is America's, and hopefully the world's choice for 1998. First, the locations of the events are very close to each other and will provide exceptional convenience for both athletes and spectators; second, the proximity of the Olympic venues to Salt Lake City and other communities along the Wasatch Front will guarantee a wide range of high quality, convenient visitors services; and third the training and support facilities for the athletes are unsurpassed.

Mr. Speaker, Utah's superb snow and exceptional skiing and winter facilities are internationally famous. After the 1998 Olympics, Utah will also be famous for its unique brand of Western hospitality. Utah stands ready to welcome the world to the greatest snow on Earth.

Mr. Speaker, this Friday night Utah and Salt Lake City will beam a beacon to Birmingham to show our support for the Olympics by turning on all of the lights in the city.

As my colleagues know, recently it was reported that our Governor heard a voice which spoke to him: "If you build it, they will come."

Let the message go forth from Utah that we have built the greatest winter facilities in the world and we are anxiously awaiting the Olympics' arrival.

Mr. OWENS of Utah. Mr. Speaker, I yield 5 minutes to our distinguished olympian colleague, the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today in strong support of the resolution before the House. As a former olympian 1972 men's basketball team—I understand the keen importance of amateur athletics, and am pleased that the House is taking up this issue today.

This upcoming Saturday, in Birmingham, England, the 90-member International Olympic Committee [IOC] will meet to select the host city for the 1998 winter games. Of the five sites under consideration, it is clear that Salt Lake City, UT is not just a prime candidate, but is also the best possible site for the winter games.

In terms of facilities, Salt Lake has a clear advantage. The area already has the needed infrastructure, support facilities and access which would have to be built at some of the other sites. These facilities are a necessity in accommodating the activities and large numbers of people which the modern Olympics entail. By not demanding the kind of building which absorbs such a large part of Olympic expenditures, such resources can be channeled to where they should be going: our athletes.

□ 1910

This last point has always been of grave concern to me. In the 1988 games, Americans put upward of $650 million into the games—paid out by the United States television networks—very little of which ever made it back to the U.S. athletes. According to a recent Brookings Institution report, America pays almost twice as much as all other countries combined in television rights. Furthermore, of those funds, roughly half goes to the city's organizing committee, with 10 percent or less coming back to the U.S. Olympic Committee. All the while, American athletes remain starved for funding and facilities. The only way to get a fair deal out of this situation is if the games are held in the United States, and that is why I hope that they will be held in Salt Lake City.

There are clearly structural problems with the way in which the receipts from television rights are handled. It is my hope that we will look into this matter at a later date to ensure that the massive funding for the Olympics does end up with the athletes and not with new Olympic building projects around the world every few years.

In closing, I would merely like to reiterate my support for Salt Lake's bid for the 1998 winter games. The Salt Lake metropolitan area is a prime location, and all the aforementioned factors should make the area particularly attractive to the IOC. I would also like to commend the Salt Lake City organizing committee on its fine efforts to date, and to stress my strong support for this resolution.

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express appreciation to my friend, the gentleman from Maryland [Mr. MCMILLEN], who is himself a former Olympian, for his strong endorsement and support. With that support, we hope to win tonight and on Saturday.

Mr. YATRON. Mr. Speaker, I want to commend Mr. OWENS of Utah for introducing House Concurrent Resolution 142.

Salt Lake City, UT, is the only American city which has been selected as a candidate for the 1998 Winter Olympic Games. The decision will be made by the International Olympic Committee on June 15, 1991.

In addition to being the only American city selected as a candidate, Salt Lake City also enjoys excellent facilities for hosting this type of event and should have our full support and cooperation in achieving this celebrated goal.

The people of Utah exemplify the spirit of America's frontier and have supported bringing the Olympic games to the United States for many years. This resolution sends a strong signal to the International Olympic Committee backing Salt Lake City.

Mr. Speaker, I urge my colleagues to support this resolution and ask that without objection a statement be included in the RECORD.

Mr. OWENS of Utah. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HATCHER). The question is on the motion offered by the gentleman from Utah [Mr. OWENS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 142, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

A TRIBUTE TO DR. CARROLL HUBBARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a wonderful man who died 10 years ago today.

Yes, it was June 11, 1981, that my father, Dr. Carroll Hubbard, died at Baptist East Hospital in Louisville, KY, of a heart attack suffered days earlier.

He had reached his 70th birthday on May 28, just 15 days prior to his death.

My father was a Baptist minister in Kentucky and Tennessee for 51 years and served on the staff at Southern Baptist Theological Seminary in Louisville and as a professor at Boyce Bible College, also in Louisville.

In 1974 when I did what many Kentuckians assumed impossible—defeating a 16-year incumbent Congressman in the Democratic Party primary—those who know Kentucky politics realize my father's good name and his being a highly regarded minister were significant to my victory.

My father was born in Providence, Webster County, KY, raised in nearby Shady Grove in Crittenden County, KY, and was pastor of Baptist churches in Livingston, Marshall, Calloway, and Ohio Counties. The six counties I've just named are all in the congressional district I represent. I carried five of those counties in 1974 in upsetting the 16-year incumbent Congressman in the May 28 Democratic primary. In fact, on that day, May 28, 1974, it was my father's 63d birthday.

My mother, Beth Shelton Hubbard, who was born and raised in Milburn, Carlisle County, KY, another county in the congressional district I represent—a county which I carried by a 2-to 1-margin in 1974—and my brother Kyle, a well-known attorney and former judge in Louisville, join other members of my family and me in remembering on this day Dr. Carroll Hubbard, a man whose life influenced thousands of people.

Why this speech today? I mention again that Dr. Carroll Hubbard, whose good name was very significant in my being elected to the U.S. House of Representatives, died 10 years ago today.

□ 1920

THE MILK SUPPLY MANAGEMENT ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. KOPETSKI] is recognized for 5 minutes.

Mr. KOPETSKI. Mr. Speaker, there is a crisis in this country's dairy industry. For years, the combination of current policy and market forces encouraged dairy farmers to produce an oversupply of milk at reduced quality. Milk production has gone up steeply while consumer demand has increased only slightly. The results are milk prices that are at the level they were in 1978 and many dairy farmers who are threatened with going out of business. Mr. Speaker, there is not a business in America that could continue to survive such a difficult situation.

Many in the industry have attempted to solve this problem by asking the administration to develop a supply management system. For example, 5 years ago Oregon dairy farmers asked for the establishment of a base management system. No one listened.

Mr. Speaker, to resolve this acute situation, I am introducing H.R. 2609, the Milk Supply Management Act of 1991. This bill is designed to provide relief from unprecedented levels of price and income instability for the Nation's dairy farmers. The bill addresses this issue by introducing a two-tier milk supply management program.

The bill also mandates an increase in the solids content of milk and milk products. This will increase the nutritional value in milk which I believe is greatly needed for our children in this country. In addition, the bill provides for the enhancement of domestic consumption of milk and milk products.

Finally, the bill will make a temporary adjustment to the class 1 price. This is an emergency measure which will help provide a transition from current policy to a sensible, two-tier milk supply management system. At this point, without objection, I enter into the RECORD a section-by-section description of the bill.

SECTION-BY-SECTION DESCRIPTION OF THE MILK SUPPLY MANAGEMENT ACT

SECTION 1. SHORT TITLE

Milk Supply Management Act of 1991.

SECTION 2. MILK SUPPLY MANAGEMENT PROGRAM

This section would amend the Agricultural Act of 1949 (as amended by the 1990 Farm Bill) by requiring the Secretary of Agriculture to: 1) adjust the support price for farm milk in the beginning of each year (for 1992 through 1995) to reflect changes in milk producers' cost of production. As in current law, the support price would not be allowed to fall below the current level of $10.10 per hundredweight (cwt). 2) implement a two-tier supply management program to be triggered whenever estimated Government purchases of surplus dairy products would be expected to exceed 5 billion pounds (milk equivalent, total solids basis).

Determining Milk Marketing Bases: In any year that the supply management program is triggered, the Secretary would be required to notify producers of their milk marketing base before January of that year (1992 through 1995). An individual producer's base is equivalent to the milk marketing history of the producer multiplied by an allocation factor.

Milk Marketing History: defined as 99 percent of the quantity of milk marketed by the producer in 1990 plus any milk marketing history transferred to the producer from another producer or from the ASCS county committee. A producer can transfer a marketing base only to a producer without a marketing base, or to a family member.

Allocation Factor: defined as the sum of the estimated U.S. domestic and export demand for milk for the upcoming year plus a reserve of 5 billion pounds, all divided by total milk marketing histories. The allocation factor would be determined by the Secretary in consultation with an advisory board of milk producers.

Assigning Bases: A portion of producer bases would be set aside each year to ASCS county committees. This would be the sum of; 1) a prorata share of the product of the allocation factor and one percent of aggregate histories, and 2) the unused portion of any producer base that is not assigned by the producer to a family member or new producer.

The county committee would have ownership rights to these set-aside bases and would bear responsibility for assigning them in the following order of priority:

Family members of current producers;

New milk producers in the county;

Existing producers who use sound farming practices and need the additional production to earn at least the average net farm income for milk producers in the State;

Existing producers who need additional production to allow a family member to form or join a partnership;

Minority producers; and

Any agricultural producer in the county, State, or in the United States in that order.

At least 30 percent of the available base in each county must be assigned to beginning milk producers in the county. Under no condition may a base assigned to a nonfarm corporation or investor.

Two-Tier Price Support: Whenever a supply management program is in effect, a milk producer would receive the current market price for all milk marketed up to the producer's individual base. The producer would receive a lower price (the world market price as determined by the Secretary, less $1.00), for any quantity of milk marketed by the producer in excess of base. Any reduction in price would be collected and remitted to the USDA Commodity Credit Corporation, as prescribed by the Secretary. The secretary may impose a civil fine of up to $10,000 on any one who fails to comply.

Before January 1, 1996, the Secretary must submit a report to Congress analyzing the economic effects of this supply management program, including the effects on milk producer income, and recommendations on whether the program should be continued.

SECTION 3. ADJUSTMENT TO CLASS I PRICE

This section would provide a temporary increase in the minimum price paid by regulated handlers under Federal milk marketing orders for farm milk used for fluid consumption (Class I milk). The basic formula price used for computing minimum fluid-use prices under Federal orders would be no less than the basic formula price for the month of August 1990 (ie., $13.09 per cwt.). This provision would begin on the first day of the first month after enactment and end on December 31, 1991.

SECTION 4. SOLIDS CONTENT OF BEVERAGE MILK

This section would mandate an increase in the national, minimum nonfat solids standards for all fluid milk. Minimum nonfat solids content for all milk would be increased from 8.25 percent to 8.70 percent, except that lowfat milk and skim milk would have to contain minimum nonfat solids of 10 percent and 9 percent respectively.

SECTION 5. ENHANCEMENT OF DOMESTIC CONSUMPTION OF MILK AND PRODUCTS OF MILK

The Secretary would be required to establish a research program to investigate the health and nutritional benefits of milk and milk products and submit a report to Congress within one year of enactment describing new ways to increase the consumption of dairy products.

Mr. Speaker, my State has a lot of dairy farmers who produce a valuable product for this Nation. As a little boy I remember fondly going to work with my dad the very first time. He had an interesting job. He was the fellow that drove around to the farms in his milk truck and picked up the milk and took it to the local dairy. There are a lot of those kinds of small farms and dairies that dot the American landscape, and they are no different from what we had in Oregon. It was a very pastoral setting. The family farm was alive and well in rural Oregon.

I recall my dad talking politics, talking government to these farmers. It was probably my early introduction to government and the farm.

Today, as a new Member of Congress, this is my first bill that I have introduced. It seems to me I have come full circle. Again we are talking about dairy farmers and government.

I recognize as I have grown up and worked with so many farmers in Oregon, as a State legislator, and now as a Member of Congress, the hard work and dedication of dairy farmers in producing a quality agricultural product. Many of these dairy farmers are my friends. I have come to know them as honest, hardworking, family-oriented Americans.

Mr. Speaker, times are tough for them. I am here to help. The dairy business is a market sensitive business. One devastating year can destroy a 100-year-old farm. On the other hand, a lot of capital is required to start a dairy operation.

Mr. Speaker, we must recognize that if we want quality dairy products, if we want the family farm tradition to continue in America, we must continue and ensure the economic viability of this great industry.

Mr. Speaker, I encourage Members to support this Milk Supply Management Program, and address this critical situation as soon as possible.

A COMMEMORATION OF BALTIC STATES FREEDOM DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this week marks the 51st year of the Soviet Union's illegal occupation of Lithuania, Latvia, and Estonia. Today, the people of these Baltic countries are knocking at the door of freedom. The time has come for the Soviet leadership of Mikhail Gorbachev to unlock that door.

In light of these concerns, I urge President Bush to link all future agreements between the United States and the Soviet Union with independence for the freedom-loving people of the Baltic countries.

Specifically, that means significant moves toward Baltic autonomy must accompany any talk of American aid for the Soviets. To encourage this process, I urge Presidents Bush and Gorbachev to make Baltic independence a focal point for all future diplomatic contacts, including the summit meeting that may be held later this summer.

Progress on the question of Baltic autonomy is critical because the people of the Baltic countries—including their sizable Russian minorities—have made their feelings clear on independence through referendum votes taken earlier this year. Mr. Gorbachev should respond by withdrawing the Soviet forces that have occupied the region since June 1940.

This time for a Soviet pullout is long overdue, especially in light of the fact that the Baltic peoples have made tremendous strides toward democracy over the past 2 years, including their first free elections in half a century. Regrettably, the dream of the Baltic peoples to regain their freedom has recently fallen victim to reactionary elements in the Soviet regime.

Mr. Gorbachev has paid lip service to the aspirations of the Baltic peoples, but he has provided only empty rhetoric on the crucial question of autonomy. Meanwhile, Mr. Gorbachev looked the other way when Soviet troops ruthlessly attacked hundreds of innocent protesters in Lithuania during the "Bloody Sunday" protests of January 13. At least 14 people died during that incident and scores more were injured. Similarly in Latvia, Mr. Gorbachev betrayed the spirit of his Nobel Peace Prize by allowing Soviet troops to attack the Latvian Interior Ministry on January 20. Four people were killed during that onslaught and at least nine more were injured.

Now Mr. Gorbachev is talking of reform again and seeking financial help from the United States. But at the same time, Soviet forces are continuing to harass the Baltic peoples through bombings, seizures of public buildings, attacks on citizens and the stationing of tens of thousands of troops throughout the region.

If Mr. Gorbachev cannot—or will not—exert control over these forces that are wreaking havoc on the Baltic peoples, then he is not a leader with whom the United States can count on to advance world peace. Therefore, the American people should accept nothing less than an unconditional recognition of Baltic independence as a key to improved relations between our two countries.

HARD LESSONS YET TO BE LEARNED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, last month, this Congress was treated to a display of Japanese HDTV in the lobby of the Rayburn House Office Building. HDTV is the high definition display of the future and whatever nation gets access to the American market will have a potential demand for product—not only as an entertainment medium—but for display technology in demand by the medical field, the Defense Department, even work station displays for high performance commercial computers. HDTV will represent a $25 to $30 billion market by the year 2000.

In this government's cavalier attitude toward who will control this whole new market, a great deal of ignorance is being displayed as to the value to a country of having thousands and thousands of engineers constructively employed in hands-on experience, building layers of knowledge every year from which evolve future generations of technology. The Japanese quickly are moving to take over HDTV while United States business is scrambling to meet the challenge.

Helping American business against their foreign competition quickly is labeled "protectionist" but I believe that Japan, of all the nations in the world, would be appreciative of a strong stand for one's country. Japan understands better than any nation in the world the necessity of conserving one's natural resources including the human resources of its generations of skilled workers.

We are losing this wealth of natural and human resources in America with the loss of our domestic market share in all too many categories of products. That is why the final producer of HDTV is so important. Not only will great wealth be created by that nation, and jobs, but critical jobs skills will be retained.

For this reason, primarily, I was offended by the display from Japan in an office building of the United States Capitol. Many people are unaware of the incredible politiking and lobbying that has been going on in this city for the last few years—Japan seeking the inside track to our market for its technology—to secure its microelectronics future in feeding generations of skilled engineers.

The standards for HDTV's entry into our media market is controlled by the Federal Communications Commission. At this point, among contestants—Japan's entry which is analog based seems to be being outstripped by the digital-based American offerings.

But the basic question, I predict, ultimately will be which nation will have the capacity to produce the numbers of units needed. Since it is an expensive technology, at this stage of the game, the cost of gearing up also will be a major factor.

And the longer we take to come on line, the more time the Japanese will have to fall back, regroup, and produce an analog-based competitor.

The aggressiveness of the Japanese in bringing their product onto Capitol Hill—even though it is old technology—grates on me when you consider the treatment of some American rice farmers when they tried to display a 10-pound bag of rice at a trade fair in Japan. They not only were thrown out, at one point they were threatened with being arrested.

Hand it to the Japanese—the HDTV display was a propaganda coup—presenting an image to the Congress of being so far ahead of us, by showing a completed product—than why would we even try to compete?

We seem to be slow catching on not only to playing every angle in securing or protecting a market, but in accepting the Japanese way for treatment of our products in Japan, all the while extending the American way to them in this country.

These market wars have much greater impact than just what name brands will be in our living rooms. Much of the microelectronics involved in production of HDTV is dual-use technology—

used both by the military and the consumer markets. In a few instances during the Desert Storm operation, contractors in this country were unable to obtain integrated circuits from Japanese producers for our defense products because the demands of Japan's domestic market were too great.

As impressive as the performance of our weaponry in the recent Middle Eastern war was, it is sobering to realize that our state-of-the-art missile technology is 20 years old and some component parts are captive of foreign nations for supply and resupply.

Not only have we lost critical capabilities in microelectronic technology, but many of the mature generation of electronics engineers to whom we must look for the evolution into the next generation of weaponry now are retired or are being laid off due to recent cutbacks in the military budget.

It is the loss of this infrastructure which must begin to be of concern to the Nation. It is this skills' infrastructure which a full blown commitment to the development of HDTV could retain.

There is no doubt that there will be future generations of weaponry, the question then becomes—if my concern over our capabilities is anywhere close to correct—who will manufacture them?

The Chinese have shown no reluctance to sell major weapons systems into the Middle East without regard to the responsibility of discerning their impact in that volatile region.

But, once again, it is old technology—older than ours, I understand, so I do not look to China to be developing advanced generations. The European Community has an enormous capability and has had great luck in selling weapons all over the world, so it is possible that the race for future weapons will be led by a cooperative venture between the United States and the European Community to come up with superweapons.

Already the next generation of development in the Patriot missile is being shared with the Germans. It is shocking to me that we are so willing to give away the crown jewels, but I intend to do all in my power to see that the United States remains at the leading edge of technology by working to regain some of our lost preeminence in the field of microelectronics.

There may be underground efforts to create monstrous weapons as was reported to exist in Iraq, but I am unaware of any particular nations involved in concerted efforts to leap ahead of the giants.

As you are all probably aware, the major breakthroughs will probably be in the microelectronics field, so, in truth, the country which controls the next generation of integrated circuits, not only will control domestic markets, but the weapons markets, as well.

The search certainly must be on for the superchip.

In all of our concerns over retaining technology, certainly microelectronics has to lead the list. It is incumbent for this Nation to realize that without controlling the capability to develop future technologies, we cannot control the development of weapons or their dispersal.

Control must be the primary defensive strategy in the future since we have seen the threat not only to the targeted country, but as we saw in the burning of the oil wells in Kuwait, whole sections of other nations suffer ecological fall outs from something as primitive as setting oil wells on fire. It is horrible to think of the impact in that crowded land mass had Saddam Hussein truly been capable of fielding biological or chemical weapons.

The United States' answer to that threat—almost a half million in personnel over a 6-months period with all the weaponry necessary—will wind up costing us $25 to $30 billion after all the contributions are settled and is becoming too expensive to pursue too often.

Keeping a Saddam or a Qadhafi from developing a new generation of weaponry makes the effort to control the export of superfast delivery systems not only necessary for peace, but for the prosperity of all nations involved—not only the winners, but also the losers. You control the export when you control the technology.

War increasingly is an unacceptable answer to the world's problems.

The demand for capital worldwide to finance a war and the peace that follows places a strain on all nations. The Kuwaitis, before the war, supplied a great pool of capital to the world's investment markets. And, if Saddam was borrowing, he also was spending all of his oil wealth building his nation's infrastructure and recovering the ravages of the Iranian war.

His country's needs—as he digs out of the rubble—will place a great demand on the world's credit markets at a time when Germany is trying to obtain investment money to rebuild the East and the Russians, with an economy in ruins, are begging for help in every sector.

The old adage that no one ever really wins a war—that there are only losers—seems to prove true if one considers the economic realities of the current world economy. The tragedy of the Kurds, the Kuwatis, and the Iraqi people report the human cost.

With this experience so vividly in our minds, there must be greater efforts made to defuse these threats before the troops have to move, the missiles fly. It was disappointing, to say the least, that Iraq did not respond to the pressure of economic isolation after the invasion of Kuwait.

I would hope that this whole diplomatic exercise is being reviewed as closely as if it had been a military engagement which failed. It is that important—the preliminary engagement with the enemy. If we are anticipating even more deadly weapons, then our negotiating skills had better accelerate at an equal pace.

As America's economy spins down * * * and each recovery is shallower * * * fewer new jobs are being created after each recession due to the hollowing out of the industrial base * * * our power to seize the future of any technologies is lessened. Not only are we losing the infrastructure of skills to develop the next generations, we are not creating the wealth necessary to finance the research.

A first step toward rebuilding our industries would be to demand reciprocal treatment in trade for every American product. If, as in Japan, an imported car has to go through several layers of government and to be taken apart to be checked for safety and then is given a higher insurance premium, because it is not as safe, then—fair is fair—let's start dismantling Japanese cars and add redtape.

The demand for reciprocity is growing. It is a policy which I long have advocated. It is fair and fairness is the American way. It should be that any foreign product entering this country will be given the same treatment as a U.S. product receives when it is offloaded in that nation. Quid quo pro.

Simple, understandable in any language and a position that can be defended rationally.

Mr. Speaker, it is an idea whose time is coming. There is a rising sentiment in the country that for too long America has been an understanding, gentle giant with its allies. It is coming on time now, many of us believe, that our allies begin to try to understand our problems and our Nation better.

The burden of rebuilding and protecting the world after the Second World War has cost the American taxpayer dearly. Many economists believe our preeminence in weaponry has come at the expense of preeminence in domestic products—and contributed to the loss of our domestic markets.

Much thought is being given to these subjects coming up on the 21st century. It should be a time of reflection in America. Where are we going? How are we going to better ourselves and the lot of our people? One answer is that we must not allow the microelectronics industry to slip any further from us and to start reclaiming it.

It is an exciting time, a challenging time—and in such circumstances—America is frequently at its strongest and best.

□ 1940

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RITTER (at the request of Mr. MICHEL) for today, on account of attending son's college graduation.

Mr. SMITH of Florida (at the request of Mr. GEPHARDT) for today, on account of illness in family.

Mr. YATES (at the request of Mr. GEPHARDT) for today, on account of illness.

Mr. ACKERMAN (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. GUNDERSON (at the request of Mr. MICHEL) for today, on account of a death in the family.

Mr. FRANKS of Connecticut (at the request of Mr. MICHEL) for today, on account of the birth of his first child, Jessica Lynn.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HANSEN) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes each day, on June 24, 25, 26, 27, 28, and July 9, 10, 11, and 12.

Mr. DORNAN of California, for 5 minutes each day, on today and June 12 and 13.

Mr. DELAY, for 60 minutes each day, on June 12, 13, 19, 20, 26, and 27.

Mr. MILLER of Ohio, for 60 minutes each day, on June 13, 14, 17, 18, 19, and 20.

(The following Members (at the request of Mr. OWENS of Utah) to revise and extend their remarks and include extraneous material:)

Mr. COX of Illinois, for 5 minutes each day, today and on June 12.

Mr. HUBBARD, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. KOPETSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. REED, for 5 minutes, today.

Mr. HAMILTON, for 60 minutes, on June 13.

Mr. GONZALEZ, for 60 minutes each day, on June 24, 25, 27, and 28.

Mr. OWENS of New York, for 60 minutes each day, on June 17, 18, 19, 20, 21, 24, 25, 26, 27, and 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HANSEN) and to include extraneous matter:)

Mr. TAYLOR of North Carolina.

Mr. MACHTLEY in two instances.

Mr. SOLOMON in five instances.

Mr. GALLO.

Mr. GEKAS in two instances.

Mr. PURSELL.

Mr. HYDE.

Mr. GUNDERSON.

Mr. BALLENGER.

Mr. MILLER of Ohio in three instances.

(The following Members (at the request of Mr. OWENS of Utah) and to include extraneous matter:)

Mr. TOWNS in two instances.

Mr. FAZIO in four instances.

Mr. MAVROULES.

Mr. TRAFICANT.

Mr. LANTOS.

Mr. MCMILLEN of Maryland.

Mr. PALLONE.

Ms. PELOSI.

Mr. DELUGO.

Mr. TRAXLER in three instances.

Mr. MATSUI.

Mr. DYMALLY.

Mr. BILBRAY.

Mr. ROSTENKOWSKI.

Mr. MFUME.

Mr. MANTON.

Mr. NEAL of Massachusetts.

Mr. DELLUMS.

Mr. REED.

Mr. DEFAZIO.

Mr. TORRICELLI.

Ms. NORTON.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 219. Joint Resolution to designate the week beginning June 9, 1991, as "National Scleroderma Awareness Week."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 292. An act to expand the boundaries of the Saguaro National Monument; and

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991."

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 43 minutes p.m.), the House adjourned until tommorrow, Wednesday, June 12, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1526. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to the United Arab Emirates for defense articles and services estimated to cost $682 million (Transmittal No. 91-03), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1527. A communication from the President of the United States, transmitting his views on legislation concerning Federal policy with respect to abortion (H. Doc. No. 102-98); jointly, to the Committees on Armed Services, Energy and Commerce, Foreign Affairs, and Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 44. A bill to provide that certain service of members of the U.S. merchant marine during World War II constituted active military service for purposes of any law administered by the Veterans' Administration and to provide for the fair implementation of the cargo preference laws of the United States; with amendments (Rept. 102-105, pt. 1). Ordered to be printed.

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 2608. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes. (Rept. 102-106). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 45 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VALENTINE:

H.R. 2606. A bill to provide for a no-cost purchase option for and construction of a building to provide housing for the Environmental Protection Agency in the Research Triangle Park, NC, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SWIFT:

H.R. 2607. A bill to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 through 1994, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of Iowa:

H.R. 2608. A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. KOPETSKI:

H.R. 2609. A bill to establish a supply management program for milk and products of milk, establish a minimum solids content for fluid milk, temporarily increase the basic formula price for milk, and initiate a review of methods to enhance the domestic consumption of milk and products of milk; to the Committee on Agriculture.

By Mr. GONZALEZ (for himself, Mr. FRANK of Massachusetts, Mr. KLECZKA, Mr. REED, and Mr. MACHTLEY):

H.R. 2610. A bill to provide emergency assistance to the State of Rhode Island to stabilize the banking system in the State and provide liquidity for the benefit of depositors at State banks and credit unions in receivership; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WYDEN (for himself, Mr. PORTER, and Mr. WAXMAN):

H.R. 2611. A bill to amend the Public Health Service Act to require recipients of financial assistance for the provision of family planning methods or services under title X of such act to provide certain nondirective counseling and referral services; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself, Mr. WYDEN, and Mr. PORTER):

H.R. 2612. A bill to amend the Public Health Service Act to revise and extend the program of assistance for family planning services; to the Committee on Energy and Commerce.

By Mr. CHANDLER (for himself, Mr. MORRISON, and Mr. MILLER of Washington):

H.R. 2613. A bill to provide expanded unemployment and training benefits to certain displaced workers, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. DEFAZIO:

H.R. 2614. A bill to provide for the disposition of certain minerals on Federal lands, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FIELDS:

H.R. 2615. A bill to suspend until January 1, 1995, the duty on 2-Phosphonobutane-1,2,4-tricarboxylic acid and sodium salts; to the Committee on Ways and Means.

By Mr. HERTEL:

H.R. 2616. A bill to amend the Internal Revenue Code of 1986 to provide that the disallowance of deductions for personal interest shall not apply to interest on loans used to buy American-made highway vehicles; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 2617. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on passenger vehicles; to the Committee on Ways and Means.

By Mr. RINALDO (for himself and Mr. ROYBAL):

H.R. 2618. A bill to amend title XVIII of the Social Security Act to prohibit the Secretary of Health and Human Services from denying claims for benefits under the Medicare Program or recovering overpayments made under such program if the denial or recovery is based upon claim sampling, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SANGMEISTER (for himself, Mr. LIPINSKI, Mr. COSTELLO, Mr. POSHARD, and Mr. BOEHLERT):

H.R. 2619. A bill to authorize the Secretary of Transportation to carry out a rail-highway crossing program to improve highway and rail traffic safety, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. GEKAS (for himself and Mr. HYDE):

H.J. Res. 268. Joint resolution to provide for the establishment of a Joint Committee on Intelligence; to the Committee on Rules.

By Ms. PELOSI (for herself, Mr. FOGLIETTA, Mr. LEWIS of California, Mrs. ROUKEMA, and Mr. SMITH of Oregon):

H.J. Res. 269. Joint resolution designating the week beginning May 3, 1992, as "National Nurses Week"; to the Committee on Post Office and Civil Service.

By Mr. PAXON (for himself and Mr. BARRETT):

H. Res. 173. Resolution expressing the sense of the House of Representatives that in light of current economic conditions the Federal excise taxes on gasoline and diesel fuel shall not be increased; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Ms. LONG, Mr. KOSTMAYER, Mr. WILLIAMS, Mr. LEHMAN of California, Mr. SWIFT, Mr. WHEAT, Mr. JONTZ, Mr. GEJDENSON, and Mr. OLIN.

H.R. 44: Mr. FRANK of Massachusetts and Mr. MURPHY.

H.R. 68: Mr. COSTELLO, Mr. COMBEST, Mr. NEAL of North Carolina, Mr. DE LUGO, Mr. ROE, Mr. LEACH, Mr. CARDIN, Mr. CARPER, Mr. GEREN of Texas, Mr. GRANDY, Mr. HOLLOWAY, Mr. INHOFE, Mr. IRELAND, Mr. JONES of North Carolina, Mr. LOWERY of California, Mr. MCCOLLUM, Mr. BURTON of Indiana, Mr. HAMILTON, Mr. WOLPE, Mr. SMITH of Oregon, Mr. DURBIN, and Mr. TOWNS.

H.R. 330: Mr. MFUME, Mr. MARKEY, and Mr. TRAFICANT.

H.R. 500: Mr. BRYANT.

H.R. 534: Mr. WILSON, Mr. HARRIS, Mr. MCGRATH, Mr. BREWSTER, Mr. JACOBS, Mr. WYLIE, Mr. HEFLEY, Mr. FEIGHAN, Mr. WALKER, Mrs. BOXER, Mr. ANTHONY, and Mr. BENNETT.

H.R. 770: Mr. DINGELL.

H.R. 780: Ms. SLAUGHTER of New York.

H.R. 799: Mrs. MEYERS of Kansas.

H.R. 801: Mrs. MEYERS of Kansas.

H.R. 802: Mrs. MEYERS of Kansas and Mr. GORDON.

H.R. 803: Mrs. MEYERS of Kansas.

H.R. 875: Mrs. MORELLA.

H.R. 951: Mr. JOHNSON of South Dakota, Mr. SANTORUM, Mr. RHODES, and Mr. LAUGHLIN.

H.R. 967: Mr. FORD of Michigan.

H.R. 1054: Ms. KAPTUR and Mr. GILLMOR.

H.R. 1080: Mr. CAMPBELL of California, Mr. GRANDY, Mr. KOLBE, Mr. MCGRATH, Mr. FRANK of Massachusetts, and Mr. UPTON.

H.R. 1111: Mr. CARDIN.

H.R. 1130: Mr. MACHTLEY, Mr. WEISS, and Mr. MILLER of Ohio.

H.R. 1147: Mrs. VUCANOVICH, Mr. MURPHY, Mr. INHOFE, Mr. SKAGGS, Mr. STAGGERS, Mr. CAMPBELL of Colorado, Mr. MARLENEE, Mr. EVANS, Mr. DERRICK, and Mr. OBERSTAR.

H.R. 1161: Mr. FEIGHAN and Mr. VENTO.

H.R. 1318: Mr. HOLLOWAY and Mr. HASTERT.

H.R. 1341: Ms. NORTON and Mr. MCMILLEN of Maryland.

H.R. 1346: Mr. MCCLOSKEY and Mr. MCMILLEN of Maryland.

H.R. 1360: Mr. HAYES of Illinois, Mr. FAWELL, and Mr. MRAZEK.

H.R. 1400: Mr. THOMAS of Wyoming.

H.R. 1406: Mr. SLAUGHTER of Virginia, Mr. DORNAN of California, Mr. HUBBARD, Mr. MYERS of Indiana, Mr. BARTON of Texas, Mr. MILLER of Ohio, Mr. STUMP, Mr. HASTERT, Mr. HANCOCK, Mr. EDWARDS of Oklahoma, Mr. BOEHNER, Mr. GINGRICH, Mr. BAKER, Mr. HOLLOWAY, Mr. BALLENGER, Mr. TAYLOR of North Carolina, Mr. DUNCAN, Mr. BATEMAN, and Mr. ROGERS.

H.R. 1454: Mr. COX of Illinois, Mr. GORDON, Mr. SCHIFF, Mr. PURSELL, Mr. TRAFICANT, Mr. WILLIAMS, and Mr. COOPER.

H.R. 1457: Mr. RAY.

H.R. 1466: Mr. BACCHUS, Mr. ABERCROMBIE, and Mr. MANTON.

H.R. 1472: Mr. MCCRERY, Mr. RITTER, Mr. SHUSTER, Mr. MARLENEE, Mr. PENNY, Mr. SCHAEFER, Mrs. SCHROEDER, Mr. GILCHREST, and Mr. PORTER.

H.R. 1473: Mr. WHEAT and Mr. CAMPBELL of Colorado.

H.R. 1527: Mr. DAVIS, Mr. NAGLE, Mr. ORTON, Mr. HATCHER, Mr. SMITH of Florida, and Mr. WOLPE.

H.R. 1554: Mr. JONTZ.

H.R. 1572: Mr. SARPALIUS, Mr. JACOBS, Mr. PANETTA, Mr. SHUSTER, Mr. SMITH of Oregon, Mr. HUCKABY, MR. HANCOCK, Mr. PARKER, Mr. ROGERS, Mr. TAUZIN, Mr. GRANDY, and Mr. GLICKMAN.

H.R. 1602: Ms. NORTON and Mr. LEVINE of California.

H.R. 1649: Mr. ENGEL.

H.R. 1693: Mr. ROBERTS, Mrs. MEYERS of Kansas, Mr. HUGHES, Mr. RIGGS, Mr. LEWIS of Florida, Mr. HYDE, Mr. EMERSON, Mr. MILLER of Ohio, Ms. PELOSI, and Mr. JEFFERSON.

H.R. 1736: Mr. NAGLE and Mr. COX of Illinois.

H.R. 1779: Mr. WHEAT, Mr. JEFFERSON, and Ms. NORTON.

H.R. 1782: Mr. ANTHONY, Mr. ROYBAL, Mr. BERMAN, Mr. STENHOLM, Mr. DUNCAN, Mr. RUSSO, Mr. MCMILLEN of Maryland, and Mr. OBERSTAR.

H.R. 1789: Mr. BEILENSON, Mrs. BOXER, Mr. BROWN, Mr. DEFAZIO, Mr. DE LUGO, Mr. FALEOMAVAEGA, Mr. KOSTMAYER, Mr. LANTOS, Mr. PANETTA, Mr. STARK, Ms. WATERS, and Mr. WAXMAN.

H.R. 1790: Mr. PEASE.

H.R. 1816: Mr. MACHTLEY, Mr. MCMILLEN of Maryland, and Mr. MOORHEAD.

H.R. 1860: Mr. SHARP, Mr. GUNDERSON, and Mr. BONIOR.

H.R. 1864: Mr. GILMAN, Mr. FISH, Mr. PETERSON of Florida, Mr. RIDGE, and Mr. GEKAS.

H.R. 1882: Mr. MCMILLEN of Maryland, Mr. DE LUGO, Mr. COLEMAN of Texas, Mr. HAYES of Louisiana, Mr. ROE, Mr. SYNAR, Mr. MCMILLAN of North Carolina, Mr. PAXON, Mr. POSHARD, Mr. ROHRABACHER, Mr. VALENTINE, Mr. GOSS, Mr. BATEMAN, Mr. BARNARD, Mr. DICKS, Mr. GRANDY, Mr. HUTTO, Mrs. JOHNSON of Connecticut, Mr. JOHNSTON of Florida, and Mr. DURBIN.

H.R. 1885: Mr. SYNAR and Mr. HARRIS.

H.R. 1916: Mr. FISH, Mr. DWYER of New Jersey, Mrs. BOXER, Mr. DIXON, and Mr. JONTZ.

H.R. 1955: Mr. ESPY.

H.R. 1956: Mr. ESPY.

H.R. 2008: Mr. HOLLOWAY, Mr. GUNDERSON, Mr. HYDE, and Mrs. VUCANOVICH.

H.R. 2030: Ms. NORTON, Mr. LIPINSKI, and Mr. JONTZ.

H.R. 2115: Mr. VISCLOSKY, Mr. STAGGERS, Mr. BOEHLERT, Mr. ANDREWS of New Jersey, and Mr. WALSH.

H.R. 2208: Mr. DINGELL.

H.R. 2212: Mr. GEJDENSON, Mr. ENGEL, Mr. TAYLOR of Mississippi, Mr. HAYES of Illinois, Mr. WALSH, Mr. FORD of Michigan, Mr. PETERSON of Florida, Mr. SCHIFF, Mr. MOODY, and Mr. BUSTAMANTE.

H.R. 2231: Mr. AUCOIN and Mr. PERKINS.

H.R. 2240: Mr. SARPALIUS, Mr. WALSH, Mr. BRYANT, and Mr. JONTZ.

H.R. 2280: Mr. SANTORUM.

H.R. 2333: Mr. SAXTON and Mr. WEBER.

H.R. 2358: Mr. ENGEL.

H.R. 2378: Mr. JEFFERSON and Mr. LAFALCE.

H.R. 2385: Mr. PICKLE and Mr. HORTON.

H.R. 2389: Mr. JONTZ, Mr. JEFFERSON, and Mr. LANCASTER.

H.R. 2440: Mr. OBERSTAR, Mr. YATES, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. FEIGHAN, Mr. KOLTER, Mr. LANTOS, Mr. HOCHBRUECKNER, and Mr. NEAL of Massachusetts.

H.R. 2452: Mr. LUKEN, Mr. WALSH, Mr. BERMAN, and Mrs. UNSOELD.

H.R. 2460: Mr. BLAZ, Mr. THOMAS of California, Mr. RIDGE, and Mr. IRELAND.

H.R. 2477: Mr. TAYLOR of Mississippi and Mr. WEBER.

H.R. 2511: Mr. BACCHUS and Mr. JONTZ.

H.R. 2542: Mr. HAMILTON, Mr. FRANK of Massachusetts, Mr. MCNULTY, and Mr. HORTON.

H.R. 2560: Ms. LONG.

H.R. 2576: Mr. GLICKMAN.

H.R. 2598: Mr. COX of California, Mr. HANSEN, Mr. ROBERTS, Mr. BOEHNER, Mr. HUNTER, Mr. CUNNINGHAM, Mr. LOWERY of California, Mr. BROOMFIELD, Mr. MCCOLLUM, Mr. DREIER of California, Mr. CALLAHAN, Mr. SOLOMON, Mr. HANCOCK, Mr. SUNDQUIST, Mr. HUBBARD, Mr. DORNAN of California, Mr. BURTON of Indiana, Mr. CRANE, Mr. YOUNG of Alaska, Mr. WEBER, Mr. DANNEMEYER, Mr. COMBEST, Mr. HYDE, Mr. TALLON, Mr. FIELDS, Mr. MCEWEN, Mr. GINGRICH, and Mr. ROHRABACHER.

H.J. Res. 23: Mr. BREWSTER, Mr. CARPER, Mr. CARR, Ms. COLLINS of Michigan, Mr. CONYERS, Mr. COOPER, Mr. CRAMER, Mr. DAVIS, Mr. DEFAZIO, Mr. DICKS, Mr. DIXON, Mr. DOOLITTLE, Mr. ERDREICH, Mr. FALEOMAVAEGA, Mr. HAYES of Louisiana, Mr. INHOFE, Mr. JONES of North Carolina, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCMILLEN of Maryland, Mr. MARTIN, Mrs. MEYERS of Kansas, Mr. MINETA, Mrs. MORELLA, Mr. RIGGS, Mr. ROBERTS, Mr. SAVAGE, Mr. SKEEN, Mr. SLATTERY, Mr. SMITH of Iowa, Mr. SOLARZ, Mr. STAGGERS, Mr. STALLINGS, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. TOWNS, and Mr. WYDEN.

H.J. Res. 123: Mr. BEVILL, Mr. MCMILLEN of Maryland, Mr. GONZALEZ, and Mr. WOLF.

H.J. Res. 156: Mr. VOLKMER, Mr. WHEAT, Mr. ABERCROMBIE, Ms. MOLINARI, Mr. HUTTO, Mr. CONDIT, Mr. JEFFERSON, Mr. VENTO, and Mr. TAUZIN.

H.J. Res. 233: Mr. DINGELL and Mr. WEISS.

H. Con. Res. 101: Mr. DELLUMS and Mr. TOWNS.

H. Con. Res. 126: Mr. JEFFERSON.

H. Con. Res. 152: Mr. BUSTAMANTE, Mr. HAYES of Illinois, Mr. DURBIN, Mr. SOLARZ, Mr. YATES, Mr. STOKES, Mr. MILLER of California, Mr. MANTON, Mr. MOODY, Mr. TOWNS, Mr. RICHARDSON, Mr. RAMSTAD, Mr. SMITH of Florida, Mr. JEFFERSON, and Mr. SUNDQUIST.

H. Res. 153: Mr. MACHTLEY.

H. Res. 167: Mr. CHAPMAN, Mr. ECKART, Mr. GEREN of Texas, Mr. JEFFERSON, Mr. LANCASTER, Mrs. JOHNSON of Connecticut, Mr. PERKINS, Mr. COSTELLO, Mr. MANTON, Mr. DEFAZIO, Mr. BILBRAY, and Mr. FRANK of Massachusetts.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2508

By Mr. BROOMFIELD:

—Page 622, after line 5, insert the following:

SEC. 868. SITUATION IN ALBANIA

It is the sense of Congress that—

(1) The United States should encourage Albania in its efforts to open its society to Western ideas and ideals; and

(2) In order to maintain the progress toward democracy that has already occurred and to encourage and support further progress, the United States should provide assistance for democratic institution-building in Albania, including the development of programs concerning the rule of law, the political process, local government, public administration and social progress.

(3) The United States also should provide medical and humanitarian assistance for the Albanian people.

—Page 636, line 21, strike the words "not less than", and insert in lieu thereof "up to".

—Page 642, line 18, strike ", $1,000,000", and insert in lieu thereof ", up to $1,000,000".

—Page 652, line 23, strike the words "not less than", and insert in lieu thereof "up to".

By Mr. CAMPBELL of California:

—Page 568, after line 14, insert the following:

SEC. 818. SAUDI POLICY TOWARD ISRAEL.

(a) FINDINGS.—The Congress finds that—

(1) Saudi Arabia has a long record of supporting Arab war efforts against Israel, including direct participation in the 1948 and 1973 wars against Israel;

(2) Saudi Arabia possesses CSS-2 missiles that are capable of reaching Israel with a chemical, nuclear, or conventional warhead;

(3) one of the wealthiest Arab nations in the Middle East, Saudi Arabia has taken a leading role in the Arab economic boycott of Israel;

(4) the Saudi government has financially supported terrorist groups that have repeatedly attacked Israel and United States citizens;

(5) Saudi Arabia remains opposed to Israel's right to exist and has not publicly accepted United Nations Security Council Resolutions 242 and 338; and

(6) Saudi Arabia has refused to engage in direct bilateral peace negotiations with Israel.

(b) POLICY DECLARATIONS.—It is the sense of the Congress that—

(1) Saudi Arabia remains a threat to the State of Israel; and

(2) it should be the policy of the United States to seek to limit Saudi Arabia's offensive military capabilities and encourage the Saudi government to unequivocally recognize Israel's right to exist as a sovereign nation within secure and recognized borders, to end the economic boycott of Israel, and to agree to negotiate directly with the state of Israel.

By Mr. DREIER of California:

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS VIOLATIONS AND WEAPONS PROLIFERATION IN INDIA

(a) FINDINGS.—The Congress finds as follows:

(1) According to the "New York Times," Indian security "forces fired on hundreds of mourners" at a funeral ceremony in Kashmir on May 8, 1991. At least 14 people were killed.

(2) Amnesty International, Asia Watch, numerous indigenous human rights groups, and the U.S. Department of State have all documented allegations of significant violations of human rights in India.

(3) In one report, Asia Watch stated that "Torture is widespread, particularly in the detention centers. Methods of torture include electric shock, prolonged beatings, and sexual molestation."

(4) The Los Angeles Times recently reported that "ambulance drivers have been beaten and hospital staff members have been arrested and tortured" in Kashmir.

(5) India has rejected an offer by the government of Pakistan to enter into negotiations to reduce nuclear weapons development in South-East Asia.

(6) The "Far Eastern Economic Review" reported last September that "evidence points to recent exports from India of thousands of tons of chemicals, including cyanide, which Bhagdad may have used to make chemical weapons."

(7) India has repeatedly refused to allow Amnesty International to conduct human rights investigations within India.

(8) Democracy, human rights, and self determination are the fundamental rights of all peoples.

(9) The United States Agency for International Development has proposed providing $3 million on Project #0494 a "Program for Acceleration of Commercial Energy Research."

(10) This amount represents only 1/36 of the total U.S. level of proposed assistance to India during the 1992 fiscal year.

(b) REDUCTION OF DEVELOPMENT ASSISTANCE FOR INDIA IF CONDITIONS ARE NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection, the amount of development assistance provided for India in fiscal year 1992, and the amount of development assistance provided for India for fiscal year 1993, may not exceed the amount that is $3,000,000 less than the amount requested by the Agency for International Development for development assistance for Indian for fiscal year 1992.

(c) REDUCTION OF DEVELOPMENT ASSISTANCE FUNDS IF CONDITIONS ARE NOT MET.—Unless conditions specified in subsection (d) are met within the period specified in that subsection—

(1) $3,000,000 of the funds made available for fiscal year 1992 under section 1202 of the Foreign Assistance Act of 1961, and

(2) $3,000,000 of the funds made available for fiscal year 1993 under that section, only shall be withheld from obligation and shall be returned to the Treasury at the end of the period of availability for obligation applicable to development assistance funds.

(d) CONDITIONS TO BE MET.—Subsections (b) and (c) apply unless, within 180 days after the date of enactment of this Act, the Government of India has—

(1) Adopted a policy of allowing unrestricted access by internationally recognized human rights groups, such as Amnesty International and Asia Watch, to conduct investigations into alleged human rights violations;

(2) Restored local governmental rule in the Punjab and Jammu-Kashmir;

(3) Made significant progress in curbing human rights violations by their security forces.

—Page 669, line 12, insert "(a) STATEMENTS OF POLICY CONCERNING THE ANGOLAN CONFLICT.—" before "It".

—Page 670, after line 2, insert the following:

(b) MINE CLEARING OPERATIONS IN ANGOLA.—

(1) AUTHORIZATION.—Notwithstanding section 1243 of the Foreign Assistance Act of 1961, the President is authorized for the fiscal years 1992 and 1993 to use funds (other than earmarked funds) made available for economic support assistance, foreign military financing assistance, assistance from the Development Fund for Africa, and such other assistance under the Foreign Assistance Act of 1961 as the President considers appropriate, for mine clearing operations in Angola.

(2) CONTRACTS.—Should any assistance be provided to carry out paragraph (1), the Congress urges the President to use other than competitive procedures in order to expedite the procurement of services and to limit the eligibility for contracts to United States persons.

(3) REPORT.—Not more than 180 days after the date of the enactment of this Act, the President shall notify the appropriate congressional committees of any plans for using the authority under this subsection and the status of any assistance for mine clearing operations in Angola.

By Mr. DURBIN:

—Page 615, add the following after line 24:

(g) RESTRICTION OF AID TO THE CENTRAL GOVERNMENT OF THE USSR.—

(1) PROHIBITION.—Except as provided in paragraph (2) no assistance may be provided pursuant to this section to the Central Government of the USSR.

(2) WAIVER.—Assistance may be provided under this section notwithstanding paragraph (1) if the President certifies to Congress that—

(a) such assistance will be distributed equitably to the Baltic states and the Soviet republics as shown through a detailed statement of proposed distribution;

(b) all suppressive action by the Central Government of the USSR against the people and governments of the Baltic states and the Soviet republics has ceased;

(c) the Central Government of the USSR has returned control of all buildings or other property which it has seized since January 1, 1991, within the Baltic states to the lawful owners of such buildings or property; and

(d) the Central Government of the USSR has entered into good faith negotiations with the freely elected governments of the Baltic states to determine their future relations.

By Mr. FEIGHAN:

—Page 293, line 16, strike out "March" and insert in lieu thereof "April".

—Page 294, beginning in line 10, strike out "the matters identified in section 4402(b)(2)," and insert in lieu thereof the following:

"the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

By Mr. GEJDENSON:

—Page 78, strike line 22 and all that follows through page 86, line 24.

By Mr. HERGER:

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS VIOLATIONS IN INDIA.

(a) FINDINGS.—The Congress finds as follows:

(1) International human rights groups, such as Amnesty International and Asia Watch, have documented numerous instances of human rights violations by Indian security forces against the Indian people, especially in Punjab and Kashmir.

(2) Such abuses reportedly include rape, torture, detention without charge or trial, summary execution, disappearances, and so-called "fake encounters."

(3) The Department of State's Country Report on Human Rights Practices for 1990 states with respect to India that "political killing occurs on an increasingly wide scale" by Indian security forces, and that despite legal safeguards, "there were credible reports of widespread arbitrary arrest or detention". In Kashmir, a widespread breakdown of the legal system is reported to have occurred.

(4) The May 1991 Amnesty International Report on human rights violations in India found that serious human rights violations in Punjab have persisted under three governments, setting the stage for the widespread abuses. It further found that the government recently even changed the criminal code, effectively granting all police and security forces immunity from prosecution for any action they take on official duty in Punjab and other states, such as Kashmir, which are under direct Presidential rule.

(5) Local elections in Punjab have been suspended since 1987. Local rule in Kashmir was suspended in 1990. Local electoral processes and representative government have also been suspended in other Indian states.

(6) The Agency for International Development has proposed providing $3,000,000 for fiscal year 1992 for the Program for Acceleration of Commercial Energy Research for India (United States Agency for International Development development assistance project number 0494).

(b) REDUCTION OF DEVELOPMENT ASSISTANCE FOR INDIA IF CONDITIONS NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection, the amount of development assistance provided for India for fiscal year 1992, and the amount of development assistance provided for India for fiscal year 1993, may not exceed the amount that is $3,000,000 less than the amount requested by the Agency for International Development for development assistance for India for fiscal year 1992.

(c) REDUCTION OF DEVELOPMENT ASSISTANCE FUNDS IF CONDITIONS NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection—

(1) $3,000,000 of the funds made available for fiscal year 1992 under section 1202 of the Foreign Assistance Act of 1961, and

(2) $3,000,000 of the funds made available for fiscal year 1993 under that section, only

shall be withheld from obligation and shall be returned to the Treasury at the end of the period of availability for obligation applicable to development assistance funds.

(d) CONDITIONS TO BE MET.—Subsections (b) and (c) apply unless, within 180 days after the date of enactment of this Act, the Government of India has—

(1) adopted a policy of allowing unrestricted access by internationally recognized human rights monitoring organizations, such as Amnesty International and Asia Watch, to conduct investigations into alleged human rights violations,

(2) fulfilled the recommendations of the United Nations Human Rights Commission that call for review and revision of anti-terrorist laws, whose application has contributed to human rights abuses and discrimination against minorities,

(3) restored local governmental rule in the Punjab and Jammu-Kashmir, and

(4) made significant progress in curbing human rights abuses committed by its security and police forces.

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(4) The May 1991 Amnesty International Report on human rights violations in India found that serious human rights violations in Punjab have persisted under three governments, setting the stage for the widespread abuses. It further found that the government recently even changed the criminal code, effectively granting all police and security forces immunity from prosecution for any action they take on official duty in Punjab and other states, such as Kashmir, which are under direct Presidential rule.

(5) Local elections in Punjab have been suspended since 1987. Local rule in Kashmir was suspended in 1990. Local electoral processes and representative government have also been suspended in other Indian states.

(6) The Agency for International Development has proposed providing $1,900,000 for fiscal year 1992 for the Program for the Advancement of Commercial Technology for India (United States Agency for International Development development assistance project number 0496).

(b) REDUCTION OF DEVELOPMENT ASSISTANCE FOR INDIA IF CONDITIONS NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection, the amount of development assistance provided for India for fiscal year 1992, and the amount of development assistance provided for India for fiscal year 1993, may not exceed the amount that is $1,900,000 less than the amount requested by the Agency for International Development for development assistance for India for fiscal year 1992.

(c) REDUCTION OF DEVELOPMENT ASSISTANCE FUNDS IF CONDITIONS NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection—

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(2) $1,900,000 of the funds made available for fiscal year 1993 under that section,

shall be withheld from obligation and shall be returned to the Treasury at the end of the period of availability for obligation applicable to development assistance funds.

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(3) The Department of State's Country Report on Human Rights Practices for 1990 states with respect to India that "political killing occurs on an increasingly wide scale" by Indian security forces, and that despite legal safeguards, "there were credible reports of widespread arbitrary arrest or detention". In Kashmir, a widespread breakdown of the legal system is reported to have occurred.

(4) The May 1991 Amnesty International Report on human rights violations in India found that serious human rights violations in Punjab have persisted under three governments, setting the stage for the widespread abuses. It further found that the government recently even changed the criminal code, effectively granting all police and security forces immunity from prosecution for any action they take on official duty in Punjab and other states, such as Kashmir, which are under direct Presidential rule.

(5) Local elections in Punjab have been suspended since 1987. Local rule in Kashmir was suspended in 1990. Local electoral processes and representative government have also been suspended in other Indian states.

(6) The Agency for International Development has proposed providing $1,260,000 for fiscal year 1992 for the Technical Assistance and Support Project for India (United States Agency for International Development development assistance project number 0515).

(b) REDUCTION OF DEVELOPMENT ASSISTANCE FOR INDIA IF CONDITIONS NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection, the amount of development assistance provided for India for fiscal year 1992, and the amount of development assistance provide for India for fiscal year 1993, may not exceed the amount that is $1,260,000 less than the amount requested by the Agency for International Development for development assistance for India for fiscal year 1992.

(c) REDUCTION OF DEVELOPMENT ASSISTANCE FUNDS IF CONDITIONS NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection—

(1) $1,260,000 of the funds made available for fiscal year 1992 under section 1202 of the Foreign Assistance Act of 1961, and

(2) $1,260,000 of the funds made available for fiscal year 1993 under that section,

shall be withheld from obligation and shall be returned to the Treasury at the end of the period of availability for obligation applicable to development assistance funds.

(2) CONDITIONS TO BE MET.—Subsections (b) and (c) apply unless, within 180 days after the date of enactment of this Act, the Government of India has—

(1) adopted a policy of allowing unrestricted access by internationally recognized human rights monitoring organizations, such as Amnesty International and Asia Watch, to conduct investigations into alleged human rights violations,

(2) fulfilled the recommendations of the United Nations Human Rights Commission that call for review and revision of anti-terrorist laws, whose application has contributed to human rights abuses and discrimination against minorities,

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(4) The May 1991 Amnesty International Report on human rights violations in India found that serious human rights violations in Punjab have persisted under three governments, setting the stage for the widespread abuses. If further found that the government recently even changed the criminal code, effectively granting all police and security forces immunity from prosecution for any action they take on official duty in Punjab and other states, such as Kashmir, which are under direct Presidential rule.

(5) Local elections in Punjab have been suspended since 1987. Local rule in Kashmir was suspended in 1990. Local electoral processes and representative government have also been suspended in other Indian states.

(6) The Executive Branch has proposed an international military education and training program of $345,000 for India for fiscal year 1992.

(b) CONDITIONS TO BE MET.—International military education and training may not be provided for India for fiscal year 1992 or 1993 unless, within 180 days after the date of enactment of this Act, the Government of India has—

(1) adopted a policy of allowing unrestricted access by internationally recognized human rights monitoring organizations, such as Amnesty International and Asia Watch, to conduct investigations into alleged human rights violations,

(2) fulfilled the recommendations of the United Nations Human Rights Commission that call for review and revision of anti-terrorist laws, whose application has contributed to human rights abuses and discrimination against minorities,

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(3) The Department of State's Country Report on Human Rights Practices for 1990 states with respect to India that "political killing occurs on an increasingly wide scale" by Indian security forces, and that despite legal safeguards, "there were credible reports of widespread arbitrary arrest or detention". In Kashmir, a widespread breakdown of the legal system is reported to have occurred.

(4) The May 1991 Amnesty International Report on human rights violations in India found that serious human rights violations in Punjab have persisted under three governments, setting the stage for the widespread abuses. It further found that the government recently even changed the criminal code, effectively granting all police and security forces immunity from prosecution for any action they take on official duty in Punjab and other states, such as Kashmir, which are under direct Presidential rule.

(5) Local elections in Punjab have been suspended since 1987. Local rule in Kashmir was suspended in 1990. Local electoral processes and representative government have also been suspended in other Indian states.

(6) The Agency for International Development has proposed providing $1,900,000 for fiscal year 1992 for the Plant Genetic Resources Project for India (United States Agency for International Development development assistance project number 0513).

(b) REDUCTION OF DEVELOPMENT ASSISTANCE FOR INDIA IF CONDITIONS NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection, the amount of development assistance provided for India for fiscal year 1992, and the amount of development assistance provided for India for fiscal year 1993, may not exceed the amount that is $1,900,000 less than the amount requested by the Agency for International Development for development assistance for India for fiscal year 1992.

(c) REDUCTION OF DEVELOPMENT ASSISTANCE FUNDS IF CONDITIONS NOT MET.—Unless the conditions specified in subsection (d) are met within the period specified in that subsection—

(1) $1,900,000 of the funds made available for fiscal year 1992 under section 1202 of the Foreign Assistance Act of 1961, and

(2) $1,900,000 of the funds made available for fiscal year 1993 under that section,

shall be withheld from obligation and shall be returned to the Treasury at the end of the period of availability for obligation applicable to development assistance funds.

(d) CONDITIONS TO BE MET.—Subsections (b) and (c) apply unless, within 180 days after the date of enactment of this Act, the Government of India has—

(1) adopted a policy of allowing unrestricted access by internationally recognized human rights monitoring organizations, such as Amnesty International and Asia Watch, to conduct investigations into alleged human rights violations,

(2) fulfilled the recommendations of the United Nations Human Rights Commission that call for review and revision of anti-terrorist laws, whose application has contributed to human rights abuses and discrimination against minorities,

(3) restored local governmental rule in the Punjab and Jammu-Kashmir, and

(4) made significant progress in curbing human rights abuses committed by its security and police forces.

By Mr. KANJORSKI:

—Page 128, line 3, strike all through page 144, line 25.

—Page 128, line 3, strike all through page 134, line 6.

—Page 134, line 7, strike all through page 139, line 16.

—Page 139, line 17, strike all through page 143, line 22.

—Page 140, line 1, insert a new subsection (b) as follows and reletter subsequent subsections accordingly:

"(b) DOLLAR LIMITATION ON TRANSFERS TO EACH COUNTRY.—The total value of excess defense articles transferred under subsection (a) for use in any eligible country by such country or eligible international organization or eligible private voluntary organization shall not exceed $10,000,000 in any fiscal year.

By Mr. KLECZKA:

—Page 619, strike out line 16, and all that follows through line 10 on page 620 (section 866), and redesignate subsequent sections accordingly.

By Mr. KOLTER:

—At the appropriate place insert the following new section:

SEC. . ETHNIC MINORITIES IN YUGOSLAVIA.

It is the sense of Congress that—

(1) ethnic minorities living in the Republics of Croatia, Serbia, and in other parts of Yugoslavia should not be discriminated against because of their ethnicity or religion;

(2) ethnic minorities in the Republics of Croatia, Serbia, and other republics of Yugoslavia should retain their full ethnic, linguistic, religious, civil, and political rights, and the respective governments of the republics should take the necessary steps to ensure these rights; and

(3) political and national leaders of Yugoslavia should resolve their political and economic problems through negotiations and peaceful dialogue as equal partners and should not, under any circumstances, resort to violence, repression, or military force.

—Page [620), insert the following after line [10] [and redesignate succeeding sections, and references thereto, accordingly]:

SEC. . SITUATION OF THE ETHNIC MINORITIES IN YUGOSLAVIA.

It is the sense of Congress that—

(1) ethnic minorities living in the Republics of Croatia, Serbia, and in other parts of Yugoslavia should not be discriminated against because of their ethnicity or religion;

(2) ethnic minorities in the Republics of Croatia, Serbia, and other republics of Yugoslavia should retain their full ethnic, linguistic, religious, civil, and political rights and the respective governments of the republics should take the necessary steps to ensure these rights; and

(3) political and national leaders of Yugoslavia should resolve their political and economic problems through negotiations and peaceful dialogue as equal partners and should not, under any circumstances, resort to violence, repression, or use of military force.

—Page 622, insert the following after line 5:

SEC. 869. RESTRICTION ON ASSISTANCE TO THE SOVIET UNION.

(a) RESTRICTION ON ASSISTANCE.—No assistance may be provided under the Foreign Assistance Act of 1961 to the Soviet Union during fiscal year 1992 or fiscal year 1993 unless the President certifies to the Congress that the Government of the Soviet Union has paid all overdue debts it owes, on the effective date set forth in section 1101, to any business concern organized under the laws of the United States whose principal place of business is in the United States.

(b) CERTAIN ASSISTANCE NOT AFFECTED.—Subsection (a) shall not apply to assistance under this Act to the government of, or through nongovernmental organizations to, any of the Baltic states or any eligible recipient in the Soviet Union as defined in section 862(f).

By Mr. KOSTMAYER:

—On page 42, after line 17, insert the following:

"SEC. 1205. FUNDING FOR THE UNITED NATIONS POPULATION FUND.

"Of the funds appropriated under section 1204(b), $20,000,000 or 16 percent of the amount appropriated (whichever is less) shall be available only for the United Nations Population Fund, subject to the following conditions:

"(1) The United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds.

"(2) None of these funds shall be made available for programs for the People's Republic of China.

"(3) Any agreement entered into by the United States and the United Nations Population Fund to obligate these funds shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning programs in the People's Republic of China or for abortions in any country.

"(4) Any agreement entered into by the United States and the United Nations Population Fund to obligate funds earmarked under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if, during its five year program which commenced in 1990, the United Nations Population Fund provides more than fifty seven million dollars for family planning programs in the People's Republic of China.

—On page 568 strike line 14 after the word "held" strike the period and insert in lieu thereof:

, and

(7) has allowed independent human rights organizations to exhume and examine the bodies in the recently discovered mass graves in the al-Rigga cemetery in Kuwait City for evidence of torture.

—On Page 645, after line 15, insert the following Section, and renumber the successive Sections accordingly:

"SEC. 911. SENSE OF THE CONGRESS REGARDING ALLEGATIONS OF COERCIVE ABORTION IN CHINA

"It is the sense of the Congress that the Peoples Republic of China should be subject to export controls or other economic sanctions until the President certifies to the Congress that the Chinese Government is not engaged in a program of coercive abortion or involuntary sterilization.

By Mr. KYL:

—Page 622, insert the following after line 5:

SEC. 869. LIMITATION ON ASSISTANCE.

(a) FINDINGS.—The Congress finds that—

(1) the long term national security of the United States, and of the peoples of the Soviet Union, would benefit greatly from the transformation of the Soviet Union to a fully democratic nation based on the principles of government by the people, respect for individual rights, and free market economic opportunity; and

(2) assistance provided by the United States to the Soviet Union should promote rather than retard this transformation.

(b) CERTIFICATION.—During fiscal year 1992 and fiscal year 1993, assistance may not be provided to the Soviet Union under the Foreign Assistance Act of 1961 unless the President certifies in a report to the Congress that the following conditions have been met:

(1) That the Government of the Soviet Union has taken meaningful steps toward observing human rights for all citizens, including the following:

(A) The Soviet Government has ceased its interference with the freedom of the press in the Baltic states and the republics.

(B) The Soviet Government has ceased the threat and use of force against democratic movements.

(C) The Soviet Government has entered into meaningful negotiations with leaders of the Baltic states and the republics to ensure a smooth transition to self-determination.

(D) The people of the Soviet Union have been empowered to elect in genuinely free, fair, and open elections the government that rules them.

(E) The Soviet Government has not only codified but honors in practice the right of its citizens to leave the Soviet Union and to move freely within its borders, consistent with international standards.

(F) The Soviet Government compels no republic or historically recognized nationality group with a history of self-determination to remain part of the Soviet Union involuntarily, and fully respects the right of self-determination stipulated in the Universal Declaration of Human Rights, to which the Soviet Union is a party.

(G) The Soviet Government has withdrawn the authorization issued by Valentin Pavlov, the prime minister, permitting the police and the KGB to raid the offices of joint ventures involving nationals of western European countries and the United States, in violation of their civil rights;

(2) That the threat to the United States from the armed forces of the Soviet Union has been reduced, including—

(A) that the Soviet Union—

(i) has adopted a defense budget which will draw down the percentage of its gross national product that is allocated for military purposes to levels approximating those of the United States, and

(ii) is beginning to implement this defense budget; and

(B) that the Soviet Union has terminated the modernization of its strategic forces.

(3) That the Soviet Union is no longer engaged in acts of subversion, or of support for international terrorism, that are directed at the United States or its allies.

(4) That the Soviet Union no longer provides assistance in the form of arms sales, military assistance, or any kind of grant, credit, commodity, or technology transfer to other countries, such as Cuba and North Korea, that are engaged in activities inimical to the national interests of the United States.

(5) That the Soviet Union has taken constructive steps toward completing the Strategic Arms Reduction Talks (START) and has placed a high priority on reaching an accord in the Defense and Space Talks.

(6) That full transparency exists with respect to data necessary for the United States to determine the creditworthiness of the Soviet Union and its ability to repay debt, such as disclosing data to permit a detailed assessment of Soviet credits similar to that provided by other sovereign borrowers, including disclosure of the sources and uses of Soviet hard currency, the value of the strategic gold reserves of the Soviet Union, and other key economic and financial data.

(7) That, in order to demonstrate its creditworthiness and to demonstrate a commitment to economic reform, the Soviet Union has adopted specific provisions with strict, short timelines for deregulating most prices, selling to privately-owned entities most government-owned assets, and introducing genuine competition into the Soviet economy.

(8) That the Soviet Union is committed to environmental restoration and rehabilitation of unsafe nuclear facilities that it continues to operate.

(9) That the Soviet Union will not transfer to any country any equipment, technology, or services to build any VVERS nuclear reactors. In particular, that the Soviet Union will no longer provide support in the form of funds, equipment, technology, or services for the Cienfuegos project in Cuba.

(10) That any assistance otherwise prohibited by this subsection will be provided, whenever feasible, to the democratically elected governments of the Baltic states and the republics.

(c) Certain Assistance Not Affected.—Subsection (b) shall not prohibit assistance to the government of, or through nongovernmental organizations to, any of the Baltic states or any eligible receipient in the Soviet Union as defined in section 862(f).

(d) Waiver in the National Interest.—The President may provide assistance to the Soviet Union notwithstanding subsection (c) if—

(1) he determines such assistance to be in the national interest of the United States;

(2) he submits his determination, together with the reasons therefor, to the President of the Senate and the Speaker of the House of Representatives;

(3) 30 legislative days have elapsed since the determination is so submitted; and

(4) in the case of credit assistance, the United States will retain collateral for the full dollar amount of such assistance.

Each submission under paragraph (2) shall include a description of the progress of the Soviet Union in meeting the conditions set forth in subsection (b).

By Mr. LAGOMARSINO:

—On page 383, line 3, after the words "Annual Certification.—", insert "(1) Certification on Pakistan.—"

—On page 383, line 16, insert the following new paragraph:

"(2) Certification on India.—Prior to providing any assistance to India during any fiscal year, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a report on the nuclear programs of India. Such a report shall include either a certification that India does not possess a nuclear explosive device or, if the President is unable to make such a certification, a statement that the President cannot certify that India possesses such a device."

—On pages 383, strike line 16 through page 384, line 14.

—Page 381, line 7, after "(a) Statement of Policy.—"insert "(1) Policy Toward Pakistan.—"

—Page 381, line 24, insert the following new section:

"(2) Regional Nuclear non-Proliferation Policy.—The Congress further recognizes that a successful nuclear non-proliferation policy in South Asia can only be achieved through a regional United States policy aimed at securing concurrent agreement by the Governments of Pakistan and India on non-proliferation. Such a policy should have as its ultimate goal concurrent accession by Pakistan and India to the Nuclear Non-Proliferation Treaty, but should also include as needed a phased approach to that goal through a series of agreements between the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities."

—On page 383, line 3, after the words "Annual Certification.—", insert "(1) Certification on Pakistan.—".

—On page 383, line 16, insert the following new paragraph:

"(2) Certification on India.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that India has agreed to place all plutonium produced as a by-product of the enrichment of the U.S.-supplied uranium (under the "Tarapur Agreement") under International Atomic Energy Agency safeguards after the Tarapur Agreement has ended.".

—On page 383, line 3, after the words "Annual certification.—", insert "(1) Certification on pakistan.—".

On page 383, line 15, after "device." insert the following:

"(2) Waiver.—Notwithstanding the provisons of paragraph (1), if the President determines that it is in the national interest to do so, the President may provide assistance to Pakistan provided under—

(A) Title I, Chapter 2 of the Foreign Assistance Act of 1961, as amended by the International Cooperation Act of 1991, or previously under Part I, Chapter 1 of the Foreign Assistance Act of 1961 (related to development assistance);

(B) Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

(C) Title I, Chapter 3 of the Foreign Assistance Act of 1961, as amended by the International Cooperation Act of 1991 (related to economic assistance), or previously under Part II, Chapter 4 of the Foreign Assistance Act of 1961 (related to economic assistance) which is made available pursuant to subparagraph (A) or is for narcotics-related projects.

—Page 381, line 7, after "(a) Statement of Policy.—" insert "(1) Policy toward Pakistan.—"

—Page 381, line 24, insert the following new section:

"(2) Regional nuclear non-proliferation policy.—The Congress further recognizes that a successful nuclear non-proliferation policy in South Asia can only be achieved through a regional United States policy aimed at securing concurrent agreement by the Governments of Pakistan and India on non-proliferation. The Congress commends Prime Minister Nawaz Sharif for his speech of June 6, 1991 committing the Government of Pakistan to the active pursuit of such a policy, and urges the Government of India to join with Pakistan in finding a negotiated regional solution. At the same time, the Congress is greatly concerned by the statement of a leader of India's opposition party that India should develop an arsenal of nuclear weapons, and believes that such an action would dramatically increase the danger that nuclear proliferation poses in South Asia. United States regional non-proliferation policy in South Asia should be based on working with the two parties to reach such a solution, and should have as its ultimate goal concurrent accession by Pakistan and India to the Nuclear Non-Proliferation Treaty, but should also include as needed a phased approach to that goal through a series of agreements between the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities."

—On page 383, line 3, after the words "Annual Certification.—", insert "(1) Certification on pakistan.—.

—On page 383, line 15, after "device." insert the following new section:

"(2) Waiver.—Notwithstanding the provisions of paragraph (1), if the President determines that it is in the national interest to do so, the President may provide assistance under Title I, Chapter 2 of the Foreign Assistance Act of 1961, as amended by the International Cooperation Act of 1991, or previously under Part I, Chapter 1 of the Foreign Assistance Act of 1961 (related to development assistance) and assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance) to Pakistan.".

—In Title IX, on page 657, after line 25, insert the following new section:

"SEC. 927. INDIA.

"No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device."

—Page 381, line 7, after "(a) Statement of Policy.—" insert "(1) Policy toward Pakistan.—"

—Page 381, line 24, insert the following new section:

"(2) Regional nuclear non-proliferation policy.—The Congress further recognizes that a successful nuclear non-proliferation policy in South Asia can only be achieved through a regional United States policy aimed at securing concurrent agreement by the Governments of Pakistan and India on non-proliferation. Such a policy should have as its ultimate goal concurrent accession by Pakistan and India to the Nuclear Non-Proliferation Treaty, but should also include as needed a phased approach to that goal through a series of agreements between the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities."

—Page 384, after line 14, add the following new subsections and renumber the following sections accordingly:

"(h) PRESIDENTIAL DETERMINATION AND WAIVER.—

"(1) The President may provide the assistance described in paragraph (2), notwithstanding the provisions of subsections (d), (e) and (f), if he determines that it is in the national interest of the United States to do so.

"(2) The assistance referred to in paragraph (1) includes—

"(A) assistance provided under Title I, Chapter 2 of the Foreign Assistance Act of 1961, as amended by the International Cooperative Act of 1991, or previously under Part I, Chapter 1 of the Foreign Assistance Act of 1961 (related to development assistance);

"(B) assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

"(C) assistance authorized under Title I, Chapter 3 or the Foreign Assistance Act of 1961, as amended by the International Cooperation Act of 1991 (related to economic support assistance), or previously under Part II, Chaper 4 of the Foreign Assistance Act of 1961 (related to the economic support fund) which is made available pursuant to subparagraph (A).

"SEC. 5505. ASSISTANCE TO INDIA

"(a) AUTHORITY TO WAIVE PROHIBITION.—

"(1) IN GENERAL.—The President may waive the prohibitions of section 6201 (a)(5) of this Act with respect to paragraph (1) of section 6206 of that Act at any time during the period beginning on the date of enactment of this section and ending on September 30, 1993, to provide assistance to India during that period if he determines that to do so is in the national interest of the United States, subject to paragraph (2).

"(2) LIMITATION.—The President may not exercise the waiver authority of this subsection unless a certification under subsection (b) of this section is in effect.

"(b) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act of any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance to be furnished or military equipment or technology is to be sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

"(c) FURTHER RESTRICTION ON ASSISTANCE.—Subject to subsection (d), unless a certification under subsection (b) of this section is in effect on September 30, 1992, no funds may be allocated for fiscal year 1993 for assistance to India, or for the sale or transfer of defense articles or defense services to India.

"(d) IF A CERTIFICATION IS MADE.—If a certification under subsection (b) is made in a fiscal year after the prohibition in subsection (c) applies, funds for assistance, sales, or transfers described in subsection (c) may be allocated for India pursuant to the reprogramming provisions of section 6304 of the Foreign Assistance Act or pursuant to a subsequent appropriation act.

"(e) PRESIDENTIAL DETERMINATION AND WAIVER.—

"(1) The President may provide the assistance described in paragraph (2), notwithstanding the provisions of subsections (a), (b) and (c), if he determines that it is in the national interest of the United States to do so.

"(2) The assistance referred to in paragraph (1) includes—

"(A) assistance provided under Title I, Chapter 2 of the Foreign Assistance Act of 1961 (related to development assistance);

"(B) assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

"(C) assistance authorized under Title I, Chapter 3 of the Foreign Assistance Act of 1961 (related to economic support assistance) which is made available pursuant to subparagraph (A)."

—Page 384, after line 14, add the following new subsections and renumber the following sections accordingly:

"(h) PRESIDENTIAL DETERMINATION AND WAIVER.—

"(1) The President may provide the assistance described in paragraph (2), notwithstanding the provisions of subsections (d), (e) and (f), if he determines that it is in the national interest of the United States to do so.

"(2) The assistance referred to in paragraph (1) includes—

"(A) assistance provided under Title I, Chapter 2 of the Foreign Assistance Act of 1961, as amended by the International Cooperation Act of 1991, or previously under Part I, Chapter 1 of the Foreign Assistance Act of 1961 (related to development assistance);

"(B) assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

"(C) assistance authorized under Title I, Chapter 3 of the Foreign Assistance Act of 1961, as amended by the International Cooperation Act of 1991 (related to economic support assistance), or previously under Part II, Chapter 4 of the Foreign Assistance Act of 1961 (related to the economic support fund) which is made available pursuant to subparagraph (A).

"SEC. 5505. ASSISTANCE TO INDIA

"(a) AUTHORITY TO WAIVE PROHIBITION.—

"(1) IN GENERAL.—The President may waive the prohibitions of section 6201 (a) (5) of this act with respect to paragraph (1) of sectioin 6206 of that Act at any time during the period beginning on the date of enactment of this section and ending on September 30, 1993, to provide assistance to India during that period if he determines that to do so is in the national interest of the United States, subject to paragraph (2).

"(2) LIMITATION.—The President may not exercise the waiver authority of this subsection unless a certification under subsection (b) of this section is in effect.

"(b) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance to be furnished or military equipment or technology is to be sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

"(c) FURTHER RESTRICTION ON ASSISTANCE.—Subject to subsection (d), unless a certification under subsection (b) of this section is in effect on September 30, 1992, no funds may be allocated for fiscal year 1993 for assistance to India, or for the sale or transfer of defense articles or defense services to India.

"(d) IF A CERTIFICATION IS MADE.—If a certification under subsection (b) is made in a fiscal year after the prohibition in subsection (c) applies funds for assistance sales or transfers described in subsection (c) may be allocated for India pursuant to the reprogramming provisions of section 6304 of the Foreign Assistance Act or pursuant to a subsequent appropriation Act.

"(e) PRESIDENTIAL DETERMINATION AND WAIVER.—

"(1) The President may provide the assistance described in paragraph (2), notwithstanding the provisions of subsections (a), (b) and (c), if he determines that it is in the national interest of the United States to do so.

"(2) The assistance referred to in paragraph (1) includes—

"(A) assistance provided under Title I, Chapter 2 of the Foreign Assistance Act of 1961 (related to development assistance);

"(B) assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

"(C) assistance authorized under Title I, Chapter 3 of the Foreign Assistance Act of 1961 (related to economic support assistance) which is made available pursuant to subparagraph (A)."

—Page 721, after line 16, add the following:

TITLE XII—ASSISTANCE TO INDIA AND PAKISTAN

"SEC. 1201. ASSISTANCE TO PAKISTAN.

"(a) PRESIDENTIAL DETERMINATION AND WAIVER.—

"(1) The President may provide the assistance described in subsection (b), notwithstanding the provisions of subsections (d), (e) and (f) of Section 5504 of the Foreign Assistance Act of 1961, if he determines that it is in the national interest of the United States to do so.

"(b) The assistance referred to in paragraph (1) includes—

"(1) assistance provided under Title I, Chapter 2 of the Foreign Assistance Act of 1961, as amended by the International Cooperation Act of 1991, or previously under the Foreign Assistance Act of 1961 (related to development assistance);

"(2) assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

"(3) assistance authorized under Title I, Chapter 3 of the Foreign Assistance Act of 1961, as amended by the International Cooperation Act of 1991, or previously under the Foreign Assistance Act of 1961 (related to the economic support fund) which is made available pursuant to paragraph (1).

"SEC. 1202. ASSISTANCE TO INDIA.

"(a) AUTHORITY TO WAIVE PROHIBITION.—

"(1) IN GENERAL.—The President may waive the prohibitions of section 6201(a)(5) of this Act with respect to paragraph (1) of section 6206 of that Act at any time during the period beginning on the date of enactment of this section and ending on September 30, 1993, to provide assistance to India during that period if he determines that to do so is in the national interest of the United States, subject to paragraph (2).

"(2) LIMITATION.—The President may not exercise the waiver authority of this subsection unless a certification under subsection (b) of this section is in effect.

"(b) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance to be furnished or military equipment or technology is to be sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

"(c) FURTHER RESTRICTION ON ASSISTANCE.—Subject to subsection (d), unless a certification under subsection (b) of this section is in effect on September 30, 1992, no funds may be allocated for fiscal year 1993 for assistance to India, or for the sale or transfer of defense articles or defense services to India.

"(d) IF A CERTIFICATION IS MADE.—If a certification under subsection (b) is made in a fiscal year after the probibition in subsectioin (c) applies, funds for assistance, sales, or transfers described in subsection (c) may be allocated for India pursuant to the reprogramming provisions of section 6304 of the Foreign Assistance Act or pursuant to a subsequent appropriation Act.

"(e) PRESIDENTIAL DETERMINATION AND WAIVER.—

"(1) The President may provide the assistance described in paragraph (2), notwithstanding the provisions of subsections (a), (b) and (c), if he determines that it is in the national interest of the United States to do so.

"(2) The assistance referred to in paragraph (1) includes—

"(A) assistance provided under Title I, Chapter 2 of the Foreign Assistance Act of 1961 (related to development assistance);

"(B) assistance provided under Title XV, Subtitle A of the Food, Agriculture, Conservation and Trade Act of 1990 (related to food assistance); and

"(C) assistance authorized under Title I, Chapter 3 of the Foreign Assistance Act of 1961 (related to economic support assistance) which is made available pursuant to subparagraph (A)."0

By Mr. MCCOLLUM:

—Page 622, after line 5, insert the following:

SEC. 869. RESTRICTION ON ASSISTANCE TO THE GOVERNMENT OF THE SOVIET UNION.

During fiscal year 1992 and 1993, assistance may not be provided to the Government of the Soviet Union under the Foreign Assistance Act of 1961 unless that Government has terminated all military assistance, directly or indirectly, to Vietnam.

—Page 622, after line 5, insert the following:

SEC. 869. RESTRICTION ON ASSISTANCE TO THE GOVERNMENT OF THE SOVIET UNION.

During fiscal year 1992 and 1993, assistance may not be provided to the Government of the Soviet Union under the Foreign Assistance Act of 1961 unless that Government has terminated all military assistance, directly or indirectly, to Cuba.

—Page 622, after line 5, insert the following:

SEC. 869. RESTRICTION ON ASSISTANCE TO THE GOVERNMENT OF THE SOVIET UNION.

During fiscal year 1992 and 1993, assistance may not be provided to the Government of the Soviet Union under the Foreign Assistance Act of 1961 unless that Government has terminated all military assistance, directly or indirectly, to Afghanistan, Cuba, and Vietnam.

—Page 622, after line 5, insert the following:

SEC. 869. RESTRICTION ON ASSISTANCE TO THE GOVERNMENT OF THE SOVIET UNION.

During fiscal year 1992 and 1993, assistance may not be provided to the Government of the Soviet Union under the Foreign Assistance Act of 1961 unless that Government has terminated all military assistance, directly or indirectly, to Afghanistan.

—Page 627, strike out lines 1 through 4, and redesignate paragraphs (6) and (7) as paragraphs (5) and (6).

—Page 629, before the period at the end of line 4, insert the following:

, except that such assistance may not be provided in areas of Cambodia under the control of the Phnom Penh regime until the President and the member nations of the Association of Southeast Asian Nations (ASEAN) have confirmed that all Vietnamese troops, including paramilitary troops, have left Cambodia.

—Page 631, before the period at the end of line 23, insert the following:

, except that such assistance may not be provided in areas of Cambodia under the control of the Phnom Penh regime until the President and the member nations of the Association of Southeast Asian Nations (ASEAN) have confirmed that all Vietnamese troops, including paramilitary troops, have left Cambodia.

—Page 645, insert the following after line 15:

SEC. 911. OPIC OPERATIONS IN LAOS.

The Overseas Private Investment Corporation may not operate any of its programs in Laos unless the President determines and reports to the Congress that the Government of Laos has taken legal and law enforcement measures to prevent and punish public corruption, especially by government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

—Page 645, insert the following after line 15:

SEC. 911. OPIC OPERATIONS IN LAOS.

The Overseas Private Investment Corporation may not operate any of its programs in Laos unless the President determines and reports to the Congress that—

(1) a full and fair accounting has been made of all POW/MIAs still missing in Laos; and

(2) the Government of Laos has taken legal and law enforcement measures to prevent and punish public corruption, especially by government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts; and

(3) free and fair elections, with international observers, have been held in Laos to elect a representative government.

—Page 645, insert the following after line 15:

SEC. 911. OPIC OPERATIONS IN LAOS.

The Overseas Private Investment Corporation may not operate any of its programs in Laos unless the President determines and reports to the Congress that—

(1) a full and fair accounting has been made of all POW/MIAs still missing in Laos; and

(2) the Government of Laos has taken legal and law enforcement measures to prevent and punish public corruption, especially by government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

—Page 712, after line 12, insert the following:

(c) RESTRICTION ON PROGRAMS IN LAOS.—The Peace Corps may not carry out programs in Laos until the President determines, and so reports to the appropriate congressional committees, that—

(1) free and fair elections have been held in Laos under the auspices of an international observer team;

(2) all political prisoners in Laos have been released; and

(3) there has been a fair, full, and complete accounting with regard to all POW/MIA cases in Laos that are still pending.

By Mr. MCCURDY:

—Page 669, strike out line 11 and all that follows through line 2 on page 670 (section 1021) and insert in lieu thereof the following:

SEC. 1021. ANGOLA.

It is the sense of the Congress that—

(1) the Government of the People's Republic of Angola and the National Union for the Total Independence of Angola (UNITA) should be commended for successfully reaching an agreement (the Estorial Accords signed on May 31, 1991) to end the conflict in Angola and to establish a process designed to lead to free and fair elections in Angola; and

(2) the United States should formulate and implement, as soon as practicable, a program of economic and humanitarian assistance under the Foreign Assistance Act of 1961 to support implementation of the Estoril Accords.

By Mr. MCEWEN:

—Page 622, after line 5, insert the following:

SEC. 869. UNITED STATES ASSISTANCE TO THE SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union is suffering from serious short-term and long-term economic problems;

(2) there is an inextricable link between the critical task of democratization in the Soviet Union and fundamental changes in its economic system;

(3) there has been a great increase in the number of people able to emigrate from the Soviet Union during the past year;

(4) great progress has been made toward agreements to reduce the number of Soviet intercontinental ballistic nuclear missiles; and

(5) the long-term economic problems that plague the Soviet economy can only be addressed by steps taken by the Soviet Union itself and special technical assistance to support market reforms in the Soviet Union is the type of asssistance that, in the long-term, will be most beneficial.

(b) CONGRESSIONAL POLICY DECLARATIONS.—The Congress—

(1) applauds the market reforms and increased democratization within the Soviet

Union and urges continued progress toward the creation of a free society and a free market economy;

(2) supports the provision of specialized technical assistance to support market reforms and democratization within the Soviet Union and emergency assistance in response to natural disasters; and

(3) opposes foreign assistance to the Soviet Union other than specialized technical assistance until—

(A) there is a significant reduction in the number of Soviet intercontinental ballistic missiles and in the defense expenditures of the Soviet Union;

(B) Soviet economic and military aid to the totalitarian Government of Cuba is eliminated;

(C) further major reforms of the Soviet economic and legal systems occur;

(D) the oppressive Soviet troops are removed from the Baltic states of Estonia, Latvia, and Lithuania.

By Mr. McGRATH:

—At the appropriate place, insert the following new section:

Sense of the Congress concerning the outbreak of neo-Nazi video games in Europe.

It is the sense of the House of Representatives that the degree of anti-Semitism and hatred found in video games glorifying the Holocaust is so profound that the Federal Republic of Germany and the Republic of Austria should take all applicable steps to halt the production, sales, and distribution of "KZ Manager," "Aryan Test," and other similar neo-Nazi video software.

By Mr. MILLER of Washington:

—Page 568, after line 14, insert the following:

SEC. 818. RESTRICTIONS ON ASSISTANCE TO JORDAN.

(a) Congressional Statement.—The Congress is extremely distressed at Jordan's behavior and attitude during the Persian Gulf war.

(b) Restrictions.—United States assistance may not be provided to Jordan for fiscal year 1992 unless the President determines, and so reports to the relevant congressional committees, that—

(1) the Government of Jordan has demonstrated its willingness to enter into direct bilateral negotiations with the State of Israel;

(2) the Government of Jordan has recognized Israel's right to exist; and

(3) Jordan is not providing assistance (other than humanitarian assistance) to Iraq.

(c) Definitions.—As used in this section:

(1) the term "relevant congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

(2) the term "United States assistance" has the same meaning it has under section 7601(e)(5) of the Foreign Assistance Act of 1961.

—Page 568, after line 14, insert the following:

SEC. 818. PROHIBITION ON ASSISTANCE TO JORDAN.

(a) Congressional Statement.—The Congress is extremely distressed at Jordan's behavior and attitude during the Persian Gulf war.

(b) Prohibition.—United States assistance may not be provided to Jordan for fiscal year 1992.

(c) Definition.—As used in this section the term "United States assistance" has the same meaning it has under section 7601(e)(5) of the Foreign Assistance Act of 1961.

—Page 614, line 4, after "AND" the second place it appears, insert "CERTAIN GOVERNMENTAL AGENCIES AND"; and page 615, strike out lines 22 through 24 and insert in lieu thereof the following:

(2) any governmental agency, and any nongovernmental organization, in the Soviet Union that promotes democratic reforms, respect for human rights or the rule of law, or market-oriented reforms.

By Mr. OBEY:

—Page 62, line 11, strike out "spend" and all that follows through the end of line 25 and insert in lieu thereof the following:

agree to use its best efforts to encourage importers, whenever feasible, to purchase United States grain and other agricultural products and to employ United States-flag vessels.

—Page 63, strike out line 7 and all that follows through line 19 on page 64 and insert in lieu thereof the following:

"(d) Exemption.—This section shall not apply to any country that receives cash transfer assistance under this chapter of less than $25,000,000 for a fiscal year.

By Ms. OAKAR:

—On page 554, between lines 10 and 11, insert the following new paragraph:

"(d) American University of Beirut.—It is the sense of the Congress that the American University of Beirut (AUB) makes a uniquely important contribution to furthering the American ideals of democracy, humanitarianism, and liberal education in both Lebanon and the Middle East as a whole. The Congress finds that in order in ensure that AUB will be able to revitalize its operations and to continue to contribute to the democratization of the Middle East, it is desirable to establish a program of regular financial support of the university to supplement the assistance it receives under the American Schools and Hospitals program and under paragraphs (b) and (c) of this section. Therefore the Congress directs the Agency for International Development, in consultation with the Department of State and the Office of Management and Budget, to report by no later than December 15, 1991, its recommendations for such a program to provide supplemental financial support to AUB. The report shall be made to the Committee on Foreign Affairs and the Subcommittee on Foreign Operations, Export Financing and Related Programs of the House of Representatives and the Committee on Foreign Relations and the Subcommittee on Foreign Operations of the Senate."

—On page 554, line 11, strike out "(d)" and insert in lieu thereof "(e)".

By Mr. OWENS of Utah:

—Page 622, after line 5, insert the following:

SEC. 869. NAGORNO-KARABAKH CRISIS.

The Congress—

(1) condemns the attacks by internal security forces and the forces of the Azerbaijani government on innocent children, women, and men in Armenian areas and communities in and around Nagorno-Karabakh and in Armenia;

(2) condemns the indiscriminate use of force, including the shelling of civilian areas, on Armenia's eastern and southern borders;

(3) calls for the end of the blockades and other uses of force and intimidation directed against Armenia and Nagorno-Karabakh, and calls for the withdrawal of forces newly deployed for the purpose of intimidation;

(4) calls for an immediate end to deportations of Armenians from Nagorno-Karabakh and the freedom for all refugees to return to their homes;

(5) calls for dialogue among all parties involved as the only acceptable route to achieving a lasting resolution of the conflict;

(6) reconfirms the commitment of the United States to the success of democracy and self-determination in the Soviet Union and its various republics; and

(7) expresses its deep concern over acts of retribution or intimidation against those republics which are seeking greater independence.

By Mr. PORTER:

—Page 614, line 4, after "AND" the second place it appears, insert "CERTAIN GOVERNMENTAL AGENCIES AND"; and page 615, strike out lines 22 through 24 and insert in lieu thereof the following:

(2) any governmental agency, and any nongovernmental organization, in the Soviet Union that promotes democratic reforms, respect for human rights or the rule of law, or market-oriented reforms.

By Mr. Rahall:

—Page 721 after line 16, insert the following:

TITLE XII—MISCELLANEOUS PROVISIONS

An amendment to title 10, sec. 403(a), (probably chapter 20) of the U.S. Code.

"To Repeal that section of the Defense Authorization Act, appearing at SEC. 403(a) of title 10, Chapter 20 of the U.S. Code, which authorizes appropriations for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in the amount of $13,000,000, for Humanitarian Assistance, authorized for use in the purpose of providing transportation for humanitarian relief supplies to foreign countries."

—Page 414, line 12, strike out "and"; line 14, strike out the period and insert in lieu thereof "; and"; and after line 14, insert the following:

"(3) with respect to each project or other activity for which such funds remain unexpended, the justification for such funds not having been expended.

By Mr. Roth:

—Page 427, after line 7, insert the following:

"SEC. 6310. REPORTS BY THE INSPECTOR GENERAL REGARDING UNEXPENDED BALANCES.

"(a) Comments on Section 6301(e) Reports.—As soon as possible after the submission to the Congress each year of the information regarding unexpended balances required by section 6301(e), the Inspector General for the administering agency for title I shall submit to the appropriate congressional committees—

"(1) the Inspector General's recommendations for reducing the amount of such unexpended balances; and

"(2) such comments as the Inspector General considers appropriate with regard to the justifications provided pursuant to paragraph (3) of that section.

'(c) Comments on Section 7304(b) Reports.—As soon as possible after submission of a report pursuant to section 7304(b), the Inspector General for the administering agency for title I shall submit to the appropriate congressional committees such comments as the Inspector General considers appropriate with regard to the determination described in that report.

—Page 454, after line 19, insert the following:

"SEC. 7304. DEOBLIGATION OF CERTAIN UNEXPENDED ECONOMIC ASSISTANCE FUNDS.

"(a) Requirement to Deobligate.—Except as provided in subsection (b) and section 6105, at the beginning of each fiscal year the

President shall deobligate, and return to the Treasury, any funds that, as of the end of the preceding fiscal year, have been obligated for a period of more than 3 years for development assistance, economic support assistance, assistance from the Development Fund for Africa, or assistance under chapter 2 of title V (relating to the Multilateral Assistance Initiative for the Philippines), but have not been expended.

"(b) Exceptions.—The President, on a case-by-case basis, may waive the requirement of subsection (a) if the President determines, and reports to the appropriate congressional committees, that—

"(1) the funds are being used for a construction project that requires more than 3 years to complete; or

"(2) the funds have not been expended because of unforeseen circumstances, and those circumstances could not have been reasonably foreseen.

—Page 645, after line 15, insert the following:

SEC. 911. BUY-AMERICAN REQUIREMENT FOR BASE RIGHTS ASSISTANCE FOR THE PHILIPPINES.

(a) In General.—Except as provided in subsection (b), foreign military financing assistance provided to the Philippines in accordance with an agreement granting the United States access to military bases in the Philippines may not be used for the procurement of any defense articles that are not of United States origin.

(b) Waiver.—The President may waive the prohibition in subsection (a) with respect to the procurement of defense articles that are not of United States origin if he provides a justification for such foreign procurement to the appropriate congressional committees.

By Mr. SMITH of Florida:

—Page 555, after line 9, insert the following:

(e) Congressional Review of Shipments.—If the President submits a report under subsection (d), the President shall notify the appropriate congressional committees, in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961, at least 15 days before any defense articles are shipped to Lebanon, or any defense services are delivered to Lebanon, pursuant to such report.

By Mr. SMITH of New Jersey:

—Page 42, strike out line 18 and all that follows through line 15 on page 43 (section 1205) and insert in lieu thereof the following:

(d) Restriction on Population Assistance.—Funds for development assistance, economic support assistance, or assistance from the Development Fund for Africa that are used for population planning activities may not be made available to any organization or program which (as determined by the President) supports, or participates in the management of, a program of coercive abortion or involuntary sterilization.

Redesignate section 1206 as section 1205.

—Page 43, strike out line 16 through 23 (section 1206) and insert in lieu thereof the following:

"SEC. 1206. RESTRICTION ON POPULATION ASSISTANCE.

"Funds for development assistance, economic support assistance, or assistance from the Development Fund for Africa that are used for population planning activities may not be made available to any foreign nongovernmental organization which performs or actively promotes abortion as a method of family planning.

—Page 42, strike out line 18 and all that follows through line 23 on page 43 (sections 1205 and 1206) and insert in lieu thereof the following:

"(d) Restrictions on Population Assistance.—Funds for development assistance, economic support assistance, or assistance from the Development Fund for Africa that are used for population planning activities may not be made available—

"(1) to any organization or program which (as determined by the President) supports, or participates in the management of, a program of coercive abortion or involuntary sterilization, or

"(2) to any foreign nongovernmental organization which performs or actively promotes abortion as a method of family planning.

By Mr. SOLARZ:

—At an appropriate place in the bill insert the following:

SEC. . POLICY TOWARD THE FUTURE OF TAIWAN.

(a) Findings.—The Congress finds that—

(1) although peace has prevailed in the Taiwan Strait for the past decade, on June 4, 1989, the Government of the People's Republic of China showed its willingness to use force against the Chinese people who were demonstrating peacefully for democracy; and

(2) in the Taiwan Relations Act, the United States made clear that its decision to enter into diplomatic relations with the People's Republic of China rested upon the expectation that the future of Taiwan would be determined by peaceful means—

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the future of Taiwan should be settled peacefully, free from coercion, and in a manner acceptable to the people of Taiwan; and

(2) good relations between the United States and the People's Republic of China depend upon the Chinese authorities' willingness to refrain from the use or the threat of force in resolving Taiwan's future.

By Mr. SOLOMON:

—Page 379, after line 13:

Insert the following new sentence: "Grants may not be made under this subsection to any organization which has an ongoing functional relationship and shared personnel with the South African Communist Party."

—Page 644, lines 4 and 5:

Delete "IRAN, IRAQ, LIBYA, PAKISTAN, AND SYRIA." and insert in lieu thereof "TERRORIST STATES."

—Page 644, lines 21 and 22:

Delete "Iran, Iraq, Libya, Pakistan, or Syria" and insert in lieu thereof "countries listed pursuant to Section 6(j) of the Export Administration Act of 1979".

—Page 645, lines 5 and 6:

Delete "Iran, Iraq, Libya, Pakistan, or Syria" and insert in lieu thereof "countries listed pursuant to Section 6(j) of the Export Administration Act of 1979".

—Page 645, after line 15:

Insert the following new section:

"SEC. 911. MEMBERSHIP OF THE REPUBLIC OF KOREA IN THE UNITED NATIONS.

(a) Findings.—The Congress finds that—

(1) the Republic of Korea has applied for admission as a member state of the United Nations;

(2) the goals of the United Nations, which include the peaceful resolution of conflicts, will be enhanced if the Republic of Korea is admitted as a member state;

(3) the United States has a special interest in supporting the Republic of Korea, a faithful and valued ally, in this endeavor, owing to the fact that more than 50,000 Americans died in the defense of the Republic of Korea's liberty and independence during the Korean conflict of 1950 to 1953; and

(4) the issue of peace on the Korean peninsula has a particular relevance to the United Nations because a United Nations Command is still in place to assist in the defense of the Republic of Korea against aggression.

(b) Sense of Congress.—It is the sense of Congress that the President should actively support the application of the Republic of Korea for admission as a member state of the United Nations."

—Page 645, after line 15:

Insert the following new section:

"SEC. 911. TAIWAN'S MEMBERSHIP IN GATT.

(a) Findings.—The Congress finds that—

(1) Taiwan is a rapidly industrializing society that has become one of the most important commercial powers in the global economy;

(2) Taiwan is the thirteenth largest trading entity in the world, possesses the world's second largest reserve of foreign exchange, and is the United States' fifth largest trading partner;

(3) Taiwan has substantially liberalized its trading regime in recent years and has expressed an active interest in playing an even more cooperative role in the global economy;

(4) On January 1, 1990, Taiwan applied for membership in the General Agreement on Tariffs and Trade (GATT);

(5) By applying for GATT membership as a separate customs union, 'The Customs Territory of Taiwan, Penghu, Kinmen and Matsu,' Traiwan deliberately sought to avoid controversy over the question of political sovereignty; and

(6) The purposes of GATT, to regulate and strengthen a free system of international trade, will be enhanced if Taiwan is admitted as a member.

(b) Sense of Congress.—It is the sense of Congress that the President should actively support the application of 'The Customs Territory of Taiwan, Penghu, Kinmen and Matsu' for membership in GATT."

By Mr. TAYLOR of Mississippi:

—On page 129, line 6, insert the following:

(6) The Department of Defense shall make available to the Regional Equipment Center of Pennsylvania and appropriate State agencies excess non-lethal vehicles and construction equipment for a period of 30 days prior to transfer to any eligible country.

(A) construction equipment referred to in (6) shall include tractors, scrapers, loaders, graders, bulldozers, trucks, generators and compressors.

By Mr. TORRICELLI:

—Page 43, after line 23, insert the following:

"SEC. 1207. APPROPRIATE TECHNOLOGY INTERNATIONAL.

"(a) Eligibility as a PVO.—Appropriate Technology International qualifies along with any cooperative development organization for development assistance funds made available for United States private voluntary organizations.

"(b) Additional Funding.—In addition to the $3,000,000 made available to Appropriate Technology International under its cooperative agreement with the Agency for International Development, $2,000,000 of the funds made available for development assistance for fiscal year 1992 shall be provided to Appropriate Technology International to enable it to emphasize large-scale replication of successful projects and partnerships with major development and financial institutions.

—Page 63, line 14, after "and" insert the following: "that, as of the time of the cash transfer under this chapter,".

—Page 64, line 6, strike out "and" and insert in lieu thereof "or"; and line 18, strike out "(a)" and insert in lieu thereof "(b)".

—Page 566, strike out line 18 and all that follows through line 14 of page 568 (section 817) and insert in lieu thereof the following:

SEC. 817. UNITED STATES POLICY REGARDING KUWAIT.

(a) FINDINGS.—The Congress finds that—

(1) on August 2, 1990, Iraq committed an act of unprovoked aggression by invading the independent Emirate of Kuwait;

(2) from August 2, 1990, until February 27, 1991, the Iraqi army illegally occupied Kuwait, and purposely wrought enormous damage and devastation upon Kuwait's infrastructure, natural and cultural resources, and religious institutions;

(3) during the Iraqi occupation of Kuwait, there were widespread, confirmed reports of human rights abuses committed in an arbitrary manner by Iraqi soliders against Kuwaiti citizens, including numerous instances of torture, rape, and murder;

(4) as a result of the shameless pillaging and plundering of their country and the commitment of condemnable human rights abuses against their citizens, there is a justifiable desire by the Government of Kuwait and by the Kuwaiti people to identify and punish those individuals still residing in Kuwait who collaborated with the Iraqi occupation;

(5) due in part to the horrific nature of the crimes committed against them, there have been reports of individual acts of vengeance by Kuwaiti citizens against alleged collaborators with the Iraqi occupation without proper regard for due process of law;

(6) the Government of Kuwait has made a commitment to open trials, the presence of international observers, and the presence of legal counsel for defendants;

(7) the Government of Kuwait has promised to hold free and fair parliamentary elections by October 1992; and

(8) as a result of the Iraqi invasion and occupation of Kuwait, Kuwait's armed forces have been decimated and must be rebuilt to provide for continued sovereignty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the United States should support the efforts of the Government of Kuwait to take proper measures to prosecute, fairly and in accordance with due process of law, those individuals who broke Kuwaiti laws and were parties to criminal actions by Iraqi soldiers during the Iraqi occupation of Kuwait;

(2) the Government of Kuwait should take proper measures to prevent individual acts of retribution against alleged collaborators with the Iraqi occupation and ensure that all defendants are guaranteed fair trials and due process of law;

(3) the Government of Kuwait should support the establishment of democratic institutions and ensure that the October 1992 date established for free and fair parliamentary elections is observed; and

(4) the United States should be certain that, in overseeing the rebuilding of the armed forces of Kuwait, it provides for Kuwaiti security but adheres to the principles of Middle East arms control and balance as provided in the Administration's policy, and ensures that such rebuilding is consistent with other United States foreign policy obligations and objectives.

By Mr. TRAFICANT:

—At the end of the bill (page 721, after line 16), insert the following:

SEC. 1109. REDUCTION IN AUTHORIZATIONS.

Each authorization of appropriations provided in this Act (other than the authorization for international narcotics control assistance) is hereby reduced by 5 percent.

—At the end of the bill (page 721, after line 16), insert the following:

SEC. 1109. REDUCTION IN AUTHORIZATIONS.

Each authorization of appropriations provided in this Act (other than the authorization for international narcotics control assistance) is hereby reduced by 10 percent.

—At the end of the bill (page 721, after line 16), add the following:

SEC. 1109. REDUCTION IN AUTHORIZATIONS.

Each authorization of appropriations provided in this Act (other than the authorization for international narcotics control assistance) is hereby reduced by 1 percent.

—At the end of the bill (page 721, after line 16), insert the following:

SEC. 1109. REDUCTION IN AUTHORIZATIONS.

Each authorization of appropriations provided in this Act (other than the authorization for international narcotics control assistance) is hereby reduced by 2 percent.

—At the end of the bill (page 721, after line 16), add the following:

SEC. 1109. GAO STUDY OF IMPACT OF REDIRECTING FOREIGN ASSISTANCE FUNDS TO DOMESTIC PROGRAMS.

(a) REQUIREMENT FOR STUDY.—The Comptroller General of the United States shall conduct a study—

(1) of whether reducing the foreign assistance budget by $3,000,000,000 each fiscal year in order to provide additional funds for programs to assist the domestic economy would significantly harm United States interests abroad; and

(2) on the extent to which such a redirection of funds would help contribute to resolution of America's domestic problems.

(b) REPORT TO CONGRESS.—The Comptroller General shall report the results of the study conducted pursuant to subsection (a) to the Congress within 1 year after the date of enactment of this Act.

—At the end of the bill (page 721, after line 16), insert the following:

SEC. 1109. REDUCTION IN FOREIGN ASSISTANCE BUDGET IN ORDER TO FUND CERTAIN DOMESTIC PROGRAMS.

It is the sense of the Congress that—

(1) the foreign assistance budget should be reduced by $3,000,000,000 each fiscal year; and

(2) that amount should be used as follows:

(A) $2,700,000,000 should be used to finance revenue sharing programs for state and local governments.

(B) $280,000,000 should be used for programs to provide housing for low-income persons.

(C) $20,000,000 should be used to assist the economic recovery of Bridgeport, Connecticut.

—Page 460, strike out line 21 and all that follows through line 17 on page 461 and insert in lieu thereof the following:

"SEC. 7402. PROCUREMENT.

"(a) LIMITATIONS ON PROCUREMENT OUTSIDE THE UNITED STATES.—Funds made available for assistance under this Act may be used for procurement outside the United States only if—

"(1) the funds are used for the procurement of commodities or services, or defense articles or defense services, produced in the country in which the assistance is to be provided, except that this paragraph only applies if procurement in that country would cost less than procurement from the United States; or

"(2) the President determines that the provision of such assistance requires commodities or services, or defense articles or defense services, of a type that are not produced in, and available for purchase from, the United States or the country in which the assistance is to be provided.

—Page 461, line 18, strike out "(c)" and insert in lieu thereof "(d)".

—Page 411, after line 14, insert the following:

"SEC. 6207. VIOLATION OF TERMS OF ASSISTANCE.

"(a) TERMINATION OF ASSISTANCE FOR SUBSTANTIAL VIOLATIONS.—Assistance and deliveries of assistance under this Act to any recipient of assistance shall be terminated as hereinafter provided if such recipient uses any assistance provided under this act in substantial violation (either in terms of amounts or in terms of the gravity of the consequences regardless of the amounts involved) of any agreement pursuant to which that assistance was furnished by using (without the consent of the United States) such assistance for a purpose not authorized under such agreement.

"(b) ACTIONS REQUIRED FOR TERMINATION.—Assistance and deliveries of assistance shall be terminated pursuant to subsection (a) if—

"(1) the President so determines and states in writing to the Congress, or

"(2) the Congress so determines by joint resolution.

"(c) REPORTS TO CONGRESS.—The President shall report to the Congress promptly upon the receipt of information that a violation described in subsection (a) may have occurred.

"(d) PERIOD OF TERMINATION.—Assistance shall remain terminated in accordance with subsection (a) until such time as—

"(1) the President determines that the violation has ceased; and

"(2) the recipient concerned has given assurances satisfactory to the President that such violation will not recur.

—Page 411, after line 14, insert the following:

"SEC. 6207. COUNTRIES ENGAGING IN UNFAIR TRADE PRACTICES.

"(a) TERMINATION OF ASSISTANCE.—Assistance and deliveries of assistance under this Act to a country shall be terminated as hereinafter provided if that country engages in unfair trade practices with respect to the United States.

"(b) ACTIONS REQUIRED FOR TERMINATION.—Assistance and deliveries of assistance shall be terminated pursuant to subsection (a) if—

"(1) the President so determines and states in writing to the Congress, or

"(2) the Congress so determines by joint resolution.

"(c) REPORTS TO CONGRESS.—The President shall report to the Congress promptly upon the receipt of information that a country may have engaged in unfair trade practices with respect to the United States.

"(d) PERIOD OF TERMINATION.—Assistance to a country shall remain terminated in accordance with subsection (a) until such time as—

"(1) the President determines that the country has ceased its unfair trade practices with respect to the United States; and

"(2) the country has given assurances satisfactory to the President that such practices will not recur.

By Mr. VOLKMER:

—Page 568, after line 14, insert the following:

SEC. 818. PROHIBITION ON CERTAIN ASSISTANCE FOR JORDAN.

Foreign military financing assistance may not be provided for Jordan for fiscal year 1992 or 1993 under the Foreign Assistance Act of 1961.

—On page 127 SEC. 2207. Authorizations of Appropriations, line 1, strike "$4,411,444,000" and replace with "$4,386,444,000". On line 2 strike "$4,840,000,000" and replace with "$4,815,0900,000".

By Mr. WILSON:

—In Title IX, on page 657, after line 25, insert the following new section:

"Sec. 927. INDIA.

"No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device."

By Mr. WISE:

—Page 645, after line 15, insert the following:

SEC. 911. ECONOMIC COOPERATION WITH JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) an interdependent relationship exists among the economies of the United States, Japan, and other world nations;

(2) the United States and Japan are the two world leaders in terms of both gross national product and in providing financial assistance to developing nations;

(3) cooperation between the United States and Japan continues to grow in the areas of trade, investment, finance, diplomacy, and defense;

(4) in the growing economic competition between the United States and Japan, tensions arise that threaten the natural ties between the two nations; and

(5) the United States and Japan both have significant scientific research and technological skills which can benefit each other and the world.

(b) CONGRESSIONAL STATEMENT.—It is the sense of the Congress that the Secretary of State should initiate discussions with the Government of Japan to increase scientific research, medical technology, infrastructure development, agriculture, telecommunications, environmental protection, and other areas beneficial to the United States and Japan as well as other nations in order to improve the quality of life worldwide and foster cooperation between the United States and Japan.

By Mr. WOLPE:

—Page 43, after line 23, insert the following:

"SEC. 1207. APPROPRIATE TECHNOLOGY INTERNATIONAL.

"(a) ELIGIBILITY AS A PVO.—Appropriate Technology International qualifies along with any cooperative development organization for development assistance funds made available for United States private voluntary organizations.

"(b) ADDITIONAL FUNDING.—In addition to the $3,000,000 made available to Appropriate Technology International under its cooperative agreement with the Agency for International Development, $2,000,000 of the funds made available for development assistance for fiscal year 1992 shall be provided to Appropriate Technology International to enable it to emphasize large-scale replication of successful projects and partnerships with major development and financial institutions.

EXTENSIONS OF REMARKS

BILTMORE ESTATE IN ASHEVILLE, NC

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. TAYLOR of North Carolina. Mr. Speaker, I had the pleasure last week to participate in a symposium conducted by the historic preservation task force, cochaired by my colleagues, Congressman ALEX MCMILLAN and Congressman ANDY IRELAND, that examined private sector solutions to the preservation of historic sites.

I had the honor of introducing one of my constituents, Mr. William A.V. Cecil, the president of the Biltmore Co., which owns and operates the Biltmore Estate in Asheville, NC.

The centerpiece of the Biltmore Estate is the Biltmore House, a national historic landmark and the largest private residence in the United States since its completion in 1895.

While the incomparable beauty of the Biltmore House and the estate are a fitting legacy to George Vanderbilt's genius, it is Mr. Cecil's visionary handling of the estate's affairs that most interested the task force. With Mr. Cecil's guidance, the Biltmore Estate remains privately owned, yet is completely self-sufficient, receiving no governmental funding of any kind.

I am pleased to share Bill Cecil's insightful testimony before the historic preservation task force detailing the Biltmore Estate's continued and unprecedented success:

TESTIMONY OF MR. WILLIAM A.V. CECIL

Biltmore House is the largest private home in the United States. With 250 rooms, the floor space covers approximately four acres. The house resembles a French chateau on the Loire and was designed by architect Richard Morris Hunt. It took five years to build and was completed in 1895. The grandson of "Commodore" Cornelius Vanderbilt, George Vanderbilt—who was my grandfather—built it. Biltmore House includes my grandfather's collection of art and antiques and the original furnishings. Biltmore Estate, which originally consisted of 125,000 acres near Asheville, North Carolina, was named a National Historic Landmark in 1963. Formal and informal gardens and grounds were designed by landscape architect Frederick Law Olmsted. Biltmore was also the site of the first school of scientific forestry in the country.

The Biltmore Company is a "Sub S" Corporation. I am the major stockholder. My children and my wife each own one non-voting share of stock. Biltmore was first incorporated in 1930 and changed its status in 1982 to take advantage of the Sub Chapter "S" benefits. Biltmore has been open to the public since 1932, when my parents responded to the requests of the county and city. The requests were spurred by the Great Depression and the idea was that opening the house would stimulate tourism in the mountains.

The house was opened during the decade of the Depression but closed when World War II began. During that time, Biltmore was not open to the public—instead, it became a place of safekeeping for artworks from the National Gallery. When Biltmore re-opened in 1946, attendance was 36,497 and our total admission revenues were $67,343. I returned in 1949 to the United States after serving in the British Royal Navy. I graduated from Harvard and went to work at Chase Manhattan Bank, first in New York and then, in 1956, in Washington.

By 1959, it became evident that if Biltmore was to have any chance at survival, I would have to take up my share of the problems which it faced. In 1960, attendance was 63,715 and total income had risen to $149,900. Differences were made up by Biltmore Dairy Farms, another wing of the Biltmore Company, run by my brother. The dairy had really always carried the house, which in 1960, was losing a hefty $250,000 annually.

It was my hope that by the grace of God, hard work, and good fortune, Biltmore would one day break even and that the dairy would continue to be profitable. In 1960, that was the best that could be hoped for. Indeed, the mood in the preservation community was, and to a large extent still is, "It can't be done." This attitude irritated me. I could not believe that less than 50 years before, the Estate was a profitable operation, set up way before its time—and now, had no hope of success. I was, of course, ignoring tax problems, changes in wages, the multiplying effects of inflation, and eventually, the devastation of inheritance taxes.

Still, we worked hard and in 1968, we crossed the Rubicon, I made $16.34. The amount may seem small, but it was a long way from 1960 when we were losing $250,000 per year. We now had 168,000 visitors per year and were growing at an average rate of 7 percent annually.

However, by 1979, my brother and I, in order to accommodate both our families as well as to facilitate estate planning, split the company into two parts. My brother took the dairy, its outlying distribution centers and about 3,500 acres on the periphery of the property. I took the house, its contents and 8,000 interior acres. I don't think either of us understood how difficult the problem of Biltmore's infrastructure and maintenance would be.

I also don't think that the general public understood the challenges facing us. While the families of Vanderbilts, Rockefellers, Carnegies and Mellons still exist in the United States, many of us are the grandchildren of grandchildren, normal people trying to preserve properties of historic significance as well as familial significance. Many of us inherited these properties without the funds necessary to preserve them. What we inherited instead was the responsibility to take care of what was left us. I have no secret bank accounts, nor do I receive governmental funds or subsidies. Instead, Biltmore is a full-fledged tax payer, a contributor to the economy, rather than a beneficiary of the system.

Since my grandfather died in 1914, nothing much had been done to maintain the infrastructure of the property. In 1960, when I returned, much was in need of attention. Waterlines which had broken during the Depression had been cut off, awaiting better days for repair. The structure had been well-built and was, in fact, an incredible feat of engineering beneath its beauty. In addition to the problems of infrastructure, the interior of Biltmore as well as the objects in the collection needed refurbishing and conserving.

It became clear that our ability to keep up with these badly needed preservation projects corresponded directly with our ability to generate revenues through our guests. Our marketing sense and our sensitivity to the tourism marketplace became key to our progress in the field of preservation. Marrying preservation and business was relatively unheard of at the time; needless to say, I was again challenged quite often by the conviction of others that "it couldn't be done." And again, I found that attitude inspired me to prove them wrong.

Responding to requests from our guests, we began to open more of Biltmore House to the public and found that as this policy was implemented, we needed to restore rooms to their original splendor. This, of course, accomplished both our business objectives as well as our preservation objectives.

To do this, we hired specialists, seeking them first in the U.S. and when we could not find trained decorative painters here, bringing them in from Europe. Incidentally, an offshoot of this policy led to the establishment in 1988 of the first class of decorative arts at Asheville-Buncombe Technical College. We had the City and Guilds of London assist the school in preparation of curriculum, appointment of the instructor and supervision of the examinations. The end result was that 85 percent of the first year students, after a year in the real world, are now back at AB Tech studying for their advanced craft certificate.

Parallel to our decorative work and preservation at Biltmore, it became obvious that our collection of 16th century Flemish tapestries also needed conservation. Again, we searched for experts and this time found them both in the U.S. and in Britain. We devised tanks to wash, rollers to hold and needles to stitch. Perhaps one of the most intriguing outcomes of this project has been the computer controlled dye process which has been developed at Biltmore and has caused widespread interest in this highly specialized field. In addition, we are currently carrying out this extensive project inside Biltmore House, which is something quite rare. Apart from the benefits of preserving these important tapestries for years to come, we also find that the project generates a great deal of interest from the public.

We also have on-staff furniture conservators, experts from Germany and England, who understand the intricacies of hand drills, old-fashioned wood planes, hand saws, inlay veneers, gold leaf and leathers. We have an active archival management program within our curatorial department, documenting the present, organizing and analyzing documentation of our past. Last year, our conservators and curatorial staffs worked together with weavers in France

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(working for the same company my grandfather used a century earlier) to replace silk cut brocade in my grandmother's room.

We have converted and consequently preserved the stable area adjacent to Biltmore House, transforming the space where my grandfather once housed his fine horses and carriages into display areas, a retail shop and a small café. We turned a Hunt calving barn into a large restaurant offering fine cuisine and our own Biltmore wines. We established a major vineyard and the adaptive reuse of a second original Hunt barn into our winery. To give you an idea of the size of this undertaking in 1985, our bankers extended upwards of $15 million for its implementation.

And, of course, there are the trees, shrubs, flowers and grasses, which all have a disturbing habit of growing and therefore requiring trimming, limbing, changing and cutting. Preserving Olmsted's work is the mission of our landscaping and operations departments and includes the maintenance of about 75 acres of formal and informal gardens; the care of the Approach Road, Biltmore's driveway, which is about nine miles long; and the upkeep of over 12 miles of paved roads on the estate.

To this point, I have not mentioned the cattle and other farming endeavors which constitute a significant part of the Biltmore heritage. Nor have I mentioned the fact that meanwhile, the clocks have to be repaired, wiring has to be replaced, leaks and plumbing taken care of, and heating and humidity controlled. The list is almost limitless and is perhaps best illustrated by the fact that we have over 200 different job descriptions. We now employ over 500 people, of whom approximately 350 to 400 are full-time, permanent employees. Our total payroll is approximately $6 million.

But it is the whole—the end result of all of this hard work—which our guests help support. And it is the whole, the end result, which we all work to preserve for future generations. Good preservation is good business and vice versa.

If all the projects are going so well, why are we testifying that help is needed? A quick emplacement.

With the exception of Biltmore, to my knowledge, not one single entity is making both expenses and income meet. Biltmore would be in the same boat if it relied on admissions as its only source of total income. Admissions provide 54 percent of income at Biltmore. The remaining 46 percent comes from retail sales of food, gifts, souvenirs and wine. It is my understanding that most properties open to the public range from nominal to 15 percent of income from admission. In the nonprofit areas, either the foundation, the members, or the government, through various grants, make up the difference. In the government-run properties, the government—be it state, federal, or local—make up the difference. Biltmore receives no grants, gifts, or governmental subsidies since "for profits" are ineligible, even if one is a National Historic Landmark.

Conservative estimates are that annual costs in our nation's properties run by state, local or federal government authorities range in the neighborhood of $500 million per year, excluding capital costs and loss of property taxes. I must emphasize that Biltmore is in the top ten of the largest taxpayers in Buncombe county and pays all property taxes, re-valued every four years. Furthermore, all the capital expenses enumerated above are paid with after tax monies as required by law.

So again, why do we testify? Inheritance tax, pure and simple, is the main reason. There may be problems with property taxes, but these should be fairly simple to resolve on the local level.

The 1986 tax reform went a long way to help the average preservationist. By average, I mean the family that has a normal, 2,000 to 4,000 square foot house. This type of house, not opened to the public and quite livable if modernized, no longer should be in danger of disappearing. The New Hampshire towns and villages, the small Jamestown properties, the New Orleans homes, and all others of similar size and use will continue and survive.

But the few large properties of national significance cannot survive the onslaught of death taxes which occur every 20 to 40 years. There are many reasons for this, but I will illustrate with just two:

First, the cash flow, even at Biltmore, would not be sufficient to pay the IRS, even on an extended schedule. Too much, as you have heard today, must be reinvested in the property.

Second, the very act of reinvestment has and does, under the present law, raise the value of the property. We are caught in a classic "Catch 22." Under the National Landmarks Program, we are meant to "preserve and protect" the property since it is of national significance. However, if this is to be done, the value of the property is considered to be greater than before the investment, due to the enhancement in value in preserving the property. Unlike an office building, a structure and its surrounding lands are always considered by the tax authorities to have gained value. The older it gets, the more rare it becomes, the more valuable it is—because it becomes more and more rare.

The necessity of reform is most visible in the areas of governmentally run and owned structures. Attached as part of my statement are press clippings showing that funding is not being made available to many structures. I have referred to the estimated annual cost to the taxpayer of structures already in government hands and responsibilities.

While I cannot deny that most of our social ills of poverty, disease, crime and illiteracy must take precedence to replacing a roof, mowing a lawn or repairing a 17th century sofa, I must point out that the programs enacted by the government have given the government the responsibility to preserve, protect and maintain these structures. According to Title 16 U.S. Code Section 461, "it is a national policy to preserve for public use historic sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States." And again, in Title 16 U.S. Code Section 462(f), policy states that the Secretary of the Interior has the duty to "restore, reconstruct, rehabilitate, preserve, and maintain historic or prehistoric sites, buildings, objects, and properties of national historical or archaeological significance and where deemed desirable establish and maintain museums in connection therewith." But the burden on the federal government to follow such policy is increasingly difficult. A case in point is illustrated by 1988 data indicating that deferred maintenance on the Roosevelt House and Vanderbilt Mansion at Hyde Park was $20 million. In Philadelphia, Independence National Historic Park last year closed eight buildings because of lack of maintenance funding. While this is a federally owned property of national historical significance, it also represents, of course, an important chapter in Pennsylvania state history. Consequently, this example also illustrates the problem at state government level: The Commonwealth of Pennsylvania, which, under Section 27 of Article I of the Constitution of Pennsylvania makes the Commonwealth trustee for the preservation of the historic values of the environment. Policy states: "The irreplaceable historical, architectural, archaeological and cultural heritage of this Commonwealth should be preserved and protected for the benefit of all the people, including future generations." Understand that I do not mean to pick on any one state; I believe all states are doing all they can to preserve their historic properties. But the fact is that the governments—at federal, state and local levels—all face their own "Catch 22." Welcome to the club.

While reforms may not help properties and structures already in the hands of government and non-profits, they could well stop the red ink from increasing in the future, at least as far as new properties are concerned. The cost will increase for properties nominated for preservation in the future. And I suspect the government or the non-profits will be reluctant to take responsibility, even if there is an endowment sufficient to carry the property at the time of nomination.

To be positive and I believe realistic, the following might point the way to the future handling of National Landmarks, Sites and large Register properties.

For many years, I have thought that the National Landmarks, Sites, and Register programs have been insufficient in achieving the objectives they were created to solve. In recent years, the National Register programs have, in many cases, accommodated a very large number of houses nationwide. Still, there are no financial involvements. This has become an easy way to accommodate a local citizen. A plaque and a promise to protect as much as possible is, in most cases, all that is required if the structure meets the basic goals of 50 years of age and whatever "architectural merit" means.

To be effective, I would suggest a revision of these programs to accommodate today's and particularly tomorrow's needs.

First, create a classification program wherein the highest benefits go with the highest responsibilities to the highest classification. The lowest benefits with the lowest responsibilities go to the lowest classification. I would suggest classifications from I–V or perhaps from I–III, although more important than the number would be the description and requirements of each classification.

Since it is obvious that the number one classification would be the most stringent, let us overview some possible benefits and responsibilities. For example, the following could be some of the requirements of a number I classification:

First, the property would be substantial in value and not be covered by the present tax laws in an effective manner.

Second, the property would have to be of national importance and so designated by the appropriate authorities.

Third, the property would have to be open to the public on a full-time basis.

Fourth, the property would have to be managed by professionals, whether they be owners, which would be preferable, or outside professionals.

Fifth, the collection, infrastructure, structures, and appropriate lands would have to be maintained to standards.

Now let us turn to some of the enabling "benefits" which could accrue to the classified structures:

First, property taxes would enjoy a special category called perhaps, "National Classified Structure and Land Use." This would or should help guard against unrealistic high valuations and could cite as precedent the farm designations already in existence.

Second, inheritance taxes would be calculated at each change of ownership by death, thus establishing a new basis for calculations. However, the taxes found due and owing would be deferred until such time as the structure, its component lands, and its contents would no longer conform to the classification entitling them to this deferment. This contemplates transfer of the property at death to the heirs.

Third, in case of sale by the owner to a willing buyer, the owner would be liable for taxes due under normal methods of calculations.

Fourth, taxes would be recoverable on a rolling three-year basis if the property is sold or removed from its category by the owner but subject to any inheritance or capital gains taxes due under this or the foregoing point.

Fifth, the owner and the governing authorities must agree that the property continues to conform to the classification status to which it is assigned. Properties not conforming may lose their status if the deficiencies are not made whole within a specified time.

Sixth, properties losing their status may be assigned a lesser classification and then have lesser benefits and lesser responsibilities.

Seventh, likewise, properties may, upon qualifying, be reclassified to a higher category should the owners and the authorities agree that the structures and their surrounds and contents now so qualify.

Without some examination and re-structuring of current systems, it seems unlikely that many of our historic properties will survive our country's 300th year. I would like to thank Congressmen McMillan and Ireland for inviting me to participate today; as well as Congressman Charles Taylor representing my home district in North Carolina. I would ask that this task force consider these options; and I look forward to the future actions resulting from today's symposium.

ALBANY TIMES-UNION EDITORIAL WARNS US ABOUT SUBSIDIZING SOVIETS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. SOLOMON. Mr. Speaker, too much of our foreign policy is driven by wishful thinking, and this is particularly evident in our handling of the Soviet Union.

We are determined to paint Mr. Gorbachev as a Western-style liberal, and we ignore mounting evidence of the brutal, Soviet-style crackdowns in the Baltic, as well as the continued military buildup that still threatens the West.

But there are some voices crying in the wilderness, one of which I submit for today's RECORD. It is a June 7 editorial in the Albany Times-Union, and it argues persuasively against our bailing out, yet one more time, a regime that has been kept alive with Western capital. I urge all members to read it.

[From the Albany Times-Union, June 7, 1991]

MONEY FOR MOSCOW?

Mikhail Gorbachev, after a hiatus during which he played the unreconstructed Bolshevik, is back again playing at reformer. His first act in his reassumed role was to ask the West for untold billions in order, he said, to help insure the success of perestroika. What's is good for the Soviets, he has said, will also be good for the West.

Well, maybe.

Before we rush to the bank to underwrite these putative "reforms," however, we might also consider that any money we send over there will just as likely underwrite the Soviet military machine. As astounding as it is to believe, for all the talk of a post-Cold War era in the U.S.S.R., the Soviets still spend nearly 25 percent of their Gross National Product on the military.

Only a few weeks ago Soviet generals defended such expenditures on the basis that though the U.S. spends only about 6 percent of its GNP on defense, that 6 percent buys a lot of military hardware.

The U.S., however, is very likely dismantling its military at a far faster rate than Moscow, even though the latter, given its economic circumstances, should be leading the race to disarm.

Before we give the Soviets any grants, loans or credits, we should insist on two things. First, that none of our money is used to support the Red Army. That will mean, in effect, a huge reduction in military spending.

Second, we should first see concrete evidence that Moscow—that is, Mr. Gorbachev—is genuinely sincere about moving his economy in the direction of a free market. It should not be enough that we hinge our aid on specified moves toward a market economy. Rather we should insist on something like the Polish Way—an official acceptance of a dominating private sector economy along with the moves (convertible currency, privatization, for example) that unmistakably demonstrate a commitment to that creed.

At this point, after Mr. Gorbachev's mysterious retreat for several months from reform, after Moscow's alarming pro-Iraqi stances during the Persian Gulf war and after its evident refusal to reduce its military, we should be eminently cautious about underwriting their future.

A TRIBUTE TO MR. MAXIMILIAN BOESE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. KOSTMAYER. Mr. Speaker, I rise today to pay special tribute to the Fullbright exchange teacher Maximilian Boese of Potsdam, East Germany.

Mr. Boese was chosen by the cultural attaché of the American Embassy in East Berlin in May 1990 to be one of three East German teachers in the United States. This was the first exchange program of its kind between the United States and East Germany.

For the past 10 months, Mr. Boese has been teaching German language classes at the Pennsbury High School in lower Bucks County.

Mr. Boese witnessed first hand the oppressions of the Berlin Wall when it was built and lived in its shadow for 28 years. Only as a result of the dramatic reformations which brought the wall down was Mr. Boese able to fulfill his life-long dream of coming to America.

After almost three decades of living in a divided Germany, Mr. Boese, from his temporary home in the Pennsbury School District, watched in near disbelief as the two Germanys united after 45 years of being apart.

I am pround to have this opportunity to publicly thank Mr. Boese for sharing his skill and experiences with the youth of my district. I know that his postive impact on Pennsbury High School will long be remembered.

CIVIL RIGHTS BILL: A PROVEN NEED

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. TOWNS. Mr. Speaker, I rise today to again sound the need for a civil rights bill. Events are occurring nationwide which demonstrates the necessity for this action. Today I stand stronger than ever before. Racial injustice on all levels is continuing to plague our Nation; establishing civil rights is more than a public want, but a proven need. Skeptics proceed to argue this bill is unnecessary, but a recent article depicting an attack on a black youth displays that he was beaten solely because of the color of his skin. I would like to commend this New York Times op-ed by Anthony Lewis to my colleagues' attention.

[From the New York Times]

THE COLOR OF HIS SKIN

(By Anthony Lewis)

White Americans are impatient with the idea of special conern for the problems of blacks. So the polls tell us, and so the political climate indicates.

The raw racial prejudice that once disfigured this country has been overcome, we are told. Blacks do not need extra help, and anyway providing it causes resentment. It is time they made it on their own.

I thought of those current truisms as I read the story of Jermaine Ewell. He is black, a 17-year-old who just finished his junior year at Lawrence High School in Long Island, N.Y.

From all accounts he and his family are models of effort and achievement. Jermaine has been a football and track star at Lawrence High. Only about 10 percent of the students are black; Jermaine had white and black friends. Lisa Sharek, a classmate, said: "He's so quiet. He's so great. He never did anything to anybody."

On Saturday night, June 1, Jermaine went to a graduation party in Atlantic Beach, a shore community not far from Lawrence. He was talking with a friend, a young white woman, when four slightly older white men came up. One of them said to the woman: "Are you with that nigger?"

Others intervened. The tension seemed to ease. The four strangers went away. After a while the party broke up, and Jermaine went out to the Atlantic Beach boardwalk.

He was sitting on a bench, looking at the ocean, so he did not see the four men approach him from behind. They had bats. One hit him on the right side of the head. As he lay senseless on the ground, the others smashed at him.

Two other men who had been at the party, Stephen Lieberman and Tony Franzese, saw what was happening and intervened. They fought the attackers, who eventually left. They may have saved Jermaine Ewell's life.

What kind of life it will be is a question. The next morning doctors operated on Jermaine to remove blood clots from his brain. For days he was in critical condition. It remains to be seen whether he has permanent brain damage.

The police arrested four men and charged them with a racially motivated assault. The one who called Jermaine "nigger," they said, was a Lawrence High graduate from Atlantic Beach, Shannon Siegel. The others were friends of his from Queens.

Neighbors of Shannon Siegel's in Atlantic Beach denied that he was a racist. In fact, students at Lawrence High said he had hung around with blacks in school.

Maybe all that is true. Maybe Shannon Siegel was drunk when he went up to that white young women and insulted Jermaine Ewell. If the police are right that he went on to make the murderous attack on Jermaine, maybe he was drunk then, too.

But if it is true, it makes no difference to the reality of this terrible story: the racist reality. Even someone who had black friends had buried inside him a hatred that could burst out in murderous form.

Jermaine's mother, Ernestine Ewell, said: "His life is over, unless you have an in with God and know to wake him up. . . . His life is gone because of the color of his skin."

No one can measure how much racial hatred continues to exist in the United States. But prejudice? Assumptions of inferiority? Not many white Americans can look inside themselves with honesty and say there are no such feelings.

That is what black Americans have to live with, all the time, all their lives: the awareness of disregard, of suspicion, of prejudice, perhaps of hate. And that is why American society cannot rightly call its conscience clear, its job of reconciliation ended.

Our political leaders especially have an obligation to do what they can to lead the country away from racism. Which is why I think there can be no worse political sin than making an issue of Willie Horton or trying to take divisive partisan advantage from a civil rights bill.

President Bush is not uninformed on these matters, not ignorant. He has been a personal contributor to black causes for years. His contribution now should be leadership.

President Kennedy did not at first press civil rights issues. But when ugly attacks took place in Alabama in 1963 he responded with a speech to the nation that made a difference.

"We are confronted primarily with a moral issue . . .," Kennedy said. "I hope that every American, regardless of where he lives, will stop, and examine his conscience."

A TRIBUTE TO COL. JAMES E. McARDLE, JR.

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Col. James E. McArdle, Jr., upon his retirement from the U.S. Air Force on August 1, 1991.

Born in LaCrosse, WI, in 1943, as the oldest son of a career Federal Bureau of Investigation Special Agent, Col. Jim McArdle attended seven elementary schools and two high schools before entering the U.S. Air Force Academy in 1961. The class of 1965's outstanding graduate in behavioral science, he entered the first Air Force undergraduate helicopter pilot training program at Randolph Air Force Base and Sheppard AFB, TX, graduating at the top in his class, and earning the Air Training Command Commander's Trophy. Assigned, as one of the very first second lieutenants in the Republic of Vietnam in 1966, to the 20th Helicopter Squadron of the 14th Air Commando Wing, he earned the distinguished Flying Cross, four air medals, and the Air Force Commendation Medal.

Upon his return to the United States in 1967, he was part of the original cadre of the 703d Tactical Air Support Squadron [TAC] at Shaw AFB, SC, again flying the CH–3 helicopter. After 3 years of training helicopter pilots to operate in the Southeast Asia combat environment, and helping to form the 21st Helicopter Squadron and send it to Vietnam, he returned to Randolph AFB, TX, in 1970 for dehelicopterization.

As a graduate of T–38 advanced flying phase of undergraduate pilot training, he was assigned to Williams AFB, AZ, in 1971, serving first as flight commander of a T–38 training flight. He subsequently served as chief of the check section, responsible for all T–38 pilot flying evaluation, and as assistant chief of current operations [Airspace Management] for the parent 82d Flying Training Wing.

From 1974 to 1977, Colonel McArdle was assigned to Detachment 255, Air Force Reserve Officer Training Corps, at the University of Iowa. In that capacity, he supervised over 110 Air Force Reserve Officer Training Corps cadets and served as an AFROTC area admissions counselor, visiting every possible high school and junior/community college in the States of Iowa and South Dakota. In that capacity, he was able to motivate sufficient students to enroll in Air Force ROTC to take the detachment off official Air Force probation in 2 years.

In 1978 and 1979, he served as operations officer of Detachment 13, 33d Aerospace Rescue and Recovery Squadron at Osan Air Base, Republic of Korea. In that 12-month period, detachment aircrew members saved more than 80 lives, with Colonel McArdle personally saving 29 lives, including two from an island only six miles from the coast of North Korea. He also earned Air Force-level recognition—The Mackay Trophy—for the Most Meritorious Air Force Flight of 1979 for his part in leading the rescue effort for 27 Taiwanese sailors trapped on a sinking freighter.

At Scott Air Force Base, IL, from 1979 to 1981, he served the headquarters, aerospace rescue and recovery service, as an air operations staff officer, responsible, first, for developing combat rescue tactics and managing all aerospace rescue and recovery service participation in Air Force and joint service exercises around the world. In 1981 and 1982, he served as chief of the operational requirements division of the headquarters, responsible for all planning and programming, and studies and analysis required to enable aerospace rescue and recovery service to develop and procure new aircraft with which to meet Air Force and Department of Defense taskings for combat rescue and special operations capabilities; both the MH–53J and MHHH–60G helicopters are currently in active Air Force use.

The operations officer of the 67th Aerospace Rescue and Recovery Squadron at Royal Air Force Base—Woodbridge in the United Kingdom, from 1982 to 1984, he supervised three detachments. With four kinds of aircraft in four countries, and nine types of aircrew members, the unit was able to achieve the first Air Force in unit qualification in the difficult and, at that time, somewhat dangerous night vision goggle combat tactic.

Colonel McArdle served as commander from 1984 to 1986 of the 41st Aerospace Rescue and Recovery Squadron at McClellan AFB, CA, the only rescue squadron in the Air Force tasked with primary special operation support. During that time period, the men and women of that unit achieved numerous firsts including its achievement as the first Air Force unit to meet taskings for the full number of night vision goggle-qualified aircrews required for combat and contingency use. Following that tour, he served as assistant deputy commander for operation, and then as deputy commander for operations, for the largest and most diverse wing in the aerospace rescue and recovery service, the 41st Rescue and Weather Reconnaissance Wing at McClellan AFB. During that time, Colonel McArdle conducted one of the longest and most complex aircraft accident investigations in the aerospace rescue and recovery service, and served as mission commander for numerous rescue and special operations exercise deployments, responsible for aircraft and aircrews from his own wing as well as those from other rescue and nonrescue wings.

In 1988, Colonel McArdle became McClellan Air Force Base's inspector general. In that capacity, he led the equal employment opportunity complaints office to the highest complaint resolution rate in Air Force Logistics Command. As director of personnel, subsequently renamed human resources, beginning in 1989, he was a leader in implementing total quality management principles and practices at McClellan. He played a key role in developing the "Team Building" model—designed specifically to bring about the cultural change managers need to enable to empower their employees—currently being used to train the entire Sacramento Air Logistics Center work force. He secured the extra staff to teach every McClellan employee the basic total quality management courses for employees and supervisors.

Throughout his career, Col. Jim McArdle personified the professional dedication and integrity of the U.S. Air Force officer corps, matching concern for each Air Force member and his or her family, with an intense commitment to accomplishing the Air Force mission.

Colonel McArdle and his wife, Jane, have two daughters and one son. They plan to remain in the Sacramento community.

Mr. Speaker, I join Colonel McArdle's colleagues from the Sacramento Air Logistics Center and McClellan Air Force Base, his family, and his many friends in the civilian community in commending the tremendous contributions he has made in the service of his country. I would like to extend my best wishes for the future to Colonel McArdle and his family.

MEMORIAL TRIBUTE TO FREDERICK B. ABRAMSON, PAST PRESIDENT, DISTRICT OF COLUMBIA BAR

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Ms. NORTON. Mr. Speaker, I rise to pay tribute to one of the District's brightest and most respected legal stars, whose light was taken from us at his passing on June 1, 1991. It is rare for the bar's ranks to be flattered with a member of such ability, integrity, compassion, and devotion to service. Frederick B. Abramson spent most of his career at the private bar, but his unusual devotion to our city, to civic matters of importance, and to the law mark him as a public man of distinction.

Paul L. Friedman, who followed Frederick Abramson as president of the D.C. Bar, described Fred's life and contributions in a particularly noteworthy and sensitive statement before the Superior Court of the District of Columbia. I insert his statement in the RECORD:

REMARKS OF PAUL L. FRIEDMAN

May it please the Court.

I am Paul L. Friedman. I appear today with the sad duty of formally advising the Court of the death of Frederick B. Abramson on June 1, 1991. I do not have to tell this Court what a loss to the courts of the District of Columbia, to the Washington legal community and to the broader Washington community we all feel at the death of Fred Abramson.

Fred was born in New York City, attended Stuyvesant High School for the academically gifted and then received a scholarship to finish his last two years of high school at Cornwall Academy in Connecticut where he was the first black student. He then went to Yale University on a scholarship, where he was one of only four blacks in the class. He graduated from the University of Chicago School of Law.

Two years later, he came to Washington, D.C. where over the next thirty years he made enormous contributions to the law, to the courts, to the fabric of our legal community and to the literally hundreds of friends he made and people he helped along the way.

Fred first was an attorney in the Civil Division of the U.S. Department of Justice. He spent a substantial amount of his time writing briefs and arguing cases in the federal courts of appeals around the country. Writing was his first love. He originally had wanted to be a writer or an English teacher. For anyone who has ever read a brief that Fred wrote, his president's page during his term as president of the D.C. Bar, a thank you note or a birthday message, you know that he wrote eloquently, with clarity, reason and compassion.

After serving as Special Assistant to the Chairman of the U.S. Equal Employment Opportunity Commission, Fred became an associate at Arnold & Porter, a partner in the firm of Rollinson & Schaumberg and then, in 1977, a partner in the firm of Sachs, Greenebaum & Taylor where he remained until last December. There he handled a wide variety of litigated matters, representing clients in this Court and other courts and before agencies of the District of Columbia. As a practicing lawyer, Fred's word was his bond and his judgment was sought by people in all walks of life.

Since January of this year, Fred Abramson served as D.C. Bar Counsel, where it was his responsibility to supervise the investigation of complaints against lawyers who may have violated the Rules of Professional Conduct and to assure that both the complainant and the respondent lawyer received fair treatment. Fred's own personal commitment to the highest standards of our profession and to lawyer ethics made Fred the perfect choice to lead the Office of Bar Counsel. Joan Goldfrank, Executive Attorney to the Board on Professional Responsibility, and members of Bar Counsel staff are present in court today. It is a great shame that we only had the benefit of Fred's leadership as Bar Counsel for such a short period of time.

Fred Abramson made so many contributions to the legal community. He was President of the District of Columbia Bar. He served on the boards of numerous public interest organizations, including the Washington Lawyers Committee for Civil Rights under Law, the D.C. Public Defender Service and the National Women's Law Center. He was a member of the American Bar Association Standing Committee on the Federal Judiciary and the ABA Commission on Opportunities for Minorities in the Profession. Most recently, he had been serving as Chairman of the Board of Trustees of the District of Columbia Law School.

Beyond all of these contributions, in his quiet, unobtrusive and caring way, Fred was a mentor to generations of young black lawyers. He never forgot that doors were often closed to him when he first arrived on the legal scene, and he vowed to help others. He was an advisor and mentor to so many minority lawyers now in their 30's and 40's who have had the opportunity to make their mark largely because of Fred's encouragement, advice and tangible assistance. There are countless stories of Fred Abramson's having sent someone's resume to a friend or making a phone call to recommend a young black lawyer for a job. And Fred then kept in touch with these lawyers to see how they were getting along.

Al Christian, a Hogan & Hartson partner, was quoted in this morning's Washington Post saying:

"[Fred] was sort of an elder statesman, particularly among black lawyers moving up in the profession and those of us striving to make our way in the large white firms in town. . . . He sort of reminded me of the perception I have of the gentleman of old who had a certain code of honor and would do things according to the rules. He had rules. He had values, and he would not violate those rules for personal gain."

In Fred's view, perhaps his most significant tangible contribution to our legal community was his work for nine years on the D.C. Judicial Nomination Commission, four of them as Chairman. He reached out to black lawyers and women lawyers and Hispanic lawyers and government lawyers and urged them to apply to the Commission for consideration for a judgeship. He literally changed the face of the Superior Court Bench and that of the District of Columbia Court of Appeals. Today there are substantial numbers of women and blacks and other minorities who are judges in what so clearly is one of the best state court systems in the nation, largely because of the work and effort and quite persuasiveness of Fred Abramson. In many respects, Judge Ugast, this Court is itself a living tribute to Fred Abramson.

Your Honor, I respectfully move that this Court adjourn today at the conclusion of its business in memory of and in honor of one of the most distinguished members of our Bar, a gentle, decent, kind and very special man, a friend to us all, Frederick B. Abramson.

TRIBUTE TO NIKOLA TESLA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. GEKAS. Mr. Speaker, today I rise to ask my colleagues to join me in the commemoration of a true genius. Nikola Tesla, a Serbian scientist born on July 10, 1856, is ranked among the greatest scientists of our time, and is perhaps the most renowned inventor that ever existed. Although his work was brilliant, and even world transforming in some cases, Tesla is not as well known as someone of his caliber should be. Many people are unaware of how much his work affects their everyday lives, and to what extent Tesla's discoveries have altered our world.

One of his paramount discoveries was the alternating electrical current, which we continue to use today; this discovery set the stage for some of his other innovations, namely fluorescent lighting, and the bladeless turbine. In addition, Tesla precedented space age technologies with his work in computers, robotry, and missile science. Some of his work includes the lighting of the Columbian Exposition and of Niagara Falls.

Expressing how fundamentally Tesla's contributions have affected the industrial revolution, Dr. B.A. Behrend, chairman of the Edison Medal Committee of the American Institute of Electrical Engineers wrote, "Were we to seize and to eliminate from our industrial world the result of Mr. Tesla's work, the wheels of industry would cease to turn, our electric trains and cars would stop, our towns would be dark, our mills would be dead and idle. So far reaching is his work that it has become the warp and woof of industry."

While Nikola Tesla has been honored with the Nobel Prize, the Edison Medal, and the opening of the Tesla Institute in Belgrade in 1936—in commemoration of his 80th birthday—I ask you, Mr. Speaker, to let us also acknowledge this great man. We must ensure that such a significant contributor to our modern world is not forgotten.

POLISH COMMERCIAL BANK DEBT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. ROSTENKOWSKI. Mr. Speaker, in the preceding 2 years, what has been occurring in Poland is nothing short of astounding. Formerly a Soviet satellite existing under an oppressive Communist regime, Poland is now a burgeoning democracy rapidly moving toward a free-market economy. Once jailed Solidarity leader Lech Walesa is now President by popular election.

Poland, under its new President, has committed itself to the attainment of a free-market economy. Already, great strides have been made. Shortages of food and consumer goods have been eliminated. Inflation has been brought under control. The new Polish Government has created an open economy operating with a convertible currency.

The Polish people and their Government have worked hard and sacrificed much. Their achievements have been great thus far yet much remains to be done. There are many obstacles facing Poland as it undertakes this great and perilous journey and it needs our help.

President Bush has recognized this need and agreed to forgive 70 percent of Poland's $3 billion debt to the United States. This gesture on behalf of the American people will go a long way toward hastening Poland's march toward a successful free-market economy.

In Frankfurt this week, a group of commercial banks will be meeting to decide the future of Poland's $12 billion in outstanding debt to those institutions; $3.5 billion of that debt is owed to American banks.

Poland has made great strides and has demonstrated itself to be a true friend and ally to the United States. I urge U.S. banking institutions to take the lead in showing flexibility at the Frankfurt talks. Flexibility will be a small sacrifice for a country that has sacrificed so much already to reach this point.

FRANK KELLY: 35 YEARS OF SERVICE TO NIAGARA-MOHAWK AND COMMUNITY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. SOLOMON. Mr. Speaker, every congressional district has them. They're the kind of people who make a community worth living in. They are talented professionals, good neighbors, solid parents, and selfless community leaders. I'd like to talk about one of them today.

On June 27 there will be a retirement party for Frank Kelly, consumer services manager for Niagara Mohawk Power Corp.'s northeast region. He will be leaving the company after 35 years of service.

In those 35 years, Frank Kelly has found time to get involved in numerous community organizations, giving freely of his time and considerable talent. That willingness to get involved is my measure of a good citizen, and by that measure Frank Kelly has always stood tall.

Presently, Frank Kelly is on the board of both Glens Falls Senior Citizens and the Adirondack Chapter of the American Red Cross. He is also active in the Glens Falls Rotary Club, of which he is a past president, and Adirondack Regional Chamber of Commerce.

Over the years, he has served as secretary and president of the South Glens Falls-Town of Moreau Chamber of Commerce and past president of the Ballston Spa Chamber of Commerce. He also has been active in Ballston Spa Lions Club, East Greenbush Jaycees, Troy Junior Achievement, North Greenbush Kiwanis Club, Troy United Way, Capital District Regional Planning Commission, Glens Falls Youth Center Board of Directors, United Fund, Industrial Committee of the Saratoga County Overall Economic Development Program, and Mohican Council of Boy Scouts of America.

After graduating from St. Francis College in Staten Island in 1953, Frank Kelly spent 2 years in the U.S. Army Medical Corps. He went on to study industrial electronics at Hudson Valley Community College and to earn a bachelor of arts degree at the College of St. Rose in Albany.

Mr. Kelly and his wife Carol Ann are the parents of three children, Colleen, Kathleen, and Kevin. They have three grandchildren, Eric, Justin, and Kacy Lynn.

That family has good reason to be proud of Frank Kelly, and so am I.

Mr. Speaker, this is a man who practiced voluntarism long before the idea became popular again under President Reagan. This is a man who was a "point of light" in his community long before President Bush introduced the term.

And so, my colleagues, please rise with me today so that we may pay our own tribute to a great American and pillar of his community, Frank Kelly of South Glens Falls, NY.

A TRIBUTE TO DONALD F. NOTTOLI

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Donald F. Nottoli upon his retirement from Galt High School. For the past 40 years, Mr. Nottoli has been an inspiring and integral part of Galt High. Since 1951, when he first began teaching, Mr. Nottoli's entire career has been dedicated to the Galt community. He has filled many different roles in his career as teacher and coach. Having taught a variety of courses, he most recently has served as the psychology, U.S. history, and family life and education teacher. In addition, he served as the athletic director for 29 years, as well as coached golf, varsity baseball, and junior varsity and varsity basketball.

"Coach," as he is known in the community, is very popular. He is not just a familiar face to students, but to entire families. As his teaching and coaching career have spanned five decades, it is not unusual for Coach to find children of former students in his class. Generations of families know, and are genuinely fond of him. As students, they respect and admire him, and as adults feel confident and reassured in entrusting their children to his care.

Such trust is inspired by knowing Mr. Nottoli and his true dedication to the development of the entire being. His care for young people goes beyond the role of coach and academician; he also fills the role of mentor, confidant, friend, and role model. He is as concerned with the development of persona as well as the development of the student athlete. In his career as coach, he has shared in many Galt Warrior victories. The more than 900 career games in basketball include a 1963 Golden Empire League Championship and the cochampionship in 1989 and 1991. In 1991, the Warriors were also the league cochampions in golf, and Don Nottoli was cocoach of the year for both sports. It was his sixth award for coaching basketball.

What is most notable of Mr. Nottoli's career is that he has had only two technical calls against him. He realizes that it is important for young people to be good sports and citizens as well as competitive athletes and students. Mr. Nottoli is a fine example of both. A true gentleman on and off the court, he inspires leadership and confidence in his students and athletes through his impeccable courtside behavior. Again, believing in the development of the entire person and utilizing all of a person's abilities, coach is forever inspiring his students to be all they can be and to share those gifts with others. An example to us all, he is very active in the community. In addition to teaching and coaching, he has served on the Galt Elementary School Board for the past 25 years. Mr. Nottoli belongs to St. Christopher's Catholic Church, and has worked as a volunteer and advisory board member of the Galt Helping Hand Network. As a result of his tireless dedication to the community, he was honored as Galt's Citizen of the Year in 1981, inspiring generations of young people to be excellent students, athletes, and citizens.

Mr. Nottoli has so long been a great part of the school system and of the community, that his name is simply synonymous with education and athletics in Galt. Few are held in such high esteem, and deservedly so. Moreover, he is regarded with warm affection as a friend of the community. Mr. Nottoli is respected because his commitment to education and to the community is not only expressed by his words, but also by his actions. His contributions are ceaseless. For that reason, he not only commands the admiration and respect of the Galt community, but also the deepest gratitude and heartfelt affection of its residents. Mr. Nottoli certainly has my appreciation for all he has done. Mr. Speaker, it is with warmest regards that I congratulate him on his retirement and hope his future years with his wife, Lucy, and their children, Nick, Don, Andrea, Tami, and Greg, are filled with happiness.

FEDERAL PAYMENT BILL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Ms. NORTON. Mr. Speaker, I am happy to introduce for the RECORD the excellent editorials regarding H.R. 2123 that were printed today by the Washington Post and the Washington Times:

[From the Washington Post, June 11, 1991]

SUPPORT THE FEDERAL PAYMENT BILL

The first decisive step toward congressional support for a fair and equitable federal payment was taken by the voters of the District of Columbia last fall when they sent an unqualified message to the District Building and the nation that the old way of conducting the public's business was over. Today the House of Representatives, in what we hope will be an extraordinary show of bipartisanship, can respond by passing H.R. 2123, which sets a federal payment formula for the District of Columbia.

Like so much that has happened since the emergence of the new city government, this District legislation enjoys the uncommon support of House leadership on both sides of the aisle and representatives who span the political spectrum. That is a tribute to the merits of the case for the bill and the new team. That also seems to be the view of the House Republican leadership. In a remarkably forthright letter to their Republican colleagues, Minority Leader Bob Michel, GOP Whip Newt Gingrich, Joe McDade, Dean Gallo, House District Committee GOP leader Thomas J. Bliley and Jerry Lewis said: "The Federal payment should have increased over the past 6 years, but no one in either party wanted to give the previous local administration more federal money." "H.R. 2123 is needed," they wrote, "to overcome the mess left by the previous administration. If we do not do what we can to help Mayor Dixon now, the future of the District may become as bleak as that of the late 1980s."

The bill, as crafted by committee chairman Ronald V. Dellums, ranking Republican Thomas J. Bliley and Del. Eleanor Holmes Norton, and reported by the House District Committee by a convincing 10-to-2 vote, provides the city with a three-year fixed federal payment funding level of 24 percent of the revenues the city raises. That falls short of the 30 percent funding level recommended by the Rivlin Commission and sought by the city, but it is a substantial increase over the currently low level of 14 percent and the present system, which involves the mayor and the council in an annual guessing game with the federal government.

Getting the District of Columbia's fiscal house in order is the city's top agenda item. The House of Representatives can keep it there by overwhelmingly supporting the federal payment formula bill today.

[From the Washington Times, June 11, 1991]

A WINNING FORMULA FOR D.C.

Ever since the start of home rule, the District government has had to guess how much money it would have to operate from one year to the next. It wasn't easy, since a significant portion of the budget relied on a federal payment, the size of which sometime depended on whether Congress felt compelled to punish the mayor or the D.C. Council for some legislative or other transgression the year before. But there is a new mayor and a fresh eagerness in Congress to help the District turn its fiscal problems around. This newly found enthusiasm may mean an end to capricious allocations, as today House members are expected to approve a bill that will add an important ingredient to the District's budget process: predictability.

Ever since the District was established as the seat of government in 1800, the federal government has augmented its budget. The method and amount of payment has varied, but since 1925 the contribution has been a part of the regular congressional authorization and appropriation process. The payment, made in lieu of taxes on federal property and as a reimbursement for city servcies to federal buildings, has remained fixed at $425 million since 1984. From 1977 through today, the total federal contribution has ranged from 35 percent of local revenues to 17.2 percent. The inconsistency of the payment has done little to help the District get its fiscal act in order.

The House bill sponsored by Reps. Thomas J. Bliley, of Virginia, Ronald Dellums of California and D.C. Delegate Eleanor Holmes Norton authorizes a flat payment of $630 million in fiscal 1992. Beginning in fiscal 1993, the payment would be set at 24 percent of locally raised revenues.

It is a solid bill, one that will eliminate a large measure of uncertainty in the budget process. It also takes into consideration that payment based on locally raised revenues can lead to temptation. So it has safeguards against any urge to hike service fees and tax rates on the theory that the more you raise, the more you get. Each year's authorization will be calculated on revenues raised two fiscal years prior to the year in which payment is allocated, effectively eliminating any quick-fix incentive to hike taxes.

Approval of the bill will hand Mayor Sharon Pratt Dixon a well-deserved political victory as well as a much-needed operating tool. It should also end the practice of special appropriations, such as the $100 million in emergency funds Congress recently approved. Also, as the District competes for money in the private bond markets, the predictability of the formula will encourage stronger ratings, which likely will yield more favorable borrowing rates down the line.

With one of the biggest excuses for fiscal impotence out of the way, District government will be better able to tap its own ingenuity and plan for contingencies within its budget rather than turning to the federal government for relief. That is good practice for any municipality.

TRIBUTE TO JEAN FISCHER

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. TRAXLER. Mr. Speaker, I rise to salute Jean Fischer, one of Bay City, MI's finest public school instructors who is retiring this year after more than 22 years in the Bay City system. Most recently, she was principal of Handy Intermediate High School after more than a decade as principal of Central High School.

Jean's a lovely and warm person. Her enthusiasm and warmth were felt by her students in the classroom as well as by her athletes on the playing field. Jean coached almost every sport, especially volleyball, track, basketball, and softball. Her sports activities included working toward equal rights for women athletes. She sought equality in the budget, schedules, transportation, and facility use for title IX (girls' rights in sports).

Jean began her career by teaching physical education and health at the Freeland Community Schools and then moved to Central High School where she taught physical education and was eventually appointed assistant principal.

Jean took an active role in improving the instructional skills of teachers and in developing the curriculum. Rather than just teaching the facts of a subject, she emphasized the importance of looking at the child as a person. By doing this, she was able to help each student grow to his or her potential.

During her matriculation at Central Michigan University, Jean earned her bachelor of science in education with a major in physical education and a minor in health education and biology. She continued her education at Central Michigan University and received a master of arts in the physical education curriculum. Jean holds a secondary permanent certificate and a secondary administrator certificate.

In addition to her contributions to education, Jean helped acquire the funds to repair the chimes in the school tower of Central High School. These musical chimes are now heard and enjoyed by the residents in the surrounding neighborhoods.

Please join me in wishing the very best to Jean as she looks forward to a rewarding and enjoyable retirement. All of our Bay City Public Schools have benefited immensely from her special guidance, skillful leadership, terrific coaching, and enthusiasm for all students. She will be warmly remembered.

VIDOVDAN

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. GEKAS. Mr. Speaker, I rise today to ask my colleagues to join me in honoring a momentous day in the lives of Serbians. Battle of Kosovo Day, or "Vidovdan," as Serbians refer to this battle, signifies the day, June 28, 1389, when Serbian armies were unable to protect their nation and religion in the face of Turkish forces. This defeat by the Ottoman armies resulted in 500 years of domination over Serbia.

For over six centuries, Serbians have commemorated this day with somberness, as well as joy. Just as Vidovdan is remembered as the beginning of Ottoman rule over Serbia, it is also a day which marks the strength of a nation.

Although the Serbians were defeated in the Battle of Kosovo, their fight for freedom and independence enabled Serbia to evolve into a country characterized by courage, pride and unity. Vidovdan is a day to commemorate those brave souls who fought in the name of their country, and who sought liberation from an oppressive empire.

Mr. Speaker, let us all pay tribute to what this day stands for, that it may give hope and perpetual meaning to the Serbian people who continue to fight for their freedom.

A SALUTE TO ELLEN MISHKIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. TOWNS. Mr. Speaker, I rise today to give my salutations and thanks to Ms. Ellen Mishkin, Brooklyn attorney, organizer, and savior to those who cannot afford the legal assistance they deserve.

With a caring heart and hard work, Ms. Mishkin has created a pro bono legal agency that has moved forward the legal system. Through the help of the Brooklyn Bar Association she has embarked on a venture which few have dared to follow.

This program not only benefits people who cannot afford legal representation, but it also offers lawyers a chance to branch into new areas of practice. Ms. Mishkins' creation is run by volunteer specialists who will guide less experienced lawyers in novel cases and provide their expertise in cases that require it.

This pro bono effort has already made improvements in the services it provides. The program has further plans to assist in cases dealing with AIDS patients and personal bankruptcy.

Clients will be referred to the project by federally funded legal services. Grants have been provided by the Brooklyn Bar Association which proves that others perceive the importance of this project.

By providing pro bono legal service, Ms. Mishkin has exhibited proof that our American legal system works.

I ask my colleagues to join me in commending Ms. Mishkin. Her strong belief in a fair legal process has not only demonstrated her personal greatness, but it has also demonstrated the greatness of the system.

TRIBUTE TO ROBERT HARBISON POWER

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to the late Robert Harbison Power who was a remarkable business leader, selfless community servant, and dedicated family man.

Bob Power's career took off in 1948 when he became a partner of the Nut Tree Restaurant. He went on to become chairman of both Nut Tree Associates and the Buttes Gas & Oil Co., and his stature as a businessman is reflected in his tenures as president of the California Restaurant Association and the National Restaurant Association.

While attending to the demands made by his many business interests, he also established a reputation as an historian for his prodigious and original research on Sir Francis Drake and Christopher Columbus, two early European explorers of North America. Among his many monographs and articles are "Pioneer Skiing in America," 1960; "Francis Drake and San Francisco Bay: A Beginning of the British Empire," 1974; and "In Quest of Where America Began: The Case for Grand Turk," 1991.

Bob Power's talent and enthusiasm was not limited to scholarship; his dedication to advancing the knowledge of California and U.S. history found expression in his participation in numerous organizations. He was a member of the Sir Francis Drake Commission in Sacramento and the Governor's Commission for California's Quincentenary Commemoration of the Discovery of America. He also presided over the Grand Turk Columbus Landfall Symposium in 1989. For 9 years, he chaired the California Heritage Preservation Committee, and for 2 years, he was president of the California Historical Society. In 1984, Governor George Deukmejian appointed Bob to chair the California State Historical Resources Commission.

A noted philatelist, he became postmaster of the Nut Tree, California postal station in 1962. In 1990, President Bush chose Bob to serve on the Citizen's Stamp Advisory Committee.

Also included among Mr. Power's list of affiliations are the San Francisco Press Club, the Sacramento Book Collectors Club, the Vacaville Rotary Club, and the Commonwealth of California Club.

Born on April 19, 1926 to Edwin Ignatius and Helen Melissa [Harbison] Power, Bob was a member of the fourth generation of pioneering California ranching family. In 1943, he joined the U.S. Army, and during this service, he earned the Combat Infantry Badge, the Purple Heart, and campaign stars for Bastogne and the Rhineland. After returning from Europe, he began a long and active participation in statewide politics. Bob's involvement with politics ultimately gave way to his strong interest in the preservation of open space. In 1969, he became the founding director of the California State Parks Foundation and went on to become a member of the board of directors of the Bay Area Council. He served as Solano County's sole representative on the Bay Vision 2020 Commission.

Bob is survived by: his wife of 42 years, Margaret Mary (Peg); their six children, Diane Zimmerman, Mark Power, Linda Finlof, Julie Pantiskas, John Power, and Brian Power; and, their two grandchildren, Melissa Power and Nicole Finlof.

Bob was a vital part of his family, his community, and his State, and he was a valued friend of mine. I will certainly miss him. My heart goes out to Peg and the rest of Bob's family.

ANNIVERSARY OF THE MERCER MUSEUM

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. KOSTMAYER. Mr. Speaker, June 23 marks the 75th anniversary of the Mercer Museum, located in Doylestown, PA.

I would like to take this opportunity to tell you about this museum which first opened its doors in the year 1916. The building itself was constructed without a formal set of plans. Its creator and owner, Henry Mercer, drew daily sketches of the work he hoped would be completed that day. What resulted, if you can imagine, was a one-of-a-kind six story building. Its galleries encircle a central court, and the building is adorned with hundreds of differently shaped windows. The Mercer Museum has come to be known as a historic landmark, noted and loved throughout Bucks County for its unique style and appearance.

Mr. Speaker, in addition to the building itself, the artifacts inside the Mercer Museum are also cause for celebration, as they give us a chance to learn about an important part of American history. Even in today's world of computer intelligence and automation, one thing has remained constant: we have always needed someone to fix things when they break down. Perhaps Henry Mercer realized that there would always exist such a need, for if you visit the Mercer Museum today, what you will find is over 40,000 tools.

Mr. Speaker, a visit to the Mercer Museum is a chance to step back in time and appreciate the life and ingenuity of yesterday. There are tools for what Mercer considered primary needs—tools for basic survival—and secondary needs, which he categorized as implements necessary for learning, amusement, transportation, or law. One can find anything there, from a fire engine to an apple parer. In fact, there are just so many treasures to be found in the Mercer Museum, one can not truly appreciate its value without visiting it in person.

I would like to celebrate the 75th anniversary of the Mercer Museum. It has taught everyone who has had the chance to visit it a thing or two about our past. I hope that the Mercer Museum will continue to provide enjoyment to all for many years to come.

TRIBUTE TO SACRED HEART PARISH

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. TRAXLER. Mr. Speaker, I rise today to inform the House of the 100th anniversary of Sacred Heart Parish in Kawkawlin, MI. This joyous celebration lauds a century of service to area residents, as Sacred Heart has steadfastly provided encouragement, understanding and compassion to those in need.

Indeed, over 100 years have passed since parishioners to Bay County began gathering to share inspiration and faith. During the 19th century, Catholic mass was offered by French missionaries, and in 1891, Father John G. Sanson, a Bay City pastor, founded a mission on the corner of Beaver and Fraser Roads. Two acres of land were purchased for just $1, and on this property a 60 by 90 foot frame church was constructed.

Abiding a severe electrical storm in 1896, the church was completed the following year. However, a fire claimed the wooden structure on September 6, 1899, and a brick edifice was constructed in its place. For 80 years, it is here that the Sacred Heart community convened for worship; a new, modern facility was completed in 1971.

Through a series of activities, including the establishment of a memorial room, a "100-Mile Walk," a pictorial history book and a friendship picnic, the 273-family congregation at Sacred Heart has rejoiced. A special acknowledgment is in order for the members of the centennial committee, who met every month during the past 2 years to coordinate anniversary festivities.

I encourage all citizens to join me in commemorating the Sacred Heart Centennial celebration, and in congratulating the congregation whose dedication and commitment have precipitated this important event. It is my hope that through their outstanding efforts, Sacred Heart parishioners will continue to provide spiritual inspiration and leadership to Kawkawlin area residents for many years to come.

SP. COLLIN P. FULLER TURNS BACK TO HIS FAITH IN TIMES OF WAR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. SOLOMON. Mr. Speaker, it has been said that there are no atheists in foxholes. And it is true.

The likelihood of combat inclines many individuals to think of final things. That was as true of Operation Desert Storm as it was of any other war in our history.

With that in mind I would like to place in today's RECORD the remarks of a very special veteran of the gulf war, U.S. Army Sp. Collin Fuller of Harford, NY. The remarks took the form of a sermon Specialist Fuller preached at Harford United Methodist Church, where his mother, Patti Girard, is pastor. It was delivered on May 19, shortly after his homecoming. Its title is "Faith Through Difficult Times," and I hope many of you will read it. It makes you extraordinarily proud of our young men and women in uniform, and proud to be an American:

FAITH THROUGH DIFFICULT TIMES

First, I would like to thank everyone in the congregation who sent packages and letters and prayed for our Battalion and for me. All your caring and support helped us more than you could know. The weather went from very hot to very cold. The rain and mud would get spirits down. But the prayers and support from the States helped pull our troops through.

I'd like to share a couple of incidents that occurred while we were on the frontline on the border of Iraq. One night, about 1:30 a.m., an insect crawled into the alarm system that warned of chemical attack and set the alarm off. We were all asleep, except for two men who were posted on guard. We woke up to voices calling for us to get up, mask and put our chemical suits on. My chemical gear, and the gear of many others, was in the cab of our equipment, and not at the camp. All we had to wear was our wet weather gear . . . great for rain, but not sufficient protection from a chemical attack. There was organized chaos, everyone running around looking for gear, but working as a team, helping each other to ward off the threat of chemical attack. We were scared, and wondered if this were it . . . were our lives going to end in the middle of this barren desert.

I prayed to God for protection. I prayed he would keep all of us alive. In the midst of danger, faith in God helped.

A few weeks later, before the ground war started, we were in Saudi Arabia, miles from anywhere. It was cold, the ground was damp, so I was asleep in the bucket of my See, a piece of engineering equipment that has a bucket loader on the front and a backhoe on the back. Sgt. Farwell woke me up saying a bunker had caved in and I was needed with the backhoe. Half awake, I went to the controls, wondering what we would find when we got to the bunker. Sgt. Farwell on one rig and I on the other, started digging, carefully, to unearth our buddies, PFC Scott Rush, 19, and Spc. Gary Crask, 20. We were still hoping they were alive. We found Scott first, CPR was administered by the medic and combat lifesavers, but to no avail. Some of the men jumped in the hole to look for Gary. CPR was applied but it was too late.

We were all in shock, not really believing what had just happened. I asked myself, why did God allow this to happen, but knew we had been prepared for this . . . it was war.

I am grateful the casualties were light; we were prepared to have many more. I'm glad to be home, close to my family and friends. I hope the conflict is over, and no one will have to go back. I pray for peace.

(The service closed with "O Beautiful For Spacious Skies.")

THE CIRCUS WITHOUT ANIMALS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. LANTOS. Mr. Speaker, during particularly busy times in Washington, I often hear the comment, "This place is a circus." Last week that perception was reality. On June 4, I had the pleasure of hosting a very special family event here on Capitol Hill on behalf of the Congressional Friends of Animals Caucus, which I cochair. It was quite an affair and could not have happened without the talent and resources of People for the Ethical Treatment of Animals and the New England Anti-Vivisection Society.

The guests included a number of my colleagues, their families, children of all sizes, as well as an array of well-known celebrities and concerned citizens who share one common belief: Animals must be treated ethically, humanely, and in accordance with standards ensuring their health and well-being. The party was proof that this belief is not incompatible with the way of life to which many of us are accustomed.

The evening's theme of a "circus without animals" was enhanced by the presence of a carousel horse, an old-fashioned popcorn wagon, and makeup artists, but the highlight was the fabulous acts by members of the Pickle Family Circus, Circus Smirkus, and the Atlanta Circus Arts Troupe. Their performances confirmed the idea that enjoyment of a circus is not predicated on the exploitation of animals.

The food at the event was delicious. Pasta, stir-fry, fresh fruit, sauces: All of it mouth-watering, all of it from nonanimal sources. Everyone I spoke with thought the soy ice cream tasted exactly like the real McCoy.

Over in ring 3 presided Bea Arthur, famed for her roles in the television sitcoms, "Maude" and "The Golden Girls." Although she often casts a tough image on screen, her involvement in the movement for the ethical treatment of animals is an indication of her true compassion. Diane Ladd, recently seen in the movie "Wild at Heart," and Gene Rayburn, the popular game show host, also graced the scene.

Mr. Speaker, this is not the first event sponsored by the Congressional Friends of Animals. Nor will it be the last. Through activities like candid debates, panel discussions, staff briefings, and field trips to places of interest to its members, the Congressional Friends of Animals hopes to increase awareness and support for the humane care of animals, both wild and domestic.

FINANCIAL AID FOR THE "HAVES"

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, the Reagan administration did not think much of antitrust law. In fact, during that administration the dean of one law school told me that his school had considered moving antitrust law into the legal history section of its curriculum. Under the Bush administration, things have improved somewhat, although in areas such as resale price maintenance, and inflationary anti consumer practice, we still do not have a genuine commitment to vigorous antitrust enforcement.

I was therefore surprised to learn that the Republican Justice Department had decided to make a concentrated assault on the financial aid practices of some of America's best universities. But as I followed it more closely, I wasn't surprised at all: this is simply one more Republican effort to rescue the rich.

The Ivy League schools have worked together, not to maximize their profits or to raise the general price level to consumers, a traditional concern of antitrust. Rather they have sought to maximize the extent to which they can use scholarship funds for people in genuine need. It is true that some students from upper income backgrounds have been victimized to some extent by this process—these individuals, all of whom can fully afford to pay for their college educations, have been deprived of a chance to get maximum scholarship aid because the universities have wisely agreed not to compete among themselves in offering aid to a few very gifted and very wealthy individuals, thereby saving more funds to go to middle income and lower income people in genuine need.

And then along comes the Bush administration and the current Republican generation of trust busters. As the Boston Globe points out, by insisting that the Ivy League institutions stop this, "the effect of the Justice Department effort is to shunt scarce financial-aid dollars away from less affluent students, directing them to students whose parents are more likely to be part of Republican constituency."

Mr. Speaker, the Boston Globe editorial on this issue is an extremely thoughtful one. I ask that it be printed here because it is one more example of insensitivity on the part of an administration which seems to think that in domestic affairs, further comforting the wealthiest people in our society is the highest possible mission.

Financial aid for the 'haves'

Seldom are lawyers so sanctimonious in celebrating victories as was Attorney General Richard Thornburgh when he announced the Justice Department's success in combating alleged price fixing by Ivy League colleges.

Thornburgh claimed a win against "a collegiate cartel" that denies students and parents "the right to compare prices and discounts among schools." He then added: "The revered stature of these institutions does not insulate them from the requirements of the antitrust laws."

The "cartel"—the so-called Ivy "overlap" schools: Harvard, Brown, Cornell, Columbia, Dartmouth, the University of Pennsylvania, Princeton and Yale—decided to abandon a costly two-year effort to defend themselves against Thornburgh's price-fixing allegation.

A consent degree binds the eight colleges to end a cooperative effort, dating back 40 years, by which each spring they have met to reach a common calculation of students' financial need. On the basis of that calculation, they have offered approximately equal amounts of financial assistance toward tuition and fees.

The purpose of exchanging information has been to prevent financial-aid bidding wars, an end that is educationally desirable for two reasons. First, students admitted to more than one college are encouraged to make their final choice based solely on what each college offers academically rather than on its cost.

Second, the overlap consultation makes a given pool of financial aid go further. If aid is distributed on merit—to entice students who don't need it but are considered desirable—it is not available for others with greater need.

Nationwide, colleges are targets of similar suits. Now that the Ivies have caved, most of the others are expected to fall in line. Most will probably state that they intend to continue to disburse financial aid on the basis of need. But since they are now barred from sharing notes about it, their calculations are bound to differ. Thus, the bidding will begin, to the detriment of those with need.

The consent decree brings an end to the civil antitrust suit. The schools admit no wrongdoing, and the government drops the matter. (MIT was a holdout, refusing to sign on the grounds that it believes none of its procedures, including the overlap meeting, violated antitrust laws. Thornburgh vowed to pursue civil action against MIT for violation of the antitrust laws—although if MIT is the only institution marching out of step, it is not evident with whom it will be charged with colluding.)

In a normal antitrust case, manufacturers collude to fix prices, thereby forcing consumers to pay more than the free market would dictate. In this case, the alleged collusion not only is aboveboard but also is aimed at the socially justifiable purpose of ensuring that tuition discounts—which is what financial aid amounts to—go to those who need them most.

The effect of the Justice Department effort is to shunt scarce financial-aid dollars away from less affluent students, directing them to students whose parents are more likely to be part of the Republican constituency. It is one more lamentable round in the "the revolt of the haves."

TRIBUTE TO DR. BEVERLY MARSHALL AND MRS. SHIRLEY SPANIEL

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. PURSELL. Mr. Speaker, I would like to bring to your attention two important people in the field of education from my district in Michigan: Dr. Beverly Marshall, principal and educator for 32 years, and Mrs. Shirley Spaniel, director of elementary education and principal for 32 years. These two very special people are retiring from their positions at the end of this school year.

As the Plymouth-Canton community members begin their preparation for a celebration in their honor, I feel it is right to nationally recognize such community leadership.

For 32 years, Dr. Beverly Marshall has proven her teaching ability in a myriad of billets. As a teacher and a principal, she has taken the lead as a facilitator of innovative ideas for classroom teaching. Dr. Marshall has worked hard to search for more effective ways of reaching out to our children. Through her years of service, she has demonstrated abilities that have made her a valuable member of the Plymouth-Canton community schools.

I have personally known Shirley Spaniel for many years. She also has dedicated 32 years to education. She has witnessed incredible changes in education in her career—from teaching 39 third and fourth grade students in one room at the age of 19, to using computers and other higher technology tools in the classroom. I am submitting for the record a recent news article that describes her contributions to education.

As a former educator, I know well the importance of having such dedicated people. They and others like them deserve our recognition. Dr. Beverly Marshall and Mrs. Shirley Spaniel will be missed.

ENDS CAREER ON A HIGH NOTE

(By M.B. Dillon)

Folks watching her grow up in Bay City wouldn't have been suprised had Shirley Koblinsky become a professional musician.

As a percussionist and pianist at T.L. Handy High School, the future Shirley Spaniel won a citywide music contest and a scholarship to Interlochen. At Bay City Junior College, she majored in music. Spaniel later would make her debut on a four-octave marimba with the Plymouth Community Band in Kellogg Park.

But for Spaniel, the halls of learning beckoned louder than any conductor. Plymouth-Canton's future executive director of elementary education earned her teaching certificate at Central Michigan University and began teaching at the age of 19.

In Bangor Township, near Bay City, Spaniel taught—in one room—39 third and fourth graders. It was a challenging experience that "taught me the value of combining ages in a classroom. It forces you to look at the strengths and weaknesses of each child; at what they have and what they need," said Spaniel, who next month will cap a career that spans the reign of three Plymouth-Canton superintendents and more than 33 years.

Spaniel moved to this area to pursue a four-year degree at Eastern Michigan University. Spaniel juggled her classes with a teaching job in Washtenaw County.

Thorne Elementary "was a little three-room school. I had a third and fourth grade (combined) class," she said. "In the afternoons, 12 kindergartners would come into my room for instruction. That experience taught me how valuable keeping mixed ages can be for students, and not just for the younger children. We call it cooperative learning now; models are established by the older children for the younger children, and students learn to help each other.

"My early years in education were very challenging and exciting. They prepared me well for my role as executive director of elementary education."

While still a student, Spaniel was recruited to train and supervise student teachers at Eastern's Lincoln Laboratory School. She squeezed in her own classes at night and on Saturdays, eventually earning her master's degree from the University of Michigan.

It was at Michigan's School of Education that Spaniel met nationally known educators who piqued her interest in research.

"We were right there where research was being conducted," she said. "Dr. Willard Olson, who wrote our text on child growth and development, was right down the hall from where I taught. The father of modern math, Dr. Joe Payne, was there too. Those were exciting years in terms of learning to translate research into learning in the classroom. What I learned was how important it is to continue to search for better ways to teach."

While moving into an apartment in Ypsilanti, Shirley met a young pilot who was helping a friend move into the same building. A graduate of Texas A&M commissioned with the Air Force, George Spaniel was flying with Capital Airlines out of Willow Run.

Dates on DC-3s led to a walk down the aisle and "a wonderful marriage," said Spaniel. Living with a person whose occupation was so totally different "allowed me to forget about my own job," she said.

The arrival of two children, George, now 27, and Julie, 25, brought short interruptions in Spaniel's education career.

"You wonder when you're a career mother if you can do it all. You can do it all; it just takes a lot of organization and commitment, and not a lot of sleep. Things you sacrifice are some of the social relationships. We were pretty family oriented; our travels were family time. That kind of quality time really made a difference," she said.

George Jr. is now a pilot with Wolfe Industries, a private corporation that owns the Columbus Dispatch newspaper and Channel 10 in Columbus, Ohio. He's also the father of John, 2½, "and the light of my life. I look forward to spending more time with him," says Spaniel.

Julie, a recent graduate of the University of North Carolina's dental school, is being married next month in Plymouth before moving to Portland, Ore. to do an internship in oral surgery.

Shirley and her husband plan to visit Portland on a trip to Alaska and the Pacific Northwest this September.

The Spaniels have, indirectly, United Airlines to thank for their discovery of Plymouth. "We started out living in Ypsilanti," said Spaniel. "We had some good friends who were United Airlines pilots who in the early '60s bought homes in Plymouth. They loved it here. When we decided to come visit we were so impressed with the community we decided we should buy a house here."

Spaniel again was recruited—this time by then-Superintendent Russell Isbister—to head a team studying how best to distribute federal funds in the district.

"We developed an assessment team that went around to elementary and middle schools to look at educationally disadvantaged kids in this community and what kind of programs they needed to improve," she said. "That brought about the remedial reading program." When no one could be found to coordinate the remedial program, Spaniel was drafted for duty.

"I began to see how that program impacted the whole language arts curriculum. It had to be looked at in terms of how the program was meeting the needs of all students," she said.

Spaniel became the district's K–12 coordinator for reading and language arts in 1968. Recognizing teachers' need for additional training in reading, she set up two summer reading clinics. Professors from the Universtiy of Michigan taught instructors in the mornings, and in the afternoons, summer school students were tutored by the teachers, who earned college credit.

"I think we need to get back to some of that," said Spaniel. "Teachers aren't getting enough practical experience."

In 1972 after visiting England where she researched elementary education, Spaniel opened Miller Elementary, "which I carefully labeled a child-centered school." The highly-successful school, which at one time conducted year-round school, received "visitors from all over Michigan. It was exciting for me because we created something unique," said Spaniel. "I think the new collaborative school improvement process will help put that in place again. We are bringing parents into the process."

As executive director of elementary education, a post Spaniel has held since 1980, Spaniel supervises elementary principals, with responsibility for budgets and all K–6 instructional programs.

Spaniel in 1988 was awarded by the state for organizing two reading conferences at the Novi Hilton for teachers from southeastern Michigan.

Eight years ago she founded a local chapter of Delta Kappa Gamma, a professional organization for women in education that is thriving with 40 members.

Of late, Spaniel has been questioned by opponents of the controversial developmental learning program—a learn-at-your-own-pace teaching technique in place in kindergarten through second grade throughout the district.

Some parents and teachers have criticized the program, saying that its lack of structure means students aren't learning to spell, read or do math as they should be.

Spaniel is convinced the program will work, because it addresses the fact that students learn at different rates.

"If we put too much pressure on kids, we will turn them off to learning. That's what we are trying to avoid," she said. "I think if we are patient and supportive, students will learn unless they have learning defects or intellectual deficits. My concern is that we keep class sizes down to a reasonable limit."

Spaniel's departure leaves an administrative team that's largely male. Not one assistant superintendent is female.

"It's tough in education even today for a woman to go beyond the building principal level," said Spaniel.

She has no complaints regarding the treatment of women educators in Plymouth-Canton. "I think Dr. Hoben has been very open and very fair. He treats candidates equally," she said.

INVITE TAIWAN INTO GATT TRADE PACT

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. BILBRAY. Mr. Speaker, the 100 member nations of the General Agreement on Tariffs and Trade [GATT] currently have before them an application for membership from the 13th largest trading country in the world. This country holds the largest foreign-exchange reserves in the world and is the sixth largest trading partner of the United States. While there is no doubt that Taiwan qualifies for GATT membership and that its inclusion in the organization would benefit all free trading nations, the application has been repeatedly stalled. This application is from the Republic of China on Taiwan, and it is for fear of upsetting Beijing that this administration has failed to support it. But this concern has been addressed. Submitted under the name of "Customs Territory of Taiwan, Penghu, Kinmen and Matsu," care has been taken to avoid confrontation with the mainland. What matters here is trade, and what will best strengthen and maintain the GATT structure which regulates international trade to the benefit of all member nations. I submit for my colleagues' consideration an editorial which appeared in the Nevada Appeal last November titled, "Invite Taiwan into GATT Trade Pact," and I hope that you will join me in urging the administration to do just that by supporting Taiwan's application.

INVITE TAIWAN INTO GATT TRADE PACT

The Bush administration is engaging in more of its Machiavellian justifications for humoring dictatorships. The issue this time is whether Taiwan should join GATT.

As the world's 13th largest trader, Taiwan has a logical place in the General Agreement on Tariffs and Trade, the 100-nation agency overseeing global trade. Not surprisingly, the U.S. trade representative and the major congressional committees on trade and foreign affairs support its bid to join.

Even Secretary of State James Baker concedes that Taiwan's membership may be "desirable in principle."

But he worries—again—about Chinese sensibilities. China still clings to the fiction that Taiwan is not a separate country. The masters of Tiananmen Square would be miffed if Washington backed the island's membership in GATT.

The Chinese have been helpful to Washington in the Persian Gulf crisis and also in attempts to bring peace to Cambodia. Baker doesn't want to offend them now.

But those regional problems are unrelated to trade—an arena where the Bush administration has already catered to Beijing. It agreed last spring to extend trade concessions to China for another year.

Baker and Co. should quit psychoanalyzing China's leaders and do the right thing at GATT.

Who knows—the Chinese might even respect them for it.

Nevada Appeal editorials are the opinions of the newspaper's editorial board. All other opinions expressed on the Opinion page are those of the artist or author indicated.

TRIBUTE TO CLEMENT KAYE

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. TRAXLER. Mr. Speaker, I rise to salute Clement Kaye who is retiring this year as assistant principal of Washington Elementary School in Bay City, MI. We will miss the guidance and fine leadership that he provided to our public elementary schools for the past 17 years.

Clem has had a distinquished career as an elementary school administrator. Upon his arrival in Bay City in 1974, he served as principal at Kolb Intermediate, and subsequently accepted the combined role as principal of Whittier and Munger Elementary Schools, and later, MacGregor Elementary.

His leadership was so effective in this position that it was decided he could guide two schools at one time. Consequently, Clem was assigned as a two-school principal. These schools also included Lincoln, Whittier, Dolsen, and Washington Elementary Schools.

Outside the classroom, Clem was an active participant in the Boys and Girls Club for children in the K–5 grades. He was the first recipient of the "Man of the Year Award" presented by the Boys and Girls Club. His civic activities included serving as chairman of the Bay County American Red Cross. During the 1987 flood Clem worked vigorously to help residents. He is also an officer at the Messiah Lutheran Church, and a member of both the Elks Club and the South End Businessmen's Association.

During his matriculation at the University of Illinois, Clem received his bachelor of science degree in education and a master degree in education. He also holds an elementary permanent certificate and an elementary administrator certificate.

Clem was a doctoral student at Wayne State University where he taught elementary education, reading, social studies, mathematics, and the philosophical and sociological foundations of education. While at Wayne State, Clem reorganized the Teacher Training Center by using all the Detroit city schools as a laboratory school. He has been a member of the Michigan Department of Education's Curriculum and Research Committee.

He is also a member of Phi Delta Kappa, a charter member of the Saginaw Bay City Phi Delta Kappa, a member of the National Association of Elementary School Principals, Michigan Elementary and Middle School Principal Association, the Bay City Association of School Administrators, the Association of Supervision and Curriculum Development, and the Michigan Reading Association.

Please join me in wishing the very best to Clement Kaye as he begins a relaxing and fulfilling retirement. His effective leadership, clear guidance, and fine dedication to elementary education, will be warmly remembered by our community.

A TRIBUTE TO COL. KEITH G. FINDLEY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor a wonderful officer, Col. Keith G. Findley, U.S. Air Force, upon his retirement. Colonel Findley, a career aircraft maintenance officer, retires as the Director of Environmental Management at Sacramento Air Logistics Center, McClellan Air Force Base. He has filled a crucial role in the operation and maintenance of McClellan and will be sorely missed by base personnel and by community leaders with whom he is in constant contact. He will be missed not only for his expertise and leadership, but also for his fine wit and sense of humor. Colonel Findley has been a great asset to the Air Force, to McClellan, and to the Sacramento community.

Colonel Findley was born on March 29, 1942 in Seattle, WA. He graduated from Lee High School in Arlington, VA in June, 1960. After receiving a bachelors of arts in history from Central Washington University in 1964, Colonel Findley finished his commissioning through the Reserve Officer Training Corps. He began his career attending the aircraft maintenance officer course at Chanute AFB in Illinois and upon completion, was assigned as a flightline maintenance officer in September, 1965. At Charleston AFB in South Carolina, he maintained the C–130E aircraft for the 608th Organizational Maintenance Squadron.

From December, 1966, to January, 1968, Colonel Findley's role with C–130E aircraft became even more crucial as he was assigned with the 345th Tactial Airlift Squadron at Ching Chaun Kang AB in Taiwan. There, he filled a variety of positions as maintenance officer for the aircraft which were used extensively throughout Southeast Asia. Recognized for his commendable service and leadership abilities, Colonel Findley was assigned as Chief of Programs and Procedures at Headquarters Air Force Reserve, Robins AFB in Georgia. There, he was soon selected as an exchange officer with the Royal Air Force to work with the Nimrod Maritime Reconnaissance Aircraft. Beginning in June of 1970, Colonel Findley was the commanding officer of the Engineering Coordination Center at RAF St. Mawga, England.

In April, 1973, Colonel Findley was temporarily medically retired. Not one to ever slow down, he used that time to earn a bachelors of arts degree in business economics from his alma mater. In returning to active duty in January, 1975, he was the maintenance supervisor for C–130E and C–141 aircraft to the 62d Organizational Maintenance Squadron at McChord AFB in Washington while completing Squadron Officer's School. At McChord, he attained the rank of major and was subsequently promoted to the position of job control officer in December, 1976. Completing his masters of arts from Pacific Lutheran University the following year, Colonel Findley was assigned in May to the Office of the Deputy Chief of Staff for Logistics, Headquarters United States Air Forces Europe, Ramstein AB, Germany. There he filled a number of crucial positions, including Chief of Aero Systems Branch and Assistant Chief of the Air Craft Division. While there, Colonel Findley completed national security management course by correspondence.

In returning to the United States in May 1981, he was the maintenance officer, and subsequently the squadron commander of the 9th Field Maintenance Squadron at Beale AFB. Less than a year and a half later, Colonel Findley returned to Europe, this time to England. Beginning in October 1982, he was the first deputy commander of maintenance for TR–1 aircraft of the recently activated 17th Reconnaissance Wing at RAF Alconbury, England. Beale, not wanting to lose such a valuable officer, managed to win Colonel Findley back in September 1985. His years in England proved to be useful, as the 9th Strategic Reconnaissance Wing at Beale utilized TR–1/U–2, in addition to SR–71, KC–135Q, and T–38 aircraft. There, he was assistant deputy commander for maintenance, and was promoted to deputy commander for maintenance.

Another promotion occurred February 1, 1986, when he was given the rank of colonel. In coming to McClellan AFB September 1988, Colonel Findley was the chief of the Product Quality and Reliability Division, Directorate of Maintenance, Sacramento Air Logistics Center. He became director of environmental management in March 1990. It is most fitting that Colonel Findley retire as the director of environmental management, as he has been described by coworkers as being an environmentalist at heart, always advocating the need to do what's right. Appropriately, he is an avid fisherman; it is said that while on his many travels, Colonel Findley was also in search of the perfect fishing hole.

Colonel Findley retires with the Meritorious Service Medal and the Air Force Commendation Medal, both with three oak leaf clusters, the Merit of Legion Award, and the deep gratitude of the Air Force and the Sacramento community. The Air Force, McClellan, and Sacramento have all benefited greatly from Colonel Findley. His leadership, his knowledge, and his commitment have proven to be invaluable over the years. He is truly a great officer and a wonderful gentleman who will be missed dearly. Mr. Speaker, it is with deep appreciation that I rise and honor this Colonel Findley upon his retirement. I wish he and his wife, Cleo Findley, all the best in their future years.

TRIBUTE TO CONTRA COSTA WAR VETERANS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. MILLER of California. Mr. Speaker, on June 15, 1991 the citizens of Crockett, Port Costa, and Tormey will remember and celebrate their war veterans. Over 733 men and women from these three towns were stationed across the globe from the Pacific to Europe to Southeast Asia and the United States to help defend our country and its allies during World War I, World War II, Korea, and Vietnam. In their honor a 5 foot by 6 foot bronze plaque engraved with each of their names will be placed on the wall of the Crockett Historical Museum.

In 1989, after discovering that the original war veteran's memorial honoring those from the three towns serving in World War I and World War II had been torn down, Leo Cid of Crockett formed a committee to find all of the area's veterans who had fought in the twentieth century thus far. The search for the names of these men and women for the new expanded memorial entailed a 2½-year search through phone calls and letters by the committee members: Leo Cid, chairman, Tony Cospa, Aldo Ray, Babe Pallotta, Ray Pallotta, Joseph Angelo, Morris Lewis, Marino Patrinai, Tony Machado, Bab Simontacchi, William Ligon, and Richard Magliari. They organized fund raisers and solicited donations to make their dream of commemorating their soldiers a reality.

Mr. Speaker, I know the Members of the House join me in the recognizing the dedication of these men and women who served our country. They are an essential part of the base on which the security of our Nation has been built.

OPERATIONS SPECIALIST CHIEF BERNARD E. BARBER TO RETIRE AFTER 20 YEARS OF SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. SOLOMON. Mr. Speaker, even before my long service on the House Veterans Affairs Committee I always felt that no tribute to our veterans was excessive.

We recently finished honoring thousands of Desert Storm veterans over the last week, and we will honor them again on July 4th. In those recent celebrations, the tribute was bestowed as well on veterans from all eras and from all wars.

And that's the way it should be. And I would go farther, Mr. Speaker, in saying we should take advantage of every opportunity to honor our veterans. That is why I rise today to pay tribute to Sr. Chief Bernard R. Barber, U.S. Navy Reserve.

Operations Specialist Chief Barber of Melrose, NY, will be retiring June 30, after 20 years of service.

Chief Barber enlisted on August 8, 1970. In his 20 years of service, he has set a standard in service, readiness, and dedication to duty that has inspired the next generation of sailors. He will be missed by his shipmates.

His wife, Joanne Lynn, his sons, Paul Harris and Tod Mathew, and daughter, Courtney Lynn, are all proud of him. So am I.

Mr. Speaker, this former marine asks everyone to join him in saluting Op. Sp. Chief Bernard E. Barber, and in wishing him all the best.

A PLAN TO IMPROVE WORLDWIDE ACCESS TO CLEAN WATER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. MANTON. Mr. Speaker, I want to call the attention of my colleagues to a new proposal which calls for the creation of a world water resources bank. What is significant about this proposal is that it not only addresses the need for capital for water projects on a worldwide basis, but also that it proposes a private free market solution to the problem. This will go a long way to alleviating the competition among water needs and other vital human needs for the ever more scarce financial resources of national governments.

Mr. Speaker, the proposal was made by Michael Curley, president of M. Curley and Co., Inc., a private merchant bank in New York City, in a paper which he presented on May 16, 1991, at the VII World Congress on Water Resources in Rabat, Morocco.

Mr. Speaker, the demands for clean water are growing throughout the world. These demands mean large capital outlays will be required to upgrade existing water systems and construct new ones for a growing world population. In urban areas, these costs may be spread among hundreds of thousands of businesses and families using urban water systems. Urban problems, therefore, are more managable. In small towns, rural areas and less-developed countries, however, improving water quality and increasing the availability of clean water is very difficult. The costs are high, the base of users is small and often poor. Traditional commercial lenders are unlikely to be willing to lend capital to water systems in these situations.

To address this problem, Mr. Curley has proposed the creation of a world water resources bank to be composed of credit cooperatives that would be established from local water systems banding together. Credit cooperatives would exist at the local, regional and national level. By doing so, local water systems would become creditworthy and thus be able to acquire the capital they will need for current needs and future development.

Mr. Speaker, Mr. Curley has proposed a very provocative solution to the pressing problem our nation and the entire world faces: providing clean water for public health. Clean water is the lifeblood of our economy and, indeed, of human existence. As we enter the 21st century, clean water will become far more precious and vital than it is today. I urge my colleagues to read Mr. Curley's proposal, and I include an abstract of his paper in the Record at this point:

A World Water Resources Bank: A Private Financial Structure for Worldwide Water Projects

(By Michael Curley)

Throughout the world small water systems suffer from a lack of capital. New projects and reconstruction of older projects are most often funded directly from government appropriations or from local credit sources. Relying on a national or regional unit of government for funding puts fresh water needs into direct competition with other critical human needs such as public health and education. For certain projects, there may be no alternative. In areas of great poverty and deprivation, clean drinking water may have to be provided free, by government, to all users simply as a matter of public health or basic humanity. But for water systems in areas where even modest user charges are possible, there should be alternatives. Wherever there are funds, no matter how modest, which are available to make annual debt service payments, such systems should be able to finance needed projects without government funds, or at least without as much government funding.

Small water systems are unable to reach the international credit markets both because of their size and because the market is necessarily unfamiliar with the borrower and the quality of the credit. They tend to be at the mercy of whatever local banking community there is. This is truly an infelicitious position to be in. Because of the trend to massive disintermediation which began in the 1970's, banks are under global pressure to shorten maturities and to lend only at floating rates. Water system assets are, on the other hand, long term by nature and should be paid for over their service life. Also, floating interest rates play havoc with systems which are generally unable to adjust user charges with the speed and frequency required to match loan payments. Furthermore, bankers are loath to lend against assets which cannot readily be repossessed and sold at a high percentage of original cost. Water mains, storage tanks and treatment facilities hardly fit this bill. Notwithstanding the negatives, there are two inherent major positive aspects of water system economics: people cannot survive without water; and, although the system itself may be the entity which is the legal borrower, it is to the system's many users that a lender might actually look for repayment. What is needed is a new financial regime which maximizes the inherent strengths of water system credits and minimizes their weaknesses.

Such a new financial regime would necessarily begin at the local level. Here, it is proposed that local water systems band together to form what might be termed credit cooperatives. The strength at the local level is the knowledgeability of system operators as to need, reasonable water charges, operating costs as well as environmental factors. Participating systems would borrow through the cooperative and knowledgeable local operators would constitute its credit committee. The financial basis of the cooperative would be that each participating system would borrow a fixed percentage more than it needed for its project. The overborrowing would be retained by the cooperative as pledged security for all of the loans of all of the participating systems. In addition, the cooperative would require that the water charges of the participating systems be paid directly by the users to a bank or other fiduciary which would also be the cooperative's loan administrator.

Three factors inherent in the local cooperative structure—the indispensability of water, the intermediation of user charges, and the pooled first loss reserve provided by the overborrowed funds—combine to create a truly powerful credit device, even for relatively undeveloped areas.

The local cooperative would fund members' loans by borrowing from a regional or national cooperative of which the local cooperative would be a participating member. The structure of the regional or national cooperative would be identical to that of the local cooperative. It would, in fact, be a cooperative of cooperatives.

The regional or national cooperative would, in turn, obtain its funds from an international credit cooperative which would also be of identical structure and which might be called a World Water Resources Bank. This institution would obtain its funding directly from the international credit markets, where it would borrow at long terms and at fixed rates. Such funds would be passed through to the intermediate national or regional credit cooperatives, which would pass funds to the local cooperatives and thence to the individual system borrowers. The fixed rates would assure stability of local user charges and the system's financial planning. The long term on the debt would have the doubly beneficial effect of minimizing user charges while spreading payments over the long service life of system assets.

Can such a structure work? It already does. The process is called security intermediation and through it an investor in Jakarta, Indonesia, can today buy an undivided participating interest in a home mortgage in Muleshoe, Texas, U.S.A. With wide private ownership of homes in the United States, home mortgage payments are considered highly secure. Despite whatever financial hardships a homeowner may endure, keeping the home itself is regarded a virtual necessity. Likewise, the Farmers Home Administration of the U.S. Department of Agriculture has made over 30,500 loans to small, rural water systems over the last fifty years. Fewer than 20 of such loans have defaulted. Again, this extraordinary phenomenon is widely attributed in large part to the essential nature of basic water service. In short, no matter how precarious the finances may be of an individual homeowner or payer of water charges, collectively such credits have an excellent history. By effectively collecting larger and larger bases of water system users, through an expanded network of credit cooperatives, this historical creditworthiness can be made to work for the benefit of all.

Is such a process cost effective for the local water system? Even if the local system loses (through the defaults of other systems in its cooperative) its entire overborrowing, such a process would still be cost effective. A reasonable overborrowing amount would be 10 percent. By accessing the international credit markets, the system should be able to reduce its rates by more than 10 percent. Furthermore, by just being able to borrow for a twenty year term instead of a five year term, the system would be able to reduce its annual payment burden by up to 56 percent.

In summary, providing safe drinking water to the poorest and most remote areas will always be the direct burden of government.

But, if the need for clean drinking water is ever to escape the lengthening queue for scarce government resources, there must be an alternative source of funding, at least for systems of even modest financial viability. On the other hand, the long-term, fixed-rate financial needs of small water systems are anathema to the modern banking industry. Finally, the international credit markets which specialize in such funding are in today's world unreachable. A World Water Resources Bank, however, sitting atop a series of concentric circles of security intermediation mechanisms such as regional and local credit cooperatives, could access the international credit markets. This would then be a private structure to obtain the long-term, fixed-rate capital which local water systems need to reach their goal of providing safe drinking water to the people of the world.

A TRIBUTE TO CLAIRE L. SOKOLOWSKI

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today to congratulate and honor Claire L. Sokolowski for her many years of distinguished service on behalf of the Arundel Hospice and the Arundel Hospice Foundation. Her outstanding achievements as a volunteer with the hospice have contributed significantly to the patients that the hospice serves. Ms. Sokolowski is retiring after many years of exemplary involvement on behalf of terminally ill patients. The hospice has provided much needed care and services for these patients in their homes.

Ms. Sokolowski's many years of selfless dedication and unwavering commitment have been an invaluable service to the community. I speak on behalf of all of the hospice's patients and the residents of my district who are grateful to Ms. Sokolowski for the work she has done.

Thank you Claire from myself and the citizens of our community for all you have done on behalf of the Arundel Hospice. We all will miss you very much and the work you have done. Your involvement with these patients is a glowing example of all of the wonderful things that can be accomplished through active citizen involvement.

IN HONOR OF CLIVE E.C. BANFIELD

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. de LUGO. Mr. Speaker, I rise to commend Clive E.C. Banfield, a man who for three decades has helped make the Caribbean the destination of choice for millions of visitors to the region.

I am proud to have known Clive since he came to the Virgin Islands over 30 years ago and met and married a close acquaintance, Helen Hay, two people I am happy to count today as my dear friends.

Clive has been in commercial aviation for 35 years, 27 of them involving Puerto Rico. As the highest executive in the Caribbean for Delta Airlines, Clive possibly has done more than any other single person to lay the groundwork for the expansion of the tourism industry there.

Although Delta does not service directly my district, the U.S. Virgin Islands, Clive lives in St. Thomas with his wife Helen, and truly serves as an ambassador for all the Caribbean Islands.

With the many changes now occurring in the airline industry, Delta appears to be in a position of strength, and particularly in the Caribbean, due in no small part, I am sure, to the presence of Clive Banfield. As the man in charge of marketing, he has a perspective on the industry and the forces of change as perhaps few others in the region have. Clive has traveled extensively throughout the Caribbean and the world. He knows the traveling public, he knows the destinations where they go, and he knows well the techniques of marketing and sales that brings the two together.

In this day and age of conglomerate corporations which often appear to eliminate the human factor, Clive Banfield is an important link, a man who brings the personal touch to Delta Airlines, to Puerto Rico, and to the Caribbean region.

Mr. Speaker, today I express my appreciation to Clive Banfield, a man who has played an integral role in the airline industry and in the development of the Caribbean as a tourism destination. He has been an ambassador who has not only served Delta with distinction, but has done so for people throughout the Caribbean and all over the world.

STACI C. PORTER COMPLETES 2 SCHOOL YEARS IN 1, BUT MAINTAINS HONOR ROLL RANKING

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. SOLOMON. Mr. Speaker, those of us who lament the state of education in America often fail to see the many examples of academic excellence. I'd like to tell you about one of them.

Staci C. Porter of Gansevoort, NY, will be graduating from Schuylerville Central School on June 24. But Staci is not your typical high school graduate.

She completed 2 years in 1.

Staci Porter carried nine subjects throughout the year, giving up her lunch hour every day, and still made the honor roll all year.

Her family is justifiably proud of her. So am I. And so should we all be to know that among today's young people there are those like Staci Porter who strive to excel.

We can look forward to impressive things from Staci Porter in the future. Let us rise today to pay tribute to that future, and to a very remarkable young lady.

HIGH SPEED RAIL AND HIGHWAY TRAFFIC SAFETY PROGRAM

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. SANGMEISTER. Mr. Speaker, I rise today to introduce the High Speed Rail and Highway Traffic Safety Program of 1991. The companion bill to this legislation—S. 1065—was introduced on the Senate side by my good friend and colleague Senator PAUL SIMON and already enjoys broad, bipartisan support.

June 30, 1991 marks the 1-year anniversary of a fatal railroad-crossing accident in Lockport, IL. This accident is especially tragic because the four fatalities could have been prevented.

On June 30 of last year, four teenagers were killed when they drove their car around railroad gates and into the path of a speeding Amtrak passenger train. Although the safety gates at this crossing frequently malfunctioned, they were reportedly working properly that fateful Saturday night. The parents of one victim, Zachary Zeller shared the following thoughts: "Zach was not irresponsible. He made a serious mistake, but this was not a freak accident. It was an accident that was just waiting to happen and we were the unlucky ones. He does not deserve to bear the responsibility of this accident alone." Statistics support Mr. and Mrs. Zeller's contention.

According to the Federal Highway Administration [FHWA], over 50 percent of level crossing accidents happen while gates are activated and roughly 10 percent occur when motorists drive around lowered gates, particularly when gates are down longer than normal. In 1989 and 1990, 1,492 people died in railroad crossing accidents. This represents the highest 2-year total in the decade and is 25-percent higher than the average for the previous 8 years. The States with the highest number of crossing accident deaths were Texas, Illinois, and Ohio.

STATES WITH 50 OR MORE RAIL-HIGHWAY CROSSING FATALITIES (1989–90)

	Fatalities	Crossings	Rate[1]
State:			
Texas	186	13,582	13.7
Illinois	130	10,908	11.9
Ohio	124	8,670	14.3
Indiana	82	7,744	10.2
California	82	8,485	9.7
Florida	65	4,205	15.5
Louisiana	55	4,443	12.4
Missouri	54	5,320	10.2
Michigan	53	6,330	8.4
Arkansas	51	3,441	14.8

[1] Fatalities per 1,000 crossings.

Source: Federal Railroad Administration.

The dramatic increase in railroad crossing fatalities can be attributed, in part, to increased train speeds along various corridors. In fact, the number of people killed by trains traveling over 40 miles per hour shot up 43 percent between 1980 and 1989. There is no question that we must work harder to eliminate at-grade crossings if we want to reduce deaths and injuries. By making these necessary safety investments, we are also paving the way for future high speed rail systems.

Currently, there are a number of high-speed rail routes being studied including the Chicago-St. Louis corridor. Most organizations promoting high-speed rail systems agree that grade separations are essential for trains traveling over 100 miles per hour. When Amtrak decided to run passenger trains at speeds over 125 miles per hour in the publicly-owned Northeast corridor—Washington-New York-Boston—it was able to eliminate all but seven level crossings. Regrettably, this is not the case for other high-speed rail routes being considered on existing rights of way.

We have made progress, but more work needs to be done. The Grade Crossing Safety Program contained in section 130 of title 23 has been successful in making 30,000 level crossing safer either through improved signal systems or grade separations. These sorely needed improvements have saved roughly 5,000 lives and an estimated 20,000 injuries since 1974, according to the 1988 annual report on highway safety. I strongly support this program.

My bill is not intended to replace section 130. Rather, it would supplement the Grade Crossing Safety Program by providing Federal resources to build grade separations which would pave the way for high-speed rail systems throughout the country. The High-Speed Rail and Highway Traffic Safety Program of 1991 provides $5 million for fiscal year 1992 for State planning in consultation with local communities and private railroads with a matching ratio of 100 percent and $300 million a year for fiscal years 1993, 1994, 1995, and 1996 at a 90-percent match. This should provide the necessary resources for grade separations and other safety improvements in 8 to 10 rail corridors selected by the Secretary of Transportation. Like section 130, my bill would be financed through the highway trust fund.

As a member of the House Committee on Public Works and Transportation, I will be working with the committee leadership to include provisions of this legislation in the 1991 highway reauthorization bill. Support for high-speed rail has quickly gained momentum—the technology is here. I urge my colleagues to join me in this effort to save lives, conserve energy, improve intermodalism, and protect the environment through the promotion of high-speed rail.

A TRIBUTE TO MICHAEL BERRIGAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. MATSUI. Mr. Speaker, I rise today to bring to my colleagues' attention the exemplary career of a Sacramento area educator, Mr. Michael Berrigan.

He began his career as an elementary teacher in the Sacramento Unified School District in 1963, just 9 years after immigrating to the United States from Ireland. He went on to earn his master's degree and to work in the administration of the school district. From 1973 on he has been the director of consolidated programs for the Sacramento Unified School District.

Next Tuesday, Mr. Berrigan will be celebrating his retirement which will take place July 15, 1991, after almost 30 years of service to our community. His efforts to improve the education of our students will be sorely missed, but his spirit and desire will be the example that future school administrators can follow through the difficult times in the future.

Mr. Speaker, I know that my colleagues join me now in saluting the career of a distinguished citizen educator and in thanking Mr. Berrigan for being a true American success story.

THE 73D ANNIVERSARY OF ARMENIAN INDEPENDENCE DAY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. MAVROULES. Mr. Speaker, last Friday, June 7, I commemorated the 73d anniversary of Armenian Independence Day and encouraged dialog and cooperation in reaching a peaceful settlement in the region. Unfortunately, a typographical error commemorated the 75th anniversary of Armenian Independence Day. I hope my colleagues will reread my statement that appeared on page 14021 with the corrected date in mind.

TRIBUTE TO ELEANOR FAIRBANKS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Eleanor Fairbanks of my 17th Congressional District of Ohio, who was chosen to receive the Teacher Achievement Award.

For the past 3 years Ashland Oil, Inc. has recognized and rewarded the exceptional accomplishments of 10 teachers from Ohio, Kentucky, Minnesota, and West Virginia. A panel of education experts judged the nominations on the criteria of philosophy of teaching, classroom teaching innovations, and community service. Eleanor was chosen as 1 of the 10 recipients from more than 6,000 nominations from four States.

Ms. Fairbanks began her lifelong dream of teaching after receiving her bachelor's degree in education from Kent State University and her master's degree from the University of Dayton in 1983. She also received a certification in data processing from Kent State University.

Ms. Fairbanks has combined her knowledge from data processing course work with math in the classroom. She utilizes computer exercises to supplement textbook lessons. This innovative technique of learning has instilled in the students a real feeling of pride and success. This positive means of strengthening and improving education is the kind of quality education that Ashland Oil recognizes.

Mr. Speaker, I would like to take this opportunity to recognize the better education that Eleanor Fairbanks strives to provide for her students and the exceptional achievements which enabled her to receive the Teacher Achievement Award. It is truly an honor to represent this dedicated individual.

EXPLANATION OF ABSENCE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. GUNDERSON. Mr. Speaker, unfortunately I was unable to be present in the House during votes on the Solomon amendment to the Intelligence Authorization Act, and on final passage of banking legislation.

I wish to note for the record that my absence was unavoidable, due to a personal family matter which required my presence back home in Wisconsin.

I would like the record to reflect this fact as an explanation to those I represent in the Third District, and I appreciate the Speaker's consideration of this matter.

TRIBUTE TO FRED MANSOUR

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. RAY. Mr. Speaker, I rise today to pay tribute to a businessman from the Third Congressional District who was recently honored by an indepth news article in the Columbus GA, Ledger-Enquirer. Mr. Alfred "Fred" Mansour, Jr., is president and chief executive officer of Mansour's, an upscale clothing store that sits on a whole city block in downtown LaGrange, GA.

Seventy-four years ago, Fred Mansour's grandparents came from Lebanon and founded a dry goods store on the square in LaGrange. Since that time the store has thrived, and the business has expanded—currently with a store in Columbus and with one opening in Albany in October.

This success has not been easy. Fred Mansour tells of the days when his high school friends were driving around in cars while he stocked shelves and swept floors. But the work has been enjoyable.

Many members of the family have learned the clothing store trade within this family-oriented business, and have stayed within the organization or formed a related store.

Mr. Speaker, it is business people like Fred Mansour, and the whole Mansour family, who have made American small business the best in the world. I congratulate them on their success.

IN HONOR OF 100 YEARS OF ST. JOHN'S CHAPEL

HON. LEON E. PANETTA

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 11, 1991

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to St. John's Chapel on the occasion of its 100 years on the Monterey Peninsula.

As St. John's Chapel concludes its first century of existence on the Monterey Peninsula, the members can look with pride upon its commendable success. From its romantic beginnings as a tiny chapel serving the guests of the fabled Hotel Del Monte to its growth into a multiservice, midsized parish church, St. John's has continued to preserve the evangelical message and the apostolic order. It has been a place of worship and inspiration to all who have entered this beautiful chapel.

Through two world wars, the Great Depression, and the explosive growth of the Monterey Peninsula, St. John's Parish has sunk its roots deep into the subsoil of our community. Babies have been baptized, youngsters have received the apostolic rite of confirmation, couples have been joined in holy matrimony, and residents and nonresidents alike have been spiritually nourished by the sacrament of the altar.

The chapel has always been open to all, from the wealthy to the less fortunate, from professional people and prominent social figures to members of the working class. Everyone has always been welcomed at St. John's, which has become an example of immense congregational support. Its many beautiful attributes are donations from generous supporters of the church, both spiritually and financially. These include gifts such as the stained glass window placed behind the altar, an elegant rood screen placed between the nave and the choir, the eternal lamp of brass and Lalique hanging above the altar. These are but a few examples of support throughout the last 100 years of its existence.

Parishioners of St. John's came not only from the peninsula, but also from such distant places as Santa Cruz, Hollister, Salinas, and Watsonville. There was a large number of parishioners from the military installations too, including the Defense Language Institute at the Presidio, the Naval Postgraduate School, and Fort Ord. This diverse congregation has provided emotional support to each other and to the community. In the 1970's, a nursery school was established in the parish hall. Other forms of St. John's outreach were ministering to the jail, hospitals, community handicapped, and drug and alcohol abuse programs. Money was also sent to support the various religious missionary activities throughout the world. In a full attempt to meet the increasing needs of the chapel, a Sunday school wing was constructed. A youth director was also added to lead young people in their religious relationships with others as they met for worship, held various fundraisers, and enjoyed excursions together. Junior and senior choirs have developed due to the talented nurturing of the organist director. St. John's has an active Episcopal church women's organization, open to all women of the congregation. In 1990, a similar organization for men was established called "Men of St. John's."

These entities of St. John's Chapel have come together to form a spectacular bond for the 16th Congressional District of California. As a result of its traditional biblical stand, the membership of St. John's has more than doubled during the years of national church turmoil. Such progress remains a vindication of the strong biblical beliefs that have created a warm family church with a dynamically alive parish.

Mr. Speaker, I ask my colleagues to join me now in honoring St. John's Chapel in its centennial celebratiion. It is with great pride and respect that I pay tribute to the outstanding service the chapel has provided to the 16th Congressional District of California.

IN TRIBUTE TO REPRESENTATIVE CHARLES E. BENNETT ON THE OCCASION OF HIS 40TH ANNIVERSARY OF NEVER MISSING A LEGISLATIVE VOTE

HON. ALBERT G. BUSTAMANTE

OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 11, 1991

Mr. BUSTAMANTE. Mr. Speaker, last week we celebrated a landmark occasion for one of our friends and colleagues, Representative CHARLES BENNETT. Forty years ago, Representative BENNETT started a string of legislative votes that remains unbroken to this day.

In his fifth decade of service to this institution, Representative BENNETT has achieved an almost perfect voting record.

That's quite an accomplishment, and that achievement says something about the man and his dedication to serving the constituents of the Third Congressional District of Florida and the interests of this great country.

It's been my pleasure to serve with CHARLES BENNETT on the House Armed Services Committee. In the 6 years I've served with Congressman BENNETT, I've always found him to be eager to help out other colleagues—always willing to be of assistance.

CHARLES BENNETT is a great man, and I'm proud to salute him on this occasion of achieving another legislative landmark in his illustrious career. Congratulations, Congressman BENNETT. I hope you continue the string for another 40 years.

NEW JERSEY PRIDE HONOR ROLL: THE DOPE OPEN

HON. DEAN A. GALLO

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Tuesday, June 11, 1991

Mr. GALLO. Mr. Speaker, in the fight against illegal drugs, we have been making some significant progress in the strict enforcement of mandatory sentencing for drug dealers and in discouraging production of these drugs at the source.

However, our continuing focus on community drug education and treatment programs is where the real progress has been made, as shown by the decline in the number of young people who are experimenting with illegal drugs.

In northern New Jersey, we are very fortunate to have one of the oldest organized drug education and rehabilitation support groups in the Nation.

On June 27, this innovative organization kicks off its 23d year with the annual Dope Open event.

Long before the problem of drug abuse became the No. 1 issue nationwide, the Dope Open has been actively supporting education, prevention, and rehabilitation programs in our area.

Some 24 years ago, a group of dedicated volunteers under the able leadership of Mary Mulholland decided to do something about drug and alcohol addiction—they sponsored an aftercare clinic for individuals suffering from the most serious forms of drug addiction.

The group held its first major fundraiser 22 years ago to pay for their innovative education and treatment programs—the Dope Open Golf Tournament was born.

I played in that first tournament and have been pleased to participate since that time.

Because of this group's early leadership, we had programs in place in our area before the Federal and State governments became involved and were ready and able to dovetail existing programs with those eligible for Federal support.

The Dope Open has raised $720,000 since inception, and has attracted $3.5 million in matching funds.

Among the worthwhile projects that have resulted from these pioneering efforts are Hope House, providing rehabilitation services for the last 18 years and sponsorship of the annual Senior Citizen Drug Awareness Conference with support from local companies.

On February 26 of this year, the organization dedicated the Everett Hatcher Substance Abuse Counciling Center at Hope House to honor the memory of drug enforcement agent Everett Hatcher, who was killed in the line of duty in 1989.

In December 1989, 200 students, coaches, and school officials attended a seminar on steroid abuse sponsored by the Dope Open.

This innovative community effort also provides underwriting for other worthy projects, including the Center for Addictive Illness, Crime Stoppers, the Battered Women Program, the Pride of Newark education program for the 10th year, and the DARE Program to involve law enforcement officers in education efforts.

Community support for project DARE sends a clear signal to the drug pushers. With local support, our towns are saying loud and clear that the best way to stop drug abuse is to promote understanding—we want our children to understand the dangers of drug abuse so that they can protect themselves from the harmful effects of these substances.

Young people who participate in these education programs feel a great deal of pride in their accomplishments, but they should also understand something else as well—parents, teachers, and community leaders are willing to support these important programs because they care a great deal about the young people of their town.

I have been a consistent supporter in Congress of our national fight against drugs, but regardless of what the Government does, our antidrug efforts depend on community involvement.

Each individual who makes a personal decision to stay away from illegal drugs is increasing his or her chance to enjoy a longer and a healthier life. These individuals are also making their community a better place to live, because dealers will leave a town alone if nobody buys their drugs.

Mr. Speaker, regardless of strong Federal efforts in the fight against drugs, our success in this national effort depends on community involvement. In northern New Jersey, we are very fortunate to have the kind of dedicated community participation that make us all winners in the struggle against drugs.

A BACK DOOR BAILOUT: FEDERAL RESERVE DISCOUNT WINDOW LOANS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. KLECZKA. Mr. Speaker, during consideration of H.R. 2094, legislation this House will soon consider which would put taxpayers on the line for a $25 billion loan to bail out the FDIC, I joined with House Banking Committee Chairman GONZALEZ and Financial Institutions Subcommittee Chairman ANNUNZIO to request data from the Federal Reserve on discount window loans to failing banks.

The Fed discount window is designed to serve a stabilizing function in the financial system by meeting the short-term liquidity needs of insured institutions. This necessary function is perverted, however, when loans are made to nonviable institutions destined for failure. In that instance, the borrowed funds can be used by the failing institution during the period just prior to takeover to allow uninsured depositors—usually those with accounts greater than $100,000 or those holding foreign deposits—to withdraw their funds.

This unwise policy has two decidedly adverse effects in many instances. First, it increases the eventual cost to the FDIC, which must absorb the loss that uninsured depositors would otherwise have been required to share. Second, by delaying the closing of the institution, operating costs rise and asset values decline. Again, the FDIC—and this will in all likelihood mean the taxpayer—absorbs the loss.

A House Banking Committee staff study of the data supplied by the Federal Reserve in response to our request, which covered funds borrowed from the Fed discount window from January 1, 1985 through May 10, 1991, found that 90 percent of all institutions which received what is known as extended credit through the discount window eventually failed.

In addition, it appears that the Fed routinely extends discount window loans to institutions with a CAMEL rating of 5, the lowest possible rating. CAMEL is a performance rating used by Federal regulators which measures an institution's capital adequacy, asset quality, managment, earnings and liquidity, from a high of 1 to a low of 5. Incredibly, CAMEL 5 rated institutions borrowed from the Fed discount window for an average period of 10 to 12 months.

The study found that extended credit offered by the Federal Reserve appears in practice to be a form of open assistance or forbearance. When the institution finally fails, that forbearance proves costly to the FDIC fund and, ultimately, the taxpayer.

At this point, I include in the RECORD a summary of the House Banking Committee staff study on Fed discount window loans to failing banks;

AN ANALYSIS OF FEDERAL RESERVE DISCOUNT WINDOW LOANS TO FAILED INSTITUTIONS

BACKGROUND

The Committee on Banking, Finance and Urban Affairs is currently considering legislation (H.R. 2094) which would reform the process by which banking regulators handle troubled and insolvent insured depository institutions. With the collapse of the savings and loan industry estimated to cost the taxpayers $500 billion and bank failures increasing, such reform is considered a top priority. The process must ensure that insolvent institutions are resolved in a manner which strictly results in the least possible cost to the insurance fund and the taxpayers.

There are two dimensions to implementing at least cost resolution program. The first is the pre-failure or takeover stage, which is the period prior to the formal declaration of insolvency and takeover by the regulator; the second is the post-intervention stage, which involves the process of liquidating or selling the institution and its assets. The least cost resolution program contained in H.R. 2094 alters the latter stage by revising the cost test contained in the Federal Deposit Insurance Act to (1) ensure that all institutions are in fact resolved in the least costly manner, (2) prevent the insurance coverage of uninsured deposits, and (3) abolish the too-big-to-fail doctrine.

The pre-failure stage is modified by curtailing excess regulatory discretion to keep open insolvent institutions long beyond the point of viability. The program requires prompt regulatory action, as set forth in H.R. 2094, to promote the rehabilitation of a failing institution. But if the institution becomes insolvent, then the regulator must act in a timely manner to place the institution in conservatorship or receivership so that additional losses are limited.

The question then arises to the extent to which the least cost resolution program is circumvented by the lending practices of the Federal Reserve discount window. The discount window serves an important stabilizing function by satisfying the short term liquidity needs of viable depository institutions. Under the Federal Reserve Act the discount window can be used for seasonal, adjustment or extended credit needs. Our analysis shows that when a nonviable or insolvent depository institution receives open-ended extensions of credit at the discount window in order to remain open long beyond the point of viability, then the Federal Reserve is effectively increasing the cost of ultimately resolving the institution.

Since discount window loans are at least 100% collateralized, the Federal Reserve assumes no risk of loss and has no incentive to shut the window and contain the insurance funds' losses. The collateral is in the form U.S. Treasury notes, other government securities, commercial loans and other assets.

The borrowed funds can be used by the institution during the pre-takeover period to allow uninsured depositors to withdraw their funds. The insurance fund must then absorb the loss that these account holders would have otherwise been forced to share. In addition, the delay in closing the institution causes operating losses to escalate and increases losses from the decline in asset values.

In order to better understand the practice and pattern of Federal Reserve discount window lending and its impact on the regulatory treatment of insured depository institutions, the Banking Committee requested and received from the Federal Reserve extensive data on the scope of discount window lending to insured depository institutions.

SUMMARY

The Committee requested data on all insured depository institutions which borrowed funds from the discount window from January 1, 1985 through May 10, 1991. The information was divided into two groups: Group 1 consisted of institutions which had been placed into conservatorship or receivership, or received assistance under Section 13(c) of the Federal Deposit Insurance Act, and Group 2 consisted of all other institutions. The requested information included a schedule of the type and amount of loans extended, the CAMEL ratings of each institution, and the amount and type of collateral taken. A copy of the letter requesting the information is attached as Exhibit A.

An analysis of the data supports the following findings:

1. 90 percent of all institutions which received "extended" credit subsequently failed.

2. The Federal Reserve routinely extends credit to institutions with a CAMEL 5 rating.

3. A CAMEL 5 rated institution which borrowed from the discount window remained open for an average period of 10-12 months.

4. Borrowing from the discount window increases dramatically as an institution's financial condition deteriorates.

5. The Federal Reserve takes the highest quality assets of the institution in an amount substantially in excess of the loan amount as collateral.

STATISTICAL ANALYSIS

Group 1, the insured depository institutions which borrowed from the discount window within three years of failure, consisted of 530 institutions. Group 2, all other institutions which borrowed for five or more consecutive days, consisted of 2,460 institutions. Group 1 institutions, 87 (or 16 percent) had assets greater than or equal to $100 million, and 443 (or 84 percent) had assets less than $100 million.

Discount Window Loans. The Federal Reserve categorizes discount window loans into three types: seasonal, adjustment, and extended. A Federal Reserve description of each one is attached as Exhibit B. A summary of the use of each by the failed institutions follows:

320 (or 60 percent) of the Group 1 institutions were borrowing at the time of failure.

292 Group 1 institutions were borrowing extended credit at the time of failure.

26 Group 1 institutions were borrowing adjustment credit at the time of failure.

2 Group 1 institutions were borrowing seasonal credit at the time of failure.

Extended Credit. The borrowing patterns of Group 1 institutions reveal that prior to failure, many insolvent institutions will enter into a period of continuous or intermittent extended credit borrowing well beyond the short term periods viable institutions will need to borrow for liquidity purposes. The outstanding amount increases daily as the balance due is rolled over with new borrowings. 418 (14 percent) of the 2990 institutions studied received extended credit. 377, or 90 percent, of these 418 institutions subsequently failed. Thus, the extended credit offered by the Federal Reserve appears to operate in practice as a form of open assistance or forbearance.

CAMEL Ratings. The term "CAMEL" represents the following performance standards: Capital adequacy, Asset quality, Management, Earnings and Liquidity. The ratings given to an institution range from a high of 1 to a low of 5. A description of what each level of CAMEL rating represents as far as the health of an institution is contained in Exhibit C.

The reported CAMEL ratings of Group 1 institutions at the time of failure were as follows:

		Percent
CAMEL:		
5	437	82
4	51	10
3	11	2
2	5	1.1
1	1	.2
Not available	25	4.9
Total	530	

The length of time an institution with a CAMEL 5 rating was allowed to remain open ranged from less than a month to as long as 56 months:

Months:	*Number of institutions*
0–3	74
4–6	53
7–9	62
10–12	92
13–15	58
16–18	37
19–21	28
22–24	16
25–27	2
28–30	5
31–33	2
34–36	7
56–58	1

The average length of time that an institution with a CAMEL 5 rating was allowed to remain open was 10–12 months.

Amount of Credit. Regarding the amount of credit extended:

320 Group 1 institutions had a total of $8.325 billion in Federal Reserve loans outstanding at the time of failure.

$7.943 billion of this credit was extended when the institutions were operating with a CAMEL 5 rating.

According to one Federal Reserve Bank document, the Banks normally received notice of composite CAMEL 1, 2 and 3 ratings with a 4 to 6 month lag from the time of examination; however, composite CAMEL 4 and 5 ratings are normally known with little lag time as a result of simultaneous holding company inspections or conversations with regulators. Peak borrowing for all 530 Group 1 institutions in the three months prior to failure totaled $18.1 billion.

Representative case studies (Summaries, See Appendix for detailed information)

First RepublicBank Dallas, N.A. (Dallas, TX). With assets of $16,379,600,000, this was the largest institution in Group 1. Its borrowing from the discount window began on March 15, 1988, with an extended credit loan in the amount of $2.6 billion. The loans continued uninterrupted for 4½ months until First Republic was closed on July 29, 1988. Peak borrowing during this period was $3.275 billion and its last CAMEL rating was a 3 on September 30, 1986. The collateral taken was customer notes, and commercial and industrial loans with a book value of $6.4 billion and Federal Reserve estimated "lendable" value of $4.0 billion. The book value of the collateral represented 39% of the bank's assets.

Boston Trade Bank (Boston, MA). Boston Trade Bank was a medium-sized institution with assets of $352.9 million, which failed on May 3, 1991. It illustrates the classic scenario of a financially deteriorating institution which begins borrowing from the discount window at the same time the regulator gives it a CAMEL 5 rating. The uninterrupted borrowing increases for five straight months until it is finally closed with outstanding loans of $53.6 million, representing 15% of its assets.

First State Bank of Elgin (Elgin, OR). The majority of the institutions using the discount window to delay closure were small, such as this one with assets of $17.3 million. It operated at a CAMEL 5 rating for two years and was borrowing extended credit from the discount window every day during its last 12 months of operation.

Bank of New England (Boston, MA). BNE was the second largest in Group 1 with assets of $13.9 billion when it was declared insolvent on January 6, 1991. Peak lending reached $2.265 billion over a six month period before a plan of major asset sales and borrowing from affiliates was implemented to replace discount window borrowing. Also, the institution's liquidity position was aided by Department of Treasury deposits of tax receipts.

Lincoln Savings and Loan Association (Irvine, CA). Lincoln S&L had assets of $2,752,800,000 at the time of receivership and was responsible for an estimated $2 billion loss to the taxpayers. Since the institution was placed in conservatorship on April 14, 1989, rather than receivership (which was done 4 months later), uninsured depositors were allowed to withdraw their funds without taking a loss. Federal Reserve loans as high as $98 million over the four month conservatorship period facilitated these withdrawals.

The First National Bank and Trust Co. (Oklahoma City, OK). This is another example of the discount window being used to keep open insolvent institutions. The bank obtained uninterrupted credit for over one year with peak lending of $344 million, all the while operating with a CAMEL 5 rating. The peak loan amount represented 22% of the bank's $1.6 billion in assets when it failed on July 17, 1986.

First State Bank (Abilene, TX). This bank received three consecutive CAMEL 5 ratings and was kept open for 17 months before it was placed in receivership on February 17, 1989. Consecutive discount window borrowing began with a $4 million extended loan on May 12, 1988 and ended ten months later with a balance of $95.2 million, or 35% of the bank's $262.3 million in assets.

TRIBUTE TO NATHANIEL COLLEY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Nathaniel Colley, a truly great man who has dedicated over 40 years of his life to promoting civil rights in the United States.

Although he was born a poor farm boy in Alabama, Nathaniel Colley's passion for truth and knowledge drove him to achieve. During the Great Depression, Mr. Colley worked his way through Tuskagee Institute as a garbage collector, somehow still finding time to graduate first in his class. He gained his first experience in the civil rights fight when, as the only black student in his class at Yale Law School, he served as the chairman of the Legal Redress Committee of the New Haven chapter of the NAACP. Here Nathaniel Colley made a name for himself by challenging Connecticut's "Okie" law, which permitted the State to deport persons who applied for relief within 4 years of their entry into Connecticut.

In 1948, Nathaniel moved to Sacramento with his wife Jerlean, a native of the area, and opened his law office as Sacramento's only black attorney. Just 2 years later, his successful defense in the James Monroe murder trial earned him headlines across the Nation. By the time Nathaniel Colley had achieved a successful law practice and made several appearances before the Supreme Court in landmark cases, his reputation had spread all the way to the White House. President Kennedy was so impressed by Colley's accomplishments that he asked him to conduct a study of discrimination at a number of international U.S. Army installations.

As the first black member of the State Board of Education, Nathaniel Colley led the fight against the distorted portrayal of blacks in California history text books. Due in large part to his efforts, textbook publishers nationwide were forced to give a fairer representation of the role of black's in American history. Colley's position also allowed him to attack and eliminate de facto segregation in the State's schools. Significantly, it was his proposal that became the basis for the California Supreme Court decision allowing affirmative action programs to be used to desegregate schools.

Colley has faithfully served the NAACP as a member of the national board and is currently the organization's general counsel for the western United States. He is also the chairman of the statewide California Committee for Fair Practices. Previously, Mr. Colley declined offers by President Kennedy to become the United States Ambassador to Nigeria and Governor Brown to be nominated to the Superior Court.

The city of Sacramento, indeed the entire United States, is in a far more equitable position thanks to the work of Nathaniel Colley. I ask that my colleagues join me in saluting this champion of the civil rights movement.

A LIFELINE FOR RHODE ISLAND

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. REED. Mr. Speaker, I rise today in support of emergency legislation for Rhode Island introduced by the distinguished chairman of the Banking Committee, Representative HENRY B. GONZALEZ.

For over 6 months, thousands of Rhode Islanders have been without access to their savings. On January 1, the Governor of Rhode Island closed 45 privately insured banks and credit unions when the State's private insurance fund, RISDIC, failed. Over 350,000 accounts and $1.7 billion in deposits were frozen. This crisis has affected a greater percentage of Rhode Island's population than any bank crisis in history, including the Great Depression.

Although many of the smaller institutions have qualified for Federal deposit insurance and reopened, the larger credit unions remain closed. Over 150,000 accounts and $1 billion still remain frozen.

The State assumed responsibility for dealing with the collapse of RISDIC and developed a plan, the Depositors Economic Protection Corporation [DEPCO], to repay depositors. Estimates of the potential cost to the State vary widely, but could cost hundreds of million's of dollars.

The credit union crisis and a State budget crisis are taking place within the context of a deepening regional recession. The small State of Rhode Island has shown its susceptibility to the economic downturn of the region. The unemployment rate as of February 1991 in Rhode Island was 8.5 percent, as compared to 6.5 percent nationally.

Between January 1, 1990 and January 1, 1991, Rhode Island has lost nearly 10,000 jobs, mainly in the areas of manufacturing, retail and construction. There has been a 56 percent increase in the number of bankruptcies filed between March 1990 and March 1991. In the past 2 years, Rhode Island has fallen to 48th among the 50 States and the District of Columbia in job growth.

For 6 months now, the State has been paralyzed and people's lives have been put on hold. Thousands of senior citizens who have saved all their lives for their "golden years" now find themselves without access to their funds. Small businessmen are struggling to meet their payrolls and other expenses and may be forced to close their businesses. Young adults who have saved for their college education have returned to school for their spring semester to find they could not access their savings to pay for tuition.

In the wake of this crisis. I have been meeting with my colleagues to alert them to the magnitude of this crisis. Representative CARROLL HUBBARD recognized the seriousness of this crisis and granted my request for a hearing before his Subcommittee on Oversight and Investigations on April 24.

Banking Chairman HENRY B. GONZALEZ also understood the depth of the crisis in my State and brought the Banking Committee to Rhode Island to explore what role the Federal Government could play. After holding a hearing in Rhode Island and seeing the thousands of depositors who continue to suffer, Chairman GONZALEZ pledged to help our state. Today, he has introduced the Rhode Island Emergency Assistance Act of 1991. This legislation includes an emergency loan of $150 million as well as an emergency loan guarantee whereby the Federal Emergency Management Agency [FEMA] will guarantee the repayment of up to $350 million borrowed by the State or DEPCO.

This legislation represents a lifeline for Rhode Island. Congress has shown its willingness to lend assistance to States that have been struck by natural disasters. Without some type of Federal economic assistance, Rhode Island is in danger of becoming an economic disaster. It is certainly in the best interest of the nation for the Federal Government to help restore stability to financial institutions and to the State of Rhode Island before further economic and social deterioration occurs.

TRIBUTE TO A.W. "ARCHIE" SINGHAM

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. DELLUMS. Mr. Speaker, tomorrow is a special day of commemoration and celebration for a life well-lived in service to others. Citizens of conscience from across the land will be gathering in Washington to honor Prof. A.W. "Archie" Singham in all his roles—as a committed humanist, and as teacher, scholar, activist, husband, father, and friend.

Archie was one of those rare persons about whom it can be truly said that he was a citizen of humanity. His family history and global peregrinations, often under the most trying conditions, were living testimony to the indefatigability of the human spirit. More important, these travails enabled him to live a life committed to the proposition, in word and deed, that true humanity and brotherhood can transcend the limitations of race, creed, gender, national origin, or political persuasion.

We were all fortunate to have Archie as a teacher, in or out of the classroom. He taught by example and informed dialog, sharing his love of learning and people with all who came in contact with him. His wisdom came not only from books, but from his life experiences and world travels, and his uncanny ability to listen to what others, in and out of power, were saying to him, about any given issue.

As a scholar, Archie was in the forefront of serious research and publication on the politics of emerging nations in the Third World. Unlike too many of his contemporaries who wrote about contemporary international politics, Archie was able to get beyond the tunnel vision of those who viewed the Third World in the international arena almost exclusively through the prism of cold war superpower rivalries. The book that he coauthored with his wife, Shirley, "Non-Alignment in the Age of Alignment," was truly a path-breaking effort in this respect.

As a committed activist for peace, disarmament, and human rights, Archie was both unyielding on principle and unrelenting in his efforts to make a more peaceful world for his children and all God's children. It is sadly ironic that we will be honoring his memory tomorrow, because it also happens to mark the ninth anniversary of the greatest peace demonstration in America history—the nuclear freeze rallies of June 12, 1982, in which he played a significant leadership role from the outset.

Only Shirley and the children can truly speak to Archie's full role as husband and father, but those of us who knew him know how much he treasured them, and how proud he was of their accomplishments. He loved them to the end—with the last full measure of devotion.

Those of us who were proud to call him a friend have only our memories to cling to and cherish in the months and years ahead. Who can forget his prelude to those witty monologs—"Let me tell you a story, friend * * *"? And who can ever forget that radiant smile, and that bubbling laugh that emanated from so deep within, and which washed over us like a fresh, incoming tide?

Yes, Achie was truly sui generis—one of a kind in the best sense of the term. He was an international treasure, who leaves a legacy of the love and principled commitment to the best in the human spirit. Let us honor his memory by picking up his fallen standard and carrying on with equal passion and principle to achieve the lofty goals for which he lived and died.

PROTECT UTAH'S SPECIAL BEAUTY

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. OWENS of Utah. Mr. Speaker, I would like to enter into the RECORD the following letter, written by Marian Young Morgan, a granddaughter of Brigham Young, Utah's founding father. The sentiments of this letter, as printed in the Desert News on June 10, 1991, express far better than I can some of the deeper reasons for preserving a large portion of Utah as wilderness for future generations. Brigham Young's prescience and wisdom concerning the proper stewardship of our land has obviously been passed on to his granddaughter and I am pleased to share this letter with my colleagues, 80 of whom are already supporting the wilderness bill I have proposed.

PROTECT UTAH'S SPECIAL BEAUTY

To the editor:

I am Marian Young Morgan, age 92. Brigham Young was my grandfather. My late husband, Orson Morgan, was a grandson of Orson Pratt. My Utah roots go deep.

"This is the place." When my grandfather uttered these now famous words near the mouth of Emigration Canyon, he knew that he had helped to guide the Saints to a truly unique land. "You are here commencing anew," he said to him, "The soil, the air, the water are all pure and healthy. Do not suffer them to become polluted with wickedness."

My grandfather knew that God created the things of the natural world to a perfection and that mankind could not improve upon the beauty.

I think about this when I consider what we should do about protecting the special beauty of Utah. Where else in the world are there such exquisitely carved canyons and rock formations of every description? All around us civilization is gobbling up the wild places of the world. I believe something must be done to protect those parts of Utah that remain as wild as when the Saints first set eyes on them.

I have learned that Rep. Wayne Owens has proposed to make wilderness areas out of 5 million acres of the beautiful land of Utah, land that belongs to all of us. I for one am glad that he is doing it, and I pray that he is successful.

I know some people don't like the idea of wilderness protection, but I think they are mistaken. After all, the land is wild now . . . what could possibly be wrong with using the law to help keep it that way? We have all seen the damage that can occur in unprotected areas.

I know that there are some people in Utah who believe they should have a special say in what we do with these wild places. They seem to want to control the land themselves without consulting the rest of us.

Perhaps this is what my grandfather had in mind when he asked: "Are you not dissatisfied, and is there not bitterness in your feelings, the moment you find a canyon put in the possession of an individual, and power given unto him to control the timber, wood, rock, grass and, in short, all its facilities? Does there not something start up in your breast that causes you to feel very uncomfortable?" We all should have a say in how we protect these lands; not just the people who live near them.

Those of us living today have a special responsibility to those who follow us. For we have had our time to enjoy Utah's special beauty. Let's do the very best we can to save it for younger generations to enjoy.

MARIAN YOUNG MORGAN.

SEAL BEACH, CA

INTRODUCTION OF THE TARGETED DISLOCATED WORKERS ASSISTANCE ACT

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. CHANDLER. Mr. Speaker, a worker who loses his or her job to an industry in decline, with little or no prospect for reemployment, is in one of the most difficult situations imaginable. Such a worker, whether employed in the sawmills of the Pacific Northwest, the automobile plants of the Midwest, or the oil rigs of the Southwest, frequently possesses skills which are unique to his or her industry and not easily transferable to another profession.

An adequate and stable timber supply is, of course, the best way of ensuring a secure job for the people of my State who derive their living from the woods. But for those who already have lost their jobs or, unfortunately, will lose their jobs to Federal or court-imposed mandates to protect spotted owl habitat, Congress should extend a helping hand.

The Nation's Unemployment Insurance [UI] Program, which is designed to foster reemployment opportunities for the unemployed, is clearly in need of improvement to better assist these displaced workers to qualify for new employment opportunities.

Additionally, Mr. Speaker, State governments need greater flexibility to address the particular needs of these dislocated workers and additional resources to help those who are not eligible for benefits under current law, but in need of assistance nevertheless.

Above all, those of us in Congress need to ensure that these proud and determined people are able to provide for their families while they work to better train and educate themselves. Given limited resources at both the State and Federal levels of government, we must target additional assistance to those dislocated workers most in need of a helping hand.

Mr. Speaker, the Targeted Dislocated Worker Assistance Act, which I am introducing today, provides workers with up to 26 weeks of additional unemployment compensation while they seek new job training or education. My legislation also provides additional assistance for the cost of such training, as well as help with rent or mortgage payments and reimbursement for relocation costs.

The Targeted Dislocated Worker Assistance Act also amends current law to provide the States with additional resources under the Job Training Partnership Act, and with greater flexibility to spend federally distributed funds on retraining and support services such as child care, home costs, and health insurance.

Mr. Speaker, displaced workers do not need welfare. They need a fair shake. By targeting precious few Federal dollars to those dislocated workers most in need of new skills and assistance, my legislation extends a helping hand to those who wish to help themselves to provide for their own future.

COMPREHENSIVE MINING LAW REFORM LEGISLATION

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. DEFAZIO. Mr. Speaker, I am introducing comprehensive mining law reform legislation. Mining is, without a doubt, an essential economic activity. But under the antiquated 1872 mining law, abuses are widespread.

The 1872 mining law allows miners to obtain title to public lands for only $2.50 to $5 an acre. The law has been abused by speculators who obtained inexpensive development rights to valuable public lands. In my district, the U.S. Government just lost 780 acres of the Oregon Dunes National Recreation Area to a sand mining company. The sale price was only $1,950. Today, the company wants the Federal Government to pay as much as $12 million for its property.

This case is not unique. A 1989 study by the U.S. General Accounting Office [GAO] cited numerous claims across the West where land speculation was evident. Out of 20 patented lands in the study, the GAO found that the government received less than $4,500 for lands valued between $14 and $48 million.

The American taxpayer does not receive a fair return for the value of the minerals extracted from public lands. Under the 1872 mining law, companies remove precious minerals without paying a penny in royalties to the U.S. Government. No other major mineral producing nation allows foreign firms free access to its mineral riches. At its Chimney Creek mine, a British firm removes 80 million dollars' worth of gold from public lands each year. The American taxpayer gets nothing in return.

The 1872 mining law does not contain environmental protection or cleanup requirements. Reclamation standards and environmental controls depend of a flimsy patchwork of other Federal and State laws. Even where decent regulations exist, they are often impossible to enforce. A 1989 U.S. General Accounting Office study found more than 420,000 acres in 11 Western States damaged by unreclaimed mining activity.

My legislation eliminates the patenting of public lands and prohibits individuals or corporations with more than 10 percent foreign ownership from mining on public lands. My bill also calls for a fair return to the public by setting the royalty rate at 12.5 percent, the same rate we apply to coal, oil, and natural gas extraction and it creates a stringent environmental and reclamation permitting process. Finally, my bill establishes a hardrock mining impact assistance trust fund comprised of 25 percent of the moneys collected from the royalty. This fund will help rural communities mitigate the impacts associated with hardrock mining and help curb the traditional boom-bust cycle of mineral development in the West.

Mr. Speaker, talk is cheap. We've had this law on the books for almost 120 years. The General Mining Act may have served the national interest in 1872, but it's out of date today.

THE DEFAZIO MINING LAW REFORM ACT—SECTION-BY-SECTION ANALYSIS

Section 1: Sets forth the title of the Act.

Section 2: Sets forth definitions of terms used in the Act. Key terms include—gross income, claim size (max 40 acres), minimal disturbance to the environment, mineral lands, and mineral activity. Corporations with more than 10 percent of stock held by citizens of, or corporations incorporated in a foreign country shall be prohibited from mineral activities under this Act.

TITLE I—DISPOSITION OF MINERAL DEPOSITS

Section 101: Claim location and recordation:

(a) Location.—All mineral lands shall be open for claim location. The Secretary shall prescribe how such claims shall be located, modified, or relinquished.

(b) Recordation Requirements.—A claimant shall file, within 30 days, a notice of location and pay a recordation fee of $100 per claim to the Secretary.

(c) Other Filings.—State and local location and filing requirements are preempted. However, a claimant may be required by a State or local government to file a copy of the notice with that State or locality.

(d) Rights.—Any claimant who has located, recorded, and maintained a claim in compliance with this Act has the exclusive right of possession of the land for mineral activities only.

(e) United States Interest.—The U.S. reserves all surface and subsurface rights and interest in claimed lands, including the royalty required by section 103, excepting the locatable minerals produced.

(f) Application of Other Laws.—Existing laws stay intact. Residential occupancy of a claim is prohibited unless a claimant demonstrates that residential occupancy is essential for approved mineral activities.

(g) Claim Term.—If locatable minerals have not been or are not being produced on the claim within 20 years, the claim is presumed abandoned. The claim term may be extended by Secretary for five years.

Section 102: Annual hold fee:

(a) Fee.—$5 per acre for years 1-5; $10 per acre for years 6-10; $15 per acre for years 11-15; $20 per acre for each year thereafter.

(b) Suspension.—Payment of annual holding fee is suspended when the royalty is equal to or greater than the holding fee.

(c) Failure to Pay.—Claim shall be considered abandoned if holding fee is not paid. Claimant is prohibited from locating a new claim on the abandoned claim for three years.

(d) Relinquishment.—Claimant may relinquish a claim, but claimant shall be responsible for reclamation. If relinquished for the purpose of avoiding payment, claimant may be prohibited from locating a new claim.

Section 103: Royalty:

(a) Reservation of Royalty.—Production of locatable minerals under this Act are subject to a royalty of 12.5 percent of gross income from such production, or an amount equal to the annual holding fee, whichever is greater.

(b) Payment of Royalty.—The Secretary may require parts of tax return filed with the I.R.S. to be filed with royalty payment in order to determine gross income.

(c) Computation.—'Gross income' shall be computed in the same manner as 'gross income from the property' is computed under the tax code.

Section 104: Distribution of receipts:

(a) State and Federal Share.—Receipts from royalties shall be paid to U.S. Treasury. 25% = the States where locatable mineral deposits are or were located; 25% = Hardrock Abandoned Mine Reclamation Fund; 25% = U.S. Treasury; and 25% = Hardrock Mining Impact Assistance Trust Fund. Upon termination of Abandoned Mine Reclamation Fund, 33% = States, 33% = Treasury, and 33% = Impact Assistance Trust Fund.

(b) Administration of Act.—Receipts from recordation fees, holding fees, surface fees are to be used for administration of the Act.

Section 105: Assignments.—Self explanatory.

TITLE II—ENVIRONMENTAL PROTECTION

Section 201: Standard.

The Secretary shall take appropriate action to assure that all mineral activities are conducted in a manner that will minimize adverse impacts to the environment.

Section 202: Plan of operations:

(a) General.—A plan of operations shall be submitted prior to any activity causing more than a minimal disturbance to the environment. No activity may take place prior to approval of plan of operations.

(b) Contents of Plan.—Plans shall include details of operation, ownership, measures to minimize adverse impacts to the environment, reclamation plans, monitoring info, and bonding guarantees.

(c) Surface lands outside of a claim may be used for milling, processing, or benefit activities upon approval by the Secretary. Claimants shall pay a $5 per acre surface use fee. All activities shall be subject to reclamation standards.

(d) Plan Approval.—The Secretary may approve, require modifications to or deny a proposed plan of operations. The Secretary must determine in writing that the proposed mineral activities are consistent with land use plans, that reclamation will have a likelihood of success, and that operations will comply with all provisions of this Act and other laws. When a land use plan has not been completed or amended, the Secretary shall condition, restrict or prohibit mining activities to protect ACECs, critical habitat under the ESA, riparian and wetland areas, historical areas, or sensitive aquifers.

(e) Plan Modification.—Plan be modified at any time.

(f) Plan Expiration.—A Plan shall be valid for a term of 20 years, unless modified.

(g) Compliance.—The Secretary shall not approve and shall suspend all plans of operations if a claimant fails to comply with the environmental protection requirements of this Act, the terms of an approved Plan, or other applicable laws, rules or regulations.

Section 203: Land use planning:

(a) Plan Preparation.—The Secretaries of Agriculture and Interior shall develop, maintain, and revise land use plans to address mineral activities. The Secretary is authorized to prohibit, restrict, or condition mineral activities when in conflict with other plan objectives or management decisions.

(b) Criteria.—The Secretary shall consider the location, nature and extent of mineral deposits and existing mineral activities; their development potential; and evaluation of non-mineral resources and values affected by mineral activity; evaluation of the prospects for reclamation; and special areas where mineral activities should be prohibited, conditioned, or restricted.

(c) Plan Amendment.—Land use plans may be amended without initiating a new land use planning cycle.

(d) Schedule.—The Secretary shall review existing land use plans within 90 days of enactment and publish a schedule for amending existing land use plans. All required amendments shall be completed with six years of enactment.

(e) Consistency with Plans.—Self explanatory.

Section 204: Reclamation:

(a) In General.—The mining area shall be reclaimed to the same level of productive uses that existed prior to any mineral activity or a higher or better use that's likely to be achieved. Reclamation shall be conducted concurrently with operation to the maximum extent feasible.

(b) Standards.—Protection and replacement of topsoil, maintenance of stability of all slopes and soils, revegetation using native species, backfilling and grading to the approximate original contour, sealing of all tunnels, portals and shaft collars, prevention of acid mine drainage, minimization of hydrologic disturbance, detoxification of all hazardous materials, erosion control structures, and removal of all structures, equipment and materials.

(c) Commencement.—Operator shall commence reclamation in 90 days or submit an amendment to Plan of Operations for a 5 yr. interim management period. Any operation idle for 1 yr. w/o approval of interim management plan shall be considered abandoned and operator shall immediately start reclamation.

Section 205: Financial guarantees:

(a) Standards.—The Secretary shall establish adequate financial guarantees to ensure complete and timely reclamation. Bonds will be established prior to any mineral activities causing more than a minimal disturbance.

(b) Minimum Amount.—The Secretary shall establish minimum bond amounts: No less than $5,000/acre for regular mineral activities; no less than $10,000/acre for cyanide heap leaching operations.

(c) Review.—The Secretary shall review for sufficiency every five years.

(d) Phased Bonding.—Bonds may be reduced proportionately upon determination that a portion of reclamation has been completed.

(e) Bond Release.—Bonds shall not be released until reclamation is completed. The Secretary shall provide 30 days public notice prior to any reduction or release of bond.

Section 206: Inspection:

(a) Inspections.—The Secretary shall make inspections of mineral activities to ensure compliance with requirements of this Act. Inspection shall occur at the minimum on a quarterly basis. Any person affected by mineral activities may notify the Secretary in writing of a violation.

(b) Notice of Violation.—The Secretary shall issue a notice of violation to a claim holder found violating requirements of this section. The notice shall describe the violation and corrective measures to be taken. The Secretary shall provide a claim holder with a reasonable period of time to abate the violation.

Section 207: Enforcement:

(a) Cessation of Activities.—If after a reasonable period of time a violation has not been abated, the Secretary shall immediately stop mineral activities that threaten the health and safety of the public or are found to endanger the environment.

(b) Effect of Order.—Activities shall remain stopped until the Secretary determines the violation has been abated. The Secretary shall determine steps necessary to correct the violation. Claim holders are entitled to a hearing on the record.

(c) Compliance.—The Secretary shall use enforcement personnel from the Office of Surface Mining Reclamation and Enforcement to augment personnel from the BLM and the FS.

(d) Civil Penalties.—Any person who fails to comply with any provision of this Act, or any regulation ordered under this Act, shall be liable for a civil penalty of not more than $5,000/day. A penalty shall not be assessed until the person has been given a hearing.

(e) Criminal Penalties.—Any person who knowingly and willfully violates any provision or regulation of this Act; makes a false statement or representation; or tampers with a monitoring device or method of record shall be punished by a fine not more than $100,000 or imprisonment for not more than five years.

(f) Liability of Corporate Officers and Agents for Violations by Corporation.—Self explanatory.

(g) Concurrent and Cumulative Nature of Penalties.—Self explanatory.

(h) Actions for Relief.—At the request of the Secretary, the Attorney General is authorized to institute a civil action to enforce any provision or regulation of this Act.

(i) Prohibition.—The Secretary may prohibit violators from future claim location under this Act.

Section 208: Citizen suits.

(a) Civil Actions.—Any person having an interest or adversely affected may commence a civil action to force compliance with this Act. The district courts have jurisdiction in controversy or the citizenship of the parties.

(b) Notice.—Self explanatory.

(c) Right of the Secretary to Intervene.—Self explanatory.

(d) Costs.—Self explanatory.

(e) Other Rights.—Self explanatory.

TITLE III—HARDROCK ABANDONED MINE RECLAMATION FUND

Section 301: Abandoned hardrock mine reclamation:

(a) Establishment.—Self explanatory.

(b) Amounts.—Monies shall consist of royalty receipts, donations and other sources.

Section 302: Use and objectives of the fund.

(a) Uses.—Monies are to be used for reclamation and restoration of land and water resources adversely affected by past hardrock mining.

(b) Priorities.—Expenditures from the Fund shall be directed in priority to: protect public health, safety, general welfare, and property from extreme danger or adverse effects; and restoration of land and water resources previously degraded by past hardrock mining practices.

Section 303: Eligible areas.

(a) Eligibility.—Lands and waters eligible for Fund expenditures include areas that were mined for hardrock minerals and lands for which there is no continuing reclamation responsibility under State and Federal laws. Eligibility is also limited to certain federal lenders which were mined prior to August 28, 1973 (for F.S. lands) and November 26, 1980 (for BLM lands).

(b) Specific Sites and Areas Not Eligible.—Sites and areas designated for remedial action under the Uranium Mill Tailings Radiation Control Act, CERCLA or SMCRA are not eligible.

Section 304: Fund allocation and expenditures:

(a) Allocations.—Funds shall be distributed by Secretary on annual basis in the form of grants to States or direct Federal expenditures. Funds shall be distributed by need.

(b) Direct Federal Expenditures.—Funds may be expended directly where a State is not eligible or where reclamation would best be accomplished otherwise.

Section 305: State reclamation programs:

(a) Eligible States.—To be eligible, States must contain lands and waters eligible for reclamation; have developed an inventory of these areas; and have an established State abandoned hardrock mine reclamation program (AHMRP).

(b) Monitoring.—Self explanatory.

(c) State Programs.—The Secretary shall approve State HMRPs based on the ability and necessary legislation to implement provisions of this title. States shall not be liable for costs or damages under Federal law as a result of action taken or omitted in carrying out an HMRP. Liability, however, is not precluded in the case of gross negligence or intentional misconduct.

Section 306: Authorization of appropriations; termination:

(a) Authorization of Appropriations.—Amounts credited to Fund are to be appropriated without fiscal year limitations.

(b) The Fund shall terminate September 30, 2007.

(c) Rulemaking.—Self explanatory.

TITLE IV—HARDROCK MINING IMPACT ASSISTANCE TRUST FUND.

Section 401: Trust fund:

(a) Establishment.—Fund shall consist of amounts derived from royalty and any donations.

(b) Investment.—The Secretary of the Treasury shall invest amounts not required to meet current expenditures in public debt securities. The income from such investments shall be credited to, and form a part of, the Fund.

Section 402: Annual grants to eligible states:

(a) Eligible States.—Any state with hardrock mining within its boundaries. Monies shall be made available on an annual basis by the Secretary in the form of grants.

(b) County and Community Impact Assistance.—States, as determined by their legislature, shall give direct priority to those subdivisions socially or economically impacted by hardrock mining.

Section 403: Use of funds:

(a) Expenditures.—Grants made eligible to States shall be used to help communities mitigate the impacts associated with hardrock mining. Priority should be given to: projects repairing or replacing water facilities or supply; projects to repair and maintain roads adversely affected by mining; the construction and maintenance of public schools or other educational institutions; and the operation of law enforcement, fire suppression or other essential public services. Funds may not be used to pay any costs which a mine owner or operator is liable for.

(b) Cost Sharing.—Funds may be used for the State-match share of any federal project or program.

Section 404: Authorization of appropriations; rulemaking.

(a) Authorization of Appropriations.—Self explanatory.

(b) Rulemaking.—Self explanatory.

TITLE V—SAVINGS AND ADMINISTRATIVE PROVISIONS.

Section 501: Claim and patent limitations.

(a) Effective Date.—A claim may be located, recorded and maintained after the effective date only in accordance with this Act.

(b) Patents.—No patents shall be issued after June 11, 1991 except for claims which already have a patent application pending.

Section 502: Existing claims.

(a) Surface Management Rules.—After effective date, all claims made under the 1872 Act shall be subject to title II of this Act.

(b) Conversion.—Claim holders will have the exclusive right to convert the claim.

(c) Unconverted Claims.—Claims not converted after three years from the date of enactment shall be deemed abandoned.

(d) Interim Period.—During this three year period, no claim shall be recorded on a valid claim.

(e) Closed Lands.—Self explanatory.

(f) Mill Site Claims.—After the effective date, a mill site claim holder may apply for a surface use permit. Three years after effective date, a mill site claim without a surface use permit shall be deemed abandoned. During this three year period, no application for a mill site surface use permit shall be recorded on a valid mill site claim.

Section 503: Mineral materials amendments.

(a) Act of July 31, 1947.—eliminates "uncommon varieties" loophole.

(b) Conversion.—All claims asserted to have distinct and special value prior to enactment shall be extinguished, unless within three years the claimant is producing material in commercial quantities or the claimant files a plan of operations.

(c) Claims Located Prior to Enactment.—As of the effective date, all claims asserted to have distinct and special value shall be subject to Title II of this Act.

(d) Repeal.—Repeals the Building Stone Act and the Saline Placer Act.

(e) Mineral Materials Disposal Clarification.—Self explanatory.

Section 504: Savings clause.

Nothing in this Act shall preempt existing Federal or State laws or regs. found to provide greater protection, higher bonding amounts, or more stringent reclamation standards than this Act.

Section 505: Administrative provisions.

(a) Jurisdiction.—Secretary of Agriculture shall have full authority to implement this Act on national forest lands.

(b) Administration.—The Secretaries of Agriculture and Interior shall consult and cooperate to implement this Act.

(c) Regulations.—The Secretaries of Agriculture and Interior shall jointly issue necessary regulations.

(d) User Fees.—The Secretary shall collect whatever user fees are necessary to reimburse the U.S. for expenses incurred in administering this Act.

(e) Repealer.—The Mining Law of 1872 and the filing requirements of section 314 of FLPMA are hereby repealed four years after date of enactment.

(f) Cooperation With States.—The Secretary may enter into cooperative agreements with any State to carry out this Act.

(g) Public Availability.—All information submitted to Secretary shall be available to the public subject to the Toxic Substances Control Act, except for documents vital to the security of the industry.

INTRODUCTION OF NATIONAL NURSES WEEK

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Ms. PELOSI. Mr. Speaker, I am pleased to introduce today a bill that would designate the week of May 3, 1992, as "National Nurses Week."

For over 100 years, women and men in the nursing profession have made significant contributions to the health care of the people of the United States. We find nurses in hospitals, nursing homes, extended care facilities, public health clinics, rehabilitatiion hospitals, and physicians' offices; all of whom adhere to high standards of quality health care and provide personalized and cost-effective health care and support for patients.

As our country faces a health care crisis, nurses are on the front line of duty. They continue to serve and help those in need and work with doctors, legislators, and organizations to help develop a new national health care policy. Nurses are also advocates for important issues such as the health and safety of medical professionals, health care financing, child care, and nursing recruitment.

I believe it is important that the Congress designate the week of May 3, 1992, as National Nurses Week, so that all of America can pay tribute to nurses who continue to dedicate their lives to helping others.

PETER J. MILLER: IN MEMORIAM

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. HYDE. Mr. Speaker, very recently, Peter J. Miller passed away at the age of 81. He was a widely respected Republican who served in the Illinois General Assembly for many successful years, both in the house of representatives and in the senate.

He was a leader in every sense of the term, and his close ties to organized labor uniquely qualified him to build understanding and support for those policies that he so fervently advocated.

He was a great friend to have on your side. In 1972, he had won his primary election for state representative and when he learned that I had lost my primary election he stepped aside so I could be named in his place to run in the neighboring district. This was an act of political sacrifice of unequalled generosity, and permitted me to be reelected to the Illinois House and, 2 years later to be elected to Congress. I shall be eternally grateful, and, like his countless friends and his loving family, including his devoted wife, Eleanor, and his five daughters, we will miss him. We are all confident however, that he is in heaven, with a poll sheet, organizing the angels and the saints to vote Republican.

FORMER GOP LAWMAKER, COACH PETER J. MILLER, 81

(By Jerry Crimmins)

Peter J. Miller, 81, who served in the Illinois General Assembly for 22 years, was also coach of the U.S. Olympic speed-skating team in 1940 and 1948 and was twice secretary of the state Athletic Commission. Mr. Miller died Tuesday in Alexian Brothers Hospital, Elk Grove Village.

Mr. Miller, a conservative Republican and popular vote-getter from the Northwest Side, has a tumultuous legislative career, serving eight years in the Senate and 14 years in the House.

He ended his career in an almost unparalleled way, sacrificing his House seat in 1972 to make a place for Henry Hyde, the majority leader of the House who had been defeated in primary elections after his district was redrawn.

First elected to the Illinois Senate in 1946, Mr. Miller was known as a reformer, and in the 1950s he became a foe of the notorious West Side bloc, a group of nominally Republican state legislators who often voted with the Democrats and who voted against anticrime bills.

But in 1964, Richard B. Ogilvie, then Cook County sheriff and later governor, and Charles Percy, then GOP gubernatorial candidate, accused Mr. Miller of being a member of the West Side bloc. The state GOP that year purged six Republican legislators from their ranks, including Mr. Miller, and nominated replacements for them in the 1964 election. Mr. Miller strenuously declared his innocence.

In 1968, Mr. Miller was back in the legislature again, and the GOP Cook County central committee, with the approval of Ogilvie, restored Mr. Miller to his former status in the party.

During his political career, Mr. Miller pushed for reforms in the Municipal Tuberculosis Sanitarium in his district and in state mental hospitals and state prisons. He sponsored the law that brought daylight-saving time to Illinois and worked for reforms in the insurance industry.

Mr. Miller, lately of Wood Dale, is survived by his wife, Eleanor; five daughters, Mary Lou Traxler, Barbara Matassa, Carolyn Miller Kulie, a member of the Du Page County Board, Ann Marie Mau and Geralyn Miller Conmey; seven grandchildren; five great-grandchildren, a brother, and a sister.

HOME OWNERSHIP

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. HAYES of Illinois. Mr. Speaker, I rise today in opposition to the Kolby-Espy amendment to the VA/HUD appropriations bill. I rise against this amendment because, if passed, it would mean cutting section 8 programs and other low-income housing assistance programs.

Mr. Speaker, I am one that has always been concerned about the plight of public housing in this country, particularly those public housing residents in my own district. My concern stems from my fear that the Federal Government is trying to pull away from its commitment to public housing in this country. This philosophy began with the Reagan administration and has carried over to the present administration, and the HOPE Program is a major component of the formula to end public housing. While I am all for homeownership, I have serious reservations when it costs the Government millions of dollars and displaces thousands of public housing residents. I believe that funds could be used to improve conditions at existing public housing complexes rather than spending it on so-called home ownership. HUD's own inspector general concurs, "Improvement of the housing conditions of low-income tenants may be a more attainable and desirable goal than home ownership."

In Chicago, for example, the majority of public housing tenants are on welfare and are barely making ends meet, and a significant number are elderly and living on fixed incomes. These public housing tenants are not likely to be in the market for buying homes. I fear for the future of public housing because there is still substantial denial about the problems that tenants face. I believe that home ownership should be attained by public housing residents, but it must be approached with honesty and not an illusion as set forth by HOPE.

Before we commit to new housing programs, we need a major push to solve the existing housing problems. The plight of those who are struggling to find housing seems not to be high on the Nation's priority list. When I look at the conditions of housing units and when I see the homeless on the streets, it saddens me. But what saddens me even more is the trickery of the Bush administration as it relates to public housing. It is not enough for the President to speak of empowerment and home ownership, he should act on his words and act now. I appeal to my colleagues to defeat this amendment and work on making the existing programs work.

ARCHIBALD W. SINGHAM

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. DYMALLY. Mr. Speaker, I rise today in tribute to Dr. Archibald W. Singham, educator, scholar, and activist. Dr. Singham lost his 2½-year battle with cancer in March, but his legacy lives on, and his accomplishments will never be forgotten.

Archibald W. Singham was born in Rangoon, Burma, in 1932. He came to the United States to attend Wesleyan University on scholarship, and earned his Ph.D. in political science from the University of Michigan. As founding member of the social science department at the University of the West Indies in Mona, Jamaica, he specialized in Caribbean politics. Along with others, Singham traveled, lectured and began to develop a pan-West Indian perspective. His publications became part of the foundation of contemporary Caribbean studies. In the crucial first years of West Indian independence, Singham helped develop a cadre of indigenous political and intellectual leaders.

Dr. Singham returned to the University of Michigan in the early seventies for a joint appointment with the departments of political science, anthropology, and Afro-American studies. Always the scholar-activist, he participated in the movement to open university doors to more African-Americans, women and working class students. Singham was invited to join the political science department at Howard University from 1972 to 1978. Here, he expanded his work into African studies and worked actively with the Congressional Black Caucus on Capitol Hill. He then married Shirley Hune, and together they began an extensive study of the Nonaligned Movement, a coalition of small- to middle-sized Third World states, most of which were former colonies.

An appointment to Brooklyn College in 1978 allowed Singham to become involved with the United Nations, as a consultant to U.N. agencies, including the Council for Namibia, and the Institute for Disarmament Research.

During the years of the cold war, he carried out research on the nonaligned movement with the United Nations, research that would give those countries a greater role in global decisionmaking, disarmament, political independence, economic and cultural equality.

Recently, Singham turned his attention to domestic and global violence. Disturbed by conditions in America's cities and the legacy of regional conflicts, racial, ethnic and religious differences, he was invited by the Center on the Study of Violence and Human Survival to participate as a senior fellow. One of his last projects was supervising a group of graduate students to study ethnic conflict in New York neighborhoods and recommend solutions for racial and ethnic tensions there.

Singham was as happy to speak in neighborhood forums, on local radio and television, as he was to participate in international media and on the editorial boards of national publications, including the boards of Social and Economic Studies and the Nation. His analyses of global situations and crises were highly valued by world leaders. Even during Singham's gallant battle with cancer, he turned his attention to economic and gender inequality in the medical care system.

Archibald Singham remains with us through his students and through everyone who shares his vision of world peace, social justice, and human dignity.

A TRIBUTE TO MSGR. PAUL F. BRADLEY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. PALLONE. Mr. Speaker, on Sunday, June 9, 1991, I had the distinct honor and high privilege of taking part in a tribute to Msgr. Paul F. Bradley on the occasion of the 50th anniversary of his ordination into the priesthood.

Monsignor Bradley served with distinction, dedication and compassion in the highest tradition of his vocation for some 20 years as the Pastor of St. Michael's Roman Catholic Church in the community of West End in Long Branch, NJ, retiring from the active priesthood in 1989. Prior to his service with St. Michael's, Monsignor Bradley served as a Navy chaplain between the years 1941 and 1969.

Mr. Speaker, as a native and current resident of Long Beach, I have long considered Monsignor Bradley an integral part of our community. The monsignor has never failed in his obligation to be a source of inspiration, faith and strength to the parishioners of St. Michael's. He has also extended his concerns to the larger community, taking an active role in public affairs and being a forceful and articulate voice on behalf of church teaching.

Thus, Mr. Speaker, it was a great source of joy to join with the family and many friends of Monsignor Bradley in marking this tremendous milestone in his life and in the life of the community that he has so profoundly touched.

TROOPER RUSSELL BAGSHAW KILLED IN DIRECT LINE OF DUTY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Ms. KENNELLY. Mr. Speaker, I rise today to call my colleagues' attention to the tragic slaying of a 28-year-old State trooper in my home State of Connecticut.

Trooper Russell Bagshaw was killed early Wednesday morning, June 5, in the direct line of duty. He died in a hail of gunfire when he was ambushed in his cruiser while investigating a suspected robbery at a local gun store. Russell Bagshaw is the first trooper to die in active duty since 1962, the year in which he was born.

Russell is a true American hero. Today, we salute the warriors returning successfully home from Operation Desert Storm. But at the same time, we must be equally proud of those who fight the battles for safety in America's streets. I call on my colleagues today to join me in paying tribute to all of the dedicated State troopers who day in and day out risk their lives in the pursuit of a safer America.

Russell Bagshaw's death will serve as a constant reminder of the sacrifices Americans and their families make each day while carrying out their duties as police officers. He is a role model and a hero we can all be proud of.

This past Saturday more than 5,000 officers of the law from all over the country joined together to pay tribute to the life and career of Russell Bagshaw. They were joined by his wife of less than 1 year, Carol, his twin brother Robert, another brother Kenneth, his father Harold, and many loving friends and neighbors.

While no one can do anything to lessen the pain of their loss, I can offer them my deepest sympathies and assure them that Russell's contributions and memory will not be forgotten.

Mr. Speaker, it is with both sadness and pride that I share with you the death of State Trooper Russell Bagshaw. I hope you will all join me in wishing his loved ones the strength they require to overcome their loss. God bless Trooper Russell Bagshaw. His bravery, courage, and goodness will never be forgotten by his community and his State.

ALBERT GREENFELD, 1991 KODIMOH BROTHERHOOD HUMANITARIAN AWARD WINNER

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, it is my honor to announce Mr. Albert Greenfeld of Longmeadow, MA, as the recipient of the 1991 Kodimoh Brotherhood Humanitarian Award. Mr. Greenfeld will be presented with this prestigious honor at a dinner on June 18, 1991.

A native of Hartford, CT, Albert Greenfeld moved with his family to Brooklyn, NY. Al went on to New York University's College of Engineering and earned a B.S. degree in civil engineering in 1942. Called to active duty in April of that same year, Mr. Greenfeld served in the combat engineer unit attached to General Patton's 3d Army until 1946. For his service to his country, Al was awarded the European Theater of Operations ribbon with five battle stars. Al retired from the Active Reserve as an instructor of the 1049th U.S. Army School with the grade of lieutenant colonel in 1963.

After working as a junior engineer at Turner Construction in New York, Al met his wonderful wife, Eileen, and decided to move to the Springfield area. In 1955, Al Greenfeld with his brother-in-law, David Levi went into the supermarket business with the Big 11 organization, later known as Food Basket Stores operating 7 supermarkets and 20 convenient stores.

The Greenfelds joined the Kodimoh as full members in 1960, and have been active in various projects. Eileen has served for many years on the sisterhood executive board. Al has served on the Kodimoh Board as assistant treasurer, treasurer, finance chairman, and house chairman. Since 1974, both Eileen and Al have been extensively involved in the operation of bingo.

Since his retirement, Al continues to be extremely busy at Kodimoh, volunteering substantial time and effort day in, day out. He also works 1 day a week in the pathology department lab at Baystate Hospital and also volunteers time with SCORE, a division of the Small Business Administration of the U.S. Government.

Mr. Speaker, it is a rare man who can give so much to his country, his religion, and his community. The entire Springfield area is blessed by having such a man as Al Greenfeld.

HOUSE OF REPRESENTATIVES—*Wednesday, June 12, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember with gratefulness those who are committed to public service and whose abilities and talents are used to benefit the people of our land. May their efforts be to provide assistance to those with need and to be devoted to the principles of justice for each person. Bless, O God, every member of our society, who seeks to encourage others so people will know the fruits of liberty and the opportunities of a just society. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Wyoming [Mr. THOMAS] come forward and lead the House in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

> H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 64) entitled "An act to provide for the establishment of a National Commission on a Longer School Year, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. HATCH, and Mrs. KASSEBAUM, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 426. An act for the relief of Abby Cooke.

THE PRESIDENT'S PAST 100 DAYS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, tonight the President will call attention to his 100-day deadline for Congress to pass his domestic agenda. The President's time and energy might be better spent working with the Congress to solve the serious problems our country faces, instead of playing politics with them.

Let us look at the state of our country for the past 100 days. Over the last 100 days, unemployment rose from 6.5 percent to 6.9 percent, throwing close to another half million Americans out of work; 37 million Americans remained without any health insurance, including 24 million middle-class working men, women, and their dependents.

America is facing a health care crisis. Middle-class Americans are demanding help, and over the past 100 days the President has done nothing to address their needs. When I meet people in grocery stores or malls, they ask me what is being done about the economy and the high cost of health care. They are concerned, frustrated, and outraged about the costs and scared of the very real possibility of losing their jobs and their health care benefits.

Over the past 100 days, working middle-class American families have waited anxiously for leadership from their President on the problems that they live with every day. They need a plan to address the soaring costs of health care. They need a plan that offers them relief from constantly rising taxes. They need a plan that promotes access to educational opportunities for their country. Stop telling them that they are not eligible.

If the President does not hear the people crying out for help, then he is not listening.

Now is the time to pay as much attention to the homefront as the President did to the warfront.

The American people need the President's attention, not politics.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to express its welcome to all of our visitors in the Gallery, but to admonish all visitors that expressions of approval or disapproval by applause or otherwise are contrary to the rules of the House, and the Chair would appreciate our guests observing the rule.

CONGRESS HAS DONE NOTHING TO CONTROL CRIME

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, just 2 days ago, four people were wounded, one critically, in Buffalo's latest drive-by shooting when a carload of gang members opened fire on a neighborhood park crowded with mothers and their small children.

Buffalo police report that there have already been more than 35 drive-by shootings in the Queen's City so far this year, and across the country violent crime has risen by 10 percent last year.

Mr. Speaker, someone is murdered in this country every 24 minutes, a woman raped every 6 minutes.

But what has Congress done to stop the scourge of violent crime in America? Congress has done nothing.

This Friday marks the 100th day since President Bush stood in this Chamber and challenged Congress to act on his crime measure, and yet in those 100 days anticrime legislation has not even been voted on in committee.

Maybe some in Congress think the American people do not care about crime, but the victims of Buffalo's latest drive-by shootings, the victims of crime across this country, certainly care. They do not want to be controlled by crime any longer. They want to control crime. This Congress should act to do that now.

GOVERNMENT BY PRESS RELEASE, GIMMICK AND SYMBOLS

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, today we have a classic example of government by press release, government by gimmick, government by symbols totally devoid of any substance.

Our colleagues on the other side of the aisle and the President are crying great crocodile tears over the fact that a crime bill and a transportation bill have not been passed by an arbitrary deadline. Everyone knows that Con-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

gress will pass legislation in both of these important areas this year. That is not the real issue confronting the American people.

The real issue is that this administration has no program to deal with the fundamental problems facing the American public today. This administration has no program to deal with the health care crisis. This administration has no program to deal with unemployment. This administration has no effective program to clean up the savings and loan mess, but is sinking deeper and deeper each day into a financial crisis.

This administration, Mr. Speaker, is 100 percent gimmick, 100 percent press release, and no substance. We have a President and a Republican Party that simply is not up to the task of solving our Nation's problems. It is a tragic situation. Mr. Speaker, this administration and his party are all button and no shirt.

IN SUPPORT OF PRESIDENT'S COMPREHENSIVE VIOLENT CRIME CONTROL PACKAGE

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, I rise today to express my support for the comprehensive violent crime control package unveiled by President Bush on March 14. The President says that a basic civil right is to be free from fear and I agree. The American people need and deserve help in their struggle to take back the streets, in their fight against crime. Just as we stood by our brave troops in Operation Desert Storm, we must now stand up for America's prosecutors, police officers, and crime victims. Congress needs to pass legislation to help those who protect us by giving them the tools they need to get the job done. We cannot accept an ineffective crime bill that is tougher on law enforcement and victims than it is on criminals. Progress was made last year when legislation was passed that attempted to deal with these serious issues. Now we're back with a new 1991 package which is more comprehensive in its scope and thorough in its details. This proposal increases the penalties for crimes committed with a firearm and strengthens the death penalty. It also contains new provisions dealing with terrorism, violence against women, gangs, and juvenile offenders. Children are the most vulnerable people in society, and we in Congress have a responsibility to do everything we can to protect them. We in Congress have been challenged to approve this crucial crime control legislation in 100 days. We now have only a few days until the Friday deadline. Let us get down to the business of fighting criminals. The President's bill deserves our full support, and the time for action is now.

□ 1010

CHAIRMAN OF COMMITTEE ON RULES INFORMS MEMBERS OF DEADLINE FOR FILING AMENDMENTS TO FOREIGN OPERATIONS APPROPRIATIONS BILL, FISCAL YEAR 1992

The SPEAKER. For what purpose does the gentleman from Massachusetts [Mr. MOAKLEY] rise?

Mr. MOAKLEY. Mr. Speaker, I would like to inform Members that the Committee on Appropriations may request a rule that would require amendments to be submitted prior to the consideration of the fiscal 1992 foreign operations appropriations bill.

To fully protect their rights, Members should submit 55 copies of their amendment, and a brief explanation of their amendment, to the Rules Committee in H-312 of the Capitol no later than 5 p.m. on Monday, June 17.

This should allow Members ample time to prepare and submit their amendments.

Though the Appropriations Committee has not yet formally made this request, I wanted to call this matter to the attention of the House to assure that Members' interests are not circumscribed.

It is anticipated that the Rules Committee will meet to grant a rule on Tuesday, June 18, and the House will consider the bill on Wednesday, June 19.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Speaker, I wanted to inquire on behalf of Members, this would not in any way eliminate or weaken or limit any Member's right to offer a motion to strike, which I understand is always in order, to reduce spending? In other words, that kind of amendment would not be affected?

Mr. MOAKLEY. All amendments would have to be submitted.

Mr. GINGRICH. All amendments?

Mr. MOAKLEY. All amendments.

Mr. GINGRICH. I thank the gentleman.

NEARLY 900 DAYS, AND STILL NO AGENDA FROM THE PRESIDENT

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, the President has a calendar. What he lacks is an agenda for the people who need one most: working Americans and their families.

The President has been in office nearly 900 days. Yet, where is his program for health care?

Nearly 900 days. Yet, where is his plan to relieve the pain and suffering of this recession?

Nearly 900 days. Yet, where is his program to deal with unemployment?

Yet 37 millon Americans need answers. They have no health insurance; 8.6 million Americans need answers. They have no jobs.

In fact, in the last 100 days, the same 100 days the President uses as his personal yardstick, 400,000 more Americans joined the unemployment rolls.

These people and this Congress don't need arbitrary, artificial deadlines. What we need is leadership from the White House to address the real issues for our families: jobs and health care.

We don't need deadlines for the sake of headlines. We need action, for the sake of America.

SMALL BUSINESS MUST BE INVOLVED IN HEALTH INSURANCE SOLUTION

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, yesterday's Washington Post contained a feature highlighting the problems small businesses face in trying to provide health insurance to their employees.

The article pointed out that small businesses are as much victims of the rising health care costs as are individual Americans. Small businesses need help—in the form of cost containment and the freedom to select the best plan.

Newly introduced legislation in the Senate recognizes that there needs to be a small business perspective to the health-care debate. It is encouraging to see that a section of the proposed bill is devoted to the special needs of small business.

But, Mr. Speaker, I would caution my colleagues recognition of the problem is only the beginning. The small business community must be active participants in shaping final legislation.

It is clear that all the key players must be involved if we are to shape a comprehensive program for restoring the viability of our Nation's health-care system. Small business must have a seat at the negotiating table.

My colleagues, it is easy to say that you are all for small business. But it is how you vote that really counts.

MR. BUSH'S POLAROID PRESIDENCY

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, tonight, the next photo opportunity in Mr. Bush's Polaroid Presidency will occur on the White House lawn.

He will call for action on legislation that Congress already intends to pass: Bills to attack street crime and rebuild our roads.

But no matter. This is a President who prefers rhetoric to action, symbols to substance, vetoes to progress, and campaigning to governing.

On crime, Mr. President, we share your concern. Under 11 years of Republican rule, violent crime is up 22 percent, rape is up 13 percent, and theft is up 10 percent. That's exactly why we need a good crime bill, not a fast crime bill or a Bush crime bill, but an effective crime bill.

The real story is, of course, that this President has only a calendar not a domestic agenda.

In the last 100 days, more than 160,000 Americans have lost their jobs, we've spent $200 million on health care, domestic auto sales declined by 100,000 and the trade deficit jumped $17 billion. While this administration has no unemployment insurance, health care, auto industry, or Fair Trade Enforcement Program, Democrats do.

The President seems determined to be remembered not for moving the country forward but by his symbols: the flash cube, the light meter, and the veto pen. The Democrats in the 102d Congress hope to be remembered for the differences they made in the lives of the American people, particularly our working families.

THE DEMOCRATS SHOULD GET TOGETHER ON A CRIME BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I rose just to urge the Democratic leader to meet with the Democratic chairman of the Committee on the Judiciary. We were informed yesterday by our ranking member on the Subcommittee on Crime that the President's crime bill has not been parceled out to the subcommittees, that in the 100 days in which 6,500 Americans were killed, over 40,000 Americans were raped, there were over 1,400,000 assaults on Americans, the Democratic leadership has not moved the crime bill an inch.

It has not had any hearings, it has not set up any effort, it has not set up any procedure.

Now, here is a case where the President has a clear agenda, he has a clear bill, a bill, by the way, which the Democratic leadership dropped in conference last fall after the House voted for it.

So I would just say to my distinguished friend, the Democratic majority leader, if he would meet with the Democratic chairman of the Committee on the Judiciary, meet with the Democratic Speaker, and bring forth an American crime bill that all of us could support, we would not be having photo opportunities and Americans would be a lot safer.

NINE HUNDRED DAYS: NO PLAN, NO PROGRAM, JUST BUTTONS

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, yesterday—and I do not see them today—our Republican colleagues were wearing buttons saying "100 Days." Buttons, bumper stickers, balloons, is this what Government has become?

The American people want leadership. Instead, they get hot air. The President complains Congress has not passed his crime package in 100 days. Yet he says nothing about the biggest crime of all on his watch, the increased buildup in debt, the RTC, the savings and loan crisis.

The President complained Congress has not passed a transportation bill in 100 days. Thank goodness, because the one thing his bill will not do is improve transportation or end rush hours.

The President has spoken to several commencements in the last 100 days. Never once telling them that his proposed Pell grant cuts would have kept many of them from graduating.

And the biggest crime of all, no administration proposals to take on the health care crisis. Millions of Americans live in fear of any type of medical emergencies.

How many in the last 100 days have chosen not to go to a physician to get that necessary care?

I am not concerned about 100 days; Mr. Speaker, the American people want to know why and how they are better off after 900 days of the Bush administration. No plan, no program, just buttons.

American families demand better.

AMERICAN AID SHOULD GO TO REFORMERS, NOT COMMUNIST-CONTROLLED GOVERNMENTS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROHRABACHER. Mr. Speaker, Lithuanian blood is still dripping from the treads of Soviet tanks and Mr. Gorbachev is demanding hundreds of billions of dollars in aid from the people of the United States.

The Communists in the Kremlin continue wasting huge portions of their own peoples' money on their military and they have the nerve to insist that the American people send them cash?

The only thing more absurd than this is that powerful people in this town are taking their demands seriously.

We are closing up emergency rooms at our hospitals for lack of funds and we are going to send billions in aid to the Soviet Union; give me a break. Is this the twilight zone or the Capitol of the United States of America?

Today I will offer an amendment to the foreign aid bill which sets the principle that if we provide aid and that is a big "if," either to the Soviet Union or Yugoslavia, two countries in transition, it should go to the reformers in the democratically elected republics and not to the Communist-controlled central governments.

I ask my colleagues to support my amendment and go on record that America should be on the side of reformers in the republics rather than on the side of the Kremlin and that we should be on the side of the people and not the Politburo.

☐ 1020

THE AMERICAN WORKING CLASS DESERVES BETTER

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, I rise today to express my support for continuing Federal aid to needy college students. The Bush administration is proposing to cut drastically eligibility guidelines for Federal student aid programs depriving many children of middle-income and working-class families of aid for education. This penalizes middle America.

Congress has approved a budget that attempts, within current restrictions, to treat Americans fairly. How can anyone support President Bush's efforts to enact capital gains tax cuts for the wealthy while cutting guaranteed student loans for the children of America's working families?

The middle-class American family is the bedrock of our Federal tax system. As their real dollar earnings have gone down and their taxes have gone up, these families are finding it increasingly difficult to finance their homes, health care, and everyday living expenses. Middle-income families have seen college tuition rise four times as quickly as their disposable income, and total college costs three times as fast. Today, the average cost of a 4-year public college is $5,000; for a private college it is $12,000. This has doubled in 10 years. Many families can no longer afford to finance their children's education. A decade ago these families were eligible for Federal student aid. Today they are not. The administration would make them less so.

The Bush administration is proposing to increase Pell grants to a maximum of $3,700 per year from $2,400 by dropping 400,000 students from eligibility and focusing the grants on those from families earning less than $10,000. However, of the 400,000 students who would be cut, about 280,000 would be from families earning less than $15,000 a year.

In Nebraska, 21,960 high school graduates go on to attend the University of Nebraska in Lincoln, our largest educational institution. For the 1990 school year, resident tuition, room and board averages $4,800 per student. Of a total of 24,453 students attending the university, almost 50 percent rely on financial aid in some form. I want to ensure that not one of these student is denied the opportunity to attend the university.

One of the hallmarks of the American dream is that education is the door to opportunity. Not only does education bring opportunity, it is a good investment for our Nation. To those who argue that we cannot afford student loans and grants, I would argue we cannot afford not to. A well-educated student today is a productive citizen tomorrow who returns revenue to the Treasury and keeps our economy going.

Many students in this country could never have gone to college without Federal student loans and grants, like the GI bill that sent many Americans to college after World War II. I call on my colleagues to reject the Bush administration's cuts and stand up for our students of today and citizens of tomorrow.

THE CASE FOR A CRIME BILL

(Mr. GILLMOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILLMOR. Mr. Speaker, the President has sent to this Congress a broad domestic agenda, but the majority in this Congress, which has no program of its own, does nothing, and one example is the crime bill.

Mr. Speaker, crime in the United States is on the rise, and meanwhile the Congress waits. The need for a major crime bill is evident to one and all.

In the last year alone, according to the FBI, violent crime in the United States has increased by 10 percent. Drug-related violence is skyrocketing. This past year the number of aggravated assaults increased by 10 percent, robberies by 11, rape by 9.

However, Mr. Speaker, the surge in violent crime is not limited to America's largest cities. It is alarming to note that the largest increase in violent crime occurring in America is in the medium-sized cities previously thought to be insulated from this phenomenon.

Mr. Speaker, to some these statistics may be dry numbers, but they represent people, people whose lives have been torn apart by violent crime, and there is no time to waste; 100 days ago, the President called for Congress to pass his crime bill. Congress has done nothing. It is time for Congress to stop delaying.

PRESIDENT IGNORES ISSUES THAT TRULY MATTER

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, the President's phony 100-day challenge to Congress to enact his legislation on crime and transportation amounts to nothing more than political gimmickry and marks the opening salvo of this 1992 campaign.

He has exposed his own inability to lead the Nation on some of our most pressing problems and concerns—issues that truly matter to all Americans.

In the last 100 days, more than 163,000 Americans lost their jobs.

Just yesterday, the Census Bureau reported that home ownership has dropped for the first time since the Great Depression.

College tuition continues to rise four times as fast as the average American family's disposable income.

And the first large American city, Bridgeport, CT, declared bankruptcy just last week.

We need a President who listens more to the pleas of concerned Americans than he does to his own campaign advisers.

Unfortunately, the fact is, this President wouldn't know a domestic agenda if it walked up and wished him a happy birthday at his party tonight.

FEAR

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, I am going to talk about fear. The fear that grips all Americans in these times of increasing violent crime.

The fear of parents to let their children play outside after dark.

The fear of families to take an evening walk.

The fear of parents to allow their children to attend schools that are infested with drugs.

The fear of children to go to sleep at night.

The fear of women to walk to their cars or jog after dark.

The fear of inner-city parents that their playgrounds are turning into shooting galleries.

Fear on behalf of all urban citizens regarding the increasing threat of gang violence.

The fear citizens feel to press charges against a criminal who they feel will be released within hours.

Mr. Speaker, this fear that I have described is manifesting itself throughout the United States, in small towns and large. As a governing body, we have no more profound duty than to provide an America where people of all ages, races, economic classes and religions live their lives safe from the threat of bodily harm. The President has given us a crime control bill to act upon. Let us take up this challenge and provide a safe America for one and all.

THE 100-DAY MESSAGE THE AMERICAN PEOPLE ARE WAITING FOR

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in a CIA report now being hushed up and apologized for, American national security experts are warning that Japan is bent on economic dominance of, not only America, but the world, and Congress should watch out.

My colleagues, it is evident from Main Street to Wall Street that Japan is doing with the dollars and the yen and protectionism what they could not do with the bomb, and let me say this:

While Congress continues to turn the other cheek, Japan, like Hannibal Lector, is eating America's face off, and, if my colleagues do not believe that, ask some business people like T. Boone Pickens.

Mr. Speaker, it is time that we look at trade protectionism to other nations before we do not have another job in this country and our economy completely falls apart. That is the 100-day message that American people are waiting for.

FREE TRIP TO EUROPE FOR 400 EMPLOYEES OF DEPARTMENT OF HEALTH AND HUMAN SERVICES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, the arrogance of some within our unelected elitist Federal bureaucracy never ceases to amaze. Yesterday the Washington Post reported on the planned trip to Italy next week by 400 employees of the Department of Health and Human Services. These people want to go on an all expense paid trip to the international conference on AIDS. The expense to the taxpayers for this bureaucratic junket will be $1,350,000. One official defended it by pointing out that this is a lower number than the

730 who went to the conference in San Francisco last year and at less cost.

David Rogers of the National Commission on AIDS said that criticism of this travel was mean spirited. Actually what is mean spirited are bureaucrats who have a public-be-damned attitude. Actually what is mean spirited is taking money from taxpayers, many of whom are having to scrimp to get by while they see others go on free trips to Europe.

Mr. Speaker, I am thankful that John Sununu got HHS to reduce this number by 100, however our Government is broke and over $4 trillion in debt. We are losing approximately $1 billion a day at the Federal level today. We certainly cannot afford to be sending several hundred people to a meeting in Italy when a small handful could represent us as well and bring back all the useful information.

GET A GRIP, RTC

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Seventy-five billion dollars, Mr. Speaker. That is what Charles Bowsher of GAO said the RTC bailout may need this fall. Mismanagement, he declared.

Pick up today's Washington Post, and read about the RTC office in Kansas that bought $26,000 of the finest art. Mr. Martinelli, head of the office, said, "If this makes my employees happy and productive, I think it's money well spent."

So, I ask Mr. Martinelli, "How about the millions of Americans who want health care or housing but can't get it because the money is not there because your agency is ripping off the American public?"

Get a grip, RTC. The American people are fed up with this administration playing partisan politics while the RTC is bungling this bailout.

Mr. Speaker, let this President spend the next 100 days cleaning up this mess.

□ 1030

AMERICAN PEOPLE DEMAND ACTION ON CRIME BILL

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, approximately 100 days ago the President of the United States asked Congress to act on his proposed crime package and his proposed transportation bill; 100 days later, approximately, Congress still has not acted on either bill.

One of the reasons given is clearly amazing. I saw a distinguished leader of the majority party speaking to the national news media, and he said the President is insulting the idea of a 100-day timetable because 100 days is the time that President Franklin Roosevelt gave to act on his agenda, and his agenda was so much larger.

In other words, 100 days by our current President is an insult, because he has asked for less than President Roosevelt asked for a number of years ago.

Where is the logic to that? If President Bush has asked for less of an agenda in the last 100 days, it should have been easier for the Congress to act on these before 100 days, and then we could move on in unity to other issues. Instead, we have not acted at all. All of what we are hearing, Mr. Speaker, is an excuse. It is an excuse by those who do not want to pass a tough anticrime package. But the American people demand that we act, and we should move immediately.

THE PRESIDENT'S BIRTHDAY

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, today is the President's birthday, and I join Members of both sides of the aisle in wishing Mr. Bush the best. But I think it is apt to say that outside of the White House, Mr. Bush should not expect to have his cake and eat it, too.

The President should not call himself the education President, and then propose severe cutbacks in student aid.

Mr. Bush should not say he is the environment President, and then propose an energy policy which brings no new energy, but devastates our natural resources.

President Bush should not propose massive expenditures to fix our deteriorating highways and bridges, and then assign the costs to State and local governments.

Mr. Speaker, the President is expected to address the Nation tonight and criticize Democrats in Congress. With the recent divisive debate on the civil rights bill, he has already shown himself to be stepping back from a kinder and gentler Presidency.

Mr. Speaker, I hope this does not mean that the most we will be seeing of those thousand points of light will be the candles on the President's birthday cake.

WHERE IS THE CRIME BILL?

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, where's the crime bill? Why has Congress not met the President's 100-day challenge?

Personal safety is one of the most basic concerns of our citizens. Our constituents—whether they're from Los Angeles, Chicago, or rural Missouri—have this in common: They would like to walk their neighborhoods free from the fear of ending up another FBI statistic.

This Friday marks the 100th day since President George Bush issued his 100-day challenge to the Congress to act on a tough crime bill. Americans are still waiting. Why is Congress delaying?

The President has submitted a tough crime bill to Congress. In the House, it has been introduced by our Republican leader, BOB MICHEL.

Mr. Speaker, Americans deserve a Congress that will respond to their needs and concerns. In this instance, the Democrat-controlled Congress is failing.

FAIRNESS: PRESIDENT BUSH'S DUPLICITY ON AMERICA'S FUTURE

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, tonight, the President plans to chastise the Congress for not acting on his legislation within his prescribed timeframe. Unfortunately, the President's remarks will do little to further the domestic policy interests of this country. Furthermore the President's remarks will be duplicitous—he has no domestic agenda.

Whenever we attempt to address an unmet domestic need—Americans without health care, rising drug and crime rates, failure of our schools, millions of America's children going to bed hungry every night—the President says we cannot afford to solve the problem.

When a typhoon hit Bangladesh we found the emergency aid.

When Kuwait and our oil supplies were in danger, we found the emergency funds.

When Eastern Europe and the Soviet Union faced economic collapse we extended credits and the President plans $1 billion more for the Soviet Union.

When tens of thousands of Kurdish refugees massed at the Turkish border, we found millions of dollars for food and emergency housing.

Why is it, Mr. President, that every time you need to take an action in the international community, you find the money and every time we confront a domestic crisis you tell us we cannot afford a solution and we should rely on volunteers?

The President cannot continue to ignore crises at home because he finds foreign policy more interesting.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. NAGLE). The Chair would remind Members that remarks should be addressed to the Speaker, and not the President personally.

MIXING APPLES AND ORANGES

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the gentleman from California [Mr. ROHRABACHER], in pushing his amendment to the foreign aid bill, is mixing apples and oranges. Yugoslavia is not the Soviet Union, Croatia is not Latvia, and Serbia is not Lithuania.

After World War II, the United States helped form Yugoslavia as a sovereign nation. The United States has never recognized the annexation of Estonia or Lithuania.

It seems strange that members of the Republican Party would favor dismemberment of a sovereign nation. The Republican Party was founded as the party of equal rights for all and founded on the principles of union, union of the Nation. Republicans have never been a party of disunion, and we should not start now.

In a letter in March, President Bush said:

> It should be absolutely clear that the United States does not and will not favor any particular national or ethnic group in Yugoslavia. At the same time, we want to see differences among nationalities resolved within the framework of a single democratic Yugoslavia, and will not encourage or reward those who would break the country apart.

Mr. Speaker, we do not have to add to the problems over there, which finally appear to be on the verge of becoming resolved.

WE'LL SEE YOUR 100 DAYS, AND RAISE YOU ONE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, it is time that Capitol Hill told the White House that we will see your 100-day challenge, and we will raise you one. We will give the White House 50 days to withdraw their call to eliminate college assistance for 400,000 American kids from working families; we will give the President 30 days to stop wringing his hands and produce a health care reform program for our Nation; we will give the President 30 minutes to come up with a plan to clean up his own mess in administering the savings and loan bailout; and we will give the President 15 minutes to take a look at the America we all love, roll up his sleeves, and address the problems of unemployment, education, health care, gridlock, and tax fairness.

DIDDLING, DAWDLING DEMOCRATS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, 100 days ago we had just won the war, and we felt pretty good about America's ability to get things done. That is until we got to the Congress. Here we found the President issued a challenge. He said in 100 days, Congress ought to be able to do something about crime and transportation.

Well, what has happened in the House? Nothing. Zip. Zero.

What has happened in America in those 100 days? Well, 6,500 Americans have been killed in homicides. What have the diddling, dawdling Democrats in the House done? They have done nothing.

Almost 45,000 Americans have been raped. What have the diddling, dawdling Democrats in the House done? Nothing.

Over 330,000 Americans have been robbed in that 100 days. What have the diddling, dawdling Democrats in the House done? Nothing.

Almost 1½ million Americans have been assaulted in that 100 days. What have the diddling, dawdling Democrats in the House done? Nothing.

It is time for the American people to recognize the problems that they have in the country rest right here in the House.

NOW IS TIME TO GET ON TOP OF BANK PROBLEMS

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, yesterday the Nation's top auditor told us that the administration has added $50 billion to the cost of the S&L bailout by a massive misuse of taxpayer funds. Now he says that the Bush administration is wrong about the woes of the Nation's banks. He says they're much sicker than the administration admits, and that a taxpayer bailout will have to be in the cure.

This is deja vu all over again. When the problems at the S&L's began to surface, the administration provided sugar-coated assurances that the costs would be minor. Now average taxpayers are swallowing the bitter bill of a $500 billion bailout; $500 billion for a problem they neither caused nor profited from.

Mr. Speaker, if we learned anything from the thrift crisis, it's that primrose path predictions will only hurt the taxpayer in the end. We should not allow the administration to stick its head in the sand and pretend to the American people that the banks are in no real trouble. If a taxpayer bailout is needed—and all of us hope that it is not—then let us get on top of the problem now, and make sure that working Americans are not forced to pay one dime more than needed to keep our banks afloat. And if we are going to talk about a taxpayer bailout, let us also discuss which taxpayers will be doing the bailing out—the privileged few who reaped huge dividends from the deregulation of our Nation's financial institutions over the last 10 years, or everyone else, who have to work overtime and second jobs just to stay where they were a decade ago.

□ 1040

ENACTING THE PRESIDENT'S AGENDA

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, 97 has gone and this is day 98. The President gave us 100 days to do just two things: pass a bipartisan public works, antirecessionary highway bill and to do something about crime.

I agree with the Democratic majority leader and everyone else who stood up here today. Crime is a problem in this country, and crime has been on the rise for the last 11 years. Part of the reason it has been on the rise for 11 years is that the Congress has done nothing about crime.

Yes, we will, right after the election, pass a crime bill out of this House, and we will send it over to the Senate. Then we will make sure one of two things happens. Either we have a conference report that includes nothing in it or we do not have a conference report at all, but we will cover ourselves with a vote.

I also find it absolutely amazing that Members would talk about the recession. Did I forget something? Was it not the Democratic Party who last year led the fight against economic growth in the budget battle? They seem a little sensitive today. I guess if I was in their shoes, I would be sensitive too.

PRESIDENT PROPOSES LEGISLATION: CONGRESS DISPOSES

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I had not intended to give a 1-minute speech today, but as I listened to the tone of the 1-minutes I have heard I felt compelled to do so.

Mr. Speaker, we should understand the President of the United States cannot make legislation. The President, like any other citizen of the United States, can propose legislation to the Congress of the United States.

The Congress of the United States is controlled by the Democratic Party majority. They have a vision, quite frankly, in the special interests and in the parochial interests, quite contrary to the President's vision in general interest.

The President hopes for a kinder and gentler Nation. In order to get his legislation enacted, for that to happen, he must get it through Congress.

Unhappily for the President, his vision and the American people, the Congress is ruled by a Democratic majority that is not kinder and gentler, but, in fact, it is seedier and greedier.

DEMOCRAT RHETORIC ON WHAT PRESIDENT BUSH HAS NOT SAID

(Mr. EMERSON asked and was given permission to address the House for 1 minute.)

Mr. EMERSON. Mr. Speaker, it has been announced that the President is going to speak tonight on issues affecting domestic policy, but he has not spoken yet. We do not know yet what he is going to say. But he is the President of all of us, and we, the Congress and the Nation should listen to what he has to say and then discuss and debate what he has to say.

I had not intended to say anything this morning. But sitting here waiting to participate in the legislative agenda of the day, I am shocked at the railing that has occurred on the liberal left about what the President has not even yet said. It appears there is an attempt to put up a smoke screen to cover the inaction, inaction on the left of the agenda that the public does want addressed.

It is the liberal left, out of touch, that rails instead of acting, postures instead of producing on the agenda that the vast American middle wants dealt with.

INTERNATIONAL COOPERATION ACT OF 1991

The SPEAKER pro tempore (Mr. NAGLE). Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2508.

□ 1045

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, with Mr. DELLUMS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, June 11, 1991, all time for general debate had expired.

Pursuant to the rule, the bill is considered under the 5-minute rule by titles and each title is considered as read.

No amendment on the subject of military assistance to El Salvador shall be in order.

Subject to clause 6 of rule XXIII, debate on all amendments shall not exceed 8 hours.

No amendments to the bill are in order except those amendments printed in the CONGRESSIONAL RECORD, with the following exceptions:

First, amendments printed in the CONGRESSIONAL RECORD offered en bloc by the gentleman from Florida [Mr. FASCELL] or his designee, which may include germane modifications in the text of any amendment. Said amendments en bloc shall be considered as read and shall not be subject to amendment or to a demand for a division of the question.

Second, an amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. BROOMFIELD] specified in the rule; and

Third, pro forma amendments for purposes of debate.

It shall be in order to consider amendments offered en bloc by the gentleman from Ohio [Mr. HALL]. Said amendments en bloc are considered as having been read, are not subject to a demand for a division of the question, and may amend portions of the bill not yet considered for amendment.

At the conclusion of consideration of the bill for amendment, it is in order to consider an amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. BROOMFIELD], or his designee. Said amendment is considered as having been read and is debatable for 1 hour, notwithstanding any other provision of this rule.

There are three sections that precede title I.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 2508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Cooperation Act of 1991".

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

I take this time just to inform our colleagues that the leadership has requested that we run until 7 o'clock tonight. Under the rule, as Members can see, we have 8 hours in which to consider all amendments to the bill and all amendments thereto.

In order to be fair, Mr. Chairman, we are just going to have to object to extensions of time. There are a lot of amendments. I do not know what the last count was. Last time we considered this bill we had 250 amendments. I think 150 have been printed in the RECORD already.

So, in fairness to those who have amendments and who want them to be considered, we just simply cannot extend time. I would hope that my colleagues who have amendments that we have debated over and over again and everybody is pretty clear on what the issue is, that we could reach an understanding that would be satisfactory to try and shorten the time on those amendments.

□ 1050

Otherwise any one of the amendments could use up the whole 8 hours, and I do not think that is fair either, Mr. Chairman, so I am asking my colleagues to cooperate with us. We will move this bill as rapidly as we can and hopefully try to get it done.

I do not have any illusions about what will happen once we start talking, but I hope that we can get some cooperation.

I have no amendments.

The CHAIRMAN pro tempore (Mr. DELLUMS). Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. TABLE OF CONTENTS FOR THIS ACT.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents for this Act.
Sec. 3. Table of contents for amended Foreign Assistance Act.

TITLE I—ECONOMIC ASSISTANCE

Sec. 101. Revision of economic assistance programs.

TITLE II—MILITARY ASSISTANCE, RELATED ASSISTANCE, AND MILITARY SALES PROGRAMS

CHAPTER 1—CONSOLIDATION AND REVISION OF ASSISTANCE AUTHORITIES

Sec. 201. Revision of assistance programs.
Sec. 202. Conforming amendments.
Sec. 203. Transition rule concerning disposition of certain previously provided military equipment.

CHAPTER 2—FOREIGN MILITARY SALES PROGRAM

Sec. 221. Arms transfer policy.
Sec. 222. Improved accounting for foreign military sales.
Sec. 223. Designation of major non-NATO allies.
Sec. 224. Certification thresholds.
Sec. 225. Standardizing congressional review procedures for arms transfers.
Sec. 226. Foreign availability.
Sec. 227. Economic impact of United States arms sales.
Sec. 228. Coproduction agreements.
Sec. 229. Enforcement of arms export licensing requirements.

Sec. 230. Biennial review of the international traffic in arms regulations.
Sec. 231. Fair pricing.
Sec. 232. Contract administrative service charges for NATO subsidiary bodies.
Sec. 233. Amendments to eliminate obsolete and inconsistent provisions.
Sec. 234. Technical corrections.

CHAPTER 3—OTHER PROVISIONS

Sec. 241. Depleted uranium shells.
Sec. 242. Arms transfers restraint policy for the Middle East and Persian Gulf region.

TITLE III—TRADE AND DEVELOPMENT AGENCY AND OVERSEAS PRIVATE INVESTMENT CORPORATION

Sec. 301. Consolidation and revision of authorities.

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

Sec. 401. Consolidation and revision of authorities and requirements.
Sec. 402. Exemption of narcotics-related military assistance for fiscal years 1992 and 1993 from prohibition on assistance for law enforcement agencies.
Sec. 403. Export-Import Bank financing of antinarcotics-related sales of defense articles or services.

TITLE V—SPECIAL ASSISTANCE INITIATIVES AND OTHER REGION OR COUNTRY SPECIFIC PROVISIONS

Sec. 501. Special initiatives and provisions.
Sec. 502. Conforming amendment relating to the Environment for the Americas Board.

TITLE VI—SPECIAL AUTHORITIES, RESTRICTIONS, REPORTS, GENERAL PROVISIONS, AND TECHNICAL AND CONFORMING AMENDMENTS

CHAPTER 1—SPECIAL AUTHORITIES, RESTRICTIONS, AND REPORTS

Sec. 601. Consolidation and revision of authorities and requirements.

CHAPTER 2—ADMINISTRATIVE AND GENERAL PROVISIONS

Sec. 621. Consolidation and revision of provisions.

CHAPTER 3—TECHNICAL AND CONFORMING PROVISIONS

Sec. 641. Savings provisions.
Sec. 642. Retention of certain provisions formerly in the Foreign Assistance Act.
Sec. 643. Renaming of Trade and Development Program; conforming changes.
Sec. 644. Conforming amendments.
Sec. 645. Repeal of obsolete provisions.

TITLE VII—LATIN AMERICA AND THE CARIBBEAN

CHAPTER 1—EL SALVADOR

[Reserved for provisions relating to El Salvador]

CHAPTER 2—OTHER PROVISIONS PERTAINING TO CENTRAL AMERICA

Sec. 721. Promoting Central American recovery and development.
Sec. 722. Military aircraft transfers.
Sec. 723. Assistance for Guatemala.
Sec. 724. Assistance for Nicaragua.
Sec. 725. Assistance for refugees and displaced persons.
Sec. 726. Assistance for democratic legislatures.

CHAPTER 3—THE CARIBBEAN

Sec. 741. Assistance for Haiti.
Sec. 742. Haitian sugar cane harvesters in the Dominican Republic.
Sec. 743. Assistance for Guyana.
Sec. 744. Democracy in Suriname.

CHAPTER 4—ANDEAN INITIATIVE

Sec. 761. Economic assistance and administration of justice programs for Andean countries.
Sec. 762. Military and law enforcement assistance for Andean countries.
Sec. 763. General provisions relating to assistance for Andean countries.

CHAPTER 5—OTHER PROVISIONS PERTAINING TO THE REGION

Sec. 781. Assistance for law enforcement.
Sec. 782. Inter-American Foundation.
Sec. 783. Military assistance and sales for Chile.
Sec. 784. Central American Journalism Program and the Regional Administration of Justice Program.

TITLE VIII—EUROPE AND THE MIDDLE EAST

CHAPTER 1—MIDDLE EAST

Sec. 801. Assistance for Israel.
Sec. 802. Assistance for Egypt.
Sec. 803. Promoting pluralism and democracy.
Sec. 804. West Bank and Gaza program.
Sec. 805. Middle East scientific and technological cooperative projects.
Sec. 806. Cooperative development projects.
Sec. 807. Israeli-Palestinian people-to-people activities.
Sec. 808. Policy toward and assistance for Lebanon
Sec. 809. Restrictions and reports with regard to Syria.
Sec. 810. Captured Iraqi equipment.
Sec. 811. Iraqi compensation for damages to other countries.
Sec. 812. Peace and stability in the Middle East.
Sec. 813. Cumulative impact of conventional arms transfers to the Middle East.
Sec. 814. Restrictions on negotiations with the Palestine Liberation Organization.
Sec. 815. United Nations General Assembly Resolution 3379.
Sec. 816. Israeli preemptive strike against the Iraqi nuclear reactor at Osirak.
Sec. 817. Democratic reform and human rights in Kuwait.

CHAPTER 2—EASTERN MEDITERRANEAN

Sec. 821. Assistance for Cyprus.
Sec. 822. Assistance for Greece.
Sec. 823. Assistance for Turkey.
Sec. 824. Admission of Turkey into the European Community and the Western European Union.
Sec. 825. United Nations Secretary General's peace initiatives regarding Cyprus.

CHAPTER 3—SUPPORT FOR EAST EUROPEAN DEMOCRACY

Sec. 841. Amendments to SEED Act of 1989.
Sec. 842. United States policy regarding Eastern Europe.
Sec. 843. East European countries eligible for SEED benefits.
Sec. 844. Structural adjustment.
Sec. 845. Private sector development.
Sec. 846. Trade and investment.
Sec. 847. Educational, cultural, and scientific activities.
Sec. 848. Other assistance programs.
Sec. 849. Additional SEED Program actions.
Sec. 850. Funding of SEED Program.
Sec. 851. Conforming amendments to list of SEED actions.

CHAPTER 4—OTHER PROVISIONS RELATING TO EUROPE

Sec. 861. Contributions to Anglo-Irish International Fund.
Sec. 862. Technical assistance for Baltic states and for democratic governments and nongovernmental organizations in the Soviet Union.
Sec. 863. Assistance for the Republic of Armenia.
Sec. 864. Soviet-Eastern European research and training program.
Sec. 865. United States policy toward Yugoslavia.
Sec. 866. Situation in Kosovo province of Yugoslavia.
Sec. 867. Policy statement regarding the importation of sporting and hunting rifles and shotguns from certain East European countries.
Sec. 868. Soviet aid to Cuba.

TITLE IX—ASIA AND THE PACIFIC

CHAPTER 1—EAST ASIA AND THE PACIFIC

Sec. 901. Burma.
Sec. 902. Cambodia.
Sec. 903. Prohibition on military assistance to Fiji.
Sec. 904. Malaysia.
Sec. 905. South Pacific regional program.
Sec. 906. Taiwan's contributions to Operations Desert Shield and Desert Storm.
Sec. 907. Cooperation on POW/MIA issue.
Sec. 908. Admission of Asian countries into the OECD.
Sec. 909. Assistance to displaced Burmese in Thailand and Burma.
Sec. 910. Arms transfers by the People's Republic of China to Iran, Iraq, Libya, Pakistan, and Syria.

CHAPTER 2—SOUTH ASIA

Sec. 921. Assistance for Afghanistan.
Sec. 922. Mines in Afghanistan.
Sec. 923. United States-Soviet dialogue on a political settlement in Afghanistan.
Sec. 924. United States support for democracy and development in Bangladesh.
Sec. 925. Nepal.
Sec. 926. Promotion of human rights in Sri Lanka.

CHAPTER 3—INDUSTRIAL COOPERATION PROJECTS IN CHINA AND TIBET

Sec. 941. Statement of principles.
Sec. 942. Registration requirement.
Sec. 943. Reporting requirements.
Sec. 944. Export marketing support.
Sec. 945. Definitions.

TITLE X—AFRICA

CHAPTER 1—AUTHORIZATIONS OF ASSISTANCE FOR AFRICA

Sec. 1001. African Development Foundation.
Sec. 1002. Support for the Southern Africa Development Coordination Conference.
Sec. 1003. Economic support assistance for sub-Saharan Africa.
Sec. 1004. Support for democratization in sub-Saharan Africa.
Sec. 1005. African Center for Conflict Resolution.

CHAPTER 2—PROVISIONS RELATING TO SPECIFIC COUNTRIES

Sec. 1021. Angola.
Sec. 1022. Burundi.
Sec. 1023. Ethiopia.
Sec. 1024. Kenya.
Sec. 1025. Liberia.

Sec. 1026. Malawi.
Sec. 1027. Mozambique.
Sec. 1028. Somalia.
Sec. 1029. South Africa.
Sec. 1030. Sudan.
Sec. 1031. Zaire.

CHAPTER 3—UNITED STATES COMMISSION ON SOUTHERN AFRICA

Sec. 1041. Short title.
Sec. 1042. Findings.
Sec. 1043. Establishment.
Sec. 1044. Purpose of Commission.
Sec. 1045. Membership; chairperson.
Sec. 1046. President and staff of Commission.
Sec. 1047. Powers of Commission.
Sec. 1048. Requirements.
Sec. 1049. Report.
Sec. 1050. Funding.

CHAPTER 4—OTHER PROVISIONS

Sec. 1061. United States trade restrictions on products from sub-Saharan Africa.
Sec. 1062. Recognition of sub-Saharan African support during the Persian Gulf conflict.
Sec. 1063. Conditions on furnishing IMET for sub-Saharan Africa.
Sec. 1064. International Fund for Agricultural Development.
Sec. 1065. Exemptions from restrictions on assistance.
Sec. 1066. United Nations Educational and Training Program for Southern Africa.
Sec. 1067. Preemption of State and local sanction measures against Namibia.

TITLE XI—OTHER PROVISIONS

Sec. 1101. Effective date.
Sec. 1102. Definition relating to prior year military assistance.
Sec. 1103. Peace Corps.
Sec. 1104. Environmental security and foreign policy.
Sec. 1105. United States support for UNCED.
Sec. 1106. United Nations convention on the right to food.
Sec. 1107. Reforming the United Nations response to international disasters.
Sec. 1108. Authority to forgive repayment of an Alliance for Progress loan.

The CHAIRMAN pro tempore. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. TABLE OF CONTENTS FOR AMENDED FOREIGN ASSISTANCE ACT.

The Foreign Assistance Act of 1961 is amended by striking out the first section and inserting in lieu thereof the following:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Foreign Assistance Act of 1961'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Section 1. Short title and table of contents.

"TITLE I—ECONOMIC ASSISTANCE

"CHAPTER 1—ECONOMIC ASSISTANCE POLICIES

"Sec. 1101. Findings and declarations of policy concerning economic assistance programs generally.
"Sec. 1102. Basic objectives of economic assistance programs and United States development cooperation policy.

"CHAPTER 2—DEVELOPMENT ASSISTANCE

"Subchapter A—Development Assistance Authorities

"Sec. 1201. Assistance for development needs.
"Sec. 1202. Authorizations of appropriations.
"Sec. 1203. Funding for health, child survival, AIDS, and Vitamin A deficiency activities.
"Sec. 1204. Assistance for population planning.
"Sec. 1205. Funding for the United Nations Population Fund.
"Sec. 1206. Nongovernmental organization family planning assistance activities.

"Subchapter B—Special Focus Programs and Activities

"Sec. 1221. Assistance for human rights and democratic initiatives.
"Sec. 1222. Development education.
"Sec. 1223. Strengthening the capacity of nongovernmental organizations, including research and educational institutions.
"Sec. 1224. Microenterprise development.
"Sec. 1225. Private voluntary organization activities.

"Subchapter C—Other Authorities and Requirements

"Sec. 1241. Impact of development assistance on environment and natural resources.
"Sec. 1242. Cost sharing.
"Sec. 1243. Assistance limited to economic programs.

"CHAPTER 3—ECONOMIC SUPPORT ASSISTANCE

"Sec. 1301. Assistance under special economic, political, and security conditions.
"Sec. 1302. Authorizations of appropriations.
"Sec. 1303. Purchase of United States goods and services.

"CHAPTER 4—VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"Sec. 1401. Authority to provide assistance.
"Sec. 1402. Authorizations of appropriations.
"Sec. 1403. Condition on contributions to the International Atomic Energy Agency.
"Sec. 1404. Withholding of United States proportionate share for certain programs of international organizations.
"Sec. 1405. Restriction on contributions to United Nations Relief and Works Agency.
"Sec. 1406. Reports on international organizations.
"Sec. 1407. Auditing of accounts of international organizations.
"Sec. 1408. Integration of women.

"CHAPTER 5—GUARANTEE PROGRAMS

"Sec. 1501. Housing and urban development guarantee program.
"Sec. 1502. Private sector guarantee program.

"CHAPTER 6—INTERNATIONAL DISASTER ASSISTANCE

"Sec. 1601. Statement of policies.
"Sec. 1602. Authority to provide assistance.
"Sec. 1603. Authorizations of appropriations.
"Sec. 1604. Borrowing authority.

"CHAPTER 7—OTHER ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—American Schools and Hospitals

"Sec. 1701. Authority to provide assistance.
"Sec. 1702. Authorizations of appropriations.

"Subchapter B—Debt for Development

"Sec. 1721. Debt exchange.

"CHAPTER 8—REIMBURSABLE PROGRAMS

"Sec. 1801. Authority to conduct reimbursable programs.
"Sec. 1802. Use of payments.

"CHAPTER 9—ADMINISTRATION OF ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—Operating Expenses

"Sec. 1901. Authorizations of appropriations for operating expenses generally.
"Sec. 1902. Authorizations of appropriations for operating expenses of the Inspector General.
"Sec. 1903. Additional funds for operating expenses.

"Subchapter B—Evaluation

"Sec. 1921. Evaluation and accountability.

"Subchapter C—Cooperation With Nongovernmental Sector

"Sec. 1941. Center for University Cooperation in Development.
"Sec. 1942. Center for Voluntary Cooperation in Development.
"Sec. 1943. Advisory Committee on Voluntary Cooperation in Development.

"TITLE II—MILITARY ASSISTANCE AND RELATED PROGRAMS

"CHAPTER 1—POLICIES REGARDING MILITARY ASSISTANCE

"Sec. 2101. Findings and statements of policies regarding military assistance.
"Sec. 2102. Objectives of military assistance.

"CHAPTER 2—FOREIGN MILITARY FINANCING PROGRAM

"Sec. 2201. Authority to furnish assistance.
"Sec. 2202. Terms of financing assistance.
"Sec. 2203. Eligibility.
"Sec. 2204. Approval of third country transfers.
"Sec. 2205. Improved accountability with respect to financed commercial arms sales.
"Sec. 2206. Considerations in furnishing assistance.
"Sec. 2207. Authorizations of appropriations.

"CHAPTER 3—TRANSFERS OF EXCESS DEFENSE ARTICLES

"Sec. 2301. Modernization of defense capabilities of military assistance recipients.
"Sec. 2302. Modernization of counternarcotics capabilities of major illicit drug producing or drug-transit countries.
"Sec. 2303. Natural resources and wildlife management.
"Sec. 2304. Annual ceiling on transfers of excess defense articles.
"Sec. 2305. Annual reports on transfers of excess defense articles.

"CHAPTER 4—OVERSEAS MANAGEMENT OF ASSISTANCE AND SALES PROGRAMS

"Sec. 2401. Authorized functions.
"Sec. 2402. Limit on size of groups.
"Sec. 2403. Costs.
"Sec. 2404. Role of chief of mission.

"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

"Sec. 2501. General authority.
"Sec. 2502. Terms of assistance.
"Sec. 2503. Exchange training.
"Sec. 2504. Training in maritime skills.
"Sec. 2505. Authorizations of appropriations.

"CHAPTER 6—PEACEKEEPING OPERATIONS

"Sec. 2601. General authority.
"Sec. 2602. Special transfer and drawdown authorities.
"Sec. 2603. Administrative authorities.
"Sec. 2604. Authorizations of appropriations.

"Chapter 7—Stockpiling of Defense Articles For Foreign Countries
"Sec. 2701. Restrictions on stockpiling.
"Sec. 2702. Location of stockpiles.
"Sec. 2703. Additions to war reserve stocks.

"Chapter 8—International Terrorism
"Sec. 2801. Coordination of all United States terrorism-related assistance to foreign countries.
"Sec. 2802. Considerations in providing assistance.
"Sec. 2803. Antiterrorism assistance.
"Sec. 2804. Authorities and limitations.
"Sec. 2805. Reports to Congress.
"Sec. 2806. Administrative authorities.
"Sec. 2807. Authorizations of appropriations.
"Sec. 2808. Prohibition on assistance to countries supporting international terrorism.

"Chapter 9—Other Provisions

"Subchapter A—Special Drawdown Authorities
"Sec. 2901. Special drawdown authorities.

"Subchapter B—Exercise and coordination of functions
"Sec. 2921. Responsibilities of the Secretary of State.
"Sec. 2922. Responsibilities of the Secretary of Defense.
"Sec. 2923. Security assistance coordination.

"Subchapter C—Miscellaneous
"Sec. 2941. Personnel limited to noncombatant duties.

"TITLE III—TRADE AND DEVELOPMENT AGENCY AND OVERSEAS PRIVATE INVESTMENT CORPORATION

"Chapter 1—Trade and Development Agency
"Sec. 3101. Purpose.
"Sec. 3102. Authority to provide assistance.
"Sec. 3103. Director and personnel.
"Sec. 3104. Annual report.
"Sec. 3105. Advisory board.
"Sec. 3106. Inspector General.
"Sec. 3107. Funding.

"Chapter 2—Overseas Private Investment Corporation
"Sec. 3201. Purpose and policy.
"Sec. 3202. Stock of the corporation; organization and management.
"Sec. 3203. Investment insurance, guarantees, financing, and other programs.
"Sec. 3204. Enhancing private political risk insurance industry.
"Sec. 3205. Guidelines and requirements for OPIC support.
"Sec. 3206. Issuing authority, direct investment fund, equity fund, and reserves.
"Sec. 3207. Income and revenues.
"Sec. 3208. General provisions relating to insurance, guaranty, and financing program.
"Sec. 3209. General provisions and powers.
"Sec. 3210. Annual report; maintenance of information.
"Sec. 3211. Definitions.

"TITLE IV—INTERNATIONAL NARCOTICS CONTROL

"Chapter 1—General Policies
"Sec. 4101. Statements of policy.
"Sec. 4102. Coordination of all United States anti-narcotics assistance to foreign countries.

"Chapter 2—Narcotics Control Assistance
"Sec. 4201. Authority to conclude agreements and provide assistance.
"Sec. 4202. Authorizations of appropriations.
"Sec. 4203. Contribution by recipient country.
"Sec. 4204. Use of herbicides for aerial eradication.
"Sec. 4205. Prohibition on procurement of weapons and ammunition.
"Sec. 4206. Permissible uses of aircraft and other equipment.
"Sec. 4207. Retention of title to aircraft.
"Sec. 4208. Prohibition on use of narcotics control assistance to acquire real property.

"Chapter 3—Foreign Assistance Generally and Narcotics Control
"Sec. 4301. Prohibition on use of foreign assistance for reimbursements for drug crop eradications.
"Sec. 4302. Prohibition on assistance to drug traffickers.
"Sec. 4303. Transfer of funds when countries fail to take adequate steps to halt illicit drug production or trafficking.
"Sec. 4304. Waiver of restrictions on narcotics-related economic assistance.

"Chapter 4—Reports and Annual Certification Process
"Sec. 4401. Reporting requirements for fiscal years 1992 and 1993.
"Sec. 4401A. Reporting requirements applicable after September 30, 1993.
"Sec. 4402. Annual certification procedures for fiscal years 1992 and 1993.
"Sec. 4402A. Annual certification procedures applicable after September 30, 1993.
"Sec. 4403. Determining major drug-transit and major illicit drug producing countries for fiscal years 1992 and 1993.
"Sec. 4403A. Determining major drug-transit and major illicit drug producing countries after September 30, 1993.
"Sec. 4404. Statutory references.

"Chapter 5—Miscellaneous Provisions
"Sec. 4501. Participation in foreign police actions.

"TITLE V—SPECIAL ASSISTANCE INITIATIVES AND OTHER REGION AND COUNTRY SPECIFIC PROVISIONS

"Chapter 1—Long-Term Development Assistance For Sub-Saharan Africa
"Sec. 5101. Development Fund for Africa.
"Sec. 5102. Support for SADCC projects.
"Sec. 5103. Authorizations of appropriations for the Development Fund for Africa.

"Chapter 2—Multilateral Assistance Initiative for the Philippines
"Sec. 5201. Findings and statement of policy.
"Sec. 5202. Assistance.
"Sec. 5203. Report to Congress.
"Sec. 5204. Authorization of appropriations.
"Sec. 5205. Appropriations in future years.
"Sec. 5206. Donor coordination.
"Sec. 5207. Economic assistance provisions.

"Chapter 3—Caribbean Regional Development
"Sec. 5301. Short title.
"Sec. 5302. United States policies.
"Sec. 5303. Priority areas for assistance.
"Sec. 5304. Protection of worker rights.
"Sec. 5305. Protection of public health.
"Sec. 5306. Support for women's role in development.
"Sec. 5307. Consultation.
"Sec. 5308. Definition of Caribbean.

"Chapter 4—Enterprise for the Americas Initiative
"Sec. 5401. Establishment of Enterprise for the Americas Facility.
"Sec. 5402. Purpose of Initiative and the Facility
"Sec. 5403. Eligibility for benefits under the Facility.
"Sec. 5404. Reduction of certain debt.
"Sec. 5405. Repayment of principal.
"Sec. 5406. Interest on new obligations.
"Sec. 5407. Establishment of, deposits into, and disbursements from Environmental Funds.
"Sec. 5408. Environmental Framework Agreements.
"Sec. 5409. Environment for the Americas Board.
"Sec. 5410. Encouraging multilateral debt donations.
"Sec. 5411. Annual report to and consultation with Congress.

"Chapter 5—Other Region and Country Specific Provisions
"Sec. 5501. United States policy regarding the Eastern Mediterranean.
"Sec. 5502. Strengthening civilian control over the military in Latin America and the Caribbean.
"Sec. 5503. South Africa.
"Sec. 5504. Assistance for Pakistan.
"Sec. 5505. Assistance for Cuba.
"Sec. 5506. Economic sanctions against Cuba.

"TITLE VI—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

"Chapter 1—Special Authorities
"Sec. 6101. Authority to transfer between accounts.
"Sec. 6102. Special waiver authority.
"Sec. 6103. Nonmilitary assistance for unanticipated contingencies.
"Sec. 6104. Democracy contingency fund.
"Sec. 6105. Termination expenses.
"Sec. 6106. Exemption of assistance through nongovernmental organizations from restrictions.
"Sec. 6107. Exemption of training activities from prohibitions.
"Sec. 6108. Exemption from prohibitions for assistance to address certain special needs.
"Sec. 6109. Activities under certain other laws not affected.

"Chapter 2—Restrictions on Assistance
"Sec. 6201. Ineligible countries and projects.
"Sec. 6202. Assistance for law enforcement agencies.
"Sec. 6203. Intelligence activities.
"Sec. 6204. Countries in arrears on assistance repayments.
"Sec. 6205. Family planning activities.
"Sec. 6206. Nuclear nonproliferation.

"Chapter 3—Reports and Notifications to Congress
"Sec. 6301. Congressional presentation documents for economic assistance.
"Sec. 6302. Human rights policy and reports.
"Sec. 6303. Annual allocation report.
"Sec. 6304. Notification of program changes.
"Sec. 6305. Quarterly reports on obligations for development assistance and economic support assistance.
"Sec. 6306. Furnishing information requested by the Congress or the GAO.
"Sec. 6307. Information requested by Congress.
"Sec. 6308. Presidential findings and determinations.
"Sec. 6309. Reports regarding recipient expenditures for military purposes.

"TITLE VII—GENERAL PROVISIONS

"CHAPTER 1—EXERCISE AND COORDINATION OF FUNCTIONS

"Sec. 7101. Delegations by the President.
"Sec. 7102. Designation of administering agency for title I.
"Sec. 7103. Authority to establish missions abroad.
"Sec. 7104. Coordination of United States policies and programs affecting development.

"CHAPTER 2—ADMINISTRATIVE AUTHORITIES

"Sec. 7201. Allocation of funds and reimbursement among agencies.
"Sec. 7202. General authorities.
"Sec. 7203. Authorized administrative uses of funds.

"CHAPTER 3—SPECIAL REQUIREMENTS AND AUTHORITIES RELATING TO APPROPRIATIONS AND LOCAL CURRENCIES

"Subchapter A—Provisions Relating to Appropriations

"Sec. 7301. Requirement for specific authorization of appropriations.
"Sec. 7302. Authority for extended period of availability of appropriations.
"Sec. 7303. Reduction of earmarks.

"Subchapter B—Local Currencies

"Sec. 7321. Special accounts for and use of host-country owned local currencies.
"Sec. 7322. Use of certain foreign currencies owned by the United States.
"Sec. 7323. Interest on foreign currency proceeds.
"Sec. 7324. Use of local currencies.
"Sec. 7325. Interest on local currency accruing to nongovernmental organizations.

"CHAPTER 4—PROCUREMENT AND DISPOSITION OF COMMODITIES AND DEFENSE ARTICLES

"Sec. 7401. Use of private enterprise.
"Sec. 7402. Procurement standards and procedures.
"Sec. 7403. Shipping on United States vessels.
"Sec. 7404. Excess and other available property.
"Sec. 7405. Retention and use of certain items and funds.
"Sec. 7406. Laws relating to contracts and government expenditures.
"Sec. 7407. Transportation charges incurred by the Red Cross or private voluntary organizations.

"CHAPTER 5—PERSONNEL

"Sec. 7501. Statutory officers in economic assistance agency.
"Sec. 7502. Employment of personnel.
"Sec. 7503. Experts, consultants, and retired officers.
"Sec. 7504. Detail of personnel to foreign governments and international organizations.
"Sec. 7505. Chief of economic assistance mission abroad.
"Sec. 7506. Chairman of OECD Development Assistance Committee.
"Sec. 7507. Assignment of DOD personnel to civil offices.
"Sec. 7508. Discrimination against United States personnel providing assistance.

"CHAPTER 6—MISCELLANEOUS PROVISIONS

"Sec. 7601. Definitions.".

The CHAIRMAN pro tempore. Are there any amendments to section 3?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—ECONOMIC ASSISTANCE

SEC. 101. REVISION OF ECONOMIC ASSISTANCE PROGRAMS.

The Foreign Assistance Act of 1961 is amended by striking out part I and inserting in lieu thereof the following:

"TITLE I—ECONOMIC ASSISTANCE

"CHAPTER 1—ECONOMIC ASSISTANCE POLICIES

"SEC. 1101. FINDINGS AND DECLARATIONS OF POLICY CONCERNING ECONOMIC ASSISTANCE PROGRAMS GENERALLY.

"(a) REASONS FOR ECONOMIC ASSISTANCE.—The Congress finds and declares as follows:

"(1) Fundamental and pervasive economic, political, and technological changes have resulted in the growing interdependence of countries and have created an increasing awareness in the United States and around the world of the need for all countries to participate in efforts to promote broad based, sustainable development.

"(2) The economic prosperity and security of the people of the United States and of the world are best maintained and enhanced in an international community that respects individual civil and political rights and economic freedoms, provides for fundamental human needs, works to use wisely the world's limited resources in a sustainable manner, and works toward the achievement of economic well-being for all people.

"(3) Economic assistance authorized by this title reflects the traditional humanitarian ideals of the American people and a commitment—

"(A) to assist in the elimination of hunger, poverty, illness, and ignorance in developing countries, and

"(B) to help alleviate the suffering brought about by natural and manmade disasters.

"(4) The efforts of developing countries to build and maintain the social, political, and economic institutions necessary to achieve self-sustaining growth and to provide opportunities to improve the quality of life for their people depend primarily upon successfully marshalling their own economic and human resources. The Congress recognizes that the magnitude of these efforts exceeds the resources of developing countries and therefore accepts that there will be a long-term need for wealthy countries to contribute additional resources for development purposes. The United States should take the lead in concert with other nations to mobilize such resources from public and private sources.

"(b) NEED FOR COORDINATED APPLICATION OF RESOURCES.—The Congress recognizes that successful achievement of the four basic objectives set forth in section 1102 depends on the coordinated application of resources. Accordingly, the President should—

"(1) develop and implement a coordinated international economic and development policy and program of action designed to make progress toward the achievement of those objectives, bringing to bear all relevant activities of the United States Government, including policies concerning international trade and debt, contributions to multilateral development banks, policies concerning international monetary issues, and policies in such areas as agriculture, the environment, and health; and

"(2) work with other donor countries and institutions to coordinate international development programs and policies.

"SEC. 1102. BASIC OBJECTIVES OF ECONOMIC ASSISTANCE PROGRAMS AND UNITED STATES DEVELOPMENT COOPERATION POLICY.

"(a) FOUR BASIC OBJECTIVES.—The primary purpose of United States economic assistance is the promotion of broad based, sustainable, participatory development, with particular focus on the poor. In pursuit of that purpose, economic assistance programs to the extent specified in this Act, and United States economic cooperation policy generally, shall have the following four basic objectives, which are interrelated and mutually reinforcing:

"(1) SUSTAINABLE ECONOMIC GROWTH.—Promotion of broad based economic growth.

"(2) SUSTAINABLE RESOURCE MANAGEMENT.—Improvement of resource management designed to bring about environmentally and economically sustainable patterns of development.

"(3) POVERTY ALLEVIATION.—Alleviation of the worst manifestations of poverty through the development of human resource capacity.

"(4) DEMOCRACY.—Promotion of democracy, respect for human rights, and social and economic pluralism.

"(b) SUSTAINABLE ECONOMIC GROWTH.—

"(1) RATIONALE.—Broad based, sustainable economic growth is in the interest of the United States because it permits countries to progress toward economic self-reliance, to improve the living standards of their citizens, and to increase international markets for trade and investment. Market-oriented economic growth establishes the basis for sustainable development and reinforces democratic ideals and practices. Successful long-term development cannot occur without broad based, sustainable economic growth that enables the poor to increase their incomes and access to productive resources and services so that they can satisfy their basic needs and lead lives of decency, dignity, and hope.

"(2) ELABORATION ON OBJECTIVE.—(A) Implementation of the objective of promoting broad based economic growth should recognize that economic, social, political, and environmental conditions vary among countries. While taking account of such differences, the economic assistance programs carried out in furtherance of the four basic objectives set forth in this section shall emphasize the following principles:

"(i) Security of economic rights for all citizens without regard to sex, race, religion, language, or social status, including the right to own property, the right to fair return from one's labor, and the right to engage in productive use of available assets.

"(ii) Economic policies based on free market principles as a means for establishing prices and for allocating goods and services.

"(iii) Economic reforms that benefit or are sensitive to and minimize adverse impact on the poor.

"(iv) Market base reforms—deregulation, privatization, labor market reform, reduction in barriers to the free flow of trade and investment—which increase the opportunity for all, especially the poor, to participate in economic activity.

"(v) Government policies protecting economic rights, fair and open markets, and the fulfillment of basic human needs.

"(vi) Adherence by governments to international economic agreements, particularly those relating to free and fair trade practices and to respect for worker rights.

"(B) A primary test of the effectiveness of economic assistance programs designed to promote broad based economic growth is the extent to which the poor and disenfranchised can participate in and benefit from these programs and are thereby brought into the development process.

"(c) SUSTAINABLE RESOURCE MANAGEMENT.—

"(1) RATIONALE.—The economic and social well-being and the security of the United States and other countries are affected by how the world's environment and physical resource base are managed. Consumption patterns, systems of industrial and agricultural production, demographic trends, and the manner of use of natural resources all impact on the opportunities for long-term development and growth and survival for all countries. Both developed and developing countries share responsibility for the rational and sustainable management of natural resources.

Responsible management of physical resources is necessary to insure the availability of resources for future generations and to assure that the burdens of improved resource management do not fall disproportionately on the poor.

"(2) ELABORATION OF OBJECTIVE.—(A) Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Economic assistance programs authorized by this title should assist countries to adopt policies and programs that promote ecologically sound patterns of growth. Improved resource management tailored to the conditions and capabilities of the particular developing countries should be an integral part of all planning, programming, and reporting activities with respect to economic assistance.

"(B) Sustainable resource management should be promoted through the establishment and implementation of public policies and programs that provide incentives for better long-term management of resources and private and public investment toward resource-conserving technologies of production in energy, agricultural, and industrial production. To achieve this objective will entail, among other things—

"(i) more efficient and resource-conserving systems of sustainable agricultural production, with special emphasis on rain-fed agriculture;

"(ii) greater attention to forestry management for sustainable yields, agroforestry, reforestation, and watershed conservation, including better resource monitoring and assessment systems;

"(iii) improved water use management, including watershed protection, sustainable and efficient irrigation projects, and efforts to reduce costs and improve delivery of potable water and sanitation systems for both urban and rural areas;

"(iv) more systematic collection, preservation, and sharing of original and evolved plant and animal genetic material, including preservation of ecosystems and natural habitats;

"(v) attention to more efficient management of existing energy systems, to the promotion of increased use of least-cost energy resource planning procedures, and to the development of economically viable and more efficient systems of energy production and consumption that seek to maximize resource conservation;

"(vi) attention to resource conserving systems of urban development and industrialization that make efficient use of energy and natural resources, minimize the adverse effects of air and water pollution, facilitate safe waste disposal, including toxic wastes, and provide for improved environmental health and safety of the urban and surrounding rural populations;

"(vii) efforts to analyze and to reduce manmade contributions to changes in the global climate, including factors that may be contributing to global warming in the Earth's atmosphere; and

"(viii) greater attention to the relationships among demographic pressures, poverty, and environmental degradation.

"(C) Growth that is not environmentally sustainable cannot be economically sustainable in the long run. Improved resource management is a critical element of a balanced pattern of development.

"(d) POVERTY ALLEVIATION.—

"(1) RATIONALE.—It is in the interest of the United States to assist developing countries to achieve patterns of growth and development that will measurably and sustainably alleviate the worst manifestations of poverty in rural and urban areas and allow all people, especially those with low incomes, to lead economically and socially productive lives. As a people endowed with a spirit of humanitarian generosity, United States citizens have long demonstrated a moral imperative to help those in need. Further, peace and stability in the world cannot be achieved without economic development that also alleviates the worst manifestations of poverty.

"(2) ELABORATION OF OBJECTIVE.—(A) Broad based economic growth is necessary for the alleviation of the worst manifestations of poverty. Conversely, neither growth nor the alleviation of poverty can be sustained unless all people, especially the poor, have the basic assets and capabilities that foster the exercise of choice and participation in the economic, social, and political life of the country. Women, female children, and children of poor people have been especially disadvantaged in their access to these assets. Governments, together with nongovernmental organizations and international and multilateral organizations, should give special attention to alleviating the worst manifestations of poverty among these groups. Long-term poverty alleviation depends on patterns of broad based economic growth and the productivity generated by investments in the expansion of human well-being, capacity, and choice.

"(B) To achieve the objective of alleviating the worst manifestations of poverty will entail, among other things—

"(i) the expansion of education to all segments of the society, with particular attention to universal access to basic education, to sustainable improvement in the quality and diversity of educational opportunity, and to female education at all age levels;

"(ii) improvement in coverage, quality, and sustainability of health services, with special emphasis on universal access to primary health care, epidemiological detection and prevention programs, and sustainable systems of health care for mothers and children;

"(iii) a consistent program of support for systematic expansion of voluntary family planning services, with special emphasis on the role of the private voluntary and commercial sectors as providers of such services and on the development of more effective, acceptable family planning technologies appropriate to the conditions of developing countries;

"(iv) support for activities that enhance secure access of all to adequate food and nutrition derived from sustainable agricultural production, including the effectiveness and development contribution of food assistance made available under the Agricultural Trade Development and Assistance Act of 1954 and other food assistance programs; and

"(v) support for activities that enhance universal access to safe drinking water, basic sanitation, and basic shelter necessary for health.

"(e) DEMOCRACY.—

"(1) RATIONALE.—The promotion of democracy throughout the world is in the basic interest of the United States. Democratic development, political pluralism, and respect for internationally recognized human rights are intrinsically linked to economic and social progress. Democracy can only be sustained in a society in which the legitimacy of the government rests firmly on the expressed consent of the governed; the rights of all citizens, including minorities, are respected and protected; and there is effective civilian control over the military and security forces. It is in the interest of the United States and in keeping with our democratic traditions to support democratic aspirations and values, foster the spread of democratic institutions, and encourage universal respect for civil and political liberties.

"(2) ELABORATION ON OBJECTIVE.—(A) Furtherance of the basic objective of democracy requires that the United States promote—

"(i) the ability of all citizens of a country to organize and associate freely and independently of the government;

"(ii) the ability of all citizens to freely choose their government, to hold that government accountable, and to participate in political life;

"(iii) increased respect for internationally recognized human rights and the rule of law;

"(iv) respect for the diversity among the citizens of a country; and

"(v) acceptance of and respect for civilian authority by all elements of society.

"(B) An essential ingredient of development is the growth of indigenous nongovernmental organizations that are committed to democratic values and active in the promotion of democracy. United States efforts to foster democratic pluralism and build democratic institutions are most likely to create enduring bonds of democratic cooperation when United States nongovernmental organizations are involved in strengthening the capacity of nongovernmental organizations in other countries.

"(C) Democracy requires honest and open participatory government. United States assistance should help governments to establish processes of accountability and transparency to eliminate corruption and abuses of power and assist nongovernmental organizations to develop the capability to monitor the government's performance.

"(f) CROSS-CUTTING ELEMENTS.—The following key elements are applicable to the design and implementation of economic assistance programs to promote the four basic objectives set forth in subsection (a):

"(1) PARTICIPATION AND CONSULTATION.—Development is a process of change that requires the best possible information and judgment about the needs, capabilities, and aspirations of those most affected, either as participants in the delivery of assistance or as beneficiaries of assistance. For development to be broad based and sustainable, it is imperative to consult with, and fully engage in the policy and program planning process of, the governmental and nongovernmental organizations representative of and knowledgeable about local people and their interests. It is critical to involve beneficiaries in the assessment of the social, economic, and environmental impact of development projects and programs. Use of local nongovernmental organizations is an effective means to accomplish this objective.

"(2) WOMEN IN DEVELOPMENT.—The expansion of women's economic opportunities is essential to alleviate poverty and to bring about effective broad based, sustainable development. Women must be an integral part of all aspects of any development program. The active involvement of women in economic, political, and social activities is necessary to promote democracy and to assure sustainable development. Women must participate in development as agents of change, not merely as recipients and beneficiaries of change. Women should, therefore, be integrally involved in policies, programs, and projects undertaken to achieve the objectives set forth in subsection (a).

"(3) NONGOVERNMENTAL COOPERATION IN DEVELOPMENT.—(A) Nongovernmental organizations (including private voluntary organizations, cooperatives, and credit unions) provide important mechanisms to increase the participation of rural and urban poor people in broad based sustainable development efforts and in the building of more pluralistic and open societies. The contributions of United States and indigenous nongovernmental organizations that represent and involve indigenous groups and communities should be fully utilized in meeting the four basic objectives set forth in subsection (a).

"(B) Cooperatives, credit unions, and other United States and indigenous nongovernmental organizations provide an opportunity for people to participate directly in democratic decisionmaking for their economic and social benefit through ownership and control of business enterprises and through the mobilization of local capital and savings. Such organizations should be fully utilized in fostering free market principles and the adoption of self-help approaches to development.

"(C) Nongovernmental organizations participating in the furnishing of assistance under this title should have a grassroots base and receive a significant portion of their financial support from other than government sources.

"(4) APPROPRIATE TECHNOLOGY.—The United States can make a significant contribution to development through the application of its vast array of technology. The President must ensure that such technology is appropriate for the level of development and factors of production prevalent in a particular country. In promoting such appropriate technology, the President should focus particularly on the capabilities of the private sector.

"(5) COLLABORATION.—The capabilities of many developing countries have evolved sufficiently that their institutions can collaborate on an equal basis with institutions in developed countries. At the same time, transnational threats that endanger political, economic, social, and environmental well-being require collaborative efforts among developed and developing countries. United States economic assistance should increasingly be focused on efforts to strengthen institutions in developing countries so that they may become partners in mutual international efforts to address transnational threats. United States collaborative programs should include association with institutions in advanced developing countries.

"(6) UTILIZATION OF UNITED STATES INSTITUTIONAL CAPABILITIES.—Programs and projects undertaken to achieve the basic objectives set forth in subsection (a) should recognize and take advantage of United States capabilities in science and technology and in access to education and training in United States colleges, universities, and technical training facilities. Long-term collaboration between public and private institutions of science, technology, and education in the United States and developing countries should be promoted and encouraged, with emphasis on increasing professional capabilities in developing countries for the provision of technical assistance in activities supported by the United States.

"(7) HUMAN RIGHTS.—United States economic assistance programs and policies, while encompassing due respect for differences in cultural values and national histories, should reflect the United States commitment, in keeping with its constitutional heritage and traditions and in accordance with its international obligations as set forth in the Charter of the United Nations, to promote and encourage increased respect for human rights and fundamental freedoms (as set forth in the Universal Declaration of Human Rights) throughout the world without regard to sex, race, language, religion, or social status.

"(g) EFFECTIVE USES OF ASSISTANCE.—

"(1) BENEFICIARY COUNTRIES.—Assistance furnished under this title should be concentrated in countries that will make the most effective use of that assistance in promoting the four basic objectives set forth in subsection (a).

"(2) ASSISTANCE WITHIN COUNTRIES.—Activities should be undertaken in regions of recipient countries that offer potential for successful development and should not be undertaken if the relevant sector or national economic policies of the country are clearly unfavorable to the sustainability or broadest possible impact of the assisted program or project.

"(3) TYPES OF ACTIVITIES.—Assistance should focus on those types of activities that the United States can provide most effectively.

"(4) CHILD SURVIVAL PRIORITY COUNTRIES.—(A) The President shall establish programs in support of health for all (such as health care initiatives, child survival activities, access to potable water and basic sanitation, and basic nutrition, including nutrition programs under the Agricultural Trade Development and Assistance Act of 1954) in each child survival priority country with which the United States has an ongoing program of development assistance or assistance from the Development Fund for Africa. The preceding sentence shall not apply in a fiscal year if the President submits to the appropriate congressional committees, before the beginning of such fiscal year, a detailed rationale for not including such programs in the programs of assistance for such child survival priority country.

"(B) A country shall be considered to be a child survival priority country for purposes of subparagraph (A) if the mortality rate in that country for children under 5 years of age is greater than 70 per 1,000 live births.

"(5) BASIC EDUCATION PROGRAMS.—(A) The President shall establish programs in support of basic education (including early childhood education, primary education, teacher training, other necessary activities in support of early childhood and primary education, and literacy training for adults) in each basic education priority country with which the United States has an ongoing program of development assistance or assistance from the Development Fund for Africa. The preceding sentence shall not apply in a fiscal year if the President submits to the Congress, before the beginning of such fiscal year, a detailed rationale for not including such programs in the programs of assistance for such basic education priority country.

"(B) A country shall be considered to be a basic education priority country for purposes of subparagraph (A) if fewer than 80 percent of primary school-age children in that country complete primary education.

"CHAPTER 2—DEVELOPMENT ASSISTANCE

"Subchapter A—Development Assistance Authorities

"SEC. 1201. ASSISTANCE FOR DEVELOPMENT NEEDS.

"(a) AUTHORIZATION.—The President shall use the authorities of this section to provide assistance, in furtherance of the basic objectives set forth in section 1102, to meet long-term development needs in developing countries.

"(b) FORMS OF ASSISTANCE.—The assistance authorized by this section shall be furnished as project and program assistance.

"(c) PURPOSE OF ASSISTANCE.—The authorities provided in subsection (d) shall be used in furnishing development assistance under this chapter to support a process of long-term development and economic growth in urban and rural areas of developing countries that is broad based, participatory, and sustainable, with particular focus on the poor.

"(d) GENERAL AUTHORITIES.—The President is authorized to provide development assistance to promote the following:

"(1) Economic policies that advance the four basic objectives set forth in section 1102, taking into account the need to protect vulnerable groups.

"(2) Increased agricultural productivity, especially food production and processing.

"(3) Improved health conditions, preventive care programs, and self-sustaining primary health care systems, with special emphasis on meeting the needs of mothers and children, including increased access to maternal, prenatal, and neonatal health care initiatives.

"(4) Child survival activities utilizing simple, available technologies that can reduce childhood morbidity and mortality, such as improved and expanded immunization programs, oral rehydration to combat diarrheal diseases, and education programs aimed at improving nutrition and sanitation and at promoting child spacing.

"(5) Prevention and control of acquired immune deficiency syndrome (AIDS), with a special emphasis on community-based education programs focused on changing attitudes and behavior.

"(6) Activities to address the health, education, nutrition, and other special needs of displaced children who have been abandoned or orphaned as a result of poverty or man-made or natural disaster.

"(7) Voluntary population planning, including increased access to voluntary family planning services.

"(8) Improved quality and increased availability of educational opportunities, through both formal and informal mechanisms, especially universal access to basic education.

"(9) Environmentally sound, sustainable resource management, including projects in agricultural production and processing, forestry management, land and water management, and preservation of biological diversity.

"(10) Increased respect for internationally recognized human rights and the rule of law.

"(11) Improved performance of institutions of democratic governance, and the growth of independent associations.

"(12) More efficient energy systems, including energy efficiency improvements and the use of small-scale renewable energy technologies, and the use of least-cost energy resource planning to minimize total system costs, including costs to the environment.

"(13)(A) Expanded improvements in the physical and economic infrastructure of developing countries, including expanded availability and improvements in the quality of basic infrastructure, such as shelter, water, and electricity,

"(B) developmentally sound trade and commercial opportunities for continued United States involvement and participation in infrastructure assistance,

"(C) increased use of United States technical expertise, primarily in the private sector, in carrying out subparagraphs (A) and (B), in order to improve preproject planning and environmental impact assessments of projects, and otherwise; and

"(D) continued monitoring of the provision of infrastructure assistance to ensure that it conforms to the four basic objectives set forth in section 1102.

"(14) The development of income-generating opportunities, with special emphasis on the promotion of small and micro-enterprises.

"(15) Improved management accountability of public and private institutions.

"(16) Basic and applied research relevant to overcoming constraints to broad based, sustainable development.

"(17) Research and projects to devise and support new strategies to attack transnational threats that endanger the security and social and economic well-being of individual nations of the global community.

"(18) Programs to increase awareness of the effects of the production of and trafficking in narcotics and psychotropic drugs and other controlled substances and to reduce illicit cultivation of such drugs and other substances by stimulating broader development opportunities.

"(19) Other means of promoting the objectives set forth in section 1102.

"SEC. 1202. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $1,077,000,000 for fiscal year 1992 and $1,027,000,000 for fiscal year 1993.

"SEC. 1203. FUNDING FOR HEALTH, CHILD SURVIVAL, AIDS, AND VITAMIN A DEFICIENCY ACTIVITIES.

"(a) Health, Child Survival, and AIDS.—

"(1) Aggregate earmark.—Of the funds authorized to be appropriated by section 1202, not less than $327,000,000 for each of the fiscal years 1992 and 1993 shall be available only to carry out paragraphs (3), (4), and (5) of section 1201(d).

"(2) Funding targets.—The Administrator should target not less than the following amounts of the funds authorized to be appropriated by section 1202 for each of the fiscal years 1992 and 1993 for assistance under the following paragraphs of section 1201(d):

"(A) $135,000,000 to carry out paragraph (3), relating to health.

"(B) $130,000,000 to carry out paragraph (4), relating to child survival activities.

"(C) $62,000,000 to carry out paragraph (5), relating to acquired immune deficiency syndrome (AIDS) prevention and control.

"(b) Vitamin A Deficiency.—

"(1) Findings.—The Congress finds that vitamin A deficiency is a major cause of childhood mortality. The Congress recognizes that increasing vitamin A consumption is inexpensive, practical, and cost-effective in terms of human productivity.

"(2) Funding.—Of the funds authorized to be appropriated by section 1202, not less than $12,000,000 for fiscal year 1992 and not less than $15,000,000 for fiscal year 1993 shall be made available only for reducing vitamin A deficiency.

"SEC. 1204. ASSISTANCE FOR POPULATION PLANNING.

"(a) Population Planning Assistance.—In order to increase the opportunities and motivation for family planning and to reduce the rate of population growth, assistance under this chapter shall include assistance for voluntary population planning.

"(b) Authorization of Appropriations.—There are authorized to be appropriated to the President to carry out this section $300,000,000 for fiscal year 1992 and $350,000,000 for fiscal year 1993, in addition to any other amounts made available under this Act for such purpose.

"(c) Limitation on Diversion of Population Funds to Other Purposes.—In implementing requirements or authorities to provide assistance from funds appropriated to carry out this chapter or this title, the amount available to carry out subsection (a) pursuant to the authorizations provided in subsection (b) shall not be reduced by a greater proportion than the amount available to carry out section 1201 pursuant to the authorizations provided in section 1202.

"SEC. 1205. FUNDING FOR THE UNITED NATIONS POPULATION FUND.

"Of the funds appropriated under section 1204(b), $20,000,000 or 16 percent of the amount appropriated (whichever is less) shall be available only for the United Nations Population Fund, subject to the following conditions:

"(1) The United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds.

"(2) None of these funds shall be made available for programs for the People's Republic of China.

"(3) Any agreement entered into by the United States and the United Nations Population Fund to obligate these funds shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning programs in the People's Republic of China or for abortions in any country.

"SEC. 1206. NONGOVERNMENTAL ORGANIZATION FAMILY PLANNING ASSISTANCE ACTIVITIES.

"Funds made available to carry out this title or chapter 1 or chapter 2 of title V that are made available for population activities shall not be denied to nongovernmental organizations or multilateral organizations on the basis of any criterion that is not applicable to foreign governments that receive such funds.

"Subchapter B—Special Focus Programs and Activities

"SEC. 1221. ASSISTANCE FOR HUMAN RIGHTS AND DEMOCRATIC INITIATIVES.

"(a) Authorization and General Purposes of Assistance.—The President may use funds made available for development assistance, economic support assistance, and assistance from the Development Fund for Africa to furnish assistance to support the programs and activities described in subsection (b) in order to—

"(1) promote increased adherence to internationally recognized human rights, as set forth in the Universal Declaration of Human Rights;

"(2) improve the performance of institutions of democracy; and

"(3) otherwise promote democracy pursuant to section 1102.

"(b) Programs and Activities That May Be Supported.—Funds made available under this section shall be available to support the following:

"(1) Programs and activities to enhance the independence and performance of institutions of democratic governance, including support for judicial, electoral, and legislative processes.

"(2) Programs and activities—

"(A) to encourage the growth of independent associations by strengthening professional, civic, trade union, business, community, and other organizations, and

"(B) to enhance the organizational and leadership skills of the members of such organizations in order to increase citizen participation in democratic processes.

"(3) Programs and activities to increase awareness of internationally recognized human rights (including by increasing the availability of information concerning the status of respect for internationally recognized human rights), improve the effective exercise of those rights, and strengthen respect for the rule of law.

"(4) Programs and activities—

"(A) to support victims of abuses of internationally recognized human rights, including—

"(i) the direct provision of legal services, and

"(ii) the provision of rehabilitation services for victims of torture; and

"(B) to support organizations and institutions seeking to bring to justice those responsible for perpetrating such abuses.

"(5) Programs and activities to support a free and independent press.

"(6) Programs and activities to—

"(A) provide specialized professional training, scholarships, and exchanges for continuing legal education;

"(B) promote the role of the bar in judicial selection, enforcement of ethical standards, and legal reform; and

"(C) increase the availability of legal materials and publications.

"(7) Programs and activities to develop the institutional capacities of legislative bodies.

"(8) Programs and activities to support the revision and modernization of legal codes and procedures, including support for legislative bodies to assist them in accomplishing those ends.

"(c) Eligible Recipients of Assistance.—Assistance under this section may be furnished to countries and organizations, both public and nongovernmental, including national, regional, and international organizations. A substantial portion of the funds made available each fiscal year to carry out this section shall be used for assistance provided to nongovernmental organizations.

"(d) Prohibition Relating to Elections.—Assistance under this section may not be used to influence the outcome of any election in any country.

"(e) Limitation on Use of Certain Funds.—Funds made available for assistance under the Development Fund for Africa may be used under this section only with respect to countries in sub-Saharan Africa.

"SEC. 1222. DEVELOPMENT EDUCATION.

"The President may use funds made available for development assistance, economic support assistance, or assistance from the Development Fund for Africa to support development education programs, with emphasis on those conducted by private voluntary organizations and cooperatives, in order to assist in the education of United States citizens about developing countries, the development process, and the importance to the United States of developing countries.

"SEC. 1223. STRENGTHENING THE CAPACITY OF NONGOVERNMENTAL ORGANIZATIONS, INCLUDING RESEARCH AND EDUCATIONAL INSTITUTIONS.

"The President may use funds made available for development assistance, economic support assistance, or assistance from the Development Fund for Africa to furnish assistance to nongovernmental organizations, including research and educational institutions, in the United States and abroad for the purpose of strengthening their capacity to develop and carry out programs concerned with the economic and social development of developing countries.

"SEC. 1224. MICROENTERPRISE DEVELOPMENT.

"(a) FINDINGS.—The Congress makes the following findings and declarations:

"(1) More than a billion people in the developing world are living in poverty, with incomes of less than $370 a year.

"(2) According to the World Bank, mortality for children under 5 averaged 121 per thousand for all developing countries.

"(3) Nearly 40,000 children die each day from malnutrition and disease.

"(4) Poor people themselves can lead the fight against hunger and poverty through the development of self-sustaining microenterprise projects.

"(5) Women in poverty generally are less educated, have a larger workload, and have less access to economic opportunity than their male counterparts. Directly aiding women in the developing world has a positive effect on family incomes, child nutrition, and health and education.

"(6) Microenterprise development offers the opportunity for the poor to play a central role in undertaking strategies for small scale, self-sustaining businesses that can bring them out of poverty.

"(7) The World Bank estimates that there are over 400,000,000 self-employed poor in the developing world and projects that, by the year 2020, 95 percent of African workers will be employed in the informal sector.

"(8) For many people, lack of credit creates an obstacle to the development of self-sustaining enterprises.

"(9) Projects like the Grameen Bank of Bangladesh, the Badan Kredit Kecamatan in Indonesia, and ADEMI in the Dominican Republic have been successful in promoting credit programs that have lent money directly to the poor. Repayment rates in these programs are 95 percent or higher indicating that it is possible to 'bank on the poor'.

"(10) The Agency for International Development has been a leader in small and microenterprise development in the past 20 years.

"(11) The Congress earmarked funds for fiscal years 1988, 1989, 1990, and 1991 for microenterprise development activities and has called upon the Agency for International Development to take steps to ensure that its microenterprise activities included a credit component designed to reach the poorest sector of the developing world.

"(12) In 1989, the Agency for International Development created the Office of Small and Microenterprise Development within the Bureau for Private Enterprise to lead and coordinate the Agency's microenterprise efforts.

"(13) In March 1990, the Agency for International Development reported that new spending for microenterprise development was $58,800,000 for 1988 and $83,300,000 for 1989 and that the average loan size for the credit component of the program averaged $329 for 1988 and $387 for 1989. However, less than 10 percent of the spending for the 1988 program, and less than 7 percent of the spending for the 1989 program, was for loans of under $300.

"(14) A February 1991 report by the General Accounting Office indicated that data in that March 1990 report was of 'questionable validity' and that the Agency for International Development did not have a system to track detailed information concerning its microenterprise credit activities. Furthermore, the General Accounting Office found that none of the 3 missions that it visited targeted their microenterprise projects specifically to women or to the poorest 20 percent of the population, as recommended by the Congress.

"(15) The Congress recognizes that provision of credit alone may not be sufficient to generate opportunities for successful microenterprise development and that assistance focused in the areas of institutional development, technical assistance, training, and policy reform may also be appropriate for assisting microenterprise development.

"(16) The Agency for International Development has indicated its willingness to explore the idea of holding a series of regional workshops on microenterprise development. The Congress encourages the Agency to include in these workshops opportunities for training Agency personnel and United States and indigenous private voluntary organizations in activities designed to reach the poorest of the poor.

"(b) PURPOSES.—The purposes of this section are—

"(1) to provide for the continuation and expansion of the commitment of the Agency for International Development to microenterprise development;

"(2) to increase the amount of assistance going to credit activities designed to reach the poorest sector in developing countries; and

"(3) to increase the percentage of such credit that goes to women beneficiaries.

"(c) GENERAL AUTHORITY.—The President, acting through the Administrator, is authorized to provide assistance for programs of credit and other assistance for microenterprises in developing countries. In addition to providing financial resources for direct credit activities of indigenous financial intermediaries, assistance under this section may include assistance for institutional development of such intermediaries (including assistance to enable private voluntary organizations to develop the capability to serve as financial intermediaries), technical assistance, training, and policy reform. Microenterprise credit and related activities assisted under this section shall be carried out primarily through those indigenous financial intermediaries and private voluntary organizations that are oriented toward working directly with the poor and women.

"(d) ELIGIBILITY CRITERIA FOR FINANCIAL INTERMEDIARIES.—The mission of the administering agency for this title that is responsible for a country receiving assistance under this section shall establish criteria for determining the financial intermediaries that will receive assistance under this section, taking into account the following:

"(1) The extent to which the recipients of credit from the intermediary lack collateral.

"(2) The extent to which the recipients of credit from the intermediary do not have access to the local formal financial sector.

"(3) The extent to which the recipients of credit from the intermediary have relatively limited amounts of fixed assets.

"(4) The extent to which the recipients of credit from the intermediary are among the poorest people in the country.

"(5) The extent to which interest rates charged by the intermediary on loans reflect the real cost of lending.

"(6) The extent to which the intermediary reaches women as recipients of credit.

"(7) The extent to which the intermediary is oriented toward working directly with the poor and women.

"(e) LOWER TIER FOR POVERTY LENDING ACTIVITIES.—A significant portion of the amount made available each fiscal year to carry out this section shall be used to support direct credit assistance by, and the institutional development of, those financial intermediaries with a primary emphasis on assisting those people living in absolute poverty, especially women.

"(f) FOCUS ON WOMEN.—The Office of Small and Microenterprise Development in the administering agency for this title shall include in its annual action plans a strategy for increasing the access of women in developing countries to credit and other microenterprise development activities, with the goal of increasing to at least 50 percent the percentage of microenterprise credit that goes to women beneficiaries. This strategy shall be developed in consultation with the agency's Women in Development Office.

"(g) FUNDINGS SOURCES.—Funds to carry out this section shall be derived from the following sources:

"(1) Funds available for development assistance.

"(2) Funds available for assistance from the Development Fund for Africa.

"(3) Funds available for economic support assistance.

"(4) Local currency proceeds resulting from the provision of development assistance, assistance from the Development Fund for Africa, or economic support assistance.

"(5) Local currency proceeds available for use under section 306(a) of the Agricultural Trade Development and Assistance Act of 1954 (as amended by section 1512 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624)).

"(6) Local currency proceeds resulting from assistance provided under the Agricultural Trade Development and Assistance Act of 1954 as in effect immediately before the effective date of the amendment made by section 1512 of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(7) Local currency generated under subsection (h).

"(h) AUTHORITY TO GENERATE LOCAL CURRENCIES.—In order to generate local currencies for use in providing assistance under this section, the President is authorized to use funds made available for development assistance, economic support assistance, or assistance from the Development Fund for Africa to provide assistance to the governments of developing countries on a loan basis repayable in local currencies, at a rate of exchange to be negotiated by the President and the foreign government. Such loans shall have a rate of interest and a repayment period determined by the President.

"(i) NONAPPLICABILITY OF CERTAIN LAWS.—Local currencies used under subsection (g)(7) shall not be subject to the requirements of section 1306 of title 31, United States Code, or other laws governing the use of foreign currencies owned by, owed to, or accruing to the United States.

"(j) Funding Levels for Fiscal Years 1992 and 1993.—

"(1) Minimum level of assistance.—The Administrator shall use not less than $85,000,000 for fiscal year 1992, and not less than $85,000,000 for fiscal year 1993, for microenterprise assistance pursuant to this section.

"(2) Assistance for the poorest sectors.—

"(A) Minimum funding level.—Of the amounts used pursuant to paragraph (1), not less than $20,000,000 for fiscal year 1992 and not less than $30,000,000 for fiscal year 1993 shall be used to support loans having a purchasing power equal to or less than $300 (in United States dollars).

"(B) Initial loans.—Of the loans supported pursuant to subparagraph (A), initial loans to microenterprises should, to the maximum extent practicable, have a purchasing power equal to or less than $150 (in United States dollars).

"(C) Criteria for attribution to funding requirements.—In addition to amounts made available for direct credit activities involving loans described in subparagraph (A) or (B), amounts used for institutional development of a financial intermediary described in subsection (e) shall be considered to support such loans for purposes of that subparagraph to the same extent as the aggregate amount loaned by such institution represents loans described in that subparagraph.

"(3) Use of local currencies.—In order to meet the funding requirements of this subsection, local currencies described in subsection (g) may be used in lieu of an equivalent amount of dollars.

"(k) Monitoring.—The Administrator shall develop a monitoring system to evaluate the microenterprise development activities of the administering agency for this title, including their effectiveness in reaching the poor and women and their overall impact on economic development in each beneficiary developing country. In developing this system, the Administrator shall consult with the appropriate congressional committees and with appropriate private voluntary organizations.

"(l) Reports to Congress.—The Administrator shall report to the Congress annually on the microenterprise development activities of the administering agency for this title, including the agency's strategy for complying with the minimum funding requirements of subsections (j) (1) and (2).

"SEC. 1225. PRIVATE VOLUNTARY ORGANIZATION ACTIVITIES.

"(a) Findings.—The Congress finds that the participation of rural and urban poor people in the activities to be carried out to promote the basic objectives set forth in section 1102 can be assisted and accelerated in an effective manner through an increase in activities carried out by private voluntary organizations and cooperatives.

"(b) Funding.—Of the funds authorized to be appropriated for development assistance and assistance from the Development Fund for Africa, not less than $275,400,000 for fiscal year 1992 and not less than $275,400,000 for fiscal year 1993 shall be made available for the activities of private voluntary organizations that promote the basic objectives set forth in section 1102.

"Subchapter C—Other Authorities and Requirements

"SEC. 1241. IMPACT OF DEVELOPMENT ASSISTANCE ON ENVIRONMENT AND NATURAL RESOURCES.

"(a) Impact Assessment.—The President, in implementing programs and projects under this chapter and under chapter 1 of title V (relating to Development Fund for Africa), shall take fully into account the impact of such programs and projects upon the environment and natural resources of developing countries. Subject to such procedures as the President considers appropriate, the President shall require all agencies and officials responsible for such programs or projects—

"(1) to prepare and take fully into account an initial environmental examination of every program or project to ensure that environmental considerations are integrated as early as possible into project conception and design and to ensure that each project is environmentally sustainable;

"(2) to prepare and take fully into account an environmental impact statement for any program or project significantly affecting the environment of the global commons outside the jurisdiction of any country, the environment of the United States, or other aspects of the environment which the President may specify; and

"(3) to prepare and take fully into account an environmental assessment of any proposed program or project significantly affecting the environment of any foreign country.

Such agencies and officials should, where appropriate, use local technical resources in preparing environmental impact statements and environmental assessments pursuant to this section.

"(b) Exceptions.—The President may establish exceptions from the requirements of this section for emergency conditions and for cases in which compliance with those requirements would be seriously detrimental to the foreign policy interests of the United States.

"SEC. 1242. COST SHARING.

"To ensure local commitment to, and the sustainability of development activities assisted under this chapter and under chapter 1 of title V, the beneficiary country should bear an appropriate share of the costs of the entire program or project with respect to which the assistance is to be furnished. A country may bear such costs on an 'in kind' basis.

"SEC. 1243. ASSISTANCE LIMITED TO ECONOMIC PROGRAMS.

"Development assistance, economic support assistance, and assistance from the Development Fund for Africa shall be available for economic programs and may not be used for military or paramilitary purposes.

"CHAPTER 3—ECONOMIC SUPPORT ASSISTANCE

"SEC. 1301. ASSISTANCE UNDER SPECIAL ECONOMIC, POLITICAL, AND SECURITY CONDITIONS.

"Under special economic, political, or security conditions, the national interest of the United States may require economic support for countries in amounts that could not be justified under section 1201. In such cases, the President is authorized to furnish assistance to countries and organizations in order to promote economic or political stability. Such assistance shall be furnished, to the maximum extent feasible, consistent with the four basic objectives set forth in section 1102 and the purpose and authorities specified in sections 1201 (c) and (d).

"SEC. 1302. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out section 1301 $3,322,500,000 for fiscal year 1992 and $3,322,500,000 for fiscal year 1993.

"SEC. 1303. PURCHASE OF UNITED STATES GOODS AND SERVICES.

"(a) General Policy Regarding Forms of Assistance.—Assistance under this chapter should be provided principally through commodity import programs, project assistance, sector programs, or the provision of United States goods and services.

"(b) Use of Cash Transfers for United States Goods and Services.—Assistance may be provided to a country under this chapter as a cash transfer only pursuant to an agreement requiring that the country spend an amount equal to the amount of the cash transfer to purchase United States goods and services. Nothing in this section, however, shall prevent a country from purchasing, with United States cash transfer assistance, goods or services produced in that country. United States goods purchased pursuant to such an agreement shall be deemed to have been furnished in connection with funds advanced by the United States. The President shall ensure that purchases of United States goods pursuant to such agreements, and the ports of departure for those goods, are distributed equitably throughout the United States. The United States goods purchased pursuant to such agreements shall be United States goods that are available in the United States at fair prices for such goods.

"(c) GAO Audits.—Each agreement pursuant to which cash transfer assistance is provided under this chapter shall include provisions to ensure that representatives of the Comptroller General have the access to records and personnel necessary to carry out such monitoring and auditing as the Comptroller General deems appropriate.

"(d) Exemptions.—This section shall not apply to any country—

"(1) that receives cash transfer assistance under this chapter of less than $25,000,000 for a fiscal year;

"(2) that, as of April 1, 1989, was receiving cash transfer assistance under the former authorities of chapter 4 of part II of this Act and has an agreement with the United States under which the country agrees—

"(A) to spend an amount equal to the amount of the cash transfer on the purchase of United States goods and services,

"(B) to carry 50 percent of all bulk shipments of United States grain on 'privately owned United States-flag commercial vessels', to the extent such vessels are available at fair and reasonable rates for such vessels, and

"(C) to purchase United States grain at levels comparable to those purchased in prior years,

except that a country shall be exempted pursuant to this paragraph only so long as that country continues to agree to those conditions; and

"(3) that, as of the effective date of this section, has an agreement with the United States requiring that the country spend an amount equal to the amount of any cash transfer assistance under this chapter to purchase United States goods and services, except that a country shall be exempted pursuant to this paragraph only so long as that country continues to agree to that condition.

United States goods purchased pursuant to an agreement described in paragraph (3) shall be deemed to have been furnished in connection with funds advanced by the United States, and the last sentence of subsection (a) shall apply with respect to such goods.

"(e) WAIVER.—The President may waive the provisions of this section with respect to a country to the extent the President determines that it is important to the national interest to do so. Any such waiver shall be reported to the appropriate congressional committees.

"(f) DEFINITION OF UNITED STATES GOODS.—For purposes of this section, the term 'United States goods' means goods (including components) and commodities (including agricultural commodities) grown, processed, produced, or manufactured in the United States.

"CHAPTER 4—VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND PROGRAMS

"SEC. 1401. AUTHORITY TO PROVIDE ASSISTANCE.

"The President is authorized to make voluntary contributions on a grant basis to international organizations, and to programs administered by international organizations, in order to promote the four basic objectives set forth in section 1102 or to otherwise support such organizations and programs.

"SEC. 1402. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to the President to carry out this chapter, in addition to funds otherwise available for such purposes, $300,612,000 for fiscal year 1992 and $318,712,000 for fiscal year 1993.

"(b) EARMARKS.—Of the amounts authorized to be appropriated by this section—

"(1) $125,000,000 for fiscal year 1992 and $135,000,000 for fiscal year 1993 shall be for the United Nations Development Program;

"(2) $83,000,000 for each of the fiscal years 1992 and 1993 shall be for the United Nations Children's Fund;

"(3) $18,000,000 for fiscal year 1992 and $25,000,000 for fiscal year 1993 shall be for the United Nations Environmental Program;

"(4) $18,362,000 for each of the fiscal years 1992 and 1993 shall be for the International Fund for Agricultural Development;

"(5) $4,000,000 for each of the fiscal years 1992 and 1993 shall be for the Special Program for Africa of the International Fund for Agricultural Development;

"(6) $500,000 for fiscal year 1992 and $1,000,000 for fiscal year 1993 shall be for the United Nations University; and

"(7) $600,000 for fiscal year 1993 shall be for an additional contribution to the Organization of American States for the purpose of establishing an electronic network for the exchange of information on science and technology among professors, researchers, and scientists at universities in the countries that are members of the Organization of American States.

"SEC. 1403. CONDITION ON CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY.

"Funds authorized to be appropriated by section 1402(a) may be contributed to the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the appropriate congressional committees) that Israel is not being denied its right to participate in the activities of that Agency.

"SEC. 1404. WITHHOLDING OF UNITED STATES PROPORTIONATE SHARE FOR CERTAIN PROGRAMS OF INTERNATIONAL ORGANIZATIONS.

"(a) REQUIREMENT TO WITHHOLD.—Funds authorized to be appropriated by this chapter shall not be available for the United States proportionate share for programs for countries or organizations or for projects described in subsection (d). This prohibition applies notwithstanding any provision of law that earmarks funds under this chapter for a particular international organization or program.

"(b) USE OF FUNDS WITHHELD.—Funds returned or not made available for programs or projects pursuant to subsection (a) shall remain available until expended for use under this chapter.

"(c) OBLIGATIONS.—The President—

"(1) shall review, at least annually, the budgets and accounts of all international organizations receiving payments of any funds authorized to be appropriated by this chapter; and

"(2) shall report to the appropriate congressional committees the amounts of funds expended by each such organization for programs or projects described in subsection (d) and the amount contributed by the United States to each such organization.

"(d) DESIGNATION OF PROGRAMS AND PROJECTS.—Subsection (a) applies with respect to programs for Cuba, Iran, Libya, or the Palestine Liberation Organization and to projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it.

"SEC. 1405. RESTRICTION ON CONTRIBUTIONS TO UNITED NATIONS RELIEF AND WORKS AGENCY.

"The United States may not make any contribution to the United Nations Relief and Works Agency for Palestine Refugees in the Near East except on the condition that that Agency take all possible measures to assure that no part of the United States contribution is used to furnish assistance to any refugee—

"(1) who is receiving military training as a member of the Palestine Liberation Organization or any other guerrilla type organization; or

"(2) who has engaged in any act of terrorism.

"SEC. 1406. REPORTS ON INTERNATIONAL ORGANIZATIONS.

"(a) SUBMISSION DATE FOR ANNUAL REPORT.—The annual reports to the Congress under section 2 of the Act of September 21, 1950 (22 U.S.C. 262a), shall be submitted within 9 months after the end of the fiscal year to which they relate.

"(b) ANNUAL REPORTS ON VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS BY ALL UNITED STATES GOVERNMENT AGENCIES.—

"(1) REQUIREMENT FOR REPORTS.—Not later than January 31 each year, the President shall submit a report to the Congress listing all voluntary contributions by the United States Government to international organizations during the preceding fiscal year.

"(2) INFORMATION TO BE INCLUDED.—Each such report shall specify the Government agency making the voluntary contribution, the international organization to which the contribution was made, the amount and form of the contribution, and the purpose of the contribution. Contributions shall be listed on both an agency-by-agency basis and an organization-by-organization basis.

"(3) OBLIGATION OF EACH AGENCY.—In order to facilitate the preparation of the report required by paragraph (1), the head of any Government agency that makes a voluntary contribution to any international organization shall promptly report that contribution to the Director of the Office of Management and Budget.

"(4) DEFINITION.—As used in this subsection, the term 'contribution' means any contribution of any kind, including the furnishing of funds or other financial support, services of any kind (including the use of experts or other personnel) or commodities, equipment, supplies, or other material.

"SEC. 1407. AUDITING OF ACCOUNTS OF INTERNATIONAL ORGANIZATIONS.

"(a) UNITED NATIONS ORGANIZATIONS.—In the case of the United Nations and its affiliated organizations, including the International Atomic Energy Agency, the President should (acting through the United States representatives to such organizations), propose and actively seek the establishment by the governing authorities of such organizations of external, professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examinations, review, evaluation, and audits of the programs and activities of such organizations.

"(b) MULTILATERAL DEVELOPMENT BANKS.—

"(1) IN GENERAL.—In the case of each of the organizations specified in paragraph (2), the President should, acting through the United States representative to such organization, propose and actively seek the establishment by the governing authorities of that organization of professionally qualified groups of appropriate size for the purpose of providing an independent and continuous program of selective examination, review, evaluation, and audits of the programs and activities of that organization.

"(2) MDBs SUBJECT TO PARAGRAPH (1).—The organizations to which paragraph (1) applies are the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the Inter-American Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the Asian Development Fund, and the Asian Development Bank.

"SEC. 1408. INTEGRATION OF WOMEN.

"The President is requested to instruct each representative of the United States to each international organization of which the United States is a member to carry out his or her duties with respect to such organization in such a manner as to encourage and promote the integration of women into the national economies of member and recipient countries and into professional and policymaking positions within such organization, thereby improving the status of women.

"CHAPTER 5—GUARANTEE PROGRAMS

"SEC. 1501. HOUSING AND URBAN DEVELOPMENT GUARANTEE PROGRAM.

"(a) FINDINGS AND POLICY.—The Congress finds that—

"(1) shelter and other essential urban development services are among the most fundamental of human needs;

"(2) while most financing for urban services must come from domestic resources, carefully designed programs involving United States capital and expertise can increase the availability of domestic financing for improved shelter and related services for low-income people by demonstrating to local entrepreneurs and institutions that providing urban services can be financially viable;

"(3) particular attention should be given to programs that will support pilot projects for low-cost shelter and other urban services or that will have a maximum demonstration impact on local institutions and national policy; and

"(4) the long run goal of all such programs should be to develop domestic capabilities and to stimulate local credit institutions to make available domestic capital and other management and technological resources required for effective programs and policies relating to low-cost shelter and other urban services.

"(b) GUARANTEE AUTHORITY.—To carry out the policies expressed in subsection (a), the President is authorized to issue guarantees to eligible investors assuring against losses incurred in connection with loans made for projects that meet the criteria set forth in subsection (a) and that promote the four basic objectives set forth in section 1102. Each guarantee issued under this subsection shall guarantee 100 percent of the principal and interest payable on such loans.

"(c) TERMS AND CONDITIONS.—The President may issue regulations from time to time with regard to—

"(1) the terms and conditions on which guarantees will be issued under this section; and

"(2) the eligibility of lenders.

"(d) FOCUS OF ACTIVITIES.—Activities carried out under this section shall be directed to the shelter and urban services needs of the poor, including—

"(1) projects that provide—

"(A) improved home sites to poor families on which to build shelter, and

"(B) related services;

"(2) projects comprised of expandable core shelter units on serviced sites;

"(3) slum upgrading projects designed to conserve and improve existing shelter;

"(4) shelter projects for low income people designed for demonstration or institution building purposes;

"(5) community facilities and services in support of projects authorized under this section to improve urban services; and

"(6) other urban services of particular importance to the needs of the poor.

"(e) INTEREST RATE ON GUARANTEED INVESTMENTS.—In the case of any loan investment guaranteed under this section, the President shall prescribe the maximum rate of interest allowable to the eligible investor. The maximum allowable rate of interest under this subsection shall be prescribed by the President as of the date the project covered by the investment is officially authorized and, prior to the execution of the contract, the President may amend such rate at his discretion, consistent with the provisions of this subsection.

"(f) LIMITATION ON GUARANTEES FOR EACH COUNTRY.—The face value of guarantees issued under this section in any fiscal year with respect to any country may not exceed $50,000,000.

"(g) CEILING ON AVERAGE FACE VALUE.—The average face value of guarantees issued under this section in any fiscal year may not exceed $25,000,000.

"(h) GUARANTEE CEILING.—The total principal amount of guarantees issued under this section (or under the former guarantee authority of section 222 of this Act or predecessor housing guarantee authorities) that are outstanding at any one time may not exceed $3,400,000,000.

"(i) MAINTENANCE OF PROGRAM LEVEL.—The principal amount of guarantees issued under this section for each fiscal year shall be comparable to the total principal amount of such guarantees issued for fiscal year 1984, subject to dollar limitations on the issuance of guarantees under this section that are contained in subsection (h) and subject to subsection (j).

"(j) APPROPRIATIONS ACTION REQUIRED.—New credit authority provided for in this section may be exercised only to such extent or in such amount as is provided in advance in an appropriation Act.

"(k) CERTAIN LOSSES NOT COVERED BY GUARANTEES.—No payment may be made under any guarantee issued under this section (or the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(l) FEES TO BE CHARGED.—A fee shall be charged for each guarantee issued under this section in an amount to be determined by the Administrator. In the event the fee to be charged for such type guarantee is reduced, fees to be paid under existing contracts for the same type of guarantee may be similarly reduced.

"(m) USE OF FEES.—All fees collected in connection with guarantees issued under this section shall be available to offset the cost of guarantee obligations under this section.

"(n) FINANCING ACCOUNT.—All of the fees referred to in this section, together with earnings on those fees and other income arising from guarantee operations under this section, shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes specified in subsection (m).

"(o) DISCHARGE OF LIABILITIES.—Any payments made to discharge liabilities under guarantees issued under this section shall be paid—

"(1) first, out of fees referred to in subsection (m); and

"(2) then, out of funds made available pursuant to subsection (q).

"(p) FULL FAITH AND CREDIT.—All guarantees issued under this section (or under the former guarantee authorities of section 222 or 222A of this Act or predecessor guarantee authorities) shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(q) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR GUARANTEE OBLIGATIONS.—There are authorized to be appropriated to the President not more than $2,000,000 for fiscal year 1992 and not more than $8,100,000 for fiscal year 1993 to pay the cost of guarantee obligations under this section with a face value of $150,000,000 for each such fiscal year. Funds made available under this paragraph may be used only after all fees referred to in subsection (m) have been used.

"(2) FOR ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the President not more than $8,500,000 for each of the fiscal years 1992 and 1993 for administrative expenses necessary to carry out this section.

"(r) ELIGIBLE INVESTORS.—As used in this section, the term 'eligible investor' has the same meaning that term is given in section 3211(3).

"(s) EXPIRATION OF AUTHORITY.—The authority of this section shall continue through September 30, 1993.

"(t) GUARANTEES UNDER FORMER AUTHORITIES.—Guarantees committed, authorized, or outstanding under the guarantee authorities formerly contained in section 222 or 222A of this Act (or predecessor guarantee authorities) shall continue subject to provisions of law originally applicable to those guarantees.

"SEC. 1502. PRIVATE SECTOR GUARANTEE PROGRAM.

"(a) FINDINGS AND POLICY.—The Congress finds and declares that—

"(1) the development of private enterprise is a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system;

"(2) it is, therefore, in the best interests of the United States to assist the development of the private sector in developing countries and to engage the United States private sector in that process; and

"(3) the support of private enterprise is best served by programs providing credit, training, and technical assistance in coordination with policy reform efforts.

"(b) ACTIVITIES THAT MAY BE SUPPORTED.—Assistance under this section may be provided in developing countries only to support financially viable private sector activities that are consistent with the four basic objectives set forth in section 1102 and that meet one or both of the following criteria:

"(1) SMALL BUSINESS AND CAPITAL MARKETS.—The activity addresses capital and credit market imperfections and assists financial institutions in meeting the financial needs of the private sector. Such activity shall be primarily directed toward making available to small business enterprises and cooperatives necessary credit, training, and support services that are not otherwise available to them.

"(2) UNITED STATES BUSINESS.—The activity engages the United States private sector in projects to meet the needs of developing countries.

"(c) AUTHORITY.—

"(1) AUTHORITY.—To carry out the policy set forth in subsection (a) and the activities authorized in subsection (b), the President is authorized to issue guarantees assuring against losses incurred in connection with loans for activities that meet the requirements of subsection (b).

"(2) FULL FAITH AND CREDIT.—All guarantees issued under this section shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(3) TERMS AND CONDITIONS.—Unless the President determines otherwise, the following shall apply:

"(A) The aggregate amount of all guarantees that are provided under this section for a project may not exceed 50 percent of the total cost of the project, or $6,000,000, whichever amount is less.

"(B) The term of any such guarantee may not exceed 10 years.

"(C) As a condition to receiving a guarantee or guarantees for loans to small business enterprises and cooperatives authorized under subsection (b)(1)—

"(i) the lender shall agree to reduce its collateral requirements for loans so guaranteed, to the maximum extent possible;

"(ii) loans so guaranteed shall be to new borrowers or, if to an existing customer of the lender, shall be additional credit and may not be solely a renewal or extension of an existing loan;

"(iii) the maximum amount of any such guaranteed loan may not exceed $325,000 for a recipient that is a sole proprietor, or, if the recipient is an enterprise other than a sole proprietor, $325,000 for each co-owner, shareholder, partner, cooperative member, or other owner of the enterprise; and

"(iv) the administering agency shall work with participating lenders to develop training and technical assistance programs in cash flow analysis and lending to encourage such lenders to reduce, to the maximum extent practicable, their collateral requirements for loans guaranteed under this subparagraph.

The limitation set forth in clause (iii) shall apply for at least 85 percent of all individual beneficiaries of loans guaranteed under this section.

"(D) The President shall maintain an information system that contains operating financial data relating to loans guaranteed under this section (and any subloans made from such loans), and the projects for which the loans were made, that describes all beneficiaries of each such project, and that tracks the developmental impact of each such project, including the effect on employment, the gender of the loan recipients, and loan collateral practices. In addition, the President shall provide to the Congress, by January 31 of each year, a report that describes in detail each project for which loans guaranteed under this section are made, and includes the information referred to in the preceding sentence with respect to such project.

"(E) Not more than 20 percent of the total amount of funds loaned and contingent liabilities incurred under this section may support projects in any one country.

"(F) In determining whether an enterprise is a small business enterprise, the President shall take into account the relevant definition used by the host country government, the International Bank for Reconstruction and Development, and other international organizations.

"(4) ENFORCEABILITY.—Any guarantee issued under this section shall be conclusive evidence that such guarantee has been properly obtained, and that the underlying obligation as contracted qualifies for such guarantee. Except for fraud and material misrepresentation for which the parties seeking payment under such guarantee are responsible, such guarantee shall be presumed to be valid, legal, and enforceable.

"(5) DENOMINATION OF LIABILITY.—The losses guaranteed under this subsection may be in dollars or other currencies. In the case of losses guaranteed in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

"(6) DISCHARGE OF LIABILITIES.—Any payments made to discharge liabilities under guarantees issued under this section shall be paid—

"(A) first, out of fees as provided in paragraph (8); and

"(B) then, out of funds made available pursuant to subsection (d).

"(7) PILOT PROGRAM FOR LIMITED DIRECT LOANS.—On a limited basis, the President is authorized to make direct loans, and charge interest therefor, to support activities authorized in subsection (b), under the following conditions:

"(A) The amount of any individual direct loan for a project may not exceed 50 percent of the total cost of the project or $3,000,000, whichever amount is less.

"(B) The aggregate amount of all such direct loans issued in any fiscal year may not exceed $10,000,000.

"(C) The term of any such loan shall not exceed 10 years.

"(D) Notification and opportunity for consultation shall be provided, at least 30 days in advance of the obligation of any funds for such direct loans in any fiscal year, to the appropriate congressional committees. Any such committee may waive such notification and opportunity for consultation with respect to that committee.

"(8) FEES.—

"(A) IN GENERAL.—A fee shall be charged for each guarantee and loan issued under this section in an amount to be determined by the President. In the event that the fee to be charged for such guarantees or loans is reduced, fees to be paid under existing contracts for such guarantees or loans (as the case may be) may be similarly reduced.

"(B) FINANCING ACCOUNT.—All fees collected under this paragraph shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account.

"(C) USE OF FEES.—Amounts in the financing account maintained under subparagraph (B) shall be available to offset the cost of guarantee obligations and liabilities on loans issued under this section.

"(d) APPROPRIATIONS REQUIREMENT.—Direct loan obligations may be entered into under this section, and guarantee commitments may be issued under this section, only to the extent that the budget authority for the resulting additional cost (within the meaning of the Federal Credit Reform Act of 1990) has been provided in advance in appropriations Acts.

"(e) PROGRAM CEILING.—The level of activity under this section may not exceed—

"(1) $10,000,000 in loans in each of the fiscal years 1992 and 1993; and

"(2) $57,000,000 in contingent liability for guarantees in fiscal year 1992 and $75,000,000 in contingent liability for guarantees in fiscal year 1993.

"(f) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the President for each of the fiscal years 1992 and 1993 $1,500,000 for administrative expenses to carry out this section.

"CHAPTER 6—INTERNATIONAL DISASTER ASSISTANCE

"SEC. 1601. STATEMENT OF POLICIES.

"(a) HUMANITARIAN CONCERNS AND TRADITIONS OF THE AMERICAN PEOPLE.—The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural and manmade disasters is a longstanding tradition and an important expression of the humanitarian interest of the people of the United States, affirms the willingness of the United States to provide assistance for the relief and rehabilitation of people and countries affected by such disasters.

"(b) REACHING THOSE MOST IN NEED.—In carrying out this chapter, the President shall insure that, to the greatest extent possible, the assistance provided by the United States reaches those most in need of relief and rehabilitation as a result of natural and manmade disasters.

"SEC. 1602. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) IN GENERAL.—The President is authorized to furnish assistance to any foreign country, international organization, or private voluntary organization for international disaster relief and rehabilitation. Such assistance may include assistance relating to disaster preparedness, prevention, and mitigation and to the prediction of, and contingency planning for, natural disasters abroad.

"(b) NONAPPLICABILITY OF OTHER PROVISIONS.—Assistance may be furnished under this chapter notwithstanding any other provision of this or any other Act.

"SEC. 1603. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter, $40,000,000 for fiscal year 1992 and $40,000,000 for fiscal year 1993.

"SEC. 1604. BORROWING AUTHORITY.

"(a) AUTHORITY.—In addition to amounts otherwise available to carry out this chapter, up to $100,000,000 in any fiscal year may be obligated against appropriations described in subsection (b) for use in providing assistance in accordance with the authorities and general policies of this chapter.

"(b) SOURCES OF FUNDS.—The appropriations referred to in subsection (a) are any appropriations to carry out this Act, without regard to whether the funds are earmarked in this or any other Act. In any fiscal year, the sum of the amount obligated under this section against appropriations for development assistance and the amount obligated under this section against appropriations for assistance from the Development Fund for Africa may not exceed 30 percent of the total amount obligated under this section.

"(c) REIMBURSEMENT.—Amounts subsequently appropriated to carry out this chapter with respect to a disaster may be used to reimburse any appropriation account against which obligations were incurred under this section with respect to that disaster.

"CHAPTER 7—OTHER ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—American Schools and Hospitals

"SEC. 1701. AUTHORITY TO PROVIDE ASSISTANCE.

"In order to promote the four basic objectives set forth in section 1102, the President is authorized to furnish assistance to—

"(1) schools and libraries, outside the United States, that are founded or sponsored by United States citizens and serve as study and demonstration centers for ideas and practices of the United States, and

"(2) hospital centers for medical education and research, outside the United States, that are founded or sponsored by United States citizens.

"SEC. 1702. AUTHORIZATIONS OF APPROPRIATIONS.

"To carry out section 1701, there are authorized to be appropriated to the President $35,000,000 for fiscal year 1992 and $35,000,000 for fiscal year 1993.

"Subchapter B—Debt for Development

"SEC. 1721. DEBT EXCHANGE.

"(a) AUTHORITY.—In order to promote the four basic objectives set in section 1102, the President may use funds made available for development assistance, economic support assistance, or assistance from the Development Fund for Africa for grants to and contracts with nongovernmental organizations to enable those organizations to—

"(1) purchase debt obligations owed by a developing country to any commercial lending institution or other private party; and

"(2) cancel such debt obligation, subject to the approval of the President, to the extent that such country makes available assets or policy commitments to promote the four basic objectives set forth in section 1102.

"(b) INTEREST RETENTION.—A grantee or contractor (or any subgrantee or subcontractor) of the grants or contracts referred to in subsection (a) may retain, notwithstanding any other provision of law, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-development or debt-for-environment purchase or exchange pending the disbursement of such proceeds and interest for the purposes for which assistance was provided to such party, which may include the establishment of an endowment, the income of which is used for such purposes.

"CHAPTER 8—REIMBURSABLE PROGRAMS

"SEC. 1801. AUTHORITY TO CONDUCT REIMBURSABLE PROGRAMS.

"(a) GENERAL AUTHORITY.—Whenever the President considers it consistent with and within the limitations of this Act, any agency of the United States Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and private voluntary organizations registered with and approved by the administering agency.

"(b) PERSONAL SERVICE CONTRACTS.—When any agency of the United States Government provides services on an advance-of-funds or reimbursable basis under this section, such agency may contract with individuals for personal service abroad or in the United States to perform such services or to replace officers or employees of the United States Government in a manner otherwise permitted by law (or Office of Management and Budget Circular A-76 or any successor circular) who are assigned by the agency to provide such services. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

"(c) LIMITATIONS ON ASSISTANCE NOT APPLICABLE.—Limitations in this or any other Act on assistance do not apply with respect to this section.

"SEC. 1802. USE OF PAYMENTS.

"Advances and reimbursements received under section 1801 may be credited to the currently applicable appropriation, account, or fund of the agency concerned and shall be available until expended.

"CHAPTER 9—ADMINISTRATION OF ECONOMIC ASSISTANCE PROGRAMS

"Subchapter A—Operating Expenses

"SEC. 1901. AUTHORIZATIONS OF APPROPRIATIONS FOR OPERATING EXPENSES GENERALLY.

"There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $483,300,000 for fiscal year 1992 and $483,300,000 for fiscal year 1993 for necessary operating expenses of the administering agency for this title; and

"(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such agency.

"SEC. 1902. AUTHORIZATIONS OF APPROPRIATIONS FOR THE OPERATING EXPENSES OF THE INSPECTOR GENERAL.

"There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $37,739,000 for fiscal year 1992 and $37,739,000 for fiscal year 1993 for necessary operating expenses of the Office of the Inspector General of the administering agency for this title; and

"(2) such additional amounts as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law, and for other nondiscretionary costs of such office.

"SEC. 1903. ADDITIONAL FUNDS FOR OPERATING EXPENSES.

"(a) AUTHORITY TO USE PROGRAM FUNDS.—Amounts authorized to be appropriated for any fiscal year for development assistance, economic support assistance, or assistance from the Development Fund for Africa may be used to carry out section 1901 and section 1902.

"(b) ADDITIONAL FUNDS FOR THE INSPECTOR GENERAL.—The Administrator may make available to the Inspector General of the administering agency, upon the request of the Inspector General, funds made available pursuant to section 1901 or subsection (a) for payment of expenses described in paragraph (1) of section 1902.

"(c) LIMITATION.—The authorities of this section may not be used to increase the amount available for a fiscal year to carry out section 1901 or section 1902 by more than 5 percent of the amount appropriated to carry out that section for that fiscal year.

"Subchapter B—Evaluation

"SEC. 1921. EVALUATION AND ACCOUNTABILITY.

"(a) NEED FOR EVALUATION.—In order to effectively and responsibly manage the resources with which it is provided, the administering agency for this title must have a capacity to evaluate objectively the extent of its progress in achieving development results and to derive lessons from its development experience.

"(b) ACTIONS TO BE TAKEN.—In furtherance of subsection (a), the President shall establish a program performance evaluation capacity with the following functions:

"(1) To develop a program performance information system to afford agency managers a means for monitoring achievement of impact and interim performance of the agency's major programs.

"(2) To prepare and disseminate objective and periodic reports on the agency's progress in meeting stated development objectives for major assistance categories and recipient countries, regions, sectors, and policies.

"(3) To strengthen, through training and other means, the use of evaluation as a management tool, by both the agency and its counterparts in countries receiving assistance, in the planning, designing, and implementation of foreign assistance projects and programs.

"(4) To coordinate with the Inspector General of the agency so as to ensure appropriate complementarity of efforts, recognizing that—

"(A) it is the responsibility of the agency to direct a program of independent evaluation of its programs and policies, and the operational and management systems that affect the development impact of those programs and policies; and

"(B) it is the responsibility of the Inspector General to conduct regular and comprehensive assessments and audit of financial management and administrative systems, including the adequacy of the systems for monitoring and evaluating agency projects and programs.

"(c) ROLE OF EVALUATION.—In recognition of the importance of evaluation in determining, among other things, the extent to which programs are promoting the basic objectives set forth in section 1102, the President shall take such steps as the President deems appropriate to ensure that the administering agency is—

"(1) planning, implementing, and disseminating programmatic evaluations of the economic assistance programs under this title that are administered by the agency;

"(2) designing and managing technical assistance and support programs to enhance the integrity and quality of all project and program evaluation work done by such agency;

"(3) maintaining and making accessible the agency's data base on project and program experience, including both the historical record and measures of impact and performance;

"(4) coordinating information exchange on evaluation priorities, findings, and methods with other donor countries and organizations; and

"(5) ensuring the quality, objectivity, and independence of the evaluation by such measures as external review of findings, use of outside governmental and nongovernmental expertise, and other measures to protect against potential conflict of interest.

"(d) ACCOUNTABILITY.—The President shall prepare an annual report, which shall be submitted to the Congress as a separate part of the annual congressional presentation documents required by section 6301. This report shall include the following:

"(1) An assessment of progress toward the achievement of the four basic objectives set forth in section 1102, based on the findings of evaluation studies conducted by the administering agency and on such other empirical analyses as may be appropriate.

"(2) An analysis, on a country-by-country basis (with each country receiving economic assistance under this title or chapter 1 or 2 of title V being included at least once every 5 years), of the impact on economic development in each country during the preceding 3 to 5 fiscal years of United States economic assistance programs, with a discussion of the United States interests that were served by the assistance. For each such country, the analysis shall—

"(A) to the extent possible, be done on a sector-by-sector basis and identify trends within each sector;

"(B) identify any economic policy reforms that were promoted by the assistance;

"(C) describe, in quantified terms to the extent practicable, the specific objectives the United States sought to achieve in providing economic assistance and specify the extent to which those objectives were not achieved;

"(D) describe the amount and nature of economic assistance provided by other major donors during the preceding 3 to 5 fiscal years, set forth by the development sector to the extent possible;

"(E) discuss the commitment of the host government to addressing the country's needs in each development sector, including, to the extent possible, a description of the resources devoted by that government to each development sector during the preceding 3 to 5 fiscal years.

"Subchapter C—Cooperation with Nongovernmental Sector

"SEC. 1941. CENTER FOR UNIVERSITY COOPERATION IN DEVELOPMENT.

"(a) FINDINGS.—The Congress finds that—

"(1) United States public and private institutions of higher education can contribute significantly to enhancing the development of developing countries;

"(2) sustained participation of United States institutions of higher education in the economic development programs of these countries and the building of indigenous university systems that support the educational, research, and service needs of their societies is vital to their achieving sustainable economic growth and open democratic political systems; and

"(3) at the same time, the participation of United States institutions of higher education in these international development efforts also supports the internationalization of those institutions by strengthening their faculty and the programs available to their students, and enhancing the quality and relevance of their research and extension efforts.

"(b) ESTABLISHMENT OF A CENTER.—The President shall maintain within the administering agency for this title a Center for University Cooperation in Development (hereinafter in this section referred to as the 'Center'). The Center shall seek to promote and strengthen mutually beneficial development cooperation and partnerships between such agency, United States institutions of higher education that are engaged in education, research, and public service programs relevant to the development needs of developing countries, and institutions of higher education, research, and extension in those developing countries. The Center shall—

"(1) develop basic policies, procedures, and criteria for education, research, and development programs involving United States institutions of higher education and developing country institutions;

"(2) encourage and support the development of collaborative programs that strengthen the capacity of United States institutions of higher education to undertake sustainable, long-term partnerships with institutions in developing countries and that also deepen the commitment of United States institutions of higher education to internationalization and development cooperation;

"(3) encourage and support the development of cooperative programs between United States institutions of higher education and the private sector that contribute to the sustainable development of developing countries;

"(4) undertake specialized programs that seek to bring the unique capabilities of historically black colleges and universities to bear on the development problems of developing countries and strengthen their capacity to enter into sustainable partnerships with institutions in developing countries;

"(5) facilitate access by developing countries and the administering agency to the resources of United States institutions of higher education and the participation of these institutions in the development programs of developing countries; and

"(6) undertake studies and analyses and specialized reviews necessary to the accomplishment of paragraphs (1) through (5).

"(c) SOURCE OF FUNDS.—To carry out this section, the President may make available such funds as he determines from funds authorized to be appropriated for development assistance and assistance from the Development Fund for Africa.

"SEC. 1942. CENTER FOR VOLUNTARY COOPERATION IN DEVELOPMENT.

"(a) ESTABLISHMENT.—The President shall maintain within the administering agency for this title a Center for Voluntary Cooperation in Development (hereinafter in this section referred to as the 'Center').

"(b) PURPOSE.—The purpose of the Center shall be to strengthen the partnership for development among the United States Government and United States private voluntary organizations, cooperatives, and credit unions that are engaged in activities that are relevant to the development needs of developing countries and to the attainment of the four basic objectives set forth in section 1102.

"(c) FUNCTIONS.—The Center shall—

"(1) participate in the development of policies, procedures, and criteria for all programs of the administering agency that involve private voluntary organizations, cooperatives, and credit unions;

"(2) under the general policy guidance of the Administrator, develop program policies, procedures, and funding criteria for support by the administering agency of worldwide activities of such entities; and

"(3) administer comprehensive grant programs in support of long-term, worldwide programs of such entities.

"(d) SOURCE OF FUNDS.—To carry out this section, the President may make available such funds as he determines from funds authorized to be appropriated for development assistance and assistance from the Development Fund for Africa.

"SEC. 1943. ADVISORY COMMITTEE ON VOLUNTARY COOPERATION IN DEVELOPMENT.

"The Administrator shall establish a permanent Advisory Committee on Voluntary Cooperation in Development, whose membership shall consist primarily of representatives from private voluntary organizations, cooperatives, and credit unions that have experience working in developing countries. The function of the Advisory Committee shall be to advise the Administrator regarding programs that the administering agency carries out with or through private voluntary organizations, cooperatives, and credit unions.".

The CHAIRMAN pro tempore. Are there any amendments to title I?

AMENDMENTS EN BLOC OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. HALL of Ohio: (1) Page 22, line 7, after "promoted" insert "through research and".

Page 22, line 17, before the semicolon, insert ", maintenance of soil structure and fertility, and minimization of soil erosion and soil and water contamination".

Page 22, after line 17, insert the following new clause (ii), and redesignated existing clauses (ii) through (viii) as clauses (iii) through (ix), respectively:

"(ii) adoption of appropriate use of fertilizer and pesticides;

(2) Page 40, line 14, strike out "AND" and after "DEFICIENCY" insert ", AND BASIC EDUCATION"; and page 41, after line 20, insert the following:

"(c) BASIC EDUCATION.—Of the aggregate amounts made available for development assistance under section 1202, assistance from the Development Fund for Africa, and economic support assistance, not less than $135,000,000 for fiscal year 1992 and not less than $175,000,000 for fiscal year 1993 shall be available only for programs in support of basic education, including early childhood education, primary education, teacher training, and other necessary activities in support of early childhood and primary education, and literacy training for adults.

(3) Page 41, after line 9, insert the following:

"(3) CHILD SURVIVAL ACTIVITIES.—Of the aggregate amounts made available for development assistance under section 1202, assistance from the Development Fund for Africa, and economic support assistance, not less than $275,000,000 for fiscal year 1992 and not less than $335,000,000 for fiscal year 1993 shall be available only for activities described in section 1201(d)(4), relating to child survival activities.

(4) Page 415, after line 16, insert the following:

"(4) A detailed description of United States contributions to the achievement of the goals and strategies enunciated in the World Declaration on the Survival, Protection and Development of Children; the Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children; the World Declaration on Education for All; and the Framework for Action to Meet Basic Learning Needs; including a detailed description of the funding provided for child survival activities and for basic education under United States foreign assistance programs for the current fiscal year and the preceding fiscal year, as well as planned funding levels for at least the next 2 fiscal years.

(5) Page 510, line 10, after "709," insert "section 712,".

Page 718, strike out lines 18 and 19 and insert in lieu thereof the following:

SEC. 1106. FOOD AS A HUMAN RIGHT.

(a) FINDINGS.—The Congress finds that—

(1) the right to food remains an unfulfilled promise for hundreds of millions of people in many countries around the world; and

(2) an international convention on the right to food could be a useful tool in increasing international respect for the right to food, especially among governments and armed oppostion groups.

(b) THE RIGHT TO FOOD AND UNITED STATES FOREIGN POLICY.—

(1) IN GENERAL.—The United States shall, in accordance with its international obligations and in keeping with the longstanding humanitarian tradition of the United States, promote increased respect internationally for the rights to food and to medical care, including the protection of these rights with respect to civilians and noncombatants during times of armed conflict (such as through ensuring safe passage of relief supplies and access to impartial humanitarian relief organizations providing relief assistance).

(2) RESPONSIBILITIES OF THE ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS.—The responsibilities of the Assistant Secretary of State for Human Rights and Humanitarian Affairs shall include promoting increased respect internationally for the rights to food and to medical care in accordance with paragraph (1).

(c) UNITED NATIONS CONVENTION ON THE RIGHT TO FOOD.—

(By unanimous consent, Mr. HALL of Ohio was allowed to proceed for 1 additional minute.)

The CHAIRMAN pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 6 minutes.

Mr. HALL of Ohio. Mr. Chairman, I would like first to commend the Foreign Affairs Committee for its work in producing an excellent piece of legislation. I am particularly appreciative of the outstanding leadership of the chairman, the gentleman from Florida [Mr. FASCELL], and I have been honored to work with him on these amendments. I would also like to thank the gentleman from New York, a senior member both of the Foreign Affairs Committee and of the Hunger Committee, Mr. GILMAN, for his help in offering Hunger Committee amendments concerning the United Nations. These amendments have been accepted by the Foreign Affairs Committee and are already part of this bill.

I would also like to express my deep appreciation to my colleague from Missouri, Mr. EMERSON, the ranking minority member of the Hunger Committee, for his excellent work on the Hunger Committee and for his support for these important Hunger Committee amendments to the foreign aid bill. The gentleman from Nebraska [Mr. BEREUTER] and the gentleman from New Jersey [Mr. SMITH], both members of the Foreign Affairs Committee and Select Committee on Hunger have also provided greatly valued leadership and support on key areas covered in these amendments.

These amendmentrs I now offer en bloc on behalf of the Hunger Committee draw on key provisions in H.R. 2258, the freedom from want omnibus antihunger legislation which I introduced with my colleague BILL EMERSON earlier this year. This bill takes its name from one of the "Four Freedoms" made famous by President Franklin Roosevelt 50 years ago.

I have five amendments grouped and offered en bloc. The first expands on language currently in the foreign aid bill on sustainable resource management by adding specific language relating to agriculture. The specific concepts include the importance of maintaining soil structure and fertility, minimizing soil erosion and contamination of soil and water, and adopting appropriate use of fertilizer and pesticides. It also calls for more research on these important areas.

Nothing we do in foreign assistance is more important, in my opinion, than the following two simple programs: saving children's lives through simple child survival activities like immunization, oral rehydration, breastfeeding, and other lifesaving actions for mother and child; and educating the children—after we help them survive—so they can acquire the basic skills they need to function in society, and helping illiterate adults to finally obtain the power which comes when they learn to read, write, and add.

My second amendment earmarks $275 million in fiscal year 1992 and $335 million in fiscal year 1993 for child survival activities. The third amendment earmarks $135 million in fiscal year 1992 and $175 million in fiscal year 1993 for basic education activities. I define basic education to include early childhood education, primary education, teacher training, and other activities to support early childhood and primary education, and literacy training of adults. This is the definition adopted by the world, including the United States, at last year's World Conference on Education for All.

Money for both of these areas can come from three different accounts: Development Assistance, the Development Fund for Africa, and Economic Support Assistance. These earmarks only require AID to spend 5 percent of its funds from these three accounts on children and 21 percent on basic education.

These simple tools are priceless in the modern world. Without them, people are condemned to poverty. With them, they have a chance to escape from poverty.

Unfortunately, without explicit congressional earmarking, these activities are not growing the way they should. AID regularly proposes to cut funding for children. For example, in 1989 AID spent more than $200 million on child survival activities. But in 1990, the total dropped by nearly 10 percent to only $185 million. I find this impossible to understand. We know these programs work—they save lives every day.

AID proposes to cut funding for children in Africa by 20 percent next year—from $50 million this year to about $40 million next year. The Foreign Affairs Committee, with the wise guidance of its chairman, Mr. FASCELL, and the chairman of the Africa Subcommittee, Mr. DYMALLY, has added $200 million specifically for development in Africa next year. I believe that some of this $200 million should be used by AID to increase—not decrease—the amount they will spend on keeping African children alive and healthy.

I would also like to add that in order to carry out these programs effectively, AID should hire additional staff as health and nutrition officers as well as education officers.

The fourth provision adds a requirement to the yearly AID congressional presentation that AID present a plan on child survival and basic education, including what AID has accomplished in the past 2 years, as well as their plans for the next 2 years. I attended the World Summit for Children held at the United Nations last year. It was the largest gathering of heads of state ever. President Bush came and endorsed the goals of the summit. But where is his plan for reducing childhood disease and death? My hope is that this amendment will finally push the administration to come to us with a credible, multiyear, forward looking plan. I believe the United States must take the lead in the global effort to end unnecessary child death and suffering. The President should send us a plan as part of next year's congressional presentation.

Finally, I have included a provision I am particularly excited about, which champions the right to food in U.S. law. This expands upon and complements the provisions already in the bill, offered by the gentleman from New York [Mr. GILMAN] on behalf of the Hunger Committee. The provisions already in the bill call on the United States to promote a U.N. Convention on the Right to Food and Humanitarian Assistance and to take the lead in developing a plan to strengthen the U.N. response to emergencies.

The new provision added in my final amendment rounds out the two already included by making it clear that promoting the right to food must be part of U.S. foreign policy. It calls on the United States to promote increased respect for the rights to food and to medical care. These provisions, taken together, have the potential to dramatically improve the protection of the right to food of people around the world. Unfortunately, too many governments are still all too willing to use food as a weapon. Recent events have produced ample evidence of the need for strengthening international law in these areas.

In total, my en bloc amendments will, if adopted, help lead to a world with healthier, better educated children, where more people live free from want. That is the kind of world I think I am here in the Congress to work for. I hope you agree with me and will support this amendment.

Mr. EMERSON. Mr. Chairman, I rise in support of the amendments en bloc offered by the distinguished gentleman from Ohio, the chairman of the Select Committee on Hunger, Mr. HALL, to advance the vital humanitarian initiatives contained in the amendments.

This amendment recognizes the basic right of all people to fundamental food and medical assistance, assistance that they need to live, especially in times of conflict.

The famine facing the people today in the Horn of Africa is but one reminder that access to food and basic medical supplies continues to be an instrument of policy for morally bankrupt governments and some rebel forces. Honoring the right of innocent people to adequate food and humanitarian assistance should be a priority of the international community.

Part of addressing the structure of an emerging new world order must include planning for the future by investing in the health and the education of the world's children. This amendment promotes crucial programs that have helped millions of children in the developing world make it beyond their fifth birthday and could save the lives of many more.

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By addressing basic education, we give people the tools to become productive members of the world community. A vote for this amendment is a vote for survival, for basic nourishment, for health, for education, for children, and for life.

I urge the adoption of this amendment.

Mr. BERUTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Hall amendments.

Mr. Chairman, I rise in strong support of the amendment offered by the distinguished gentleman from Ohio [Mr. HALL]. I rise in that capacity as a member of the Select Committee on Hunger and as a member of the Committee on Foreign Affairs.

I commend the chairman, the ranking member of the Select Committee on Hunger, the distinguished gentleman from Missouri [Mr. EMERSON], and the many people who the chairman has already enumerated on that committee and elsewhere who have supported the chairman in crafting this legislation. The Hall amendment is widely supported among members of the Select Committee on Hunger, and I think appropriately so.

This legislation does give additional emphasis to the use of our fund for both basic education purposes and for child survival programs. In the past, we have seen U.S. AID programs for educational assistance move away from a reasonable balance or emphasis concentrated on basic education, programs for other education areas. It has been because of the suggestions, the recommendations, and the actions of the Select Committee on Hunger's members and some members of the Committee on Foreign Affairs that we have in the past several years moved back by direction to the executive branch to a more proper balance or emphasis on basic education.

I think, indeed, it is a fact that many of the improvements we have made in child survival programs are due to the exertion of the Congress in setting priorities, and if necessary, making appropriate earmarks. We in Congress can appropriately set priorities. That is a proper role for the legislative branch, and not to be directed by comments from the executive branch.

I think the gentleman's amendment is particularly important, too, in making a finding establishing food as a basic human right. It assigns related responsibility to the Secretary of State for human rights and humanitarian affairs, and requires a variety of reports about the U.S. Government's involvement, its energy, and its emphasis in pursuing a whole range of international efforts that are aimed at improving child survival. And through directions to the Assistant Secretary it attempts to promote increased respect internationally for mankind's rights to food and medical care in accordance with the findings set forth.

For those reasons and many others, I urge my colleagues, as strongly as I can, to give their support to the amendment offered by the distinguished gentleman from Ohio [Mr. HALL].

Mr. ESPY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I thank my friend, the chairman of the Select Hunger Committee, for yielding and for his work on these important amendments to the foreign aid authorization bill.

This amendment is important because the world's children are in trouble. More than 20 percent of African children will die before age 5. In Asia, more than 16 percent of children will never live to see their fifth birthday.

Despite this, in recent years AID has cut funding for children in developing countries and the administration further proposes to cut funding for children in Africa by 20 percent next year, from $50 to $40 million.

The Hall amendment would require that AID earmark only 5 percent of its entire budget for child health and survival activities. That's $275 million in fiscal year 1992 and $355 million in fiscal year 1993.

The Hall amendment also addresses the problem of education. In many sub-Sharan African countries, in Asia, and in some countries in south Asia, fewer than 10 percent of primary school children finish school. Unless children in the developing world are educated, they will forever be doomed to underdevelopment.

The Hall amendment would require that AID earmark just 2½ percent of its budget for basic education activities.

This amendment does not require any new money. But it does require AID to earmark 7½ percent of its annual budget for these critical child survival, health, and basic education activities.

Mr. Chairman, the foreign aid bill we will pass today authorizes $12.3 billion in assistance. But none is more vital than that which we spend to provide health care, nutrition, and education for the children in the developing world.

I urge my colleagues to adopt this en bloc amendment.

Mr. PENNY. Mr. Chairman, I move to strike the requisite number of words. I urge my colleagues to support Representative TONY HALL's and the Hunger Committee's en bloc amendment to H.R. 2508, the International Development Cooperation Act.

Representative HALL, chairman of the House Select Committee on Hunger, is offering Members an excellent opportunity to support important changes to the foreign aid authorization bill that will assist our development efforts overseas. The amendment is based on the Freedom From Want Act that has the bipartisan cosponsorhip of more than 70 Members.

The Hunger Committee amendment will earmark additional funds for child survival activities around the world and for basic education programs in developing countries. By increasing our foreign aid emphasis on child survival and education, we give children in developing countries a better chance to live longer, more productive lives.

This amendment will require the Agency for International Development to spend about 5 percent of earmarked funds on child survival and 2½ percent on basic education. These activities give us the best return on our foreign aid investment by concentrating on the next generation of developing country citizens.

It is tragic to note that 14 million children die every year in the developing world. Child survival activities such as vaccinations, breastfeeding promotion, and oral rehydration therapy can drastically reduce that figure—UNICEF estimates that such an increase in child survival activities could cut the child death rate in half.

With respect to basic education in the developing world, in many countries fewer than 10 percent of all primary school-age children finish primary school. If more than 90 percent of the children are not learning basic reading, writing, and arithmetic skills, development does not stand a chance.

Finally, this amendment expands language on agricultural self-sufficiency to include renewable agriculture concepts. Almost every developing country's economy and people are highly dependent on agriculture. If the poorest countries of the world are to develop economically, they must first and foremost improve their agriculture and the capacity to feed their people.

As a representative of a farm State, I cannot over-emphasize the importance of sustainable agricultural systems. In this country we are increasing research and extension efforts to explore new, profitable, and sustainable farming practices. We must do all that we can to promote an agriculture in the developing world that maintains soil and water resources, minimizes soil erosion, and allows for the appropriate use of fertilizer and pesticides.

Vote "yes" on the Hall amendment and improve our foreign aid program.

Mr. UPTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to urge my colleagues to support Mr. HALL's en bloc amendments to the foreign aid authorization bill, H.R. 2508.

First, I would like to commend Mr. HALL, chairman of the Select Committee on Hunger, and our ranking member, Congressman BILL EMERSON. Their leadership on this committee has helped to highlight how crucial it is these amendments are included in the foreign aid authorization bill.

The provisions of the Hall amendments are taken from the international section of the Freedom From Want Act, which was introduced in the House by Congressman HALL. I am pleased to be a cosponsor of this bill, and I know that many of the Hunger Committee members and other House Members have also cosponsored it.

Briefly, the Hall en bloc amendments would promote child survival activities and basic education programs, and would require the Agency for International Development to submit to Congress an annual plan outlining how to achieve these goals. It would also add language regarding renewable agriculture and call for research in this area. Perhaps most crucially, it would establish that it is U.S. policy to promote the right to food and medical care as basic human rights, and include protection of these rights for civilians caught in times of armed conflict.

Hunger is a preventable tragedy. More than 40,000 children die each day from hunger and preventable diseases. The Hall en bloc amendments are an important step in reducing these tragic numbers and helping these people help themselves out of their impoverished living conditions.

I urge my colleagues to join me in supporting the Hall amendment.

Mr. FLAKE. Mr. Chairman, I move to strike the last word. I rise today in support of the Select Committee on Hunger en bloc amendment which contains key elements for the international section of the Freedom from Want Act.

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As a member of the Select Committee, I have had the opportunity to investigate international needs as they relate to the extensive problems that are experienced in other parts of the world. It is especially crucial for us to try to address these concerns and give priority to the problem of hunger.

Despite the advances in combatting childhood mortality, the world's children are in constant states of despair. Almost 20 percent of African children will die before the age of 5, which represents about 53 percent of all deaths in Africa. When providing foreign aid, children should indeed be at the top of our priorities, because they represent the future.

Toward that end, these en bloc amendments earmark $275 million in fiscal year 1992 and $335 million in fiscal year 1993 for child survival activities. This money would provide lowcost, yet very effective assistance, such as immunication and oral rehydration therapy. The money would come from three different development and economic aid accounts, the development assistance, economic support assistance, and the development fund for Africa. This provision requires AID to spend only about 5 percent on children who will survive.

In addition, this amendment would earmark $135 million in fiscal year 1992 and $175 million in fiscal year 1993 for basic education activities. This requires AID to spend only about 2.5 percent on basic education in developing countries on areas such as early childhood education, primary education, teacher training, and other necessary activities in support of early childhood and primary education, and literacy training for adults. Sustainable development has little chance of success in many countries in sub-Saharan Africa, as well as in Haiti, and in some countries in south Asia where fewer than 10 percent of all primary school-age children finish primary school.

This bill also requires the Agency for International Development to submit to Congress an annual plan for child survival and basic education.

Finally, Mr. Chairman, there is no new money added by this amendment. I repeat, there is no new money added by this amendment. The amendment simply requires that from the amounts already authorized in the bill, AID spends 5 percent on children and 2.5 percent on basic education. When authorizing foreign aid, we must focus on the needs of the poor with specific and effective programs.

I commend the chairman, the gentleman from Ohio [Mr. HALL] and the ranking minority member, the gentleman from Missouri [Mr. EMERSON] for offering this innovative amendment, and I urge that all members of this body support it.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to rise in support of the Hall amendments en bloc, adding environmental policy language and earmarking substantial funding for education and child survival assistance and making certain, too, that we mandate the promotion of the right of access to food to U.S.-sponsored human rights initiatives.

This measure is long overdue. I want to commend the distinguished chairman of our Select Committee on Hunger, the gentleman from Ohio, [Mr. HALL], for bringing this measure to the floor at this time. Years ago, when I served on the Presidential Commission on Hunger, the findings of that Commission focused attention on the fact that the world has the ability to feed the entire population of this world, but what is needed is the intent and the will to do it. This measure goes a long way in providing funds that will make certain that the 15 million who die each and every year from lack of nutrition, lack of foodstuffs, are going to be supplied with the necessary sustainable kind of nutrition that they need, as well as to giving attention to the environmental problems and addressing the lack of education that exists throughout our developing world.

These amendments combat hunger and its immediate symptoms by expanding international food assistance programs and its root causes through innovative domestic antipoverty programs, and international human rights policy and U.N. reform.

These provisions are supported by organizations as diverse as Bread for the World, the U.S. Committee for UNICEF, the National Council for International Health, RESULTS, InterAction, World Vision, CARE, the International Eye Foundation, the U.S. Committee for Refugees, Save the Children, the Friends Committee on National Legislation, the National Association of State Universities and Land-Grant Colleges, Helen Keller International, and the Committee on Sustainable Agriculture.

Accordingly, I urge my colleagues to fully support this measure.

Ms. LONG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise as a member of the Select Committee on Hunger to support the gentleman's amendment. I believe that the amendment tightens the focus of the legislation and, in particular, strengthens the provisions of the bill encouraging self-sufficiency.

Foreign aid must assist other countries in achieving their own independent economic well being.

This amendment will not increase outlays but rather ensure that we are going to get the best results for our money and I urge my colleagues to support it.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise this morning to support the Hall amendments and to praise the gentleman from Ohio [Mr. HALL] and the gentleman from Missouri [Mr. EMERSON] on the work they have done on this particular bill.

Prior to coming to this prestigious organization of the U.S. Congress, I had visited West Africa, Latin America, and Asia. I have seen the need for education. The need for nutrition is beyond belief to many who do not have that particular understanding here in the United States.

On a trip to Liberia, I found that 35 percent of the children under 5 died from malnutrition.

There were areas of West Africa where the average age was 27.

If there is anything we need coming out of this body, it is an understanding on how to solve the problems of the world, and one of those things is to support this amendment.

We need security for the children. We need food and education. If we are not to repeat the cycle of poverty and ignorance in the world, then we have to have some sense of how to solve that problem, and if we are to solve that problem, it is for us to rise today in support of this amendment to carefully craft how we can send the funds to those areas where they are needed. They are needed to provide nutrition for those children who do not have nutrition. They are needed to provide education for an understanding of how to provide for themselves in the future.

We live in an area where farming is relatively easy and natural for the middle latitudes, but in much of the world where they live in a rainforest there is no topsoil. It takes skill, it takes technology, it takes initiative, it takes education to provide for those people the education so that they can provide for themselves.

Mr. Chairman, I rise in support of the Hall amendments. I praise the gentleman for this particular initiative. This is something we need to do.

I would like to make one other remark. On my visit to areas of the world such as Asia and Africa, malaria in these areas is as common as the common cold is in the United States. You couple that with malnutrition before the age of 5 and you have a very difficult situation to surmount; so is we can provide those carefully crafted funds, we will go a long way to provide for those people and for a better world for everyone.

Mr. FAZIO. Mr. Chairman, I rise in support of Mr. HALL's en bloc amendment—a practical approach toward ending world hunger.

Each day, 40,000 children under 5 years of age will die from malnutrition and disease because they do not have the basic rights to food and medical care. In the United States alone, between 18 to 20 million people go hungry for at least part of each month.

Yet, hunger is not necessary. We have the capability of producing enough food to feed us all. And Mr. HALL's amendment is based on this premise. It rightfully assumes that our environment, properly managed, can sustain us—that, if we take a forward-thinking, proactive approach to dealing with this problem, we will be able to feed ourselves.

Mr. HALL's amendment, made up of key elements from the international section of the Freedom From Want Act, does not necessitate spending any additional funds. Instead, it calls for a strategic application of our current resources in an effort to eliminate hunger and its causes. It incorporates the best elements of all practical antihunger, antipoverty strategies—proper resource management, basic education, and child survival activities.

This is an opportunity for us all to see some sustained results in the war against hunger. We can address both short- and long-term needs by taking a proactive approach to meeting this challenge. I urge my colleagues to support Mr. HALL's amendment as a realistic plan for guaranteeing this basic human right.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The question is on the amendments en bloc offered by the gentleman from Ohio [Mr. HALL].

The amendments en bloc were agreed to.

The CHAIRMAN pro tempore. Are there any other amendments to title 1?

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey: Page 42, strike out line 18 and all that follows through line 23 on page 43 (sections 1205 and 1206) and insert in lieu thereof the following:

"(d) RESTRICTIONS ON POPULATION ASSISTANCE.—Funds for development assistance, economic support assistance, or assistance from the Development Fund for Africa that are used for population planning activities may not be made available—

"(1) to any organization or program which (as determined by the President) supports, or participates in the management of, a program of coercive abortion or involuntary sterilization, or

"(2) to any foreign nongovernmental organization which performs or actively promotes abortion as a method of family planning."

The CHAIRMAN pro tempore. The Chair will ask, are these amendments printed in the RECORD?

Mr. SMITH of New Jersey. Yes, they are, Mr. Chairman.

(By unanimous consent, Mr. SMITH of New Jersey was allowed to proceed for 3 additional minutes.)

The CHAIRMAN pro tempore. The gentleman from New Jersey [Mr. SMITH] is recognized for 8 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, in floor debate on November 14, 1989, my good friend from Maine, OLYMPIA SNOWE said, "we all agree that China's policy of coerced abortions is both appalling and contemptible."

What Ms. SNOWE, Mrs. JOHNSON of Connecticut, President Bush, numerous China scholars, and I acknowledge as a "given," a fact, a matter that is beyond any reasonable doubt—namely the pervasiveness of forced abortion and forced sterilization in China—is a fact, however, the United Nations Population Fund says simple doesn't exist.

Faced with an extermination program that only a devotee of the Third Reich could love, the United Nations Population Fund continues to applaud the Chinese program, fund it, promote it, support it, comanage it, whitewash it, and grossly misrepresent it to the world.

Mr. Chairman, since China embarked on their brave new world of forcing only 1 child per couple in 1979, more than 120 million babies have been slaughtered by the State. Anthropologist Steven Mosher, the man who broke the story in the early 1980's after living with the rural Chinese, estimates that approximately 90 percent of those 120 million abortions were the result of coercion.

In his book published this year, "Slaughter of the Innocents: Coercive Birth Control in China," Dr. John Aird writes:

The Chinese program remains highly coercive, not because of local deviations from central policies but as a direct, inevitable, and intentional consequence of those policies.

In their exhaustive 1988 study on population trends in the People's Republic of China, China experts Judith Banister and Karen Hardee-Cleaveland of the United States Census Bureau conclude:

Today Chinese couples still are not given a choice about whether they practice family planning, how many children they have, when they have the allowed birth or births, whether or not to sign family planning contracts or what form of birth control they will use. It is forced on them.

Against this backdrop of UNFPA's complicity in coercion—comes the Kostmayer amendment earmarking funds for the UNFPA. Since the enactment of the Kemp-Kasten law in 1985, a policy which the language of the Kostmayer amendment circumvents, the administration has reviewed UNFPA's activities and the President has made an annual determination that UNFPA violated the statute and is guilty of supporting and comanaging a coercive population control program in China.

AID has made a determination that:

The kind of quality of assistance provided by UNFPA contributed significantly to China's ability to manage and implement a population program in which coercion was pervasive.

AID further states that,

The quality and substantial amount of UNFPA management assistance in China has a significant impact on the establishment and maintenance of an effective demographic information system and the ability to formulate [these] targets, monitor compliance and enforce China's one-child policy.

Mr. Chairman, argument will be made today that a mere bookkeeping exercise—an accounting trick—permits the United States to resume funding of the UNFPA provided they segregate the account so not United States funds go to China.

This approach embodied in the Kostmayer language is weak, flawed and belittles our deep concern regarding UNFPA's complicity in the coercive population control program in China. Money, moreover, is fungible. The UNFPA ought not be rewarded for its steadfast adherence to unethical behavior.

And, it seems to me, that if the UNFPA was supporting, comanaging and funding substantial technical assistance to a highly coercive population control program in another country—and that country happened to be the United States, not China—even Mr. KOSTMAYER might see this in a different light. If American women, not Chinese women, were being victimized by forced abortion, involuntary sterilizations, loss of pay and benefits for unauthorized births, the humiliation of many other forms of coercion, Mr.

KOSTMAYER's accounting trick would be seen as totally unacceptable.

Chinese women aren't second class citizens. What we wouldn't tolerate for American women and children shouldn't be tolerated or dealt with lightly because it's happening in a faraway place.

Finally, let me underscore here that every dollar withheld from UNFPA has been reprogrammed to other family planning projects around the globe.

For the RECORD, I will include the reprogramming list.

ORGANIZATIONS RECEIVING REPROGRAMMED UNFPA FUNDS, 1985–1991

Question. A.I.D. has reprogrammed funds set aside for UNFPA since 1985. To what organizations and projects has this money been given?

Answer. The following list shows the organizations that received reprogrammed UNFPA funds by year.

1985: AMOUNT REPROGRAMMED: $10,000,000

General Services Administration (Contraceptives).
Family of the Americas Foundation.
Columbia University.
International Federation for Family Life Promotion.
John Snow, Inc.
Management Sciences for Health.
Pathfinder Fund.
IPPF/Western Hemisphere Region.

1986: AMOUNT REPROGRAMMED: $25,000,000

Family Planning International Assistance.
Johns Hopkins University/Population Communication Services.
Population Reference Bureau.
Westinghouse Institute for Resource Development.
Ansell (Contraceptives).
The Futures Group.
Columbia University.
Population Council.
John Snow, Inc.
Georgetown University.
Johns Hopkins University/JHPIEGO.
IPPF/Western Hemisphere Region.
Management Sciences for Health.

1987: AMOUNT REPROGRAMMED: $25,390,000

University Research Corporation.
Family Health International.
Ronco Corporation.
Development Associates, Inc.
Johns Hopkins University/Population Communication Services.
John Hopkins University/JHPIEGO.
IPPF/Western Hemisphere Region.
The Futures Group.
Georgetown University.
John Snow, Inc.
Center for Development and Population Activities.
Johns Hopkins University/Population Information Program.

1988: AMOUNT REPROGRAMMED: $25,000,000

Ansell/Contraceptives.
Dual and Associates.
The Futures Group.
John Snow, Inc.
Center for Development and Population Activities.
Pathfinder Fund.
IPPF/Western Hemisphere Region.
Association for Voluntary Surgical Contraception.
Johns Hopkins University/JHPIEGO.
Johns Hopkins University/PCS.
Development Associates, Inc.
Ronco Corporation.
University of North Carolina/INTRAH.
Management Sciences for Health.
University Research Corporation.
Columbia University.
Population Council.
Family Health International.
East Virginia Medical School.
Georgetown University.
Westinghouse Institute for Resource Development.
U.S. Bureau of the Census.
Population Reference Bureau.

1989: AMOUNT REPROGRAMMED: $5,000,000

IPPF/Western Hemisphere Region.
Ansell/Contraceptives.
Family Health International.
Population Council.
University of Michigan.

1990: AMOUNT REPROGRAMMED: $11,213,000

Family Planning International Assistance.
Ansell/Contraceptives.
Center for Development and Population Activities.
The Futures Group.
IPPF/Western Hemisphere Region.
Johns Hopkins University.
Management Sciences for Health.

1991: (ANTICIPATED): AMOUNT TO BE REPROGRAMMED: $10,000,000

Population Council.
Georgetown University.
Family Health International.
East Virginia Medical School.
Dual and Associates.
IPPF/Western Hemisphere Region.
The Futures Group.
CARE.
John Snow, Inc.
Development Associates.
University of North Carolina/INTRAH.
Johns Hopkins University/JHPIEGO.
Johns Hopkins University/Population Communication Services.
American Association for the Advancement of Science.

Mr. Chairman, the second part of my amendment strikes language in the bill that reverses the Mexico City policy—a prochild, humane policy that effectively separates abortion from family planning in international population control programs. The Mexico City policy is both profamily planning and prolife. It precludes donations to NGO's that perform or actively promote abortion as a method of family planning. According to AID, the number of NGO's that have accepted the Mexico City policy has actually grown in the last year from about 300 to approximately 400. Even the number of Planned Parenthood affiliates have grown from 37 to 44.

Significantly, Mr. Chairman, the United States remains the leading donor of population aid, providing about 45 percent of all international family planning assistance in more than 100 countries, so to suggest that the United States has abrogated its leadership in family planning just doesn't wash. Since 1981, the United States has obligated over $2.6 billion for these programs.

Mr. Chairman, recent polls show that Americans overwhelmingly object to the promotion of abortion as a method of family planning. A March 1989 Boston Globe poll, for example, found that 89 percent of the American public rejected abortion as a means of birth control, and a Gallup poll taken in May 1990, found 88 percent disapproval.

Mr. Chairman, I believe Americans can be proud of the fact that while the U.S. Government provides substantial amounts of funds to family planning initiatives worldwide, we draw the line with regard to abortion and we do it in a way that is profoundly sensitive to and protective of the very small and extremely vulnerable unborn child.

It is precisely because children, like their mothers, are precious, deserving of respect, compassion and tangible assistance, that our government says no to funding abortion—directly or indirectly—and seeks instead to provide financing to family planning programs that are less likely to prove injurious to the child in the womb.

It should be clear, Mr. Chairman, as to why the Bush administration and on several occasions the House of Representatives, have insisted that abortion not be construed as a method of family planning. The reality is that abortion procedures destroy infants by ripping them apart or poisoning them.

In a common abortion method known as vacuum aspiration, a loop-shaped knife attached to a high powered suction machine rips and shreds the unsuspecting child to pieces. The body parts are then vacuumed into a bottle and they're disposed of. The power of the vacuum is said to be about 30 times that of a household vacuum cleaner.

In a D&D and D&E abortion, the child is dismembered, literally dismembered, by a surgeon's knife without even the benefit of anesthesia.

In saline abortions, Mr. Chairman, usually done in the second trimester, the unborn baby, has his or her life purposely snuffed out by an overdose of injected salt water. A baby terminated in this way dies a very slow, excruciating, and painful death. After the salt is injected by a hypodermic needle into the infants amniotic sac, the child breathes the fluid and gets sick. The salt burns the outer layer of the skin and gets into the blood stream and kills the vital organs of the child. A day or two later, the mother goes into labor and gives birth to a chemically burned baby whose appearance resembles a first degree burn victim.

This Mr. Chairman, is the horrific reality of abortion—dead babies. In each case, every abortion stops a beating heart.

I remain deeply saddened, Mr. Chairman, that some in the family planning community are so inextricably linked, so wed, so obsessed, with snuffing out the lives of developing babies that they refuse to divest themselves from abortion. Yet, it is also clear that the number of NGO's that choose to promote contraception—not abortion—is growing. As I indicated earlier, the number of NGO's that have accepted the Mexico City policy has grown in the last year from about 300 to 400.

Mr. Chairman, the Mexico City policy effectively separates abortion from family planning, and I believe it should be preserved.

□ 1120

Mr. HYDE. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, the other day this House passed a resolution directed at saving whales and saving porpoises, and I was happy to support that. I think we need whales and porpoises; but I am more concerned about saving human lives.

I think a little Chinese fetus, which is an embryonic life, not a potential life but a life with potential, is at least as important as a whale, a snail darter, and all those endangered living organisms we want to save.

We are in very bad company when we associate ourselves with, and when we subsidize, the U.N. Fund for Population Assistance because the U.N. fund supports and helps manage the Chinese population policy which makes Tiananmen Square look like a picnic.

A Chinese policy of coerced sterilization and coerced abortion that works, I might add to you feminists, against women. God help you if you have a girl child.

At least Lawrence Tribe said that in his recent book, "Abortion, the Clash of Absolutes." Lawrence Tribe of Harvard said, "China's one-family, one-child and compulsory abortion policies greatly undermine the well-being of couples who bear a female child."

Let me tell you what this coercive policy in China does—and remember, in supporting the language in the bill and voting against Chris Smith's amendment, you are jumping in bed with an organization that supports and subsidizes and helps manage this coercive policy. Let me quote from the Washington Post of February 26, 1989, an article by Blake Kerr, "Witness to China's Shame."

> The villagers were informed that all women had to report to the tent for abortions or sterilizations or there would be grave consequences * * * The women who refused were taken by force, operated on, and no medical care was given. Women 9 months pregnant had their babies taken out * * * We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible * * * Since 1987 there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad area * * *"

That is in the Washington Post of February 26, 1989.

There are many other quotations about the atrocities that were imposed on women who commit the crime of having more than one child. So this is something you either want to support or want to reject.

What we are proposing is not to diminish by one nickel the funds that are used for family planning but to recognize and emphasize family planning is contraception, not abortion. One procedure prevents the conceiving of a child; the other exterminates tiny little preborn life.

□ 1130

So, Mr. Chairman, I suggest that we not coerce millions of American taxpayers into supporting this kind of atrocity, into supporting the extermination of unborn children around the globe, and stay with the policy we have had. We supply 45 percent of the funds in the world for family planning. There are over 400 groups that do not require abortion as a part of their family planning. Abortion is killing. Contraception is preventing a life from coming into being.

So, Mr. Chairman, I urge my colleagues to rank human beings, whether they are from China, or Bangladesh, or anywhere, at least with snail darters, at least with baby harp seals, at least with burros, and protect them and their right to live. Do not force people to subsidize the killing of unborn children.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, at the appropriate time I will offer an amendment to the amendment offered by the gentleman from New Jersey [Mr. SMITH], my friend, which would restore UNFPA funding. The amendment that I will offer also requires the UNFPA to enforce a cap on the funds that the UNFPA provides to China. This will prevent U.S. funds given to the UNFPA from freeing up any additional UNFPA funding for China. That is something we do not want them to do.

I ought to say, Mr. Chairman, that the amendment of the gentleman from New Jersey [Mr. SMITH], in addition to limiting funds to China, which is something we concur with, would cutoff United States population funds to 140 countries in the world. This amendment would cut off voluntary family planning to 140 countries in the world, in the Third World, in Africa, Asia, and Latin America. This amendment would cutoff United States family planning assistance to Ethiopia. This amendment would drastically limit United States voluntary family planning assistance to India. This amendment would also vastly scale back United States voluntary family planning assistance to Bangladesh. In addition to cutting off those 140 countries, some of which would continue to get U.S. aid for population independently of the UNFPA, 50 of those countries, as a result of this amendment, would lose all of their voluntary family planning assistance from the United States.

Mr. Chairman, we are talking about an amendment which will hinder family planning clinics in Bangladesh. We want to provide to those women, the poorest women in the world, the opportunity to limit the number of children they will have on a voluntary basis. This amendment offered by the gentleman from New Jersey [Mr. SMITH] and supported by the author of the Hyde amendment, my friend from Illinois, would hinder those clinics, deny those women in those countries voluntary family planning assistance from our country.

Mr. Chairman, in Africa the growth rate for food production is 1 percent a year. The growth rate for population is 3 percent a year. That is why people are starving in Ethiopia, that is why people are starving in Bangladesh, because there are too many people and too little food.

This amendment would give the women of those countries and 140 other countries the opportunity which women in this country have, at least for a little while longer, to decide whether or not they want to have children.

Each year, Mr. Chairman, the world's population grows by 90 million people. Almost all of those people are born in Africa, Asia, and Latin America. That is another Mexico every year. This is one of the most troublesome and most fundamental problems which is affecting the planet today.

Now the administration says that the UNFPA is involved in coercive abortions. This is a study released by the Agency for International Development, which is part of the State Department, which is a part of this administration. It says, and I quote, "There is no evidence that UNFPA is essentially or actually promoting or supporting abortion in any country." This is a document from the U.S. State Department which contravenes directly what the gentleman from New Jersey [Mr. SMITH] and the gentleman from Illinois [Mr. HYDE], my friends, have said.

I urge in the strongest possible terms the committee to agree to the amendment which I will offer at an appropriate time to the amendment of the gentleman from New Jersey [Mr. SMITH] and to allow poor women around the world to choose how many children they will have. That should not be a decision made by the Congress of the United States.

Mr. ROHRABACHER. Mr. Chairman, I rise in support of the amendment of the gentleman from New Jersey [Mr. SMITH], and I yield to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman from California [Mr. ROHRABACHER] for yielding.

Mr. Chairman, we have just experienced a tremendous exercise in hyperbole. Let me make a few points.

First of all, Mr. Chairman, the 1985 AID memo referred to by the gentleman from Pennsylvania [Mr. KOSTMAYER] was a very cursory view, and it was based upon available evidence at the time, before the operative Kemp-Kasten language kicked in, after Congress said that it would no longer tolerate coercion, forced abortion, forced sterilization. The Agency for International Development took a very careful review of what was going on in China, and UNFPA has complicity in that, in providing the necessary means, the infrastructure, the computer capability, to more effectively prosecute that policy upon the victims, the women and the children in the People's Republic of China. AID in its determination said, since AID is being quoted by my friend:

> The kind and quality of assistance provided by UNFPA contributed significantly to China's ability to manage and implement a population program in which coercion was pervasive.

AID further states that the quality and substantial amount of UNFPA management assistance in China has a significant—not small—a significant, impact on the establishment and maintenance of an effective demographic information system and the ability to form those targets, those birth quotas, and to monitor compliance and to further enforce China's one-child-per-couple policy.

When we talk about Bangladesh, AID provides substantial family planning assistance to Bangladesh. As a matter of fact, it is the largest of all those programs that we underwrite and subsidize. It is the largest recipient of AID population funds, and AID is very proud of what it has done there and has provided, and I will make it a part of the RECORD, a very substantive factsheet concerning the kind of contraceptive preventative means of family planning methods that they have provided.

□ 1140

Let me also point out that we are in excess of 100 countries, 85 countries providing technical and project assistnce, throughout the developing world.

Mr. Chairman, finally let me just reiterate, we spend about $2.6 billion on family planning, and have done so since 1981. I think it should be very clear these are profamily planning amendments, but we also feel that they must be voluntary, without coercive abortion, without coercive sterilization.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say, if I can capsulize the statement of the gentleman from Pennsylvania [Mr. KOSTMAYER], it is no family planning without abortion. And in Ethiopia, the civil war between the Eriteans, the Tigreans, and the communist government of Mengistu has nothing to do with the fact that those people are starving: and over in Japan, where the density, more people per square mile, is greater than Ethiopia, they have a high standard of living with a lot of people.

Mr. Chairman, the gentleman has certainly summarized his grasp of this problem marvelously well. His citation from AID is about seven years out of date. So the gentleman has made his usual great contribution to this discussion.

Mr. MOODY. Mr. Chairman, first, let me agree with much of what my friends from the Republican side, the gentleman from Illinois [Mr. HYDE] and the gentleman from New Jersey [Mr. SMITH], have said, but disagree with their conclusion. None of us are asking the American taxpayer to pay for abortion overseas. They would not do so with or without the Smith amendment. The committee bill before us would not spend one penny on abortion anywhere in the world. So that part of the debate has been a red herring. In fact, this is not an abortion bill at all.

Second, another red herring to be pointed out relates to China. There is not a single penny in this bill for China. No money in this bill goes to China for any purpose, for abortion, or for anything else. Not even for ordinary family planning. In fact, China is explicitly excluded from any funding whatsoever in this bill.

So those two arguments are fine, but have nothing to do with the amendment that is being offered by Mr. SMITH.

I spent a year in Bangladesh myself with the Peace Corps. When I went to Bangladesh in 1961, the population of that country was less than 50 million people. Today the population of Bangladesh is over 118 million, living in a Malthusian world of near starvation, forced to inhabit delta flats which are totally vulnerable to typhoons and other disturbances of nature that wipe out hundreds of thousands of people at a time because they are simply overpopulated.

Bangladeshi women typically have six or eight children, of which maybe four survive. The others die of malnutrition and other opportunistic diseases.

We are talking about preserving lives—preventing child death—in Bangladesh, about avoiding incalculable human suffering and death by letting people select their family size and space their children. They need to do this so they can take care of them, appropriately, as long as they have the means and the ability to do so. This is the goal of the committee's bill, and this is what we are attempting to defend when we ask for defeat of the Smith amendment.

To bring in China and abortion is a red herring, because there is no money here for China, and there is no money for abortion.

Now, what the amendment of the gentleman from New Jersey [Mr. SMITH] would actually do, would be to totally strike all U.S. funds for UNFPA and for its program in all countries other than China.

What is the problem with that? Mr. SMITH says that the United States is already assisting Bangladesh with AID funds. But there are many other countries in the world where there is no U.S. AID program, where there are no bilateral programs and where UNFPA is the only family planning program in being.

In Africa, for example, UNFPA serves 30 countries; AID only 11. There are 29 countries in Africa that will receive zero United States funds if the Smith amendment passes. That is not the way to go. That is not the way.

Here is my fundamental point: why would you want to punish 29 countries in Africa, and a number of countries in other regions, because you want to punish China? If you want to get at China, then I would suggest the appropriate place to get at China is the Most Favored Nation Treaty for trade when it is before us. If you want to get at China—appropriately—for its human rights abuses, then do it where it hurts, where they will feel it.

In this amendment, since there is already no money in the bill for China, you will be punishing Haiti, India, Benin, Cape Verde, Nigeria, and a whole host of other countries.

Consider this: if you pass this amendment, you will be letting the internal abuses in China, as bad as they are, to dictate American policy for 30 or 40 other countries. Why would we want to let policies inside China, as bad as they are, dictate what we do to help other countries? By voting for the Smith amendment you would be relinquishing your role to shape our policy for other countries and tying it to what goes on inside China.

Why would any thinking Member let China's internal policies dictate what we do vis-a-vis Nigeria, which is exactly what the Smith amendment does. Cutting off all U.S. money for UNFPA would mean that we are not going to assist those countries through UNFPA which the United States has historically done.

Mr. Chairman, I cannot figure out why anyone who cares about our country setting its own policy will let the Smith amendment dictate U.S. policy to 30-some other countries which is exactly what you are doing if you support the Smith amendment.

Mr. Chairman, I would suggest that Members support the committee bill as it is. There will be plenty of time to get at China in appropriate ways which cause real impact. The Smith amendment would not do that. By hurting a whole series of other countries through the UNFPA as they attempt to carry out non-abortion-related programs and simply want to avoid child starvation, death, and suffering would certainly be cruel.

I urge that we defeat the Smith amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if we support the Smith amendment, we strike all money for UNFPA and for Planned Parenthood, and for any other organization who does an abortion for any reason, even if the mother is in extremely bad health.

If we deny UNFPA, we take out funding for family planning through that organization for the entire world, because of what the gentleman from New Jersey [Mr. SMITH] claims China is doing.

The other part of the Smith amendment would reaffirm the international gag rule, which says that no organization can receive any money from the United States if they mention the word "abortion."

Mr. Chairman, I recognize that abortions can be performed to save the life of the mother. But if there is a serious health problem, if a woman in Bangladesh weighs 85 pounds, has five children, and has been breast feeding for 3 years because there is no other food for her children, Planned Parenthood or any other organization cannot suggest to her that termination of another pregnancy might be a sound medical idea, because they cannot mention the word abortion.

This country has got to begin to look at sheer numbers in the world. I am not one of those who think that people are a blight on the Earth. I think we should multiply and we should continue to try to make things as best we can for the people in this world. But we have simply got to begin to look at the numbers.

Mexico has a growth rate of 2 percent. This means that its population will double in 30 years. India has a growth rate of 2 percent. Bangladesh has a growth rate of 3 percent. Its population is going to double in 23 years.

If you take family planning money away from China, what you are doing is taking away family planning money from a country that currently has an enormous population problem, has a population of 1.1 billion people that they are desperately trying to deal with, and whose population will double to 2.2 billion people in less than 50 years.

The UNFPA and Planned Parenthood are probably the most effective groups in the world. Why is that? We continue to provide family planning money, $300 million of it, to other groups. We provide a great deal of money for family planning. But if you are in a health clinic in a remote area in a Third World country, and you have people dying on one side, and you have some family planning money, I am sure that you are going to help the people who are dying. I would do the same thing. Even AID recognizes that we cannot track all of our family planning money.

□ 1150

We should be giving our family planning assistance to those groups who only do family planning, whose only mission is family planning. It is extremely shortsighted of us to adopt the Smith amendment. If my colleagues think the fact that Mexico has a growth rate of 2 percent with a doubling of their population in 30 years is not going to have an impact on the United States, I beg to differ with them. I think it will have a major impact on the United States.

We simply must begin to be part of the solution and not part of the problem. I have come to the reluctant conclusion that nothing happens in this world, nothing, unless the United States takes a real leadership position in it. And we are not taking a leadership position here.

We have a wall in this country, and it has abortion written on it. And somehow we keep running into that wall no matter what we try to do. Family planning is a good thing to do. These are not abortion issues that we are dealing with today. They are family planning issues, and we should defeat the Smith amendment.

I believe that we will do that by having two amendments to his amendment, and I urge my colleagues to vote for both amendments to the Smith amendment, and allow family planning to go forward.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for 25 years the United States has been calling upon poor countries of the world to reduce their population growth. These are the very countries that can least afford a doubling of their human numbers. A U.S. contribution to the U.N. population fund is extremely important.

It was the United States that worked diligently on behalf of creating this fund. Today it is clear that the global population crisis cannot be fought successfully with countries and organizations going their separate ways. There must be a coordinated concerted effort.

For this reason, I believe the responsible vote on this issue is on behalf of the United States resuming its support of the largest multilateral organization, providing family planning services for developing countries to the United Nations population fund.

The Secretary General of the United Nations recently reported in his 1990 report that the global population now standing at 5.3 billion increased by 250 million every single day, almost 1 billion in that span of 10 years will be the total growth. Well over 90 percent of that growth will occur in the poorest countries. There is thus an unmanaged increase in the number to be fed, clothed, and sheltered. This has overstrained the capacity of the developing countries to provide employment, housing, infrastructure, and related services.

Unless this trend is arrested, there will be social chaos in large parts of the world. Other severe negative impacts include the degradation of the environment in many places of the world, as population pressure increases, the Earth's capacity to endure.

It has been already mentioned that 17 out of 36 countries of the world will not receive any assistance, 17 out of 36 African countries, because they do not receive bilateral aid from the USA. By supporting the Smith amendment, we will certainly do a serious disservice to people around the world.

I would just simply like to say that I would hope that the interests of civil rights of people and women's rights of people in China would be the same thing, would be the same interests that we would see for civil rights and human rights in the United States, because maybe some of those persons who so strongly push women's rights and civil rights in China would vote in favor of the civil rights bill of 1991.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. PAYNE of New Jersey. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the Smith amendment and want to associate myself with the remarks of the gentleman in the well [Mr. PAYNE]. It is important to emphasize that this vote has nothing to do with China. United States funds for population efforts by the United Nations that are included in this measure are specifically prohibited from going to the People's Republic of China.

Our votes today are to determine whether we support the United Nations' population assistance efforts that we so faithfully supported for so many years.

It is important to know that virtually all of the United States' best friends in the international community—including the United Kingdom, Canada, Germany, the Scandinavian countries, and Japan—are contributing to the United Nations Population Fund. In fact, since the United States cut off its contribution in 1986, these countries have all increased their contributions to the U.N. Population Fund.

World population is growing by 95 million a year—by far the largest annual increment to this planet. The repercussions of that growth—in terms of environmental deterioration, unemployment, economic stagnation, malnutrition, and hunger—are absolutely devastating. The question is too important, the stakes too high for this matter to sink into ideological quicksand. A vote for supporting the U.N. Population Fund is a vote on behalf of implementing our concern regarding a very real problem. One that may well determine the quality of life on this planet in the years to come.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman I rise in support of my colleague, Mr. SMITH of New Jersey, and the amendment he offers today to strike the committee-approved language that would nullify the Mexico City policy and earmark funds for the U.N Population Fund [UNFPA], and I associate myself with the remarks of the gentleman from Illinois [Mr. HYDE].

During the 1970's and early 1980's foreign nongovernmental organizations were the major source of funding for a number of groups which promoted abortion and the legalization of abortion in developing countries. Adopted in 1984, the Mexico City policy substantially changed the U.S. position on funding such organizations by stipulating that the Agency for International Development [AID] will not fund any private organization which participates in performing or promoting abortion as a method of family planning. This policy does not alter the amount of money authorized to AID but rather reprograms this money to other organizations that are in accord with the Mexico City policy.

A year later, in 1985, the House approved the Kemp-Kasten amendment which denies funds to organizations that support coercive population programs. Funding is denied the UNFPA due to its active participation in China's population control program—its one-child-per-family program. In denying funds to the UNFPA the United States does not spend any less on foreign family planning but redirects appropriated funds to those programs that do not participate in coercive abortion.

Since adoptions of these two policies, positions have not changed radically. The International Planned Parenthood Federation [IPPF] and the Planned Parenthood Federation of America [PPFA] still refuse to adopt AID clauses. However, 44 IPPF affiliates have agreed to sign the Mexico City policy along with approximately 400 foreign family planning NGO's.

Are we here once again to debate the merits of the Mexico City policy? If so, let me remind you that the House has twice voted to affirm this policy.

Are we here to debate whether the UNFPA promotes abortion as a family planning method? If so, let me point out that despite evidence of coercion, the UNFPA heralds the China program as a model for other developing nations.

Are we here today to once again debate paying for abortion with U.S. dollars? If so, let me forewarn you—the President has assured the Congress he will veto any bill with language striking the intent of the Mexico City policy, and the Kemp-Kasten Act.

The real issue before us today is whether the House intends to reverse its current position of denying U.S. tax dollars to fund, however indirectly, any organization or program that promotes abortion.

If these unborn babies at risk were to be educated rather than terminated, they could teach humane methods of family planning for future generations to come, and future politicians will not have to belabor this sensitive issue as we have so often in the past and as we do again today.

U.S. tax dollars can better be invested in future generations rather than in determining future generations.

I strongly urge my colleagues on both sides of the aisle to stick to its current position by voting yes on the Smith amendment.

□ 1200

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. SMITH of New Jersey:

After line 12 of the amendment, add the following:

"SEC. 1205. FUNDING FOR THE UNITED NATIONS POPULATION FUND.

"Notwithstanding the foregoing, of the funds appropriated under section 1204(b), $20,000,000 or 16 percent of the amount appropriated (whichever is less) shall be available only for the United Nations Population Fund, subject to the following conditions:

"(1) The United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds.

"(2) None of these funds shall be made available for programs for the People's Republic of China.

"(3) Any agreement entered into by the United States and the United Nations Population Fund to obligate these funds shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning programs in the People's Republic of China or for abortions in any country.

"(4) Any agreement entered into by the United States and the United Nations Population Fund to obligate funds earmarked under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if, during its five year program which commenced in 1990, the United Nations Population Fund provides more than fifty-seven million dollars for family planning programs in the People's Republic of China.

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, my amendment would seek to clarify the amendment offered by my friend, the gentleman from New Jersey [Mr. SMITH]. The amendment offered by the gentleman from New Jersey [Mr. SMITH] does two things. It strikes funding for UNFPA, and it restores the so-called Mexico City policy which has been struck in the committee print.

My amendment would clarify the debate by separating these issues, restoring funding to UNFPA but leaving alone those provisions regarding Mexico City which are currently contained in the amendment offered by the gentleman from New Jersey [Mr. SMITH].

My amendment furthermore would require UNFPA a cap on the total amount of funds which UNFPA could provide to China at the level of $10 million per year. The agreement between the U.N. Population Fund and the United States would require the UNFPA to return all U.S. funds if any additional funds have gone to China.

The amendment continues all of the restrictions on abortion which have been in current law for such a very long time.

I would say, finally, before yielding to the gentleman from California [Mr. BERMAN], that Members should be aware that the United States is not providing family planning assistance in 50 countries that are served by the UNFPA. If my amendment is not agreed to, and the amendment offered by the gentleman from New Jersey [Mr. SMITH] is agreed to, those 50 countries in the Third World would lose all voluntary family planning assistance.

Mr. Chairman, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise only to seek and to propose that by unanimous consent this body accept, on the amendment now being offered, the Kostmayer amendment, a time limit of 40 minutes, 20 minutes to be controlled by the maker of the amendment, the gentleman from Pennsylvania [Mr. KOSTMAYER], and 20 minutes to be controlled by the gentleman from New Jersey [Mr. SMITH].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. DORNAN of California. Mr. Chairman, reserving the right to object, may I inquire of the Chair and of my colleague, the gentleman from California, why are we limiting debate here? Why do you want us to cooperate with you?

Mr. BERMAN. Mr. Chairman, if the gentleman will yield to me under his reservation, it is because there is, as we have discussed with the gentleman from New Jersey and the gentleman from Illinois [Mr. HYDE], there are two separate amendments to the underlying Smith amendment. The time limit would be proposed for this amendment and then for a subsequent amendment focusing on the Mexico City policy.

We are under a rule that has an 8-hour time limit, and all amendments to be offered to this, and in just some effort, and not in any way diminishing the importance of this discussion, we think 20 minutes, 20 minutes, 40 minutes on this, 40 minutes on the next in the context of a totally hour debate is a quite reasonable allotment of time to this very important issue out of that total amount of time.

Mr. DORNAN of California. Mr. Chairman, at this time I must object until a few more 5-minute speeches have taken place and I go over some more of this horrendous material on China, and then I will go over and counsel with the other side and reconsider. But I do object at this point.

The CHAIRMAN pro tempore. Objection is heard.

Mr. KOSTMAYER. Mr. Chairman, is it my understanding that the unanimous-consent request was not agreed to?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. KOSTMAYER. Mr. Chairman, I yield to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, the U.N. Population Fund [UNFPA] is the largest multilateral provider of population and voluntary family planning aid. UNFPA provided support to 138 developing countries in 1990. Since 1969, the Fund has provided a total of $2.2 billion in population assistance to virtually all developing countries and has been successful in providing these countries with contraceptive services and the ability to build their own family planning programs. This is critically essential if their development plans are ever going to be able to avoid being overwhelmed by dramatic population pressures.

Global population grows by 95 million people every year. Most of those are in the Third World. While these nations—the poorest of the poor—must respond to the immediate needs of such a growth of population, can any of us question why development is not proving more successful? To me the answer is clear.

I am sad and frustrated that we must once again debate whether or not UNFPA is deserving of U.S. support. There is a devastating lack of family planning services in countries served by UNFPA. The need is urgent and unquestionable.

A Worldwatch Institute study which was released yesterday contains sobering statistics and provides further arguments for boosting aid to UNFPA. The study found: That complications of pregnancy, childbirth, and unsafe abortion are the leading killers of women of reproductive age throughout the Third World. One million women die each year as a result of reproductive health problems; each year 250,000 women die from unsafe abortions; only 20 to 35 percent of women in Africa and Asia receive any kind of prenatal care; 250 million cases of sexually transmitted diseases are reported each year leading to increases in infertility, chronic pain, and deaths among women; and 500 million married women want contraceptives but cannot obtain them.

Most of what I have just described could be prevented. A mere $1.50 invested per woman per year would enable most nations to reduce maternal deaths by more than 60 percent. The provision we are considering today would earmark $20 million for the UNFPA or $1.50 for 1.3 million women this year. We have the opportunity to make a real impact on women's lives with these funds.

This debate attempts to direct our attention away from the real problems of international family planning, by those who wish to focus on China's forced abortion policy. That is irrelevant. The $20 million earmarked for UNFPA in this bill is strictly prohibited from going to China. You will hear rhetoric that UNFPA helps China promote a forced abortion policy, but that is patently untrue.

UNFPA has never promoted abortion or provided abortion services in China or anywhere else. UNFPA follows a human rights code which recognizes that all couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children.

It is ironic that those who oppose abortion are calling for a reduction in funding for one of the most successful international family planning organizations in the world. The activities of this organization serve to reduce the likelihood of abortions. The current ban on funding to UNFPA is unfounded. It must be reversed.

I urge my colleagues to take an important step toward reducing the tragic realities of reproductive health in developing nations. Support the $20 million earmark for UNFPA. By doing so, you will be saving lives.

Mr. MCEWEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for most of the last decade the Kemp-Kasten anticoercion law and the Mexico City policy separating family planning services and abortion have established the parameters within which the U.S. family planning assistance has been extended to developing countries.

These important policies have two primary goals. First, they remove the United States from any possible support, either financial or otherwise, for the policy of coerced or forced abortions and sterilizations.

Second, they ensure that our foreign aid programs are consistent with the general Federal policy to separate abortion from family planning and contraception and to keep Federal funds from financing human abortions.

Mr. Chairman, I would like to take a moment to read a portion of a letter that the President recently sent to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL]. Its purpose, the President stated, was to make sure that there was no misunderstanding of the President's views or convictions regarding abortion, especially in light of efforts to change present Federal policy.

The letter states:

THE WHITE HOUSE,
Washington, June 4, 1991.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: Legislation is now being considered by several committees in both the House and Senate that would substantially change Federal policy with respect to abortion. Given the importance of this issue, I am writing to make sure there is no misunderstanding of my views or convictions.

I have not reached these decisions easily or lightly. Abortion is a difficult, deeply emotional and very personal decision for all Americans. It is made even more difficult when the underlying issue is whether the Government—and ultimately the American taxpayer—is asked to pay for abortions and under what circumstances. Since 1981, the Federal Government has determined that taxpayer funds should be used for abortion in only the most narrow of circumstances: where the life of the mother is endangered.

Current law also prohibits contributions made to international organizations that fund coercive abortion programs. The Department of Defense prohibits abortions at U.S. military facilities, unless the life or the mother is endangered. And, the Department of Health and Human Services has promulgated regulations that prohibit the use of Federal family planning funds for abortion related activities.

I believe all these policies should continue. I will veto any legislation that weakens current law or existing regulations.

Sincerely,

GEORGE BUSH.

The Smith amendments are absolutely necessary to ensure that the bill is not vetoed over this attempt to change Federal abortion policy.

The Kemp-Kasten law only prohibits funds from being provided to any organization which supports or participates in the management of a program of coercive abortion or involuntary sterilization. Remarkably, only one organization has been denied funds in the world, the U.N. Population Fund.

□ 1210

The organization has provided computer equipment to the Chinese, they have trained demographers and family planning workers. The quality and amount of UNFPA management assistance in China has a significant impact on the ability of the Chinese to maintain an effective demographic information system, and the ability to formulate targets, monitor compliance and enforce the Chinese one-child policy.

On top of direct assistance, this repulsive Chinese program is promoted by UNFPA around the world as effective and exemplary family planning.

The attempt to separate the proposed $20 million American contribution to UNFPA from other resources is nothing more than an accounting device that is a vain attempt to mask the fungibility issue. Any money for UNFPA contributes to their capability to assist the Chinese program.

The committee bill will also negate the standing Mexico City policy which requires the United States to maintain a wall of separation between family planning and abortion.

Members might be interested to know that over 400 foreign nongovernmental family planning organizations presently work with the Agency for International Development and comply with the Mexico City policy. This number has increased from around 300 in the past year.

With the Mexico City policy in place, AID is the largest family planning donor in the world. It has activities in 85 countries, and provides about 45 percent of the total donor assistance for population programs.

Only two family planning organizations have refused to comply with the Mexico City policy, the International Planned Parenthood Federation and the Planned Parenthood Federation of America. They are the only groups that insist there be no distinction between family planning through contraceptive services and promoting abortion as a family planning method.

The administration has clearly stated its intention to veto a bill which attempts to weaken the policy and tear down the wall of separation between programs that offer contraceptive services and those promoting abortion. It is irresponsible to doom this bill to a veto that will be upheld by including these controversial provisions.

Support the Smith amendments on the Kemp-Kasten law and the Mexico City policy.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. This is not about abortion. That is what most of the debate is about, but that is not what the bill is about or what the money is about.

There is no money in this bill for abortion. There is no money in this bill for Chinese action for any purpose, family planning or whatever.

What this amendment, if it passes, would do is deny families through UNFPA.

The CHAIRMAN pro tempore (Mr. McDermott). The time of the gentleman from Ohio [Mr. McEwen] has expired.

Mr. KOSTMAYER. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio [Mr. McEwen] have 1 additional minute.

Mr. FEIGHAN. Mr. Chairman, reserving the right to object, we adopted a policy not to allow any extensions.

Mr. McEWEN. How about 15 seconds?

Mr. FEIGHAN. Mr. Chairman, reserving the right to object, I must continue the objection.

The CHAIRMAN pro tempore. Objection is heard.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield 30 seconds to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I just want to correct one statement that my friend from Ohio made. That is, that this would free up money for the UNFPA to give more money to China. My amendment has a cap on it, so that China could not receive any more than $10 million. If it did, the UNFPA would have to return all the money the United States had provided.

I hope the Record will show the correction that has been made.

Mr. SCHEUER. Mr. Chairman, I rise in support of the Kostmayer amendment and to oppose the Smith amendment.

I led a congressional delegation to the Mexico City U.N. Population Conference in 1984. The gentlewoman from Colorado [Mrs. Schroeder], the gentleman form Wisconsin [Mr. Moody], the gentleman from Michigan [Mr. Levin], and the gentleman from Illinois [Mr. Porter] all accompanied me. We were both shocked and horrified at the enunciation of the Mexico City doctrine, and we took the unusually painful step of holding a press conference there, proclaiming to the world our adamant opposition to this policy and our conviction that it did not represent the will of the American people. It was embarrassing then, my colleagues, and it is embarrassing now.

This whole debate should not be about abortion. We are not funding abortion abroad. The UNFPA does not fund abortion anywhere. The UNFPA has certified time and time again that they are not funding abortion, rather they are funding family planning. This is a respected professional in the U.N. agency, and yet the administration treats their statements and assurances with indisguised contempt.

As far as the effect of the Smith amendment on our own family planning institutons, it is total. We have denied funding to the two major planning institutions in the world; yes, to the Planned Parenthood Federation in this country and to the International Planned Parenthood Federation in London. Why? Because if any one of the 130 very loosely associated affiliates of International Planned Parenthood Federation in London were to engage in supporting abortion counseling and abortion activities with their own funds, privately raised, or with their own government's funds in the 80 countries where abortion is legal, then, not only would that affiliate be proscribed from receiving AID funds, but also the parent organization, IPPF, in London and all of the other 129 affiliates would also be proscribed from receiving U.S. AID funding.

This is the state of our family planning activities abroad. We deny aid to the United Nations, and we deny aid to the most prestigious and responsible and professional family planning institutions in the world.

What is the result? Since 1984 the number of unwanted pregnancies has risen, and, as a consequence, the number of legal and illegal abortions has also risen. The population of the developing world countries has increased 25 to 30 percent. In Kenya and in Jordan, the population has increased 50 percent. My colleagues, as a result of this virtually unabated population explosion in the Third World—with young parents wholly unable to achieve their family size goals due to the pervasive absence of family planning services—the world is awash in tragedy, pain, sorrow, and human suffering of unbelievable proportions. We simply cannot house, feed, provide basic health care, or educate the human product of this uncontrolled population growth.

My colleagues, across the length and breadth of sub-Saharan Africa, due to their total inadequate family planning programs, there is an average population increase annually of about 3 to 3½ percent. In a few countries like Jordan and Kenya, it is 4 percent or more. Now, at the same time, they have an increase in food production of about 1-percent annually. It does not take a nuclear scientist to figure out the difference between the 1-percent increase in food production and the 3- to 3½-percent population increase. The difference is a minimum 2 percent per capita annual cumulative deficit in food availability for every man, woman and child in sub-Saharan Africa. That, over a period of a decade, will result in a 20-percent loss in per capita food availability. This fact is contributing to those awful, painful, tragic pictures that we see on our television. These images are only a precursor of a level of tragedy and human suffering threatening us in years to come that is utterly indescribable.

It is time for the United States to reverse this embarrassing policy of 1984 and follow an enlightened course that will resume funding and leadership for safe and sensible family programs in Third World countries where they are desperately needed. For the sake of families around the world, let us resume our role as the world leader in international family planning by reversing the Mexico City policy.

The lady from Kansas, JAN MEYERS, was right on the mark in her remarks a few minutes ago. If the United States does not give leadership to build up the strength, effectiveness, and acceptability around the world, of family planning, no other country can or will. We abandoned our leadership in 1984. No country has filled the vacuum. The globe needs enlightened leadership—and between $1 and $2 billion—to be addressed to galloping population growth in the Third World. Our failure to provide this leadership is a global tragedy and a national shame.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Smith amendment. I want to associate myself with the strong statement that the gentleman from Missouri [Mr. EMERSON] made.

Mr. Chairman, I rise today in opposition to language in H.R. 2508 that would reverse two extremely important pro-life policies—the Kemp-Kasten anticoercion law and the Mexico City policy. This bill would overturn the Mexico City policy by requiring the Federal Government to provide family planning assistance to organizations regardless of methods they employ. It also earmarks $20 million in funding for the U.N. population fund [UNFPA], which organization is an active participant in, and enthusiastic supporter of, China's coercive population-control program. Mr. Chairman, the Kemp-Kasten anticoercion law in effect since 1985 specifically prohibits the provision of international population control funds to any organization or program which supports or participates in the management of a program of coercive abortion or involuntary sterilization. The Mexico City policy, in effect since 1984 and recently upheld by the Supreme Court, states that no U.S. Agency for International Development [AID] funds will be provided to a foreign nongovernment organization that "performs or actively promotes abortion as a method of family planning." The UNFPA continues to violate both of these policies by participating in China's population control program. I think it is important to note that every dollar withdrawn from the UNFPA in the past has been reprogrammed to other family-planning projects that do not utilize abortion as a method of family planning. I urge my colleagues to strike the language in the bill which would overturn the Kemp-Kasten anticoercion law and the Mexico City policy and would earmark $20 million for the UNFPA.

□ 1220

Mr. VOLKMER. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I am very happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to join with the gentlewoman in her remarks and in her sentiments.

I, too, rise in opposition to the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER] and in strong support of the amendment of the gentleman from New Jersey [Mr. SMITH].

I, for one, do not feel that the American people would like to see their taxpayer dollars going to pay for abortions, not only here in the United States, but elsewhere in the world. Therefore, it is necessary to preserve the present Mexico City policy and also the policy we have had in the past as far as funding for the U.N. Family Planning Commission, which supports abortions in China.

So I wish to join with the gentlewoman.

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman from Missouri, and I yield back the balance of my time.

Mr. ATKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Kostmayer amendment.

One thing ought to be very clear here, that China does have a coercive policy on abortion. The Chinese policy has been one that has violated very basic human rights. The conditions, the coercion, the problems that have occurred in that program are clearly the worst in the world and we ought to address them.

Indeed, the Kostmayer amendment allows us to address the problems in the China program. The Kostmayer amendment would effectively put a cap on the U.N. contribution. There would be not a cent of U.S. money in it. It would effectively put a cap on the U.N. contribution to China of $10 million.

So if you are interested in dealing with the problem of coercive abortions in China, one would want to support the Kostmayer amendment.

What the Smith amendment does is it seeks to punish 139 other countries in the world for the sins of China, for the sins of the Chinese program.

Are the Chinese going to care about the problems and the misery that they create in India or in Bangladesh or in Haiti? Of course not. They have made it very clear that they care nothing about human rights. Human rights violations in China do not just extend to their coercive abortions and their family planning programs. They extend to what they are doing in Tibet, what they did to their own students, what they have done to dissent, the way they have destroyed their judicial system and perverted it.

If you want to deal with human rights abuses in China, let us deal with it by going after China, not going after the United Nations, and let us go after China in the real way where it will make a difference, where everybody knows that China will feel it and where we have a chance of exercising some leverage, and that is in their MFN status.

It is absolutely absurd that the President on the one hand says no money to the United Nations, to punish China even though the United Nations provides the only alternative and the only voice in the Human Rights Commission against the coercive policies in China, but will deny China in this area which is strictly symbolic and has no effect; and on the other hand will grant them the MFN status they so desperately want.

China has a $15 billion trade surplus with us. If you want to begin to deal with the problem in China, take on MFN.

I will be glad to join with the gentleman from New Jersey in putting a provision on MFN which would restrict that if China does not change their coercive abortion policies. That would make a difference. That would send a signal to China.

What the Smith amendment does is a very cruel hoax on the people. It would deny 19 nations of Africa, the most desperately poor nations of Africa, family planning assistance, and would deny it to Bangladesh, to India, to countries that desperately need this assistance, to get China's attention.

It would not get China's attention, not one bit.

Let us be real in this amendment. Let us deal with the problem and support the Kostmayer amendment which will effectively put a cap on the UNFPA program in China, will assert our ability to assure that that program remains as it is now, one that does not allow for abortions and one that provides the only alternative in China to the coercive abortion program.

Let us use our leverage. Let us use it wisely.

The Smith amendment would be the cheap way out. It would hurt Africa, do nothing to China, do nothing to China's coercive abortion program.

We have a chance to use our leverage in MFN. Let us use it there. Let us not try to punish Africa for the sins of China.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Kostmayer amendment to the Smith amendment, to protect the family planning provisions of H.R. 2508, which restore U.S. funding to the U.N. population fund [UNFPA]. UNFPA is the largest multilateral family planning assistance provider to developing countries, and was established in 1969 with strong backing from the United States. In 1990, UNFPA provided assistance to 138 countries, with donations from 106 countries. Major donors include Japan, Germany, The Netherlands, Norway, Sweden, Finland, Denmark, Canada, the United Kingdom, Switzerland, and Italy.

Once the leading donor to UNFPA, the United States curtailed its contributions in 1986 because of allegations of UNFPA support for coerced abortion and involuntary sterilization in China's family planning program. This action came despite the fact that UNFPA has consistently opposed coercive policies, and has explicitly stated this view in all program documents, indicating that all UNFPA projects must be consistent with internationally and nationally recognized human rights, and "that all couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so."

In addition, the Agency for International Development staff review of UNFPA concluded that it neither funds abortions nor supports coercive family planning through its operations.

In fact, almost all of UNFPA assistance to China is administered by other United Nations organizations and by international nongovernmental organizations, such as the World Health Organization and UNICEF. UNFPA does not manage the Chinese Government's population program. Assistance from UNFPA totals less than 1.1 percent of the total cost of the China Program, and UNFPA has control only over its own funds which are earmarked for specific purposes, such as providing better quality contraceptives, and extending maternal and child health and family planning assistance to the poorest counties where infant mortality rates are the highest. These activities have resulted in fewer unwanted pregnancies, thereby resulting in fewer abortions.

Further, H.R. 2508 prohibits the use of United States population funds in China. Because the UNFPA Program in China has fixed funding for 4 years, the argument that United States funding will free up more UNFPA funds for China is also without merit.

Just several weeks ago, a coalition of major environmental, conservation, family planning, scientific, and women's organizations launched one of the largest cooperative efforts ever undertaken to raise public awareness of the devastating effects of overpopulation. This effort grew out of the recognition that the environmental and social consequences of overpopulation are not being adequately addressed.

The world's population now exceeds 5.4 billion people. More than half of this number will be of reproductive age within the next 25 years. As a result, what we do in this decade will determine the population growth for the next century * * * whether it is held at 10 billion or whether it explodes to more than 14 billion. Population control is contingent on the availability of voluntary family planning assistance. Such a commitment is needed in order to curtail global poverty, illiteracy, environmental degradation, unemployment, and civil unrest.

The world fertility survey indicates that 500 million women want and need family planning, but lack either education, information, or the means to obtain it. Many of the 42,000 infants who die daily are victims because their mothers are not allowing appropriate intervals between pregnancies. Every day 1,500 women die from complications of pregnancy and abortion, many of which could have been prevented by family planning.

It is imperative that the United States once again become a full and active partner with the United Nations in the vital efforts to assure couples of the basic human right to determine how many children they will have and when they will have them. As a cosigner of the Amsterdam declaration, the plan for stabilizing world population by the year 2000, the United States made the commitment to dedicate approximately 4 percent of its foreign aid to population assistance; we currently provide only 2.2 percent. The $70 million increase provided in this bill will help to move us toward this goal.

I urge all of my colleagues who are concerned about the quality of life of future generations to vote to retain the family planning provisions of H.R. 2508. It is a vote that will go a long way toward determining the condition of the world that our children and grandchildren will inherit from us.

□ 1230

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Ms. SLAUGHTER of New York. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Chairman, I thank the gentleman for yielding.

And I want to be very succinct here today. This Congress sometimes reminds me of "Alice in Wonderland," able to believe 16 impossible things before breakfast.

We can believe, some of us, that a bill that outlaws quotas is a quota bill and a bill that says money may not go to China, indeed is going there.

I want to be very specific about one major concern that I have here because we pass over it. The World Watch Institute issued a report that said 1 million women die every year in the developing world because of reproductive complications. That is 1 million. Two hundreds and fifty thousand of those women die because of botched abortions or self-induced abortions. All they are looking for is information on how to space their families and to plan their lives. That is such a harsh and cruel method of birth control to say that the Congress of the United States and the administration does not care that 1 million women die every year during their child-bearing years when information that we could give them for $1.50 a year could probably save their lives.

We cared deeply when the people of Kuwait were in trouble; it broke our hearts to see the Kurdish children dying on the wayside; every year or two it seems to me we see the people in Bangladesh standing up to their necks in water. All of these people desperately, in Third World and evolving countries, are trying to get some control over their lives. We know that we will never solve the problems of world hunger if we do not give some kind of control over their lives and family planning information.

It seems to me to be humane, it seems to me to be decent.

We have watched what happened with repeated forced pregnancies in Romania and pathetic Romanian children left to suffer; we watch people with disease in Peru, again women sitting by bedsides while their children die and unable to feed them, unable to clothe them. No hope in the world of an education.

The money that we do not spend on family planning is not going to educate those millions of children born in the world who have no hope at all of any sort of life except the one that their parents had before them—hunger and poverty.

I challenge every person in this Congress and every person in this administration who has not been pregnant to give a little thought to what they are doing here and ask yourselves what you would have wanted for your wife and for your daughter or someone else in your family who died because information so cheap and so easy to come by was denied to them.

Mr. Chairman, I urge support for the Kostmayer amendment.

Mr. WEISS. I thank the gentlewoman for her statement.

Mr. Chairman, I rise in support of the Kostmayer amendment, in opposition to the Smith of New Jersey amendment.

Mr. WEISS. Mr. Chairman, I want to address briefly, very briefly, the statement—the letter really—that the gentleman from Ohio [Mr. McEwen] read from the President which suggested that unless something equivalent to the Smith amendment were passed, that this legislation would be vetoed.

Well, I must say how do you define hypocrisy? How do you take note of the fact that when our President was a Member of this body, he carried all the family planning legislation and all of a sudden he is vetoing a piece of legislation which is a red-herring in its very terms; no money for abortion, nothing for China. And yet that is the way in which it is being cast.

How do you explain the hypocrisy implicit in a President and people who are so concerned about the violation of human rights, which this amendment is supposed to cure, but which does not, but when it comes to most-favored-nation treatment, then everything—the murder of students, the trumped-up trials, the abuse of their own citizens, every imaginable violation of freedom of speech, freedom of assembly, you name it, every violation takes place in China—and the President thinks that is OK, he is willing to forgive that.

Mr. Chairman, I urge support of the Kostmayer amendment.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are tragically speaking past one another here. Our side quotes a respected scientist who talks about violent, murderous, coercive abortion, the genocide of an entire people in the nation of Tibet under the control of China. On the other side, they are pointing to the decline in population, the drastic decline in population, in Western Europe and Japan. You see documentaries on television every night talking about the growth of population in poor countries and suggesting that there is a way to get money to an organization like the United Nations family planning activities group by keeping a deaf ear to that group's leaders continuous approval of the infanticidal policies that go on in China and spill over terribly into India. In that country, objective documentary reports by liberal reporters of conscience are pointing out that India is now adopting the Chinese policy of killing babies—living, breathing babies with human rights who have already been born.

That is called killing infants—infanticide. And in India they are rivaling China's centuries-old policy of degrading women by killing female babies. In India, if they come up with an amniocentesis test that says it is a female child, she is doomed.

I quote from a liberal reporter of great reputation, Mark Fineman, in the Los Angeles Times article, "Creating a Mosaic of India." He was writing about their census.

He says, "It is simply that women in India continue to rank among the world's most endangered species, dying off in increasingly faster numbers than Indian men as a result of neglect, murder, and in the past decade, rampant fetacide." That is abortion, killing babies in the womb. In India today there are only 929 women for every 1,000 men. In America it is 1,050 women to every 1,000 men, which is more than the world standard. And he says India now has the second-lowest ratio of women to men in the world, of course behind China, a nation infamous for widespread female infanticide.

Well, why do we talk about China and India and killing babies and killing female fetuses in the womb? Because the head of the U.N. population family planning activities group says that China's policy is totally voluntary.

☐ 1240

Mr. Chairman, I may do a special order on this tonight because I have about 25 quotes here, all from the Washington Post, Los Angeles Times, New York Times, not from religious fundamentalist groups. These are all out of the supposedly objective, secular press.

Now listen to this. This is Blake Kerr in the Washington Post, "Witness to China's Shame."

> The villagers were informed that all women had to report to the tent for abortions or sterilizations or there would be grave consequences * * *. The women who refused were taken by force, operated on, and no medical care was given. Women nine months pregnant had their babies taken out * * *. We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible * * *. Since 1987, there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad area.

The UNFPA says all of that nightmarish slaughter is voluntary.

Mr. Chairman, no one has worked harder on this than the gentleman from New Jersey [Mr. Smith]. That is why I rise against the amendment of the gentleman from Pennsylvania [Mr. Kostmayer] which guts and destroys the Smith amendment.

Mr. Chairman, the gentleman from New Jersey [Mr. Smith] personally met with Peng Peiyun, head of China's Family Planning Commission in Beijing on March 27, 1991, and Dr. Nafis Sadik, executive director of the U.N. population fund in New York. I am dismayed by the sameness of their argument. To hear one is to hear the other. The bottom line is that both the Chinese Government and the U.N. population fund declare that the program is "totally voluntary" which, of course, is a lie.

I ask my colleagues to consider this: On May 24, 1989, Dr. Sadik of the UNFPA said, "The UNFPA firmly believes and so does the Government of the People's Republic of China, that their program is a totally voluntary program."

A few months later, Dr. Sadik said it again on the November 22, 1989, broadcast of the CBS Nighwatch television program: "The implementation of the policy [in China] and the acceptance of the policy is purely voluntary."

It is clear, based on these kinds of statements and the millions of dollars they've invested in the Chinese Program that the UNFPA has been, and continues to be, the leading international supporter and apologist for China's brutal program.

Mr. BERMAN. Mr. Chairman, will the gentelman yieled?

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr Dornan] has expired.

(On request of Mr. Berman and by unanimous consent, Mr. Dornan of California was allowed to proceed for 30 additional seconds.)

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from California [Mr. Dornan] for yielding, and I would like to use this time to propose that by unanimous consent this House agree to limit debate on the amendment of the gentleman from Pennsylvania [Mr. Kostmayer] to the amendment of the gentleman from New Jersey [Mr. Smith] to 30 minutes, 15 minutes of which would be controlled by the maker of the amendment, the gentleman from Pennsylvania [Mr. Kostmayer], and 15 minutes to be controlled by the gentleman from New Jersey [Mr. Smith].

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DORNAN of California. Mr. Chairman, I objected before, but I would not object any further, and I do not think anybody on our side will.

Mr. MOODY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Does the gentleman from Wisconsin [Mr. Moody] continue his objection?

Mr. MOODY. Mr. Chairman, I withdraw my objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania [Mr.

KOSTMAYER] will be recognized for 15 minutes, and the gentleman from New Jersey [Mr. SMITH] will be recognized for 15 minutes.

Mr. KOSTMAYER. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman and my colleagues, this body often deals in symbols, but this has got to be the most substance-free symbolic debate I think I have ever heard.

Why do I say that?

Because both sides agree on practically everything that has been said in terms of what facts are. But the symbols are different. The abortion debate has been raging here, but we are not really voting on abortion today. The amendment of the gentleman from New Jersey [Mr. SMITH] will not affect abortions, and neither will the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER]. Nor will it affect any U.S. funding for abortion overseas, because there is not any, and there will not be.

Let me make clear where we all agree, both sides. Both sides agree on the following:

No. 1. China has a bad human rights policy. We both agree. This side has argued as though China's bad human rights policies undercut the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER]. I, you, Mr. KOSTMAYER, and everyone knows that China has a bad human rights policy. We should do something about it, and I welcome the gentleman from New Jersey [Mr. SMITH] siding with us to stop most-favored-nation trade access to China when it comes because that would indeed make a difference. This Smith amendment will not.

No. 2. The next thing we all agree on is this: No United States funds in this bill will go to China, with or without the Smith amendment. We all agree on that, and yet one would think from the floor debate that is what is at stake. United States family planning aid funds do not go to China. If the committee mark stands, they will not go to China. If the amendment of the gentleman from New Jersey [Mr. SMITH] stands, they will not go to China.

No. 3. No U.S. AID funds go for abortion. We all agree on that, and that has been the policy for a long time. One would think that we are debating whether or not AID funds should go for abortion. They do not, and they will not, with or without the Smith amendment. That is also totally agreed. The debate so far from the side supporting the Smith policy has had nothing to do with the actual contents of the Smith amendment.

No. 4. We all agree that $10 million and only $10 million of UNFPA money, not—not United States money—does go to China. That is less than 1 percent of their population program and pays for computers, demography, the training of population workers that come mostly to America to get training. That $10 million of UNFPA does not go for abortion in China. One can argue that because those expenditures are in the same country, it might have some impact on abortion, but that is stretching the argument.

But we all agree there is a cap of $10 million of UNFPA money for China, none of it United States. The amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER] would cap it, and I think that is probably a good idea to signal our feeling about it. But "Why would you want to vote against such a cap by voting against the Kostmayer amendment?"

No. 5. We also agree that the UNFPA's $10 million from China will neither go up, nor down, regardless of the Smith amendment.

So we agree on all the key facts. Then what are we actually debating on? We are debating on whether or not we want to punish a whole bunch of other countries so that we can register our outrage over human rights, including abortion policies, in China. The $10 million figure would not change. There are already no United States funds for China, nor for abortion.

So the real question comes down to this: "Do you want to pretend to punish China, to beat your breast and say we've done something that looks like we're hurting China." Actually, the Chinese will be totally indifferent to the Chris Smith amendment, the Smith amendment will only punish a whole bunch of other countries by totally defunding United States support for UNFPA. The Smith amendment says that no United States AID money will go for family planning in a whole series of countries other than China where there are only multilateral programs and no United States AID bilateral programs. There are 19 such countries in Africa alone.

So, let us get back to substance, not symbols, and discuss what is really going on here. I ask: "Do you want to punish 30-some countries and not hurt China? If you do, then vote for the Smith amendment. If you want to punish China, nothing before us will do that.

I urge adoption and support for the amendment of the gentleman from Pennsylvania [Mr. KOSTMAYER] and rejection of the amendment of the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I thank the gentleman from New Jersey [Mr. SMITH] for yielding.

My colleagues, I rise in support of the amendment of the gentleman from New Jersey [Mr. SMITH] and in opposition to the amendment by the gentleman from Pennsylvania [Mr. KOSTMAYER].

As I have listened to the debate, and I have been able to be present for most of the debate, I want to say, first of all, there is an issue here of genuine substance, and it is simply this: Shall the dollars of the American taxpayer be directed toward family planning agencies and through family planning agencies that utilize abortion as a means of population control? The issue is not population control writ large. The issue is not family planning writ large. On that we are agreed.

I must say that when the gentlewomen from Kansas [Mrs. MEYERS] said that the United States has to show leadership on the family planning issue, I wondered how much more leadership she wants. We pay 46 percent of all the family planning assistance funds around the globe. The American taxpayer, 46 percent. This bill increases the American outlay the next year by 20 percent. We will be over 50 percent of all the family planning assistance given to developing countries around the world at the American taxpayers' expense.

Now I call that leadership. That is not ducking the importance of the population issue. That is not a head in the sand that says there is not a serious problem that has to be addressed. What the gentleman from New Jersey [Mr. SMITH] is trying to do, and some of us are trying to do, is to say we can do this without resorting to a proabortion policy and calling that family planning.

I heard the gentleman from Pennsylvania [Mr. KOSTMAYER] when he dealt with the issue in Ethiopia, and he attributed the tragedy in Ethiopia to the unavailability of abortion.

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I served a year in Ethiopia with the Peace Corps and saw lots of poverty. But I certainly would not attribute it to the abortion issue. In fact, it got worse since I left.

Maybe the gentleman might have focused on Colonel Mengistu's celebration of his 10-year anniverary in power, where, for his 1-week celebration, he spent 20 percent of the entire GNP of the country, to celebrate his 10-year anniversary in power. Twenty percent of the GNP of the country, in what we are told is the second to the bottom of all nations in the world in terms of per capita GNP. Maybe that has something to do with poverty.

When the gentleman from Wisconsin [Mr. MOODY] talked about Bangladesh, we put $46 million a year in family planning assistance into Bangladesh, and it has had some success. The population growth rate has dropped by about 20 percent. It is still perilously high. It was 3 percent in the last 4 or 5 years, and has dropped to about 2½ percent.

The CHAIRMAN pro tempore (Mr. DONNELLY). The time of the gentleman from Michigan [Mr. HENRY] has expired.

(By unanimous consent, Mr. HENRY was allowed to proceed for 1 additional minute.)

Mr. HENRY. Mr. Chairman, what I want to make clear is that the issue is not family planning. The issue is not American leadership. The issue is placing our funds in agencies and programs which advocate and use abortion as a family planning tool. There is a better path to follow, and that better path is the kind of leadership I would like this Nation to take.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I think the misunderstanding comes when one tries to interpret the word "promote," to promote abortion as a means of family planning. The Reagan and Bush administrations have interpreted this as being an abortion for any reason, except to save the life of the mother.

Mr. HENRY. Mr. Chairman, reclaiming my time, the amendment of the gentleman from New Jersey [Mr. SMITH] clearly addresses and puts a prohibition on those organizations which encourage abortion. I call that promoting.

Mr. KOSTMAYER. Mr. Chairman, I yield 4½ minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding and for his leadrship on this issue.

Mr. Chairman, what the gentleman from Pennsylvania [Mr. KOSTMAYER] is proposing is that we do in fact address one of the most pressing problems in the world today, family planning. That is all he is doing. Under the Kostmayer amendment, no U.S. money can be used for abortion, only for family planning. Under the amendment of the gentleman, no money can go to China—I underscore that—no money can go to China. And all of the speeches from the other side of the aisle this morning that detail the terrible human rights abuses in China, are in fact understood. And none of these moneys can go to China.

So none of these moneys can go for abortion, and none of these moneys can go to China. We are talking about family planning. What is the argument?

Mr. Chairman, we need to flesh out what is the argument. I say the argument is a smoke screen, that they do not want to debate the issue of family planning, because they know that they would lose, and they do not want to debate the issue of birth control, because they know that they would lose. So they debate a phantom issue, a ghost issue, the issue of abortion, the issue of China. This has nothing to do with what we are talking about.

Mr. Chairman, I would like to read to Members comments made by President George Bush in 1973, in a foreword to a book on the world population crisis. This is what George Bush said in 1973:

> Few issues in the world have undergone such a rapid shift in public attitudes and government policies over the last decade as the problems of population growth and fertility control.
>
> My own first awareness of birth control as a public policy issue came with a jolt in 1950 when my father was running for the United States Senate in Connecticut. Drew Pearson, on the Sunday before Election Day, "revealed" that my father was involved with Planned Parenthood. My father lost that election by a few hundred out of close to a million votes. Many political observers felt a sufficient number of voters were swayed by his alleged contacts with the birth controllers to cost him the election. The subject was taboo—not only because of religious opposition but because at that time a lot of people were unwilling to discuss in public what they considered a private matter.
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> Today, the population problem is no longer a private matter. In a world of nearly 4 billion people increasing by 2 percent, or 80 million more, every year, population growth and how to restrain it are public concerns that command the attention of national and international leaders. The per capita income gap between the developed and the developing countries is increasing, in large part the result of higher birth rates in the poorer countries.
>
> World Population Crisis: The United States Response recounts and analyzes the events which mobilized the United States leaders to action. Dr. Piotrow presents a story of determined and sometimes disruptive advocates, of conscientious, careful scientists, of political leaders striving to reach a new consensus, of vigorous officials building action programs. It is, above all, a story of individuals and institutions struggling to solve a new kind of worldwide problem within the framework of individual choice and responsible government.
>
> The population problem does not have easy answers. As a member of the U.S. House of Representatives in the late 1960s, I remember very well how disturbed and perplexed my colleagues and I were by this issue. Famine in India, unwanted babies in the United States, poverty that seemed to form an unbreakable chain for millions of people—how should we tackle these problems? I served on the House Ways and Means Committee. As we amended and updated the Social Security Act in 1967 I was impressed by the sensible approach of Alan Guttmacher the obstetrician who served as president of Planned Parenthood. It was ridiculous, he told the committee, to blame mothers on welfare for having too many children when the clinics and hospitals they used were absolutely prohibited from saying a word about birth control. So we took the lead in Congress in providing money and urging—in fact, even requiring—that in the United States family planning services be available for every woman, not just the private patient with her own gynecologist.
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> I remember another bill before the Ways and Means Committee. This one successfully repealed the prohibition against mailing information about birth control devices or sending the devices themselves through the mails. Until 1970 the mailing of this information had been heaped in with the mailing of "pornographic" material.
>
> As chairman of the special Republican Task Force on Population and Earth Resources. I was impressed by the arguments of William H. Draper, Jr. that economic development overseas would be a miserable failure unless the developing countries had the knowledge and supplies their families needed to control fertility. Congress constantly pressed the rather nervous federal agencies to get on with the job. General Draper continues to lead through his tireless work for the UN Population Fund.
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> Congressional interest and support in population problems was remarkably bipartisan—including Jim Scheuer, Ernest Gruening, Bob Taft, Bill Fulbright, Joe Tydings, Bob Packwood, Alan Cranston, and many others from both parties and every section of the country. Presidents Johnson and Nixon both were seriously concerned about the problem, too. In fact, early in 1969 President Nixon delivered an official Message on Population to Congress. In the federal agencies there were at first only a few determined individuals like R. T. Ravenholt in AID and Philander P. Claxton, Jr. in the State Department who were willing to urge their superiors ahead. Now the recommendations of the Commission on Population Growth and the American Future, chaired by John D. Rockefeller 3rd, have urged many agencies to take on a larger role and have called for the U.S. government to adopt a national population policy.
>
> When I moved to the United Nations in 1971 as United States Ambassador, I found that the population problem was high on the international agenda, though lacking some of the urgency the matter deserves. The General Assembly had designated 1974 as World Population Year with a major conference of governments scheduled. The UN Fund for Population Activities, which has raised some $50 million, now stands ready to help agencies and governments develop appropriate programs. It is quite clear that one of the major challenges of the 1970s, the Second United Nations Development Decade, will be to curb the world's fertility.
>
> The United Nations population program, including the Fund and specialized agencies, stands today at the threshold of international impact. The problem has been recognized; the organizations exist; the resources are at hand. But policy making on the international level no less than on the national one is an educational process. In developing the programs needed, the public as well as government leaders learn from one another. New technologies lead to new policies and laws, new public and private values, new insights into our own problems as well as those of others. We all proceed by trial and error. Will we learn fast enough from one another and with one another how to defuse the population bomb?
>
> One fact is clear: in a world of nearly 4 billion people, with some 150 independent governments, myriad races, religions, tribes and other organizations, major world problems like population and environmental protection will have to be handled by large and complex organizations representing many nations and many different points of view. How well we and the rest of the world can make the policies and programs of the United Nations responsive to the needs of the people will be the test of success in the population field. Success in the population field, under United Nations leadership, may, in turn, determine whether we can resolve successfully the other great questions of peace, prosperity, and individual rights that face the world.

Dr. Piotrow's study of evolving population policy, in the United States and in the United Nations, is necessarily a story without an ending, it is not a blueprint for the future, but rather a search for the meaning of the past, an exploration of the means, the arguments, the individuals and the events which did, in fact, influence U.S. policy making over the last decade and a half. But the lessons suggested here—about leadership, about innovation, about national and international organizations—surely have continuing application for the future. Dr. Piotrow was in a unique position to observe and even participate in many of the actions taken.

I worked with Phyllis Piotrwo on some of these issues. This book is far too modest about her own efforts, for she has contributed significantly herself to public understanding and support of population activities through her work with the Population Crisis Committee. Certainly the private organizations, like the Population Crisis Committee, Planned Parenthood—national and international, the Population Council, the Population Reference Bureau, the Population Institute, Zero Population Growth, and others, have played a major role in assisting government policy makers and in mobilizing the United States response to the world population challenge that is described in this volume.

Mr. Chairman, this is George Bush in 1973 talking about the importance of birth control, of family planning, of giving information to women who need it. And, Mr. Chairman, this is America, in 1991. We must surely be leaders in 1991.

Mr. Chairman, I agree with the gentlewoman from Kansas [Mrs. MEYERS] on this. We must be leaders in the area of family planning, because that indeed will impact on the major problems facing the undeveloped world.

So this issue that is before us is not what the gentleman from New Jersey [Mr. SMITH] describes it as, about China. We all agree on his points about China. It is about what is happening in the world today to the women of India, Bangladesh, and Pakistan, to the women of Ethiopia who have to watch their children dying. There is no water, there is no food. They are dying.

Do you know what it is to look at your child when he is sick when you are a mother? I can tell you. You wish you could take the child's pain. These women can do nothing to help their children. How much better to have family planning. Family planning is the answer.

Mr. Chairman, let us not take this debate into an area which it has nothing to do with. Let us concentrate it on the approach of the gentleman from Pennsylvania [Mr. KOSTMAYER], which is to use these funds, not for abortion, not for China, but to help the women and children of this world to stop the grief and pain.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, first of all let me remind Members that every dollar that has not gone to UNFPA has been reprogrammed to other family planning organizations, so there has been no loss of family planning funds.

Mr. Chairman, I would like to ask a question of the gentlewoman from California [Mrs. BOXER]. As the gentlewoman knows, since 1979 the United Nations Population Fund has provided in excess of $100 million to China. If they were funding a highly coercive population control program in another country, and that country happened to be the United States, and not China, and if American women were the victims of forced abortion and forced sterilization and other means of humiliation and coercion, would the gentlewoman feel that an earmark for that organization was warranted?

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, I am against forced abortion. I am pro choice. That means a woman has the right to choose in the first 3 months of her pregnancy. The Kostmayer amendment that is before us basically says that no money will be used for abortion.

Mr. SMITH of New Jersey. Mr. Chairman, reclaiming my time, we are talking about supporting an organization whose executive director says that the Chinese program is totally voluntary. The UNFPA has provided in excess of $100 million to this coercive population control program. They have provided technical and other capabilities to the Chinese so they can do it better. They then stand arm in arm with the Chinese suggesting, and saying outright, that it is a voluntary program, against all of the evidence which we all agree, the gentleman from Massachusetts [Mr. ATKINS], the gentleman from Pennsylvania [Mr. KOSTMAYER], the gentlewoman from California [Mrs. BOXER], all of us agree that it is a coercive program. However, the UNFPA claims it is a voluntary program.

I would ask the gentlewoman from California [Mrs. BOXER], if she would take out "China" and insert "the United States," would you then feel that a simple earmark, a simple apparent fencing of the funds, when an organization has such a hand-in-hand relationship with the government, if it was the United States, would the gentlewoman believe that this earmarking approach, which I happen to feel is a fraud, would be permitted in that case? Take out "China" and put in "the United States."

Mrs. BOXER. Mr. Chairman, if the gentleman will yield further, the gentleman from Pennsylvania [Mr. KOSTMAYER] addresses this issue head on in his amendment, addresses it correctly, and the gentleman from New Jersey [Mr. SMITH] is using this issue to divert attention from the issue that is before us, the suffering of many women and children in this world because they do not have access to family planning. Mr. Chairman, I think the gentleman is doing an absolute disservice to this debate.

Mr. SMITH of New Jersey. Mr. Chairman, I would ask the gentlewoman from California [Mrs. BOXER], is it all right that the United Nations is supporting the program in China?

Mrs. BOXER. Mr. Chairman, I would say what I said to the gentleman before: the gentleman from Pennsylvania [Mr. KOSTMAYER] handles the problem straight on. The fact is, the gentleman from New Jersey [Mr. SMITH] is diverting attention from the issue that is before us, which is family planning, to save the grief, to save the children, to save the mothers. I am very sad that the gentleman has taken this approach. We just do not agree.

□ 1300

Mr. SMITH of New Jersey. With all due respect, that was an extremely evasive answer. The gentlewoman did not answer whether or not if the United States, and not China, had a family planning program, that were coercive, and the UNFPA were involved, would this earmarking scheme then be acceptable?

Mrs. BOXER. We are talking about American tax dollars here. None of our tax dollars can go to New Jersey and none of our tax dollars can be used for abortion.

Mr. SMITH of New Jersey. What is becoming very clear is that Chinese women are second-class citizens. The UNFPA can stand shoulder to shoulder with the oppressive hardliners in Beijing. They can stand shoulder to shoulder with them and say this is a voluntary program which is an absolute lie. And then, we come forward with this fencing modality, with this Kostmayer amendment which guts current policy, and say it is okay.

I would suggest to my colleague and the gentlewoman who could not answer the question, that if this were the United States and not China which was experiencing this coercive population control program, this amendment would be laughed right out of the chamber.

Mr. KOSTMAYER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I want to commend the gentleman from New Jersey [Mr. SMITH] because I think as never before he has drafted language that makes it crystal clear what he is attempting to accomplish here. I once believed that the policy the gentleman was espousing was anti-China. I believe the policy is now very clearly anti-family-planning and anti-U.N.

The language states very clearly that no funds can go to the poor women of Africa, if they are getting funds through the UNFPA for family planning. It states that no funds can go to women of Asia for maternal and child health. It says that no United States funds can be expended by the UNFPA in Central and South America for contraceptives because of what China does.

The people of Africa, the people of Asia, the people of Central and South America and elsewhere in the world are going to pay the price for what China does. They are the ones that are going to pay for China's policy.

Nobody has a case to make for China. China is doing terrible things. But 137 other nations have their family planning programs that are not coercive, do not encourage abortion. Those nations, those are the ones that are going to be paying. AID has programs in about 40 of those nations, so that the poor people of 100 nations, the women and children across this world who have nothing to do with China, who are not coercing anybody, they are the ones that the gentleman's policy is going to make pay.

UNFPA is not a government. UNFPA is not able to say that China cannot participate in their family planning programs. They in fact must fund them. They must fund all U.N. nations.

Finally, Mr. Chairman, the policy that the gentleman has worked on for the last 6 years has done nothing whatsoever to change what happens to China, but it has done a great deal of damage to family planning all across this globe.

It is a bankrupt policy that is not working. It is a tack that should no longer be pursued. It has become a policy that is not anti-China. It is anti-family planning and anti-U.N. and does not work.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, before the gentleman from Illinois leaves, I would like to say that it is my understanding that the $350 million which we spend, this country spends for contraception around the world, can be spent anywhere in the world where programs exist that do not perform or actively promote abortion.

Now, the United Nations spends its millions in countries, too. Fine. How in the world is our refusal to subsidize an agency that helps manage and control a coerced abortion, coerced sterilization, despotic program, how does our refusal to jump into bed with them deny family planning to women in Africa? The United Nations can still operate its programs.

We are not indispensable to the U.N. operation, and we give to over 400 private organizations that understand the basic distinction that family planning is not abortion. Why the romance with killing unborn children? Why must we support and subsidize organizations that think that killing an unborn child is merely retroactive contraception? Why this love with death?

There are enough organizations in the world that will do family planning as it ought to be done through contraception; the prevention of conception, we do not have to support through the back door or otherwise organizations, even if they have the letters "U.N." on them, that support and subsidize and direct and manage forced abortions.

I cannot think of a worse human rights abuse than taking a women who is pregnant and forcing her to kill her unborn child, and yet the United Nations does it.

The CHAIRMAN pro tempore (Mr. DELLUMS). The Chair would inform the gentleman from New Jersey [Mr. SMITH] that he has 5 minutes remaining, and the gentleman from Pennsylvania [Mr. KOSTMAYER] has 4½ minutes remaining. The gentleman from Pennsylvania has the right to conclude the debate.

Mr. KOSTMAYER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I thank the gentleman for yielding the time to me. I would just like to set the record straight on the role of the UNFPA. There has been a lot of information, a lot of disinformation about the UNFPA.

No. 1, the U.N. Population Fund has a policy on abortion which is exactly the same as the U.S. policy. They do not fund abortions. They have never funded a single abortion anyplace in the world. They do not fund the promotion of abortion.

The second thing is that allegations have been raised about the head of the U.N. Population Fund, Nafis Sadik, that she supports and has endorsed the Chinese policy of coerced abortion. Nothing could be further from the truth.

On the "Nightline" program that the gentleman referred to, she specifically related her meeting with the top leadership in China and her raising her strong objections and concerns, as President Bush did, about the Chinese program.

The United Nations has spoken very loudly and clearly on the Chinese policy.

Mr. KOSTMAYER. Mr. Chairman, I yield 1½ minutes to my friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in strong support of the Kostmayer substitute amendment to the Smith amendment and reaffirm my support for voluntary family planning.

The U.N. Population Fund [UNFPA] is the largest multilateral organization providing voluntary family planning and population assistance worldwide. It provides assistance to more than 140 developing countries.

The UNFPA supports projects ranging from maternal and child health care to programs integrating family planning with parasite control to the expansion of contraceptive services and the training of nurses and doctors.

It must be underscored that UNFPA does not provide any support nor has it ever provided support for abortions or abortion-related activities anywhere in the world.

This important amendment provides assistance to several countries such as Afghanistan, Nicaragua, Hungary, Romania, Poland, and Ethiopia which have no family planning program with the United States Agency for International Development. Moreover, none of these funds will go to China.

Let us bear in mind that an important aspect of U.S. aid to discourage overpopulation which is a danger to quality of life to billions of inhabitants throughout the world.

The world environment has become a vital issue of our time. Population planning assistance is an inseparable part of the solution. Accordingly, I urge strong support of the Kostmayer amendment. Many lives and the quality of life depend on it.

□ 1310

Mr. KOSTMAYER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, this discussion is so polarized it is hard to know if there is any fluidity or reason in it.

This is not money for China. It is money for the UNFPA.

There are parts of the Chinese program I do not like. When I ran the AID program, I did not like it. We did not give any money for China. The UNFPA is not giving money for the parts of the Chinese program we do not like.

What do we do in those circumstances? What the gentleman from New Jersey [Mr. SMITH] is doing is penalizing all the other nations of the world, and all I can say is that anybody who votes against the Kostmayer amendment, I think, must vote to withdraw MFN from China, every single one.

We are trying to find a way to keep pressure on China without punishing other nations here, and the gentleman is just taking a big ax and hurting everybody. If he is going to do that in this case with the UNFPA, I think you have no alternative but to vote across the board without any qualifications, any condition, to withdraw MFN from China.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all, let me say that there is absolutely no disinformation from this side of the aisle with regard to the UNFPA.

The gentleman from Massachusetts [Mr. ATKINS] mentioned Dr. Sadik's appearance on what he called the "Nightline" program. It was not "Nightline"; it was the CBS

"Nightwatch" program. On that program on November 22, 1989, she very clearly stated, and I would like to quote it so there is no doubt about it, "The implementation of the policy and the acceptance of the policy is purely voluntary," and, of course, entirety of the discussion focused was on the policy in China.

Let me also point out that the issue before this body is whether or not funding will go to an organization, the United Nations Population Fund, that has been found every year since 1985, each successive year, in a determination by the President to be in violation of the Kemp-Kasten language. Funding to the UNFPA has been cut because the UNFPA has been found in violation of the restriction against organizations supporting and comanaging a coercive population control program. The gentleman from Pennsylvania [Mr. KOSTMAYER] and others say get rid of Kemp-Kasten; get rid of the underlying conditionality, because the UNFPA cannot meet the test, because repeatedly since 1985 they have failed, and they have been found to have been supporting a system of coercion.

Let me read a quote for the Members just to put again in focus exactly what we are talking about here. Laurence Tribe, who is no friend of the right-to-life movement, said, "China has adopted a one-child-per-family policy, a multiplicity of measures including financial incentives, and compulsory abortions are being used" as he says, "to encourage each family to have only one child. China's compulsory scheme has been met with widespread domestic resistance, particularly in the rural areas, and the international backlash has been harsh. Domestic Chinese resistance to abortion in general and compulsory abortion in particular grows from traditional Chinese values. China's one-family-one-child and compulsory abortion policies greatly undermine the well-being of the couples who bear a female child."

That is from Laurence Tribe.

Yet, the United Nations Fund for Population Activities, again as quoted from Dr. Sadik, says that the "UNFPA firmly believes, "firmly believes," and so does the Government of the People's Republic of China, that their program is a totally voluntary program," and to match that view, they have provided in excess of $100 million to that program. I think that is shameful.

Those who will be supporting the Kostmayer amendment will be saying, in essence, it does not matter what the UNFPA is doing in China so long as our money is fenced off in a clever bookkeeping device, notwithstanding their coercion and their complicity in coercion; that is OK for us. But, if we really care about the women in China, if we really care about the families and the children who are being oppressed by this coercive one-child-per-couple policy, we will not provide that earmark. We will vote no on the Kostmayer amendment.

Let me also read very briefly a quote written by John Aird, a U.S. Census Bureau expert who recently published the book, "Slaughter of the Innocents." Dr. Aird clearly explains and lays out for all to see, China's one-child-per-couple policy, and the complicity and duplicity of groups like the UNFPA. He states, "The Chinese program remains highly coercive not because of local deviations from central policies but as a direct and inevitable and intentional consequence of those policies. Foreign organizations and individuals that indiscriminately laud the Chinese program, or provide financial or technical assistance for any aspect of it, are in a position of supporting the program as a whole including its violations of human rights."

Let me also remind my colleagues, and I would ask that this list be made a part of the RECORD, every dollar that has not gone to the UNFPA since 1985 has been reprogrammed. There is a very long list of organizations, population and family planning organizations around the globe, that have been the recipients of these reprogrammed funds to continue contraceptives and preventive means of family planning. Mr. Chairman, I ask that I include the list as a part of the RECORD.

Finally Mr. Chairman, my good friend, the gentleman from Illinois [Mr. PORTER], said that this amendment, my underlying amendment, is antifamily planning. Nothing could be further from the truth. We are providing in this bill $350 million for family planning assistance. Nobody is attacking that number. We are conditioning it with human rights conditions that say the family planning assistance must be voluntary; coercion has no place in a family planning program.

Mr. KOSTMAYER. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Mr. Chairman, if the membership has heard nothing else, let it hear these three final facts: The UNFPA world budget is 49 percent diverted to maternal and child health care, 18 percent for family planning and education, 33 percent for data collection and analysis; not a single cent goes for abortion, not a cent.

Second, the gentleman from New Jersey [Mr. SMITH] cuts off not only China, he cuts off 137 other countries including Bangladesh, Ethiopia, and India.

Finally, Mr. Chairman, no United States money goes to China. Now, hear this: no United States money goes to China. Not a single dime goes to China. The membership ought to know it before they vote on it.

This is family planning assistance, and in the foreign operations appropriations bill it is furthermore specified that this $20 million can be used for contraceptives only and nothing else.

Ms. PELOSI. Mr. Chairman, I rise in support of the Kostmayer amendment to H.R. 2508, the Foreign Assistance Authorization Act. This amendment would allocate $20 million to the United Nations Population Fund [UNFPA]. This amendment specifically prohibits the use of any funds in China.

The United Nations Family Planning Fund [UNFPA] was established in 1969 with strong encouragement from the United States and is the largest multilateral organization providing voluntary family planning an dpopulation assistance worldwide. It has been a bold leader in expanding the availability and use of modern contraceptive technology and lowering family size in many developing countries. Since 1969, the fund has provided over $2 billion in population assistance to virtually all developing countries. UNFPA assistance to all regions has continued to increase, however, the demand for continued population and family planning assistance from developing countreis far exceed the availability of UNFPA funds.

Mr. Chairman, some of our colleagues do not want the funds to go to UNFPA, but I believe it is imperative that we continue to support UNFPA as we have for the past 20 years. Last year, Congress denied funds to UNFPA and IPPF [International Planned Parenthood Federation] for nonabortion family planning efforts in Romania and agreed instead to provide funds through USAID, to a number of private family planning organizations there. Unfortunately, these organizations were not equipped to provide the much-needed services. Meanwhile, UNFPA is prepared and ready to meet the requests and demands of people of all cultures. Had UNFPA been funded by us, services would have reached the people of Romania promptly and effectively.

The Population Institute estimates that within the next generation, 3 billion people will reach their reproductive years. That number is equal to the total number of inhabitants on this Earth just 30 years ago. It would be difficult enough for an affluent country to accommodate a doubling of its population in 20 to 25 years, yet this is the exact problem facing many developing countries.

According to a recent article from the Massachusetts Institute of Technology's "Technology Review," more than 90 percent of world population growth occurs in the developing world—the nations that are least able to feed, educate, employ, and otherwise provide for their people. The burden of overpopulation in these countries overwhelms any hopes for economic progress.

The lack of family planning services in Third World countries not only affects their economies, but also places extra hardship on the women who face unwanted pregnancies and childbirth. This ultimately limits a woman's ability to be an active participant in the country's economic development.

I believe that the Bush administration has not adequately considered the devastating effects that rapid overpopulation can have on our planet. Rapid overpopulation can lead to swift urbanization, creating overcrowded, polluted and water-short cities; deforestation and lack of food for our children.

Denying family planning services increases unintended pregenancies and abortions and a deterioration of the overall health of women and children. Family planning promotes child survival, protects a woman from the dangers of high-risk and unwanted pregnancies, enhances family life, and is a key part of sustainable development.

UNFPA is an excellent means to improving the health and well being of women and children around the world. I urge my colleagues to support the Kostmayer amendment and restore funding for the United Nations Fund and Population Activities.

The CHAIRMAN pro tempore. (Mr. DELLUMS). All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER] to the amendment offered by the gentleman from New Jersey (Mr. SMITH).

The question was taken; and the Chairman pro tempore announced that the nose appeared to have it.

RECORDED VOTE

Mr. KOSTMAYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 188, not voting 9, as follows:

[Roll No. 148]

AYES—234

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bentley
Berman
Boehlert
Bonior
Boucher
Boxer
Brewster
Brooks
Brown
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dixon
Dooley
Downey
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Machtley
Markey
Martinez
Matsui
McCandless
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Nagle
Neal (NC)
Nichols
Oakar
Olin
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Porter
Price
Rangel
Ravenel
Reed
Richardson
Riggs
Rose
Rowland
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swift
Synar
Tanner
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Zeliff
Zimmer

NOES—188

Allard
Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Borski
Broomfield
Browder
Bruce
Bunning
Burton
Byron
Callahan
Camp
Chapman
Clinger
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Donnelly
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Fields
Gallegly
Gaydos
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Kildee
Kyl
LaFalce
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Luken
Manton
Marlenee
Mavroules
Mazzoli
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Moakley
Mollohan
Montgomery
Moorhead
Murphy
Murtha
Myers
Natcher
Neal (MA)
Nowak
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Perkins
Peterson (MN)
Petri
Poshard
Pursell
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Russo
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NJ)
Smith (OR)
Solomon
Spence
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Traxler
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—9

Davis
Dingell
Dymally
Hopkins
Kolter
Martin
Rostenkowski
Roukema
Yates

□ 1339

The Clerk announced the following pair:

On this vote:

Mrs. Roukema for, with Mr. Davis against.

Messrs. EMERSON, SMITH of Oregon, and PURSELL changed their vote from "aye" to "no."

Mr. HERTEL, Ms. OAKAR, Ms. KAPTUR, and Mr. SCHIFF changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1340

AMENDMENT OFFERED BY MR. BERMAN TO THE AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY, AS AMENDED

Mr. BERMAN. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. BERMAN to the amendment as amended, offered by Mr. SMITH of New Jersey: In the text proposed to be inserted by the amendment, strike out paragraph (2) and insert in lieu thereof the following:

"(2) to any foreign nongovernmental organization which uses (or if any such funds were made available, would use) funds provided by the United States Government to perform or actively promote abortion as a method of family planning.

Funds made available to carry out this title or chapter 1 or chapter 2 of title V that are made available for population planning activities shall not be denied to nongovernmental organizations or multilateral organizations on the basis of any criterion that is not applicable to foreign governments that receive such funds.

Mr. BERMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Florida, the chairman of the committee.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I rise to see if we cannot get an agreement here on the debate time on this amendment.

I would like to suggest to my distinguished colleague, the gentleman from Michigan [Mr. BROOMFIELD], the ranking Republican, that we take 30 minutes on each side on this amendment.

The CHAIRMAN pro tempore. The Chair would like to clarify the unanimous-consent request. Is the gentleman talking about the Berman amendment to the Smith amendment, limiting debate on the Berman amendment to the Smith amendment, to 30 minutes?

Mr. FASCELL. Mr. Chairman, let me make that 20 minutes on each side.

The CHAIRMAN pro tempore. Twenty minutes on each side?

Mr. FASCELL. So, Mr. Chairman, my unanimous-consent request would be that debate on the Berman amendment and any amendment thereto be limited to 40 minutes, 20 minutes on this side, the time to be controlled by the gentleman from California [Mr. BERMAN] and 20 minutes on that side, the time to be controlled by the gentleman from Michigan [Mr. BROOMFIELD].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida [Mr. FASCELL]?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California [Mr. BERMAN] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is offered by the gentlewoman from Kansas [Mrs. MEYERS], the gentlewoman from Maine [Ms. SNOWE], the gentleman from Massachusetts [Mr. ATKINS], and this gentleman to the second part of the Smith of New Jersey amendment, that portion of the Smith amendment which rescinds and wipes out the committee action which overturns the Mexico City gag rule policy.

The effect of supporting this amendment will be to leave the underlying Helms law, the law that is now codified, that is on the books, sponsored by the gentleman from the other body, which makes it illegal for U.S. Government funds in our family population programs to be used to perform or to promote abortion. But it would not affect and seek to regulate the funds expended by non-governmental organizations in any fashion other than that which we regulate the expenditure of funds by foreign governments whom we provide population control and family planning funds for.

Before I speak further on this legislation, I yield 4 minutes to a cosponsor of this amendment, the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, the so-called Mexico City policy cripples American family planning efforts.

When we in this House decide whether to approve or disapprove a policy, we should first understand exactly what the policy says. The specific language of the Mexico City policy says that the United States shall give no family planning assistance to any nongovernmental organization that "promotes" abortion as a method of family planning. It has been interpreted by the Reagan and Bush administrations as meaning that no American assistance can go to an organization that uses its own funds for any abortion-related activity, including referring a woman to where she can get a legal abortion if she asks for the information. If you look up the word "promote" in the dictionary, you will see it means "advocate" or "urge the adoption of." None of the family planning organizations denied funding by the Mexico City policy advocates the use of abortion for family planning. They advocate contraception. This is not a debate about abortion. It is a debate as to whether the most effective private family planning organizations in the world, who specialize in delivering birth control services to women, will receive American financial assistance.

The Mexico City policy does not affect the over 30 governments that receive direct population assistance from the United States under bilateral agreements with AID. They can do anything they want with non-U.S. funds, but private organizations are discriminated against. In fact, Egypt, India, Nigeria, and Kenya are countries that have bilateral agreements with AID and allow abortion, yet the private organizations are restricted by the Mexico City policy. In fact, because they must comply with the Mexico City policy, they run the risk of breaking the local law. This is cultural imperialism.

There is absolutely no justification for this double standard. Private, indigenous family planning organizations are just as capable of meeting the same standards as governments in ensuring that no American money is used to promote abortion. To prohibit these private organizations from receiving American support is to hinder the most innovative and effective means of getting family planning information to the women of the developing world.

The opponents of this amendment will say that the Mexico City policy does not prevent family planning because all the money gets spent eventually on population programs. They are wrong. This policy prevents American aid to many countries where family planning is desperately needed. Let us look at one organization that was defunded by the Mexico City policy, the International Planned Parenthood Federation. Although the shortfall caused by U.S. withdrawal of funds was partially made up by other donors, IPPF was forced to cancel plans to establish family planning programs in almost a dozen countries, several of which do not have any AID program. What were these countries, and how badly do they need family planning? Malawi, with a birthrate of 52 per 1,000 population, and an annual population increase of 3.4 percent; Niger, with a birthrate of 51 per 1,000 and an increase of 3.3 percent; Chad, 44 per 1,000, and an increase of 2.5 percent; Guinea-Bissau, 43 per 1,000, and a 2-percent annual increase; Angola, 47 births per 1,000 people, and an increase of 2.8 percent; Burundi, a birth rate of 47 per 1,000, and an increase of 3.2 percent; Cameroon, with a rate of 42, and a 2.6-percent annual increase in population; Gabon, 39 births per 1,000, and a 2.3-percent increase; Cape Verde, with 40 births per 1,000, and 3.2 percent; Sao Tome and Principe, a 35 per 1,000 birth rate, and a 2.8-percent annual increase; and Equatorial Guinea with 43 births per 1,000, and a population increase of 2.6 percent per year. Only Niger and Burundi have bilateral population agreements with AID, although Chad, Malawi, and Cameroon are serviced by organizations that follow the Mexico City policy. Is anyone going to say the rest of these countries can do without our family planning help?

Just consider Bangladesh, Mr. Chairman. It has a population of 118 million and a growth rate of 3 percent. In 24 years their population will double. Can you imagine the population of the United States trying to fit in a country that size? That will be the case if we do not make every effort to curb population growth.

For 6 years we have given no assistance to the most technically proficient, well organized groups that specialize in family planning. With the threat of overpopulation so great, we must be part of the solution. We haven't been part of the solution, we've been part of the problem.

In debating issues in Congress, we often forget that we are not talking about abstractions. A woman in Africa has a 1 in 21 chance of dying from a pregnancy-related cause. If that ratio were applied to the House, 21 of our colleagues would have died or would have had their wife die during pregnancy. This policy withholds needed medical advice from women. Real women are dying because the Mexico City policy deprives them of access to the health care they need. This amendment must be agreed to.

☐ 1350

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the amendment of the gentleman from California [Mr. BERMAN] that is before us reverses the Mexico City policy, a policy that was first announced back in 1984 at a population conference in Mexico City under the auspices of the United Nations. Hence its name, Mexico City policy. The Mexico City policy in my view is both pro-child and pro-family planning. It is a humane policy that effectively separates abortion from family planning and international population control programs. It prevents donations, Mr. Chairman, to those nongovernmental organizations that perform or actively promote abortion as a method of family planning. According to the Agency for International Development, the number of NGO's that have accepted the Mexico City policy has actually grown in the last year, from about 300 NGO's to approximately 400 currently.

Mr. Chairman, I would just point out to the membership, to those who say that somehow we are cutting family planning, and I will be making this a part of the RECORD. I have in front of me a list of those NGO's that have accepted the Mexico City clause and are currently involved in a number of countries throughout the world in the provision of family planning services.

FOREIGN NONGOVERNMENT ORGANIZATIONS RECEIVING UNITED STATES FUNDS UNDER THE MEXICO CITY CLAUSE, JUNE 10, 1991

Country	Host Institution
Argentina	Fertilab S.A.
Argentina	Jose Penna Hospital.
Bangladesh	Anannaya Mohila Samity.
Bangladesh	Assoc for Community Health Svc.
Bangladesh	Ban Jatiyo Mohila Sangstha.
Bangladesh	Bang Social Work Teachers Asso.
Bangladesh	Bangladesh Pop Association.
Bangladesh	BAVS.
Bangladesh	BFRP.
Bangladesh	BPKMS.
Bangladesh	Chitra Mohila Samity.
Bangladesh	ICDDR/B.
Bangladesh	Ins of Soc Welfare Research.
Bangladesh	Islamic Organization Fam Welfr.
Bangladesh	Jono Sheba Poribar Porikalpana.
Bangladesh	Madaripur Female Welfare Assoc.
Bangladesh	Moulvibazar Pourashava.
Bangladesh	PCA.
Bangladesh	PROSHANTI.
Bangladesh	SHIMANTIK.
Bangladesh	Srimangal Pourashava.
Bangladesh	Sukhi Paribar.
Bangladesh	Swanirvar Bangladesh.
Bangladesh	Tilottoma Voluntary Womens Org.
Bangladesh	Voluntary Family Welfare Assoc.
Bangladesh	Voluntary Paribar Kallayan.
Bangladesh	Women for Improved Family.
Belize	Belize Family Life Assoc.
Bolivia	Centro Medico Cruz del Sur.
Bolivia	Centro Medico Familiar.
Bolivia	CIES.
Bolivia	Clinica San Pablo.
Bolivia	COBREH.
Bolivia	INPRARES.
Bolivia	Inst de Endocrin y Repr Humana.
Bolivia	San Marcos University.
Brazil	ABEPF.
Brazil	ABRAMGE.
Brazil	Assoc Brasileira Enfermag.
Brazil	BEMFAM.
Brazil	Carmen Helena Snel.
Brazil	CEMICAMP.
Brazil	Cen Estud Trein Repro Humana.
Brazil	CENPLAFAM.
Brazil	Centro Medico Infantil.
Brazil	CEPECS.
Brazil	CEPPD.
Brazil	CNBL.
Brazil	Conf Bras de Saude.
Brazil	Consuelho Londrinense (CLAM).
Brazil	CPAIMC.
Brazil	FEBRASGO.
Brazil	Federal University of Paraiba.
Brazil	Federal University of Parana.
Brazil	FLASOG.
Brazil	Fumdacao Emilio Odebrecht.
Brazil	Fund Universidade do Amazonas.
Brazil	Hospital das Clinicas.
Brazil	Maternidade Climerio Oliveira.
Brazil	Maternidade Encruzilhada.
Brazil	Maternidade Lago.
Brazil	Maternidade Tsylla Balbino.
Brazil	Pro-Mulher.
Brazil	PROFAM.
Brazil	PROPATER.
Brazil	Santa Maria Inst of Repro Hlth.
Brazil	School of Med Sciences Alagoas.
Brazil	SERGIR.
Brazil	Soc Bras de Reproducao Humana.
Brazil	Subregional Diar Dis Ctrl Mtg.
Brazil	Unidade Nonoai.
Brazil	Universidad Federal da Bahia.
Burkina Faso	IHPS.
Cameroon	Cameroon Baptist Convention.
Cameroon	University of Yaounde.
Chile	Hospital Juan Noe.
Chile	Hospital Sotero Del Rio.
Chile	ICMER/CPNDS.
Chile	Inst Chileno de Medicin Repro.
Chile	Universidad Austral de Chile.
Chile	Universidad Catolica de Chile.
Colombia	ACEP.
Colombia	Cora.
Colombia	Escuela Colombiana de Medicina.
Colombia	FACBS.
Colombia	Hospital Infantil Universitari.
Colombia	Lab de Invest Entemed Vereras.
Colombia	PROFAMILIA.
Colombia	Publicidad Toro.
Colombia	Univ del Valle/Nursing Dept.
Colombia	Univ del Cali/Nursing Dept.
Colombia	University of Antioquia.
Colombia	University of Santander.
Costa Rica	Hospital San Juan De Dios.
Cote d'Ivoire	AIBEF.
Cote d'Ivoire	Center for African Family Stds.
Cote d'Ivoire	CERCOM.
Cote d'Ivoire	Hospital Protestant de Dabou.
Cote d'Ivoire	IFCAD.
Cote d'Ivoire	Univ of Abidian/Fac of Medicin.
Dominican Republic.	CINSERHA.
Dominican Republic.	Hosp de Nta Sra de Altagracia.
Dominican Republic.	Profamilia.
Ecuador	AMIDEM.
Ecuador	APROFE.
Ecuador	CEPAR.
Ecuador	INPPARES.
Egypt	Ain Shams University.
Egypt	Al Azhar University.
Egypt	Alex Comprehensive Model Clin.
Egypt	Alexandria Family Plan Assoc.
Egypt	Alexandria Univ-Fac of Medicin.
Egypt	Boulak el Dakrour Hospital.
Egypt	Center for Development Commun.
Egypt	El Galaa Teaching Hospital.
Egypt	Family of the Future.
Egypt	FP CTR/Misr S/W Company Hosp.
Egypt	ITRFP.
Egypt	Radaresearch.
Egypt	Shatby Hospital.
Egypt	SPAAC.
El Salvador	ADS.
El Salvador	AMIDEM.
El Salvador	GAMMA.
Gambia	CAFS.
Gambia	Gambia Family Planning Assoc.
Gambia	Gambia Home Economics Assoc.
Ghana	Komfo Anokye Hospital.
Ghana	Korle Bu Teaching Hospital.
Ghana	Kotobaabi Clinic.
Ghana	Mamprobi Polyclinic.
Ghana	Univ Sci and Tech Kumasi.
Ghana	University of Science and Tech.
Ghana	Ussher Clinic.
Guatemala	APROFAM.
Guatemala	FLASOG.
Haiti	AOPS
Haiti	CEGYPEF.
Haiti	Centre Haitiano-Arabe.
Haiti	Hosp Immaculee Conception.
Haiti	INHSAC.
Honduras	ASHONPLAFA.
Honduras	IHSS.
India	Child in Need Institute (CINI).
India	Gujarat Institute of Area Plan.
India	Gujarat St Crime Prevntn Trust.
India	Mahila Sewa Trust.
India	Prerana Assoc CEDPA.
India	Salk Institute.
Indonesia	BKS PENFIN.
Indonesia	Forum Indo Untuk Swadaya.
Indonesia	Hasan Sadikin Hospital.
Indonesia	Indo Pop & Envir Ed Assoc.
Indonesia	Indonesia Midwives Association.
Indonesia	Indonesia Public Health Assoc.
Indonesia	Melati Foundation.
Indonesia	PERDHAKI.
Indonesia	PKCK.
Indonesia	PKMI.
Indonesia	Yayasan Flamboyan Pujiastuti
Indonesia	Yayasan Kusuma Buana (YKB)
Indonesia	Zamrodj Foundation.
Jamaica	Jamaica Cancer Society.
Jamaica	Medical Research Council.
Jamaica	Univ of West Indies.
Jordan	Al Beshir Hospital.
Jordan	Princess Basma Hospital.
Jordan	SFWS.
Kenya	African Council Communication.
Kenya	African Medical & Research FDT.
Kenya	Canaan Medical Services Center.
Kenya	CHAK.
Kenya	Delta Media Productions.
Kenya	Edgerton University.
Kenya	Family Life Promotion Services.
Kenya	Family Planning Assn of Kenya.
Kenya	FCI.
Kenya	General Motors Kenya Ltd.
Kenya	Kangaru Clinic and Maternity.
Kenya	Kenya Medical Association.
Kenya	Kenyatta Hospital.
Kenya	Kenyatta University.
Kenya	MYWO.
Kenya	Natl Christ Council of Kenya.
Kenya	PCEA/Chogoria Hospital.
Kenya	Pumwani STD Clinic.
Kenya	Shaani Family Project.
Kenya	The Diocese of Maseno North.
Kenya	University of Nairobi.
Liberia	FPAL.
Madagascar	FISA.
Malawi	PHAM.
Malaysia	General Hospital.
Malaysia.	Pusat Kepakaron Reproductif.
Mali	AMPPF.
Mali	Ecole De Sante Publique.
Mali	INSAH.
Mali	Malian National Women's Union.
Mali	National School of Med & Pharm.
Mali	PMI de Commune IV Piabougou.
Mali	Regional Hospital.
Mauritius	MFPA.
Mexico	AIBIR.
Mexico	AMES.
Mexico	AMFEM.
Mexico	AMIDEM.
Mexico	Association Pro-Ayuda Familiar.
Mexico	CEIPLAN.
Mexico	Centro Ginecologico.
Mexico	Centro Investigaciones Region.
Mexico	Centro Para Los Adolescentes.
Mexico	CIFE.
Mexico	Clinica Del Paseo.
Mexico	CMI.
Mexico	Cong de la Ginoglogia y Obstetr.
Mexico	CORA.
Mexico	FEMAP.
Mexico	FFI.
Mexico	Gernab Sandouval Cruz MD.
Mexico	GIMIESAR, AC.
Mexico	Hospital General de Veracruz.
Mexico	Hospital Universitario Torreon.
Mexico	INN.
Mexico	Inst de Investigacion Cientif.
Mexico	Intl Ctr for Training in Pop.
Mexico	Jocotepec Womens Dev Center.
Mexico	La Liga De La Leche de Mexico.
Mexico	MEXFAM.
Mexico	MIPFAC.
Mexico	PLACIRH.
Mexico	PROFAM.
Mexico	PSFN.
Mexico	Universidad Juarez.
Mexico	CNFRH.
Nepal	FPAN.
Nepal	Nepal Crs Co Ltd.
Nepal	Nepal Fertility Care Center.
Nepal	New ERA.
Niger	Center for African Studies.
Nigeria	ABUTH.
Nigeria	Africare.
Nigeria	Ahmadu Bello Unversity.
Nigeria	Assoc. of Women Volunteers.
Nigeria	Baptist Hospital: Ogbomoshos.
Nigeria	COWA.
Nigeria	Femope Marketing Company.
Nigeria	ICENPFH.
Nigeria	Iyi Enu Hospital.
Nigeria	NUT-Moksons Trading Co Ltd.
Nigeria	Nat Council of Women's Society.
Nigeria	Nat'l Councol for Pop Activity.
Nigeria	PPFN.
Nigeria	U Lagos Teaching Hospital.
Nigeria	U Ibadan College of Medicine.
Nigeria	U Lagos College of Medicine.
Nigeria	U of Benin Teaching Hospital.
Nigeria	U of Nigeria Teaching Hosp.
Nigeria	U Port Harcourt Teaching Hosp.
Nigeria	Univ College Hospital/Ibadan.
Nigeria	Univ Ilorin Teaching Hospital.
Nigeria	Univ Maiduguri Teaching Hosp.
Nigeria	Univ of Calabar Teaching Hosp.
Nigeria	Univ of Ife Teaching Hospital.
Nigeria	Univ of Jos Teaching Hospital.
Pakistan	All Pakistan Women's Assoc.
Pakistan	Behbud Association.
Pakistan	College of Fam Med Peshawar CH.
Pakistan	Darsano Chhano Social Welfare.
Pakistan	Faisalabad Chapter.
Pakistan	FPAP.
Pakistan	IMWA.
Pakistan	Matrnl & Child Welfare Assoc.
Pakistan	Memorial Christian Hosp Sialk.
Pakistan	NGO Coordinating Council.
Pakistan	Pakistan Nurses Federation.
Pakistan	Pakistan Society for Plan Par.
Pakistan	Pakistan Vol Hlth & Nutr Assoc.
Pakistan	Patient Welfare Assoc Baldia.

FOREIGN NONGOVERNMENT ORGANIZATIONS RECEIVING UNITED STATES FUNDS UNDER THE MEXICO CITY CLAUSE, JUNE 10, 1991—Continued

Country	Host Institution
Pakistan	PMI.
Pakistan	Urban Comm Dvlpmt Council.
Panama	Complejo Hosp Metropolitano.
Panama	Hosp Jose Domingo de Obaldia.
Panama	Hospital Santo Tomas.
Panama	PANAMA OB/GYN SOCIETY.
Paraguay	CEPEP.
Paraguay	INPPARES.
Peru	ADIM.
Peru	APDBFI.
Peru	APROSAMI.
Peru	Asociacion Civil Labor—LABOR.
Peru	Asociacion Cultura La Tortuga.
Peru	Asociacion Peru-Mujer.
Peru	CEDER.
Peru	Celegio Asistenta Sociales.
Peru	Centro Medico Carmen de Legua.
Peru	CPIA.
Peru	Hospital San Juan De Dios.
Peru	Instituto Marcelino.
Peru	Maternidad De Lima.
Peru	PLANIFAM.
Peru	PROFAMILIA.
Peru	SMMISA.
Peru	Univ Peruana Cayetano Heredia.
Peru	Universidad de Lima.
Philippines	ADPCN.
Philippines	AFPTC/CMCP.
Philippines	Ago General Hospital.
Philippines	Ago Medical & Education Center.
Philippines	Cebu Medical Center.
Philippines	CMCP.
Philippines	Davao Medical Center.
Philippines	Fertility Care Center.
Philippines	FP Organization of Philippines.
Philippines	IMCH.
Philippines	Mary Johnston Hospital.
Philippines	Nicanor Reyes Medical Foundat.
Philippines	PAVSC.
Philippines	Philippines General Hospital.
Philippines	Population Center Foundation.
Philippines	Silliman University.
Philippines	Southwestern Univ Med Center.
Philippines	UP Population Institute
Rwanda	Centre Hospitaliere de Kigali.
Rwanda	National University of Rwanda.
Senegal	ASBEF.
Senegal	Le Dantec Hospital.
Senegal	SANFAM.
Senegal	University of Dakar.
Sierra Leone	PPASL.
Sri Lanka	CDS.
Sri Lanka	FPASL.
Sri Lanka	MOPI.
Sri Lanka	SLAVSC.
St. Lucia	FPA St Lucia.
Sudan	Khartoum North Hospital.
Sudan	Port Sudan Civil Hospital.
Sudan	SFCA.
Sudan	Sudan Community Based Health.
Tanzania	7th Day Advent Church Health.
Tanzania	FP Assoc of Tanzania (UMATI)
Thailand	Chiang Mai University.
Thailand	Chulalongkorn University.
Thailand	Khon Kaen University Hospital.
Thailand	PDA.
Thailand	Population + Community Develop.
Thailand	Siriraj Hospital.
Thailand	TAVS.
Thailand	TDRI.
Thailand	Thai Fertility Research Assoc.
Thailand	Thai Red Cross Society.
Togo	University of Benin.
Tunisia	ONFP.
Turkey	Found for Adv & Recoc of Turk.
Turkey	Hacettepe U/Institute of Pop.
Turkey	Human Research Develop Found.
Turkey	Institute of Child Health.
Turkey	Karendiz University.
Turkey	Lioness Clubs.
Turkey	TFHPF.
Turkey	Turkiye Esnaf Ve Sanatkarla Ko.
Uganda	Bosoga MSRDP.
Uganda	Diocese of East Ankole.
Uganda	FPAU.
Uganda	Institute of State Applied Eco.
Uganda	University of Ibadan.
Uruguay	Soc Ginecotocologica—Uruguay.
Venezuela	Maternidad Conception Palacios.
Yemen, Republic of.	YFCA.
Zaire	IMCK.
Zaire	PSND.
Zambia	Adventist Devel & Relief Ag.
Zambia	Center African Family Studies.
Zambia	University Teaching Hospital.
Zimbabwe	University of Zimbabwe.
Zimbabwe	ZNFPC.
Chile	APROFA
Jamaica	JFPA.
Panama	APLAFA.
Trinidad and Tobago.	FPATT.
Uruguay	AUPFIRH.
Venezuela	PLAFAM.

Source: Agency for International Development.

Significantly, Mr. Chairman, the United States remains the leading donor of population aid in the world. We provide about 45 percent of all international family planning assistance in more than 100 countries. As a matter of fact, 85 of those countries are developing countries, and it is a very significant number indeed.

So, Mr. Chairman, I would suggest that the United States in no way has abrogated its leadership in family planning. Since 1981 the United States has obligated $2.6 billion for these programs around the globe.

Mr. Chairman, I believe that Americans can be very proud of the fact that where the U.S. Government provides substantial amounts of funds to family planning initiatives worldwide, we draw a very real line with regard to abortion, and we do it in a way that protects, to the greatest extent possible, the vulnerable unborn children of the world. It is precisely because children, Mr. Chairman, like their mothers, are absolutely precious and deserving of respect and our compassion that our Government says no to funding of abortion either directly or indirectly and seeks to provide financing to family planning programs that are less likely to prove injurious to the unborn child.

It should be clear, Mr. Chairman, as to why the Bush administration, and the Reagan administration before them, have insisted that abortion not be construed as a method of family planning. The reality is that abortion procedures destroy helpless infants by ripping them apart or poisoning them in salt water.

Mr. Chairman, in one common method of abortion known as vacuum aspiration, a loop shaped knife attached to a high powered suction machine rips and shreds the unsuspecting child to pieces. The body parts are then vacuumed into a bottle and they're disposed of. The power of the vacuum is said to be about 30 times that of a household vacuum cleaner, and in a D&C and D&E abortion, the child is dismembered, literally dismembered, by a surgeon's scalpel without even the benefit of anesthesia. In saline abortions, Mr. Chairman, usually done in the second trimester, the unborn baby, has his or her life purposely snuffed out by an overdose of injected salt water.

These are the realities of abortion. This is the child abuse that abortion represents. This is horrific reality, Mr. Chairman, and the horrific reality is that the result is dead babies. In each and every case abortion stops a beating heart.

I am sad, Mr. Chairman, that there are family planning organizations who refuse to divest themselves of their abortion performance and abortion promoting components. That is unfortunate, but for those that do divest themselves or perhaps are not involved in the first place, there has been, and there will continue to be, ample family planning moneys provided in this bill through ESF funds, through the population account so that there is no diminution of family planning assistance worldwide.

Finally, let me say to my colleagues that, if either this amendment passes or the other amendment which just prevailed remains in the bill, this legislation is coming back vetoed. The President has made very clear in a letter, as well as through vetoes and the exercise of the veto pen in previous years that reversals of the Mexico City policy are wrong. He will not abide by them, and I do believe we will be seeing this issue again.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I believe that women should not be treated as second-class citizens and should be entitled to get the information.

Mr. Chairman, I urge my colleagues to vote for the Berman-Myers-Snowe-Atkins amendment overturning the international gag rule, also referred to as the Mexico City policy. This policy prohibits U.S. funding from being channeled through nongovernmental organizations that use their own funds for abortion services, counseling, or referrals. Foreign governments are exempt from this prohibition.

Approximately 65 developing countries eligible for U.S. AID support allow abortion under some circumstances. However, under this policy, indigenous family planning programs in these countries can only accept desperately needed U.S. funding if they disregard local law with regard to abortion. This gag rule has made it very difficult for family planning clinic workers who are forced to lie to the women who seek their assistance. The women who go to these clinics then lose their confidence in the programs and do not return.

The committee language simply allows nongovernmental family planning programs in developing countries to follow their own laws, using their own funds, while also being able to accept urgently needed U.S. family planning assistance. This provision does not change existing prohibitions against abortion; it does not allow U.S. funds to be used to provide information about abortion or to promote abortion.

Family planning can only be effective if women are provided with complete and accurate information regarding the options available to them. I urge my colleagues to vote for the Berman-Myers-Snowe-Atkins amendment to overturn this unethical and discriminatory policy.

Mr. BERMAN. Mr. Chairman, I yield 3½ minutes to the gentlewoman from Maine [Ms. SNOWE], the ranking member of the International Operations Subcommittee.

Ms. SNOWE. Mr. Chairman, I thank the gentleman from California [Mr. BERMAN] for yielding.

Mr. Chairman, members of the committee, I rise in strong support of the amendment that has been offered by the gentleman from California which supports the language in the House foreign affairs legislation to reverse the Mexico City policy. I oppose the amendment that has been offered by the gentleman from New Jersey [Mr. SMITH]. What the gentleman from New Jersey wants us to support is nothing more than an international gag rule. It prohibits Federal funds going to any international nongovernmental organization that with its own funds provides abortion referral services.

Let me emphasize, my colleagues, that we are not talking about the use of American funds. We are talking about restricting access to medical information to women in developing countries by nongovernmental organizations using their own funds. U.S. money, in fact, does not go for abortion. It has not gone for abortion. It has never gone for abortion. Since the adoption of the Helms amendment to the Foreign Assistance Act in 1973, the United States has been prohibited from spending one dime on abortion, and, to ensure that the Helms agreement was understood, the Administrator of AID in 1974 issued a detailed policy statement listing the prohibitions under the Helms language.

Mr. Chairman, on a number of occasions I have asked the administration and the Agency for International Development to provide me with evidence of any violations of these restrictions, if any family planning recipients have promoted abortion with American funds. I have yet to get an answer. I have been met with silence. In fact, 2 years ago, when we had a hearing on this issue, I asked the Administrator for AID to please submit examples of violations of this policy, and we have never heard about any violations of policies. So, if there have been no violations of the Helms amendment of 1973, why in 1984 does the administration adopt further restriction on family planning services? And why does the gentleman from New Jersey [Mr. SMITH] seek to perpetuate them?

We are setting a double standard; make no mistake about it. Under this policy we treat the private organizations in other countries differently from the governments in those countries. We trust foreign governments to separate their abortion-related activities from U.S.-supported family planning activities, but not nongovernmental associations. That is a double standard; make no mistake about it. This international gag rule is effectively curtailing family planning assistance, not only to developing countries, but to the organizations most likely to provide high quality services and doing the best job.

□ 1400

In fact, the policy has only added to the confusion of the AID cooperating agencies. In the 1990 internal evaluation of compliance with the policy, AID found,

> Project management have reacted to the Mexico City policy requirements by approaching the abortion question with an overcautiousness that extends to activities clearly permitted under the policy. This overcautiousness is based on a fear that any association with abortion-related activities, however indirect, could place a program's funding in jeopardy.

How has that overcautiousness affected women in the developing countries? First, the AID report states in fact it may be having an impact on long-term health issues for women.

Mr. SMITH of New Jersey. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I want to take what little time I have to congratulate the gentleman from New Jersey [Mr. SMITH]. I know of no one I admire more than I admire him. He has got a conscience. He believes in things. He votes his beliefs, and it is more than refreshing, it is reassuring, to serve in this body with CHRIS SMITH.

Second, I am very saddened today because we are blurring the line of distinction between abortion, which is the killing of a life once it has begun, with family planning, which is the prevention of conception, the prevention of bringing that new life into the world.

As we ignore that distinction between the two, we become accessories to abortions all over the globe. The Mexico City policy has funded family planning in the amount of millions and millions of dollars, and every nickel of it is used for family planning. Why we have to subsidize organizations that perform abortions or actively promote abortions to manifest our concern and our successful support of family planning around the globe, I do not know. But I think we have gotten used to the word abortion. It no longer sends a chill up anybody's spine.

I am waiting until the medical profession starts handing out shingles that say, "Eye, Ear, Nose, Throat, and Abortions." I am waiting to have the doctor's business cards say "Abortionist." At least there is one profession that still abhors the consequences of that title.

But what we are doing here today, if indeed we pass the Berman-Myers-Snowe—whoever else is for it—amendment, we are going to coerce taxpayers' money, people whose conscience stops short of supporting abortion, we are going to see taxpayers' funds go to organizations that perform abortions and that promote abortions.

Mr. Chairman, you can talk about sequestering or fencing in money. Money is fungible, and that bookkeeping gimmick, and that is what it is, ought not to deceive anybody.

But if you wish to stand on the side of organizations that promote, actively promote, not passively promote, or perform abortions, you have that choice today.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend, the gentleman from Wisconsin, who will run for the Senate one day, and I hope soon.

Mr. MOODY. Mr. Chairman, I appreciate the courtesy of the gentleman in yielding. I take it the main point of the gentleman from Illinois [Mr. HYDE] is that money is fungible. That seems to be an important point, which I think deserves real debate. If that is true, since we have only state enterprises in China, I assume the gentleman would be joining us to stop all trade with China, because that will improve the public coffers.

Mr. HYDE. Mr. Chairman, reclaiming my time, I intend to support sanctions against China. I do not agree with my administration on that, and I thank the gentleman from Wisconsin [Mr. MOODY] for letting me demonstrate my streak of independence.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. ATKINS], who has been a leader in this effort.

Mr. ATKINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Berman amendment. This amendment is not about abortion. No U.S. funds can be used to perform abortion abroad. Rather, this amendment is about ending the hypocrisy in the U.S. policy.

Under the Smith amendment, and under current policy, we treat foreign governments different from the way we treat foreign private voluntary organizations. We allow foreign governments to pursue whatever their sovereign policies are on the issue of choice. But if it is a private voluntary organization, we have a gag rule. We say you must renounce anything you might do with private funds, anything you might do separately from U.S. funds.

Mr. Chairman, gag rules do not work. Gag rules are crazy. We have a protection to assure that no taxpayer moneys are used for abortion. This is about removing the gag rule on private voluntary organizations.

Mr. Chairman, this amendment will allow us to make more effective use of our international funds. One year ago we had a debate on a program in Romania. The gentleman from New Jersey [Mr. SMITH] at that time insisted that AID was ready, that he wanted a family planning program in Romania, and that he had four organizations that were ready right at that time to proceed immediately, that would follow the Mexico City gag rule, and proceed immediately to provide services.

What happened? Not one of those organizations has provided a single bit of family planning services in Romania. There is still no program in Romania, thanks to the crazy gag rule in this policy.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I read with interest Prof. Lawrence Tribe's book, "Abortion, the Clash of Absolutes."

Now, Lawrence Tribe is an old fan of the conservative side of the aisle, even though he had testified with some vigor against Justice Robert Bork's Supreme Court nomination. I would hope Mr. Tribe is well thought of by liberals as a philosopher and legal scholar.

In his book on abortion, he says that it appears we are not getting any closer to a resolution.

Mr. Chairman, I am sorry if these words seem harsh to some Members, but I believe an abortion cult, a real cult, has developed in America, where it has become for some people, the focus of everything they do in their life, to defend the right to kill children in the womb.

How does it spill over into something that has such a gentle ring to it, family planning? It spills over because that cult thinks abortion is the best backup family planning method of all.

Mr. Chairman, there are not many people elected to public office that I know of, except for a few bizarre people here and there, who will admit that. But many unelected political activists, including Ted Turner, who controls what I think is the most outstanding network in America, put as the principal basis of their environmental concern, a concern we should all be involved with, the practice of family planning, including the use of abortions.

Because funds for family planning mixed domestically by Planned Parenthood, it is not even a coverup any more. You have the abortion clinic in the back, you are getting Federal money, and you mix it all together with true family counseling.

In my own Orange County, no abortions are performed by Planned Parenthood, but they refer women to San Bernardino County, where they have the same office structure and the same public relations people.

That is what they do on the world scene with the U.N. fund for family planning activities. Because they are not elected to office but draw high U.N. salaries by appointment, they will tell you to your face that China has to do what it has to do. They have to have this forced abortion policy. We disagree. It is coercive. These people protest that it is not genocide in Tibet, it is just family planning of another type, and the world will get around to agreeing with China eventually.

So we go through this dance in this legislature of elected people, and we say, oh, I think the genocide in Tibet is a civil rights violation. I think it is terrible, forced abortion, in the seventh, eighth, and ninth months in China. But we are going to let them do it anyway. None of our money we send to them is really going to be directed toward people who do that sort of thing.

But in Mexico, we got it clear. The gentleman from New Jersey [Mr. SMITH] reaffirms Mexico. The Berman amendment guts the Mexico policy.

Mr. Chairman, the President will veto it. Everything is irrelevant today if this provision stays in.

☐ 1410

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in support of the Berman-Myers-Snowe-Atkins amendment to the Smith amendment which seeks to reimpose the Mexico City policy which has been eliminated in H.R. 2508 and to reaffirm my strong support for comprehensive family planning. And I want to take this opportunity to commend the sponsors of two measure and particularly the gentlewoman from Kansas for her dedication and diligent work on this important issue.

Each year, 1 million women die throughout the world as a result of pregnancy related complications or childbirth. Ninety-nine percent of these women live in developing countries where the risk of dying from pregnancy related causes is 50 to 100 times greater than in the industrialized nations.

Family planning can prevent between one-quarter and one-third of all maternal deaths. With the ability to prevent unnecessary deaths in the developing world through family planning, and allowing individuals to exercise their right to control their own fertility, countless lives can be saved.

The vital issue before us is the importance of allowing U.S. aid to family planning organizations so that women can exercise their right to control their own lives thereby saving countless lives.

Today, the world environment has become one of the vital issues of our time. Population planning assistance is an inseparable part of the solution. Accordingly, I rise in strong support of the amendment and urge my colleagues to support it as well.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to my friend, the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I would like to oppose the Berman amendment and support the Smith reaffirmation of the Mexico City policy, and the Berman amendment guts that.

I think that we should recognize that the gentleman from New Jersey [Mr. SMITH] has spent a great deal of time working on this, and he believes with a great passion, and there are many of us who support his feelings. The implementation of the Mexico City policy has not reduced U.S. funding of international family planning programs whatsoever. Every penny that has been withheld from UPPF has been reprogrammed to other organizations or directly to foreign governments for family planning purposes.

A recently published report by the Population Crisis Committee reportedly referred to a column by the Washington Post columnist Hobart Rowen, who last week in it gave special praise to AID's program in Bangladesh and said, "AID has committed over $300 million to Bangladesh population activities since 1979." And "AID's support has clearly been a critical contributing factor to overall program success." Despite this acknowledgment by the PCC, Mr. Rowen incredibly claimed that the Mexico City policy was responsible for the recent tragedy in Bangladesh. Such demagogic claims are clearly ludicrous when one takes the time to examine the facts.

The Planned Parenthood Federation of America is so ideologically committed to abortion that it has refused to accept U.S. funds under a contraception-only policy. Planned Parenthood Federation of America President Fay Wattleton told the National Press Club that "Our Government must increase its funding to make contraception and safe, legal abortion available in developing nations."

To accept funds under the Mexico City policy would violate PPFA's principle that reproductive rights are indivisible. The U.N. world population plan of action, to the contrary, makes it very clear that abortion and contraception are very different and quite divisible.

Again, Members should be aware that the Planned Parenthood Federation is the largest provider of abortion in the United States, performing more than 100,000 abortions per year in their own facilities.

Mr. Chairman, we are destroying the future of our country and of our world by what we are doing, accepting these amendments. I oppose them very strenuously.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, we are debating the Mexico City policy of the Reagan and Bush administrations. What the Mexico City policy says is this: The United States cannot give any family planning assistance to international organizations, such as the International Planned Parenthood Federation, which tells women about the option of abortion. This is the international version of the Supreme Court's gag rule. This is madness, Mr. Chairman.

If there is a clinic in Bangladesh or India or Ethiopia and a poor Indian or Ethiopian or Bangladeshi woman enters that clinic and unless she terminates her pregnancy she will die, the doctor cannot tell her that. And if he does, that clinic will lose all U.S. money. That is what this is all about.

The American people are not for this. The Supreme Court is for it, but the American people are not for it. This gives Members a chance today to send a signal to the country, to the President, to the High Court that we believe that no Supreme Court should pass a law interfering with the relationship between a doctor and her patient.

Let the President veto the bill. I hope he does. Let this be the election in 1992. Let the American people know that the President of the United States does not want to provide funds to clinics which provide advice to women on whether or not they can have an abortion. Let that be the issue in 1992 because that is what this vote is all about.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it seems to me to be indefensible to advance abortion as a method of family planning. That is what we are talking about. The various polling organizations from Gallup, Richard Wirthlin's organization, and others have found that an overwhelming number of Americans, in excess of 85 percent, do not believe that abortion ought to be performed or promoted as a method of family planning. That is the issue that is before us.

The Mexico City clause provides for three exceptions: the life of the mother, rape, and incest. That is contained within the language of the contract clauses that have been signed by approximately 400 foreign nongovernmental organizations.

I believe, Mr. Chairman, that the amendment that is before the committee, which seeks to reverse the Mexico City policy, ultimately, if it were to be enacted and overridden, which I doubt it will be overridden, will be construed or seen some day as being an extremely antichild amendment.

The reason for that is this: These organizations which get into country X-Y-Z which has very strict or restrictive abortion laws, without the kind of conditionality that the Mexico City policy includes, are then free to get into these countries and to begin agitating for abortion on demand at any time during pregnancy. They can do that without U.S. subsidization, but we provide that additional leverage.

As a matter of fact, it was AID that pointed out, back in 1985, in one of their fact sheets to Members of Congress as to why they differentiate between providing moneys to a sovereign government as long as the money is segregated and providing money to a foreign nongovernmental organization, providing they divest themselves from abortion as a method of family planning.

They wrote:

> Abortion is a controversial issue in many countries, especially those with large Catholic or Muslim populations. The U.S. has been criticized in developing countries for its funding of groups—such as IPPF, the International Planned Parent Federation of London and its affiliates—which perform abortions in these countries. The administration believes that it is important to avoid the damage to U.S. interests which result from the belief that it supports abortion. Where abortion services are provided by an organization of which the U.S. is a major contributor, it is unrealistic not to expect that the U.S. be identified with its activities.
>
> However, where U.S. support is rendered to a government program, there is little damage to the U.S. reputation since the issue is one of domestic politics.

What we have before the committee, the Berman amendment, is a reversal of that policy. It does recognize and suggest that abortion ought to be allowed as a method of family planning.

☐ 1420

That is what is before the membership.

The underlying amendment, my language, says abortion should not be promoted as a method of family planning.

Mr. Chairman, I remind my colleagues, again, that every dollar that has been appropriated since 1984 when this policy went into effect has been given out, has been provided, to those NGO's, those governments that do not, indeed, provide abortion as a method of family planning.

So I urge Members to vote no on the Berman amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, the gentleman from New Jersey [Mr. Smith] consistently purports to speak for women and their children, and it is his right to think that he can do this. But I say he does not have the standing to speak for women and their children, nor does he have the moral authority to do so.

The gentleman from New Jersey [Mr. SMITH] wishes to gag professional providers of health care from even mentioning the legal option of abortion to a woman keeping a woman ignorant of her rights and her legal choices.

I ask you, my friends, is that showing trust, respect, or caring for women, whether it is in this country or all over the world? I say that it is showing disdain, mistrust, and flat-out contempt, contempt for these women that the gentleman from New Jersey [Mr. SMITH] purports to speak for, and it is the same contempt that it shows to the professional community who would be forced to withhold life-saving information from a woman. Vote for Berman-Meyers-Snowe-Atkins.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I rise in strong support of the Berman-Snowe-Meyers-Atkins amendment to overturn the Mexico City gag-rule policy.

Mr. Chairman, here is another bankrupt policy that does nothing to prevent abortion, which is not a legitimate brith control method, but does a great deal to undermine voluntary family planning efforts worldwide. It is not as if the organizations the Smith amendment aims at are spending U.S. taxpayer dollars for abortion. U.S. law has always prohibited that. But the Mexico City policy, promulgated at the U.N. conference in 1984, cuts off United States family planning assistance to those organizations who use their own funds—funds from private sources—to even tell a woman she has the option of choosing an abortion.

I believe that abortion is a completely private matter—a matter for individual decision, not Government—and that Government should not encourage it, by funding or otherwise, nor discourage it, but leave this highly personal matter to personal choice without Government interference of any type.

But to obviate demand for abortion we need vigorously to support and promote voluntarily family planning—contraception, so that unwanted pregnancies are minimized. Prior to 1984 international organizations offering voluntary family planning services worldwide were receiving U.S. support and funds. Now those funds are cut off in a misguided effort to prevent abortion, but the only effect is to deny to the neediest women in poor countries across the world American funds for family planning. It is a bankrupt policy, Mr. Chairman, one that merely serves to push people, denied legitimate contraceptive means and services, toward the very practice it seeks to avoid, abortion.

Mr. Chairman, the strongest means of preventing abortion from becoming a birth control method is family planning. Our support for family planning should be massive and worldwide, and America should resume its rightful bipartisan position maintained for 25 years under administrations of both parties of leadership.

I wage support of the Berman-Snowe-Myers-Atkins amendment.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Again, as with the previous debate and the vote which everyone in this Chamber recently voted on, we have been dealing so far in this segmment of the argument more with symbols than with substance.

The Mexico City policy, with or without the Smith amendment, does not support abortion, nor does its removal as the mark of the committee would do permit abortion, nor would any United States funds pay for abortion worldwide or anywhere else. That is not what is at stake despite the continuous arguments from the other side that make it sound that way.

What we really are questioning here with the Mexico City policy is whether or not private organizations that are in the business of family planning, having nothing to do with abortion in the family planning, are allowed to receive United States funds for nonabortion-related family planning services, contraception, et cetera, if with their own funds they discuss abortion. This is exactly the gag rule question which has just been decided. If you would like the gag rule for American organizations, then perhaps you should vote for Smith. If you do not think the gag rule makes sense, and I do not, because it, in effect, requires doctors to practice political medicine, to violate the Hippocratic Oath which they have sworn, to give their patients all the options, but there is one option now that they may not discuss even if it is in the patient's medical interests, they you should, if you feel as I do, you should not vote for the Smith amendment.

But one point should be remembered by all as they go down to the well to vote. The amendment offered by the gentleman from New Jersey [Mr. SMITH] would apply a double standard. The amendment offered by the gentleman from New Jersey [Mr. SMITH] would say that what we do for government organizations overseas in Bangladesh, China, or India is one thing, because we do not apply the Mexico City policy to them under Smith, but only to private organizations, and for a group which says that private organizations are the answer to human needs, I ask why would we want to disadvantage a good many private organizations in order to help governments. We should apply the same standard to both organizations, which the Smith amendment does not do.

Support the Atkins amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume just to remark that the reason why we provide those governments with family planning dollars is because those governments have a monopoly.

There are not, in my knowledge, any countries that have two standing governments, but there are a number of NGO's who are eligible, who could provide the professional family-planning services, who we feel ought not to be promoting abortion as a method of family planning.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I am going to call for a vote on this, and I assume it will rather closely mirror the last vote, but I guess that my desire is to see where people stand. I think some Members on the other side would agree, let us get Members on the record and make this an exciting election next year.

I do believe that perceptions and symbols are important. What people are saying, if they try to change the Mexico City charter, is that abortion is a part of family planning. I repeat what I said earlier in the well, I do not know of an elected official who has the courage of conscience or conviction to say what a lot of people in the abortion cult across this country are saying, that there is nothing wrong with abortion as backup family planning, particularly if your country has 1,250,000,000 people in it, which is the last semiaccurate count on China.

The Mexico City policy will be supported by the President. It makes everything we do on this foreign bill irrelevant.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of the Berman-Meyers-Snowe-Atkins amendment. I proudly go on the record in support of this.

Mr. Chairman, I rise in strong support of the Berman-Meyers-Snowe-Atkins amendment and welcome this opportunity to be "on the record" in opposition to the Mexico City policy which I view as the international equivalent of an unenlightened gag policy.

It concerns me, as it should concern us all, that the United States appears to be moving in exactly the opposite direction of that which is to be desired if we are to responsibly address one of the most serious problems facing the world today, that of overpopulation.

To be blunt about it, withholding vital information on family planning services is just plain wrong.

Try as opponents of this amendment might, there is no way one can legitimately claim that this is a proabortion amendment. It is not. What it is is a profamily planning amendment and because it is I proudly identify with it and urge all of my colleagues to lend their support.

We are privileged, as Members of this body, to have available the counsel of some of the wisest people in the world as we proceed with our deliberations.

I recall recently having a breakfast meeting with Jacques Cousteau and I still vividly recall the impact of what he had to say. Among other things, Captain Cousteau opined that the most serious environmental global issue today is that of overpopulation and he reported he is commiting the rest of his life to addressing that most serious challenge.

The world's population is growing at an unprecedented rate. By 2025, it is expected to rise between eight and ten billion. Overpopulation is one of the greatest causes of worldwide environmental degradation, dwindling natural resources, urban poverty, migration, and malnutrition.

Annually, 1 million women die of complications resulting from a pregnancy. Millions more children die of starvation. Tens of millions more unwanted pregnancies occur. Doesn't it make sense, for so many valid reasons, for the United States of America to encourage family planning programs. The answer is clearly yes. We must reverse the ill-advised Mexico City policy and we must not tolerate the cutting off of funds for the International Planned Parenthood Federation.

I close as I began, urging support for the Berman-Meyers-Snowe-Atkins amendment. Vote yes for family planning.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, one of the most important forms of aid we provide to other countries is family planning assistance. No one can deny that the need for family planning services in developing countries is urgent and the aid we provide is both valuable and worthwhile.

The committee's version of the bill reverses a repugnant policy which has been in place since 1985. Let us not mince words about what the international gag rule does. It says that in order to receive U.S. funds, private international family planning organizations must withhold the truth about the medical options available to women. They must conceal information about the option of abortion from pregnant women even in cases where health problems might endanger a woman's life and even if non-U.S. funds are used to provide this information.

No matter what its proponents say, this gag rule has not led to a reduction in the incidence of abortion in developing countries. Instead, it has increased the risk involved in this procedure. In fact, by cutting funding available to family planning organizations that is used to help women avoid unintended pregnancies, more abortions may very well result. The organizations that serve developing countries need and deserve our help not more obstacles. I urge my colleagues to consider the facts: Worldwide at least one woman dies from pregnancy, childbirth, or induced abortion every 60 seconds; and pregnancy-related complications including non-medical abortions are the leading cause of death for teens ages 15–19.

Let us face the facts. Around the world women are dying from a lack of family planning.

Those who would gag doctors and nurses also contend that abortion is being promoted as a method of family planning. This is simply untrue. None of the international family planning organizations promotes abortion. Instead, these organizations are there to offer women the choices, education, and opportunities to make their own private decisions about the size of their families.

It is time to stop the misinformation campaign being promoted by this administration and antichoice extremists. As the leader of the free world, the U.S. cannot continue to advance censored and unethical medical advice.

Let us be clear. The language currently included in the foreign aid bill makes no changes in the existing prohibitions against abortion. It does not allow U.S. funding of abortions or abortion information. It merely allows private family planning programs in the world's poorest countries to use their own funds as they see fit, and still accept desperately needed U.S. support for family planning services.

Some of us hoped that the Supreme Court would reject this ill-conceived policy, but that did not happen. Earlier this month, the Court let stand the international gag rule when it refused to hear a case challenging the Mexico City policy.

Congress must stand up where the Court has not. We must reverse this ban on free speech and remove these infringements on the right to choose. Women's health is in jeopardy. I urge my colleagues to join us in protecting access to a full range of family planning services for women and their families regardless of their economic condition or nationality. I urge you to protect the committee language and defeat this amendment.

Mr. BERMAN. Mr. Chairman, I yield myself 30 seconds, the remainder of my time.

Mr. Chairman, no matter how many times they say it, it is not the case. The amendment is very clear. Under this amendment, if it passes, the Helms law remains on the books. No funds may be available to any foreign nongovernmental organization which uses or if such funds were made available would use funds provided by the U.S. Government to perform or actively promote abortion as a method of family planning. All we are saying is apply the same standards for their own money we apply for the foreign governments.

For the people who are willing to go to fight for the sovereignty of other countries, for the people who are willing to have United States troops stationed in Iraq to protect the Kurds, notwithstanding arguments of sovereignty, do not make a phony distinction between foreign governments and nongovernmental organizations.

I urge an "aye" vote on the amendment.

□ 1430

The CHAIRMAN pro tempore (Mr. McDERMOTT). The question is on the amendment offered by the gentleman from California [Mr. BERMAN] to the amendment, as amended, offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DORNAN OF California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 200, not voting 9, as follows:

[Roll No. 149]

AYES—222

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Atkins
AuCoin
Bacchus
Beilenson
Berman
Boehlert
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cramer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hamilton
Hatcher
Hayes (IL)
Hefner
Hoagland
Hobson
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Machtley
Markey
Martinez
Matsui
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Nagle
Neal (NC)
Nichols
Oakar
Olin
Owens (NY)
Owens (UT)
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Pickett
Pickle
Porter
Price
Pursell
Rangel
Ravenel
Reed
Richardson
Ridge
Rose
Rowland
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swift
Synar
Tanner
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Zimmer

NOES—200

Allard
Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bonior
Borski
Broomfield
Bruce
Bunning
Burton
Byron
Callahan
Camp
Chandler
Clement
Clinger
Coble
Coleman (MO)
Combest
Costello
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Donnelly
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Fields
Gallegly
Gaydos
Gekas
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hochbrueckner
Holloway
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Kanjorski
Kasich
Kildee
Kolter
Kyl
LaFalce
Lagomarsino
Laughlin
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Luken
Manton
Marlenee
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McNulty
Michel
Miller (OH)
Moakley
Mollohan
Montgomery
Moorhead
Murtha
Myers
Natcher
Neal (MA)
Nowak
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Perkins
Peterson (MN)
Petri
Poshard
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Thornton
Traxler
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Anthony
Aspin
Davis
Hopkins
Lloyd
Martin
Rostenkowski
Roukema
Yates

□ 1451

The Clerk announced the following pair:

On this vote:

Mrs. Roukema for, with Mr. Davis against.

Messrs. MCCANDLESS, DOOLITTLE, ZELIFF, and RIGGS changed their vote from "aye" to "no."

So the amendment to the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: Page 62, line 11, strike out "spend" and all that follows through the end of line 25 and insert in lieu thereof the following:

agree to use its best efforts to encourage importers, whenever feasible, to purchase United States grain and other agricultural products and to employ United States-flag vessels.

Page 63, strike out line 7 and all that follows through line 19 on page 64 and insert in lieu thereof the following:

"(d) EXEMPTION.—This section shall not apply to any country that receives cash transfer assistance under this chapter of less than $25,000,000 for a fiscal year.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I rise to thank all of the individuals who are involved in this very important amendment for agreeing to a time limitation.

I therefore ask unanimous consent that all debate on this amendment and amendments thereto conclude in 40 minutes, 20 minutes to be controlled by the gentleman from Michigan [Mr. BROOMFIELD] and 20 minutes by myself.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, this amendment would require aid recipients to make the best effort to buy American and ship American. It would restore the Israeli eligibility for cash transfer assistance and give other countries the opportunity to comply by following the same rules followed by Israel with respect to ESF funds. It would prevent a reduction in U.S. exports caused by the Torricelli language. And this is crucial to dairy products, wood, manmade fibers, woven fabrics, fertilizers, coal, iron, steel, auto, auto parts, tires, tobacco, and many other manufactured goods.

The Torricelli language now found in section 1303 hurts our Economic Support Fund Security Assistance Program. It restricts America's ability to respond to rapidly changing events in the world. It imposes cargo preference laws on cash transfers at the expense of other important U.S. industries on small businesses. It imposes bureaucratic redtape on private commercial transactions; it reduces U.S. exports and adversely affects cash transfer recipient countries which are strategic allies, including Israel and Egypt, or countries that are extremely poor countries.

It is important to note, particularly for the benefit of our foreign assistance opponents who want all appropriations to stay at home, that section 1303 does not require the cash transfer be spent in the United States on U.S. goods; only that U.S. ships are guaranteed additional foreign assistance dollars. In fact, section 1303's end effect will be to reduce our sale of goods abroad and, therefore, reduce the net amount of U.S. exports generated by the Foreign Assistance Program.

Israel, a vital strategic ally of the United States, is not exempt despite the fact that section (d)(2), which has been carried over in virtually identical form from Torricelli amendments the previous years, is intended to exclude them and in fact once excluded them.

Other important ESF recipient countries, including Pakistan, the Philippines, Portugal, Turkey, El Salvador, Honduras, Nicaragua, Bolivia, Colombia, and Peru are also affected and the limitations with respect to ESF funds would affect them because they receive over $25 million in ESF funds per year.

All of these are affected by ESF, by section 1303. And if you take those countries, you will find that all of those countries already import a great amount from the United States, far more than we import from them and they import far more from the United States than they receive in ESF. In fact, the favorable balance of trade for us related to their ESF receipts is about 14 or 15 to 1.

For those and many, many other reasons, I think it is important that my colleagues here on the floor understand the depth of the problems created by the Torricelli language. It greatly expands the coverage of cargo preference. Therefore, I urge my colleagues to support the amendment that I am offering for myself, for the distinguished gentleman from Wisconsin [Mr. OBEY] and the distinguished gentleman from Minnesota [Mr. OBERSTAR].

Section 1303 says that before a country can receive an ESF cash transfer from us, they must enter into an agreement requiring them to spend an amount equal to the amount of the cash transfer, that is not necessarily the actual cash transfer dollars on U.S. goods and services. Further, they must agree to ship 50 percent of those goods on American ships which are not competitive; they are almost twice as expensive as foreign ships.

In addition, the President would be required to somehow manage all these transactions and make sure that the prices of the goods were fair, that is price fixing, that the points of sale were equitably distributed throughout the United States, and that the ports of departure for the ships carrying the goods sold are also equitably distributed throughout the United States. Similarly, the GAO would have to get access to sovereign foreign governments' records to audit this unworkable system.

The only ESF cash transfer-recipient countries exempted from all these requirements are those who will receive less than $25 million. They are exempted in recognition of the fact that section 1303 imposes a burden on them, and most of them are so poor and underprivileged—per capita income rates a fraction of our own, high infant mortality rates, low education rates, skyrocketing population growth rates—that they were spared that burden.

There are so many problems posed by section 1303 that it is necessary to look at them one at a time.

IT HURTS THE ESF PROGRAM

It applies to and hurts the Economic Support Fund [ESF] Program, which is now called Economic Support Assistance in the bill. Section 1301 of the bill on page 61 describes why we give this assistance and why it is so important:

> Under special economic, political, or security conditions, the National Interest of the United States may require economic support for countries in amounts that could not be justified under section 1201 on development assistance. In such cases the President is authorized to furnish assistance to countries and organizations in order to promote economic and political stability.

ESF is supposed to be a flexible assistance tool for promoting economic and political stability in developing countries in which the United States has especially strong security and foreign policy interests. ESF cash transfers can be used to provide immediate balance of payments support to key countries or provide grants to finance general imports rather than specific projects. The economic support fund is also often used to finance infrastructure and other capital projects—using U.S. components—necessary for long-term economic development and to support smaller projects that more directly address the basic human needs of the poor. In addition, under one part of the existing ESF program, known as the Commodity Imports Program [CIP], the funds for the ESF-recipient country are released by the United States only for specific purchases of U.S. goods and services.

But the CIP is only one small part of ESF because ESF is not and should not be designed for the singular purpose of promoting U.S. exports; rather, it is designed to be used for multiple purposes, all of which further U.S.

foreign policy and national security interests, which include, but are much broader than, economic.

Countries forced to direct large percentages of their domestic expenditures to security concerns often lack the resources to support vital economic development programs. Balance of payments supports—cash transfers—can have a powerful effect on the welfare of the poor. Imports of raw materials, manufacturing and agricultural inputs, and other essential goods-again, often from the United States can help sustain the level of economic activity and growth, and the political stability on which much employment throughout these economies depends.

The bulk of ESF is used to support the Middle East peace process. Israel has used cash transfers from ESF to address inflation and balance of payments problems. They have also used cash transfers to repay debt owed to the United States and to purchase goods from the United States. Egypt has benefited from cash transfers which have encouraged long-term development activities while also permitting the large scale import programs necessary to maintain growth rates and to allow the Egyptian people to experience tangible benefits from the peace process.

The following countries are expected to receive ESF cash transfers in fiscal year 1992 but are exempt under subsection (d)(1) of section 1303 because they will receive less than $25 million: Cote D'Ivoire, Djibouti, Thailand, "South Pacific Regional," Jordan, Costa Rica, Dominican Republic, Guyana, Jamaica, Haiti, Caribbean Regional, and Guatemala.

Cash transfers under ESF must be quick disbursing in order to be effective foreign policy tools. They finance balance of payments and economic stabilization programs, frequently in a multidonor context, allowing us a rapid response to the needs of recipient countries in financial difficulties, for example, newly emerging democracies such as Nicaragua. Unlike ESF commodity import programs and project assistance that transfer hard currency—United States dollars—resources only as the activity is implemented, cash transfers can provide fast disbursing financial assistance to countries in need of immediate balance of payment support to cushion the transition to a democratic government.

In those cases where the cash transfer recipient country does not have funds of its own with which it could purchase U.S. goods as required by section 1303, it would have to use the actual cash transfer to do so. This means not only that the cash transfer would not be available for its intended, valuable uses, for example, for use as balance of payments—but also that the fast disbursing nature of the program is lost—it is transformed into a commodity import program—because the funds would not be provided to the recipient country until the U.S. goods had been purchased by them and shipped to them.

Adding another purpose to the ESF Program reduces its flexibility and detracts from the many valuable foreign policy purposes it already serves, purposes which are equally in the national interest of the United States.

All cash transfers, by law, are deposited into a separate account. We know where they go and how they are used. Proponents of section 1303 often argue to the contrary, implying that section 1303 has the added benefit of somehow assuring more accountability in the ESF Program.

IT HURTS PRIVATE COMMERCIAL TRADE

Contrary to what one might suppose, the recipient government itself does not necessarily use the cash transfer for purchases or other uses on its own account. Usually, the recipient government, through the central bank, sells those dollars to private sector businesses in the country—in exchange for the country's local currency—who in turn use them to buy goods and services needed in the country's economy. These goods and services are frequently purchased from the U.S. private sector, and the United States otherwise indirectly benefits as these allied trading partners improve their own economies with the cash transfers, making them better buyers for our goods overall. Similarly, if the cash transfer is being used to restructure their multilateral debt in order that they may receive future World Bank or IMF support, their economies are thus improved, and they become better markets for U.S. goods and services, that is the United States still benefits.

Section 1303 necessarily applies to private commercial transactions because, as noted above, it is the private sector in the aid-recipient country that usually uses the cash transfer dollar to buy goods from the U.S. private sector. Private commercial transactions are covered by section 1303 additionally because the statutory language clearly and unequivocally requires "a country"—not the narrower "a government"—to spend an amount "equal to the amount of the cash transfer"—that is, not necessarily the cash transfer dollar itself—to purchase U.S. products, which usually come from the U.S. private sector.

Section 1303 would still be highly objectionable to the administration—cargo preference, by the way, is singled out in the statement of administration position suggesting a veto of the bill—if it were amended to apply only to purchases made from the United States by the recipient government itself. This is because the government would have only two choices—both of them bad. It could either use the actual cash transfer to buy U.S. goods instead of for its intended, equally valuable purpose—for example, Panama's cash transfers and other donors' aid is used for debt restructuring vital to their economy and reemerging democracy—or, since governments usually don't need to buy much on their own account, it could develop a more government-centralized economy and usurp the private sector's role—and the hard currency in the country—as the buyer and seller of any number of inputs needed for economic production. For example, all fertilizer would be bought—and resold and controlled—by the government.

Section 1303 does not require the actual cash transfer dollars to be spent in the United States. It specifically states—page 62, line 13—"Nothing in this section, however, shall prevent a country from purchasing, with the United States cash transfer assistance, goods or services produced in that country." As noted above, even if it did so require, it would still be highly objectionable as a restriction of cash transfer utility and an inducement toward establishment of inefficient, parastatal economies abroad.

IT HURTS U.S. EXPORTS

Another problem with section 1303 is that it will not otherwise increase U.S. exports to cash transfer-recipient countries. As noted in the administration position paper opposing section 1303, each one of the affected countries already buys far more in U.S. goods and services than it receives from us in cash transfers. The only exception, Nicaragua, is an abberation because trade with that country was suspended in recent years. Thus, section 1303 does not right some egregious wrong that is being done to the United States by those to whom we give cash transfers. They are already excellent trading partners, not to mention strategic allies.

In fact, we will have fewer exports if section 1303 is enacted. This is true because 50 percent of any goods purchased from the United States by the recipient country's government or in its private sector commercial transactions must be shipped on American vessels. This is the so-called cargo preference requirement that is in section 1303, albeit obscurely since the words "cargo preference" never appear. The words—p. 62, line 19—"United States Goods purchased pursuant to such an agreement shall be deemed to have been furnished in connection with funds advanced by the United States." trigger cargo preference.

It costs almost twice as much to transport goods on these American ships, so more of the cash transfer or, as the case may be, the country's own money is used up to pay the costs of shipping the goods instead of buying more of the goods themselves.

Every dollar that has to be spent on the higher shipping costs is a dollar less that is spent on the U.S. commodity itself.

CARGO PREFERENCE HURTS MANY DIFFERENT PRODUCTS

Section 1303 is bad for business, bad for labor, and bad for the U.S. balance of trade.

The effect of the cargo preference requirement is to reduce, not increase, the amount of U.S. goods that must be purchased by the government or the private sector of the country that receives cash transfers from the United States.

Here is how it works; we are requiring a country to buy U.S. goods and services in an amount equal to the amount of the cash transfer, but in the same breath we are telling them they must spend part of that finite sum on the more expensive American ships to transport the goods they buy from us.

They would have more of that money to spend on U.S. goods if they could transport those goods on cheaper, non-U.S. ships. In 1990, AID paid an average of $59.69 per ton to ship on U.S.-flag vessels and only $30.43 per ton for non-U.S. ships. Thus, the U.S. ships are more expensive; there's much less money for buying the goods.

That there are many different commodities which could be sold abroad in lesser quantities due to the cargo preference requirement in section 1303. This is not an agriculture versus maritime issue as so often seems to be the case in House floor debate on this issue.

The following is a list of commodities that are eligible to be purchased and shipped, and that have at one time or another been purchased and shipped, under the foreign assistance program by AID. These are products which are made in the United States, by American labor and American business, that are also eligible for purchase with the cash transfers covered by section 1303, but which lose sales volume for each dollar of the cash transfer that must be paid for U.S.-flag transportation: dairy products, wood poles, manmade fibers, woven fabrics, fertilizers, coal, iron and steel, boilers, nonelectric motors, and engines, elevators, winches, cranes, and related machinery, rail locomotives and related stock, motor vehicles, ships, boats, and other floating structures, tires, and tobacco and tobacco products.

In addition, here are some examples of U.S. goods that AID actually shipped in calendar year 1990: newsprint from New York, synthetic resins from West Virginia and California, auto parts from Michigan, textile machinery from North Carolina, hand tools from Nebraska, West Virginia coal from corporate headquarters in Oklahoma and Connecticut, steel billets from Illinois, and air-conditioning machinery from Ohio.

The very voluminous AID procurement of goods and services from U.S. suppliers computer printout is available in this Member's office. The printout shows, by city and State, the companies from whom U.S. goods and services were purchased with foreign assistance funds, including Economic Support Funds [ESF], and were shipped abroad for use in our foreign aid program. The vast majority went on ships.

As an example of the breadth of firms which sell goods and services financed under ESF foreign aid, consider just this partial list of such firms in the congressional district of the gentleman from New Jersey [Mr. TORRICELLI]: East Rutherford, National Audio Visual Center; Englewood Cliffs, Chick Master Incubator Co.; Fair Lawn, Duro Test Corp.; Fair Lawn, Oxford University Press; Hackensack, Ecogen, Inc.; Lyndhurst, The Afro American Purchasing Center; Maywood, Myron Manufacturing Co.; Norwood, American Overseas Book Co.; and Saddle Brook, Equipment Spare Parts. These are companies that produce goods or provide services that AID purchases for its foreign aid program. Every dollar subsidizing the U.S. shipping industry under cargo preference is a dollar less than can be spent purchasing goods from companies such as these.

Members who think that more expensive U.S. cargo preference costs hurt only agriculture commodity sales will be surprised at the wide variety of other American commodities and services that are already being purchased with development assistance and ESF, and which would be eligible for purchase with ESF cash transfers covered by section 1303.

This listing of American companies is a revelation in two ways; it shows how the foreign assistance program benefits our own economy generally, and it also shows in stark detail just how many different companies—from virtually every State in the Union—could be affected by section 1303's expansion of cargo preference requirements.

The commodities referred to above are also typical of the American products which these countries buy with their own money. But under section 1303, these commercial sales would become subject to cargo preference—so the U.S. sales volume would be lost because of the much higher amount that is charged for U.S. flag transportation.

Again, too, the foreign countries that receive ESF for cash transfers from us already buy far more goods and services from us than the amount of the cash transfer they receive.

AID-financed cargoes in 1990 cost an average $59.60 per ton on U.S.-flag ships, almost double the $30.43 per ton on foreign-flag ships. On some commodities, the disparity is even greater. For example, AID-funded corn shipments were charged an average $39.61 per ton for U.S.-flag carriage compared with $17.76 per ton for foreign-flag carriage.

Thus, the U.S. merchant marine already gets a substantial benefit from the foreign assistance program; AID complies with the cargo preference laws that already apply to foreign assistance. Section 1303 constitutes an expansion of cargo preference in foreign aid because it applies cargo preference, for the first time, to ESF cash transfers.

IT HURTS POOR RECIPIENTS

Many ESF cash transfer recipient countries are extremely poor and underprivileged by any standards. They can least afford to pay, as they did in 1990, higher U.S.-flag shipping rates for corn and soy—their nutrition. [AID-financed soy cost an average $59.04 per ton on U.S. ships versus $31.42 per ton on foreign flag vessels.]

The United States has a per capita GNP of roughly $20,000 and a population growth rate of 1 percent [World Bank, "World Development Report 1990"]. The comparison to some of the countries covered by sec. 1303—who must divert many of their dollars from commodities to the higher U.S. merchant marine shipping costs—is startling:

ANNUAL PERCENTAGE

	GNP	Population increase	Infant mortality per 1,000
United States	$19,840	0.8	10
Pakistan	350	3.1	107
Bolivia	570	2.7	108
Philippines	630	1.9	44
Egypt	660	2.3	83

These examples provide some idea of just how unable these countries are to support the added burden of cargo preference on the scarce resources we provide, or on their own scarce resources.

If section 1303 would remain intact, Congress surely should build upon the humanitarian concerns expressed by the author of section 1303 when he exempted certain poorer, less-developed countries from its provisions.

Specifically, Congress could exempt child survival and basic education priority countries, that is, those that have especially high infant mortality rates or low primary-school completion rates. This gentleman has printed such an amendment in the RECORD and will offer it if the Obey amendment, or a similar one is not adopted.

H.R. 2508 already sets standards in section 1101(g) to designate "child survival priority countries," in which the President is directed to establish child survival programs, and "basic education priority countries," in which he must establish basic education programs.

This proposed legislation defines "basic education priority countries" as those where AID has an ongoing development assistance program and in which fewer than 80 percent of primary school-age children in the country complete primary education. The child survival standard is an aid-recipient country with an infant mortality rate of greater than 70 per 1,000 live births. These statistics are collected by AID, the World Bank, and other development professionals.

Any country suffering from either of these deplorable conditions deserves to be exempted on the same logic that created the exemption for countries receiving less than $25 million in ESF [subsection (d)(1)]. To compare a "child survival priority country" with the United States, note that the U.S. infant mortality rate is only 10 per 1,000 live births, according to the 1990 World Bank development report. So the countries that would be helped by applying the standards of section 1101(g) of the bill to section 1303 of the bill are at least seven times worse off than we are, with their 70/1,000 (at least) rate. In the United States, according to World Bank Unesco data, the primary school completion rate is 99 percent, versus the less than 80 percent standard for a "basic education priority country" under section 1101(g).

If under section 1101(g) these categories of countries need special programs from the foreign assistance program, it makes no sense to simultaneously say that they are strong enough economically to pay more of the money they receive from us for cargo preference instead of being able to use all of those funds to buy the agricultural and other commodities they need. These are poor countries.

The countries exempted under the basic education exclusion are El Salvador, Honduras, Bolivia and Pakistan. AID estimates ESF cash transfer levels for fiscal year 1992 of $90 million for Salvador, $43 million for Honduras, and $26 million for Pakistan. The amount for Bolivia is an as yet undetermined portion of the $199 million Andean Narcotics Initiative cash transfer. Under child survival Egypt, Bolivia, and Pakistan would be exempted. Egypt is expected to receive a $185 million cash transfer in fiscal year 1992.

If these countries were exempted, the following countries would still be covered by section 1303: Philippines ($83 million), Turkey ($75 million), Nicaragua ($125 million), Portugal ($40 million), and Colombia and Peru—a portion of the $199 million Andean Narcotics Initiative, to be determined upon certification of narcotics control compliance.

IT CREATES AN UNWORKABLE, ILL-ADVISED, BUREAUCRATIC MONSTROSITY

Whether one supports cargo preference or not, all agree that the Congress owes a duty to the American people to promote free market principles and minimize Government's interference in the private sector.

The requirements of section 1303 are that the President of the United States engage in something that looks a lot like centralized management of the economy and price-fixing.

Specifically, in its present form, section 1303 mandates that the President ensure where in the United States goods are purchased from, where in the United States they are shipped from, and finally, what constitutes fair prices for those goods.

The relevant language in the bill is as follows:

> The President shall ensure that purchases of United States goods pursuant to such agreements, and the ports of departure for those goods, are distributed equitably throughout the United States. The United States goods purchased pursuant to such agreements shall be United States goods which are available in the United States at fair prices for such goods.

This leaves the United States heading backward on free-market economics, ironically at a time in history when the rest of the world is starting to embrace it more than ever before.

Constituents who work for a living in the private sector don't want the Government to set the price and value of their goods or their labor; they don't want Government to say that a buyer can buy from someone in this State but not someone else in another State, or that an east coast price is not fair, but a west coast price is.

Even if it was sound economics to do this kind of thing, it is not at all clear how it could be done. It looks impossible. When the President is forced to make sure that American sellers are distributed equitably, what does that mean? Can he pick those States that voted for him in the last election and ignore those that did not? Are States the unit of measurement that are envisioned, or is equitable distribution of sales to be measured by congressional district, or urban area, or rural area, and so on?

With respect to determining fair prices, there are similar unanswered questions. For example, can the President say, your labor costs of production are too high or too low, therefore the cost of your product is unfair compared to someone else's? How, exactly, does the President avoid price fixing? If the law gives him the power to say what a fair—instead of letting willing buyers and sellers in the free market decide—once he says it, the price is effectively fixed for these transactions.

The Great Lakes do not benefit from the unworkable language in section 1303 that purports to require equitable distribution of ports of departure for the goods in question. The simple fact is that U.S.-flag vessels do not visit upper Great Lakes ports. The distributed equitably language from this bill cannot change that fact; that situation is governed by other, unrelated factors. In other words, any threat posed to Great Lakes ports comes from the application of the cargo preference requirement itself because foreign-flag vessels, which do visit Great Lakes ports, would have less business at those ports as U.S.-flags take an extra 50-percent portion of the overall ocean transportation market. Thus, the current distributed equitably provision is both unworkable and undesirable, given the consensus in favor of free markets and private commercial transactions.

IT LIMITS PRESIDENTIAL WAIVER AUTHORITY

Section 1303 should reinstate an improvement that the gentleman from New Jersey [Mr. TORRICELLI] accepted on the House floor on November 19, 1987, regarding the President's waiver authority, that is, to allow him to use the waiver more flexibly.

The bill in its present form may—it is unclear—allow a waiver only for one country at a time, a process that does not take into account how fast world events change sometimes. It should be clarified so the President would not be bound so narrowly. Instead, as current foreign policy necessities dictated, the President could waive provisions of section 1303 for a group of countries, or a group of commodities, or with respect to a certain provision in 1303 for certain countries only, or invoke a blanket waiver, and so on.

This is much less cumbersome bureaucratically, given that it is a major undertaking to get a Presidential determination through the executive branch system; it serves the national interest to minimize bureaucracy. By the way, the national interest remains the standard the President would have to apply in making his decision. The bill should be unchanged in that respect; but the words "with respect to a country" should be deleted so as to clearly give the President a meaningful amount of flexibility.

AID would not get to decide if there will be a waiver; USDA would not get to decide; the President would. There would be no one-sided perspective allowed to exercise the waiver authority; the Presidential authority to decide remains the same as in the underlying bill, except for the deletion of the five words.

This should not be controversial. Again, the House has adopted it this way, and it was accepted by the gentleman from New Jersey [Mr. TORRICELLI] this way. See the CONGRESSIONAL RECORD, November 19, 1987, p. H10580.

The President must still report the waiver to Congress, which preserves the appropriate oversight role of Congress. The President should have some leeway when he determines and reports that it is in the national interest to use the waiver.

IT DOES NOT EXEMPT ISRAEL

If it was the intent of the gentleman from New Jersey [Mr. TORRICELLI] to exempt Israel from the application of section 1303, the gentleman, according to AID, was unsuccessful. Israel is not exempt from the purview of section 1303.

Subsection (d)(2) may have been intended to exempt Israel, and Israel only, but it does not do so because Israel does not have an agreement with the United States under which Israel agrees to carry 50 percent of all bulk shipments of United States grain on privately owned United States-flag commercial vessels to the extent they are available at fair rates, and to purchase U.S. grain at levels comparable to prior years.

Currently, Israel has agreed with AID that it will use its best efforts to encourage its private sector importers—the Government of Israel no longer purchases grain on its own account—whenever feasible, to purchase U.S. grain and other agricultural products and, whenever feasible, to ship those products on U.S.-flag vessels.

The most recent agreement between Israel and the United States is a document of public record. When it is compared with subsection (d)(2), it is clear that Israel is not exempt from section 1303.

The administration supports an amendment to section 1303 that would apply the same standard—that is, the current Israel side letter agreement—to all cash transfer-recipient countries including—but not limited to—Israel.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon, [Mr. AUCOIN].

Mr. AuCOIN. Mr. Chairman, the pending amendment strikes the Torricelli provision in the bill, and I rise in opposition to the amendment. I want to explain to my colleagues what the Torricelli provisions does. It simply insures that foreign recipients of U.S. cash, cash aid, purchase American goods, American products, American agricultural products, and transfer a portion of these commodities and goods on American-flag vessels.

□ 1500

Presently the recipients of U.S. cash aid are not required to buy and ship American, but are free to spend all of their U.S. cash aid on foreign goods, foreign services, foreign agricultural commodities. The United States has no control over the use of its cash aid, nor is there any tangible evidence of American aid in the recipient nation. The Torricelli provision, which is struck by this amendment and should not be struck, makes a commonsense point that I think Members can agree with, that U.S. cash aid abroad provided by American's taxpayers should be used to purchase American products, should be used to purchase American commodities and services and not to subsidize foreign jobs with American foreign aid.

So, Mr. Chairman, I rise in strong opposition to the amendment that strikes the well-considered Torricelli provision, and I urge my colleagues to strike this provision.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I thank the gentleman from Michigan [Mr. BROOMFIELD] for yielding the time. And I say to my colleagues, I wish you'd listen to this because during the 1980's this Congress built peace through strength and put up one of the strongest national defenses this country ever had. But, when it comes to national defense, a chain is only as strong as its weakest link. Our weakest link is the capability of our merchant marine to support our military operations, especially the new rapid deployment system that we have seen in the Persian Gulf.

Mr. Chairman, what has happened is an absolute disgrace. Thirty years ago the United States of America had 4,000 merchant marine ships ready to go to war if they were needed, and we had a trade surplus in the billions. Surplus. Today we have less than 400 merchant marine ships, and we have trade deficits in the billions.

By contrast, the People's Republic of China 30 years ago only had six merchant ships. Today they have 1,200 and refuse, refuse, to bring their goods here on American-flag ships. They have to use their own ships.

Let me tell my colleagues what happened in the Persian Gulf in case some of them do not know. We had only 41 merchant marine American-flag ships on the ready to carry our troops and supplies overseas to the Persian Gulf. Do my colleagues know that we had to depend on 91 merchant marine ships with foreign flags and foreign crews? And do my colleagues know that crews on 10 of those ships refused to take our troops in there? Talk about readiness.

Mr. Chairman, we need to build a merchant marine fleet in this country. And I say, "Never mind whether you're on the side of labor, or management, or free trade, or fair trade, or whatever it is. You vote for national security here today, and you vote against the Bereuter amendment because that amendment will do more to destroy the remaining merchant marine ships that we do have."

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I would ask the House to support the amendment of the gentleman from Nebraska [Mr. BEREUTER] which is being offered on behalf of myself, and the gentleman from Minnesota [Mr. OBERSTAR] as well. The amendment is very simple. It simply exempts from the provision of the amendment of the gentleman from New Jersey [Mr. TORRICELLI] any country which has an agreement to use its best efforts to buy American and ship American.

Mr. Chairman, the amendment is supported by the administration, it is supported by AIPAC, it is supported by the Farm Bureau, the Great Lakes Ports Association, the U.S. Chamber of Commerce, and 27 other economic groups interested in exporting.

Now why do they all support this amendment? They support it, first of all, because the amendment of the gentleman from New Jersey [Mr. TORRICELLI] discriminates against the heartland. It discriminates against Great Lakes ports. The problem with the Torricelli amendment is that U.S. bottoms are simply too large to get through the St. Lawrence Seaway, and, therefore, there is no U.S.-flag service on the Great Lakes to speak of, and that means that, if we adopt the Torricelli amendment, we are diverting a very large percentage of shipments from Great Lakes ports to other ports.

That, Mr. Chairman, simply is unfair, and I say to my colleagues, "If you do that, you are incurring an obligation to spend somewhere between $300 million and $400 million to modernize the seaway locks so that we can in fact get U.S. bottoms through the seaway."

Second, recipient countries already meet the standards of the amendment of the gentleman from New Jersey [Mr. TORRICELLI]. They receive only $800 million in aid, but they receive $13 billion, if we are looking at non-Israel recipients. That means that they return in sales of American products, they return to us, 16 times as much as they get.

Third, the problem with the amendment of the gentleman from New Jersey [Mr. TORRICELLI] is that it impacts other commercial sales. The effect of the Torricelli amendment may be to ship more on American bottoms, but we will be shipping less American goods overall because, if we raise the cost of these products because of shipping costs, they are going to be able to buy fewer American products, and that is going to hurt paper, it is going to hurt steel, it is going to hurt textiles, it is going to hurt fibers, it is going to hurt grain, it is going to hurt dairy, it is going to hurt autos. It would be economically stupid to adopt the Torricelli amendment if we want to promote buy America.

Mr. Chairman, I say to my colleagues, "If you want to promote buy America, you should vote for the Bereuter amendment."

Last, what we are doing in this amendment is to assure that countries like Israel may continue to participate in the program, and it will assure that all other countries can participate if they adopt the same kind of side letters which Israel presently has with the United States.

So, in short a vote for the Bereuter, Obey, Oberstar amendment is a vote to require aid recipients to make their best effort to buy and ship on American bottoms; secondly, it would restore Israel's eligibility for cash transfer assistance and give other countries the opportunity to comply following the same rules followed by Israel; and, third, it would prevent a reduction in United States exports which will otherwise be caused by the Torricelli language, which is crucial to the commodities that I just mentioned.

What we are saying in effect by this amendment is by all means aid recipients should be required to buy and ship American to the greatest extent possible, but we are not going to apply that in a way which will snap back and actually reduce American imports by reducing our ability to export auto, steel, coal, grain, dairy, just name it.

I say to my colleagues, "If you don't adopt this amendment, you're not only hurting those industries, you're hurting the taxpayer as well. There's no reason to do that. I urge you to vote for the amendment."

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I rise in support of the efforts of my colleague from Nebraska, to oppose the expansion of cargo preference provisions in H.R. 2508. Although the cargo preference requirement that 50 percent of Government-sponsored cargos be transported on U.S.-flagged ships may seem like a reasonable proposal, once one learns that U.S. taxpayers, through the U.S. Department of Agriculture, are forced to pay two to four times as much for U.S.-flagged ships as foreign-flagged vessels, one begins to understand how damaging such a provision can be.

This policy has the effect of putting the cost of supporting the merchant marine on the backs of those who can least afford it—the poor developing countries of the world, and the American farmer.

Mr. Chairman, this is an issue of fairness. Congress may believe that our merchant marine needs and deserves our support. But, that support should not come directly out of the pockets of farmers, who comprise less than 2 percent of the U.S. population, or the world's poor and starving people. Neither group should be drowned by this Congress, to single-handedly keep our ships afloat.

In 1990, U.S.-flagged ships charged almost $30 more per ton on the average than did foreign vessels, for a total $21.6 million loss. This $21 million came out of the mouths of the world's poor, and the pockets of the American farmer, to provide smooth sailing for the merchant marine.

Some try to cast cargo preference provisions as pro-American. But in reality, they're anti-farmer, take-it-from-the-poor provisions.

The U.S. has traditionally had a very positive trading balance with the countries that would be affected by this provision, and extending cargo preference to commercial agricultural exports, would be a hurricane assault on U.S. agriculture—decreasing our levels of foreign commodity sales to fill the sails of U.S. shipowners. We should not disadvantage the sector of our economy that contributes so much toward reducing our trade deficit, by unfairly making them pay higher transportation costs.

I urge my colleagues to support the efforts of Mr. BEREUTER. We should not force farmers, and the world's poor, to walk the plank in support of the merchant marine.

Mr. GRANDY. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Chairman, I rise today in support of my colleagues amendment to preserve current cargo preference laws. Section 1303 of the Foreign Assistance Authorization Act requires countries receiving ESF (Economic Support Funds) cash transfers from the United States to ship goods under U.S. cargo preference laws. This provision would actually work contrary to its intent. It would reduce U.S. exports, especially agricultural products, which negatively affect the American farmer, including those in my home State of Iowa.

If suppliers are forced to ship their products on U.S. vessels which, on average, cost nearly $30 more per ton than foreign ships, the net effect will be a decrease in the level of exports to compensate for the funds needed to pay higher transport costs.

The U.S. Department of Agriculture has paid enormous subsidies to ship our grain on U.S.-flag vessels since the inception of cargo preference. There is no doubt that cargo preference hampers the competitiveness of our agricultural exports. We are struggling to reduce the cost of our commodities on the world market, yet we're boosting the cost by requiring them to be shipped on vessels which are often more expensive.

Agriculture is one of America's most internationally competitive industries. Extending cargo preference to commercial agricultural exports is a mistake which would have a tremendously negative impact on the U.S. agricultural industry. Agricultural products positively contribute to reducing our current trade deficit. Expanding cargo preference would eliminate billions of dollars in agricultural exports, and devastate the American farmer.

Furthermore, the economic support fund is designed to be a flexible policy to enhance economic and political stability in developing countries where the United States has a strong interest. The availability of ESF cash transfers to these countries is integral to improving their citizens' quality of life. By allowing the recipient country to use these funds to restructure their multilateral debt, purchase goods and services which enrich living conditions, and invest in capital projects to improve their infrastructure this objective can be achieved. In addition, these goods and services are often purchased from the United States which in turn improves our own economy.

Any changes in current cargo preference laws would adversely effect the competitiveness of U.S. agricultural exports. Our farmers work hard for their income. Let's not make it more difficult by inflicting unwise trade policies on them.

Mr. GRANDY. Mr. Chairman, I am sure it comes as no surprise to this body that I, too, rise in support of the Bereuter-Obey amendment, and I do so because we are once again in this ugly fight that pits about 13,000 American seamen and 4 U.S. shipping companies against 2 million American farmers and hungry children in poor neighborhoods, and there are no real winners here. But let me just kind of review the betting.

Mr. Chairman, it should be noticed that in the last farm bill which this Congress passed last year we cut farm subsidies by 25 percent. We are also, as we debate this bill, determining whether about half of the counties in the United States, agriculturally dependent, will apply for some kind of disaster assistance and receive it. So, we can conceive right now of farm income that is going south on a steady basis.

□ 1510

This amendment, if it does not pass today, will oblige us to take more income from farmers and transfer it through agriculture subsidies to maritime subsidies. Everything that the gentleman from New York [Mr. SOLOMON] has said about the American merchant marine is true. But if that is true, Mr. Chairman, then does that really argue for cargo preference? That is an idea that has not worked. Indirect subsidies do not work. Direct subsidies in agriculture, which have been cut in half since 1985, only work because they have provided us with export markets which we are still trying to hang on to. Cargo preference works against that. It works against farmers, it works against taxpayers.

Mr. Chairman, I urge Members to vote for the Bereuter amendment.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I start from the very basic premise: our great country provides lots and lots of foreign aid to many, many countries, and it seems to me that we do it because in America we realize that we have an interest in what goes on in the world. But it would seem to me that it is absolutely basic to say that if we are going to send foreign aid to other countries, that some of it ought to be returned to us.

Mr. Chairman, I rise to oppose the amendment, because I think to say that 50 percent of the aid has to be purchased with American products on American ships, that is not too much really to ask. The cash transfer provisions contained in the foreign assistance authorization bill were negotiated, with a lot of deliberation in the Committee on Foreign Affairs. It stipulates that any country receiving cash transfers from the United States must purchase an equal amount of goods and services from the United States.

Mr. Chairman, that is not asking too much. That ought not be changed. It is time that we started thinking about what is good for America.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY]. S0634

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman from Michigan for yielding.

Mr. Chairman, I never can understand why we can always support the argiculture industry, but never the American merchant marine. It is the same old story, year-in and year-out, from those in the farming community: We can sell more if we do not use American flagships.

Well, if you want to give more grain to the foreign sources, then let them buy from foreign sources. Then we do not have to worry about how it is going to move or who is going to benefit from it.

Mr. Chairman, the reason that we are hurting in this country is that we have been too generous with our foreign aid, and we have not tied strings to it, like every other country has when they give foreign aid. Let us let Americans benefit when taxpayer dollars are used. Americans are the ones who should profit from it, not everybody else in the world.

Mr. Chairman, one other thing on using American flagships. This helps to balance out our trade deficit. When you use foreign flagships, again you get more in the red.

Somehow, when we, the Federal Government, give money to the States, we tie all kinds of strings to it. We tell them how they should spend it, what they should do, and the speed limit they can go. Why can we not and why should we not apply the same rules to those nations to whom we are giving away funds to help them? Let them buy and use American, all the way.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Chairman, as much as I have high regard for my good friend, the gentleman from Nebraska [Mr. BEREUTER], I rise in the strongest possible opposition to his amendment. I find it incomprehensible that the United States, the most generous nation on this planet, cannot get some benefit from the foreign aid it gives.

Mr. Chairman, I find it incomprehensible that somehow it has become obscene to help our own merchant marine. I believe it is mind-boggling that while every nation which participates in a foreign assistance program ties that aid in a complex variety of ways to purchases of its own goods and own products and own services, we somehow find it inappropriate to benefit American manufacturers and the agriculture industry and services, and, yes, shipping, with our foreign aid dollars.

Mr. Chairman, it seems to me that the very least we can do as we provide governments with foreign aid, after assuring that it is in our own national interest, is that we insist that some of that aid be spent, so that American working men and working women continue to have jobs, and, yes, that includes the shipping industry.

Mr. Chairman, my feeling is that in extreme situations, where we are dealing with a human crisis like the earthquake in Armenia, the plight of the Kurds, or the tragedy in Bangladesh, it is not reasonable to tie our aid to anything. But the aid we are dealing with is ordinary aid, ordinary economic assistance. This should be tied to purchases in the United States, and I do want our merchant marine to benefit from it.

Mr. Chairman, I strongly urge a "no" vote on the Bereuter amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I rise in support of the Bereuter amendment.

The proponents of the cargo preference measure would have you believe that this is an issue of whether or not recipients of U.S. aid buy American products. That is not the issue.

Recipients of aid already purchase 13 times more in American goods and services than they get in cash transfers. The only issue we are dealing with today is whether or not we are going to raise the price of American products to these recipient countries. Make no mistake, section 1303 raises the cost of shipping all American manufactured goods, not just agriculture. Steel, iron, machinery, chemicals, many industrial products, and of course, coal—all will be hit hard by this provision.

The cargo preference provision is unfair because it creates the impression that the nations who receive U.S. cash transfers will purchase more U.S. products. In fact, just the opposite is true. Total exports to these countries will decrease because in paying for the higher cost of U.S. shipping, the cash transfer countries will have less money to purchase U.S. goods. It is just that simple.

For our Nation's coal producers, this provision is simply disastrous. Inevitably, expanded cargo preference requirements over time will wipe out millions of dollars in commercial export sales for U.S. coal. In fact, the Commerce Department estimates that if the cargo preference provision is implemented it would more than double the price of shipping coal to these countries. Last year, the nations of Egypt, Portugal, Turkey, Ireland, Pakistan, and the Philippines purchased a total of 4.6 million tons of coal, valued at $203 million. If implemented, the additional cost to the purchasing countries would total $31.7 million—making U.S. coal clearly uncompetitive.

The underlying purpose of section 1303 is not to increase U.S. exports, but to extend cargo preference requirements on commercial cargo. That would be disastrous for agriculture, coal, steel, machinery, iron, and other bulk goods because U.S.-flag ships charge nearly twice the rates charged by foreign flag ships.

I wish to close by saying that our coal producers and our Nation's farmers have worked hard to improve our standing in an incredibly competitive world market.

Section 1303 runs counter to efforts of increasing American exports. It is bad for coal, bad for agriculture, bad for our balance of trade, and bad for the children of the countries that receive our foreign aid in the form of cash transfers.

I urge Members to support the Bereuter amendment.

□ 1520

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr. Chairman, I would like to make a few very simple and brief observations during this debate. The question is whether or not Members of this Congress will expect recipients of U.S. taxpayer cash assistance to use that cash for the purpose of purchasing commodities, products, and services from our own country. The alternative is to allow these beneficiaries of American generosity to use our money to buy from our overseas competition.

For the life of me, I cannot understand why we are even having this debate. It would seem such a simple proposition to say to these cash foreign aid recipients that they must use our taxpayer dollars to purchase U.S. goods and services.

The other side of the argument says in effect, "Here Mr. Businessman, your plant in New Jersey makes widgets. We're going to take your tax dollars, give them to a foreign country, and allow that country to buy widgets from Japan." Or, "Here Mr. Farmer, you grow soybeans. We're going to take your tax dollars, give them to a foreign country, and allow that country to buy soybeans from your competitors in Brazil, or rapeseed from the European Community." What sheer lunacy. No wonder the taxpayers of this country are fed up with a system that taxes them to death, and at the same time uses some of those tax dollars to reduce their profits or even drive them out of business.

Finally, Mr. Chairman, I would like to address a few remarks to my friends and colleagues who are interested in agriculture. Many of us have been engaged in a lengthy effort to convince the administration to grant an additional line of credit to the Soviet Union for the purpose of purchasing United States agricultural products. The credits we sought amounted to about $1.5 billion, a sizable amount indeed. But the potential for additional U.S. agricultural sales contained in the legislation before us today dwarfs that amount if we simply require the recipients of cash assistance to buy U.S. products with the money.

In that regard, I believe the principle of fairness and equity demands that sectors of the domestic industry other than agriculture should also benefit from additional sales of American products and commodities. It seems only fair that, if we are going to generate additional sales of farm commodities through our cash assistance, then we should also generate additional business for our hard-pressed merchant marine fleet and the men and women who sail those vessels. Fair is fair.

Some of my closest friends on this floor would argue that by requiring recipients of U.S. cash assistance to use U.S. merchant vessels for transportation we will reduce the amount of goods and commodities they will be able to afford. I would reply—so what? These recipients aren't using most of the money we give them to buy any U.S. products anyway. Any additional sales will be an increase, and I think it is highly selfish and unfair for us to refuse to share some reasonable portion of increased business with other vital sectors of the economy, especially the merchant marine.

Mr. Chairman, I strongly support the notion that we should require cash assistance recipients to buy American, and I also feel strongly that fairness demands a portion of the benefits should flow through to our own domestic transportation industry when those goods are shipped overseas.

Mr. MARLENEE. Mr. Chairman, I rise in opposition to the amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLUG].

Mr. Chairman, I rise today in support of the Bereuter amendment encouraging countries which receive cash transfer assistance to buy U.S. products and use U.S. ships to transport them.

Mr. Chairman, this amendment will prevent damage caused by new, mandated cargo preference requirements imposed by Torricelli language in this bill. My State of Wisconsin and other Great Lakes States are painfully aware of the terrible price our economy pays every time a cargo preference requirement is forced upon us. In the past, we have lost millions of dollars and many jobs to preference requirements thrust upon Government food shipments in the Public Law 480, Food for Peace Program. Luckily, we are getting some relief from an agreement reached in the 1990 farm bill.

Now, however we are being threatened again with preference requirements that will choke off Great Lakes and Saint Lawrence Seaway trade without enhancing any exports. Presently, there are few U.S.-flagged vessels that can service the Great Lakes ports of the Midwest. The proposed cargo preference requirements will unfairly force commercial shipments away from America's fourth coast to other ports. This will cost millions of dollars and many jobs ranging from dockworkers to those who work in the agricultural sector in my district. Equally devastating, the proposed increase in cargo preference requirements will scuttle reinvestment by those countries who utilize the cash transfer program and will artificially raise the price of agricultural goods.

To give an example of how much cargo preference hinders trade and the effective transfer of goods I would like to quote a statement made last year by Lynn Thomas, director of the Minnesota field office of CARE, Inc. This statement was made on June 19, at a Port of Duluth press conference when Ms. Thomas was speaking about the Food for Peace Program. CARE is the world's largest nondenominational private organization engaged in helping feed the hungry in other countries. In her statement she said:

> We are strongly concerned about the ability to get our food and other goods to the people who need them in a timely way, and in good condition. Unfortunately, U.S. cargo preference makes the job harder because American flag ships too often are not available or suitable for our cargoes.

I urge my colleagues to vote for this amendment.

Mr. KLUG. Mr. Chairman, I rise in strong support of the amendment. We have got to protect America's fourth coast, the port of the Great Lakes.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in opposition to the Bereuter amendment, which would essentially gut the so-called Torricelli language in this legislation.

The Torricelli provision will bring a much needed dose of reality to our foreign assistance program. Contrary, I am sure, to what most taxpayers might expect, the United States gives away billions of dollars with no strings attached and not even an accounting on how the money is spent. If my colleagues like our foreign money to continue to be spent in foreign countries, they will support this Bereuter amendment.

On the other hand, the Torricelli provision will ensure that U.S. cash transfer assistance is spent on U.S. goods and U.S. services and that there is an auditing mechanism to ensure that the funds are spent lawfully. It does not forbid cash transfers where diplomacy and security require them.

One important fact, ladies and gentleman, has been overlooked in this debate. And that is that the Torricelli provision does not apply to private commercial transactions. It very specifically provides it applies to government-to-government, noncommercial transactions only.

Now, what else is right about the Torricelli amendment? This language will result in additional U.S. commodity purchases by recipient country governments. It will prevent diversion of U.S. assistance to other countries. The language ensures that U.S. cash transfers are spent on U.S. commodities, U.S. goods and services. U.S. agriculture, manufacturers and services, as well as shipping, will benefit from increased foreign government purchases that are required by the Torricelli provision.

We can no longer afford to give away $3 billion in cash without taking some steps to ensure that as much of that money as possible is spent on U.S. commodities, goods and services.

I urge a no vote on the Bereuter amendment.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Chairman, as a world leader, the United States has an important role to play in promoting the democratic and humanitarian goals which help preserve global stability.

Foreign aid plays a dominant part in American efforts to advance these goals.

There is no law, however, that says by supporting global concerns we must neglect our own domestic interests. And, in fact we would be stupid to step on our own feet while helping other nations get ahead.

Mr. Chairman, the Torricelli provision included in this legislation is common sense. It simply states that U.S. cash aid, supported by American taxpayers, should be used to buy American products, commodities, and services and not to subsidize foreign jobs and foreign workers.

Under current law, foreign recipients of cash aid have every opportunity to take us to the cleaners. Foreign nations receiving U.S. aid dollars can in fact cash in on U.S. assistance by spending all of this aid on foreign goods, services, and commodities. Looking out for number one when it comes to foreign aid, should be the basic building block of our foreign policy.

The buy America/cash transfer provision in this bill will provide jobs and boost our economy as well as the foreign economies that receive our aid.

By supporting our own economy, we can keep America strong enough to stay a world leader and an international player able to make a difference.

Under the Torricelli cash transfer provision, everyone wins. I urge you to support this provision and to oppose any attempts to amend or delete it.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank my friend, the gentleman from Michigan [Mr. BROOMFIELD], for yielding time to me.

I support this amendment because it removes an unworkable provision and replaces it with a more realistic approach. It allows ports on the Great Lakes to remain competitive for U.S.-assisted exports. And it removes from the bill an entirely inappropriate Government intrusion into private enterprise.

The provision now in the bill not only requires U.S. flag vessels for half of Government-assisted exports, but also for an equal amount of commercial transactions. It has been said earlier in this debate that only government to government transactions are covered by the bill, but that is not so. If my colleagues read the language in this bill, it also applies to an equal value of commercial transactions between assisted countries and American exporters. This would subject $2 billion of exports to Government regulation which would be necessary to implement the committee's language.

If this provision were ever to become law, it would make it more expensive for American exporters to ship their products overseas and therefore make them less competitive in the world markets. Further, American farmers and manufacturers would be harmed by the resulting loss of export opportunities.

And finally, the Great Lakes ports would be effectively eliminated from competing for the shipping related to these exports.

Above all, let us set aside the special interests and regional concerns, and look at the larger issue of competitiveness. This is a key issue we in Congress must address. Any legislative action that would impede American competitiveness must not be adopted, no matter how it benefits any particular special interest group.

The debate has centered around agriculture, but the committee's bill affects more than agriculture. The bill affects all of manufacturing also. And it affects commercial transactions, not only U.S. Government-sponsored exports. Therefore, the provisions at issue here really constitute an impediment to the American economy.

Let us take the shackles off our farmers, our business people, and our Great Lakes ports, and let them compete. That is why adopting this amendment is so important.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Nebraska [Mr. BEREUTER]. The United States is the world's largest trader and has an enormous stake in the future of world trade. Last year we saw more than $40 billion in agriculture exports. This accounted for one-fifth of our farmers cash receipts and 1 million jobs in production, processing, packaging and shipping these products around the world.

We have just provided the President with continuation of fast-track negotiating authority—a tool so that trade initiatives can continue to advance the economic objectives of the United States. For the United States, growth in agriculture exports is vitally important and our farmers will gain from reduced barriers to market access.

It is not in the best interest of the United States to restrict exports or to put barriers in the path of our farmers to sell the food and fiber they produce around the world.

One of the provisions of the foreign assistance reauthorization bill does exactly that. The bill expands cargo preference requirements on U.S. commercial exports to countries receiving assistance under the Economic Support Fund. The amendment offered by the gentleman from Nebraska amends this section and keeps U.S. agriculture exports and our farmers in business.

Section 1303 of the Foreign Assistance Reauthorization Act will extend cargo preference on U.S. sales already being made to those countries receiving economic support funds. That section will not increase U.S. exports, since these countries already buy, in U.S. goods, more that 16 times the amount of funds they receive. It is likely that the opposite effect will take place—U.S. exports will decrease so that the increased cost of shipping can be paid.

Countries affected by the amendment, not including Israel, will receive $796 million in economic support funds in fiscal year 1992. These same countries purchase over $13 billion in U.S. goods in 1990—far more than they received. Application of cargo preference requirements will result in a reduction in the amount of goods they purchase.

Keeping this provision in the bill can result in a reduction of U.S. exports. If these countries are faced with relatively high U.S. vessel shipping costs for agricultural commodities, they are likely to shift their purchases to other goods with lower shipping costs. Additionally, the amount of agricultural commodities purchased from the United States could be reduced because of the higher shipping costs. Agriculture will be harmed by such actions and exports will go down, just at a time when we are trying to increase markets for our farmers.

The American farmer is the envy of all and we all benefit from the productivity and efficiency of our farmers. We cannot afford to take this valuable resource for granted and must provide a climate in which the farmer can prosper and continue to supply both this country and the world with food and fiber. There is no question that the current status of world agriculture trade is unacceptable. Continuing the status quo means that present trade barriers of other countries will go on; that trade as we know it now, unfair and uneven, will not change.

It is my goal to see changes in world trade that will benefit U.S. agriculture. Restricting our farmers' exports, as can happen through the bill before us today, does not serve that goal and, in fact, may have the opposite effect.

I urge my colleagues to support the Bereuter amendment and help U.S. agriculture.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there is nothing wrong with asking the Federal Government, I tell all of my colleagues who always lobby for the merchant marine to support a strong maritime industry and flagship fleet and et cetera. One would think we would have had the merchant marine in the parade here with the Desert Storm troops the way they are talking. But, it is time to stop using cargo preference to build up our merchant fleet. It has not worked. It will not work. We are simply taking money out of the farmers' pockets that are already down to the lint.

I am just asking the folks who want to build and maintain a strong and viable merchant marine fleet, come through the front door. We will help you.

Five years ago, six years ago, the gentleman from Oklahoma [Mr. ENGLISH] and myself had an amendment on cargo preference. We fought that fight. We lost. We said we would join with you.

We asked for a GAO report to ask what is wrong with the merchant marine and our flagship fleet? There are many things wrong.

Ask the Treasury. Come up front. Do not take it out of the farmers' pocket. How many times do we have to go through this?

We get nickeled and dimed every year by you people when you come in here. It is a false argument. Support the Bereuter amendment.

Mr. Chairman, I rise in support of the amendment to prevent yet another expansion of the cargo preference shipping laws. We have been down this road many times since maritime interests first came through the back door during deliberations on the 1985 farm bill with so-called compromise language expanding cargo preference requirements on shipments of U.S. humanitarian assistance program goods.

Most of my colleagues are aware this Nation's farmers and stockmen were not pleased with this expansion. Agriculture learned to live with the new rules because we understood the compromise would limit expansion of cargo preference to certain assistance programs, such as Public Law 480.

However, since that debate we have visited this issue at least once every 2 years as certain maritime interests in Congress continually attempt to expand cargo preference into areas agreed to as off limits in 1985—areas such as commercial agricultural commodity sales.

We in agriculture have no argument with the maritime industry's position that they continue to fight rough sailing on the international shipping seas. Farm country understands tough times.

And there is certainly nothing wrong with asking the Federal Government to help keep an industry's head above water. But it is time to stop using cargo preference to build up our merchant fleet. It has not and will not work. You simply are taking money out of farmers pockets that already are down to the lint.

I'm just asking the folks who want to build and maintain a strong, viable merchant marine fleet to come through the front door. If it is in the best interest of this Nation to maintain a strong merchant fleet—and I believe it is—then maritime should sell a comprehensive, viable program to the taxpayers. Do that and I will work with you.

Agriculture has been accused every time this issue comes up of trying to go back on the 1985 agreement. This is simply not the case. Rather, it is agriculture and other U.S. industries which are constantly having to defend the 1985 cargo preference compromise against further expansion by my colleague from New Jersey [Mr. TORRICELLI].

Section 1303 is another example of this constant fiddling with the cargo preference laws. Mr. Chairman, a considerable amount of the work on the 1990 farm bill time was spent working to increase the program flexibility of producers participating in USDA programs.

Congress agreed with producers that the key to economic success was the ability to quickly respond to changing economic, market and management conditions.

Now we are on the verge of telling foreign countries—many of which depend on our assistance to help them cope with many of these same conditions—that the United States is going to take away the flexibility which allows the Economic Support Fund [ESF] programs to work efficiently. At the same time, this section will raise the cost of American agricultural exports, and it appears aimed at undercutting our foreign aid program in the Middle East and Central America.

The real irony, Mr. Chairman, is that certain elements of the maritime industry refuse to share the cargo preference spoils within their industry. My colleagues from the Great Lakes region tell me it is nearly impossible to get cargo preference shipments originating out of the Great Lakes. They have tried several times to get the coastal maritime interests to share. The answer has been "no."

And, contrary to some reports, section 1303 will not improve the level ESF cash transfer spent in the United States on U.S. goods. It only guarantees that U.S. ships are guaranteed additional foreign assistance dollars.

The countries targeted by section 1303 with the strong message of "Buy American or lose Uncle Sam's help" already buy 15 times more U.S. goods and services than they receive in cash transfers. And most are carrying a trade surplus with the United States. The administration has indicated that the end effect of section 1303 cargo preference requirements will be to lower the net amount of U.S. exports generated by the foreign assistance program.

Mr. Chairman, I know many other U.S. industries are fighting the same tough trade hurdles and economic conditions that have agriculture fighting for survival. We can't afford the negative trade impact of yet another misguided expansion of cargo preference. I urge my colleagues support of amendments to correct the inequities of section 1303.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. TORRICELLI].

□ 1530

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, my colleagues, this is a judgment we have made before. Indeed, it has become an annual rite of spring to consider in the foreign assistance bill what it is we do about our purchases of American products and the use of American ships. Every year, indeed, this same language contained this year in the foreign authorization bill, supported overwhelmingly by the Committee on Foreign Affairs, has won by a wide margin.

I ask that you cast that vote again today, because foreign assistance must be more than delivering a check to foreign governments. This is not about sending money alone to Egypt or Africa or Latin America. It is about the relation of people to people, the fact that we send goods, the works of our factories and our farms, and they see the products we make in America and appreciate them and appreciate us for having given them.

Mr. Chairman, this amendment is simple, that at least half of the amount of money that we are sending to a foreign government must be reflected in the purchase of American products made by American people. I know some of the Members disagree, and some will cast a different vote. But how is it you will go home to your own districts, to your own communities and explain the fact, the reality, that American foreign assistance that is going to Egypt is being used to purchase Cuban sugar or that increasing amounts of American foreign assistance is going to purchase Argentinian and French wheat subsidized by their governments? How is it you will explain that American foreign assistance is being spent for Japanese products from their factories?

It is not a theory. It is a reality. Increasingly, shares of products are being lost, and the American taxpayer is paying for it.

There is a reason why no other nation in the world provides cash assistance to foreign governments without requiring that some of it be spent in their nation, and the reason is that every other nation in the world understands they cannot afford it. The news on this floor today to our Government, the understanding with our taxpayers is that we cannot afford it any longer either.

My friends, we are dealing with a simple reality. Times have changed. $10 billion, $11 billion, $13 billion, $14 billon in cash today is important to this economy. It means jobs. Whether that money goes to French farmers or American farmers matters. We need it back, and we want it back.

I do not dispute that there is a difference today in the level of shipping costs any more than I argue that American wheat or soybeans may be more expensive. The difference today in the shipping on an American flag ship to the Middle East is $25 a ton compared with a European ship of $22 a ton. I concede the point; it is $3. But do we not have a right for that $3 extra to be spent in the United States supporting our own seamen, supporting our won corporations and eventually our own taxpayers?

Mr. SMITH of Florida. Mr. Chairman, will the gentleman yield?

Mr. TORRICELLI. I am happy to yield to the gentleman from Florida.

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding.

Does the gentleman understand that at the beginning of the gulf war, Desert Storm and Desert Shield, it was the merchant marine of the United States, those freight haulers, those ships that could carry all of this, that were carrying all of the war materiel out to the Persian Gulf, that were so important to us that the merchant marine has been walking in the parades side by side with all the American Armed Forces who have been celebrated by the American people?

Today we are hearing on the floor of the House that they are good enough to fight for us, but they are not good enough to carry our product to foreign soil. If I ever heard of an anti-American attitude, that is it.

I think the gentleman is doing the right thing in resisting this amendment. We have resisted it before, and I think America ought to understand it is about time that Americans, all, not just the farmers, and let them sell their product, all Americans had a chance at that piece of the pie.

Mr. TORRICELLI. I appreciate the gentleman making the point and, indeed, having made clear where taxpayer's money is going and what the costs may be, and my belief that even foreign aid must be part of an economic strategy today for America.

Let me conclude on that point, that ultimately it is also national security. Here we are, a world power. Some world power. We have gone from 2,000 merchant ships to 371.

In the Persian Gulf crisis when American ships needed to sail to Saudi Arabia, it is a good thing the Liberians agreed with us and the Panamanians and the French, because if they did not, American war materiel never would have left our ports.

We have lost our merchant marine. What happens in the future with American security when they do not agree?

Indeed, for all of the success of Desert Storm, we have learned some of that lesson. Our operations in Desert Storm could not begin until ships that broke down in the Mediterranean were repaired to deliver tanks and helicopters. Ten Greek ships stopped at the entrance of the Persian Gulf. They would not be in harm's way. They refused to deliver American war materiel, because they did not agree with the policy.

What happens next time?

I know some agricultural interests have their concerns, and I know some maritime interests have their concerns. My suburban district has neither of those concerns. We do not grow anything, and we do not have any ports.

But I have got this concern: This cannot go on. A great nation cannot be without maritime power, and a great nation cannot continue to be blind to the fact that it cannot provide cash around the world without at least asking that half of it be spent in the United States.

My colleagues, you have made this vote many times, Democrats and Republicans alike, farm States, industrial States, across the board. You have voted for this provision. I ask you today to support the committee. I ask you to support my provision. Defeat Bereuter. Cast a consistent vote, not for any interest, but for the simple fact that it is time to deal with economic reality. It is time to have a merchant marine again.

I understand my colleagues here today have said they would vote for provisions for the merchant marine. There is not going to be one. This is the only provision. Vote no.

Mr. BROOMFIELD. Mr. Chairman, I yield the balance of my time to the gentleman from Nebraska [Mr. BEREUTER], the principal sponsor of this amendment.

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in strong support of the Bereuter amendment.

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong support of the Bereuter amendment.

Mr. BEREUTER. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, let me simply say that to hear the last few speakers you would think that this was an issue which was dividing people on the basis of whether you want to help America or not. That is baloney.

The fact is that the Torricelli amendment has nothing whatsoever to do with helping America. What the Torricelli amendment is about is helping a few American ports at the expense of other American ports, at the expense of the farm industry, at the expense of the auto industry, at the expense of the textile industry, at the expense of every industry that wants to export an American product.

□ 1540

What the Torricelli amendment says is that we are going to try to build a maritime industry at the expense of every other American industry.

Now, that does not make sense. The Torricelli amendment, if it is not amended by this amendment, will double the cost of shipping goods to the recipient countries under this program. That will reduce the amount of goods that can be sent to those countries; that will reduce American sales. It will reduce American ability to export.

It is a pretty dumb way to improve the economic conditions of the United States. So do not be fooled by it.

I would also point out that, contrary to the impression being left by the Torricelli amendment sponsors, the Torricelli amendment, even if it is amended by a future Torricelli amendment, will still exclude Israel from participation in these programs. I do not think we want to do that, either.

Mr. BEREUTER. Mr. Chairman, I thank the distinguished gentleman for the clarification, but it is also important to emphasize that this does not, the current Torricelli language in the bill, does not exempt Israel. The language I am offering does exempt Israel—and all other countries—from the Torricelli language in the bill.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished gentleman from New York.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for yielding. A premise running through the argument of the Torricelli opponents is that the United States gets virtually nothing back in return for our foreign assistance. That simply is not true.

I think it is important on this point to cite the report itself. I realize they are talking about cash assistance, but the report states:

> Virtually all of the security assistance procurement and an estimated 70 percent of the economic assistance procurement resulting from this bill will take place in the United States. Such procurement will contribute significantly to the creation of additional jobs for American workers and to the expansion of American business.

I think it is very important to stress that the foreign assistance we are providing, provides a significant amount of help to American workers without the Torricelli provision.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for his comments.

Indeed, the balance of trade between the United States and ESF countries as related to ESF from the United States and the U.S exports to those ESF-recipient countries is 14 or 15 times in our favor except for the nation of Nicaragua. We have had an embargo with Nicaragua, or it would be no exception.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished gentleman from Minnesota a cosponsor of the amendment I have offered.

Mr. OBERSTAR. I thank the gentleman for yielding. The problem that those Members in the Great Lakes have with the pending so-called Torricelli amendment is that American-flag operators want to have it both ways. They want the production of Buy America, which this essentially is, shipped on American-flagged vessels, cargo preference, and I have been a supporter in the past since I started in my office on the Committee on Merchant Marine and Fisheries on the cargo perference provision, until I found they would not serve the Great Lakes. They want the protection on the one hand of cargo perference, and they want the liberty to serve or not serve those areas of the country which they choose not to serve, which is the Great Lakes, where we generate 45 percent of the agricultural exports of this country. They will not send American-flagged vessels into the Great Lakes. That is a disgrace.

Mr. BEREUTER. Mr. Chairman, I urge support of the Bereuter-Obey-Oberstar amendment.

Ms. PELOSI. Mr. Chairman, I rise today in support of the cash transfer reform provision contained in H.R. 2508, the foreign aid authorization bill and in opposition to any weakening amendments. I commend Chairman TORRICELLI for his work in including this important provision in this bill.

The Torricelli language makes simple common sense. It ensures that foreign recipients of U.S. cash aid purchase American goods and transport some of those goods on American-flag vessels. Right now, foreign recipients of U.S. cash aid are not required to buy and ship American. They can and do spend cash provided by U.S. taxpayers on foreign goods, agricultural products and shipping. Recipients of assistance provided by us may not even know that the taxpayers of the United States paid for the goods they are receiving. Is this right?

Too often, U.S. cash aid is used to purchase goods and services abroad. This assistance subsidizes foreign jobs and industries at the expense of our domestic industries and American workers.

I support our efforts to assist those in need elsewhere. With the Torricelli provision, we can assist those in need here at home at the same time. I urge my colleagues to support the cash transfer reform provision contained in the foreign aid bill and to oppose any weakening amendments.

Mr. NUSSLE. Mr. Chairman, as a freshman Member of this body, I have been questioning all of our Nation's policies and asking the basic questions of "Why do we have this policy?" and "Is this policy the wisest use of the taxpayers' money?" I raise these questions with our existing cargo preference policy.

Why do we have this policy? Some say we have a cargo preference policy to protect our merchant marine because it is such a critical component of our national defenses. The fact is that our shipping industry is not competitive. According to the Agency for International Development—AID—financed cargoes on U.S. ships cost an average of nearly twice that of our foreign competitors. And for some commodities, such as corn, the costs are 120 percent greater using U.S. vessels. And with cargo preference policies intact, there is no incentive for U.S.-based ships to become more competitive.

Others say the cargo preference policy promotes exports. How in the world are our Nation's goods going to be competitive, pricewise, with transportation costs twice that of other nations? More importantly, how are the Iowa grain farmers going to compete globally with transportation costs inflated 120 percent?

Now I turn to the question of, Is cargo preference a wise use of taxpayers' money? The Congressional Budget Office—CBO—reported last fall that $1.05 billion per year is spent by the Federal Government to pay for cargo preference and operating differential subsidies. This figure translates to $241,157.55 per U.S.-flag seafaring job. I might add that some of these seafaring workers make over $141,000 for 6 months work. That hardly seems like a wise use of the taxpayers' money.

Now those questions I just raised pertain only to the existing policy and not to what is being proposed in this legislation. As I understand it, H.R. 2508 greatly expands cargo preference by extending cargo preference on U.S. commercial exports to nations receiving U.S. cash transfer assistance under the economic support fund—ESF. Moreover, it expands cargo preference requirements to cover agricultural exports that were deemed exempt in the 1985 farm bill.

If this policy seems ludicrous as it stands, why expand it? Some claim that it will promote U.S. exports by requiring cash transfer recipients to spend an amount equal to the cash transfer—in other words, their own money, not the cash transfer itself—on U.S. goods and services. The goods which are purchased must then be subjected to the law requiring transport on American ships.

However, the reality is that the cash transfer countries already buy far more in American goods and services than they get in cash transfers, and the United States is already running a large trade surplus with them. Proposed cash transfer aid to the countries affected by the amendment is less than $800 million in fiscal year 1992, while U.S. exports to those same countries totaled $13 billion last year.

Who is hurt by this extension of cargo preference policy? The American farmer is the one who will feel the brunt of this cargo preference expansion because most agricultural exports go by ship and are subjected to cargo preference laws. And this comes at a time when Iowa farmers are experiencing devastating flooding and are having a difficult time even planting their crops.

But farmers are not alone. Any U.S. product exported by sea will be hurt by this legislation including coal, oil, chemicals, machinery, and iron and steel products. Anyone who cares about American farmers, American industry, and American jobs should oppose this extension of cargo preference policy.

I urge my colleagues to join me in support of the Obey amendment to modify the cargo preference lanaguage contained in this bill.

The CHAIRMAN pro tempore. (Mr. McDERMOTT). The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 246, not voting 10, as follows:

[Roll No. 150]

AYES—175

Alexander
Allard
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
Ballenger
Barnard
Barrett
Barton
Beilenson
Bereuter
Berman

Boehner
Boucher
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Carr
Chandler
Clement
Coleman (MO)
Combest
Cooper
Costello
Cox (CA)
Cox (IL)
Crane
Dannemeyer
de la Garza
DeLay
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Eckart
Edwards (OK)
Emerson
English
Espy
Fawell
Frank (MA)
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Glickman
Goodling
Gradison
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Henry
Hobson
Houghton
Huckaby
Hyde
Inhofe
Ireland
Jacobs
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jontz
Kaptur
Kasich
Kleczka
Klug
Kolbe
Kyl
LaFalce
Lagomarsino
LaRocco
Leach
Lehman (FL)
Lewis (FL)
Lightfoot
Lipinski
Long
Mazzoli
McCandless
McCloskey
McCrery
McEwen
McHugh
Meyers
Michel
Miller (OH)
Montgomery
Moody
Moorhead
Moran
Morrison
Myers
Nichols
Nussle
Oakar
Oberstar
Obey
Olin
Oxley
Packard
Panetta
Parker
Paxon
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Porter
Poshard
Pursell
Ramstad
Ray
Regula
Rhodes
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Rowland
Sabo
Sangmeister
Sarpalius
Sensenbrenner
Sharp
Sikorski
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Stallings
Stenholm
Stump
Synar
Tanner
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traxler
Upton
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waxman
Weber
Williams
Wolf
Wylie
Young (FL)
Zeliff

NOES—246

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
AuCoin
Bacchus
Baker
Bateman
Bennett
Bentley
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clinger
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Coughlin
Coyne
Cramer
Cunningham
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Duncan
Dwyer
Dymally
Early
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gilman
Gingrich
Gonzalez
Gordon
Goss
Gray
Green
Guarini
Harris
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Horn
Horton
Hoyer
Hubbard
Hughes
Hunter
Hutto
James
Jefferson
Jenkins
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kennedy
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Livingston
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
McCollum
McDermott
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Patterson
Payne (NJ)
Pelosi
Perkins
Pickett
Price
Quillen
Rahall
Rangel
Ravenel
Reed
Richardson
Ridge
Rinaldo
Ritter
Roe
Ros-Lehtinen
Rose
Roybal
Russo
Sanders
Santorum
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Vander Jagt
Walsh
Washington
Waters
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yatron
Young (AK)
Zimmer

NOT VOTING—10

Davis
Ford (TN)
Hopkins
Martin
McCurdy
McDade
Rostenkowski
Roukema
Smith (IA)
Yates

☐ 1607

Mrs. SCHROEDER, Mrs. MINK, and Messrs. BILBRAY, RICHARDSON, LEVIN of Michigan, COYNE, GONZALEZ, and BREWSTER changed their vote from "aye" to "no."

Mrs. VUCANOVICH and Messrs. KYL, SKELTON, BERMAN, WAXMAN, ANTHONY, and BEILENSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I have three amendments at the desk which have been printed in the RECORD, and I ask unanimous consent to consider them en bloc.

The CHAIRMAN pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore.

The Clerk will report the amendments.

The Clerk read as follows:

Amendments en bloc offered by Mr. ROHRABACHER: Page 29, after line 2, insert the following:

"(D) With regard to economic assistance under this Act or the Support for East European Democracy (SEED) Act of 1989 for countries that are in transition from communism to democracy, it shall be the policy of the United States, to the extent feasible, to provide assistance directly to democratically elected governments of republics within any country that has a federal system of government in which the federal government has a ruling communist majority, as well as directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States). As used in this subparagraph, the term 'democratically elected' means elected through open, free, and fair elections.

Page 403, after line 18, insert the following:

"(4) EXCEPTION FOR ASSISTANCE TO DEMOCRATICALLY ELECTED GOVERNMENTS OF REPUBLICS.—Subsection (a)(1) does not apply with respect to assistance provided directly to democratically elected governments within any country that has a federal system of government in which the federal government has a ruling communist majority or provided directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States. As used in this paragraph, the term 'democratically elected' means elected through open, free, and fair elections.

Page 575, strike out lines 5 through 9 and insert in lieu thereof the following:

"(b) EAST EUROPEAN COUNTRIES.—For purposes of this Act, the term 'East European country' includes Yugoslavia, any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and that has a democratically elected government, and any republic within the Union of Soviet Socialist Republics or Yugoslavia that has a democratically elected government. As used in this subsection, the term 'democratically elected' means elected through open, free, and fair elections.".

Mr. ROHRABACHER (during the reading). Mr. Chairman, I ask unanimous consent the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the requests of the gentleman from California? There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I request that you do not take the time out of the gentleman's time. It is difficult to hear. I just simply wanted to say that on this amendment, as we progress, I hope that we can reach an understanding with regard to a limitation on time. I know it is an important amendment. But let us see how it goes, I say to the gentleman from Michigan, and then perhaps we can agree on a time limitation.

The CHAIRMAN pro tempore. The Chair seeks clarification from the gentleman from California. In the gentleman's unanimous-consent request he sought to offer three amendments en bloc. The Chair would suggest that the gentleman has printed a larger number of amendments. Would the request include all of the amendments that the gentleman had printed in the RECORD?

If not, the gentleman should specify at this time.

Mr. ROHRABACHER. Yes, I would like to offer all three that were given to the desk.

The CHAIRMAN pro tempore. The Chair cannot hear the gentleman.

Mr. ROHRABACHER. We submitted three at the desk.

The CHAIRMAN pro tempore. The gentleman will suspend.

□ 1610

Mr. ROHRABACHER. Mr. Chairman, four amendments were printed, but only three were offered at the desk, and we were asking for the three that were offered at the desk to be considered together, en bloc.

The CHAIRMAN pro tempore (Mr. DELLUMS). The gentleman from California [Mr. ROHRABACHER] must tell the Clerk which three amendments he is alluding to.

Mr. ROHRABACHER. All right; one moment. We have already submitted those.

Mr. FASCELL. Mr. Chairman, I am anxious to get this clarified also, and I wonder if the gentleman from California [Mr. ROHRABACHER] showed me his amendment. He has three amendments, and he is offering them en bloc, and we have raised no objection to that.

However, Mr. Chairman, it still leaves the question that the Chair asked, which is: Which three amendments is the gentleman talking about out of those that are printed in the RECORD? We will need a copy.

The CHAIRMAN pro tempore. The Clerk will report the three amendments delivered to the Clerk by the gentleman from California [Mr. ROHRABACHER].

Mr. FASCELL. Mr. Chairman, before we do that, may I inquire further of the gentleman from California?

Mr. Chairman, the gentleman from California [Mr. ROHRABACHER] showed me a single sheet of paper that had three amendments on it and asked me if I had any objection to the consideration of those three amendments en bloc.

Mr. ROHRABACHER. The gentleman from Florida [Mr. FASCELL] is correct. We have three separate amendments.

Mr. FASCELL. I see that, and that is the reason this gentleman is confused, I might say.

Mr. ROHRABACHER. Mr. Chairman, they are basically the same language as three sections of the bill, and we are asking for them to be considered en bloc.

Mr. FASCELL. Mr. Chairman, let me put the question a different way.

These three amendments, copies of which were just delivered to our desk, are they amendments that are now printed in the RECORD?

Mr. ROHRABACHER. The gentleman from Florida [Mr. FASCELL] is correct.

Mr. FASCELL. All right.

Now, in addition to these three amendments, does the gentleman have any other amendments on this subject printed in the RECORD?

Mr. ROHRABACHER. Yes, there are, but we are only considering three of the four that were printed in the RECORD. I have dropped one of the others.

Mr. FASCELL. Mr. Chairman, I thank the gentleman from California [Mr. ROHRABACHER] and ask if the Clerk has the right amendments.

The CHAIRMAN pro tempore. The Clerk has been furnished three amendments by the gentleman, and the Clerk will identify the three amendments so that the RECORD is clear on this matter.

The Clerk designated the three amendments offered by Mr. ROHRABACHER as printed prior to this portion of the proceedings.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, today I rise to offer an amendment which will make it the policy of the United States that, whenever feasible, aid will be channeled to democratically elected republic governments, rather than repressive central governments.

It affects the Soviet Union and Yugoslavia, in the current world situation. For those of you concerned about Yugoslavia the moment the Communists are no longer in control of the Yugoslav Central Government, this amendment would no longer apply to them.

This amendment, introduced in the Senate by minority leader BOB DOLE, is based on the Dole-Rohrabacher Direct Aid to Democracies Act. Cosponsors in the Senate include the chairman, Mr. PELL, and the ranking Republican of the Senate Foreign Relations Committee, and over a dozen other Senators. In the House this amendment has wideranging bipartisan support from the gentleman from Michigan, Mr. BONIOR, the chairman of the Veterans' Affairs Committee, Mr. MONTGOMERY, from the gentleman from California, Mr. LANTOS, to the gentleman from Georgia, Mr. GINGRICH.

I recently received a letter, which I will submit for the RECORD, from Paruyr Hayrikyan, a member of the Armenian Supreme Soviet and the president of Democracy and Independence, a coalition of democratic movements from Estonia, Georgia, Latvia, Azerbaijan, Lithuania, Moldavia, Russia, the Ukraine, Byelorussia, and Croatia. Mr. Hayrikian said that aid of any kind to the Soviet Central Government will be the death knell of the democratic movements now active in the Republic throughout the Soviet Union.

The bill we are amending already has language providing for direct aid to the Baltic States, so if there is concern that my amendment would somehow undermine Gorbachev by aiding the Baltics directly, all I can say is: that is already being done. In fact, the bill provides that direct aid can be provided to, and I'm quoting from the bill,

> * * * the government of any republic, and any local government, within the Union of Soviet Socialist Republics that was elected through open, free, and fair elections, and any indigenous nongovernmental organization in the Soviet Union that promotes democratic reforms and market-oriented reforms.

My amendment is, in many ways, the same idea; direct aid to democratic republics. Let me put it this way, the difference between my amendment and the musings over at the State Department is that I am asking to make it our Nation's policy to side with reform over repression, with democracy over communism. And let me add this, contrary to what you may have heard, my amendment does not have anything to do with military aid. Zilch. And the people of this country don't want their incomes taxed so we can channel money to the last vestiges of Communist power in the Kremlin. Any aid coming from this country should go to people who want to build a democratic, free, and peaceful world. It should not go to the Communists in Moscow, Belgrade, or anywhere else.

Our Government continues to tax hundreds of billions of dollars from our people to spend on defense. This is, to a large degree, to defend ourselves from the Soviet military.

And now, senior officials in our Government are seriously talking about a $100 billion dollar bailout program for the Kremlin. This is nonsense of the highest order. The CIA suggests the Soviet Union has about $30 billion in gold, tens of billions more in diamonds, oil, timber, and other treasures. Not to mention a mult-trillion-dollar military arsenal. Let them sell their assets before taxing the American people out of theirs.

Mr. Chairman, the Kremlin bosses recently decided to increase Soviet bombing and logistical support for the Communist regime in Afghanistan. For the first time the multi-million-dollar Mig-29, their most sophisticated aircraft, has been introduced to the Afghan conflict. The Soviet military is landing four to six of its $100 million IL-76 transport planes each day in Afghanistan, loaded to capacity with military supplies. The Soviets have launched over 1,500 Scud missiles, which cost approximately $500,000 each, during just the last 2 years in Afghanistan.

The same clique that gave the green light to the tanks that rolled down the streets of Vilnius now wants our aid. The blood of innocent Lithuanians is still dripping from the tank treds, and repression goes on and on in the Baltics.

This is the same clique who ordered their goons in Soviet Georgia to sharpen their shovels before they hacked peaceful demonstrators to death, as those martyrs hid in fright under church pews. The Soviet military has had operations in Azerbaijan, the Batlics, Modlavia, and Armenia. If they have enough money for sharpened shovels and punitive military operations, they don't need our money, and we should be on their side. We should not be on the side of the brave souls, the martyrs of freedom facing down Kremlin tanks.

We can support democracy or we can keep spending billions to defend ourselves against communism. Let's not come to the rescue. Let this monstrous totalitarian philosophy die, let the last Communist crawl into their caves and trouble mankind no more. Let us create a world where massive armaments are not needed. If we save communism from extinction now, the sound of agony of millions of victims should torment us for unbelievable foolishness.

Mr. Chairman, the Kremlin continues to allocate up to 24 percent of its GNP on its military. The last thing we should do is lessen the economic pressure by supplementing their budget with an infusion of money, money taken from the pockets of the American taxpayer. Let the Kremlin cut its own military spending, let Gorby quit propping up Castro and other Communist dictators. If he needs funds let it come from cutting his military, not by cutting into the pockets of working Americans.

Communism has as bloody a past as any totalitarian ideology in history. The crimes of Stalin and Hitler were equally horrific. The world has lived under a threatening cloud for decades. Now we see a light, a rainbow, the threat seems to be receding. In Yugoslavia, democratic movements have gained the upper hand in Slovenia and Croatia. The Communists still hold the upper hand in Belgrade, but a compromise may be found in a loose confederation. Our aid should not put us on the side of those pushing for a central Communist-controlled regime in Yugoslavia. Our aid should be used to give impetus to compromise which will lead to decentralization and democracy.

In Yugoslavia, in the Soviet Union and yes, China, Burma, and wherever people struggle for democracy against despotic central regimes we should be on the side of freedom. I submit that aiding the Soviet central Government is not in keeping with our principles, our national interests, our values, or our responsibilities.

Our vote today will tell the world whether the United States sides with those struggling for democracy or whether we will, instead seek to curry favor with the last remnant of Communist tyranny. Gorbachev and his clique are communism's last hurrah. He was repeatedly stated his goal: saving communism. Are we going to help him to that?

I say our place is with the reformers, enterprisers, the human rights activists in the Republics. No aid to the clique in the Kremlin.

I ask my colleagues to support my amendment.

Vote yes to the democratic republics.

A vote yes means no aid to Communist dictatorships either in Yugoslavia or the Soviet Union.

Mr. Chairman, I submit for the RECORD letters of support from different Russians and Lithuanians, as well as Americans and others within the Soviet Union who are supporting this amendment.

CONGRESS OF RUSSIAN-AMERICANS, INC.,
Washington, DC, June 11, 1991.

Hon. DANA ROHRABACHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: The Congress of Russian-Americans, Inc. fully supports your amendment to ensure that US foreign aid be sent directly to the republics.

The Russian Republic, having proclaimed its sovereignty last June, is trying to move towards a market economy—a move that would benefit the United States. The central government of the Soviet Union, on the other hand, continues to prop up its old bureaucracy, including increased spending in the military sector, and little change toward free enterprise. Therefore, sending aid to the central Soviet government only helps reinforce the old system.

These opinions are also echoed with the USSR. Deputies from Democratic Russia, an umbrella group for democratically oriented parties and deputies, have come out against aid for the central government and asked for aid to be sent directly to the republics. They feel that giving aid to the central communist government only slows down the reform process and helps the communists buy more time and avoid the inevitable need to change their system.

Sincerely,
EUGENIA ORDYNSKY,
Executive Director.

LITHUANIAN-AMERICAN COMMUNITY, INC., NATIONAL EXECUTIVE COMMITTEE,
Arlington, VA, February 21, 1991.

Hon. DANA ROHRABACHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: The Lithuanian-American Community, Inc. and its 77 chapters across the country commend your introduction of a bill to amend the foreign policy of the United States to give assistance directly to countries in transition from communism to democracy.

If the government of the USSR is to return to the path of democratic reform, there must be adequate support for the leaders of democratic reform who currently can be found only at the republic level in the USSR. It is in the interest of the United States and other democracies to seek a transformation of the USSR from an antiquated imperial system with a collapsing command economy to a modern state that may or may not include the present republics.

Governments should base their rule on trust, not coercion. The hard-liners who presently have Mikhail Gorbachev's ear do not represent the future and the United States should not be in the business of assisting them as they attempt to consolidate their power over the current USSR governmental structures.

We would hope that your bill will help to direct assistance to Lithuania as well. United States foreign policy has never recognized USSR authority over Lithuania. For the last year the democratically elected government of Lithuania has sought to disengage Lithuania from the control of collapsing USSR central government institutions. The United States in the coming months should move effectively to assist the government of the Republic of Lithuania.

Again, let me express our appreciation to you for your forward-looking and thoughtful proposal which if adopted will serve the interest of democracy.

Sincerely,
ASTA BANIONIS,
Director, Office of Government Affairs.

June 11, 1991.

EESTI VABARIIGI VÄLISMINISTER, MINISTRE, DES AFFAIRES ÉTRANGÈRES DE LA RÉPUBLIQUE D'ESTONIE,

Hon. DANA ROHRABACHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: Attached pleased find letter Nr. 628-P sent by V. Doguzhiyev, Cabinet Minister and Chairman of the Inter-Republic Committee for Controlling the Fulfilment of Economic Agreements between the USSR and the Union Republics, informing my government that no later than June 15th, 1991, a proposal is to be presented for adoption by the Soviet cabinet, stipulating that all dealings between Estonia and the USSR are to be executed in hard currency and at world market prices.

The document should be regarded as an ultimatum making it impossible for the Republic of Estonia to regain her full independence. Having analysed the document I am in the process of preparing a response that in its broad outline will contain the following:

(1) Estonia is prepared to enter into hard currency dealings with the USSR:

(2) Estonia is prepared to pay compensation as established by an internationally recognized arbitration board;

(3) In order to fulfil these commitments Estonia must control hereborders to earn the hard currency so that she may act in her dealings with the USSR "in the principle of a foreign state" as specified in attached document Nr. 628-P.

It is therefore that I invite your help in establishing an internationally recognized arbitration board and to find a new approach in order to reactivate the agreement signed in 1925 by the U.S. and the Republic of Estonia granting Estonia unconditional most-favoured-nation treatment in customs matters to which I made reference in my note of May 12th, 1991. We trust that MFN-status for the USSR currently under consideration will not adversely affect the U.S.-Estonian treaty relationship.

In appreciation of your continued kind consideration of Baltic independence I remain.

Sincerely yours,
LENNART MERI,
Foreign Minister.

U.S.S.R. CABINET OF MINISTERS,
Moscow, the Kremlin, May 13, 1991.

To the leadership of the Union republics, USSR Justice Ministry, USSR Supreme Arbitration Court, USSR Supply Minister [Gossnab CCCR], USSR Finance Ministry, USSR State Bank [Gosbank CCCR], USSR Foreign Ministry, USSR Agricultural Ministry.

Please review with the assignment from May 7, 1991 (PP-14622), keeping in mind that it will be discussed during the Inter-Republic Economic Commission meeting this May.

/SIGNED/ V. DOGUZHIYEV.

U.S.S.R. STATE PLANNING COMMITTEE,
May 8, 1991.

Re Inter-Republic Commission for Auditing Purposes concerning the fulfillment of the economic agreement between the USSR and the Union Republics.

Re On relations among Republics, which are attempting to avoid economic treaty obligations.

In accordance with the Commission's decision of April 18 (protocol No. 2) Gosplan submits the following preliminary analysis on the principles of economic relations with republics, which do not fulfill economic treaties and do not wish to take part in the work of the Inter-Republic Economic Commission.

Two views are currently held by republics on the necessity of the existence of a single unified state.

The leadership of the supreme state organs in the RSFSR, Ukraine, Byelorussia, Uzbekistan, Azerbaidzhan, Tadzhikistan, Kirgizistan and Turkmenistan called for the conclusion, as soon as possible, of a new treaty among sovereign states and the establishment of a most-favored regime for the republics that agreed to this treaty within their economic borders, in their announcement "On Immediate Measures for the Stabilization of the Situations and Resolution of Crisis".

As regards these republics, responsibility for fulfillment of obligations which arise from the economic treaty between the USSR and republics (for example, the "Agreement on the Stabilization of the Socio-Economic Situation in the Nation," economic treaties on the supply of food and raw materials for 1991) would be consequently determined based on an additional treaty, agreed to by all interested parties who would be taking part in the economic treaties indicated.

The following measures could be employed as economic sanctions in [the additional treaty]:

The reduction of centrally distributed and imported resources to republics by an amount equal to the value of production not transferred to the Union budget;

Reduction in subsidies to republics in an amount equal to that not turned over to the All-Union extra-budgetary Fund for Economic Stability and to other All-Union funds;

Employment of USSR State Bank credits in order to erase a republic's indebtedness to the State budget and other funds, while assessing commensurate credit obligations to the USSR State Bank;

Reduce republic contributions to Union reserves by an amount equal to the value of reduced centrally distributed reserves of material-technical resources [to the republics].

It is considered worthwhile in [future] additional agreements that authorized representatives of the USSR and the republics regularly (no less than once every three months) review in joint sessions the place of realization of the treaty and determine the required measures to be imposed on those parties not fulfilling their [treaty] obligations.

A proposal for this additional agreement, in consultation with the Supreme Arbitration Court and the Justice Ministry, was sent by USSR Gosplan to the USSR Cabinet of Ministers on April 30 of this year, as No. 397-P. The amendments recommended in the proposal "Amendments to the Agreement for 991" are already, in essence, economic influence measures which could be employed only following mutual agreement between the USSR and the republics themselves. These recommendations should be purposefully debated with republic leaders themselves. These recommendations should be purposefully debated with republic leaders at the Inter-republican Economic Commission meeting, and a corresponding agreement should be adopted.

In the future, the extent of responsibilities between the USSR and the republics should be defined during the preparation of economic agreements between the USSR and the republics.

As relates to republics, which feel that it is essential to break completely with and secede from the USSR (Lithuania, Georgia, Latvia, Estonia) or those who have adopted an ambiguous position, which have not adopted a final decision on their participation in the renewed Union (Armenia, Moldova), then relations with these republics should clearly be based on the April 3, 1991 law "On the Process by which Issues Involving a Republic's Secession from the USSR are Resolved," or else according to a principle suitable to foreign nations, which refuse to abide by this law. In addition, during the period of transition before the signing of a treaty recognizing their sovereignty, economic questions must be resolved which would defend the interests of the USSR and of those subject to the renewed federation.

Union property located on the territory of these republics must be sold off in its entirety and leased [back] on favorable terms or converted into joint ownership property, preserving for the USSR no less than one half of the property's shares. The possibility should be examined of closing certain enterprises, dismantling the machinery and transferring it from the territory of these republics.

The treaty must include guarantees that these republics will participate in the erasure of the USSR's internal and external debt, and in other obligations agreed to previously with the USSR.

It is essential that credit and currency service to these republics be halted.

Commercial-economic ties with these republics must be based on a greatest advantage principle for the members of the renewed Union. In this regard it is essential that deliveries of raw materials in especially short supply be sharply reduced, as well as those of finished goods, the only exception being deliveries to enterprises remaining under USSR control.

It is essential that deliveries of products imported into the USSR be stopped completely. Simultaneously, it is imperative that imports from these republics to the USSR of those goods whose internal prices are significantly lower than their international prices be sharply curtailed or stopped completely. In addition, subsidies from the USSR budget for the purchase of agricultural products for community reserves will be reduced accordingly.

It is essential that discussions take place concerning the transfer of mutual accounts with non-member republics to an international-price basis, or to prices arrived at on the Union's commodity exchanges.

In order to create the most favorable conditions possible for the economic development of republics which form the unified economic territory, it is essential that the possibility be investigated of instituting, in individual cases, licensing and customs barriers.

It will be essential for the republics participating in the formation of the new Union to review their inter-republic treaties and agreements, eliminating all principles of favoritism towards non-member republics, including access to [joint] Union-Republic hard currency reserves.

Taking into account the need to develop these issues in detail, USSR Gosplan and its departments and functional subunits are charged with preparing, together with USSR ministries and administrative agencies and Union republics accountability and supporting documentation. On the basis of this material, USSR Gosplan will prepare and present to the USSR Cabinet of Ministers a corresponding report no later than June 15, 1991.

V.A. DURASOV.

DEMOCRACY & INDEPENDENCE,
Los Angeles, CA, June 11, 1991.

Hon. DANA ROHRABACHER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: We are pleased to support any efforts you may undertake to cut off all aid to the central Soviet Government in favor of dealing strictly with the independent states/nations/republics of, what has been termed, the Soviet Union.

It is absolutely essential to the continuation of the democratic movement in the 15 republics held captive by the U.S.S.R., that the United States Congress strongly block any attempt by the Bush Administration to give aid, grain and credits of any kind to the Communist Soviet central Government. In addition to our full support for the blocking of all aid under any circumstances to the Communist central Government of the Soviet Union, we ask that all aid and credits be withheld until such time as the central Soviet Government remove all troops, tanks and weaponry from the occupied territories of the republics.

Since the granting of $1 billion in credits to the U.S.S.R. in December of 1990, it is important that your government remember that it was only after these credits were secured by the central government that Soviet troops cracked down in Lithuania. Then, just this past May, thousands of Armenians were deported and more than one hundred were killed by Soviet troops. Congress condemned this repression of Armenians by the Soviet Government but, at the same time, President Bush renewed MFN to the Soviet central Government congratulating these repressions.

As an elected member of the Armenian Parliament and as President of the coordinating center for the democracy movements in the Soviet Republics (Democracy & Independence), I urge the individual nations, particularly in the West, to cease all new credits, grants, loans, aid and to suspend or revoke Most Favored Nation trading status to the Soviet Government until such time as the Central Soviet Government comes into compliance with the United Nations Declaration on Human Rights, the Conference on Security and Cooperation in Europe (Helsinki

Final Act of 1975), the United Nations Covenant on Civil and Political Rights and the Convention Against Genocide.

On July 4 of this year, the anniversary of your great country's independence, by the initiative of Democracy & Independence, a demonstration will be held against the U.S. Embassy in Moscow. It is our very strong belief that it was not the will of the founding fathers of your nation, when they wrote of the freedom, independence and self-determination of men, for America's future leaders to support a brutal and repressive Communist Central Government over the democratic movement in the U.S.S.R. Should the U.S. Government choose to change its current policy toward aiding this violent and murderous regime rather than attempt to end any movement toward democratic change in the U.S.S.R., as has currenty been its policy, this demonstration will not be necessary.

Once again, thank you for your efforts on our behalf in the interest of human rights for all of our peoples.

Signed,

PARUYR HAYRIKYAN,
President, Democracy & Independence.

Mr. BROOMFIELD. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the amendments offered by Mr. ROHRABACHER to provide assistance directly to the democratically elected governments of the republics.

If it weren't for the niceties of international relations, I'd like to go even further and give economic assistance directly to those who would actually stand a fighting chance of turning the Soviet economy around.

I'm talking about Soviet farmers, about budding entrepreneurs, about the same kind of people that built the American economy, people who built it through hard work, inventiveness, and individual effort.

Giving the money to Gorbachev is not the solution. Gorbachev and his bureaucrats are the problem.

We have already decided to give Gorbachev $1.5 billion in agricultural credits. I'm not sure why.

In a recent New York Times article, a visiting Soviet journalist asked why a country with record harvests for the last 5 years would possibly want $1.5 billion in credits to buy American grain.

Of course, the answer is the Soviet economic system, a system that leaves billions of dollars of farm products rotting away in farmers' fields while Soviet citizens are forced to stand in line for hours to buy a loaf of bread.

The biggest problem in the Soviet Union isn't the Soviet worker; it's the Soviet system. It's the Soviet bureaucracy with its paperwork production goals, its patronage, its Zil limousines, its dachas, its stranglehold on the energies and talents of the Soviet workers.

If we have to give money to government officials in the Soviet Union, I'd like to give it directly to the people who will make the best use of it, officials in the republics.

Giving the money directly to the republics has two economic advantages. First, the republics don't have the huge bureaucracy that the central government has. That means American dollars won't be sponged up by the huge planning departments.

This amendment is an end run around the Soviet planner. We want to turn the Soviet planner into the Maytag repairman. We want to make sure he becomes the loneliest man in Moscow.

The second advantage of giving money directly to the republics is that they are not burdened by traditional Marxist thinking. That means they will be far quicker to adopt the kind of free market reforms necessary to breathe some life into the Soviet economy.

If we are going to give the Soviets some seed money, we want to make sure it falls on fertile soil.

There is also a third advantage, a political advantage. This amendment promotes grass roots democracy. It offers assistance only to democratically elected governments, governments elected through open, free and fair elections.

Democracy grows best at the grass roots. That's true in the United States, in Yugoslavia, in the Soviet Union.

If we really want to help the people of the Soviet Union and Eastern Europe, we should help them get rid of the dry rot at the top: the secret police, the planning agencies, and the hugely expensive armies.

Let's encourage grass roots economic and political democracy in the Soviet Union and in those states that are casting off the vestiges of communism.

I urge Members to vote for the Rohrabacher amendment.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding. I rise in strong support of the Rohrabacher amendment. I find it very interesting that this debate is being held here today, the same day that the first election in 2,000-years is being held in Russia. I think this bodes very well for the future of support to individual republics. It is our hope that as aid packages proceed, we will be able to see them move directly to free and independent republics.

Mr. Chairman, I am very proud of my friend, the gentleman from Long Beach [Mr. ROHRABACHER], who is offering this amendment.

Mr. MOODY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition, not because we do not want democracy in Eastern Europe, we all do, but because this amendment affects two countries, and only two countries. A very different policy is needed for each one, yet this would apply the same policy, with very, very different results.

Mr. Chairman, the two countries affected are the Soviet Union and Yugoslavia. In the Soviet Union, the argument is aimed that the Baltics need this sort of assistance. I will not quarrel with that. But the thing is, there is already a bill, H.R. 2508, which provides $15 million in direct aid to the Baltics. To assume, as this language would do, that the Baltics and the republics of Yugoslavia are somehow comparable, is a very gross misreading.

Mr. Chairman, I spent 2 years in Yugoslavia, and there is no similarity whatsoever. Yugoslavia was already an association of Republics. It came together because they wanted to

The Baltics were the opposite. They were annexed, involuntarily, by the Soviet Union. To lump those two together and assume there is somehow comparability is a very gross misreading, and a very insulting misreading to the country of Yugoslavia.

I would also point out to my friend, the gentleman from California [Mr. ROHRABACHER] that this is the sort of minute micromanaging of the administration's foreign policy, for which we are frequently criticized from your side of the aisle. The administration has a very firm commitment that the country of Yugoslavia shall remain as a nation. That is very much at the top of the administration's agenda. They do not want to do anything which would destabilize Yugoslavia or begin to tear it apart, which is exactly what this amendment would do.

Mr. Chairman, this amendment would begin to drive wedges between the Republics of Yugoslavia, just at the time when that country is hanging in a very delicate balance. For us to be doing this kind of mischief on the floor of Congress, to be aggravating those tensions, to be promoting the destructiveness within Yugoslavia which is tearing that country apart, for the United States Congress to be part and party of a bill which would exacerbate those difficulties, is mischief in the worst sort and micromanaging of the administration's foreign policy.

Mr. Chairman, this goes directly against the administration's policy regarding Yugoslavia.

Regarding the Baltics, as I said, there is already another bill which does this. They are totally noncomparable. Do not mix them together.

Mr. Chairman, I urge defeat of the Rohrabacher amendment. I think we should support the administration in their policy regarding Yugoslavia, and, on the Baltics, it is a totally different issue.

AMENDMENT OFFERED BY MR. PORTER TO THE AMENDMENTS OFFERED BY MR. ROHRABACHER

Mr. PORTER. Mr. Chairman, I offer an amendment to the amendments en bloc offered by the gentleman from California [Mr. ROHRABACHER].

The Clerk read as follows:

Amendment offered by Mr. PORTER to the amendments offered by Mr. ROHRABACHER: In the text proposed to be inserted by the amendment on page 29, after line 2, of the bill, add the following at the end:

Nothing in this paragraph shall be construed to preclude assistance to agencies of such federal governments that promote democratic reforms, human rights, the rule of law, and/or market oriented reforms, provided that funds are not provided directly to any such agency.

□ 1630

Mr. PORTER. Mr. Chairman, this amendment is occasioned by support for a program that we have initiated and want to see continued with the Soviet Union whereby Soviet judges and United States Federal judges meet together so that we may help impart to them in their judicial responsibilities in the Soviet Union an understanding of the rule of law and an understanding of what judicial independence means.

I think it is an excellent interface, but under the Rohrabacher amendment as written, it would not be permitted. So this language simply allows a program of that type where money is not going directly to the Soviet Union or to an agency of the Soviet Government but is going to promote the values that we want to share with them. This amendment would permit that kind of program to be continued. I recommend it to the Members.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Porter amendment to the Rohrabacher amendment to the foreign assistance appropriations bill and commend both Mr. PORTER and Mr. ROHRABACHER for their efforts and support of this measure.

The proposed amendment to section 862 provides technical assistance for the Baltic States and for democratic governments and nongovernmental organizations in the Soviet Union.

Additionally, the amendment would permit assistance to Soviet governmental agencies that promote human rights, the rule of law, democratic reforms, and market oriented reforms. However, it would limit aid to technical assistance only, prohibiting direct financial assistance to such agencies.

Mr. Chairman, this amendment is needed to continue and expand the State Department's efforts to engage reformers in the Soviet Union in the process of democratic and legal change through such activities as judicial seminars and training, exchanges of legal experts, funding of scholarships for Soviet law students, and support for United States law professors to teach in Soviet law schools.

For example, the State Department recently organized a judicial exchange program whereby three U.S. Federal judges were sent to Moscow for 2 weeks of intensive legal discussions. They attended the Soviet Government's Judicial Training Institute, engaging 42 Soviet judges in discussions and seminars on the independence of the judiciary and the proper role of judges in a democratic society. This program is helping to develop an independent Soviet judiciary that can work against human rights abuses.

Mr. Chairman, in this age of improved United States-Soviet relations, I urge my colleagues to support this important amendment.

Mr. DURBIN. Mr. Chairman, I move to strike the last word.

I will be very brief. I fully support the efforts of this amendment to provide assistance to the Baltic Republics. I have worked with many of the Members on both sides of the aisle because of our belief that they are in fact independent nations and should be recognized as such by the United States.

Regretfully, I will have to oppose this amendment because I believe including Yugoslavia in this amendment complicates it far beyond the simple principles that we are trying to uphold in the Baltic Republics. I have to concur with my colleague from Wisconsin who spoke earlier. I do not believe it does a service to the people in the Baltic Republics for them to be in a position today where they are brought together with the situation in Yugoslavia.

They are not analogous situations, though the people of both areas may be seeking democracy. They are on a different track at a different chronology, and I think it is unfair for Members to lump them together in this instance. I will fully support any efforts by the gentleman from California and others to extend assistance directly to the governments of the Baltic Republics, freely and democratically elected, and to make certain that there is a fair and equitable distribution of any U.S. aid to those republics.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

First of all, let me note that there is no mention of Yugoslavia in this legislation. It simply sets a principle that applies to whatever country we are referring to in terms of supporting democratic republics over any type of centralized system that is controlled by the Communists.

I would like to ask my colleague from Illinois about his amendment. Is it my colleague's intent that this amendment to the degree feasible would be carried out in a way that would go to the democratic republics wherever feasible?

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Illinois.

Mr. PORTER. The gentleman is correct.

Mr. ROHRABACHER. And with that, Mr. Chairman, I would accept the amendment.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Indiana.

Mr. HAMILTON. We find the gentleman's amendment unobjectionable here, but I do have a question about its impact. If I understand what the gentleman is doing, the Porter amendment is amending policy language and saying in this policy language, adding language which says that nothing shall be construed to preclude certain kinds of activity. What the gentleman is not doing is authorizing those activities. So I just raise the question with the gentleman whether or not the language he offers accomplishes what he seeks to accomplish.

Mr. PORTER. Mr. Chairman, if the gentleman will yield, the gentleman from Indiana is correct that this amends a policy provision, but I find in the three Rohrabacher amendments that this is the appropriate place to add this because there does not seem to be any authorizing language. There seems to be language that states what the policy of the United States is.

I might say to the gentleman from Indiana that in this morning's markup of the foreign operations appropriation bill, that language similar to this was added to that bill in the appropriate section dealing with the funding. So that I assume that, taken together and going to conference on both, we will end up with a proper decision, assuming that the Rohrabacher amendment is adopted and assuming this amendment is adopted.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield further?

Mr. ROHRABACHER. I yield to the gentleman from Indiana.

Mr. HAMILTON. I think the language has merit, and we certainly do not oppose it, but I wanted to clarify that point because I think it is an important point.

Mr. ROHRABACHER. I accept the language.

The CHAIRMAN pro tempore (Mr. DELLUMS). The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER] to the amendments offered by the gentleman from California [Mr. ROHRABACHER].

The amendment to the amendments was agreed to.

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the Rohrabacher amendment. First of all, let me acknowledge that the amendment of the gentleman from California is very well intentioned and has some merit to it, but I think it really does have a detrimental impact on the currently very delicate situation in Yugoslavia.

The first thing I want to point out is what the bill before the committee does with respect to the Baltic States and with respect to the Soviet Union.

The bill that the gentleman from California seeks to amend provides money directly to the Baltic States, and it provides an equal amount of money to nongovernment organizations in the Soviet Union or democratically elected local governments in the Soviet Union.

Now, there has been a lot of talk in support of this amendment with respect to the Soviet Union. But the fact of the matter is that the amendment does not impact the Soviet Union and does not change in any way the language that we have in the bill with respect to the Soviet Union.

We provide the possibility of assistance to nongovernmental organizations and to democratically elected local governments in the Soviet Union. That is already in the bill.

What this amendment does is impact Yugoslavia and provides the possibility of assistance to the republics, the various republics of Yugoslavia that are democratically elected. I would like to indicate to the committee why I think that kind of an amendment is mischievous.

First of all, what it does is it involves the United States directly in the complicated and delicate internal situation in Yugoslavia.

□ 1640

It puts the United States in the position of taking sides in what could very well be an impending civil war in Yugoslavia, and that is not in our national interest to do at this time.

The amendment of the gentleman from California directly contradicts the policy of President Bush and of this administration at the present time. The amendment, in effect, encourages the United States to encourage secession in Yugoslavia, and that should not be the basis of our policy.

We are not in the position now of picking winners or losers in Yugoslavia. This is not the time for that.

In the current situation, if we provide assistance to the various republics in Yugoslavia, we will derail the very important inter-republic talks that are now going on. That is a matter not for the United States but for the republics of Yugoslavia to revolve.

The President has made very clear that he supports unity, he supports democracy, and he supports a peaceful dialog in Yugoslavia. He has rejected the idea of selecting favorites within Yugoslavia, and that is what this amendment seeks to do, to select favorite republics within Yugoslavia.

May I suggest that the President needs flexibility in the coming months in dealing with the delicate situation in Yugoslavia. Yugoslavia's problems cannot be reduced to the simple argument of the good guys versus the bad guys, which is much of the rhetoric in support of this amendment.

We should not reverse very longstanding policy of not taking sides in Yugoslavia.

Mr. Chairman, I think that while this amendment is well intended, and it has certainly considerable appeal, it is an amendment that Members of this body want to look at with very great care and caution, because I believe it could have a detrimental effect on a very delicate situation in Yugoslavia today. It clearly runs counter to American policy in Yugoslavia.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I am happy to yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I listened intently to the gentleman's remarks, which I think were well considered.

The CHAIRMAN pro tempore (Mr. DELLUMS). The time of the gentleman from Indiana [Mr. HAMILTON] has expired.

Mr. COX of California. Mr. Chairman, I move to strike the last word.

If the portion of this legislative language dealing with Yugoslavia were severed, would the chairman support the amendment offered by the gentleman from California [Mr. ROHRABACHER]?

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. My understanding is if the language is taken out of these several amendments dealing with Yugoslavia, you would then have language dealing only with the Baltics, and I find that language unnecessary, quite frankly.

The amendment does nothing for the Baltics that is not already in the bill.

Mr. COX of California. I have read carefully these amendments, and it is my view and understanding from the legislative language that it would apply in that case to all of the Republics comprising the Soviet empire.

Mr. HAMILTON. Mr. Chairman, I am sorry, I did not hear the gentleman. Would he repeat his concern?

Mr. COX of California. It is my view, having read the legislative language, as so amended, in the matter that we are discussing, it would then apply to all of the constituent Republics of the Soviet Empire, not just the Baltics, and I should say and the Baltics, which the United States does not recognize as part of the Soviet Empire.

Mr. HAMILTON. If the gentleman will yield further, I think the gentleman, if I understand, and I am just looking at the language now, it provides directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States.

Mr. COX of California. There is a conjunctive; it goes on to say after the comma, "and any republic within the Union of Soviet Socialist Republics that has a democratically elected government."

Mr. HAMILTON. The gentleman is operating from a different amendment than I have. We may have different language. I am operating on the basis of language that was furnished to me by the minority.

Mr. COX of California. It is an en bloc amendment, what I am reading from, and it has the code number at the top that says ICA91A097.

Mr. HAMILTON. I think, if the gentleman would yield further, that we are dealing with two different amendments.

Mr. COX of California. Mr. Chairman, I would ask of my colleague, the gentleman from California [Mr. ROHRABACHER]: Is it the gentleman's understanding that the legislative language that the gentleman is offering applies exclusively within the Soviet Union to the Baltics, or would it apply to any republic?

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I am happy to yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, this legislative langauge does not mention the Soviet Union, or it does not mention Yugoslavia. It sets a basic, fundamental principle that we will not be providing our foreign aid to any Communist dictatorship as long as there is a democratically elected republic within the confines of that country, and in terms of the Soviet Union, this language is very specific. We are not just talking about the Baltics. We are talking about all of the democratically elected republics within the Soviet empire. It is not about Yugoslavia. It is not about the Soviet Union. It is not Serbs versus Croats. It is democracy versus communism.

For those who would try to change the nature of this debate and try to focus on, you might say, issues in terms of ethnic issues, rather, in terms of principle, the principle of this legislation is very clear, and in terms of just the Soviet Union, it does not deal with the Baltics alone. It is very clear that this legislation deals with all of the elected republics.

Mr. COX of California. Reclaiming my time, I asked the question, because it is my understanding that the gentlewoman from Maryland may be offering an amendment that would strike the portions dealing with Yugoslavia, and I wondered if in that case the chairman would be willing to support the amendment offered by the gentleman from California [Mr. ROHRABACHER].

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. Before I try to answer that question, we simply must get clear as to what countries and what republics we are talking about here. Several times, on several occasions, the gentleman from California who offered the amendment has said that he is not talking about Yugoslavia. One of these amendments that I have mentions Yugoslavia by name.

Second, he says, if I understand the other gentleman from California correctly, that the language which I quoted a moment ago applies to republics other than the Baltic Republics. Let me quote the language I have in front of me to make sure we are talking from the same sheet of music here.

It says, "to provide assistance directly to democratically elected governments of republics within any country that has a federal system of government in which the Federal Government has a ruling Communist majority." Now, that language, we believe, applies to Yugoslavia, and in one of the other en bloc amendments, Yugoslavia is specifically mentioned.

Mr. ROHRABACHER. If the gentleman will yield further, that is correct, as a matter of principle.

Mr. HAMILTON. The second part of the language is, "as well as directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized in the United States."

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. COX] has expired.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to take some time myself, but for this purpose, I yield to the gentleman from California [Mr. COX] for the purpose of a colloquy.

Mr. COX of California. Mr. Chairman, I think I may have resolved our difficulty with the legislative language. The language from which the chairmen was reading is styled as an amendment, as it were, to the Support for East European Democracy Act, the SEED Act, and for that purpose, I think the chairman is correct. It covers only the Baltic States and Yugoslavia.

Another part of the en bloc amendments is meant to strike out at page 575, lines 5 through 9, and insert in lieu thereof the following, "Paragraph (b), East European Countries. For purposes of this act, the term 'East European country' includes," and if Yugoslavia were stricken, it would say, "any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and that has a democratically elected government, and any republic within the Union of Soviet Socialist Republics that has a democratically elected government," and it is on that basis that I believe we should be able to agree that the gentleman from California has offered language that would apply to all of the constituent Republics of the Soviet Empire as well as to the Baltic countries.

□ 1650

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, some of this wording has to be put down in order to meet the sensitivities of people in the Baltic States who do not believe that they were ever incorporated into the Soviet Union or that they were ever Soviet Republics. The purpose of some of this language problem, at this point in time, was simply to take care of that sensitivity.

Mr. BEREUTER. Mr. Chairman, reclaiming my time, I would say that I think it is imperative that the amendments offered by the gentleman do not reach to Yugoslovia. It is crucial that we not, in effect, throw gasoline on a fire.

If, in fact, we are providing assistance or offering the possibility of assistance to Slovenia, to Croatia, but not to Serbia, and that would be the effect of the situation at the moment, then indeed we are moving in a fashion that is contrary to the policy of this administration. This administration is trying its best by public actions and by diplomatic means, to keep this loose confederation of republics together as the nation of Yugoslavia.

Last year when we had debate on this issue, we were concerned, and defeated an amendment which would have addressed the problem in Kosovo, because it would be deemed to be divisive within that nation, betwen Serbs, Croatians, Slovanians, and others.

I think the gentleman from Illinois [Mr. DURBIN], the gentleman from Wisconsin [Mr. MOODY], and the chairman of the Subcommittee on Europe and Middle East have made this point very well. Either the gentleman from California [Mr. ROHRABACHER] has to find a way to remove Yugoslavia, or this gentleman has to oppose it.

I will ask the gentleman one more question: If we are talking about the Republics of the Soviet Union, I certainly am of the view that perhaps assistance should be given to the Baltic Republics; but what about Moldavia? Moldavia, of course, is in part made up of an area that was annexed by the Soviet Union into its borders, and we have never recognized that annexation. Please address how the gentleman would treat not only the Baltic nations, but Moldavia as well.

Mr. ROHRABACHER. If the gentleman will yield for a question, what makes the gentleman think that Serbia would be left out of an aid program from my legislation? What would lead the gentleman to that conclusion?

Mr. BEREUTER. Reclaiming my time, I would say it is my understanding from the gentleman's description of his amendment that he is dealing with democratically elected governments. There is at least some question, as I understood it, between whether or not all of the Republics of Yugoslavia have had democratic elections.

Mr. ROHRABACHER. If the gentleman will yield, according to my legislation, if Serbia had a free and fair election which was recognized by the United States, and that Serbia was recognized as a democratic republic, they would not be left out.

Mr. BEREUTER. That is correct, but there are other republics that have not had the kind of election they have in Croatia.

Mr. ROHRABACHER. If the gentleman will continue to yield, that is correct. Would the gentleman suggest that it is proper for the United States to set limits, that our aid is not flowing to Communist controlled dictatorships rather than democratic republics?

Mr. BEREUTER. Reclaiming my time, this gentleman supports the policy of the administration that we are not going to pull apart by our actions that nation of Yugoslavia. The best policy for the United States is to encourage democracy, to encourage that confederation to stay together, and to live peacefully. That should be our objective. That is why the administration would oppose any amendment that differentiated in our treatment among the republics of that country.

Mr. FASCELL. Mr. Chairman, I strike the requisite number of words. I have listened to the debate very carefully, and I read the language of the gentleman's amendment. He made it very clear that this ideological struggle he is trying to perpetuate legislatively applies strictly to the Soviet Union and Yugoslavia, by the definition of his own amendments.

I do not see, after reading the three amendments, how in the world they can be cleaned up without rewriting them, to do whatever it is he is trying to do, to get a vote on whether a Member is for Communist government or against the Communist government. Frankly, that is not the issue. The fact is that this bill contains no aid to any Communist governments, but we do have a proviso in the bill that recognizes that the Baltic States and other democratically elected governments in the Soviet Union could be eligible recipients for assistance.

Of the assistance that is provided, $15 million for economic assistance, we say specifically in the language of the bill that half shall be allocated for assistance to the Baltic States of Estonia, Latvia, and Lithuania, and half allocated for assistance to eligible recipients in the Soviet Union that request technical assistance from the United States.

If my colleagues will turn to the next page it says, what is an eligible recipient? I want to be sure this is understood, so that we do not get hung up on whether or not there is a Communist under the bed again. That definition is the government of any republic and any local government within the Union of Socialist Republics that were elected through open, free, and fair elections. I do not know much cleaner we can get. I do not see where the gentleman's amendment adds anything to that, it sure adds a lot of confusion with regard to the issue of Yugoslovia and the problems there.

The definition goes on to include "Any indigenous nongovernmental organization in the Soviet Union that promotes democratic reform and market-oriented reforms." So, the core of what the gentleman proposes or seeks to get at in his amendment is not in the bill, unless he is trying to backtrack on the President's granting of agricultural credits to the Soviet Union. If the gentleman wants to do that, his amendment does not reach that.

This amendment simply clouds the issue of the very clear policy statement that we have laid down in this bill, and it gets into the struggle that has gone in with regard to the matters in Yugoslavia. There is no reason for the United States, as a matter of national policy, by legislation, to appear to be taking sides in that struggle, when it is the national policy of the United States, supported by this President, that we are trying to do what we can to make sure that that place does not fly apart.

Mr. Chairman, the only sensible action is to vote down the Rohrabacher amendment. The language in the bill is explicitly clear. We support only the government of any republic in a local government within the Union of Socialist Republics which was elected through open, free, and fair elections. I do not know how we can say it any plainer than that. As far as the Communists are concerned, they can shift for themselves. I urge a no vote on the Rohrabacher amendment.

Mrs. BENTLEY. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I had some amendments that I had sent to the desk to perhaps clean up the Rohrabacher amendment, eliminating Yugoslavia. However, I am not going to ask that those be brought up at this time.

I concur with the chairman of the committee, the gentleman from Florida [Mr. FASCELL] and the gentleman from Indiana [Mr. HAMILTON], as I concur with the gentleman from Illinois [Mr. DURBIN] and the gentleman from Wisconsin [Mr. MOODY], and the gentleman from Nebraska [Mr. BEREUTER] that this amendment should be voted down. It is confusing, and very confusing.

As has been said, I think we need to emphasize that current United States official policy is one of steadfastly refraining from taking sides in the complex ethnic disputes that have been rocking Yugoslavia in order to promote internal stability without bloodshed.

Yugoslavia has been on the brink of a bloody civil war. Last week and over the weekend, leaders from the six republics reached a fragile accord regarding further steps toward a unified Yugoslavia. Language in the Rohrabacher amendment would give de facto recognition to the six republics as separate sovereign states by directly providing SEED money not to Yugoslavia as a whole, but to specific republics. That is against our policy.

This is in conflict with United States official policy in two ways: One, the sovereign State of Yugoslavia would be superseded by its component political parts; and two, the United States would show bias toward specific republics. In fact, the State Department has communicated to me their confusion as to the purpose of this amendment.

□ 1700

President Bush, in a March 1991 letter to Prime Minister Markovic of the Yugoslavian Federation, stated:

> It should be absolutely clear that the United States does not and will not favor any particular national or ethnic group in Yugoslavia. At the same time, we want to see differences among nationalities resolved within the framework of a single, democratic Yugoslavia and will not encourage or reward those who would break the country apart.

A State Department release on May 24 reiterates this point:

> By unity we mean the territorial integrity of Yugoslavia within its present borders. We believe that the ethnic heterogeneity of most Yugoslav Republics means that any dissolution of Yugoslavia is likely to exacerbate rather than resolve ethnic tensions.

And that is exactly what we do not want to do.

In addition, both the World Bank and the European Economic Community are on record as opposing the breakup of Yugoslavia.

Mr. Chairman, there is no doubt that Yugoslavia is facing some very real and very serious problems. These problems are those that the nation inherited as a result of the system that the Communist dictator, Marshal Tito, imposed upon it, a system that we accepted as long as it suited our strategic interests.

Yugoslavia may no longer be a chip in the poker game of East-West security interests. Nevertheless, it remains a friendly nation to the United States.

We should not take this opportunity to reverse decades of United States policy toward Yugoslavia with this amendment, which is very insulting to the Government of Yugoslavia.

Mr. Chairman, we should vote down the Rohrabacher amendment.

Mr. OAKAR. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I would like to associate myself with the thrust of what the gentlewoman said. I do not think this is the time to undermine some of the workings that are going on in Yugoslavia. Certainly there are problems there within various republics. We all know that, but I think for this Congress in this manner to undermine the threat of stability of the Yugoslavian Federation at this time is the wrong time. Maybe in the future there may be separate republics once there is a stable approach to it, but this is I think very superficial.

The gentlewoman from Maryland is right. I chair the subcommittee related to oversight over the World Bank, and that is absolutely accurate. They do not support this concept at this time, and we are going to jeopardize important projects to get that area and that region. For the sake of each ethnic identity, we should vote down this amendment.

Mrs. BENTLEY. Mr. Chairman, I thank the gentlewoman from Ohio.

Mr. SARPALIUS. Mr. Chairman, I move to strike the requisite number of words. I will be very brief.

I have had the opportunity to go to Lithuania twice in the Baltic States in the past 2 years. I have been involved in their struggle for independence.

I recently got off the phone and discussed these amendments with organizations that are located within the United States that are supporting the cause for independence in Lithuania. They have a tremendous amount of concern about the way these amendments are worded as far as recognizing the Baltic States as a republic of the Soviet Union.

I think we should make it very clear that 50 years ago at the end of the war when the Soviets took over those Baltic States, they took them over by force. For the past 50 years, every President in this country has never, ever recognized the presence of the Soviet Union in those Baltic States until now. Because we have not given them the recognition that they so rightly deserve, they are still struggling to gain that recognition.

I commend Congress for taking a giant step toward giving some financial assistance to those Baltic States, but I am very concerned about the wording of these amendments by again expressing our country as recognizing the Baltic States as a republic of the Soviet Union.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to associate myself with the others who have spoken in opposition to the Rohrabacher amendment, as amended, which I believe is a direct threat to the stability of the Yugoslavian Federation.

The issue of assistance to the Republic in Yugoslavia is a very complex matter. Recently, leaders from the six republics reached a fragile agreement regarding further steps toward a unified Yugoslavia. To compare this voluntary action to the situation in the Soviet Union is quite misleading. Assistance directed to individual republics in Yugoslavia would only destroy the existing delicate balance in this country, which is striving for unity.

Problems in Yugoslavia cannot be reduced to the good versus the bad, nor are the problems ideological in nature—such as Communists versus non-Communists, as is presented in the Rohrabacher amendment. Problems in Yugoslavia are ethnic tensions between the Serbs and the Croatians, which have been present for decades. The United States should continue the policy of not taking sides in Yugoslavia's ethnic disputes. All constituencies should receive full and fair consideration of our Nation.

Mr. Chairman, for the reasons I have listed, I urge my colleagues to please support Yugoslavian stability and defeat the Rohrabacher amendment.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as I have indicated, I rise in strong opposition to this amendment. The longer the debate goes on, the more confused the Members are getting.

We are told that the Rohrabacher amendments en bloc only state a general policy, and that is one of direct aid to democratically elected republics, but basically, if you look at the amendments as my friend, the gentleman from Indiana [Mr. HAMILTON] has said, what we are trying to do here is provide for direct aid to the republics in Yugoslavia.

Let us make no mistake about it. The bill, it is my understanding this is correct, that the bill already provides aid to the Baltic States, so that bascially that should not even be a question.

I think when the gentleman from Indiana [Mr. HAMILTON] says the amendment is unnecessary for that stated goal, he is very accurate.

So what is left in the amendment? As the other speakers have indicated, it is aid to the republics in Yugoslavia.

Mr. Chairman, by aiding individual republics in Yugoslavia with direct assistance, the authors want the United States basically to take sides in this conflict. If we do so, we will only worsen the bloodshed and the tension and undermine the good faith negotiations.

Yugoslavia, Mr. Chairman, is close to civil war. The last thing the Yugoslav republics need is direct assistance when delicate negotiations to avert a civil war are underway.

This amendment is in direct contradiction to the President's stated policy. The policy is to let the Yugoslav people decide their own future in a democratic fashion. So far the policy has helped to avoid civil war.

The State Department also openly opposes this amendment.

The authors link Yugoslavia and the Baltic States. They confuse apples and oranges. The two situations could not be more fundamentally different. Direct aid to the Yugoslav republics will propel that nation into civil war.

Similar aid to the Soviet republics would not do the same to the Soviet Union.

Yugoslavia is a voluntary union of republics; the Soviet Union is not.

Mr. Chairman, direct assistance to the republics will result in bloodshed and threatens the development of democracy in Yugoslavia, and I urge my colleagues to vote against the amendments.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this is a good amendment. I would hope the committee would pass it.

I recognize that there are some problems with regard to Yugoslavia and perhaps those can be taken care of, if not today, at some later time; but my interest and concern is primarily that of the Soviet Union, with the U.S.S.R.

Last December I led a delegation from the National Republican Institute for International Affairs to the Soviet Union to discuss with the democratic opposition there the chances for and ways we might assist in promoting democracy, and it was very plain to me that all those people with whom we spoke, and we spoke with almost all of the legitimate democratic opposition leaders, it was very plain to me that they believed very strongly that the Central Government, the Supreme Soviet and so on, is using their power to put down the movements toward democracy in the republics. They felt, for example, that the food shortage that was going on then, and I suppose still is, was being exacerbated by the Central Government.

□ 1710

And they ask that aid go to the cities and the republics. And I think that what we are talking about in this amendment insofar as the Soviet Union is concerned is a way that we can be of assistance and to promote democracy in that country.

I would point out, for example, that in the Russian Republic, long before Gorbachev went back, again, in one more of his convolutions to promote private property, that the Russian Republic was already doing that, as was the city council of the city of Moscow.

So I would hope that my colleagues would support the Rohrabacher amendments.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Chairman, we hear a lot of talk today about confusion. We hear a lot of talk about how people do not understand the issue. I can assure all of you that there are people around the world who understand what the issue is here today. They are not confused. They are not confused when they see simple language that says it is the policy of the United States to support democratic republics, when there is an option to support democratic republics over Communist central governments.

The people in Communist prisons are not confused, the people who live under tyranny are not confused. I would hope that my Members would take a look at this language and try to find the true intent of this legislation and to understand that it is in keeping with the principles of the U.S. Government and the values of our people that we side with those poeple who believe in democracy and the reformers who are trying to establish democractic institutions whether they are in Yugoslavia or the Soviet Union.

Now we are told we must side with stability. Stability? I thought we stood for freedom in this country.

I thought that our people fought these wars and so many people over the years have sacrificed so that our country can stand for something better than other countries, better than stability with the Soviet Union or stability with Nazi Germany.

We are supposed to be a country that believes in individual liberty. Our Declaration of Independence did not talk about freedom being the rights of Americans, it talked about freedom and independence and those God-given rights being the rights of all mankind.

For God's sake, let us not try to put fog in this hole when we have the pictures of George Washington and Lafayette watching us.

People in other countries understand what is going on here, and they will understand if we vote this chance down because they will not only be disappointed, their hopes will be dashed because they know that the United States of America is their only hope.

I do not care what the pinstripers over at the State Department say; they are not the ones who stand for values of this country. No one elected them. We were elected, and we were elected to reflect the democratic values of this country.

We can put up a big fog bank and say we are confused, or we can talk about our fundamental principles. Yugoslavia will not be pouring gasoline on the fire to stand for freedom, it will enforce our will in the sense that we will be giving an incentive to the Communists in Yugoslavia to reach a compromise with those people who are pushing for democratic reform. That will be the effect of this. It will not be a rendering, it will be a coming together.

If we vote this down, the Communists in Yugoslavia will never reach a compromise. They will not feel compelled to reach a compromise, because all of you will have given them the message that we do not care whether they are a dictatorship or a democracy.

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time just to express to the Members my understanding of what the bill does and what the amendment does.

I want it very clear that the bill, as it stands, provides assistance to the Baltics, Estonia, Latvia and Lithuania. As it stands, the bill provides assistance to democratically elected republics and local governments in the Soviet Union and it also provides assistance to nongovernment entities in the Soviet Union.

It is my understanding that, despite all of the rhetoric here, that the gentleman's amendment does not add anything to the bill with respect to the Soviet Union, because we already have a provision that takes care of democratically elected local governments and republics.

It is my understanding that the gentleman's amendment does add to the bill by making it possible to provide assistance to the republics of Yugoslavia. And that is the portion of the bill that I think is certainly contrary to the policy of President Bush and, secondly, though well-intentioned, will have a very detrimental effect on an exceedingly delicate situation in Yugoslavia.

The amendment runs counter to what American policy has always been in Yugoslavia, and that is to promote the unity and the democracy and dialog, the peaceful dialog, in the country. What this amendment does is say that we are going to take sides in Yugoslavia now, and, at the delicate point that the country is at, that is a bad mistake for this country to make.

So I think this amendment, though very well-intentioned, has a great deal of capacity for achieving mischief.

Mr. Chairman I urge the Members to vote against it.

AMENDMENTS OFFERED BY MR. COX OF CALIFORNIA TO THE AMENDMENTS OFFERED BY MR. ROHRABACHER, AS AMENDED

Mr. COX of California. Mr. Chairman, I offer amendments to the amendments, as amended.

Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The Clerk will first report the amendments.

Mr. FASCELL. Mr. Chairman, reserving the right to object, I have been burned once and I do not want to get burned again.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

Mr. COX of California. Mr. Chairman, I offer amendment No. 1.

Mr. FASCELL. Mr. Chairman, I am not insisting; I would like to know what the amendments are, to what, is it printed in the RECORD, or what are we doing here?

The CHAIRMAN pro tempore. As soon as the Clerk has the amendments before him, he will report them, and then the gentleman may question.

Mr. COX of California. Mr. Chairman, I ask unanimous consent to consider the amendments as read.

Mr. FASCELL. Mr. Chairman, I am sorry, I just cannot do that. At least give us the courtesy of seeing the amendments.

I want to reserve points of order, the right to object, and anything else.

The CHAIRMAN pro tempore. The gentleman reserves his points of order and his right to object.

Mr. FASCELL. Mr. Chairman, burn me once, it is OK; burn me twice, it is my fault.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. COX of California to the amendments offered by Mr. ROHRABACHER, as amended: Page 29, after line 2, insert the following:

"(D) With regard to economic assistance under this Act or the Support for East European Democracy (SEED) Act of 1989 for countries that are in transition from communism to democracy, it shall be the policy of the United States, to the extent feasible, to provide assistance directly to democratically elected governments of republics within any country that has a federal system of government in which the federal government has a ruling communist majority, as well as directly to democratically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States); *Provided*, That economic assistance to Yugoslavia, otherwise authorized by law shall not be prohibited as a consequence of this provision. As used in this subparagraph, the term 'democratically elected' means elected through open, free, and fair elections.

Page 403, after line 18, insert the following:

"(4) EXCEPTION FOR ASSISTANCE TO DEMOCRATICALLY ELECTED GOVERNMENTS OF REPUBLICS.—Subsection (a)(1) does not apply with respect to assistance provided directly to democratically elected governments of republics within the Soviet Union or States whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States. As used in this paragraph, the term 'democratically elected' means elected through open, free, and fair elections.

Page 575, after line 9 insert the following:

"(c) EAST EUROPEAN COUNTRIES.—For purposes of this Act, the term 'East European country' includes any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and that has a democratically elected government, and any republic within the Union of Soviet Socialist Republics that has a democratically elected government. As used in this subsection, the term 'democratically elected' means elected through open, free, and fair elections.".

The CHAIRMAN pro tempore. The Chair will rule that because Rohrabacher amendments are en bloc and these amendments are amendments to the en bloc amendments, they are in order and do not require unanimous consent.

The gentleman is recognized for 5 minutes.

Mr. COX of California. I thank the chairman.

Mr. Chairman, I have watched this debate with great interest. I have been persuaded, frankly, by a number of arguments by my colleagues on both sides. I think that, in particular, the situation in Yugoslavia is a sensitive one, and I have observed that a number of my colleagues would be willing to support the Rohrabacher amendments offered en bloc were it not for the provisions dealing with Yugoslavia. It seems to me that the points raised by my colleague from California with respect to Yugoslavia are meritorious. I hope that we can debate them, perhaps even later on in the context of this bill. I think we would benefit, however, from focusing now on the areas of our agreement. I think this body is in general agreement that there is much to be said for sending aid, if we are to send aid at all, and I add that the Rohrabacher amendment does not call for sending any aid at all but sending that aid to democratically elected governments rather than, in specific, to the center, to the Kremlin.

☐ 1720

Mr. Chairman, this amendment is being offered today, as the gentleman from California [Mr. DREIER] noted earlier, on a day when the people of Russia; not the people of the Soviet Union, but the people of Russia, are going to the polls for the first time in 2,000 years, and what they will do, we all know, is overwhelmingly vote to reject communism, to reject the policies of the center, of the Kremlin. At the same time the people of Leningrad are going to the polls, and they are going to vote to change the name of that city to reject the legacy of Vladimir Lenin, the superczar, the father of communism in the Soviet Union, and rename that city St. Petersburg.

On a day when that is happening, I think it is fitting for us to adopt the amendments of the gentleman from California [Mr. ROHRABACHER] as they apply to the Soviet Union, and that is why I am offering my amendments en bloc to the Rohrabacher amendments to strike those portions dealing with Yugoslavia so we may focus on our areas of agreement.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I appreciate what the gentleman from California [Mr. COX] is trying to do. We are trying to figure out if what he says is what he does. All right?

Now, as I understand it, what the gentleman is trying to do is take Yugoslavia out of the language of the amendments of the gentleman from California [Mr. ROHRABACHER] either specificially or generically; is that correct?

Mr. COX of California. Mr. Chairman, the gentleman is correct, both specifically and generically.

Mr. FASCELL. Mr. Chairman, one of the questions that arises, therefore, is this: That in the effort to do that there is no program in this bill for the Soviet Union, and some of this language would make it appear as if it would not make the Soviet Union eligible for SEED money, which we would not support.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, let me just reinforce that, if I may.

We are looking now at the amendment that begins, "page 575, after line 9, insert the following," and it has the East European countries.

Mr. COX of California. Yes.

Mr. HAMILTON. What is said there is "any republic within the Union of the Soviet Socialist Republics that has a democratically elected government," and the way the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], and I are interpreting this, the effect of the gentleman's amendment, is to make any of the democratically elected governments in the Soviet Union eligible for all of the programs under SEED.

Mr. Chairman, the effect of that could be to take all or a large part of the money now given in Eastern Europe and send it to the Soviet Union, to the democratically elected republics. Is that what the gentleman intends?

Mr. COX of California. Mr. Chairman, reclaiming my time, it is the purpose of this gentleman to ensure that none of the funds provided under this bill goes to Communist governments, specifically the Communist government in the center, in the Kremlin.

As one who, as the gentleman knows, worked originally on the SEED Act, I am also very much interested in assisting countries in Eastern Europe that are seeking to rid themselves of communism, and that is why, when originally we designed the SEED Act, we provided specifically for assistance to Poland and to Hungary. The purpose, as I understand it, of the amendment of the gentleman from California [Mr. ROHRABACHER] is to essentially prohibit any funds from this bill being distributed to a Communist government anywhere in Eastern Europe or in Moscow, but permitting assistance to governments like that in Poland and in Hungary that have been democratically elected and are seeking to rid themselves of communism.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The time of the gentleman from California [Mr. COX] has expired.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I think we understand what the gentleman is trying to do, remove Yugoslavia from the amendment of the gentleman from California [Mr. ROHRABACHER], and we approve of that obviously.

However, Mr. Chairman, the amendment that I was referring to a moment ago defines East European countries, and what the gentleman is doing is making the Soviet Union an Eastern European country for purposes of the SEED Act, if I understand it, so that all of the moneys that we now make available for SEED, Poland, Hungary, Czechoslovakia, could flow to the Soviet Union.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, the purpose of the language that was read just a moment ago that says that for purposes of this act the term "East European country" includes, and I will read now, "any state whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States and it has a democratically elected government," is obviously to get us at the Baltic countries.

Mr. HAMILTON. That is right.

Mr. COX of California. Going on: "any republic within the Union of Soviet Socialist Republics that has a democratically elected government," might get us, might get us to a Georgia, for example.

Now it seems to me that this program makes a great deal of sense as applied to democratically elected governments of that sort, and I would not be prepared automatically to say that we should not authorize support for democratically elected governments within the Soviet Union.

Now of course Moscow is going to take the position that Lithuania is within the Soviet Union, and we are in this bill expressly providing assistance to Lithuania nonetheless, and I think that the same argument ought to apply to Georgia.

Now of course we agree that Lithuania, Latvia, and Estonia are not part of the Soviet Union, but neither does Georgia want to be. It has declared its independence.

Mr. HAMILTON. Mr. Chairman, would the gentleman yield further?

Mr. DOOLITTLE. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, the difference then is this: the bill that we have provides a very limited amount of assistance to the democratically elected governments, republics and local governments in the Soviet Union. That amount of money is $7.5 million. The amendment of the gentleman opens up all of the money that is authorized for the SEED program. That is roughly $400 million. All of that money then could be used under the gentleman's amendment for democratically elected republics in the Soviet Union, if I understand it, because what the amendment does is to define the countries that are in the Eastern European area.

Mr. COX of California. Mr. Chairman, will the gentleman yield for a question?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, in whose discretion would that SEED money be distributed?

Mr. HAMILTON. If the gentleman would continue to yield, obviously it would be pursuant to law, and it could be distributed to any of the countries that qualify under this definition.

Mr. COX of California. And in whose discretion would that money be allocated?

Mr. HAMILTON. It would be the discretion of the President.

Mr. COX of California. Mr. Chairman, if the gentleman will continue to yield, I think that is the point, and earlier in the gentleman's remarks I listened carefully and understood that his objection was based upon the fact that vis-a-vis this particular amendment we might be diverging from the policies of President Bush, and I think, certainly as one who used to work as a lawyer for President Reagan, I understand the prerogatives of the Executive in foreign policy. I would agree with the Chairman that we ought not to intrude on that discretion. This amendment maintains the President's discretion punctiliously in that respect.

Mr. HAMILTON. Mr. Chairman, if the gentleman would yield further, I just want to make it clear so that everybody knows what they are doing here. What they are doing here is opening up $400 million that can go to the democratically elected Republics of the Soviet Union. Now that just does not seem to me to be a wise step to take at a time when we are engaged in very delicate negotiations with the Soviet Union, and the great debate in this country is: Are we going to enter into some kind of a grand bargain in the Soviet Union?

May I point out that to the extent the gentleman diverts money and gives it to the Republics of the Soviet Union, he takes that money away from Poland, and from Hungary, and from Czechoslovakia, and I do not think that is visible.

So, just to conclude, the purpose of the amendment of the gentleman from California [Mr. COX], the principal purpose of his amendment, is to exclude Yugoslavia from the amendment of the gentleman from California [Mr. ROHRABACHER], and I support that and commend the gentleman for it. But I must say this language, I think, opens up a vast domain of assistance to the Soviet Union that I think is unwise.

□ 1730

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, was it not the understanding of the gentleman that the opposition from the other side was just to Yugoslavia?

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, that is what I understood during the previous portion of the debate, and that is why I offered my amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, just so I can finish offering my amendment, let me simply conclude and tie a bow around this discussion by saying it is my purpose, as the author of these amendments, simply to focus us on our obvious common area of agreement, and that is to deny United States assistance to the Kremlin; to instead focus any aid, and this amendment does not in fact require any aid, but to focus any aid that is given only to democratically elected governments.

Mr. Chairman, it is thus best looked at as an amendment that prevents aid from going to the center, rather than encouraging it to go where it otherwise was not going.

Mr. Chairman, I would simply say for the benefit of all Members who will be called upon to vote upon this, that as a matter of legislative history, it is clearly my intent and the intent of every Member engaging in colloquy on this subject, that we not direct any special aid into the Soviet Union. Rather, the purpose of this amendment is to carve out Yugoslavia for subsequent debate, and to focus us on this legislative prohibition on aid to Moscow center.

Mr. FASCELL. Mr. Chairman, reclaiming my time, I just took this time to make it positively clear that I was opposed to all aspects of the Rohrabacher amendment, both as it applies to the Soviet Union and as it applies to Yugoslavia, with the amendments or without the amendments, and with the new offer that has just been made on the floor here by a consolidated amendment.

There is nothing in this bill nor anywhere else that provides any assistance to the Soviet Union. So I do not know what the gentleman is after.

Now, the gentleman says he is willing to take Yugoslavia out of it, both specifically and generically. I hope that is the case. I accept it as that. But I am not ready to accept an enlargement of authority to the President of the United States, even though it may be discretionary, when that authority is not now in the bill.

Mr. Chairman, this does not make any sense to me. I do not know why we would want to do that even in the enthusiasm, the zeal, the anxiety to get a vote on no aid to Communists. If you want to do that, just print a big sign, "No aid to Communists."

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I appreciate the remarks of the gentleman from Florida [Mr. FASCELL]. In fact, I have appreciated this discussion. This has been a rare opportunity actually to craft legislation in collegial fashion.

Mr. Chairman, I am persuaded by the remarks of the gentleman from Florida [Mr. FASCELL], and I am willing, having offered three amendments en bloc, to withdraw that amendment labeled amendment No. 3. That would leave us with amendments 1 and 2. It seems to me that addresses in its entirety the objections raised by the Chairman.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

Mr. FASCELL. Mr. Chairman, reserving the right to object, I yieled to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, I want to make sure I understand the impact of what the gentleman from California [Mr. COX] has done. If you take out the amendments that the gentleman and I had a colloquy about, the impact then of the remaining two amendments that are being offered is to exclude Yugoslavia from the Rohrabacher amendment specifically?

Mr. COX of California. Mr. Chairman, if the gentleman will yield, that is right.

Mr. HAMILTON. Also generically, as the gentleman from Florida [Mr. FASCELL] says, is that correct?

Mr. COX of California. Mr. Chairman, that is correct.

Mr. HAMILTON. Mr. Chairman, if that is correct, then we can accept the gentleman's two amendments.

Mr. COX of California. Mr. Chairman, we also need to have an agreement that the No. 3 amendment, the amendment which I withdrew, also includes language in the original Rohrabacher amendment that I was amending. That language in its entirely must be stricken from the Rohrabacher amendment for our understanding to make any sense. That is to say, we should not make any amendment to the SEED Act.

The CHAIRMAN pro tempore. The Chair would inquire, is it the intention of the gentleman from California [Mr. COX] to withdraw the third part of his amendment, or the third part of the Rohrabacher amendment?

Mr. COX of California. Mr. Chairman, the third part of the Rohrabacher amendment.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FASCELL. Mr. Chairman, the gentleman from California [Mr. COX] did not propose the Rohrabacher amendment. How can the gentleman withdraw it?

The CHAIRMAN pro tempore. The sponsor, the gentleman from California [Mr. ROHRABACHER] should make such a request by unanimous consent.

Mr. FASCELL. Mr. Chairman, reserving the right to object, I would like to hear from the gentleman from California [Mr. ROHRABACHER].

Mr. COX of California. Mr. Chairman, with due regard for our parliamentary procedures, I will yield to the gentleman from California [Mr. ROHRABACHER], and ask unanimous consent that he withdraw that portion of his amendment.

The CHAIRMAN pro tempore. The Chair would request that the gentleman from California [Mr. ROHRABACHER] make that request.

Mr. ROHRABACHER. Mr. Chairman, I make that motion.

The CHAIRMAN pro tempore. Without objection, so ordered.

Mr. FASCELL. Mr. Chairman, I still have a reservation of objection here. I want to be sure what we are talking about. As I understand it, there are three separate amendments that were being considered en bloc. I understand the request of the gentleman from California [Mr. COX] to be asking unanimous consent to withdraw the third of those amendments that was offered en bloc. That is what I understand so far.

Mr. Chairman, I want to be sure we are still playing off the same sheet of music. I would like for us, for the RECORD, simply to identify in some way that particular amendment, because the numbers here are confusing, particularly if you turn them around.

Mr. ROHRABACHER. Mr. Chairman, we are talking about an identification No. ICA91A097. It is at page 575, and talking about, "After line 9, insert the following."

Mr. FASCELL. Mr. Chairman, under my reservation of objection, let me ask the gentleman from Indiana [Mr. HAMILTON] if he now has the right amendment?

Mr. HAMILTON. If the gentleman will yield, I have the amendment, ICA91A097, June 7, 1991, page 29.

Mr. COX of California. Mr. Chairman, if the gentleman will yield, I think I can add clarification. We are removing that part of the original Rohrabacher amendment that amended the SEED Act. It is exactly nine lines in length. It begins with subparagraph (b), and the caption "East European Countries." That paragraph in its entirety would be stricken from the Rohrabacher amendment.

The CHAIRMAN pro tempore. It might be useful if Members were to meet in the center aisle and exchange copies.

Mr. HAMILTON. Mr. Chairman, it would be helpful to me if I could see now the language of the two amendments that the gentleman has.

The CHAIRMAN pro tempore. The Chair would state that at this point the gentleman from Florida [Mr. FASCELL] is reserving the right to object.

Mr. FASCELL. Mr. Chairman, I appreciate the Chair stating that. I am still reserving the right to object, so that when I get through, I will not be as confused as I am right now about what we are talking about over here.

If we could get back to the basic Rohrabacher amendment, which was in three parts or three amendments put together, and could see the first two parts of that amendment, then I think the gentleman from Indiana [Mr. HAMILTON] would be in a better position to know what it is he is agreeing to. Right now I am not really anxious to have him agree to anything, until I understand what it is he is agreeing to.

□ 1740

Hopefully with a little patience, Mr. Chairman, we will have that attended to. We have so many Rohrabacher amendments over here now we cannot even count them, much less know which one is which.

The CHAIRMAN pro tempore. (Mr. MCDERMOTT). The gentleman from Florida [Mr. FASCELL] continues to reserve the right to object.

Mr. FASCELL. I would rather take this dull thud in the proceedings, Mr. Chairman, than to be forever anxious about what it is we did.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, I thank the gentleman from Florida, the distinguished chairman, for yielding.

Mr. Chairman, as I read even these two, as they are constituted, part of the republics in Yugoslavia could still be singled out and no aid sent to them. That is the way I read it. As these are here, there is so much paper flying around, nobody knows what is going on.

Mr. ROHRABACHER. Mr. Chairman, if the gentleman will yield further, as a point of clarification that has been taken care of.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. Mr. Chairman, continuing my reservation of objection, I yield to the gentleman from California.

Mr. COX of California. The committee chairman and I have been able to engage in a private colloquy, which I will share with my colleagues. We have come to an understanding that my amendment to the Rohrabacher amendment now compromises exactly two paragraphs and a third paragraph of that that dealt with the SEED Act has been dropped by unanimous consent at the request of Mr. ROHRABACHER.

As a consequence, the net effect is that we are looking at the Rohrabacher amendment.

The CHAIRMAN pro tempore. The Chair wants to clarify, there has been nothing by unanimous consent so far. Nothing has been withdrawn.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. I think we all understand the intent of the gentleman in the well. That is, to remove Yugoslavia from the Rohrabacher language. That is acceptable to us.

The question in our mind is whether or not the language actually achieves that, and I am sure we can have a lot of debate about it. But it is going to be a useless debate. What I would suggest is that we simply accept the gentleman's two amendments that he has now offered, take him at his word that what he is trying to do there is to exclude Yugoslavia. Then we would not be committed to the specific language of the gentleman's amendment in the conference, but we would work with the gentleman to exclude Yugoslavia from the Rohrabacher amendment.

Mr. FASCELL. And not expand the SEED Program.

Mr. HAMILTON. And not expand the SEED Program to the Soviet Union.

Mr. COX of California. Mr. Chairman, if the gentleman will yield further, I think in particular our understanding that we will not expand the SEED Program is a useful one. I think that has been a very solid product of this debate. Given the extraordinary patience of all the Members throughout this proceeding, I think it is a valuable compromise to address this in specific in the conference and to vote upon this language for the time being.

Mr. FASCELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The third part of the amendment is now withdrawn.

Mrs. BENTLEY. Mr. Chairman, I move to strike the requisite number of words.

In view of what Chairman HAMILTON said to the gentleman from California [Mr. COX] that in the conference they would see to it that Yugoslavia would not be covered or included in any way, I would like to particularly request that it would also not single out any Republics of Yugoslavia. And with that understanding, then I will withdraw any objection that I might have placed.

Mr. HAMILTON. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, I will give the gentlewoman my assurance on that point.

Mr. KLECZKA. Mr. Chairman, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Wisconsin.

Mr. KLECZKA. Mr. Chairman, I also fully support the chairman on the agreement reached with the gentleman from California [Mr. COX], but know full well that in amendment No. 1 what is left in this amendment is assistance to any republic within any country and the added provision would be and also to the central government in Yugoslavia. So with the understanding that that is an error that will be corrected, I have no objection. But the amendment as drafted by the gentleman from California would provide aid to any republic in Yugoslavia and also to the central government, which is current law.

Mrs. BENTLEY. With that understanding, I yield back the balance of my time.

MODIFICATION TO THE AMENDMENTS OFFERED BY MR. COX OF CALIFORNIA TO THE AMENDMENTS OFFERED BY MR. ROHRABACHER

Mr. COX of California. Mr. Chairman, I ask unanimous consent that the amendment submitted to the desk be amended as the desk now possesses it.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Cox amendment No. 1; modification offered by Mr. COX of California to the Cox amendment No. 1: On line 6, after "to" delete everything up to and including the end of line 9.

The CHAIRMAN pro tempore. Is there objection to the modification of the Cox No. 1 amendment?

There was no objection.

Mr. HAMILTON. Mr. Chairman, would the Clerk repeat that language, please?

The Clerk read as follows:

Modification offered by Mr. Cox of California to part 1 of the Cox amendment as offered: On line 6, delete after the word "to" everything up to and including the end of line 9.

The CHAIRMAN pro tempore. Is there objection to the modification?

There was no objection.

The text of the Cox amendment No. 1, as modified, is as follows:

Page 29, after line 2, insert the following:

"(D) With regard to economic assistance under this Act or the Support for East European Democracy (SEED) Act of 1989 for countries that are in transition from communism to democracy, it shall be the policy of the United States, to the extent feasible, to provide assistance directly to democractically elected governments of states whose incorporation into the Union of Soviet Socialist Republics has never been recognized by the United States; provided, that economic assistance to Yugoslavia otherwise authorized by law shall not be prohibited as a consequence of this provision. As used in this subparagraph, the term 'democratically elected' means elected through open, free, and fair elections.

The CHAIRMAN pro tempore. The question is on the amendments, as modified, offered by the gentleman from California [Mr. COX] to the amendments offered by the gentleman from California [Mr. ROHRABACHER], as amended.

The amendments, as modified, to the amendments, as amended, were agreed to.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from California [Mr. ROHRABACHER], as amended.

The amendments, as amended, were agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—MILITARY ASSISTANCE, RELATED ASSISTANCE, AND MILITARY SALES PROGRAMS

CHAPTER 1—CONSOLIDATION AND REVISION OF ASSISTANCE AUTHORITIES

SEC. 201. REVISION OF ASSISTANCE PROGRAMS.

The Foreign Assistance Act of 1961 is amended by striking out part II and inserting in lieu thereof the following:

"TITLE II—MILITARY ASSISTANCE AND RELATED PROGRAMS

"CHAPTER 1—POLICIES REGARDING MILITARY ASSISTANCE

"SEC. 2101. FINDINGS AND STATEMENTS OF POLICIES REGARDING MILITARY ASSISTANCE.

"(a) FINDINGS.—The Congress finds that—

"(1) to advance our principal foreign policy objectives—the promotion of democratic values, the promotion of peace, the fostering of economic progress through the encouragement of market forces, and international cooperation in countering transnational dangers such as terrorism and narcotics trafficking—the United States must foster a climate in which all nations can live in security and stability;

"(2) where threats to such a climate arise, through the persistence of regional conflicts, the threat of aggression fostered by military imbalances among neighboring nations, the proliferation of weapons of mass destruction, the continued proliferation of conventional weapons of increasing capability, or the persistent attempts by armed groups violently to overthrow democratically elected governments, it is in the interest of the United States to address those threats;

"(3) so long as foreign countries lack the resources to meet their security needs without external assistance, military assistance provided by the United States will remain one of the principal instruments available to us to advance our principal foreign policy goals;

"(4) together with other assistance provided under this Act, military assistance can contribute to the development of economic and social improvements that enhance the development and maintenance of democratic political systems;

"(5) military assistance facilitates—

"(A) the development of comprehensive political relationships with the leadership of friendly foreign countries, and

"(B) the development of cooperation, through such means as treaty alliances and other security arrangements, in meeting threats to international security; and

"(6) assistance under this title can also support multilateral efforts through the United Nations and other international organizations to promote peaceful settlements of disputes.

"(b) MORE EQUITABLE DISTRIBUTION OF COLLECTIVE DEFENSE RESPONSIBILITIES.—The Congress recognizes that the scope of threats facing friendly foreign countries is such that military assistance from the United States will not be sufficient to meet collective defense and security requirements. The Congress, in authorizing military assistance under this title, expects that the President will exert maximum effort in seeking the support of the member countries of the North Atlantic Treaty Organization and other allies in providing enhanced military assistance, in coordination with the United States, to friendly foreign countries so as to bring about a more equitable distribution of the responsibilities of collective defense, particularly with respect to assistance associated with the maintenance of military bases.

"(c) SELF-SUFFICIENCY.—Military assistance provided under this title to friendly foreign countries should serve as a necessary transition to effective self-help measures that will make such assistance unnecessary in the future.

"(d) MULTILATERAL CONTROLS ON TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.—The President should continue to seek, through negotiations with the Soviet Union and other countries that supply or receive defense articles and defense services, the establishment of effective multilateral controls on the transfer of defense articles and defense services, including controls on the furnishing of assistance for the procurement of such articles and services.

"SEC. 2102. OBJECTIVES OF MILITARY ASSISTANCE.

"The authorities to furnish military assistance that are provided in chapters 2, 3, 5, and 6 of this title shall be exercised (subject to the supervision and direction of the Secretary of State pursuant to section 2921) to achieve the following objectives:

"(1) Promoting self-defense and defense cooperation by financing the acquisition by friendly countries of United States major defense equipment and other defense articles and defense services, including acquisition through licensed production and coproduction.

"(2) Promoting the effectiveness of military forces of friendly countries with respect to command, control, communications, intelligence, mobility, training, and logistical support.

"(3) Promoting rationalization, standardization, and interoperability of the military forces of friendly countries with the Armed Forces of the United States.

"(4) Supporting peacekeeping operations and activities and related programs, in particular those sponsored by the United Nations or other international organizations.

"(5) Increasing the awareness of nationals of friendly countries of basic issues involving democratic values and institutions, especially respect for internationally recognized human rights.

"(6) Supporting the establishment in friendly countries of a relationship between civilian and military sectors appropriate to a democratic system of government.

"(7) Improving the capability of the armed forces of friendly countries to carry out, at the direction of the civilian government, activities which are complementary to economic development projects that benefit the civilian population.

"(8) Enhancing the military capability of friendly countries to meet their security needs.

"(9) Providing support for friendly countries to combat the illicit flow of narcotic and psychotropic drugs and other controlled substances and to combat international terrorism.

"CHAPTER 2—FOREIGN MILITARY FINANCING PROGRAM

"SEC. 2201. AUTHORITY TO FURNISH ASSISTANCE.

"(a) GENERAL AUTHORITY.—The President is authorized to furnish military assistance to any friendly country or international organization by—

"(1) acquiring from any source and providing (by grant and loan) any defense article or defense service;

"(2) financing the sale of defense articles or defense services; or

"(3) providing financing under subsection (b).

"(b) FINANCING PROCUREMENT BY COMMERCIAL LEASING.—

"(1) ELIGIBLE COUNTRIES; DETERMINATIONS.—Financing may be provided under this section to any country that is a member of the North Atlantic Treaty Organization or is a major non-NATO ally for the procurement of defense articles by leasing (including leasing with an option to purchase) from United States commercial suppliers if the President determines that there are foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under the Defense Trade and Export Control Act.

"(2) NOTIFICATION TO CONGRESS.—Any exercise of the authority of this subsection shall be subject to the regular notification requirements of the appropriate congressional committees under section 6304.

"(c) OBLIGATION OF FUNDS.—

"(1) OBLIGATION OF GRANT FUNDS.—

"(A) OBLIGATION UPON APPORTIONMENT.—Funds appropriated to carry out this chapter on a grant basis may be obligated for a particular country or international organization upon apportionment in accordance with paragraph (5)(C) of section 1501(a) of title 31, United States Code.

"(B) LIMITATION.—Funds appropriated to carry out this chapter on a grant basis shall be available to finance the procurement of defense articles and defense services that are not sold by the United States Government only if the country or international organization proposing to make such procurement has first signed a grant agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds.

"(2) DEOBLIGATION OF FUNDS AFTER 3 YEARS.—Any agreement to provide assistance under this section shall include a provision expressly granting the United States Government the right to deobligate any funds furnished under the agreement that have not been committed for an approved use by the end of the 3-year period beginning on the date on which that agreement is entered into.

"(d) LOANS OF DEFENSE ARTICLES.—

"(1) LIMITATIONS.—Defense articles may be loaned under subsection (a)(1) only if—

"(A) there is a bona fide reason, other than a shortage of funds, for providing such articles on a loan basis rather than a grant basis;

"(B) there is a reasonable expectation that such articles will be returned to the agency making the loan at the end of the loan period unless the loan is then renewed;

"(C) the loan period is of fixed duration not exceeding five years, during which period such article may be recalled for any reason by the United States;

"(D) the agency making the loan is reimbursed for the loan based on any amount that is charged in accordance with paragraph (2) to the appropriation to carry out this chapter; and

"(E) the loan agreement provides that—

"(i) if the defense article is damaged while on loan, the country or international organization to which it was loaned will reimburse the United States for the cost of restoring or replacing the defense article, and

"(ii) if the defense article is lost or destroyed while on loan, the country or international organization to which it was loaned will pay to the United States an amount equal to the replacement cost (less any depreciation in the value) of the defense article.

"(2) CHARGE TO APPROPRIATION ACCOUNT.—(A) In the case of any loan of a defense article under this chapter, there shall be a charge to the appropriation to carry out this chapter while the defense article is on loan, except as provided in subparagraph (B). Such charge shall be in an amount based on—

"(i) the out-of-pocket expenses authorized to be incurred in connection with such loan; and

"(ii) the depreciation that occurs while such article is on loan.

"(B) Subparagraph (A) does not apply to any defense article (or portion thereof) that is acquired with funds available to carry out this chapter or that is made available under the special drawdown authority of section 2901. In the case of defense articles made available under section 2901 that are loaned under this subsection, the value of the defense articles (in terms of their replacement cost less any depreciation in their value) shall be counted against the limitation in subsection (c)(1) of that section.

"(e) EXCLUSION OF CERTAIN COSTS FROM CERTAIN SALES.—Sales under the Defense Trade and Export Control Act which are wholly paid from funds—

"(1) which are made available on a grant basis under this chapter, or

"(2) which, prior to the effective date specified in section 1101 of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of this Act or were made available on a nonrepayable basis under the former authority of section 23 of the Arms Export Control Act,

shall be priced to exclude the costs of salaries of members of the Armed Forces of the United States (other than the Coast Guard) and the unfunded estimated costs of civilian retirement and other benefits.

"(f) FINANCING FOR COPRODUCTION OR LICENSED PRODUCTION.—Assistance may not be furnished under this chapter in any case involving coproduction or licensed production outside the United States of any defense article of United States origin unless the President furnishes full information regarding the proposed transaction to the appropriate congressional committees. Such information shall be furnished before the coproduction or licensed production arrangement is approved by the United States Government or, if the decision to provide assistance is made after the arrangement is approved, before the assistance is furnished. Such information shall include—

"(1) a description of the defense article that would be coproduced or produced under license outside the United States;

"(2) the estimated value of such coproduction or licensed production; and

"(3) an analysis of the economic impact on the United States of furnishing or not furnishing the proposed assistance.

"(g) PROCUREMENT INVOLVING CERTAIN VESSELS OF WAR.—

"(1) PROHIBITION.—Except as provided in paragraph (2), if the President so determines, assistance described in paragraph (3) may not be used for the procurement of—

"(A) any vessel of war built pursuant to a prime contract awarded to a foreign shipyard; or

"(B) any weapons system or other major system or subsystem for any vessel of war built pursuant to a prime contract awarded to foreign shipyard rather than a United States shipyard because of unfair foreign competition (such as subsidization or the provision of financial or material incentives to the foreign country for which the vessel is built).

"(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to a vessel of war that—

"(A) is built in the foreign country that is the recipient of the assistance; or

"(B) is built pursuant to a prime contract signed before the effective date of this subsection.

"(3) ASSISTANCE SUBJECT TO PROHIBITION.—The prohibition in paragraph (1) applies with respect to any obligation of assistance under this section, and any expenditure of MAP or FMS assistance, totaling more than $1,000,000.

"(4) DEFINITIONS.—For the purposes of this subsection—

"(A) the term 'MAP or FMS assistance' means any assistance under the former authorities of chapter 2 of part II of this Act or section 23 of the Arms Export Control Act; and

"(B) the term 'vessel of war' means any vessel of war in Category VI of the United States Munitions List, without regard to whether the vessel is imported into or exported from the United States.

"(h) CIVIC ACTION IN AFRICA.—Funds appropriated to carry out this chapter may be used for civic action in Africa notwithstanding section 6204 of this Act and any similar provision of law that prohibits assistance to countries in default on obligations owed to the United States.

"SEC. 2202. TERMS OF FINANCING ASSISTANCE.

"(a) IN GENERAL.—Financing may be provided under this chapter on a grant basis, on a credit basis, or as guaranties, subject to the requirements of the Federal Credit Reform Act of 1990.

"(b) CRITERIA FOR DETERMINING TERMS OF FINANCING.—In determining whether financing under this chapter will be provided to a foreign country on a grant, credit, or guaranty basis, the President shall take into account the following:

"(1) The national security and foreign policy interests of the United States in furnishing such assistance to that country.

"(2) The legitimate national security and self-defense needs of that country, taking into account regional and other threats to its security.

"(3) The economic conditions and circumstances of that country, including its per capita gross national product, debt service ratio, and external debt and rescheduled external debt, and whether the country has been designated as a middle income country by the International Bank for Reconstruction and Development.

"(c) TERMS OF CREDITS.—

"(1) REPAYMENT PERIOD.—In the case of credits provided under this chapter, the President shall require repayment in United States dollars within a period not to exceed 12 years after the loan agreement with the country or international organization is signed on behalf of the United States Government, unless a longer period is specifically authorized by law for that country or international organization.

"(2) INTEREST RATE.—The President shall charge interest on credits provided under this chapter at such rate as the President considers appropriate, except that such rate may not be less than 5 percent per year.

"(d) FINANCING ASSISTANCE.—Funds used to finance the procurement of defense articles and defense services under section 2201(a) (2) or (3) shall be disbursed—

"(1) to suppliers (including the United States military departments) on behalf of the recipient country or organization; or

"(2) to the recipient country or organization as reimbursement upon submission of satisfactory proof of payments to suppliers.

"(e) GUARANTIES.—Any guaranties issued under this chapter shall be backed by the full faith and credit of the United States.

"(f) USE OF ASSISTANCE FOR DEBT REPAYMENT.—

"(1) AUTHORITY.—Funds appropriated to carry out this chapter may be made available to a foreign country to make payments of principal and interest that it owes to the United States in connection with sales of defense articles or defense services on account of credits previously extended to it, or loans previously guaranteed, under this chapter (or under the former authorities of the Arms Export Control Act or any other predecessor military sales or military assistance legislation), subject to paragraph (2).

"(2) PROHIBITION ON PREPAYMENT.—Funds made available to carry out this chapter may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).

"(g) CONGRESSIONAL NOTIFICATION OF CHANGES IN CREDIT OR GUARANTY ASSISTANCE.—At least 15 days before obligating funds for credits or guaranties under this chapter—

"(1) for any country for which credits or guaranties (as the case may be) were not justified for that fiscal year, or

"(2) for any country in an amount greater than the amount of credits or guaranties (as the case may be) justified for that country for that fiscal year,

the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"SEC. 2203. ELIGIBILITY.

"(a) CONDITIONS.—Financing may not be furnished under this chapter for the procurement of defense articles or defense services by a foreign country, and defense articles or defense services may not otherwise be furnished under this chapter or chapter 3 to a foreign country, unless that country has agreed to the following (in addition to such other provisions as the President may require):

"(1) The country will not, without the consent of the President—

"(A) transfer title to, or possession of, such articles or services to anyone who is not an officer, employee, or agent of that country; or

"(B) use or permit the use of such articles or services for purposes other than those for which furnished.

"(2) The country will maintain the security of such articles or services, and will provide substantially the same degree of security protection afforded to such articles or services by the United States Government.

"(b) INELIGIBILITY.—

"(1) TERMINATION OF ASSISTANCE FOR SUBSTANTIAL VIOLATIONS.—Assistance and deliveries of assistance under section 2201(a)(1) to any country shall be terminated, and new commitments to provide financing under section 2201(a) (2) or (3) to that country shall not be made, as hereinafter provided if such country uses defense articles or defense services described in paragraph (2) in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement pursuant to which those defense articles or defense services were furnished—

"(A) by using (without the consent of the President) such articles or services for a purpose not specified in paragraph (3) or, if such agreement provides that such articles or services may only be used for purposes more limited than those specified, for a purpose not authorized under such agreement;

"(B) by transferring (without the consent of the President) such articles or services to anyone not an officer, employee, or agent of the recipient country; or

"(C) by failing to maintain the security of such articles or services.

"(2) DEFENSE ARTICLES AND DEFENSE SERVICES SUBJECT TO REQUIREMENTS.—Paragraph (1) applies with respect to any defense articles or defense services furnished (through financing or otherwise) under this Act, sold or leased under the Defense Trade and Export Control Act, or furnished under any predecessor foreign assistance or military sales legislation.

"(3) USES PERMITTED.—The purposes referred to in paragraph (1) are the following:

"(A) Legitimate self-defense.

"(B) Participation in regional or collective arrangements or measures consistent with the Charter of the United Nations, or participation in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

"(C) Internal security.

"(D) Construction of public works or other activities which contribute to the economic and social development of the recipient country.

"(E) Such other purposes as may be provided for in particular provisions of law.

"(4) ACTIONS REQUIRED FOR TERMINATION.—Assistance and deliveries of assistance shall be terminated, and new commitments to provide assistance shall not be made, pursuant to paragraph (1) if—

"(A) the President so determines and states in writing to the Congress, or

"(B) the Congress so determines by joint resolution.

"(5) REPORTS TO CONGRESS.—The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) may have occurred.

"(6) PERIOD OF TERMINATION.—Assistance to a country shall remain terminated in accordance with paragraph (1) until such time as—

"(A) the President determines that the violation has ceased; and

"(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

"SEC. 2204. APPROVAL OF THIRD COUNTRY TRANSFERS.

"(a) IN GENERAL.—In considering a request under section 2203(a)(1) for approval of any transfer to a third country of any defense article on the United States Munitions List (other than any such defense article the useful life of which has expired) or any defense service, the President shall not give his consent to the transfer unless the United States itself would transfer the defense article or defense service under consideration to that country.

"(b) SIGNIFICANT MILITARY EQUIPMENT.—In addition, the President shall not give his consent under section 2203(a)(1) to the transfer of any significant military equipment on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such equipment prior to transfer, or the proposed recipient provides a commitment in writing to the United States Government that it will not transfer such equipment if not demilitarized, to any other foreign country or person without first obtaining the consent of the President.

"SEC. 2205. IMPROVED ACCOUNTABILITY WITH RESPECT TO FINANCED COMMERCIAL ARMS SALES.

"(a) FINDINGS.—The Congress finds that—

"(1) government-to-government sales of defense articles and defense services that are financed under this chapter are subject to various accountability requirements pursuant to the Federal Acquisition Regulation; but

"(2) comparable accountability requirements have not been applied to commercial sales of defense articles and defense services that are financed by the United States Government; and

"(3) more stringent eligibility standards and fiscal and accounting controls (including improved access to records) need to be established with respect to financed commercial arms sales.

"(b) MONITORING AND AUDITING REQUIREMENTS.—In order to carry out subsection (a)(3), the President shall establish controls providing that financed commercial arms sales shall be subject to monitoring and auditing requirements no less stringent in terms of accountability than those requirements of the Federal Acquisition Regulation that are applicable to sales under the Defense Trade and Export Control Act and that relate to improper business practices and personal conflict of interest.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)); and

"(2) the term 'financed commercial arms sales' means any procurement of defense articles or defense services (other than by sale or lease under the Defense Trade and Export Control Act)—

"(A) which is financed in whole or in part with assistance under this chapter, and

"(B) with respect to which an export license is required under section 38 of Defense Trade and Export Control Act.

"(d) EFFECTIVE DATE.—The controls established pursuant this section shall be established not later than one year after the date of enactment of this section.

"SEC. 2206. CONSIDERATIONS IN FURNISHING ASSISTANCE.

"Decisions to furnish assistance under this chapter shall be made in coordination with the United States Arms Control and Disarmament Agency and shall take into account the Agency's opinion as to whether such assistance will—

"(1) contribute to an arms race;

"(2) increase the possibility of outbreak or escalation of conflict; or

"(3) prejudice the development of bilateral or multilateral arms control arrangements.

"SEC. 2207. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) FISCAL YEARS 1992 AND 1993.—There are authorized to be appropriated to the President to carry out this chapter $4,411,444,000 for fiscal year 1992 and $4,840,000,000 for fiscal year 1993.

"(b) RESERVE FUND FOR CERTAIN COUNTRIES.—

"(1) FUNDS SET ASIDE FOR CERTAIN COUNTRIES.—Two percent of the aggregate amount of financing provided on a grant or credit basis under this chapter for each of the fiscal years 1992 and 1993 shall be available only for assistance for otherwise eligible countries for which the Congress has not by law specified a minimum or a maximum amount of assistance to be provided under this chapter for that fiscal year. To the extent necessary to carry out this paragraph, funds may be made available for use under this paragraph notwithstanding any provision specifying such a minimum (other than a provision specifying a minimum for Israel or Egypt).

"(2) NOTICE TO CONGRESS.—At least 15 days before obligating funds for a country under this subsection, the President shall notify the appropriate congressional committees.

"(c) CERTAIN GENERIC AUTHORIZATIONS SUPERSEDED.—The authorizations of appropriations provided in section 505(a) of the Federal Credit Reform Act of 1990 for the costs associated with any loan and loan guaranty programs do not apply with respect to credits and guaranties under this chapter.

"CHAPTER 3—TRANSFERS OF EXCESS DEFENSE ARTICLES

"SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF MILITARY ASSISTANCE RECIPIENTS.

"(a) AUTHORITY.—Notwithstanding any other provision of law, the President may transfer to any eligible country such excess defense articles as may be necessary to help modernize the defense capabilities of that country.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer will not have an adverse impact on the military readiness of the United States;

"(4) transferring the excess defense articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale; and

"(5) the transfer is not prohibited by section 6202 (relating to assistance for law enforcement forces).

"(c) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DEPARTMENT OF DEFENSE EXPENSES.—Section 7201(d) does not apply with respect to transfers of excess defense articles under this section.

"(e) TRANSPORTATION AND RELATED COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

"(2) EXCEPTION.—Notwithstanding section 7201(d) or any other provision of law, the President may direct the crating, packing, handling, and transport of excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the excess defense articles are being provided to that country under the authority of this section.

"(f) NOTIFICATIONS TO CONGRESS.—

"(1) DESIGNATION OF ADDITIONAL ELIGIBLE COUNTRIES.—The President shall notify the relevant congressional committees at least 15 days before designating a country as an eligible country pursuant to subsection (h)(1)(A)(iii)(II).

"(2) PROPOSED TRANSFERS.—The President may not transfer excess defense articles under this section until 15 days after the President has provided notice of the proposed transfer to the relevant congressional committees. This notification shall include—

"(A) a discussion of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of the value of the excess defense articles to be transferred.

"(3) PROCEDURES APPLICABLE TO NOTIFICATIONS.—Notifications pursuant to this subsection shall be considered in accordance with the procedures applicable to reprogramming notifications submitted to the relevant congressional committees.

"(g) MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

"(1) UNITED STATES POLICY.—Excess defense articles shall be made available under this section consistent with the United States policy, established by section 5501 of this Act, of maintaining the military balance in the Eastern Mediterranean.

"(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the 3-year period beginning on October 1, 1991, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section,

closely approximates the ratio of—

"(i) the amount of foreign military financing assistance provided for Turkey, to

"(ii) the amount of foreign military financing assistance provided for Greece.

"(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under this section.

"(h) DEFINITIONS.—

"(1) ELIGIBLE COUNTRIES.—(A) For purposes of this section, the term 'eligible country' means a country—

"(i) for which foreign military financing assistance was justified for the fiscal year in which the transfer of excess defense articles under this section is authorized;

"(ii) that is eligible to receive foreign military financing assistance at the time of the transfer; and

"(iii) that either—

"(I) is a grandfathered country, or

"(II) has been designated by the President as an eligible country for purposes of this section.

"(B) As used in subparagraph (A)(iii)(I), the term 'grandfathered country' means a country—

"(i) that is a member of the North Atlantic Treaty Organization, a major non-NATO ally, or a country in North Africa, and

"(ii) that was eligible to receive excess defense articles under the former authority of section 516 of this Act (as in effect immediately prior to the effective date specified in section 1101 of the International Cooperation Act of 1991).

"(2) EXCESS COAST GUARD PROPERTY.—For purposes of this section and sections 2304 and 2305, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard. For purposes of this section, the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.

"(3) MADE AVAILABLE.—For purposes of subsection (g), the term 'made available' means a good faith offer is made by the United States to furnish the excess defense articles to a country.

"(4) RELEVANT CONGRESSIONAL COMMITTEES.—For purposes of this section, the term 'relevant congressional committees' means the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"SEC. 2302. MODERNIZATION OF COUNTERNARCOTICS CAPABILITIES OF MAJOR ILLICIT DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—The President may transfer to an eligible drug producing or transit country such excess defense articles as may be necessary to carry out subsection (b).

"(b) PURPOSE OF TRANSFERS.—Excess defense articles may be transferred to an eligible drug producing or transit country under subsection (a) only for the purpose of encouraging military forces and law enforcement agencies of that country to participate cooperatively in a comprehensive national counternarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of narcotic or psychotropic drugs or other controlled substances.

"(c) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be transferred under subsection (a) to an eligible drug producing or transit country only if that country ensures that those excess defense articles will be used primarily in support of counternarcotics activities.

"(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a). In accordance with section 4102 of this Act, the Secretary shall ensure that the transfer of excess defense articles under subsection (a) is coordinated with other counternarcotics enforcement programs assisted by the United States Government.

"(e) DOLLAR LIMITATION ON TRANSFERS TO EACH COUNTRY.—The value of excess defense articles transferred under subsection (a) to an eligible drug producing or transit country in a fiscal year may not exceed $10,000,000.

"(f) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the transfer will not have an adverse impact on the military readiness of the United States; and

"(4) transferring the excess defense articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(g) Terms of Transfers.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(h) Waiver of Requirement for Reimbursement of DOD Expenses.—Section 7201(d) does not apply with respect to transfers of excess defense articles under this section.

"(i) Transportation and Related Costs.—

"(1) In general.—Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of this section.

"(2) Exception.—Notwithstanding section 7201(d) or any other provision of law, the President may direct the crating, packing, handling, and transport of excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the excess defense articles are being provided to that country under the authority of this section.

"(j) Notifications to Congress.—

"(1) Proposed transfers.—The President may not transfer excess defense articles under this section until 15 days after the President has provided notice of the proposed transfer to the relevant congressional committees. This notification shall include—

"(A) a discussion of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of the value of the excess defense articles to be transferred.

"(2) Procedures applicable to notifications.—Notifications pursuant to this subsection shall be considered in accordance with the procedures applicable to reprogramming notifications submitted to the relevant congressional committees.

"(k) Definitions.—

"(1) Eligible drug producing or transit country.—For purposes of this section, the term 'eligible drug producing or transit country' means a country—

"(A) that is a major illicit drug producing country or a major drug-transit country;

"(B) that has a democratic government; and

"(C) whose security forces do not engage in a consistent pattern of gross violations of internationally recognized human rights; and

"(D) that is eligible to receive foreign military financing assistance at the time the excess defense articles are transferred.

"(2) Excess coast guard property.—For purposes of this section and sections 2304 and 2305, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard. For purposes of this section, the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.

"(3) Relevant congressional committees.—For purposes of this section, the term 'relevant congressional committees' means the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"SEC. 2303. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.

"(a) Authority To Transfer Nonlethal Excess Defense Articles and Small Arms.—The President may transfer eligible articles to an eligible country, an international organization, or a private voluntary organization for the purpose of protecting and maintaining wildlife habitats and developing sound wildlife management and plant conservation programs.

"(b) Limitations on Transfers.—The President may transfer eligible articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

"(3) the President determines that the transfer will not have an adverse impact on the military readiness of the United States; and

"(4) transferring the eligible articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) Terms of Transfers.—Eligible articles may be transferred under this section without cost to the recipient country or organization.

"(d) Waiver of Requirement for Reimbursement of DOD Expenses.—Section 7201(d) does not apply with respect to transfers of eligible articles under this section.

"(e) Transportation.—The President is authorized to transport eligible articles made available under this section without charge on a space available basis.

"(f) Notifications to Congress.—

"(1) Designation of additional eligible countries.—The President shall notify the relevant congressional committees at least 15 days before designating a country as an eligible country pursuant to subsection (g)(2)(A)(iii)(II).

"(2) Proposed transfers.—The President may not transfer eligible articles under this section until 15 days after the President has provided notice of the proposed transfer to the relevant congressional committees. This notification shall include—

"(A) a discussion of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of the value of the eligible articles to be transferred.

"(3) Procedures applicable to notifications.—Notifications pursuant to this subsection shall be considered in accordance with the procedures applicable to reprogramming notifications submitted to the relevant congressional committees.

"(g) Definitions.—

"(1) Department of Defense.—For purposes of this section, the term 'Department of Defense' shall be deemed, with respect to excess property of the Coast Guard, to include the Coast Guard.

"(2) Eligible country.—(A) For purposes of this section, the term 'eligible country' means a country—

"(i) for which foreign military financing assistance was justified for the fiscal year in which the transfer of eligible articles under this section is authorized;

"(ii) that is eligible to receive foreign military financing assistance at the time of the transfer; and

"(iii) that either—

"(I) is a grandfathered country, or

"(II) has been designated by the President as an eligible country for purposes of this section.

"(B) As used in subparagraph (A)(iii)(I), the term 'grandfathered country' means Botswana, Central African Republic, Cameroon, Kenya, Malawi, Tanzania, and Zimbabwe.

"(3) Eligible articles.—For purposes of this section, the term 'eligible articles' means—

"(A) nonlethal excess defense articles,

"(B) nonlethal excess property of the Coast Guard, and

"(C) small arms.

"(4) Excess defense articles.—For purposes of sections 2304 and 2305, the term 'excess defense articles' shall be deemed to include eligible articles transferred under the authority of this section.

"(5) Relevant congressional committees.—For purposes of this section, the term 'relevant congressional committees' means the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"SEC. 2304. ANNUAL CEILING ON TRANSFERS OF EXCESS DEFENSE ARTICLES.

"The aggregate value of excess defense articles ordered by the President in any fiscal year for delivery under the authority of this chapter or the Defense Trade and Export Control Act may not exceed $250,000,000, excluding—

"(1) excess defense articles ordered for transfer under section 2301,

"(2) defense articles with respect to which the President submits a certification under section 36(b) of the Defense Trade and Export Control Act, and

"(3) ships and their onboard stores and supplies transferred in accordance with law.

"SEC. 2305. ANNUAL REPORTS ON TRANSFERS OF EXCESS DEFENSE ARTICLES.

"The annual presentation materials for security assistance programs shall include a table listing by country the total value of all deliveries of excess defense articles during the preceding fiscal year under section 2201, under section 2301, under section 2302, under section 2303, under section 2901, or under the Defense Trade and Export Control Act (respectively), disclosing both the aggregate original acquisition cost and the aggregate value at the time of delivery.

"CHAPTER 4—OVERSEAS MANAGEMENT OF ASSISTANCE AND SALES PROGRAMS

"SEC. 2401. AUTHORIZED FUNCTIONS.

"(a) In General.—In order to carry out responsibilities for the management of international security assistance and sales programs conducted under chapter 2, chapter 3, and chapter 5 and under the Defense Trade and Export Control Act, the President may assign members of the Armed Forces to a foreign country to perform one or more of the following functions:

"(1) Equipment and services case management.

"(2) Training management.

"(3) Program monitoring.

"(4) Evaluation and planning of the host government's military capabilities and requirements.

"(5) Administrative support.

"(6) Promoting rationalization, standardization, interoperability, and other defense cooperation measures.

"(7) Liaison functions exclusive of advisory and training assistance.

"(b) ADVISORY AND TRAINING ASSISTANCE.—Advisory and training assistance conducted by members of the Armed Forces assigned under this chapter shall be kept to an absolute minimum. Advising and training assistance in countries to which members of the Armed Forces are assigned under this chapter should be provided primarily by other personnel who are not assigned under this chapter and who are detailed for limited periods to perform specific tasks.

"(c) PROGRAM MONITORING.—At least one member of the Armed Forces assigned to each country under this chapter shall be given responsibility primarily for monitoring the international security assistance and sales program in that country.

"SEC. 2402. LIMIT ON SIZE OF GROUPS.

"The total number of members of the Armed Forces assigned under this chapter to a foreign country in a fiscal year may not exceed the number justified to the Congress for that country in the congressional presentation materials for that fiscal year, unless the appropriate congressional committees are notified 30 days in advance of the introduction of the additional military personnel.

"SEC. 2403. COSTS.

"The entire costs (excluding salaries of members of the Armed Forces, other than the Coast Guard) of overseas management of international security assistance and sales programs under this chapter shall be charged to or reimbursed from funds made available to carry out chapter 2, other than any such costs which are either—

"(1) paid directly for such defense services under section 21(a) of the Defense Trade and Export Control Act, or

"(2) reimbursed from charges for services collected from foreign governments pursuant to section 21(e) and section 43(b) of that Act.

"SEC. 2404. ROLE OF CHIEF OF MISSION.

"Members of the Armed Forces assigned to a foreign country under this chapter shall serve under the direction and supervision of the chief of the United States diplomatic mission to that country.

"CHAPTER 5—INTERNATIONAL MILITARY EDUCATION AND TRAINING

"SEC. 2501. GENERAL AUTHORITY.

"(a) GENERAL AUTHORITY.—The President is authorized to furnish military education and training to military and related civilian personnel of foreign countries. Such civilian personnel may include foreign governmental personnel of ministries other than ministries of defense, and may also include legislators, if the military education and training would—

"(1) foster greater respect for and understanding of the principle of civilian control of the military;

"(2) improve military justice systems and procedures in accordance with internationally recognized human rights;

"(3) contribute to responsible defense resource management; or

"(4) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts.

"(b) FURNISHING OF ASSISTANCE.—Training and education under this chapter may be provided through—

"(1) attendance at military educational and training facilities in the United States (other than Service academies) and abroad;

"(2) attendance in special courses of instruction at schools and institutions of learning or research in the United States and abroad; and

"(3) observation and orientation visits to military facilities and related activities in the United States and abroad.

"SEC. 2502. TERMS OF ASSISTANCE.

"(a) GRANT ASSISTANCE.—Military education and training under this chapter shall be furnished on a grant basis.

"(b) ASSISTANCE ON CREDIT TERMS.—Whenever feasible military education and training shall be provided on credit terms under chapter 2.

"SEC. 2503. EXCHANGE TRAINING.

"In carrying out this chapter, the President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than Service academies) without charge, and without charge to funds available to carry out this chapter (notwithstanding section 7201(d)), if such attendance is pursuant to an agreement providing for the exchange of students on a one-for-one, reciprocal basis each fiscal year between those United States professional military education institutions and comparable institutions of foreign countries and international organizations.

"SEC. 2504. TRAINING IN MARITIME SKILLS.

"The President is encouraged to allocate a portion of the funds made available each fiscal year to carry out this chapter for use in providing education and training in maritime search and rescue, operation and maintenance of aids to navigation, port security, at-sea law enforcement, international maritime law, and general maritime skills.

"SEC. 2505. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $52,500,000 for fiscal year 1992 and $52,500,000 for fiscal year 1993.

"CHAPTER 6—PEACEKEEPING OPERATIONS

"SEC. 2601. GENERAL AUTHORITY.

"(a) IN GENERAL.—The President is authorized to furnish assistance to foreign countries and international organizations for peacekeeping operations and activities and related programs.

"(b) REIMBURSEMENT OF DOD.—Assistance under this chapter may include reimbursement to the Department of Defense for expenses incurred pursuant to section 7 of the United Nations Participation Act of 1945. Such reimbursements may not exceed $5,000,000 in any fiscal year unless a greater amount is specified in authorizing legislation.

"(c) RELATION TO OTHER PROVISIONS.—The authority provided by this chapter to furnish assistance for the purposes specified in subsection (a) is in addition to any other authority which may be available for those purposes. Assistance provided under this chapter may be made available notwithstanding any provision of law that restricts assistance to foreign countries.

"SEC. 2602. SPECIAL TRANSFER AND DRAWDOWN AUTHORITIES.

"(a) UNFORESEEN EMERGENCIES.—If the President determines that, as the result of an unforeseen emergency, the provision of assistance under this chapter in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States, the President may—

"(1) exercise the authority of section 6101 of this Act to transfer for use under this chapter funds available for economic support assistance without regard to the 20-percent increase limitation contained in such section, except that the total amount so transferred in any fiscal year may not exceed $15,000,000; and

"(2) in the event the President also determines that such unforeseen emergency requires the immediate provision of assistance under this chapter, direct the drawdown of commodities and services, of an aggregate value not to exceed $25,000,000 in any fiscal year, from the inventory and resources of any agency of the United States Government.

"(b) REIMBURSEMENT.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under this section.

"SEC. 2603. ADMINISTRATIVE AUTHORITIES.

"Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter and any reference in any law to title II of this Act shall be deemed to exclude reference to this chapter.

"SEC. 2604. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $28,000,000 for fiscal year 1992 and $28,000,000 for fiscal year 1993.

"CHAPTER 7—STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

"SEC. 2701. RESTRICTIONS ON STOCKPILING.

"(a) REMOVAL FROM STOCKPILING.—Defense articles in the inventory of the Department of Defense which are set aside, reserved, or in any way earmarked or intended for future use by any foreign country may not be made available to or for use by any foreign country unless—

"(1) such transfer is authorized under this Act or the Defense Trade and Export Control Act; and

"(2) the value of such transfer is charged against funds authorized under this Act or against any limitations which may be established by the Congress, as appropriate, for the fiscal period in which the defense articles are transferred.

"(b) VALUE.—

"(1) DEFINITION.—For purposes of subsection (a), 'value' means acquisition cost plus crating, packing, handling, and transportation costs incurred in carrying out this section.

"(2) LIMITATION.—A defense article transferred from any stockpile which is made available to or for use by any foreign country may not be considered an excess defense article for the purpose of determining the value of that defense article.

"SEC. 2702. LOCATION OF STOCKPILES.

"(a) LIMITATION.—Except as provided in subsection (b), no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

"(b) EXCEPTIONS.—Subsection (a) does not apply with respect to stockpiles located in the Republic of Korea, Thailand, any country that is a member of the North Atlantic Treaty Organization, any country that is a major non-NATO ally, or any other country the President may designate. At least 15 days before designating a country pursuant to the last clause of the preceding sentence, the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304 of this Act.

"SEC. 2703. ADDITIONS TO WAR RESERVE STOCKS.

"(a) LIMITATION.—The value of additional defense articles to be set aside, earmarked, reserved, or intended for use as war reserve stocks for allied or other foreign countries (other than for purposes of the North Atlantic Treaty Organization) in stockpiles located in foreign countries may not exceed in any fiscal year an amount that is specified in legislation authorizing military assistance programs for that fiscal year.

"(b) AUTHORIZATION OF ADDITIONS.—The value of such additions to stockpiles in foreign countries shall not exceed $429,000,000 for fiscal year 1992 and shall not exceed $429,000,000 for fiscal year 1993.

"CHAPTER 8—INTERNATIONAL TERRORISM

"SEC. 2801. COORDINATION OF ALL UNITED STATES TERRORISM-RELATED ASSISTANCE TO FOREIGN COUNTRIES.

"(a) COORDINATION.—The Secretary of State shall be responsible for coordinating all assistance related to international terrorism which is provided by the United States Government.

"(b) REPORTS.—Not later than February 1 each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance related to international terrorism which was provided by the United States Government during the preceding fiscal year. Such reports may be provided on a classified basis to the extent necessary, and shall specify the amount and nature of the assistance provided.

"(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

"SEC. 2802. CONSIDERATIONS IN PROVIDING ASSISTANCE.

"(a) TRANSNATIONAL THREAT OF TERRORISM.—Terrorism continues to pose a danger to a stable world order, and to endanger the ability of the people of the United States and the world to live and travel in peace and safety.

"(b) CONSIDERATIONS IN PROVIDING ASSISTANCE.—In providing assistance under this Act, the President should take into account the cooperation provided by other countries in connection with matters related to international terrorism, including such matters as whether a country grants sanctuary from prosecution to individuals or groups that have engaged in international terrorism.

"SEC. 2803. ANTITERRORISM ASSISTANCE.

"(a) PURPOSES OF ASSISTANCE.—In helping meet the transnational threat posed by terrorism, activities conducted under this chapter shall be designed—

"(1) to enhance the antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism;

"(2) to strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

"(3) to increase respect for human rights by sharing with foreign civil authorities modern, humane, and effective antiterrorism techniques.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—Subject to the provisions of this chapter, the President is authorized to furnish assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombing, kidnaping, assassination, hostage taking, and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security, and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

"SEC. 2804. AUTHORITIES AND LIMITATIONS.

"(a) GRANT ASSISTANCE.—

"(1) AUTHORIZATION.—Services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (within the meaning of section 7601(d)(9)) pursuant to section 7201 of this Act from funds available to carry out this chapter.

"(2) EXEMPTION FROM PROHIBITION ON LAW ENFORCEMENT ASSISTANCE.—Section 6202 (relating to the prohibition on assistance for law enforcement forces) does not apply with respect to assistance provided under paragraph (1).

"(b) REIMBURSED ASSISTANCE.—

"(1) AUTHORIZATION.—Whenever the President considers it to be consistent with and in furtherance of the purposes of this chapter any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (within the meaning of section 7601(d)(9)) in United States dollars by the foreign country.

"(2) PROHIBITION ON USE OF FOREIGN MILITARY FINANCING FOR REPAYMENT.—Foreign military financing assistance may not be used for payments under paragraph (1).

"(3) CREDITING OF COLLECTIONS.—Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such services and commodities and shall be available for the purposes for which such appropriation, account, or fund is authorized to be used.

"(c) HUMAN RIGHTS.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall be consulted in the development and implementation of the antiterrorism assistance program under this chapter, including determinations of the foreign countries that will be furnished assistance under this chapter and determinations of the nature of assistance to be furnished to each such country.

"(d) LIMITATIONS.—

"(1) TRAINING SERVICES.—Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the appropriate congressional committees are notified in accordance with the procedures applicable to reprogramming notifications under section 6304.

"(2) ADVICE OUTSIDE THE UNITED STATES.—Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3) TRAINING BY STATE DEPARTMENT PERSONNEL.—(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.

"(4) MUNITIONS ITEMS.—(A) Articles on the United States Munitions List may be made available under this chapter only if—

"(i) they—

"(I) are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in paragraph (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus, and armor plating), and

"(II) are directly related to antiterrorism training under this chapter;

"(ii) the recipient country is not prohibited by law from receiving foreign military financing assistance or international military education and training; and

"(iii) at least 15 days before the articles are made available to the foreign country, the President notifies the appropriate congressional committees of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications under section 6304.

"(B) No shock batons or similar devices may be provided under this chapter.

"(5) EQUIPMENT TRANSFERS.—The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

"(6) ASSISTANCE RELATING TO INTELLIGENCE ACTIVITIES.—Assistance under this chapter shall not include activities authorized by the National Security Act of 1947 (50 U.S.C. 401 and following), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a and following), and Executive Order 12333, other than limited training in the organization of intelligence for antiterrorism purposes under the provisions of this chapter.

"(7) PERSONNEL COMPENSATION OR BENEFITS.—Funds made available to carry out this chapter may not be used for personnel compensation or benefits.

"(e) INFORMATION EXCHANGE ACTIVITIES.—This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

"SEC. 2805. REPORTS TO CONGRESS.

"(a) NOTICE TO CONGRESS.—Not less than 30 days before providing assistance to a foreign country under this chapter, the President shall transmit to the appropriate congressional committees a written notification which specifies—

"(1) the country to which such assistance is to be provided;

"(2) the type and value of the assistance to be provided;

"(3) the terms and duration of assistance; and

"(4) an explanation of how the proposed assistance will further the objectives of this chapter to assist eligible foreign countries in deterring terrorism.

"(b) CONGRESSIONAL PRESENTATION DOCUMENTS.—The annual congressional presentation documents shall include—

"(1) a list of the countries which received assistance under this chapter for the preceding fiscal year, a list of the countries which are programmed to receive assistance under this chapter for the current fiscal year, and a list of the countries which are proposed as recipients of assistance under this chapter for the next fiscal year;

"(2) with respect to each country listed pursuant to paragraph (1) and for each such fiscal year, a description of the assistance under this chapter furnished, programmed, or proposed, including—

"(A) the place where training or other services under this chapter were or will be furnished, the duration of such training or other services, and the number of personnel from that country that received or will receive training under this chapter;

"(B) the types of equipment or other commodities which were or will be furnished under this chapter; and

"(C) whether the assistance was furnished on a grant basis, on an advance payment basis, or on some other basis; and

"(3) a description of the ways in which the provision of such assistance has furthered the objective of enhancing the ability of foreign law enforcement authorities to deter acts of terrorism.

"SEC. 2806. ADMINISTRATIVE AUTHORITIES.

"Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this chapter and references to title II shall be deemed to exclude reference to this chapter.

"SEC. 2807. AUTHORIZATIONS OF APPROPRIATIONS.

"There are authorized to be appropriated to the President to carry out this chapter $15,000,000 for fiscal year 1992 and $15,000,000 for fiscal year 1993.

"SEC. 2808. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

"(a) PROHIBITION.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

"(b) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

"(c) RESCISSION.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism;

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

"(d) WAIVER.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

"(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under this chapter, any other chapter of this title (including chapter 6), chapter 3 of title I (relating to economic support assistance), or the Export-Import Bank Act of 1945; and

"(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate containing—

"(A) the name of the recipient country;

"(B) a description of the national security interests or humanitarian reasons which require the waiver;

"(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

"(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under this Act which is also prohibited by section 40 of the Defense Trade and Export Control Act.

"CHAPTER 9—OTHER PROVISIONS

"Subchapter A—Special Drawdown Authorities

"SEC. 2901. SPECIAL DRAWDOWN AUTHORITIES.

"(a) UNFORESEEN EMERGENCIES REQUIRING MILITARY ASSISTANCE.—If the President determines and reports to the Congress that—

"(1) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization, and

"(2) the emergency requirement cannot be met under the authority of the Defense Trade and Export Control Act or any other law except this section,

the President may direct, for purposes of providing grant assistance under the authorities of chapter 2 or chapter 5, the drawdown of defense articles from the stocks of the Department of Defense or the drawdown of defense services of the Department of Defense.

"(b) SPECIAL CIRCUMSTANCES REQUIRING NONMILITARY ASSISTANCE.—If the President determines that it is in the national interest of the United States to do so, the President may direct the drawdown of commodities from the stocks of the Department of Defense or the drawdown of defense services of the Department of Defense for purposes of providing—

"(1) international narcotics control assistance;

"(2) international disaster assistance; or

"(3) assistance under the authorities of the Migration and Refugee Assistance Act of 1962.

"(c) AGGREGATE ANNUAL CEILINGS.—The aggregate value of—

"(1) defense articles and defense services made available under subsection (a) may not exceed $100,000,000 in any fiscal year; and

"(2) commodities and services made available under subsection (b) may not exceed $75,000,000 in any fiscal year.

"(d) NOTICE TO CONGRESS.—

"(1) PRIOR NOTICE.—The President may exercise the authority of this section upon providing notification to the appropriate congressional committees. In the case of drawdowns authorized under paragraphs (1) and (3) of subsection (b), notification shall be provided 15 days in advance, in accordance with procedures applicable to reprogramming notifications under section 6304.

"(2) CONTINUING INFORMATION.—The President shall keep the Congress fully and currently informed of all defense articles, defense services, commodities, and services provided under this section.

"(e) NONAPPLICABILITY OF REQUIREMENT FOR REIMBURSEMENT FROM EXISTING ASSISTANCE FUNDS.—Section 7201(d) does not apply with respect to defense articles, defense services, commodities, or services made available under this section.

"(f) MILITARY EDUCATION AND TRAINING.—For purposes of this section, the terms 'defense services' and 'services' shall be deemed to include military education and training.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, commodities, and services provided under this section.

"Subchapter B—Exercise and Coordination of Functions

"SEC. 2921. RESPONSIBILITIES OF THE SECRETARY OF STATE.

"Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the assistance programs authorized by this title to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby. The Secretary's responsibilities under this section include decisions of whether there will be a military assistance program for a country and the amount of such program.

"SEC. 2922. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE.

"(a) GENERAL RESPONSIBILITIES.—In the case of assistance under this title, the Secretary of Defense shall have primary responsibility for—

"(1) the determination of military end-item requirements;

"(2) the procurement of military equipment in a manner which permits its integration with service programs;

"(3) the supervision of end-item use by the recipient countries;

"(4) the supervision of the training of foreign military and related civilian personnel;

"(5) the movement and delivery of military end-items; and

"(6) within the Department of Defense, the performance of any other functions with respect to the furnishing of military assistance.

"(b) PROCUREMENT, DELIVERY, AND ALLOCATION OF DEFENSE ARTICLES AND SERVICES.—The Secretary of Defense shall be responsible for establishing priorities in the procurement, delivery, and allocation of defense articles and defense services.

"SEC. 2923. SECURITY ASSISTANCE COORDINATION.

"(a) SECURITY ASSISTANCE COORDINATOR.—The President shall appoint, by and with the advice and consent of the Senate, one officer for the purpose of coordinating security assistance programs.

"(b) MILITARY ASSISTANCE RECOMMENDATIONS.—The chief of the United States diplomatic mission to a country shall ensure that recommendations pertaining to military assistance programs for that country are coordinated with political and economic considerations.

"Subchapter C—Miscellaneous

"SEC. 2941. PERSONNEL LIMITED TO NONCOMBATANT DUTIES.

"Personnel providing defense services under chapter 2, performing functions under chapter 4, or providing military education and training under chapter 5 may not perform duties of a combatant nature (including any duty related to training and advising that may engage United States personnel in combat activities) outside the United States in connection with the performance of their duties under those chapters.".

SEC. 202. CONFORMING AMENDMENTS.

The Arms Export Control Act is amended as follows:

(1) Section 2(b) is amended—

(A) by striking out "financing," both places it appears; and

(B) by striking out "or financing for" in paragraph (1).

(2) Section 3(c) is amended—

(A) in paragraph (1), by striking out "(1)(A) No" and all that follows through "(B) No" and inserting in lieu thereof "(1) No";

(B) in paragraph (1), as amended by subparagraph (A), by striking out "this Act, or any predecessor Act," and inserting in lieu thereof ", through sale, financing, or otherwise, under this Act or the Foreign Assistance Act of 1961 (or under any predecessor military sales or foreign assistance legislation)";

(C) in paragraph (3)(A), by striking out "subparagraph (A)" and all that follows through "such paragraphs," and inserting in lieu thereof "paragraph (1)"; and

(D) in paragraph (3)(B), by striking out "subparagraph (B) of".

(3) Section 3 is amended—

(A) in subsection (d), by striking out "section 505(a)(1) or 505(a)(4)" and inserting in lieu thereof "section 2203(a)(1)"; and

(B) in subsection (e), by striking out "section 505" and inserting in lieu thereof "section 2203(a)(1)".

(4) Section 5(a) is amended by striking out ", and no credits (including participations in credits) or guaranties extended to or for" and inserting in lieu thereof "to".

(5) Section 6 is amended—

(A) by striking out ", no credits or guaranties may be extended,"; and

(B) by inserting "and no foreign military financing assistance may be furnished under the Foreign Assistance Act of 1961" after "this Act".

(6) Section 21 is amended—

(A) in subsection (c)(1), by striking out "sold"; and

(B) in subsection (e)(1)(B), by striking out "either from" and all that follows through "nonrepayable basis under" and inserting in lieu thereof "from either (i) funds made available on a grant basis under chapter 2 of title II of the Foreign Assistance Act of 1961, or (ii) funds which, prior to the effective date specified in section 1101 of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of the Foreign Assistance Act of 1961 or were made available on a nonrepayment basis under the former authority of".

(7) Section 23 is repealed.

(8) Section 24 is amended—

(A) by amending the section caption to read "PROVISIONS RELATING TO FORMER CREDIT AND GUARANTY AUTHORITIES";

(B) in subsection (a), by striking out "The" in the first sentence and inserting in lieu thereof "To the extent necessary to carry out the provisions under the heading "FOREIGN MILITARY SALES DEBT REFORM" in title III of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), the";

(C) in subsection (b) by inserting "before the effective date specified in section 1101 of the International Cooperation Act of 1991" after "section 23"; and

(D) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The single reserve established under this section for the payment of claims under guaranties issued under the authority of this section may be referred to as the 'Foreign Military Loan Liquidating Account'.

"(d) Any guaranties issued under the authority of this section are backed by the full faith and credit of the United States.".

(9) Section 25(a) is amended—

(A) in paragraph (5)(A) by striking out "military education" and all that follows through "guarantees," and inserting in lieu thereof "and assistance under chapter 2 or chapter 5 of title II of the Foreign Assistance Act of 1961,";

(B) in paragraph (5)(B) by striking out "credits or guaranties under this Act" and inserting in lieu thereof "financing under chapter 2 of title II of the Foreign Assistance Act of 1961"; and

(C) in paragraph (11)—

(i) by striking out "the Arms Export Control Act" and inserting in lieu thereof "section 23 or 24 of this Act"; and

(ii) by inserting before the semicolon at the end of the paragraph the following: ", and the status of each extension of credit for the procurement of defense articles or defense services under chapter 2 of title II of the Foreign Assistance Act of 1961 with respect to which there remains outstanding any unpaid obligation or potential liability".

(10) Section 25(d), as added by 112(b) of the International Security and Development Cooperation Act of 1985, is amended by striking out "this Act or under section 503(a)(3)" and inserting in lieu thereof "chapter 2 of title II".

(11) Section 31 is repealed.

(12) Section 36(a) is amended—

(A) in paragraph (7), by striking out "part" and inserting in lieu thereof "title"; and

(B) in paragraph (10), by striking out "505(a)(1)(B)" and inserting in lieu thereof "2203(a)(1)(A)".

(13) Section 37 is amended—

(A) in the section caption by striking out "RELATING TO FOREIGN MILITARY SALES CREDITS";

(B) in subsection (a), by striking out "section 23" and inserting in lieu thereof "the former authority of section 23 or under the authority of chapter 2 of title II of the Foreign Assistance Act of 1961"; and

(C) in subsection (b), by inserting "the former authority of" after "extended pursuant to".

(14) Section 40(a)(3) is amended by striking out "505(a)" and inserting in lieu thereof "2203(a)".

(15) Section 42 is amended—

(A) in subsection (a) by striking out ", but subject to subsection (b) of this section," in the first sentence and inserting in lieu thereof a semicolon;

(B) by repealing subsections (b) and (c) and redesignating subsections (d) through (f) as subsections (b) through (d), respectively; and

(C) in subsection (b)(1), as so redesignated, by striking out "and guaranties under sections 21, 22, 23, 24," and inserting in lieu thereof "under sections 21, 22,".

SEC. 203. TRANSITION RULE CONCERNING DISPOSITION OF CERTAIN PREVIOUSLY PROVIDED MILITARY EQUIPMENT.

To the extent provided in appropriations Acts, the President may waive requirements imposed pursuant to sections 505 (a)(4) and (f) of the Foreign Assistance Act of 1961, as in effect before the effective date specified in section 1101 of this Act, with respect to defense articles or related training or other defense services furnished before that date.

CHAPTER 2—FOREIGN MILITARY SALES PROGRAM

SEC. 221. ARMS TRANSFER POLICY.

(a) ESTABLISHMENT OF NEW POLICY.—The Arms Export Control Act is amended by striking out the first section and section 1 and inserting in lieu of section 1 the following:

"SECTION 1. SHORT TITLE AND STATEMENT OF UNITED STATES ARMS TRANSFER POLICY.

"(a) SHORT TITLE.—This Act may be cited as the 'Defense Trade and Export Control Act'.

"(b) POLICY OBJECTIVES.—The policy of the United States in implementing the authorities of this Act relating to sales and other transfers of defense articles, defense services, and design and construction services shall be based upon the following objectives:

"(1) Ensuring that such transfers are fully consistent with the foreign and national security policies of the United States.

"(2) Ensuring that such transfers directly enhance or achieve specific national defense requirements of the recipient country or objectives of mutual concern and contribute directly to the common defense.

"(3) Promoting defense cooperation through the transfer of United States major defense equipment and other defense articles and defense services, including through licensed production and coproduction.

"(4) Promoting rationalization, standardization, and interoperability of foreign military forces with the Armed Forces of the United States.

"(5) Contributing to the deterrence of aggression and promoting regional security by enabling recipient countries to negotiate peaceful solutions to conflicts with confidence.

"(6) Enabling recipient countries to participate in regional or collective arrangements or other measures consistent with the Charter of the United Nations.

"(7) Enabling recipient countries to participate in collective measures requested by the United Nations.

"(8) Complementing United States efforts to restrain and control the international transfer of defense articles and defense services and to encourage international conventional arms control arrangements.

"(c) MULTILATERAL CONTROLS ON TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.—The President should continue to seek, through negotiations with the Soviet Union and other countries that supply or receive defense articles and defense services, the establishment of effective multilateral controls on the transfer of defense articles and defense services.".

(b) CONFORMING AMENDMENTS RELATING TO PURPOSES FOR WHICH DEFENSE ARTICLES MAY BE USED.—

(1) REPEAL OF EXISTING PURPOSE SECTION.—Section 4 of that Act is repealed.

(2) INELIGIBILITY.—Section 3(c) of that Act is amended—

(A) in paragraph (1), as amended by section 202 of this Act, by striking out "authorized under section 4" and inserting in lieu thereof "specified in paragraph (5)"; and

(B) by adding at the end the following:

"(5) The purposes referred to in paragraph (1) are the following:

"(A) Legitimate self-defense.

"(B) Participation in regional or collective arrangements or measures consistent with the Charter of the United Nations, or participation in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

"(C) Internal security.

"(D) Construction of public works, or other activities which contribute to the economic and social development of the recipient country.

"(E) Such other purposes as may be provided for in particular provisions of law.".

(c) CONFORMING REFERENCES TO ACT.—Unless it would be inconsistent with the context in which the reference appears, any reference in any law to the Arms Export Control Act shall be deemed to be a reference to the Defense Trade and Export Control Act (as so redesignated by this section) and any reference in any law to the Defense Trade and Export Control Act shall be deemed to include the Arms Export Control Act.

SEC. 222. IMPROVED ACCOUNTING FOR FOREIGN MILITARY SALES.

Section 37 of the Defense Trade and Export Control Act is amended by adding at the end the following:

"(d) FMS FINANCIAL MANAGEMENT.—The President shall take the following steps to address the financial management problems that exist with respect to payments on account of sales under this Act:

"(1) NEW TRUST FUND.—Establish a new account for the deposit of funds with respect to any sale of defense articles, defense services, or design and construction services under section 21 or section 22 of this Act entered into after September 30, 1992, in order to isolate financial transactions relating to new sales from those relating to previous sales.

"(2) CENTRALIZED ACCOUNTING SYSTEM.—Establish a centralized accounting system with respect to payments received, payments made, and performance pursuant to payments with respect to sales under this Act. This system shall have the necessary access to the relevant accounting and billing systems maintained by each of the military services with respect to such sales. This centralized accounting system shall be fully operational not later than September 30, 1992.

"(3) COORDINATION OF ACCOUNTING AND BILLING SYSTEMS.—Improve coordination and uniformity among the accounting and billing systems maintained by each of the military services with respect to such sales.

"(4) RECONCILIATION OF FMS CASES.—Reconcile the discrepancies between reported disbursements and reported performance with respect to those sales under this Act which are still being implemented and with respect to those sales under this Act which have been completed.".

SEC. 223. DESIGNATION OF MAJOR NON-NATO ALLIES.

(a) DESIGNATION.—

(1) NOTICE TO CONGRESS.—Chapter 4 of the Defense Trade and Export Control Act is amended by adding at the end the following:

"SEC. 48. DESIGNATION OF MAJOR NON-NATO ALLIES.

"(a) NOTICE TO CONGRESS.—The President shall notify the Congress in writing at least 30 days before—

"(1) designating a country as a major non-NATO ally for purposes of this Act and the Foreign Assistance Act of 1961, or

"(2) terminating such a designation.

"(b) INITIAL DESIGNATIONS.—Australia, Egypt, Israel, Japan, and the Republic of Korea shall be deemed to have been so designated by the President as of the effective date of this section, and the President is not required to notify the Congress of such designation of those countries.".

(2) DEFINITION.—Section 47 of that Act is amended—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(9) 'major non-NATO ally' means a country which is designated in accordance with section 48 as a major non-NATO ally for purposes of this Act and the Foreign Assistance Act of 1961.".

(3) EXISTING DEFINITIONS.—(A) The last sentence of section 21(g) of that Act is repealed.

(B) Section 65(d) of that Act is amended—

(i) by striking out "or major non-NATO", and

(ii) by striking out "or a" and all that follows through "Code".

(b) COOPERATIVE TRAINING AGREEMENTS.—Section 21(g) of that Act is amended in the first sentence by striking out "similar agreements" and all that follows through "other countries" and inserting in lieu thereof "similar agreements with countries".

SEC. 224. CERTIFICATION THRESHOLDS.

(a) INCREASE IN DOLLAR THRESHOLDS.—The Defense Trade and Export Control Act is amended—

(1) in section 3(d)—

(A) in paragraphs (1) and (3), by striking out "$14,000,000" and inserting in lieu thereof "$18,000,000"; and

(B) in paragraphs (1) and (3), by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000";

(2) in section 36—

(A) in subsections (b)(1), (b)(5)(C), and (c), by striking out "$14,000,000" and inserting in lieu thereof "$18,000,000"; and

(B) in subsections (b)(1), (b)(5)(C), and (c), by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000"; and

(C) in subsections (b)(1) and (b)(5)(C), by striking out "200,000,000" and inserting in lieu thereof "$300,000,000"; and

(3) in section 63—

(A) by striking out "$14,000,000" and inserting in lieu thereof "$18,000,000"; and

(B) by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to certifications required to be submitted on or after the effective date specified in section 1101 of this Act.

SEC. 225. STANDARDIZING CONGRESSIONAL REVIEW PROCEDURES FOR ARMS TRANSFERS.

(a) THIRD COUNTRY TRANSFERS UNDER FMS SALES.—Section 3(d)(2) of the Defense Trade and Export Control Act is amended—

(1) in subparagraph (A), by striking out ", as provided for in sections 36(b)(2) and 36(b)(3) of this Act";

(2) in subparagraph (B), by striking out "law" and inserting in lieu thereof "joint resolution"; and

(3) by adding at the end the following:

"(C) If the President states in his certification under subparagraph (A) or (B) that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, thus waiving the requirements of that subparagraph, the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate immediate consent to the transfer and a discussion of the national security interests involved.

"(D)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(b) THIRD COUNTRY TRANSFERS UNDER COMMERCIAL SALES.—Section 3(d)(3) of that Act is amended—

(1) by inserting "(A)" after "(3)";

(2) in the first sentence—

(A) by striking out "at least 30 calendar days", and

(B) by striking out "report" and inserting in lieu thereof "certification"; and

(3) by striking out the last sentence and inserting in lieu thereof the following: "Such certification shall be submitted—

"(i) at least 15 calendar days before such consent is given in the case of a transfer to a country which is a member of the North Atlantic Treaty Organization or Australia, Japan, or New Zealand (if this clause is applicable to New Zealand pursuant to paragraph (5) of this subsection), and

"(ii) at least 30 calendar days before such consent is given in the case of a transfer to any other country,

unless the President states in his certification that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States. If the President states in his certification that such an emergency exists (thus waiving the requirements of clause (i) or (ii), as the case may be, and of subparagraph (B)) the President shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that consent to the proposed transfer become effective immediately and a discussion of the national security interests involved.

"(B) Consent to a transfer subject to subparagraph (A) shall become effective after the end of the 15-day or 30-day period specified in subparagraph (A)(i) or (ii), as the case may be, only if the Congress does not enact, within that period, a joint resolution prohibiting the proposed transfer.

"(C)(i) Any joint resolution under this paragraph shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(ii) For the purpose of expediting the consideration and enactment of joint resolutions under this paragraph, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(c) DESIGNATION REQUIRED FOR NEW ZEALAND TO RECEIVE ADDITIONAL PREFERENTIAL CONGRESSIONAL REVIEW.—Section 3(d) of that Act is further amended by adding at the end the following:

"(5) Clause (i) of paragraph (3)(A) of this subsection, section 36(c)(2)(A), section 36(d)(2)(A), and section 62(c)(1) apply with respect to New Zealand only if the President has reported to the Congress that he has designated New Zealand as being subject to the shorter congressional review period provided for in those provisions because—

"(A) New Zealand is a member of a military alliance with the United States,

"(B) applying the shorter review period would encourage New Zealand to remove obstacles to entering a military alliance with the United States, or

"(C) to do so would be in the national security interest of the United States.".

(d) COMMERCIAL SALES.—Section 36(c)(2) of that Act is amended by amending subparagraphs (A) and (B) to read as follows:

"(A) in the case of a license for an export to the North Atlantic Treaty Organization, any member country of that Organization, or Australia, Japan, or New Zealand (if this subparagraph is applicable to New Zealand pursuant to section 3(d)(5)), shall not be issued until at least 15 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 15-day period, enacts a joint resolution prohibiting the proposed export; and

"(B) in the case of any other license, shall not be issued until at least 30 calendar days after the Congress receives such certification, and shall not be issued then if the Congress, within that 30-day period, enacts a joint resolution prohibiting the proposed export.".

(e) COMMERCIAL MANUFACTURING AGREEMENTS.—Section 36(d) of that Act is amended—

(1) by inserting "(1)" after "(d)";

(2) by striking out "for or in a country not a member of the North Atlantic Treaty Organization"; and

(3) by adding at the end the following:

"(2) A certification under this subsection shall be submitted—

"(A) at least 15 days before approval is given in the case of an agreement for or in a country which is a member of the North Atlantic Treaty Organization, Australia, Japan, or New Zealand (if this subparagraph is applicable to New Zealand pursuant to section 3(d)(5)); and

"(B) at least 30 days before approval is given in the case of an agreement for or in any other country;

unless the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States.

"(3) If the President states in his certification that an emergency exists which requires the immediate approval of the agreement in the national security interests of the United States, thus waiving the requirements of paragraph (4), he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate approval of the agreement and a discussion of the national security interests involved.

"(4) Approval for an agreement subject to paragraph (1) may not be given under section 38 if the Congress, within the 15-day or 30-day period specified in paragraph (2)(A) or (B), as the case may be, enacts a joint resolution prohibiting such approval.

"(5)(A) Any joint resolution under paragraph (4) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under paragraph (4), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

(f) GOVERNMENT-TO-GOVERNMENT LEASES.—

(1) CONGRESSIONAL REVIEW PERIOD.—Section 62 of that Act is amended—

(A) in subsection (a) by striking out "Not less than 30 days before" and inserting in lieu thereof "Before";

(B) in subsection (b)—

(i) by striking out "determines, and immediately reports to the Congress" and inserting in lieu thereof "states in his certification,"; and

(ii) by adding at the end of the subsection the following: "If the President states in his certification that such an emergency exists, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate that the lease be entered into immediately and a discussion of the national security interests involved."; and

(C) by adding at the end of the section the following:

"(c) The certification required by subsection (a) shall be transmitted—

"(1) not less than 15 calendar days before the agreement is entered into or renewed in the case of an agreement with the North Atlantic Treaty Organization, any member country of that Organization, Australia, Japan, or New Zealand (if this paragraph is applicable to New Zealand pursuant to section 3(d)(5)); and

"(2) not less than 30 calendar days before the agreement is entered into or renewed in the case of an agreement with any other organization or country.".

(2) CONGRESSIONAL VETO.—Section 63(a) of that Act is amended—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(B) by striking out the "30 calendar days after receiving the certification with respect to that proposed agreement pursuant to section 62(a)," and inserting in lieu thereof "the 15-day or 30-day period specified in section 62(c) (1) or (2), as the case may be,"; and

(C) by striking out paragraph (2).

(g) EFFECTIVE DATE.—The amendments made by this section apply with respect to certifications required to be submitted on or after the effective date specified in section 1101 of this Act.

SEC. 226. FOREIGN AVAILABILITY.

Section 36 of the Defense Trade and Export Control Act is amended—

(1) in subsection (b)(1)—

(A) by adding after the first sentence the following: "Such certifications shall also contain an analysis of the extent to which comparable kinds and amounts of defense articles, defense services, or design and construction services are available from other countries."; and

(B) by striking out subparagraph (K) and by redesignating subparagraphs (L) through (P) as subparagraphs (K) through (O), respectively; and

(2) in subsection (c)(1), by adding after the first sentence the following: "Each such certification shall also contain an analysis of the extent to which comparable kinds and amounts of defense articles or defense services are available from other countries.".

SEC. 227. ECONOMIC IMPACT ON UNITED STATES OF ARMS SALES.

(a) CONGRESSIONAL PRESENTATION MATERIALS.—Section 25(a) of the Defense Trade and Export Control Act is amended—

(1) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(2) by inserting the following new paragraph (11) after paragraph (10):

"(11) an analysis of the economic benefits or disadvantages to the United States of sales and licensed commercial exports under this Act during the preceding fiscal year;".

(b) ARMS SALE NOTIFICATIONS.—Section 36(b)(1) of that Act, as amended by section 226 of this Act, is further amended—

(1) by striking out "and" at the end of subparagraph (N);

(2) by striking out the period at the end of subparagraph (O) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (O) the following:

"(P) an analysis of the economic benefits or disadvantages to the United States of the proposed sale.".

SEC. 228. COPRODUCTION AGREEMENTS.

(a) QUARTERLY REPORTS ON COPRODUCTION AGREEMENTS.—Section 36(a) of the Defense Trade and Export Control Act is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (11) the following:

"(12) a report on all concluded government-to-government agreements governing foreign coproduction of defense articles of United States origin (including coproduction memoranda of understanding or agreement) that have not been previously reported under this paragraph, which shall include—

"(A) the identity of the foreign countries or international organizations involved;

"(B) a description and the estimated value of the articles authorized to be produced, and an estimate of the quantity of the articles authorized to be produced;

"(C) a description of any restrictions on third party transfers of the foreign-manufactured articles; and

"(D) if any such agreement does not provide for United States access to and verification of quantities of articles produced overseas and their disposition in the coproducing country, a description of alternative measures and controls incorporated in the coproduction program to ensure compliance with restrictions in the agreement on production quantities and third party transfers.".

(b) SANCTIONS FOR UNAUTHORIZED THIRD COUNTRY TRANSFERS OF COPRODUCED DEFENSE ARTICLES.—The Defense Trade and Export Control Act, as amended by section 202 of this Act, is amended by inserting the following new section 31 at the beginning of chapter 3:

"SEC. 31. UNAUTHORIZED THIRD COUNTRY TRANSFERS OF DEFENSE ARTICLES COPRODUCED OR MANUFACTURED UNDER LICENSE ABROAD.

"(a) WHEN SANCTIONS REQUIRED.—The sanctions described in subsection (b) shall be applied as hereinafter provided if—

"(1) the foreign party to a coproduction agreement violates the restrictions in that agreement regarding unauthorized third country or third party transfers or other unauthorized dispositions of—

"(A) defense articles produced under that agreement, or

"(B) technical data or defense services provided under that agreement, and

"(2) that violation is substantial (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved).

"(b) DETERMINATION REQUIRED.—The sanctions described in this section shall apply if—

"(1) the President so determines and states in writing to the Congress, or

"(2) the Congress so determines by joint resolution.

"(c) SANCTIONS TO BE APPLIED.—If a determination is made under subsection (b) with respect to a foreign party to a coproduction agreement—

"(1) the authority or license to produce defense articles abroad that is granted by all coproduction agreements to which that foreign party is a party shall be suspended during the sanction period; and

"(2) licenses may not be issued and approval may not be granted under section 38 with respect to that foreign party during the sanction period.

"(d) SANCTION PERIOD.—As used in this section, the term 'sanction period' means the period—

"(1) beginning on the date on which the President notifies the Congress that he has made a determination pursuant to subsection (b)(1) or on which the Congress enacts a joint resolution pursuant to subsection (b)(2); and

"(2) ending on the date on which the President reports to the Congress that—

"(A) the violation has ceased; and

"(B) the foreign party has given assurances satisfactory to the President that such a violation will not recur.

"(e) REPORT TO CONGRESS.—The President shall report to the Congress promptly on the receipt of information a violation described in subsection (a) may have occurred.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'coproduction agreement' means an arrangement for foreign production of United States origin defense articles—

"(A) that is authorized or approved by a memorandum of understanding or a memorandum of agreement between a foreign government and the United States Government, or

"(B) that is pursuant to a manufacturing license agreement approved under section 38 of this Act; and

"(2) the term 'foreign party' means a foreign government or foreign business entity that is granted authority or license to produce defense articles abroad by a coproduction agreement.

"(g) EFFECTIVE DATE.—This section does not apply to violations occurring before the effective date of this section, but does apply with respect to all coproduction agreements without regard to whether they were entered into before or after that date.".

SEC. 229. ENFORCEMENT OF ARMS EXPORT LICENSING REQUIREMENTS.

(a) VIOLATIONS OF INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—

(1) DISQUALIFICATION AND FORFEITURE.—Section 38 of that Act is amended by inserting after subsection (c) the following:

"(d)(1) No contract between a foreign government and a person convicted or debarred for a violation of this section or section 39, or any rule or regulation issued under either section, may be approved for financing under chapter 2 of title II of the Foreign Assistance Act of 1961 during the 12 months following the date of such conviction or debarment.

"(2)(A) Any person who is convicted for a violation of this section or section 39, or any rule or regulation issued under either section, shall (in addition to any other penalty) forfeit to the United States—

"(i) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was the subject of the violation;

"(ii) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in any defense article or other tangible item that was used in—

"(I) the export or import or attempt to export or import, or

"(II) the contribution, gift, commission, or fee that was paid or offered or agreed to be paid,

that was the subject of the violation; and

"(iii) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

"(B) The procedures in any forfeiture under this paragraph, and the duties and authorities of the courts of the United States and the Attorney General with respect to any forfeiture action under this paragraph or with respect to any property that may be subject to forfeiture under this paragraph, shall be governed by section 1963 of title 18, United States Code. Any new budget authority provided by this subparagraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(2) EFFECTIVE DATE.—Subsection (d) of section 38 of that Act, as enacted by paragraph (1) of this subsection, shall take effect on the date of enactment of this Act or October 1, 1991 (whichever is later), and applies—

(A) in the case of paragraph (1) of subsection (d), with respect to convictions or debarments occurring on or after the effective date of that subsection; and

(B) in the case of paragraph (2) of subsection (d), with respect to convictions based on conduct occurring on or after the effective date of that subsection.

(3) CONFORMING AMENDMENT.—(A) Section 38(e) of that Act is amended by striking out "(e), and (g)" and inserting in lieu thereof "and (e)".

(B) The amendment made by subparagraph (A) does not apply with respect to convictions based on conduct occurring before the date specified in paragraph (2)(B).

(b) MUNITIONS CONTROL ENFORCEMENT PROCEDURES.—Section 38(g) of the Defense Trade and Export Control Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking out "are the subject of an indictment for, or have been convicted of," and inserting in lieu thereof "have been convicted of"; and

(B) in subparagraph (B), by striking out "are the subject of an indictment or";

(2) in paragraph (3)—

(A) by striking out subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(B) at the end of the first sentence, by striking out "may disapprove the application" and inserting in lieu thereof "should disapprove the application if doing so is necessary to further law enforcement objectives or otherwise serve the national interest";

(3) in paragraph (4), by inserting before the period at the end "or that foreign policy or national security considerations justify the issuance of the license to that person";

(4) in paragraph (5), by inserting "or international organization" after "foreign government"; and

(5) in paragraph (8)—

(A) by inserting "within 60 days" after "shall"; and

(B) by inserting before the period at the end ", and to assist with the processing of registration statements".

SEC. 230. BIENNIAL REVIEW OF THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.

Section 38(f) of the Defense Trade and Export Control Act is amended by striking out the first sentence and inserting in lieu thereof the following: "Not later than one year after the date of enactment of the International Cooperation Act of 1991 and at least once every 2 years thereafter, the President shall review the regulations issued to carry out this section, including the items listed on the United States Munitions List, for the purpose of determining what changes in those regulations are appropriate, including determining what items, if any, no longer warrant export controls under this section. Based on each such review, the President shall revise those regulations as necessary and shall publish a revised compilation of those regulations.".

SEC. 231. FAIR PRICING.

(a) RECOUPMENT OF NONRECURRING COSTS.—Section 21(e) of the Defense Trade and Export Control Act is amended by adding at the end the following:

"(4) To the extent provided in appropriations Acts, charges for defense articles that are not major defense equipment that are sold under this Act or licensed or approved for export under section 38 of this Act shall not include any nonrecurring costs of research on or development or production of those articles.".

(b) EFFECTIVE DATE.—Paragraph (4) of section 21(e) of the Defense Trade and Export Control Act (as added by subsection (a) of this section) applies with respect to defense articles sold on or after the effective date specified in section 1101 of this Act.

SEC. 232. CONTRACT ADMINISTRATIVE SERVICE CHARGES FOR NATO SUBSIDIARY BODIES.

Section 21(h)(1)(A) of the Defense Trade and Export Control Act is amended by inserting "or by a North Atlantic Treaty Organization subsidiary body on behalf of such foreign government" after "North Atlantic Treaty Organization".

SEC. 233. AMENDMENTS TO ELIMINATE OBSOLETE AND INCONSISTENT PROVISIONS.

The Defense Trade and Export Control Act is amended as follows:

(1) Section 5(d) is repealed.

(2) Section 25 is amended—

(A) in subsection (a), by striking out "Except as provided in subsection (d), no" and inserting in lieu thereof "No";

(B) in subsection (a), as amended by section 227 of this Act, by repealing paragraphs (4), (7), and (9), by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively, by redesignating paragraph (8) as paragraph (6), and by redesignating paragraphs (10) through (13) as paragraphs (7) through (10), respectively; and

(C) by repealing subsection (d), as added by section 113 of the International Security and Development Cooperation Act of 1985.

(3) Sections 33, 34, and 35 are repealed.

(4) Section 36 is amended—

(A) in the text preceding paragraph (1) of subsection (a), by striking out "an unclassified report" and all that follows through "containing" and inserting in lieu thereof "a report, which shall be unclassified to the maximum extent possible, containing";

(B) in subsection (a), as amended by section 228 of this Act, by striking out paragraphs (3), (5), and (6), by redesignating paragraph (4) as paragraph (3) and by redesignating paragraphs (7) through (12) as paragraphs (4) through (9), respectively; and

(C) in subsection (b)(1), by striking out "(9)" and "(8)" and inserting in lieu thereof "(6)" and "(5)", respectively.

(5) Sections 38(b)(3) and 41 are repealed.

(6) Sections 44 and 45 are amended—

(A) by repealing all of section 45 except the last sentence;

(B) by amending that sentence by striking out "Except for the laws specified in section 44, no" and inserting in lieu thereof "No"; and

(C) by inserting that sentence at the end of section 44.

(7) Section 46 is repealed.

SEC. 234. TECHNICAL CORRECTIONS.

The Defense Trade and Export Control Act is amended as follows:

(1) CORRECTION OF CROSS REFERENCES TO INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—(A) Section 3(a) is amended in the second sentence following paragraph (4)—

(i) by striking out "significant defense articles" and inserting in lieu thereof "significant military equipment"; and

(ii) by striking "such defense articles" both places it appears and inserting in lieu "such significant military equipment".

(B) Section 36(d) is amended by striking out "combat" and inserting in lieu thereof "military".

(2) CLERICAL ERRORS IN 1985 AUTHORIZATION ACT.—Subsection (d) of section 25, as added by section 112(b) of the International Security and Development Cooperation Act of 1985, is amended by striking out the semicolon at the end and inserting in lieu thereof a period.

CHAPTER 3—OTHER PROVISIONS

SEC. 241. DEPLETED URANIUM SHELLS.

(a) PROHIBITION.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells, or any comparable antitank shells containing a depleted uranium penetrating component, to any country other than—

(1) a country which is a member of the North Atlantic Treaty Organization; and

(2) a country which has been designated as a major non-NATO ally (as defined in section 47(9) of the Defense Trade and Export Control Act).

(b) EXCEPTION.—Subsection (a) shall not apply if the President determines that its application is not in the national security interest of the United States.

SEC. 242. ARMS TRANSFERS RESTRAINT POLICY FOR THE MIDDLE EAST AND PERSIAN GULF REGION.

(a) FINDINGS.—The Congress finds that—

(1) nations in the Middle East and Persian Gulf region, which accounted for over 40 percent of the international trade in weapons and related equipment and services during the decade of the 1980's, are the principal market for the worldwide arms trade;

(2) regional instability, large financial resources, and the desire of arms-supplying governments to gain influence in the Middle East and Persian Gulf region, contribute to a regional arms race;

(3) the continued proliferation of weapons and related equipment and services contribute further to a regional arms race in the Middle East and Persian Gulf region that is politically, economically, and militarily destabilizing;

(4) the continued proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons, poses an urgent threat to security and stability in the Middle East and Persian Gulf region;

(5) the continued proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads undermines security and stability in the Middle East and Persian Gulf region;

(6) future security and stability in the Middle East and Persian Gulf region would be enhanced by establishing a stable military balance among regional powers by restraining and reducing both conventional and unconventional weapons;

(7) security, stability, peace, and prosperity in the Middle East and Persian Gulf region are vital to the welfare of the international economy and to the national security interests of the United States;

(8) future security and stability in the Middle East and Persian Gulf region would be enhanced through the development of a multilateral arms transfer and control regime similar to those of the Nuclear Suppliers' Group, the Missile Technology Control Regime, and the Australia Chemical Weapons Suppliers Group;

(9) such a regime should be developed, implemented, and agreed to through multilateral negotiations, including under the auspices of the 5 permanent members of the United Nations Security Council;

(10) confidence-building arms control measures such as the establishment of a centralized arms trade registry at the United Nations, cooperative verification measures, communications measures, advanced notification of military exercises, information exchanges, on-site inspections, and creation of a Middle East and Persian Gulf Conflict Prevention Center, are necessary to implement an effective multilateral arms transfer and control regime; and

(11) such a regime should be applied to other regions with the ultimate objective of achieving an effective global arms transfer and control regime, implemented and enforced through the United Nations Security Council.

(b) UNITED STATES POLICY REGARDING ARMS TRANSFERS TO THE MIDDLE EAST AND PERSIAN GULF REGION.—Accordingly, it shall be the policy of the United States to—

(1) only transfer defense articles and defense services to those nations of the Middle East and Persian Gulf region that have agreed that such articles and services will be used only for the purposes specified in section 3(c)(5) of the Defense Trade and Export Control Act (as amended by section 221(b) of this Act) and will not be used for military aggression or to coerce or intimidate other nations;

(2) only transfer defense articles and defense services to nations of the Middle East and Persian Gulf region after the United States has determined that such transfers will not destabilize the military balance of power within the region or contribute to the escalation of the arms race within the region;

(3) only transfer defense articles and defense services to those nations of the Middle East and Persian Gulf region that—

(A) have expressed willingness or are actively engaged in the process of negotiating peace agreements of the Arab-Israeli dispute through direct negotiations, and

(B) with respect to other conflicts in the region, have expressed willingness or are actively engaged in the process of negotiating peace agreements; and

(4) only transfer defense articles and defense services to nations in the Middle East and Persian Gulf region when such defense articles and defense services could credibly be used successfully for the defensive mission that is the justification for the transfer.

(c) CONVENING OF CONFERENCE TO NEGOTIATE A MULTILATERAL ARMS TRANSFER AND CONTROL REGIME.—As soon as practicable after the date of enactment of this Act, the President shall seek negotiations among, and undertake good faith efforts to convene a conference of, the five permanent members of the United Nations Security Council and other nations as appropriate, including members of the North Atlantic Treaty Organization, former members of the Warsaw Pact, and other nations selling military equipment and services, to establish a comprehensive multilateral arms transfer and control regime with respect to the Middle East and Persian Gulf region. The purpose of this regime should be—

(1) to slow and limit the proliferation of conventional weapons in nations in the Middle East and Persian Gulf region;

(2) to halt the proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons;

(3) to limit and halt the proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads;

(4) to maintain the military balance in the Middle East and Persian Gulf region through reductions of conventional weapons and the elimination of unconventional weapons; and

(5) to promote regional arms control in the Middle East and Persian Gulf region.

(d) ARMS TRANSFER MORATORIUM.—

(1) ESTABLISHMENT.—Except as provided in paragraphs (2) and (3), the United States Government shall not agree to any transfers of major military equipment to any nation in the Middle East and Persian Gulf region. This moratorium is established to induce and encourage the other permanent members of the United Nations Security Council to join in this effort and also to induce and encourage other members of the North Atlantic Treaty Organization, former members of

the Warsaw Pact, and other major arms supplier nations to join in this effort.

(2) CONDITIONS FOR TERMINATION OF UNITED STATES MORATORIUM.—The requirement of paragraph (1) for a moratorium on United States arms transfers of major military equipment to the Middle East and Persian Gulf region shall cease to apply if the President submits to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives—

(A) a report stating that the President has determined that there has been agreement by another major arms supplier nation on or after May 21, 1991, to transfer any major military equipment to any nation in the Middle East and Persian Gulf region; and

(B) the reports required by subsection (e)(1)(A) and (B).

(3) EMERGENCY TRANSFERS.—Paragraph (1) does not apply to any transfer of major military equipment that is a necessary, emergency response to major and sustained hostilities in the Middle East and Persian Gulf region or to an imminent threat of such hostilities.

(4) MAJOR MILITARY EQUIPMENT.—As used in this subsection, the term "major military equipment" means—

(A) air-to-air, air-to-surface, and surface-to-surface missiles and rockets;

(B) turbine-powered military aircraft;

(C) attack helicopters;

(D) main battle tanks;

(E) submarines and major naval surface combatants; and

(F) nuclear, biological, and chemical weapons.

(5) EXEMPTION OF REPLACEMENT EQUIPMENT.—Paragraph (1) and paragraph (2)(A) do not apply with respect to transfers which only involve the replacement on a one-for-one basis of equipment of comparable quality that has become inoperable after the date of enactment of this Act.

(e) REPORTS TO CONGRESS.—

(1) REPORT ON PLAN FOR MULTILATERAL REGIME.—As soon as practicable after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives the following two reports:

(A) A report setting forth a United States plan for leading the world community in establishing a multilateral regime to restrict transfers of conventional and unconventional arms to the Middle East.

(B) A report analyzing the feasibility of an arms transfer and control regime among nations in the Middle East and the potential elements of such regime, including—

(i) the feasibility of opening for ratification or accession by nations of the Middle East and Persian Gulf region the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles (done at Washington on December 8, 1987), which bans all ground-launched ballistic and cruise missiles having ranges between 500 and 5,500 kilometers;

(ii) what techniques used in the Treaty on Conventional Armed Forces in Europe (done at Paris on November 19, 1990) can be usefully applied to regional arms control initiatives in the Middle East and Persian Gulf region; and

(iii) whether the "Open Skies" regime under consideration for countries in Europe and North America can be usefully applied to the Middle East and Persian Gulf region.

(2) REPORTS ON TRANSFERS AND REGIONAL BALANCE.—Not later than October 1 of each year, beginning in the first calendar year which begins after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report—

(A) documenting all transfers of conventional and unconventional arms to the Middle East over the previous year and the previous 5 years, including sources, types, and acquirers of weapons;

(B) analyzing the current military balance in the region, including the effect on the balance of transfers documented under subparagraph (A);

(C) describing the operation of any agreements comprising the multilateral arms transfer and control regime envisaged by this section; and

(D) identifying supplier nations that have refused to participate in such a regime or that have engaged in conduct that violates or undermines the regime.

(f) EXISTING AGREEMENTS.—Subsections (b) and (d) do not apply with respect to transfers of defense articles or defense services pursuant to agreements entered into before May 21, 1991.

Mr. FASCELL. Mr. Chairman, as I have previously stated, H.R. 2508 represents the second serious attempt by the House of Representatives to rewrite the basic authorities and policy guidelines of both the Foreign Assistance Act of 1961 and the Arms Export Control Act of 1968. Our first attempt in this endeavor occurred during the 101st Congress where H.R. 2655, secured solid bipartisan in support of its passage by a vote of 314 to 101.

That bill, H.R. 2655, eliminated extraneous and obsolete provisions of existing law, while at the same time streamlining other aspects of existing law so as to increase both the efficiency and success of both the U.S. economic and security assistance programs, thereby stretching valuable but limited funding in the 150 account. At the same time, that bill maintained and enhanced congressional oversight of those programs through the preservation of existing provisions in present law, and the addition of new provisions that were aimed at strengthening not only policy but the law.

We are now at the point of our debate where we begin discussion of title II which governs the conduct and provision of U.S. security assistance, and which includes many of the provisions that were contained in H.R. 2655, as well as certain provisions requested by the administration, and the private sector, and new initiatives that were undertaken by the Committee on Foreign Affairs.

Specifically, title II establishes: the policy guidelines for U.S. military assistance programs; the structure of the U.S. Foreign Military Financing Program; the guidelines for the provisions of U.S. excess defense articles; the size and administration of U.S. military advisory groups; the continuation of the International Military Education and Training Program; the provision of U.S. contributions and participation in peacekeeping operations; U.S. policies on the stockpiling of defense articles in foreign countries; U.S. policies and programs to combat international terrorism; the policies of the U.S. Foreign Military Sales Program; and a new initiative for the implementation of a U.S. policy of restraint on arms sales and transfers to the nations of the Middle East and Persian Gulf region.

It is this last provision, that I intend to focus my remarks.

At the outset, let me say that this provision represents a basic consensus of opinion among the members of the Committee on Foreign Affairs in our effort to develop a realistic arms transfer restraint policy toward the Middle East and the Persian Gulf regions. One of the many lessons of Operations Desert Shield and Desert Storm must be that the business as usual approach of the 1980's toward arms sales and transfers to the Middle East and the Persian Gulf must not be repeated in the 1990's.

In this regard, this provision addresses not only the issue of United States, but global arms transfers to the Middle East and Persian Gulf region. This provision recommends an indefinite moratorium on U.S. sales and transfers of major defense equipment to accelerate the development of a multilateral arms transfer and control regime on major military equipment to nations in the Middle East and the Persian Gulf.

Clearly, no more pressing issue in international affairs exists than that of the current situation in the Middle East and the Persian Gulf. In this regard, we in Congress are often told by officials within the executive to merely follow the lead of the White House when it comes to the conduct of U.S. foreign affairs and U.S. foreign policy. We are told and informed to disregard our own roles and responsibilities as policymakers, and instead into accepting the so-called unerring judgment of the Executive when it comes to foreign policy and arms control in the Middle East and the Persian Gulf. We have been informed that the President's May 29 announcement is the best approach toward winning the peace, and securing greater arms control in the Middle East and the Persian Gulf. Therefore, Congress should go along in lockstep with the President's unerring judgment.

Winning the peace and stimulating a climate for greater arms control requires more patience, more resilience, more perseverance, and more creativity. Those traits—patience, resilience, perseverance, and creativity—are the long suits in the Congress.

It is the Congress that has the patience to explore problems thoroughly and attack them correctly. It is the Congress that has the resilience to keep trying to solve the problems that confront our domestic and international agendas. It is the Congress that has the perseverance to see a problem through to its thoughtful solution. It is the Congress that has been creative in proposing various arms and control concepts that have become arms control realities.

Thus the invitation to struggle that lies at the root of the Constitution between the congressional and the executive branches of government bring us to our differences of opinion on how to improve the climate for greater security, stability, peace, and prosperity in the Middle East and the Persian Gulf. While both the Congress and the executive branches share these goals, we have different approaches toward achieving them. We want a policy that says arms restraint now versus the business of arms sales as usual.

As a Democrat, and in a vote of individual conscience, I supported the President in his request to authorize the use of force in the Persian Gulf. I am grateful that that arduous task—the use of force—is now behind us, and I am grateful that this decision was made consistent with the provisions of the War Powers Resolution. I am, however, equally mindful that much more needs to be done in order to seize this moment in history and bring greater security, stability, peace and prosperity to all peoples in the Middle East and Persian Gulf regions.

To that end, I am encouraged by the President's commitment in sending Secretary of State Baker on his several peace missions to the Middle East. They have been steps in the right direction. I am also encouraged by the President's May 29 announcement in which he specified a series of proposals intended to curb the spread of nuclear, chemical and biological weapons in the Middle East and Persian Gulf, as well as the missiles that can deliver them. That too has been a step in the right direction.

The trouble with the President's steps, however well intentioned as they may be, is that they go in the right direction of stopping nuclear, biological, chemical, and missile proliferation but don't make a meaningful move toward slowing, curbing, and halting the proliferation of conventional weapons in a region of the world that has been in, on, or at the precipice of war for the last 43 years. Thus, the President is being creative in taking the initiative against the proliferation of unconventional weapons, but is business as usual regarding the proliferation of conventional weapons.

The Committee on Foreign Affairs has forged a consensus that stipulates that it is high time to stop the business as usual approach to solving the problem of peace in the Middle East and the Persian Gulf regions. We have decided that the business as usual approach in selling arms to everyone serves no ones interests. That is why the Foreign Affairs Committee policy recommendation clearly states that future conventional arms transfers to the Middle East and the Persian Gulf should be controlled by a multilateral restraint policy.

We have proposed something that is both simple and straightforward. We have proposed that just as the United States led a global military coalition against Iraq, that we lead a global arms suppliers coalition in not just selling everything we can, to anyone in the Middle East and the Persian Gulf just because they believe they just have to have it. We saw the results of that kind of global policy with Iraq. We in Congress are asking the President to join us in supporting this effort, just as he asked that we join him in supporting the authorization to use force against Iraq.

We are going one step further than the President went on May 29, and we are challenging others to follow. We're proposing to jump start the process of arms control in the Middle East and the Persian Gulf. At the same time, the committee proposal is realistic in that it allows the President the necessary authority to provide for the replacement of major military equipment, with equipment of comparable capability, on a one-for-one basis after such equipment becomes inoperable. The committee proposal also extends that same flexiblity to other major arms suppliers.

The committee proposal also provides the President with the flexibility to lift the moratorium at anytime after which the President has reported to Congress the following three items: First, that a major arms supplier nation has reached an agreement to transfer major military equipment to a nation in the Middle East or the Persian Gulf; second, the submission of a U.S. plan for leading the world community in establishing a multilateral arms transfer and control regime of both conventional and unconventional weapons to nations in the Middle East and the Persian Gulf region; and third, a report on the feasibility of implementing such a regime. In short, our position is based on the proven arms control and security principle that "we won't sell if you don't sell."

Finally, the committee proposal commits the United States to multilateral negotiations among the five permanent members of the U.N. Security Council and other principal suppliers in an effort to establish a multilateral arms transfer and control regime toward nations in the Middle East and the Persian Gulf regions.

While some executive branch may argue that the committee is tinkering at the edges of Presidential prerogative, and that current law is sufficient to bring arms control and peace to the Middle East and the Persian Gulf, the committee would respond that Congress does have the responsibility to help set policy guidelines and pass laws, and to seek the President's support from them. The committee proposal recognizes that arms transfers are an important tool and element of our foreign policy apparatus, but the committee proposal also states that we intend to set higher and more rigorous standards on U.S. transfers to the Middle East and the Persian Gulf.

We all know that congressional commitment and dedication to the cause of arms control is oftentimes ahead of the curve. This congressional commitment and dedication oftentimes brings a reluctant executive branch along to the point where it is willing to explore congressionally mandated arms control ideas. Nevertheless, we know that this process takes time.

It was the Congress that was and remains wary of the potential of an arms race in space that would be caused by U.S. testing of antisatellite weapons [Asat's]. To this end, it was Congress that mandated a suspension of the U.S. testing program—a unilateral moratorium if you will—that has resulted in a mutual, United States-Soviet commitment to refrain from such testing. As a result, we have avoided a costly and destabilizing arms race in space.

It was Congress that set the tone on present improvement of the status of the United States-Soviet posture on nuclear testing. It was the Congress that passed an amendment in the Senate, and a joint resolution in the House that called upon the President to submit the Threshold Test Ban [TTB] and Peaceful Nuclear Explosions [PNE] Treaties to the Senate for ratification, as well as to call upon the President to seek negotiations on the conclusions of a Comprehensive Test Ban Treaty [CTBT]. This effort was opposed by many in the executive branch but the fact remains today that the TTB and PNE Treaties have been ratified, and that the United States and the Soviet Union are exploring a step-by-step process toward a CTB, including a partial test ban amendment conference that took place in January of this year.

Finally, it was the Congress that opposed United States production of binary chemical munitions and urged the complete destruction of all United States and Soviet chemical munition stockpiles. Those initiatives were also questioned by many in the executive, including the President himself, when as Vice President on two occasions he cast his vote in order to break a tie in the Senate vote to allow binary production. Nevertheless, it was and is the President—in action recently taken—who has exerted great leadership and statesmanship in taking unilateral steps which have resulted in bilateral agreement to destroy all United States and Soviet chemical weapons. Today, the unilateral challenge that became a bilateral agreement enjoys the support of 19 countries which have joined the United States in this unilateral challenge. As this process is working for chemical arms control, it can also work for conventional arms control. So, we dare to challenge to do more for the cause of security, stability, peace, and prosperity for the peoples of the Middle East and Persian Gulf.

Our committee's proposal is intended to bring greater U.S. reason, vision, and leadership through congressional dedication and commitment to furthering the cause of arms control in the Middle East and the Persian Gulf. This jump start approach—this challenge to ourselves and others—is yet another example of our taking a major step in the right direction. It is a step in which we hope others will follow. It is a bold step that hopefully will lead to the furtherance of the peace process in one of the most, if not the most, troubling areas of the world.

It is a congressional response that certifies the necessity of continued U.S. leadership in seeking to bring about peace in the Middle East and the Persian Gulf in the years ahead. It is a congressional response to a daunting problem, that if given the chance, might work—to avoid another war in the Middle East.

It is the most lasting contribution to sustaining the victory celebration that some 1 million Americans expressed this past weekend in our Nation's Capital.

Finally, and in connection with the committee's proposed policy of the restraint on the United States transfer of major defense equipment to the Middle East and Persian Gulf region, the committee yesterday received formal notification of the President's decision to fulfill a request from the Government of the United Arab Emirates for the purchase of major defense equipment. Specifically, this notification informs us of the UAE's desire to purchase 20 AH–64 Apache attack helicopters and associated equipment including Hellfire missile and Hydra-70 rocket systems. This notification does not further the committee's proposed recommendation in support of a policy of restraint on the sale and transfer of major defense equipment to the Middle East and Persian Gulf region. For that reason, I am joined today by my colleagues on the committee: Mr. HAMILTON, Mr. BERMAN, Mr. GEJDENSON, Mr.

LANTOS, Mr. LEVINE, Mr. WEISS, Mr. LAFALCE, Mr. GEPHARDT, Mr. GILMAN, Mr. OBEY, and Mr. MILLER of Washington in introducing a resolution of disapproval in opposition to this proposed sale.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. HYDE. It is, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. HYDE: Page 215, line 23, strike out "shall" and insert in lieu thereof "should".
>
> Page, 217, beginning in line 23, strike out "on or after May 21, 1991," and insert in lieu thereof "after the date of enactment of this Act".
>
> Page 221, line 19, strike out "May 21, 1991" and insert in lieu thereof "the date of enactment of this Act".

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Chairman, there are two problems with the section that this amendment is designed to correct. The first one has to do with the word "shall." It says the President "shall seek negotiations among and undertake good faith efforts to convene a conference of five permanent members of the United Nations Security Council and other nations as appropriate," et cetera.

My concern is that under the Constitution and under the doctrine of separation of powers, we really cannot tell the President that he shall seek negotiations. The President has the executive power untrammeled by any restrictions under the Constitution. The Supreme Court has affirmed the primacy of the President in the area of foreign affairs. It just seems to me that we should say "should" rather than "shall" to eliminate any constitutional infirmity.

Mr. Chairman, I have an amendment to section 242 of the bill. This section seeks to reduce arms proliferation in the Middle East by limiting U.S. arms transfers to the region and inducing other arms supplier nations to exercise similar restraint.

I commend the effort to limit arms transfers to this volatile region of the world. Upon reviewing the legislative language, however, I have determined that the proposed mechanism for achieving this objective is flawed as a matter of constitutional law. It is also fiscally ill-advised.

This amendment is an endorsement of the policy of this bill to reduce arms proliferation in the region—but is an effort to correct constitutional and other infirmities.

COMMANDING THE PRESIDENT TO NEGOTIATE

The first problem with the bill occurs in subsection (c). In pertinent part, this subsection states:

> [a]s soon as practicable after the date of enactment of this Act, the President *shall* seek negotiations among, and undertake good faith efforts to convene a conference of, the five permanent members of the United Nations Security Council and other nations as appropriate. * * * to establish a comprehensive multilateral arms transfer and control regime with respect to the Middle East. * * *" (Emphasis added.)

As currently written, this language is unconstitutional. Numerous Supreme Court cases, beginning with the Court's 1936 decision in Curtiss-Wright Export Corp. versus United States, have affirmed the primacy of the President in the area of foreign affairs. These judicial precedents make it clear that the President is the chief agent of the United States in its relations with other countries. Neither article I, section 8—which enumerates Congress' constitutional powers—nor any other provision of the Constitution vests in Congress the power to command the President to enter into negotiations, or to establish the content of international agreements which might be negotiated.

The obvious remedy to this problem is to change the word "shall" on line 23 of page 215 to "should." This adjustment would preserve the expression of congressional intent regarding the need for multilateral negotiations, while eliminating the constitutional infirmity caused by the existing legislative edict to the President. It would also make subsection (c) consistent with the policy statement on multilateral arms control negotiations on page 106 of the bill, which urges the President, rather than ordering him, to negotiate multilateral arms transfer controls.

PREEMPTING U.S. ARMS TRANSFERS PRIOR TO ENACTMENT

The second constitutional problem concerns the legislation's intended effect on the President's ability to conduct U.S. foreign policy before the legislation becomes law. Under subsection (f), which appears on page 221 of the bill, U.S. transfers of defense articles or defense services to the Middle East would be permitted only if such transfers were pursuant to an agreement entered into before May 21, 1991. Transfers pursuant to an agreement entered into on or after May 21 would be prohibited, despite the fact that this legislation could not be signed into law until long after that date.

This provision is inconsistent with the principles of separation of powers expressed by the Supreme Court in the case of Immigration and Naturalization Service versus Chadha, in which the Court struck down the legislative veto. In Chadha, the Court stated that—

> To take action that had the purpose and effect of altering the legal rights, duties, and relations of persons * * * outside the legislative branch. * * * [Congress must act] in conformity with the express procedures of the Constitution's prescription for legislative action: passage by a majority of both Houses and presentment to the President.[1]

The provision in question attempts to circumvent this fundamental constitutional rule by establishing an effective date for permissible arms transfers which is prior to the date of enactment. This plainly violates the spirit, if not the letter, of Chadha.

The solution to this problem is simply to amend section 242 to permit arms transfers pursuant to agreements lawfully entered into prior to the enactment of this legislation.

The proponents of this legislation assert that Congress' establishment of a retroactive effective date governing arms transfers is permissible because such retroactivity is an accepted feature of U.S. tax laws. This argument simply is inapplicable in the present context.

A review of the case law suggests that retroactive effective dates are unique to economic legislation such as the tax laws, where Congress is accorded strong deference and the standard of judicial review is extremely low. But we are not dealing here with economic legislation—we are dealing with the conduct of U.S. foreign policy—and in this arena, the executive branch has primacy.

CONTRACTUAL LIABILITY OF THE U.S. GOVERNMENT

In addition to these constitutional problems, the retroactivity provision in question could expose the U.S. Government to financial liability if this legislation were enacted. If the Department of Defense, for example, were unable to implement arms transfer agreements lawfully entered into between May 21, 1991, and the date of enactment, it might have to suspend procurement contracts with defense contractors that had been performing work pursuant to those agreements. In that event, the U.S. Government would be responsible for any costs or damages incurred by the defense contractor resulting from the suspension of the procurement contract.

Similarly, American corporations which contract to provide defense articles or services to foreign buyers could be liable for breach of contract if they undertook a contractual obligation after May 21 to supply such articles or services. At best this raises fundamental questions of fairness; at worst, it raises due process issues.

CONCLUSION

In conclusion, Mr. Chairman, I want to reiterate that I strongly endorse the goal of arms control in the Middle East. But we should seek to achieve this goal without trampling on the separation of powers principles of the Constitution or causing the U.S. Government and American defense contractors to risk financial liability.

Now, I have had a discussion with the chairman of the committee, and we have reached an accommodation. I would like to ask the chairman of the committee, the gentleman from Florida [Mr. FASCELL] that if I should withdraw this amendment when this matter and if this matter reaches conference, if the gentleman would bear in mind my concerns about the mandatory nature of telling the President that he shall seek negotiations and seek some way of expressing the ideas that the gentleman has in a less intrusive way insofar as the President's constitutional prerogatives, the prerogatives of his office are concerned?

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[1] 462 U.S. 919, 952, 958 (1983).

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to the gentleman from Florida.

□ 1750

Mr. FASCELL. I cannot speak for all Members, but the gentleman is very persuasive. He has raised this point not just now but many times, and the Presidential prerogatives need to be preserved. There is no question about that. We are not looking for a constitutional confrontation.

Our job here is to preserve the prerogatives of the President and the Congress, and we will work with the gentleman to try to provide a less intrusive manner in dealing with this subject.

Mr. HYDE. I thank the gentleman. I appreciate that, Mr. Chairman, because Presidents rightfully are very jealous of the prerogatives of their office, and they like to hand the office to their successor unimpaired by congressional transgressions. So I appreciate that.

The second problem that I have with the legislation, and that my amendment is directed to correct, has to do with the intended effect on the President's ability to conduct U.S. foreign policy before the legislation becomes law. Under subsection (F), which appears on page 221 of the bill, United States transfers of defense articles or defense services to the Middle East would be permitted only if the transfers were pursuant to an agreement entered into before May 21, 1991. Transfers pursuant to an agreement entered into on or after May 21 would be prohibited despite the fact that this legislation could not be signed into law until long after that date.

We have now had a further discussion, and the chairman has offered in conference to change the date that we are speaking of here to the date of enactment, which I think would cure the infirmity we speak of, and that the gentleman will confirm that is his commitment, and then I would ask unanimous consent to withdraw my amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Mr. Chairman, I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I will say to the gentleman that while I would not want to prejudge the conference, because I cannot do that, that as far as I am concerned, we had no intention by picking a date to arbitrarily impact on existing contracts or agreements or even arrangements, for that matter, because we do not go into the issue of whether the matter is a written or a verbal matter. Nevertheless, I think that a reasonable date, either the date of enactment or some other date, depending on how the discussion goes, I see right now no objection to the date of enactment, but it might arise in the course of the conference. Why do we not just say we mutually agree that the date in here is not one that we will be hidebound—I am sorry; that was not a pun. Sorry.

Mr. HYDE. The gentleman is too facile with those words.

Mr. FASCELL. And we will either work toward the date of enactment or some other date that is satisfactory that does not impinge on ongoing arrangements, and I will say with respect to the previous colloquy we had, the Constitution, under articles I and II, we want to preserve those prerogatives. We have no intention of trying to invade those at all.

We will work with the gentleman and try to do both of these objectives.

Mr. HYDE. Mr. Chairman, I am very pleased with the chairman's remarks.

Mr. BERMAN. Mr. Chairman, will the gentleman yield.

Mr. HYDE. I am happy to yield to the learned gentleman from California.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The time of the gentleman from Illinois [Mr. HYDE] has expired.

(At the request of Mr. BERMAN and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, the only thing I would say is that while I think there is logic to what the gentleman is suggesting, and I think that is probably just what would happen with respect to a cutoff date on existing contracts, I am sure the gentleman would not want to do anything that would provide an inducement for companies or governments to rush to reach agreements in the notion that they might escape the implications and the whole focus of this particular language.

Mr. HYDE. Absolutely not. The gentleman has correctly stated my views. Let me thank the chairman for his accommodation.

Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. Are there other amendments to title II?

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 127 Sec. 2207. Authorizations of Appropriations, line 1, strike "$4,411,444,000" and replace with "$4,386,444,000".

On line 2 strike "$4,840,000,000" and replace with "$4,815,000,000".

Mr. VOLKMER. Mr. Chairman and members of the committee, this amendment is very simple. It merely strikes $25 million from the military assistance provisions of the bill, and the reason it is only $25 million is that later on when we get to title VIII, I plan, and I have an amendment in order, and there are other amendments offered by other Members who have the same amendment that would strike the money basically for Jordan.

If we are going to strike the money, then this is the money. All I am asking is to reduce the amount of military assistance by $25 million in order that we provide no funds to the country of Jordan.

I believe the United States owes no commitment whatsoever to the country of Jordan, given their blatant actions during the United States' conflict with Iraq commonly known as Desert Storm.

I am disappointed the committee saw fit to include $25 million in finance authority for military procurement for the country of Jordan given their hostile attitude toward us and our allies. Do we not all remember the thousands of people of Jordan in the streets praising Saddam Hussein, burning the United States flag? Do we not remember King Hussein threatening Israel if they used Jordan's airspace to retaliate against Iraq for shooting Scuds into residential communities?

Providing Jordan with any support, in my opinion, is like offering Saddam Hussein money to rebuild his Republican Guard. It is a smack in the face of those who put their lives on the line to free Kuwait and a smack in the face of the American people who watched the Jordanians' obvious support for our enemy.

We have supported Jordan, and in the past we have welcomed King Hussein to our country. It is obvious this past support and friendliness carried no weight when we needed their support.

Not only did they turn the other way when their neighbors and fellow Arabs were being threatened and killed by Saddam and his henchmen, they praised his actions. Even Iran did not go that far. Even Syria sided against Saddam.

Are we expected to support other enemies like Libya and Cuba? They showed no more support for Saddam than did Jordan.

I ask my colleagues to join me today to send a clear message to Jordan: No military assistance.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman from Indiana.

Mr. HAMILTON. If I understand the gentleman's amendment, he is simply making here a cut in the funding?

Mr. VOLKMER. The gentleman is correct. Total.

Mr. HAMILTON. The gentleman is not identifying any particular country at this point?

Mr. VOLKMER. That is correct.

Mr. HAMILTON. It is the gentleman's intention when we get to title

VIII that he will offer a specific amendment to cut Jordan?

Mr. VOLKMER. That is correct. No funds for Jordan.

Mr. HAMILTON. Of course, this gentleman will oppose the cut for Jordan, but I think we are prepared to accept this amendment without prejudice to Jordan, and that when we get to title VIII, then we will have that discussion and a voice.

Mr. VOLKMER. I appreciate that.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. If that is acceptable to the gentleman and to the chairman, the only thing I would add is this, that depending on the outcome of the gentleman's amendment in title VIII, we would then have to restore this money.

Mr. VOLKMER. You have always got confidence. I will put it this way, Mr. Chairman: I will make it easier for the gentleman. I would agree, and I do not know whether other Members do, but if we get to title VIII and the money for Jordan, if I lose on the amendment, or our people believe that I do lose on it, if the gentleman wants to ask unanimous consent to have the money restored, I will be glad to do it.

Mr. FASCELL. Mr. Chairman, I will ask unanimous consent that in the event that we get to title VIII and the gentleman's amendment is defeated, it would be in order to offer an amendment to restore the money.

Mr. VOLKMER. Mr. Chairman, because there are others who have proffered the amendment also on Jordan, if any amendment that restricts any military assistance to Jordan is defeated, then the $25 million goes back.

Mr. FASCELL. The gentleman is a scholar and a real gentleman. I thank the gentleman.

Mr. Chairman, I make that unanimous-consent request.

The CHAIRMAN pro tempore. Would the gentleman restate for the Chair his request?

Mr. FASCELL. The unanimous-consent request, Mr. Chairman, is that the pending amendment here will be accepted without prejudice to Jordan. On its acceptance, the unanimous-consent request is that when we get to title VIII, if there is no amendment in title VIII restricting aid to Jordan, then it would be in order to offer an amendment to restore this money.

□ 1800

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I just came in the door. I do have an amendment relating to Jordan in title VIII. What I want to do is make it very clear that I understand what the gentleman is trying to do.

Would the gentleman restate it for my benefit?

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I offered an amendment pending, striking $25 million from the total authorization for military assistance with the idea that later on when we get to title VIII there will be an amendment that the gentleman from Indiana, I, and others have offered on Jordan, to strike the money on Jordan.

This is the $25 million that would go to Jordan. The gentleman from Florida, the chairman of the committee is now saying, and I have agreed to it, that if we lose on our amendment on Jordan, and under the bill Jordan is still eligible for military assistance, he would be entitled to restore that $25 million at that time.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, it would be in order to offer an amendment at that time. I am not saying that I will offer an amendment.

Mr. BURTON of Indiana. Mr. Chairman, I understand and I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). Without objection, the unanimous-consent request is agreed to.

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

The amendment was agreed to.

Mr. RAHALL. Mr. Chairman, I am opposed to the provisions in title II, chapter 3 of the foreign aid bill. It continues to rob the American taxpayer of their right to get back something on their national security investment. It denies them access to defense equipment that the Department has said it no longer needs.

The bill is constructed so as to continue to deny States access to Department of Defense heavy construction machinery that the Defense Department no longer needs and the States are begging for. Where does it go? It goes to foreign governments, not back to the States for America's use.

I have had a bill pending here for 2 years trying to get this excess property for our States. They desperately need it.

It is not only being given away to foreign countries, it is shipped to them totally free of charge. They don't have to pay to acquire it, they don't have to pay to repair it, and they don't have to pay to transport it from anywhere in the world.

I had GAO investigate and report to me on how many countries are receiving this equipment and at what cost. The GAO reported that 39 foreign countries are receiving heavy equipment, and GAO also found that the equipment donated was worth $48 million, paid for by American taxpayers. But that wasn't the worst part. The worst part was that GAO also discovered that our Government spent another $46 million to give it away.

That's a total of $94 million—all for the same equipment—and our State citizens, our District residents, did not get a dime of this—not a dime.

Let me emphasize, Mr. Chairman, that American taxpayers paid for this heavy equipment twice, once when it was bought and again when it was given away, for a total of $94 million for equipment valued at $48 million.

Do you know what States get, Mr. Chairman? They get scrap and junk. And they pay for its repair, and they pay for its transportation, or they don't get it. Period.

I had an amendment to this bill that would have repealed the authorized appropriations for this double giveaway. If Members want to continue to send America's property to every country but the U.S.A., that is one issue. But do we have to pay to put it in mint condition, and ship it to them in velvet crates with overnight delivery?

But I was advised, just like my friend GENE TAYLOR, that my amendment would be ruled out of order—that a point of order would be raised, and I'd lose.

This bill amends underlying law that provides what little assistance the States now get in surplus property. To have an amendment to that same underlying law ruled out of order makes no sense to me.

I hope the American people are listening and listening well. This bill is a $25 billion bill—and to boot it would further deprive States of the little they are getting now in property they've paid for twice, and property they desperately need. They will get not one dime from this bill.

The CHAIRMAN pro tempore. Are there additional amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—TRADE AND DEVELOPMENT AGENCY AND OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 301. CONSOLIDATION AND REVISION OF AUTHORITIES.

The Foreign Assistance Act of 1961 is amended by inserting after title II, as added by title II of this Act, the following:

"TITLE III—TRADE AND DEVELOPMENT AGENCY AND OVERSEAS PRIVATE INVESTMENT CORPORATION

"CHAPTER I—TRADE AND DEVELOPMENT AGENCY

"SEC. 3101. PURPOSE.

"The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in friendly developing and middle-income countries, in order to promote the four basic objectives set forth in section 1102.

"SEC. 3102. AUTHORITY TO PROVIDE ASSISTANCE.

"(a) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with friendly countries, including those in which the United States development programs have been concluded or those not receiving assistance under title I or chapter 1 of title V of this Act, to carry out the purpose of this chapter by providing funds for feasibility studies, engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

"(b) USE OF FUNDS.—Funds under this chapter may be used to provide support for feasibility studies for the planning of, development of, management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this chapter may also be used for engineering design, including—

"(1) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

"(2) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

"(c) INFORMATION DISSEMINATION.—

"(1) IN GENERAL.—The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(2) OFFICE OF INTERNATIONAL MAJOR PROJECTS OF THE DEPARTMENT OF COMMERCE.—The Trade and Development Agency shall cooperate with the Office of International Major Projects of the Department of Commerce in order to provide information to persons in the private sector concerning trade development and export promotion related to multilateral development projects.

"(4) OTHER AGENCIES.—Other Federal departments and agencies shall cooperate with the Trade and Development Agency in order for the Agency to more effectively provide informational services in accordance with this subsection.

"(d) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this chapter may be used notwithstanding any other provision of law.

"SEC. 3103. DIRECTOR AND PERSONNEL.

"(a) DIRECTOR.—The Director of the Trade and Development Agency shall be the head of the agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) OFFICERS AND EMPLOYEES.—

"(1) APPOINTMENT.—The Director may appoint such officers and employees as the Director considers appropriate.

"(2) FUNCTIONS.—The officers and employees appointed under this subsection shall have such functions as the Director may determine.

"(3) APPOINTMENTS WITHOUT REGARD TO CERTAIN CIVIL SERVICE LAWS.—Of the officers and employees appointed under this subsection, 4 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(4) REINSTATEMENT RIGHTS.—Under such regulations as the President may prescribe, any individual appointed under paragraph (3) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 3104. ANNUAL REPORT.

"The Director of the Trade and Development Agency shall, not later than December 31 of each year, submit to the appropriate congressional committees a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"SEC. 3105. ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Director of the Trade and Development Agency shall, by regulation, establish an advisory board which shall include representatives of the private sector.

"(b) PURPOSE.—The purpose of the advisory board shall be to make recommendations to the Director with respect to the Trade and Development Agency.

"SEC. 3106. INSPECTOR GENERAL.

"(a) AUTHORITY.—The Inspector General of the Agency for International Development—

"(1) shall have full and independent authority to conduct audits, investigations, and inspections of all phases of the program and operations of the Trade and Development Agency for the purpose of promoting economy, efficiency, and effectiveness, and detecting and preventing fraud and abuse; and

"(2) shall conduct all security activities of the Trade and Development Agency relating to personnel and the control of classified material.

"(b) RELATION TO DIRECTOR OF THE TRADE AND DEVELOPMENT AGENCY.—The Inspector General shall report to and be under the general supervision of the Director of the Trade and Development Agency with respect to activities undertaken pursuant to this section, except that the Director shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any such activity in accordance with the duties, authorities, and responsibilities contained in the Inspector General Act of 1978, and any other applicable laws and regulations.

"(c) INSPECTOR GENERAL ACT.—For purposes of the Inspector General Act of 1978, the Trade and Development Agency shall be considered to be a Federal entity and the Director of the Trade and Development Agency shall be considered the head of the Federal entity.

"(d) SEMIANNUAL REPORT.—The semiannual report required under section 5 of the Inspector General Act of 1978 shall include information relating to activities of the Inspector General undertaken pursuant to this section.

"SEC. 3107. FUNDING.

"There are authorized to be appropriated for purposes of this chapter, in addition to funds otherwise available for such purposes, $55,700,000 for fiscal year 1992 and $70,000,000 for fiscal year 1993.

"CHAPTER 2—OVERSEAS PRIVATE INVESTMENT CORPORATION

"SEC. 3201. PURPOSE AND POLICY.

"(a) PURPOSE.—The Overseas Private Investment Corporation shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Corporation is to mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed friendly countries and areas, thereby complementing the development assistance objectives of the United States.

"(b) DEVELOPMENT AND PER CAPITA INCOME CRITERIA.—The Corporation, in determining whether to provide insurance, reinsurance, guarantees, or financing for a project, shall especially—

"(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors; and

"(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of $1,091 or less in 1989 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of $4,734 or more in 1989 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) and eligible East European countries (within the meaning of the Support for East European Democracy (SEED) Act of 1989).

"(c) GUIDELINES FOR ACTIVITIES OF OPIC.—In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

"(1) to conduct insurance, reinsurance, guarantee, and financing operations on a self-sustaining basis, taking into account in its guarantee and financing operations the economic and financial soundness of projects;

"(2) to utilize private credit and investment institutions and the Corporation's guarantee authority as the principal means of mobilizing capital investment funds;

"(3) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

"(4) to conduct its insurance operations with due regard to principles of risk management, including efforts to share its insurance risks and reinsurance risks;

"(5) to consider in the conduct of its operations the extent to which the governments of less developed countries are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

"(6) to foster private initiative and competition and discourage monopolistic practices;

"(7) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

"(8) to conduct its activities in consonance with the activities of the administering agency for title I and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States; and

"(9) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas.

"SEC. 3202. STOCK OF THE CORPORATION; ORGANIZATION AND MANAGEMENT.

"(a) STOCK.—The Secretary of the Treasury shall hold the capital stock of the Corporation.

"(b) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (hereinafter in this chapter referred to as 'the Board') which shall consist of 15 Directors (including the Chair, Vice Chair, and the President of the Corporation), with 8 Directors constituting a quorum for the transaction of business.

"(2) COMPOSITION OF THE BOARD.—

"(A) CHAIR.—The Chair of the Board shall be the Administrator, ex officio.

"(B) VICE CHAIR.—The Vice Chair of the Board shall be the United States Trade Representative, ex officio, or, if so designated by the United States Trade Representative, the Deputy United States Trade Representative.

"(C) PRESIDENT OF THE CORPORATION.—The President of the Corporation shall serve as a Director, ex officio.

"(D) PUBLIC SECTOR DIRECTORS.—(i) In addition to the directors provided for in subparagraphs (A), (B), and (C), four Directors who are officers or employees of the Government of the United States, including an officer or employee of the Department of Labor, shall be designated by and shall serve at the pleasure of the President of the United States.

"(ii) The Directors designated under this subparagraph shall receive no additional compensation by virtue of their service as such a Director.

"(E) PRIVATE SECTOR DIRECTORS.—(i) Eight Directors who are not officers or employees of the Government of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

Of these, at least—

"(I) two shall be experienced in small business,

"(II) one shall be experienced in organized labor, and

"(III) one shall be experienced in cooperatives.

"(ii) Each Director appointed under this subparagraph shall be appointed for a term of not more than 3 years. The terms of not more than 3 such Directors shall expire in any 1 year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed to subsequent terms.

"(iii) Each Director appointed under this subparagraph shall be compensated at the daily equivalent of the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Director is actually engaged in the business of the Corporation, and may be paid travel or transportation expenses to the extent authorized for employees serving intermittently in the Government service under section 5703 of title 5, United States Code. Any such Director may waive any such compensation.

"(d) APPOINTMENT OF THE PRESIDENT.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account the private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and shall be responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

"(e) OFFICERS AND STAFF.—

"(1) EXECUTIVE VICE PRESIDENT.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

"(2) OTHER OFFICERS AND STAFF.—(A) The Corporation may appoint such other officers and such employees (including attorneys) and agents as the Corporation considers appropriate.

"(B) The officers, employees, and agents appointed under this subsection shall have such functions as the Corporation may determine.

"(C) Of the officers, employees, and agents appointed under this paragraph, 20 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"SEC. 3203. INVESTMENT INSURANCE, GUARANTEES, FINANCING, AND OTHER PROGRAMS.

"(a) INVESTMENT INSURANCE.—

"(1) RISKS FOR WHICH INSURANCE ISSUED.—The Corporation is authorized to issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved:

"(A) Inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment in the project, in whole or in part, or as compensation for the sale or disposition of all or any part of the investment.

"(B) Loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government.

"(C) Loss due to war, revolution, insurrection, or civil strife.

"(D) Loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

"(2) RISK SHARING ARRANGEMENTS WITH FOREIGN GOVERNMENTS AND MULTILATERAL ORGANIZATIONS.—Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, and political subdivisions thereof) and with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may, in connection with such arrangements, issue insurance to investors not otherwise eligible for insurance under this chapter, except that—

"(A) liabilities assumed by the Corporation under the authority of this paragraph shall be consistent with the purposes of this chapter, and

"(B) the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

"(3) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 10 percent of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 3206(a)(1) shall be issued to a single investor.

"(4) REPORTS ON INSURANCE ISSUED FOR BUSINESS INTERRUPTION OR CIVIL STRIFE.—(A) In each instance in which a significant expansion is proposed in the type of risk to be insured under the definition of 'civil strife' or 'business interruption', the Corporation shall, at least 60 days before such insurance is issued, submit to the appropriate congressional committees a report with respect to such insurance.

"(B) Each such report shall include a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered.

"(C) Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to reprogramming notifications pursuant to section 6304.

"(b) INVESTMENT GUARANTEES.—

"(1) AUTHORITY.—The Corporation is authorized to issue to eligible investors guarantees of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, subject to paragraphs (2), (3), and (4).

"(2) GUARANTEES ON OTHER THAN LOAN INVESTMENTS.—A guarantee issued under paragraph (1) on other than a loan investment may not exceed 75 percent of such investment.

"(3) LIMIT ON AMOUNT OF INVESTMENT GUARANTEED.—Except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) for which guarantees are issued under paragraph (1) with respect to any project shall not exceed, at the time of issuance of any such guarantee, 75 percent of the total investment committed to any such project as determined by the Corporation. Such determination by the Corporation shall be conclusive for purposes of the Corporation's authority to issue any such guarantee.

"(4) MAXIMUM CONTINGENT LIABILITY WITH RESPECT TO SINGLE INVESTOR.—Not more than 15 percent of the maximum contingent liability of investment guarantees which the Corporation is permitted to have outstanding under section 3206(a)(2) may be issued to a single investor.

"(c) DIRECT INVESTMENT.—

"(1) IN GENERAL.—The Corporation is authorized to make loans in United States dollars, repayable in dollars, and to make loans in foreign currencies, to firms privately owned or of mixed private and public ownership, upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives.

"(2) USE OF LOAN FOR NEW TECHNOLOGIES, PRODUCTS, OR SERVICES.—The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new technologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries.

"(d) INVESTMENT ENCOURAGEMENT.—The Corporation is authorized to initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying, and promotion of private investment opportunities, using wherever feasible and effective the facilities of private investors, except that the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of oil or gas resources.

"(e) SPECIAL ACTIVITIES.—The Corporation is authorized to administer and manage special projects and programs, including programs of financial and advisory support, which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings, intermediate financial and investment institutions, and cooperatives. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 7201(a) or from other sources, public or private.

"(f) OTHER INSURANCE FUNCTIONS.—

"(1) IN GENERAL.—The Corporation is authorized—

"(A) to make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and

"(B) to employ such insurance companies, financial institutions, other persons, or groups, where appropriate, as its agent, or to act as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business,

except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 3201 and shall be on equitable terms.

"(2) RISK-SHARING AGREEMENTS.—The Corporation is authorized to enter into pooling or other risk-sharing agreements with multinational insurance or financing agencies or groups of such agencies.

"(3) OWNERSHIP INTEREST IN RISK-SHARING ENTITIES.—The Corporation is authorized to hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

"(4) REINSURANCE OF CERTAIN LIABILITIES.—The Corporation is authorized to issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups thereof with respect to risks referred to in subsection (a)(1).

"(5) LIMITATION ON REINSURANCE.—The amount of reinsurance of liabilities under this chapter which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 3206(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his or her own account specified portions of liability, whether first loss or otherwise.

"(g) EQUITY FINANCE PROGRAM.—

"(1) AUTHORITY FOR EQUITY FINANCE PROGRAM.—The Corporation is authorized to establish an equity finance program under which it may, on the limited basis prescribed in paragraphs (2) through (4), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this chapter, except that—

"(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

"(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

"(2) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

"(3) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporation's financial interests and the desirability of fostering the development of local capital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

"(4) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the appropriate congressional committees on the implementation of the equity finance program established under this subsection.

"SEC. 3204. ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.

"(a) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this chapter, the Corporation shall undertake programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

"(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

"(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

"(3) Notwithstanding section 3208(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

"(b) ADVISORY GROUP.—

"(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

"(A) Up to 7 persons from the private political risk insurance industry, of whom no fewer than 2 shall represent private political risk insurers, 1 shall represent private political risk reinsurers, and 1 shall represent insurance or reinsurance brokerage firms.

"(B) Up to 4 persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

"(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

"(3) MEETINGS.—The advisory group shall meet at least annually. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

"(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"SEC. 3205. GUIDELINES AND REQUIREMENTS FOR OPIC SUPPORT.

"(a) DEVELOPMENT IMPACT PROFILE.—In order to carry out the policy set forth in section 3201(b)(1), the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the administering agency for title I.

"(b) SMALL BUSINESS DEVELOPMENT.—

"(1) BROADENED PARTICIPATION BY SMALL BUSINESSES.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas.

"(2) PREFERENTIAL CONSIDERATION.—The Corporation shall undertake, to the maximum degree possible consistent with its purposes—

"(A) to give preferential consideration in its investment insurance, reinsurance, and guarantee activities to investment projects sponsored by or involving United States small business; and

"(B) to maintain the proportion of projects sponsored by or significantly involving United States small business at not less than 30 percent of all projects insured, reinsured, or guaranteed by the Corporation.

"(3) ALLOCATION OF INCOME.—The Corporation shall allocate up to 50 percent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this subsection. Such funds may be expended notwithstanding the requirements of section 3201(c)(1), on such terms and conditions as the Corporation may determine through loans, grants, or other programs authorized by sections 3203 and 3204.

"(c) ENVIRONMENTAL CONSIDERATIONS.—

"(1) ENVIRONMENTAL, HEALTH, OR SAFETY HAZARD.—The Corporation shall refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

"(2) RESOURCE SUSTAINABLE DEVELOPMENT.—The Corporation, in determining whether to provide insurance, reinsurance, guarantees, or financing for a project, shall ensure that the project is consistent with the objectives set forth in sections 1102(a)(2) of resource sustainable development.

"(3) ENVIRONMENTAL IMPACT STATEMENTS AND ASSESSMENTS.—The requirements of section 1241 relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this chapter in connection with a project in a country.

"(4) NOTIFICATION OF FOREIGN GOVERNMENTS.—Before finally providing insurance, reinsurance, guarantees, or financing under this chapter for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

"(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization that relate to the public health or safety or the environment and are applicable to the project; and

"(B) to the maximum extent practicable, any restriction, under any law of the United States, that relates to public health or safety or the environment and would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to paragraph (3).

"(5) CONSIDERATION OF COMMENTS RECEIVED.—Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (4), the Corporation shall take into account any comments it receives on the project involved.

"(d) WORKER RIGHTS.—

"(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to workers in that country (including any designated zone in that country).

"(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c)).

"(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guarantee, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.

"(e) HUMAN RIGHTS.—The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 6201(a)(2) shall apply to any insurance, reinsurance, guarantee, or financing provided by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting poor people) set forth in subsection (b)(1)(C) of such section, the Corporation may support a project if the national security interest so requires.

"(f) HARM TO EMPLOYMENT IN THE UNITED STATES.—

"(1) REPLACEMENT OF UNITED STATES PRODUCTION.—(A) The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of the investor's or sponsor's employees in the United States because the investor or sponsor is replacing his or her United States production with production from such investment, and the production from such investment involves substantially the same product for substantially the same market as the investor's or sponsor's United States production.

"(B) If the Corporation determines that an investment is not likely to have the effects described in subparagraph (A), the Corporation shall monitor conformance with the representations made by the investor on which the Corporation relied in making that determination.

"(2) REDUCTION OF EMPLOYEES IN THE UNITED STATES.—The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States.

"(g) PERFORMANCE REQUIREMENTS.—The Corporation shall refuse to insure, reinsure, guarantee, or finance an investment which is subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment.

"(h) PROHIBITED TRADE PRACTICES.—

"(1) PAYMENTS TO VIOLATORS BARRED.—No payment may be made under any insurance or reinsurance which is issued under this chapter on or after April 24, 1978, for any loss occurring with respect to a project, if the preponderant cause of such loss was an act by the investor seeking payment under this chapter, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation of section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977.

"(2) REGULATIONS.—The Corporation shall have in effect regulations setting forth appropriate conditions under which any person who has been finally determined by a court of the United States to have violated section 30A of the Securities Exchange Act of 1934 or section 104 of the Foreign Corrupt Practices Act of 1977 shall be suspended, for a period of not more than 5 years, from eligibility to receive any insurance, reinsurance, guarantee, financing, or other financial support authorized by this chapter, if that violation related to a project insured, reinsured, guaranteed, financed, or otherwise supported by the Corporation under this chapter.

"(i) FRAUD OR MISREPRESENTATION.—No payment may be made under any guarantee, insurance, or reinsurance issued under this chapter for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

"(j) PUBLIC HEARINGS.—The Board shall hold at least 1 public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 3201 and this section or whether any investment in a particular country should have been or should be extended insurance, reinsurance, guarantees, or financing under this chapter.

"SEC. 3206. ISSUING AUTHORITY, DIRECT INVESTMENT FUND, EQUITY FUND, AND RESERVES.

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 3203(a) shall not exceed in the aggregate $7,500,000,000.

"(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 3203(b) shall not exceed in the aggregate $2,500,000,000.

"(B) Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 but subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw up to $1,500,000 from its noncredit account revolving fund to pay for the estimated subsidy cost of a program level for the loan guarantee program under section 3203(b) of $375,000,000 for fiscal year 1992. Such funds shall remain available in fiscal year 1993.

"(3) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 3203 shall continue until September 30, 1992.

"(b) DIRECT LOAN PROGRAM.—Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 but subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw up to $4,800,000 from its noncredit account revolving fund to pay for the estimated subsidy cost of a program level for its direct loan program under section 3203(c) of $50,000,000 for fiscal year 1992. Such amounts shall remain available for fiscal year 1993.

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in section 3203(g) and to make a one-time transfer to the fund of $35,000,000 (less amounts transferred to the fund before the effective date specified in section 1101 of the International Cooperation Act of 1991) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under section 3203(g), and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts.

"(d) INSURANCE RESERVES.—

"(1) MAINTENANCE AND PURPOSES.—The Corporation shall maintain insurance reserves. Such reserves shall be available for the discharge of liabilities, as provided in subsection (e), until such time as all such liabilities have been discharged or have expired or until all such reserves have been expended in accordance with the provisions of this section.

"(2) FUNDING.—The insurance reserves shall consist of—

"(A) any funds in the insurance reserves of the Corporation on the effective date specified in section 1101 of the International Cooperation Act of 1991,

"(B) amounts transferred to the reserves pursuant to this chapter, and

"(C) such sums as are appropriated pursuant to subsection (f) of this section for such purposes.

"(e) ORDER OF PAYMENTS TO DISCHARGE LIABILITIES.—Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 3203, under similar predecessor guarantee authority, or under section 3204, shall be paid first out of the insurance reserve, as long as such reserve remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guarantees issued under section 3203(b) shall be paid in accordance with the Federal Credit Reform Act of 1990.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AUTHORIZATION.—Subject to paragraph (2), there are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the insurance reserves, to discharge the liabilities under insurance or reinsurance, issued by the Corporation or issued under predecessor guarantee authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to subsection (g).

"(2) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made under paragraph (1) to augment the insurance reserve until the amount of funds in the insurance reserve is less than $25,000,000. Any appropriations to augment the insurance reserve shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 3206(c).

"(g) ISSUANCE OF OBLIGATIONS.—In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; except that the aggregate amount of such obligations outstanding at any one time may not exceed $100,000,000. Any such obligation shall be repaid to the Treasury within 1 year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code. The purpose for which securities may be issued under chapter 31 of title 31, United States Code, shall include any such purchase.

"(h) ADMINISTRATIVE EXPENSES.—Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw up to $12,000,000 from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs for fiscal year 1992. Such funds shall remain available in fiscal year 1993.

"SEC. 3207. INCOME AND REVENUES.

"In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from its noncredit activities, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

"(1) payment of all expenses of the Corporation, including investment promotion expenses;

"(2) transfers and additions to the insurance reserves maintained under section 3206(d), and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and

"(3) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under paragraphs (1) and (2).

"SEC. 3208. GENERAL PROVISIONS RELATING TO INSURANCE, GUARANTY, AND FINANCING PROGRAM.

"(a) AGREEMENTS WITH COUNTRIES.—Insurance, guarantees, and reinsurance issued under this chapter shall cover investment made in connection with projects in any less developed friendly country or area with the government of which the President of the United States has agreed to institute a program for such insurance, guarantees, or reinsurance.

"(b) PROTECTION OF INTERESTS OF THE CORPORATION.—The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, reinsurance, or guarantee issued under this chapter, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guarantee, or reinsurance is to be made, and any right, title, claim, or cause of action existing in connection therewith.

"(c) FULL FAITH AND CREDIT PLEDGED.—All guarantees issued under predecessor guarantee authority, and all insurance, reinsurance, and guarantees issued under this chapter shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

"(d) FEES.—

"(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, guarantees, financing, and other services under this chapter in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, guarantees, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, guarantees, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

"(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 3203 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

"(e) INSURANCE, GUARANTEES, AND REINSURANCE LIMITED TO 20 YEARS.—No insurance, reinsurance, or guarantee of any equity investment under this chapter shall extend beyond 20 years from the date on which such insurance, reinsurance, or guarantee is issued.

"(f) AMOUNT OF COMPENSATION PAID ON CLAIMS.—Compensation for any insurance, reinsurance, or guarantee issued under this chapter shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guarantee, except that the Corporation may provide that—

"(1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets;

"(2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss; and

"(3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.

Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued under section 3203 or 3204 so that risk of loss as to at least 10 percent of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that this limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties.

"(g) LIMITATION WITH RESPECT TO FOREIGN CREDIT INSTITUTIONS.—Insurance, guarantees, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

"(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—Claims arising as a result of insurance, reinsurance, or guarantee operations under this chapter or under predecessor guarantee authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) Contracts Presumed To Comply With Act.—Each guarantee contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

"(j) Operations in Certain Countries.—Except for the provisions of this chapter, no other provision of this or any other law shall be construed to prohibit the operation in any eligible East European country (within the meaning of the Support for East European Democracy (SEED) Act of 1989) of any program authorized by this chapter, if the President determines that the operation of such program in such country is important to the national interest.

"SEC. 3209. GENERAL PROVISIONS AND POWERS.

"(a) Principal Office.—The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia.

"(b) Audits.—

"(1) In general.—The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this chapter.

"(2) Independent audit.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

"(3) Audit by comptroller general.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this paragraph.

"(4) Availability of information.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(c) Powers.—To carry out the purposes of this chapter, the Corporation is authorized—

"(1) to adopt and use a corporate seal, which shall be judicially noticed;

"(2) to sue and be sued in its corporate name;

"(3) to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;

"(4) to acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein;

"(5) to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it considers appropriate;

"(6) to indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities;

"(7) to require bonds of officers, employees, and agents and to pay the premiums therefor;

"(8) notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings;

"(9) to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guarantee, and guarantee notes, participation certificates, and other evidence of indebtedness (except that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 3201(c)(3) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 3208(h));

"(10) to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business;

"(11) to exercise any priority of the Government of the United States in collecting debts from the estates of bankrupt, insolvent, or decedent parties;

"(12) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations;

"(13) to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and

"(14) to take such actions as may be necessary or appropriate to carry out the powers of the Corporation.

"(d) Inspector General.—

"(1) Authority.—The Inspector General of the administering agency—

"(A) shall have full and independent authority to conduct audits, investigations, and inspections of all phases of the Corporation's programs and operations for the purpose of promoting economy, efficiency, and effectiveness, and detecting and preventing fraud and abuse; and

"(B) shall conduct all security activities of the Corporation relating to personnel and the control of classified material.

"(2) Relation to president of corporation.—The Inspector General shall report to and be under the general supervision of the President of the Corporation with respect to activities undertaken pursuant to this subsection, except that the President of the Corporation shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any such activity in accordance with the duties, authorities, and responsibilities contained in the Inspector General Act of 1978 and any other applicable law or regulation.

"(3) Inspector general act.—For purposes of the Inspector General Act of 1978, the Corporation shall be considered to be a Federal entity and the President of the Corporation shall be considered the head of the Federal entity.

"(4) Semiannual report.—The semiannual report required under section 5 of the Inspector General Act of 1978 shall include information relating to activities of the Inspector General undertaken pursuant to this subsection.

"(e) Exemption From State and Local Taxation.—The Corporation (including its franchise, capital, reserves, surplus, advances, intangible property, and income) shall be exempt from all taxation at any time imposed by any State, the District of Columbia, or any county, municipality, or local taxing authority.

"(f) Corporate Operational Guidelines.—The Corporation—

"(1) shall establish and publish guidelines for its programs and operations consistent with the provisions of this chapter, and

"(2) shall make such guidelines available to applicants for insurance, reinsurance, guarantees, financing, or other assistance provided by the Corporation.

The provisions of this chapter shall be controlling with respect to the Corporation's programs and operations.

"SEC. 3210. ANNUAL REPORT; MAINTENANCE OF INFORMATION.

"(a) Annual Report.—After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

"(1) an assessment, based upon the development impact profiles required by section 3205(a), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

"(2) a description of any project for which the Corporation—

"(A) refused to provide any insurance, reinsurance, guarantee, financing, or other financial support, on account of violations of human rights referred to in section 3205(e); or

"(B) notwithstanding such violations, provided such insurance, reinsurance, guarantee, financing, or financial support, on the basis of a determination that—

"(i) the project benefits poor people consistent with section 6201(b)(1)(C), or

"(ii) the national security interest so requires.

"(b) Projections of Effects on Employment.—

"(1) In general.—Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the fiscal year covered by the report, the Corporation initially issued any insurance, reinsurance, or guarantee or provided financing. Each such report shall include projections of—

"(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

"(B) the final destination of the products to be produced as a result of those projects; and

"(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

"(2) INFORMATION IN AGGREGATE FORM.—The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1). Such projections may, however, present information and analysis in aggregate form, but only if—

"(A) those projects which are projected to have a positive effect on employment in the United States and those projects which are projected to have a negative effect on employment in the United States are grouped separately; and

"(B) there is set forth for each such grouping the key characteristics of the projects within that grouping, including the number of projects in each economic sector, the countries in which the projects in each economic sector are located, and the projected level of the impact of the projects in each economic sector on employment in the United States and on United States trade.

"(c) MAINTENANCE OF INFORMATION.—The Corporation shall maintain as part of its records—

"(1) all information collected in preparing the report required by section 240A(c) of the Foreign Assistance Act of 1961 (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988), whether the information was collected by the Corporation itself or by a contractor; and

"(2) a copy of the analysis of each project analyzed in preparing the projections required by subsection (b) of this section or the report required by section 240A(c) of this Act (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).

"(d) PROGRAMS OF COOPERATION WITH PRIVATE INDUSTRY.—Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 3204(a), including the following information, to the extent such information is available to the Corporation:

"(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this chapter.

"(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this chapter.

"(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

"(e) PROTECTION OF CERTAIN INFORMATION.—Subsections (b) and (d) do not require the inclusion in any information submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

"SEC. 3211. DEFINITIONS.

"As used in this chapter, the following terms have the following meanings:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Overseas Private Investment Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Overseas Private Investment Corporation.

"(3) ELIGIBLE INVESTOR.—(A) The term 'eligible investor' means—

"(i) a United States citizen;

"(ii) a corporation, partnership, or other association, including a nonprofit association, which is created under the laws of the United States, any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which is substantially beneficially owned by United States citizens; and

"(iii) a foreign corporation, partnership, or other association which is wholly owned by one or more United States citizens or corporations, partnerships, or other associations described in clause (ii), except that the eligibility of any such foreign corporation shall be determined without regard to any shares held by other than United States citizens or corporations, partnerships, or other associations described in clause (ii) if, in the aggregate, such shares equal less than 5 percent of the total issued and subscribed share capital of such foreign corporation.

"(B) For purposes of this chapter—

"(i) in the case of insurance or a guarantee for any loan investment, a final determination of whether a person is an eligible investor may be made at the time the insurance or guarantee is issued; and

"(ii) in the case of insurance or a guarantee for any other investment, an investor must be an eligible investor at the time a claim arises as well as the time the insurance or guarantee is issued.

"(4) EXPROPRIATION.—The term 'expropriation' includes any abrogation, repudiation, or impairment by a foreign government of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor's own fault or misconduct, and materially adversely affects the continued operation of the project.

"(5) INVESTMENT.—The term 'investment' includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of—

"(A) a loan or loans to an approved project,

"(B) the purchase of a share of ownership in any such project,

"(C) participation in royalties, earnings, or profits of any such project, or

"(D) the furnishing of commodities or services pursuant to a lease or other contract.

"(6) NONCREDIT ACCOUNT REVOLVING FUND.—The term 'noncredit account revolving fund' means the account in which funds under section 3205 and all funds from noncredit activities are held.

"(7) NONCREDIT ACTIVITIES.—The term 'noncredit activities' means all activities of the Corporation other than its loan guarantee program under section 3203(b) and its direct loan program under section 3203c).

"(8) PREDECESSOR GUARANTEE AUTHORITY.—The term 'predecessor guarantee authority' means prior guarantee authorities (other than housing guarantee authorities) repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, and section 111(b)(3) of the Economic Cooperation Act of 1948, (exclusive of authority relating to informational media guarantees).".

The CHAIRMAN pro tempore. Are there amendments to title III?

If not, the Clerk will designate title IV.

The test of title IV is as follows:

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

SEC. 401. CONSOLIDATION AND REVISION OF AUTHORITIES AND REQUIREMENTS.

The Foreign Assistance Act of 1961 is amended by inserting after title III, as added by title III of this Act, the following:

"TITLE IV—INTERNATIONAL NARCOTICS CONTROL

"CHAPTER 1—GENERAL POLICIES

"SEC. 4101. STATEMENTS OF POLICY.

"(a) GENERAL STATEMENT OF POLICY.—

"(1) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

"(2) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

"(3) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

"(4) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

"(5) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

"(b) MULTILATERAL DEVELOPMENT BANKS.—In order to promote international cooperation in combating international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic and psychotropic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

"SEC. 4102. COORDINATION OF ALL UNITED STATES ANTI-NARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.

"(a) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

"(b) RULE OF CONSTRUCTION.—Nothing contained in this section or section 4401(c) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

"CHAPTER 2—NARCOTICS CONTROL ASSISTANCE

"SEC. 4201. AUTHORITY TO CONCLUDE AGREEMENTS AND PROVIDE ASSISTANCE.

"(a) AUTHORITY TO CONCLUDE AGREEMENTS.—In order to promote effective international cooperation, the President is authorized to conclude agreements, including reciprocal maritime agreements, with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

"(b) Authority To Furnish Assistance.—Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization for the control of narcotic and psychotropic drugs and other controlled substances.

"(c) Administrative Authorities.—Except where expressly provided to the contrary, any reference in any law to title I of this Act shall be deemed to include reference to this title.

"SEC. 4202. AUTHORIZATIONS OF APPROPRIATIONS.

"To carry out section 4201, there are authorized to be appropriated to the President $171,500,000 for fiscal year 1992 and $171,500,000 for fiscal year 1993.

"SEC. 4203. CONTRIBUTION BY RECIPIENT COUNTRY.

"To ensure local commitment to the activities assisted under this chapter, a country receiving assistance under this chapter should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. A country may bear such costs on an 'in kind' basis.

"SEC. 4204. USE OF HERBICIDES FOR AERIAL ERADICATION.

"(a) Monitoring.—The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

"(b) Annual Reports.—The President shall report on such impact in the annual report required by section 4401(a).

"(c) Report Upon Determination of Harm to Environment or Health.—If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the appropriate congressional committees, together with such recommendations as the President deems appropriate.

"SEC. 4205. PROHIBITION ON PROCUREMENT OF WEAPONS AND AMMUNITION.

"(a) Prohibition.—Except as provided in subsection (b), funds made available to carry out this chapter shall not be made available for the procurement of weapons or ammunition.

"(b) Exceptions.—Subsection (a) shall not apply with respect to funds for the procurement of—

"(1) weapons or ammunition for the defensive arming of aircraft used for narcotics-related purposes, or

"(2) firearms and related ammunition provided for defensive purposes to employees of the Department of State engaged in activities under this title,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"SEC. 4206. PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.

"(a) In General.—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

"(b) Records of Aircraft Use.—

"(1) Requirement to maintain.—The President shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

"(2) Congressional access.—The President shall make the records maintained pursuant to paragraph (1) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

"(c) Annual Reports.—In the reports submitted pursuant to section 4401(a), the President shall discuss—

"(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and

"(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

"SEC. 4207. RETENTION OF TITLE TO AIRCRAFT.

"(a) In General.—

"(1) Requirement to retain title.—Except as provided in subsection (b), any aircraft which are made available to a foreign country under this chapter, or are made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"(2) Effective date.—Paragraph (1) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

"(b) Exceptions.—

"(1) National interest exception.—Subsection (a) shall not apply to the extent that—

"(A) the application of that subsection with respect to particular aircraft would be contrary to the national interest of the United States; and

"(B) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"(2) Transfers under certain authorities.—Subsection (a) does not apply with respect to aircraft made available to a foreign country under section 2(b)(6)(B) of the Export-Import Bank Act of 1945 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

"(c) Assistance for Leasing of Aircraft.—

"(1) Use of funds.—For purposes of satisfying the requirement of subsection (a), funds made available for foreign military financing assistance may be used to finance the leasing of aircraft under chapter 6 of the Defense Trade and Export Control Act.

"(2) Cost of leases.—Section 61(a)(3) of that Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

"(3) Reimbursement of sdaf.—To the extent that aircraft so leased were acquired under chapter 5 of that Act, funds used pursuant to this subsection to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

"SEC. 4208. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.

"Funds made available to carry out this chapter may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such acquisition, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"CHAPTER 3—FOREIGN ASSISTANCE GENERALLY AND NARCOTICS CONTROL

"SEC. 4301. PROHIBITION ON USE OF FOREIGN ASSISTANCE FOR REIMBURSEMENTS FOR DRUG CROP ERADICATIONS.

"Funds made available to carry out this Act may not be used to reimburse persons whose illicit drug crops are eradicated.

"SEC. 4302. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

"(a) Prohibition.—The President shall take all reasonable steps to ensure that assistance under this Act is not provided to or through any individual or entity that the President knows or has reason to believe—

"(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country, relating narcotic or psychotropic drugs or other controlled substances; or

"(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

"(b) Regulations.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

"(c) Congressional Review of Regulations.—Regulations issued pursuant to subsection (b) shall be submitted to the appropriate congressional committees before they take effect.

"SEC. 4303. TRANSFER OF FUNDS WHEN COUNTRIES FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

"Funds allocated under the report required by section 6303 for a country for economic support assistance, foreign military financing assistance, or international military education and training may be transferred to, and consolidated with, funds made available for international narcotics control assistance if—

"(1) such assistance is withheld from the country for which it was allocated because of the requirements of section 4402 or any other provision of law requiring the withholding of assistance for countries that have not cooperated with the United States or otherwise taken adequate steps to halt illicit drug production and trafficking; and

"(2) such funds are used for assistance for countries that have taken significant steps to halt illicit drug production or trafficking.

"SEC. 4304. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

"Narcotics-related assistance under title I or chapter 1 or chapter 2 of title V may be provided notwithstanding any provision of law that restricts assistance to foreign countries (other than section 4402) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"CHAPTER 4—REPORTS AND ANNUAL CERTIFICATION PROCESS

"SEC. 4401. REPORTING REQUIREMENTS FOR FISCAL YEARS 1992 AND 1993.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a comprehensive report with respect to all countries which are members of the United Nations—

"(1) on the state of international narcotics production and trafficking, money-laundering, and precursor chemical control; and

"(2) on United States efforts to prevent—

"(A) the illicit cultivation and manufacture of and trafficking in narcotic and psychotropic drugs and other controlled substances,

"(B) the diversion of precursor chemicals, and

"(C) money laundering.

"(b) CONTENTS OF REPORT.—Each report pursuant to subsection (a) shall include the following:

"(1) For each country that is a member of the United Nations, a report on the matters identified in section 4402(b)(2).

"(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including the status of negotiations between the United States and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

"(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries.

"(3) The identity of those countries which are—

"(A) major illicit drug producing countries or major drug-transit countries as determined under section 4403,

"(B) the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States,

"(C) major sources of precursor chemicals used in the production of illicit narcotics, or

"(D) major money laundering countries.

"(4) In addition, for each country identified pursuant to paragraph (3), the following:

"(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

"(B) Whether as a matter of government policy, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

"(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

"(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

"(B) which countries have established a procedure by which such records may be made available to United States law enforcement authorities; and

"(C) which countries have enacted national chemical control legislation which would impose specific recordkeeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

"(7) In addition, for those countries identified pursuant to paragraph (3)(D)—

"(A) which countries have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings; and

"(B) which of the countries identified pursuant to subparagraph (A) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or have adopted laws or regulations that ensure the availability to appropriate United States Government personnel of adequate records in connection with narcotics investigations and proceedings.

"(8) In addition, for each country identified pursuant to paragraph (3)(D), findings on the country's adoption of laws and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(A) criminalized narcotics money laundering;

"(B) required financial institutions to record large currency transactions at thresholds appropriate to that country's economic situation;

"(C) required financial institutions to report suspicious transactions;

"(D) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(E) enacted laws for the sharing of seized narcotics assets with other governments; and

"(F) cooperated when requested with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government to address such obstacles, including the imposition of sanctions or penalties.

"(9) As used in this subsection—

"(A) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 902(33)); and

"(B) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.

"(c) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided or to be provided;

"(B) include, for each country identified in subsection (b)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

"(i) the assistance provided or to be provided to such country by that agency, and

"(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

"(d) EFFECTIVE DATES OF SECTIONS.—This section only applies during fiscal years 1992 and 1993. Section 4401A does not apply during those fiscal years.

"SEC. 4401A. REPORTING REQUIREMENTS APPLICABLE AFTER SEPTEMBER 30, 1993.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—

"(1) REQUIREMENT FOR REPORT.—Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on United States policy to establish and encourage an international strategy to prevent the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances.

"(2) CONTENTS.—Each report pursuant to this subsection shall include the following:

"(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including policy development, bilateral and multilateral funding and other support for international narcotics control projects, representations of the United States Government to international organizations and agencies concerned with narcotics control, training of foreign enforcement personnel, coordination of the international narcotics control activities of United States Government agencies, and technical assistance to international demand reduction programs.

"(B) A description of the activities of the United States in international financial institutions to combat the entry of narcotic and psychotropic drugs and other controlled substances into the United States for the fiscal year just ended, for the current fiscal year, and for the next fiscal year.

"(C) The identity of those countries which are the significant direct or indirect sources of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States. For each such country, each report shall include the following:

"(i) A detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(ii) A description of the assistance under this title and the other kinds of United States assistance which such country received in the preceding fiscal year, which are planned for such country for the current fiscal year, and which are proposed for such country for the next fiscal year, with an analysis of the impact that the furnishing of each such kind of assistance has had or is expected to have on the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances in such country.

"(iii) A description of the plans, programs, and timetables adopted by such country for the progressive elimination of the illicit cultivation of narcotic and psychotropic drugs and other controlled substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with these plans.

"(iv) A discussion of the extent to which such country has cooperated with United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.

"(D) For each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, a determination by the President of the maximum reductions in illicit drug production which are achievable during the next fiscal year. Each such determination shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.

"(E) For each major illicit drug producing country which received United States assistance for the preceding fiscal year, the actual reductions in illicit drug production achieved by that country during such fiscal year.

"(F) Specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have, during the preceding year, cooperated fully with such agencies (as described in section 4402A(b)).

"(G) A description of the United States assistance for the preceding fiscal year which was denied, pursuant to section 4402 or 4402A, to each major illicit drug producing country and each major drug-transit country.

"(b) MIDYEAR REPORT.—Not later than September 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this title prior to such date. Such midyear report shall include the status of each agreement concluded prior to such date with other countries to carry out this title.

"(c) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided;

"(B) include, for each country which is a significant direct or indirect source of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

"SEC. 4402. ANNUAL CERTIFICATION PROCEDURES FOR FISCAL YEARS 1992 AND 1993.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—

"(A) IN GENERAL.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 6303 for each major illicit drug producing country or major drug-transit country (as determined under section 4403) shall be withheld from obligation and expenditure, except as provided in subparagraph (B) and subsection (b).

"(B) WAIVER.—Subparagraph (A) shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b).

"(b) CERTIFICATION PROCEDURES.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 4401(a), that—

"(A) during the previous year the country has cooperated with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

"(3) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(c) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 30 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 4401(a), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—Subsection (e) shall apply to a country described in that subsection until—

"(1) the President, at the time of submission of the report required by section 4401(a), makes a certification under subsection (b)(1)(A) or (B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(2) the President, at any other time, makes a certification under subsection (b)(1)(B) with respect to that country.

"(g) CONGRESSIONAL REVIEW PROCEDURES.—

"(1) SENATE.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(2) HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(h) EFFECTIVE DATES OF SECTIONS.—This section only applies during fiscal years 1992 and 1993. Section 4402A does not apply during those fiscal years.

"SEC. 4402A. ANNUAL CERTIFICATION PROCEDURES AFTER SEPTEMBER 30, 1993.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 6303 for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in subsection (b).

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b).

"(b) CERTIFICATION PROCEDURE.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 4401A(a), that—

"(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (2)) or a multilateral agreement which achieves the objectives of paragraph (2),

"(ii) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

"(iii) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

"(iv) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) BILATERAL NARCOTICS AGREEMENT.—A bilateral narcotics agreement referred to in paragraph (1)(A)(i) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(A) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(B) increase drug interdiction and enforcement;

"(C) increase drug treatment;

"(D) increase the identification of and elimination of illicit drug laboratories;

"(E) increase the identification of, and elimination of trafficking in, essential precursor chemicals for use in the illicit production of narcotic and psychotropic drugs and other controlled substances;

"(F) increase cooperation with United States drug enforcement officials; and

"(G) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

"(3) REQUIREMENT FOR NARCOTICS AGREEMENT FOR CERTAIN COUNTRIES.—A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under paragraph (1)(A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of paragraph (2).

"(4) INFORMATION TO BE INCLUDED IN CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(5) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under paragraph (1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(c) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by subsection (b) with respect to a country, the President shall consider the following:

"(1) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 4401A(a)(2)(D)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by subsection (b)(1)(A), to whether the government of that country has taken actions which have resulted in such reductions.

"(2) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

"(3) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(A) the enactment and enforcement by that government of laws prohibiting such conduct,

"(B) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(C) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

"(4) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the illicit production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

"(5) Has that government, as a matter of government policy, encouraged or facilitated the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(6) Does any senior official of that government engage in, encourage, or facilitate the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(7) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities has been the victim, since January 1, 1985, of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

"(8) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

"(9) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

"(10) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

"(11) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under subsection (b), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f)(1) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—

"(1) TIME OF RECERTIFICATION; CONGRESSIONAL ACTION.—Subsection (e) shall apply to a country described in that subsection until—

"(A) the President makes a certification under subsection (b) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(B) the President submits, at any other time, a certification described in subparagraph (A) or (B) of subsection (b)(1) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

"(2) CONGRESSIONAL REVIEW PROCEDURES.—(A) Any joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"SEC. 4403. DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES FOR FISCAL YEARS 1992 AND 1993.

"(a) REPORTING OF DETERMINATIONS.—Not later than October 1 of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this Act.

"(b) EFFECTIVE DATES OF SECTIONS.—This section only applies during fiscal years 1992 and 1993. Section 4403A, and the definitions provided in section 7601(e) (2) and (3), do not apply during those fiscal years.

"SEC. 4403A. DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES AFTER SEPTEMBER 30, 1993.

"(a) ESTABLISHMENT OF GUIDELINES.—For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under section 7601(e)(3) (A) and (B).

"(b) NOTICE TO CONGRESS OF PRELIMINARY STANDARDS.—Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to subsection (a) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(c) NOTICE TO CONGRESS OF PRELIMINARY DETERMINATIONS.—Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(1) which countries have been determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(2) which countries have been determined to be major illicit drug producing countries for that year.

"SEC. 4404. STATUTORY REFERENCES.

"After September 30, 1993, any reference in this or any other Act to section 4401, 4402, or 4403 (other than references within those sections) shall be deemed to be a reference to section 4401A, 4402A, or 4403A, respectively.

"CHAPTER 5—MISCELLANEOUS PROVISIONS

"SEC. 4501. PARTICIPATION IN FOREIGN POLICE ACTIONS.

"(a) PROHIBITION ON EFFECTING AN ARREST.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

"(b) PARTICIPATION IN ARREST ACTIONS.—Subsection (a) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

"(c) EXCEPTION FOR EXIGENT, THREATENING CIRCUMSTANCES.—Subsection (a) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

"(d) EXCEPTION FOR MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, subsection (a) does not apply with respect to maritime law enforcement operations in the territorial sea or archipelagic waters of that country.

"(e) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

"(f) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This section does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.".

SEC. 402. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEARS 1992 AND 1993 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

(a) EXEMPTION.—For fiscal years 1992 and 1993, section 6202 of the Foreign Assistance Act of 1961 shall not apply with respect to—

(1) transfers of excess defense articles under section 2302 of that Act;

(2) foreign military financing assistance that is provided for narcotics-related purposes; or

(3) international military education and training that is provided for narcotics-related purposes.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance.

SEC. 403. EXPORT-IMPORT BANK FINANCING OF ANTINARCOTICS-RELATED SALES OF DEFENSE ARTICLES OR SERVICES.

Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 is amended by striking out "1992" and insert in lieu thereof "1994".

Mr. FEIGHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, title IV is the product of a very intensive committee review of current law and the executive branch request regarding a number of international narcotics control-related matters.

It attempts to streamline current law, give the executive branch the flexibility it requested where possible, but retain important principles about which the committee feels strongly.

The issues addressed in this title have been repeatedly reviewed by the committee's task force on international narcotics control and reflects a consensus between both majority and minority members on virtually all issues.

I would note that the executive branch requested a repeal or substantial modification of virtually all of the laws which the Foreign Affairs Committee has spent the past 10 years enacting. The committee could not and did not accept that proposal. However, I believe we have met the executive branch more than half-way in this legislation.

As a general rule, when the executive branch presented a defensible argument, the committee granted waivers of prohibitions in current law, with prior notice to the Congress. I would stress that the list of matters on which the President asked for and received increased flexibility in this title is extensive. It includes:

Authority to provide narcotics-related economic aid to countries who have been cut off from U.S. assistance for reasons unrelated to drug control, authority for the President to enter into reciprocal maritime agreements;

Authority for INM to acquire real property;

Authority to waive the prohibition on U.S. transferring title of drug control aircraft to foreign countries;

Authority for INM to acquire arms and ammunition for certain purposes;

Expands authority to provide excess defense articles for drug control purposes; and

Broader authority to provide aid to host country police from a variety of foreign aid accounts.

Some of these new authorities represent a change from longstanding committee-sponsored legislation, and reflect what we hope is a justified faith in the willingness of the executive branch to use these authorities judiciously. Although these changes are outlined in detail in the committee report on H.R. 2508, I wanted to highlight them at this time since these new authorities seem to have escaped the attention of the executive branch in its comments on this title.

The most significant change contained in this title, Mr. Chairman, is a change in the drug certification process. The executive branch request contained a repeal of this process. There was bipartisan opposition to this request.

However flawed the certification requirement may be, it remains the principal vehicle by which the Congress ensures that at least once a year narcotics control issues overseas receive intense scrutiny by the executive branch. The committee has fought long and hard to get the narcotics issue on the U.S. foreign policy agenda, and it intends to keep the issue there.

However, the committee also realizes that times have changed since the certification process was enacted in 1986.

So, in a spirit of cooperation, the committee has proposed a 2-year trial period under which the certification process would be modified. To address the executive branch's perceived need for increased flexibility, this title would:

Streamline current language in the law regarding the certification and INCSR process;

Give the President complete flexibility to determine which countries are included on the certification list;

Waive the current 50-percent aid withholding requirement if the President determines it is in the national interest and gives prior notice to Congress;

Reduce the congressional review period from 45 legislative days to 30 legislative days—as it was in the original certification law—and

Provide special waivers to address unique situations in which conditions in decertified countries suddenly change.

The committee proposes to try this new approach for a 2-year period. At the end of that time, current law would again become applicable unless the new approach proves satisfactory.

In return for all of this increased flexibility, we have asked the President to do something which I believe few Members will find objectionable. We have asked that when the annual report on international narcotics control strategy is submitted, that it cover each country which is a member of the United Nations. I believe that this is an eminently reasonable and justified request, for the following reasons.

First, for over a decade, we have required such a report on human rights in every member country of the United Nations, and it has proved to be both an excellent reference document and an opportunity to put human rights on our foreign policy agenda at least once a year with every country, whether friend or foe. I believe our proposal would do the same for our narcotics control agenda. I believe that an issue which the President has determined to be our No. 1 peacetime priority deserves no less.

Second, until very recently, such a report was already required by the State Department for its internal use by all countries in which we have diplomatic representation.

Since at least 1978, the State Department required every diplomatic post overseas to report in detail—in fact, in greater detail than that contemplated under this legislation—on narcotics issues in their countries.

This was not a congressionally mandated report, it was a report imposed by the State Department on itself. The report was not shared with Congress. For reasons no one has been able to explain to me, sometime in the recent past the State Department stopped requiring this report.

All we are asking is that they reinstitute it, and share it with the Congress.

I would note that every overseas Embassy already has a designated narcotics coordinator, so this would constitute no additional personnel burden or management changes overseas to carry this out.

Third, the State Department's narcotics bureau [INM] provides aid in one form or another to over 100 countries in the world. If drug control issues are deemed important enough in a specific country, we provide narcotics control aid. It shouldn't be too much to ask to get an annual report on how this money is being spent and whether any progress is being made.

Fourth, one of the things we have learned over the years is that the scourge of narcotics is penetrating virtually every country in the world, often in unexpected ways. To the extent that we try in our policy to be pro-active, to identify problems before they reach crisis proportions, it behooves us to look at this problem in each country in the world once a year before today's Botswana becomes tomorrow's Bolivia.

The executive branch appears to believe this proposal is onerous.

We have done our best to meet their concerns:

We have deleted from current law a provision requiring a mid-year update of the annual drug report.

We have moved the reporting and certification date from March 1 to April 1, to provide more time to prepare this report.

We have made clear in report language that we do not expect the same breadth or depth of reporting on, say, Cape Verde that we do on Colombia.

Yet the State Department continues to oppose this proposal, claiming variously that expanded reporting would dilute attention from countries that should be focused on, would reduce the Assistant Secretary's impact on the report, that INM does not have the personnel or resources to carry out this mission, and that clearing the expanded report through several different U.S. Government agencies requires too much time and effort.

I do not believe we diluted the importance of the human rights report when we voted more than a decade ago to include the Soviet Union, Eastern Europe, and other countries in that report in addition to countries receiving United States aid.

I do not believe that Assistant Secretary Schifter, who states in this year's human rights report that "in calling upon the Department of State to prepare these reports, Congress has created a useful instrument for advancing the cause of human rights," would say that being required to report on every country's human rights record somehow lessens his personal interest in and impact on that report.

I do not believe that INM, with twice the number of employees as the Human Rights Bureau and a budget that is scheduled to increase by 14 percent for fiscal year 1992 on top of a budget that has tripled since 1985, is incapable of finding the resources to collate and provide to the Congress drug reporting by our Embassies around the world.

Finally, I do not believe that our President and our Director of the Office of National Drug Control Policy, who are committed to fighting the scourge of drugs on every front, cannot convince whatever U.S. agencies are involved to cooperate in a timely fashion to produce this modest change.

I urge all Members to support this provision, and I urge the executive branch to reassess its position on this issue.

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I strongly support title IV and related international narcotics control provisions in H.R. 2508. I have been closely involved with legislation on international narcotics issues for over a decade and I believe this package is a significant step forward in our efforts. The international narcotics control provisions strike just the right balance between granting administration flexibility and maintaining congressional oversight, and between streamlining congressional requirements and highlighting Members' concerns.

The gentleman from Ohio [Mr. FEIGHAN], the distinguished chairman of our Committee on Foreign Affairs' Task Force on International Narcotics Control, has done an outstanding job of shepherding this comprehensive rewrite of our narcotics control assistance legislation through the process from administration request to markup to the floor today. At each and every step, minority concerns were addressed seriously and substantively. I was reluctant to change current law with regard to a number of issues for the simple reason that there are legitimate concerns behind each provision in current law. Chairman FEIGHAN worked long and hard to achieve consensus. The result is the bill before us today which deserves the full support of Members on both sides of the aisle.

Title IV goes a long way to grant the administration the flexibility it states is needed to improve our international counternarcotics efforts. On the side of granting flexibility, H.R. 2508 allows INM to procure weapons and property, grant aircraft title and provide more types of assistance in more circumstances. With regard to oversight, the bill ensures that the kind of consultation promised by the administration will occur through notifications on issue of the greatest sensitivity. H.R. 2508 retains prohibitions on aid to drug traffickers and direct payments to coca farmers and also retains a number of amendments I have authored over the years on shipboarding agreements, narcotics and development, AID and USIA counternarcotics reporting, and reducing illicit cultivation in Afghanistan.

I believe the greatest advance in this bill—and it is truly historic—is the linkage of certification to a multilateral document and the geographical and topical expansion of the annual "International Narcotics Control Strategy Report," the INCSR. The bill greatly streamlines the certification process by replacing the 15 or more issues for consideration in current law with references to the 1988 United Nations Convention, and to the only two issues not addressed fully in that landmark document: corruption and performance standards in an applicable bilateral narcotics agreement. H.R. 2508 also expands the INCSR to address every country in the world and places special emphasis on production, transit, money laundering, and precursor chemical diversion.

Mr. Chairman, I have long argued that the scourge of narcotics is a global problem and can only be addressed through effective international cooperation. I first coauthored the Rangel-Gilman-Hawkins amendment in 1983 which called for a U.N. report card on nations' anti-drug efforts. The legislation before us is the logical follow-on from that approach and it recognizes the historic importance of the 1988 U.N. Convention. And because virtually no country in the world is unaffected by the traffic in illicit drugs, it is reasonable for us to have information on every country in the world, just as we do in the annual human rights report.

The administration has argued that the expanded INCSR reporting requirement places too much burden on those who prepare the report and that it is not feasible or desirable to address narcotics developments in all countries of the world. To meet some of these concerns, we have changed the date for the narcotics report from March 1 to April 1, effectively increasing the report preparation time by 40 percent. Our flexibility to modify the date for submitting the report—and to continue to work with the administration on this provision—shows we are willing to work cooperatively. H.R. 2508 provides a significant increase in INM's budget, although the Appropriations Committee has not yet met our authorized level. If there is a genuine lack of resources for INM to collate reports from the field for an expanded INCSR, I will be the first to fight for further increases in funding.

Finally, on the changes made to the provisions in title VII on the Andean Initiative, I believe we have reached an agreement satisfactory to all parties. Though H.R. 2508 departs substantially from the compromise we reached last year in the 1990 International Narcotics Control Act by lowering the ceilings of police and military aid, I am comfortable with the overall numbers.

Mr. Chairman, I believe we have an excellent anti-drug package before us. I would like to thank Chairman FEIGHAN once again for his leadership on this issue and look forward to working with him to bring about enactment of this legislation.

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The CHAIRMAN pro tempore. (Mr. MONTGOMERY). Are there any amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—SPECIAL ASSISTANCE INITIATIVES AND OTHER REGION OR COUNTRY SPECIFIC PROVISIONS

SEC. 501. SPECIAL INITIATIVES AND PROVISIONS.

The Foreign Assistance Act of 1961 is amended by inserting after title IV, as added by title IV of this Act, the following:

"TITLE V—SPECIAL ASSISTANCE INITIATIVES AND OTHER REGION OR COUNTRY SPECIFIC PROVISIONS

"CHAPTER 1—LONG-TERM DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA

"SEC. 5101. DEVELOPMENT FUND FOR AFRICA.

"(a) FINDINGS.—The Congress finds that—

"(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

"(2) drought and famine in combination with other factors such as desertification, government neglect of the agricultural sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

"(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies contained in this section, for long-term development in sub-Saharan Africa.

"(c) PURPOSE OF ASSISTANCE.—

"(1) PURPOSE.—The purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is equitable, participatory, environmentally sustainable, and self-reliant.

"(2) USE OF ASSISTANCE TO ENCOURAGE PRIVATE SECTOR DEVELOPMENT.—Assistance under this section should, in a manner consistent with paragraph (1), be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

"(d) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

"(1) any reference in any law to chapter 2 of title I or to development assistance shall be deemed to include a reference to this chapter and assistance under this section, and any reference in any law to title I of this Act shall be deemed to include a reference to this chapter; and

"(2) assistance under this section shall be provided consistent with the four basic objectives set forth in section 1102.

"(e) PRIVATE VOLUNTARY ORGANIZATIONS.—

"(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The administering agency shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the administering agency should consult closely with African, United States, and other private voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

"(2) DEFINITION OF PRIVATE VOLUNTARY ORGANIZATIONS.—For purposes of this section, the term 'private voluntary organization' includes (in addition to entities traditionally considered to be private voluntary organizations) cooperatives, credit unions, trade unions, women's groups, nonprofit development research institutions, and indigenous local organizations, which are private and nonprofit.

"(f) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which has a local focus.

"(g) PARTICIPATION OF AFRICAN WOMEN.—The administering agency shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decisionmaking) and integration of African women in each of the critical sectors described in subsection (i).

"(h) TYPES OF ASSISTANCE.—

"(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize primarily projects and programs to address critical sectoral priorities for long-term development described in subsection (i).

"(2) REFORM OF ECONOMIC POLICIES.—

"(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may also include program assistance to promote reform of sectoral economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of economic policies to support the critical sectoral priorities described in subsection (i).

"(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers, the urban poor, and children including displaced children) and long-term environmental interests from possible negative consequences of the reforms.

"(3) OTHER ASSISTANCE.—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1) and (2). Assistance consistent with the purpose of subsection (c) may also be furnished under this section to carry out the provisions of chapter 2 of title I.

"(i) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

"(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

"(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

"(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base primarily in ways which increase agricultural production, through the following:

"(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private voluntary organizations.

"(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

"(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

"(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

"(2) HEALTH AND AIDS PREVENTION.—

"(A) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children (including displaced children) through the establishment of primary health care systems that give priority to preventive health and that will be ultimately self-sustaining.

"(B) ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS).—Preventing and controlling the spread of acquired immune deficiency syndrome (AIDS), with a special emphasis on community-based education programs focused on changing attitudes and behavior.

"(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

"(4) EDUCATION.—Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

"(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment opportunities in micro- and small-scale labor-intensive enterprises.

"(j) MINIMUM LEVEL OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The administering agency should target the equivalent of the following percentages of the amount appropriated for each fiscal year to carry out this chapter for the following activities:

"(1) NATURAL RESOURCE BASE.—Ten percent for activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

"(2) HEALTH.—Ten percent for activities described in subsection (i)(2)(A).

"(3) AIDS PREVENTION AND CONTROL.—Five percent for activities described in subsection (i)(2)(B). In determining compliance with this paragraph, funds provided through international organizations shall be excluded.

"(4) VOLUNTARY FAMILY PLANNING SERVICES.—Ten percent for activities described in subsection (i)(3).

"(k) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

"(l) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

"(m) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

"(n) RELATION TO OTHER AUTHORITIES.—

"(1) ASSISTANCE UNDER OTHER AUTHORITIES.—The authority granted by this section to provide assistance for long-term development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally funded programs which benefit sub-Saharan Africa shall continue to be funded under subchapter A of chapter 2 of title I of this Act.

"(2) TRANSFER AUTHORITIES.—The transfer authority contained in section 6101 of this Act may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

"(3) REPROGRAMMING NOTIFICATIONS.—Section 6304 of this Act does not apply with respect to funds made available to carry out this section.

"(4) PROCUREMENT OF GOODS AND SERVICES.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, 7402 of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti-Apartheid Act of 1986.

"(o) EVALUATIONS.—It is the sense of the Congress that there should be periodic evaluations of the progress of the administering agency in achieving the purpose specified in subsection (c).

"SEC. 5102. SUPPORT FOR SADCC PROJECTS.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, funds made available to carry out this chapter may be used to assist sector projects, in the sectors specified in subsection (b), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the member states forming that regional institution.

"(b) SECTORS.—The sectors with respect to which assistance may be provided under this section are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

"(c) RELATION TO DFA POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this section shall be provided consistent with the policies and authorities contained in the section 5101.

"SEC. 5103. AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEVELOPMENT FUND FOR AFRICA.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this chapter $1,000,000,000 for fiscal year 1992 and $1,200,000,000 for fiscal year 1993.

"(b) EXTENDED PERIOD OF AVAILABILITY FOR FUNDS.—It is the sense of the Congress that the authority of section 7302 of this Act should be used to extend the period of availability of funds appropriated to carry out this chapter whenever appropriate to improve the quality of assistance provided under section 5101.

"CHAPTER 2—MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

"SEC. 5201. FINDINGS AND STATEMENT OF POLICY.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) The people of the Philippines and the people of the United States continue to enjoy a longstanding relationship of mutual respect and cooperation.

"(2) The return of democracy to the Philippines under the leadership of President Corazon Aquino has brought the Philippines and the United States closer together and offers an opportunity to the Philippines to again become an economic, social, and political leader in Southeast Asia.

"(3) The threat to democratic government in the Philippines from both the Communist insurgency and dissident elements in the Philippine military forces jeopardizes the efforts of the Government of the Philippines to broaden the participation of the people of the Philippines in the development of their country.

"(4) It is in the mutual interest of our two peoples that the Philippines be provided all possible assistance, including voluntary debt reduction programs under appropriate circumstances, in its efforts to redress the problems caused by economic deterioration and social inequity which have fueled the domestic insurgency.

"(5) The promotion of democracy and achievement of sustainable economic growth require a partnership among the Philippines, multilateral institutions, bilateral donors, and the private sector to help the Philippines restructure its economy and alleviate its debt service in order to achieve broadly based, self-sustaining growth and to improve the quality of life of the people of the Philippines.

"(6) Since its inauguration in Tokyo in July, 1989, the Multilateral Assistance Initiative for the Philippines has resulted in the pledging of more than $6,800,000,000 in assistance from 26 donor countries and organizations.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

"(1) the United States should continue to participate with the multilateral financial institutions and other bilateral donors in a coordinated economic reform and development program, including voluntary debt reduction programs, in the Philippines; and

"(2) the commitment of resources by the United States, other bilateral donors, and the multilateral financial institutions and a reform effort and leadership role by the Government of the Philippines will continue to be necessary in order to ensure economic growth in the Philippines and enhanced participation of the people of the Philippines in the democratic process.

"SEC. 5202. ASSISTANCE.

"(a) AUTHORITY.—The President is authorized to provide assistance to carry out this chapter in order to promote the four basic objectives set forth in section 1102. Such assistance shall have as its ultimate objective, in conjunction with assistance provided by other donors, support of democracy in the Philippines, promotion of sustained economic growth led by the private sector, and improvement of living conditions for the people of the Philippines, and shall build upon the progress that the Government of the Philippines has made in the development and implementation of economic, structural, judicial, and administrative reforms.

"(b) PROGRESS OF REFORMS NECESSARY FOR PROVISION OF ASSISTANCE.—The provision of assistance under this chapter shall be linked to progress by the Government of the Philippines in the implementation of its economic, structural, judicial, and administrative reform program.

"(c) USES OF ASSISTANCE.—Assistance under this chapter may include support for—

"(1) economic, structural, and administrative reforms, and voluntary debt reduction programs, that are necessary to stimulate growth led by the private sector, import liberalization, export growth and diversification, and the privatization of enterprises owned or controlled by the government;

"(2) infrastructure needed by the private sector, particularly in rural areas;

"(3) strengthening the private sector, including promoting greater participation of the United States private sector in the development of the Philippines; and

"(4) such other programs as are consistent with the purposes of this chapter.

"SEC. 5203. REPORTS TO CONGRESS.

"(a) ANNUAL CONGRESSIONAL PRESENTATION DOCUMENTS.—The President shall submit congressional presentation documents regarding programs under this chapter on the same basis as the President submits such documents under this Act regarding development assistance and economic support assistance programs.

"(b) REPORT ON PROGRAMS FOR PREVIOUS FISCAL YEARS.—Within 60 days after the date of enactment of the International Cooperation Act of 1991, the President shall submit a report to the Congress on the accomplishments of programs carried out for fiscal years 1990 and 1991 to carry out the purposes of this chapter, as well as on the objectives of such programs for fiscal year 1992.

"(c) ANNUAL REPORT.—As soon as possible after the transmittal by the President of the Budget of the United States for each fiscal year beginning with fiscal year 1993, the President shall submit a report to the Congress on the progress made in carrying out this chapter. Such report shall include a review of—

"(1) the actions of the Government of the Philippines to achieve the objectives for which assistance under this chapter has been provided, including implementation of economic, structural, judicial, and administrative reforms;

"(2) the participation of other bilateral donors and multilateral financial institutions in the multilateral assistance program for which assistance under this chapter is authorized, including the level of their assistance, and the effectiveness of efforts to coordinate assistance activities;

"(3) the progress being made toward the achievement of the objectives of this chapter and the obstacles to such achievement; and

"(4) the budget request for the relevant fiscal year.

"SEC. 5204. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter, in addition to amounts otherwise available for such purposes, $1,000,000,000 (less amounts appropriated to carry out the purposes of this chapter for fiscal years 1990 and 1991), of which—

"(1) not more than $160,000,000 may be appropriated for fiscal year 1992; and

"(2) such sums as may be necessary are authorized to be appropriated for fiscal year 1993.

"SEC. 5205. APPROPRIATIONS IN FUTURE YEARS.

"It is the sense of the Congress that, before requesting the appropriation of additional amounts to carry out this chapter, the President should take into account the progress being made by the Government of the Philippines toward achieving the reform objectives of this chapter, the extent of financial and other participation of other bilateral donors and multilateral financial institutions, and efforts to coordinate the multilateral assistance program for which assistance under this chapter is authorized. Such considerations will be primary factors in decisions by the Congress to provide additional appropriations to carry out this chapter.

"SEC. 5206. DONOR COORDINATION.

"It is the sense of the Congress that critical to the success of the multilateral assistance program for which assistance under this chapter is authorized will be the ability of the bilateral donors, the multilateral financial institutions, and the Government of the Philippines to coordinate effectively their objectives and programs. It is further the sense of the Congress that all bilateral donors to this multilateral assistance program should take steps to simplify procurement and disbursement procedures and to ensure that any conditions on the provision or use of assistance are complementary, and that the Government of the Philippines should establish such internal procedures and processes as will ensure the most effective use of the resources provided by the bilateral donors and the multilateral financial institutions.

"SEC. 5207. ECONOMIC ASSISTANCE PROVISIONS.

"Except to the extent inconsistent with this chapter, assistance under this chapter shall be considered to be economic assistance under title I of this Act.

"CHAPTER 3—CARIBBEAN REGIONAL DEVELOPMENT

"SEC. 5301. SHORT TITLE.

"This chapter may be cited as the 'Caribbean Regional Development Act of 1991'.

"SEC. 5302. UNITED STATES POLICIES.

"(a) IN GENERAL.—It is the sense of the Congress that it should be the policy of the United States in providing development and other economic assistance to the Caribbean—

"(1) to help the poor to participate in the development of their societies through a process of equitable economic growth that enables them to increase their incomes and their access to productive resources and services, to protect and advance their rights, and to influence decisions that affect their lives;

"(2) to support development that is environmentally sustainable;

"(3) to promote Caribbean self-reliance by providing assistance to indigenous national and regional governmental and nongovernmental institutions that have the capacity or potential to carry out development programs effectively;

"(4) to support food production for national and regional consumption;

"(5) to promote the diversification of industrial and agricultural production, the development of new products, and the integration of agricultural production with the development of industry and tourism;

"(6) to help advance the process of regional economic integration; and

"(7) to preserve and reinforce traditional Caribbean culture and social values.

"(b) SUPPORTING INDIGENOUS DEMOCRATIC INSTITUTIONS.—Priority in providing development assistance to the Caribbean should be given to supporting indigenous democratic Caribbean institutions that represent, work with, and benefit the poor, and through which the poor participate in making the decisions that affect their lives and their development. Such assistance should be channeled, as appropriate, through United States institutions and Caribbean regional and national institutions that directly fund such democratic Caribbean institutions.

"SEC. 5303. PRIORITY AREAS FOR ASSISTANCE.

"To implement the policies set forth in section 5302, priority in the allocation of development assistance funds and the economic support assistance funds for the Caribbean, and in the allocation of the local currencies accruing as a result of the use of those funds, should be given to the following:

"(1) INCREASED FOOD PRODUCTION.—Support to national ministries of agriculture, the appropriate specialized agencies of the Caribbean Community (CARICOM) and the Organization of Eastern Caribbean States, the Caribbean Development Bank, and indigenous nongovernmental organizations for efforts to achieve increased food production, as appropriate, through increased staple food production for domestic consumption, including support for—

"(A) the gathering of agricultural data;

"(B) the coordination of agricultural research;

"(C) the improvement of marketing, storage, and transportation systems;

"(D) the provision of credit to agricultural producers; and

"(E) improved coordination of regional planning for increased food production.

"(2) RURAL DEVELOPMENT.—Support for rural development efforts designed to increase rural employment opportunities, enhance the quality of rural life, and retard rural-to-urban migration, including programs that provide access to land and necessary assistance to small producers and cooperatives.

"(3) COMMUNITY-BASED AGRO-INDUSTRIES.—Support for locally owned cooperative and other small- and medium-scale industries engaged in the processing of indigenous resources, including support for the establishment of a marketing network to facilitate intraregional trade in food through programs that incorporate or serve small producers.

"(4) FINANCIAL RESOURCES FOR SMALL- AND MEDIUM-SIZED FARM AND MANUFACTURING ENTERPRISES.—Provision of financial resources to small- and medium-sized farm and manufacturing enterprises through—

"(A) the creation and capitalization of appropriate financial mechanisms; and

"(B) measures to encourage Caribbean commercial banks and credit unions to provide risk capital to such enterprises.

"(5) EXPANSION OF TOURISM.—Support for the expansion of tourism in the Caribbean through its fuller integration into the local economy, by providing assistance—

"(A) to appropriate governmental and nongovernmental regional organizations for the design and coordination of programs for—

"(i) the expansion of the use of local goods and services;

"(ii) the development and implementation of a marketing strategy for tourism in the Caribbean; and

"(iii) the promotion of investments in tourism integrated with the local economy; and

"(B) for training and utilizing local expertise in hotel and restaurant management and other necessary skills.

"(6) REGIONAL INTEGRATION.—Support for regional integration and institutions, including seeking the cooperation of other donor countries in promoting regional development in the Caribbean and including support for—

"(A) efforts to regionalize and coordinate activities and prevent the proliferation and duplication of regional bureaucracies;

"(B) the efforts of governmental and nongovernmental regional institutions to strengthen the infrastructure necessary to promote regional commercial activity and economic and social development;

"(C) regional research institutes; and

"(D) inter-island transportation and communication links, roads, and port facilities.

"(7) UPGRADING TECHNICAL AND MANAGERIAL SKILLS.—Support for efforts of the countries of the Caribbean to upgrade the technical and managerial skills of their people.

"(8) NATURAL RESOURCE BASE.—Promoting those small-scale, affordable, agricultural and industrial methods suited to local environmental, resource, and climatic conditions, and supporting such actions as the establishment of protected areas, the development of environmental curricula, and programs of public education and dialogue designed to sustain and enhance the renewable natural resource base of the Caribbean.

"(9) PRIVATE SECTOR DEVELOPMENT.—Support for the diversification and promotion of Caribbean exports, for investments in the Caribbean that are appropriate to the needs of each country and of the region, and for the strengthening of private sector institutions, that would continue to promote private sector-led growth through increased trade and investment and that recognizes each country's economic comparative advantage; and support for the strengthening of community-based enterprises that would promote economic growth that benefits the majority of the people of the region.

"(10) DEMOCRATIC DEVELOPMENT AND THE ADMINISTRATION OF JUSTICE.—Support to broaden and deepen democratic institutions and values in the Caribbean and to assist countries in areas such as the administration of justice where requested by the recipient governments.

"(11) ACCESS TO HUMAN SERVICES AND ASSISTANCE FOR HUMAN RESOURCES DEVELOPMENT.—Support for the provision of basic services to the citizens of the Caribbean using, as appropriate, governmental and nongovernmental entities, with emphasis on sustainability of service delivery in areas such as basic education, primary health care, child survival, family planing, and prevention and control of acquired immune deficiency syndrome (AIDS).

"SEC. 5304. PROTECTION OF WORKER RIGHTS.

"In considering whether to provide assistance under this Act to the government of any country in the Caribbean and in considering how much assistance to allocate to such government, the President shall take into account whether such government has failed to extend, protect, and enforce internationally recognized worker rights for workers in that country (including workers within any designated zone) and, if so, whether such government is taking steps to adopt and implement laws that demonstrate significant, tangible, and measurable overall advancement in providing internationally recognized worker rights throughout the country (including in any designated zone).

"SEC. 5305. PROTECTION OF PUBLIC HEALTH.

"The administering agency should not provide any assistance, directly or indirectly, for the use of any chemical or other substance in a country in the Caribbean if—

"(1) that use is not permitted under laws of that country relating to protection of public health, or

"(2) that use would not be permitted in the United States under laws of the United States relating to protection of public health.

"SEC. 5306. SUPPORT FOR WOMEN'S ROLE IN DEVELOPMENT.

"In providing assistance to the Caribbean, the administering agency should place emphasis on ensuring the active participation of Caribbean women in the development process, particularly through—

"(1) the promotion of greater access by women to productive resources and services, such as land, credit, and markets;

"(2) programs that respond to and support women's domestic needs and activities, including the strengthening of community-based education, health, and childcare programs and other critical social services identified by poor women; and

"(3) the involvement of Caribbean women in research on the factors that contribute to their economically vulnerable situation and in programs that address these factors.

"SEC. 5307. CONSULTATION.

"In implementation of assistance policies, programs, and projects in the Caribbean, the administering agency should take into account the perspectives of the rural and urban poor through consultation with Caribbean organizations that work with the poor and that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in the Caribbean, as described in section 5302(a). The administering agency should reflect the results of such consultations in its annual planning documents.

"SEC. 5308. DEFINITION OF CARIBBEAN.

"As used in this chapter, the term 'Caribbean' includes Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Cayman Islands, Montserrat, Netherlands Antilles, Saint Christopher-Nevis, Turks and Caicos Islands, and the British Virgin Islands.

"CHAPTER 4—ENTERPRISE FOR THE AMERICAS INITIATIVE

"SEC. 5401. ESTABLISHMENT OF ENTERPRISE FOR THE AMERICAS FACILITY.

"There is hereby established in the Department of the Treasury the Enterprise for the Americas Facility (hereinafter in this chapter referred to as the 'Facility').

"SEC. 5402. PURPOSE OF INITIATIVE AND THE FACILITY.

"The purpose of the Enterprise for the Americas Initiative is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, and community based conservation and sustainable use of the environment. The Facility will support these objectives through administration of debt reduction operations for those countries that meet investment reforms and other policy conditions.

"SEC. 5403. ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

"(a) REQUIREMENTS.—To be eligible for benefits under the Facility, a country must—

"(1) be a Latin American or Caribbean country;

"(2) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

"(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Environment for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

"(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Environment for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

"(3) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

"(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

"(b) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

"SEC. 5404. REDUCTION OF CERTAIN DEBT.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1990, as a result of concessional loans made by the United States pursuant to the former authorities of part I of this Act (or predecessor foreign economic assistance legislation) to a country eligible for benefits under the Facility.

"(2) LIMITATIONS.—

"(A) FEDERAL CREDIT REFORM ACT REQUIREMENTS.—The authority of this section may be exercised only to the extent that the budget authority for the resulting additional cost (within the meaning of the Federal Credit Reform Act of 1990) has been provided in advance in appropriations Acts.

"(B) LIMITATION OF AUTHORIZATION AMOUNTS.—Notwithstanding section 505(a) of the Federal Credit Reform Act of 1990, the following amounts only are authorized to be appropriated for such costs for fiscal years 1992 and 1993: $242,356,000 for fiscal year 1992 and $224,644,000 for fiscal year 1993.

"(3) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(4) DEFINITION.—Hereinafter in this chapter, a country with respect to which the authority of paragraph (1) is exercised is referred to as the beneficiary country.

"(b) IMPLEMENTATION OF DEBT REDUCTION.—

"(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of January 1, 1990.

"(2) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the administering agency of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection; and at the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the administering agency shall make an adjustment in its accounts to reflect the debt reduction.

"SEC. 5405. REPAYMENT OF PRINCIPAL.

"(a) CURRENCY OF PAYMENT.—The principal amount of each new obligation issued pursuant to section 5404(b) shall be repaid in United States dollars.

"(b) DEPOSIT OF PAYMENTS.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

"SEC. 5406. INTEREST ON NEW OBLIGATIONS.

"(a) RATE OF INTEREST.—New obligations issued by a beneficiary country pursuant to section 5404(b) shall bear interest at a concessional rate.

"(b) CURRENCY OF PAYMENT; DEPOSITS.—

"(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Environmental Framework Agreement under section 5408, interest shall be paid in the local currency of the beneficiary country and deposited in the Environmental Fund provided for in section 5407(a). Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 5407(d). Such local currencies shall be used for the purposes specified in the Environmental Framework Agreement.

"(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Environmental Framework Agreement under section 5408, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

"(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Environmental Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Environmental Fund established for that beneficiary country pursuant to section 5407(a).

"SEC. 5407. ESTABLISHMENT OF, DEPOSITS INTO, AND DISBURSEMENTS FROM ENVIRONMENTAL FUNDS.

"(a) ESTABLISHMENT.—Each beneficiary country that enters into an Environmental Framework Agreement under section 5408 shall be required to establish an Enterprise for the Americas Environmental Fund (referred to in this chapter as the 'Environmental Fund') to receive payments in local currency pursuant to section 5406(b)(1).

"(b) DEPOSITS.—Local currencies deposited in an Environmental Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(c) INVESTMENT.—Deposits made in an Environmental Fund shall be invested until disbursed. Any return on such investment may be retained by the Environmental Fund, without deposit in the Treasury of the United States and without further appropriation by Congress.

"(d) DISBURSEMENTS.—Funds in an Environmental Fund shall be disbursed only pursuant to an Environmental Framework Agreement under section 5408.

"SEC. 5408. ENVIRONMENTAL FRAMEWORK AGREEMENTS.

"(a) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an agreement (referred to in this chapter as an 'Environmental Framework Agreement') with any country eligible for benefits under the Facility concerning the operation and use of the Environmental Fund for that country. In the negotiation of such agreements, the Secretary shall consult with the Environment for the Americas Board in accordance with section 5409.

"(b) CONTENTS OF AGREEMENTS.—An Environmental Framework Agreement with an eligible country shall—

"(1) require that country to establish an Environmental Fund;

"(2) require that country to make interest payments under section 5406(b)(1) into an Environmental Fund;

"(3) require that country to make prompt disbursements from the Environmental Fund to the administering body described in subsection (c);

"(4) when appropriate, seek to maintain the value of the local currency resources of the Environmental Fund in terms of United States dollars;

"(5) specify, in accordance with subsection (d), the purposes for which the fund may be used; and

"(6) contain reasonable provisions for the enforcement of the terms of the agreement.

"(c) ADMINISTERING BODY.—

"(1) IN GENERAL.—Funds disbursed from the Environmental Fund in each beneficiary country shall be administered by a body constituted under the laws of that country (referred to in this chapter as the 'administering body').

"(2) COMPOSITION.—The administering body shall consist of—

"(A) one or more individuals nominated by the United States Government,

"(B) one or more individuals nominated by the government of the beneficiary country, and

"(C) individuals who represent a broad range of environmental nongovernmental organizations of the beneficiary country, local community development nongovernmental organizations of the beneficiary country, and scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

"(3) RESPONSIBILITIES.—The administering body—

"(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Environmental Framework Agreement, consistent with subsection (d);

"(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

"(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

"(D) shall present an annual program for review each year by the Environment for the Americas Board; and

"(E) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Environment for the Americas Board and to the government of the beneficiary country.

"(d) ELIGIBLE ACTIVITIES.—Grants from an Environmental Fund shall be used for activities that link the conservation and sustainable use of natural resources with local community development.

"(e) GRANT RECIPIENTS.—Grants made from an Environmental Fund shall be made to—

"(1) nongovernmental environmental, conservation, development, and indigenous peoples organizations of the beneficiary country;

"(2) other appropriate local or regional entities; and

"(3) in exceptional circumstances, the government of the beneficiary country.

"(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from an Environmental Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

"SEC. 5409. ENVIRONMENT FOR THE AMERICAS BOARD.

"(a) ESTABLISHMENT.—There is hereby established an Environment for the Americas Board (hereinafter in this chapter referred to as the 'Board').

"(b) MEMBERSHIP.—The Board shall be composed of 11 members appointed by the President as follows:

"(1) 6 officers or employees of the United States Government.

"(2) 5 individuals who are representatives of private nongovernmental environmental, scientific, or academic organizations that have experience and expertise in Latin America and the Caribbean.

The chair of the Board shall be designated by the President from among the members of the Board appointed pursuant to paragraph (1).

"(c) RESPONSIBILITIES.—The Board shall—

"(1) advise the Secretary of State on the negotiations of Environmental Framework Agreements;

"(2) ensure, in consultation with—

"(A) the government of the beneficiary country,

"(B) nongovernmental organizations of the beneficiary country,

"(C) nongovernmental organizations of the region (if appropriate),

"(D) environmental, scientific, and academic leaders of the beneficiary country, and

"(E) environmental, scientific, and academic leaders of the region (as appropriate), that a suitable administering body is identified for each Environmental Fund; and

"(3) review the programs, operations, and fiscal audits of each administering body.

"(d) SUPPLEMENTAL VIEWS IN ANNUAL REPORT ON THE FACILITY.—Each member of the Board shall be entitled to receive a copy of any report to be transmitted to the Congress pursuant to section 5411(a) at least 14 days before the report is to be so transmitted, to have 14 days within which to prepare and submit supplemental views for inclusion in such report, and to have those views included in the report when it is so transmitted.

"SEC. 5410. ENCOURAGING MULTILATERAL DEBT DONATIONS.

"(a) ENCOURAGING DONATIONS FROM OFFICIAL CREDITORS.—The President should actively encourage other official creditors of a beneficiary country whose debt is reduced under this chapter to provide debt reduction to such country.

"(b) ENCOURAGING DONATIONS FROM PRIVATE CREDITORS.—The President shall make every effort to ensure that Environmental Funds established pursuant to section 5407 are able to receive donations from private and public entities and from private creditors of the beneficiary country.

"SEC. 5411. ANNUAL REPORT TO AND CONSULTATIONS WITH CONGRESS.

"(a) ANNUAL REPORT.—Not later than December 31 of each year, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate an annual report on the operation of the Facility for the prior fiscal year.

"(b) CONSULTATIONS.—The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility and the eligibility of countries for benefits under the Facility.

"CHAPTER 5—OTHER REGION AND COUNTRY SPECIFIC PROVISIONS

"SEC. 5501. UNITED STATES POLICY REGARDING THE EASTERN MEDITERRANEAN.

"(a) CONGRESSIONAL FINDINGS REGARDING CYPRUS SETTLEMENT.—The Congress declares that the achievement of a just and lasting Cyprus settlement is and will remain a central objective of United States foreign policy. The Congress finds that—

"(1) a just settlement on Cyprus must provide reasonable guarantees that the rights of all the people of Cyprus, including displaced persons, are fully protected;

"(2) a just settlement on Cyprus must include the withdrawal of Turkish military forces from Cyprus;

"(3) serious negotiations, under United Nations auspices, will be necessary to achieve agreement on, and implementation of, constitutional and territorial arrangements critical to a just settlement on Cyprus; and

"(4) the continued deployment of a United Nations peacekeeping force is essential to reducing tensions and maintaining the cease fire on Cyprus.

"(b) PRINCIPLES GOVERNING UNITED STATES POLICY.—United States policy regarding Cyprus, Greece, and Turkey shall be directed toward maintaining a stable and peaceful atmosphere in the Eastern Mediterranean region and shall therefore be governed by the following principles:

"(1) The United States shall actively support the resolution of differences through negotiations, shall encourage all parties to avoid provocative actions, and shall strongly oppose any attempt to resolve disputes through force or threat of force.

"(2) The United States will accord full support and high priority to efforts, including those of the United Nations, to bring about a prompt, peaceful settlement on Cyprus.

"(3) All defense articles furnished by the United States to countries in the Eastern Mediterranean region will be used only in accordance with the requirements of this Act, the Defense Trade and Export Control Act, and the agreements under which those defense articles were furnished.

"(4) The United States will furnish military assistance for Greece and Turkey only when furnishing that assistance is intended solely for defensive purposes, including when necessary to enable the recipient country to fulfill its responsibilities as a member of the North Atlantic Treaty Organization, and shall be designed to ensure that the present balance of military strength between Greece and Turkey is preserved. Nothing in this paragraph shall be construed to prohibit the transfer of defense articles to Greece or Turkey for legitimate self defense or to enable Greece or Turkey to fulfill their North Atlantic Treaty Organization obligations.

"(5) Any agreement entered into by the United States for the sale or other provision of any defense article on the United States Munitions List (established pursuant to section 38 of the Defense Trade and Export Control Act) shall expressly state that the article is being provided by the United States only with the understanding that the article will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to the Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this paragraph.

"(6) The United States shall use its influence to achieve the withdrawal of Turkish military forces from Cyprus in the context of a solution to the Cyprus problem.

"(c) REVIEW AND REPORTS REGARDING PROGRESS TOWARD A SETTLEMENT.—

"(1) CONTINUAL REVIEW.—Because progress toward a Cyprus settlement is a high priority of United States policy in the Eastern Mediterranean, the President and the Congress shall continually review that progress and shall determine United States policy in the region accordingly.

"(2) PERIODIC REPORTS.—To facilitate such a review, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, every 120 days, a report on progress made toward the conclusion of a negotiated solution of the Cyprus problem. Such reports shall include any relevant reports prepared by the Secretary General of the United Nations for the Security Council.

"SEC. 5502. STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY IN LATIN AMERICA AND THE CARIBBEAN.

"(a) REQUIREMENT FOR CIVILIAN APPROVAL OF MILITARY ASSISTANCE AND SALES.—In order to strengthen the control of democratically elected civilian governments over the armed forces, military assistance and sales may be delivered to the armed forces of any country in Latin America and the Caribbean having such a civilian government only with the prior approval of that country's head of government.

"(b) DEFINITION OF MILITARY ASSISTANCE AND SALES.—For purposes of this section, the term 'military assistance and sales' means—

"(1) foreign military financing assistance;

"(2) deliveries under the special drawdown authority of section 2901;

"(3) transfers of excess defense articles under chapter 3 of title II;

"(4) international military education and training; and

"(5) defense articles, defense services, and design and construction services sold under the Defense Trade and Export Control Act.

"SEC. 5503. SOUTH AFRICA.

"(a) FOSTERING A JUST SOCIETY AND HELPING VICTIMS OF APARTHEID IN SOUTH AFRICA.—

"(1) EARMARK OF FUNDS.—Of the amounts made available to carry out section 1221 of this Act, $1,500,000 each fiscal year shall be used for grants to nongovernmental organizations in South Africa promoting political, economic, social, juridical, and humanitarian efforts to foster a just society and to help victims of apartheid.

"(2) PRIORITIES.—In making grants under this subsection, priority should be given to those organizations or activities which contribute, directly or indirectly, to promoting a just society, to aiding victims of official discrimination, and to the nonviolent elimination of apartheid. Priority should also be given to those organizations whose programs and activities evidence community support.

"(3) POLITICAL PRISONERS; NONVIOLENT RESISTANCE TO APARTHEID.—Of the funds made available to carry out this subsection each fiscal year, not less than $500,000 shall be used for—

"(A) direct legal and other assistance to political detainees and prisoners and their families, including the investigation of the killing of protesters and prisoners; and

"(B) support for actions of black-led community organizations to resist, through nonviolent means, the enforcement of apartheid policies.

"(4) LIMITATIONS.—Grants may be made under this subsection only for organizations whose character and membership reflect the objective of a majority of South Africans for an end to the apartheid system of separate development and for interracial cooperation and justice. Grants may not be made under this subsection to governmental institutions or organizations or to organizations financed or controlled by the Government of South Africa.

"(b) ASSISTANCE FOR DISADVANTAGED SOUTH AFRICANS.—

"(1) ASSISTANCE AUTHORIZED.—Up to $40,000,000 of the funds made available each fiscal year for economic support assistance, assistance from the Development Fund for Africa, and development assistance shall be available for assistance for disadvantaged South Africans, notwithstanding any other provision of law.

"(2) ACTIVITIES TO BE SUPPORTED.—Assistance under this subsection shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on nonracial principles. Such activities may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise and alternative education and community development programs.

"(3) LIMITATION.—Assistance furnished pursuant to this subsection may not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa. This paragraph does not prohibit programs which award scholarships to students who choose to attend South African-supported institutions and which are otherwise consistent with this subsection.

"(c) SOUTH AFRICAN NONGOVERNMENTAL ORGANIZATIONS.—

"(1) CERTAIN ORGANIZATIONS TO BE GIVEN PRIORITY.—In providing assistance described in paragraph (2) for disadvantaged South Africans, priority shall be given to working with and through South African nongovernmental organizations whose leadership and staff are selected on a nonracial basis, and which have the support of the disadvantaged communities being served.

"(2) ASSISTANCE PROGRAMS COVERED.—Paragraph (1) applies with respect to economic support assistance, assistance from the Development Fund for Africa, and development assistance, including assistance under this section or section 1221.

"SEC. 5504. ASSISTANCE FOR PAKISTAN.

"(a) STATEMENT OF POLICY.—The Congress recognizes that an independent and democratic Pakistan with continued friendly ties with the United States is in the interest of both nations. The Congress also recognizes that the United States and Pakistan have many shared interests in the Asian subcontinent, including the achievement of a final political settlement in Afghanistan, narcotics control, nuclear nonproliferation, and democracy. The preservation of democracy in Pakistan is essential for the maintenance of political stability in Pakistan and for close, longlasting ties between Pakistan and the United States. One of the primary purposes of United States assistance for Pakistan is to support and sustain democracy. Therefore, the maintenance of a democratic government in Pakistan, in which the military forces are subordinate to the appropriate civilian authorities, is essential for the continuation of United States assistance to Pakistan.

"(b) REAFFIRMATION OF 1959 AGREEMENT.—The United States reaffirms the commitment made in its 1959 bilateral agreement with Pakistan relating to aggression from a Communist or Communist-dominated state.

"(c) PROVISION OF DEFENSE ARTICLES.—The United States shall continue to take appropriate steps to ensure that defense articles provided by the United States to Pakistan are used solely for defensive purposes or for the other nonaggressive purposes specified in section 3(c)(5) of the Defense Trade and Export Control Act.

"(d) AUTHORITY TO WAIVE PROHIBITION.—

"(1) IN GENERAL.—The President may waive the prohibitions of section 6201(a)(5) of this Act with respect to paragraph (1) of section 6206 at any time during the period beginning on the date of enactment of this section and ending on September 30, 1993, to provide assistance to Pakistan during that period if he determines that to do so is in the national interest of the United States, subject to paragraph (2).

"(2) LIMITATION.—The President may not exercise the waiver authority of this subsection unless a certification under subsection (e) of this section is in effect, and (notwithstanding the effective date specified in section 1101 of the International Cooperation Act of 1991) may not exercise the waiver authority of subsection (d) of section 620E (as in effect prior to that date) unless a certification under subsection (e) of that section is in effect.

"(e) ANNUAL CERTIFICATION.—No assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance to be furnished or military equipment or technology is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device.

"(f) FURTHER RESTRICTION ON ASSISTANCE.—Subject to subsection (g)—

"(1) unless a certification under section 620E(e) of this Act (as in effect prior to the effective date specified in section 1101 of the International Cooperation Act of 1991) is in effect on September 30, 1991, no funds may be allocated for fiscal year 1992 for assistance to Pakistan, or for the sale or transfer of defense articles or defense services to Pakistan, under this Act or any other Act; and

"(2) unless a certification under subsection (e) of this section is in effect on September 30, 1992, no funds may be allocated for fiscal year 1993 for assistance to Pakistan, or for the sale or transfer of defense articles or defense services to Pakistan.

"(g) If a Certification Made.—If a certification under subsection (e) is made in a fiscal year after the prohibition in subsection (f) applies, funds for assistance, sales, or transfers described in subsection (f) may be allocated for Pakistan pursuant to the reprogramming provisions of section 6304 of this Act or pursuant to a subsequent appropriation Act.

"SEC. 5505. ASSISTANCE FOR CUBA.

"(a) Present Government.—Assistance may not be furnished under this Act to the present government of Cuba.

"(b) Expropriation Claims of United States Persons.—Except as may be deemed necessary by the President in the interest of the United States, assistance may not be furnished under this Act to any government of Cuba until the President determines that such government has taken appropriate steps, according to international law standards, to return to United States citizens and to entities not less than 50 percent beneficially owned by United States citizens, or to provide equitable compensation to such citizens and entities for, property taken from such citizens and entities on or after January 1, 1959, by the Government of Cuba.".

SEC. 502. CONFORMING AMENDMENT RELATING TO THE ENVIRONMENT FOR THE AMERICAS BOARD.

Section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in subparagraph (A), by striking out "five" and insert in lieu thereof "six"; and

(2) in subparagraph (B), by striking out "four" and inserting in lieu thereof "five".

AMENDMENTS EN BLOC OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, the gentleman from Michigan [Mr. BROOMFIELD] and I offer amendments en bloc which have been made in order under the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en block is as follows:

Amendments en bloc offered by Mr. FASCELL:

Offered by Mr. MCHUGH of New York:

On p. 88, lines 6 and 7, strike "$40,000,000" in both places and insert "$70,000,000" in both places; and on p. 88, line 10, strike "$100,000,000" and insert "$70,000,000".

Offered by Mr. TORRICELLI of New Jersey:

Page 91, after line 3, insert the following:

"Subchapter C—Appropriate Technology International

"SEC. 1731. APPROPRIATE TECHNOLOGY INTERNATIONAL.

"(a) Eligibility as a PVO.—Appropriate Technology International qualifies along with any cooperative development organization for development assistance funds made available for United States private voluntary organizations.

"(b) Additional Funding.—In addition to the $3,000,000 made available to Appropriate Technology International under its cooperative agreement with the Agency for International Development, $2,000,000 of the funds made available for economic support assistance for fiscal year 1992 shall be provided to Appropriate Technology International to enable it to emphasize large-scale replication of successful projects and partnerships with major development and financial institutions.

Offered by Mr. TORRICELLI of New Jersey:

Page 64, line 6, strike out "and" and insert in lieu thereof "or"; and line 18, strike out "(a)" and insert in lieu thereof "(b)".

Offered by Mr. TORRICELLI of New Jersey:

Page 63, line 14, after "and" insert the following: "that, as of the time of the cash transfer under this chapter,".

Offered by Mr. BEREUTER of Nebraska:

Page 62, line 11, delete "Country" and insert the following: "recipient government".

Offered by Mr. DORGAN of North Dakota:

Page 17, line 16, after "issues," insert "policies concerning the furnishing of foreign military financing assistance.".

Offered by Mr. BROOMFIELD of Michigan:

On page 171, strike out the word "supervision" in line 14 and insert in lieu thereof the word "monitoring".

Offered by Mr. BROOMFIELD of Michigan:

On page 128, insert the following new section after line 2:

"SEC. 2208. COMMITMENT OF PRIOR-YEAR GRANT FINANCING.

"If the President at any time notifies the Congress that no further sales will be made pursuant to the Defense Trade and Export Control Act after the date of such notification to a specified country under circumstances then prevailing, any uncommitted funds allocated for such country that, prior to the effective date set forth in section 1101 of the International Cooperation Act of 1991, were transferred under the former authority of section 503(a)(3) of the Foreign Assistance Act of 1961 or section 23 of the Arms Export Control Act for the purpose of financing sales under the Arms Export Control Act may be committed to finance sales under the Defense Trade and Export Control Act to other eligible countries, subject to 15-day advance notification to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304.

Offered by Mr. HALL of Ohio:

Page 214, line 8, strike the period and insert the following:

, that—

(A) includes a linkage of humanitarian and developmental objectives with security objectives in Third World countries, particularly the poorest of the poor countries; and

(B) encourages countries selling military equipment and services to consider the following factors before making conventional arms sales: the security needs of the purchasing countries, the level of defense expenditures by the purchasing countries, and the level of indigenous production of the purchasing countries.

Offered by Mr. DORGAN of North Dakota:

Page 107, after line 4, insert the following:

"(e) Policy Regarding Consistency With Achievement of Economic Assistance Objectives.—Military assistance should not be provided to a country under this title if such assistance would hinder the achievement of the four basic objectives set forth in section 1102 of promoting sustainable economic growth, sustainable resource management, poverty alleviation, and democracy.

Hoyer amendemnt as modified:

On page 214, line 4, insert new finding (11) and redesignate previous finding (11) as (12)

(11) as an interim step, the United States should consider introducing, during the ongoing negotiations on confidence security-building measures at the Conference on Security and Cooperation in Europe (CSCE), a proposal regarding the international exchange of information, on an annual basis, on the sale and transfer of major defense equipment, particularly to the Middle East and Persian Gulf region; and

Page 214, line 3, strike "and" after the semicolon.

Offered by Mr. FEIGHAN of Ohio:

Page 293, line 16, strike out "March" and insert in lieu thereof "April".

Page 294, beginning in line 10, strike out "the matters identified in section 4402(b)(2)." and insert in lieu thereof the following:

the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

Offered by Mr. FASCELL of Florida:

Page 360, strike out lines 3 through 7 and insert in lieu thereof the following:

"SEC. 5401. ENTERPRISE FOR THE AMERICAS FACILITY AND ENVIRONMENT FOR THE AMERICAS BOARD.

"As used in this chapter—

"(1) the term 'Facility' means the entity established in the Department of the Treasury by section 601 of the Agricultural Trade Development and Assistance Act of 1954; and

"(2) the term 'Environment for the Americas Board' or 'Board' means the board established by section 610 of that Act.

Page 360, line 8, strike out "OF INITIATIVE AND THE FACILITY"; beginning in line 9, strike out "the Enterprise for the Americas Initiative" and insert in lieu thereof "this chapter"; and line 17, after "operations" insert "under this chapter".

Page 360, line 22, strike out "under the Facility" and insert in lieu thereof "from the Facility under this chapter".

Page 367, line 2, strike out "under the Facility" and insert in lieu thereof "from the Facility under this chapter".

Page 370, strike out line 15 and all that follows through line 3 on page 371; page 371, line 4, strike out "(c)" and insert in lieu thereof "(a)"; line 4, before "Board" insert "Environment for the Americas"; line 6, after "Agreements" insert "pursuant to section 5408"; line 19, after "Fund" insert "established pursuant to this chapter"; line 22, strike out "(d)" and insert in lieu thereof "(b)"; lines 22 and 23, strike "ON THE FACILITY"; line 25, strike out "section 5411(a)" and insert in lieu thereof "section 614 of the Agricultural Trade Development and Assistance Act of 1954"; and page 372, line 2, after "views" insert "with respect to the implementation of this chapter".

Page 372, strike out lines 5 through 24 and insert in lieu thereof the following:

"SEC. 5410. CONSULTATIONS WITH THE CONGRESS.

Page 373, line 1, strike out "(b) CONSULTATIONS.—"; line 3, after "Facility" insert "under this chapter"; and line 4, strike out "under the Facility" and insert in lieu thereof "from the Facility under this chapter".

Page 385, line 11, before the semicolon, insert the following:

and by inserting ", at least one of whom shall be a representative of the Department of Agriculture" after "Government".

Offered by Mr. LAGOMARSINO of California:

(Page 553, line 21 & 22)

Section 808, Subsection (a), paragraph (7) after "American University of Beirut" strike the word "and" and insert "," in lieu thereof. Following "Beirut University College" insert ", and International College"

Offered by Mr. DREIER of California:

Page 601, strike out line 12 and all that follows through line 14 on page 602 and insert in lieu thereof the following:

(1) FINDINGS.—The Congress finds that—

(A) the free flow of information is an essential component of modern commerce and is conducive to economic development and democracy;

(B) the United States is the world's leader in the development of commercial information systems for business and government;

(C) the United States business community urgently requires thorough and timely information on enterprises, government commercial policies, and investment opportunities in the emerging democracies of Eastern Europe; and

(D) it is the policy of the United States to favor efficient private sector delivery of government services where possible.

(2) PRIVATIZATION OF INFORMATION SYSTEM.—Section 602 (22 U.S.C. 5462) is amended to read as follows:

"SEC. 602. EASTERN EUROPEAN BUSINESS INFORMATION CENTER SYSTEM.

"(a) PURPOSE.—The President shall encourage and facilitate United States investment in East European business enterprises through the widest possible dissemination of commercial and legal information on Eastern Europe to the United States business community through United States information services companies.

"(b) ESTABLISHMENT.—Under the direction of the President, the SEED Program coordinator shall promptly establish a Eastern Europe Business Information Center System, employing the services and expertise of a United States information services company. This system shall work in coordination with the Foreign Commercial Service and the governments of eligible East European countries.

"(c) FUNCTIONS.—

"(1) IN GENERAL.—The Eastern European Business Information Center System shall serve as a central clearinghouse and data resource service for United States and Eastern European businesses, providing information relating to—

"(A) business conditions in Eastern Europe;

"(B) legal and regulatory information needed by United States companies seeking to do business in Eastern Europe;

"(C) investment and trade opportunities for United States companies resulting from the region's efforts to privatize state enterprises and move toward a market economy; and

"(D) voluntary assistance efforts to countries in Eastern Europe.

"(2) PRIVATE ENTERPRISE DEVELOPMENT.—The Eastern European Business Information Center System shall be established, among other purposes—

"(A) to encourage United States information companies to invest in and develop an infrastructure for gathering and disseminating information on business in Eastern Europe to the United States business community;

"(B) to provide the widest possible dissemination of such information to United States business interested in investment in Eastern European private enterprises and in trade with such enterprises;

"(C) to encourage the submission of economically sound business proposals to the Polish-American Enterprise Fund, the Hungarian-American Enterprise Fund, and similar entities that may be established; and

"(D) to encourage the involvement of United States businesses in voluntary development efforts in Eastern Europe.

"(d) INFORMATION ACCESS.—The Eastern European Business Information Center System shall be made accessible to the widest possible number of United States businesses through commercially available on-line information services. The SEED Program coordinator shall also endeavor to make information accessible to local enterprises in Eastern Europe seeking trade with or investment from the United States through the establishment of Eastern European trade information centers in Budapest, Hungary; Warsaw, Poland; and such other locations as the coordinator may designate.

"(e) REQUIREMENT FOR PRIVATE MATCHING FUNDING.—Funds made available to carry out this section may be provided to a United States company on a grant or contract basis for use in carrying out functions under this section only if that company, in carrying out those functions, uses either its own funds or other funds derived from nongovernment sources in an amount not less than twice the amount of the grant or contract.

"(f) FUNDING.—The Secretary of Commerce may use up to $500,000 of the funds appropriated for the International Trade Administration for each of the fiscal years 1992 and 1993 to carry out this section.".

Page 602, line 15, after "602" insert ", as amended by paragraph (2) of this subsection,"; and line 17, strike out "(d)" and insert in lieu thereof "(g)".

Page 604, in the text following line 7, after "Center" insert "System".

Offered by Mr. DREIER of California:

Page 611, after line 22, insert the following:

SEC. 852. TASK FORCE ON REGULATORY REFORM.

(a) FINDINGS.—The Congress finds that—

(1) American businesses and private voluntary organizations have complained publicly that the Agency for International Development's applications and requirements are "unnecessarily complicated and enormously time-consuming"; and

(2) the Agency's regulations and the lengthy application process discouraged many organizations from applying for funding, and have delayed the implementation and approval of programs for Eastern Europe that could further the transition to a market economy.

(b) TASK FORCE TO REFORM THE APPLICATION PROCESS FOR UNITED STATES ASSISTANCE TO EASTERN EUROPE.—

(1) ESTABLISHMENT AND FUNCTIONS.—The Administrator of the Agency for International Development shall establish a task force to review, and recommend revisions to, the Agency's regulations governing the application process for private voluntary organizations and businesses to receive funding from the Agency for activities relating to Eastern Europe. The task force shall have 5 members appointed by the Administrator, as follows:

(A) 2 officials from the Agency for International Development.

(B) 1 representative of private voluntary organizations.

(C) 1 representative of the United States business community.

(D) 1 individual who is a representative of either private voluntary organizations or the United States business community.

(2) REPORT AND IMPLEMENTATION.—The task force shall report the results of its review and its recommendations for revisions to such regulations to the Administrator, who shall implement those recommendations within 1 year after the date of enactment of this Act.

Offered by Mr. BROOMFIELD of Michigan:

Page 622, after line 5, insert the following:

Section 869.

SITUATION IN ALBANIA

It is the sense of the Congress that—

(1) the United States should encourage Albania in its efforts to open its society to Western ideas and ideals;

(2) in order to maintain the progress toward democracy that has already occurred and to encourage and support further progress, the United States should provide assistance for democratic institution-building in Albania, including the development of programs concerning the rule of law, the political process, local government, public administration, and social progress; and

(3) The United States also should provide medical and humanitarian assistance for the Albanian people.

Offered by Mr. OWENS OF UTAH:

Page 622, after line 5, insert the following:

SEC. 869. NAGORNO-KARABAKH CRISIS.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Soviet Union and Government of the Azerbaijan Republic have dramatically escalated their attacks against civilian Armenians in Nagorno-Karabakh, Azerbaijan, and Armenia itself;

(2) the Government of the Soviet Union has refused Armenia's request to convene a special session of the Supreme Soviet of the Union of Soviet Socialist Republics to resolve the Nagorno-Karabakh crisis;

(3) Soviet and Azerbaijani forces have destroyed Armenian villages and depopulated Armenian areas in and around Nagorno-Karabakh in violation of internationally recognized human rights; and

(4) armed militia threaten stability and peace in Armenia, Nagorno-Karabakh, and Azerbaijan.

(b) CONGRESSIONAL DECLARATION OF POLICY.—The Congress—

(1) condemns the attacks on innocent children, women, and men in Armenian areas and communities in and around Nagorno-Karabakh and in Armenia;

(2) condemns the indiscriminate use of force, including the shelling of civilian areas, on Armenia's eastern and southern borders;

(3) calls for the end of the blockades and other uses of force and intimidation directed against Armenia and Nagorno-Karabakh, and calls for the withdrawal of Soviet forces newly deployed for the purpose of intimidation;

(4) calls for dialogue among all parties involved as the only acceptable route to achieving a lasting resolution of the conflict;

(5) reconfirms the commitment of the United States to the success of democracy and self-determination in the Soviet Union and its various republics, by expressing its deep concern about any Soviet action of retribution, intimidate, or leverage against those republics and regions which have chosen to seek the fulfillment of their political aspirations; and

(6) calls for an immediate end to deportations of Armenians from Nagorno-Karabakh and the freedom for all refugees to return to their homes.

Offered by Mr. CAMPBELL of California, as modified:

Page 568, after line 14, insert the following:

SEC. 818. SAUDI POLICY TOWARD ISRAEL.

(a) FINDINGS.—The Congress finds that—

(1) Saudi Arabia has a long record of supporting Arab war efforts against Israel;

(2) Saudi Arabia possesses CSS-2 missiles that are capable of reaching Israel with a chemical, nuclear, or conventional warhead;

(3) one of the wealthiest Arab nations in the Middle East, Saudi Arabia has played a signficant role in enforcing the Arab economic boycott of Israel;

(4) The Saudi government has financially supported Palestinian groups that have engaged in terrorist acts against Israel and Western nations;

(5) Saudi Arabia has not publicly and explicity recognized Israel's right to exist; and

(6) Saudi Arabia has refused to engage in direct bilateral peace negotiations with Israel.

(b) POLICY DECLARATIONS.—It is the sense of the Congress that—

(1) Saudi Arabia remains a threat to the State of Israel; and

(2) it should be the policy of the United States to encourage the Saudi government of recognize unequivocally Israel's right to exist as a sovereign nation within secure and recognized borders, to end the economic boycott of Israel, and to agree to negotiate directly with the state of Israel.

Offered by Mr. SMITH of Florida:

Page 555, after line 9, insert the following:

(e) CONGRESSIONAL REVIEW OF SHIPMENTS.—If the President submits a report under subsection (d), the President shall notify the appropriate congressional committees, in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961, at least 15 days before any defense articles are shipped to Lebanon, or any defense services are delivered to Lebanon, pursuant to such report.

Offered by Mr. SOLARZ of New York:

Page 645, insert the following after line 15:

SEC. 911. POLICY TOWARD THE FUTURE OF TAIWAN.

(a) FINDINGS.—The Congress finds that—

(1) although peace has prevailed in the Taiwan Strait for the past decade, on June 4, 1989, the Government of the People's Republic of China showed its willingness to use force against the Chinese people who were demonstrating peacefully for democracy; and

(2) in the Taiwan Relations Act, the United States made clear that its decision to enter into diplomatic relations with the People's Republic of China rested upon the expectation that the future of Taiwan would be determined by peaceful means.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the future of Taiwan should be settled peacefully, free from coercion, and in a manner acceptable to the people on Taiwan; and

(2) good relations between the United States and the People's Republic of China depend upon the willingness of the Chinese authorities to refrain from the use of the threat of force in resolving Taiwan's future.

Offered by Mr. WISE of West Virginia:

Page 645, after line 15, insert the following:

SEC. 911. ECONOMIC COOPERATION WITH JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) an interdependent relationship exists among the economies of the United States, Japan, and other world nations;

(2) the United States and Japan are the two world leaders in terms of both gross national product and in providing financial assistance to developing nations;

(3) cooperation between the United States and Japan continues to grow in the areas of trade, investment, finance, diplomacy, and defense;

(4) in the growing economic competition between the United States and Japan, tensions arise that threaten the natural ties between the two nations; and

(5) the United States and Japan both have significant scientific research and technological skills which can benefit each other and the world.

(b) CONGRESSIONAL STATEMENT.—It is the sense of the Congress that the Secretary of State should initiate discussions with the Government of Japan to increase scientific research, medical technology, infrastructure development, agriculture, telecommunications, environmental protection, and other areas beneficial to the United States and Japan as well as other nations in order to improve the quality of life worldwide and foster cooperation between the United States and Japan.

Offered by Mr. SOLOMON of New York:

Page 645, after line 15:

Insert the following new section:

SEC. 911. MEMBERSHIP OF THE REPUBLIC OF KOREA IN THE UNITED NATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the Republic of Korea has applied for admission as a member state of the United Nations;

(2) the goals of the United Nations, which include the peaceful resolution of conflicts, will be enhanced if the Republic of Korea is admitted as a member state;

(3) the United States has a special interest in supporting the Republic of Korea, a faithful and valued ally, in this endeavor, owing to the fact that more than 50,000 Americans died in the defense of the Republic of Korea's liberty and independence during the Korean conflict of 1950 to 1953; and

(4) the issue of peace on the Korean peninsula has a particular relevance to the United Nations because a United Nations Command is still in place to assist in the defense of the Republic of Korea against aggression.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should actively support the application of the Republic of Korea for * * *

Offered by Mr. KOSTMAYER of Pennsylvania:

On page 645, after line 15, insert the following section, and renumber the successive sections accordingly:

SEC. 911. SENSE OF THE CONGRESS REGARDING ALLEGATIONS OF COERCIVE ABORTION IN CHINA.

It is the sense of the Congress that the People's Republic of China should be subject to export controls or other economic sanctions until the President certifies to the Congress that the Chinese Government is not engaged in a program of coercive abortion or involuntary sterilization.

Offered by Mr. MCCURDY of Oklahoma:

Page 669, strike out line 11 and all that follows through line 2 on page 670 (section 1021) and insert in lieu thereof the following:

SEC. 1021. ANGOLA.

It is the sense of the Congress that—

(1) The Government of the People's Republic of Angola and the National Union for the Total Independence of Angola (UNITA) should be commended for successfully reaching an agreement (the Estoril Accords signed on May 31, 1991) to end the conflict in Angola and to establish a process designed to lead to free and fair elections in Angola; and

(2) the United States should formulate and implement, as soon as practicable, a program of economic and humanitarian assistance under the Foreign Assistance Act of 1961 to support implementation of the Estoril Accords.

Offered by Mr. DREIER of California:

Page 669, line 12, insert "(a) STATEMENTS OF POLICY CONCERNING THE ANGOLAN CONFLICT.—" before "It".

Page 670, after line 2, insert the following:

(b) MINE CLEARING OPERATIONS IN ANGOLA.—

(1) AUTHORIZATION.—Not withstanding section 1243 of the Foreign Assistance Act of 1961, the President is authorized for the fiscal years 1992 and 1993 to use funds (other than earmarked funds) made available for economic support assistance and foreign military financing assistance, for mine clearing operations in Angola.

(2) CONTRACTS.—Should any assistance be provided to carry out paragraph (1), the Congress urges the President to use other than competitive procedures in order to expedite the procurement of services and to limit the eligibility for contracts to United States persons.

(3) REPORT.—Not more than 180 days after the date of the enactment of this Act, the President shall notify the appropriate congressional committees of any plans for using the authority under this subsection and the status of any assistance for mine clearing operations in Angola.

Offered by Mr. SOLOMON of New York, as modified:

Page 670, strike line 18 and all that follows through page 672, line 16, and insert in lieu thereof the following:

(a) FINDINGS.—The Congress finds that—

(1) thirty years of civil war, recurring cycles of drought, widespread and systematic abuses of basic human rights by the regime of Mengistu Haile Mariam, and the destructive political, economic, and social policies of the Mengistu regime have left the Ethiopian state in a condition of profound crisis and internal disarray; and

(2) without a transition to a fully representative government committed to peaceful resolution of Ethiopia's internal wars, there will be no end to Ethiopia's deep social crisis, no prospects for a transition to stability, growth, and liberty in Ethiopia, and minimal hope that the Horn of Africa will reverse the spread of devastating internal wars

that have created massive human dislocation across the region.

(b) Statement of Policy.—The Congress—

(1) believes the demise of the regime in Ethiopia headed by Mengistu Haile Mariam represents the first important step toward realizing the hope of reconciliation and reconstruction in that country;

(2) commends those American officials and envoys who were instrumental in facilitating the success of "Operation Solomon", the swift and safe airlift of 14,000 Ethiopian Jews to Israel;

(3) supports efforts to ensure that the people of Eritrea are able to exercise their legitimate political rights, consistent with international law, including the right to participate actively in the determination of their political future;

(4) calls upon the authorities who now exercise control over the central government in Ethiopia to protect the basic human rights of all citizens, to release from detention all political prisoners and other detainees who were apprehended by the Mengistu regime, and to facilitate the distribution of international relief and emergency humanitarian assistance throughout the country;

(5) calls upon the authorities in Eritrea to open the ports of Mitsiwa and Aseb with all deliberate speed and to permit the restoration of commerce through those ports, as well as the use of those ports in the delivery and distribution of emergency humanitarian assistance to Eritrea and to Ethiopia as a whole;

(6) urges all authorities in Ethiopia to make good faith efforts to—

(A) make permanent the cease-fire now in place and to permit the restoration of tranquility in the country, and

(B) make arrangements for a transitional government that is broadly based, that accommodates all appropriate points of view, that respects basic human rights, and that is committed to a process of reform leading to the writing of a Constitution and the establishment of a representative government;

(7) favors the resumption of economic assistance to Ethiopia for development and reconstruction in the event that there is a permanent cease-fire, clear progress toward a democratic and fully representative government, protection of basic human rights, and implementation of economic reforms; and

(8) urges the President to continue active diplomatic efforts on behalf of reconciliation and reconstruction in Ethiopia.

Page 672, line 17, redesignate section "(b)" as section "(c)";

Line 21, strike "resolve its internal wars", and insert in lieu of: "establish a democratic and fully representative government"

Line 24, redesignate section "(c)" as section "(d)"

Offered by Mr. McGrath of New York:

At the appropriate place, insert the following new section—

Sense of the Congress concerning the outbreak of neo-Nazi video games in Europe.

It is the sense of the House of Representatives that the degree of anti-Semitism and hatred found in video games glorifying the Holocaust is so profound that the Federal Republic of Germany and the Republic of Austria should take all applicable steps to halt the production, sales, and distribution of "KZ Manager," "Aryan Test," and other similar neo-Nazi video software.

Offered by Mr. Fascell of Florida, as a modification of the amendment printed in the Record of June 11, 1991, by Mr. Kanjorski of Pennsylvania:

Page 128, strike out line 5 and all that follows through line 22 on page 143 (sections 2301, 2302, and 2303) and insert in lieu thereof the following:

"SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK.

"(a) Authority to Transfer Excess Defense Articles.—Notwithstanding any other provision of law and subject to subsection (b), the President may transfer to—

"(1) those member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure,

"(2) to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance, and

"(3) those countries which received foreign military financing assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,

such excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries. Such excess defense articles may be transferred without cost to the recipient countries.

"(b) Limitations on Transfers.—The President may transfer excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(c) Notification to Committees of Congress.—The President may not transfer excess defense articles under this section until 30 days after he has notified the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on military readiness of the United States.

"(d) Waiver or Requirement for Reimbursement of DOD Expenses.—Section 7201(d) shall not apply with respect to transfers of excess defense articles under this section.

"(e) Maintenance of Military Balance in the Eastern Mediterranean.—

"(1) United states policy.—Excess defense articles shall be made available under this section consistent with the United States policy, established in section 5501, of maintaining the military balance in the Eastern Mediterranean.

"(2) Maintenance of balance.—Accordingly, the President shall ensure that, over the 3-year period beginning on October 1, 1991, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

"(i) the amount of foreign military financing assistance provided for Turkey, to

"(ii) the amount of foreign military financing assistance provided for Greece.

"(f) Definitions.—As used in this section—

"(1) the term 'made available' means a good faith offer is made by the United States to furnish the excess defense articles to a country; and

"(2) the term 'member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO' means Greece, Italy, Portugal, Spain, and Turkey.

"(g) Ineligible Countries.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

"SEC. 2302. MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

"(a) Authority To Transfer Excess Defense Articles.—Subject to the limitations in this section, the President may transfer to a country—

"(1) which is a major illicit drug producing country in Latin America and the Caribbean,

"(2) which has a democratic government, and

"(3) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights,

such excess defense articles as may be necessary to carry out subsection (b).

"(b) Purpose.—Excess defense articles may be transferred under subsection (a) only for the purpose of encouraging the military forces and local law enforcement agencies of an eligible country in Latin America and the Caribbean to participate in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances.

"(c) Uses of Excess Defense Articles.—Excess defense articles may be furnished to a country under subsection (a) only if that country ensures that those excess defense articles will be used primarily in support of antinarcotics activities.

"(d) Role of the Secretary of State.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a). In accordance with section 4102, the Secretary shall ensure that the transfer of excess defense articles under subsection (a) is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

"(e) Dollar Limitation.—The aggregate value of excess defense articles transferred to a country under subsection (a) in any fiscal year may not exceed $10,000,000.

"(f) Conditions on Transfers.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(g) Terms of Transfers.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(h) Waiver of Requirement for Reimbursement of DOD Expenses.—Section 7201(d) does not apply with respect to transfers of excess defense articles under this section.

"(i) NOTIFICATION TO CONGRESS.—

"(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until 30 days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

"(A) a certification of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the value of the excess defense articles to be transferred.

"(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"(h) INELIGIBLE COUNTRIES.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

"SEC. 2303. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.

"(a) AUTHORITY TO TRANSFER NONLETHAL EXCESS DEFENSE ARTICLES AND SMALL ARMS.—Subject to the limitations in this section, the President may transfer nonlethal excess defense articles and small arms to friendly countries and to international organizations and private and voluntary organizations for the purposes contained in section 119 of this Act (as in effect immediately prior to the effective date specified in section 1101 of the International Cooperation Act of 1991).

"(b) LIMITATION ON TRANSFERS.—Transfers under this section shall be subject to the limitations contained in section 2301(b).

"(c) TRANSPORTATION.—The Department of Defense is authorized to transport nonlethal excess defense articles and small arms made available pursuant to this section without charge on a space available basis.

"(d) WAIVER OF REQUIREMENTS FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) shall not apply with respect to transfers of nonlethal excess defense articles and small arms under this section or the transportation of such articles as authorized by subsection (c).

"(e) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer nonlethal excess defense articles and small arms under this section until 30 days after he has notified the Committee on Appropriations of each House of Congress of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States. Transfers under this section shall also be subject to the notification requirements of section 2301(c) of this Act.

"SEC. 2304. ADDITIONAL AUTHORITIES RELATING TO MODERNIZATION OF MILITARY CAPABILITIES.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law (except title V of the National Security Act of 1947) and subject to subsection (b), the President may transfer to countries for whom foreign military financing assistance was justified for the fiscal year in which the transfer is authorized, such nonlethal excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries, in accordance with the provisions of this section.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer nonlethal excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

"(3) the President determines that the transfer of the nonlethal excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President determines that transferring the articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) NOTIFICATION TO CONGRESS.—The President shall notify the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives 15 days before transferring nonlethal excess defense articles under subsection (a), in accordance with the regular notification procedures of those committees.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) shall not apply with respect to transfers of nonlethal excess defense articles under this section.

"(e) ANNUAL REPORT.—Commencing in 1991, not later than December 15 of each year, the President shall transmit to the committees described in subsection (c) a report with respect to the previous fiscal year which contains.—

"(1) a list of the countries to which the President has furnished nonlethal excess defense articles under the authority of this section; and

"(2) the value of the excess nonlethal defense articles that were furnished to each such country.

"(f) TRANSPORTATION AND RELATED COSTS.—(1) Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transportation of nonlethal excess defense articles transferred under the authority of this section.

"(2) Notwithstanding section 7201(d) or any other provision of law, the President may direct the crating, packing, handling, and transport of nonlethal excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the nonlethal excess defense articles are being provided to that country under the authority of this section.

"(g) INELIGIBLE COUNTRIES.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

Page 144, line 1, strike out "2304" and insert in lieu thereof "2305"; line 9, after "2301" and insert "or 2304"; line 15, strike out "2305" and insert in lieu thereof "2506"; and line 21, after "2303," insert "section 2304,".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 10 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in these amendments en bloc, we have a variety of amendments to various titles which have been agreed to by both sides of the aisle and the proponents and the opponents of amendments. The amendments are offered by both Republican and Democrat members.

A summary of the en bloc amendments is as follows:

TITLE I

1. McHugh: Increases disaster assistance;
2. Torricelli: Regarding ATI (as modified);
3. Torricelli: Two technical corrections to cargo preference;
4. Bereuter: A technical correction to cargo preference; and
5. Dorgan: Adds FMF to policies President should coordinate when allocating resources.

TITLE II

6. Dorgan: Policy on coordination of economic and security aid;
7. Broomfield: Reallocation authority for FMF (modified);
8. Broomfield: End use monitoring;
9. Hall: Adds humanitarian assistance to findings on arms transfers;
10. Hoyer: CSCE and information exchange on arms transfers (modified).

TITLE IV

11. Feighan: Technical corrections on narcotics report.

TITLE V

12. de la Garza: Enterprise for the Americas (modified).

TITLE VIII

13. Lagomarsino: International College in Lebanon;
14. Dreier: East European Business Information Center;
15. Dreier: Task force to reform application process for aid to Eastern Europe;
16. Broomfield: Sense of Congress on democracy in Albania;
17. Owens: Sense of Congress regarding Nagorno-Karabakh;
18. Campbell: Sense of Congress regarding Saudi policy towards Israel;
19. Smith of Florida: Notification requirement for military assitance to Lebanon.

TITLE IX

20. Solarz: Sense of Congress regarding the future of Taiwan;
21. Wise: Sense of Congress regarding increased cooperation with Japan;
22. Solomon: Sense of Congress regarding membership of Korea in the U.N.;
23. Kostmayer: Sense of Congress on coercive abortions in PRC.

TITLE X

24. McCurdy: Sense of Congress on Angola;
25. Solomon: Ethiopia policy language;
26. Dreier: Mine clearing in Angola (modified).

TITLE XI

27. McGrath: Sense of Congress regarding neo-Nazi video games.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, with respect to No. 8, the end use monitoring, I have been asked to enter into a colloquy with the gentleman.

I would like to ask, with respect to the amendment en bloc which deletes in subsection (a)(3) in section 2922 the word "supervision" and inserts in lieu thereof the word "monitoring," let me state the following: The committee has changed the word "supervision" to "monitoring" in section 2922(a)(3) of Title II of the Foreign Assistance Act of 1961, as amended by this bill, to emphasize the Secretary of Defense's primary responsibility of ensuring that countries acquiring U.S.-origin defense equipment under this title are using it only for the purposes authorized and have not made an unauthorized transfer of this equipment to a third country or party.

The committee in this regard primarily is concerned with major defense equipment in serviceable condition. The Secretary of Defense will take whatever measures are appropriate to fulfill this responsibility, which includes in addition to the usual intelligence collection efforts, periodic discussions with recipient countries' officials regarding the recipient countries' use and disposition of concerned equipment.

May I ask the gentleman from Florida, the committee chairman, is the gentleman in accord with the purpose of this amendment as I have stated?

Mr. FASCELL. Mr. Chairman, I will state to the gentleman that I am in accord with the purposes of the amendment.

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume. I want to comment on one of the en bloc amendments.

Mr. Chairman, I support the en bloc amendment which includes a legislative initiative that I authored.

My amendment is simple and to the point. It encourages our Government to provide assistance to Albania in the form of institution-building assistance as well as medical and humanitarian aid. We must do all we can to ensure that the flame of democracy continues to burn bright in that once-closed society.

In 1989, many nations in Eastern Europe set sail on the rising tide of democracy. Albania, however, was the last bastion of the old Communist order to resist those winds of change.

Last year, Albania began to emerge from its isolation from the world and took significant steps toward a more democratic political system. Many political prisoners were released, and independent political parties and labor unions were formed.

Although the elections held earlier this year fell short of the standards that we accept, they were the first multiparty elections in Albania in 40 years.

As the stronghold of freedom and democracy, America must do more to help the prodemocracy groups in Albania that are desperately short of resources. We should assist these groups that are committed to political pluralism and respect for human rights so that they can successfully campaign in the upcoming elections. I am confident that in the future these democratic organizations will protect the fundamental freedoms of all Albanians, to include the minorities in that country.

In recognition of the special friendship that Albania has with the United States, we should also provide medical and humanitarian assistance for the Albanian people who are experiencing difficulties during this period of great change in their country.

I encourage my colleagues to support the en bloc amendment.

□ 1820

Mr. Chairman, I reserve the balance of my time.

Mr. FASCELL. Mr. Chairman, let me engage the gentleman from Michigan in a colloquy.

Mr. Chairman, we had one amendment listed in this en bloc group on which we still need a technical change before it is in final form.

I think, rather than creating confusion, what we should do is withdraw that amendment now and offer it in another en bloc group later on as soon as everybody is satisfied from a technical standpoint that the amendment is correct.

Mr. Chairman, I will identify the one to which I am referring. It is the last amendment in the en bloc, otherwise known as the Kanjorski amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. I thank the gentleman for yielding.

Mr. Chairman, that is fine.

Mr. FASCELL. If that is agreeable to the gentleman.

Mr. BROOMFIELD. It is agreeable.

Mr. FASCELL. Mr. Chairman, I ask unanimous consent to withdraw that amendment from the en bloc and to proceed with the others.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the distinguished ranking member for yielding me this time. I rise in strong support of the en bloc amendments.

Mr. Chairman, I have two amendments that are being considered in this group specifically dealing with Eastern Europe. One of the things that has struck us is that the people of Eastern Europe are really very, very hard-pressed to comprehend many things which those of us in the Western World take for granted. One of the things that is most frustrating is that trying to emerge from decades of totalitarianism to a market-oriented economy where freedom and democracy exist is something that frankly is not very easy.

We have been trying to do a number of things with our policy here in the United States to encourage that expansion and opportunity.

The two amendments that I have in this en bloc package do just that. Our colleague from Ohio, Mr. MCEWEN, has enjoyed saying in the past what we need to do for our friends in Eastern and Central Europe is not provide them with $4 billion in U.S. aid but rather $40 billion in U.S. business private sector investment.

We have had some problems in the past with something known as CIMS, the commerce information management systems, which is a computer network designed to link up business opportunities in Eastern Europe with businesses here in the United States.

Mr. Chairman, I have been approached by a number of organizations which have an interest in providing the opportunity for this kind of computer networking to take place in the private sector. The General Accounting Office did a study which showed that there are more than a few problems with having the Department of Commerce and our Government involved with this computer networking. If we can do it at a substantially lower cost by way of the private sector, it seems to me that that is the route for us to take. That is included in this amendment. I think it is something that is very worthwhile. I appreciate the fact that the chairman and the ranking member have included it.

I am joined in cosponsoring this amendment by my colleagues from Ohio, Mr. HALL and Mr. MCEWEN, and look forward to its passage.

Mr. Chairman, the second amendment deals with improvement of the grant application process for the AID Program. Of course, we want to do everything we can to have the private sector involved here. The amendment that I have is very simple. It requires the administrator of AID to appoint a five-member task force with representatives from AID or State and three from private organizations, to look at the grants process. I think it is very worthwhile.

As we look at the challenge that we face in trying to assist the emerging democracies, it is essential that we do everything we possibly can to encourage that by way of the private sector.

Mr. Chairman, I thank my friend for yielding me this time and look forward to the en bloc amendments.

Mr. Chairman, I rise today in support of the en bloc group of amendments. I appreciate the work of Chairman FASCELL and Mr. BROOMFIELD in accommodating a number of us who have an interest in this bill.

I would like to briefly explain two amendments which I submitted which have been included in this en bloc. Both deal with the transition to freedom taking place in the former Communist satellites of Central and Eastern Europe.

The nations of this region are only now beginning to shed the dark and bitter shackles of Communist totalitarianism; only now beginning to escape from the the economic misery wrought by 40 years of economic myopia; only now beginning to comprehend the devastation to the environment and to the health of millions of unsuspecting Poles, Hungarians, Czechs, Slovaks, and Bulgarians.

These people realize that the path to economic and political freedom will be rocky. But they are willing to bear these burdens. They are willing to sacrifice short-term comfort for long-term rewards.

The people of America want to help their friends and colleagues in Eastern and Central Europe. We in the Congress want to help as well. But I think we need to be careful that our programs are based on a thoughtful understanding of the successes and failures of past programs.

One of my colleagues, the gentleman from Ohio [Mr. MCEWEN], is fond of saying that Eastern Europe doesn't need $4 billion in U.S. Government handouts, rather, it needs $40 billion in U.S. private investment. He's right.

But without accurate information about economic progress, investment laws, or environmental restrictions, few American businesses can be expected to take the plunge.

Unfortunately, this information just simply doesn't exist in an easily accessible form. What our companies need is an on-line computer network which would provide this data to any CEO with a PC on his or her desk. The Department of Commerce is in the initial planning stages for just such a system.

The problem is that Commerce has a rather poor track record in running computer network systems. In fact, the Department has spent more than 11 years and $35 million on an almost identical system called the commerce information management system, or CIMS. CIMS has been a complete disaster.

The GAO and Price-Waterhouse both recently completed studies of CIMS, and their verdict was startling. According to GAO, officials at the two most important overseas CIMS locations, Paris and London, were "unable to make any retrievals from the central data base." In Tokyo, "95 percent of the records had not been updated in 4 years." They concluded by saying that they "question whether CIMS is a viable approach for meeting U.S. information needs. Much of the information processing and distribution could be met by private computer networks."

We simply cannot afford to make the same mistake in Central and Eastern Europe. As a result, TONY HALL and I drafted an amendment requiring the Commerce Department to take the GAO's advice: Let the private sector work with you on this project.

This will expedite establishment of a system. It will streamline the U.S. bureaucracy. It will save the taxpayer dollars over the long run. And it will allow Commerce Department officials overseas to focus on other important tasks.

We pledge to work with the Department to ensure adequate funding for this program and look forward to working with the committee to oversee its growth.

I also want to say a few words about my second amendment.

During the past several weeks, a number of PVO's and other nonprofit groups have come to me to complain about problems with AID's grant application process. One umbrella organization of groups working in Poland and Hungary told me that the process has discouraged many potential volunteers and is "unnecessarily complicated and enormously time-consuming."

This is an ongoing problem. AID has ignored repeated requests from the private sector and Congress to do something about this system. The time has come for action.

My amendment is simple. It requires the Administrator of AID to appoint a five-member task force—two representatives from AID or State, and three from private organizations. The task force would be given a year to come up with a program for streamlining the system, and the Administrator would be required to implement their recommendations.

To my friends in the administration who complain about this provision, I say this: The changes in Central Europe are too important to be endangered by an unresponsive and inflexible U.S. aid policy. We have a once-in-a-lifetime opportunity to transform Central Europe, and in the same breath, influence change in Latin America, Africa, and elsewhere.

It is essential that worthy projects not be delayed or discouraged without reason. I hope that this amendment will communicate this sentiment.

I want to thank my colleagues, TONY HALL and BOB MCEWEN, for working with me on the computer network amendment. I also want to thank the committee for working with me on these provisions, and I look forward to following their implementation in the coming months.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise in opposition to the Dreier amendment to privatize the Department of Commerce's Eastern European Business Information Center, based upon the following arguments:

In January 1990, the Commerce Department established the Eastern European Business Information Center [EEBIC] to respond to American companies' greatly increased need for information on doing business in Eastern Europe.

The Center was mandated by Congress under the Support for East European Democracy [SEED] Act of 1989.

EEBIC has been highly successful.

Since its opening the Center has responded to more than 40,000 requests for information from U.S. firms—particularly small- and medium-sized companies.

EEBIC now has a data base of more than 7,000 American companies serious about pursuing business opportunities in the region, and this year will build comparable data bases of East European companies.

EEBIC has produced a broad variety of written materials on each country and on opportunities for U.S. trade and investment in specific sectors.

Responding to the American business community's many requests for information on doing business in Eastern Europe—as EEBIC currently does—is an essential part of the Commerce mandate. EEBIC combines the resources of our foreign commercial officers, industry experts, and country specialists to provide detailed counseling services.

Even if a parallel organization were to be created in the private sector, American companies would continue to come to Commerce with their business questions and information needs.

During the past year Commerce has used its unique capabilities, including EEBIC resources, to pull together information from its country and industry specialists and its overseas offices to influence major business decisions in Eastern Europe.

These efforts have produced results:

The United States has become the largest foreign investor in Hungary, with investments totaling more than $700 million.

Trade and investment in Poland has recently surged. Just last week, U.S. companies concluded four major export and investment transactions, valued at more than half a billion dollars.

Commerce involvement in trade promotion events in Eastern Europe increased dramatically from just 7 events in 1989 to over 70 last year. For instance, Commerce's first time ever participation in Poland's Polagra agro-industrial fair last year produced over $100 million in United States contracts. The 1991 calendar is equally ambitious.

Several Commerce programs for Eastern Europe, including EEBIC, are part of a bold new $46 million, 4-year program to involve U.S. business in the transformation of Eastern Europe to free market economies. This program, the American Business and Private Sector Development Initiative for Eastern Europe, was announced in March by President Bush.

Mr. Chairman, I submit that setting up a private sector, duplicate organization would take at least a year and could never replicate the variety of services offered by the existing EEBIC structure. Accordingly, I urge my colleagues to defeat the Dreier amendment.

Mr. BROOMFIELD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I am in support of these en bloc amendments. I had proposed an amendment, which I will not offer, which had been included, in part, in the en bloc amendments. It deals with the Commission on Security and Cooperation, the confidence and security-building measures that the CSCE has pursued consistent with basket 1 of the Helsinki Final Act.

Mr. Chairman, I want to commend the chairman of the Foreign Affairs committee, Mr. FASCELL, for this outstanding leadership on this bill. I also want to take particular note of the Fascell proposal calling for an arms transfers restraint policy for the Middle East and Persian Gulf region. It is a serious and commendable attempt to address regional instability and the continuing proliferation of weapons, both conventional and unconventional. It encompasses confidence-building arms control measures such as the establishment of a centralized arms trade registry at the United Nations, cooperative verification measures, communication measures, advanced notification of military exercises, information exchanges, onsite inspections, and creation of a Mideast conflict prevention center—as appropriate means to implement an effective arms control regime.

I view this as a very constructive and promising plan to reduce the rate of international arms sales and transfers to the Middle East and gulf region. I fully support the proposal.

Still, the problem is complex and will not be solved easily; nor is it likely to be solved by one nation alone. Both buyers and sellers are spread across the globe, and one seller can quickly be replaced by another. The widespread nature of the trade, its economic importance to many supplier countries, including our own, and the legitimate need of countries to arm themselves make bans a long-term objective. It will be difficult to achieve, but that difficulty need not nor should it be reason or excuse for not putting forward proposals seeking that very objective. For to fail to address it is to concede the problem, and to condemn thousands or millions of civilians to violent deaths during the next conflict.

The difficulty, however, does not imply a shortage of multilateral steps we can take to slow transfers and to make the world community more aware of buildups as they occur. A centralized registry of arms sales and transfers will act as an early warning device of any buildup. The bill we are now considering seeks to have one established at the United Nations. Practically speaking, China may block the creation of such a registry. Having signed neither the Missile Technology Control Regime nor the Nuclear Nonproliferation Treaty, China has rather stepped up its arms promotions in recent weeks. It has shown little interest in nuclear or conventional arms control. But China's absence or reluctance need not be a bar either at the United Nations level or at other levels.

My language, which has been incorporated into the committee amendment, essentially builds upon the concept of a U.N. arms registry by calling for one within the Conference on Security and Cooperation in Europe [CSCE]. In the CSCE, we have a body containing nine of the top ten global arms suppliers—all but China.

The CSCE is ideally suited to make a contribution to increased information on arms transfers. Its military security arm has played a groundbreaking role in arms control before: The 1986 Stockholm Document was the first forum to negotiate a regime of nonrefusable inspections of conventional forces, thus paving the way for the INF regime. More recently, the participating States negotiated a groundbreaking annual exchange of military information. All participating States are required to provide information on conventional forces, equipment, budgets, weapon deployments, and exercise plans.

A requirement for disclosure of weapons sales and transfers could easily be added to this list. Moreover, a review mechanism for the information is already in place—meetings at the conflict prevention center, where States can be questioned on the information they have provided. Perhaps the arms buying motives of a State could be questioned before death and destruction on the scale we have seen in the gulf war results again.

The possibility of such an exchange has been raised at the conflict prevention center by Czechoslovakia and Poland. Czechoslovak Foreign Minister Jiri Dienstbier recently called for the CSCE to "Take measures in the field of registration and, later, control of the sale and transfer of conventional arms and equipment," although his country is one of the top ten arms-selling nations. The United States, in my opinion, should do no less.

Mr. Chairman, my language attempts to advance the timing of and improve access to information on arms sales and transfers. The CSCE deserves serious consideration because in it we have a forum with a proven record in confidence building, which contains all of the major arms sellers but China, and within which the new democracies and other countries have expressed interest in addessing arms sales and transfers. The CSCE would also be able to move forward promptly on this issue. And prompt action on this issue would demonstrate the concern of CSCE States, which provide the vast majority of the world's weapons and which have united to defeat their use in Kuwait, for preventing similar aggressions.

I have already proposed to the President as well as certain members of the arms control community, that the United States make such a proposal at the military negotiations currently taking place in Vienna. An information exchange at CSCE would be a small first step, but a concrete one, and one which would give Europe and the West the chance to show that they do not shrink from their responsibilities in the search for peace.

Mr. Chairman, my language calls on the President to do precisely that and I thank you for agreeing to accept it. And once again I want to commend and congratulate the Chairman for his exemplary leadership on an issue of such importance to all the nations of the world.

Mr. Chairman, at this time I would to enter into a brief colloquy with the Chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. Chairman, my original amendment expressed the sense of Congress that the United States should introduce, during the ongoing negotiations on confidence and security building measures at the Conference on Security and Cooperation in Europe (CSCE), a proposal regarding the international exchange of information on the sale and transfer of major weapons and equipment systems. It is my understanding that the en bloc amendment includes this language and replaces "major weapons and equipment systems" with the term "major defense equipment." Is that correct?

□ 1830

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, the gentleman from Maryland [Mr. HOYER] is quite correct, and let me add that I fully appreciate the gentleman's initiative. He is quite right in the fact that CSCE, particularly in Basic I, offers a real opportunity to expand on the efforts with regard to arrangements between governments in carrying out the policy of the United States, and I think the gentleman agrees with me that there will be more and more greater use of the CSCE process to this purpose.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Florida [Mr. FASCELL] for his comments.

Mr. Chairman, further questioning, my original amendment specifies that the U.S. proposal should include, among others: First, a requirement that participating States exchange annually information on sales and transfers of major weapons and equipment systems;

Second, a requirement that such information be exchanged in an agreed format to all other participating

States not later than December 15 of each year;

Third, a requirement that such information include information on any sale or transfer of major weapons and equipment systems (including any such sale or transfer of any participating State) and information regarding such sale or transfer that specifies the quantity and type of weapon or equipment that is the subject of such sale or transfer; the date of such sale or transfer; the location of such weapon or equipment prior to such sale or transfer; and the State or other party receiving such weapon or equipment; and

Fourth, a requirement that such information be discussed at the annual implementation assessment meeting at the CSCE Conflict Prevention Center.

In this regard, it is my understanding that these provisions are subsumed and included in the Committee's original recommendations in sections 242(c), 242(e)(1), and 242(e)(2). Is this correct?

Mr. FASCELL. Mr. Chairman, the gentleman from Maryland [Mr. HOYER] is absolutely correct, and the reason we subsumed that is because, not only of the gentleman's initiative, but we agree that the exchange of information in confidence-building measures is the greatest foundation upon which to make the kind of improvements that his commission is seeking to bring about.

So, Mr. Chairman, we are very pleased to include this as part of our proposal.

Mr. HOYER. Mr. Chairman, I thank the gentleman from Florida [Mr. FASCELL] for his comments and for his clarification.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I want to thank the gentleman from Florida [Mr. FASCELL] and the gentleman from New York [Mr. SOLARZ] for including en bloc the amendment I have offered which is a sense of the Congress that the Government of the United States and the Government of Japan should explore ways of cooperation. These two nations give the largest amounts of foreign assistance in the world, they have the largest gross national products, the most powerful economies, and yet we engage in this competition that has built certain tensions. Certainly, through cooperation, we can improve some of our relationship and benefit the world. These projects, for instance, to be explored would include biomedical research, medical research, infrastructure development, agriculture, those things that the world itself can benefit from our collaboration.

Mr. Chairman, this came out of a conference, the Shimoda conference held in Tokyo in December in which many on both sides, American and Japanese, expressed a common desire to engage in this type of cooperation. Hopefully, this is the first step and we can send a signal that this Congress is interested in this cooperation, and I thank both the gentleman from New York [Mr. SOLARZ] and the gentleman from Florida [Mr. FASCELL] for including this.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the Dreier-Hall amendment which will help American businesses invest in Eastern Europe. Our amendment will establish an Eastern European business information center to provide commercial and legal information that will help our businesses find opportunities in Eastern Europe.

Mr. Chairman, this amendment is good for our domestic firms, and good for the emerging economies in Eastern Europe. Our amendment will allow the Department of Commerce to contract, on a competitive basis, with one of our own companies to gather and make available computerized information about developing markets in Eastern Europe.

This information, Mr. Chairman, is crucial to developing markets overseas and facilitating positive trade relations with Eastern Europe. Under the system, information pertaining to local economics, tax and interest rates, legal matters, trade restrictions, investment laws, and environmental regulations will be rapidly available to our companies who are looking for opportunities. Our companies will be able to subscribe to an "on-line" system which will make this readily information available.

Mr. Chairman, the Department of Commerce has been trying to set up a computerized system like this for 11 years, and has been unsuccessful. The Hall-Dreier amendment allows the Department to provide $500,000 out of existing funds to one of our private companies to set up the system. That money must be matched by $1 million in private funds.

I commend my colleagues on the House Foreign Affairs Committee for excepting this amendment, and I urge my colleagues to support it.

Mr. KLUG. Mr. Chairman, I rise today in support of the provision in the en block amendment that was orginally offered by the gentleman from Maryland [Mr. HOYER]. The provision calls for the United States to propose an international exchange of information on the sale and transfer of major weapons systems at the conference on security and cooperation in Europe.

Mr. Chairman, the recent war in the Persian Gulf illustrates the devastating effect of the unchecked transfer of weapons around the world. It also illustrates the potential of multinational cooperation. The proposal put forth in this amendment would encourage an open exchange of information of the sale and transfer of weapons. This information will allow nations to accurately assess the arms supplies and equipment of aggressive, militant nations. This proposal will encourage accountability among suppliers and discourage the transfer of offensive arms to hostile nations.

The CSCE membership includes 9 of the top 10 weapons exporting nations. Bringing together as many of these exporting nations as possible is the key to an effective program. There is no incentive for any country to refrain from selling its weapons systems if they know that there are other suppliers who will sell the arms and pocket the profits. By making the sale and purchase of weapons a matter of record we will know who brokers—at any price—weapons of mass destruction. This proposal will encompass as many buyers and sellers of conventional, chemical and biological weapons as possible.

The United States must take the lead once again and use the CSCE forum to establish an arms control program that is based on open information and cooperation. Without multilateral cooperation we cannot control the global transfer of weapons and we will witness the same type of arms escalation that led to the war in the Persian Gulf.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the Hall amendment on conventional arms control, and I thank Chairman FASCELL for folding this amendment into the en bloc amendment.

I was pleased to have had the opportunity to work with Chairman FASCELL on the many provisions of the Arms Transfer Restraint section of this bill. This section sets guidelines for controlling the sale of arms to the Middle East and Persian Gulf region, and encourages international cooperation in setting standards for these controls.

My amendment complements this section by expanding its provisions to apply to Third World countries, particularly the poorest of the poor. Just as our language in the bill identifies an urgent need for arms control transfers to the Middle East and the Persian Gulf region, my amendment identifies an equally urgent need to apply those same controls to the Third World.

Poor countries have people with nutritional needs, health needs, and other basic needs such as adequate education and living conditions. While not losing sight of security matters, I would like to see the United States encourage Third World countries to make a better quality of life a higher priority than a larger fighting force.

I have been pressing for conventional arms control for nearly a decade. It is now the task of Congress to roll back old, outdated policies of pushing highly destructive weapons, and look towards a policy of self-restraint and international cooperation in an effort to achieve peace and stability.

I commend my colleagues on the Foreign Affairs Committee for accepting this amendment, and I urge my colleagues to support it.

Mr. ANNUNZIO. Mr. Chairman, I rise today in support of an amendment to H.R. 2508, the foreign aid bill introduced by WAYNE OWENS of Utah.

This amendment, once adopted, will clearly define the opposition of this body to the brutal attacks launched by Soviet and Azerbaijani forces against Armenian villagers in Azerbaijan, Karabagh, and Armenia. These attacks, which continue to this day, have cost the lives of nearly 100 Armenian civilians, many of whom were elderly, and resulted in the depopulation of over 30 historically Armenian villages.

It is clear that the Soviets invasion is an attempt to punish the democratically elected Government of Armenia for opting for the path to eventual independence. In this effort the Soviet Government has found a willing ally in the Communist leadership of Azerbaijan, which sees this as an opportunity to drive the Armenians from their borders and eventually depopulate Karabagh.

The use of calculated violence and terror as political tools simply does not represent an acceptable means of managing relations with the Republics. As the elected representatives of the American people, and especially now as we consider the prospects of extending assistance to the Soviet Union, we must condemn the aggression committed against these Armenian villagers. The amendment offered today, I believe will put the Soviet leadership on notice that violent efforts to suppress democracy and self-determination factor significantly in determining the nature of our future economic and political relations with Moscow.

This amendment is nearly identical to House Resolution 163 which was introduced earlier this month. I am a proud cosponsor of that resolution, as are 35 of my colleagues. On the Senate side, a similar bill, Senate Resolution 128, introduced by Senators CARL LEVIN and ROBERT DOLE, passed without objection on May 17.

As you can see, there is considerable support, both in this Chamber and in the Senate, for a statement of congressional policy on the Soviet aggression against the Armenian people. In passing this amendment, we will clearly and forcefully voice our opposition to the terrible violence committed against the Armenian people. In the interest of preventing a recurrence of such brutality in Armenia, or anywhere in the Soviet Union, I encourage my colleagues to support this amendment.

Mr. FASCELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The question is on the amendment en bloc offered by the gentleman from Florida [Mr. FASCELL].

The amendments en bloc were agreed to.

AMENDMENTS OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Does the gentleman from Illinois [Mr. HYDE] ask for unanimous consent to have his amendments considered en bloc?

Mr. FASCELL. Mr. Chairman, reserving the right to object I believe this caught the gentleman from New York [Mr. SOLARZ] a little bit by surprise.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, this is the amendment on Pakistan. I will explain it, but it will not take the gentleman from New York [Mr. SOLARZ] by surprise.

Mr. FASCELL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to consideration of the amendments en bloc?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HYDE:

Page 382, line 10, strike "(1) IN GENERAL.—";

Page 382, line 17–18 strike the words", subject of paragrah (2) ";

Page 382, line 19, strike all through page 384, line 14;

Page 637, line 4, strike all through line 12;

Page 637, line 13, strike "(B)";

Page 637, line 17, insert a period after the word "Pacific" and strike all else through line 18.

Page 643, line 3, strike all through line 10;

Page 643, line 11, strike "(2)";

Page 643, line 14, insert a period after the word "Pacific" and strike all else through line 16.

Page 653, line 6, strike all through line 14;

Page 653, line 15, strike "(B)";

Page 653, line 19, insert a period after the word "Pacific" and strike all else through line 20.

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I ask unanimous consent to debate this for 20 minutes, 10 minutes on each side.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HYDE. Mr. Chairman, reserving the right to object. I have no objection to that, and the gentleman from New York [Mr. SOLARZ] has agreed to it.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HYDE. Mr. Chairman, I ask unanimous consent that the debate on this amendment and amendments thereto be limited to 20 minutes, to be divided 10 minutes for the proponents, and 10 minutes for the opponents.

Mr. SOLARZ. Mr. Chairman, reserving the right to object, I thought I heard the Clerk say "amendments" plural. I was under the impression the gentleman was offering a single amendment.

Mr. HYDE. Mr. Chairman, I think the Clerk inadvertently lisped.

The CHAIRMAN pro tempore. Part of the gentleman's amendment goes to title IX.

Mr. HYDE. It is one amendment, through, Mr. Chairman.

Mr. SOLARZ. That is the amendment which has the effect of eliminating Pressler; burying it?

Mr. HYDE. Mr. Chairman, I would hope destroy or casting it into exterior darkness, oblivion.

Mr. SOLARZ. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. The time for debate is limited to 20 minutes, 10 minutes for proponents, and 10 minutes for opponents.

Mr. HYDE. Mr. Chairman and my colleagues, this is a relatively simple amendment, and it is about Pakistan. There is in the law an amendment known as the Pressler amendment, and it only applies to one country on the globe, Pakistan. It is country-specific, and the Pressler amendment says that the President must certify that Pakistan, not India, not Israel, not China, but Pakistan does not have a nuclear device.

Now, if the President cannot certify that Pakistan does not have a nuclear device, all aid is cut off of any size, shape, description or type to that country, and I seek to eliminate the Pressler amendment from applying to Pakistan, the only country to which it applies, and I also seek to correct the bill which, having denied Pakistan any aid whatsoever, has taken the liberty of redistributing whatever they were going to get around the globe to various and sundry countries.

For example, Mr. Chairman, they have taken $21 million of United States assistance funds that would have gone to Pakistan, and the chairman, I guess, of the Asiatic Pacific Subcommittee has bestowed it on Burmese students, on Nepal, and the South Pacific region. There are $107 million that would have gone to Pakistan. That goes to Africa, and $50 million for voluntary contributions to international organizations which we have not been able to identify.

Now I want to point something out. Pakistan is an ally of our country. Pakistan sent two brigades to the front in Desert Storm. Pakistan has been host for 3 million Afghan refugees for many, many years. Pakistan sent troops to Korea when we were fighting there.

Pakistan is a friend of ours. Why do we treat her this way? Someone once said that our foreign policy is like a dog with a psychiatric condition. It barks at our friends and wags its tail at our enemies. Here is Pakistan, a good friend of ours, a Muslim country I might add, and it is not easy for a Muslim country to provide 10,000 troops to fight with us against a Muslim country in Desert Storm. Do we not give any credit to a country because of that?

□ 1840

Now, I am very concerned about nuclear proliferation. I do not want any more members of the nuclear club.

Do you know what we have now? We have five declared nuclear weapons states: the United States, the Soviet Union, Great Britain, France, and

China. There are four states, however, that are reportedly de facto nuclear weapons states: India, and I do not know what is de facto, if they have exploded their nuclear devices as long ago as 1974, Israel, Pakistan, and South Africa.

There are seven states that have taken significant steps toward the acquisition of a nuclear weapons capability: Argentina, Brazil, Iran, Iraq, Libya, North Korea, and Taiwan.

Mr. Chairman, I am very concerned about the proliferation of nuclear weapons. But why do we select a friend of ours, an ally that has expressed that friendship in many ways over many years, and say, "You do not get a dime's worth of aid because you may have a nuclear device?"

India, we would not think about it. Israel, we do not look. China, the Soviet Union, we are falling all over ourselves to see how we can get some aid to the Soviet Union. But Pakistan, you go outside. You are out.

I do not think that is a fair way. I do not think it is an intelligently honest way. I do not think it is a useful way to treat an ally.

So what this amendment does, it deletes that Pressler amendment. It leaves in place, I might add, lots of nuclear nonproliferation language. It does not say, "Go ahead and build your bomb." This amendment leaves intact section 6201(a)(5) and section 6206 of the bill. These provisions, which have the virtue of relating to every country, not just one country specific, provide general authority for the President to halt assistance to any nation which delivers or accepts nuclear technologies or weapons outside the norms of acceptable international guidelines.

Mr. Chairman, all I am saying is I am uncomfortable being a hypocrite. I am uncomfortable ignoring India, which has exploded one as long ago as 1974. I am uncomfortable as we give most-favored-nation status to China, which is a nuclear country, and as we look for ways to support the Soviet Union in its duress. Of course, I need say nothing about our aid to Israel, which has the bomb. But Pakistan, you are a pariah. You leave the auditorium.

Mr. Chairman, that makes us hypocritical. That makes us an ingrate to an ally that has indeed put itself on the line as host to millions of Afghan refugees, relieving the world of quite a job, and as supplying troops at Desert Storm and in Korea, and many other reasons.

Mr. Chairman, I say eliminate the Pressler amendment, treat Pakistan as we treat every other country in the world, and recapture these funds that have been so blissfully dispensed all over the globe back where they ought to be, to an ally and a friend, Pakistan.

Mr. SOLARZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, what is at stake in this amendment is not whether or not we like Pakistan, but our efforts to prevent Pakistan from acquiring nuclear weapons, as well as the viability of our international global nuclear nonproliferation policy.

Far from having singled out Pakistan for discriminatory treatment, the truth is that over the course of the last decade we have treated Pakistan very, very well. They have received between $5 billion and $6 billion in American military and economic assistance. Pakistan is the only country in South Asia that has received over 50 of our high-performance combat aircraft, the F-16. It is the only country in South Asia with which we have a bilateral defense commitment. So we have treated Pakistan very well.

But, for over a decade now, one of the major objectives in our foreign policy vis-a-vis Pakistan has been to prevent Pakistan from acquiring nuclear weapons. That was one of the major justifications for providing Pakistan with billions of dollars in American military assistance. The theory was that if we gave them this kind of aid, perhaps they would not feel the need to acquire nuclear weapons.

But in spite of our efforts to prevent them from getting nuclear weapons, Pakistan continued with its efforts. So a few years ago the Congress adopted the so-called Pressler amendment, which said no more aid to Pakistan unless the President certifies that Pakistan does not have a nuclear device, and the continuation of our aid will enhance the prospects for preventing them from acquiring a nuclear device.

Now the President is unable to submit a Pressler certification, because Pakistan has continued its efforts to acquire nuclear weapons. The last thing our country needs is an overt nuclear arms race on the subcontinent. If we give the green light for Pakistan to go ahead, then surely India will attempt to match it as well. Given the animosities and tensions which continue to exist in that part of the world, an area where India and Pakistan have already gone to war three times in the last four decades, and where another war cannot be ruled out, there would be a very real possibility of a nuclear conflict between those two countries, which could have catastrophic consequences, not just for them, but for us.

Mr. Chairman, if the Hyde amendment is adopted, it will mean that we have lost whatever chance we still have of inducing Pakistan to refrain from acquiring nuclear weapons. Whereas if we reject the Hyde amendment and they comply with the Pressler amendment, they stand to gain about one-quarter of $1 billion in American military and economic assistance. That ain't peanuts. It is a significant inducement.

Mr. Chairman, I believe it would be a tragedy if we abandoned the last best chance we have of preventing Pakistan from going nuclear, which is what would happen if the Hyde amendment is adopted.

But it is not just our efforts to prevent Pakistan from acquiring nuclear weapons which is at stake here. We just waged and won a war in the Persian Gulf, partly because we wanted to prevent Iraq from acquiring nuclear weapons. Now we are trying to get Iraq to comply with the cease-fire resolution, which obligates it to turn over its highly enriched uranium, which gives it the capacity to make nuclear weapons in the future.

Mr. Chairman, if we adopt the Hyde amendment, if we abandon our efforts to prevent Pakistan from acquiring nuclear weapons, what conclusions do you think that Saddam Hussein will reach in Baghdad? He will conclude that we are not really serious about attempting to prevent him from acquiring nuclear weapons as well, and our prospects for getting Iraq to comply with the cease-fire resolution and to turn over its highly enriched uranium will be greatly diminished.

Mr. Chairman, I think that we have a lot at stake here. Not just our efforts to prevent a nuclear arms race on the subcontinents, but our efforts to prevent the spread of nuclear weapons in the Persian Gulf.

Mr. Chairman, I would very strongly urge Members to reject the Hyde amendment, and to maintain our commitment to the prohibition of the spread of nuclear weapons elsewhere.

Finally, let me just say that the fact that we may not have succeeded in our efforts to prevent every country in the world that wants to get nuclear weapons from getting them, does not mean we should abandon our efforts to prevent any country which wants nuclear weapons from getting them. It cannot be in our interest to have Pakistan obtain nuclear weapons. The President and the administration do not want Pakistan to acquire nuclear weapons. Yet if this amendment is adopted, that is virtually a certainty.

Mr. HYDE. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I support this amendment, and I encourage my colleagues to do likewise.

The amendment is fair and brings coherence to our policy in that it proposes to treat a staunch ally, Pakistan, the same as every other country that has the potential to develop a nuclear explosive device.

However, it also continues to meet nuclear proliferation concerns. It leaves intact those provisions in H.R. 2508 that provide the President with authority to halt assistance to nations that engage in nuclear weapons proliferation outside acceptable international guidelines.

It also provides the administration the necessary flexibility to meet the challenges of the quickly changing international system while maintaining an appropriate executive-congressional role in foreign policy. This is something the administration has requested, and that the Foreign Affairs Committee has stated is among its goals.

I believe the amendment sends a necessary message to Pakistan that our bilateral relations are important and that we do not want a further deterioration in them.

The amendment says that the American people are committed to nuclear nonproliferation which is expressed through a consistent policy that treats every nation, including Pakistan, alike.

Finally, this amendment tells Pakistan that we seek to continue working together in resolving our differences, and that our relationship will not be constrained by arbitrary deadlines.

These are important reasons for supporting this amendment, Mr. Chairman, and I again urge our colleagues to vote for the Hyde amendment.

□ 1850

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Pakistan, or Pakistan, I am perhaps using the uncool pronunciation, but Pakistan is surrounded by nuclear countries: India, China, and the U.S.S.R. Now, to expect Pakistan to give up its move toward a nuclear weapon is to ask them to stand naked before some very predatory countries. That is unreasonable and it is not going to happen.

We are married to a theory called mutual assured destruction. We believe in a theory called mutual assured destruction. If we have bounds and the Soviet Union has bounds and we can each destroy each other, the balance of terror keeps the peace.

Why does not the mutual assured destruction work over in India and Pakistan and China and the Soviet Union? Why only Pakistan shall be naked in a nuclear sense surrounded by nuclear countries? Why do we take away assistance to Pakistan, an ally and a friend, and we give it to India?

I would like to ask the gentleman from New York to please tell me why we give almost $100 million to India, which has a nuclear device, and we are going to cut Pakistan off? Can the gentleman give me the answer to that? Is that not hypocritical?

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. SOLARZ. I do not think it is hypocritical. The aid we provide India, the $100 million to which the gentleman is referring, is titled to a PL-480. It is humanitarian food assistance to the most needy children in India, and it is utterly unrelated to any nuclear program that India may have.

Mr. HYDE. But we cannot give PL-480 to Pakistan under this Pressler amendment. So why the distinction?

Mr. SOLARZ. If the gentleman will continue to yield, the distinction arises, if I may say so to my friend from Illinois, because in the case of India, they had a nuclear explosion 17 years ago. Forces that were at war left the barn. Once it became clear Pakistan was trying to acquire a nuclear response, we made a judgment that it would not be in our interest to have a nuclear arms race in the subcontinent, and we are trying to prevent the Pakistani force from leaving the barn as well.

Mr. HYDE. The nuclear arms race has already left the starting gate. China has got it. India has got it. The Soviet Union has got it. The only one the gentleman wants to disarm is our friend, our ally that stood with us in Desert Storm, and the gentleman is going to cut them off. That is hypocritical. That is a double standard. That is unjust and unfair, and I hope Members will support my amendment.

Mr. Chairman, I reserve the balance of my time.

Can the Chair tell me how much time I have remaining?

The CHAIRMAN pro tempore (Mr. McDERMOTT). The gentleman from Illinois [Mr. HYDE] has 1 minute remaining.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Illinois. There is absolutely no reason why Pakistan and India should be treated differently, particularly since Pakistan has been a stalwart friend of the United States and an absolutely essential supporter of the Mujaheddin, and India has been just the opposite.

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. SOLARZ. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. FASCELL] the distinguished chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, there is logic on both sides of this argument, and certainly the proliferation of forces out of the barn, as the gentleman from Illinois [Mr. HYDE] said. Nevertheless, there is a special reason for not supporting the Hyde amendment right now.

Pakistan is the only country that has violated all of the arrangements that we have tried to work with regard to nuclear safeguards, and they have done it over and over again. Here our administration has finally come to the point just recently where we terminated the aid.

Now, it might be wise to restore the aid. It might be wise to have some conditions. It may be wise to consider some regional arrangement. But I do not think it is wise to one day terminate the aid and then by legislative act put the aid back in again. I think that would be a very bad precedent, a very bad statement, and not good policy.

Mr. SOLARZ. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from New York [Mr. SOLARZ] has 3 minutes remaining.

Mr. SOLARZ. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DYMALLY], the distinguished chairman of the Subcommittee on Africa.

Mr. DYMALLY. Mr. Chairman, I rise in opposition to the amendment. This money from Pakistan has been wisely included in the development fund for Africa to help an area which is badly in need of it.

The arguments for not giving money to Pakistan have been well made by the gentleman from New York [Mr. SOLARZ], and the gentleman from Florida [Mr. FASCELL]. I just need to remind Members that this money is being well used because of Pakistan's failure to comply with our law. Therefore, I urge Members to reject this amendment.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

I just want to add how many of those African countries sent troops to Desert Storm to stand with us as we fought the Iraqis?

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from California.

Mr. DYMALLY. Senegal did. An entire planeload of Senegalis died.

Mr. HYDE. Then let us give money to Senegal, but not to the rest of the continent. Pakistan will sign a nuclear nonproliferation treaty 2 seconds after India does it or simultaneously with India. It is hypocritical to cut off an ally that stood with us when the going was tough and to send money to other countries that did not lift a finger in Desert Storm.

Mr. Chairman, I yield back the balance of my time.

Mr. SOLARZ. Mr. Chairman, I yield myself such time as I may consume.

I am going to be very brief in conclusion. We are all grateful that Pakistan sent some troops to Saudi Arabia after the Iraqi invasion of Kuwait, but let us not go overboard in giving them credit for this. Not a single Pakistani soldier, not a single Pakistani plane actually participated in the liberation of Kuwait.

In fact, during the war the Pakistani Chief of Staff publicly called on Pakistan to tilt toward Iraq.

What is at stake with the Hyde amendment is a very simple proposition. If Members think it is perfectly OK for Pakistan to go nuclear and to get nuclear weapons, vote for the Hyde amendment. But if Members want to take the last best chance we have of preventing Pakistan from getting nuclear weapons and inaugurating the nuclear arms race in the subcontinent, then vote against the Hyde amendment because that is really what is at stake here.

I urge the rejection of the Hyde amendment and the vindication of our historic nuclear nonproliferation policy in the subcontinent.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Illinois [Mr. HYDE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote. A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 252, not voting 28, as follows:

[Roll No. 151]

AYES—151

Alexander
Allard
Andrews (TX)
Anthony
Applegate
Archer
Armey
Baker
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bliley
Boehner
Brewster
Broomfield
Bunning
Burton
Byron
Callahan
Campbell (CO)
Chandler
Coble
Coleman (MO)
Combest
Coughlin
Crane
Cunningham
Davis
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Fawell
Fields
Fish
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich

Goss
Gradison
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Henry
Herger
Hobson
Holloway
Houghton
Hubbard
Huckaby
Hunter
Hyde
Ireland
Jenkins
Johnson (TX)
Kanjorski
Klug
Kolbe
Kyl
Lagomarsino
Laughlin
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
McCrery
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Moran
Myers
Nichols
Nussle
Ortiz
Packard
Paxon

Pickle
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Rohrabacher
Roth
Rowland
Sangmeister
Santorum
Saxton
Schaefer
Schiff
Schulze
Shaw
Skeen
Skelton
Slaughter (VA)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torricelli
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Wilson
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NOES—252

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Aspin

Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill

Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Brooks

Browder
Brown
Bruce
Bryant
Camp
Cardin
Carper
Carr
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Dannemeyer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grandy
Gray
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefley
Hefner
Hertel
Hoagland
Hochbrueckner

Horn
Hoyer
Hughes
Hutto
Inhofe
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Levin (MI)
Levine (CA)
Lewis (GA)
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mink
Moakley
Mollohan
Moody
Morella
Morrison
Mrazek
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)

Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ray
Reed
Richardson
Riggs
Rinaldo
Roemer
Ros-Lehtinen
Rose
Roybal
Russo
Sabo
Sanders
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Swett
Swift
Synar
Tanner
Taylor (MS)
Thomas (GA)
Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yatron

NOT VOTING—28

Ballenger
Boxer
Bustamante
Campbell (CA)
Chapman
Gephardt
Goodling
Hopkins
Horton
Jones (NC)

Kolter
Lehman (FL)
Martin
McDade
Mineta
Murtha
Olin
Oxley
Roe
Rostenkowski

Roukema
Sharp
Shuster
Smith (OR)
Studds
Valentine
Yates
Young (FL)

☐ 1921

Mr. RICHARDSON and Mr. DE LA GARZA changed their vote from "aye" to "no."

Mr. LAUGHLIN and Mr. HANSEN changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. PANETTA). The Chair would inform the chairman and the ranking member on the committee that of the 8 hours of debate on the amendments, 2 hours and 3 minutes remain.

Mr. LEVINE of California. Mr. Chairman, I rise today to urge my colleagues to vote against the Smith amendment and to retain the integrity of the family planning provisions of the bill.

H.R. 2508 contains two major provisions to improve worldwide family planning efforts and to return the United States to its historic leadership role in population control. The first provision overturns the Mexico City policy. In 1984, the Mexico City policy was established to deny U.S. family planning funds to any nongovernmental organization which uses separate funding to perform abortions, refers for abortions, or gives women nondirective counseling and information about all legal pregnancy-related options. In a time when emerging democracies are looking to the United States for support of their efforts, the current administration shows an appalling lack of care. In Romania, the chilling consequences of Ceausecu's coercive child-bearing policies are painfully evident: Overflowing orphanages, soaring maternal and infant mortality rates, the women and children damaged by life-threatening and illegal abortions.

The Mexico City policy dicates that neither the U.N. Fund for Population Activities nor the International Planned Parenthood Federation are eligible to provide much needed birth control to women because these organizations provide abortion counseling, albeit with their own funds. Mr. Chairman, we have exported the U.S. horrendous gag rule. This misguided attempt to lower the number of abortions performed worldwide has done no such thing. Instead, it has served only to undermine and tie up family planning efforts abroad.

Congress has the chance today to overturn the unfair Mexico City policy, which the Foreign Affairs Committee voted to overturn when it considered this bill. I strongly support retaining the bill's language as it is written presently and restoring family planning efforts to where they were before the adoption of this outrageous policy in 1986.

The second provision in the bill that I speak in support of is restoring funding to the U.N. Fund for Population Assistance. UNFPA is one of the most respected and effective family planning and health care groups in the world. UNFPA has programs in 140 countries that provide funding and technical assistance for maternal and child health care, family planning, data collection, analysis, and research. It does not provide abortion services of support whatsoever. The Reagan administration, however, cut off all assistance to the UNFPA in 1986, alleging that UNFPA supported involuntary abortions and sterilizations in China. This action occurred despite contrary conclusions reached by U.S. Aid staff and despite UNFPA's explicit policy in opposition to any forced or coerced family planning or abortion.

Whatever occurred in China, the bill expressly prohibits from occurring again. The language in the bill will prevent the use of United States population funds in China and retain the language prohibiting the use of United States funds for abortion or involuntary sterilization anywhere in the world. Over the next few decades, over 3 billion people, most of whom are in Third World countries, will become of child-bearing age. Congress must renew its commitment to population control now, in order to alleviate the drastic problems caused by overpopulation. It can do so by refunding the UNFPA and by overturning Mexico City.

I urge my colleagues to join with me in defeating the Smith amendment.

Ms. SLAUGHTER of New York. Mr. Chairman, I rise today in strong support of the provisions of H.R. 2508 which earmark $15 million in technical assistance to the democratically elected local governments of the Baltic States and other Republics of the Soviet Union. This assistance, while relatively nominal, sends a clear and important message to the people of the Baltic States, Ukraine, and other Soviet Republics that the U.S. Congress supports their aspirations and that we are willing to help them in their democratic reforms.

The stipulation in the bill that United States aid may only be provided not to the central Soviet Government but, instead, directly to the freely elected governments of the Baltic States and other eligible Soviet Republics is crucial to the success of our objective. Indeed, this direct-aid stipulation was the key provision of House Joint Resolution 179, a strategy for expanding United States support for the Baltic States introduced by the Helsinki Commission with my full support and sponsorship.

As a member of the Helsinki Commission delegation which met with leaders of the Baltic States earlier this year, I was encouraged by the progress these emerging democracies have made toward economic independence. For example, in Riga, Latvian Prime Minister Godmanis spoke proudly of his government's developing economic policy which includes the adoption of a budget and the creation of a tax system.

Despite these great strides made in economic planning, the Latvian Government, like the Lithuanian and Estonian Governments, has much to learn. Direct communication and consultation with representatives from the United States are critical to the development and success of the democratic movement in the Baltic States. I am deeply gratified, then, that the House Foreign Affairs Committee endorsed in its report on H.R. 2508 initiatives which allow representatives from the legislatures of the Baltic States and other elected Soviet Governments to come to the United States and learn first-hand those aspects of the operations of our own Congress which could be usefully transferred to their legislatures.

I am proud to support H.R 2508 as an important first step in reshaping United States foreign policy in the Soviet Union to meet the challenges of a new world order built upon a growing global commitment to communication, democratization, and human rights.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Nebraska [Mr. BEREUTER] on behalf of himself and the gentleman from North Dakota [Mr. DORGAN] and the gentleman from Missouri [Mr. WHEAT]. I commend my colleagues from the Hunger Committee for their excellent and diligent work in introducing this important piece of legislation to promote a new approach to development assistance in the Horn of Africa. I'm proud to have been an original cosponsor of the Horn of Africa Recovery and Food Security Act of 1991, which was the basis for this amendment. It is urgently needed work.

The countries of the Horn of Africa—Ethiopia, Sudan, and Somalia—are among the poorest and most troubled countries in the world. War and famine have killed over 2 million people in Ethiopia and Somalia alone since 1985. It is an area, more than any other I know, that deserves the special attention and fresh approach that this amendment promotes.

The ongoing cycle of famine and war have long made the Horn a top priority of the Hunger Committee. The famine is now threatening over 10 million people in the Sudan—only half of the 21 million facing famine throughout the Horn—and the continuing turmoil in Somalia, all argue for greater attention to this region. We have held numerous hearings on these countries year after year, and I am extremely happy to see the initiative taken by my colleagues on the Horn.

In emphasizing the use of international private voluntary organizations and indigenous nongovernmental organizations to provide relief and development assistance, the legislation offers a positive new direction in U.S. foreign assistance. Working in partnership, these grassroots organizations offer the best hope for this war-torn region. With the recent events in the Horn, particularly the end of the 30-year war in Ethiopia, there is more hope for peaceful resolutions to some of the ongoing conflicts than there has been for years.

I commend my colleagues for offering this valuable piece of legislation which attempts to break the deadly cycle of war and poverty in the Horn. Until this happens, no true development or rehabilitation can occur. I urge my colleagues to support this amendment.

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of the arms transfers restraint policy for the Middle East and Persian Gulf region which is included in the Foreign Assistance Act for fiscal years 1992 and 1993.

If we have learned anything from the mistakes of the past, it is that more weapons do not bring more peace and stability to the region. Rather than reverting to the practice of throwing arms at a region that is already armed to the teeth, we should take advantage of the spirit of international cooperation that characterized efforts in the Persian Gulf to enact a multilateral arms restraint regime now.

The Persian Gulf war demonstrated the dangers of arming ruthless dictators and unstable regimes with sophisticated weaponry capable of threatening our vital interests in the region. Saddam's possession of weapons of mass destruction and his ability to threaten the region's stability underscores the dire need to restrain the flow of arms to this region.

Following the successful allied effort to liberate Kuwait, I introduced legislation to curtail weapons sales to the Middle East, the Middle East Post-War Stability and Arms Restraint Act of 1991.

Much of my bill has been incorporated into the arms control provisions of this bill. The most significant of these provisions calls on the President to form a multilateral arms control regime to curtail the flow of arms to the region and establishes an indefinite multilateral moratorium on arms sales to the Middle East.

By demonstrating restraint, the United States can lead the way to form an effective and far-reaching arms supplier control regime which will greatly enhance the stability of the region without jeopardizing the legitimate security needs of our friends in the region.

I look forward to working with the administration to attain this goal. I am also encouraged by the President's plan to hold a conference next month of major powers to discuss limits on arms sales to the Middle East.

However, I am stupefied that just weeks after the President announced his Middle East arms control initiative, Defense Secretary Dick Cheney said that the United States would sell 20 Apache gunships to the United Arab Emirates and 8 to Bahrain. Just yesterday, Congress received notification of the Apache sale to UAE. I joined my colleagues in sponsoring a resolution of disapproval of this sale.

It is also my understanding that the White House is considering selling 337 M1–A1 tanks and approximately 160 Bradley fighting vehicles to the United Arab Emirates. Together with the Apache sale, this deal would total more than $2.1 billion.

This is a strange notion of arms control. Rather than introducing more sophisticated weaponry into the region, the United States should stand firm to its commitment to slow and then reverse arms transfers to the Middle East. This administration must understand that friendship and stability cannot be bought with arms.

Mr. Chairman, arms control is critical to ending the cycle of violence in the Middle East. American men and women should never have to go abroad again to defend American interests against tyrants armed with Western weapons and Western technology.

Ms. SLAUGHTER of New York. Mr. Chairman, 30 years of civil war in Guatemala have left more than 200,000 innocent civilians dead as a corrupt and ruthless army ran rampant through that Central American country. Under the ineffectual and repressive rule of former President Vinicio Cerezo such gross violations of human rights went largely uninvestigated and unprosecuted.

The election of a new President, Jorge Serrano, in January of this year brought new hope to the international community that the human rights situation would take a turn for the better. In the 5 months since Serrano's inauguration, there has been on abatement of violence or repression. The killings, torture, and disappearances persist, while the United States, to date, has offered no incentive to the Guatemalan Government to change its ways.

Today, we say things must change in Guatemala. The U.S. Congress insists that the violent crimes of the military be investigated and prosecuted. We insist that the intimidation and harassment of Guatemalan human rights organizations be ceased. We insist upon a greater respect in Guatemala for the rights of freedom of the press, speech, assembly, and association. And we watch with great hope and concerned vigilance as the peace dialog between the Serrano government and the Guatemalan National Revolutionary Unity [URNG] launched in Mexico in April continues.

The International Cooperation Act of 1991—H.R. 2508—explicitly and commendably links United States aid to Guatemala to human rights and negotiated peace states Congress will not subsidize a terrorist military. We must be certain that our precious few foreign aid dollars are spent to promote democracy, development, and human rights. The provisions in H.R. 2508 which condition aid to Guatemala take an important and historic step toward accomplishing this goal.

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of Congressman HALL's amendment on child survival activities and basic education programs. These funds will go a long way toward achieving the objectives set by the World Summit for Children in September.

Regrettably, millions of children die unnecessarily each year because of the extreme poverty that exists in developing countries. But as many as 50 million can be saved over the next decade if the simple preventive health measures that would be funded by this amendment's earmarks are implemented. Congressman HALL's amendment earmarks $275 million in fiscal year 1992 and $335 million in 1993 from development and economic aid accounts for child survival activities such as childhood vaccination and oral rehydration therapy. These programs have been shown to have been extremely effective in the past. This body must take the steps to commit America's share of the necessary resources to make universal childhood immunization a reality. There is no excuse for sitting idly by while millions of children in poverty-stricken countries are dying.

In addition, his amendment earmarks funds for basic education programs in developing countries. Illiteracy and lack of basic math skills have been a significant barrier to development and to the long-term programs that should be implemented if the world's poorest populations are to be able to help themselves. Again, we must pay particular attention to the children in these countries and to teacher training.

Lastly, this amendment would establish as U.S. policy the promotion of access to food and medical care as basic human rights, including protection of these rights during armed conflicts. In many war-torn countries, we have seen the increasingly prevalent practice of using food distribution and medical care as a weapon. Combatant forces have adopted the terrible practice of attacking aid shipments and withholding these basic needs of human life from civilians—including children—simply because these civilians live in territory controlled by the opposing force. These forces have exacerbated existing famines and in some cases created famine where none need exist. The United States cannot condone this practice and has a responsibility to make every effort to protect civilian access to food and medical care.

Mr. Chairman, I urge my colleagues to support the Hall en bloc amendment.

Mr. FASCELL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. JONES of Georgia) having assumed the chair, Mr. PANETTA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I was called to Pennsylvania on emergency business and missed rollcall vote 151. Had I been present, however, I would have voted "nay."

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, I missed the rollcall vote on the Hyde amendment to legislation authorizing U.S. foreign aid programs. I would like the RECORD to show that had I been present, I would have voted "aye" on rollcall No. 151.

MAKING IN ORDER DURING FURTHER CONSIDERATION OF H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991, POSTPONEMENT OF RECORDED VOTES AND REDUCTION OF TIME FOR VOTES ON AMENDMENTS

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2508, the Chairman of the Committee of the Whole be authorized to postpone recorded votes, if ordered, on any amendment to the bill until later that legislative day, and that he be authorized to reduce to a minimum of 5 minutes the period of time for recorded votes after the first vote in any series.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

MAKING IN ORDER DURING FURTHER CONSIDERATION OF H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991, ONLY AMENDMENTS PRINTED IN CONGRESSIONAL RECORD ON OR BEFORE JUNE 12, 1991

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that during the further consideration of H.R. 2508, under House Resolution 170, only those amendments to the bill printed in the CONGRESSIONAL RECORD on or before June 12, 1991, be in order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2608, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–107) on the resolution (H. Res. 174) waiving certain points of order during consideration of the bill (H.R. 2608) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON H.R. 2621, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS, APPROPRIATIONS BILL, 1992

Mr. OBEY, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102–108) on the bill (H.R. 2621) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. EDWARDS of Oklahoma reserved all points of order on the bill.

REPORT ON H.R. 2622, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1992

Mr. OBEY, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102–109) on the bill (H.R. 2622) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. WOLF reserved all points of order on the bill.

CONFERENCE REPORT ON S. 64, EDUCATION COUNCIL ACT OF 1991

Mr. KILDEE submitted the following conference report and statement on the

Senate bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes:

CONFERENCE REPORT (H. REPT. 102-110)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Council Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Table of contents.

TITLE I—NATIONAL EDUCATION COMMISSION ON TIME AND LEARNING

Sec. 101. Short title.
Sec. 102. National Education Commission on Time and Learning.

TITLE II—NATIONAL WRITING PROJECT

Sec. 201. Findings.
Sec. 202. National Writing Project.

TITLE III—MISCELLANEOUS

PART A—CIVIC EDUCATION PROGRAM

Sec. 301. Instruction on the history and principles of democracy in the United States.

PART B—LAW-RELATED EDUCATION PROGRAM

Sec. 311. Amendment to law-related education program.

TITLE IV—NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING

Sec. 401. Short title.
Sec. 402. Purpose and findings.
Sec. 403. Establishment.
Sec. 404. Duties.
Sec. 405. Reports.
Sec. 406. Membership.
Sec. 407. Director and staff; experts and consultants.
Sec. 408. Powers of Council.
Sec. 409. Federal Advisory Committee Act.
Sec. 410. Authorization of Appropriations.
Sec. 411. Termination.

TITLE I—NATIONAL EDUCATION COMMISSION ON TIME AND LEARNING

SEC. 101. SHORT TITLE.

This title may be cited as the "National Education Commission on Time and Learning Act".

SEC. 102. NATIONAL EDUCATION COMMISSION ON TIME AND LEARNING.

(a) ESTABLISHMENT.—There is hereby established a National Education Commission on Time and Learning (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall consist of nine members, of whom—

(A) 3 members shall be appointed by the Secretary of Education (hereafter in this Act referred to as the "Secretary");

(B) 3 members shall be appointed by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives; and

(C) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader and minority leader of the Senate.

(2) REQUIREMENTS.—

(A) After consultation among the appointing authorities, members of the Commission shall be appointed on the basis of exceptional education, training, or experience from among—

(i) the Nation's Governors;

(ii) individuals from the business community;

(iii) individuals who are engaged in the profession of teaching;

(iv) individuals engaged in school administration, members of school boards, and parents or representatives of parents or parent organizations;

(v) State officials directly responsible for education;

(vi) Federal officials responsible for education policy;

(vii) educational researchers with experience relevant to the Commission's work;

(viii) Members of Congress and State legislators; and

(ix) representatives of nonprofit organizations or foundations which work to expand educational opportunities for children outside of school hours;

(3) VACANCIES.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(4) TERMS.—Members of the Commission shall be appointed to serve for the life of the Commission.

(5) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(6) ACTIVITY OF COMMISSION.—The Commission may begin to carry out its duties under this subsection when at least 5 members of the Commission have been appointed.

(c) FUNCTIONS OF THE COMMISSION.—

(1) STUDY.—The Commission shall examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, the extent and role of homework, how time is being used for academic subjects, year-round professional opportunities for teachers, and the use of school facilities for extended learning programs.

(2) REPORT.—The Commission shall submit a final report under subsection (d). The report shall include an analysis and recommendations concerning—

(A) the length of the academic day and the academic year in elementary and secondary schools throughout the United States and in schools of other nations;

(B) the time children spend in school learning academic subjects such as English, mathematics, science, history, and geography;

(C) the use of incentives for students to increase their educational achievement in available instruction time;

(D) how children spend their time outside school with particular attention to how much of that time can be considered "learning time" and how out-of-school activities affect intellectual development;

(E) the time children spend on homework, how much of that time is spent on academic subjects, the importance that parents and teachers attach to homework, and the extent to which homework contributes to student learning;

(F) year-round professional opportunities for teachers and how teachers can use their time to acquire knowledge and skills that will permit them to improve their performance and help raise the status of the profession;

(G) how school facilities are used for extended learning programs;

(H) the appropriate number of hours per day and days per year of instruction for United States public elementary and secondary schools;

(I) if appropriate, a model plan for adopting a longer academic day and academic year for use by United States elementary and secondary schools by the end of this decade, including recommendations regarding mechanisms to assist States, school districts, schools, and parents in making the transition from the current academic day and year to an academic day and year of a longer duration;

(J) suggestions for such changes in laws and regulations as may be required to facilitate States, school districts, and schools in adopting longer academic days and years; and

(K) an analysis and estimate of the additional costs, including the cost of increased teacher compensation, to States and local school districts if longer academic days and years are adopted.

(d) COMMISSION REPORT.—Not later than 2 years after the Commission concludes its first meeting, the Commission shall submit a final report to the Congress and the Secretary on the study and any recommendations required pursuant to the provisions of this section.

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this section, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) TESTIMONY; PUBLIC HEARINGS.—In carrying out this section, the Commission shall receive testimony and conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the quality and adequacy of the time devoted to study and learning.

(3) INFORMATION.—The Commission may secure directly from any Federal agency such information, relevant to its functions, as may be necessary to enable the Commission to carry out this subsection. Upon request of the Chairman of the Commission, the head of the agency shall, to the extent permitted by law, furnish such information to the Commission.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of money, services, or property, for the purpose of aiding the work of the Commission.

(5) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as the department and agencies of the United States.

(6) SUPPORT SERVICES.—The Secretary shall provide to the Commission on a reimbursable basis such reasonable administrative and support services as the Commission may request.

(f) ADMINISTRATIVE PROVISIONS.—

(1) MEETINGS.—The Commission shall meet on a regular basis, as necessary, at the call of the Chairman or a majority of its members.

(2) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(3) CHAIRMAN AND VICE CHAIRMAN.—

(A) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission.

(B) The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and

without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates, except that no employee, other than the staff director, may be compensated at a rate to exceed the maximum rate applicable to level 15 of the General Schedule.

(4) OTHER FEDERAL PERSONNEL.—Upon request of the Chairman of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

(g) TERMINATION OF THE COMMISSION.—The Commission shall terminate 90 days after submitting the final report required by subsection (d).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out the provisions of this title.

TITLE II—NATIONAL WRITING PROJECT

SEC. 201. FINDINGS.

The Congress finds that—

(1) the United States faces a crisis in writing in schools and in the workplace;

(2) only 25 percent of 11th grade students have adequate analytical writing skills;

(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

(6) most teachers in the United States elementary schools, secondary schools, and colleges, have not been trained to teach writing;

(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

(10) the National Writing Project has become a model for programs in other academic fields;

(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

(15) each year approximately 85,000 teachers voluntarily seek training through word of mouth endorsements from other teachers in National Writing Project intensive summer workshops and school-year inservice programs through one of the 141 regional sites located in 43 States, and in 4 sites that serve United States teachers teaching overseas;

(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

(17) 13 National Writing Project sites in 8 different States have been discontinued in 1988 due to lack of funding; and

(18) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support.

SEC. 202. NATIONAL WRITING PROJECT.

(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the "grantee"), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

(2) to support classroom research on effective teaching practice and to document student performance; and

(3) to pay the Federal share of the cost of such programs.

(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as "contractors") under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term "Federal share" means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

(3) MAXIMUM.—(A) The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least 5 sites throughout the State.

(B) The grantee under section 202, or any school or institution of higher education that receives funds under this section shall not spend more than 10 percent of the Federal funds it receives under this section for administrative costs.

(4) SPECIAL RULE.—For the purposes of this subsection, the costs of teacher programs do not include the administrative costs, publication cost, or the cost of providing technical assistance to the grantee.

(e) CLASSROOM TEACHER GRANTS.—

(1) IN GENERAL.—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to enable such teachers to—

(A) conduct classroom research;

(B) publish models of student writing;

(C) conduct research regarding effective practices to improve the teaching of writing; and

(D) conduct other activities to improve the teaching and uses of writing.

(2) SUPPLEMENT AND NOT SUPPLANT.—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purpose set forth in paragraph (1).

(3) MAXIMUM GRANT AMOUNT.—Each grant awarded pursuant to this subsection shall not exceed $2,000.

(f) NATIONAL ADVISORY BOARD.—

(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

(2) COMPOSITION.—The National Advisory Board established pursuant to paragraph (1) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project deems necessary.

(3) DUTIES.—The National Advisory Board established pursuant to paragraph (1) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(g) EVALUATION.—The Secretary shall reserve not more than $150,000 from the total combined amount appropriated pursuant to the authority of this section for fiscal years 1991, 1992, and 1993 to conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress.

(h) RESEARCH AND DEVELOPMENT ACTIVITIES.—

(1) GRANTS AUTHORIZED.—From amounts available to carry out the provisions of this sub-

section, the Secretary, through the Office of Educational Research and Improvement, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.

(2) Priority.—(A) In awarding grants pursuant to paragraph (i), the Secretary shall give priority to junior researchers.

(B) The Secretary shall award not less than 25 percent of the funds received pursuant to subsection (i)(2) to junior researchers.

(C) The Secretary shall make available to the National Writing Project and other national information dissemination networks the findings of the research conducted pursuant to the authority of paragraph (1).

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for the grant to the National Writing Project, $10,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993 to carry out the provisions of this section.

(2) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated $500,000 for fiscal year 1991 to carry out the provisions of subsection (h).

(j) DEFINITIONS.—As used in this Act—

(1) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(2) the term "junior researcher" means a researcher at the assistant professor rank or the equivalent who has not previously received a Federal research grant; and

(3) the term "Secretary" means the Secretary of Education.

TITLE III—MISCELLANEOUS

PART A—CIVIC EDUCATION PROGRAM

SEC. 301. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4608 (as added by Public Law 100–297) as section 4610; and

(2) by inserting before section 4610 (as redesignated by paragraph (1) of this section) the following:

"SEC. 4609. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

"(a) GENERAL AUTHORITY.—

"(1) PROGRAM ESTABLISHED.—The Secretary shall carry out a program to educate students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and civil responsibility. Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

"(2) EDUCATIONAL ACTIVITIES.—The program required by paragraph (1) shall continue and expand the educational activities of the National Bicentennial Competition of the Constitution and Bill of Rights administered by the Center for Civic Education.

"(3) CONTRACT AUTHORIZED.—The Secretary is authorized to enter into a contract with the Center for Civic Education to carry out the program required by paragraph (1).

"(b) PROGRAM CONTENT.—The education program authorized by this section shall provide—

"(1) a course of instruction on the basic principles of our constitutional democracy and the history of the Constitution and Bill of Rights;

"(2) school and community simulated congressional hearings following the course of study at the request of participating schools; and

"(3) an annual competition of simulated congressional hearings at the congressional district, State, and national levels for secondary students who wish to participate in such program.

"(c) PROGRAM PARTICIPANTS.—The education program authorized by this section shall be made available to public and private elementary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) SPECIAL RULE.—Funds provided under this section may be used for the advanced training of teachers about the Constitution and Bill of Rights after the provisions of subsection (b) have been implemented.

"(e) REPORT.—The Secretary shall report on a biennial basis, to the appropriate committees of the Congress on the distribution and use of funds authorized pursuant to the authority of subsection (f).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993 to carry out the provisions of this section.".

PART B—LAW-RELATED EDUCATION PROGRAM

SEC. 311. AMENDMENT TO LAW-RELATED EDUCATION PROGRAM.

Section 1565 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2965) is amended—

"(1) in subsection (a)—

(A) by inserting "(1)" before "(a)"; and

(B) by adding at the end the following:

"(2) The Secretary shall give priority for grants and contracts under this section to agencies, organizations, and institutions described in paragraph (1) that plan to operate statewide programs.

"(3)(A) Except as provided in subparagraph (B), the Secretary shall award grants and enter into contracts under this section for periods of 2 or 3 years.

"(B) The Secretary may award a grant or enter into a contract under this section for a period of less than 2 years in any case in which the Secretary determines that special circumstances exist."; and

"(2) by adding at the end the following:

"(d) APPLICATIONS.—

"(1) Any agency, organization, or institution described in subsection (a)(1) that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) The Secretary shall convene a panel of experts for purposes of reviewing applications submitted under paragraph (1). Such experts shall be individuals who have experience in and are familiar with law-related education.".

TITLE IV—NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING

SEC. 401. SHORT TITLE.

This title may be cited as the "National Council on Education Standards and Testing Act".

SEC. 402. PURPOSE AND FINDINGS.

(a) PURPOSE.—The purpose of this title is to create a national council to provide advice on the desirability and feasibility of national standards and testing in education.

(b) FINDINGS.—The Congress finds that—

(1) organizations have begun developing national education standards for various subject areas and grade levels;

(2) groups have called for the expansion of national testing for school children;

(3) decisions regarding the desirability and feasibility of additional national testing should follow such decisions on national standards for education;

(4) efforts regarding national standards and testing should be undertaken with the broadest possible participation by the public; and

(5) a major national council is needed to assure broad participation by the public, to provide a focus for national debate on national education standards and testing, and to provide advice on the desirability and feasibility of developing national standards and testing.

SEC. 403. ESTABLISHMENT.

There is established a council to be known as the National Council on Education Standards and Testing (in this title referred to as the "Council").

SEC. 404. DUTIES.

The Council shall advise the American people on—

(1) whether suitable specific education standards should and can be established, such as world class standards, for—

(A) the knowledge and skills that students should possess and that schools should impart in order that American students leave grades 4, 8, and 12 demonstrating competency in challenging subject matter including English, mathematics, science, history, and geography; and

(B) every school in America to ensure that all students learn to use their minds well so that they will be prepared for responsible citizenship, further learning, and productive employment in our modern economy; and

(2) whether, while respecting State and local control of education, an appropriate system of voluntary national tests or examinations should and can be established, such as American achievement tests, that will provide prompt, accurate information to parents, educators, and policymakers on the progress being made toward the specific education standards by individual students, schools, school systems, States, and the Nation as a whole (if such standards can be established). The goal of any such system shall be to foster good teaching and learning, as well as to monitor performance.

SEC. 405. REPORTS.

(a) FINAL REPORT.—The Council shall, as soon as possible, but not later than December 31, 1991, submit a report to the Congress, the Secretary of Education, and the National Education Goals Panel that contains recommendations regarding long-term policies, structures, mechanisms, and other important considerations with respect to the objectives described in paragraphs (1) and (2) of section 404. A discussion of the validity, reliability, fairness, and costs of implementing a system of voluntary national tests or examinations shall also be included in such report.

(b) INTERIM REPORTS.—The Council may submit to the Congress, the Secretary of Education, and the National Education Goals Panel interim reports it considers appropriate.

SEC. 406. MEMBERSHIP.

(a) IN GENERAL.—The Council shall be composed of 32 members as follows:

(1) The Secretary of Education shall appoint 22 members to include at least one representative from each of the following:

(A) The Administration.

(B) The Commission on Achievement of Necessary Skills.

(C) The National Assessment Governing Board.

(D) State legislators.

(E) Chief State school officers.

(F) School administrators.

(G) Elementary or secondary school teachers.

(H) Institutions of higher education.

(I) Individuals with expertise in education standards and testing.

(J) National teacher organizations.

(2) The Chairperson or a designee of the National Education Goals Panel.

(3) The Governor designated to serve as Chairperson of the National Education Goals Panel for the year succeeding the year in which such panel is meeting (or a designee).

(4) The Speaker of the House of Representatives shall appoint 1 member (excluding Members of Congress).

(5) The minority leader of the House of Representatives shall appoint 1 member (excluding Members of Congress).

(6) The majority leader of the Senate shall appoint 1 member (excluding Members of Congress).

(7) The minority leader of the Senate shall appoint 1 member (excluding Members of Congress).

(8) The Chairman of the Committee on Education and Labor of the House or a designee.

(9) The ranking minority member of the Committee on Education and Labor of the House or a designee.

(10) The Chairman of the Committee on Labor and Human Resources of the Senate or a designee.

(11) The ranking minority member of the Committee on Labor and Human Resources of the Senate or a designee.

(b) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(c) TERM OF APPOINTMENT.—Members shall be appointed for the life of the Council.

(d) QUORUM.—17 members of the Council shall constitute a quorum.

(e) COCHAIRPERSONS.—The Chairperson of the National Education Goals Panel or a designee and the Governor designated to serve as the Chairperson for the succeeding year in which the panel is meeting (or a designee) shall serve as cochairpersons of the Council upon the date of the enactment of this title.

(f) COMPENSATION.—

(1) MEMBER.—Except as provided in paragraph (2), members of the Council shall each be reimbursed at a rate not to exceed the rate of pay for level III of the Executive Schedule for each day (including travel time) during which they are engaged in the performance of duties vested in the Council.

(2) EXCEPTION.—Members of the Council who are fulltime officers or employees of the United States or Members of Congress shall receive no additional compensation by reason of their service on the Council.

SEC. 407. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The cochairpersons of the Council shall, without regard to the provisions of title 5, United States Code relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay for level III of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The cochairpersons may appoint personnel as they consider appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Council may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Council shall not exceed the rate of basic pay for level V of the Executive Schedule.

(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the equest of the Council, the head of any department or agency of the United States is authorzed to detail, on a reimbursable basis, any of he personnel of that agency to the Council to assist the Council in its duties under this title.

SEC. 408. POWERS OF COUNCIL.

(a) HEARINGS.—The Council may, for the purpose of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before it.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Council may, if authorized by the Council, take any action the Council is authorized to take by this section.

(c) INFORMATION.—The Council may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairperson of the Council, the head of a department or agency shall furnish the information to the Council to the extent permitted by law.

(d) GIFTS AND DONATIONS.—Subject to the regulations established under paragraph (2), the Council may accept, use, and dispose of gifts or donations of services or property.

(2) The Cochairpersons of the Council are authorized to establish regulations setting forth the criteria the Council shall use to determine whether the acceptance of gifts or donations or services under paragraph (1) would reflect unfavorably upon the ability of the Council or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a government program or any official involved in such program.

(e) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) SUPPORT SERVICES.—The Secretary of education shall provide to the Council, on a reimbursable basis, administrative support services as the Council may request.

SEC. 409. FEDERAL ADVISORY COMMITTEE ACT.

Sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.) are the only sections of such Act that shall apply with respect to the Council.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 to carry out this title which shall remain available until expended or until the termination of the Council, whichever occurs first.

SEC. 411. TERMINATION.

The Council will cease to exist 90 days after submitting its final report.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to authorize appropriations to establish a National Education Commission on Time and Learning and a National Council on Education Standards and Testing, and for other purposes.".

And the House agree to the same.

WILLIAM D. FORD,
DALE E. KILDEE,
G. MILLER,
BILL GOODLING,
STEVE GUNDERSON,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
ORRIN HATCH,
NANCY LANDON
KASSEBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF THE CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

ESTABLISHMENT OF A NATIONAL COMMISSION ON A LONGER SCHOOL YEAR

Senate bill

Title I of the Senate bill establishes a nine member commission, appointed by the President, Speaker of the House and President pro tempore of the Senate, which shall study and issue a report to the President and Congress on the advisability of extending the school day and or school year in U.S. elementary and secondary schools. For this purpose, the bill authorizes to be appropriated $1 million for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1992 through 1994.

House amendment

The House Amendment has no comparable provisions.

Conference agreement

House recedes with an amendment which changes the title of Title I to National Education Commission on Time and Learning; substitutes the Secretary of Education for the President in the apportionment process; changes the categories of persons from which appointments to the Commission may be made; modifies the description of the study that the Commission is mandated to conduct; modifies the deadline for the study so that the Commission must report to Congress not later than 2 years after the date of its first meeting; provides that the federal agency providing support services to the Commission shall be the Department of Education; provides a ceiling on the compensation of the Commission's director and staff, and provides that the authorization of appropriations shall be $1 million for each of fiscal years 1991, 1992, and 1993.

While the Commission is required to submit a final report to the Congress and the Secretary within two years of its first meeting, the conferees expect that the Commission will provide the House and Senate committees of jurisdiction with interim reports on the progress of their work.

NATIONAL WRITING PROJECT

Senate bill

Title II of the Senate bill authorizes the Secretary of Education to make a grant to the National Writing Project—

1. to support and promote the establishment of teacher training programs;

2. to support classroom research on effective teaching practices and to document student performance; and

3. to pay for the federal share of such programs.

The Senate bill contains specific requirements related to each of the authorized activities, to the awarding of grants (including priority consideration of certain applicants), and to the establishment of a National Advisory Board. Finally, this title of the bill authorizes to be appropriated for fiscal year 1991 $10,000,000 for the National Writing Project and $500,000 for research and development.

House amendment

The House amendment contains no comparable provisions.

Conference agreement

House recedes with an amendment which limits the percentage of federal funds which the grantee may spend on administration; and changes the evaluation provision to require the Secretary of Education to conduct, by grant or contract, an independent evaluation of the National Writing Project.

With regard to the teacher training programs for teachers in disciplines other than English under the National Writing Project, the conferees intend that the focus of such training be to motivate and enable teachers to incorporate writing as a basic element of all subjects. As a result, it is expected that students will develop improved writing attitudes and gain greater understanding of writing as a basic tool for communication regardless of the discipline.

INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES

Senate bill

Title II of the Senate bill amends Title IV of the Elementary and Secondary Education Act to require the Secretary of Education to carry out a program to educate students about the history and principles of the U.S. Constitution, including the Bill of Rights, and to foster civic competence and responsibility. This title contains specific provisions related to the authorized contract, program, and participants. To carry out this title, the bill authorizes to be appropriated $5,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993.

House amendment

The House Amendment contains no comparable provisions.

Conference agreement

The House recedes with an amendment which requires biennial reports to the Congress relative to the "We the People . . ." program. Additionally, the conference agreement amends Part B of Chapter 2 of Title I of the Elementary and Secondary Education Act to require the Secretary of Education, in administering the law-related education program, to give application priority to statewide programs, to make 2 or 3 year assistance awards, and to convene panels of experts for the purpose of reviewing applications for assistance.

NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING

Senate bill

The Senate bill contains no comparable provisions.

House amendment

The House amendment creates the "National Council on Education Standards and Testing Act" which establishes a 32 member National Council on Education Standards and Testing to advise the American people on—

1. whether suitable specific education standards should and can be established and

2. whether, while acknowledging state and local control of education, an appropriate system of voluntary national tests or examination should and can be established.

The amendment also provides that the Council shall, as rapidly as possible, but not later than December 31, 1991, submit a report to the Congress, the Secretary of Education, and to the National Education Goals Panel (as well as interim reports as appropriate).

Finally, the House amendment authorizes to be appropriated $1,000,000 to carry out this Act, provides that the Council shall receive support services from the Department of Education, and provides that the Council will cease to exist 90 days after submitting its final report.

Conference agreement

Senate recedes.

Section 406(a) of the agreement provides that the congressionally-specified congressional members of the Council may select designees who are other members of Congress, experts from outside of the Congress, or congressional staff.

The conference agreement, in section 406(f), provides that members of the Council who are officers and employees of the United States shall receive no additional compensation by reason of their service on the Council. The intention of the managers is to prohibit such officers and employees from concurrently accepting compensation for service on the Council and their regular federal salaries. Subject to applicable laws and regulations, it is not intended to preclude reimbursement for travel expenses (i.e., transportation, lodging, and meals) associated with their service on the Council.

The Senate receded to the House on the issue of the appointment of a Director of the Council. While agreeing that cochairpersons of the Council shall appoint such a Director, the Conferees urge the Governors to appoint a person who is knowledgable in the technical and policy aspects of testing and assessment, does not have a strong, preconceived opinion on the desirability and feasibility of national standards and testing, and is not part of any other public entity which has an official opinion on these issues or a vested interest in the outcome of the Council's work. The Conferees feel strongly that without such a director, the results of the Council's work could be compromised.

Because the Council must work quickly to accomplish its mandate, the conferees expected that the Department will immediately begin implementation of this act of following its enactment, even if the authorized appropriation is not yet available. The conferees express our clear understanding with the Administration that the Council established under this Title will supercede the previously appointed interim advisory council to the National Goals Panel.

WILLIAM D. FORD,
DALE E. KILDEE,
G. MILLER,
BILL GOODLING,
STEVE GUNDERSON,
Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
ORRIN HATCH,
NANCY LANDON KASSEBAUM
Managers on the Part of the Senate.

COMMEMORATING 75TH ANNIVERSARY OF CHARTERING OF BOY SCOUTS OF AMERICA

Mr. BRYANT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the joint resolution (H.J. Res. 207) commemorating the 75th anniversary of the chartering, by an act of Congress, of the Boy Scouts of America, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SMITH of New Jersey. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas to explain the resolution.

Mr. BRYANT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, today, I thank my chairman, Mr. BROOKS, for discharging House Joint Resolution 207 to honor the 75th anniversary of the charter of the Boy Scouts of America from further committee consideration, so that we can honor the June 15 date.

On June 15, 1916, President Woodrow Wilson signed into law the legislation authorizing a congressional charter for the Boy Scouts of America. This Saturday, we will celebrate the diamond anniversary of that event.

I am proud, on behalf of the 175 other Members of Congress, including the gentleman from New Jersey [Mr. SMITH] who are cosponsors, to ask our colleagues this evening to honor Scouting, a program whose "purpose * * * shall be to promote * * * the ability of young people to do things for themselves and others, to train them in Scoutcraft, to teach them patriotism, courage, self-reliance, and kindred virtues, using the methods now in common use by the Boy Scouts."

I believe it fitting to express congressional appreciation for the public service performed by the Boy Scouts in enriching the lives of our Nation's young men.

A BSA survey conducted during the 101st Congress shows that 332 Members of Congress were involved in Scouting in one way or another—as Scouts, leaders—or both; and I am sure that all of us have benefited from Scouting influence in some way.

Since its inception in 1908, Scouting has served over 83 million young men. Currently, the membership in the Boy Scouts is around 5½ million Scouts and adult volunteer leaders.

Scouts have contributed their services not only to their communities, but to our Nation. During World War I, Scouts participated in the war effort by selling Liberty Loans and war savings stamps, and by distributing Government literature. The Scouts also contributed their services during World War II by distributing defense bonds, stamp posters, and collecting aluminum and wastepaper for recycling to aid the war effort.

In 1987 the Boy Scouts began to address the five unacceptables of American society—drug abuse, hunger, child abuse, illiteracy, and youth unemployment. Nationwide programs were developed to educate young people about drug abuse and the need to conserve our natural resources.

Scouting will endure because its goals and principles are timeless—honor, hard work, dignity, generosity, compassion, and patriotism. In a manner to last a lifetime, Scouting provides a way to deal with an everchanging world.

I thank my chairman and our ranking Member, Mr. FISH—and the leadership on both sides of the aisle—for all their assistance in getting this bill to the floor today—and the 175 Members of this body who cosponsored House Concurrent Resolution 207 honoring the diamond jubilee of the Boy Scouts of America's congressional charter.

□ 1930

Mr. SMITH of New Jersey. Mr. Speaker, continuing under my reservation, as an Eagle Scout I am most pleased to join my colleague from Texas in urging passage of this resolution. This is a resolution commemorating the 75th anniversary of the Boy Scouts of America, which very significantly was the first youth organization to be chartered by the Congress.

Mr. Speaker, I think many Members will agree that Boy Scouts of America is an organization with few equals. Over the past three-fourths of a century it has made a significant contribution and a difference in the lives of millions of boys. I think the number cited by my good friend was 83 million youngsters have benefited by the Boy Scouting program.

It has provided youngsters the opportunity to enjoy and more fully appreciate the great outdoors, to camp, to canoe, to swim, to hike, and even to cook.

Boy Scouts of America provides boys with the opportunity to learn and to perfect a whole myriad of skills, including lifesaving and first-aid.

Scouts are encouraged to be trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent. Not so bad; there are values that I think are good at any time for anyone and certainly for young boys.

I am most pleased to note that the membership in Boy Scouting has in 1991 grown for the 11th consecutive year.

As of December 31, 1990, there were 4,292,000 Scouts, a 1.4-percent increase from the preceding year.

So, more people are getting involved. My own two sons are involved in Scouting.

Mr. Speaker, further under my reservation, I yield to my friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to commend both of these gentlemen for introducing this commemorative resolution. Just this past weekend I had the privilege of attending a memorial service for Dan Beard, one of the founders of Scouting in our country, and he is buried in my congressional district, in a cemetery up in Rockland County.

We are proud of what Boy Scouts have done for our Nation. The leadership that they have provided for other youths as they go on to higher ranks also. I always try to find the opportunity to attend an Eagle court of honor in my own area, as many of my colleagues have done along with me in this same endeavor, to try to give appropriate honor to those young people who have been very active in scouting.

It is a wonderful activity. We hope that it will continue to grow and prosper.

Mr. Speaker, I commend the gentleman for bringing this celebration to the attention of our colleagues.

Mr. SMITH of New Jersey. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. JONES of Georgia). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 207

Whereas June 15, 1991, will mark the seventy-fifth anniversary of the granting by Act of Congress of the Charter of the Boy Scouts of America;

Whereas the Boy Scouts of America was the first youth organization to be granted a charter by Act of Congress;

Whereas the Congress has been kept informed of the programs and activities of the Boy Scouts of America through the annual reports made to it each year by this organization in accordance with such charter;

Whereas these programs and activities have been designed to instill in the Nation's youth the moral and ethical principles, and the habits, practices and attitudes, which are conducive to good character, citizenship, and health; and

Whereas by fostering in the youth of the Nation those qualities upon which our strength as a Nation is dependent, the Boy Scouts of America has made a contribution of inestimable value to the welfare of the entire Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby pays tribute to the Boy Scouts of America on the occasion of the seventy-fifth anniversary of the granting by Act of Congress of the Charter of the Boy Scouts of America, and expresses its recognition of and appreciation for the public service performed by this organization through its contributions to the lives of the Nation's youth.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARKING THE 75TH ANNIVERSARY OF CHARTERING OF BOY SCOUTS OF AMERICA

Mr. BRYANT. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate joint resolution (S.J. Res. 111) marking the 75th anniversary of chartering by Act of Congress of the Boy Scouts of America, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 111

Whereas June 15, 1991, will mark the seventy-fifth anniversary of the granting by Act of Congress of the Charter of the Boy Scouts of America;

Whereas the Boy Scouts of America was the first youth organization to be granted a charter by Act of Congress;

Whereas the Congress has been kept informed of the programs and activities of the Boy Scouts of America through the annual reports made to it each year by this organization in accordance with such charter;

Whereas these programs and activities have been designed to instill in the Nation's youth the moral and ethical principles, and the habits, practices and attitudes, which are conducive to good character, citizenship, and health; and

Whereas by fostering in the youth of the Nation those qualities upon which our strength as a Nation is dependent, the Boy Scouts of America has made a contribution of inestimable value to the welfare of the entire Nation: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby pays tribute to the Boy Scouts of America on the occasion of the seventy-fifth anniversary of the granting by Act of Congress of the Charter of the Boy Scouts of America, and expresses its recognition of and appreciation for the public service performed by this organization through its contributions to the lives of the Nation's youth.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 392

Mr. CHANDLER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 392, the title X Pregnancy Counseling Act of 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

HEALTH CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. COX] is recognized for 5 minutes.

Mr. COX of Illinois. Mr. Speaker, I stand before this Chamber today to address one of the most potentially devastating problems facing our Nation, access to quality health care.

Recent reports have shown that over 33 million Americans are currently without any type of health care coverage. Roughly over 40 million are underinsured with even the most financially secure vulnerable to financial ruin due to long term health care costs.

There are obviously many reasons for these skyrocketing costs, none of which can be easily solved. Currently, the Federal Government is responsible for over 29 percent of health care costs in this country, spending approximately $174 billion dollars to provide health coverage. Included in this is Medicare at $114 billion and Medicaid at 39 billion. The combined Federal outlays for health care consume nearly 15 percent of Federal spending.

Mr. Speaker, it is obvious the health care system in this country is at a crossroads. We must halt or significantly slow the rising cost of health care. While insuring those who are financially unable to obtain quality health care are not turned away because of inadequate health insurance. We must not allow the life savings of our senior citizens to be depleted to pay for the rising cost of long-term care. It is crucial to the future of this Nation that we address this problem today and establish a health care system that works for all.

I do not stand before this Chamber today with all of the answers to our problems. I do not pretend to have a miracle solution to solve the health care dilemma. But I do realize the responsibility we have as elected Members of this body to address this problem and begin the process of establishing a health care system that will benefit the entire Nation.

The Government Operations Committee, of which I am a member, is currently holding hearings on health care reform in this country. The focus of the hearings have revolved around a comparison of the Canadian model with our current system. We have much to learn from the successes and failures of the Canadian system. The Canadian's success at providing coverage for all of their citizens at a per capita cost significantly below that of the United States is attractive. At the same time, there seems to be instances of reduced quality and efficiency in health care services. We need to apply the lessons of other industrialized nations as they have addressed their health care problems, taking the good and leaving the bad.

I am somewhat disappointed at the administration's present action on this issue. The President has recently shown his skill in providing this country with strong leadership in the Persian Gulf. I am hopeful he will now begin to show some similar leadership as we address the issue of a national health care solution. Together, I am confident we can determine what is the best possible solution to our health care problems and begin to work toward such a goal.

Mr. Speaker, I would like to take this opportunity to request the administration's cooperation with Congress as we attempt to address this problem of national significance. It is our responsibility to tackle this challenge aggressively and responsibly on behalf of the American people.

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TRIBUTE TO THE HONORABLE VINCE WHIBBS, SR., MAYOR OF THE CITY OF PENSACOLA, FL

The SPEAKER pro tempore (Mr. JONES of Georgia). Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, I rise today to pay tribute to a great American, the Honorable Vince Whibbs, Sr., mayor of the city of Pensacola, FL. Mayor Whibbs retired this past Monday, June 10, after 7 consecutive terms as Pensacola's mayor and 15 years of dedicated service to the city.

Vince Whibbs is a native of Buffalo, NY. He was educated there, and after serving as a fighter pilot in World War II, he rejoined General Motors, where he had worked for several years.

In 1958, Pensacola got lucky. Vince Whibbs left General Motors, and decided to open a Pontiac dealership in Pensacola, beginning unequaled service and accomplishments that have continued over the past 33 years.

Vince immediately became active. He served as a city councilman and as a member of the board of directors of the Greater Pensacola Area Chamber of Commerce. In 1978, Vince began his service as mayor, and served without interruption until his retirement on June 10. He has the longest period of service of any mayor in Pensacola's history.

Mayor Whibbs has been instrumental in every aspect of Pensacola's life. To list just a few, he is past president of the Pensacola Chamber, the Pensacola Chapter of the Navy League, the Fiesta of Five Flags, the United Way, Suburban West Rotary, Pensacola Franchised Automobile Dealers Association, Junior Achievement and Project Alert.

Vince has always been the key proponent of Pensacola and its strengths. He has developed and nurtured a love affair between the city and the Navy that is unequaled throughout the country. Pensacola, as the Navy's pilot training base, and home for the Navy's Chief of Education and Training, sees thousands of sailors pass through each year. Vince has ensured that these sailors are fully integrated into the city during their stay in Pensacola.

Vince led the way in developing and implementing a plan to move the U.S.S. *Lexington*, an aircraft carrier used to train Navy pilots, from Pensacola Naval Air Station, to downtown Pensacola to make room for a larger carrier, scheduled for arrival in 1992. Vince tackled this most unique task with his usual energy and optimism, and today, the U.S.S. *Lexington* is safely berthed in downtown Pensacola, and the port at Pensacola Naval Air Station is complete and ready for the U.S.S. *Forrestal*, which will arrive in early 1992.

Mayor Whibbs also led the way in the successful rebirth of the downtown district, as well as many other projects, such as airport redevelopment, a new City Hall, police station, and many others.

Although all these accomplishments are significant, and although the city of Pensacola will benefit from these for many years, Vince's real strengths lie in his basic personality and his never ending promotion of the city's goodwill. Vince Whibbs is known nationwide, and everyone who knows him breaks into a spontaneous smile when his name is mentioned. In other words, no one doesn't like Vince Whibbs. Known as that fast talking mayor, he literally can talk faster than some of us can listen. Always ready with an eloquent statement on any subject concerning the city and its citizens, Vince's contribution to the feeling that Pensacola is a good place to live is immeasurable.

We will all miss hearing the famous Vince Whibbs welcome to Pensacola, usually stated at lightning speed. It goes something like this:

> On behalf of our elected City Council, those ten masterful men who manage our magnificent municipality; and on behalf of the chairman of our county commission and his four commissions who constantly deal with the changing, challenging conditions of our county; and on behalf of our wonderful people who populate the Northwest Florida area, it is my privilege and pleasure as mayor to welcome you to Pensacola, the western gate to the Sunshine State, where thousands live the way millions wish they could, where the warmth of our community comes not only from God's good sunshine, but from the hearts of the people who live here. Welcome to Pensacola, America's first place city and the place where America began.

To Mayor Whibbs and his lovely wife Anna Marie, their 7 children and 22 grandchildren, we congratulate you on your 15 years of service to the city. We will not forget your acomplishments, and we will continue to revere you as our city's premier citizen. We share in your excitment about the days ahead, which will hopefully provide more time for your family and your business interests. With all our love and respect, we say thank you, Mayor Whibbs. May God continue to bless you.

UNITED STATES ASSISTANCE TO THE SOVIET UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, the situation in the Soviet Union deteriorates daily. Seventy-five years of communism have culminated in hyperinflation, bureaucratic inefficiency, ideological conflict within both the Kremlin and the republics, long food lines, runaway military spending, and crippling labor strikes. In addition, a fragile, yet cumbersome Central Government has resulted. This crisis rasies serious doubts about the Soviet Union's survival in its current form.

President Bush is now asking Congress to support most-favored-nation status for the Soviet Union. He also favors Soviet inclusion in the group of seven meetings in London on July 15, so Mr. Gorbachev can present his request for nearly $250 billion in aid and $600 million in credits. Yes, that's right. A Republican administration is considering a bailout of the "evil empire."

Caution should be used in discussing United States assistance to the Soviet Union. We cannot open the foreign aid floodgates without concrete guarantees on a timetable for democratic reform in that nation. Mr. Gorbachev has not convinced me he possesses either the political clout or the inclination to complete his perestroika program. He has also masterfully postponed a decision on the direction of the Soviet state for his own self-preservation. We have no idea whether he is dedicated to democratic reforms, or simply a public relations magician. Mr. Gorbachev has to earn our support.

The United States has a stake in the Soviet Union's ability to overcome this crisis, and it is clear the Soviets cannot make it on their own. Without multilateral support from industrialized nations, the Soviet Union will become even more unstable, thereby increasing the chances of spreading turmoil to the precarious new democracies of Eastern Europe. The issue is not hat the Soviet Union needs help. Of course it does. The issue is the timing and the form of our assistance, and the reforms we seek in reurn. In my view, we should provide the Soviet Union with a package linking assistance to policy measures, and to incentives for future aid, if specific reforms are completed.

A Soviet commitment on Baltic human rights s an essential precondition to any assistance ackage. Red Army Forces have recently reewed their use of force against the people of ithuania with assaults on customs posts in a resumption of last January's crackdown. We have an obligation to help the young Baltic States grow into independent democratic nations, and we must obtain guarantees against further Soviet aggression in the region.

Any package should also extend support in the form of trade concessions, United States technical expertise, and United States backing for Soviet membership in the World Bank and the International Monetary Fund [IMF]. As a complement to United States policy linkage on Soviet political reform, the World Bank and the IMF would tie loans to Soviet economic policy changes. U.S. incentives would link future U.S. assistance to progress on free and open elections, on legalizing private property, on domestic human rights concerns, on emigration policy, on political decentralization, and on steps toward a free-market economy.

Mr. Speaker, it is clear that Mr. Gorbachev and the Soviets need our help to survive. However, we cannot simply donate our scarce resources to an antiquated economy and a decaying political system. Placing conditions on any aid will force Mr. Gorbachev to work for authentic reform programs in the Soviet Union.

DEBT IN OUR ECONOMY

The SPEAKER pro tempore (Mr. JONES of Georgia). Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 60 minutes.

Mr. PANETTA. Mr. Speaker, this is the second in a series of special orders that I am taking to address the state of our economy. Tonight I address the issue of debt in our economy.

The 1980's were the decade of debt, and it looks like the 1990's will be the decade when we must start to repay that debt—with interest. At the end of 1990 households, businesses, the Federal Government and State and local governments were nearly $11 trillion in debt. That is almost triple the level at the end of 1980. For 10 years, our debt grew faster than our GNP—forcing us to borrow so much from foreign savers that we are left more exposed to high interest rates and credit crunches, and less able to use monetary and fiscal policies to manage our own economy. Debt has become a consuming black hole in our economy.

The recession has sounded the wake-up call as banks, as well as S&L's, fell under the weight of defaulted real estate loans; troubled consumers cut back on purchases to meet interest payments; and businesses laid off workers to save cash to avoid default on their junk bonds. Today I want to discuss our debt problem: Its size; the failed policies that brought it about; its costs to the economy; and the painful corrective action that the Nation will have to take to get back on the right track in the 1990's.

The most startling aspect of the debt binge of the 1980's was the deterioration of our international financial position.

I. THE EXTENT OF THE PROBLEM

Foreign debt—our net international investment position. In 1914, the people, businesses and Government of the United States owned $5 billion of assets abroad—common stocks, physical assets such as factories or real estate, and bonds and other loans. Meanwhile, foreigners controlled $7.2 billion of similar assets in the United States. That left the United States a net debtor to the tune of $2.2 billion. Note that the terms "international debt" and "debtor" include ownership of stocks and real estate, as well as actual debts or loans. In 1914, of course, the United States had hardly made its mark on the world at large. By the end of World War I, however, we had established ourselves as a great power; and in financial terms, we had become a net creditor. Over the decades that followed, as we continued to establish our status as the world's dominant power, we built up a net investment position to a high of $364 billion at the end of 1982—that is, our holdings of assets abroad exceeded foreigners' holdings of U.S. assets by $364 billion, using the new replacement cost method of valuation.

In just a few short years, we blew it. By the end of 1986 we returned to the negative international investment position that we had left on the eve of World War I, more than 70 years before. By the end of 1989 we were net debtors to the tune of $464 billion—nearly half a trillion dollars—and our condition is no better now.

How can we be sure about our trend toward international indebtedness, and why do we care? The answers are one and the same. The more assets we own as a people, the greater the investment income that we earn from abroad, and therefore the greater U.S. income and wealth. So we should care about our investment position with the rest of the world for the same reason that we care about the productivity of our workers: They both bear upon our standard of living.

In 1981, we received net investment income of $31 billion from the rest of the world; they paid us $31 billion more on our investments than we paid them. This net investment income more than offset a modest merchandise trade deficit that we ran in that year. Since then, however, our investment income has fallen to negligible levels. This both reduces our standard of living as a nation, and verifies that our effective net investment balance with the rest of the world has deteriorated sharply.

Our international debt makes a political difference as well as an economic difference. A nation that depends on foreigners to buy its bonds and finance its investment cannot have as much influence as a nation that is lending instead of borrowing. For proof, we need only remember the spectacle of Secretary of State Baker making the rounds begging for contributions from other countries to finance Operation Desert Shield, and our further need repeatedly to dun those countries to pay up. For yet another example, Treasury Secretary Brady recently asked both Japan and Germany to lower their interest rates to help worldwide recovery; all they said was that they would not raise them. We are left, then, to ask their help to support the dollar if we lower our interest rates. In fact, one of the reasons the Federal Reserve is afraid to lower interest rates further to stimulate our recovery from recession is the fear that our dollar will depreciate, and that needed foreign capital will flee the United States.

The emergence of the United States as the world's largest debtor nation is striking and painful. But how did it happen? It is the result of an explosion of debt within our borders, debt accumulated by every segment of the economy. The Federal Government is part of the problem. But debts run up by households and by businesses are also significant contributors.

FEDERAL DEBT

In September 1981, President Reagan said;

> In just the past decade, our national debt has more than doubled. And in the next few days, it'll pass the trillion dollar mark. One trillion dollars of debt—if we as a nation needed a warning, let that be it * * *. Washington spends more on interest than on all of its education, nutrition, and medical programs combined.

In the next 10 years, the Reagan-Bush administrations far outdid the 1970's. The national debt didn't just double—it tripled; the debt subject to limit is now $3.4 trillion. Of course, some will say that it is all the Congress' fault, but they cannot erase the responsibility of the Reagan and Bush administrations for the 1980's tax policy, the defense spending policy, and the high real interest rate policy; not to mention the regulatory policy of the 1980's that left us with more than $100 billion of debt—and more to come—just to clean up the savings and loan catastrophe.

PRIVATE DEBT

At the same time, the private sector went on a borrowing spree as well. From 1980 to 1990, households added $2.4 trillion to their debt, which now stands at $3.8 trillion. Nonfinancial businesses added $2.1 trillion to their debt, which now stands at $3.5 trillion. We do not count the debt of financial businesses, because it contains a lot of double counting. What matters is the burden of debt on the sectors that actually produce goods and services. State and local governments added $360 billion to their debt, which is now $649 billion.

TOTAL DEBT AND INCOME

Taking all these sectors and the Federal Government together, and consolidating the Federal sector to net out the trust funds, we have $10.6 trillion of debt in the domestic nonfinancial economy. This is nearly triple the $3.9 trillion of 1980.

These numbers would not be so frightening if our incomes had increased as fast as our debt. But they did not; and so neither did our ability to service the debt.

The table that follows compares the debt of nonfinancial sectors of the economy relative to appropriate measures of incomes for 1960, 1980, and 1990.

	1960	1980	1990
Ratio of:			
Total domestic nonfinancial debt to GNP	1.41	1.43	1.94
U.S. Government debt to GNP	.46	.27	.47
Household debt to disposable personal income	.60	.75	.97
Nonfinancial corporate debt to nonfinancial gross domestic product	.55	.54	.74

Source: Federal Reserve flow of funds and Commerce Department national income accounts.

Overall debt was a relatively constant percentage of income for the 20 years between 1960 and 1980. The debt of nonfinancial corporations was a relatively constant percentage of their income over the same time span. Federal Government debt was actually a declining percentage of the GNP. This made room for an expansion in household debt relative to the size of the economy.

In contrast, the debt of every sector of the economy rose relative to our income in the decade of the 1980's. The total jumped from 1.4 times our GNP to 1.9 times our GNP; in other words, the total debt in our economy is now nearly twice our annual income. Federal debt undid in 10 years the progress that had been made in the preceding 20 years, and household and corporate debt ratios also rose to new highs.

II. HOW DID WE GET INTO THIS MESS?

The first question that we have to ask ourselves, as we face this mountain of debt, is how we, as a nation, got ourselves into this mess?

Again, the problem is the total of the debt that we—all of us—accumulated over the 1980's. It is not just the debt of the Federal Government. Therefore, we have to look at ourselves—as individuals, and as business persons—who so added to the debt burden of our economy.

In fact, few households, and few businesses, run out and simply borrow too much. Rather, people and businesses make forecasts about their economic prospects, and they act on those forecasts. If households believe that their incomes will increase rapidly and steadily, they will be more inclined to borrow for a bigger home, a new car, or other consumer items. If businesses believe that their sales will grow, they will be more inclined to borrow to expand their facilities—or to buy out their competitors, or businesses in some completely unrelated field. If the forecasts turn out right, then the debts are repaid. But households and businesses get in trouble when their forecasts turn out to be wrong.

The major downside of debt—for businesses or households—is risk: What if something goes wrong, and you cannot make your interest payments? If you cannot, the result is bankruptcy.

It may be something more than coincidence that the borrowing boom of the 1980's followed the borrowing boom of the 1920's by just about one adult lifetime. That was just enough time to forget the costs of excess. In the 1920's, overconfidence in the economy led to rampant speculation, including borrowing to carry investments in corporate stock. When stock prices plunged, the value of those loans was wiped out, bankrupting both the borrowers and the lenders.

The result thus far in the 1980's has not been cataclysmic. Our economy has proven far more resilient than that of the 1930's. But some of the economic indicators and phenomena have been similar. Throughout the 1980's we have had an enormous increase in business bankruptcies; it began in the recession of 1981 and 1982, but continued through most of the recovery, and has resumed in 1990 and 1991. While the 1930's had a bull stock market, followed by a crash, the 1980's had a real estate boom and bust, and the creation, rapid expansion and collapse of a market in junk bonds. And both the 1930's and the 1980's had a rash of failures of banks and other financial institutions.

The common element between the 1920's and the 1980's was the accumulation of debt that preceded the bankruptcies and bank failures. Why was that pattern repeated?

In both the 1920's and the 1980's, there were bursts of economic euphoria. In the 1980's, we were reassured that it was "morning in America," and that recession could be avoided indefinitely. As a result, many households and businesses determined that they could carry more debt safely.

However, these optimistic expectations were not realized. The misjudgments of the 1980's were both large scale and small scale. The economy as a whole did not enter an era of unending rapid economic growth, and so even before the current recession, business borrowers had problems of bankruptcy far in excess of other recent economic recoveries. And there was a further impetus toward debt in the 1980's. The Nation was leaving a period of rapid inflation, and inflation encourages and rewards the holding of debt. Instead, however, inflation slowed; and as a result, many borrowers did not receive the expected inflationary increases in their incomes.

There were also localized failures of borrowers' expectations for the economy. Real estate investments saturated many local markets, as local forecasts of rapid growth encouraged building. Instead, many real estate projects extended well beyond local needs, leaving vacant space in office buildings and shopping centers in many areas of the country, and leading to numerous real estate bankruptcies.

Thus, the debt binge of the 1980's was far reaching. And when things go wrong on this scale, there are meaningful costs to society. One person's liability is another person's asset. The bankruptcies of high-flying real estate deals and junk-bond issuers were the immediate causes of the bank and savings and loan failures of the last few years.

III. THE BORROWING SPREE OF THE 1980'S: THE CONSEQUENCES

Borrowing is not necessarily unhealthy. Going into debt to build a house or a factory, to pay for a college education or vocational training, to invest in a new technology or to build infrastructure can all be constructive. The common element in all of these expenditures is that they will produce new wealth which makes it possible to pay back the loan, with interest. In other words these expenditures are investments.

Unfortunately, America did not invest enough of the funds that we borrowed in the 1980's. Too much of the Federal Government's borrowings was used to finance tax cuts for the wealthiest Americans, and to expand the defense establishment. The wealthy recipients of those tax cuts borrowed even more to finance what has been called conspicuous consumption. Too much was borrowed by corporate raiders to bid up the prices of existing businesses. Only a small share of this debt went into the kinds of investment that lay the foundation for a stronger economy; that is why debt is now a threat to economic health and growth.

Too much of the $7 trillion that was borrowed between 1980 and 1990 went to immediate gratification of wants, and too little went to the needs of the future. As a nation, we spent more than the income that we produced in the 1980's could pay for. The personal saving rate by 1987 was the lowest since the post-World War II spending boom, and is not much higher now.

There were immediate as well as long-term costs; but the costs were spread out beyond the actual borrowers. The most important of these costs were higher real interest rates and lower business investment. Interest rates, like all other prices, are determined by supply and demand. In this case the supply of national saving fell while the demand for borrowing rose, so our interest rates had to rise to induce foreign savers to lend to American borrowers. It has been estimated that by 1987 the United States was borrowing nearly 10 percent of the combined net savings of all of the other industrialized nations of the world. It is no wonder that we had to offer high interest rates to attract so much of the world's savings.

One consequence of this need to borrow from abroad is a trade deficit. For foreigners to lend to us in dollars, they had to buy dollars, and that buying pressure drove the value of the dollar up relative to other currencies. By the beginning of 1985, the dollar was more than 50-percent higher than it had been in 1980.

This made U.S. products more expensive abroad and foreign products cheaper here. Exports stagnated, imports soared, and the trade deficit exploded, reaching $152 billion in 1987, compared with only $19 billion in 1980. It now appears that permanent structural damage was done to the international competitiveness of American industry in this period. Foreign firms were given a golden opportunity to build footholds in the U.S. market—gaining customer loyalty and setting up distribution networks which will remain in place. At the same time, they were able to drive U.S. products out of their own and third country markets. This makes correcting our trade deficit even more difficult and painful.

A final cost of the 1980's debt spree is the emphasis that businesses must put off generating short-term cash to pay their interest bills, rather than investing for the future. Advocates of the leveraged buyout binge of the 1980's argued that the pressure to meet interest obligations would force stodgy business firms to become lean and mean, and more efficient. It is true that pressure can focus the mind. But extreme interest burdens can force cutbacks in research and development, and other programs that build for the future. You cannot invest resources today for a potential payoff 10 years out when those funds are needed to meet this quarter's interest payment.

The cost in terms of lost GNP is already mounting. A recent study by the Federal Reserve Bank of New York found that the low saving and investment rates of the 1980's resulted in a loss of as much as 5 percent of the Nation's potential production compared with the trends earlier in the postwar period. Unless we raise the national saving and investment rates, and lower the debt burden, that loss will continue to grow, and our future standard of living will dwindle.

IV. WHERE DO WE GO FROM HERE? A PAINFUL CORRECTION

In many ways, the early 1990's will feel like the hangover from the extended debt party of the 1980's. We will pay for national overindulgence now and over the years to come.

We have already seen the effects of overindebtedness during the current recession. Businesses have to cut back on employment more severely and earlier to conserve cash. They will be hesitant to invest at the beginning of the recovery if it means taking on more debt; their debt service burden relative to cash-flow makes them less creditworthy. And any bad news—including a longer-than-expected recession or an economic shock—will find more businesses than in the past overburdened with debt and in danger of bankruptcy.

Banks are reluctant to lend even for normal business financing because they themselves are burdened with portfolios of sour loans. The problems of the banking system are well known: There are too many real estate loans on projects that sit empty and whose developers have gone bankrupt. The economic policies of the 1980's encouraged such excessive commercial real estate development financed by borrowing. Regulators finally tightened their standards and required that banks raise more capital to back up their loans; but banks could not raise more equity capital, and so had to reduce their outstanding loans. This meant tightening credit standards and denying loans to businesses that might otherwise have been creditworthy.

Though the contraction of lending may be coming to an end, the recovery may still be later and weaker because too many businesses and consumers are troubled with their current debts. However, the long-term correction will also be painful, in terms of slower income growth and the amenities provided by all levels of Government. We as a nation have been consuming more than we produce for 10 years, and to cut back the debt to a manageable level, we are going to have to produce more than we consume for a long time to come.

This coming transition from our debt binge back to sound economic policies will have several painful effects. First, to reduce our trade imbalance, the dollar will have to decline. That means that imports will be more expansive to American consumers, a direct hit on the standard of living to which we have become accustomed. It also means that American assets—companies and land as well as stocks and bonds—will be cheaper to foreign buyers. Until we have raised our national saving, primarily by reducing the Federal deficit, foreign investment in the United States will continue to create friction with our industrialized allies. The importance of the value of the dollar, and need to attract foreign funds, will limit the freedom of the Federal Reserve to reduce interest rates to stimulate the economy and encourage domestic investment.

Finally, the debt that we accumulated in the borrowing spree of the 1980's requires that we pay an increasing share of income produced in the United States to foreign investors. This is income that could have been reinvested in America—in schools, roads, factories and homes.

V. CONCLUSION: WHERE WE STAND

Now, the evidence of the decade of debt is all around us: mountains of bad junk bonds; continuing business bankruptcies; S&L and bank failures; and an accumulation of bad assets in the hands of the Federal Government.

For all of these reasons, our recovery from the current recession will be slow, and our standard of living will be lower because of this excess.

The debt binge extended to every sector of the economy; but the Federal Government was the largest single actor in this very bad drama. We need to take the lead at the Federal level to turn this trend around. It would be wonderful if we could make consumers borrow less and save more, but we have tried and failed—at great expense to the Federal Treasury. Tax breaks for saving have increased the deficit more than they raise personal saving, and thus have reduced our total national saving. Our foremost responsibility—and the one sure way to slow the debt binge—is to follow responsible policies to reduce the Federal deficit. The budget agreement between the President and the Congress was an essential first step. More must be done if we are to escape the black hole of debt that clouds the future of our Nation.

□ 2010

THE CIVIL RIGHTS ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico [Mr. SCHIFF] is recognized for 60 minutes.

Mr. SCHIFF. Mr. Speaker, I would like to begin by complimenting the erudite presentation of my colleague, the gentleman from California, the chairman of the Committee on the Budget. I certainly agree with his overall point that a nation whose government is in debt, whose businesses are in debt, and whose citizens are in debt, is not going to stay a world power for too much longer.

Just looking at the Federal Government, we spend on interest on the national debt, and for us in Government, the same as for every individual citizen, interest comes off the top, and it has to be paid first.

We spend twice on interest on the national debt what we spend on the entire Medicare Program. So imagine, as we debate in the Congress health care problems and other difficulties that we have what we could do without raising taxes if we had control of the money that we now spend on interest on all of the borrowing that has been done over the years, and, of course, that does not even talk about how we pay back the principal on that borrowing.

I compliment the gentleman's presentation.

Mr. Speaker, however, I did take the floor for another reason. I want to talk about the Civil Rights Act of 1991.

The reason I want to talk about it is we did pass it approximately a week ago, sent it over to the other body for consideration, passed a version of it, and this is a very important bill to me.

□ 2020

It is important, first of all, because it is very important to my constituents. It is important because I have the privilege of serving on the Committee on the Judiciary, and I spent a great deal of time studying the bill and the various amendments.

The reason I am taking to the floor now is because I was disappointed in the debate that we had on the bill prior to the vote and passage of the final version. I was disappointed because I felt, and this may have been caused by the fact that the speakers had only a relatively few minutes to speak, and I understand that. Nevertheless, much of the debate was conclusionary in nature. One speaker, depending on their point of view, might say "this bill is a good bill to ensure civil rights;" Another speaker might say, "I object to this bill because it is a quota bill," and he would have a great deal of rhetoric going back and forth upon these points without really getting into what is in that bill. What is it that bill is made up of? How does it work? How is it written? What is it all about? Then the people can make up their own minds as to whether, in fact, it is a needed bill. Or, in fact, is it a quota bill.

I might add that my own conclusion is somewhat in between. I think there is a bill we need to pass. I think there is some risk of creating a quota or hiring by the numbers. I think that risk was greatly exaggerated by the other side of the aisle. I will go into that in a couple of moments.

I think it is important that it be placed on the record what the bill is all about. That is what I propose to do here this evening.

The civil rights bill of 1991 was actually a successor to the civil rights bill of 1990. The civil rights bill of 1990 was passed by both Houses of Congress. It was vetoed by President Bush, and the Congress failed to override the veto. That killed the issue as a legislative matter for the year 1990. It was then refiled as H.R. 1, the first bill of the House of Representatives in 1991, in the 102d Congress.

Now, the origin of the bill in 1990 was an attempt by supporters to address and, in fact, to reverse five U.S. Supreme Court decisions which interpreted civil rights laws. The supporters disagreed with those five decisions and wanted them reversed. Four of those principal decisions dealt with the Civil Rights Act of 1964, and one of those decisions dealt with the Civil Rights Act of 1866. That is the origin of the Civil Rights Act.

Now, stopping right there, that origin is going to lead to a great deal of complexity for two principal reasons. First of all, since the bill is written to address Supreme Court decisions, it deals with highly technical matters, with construction of wording in the relevant statutes and the court decisions, legalese we may call it. I want to stress that the fact that the wording is highly technical does not make the bill unimportant, but it makes the bill very complex in nature when wording is offered to counter certain Supreme Court decisions on how a statute is to be interpreted. Interpretation is very important but can be very complex.

Second of all, these five separate court decisions are only loosely tied together under the title "Civil Rights." It is true that all of the five decisions deal with the Civil Rights Act or one of the Civil Rights Acts, that is correct. However, they each deal with a completely different aspect of the Civil Rights Acts. One might deal with intentional discrimination, one with unintentional discrimination, one with seniority systems, and so on and so forth. The point I am making is that it is entirely possible for my colleagues and myself and for members of the public to in fact agree in part and disagree in part with the original civil rights proposal, because it is possible to look at the five Supreme Court decisions and to agree with four and disagree with one. The supporters disagree with all five. That is their privilege. That does not mean all persons have to disagree with five, or that does not mean that we all have to disagree with all five in terms of the debate. One could say that they disagree with four of the decisions but one is believed to be a correct interpretation. A person might not think they should change it, and disagree with that. Of course, one more complexity on that is that two Members of Congress could say, "I agree with four decisions and only disagree with one." Let me go back and reverse that, colleagues could say that they disagree with four of the decisions and want to reverse them but agree with one; however, the one agreed upon is not the same between the two colleagues. One colleague might agree with Supreme Court decision one, two, three, and five, while the next colleague might agree only with two, three, four, and five. Therefore, they each agree with four decisions, but not the same four decisions.

Obviously, that leads to further complexity, just on which decisions different Members agree with, and which decisions they do not agree with.

Here are the five principal decisions. The first which I will speak of, and I have put them in the order that I heard them addressed, although the decisions could well be placed in another order. They are all relatively recent, I think, from 1989. One is Wards Cove Packing Co. versus Antonio. Wards Cove Packing Co. versus Antonio deals with business hiring practices and may result in unintentional discrimination. In other words, a business might have certain criteria for the hiring of all its employees, but the result of that criteria results in the fact that individuals are hired in disproportionate numbers to what is another issue, to management versus nonmanagement jobs, going more toward the majority group or minority, or disproportionate to the labor portion or the population at large in the business. Because I felt Wards Cove became a central matter during this debate, I am going to hold further discussion on that issue for a moment.

Another case is Price, Waterhouse versus Hopkins. Price, Waterhouse deals with intentional discrimination. The issue raised in Price, Waterhouse is, what happens if an employer intentionally discriminates against a worker for reason of race, religion, gender or other prohibited reason, but in fact has other reasons for denying that same person a hiring in the first place. Or, if they are already hired, promotion or transfer? In other words, there is a mixed motive. The employer really intends to discriminate, and that can be proven. Assume that for the case was proven. Assume the employer would say that they would have not promoted this individual anyway, even if they did not have discriminatory reasons. That case implies, I think the results may have been favorable to this individual plaintiff, but some of the wording implies that if there is mixed motives and it can be proven, an employer was discriminated against first for prohibitive reasons, racial or gender discrimination, but also the employer, in fact, would have taken the same action absent the discrimination, the case implies the employee has no remedy because the same action would have been taken against the employee even if no discrimination was involved.

I might add that generally speaking, that is part of a general rule of law that there is a general principle, in cases I have heard for precedents, that if the same result would be reached for another reason, then it is the same result, and the person is not considered to be injured. However, the supporters felt, and I would add that I agree, that intentional discrimination is so repugnant in our society that there ought to be some kind of remedy, even if it is a limited remedy, to those who can prove intentional discrimination, even if it is an injunction to prevent intentional discrimination occurring in the future. They should be able to act on it in that situation. That is what was included in H.R. 1.

A third case is Martin versus Wilkes, and that deals with this question: What can individuals who were not party to a lawsuit and to a judgment, assuming some years ago, try to reopen that judgment? It comes up in the context that, and we will suppose that a group, particularly a minority group of workers, bring a civil rights lawsuit against an employer. Suppose there is an agreed-upon judgment, that the employer admits to previous discrimination, and proposes a solution of an affirmative action plan to cure the problem.

□ 2030

What can employees who may not even have been employed at that time do? Can they come in and challenge this judgment on the grounds that, well, they are affected by it but they were not parties to it?

The argument here becomes very difficult, because on the one hand we have a strong belief that judgments should be final, that cases should not be litigated over and over again.

On the other hand, we have an equally strong belief that people are entitled to their day in court, that it is not fair to subject somebody to a judgment when they were not a party to it, and the truth is in this particular area an attempt is made to find a balance, not everyone might agree this is a balance, but an attempt was made to say, well, was the individual who was affected, who wants to reopen this case, was their point of view represented in the original judgment? In other words, what they want to say today, was that advanced before the judge before the judgment was in fact rendered? So in effect they were in fact represented.

I am not saying that I or everyone should agree with that rationale. It sort of became the focus of that debate.

Four cases: Lawrence versus AT&T Technology. In that case, the Supreme Court held that the statute of limitations to bring a discrimination case begins to run when the discriminatory practice is put into effect in the business, and not when it is known of or affects the employee who wishes to bring the suit.

Now, the obvious problem there and why supporters and I would join in this, believe that this should be reversed, is the statute of limitations could go past so that no action could be brought for an employee who does not even know this practice is in effect, much less has been personally adversely affected by it.

Generally speaking, I think it is appropriate to say when a person is affected, that is the point where the statute of limitations ought to begin to run, so that they have the opportunity to bring some kind of action.

The fifth principal case is Patterson versus McLean Credit Union. In Patterson versus McLean Credit Union, it did not deal with the interpretation of the Civil Rights Act of 1964. The other cases I referred to did. This case dealt with an interpretation of the Civil Rights Act of 1866, a post-Civil War reconstruction act, of course at that point designed to assist the recently freed slaves. It is found in the law at 42 United States Code 1981. It is not by itself an employment statute, though it always has been used in employment, but it is broader than that. It prevents discrimination in the making and formation of a contract. Of course, that has been used in employment cases, because employing someone is making a contract.

Well, the Supreme Court in Patterson interpreted that provision about making and enforcing a contract literally toward making a contract. In other words, they said, they being the Supreme Court, that it is illegal and an individual, particularly an African-American, can bring a lawsuit because the Civil Rights Act of 1866 allows lawsuits if hiring is denied because of racial discrimination, but it stops there. That is, the making and formation of a contract is over and therefore an African-American, again by way of example, cannot bring a lawsuit or other type of action to prevent racial harassment on the job.

The supporters of H.R. 1, and again I would agree here and state here that I agree, felt that this is too narrow, that to say that racial discrimination is prohibited when someone is hired, but right after they are hired they can be literally driven off the job through racial harassment, does not fit the intent of this act, and this decision was too narrow, and that is my view.

Well, I would like to stop right here for a moment and again emphasize that the five cases that I talked about, the five cases that form the basis of the proposal of H.R. 1, the Civil Rights Act of 1991 now, again do not look like each other. I am not saying that any one of them is not important. I am not saying that one is necessarily more important than another, although one become more important in the debate, I felt; but as such, they are all important, but they do not necessarily relate to each other. One can agree with one case and disagree with another, and in any combination of the five cases, and that led to a great deal of the complexity in the debate that I felt was not adequately covered, again probably because of lack of time. That is why I wished to take the floor.

Well, this gets even more complex because H.R. 1 does not stop with just those five Supreme Court cases. I have to say, for those who may be very familiar with this bill already, because of my own lack of time I am presenting what I would consider to be an overview. Each of the five cases I have just stated have more details than I went into, but at least I want to show more about the basics of what was in this bill.

Well, the five cases, or addressing the five cases, simply was not all that was in H.R. 1. More was in H.R. 1. Other cases were directly or indirectly referred to. For example, there is the Zeits case, I believe it is pronounced, in which the Supreme Court limited attacking discriminatory seniority systems. Obviously if there is a seniority system in a business and if that business in the past discriminated against certain groups because of their race, gender or religion or national origin, then the seniority system would perpetuate that discrimination, even if the discrimination itself had ended.

There is the Shaw case which said in many different contexts that a plaintiff who wins a judgment against the United States of America is not entitled to interest on that judgment if payment is delayed, though of course interest on a judgment against a private party, if a judgment is won, is normally a matter of fact, in the normal course of business, and I certainly agree again that should be reversed.

Well, in addition to addressing Supreme Court cases, the bill, H.R. 1, went even further than that. It put in certain provisions that were not addressed in any Supreme Court case, and to that extent there was some limited misstatement by supporters who would say that all we are doing here is addressing Supreme Court cases. That is all we want to do. We think the Supreme Court made some errors in interpretation and we wish to correct that. It did more than that.

One can agree with what they did or disagree, but that is not all they did.

Now, one of the things they did, for example, was to extend the statute of limitations for bringing a discrimination case, just as a general matter.

Another issue that had to be put into the bill, I acknowledge, is when does the bill become effective? In other words, assuming that H.R. 1 as originally written became law passed by both Houses and signed by the President or over a Presidential veto, it becomes effective when, all these changes in Supreme Court decisions?

Originally H.R. 1 said that it became effective retroactively to all cases that were pending at the time of the Supreme Court cases, including the Supreme Court case I referred to, and to any case filed in that interim. That means, for example, the cases themselves would be reversed if the plaintiffs went back into court and got a different result with those specific plaintiffs.

The supporters of that idea said that it is only fair, we are trying to correct certain Supreme Court decisions that we felt were erroneous, then it is only fair that we affect those specific plaintiffs who we think were not treated appropriately in those decisions; however, the opponents said, and in this case I agree with the opponents, that it is more unfair, if you will, to make a law apply backwards because it is unfair to put people at risk for decisions they made under the law as it was in effect. It is unfair to tell people, "You made a decision that was right at the time, but after the fact we are going back and we are going to tell you, you made a wrong decision and in some way you are going to be made legally responsible for that decision, even though it was perfectly correct at the time you made it, even though you got legal advice and followed it accordingly."

I agree with the opposition point that that is a greater inequity, and even if we should reverse all five decisions, reversal should be prospective in nature so that everybody is on notice as to what the law is and what their responsibility is.

Well, that is not all. The biggest addition made in H.R. 1 to the current law and not dealt with in any Supreme Court decision, a creation of the supporters, was allowing plaintiffs under the Civil Rights Act of 1964 to sue for damages as part of their relief, damages for being discriminated against and punitive damages to punish intentional—I stress intentional, not unintentional, but intentional racial discrimination.

□ 2040

That was also included in H.R. 1. Well, that is a summary, and I stress the word "summary," of the specific issues that were in H.R. 1.

The debate focused on a conclusion: Is this an effective civil rights act? All we are doing is straightening out some erroneous decisions by the Supreme Court. Even the word "erroneous" implies a criticism of the Supreme Court that I do not think its supporters intended, an interpretation not in line with what Congress intended when it passed the Civil Rights Act. Or, was it in fact a quota bill that would require employers to hire by the numbers?

That was the conclusionary matter of this debate.

As I said, personally I agree, in part, with both. I do not find that contradictory. Primarily, of course, it was the administration's charge that H.R. 1 is a quota bill. And they base that charge on two ideas. The first and primary idea most cited by administration people whom I have heard is that H.R. 1 is a quota bill and it should be stated that it was stated in the bill that it was specifically not a quota bill and quotas would not be allowed. But the argument was that, notwithstanding that language, employers would feel compelled to create a quota in their hiring. Most people on both sides of the aisle object to a quota.

So the issue was not whether quotas are good or bad, most people would agree they are not good, that in fact quotas are in a broad sense contradictory with the idea of equal opportunity.

A quota may be a floor, but it is also a ceiling. Once you have made your quota, then an employer has to hire somebody from another group. That really was not the issue. The supporters of the bill did not defend quotas.

The supporters of the bill said this was not a quota. The President said, the administration said this is a quota primarily because of the addition of the possibility of lawsuits as a remedy for intentional discrimination.

Right now in the Civil Rights Act of 1964 I believe that a lawsuit can be brought as well as a matter brought to the EEOC; but lawsuits may be limited in their remedies to things like back pay and so forth.

The argument was that opening up lawsuits creates the threat of more litigation, the threat of more damages and this will cause fear in the minds of employers to avoid the risk of being sued, particularly for damages now, so that they will institute a quota to protect themselves from being accused of intentional discrimination.

Frankly, I have not come to this conclusion. I should mention as a digression that the American public is going to hear this a lot, that lawyers, lawsuits, courts, juries, have been made a target in many respects such as health care costs, and this argument over and over again of how bad it is for people to be able to file lawsuits is going to be repeated.

Now I am not here to defend any particular idea against improvement. If a system can be made better, fairer, cheaper, I think we should look at it, certainly.

But I would just point out as a generality that the right to trial by jury as a general concept in our society was considered so important by the framers of the Constitution that they included it in the Bill of Rights, in the seventh amendment. It is true, I am not saying that that requires damages to be allowed in the Civil Rights Act of 1964; I am pointing out that the concept was not feared by the framers of the Constitution. The concept was put in the Bill of Rights.

Further, the reason I do not accept that argument that being able to sue for damages will force employers to cower in fear is going back to the civil rights of 1866, 42 U.S.C. 1891, it has always been possible for African-Americans to sue for employment discrimination in hiring at least. We get into the Patterson case of when can you sue and when can you not sue. But the right to sue has been there, the right to sue for damages has been there all along. There have been lawsuits, some have been won, some lost; but there is absolutely no evidence that African-Americans have been hired by the numbers. I am sure they would be the first to come forward and say that.

So if the right to file a lawsuit has not resulted in hiring quotas for African-Americans under the Civil Rights Act of 1866, why on Earth should it suddenly result in hiring quotas for other groups if they are allowed the exact equal procedural remedies available?

Now, there is a second reason given by the administration, however, and they list it second—I would list it first, obviously, since I do not agree with the administration's point. But there is a second reason why the H.R. 1 would lead to quotas, hiring by the numbers, but it deals with unintentional discrimination. That is, business practices which do not intend to discriminate but do.

This gets into the Ward's Cove case, which I will discuss for a moment. The Ward's Cove case got into this issue at length: When can and cannot a business have hiring practices which are neutral but which result in a disparity, disparate impact, in terms of who is actually hired or promoted? Of course, they dealt broadly with who has the burden of proof and so on.

Now, the Ward's Cove case refers to an earlier case that both sides seem to agree with, and want to adopt and want to keep. That is the case of Griggs versus Duke Power Co.

Now, the Griggs case in 1971 involved employees who in that case were African-Americans who could not be transferred out of one area of employment for this particular company to other areas. Other areas paid more, generally speaking, than the area they were confined in. The problem was that there was a requirement by the business that all employees, to transfer, have either a high school diploma or pass a certain test. This was a neutral requirement; all persons, regardless of race, regardless of gender, were required to meet this requirement.

Nevertheless, for reasons that are complex, the bottom line is we know that high school diplomas, for example, are less found among African-Americans and other minority groups than among the white population.

I mean that is a fact. We can discuss why that is a fact, but that is a fact.

Therefore, a requirement that all employees have a high school diploma is probably going to result, and did result in this case, in the fact that whites would be promoted and African-Americans would not be promoted.

The Supreme Court said that the Civil Rights Act of 1964 prevents more than intentional discrimination; that it prevents acts which are neutral on their face but which result in unintentional discrimination. But of course you can pass this kind of act intentionally. The original grandfather clause was passed in the Southern States. Everyone has heard of the grandfather clause. It was passed after the Civil War and after Reconstruction ended and Northern troops were withdrawn.

It simply said that if you want to vote in our State, your grandfather has to have been eligible to vote, and that applied to everybody, regardless of race—I cannot say gender, because unfortunately that was not allowed as a right to women anywhere that I know of—but the Southern States, everyone in order to vote can only vote if their grandfather could vote.

That does not apply to any particular race. But considering the fact, however, that obviously the grandfathers of the African-American citizens would have been slaves and could not vote, guess who could not vote under that provision? So it is obvious, it is possible to have a provision that is neutral on its face but results in discrimination.

The Supreme Court did not accuse Duke Power Co. of doing that here. In fact, the employees did not accuse the company. They simply said this provision results in disparate impact. And the Supreme Court said that disparate impact can also be prohibited by the Civil Rights Act of 1964 even if discrimination is, in fact, unintended.

Now, the Supreme Court found for the plaintiffs in this case, having stated the general idea; they did not say there could not be any kind of requirement for hiring or promotion. They said, and they used different wording throughout the case, and H.R. 1 and other bills take parts of this wording, each side therefore says, "We are using the wording from the Griggs case."

They said that the requirement has to meet the job performance requirement or, in other language, they say that business necessity of the employer in having a standard of some kind, it has to have manifest connection to the employment, and used other different words like that. As I say, different bills picked parts of those words.

□ 2050

But the main issue in Griggs, the main finding in Griggs, is that employers can have standards, but the standards have to relate to the employment, and I will put that in quotes because, whether it is employment or job performance, the impact wording is used interchangeably by the court and a subject of heated argument.

Now it is extremely interesting. What does it mean to be related to the job? In the Griggs case, and this is very significant in that case, they said that we are not going to deal with whether the employer can set up a requirement for broader reasons than the specific job that is being discussed. In other words, we are not going to deal here with: Can the employer have a requirement for hiring individuals based upon future ability to promote, for example? The Supreme Court said that because they said it was not raised by the employer in Duke Power Co. In Duke Power Co. the employer basically argued we have a right to have a test, we have a test, and what test we have is up to us, and the Supreme Court said, "No, you can't. It has to be related to the employer or has to be related to the job," and they found that having a high school diploma or passing these intelligence tests was not necessary to perform the jobs in the other areas of the company, and, therefore, having a requirement for this kind of test or this kind of diploma, which does not relate to the employment, but which has the edge of limiting African-Americans in this case, and others I am sure, is a violation of the Civil Rights Act of 1964.

Now the Wards Cove case in 1989 made further interpretation of the Griggs case on a number of fronts, and actually because my time is starting to run a little slim here I think that, rather than trying to go through each way Wards Cove addressed Griggs and how H.R. 1 addressed Wards Cove and other laws I am about to refer to affected each other, I think I best phrase it this way:

In deciding whether there is disparate impact, and can action be taken, and what are the defenses, the Wards Cove case raised certain issues, and how these issues are resolved, whether it is in Wards Cove, or whether it is in H.R. 1, or in any other bills makes it easier or less easy to say an employer is in fact violating the Civil Rights Act of 1964, and I would like to cite five of those points that are raised and discussed, and raised and discussed again, not only in this case, but in the bill.

First is proving that disparate impact exists. What statistics are used? Does one compare the number of racial minorities in lower level jobs with higher level jobs, or does one compare the number of racial minorities actually employed in the company as a whole with the job force available or with the general civilian population available? That is the first issue that is discussed, and it is very important in deciding this issue. Whose numbers do we use in other words?

Second of all, if once it is decided which numbers are examined to determine if there is in fact disparate impact at all, the second issue is: Must the employee or those who wish to be hired identify which of the employer's practices causes disparate impact? In Griggs they did that. They identified the high school diploma and the intelligence tests. Can an employee say, "Well, it must be one of a group of practices that the employer has, and here's a group of 20," and let it go at that?

Third, it is established; it was established in Griggs, that even if the employer is causing disparate impact through business practices, the employer can defend that if the employer has a business necessity for the practice involved. Now once again all individuals agree with that principle. Nobody disagrees with that that I heard, but the definition of business necessity is widely debated.

Fourth, if business necessity is adequately defined, does it have to be an absolutely necessary business necessity or something that is good for the employer, but he or she could do without? How far can a business necessity be used?

Fifth, if it can be shown that the employer causes disparate impact and the employer raises the reason: "Well, yes, I do because my hiring practices are a business necessity to me," who has got the burden of proof of proving that? Does the employer have to prove this is a business necessity? Or does the employee have to prove it is not a business necessity?

Another extremely important issue here: H.R. 1 and the administration bill. I am going to wrap up here in a moment by talking about the different bills and votes. Both reverse the Wards Cove case.

For example, both said that, if business necessity is raised as a defense, if the employer says, "I have to do this; I'm sorry it causes disparate impact, but I just need it for my business," both the administration and H.R. 1 say the burden of proof is on the employer. I might add that I heartily agree with that, and that is in conformance with other general rules that, if an affirmative defense is raised, yes, I did it, but I had to because, that that normally transfers the burden of proof to the person who is raising that defense, and that is in both bills, and I agree with that.

Mr. Speaker, my conclusion on this issue is that when we put H.R. 1 and the administration's position side by side, on the whole the administration had the better position. The administration had the better position because it allowed greater flexibility on these issues for the employer, and I think that within a reasonable degree the employer should have a flexibility. If we narrow business necessity just to performing the job; if the job, for example, is folding pieces of paper, and we say that the employer cannot have any requirement to hire people except how well they fold pieces of paper; then I think we defeated the ability of employers to do many other things that we want business to do to be competitive.

I can think of innumerable examples. Just a couple: Suppose the employer wants the people to be bilingual or to agree to learn a second language because they want to do business in a country where English is not the predominant language. That could be a concept that goes beyond whether one can fold a paper. That could apply to, of course, doing business in sections of this country where English is not the predominant language. Let us suppose that the employer is thinking of opening up another branch elsewhere in the United States or even overseas and says, "If you want to come to work for us, you have to agree to work at least 1 year in our new overseas office, if we open it, so we could get it going," and I think that is another example where an employer has a legitimate need which goes beyond: Do you fold a piece of paper? The key words are: legitimate interests of the employers.

We do not want another grandfather clause. We do not want another provision that is intended to discriminate or results in discrimination without any rhyme or reason to it. But I think that the administration has the better position because of its greater flexibility to business which I think should be offered.

Mr. Speaker, let me conclude by going through one last area here, and that is the actual votes we took on the House floor. This became one more complexity because we had three different amendments to vote upon and then the procedures used in those amendments. When this reached the House floor, we had the original bill with three amendments offered. The first was the Towns-Schroeder amendment after our colleagues, Congressman TOWNS and Congresswoman SCHROEDER, which again, because of lack of time here, I would describe as the most like H.R. 1, the fewest changes to H.R. 1, basically a repetition of H.R. 1, though with some differences.

The second amendment that was offered was the Michel amendment after our distinguished minority leader, Congressman MICHEL, and it was the administration's bill which did not allow a suit for damages, but it had this broader business flexibility idea.

Third and finally, there was the Brooks-Fish amendment after our colleagues, JACK BROOKS and HAMILTON FISH, the chairman and ranking Republican, respectively, on the Committee on the Judiciary, which I think could fairly be described as an attempt to compromise between the first two.

Now I want to say that I voted in what might be considered an unusual fashion. Just stopping for a moment with the Towns-Schroeder substitute and the Michel substitute, I voted for both of those. Now since those were put as diametrically opposed to each other, how could one do that? Why would one do that? Well, it is because I agreed with parts of both. I agreed with the intentional discrimination provisions of the Towns-Schroeder, and I agreed with the business practices provisions of the administration's bill. The point is that voting for both; in other words, expressing myself this way, was made necessary because we were not allowed an open rule, meaning we were not allowed to freely amend these amendments. We had to vote yes or no on the Towns-Schroeder amendment, we had to vote yes or no on the Michel amendment, and we had to vote yes or no on the Brooks-Fish amendment.

□ 2100

We could not, and I have expressed how I would do it. Other Members would do it differently. We could not go up to the Towns-Schroeder amendment, the first one offered, and say, "I move to amend this to change paragraph 7 in this bill." It was not allowed by the Committee on Rules.

When we had the Towns-Schroeder amendment, we had to vote yes or no. That was our only choice. The same with the Michel amendment, and the same with the Brooks-Fish amendment.

Therefore, I voted yes twice, expressing support for two different parts of these two bills.

But it might be asked, was there not a risk then? Both these amendments failed. Neither the Towns-Schroeder amendment nor the Michel amendment received a majority of votes.

We then went on to vote for the compromise bill. I voted for it. That is now what is over in the other body. It can be rightfully asked, is there not a risk of a contradiction? Let us suppose that more than one of these passed. Is there not a risk you would have more than one bill going over to the Senate?

The answer is there was absolutely no risk. The reason there was no risk is because of another procedural means we have in this body called King of the Hill. King of the Hill is a little device that says where more than one amendment is offered, the last one that passes becomes the law, period, and it does not matter whether the first two passed or did not pass. It does not even matter if the first two passed by more votes.

In this particular case it was simply common knowledge that the Brooks-Fish substitute was going to pass. What that meant was that the first two amendments, the one offered, if you will, from the left, and the one offered from the right, were going to be defeated, no matter how many votes they got. Therefore, I could in fact vote for two, because they were both in effect dead as legislation anyway by the way the procedures were set up.

Let me conclude by talking about the future. We did pass the Brooks-Fish substitute. We have sent it over to the other body. Still another amendment, at least one, will be offered there. Perhaps more.

Mr. Speaker, my view is that we do need a bill. There are matters which need to be corrected in the decisions that have been made, as well as other aspects of civil rights legislation.

I simply urge Members to reduce the amount of acrimony that I have heard rise over this issue on both sides, and to seek to reach an intelligent overall compromise, that will do its best to compromise the various points, which I believe is possible, and which I believe can ultimately produce a bill that will advance our search for civil rights, and which will not have the adverse effect of creating a quota.

TRIBUTE TO HAZELTINE NATIONAL GOLF CLUB, CHASKA, MN

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, the people of Minnesota welcome golf fans from all over the world to the U.S. Open Golf Championship starting tomorrow at Hazeltine National Golf Club, Chaska, MN.

Mr. Speaker, I rise to salute the 3,500 dedicated volunteers in the Third District of Minnesota who have been working hard for several years to prepare to host the 91st U.S. Open Golf Championship.

Hazeltine National Golf Club in Minnesota is a fitting site for the world's most prestigious golf tournament. There are more golfers per capita in Minnesota than any other State, and more golfers in the Third District of Minnesota than any other area of the State.

This year's tournament promises to be one of the most exciting ever. Already the crowds at the three practice rounds have smashed all previous attendance records.

Based on the number of tickets sold, overall attendance records are sure to be broken. Minnesotans love golf and appreciate great talent. An unprecedented field of competitors has assembled.

The course itself has drawn rave reviews from these U.S. Open golfers, the best to judge the field of competition. Many of them have called Hazeltine the best test of gold for an Open in many years—tough but fair, immaculately conditioned, picturesque. This is a real credit to the staff at Hazeltine.

Mr. Speaker, today as the U.S. Open begins in Chaska, MN, I invite all my colleagues to see why the great State of Minnesota is the sports capital of the Nation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SCHIFF) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 60 minutes, today.

Mr. SCHIFF, for 60 minutes, today.

(The following Members (at the request of Mr. HUTTO) to revise and extend their remarks and include extraneous material:)

Mr. HUTTO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WILLIAMS, for 60 minutes, on June 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PANETTA and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,521.

(The following Members (at the request of Mr. SCHIFF) and to include extraneous matter:)

Mr. GOODLING.
Mr. MOORHEAD.
Mr. SMITH of Oregon.
Mr. MACHTLEY.
Mr. PORTER.
Mr. SOLOMON.
Mr. DAVIS.
Mr. DORNAN of California in two instances.
Mr. SHAW.
Mr. CUNNINGHAM in two instances.
Mr. WOLF.
Ms. ROS-LEHTINEN.
Mr. HUNTER.
Mr. MCEWEN.
Mr. GEKAS.
Mr. SUNDQUIST.
Mr. GILMAN.

(The following Members (at the request of Mr. HUTTO) and to include extraneous matter:)

Mr. MILLER of California in two instances.
Mr. EDWARDS of California.
Mr. ACKERMAN.
Mr. FASCELL.
Mr. SCHUMER.
Mr. NEAL of Massachusetts.
Mr. REED.
Mr. BROWN.
Mr. STARK.
Mr. HOCHBRUECKNER.
Mr. HAMILTON.
Mr. MOAKLEY.
Mr. RANGEL.
Mr. LIPINSKI.
Mr. BUSTAMANTE.
Mrs. BOXER in two instances.
Mr. LAFALCE.
Mr. LANTOS.
Mr. ROE in two instances.
Mr. TORRES.
Mr. TOWNS.
Mr. SABO.
Mr. SOLARZ.
Mrs. LOWEY of New York.
Ms. SLAUGHTER of New York.
Mr. KILDEE.
Mr. HUBBARD.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 426. An act for the relief of Abby Cooke; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week."

ADJOURNMENT

Mr. SCHIFF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, June 13, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1528. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting the annual report on conditional registration of pesticides during fiscal year 1990, pursuant to 7 U.S.C. 136w-4; to the Committee on Agriculture.

1529. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the disposal of certain strategic and critical materials from the National Defense Stockpile and to amend the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.); to the Committee on Armed Services.

1530. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Annual Audit of the Boxing and Wrestling Commission for Fiscal Year 1990," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

1531. A letter from the Secretary of Education, transmitting a notice of Final Priority—Developmental Bilingual Education and Special Alternative Instructional Programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1532. A letter from the Secretary of Education, transmitting a notice of Final Priority—Training Programs for Educators—Innovative Alcohol Abuse Education Programs, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1533. A letter from the Secretary of Education, transmitting a draft of proposed legislation to amend the Higher Education Act of 1965 to target Federal grant assistance on the lowest-income students, to reward excellence and success in education, to enhance choice and flexibility, to promote greater accountability, to reduce waste and abuse in the use of public funds, to extend the act, and for other purposes; to the Committee on Education and Labor.

1534. A letter from the Assistant Secretary for Fossil Energy, Department of Energy, transmitting notification that the Strategic Petroleum Reserve Quarterly Report due May 15, 1991, has been delayed and expect to submit the report by June 17, 1991; to the Committee on Energy and Commerce.

1535. A letter from the Defense Security Assistance Agency, transmitting a copy of Transmittal No. 06-91, concerning a proposed Memorandum of Understanding Cooperative Project with the defense establishments of the Federal Republic of Germany, and the Kingdom of Norway, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

1536. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original reports of political contributions by Richard W. Carlson, of California, Ambassador-designate and members of his family pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1537. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of Treasury, transmitting a copy of an amendment to the Kuwait Assets Control Regulations, pursuant to Public Law 101-513, section 586C(c)(1) (104 Stat. 2048); to the Committee on Foreign Affairs.

1538. A letter from the Administrator, Agency for International Development and the First Vice President and Chairman, Eximbank of the United States, transmitting the Agency's semiannual report on the amount and extension of credits under the Trade Credit Insurance Program to Costa Rica, Guatemala, Honduras, El Salvador, and Nicaragua, 1990, pursuant to 22 U.S.C. 2184(g); to the Committee on Foreign Affairs.

1539. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 2127, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

1540. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Department's Office of Inspector General for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1541. A letter from the Federal Cochairman, Appalachian Regional Commission, transmitting the semiannual report of the Office of Inspector General covering the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

1542. A letter from the Executive Secretary, Federal Reserve Employee Benefits System, transmitting a copy of the retirement plan for employees of the Federal Reserve System, as of December 31, 1990, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1543. A letter from the Director, Legislative Affairs, Department of Commerce, transmitting a report entitled, "U.S. Foreign Trade Highlights, 1990"; to the Committee on Ways and Means

1544. A letter from the Secretary, Department of Health and Human Services, transmitting the third annual report on Indian Sanitation Facility Deficiencies, pursuant to Public Law 100-713, section 302 (102 Stat. 4815); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

1545. A letter from the Acting Secretary of the Treasury, transmitting the Department's 1991 report on intermarket coordination, pursuant to section 8(a) of the Market Reform Act of 1990; jointly to the Committees on Energy and Commerce, Banking, Finance and Urban Affairs, and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 174. Resolution waiving certain points of order during consideration of H.R. 2608, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-107). Referred to the House Calendar.

Mr. OBEY: Committee on Appropriations. H.R. 2621. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-108). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROYBAL: Committee on Appropriations. H.R. 2622. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-109). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee of Conference. Conference report on S. 64 (Rept. 102-110). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GOODLING (for himself, Mr. RIDGE, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. HOUGHTON, and Mr. REGULA):

H.R. 2620. A bill to amend the National Labor Relations Act to prevent discrimination based on participation in an economic strike; to the Committee on Education and Labor.

By Mr. OBEY:

H.R. 2621. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. ROYBAL:

H.R. 2622. A bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. BUSTAMANTE:

H.R. 2623. A bill to amend title 10, United States Code, to permit the expansion of the dental program for spouses and children of members of the Armed Forces; to the Committee on Armed Services.

By Mrs. COLLINS of Illinois (for herself, Mr. GEPHARDT, Mr. KOSTMAYER, Mr. BRUCE, Mr. MANTON, Mr. TOWNS, Mr. MCMILLEN of Maryland, Mr. LEVIN of Michigan, Mr. BRYANT, Mr. SIKORSKI, Mr. ECKART, Mr. MINETA, Mr. WISE, Mr. DURBIN, and Mrs. BENTLEY):

H.R. 2624. A bill to amend section 721 of the Defense Production Act of 1950 to clarify and strengthen its provisions pertaining to national security takeovers; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Foreign Affairs.

By Mr. COMBEST:

H.R. 2625. A bill to amend title 44, United States Code, to provide for improved identification and assessment of the paperwork burden imposed on beneficiaries of health care services and providers of such services, and to provide for the reduction of such burden; to the Committee on Government Operations.

By Mr. DELLUMS:

H.R. 2626. A bill to eliminate certain obsolete reporting requirements for the District of Columbia; to the Committee on the District of Columbia.

By Mr. GOODLING (by request):

H.R. 2627. A bill to amend the Higher Education Act of 1965 to target Federal grant assistance on the lowest-income students, to reward excellence and success in education, to enhance choice and flexibility, to promote greater accountability, to reduce waste and abuse in the use of public funds, to extend the act, and for other purposes; to the Committee on Education and Labor

By Mr. JOHNSON of South Dakota (for himself, Mr. OBEY, Mr. DORGAN of North Dakota, Mr. LAROCCO, Mr. MOODY, Mr. NAGLE, Mr. PETERSON of Minnesota, Mr. SANDERS, and Mr. STALLINGS):

H.R. 2628. A bill to amend the Agricultural Act of 1949 to establish a two-tier price support program for milk to operate in any year in which the Commodity Credit Corporation purchases of milk will exceed 4,500,000,000 pounds and to establish a minimum solids content for fluid milk; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. LAFALCE:

H.R. 2629. A bill to amend the Small Business Act to assist the development of small business concerns owned and controlled by women, and for other purposes; to the Committee on Small Business.

By Mr. ORTIZ:

H.R. 2630. A bill to provide that immigration judges, for purposes of determining compensation, be treated in the same manner as administrative law judges; to the Committee on the Judiciary.

By Mr. SHARP:

H.R. 2631. A bill to amend the Clayton Act and the Defense Production Act of 1950 with respect to notification of certain mergers and acquisitions, and for other purposes; jointly, to the Committees on the Judiciary, Banking, Finance and Urban Affairs, Energy and Commerce, and Foreign Affairs.

By Mr. STARK (for himself and Mr. ROEMER):

H.R. 2632. A bill to amend the Internal Revenue Code of 1986 to deny the benefits of the Puerto Rico and possession tax credit in the case of runaway plants; to the Committee on Ways and Means.

By Mr. WOLF:

H.R. 2633. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the earned income tax credit for individuals with young children; to the Committee on Ways and Means.

By Mr. FASCELL (for himself, Mr. HAMILTON, Mr. BERMAN, Mr. GEJDENSON, Mr. LANTOS, Mr. LEVINE of California, Mr. WEISS, Mr. LAFALCE, Mr.

Gephardt, Mr. Gilman, Mr. Obey, and Mr. Miller of Washington):

H.J. Res. 270. Joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 Apache attack helicopters; to the Committee on Foreign Affairs.

By Mr. MINETA (for himself, Mr. Matsui, Mr. Horton, Mr. Hoyer, Mrs. Mink, Mr. Miller of California, Mr. Edwards of California, Mr. Levine of California, and Mr. Jones of Georgia):

H.J. Res. 271. Joint resolution authorizing the Go for Broke National Veterans Association to establish a memorial to Japanese American Veterans in the District of Columbia or its environs; to the Committee on House Administration.

By Mr. GEKAS:

H. Con. Res. 165. Concurrent resolution expressing the sense of the Congress relating to investigation of the Medicare Program and the high cost of durable medical equipment provided by certain health care suppliers; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. RITTER:

H. Res. 175. Resolution concerning the Republic of Latvia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

181. By the SPEAKER: Memorial of the Senate of the State of Louisiana, relative to England Air Force Base; to the Committee on Armed Services.

182. Also, memorial of the Senate of the State of Alaska, relative to Federal legislation against violence to women; to the Committee on the Judiciary.

183. Also, memorial of the General Assembly of the State of Colorado, relative to the desecration of the U.S. flag; to the Committee on the Judiciary.

184. Also, memorial of the House of Representatives of the State of Alaska, relative to the Federal highway trust fund and the federally aided highway program; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 196: Mr. Jefferson, Mr. Dixon, Mr. Payne of New Jersey, Ms. Norton, and Mr. Clay.

H.R. 300: Mr. Neal of Massachusetts.

H.R. 640: Mr. Stenholm.

H.R. 645: Mr. Valentine and Mr. Kanjorski.

H.R. 667: Mr. Staggers, Mr. Wyden, Mr. Owens of New York, Mr. Kanjorski, and Mr. Markey.

H.R. 710: Mr. Packard, Mr. Hammerschmidt, Mr. McMillen of Maryland, Mr. Porter, Mr. Machtley, Mr. Taylor of Mississippi, Mr. Schaefer, Mr. Bryant, and Mr. Wilson.

H.R. 841: Mr. Miller of California.

H.R. 906: Mr. Stark.

H.R. 907: Mr. Nagle and Mr. Horton.

H.R. 967: Mr. Lewis of Georgia.

H.R. 1061: Ms. Norton.

H.R. 1062: Ms. Norton.

H.R. 1080: Mr. Hayes of Illinois and Mr. Sensenbrenner.

H.R. 1116: Mr. Boucher.

H.R. 1124: Mr. Evans, Mr. Hayes of Illinois, and Mr. Machtley.

H.R. 1147: Mr. Blaz, Mr. Perkins, Mr. McMillan of North Carolina, Mr. Price, Mr. Erdreich, Mr. Bilirakis, and Mrs. Morella.

H.R. 1156: Mr. Kyl, Mr. Anderson, Mr. Dannemeyer, and Mr. Eckart.

H.R. 1277: Mr. Carr, Mr. Campbell of California, Mr. Hall of Texas, Mr. Zeliff, Mr. Thomas of California, Mr. Johnson of Texas, Mr. Nichols, Mr. Barton of Texas, Mr. Davis, Mr. Hutto, Mr. Roe, Mr. Harris, Mr. Darden, Mr. Torricelli, Mr. Taylor of Mississippi, Mr. Neal of Massachusetts, Mr. Tanner, Mr. Murtha, Mr. Bilbray, Mr. Murphy, Mr. Stenholm, Mr. Miller of Ohio, Mr. Bacchus, Mr. Hayes of Louisiana, Mr. Torres, Mr. Ortiz, Mr. McCandless, Mr. Kildee, Mr. Lewis of Georgia, Mr. Dymally, Mr. Sangmeister, Mr. Lagomarsino, Mr. Leach, Mr. Tauzin, Mr. Feighan, Mr. Rowland, and Mr. Bennett.

H.R. 1300: Mr. Beilenson.

H.R. 1328: Mr. Kopetski and Mr. Brown.

H.R. 1345: Mr. Ballenger and Mrs. Byron.

H.R. 1346: Mr. Lehman of California.

H.R. 1385: Mr. Bonior, Mrs. Mink, Mr. Hayes of Illinois, Mr. McCloskey, and Mr. Gaydos.

H.R. 1406: Mr. Skeen, Mrs. Bentley, Mr. Gilchrest, Mr. Hayes of Louisiana, Mr. Chandler, Mr. Mavroules, Mr. Frost, and Mr. AuCoin.

H.R. 1430: Mr. Hochbrueckner and Mr. Traficant.

H.R. 1450: Mr. Durbin, Mrs. Lloyd, Mr. Dixon, Mr. Shuster, Mr. Cramer, Mr. Petri, Mr. Kildee, Mr. Archer, Mr. Luken, and Mr. AuCoin.

H.R. 1454: Mr. Sanders.

H.R. 1525: Mr. Pease.

H.R. 1538: Mr. Bennett, Mr. Eckart, and Mr. Stark.

H.R. 1597: Mr. Scheuer.

H.R. 1601: Mr. Kostmayer.

H.R. 1677: Mr. Neal of North Carolina.

H.R. 1723: Mr. Bustamante and Mr. Fish.

H.R. 1733: Mr. Coleman of Texas, Mr. Price, Mr. Dorgan of North Dakota, Mr. Sabo, and Mr. Guarini.

H.R. 2213: Mr. Roe, Mr. Towns, Mr. Durbin, Mr. Lancaster, and Mr. Frost.

H.R. 2224: Mr. Kostmayer and Mr. Machtley.

H.R. 2254: Mr. Abercrombie, Mr. Ackerman, Mr. Annunzio, Mr. Bacchus, Mr. Beilenson, Mr. Burton of Indiana, Mr. Crane, Mr. Lehman of Florida, Mr. Foglietta, Mr. Payne of New Jersey, Mr. Payne of Virginia, Mrs. Lloyd, Ms. Ros-Lehtinen, Mr. Lent, Mr. Hertel, Mr. Kopetski, Mr. Engel, Mr. Houghton, Mr. Sisisky, Mr. Dornan of California, Mr. Erdreich, Mr. Solarz, Mr. Schumer, Mr. Wolpe, Mr. Lantos, Mr. Johnston of Florida, Mr. Scheuer, Mr. Waxman, Mr. Green of New York, Mr. Fascell, Mr. Yatron, Mr. Gejdenson, Mr. McHugh, Mr. McNulty, Mr. Feighan, Mr. Horton, Mr. Evans, Mr. Weiss, Mr. Markey, Mrs. Lowey of New York, Mr. Levine of California, Mr. Lancaster, Mr. Frost, Ms. Norton, Mr. Slattery, Mr. Dellums, Mr. Smith of Florida, Mr. Durbin, Mr. Zeliff, Mr. Gilman, Mr. Serrano Mrs. Vucanovich, Mr. Upton, Mr. Kolbe, Mr. Miller of Washington, Mr. Panetta, Mr. Faleomavaega, Mr. Solomon, Mr. Mrazek, and Mr. Montgomery.

H.R. 2257: Mr. Weber.

H.R. 2258: Mr. Andrews of New Jersey, Mr. Frank of Massachusetts, Mr. Kildee, Mr. McCloskey, Mr. Murtha, Mr. Rangel, Mrs. Schroeder, Mr. Slattery, Mr. Towns, and Mr. Walsh.

H.R. 2279: Mr. Neal of Massachusetts.

H.R. 2335: Mr. Neal of Massachusetts.

H.R. 2351: Mr. Wyden.

H.R. 2374: Ms. Pelosi and Mrs. Unsoeld.

H.R. 2393: Mr. Payne of New Jersey, Mr. Roe, and Mr. Fascell.

H.R. 2394: Mr. Payne of New Jersey, Mr. Roe, and Mr. Fascell.

H.R. 2419: Mr. Hayes of Illinois, Mr. Inhofe, and Mr. Kildee.

H.R. 2448: Mr. Coleman of Texas, Mr. Hayes of Illinois, Mr. Jones of North Carolina, Mr. Kildee, Mr. Lehman of Florida, Mr. Mollohan, Mr. Nowak, and Mr. Vento.

H.R. 2470: Mr. Weber and Mr. Wilson.

H.R. 2492: Mr. Eckart.

H.R. 2515: Mr. Dwyer of New Jersey, Mr. Duncan, Mr. Andrews of New Jersey, Mr. Taylor of North Carolina, Ms. Molinari, Mr. Emerson, Mr. Peterson of Florida, Mr. DeFazio, and Mr. Mazzoli.

H.R. 2566: Mr. Bonior, Mr. Petri, Mr. Rose, Mr. Inhofe, Mr. Gonzalez, Mr. Darden, Mr. Hatcher, and Mr. Rowland.

H.R. 2579: Mr. Horton, Mr. Martin, and Mr. Roybal.

H.R. 2584: Mr. Horton and Mr. Abercrombie.

H.J. Res. 67: Mr. Markey, Mr. Lehman of Florida, Mr. Borski, and Mr. Leach.

H.J. Res. 102: Mr. Skelton, Mr. McDermott, Mr. Martin, Mr. Hobson, Mrs. Collins of Illinois, Mr. Bacchus, Mr. Guarini, Mr. Barnard, Mr. Borski, Mr. Shays, Mr. Cardin, Mr. Carper, Mr. Coble, Mr. Frost, Mr. Davis, Mr. Darden, Mr. Dickinson, and Mr. Dellums.

H.J. Res. 140: Mr. Hochbrueckner, Mr. Duncan, Mrs. Lloyd, Mr. Houghton, Mr. Kleczka, Mr. Tauzin, Mr. Jacobs, Mr. Geren of Texas, Mr. Hayes of Louisiana, Mr. Kennedy, Mr. Abercrombie, Mr. Sawyer, Mr. Aspin, and Mr. Gonzalez.

H.J. Res. 152: Mr. Lagomarsino, Mr. Goodling, and Mr. Ray.

H.J. Res. 207: Mr. Sikorski, Mr. Neal of North Carolina, Mr. Kasich, Mr. Coleman of Texas, Mr. Valentine, Mr. Chapman, Mr. Ravenel, Mr. Stokes, Mr. Taylor of North Carolina, Mr. Berman, Mr. Cooper, Mr. Moody, Mr. Manton, Mr. Markey, Mr. Sangmeister, Mr. Fazio, Mr. de Lugo, Mr. Price, Mrs. Kennelly, Mr. Bruce, Mr. Spratt, Mr. Machtley, Mr. Kildee, Mr. McCollum, Mr. Aspin, Mr. Richardson, Mr. Scheuer, Mr. Wyden, Mr. Laughlin, Mr. Moakley, Mr. Schulze, Mr. Ireland, Mr. Gallo, Mr. Feighan, Mr. Morrison, Mr. Hall of Texas, Mr. Edwards of Texas, Mr. Frost, Mr. Stenholm, Mr. Geren of Texas, Mr. DeLay, Mr. Chandler, Mr. Hatcher, Mr. Murtha, Mr. Hoagland, and Mr. Lowery of California.

H.J. Res. 216: Mr. Annunzio.

H.J. Res. 229: Mr. McGrath, Mr. Kasich, Mrs. Kennelly, Mr. Bryant, Mr. Wolf, Mr. McMillan of North Carolina, Mr. Kildee, Mr. Valentine, Mrs. Collins of Illinois, Mr. Mrazek, Mr. Matsui, and Mr. Saxton.

H.J. Res. 238: Mr. Horton, Mr. Payne of Virginia, Mr. Clement, Mr. McDermott, Mr. Quillen, Mr. Smith of Florida, Mr. Erdreich, Mr. DeFazio, Mr. Guarini, Mr. Bustamante, Mr. Rangel, Ms. Norton, Mr. Walsh, Ms. Kaptur, and Mr. Espy.

H.J. Res. 255: Mr. Peterson of Florida, Mr. Kennedy, Mr. Paxon, Mr. Bilirakis, Mr. Wolf, Mr. Blaz, Mr. McMillen of Maryland, Mr. Horton, Mr. Erdreich, Mr. Smith of Florida, Mr. Bryant, Mr. Abercrombie, Mr. Neal of Massachusetts, Mr. Jefferson, Mr. Waxman, Mrs. Johnson of Connecticut, Mr.

MCNULTY, Mr. BATEMAN, Mr. CLEMENT, Mr. BEVILL, Mr. SKEEN, Mr. RITTER, Mr. QUILLEN, Mrs. VUCANOVICH, Mr. ANDREWS of New Jersey, Mr. ATKINS, Mr. BREWSTER, Mr. COBLE, Mr. DAVIS, Mr. DICKINSON, Mr. DICKS, Mr. DONNELLY, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. GALLO, Mr. FOGLIETTA, Mr. FALEOMAVAEGA, Mr. ESPY, Mr. FAWELL, and Mr. GILCHREST.

H. Con. Res. 18: Ms. NORTON.

H. Con. Res. 63: Mr. ZIMMER.

H. Con. Res. 81: Mr. KASICH.

H. Con. Res. 100: Mr. ANDERSON, Mr. KASICH, Mr. TRAFICANT, Mrs. UNSOELD, Mr. BUSTAMANTE, Mr. THOMAS of Georgia, Mr. TAUZIN, Mr. TRAXLER, Mr. VOLKMER, Mr. CLEMENT, Mr. DYMALLY, Mr. YATRON, Mr. RITTER, Mr. DARDEN, Mr. RHODES, Mr. PESHARD, Mr. DONNELLY, Mr. HOCHBRUECKNER, Mr. FRANKS of Connecticut, Mr. GILMAN, Mr. FROST, Mr. FAZO, Mr. UPTON, and Mr. RIGGS.

H. Con. Res. 150: Mr. DE LUGO, Mr. FRANK of Massachusetts, Mr. GORDON, Ms. KAPTUR, Mr. MCDERMOTT, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. RAHALL, Mr. RANGEL, Mr. RICHARDSON, Mr. SABO, Mr. SCHUMER, Ms. SLAUGHTER of New York, and Mr. Wyden.

H. Con. Res. 163: Mr. AUCOIN, Mr. SHAYS, Mr. BEVILL, Mr. MAVROULES, Mr. ROE, Mr. JEFFERSON, Mr. WAXMAN, Mrs. JOHNSON of Connecticut, Mr. HARRIS, Mr. RITTER, Mr. LOWERY of California, and Mr. SERRANO.

H. Res. 139: Mr. PAYNE of Virginia, Mr. JONTZ, Mr. LAGOMARSINO, Mr. DAVIS, Mr. INHOFE, Mr. HENRY, Mr. RIGGS, Mr. HUCKABY, Mr. ACKERMAN, Mr. PAYNE of New Jersey, Mr. HARRIS, Mrs. PATTERSON, and Mr. FIELDS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 392: Mr. CHANDLER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

87. By the SPEAKER: Petition of the Mayor and Council of the City of Sweetwater, FL, relative to the Fair Labor Standards Act; to the Committee on Education and Labor.

88. Also, petition of the mayor and council of the city of Sweetwater, FL, relative to amending the election laws; to the Committee on House Administration.

89. Also, petition of the mayor and council of the city of Sweetwater, FL, relative to amending the election laws; to the Committee on House Administration.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2508

By Mr. BURTON of Indiana

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) REPORT ON ACCESS OF HUMAN RIGHTS MONITORING ORGANIZATIONS.—Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) TERMINATION OF DEVELOPMENT ASSISTANCE PROGRAMS.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, 25 percent of development assistance for India shall be terminated, except for assistance to continue the vaccine and immunodiagnostic development project, the child survival health support project, and the private and voluntary organizations for health II project.

(c) RESUMPTION OF ASSISTANCE.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) REPORT ON ACCESS OF HUMAN RIGHTS MONITORING ORGANIZATIONS.—Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) TERMINATION OF DEVELOPMENT ASSISTANCE PROGRAMS.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, 50 percent of development assistance for India shall be terminated, except for assistance to continue the vaccine and immunodiagnostic development project, the child survival health support project, and the private and voluntary organizatons for health II project.

(c) RESUMPTION OF ASSISTANCE.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizatons from visiting India in order to monitor human rights conditions in that country.

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) REPORT ON ACCESS OF HUMAN RIGHTS MONITORING ORGANIZATIONS.—Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) TERMINATION OF DEVELOPMENT ASSISTANCE PROGRAMS.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, 75 percent of development assistance for India shall be terminated, except for assistance to continue the vaccine and immunodiagnostic development project, the child survival health support project, and the private and voluntary organizations for health II project.

(c) RESUMPTION OF ASSISTANCE.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

—Page 671: In the Statement of Policy, delete section 1023(b)(3), and insert in lieu thereof the following:

(3) supports the fundamental right of self-determination for the people of Eritrea, and supports the exercise of that right by means of an internationally supervised referendum on Eritrea;

By Mr. KANJORSKI:

—On page 488, line 10, after the word "articles" insert

", other than construction equipment including but not limited to tractors, scrapers, loaders, graders, bulldozers, trucks, generators and compressors,"

By Mr. LAGOMARSINO:

—Page 381, line 7, after "(a) STATEMENT OF POLICY.—" insert "(1) POLICY TOWARD PAKISTAN.—"

—Page 381, line 24, insert the following new section:

"(2) REGIONAL NUCLEAR NON-PROLIFERATION POLICY.—The Congress further recognizes that a successful nuclear non-proliferation policy in South Asia can best be achieved through a regional United States policy aimed at securing concurrent agreement by the Governments of Pakistan, India and the People's Republic of China on non-proliferation. Such a policy should have as its ultimate goal concurrent accession by Pakistan, India and the People's Republic of China to the Nuclear Non-Proliferation Treaty, but should also include as needed a phased approach to that goal through a series of agreements between the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities."

—On page 383, line 3, after the words "ANNUAL CERTIFICATION.—", insert "(1) CERTIFICATION ON PAKISTAN.—".

—On page 383, line 16, insert the following new paragraph:

"(2) CERTIFICATION ON INDIA.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the autorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that India has agreed to place all plutonium produced in the U.S.-supplied fuel for the Tarapur nuclear power plant (under the "Tarapur Agreement") under International Atomic Energy Agency safeguards after the Tarapur Agreement has ended.".

—On page 383, in subsection (e), after the word "Pakistan" in each case in which it occurs, insert the words "and India".

—On page 38, strike line 16 through page 384, line 14.

—On page 384, line 15 insert the following new section and renumber the following sections accordingly:

"SEC. 5505. ASSISTANCE FOR INDIA.

"(a) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

—On page 384, line 15 insert the following new section and renumber the following sections accordingly:

"SEC. 5505. ASSISTANCE FOR INDIA

"(a) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

"(b) FURTHER RESTRICTION ON ASSISTANCE.—Subject to subsection (c), unless a certification under subsection (a) is in effect as of September 30, 1992, no funds may be allocated for fiscal year 1993 for assistance to India, or for the sale or transfer of defense articles or defense services to India.

"(c) IF A CERTIFICATION IS MADE.—If a certification under subsection (a) is made in a fiscal year after the prohibition in subsection (b) applies, funds for assistance, sales, or transfers described in subsection (b) may be allocated for India pursuant to the reprogramming provisions of section 6304 of the Foreign Assistance Act or pursuant to a subsequent appropriation act."

By Mr. McCOLLUM:

—Page 712, after line 12, insert the following:

(c) RESTRICTION ON PROGRAMS IN LAOS.—The Peace Corps may not carry out programs in Laos until the President determines and so reports to the appropriate congressional committees, that the Government of Laos has taken legal and law enforcement measures to prevent and punish public corruption, especially by government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

—Page 128, strike out from line 5 "SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF MILITARY ASSISTANCE RECIPIENTS", through page 134, line 7, and page 139, line 17, "SEC. 2303. NATURAL RESOURCES AND WILDLIFE MANAGEMENT", through page 143, line 22, and redesignate Sec. 2302, Sec. 2304, and Sec. 2305 as Sec. 2301, Sec. 2302, and Sec. 2303.

—Page 128, strike out from line 3 "CHAPTER 3—TRANSFERS OF EXCESS DEFENSE ARTICLES" through page 144, line 25, Sec. 2301 through Sec. 2305, and redesignate "CHAPTER 4" as "CHAPTER 3".

—Page 128, strike out from line 5 "SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF MILITARY ASSISTANCE RECIPIENTS" through page 134, line 7, and redesignate Sec. 2302, Sec. 2303, Sec. 2304, Sec. 2305, as Sec. 2301, Sec. 2302, Sec. 2303, Sec. 2304.

By Mr. PORTER:

—Page 614, Line 4, after "AND" the second time it appears, insert "CERTAIN GOVERNMENTAL AGENCIES AND" and page 615 strike out lines 22 through 24 and insert in lieu thereof the following:

(2) any indigenous nongovernmental organization in the Soviet Union that promotes democratic reform, human rights, the rule of law, or market oriented reforms, and

(3) any governmental agencies in the Soviet Union that promote democratic reforms, human rights, the rule of law, or market oriented reforms, except that funds made available under this section may be expended for technical assistance for such an agency but may not be provided directly to such an agency.

—On page 614, line 24, strike "or" and insert ",human rights, the rule of law, or".

—Page 614, Line 4, after "AND" the second time it appears, insert "CERTAIN GOVERNMENTAL AGENCIES AND" and page 615 after line 24 insert the following:

(3) any governmental agencies in the Soviet Union that promote human rights and the rule of law, except that technical assistance provided under this paragraph must be used for the purpose of bringing together U.S. federal judges and Soviet judges from the federal and republic levels and prosecutors, court employees, law students, and other legal professionals for the purpose of conducting a dialogue on the independence of the judiciary, the proper role of the courts in a free society, and other legal and judicial issues, except that funds made available under this section may be expended for technical assistance for such an agency but may not be provided directly to such an agency.

—On page 614, line 24, strike "or" and insert ", human rights, the rule of law, or".

By Mr. SCHUMER:

—Page 665, after line 2, insert the following new section:

Sec. . Expressing the sense of Congress that Japan should fulfill its commitment to defend the air space and sea lanes within 1,000 nautical miles of Japan.

(a) FINDINGS.—

(1) Japan agreed in 1981 to assume from the United States the defense of the air space and sea lanes within 1,000 nautical miles of Japan;

(2) successful fulfillment of this mission requires extensive early warning and command and control capability which can only be provided by AWACS aircraft;

(3) after 10 years Japan has not purchased any of the vital early warning aircraft or the refueling tankers needed to support such aircraft;

(4) Japan's current five-year defense plan calls for the purchase of only 4 of the 12 to 14 AWACS planes and none of the refueling tankers required to assume this mission;

(5) the United States continues and will continue, under present Japanese planning, to provide the AWACS capability needed to defend Japanese air and sea space; and

(6) the United States will need to draw upon all of its AWACS capability in the future for the verification of arms reduction treaties and the protection of United States forces engaged in operations abroad like Operation Desert Storm: Now, therefore, be it

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Japan must live up to its commitment to defend its own air space and sea lanes out to 1,000 nautical miles;

(2) Japan must alter its defense plans to include the purchase of the requisite number of AWACS early warning aircraft and support tankers; and

(3) the Department of State should enter into negotiations with Japan leading to the successful assumption by Japan of the 1,000-mile defense mission.

By Mr. SOLOMON:

—Page 644, lines 4 and 5: Delete "IRAN, IRAQ, LIBYA, PAKISTAN, AND SYRIA." and insert in lieu thereof "CERTAIN COUNTRIES."

—Page 644, lines 21 and 22: Delete "Iran, Iraq, Libya, Pakistan, or Syria" and insert in lieu thereof "Algeria and such terrorist states as Iran, Iraq, Libya, and Syria".

—Page 645, lines 5 and 6: Delete "Iran, Iraq, Libya, Pakistan, or Syria" and insert in lieu thereof "Algeria and such terrorist states as Iran, Iraq, Libya, ans Syria".

By Mr. TAYLOR of Mississippi:

—On page 488, line 10, after the word "articles" insert ", other than construction equipment including, but not limited to, tractors, scrapers, loaders, graders, bullbozers, trucks, generators and compressors,"

By Mr. TORRICELLI:

—Page 566, strike out line 18 and all that follows through line 14 on page 568 (section 817) and insert in lieu thereof the following:

SEC. 817. DEMOCRATIC REFORM AND HUMAN RIGHTS IN KUWAIT.

(a) FINDINGS.—The Congress finds that—

(1) because the United States and its allies committed their armed forces and resources to the liberation of Kuwait, the United States and its allies have a special interest and responsibility with respect to the future of Kuwait; and

(2) it is United States policy to promote respect for internationally recognized human rights and the development of democratic institutions in Kuwait and around the world.

(b) REPORT.—Not later than sixty days after enactment, the President shall report to the appropriate congressional committees whether the Government of Kuwait—

(1) has put an end to the occurrences of arbitrary arrest, torture and other extrajudicial actions;

(2) has taken significant steps to bring to justice to those responsible for perpetrating such abuses;

(3) has ensured that those detained have access to legal counsel, the right to an open and speedy trial, and other internationally recognized standards of due process of law;

(4) is taking firm steps to terminate martial law and to restore full constitutional processes;

(5) has continued to allow the presence and activities of international human rights and humanitarian organizations; and

(6) remains committed to the October 1992 date established for parliamentary elections, is taking the necesary steps to establish conditions to ensure that such elections are free and fair, and is permitting universal suffrage.

(c) The President and the Congress shall take into account progress on the above-

mentioned factors when determining United State policies toward Kuwait, including policies regarding the sale of defense articles and defense services.

SENATE—*Wednesday, June 12, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9:48 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN D. ROCKEFELLER IV, a Senator from the State of West Virginia.

The PRESIDING OFFICER. The prayer will be offered by Rabbi Shmuel M. Butman, director of Lubavitch Youth Organization.

PRAYER

Rabbi Shmuel M. Butman, director, Lubavitch Youth Organization, Brooklyn, NY, offered the following prayer:

Let us pray:

Dear G-d, with Your bountiful mercy we have just celebrated the 50th anniversary of the arrival to these shores of the revered leader of world Jewry, Rabbi Menachem M. Schneerson, the Lubavitcher Rebbe, Shlita.

In these 50 years, the Rebbe has, with Your divine help, enriched the educational, religious, moral, and ethical lives of millions of people—of all walks of life—throughout the world, and has made this world a better place to live in.

The Rebbe has called this year—5751 in the Jewish calendar, "The Year of Revealed Miracles."

The Rebbe, who was recently honored by this Senate on his 89th birthday, made this classification more than a year ago. And it is indeed happening now.

As the year has unfolded, we have seen hundreds of thousands of Jews from the Soviet Union arrive in Israel to start a new life. We were also witness to a crisis in the Middle East of international proportions and gravest implications.

We thank You, dear G-d, for the miraculously low casualties among the allied forces led by the United States of America, and thank You, dear G-d, that our troops have returned home—and are returning home—safely.

The Rebbe says that the reason we saw so many miracles this year, and are constantly seeing miracles in our daily lives, is due to the fact that You, Almighty G-d, are preparing the world for the miracle of miracles, the final redemption.

We ask you, dear G-d, to give us the strength to accelerate that process and the inspiration to do an extra good deed each day. In this spirit, dear G-d, I would like to take this opportunity to put a dollar bill, on which the words "In G-d We Trust" are imprinted, into this pushke—charity box.

This charity box reminds us all that we have an obligation not only to ourselves and our families, but, also, indeed, to our neighbors and to society in general.

Help us, dear G-d, to bring this message of charity and of the final redemption to all the people in these great United States, and around the world.

Almighty G-d, in Your infinite wisdom, You have established the Members of the Senate as the custodians of honesty and decency, justice, and peace for all peoples in the United States and, through the United States as the moral super power, for all the people of this planet.

We pray, dear G-d, that You continue to bestow Your bounty upon all of the Members of this body. May they merit, dear G-d, to have a "Year of Revealed Miracles" in their communal, national, and international endeavors, as well as in their private lives.

And let us all say: Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 12, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN D. ROCKEFELLER IV, a Senator from the State of West Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROCKEFELLER thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there now will be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

THE GUEST CHAPLAIN

Mr. MOYNIHAN. Mr. President, the opening prayer this morning was delivered by Rabbi Shmuel M. Butman of Brooklyn, NY—the director of the Lubavitch Youth Organization.

Most of the Members of the Senate are familiar with the dynamic work of the Lubavitch movement, which has branches in over 40 States and 100 nations. This extraordinary network of religious, educational, and cultural undertakings is led by an exceptional spiritual leader, Rabbi Menachem Mendel Schneerson, the seventh rabbi of Lubavitch. It is most appropriate that Rabbi Schneerson this week celebrates the 50th anniversary of his arrival in this country.

Rabbi Schneerson recently entered his 90th year. I know I speak for the entire Senate when I ask Rabbi Butman to convey to him our hearty best wishes for many years of continued inspired leadership.

I have met with Rabbi Schneerson on several occasions. New Yorkers of all faiths are proud that the world headquarters of Lubavitch is located in the Crown Heights section of Brooklyn where it was relocated in 1940 by the current Rebbe's venerable predecessor and father-in-law, Rabbi Joseph Schneerson.

Many Members of the Senate are familiar with the role that a member of this body played in securing the release of Rabbi Joseph Schneerson from a Soviet prison and the emigration of his entire immediate family, including the current Rebbe, from Stalin's Russia. The intervention of Senator William Borah of Idaho on behalf of this beleaguered Chassidic family stands as a noble example of courageous moral leadership. All of us in public life would do well to ponder Senator Borah's oft-repeated explanation as to his motive in leading an international campaign to save an apparently obscure religious leader in a faraway land, "I like to do things that get me votes in that final election we will all have to stand for someday."

I thought of Senator Borah last year when I visited Morocco in my capacity as chairman of the Senate Foreign Relations Committee's Subcommittee on the Middle East and South Asia.

When I met with the Jewish leaders of Morocco and toured several of their synagogues and civic centers I discovered two pictures in every building—His Majesty King Hassan II and the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

This should not surprise anyone who is familiar with the Rebbe's historic role in supporting Jewish education and Jewish continuity throughout the world.

Lubavitch is deeply involved in many nations around the globe where it is the only official Jewish presence and the only source of Jewish educational and religious training. And some day, hopefully soon, the full story will be told of Lubavitch's heroic role in keeping Judaism alive in lands of cruel tyranny where teaching the Bible is a crime and uttering a public prayer is rewarded with a prison sentence.

For 40 years these remarkable activities—the publicized and the clandestine; the Chanukah lamp lighting on television and the underground matzah baking under the noses of Communist secret police, the young women giving out Sabbath candles on Fifth Avenue, and the Yeshiva schools in Arab lands—have been directed and inspired by Rabbi Menachem Mendel Schneerson.

I would like to welcome his talented disciple Rabbi Shmuel Butman to the Senate and thank him for his moving words of prayer.

The ACTING PRESIDENT pro tempore. The Chair, in his capacity as the junior Senator from the State of West Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, before beginning, I want to indicate to my colleagues and see if there is any objection to my proceeding for a full 5 minutes.

We had General Schwarzkopf testifying before the Senate Armed Services Committee, and I was necessarily delayed from coming here. I have spoken with Senator REID, who is scheduled to begin debate on the highway bill at 10 o'clock, and he has indicated he would have no objection to my proceeding past the 10 o'clock hour.

I ask unanimous consent that I be allowed to speak for a full 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BUILDING A CONSENSUS FOR DEPLOYING STRATEGIC DEFENSES

Mr. COHEN. Mr. President, in his State of the Union Address, President Bush announced a reorientation of the SDI Program toward defenses against limited ballistic missile attacks against the United States, allies, and U.S. forces overseas. In response to the President's decision, SDIO proposed a new defense concept it calls GPALS, or global protection against limited strikes. I hesitate to call GPALS a new concept, since it really is just a scaled-back version of the same program SDIO was pursuing before the President's decision, merely reducing the number of interceptors intended to be initially deployed.

Because of this fact, the debate on SDI over the past few months has focused on what I consider to be a secondary question regarding the role of space-based interceptors. For those who question SDIO's new GPALS proposal, the central issue has become SDIO's vigorous support for the spaced-based Brilliant Pebbles interceptors, which they view as an excuse for abrogating the ABM Treaty. As a result, Members who are inclined to support the deployment of some type of limited strategic defense system find themselves forced to oppose the President on SDI.

Similarly, many ardent SDI advocates, including some within SDIO, seem to argue that the Brilliant Pebbles Program is the sine qua non of a defense against strategic, or even tactical, ballistic missiles. One almost gets the impression that some SDI advocates would oppose deployment of a strategic defense system if it did not include Brilliant Pebbles.

Mr. President, I think the path this debate has taken clearly distorts the choices we face. While the question of Brilliant Pebbles is not unimportant, it has assumed an inappropriate centrality. Moreover, it has created a fissure between Members of Congress who otherwise might find that they are in essential agreement on the real question of whether or not we should proceed with a limited defensive system to protect against threats we are likely to face early in the next decade.

In the wake of the gulf war, support in Congress has grown for proceeding with both theater missiles defenses and defenses against accidental or unauthorized Soviet attacks and limited attacks from other countries that might acquire long-range missiles. Indeed, it appears that a consensus could be found for developing and deploying such defensive systems.

But there is no consenus for abandoning the ABM Treaty, which would not only undermine prospects for a START Treaty but create pressures to maintain, if not increase, levels of strategic offensive arms. The irony is that precisely at the point when it might be possible to solidify support for deploying limited strategic defenses and more effective tactical missile defenses, the divisive debate over Brilliant Pebbles is undermining the creation of this consensus.

A recent editorial Aviation Week & Space Technology hit the nail on the head:

> Even the biggest fans of strategic defense are beginning to see that SDI's pursuit of a system that is politically, if not technically, infeasible hurts the cause. The Pentagon should do itself a favor and try to restore some credibility to anti-ballistic missile defense research. Quit pushing for near-term deployment of Brilliant Pebbles. Take an evolutionary approach to advancing ballistic missile defenses. Build on Patriot, from the ground up.

What would such an evolutionary approach look like, if it were to win sustainable support from a majority of Members of Congress?

First, it would certainly include vigorous efforts to develop and deploy theater missile defenses, more capable than Patriot, to defend our forward deployed forces and our allies. The current development programs—including Patriot upgrades, ERINT, Arrow, and THAAD—will provide a range of deployment options to meet our theater missile defense needs.

As we increase the capabilities of such antitactical ballistic missiles [ATBM's], we will need to address questions related to the ABM Treaty. Treaty compliance questions arise when ATBM's begin to have the capability to counter SLBM's, particularly shorter range SLBM's, which are the easiest to counter. As a practical matter, the likely Soviet decision to phase out its shorter range SLBM's—the SS-N-6 and SS-N-17—should provide us with needed flexibility in developing more capable successors to the Patriot.

Second, we should vigorously pursue ground-based interceptor programs to provide a two-layered defense of the continental United States. The ABM Treaty originally allowed two ABM sites, each with 100 fixed, land-based interceptors; the 1974 protocol reduced this to one site with 100 interceptors. While a very limited system could be deployed within the bounds of the ABM Treaty as amended in 1974, the capability of a limited protection system could be significantly enhanced if multiple sites and more than 100 interceptors were permitted. Congress has recognized this and last year directed SDIO to examine limited protection systems incorporating modest changes to the numerical limitations in the ABM Treaty.

Such a multiple-site limited protection system could preserve the stabilizing benefits of the ABM Treaty while permitting the United States to protect itself against accidental or unauthorized Soviet launches and against limited attacks from nations now seeking to acquire long-range ballistic missiles.

In addition, we should pursue enhanced space-based sensors to support both theater and strategic missile defense systems. This, too, would require clarification of and quite possibly modest changes to the ABM Treaty. The treaty forbids satellites that could substitute for ABM radars, but applying this prohibition in the real world presents difficult questions. Moreover, giving space-based sensors some of the battle management characteristics associated with ABM radars may be both desirable and possible without undermining the ABM Treaty.

We should also continue a robust technology development program to ensure that our deployed systems can be upgraded to meet new and responsive threats and to explore advanced concepts and breakthrough technologies. As part of this effort, it should be possible to continue deliberate development of Brilliant Pebbles—with tests conducted in a pop-up mode from fixed, land-based launchers at agreed ABM test ranges—to determine the potential benefits such a system might provide.

Finally, since each of these elements requires some clarification of or modification to the ABM Treaty, we should promptly proceed to engage the Soviet Union in serious discussions about these issues. Our efforts should be directed toward the negotiation of a protocol defining new limits on limited protection and theater defense systems consistent with the above-stated objectives; with the stabilizing benefits of the ABM Treaty's prohibition on comprehensive nationwide defense; and with START's deep cuts in offensive forces.

As with all complex arms control negotiations with the Soviets, it would be unwise to rush to negotiate and sign such an agreement. However, it is reasonable to seek such an agreement within the next few years. This would be consistent with the schedule of ongoing development programs. Moreover, it would be consistent with the desire to pursue a START II Treaty in the latter part of the decade, since further cuts in offensive forces are difficult to imagine in the absence of progress between Washington and Moscow on the issue of strategic defenses.

While some in the administration are reluctant to talk about renegotiating the ABM Treaty to permit multiple sites, this position lacks credibility given that their present policies envision withdrawal from the treaty.

In my view, Mr. President, an approach such as that I have outlined could form the basis for a sustainable, bipartisan consensus to develop and deploy ballistic missile defenses. Senator WARNER has played a leading role in the last few months both to ensure that this issue is fully debated and to craft a compromise, consensus position. I am also pleased to note that Members on the other side of the aisle, have also contributed to this effort at consensus. Indeed, the elements of the approach I have outlined builds on the deas and proposals offered by a number of Members, which is why I believe t represents a basis for agreement.

In a floor statement last week, Senator WARNER noted that the task before us is to take the steps now that, consistent with technology and arms control, will lead to strategic and tactical missile defenses in the next decade, when proliferation will have reached frightening proportions.

I urge my colleagues on both sides of the aisle to join in the effort to lay this foundation for the future, putting aside the divisive and secondary issue of spaced-based interceptors and focusing instead on the elements on which most of us can agree.

Mr. President, I ask unanimous consent that the paper prepared by Senator WARNER and myself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FUTURE OF BALLISTIC MISSILE DEFENSES AND THE ABM TREATY: A BASIS FOR CONSENSUS, MAY 23, 1991

(By Senator John Warner and Senator William S. Cohen)

INTRODUCTION

Operation Desert Storm provided the United States with a number of lessons that have profound implications for military affairs and national security planning for years to come. One of the most important lessons of Operation Desert Storm is that we cannot rely upon the ability to locate and destroy missiles before they are launched and that a threat of retaliation may not deter missile attack. Defenses against such attacks are necessary to save lives as well as to prevent disruption of military operations. Some type of ballistic missile defense is needed now. We, the authors of this paper, believe there is a potential for bipartisan consensus in Congress to forge a program that will provide the United States and its forces overseas, as well as our allies and friends, with a capability to defend against ballistic missile attacks.

This paper presents a comprehensive plan which is the absolute minimum capability acceptable to the authors but a plan which, we believe, can be supported on a bipartisan basis. The plan provides for a two-part strategy: (1) negotiations to achieve a new agreement or amend the Anti-Ballistic Missile (ABM) Treaty of 1972 to allow for the deployment of defenses capable of protecting the citizens of the United States against limited ballistic missile strikes, and to permit development and testing of ABM technologies, including those covered by the Treaty and those not foreseen or defined at the time of the Treaty, and (2) a programmatic guideline that includes numbers of launchers and deployment sites, and sensors needed to fulfill the minimum requirements for a limited but effective defense system, as well as endorsement of deployment of theater missile defense (TMD) capabilities to protect U.S. forward-deployed forces and allies.

For the purposes of forcing a bipartisan consensus in favor of strategic defenses, a decision on inclusion of space-based interceptors in an initial limited missile defense architecture can be deferred for the time being. For many, deferring the inclusion of space-based interceptors as part of the initial deployment of limited defenses is a difficult decision. Many believe that space-based interceptors provide the highest degree of effectiveness and, in the long run, may represent the most cost-effective means of defending the United States. Others question the feasibility of space-based interceptors. But in the interest of providing the nation as soon as possible with at least some protection against ballistic missiles, and since our proposal would provide for an unfettered testing program for space-based interceptors to determine their effectiveness, we have decided to set aside this issue temporarily. What is achievable now is a limited defense system, a highly effective protection against accidental, unauthorized, or deliberate ballistic missile attacks of limited scope.

BACKGROUND

While the Iraqi use of conventionally armed SCUD missiles against Israel and Saudi Arabia posed no major military threat to coalition forces, or in the case of Israel, to its national survival, the missiles did threaten the lives of our troops and neighboring civilian populations and were enormously significant as a political terrorist weapon. Armed with lethal chemical or nuclear warheads, as may be the case in the future, these missiles could have caused devastating loss of civilian and military life, as well as severely disrupted military operations. There is little doubt, however, that the Patriot TMD system provided a degree of defense sufficient to permit Israel to forgo retaliation against Iraq, which in turn contributed to sustaining the solidarity of the multinational coalition of forces in the Persian Gulf conflict.

In the future, ballistic missiles from a variety of sources, combined with weapons of mass destruction, will pose an increasing threat to U.S. and allied forces overseas, and to the United States itself, These systems will have not only substantial political impact, but, most assuredly, military significance as well. The Director of Central Intelligence estimates that, by the end of the century, between fifteen and twenty developing countries will possess ballistic missile capabilities; at least six developing countries probably will have ballistic missiles with ranges up to 1,800 miles; and at least three of these countries may develop missiles with ranges up to 3,300 miles that could directly threaten the United States. Many of these countries are currently developing, or will soon have the ability to develop, nuclear, chemical, or biological weapons for possible delivery on ballistic missiles.

At the same time, we must not ignore the fact that the Soviet Union has presented, and, in its present unstable condition, will continue to present, the greatest ballistic missile threat to the United States. As the Chairman of the Joint Chiefs of Staff, General Colin Powell, stated in recent testimony before Congress: ". . . the Soviet Union remains the one country in the world with the means to destroy the United States in a single devastating attack." The Soviet ballistic missile threat to our land-based and in-port deterrent forces is more formidable today than in the mid-1980s, and the U.S. has not completed efforts which were started during the 1980s to reduce the vulnerability of these forces. In this regard, we should consider how a limited defense deployment would also complement a START agreement, by hedging or safeguarding against both technological surprise and unexpected changes in the threat to which a reduced force would be more vulnerable than a larger one. Defense of our deterrent forces against attack is an option that should be rapidly developed.

Given the combination of emerging Third World ballistic missile threats and the continuing challenge of the fully modernized and highly lethal Soviet strategic nuclear force (the danger of which might even be heightened by internal Soviet instability and unrest), we believe the question for the United States is not whether we should deploy effective theater and strategic missile defenses, but rather, how many, of what type, and how soon? The safety and security of the American people, as well as the effectiveness of our deterrent, demand correct answers.

PHASE I TO GPALS

In 1983, President Reagan announced the Strategic Defense Initiative (SDI). SDI was structured as a comprehensive research effort to determine if ABM technology could be developed to protect the United States from a deliberate Soviet ballistic missile attack. A Phase I architecture was first outlined in 1987, consisting of ground- and space-based interceptors to defend both populations and deterrent forces against a large-scale Soviet ballistic missile attack.

When President Bush assumed office in 1989, he initiated a national security strategy review of ABM technologies and deployment options. In his State of the Union address of January 29, 1991, the President directed that "the SDI program be refocused on providing protection from limited ballistic missile strikes, whatever their source." The President shifted the near-term priority for the SDI program away from a strategic deterrence and defense approach to the more modest objective of protection against limited strikes. The restructured program, called Global Protection Against Limited Strikes (GPALS), is essentially the same set of systems and architecture as Phase I, except the number of ground-based interceptors is reduced by 50 percent and the number of space-based interceptors (Brilliant Pebbles) is reduced by 75 percent.

In recent testimony before Congress, General Colin Powell reiterated, however, that given the robust and fully modernized Soviet strategic nuclear threat, the original Phase I mission requirement remains valid. He indicated his support for the GPALS program and characterized it as an important and discrete step toward fulfilling the greater Phase I requirement.

The scaled-down GPALS program has shifted the terms of the SDI debate from deterrence and defense to a question of what type of defenses are necessary to provide protection against limited ballistic missile attack. This has, in turn, brought to the fore the issue of space-based interceptors.

Under the threat scenario against which Phase I was designed, there is no question that space-based interceptors are necessary to counter a massive missile attack. It is widely acknowledged that space-based defensive systems offer the best prospects of a high rate of ballistic missile intercepts over the aggressor's territory rather than the defender's, as well as significantly lower operations and support cost than ground-based systems. In addition, for purposes of providing an assured and effective global defensive capability, space-based interceptors are potentially the most capable component of such a defense. All of these factors hold true even for the GPALS architecture. In short, while we may decide to forego the deployment of space-based interceptors for political reasons, opponents of space-based interceptors must acknowledge their significant contribution to meeting the challenge of effectively countering ballistic missiles.

Skeptics of space-based interceptors, such as Brilliant Pebbles, argue that the technical data are not sufficient to know whether such a system is feasible or could be countered by the Soviets. The SDI program has made substantial progress in proving the technical feasibility of ballistic missile defenses and in assessing cost-effective and realistic countermeasures. We would note that, while testing data are currently limited on space-based interceptor technologies, review of the Brilliant Pebbles program by the defense Science Board and JASONs identified a couple technical challenges but no technical show-stoppers. Moreover, in large part, the development, testing, and demonstration of such high-leverage, space-based technology are restricted by Congressionally mandated limitations, and possibly restricted by the ABM Treaty.

Until both Congressional and possible Treaty restrictions on developing and testing ABM technologies are removed, it will be more difficult, costly, and time-consuming to prove fully the effectiveness of Brilliant Pebbles or other space-based interceptor technology in defending against missile attacks. Because of these restrictions, testing of Brilliant Pebbles technology is often designed around legal interpretation rather than engineering principles. In some cases, two or three tests may be required to carry out experiments when one test could accomplish the same objective more effectively. More importantly, we would be forced to make decisions to build a certain system on analysis of the test data, not on end-to-end testing as we do with normal military programs, again, because of Congressional and possible Treaty restrictions.

While opponents often raise questions about the technical feasibility of a certain missile defense component, in the end the central issue is a political one, having to do with our relations with the Soviet Union, questions of deterrence and the role of military systems in space, and the prospects for arms control. This debate, however, informed, seems to us to skirt the real issue: should we provide our citizens and our forces overseas with some defense against ballistic missile attacks? We believe the answer to this question is clearly in the affirmative. For this reason, we have outlined below a program that, we believe, forms the basis for a consensus on ballistic missile defenses.

A BASIS FOR CONSENSUS

In light of all of the above considerations, we believe that our obligations under the ABM Treaty, as interpreted by Congress, should be modified. We believe the initial objectives set forth herein are reasonable and, given recent statements by certain Soviet officials, could form the basis for successful negotiations.

These negotiations must be aggressive and time-limited. Otherwise, missile defense research cannot be pursued with fiscal efficiency or in a manner that will provide the nation with a timely defense capability against limited strikes. For this reason, a period of not more than two years should be established to negotiate satisfactory changes to the Treaty. If we do not achieve these negotiating objectives within that period, then we feel the Administration, in consultation with the Senate, must consider the options available to the country, including possible withdrawal from the ABM Treaty.

A key aspect of our suggested negotiating objectives is the right to increase the number of deployment sites and interceptors currently allowed under the ABM Treaty. Some proponents of limited defense systems suggest that we should limit deployment to 100 interceptors at one site (currently declared by the United States to be Grand Forks, North Dakota). Technical data and physics strongly indicate that such a Treaty-compliant deployment would not provide an effective capability to defend our citizens against the majority of limited strike scenarios. Such a system would only protect a small sector of the United States, leaving Americans on our coastlines and in Alaska and Hawaii totally vulnerable. Therefore, we believe it is critical that any negotiations result in higher ceilings for interceptors and multiple-site deployments.

While some elements of our overall proposal have been mentioned in a general way by others, what we have sought to do is to describe as specifically as possible a program that contains the minimum essential elements that we believe are required to provide an effective, limited defense system. But what we propose is only feasible if the two interrelated components—arms control objectives and programmatic content—are pursued in tandem. Pursued together, we believe they provide the basis upon which a bipartisan consensus and successful negotiations with the Soviets are possible. The details of the two components of the plan are outlined below:

Arms control component

Negotiate a new agreement or amend the ABM Treaty within two years or less to allow for:

Increased number of interceptor launchers and deployment sites,

Development and testing of all ABM technology,

Deployment of space-based sensors for direct battle management, and

Relaxation of restrictions on exporting ABM technology to our allies and friends to counter advanced, long-range ballistic missiles currently under development by third countries.

Clarify and further define U.S. rights for:

Space-based weapons, and

Development and deployment of TMD systems.

Programmatic component

Accelerated TMD program for our forward-deployed forces, as well as for our friends and allies, such as Israel.

Limited defense system consisting of:

5–7 deployment sites to protect the United States, including Alaska and Hawaii,

700–1200 fixed ground-based launchers, and

Space-based sensors for TMD and ABM battle management.

Development and testing of ABM technology to demonstrate space-based interceptor and other technologies for future deployment.

Defer debate for now over deployment of space-based interceptors.

CONCLUSION

Finally, if a consensus can be achieved, we also believe it is imperative that Congress fully fund the SDI program and rebuff attempts to restructure the program in ways that would deny the Administration the appropriate flexibility necessary to achieve the programmatic objectives outlined above. In this regard, it is important to ensure that follow-on technology efforts (including the development of Brilliant Pebbles technology) not be underfunded or eliminated. While we are willing to forego at this time the issue of space-based interceptor deployment as part of an initial limited defense architecture, we do not believe that it is in the national interest to preclude this technology option for the future. Again, we believe space-based systems provide the best hope for an effective means of countering ballistic missiles for the future. Our nation must not be denied the right to determine if this is true.

We support, therefore, the requirement set forth and restated recently by the Chairman of the JCS, General Colin Powell, for a Phase I-like defense as a long-term goal, adapted or restructured to fit future geopolitical conditions. Until then, we believe we have identified a basis for a consensus which, if pursued aggressively, will culminate in a system that provides a minimum capability to defend against limited ballistic missile strikes.

PROGRAMMATIC COMPARISON

Programs	GPALS	Consensus program
Theater Missile Defense	Yes	Yes.
Ground-based interceptors (multiple sites).	Yes	Yes.
Space-based sensors	Yes	Yes.
Brilliant pebbles: space-based interceptors (development and testing).	Yes	Yes.
Brilliant pebbles: space-based interceptors (deployment).	Yes	Defer decision.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Minnesota.

EXTENSION OF MORNING BUSINESS

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the period for morning business be extended for 7 additional minutes.

Mr. REID. Mr. President, I am sorry. I could not hear the request.

Mr. DURENBERGER. The period for morning business be extended for an additional 7 minutes.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada reserves the right to object.

Mr. REID. Mr. President, under the unanimous-consent order I was to talk at 10. I am most happy to see a number of people around the Chamber who wish to speak as if in morning business. Can we find out who wants to talk and how long so we at least have some order here because there are a number of people want to speak for my motion to strike and against it? I think we need to do that and have a little bit of order here.

Mr. DURENBERGER. Mr. President, I am aware of only two, the Senator from Nebraska and me, who would each like to speak for 3 minutes. I see the Senator from Pennsylvania also indicates an interest to speak for 3 minutes. So I will revise my request and ask unanimous consent that the period for morning business be extended for an additional 9 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

TRIBUTE TO VINCENT GENTILINI

Mr. DURENBERGER. Mr. President, I rise today to salute an old friend of mine, and a great friend of the people of the seven-county Arrowhead region of northeastern Minnesota. For 26 years, Vincent Gentilini has guided the Arrowhead Economic Opportunity Agency as it became one of the largest and most respected community action organizations in the Nation. On June 19, Vince will retire as executive director.

Vince Gentilini was born in Vol de Sole, Tyrol Province, Italy, 70 years ago. He emigrated to Chisholm, MN, with his family when he was 8 years old. Vince served in the United States Armed Forces during World War II in New Guinea, the Philippines, Australia, and Japan. When he came home, he married Lillian and, together, they began their family which now includes four children and three grandchildren.

In 1965, following the passage of the Economic Opportunity Act, Vince was named to head the newly incorporated Arrowhead Economic Opportunity Agency. This private, nonprofit organization started with a $35,000 Community Service Administration grant. Today, the agency supports a diverse group of programs such as Employment and Training Services, Emergency Services, Minnesota Momentum for Women and Head Start, with a multimillion-dollar budget. Then and now it serves the people of Aitkin, Carlton, Cook, Itasca, Koochiching, Lake, and most of St. Louis Counties.

Arrowhead Transit, the agency's transit program was started in 1974. Under the guidance of Vince Gentilini, it is now the largest rural public transportation system in the Nation. A new transit facility housing 30 buses, a repair shop, a wash bay and administrative offices was completed in Gilbert, MN, and named for Vince in appreciation for his leadership and commitment to rural transportation issues.

My friend, Vince Gentilini, is called compassionate, generous, quick to recognize what the heart of the community needs. His friends say he has, throughout his 26 years as director of the Arrowhead Economic Opportunity Agency, exhibited the foresight, initiative, leadership and tenacity to develop one of the most respected community action agencies in the Nation. Through it all, Vince has remained true to the mission of the agency, "people helping people."

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. KERREY].

THE GAO'S ASSESSMENT OF THE RESOLUTION TRUST CORPORATION'S PERFORMANCE

Mr. KERREY. Mr. President, yesterday in testimony before the Senate Banking Committee, Charles Bowsher, Comptroller General of the United States, provided a disturbing assessment of the performance of the Resolution Trust Corporation [RTC]. Mr. Bowsher's testimony points out numerous problems within the RTC from poor accounting procedures that make it difficult for the agency to balance its books to its inability to develop sound information management systems.

Although these matters are of great concern and I compliment the GAO for working with the RTC to address them, we run the risk of ignoring the underlying problem: the failure of the members of the RTC's Oversight Board to get the job done.

Consider the GAO's concerns about the RTC's operations:

Instances where offices have no system to prevent duplicate payments to contractors and have poor controls over incoming cash;

Instances where some offices simply receive rent and mortgage payments sent in by contractors without determining whether the RTC has received the proper amount;

Poor contract oversight allowed one contractor to bill the agency for $120,000 a month in operating costs without being questioned by RTC oversight personnel;

A poor information management system allowed the agency to sell the same piece of real estate worth $7.4 million to two different individuals;

Lack of provisions in place to penalize contractors who do not perform agreed-upon work, except cancellation of the contract, and some RTC field offices pay contractors without examining their work.

Instances where contracts have been awarded without evidence of competition or to firms that were not even registered to do business with the RTC.

Mr. President, in addition, in 1990 the RTC paid out over $600 million for legal fees outside the RTC office. In any other case where a board charged with oversight, whether it be a school board, a bank board, a county board, any other board of directors that performed in this fashion, we would hold that board accountable for their performance.

Before any consideration is given to changing the structure, which I believe must be done, attention must be given to the personal responsibility of this five person board to exercise oversight. I acknowledge the difficulty that their job entails. Acknowledging the difficulty of their job does not excuse their failure thus far to get their job done. Recognizing the uniqueness of their task does not excuse the poor performance of this board.

I am willing to allow that the other responsibilities of Treasury Secretary Brady, Federal Reserve Board Chairman Greenspan and Housing Secretary Kemp are such that they cannot give as much time to the oversight of the RTC. However, this is an observation each should have made 2 years ago. Further, it is an observation which should have caused them to say no to the added responsibility.

Mr. President, the GAO report also increases the urgency to change the structure of RTC oversight. Absent a charge in the agency dual board structure and the consolidation of authority in the hands of a single board under the leadership of a strong chair, the Congress will simply continue to be faced with report after report indicating that the RTC is plagued by contracting problems or spent more than an half a billion dollars in 1990 on legal fees or is unable to move its huge inventory of real estate.

It is a mistake for Congress just to react every time we hear horror stories about the RTC's operation. Without ridding ourselves of responsibility for our oversight role, we need to recognize the RTC's Oversight Board simply failed in its task. We no longer can afford to have an oversight board run by three individuals whose tremendous responsibilities in other areas prevent them from providing full-time guidance to the RTC. We no longer can afford to have a board of directors that simultaneously has its hands full addressing the problems in our country's banking industry. We need a full-time, hands-ons board.

I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 3 minutes.

WALTER W. GIESEY

Mr. WOFFORD. Mr. President, I rise today to pay tribute to one of Pennsylvania's and, indeed, this Nation's great public servants, Walter Giesey. His career of more than 40 years in local, State, and Federal Government affairs embodies the best American tradition of citizen service.

As an adviser to Pittsburgh Mayor and Pennsylvania Gov. David Lawrence, to Presidents Kennedy and Johnson, to the Allegheny County Commissioner Tom Foerster, to the president of the University of Pittsburgh, and most recently to Gov. Robert P. Casey, Walter Giesey has helped shape and implement programs that have changed the face of Pennsylvania and America.

In the fifties and sixties he fought to turn a soot-stained Pittsburgh into one of America's most beautiful cities. In the sixties he helped lead the fight for fair housing.

In the seventies he fought to expand support for higher education. And, in the eighties, he fought to make State government work for Pennsylvania's working families.

I would like to put in the RECORD an editorial from the Pittsburgh Post Gazette, dated 1943, which captures his love for Pennsylvania and his lifelong commitment to making America a land of real hope and opportunity and happiness for all of our people.

The editorial quotes a letter Walter wrote as an Army Air Corps pilot in World War II, a letter of reflections on why he was fighting.

> I am fighting for Paul and Peter and Hans and Wong and Jose—all the people all over the world. I'd like to see them have the things I've had—my freedoms, my fun, my comforts. I don't want them to be subservient to me; I want them to be equal to me.
>
> There are other things, none of which can be brought about by just me. But there are millions of men like me in uniform in addition to all of you back home who can bring it about.
>
> * * * * *
>
> While flying yesterday, I looked down at the countryside. I saw the fields being plowed, forests, streams, railroads, homes and roads. It was peaceful and calm from up there. I'd like to see it that way down on the ground
>
> I've left many things out and perhaps I have failed to show you exactly what I have meant to say.
>
> You need only read between the lines and you'll find all the countless little things which put together, make me feel proud and strong and resolved to fight hard until I can go home to the things I knew.

That moving message of 1943 is as true today as it was then. Just as Walter Giesey and his belief in the common good is as true and as necessary today as then, and even more so.

Mr. President, the city of Pittsburgh, the Commonwealth of Pennsylvania, and the United States of America owe a debt of gratitude to our great citizens like Walter Giesey. I am proud to call him my friend and my colleague.

And I hope his example will help us all feel proud and strong and resolved to continue his fight for the country and the Commonwealth he has known and loved so much.

IT'S TIME TO STOP SHORTCHANGING NORTH CAROLINA

Mr. HELMS. Mr. President, each time Congress reauthorizes the Federal Highway Program, it is an important and often contentious matter. This year's reauthorization is the most important reauthorization in 35 years. Over the last several days it has become more and more apparent that it will also be the most contentious.

Mr. President, the Interstate Highway Program—first funded in 1957—is on the verge of being completely finished. Therefore, the priorities Congress sets for our Nation's various transportation needs now will be the Nation's transportation priorities for the next decade or two, not just the next 5 years.

In other words, the most important part of this debate, Mr. President, will be how the $92 billion in Federal highway funding will be distributed among the States, not just for next 5 years, but for the next decade and beyond. For 35 years, as a result of the 1957 legislation that created the Interstate Highway System, North Carolina and many other States have consistently—year after year—sent more money to Washington in transportation fees and taxes than they have received in return.

In fact, North Carolina has sent $1.7 billion more transportation dollars to Washington since 1957 than it has received in return. In just the last decade, the citizens of North Carolina sent $500 million more to Washington than they received. Last year, North Carolina got a pitiful 54 cents back for every dollar we sent to Washington.

Mr. President, North Carolina needed those funds, but like other States that have been shortchanged, we "donated" this money to assist less populated States in building their portions of the National Interstate Highway network because those States could not have built those roads without help.

At the same time, North Carolina and the other donor States—primarily in the South and the Midwest—have also been compelled to donate highway and mass transit money to more populous and relatively wealthier States in the Northeast.

The Federal Government was acting like Robin Hood in reverse, Mr. President: Taking from the poor States to give to the rich ones. It should be obvious that forcing States like Alabama and Mississippi to pay for highways and subways in New York is patently unfair.

It is sad to say that even though the Interstate System is almost complete and thus the need for some States to donate to other States is no longer as necessary, the pending bill will continue to take money from so-called donor States as if the Interstate System were still being built. The pending bill continues to use the same inequitable funding allocation formulas as under current law—funding formulas that in some instances continue to use assumptions from as long ago as 1916.

The pending bill thus fails to mitigate in any way the amount of money that donor States like North Carolina will be required to contribute to other States.

Under the pending legislation, North Carolina will continue to receive less than 84 cents for each transportation dollar that the citizens of North Carolina send to Washington. On the other hand, New York will receive a whopping $1.27 for each transportation dollar the citizens of New York send to Washington. In fact, almost every State in the Northeast—States with large populations that ought to be able to pull their own weight—gets more money back than it puts into the Federal Highway Program.

Let's look at how a few of the other Northeast States fare under the pending bill: For the 5-year period beginning in 1992, Rhode Island would get $1.66 for every dollar paid into the highway fund; Vermont would get $2.10;

Connecticut would get $1.46; Massachusetts would get $1.05; Delaware would get $1.62, and so on.

Mr. President, I should also emphasize that these figures do not even include the large amounts that are transferred under the Mass Transit Program. Of course, some of the States I've just listed will receive the lion's share of the Federal Mass Transit Program funds as well. I note that in the Federal Mass Transit Program last year, North Carolina got back a mere 5 percent of the $45 million we sent to Washington for that program.

Mr. President, let's also look at some of the many—too many—other ways this bill is designed to help the Northeast at the expense of the rest of the country.

The bill takes $750 million in highway funds and devotes it to a magnetic levitation rail demonstration project. It is widely understood that this rail line will be built in New York City.

Another $2.55 billion is earmarked for a harbor-tunnel and central urban artery highway project in Boston. The Boston project is of purely local interest. Yet the Federal Government is going to take money from North Carolina and other donor States to pay for this local highway project in Massachusetts.

Since this project entails building a tunnel under the Boston Harbor, I find it quite strange that we have heard so little from the radical wetlands environmentalists that have plagued transportation projects in the rest of the country. Perhaps it is because many of these self-proclaimed defenders of the environment congregate in Boston and value the convenience of the tunnel over any possible environmental impact.

Mr. President, the pending bill also moves $13.3 billion out of the highway account and into a bridge account. It so happens that this transfer is of enormous benefit to New York. New York has severe problems with its bridges because it has failed to maintain its bridges through painting and other basic maintenance. Last year, in fact, New York City had to close the Williamsburg Bridge due to deterioration caused by rust, which was caused by the city's failure to paint the bridge.

Some New York officials blame this situation on the fact that the Federal Government pays States more to build rather than to maintain bridges. However, the Federal Government's program was always targeted to help States with the high cost of building bridges. After construction, the States were supposed to pay the lower costs of maintenance themselves.

North Carolina has problem bridges, too, but those problems are due to age, not a lack of maintenance. That's beause North Carolina imposes a high 2.5-cent gas tax to pay for such mainenance. New York, on the other hand, has a 7-cent gas tax. But now, after years of neglect, New York wants the rest of the country to help it make repairs that are solely due to its own fiscal mismanagement.

Mr. President, the pending bill will also have the effect of forcing donor States to subsidize the exorbitant union wage scales of New York and the other Northeastern States. For example, in North Carolina it costs $37 per square cost foot to build a bridge and $25 a square foot for repairs. In New York, on the other hand, its construction companies charge an average of $102 a square foot to build a bridge and $69 a square foot for repairs. The pending bill perpetuates the current inequities in the bridge allocation formulas, and once again North Carolina and the other donor States will be at the bottom of the list.

Mr. President, the pending bill also penalizes States with growing populations. It does so by embedding 1980 census numbers in the highway allocation formula and eliminating the Federal Highway Administration's authority to use the 1990 census data when it becomes available. The pending bill ignores for the next 5 years—possibly longer—the huge shifts in population out of the Northeast and into other parts of the country since 1980. Consequently, the Northeast will get more Federal highway dollars than ever while Northeast States are losing seats in Congress.

Furthermore, the pending bill is antigrowth in that it penalizes States for the construction of expansion of highways as opposed to simple maintenance. The Federal/local matching requirement for new construction is 75 to 25 percent; however, the matching requirement for maintenance needs in the no-growth States of the Northeast is 80 to 20 percent. Maintenance gets a significantly higher Federal funding share than does construction, which hurts those States with growing populations.

Mr. President, North Carolina is still trying to make up construction delays caused by inadequate Federal funding in the past. That is why North Carolina embarked on an ambitious 10-year highway building program just last year only to be met this year with the pending bill's proposal to penalize new construction.

Mr. President, I am also disturbed that even though highway users are the people taxes to support the highway trust fund, this bill moves significant amounts of money away from spending on highways and uses it to pay for mass transit instead. Gas taxes already fund a specific mass transit program, and that program—not the highway account—should be used to fund mass transit.

Mr. President, as I and others have pointed out, most of the extra money awarded to the Northeastern States in the past, and under the pending bill, comes from States in the Southeast and the Midwest.

The Senator from Virginia [Mr. WARNER], whose own State suffers under the pending bill, has offered an alternative proposal that recognizes that the interstate highways are almost complete. I am proud to be a cosponsor of that bill.

Our proposal uses a new allocation formula based on current statistics and assumptions and will incorporate the data from the 1990 census as soon as it is available. As a result, Senator WARNER's formula is vastly more equitable to those States that have been forced to pay tribute to the Northeastern States for the past 35 years.

Even under the Warner bill, North Carolina, Virginia, and the other 17 donor States still will not get back 100 cents for every highway dollar they send to Washington, but they do much better than they would under the pending bill.

We realize that the sparsely populated States out west will still need some help maintaining the interstates and other national highways, but we see no reason why our States must be compelled to subsidize large metropolitan States. These States should not receive inordinate subsidies at the expense of North Carolina and other so-called donor States. As I said earlier, the urban States already receive enormous Federal subsidies for their unique transportation needs through the Federal Mass Transit Program.

Fair is fair, Mr. President, and the pending proposal is not fair. The donor States have been patient, they have been generous, but now is the time for Congress and the other States to recognize our contribution.

The donor States are not even asking for a dollar for dollar return on our gas taxes. We are asking only for a formula that brings us closer to parity by using current assumptions about the Nation's demographics and the latest census figures so that highway apportionments are fair and equitable, not arbitrary.

The pending bill will continue to give North Carolina less than 84 cents for every dollar sent to Washington. Our alternative would give North Carolina at least 94 cents back on the dollar.

Mr. President, the pending bill does not promote a new vision for the U.S. transportation system into the 21st century. It promotes a new vision for transportation in the Northeast into the 21st century. Fairness and equity demand that the concerns of the 19 so-called donor States be addressed before a new highway reauthorization bill becomes law this year.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time has expired. Morning business is closed.

SURFACE TRANSPORTATION EFFICIENCY ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1204, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1204) to amend title 23, United States Code, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd amendment No. 295, to allot bonus apportionments based on the level of effort shown by each State.

(2) Byrd amendment No. 296 (to amendment No. 295), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order, the Senator from Nevada [Mr. REID] is recognized to offer an amendment.

AMENDMENT NO. 304

(Purpose: To strike section 137, visual pollution control)

Mr. REID. Mr. President, pursuant to that order, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 304.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike section 137 of the bill.

Mr. REID. Mr. President, as I have indicated on this floor as late as yesterday, I think this is a good bill. But there are some problems with it and one problem I hope to correct today.

I stand before you and our colleagues reminded of the saying of the former great New York Yankee, Larry "Yogi" Berra when he said—and of course he was famous for crystallizing the common man's frustration with trivial pursuits and endless debate—he said, "It's deja vu all over again." And as another philosopher, Santayana said, "Those who cannot remember the past are condemned to repeat it."

Mr. President, I remember the past. About 4½ years ago, I sat in these Chambers as a new Senator, witnessing a full-scale debate on the very issues contained in Senator CHAFEE's current proposal to ban outdoor advertising.

At that time, Senator Stafford of Vermont had offered the same proposal. It was rejected then; it should be rejected now as punitive and destructive to the outdoor advertising industry; as paralyzing to small business; and, most importantly, as the introduction of a dangerous virus against private property rights as guaranteed by the Constitution of the United States.

In preparing for today's debate, I reviewed statements found in CONGRESSIONAL RECORDS, but especially for the RECORD of February 3, 1987. At that time, I noted statements in support of Senator Stafford's amendment. I do not think, Mr. President, that you will hear anything new today offered by those who want to, in effect, outlaw outdoor advertising. No new facts, no new astonishing developments, no incontrovertible information to compel this body to reconsider its steadfast desire to continue protecting the mandates of the fifth amendment. The fifth amendment of our Constitution says "nor shall private property be taken for public use without just compensation."

That is a quote directly from the Constitution of the United States. And of course the fifth amendment also talks about due process, as does the 14th amendment. Due process, a concept of the common law. What is it about? Due process is about fairness.

Some will rise today to exclaim the importance of eliminating billboards as an environmental initiative. Mr. President, in one county in Nevada, a newspaper there refers to me at least once a month as "Sierra Harry." My credentials on environmental issues, I would hold up and compare them to anyone in this Chamber.

I am responsible, Mr. President, for creating America's newest addition to our National Park System, the Great Basin National Park, a park that was originally envisioned almost 60 years ago by President Reagan's park director Mr. Mott. This park is beautiful. Mountain peaks of over 12,000 feet. We have a glacier; we have the oldest living things in the world at Bristolcone Park, over 5,000 years old. We have the famous Leeman Caves. It is a great, great facility for all America but especially for Nevada.

Mr. President, I worked for 5 years, 5½ years to be exact, to get the Nevada Forest Service Wilderness; worked long and hard; passed a bill twice in the House. And finally we were able to get a Forest Service wilderness bill almost 30 years after the Forest Service Wilderness Act was passed. And the wilderness created in Nevada, Mr. President, is unbelievable. Areas that have mountain sheep, even mountain goats, elk, antelope, beaver, eagles, towering mountian peaks, great valleys.

We created 11 new wilderness areas in the State of Nevada, places that will be there for all generations of time, for my children and their children's children to visit pristine areas, areas the way they were prior to the white man coming.

I also worked to help create a Red Rock Conservation Area, an area right outside Las Vegas, an area that is geologically important, an area that is archeologically important. We just went a few months ago to dedicate that area, the crown gem of all the Bureau of Land Management's property, the millions and millions of acres they control. This is, as they have indicated, their crown jewel.

Last year, after 4 years of work, the President signed, on November 16, the Pyramid Lake water settlement, which protected two endangered species, resolved problems with two Indian tribes, saved valuable wetlands that had gone from 80,000 acres to about 2,000 very toxic acres of wetlands—wetlands that birds could no longer live in, where fish were dying. This legislation also ended a 100-year water war with the State of California, protected the Pyramid Lake and the Truckee and Carson Rivers.

So, I do not think Senators who support this motion to strike should envision themselves as being antienvironmentalists. This is not, Mr. President, an environmental issue. Toxic dumps, nuclear waste, clean air, soil erosion, issues relating to recycling, traffic congestion, wildlife protection—these are environmental issues. Outdoor advertising is not an environmental issue.

This is, though, Mr. President, a matter of States' rights. Current law allows, and has always allowed, States and cities to restrict or even, if they want to, eliminate billboards. In fact there are four States, Maine, Vermont, Hawaii, and Alaska—they have outlawed billboards. Numerous cities have outlawed billboards. Certain counties have outlawed billboards. They have that right, right now. It is their prerogative under existing law.

I might add, the law is extremely effective. In 1966, the State of Nevada, as an example—it is that this way all over the country but let me give Nevada as an example—reported 2,758 nonconforming and illegal signs. We will hear a lot today about nonconforming. Nonconforming signs are those that are erected legally and later found to be in nonconformance with new zoning laws.

In 1966 the State of Nevada reported 2,758 nonconforming and illegal signs. In 1991, 25 years later—and keep in mind, the State of Nevada has grown tremendously, it is the fastest growing State in the Union—as of June 6, 1991, 25 years later, there were only 6 nonconforming signs compared to almost 2,800. And, though the number varies from day to day, there were no illegal signs. So, Mr. President, the current law works.

Nationwide, the Congressional Research Service reports that the number of billboards has decreased 65 percent, from 1.1 million in 1966 to 390,000 in 1990. How many more statistics do we want to hear, to prove the current law is working?

What those should acknowledge who will not support my motion to strike is they just do not want billboards, and this is a way to get rid of all of them. Is that what the debate is all about? It is not about the environment. It is not about States rights. Remember, the States already have the prerogative to deal with outdoor advertising. And it is not ineffective current law. This debate is about the very core of constitutional guarantees. It is an issue of private property rights.

What current law will not allow, and what we are debating here today, is the ability of States, counties, and cities to remove billboards without money compensation. Senator CHAFEE's provision in this bill introduces the concept of amortization as satisfactory compensation to billboard owners who lose their property.

Let me explain how amortization works. It is a word we do not hear very often, amortization. What does it mean? It simply means that rather than the State or local government paying money compensation to billboard owners, the owners would be allowed a grace period to have the billboards removed. In other words, a billboard owner would be allowed to keep his sign for a period of 3 to 5 years. And this will be considered full payment; full compensation. At the end of this time, the billboard owner must still remove the sign at his own expense. As we will hear a little bit more later, not only is he forced to remove the sign at his own expense, but he cannot use the materials for another sign anyplace.

As an example, if I purchase a piece of property for the purpose of erecting a sign, payable $500 a month for 10 years, then I lease property to an outdoor advertising company for $500 a month for 15 years, and along comes the Federal Government a couple of years later and they say take the sign down, but we are going to allow you to keep it up for 3 years, maybe 4 years, at the most 5 years. I still have to continue making payments on the piece of property for the next 5 or 10 years, whatever the period is that they will not allow me to rent my property. And with no compensation. This simply is not fair.

George Will, probably the most read syndicated columnist, recently wrote one of his columns about this very subject. In his article he labeled amortization as, "slow motion confiscation."

In looking directly at this George Will column, let me refer to the Senate a couple of other things he said.

> It is disingenuous to dress up the proposed language in Jeffersonian language about "restoring local control." States already have the power to regulate, even ban, billboards with just compensation. The question is, shall constitutional values be disregarded because Americans would prefer not to pay the price—compensation—of an improvement they desire?
>
> In this era of $400 billion deficits, Americans are adept at making others, the voiceless and the voteless generations to come, pay a significant portion of the price of today's choices. Taking the property of billboard owners, and diminishing the value of property of people who rent land for billboards, and doing this without proper compensation, fits today's political morality. Enjoy the benefit, make others pay.

We should all listen closely to what George Will said. We, in effect, are taking people's property without just compensation, in violation not of some ordinance or regulation, but in violation of the U.S. Constitution.

There are other papers that talk about it but let us talk about a small Nevada newspaper which said:

> There are exceptions, of course. For example, when you are driving a carload of unruly kids and can calm them momentarily with the knowledge gleaned from one of those signs that only 20 miles ahead lies a gas station with sodas, candies, and bathrooms.

I have five children and this paragraph from a Nevada newspaper brought back a lot of memories. When we used to travel with the kids there was one billboard that we always used to have a lot of fun with. I think it was a place called Stuckey's. They had them all over the West.

They had them all over the West. As we drove the streets of the West, there would be these signs advertising these luscious things in this—it was a service station really—little place to buy goodies. The goodies were never as good as they appeared on those billboards, but we had a lot of fun. That is the way we could calm our children, waiting until we got to Stuckey's.

So this Nevada newspaper brought back certainly a lot of memories to me and my family. Most of us kids are grown now and not at home, but it was a lot of fun.

The newspaper further goes on to say:

> The problem is a little glitch found in the Bill of Rights, the taking clause of the 5th amendment. That clause stipulates the government cannot take private property, billboards, for example, without just compensation. It is this idea of the Founding Fathers that trips up on the march to a billboardless America. Too bad. If the government wants to deprive billboard owners of their property, it will have to pay. Ignoring the Constitution is surely more costly than the price of all the billboards in America.

When Congress enacted, Mr. President, the Highway Beautification Act of 1965, one of the important issues was whether billboards should be removed by the exercise of the police power or by payment of just compensation. The Congress decided in 1965, almost unanimously, that just compensation should be paid rather than removing signs by police power without payment.

A few years ago, a Colorado court struck down a Denver amortization ordinance which would have allowed the city to confiscate $6 million worth of billboards. In its decision, the court said:

> This court feels that unless municipalities are to be given unbridled latitude to take property, and if the Constitution is to retain any meaning, then strong steps must be taken to advise the government that this kind of attitude and action are unacceptable.

More recently, the Supreme Court of Pennsylvania issued an even stronger indictment on amortization. I again quote:

> It is clear that if we were to permit the amortization of nonconforming uses in this Commonwealth, any use could be amortized out of existence without just compensation. Although such a zoning option seems reasonable when the use involved some activity which may be distasteful to some members of the public, no use would be exempt from the reach of amortization, and any property owner could lose the use of his or her property without compensation. Even a home owner could find one day that his or her castle had become a nonconforming use and would be required to vacate the premises within some arbitrary period of time without compensation. Such a result is repugnant to a basic protection accorded in this Commonwealth to vested property interest.

What is involved then is the right of a legitimate industry to do business. Just as important as the right to do business is the right to possess private property without fear that the State will confiscate it without fair compensation, again, taking the exact verbiage, the exact language from the Constitution of the United States.

The provision that is sought to be deleted from this worthwhile piece of legislation is a serious threat to these fundamental rights. This bill threatens to put out of business a legitimate industry.

In Nevada, for example—and Nevada is a very small State—the 1989 payroll figures for the industry total almost $5 million with 160-odd employees. The industry paid taxes, made purchases from suppliers in the sum of almost one-half million dollars, property leases totaled $4.7 million, payment to utilities were almost one-half million dollars, and the industry donated over $1 million in public service advertising.

Half the billboard clients in Nevada are tourist-related clients who employ, Mr. President, almost 400,000 people in the State of Nevada. Who is going to compensate them when we take down their signs and they lose their jobs?

There is a man in Nevada by the name of Ron Rieger who owns a family operated billboard company. He started out in the business in 1955 as a kid and started his own operation in 1966 with an investment of about $15,000. He did it all himself.

In the beginning, he was the painter, the carpenter, the salesman, even the brush washer. Today, this family business has grown a lot. It is not a big business but it has grown from the time when Ron Rieger did everything himself. But this bill threatens the very existence of Ron Rieger's company. It threatens over 35 years of work of Ron Rieger and his family. A life's work. What is going to happen to this family when we tell them that you cannot sell billboards anymore, and by the way, we are not going to pay you to take down the ones you own?

Another man I spoke with told me in 1974 he worked for the State government. He was an aide to the Governor of the State of Nevada at the time, former Governor of the State of Nevada.

He at that time got an idea that if he bought a piece of land, he could rent that piece of land to a business that was along one of the highways in Nevada. He bought that piece of land for $36,000 on time, made payments to buy a piece of property and to put up one billboard. He bought the piece of property, put up the one billboard, and over a period of years leased that billboard. As a result of that, he was able to put one of his kids through school. He does not have the billboard anymore, but it served a purpose.

This legislation, this deletion, this motion to strike, this amendment to strike this language from this legislation is supported by a wide range of people. How often do you find the Wall Street Journal joining with AFL-CIO? Not often. But we have an instance with this legislation where, in fact, they do agree.

I received today a letter from the Department of Legislation of the American Federation of Labor-Congress Industrial Organization, AFL-CIO. This letter was written to all Senators, I assume:

> The first amendment will be offered by Senator Harry Reid. The purpose of the Reid amendment will be to strike from S. 1204 language added in committee by Senator Chafee that would ban the construction of new billboards on the Federal interstate and primary highway system.
>
> Since 1963, the AFL-CIO has had convention policy opposing the type of ban contained in the Chafee language. A ban on the construction of billboards would cost tens of thousands of jobs among painters, carpenters, sheet metal workers, teamsters, electrical workers, operating engineers and other workers in the outdoor advertising industry. The AFL-CIO supports the Reid motion to strike, and we urge you to vote in favor of the Reid amendment.

As I said, how often do we get the AFL-CIO to agree with the Wall Street Journal? Today's Wall Street Journal is in favor of my motion to strike. Among other things, this Wall Street Journal article states:

> The bill would let local governments—

Listen to this word—

> expropriate billboards, then "pay" compensation to the owners simply by giving them a few years before the signs must come down. In other words, for the privilege of getting to use their property for a few more years, owners would then simply hand over the property to the government without getting a dime in actual compensation.
>
> The argument—

Mr. CHAFEE. I wonder if the Senator will yield for a question?

Mr. REID—

> "The argument that the permission to operate one's property is a benefit," Theodore Olson, a lawyer for billboard companies, says, "is no different than the argument that the thief's demand 'your money or your life' benefits the victim by granting him his life."

Mr. CHAFEE. I wonder if the Senator will yield for a question?

Mr. REID. Not right now. Let me repeat that:

> "The argument that the permission to operate one's property is a benefit," Theodore Olson, a lawyer for billboard companies, "is no different than the argument that the thief's demand 'your money or your life' benefits the victim by granting him his life."

As an economic matter, the amortization theory is far from full compensation. How can an owner be compensated simply by getting a few years' notice that he is going to lose all the value in his property? Under this reasoning, a city could announce that there can be no buildings taller than 10 stories, then announce owners will be compensated by allowing them to occupy the buildings for 5 years before leveling them; or a local government could claim eminent domain over your house to build a highway, then claim the compensation is a delay in the highway construction for a few years.

The constitutional requirement that the government must fully compensate citizens for any seized property is perhaps the most important limit on the size of government. East Europeans who look forward to a capitalism vibrant enough to support billboards learned this lesson so well that they are writing similar protections into their new constitutions; a similar protection, something similar to the fifth amendment.

I would be happy to yield to my friend from Rhode Island for a question.

Mr. CHAFEE. I ask the distinguished Senator from Nevada if I am correct in saying this is not a Wall Street Journal article. This is an op-ed piece written by a non-Wall Street Journal individual who submitted it and it was accepted by the newspaper. In other words, it is an op-ed piece rather than an article or an editorial. Am I correct in that?

Mr. REID. I am certain that is the case. I see it is the case. However, I would almost bet the Wall Street Journal allowed this article to be printed or it would not be there. So it is in the Wall Street Journal. It appears to be something the Wall Street Journal allowed in their newspaper.

Mr. CHAFEE. I am not going to doubt for any reason the Senator from Nevada. But I just wanted, off the record, to be clear this article was not an editorial nor an article from the Wall Street Journal, but instead was an op-ed piece.

I thank the Senator.

Mr. REID. I did not refer to it as an editorial. I do not think I did. But, if I did, I certainly was mistaken. It is not an editorial. I do not believe I said it was.

Mr. President, I own some property in Nevada. It is in rural Nevada, along a road built mostly with Federal moneys. I have had people write to me over the years saying, "Can we put a billboard up on your land?" Sometimes they have even sent contracts. Well, I do not want billboards on my land. I did not want them, do not want them, and do not intend to put them on my land. But the point of the matter is why should the Federal Government step in and tell me I cannot put them up on land out in the State of Nevada, land that has been in the family one way or the other for a long time.

I just think it is absolutely wrong for anyone to consider that I should not be allowed to do what I want on property I own. What right does the Government have to tell me what I can do with my private property? What if I wanted to build an ugly house along the interstate; or let us assume a nice looking, beautiful home, in my mind? Who is to decide whether this home on my property is beautiful or ugly? If it is deemed ugly, will the beautification committee allow me to live on it for 3 years as compensation, then make me take it down at my own expense, and not allow me to use any of the building materials out of that home for another home?

What will the next step be; removing ads from magazines, newspapers, and television because they offend us, whoever "us" is?

How do you censor free speech in one instance and protect it in another? You cannot.

Many billboards are not only informative and helpful, but they are entertaining. Many of you remember the Burma Shave billboards. I have here, Mr. President, a book. Burma Shave ads were so good that we have a book on Burma Shave ads. It is a book full from one end to the other of Burma Shave billboard advertising.

As I said, I am sure the Presiding Officer remembers Burma Shave ads. They are famous. Beginning in the Depression, and for many decades thereafter, an unusual national billboard campaign was born outside of Minneapolis, MN. First it started out with tiny wooden signs measuring 1 by 3 feet. They were placed at 100-foot intervals in sets of six, expounding the wonders of a brushless shaving cream called Burma Shave.

These signs were written in verse, with each sign displaying one line of the poem. Who could remain uninterested or unamused for long when greeted on the road by copy lines like this:

The Bearded Lady
Tried a Jar
She's Now
A Famous
Movie Star
Burma Shave.

Or public service ads like this:

It's Best for
One Who Hits
The Bottle
To Let Another
Use the Throttle
Burma Shave.

The Burma Shave signs became such a national institution, Mr. President, that the U.S. Navy once asked if they might put up three sets of signs in the Antarctic. It seems there was a particularly long stretch of submarine duty where the men did not see land for several months, so, at a rather famous crossing through a pass of treacherous ice, there sitting in the snow were the Burma Shave signs reading:

The Whale
Put Jonah
Down the Hatch
But Coughed Him Up
Because He Scratched
Burma Shave.

As I said, Mr. President, there is a book full of these made famous by billboards. These famous signs brought a company from the days of handing out jars on approval to a $3 million, nationwide industry, and in those days that was a big business.

Some of you will also remember the billboards for Harold's Club. Harold's Club was located in Reno, NV, but they had billboards with a wagon train on them all over the world, literally all over the world. The sign said "Harold's Club or bust." And then it would put how far it was to Reno, NV. Signs back here said 3,000 miles; Salt Lake City, 500 miles; and on down, and however far it was.

There are two other parts of this legislation that I am asking to be stricken, which are absolutely unbelievable. The first is that a billboard owner cannot cut vegetation that grows up to block the sign. Of course, it should be illegal to cut down State-owned trees or shrubs. It already is. But if you are going to tell me I cannot cut down a tree on my property, in Searchlight, NV, or wherever it might be, I think you are wrong.

Mr. President, referring to the transcript of this hearing that took place, as I indicated, the last time this matter came up, I think there is something I would like to refer to. This was initially brought up during the debate then initiated by Senator SYMMS of Idaho. He said then—and this applies all over the country today—Idaho has only one documented case of vegetation removal without approval by the State. The law is there now. I mean, this is really a red herring.

The other provision which I think is incredulous is that a billboard company cannot use material from a billboard they have taken down to build another billboard, even a legal billboard. Is this fair? Does this make sense? Of course it does not make sense, and of course it is not fair.

Again, referring to the debate that took place a couple of years ago, Senator HEFLIN, who is formerly a supreme court justice of the State of Alabama, said:

> I would like to point out that the Highway Beautification Act is not an environmental issue, but it is one involving property rights. Clean air and clean water are not involved, nor are our national parks, national forests, or scenic highways. What is involved is the ability of a legitimate industry to do business in commercial and industrial areas where service stations, fast food chains, retail stores, and the like, are allowed to thrive.
>
> Just as important as a right to do business is a right to possess private property, without fear that the State or its subdivisions can confiscate it without payment of cash compensation.

On the same day, the next speaker was the former Secretary of Transportation, now a U.S. Senator, BROCK ADAMS. He said:

> This law mandates a method of compensation which is radically different from the one contained in current law. In the process, the amendment raises an issue which is fundamental to our concept of law, and in my view, violates a central American principle, which I supported when a number of us passed the original Lady Bird Johnson beautification bill, and that is to pay for property rights, not take property under the government's police power, local or otherwise.
>
> No matter what one thinks of billboards, they do involve a significant financial investment.

Nothing in this entire proposal of Senator CHAFEE's is fair. In the past 26 years, amortization language has been offered 14 times in Congress and rejected 14 times. One would think the brilliance of our Constitution and its protections would be enough to deter continuing assaults to one of our most basic and cherished freedoms.

Today, we are considering the 15th such effort. It is deja vu all over again.

Mr. President, I hope we are at the end of this overt attempt to trash the Constitution under the guise of environmentalism. If we are at an end, I am reminded of John Wycliffe's words 600 years ago, when he said:

> I believe that in the end the truth will conquer.

Mr. President, a vote in support of my amendment to strike will allow the truth to conquer.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I rise in opposition to the Reid amendment. Vermont and I have a long history on this particular issue. Vermont has banned billboards on all of its highways, off-premise billboards, for over 20 years.

My father was on the Supreme Court that wrote the decision stating that the State had the right to control highways, and therefore could ban billboards along the highways. I served as cochairman of the Vermont committee which ended up in banning all off-premise billboards in our State. I was attorney general and successfully defended the constitutionality of the amortization methodology utilized by the State of Vermont.

I think it is important to keep clear the issues here. First of all, as I mentioned first, is the right of the State or the Federal Government has the right to ban billboards. That is not the issue here. That is the policy issue.

So I want to make that clear that there is no debate on the issue of the authority of the State or the Federal Government to ban the use of billboards.

The question, however, stated, is as to whether or not the States, local governments, or the Federal Government, have the right to use, as a means of compensation, amortization, if we keep in mind that the value of the sign, obviously, is not the wood, nor the painting, nor the slogans on it; the value of the sign is in the ability to be able to reach the public utilizing the highway.

Thus, any system, practically, that went all the way from saying let us figure out what the value of the boards, and the writing, and whatever else is on the sign is, and to compensate, would probably reach a constitutional mandate.

Yet, the system that has been utilized takes into consideration that there is a value, and although that value can be removed and banned, a more logical and fairer approach would be to say to the sign owner: All right, we are going to ban them. But we will let you use the highways for your purposes of advertising over a reasonable length of time.

I do not think anyone would debate the fact that an owner of that sign receives compensation for the boards, the printing, and the value of the lights, or whatever it is, quickly, in a month or so.

But the reasonableness of the compensation we seek here for allowing the States to utilize the amortization system says: we will let you use the highways for your advertising purposes over a period of time, and get back much more value than the value of the product which we are ordering you to remove.

So I want to make sure that there is an understanding that we are not talking about a house, or something else, of which the value is obviously much greater; we are talking about allowing, for a limited length of time, someone to use the highway for advertising purposes, a privilege which can be banned.

A majority of the cases that have come before the courts have said that amortization is a just means of compensation. The U.S. Supreme Court has refused to consider the issue, denying petitions of certiorari on numerous occasions.

President Bush, in his surface transportation amendments, proposes to change current law to allow amortization. The general counsel of the Department of Transportation, in a lengthy brief, supported its constitutional validity. The Comptroller General of the United States, in a May 17, 1991, letter to Senator CHAFEE, says that, having reviewed case histories, he concluded that the majority of the cases hold that billboard amortization is not violative of the U.S. Constitution.

The Congressional Research Service, the American Bar Association, and the Southern Environmental Law Association have concurred. On April 9, 1991, a U.S. Federal Appeals Court in Raleigh, NC, ruled in support of amortization.

For those who argue it is unconstitutional, I disagree and say there is no evidence to support that argument. A second provision does prohibit the use of new construction of billboards on the interstate right of way. Some may disagree with this policy, but this is a policy issue. As I pointed out, there is no constitutional issue. This is purely a policy issue.

I point out that in Vermont, having banned all off-premise signs, we find it has enhanced our ability to attract tourists, and it enhances the beauty of our State. We have utilized informational signs, which allow users of our highways to be able to locate and those things they want to see; yet, it does not make them look at things they do not want to see.

We believe that it certainly is a legitimate role in the States. Thus, I urge my colleagues to vote against the Reid amendment.

The provisions of the bill as presently before us are reasonable. They take care of compensation far beyond what is probably required in the Constitution with respect to the amortization provision. It does allow the policies of the States to go forward in a way which is reasonable and less costly than other options.

So I rise in defense of and argue in favor of States' rights here to utilize particularly the amortization methodology for the purposes of just compensation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I thank the distinguished Senator from Vermont very much for his cogent arguments in opposition to the amendment on the floor.

I know the Senator from Missouri has something he would like to proceed with. I yield to him.

The PRESIDING OFFICER. The Senator from Missouri, Mr. DANFORTH.

Mr. DANFORTH. Mr. President, I ask unanimous consent—and this has been cleared on both sides—to lay aside the pending amendment for no more than 10 minutes and that another amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. I wonder if we could do it in somewhat less than 10 minutes.

Mr. DANFORTH. 7 minutes.

Mr. CHAFEE. Do I hear 5?

Mr. DANFORTH. Mr. President, 5 minutes.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada reserves the right to object.

Mr. REID. There is an amendment pending. I do not know anything about the amendment which is going to be offered. Could we go on to something else while on this matter?

Mr. DANFORTH. Mr. President, the amendment that would be offered should unanimous consent be granted—and it would take, let us say, 5 minutes to offer it—would be to incorporate into this bill three bills that have been reported out of the Commerce Committee relating to highway safety. The first has to do with drug and alcohol testing, the second is the National Highway Traffic Safety Administration reauthorization, and the third is the Motor Carrier Safety Assistance Program.

Mr. REID. Is this going to be accepted and not have a vote?

Mr. DANFORTH. I understand it will be accepted, and that is the reason I want to sandwich it in at this point.

The PRESIDING OFFICER. The pending request is by the Senator from Missouri.

Mr. MOYNIHAN. Mr. President, reserving the right to object, and I will not object, I have to say that we have not seen this. We will be happy to see it.

Mr. DANFORTH. That is not my understanding. I will withhold.

Mr. MOYNIHAN. Could we just have a ½-hour? I am very responsive, but I would want to know what it is.

Mr. DANFORTH. Of course.

The PRESIDING OFFICER. The Senator's request is withdrawn.

The Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, section 137 was adopted in the committee by an overwhelming vote of 12 to 4. The committee I am referring to is the Environment and Public Works Committee. Voting for the amendment were Senators MITCHELL, MOYNIHAN, BAUCUS, LAUTENBERG, GRAHAM, LIEBERMAN, METZENBAUM, DURENBERGER, WARNER, JEFFORDS, SMITH, and myself. In addition, when this provision was introduced as a separate bill on March 7, the cosponsors were Senators BENTSEN, AKAKA, COHEN, JEFFORDS, LEAHY, METZENBAUM, PELL, and WIRTH.

Mr. President, the overall bill that this is part of takes major steps—we are talking now of the Surface Transportation Act—in giving States and localities responsibility and authority in a whole number of areas.

For example, we are going to trust the States in designing and building noninterstate highways and spending billions of dollars on those with little or no Federal oversight. But somehow the theory here in the Reid amendment is you cannot trust the States to regulate some nonconforming billboards, that this is a power we do not have to give the States. We are going to trust the States to enforce the speed limit and, indeed, we removed the Federal sanction that says they lose highway money if they do not enforce the speed limit.

We have to trust the States on Federal highways and federally supported highways to protect the lives of our citizens, where more than 45,000 people die every year. We leave that to the States. We do not have the Federal Government involved.

Somehow the theory is we cannot trust the States to regulate billboards. We have to sanction the States mandating that they are going to lose 10 percent of their highway money if they use the process that is known as amortization to remove nonconforming billboards. This is nonsense.

Let us just review the bidding. Up until 1978, States and localities were allowed to remove billboards through amortization, and, indeed, they still have the police power to remove other nonconforming entities. A massage parlor is no longer permitted under the zoning, under the police power; the State or the locality can remove that massage parlor through the use of amortization. The massage parlor is going to cost $10,000 and is making $2,000 a year. At the end of 5 years, under amortization, it is gone. There is no necessity to pay up-front money. You do not have to pay them $10,000.

But the billboard lobby successfully, in 1978, got a very unique provision inserted into the Highway Beautification Act. What did they get? They had a provision put in there that says that you cannot take down a nonconforming—what is nonconforming? It means it does not conform with the zoning laws. A nonconforming billboard cannot be taken down on interstate or primary roads without paying cash up front. Suddenly the States and localities were deprived of the powers they had always had of amortization, which I just described. That was taken from them. I must say, what a coup for the billboard industry. It does not apply to secondary roads, but they had them on primary and interstate highways.

The idea was that you had to give them up-front money. They said, there is a Federal law that the Federal Government will pay 75 percent. But the trouble is there are never any appropriations for the 75 percent. The Senator from Nevada says there are only a few of these nonconforming signs around. The facts are there are 98,350 nonconforming signs in the United States.

The suggestion is, by giving this amortization power which we are giving to the States, if they want to use it, they can use it; if they do not want to use it, they do not have to use it. There is the essence of States rights; we are giving the States the power. If they want to use it, they can use it. We are mandating that they use it. And we are changing that 1978 law that said they did not have this power; it is taken from them, the only instance that we know of where the police power of the States to use amortization was suddenly taken from them, solely for the protection of the billboard industry.

As I say, the States under this legislation, the bill—by the way, this is essentially the same language that is in the administration bill—says the States can use amortization if they want, they can use up-front, straight 100 percent payments if they want; that is their business.

Mr. President, I just want to review a red herring that is constantly drawn across this path, and that is that this is against the Constitution of the United States. The fifth amendment in the Constitution says there can be no taking of private property without just compensation. And the suggestion by the Senator from Nevada and others is that this is violative of the Constitution of the United States because there is not just compensation.

Let us look at that. Frankly, if it is against the Constitution, they do not have anything to worry about because it will not stand up. But the facts of the matter are that this has constantly been tested in State courts and in Federal courts and consistently the answer by the courts is that the amortization is in conformity with article V of the Constitution. In other words, when you use the process of amortization, it is not taking of property without just compensation. Amortization has consistently been found constitutional by the courts, not just for billboards, but for, as I mentioned before, a variety of other businesses. You can pay me now or pay me later. If the nonconforming billboard is worth $10,000, the States can pay them $10,000 now and the billboard comes down immediately and the State owns the billboard. Or the nonconforming billboard can be removed with amortization, which means the billboard stays up, for example, for 5 years during which the owner gets $2,000 a year in revenues and therefore will have the $10,000 payment after the 5-year period. After that time, the billboard has to be removed and the billboard owner gets to keep the billboard, haul it away. By that time all tax benefits have been realized since the IRS allows billboards to be fully depreciated over 5 years.

(Mr. KERREY assumed the chair.)

Mr. CHAFEE. Mr. President, let us review the bidding. What is this business that this is against the Constitution? All right, we have here a letter dated May 21, less than a month ago, of this year from the general counsel of the Department of Transportation. What does she say?

> In sum, this review of recent Federal and State law case law shows that little has changed since our review in 1986. As a matter of Federal law, amortization remains a constitutional way of extinguishing nonconforming land uses, including nonconforming billboards.

In other words, amortization is all right.

The Comptroller General of the United States, in a letter dated May 17 of this year, conducted an extensive analysis of the case law and the constitutionality of the use of amortization in the removal of billboards. This is what he said.

> Our review indicates that a vast majority of cases hold that billboard amortization is a reasonable exercise of the police power of a State and not violative of the Constitution.

In a letter dated May 6 of this year to me, Prof. Edward Ziegler, Jr., professor of law at the University of Denver College of Law and principal author for the revision of the treatise, "Rathkopf's the Law of Zoning and Planning"—he is the premier zoning lawyer in the United States—says the following:

"My opinion, based on decided"—decided meaning cases that have been decided—"decided Federal and State court decisions involving billboards and other types of inverse condemnation taking claims, is that there would seem to be no serious question regarding the 'taking'"—quotes around "taking," referring to the Constitution, the fifth amendment—"regarding the 'taking' constitutionality of billboard amortization programs on their face. Most court opinions on point area State court decisions and these courts overwhelmingly have rejected taking claims challenging the concept of billboard amortization. * * * Moreover, there is nothing in recent Supreme Court 'taking' cases inconsistent with the rulings of court decisions upholding the constitutionality of billboard amortization programs."

It seems to me, Mr. President, that thoroughly dismisses the points that are raised in the article, the op-ed piece in the Wall Street Journal, that the Senator from Nevada previously referred to. And I do not know whether he is going to stack up Mr. George Will as a constitutional expert against these experts that I have cited here.

Mr. President, in a letter dated May 7, 1991, to the chairman of the committee and myself, Mr. David E. Cardwell, chair, Section of Urban, State, and Local Government Law of the American Bar Association—he is not some columnist giving his views on constitutionality. He is from the American Bar Association—this is what he said:

> The position of the section of Urban, State, and Local Government Law is that the Highway Beautification Act of 1965, 23 U.S. Code Annotated, Section 131, should be amended to permit State and local jurisdictions to control billboards for safety and attractive communities by utilizing standard land use control procedures under traditional police powers by eliminating its present requirement that cash pavements be made to billboard operators upon removal of nonconforming signs.

The legislation before us, that is the Surface Transportation Act, puts a moratorium on new billboards on the interstate and primary highways. These roads are about 7 percent of all public roads and clearly those roads with the highest Federal responsibility and the highest Federal investment. Why do we need a moratorium?

New billboards are going up faster than nonconforming ones are being removed. We need time out for the States to determine how many billboards there are. States and localities need time to assess the situation, to catch their breaths, make decisions on the type of regulations they want to consider, and give local officials time to put new regulations in place, if they so desire, without pressure to put up new billboards.

I might say, Mr. President, there is tremendous pressure on local officials to put up new billboards. In our State, we had a large sign which literally grew up over night. When neighbors complained that the sign was in violation of regulations, the sign was ordered removed. Soon after that, a public service ad, which was offered to the city free, appeared on the sign. Now nearly 2 years later the sign is still there entangled in a legal dispute.

The all-American championship for fighting against removal of signs goes to North Dakota to a billboard company and owner out there. A sign owner in North Dakota asked the State to give him permission, interim permits, temporary permits to put up signs even though the State was in the process of passing legislation to comply with the Highway Beautification Act.

The sign owner finally convinced the State to give him these interim permits after agreeing to sign a statement stipulating he would remove the sign without compensation when the State ordered him to do it.

So the State said, "OK, you agreed. No problem. You will take it down, no compensation. Do this when you are ordered to do it." Yes, he signed.

So in 1972, 19 years ago, the State ordered the signs removed. The owner refused to do so and has been in court ever since. This has gone on for 19 years tying up the State's time and resources in legal battles. The case has twice been to the Supreme Court of the State and once to the Supreme Court of the United States. And the signs are still there.

Now how is that for a championship, drag-your-feet winner?

So that is why we needed the moratorium. Billboards grow up during the night, and once they are there, you can count on protracted legal battles to remove them.

I might say Mr. President, the administration supports our efforts for a moratorium and to provide amortization and to include these bills. Lady Bird Johnson, Mrs. Lyndon Johnson, Laurance Rockefeller, others whose names are synonymous with preservation of the wonderful places in our country, have sent a telegram urging support for these reforms.

The Conference of Mayors and the League of Cities, who represent hundreds of cities around the country, are asking for these reforms so they can regulate billboards in their community in a way that will strengthen their local economy.

Mr. President, there is some suggestion that if you do not have these billboards or there is some control on them—and mind you conforming billboards are still there. This does not end the billboard industry. That is nonsense to suggest that.

There are currently, in the United States, between 400,000 and 500,000 total signs on the interstate and primary highways. Somehow the idea is going out here that we are wreaking havoc with the billboard industry. Why, they are all going to line up for unemployment compensation. They have between 400,000 and a half million signs along the interstate and primary highways, of which about 98,000, less than one-quarter, are nonconforming and could; they will not necessarily be, but they could.

We are giving the States some power. Anybody who belives in States rights ought to be for this bill 100 percent. I must say, I have great difficulty understanding the supporters of the amendment. Here is a power, a power of amortization, which can be used under every exercise of the police power except this nifty little niche that the billboard industry has carved out for themselves. What arrogance that they can say to the cities and towns and States, "No, no, no, you cannot use your formal police powers to get rid of these nonconforming billboards. This is a billboard that does not conform. You cannot use those powers because we are saying we have this big powerful lobby and we have this language in the 1978 law that says you cannot exercise your normal powers."

We trust other property to State and local Governments and laws under the amortization. Why not billboards? Why do we not have a sanction that prevents the States and cities from regulating these boards? Do we not have any confidence in the States to use the power just as they use it otherwise in the exercise of their police powers?

Well, Mr. President, I hope this amendment is thoroughly rejected, that we have confidence to give the States the powers they always had up until 1971. If they want to use them, fine. If they do not want to use them, that is their business. But let us not handcuff them as they have been.

This bill provides for over $100 billion to be expended on transportation; a good portion of that will be spent, 50 percent of it anyway, on primary and interstate roads—nearly all of it on the primary and interstates. Are the citizens of the United States of America not entitled to some rights under that? And where the local community has said this is nonconforming, the zoning does not permit a billboard, the local community and the State is entitled to get rid of it under the powers that they have for every other instance in the exercise of their police powers. I certainly hope my colleagues will reject the amendment. I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MOYNIHAN. Will the distinguished Senator from Washington yield for just a moment?

Mr. GORTON. I would be delighted.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I wonder if I could ask the principals involved in this debate—and I declare my position, of course I support Senator CHAFEE and I am a cosponsor—would they have any interest in setting a time limit, to vote at a time certain? I do not in any way want to restrict anyone.

Mr. REID. Mr. President, if I can respond, there are a number of people in support of this amendment who wish to speak: The Senator from Louisiana, the Senator from Idaho, the Senator from Montana. I will have to respond.

Probably we will need another hour. I do not think we will use all that time.

Mr. MOYNIHAN. But you might.

Mr. REID. I think there are other people. Does that sound appropriate to the Senator from Louisiana?

Mr. BREAUX. Fine.

Mr. CHAFEE. Mr. President, may I respond to the distinguished floor manager, who has worked so hard on this? I have a problem in connection with a hearing in the Finance Committee that I attended earlier and am bound to return when a certain panel is there.

Mr. REID. I have the same problem.

Mr. CHAFEE. I am willing to move on. Frankly, I have said about as much as I am going to say. If we have other speakers on our side——

Mr. REID. Why do we not try to make it quicker than 1 hour.

Mr. CHAFEE. I think we can move along. When the panel comes up I have to go. The majority leader knew that when we scheduled this for today.

Mr. MOYNIHAN. I wonder if we could ask for an hour to be equally divided, and vote at 12:30?

Mr. CHAFEE. Mr. President, I would have to object.

Mr. MOYNIHAN. The Senator does not feel comfortable with that?

Mr. CHAFEE. I do not feel comfortable with a time agreement.

Mr. MOYNIHAN. Shall we indicate the probable time for a vote will be 12:30, so people will know that? I sense that is what is likely to happen.

Mr. REID. I am ready any time.

Mr. MOYNIHAN. We will proceed with our debate. I thank the Senator from Washington for letting me interrupt. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask unanimous consent to set aside the amendment for 5 minutes to take up the amendment which was spoken of earlier by Senator DANFORTH, which I am doing on his behalf and which I believe has been cleared with the distinguished manager.

Mr. REID. Mr. President, I object. I have to go to Finance. We have to move this thing along. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Washington still has the floor.

Mr. GORTON. There having been an objection, I do not propose to speak at this point.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I will try to be brief in my comments. This is an issue that has been around this Congress for many, many years; in fact, decades. It is a question of how we handle outdoor advertising along our interstate and Federal aid highways.

As in most cases it is not as some would have it, a clear-cut issue. It is not black or white. There are a lot of gray areas. There are some who would say there should be absolutely no billboards for information and advertising purposes located on any highway anywhere in the United States of America; that we should ban all billboards, we should cut the legs off the boards that are up now, and we should do away with every sign on every highway completely and totally.

On the other hand, there are others who would take the opposite extreme position, which would say billboards are private commerce, that there should be absolutely no restrictions on private enterprise, that someone should have the right to build as many billboards in as many locations as they can possibly afford to pay for through the normal process of renting the property and building the structure. If they want to build them within 5 feet of each other up and down this country, go for it because that is private enterprise and should not be restricted whatsoever.

I take the position there is an answer somewhere between those two extremes and therefore support the Reid amendment to this legislation, which I think is a proper and appropriate way of handling this particular problem.

My own State of Louisiana has struggled with the question of billboards and regulations on a new section of interstate highways. The States already have the right to say no billboards on the highways within their boundaries, if they decide that is the proper policy for that State. There are many States that have taken that position.

I think the State of Hawaii, the State of Vermont, and others have taken that position: We do not want any billboards. We do not want any built and we do not allow them.

That is appropriate. That is proper for the State to take that action if that is what they think the people in their State want to have and it is in their interest.

My own State of Louisiana tried to take a compromise position, tried to balance it out. We tried to say, yes, we are going to regulate them. Yes, we are going to allow them. Yes, they do serve a public purpose. They are informative. They help commerce. They help the free enterprise system. They help the traveling public. But we should regulate them. We should not have them build anywhere and as often as someone thinks he wants to build them.

So I think the proper approach is not an outright ban or moratorium, as the legislation is in this particular bill. It is a total moratorium, a total ban on any new billboards on interstate highways. I think that is wrong. But I think it is appropriate and proper to have an in-between compromise position, which we have with the current law.

The second thing I would talk about is the legislation allowing the boards which were legally erected to be taken down and removed without paying anybody anything for them. I think that is wrong. I think that is a violation of the Constitution of the United States which requires that no private property shall be taken for public use without just compensation.

The committee came up with a novel idea, which is typical of many cases in Washington. We are not going to pay you any money. We are going to pay you amortization.

If anybody thinks he can take amortization and go cash it, or take amortization and put it in the bank, or take amortization and pay his bills with it, I want to let him know that is not possible. Indeed, I think it is a novel concept the committee has come up with, to take private property in this country and say we are not going to give you a check, we are not going to give you cash, we are not going to give you an IOU to pay you for it ever, we are just going to say it has been up, therefore it does not amount to anything, it is not worth anything: take it down.

I understand there has been some discussion on the floor between my friends from Nevada and Wyoming about this article in the Wall Street Journal by Gordon F. Crovitz. Mr. Crovitz is assistant editor to the editorial page of the Wall Street Journal and is a regular contributor to the Wall Street Journal.

Having said that, I think it is appropriate at this time to yield to the majority leader who I think is signaling me to yield to him.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I thank my colleague. A number of Senators have been calling me to inquire as to when the vote might occur on this. It has been my practice to try to set votes at a time certain to accommodate the schedules of as many Senators as possible.

Following discussions with the mergers and the principal proponents and opponents of this legislation, I now ask unanimous consent that there be 20 minutes remaining for debate on the Reid amendment No. 304, equally divided and controlled between Senators REID and CHAFEE; that no amendment to the amendment or to the language proposed to be stricken or a motion to recommit be in order; and that at the conclusion or yielding back of time, the Senate proceed to vote on or in relation to the amendment.

Mr. REID. Mr. President, reserving the right to object. I do not want to throw a monkey wrench into things, but if I could have 3 minutes because we have Senator BREAUX and Senator SYMMS wanting to speak. So can we have 3 minutes to my side?

Mr. MITCHELL. Would the Senator like 3 minutes on his time?

Mr. CHAFEE. We all spend time debating how fast we go. The panel I am interested in and the majority leader is interested in is starting at noon.

Mr. REID. You can go, and then come back and vote.

Mr. CHAFEE. I want to make sure I will be here to make sure everybody votes.

Mr. MITCHELL. Might I suggest, the panel, obviously, will not continue through the vote because the Senators in the hearing will have to come vote as well.

Mr. CHAFEE. With the assurance from the distinguished majority leader who is involved with the panel himself, I will be able to get there and still be here for the vote. That is putting you on the spot.

Mr. MITCHELL. I assure the Senator I will do my very best at that. As anyone who observes the Senate will be able to tell, my power to accomplish things is somewhat limited given the nature of that subject.

Mr. CHAFEE. Twenty minutes equally divided, 7 minutes here and 3 there, that makes 10, 20 minutes equally divided.

Mr. REID. It does not take a rocket scientist to figure out the noontime should work out just perfect. I need 3 minutes. It is not fair; Senator SYMMS has been here all morning, and Senator BREAUX has also been here.

Mr. CHAFEE. Senator BREAUX has finished, has he not?

Mr. BREAUX. I yielded to the majority leader.

Mr. MITCHELL. Mr. President, I amend my request to ask there be 23 minutes for debate, 13 minutes under the control of Senator REID, and 10 minutes under the control of Senator CHAFEE.

Mr. CHAFEE. Who says I am not a good fellow?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation.

The PRESIDING OFFICER. Who yields time?

Mr. REID. The Senator from Louisiana is given 4 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, let me conclude with the fact that I think the amendment of the Senator from Nevada is essential. Amortization does not pay anybody anything for taking of private property.

The article in the journal pointed out a good point that under this amortization-type theory, a city could announce there could be no building taller than 10 stories within their cities' limits, and then announce owners will be compensated by allowing them to occupy the buildings for 5 years and then leveling the buildings. That is what amortization is all about.

Are we in this Congress going to extend that concept of the taking of private property when we have a better way of regulating outdoor advertising on Federal aid highways? The system is currently working, I would argue. There are States, as I mentioned, that have no billboards. They made that decision and its is totally appropriate.

My own State of Louisiana has taken the position of compromise in regulating billboards which I think is totally appropriate, regulating them as to where they can be located, how close to an interstate highway, and what areas, how many they can have in a particular area. That is the proper approach.

As I said in the beginning, there are those who want no boards whatsoever, and there are those who want unlimited boards anywhere anyone wants to put them.

I suggest this Congress and this Senate reject both of those propositions and vote in favor of a balanced compromise which allows for a legitimate regulation. And if we decide to take down boards that were legally erected under previous regimes that, yes, indeed, compensation in this country, in America should be paid for the seizure of private property and a scheme by which we can say we are doing that by amortizing is indeed not in the American spirit and I think contrary to the dictates of the U.S. Constitution.

Therefore, I think we should all support the Reid amendment, and I yield back my time to my manager.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, how much time remains?

The PRESIDING OFFICER. Ten minutes forty-five seconds.

Mr. REID. I yield 6 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Sentor from Idaho.

Mr. SYMMS. Mr. President, I rise in support of Senator REID'S motion to strike section 137 of the Visual Pollution Control Act which was adopted during the committee markup. I always viewed that if somebody has something to sell, it is nice they can put a sign up and let people know where it is. That is basically what free enterprise is all about.

As Senator DOLE. said in this Chamber a few years ago when this issue was debated, "I come from a small town in Kansas. It is a great little town, but it is a good thing we have a sign to show people where it is or they would never find it."

So I think for us to look at this, and as far as this compensation issue with respect to amortization, I find it incredible that somone says that you have a sign and let you use it for 5 more years and then take a chainsaw to it, somehow that is paying you for it; I cannot quite understand that.

I know oftentimes people will face editorials that will tell them that somehow this is a good position for us to be in, to take down all the signs. But we have to remember that the same newspapers that write those editorials have a big advertising department and it is competition with them to have signs. There is also that aspect for us to think about.

But I joined with Senators REID, SIMPSON, and BURDICK in voting against this amendment when it was offered in the committee. Obviously, I hope the full Senate will support the Reid position.

It is not a new issue, so I will keep my remarks very brief, in fact, briefer than I would like to. But both the proponents and the opponents of this amendment focus on a single aspect of the complex revision of the Highway Beautification Act of 1965; namely, the elimination of provisions in existing law that require States to pay cash compensation for removal of noncoforming signs.

I want to point out that a variety of new requirements in this amendment would be imposed on States with a threatened loss of highway funds if the States fail to enact conforming legislation.

First, cash compensation. By repealing current law, Senator CHAFEE'S amendment would allow State and local government to amortize the value of nonconforming billboards to take it down, pursuant to Federal law, without paying the owner a single dime. That is really what we are talking about. This is often touted as States rights, but it is anything but States rights. The Visual Pollution Control Act is not a States rights proposal. If Members want to give back the States rights to regulate billboards, we ought to just repeal the Highway Beautification Act of 1965.

The fact is, if Senator REID is not successful in his vote, I am toying with the idea to offer that amendment so we will give it back to the States if that is what the proponents want. Let us give them the authority to control the billboards. The Visual Pollution Control Act is the antibillboard crowds attempt to have their cake and eat it too. They are not proposing to leave each of the States free to regulate billboards as they see fit. In fact, the Visual Pollution Control Act would substantially tighten Federal control of billboards. At the same time, it would allow State and local government to remove signs more easily by repealing the requirement that cash be paid to the owner whose property the city or State is taking.

My State happens to be in conformance with the National Beautification Act. They have paid people, they have taken down the nonconforming signs. What is happening here, Mr. President, is the proponents of section 137 of this bill want to give back the rights only to State and local governments that they want to take the signs down.

I believe the Federal Government is going to regulate billboards on highways across the country, and the Congress has a responsibility to see that private property rights are guaranteed in the fifth amendment, as they are in the fifth amendment. They are guaranteed and we protect by requiring cash compensation for the removal of nonconforming billboards. If those who find billboards offensive believe they will be better without Federal regulation and strict adherence to the fifth amendment, then an amendment to repeal the Highway Beautification Act might be logical and justifiable for this position.

Let me mention a few of the finer points of this. Enactment of the Visual Pollution Control Act would require nearly every State to make substantial statutory modifications to tighter controls. States failing to enact these modifications would face up to a loss of 5 percent of their surface transportation program.

So Senators need to be aware of that. That is in this section.

The act requires States to prohibit the erection of any new billboards along the interstate and primary highways, prohibit any modification or maintenance of conforming signs that may extend the useful life of a sign, prohibit the cutting of trees and vegetation to improve and maintain visibility of signs.

It is important to note that nothing in current law prevents States from enacting these billboard control measures. In fact, several States have gone even further by banning billboards entirely.

But the proponents of the Visual Pollution Control Act want to force the rest of the States to enact billboard controls they have not chosen and perhaps would not choose or enact on their own. So this will be a matter of mandating to the States what they have to do.

So I hope my colleagues will support the position of the Senator from Nevada to strike the Visual Pollution Control Act from the bill.

I want to reiterate, from my point of view, and with all due respect to my colleagues who have spoken on the other side of this issue, this is not, in my opinion, a States rights proposition.

In fact, as I have said, if Senator REID'S motion is unsuccessful, then I believe those of us on the side of Senator REID should consider offering an amendment which would truly return this regulation of billboards to the States. I think Senators, in voting for this, should be prepared, if Senator REID is unsuccessful, may get an opportunity to really demonstrate their love for States rights if we offer an amendment just to strike the entire section of the law which would then put it in conformance with States rights and get the big powerful hand of the Federal Government out of the issue.

Mr. President, I thank the Senator from Nevada for his efforts on this issue.

I yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be deducted equally.

Mr. REID. Does the Senator from Rhode Island care to yield back the remainder of the time?

Mr. CHAFEE. No. I have, as I understand it, 10 minutes. I would like to reserve that time. If the Senator wants to proceed, he may have more time than I do.

The PRESIDING OFFICER. The Senator from Nevada has 3 minutes and 54 seconds; the Senator from Rhode Island has 10 minutes.

Mr. CHAFEE. I may not use all my time. I will save it for the end.

The PRESIDING OFFICER. Time will be deducted from both sides.

Mr. REID. Mr. President, as a lawyer, I learned a long time ago in my first few cases that, if you are in trouble with the facts, you argue the law. Basically, that is what we have here.

What we heard from the Senator from Rhode Island to maintain this in the bill is that the law supports his position. Of course, we know that is not the case. I cited cases from Colorado, Pennsylvania, and read the language from those cases supporting the position to strike this.

What this deals with, of course, is the fifth amendment of the U.S. Constitution.

There is also no question about the fact that the number of billboards since 1966 has gone down significantly, from 6.6 for every 2 miles, to about 1 for every 2 miles of roadway.

There is no way the Senator from Rhode Island or anyone speaking in favor of the language now in the bill addressed what I feel are some extremely fallacious points in the language now in the bill. What about material in the signs? Is it fair that you not only have to tear the signs down but you cannot use them to build another billboard, even if it is a legal one?

What about the law as it relates to the foliage?

There has been some argument given about all those that support the position of the Senator from Rhode Island. In fact, I heard the administration—the Comptroller General—that is unique—now he is being cited as a legal authority. And in the same breath he says this very powerful billboard industry. I do not think anyone would compare them to the administration, the Comptroller General, and the American Bar Association, who has never seen a law they did not like because it creates more work for lawyers.

So, Mr. President, I submit we are dealing here with the fundamental principle for the American system of justice that I would summarize by again quoting Judge HEFLIN, who I think is the person we all look to for legal authority in this Chamber.

> Just as important as the right to do business is the right to possess private property without fear the State or the subdivision can confiscate it without payment of cash compensation.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? Time will be charged equally to both sides.

The Senator from Nevada has 54 seconds; the Senator from Rhode Island has 9 minutes and 30 seconds.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. How much time do I have?

The PRESIDING OFFICER. The Senator from Rhode Island has 8 minutes and 30 seconds.

The time of the Senator from Nevada has expired.

Mr. CHAFEE. Mr. President, I would like to briefly sum up what the situation here is. Under the language in the bill before us, the legislation, the States are not required to take down any sign. They are not required to use amortization. They are not required to do anything. They are not required to invoke anything.

What the Senator from Nevada wishes is to go back to the law as it currently exists which changed the processes that have always been in effect before 1978, and deprive the States of the power to use amortization in the exercise of the police power, a power the States have in the exercise of their police power against all other conditions except billboards on interstate highways and on primary roads.

That is what the billboard lobby so successfully inserted in, ironically, the Highway Beautification Act of 1978. They deprived the States and the communities of a power they had always previously had, and they want to keep it. Who blames it? What a wonderful thing they achieved for themselves. It did not do much for the public, and it certainly hamstrung the local governments.

But for the billboard industry, it is a marvel that in any nonconforming area they have in mind, the billboard is not permitted there in the first place but they have to be paid up front with dollars. How many communities now under the strapped conditions they are in have the dollars to pay up front money to take down the sign instead of using the power they have for every other possibility under the police power, namely the use of amortization.

That is the first point. The suggestion is that we do not want to get the heavy hand of Federal Government in here. The ultimate of the heavy hand of the Federal Government is the law as it currently exists, which interferes with the rights in the communities. That is the Federal Government interfering. I say, let us go back and give the powers to the States, as they previously had before 1978.

Second, the suggestion is that all billboards are going to be taken down under this, and no one will know how to get to this town or that town. That is just not so. No one is suggesting that conforming billboards have to come down. And, mind you, there are between 300,000 and 400,000 of those in the country along primary and interstate highways.

As everyone knows, in those States—for instance, Vermont—which have chosen to outlaw all billboards, they can put up informational signs directing overnight lodging, gasoline, food, or whatever it is.

So the suggestion is that the poor traveler is going to be wandering out on the highways not knowing what is where, and that is just not so.

Mr. President, for these reasons, I hope that my colleagues will join with me and others in voting against the Reid amendment.

Mr. President, I understand there is no time left on that side. I am prepared to yield the remainder of my time.

Mr. SPECTER. Mr. President, I support the amendment by Senator REID to strike the antibillboard provision from the committee bill because the provision does not provide fair compensation for the property which it takes.

Highway beautification is a matter that I believe deserves consideration as a major national issue, while ensuring just compensation for billboard removal when removal is necessary. I concur with the proposal in the bill to allow the States and local governments to prevent the construction of additional signs, and to order the removal of signs which detract from natural beauty. The proposal in the bill, however, would be unfair because it would not guarantee payment of fair market value to a sign owner who is required to remove a sign.

The fifth amendment of the U.S. Constitution guarantees just compensation when the Government takes private property on behalf of the public good. Therefore, when property is taken under eminent domain, clear-cut just compensation and due process provisions guarantee that the owner receives fair market value for the property. The amortization plan provided in the bill does not treat the removal of a billboard in such a manner. As a result, if a billboard owner who is ordered to remove a sign and is required to accept an amortization plan, that individual might never actually receive the fair market value of his property. Even after amortization for tax and other subjective criteria, property still maintains its value, and fair compensation should be provided.

The Commonwealth of Pennsylvania is one of 35 States with a law on the books requiring the payment of cash compensation to the billboard owner when a billboard is removed by the State or locality. In addition, Pennsylvania courts for many years have taken the position that provisions for the amortization of nonconforming billboards are invalid under the State constitution.

For these reasons, I oppose the provision in the committee's bill and support the amendment offered by my colleague from Nevada. I am hopeful that billboard control without departing from the principles of just compensation can be achieved.

Mr. BRYAN. Mr. President, I rise today in support of the amendment offered by the senior Senator from Nevada.

As many others have pointed out throughout the years, the issue now before us is simply one of fairness. Since 1965, when Congress first passed the Highway Beautification Act, owners of legal, but nonconforming, billboards have received just compensation in the form of a cash payment for the taking of a sign in compliance with State law.

I can understand the problems caused by the just compenstion requirement. There is no doubt that it increased the cost of removing nonconforming billboards. Allowing amortizaton would reduce the cost of removing nonconforming billboards. The fact remains, however, that these billboards are private property, legally erected at a cost to private citizens. When someone owns a home that needs to be torn down to build a highway, the Federal Government does not amortize the home, it pays just compensation. Under the fifth amendment, I cannot see how we can do anything less for the owners of nonconforming billboards.

I think this issue is confused a bit by the terminology involved. There is an important distinction between nonconforming billboards and illegal billboards. While illegal billboards are erected illegally, and thus can be removed without any compensation to the owner, nonconforming billboards were erected legally, but do not conform to subsequent changes in the law. The removal of illegal billboards has been very successful—the U.S. Department of Transportation reports that as of September 30, 1990, more than 650,000 illegal signs have been removed. This represents 95 percent of the illegal signs erected across the Nation. The issue of removing nonconforming signs should not be confused with the equally, if not more, important issue of removing illegal signs, an effort which has been very successful.

Governments at every level make decisions based on the best interests of their constituents. Often, however, these decisions have costs. Private citizens who are adversely affected by decisions in the public interest must be compensated. As a State or local government considers proposals to eliminate or restrict the use of billboards, the cost of reimbursement to the owners of existing billboards should be factored in. As the experience of States like Maine demonstrates, such programs can be successful. The use of amortization as a substitute for such settlement ignores the fundamental constitutional protection against the seizure of private property.

In addition to the provision allowing amortization of nonconforming billboards, several other provisions of the proposed legislation concern me. In addition, the prohibition against improvements on nonconforming billboards is itself a form of the taking of private property, if the Government cannot require the billboard owner to remove the billboard, it follows that the Government should not require the billboard to fall into a state of disrepair. Even if a sign is nonconformig, it is still private property, and the owner should retain the rights of all property owners.

Mr. President, I urge my colleagues to vote in favor of the amendment to strike the outdoor advertising provisions of S. 1204.

Mr. FORD. Mr. President, when the Federal Aid Highway Act was before the Senate roughly 5 years ago, I spoke against the billboard language which was in that bill. Let me repeat what I said then: I am not opposed to the regulation of billboards, I am not opposed to enforcement of the Highway Beautification Act. What I am against is language that prohibits the construction of new billboards along the Nation's highways, language that would effectively wipe out thousands of small businesses in America.

Language in S. 1204, the Surface Transportation Efficiency Act which is before us today, is no different than that which was defeated on a floor vote last time around, and it has the same ultimate and devastating effect—it will force out of business companies that make billboards and will cause irreparable damage to the thousands of towns and legitimate businesses across the country that depend on them.

Mr. President, I am not talking about the giant companies which own roughly 80 percent of all existing billboards; I am talking about just plain folks, about small, family-run enterprises that are the true embodiment of the American way.

Let me give you a few examples of the kind of operation you will be closing down if you vote to keep the Chafee language in the bill. One that is in my part of Kentucky is a modest three-man business. The father operates the telephone, taking orders and generating clients; one son designs the billboards; and the other goes out and actually builds them and puts up the paper—an efficiently run operation if there ever were one: a father and his two sons.

A second example is that of a man and wife team who started out in 1958 with $50 to put up their first billboard. Today that company is a multimillion-dollar operation employing 11 people and owning 400 billboards.

Then there are the advertisers themselves, such as the small chain of family restaurants adjacent to the Illinois Turnpike whose sole source of advertising is, quite simply, billboards. Without these signs, they would have to close down and would not be in business tomorrow.

Americans like billboards. Tourists, business and even municipalities depend heavily on outdoor advertising. Why the State of Maine, which has banned billboards within its own borders, has been known to purchase billboards in Massachusetts advertising the beauty of its fall foliage. And how else is a stranger driving in unfamiliar territory supposed to know about restaurants, gas stations, hotels, and campgrounds if there isn't a sign indicating the existence of such services? As Senator DOLE pointed out during the Senate's last debate on the subject, some of the smaller towns in Kansas would just disappear if there were no billboards. I wager that would happen somewhere in every State in the Union.

I wonder what happened to the initiative of the city of New York of a few years ago, an initiative designed to generate millions of dollars in new revenue. Talk about the widespread utility and use of billboards. The city solicited bids from outdoor advertising companies to lease over 120 city-owned properties for the exclusive right to install and display outdoor advertising on approved surplus, city-owned properties. I wonder how much the coffers of the largest city in New York have profited from outdoor advertising?

I have been working closely with small billboard operators over the years and I can categorically say that they are in favor of stronger regulation of the billboard industry. They are in favor of strict enforcement of the Highway Beautification Act and would even agree to a Federal permitting scheme to generate funds for illegal sign removal.

All I am trying to do here is convey the message: Regulate but don't punish. Don't punish these small businesses, operators as well as their clients. There are many other fairer alternatives to banning the construction of billboards. I would strongly suggest that, before the U.S. Senate goes on record against small businesses, it first thoroughly examine the issue and the potential economic repercussions of the Chafee language.

I urge my colleagues to support the motion to strike.

Mr. SIMPSON. Mr. President, we have seen this bill before. The Senate has voted on this matter before and we have repeatedly defeated the effort to allow the removal of billboards without just compensation.

This is a difficult issue—it is one that seems to touch off an emotional response all across the country.

I certainly appreciate the desires of Senator CHAFEE and others to satisfy their constituencies in heavily urbanized States who do not want to look at cluttered billboards. Current law allows your States to pay the owners for the sign and then to take them down.

But in the open West it is a different story. Billboards are a very valuable advertising tool—for businesses and communities. Billboards are an investment. Not only a fiscal investment, but an investment in that community and attracting traffic off of the interstates and into some of our smaller communities. It is inappropriate to amortize these billboards as a means of compensation. No money is ever paid for the removal of the signs and it is just a clever way to eventually force the billboards out of existence.

The cash payment program has worked well. If it is important enough for someone to remove the billboard—he pays the cash. But if it is not important enough to merit spending the money, then we should not be changing the law to permit the removal of the signs at less of a cost.

Senator REID appropriately addressed the issue of States rights. It is a States right to decide how its highways will look and if billboards are allowed or not. And if a State decides not, then it needs to come up with the money to buy the billboards and take them down. How a State looks, how it promotes its tourism and helps its communities, is a State decision. Some want open vistas, some want the billboards. Let us let them decide, but let us not pass Federal legislation banning the construction of new billboards along interstates and allowing some fancy bookwork called amortization to remove those that already exist. It is heavy-handed Federal lawmaking, it supercedes a States' responsibility, and it's not only unfair but very questionable in its legality against the billboard owner.

Mr. HEFLIN. Mr. President, I would like to point out that the Highway Beautification Act is not an environmental issue, but it is one involving property rights.

Clean air and clean water are not involved, nor are our national parks, national forests, or scenic highways. What is involved is the ability of a legitimate industry to do business in commercial and industrial areas, where service stations, fast-food chains, retail stores, and the like are allowed to thrive.

Just as important as the right to do business is the right to possess private property, without fear that the State or its subdivisions can confiscate it without payment of cash compensation.

Police power removal of signs through amortization has not reared its ugly head in Alabama until the last few years, when it appeared in a Tuscaloosa ordinance. Birmingham now has such an ordinance under consideration. I do not want to see this perfectly legitimate industry decimated by amortization.

Mr. President, this amendment would jeopardize that right to private property and I hope my colleagues would reject this amendment

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nevada.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—60

Adams
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Conrad
Craig
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Fowler
Garn
Gore
Gramm
Grassley
Hatch
Heflin
Helms
Inouye
Johnston
Kassebaum
Kasten
Kohl
Levin
Lott
Lugar
Mack
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Sanford
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Wellstone

NAYS—39

Akaka
Baucus
Bentsen
Biden
Bradley
Chafee
Cohen
Danforth
Dodd
Durenberger
Glenn
Gorton
Graham
Harkin
Hatfield
Hollings
Jeffords
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Lieberman
McCain
McConnell
Metzenbaum
Mitchell
Moynihan
Pell
Robb
Rockefeller
Roth
Rudman
Sarbanes
Seymour
Smith
Warner
Wirth
Wofford

NOT VOTING—1

Pryor

So the amendment (No. 304) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will come to order.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the pending Byrd amendment be temporarily laid aside for the consideration of an amendment by my distinguished partner in this enterprise, the Senator from Idaho [Mr. SYMMS].

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I know many Senators are wondering what the schedule is going to be here.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SYMMS. Mr. President, I have just been informed that the distinguished chairman of the Finance Committee wishes to make a speech right now.

I might just say that I have an amendment that I will be offering on behalf of Senator BOREN and myself immediately following the speech of my chairman. I might also say, Mr. President, that the amendment I will be offering on behalf of myself and Senator BOREN is otherwise known as Senate bill 50, which has 40 bipartisan cosponsors. As of June 12, 40 of the Members of the Senate are sponsors of this legislation.

This legislation deals with the taking regulations of the law, the Private Property Rights Act it is called. The amendment that I will be offering has the full support of the administration. In fact, the Vice President called me this morning and the administration would like to have it amended on the highway bill.

I do not know how controversial it will be or how much debate will be required, but I would just like to advise my colleagues that I have agreed with the members of the Commerce Committee that during the debate of the Private Property Rights Act we would yield the floor to the Commerce Committee for 5 minutes while they put their section in this bill that has been cleared on both sides of the aisle. That is kind of the schedule for now.

I anticipate that we would have a record vote on the Private Property Rights Act, although if the committee chooses to accept the amendment, those sponsors I am sure would agree with me that we would not push the Senate to a record vote.

So, with the understanding that I first be recognized when the Senator from Texas has completed, for the purposes of offering an amendment, I will then be glad to yield the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I thank my good friend from Idaho.

Mr. MOYNIHAN. Mr. President, if the Senator would be kind enough, may I ask now, Mr. President, this is the fourth time in 15 minutes that we had to respectfully interrupt the proceedings, but the Senate is not in order and we are going to hear an important speech.

The PRESIDING OFFICER. The Senate will be in order.

If Senators have discussions, they should take them off the floor. The Senate will be in order.

The Senator from Texas is recognized.

Mr. BENTSEN. Thank you, Mr. President. I thank again my good friend, the distinguished Senator from New York, the manager of this piece of legislation.

It is a major change in the way to approach some of the problems that face transportation in this country. I note that it is entitled the Surface Transportation Efficiency Act. It urges upon us a major departure, a major departure from previous Federal policies. It is designed to introduce into our surface transportation ideas of cost efficiency and productivity.

Yet, when I look at S. 1204, when I look at the funding formulas, and the major factors effecting the distribution of highway funds in the 1990s, what do they do? They go back to an archaic formula, for example, postal routes. Now that was first brought into the equation in 1916. I do not think the committee has brought the funding provisions face to face with the modern problems of growth and what has happened to the transportation system.

S. 1204 incorporates another anomaly which I think weakens my friend's stated objective of bringing efficiency and productivity to the surface transportation system of this country. Current law would require the use of the 1990 census data in making funding allocations after the 1990 data becomes available later this year. But S. 1204 works the other way. It says during that entire 5-year authorization period, what you would be using is the 1980 census data; completely ignoring what has happened to the population of this country over the last decade.

This unexplained change in current funding mechanisms would extend a flaw in the current funding formulas: These formulas fail to consider and accommodate the demand for transportation services and products of fast-growth States. This flaw in our highway funding mechanism ought to be recognized by our friends and colleagues who crafted this piece of legislation. It has now been over 5 years since the General Accounting Office released its report identifying the inefficiencies inherent in the outdated formulas and recommending their replacement with formulas that more closely reflect the extent of these highway systems, their present use, and their increases in usage.

Implicit in the General Accounting Office's recommendation is the conclusion that current funding formulas lead to irrational, inefficient outcomes in the allocation of highway funds amongst the States. By retaining those archaic formulas, the bill before us, with respect to that portion of the legislation, most be judged to have failed. These formulas do not accomplish the objectives stated in the title of S. 1204.

This legislation must be judged to have failed by other standards as well. Last Thursday, in his introductory remarks beginning this debate, my friend from New York reviewed the early history of the highway trust fund and the Interstate System which it supports. In those comments my friend described how the funding of the long ribbons of asphalt and concrete extended westward relied upon a large transfer of revenues out of the Northeastern States into the South and into the West.

I have long recognized my friend's scholarship, and I recognize it on this one. But, I must say, I do not think it has been brought up to date. I have no doubt but that his description is correct during an early period in the construction of the Interstate System. But, Mr. President, matters are different today, and they have been different for many, many years.

Figures from the Federal Highway Administration show that, clearly, over the full history of the highway trust fund since 1956, the net flow of highway dollars has been precisely in the opposite direction, from Southern and Western States into the Northeast. And this flow of revenues has been massive.

I share the frustration expressed by several of my colleagues in finding consistent facts and numbers, so we know we are comparing apples to apples, oranges to oranges, because we have had so many differing figures. So, in order to avoid a confusing debate over whose numbers are better, I have conceded the question and I have chosen to rely on the same source that the Senator from New York used last Thursday in his discussions of each State's return on investment from the highway trust fund, cumulative for the years 1956 to 1989, except that I have obtained from the Federal Highway Administration an updated version of that table, which includes fiscal year 1990 as well.

Between 1956 and 1990, 6 Southern and Western States—only 6—have accounted for fully two-thirds of the entire net transfer of highway revenues among the States. Other States, largely in the Midwest and in the South, also saw a net outflow of highway revenues since 1956. But I will focus mainly on the 6 Southern and Western States that account for two-thirds of the entire transfer of revenues since 1956. These six States: Texas, California, Florida, North Carolina, South Carolina, and Oklahoma, paid almost $7 billion more into the highway trust fund than they received out of that fund.

Taxpayers in the State of Texas contributed almost one-third of that $7 billion, more than any other State. And I must say it would have been far more if the Senator from Texas, in 1982, had not prevailed in putting an 85-percent floor as to what must come back as compared to what was sent to the highway trust fund.

Of that $7 billion, what we have to also realize is it reflects none of the inflation that has taken place over the last 35 years. If we crank that in, then we would be talking about an enormous additional amount of money.

Which States received the benefit of this massive transfer of highway revenue? Many did, among them the States of New York, Connecticut, Massachusetts, Rhode Island, and Vermont. Since 1956, these five States have received $6.9 billion more from the trust fund than they paid into the fund, nearly matching the $7 billion outflow from the 6 Western and Southern States I have identified. Again, that is in nominal dollars, not converted into today's dollars.

There is no question in my mind which direction the revenues have flowed over the history of the highway trust fund. They have defied gravity. They flowed upward, North and East.

But that is all history, Mr. President. The central question, properly before us, is how these trust funds are to be allocated over the next 5 years under the provision of the bill now before us. I do not deny there would be changes in the proposed structure of S. 1204. Indeed there will be a few winners; States such as Maine would be transformed from a donor to a donee State. There would also be a few new losers, such as Alabama, Illinois, and Louisiana; States that were previously donee States and would become donor States.

But there is also a lot that does not change under the bill. For example, for the same five Northeastern States that drew $6.9 billion more from the trust fund than they paid into it in the first 35 years of this fund—States that are among the richest in the Nation, with the highest per capita income—S. 1204 would add another windfall of $5 billion over the next 5 years.

Remember—I heard my friend say, which state, 350 miles across——

Mr. MOYNIHAN. Wyoming. I said God made Wyoming.

Mr. BENTSEN. I agree that there are always going to be donee States, and I think there should be. You make a very valid point about Wyoming, and about Montana, Nebraska, States that have substantial territory but very few taxpayers to pay that gasoline tax. How are we going to have an Interstate

System? Even if it is already virtually completed we have to maintain it, and, therefore, there are going to be those donee States. But the logic does not follow when we are talking about a State that has high population in relation to its geographic area and has high income per capita, and then remain a perpetual donee State.

There is a basic inequity there that has to be corrected. I do not know that we have the votes. I understand how one could artfully put together a coalition where there are more winners than there are losers. And I understand the propensity of us to all look after our own particular States when it comes to the disbursement of Federal revenues. We all want to be sure we get a large share for our constituents.

But at some point the question of equity has to come in. If we are going to have the continued support to put through a highway program, we have to give some consideration to a formula that is basically out of date and that has to be corrected.

During the next 5 years $2.7 billion will be required from the States of Texas, California, Florida, North Carolina, South Carolina, and Oklahoma in order to fund the revenue transfers to those six Northeastern States. Moreover, another $2.3 billion in revenues from the States of Alabama, Arkansas, Georgia, Louisiana, Illinois, Indiana, Kentucky, Michigan, Mississippi, Tennessee, and Virginia, would be required to complete the funding of this $5 billion transfer to these Northeastern States.

Mr. President, as one might expect, four of those five Northeastern States are very ably represented on the committee of jurisdiction. Is there any mystery why they have retained the old funding formula? We would expect nothing less from our friends and colleagues than to promote the interests and the welfare of their own States in the consideration of such important legislation. I understand.

But at some point enough is enough. The funding formulas on which the proposed allocation of revenues is dependent has no legitimacy. They fail all standards of reasonableness and equity. Quite frankly, Mr. President, they are rigged.

I recognize the fact, again, that we are going to have donor and donee States. But there has to be some change in the formulas we have today, because many of these States that are now heavy on the donee side cannot be considered rural States. They are urbanized, industrialized, wealthy States.

The legacy of inequity in highway funding lies at the core of the debate in which we are now engaged. There are some who seek to dismiss those who oppose the funding formulas of S. 1204 by claiming we simply seek for our own States the advantage which others would win if S. 1204 prevails.

They assume, and would have you believe, that all claims to these moneys are equivalent, that we have no means of judging one claim over another, that we are each simply "bringing home the bacon," nothing more, nothing less.

But Mr. President, that is wrong. At some point there has to be a limitation.

There is a standard of equity—that is what we are discussing today—and many of us have opposed these archaic formulas for quite some time. Many of us who oppose this bill represent taxpayers who have carried far more than their fair share of the highway funding burden over the past four decades, despite the fact we are fast-growth States with greater needs for transportation improvements.

Mr. President, there are some who defend S. 1204 by merely dismissing the issue at hand as one of dollars: who gets them, and who does not. It is far more than that, Mr. President. The insight reflected in this legislation is the clear recognition of the central role of transportation in American life today. Henry Ford's extraordinary invention and the realization of President Eisenhower's dream of a comprehensive network of interstate highways has torn us apart, as the Senator from New York's article in the Reporter back in 1960 so accurately described, and yet simultaneously has bound us together in entirely new ways. My colleague cannot be more right in that.

But today what we are debating is more than the allocation of Federal highway funds. Really, we are determining the quality of life for millions of Americans—the time they spend on congested urban freeways instead of at home with their families. I experienced that as late as last evening as I found myself in a gridlock on the George Washington Parkway for 45 minutes because of a stalled car and a policeman who thought he was trying to help.

We are determining the environmental quality of many of our cities: which ones are going to meet the rigorous air quality standards of the Clean Air Act and which will not. We are allocating opportunities for economic development and employment growth—which cites and States will have the transportation infrastructures that are adequate to accommodate the demands of new and growing businesses and which ones will not.

Indeed, while we may prefer not to view the matter quite so clearly, nevertheless, in allocating the funds which will be adequate, or not, to resurface the deteriorating roads in each of our States, replace one bridge but not another, improve one railroad crossing but not another, widen one stretch of two-lane road to four lanes but not to widen another, we are allocating the risk to life and limb among the citizenry of our various States. We are not simply dividing the pork.

Mr. President, this legislation is ambitious and has many good things in it. I just voted with my distinguished friend on the last amendment. I think he is absolutely right in what he is trying to do with the billboards. I have that problem in my own State. Drive into Houston and take a look. It is one billboard after another.

I used to be on the other side of that argument. I used to be on the billboard side, because of the argument of compensation and whether you are really taking property without compensation. And then I finally realized you are never really going to get them down that way, and so you have to amortize it. Give them time to amortize out their investment.

But on this one, despite my great respect for my friend from New York who has worked long and hard, I think that the distribution of funds is a very serious inequity. I believe we can, and must, correct that flaw replacing this Edsel of a funding formula.

I am not asking for a funding formula that is finally going to restore the roughly $2.5 billion outflow of revenues donated to other States since 1956 by the taxpayers of Texas because some of it just had to happen that way to get this interstate across those Western States. I cannot even reasonably expect adoption of a formula that will make Texas a donee State for the next 5 years. But I will fight alongside my colleagues to adopt a formula that accurately reflects the transportation needs for the citizens of my State and other States that have been shortchanged for too long.

Thank you, Mr. President.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho requested to be recognized next.

Mr. SYMMS. Mr. President, I further extend my unanimous-consent request to yield 5 minutes to the manager of the bill without losing my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I would like to take a moment to thank my chairman and friend for so many years, the senior Senator from Texas, for his remarks, and just to make some very brief comments about them.

First of all—because it is relevant—he mentioned that in my opening remarks I commented that the Interstate System would have the result of a flow of resources out of the Northeast quadrant to the South and West.

I think he will find that that was an article written in the Reporter 30 years ago. At that time, it was expected the interstate would be finished by 1969—a 15-year enterprise. I suspect what I wrote was accurate then. I could not for a moment assert that it is accurate now.

My point is that I think in the highway program we have a classic case of public sector disease. This system did not get finished in 15 years. It took three times as long and five times as much money as it was meant to do. A public sector which does not have to account for costs, and does not have to produce productivity increases accomplish that, as no one knows better than the Senator from Texas.

A very important fact is that we really do not know this data very well. We are dragging it out of the Department of Transportation. They have not had to know. Why know what the prices and costs are when they do not make any difference? That is the public sector disease. Transportation productivity, as the Senator has heard me say, is growing at the medieval rate of 0.2 percent.

As an example of the complexity of this program; ask what are the per capita outlays? Nationwide, the per capita outlay for 1990 from the trust fund was $54.25; New York got $33.59, Texas got $60.41, and Wyoming got $245.74.

Just doing the ratios of dollars received per dollars constitute conceals per capita effect and the impact of the program. It does not reflect the fact that the trust funds only pay out about 94 percent of what they bring in because 6 percent is overhead, public lands, Indian lands, emergency relief, and the like.

Just to repeat that what the committee did, absent any powerful rationale one way or another, was to accept the historic pattern of outlays. That may prove to have been a mistake, but it was not an inadvertent one. We just judged this was the best case we could make to people. You will get what you have been getting, and there will be more dollars.

Mr. BENTSEN. Mr. President, I say to my distinguished friend, I am delighted to have his statement concerning his previous statement, and I did say I was sure he was right then, but later that changed.

I agree with him very much insofar as the question of the efficiency of our highway system, or the lack of it. I think it has been quite a shock perhaps to some of the highway people in this country to find what has been happening in Europe with the improvements, the increase in productivity, and the permanence of the installations as related to ours.

Hopefully that will be an education that we will absorb, and we will change some of our production methods.

I also want to say to my friend from New York that I understand his desire to see if we cannot achieve some accommodation in this. I am hopeful we can.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Idaho, who has been very forbearing.

AMENDMENT NO. 305

(Purpose: To ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself, Mr. BOREN, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, and Mr. WALLOP, proposes an amendment numbered 305.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

"SECTION . PRIVATE PROPERTY RIGHTS ACT.

"(a) This section may be cited as the "Private Property Rights Act."

"(b) DEFINITIONS.—As used in this section:

"(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other estabishment in the executive branch of the United States Government.

"(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the fifth amendment to the Constitution of the United States.

"(c) PROTECTION OF PRIVATE PROPERTY.—No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

"(d) JUDICIAL REVIEW.—

"(1) Judicial review of actions taken pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this section. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

"(2) Nothing in this subsection shall affect any otherwise available judicial review of agency action.

Mr. SYMMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 306 TO AMENDMENT NO. 305

(Purpose: To ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible)

Mr. SYMMS. Mr. President, I send an amendment in the second degree to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for himself, Mr. BOREN, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, and Mr. WALLOP, proposes an amendment numbered 306 to Amendment No. 305.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "SECTION" and insert the following:

" . PRIVATE PROPERTY RIGHTS ACT.

"(a) This section may be cited as the "Private Property Rights Act".

"(b) DEFINITIONS.—As used in this section:

"(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the executive branch of the United States Government.

"(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the fifth amendment to the Constitution of the United States.

"(c) PROTECTION OF PRIVATE PROPERTY.—

(1) No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

(2) Upon receipt of guidelines proposed by an agency for compliance with the procedures referenced in paragraph (1), the Attorney General shall, in a reasonably expeditious manner, either approve such guidelines, or notify the head of such agency of any revisions or modification necessary to obtain approval.

"(d) JUDICIAL REVIEW.—

"(1) Judicial review of actions or asserted failures to act pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this section. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

"(2) Nothing in this subsection shall affect any otherwise available judicial review of agency action".

Mr. SYMMS. Mr. President, I am going to speak very briefly on this amendment, but just to describe it to my colleagues again, this is what is known as the Private Property Rights Act, Senate bill 50. It enjoys the sponsorship of many Members of both parties. There are 41 cosponsors as of right now.

Mr. President, I just received a call from the Vice President this morning asking me to please amend the highway bill and put this amendment on it. It is something the administration considers important in the process of this work.

I will ask unanimous consent at the end of my remarks to include letters from the Vice President, from the Justice Department, letters from the Senators who are sponsors of the other bill, and the following organizations who support it, some 45 or 50 in number, letters from various farm organizations, and other associations and groups that support this, the National Federation of Independent Business, among others.

Mr. President, as the Nation has developed its system of roads, highways, turnpikes, interstates, it has often been necessary to cross someone's private property. In some cases it has been necessary to clip off the corner of the field or go right through the middle of the field or shave out the backyard. But throughout the building of our highway system one principle has underlined every single instance where the public need for transportation has required easement across private property. That principle is recognized within the very Bill of Rights whose bicentennial we celebrate this year as the sanctity of private property and the necessity of "just compensation."

Mr. President, I sent that amendment to the desk on behalf of myself and Senator BOREN from Oklahoma, the distinguished senior Senator from that State who has been a great help to me in this effort, as well as another group of Senators who are also sponsoring the amendment today.

All of the Senators, I might say, who are sponsors of Senate bill 50 for one reason or another may not be sponsoring this amendment. I did not want to confuse that. But there is a large contingent, bipartisan contingent of Senators, supporting this amendment today along with Senator BOREN and I.

The authors of the Bill of Rights understood that property cannot be taken for public use without justifiably compensating the owner. The fifth amendment prohibition on "taking without compensation" guarantees a basic human freedom, the right to be secure in one's own property, to know the value of what you have labored and saved for cannot be denied you even if an overriding public need demands the use of a particular piece of property in which that value is stored. That property may be taken to satisfy the public need but only in exchange for something of equal value. If it is in the good of the public interest, then it may be taken, but just compensation has to be rewarded.

The "just compensation" clause has not been a serious obstacle to our Nation's highway program. But there are some who believe it is too great an obstacle for other pressing public wants and desires as Congress has sought to supply the public with certain values such as open space, wildlife habitat and recreational areas, while at the same time laboring under record budget deficits.

Congress has treaded dangerously close to "usurping the private property of individuals" in the name of achieving a public goal.

When the Government regulates and denies the value of someone's property without initiating formal condemnation proceedings, it is called "inverse condemnation" or a "regulatory taking."

Right now, under the current system, the only recourse for those who believe their property has been "taken" in this manner is to sue the Government under the fifth amendment, a recourse that may cost someone as much as $50,000 just for starters. It is not a way for Americans at large to secure their private property rights, which is why I am offering this amendment. It is why the Vice President called me this morning.

It is believed by members of this Government and members of the private sector who own property that we need to require all agencies of the Federal Government to establish and follow administrative procedures for minimizing trespasses on private property.

The amendment, drafted with the assistance of the administration, is designed to build on already existing procedures required by the President through Executive order. The amendment does not codify any one particular procedure, but requires that in order for agencies to be able to promulgate regulations they need to have in place some type of procedure for assessing impacts on private property with the goal of minimizing such where possible.

In the most recent review of the private property rights amendment which I am sponsoring, the Justice Department had this to say:

> This legislation * * * will enhance respect for constitutionally protected rights of individuals and private property, reduce the fiscal burden on all taxpayers from unnecessary takings, and at the same time effectively advance the public interest.
>
> The genius of our system, in this bicentennial of the Bill of Rights, is that it remains capable of doing all of this simultaneously.

Mr. President, I ask unanimous consent to have printed in the RECORD copies of the Justice Department's communication on this legislation as well as a letter from the Vice President noting the administration's strong support for the initiative. And I ask to insert a list of the 64 organizations that have endorsed this measure. The list covers a wide range of farm and small business, real estate, advertising, civil rights, and environmental organizations who recognize the absolute necessity of a strong institution of private property in this country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE VICE PRESIDENT,
Washington, March 21, 1991.

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC.

DEAR SENATOR SYMMS: I am writing to assure you that we welcome your important efforts to protect private property rights. The Administration supports your legislative initiative in The Private Property Rights Act to protect private property owners from unintentional government intervention, and to encourage the Federal agencies to avoid unnecessary expenditures.

Proper management of Federal regulatory programs and effective program implementation require thoughtful analysis before action is taken. Executive Order No. 12630 requires a Federal agency to ask itself, before it acts, whether a proposed government regulatory policy or action would "take" individual rights in property and trigger the Constitution's obligation to pay just compensation. The legislation which you, Sen. Boren, and others are sponsoring would strengthen the management of Federal programs to prevent inadvertent Federal encroachment on private property.

Recent judicial decisions finding that the government has taken property have resulted in financial judgment obligations in excess of $120 million for "regulatory takings." As the courts focus increasingly on the consequences of Federal regulation on private property rights, these constitutionally required Federal payments and the consequent burden on the taxpayer are likely to increase. Financial responsibility argues for evaluating the risks of these costs before, rather than after, the obligation occurs.

Your bill, S. 50, is vitally important both to improve Federal management, and to reduce government liability. The Administration looks forward to working with you to secure prompt passage of this critical legislation.

Sincerely,

DAN QUAYLE.

U.S. DEPARTMENT OF JUSTICE, ENVIRONMENT AND NATURAL RESOURCES DIVISION, *Washington, DC, April 30, 1991.*

Hon. STEVE SYMMS,
U.S. Senate, Washington, DC

DEAR SENATOR SYMMS: I appreciate the opportunity to address your renewed efforts to secure passage of legislation relating to the protection of private property and Executive Order 12630. Commenting on your proposed amendment to S. 2830 last term, the Administration's October 1, 1990 letter expressed firm support and outlined two refinements—on expanding the agencies included within the scope of the legislation and the other detailing the nature of the remedy itself. I have enclosed a copy of the October 1, letter with this correspondence.

Executive Order 12630 directs agencies to consider the implications of their actions before taking them and to look carefully at alternative actions to avoid *unnecessary* infringements to individual rights to private property. This analysis is designed to introduce into agency decisionmaking the broader government-wide concerns that might otherwise be overlooked. EO 12630 does not negate or supersede an agency's statutory responsibilities.

S. 50 embraces the suggestions which we made in 1990 and we are pleased to support it strongly.

In this letter, I will focus on the changes incorporated in this term's bill. First is the matter of scope. By its terms, S. 50 would apply to: all executive branch agencies which engaged in activity with the potential for taking private property, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the Executive Branch of the United States Government.

This effort addresses our suggestion that the reach of the legislation be expanded to all executive branch agencies.

As we outlined in our October letter, a number of recent judicial decisions, holding that "regulatory" takings occurred, involved differing programs administered by several agencies. *See, e.g., United Nuclear Corporation* v. *United States*, 912 F.2d 1423 (Fed. Cir. 1990) (cancellation of leases constitutes a taking); *Whitney Benefits, Inc.* v. *United States*, No. 90-5058 (Fed. Cir. Feb. 26, 1991) (prohibition of surface mining in alluvial valley floor creates compensable taking); *Loveladies Harbor, Inc.* v. *United States*, 21 Cl. Ct. 153 (1990) (denial of 33 U.S.C. §1344 permit found to be a taking); and, *Florida Rock Industries* v. *United States*, 21 Cl. Ct. 161 (1990) (denial of 33 U.S.C. §1344 permit found to be a taking).

As you are aware, since the October letter the United States Court of Appeals for the Federal Circuit has affirmed the lower court holding of a taking in *Whitney Benefits*. Further, since that time, the Circuit has found a taking in *Yancey* v. *United States*, 915 F.2d 1534 (Fed. Cir. 1990) (avian flu quarantine took uncontaminated turkey flock). Again, it is noteworthy that the monetary judgments against the United States in those cases total in excess of $120 million dollars.[1] These rulings and the spectrum of programs which they reach confirm the prudence of extending the bill to all executive branch agencies.

We suggest one refinement of S. 50 that would ensure its intended scope. Section 2(1) of the bill limits its scope to agencies "which engage in activity with the potential for taking private property." However, whether the activity has a potential for taking private property is the precise question which your bill seeks to ensure is answered. Accordingly, we would suggest deletion of the quoted language.

The second comment relates to judicial review in Section 4. That section now makes clear that the bill does not expressly provide for judicial review of either the procedures governing takings assessments or the assessments themselves. Neither the applicable procedures under the Order, nor its implementing guidelines, nor the substance of the Attorney General's decision to certify such procedures would be subject to review. Rather, review would be limited to "whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures." Section 4(a).

We understand this review to extend only to whether the Attorney General has either issued supplemental guidelines for an agency or determined that the agency has elected to comply with the government-wide guidelines. This review will only occur in the forum otherwise having review of the substantive decision itself (*i.e.*, the promulgation of regulations), take place simultaneously with the review of the regulations, and occur in strict accordance with the otherwise relevant statutory review provisions in order not to cause additional undue delay.

Judicial review of the procedural validity of the agency's taking implication assessment should have no effect whatsoever on a subsequent action in the Claims Court alleging that a specific agency action resulted in a taking. This provision in Section 4(a) is specifically designed to preclude additional, duplicative litigation. Of course, notwithstanding Section 6 of the Executive Order, the individual takings analysis or other documents developed by a department or agency pursuant to applicable guidelines would be part of the administrative record and would, in accordance with generally applicable principles of administrative review, be considered by a reviewing court in deciding whether agency action complies with the requirements of other applicable statutes, including the Administrative Procedure Act. Thus, for example, if an agency decides to alter a regulation based upon a takings analysis, the record must support that decision.

In sum, the changes you have incorporated into S. 50 directly respond to suggestions raised in our October letter and we are pleased to reaffirm our support for your efforts. By recognizing the need to consider the effect of regulatory actions on private property, and the possibility that such actions may effect a taking, S. 50 ensures that agencies will attempt, in carrying out their statutory functions, to prevent unnecessary takings. S. 50 will enhance respect for the constitutionally protected rights of individuals in private property, reduce the fiscal burden on all taxpayers from unnecessary takings, and, at the same time, effectively advance the public interest. The genius of our system, in this Bicentennial of the Bill of Rights, is that it remains capable of doing all of this simultaneously. We look forward to working with you toward achieving these goals.

Sincerely,

RICHARD B. STEWART,
Assistant Attorney General.

THE FOLLOWING ORGANIZATIONS SUPPORT THE PRIVATE PROPERTY RIGHTS ACT

Alta California Alliance.
American Agriculture Movement.
American Agri-Women.
American Farm Bureau Federation.
American Forest Council.
American Forest Resource Alliance.
American Hotel/Motel Association.
American Legislative Exchange Council.
American Mining Congress.
American Paper Institute.
American Sheep Industry Association.
Blue Ribbon Coalition.
Building Owners and Managers Assoc. International.
Center for Individual Rights.
Citizens for the Environment Action Fund.
Citizens for Property Rights, Inc.
Citizens for a Sound Economy.
Coastal Georgia Regional Development Center.
Competitive Enterprise Institute.
Eight-Sheet Outdoor Advertising, Inc.
Enviromental Conservation Organization.
Fairness to Land Owners Committee.
The Fertilizer Institute.
Georgia Tidewater Conservation Association.
Greater Yellowstone Conservation Districts.
Institute of Outdoor Advertising.
International Council of Shopping Centers.
Land Improvement Contractors Association.
Landowners Association of North Dakota.
Louisiana Home Builders Association.
Montana Public Lands Council.
National 4-F Foundation.
National Apartment Association.
National Association of Home Builders.
National Association of Industrial and Office Parks.
National Association of Realtors.
Nat'l Assoc. of Reversionary Prop. Owners.
National Campground Owners Association.
National Cattlemen's Association.
National Caves Association.
National Electric Sign Association.
National Family Farm Coalition.
National Farmers Organization.
National Farmers Union.
National Federation of Independent Business.
National Forest Products Association.
National Grange.
National Hardwood Lumber Association.
National Inholders Association.
National Manufactured Housing Federation.
National Milk Producers Association.
National Multi-Housing Council.
National Realty Committee.
National Water Resources Association.
National Wilderness Institute.
Oakland Citizens for Justice.
Oklahoma Farmers Union.
Oregonians in Action.
Outdoor Advertising Assoc. of America.
Pacific Rim Trade Association.
Pennsylvania Land Owners Association.
Riverside and Landowners Protection Coalition.
S.T.O.P. of Indiana.
U.S. Chamber of Commerce.
Washington Citizens for World Trade.
Washington Property Owners Association.

Mr. SYMMS. Mr. President, I note that S. 50, the legislation which is identical to the text of this amendment, is sponsored by 41 Members of the Senate. I encourage all other Senators to join us.

Mr. BOREN addressed the Chair.

Mr. SYMMS. Excuse me 1 minute.

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[1] Our discussion of these decisions should in no way be construed as a change in the Department's legal position in each case.

I note Senator GORTON is here. If I might ask, would the Senator's schedule permit him to withhold for a few more minutes? Senator BOREN is trying to make a brief speech.

Mr. GORTON. Certainly.

Mr. GLENN. Mr. President, what is the order here? I have, too, another meeting I was supposed to have been at 20 minutes ago.

The PRESIDING OFFICER. There is no order. The Senator from Oklahoma is recognized.

Mr. GLENN. Mr. President, I have been waiting for some time also, and I am not prepared to take any more time than Senator BOREN.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. BOREN. Mr. President, I will be very brief, indeed. I am proud to cosponsor this amendment with the Senator from Idaho.

This is an amendment that has a broad bipartisan support and support from a cross-section of many groups across the country. The amendment is very straightforward. It says that, from the date of enactment, no regulation shall take effect until the issuing agency has been certified by the Department of Justice that it has the procedure in place to assess the potential for the taking of property as a result of these regulations, with the goal toward minimizing such taking of property, diminishing of property rights, taking of land outright.

There are over $1 billion in outstanding claims against the Federal Government right now that involve the taking away of property rights, taking away of property. So this bill makes common sense.

Why should these agencies not have to consider whether their regulations will result in the taking of property? Otherwise, agencies could blindly and unintentionally run a land acquisition program, a very costly land and property acquisition program, and pay for it through the U.S. Court of Claims budget, rather than having policy decisions made by the Congress, administration, and other elected officials as to the basis of what lands and properties need to be taken by the Federal Government.

That is exactly what has been happening; unintentionally, the impact of regulations has resulted in the taking of property that has cost the taxpayers a lot of money. It is tied up in courts with litigation. There are over $1 billion in claims right now, because inadequate attention was paid from the beginning as to the impact these regulations might have on the taking of property.

So I think it makes sense. Even if the amendment is enacted, there will continue to be, of course, some taking of property. The fifth amendment concerns will have been explicitly evaluated by the agency and, hopefully, this amendment will result in more moderate regulation, so that fewer citizens will have to sue the Federal Government in order to protect their rights.

It is very simple and straightforward. I understand it is supported by the administration, as the Senator has indicated; EPA, USDA, the Corps of Engineers, and the Interior Department stated, for example, it will not add an additional paperwork burden.

So I simply say that I am pleased to join with Senator SYMMS in sponsoring this amendment. I think it is a sensible step for us to take, and it should result in a better decisionmaking process in which we can determine how much land, how much property, will be taken by the Federal Government, and whether we can afford those takings, and look at it as a matter of policy, rather than having it done through the back door, unintentional sometimes, to the issuance of regulations that cause citizens to have a cause of action in the Court of Claims.

I thank my colleagues, and I hope the Senate will adopt this amendment.

Mr. GLENN. Mr. President, I rise to express my opposition to consideration of the Private Property Rights Act, which has been offered by Senator SYMMS as an amendment to S. 1204, the Surface Transportation Efficiency Act.

Mr. President, I know that, as the Senator said, there are 41 cosponsors of this, which was a separate bill, S. 50. That is fine. The problem today is that we were not aware until late yesterday that this was going to be brought up, not in the context of a freestanding piece of legislation, but as an amendment on this Surface Transportation Efficiency Act, because there are implications of this that I think we need to look into.

I am not against looking into them and considering this, but I think to vote it today would be getting ahead of where we ought to be.

Mr. President, I do not take second place to anybody in my concern about private property and the protection of private property rights. I agree also, completely, that there are areas we need to look into that need legislation, and need it badly, to ensure that some of our regulations, such as some of the wetlands legislation, is not being misused. I think we need to consider things like that.

However, I also believe that this amendment furthers the private property and protection of private property rights only at an unacceptable cost to an important and very widely supported congressional mandate in the environment, public health, and in the safety realms.

It compromises the basic principles, as I see it, of fairness and accountability that are central to the integrity of our administrative decisionmaking process.

As I have informed my esteemed colleague and the floor manager of S. 1204, Senator MOYNIHAN, in a letter this morning, I oppose this amendment for two basic reasons:

First, I am opposed to the proposal just as a matter of policy. The bill is being portrayed as a simple, straightforward move to protect private property rights and ensure compliance with an existing Executive order. The Private Property Rights Act involves giving congressional approval to a regulatory review scheme that may have very significant negative consequences for the implementation of things Congress passed here—congressionally mandated policies.

The second reason for opposition to this amendment is that today's debate will not give the proposal the attention it deserves. I hope the people listening in their offices realize that. I hope they listen to the implications this particular piece of legislation has.

Mr. SYMMS. Will the Senator yield for a clarification?

Mr. GLENN. After I finish my statement, I will be glad to yield.

This proposal came to my attention last year as a proposed amendment to the farm bill, and it was defeated at that time.

Senator LEAHY, last year in debate on this, said that it was a lawyers-get-rich bill in a long statement in the CONGRESSIONAL RECORD of July 27, 1990, a little less than a year ago, on page S10914, in which he took very strong exception to the proposals on behalf of the farm interests in the country.

Mr. President, in January of this year, this bill was introduced as S. 50 and referred to the Committee on Governmental Affairs, which I chair.

The proposal has not yet been the subject of a hearing in the committee, and I understand the matter has not been set down for a hearing in the subcommittee to which S. 50 was assigned within the committee. I understand that was a subject of some controversy.

Let me say that whatever that controversy was with regard to getting a hearing, let me clearly state that, as chairman of the Governmental Affairs Committee, I will certainly commit to hold a hearing on this bill so that we bring out all aspects of it.

It is at such a hearing that the requisite record will be established to bring out all the arguments for or against the need for this legislative proposal, and all the ways it can be used to further good government, and all the ways it can be used to thwart good government, if you will. For the reason of not having a hearing record, I oppose consideration of this amendment at this time.

In case there are any doubts as to my position, I want to say a few things about the substance of the proposed amendment. I am opposed to the Private Property Rights Act. It gives a congressional stamp of approval to Executive Order No. 12630, which was a Reagan administration Executive order that could, if misused for quite other reasons than the specific requirements of law, be the mechanism to frustrate environmental protection, health and safety regulations, and other Federal programs.

In simplest terms, Executive Order 12630 requires agencies to consider the constitutional takings implications of their actions; that is, whether a regulation or other action would limit property use so severely as to require compensation. I agree with that as a goal. That is a commendable goal. But this legislation would permit a process to be set up that can be rather drastically misused.

A closer reading of the order conveys a much more troubling message. Charles Fried, who was Solicitor General from 1985 through 1989, wrote a book recently that spelled out this concern quite clearly. The book is called "Order and Law: Arguing the Reagan Revolution—A Firsthand Account." In that book, he wrote as follows:

> * * * Attorney General Meese and his young advisers—many drawn from the ranks of the then fledgling Federalist Societies and often devotees of the extreme Libertarian views of Chicago law professor Richard Epstein—had a specific, aggressive, and, it seemed to me, quite radical project in mind; to use the takings clause of the fifth amendment as a severe brake upon Federal and State regulation of business and property. The grant plan was to make government pay compensation as for a taking of property every time its regulations impinged too severely on a property right—limiting the possible uses for a parcel of land or restricting or tying up a business in regulatory red tape. If the Government labored under so severe an obligation, there would be, to say the least, much less regulation.

Mr. President, his concerns are well founded because, obviously, if you had a situation like that, whether Congress had approved, the President signed into law, or whatever, a particular piece of legislation, it would mean that under this kind of legislation and with this requirement for a Department of Justice approval on all of these different things, you are talking, in effect, about getting into a whole different area that can be used to thwart existing law that this Congress has passed, the President has signed, but a subsequent administration might not necessarily agree with.

In addition to these origins, Executive Order 12630 is based on a skewed reading of Supreme Court decisions and, I believe, overstates the taking danger from agency regulatory decisions. You can see a memorandum from the American Law Division, Congressional Research Service, of December 19, 1988. For example, the order states that before regulating property use for the protection of public health and safety, an agency must show that its action will "substantially advance" health and safety. The Supreme Court, quite to the contrary, restricted its "substantially advance" taking test to land-use actions, not to health and safety programs at all. So we are already branching out way beyond what anybody thought was the purpose and what something I think that all the environmentalists, all health and safety people interested in that kind of legislation should really be interested in looking at here. Indeed, as the Congressional Research Service has pointed out, Government actions to protect health and safety are the least likely to be held takings.

I am certainly in favor of instituting financial controls so that every Federal agency can assess and plan for potential liabilities that may affect or flow from its decisions. This is one goal of the Chief Financial Officers Act of 1990, which we passed last year and enacted into law after 6 years of work by the Committee on Government Affairs. The CFO Act is now in its first stages of implementation. I would say the amount of attention the press has given to this potentially far-reaching piece of legislation has been that we just have not seen much about it. It is not a B-2. It does not involve Social Security. It is not a buzzword type thing. It is the type of thing, if we are going to get control and efficiency in Government financial circles, how we are going to do that is how important the CFO Act is now in its first stages of implementation. I am confident that within a short time we will see that Federal agencies have the financial management systems required to account for their activities.

However, while it is one thing to approach financial management through a comprehensive system of accounting, financial statement, and internal control requirements, it is quite another to suggest that that is the purpose of either S. 50 or of Executive order 12630. Quite the contrary, the clear purpose of both is to create a regulatory review scheme that can be used to frustrate Federal agency implementation of congressionally mandated protections of the environment, as well as the health and safety of the American public. It may not be its intent, but it certainly can be used, and there is nothing in it that prevents it from being used for that.

The order's antiregulatory purpose is seen in the way it singles out agency actions to protect public health and safety for special restrictions. This is not only contrary to congressional mandates for the protection of public health and safety, but also is contrary to the fact that health and safety programs are, as mentioned, the least likely to bring about any takings liability. They just do not get into that in the normal course of events.

Additionally, the antienvironmental purpose of S. 50 is seen in its coverage, as originally drafted now, which was limited to the four Federal agencies with primary environmental responsibilities: Interior, Agriculture, Army, and EPA. The broader coverage of S. 50, as we see it today, came about because of Department of Justice insistence.

The regulatory review arrangement provided by the order also troubles me. In additon to the guidance that is to be used by the Department of Justice, the order states that agencies must justify the "takings implications" of their actions in their regulatory review submissions to the Office of Management and Budget. Thus, in endorsing this legislation, Congress would also be endorsing OMB regulatory review all over again.

The Committee on Governmental Affairs and other committees of Congress have documented the growth of OMB influence on agency rulemaking and the negative impact that OMB has had on many agency decisions. I think it would be a grave mistake for the Senate to take what amounts to summary action on a legislative proposal having such consequences.

Why do we even need S. 50? the Justice Department tells us that the executive branch is solidly behind the Executive order. If this is so, then why give the Attorney General unbridled authority to block regulations across agencies and to compel compliance that we are told will come about anyway? Furthermore, I do not believe that the cost of Federal takings has reached such a level that further action by Congress, as in S. 50, is warranted. The only truly large takings judgment against the United States, $180 million in the Whitney Benefits case, would not have been prevented by S. 50 because it involved a taking action caused by congressional enactment, not by agency action at all.

So it should be clear that I do not believe that either S. 50 or Executive order 12630 represents good public policy.

Mr. President, I state one more time I am for private property, I am for protection of private property, I am for private property rights, but I do not believe that S. 50 delivers on its supposed simple promise to protect those rights. Even more, it should be very, very clear that I oppose legislating in this area through an unexamined floor amendment, one that has not even been through the hearing process that might be quite product reaching, to a piece of legislation such as the Surface Transportation Efficiency Act.

Again, S. 50 is not so much a private property bill as it is a regulatory process bill. It requires and deserves consideration in the proper context, which is the jurisdiction of the committee on Governmental Affairs, and where I will be happy to hold a hearing on it if the floor sponsors of this bill would so agree.

Let me say that while I understand the matter has not been set down for a hearing, I assure you that I will commit the committee to hold hearings to air the issues involved in S. 50, and we might be able to make it something that we can all accept and enthusiastically support. But, in the meantime, I maintain my opposition to the Private Property Rights Act as an amendment to S. 1204.

Incidentally, in introducing S. 50, Senator SYMMS, I believe, made much of a man by the name of John Pozsgai, who he suggested was the victim of callous and heavy-handed Federal regulators who interfered with his right to use his property.

For the record, I ask unanimous consent for the printing in the RECORD of documents that indicate that Mr. Pozsgai's case never involved any takings claim, as they are known.

It also does not involve overzealous Federal action. The accompanying article from the July 1990 issue of Audubon magazine and the accompanying court memorandum denying a reduction or correction of sentence in Mr. Pozsgai's case present a set of facts far different from those made by the proponents of S. 50.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In the U.S. District Court for the Eastern District of Pennsylvania, Criminal Action No. 88-00450-01]

UNITED STATES OF AMERICA v. JOHN POZSGAI

MEMORANDUM

KATZ, J.

Defendant seeks a reduction or correction of sentence.

Defendant owned and operated a truck repair business in Morrisville, Pennsylvania. Defendant decided to buy an adjoining 14-acre tract in order to expand his business.

While defendant was negotiating to purchase the tract, he learned from engineering consultants that the tract met the criteria established by the Corps of Engineers for protected "wetlands". Shortly after he began purchasing the tract, however, defendant began depositing fill material onto the tract without obtaining approval of the Corps of Engineers. In April 1987, a Corps of Engineers inspector visited defendant at the site and confirmed that the tract contained wetlands protected under federal law. As a result, the inspector warned defendant that federal law prohibited him from continuing to deposit fill onto the land without first obtaining the necessary permits and authorization.

Despite repeated warnings, defendant continued to have truckloads of fill material—mainly construction and excavation debris—dumped onto the site. In September 1987, the Corps of Engineers notified defendant by letter that his unauthorized filling was in violation of the Clean Water Act and directed him to cease and desist. Defendant ignored the notice and continued to deposit fill onto the site. After continued monitoring the United States Environmental Protection Agency notified defendant in early December 1987 that his "filling without a permit is a violation of the Clean Water Act" that could subject him to penal sanctions. After receiving the notice, defendant continued filling the site.

As a result, the Corps of Engineers issued defendant a second notice of violation on December 17. That notice reiterated the earlier warnings.

The notice again advised defendant to stop his unlawful filling and instructed him to apply for a permit if he wished to resume his activities.

The filling process continued in spite of the warnings. On August 24, 1988, the United States Attorney filed a civil action against defendant and obtained a temporary restraining order directing defendant immediately to stop discharging fill material onto the wetlands site. Over the next several weeks, however, truckloads of fill material continued to be dumped onto the site.

Stating that "[i]t's hard to visualize a more stubborn violator of the laws that were designed to protect the environment," the court sentenced defendant to a three-year term of imprisonment on Counts 1-14 (the pre-Guidelines counts), a concurrent term of 27 months' imprisonment on Counts 16-41 (the counts governed by the Guidelines), a five-year term of probation on Count 15, and a one-year term of supervised release on the Guidelines counts. The court also ordered defendant to pay a fine of $5,000 on each count, for a total of $200,000, and as a condition of probation, the court ordered defendant to comply with restoration plan for the wetlands site.

The fine imposed on each count was at the bottom of the range prescribed by Congress. Under Section 309(c)(2) of the Clean Water Act, 33 U.S.C. 1319(c)(2), any person found guilty of an offense "shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than 3 years, or by both." Defendant stood convicted of 40 separate violations, and thus faced a fine of up to $2,000,000.

Granted that the fine imposed is not mandatory, the combined fine and imprisonment are necessary to deter defendant and others who might be tempted to defy the criminal laws of the United States designated to protect the environment. This defendant has shown no remorse. According to the presentence report, he owns real estate. Under this court's judgment, the fine shall be paid "as the probation department determines he is able." The five year period of probation following his release from imprisonment is necessary for his implementation of a restoration plan to correct the damage he did.[1] The effective term of imprisonment is specified by the Sentencing Commission Guidelines which are being on this court. The jury has spoken. This court has ruled. The Court of Appeals has ruled. The Supreme Court denied certiorari. The sentence stands.

ORDER

AND NOW, this 5th day of March, 1991, upon consideration of defendant's Motor For Reduction Or Correction Of Sentence, it is hereby ORDERED that the said Motion is DENIED.

By the Court:
MARVIN KATZ, Jr.

[From Audubon magazine, July 1990]

THE FABLE OF POZSGAI'S SWAMP—A TALE WITHOUT HEROES

(By John G. Mitchell)

Once upon a time there was a little swamp in the big woods. Gum trees grew in the swamp, and skunk cabbage, and clumps of wild grasses with long brown tassles like lions' manes. Birds came to feed on seeds and insects, and raccoons and foxes left their sign in the bed of the creek that ran through the swamp on its way to the river, as creeks were accustomed to do those days, instead of disappearing forever into some underground pipe or the not-so-thin air. This was during a period in our history so long ago that no living man or woman has a memory of it. This was before the industrial revolution and interstate commerce and the Army Corps of Engineers and the Washington Legal Foundation and the Clean Water Act, Title 33, U.S. Code, Sections 1311(a) and 1319(c)(2)(a), and the Hungarian émigré John Pozsgai, who would come to live and work across from what was left of the swamp on West Bridge Street in the little town of Morrisville, Bucks County, Pennsylvania, U.S.A.

What was left of the swamp was not a great deal, for over the years commerce and industry had wrought much change in the land roundabout. There was Trenton, right across the Delaware River from Morrisville. The city had so many factories, people began to say "Trenton makes, the world takes." Folks who worked in the factories couldn't all live in Trenton; some had to settle for Morrisville. So Morrisville began to grow and grow, right up to and over the edge of the little swamp.

Meanwhile, the manner of moving manufactured goods to market was changing, too. Highways were replacing the old canals and even some of the railroads. Here came U.S. Highway 1, raised on fill and four lanes wide, divided, and straight across the lower end of what was left of the little swamp. And here was West Bridge Street across the upper end, with its two-family houses and an old dairy building that John Pozsgai would convert into a garage for the repair of tractor trailers—"You Breakum We Fixem," the mechanic's business card would say.

If you ever happen to be in the neighborhood, you can stand on West Bridge Street, with your back to Pozsgai's garage, and see how the world of commerce and industry has been closing in on what's left of the little swamp. Across the street, on the right, is a junkyard where spare parts appear to be extracted from the rusting skeletons of cars and trucks. On the left, backed up against what's left of the creek that used to run through the swamp on its way to the river, is a tire company and a row of small houses and apartments. The area is zoned for light industrial and highway commercial uses. It's no place for coons and foxes, and only marginally for the grittiest kinds of passing birds. I promise you.

Nevertheless. Whatever remains of the swamp is, in the statutory scheme of things, a wetland. And a wetland it remains ecologically as well. Whatever its scenic and spatial shortcomings, the site can still function as floodplain, water filter, and habitat for scores of small, unremarkable biological beings. In fact, what remains could safely be described as a relic island of once-typical Middle Atlantic coastal plain swamp adrift in a sea of development. Some folks call the development Bos-Wash, which is shorthand for the Boston to Washington megalopolitan corridor. And since the waters of this wetland are "of the United States" and therefore protected under federal law, and since regulators and prosecutors are aiming, as they say, "to send a message," and judges are armed with tough sentencing guidelines, woe unto any private individual convicted of dumping fill into such a place without a permit while stubbornly and arrogantly ignoring repeated warnings to cease and desist.

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[1] Nor was the damage abstract. A neighboring landowner testified at trial to damage to his building when the rains came.

In fact, woe unto John Pozsgai. The Morrisville mechanic stands convicted of forty-one separate counts of violating the Clean Water Act and faces $202,000 in fines, three years in the federal slammer, and five years' probation. If upheld on appeal, the sentence imposed on Pozsgai would likely constitute the harshest ever for a wetlands violation anywhere in America. You Breakem We Fixem.

As any seasoned juror knows, there are two sides to every story. That is always the bad news. The good news is, you only have to believe one. Let us first hear the story from the perspective of the appellant, as distilled through my own observations, the words of the man himself, the briefs of his attorneys, and the representations of friendly media such as Cable News Network, The Wall Street Journal, and Human Events, which bills itself as "The National Conservative Weekly."

It could be said of John Pozsgai that he is a most appealing appellant. I mean Central Casting couldn't have found a player better suited to the role: Refugee from Soviet tank-torn Hungary, circa 1956; blue of eye and gray of hair, axle-grease under the fingernails, no days off from the broken trucks, the modest home next-door with his wife, Gizella, making coffee in the kitchen and Victoria, their twenty-four-year-old daughter, on the telephone with an attorney in Washington, D.C. And across the street, what used to be a little swamp in the big woods.

John Pozsgai would know nothing of swamps, only dump sites. He would look across West Bridge Street at all the junk people had been dumping for twenty years—construction rubble and auto parts and discarded tires, thousands of old tires piling up in the streambed that ran behind the establishment that traffics in new tires. (Not that anyone would accuse the tire dealer of being responsible for this dreadful situation. Besides, dumping dirty old tires into a creekbed in Morrisville, Pennsylvania, does not seem to violate the Clean Water Act quite so conveniently as dumping new fill into an old wetland.)

By and by, John Pozsgai would look across the street and see an opportunity—a place that might someday become his very own, if he could raise the money to buy it. It was a property of 14.2 acres. The absentee owner had so little interest in the land that he permitted the mechanic to cut trees there for firewood. So John Pozsgai had a dream. He dreamed he would clean up the mess of tires and junk and build a big new garage for his business over there where the sound of Fixem would not disturb his neighbors, and maybe improve the rest of the land such that a corner lot or two might be sold later on to a gas station possibly. But it wouldn't be easy. The old dump site was soggy. To fulfill the dream, John Pozsgai was going to have to truck in fill to raise the level of the land.

On June 19, 1987, Pozsgai purchased the 14.2 acres for $140,000, paying $14,000 down and mortgaging his house and garage to cover the balance. He had already started the cleanup operation; Victoria would count 7,000 tires pulled from the old creekbed. And there had been a visit or two by this man who called himself Martin Miller and said he was from the Enforcement Division of the Army Corps of Engineers. Pozsgai would recall that Miller advised him the Corps might decide a permit was needed if fill was to cover more than one acre. And that was rather curious, because when Pozsgai checked with Pennsylvania officials and the National Wetlands Inventory Map, he discovered that his property was not listed as a wetland. Such confusion!

Nevertheless. Better safe than sorry. With the help of Victoria, who holds a degree in journalism from Temple University, Pozsgai (according to one brief) "unsuccessful tried to hire several engineers over the course of several months to obtain the assistance necessary to complete the various permit applications from the federal, state, and local jurisdictions. Eventually each of the engineers admitted they could not complete the application. The first engineer contracted by Mr. Pozsgai delayed any action [on] the application for over six months before admitting that he could not complete it." Such incompetence!

While all this bureaucratic obfuscation was going on. Pozsgai proceeded to cover upwards of five acres of his property with "clean fill," consisting of "topsoil, rubble, earth, and similar inert materials." In December 1987 the Corps advised him to stop. Either stop, or obtain a Water Quality Certificate. The certificate would somehow enable the Corps to determine if he even needed a permit to proceed. Months passed, this jurisdictional authority telling him one thing, that authority telling him another. Unbeknowst to the mechanic, the Environmental Protection Agency had come to West Bridge Street with a video surveillance camera and had installed it in the upstairs window of a neighbor's house in order to film dumptrucks bringing fill to the site. Moreover, EPA had gone to court, filed a civil suit against Pozsgai, and obtained a temporary order restraining him from any further activity at the site. This was in August 1988. To comply with the restraining order, the mechanic placed barrel blockades around his property, barring trucks from entry. But alas, one day while he was in Harrisburg attending to one of those incomplete permit applications, some truckers arrived at the site, rolled the barrels aside, and proceeded to dump their loads—right under the lens of the hidden EPA camera.

For this, and for certain preceding activities, a federal grand jury sitting in Philadelphia indicted John Pozsgai on forty-one criminal counts of knowingly discharging or causing to be discharged, and aiding and abetting the discharge of, fill material into the waters of the United States. This was in September 1988. At high noon one day shortly thereafter, while he was drinking coffee in the kitchen of his home, five peace officers, including three special EPA agents, knocked on John Pozsgai's door, informed him that he was under arrest, and took him away to Philadelphia in handcuffs.

"I think," the mechanic said to me a year and a half later, in his hearty h-dropping Hungarian accent, in the house where he was seized (Victoria having arranged his release on bail after the arraignment, appeals keeping him from jail ever since)—"I think the guy who shot Kennedy got treated better than me." Let us forgive John Pozsgai this one exaggeration, if only in view of what did happen to the guy who shot Kennedy.

The government's version of the tale is woefully lacking in narrative panache, partly because that is the nature of government storytelling, and partly because there are rules barring government officials from discussing litigious matters, especially when those matters are being appealed to the U.S. Supreme Court. Besides, some of Uncle Sam's players had already been treated rather critically by the Press, which, however biased or impartial, seemed generally to concur that in the case of the *United States of America* v. *John Pozsgai*, the United States of America was full of beans. One headline, quoting Pozsgai's attorney, went so far as to refer to the Environmental Protection Agency and jackboots in the same six-column, 36-point Bodoni breath.

Be that as it may, I did manage to obtain a copy of the government's trial brief. It informs us that on or about April 28, 1987, one Martin Miller of the U.S. Corps of Army Engineers received information concerning the unlawful filling of wetlands at a certain location on West Bridge Street in Morrisville, Pennsylvania. And that Inspector Miller went to the site and observed that various earth and building debris had been placed onto property which he determined to be wetlands. And that on several occasions shortly thereafter, Inspector Miller advised John Pozsgai that he could not place or push any more fill onto the wetlands until he had obtained the requisite permit. The government further contends that on August 17, 1987, Inspector Miller returned to the site and observed that a large amount of additional fill had been placed on the property since his last visit; that on September 3rd, the Corps issued to John Pozsgai a Cease and Desist letter; that, throughout the remainder of 1987, the mechanic ignored that letter even as continued violations were observed by neighbors, township officials, and "various companies who were granted permission by Pozsgai to dump fill onto the site."

There is a reference to December 2, 1987. The U.S. Environmental Protection Agency that day issued a written notice specifically advising Pozsgai of the penalties that might be imposed if he did not cease and desist. Pozsgai did not cease and desist. On December 17th, there was another written notice, this one from the Corps of Engineers. The Corps noted continuing violations of the Clean Water Act and warned Pozsgai that if he did not obtain the necessary permit, he would be required to remove all fill material from the site. There was no response from Pozsgai. He did not obtain any permit. He did not remove any fill. The violations continued. Now it was August 1988. The two versions of this tale begin to coincide: temporary restraining order, video surveillance, indictment, arrest. Trial by jury began the day after Christmas 1988 in the U.S. District Court for the Eastern District of Pennsylvania, in Philadelphia, and ended the day before New Year's Eve. The defendant was found guilty on all counts, as charged. Sentencing was set for July 13, 1989. Of John Pozsgai, U.S. District Judge Marvin Katz declared that it would be "hard to visualize a more stubborn violator of the laws that were designed to protect the environment," and promptly imposed sentence under the Clean Water Act.

I have left a few loose threads for the bottom of this letter because, spliced together, they may help to explain not only why the piece is wanting for heroes, but also why its telling was worth the trouble in the first place. This, you might say, is my version.

The jury has rendered its verdict on John Pozsgai, and who am I to dispute its finding of guilt. The major facts of the case, upheld on the first round of appeal by three U.S. Court of Appeals judges, clearly indicate that John Pozsgai stubbornly ignored repeated warnings that his unpermitted filling activities were in violation of the law. Under the law, he is a convicted environmental criminal, and that is enough in my book to rule him out as any sort of hero. It does not, however, rule him out as an unwitting pawn on a chessboard of political agendas. Consider how the man has been used.

Consider the Washington Legal Foundation of Washington, D.C. The Foundation entered the fray after Pozsgai's local attorneys bowed out—the first after just one court appearance, the second confessing his own inexperience after losing the jury trial. At this point Victoria Pozsgai arranged for the Foundation to take over her father's appeal, pro bono, and the Foundation was delighted to oblige.

The Washington Legal Foundation describes itself as "the most productive and effective pro-free enterprise public interest law firm in the country." In fact, it is a button-down clone of the Mountain States Legal Foundation, where James Gaius Watt practiced environmental law bashing before his appointment as Ronald Reagan's first Secretary of the Interior. The Washington firm can also boast of friends in high places, and does, in the 1988 edition of its annual report. It notes that several allies, "each a long-standing member of WLF's National Board of Advisors, have attained prominent positions in the new administration," and goes on to name Vice-President Dan Quayle and White House Chief of Staff John Sununu. Among its "clients" in 1988 were U.S. Senators Orrin Hatch and Jesse Helms. "Courtroom opponents" that WLF "battled" were Common Cause, the American Civil Liberties Union, Governor Michael Dukakis, the Environmental Protection Agency, Friends of the Earth, Senator Edward Kennedy, the NAACP, Women's Legal Defense Fund, Izvestia, War Resisters League, the Palestine Liberation Organization, and National Audubon Society, among other groups with "anti-business views and extremist social goals." Among its many monographs, legal backgrounders, and working papers were "Reforming the Clean Air Act" (by an executive of the American Petroleum Institute), "The Greening of America's Defenses" ("how various environmentalist groups with an anti-defense bias have sought to block deployment of the MX missile"), "Protecting the Civil Liberties of Busines," and "Whistleblowers in the Nuclear Industry: Giving Employers Fair Treatment."

Paul D. Kamenar is executive legal director of the Washington Legal Foundation. He is also the attorney handling John Pozsgai's appeal to the U.S. Supreme Court. From all the institutions on the Foundation's list of free-enterprise obstructionists, Kamenar appears to have selected the Environmental Protection Agency as his Enemy Number One. Writing of the plight of his Morrisville client in Human Events and on the op-ed page of The Washington Post, Kamenar has accused the Environmental Protection Agency of "strong-arm tactics against small landowners and businessmen," and warns that it is in cahoots with the Justice Department "to use the Pozsgai case as a precedent to start imprisoning corporate officers."

Not that the Pozsgai case is the only one in his dossier of EPA excesses. If you are a reporter, give Kamenar half a chance and he will press on you newsclips, briefs, and video tape galore, all documenting EPA's relentless nationwide persecution of other decent law-abiding citizens whose only desire is to improve their properties with loads of clean fill. Thus, one might begin to wonder just how the priorities fall into place upon the Washington Legal Foundation-Kamenar agenda. Is bashing EPA simply a means to the end of vindicating Pozsgai and other accused land-fillers around the country? Or is the well-publicized predicament of Pozsgai et al. a means to the end of compromising the credibility of EPA, not to mention the effectiveness of the Clean Water Act?

Of course, here we must note that Pozsgai did not become worthy of notoriety, beyond the local media, until after his sentence was imposed by Judge Katz in Philadelphia. That is to say, jackboots did not seem to fit EPA until Pozsgai faced three years in prison and a fine of more than $200,000. (Extrapolating from the mechanic's negative net worth and modest annual earnings, a Cable News Network researcher figured that, in Fortune 500 dollars, the corporate equivalent of Pozsgai's fine would be about $62 billion, or twice the net worth of Exxon. Unfortunately, CNN did not have the inclination to carry the analogy one step further by noting that no polluting corporation, including Exxon, has ever been fined more than a scant fraction of that sum, however greater than Pozsgai's transgression the scope and severity of the corporate offense.)

But wait a minute. Was the Environmental Protection Agency directly involved in the sentencing of John Pozgai? Did Administrator William Reilly or any of his minions go to Judge Katz in Philadelphia and say to him, "Judge, throw the book at this guy, will you?" Of course not. Throwing the book at Pozgai was the U.S. Justice Department's idea. In a sentencing memorandum dated April 3, 1989, Michael Baylson, the U.S. Attorney for the Eastern District of Pennsylvania, and Assistant U.S. Attorney Seth Weber, the government's principal trial lawyer in the case, deplored "the systematic destruction of the nation's wetlands" and invoked the intent of Congress to make the statutory punishment fit the environmental crime. According to Baylson and Weber, the statutory punishment for John Pozgai could be stretched out to $10 million in fines and 120 years in jail, if only the judge would be good enough to apply sentencing guidelines to each of forty-one counts separately and cumulatively, rather than grouping them to determine the appropriate sentence. As it turned out, Judge Katz's sentence of three years (twenty-seven months before parole may be considered) and $202,000 was but a drop in the bucket compared to what the gentlemen from Justice had requested. Yet it was tough enough, relative to the gravity of the offense and the record of sentences for similar crimes in other jurisdictions, to move Paul Kamenar of the Washington Legal Foundation to argue, on appeal, that this particular sentence is an abuse of judicial discretion and a violation of the Eighth Amendment's guarantee against cruel and unusual punishment. The last word on all of this—or no word at all, and the sentence to be served—is up to the U.S. Supreme Court.

Once upon a time in Washington, D.C.—my version continues—there was a little man in a big house. And the house was white. The man was not physically little, nor was the measure of his influence small, for he happened to be a retired govenor and his title was Chief of Staff. The chief's stature was diminished only by the presence of that other fellow in the White House. The other fellow's title was President of the United States. We are referring, of course, to the chiefdom of John H. Sununu, in this period from our history known as the Presidency of George Bush.

When it comes to federal wetlands, there is no getting around John H. Sununu, is there? I mean that's what I've been reading in The Washington Post and The New York Times almost since the new administration announced that it would countenance no net loss of wetlands. Of course brooking no net loss of wetlands was not John Sununu's idea, was it? That kind of talk must have come from Bill Reilly over at EPA. If what I read in the newspapers is even half-true, Sununu is the sort of fellow who might well believe that when you've seen one swamp, you've seen 'em all. This is the same Sununu who is said by the media to have thwarted Bill Reilly's policy recommendations at almost every opportunity. The same who repeatedly refers to his critics as "environmental extremists." The same who ripped the guts out of an EPA-Corps of Engineers wetlands protection agreement by ordering the document modified to reflect the concerns of developers, oil companies, and others who felt it would unduly restrict their pursuit of free enterprise. The same Sununu who is listed in the 1988 annual report of the Washington Legal Foundation as ally and long-standing member of its National Board of Advisors. Small world, isn't it?

While we are still in Washington, let us not forget the U.S. Department of Justice, the very same that threw the book at John Pozsgai. After the Wall Street Journal lionized Pozsgai as a property rights martyr sacrificed upon the altar of environmental extremism the department's top resource lawyer, Richard B Stewart, joined federal prosecutor Michael Baylson in a letter of response. "You state," the two attorneys reminded the Journal, "that environmentalism and property rights are on a collision course. They are if one side refuses to acknowledge any limits. The same Constitution that creates property rights empowers Congress to impose limits for the benefit of all. If everyone followed Mr. Pozsgai's example . . . we would live in an anarchy, not a democracy governed by law."

This is good-sounding stuff to my ear. But at the same time it bothers me. Where do those limits begin and end? With Pozsgai? Is his the only wetlands transgression worthy of three years in jail? If America is truly losing almost half a million acres of wetlands annually, who and where are the other culprits? Pozsgai filled five acres, without a permit. What about the balance of the nation's loss of wetlands? Filled by permission? Much of it, alas, yes; but not all of if. Are there to be no hidden cameras, handcuffs, and early retirement to the federal pokey for any of the other violators who apparently refused to acknowledge limits on their property rights? But I forget. I forget that this is a Justice Department still suffering hangovers from the reign of Edwin Meese, another one of those environment bashers in the Sununu mold. I forget that this Justice Department, which now seeks to bankrupt citizen Pozsgai, is the same that, at the behest of the White House counsel, played possum on the issue of supporting stiff fines against corporate polluters.

So what are we to make of it all? Is this some kind of charade? Does the Justice Department play a willful or unwitting role in it by courting the backlash against tough wetlands enforcement? I mean, at a time when many congressmen and some judges must still believe in their heart of hearts that wetlands are wastelands and so-what's-all-the-fuss, was it really necessary to throw the whole book at Pozsgai and thereby play into the hands of those who would make a martyr of the Morrisville mechanic? Charade, hell! Is this a conspiracy to tip wetlands protection right out of the Clean Water Act?

In Washington, I put some of these theoretical questions to John Pozsgai's pro bono defender, the conservative attorney Paul Kamenar. I was sitting in the offices of the Washington Legal Foundation, hopelessly outnumbered and surrounded, though elsewhere in the building, by individuals who would brook no shenanigans from a visiting journalist with exteremist social views. Therefore I did not invoke the name of their long-standing advisor, John Sununu. I merely posited the conspiracy theory as it might involve the Justice Department. Kamenar heard it out, listening politely and impassively to my presentation. And when at last I finished, you know what he said to me? He said: "The government's not that smart."

Fables are supposed to end with a Moral. But inasmuch as this is a fable without heros, perhaps it is also a fable without a Moral. Or perhaps it is not. Think about it.

Mr. GLENN. Mr. President, I would be happy to hold hearings on this. I am sorry that this came up as an amendment to this bill. We were not aware, as I said, until yesterday it was going to come up in this regard today. I just think it is premature to take it up this way, and it is a very, very far-reaching amendment that we are considering putting onto this bill. In its original single form, not as an amendment, it had 41 cosponsors. I do not know whether it has that many as an amendment to this bill, but I hope that some of those Senators, in looking at this, would also consider what is going to happen to health issues, safety issues, environmental issues, many of which have nothing whatsoever to do with the specific land property rights that are addressed in the statement on this bill on the floor today. I would commit to having the hearings if that is the wish. If we cannot prevail with that request, then I urge my colleagues to vote against the amendment.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I respond with great affirmation to the statement of the distinguished, gallant chairman, the Senator from Ohio, to say that, as manager of the bill, I very much regret that this quite extraneous issue came here. I hope that the body will accept the offer. It is obvious no one would ever have to require JOHN GLENN to state a good faith offer. If JOHN GLENN makes an offer, you can bank on it. I do not know whether that will be possible, but I would like to say to the chairman that that certainly would be my view.

If I could say to my friend from Idaho, the ever-patient Senator from Washington has been waiting to offer an amendment on behalf of his committee. I think it would require setting aside the amendment of the Senator from Idaho briefly.

So, Mr. President, I ask unanimous consent that the amendment of the Senator from Idaho be set aside for 5 minutes in order that there might be offered an amendment by the Senator from Washington.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 307

(Purpose: To add a new title II on highway safety)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. HOLLINGS, Mr. DANFORTH, Mr. EXON, and Mr. BRYAN, proposes an amendment numbered 307.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment (No. 307) is printed in today's RECORD under "Amendments Submitted."

Mr. GORTON. Mr. President, as the distinguished manager of the bill said, I offer this amendment on behalf of the Senate Commerce Committee and specifically Senators HOLLINGS, DANFORTH, EXON, and BRYAN, in addition to myself. This packet includes parts or all of three bills all directly relevant to the transportation debate in which we are engaged at the present time.

One dealing with drug and alcohol testing for transportation employees has already been passed unanimously by this Senate as a separate bill. The second is the reauthorization of the National Highway Traffic Safety Administration reported by the Commerce Committee which deals with a wide range of safety-related subjects, building on the success we have had in beginning to reduce at least the number of deaths by drunk driving, and motor vehicle safety in the field of small trucks, side protection and the like; and the Motor Carrier Safety Assistance Program reauthorization, also a program presently in law which funds more than 1½ million safety inspections of heavy trucks and buses.

Each year 45,000 Americans are killed and another 500,000 are hospitalized because of highway crashes. The National Highway Transportation and Safety Administration [NHTSA] has the lead Federal role in reducing this death and injury toll. According to the Department of Transportation, highway crashes cost the U.S. economy $75 billion annually. Highway crashes are the leading cause of death for Americans under age 45.

I am an original cosponsor of an important measure S. 1012, which has already passed the Commerce Committee. Today, we offer the text of this bill as an amendment to S. 1204. The amendment will require a number of important actions by NHTSA that will result in far safer vehicles being driven on our Nation's highways.

This amendment will require that all newly manufactured passenger cars have full front airbags by September 1, 1995, and that all light trucks have full front airbags 2 years later. This is a realistic schedule which most manufacturers already intend to voluntarily meet. The Department of Transportation estimates that universal installation of airbags would save 8,000 lives a year.

Our amendment will also require NHTSA to complete rulemakings on passenger car side impact protection and on light truck safety requirements. It also requires that auto manufacturers return to a 5-mile-per-hour bumper standard that existed before 1982. Our committee learned that today's 2½-mile-per-hour bumpers can sustain several thousand dollars' worth of damage in only a 5-mile-per-hour crash. This is an outrageous expense for a consumer involved in what should be a very minor accident.

Additionally, our amendment will require NHTSA to examine a number of important technologies which likely will increase auto safety including antilock brakes, daytime running lights, heads-up displays, and smart car/highway systems.

Mr. President, this is an important step forward in highway safety and I urge the Senate to adopt this important measure.

Mr. President, I really want to thank both managers of the bill for their courtesy in looking this over, for their determination that it is relevant to this bill, and for their agreement to propose it at this time.

Mr. MOYNIHAN. Mr. President, I would most emphatically state that these amendments are relevant to the bill. I think it is important that the Senator from Washington has mentioned the fact that we have unanimously passed the first of these measures but we never get it into statute. This bill is going to become a law. This bill is the tractor trailer that will carry this amendment forward to its destinations, which is the statutes of the United States. That is rather a large proposition, Mr. President, but it is my way of saying that on this side of the aisle we very much accept the measure and thank the Senator from Washington for offering it.

Mr. SYMMS. There is no objection on this side.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. GORTON. I yield back the remainder of my time.

Mr. BRYAN. Mr. President, as chairman of the Consumer Subcommittee, I am pleased that this amendment includes the text of S. 1012, legislation which I introduced and which was reported by the Commerce Committee without objection. This legislation is a comprehensive reauthorization of the National Highway Traffic Safety Administration, or NHTSA. I am especially pleased to have as cosponsors of this legislation, my Commerce Committee colleagues Senators HOLLINGS, DANFORTH, GORTON, KERRY, and MCCAIN, all of whom have distinguished records of hard work and experience in the area of highway safety. This legislation is an important and appropriate addition to S. 1012, the highway bill, in that it authorizes the expenditure of the highway trust fund moneys administered by NHTSA, and includes measures that will significantly enhance the safety of our highways.

NHTSA's responsibility can be simply stated: to save lives. Obviously, nothing could be of greater importance, or more deserving of our attention and efforts toward reauthorization.

NHTSA's primary responsibility is to improve the safety of our vehicles and our highways. Since the agency was created in 1966, progress has been made. However, about 45,000 people still are killed on our highways each year, and motor vehicle-related injuries are the leading cause of death for children over 1 year old. Motor vehicle crashes cost the United States economy $74 billion each year. There can be no doubt that NHTSA, and those of us who consider legislation in this area, still have our work cut out for us.

As everyone who works on highway safety issues is aware, the effort to reauthorize NHTSA has been strenuous, but as yet unsuccessful. The agency has been without an authorization since 1982, despite the fact that the Senate has passed three separate bills during this time. In the last Congress, in March 1989, I introduced S. 673, which was unanimously approved by the Commerce Committee, and passed by the Senate on a voice vote in August 1989. Despite the early Senate action, the bill was not enacted into law.

The authorization legislation offered today as an amendment to the highway bill includes many of the provisions contained in S. 673. These issues include requirements that NHTSA complete rulemaking to improve the safety of passenger vehicles, including additional head injury protection and rollover protection.

I am pleased to note that there are some very important issues addressed in S. 673 that do not need to be addressed in this year's legislation because the rulemakings they would have required have been completed by NHTSA. These issues include improved side impact protection for passenger cars, and passive restraints and roof crush standards for light trucks.

In addition to issues addressed in earlier legislation, this year's legislation includes rulemakings on some safety issues that have evolved since S. 673 was first drafted, including air bags and antilock brakes. As improved technology becomes available and proven, we want to insure that it is provided for all consumers, and not just those who can afford luxury cars. In particular, with respect to airbags, this legislation will require that airbags be available in all cars and light trucks on a phased-in schedule. There now is general agreement that airbags with manual seatbelts offer occupants superior protection to any other system, yet NHTSA's current rules allow manufacturers to use either automatic seatbelts or airbags. While most manufacturers are moving toward airbags on their own, this legislation will insure that the installation of airbags will not vary from model to model, but will be available to all.

Additionally, this legislation contains authorizations for NHTSA's operations and research, and its programs funded out of the Highway Trust Fund, including programs established by sections 402 and 403 of title 23, United States Code, and impaired driving prevention grants to States. Section 402 provides funds to the States through a formula based on population and highway mileage to assist in highway safety through NHTSA-approved programs. Section 403 funds research in a number of safety areas, including intelligent vehicle-highway systems.

The operation and research funding and the section 403 program adopt the administration's requests for fiscal year 1992. The operations and research funding is increased by the inflation factor recommended by the Congressional Budget Office for fiscal years 1993 and 1994. The section 403 funding is the administration's request for fiscal year 1992, and identical amounts for four additional years. Since the administration's request for 1992 is a substantial increase over prior years' funding, no increases have been authorized for later years. The section 402 funding provides the 1991 authorized amount for fiscal year 1992, and increases this amount by the Congressional Budget Office inflation factor for an additional 4 years.

This legislation also replaces the two current NHTSA-administered programs of impaired driving prevention grants—sections 408 and 410 of title 23, United States Code—with one new program. The new program is structured in a manner identical to the current programs, but eliminates the overlap between the two, retains the most effective elements of each, and adds some additional measures that have been shown to be effective to prevent impaired driving. Incentive grants are provided to States to encourage such actions as prompt suspension of drivers' licenses of impaired drivers; sobriety checkpoints; mandatory blood alcohol intoxication levels of 0.10, decreasing to 0.08 in later years, and mandatory minimum penalties for those convicted of impaired driving

I believe this legislation is comprehensive and will provide important authorization and direction to this vital agency. All parties working on highway safety share the common goal of saving lives and preventing injuries. This measure will advance that process, and go a long way toward achieving these goals. I urge my colleagues to support it.

Mr. HOLLINGS. Mr. President, the amendment being offered today combines three measures approved by the Commerce Committee in this session: the Omnibus Transportation Employee Testing Act of 1991, the National Highway Traffic Safety Administration Authorization Act of 1991, and the Motor Carrier Safety Assistance Program Reauthorization Act of 1991.

The first section of the amendment includes language identical to S. 1012, the Omnibus Transportation Employee Testing Act of 1991, which is designed to prevent needless deaths attributable to the use of drugs and alcohol by the operators of our transportation systems. This legislation passed the Senate on May 20, 1991, and is essentially the same bill that Senator DANFORTH and I introduced in the 100th and 101st Congresses. Those bills were debated, reported by the Commerce Committee, and passed overwhelmingly by the Senate twice in the 100th Congress and three times in the 101st Congress. However, regrettably for transportation safety, the 101st Congress ended without an agreement with the House on drug and alcohol legislation. This Congress, once again the Commerce Committtee overwhelmingly has reported this bill, recognizing the need for drug and alcohol testing.

The need for this provision is clear. Countless accidents, already documented by the Commerce Committee, have occurred where the person responsible for the safety of the traveling public was found to have drugs or alcohol in his or her system.

DOT has issued a series of transportation testing rules and regulations. However, the regulations cover drug testing but do not include alcohol testing. Our amendment includes alcohol—another drug with serious consequences to safety. In addition, the drug rules covering mass transportation workers issued by DOT were struck down by the D.C. Court of Appeals in January 1990; the court found that the Urban Mass Transit Administration did not have sufficient agency authority to mandate drug testing. The amendment corrects that deficiency. We cannot afford to have millions of commuters each day subject to the risks of drug and alcohol abuse by the operators of the systems. Furthermore, enactment of mandatory drug and alcohol testing, including random testing, ensures that such testing will continue despite possible changes in the administration officials charged with its implementation.

This amendment is eminently fair. It both mandates testing to protect the public and includes strong safeguards to ensure accurate testing and to protect innocent employees. These safeguards include a requirement that testing follow Department of Health and Human Services guidelines; that initial screening tests be followed up by confirmatory tests by laboratories that meet rigorous certification standards; and that the confidentiality of the results and medical histories be protected. It is also multimodal, covering the rail, aviation, motor carrier, and mass transit industries.

Mr. President, those who drink alcohol and/or use illegal drugs have no business operating a train, plane, truck, or bus. They have no business assuming responsibility for innocent lives. I know the vast majority of transportation workers do not abuse the trust we place in them, but we cannot take the risk that a few of their colleagues do not share their dedication and professionalism.

The second part of the amendment is the reauthorization of NHTSA, which was unanimously reported by the Commerce Committee in May. We all know how important this Agency is to preventing highway deaths and injuries. Since approximately 45,000 people still die every year in highway accidents, it is clear that this agency's work must continue, and must have the strong support of the Congress.

This legislation is similar to S. 673, which was unanimously reported by the Commerce Committee in the last Congress. Although the Senate passed S. 673 on a voice vote early in the session, the House did not consider the bill, so we must begin the process again.

The bill includes authorizations for all NHTSA's programs, including the important 402 grants to the States, and a revamped and streamlined program of incentive grants to the States to prevent impaired driving. As HHS Secretary Sullivan recently stated, about two in every five Americans will be involved in an alcohol-related crash at some time in their lives. Clearly, this part of NHTSA's work must continue to be given high priority.

This amendment properly addresses the priority items necessary to make our highways as safe as possible for the driving public. It authorizes the work of an important agency. It has the unqualified support of consumer and highway safety advocates, as well as major insurance companies. I urge my colleagues to support it, as they have supported similar legislation in the past.

Finally, Mr. President, the amendment reauthorizes the Motor Carrier Safety Assistance Program [MCSAP]. MCSAP was created in 1982 and provides grants to States for roadside inspections of commercial vehicles and drivers, as well as safety audits at the terminal of truck and bus companies.

This amendment will continue the existing program which is widely regarded as a successful Federal-State partnership, by making some modifications intended to better direct the program toward the cause of accidents involving commercial motor vehicles. The amendment increases the MSCAP funding levels and includes certain programmatic changes that States must make in order to qualify for MCSAP grants. The amendment strengthens the program beginning with fiscal year 1993 by requiring a State to strengthen enforcement in a number of areas such as: Drug interdiction; drug and alcohol enforcement; the commercial drivers' license program; traffic safety enforcement in relation to commercial vehicle safety; and hazardous materials efforts.

Other provisions include initiatives designed to establish a drug-free zone around truck stops by doubling the penalty levels for those persons convicted of selling drugs within 1,000 feet of a truck stop. DOT is also required to conduct a rulemaking on the need to adopt methods for improving truck braking performance. Finally, the amendment seeks to deter violations of out-of-service orders by developing a penalty structure for these actions.

Mr. President, I urge my colleagues to accept this package of transportation safety amendments.

Mr. EXON. Mr. President, I join the chairman of the Commerce Committee, Senator HOLLINGS, and other Members, in support of the package of amendments being offered today by the Commerce Committee. As a member of that committee I fully support the provisions of this amendment dealing with employee drug testing as well as the reauthorization of the National Highway Traffic Safety Administration [NHTSA]. As chairman of the Surface Transportation Subcommittee which developed the language in S. 631 to reauthorize the Motor Carrier Safety Assistance Program [MCSAP], I would like to expand my support of this vital program.

MCSAP is one of the largest and most successful Federal and State partnerships designed to improve truck safety. This program provides grants to States for roadside inspections of commercial vehicles and drivers, as well as safety audits at the terminals of truck and bus companies. MCSAP currently funds 1.15 million roadside inspections and about 10,000 safety audits annually. This amendment authorizes funding for MCSAP of $65 million for fiscal year 1992; $70 million for fiscal year 1993; $75 million for fiscal year 1994; $80 million for fiscal year 1995; and $85 million for fiscal year 1996.

In order to receive money from MCSAP, States must designate a lead agency to administer the plan, implement uniform methods for record keeping and inspections, and participate in data bases on drivers, vehicle inspections, and traffic accidents. The amendment encourages increased enforcement beginning in fiscal year 1993 in various areas, particularly, traffic enforcement efforts, as well as compliance with the CDL Program.

In conclusion Mr. President, I would like to acknowledge the extraordinary efforts put forth by Senators BURDICK and MOYNIHAN in their leadership of the highway bill and urge my colleagues to accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 307) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. I thank both Senators for their courtesy.

Mr. SYMMS. Mr. President, I also thank the Senator from Washington for his patience. He has been waiting for quite sometime today and I am glad that we could get him accommodated.

AMENDMENT NO. 306 TO AMENDMENT NO. 305

Mr. SYMMS. Senator GLENN made some comments and I just want to briefly set the record straight. First off, private property in no way can ever do anything. There is no private property right in this country to do anything to harm anybody's health or safety. So that is something Senators do not need to worry about.

What this amendment does is it says either the Government agencies comply with the Executive order or they issue another procedure. It is very clearly written in the amendment in that fashion. I will just read the text. It says:

> No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity with the goal of minimizing such where possible.

So it is not that complicated.

With respect to Senator GLENN'S comments about the hearings—and I want the record to show that there is no Senator in this Chamber that is more a personal hero to this Senator than JOHN GLENN is—I went to the committee. I requested hearings. We worked with Senator KOHL and as of last week Senator KOHL suggested to me that the subcommittee did not choose to have hearings on it and that they would prefer that I go ahead and bring the amendment to the floor in view of its overwhelming support, some 64 organizations—and some 41 Senators and many others have told me they intend to vote for it—to just go ahead and bring it up and have the vote and settle it. We now have this Executive order. I think from talking to Senator MOYNIHAN we are ready to go ahead and go to a vote.

Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate?

Mr. SYMMS. Mr. President, before we go to a vote, I will just retain my right to the floor for a moment until Senator MOYNIHAN gets back. Senator MOYNIHAN thought we would just go to a vote. But there are some discussion points and I will start on those until Senator MOYNIHAN returns to the floor.

One of the questions that comes up is we do not need the Private Property Rights Act or amendment because, when compared with problems of hunger, housing, crime, unemployment and other issues, property rights is just not that important.

First, I would say, Mr. President, that those issues of hunger, housing, et cetera, cannot be solved without private property. Furthermore, the argument ignores a critical chapter in American history.

In the Boston Town Meeting in 1772, they called together a committee. Because they were feeling especially harassed by King George, they asked the committee to "State the rights of the Colonists * * * as men, and as subjects; and to communicate the same to several towns and the world." The chairman of that committee was a great American patriot, Samuel Adams. Sam Adams took 2 weeks to write his Treatise on the Rights of Man, and he began his task with the declaration that: "The absolute rights of Englishmen and all freemen, in or out of civil society, are principally personal security, personal liberty, and private property."

Throughout the succeeding revolutionary period these three rights were time and time again recalled—life, liberty, and property. They appeared in article 1 of the Bill of Rights of Virginia and in that same article in the Bill of Rights of Massachusetts. They eventually were written that way in the fifth amendment of the Constitution.

It was only in drafting the Declaration of Independence that Thomas Jefferson slightly altered the phrase to read, "life, liberty, and the pursuit of happiness."

In later years he explained why he chose those words. It was not because he felt the right to pursue happiness was somehow more important than the right to private property. Rather, he explained, "A right to property, is founded in our natural wants, is the means with which we are endowd to satisfy those wants." To Jefferson, the pursuit of happiness, the satisfaction of our wants, as he put it, and private property rights, were inextricably linked.

Anyone who has ever been to Monticello, Jefferson's home outside Charlottesville, VA, will immediately understand why Jefferson saw private property ownership and "the pursuit of happiness" as one and the same. Monticello is nothing less than a work of art. Jefferson himself surveyed the property, laid out the building plan, designed his home, surpervised the construction, and tended its extensive pathways and gardens. He loved his property, not out of selfishness or materialism but as an artist who takes pride in knowing he has mixed his work, his blood, sweat, and toil with the land and produced something totally, truly admirable.

Two centuries later the institution of private property has lived up to Jefferson's expectations. America's agriculture productivity, leadership in medical and engineering technology, the wealth of entrepreneurial opportunity, can be traced to the incentives inherently created by private property rights. It is truly the means through which we pursue happiness.

So I put it to you, Mr. President, that it would be simply incorrect for anyone in criticizing this amendment, which has broad sponsorship in this body, to say that private property rights are just not as important as many other issues pressing Congress today.

Mr. President, another criticism that has been raised by the critics of this amendment: We do not need the Private Property Rights Act because no one's private property is really being threatened. That is an objection we often hear. We would have a hard time making that argument with many of the farmers and ranchers in this country who have run across the wetlands issue, who have tried to improve and fix their property and find out that they are having it literally taken from them by the big hand of Federal Government.

We would really have a hard time making that argument to John Pozsgai of Morrisville, PA, a Hungarian immigrant and self-employed mechanic. John decided to exercise a right that had been denied him in his native Hungary, Communist Hungary. In 1987 he purchased a few acres next to his mechanic's shop. The acreage had been used for 30 years as an illegal dump, filled with old tires and rusted auto bodies. He removed the refuse and replaced it with clean fill in order to improve the appearance and value of his property.

Guess where John is today? He is in prison. He is serving a portion of his 3-year prison sentence while his family is strapped by a $200,000 fine. What was his crime? The garbage dump that he cleaned out was found to be a wetland, and by filling in the area with clean dirt without a permit from the U.S. Government he violated the Clean Water Act regulations. That is what Mr. Pozsgai had to say in his defense. "We thought this was a free country. You buy a piece of land and you use it."

Or what of the family in Colorado, fined for objecting to the fact that the Corps of Engineers had placed levees on a river in such a way that the river channel was diverted onto their property? In order to reclaim their farm they built some levees of their own, restoring the river to its original channel. For their effort they were fined by the Corps of Engineers the paltry sum of $45 million. Yes, that is what I said, $45 million.

There are hundreds of cases like these around the country. But we do not need to rely on these kind of anecdotal stories.

Consider the hard numbers. In 1990 alone the Federal Government issued 63,000 pages of fine print regulation on the use of private property. It is not hard to imagine that some of that regulation places severe limitations on property use. There is no question about it; it does if the property owners feel a regulation has gone too far, that their property rights have been taken without compensation.

Oh, yes, for those who say we already have the fifth amendment, that is true. We do have the fifth amendment, so we can sue them. But you better have a giant bankroll if you have to take on the Federal Government in court, if you have to sue the Federal Government in order to establish your right to private property.

As a matter of fact, in many of the cases, the property rights owners win the cases when they are able to take on the Federal Government. The U.S. Government is currently facing well over $1 billion in such outstanding takings claims. Just in 1990 alone several of the largest taking judgments in the history of the United States were handed down by the U.S. Claims Court with the single largest judgment of all time—the Whitney benefits case totaled nearly $120 million—being affirmed by the Federal circuit as recently as this past February.

In California, property owners who can afford legal costs are winning at least half of their cases, if not more, of the taking claims cases before the intermediate appeals court. According to a recently released report by the Congressional Research Service, property owners won regulatory taking cases before the Federal courts in 1990 more often than not.

Astonishingly, what astonishes me, is the Federal Government wins 9 out of 10 times in other areas of law but they are losing on these cases, these 63,000 pages of regulations. As President Bush has said and as Vice President QUAYLE has said, as Attorney General Thornburgh is saying to Congress, the administration needs this regulation to get a procedure down that will protect the rights of property owners in this country so they can in some way rein in the head of this huge Federal bureaucracy that is issuing 63,000 pages of regulations. That is all this simple amendment does.

I might say that is why some of the finest lawyers in this Senate are sponsors of this amendment. When I look through the list, some of the finest attorneys: Judge HEFLIN sponsors this amendment—I can go down the list: BOND, BOREN, BREAUX, BROWN, BUMPERS—Senator SPECTER, for example, one of the most respected attorneys; the former attorney general from Washington State, Senator GORTON, sponsors this amendment. This amendment has had a lot of very fine legal minds look at it and they have said this needs to be agreed to, not the least of which is the Attorney General of the United States, who wants this agreed to. The Vice President of the United States and the President of the United States are solidly behind this amendment.

Another criticism we often hear, we do not need the Private Property Rights Act because we already have a fifth amendment. It has always been the case that when Americans feel that the Government has failed to respect their basic constitutional rights, they may sue, demanding that their rights be honored. As a matter of equity, however, we have never held that rights should only be extended to those who can afford to sue the Government for them. The cost of legal action is not small.

As I said earlier, it could be in excess of $40,000 to $50,000 up front to start a lawsuit against the Federal Government. The disturbing fact brought out by the recent trend in the courts is this: Those property owners who can afford this cost win more often than not, but those court victories actually represent only a small fraction of those whose rights have been usurped. Those who cannot afford to sue currently have no protection of their property rights if they come in conflict with a regulation. That is why we need a process to have these regulations be in concurrence with a system which will protect the rights of property owners.

This is why this amendment is so important. By building private property rights considerations into the regulatory process in the first place, the rights of all Americans—not just the wealthy Americans—are protected. It is not enough to say "but we have the fifth amendment." That is not enough. The duty of protecting and preserving the constitutional rights of Americans does not fall on the individual. It is a duty of all of us here in this Congress to see that those individuals are protected; whether they be rich or poor, big or small, they are in a position that their rights can be protected.

Another argument that I hear so much of, argument number four that I have heard, if private property rights are respected, vital protections for public health and the environment will be undermined. I spoke briefly to that earlier. Senator GLENN mentioned it. This argument would not even be raised if private property rights were truly understood by Americans. No one who owns private property in this country has the right to jeopardize someone else's life, liberty, or property.

Your private property stops at the end of my nose, so to speak. I think that is the way one great American put it, one great jurist. You cannot expect that.

As Justice William Henry Moody, a Franklin Roosevelt appointee to the Supreme Court, noted:

> Our social system rests largely on the sanctity of private property; and that state or community which seeks to invade it will soon discover the error in the disaster which follows:

That disaster may include destruction of our environment, for, as surprising as it may be, private property is the world's most powerful force for environmental protection. The current EPA Administrator who, in my view, is one of the strongest advocates for a good clean environment that this Nation has ever had in that position and a highly respected advocate of a cleaner, better, safer environment, Bill Reilly, the Administrator recently noted on returning from a trip assessing the environmental damage in Eastern Europe, "Many environmental principles are undefendable in the absence of private property."

I think just last week I saw him on TV saying that if hell had a national park, he had just seen it in Kuwait City where there was absolutely no respect for private property under forces of Saddam Hussein that went in and torched the wells. Anyone who had his own well there and was protecting it certainly would not have done what Saddam Hussein's forces did.

I will repeat again what Bill Reilly has said, "Many environmental principles are undefendable in the absence of private property."

His observation, Mr. President, can easily be explained by the old proverb:

> Give a man the secure possession of a bleak rock, and he will turn it into a garden; give him nine years lease on a garden, and he will convert it to a bleak rock.

I think we all know that. The principle is true. It is private property ownership that makes an owner care about the quality of his environment, that creates a true sense of stewardship for the land and its resources. The American environmental community, at its grassroots level, is nothing more than a coalition of private property owners who want to defend their private property rights from pollution and degradation of their neighbors and their government. Undermining private property rights through excessive regulation will not foster greater environmental protection.

Mr. President, another criticism that I hear often, and I will state a rhetorical question brought up: There are those who argue that the Private Property Rights Act is just too much hassle for our Federal agencies; that it will force them to spend too much time considering the impact of their regulations on private property, and not enough time on regulating.

Well, la-dee-dah. If that does not take the cake. With the Federal Government out there regulating, dictating, telling everybody what to do who is running a small business, and that is our concern.

First, let me say this from a factual standpoint. The administration has reviewed the text of this language. This administration argues strongly against that statement. According to the Attorney General—I quote from his letter of last October in which the EPA, the USDA, the Department of Interior, and the Corps of Engineers concur with:

> It is suggested that this proposal would add a bureaucratic roadblock to executive enforcement. This is incorrect * * * the [bill] does not preclude an agency from meeting its statutory obligations, including enforcement responsibilities. It is inaccurate to suggest that this proposal would afford * * * "yet another basis" to challenge agency performance of their statutory responsibilities by creating an "additional bureaucratic roadblock." To our knowledge, [the existing review of regulations], which would not be affected by your proposed [bill]—

Which is this amendment—

> has never resulted in any obstruction of any agency's performance of statutory responsibilities. In short, nothing anything the [bill] you have proposed would create additional burdens for agencies currently complying with the Executive order.

Obviously, the Government agencies themselves do not believe what we are asking would be too much hassle. But for me, I do not even need that reassurance. If you ask a regulatory agency to take on a little extra hassle in order to protect the private property rights of the small little citizens in America who are fortunate enough to own some property—our Government does not exist for the Government's convenience; our Government exists for the convenience of the people of the United States. That is why we have a government. The people gave the Government certain rights. One of those is to protect them and other peoples' ability to own and have private property.

If private property rights are important, then the hassle would be worth it. It just brings us full circle back to the question: Are private property rights important?

Mr. President, I submit that the best statement I could make to that would be a poll that was recently conducted by the Soviet Academy of Science. When you ask young Russians what it is that they really want, what rights or what freedoms they are most eagerly seeking, this is what they said:

"Do you want complete freedom of the press, radio and TV?" The answer is yes, 58 percent; no, 36 percent.

"Do you want Russia to be able to govern itself, and secede from the U.S.S.R.," from the Soviet empire? Yes, 70 percent of the Russians wanted that; 19 percent no.

"Do you want a form of government other than socialism?" Yes, 74 percent; 17 percent, no.

Get this one, Mr. President:

"Do you want private ownership of land?"

Yes, 85 percent; 85 percent of the Russian people want private property ownership more than any other one freedom that they are asking for—think about it—more than the right to the free press or television, more than the right to self-government, even more than the right to extract themselves from under the yoke of socialism. The upcoming generation of young Russians are demanding one thing: private property. They want above all else to own their own property, their farm, their car, their apartment; they want something that is theirs, to care for, to prosper, to build, just as Thomas Jefferson did Monticello, exactly the same thing he did with Monticello, when he noted, to "pursue happiness" by putting their work, their effort into something that belongs to them. He totally understood that with his love for Monticello.

Even if the administration did not believe that the Private Property Rights Act does not impose too much regulation burden on agencies—which they do not; they do not think it is too much of a burden—I would say, "So what if it is a burden on the bureaucrats? What about the people in the country that have granted their tax dollars and the right of Government to exist? What about them?

So I say, Mr. President, as Senators and Congress, along with the President, his Cabinet, and Government officials, we are sworn to defend the constitutional rights of Americans, not our Government's own convenience. If it takes a little more hassle to get respect for constitutional rights, then that hassle is certainly well deserved.

The only man to ever serve this Nation as both President and then Chief Justice of the United States, Chief Justice William Howard Taft described private properties rights this way:

> Next to the right of liberty, the right of property is the most important individual right guaranteed by the Constitution and the one which, united with that of personal liberty, has contributed more to the growth of civilization than any other institution established by the human race.

Mr. President, President Taft, Chief Justice Taft, in my view, is correct. There is no amount of administrative difficulty that is so great that it requires us to run roughshod over the private property rights of Americans. The work required of the executive agencies to ensure they are not usurping private property rights is well worth it.

Mr. President, I see some of my colleagues in the Chamber who wish to speak on this amendment, and I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise in opposition to the amendment offered by my friend and colleague from Idaho.

Much of what the Senator from Idaho has said about private property rights this Senator—and I presume every Member of the Senate—can agree with.

Clearly, the central event of our time has been the collapse of communism, the collapse of centralized, state-controlled government and economy. I think we can all celebrate the right that we have in this country to private property as people elsewhere in the world, particularly in Eastern Europe and the Soviet Union, strive to achieve that right.

But one of the hallmarks of our system of government is a balance that no right is absolute. I want to respectfully suggest that this amendment takes the tried and true and much revered, much appreciated, much valued, much protected, right of private property in this country and would use that theory to obliterate a host of other rights we have such as the right to due process, the right to be safe, healthy, and free, to be protected by a government of laws that we must depend on because we cannot always protect ourselves.

Mr. President, the Constitution establishes a very fair principle in the fifth amendment that when the Government takes private property there ought to be just compensation. There is a pretty clear line of decisions that establishes what private property is.

There are some decisions which are on the margins in the courts that have begun to raise the question of whether some of the kinds of actions my colleague from Idaho is worried about by regulatory bodies do sometimes affect private property rights, but that is a developing peripheral body of case law that much more appropriately ought to be left to the courts to decide before we come aggressively in through this legislative process and mandate a series of requirements on our Government that I think will effectively and dramatically limit its capacity to protect us, protect our environment, protect our health, protect our safety.

This amendment has major implications for the ability of all agencies of the Federal Government to issue regulations affecting our health, welfare, safety, and environment in a timely manner.

It also has major implications for the very fundamental notion of the separation of powers in America because, in essence, it shifts authority from determining what constitutes a taking of private property from the judicial branch where it has been for a couple hundred years now to the executive branch where it does not belong.

The amendment fundamentally changes the remedies which are available for government actions which constitute a taking. Under the amendment, the remedy for government action which does not comply with the internal executive guidelines on takings is as follows:

First, the regulations cannot be effective. That is pretty serious stuff.

Second, if the regulation is promulgated, an aggrieved party can challenge the action on the grounds the agency has not been certified as in compliance with these internal guidelines. In other words, regardless of whether or not an actual taking has occurred, regulations in a whole host of areas that means so much to the quality of our lives, consumer protection, environmental protection, citizen protection, can be held up and invalidated because agencies do not follow procedures issued by the Department of Justice.

Those are significant issues, Mr. President. And they are significant public interests and rights on the line here which must be considered very, very seriously before Congress legislates in this area.

The bill of the Senator from Idaho has been referred to the Governmental Affairs Committee, and I agree with the distinguished chairman of our committee, the Senator from Ohio, that our committee should have an opportunity to hold hearings on the bill.

I personally have grave doubts about the need for this amendment. The fifth amendment to the Constitution provides a remedy for those who believe they have been injured by a regulatory decision. They can seek restitution for damages in the U.S. Claims Court.

I know the Senator from Idaho and some of my other colleagues are concerned that the Federal Government's regulatory actions are crossing the line now into the "taking of private property." But again, Mr. President, the fifth amendment already provides a remedy in the form of monetary compensation for those instances where the

Government's regulatory actions already do justify compensation.

The Executive order on takings which has been issued asserts that recent court cases have found that entire governmental regulations may result in a taking.

Mr. President, this indicates to me the court system is working. The courts are dealing with this issue. The judicial branch of Government is the proper branch to determine whether or not compensation is required.

One of the most troublesome aspects of this amendment is the openended and blanket authority granted to the Attorney General. This amendment requires agency compliance with the Executive order on takings or "similar procedures to assess the potential for takings of private property." Under this amendment, the Attorney General can impose any new set of unknown procedures on affected agencies. No health or safety regulations on which the American people depend could be put into effect until the Department of Justice sanctioned that they comply with some new test.

It is my understanding that the Department of Justice today has not certified that EPA's guidelines on takings are in compliance with the Executive order. So under this amendment, environmental health regulations could not become effective until this certification is made. That means regulations under the Clean Air Act we adopted last year could be delayed for a significant period of time.

The short of it is that this amendment means lengthy delays in the promulgation of thousands of regulations that affect public health, safety, defense, welfare, and the environment—regulations that are issued pursuant to laws we have adopted.

Even after the Department of Justice certifies an agency's procedures are sufficient, the delay in promulgation of regulations may not end because this amendment states no regulation can be effective until the agency is certified "to be in compliance" and that means the Department of Justice could at any time decide to conduct a review of any agency's regulations to determine if the agency is in compliance.

Private parties who disagree with an agency's actions could petition the Department of Justice to review those actions for compliance with the Executive order or other similar procedures.

This amendment therefore opens the door to an awful lot of mischiefmaking and obstruction of the actions of the Federal Government well beyond the ample provisons of due process and rights of parties affected that are already in the law.

Mr. President, I have no doubt this amendment is well-intentioned, but its implications for the separation of powers between the branches of the Government, its implications for the historic system we have developed in this country, which is so unique, and may I say to my friend from Idaho, in itself so distinct from what has existed in Communist countries, where they have not cared about the environment, they have not cared about public health—these regulations would be frustrated by this amendment.

So I hope the Governmental Affairs Committee will be provided with an opportunity to consider the principles underneath this legislation, that we not legislate on this very important issue as an amendment to the highway bill, and that we not create a system that will make it very hard for Government to protect people, which is what I think the people want our Government to do.

I thank the Chair. I yield the floor.

Mr. BAUCUS. Mr. President, last year I voted for an amendment on this subject which is offered by the senior Senator from Idaho [Mr. SYMMS]. That is because I genuinely support efforts by the executive branch to reduce the chance that Federal regulatory action result in findings by the courts that there has been a taking of private property.

The amendment offered last year applied to regulations promulgated under the authority of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, and the Administrator of the Environmental Protection Agency.

Now, however, the Senator from Idaho has brought it so it now applies to regulations promulgated by "all executive branch agencies, including any military department of the United States Government, and United States Government corporation, United States Government-controlled corporation or other establishment in the executive branch of the United States Government."

Quite frankly, the broadening of this amendment to include worker safety regulations under OSHA, and food, drug, and product safety regulations under the FDA, to name just a couple of new areas covered by this amendment, has prompted me to reexamine this amendment, and I urge my colleagues to do the same.

After now having looked at the broad implications of this amendment, I have concluded that it should be rejected.

First, this amendment would codify an Executive order on "Governmental Actions and Interference with Constitutionally Protected Property Rights," which was issued in the final year of the Reagan administration.

The amendment prohibits any regulation by any Federal agency from going into effect until the Attorney General has certified that the regulation is in compliance with the Executive order or similar procedures.

There are a number of very serious problems with this approach.

The amendment legislatively sanctions the content of an internal, executive branch document, of which the Congressional Research Service concluded the following:

> First that the majority of takings principles stated or implied in Executive Order 12630 overstate the likelihood of a taking, and that the order does not list most of the factors that cut against the occurrence of a taking. Second, there appears to be no justification in Federal taking jurisprudence for the added demands imposed by the order on Government actions aimed at protecting public health and safety. Finally, by explicit text and practical effect the order has the potential to burden implementation of Federal Government programs.

EPA's general counsel strenuously objected to the order as "hopelessly vague and dangerously overbroad" when it was circulated within the Reagan administration.

The second reason that the amendment should be defeated is that it writes the administration a blank check. It prohibits any regulation from going into effect unless it is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures.

Enactment of this provision will allow Attorney General Thornburgh to veto any Federal regulation that he considers to be out of compliance with the Executive order. That's overly broad authority in itself.

But the amendment goes further. It also would allow Attorney General Thornburgh to veto any regulation that he finds not to be in compliance with any procedure that he determines to be similar to the order.

Moreover, the amendment does not limit adoption of takings procedures to a one-time certification by the Attorney General. The Attorney General could revoke certification at any time and regulatory proceedings within an agency could grind to a halt.

Third, there is no provision in the amendment for public participation in either development of procedures or the certification process, or for judicial review.

Fourth, if Congress were to enact this amendment, it would be sending a strong legislative signal that the regulatory programs which are at the heart of a host of many Federal statutes might constitute a taking even though the Supreme Court has ruled otherwise. This could seriously erode the strength of laws and regulations designed to protect public health, safety, and the environment.

The AFL–CIO urges the defeat of this amendment, calling it "a dangerous attempt to completely ignore health and safety, labor, and environmental laws."

The Clean Air Act, the Clean Water Act, the Solid Waste Disposal Act and Superfund require EPA to issue regulations controlling pollution in a manner that protects the public health and safety.

The order, and its codification by this amendment, allow regulations to be promulgated only "in response to real and substantial threats to public health and safety, be designed to advance significantly the health and safety purpose, and be no greater than is necessary to achieve the health and safety programs."

The use of the terms "substantial", "significant", and "no greater than necessary," without further clarification will only serve to hamper legitimate efforts to protect the public health and safety, to protect our workers, and to protect the environment.

Mr. President, for these reasons, I urge my colleagues to reject the amendment.

Mr. President, I also ask unanimous consent that a list of environmental regulations affected by the Symms amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF ENVIRONMENTAL REGULATIONS AFFECTED BY THE SYMMS AMENDMENT

CLEAN AIR ACT

Acid rain allowance system.

National parks protection (visibility).

Application of new source performance standards and new source review (related also to WEPCO).

Any health-based regulation establishing or controlling emissions of criteria pollutants, including lead, sulfur dioxide, ozone, and particulate matter.

All regulations to limit emissions of hazardous air, pollutants, substances that deplete the ozone layer, and greenhouse gases.

Municipal incinerator standards.

RCRA

Underground tank financial responsibility.

Corrective action requirements.

Landfill requirements.

Recycling requirements.

Underground injection limits on oil and gas production.

ENDANGERED SPECIES ACT

Listing of species as threatened or endangered.

Designation of critical habitat.

Prohibitions on killing or harming listed species.

CLEAN WATER ACT

Section 404 limitations on wetland filling.

Non-point source controls.

Effluent guidelines.

Pre-treatment requirements.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I oppose the amendment offered by Senator SYMMS. A version of this amendment—offered during consideration of the farm bill—was defeated last year. I hope that my colleagues will again vote against this amendment. I believe it is unnecessary and unwise.

First, let me take a moment to speak to the underlying issue which the Symms amendment purports to address. That issue is whether the fifth amendment of the Constitution provides property owners with adequate protection against governmental takings of their property. Takings law has been determined largely on an ad hoc basis. That body of law seeks to define where the public interest collides with the rights of private property owners. While society imposes innumerable rules and regulations on individuals, it is clear that, under the Constitution, in most cases, where Government action denies a property owner all economically viable use of his property, that property owner is owed just compensation. In several cases, however, the Supreme Court has made it clear that Government restriction of property uses which threaten public health and safety are not likely to be grounds for a taking.

The purpose of this amendment is not to clarify what constitutes a taking. The purpose of this amendment is to ensure agencywide compliance with an Executive order addressing the potential for governmental actions to interfere with constitutionally protected property rights.

I truly do not understand why Congress is getting involved in this interagency issue. The Executive order, signed by President Reagan in 1988, is in place and Federal agencies are already bound to comply with it.

I understand that the amendment is designed primarily to get four Federal agencies—the Department of Labor, the Department of Health and Human Services, and the Department of Agriculture, and the Environmental Protection Agency—to develop supplemental guidelines in order to comply with this Executive order. I am not sure where this process stands for all of these agencies. But in the case of EPA—an agency that has never been found guilty of a taking—a final draft of EPA's supplemental guidelines is complete, has received favorable review by the Department of Justice, and is likely to receive final approval in the near future. So, these agencies are currently working with the Department of Justice to get these guidelines finalized.

The Symms amendment asks Congress to empower the Attorney General, by giving him the authority to bar the effectiveness of any new regulations, in order to force executive branch compliance with the Executive order. As far as I can see, once Congress passes on this authority, there is no way, short of enacting another law, to get it back. Thus, by providing that the Attorney General can keep all new regulations promulgated by any agency that is not certified from going into effect, this amendment creates potential for trouble.

Under the Symms amendment, the Attorney General can stop all new regulations from going into effect from the EPA, and the Departments of Labor, Health and Human Services and Agriculture or any other agency, U.S. Government Corporation, or other establishment in the executive branch simply by withholding his certification of their compliance with this Executive order or similar procedures.

In a letter to Senator SYMMS, Assistant Attorney General Richard Stewart interprets "or similar procedures" to refer to procedures "that might be issued by the President in the future to modify the Executive order. * * *" Now wait 1 minute. Does that mean, that if President Bush or any one of his successors comes up with a new procedure to modify the current Executive order, the Attorney General could revoke his certification and shut down any new regulations about to go into effect for any agency? This amendment seems to allow a future administration to revoke certification and wreak havoc.

Further, while the Symms amendment's definition of a taking of private property is consistent with the requirements of the Constitution, the descriptions of potential takings in Executive Order 12630 are widely perceived as creating a bias against actions to protect public health and safety. A Congressional Research Service report on takings contains the following comments on the Executive order:

> At the very least, many of the order's principles and criteria unquestionably overstate the risk of taking, while neglecting to mention any of the factors cutting against the existence of a taking. Moreover, the order appears to single out government actions to protect public health and safety for special restrictions, though these are the very actions that are least likely to be found to effect takings.

Richard Stewart describes the Symms amendment as a statutory endorsement for Executive Order 12630. Is the Senate ready to make that endorsement? There have been no hearings on this issue. The amendment is opposed by the chairman of the authorizing committee, the Committee on Governmental Affairs, who has not had a chance to consider this legislation. And, the content of the Executive order is extremely controversial.

Mr. President, I fully support the rights of private property owners and am committed to upholding the integrity of the U.S. Constitution which provides for just compensation when a Federal action amounts to a taking. I believe the Symms amendment to be unnecessary and fraught with potential problems. I hope my colleagues will look closely at its content, not just its title, and join me in voting to oppose it.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I would like to take a few moments to make some general comments on the bill before us, S. 1204.

First of all, I want to thank Senators SYMMS and MOYNIHAN for all of their hard work on this piece of legislation and for their willingness to listen to individual Mconcerns.

I met with Senator SYMMS prior to the committee markup regarding my concerns with their original bill, S. 965. And I know that some of my other Western colleagues met with Senator MOYNIHAN to discuss similar concerns.

Both of them were very accommodating. I want to specifically thank them for increasing the Metropolitan Planning Organization [MPO] population threshold to 250,000 from 50,000.

While I still find some of the MPO requirements burdensome to smaller States like mine, their accommodation is a vast improvement over the original proposal and I thank them for that.

I rise specifically today to express my support for S. 1204, the Surface Transportation Efficiency Act of 1991.

I am very supportive of the flexibility provided in this bill. I truly believe that each State will be able to meet its transportation needs if S. 1204 becomes law.

In addition, the leeway that this bill gives States in setting standards for its secondary roads is a major step forward in my opinion. This provision alone will benefit rural States that will be able to stretch their highway dollars further because they would not have to meet costly Federal standards.

I trust States' ability to build safe, adequate farm-to-market roads, and commend the authors of S. 1204 for allowing them the freedom to do just that.

Finally, I would like to address the hot issue of the day—funding allocations.

It is no secret that Montana does well under S. 1204—especially in comparison to Senator WARNER's bill. And I support that.

However, I would also like to point out to those who have spoken in opposition to S. 1204's funding allocation that large States and less populated States deserve a fair share of the Federal dollars.

In most cases, we have larger land areas to cover and a small population base from which to draw funding.

Currently, Montana spends $354 on its highways for every State resident, placing it ninth among all States in per capita spending on highways.

In order to raise additional dollars on the State level, Montana would have to raise its gas tax 10 cents in order to generate the same amount of revenue that a 1-cent gas tax would raise in Virginia. In comparison to Florida, that ratio increases to 20 to 1.

A 1-cent gas tax in Montana only raises $3.9 million—compared to $33.2 million in Virginia or $61.4 million in Florida.

If Montana's Federal share is reduced, either our roads go unfunded or Montanans will have to pay astronomical taxes on their gas.

Is that fair? Especially when more populated States have the ability to raise more revenue with relatively little pain. Why shouldn't they be asked to contribute more to their own highway needs on a per capita basis?

I would also like to point out that it is the larger population centers that depend on States like Montana for the resources they need to meet the basic subsistence of life—their food and fiber.

Raw materials must move out of Montana to urban centers. Commerce must move through Montana to urban center.

Montana and other rural States are an integral part of this Nation's overall economy.

Mr. President, I hope that my colleagues will step back and look at this bill from a global perspective. The ability to efficiently move commerce in this country over the next 5 years will greatly affect our ability to compete in the global marketplace.

With the Canadian Free-Trade Agreement behind us and the Mexico Free-Trade Agreement ahead of us, transportation will play a key role in insuring that rural America can participate in these new opportunities.

And last, Mr. President, I would like to point out that Montana and other donee States have not received more than our fair share of Federal highway dollars over the past 40 years as some have claimed.

In this Nation's effort to complete the Interstate System, 52 percent of all highway user fees were spent on the 44,489-mile Interstate System—of which only 1,191 miles are in Montana; 805,225 miles, or nearly 95 percent of all eligible roadways, were left to compete for the remaining 48 percent of the highway user fees.

Federal records show that 376,471 miles of road received no Federal funds. And I can tell you which roads they are—they are the primary and secondary roads important to intra- and inter-state commerce.

They are the roads that connect rural areas to the interstate to facilitate the movement of the goods I talked about earlier.

Only 31 percent of rural counties currently have access to the Interstate System while 77 percent of urban areas are served by an interstate highway.

Clearly, rural America has not made out as well as some would like to believe.

I hope that my colleagues will take a broader look at this bill.

I urge my colleagues to reject any amendments to slant the Federal Highway Program toward more urban States and to maintain a balance that is fair to rural America—and to America as a whole.

I urge my colleagues to support S. 1204.

Mr. President, generally, regarding the bill that we are talking about today, S. 1204, some would say that probably we, as representatives of our different constituencies, are talking about our piece of the pie. Different formulas have been talked about, and some folks would stand around here and say that they would be losers and there would be winners.

Basically, what we are talking about in this bill—and I will address this particular amendment in just a minute—is so important to this Nation that it is basic to our very commercial existence.

We in Montana represent large spaces. We did not ask to be as big as we are, but we are that big. As a result, we are a State that probably receives, of the Federal dollars, more back than what we contribute.

But the figures have also been shown that as to U.S. citizens, our per capita expenditures are higher than some of the rest of the country, because we just have a higher gas tax in Montana, and of course there are less of us. We did not ask to be 148,000 miles big. We did not ask to be living on the Canadian border, where we have maybe some problems of maintaining our roads and highways that other parts of the country do not have, like the thaws and freezes and the depth of cold.

So as this goes on, and the debate goes on about what is fair and what is not fair, we say that we are all part of a national transportation plan. When we start looking at a national plan, let us be reminded that probably the biggest downfall to our competitor, and yes, at times, our adversary—but it becomes less everyday—the U.S.S.R.; look at their overall plan.

Last year, they harvested the biggest crop they have ever harvested to feed their people. The biggest crop. But they lose one-third of that crop by the time it is harvested, until it gets to their people to feed them. One-third of it. Then they have to go outside of their own nation and ask for credit and ask for help to feed their people.

The second thing we do every morning when we get up every day is eat. We are no different than any other nation in the world. Neither are they.

I support this bill, S. 1204, wholeheartedly, because I think it is, in all fairness, fair. It gives the State some flexibility that we truly need.

Let us talk about the amendment that is on the floor. Last year, this amendment was introduced as a bill, wholeheartedly supported by a lot of folks. Wonder why? Because this is as basic to our Nation and our freedoms as personal property. It never ceases to amaze me how many people can make how many arguments using great big words to erode a basic right of every American. And they do it under the guise of excuses like the Government has primacy over everything that we do.

People do not draw their power from the Government. It is the other way around.

I was an original cosponsor last year and an original cosponsor this year. I believe that we need to reaffirm our support for the individual, for his or her justly acquired property. After all, what is any worse in this Nation than a tyrant in the White House, an executive tyranny, or tyranny imposed by a bureaucracy? There is no difference. It is still the taking of and eroding of property rights, one of the cornerstones of our society and a principle that has made this country great.

Federal legislation such as wetlands designation is threatening to stifle the critical economic development and, yes, at times environmental development, utilization of natural resources, those facilities nationwide. We had wetlands legislation as well as other Federal laws, such as the Endangered Species Act, which, while well-intentioned and would be supported by a number of us, go far beyond what we believed at the time of passage was their original intent. I do not think anyone would want to prevent the repair of a leaking irrigation system—we have them in Montana—or keep a wetlands that was created only as a result of the leak. But we are seeing those instances continually surface around our own neighborhoods, just as I am not sure that the Endangered Species Act envisioned virtual shutdown of tremendous areas in the Pacific Northwest as a result of the Spotted Owl. People's jobs and livelihoods are at stake. The economic impact on that area will be tremendous, tens of thousands of jobs and a State's inability to collect revenue, supply the services that are demanded by her people. They will not even be able to support their schools on a local level.

People are going to jail over the issue of private property running into Federal law. And is it not too bad that bureaucracies have to go to the Attorney General to find out if they are in bounds before they can take private property? Is not that terrible? It is going to be decided either by the Government or those people who we represent or is it going to be decided by the courts? Do you want to leave your fate to the courts?

A poor little man up in Pennsylvania—and everybody heard the story—cleaned up a useless lot and filled it in in order to expand his business. It was just an old wet pond, never had anything in it, just old junk, worn out tires and mosquitoes. He did not like the mosquitoes, filled it in, and made it a place where it is livable, habitable, a healthy place to live. He ended up going to jail for it. He is serving 3 years in jail. Would it not be too bad if that bureaucracy had to come to somebody and say, "Are we in bounds or out of bounds?" It does not make a lot of sense.

So those who would view this as an encroachment on Government, so be it. From my point of view, Government does not have all the answers, and sometimes, if they think they have the answers, they do not have the right ones. Usually the decision is made by someone who does not even live in the neighborhood.

So this is a good amendment, and I think it reaffirms this body's dedication to the basics of our Constitution, that is, private property and the rights that go with it.

So I thank the Chair for this time, and I thank the managers of this bill for their very careful consideration. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I will just respond. I am sorry I was at another meeting temporarily so I was off the floor, but I can summarize my views of this in very few words. The way this amendment was written, which was originally S. 50, it said basically that—let me go back, let me preface that remark with a different remark.

I listened to Senator BURNS very carefully because what he is talking about is property rights, and I do not quarrel with property rights. I am as much protective of property rights as anybody else. But the way this is written, as I understand it, if you had a regulation, it would have to go to the Justice Department even to be analyzed to see whether it had property rights involved, even though it was a health matter, whatever other matter that it was, that might really be directed to anything with what we normally think of as being property, as being property under eminent domain or whatever, being taken for highways or for watever governmental purpose, but it would not maybe have that in it.

But in order to certify it did not have that in it, it would still have to go to the Justice Department to be approved or disapproved and let someone decide, as I read into the RECORD a little while ago the write-up of what might have happened under a Justice Department that was under the control of Ed Meese, and that gave some of the people who watched that very carefully some real problems.

So this, in effect, sets up another potential bottleneck that could be used to thwart the congressionally approved, mandated, and signed by the President, laws and requirements that different agencies of Government never intended. So that is the reason I say let us look at this thing. In our haste to get this thing through here, let us not approve something like this that we should be taking a very balanced look at to make sure what the long-term implications of it are going to be.

That is the summary of it. I am opposed to the legislation. I am sorry it was turned down for a hearing to begin with. That is the way it goes. We can remedy that all right and have a hearing on it and develop the pros and cons and potentials of this thing. I hope people will oppose this amendment. I hope we can convince the floor manager to withdraw it and send it to the committee and have a hearing on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I do not want to delay the issue, and I commend the senior Senator from New York and the senior Senator from Idaho for the splendid work they presented to us in committee with regard to the highway bill, and, after all, that is the essence of what we are about today. But I do have a statement. I see the majority leader has arrived here, and when he is ready to take the floor I will yield.

But, principally, back to this amendment: I do favor the amendment. I know you have had a rather contentious debate, but we in the public lands States understand this better than most and we try to bring it to the attention of our colleagues continually about things that happen to us in that part of the country with regard to various Federal laws. These laws are passed to control various land uses, and we get the National Environmental Policy Act business, the Wilderness Act, the Surface Management Control and Reclamation Act, the National Forest Management Act, Federal Lands Policy Management Act, the Endangered Species Act, Clean Water and Clean Air Act, to name but a few, and now we have wetlands regulations. None of them are bad. I voted for many of them. They were never bad when they first passed.

But take wetlands, for instance, given birth by the Corps of Engineers and the Environmental Protection Agency. They are the dual mothers of that legislation, the father being unknown. And presumably, under the authority of these various acts, it is a far cry from what we originally intended as a national priority.

So I do not want to delay the proceedings. I think it is a very serious and important amendment and we will cast a vote for property rights. I agree with the Senator from Ohio that we can have hearings, but it will impel us along our course more vigorously if we are able to send this on to hearing status.

I thank the Chair.

The continuing and contentious debate over use of our public lands, be they forest lands or range lands, has been ranging now in Congress and all across America for years. Numerous laws have been passed to restrict and control certain uses: The National Environmental Policy Act, the Wilderness Act, Surface Management Control and Reclamation Act, the National Forest Management Act, the Federal Land Policy Management Act, the Endangered Species Act, the Clean Water and Clean Air Act, to name but a few. The Nation's demands and priorities change—and hopefully, Congress and our laws eventually reflect these changes in society.

Twenty-five years ago, when the public land management policies began to be more cognizant about, aware of, and responsive to environmental protection, it was a bit more understandable since, after all, these lands were owned by the public and some changes may well have been necessary. Some environmental abuses were occurring and that cannot be denied. But today, particularly in the West because we are such close neighbors to public lands, we are seeing this mentality of conservation or environmental protection at any cost sweep across the Federal boundaries of public lands and out onto our private lands.

Some folks, in and out of Congress and the Federal Government, feel it is their right, indeed, their duty and civic responsibility, to mandate just what actions will and won't occur on private lands in order to protect environmental qualities. This is right were we find ourselves today with wetlands policies and with the Endangered Species Act, and we in Congress and the Federal Government must act with more care and attention than ever before.

This country has made remarkable progress in protecting many important features of our environment on public and private lands. The Endangered Species Act may not have been bad in its inception, but it surely is getting out of hand in its application on private property because of the way it is being interpreted and the scope with which some people want to see it applied to actions on private lands.

The Clean Water Act may not have been bad when it was first passed in 1972, but the wetlands regulations that have been given birth by the Corps of Engineers and the Environmental Protection Agency, they are the dual mothers of all that—the father being unknown—presumably under the authority of the Clean Water Act, are a far cry from what Congress ever intended as a national priority. Especially now in the way it has been applied to restrict one's right on private property.

The very essence of America—a strong and vital economy—is what allows us all to enjoy the standard of living which gives Americans the opportunity and ability to enjoy a clean and refreshing environment. Yet today, with some of the environmental initiatives we're facing that restrict commodity use and development on private and public lands, we're threatening and injuring the very economic base that allows our country to even think about and work toward a clean environment.

When many of these environmental laws were first passed by the Congress, conservation was the national goal. But today, in many cases, certain regulations and proposed laws not only now cross the boundaries of lands, but also cross the line from conservation to preservation, a land management theory which seems to connote no action at all—zip—nothing. Preserving lands as they are today or even trying to recreate the circumstances of yesteryear brings businesses and growth and activity to a dead standstill. And for what—environmental protection? We already have that. Some conservation ideologies have become preservation ideologies, and in those circumstances, especially in the rugged West, we end up fighting continually for the very basics of what we all believe in.

Congress and the administration will face some very interesting battles in this session which deal with the constitutional rights of private property owners. We will have to approach each problem and circumstance issue by issue, vote by vote. And every vote is one surely worth fighting for. If you ask any of us straight out if we believe in private property rights, we would all answer yes. But private property rights get cloaked in very creative and complex arguments and other issues and agendas. Many special interest groups lobby so hard and extensively on Capitol Hill that some folks need to be reminded that each spoke is very much as important as the whole wheel, and any final legislation or initiative, no matter its environmental significance, is not acceptable if it treads on your rights as a private property owner.

No one action for property rights protection will make the difference. It is a mindset in Congress and the entire Government that requires a continual effort that you must work for, and that I work for daily. This amendment before us now requires that Federal agencies adopt administrative procedures to assess the potential for taking private property in the course of regulatory activity, with the goal of minimizing such where possible. It codifies what we already have by an Executive Order 12630. It is straightforward and it reflects a very basic value on which this country was established.

Today, we are not caught in the fray of a difficult environmental issue. We are not enmeshed in a judicial debate. Instead, we are asked to cast a vote which either protects our private property rights or not. I urge my colleagues to vote with Senator SYMMS and myself in favor of this basic constitutional right.

The PRESIDING OFFICER (Mr. GRAHAM). Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I do not believe any Senator is seeking recognition at this point. Two Senators that I am aware of would like to speak on this matter. Accordingly, I suggest the absence of a quorum until they have reached the floor.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, are we on a time limitation of any sort?

The PRESIDING OFFICER. There is no time limitation.

Mr. DIXON. Mr. President, in that event, I rise in support of the amendment offered by my friend, the senior Senator from Idaho.

Mr. President, the great confusion and frustration that current wetlands' regulations pose is well documented. Conflicting regulations and inconsistent enforcement have resulted in a bureaucratic nightmare for many of our Nations businesses—from our rural farmers and ranchers, to our urban realtors and developers. The amendment now before us, which I rise in support of, will provide property owners with reasonable protections and safeguards from reckless Federal actions.

This bill does not limit Federal agencies' authority to regulate or fulfill any legislative mandate. Rather, the bill requires Federal discisionmakers to assess the potential impact of their regulatory action on private property rights, and minimize the transgression of private rights whenever possible.

The importance of wetlands cannot—and should not—be questioned. Wetlands support wildlife and fisheries, protect against floods and droughts, and help clean up pollutants before they can filter into ground water, lakes, and streams.

The preservation and restoration of wetlands have created certain problems, however, because the policy, definition, and regulatory authority on wetlands is extremely vague. At least four Federal agencies have jurisdiction over our Nation's wetlands: the Environmental Protection Agency, the Corps of Engineers, the Fish and Wildlife Service, and the Soil Conservation Service. Additionally, these agencies approach the classification of wetlands based on differing priorities, goals, and objectives. Today, wetlands run the gambit from coastal marshes to arctic tundra to seasonal prairie potholes.

In my State of Illinois, 40 percent of all crop land—crop land currently in production—is hydric soil. Under the Corp of Engineers' expanded criterion, hydric soils are now classified as wetlands. Should these farmers who farm the land, repair tiles or levees, or apply chemicals and pesticides too close to designated areas be penalized? Unfortunately, nobody knows for sure, not even the Federal agencies who regulate wetlands. These farmers must proceed at their own risk. Something must be done to establish rationality and fairness to this process. We must approach the preservation of our Nation's wetlands in a reasonable and balanced way.

Mr. President, this amendment is an important first step in restoring a rational approach to the wetlands' problem. I urge my colleagues to support this amendment.

I yield the floor.

Mr. WALLOP. Mr. President, I rise to speak for the Symms amendment reaffirming the Constitution's protection of private property rights. Last week I addressed the Wyoming Stockgrowers Association's annual meeting held in Sheridan, WY. And, so often as it is the case in my State, the concerns focus on the Federal Government and it's encroachments on private property rights.

Ambitious Government policies intended to protect the environment increasingly, and often ridiculously, interfere with the constitutional rights of private landowners.

The U.S. Government is a bureaucratic monster when it comes to takings. It has spent $3.7 billion to acquire 4 million acres of recreation lands since 1965, yet has a backlog of land condemned but still unpaid for which exceeds $6 billion. That's 6 billion dollars' worth of private property rights?

And there's more—$58 million of the taxpayers money was awarded by the Federal courts over a 2-year period to satisfy just compensation claims under the fifth amendment. Pending court cases currently total upwards of $1 billion.

Private property owners can be injured by more than just legislative takings. California water users experienced the frustrations and expense of governmental restrictions when they attempted to repair their leaky canals. It seems the wetlands created by their inefficient water system has become habitat for wildlife. When the Government learned about the proposed repairs, it forced the private water users to mitigate the impact on the accidental habitat by retaining the artificially created wetlands. All of this, using their own money and their own scarce water.

Perhaps the most classic example of a taking is found in the case of rancher and conservationist, Dayton Hyde. Hyde took a poor piece of land and turned it into a lake and the area around it into a wetland.

But, Hyde's environmental improvements made him a victim of eager regulators who considered it their duty to protect the environment. His lands were zoned for wetlands and his operation was choked by the resulting regulations.

As Robert Frost said, "Good fences makes good neighbors." In Wyoming, the Federal Government is a large neighbor with almost 50 percent ownership of the State. S. 50 will help our neighbor stay inside its fifth amendment's fence. This amendment forces them to identify the boundaries, and more importantly, to recognize when it crosses those boundaries. With its fence clearly charted, the Federal Government can become a good neighbor.

PRIVATE PROPERTY RIGHTS ACT

Mr. DURENBERGER. Mr. President, I am pleased that the Senate has the opportunity to vote on the Private Property Rights Act. I commend and thank the senior Senator from Idaho for his leadership on this important issue. I strongly support him in this effort.

It is, in my judgment, fitting that the Senate reaffirm its support for the rights of private property owners during consideration of the Surface Transportation Act. The seemingly ceaseless stream of Federal regulation in a multiplicity of important areas are not without consequences affecting the citizens of this Nation. All too often, regulations are promulgated which restrict the use of private property to such a degree that the value of property is diminished and livelihoods are disrupted. This should not be the case.

While I support many of the regulations which have caused these unintended effects, I also recognize and support the obligation of the Federal Government to consider the implications of these regulations for all Americans. When regulation results in effectively taking property, our Government is obligated to offer recompense to its owners. Compensation is not only required by the fifth amendment to the Constitution, it is required by decency and fairness.

Regulations designed to benefit all Americans should never come at the expense of the individual property owners who, for no fault of their own, get caught in the crossfire. There also is no reason why aggrieved property owners, not to mention the Federal Government, must go through tortuous and costly court battle to address this issue. I am optimistic, Mr. President, that the Private Property Rights Act will greatly reduce the need for litigation and help to eliminate the disruption caused by Federal regulations.

I hope, Mr. President, that this amendment will signal a new sensitivity and commitment on the part of the Federal Government, not just on issues of taking, but in every respect, to the consequence of its regulations on the people of America.

Mr. MITCHELL. Mr. President, I rise to oppose the amendment and I urge my colleagues to vote no on this amendment.

I think it is important to put this in some perspective so we understand the background of the issue on which we are voting.

The Reagan administration issued Executive Order 12630 on March 15, 1988, titled "Government Actions and Interference With Constitutionally Protected Property Rights."

The amendment by the senior Senator from Idaho incorporates the Executive order in law by reference.

The alleged purpose of the Reagan Executive order is to assure that Federal actions do not run afoul of the fifth amendment provisions of the Constitution, which requires just compensation for takings.

But the effect of both the Executive order and the amendment is to undermine our health, environmental, safety, and civil rights laws.

Nothing currently allows Federal agencies to act in a manner that is inconsistent with the Constitution. No law is needed to guarantee that the Constitution is the supreme law of the land. That issue was settled two centuries ago in Marbury versus Madison.

But a law would need to be passed to provide the Department of Justice with oversight over all Federal regulatory actions.

This amendment is such a law. It could hamstring Federal implementation of our laws.

The irritant that draws the Senator from Idaho to the floor is reportedly the fact that the Environmental Protection Agency has failed to finalize its guidelines for implementing the Reagan Executive order.

Why should Congress pass a law to assure that the Federal agencies act consistently with an Executive order? Surely the power of the President extends to assuring Federal agency compliance with a Presidential order. If the problem is the absence of EPA guidelines, then the administration can remedy the problem.

We should not hold up Federal regulations, pending approval of guidelines and certification by the Attorney General, over a problem of internal administration implementation of an Executive order.

There are problems, however, with the Executive order itself. The Executive order describes its two purposes as: First, ensuring that Federal agencies act "with due regard for the constitutional protections provided by the fifth amendment," and second, reducing "the risk of undue or inadvertent burdens on the public fisc resulting" from agency action.

The Executive order fails its first purpose because it does not accurately describe current takings laws as articulated by the Supreme Court.

The Executive order is intended to respond to three takings cases decided by the Supreme Court in 1987:

Keystone Bituminous Coal Association versus DeBenedictis;

First English Evangelical Lutheran Church versus City of Los Angeles; and

Nollan versus California Coastal Commission.

The general thrust of the Executive order reflects an interpretation of these cases as new takings law.

However, to the extent these cases simply reiterate current law, there is no need for the Executive order.

But the Executive order does not accurately reflect the holdings in these cases.

In fact, the Executive order articulates a view of takings law that is well beyond the point reached by the Supreme Court on inverse condemnation.

Therefore, the Executive order cannot assure consistency with the just compensation clause because the order is itself inconsistent with decisions of the Supreme Court.

The Executive order also implies that the fifth amendment creates a constitutional protection of private property against inverse condemnation. In contrast, the Supreme Court has held that the just compensation clause merely ensures compensation for such takings and does not bar inverse condemnation.

As for the second purpose, the Executive order never describes "undue or inadvertent burdens on the public fisc" resulting from agency actions that may result in takings.

However, according to information obtained from the Federal agencies by the House Merchant Marine and Fisheries Committee, the United States paid on average less than $2 million annually for takings that might have been avoided by implementation of the Executive order. So there have been no "undue or inadvertent burdens on the public fisc" that need to be reduced.

In addition, unless a Federal statute provides otherwise, Federal agencies are limited to the factors prescribed in their authorizing statute and regulations when making decisions on the application of Federal regulatory authority to private property.

For example, whether a permit denial may be construed by a court to effect a taking is not a relevant factor in an agency's decision to grant or deny a permit, absent express legislative authority making it a factor.

As a result, it is logical to conclude that agency actions that may be construed as takings are not "undue or inadvertent" so long as they are not arbitrary, capricious, unlawful, or outside of the authority granted by the enabling legislation.

Of course, if agency regulatory actions fail to meet the test of the Administrative Procedure Act, if applicable, or they are beyond the scope of the agency's authority, then they are subject to invalidation by a Federal court, which would obviate any claim of a taking.

Therefore, regulatory actions that may result in takings are either authorized and valid, in which case they are neither "undue nor inadvertent," or they are not, in which case they are not takings.

Since neither stated purpose is valid or logical, one can conclude that the Executive order's true purposes are unstated.

I maintain that the order's true purpose is to expand the circumstances in which a taking will be considered to have occurred and to chill the agencies from making regulatory decisions that may be construed as takings under existing inverse condemnation law as well as the expanded view of this law reflected in the Executive order.

This chilling effect appears to be the purpose of the pending amendment. During last year's debate on a similar amendment offered by the Senator from Idaho on the farm bill, he stated that Congress faced two options:

> First, roll back the aggressiveness of our national environment, health, public safety, civil rights and other laws* * *.

The second option was the amendment proffered by the senior Senator from Idaho, which is substantially similar to the amendment.

The clear intent of this amendment is to undermine the effectiveness of our environmental, health, safety, and civil rights laws.

The document appears to be a parting gift or legacy from the administration that introduced the Nation to deregulation.

For example, the Executive order states that "[a]ctions undertaken by governmental officials that result in a physical invasion or occupancy of private property, and regulations imposed on private property that substantially affect its value or use, may constitute a taking of property."

The reference to physical invasion presents nothing new.

Physical invasion was first recognized by the Supreme Court as a type of inverse condemnation over 100 years ago and was the only kind of implied taking so recognized for 50 years.

The assertion that "regulations imposed on private property that substantially affect its value or use * * * may constitute a taking of property" is an example of the subtle way in which this Executive order seeks to undermine regulatory protection by chilling agency action.

This statement is of no value to agencies in determining whether a permit denial or regulation will effect a taking.

Instead, it creates a new, vague factor for finding a taking, and one that the Supreme Court has never articulated.

Thus, the Executive order gratuitously raises doubts about agency actions as takings without providing any guidance for assessing whether takings actually have occurred and without being based on established takings law.

The Executive order also incorrectly states that "Further, governmental action may amount to a taking even though the action results in less than a complete deprivation of all use or value, or of all separate and distinct interests in the same private property and even if the action constituting a taking is temporary in nature."

The Supreme Court has expressly "reject[ed] the proposition that diminution in property value, standing alone, can establish a 'taking' * * *"

Even complete elimination of "a beneficial use to which individual parcels had previously been devoted" does not constitute a taking, according to the Supreme Court.

In fact, the Court has rejected a takings determination in cases where the remaining value was only 13 to 25 percent of the unregulated value.

These Supreme Court cases strongly imply that a taking is precluded if any economically viable use remains.

With respect to the protection of public health and safety the order states that actions which "are asserted to be for the protection of public health and safety * * * should be undertaken only in response to real and substantial threats to public health and safety, be designed to advance significantly the health and safety purpose, and be no greater than is necessary to achieve the health and safety purpose."

There is no basis in the 1987 Supreme Court takings cases for limiting actions for the protection of health and safety to "real and substantial" threats and to those that are designed to "advance significantly" such protection.

Instead, the Court in Keystone restated well-established law that a taking occurs if the regulation "does not substantially advance a legitimate state interest."

The Executive order erects a higher barrier for health and safety regulatory actions than for other types of regulatory actions.

The order's requirement that a regulatory action must "be no greater than is necessary to achieve the health and safety purposes" encourages agencies to err in favor of underregulating a health threat rather than overregulating it.

The Supreme Court said in Keystone: "That a land use regulation may be somewhat overinclusive or underinclusive is, of course, no means for rejecting it."

The Supreme Court's approach appropriately leaves the decision to Congress.

In addressing the problem of stratospheric ozone depletion, Congress may elect to overregulate for a period of time before regulation can be tailored precisely to contribution because it may be too late to take effective measures once the level of contribution is precisely determined.

The Executive order attempts to use the Constitution's just compensation clause as an excuse to impose a regulatory philosophy on Federal agency efforts to implement the law without regard to the determinations that were made by Congress in enacting that law.

Mr. President, I now move to table the amendment, if that is acceptable and if debate has been concluded. I move to table the Symms amendment, amendment No. 305.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion of the Senator from Maine. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. Pryor] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 44, nays 55, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—44

Adams
Akaka
Baucus
Biden
Bingaman
Bradley
Bryan
Byrd
Chafee
Cohen
Cranston
Danforth
Dodd
Glenn
Gore
Graham
Harkin
Inouye
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NAYS—55

Bentsen
Bond
Boren
Breaux
Brown
Bumpers
Burdick
Burns
Coats
Cochran
Conrad
Craig
D'Amato
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Jeffords
Johnston
Kassebaum
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Roth
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—1

Pryor

So the motion to lay on the table the amendment (No. 305) was rejected.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate?

Mr. SYMMS. Mr. President, if there is no further debate, I yield to the floor manager. But we have a recorded vote ordered on the text of the amendment. I ask unanimous consent that we vitiate the vote and move to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there objection to the final vote on the amendment? There are two amendments. The vote is on the second-degree amendment.

Without objection, the second-degree amendment (No. 306) is agreed to.

The amendment (No. 306) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the underlying Symms amendment, No. 305, as amended? If not, the question is on agreeing to the amendment, as amended.

The amendment (No. 305), as amended, was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. If the Senator from New York will suspend, the Senate is not in order.

The Senator from New York is recognized.

The pending business is the Byrd amendment.

Mr. MOYNIHAN. Mr. President, once again I ask unanimous consent that the pending Byrd amendments be temporarily laid aside for the consideration of an amendment—I believe there are a number of parts, or sequence of amendments, as the case might be—by the distinguished junior Senator from Montana, who I see is on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, the Byrd amendments are laid aside for the response of an amendment by the Senator from Montana, who is recognized.

Mr. BURNS. Mr. President, I thank the managers of this bill. I have five amendments I would like to offer to this bill. They are noncontroversial and I believe are acceptable to the floor managers.

I first call up amendments 297, 298, and 299. I believe there are some technical corrections on 299 at this time.

The PRESIDING OFFICER. Is there objection to the consideration of these amendments en bloc? If not, without objection, it is so ordered. The Clerk will report.

AMENDMENTS NOS. 297, 298, AND 299

Mr. BURNS. Mr. President, I send amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. Burns], for himself, Mr. Conrad, Mr. Danforth, Mr. Garn, Mr. Gorton, Mr. Jeffords, Mr. Kasten, Mr. Lott, Mr. McCain, Mr. Pryor, Mr. Wallop, Mr. Simpson, Mr. Grassley, Mr. Rockefeller, Mr. Hollings, and Mr. McConnell, proposes amendment numbered 297.

The Senator from Montana [Mr. Burns], for himself and Mr. Symms, proposes an amendment numbered 298.

The Senator from Montana [Mr. Burns] proposes an amendment numbered 299.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 297

At the appropriate place, insert the following new section:

SEC. . RURAL TOURISM DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the "Rural Tourism Development Act of 1991".

(b) RURAL TOURISM DEVELOPMENT FOUNDATION.—

(1) FINDINGS.—The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) ESTABLISHMENT OF FOUNDATION.—In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(3) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(A) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(B) development of educational resources to assist in private and public rural tourism development; and

(C) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(4) BOARD OF DIRECTORS.—

(A) ESTABLISHMENT.—

(i) COMPOSITION.—The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(I) during its first two years shall consist of nine voting members; and

(II) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(ii) APPOINTMENT.—

(I) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(II) The voting members of the Board, other than those referred to in subclause (I), shall be appointed in accordance with procedures established by such bylaws.

(iii) QUALIFICATIONS.—The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(iv) TERMS OF OFFICE.—Voting members of the Board shall each serve a term of six years, except that—

(I) initial terms shall be staggered to assure continuity of adminsitration;

(II) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her precedecessor, that person shall serve only for the remainder of the pedecessor's term; and

(III) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(B) EX-OFFICIO MEMBERS.—The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the Naitonal Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting exofficio members of the Board.

(C) CHAIRMAN; VICE CHAIRMAN.—The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(D) MEETINGS; QUORUM; OFFICAL SEAL.—The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at anyone time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(5) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(6) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—

(A) IN GENERAL.—The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(B) GIFTS, DEVISES, AND BEQUESTS FOR BENEFIT OF INDIAN TRIBES.—A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(7) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(8) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

(9) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(10) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(11) ADMINISTRATION.—

(A) IN GENERAL.—In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(B) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(C) TREATMENT AS FEDERAL EMPLOYEE.—Neither an officer or employee hired under subparagraph (A) nor an individual who provides services under subparagraph (B) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(12) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(13) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(14) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(15) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1991, 1992, and 1993 not to exceed $50,000 to—

(A) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(B) provide administrative services for the Rural Tourism Development Foundation.

(16) DEFINITIONS.—As used in this section, the term—

(A) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(B) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(C) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(D) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(17) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

(A) by striking "and" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Rural Tourism Development Act of 1991, in the development and promotion of rural tourism."

Mr. BURNS. Mr. President, last year, the Senate passed the Rural Tourism Development Foundation as part of S. 1791, the Tourism Policy and Export Promotion Act of 1991. The Senate Commerce, Banking, and Surface Transportation Committee leadership supports this amendment.

The Foundation is a nonprofit, nongovernment-managed, privately funded entity that would finance planning, development, and implementation of programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America.

Financing would be available for Federal land management agencies, private enterprises, State, local and tribal governments, and other entities that promote rural tourism destinations abroad.

The Foundation supports S. 1204's efforts to use transportation spending for rural tourism development. S. 1204 creates a FHWA new Scenic and Historic Byways office and an all American roads program. Outstanding roads would be promoted to enhance rural tourism, economic development, and world-class tourism destinations.

Federal law prohibits Federal agencies from printing or distributing materials or marketing public lands abroad. The Foundation would be able to support international marketing efforts, as well as, public-private partnerships to supply road users information.

In addition, S. 1204 authorizes a $2.3 billion Federal Lands Category Program that supports public lands highways, including forest roads, U.S. Parks and parkways, and Indian reservation roads.

Though a substantial funding increase over 1987 program levels is provided, the amounts are insufficient to meet actual needs. A major Foundation goal is to promote lesser-known tourism destinations and to divert domestic and international travelers away from overcrowded facilities.

This not only affords national protection to popular attractions such as Yosemite, but allows Federal land dependent communities an opportunity to expand their local economies.

AMENDMENT NO. 298

On page 37, line 18, insert the following after 'title'.":

(4) Section 204 of title 23 United States Code, is amended by striking subsection (h) and inserting instead:

Subsection (h) funds available for each class of Federal Lands Highways may be available for the following:

"(1) transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development;

"(2) adjacent vehicular parking areas;

"(3) interpretive signage;

"(4) acquisition of necessary scenic easements and scenic or historic sites;

"(5) provision for pedestrians and bicycles;

"(6) construction and reconstruction of roadside rest areas including sanitary and water facilities; and

"(7) other appropriate public road facilities such as visitor centers as determined by the Secretary.

"(i) The Secretary shall transfer to the Secretary of Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.".

Section 205(c) is amended by striking $15,000 in 4 places and inserting in lieu thereof $50,000.

FEDERAL LANDS AMENDMENT

Mr. BURNS. Mr. President, this amendment amends section 111 of S. 1204 with language from a bill I introduced earlier this year, S. 540. I am pleased to have Senator SYMMS as a cosponsor of this amendment.

This amendment encourages, but does not require, States to select Federal land projects that implement Federal tourism and recreational travel initiatives as part of an overall transportation investment strategy. Specific statutory reference is provided for the existing Forest Scenic Byways Program, BLM Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

The amendment also lists specific project enhancement costs, such as interpretive signage, acquisition of necessary scenic easements and scenic or historic sites, and appropriate public road facilities as determined by the Secretary as eligible costs.

The amendment is compatible with other S. 1204 provisions that create a FHWA Scenic and Historic Byways Office and Program, and provide States more flexibility in spending road grants on transportation enhancements.

Under existing law, the Secretary of Agriculture is provided road administrative costs to defray expenses incurred under the Federal Land Forest Highways Program. That amount is approximately $500,000 per year. For equity, administrative costs are extended to the Secretary of the Interior to cover Bureau of Land Management costs.

Finally, the amendment will raise the dollar amount that the Federal Government could spend per mile for trail improvements. The amount is raised to $50,000 from $15,000 per mile to reflect higher prices. This will allow the Federal Government to participate in more public-private partnership arrangements.

The real purpose of this amendment is to provide a framework under which the public lands category can play a role in developing a transportation infrastructure to support a rural tourism economy.

Tourism generates jobs and tax revenues, and it is an industry in which America is globally competitive. Access to Federal tourist and recreational sites is particularly important in the west where an average of 50 percent of all land is federally owned.

I hope that my colleagues will support this important amendment.

Mr. President, section 111 substantially increases the Federal Lands funding levels. Though as indicated by S. 1204's report language, that level falls far short of actual need. Section 111 combines the forest roads and public land highways into one account, but appears to keep the existing project selection criteria for diverse road needs. How would this program operate under the modifications?

Mr. SYMMS. Sixty-six percent of the money would be allocated to Forest Service regional offices based on forest highway criteria. The remaining 34 percent would be available under national competition for forest or public roads. Currently, forest road grants are limited to a 25,000-mile State-local road network in 41 states. The new public land highways definition includes the existing forest road definition and accompanying regulations except that forest road projects are no longer restricted to the 25,000-mile network. Federal grants can be spent on any type of road as long as it is open to public travel. Under the public lands highway discretionary money, only projects which are bound on both sides by federal land ownership are eligible. This contrasts with forest road projects which are often bound by privately-held property or a mixture of road ownership patterns.

Existing rules governing project selection for forest road and public land highway are retained. For forest roads, the State, Forest Service and FHWA meet each year to discuss a 5-year project program. Forest road projects must meet six criteria: First, the development, utilization, protection, and administration of the National Forest System and its renewable resources; second, the enhancement of economic development at the local, regional, and national level; third, the continuity of the transportation network serving the National Forest System and its dependent communities; fourth, the mobility of the users of the transportation network and the goods and services provided; fifth, the improvement of the transportation network for economy of operation and maintenance and the safety of its users; and sixth, the protection and enhancement of the rural environment associated with the National Forest System and its renewable resources.

For public lands highway, the guidelines are much broader. As with forest roads, the project must bear a relationship to Federal land and resource management plans. Other factors, such as traffic carrying capacity, adequacy of the State and Federal agency transportation plans with regard to route continuity, capacity, safety and the construction timetable are considered.

Mr. BURNS. It is my understanding that the Administration discontinued the public lands discretionary account because States were nominating forest road projects over other roads adjoining other Federal land agencies. That in part may reflect State interest in reducing the $4 billion in unmet forest road needs. The main reason, however, is that only the Forest Service participates formally in the Federal lands project nominating process. What can be done to provide BLM more representation without a major change in the regulations?

Mr. SYMMS. Section 111 modifications were patterned after Idaho's collaborative interagency approach in nominating projects. If the Senator's main concern is getting BLM community interests on the table when the State and Forest Service are discussing project priority. That could be easily accomplished. The Secretary could establish a procedure to notify all Federal land agencies that public lands highway discretionary funds are available. Each State and all Federal land agencies could then work toward a 5-year project list that would provide an appropriate state balance between forest roads and other public lands highways.

Mr. BURNS. Would that require statutory language?

Mr. SYMMS. No, the Secretary could establish that procedure based on legislative history. Does the Senator from New York agree the Secretary should notify all Federal land agencies when the public lands highway funds are available for national competition?

Mr. MOYNIHAN. Yes, I think that would be appropriate.

Mr. SYMMS. Section 111 report language encourages States to develop a public lands highway investment strategy to target limited dollars. That strategy may include continued use of the 25,000-mile forest road network and the creation of a BLM-State designated system that would include adjoining State and local roads that provide access to BLM property. States may wish to use the guidelines used to establish the forest road network and project selection criteria to define the scope of the BLM network.

Mr. BURNS. I agree that States should use an investment strategy to target Federal lands funds. Under my amendment, States would be encouraged, but required to select projects that implement Federal tourism and recreational travel strategies. Specific statutory reference is provided for the Forest Scenic Byways Program, BLM Back Country Byways Program, National Trail System Program and other similar Federal programs that benefit recreational development. The amendment also lists specific project enhancement costs, such as interpretive signage, acquisition of necessary scenic easements and scenic or historic sites, and appropriate public road facilities as determined by the Secretary as eligible costs.

Under existing law, the Secretary of Agriculture is allowed administrative road cost for forest roads, approximately $500,000 per year. Program costs would be extended to the Secretary of Interior for BLM roads. In addition, the amendment would raise the dollar amount that the Federal Government could spend per mile for trail improvements. The amount is raised to $50,000 from $15,000 per mile to reflect higher prices. This would allow the Federal Government to participate in more public-private partnerships.

Mr. MOYNIHAN. I have no objection to your amendment.

Mr. SYMMS. I accept the amendment and would be interested in being listed as a cosponsor.

AMENDMENT NO. 299

At the appropriate place, insert the following new section:

SEC. . EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code is amended by adding in an appropriate place the following new section:

"Education and Training Program.

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support service that will: (1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas, including pavement, bridge and safety management systems; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; and a tourism and recreational travel technical assistance program; (2) identify, package and deliver usable highway technology to local jurisdiction to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; (3) establish, cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance programs centers: *Provided*, That not less than four centers be designated to provide transportation assistance that may include, but not necessarily limited to, a "circuit-rider program, training on intergovernmental transportation planning and project selection, and a tourism recreational travel component to American Indian tribal governments.

"(2) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds authorized by section 104(a). The sum of $8 million per fiscal year for the fiscal years 1992, 1993, 1994, 1995, and 1996 is authorized to be appropriated from the highway account of the highway trust fund for the purpose of providing technical and financial support for these centers, including up to 100 per centum for services provided to American Indian tribal governments. An additional sum of $5 million is authorized to be appropriated from the highway account of the highway trust fund to establish and carry out a tourism and recreational travel technical assistance program in nonurbanized areas to remain available until expended.

Mr. BURNS. Mr. President, this amendment provides a statutory base for a Federal Highway Administration [FHWA] Technology Transfer Program, commonly known as the Rural Technical Assistance Program [RTAP].

RTAP packages and markets road technology for local officials through a national clearinghouse and 48 State centers.

FHWA and the American Association of State Highway and Transportation Officials would like to expand the Technology Transfer Program to urban areas up to 1,000,000 in population to provide urban engineers access to new design, engineering and construction technology. FHWA believes that existing centers could cover urban needs up to the 1,000,000 population cutoff without affecting the integrity of the Rural Program. This also will help those areas deal with certain MPO and congestion mitigation requirements included in S. 1204.

The amendment also adds a national tourism and recreational travel component to support S. 1204's National Scenic and Historic Byways Office and program initiative as well as other tourism and recreational enhancement language included by Senator SYMMS and hopefully some by myself. This language is also adapted from my bill, S. 540.

"Transportation issues relating to travel and tourism," according to the Center for the New West, a Denver-based research group, "often raise sensitive and significant community issues."

A scenic highway designation, for example, may require protection of natural landscapes and cultural characteristics of the area. That, in turn, may affect road maintenance and vegetation policy, require zoning pertaining to road-side development, and affect heavy commercial traffic.

Under this amendment, RTAP will provide small communities access to expertise and a framework in which to resolve these issues.

The amendment also directs FHWA to provide special services to native Americans through four RTAP centers.

Unfortunately, native American participation in the RTAP has not been extensive outside of the Bureau of Indian Affairs. To overcome this problem, the Secretary is instructed to designate four centers to provide Indian tribal governments special services. At a minimum, these services shall include a "circuit-rider" program, training on intergovernmental transportation planning and project selection, and a tourism recreational travel component.

Finally, the amendment recommends an $8 million per year authorization—double current level—from the highway trust fund for the rural and urban programs.

In the past, FHWA has supplemented each center's operation with its administrative funds. Their funding has diminished in recent years from $125,000 to $90,000 per center as more centers have come on-line. OMB has denied FHWA's budget request for a $6 million rural program and urban expansion due to lack of a congressional directive.

This amendment provides that directive along with an additional $2 million for updating training material and for the native American services. A one-time $5 million authorization is provided to develop training material for the tourism component.

I encourage my colleagues to support the amendment. Nearly 57 percent of the Nation's 3.9 million miles of road network is operated by counties, towns, and townships. Most of those roads are virtually ineligible for Federal aid.

The RTAP is a low-cost approach of extending local government buying power. In addition, with the increased emphasis on facility management, urban areas will benefit from FHWA's Technology Transfer Program. The administration's bill and S. 1121 include the basic technical assistance amendment, and I hope my colleagues will accept it as a part of S. 1204.

Mr. BURNS. Mr. President, I ask unanimous consent that amendment No. 299 be modified, and we will modify that before final adoption.

AMENDMENT NO. 299, AS MODIFIED

The PRESIDING OFFICER. Without objection, the Senator has submitted his modification to his amendment 299. That modification will be so incorporated.

The amendment No. 299, as modified, is as follows:

S. 1204 is amended by adding in an appropriate place the following new section.

SEC. . EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code, is amended by adding in an appropriate place the following new section:

"EDUCATION AND TRAINING PROGRAM.

"(a) Authority.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) Grants and Contracts.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support service that will: (1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas, including pavement, bridge and safety management systems; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; and a tourism and recreational travel technical assistance program; (2) identify, package and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; (3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance program centers: *Provided*, That not less than four centers shall be designated to provide transportation assistance that may include, but is not necessarily limited to, a "circuit-rider" program, providing training on intergovernmental transportation planning and project selection, and tourism recreational travel to American Indian tribal governments.

"(c) Funds.—The funds required to carry out the provisions of this section shall be taken out of administrative funds authorized by section 104(a). The sum of $8 million per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 shall be set aside from such administrative funds for the purpose of providing technical and financial support for these centers, including up to 100 per centum for services provided to American Indian tribal governments. An additional sum of $5 million for the fiscal year 1992 shall be set aside from such administrative funds to establish and carry out a tourism and recreational travel technical assistance program in non-urbanized areas. Funds to carry out this section shall remain available until expended.".

Mr. BURNS. Mr. President, these three amendments are related to my efforts to develop an infrastructure that supports our Nation's tourism industry. For the first time in 1990 this country recorded a trade surplus of some $900 million from foreign travel expenditures, foreigners spending money in this country to see America and what it has to offer.

From a rural perspective I am here to say America has more to offer than Washington, DC, and Disneyland, but we need an adequate infrastructure on which to build our rural tourism economy and a forum with which to promote it to our foreign friends.

These three amendments I am offering today will put us on the road toward meeting these goals. Two of them are adapted from a bill I introduced earlier in Congress, and that bill was S. 540. One provides funds for planning, design, and construction of roads and trails that support tourism and recreational travel on our public lands highways.

The other establishes, among other things, a tourism and recreational travel component with the existing RTAP program.

The third amendment creates a rural tourism development foundation through which private sources can provide the resources needed to help Federal land agencies promote America's natural tourist and recreation sites on Federal lands.

I believe these three amendments complement the provisions in the bill which already aids the development of rural tourism, and I thank the managers for including these important provisions.

In particular, I want to compliment Senator Symms on his national recreation trails trust fund title. I was an original cosponsor of his bill, and am a strong supporter of this concept.

I ask that amendments 297, 298, and 299 be agreed to en bloc.

The PRESIDING OFFICER. Is there objection to agreeing to the three amendments en bloc?

Without objection, it is so ordered.

The amendments (Nos. 297, 298, and 299, as modified) were agreed to en bloc.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 300

(Purpose: To permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer)

Mr. BURNS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. Burns], for himself, Mr. Dole, Mr. Nickles, Mr. Grassley, Mr. Symms, Mr. Conrad, Mr. Hatch, Mr. Simpson, Mr. Stevens, Mr. Pryor, Mr. Mack, Mr. Helms, Mr. Exon, Mr. Daschle, Mrs. Kassebaum, Mr. Wallop, Mr. McCain, Mr. Baucus, Mr. Cohen, Mr. Bentsen, Mr. Brown, Mr. Wirth, Mr. Dixon, Mr. Breaux, Mr. Kerrey, Mr. Garn, and Mr. Cochran, proposes an amendment numbered 300.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . COMMERCIAL DRIVERS LICENSE WAIVER.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

COMMERCIAL DRIVERS LICENSE WAIVER

Mr. BURNS. Mr. President, this amendment is identical to a bill I have introduced, S. 715, which currently has 51 cosponsors. I ask unanimous consent that a list of cosponsors be printed following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BURNS. In addition, the following Senators have asked to specifically cosponsor this amendment: Senators DOLE, NICKLES, GRASSLEY, SYMMS, CONRAD, HATCH, SIMPSON, STEVENS, PRYOR, MACK, HELMS, EXON, DASCHLE, KASSENBAUM, WALLOP, MCCAIN, BAUCUS, COHEN, BENTSEN, BROWN, WIRTH, DIXON, BREAUX, KERREY, GARN, and COCHRAN.

The purpose of this amendment is to bring much needed regulatory relief to the farm community in my State and other agriculturally based States.

It does this by giving States the authority to waive commercial drivers license [CDL] requirements included in the Commercial Motor Vehicle Safety Act of 1986 for vehicles used to transport farm supplies from retail dealers to or from a farm whether or not such vehicles are operated by a farmer. This amendment also extends the same waiver authority to States for vehicles used for custom harvesting.

I believe that the excellent safety record for farmers holds true for agribusinesses and their employees as well as for custom harvesters and their employees, and that they should be extended the same opportunity for exemption from CDL requirements. The safety concerns addressed in 1986 law are certainly legitimate, and I am in no way attempting to undercut them.

I want to be very clear on that point. This is not a Federal exemption of those requirements. All this legislation does is give the States—which are more familiar with the way our rural farming economies work—the opportunity to waive CDL requirements if they determine that the safety concerns can be met without them.

All I am asking the Senate to do is give the States whose farming economies are disrupted by the CDL requirements an opportunity to exempt farm retailers and custom harvesters from them.

I think this is a reasonable amendment and I urge my colleagues to support it.

EXHIBIT 1

Currently: 22 Democrats; 29 Republicans.

Total: 51 cosponsors.

Adams, Baucus, Bentsen, Biden, Bond, Boren, Breaux, Brown, Burdick, Coats, Cochran, Cohen, Conrad, Craig, Daschle, Dixon, Dole, Domenici, Exon, Ford, Fowler, Garn, Gramm, Grassley, Harkin, Hatch, Heflin, Helms, Johnston, Kassebaum, Kasten, Kerrey, Lott, Lugar, Mack, McCain, McConnell, Nickles, Nunn, Pressler, Pryor, Sanford, Seymour, Shelby, Simpson, Smith, Robert C., Specter, Stevens, Symms, Wallop, and Wirth.

COMMERCIAL DRIVERS LICENSE

Mr. DOLE. Mr. President, I rise once again as an original cosponsor of this important measure to aid American agriculture. This year we have 51 cosponsors and once again, the Senate stands on the verge of approving commercial drivers license waiver language without a clear prospect about what lies ahead in the House. Having blocked this commonsense legislation on several occasions, it is my sincere wish that farm State Members of Congress will make every effort to see that this legislation is approved.

As my colleagues know, this measure will allow States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm; to vehicles used for custom harvesting; and to vehicles used to transport livestock feed, whether or not such vehicles are controlled or operated by the farmer.

Nearly 2 years ago, the U.S. Department of Transportation gave States the authority to waive commerçial drivers license rsequirements for farm vehicles under the Motor Vehicle Safety Act. Unfortunately, DOT did not recognize when granting this waiver that the majority of these particular seasonal agricultural activities were carried out by agricultural retail outlets, not necessarily by farmers.

DOT failed to recognize the importance of the custom harvesting industry, which many farmers rely upon to harvest a seasonal, perishable crop. The same is true for livestock feed operations which provide a cost-effective service for farmers and cattle producers.

These industries are markedly different from commercial trucking operations. Most of the driving is done off-pavement. They differ from other for-hire carriers because they only provide the initial transportation of grain from the field to storage, or to market, or to feedlots. These trucks average 15,000 miles per year and cannot be considered in the same category as commercial, long haul trucking operations.

Mr. President, farmers face enough of an economic hardship without needlessly increasing operation and transportation costs. This measure is not an exemption from commercial drivers license requirements, rather it is a commonsense approach to give States the ability to set reasonable requirements for drivers of farm vehicles—who have an excellent safety record. It is quite probable that if this measure is not adopted, crops will go unharvested, farmers will find themselves short of needed supplies, and livestock producers will find themselves unable to secure adequate feed supplies.

Mr. President, this measure has more support today than it ever has. As we endeavor to pass this for the third time in 2 years, I call on my colleagues in the House to pass this measure as soon as possible.

The PRESIDING OFFICER. Is there objection to agreeing to Amendment No. 300?

Without objection, it is so ordered.

The amendment (No. 300) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURNS. I thank the Chair.

AMENDMENT NO. 301

(Purpose: To direct the Secretary of Transportation to review current federal highway access to border crossings between the United States and Canada)

Mr. BURNS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 301.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

"SEC. . BORDER CROSSING STUDY.

"(a) The Secretary of Transportation shall conduct a review of current federal highways that access border crossings between the United States and Canada in order to: (1) determine whether or not they are in compliance with current Federal highway regulations and adequately designed for future growth and expansion; (2) assess their ability to accommodate increased transfer of commerce due to the United States-Canada Free-Trade Agreement; and (3) assess their ability to accommodate increasing tourism-related traffic between the United States and Canada. The review shall specifically address issues related to the alignment of United States and Canadian highways at the border crossings, the development of bicycle paths and pedestrian walkways, potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

"(b) The Secretary shall issue a report of the findings of this review to the Senate Environment and Public Works Committee and the House Public Works Committee within 60 days after the date of enactment of this Act."

Mr. BURNS. Mr. President, this amendment directs the Secretary of Transportation to review current Federal highways and access border crossings between the United States and Canada. Being a border State, we get a lot of these kind of complaints. We have a problem with our Sweetgrass border crossing in northern Montana.

The review's purpose is to determine whether or not they are in compliance with current Federal highway regulations and adequately designed for future growth and expansion particularly in relation to the United States-Canada Free-Trade Agreement and increasing tourism-related traffic between the United States and Canada.

The review must look at issues relating to the alignment of United States and Canadian highways, the development of bicycle paths and pedestrian walkways, potential energy savings to be realized by decreasing truck delays and related parking improvements.

The primary purpose of this amendment is directed at a particular situation in Sweetgrass, MT. The highway on the U.S. side is unsafe and dangerous at the Sweetgrass crossing. Local officials estimate that this section of highway is in violation and conflict with 35 FHWA regulations.

The situation must be resolved as it is having a negative impact on the flow of commerce and travel between the United States and Canada. Because of current delays, many clients are rerouting their products thus harming both Montana's and Alberta's trading economies.

To date, FHWA has not cooperated with the interested parties to resolve the problems at the Sweetgrass crossing.

It is my hope that this review will encourage FHWA to help resolve these issues.

I am pleased that my colleagues are willing to accept this amendment and thank them for their cooperation.

It is my understanding from local sources that some 35 Federal highway regulations are currently being violated on a regular basis at the Sweetgrass crossing. Naturally, the problems go beyond, though within, the scope of the Federal Highway Administration, and the State is working to resolve some customs issues with the Province of Alberta.

However, the FHWA does have an appropriate role and needs to look at some of the specific issues outlined in my amendment.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 301) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, I thank my colleagues for working with me on these issues. I think we have done two good things. The overall goal of this bill is to make our transportation efficient and make it serve the interests of our country.

I thank Taylor Bowlden on Senator SYMMS' staff, Senator CHAFEE'S staff, and the rest of the staff, for helping make these amendments possible. This will add to the transportation makeup of our country.

I yield the floor.

Mr. SYMMS. Mr. President, I thank the Senator from Montana for his tireless work and his interest in this legislation. The junior Senator from Montana is not on the committee, as his senior colleague is, but he has been interested in everything we ever did and has worked with us on the legislation.

We appreciate his willingness to make some changes in his amendments to conform to what we thought was appropriate for the bill. I compliment him for the work he did on the amendments, and I thank him very much.

Mr. President, I note that Senators are continually asking me what is going to happen, and when is the next vote going to be. I might say to my colleagues that I have another amendment that I will soon introduce. We have, of course, the one big amendment pending, the Byrd amendment, and possible modifications to that, if agreements can be reached on the problem of minimum-allocation States. I do have an amendment that I will be prepared to offer.

I am not going to ask unanimous consent to set aside the Byrd amendment at this point. But I might announce to my colleagues that I have an amendment that I believe will be noncontroversial and will be accepted by the committee. So I will just take this opportunity to explain the amendment.

This amendment would make uniform the requirements of S. 1204 relating to the division of surface transportation funds between the metropolitan and nonmetropolitan areas, the additional planning requirements imposed on metropolitan areas. When my colleagues and I, and the committee leadership, introduced S. 965, which is the predicate to S. 1204, the provision requiring the division of funds between the metropolitan areas and nonmetropolitan areas, imposing additional planning requirements for metropolitan areas, were applicable to any urban area over 50,000 in population.

Based on the concerns of myself and others of our colleagues, and of several of the witnesses that came before the committee at the committee hearings on the bill, we modified these requirements to apply only to metropolitan statistical areas over 250,000, and any area over 50,000 in population in nonattainment—with over 50,000 in population, that was in nonattainment for ozone and carbon monoxide.

My amendment would strike the language relating to the urbanized areas in nonattainment, so the required division of the surface transportation funds and additional planning requirements would be applicable only to the metropolitan areas, MA's, of over 250,000 in population. These small communities of 50,000 in size really do not have the capacity to have the metropolitan planning areas. So States will continue to program projects in those small urban areas in nonattainment.

But I believe it may be unwise to lump those in with the larger communities, the metropolitan areas, in terms of planning requirements and responsibility for project selection, and that is why we oppose them. This is an important amendment. It would give the States greater flexibility to establish project priorities on a statewide basis, and it is in keeping with the philosophy on which this legislation is based.

I hope when I get prepared, and the distinguished manager of the bill returns to the floor, that this amendment will be accepted, and this explanation can complete that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent that the Byrd amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 308

(Purpose: To eliminate the required distribution of funds and additional planning requirements for small urban areas in nonattainment for ozone and carbon monoxide.)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 308.

Mr. SYMMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, strike after "thousand" on line 19 and continuing through "thousand" on line 23; and

On page 47, strike "And Nonattainment Areas Over 50,000 Population" beginning on line 17; and strike the language beginning after "State" on line 21 and continuing through "State," on line 24.

Mr. SYMMS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I rise in support of the funding formulas included in the legislation as reported by the distinguished chairman of the Environment and Public Works Committee.

The concept of a seemingly disproportionate distribution of funds between the States is not unique to Federal highway programs. Many Federal programs distribute funds to State and local governments, to individuals and directly to private enterprises. As an illustration I invite our colleagues' attention to a report prepared by the U.S. Department of Commerce, entitled Federal Expenditures by States for fiscal year 1989.

Mr. President, while these statistics are general in nature, I think they serve to make a valid point.

This publication gives the Commerce Department's best estimate of the distribution of Federal spending between the States, and includes tables which compare this distribution with the Department's 1989—and I emphasize 1989 population estimates. I think it puts the current discussion of a State's return on highway dollars into some realistic perspective.

Nevada, a donee State under the highway program, accounted for about four-tenths of a percent of the Nation's population, and received four-tenths of a percent of the Federal Government's total expenditures—a reasonably fair return. That is the sum composite of the all, the expenditures as outlined in this document, Federal expenditures by State for fiscal year 1989.

Some States, however, do better overall, including several of the donor States under the highway program. Virginia, for example, has 2.4 percent of the population, but received 3.4 percent of Federal expenditures. Another donor State, Missouri, has 2 percent of the population, but received 2.5 percent of Federal expenditures.

Mr. President, I could go on at considerable length to cite the statistics contained in this Government document.

Supporters of changes in the formula point out that donee States such as Nevada receive a slightly higher share of highway funds than our population may dictate. While this is true, I will point out later that there is a justification for this situation. What supporters of changes in the formula fail to mention is that there are many programs where highway program donee States do not receive a proportionate share.

To use the State of Nevada as an example, our State receives less than the four-tenths of 1 percent our population would entitle us to receive for several programs, including but not limited to child nutrition programs, education funding for the disadvantaged, Medicaid payments, AFDC payments, CDBG funds, mass transit funds, Medicare hospital insurance payments, food stamps, Pell grants, and national guaranteed student loan interest subsidiaries, to name but a few.

States that receive disproportionate funding under these programs would probably argue that they have greater needs than other States, and that these needs are not reflected in a simple statistical analysis when population alone is considered. While this is not the time to address the distribution of funds for all of these programs, I would agree that there are many factors which go into distribution of Federal funds which are not easily measured.

As these statistics show, there are disparities in the distribution of Federal funding between the States for many programs. I do not raise this issue to claim that Nevada deserves more funds from each of these programs—although that may be true for some of them. I raise this issue to show that no Federal program has the same effect on every State, and that disparities will inevitably occur in any formula that may be adopted.

The advocates of the current effort to provide a more direct return to States for highway trust fund dollars claim their proposal will make the program more fair. In fact, the targeting of the highway program for this type of treatment is just the opposite—it is remarkably unfair to States that depend heavily on highways and that depend heavily upon the Federal Government to fund these highways.

While statistics do show that some States receive a greater return on dollars contributed to the trust fund, such variations are not as great as the sponsors of the proposed changes would have us believe. A FHWA table inserted into the RECORD last week by the manager of this legislation shows that over the life of the Interstate Program, only 12 States have received back less than $1 for every dollar contributed to the trust fund.

The average return on the dollar for these 12 States was 90 cents. Due to the nature of the highway program, it is not surprising that greater disparities can arise in any particular year. As our distinguished senior Senator from New York has pointed out, however, the historical pattern is not nearly as inequitable as the proponents of this legislation have claimed.

Supporters of formula changes maintain that they do not receive back their fair share of the Federal investment in roads and highways. While it is true that some States receive back fewer dollars than they contribute, the return on motorist's investment in infrastructure cannot be measured in dollars alone. We all share an interest in a national transportation system, and what one State may appear to lose in dollars it gains in the rapid and free movement of goods and people across this vast Nation of ours.

My home State of Nevada is one of the best examples of the type of State that depends on the donor-donee relationship. In land area, Nevada is the seventh largest State in the Nation. By population, Nevada is one of the smallest States in the Nation. While Nevada has grown rapidly over the past decade, and is currently the fastest growing State in the Nation, most parts of the State are still very sparsely populated.

Many advocates of changes in the funding formulas concede the need for a variable distribution of highway funds during the construction of the interstates. My objection to this line of argument is simple: the completion of the interstates does not end the national interest in highways. Many of these interstates were built several decades ago and in many cases need to be reconstructed.

Nearly every major highway project on the State of Nevada's list of highway priorities involves one of the interstates. Many advocates of formula changes have conceded that the donor-donee relationship can be justified on the basis of the construction of the interstates—the same argument should apply to the maintenance and reconstruction of the interstates.

In addition, the national interest in highways goes beyond the interstates. While the interstates may carry the bulk of traffic between the States, other Federal aid roads are every bit as important. Travelers and goods which need to travel on the interstates need to get to the interstates. The maintenance of these roads is also in the national interest, and must be part of any national highway program.

So-called bridge States such as Nevada depend upon the assistance of donor States for the maintenance of its highways. In exchange, residents of all States, both donor and donee, enjoy the benefits of the national transportation system.

In addition to being one of the bridge States, and thus an important part of the national transportation system, Nevada has an additional claim on Federal highway funds. Over 85 percent of Nevada is owned by the Federal Government, and the Federal Government's activities in Nevada place an additional strain on our transportation system.

In fact, given the emphasis in this debate on each State's return on their trust fund contributions, the high Federal presence in my State holds another disadvantage: most fuel used by the Federal Government is exempt from the Federal gas tax. Thus, if this debate is to center around gas tax revenues a measure of highway use, the substantial highway use by Federal vehicles in Nevada would be completely ignored. I do not at this time intend to offer an amendment to correct it, but I do think that this type of concern points to the inadequacy of the arguments being raised in favor of the proposed formula changes.

There is an additional argument of this debate that has an especially troubling implication for me. While not explicitly stated, I am afraid that the false impression has been created that portrays donee States such as Nevada as the parasites of the National Highway Program.

Nothing could be further from the truth. Nevada's contribution to the National Highway System cannot be measured in dollars alone. In addition, I do not think that any State has made a greater State and local commitment to transportation than the State of Nevada. If we take into account the local option of the State gas tax, an option exercised by nearly every Nevada county, Nevada's cumulative gas tax if not the highest ranks at the top as being the most expensive in our Nation.

Most recently, the citizens of Clark County, where Las Vegas, the principal center of population is located, approved a referendum that will raise $100 million in additional tax revenues for transportation improvements. In Nevada, and I expect in most other donee States, we are doing all that we can on the State and local level to protect and expand our investment in transportation infrastructure.

Finally, there is one change to the formula included in the committee bill which I am inclined to support, which I do not believe is inconsistent with my previous remarks. Once we agree to a distribution formula, we need to use the most recent available data to distribute the funds. Most of the factors which are used under current law, and are thus included in the committee's funding formula, are updated on a yearly basis.

These factors include vehicle miles traveled, land miles, land area, and postal route miles. The one factor which is not updated every year is population. Under the committee's proposal, census data from 1980 would be used for the next 5 years. Since 1990 data will be available to use for most of the years of the reauthorization, it should be used for the reauthorization formula and the distribution of funds under that reauthorization formula.

Mr. President, the funding formulas contained in the committee's bill are fair to all States, and reflect the importance of a National Highway Program, and should be approved by the Senate.

Mr. President, I thank the Chair.

If none of my colleagues seek recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIXON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

AMENDMENT NO. 308

Mr. MOYNIHAN. Mr. President, I believe the pending business is an amendment by the Senator from Idaho.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. Mr. President, there being no objection on this side on the part of the manager, and having been offered by the manager on the other side, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 308) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. MOYNIHAN. Mr. President, there being no Senator seeking recognition at this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, may I say on behalf of my esteemed colleague and comanager at this point that the bill is open to amendment. We will ask unanimous consent that the pending Byrd amendments be laid aside, and Senators who wish to offer amendments are encouraged to come to the floor at this point and we will see if we cannot accommodate them, and we will certainly hear them all out.

Pending such an event, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I take this opportunity to say to Senators that the bill is open to amendment and it is moving rapidly to a conclusion. We have from the President a very legitimate request that we enact this legislation. He asked it be done by 100 days. If we finish our work here today, it is not to be excluded as a possibility that the House might take the Senate bill or act on its own bill and we will go to conference and we will meet the Friday deadline. But that being exigent and important, Senators should know that if they do not come to offer their amendments they might find that the bill has passed them by. We do not want that to happen. We do not want to close out anybody.

I see my esteemed coworker here has risen. I wonder if he does not share my view.

Mr. SYMMS. Absolutely, Mr. President, I might just say that we have sat here now for well over an hour waiting for Senators to come and offer amendments. At 10 o'clock tonight, Senators will be wondering when we can adjourn.

I see Senator SIMPSON is here. He has an amendment.

I yield back to the floor manager and we can start on with the Senate's business.

Mr. MOYNIHAN. Mr. President, we are very happy to see the assistant Republican leader here from the great State of Wyoming, which receives, on a per capita basis, the second highest share of any State of the highway trust fund, one that is perhaps a tribute to the size of the State of Wyoming. We look forward to the amendment. He can be assured that it will be favorably regarded, I believe, on both sides of the aisle.

Mr. SIMPSON. Mr. President, it is always a joyful thing to walk into the Chamber and be received so magnificently, so generously and kindly by my friend from New York and my friend from Idaho.

We do consider ourselves extraordinarily fortunate because of the Great Compromise that went on in this Chamber many years ago, because it gave Wyoming the same vote as New York. And the pleasure of that has been working with the Senator from New York since I have been here, since 1978, when I was elected, came here in 1979, and then Senator SYMMS joined us the next term.

The Senator from New York and the Senator from Idaho, I say again—and it is not because of what is in here for Wyoming.

We are a State with three Interstate Highway Systems. And the Senator from New York knows so well, and the Senator from Idaho, that everybody in the United States uses them. We are a tourism State. We have I-80, I-90, and I-10. I would think it is one of the largest in mileage of interstates of any interstate in the United States.

So it is true about the per capita money we receive from the program.

But this is a National Highway System, and we are very pleased to have the New Yorkers and the Iowans and the Illinoisans come to Wyoming whenever, bringing money and other attributes. We will treat them very fairly. But we have been treated fairly here.

I think, when you consider we have here two senior Senators, from a most populous State and one of the least populous, and that they have worked for years together, trying to formulate various highway measures and present them to us, I think they have done a very special job.

AMENDMENT NO. 309

(Purpose: To provide for a study on the disadvantaged business enterprise program)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for himself and Mr. WALLOP, proposes an amendment numbered 309.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the Disadvantaged Business Enterprise program of the Federal Highway Administration (hereafter in this section referred to as the "DBE program"). The study shall include—

(1)(A) a determination of the percentage of disadvantaged business enterprises that have enrolled in the DBE program that have graduated from the DBE program after an enrollment period of 3 years;

(B) a determination of the number of disadvantaged business enterprises that have been enrolled in the DBE program for a period greater than 3 years; and

(C) a determination as to whether the graduation date any of the disadvantaged business enterprises described in subparagraph (B) should be accelerated;

(2) a determination of which State transportation programs meet the requirement under the DBE program for 10% participation by minority-owned businesses and woman-owned businesses by contracting with out of State contractors in lieu of in-State contractors;

(3)(A) a determination as to whether adjustments in the DBE program could be made with respect to—

(i) Federal or State participation in training programs; and

(ii) Meeting capital needs and bonding requirements; and

(B) with respect to subparagraph (A), in the case where adjustments could be made, recommended adjustments that would continue to encourage minority participation in the program and would improve the success rate of the disadvantaged business enterprises;

(4) recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises participating under the DBE program; and

(5) a determination of additional costs incurred by the Federal Highway Administration in meeting the requirement for 10% participation, as described in paragraph (2).

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report on the findings of the study described in subsection (a) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Public Works of the House of Representatives.

Mr. SIMPSON. Mr. President, let me quickly dispose of this, I hope. This is with regard to the disadvantaged business enterprise issue. These are known as DBE's. They are guaranteed not less than 10 percent of all amounts authorized to be appropriated under the highway bill.

A DBE, disadvantaged business enterprise, includes minority-owned businesses as well as women-owned businesses. Although the program, some say, smacks of quotas and invites, also, allegations of reverse discrimination, most States do meet the 10 percent DBE setaside. Even the State of Wyoming, in which it is sometimes difficult to perceive how we could meet it because we have a very low percentage of blacks—we have a sizable percentage of Hispanics, many more Hispanics than we have Native Americans—but sometimes it is very tough for us, in the past, to meet the DBE requirements. But we have met those and our highway department has done an excellent job of straining to do that since the program began in 1984.

Although the DBE program sets, I think, a very laudable goal, which I support, of assisting truly disadvantaged businesses, there is great concern, I think, that there may be abuse within the program and that it really is not helping the way it might have been intended.

The businesses are out there but they continue to be undercapitalized and underfunded. There is a very high turnover. Some States like Wyoming lose in-State business to out-of-State contractors in order to meet the DBE requirement.

So, I think it is a program requesting and calling for some oversight from us. That is the purpose of this amendment.

We all have certain questions and concerns but the data is just not there to answer us. This amendment will provide a number of answers, I hope. It directs the General Accounting Office to study five areas very briefly defined as this:

How many disadvantaged businesses actually graduate from the DBE program and go on to become strong and independemt companies? That is one.

Two: Which States lose in-State business to out-of-State contractors in order to fulfill the DBE requirement?

Three: What adjustments could be made with regard to training, meeting capital needs and bonding requirements—very important. Bonding requirements? DBE's sometimes say they cannot meet those requirements where the established contractor can. How do they do that, in order to prove the success of the program?

And, then, how do we determine the additional cost to the highway program, which is required to meet the DBE requirements?

Are we paying more to these disadvantaged businesses than we would pay to other businesses? I do not know. But this study should help, somewhat, to answer that question. I presented it at the markup in committee. The two floor managers were aware of it.

I do not rise today in any opposition to the program. But I do have these questions, I think serious questions regarding how it is working; if it really is assisting the people in the manner in which it was intended, and if it is adversely impacting other folks in a way we had not intended.

So I hope this study will be helpful to all of us, addressing our questions and concerns. We can then go forward with any changes or alterations, once we have had these facts and figures presented before us.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, on this side of the aisle, we welcome this amendment. If you believe in these programs, you want them to improve. If you want them to improve, you need to know more about them.

There is a wide range of questions that can be asked. Part of the elemental difficulty of allocating resources by ethnic group or gender group is that you can declare a group to be disadvantaged but you cannot address, very clearly, the individuals within that group. So, is the Hispanic Ph.D., graduate of engineering from the Colorado School of Mines—is that a disadvantaged person? Obviously not. Is that a group represented in these enterprises? Probably so.

But can we not learn more about it? We should never, never fear inquiry in these matters. To the contrary, what we should fear is the appearance of not wishing to know more than is known.

I would like to ask my friend, in the original draft there was a part C that would have prohibited the Department of Transportation from issuing the regulations, pending the receipt of the report. I believe that has been dropped, has it not?

Mr. SIMPSON. Mr. President, that provision has been dropped in the final draft. I want to commend the staff of the managers of the bill for assisting in the drafting, in order to review that. That has been omitted.

Mr. MOYNIHAN. Mr. President, there is no objection of any kind on this side.

The PRESIDING OFFICER. Is there further debate? The Senator from Idaho.

Mr. SYMMS. Mr. President, I rise to offer my endorsement to Senator SIMPSON's amendment and encourage that it be immediately agreed to. I thank him very much for his efforts in this committee to help us get this bill this far along.

Mr. WALLOP. Mr. President, I am pleased to join my friend and colleague, Senator SIMPSON, in adding an amendment to S. 1204, the Surface Transportation Efficiency Act, to authorize a study of the Disadvantaged Business Enterprise [DBE] Program.

Recently, Senator SIMPSON and I were contacted by Don Schmalz, a subcontractor in Cody, WY, about two Federal highway contracts awarded with disadvantaged business enterprise [DBE] requirements. As my colleagues may be aware, current law requires that 10 percent of Federal contracts in each State in any fiscal year must have DBE participation. Mr. Schmalz submitted bids for subcontracts on two Federal highway projects, but was not awarded either because the prime contractors were required to solicit DBE's in order to meet the 10-percent goal. In both instances, Mr. Schmalz was also the low bidder, a factor which only served to add to his frustration.

In discussing these contract awards with the Wyoming Highway Department, concerns were raised that this 10-percent goal was set with little or no rationale for its justification.

We all agree that the use of minorities on Federal contracts should be encouraged, but this goal may be difficult to meet in States with a limited number of minority and women owned firms and/or a minority population of less than 10 percent. As a result, I would venture to guess that a large number of States are meeting this goal on a regional, rather than State-by-State basis. The study we are requesting of the General Accounting Office will focus on that particular issue.

In addition, this study will determine whether or not additional costs are borne by the Federal highway program in order to meet the 10-percent DBE requirement and request recommendations and suggestions for new criteria to use to determine performance and financial capabilities of firms necessary to perform the work of the contract. No further changes would be permitted in the DBE Program until the study is submitted to the Environment and Public Works Committee of the Senate and the Committee on Public Works and Transportation of the House.

While this study may not immediately address the specific problems of Don Schmalz and other small contractors, it is my hope that this study will make concrete recommendations to encourage necessary DBE participation, while more adequately reflecting a State's ability to meet the Federal contracting goals.

The PRESIDING OFFICER. Hearing no further debate, the question is on agreeing to the amendment.

The amendment (No. 309) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I thank the floor managers for their courtesy and their accceptance of the amendment. I most appreciate it.

Mr. MOYNIHAN. Mr. President, it falls to me once again to put Senators on notice that this bill is moving along. If it has moved out of this Chamber before certain amendments have been considered, it will not be for lack of effort on the part of the managers to hear anybody on any matter.

No one having appeared, we thank the Senator from Wyoming for adding to our work product for the middle of the afternoon.

Once again, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 310

Mr. MURKOWSKI. Mr. President, I have an amendment to the Surface Transportation Efficiency Act relative to an amendment which I understand has been accepted concerning the Alaska Highway which would delete authorization for construction of the Alaska Highway in Canada. The authorization would be reinstated by my amendment.

The Alaska Highway is the only paved road connecting Alaska with the rest of the United States. That highway is still under construction, I might add celebrating its anniversary this next year.

The United States and Canada have agreed to construct and maintain the link between my State of Alaska and the remainder of the United States. But the agreement depends upon the authorization being deleted by S. 1204. This section of highway is funded from the general fund, not from the highway trust fund, and those funds pass directly to the Government of Canada rather than to the State of Alaska.

I do not have to elaborate on the strategic importance the Alaska Highway or the recognition that there is no land route without going through Canada to supply military goods and equipment to our military in Alaska as well as the critical contribution it provides for the economy of Alaska, as well as providing an opportunity for thousands of tourists to visit our State.

The funds for this amendment, again, are from the general fund, not the highway trust fund. The amendment does not allocate funds to the State; it provides funds to the Government of Canada, as I said.

I urge favorable consideration of the amendment which, as I have indicated, I understand has been cleared by the other side.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

AMENDMENT NO. 310

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside and the clerk will report.

Mr. MOYNIHAN. Mr. President, may I suggest the absence of a quorum, so we might inquire the details of the amendment?

The PRESIDING OFFICER. Is there objection? Hearing none, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I believe the desk has the corrected copy of the amendment. I thank my colleague from New York. The Senator from Idaho I believe has concurred in the amendment.

Mr. SYMMS. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 310. On page 102, strike item (16) of SEC. 125. ("Section 218, relating to the Alaska Highway").

Mr. MOYNIHAN. Mr. President, we have no objection to the amendment on this side.

Mr. President, the spirit of this law, as we hope and expect it will become, is that the States understand their own circumstances best and are properly held accountable for the use of their resources.

The Senator from Alaska has the enviable reputation in this body for knowing his State and knowing how he thinks it might best be run.

It is a unique State, not unique as yet quite comparable to another, but Alaska ranks first among all in size and disparity of terrain. It is entirely within the spirit of this whole Surface Transportation Efficiency Act if Alaska chooses to expend its resources in this way as being the most efficient. That is fine.

We have no objection. To the contrary, we encourage this, understanding always whatever use it is, the States are accountable to their own citizens and to their own judgment.

The PRESIDING OFFICER. Is there further debate?

Mr. MURKOWSKI. I thank my colleague. I appreciate his understanding, and I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 310) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 311

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 311.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, section 112, TOLL FACILITIES, subsection (b) is amended to read as follows:

SEC. 129. TOLL FACILITIES.

(b) FEDERAL SHARE PAYABLE.—Except as provided in subsection (e), the Federal share payable for any project under this section shall not exceed 35 per centum of the cost of the project for construction of new toll facilities, provided that, for the purposes of subsection (d), the Federal share may be increased by a percentage of the remaining cost that is equal to the percentage that unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, in a state are of its total area, and shall not exceed 80 per centum of the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities, provided that for the purposes of subsection (d) the Federal share may be increased in accordance with the provisions of section 120(a), as amended.

Mr. MURKOWSKI. Mr. President, much of Alaska is made up of islands, the Alexander Archipelago in southeast Alaska and the Aleutian Island Peninsula. Alaska has more than 47,000 miles of coast line, and the Alaska Marine Highway connects most of the small towns and villages along this coastline to the rest of Alaska. For many people in Alaska, the Alaska Marine Highway is the only highway for many of the villages and towns in coastal Alaska.

The amendment that I am proposing, funds Alaska's ferry system in the same way that interstates and primary highways are funded. I emphasize that this amendment gives the State the option of spending STP funds for its ferry system with the same match of Federal funds as it does for other highways and roads in Alaska. This amendment does not increase the State's allocation of Federal highway funds.

The Alaska Marine Highway is vital to the economy and well-being of these towns and villages. People, food, cars, trucks, boats, the mail are all shuttled around the State by the ferry system. At ferry terminals in Alaska, you can see the hopes and dreams of a State. Families moving to the State, with their cars so loaded down they barely clear the ramp. The high school basketball team traveling to another town for a game. People going to town to shop, see the doctor, or conduct business. The Alaska Marine Highway is that link that ties the coastal communities together.

Each year, the Alaska Marine Highway carries 400,000 passengers and 110,000 cars, trucks, and vans. There are eight ferries coursing a 3,500 miles long route. The State budgets $70 million for the Alaska Marine Highway. Revenues for the system are about $35 million annually. The remainder comes from State and Federal funds, including a refurbishing fund established by the State in 1990.

The formidable terrain and excessive costs of connecting the numerous islands of Alaska has prevented us from building a tradition highway system.

I repeat, this amendment lets the State of Alaska use Federal funds for the Marine Highway in the same proportions as it uses Federal funds for other highways and does not alter the total allocation of funds to Alaska.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. MOYNIHAN. Mr. President, once again, to state that in the spirit of this law, this amendment is offered, and it speaks to the unique concerns of a State with such vast amounts of coastline. If some measure of ferry service is indicated, if that is the best mode of transportation, for the people of Alaska, so be it.

We endorse the amendment.

Mr. SYMMS. Mr. President, we endorse the amendment, also. I share the view of the distinguished floor manager.

Mr. MURKOWSKI. I thank the Senator from Idaho, and I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 311) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. SPECTER.

AMENDMENT NO. 312

(Purpose: To take the Highway Trust Fund out of the calculation of the budget deficit)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment will be set aside, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 312.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . BUDGETARY TREATMENT OF HIGHWAY TRUST FUND.

(a) SHORT TITLE.—This section may be cited as the "Highway Trust Fund Improvement Act of 1991".

(b) EXCLUSION OF TRUST FUND FROM DEFICIT CALCULATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the receipts and disbursements of the Highway Trust Fund allocable to the transportation-related operations of such Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) TRANSPORTATION-RELATED OPERATIONS DEFINED.—For purposes of paragraph (1), the receipts and disbursements allocable to the transportation-related operations of the Highway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under—

(A) paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Highway Trust Fund for the Federal-aid highway program); and

(B) paragraph (3) of section 9503(e) of such Code (relating to expenditures from the Mass Transit Account).

(c) TRUST FUND TREATMENT IN THE CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall include allocations under section 302 of this Act of the outlays and revenue totals of the Highway Trust Fund allocable to the transportation-related operations of such Trust Fund, as described in subsection (b)(2) of the Highway Trust Fund Improvement Act of 1991, but shall not include such totals in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

(d) EXEMPTION FROM SEQUESTRATION ORDER.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the 28th undesignated paragraph (relating to higher education facilities) the following new undesignated paragraph:

"Highway Trust Fund (20–8102–0–7–401; 69–8019–0–7–401; 69–8020–0–7–401; 69–8099–0–7–401;".

(e) APPLICABILITY.—Subsections (b), (c), and (d), including the amendments made by such subsections, shall apply with respect to fiscal years beginning after September 30, 1991.

(f) NOT DIRECT SPENDING.—This section and the amendments made by this section shall not be construed authorizing any direct spending as defined by section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. SPECTER. This amendment would require that the highway trust fund, the mass transit trust fund, be placed off budget so that the funds which have been allocated in trust for highway construction would be used for that purpose, and the funds allocated for mass transit would be used for that purpose.

This amendment is identical to one which was offered on April 25 on the budget resolution, which passed by a voice vote. When that amendment was offered, it awaited its turn, and it came up late on a Thursday evening. The amendment was accepted, but it seems to me that we need to put this matter on the record in legislation where it would make it binding on the fiscal policy of the United States.

The potential problem raised by this amendment is that it has a budget impact in terms of the effect on the deficit, because, at the present time, there is substantial funding which is used for accounting purposes. You might call it a double entry, but you really would call it two sets of books, which gives a false appearance of what the deficit really is.

Mr. President, at the beginning of fiscal year 1991, under CBO baseline assumptions, the total unexpended balance of the highway trust fund was $16.8 billion: $9.6 billion in unexpended funds from the highway account of the trust fund, and $7.2 billion in the transit account.

By the end of fiscal year 1991, it is estimated that there will be $19.6 billion, with $11.1 billion in the highway account and $8.5 billion in the transit account.

Mr. President, these funds are allocated in these trust accounts for the specific purpose of highway construction and mass transit use. If it were anybody but the Federal Government, the utilization of such funds aside from the purpose for which intended would be a fraudulent conversion and would amount, in fact, to a crime.

The Federal Government utilizes this bookkeeping procedure to take moneys which are really supposed to be used for highways and mass transit, and uses it as a deficit offset, which deludes the American people as to what the full extent of the deficit really is.

We have an urgent need in our society for highway improvements. There is not a State among the 50 that does not urgently require more construction of highways, repair of highways, and repair of bridges.

Similarly, on the subject of mass transit, there was urgent need for more funding for mass transit, which would provide an alternative for highways, for the congestion on our highways, which would vastly improve the problems of pollution and environmental concerns. It is high time, Mr. President, we move ahead on taking these trust funds off budget which will in turn allow us to use these funds for their intended purpose.

My late distinguished colleague, Senator Heinz, took the leadership in moving the Social Security Trust Fund off budget. I believe that the highway and transit trust funds should also be off budget, so there would be a straightforward process of utilizing these funds for the purposes for which they were intended.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. SYMMS. Mr. President, I compliment my colleague from Pennsylvania for this amendment, and I just point out to my colleagues that the distinguished manager of this bill, Senator MOYNIHAN, many, many times in our committee, when this issue came up, pointed out that the tragedy of this whole thing is that there is no money in the trust fund, because it has been spent on something else. It is a bookkeeping entry, and there is a delusion out across America that somehow there are billions of dollars sitting in the trust fund waiting to be released and spent to fix the Nation's roads and bridges.

So I have long been a supporter of the position of the Senator from Pennsylvania, and I support it now, because I think that we should do it this way, and we should be making a bigger commitment.

I say to my colleague from Pennsylvania, Mr. President, that as a member of the Finance Committee, when the time comes that we authorize the continuation of the funding to pay for this legislation that is pending before us, this Senator intends to offer an amendment in the committee, and on the floor, if it is not successful in the committee, to return the other 2½ cents that has been diverted to nontransportation funding, which is occurring as we speak. That will even make the situation more important that the Senator's amendment should be passed and put into law.

So I am sure there will be some opposition from the chairman of the Budget Committee and ranking member of the Budget Committee on this amendment. But as one Member of the Senate—not speaking for the committee—I favor the position the Senator from Pennsylvania has brought before us today, and I intend to support the amendment.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from New York.

Mr. MOYNIHAN. Mr. President, it would be difficult for me to take objection to the purposes which the learned Senator from Pennsylvania advances by his amendment. I serve as chairman of the Subcommittee on Social Security and have spoken to the diversion of Social Security trust funds to the general purposes of government. I have done so on this floor for some years. The Senator from Pennsylvania said that, in a private arrangement, such diversion as goes on today in the trust fund and others would be fraudulent diversion and criminal. It is so elementally the case.

On the other hand, I have to observe that, having taken the Social Security trust funds off budget, we have not changed the pattern of the Federal Government using those funds as if they were general revenue, which they are not. Those funds have individual names on every account. President Roosevelt established it with that very much in mind; there would be no notion of these as general funds. Rather, they were accounts by individuals with their names and their Social Security numbers.

Even so, I think, as the Senator from Idaho observed, we might anticipate objection from the chairman of the Committee on the Budget and his ranking member, our friends from Tennessee and from New Mexico.

If no Senator wished to debate this further, I shall suggest the absence of a quorum during which time we can request the presence of one or both of those previously mentioned Senators to see if we cannot hear their view.

So, Mr. President, I respectfully suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it it so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that we might set aside the amendment proposed by the senior Senator from Pennsylvania in order to consider an amendment by the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 313

(Purpose: To allow the use of Highway Trust Funds for the purpose of Bureau of Indian Affairs road sealing projects)

Mr. MOYNIHAN. Mr. President, on behalf of the senior Senator from Nevada, a fellow member of our committee and a person actively involved in formation of the committee bill that is on the floor now, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. REID, proposes an amendment numbered 313.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ROAD SEALING ON RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend funds apportioned under this section from the highway trust fund for the purpose of road sealing projects.".

Mr. MOYNIHAN. Mr. President, may I explain to the Senate the simple purpose which Senator REID has with this amendment. There are situations where the best use of Federal funds on Indian lands for surface transportation is a process called road sealing, which produces a durable, hard surface and which ought to be available in those circumstances.

The Federal Highway Administration, interpreting the existing law, has, however, decreed that such road sealing is merely routine maintenance and therefore Federal funds are not available for that purpose. This amendment would change that ruling and allow this option in appropriate settings. We think it is a good amendment, and we urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. Mr. President, I have no debate. I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 313) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, once again, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WOFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 312

Mr. WOFFORD. Mr. President, I rise to speak in support of the pending amendment offered by my friend and colleague from Pennsylvania, Senator SPECTER. Billions of our taxpayers' dollars are sitting in the highway trust fund in the mass transit account, untouchable by the States because this money is being used to mask the true size of the Federal budget deficit.

Mr. President, it is time for us to be honest with the American people. It is time for us to take a step to correct years of fiscal sleight of hand. Withholding these balances from vitally needed transportation projects is like highway robbery—our roads, bridges, and mass transit systems are literally crumbling before our eyes. Instead of rebuilding them, we are taking these dedicated funds to mollify the taxpayers about the size of the Federal deficit.

But people will not buy it, and neither should we. Our working families are paying billions of dollars to ensure that our Nation's highways and our mass transit systems are safe and efficient. But in the course of the debate on this transportation legislation, we have heard over and over again about highways and bridges in dangerous states of disrepair and transit systems going broke. Yet the administration actively blocks an increased investment in transportation because of its perceived effect on the budget deficit.

Our taxpayers know all about the deficit, Mr. President. We know and our citizens know that they and their children and grandchildren will be paying for it well into the next century. And they know that they are not getting their money's worth for the gas taxes they pay at the pump each day. Withholding transportation funds that are owed to the States may help balance the books in a shortrun sense, and I might say a fraudulent sense. But we owe the American people the full benefit of their transportation dollars for the long haul. If we can bail out the S&L's, then certainly we can help our working men and women get to their jobs, help our children get to school, and help our companies get their products to the buyers who want them. We owe them safe roads and bridges, clean and efficient transit and a fiscal policy based on fact, not fiction.

For these reasons, I strongly support the Specter amendment.

Mr. SPECTER. Mr. President, I thank my colleague, Senator WOFFORD, for his support of the pending amendment. I had suggested that there was a fraudulent conversion in not allocating moneys from the trust funds for the purpose for which they were intended. I think Senator WOFFORD has been much more graphic in calling it highway robbery. Highway robbery sounds a lot more emphatic than fraudulent conversion. I think that highway robbery is what it is.

It even drew a smile from the distinguished Senator from Idaho [Mr. SYMMS].

Senator MOYNIHAN after my initial speech made a reference to it being a matter of fraud to take moneys from trust funds.

So I urge my colleagues, when the time comes to vote on this amendment, to really focus on a very basic and fundamental proposition; that it is a matter of fraud, highway robbery; that it is really criminal to use trust fund moneys for some purpose other than that for which they were intended. It is not a matter as if the highways were not in enormous disrepair and bridges not in need of tremendous repairs and mass transit not in need of funds. So when Senator WOFFORD says, let us be honest with the American people, I think that is a good characterization and conclusion.

Mr. SYMMS. Will the Senator yield?

Mr. SPECTER. For a question?

Mr. SYMMS. Yes.

Would the Senator also think we might call this the great train robbery?

Mr. SPECTER. I think as the rhetoric accelerates, Mr. President, it becomes more accurate, with each new phrase added, to describe in emphatic criminal terms the status where the trust funds are not being used for the purpose for which they were intended. So I would adopt the comment made by my colleague from Idaho, also.

Mr. WOFFORD. Let me repeat a comment by a great President of the party represented by Senator SPECTER, President Abraham Lincoln. I believe his comment was: You can fool all of the people some of the time; you can fool some of the people all of the time; but you cannot fool all of the people all of the time.

It is time to stop fooling the American people and pretending that our budget deficit is less than it is at the price of holding these funds back from the transportation system we need.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanious consent that the order for the quorum call be rescinded.

The PRESIDING OFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I do not wish to be repetitive. Neither do I wish to appear hectoring. But it is a fact that we have been on this floor all afternoon, beseeching our colleagues to come forward with amendments if they have them, and making the point that this legislation is moving and it may move so fast, of a sudden, that opportunities will have been lost. We do not want that to happen. We cannot guarantee it will not. We do say come now, and you may be sure it will not.

I understand we have an amendment from the senior Senator from Pennsylvania on which he has spoken, and our colleague, the junior Senator from Pennsylvania, has spoken as well. We are awaiting the chairman and ranking member of the Budget Committee, if they find it convenient to come. If not, we will just dispose of the matter.

Again, I only wish to say opportunities are here now which may not be here indefinitely. I make that statement for about the fifth time this afternoon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I see the distinguished chairman of the Budget Committee on the floor. Might I ask him, the Senator from New Mexico would like to return to appropriations and that is why I wanted to speak, but I will certainly defer to him if he is ready to speak at this time.

Mr. SASSER. Mr. President, I will be pleased to defer to the distinguished Senator from New Mexico if he wishes to speak.

Mr. DOMENICI. Mr. President, I will try to be brief. I am hopeful that the distinguished chairman of the Budget Committee will make a point of order against this amendment, and I assume he will. I think it violates the Budget Act and budget process in more than one way. But any of the points of order are 60 vote points of order. I think that such should be the burden of an amendment of this magnitude.

First of all, we have 165 trust funds. The Senator from Pennsylvania now seeks to remove two of them from the calculations under the Budget Act and under the 5-year agreement that was entered into last year among the President and Democrats and Republicans in the Senate and the House.

Essentially, what this will do, in a nutshell, let us assume the annual expenditures under this trust fund will be $15 billion to $16 billion next year. We will just talk about one at a time. If we remove this from the budget agreement, we will then essentially destroy the agreement because what we will have done is taken $15 billion out and, thus, there would be $15 extra billion to spend under the caps and agreements entered into last year.

There may be some who would like to do that, but, obviously, that is a very large amount of money. Let me give the Senate an estimate.

This year, that whole domestic account, my recollection is, it is about $212 billion. So you would take 15 to 16 out and permit that $212 to remain intact and spend it for other programs.

So, essentially, we would have destroyed the agreement that thus far all the Democrats and Republicans in the Senate, leaders of the Senate, the President of the United States, the leadership in the House are all saying let us keep that 5-year agreement intact.

As a matter of fact, it has even been strong enough, Mr. President, that during this recession it has held. We have voted twice in the Senate to remove the inhibitions of wild spending which we could have done because of the nature of the economic situation and in both times, very few Senators, less than 10—in fact, the first time it was only 1 or 2 and the second time, 5 or 6—who voted to suspend the enforcement mechanisms that are in the 5-year agreement, probably the most significant, responsible agreement in modern history. And the country needs it. It is not as if we did it because we are prudent and great leaders. It was high time we put an agreement of that sort in place.

Make no bones about it, taking this entire trust fund, the outlays, the receipts, taking them all off budget will destroy that agreement. I do not think there is any doubt about it. We will not have an agreement. One may just as well come up here and introduce on the highway bill a resolution saying we have no 5-year agreement. It will have no worse effect than this amendment, which effectively in a roundabout way will destroy it.

I say to those who want highway funds expended, the distinguished chairman of the Appropriations Committee, Senator BYRD, is probably the strongest proponent of more infrastructure expenditure in this Nation. Frankly, I do not believe he wants to destroy the 5-year agreement. As a matter of fact, he has thought it was important enough to even have a tiny sequester the other day because we spent $5 million more than we were supposed to, and rather than call it de minimis, he said let us have a sequester. I say to my friend the sequester was 0.0013 or less, and yet we had it because we want to enforce the agreement.

So I believe this is the wrong time, if there ever is a good time, to break the budget up into more pieces. I do not think there really is, but this is absolutely the wrong time. I will support the chairman of the Budget Committee, who I hope will make a point of order. I think the Senate should once and for all indicate loud and clear that they do not want this to occur.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. I want to thank my distinguished friend from New Mexico for his observations, and let me say, at the appropriate time I do intend to make a point of order.

Mr. President, what we are faced with is the beginning of the end of the budget summit agreement and the beginning of the end for fiscal discipline if we should sustain the wishes of the distinguished Senator from Pennsylvania and remove the highway trust fund from the unified Federal budget or, in effect, put it off-budget.

If we are going to start taking the highway trust fund off budget, why stop there? Why do we not take all of the trust funds off budget? Why do we not begin to add the civil service retirement to the highway trust fund and take that off budget? Why should the highway trust fund be off budget and the civil service retirement fund be on budget?

And while we are taking the civil service retirement off budget, let us also take the military retirement fund off budget. Let us really just get serious about this and do away with the total unified budget. If we adopt the Specter amendment, we will be starting down that road.

Let us take Medicare off budget. I think we can make a strong, clear, convincing and compelling case that Medicare ought not be part of the unified budget. We collect funds to be used for the purpose of Medicare to be put into a trust fund, to be used for that purpose, so let us just take that off budget.

How about the unemployment compensation proceeds that are collected? Why do we not take those off budget, too? If we are going to take the highway trust fund off budget, why should we leave the unemployment compensation funds that are collected on budget?

While we are at it, Mr. President, let us just take the aviation trust fund off budget also. Let us make this thing symmetrical all the way around.

The truth is if we take all of these trust funds off budget, if we destroy the unified budget while we are also destroying the budget summit agreement, we are going to be sitting around here looking at Federal deficits in the neighborhood of about $600 billion.

This country is wallowing in a recession now. The administration tells us we bottomed out. It is my understanding that we bottomed out all right. We are going to be bumping along this bottom for a long, long time before we start getting any relief from it.

What does it tell the financial markets, those who lend money, those who set interest rates, if we are going to take everything off budget and we are simply going to drive the Federal deficit up through the roof?

Clearly that does not make any sense. What we are saying here is if we take the highway trust fund off budget—and we all sympathize with the wish of the distinguished Senator from Pennsylvania to spend more money on the infrastructure. I am one of the leading advocates of that here in this body. I supported the distinguished chairman of the Appropriations Committee in his efforts to spend more money for infrastructure, for roads, bridges. I supported him when we had that argument and that debate in the budget summit agreement.

I might say, Mr. President, the highway program has fared very well with the present budgetary treatment it receives. Last year the Appropriations Committee increased highway obligations by over $2.1 billion and the committee is likely to increase spending for the programs again this year. In fact, I have no doubt that it will. The appropriate vehicle for increasing expenditures from trust funds is by raising the obligation.

Mr. President, if we should follow the course being urged upon this body by my friend, the Senator from Pennsylvania, today we would raise the deficit immediately in this fiscal year by $2 billion.

Once we take the highway trust fund off budget, I can predict you are going to see a whole host of amendments here as legislation moves through this body to take everything off budget; as I said, the civil service retirement, military retirement, Medicare, unemployment, the Aviation Trust Fund. And this would raise the deficit by billions of dollars and would radically reduce our control over a very, very substantial portion of Government spending.

Mr. President, at the appropriate time—I see the distinguished Senator from Texas is on his feet, and also the distinguished Senator from New York—I will raise a point of order.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I think the leadership of the Budget Committee has made a very clear presentation here. I do not want to belabor it or duplicate it.

Let me say this. Ever since I came to the Senate there has been an argument that we were building up balances in the highway trust fund. I have been a strong proponent of spending resources raised for the purpose of carrying out the functions of the highway trust fund, such as building roads, and building mass transit.

I have always thought it was wrong to build up balances in the highway trust fund to, in essence, allow budgetary room for spending on other programs.

But I remind my colleagues that the real effect of the amendment pending is not to free up funds for highways. In fact, we fully commit the highway trust fund revenues over the next 5 years for that purpose under this bill.

The bill before us goes further than any bill that has been considered in the 7 years I have been in the Senate in spending money from the highway trust fund for the purpose that it was raised, and that is one of the reasons I am supportive of the President's highway bill.

But, Mr. President, by taking the highway trust fund off budget, what we do is setup the procedure for breaching the spending caps.

The money freed up by taking the trust fund off budget is not going to go to highways. This amendment is not going to cause more money to be spent on highways. By taking the spending on highways out of the caps, this amendment is going to make it possible to instead spend money on other things. So this is not a highway amendment. This is a deficit amendment.

I think it is vitally important that the point of order be sustained and that we see this amendment fall. I repeat again: The highway bill before us spends every nickel it will bring in in new revenues over the next 5 years. It does exactly what we should have been doing to begin with. But let us not use a past concern as an excuse to destroy fiscal restraint, and in the process, force the deficit up and damage the economy.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I rise briefly just to comment on the remarks of the Senator from New Mexico and the Senator from Tennessee about the nature of our budget situation, and to try to put this bill in that context. For that purpose, we have provided an introductory statement to the bill which tried to set forth the constraints as we understood them on this bill.

We observed the crumbling infrastructure has become part after the political imagery of American life. At any point of the political compass or spectrum you will find one of the needs invariably invoked is our Nation's crumbling infrastructure. We do not deny that.

To the contrary, we assert we have been in a long period of disinvestment, using up the infrastructure investment of the country, running it down, not even keeping to a constant level.

The best study we have on this is the work of the National Council on Public Works Improvement, established by the Congress. Their report was called "Fragile Foundations." They reported that Federal expenditures for highways, to take one segment of infrastructure, reached a peak in 1965 of some $40 billion a year. That was the high point.

It has been down ever since. We are now running at $10 billion a year in constant 1982 dollars. From $40 billion in President Johnson's time to $10 billion in President Bush's time. That is a big drop.

The case for large new expenditures is certainly legitimate. But what we tried to say, and I do not know if the Nation will ever absorb this, is that there is no money beyond the money we are talking about.

I ask my friend from Tennessee to hear this one paragraph. Speaking of the constraints we deal with, one is budgetary:

> The United States Government for the present and foreseeable future cannot and will not embark on the epic enterprises that came with such seeming ease to Roosevelt and Eisenhower.

I referred to President Roosevelt, who proposed the Interstate System. President Eisenhower created the trust fund that set it going forward. We continue.

We have spent our money on other things and are now much in debt. And there you are. We trebled the national debt in the 1980's. In about 3 year's time, I think, interest on the debt will be larger than the defense program. We are a debtor Nation, thanks to all the hurrah and hoopla about a balanced budget and cutting waste, fat, and abuse.

All that rhetoric was a screen for indescribable irresponsibility and wild spending by those who most spoke the gospel of frugality, reserve, the deferral of satisfaction. It went wild, and they concealed it with rhetoric.

The reality is now with us. We say here we have spent our money on other things, and are now much in debt.

We have $105 billion. That is a lot of money. It would not be a lot for some countries. The Japanese would not find it a lot of money over 5 years, but we do, because we spent it in the last decade. We are living in that reality.

At least Harry Hopkins had the honesty to say: We will tax and tax and spend and spend and elect and elect. That is honest. They spent and spent and borrowed and borrowed and elected, elected, elected. And they left their country broke.

But it does bespeak us to live with that constraint. The committee report states that:

> Just as engineers live in a world of precision measurement, prudent risk, and the understanding that decisions must be based on what is, rather than on what might be, so legislation concerning public works must be equally realistic.

So we have called this the Surface Transportation Efficiency Act. We have not had any discussion of this at all on the floor, but we are not in such a hurry that we cannot say a word about it. We have said if this is all the money you can spend, then try to get your money's worth.

Surface transportation is at the epicenter, if you like, of public sector disease. We have had in the transportation sector, productivity in the last 15 years that has been growing at 0.2 percent per year. Mr. President, that is a medieval rate. That is the rate at which Western Europe probably grew from the year 1000 to the year 1350, on the cusp of the Renaissance. Such a rate takes 350 years to double.

And why should it not, if you think of it as a free good that can be spent without regard to its consequences, just like we threw our money away on the wild extravagances of the 1980's and became a debtor Nation; went to war and could not pay for it; had to go around the world asking other people to pay for it. We have never done that before.

So we are still talking. What is delaying this enterprise, Mr. President, why we are here asking for amendments is we are still squabbling about how much money we will get, when there is no money left. It has been spent. We are saying at least try to get some good out of what you do spend. Get your money's worth. Think productivity, accountability, efficiency. Think costs and benefits.

We are hoping we can take advantage of a situation that will be with us for generations. If adversity can teach us to spend public moneys well, the adversity will be more than worth it.

This bill institutes the discipline of accountability into the public sector which, like most public sectors, is hugely wasteful and, unlike most others, can be destructive. That is what this bill is all about. We are acting like it is still more of the same: how to spend more money.

Mr. President, I say again that the United States Government, for the present and foreseeable future, cannot and will not embark on the epic enterprises that came with such seeming ease to Roosevelt and Eisenhower. We have spent our money on other things and are now much in debt. There you are.

Mr. President, I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I intend to press this amendment through to a vote. I understand from the Parliamentarian it would take 60 votes. I do not labor under any illusion about its success here today. However, I believe it is a building process.

The first time I made an amendment on prison construction on a budget resolution in the early 1980's, it received 16 votes. ultimately, the amendments on the budget resolution came as high as 95 votes.

I believe that it is important to put Members of this body on record on the underlying principles involved in this matter, because I think the American people will be foursquare in favor of this kind of an amendment.

The American people suffer from inadequate roads, bridges, and mass transit, and the American people pay taxes for that purpose. Those taxes are placed in a trust fund, and those trust funds are diverted.

When the distinguished Senator from Tennessee says that this amendment will affect the markets, I believe that is inaccurate. The markets understand the manipulations of the budget process, and what the true deficit is, and when the highway and mass transit trust funds are used to offset the deficit. A third-grade arithmetic student can understand that. The passage of this amendment would not affect the markets.

When the distinguished Senator from New Mexico says that this will be the end of the budget deal, I understand the complications that this will be for the budget deal. But I do not believe that it is sound for our Government to have taxes pay for gasoline, for highways, and mass transit, and have it used for another purpose.

When the distinguished Senator from Texas, Senator GRAMM, says this is not going to highways, that is just not accurate on the basic thrust of this amendment: that the funds are to be used for highways, bridges, and mass transit.

When, again, the distinguished Senator from Tennessee says the highways and mass transit, have done well from the appropriations process, I disagree, respectfully. The reason that I disagree is that at the beginning of this fiscal year, $9.6 billion were unexpended from the highway trust fund; $7.2 billion was unexpended from the transit trust fund.

If anybody but the Federal Government were to have a trust fund and not use it for the purpose for which it was intended, it would be a criminal act, fraudulent conversion. My colleague from Pennsylvania, Senator WOFFORD, said that it is highway robbery.

I think when the American people understand what is going on here, that their gas taxes are not used for highways and for bridges, they are going to be very unhappy.

That is the underlying vote which is going to happen here today when Senator SASSER and Senator DOMENICI raise a point of order and I move to waive section 306 of the Budget Act. So I am under no illusion about the outcome of this vote. But I trust to be around here long enough to see this succeed.

I recollect the activities of my late colleague, Senator Heinz, on his repeated efforts to take the Social Security trust fund off budget. One night at about midnight he was tying up the Senate on that issue, and ultimately he succeeded.

I think ultimately there will be success to take the highway and mass transit trust fund off budget. I do know that the highway builders and the mass transit exponents around the country will be citing this vote on the underlying issues and the underlying equities.

The hour is now 6 o'clock, and I am not going to belabor the discussion any longer. I will await what I know is a pending objection from the distinguished Senator from Tennessee.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Tennessee.

Mr. SASSER. Mr. President, the pending amendment deals with a matter within the jurisdiction of the Committee on the Budget, and this bill has not been reported by the Budget Committee. As a consequence, a point of order lies against this amendment under section 306 of the Congressional Budget Act.

So, Mr. President, on behalf of myself and Senator DOMENICI, and pursuant to section 306, I raise a point of order against the Specter amendment.

Mr. SPECTER. Mr. President, I move to waive section 306 of the Budget Act for consideration of the underlying amendment.

The PRESIDING OFFICER. The motion is debatable.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, as to debate, I think debate has been had.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the motion of the Senator from Pennsylvania. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER] is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota [Mr. DURENBERGER] would vote "nay."

The yeas and nays resulted—yeas 29, nays 69, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—29

Boren
Bryan
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Daschle
DeConcini
Grassley
Harkin
Hollings
Jeffords
Kasten
Leahy
Levin
Lieberman
Lott
Mack
Moynihan
Nickles
Pressler

Reid
Riegle
Specter
Stevens
Symms
Wofford

NAYS—69

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Bradley
Breaux
Brown
Bumpers
Burdick
Burns
Byrd
Chafee
Cranston
Danforth
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Hatch
Hatfield
Heflin
Helms
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Murkowski
Nunn
Packwood
Pell
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Thurmond
Wallop
Warner
Wellstone
Wirth

NOT VOTING—2

Durenberger
Pryor

The PRESIDING OFFICER. On this vote the yeas are 29, and nays are 69. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment proposed by the Senator from Pennsylvania would prohibit the outlay and revenue totals of the highway trust fund from inclusion in the surplus or deficit totals under the Budget Act.

Since the amendment is not offered to a bill reported by the Budget Committee, it violates section 306 of the Budget Act. The point of order then is well taken. The amendment falls.

Mr. SYMMS. Mr. President, I just want our colleagues to know the majority leader has advised me it is his intention to push ahead with this bill. If Senators have amendments, we ask they please bring them to the floor. We will be moving ahead.

We have Senator DOMENICI prepared to offer a couple of amendments, and then the two Washington Senators are going to offer an amendment.

Mr. ADAMS. We are prepared to follow Senator DOMENICI.

The PRESIDING OFFICER. There is an amendment pending. It will take unanimous consent to set it aside.

Mr. SYMMS. Mr. President, I ask unanimous consent to temporarily lay the Byrd amendment aside.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. Mr. President, first, I thank my distinguished colleague.

Mr. President, the Senate has heard extensive discussion of the apportionment formula provided by S. 1204.

As I have stated, I offer the Senate an alternative proposal which has a growing bipartisan coalition and my amendment is known as the Federal-aid surface transportation bill, or FAST.

The fundamental problem is inequity. The committee's bill perpetuates an inequitable allocation of Federal highway funds between the 50 States and the District of Columbia. The supporters of FAST do not expect, nor request, a 100-percent return; but we do seek an apportionment which is equitable.

A second major problem is flexibility—flexibility is the power given to the States as to how their allocation is applied to their own priorities.

My amendment, embodies three principles as alternatives to sections of the committee bill.

First, my amendment retains a Federal partnership that has been the hallmark of national transportation policy since the outset of the Interstate Highway System in 1956.

And it does so by recognizing that our future national transportation system must link States with modern, well maintained corridors moving interstate commerce and people.

Second, it gives the States maximum flexibility to deal with the particular needs that a State may have; and

Third, in dividing up the money among the several States it follows what we believe should be the cardinal principle in the postinterstate era: Put the money where the cars are. It offers a solution that is tied to the problem that many of our States face—urban and suburban congestion—gridlock.

This amendment does say that with the completion of the Interstate system, the disparity between donor and donee does not have to be as great. This amendment is simply founded on the principles of fairness and equity.

The FAST amendment is simple and straightforward. It is a two-part program consisting of a national highway and bridge program, and an urban and rural highway and bridge program equally divided 50-50 in terms of funding.

The amendment calls for the development of a national transportation system and earmarks half of the money going to any State for use on that system. The States, working with the Federal Highway Administration, would develop the actual system over the months to come. This can be new roads or, more likely, the designation of existing roads—roads which must be maintained to high standards.

There is a continuing need to provide for uniformity and connectivity to all parts of the nation for interstate commerce and national defense, linking major population centers.

Importantly, when it comes to defining and meeting a transportation need in a corridor on the national system, maximum flexibility would be given to the State to meet that need in the most reasonable way.

The National Highway and Bridge System would provide that the Interstate System would be the cornerstone of the expanded system.

States would have the flexibility to designate other roads and bridges to be a part of the national highway system and the U.S. Department of Transportation would certify the designations made, not by the Federal government, but the States. That's flexibility.

That same type of flexibility exists in the other programs under FAST. The Rural and Urban Highway and Bridge System would receive the other half of the funds. These funds can be used on any project except the most local roads at the discretion of the State.

To provide even greater flexibility, up to 20 percent of the funds in either of the two categories can be transferred to the other program to meet a State's needs.

The amendment provides for an 85 percent match from the Federal government for both programs, making an important exception for the construction of high-occupany vehicle [HOV] lanes to help meet our clean air obligations. HOV lane funding would be at a 90 percent match.

This amendment departs from the Federal-aid surface transportation bill as introduced in one respect. The amendment provides for a new discretionary bridge program. It is intended to provide a source of funds to States for the replacement or rehabilitation of high cost bridges. Specifically, high cost bridges are defined as those costing over $20 million or more than 10 percent of a State's annual apportionment.

Mr. President, this amendment also provides three guarantees to all States. They are:

First, there is a hold harmless provision based on 1991 apportionments. That means that no State will receive less the apportionment it received in fiscal year 1991.

Second, there is a protection of one half of 1 percent which guarantees each State a minimum of one half or 1 percent of the total apportionments.

Third, there is a 90-percent minimum allocation.

I would like to emphasize that the other programs provided in S. 1204 would not be altered. My amendment does not change the Congestion Mitigation and Air Quality Program, it does not change the Interstate Completion and Substitution Program or other programs.

Mr. President, I ask that unanimous consent that the amendment be printed in the RECORD in full and that a letter from the General Accounting Office be printed following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, June 12, 1991.
Hon. JOHN W. WARNER,
U.S. Senate.

DEAR SENATOR WARNER: Your office requested that we examine the apportionment formula described in section 121 of S. 1121 for consistency with standing GAO recommendations about the federal aid highway apportionment formulas. After reviewing the relevant provisions of the bill, we conclude that the proposed formula is one of several consistent with our previous recommendations. Our recommendations appeared in a 1986 report, Highway Funding: Federal Distribution Formulas Should be Changed (GAO/RCED-86-114). That report identified three factors that affected a state's cost of preserving the existing highway network: (1) the extent or size of its highway system, (2) how much its highways are used, and (3) the cost of inputs (labor and materials, etc.) needed for preservation. Allocating funds based on these criteria is consistent with a goal of allocating federal aid in accordance with the cost of preserving the existing highway network. However, other goals, such as improving air quality or reconciling the sometimes competing objectives of mass transit and highway programs, were not reflected in our 1986 report.[1]

Our report made the following recommendations for reflecting highway needs:

That highway lane miles be used in place of land area as an indicator of highway system size.

That vehicle miles traveled (VMT) or motor fuel consumption be used in place of urban and rural population as indicators of highway use.

If population is used as a proxy for highway use, that annual estimates be used.

That postal route miles not be used to apportion funds.

Because most highway deterioration is the direct result of highway use, that vehicle miles traveled or motor fuel consumption receive greater weight than lane miles.

At the time of our review, no national index of input costs was available to include in an apportionment formula. Therefore, the 1986 report made no recommendation for an input cost factor. We are currently determining if information for an input cost factor is now available or could be developed.

The apportionment formula in S. 1121 generally conforms to our recommendations. It uses 1/9 rural lane miles, 2/9 urban lane miles, 1/9 rural VMT, 2/9 urban VMT, and 3/9 diesel fuel. Thus two-thirds of the funding is allocated based on the two highway use factors (vehicle miles traveled and diesel fuel consumption),[2] and one third on system size (lane miles). The greater weight placed on highway use factors is consistent with studies we examined in our 1986 report, showing that most highway deterioration is the result of use. GAO has not analyzed and has made no recommendations on the weighting that should be given urban and rural lane miles or urban and rural vehicle miles traveled.

In view of recent legislation that has addressed the goal of clean air, consideration may be given to using vehicle miles traveled and an annually updated population factor instead of diesel fuel consumption. In briefings with your staff, we have also indicated that a formula based on lane miles, vehicle miles traveled, and general population would be consistent with our recommendations.

S. 1121 contains other provisions designed to provide minimum funding guarantees. These include guaranteeing (1) that each state receives at least 0.5 percent of available funding (consistent with current law) and (2) that each state receives at least 90 percent of its payment into the highway trust fund. We have not analyzed these provisions.

Finally, we note that the proposed formula in S. 1121 would result in significant shifts in state funding allocations. We suggested in 1986 that the Congress may wish to provide for a transition period during which changes in state funding would be gradually introduced.

Should you have any questions, please call me at (202) 275-1655 or Jerry Fastrup at (202) 275-6169.

Sincerely yours,
LINDA G. MORRA,
Director, Human Services Policy and Management Issues.

PROPOSED WARNER AMENDMENT

Beginning on page 12, strike section 105 of the bill and insert the following new section:

SEC. 105. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned or allocated to a State under title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991, except that—

(1) unobligated balances of primary and Interstate 4R funds may be transferred to the National Highway and Bridge System;

(2) other unobligated balances may be transferred to the Urban and Rural Highway and Bridge Program;

(3) transferred funds are subject to the law, regulations, policies and procedures relating to the category to which transferred;

(4) transfers will be allowed on a one time per year basis; and

(5) this section does not apply to unobligated balances of interstate construction or interstate substitution funds.

Beginning on page 12, strike section 106 of the bill, and insert the following new sections:

SEC. 106. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 160. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

"(a) FINDINGS.—The Congress hereby finds and declares the following:

"(1) National resources should be focused upon the important goals of preserving the Nation's investment in its interstate systems and insuring that these systems continue to support actively interstate commerce, national defense, and linkage of major urban areas.

"(2) Broad national defense, economic, safety, and international policy goals are advanced by efficient transportation system which ensure free movement of people, goods, and information.

"(3) National transportation investments should increasingly encourage domestic and international commerce and trade.

"(4) Based on congressionally established national transportation policy and objectives, a new Federal high priority highway network, a national highway and bridge system should be designated from the most vital elements of the current network.

"(b) ESTABLISHMENT.—(1) The Secretary shall establish the National Highway and Bridge System—

"(A) to provide an interconnected system of principal arterial routes which will serve major population centers, ports, airports and international border crossings;

"(B) to meet national defense requirements; and

"(C) to serve interstate and interregional travel.

The National Highway and Bridge System shall consist of all designated Interstate highways on the date of the establishment of the program, an appropriate portion of the rural and urban principal arterial routes, including toll facilities, and national defense highways.

"(2) In addition other routes which meet the following criteria shall be eligible for inclusion:

"(A) Nationally significant truck routes.

"(B) Routes that provide nationally significant commodities with access to markets.

"(C) Access points to significant national parks, international border crossings, ports and airports, and major regions in the States.

"(3) Facilities that will provide logical connection between major population centers and the national highway and bridge system.

"(4) Major urban corridors.

"(c) DESIGNATION.—Each State, in consultation with regional and local officials, shall designate the national highway and bridge system, with the approval of the Secretary. The National Highway and Bridge System shall be based on a functional reclassification of roads and streets in each State. The system should be designated by September 30, 1992, and shall be designated by not later than September 30, 1993, in accordance with guidelines issued by the Secretary. Such guidelines shall provide for an equitable allocation of mileage among the States. For fiscal year 1992 and, if necessary, fiscal year 1993, States may use National Highway and Bridge Program funds for the purpose of funding the preliminary National Highway and Bridge System designated by the State and approved by the Secretary as of September 30, 1991.

"(d) REVIEW.—The Secretary shall establish criteria for reviewing projects to be funded as part of the National Highway and Bridge System. The criteria shall define eligible projects to include rehabilitation, resurfacing, restoration, capacity, expansion, operational improvement, safety, and new highway construction. The criteria shall ensure, as a first priority for the use of available funds, the adequate preservation and protection of investments made in the Interstate highways in each State, and the provision of suitable traveling quality by the Interstate highways. The criteria shall permit funding in urbanized areas to be used to improve highway and transit systems, in any case where there is a showing that the improvement will provide an increase in the level of service within the corridor of the National Highway and Bridge System. The criteria shall also permit the use of such funds for projects for access to ports, airports, international border crossings and other major travel destinations.

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[1] For a discussion of these issues, see our testimony: Transportation Infrastructure, Department of Transportation Highway and Mass Transit Program Reauthorization Proposals (GAO/T-RCED-91-26, Apr. 18, 1991).

[2] The correlation between total motor fuel consumption and diesel fuel consumption is 0.97. Thus, diesel fuel serves as an indicator of highway system use.

"(e) FEDERAL SHARE.—Notwithstanding any other provision of this title, the Federal share payable for a project under this section for the construction of high occupancy vehicle lanes (as described in section 102(d) of this title) shall not exceed 90 percent of the cost of the project.

"(f) DISCHARGE OF RESPONSIBILITIES.—(1) Upon the request of any State, the Secretary may discharge responsibilites under this title relating to any National Highway and Bridge System project that—

"(A) meets the categorical exclusion criteria (as defined in section 771 of title 23, Code of Federal Regulations, as in effect on the date of the enactment of the Surface Transportation and Efficiency Act of 1991); and

"(B) has an estimated cost of construction of less than $5,000,000.

by accepting a certification by the State transportation or highway department that any such project will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System project.

"(2) Upon the request of any State, the Secretary may discharge responsibilities under this title relating to any National Highway and Bridge System that—

"(A) meets the categorical exclusion criteria (as defined in in section 771 of title 23, Code of Federal Regulations);

"(B) has an estimated cost of construction of $5,000,000 or more; and

"(C) is selected in accordance with criteria established by the Secretary,

by accepting a certification by the State transportation or highway department that any such project will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System projects.

"(g) PROCEDURES AFTER FISCAL YEAR 1995.—Beginning with fiscal year 1996, the Secretary shall discharge responsibilities for the National Highway and Bridge System projects described in subsection (c)(1) of this section by the certification process described in this section. The Secretary shall, beginning with fiscal year 1996, rescind project approval if a satisfactory certification is not presented by the State.".

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—For the National Highway and Bridge Program—

"(i) 1/9 in the ratio which the rural lane miles in each State bears to those of all States;

"(ii) 1/9 in the ratio which rural vehicle miles traveled in each State bears to those of all States;

"(iii) 2/9 in the ratio which the urban lane miles in each State bears to those of all States;

"(iv) 2/9 in the ratio which the urban vehicle miles traveled in each State bears to those of all States; and

"(v) 3/9 in the ratio which diesel fuel consumed in each State bears to that consumed in all States.

"(B) MINIMUM APPORTIONMENT.—No State shall receive less than ½ of 1 percent of each year's apportionment.

"(C) TRANSFER TO URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual National Highway and Bridge System program apportionment to the urban and rural highway and bridge program of the State if the Governor of the State and the Secretary agree that adequate Interstate System conditions exist.";

(2) by striking "upon the Federal-aid systems" and inserting "upon the National Highway and Bridge System, the Urban and Rural Highway and Bridge Program, and the Congestion Mitigation and Air Quality Improvement Program";

(3) by striking "paragraphs (4) and (5)" and inserting "subparagraph (5)(A)"; and

(4) by striking "and sections 118(c) and 307(d)" and inserting "and section 307".

SEC. 106A. URBAN AND RURAL HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 161. URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish an urban and rural highway and bridge program to provide a category of funds that minimizes Federal requirements, and to provide flexibility in the use of available funds for either highway or transit projects. The urban and rural highway and bridge program shall consist of all public highways (including bridges) functionally classified as arterials, urban collectors, and rural collectors (other than those designated as part National Highway and Bridge System), and shall also include bridges on any public road. Each State, in cooperation with regional and local agencies of the State, shall establish guidelines for implementing the program under this section. The guidelines shall—

"(1) include criteria for setting priorities and encouraging regional intermodal solutions, where appropriate;

"(2) ensure that administrative costs are minimized through simplification of processes and application of controls that ensure accountability for funds and projects;

"(3) ensure that each agency has flexibility to use funds for solutions to transportation problems that bring about a most efficient increase in mobility and best address regional and local land use, air quality, and economic development issues.

"(b) ELIGIBLE HIGHWAYS.—Highway projects may be funded on public roads (except any road on the National Highway and Bridge System, and road functionally classified as local, or any road functionally classified as rural minor collector). Part of a State's annual urban and rural highway and bridge program apportionment may be extended for highway safety improvements, bridge replacement or rehabilitation, or eliminating rail-highway crossing hazards on public roads functionally classified as local or as rural minor collector.

"(c) ELIGIBLE PROJECTS.—Eligible projects under this section shall include construction, operational improvements, highway safety improvements, highway research and development, transportation planning, capital transit projects (such as the construction, reconstruction, and improvement of fixed rail facilities, including purchase of rolling stock for fixed rail), the purchase of buses and support facilities, capital projects to improve access and coordination between intercity and rural bus service, technology transfer projects, startup costs for traffic management and control projects, bicycle and pedestrian projects, projects to develop and improve scenic byways, projects to enhance rural and urban accessibility and mobility, the acquisition of outdoor advertising signs and the sites, removal or screening of junkyards, carpool projects, fringe and corridor parking projects, the construction of exclusive or preferential high occupancy vehicle lanes, landscaping, scenic enhancement and rest area projects, and projects that create, conserve or enhance wetlands.

"(d) REQUIREMENTS.—

"(1) COMPLIANCE WITH STATE REQUIREMENTS.—Projects under this section must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

"(2) COMPLIANCE WITH FEDERAL REQUIREMENTS.—

"(A) IN GENERAL.—Each State with a project under this section shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Single Audit Act of 1984 (31 U.S.C. 7501 through 7507), the Civil Rights Act of 1964, the Clean Air Act (42 U.S.C. 7401 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the applicable requirements of this title and other applicable Federal laws, regulations, and Executive orders.

"(B) DELEGATIONS.—In lieu of applying the Federal environmental review procedures otherwise applicable under the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.) the Secretary may, under regulations, provide for the approval of projects by recipients of assistance under this section. Such recipients, pursuant to the requirements of this paragraph, may assume all of the responsibilities for environmental review, decision making, and action described in the National Environmental Policy Act, and other provisions of law that would apply to the Secretary if the projects were undertaken as Federal projects. The Secretary shall issue regulations to carry out this paragraph only after consultation with the Council on Environmental Quality.

"(C) CERTIFICATION.—Each State or other recipient assuming responsibilities on the part of the Secretary pursuant to subparagraph (B) shall submit an annual certification under the regulations authorized by subparagraph (B). The certification shall—

"(i) be in a form acceptable to the Secretary,

"(ii) be executed by the chief executive officer or other officer of the recipient of assistance under this section qualified under the regulations authorized by subparagraph (B),

"(iii) specify that the recipient of assistance under this section will fully carry out its responsibilities as described under the regulations authorized by subparagraph (B),

"(iv) specify that the certifying officer—

"(I) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary (to the extent that the provisions of such Act, or other provisions of law apply under the regulations authorized by subparagraph (A) or (B)); and

"(II) is authorized and consents on behalf of the recipient of assistance under this section and the certifying officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities; and

"(v) agree that the Secretary's approval of any certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of laws the regulations of the Secretary specify insofar as the responsibilities relate to the approval of projects by recipients under this section.

"(3) BRIDGE INSPECTION AND INVENTORY SYSTEM.—Each State that conducts a project under this section must have an ongoing bridge inspection and inventory system.

"(4) CONSULTATION.—In any case where a tribe has jurisdiction or is affected by a project under this section, consultation with local officials and Indian tribal officials shall be required.

"(5) DISTRIBUTION OF FUNDS.—In cooperation with local units of government each State shall develop a method to distribute apportionments within the State under this section fairly and equitably to rural areas, urban areas and urbanized areas with a population greater than 250,000.

"(6) COMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with provisions of this section, the Secretary shall notify the State that, if the State or local government fails to take corrective action within 120 days after the receipt of the notification, the Secretary may withhold payments under this section until the Secretary is satisfied that the appropriate corrective action has been taken.

(e) OBLIGATION OF FUNDS AND METHOD OF PAYMENT.—

"(i) OBLIGATION OF FUNDS.—The Governor of each State shall certify prior to the first day of each fiscal year that the State will meet all the requirements of subsection (e). The Governor shall notify the Secretary of the amount of obligations expected to be incurred for urban and rural highway and bridge program projects. The State may subsequently request adjustment to the obligation amounts during the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the urban and rural highway and bridge funds expected to be obligated by the State in that fiscal year.

"(2) METHODS OF PAYMENT.—The Secretary shall make payments to a State (or other recipient) for costs incurred with respect to a program conducted pursuant to this section. Such payments shall not exceed the Federal share of costs incurred as of the date the State requests payment.

"(f) REVIEW AND REPORT.—The Secretary may conduct reviews of State procedures and projects. The States shall report annually to the Secretary in accordance with guidelines established by the Secretary on the use of funds administered under this section.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended by inserting the following paragraph in an appropriate place:

"(3) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—The funds authorized to be appropriated for the urban and rural highway and bridge program shall be apportioned in the ratio of attributable tax payments to the highway account of the Highway Trust Fund, attributable to the highway users of each State. No State shall recieve less than ½ of 1 percent of each years apportionment.

"(B) TRANSFER TO NATIONAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual urban and rural highway and bridge program apportionment to the national highway and bridge program of the State.".

At the appropriate place in the bill, insert the following new section:

SEC. . FEDERAL SHARE PAYABLE.

Section 120(a) of title 23, United States Code, is amended to read as follows:

"(a) NATIONAL HIGHWAY AND BRIDGE PROGRAM AND URBAN AND RURAL HIGHWAY BRIDGE PROGRAM PROJECTS.—(1) Except as provided in paragraph (2) and in section 129 the Federal share payable on account of any national highway and bridge and urban or rural highway and bridge program project—

"(A) shall not exceed 85 pecent of the cost of the project (except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved), exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share may be increased by a percentage of the remaining costs equal to the percentage that the area of such lands in the State, is of its total area); or

"(B) shall not exceed 85 percent of the costs of the project (except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share may be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area, except that the Federal share payable on any project in a State under subparagraph (A) or (B) shall not exceed 90 percent of the cost of the project.

"(2) In any case where a State elects to have the Federal share provided pursuant to paragraph (1)(B), the Governor of the State must enter into an agreement with the Secretary (for a period of not less than 1 year). As part of the agreement the State shall agree to use such funds solely for highway construction purposes (other than paying the State share of the projects approved under this title) during the period covered by the agreement the difference between amount of the State share of such State (as provided in paragraph (1)(B) and an amount determined pursuant to paragraph (1)(A) that represents the amount that such State would have received had the State elected pursuant to paragraph (1)(A) to pay the share under such subparagraph.".

Beginning on page 28, strike section 108 and insert the following new section:

SEC. 108. DISCRETIONARY BRIDGE PROGRAM.

Section 144 of title 23, United States Code, is amended to read as follows:

"SEC. 144. DISCRETIONARY BRIDGE PROGRAM.

"(a) PURPOSE.—Congress finds and declares it to be in the vital interest of the Nation that a discretionary bridge replacement and rehabilitation program be established to enable States and Federal agencies to replace and rehabilitate high cost highway bridges over waterways, other topographical barriers, other highways, or railroads when the State or Federal agencies and the Secretary find—

"(1) that a bridge is important;

"(2) that the bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence;

"(3) that the bridge poses a safety hazard to highway users;

"(4) that the replacement or rehabilitation of the bridge would minimize disruptions, delays, and costs to users; or

"(5) that the replacement or rehabilitation of the bridge would provide more efficient routes for emergency services.

"(b) INVENTORY; ASSESSMENT; IMPROVEMENT CATEGORY; COST.—The Secretary, in consultation with the States, shall—

"(1) inventory all highway bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

"(2) assess each bridge from the standpoint of safety and adequacy to serve traffic; and

"(3) based on the assessment described in paragraph (2), assign each bridge to one of the following improvement categories:

"(A) Replacement.

"(B) Rehabilitation.

"(c) APPROVAL OF FEDERAL PARTICIPATION.—In approving projects under this section, the Secretary shall give consideration to projects that will remove from service bridges most in danger of failure. For bridges on the National Highway and Bridge System, the Secretary may approve Federal participation where a determination as to need, type of improvement and timing have been established through a bridge management system approved by the Secretary. On other public roads the Secretary may approve Federal participation if the agency with jurisdiction over the bridge has a bridge inspection and inventory program that meets the requirements of the National Bridge Inspection Standards (NBIS).

"(d) ELIGIBLE ACTIVITIES.—

"(1) HIGH PRIORITY DEFICIENCIES.—Discretionary Bridge program funds may be used to correct normally ineligible safety related bridge deficiencies that have been identified as high priority by the Secretary. A State shall submit a strategy, work plan and timetable for approval by the Secretary before bridge funds can be used to correct deficiencies. Removal of deficiencies identified as high priority by the Secretary is mandatory for any bridge improvement under the discretionary bridge program.

(2) REPLACEMENT AND REHABILITATION.—Discretionary Bridge program funds may be used for replacement and rehabilitation.

"(e) ALLOCATION.—Amounts available for the discretionary bridge program shall be allocated to States at the discretion of the Secretary. For projects for bridges—

"(1) with a replacement or rehabilitation cost of $20,000,000 or more; or

"(2) with respect to which more than 10 percent of a States annual Federal highway apportionment is expended.

"(f) TOLL BRIDGE ASSESSMENT.—Applications for funding under the Discretionary Bridge program must include a comprehensive assessment of—

"(1) the feasibility of constructing a toll bridge; and

"(2) the option of using combination of funds other than Discretionary Bridge Program funds.

"(g) SELECTION OF PROJECTS.—In selecting projects for the Discretionary Bridge Program the Secretary shall consider—

"(1) the bridge rating factor which includes, but is not limited to serviceability, safety, essentiality for public use, traffic volume, and cost;

"(2) whether the bridge is closed to traffic or has severe load limits;

"(3) the need for equitable nationwide distribution of funds;

"(4) the need to continue or complete projects already begun with discretionary funds; and

"(5) other factors that the Secretary deems appropriate.

"(h) OBLIGATION AND ADMINISTRATION OF PROJECTS.—Discretionary bridge projects on the National Highway and Bridge System shall be obligated and administered under National Highway Program procedures. Bridge projects on public roads not on the National Highway and Bridge System shall be obligated and administered under National Highway Program procedures. Bridge projects on public roads not on the National Highway and Bridge system shall be obligated and administered under urban and rural highway and bridge program procedures.

"(i) THE GENERAL BRIDGE ACT OF 1946.—Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of the General Bridge Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters—

"(1) that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(2) that are—

"(A) not tidal waters; or

"(B) if tidal waters, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

"(j) REHABILITATE DEFINED.—As used in this section the term 'rehabilitate' in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

"(k) FEDERAL SHARE PAYABLE.—The Federal share payable on account of a project under this section shall not exceed 85 percent of the cost of the project.".

On page 4, strike lines 16 through 22 and insert the following new paragraph;

(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—For the National Highway and Bridge Program $6,000,000,000 for fiscal year 1992, $6,250,000,000 for fiscal year 1993, $6,650,000,000 for fiscal year 1994, $7,365,000,000 for fiscal year 1995 and $9,060,000,000 for fiscal year 1996.

On page 5, strike lines 3 through 8 and insert the following new paragraphs:

(3) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—For the Urban and Rural Highway and Bridge Program $6,000,000,000 for fiscal year 1992, $6,250,000,000 for fiscal year 1993, $6,650,000,000 for fiscal year 1994, $7,365,000,000 for fiscal year 1995 and $9,060,000,000 for fiscal year 1996.

(4) DISCRETIONARY BRIDGE PROGRAM.—For the Discretionary Bridge program $230,000,000 for fiscal year 1992, $280,000,000 for fiscal year 1993, $330,000,000 for fiscal year 1994, $380,000,000 for fiscal year 1995, and $440,000,000 for fiscal year 1996.

On page 5, line 17, strike "(5)" and insert "(6)".

On page 6, line 1, strike "(6)" and insert "(7)".

On page 6, line 9, strike "(7)"; and insert "(8)".

On page 6, line 19, strike "(8)"; and insert "(9)".

On page 6, line 23, strike "(9)"; and insert "(10)".

On page 7, line 4, strike "(10)"; and insert "(11)".

On page 7, line 12, strike "(11)"; and insert "(12)".

On page 7, line 18, strike "(12)"; and insert "(13)".

On page 8, line 10, strike "(13)"; and insert "(14)".

On page 12, beginning on line 19, strike "Surface Transportation Program" and all that follows through the period on line 20 and insert "National Highway and Bridge Program or for the Urban and Rural Highway and Bridge Program as if the funds had been apportioned for the programs.".

Beginning on page 30, strike section 109 and insert the following new section:

SEC. 109. MAINTENANCE.

Section 116 of title 23, United States Code is amended to read as follows:

§116. Maintenance

"(a) DUTY TO MAINTAIN.—It shall be the duty of the State transportation or highway department to maintain, or cause to be maintained, any project on the National Highway and Bridge System constructed with the aid of Federal funds under this title or under the provisions of prior Acts. Each State shall use sums needed from its National Highway and Bridge Program apportionment to ensure adequate maintenance of the Interstate System. If the Secretary finds that a State is not adequately maintaining the Interstate System, the Secretary will require the State to program amounts from its National Highway and Bridge Program apportionments to bring the Interstate System up to adequate condition and keep it in that condition. The State's obligation to the United States to maintain a project shall cease when it no longer constitutes a part of the National Highway and Bridge system.

"(b) STATE AGREEMENTS WITH LOCAL OFFICIALS.—In any State where the State transportation or highway department is without legal authority to maintain a project within a municipality or within an Indian reservation, the transportation or highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the municipality or Indian tribe.

"(c) WITHHOLDING PROJECT APPROVAL.—If at any time the Secretary shall find that any project on the National Highway and Bridge System constructed under this title, or constructed under the provisions of prior highway Acts, is not being properly maintained, the Secretary shall call that fact to the attention of the State transportation or highway department. If, within 90 days after receipt of the notice, the project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which the project is located, whichever the Secretary deems most appropriate, until the project shall have been put in proper condition of maintenance.".

On page 34, line 21, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

Beginning on page 34, strike line 23 and all that follows through page 35, line 4.

On page 53, line 10, strike "section 133(c)(2)" and insert "the Urban and Rural Highway Bridge Program".

On page 57, strike lines 14 through 18.

On page 57, line 19, strike "(c)" and insert "(b)".

On page 58, line 3, strike "(d)" and insert "(c)".

On page 71, beginning on line 4, strike "Surface Transportation Program project" and insert "National Highway and Bridge Program project, Urban and Rural Highway Bridge program project,"

On page 74, beginning on line 1, strike "Except as provided" and all that follows through "Transportation Program" on line 3 and insert "Projects".

On page 79, line 10, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 84, beginning on line 17, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 96, strike lines 6 through 17.

On page 96, line 22, strike ""metropolitan area"".

On page 97, strike lines 22 and 23.

On page 103, beginning on line 20, strike "Surface Transportation Program" and insert "Urban and Rural Highway and Bridge Program".

On page 104, strike lines 14 and 15 and insert the following new subparagraph:

(A) Subsection (a) is amended by striking "section 117 of this title" and inserting in lieu thereof "for the Urban and Rural Highway and Bridge Program".

On page 105, strike lines 16 through 21 and insert the following new subparagraph:

(A) Subsection (a) is amended—

(1) by striking "located on a Federal-aid system" and inserting in lieu thereof "constructed under this chapter"; and

(2) by striking "in section 117 of this title" and inserting in lieu thereof "for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program".

On page 196, line 3, strike "SURFACE TRANSPORTATION PROGRAM" and insert "URBAN AND RURAL HIGHWAY BRIDGE PROGRAM".

On page 106, line 8, strike "section 104(b)(1)" and insert "the Urban and Rural Highway and Bridge Program".

On page 106, line 10, strike "AND PRIMARY" and insert "AND NATIONAL HIGHWAY AND BRIDGE PROGRAM".

On page 110, beginning on line 14, strike "Surface Transportation Program" and insert "National Highway and Bridge Program, Urban and Rural Highway and Bridge Program".

On page 112, beginning on line 19, strike "Federal-aid primary": and insert "National Highway and Bridge".

On page 111, line 7, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 111, strike lines 11 through 17 and insert the following new paragraph:

(22) Section 217 is amended by striking in each of the 2 places it appears "in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title" and inserting in lieu thereof in each place "for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program".

On page 112, lines 9 and 14, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 112, beginning on line 20, strike "surface Transportation Program" and insert "National Highway and Bridge Program".

On page 122, line 7, strike "or device," the first place it appears.

On page 124, line 2, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 126, line 3, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 126, lines 8 and 12, insert an ending quotation mark before the period.

On page 123, line 18, strike "set forth in section 120(a)" and insert "85 percent".

At the appropriate places in the bill, conform the analysis and the section numbers of title 23, United States Code, to the forgoing and following amendments.

At the appropriate place in the bill, insert the following new sections:

SEC. . ELIMINATION OF I-R4 PROGRAM.

(a) IN GENERAL.—Section 104(b)(5) of title 23, United States Code is amended by striking subparagraph (B).

(b) CROSS-REFERENCE.—Notwithstanding any other provision of law, any reference to subparagraph (B) section 104(b)(5) of title 23 of the United States Code shall have no force or effect.

(c) INTERSTATE SYSTEM RESURFACING.—Title 23 of the United States Code is amended by striking section 119.

(d) CROSS-REFERENCES.—Notwithstanding any other provision of law, any reference to section 119 of title 23, United States Code, shall have no force or effect.

SEC. . MINIMUM ALLOCATION.

(a) 90 PERCENT MINIMUM ALLOCATION.—Subsection (a)(3)(A) of section 157 of title 23, United States Code is amended to read as follows:

"(A) GENERAL RULE.—In each fiscal year, on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that the total of apportionments and minimum allocation for each State in each such fiscal year shall not be less than 90 per centum of the percentage of estimated tax payments into the Highway Account of the Highway Trust Fund, attributable to highways users in the State (in the latest year for which such data are available) of total apportionments in each such fiscal year and allocations for the prior year (except allocations for emergency relief, forest highways, Indian reservation roads, parkways and park roads, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982).".

(b) HOLD HARMLESS.—Subsection (f) is added to section 157 of title 23, United States Code to read as follows:

"(f) HOLD HARMLESS.—In each fiscal year the Secretary shall allocate among the States amounts sufficient to ensure that each State's total apportionment from the Highway Account of the Highway Trust Fund for the year is not less than that made during the 1991 fiscal year (excluding any interstate construction funds in excess of fiscal year 1992 one-half percent minimum, interstate substitution, and amounts for demonstration or discretionary funding programs or projects.".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 157 of title 23, United States Code is amended by striking "primary, secondary, interstate, urban, bridge replacement and rehabilitation, hazard eliminations, and rail-highway crossings" and inserting in lieu thereof, "Interstate, National Highway and Bridge Program and Urban and Rural Highway and Bridge Program".

(2) Subsection (d) of said section is amended by striking "section 154(f) or 158(a) of this title or any other provision" and inserting in lieu thereof "a".

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. ADAMS. Has the Senator completed his action?

Mr. DOMENICI. No, I have not. I have not started yet.

AMENDMENT NO. 314

(Purpose: To provide states with the authority to commit up to 1/4 of 1% of highway funds to support on-the-job training programs)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 314.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 1204, the Surface Transportation Efficiency Act of 1991, is amended by adding the following section in the appropriate place:

SEC. . HIGHWAY CONSTRUCTION TRAINING.

Subsection (b) of section 140 of title 23, United States Code is amended by adding at the end thereof: "Notwithstanding any other provision of law, not to exceed one-fourth of 1 per centum of funds apportioned to a State for the Surface Transportation Program or the Bridge Program, may be available to carry out this subsection upon a request by the State highway department.".

Mr. DOMENICI. Mr. President, this amendment reinstates, if it finally becomes law, a program that would permit any State—just permissive, not mandatory—to use up to one-quarter of 1 percent of the moneys that it gets under this bill and under any bridge construction bill for a minority skill training program. We had this in law heretofore. For a period of time it was removed because we had some problems. It has now been perfected, and the States that are using it—they are many in number—everyone assumes they are doing a good job.

They do not have to do this and they do not have to use one-quarter of 1 percent. But they may. And this is permitting a number of minority workers to get trained in the skills required in the various jobs that pertain to highway and bridge construction.

Mr. President, the amendment that I believe is noncontroversial and should not take a great deal of the Senate's time.

Under the Federal-aid Highway Act, there is a program called the Supportive Services, On-The-Job Training Program. The purpose of this program is to provide skill training to minority groups and women.

In New Mexico, this has been a particularly important program in training unskilled individuals.

Despite the successes of this program in my State, in fiscal year 1989, the program was zeroed out in the Appropriations bill, at the administration's request, because of some abuses that had been identified in two Inspector General reports.

However, these abuses were limited and occurred in only a few States. Consequently, despite the fact that this has been a highly successful program in many States, everyone was to suffer because of the abuses of a few.

Consequently, I offered and had accepted an amendment to the Transportation appropriations bill that provided, at a State's discretion, the ability to use up to one-fourth of 1 percent of a State's interstate, primary, secondary, urban, bridge, hazard elimination, and rail-highway crossings apportionments to carry out skill training.

The authority provided under that bill will expire at the end of this fiscal year.

Therefore, Mr. President, the amendment I am offering simply allows the program to continue in those States that are willing to commit a portion of their Federal-aid highway apportionments for skill training. The amendment is identical to the amendment approved 2 years ago on the appropriations bill, except that it has been updated to properly reference highway categories.

By turning the decision to the States on whether or not to use Federal highway funds for this program, ensures that the kinds of abuses cited in the IG reports will not occur again. This amendment allows those States where this program has been a success to continue this valuable service to unskilled individuals.

I urge the Senate to accept this amendment.

It is my understanding that the majority and the minority have no objection to this amendment.

Mr. BURDICK. That is correct. There is no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 314) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 315

Mr. DOMENICI. Mr. President, I am going to send an amendment to the desk shortly. I want to read the operative language because I believe it explains the amendment.

We are talking in this bill about intelligent vehicle highway systems technology. This amendment that I am going to send to the desk essentially would add the following language: The development of a technology base for intelligent vehicle highway systems and the establishment of the capability to perform demonstration experiments utilizing existing national laboratory capability where appropriate, and the facilitation of the transfer of transportation technology from the national laboratories to the private sector.

The PRESIDING OFFICER. Once again, the amendment by the Senator from West Virginia will be set aside.

AMENDMENT NO. 315

(Purpose: To add a provision to part C of the bill relating to the Intelligent Vehicle-Highway Systems Program to enable the Secretary to take advantage of the state of the art expertise at the national laboratories)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 315.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 151, line 10, strike out "and".

On page 151, line 15, strike out the period and insert in lieu thereof a semicolon.

On page 151, between lines 15 and 16, insert the following:

(7) the development of a technology base for Intelligent Vehicle-Highway Systems and the establishment of the capability to perform demonstration experiments, utilizing existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

INTELLIGENT VEHICLE-HIGHWAY SYSTEMS TECHNOLOGY

Mr. DOMENICI. Mr. President, I am very pleased to see that Intelligent Vehicle-Highway Systems [IVHS] technology is part of the integrated transportation strategy we are considering today in the Senate. By including two additional goals of the program, I am offering a simple amendment that I believe further enhances the capability and efficiency of the IVHS provisions of S. 1204.

The first goal encourages the Department of Transportation to utilize existing technologies that have already been developed at our Nation's laboratories. The second goal encourages the sound practice of transferring national laboratory expertise to the private sector.

I would like to take this opportunity to express my support for incorporating IVHS technologies into America's transportation infrastructure, and explain the intent of my amendment.

Since 1956, United States road travel has more than tripled. The miles driven continues to increase at 5 percent per year. In the period from 1970 to 1985, the vehicle population increased by 63 percent. All of this has occurred on an aging highway infrastructure that reaches to the far corners of the Nation.

Projections suggest that these increasing travel trends are likely to continue well into the next century and further congest our roads and highways. Yet, intelligent vehicle-highway systems, otherwise known as "smart highways," offers a solution to increasing the efficiency of our highway system, thereby reducing congestion, without expanding existing highway physical capacity.

My colleague, Senator CHAFEE, has stated, "We cannot build our way out of congestion problems by merely adding more lanes of highways. Before you know it, each new lane is as congested as the old." IVHS technologies will be a key component to relieving traffic congestion, preventing accidents, and conserving fuel and energy.

Today I am offering an amendment to ensure that tax dollars invested in this worthwhile program are spent in the most efficient manner possible, without any unnecessary research duplication.

My amendment simply encourages the Department of Transportation to utilize existing National Laboratory capabilities where appropriate, and to encourage the transfer of IVHS technologies from the Federal labs to the private sector.

As some of my colleagues may be aware, solid, proven IVHS technology has already been extensively developed by the Department of Energy [DOE]. In my role as a member of the Senate Energy and Natural Resources Committee, I am well aware of the resources that DOE has invested in smart highways technology, and I am offering this amendment to ensure that our past investment will earn dividends long into the future.

The transportation sector accounts for 60 percent of the petroleum consumption in the United States and is a major contributor to air pollution. Consequently, the DOE, in carrying out its mission in energy and environmental areas, has a strong interest in transportation issues.

Additionally, DOE has the responsibility for the safe and secure shipping of special cargo—nuclear materials and nuclear weapons—in the United States. As a result, the DOE national laboratories have developed over the past 15 years an extensive transportation technology base including advanced vehicle communications systems, traffic management software, route planning, geographic information systems, and design and testing of intelligent electronics systems.

The DOE has demonstrated competence in performing large-scale system simulations on high performance computers and in working with industry to conduct large development programs. The vertically integrated approach to technology development, as well as their experience in traffic management systems places the DOE national laboratories in a unique position.

These facts, coupled with the extensive combustion research facilities and the materials research and engineering capabilities at the national laboratories, form the basis for a strong multiagency program to improve transportation in the United States.

Our existing taxpayers' investment in the technology base at DOE labs should be utilized to the greatest degree possible to leverage any new funds expended to develop this smart highways program.

I hope my colleagues in the Senate will recognize the practical and economic benefits of both this amendment and smart highways technology.

Mr. President, essentially what we have done here is to say that as the United States of America engages in this new intelligent vehicular transportation on our highways that we should, where we can, avail ourselves of the exceptional talent already in our national laboratories.

If we had not put this in—we have had experience heretofore that they would get excluded. We think they might have a role. If they do, we already have them there and certainly we ought to use them. That is what the amendment does.

I understand the majority and the minority have no objection to the amendment.

Mr. BURDICK. Mr. President, we have no objection.

Mr. SYMMS. There is no objection on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 315) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 294

Mr. ADAMS. I understand this amendment has been cleared on both sides. I am joined in this by Senator GORTON, the junior Senator from the State of Washington.

This amendment would allow Washington State the ability to construct a vital link in its transportation system that was destroyed in floods that occurred there last fall.

The problems surrounding the sinking of Lacey V. Morrow Bridge on I-90 in Seattle is important to Washington State.

I appreciate very much the managers on both sides agreeing to this amendment. The bridge was very important, and it was a part of a final link in the Interstate System. Those sections of the bridge that sunk were to be dedicated primarily to HOV, bicycle and pedestrian use.

The State needs to replace the bridge immediately, but the Federal emergency relief funding to repair it is contingent on no contractor liability. The contractor liability issue in this situation probably will take years of litigation to settle.

In the meantime, the State needs Federal assistance to go forward to rebuild the HOV interstate bridge. The State will pay its local share under this amendment and agrees to reimburse the Federal Government to the degree of any contractor negligence.

Federal emergency repair funding is the most important use of Federal funds. No community can plan for the type of flooding that occurred in Washington last fall. It is this type of helping hand from the Federal Government that marks the strength in the confederation of all the States.

The amendment on the State ferry system is needed to assist the Washington Department of Transportation to operate and compete in the most efficient manner in its highway function. The amendment is needed to ensure adequate service to some Puget Sound communities that are totally dependent on the ferries for surface transportation to the mainland.

The Washington State ferry system carries more passengers annually than Amtrak and is an integral part of Washington's highway and mass transit systems. This amendment assures that Washington State can spend its Federal funds in the manner that it deems best.

I want to thank the committee for its work and consideration of these important amendments for Washington State.

Mr. GORTON. Mr. President, the senior Senator from Washington has accurately described the amendment. It is very important to us in connection with that disaster and the completion of Interstate 90. I know I speak for both of us when I thank the managers of the bill for their acceptance of the amendment.

I also would like to say that there is a companion amemdment to it which I will seek recognition to offer when this one is dispensed with.

The PRESIDING OFFICER. The Byrd amendment will be set aside temporarily.

AMENDMENT NO. 294, AS MODIFIED

(Purpose: To authorize advance emergency relief funds)

Mr. ADAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS], for himself and Mr. GORTON, proposes an amendment numbered 293, as modified.

Mr. ADAMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place add the following new section:

"SEC. . EMERGENCY RELIEF ADVANCES.

The Secretary shall advance emergency relief funds to the State of Washington for the replacement of a bridge on the Interstate System damaged by November, 1990 storms notwithstanding the provisions of section 125 of title 23, United States Code. The State of Washington shall repay such advances to the extent that a final court judgment declares that damage to such bridges was a result of human error."

Provided, That this provision shall be subject to the Federal share provisions of section 120, title 23, U.S.C.

Mr. BURDICK. We have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 294), as modified, was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to table is agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent that the Byrd amendment be temporarily laid aside in order to consider an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 316

(Purpose: To authorize funding flexibility for public ferry systems)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself and Mr. ADAMS, proposes an amendment numbered 316.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, line 3, replace the period with a comma and insert "except that, in the case of ferry systems that serve such routes and other routes in an integrated system, such ferry may operate throughout the entire service area of the ferry system."

Mr. GORTON. Mr. President, the original form of this amendment was amendment No. 292 which was cleared with both the majority and the minority. There was an objection to one section of it, a legitimate objection, I felt, on the part of the senior Senator from Oregon. In the short time we had available, we were not able to work out an acceptable accommodation to both sides. Therefore, in this revised amendment that portion of the original amendment which was in question is stricken.

This amendment has to do with fairness, Mr. President, and it is particularly important to transportation in the State of Washington. Our ferry system carried 21 million people last year—almost as much as Amtrak did nationwide. There is at the present time and there is under this bill a certain degree of mass transit assistance for ferries going between two places in the same State. In our system, however, some of the ferries serve both urban and nonurban routes. This simply allows the transfer and the more efficient management of the ferries so ferries which were used part time in nonurban routes can also be eligible for mass transit assistance when they are utilized on an urban route.

Mr. ADAMS. Mr. President, I agree with the statement of the junior Senator from Washington. This is an important amendment. It is part, again, of the total road system of the State of Washington. We urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. I support the amendment.

Mr. MOYNIHAN. There is no objection on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 316) was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. SYMMS. I ask unanimous consent that the Senator from Alabama [Mr. SHELBY] be added as a cosponsor of the earlier Symms amendment dealing with private property.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I further ask unanimous consent that Senator SYMMS and Senator CRAIG be added as cosponors to Senator DOMENICI'S amendment that just passed dealing with the national laboratories.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, once again, on behalf of indefatigable comanager here, I would like to say the bill is open to amendment. Senators who have amendments are urged to come to the floor. This bill is moving along rapidly now. We would not want to close out any opportunity. Yet we are under a Presidental injunction to have this matter out of the Senate Chamber by—I will not say Friday, because we have to finish this tomorrow, and we will, and we do not want Senators to lose an opportunity available to them.

Seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistanct legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, I seek recognition to speak on behalf of the bill.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, in his recent address, President Bush challenged Congress to a variety of domestic goals, including the enactment of a highway bill within 100 days. We have not quite met that, but I commend Senators MOYNIHAN, BURDICK, SYMMS, and CHAFEE for striving to meet this deadline with their innovative, imaginative, and forward-looking transportation proposal, S. 1204.

Mr. President, S. 1204 cleared the Environment and Public Works Committee by a vote of 15 to 1 on May 22. I am pleased to have played a small part in approving this legislation at the committee level.

The premise behind S. 1204 is quite simple: Now that our existing system of Interstate Highways is complete, the principal aims of highway assistance should be to promote energy efficiency, reduce congestion, and enhance the efficiency of surface transportation. I agree wholeheartedly with this forward-looking approach put forth by the Senator from New York.

In terms of our economy, demographics, technologies, institutions, and family lifestyles, the United States has changed profoundly over the last four decades. These changes have prompted changes in our infrastructure needs as well: Instead of a lack of roads or new highway lanes, we face today the new challenges of crushing traffic congestion, air quality mandates, land scarcity, and dilapidated highways.

The Senator from New York and his colleagues have looked very carefully at these problems and looked into the future. That is something we do not always get the opportunity to do or do not take the opportunity to do.

However, our current Federal surface transportation policies do not reflect these nationwide changes. Instead, they reflect political goals and decisions and institutional arrangements established decades ago—some dating back to the year 1916.

Now we have an opportunity to update our surface transportation policies. S. 1204 reflects the transportation realities of today and the future by giving States the flexibility to balance competing demands on limited transportation resources. I repeat and I think it is a very important aspect of this bill: It gives the States the flexibility that they need.

S. 1204 does away with our old, outdated system of primary and secondary roads and replaces it with a flexible, new surface transportation fund. Under the bill, States can use money in this new fund on any surface transportation projects, including highways, bus systems, and commuter railroads. I support this concept.

As a former member of the House Science, Space, and Technology Committee, I also favor the bill's emphasis on magnetic levitation and intelligent vehicle technology. Both are consistent with our environmental needs, good for economic competitiveness, and positive from an energy conservation standpoint.

As a staunch supporter of energy conservation, I am pleased that S. 1204 avoids basing State funding formulas on vehicle miles traveled. Transportation already accounts for 70 percent of all petroleum use—an amount that equals imports. To use vehicle miles traveled as the basis for highway apportionments would just encourage more driving, and therefore more oil consumption. S. 1204 takes a far more creative approach to funding formulas—one that is consistent with energy conservation and environmental goals and meets the needs of our highways throughout the Nation.

I also want to thank Senators MOYNIHAN and SYMMS for agreeing to incorporate language into S. 1204 that will exempt small cities in rural areas from the comprehensive MPO planning provisions in the bill. Senator SYMMS' amendment takes into account the limited resources of at least three cities in my State, and of many more areas of between 50,000 and 250,000 population. While I was away from the floor at the hour that the debate on this amendment occurred this afternoon, I want to be on record as supporting it. I proposed a very similar amendment during the committee markup of S. 1204.

At that time, the Senator from New York promised me that he would give this matter the utmost consideration, and the Senator from New York kept his word. I appreciate that very much.

I urge my colleagues to support this very innovative, environmentally responsible bill that meets the needs of our highway system.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if I can speak on behalf, and I am sure I can, of my comanager, Senator SYMMS, we would like to thank Senator SMITH for his thoughtful comments. I only object that he is much too modest about his own role in the development of this legislation, which is a bipartisan measure. It came out of our committee 15 to 1, and it was consistently improved and enhanced by Senator SMITH'S comments and suggestions. The bill is his as much as it is any other Member's, in particular the emphasis on science and technology.

We are dealing with a problem here which we call public sector disease. That is an area of the public sector where moneys come in and are expended with no test of cost effectiveness. As such, there is no urgent need to be competitive with some other system elsewhere. By definition, roads are a monopoly, where the aspects of productivity just do not force themselves into the minds of the managers.

As the Senator from New Hampshire knows, productivity in this field of transportation altogether has been growing, if growing is the term, at the rate of only 0.2 percent in the last 15 years. That is a medieval rate; it takes 350 years to double. Manufacturing of durable goods of the kind you see all over southern New Hampshire has been growing at a rate of 6 percent. I bet last evening with Mr. Allaire, the new CEO of the Xerox Corp., and he said, "Oh, yes, in Xerox we have to keep our productivity of 5 or 6 percent a year or we cannot keep up with the Japanese. And we do." But somehow we do not see this sector of the economy as having the same requirements.

If I can make one demonstrative point. We still collect tolls by hand from people sitting and standing in booths. As the Senator from New Hampshire knows—he mentioned the intelligence vehicle highway system—very simple electronics available to us now can record the fact that the car is using a bridge and have it posted to a bill sent out once a month. Very efficient. Such a system would reduce pollution and waste of fuel that comes when cars have to stop in a long row and wait. The whole notion that we should reward increases in consumption of fuel is just the opposite of what our purposes should be

We mean to pass this bill, and then we mean to follow its progress. We are very much interested in giving the different States, which have different ideas, opportunities to test, to innovate, to adapt, to learn from each other and from their mistakes. There are plenty of mistakes around, in transit no less than highways and rail.

I particularly note that the Senator from New Hampshire did ask that we revise the Metropolitan Planning Organization provisions to exclude small communities that really do not need them. If they do not need them, we do not want to force anybody to do anything that they do not need to do. Senator SYMMS did offer that amendment. It is exactly what the Senator from New Hampshire had proposed in committee. We said we would take it up on the floor. I am sure that Senator SYMMS would want Senator SMITH to be known as a cosponsor.

Mr. SYMMS. That is correct. I rise to my feet to make sure that Senator SMITH is included as a cosponsor on the Symms amendment on MPO's earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank our valued and learned colleague

Mr. SMITH. I thank the Senator from Idaho and the Senator from New York.

Mr. SYMMS. Mr. President, I would like to join the manager of the bill in thanking our new member of our committee, Senator SMITH, from New Hampshire. He has already become a very valued member of the committee, and we appreciate his input on the committee. He spoke very well in the committee with respect to this entire subject of metropolitan statistical areas and MPO's, and so forth, and we appreciate his input and contribution to the committee.

Mr. President, if no other Senators are going to seek the floor, I will just say again that this bill is winding down. We still have the one major issue to determine, that is the allocation formula that there has been some discussion about. If those Senators who have been engaged in this debate in the back rooms do not have anything to bring in and offer the Senate, I know of no other amendments that are here. So if there are Senators who have amendments, now is a good time to offer them because I believe, once we settle the bonus allocation question that Senator BYRD has offered, then this bill will move rather fast. We have several other amendments that I have on my list that Senators have yet to come forth to offer. Some of those are controversial and will require some debate and I believe record votes. So I hope Senators will bring them to the floor.

Mr. President, I ask unanimous consent that I might speak out of order as though in morning business for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESPONSIBILITY AND THE COLLEGE GRADUATE

Mr. SYMMS. Mr. President, I have the privilege of being on the board of directors of a small liberal arts college in Idaho, the College of Idaho, in Caldwell, ID, which has just recently celebrated its 100th anniversary. This college has an excellent record and reputation and has produced many Rhodes scholars and many students who have gone on to achieve higher education in other places.

At their recent commencement, when I was at home in Idaho during the break, we received an excellent commencement address from Mr. Spencer Eccles, who is the chairman of the First Security Corp., from Salt Lake City. I will ask unanimous consent that his speech to the college commencment and to the young students be printed in the RECORD. I note that he encouraged those young college students to participate in their responsibilities of citizenship and in the preservation of the market economy. I urge all my colleagues to read this speech. It is an excellent speech given to a fine young graduating class at a fine young private institution in my State. I ask unanimous consent that his speech be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSIBILITY AND THE COLLEGE GRADUATE

(Commencement address presented by Spencer F. Eccles)

Ladies and gentlemen—It is a great privilege to share this important occasion with you—the graduates—along with your families, friends and professors. I sincerely commend each of you for the long years of work that have culminated in the degrees you are receiving today from the College of Idaho. You, as graduates, and we, as members of the community, own a large debt of gratitude to the administration and professors who have provided you with this solid educational opportunity. I am confident that your training at this institution of higher learning will bear fruit for you, for your families and for your communities in the years ahead.

In 1959, I sat with the graduating class at Columbia Graduate School of Business in New York City, listening to the commencement speaker (I think it was C. Douglas Dillion, the Secretary of the Treasury) described the challenges which lay ahead for my generation. Now, after thirty-two years of conducting banking business with many people in all parts of the U.S., I feel, today, as though I have traveled full circle. While the outward appearance of your world in 1991 is vastly different from my world of 1959, there are timeless principles that are directly related to individual happiness and society's well-being. In the next few minutes, let me discuss with you three interrelated responsibilities that you and I, individually—and we as a society, collectively—must assume, particularly in light of the issues we will face during this decade of the '90s and in the years beyond. Those responsibilities are:

First: An appreciation for and the preservation of the Free Enterprise System; second, moral and ethical standards of human behavior; and third, a life-long commitment to education.

In 1776, the founders of our nation drafted documents providing for the political and individual freedom of each citizen. In that same Year—1776—a Scotsman, Adam Smith, the father of economics, published his book, The wealth of Nations, which was the first systematic description of the fundamental principles of a market-oriented or free enterprise economy. The founders of our nation adopted a system of government that declared men are free. But it was Adam Smith who enunciated a system of economic principles whereby free men can realize the fruits of their own toil, and in so doing, seem to be guided as if by an invisible hand to contribute to the overall well-being of society and their fellow men. In the words of Adam Smith, "It is not from benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but their regards to their own interests."

I strongly support the principles of a free enterprise, market-oriented economy. Not only is it the most efficient way to allocate our scarce resources among competing wants, but it is a critical factor in maintaining our individual and political freedoms. I believe that democratic capitalism in its entirety is very much dependent upon a free, growing and vibrant economic environment and an educated and well-informed citizenry.

Last September, I was with my family in Berlin and saw with my own eyes the remarkable events transpiring in eastern Europe that symbolically climaxed in the crumbling of the Berlin Wall. As the physical slabs of cement crashed to the ground, a politically and economically bankrupt system lay exposed to the world. Fifty years of heated philosophical discussions regarding the pros and cons of a cxentrally planned economy were now mute. Not only had the system failed to provide a bare minimun of desired goods and services, but it has virtually destroyed the infrastructure and disastrously polluted the water and the air.

Perhaps the greatest tragedy, however, was the demoralization of human spirit. Free enterprise begins with the individual and his ideas, his faith in the future, and his capacity for work. These creative qualities, which we call the "entrepreneurial spirit," were essentially obliterated under the communist dictatorship.

How can we summarize the essence of such monumental events into simple principles that can have meaning for our individuals lives? Let me suggest three ideas for your consideration:

I. There is no such thing as a "free lunch."—Not even the air we breathe is a free economic good. All production is a combined result of effort and capital. The full costs of that production are ultimately borne by society. If an inequitable economic system allows someone to reap what they have not sown, then you can be assured that others are sowing what they cannot reap.

II. Free-market incentives are far superior to government subsidies.—The highest motivation of a faceless bureaucracy ultimately is to perpetuate its own position and survival. In the end, the nature of subsidies and the attitudes of those who administer them are almost always counterproductive to enlarging the overall standard of living.

III. Innovation and productivity flourish when individual effort is directly related to income.—Incentives and bonuses tied directly to individual and corporate performance work wonders in building economic progress.

So, I say, let's be proud of our free enterprise system! Certainly, there are many areas where government has to take a part, but let's reverse the trend toward such big government and the philosophy of "Let the government do it because Uncle Sam has unlimited funds and, besides he can do it better." You know better than that, because in essence, faced with the disgrace of our unrelenting budget deficits, the government now has to borrow funds to carry out its programs.

The second area of responsibility is adhering to high moral and ethical standards of individual behavior. I am speaking specifically about integrity and honesty, the quest for excellence and the necessity of caring about and being involved with others.

At First Security Corporation, we have over 5,000 employees. Frequently, I am asked which individual characteristics correlate most closely with achievement and success. You may be surprised that, inevitably at the top of the list, are honesty and integrity. All too often we hear the old cliché, "business is business," expressed as justification for deceptive, dishonest or underhanded business practice. You should clearly understand that such practices are not my kind of business, and I would urge you to make certain that they never become your kind of business.

The newspapers are filled with seemingly endless examples of scandals in business, religion, government and politics. Insider-trading on Wall Street; extravagant, immoral lifestyles wrapped in the cloak of religion; misappropriations of public funds; and influence peddling at the highest levels of government—these all come to mind. Critics suggest that TV's J.R. Ewing of "Dallas" lives as the great American symbol for "business as usual." Despite these numerous seedy or sordid examples, may I reassure you that honesty and integrity have not gone out of style. Employees in the banking industry must adhere to an extremely high standard of personal conduct, and although breaches do occur far too often, any instance of dishonesty, or even attempts to manipulate the truth are the basis for great concern and may be grounds for dismissal.

May I stress—and please carefully note—I don't think there is any conflict between the virtues of a free enterprise market and individual integrity and ethical conduct. It's interesting to note that before Adam Smith wrote The Wealth of Nations, he was a professor of ethics at the University of Glasgow and wrote The Theory of Moral Sentiments, a book describing appropriate moral and ethical standards of human conduct. A belief in free markets in no way absolves an individual from adherence to the highest standards of honesty and integrity.

But what about those people in our society who will inevitably fall between the cracks of a free enterprise system? I strongly believe that individuals and business working in conjunction with appropriate government programs can make a huge difference by voluntarily sharing the bounteous fruits generated by free markets. Vladimir Pozner, a prominent Russian journalist whom you may have seen on American TV, spent his boyhood years in New York City and then returned to America in 1986 after the absence of 38 years. In his book, Parting with Illusions, he describes his initial New York observations and his experience with the forgotten Americans:

"The cops patrolling Washington Square on the lookout for dope peddlers. Kids lining up in the doorways of crack houses in the Village. . . . [People] sleeping on benches and sidewalks in Tompkins Square. Bitterness in the faces of a forgotten America, an America written off by corporate capitalism's ethic.

"Sitting in the lounge and waiting for the early morning express that would whisk me from New York to D.C., I watched as one man, obviously under the influence of wine or drugs, giggled and laughed madly. . . . Finally, . . . he took off his coat, rolled it up, pillowlike, and laid his head on it . . . [and] was instantly alseep . . . [As he] lay there on the bench, . . . another man approached, . . . dressed in what clearly was secondhand clothes. Tall and lanky, he too was drunk or drugged. . . . He sat down next to . . . [the sleeping man] and gave him a tentative shove with one finger. Getting no reaction, he pushed a little harder. Again, nothing. He then gave the coat a tug. And another one. . . . [As the sleeping] man's head slipped down onto the bench . . . [the second individual] picked up the coat, rolled it up even tighter, stuck it under his arm, and, with a sly grin on his face, sidled out of the lounge. The beggar stealing from the poor man.

"There must have been at least fifty people who saw that scene. They watched it out of the corners of their eyes, holding their magazines, morning papers, pocket books in front of their faces. They never said a word. It didn't concern them. Those two men came from a different and dangerous world, a world that, somehow, was not quite America as far as they were concerned."

Well, incidents like this, which are all too familiar to each of us, are not an inherent sickness of the free enterprise system. The usual prescription of this perceived "sickness" is an ever-expanding, tangled web of governmental social welfare programs. The ultimate results of this approach, however, lie with tombstones in Eastern Europe and the USSR. Only you, only I, only we as individuals can solve this problem. If we live with integrity, if families don't fail, if neighborhoods and communities provide a sense of stability, the forgotten Americans will be rediscovered. I believe each of us must develop a social conscience and actively participate with volunteer and church groups and government to improve the quality of life for all people.

The third responsibility before us is a lifelong commitment to education. It is ironic that while the purpose of today's convocation is to celebrate extraordinary educational achievement, the public education system in America is broken and should be rapidly overhauled. In the high-tech world of international competition, the simple truth is, "If Johnny can't read, the U.S. can't compete."

As James Hayes (publisher of Fortune magazine) noted in a speech last month to a Junior Achievement group in Salt Lake City:

"It is not just the 700,000 kids who drop out of high school every year. It is not only the additional 700,000 students who graduate from high school each year so ill-prepared they cannot read the words on their diplomas. Nor is it just the huge number of supposedly educated young people who, after twelve years of school, can't read at a ninth-grade level or who lack the mathematical skills considered the minimum for a seventh grader."

No, it is more than that!

Tens of thousands of American children show up on our college campuses not knowing what the Magna Carta is, what the Reformation was, who wrote the Emancipation Proclamation, or what Brown vs. Board of Education was about.

Former Secretary of Education Terrel Bell, who comes from Utah, said, "The economic well-being of a person, a business or a nation cannot be separated from their educational skills. It's basic economics." While he was Secretary of Education, President Reagan asked him to appoint a blue-ribbon commission to study the U.S. public education system's strengths and weaknesses. The results, entitled A Nation at Risk—The Imperative for Educational Reform In America, sold twelve million copies and clearly analyzed our education problem. Yet, we seem to have made scant progress since the initial excitement of this fine study.

The economic benefits of maximizing the potential of the human brain has been vividly displayed by the Japanese over the past twenty years. Inhabitants of these rocky little islands turned their lack of nonhuman economic resources into an asset by capitalizing on their human resources, and in the process became the world's low-cost, high-quality producer. Perhaps more than any other common denominator, the Japanese economic success rests upon the value they place on education. Education is an investment for and in their children and is viewed as the key to a better life. The Japanese economic miracle fundamentally builds on the principle that investment in education for an individual, a municipality or a nation always pays the highest dividends.

In the recent, controversial book, The Japan That Can Say No, Shintaro Ishihara points out the nearly complete dependence of the U.S. military and nuclear arsenal upon Japanese technology and manufacturing.

"The one-megabyte chip used in computer memory banks has a million circuits on a silicon base one-third the size of the nail on my litter finger. This vital component is made only in Japan. Japanese manufacturers almost completely control the market. The United States has the knowledge but lacks the engineers and technicians to produce these chips. Without an integrated development and manufacturing system, this precious knowledge is wasted."

Micron Technology (headquartered in Boise, Idaho) is however, a good example, where commitment to education and training is altering the Japanese dominance in the semiconductor industry and can make a difference.

Fundamentally, I believe the problem in U.S. education is twofold: One element involves attitudes; the other concerns the system itself.

First, scientific and mathematical skills languish among American students because they require tedious labor that conflicts with our fun-loving, permissive and "get-rich-quick" culture. As expressed by columnist Alston Chase:

"These disciplines are exacting and demand hard work—a notion quite foreign to the view many parents and educators share that learning should be 'fun.' Neither innovation nor money will solve education's basic problems as long as heavy intellectual labor is treated as though it were a symptom of a compulsive psychological disorder."

There has to be a reason why, as The Wall Street Journal reported yesterday,"More than half of U.S. public school high school students still don't take chemistry or advanced algebra before graduation."

Our challenge for future generations is to create a family atmosphere and a support system that place the highest priority on learning and educational excellence. Teachers must both earn and receive the highest positions of respect and honor in our society.

Second, the public education system must be reformed. Schools today are essentially the only institution in our society I can think of that are basically the same as they were a hundred years ago. Public education lacks those vital, market-oriented incentives—such as choice, accountability, decentralization, and performance-based compensation—that are necessary to produce educational excellence.

For example, in President Bush's "America 2000" recently announced education proposal, he calls for parental choice in determining which schools their children will attend. In a scholarly article entitled, "Choice Is a Panacea," John E. Chubb (the Brookings Institution) and Professor Terry M. Moe (Stanford University) provide an in-depth analysis of the critcal necessity for these "market-based control mechanisms" in reforming and improving our educational system.

They point out that nothing in the concept of democracy requires schools be subject to direct control by school boards, superintendents, central offices, departments of education, and other arms of government. They say the state should not be the authority holding schools accountable for student achievement and the quality of school performance. Schools should be held accountable for performance from below—by parents and students who directly experience their services and are free to choose which school they will attend.

It appears well-reasoned that these market-based mechanisms—which include public national assessments, teacher and student accountablilty, choice, parental responsibility, local control, and support for preschool children—are keys to a rejuvenated, resurgent American educational system. But we must go beyond only tinkering to fundamental, far-reaching reforms; otherwise, the leading industries, jobs, products and technologies of tomorrow—the engines of America's future—fall into the hands of those faster, better-educated and tougher-minded. John F. Akers, chairman of IBM Corporation, solidifies the challenge:

"Our democratic structure and economic prosperity depends on a well-educated citizenry. Let's agree on what must be done and work with America's students and their parents, teachers and principals so that each school can, once again, become what it was always meant to be—a building that has four walls with tomorrow inside."

In conclusion, then, let me urge you to contemplate and fulfill the three responsibilites I have discussed. Based upon experiences in my business career, what I have learned as a husband and father, and my deepest personal commitments, I recommend the following course of action to you.

First. Support, sustain and appreciate America's market-oriented free enterprise system. Remember, your vote really does count! Second, live your life and conduct your business with honesty and integrity and with an eye toward a real a social conscience; and third, individually, as parents and as citizens, strive for educational excellence.

Thank you very much for the honor of sharing this special day with all of you graduates, and best of luck in building on your college education for a happy and successful future.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 317

(Purpose: To require erosion control guidelines)

Mr. MOYNIHAN. Mr. President, on behalf of Senator RIEGLE I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection the pending Byrd amendments will be laid aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. RIEGLE, proposes an amendment numbered 317.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new section in the appropriate place:

SEC. . EROSION CONTROL GUIDELINES.

(a) The Secretary of Transportation shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part by this Act.

(b) Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) Guidelines developed under subsection (a) shall be consistent with the programs of section 319 of the Clear Water Act and section 6217(a) of the Omnibus Budget Reconciliation Act of 1990.

Mr. MOYNIHAN. Mr. President, this is a simple amendment that would have the Secretary of Transportation develop erosion guidelines for new construction such as might take place in the years ahead in the highway system, and there will be new construction.

And there will be new construction. If there is an engineering need for this, it ought to be met. This is not mandatory. This has to do with enriching our manual of road construction, basically. We have no objection to it.

Mr. SYMMS. Mr. President, I will not object to the amendment. I only want to make a brief comment to say that I think what is in the amendment of the distinguished Senator from Michigan I hope is being done, and I do not think it will be inconsistent with or cause much grief for the highway engineers to do this.

But I call to my colleagues' attention section 121 of the bill wherein this bill, which we made such a major effort to return responsibilities to the States, both the money and how to spend it and program designs and efficiencies where States may be able to design construction standards adopted by the States for projects on principal arterials, et cetera, up to standards, this is an amendment I would like to look at a little more. I say for now, accept it. I want to put that one caveat in.

It strikes this Senator that it is slightly inconsistent with the general theme of the bill, although I think it may be that the Senator from Michigan has a good thought, a good plan, and something we should look at. It does not mandate. It does not require. It is to set some guidelines.

Having said that, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 317) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, once again seeing no Senator seeking recognition, I repeat the desires of the bill managers that anyone who has amendments bring them to the floor because they might look up and find this legislation is out the door. They have been warned. The record will so show.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, we do not want the evening to come to a close without one last request on the part of the managers. If there are amendments Senators would wish to offer, we are here waiting for them. We are beginning to think perhaps there are none, or none we know of. That may be good news.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. With due respect to my great friend, the distinguished senior Senator from New York State, I know the managers understand, as does the majority leader, that this Senator does have an amendment.

This Senator is agreeing with the managers and the majority leader to accommodate the time of the Senate by limiting debate. This Senator would accept half an hour equally divided, or we will talk as long as we want to, or whatever accommodates my colleagues.

This Senator has a very straightforward amendment. I would like to accommodate my colleagues at whatever convenient moment that accommodates them by offering that amendment.

Mr. MOYNIHAN., Mr. President, I only say, which need not be said, that the Senator from Illinois is exactly right. What I said is maybe there are very few amendments left we do not know of.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I rise in opposition to the amendment of the Senator from Nevada. This issue, billboards, has had a long and complicated history. This section of the Surface Transportation Efficiency Act of 1991 basically does two things: First, it allows States to decide, if they want to remove nonconforming billboards. Second, it allows States to decide how they want to compensate billboard owners when removing nonconforming billboards.

Current law dictates that States must remove nonconforming billboards. Obviously, that hasn't been very successful. A trip down any interstate in America will tell you that. There are still a large number of nonconforming billboards standing.

But, Mr. President, nonconforming does not mean illegal. Therefore, the Federal Government should not dictate they come down. The Federal Government should not require the States to pay more in the way of "just compensation" than the fifth amendment requires. Yet the cash compensation requirement in existing law does just that.

Mr. President, it is the State's zoning that makes a billboard nonconforming, not Federal law. Under this bill, it is the State that will decide if it wants a nonconforming billboard to be removed. The State laws should and will determine how the billboard owner will be compensated. That brings me to the second major aspect included in the highway bill.

S. 1204 merely eliminates the withholding of highway funds from States that choose to remove billboards with amortization. In addition, this bill provides adequate funding for States to provide cash compensation, if they so choose. It is my understanding that several States' constitutions approve of amortization and use it to eliminate other types of nonconforming land uses. Some of the uses include junkyards, trailer parks, grocery stores, dog kennels, auto storage, and trash balers. The amortization periods in these cases ranged from 1 to 7 years. Also, several States are opposed to the concept of amortization and their respective State constitutions articulate that opposition. Opponents to this bill argue that amortization is unconstitutional under the U.S. Constitution. But, the legislative branch of Government is not here to decide the constitutionality of anything. If a constitutional right is being violated by State law, the aggrieved party has a remedy in the courts.

While Congress should probably not waste its time and effort passing laws that are clearly unconstitutional, private citizens do not need a Federal statute to protect a constitutional right. They can protect their own rights through the legal system, because the courts will not allow the States to take a person's property in violation of the fifth amendment.

Mr. President, we should defeat the pending amendment and allow the process proposed by the committee to go forward.

Mr. FORD. Mr. President, I rise in strong opposition to S. 1204, the Surface Transportation Efficiency Act. As presented to the Senate by the Committee on Environment and Public Works, I find it has serious deficiencies which, if not corrected, will impede the efforts of the Commonwealth of Kentucky to meet the transportation needs of its citizens.

According to the Road Information Program, commonly referred to as "TRIP," Kentucky has the 14th largest highway program in the Nation. Yet, of the nearly $1 billion in funds spent in 1990 by the Commonwealth, only 18 percent of those revenues came from the Federal Government's highway trust fund.

So Mr. President, my colleagues can see that the citizens in Kentucky are shouldering almost all of the cost of improving their highways. They are also sending to Washington more gasoline tax money than they get back from the Federal trust fund. We certainly understand that, to build a National Interstate Highway System, some States would have to contribute more than others. But, the interstate is now complete according to the policy statement contained in S. 1204.

We, in Kentucky, had an expectation that the 1991 highway bill would recognize that States like Kentucky should get a fair share of the trust fund revenues. Instead we find that the committee bill not only doesn't do that, it takes even more Federal money away from us. That's right. Instead of at least giving back what we send to Washington, we find the legislation will reduce our apportionment by 10 percent—and that is 10 percent every year for at least the next 5 years or $155.5 million.

I am beginning to believe that Kentucky would be better off if the Federal Government repealed the Federal motor fuels tax and just let the State fund the whole program.

Mr. President, I have studied the allocations contained in S. 1204 and have determined that the principal sponsors of the legislation have done a very able job in representing their own States' interests. Since none of those States are donors, they will be receiving more from Washington than they are sending. That might be supportable if fairness were embodied in the legislation but it is not. In this Senator's judgment, the bill is not even-handed and therefore must be revised.

We have great transportation needs in Kentucky. The Commonwealth wants to participate in the construction of a new interstate which will run from Washington, DC to California. This road, Interstate 66, would traverse Kentucky from East to West. We also would like to finish the Appalachian Corridors Program. Eastern Kentucky has waited 26 years for these vital transportation links to be constructed and they may still be waiting another 26 years from today unless this legislation is changed to include a National Highway System.

My friend from New York might tell me that we can in fact build these roads with the puny funds the legislation would give Kentucky. And maybe that is so. But his bill only provides for a 75 percent Federal share for the construction of these projects while allowing 80 percent funding for the big city projects. Thus, not only are we receiving less Federal money, we are told that projects for rural America are not as deserving as the big city transit or carpool projects.

That is especially difficult for the Commonwealth of Kentucky to accept. We have prefinanced almost $70 million in construction for the Appalachian Corridors Program. At the same time, we see the Federal Government is providing other States with Federal money for their corridors. And this is money which is in addition to other highway trust funds. Look at the record of just the past 5 years. Alabama: $69.8 million; Mississippi: $51 million; New York: $43.4 million; Pennsylvania: $88.9 million; West Virginia: $206 million. What did Kentucky receive? $12 million. The Commonwealth provided nearly six times what the Federal Government has given while our neighbors are raking in Uncle Sam's largesse and not doing any significant prefinancing.

Now along comes S. 1204 and the ARC roads are not put on any National Highway System so the dream of safe roads in the mountains will stay only a dream for my constituents.

The committee bill proposes to invest $5 billion of highway trust fund money for clear air improvements in so-called nonattainment areas. The bill allocates funds based upon population and the severity of the pollution. In other words, the more people you have and the worse the pollution, the more Federal money you will get. A review of urban areas that will get this money shows that they are the very largest cities in America. Although some smaller cities, including two in Kentucky, will get a little money from this program, it is the big areas which will receive the funds. While I am sure these areas need the money, what troubles me is that the legislation is simply earmarking funds for the big cities to use for nonhighway projects. In fact, the legislation does not even specify what the money will be used for; that decision is being left to the Federal EPA to decide. Who knows what they will come up with?

Up to now I have commented on deficiencies in the legislation. As with any initiative, there are certainly positive as well as negative provisions. Among the good ideas are the completion of the interstate, funding for a bridge program, an intelligent vehicle program and the deletion from the administration's bill of that wrongheaded idea to allow big corporations to have access to develop interstate rest stops.

S. 1204 does provide for a continuation of the university transportation centers. We are blessed with two good programs in Kentucky at the University of Louisville and the University of Kentucky. The immediate past president of the Council of University Transportation Centers is Calvin G. Grayson of the University of Kentucky. He informs me that, as a nation, we devote less than two-tenths of 1 percent of our transportation expenditures to research. The private sector, in contrast, expends as much as 4 percent on research and, in the so-called high technology field, research constitutes as much as 8 percent of total expenditures. The council recommends increasing research modestly to 2 percent of the transportation budget. I urge the bill managers to look seriously at this proposal.

Mr. President, I know the senior Senator from New York and his colleagues on the Environment Committee are sincere in their belief that this legislation is the right course for America to follow to the 21st century. This Senator, unfortunately, does not share their view for the future. Our needs in Kentucky are staggering and they are so very different from those of the big cities like New York or those in New Jersey. Yet, the problems of these urban areas are driving the policy decisions of this legislation. Those priorities just don't make any sense in Kentucky. I would respectfully suggest to my friends who support S. 1204 that it looks like you left the highway out of the highway bill.

On Tuesday, June 5, the senior Senator from California introduced S. 1194, the Federal Mass Transportation Act of 1991. This legislation is the second part of a comprehensive Surface Transportation Assistance Act. The House of Representatives has conveyed jurisdiction over both programs to one committee. But here, two separate bills are necessary because the jurisdiction over highways is in the Environment and Public Works Committee, while transit programs are the responsibility of the Banking Committee.

One of the reasons I believe we are having so much difficulty with S. 1204 is that it attempts to do too much. The legislation not only tries to continue some of the Highway Program, albeit in a new form, but also tries to address serious issues more appropriate, in this Senator's view, for Senator CRANSTON's mass transit legislation.

Let's look at just one example. Under the Urban Mass Transit Act, the Federal Government provides operating assistance to mass transit systems. President Bush has proposed to eliminate this assistance in his amendments to the UMTA statute. The senior Senator from New York is rightly concerned about the impact of this proposal on his cities and transit workers. To resolve this dilemma, the committee bill will now allow highway trust fund money to pay for operating assistance. And the fund will come, not from the mass transit account of the trust fund, but from the highway account.

The leadership on both sides of the Banking Committee have introduced legislation to reauthorize the Mass Transit Program. Included in their proposals is the continuation of Federal funding for operating assistance for transit systems. I would submit, Mr. President, that this is the way to legislate. Keep transit problems in the transit legislation and don't undertake legislative robbery of the highway fund.

Mr. President, the senior Senator from Virginia, a member of the Environment Committee, has introduced an alternative to S. 1204. Senator WARNER's legislation, S. 1124, is a significant improvement over the committee product and should be adopted in lieu of S. 1204.

I expect the Senate will have an extensive and extended debate about the merits of these competing initiatives. This Senator supports the Warner alternative. I regret that I must oppose the committee product but it is too radical for Kentucky and would severely jeopardize the economy of the Commonwealth, our ability to improve our highway system, and the safety of the traveling public. We have taxation with representation in Kentucky and S. 1204 does not represent what we think our gas tax money should be allocated or spent for. Therefore, unless changes are made, I would urge the Senate to reject S. 1204.

Mr. MCCONNELL. Mr. President, today I rise to support reauthorization of the Surface Transportation Act. While I am in support of authorizing a new multiyear highway bill, I am deeply concerned that the Senate is attempting to pass legislation that is inherently unfair to a number of States. For this reason, I have cosponsored Senator WARNER's FAST bill, S. 1121, and commend him for his efforts to see that donor States receive a fair shake in this highway bill.

As one of 13 Republican Senators in 1987 who voted to override President Reagan's veto of the last highway bill, I am well aware of the importance this legislation holds for my State. However, at this time, I am reluctant to support a bill that does not give Kentucky a fair allocation of Federal highway dollars.

Due to Kentucky's status as a donor State, it has lost over $218 million during a 5-year period in which it contributed more money to the trust fund than it received. Senator WARNER's FAST bill, S. 1121, will provide a more equitable distribution of money to donor States similar to Kentucky. Under this proposal, it is estimated that Kentucky, over the life of S. 1121, will receive an average of 96 cents back on each dollar contributed to the highway trust fund.

Mr. President, while I have serious reservations about Senator MOYNIHAN's committee bill, it is imperative that Congress complete its work on a multiyear highway bill before the end of the fiscal year. This year's legislation represents the first major reauthorization of transportation programs since 1956 and will establish overall policy for the next 20 years. With the need to upgrade and maintain our country's aging roads and bridges, as well as the need to establish a transportation policy into the next decade, a new highway bill puts us at an important crossroads in our transportation future.

As we consider this highway bill, there are several issues which need to be addressed. First of all, we must recognize that our aging and congested transportation infrastructure is negatively impacting the economic well being of the Nation. The U.S. Department of Transportation estimates that if our highways are allowed to deteriorate, by 1995 the U.S. economy could potentially miss out on increases of 3.2 percent in GNP, 5.9 percent in disposable income, 2.2 percent in employment and 2.7 percent in manufacturing productivity. As we strive as a country to be more competitive in today's global economy, the Nation cannot afford to let our transportation infrastructure deteriorate to such a level which places us at a distinct disadvantage with our foreign competitors.

Second, we need to be prepared to adequately invest in transportation research. While steps need to be taken to ensure that our road and bridge system is maintained and expanded to meet user demand, it is crucial that money be provided to research alternate forms of transportation. It is time to research and develop projects that will enhance transportation in both rural and urban areas. In addition, all efforts to further safety programs must be pursued as we continue to make further advances in highway design, safety equipment, and signage.

Finally, it is time that States are given the proper flexibility to meet their own individual transportation needs without being subject to rigid program fund distribution formulas. I have always believed States are in a better position to make decisions concerning their funding priorities for roads, bridges, and mass transit. Greater flexibility in the use of transportation funds will permit investment in the most cost effective solutions to a State's mobility needs.

In conclusion, it is my hope that the Senate can eventually craft a fair highway bill which provides equitable apportionments to both donee and donor States. We have the opportunity to shape transportation policy for the next several years. It is imperative the Senate agree to a highway bill which reflects both future and present transportation needs without sacrificing the present to pay for the future.

I urge my colleagues to pass a bill which accurately reflects the transportation needs of the entire country.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, I have discussed the status of the pending legislation with the distinguished Republican leader, with the managers of the bill, the distinguished Senators from New York and Idaho.

I was present during the statement of the Senator from Illinois expressing his interest in proceeding with his amendment.

Mr. President, I am advised there are approximately a dozen or so amendments with respect to which Senators have expressed an intention to offer them to the bill. It is anticipated by managers and the staff that not all of those will require rollcall votes, and some may not be offered.

We find ourselves in a familiar situation in that we have legislation pending; a number of Senators expressing an intention to offer an amendment and, with the notable and laudable exception of the Senator from Illinois, not being present to offer their amendments and being unwilling at this time to proceed to offer their amendments.

Accordingly, following the consultation which I earlier described, I have concluded the best way to proceed with respect to this bill will be not to have any further rollcall votes this evening for the simple reason we cannot get Senators to offer amendments that would require rollcall votes with the exception of the one amendment to which I referred.

We will seek consent at 10 o'clock tomorrow morning that the Senator from Illinois be recognized to offer his amendment and that the Senate be in a position to proceed to that at 10 in the morning or indeed, in the alternative, to lay the amendment down this evening and be ready to go to it at 10; then to proceed to attempt to dispose of the bill during the day tomorrow.

If we are unable to do so, we will remain in session tomorrow evening for as long as it takes, even if that means late in the evening. So that Senators may be prepared to adjust their schedules, by coincidence, as I was advised last evening by the Senator from Idaho, there is a large Republican function tomorrow evening, with the President scheduled to appear.

It has been our practice and custom over many years to accommodate both parties for such functions which, of course, are scheduled many months in advance at a time when no one can know for sure what the floor situation will be.

I have advised the Republican leader that it is my intention to create a window of 2 hours tomorrow evening, at a time of his choosing, to accommodate that dinner; but then to return following that and to remain in session for as long as it takes. We simply cannot continue to have just a few hours on the bills and stretch out their consideration by the Senate over an indefinite period.

I have attempted diligently to accommodate the schedules and interests of all Senators, recognizing, as I do, how heavy the demands are upon Senators and how burdensome their schedules are. But ultimately, of course, as we all recognize, when those efforts and accommodations conflict with our public responsibility, they must yield.

I have also advised the distinguished Republican leader, and will repeat, that as soon as we complete disposition of this bill, it is my intention to proceed to the comprehensive crime legislation, which I hope will be this week, and that we can start on that important subject.

So, Mr. President, I want to say to my colleagues who have expressed an intention to offer an amendment but have been unwilling to come here to offer it this evening, they are only ensuring the inconvenience of their colleagues to a much greater extent tomorrow, possibly late tomorrow evening.

For all of those offices where the Senator is not present and listening, I ask that his or her staff advise them of this statement so we will not tomorrow morning be deluged with requests to accommodate Senators' schedules tomorrow night. With the exception of the 2 hours to accommodate the Republican dinner, as I earlier stated, there will be no accommodations. No matter how long it takes, we are just going to stay and try to get this job done. That is our public responsibility, and we must meet that responsibility.

I am pleased to yield to the Republican leader.

Mr. DOLE. Mr. President, I do not disagree with the majority leader. It seems to me if there is nobody here to offer amendments—I guess the Senator from Illinois is prepared to offer an amendment, but we cannot proceed any further, unless somebody on this side is prepared to offer an amendment.

I guess the manager on this side would indicate that nobody on this side is prepared to offer an amendment. I would like to complete action before 7 p.m. tomorrow evening. I hope it is a large Republican function, as the majority leader indicated. In any event, I do not know of any other course to follow.

Perhaps, by morning, we can even narrow down further the list of amendments and get some agreement in the morning that these amendments and other amendments will be in order. That might be helpful. Once that were done, we could probably get time agreements.

The Senator from Iowa is prepared to give us a time agreement, I think.

Mr. DIXON. Mr. President, may I say to my friend——

Mr. MITCHELL. Mr. President, do I have the floor?

The PRESIDING OFFICER. Yes.

Mr. DIXON. If the Senator will yield, I thank the Republican leader for his accommodation. I would like to set the trend for tomorrow. I hope, after the number of years I have served here, my reputation is well known for accommodating my colleagues at every opportunity. I would like to accommodate my colleagues again on this question.

This is not an argument between my friend, the Senator from Iowa, and this Senator. It is an argument between our two States about a matter of numbering a highway, regarding which I want the Secretary of Transportation and a committee he determines to settle an argument between two States.

I can do this argument in 20 minutes tomorrow, evenly divided, or 30 minutes evenly divided, or whatever accommodates the Senate. The amendment is so simple. If I read it, I would be willing to let everybody vote. It is on one page, may I say.

I do not want to take up the time of the Senate. It is a matter that two States cannot resolve. The Department of Transportation has talked about it for months, and it ended up in my hands. It is like a lot of things that happen in your public life. Maybe you did not ask for it, but you ended up getting it. I would like to resolve it in as short a time as possible.

Mr. MITCHELL. Mr. President, I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, while the two leaders are on the floor, if I could say, I think the essential fact is that there is, at most, one substantive amendment left; not that the issue is not important as between Iowa and Illinois, but it is not part of a national transportation policy.

There is one substantive amendment left, and whether it will be offered, and what will happen to it, depends entirely on reaching agreements on distribution of funds, which we are trying to do on the floor. Once that is done, you have a bill. I mean, 12 minutes, and that is all.

Mr. MITCHELL. Mr. President, I appreciate the Senator's optimistic assessment, and we hope, of course, that it does prove to be correct.

Mr. MOYNIHAN. This could be a long one.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

TRIBUTE TO MAYOR PATRICIA KURAN

Mr. LAUTENBERG. Mr. President, I rise today to join the citizens of Fanwood, NJ, in paying tribute to Mayor Patricia Kuran, a distinguished public servant. On June 23, she will be honored for her many years of service to her community and to the State of New Jersey.

Mayor Kuran was born in Union Township and moved to Fanwood in 1959. In 1978, Mayor Kuran was elected to the borough council, beginning her career in public service. In 1983 she became the first woman, and the first member of the Democratic Party, to be elected mayor of her borough.

During her 8 years as mayor, Kuran distinguished herself by encouraging environmental responsibility through such initiatives as Fanwood's community wide cleanup and establishing the town's recycling center. Mayor Kuran also resolved most of the borough's severe flooding problems by acquiring three acres in 1984 which became part of the Fanwood Nature Center.

Earlier this year, the mayor announced that a back injury will prevent her from seeking a third term as mayor. A tireless servant to the borough of Fanwood, Patricia Kuran will be missed. I am honored to join with the people of Fanwood in extending my heartiest congratulations as she is honored and extend to her my warmest wishes for good health and happiness in the future.

A TRIBUTE TO LEE ATWATER

Mr. THURMOND. Mr. President, I rise today to pay tribute to a beloved son of South Carolina and a great American, my good friend Lee Atwater, who passed away on March 29, 1991. Lee's passing leaves an unfillable void in the political landscape of this Nation and in the hearts of his many friends and colleagues.

Lee Atwater was one of the finest men I have ever known. He was a man of great courage and character whose talent and intelligence were rivaled only by his boundless energy. He was one of the most unique and able individuals I have encountered in politics, and he left an impressive legacy.

Lee was gifted with keen intelligence and an outstanding grasp of political nuance. However, even more importantly, he put those gifts to work with an energy and persistence which few could match. He was a one-man army, fighting on the side of his candidate and his party, and his exuberant style and wit became the stuff of legend.

Lee believed passionately in the American way and was devoted to electing candidates who would cherish the ideals upon which this Nation was founded. He was an unapologetic conservative with the courage of his convictions, and he was a significant force in revitalizing the conservative movement in America.

Lee Atwater was as renowned for his unique personality as for his political acumen. His love of rhythm and blues music and his fondness for cult movies and pork rinds were as familiar to his friends and colleagues as his political philosophy. He had a great zest for life which was an inspiration to us all.

Lee was a complex man, and like so many outstanding people, his gifts were not limited to one field. In addition to his skill as a political operative, he was a talented musician and he took great pleasure in playing the guitar and singing with his friends. He also enjoyed athletics and was a devoted runner.

I first knew Lee Atwater when he came to my Senate office as an intern in 1972. Although a very young man, he already had unusual political instincts and the determination to make something of them. Not too many years later, he was serving as political director for my 1978 Senate race, and he went on to become one of the most successful political operatives in the Nation.

His success was aided by his almost uncanny instinct for the feelings of the American public, a sort of political sixth sense. Although he was a true southerner, his career attests to the fact that his perceptiveness was not limited to southern voters. Many of the candidates he worked with owe their political lives to this special talent.

Although Lee helped to elect two Presidents, it was not until his illness that he began his greatest campaign. In his valiant struggle for survival, he turned at last to the lord. With characteristic zeal, he committed himself completely to becoming a witness for Jesus. Even as he sought a cure for his illness, he helped to bring the good news of the gospel to the millions who read of his new-found faith.

Mr. President, Lee Atwater was an outstanding man in every way. He was a fine husband and father. He was a great patriot, an astute politician and a loyal and devoted friend. Above all, he was an exceptional human being, and his valiance in the face of death was an inspiration to all who knew him.

I extend my deepest condolences to his lovely wife, Sally, and his three beautiful daughters, Sara Lee, Ashley Page, and Sally Theodosia, his devoted parents, Harvey D. and Alma Page Atwater, and the rest of his fine family.

Mr. President, I ask unanimous consent that excerpts from the excellent remarks of several prominent leaders and friends of Lee Atwater's be inserted in the RECORD immediately following my remarks, along with an article from the Charleston News and Courier and editorials from the State newspaper, the Charleston News and Courier and the Aiken Standard.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM REMARKS BY VICE PRESIDENT DAN QUAYLE AT THE FUNERAL SERVICE FOR LEE ATWATER, COLUMBIA, SC, APRIL 1, 1991

Lee wasn't a political mercenary, simply serving the highest bidder. Politics wasn't his business; it was Lee Atwater's calling in life.

EXCERPTS FROM REMARKS BY SECRETARY OF STATE JAMES BAKER AT THE MEMORIAL SERVICE FOR LEE ATWATER, APRIL 4, 1991

Like me, I'd be willing to bet that a lot of Lee's friends and admirers—not to mention his detractors—are finding it hard to imagine a self-professed bad boy like Lee up there with the angels. But that's exactly where Lee is, and the angels are just going to have to adjust.

During his year-long battle with cancer, I used to visit him on my way home in the evening and many times we'd read passages from the Bible. Lee particularly liked those about the peace that comes with faith. Above all, there was the quote from Isaiah (40:31): "They that wait upon the Lord * * * shall mount up with wings as eagles, and shall run and not be weary."

To the end, Lee fought his illness bravely, with the same aggressiveness, discipline, and energy that he brought to everything, whether it was running for the distance or running political campaigns.

EXCERPTS FROM REMARKS BY HARRY DENT AT LEE ATWATER'S FUNERAL, COLUMBIA, SC, APRIL 1, 1991

I have known of no one who has given a better message to the world on repentance and the golden rule than Lee Atwater in the last months of his life.

As Lee has taught us, there is that very simple requirement: Examine your life—honest to God—and if you are not in the faith, repent and submit to the lordship of Jesus Christ, get with the golden rule and begin to love even your enemies as much as you love yourself.

I can hear Lee right now: That's right, Harry, convert your enemies by loving 'em to death! That's a great strategy! Jesus' politics really does make sense, and most of all, it works too!

Excerpts From Remarks by Doug Coe at the Memorial Service for Lee Atwater, April 4, 1991 at the Washington Cathedral

In 1959 when I first came to Washington, an elderly gentleman who I respected very much told me that if you really like someone you sometimes loan them money, but if you really love them you will be willing to give them your friends.

In this spirit, I will forever be in debt to a few of the friends here this morning who gave me the opportunity of knowing their friend, Lee Atwater. The experience of this last year with him has left an indelible impression on my mind and in my life.

He was always amazed that so many of you would come to see him and tell him you were praying for him. It struck him strongly that this happened also with some of his political enemies. He saw that a spiritual bond was stronger than anything else, even overcoming political division.

[From the Charleston News & Courier, Mar. 29, 1991]

Atwater Yields in Last Battle: Former GOP Dynamo Dies of Cancer at 40

(By Steve Piacente)

WASHINGTON.—Lee Atwater, who gained a tough reputation with his feisty leadership of the Republican Party, died early today after more than a yearlong fight against a malignant brain tumor.

The 40-year-old South Carolinian had stabilized after a sharp downturn recently, but he finally yielded to a condition some doctors expected to take his life months ago.

"Barbara and I lost a great friend," said President Bush, whose 1988 campaign was managed by Atwater. "I valued Lee's counsel and abilities. The Republican Party will miss his energy, vision and leadership. Barbara and I give our deepest condolences to Sally, the kids and Lee's parents. We share in their grief. Lee will always be in our memories."

Atwater and his family also were cited recently by Vice President Dan Quayle as "an example to us all. Their courage has taught both admirers and detractors a good deal about the human spirit," Quayle said. "We've seen once again he's a fighter—the same fighting spirit that always energized his campaigns. In my mind he'll always be a winner."

Atwater died at 6:24 a.m. in George Washington University Medical Center from complications stemming from his brain tumor, according to Republican National Committee Chief of Staff Mary Matalin. His funeral will be held in Columbia, S.C. A memorial service also will be held in Washington in the coming weeks.

RNC spokesman B.J. Cooper said Atwater was "at peace and comfortable," alert and conversant in recent weeks.

Atwater received a visit Thursday from former President Reagan, who was in Washington for an appearance at George Washington University, a White House aide said.

"The Atwater family thanks all of Lee's many friends, who for the past year especially, shared strong support, deep love and daily prayers," the RNC statement said.

Clayton Yeutter, who succeeded Atwater as RNC chairman in January, said Atwater's death "takes from us one of the nation's most outstanding political minds."

Not only had Atwater run a presidential campaign and become chairman of the Republican Party, but he also had attained his dream of performing with some of the greatest rhythm and blues musicians. An accomplished guitarist and blues singer, Atwater was featured with B.B. King, Isaac Hayes and Billy Preston on "Red, Hot and Blue," a rhythm and blues album issued last spring.

Harvey Leroy Atwater was born Feb. 27, 1951, in Atlanta, but grew up in Columbia. A poor student in high school, Atwater got his start in politics from U.S. Sen. Strom Thurmond, R–S.C., after his sophomore year at Newberry College.

Atwater eventually became chairman of the S.C. College Republicans, using the post to drum up youthful support for Thurmond around the state.

"He came to me as an intern when he was in college," Thurmond recalled in a recent interview. "He was here and I saw he had a very apt political mind."

After graduating in 1973, Atwater became executive director of the College Republicans' national office in Washington. It was in that position that he first met Bush, then chairman of the RNC.

Atwater set up a political consulting firm in Columbia in 1974, and subsequently managed 28 winning GOP campaigns in the South over a four-year period. Included were Thurmond's 1978 campaign, and Gov. Carroll A. Campbell Jr.'s first race for Congress.

The street-fighting reputation for which Atwater became nationally known was developed during that period, winning Atwater both passionate friends and bitter enemies. In 1980, critics accused him of foul play in a congressional race between Rep. Floyd Spence, R–S.C., and Democrat Tom Turnipseed.

Noting that Turnipseed had undergone psychiatric treatment and electroshock therapy, Atwater said he would not respond to someone who had once been "hooked up to jumper cables."

Atwater, during his long illness, wrote many letters of apology, including one to Turnipseed.

In the 1988 presidential contest, Atwater was denounced for tactics used to portray former Massachusetts Gov. Michael Dukakis being soft on crime. The now-infamous "Willie Horton" TV ad told of a black convicted felon who raped a white Maryland woman while on weekend furlough from a Massachusetts prison.

Critics said the ad was a blatant appeal to racial prejudice. Bush's campaign insisted the issue was crime, not race.

Atwater was unanimously elected chairman of the RNC soon after Bush became president in January 1989, but more trouble soon followed.

In March of that year, students at Howard University, a prestigious black college in Washington, vehemently protested Atwater's naming to the school's board of trustees.

Still bitter about Atwater's tactics in the Bush campaign, Howard students occupied campus buildings until the RNC chairman finally resigned from the board.

A second personally painful incident occurred that June. It centered on an "attack memo" designed to link House Speaker Thomas Foley, D-Wash., to a homosexual congressman. Mark Goodin, an Atwater protege and close friend, was forced to resign from the RNC in the wake of intense criticism from both Democrats and Republicans.

Atwater, however, came up shining, at least in his own party. Ron Brown, chairman of the Democratic Party, called Atwater's tactics a disgrace."

In December 1989, after several relatively quiet months, Atwater and the RNC rented a posh downtown nightclub and threw a glitzy Christmas party. All seemed to be going perfectly.

Three months later, on Monday, March 5, 1990, Atwater was speaking at a fund-raiser for Sen. Phil Gramm, R-Texas, when he suddenly collapsed. After doctors discovered what they then called a small, non-malignant brain tumor, Atwater quipped, "This proves to my legion of critics once and for all that I do have something in my brain."

Since that time, Atwater had undergone two major operations, the first of which had been designed to bombard the tumor with radiation. In a recent first-person account for Life magazine, Atwater said his illness taught him some things are more important than wealth, power and prestige.

"What power wouldn't I trade for a little more time with my family?" he wrote. "What price wouldn't I pay for an evening with friends?"

Atwater claimed his illness had changed his approach to politics.

He described in the Life article his changed relationship with Democratic Party chairman Brown.

"After the election, when I would run into Ron Brown . . . I would say hello and pass him off to one of my aides," he wrote. "I actually thought that talking to him would make me appear vulnerable.

"Since my illness, Ron has been enormously kind—he sent a baby present to (daughter) Sally T; he writes and calls regularly—and I have learned a lesson: Politics and human relationships are separate. I may disagree with Ron Brown's message but I can love him as a man."

[From the State, Mar. 30, 1991]

Atwater Was a Winner

As a political tactician, Columbian Lee Atwater was something special. He was tough, resourceful and pragmatic. Largely for those reasons, he was a winner in local, state and national politics. George Bush's ascension to the White House attests, in considerable part, to his savvy.

In numerous campaigns here and around the nation and as chairman of the Republican National Committee, Mr. Atwater raised the hackles of political foes—they accused him of a "pit bull style of politics"—but he had their grudging respect and those who underestimated him did so at their own peril.

Friday, the 40-year-old Atwater lost a year-long battle with a brain tumor, a painful illness that sapped his strength and forced him to the sidelines, where he publicly apologized to political opponents for his tactics.

Lee Atwater was a rising star in the political firmament. Sadly, his bright, albeit controversial, presence there was all too brief.

[From the Charleston News & Courier, Mar. 31, 1991]

Lee Atwater

When Lee Atwater was diagnosed as having a brain tumor, he approached his cancer much as though it were a political opponent. He threw himself and his staff into researching the enemy; there were the daily strategy sessions and there was the risk-taking with experimental medicine. He fought with the kind of game plan and tenacity that had made him the country's most-feared political tactician. Sadly, early Firday morning he lost his most important war. But he died a winner.

When Lee Atwater was faced with his own mortality a year ago, after collapsing in the middle of a speech, he was, in his own words at the top of the world. He'd gotten his start as an intern in the office of South Carolina's political legend, U.S. Sen. Strom Thurmond, and he wound up running the campaign that put George Bush in the White House. He also was the chairman of the National Republican Party, the first professional campaign consultant ever to occupy that seat. And he'd done it all before his self-imposed deadline. He wasn't even 40.

It didn't seem to bother him then that he was known as the "bad boy" of politics. Indeed, he seemed to relish his reputation as the past master of negative campaigning. There were, however, a few charges that got under his skin. At the height of his career, he was quoted in The New York Times Magazine as saying he regretted that he didn't use a white person, rather than Willie Horton, a black man convicted of murder, to paint Massachusetts Gov. Michael Dukakis as soft on crime.

"I have always known I had to go the extra mile to avoid being tagged a racist by liberal Northerners," he told an interviewer. ". . . Race, politically, is a loser." He continued to deny the charges of racism in a compelling, first-person account of his campaign against cancer in the February issue of Life magazine, in which he expressed other regrets and apologized to those he had wronged.

Few who knew him well believe he would have changed much about his life. But the Life article says he would have changed the emphasis. In fact, Robert McAlister, a close friend and aide to Gov. Carroll A. Campbell, believes Lee Atwater will be remembered more for the last year of his life than for the 39 that went before it. He spent most of his years acquiring knowledge, according to Mr. McAlister, but it was in his last year that he gained wisdom.

Mr. McAlister, a lay minister, already has memorized sections of the Atwater article to use when he addresses religious gatherings. "The '80s," Lee Atwater wrote, "were about acquiring—acquiring wealth, power, prestige. I know. I acquired more wealth, power and prestige than most. But you can acquire all you want and still feel empty. What power wouldn't I trade for a little more time with my family? What price wouldn't I pay for an evening with friends? . . . I don't know who will lead us through the '90s, but they must be made to speak to this spiritual vacuum at the heart of American society, this tumor of the soul."

Before the cancer struck, Lee Atwater wondered what his real test in life would be. In the past year, he endured more pain, displayed more courage and wrote about his trials with more honesty than most. He passed his test with flying colors.

[From the Aiken Standard, Apr. 5, 1991]

LEE ATWATER LEFT A RECORD THAT WILL LONG BE STUDIED

Lee Atwater lived in Aiken briefly during his childhood, and a few residents still remember him and his family. Mr. Atwater was better known among local leaders of the Republican Party, an organization in which he rose to the very top.

His climb through the barbs and tears of politics was an amazing success story. His detractors claimed his was a mediocre intellect and he an unprincipled politician.

But before he was 40, he had been credited with the electoral successes of two presidents, and he was on intimate terms with the leaders of government.

A brain tumor brought him down, and led him to profess born-again Christianity. In his last year—adhering to the principles he professed—he sought to correct any wrongs he had done in his political career.

We are not so sure apology was necessary. Political campaigns in which the principals pull their punches are rare indeed; it happened that Mr. Atwater knew how to use his punches effectively.

His untimely death—with his life only half lived—left a question in many minds. What might the "born-again" Atwater have accomplished had he been restored to health.

His funeral in Columbia's Trinity Cathedral drew many of the nation's great to pay respects to his memory. Among the mourners were 11 cabinet members and the vice president of the United States. Gov. Carroll Campbell and U.S. Sen. Strom Thurmond delivered eulogies, as did the vice president.

Even at the peak of his career, Lee Atwater, when he discarded the mantle of political operative, was a warm human being, a family man, a lover of music and of his fellow man.

Not many Lee Atwaters—or persons of his caliber—will pass this way in our lifetime. He left a record of accomplishment that will be studied by political scientists for many years to come, and an example of personal redemption that we will leave for theologians to dwell on.

COMMENDING AMERICAN AIRLINES ON AIRCRAFT SAFETY

Mr. NICKLES. Mr. President, Congress spends a substantial amount of time pointing out what is wrong with corporate America and developing ways to remedy the deficiencies. Unfortunately, Congress too often focuses on fixing what squeaks and overlooks the extremely positive measures undertaken by individual members of the business community.

I believe it is time to give credit where credit is due. It is therefore my great pleasure to come before this body today to applaud American Airlines. This company, which I am proud to say has a strong presence in my State, fully understands that the best way to run an airline is to devote every ounce of effort to ensuring consumer safety and customer satisfaction.

This overwhelming commitment to the traveling public has always been part of American's public service. Recently, American's efforts were recognized by the Federal Aviation Administration. In late March of this year, 24 FAA aviation safety inspectors and aircraft certification personnel completed an exhaustive examination of American's maintenance and operation programs. In a followup letter to Robert Crandall, president and chief operating officer of American Airlines, FAA Administrator James Busey commended the company for its commitment to safety. Admiral Busey was particularly pleased with the fact that American has its own extensive internal evaluation system in place to ensure that its maintenance and operations programs are of the highest caliber.

While I will not read the entire letter into the RECORD, I find his closing particular appropriate, he states:

> We feel an obligation not only to oversee and evaluate, but to compliment organizations which measure up well to world class safety standards. Yours has done that, and we appreciate your effort.

I am honored to join Admiral Busey in giving American Airlines, and their more than 8,500 employees in Tulsa, the recognition they so richly deserve.

I ask to insert the letter from Mr. Busey, the Administrator of the FAA.

The letter follows:

FEDERAL AVIATION ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR,
May 21, 1991.

Mr. ROBERT CRANDALL,
President and Chief Executive Officer, American Airlines, Inc., DFW International Airport, Dallas, TX

DEAR BOB: On March 21 our Flight Standards Service completed a National Aviation Safety Inspection of American Airlines. A team of 24 Federal Aviation Administration aviation safety inspectors and aircraft certification personnel conducted an indepth review of American's maintenance and operations programs. While the inspection activity focused on specific areas, key programs were reviewed, including American's procedures for weight and balance control and aging aircraft maintenance.

During our inspection, the team favorably noted that American has implemented an internal evaluation program. The inspection revealed very few safety deficiencies, a fact we attribute in part to the success of your internal evaluation program.

We feel an obligation not only to oversee and evaluate, but to compliment organizations which measure up well to world class safety standards. Yours has done that, and we appreciate your effort.

Sincerely,

JAMES BUSEY,
Administrator.

COUNCIL ON COMPETITIVENESS

Mr. KASTEN. Mr. President, in the early 1980's, then-Vice President Bush spearheaded the Reagan administration's successful effort to reduce the regulatory and redtape burden on the productive sector, helping spark the economic recovery. Today, Vice President DAN QUAYLE is building on this effort through his effective leadership on the President's Council on Competitiveness.

The Vice President's Council has assumed the enormous task of reining in Washington's regulatory machine. This effort is needed now more than ever; regulations cost the economy at least $185 billion annually. The American public spent more than 5.3 billion hours filling out paperwork last year, enough to keep 2 million people doing nothing but cutting through redtape year round.

This redtape burden hits the small business owner the hardest of all. Because I was a small businessman before entering public life, I have firsthand experience with the stifling burden of regulations and redtape. As ranking member of the Senate Small Business Committee, I am particularly concerned about the impact on small businesses. It's not right that you should be forced to hire extra workers for the sole purpose of filling out Government forms—as opposed to producing worthwhile, marketable products.

In a column entitled "Quayle's Sharper Edge," Warren Brookes writes that the Vice President has "single-handedly revived" the Office of Information and Regulatory Affairs, the office within OMB which monitors and reviews regulatory and paperwork demands that Federal agencies impose on the public.

Since 1981, OIRA has reduced the time the public spent filling out Government paperwork by almost 600 million hours each year. Using a conservative estimate of $10 per hour, this reduction has saved our economy $6 billion annually.

The President's power through OIRA to check the regulatory excesses of the Federal bureaucracy is essential to continued private sector growth, innovation, and wealth creation. That is why I have joined Senator SAM NUNN in introducing the Paperwork Reduction Act of 1991 to strengthen OIRA's power to restrain the bureaucracy's natural propensity to impose excessive regulatory and redtape burdens on our innovators and entrepreneurs.

A whole new framework of regulatory burdens imposed by the Clean Air and Americans With Disabilities Acts—both of which I support—are a threat to continued economic growth if Washington's bureaucrats are left unchecked. The Vice President's Council on Competitiveness is doing a tremendous job in making these new regulations manageable for small business. However, enactment of our paperwork reduction legislation would ensure that all Federal regulations achieve their goals in the least burdensome and most economical way possible.

I ask unanimous consent that the Brookes article appear immediately following my remarks:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times]

QUAYLE'S SHARPER EDGE—TENDING THE HOME TURF

When President Bush's heart fluttered the media flew into an orgy of Quayle-quivering over the possible transition of power to someone pundits have tried to portray as a national joke.

But just a few days before this event, Rep Henry Waxman, California Democrat and ultra-liberal chairman of the House subcommittee on Health and Environment wasn't laughing at the vice president. He was fuming because Mr. Quayle, as chairman of the Council on Competitiveness has been stiffing Mr. Waxman's buddies, the regulatory zealots at the Environmental Protection Agency.

So much so, in fact, Mr. Waxman, the Alar congressman from Hollywood conned Ned Potter and Peter Jennings of ABC into a floridly fatuous assault on the council in which Mr. Waxman said it was "a secret kind of government that the vice president is in charge of that's going to rewrite the law."

There is of course no "secret" to the council's deliberations, nor is the process seditious in any way. Congress writes 700 pages of openended law and gives EPA a blank check to write 10,000 or so pages of regulation to implement it. Unless someone oversees this process, the crazies, like Mr. Waxman will destroy what's left of the U.S. domestic economy.

As vice president, Mr. Quayle has single-handedly revived the Office of Information and Regulatory Affairs within the Office of Management and Budget after Dick Darman had neutered it. OIRA reviews every regulation written by every federal agency.

When those regulations (as they so often do) produce massive costs but little or no benefits, OIRA ships them back to the agency for redoing. Since most of what EPA sends out involves cost over benefit ratios of from 50 to as much as 10,000 to 1, OIRA has become a serious thorn in its side.

For example, last December, the Quayle Council stopped a foolish EPA regulation that would have required every municipal waste combustor to recycle 25 percent of all incoming wastes. Not only would that impose massive new costs on these facilities, it would deprive them of basic fuel and thus power that they are committed to produce, all for no measurable benefits.

While ABC characterized this decision as "killing regulations to order recycling of trash that would be toxic if burned," the EPA's own studies show the provision would have added zero air pollution benefits for a cost of $100 million a year! No wonder the National Governors' Association (run by Democrats) opposed this stupid rule, and helped make EPA back down.

More recently, the council has been attempting to put some sanity into such things as risks analysis, corporate average fuel economy rules, and Clean Air permitting procedures.

That's why Mr. Waxman is screaming. One of the most econmically dangerous and irresponsible provisions of the Clean Air Act was to put EPA in charge of direct permitting of some 200,000 businesses on some 197 chemicals—a recipe for economic gridlock. The council is trying to make this nightmare for small business at least manageable if not bearable. For its efforts, Mr. Jennings' chosen congressional extremist, Rep. Gerry Sikorski, Minnesota Democrat, accused Mr. Quayle's Council of "Environmental treason."

This merely illustrates one of Washington's best-kept secrets: Dan Quayle has unobtrusively become one of the most effective pleaders for policy coherence in an otherwise incoherent administration. As New York Times former editor and now columnist Abe Rosenthal put it, "I think Mr. Quayle is far more able and sophisticated than he is drawn in the press and on TV. So do politicians and legislators I respect of both parties."

Last Tuesday, Mr. Quayle's Council on Competitiveness, which includes Treasury Secretary Nicholas Brady, Attorney General Richard Thornburgh, Commerce Secretary Robert Mosbacher, Chief of Staff John Sununu, Mr. Darman, and Economic Adviser Michael Boskin, issued a Reaganesque manifesto titled: "Taking on the Problem of Excessive Regulation."

In it, each of the agencies "renewed their commitment" to such things as ensuring "that rules clearly maximize benefits and minimize costs, based on sound analysis," and require agencies "to supply OMB with benefit and cost data about rules." The Council thumbed its nose at Mr. Waxman and formally enhanced OIRA's role "to strengthen the regulatory review process" in such things as Clean Air, Child Care and the Americans with Disabilities Act. It also announced that OIRA and the Council will formally review the Wetlands Delineation manual to ensure a "balanced policy" that protects private property rights.

Perhaps the most important element in this new manifesto was "Protection of Constitutional Property Rights" in which the Council went on record in full support of executive orders and new legislation to require agencies to compensate property owners whenever these policies (like wetlands or endangered species) result in a value reduction and thus a "taking" of property. It even proposes that such legislation "provide agencies financial incentives to use caution before issuing regulations that 'take' private property rights."

This is a ringing reaffirmation of the ascendancy of private property rights against environmental "land use" planning, and it is a major triumph by Mr. Quayle's Council over the turf-hungry bureaucrats at both EPA and the Interior Department.

This may explain the real reason why liberals are so nervous about the eventual possibility of a Quayle administration. It might actualy revive the pro-market cause in government.

DEMOCRATIC HEALTH PLAN BAD FOR SMALL BUSINESS

Mr. KASTEN. Mr. President, the rising cost of health care is the top issue on the minds of small business owners in Wisconsin and across the country.

Of the 34 million Americans without health insurance, more than 18 million work in small businesses or are dependents of workers in small businesses. According to a 1990 survey conducted by the National Federation of Independent Businesses, two out of three small businesses would offer insurance if it was affordable. Further, 22 percent of the uninsured are self-employed workers.

The first step that Congress could take tomorrow would be to allow self-employed workers to deduct 100 percent of their current health care expenses instead of the 25-percent deduction allowed under current law. I, along with several other Senators, have introduced legislation last year and this year to level the playing field between small and big business. Hopefully, we can act soon to enact insurance market reforms and cost containment measures which would also enable small business owners to provide health insurance to their employees.

But what small business doesn't need right now is the solution offered by the Senate Democrats' plan. Their solution is to mandate that small business either offer health insurance they cannot now afford or pay a Federal tax. This is the surest way to drive the small business owners, the biggest job creator in our economy, out of business. In short, the Democrats' proposal is a job-destroying bill.

The June 11, Wall Street Journal, contained an excellent editorial outlining why the Mitchell-Kennedy bill is the "wrong prescription for the uninsured." I ask unanimous consent that this editorial by John Goodman, the president of the National Center for Policy Analysis, be inserted in the RECORD, as follows:

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 11, 1991]

WRONG PRESCRIPTION FOR THE UNINSURED

(By John C. Goodman)

To solve the problem of 34 million Americans without health insurance, Senate Democrats have unveiled a new health-care plan. Ever faithful to the big government, big bureaucracy point of view, George Mitchell (D., Maine), Edward Kennedy (D., Mass.), John Rockefeller (D., W.Va.) and Donald Riegle (D., Mich.) propose to take a manageable problem and turn it into a major disaster.

Under the bill's "pay or play" plan, employers would have a choice: pay a federal tax, tentatively set at about 7% of payroll, or provide health insurance to their workers containing core benefits defined in Washington. If employers decide to pay the tax, government will assume responsibility for providing health insurance and employees will pay premiums that vary based on income level.

For example, a $2,500 family health insurance premium for a worker earning $20,000 costs 13% of payroll, not 7%. In this case, the obvious choice for the employer is to pay the tax and turn the problem over to government. Indeed, considering that about 95% of all uninsured workers earn less than $30,000, in the vast majority of their cases employers will have strong incentives to pay the tax rather than to begin providing coverage themselves. (The cost of the core-benefit package will vary depending on the benefits included, and the age, occupation and geographical location of employees. The $2,500 example is a very conservative number; the current average cost per employee in the U.S. is $3,217.)

THE TEMPTATION

This is not necessarily good news for the uninsured. Assuming uninsured employees are already paid a fair wage, a 7% payroll tax means that their employers will have to cut wages by 7% or lay off workers. Since those earning the minimum wage can't by law take a wage cut, they stand the greatest risk of becoming unemployed.

Employers who already provide health insurance to their employees also will compare the 7% tax with the cost of a health-insurance policy containing federally mandated benefits. A great many of them will be tempted to pay the tax and drop existing coverage. Nor is this mere speculation. A Kennedy aide says the bill's sponsors expect this to happen.

Lee Iacocca will like this plan. For years he's wanted to dump Chrysler's health-care costs on government, and the Senate Democrats are offering him a chance. Instead of paying what I estimate to be close to $4,000 per employee for private insurance. Mr. Iacocca could pay a tax of less than $3,000, have government provide each Chrysler worker with health insurance, and make a handsome profit. (If they have any sense, Chrysler workers will resist this mightily.)

If employers decide to provide health insurance to their employees, they will be required under the bill to include mental-health benefits (the fastest-rising component of health-care costs) and preventive procedures, including mammograms, pap smears and well-child care (items for which costs double when the administrative costs of third-party insurers get factored in). The required out-of-pocket deductible is only $250. Employers could charge a higher deductible only if they provided additional benefits to those in the core package—not to cut costs.

Count on the benefits expanding and the costs rising once the special interests get their hands on the bill. In response to provider pressures, state governments have enacted more than 800 cost-increasing mandated benefits, requiring insurers to cover services ranging from acupuncture to in-vitro fertilization. All this means that individuals have to pay for coverage they do not want. Though the Senate Democrats' bill would override these state mandates—in an attempt to control costs—the lobbyists can be expected to move to Washington and continue their push for coverage of more and more services.

If employers exercise the option to pay the tax rather than provide health insurance, what happens to the workers? Rather than purchasing a private health insurance policy on their own, they will be required to join Medicaid. In fact, if you have any desire to toss away your private health insurance and join Medicaid, you'll love the Senate Democrats' new health-care plan.

Granted, under the Democrats' plan Medicaid would be reorganized. It would also have a new name—"AmeriCare." But Medicaid under any name is still Medicaid.

In most places, Medicaid pays doctors and hospitals 50 cents on the dollar—sometimes even less. As a result, doctors increasingly won't see Medicaid patients and access to hospital care is increasingly limited to charity hospitals.

Because Medicaid underpays, healthcare rationing is inevitable. And more severe rationing is right around the corner as the hospital marketplace becomes more competitive, cost-shifting to other patients becomes less feasible and government at all levels has less money to spend. So far, only Oregon publicly admits that rationing in its Medicaid program is routine. Medical providers know the same thing is happening in every state.

If readers get a sense of deja vu, it's probably because they have heard this before. The Senate Democrats have endorsed the very plan that Michael Dukakis created for Massachusetts. Voters may recall Mr. Dukakis's 1988 boast that everyone in Massachusetts had health insurance. Well, not quite. The Massachusetts Legislature wants to delay the private sector's entry into the program until 1994, and the current governor wants to kill the whole program.

One problem is that government is inherently incapable of administering an insurance program that prices risk accurately. Witness the deposit insurance debacle at the federal level and the auto liability insurance crises in California, New Jersey and Massachusetts. In Massachusetts, auto insurance has become so politicized that any possibility of rational premium prices has vanished and 65% of all premiums now go to the state risk pool.

The Senate Democrats have already signaled they have no interest in insurance prices based on real risks. The 7% payroll tax has no relationship to the actual cost of health for any particular employee. And they are proposing a quasi-cartel in the small-group health insurance market to guarantee that private insurance premiums won't reflect real risks either. This will speed the exodus of people into Medicaid (oops, AmeriCare), the risk pool of last resport.

A second problem both for Massachusetts and the Senate Democrats is small business, which employs most of the noninsured workers. Does it really make sense to heap new taxes on small business—the job-creating sector of the economy—in the middle of a recession? One suspects that even the senators would answer "no."

In fact, one suspects they're not really serious about the proposal at all. The plan proposes a two-year grace period for new small businesses and a five-year grace period for firms with fewer than 25 employees—the firms where almost half of all uninsured workers are employed. Like Mr. Dukakis, the Senate Democrats propose to talk now and act later—definitely after the next election.

A third problem is health-care costs—which are bound to rise as more people acquire health insurance. Initially Senate Democrats propose "voluntary" spending limits with targets for the total amount spent on physicians fees and hospital services throughout the country. But since the nation's 5,000 hospitals and 500,000 doctors could not possibly agree collectively on anything, the targets are bound to be missed, and "voluntary" will soon become "mandatory."

This is precisely the approach taken in countries with national health insurance, where governments set aribitary budgets for hospitals and area health authorities and force the providers to ration health care. The result is a lower quality of care and more—not less—inefficiency.

While 700,000 people wait for surgery in Britain, at any one time one of four hospital beds is empty. While 50,000 people wait for surgery in New Zealand, one out of five beds is empty. As the waiting lines grow in Canada, the politics of bureaucracy determines who gets the next brain scan. In all three countries, about one in every four hospital beds is filled with the chronically ill elderly, using the hospital as an expensive nursing home.

LISTEN TO BENTSEN

Bureaucratic health-care rationing is anything but fair. Although health care is theoretically free in England, 12% of the population now has private health insurance. In New Zealand's "free" health care system, one-third of the population has private insurance and one-fourth of all surgery is performed privately. In Canada, where private health care has been virtually outlawed, the U.S. border is the safety valve. For example, about 100 Canadians get heart surgery every year at the Cleveland Clinic.

Before taxing small business to pay for an expanded Medicaid program with health-care rationing required by limits on spending, the Senate Democrats should listen to their colleague Lloyd Bentsen (D., Texas), author of refundable tax credits for the purchase of health insurance. Instead of pushing more people into a government rationing program, the Bentsen approach would empower low-income families and make them real participants in the health-insurance marketplace.

REGARDING THE NATIONAL VICTORY CELEBRATION

Mr. WARNER. Mr. President, more than 10 months ago, the world was shocked when Saddam Hussein sent Iraqi troops to invade Kuwait. Governments the world over expressed their outrage at this lawless act of cruel and gruesome aggression. As the United Nations moved to condemn Iraq's actions and began to arrange for the protection of Kuwait's threatened neighbors, one nation moved a step further. The President of the United States ordered American soldiers to the Persian Gulf to provide protection for Saudi Arabia and other potential victims of Saddam Hussein.

From the onset, I supported President Bush in these courageous efforts. To the President's great credit, he had in place a team of military and civilian leaders ready and willing to provide the leadership that would make Operations Desert Shield and Desert Storm so successful. Secretary of Defense, Dick Cheney, Joint Chiefs of Staff Chairman, Gen. Colin Powell, and field commander, Gen. H. Norman Schwarzkopf formed the triumvirate that orchestrated, with the military forces of some 28 countries, the defense of the Arabian peninsula and the ultimate liberation of the State of Kuwait. Meanwhile, Secretary of State, James Baker tirelessly traveled the globe to facilitate the diplomacy of such a massive international undertaking.

For the superb execution of their duties under the most trying circumstances, each of those men deserves the congratulations and gratitude of all Americans.

As we take this opportunity to cast out our plaudits to those who achieved victory in the gulf, praise cannot go only to those whose faces we saw on the evening news, but our unparalleled praise and gratitude must go to each and every one of the men and women serving in the United States Armed Forces.

Enough cannot be said of the devotion and professionalism of the American servicemember: those individuals whose love of country is so strong that they stoically abide the sands and seas of another land in the defense of liberty. Over 450,000 of them left the security of home and family for the broiling heat of the Arabian desert. Tens of thousands of others played integrally important roles from bases here at home and throughout the world.

And on January 16, with the support of the Congress and the United Nations, and in concert with the Allied Forces, the waiting came to an end: Operation Desert Shield became Operation Desert Storm, and the liberation of Kuwait had begun.

In Washington, and in every city and town, America watched the television reports that so vividly displayed the intensity of the conflict. We witnessed the deployment of the Patriot missiles and their successful midair interceptions of SCUD's. We watched the flaming tails of the Tomahawks as they launched from battleships. Daily we saw the pinpoint accuracy of the smart bombs deployed so skillfully by our brave pilots.

I had the great privilege of standing alongside the crew of the U.S.S. *Missouri* as they launched a Tomahawk toward an Iraqi target during one of the three visits I made to the Gulf region during the deployment of our troops. On each trip, I was deeply impressed by the commitment and expertise of the soldiers in the field.

Meanwhile, at home, flags were flown; yellow ribbons, symbolizing our love for those serving in the Gulf and our anxious await for their return, were displayed everywhere from car antennae to the White House porch.

And now our troops are coming home. There is cause for celebration.

On June 8, a great celebration took place here in Washington. Sponsored by the Desert Storm Homecoming Foundation, the celebration gave tribute to all the men and women of the Armed Forces.

I am particularly proud that during the celebration Miss Ashton Nolley, a young lady from Virginia, performed an original song, "America, Can You Hear Me?" Her song is a moving testimonial to the bravery and commitment of the American servicemenber. It verbalizes some of the feelings of loneliness and uncertainty that many servicemembers experience. I will respectfully request that the text of the song be entered into the permanent RECORD of the proceedings of the Senate as a reminder not only of harrowing feats of men and women in American uniform, but of the support and love of those of us they so nobly serve.

Amid the excitement of the moment, let us not forget to pay tribute to those men and women who remain in the Persian Gulf. We should also pause to remember those who, fallen in the line of duty, cannot be here to share the glory of their returning comrades-in-arms. The Bible says, "Greater love hath no man than this, that a man lay down his life for his friends." We give thanks for those who have gone before us in the service of their country, and take solace in the knowledge that they go on to an even greater glory than is known on Earth.

I ask that the lyrics of "America, Can You Hear me?" be printed in the RECORD.

There being no objection, the lyrics were ordered to be printed in the RECORD, as follows:

"AMERICA, CAN YOU HEAR ME?"

America can you hear me?
I'm running with a rifle in my hand.
America can you hear me?
My best friend just fell to the sand.

History in the making
Blood on our hands,
Cries for freedom
Across the lands.

Praise to the soldier let our voices roar!
For freedom a life is sacrificed once more.
As the bullets start flying, a light above will shine
And a hero is born again for all mankind.

America can you hear me?
Does anybody even know my name?
America can you hear me?
Oh God, don't let me die in vain!

Freedon is the answer
For the world someday,
In the light of death, Lord
Let us pray.

Praise to the soldier let our voices roar!
For freedom a life is sacrificed once more.
As the bullets start flying, a light above will shine
And a hero is born again for all mankind.

Too soon we forget the scars of liberty,
The lives that were lost to make this country free.

Let us sing
Praise to the soldier let our voices roar!
For freedom a life is sacrificed once more.
As the bullets start flying, a light above will shine
And a hero is born again for all.

America can you hear me?
I'm running with a rifle in my hand.
America can you hear me?
Please! help me try and understand.

ELENA BONNER'S ADDRESS TO THE SAKHAROV MEMORIAL CONGRESS

Mr. KENNEDY. Mr. President, I would like to take this opportunity to recognize the achievement of Elena Bonner, widow of the renowned Soviet scientist and human rights leader, Andrei Sakharov. Through her tireless efforts, the First International Sakharov Memorial Congress, entitled "Peace, Progress and Human Rights," was convened in Moscow on May 21–25, 1991.

This congress took place during what would have been Andrei Sakharov's 70th birthday and brought together an extraordinary range of individuals to advance the causes to which Sakharov dedicated his life. As Ms. Bonner eloquently stated, "Sakharov defended the individual, the human personality, the right to personal convictions, the right to choose one's own way of life, the right to freedom, and the simple right to happiness."

Reflecting Sakharov's dual commitment to human freedom and scientific progress, the memorial congress focused on both the future of Soviet and Eastern European transitions from totalitarianism and the aftermath of the nuclear disaster at Chernobyl. In addressing these critical issues, the participants of the congress carried on the critical work of Andrei Sakharov.

Elena Bonner deserves special praise for making this important congress possible. It brought great honor not only to the memory of Andrei Sakharov on the anniversary of his birth, but also to his ideals that live on in the hearts of his fellow citizens.

I believe Ms. Bonner's speech at the opening ceremony of the First International Sakharov Memorial Congress will be of interest to my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF ELENA BONNER, OPENING CEREMONY OF FIRST INTERNATIONAL ANDREI SAKHAROV MEMORIAL CONGRESS, MOSCOW, MAY 21, 1991

Good evening!

Today would have been Andrey Dmitrievich's seventieth birthday. The anniversary has come at a hard time for the country, of which Sakharov was a citizen according to his birth right and his bitter right to lie in its soil. But he was also a citizen of the Earth because of his love of it, and his inflexible struggle for preserving peace.

In our supermilitarized state he was the only scientist who struggled for peace all over the planet with complete professionalism, absolute courage, absolute honesty and total independence: free from the interests of certain parties, groups, departments, or one governmental system.

With equal staunchness, Sakharov defended the individual, the human personality, the right to personal convictions, the right to choose one's own way of life, the right to freedom, and the simple right to happiness.

He defended the Chinese in Indonesia and the students from the Celestial Consent square sentenced to death, the Palestinians in the Tel-Zaatar camp, Afghan mujahedin, Iraqi Kurds, Azerbaijanis in Iran. He defended his compatriots: Russians, Germans, Jews, Buryats, Georgians, Uzbeks, Tatars, Azerbaidjans, Ukranians, Lithuanians, Armenians. And he tirelessly defended the right of every people to self-determination. And he also saw the prime obligation of the state as the defence of the weak.

But he was not a man of nonresistance or an absolute pacifist. A defender of the law as one of the highest achievements of civilization and a convinced evolutionist, he did not reject the possibility of revolutionary social development. From a truly democratic position he defended the workers right, to strike:—whether economic or political. He considered that industrial action could prevent a revolutionary explosion, but more importantly—could create conditions in which the old political structures would resign peacefully without violence.

Being especially concerned about national problems he used to say that in a dead-end situation, consensus is a meaningless word, and any decision on the inviolability of borders becomes a way of protecting the State system. In the conditions of our country this means the defence of Stalinism. Sakharov repeatedly stated that the right of a people to self-determination is more important than all other rights for any national community. And he never regarded the victim and the hangman as equals! Such a wide spread and immoral excuse for any inaction was absolutely unacceptable to him.

We quickly managed to put behind us the shaken ourselves very soon soon and hurried to events in Alma-Ata, Sumgait, Kirovobad, Tbilisi, Baku, Dushanbe and the Baltic states. We are also in a hurry to forget Ossetia. To refresh our memory and awaken our humanity, blood is being shed in Karabakh today.

And before we speak fine words about Sakharov I ask you to rise for a minute of silence in memory of all who have perished in this country over recent years and in the last month of May, when our brave Soviet, our Azerbaijan OMON fighters generously shed people's blood on the soil of the Caucasus. Thank you! Please be seated.

I declare open the First Sakharov International Congress "Peace, Progress Human Rights" officially open. It was planned and is to be conducted absolutely independent of all state and government organizations of the USSR and other countries. Main funds were received by the Congress from independent media: "Argumenty i Fakty", "Moskovskiye Novosty", and "Ogonyok". Main hard currency funding was provided by "Alitalia" airline company and the Federation of American Trade Unions. The list of all sponsors of the Congress will be published.

As a result of 18 month in tense on the part of work of four people in the USSR, one person in Italy, and two in the USA, we are able to meet each other in this hall.

What is the idea of the Congress, apart from the fond memories of the late? Together we are going to repeat what Sakharov was doing alone. We will talk about the most critical problems of the present professionally and honestly. But to talk is only a part of the task. We want to be heard by those on whom the solution of the problems put forward depends, and not afterwards, as Sakharov was, not in ten or twenty years time, when everything will be too late, but today.

One Congress cannot cover all the malaises of the contemporary world. We have chosen two subjects for our work. They are: "Chernobyl (The past, present, and future)" and "The Soviet Union and East European countries on the way from totalitarianism to the rule of law". Far from removed one other at first glance, they are linked by Sakharov himself, as a scientist and a public leader.

Scientist Sakharov was not only the "father of the Soviet H-bomb" (a media cliche that should be laid to one side). Sakharov was the pioneer in the field of theoretical studies of peaceful application of thermo-nuclear energy.

Sakharov was undoubtedly in favour of the development of nuclear power engineering, believing that it would make possible the raising of living standards of people all over the world. Not to reduce them in rich countries, but to raise them in the poor ones.

In his article "Nuclear Power Engineering and Freedom in the West", he proves that it is necessary for democratic countries to become oil- and in general power-independent on the power exporting countries. The recent war in the Gulf once again proves that he was right. Having touched upon this subject, I would say that the UN and the members of the Security Council have no right to let Saddam Hussein's crimes against the environment, which threaten the whole planet, go unpunished.

According to Sakharov, the Chernobyl catastrophe was not only the consequence of technical errors, mistakes made by the personnel and the low quality of construction, but above all it is evidence of the defectiveness of the social system. He considered "Chernobyl" to be as the highest "achievement" of socialism.

The second topic, which had seemed precisely formulated, was becoming doubtful one and a half years ago later. Questions have arisen: "Are we on the way from totalitarianism to the rule of law? Aren't we simply walking on the spot? Aren't we going backwards?" The stages of this transformation are well-known:

The indirect election of the President, his initial and the subsequent additional powers, the simultaneous process decay of the Union going simultaneously, the seige of Lithuania as an answer to the legal and constitutional declaration of its independence, the governments "Principal Directions" instead of an economic program, the first draft Union treaty, which in fact rejected the sovereignty of republics, the second slightly improved draft, about which we know nothing, as it we simply do not know which one is under discussion today: it has not been published, the decree on the protection of property which turned into the protection of this was Communist Party of property, and led to the tragic events in the Baltics—the decree on joint patrols, this was a hush-hush privatization by the bureaucratic-nomenklatura, not for the sake of the people, but against it.

And the last event: the recent agreement signed by the leaders of the nine republics and the President. It is considered as a document opening up not the best, but some kind of a way forward and as a cease-fire in the battle which in the public conscience is formulated as "Gorbachev or Yeltsin". But in fact it is a far from finished struggle by the republics against the Center of the former Soviet Union for real independence. Creation of sovereign states in place of the totalitarian empire under the pressure of which our peoples existed for 73 years—it is undoubtedly a progressive process and the fact that it can lead to the appearance of regimes far-removed from democracy (as happened in Georgia) is the result of the activities of the Center. In this case it is the direct result of gas and spades in Tbilisi.

I return to the "Nine plus one" Agreement. Its assessement of the strike movement has an anti-worker character and the idea of the favorable status for those republics which are participants of the agreement seriously puts one on his guard. And the consequent bloody events in Karabakh directly show what kind of consequences await those republics which have not signed the Agreement. Again as in January, after Vilnius and Riga, the question comes up: "Who is next?" Moldova? the Baltics again? Georgia, where Ossetia has been already set alight?

Today Russia is waiting for the Presidential elections. We were waiting for the Referendum and the Congresses, waiting for laws which were to make our life at least slightly better. We were expecting the price increases for a long time. We got them, but 100-rouble banknotes were frozen in advance. We do now know what we are to expect after June 12.

They frighten us with talk of hunger and civil war. But there is a great deal of hunger over the greatest part of the country, and a war is already on, not the civil one, but between the old Stalinist system and newly appearing one. In its agony, the old regime defends its power, the leaders of the party defend their property which is separate from the people. The paradox is that through thus the party calls itself Communist. The result of property protection is the spilling of blood. Blood was shed in Baku and Tbilisi in defence of the Central Committee. The property of the party was being defended in the Baltics. Blood in the Karabakh is in answer to the independence declaration by Armenia and the nationalization of Party and Komsomol property.

Until the Party gives back everything to the people, to the last wooden (or, as it is now called, Pavlov) rouble—Stalinism will be triumphant.

And it will exist until we survive an epoch of true sovereignties. It is high time for us to say plainly: sovereign states can unite only in confederations. Our future (if we want a free one) is confederation, and all that is said about a new or old federation is just fiction.

Why are fascist states not so tolerant as totalitarian systems? They always have an element of sovereignty left: private property.

And the idea of democracy is the range of sovereignties: of individual, of the family and home, of enterprises, of any national community, of a people. And the sovereignty of a state!

We are told that the international (and especially European) trend is towards unification. Thus, is correct, but only after decades of freedom! The fight for sovereignty is not only going on in this country, but all over the Eastern Europe: in Slovakia, Croatia, Serbia. This is the repayment for the decades without freedom.

Such is the time and the country in which the coordinators and experts of the Congress are supposed to answer the questions put foward before them within the theme: "The USSR and countries of Eastern Europe on the way from totalitarianism to the rule of law". Did really nothing happen during the last six years? Probably the most important thing happened: a change in the public conscience. Just as you cannot stop a river with your hand, so nothing including the army, OMON, hunger and even war can stop the process of the creation of a new society, they can only make slower and bloody—what is really going on now. But they cannot throw the country back to total fear. It is clear to those who have the power in their hands. That is why it has become possible for us to meet each other in this hall on Andrey Dmitrievich's birthday.

Many of our guests took part in the social movement defending human rights and the world campaign "Sakharov Defence". We are sincerely grateful to them and their comrades in many countries for their support and defence of Sakharov in hard times. Due to their efforts, Sakharov was given freedom for the last three years of his life. Over these three years he taught many people in this country to differentiate some views from the truth and helped them to overcome fear, believe in themselves and in the human being, again.

Many of those present here were not acquainted with Sakharov personally, not all of them shared his views, very few of them were his friends. What unites us is the fact that we are his contemporaries. We are contemporaries of the man who became a legend during his life, but did not like myths about himself. We are contemporaries of the man whose fate drew the attention (kind or unkind) of many people throughout the world. The same attention exists now, but usually it is speculative. It makes me sorry that the speculations often come from people representing the democratic wing. Don't you call yourself Sakharov's friends if you only appeared after the telephone call by Mikhail Gorbachev to Gorkii. Don't make political capital so easily. I am ashamed for you before those who used to come to our home under the KGB observation, those who used to come to Gorkii secretly, and one who pawned his house in the USA in order to gain money for the campaign in defense of Sakharov.

People from different worlds are present here, representing different professions and social position, different parties and movements, different views. Many thanks to all those who have accepted our invitation and have come to this hall. I am grateful to the President of Portugal, Mario Soares. Under his sponsorship and with his participation the Fourth Sakharov hearings were held in Lisbon in 1983 and he was the first state leader who accepted my invitation at the very beginning of our activities for organization of the Congress. Thus, he let us hope that the event will be a success.

I thank the Chairman of the Czechoslovak National Assembly, Alexander Dubcek. 1968 was the start of countdown for those who are usually called dissidents. Seven people came to Red Square with the slogan "For Your and Our Freedom". And this was the beginning of the dissident glasnost in the USSR. All who took part in it saw their Czech and Slovak friends as an example of courage and staunchness. And I am happy to say here again in the presence of Pan Alexander "For Your and Our Freedom".

I thank the President of the USSR, Mikhail Gorbachev and the Chairman of Russian Republic Supreme Soviet, Boris Yeltsin. Their presence at this democratic meeting will undoubtedly support the success of our work, widening the circle of those who will become interested in and answer to the recommendations of the Congress, the working part of which is to begin tomorrow.

Exactly two years ago, a question put forward at the First Deputies' Congress was heard all over the country: "Who is Sakharov that he is allowed to speak?"

The Director of the Lebedev Physics Institute, Academician Leonid Keldysh and the Director of the Stanford Accelerator, Dr. Sidney Drell, Professor of the Cornell University Dr. Yury Orlov and the Chairman of Czechoslovak National Assembly, Alexander Dubcek, will take this floor after me. Each of them will give his own answer to the question: Who is Sakharov?

And then there will be the celebration: Andrey Dmitrievich's birthday. We will listen to our favorite musicians and friends: Svyatoslav Richter, Mstislav Rostropovich, Vladimir Spivakov and his virtuosos, and the Lithuanian Choir.

I hope that this celebration is in keeping with the lines by Zhukovskii:

"Don't speak sadly of those dear friends
Whose presence blessed our age.
They are now gone
But be thankful that they were here".

Thank you for your attention.

ADVANCE IN INTERNATIONAL HUMANITARIAN LAW

Mr. KENNEDY. Mr. President, one of the results of the refugee crisis in the Persian Gulf—perhaps the only silver lining to an otherwise enormous tragedy—was the broad humanitarian mandate granted to the United Nations in Iraq. It is a mandate which permits United Nations Humanitarian assistance and personnel to operate even without Iraqi Government cooperation.

These actions, authorized by two Security Council resolutions and in a memorandum of understanding with the Iraqi Government, could represent a significant advancement in international humanitarian law if they can be asserted in other situations and become an accepted principle of international law and practice.

In a thoughtful essay in the Washington Post, the Executive Delegate of the Secretary General, Prince Sadruddin Aga Khan, who is primarily in charge of the U.N. operation, reviews this new development in international humanitarian assistance.

I believe there are some extraordinarily important lessons to be drawn from the international community's recent experience in the Persian Gulf, especially with the Kurdish refugees, and Prince Sadruddin articulates them very well.

Mr. President, I commend his article to the attention of all my colleagues, and compliment Prince Sadruddin not only for a provocative essay but more importantly for an outstanding job in the field.

I ask that the text of the essay be printed at this point in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 12, 1991]

U.N. PROTECTION BORN OF NECESSITY

(By Sadruddin Aga Khan)

On May 23 the United Nations secured Iraqi agreement to the deployment of up to 500 U.N. guards, to be assigned wherever a U.N. humanitarian presence is needed. This is not a pancea for the tensions and dangers of the region—and certainly not a means to "monitor all of Iraq," as Jim Hoagland writes [op-ed, June 5]. That was never the intention. But it is a small step for peace, a tentative but instructive idea of how innovation, even within the United Nations' somewhat rigid structures, can unblock the impasse.

The world's media spotlight—dazzlingly effective but lamentably brief—has focused on the grim plight of the Kurdish population in northern Iraq, which should not blind us to the needs of the victims of upheaval in other regions. Coalition forces responded first with a military efficiency that is enviable to traditional relief agencies. And since the signing of our framework agreement in Baghdad on April 18, the United Nations has had underway a humanitarian operation designed to bring succor to vulnerable groups throughout the country. The U.N. high commissioner for refugees has already taken over the Zakho transit camp. But security was hard to address within the confines of a humanitarian program.

Recourse to the Security Council was ruled out at the time. The peace-keeping option was tried to no avail. And indeed traditional U.N. peace-keeping, for all its successes, does have one pitfall: It can freeze a situation in an uneasy stalemate, with the underlying issues conveniently shelved by the parties—a "hard and bitter peace," in the words of John F. Kennedy. Just look at the 33 years of dispute over Kashmir or the 27 years of Cyprus's division.

Another approach was needed. That was why we came up with the "Guards Contingent" formula, blending the disparate humanitarian, political and security elements. A novel if still unproven experiment, the guards' basic mandate is to protect the precious human and material assets deployed in the humanitarian operation. They are neither peace-keepers nor policemen where U.N. resources are not involved. There are no guarantees. But they are there to observe, monitor and report. Any security incidents will be rapidly communicated up the chain of command. In the most direct sense, the guards may be a highly visible but symbolic presence—as indeed are peace-keeping operations themselves, where the "blue helmets" protect more by their color than by their dimension. But the guards ensure the international context. They will bear moral witness and help create confidence. As the eyes and ears of the United Nations, their reports can trigger further action. Moreover, bound as they are to the humanitarian program's time frame, a cutoff date prevents the inertia of the situation in Kashmir or Cyprus.

On first sounding out the concepts in Baghdad, I recalled an earlier idea, which we put forward in a 1981 U.N. report on "Human Rights and Massive Exoduses"—for a corps of "humanitarian observers." These observers were to monitor situations and contribute through their presence to a de-escalation of tensions," as well as to facilitate humanitarian work. In a refugee context, they could contribute to speedy repatriation. Ahead of their time, they never materialized; however, a decade later the guards represent by another name much of that same philosophy.

The debate over a right of humanitarian intervention has been given a good airing recently. Compassion and self-interest find temporary common cause in international action to alleviate suffering that knows no frontiers. In a vacuum of authority, responsibility must be assumed, and services disrupted by disasters must be restored. Yet imposed concern remains largely unwelcome. Once again, innovation and flexibility are crucial. Life-saving and face-saving may have to go hand in hand.

Critics remind us that the United Nations enjoys no reputation for rapid response to crises: Its potential must indeed be better tapped. Nonetheless it may step in where other powers rightly hesitate to tread. The guards' deployment was risky and cannot shoulder a burden it was never intended to bear, but it deserves its niche in U.N. history. Whatever the outcome, we must not fear to improvise. When hundreds face death each day, as parents bury their children on barren mountaintops, we cannot await the ideal solution. Relief from starvation and disease brooks no bureaucracy.

Complex humanitarian and political challenges defy easy solution. There are no quick fixes: An idea such as the guards contingent for our operation in Iraq can only be part of a broader package. In such situations, where distrust, distress and violence feed upon each other in a poisonous circle, the antidote must have multiple ingredients. First, tensions must be lowered, with the parties agreeing to show some restraint and to support, at the very least, the implementation of the humanitarian program. Specific agreements to that effect should be concluded between all concerned. Second, civilian authority should prevail, reflecting the spirit if not the letter of a demilitarized region. Third, tentative or interim security arrangements might be ensured through a tripartite grouping of both sides together with international representatives associated with the humanitarian endeavor. Other assurances or leverage may come from outside. The tissue of confidence must be rewoven thread by thread. One missing strand, one unchecked incident, will unravel the safety net.

We cut some corners in sending in a first guards contingent before the ink was dry—in fact before the agreement was even signed. And as they had to be part of the humanitarian package, their funding is dependent upon voluntary contributions, in cash or in kind. So far the response has fallen short of the needs, estimated at some $35 million till the end of the year—about as much as it costs the coalition every week, according to press reports, to keep its forces in northern Iraq. Give us the means to make this operation a success. As the refugees return down our "blue routes," we must keep up the momentum. Peace comes cheaper than war; it is also a good investment. Solidarity today can reap stability in a volatile region tomorrow.

OTTO BOS

Mr. CRANSTON. Mr. President, the untimely death of Otto Bos, Gov. Pete Wilson's communications director, is a tragic loss not only to his family but to my State of California.

Only the rare staff member makes the substantive contributions to the public good that Otto made, during his years in San Diego and Sacramento, and in Washington—where he worked closely and on the most cooperative basis—with my staff.

Otto was a personable young man of extraordinary talent, ability, and dedication, with a future promise even greater than his past accomplishments.

I mourn his loss and grieve for his family.

AMBASSADOR JOSEPH VERNER REED'S COMMENCEMENT ADDRESS TO THE GRADUATING CLASS OF THE COLLEGE OF NATURAL RESOURCES AT UTAH STATE UNIVERSITY

Mr. HATCH. Mr. President, I feel that the speech by Ambassador Joseph Verner Reed to the graduating class of the College of Natural Resources at Utah State University in Logan, UT, my home State, should be placed in the RECORD at this point. It is an excellent speech and calls upon those young people to participate in public service in ways that only Ambassador Reed could articulate. Ambassador Reed has had such a tremendous experience working for our Government both here and abroad. He has had the privilege of working in the White House for a long time now, and I do not believe his efforts have ever been excelled.

This particular speech is a model for all commencement speeches and I believe is something that everybody in the country would enjoy reading. Therefore, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COMMENCEMENT ADDRESS BY AMBASSADOR JOSEPH VERNER REED TO THE GRADUATING CLASS OF THE COLLEGE OF NATURAL RESOURCES

(Utah State University, Logan, UT, June 8, 1991)

"There is a debt of service due from every man to his country, proportioned to the bounty which nature and fortune have measured to him."—THOMAS JEFFERSON.

Thank you Dean Chapman for that very kind and generous introduction. I hope you don't mind if I call you some time to ask you to read it to my family. They'll never take my word for it!

President Cazier, Provost Morse, Dean Chapman, graduates of the class of 1991, ladies and gentlemen, it is an enormous pleasure to address you today.

It is also something of a challenge, for you and for me. For you, it is a test of endurance. Only in late spring in America do so many listen to so few about so little for so long. The hot air sweeps across the campuses like the Chergui across the deserts of Morocco.

As for me, there's the challenge of trying to deliver a message that the graduates will remember for the rest of their lives. But the foolishness—the absolute folly—of that idea came back to me when I sat back and tried to recall my own commencement and realized that not only did I not remember what was said, I didn't even remember who said it. So with the clear understanding that I am just the filler before the degrees, I can assure you I will be brief. First, let me congratulate the students on your graduation, your parents on their deliverance from tuition payments, your faculty for their infinite patience, and the administration for the magnificent ceremonies today.

I know how difficult it can be to make sure that everything runs smoothly. I recently had the responsibility of helping President Bush to arrange Queen Elizabeth's visit to this Nation, which meant tending to the myriad details of the multimoving parts of a ten day odyssey—from the arrival on the south lawn at the White House to the Orioles baseball game in Baltimore—from nonstop events in Federal City to the tours in Florida and then onto five cities in the Lone Star State. What an adventure! And you can imagine how I felt when I saw the photographs of the Queen making her speech on the White House lawn, or rather, when I saw the Queen's hat peeking above the sea of microphones, since that was the only part of her that was visible. It was dubbed "The Talking Hat." I therefore especially want to congratulate whoever arranged the podiums for this event. They have been exactly the right height. And we may have a job for him in Washington.

I also wish that we had scenery like this in Washington. I can understand what inspired so many of you to study the environment, when there is such incredible beauty to behold around this campus. The mountains have a way of putting human problems into perspective. Washington, D.C., on the other hand, was built on a swamp, and I don't think the country has ever gotten over that fact.

Long before I saw the beauty of this campus, I had a special affection for this university and for the College of Natural Resources. As the dean mentioned, I came to know the work of the college when I was Ambassador to Morocco. The record of fruitful cooperation between Morocco and Utah State University was extraordinary. The projects were in Rabat and in El Jadida. My loyalty to your school was won on the spot. I send President Cazier and the delegation from USU many good wishes for their forthcoming visit to the kingdom.

And I have a special admiration for this graduating class. For you have chosen to be at the cutting edge. This is the dawn of a new decade, the decade of the environment. During these next ten years, we must grapple with some of the most complex issues facing our Nation—indeed, our world—from global warming and acid rain to water shortages and toxic waste.

And while we are all custodians of the environment, you are the ones who hold the keys. You are the ones, equipped with the knowledge you have gained at this great college, who can balance the need to produce more from our land, while protecting and preserving our environment.

So I would urge you to put your talents to work in public service. You will not only be helping to solve some very specific and pressing problems. You will also be doing something just as important, which is rebuilding confidence in the government itself.

Americans have always been skeptical—and rightly so—of government authority. But over the past several years, they have come to doubt government's ability. And that, I think, is tragic.

In 1989, the National Commission on Public Service found that we had a "quiet crisis" in government.

The Commission, headed by the former Chairman of the Federal Reserve, Paul Volcker, included 35 prominent and experienced Americans. They came from every political stripe from former President Gerald Ford to former Senator Ed Muskie, but they all agreed that we face a grave situation that threatens the very heart of our democracy.

They found that the best people were leaving government. The brightest young people were not joining. And that we as a nation will be unable to confront the difficult challenges of the years ahead, unless we first rebuild the public service and restore confidence in government.

Let me give you just one example of this quiet crisis.

Last year, you may recall, there were environmental initiatives on ballots in States across the Nation. There were twenty-eight initiatives in California alone.

But even though 94% of the American people told the pollsters that the environment is an important issue, and even though 64% said they believe they should personally do more to help, those same people went to the polls to defeat virtually every one of those initiatives in California, New York, Missouri, and Oregon.

Why? In part, because some of the proposals were bad ideas.

Some were too expensive.

Others were just too confused and confusing.

But I think there was a deeper reason. People did not have the confidence that government could solve the problem. They did not trust government to spend the money wisely to clean up the environment.

Having spent time both in and out of public service, I think I can understand people's disillusionment with government. In the 1960's and 70's, we were told that more government was the answer. And yet we found that government programs could not spend people out of poverty.

In the 1980's, we heard that less government was the answer. And yet as the failing saving and loans testify, that is not always the case.

All along, I think that the people of this country have known that the answer is not necessarily more government, or less government, but better government.

And I would submit to you that as we approach the next century, we need the best possible government for this Nation.

Under President George Bush's leadership, that is exactly what we have sought to achieve. The President has not let the Volcker Commission report sit on a shelf, but has taken it to heart. The President has worked to restore competence and rebuild confidence in government.

The Volcker Commission said that we must attract more college graduates to government. And we have gone to the campuses to recruit students with the Career America Program.

They said that we should adjust the pay of government workers and, as unpopular as it was, the President has signed legislation to bring about parity with the private sector over the next ten years. I have no reservations about saying that was the right thing to do. It is a wise investment and a good value for our country.

The Commission recommended that we must do more to encourage volunteerism. George Bush, more than any President before him, has encouraged Americans to light the way toward the future by offering their time to help others.

And most importantly, the Commission said government must prove, through its own performance, that it deserves public support.

I believe the American Government has begun to regain the confidence of the American people. In the gulf war, we saw that our Government works. We saw a military establishment that produced state of the art equipment that worked, and orchestrated the greatest airlift in the history of the world; we saw the patient diplomacy of the President at the White House, the diplomats at the State Department and a tireless Secretary James Baker work in building an unprecedented coalition of nations on the side of freedom; we witnessed the skillful use of the parliament of man, the United Nations, which was employed exactly as it was intended by the signers of the charter in San Francisco, and we stood in awe and admiration of the 500,000 brave American men and women who brought freedom and peace to the Persian Gulf. We saw that our way of government is still the greatest institution on the face of this Earth.

Yet with all the progress we have made, we have a long way to go to make our Government as good as it can be. We need the youth and energy of the class of 1991 to revitalize our public service.

We need your thoughts on how to solve our environmental problems at a price we can afford. We need your experience in searching for the best, and not just the easiest answers. We need your commitment to make our government more effective and responsible.

So I would ask you, in this hour of our Nation's need, to answer the call to public service. As graduates of this distinguished college, you have the training, the knowledge, and all that it takes to make a difference.

For those graduates who are still trying to figure out what to do with your lives, I can tell you that you will find no more satisying career than public service.

For those of you who decide upon government, I would ask that you think of it not as just another job, but as answering to the higher purpose of serving this Nation.

And for all of us, young and old, I think that public service is part of our obligation as Americans. We who have been given so much, the blessings of which we celebrate today, have a sacred duty to contribute to the success and direction of this free society.

As President Bush said in his inaugural address:

"We are not the sum of our possessions. They are not the measure of our lives. In our hearts we know what matters. We cannot hope only to leave our children a bigger car, a bigger bank account. We must hope to give them a sense of what it means to be a loyal friend, a loving parent, a citizen who leaves his home, his neighborhood, and (his nation) better than he found it."

And now I stand here before you as the final obstacle to your graduation. So let me thank you for listening, for the honorary degree you have bestowed, and for the honor of addressing you. And one piece of advice. . .

Class of '91

Chase your dreams!

And let me leave you with the only expression I know that means hello, goodbye, hope to see you again and good luck:

Aloha!

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,279th day that Terry Anderson has been held captive in Lebanon.

Today also marks the 2,195th day for Thomas Sutherland. On Sunday, Mr. Sutherland's family and friends gathered to commemorate this sixth anniversary as a hostage in Lebanon. His wife, Jean, remarked, "For us, June 9 is the time when we feel the support of all our friends, all over the world." I would note that the Sutherland family has my support. And my prayers for the swift return of their husband and father.

Mr. President, I ask unanimous consent that an Associated Press report regarding this significant day be included in the RECORD at this time.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

FAMILY COMMEMORATES SUTHERLAND'S SIXTH YEAR IN CAPTIVITY

FORT COLLINS.—Friends and family of Thomas Sutherland, who will mark his sixth year in captivity Sunday, planned to observe the anniversary with a picnic and talking only of the hope that Sutherland will soon be released.

"When we remember him, we don't look back at all the time it has been," said Sutherland's daughter Kit, 31, who lives in Fort Collins, "We would rather look at the short time it will probably be (until his release)."

Sunday marks Sutherland's sixth year as a hostage 2,192 days. He is one of 13 Westerners, including six Americans, who are missing. Most are believed held hostage in Lebanon by pro-Iranian factions. Iran has said it cannot compel those groups to free the hostages, but has also said it would use its influence to encourage a release.

The longest-held is Terry Anderson, chief Middle East correspondent for The Associated Press. He was abducted in Beirut on March 16, 1985.

Sutherland, 60, was on leave from Colorado State Unversity when he was abducted in June 1985. He was in Beirut working as the dean of agriculture at American Unversity.

"We must not forget that Tom continues to suffer as a hostage,' said Frank Vattano, CSU psychology professor and Sutherland's friend. "the picnic is a quiet way to remember and recall how long he's been kept from enjoying he everyday pleasures many of us take for granted."

Last week, volunteers decked Fort Collins' main street, College Avenue, with yellow ribbons from one end of town to the other. Trees on the CSU campus were also trimmed with yellow ribbons.

"It can't last," said Jim Johnson, a CSU professor and longtime friend to the Sutherlands. "We made a pledge not to let people forget about it.* * * But this has certainly got to be the last."

Sutherland's wife, Jean, also expressed hope of a imminent release.

"This year we don't want to focus on the captivity the way we always did," she said. "This year, we're looking forward toward the day we can commemorate the day of the release. It feels more positive.

"For us, June 9 is the time when we feel the support of all our friends, all over the world," she said Friday at her home on the campus of the American University of Beirut. "Their support has been tremendous."

The Sutherland family also released a universal message to commemorate Sutherland's captivity. The family's message said, "We give our love to you for the love you have given to us. We offer our commitment to you for the commitment you have offered to us. We find our strength in you for the strength you have found in us. Together may we share at this time ever renewed faith and hope for peace."

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nomination:

Calendar 180, Preston Moore, to be Chief Financial Officer, Department of Commerce.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF COMMERCE

Preston Moore, of Texas, to be Chief Financial Officer, Department of Commerce.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative business.

COMPREHENSIVE URANIUM ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 95, S. 210, regarding uranium enrichment.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 210) to establish the United States Enrichment Corporation to operate the Federal uranium enrichment program on a profitable and efficient basis in order to maximize the long term economic value to the United States, to provide assistance to the domestic uranium industry and to provide a Federal contribution for reclamation of mill tailing generated pursuant to Federal defense contracts at active uranium and thorium processing sites.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Comprehensive Uranium Act of 1991".

TITLE I

SEC. 110. SHORT TITLE.—This title may be cited as the "Uranium Enrichment Act of 1991.".

SEC. 111. DELETION OF SECTION 161 V.—Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

a. inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprse provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

"**[**(1)**]** *a.* to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"[(2)] *b.* to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"[(3)] *c.* to market and sell enriched uranium and uranium enrichment and related services to—

"[(A)] *(1)* the Department for governmental purposes; and

"[(B)] *(2)* qualified domestic and foreign persons;

"[(4)] *d.* to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"[(5)] *e.* to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long-term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"[(6)] *f.* to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"[(7)] *g.* to maintain a reliable and economical domestic source of enrichment services;

"[(8)] *h.* to conduct its activities in a manner consistent with the health and safety of the public;

"[(9)] *i.* to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"[(10)] *j.* to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"Sec. 1301. Corporate Offices.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"Sec. 1401. Specific Corporate Powers and Duties.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"Sec. 1402. General Powers of the Corporation.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided,* That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or Government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use moneys, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized;

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; *Provided,* That, this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"Sec. 1403. Continuation of Contracts, Orders, Proceedings and Regulations.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided [elsewhere in this title,] *in section 1404,* the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided, however,* That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503[(c)]*d,* except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, U.S.C.;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, U.S.C., including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"*a.* There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility[:].

"[a.] *b.* (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"[b.] *c.* Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"[(c).] *d.* When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504[(a)]*b.* The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504[(a)]*b.* during their term of employment, regardless of any recommendation received or not received under this title.

"[d.] *e.* Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"[e.] *f.* Upon expiration of the initial term, such Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"[f.] *g.* The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"[g.] *h.* The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"[h.] *i.* The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in 5 U.S.C. 5314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"[i.] *j.* (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such responses shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"*a.* Officers and employees of the Corporation shall be officers and employees of the United States[:].

"[a.] *b.* The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: *Provided*, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503[(c)]*d.* and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"[b.] *c.* Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"[c.] *d.* This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, martial status, or handicap conditions.

"[d.] *e.* Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"[e.] *f.* Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"[f.] *g.* The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—[In order to enable the Corporation to exercise the powers and duties vested in it by this title:]

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the

Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION[:].—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided*, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING[:].—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING[:].—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection [(a)] *a.*, amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505[(a)]*a.* at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The cost of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Controller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. [Reports:] *REPORTS*.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION[:].—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such terms appear in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General [manager] *Manager*.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS[:].—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152[,] *or;* 153 b. (1)[, and 158] of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility *under section 183 of title 35, United States Code* with respect to secrecy orders imposed under [section 181 of title 35, United States Code, through 187.] *section 181 of such title.*

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b. (3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING[:].—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed *beginning in fiscal year 1997* to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all state and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. [The] *Beginning in fiscal year 1997, the* corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) [In no event shall the payment made to any taxing authority for any period] *Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall* be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I:

"a. Any references to the term 'Commission' or to the Department in sections 105 b., [110 a.,] 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS[:].—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1–7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12–27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility [to obtain necessary funds with which] to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT:

"a. Three years after enactment of this title [or January, 1993, whichever is later,] the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT[:].—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402(j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection (b)(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS[:].—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State, and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651–678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 114. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of title [II, 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.]

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100–202, is repealed.

SEC. 115. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 116. SEVERABILITY.—If any provision of this title, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this Act, or the application of the same shall not be thereby affected.

SEC. 117. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this Act: *Provided, however,* That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501(a) of the Atomic Energy Act of 1954, as amended by this Act [and previous Acts.]

SEC. 118. PAYMENT OF COST OF TRANSFER.—

(a) Notwithstanding section 1401j. of the Atomic Energy Act of 1954 as amended by section 112 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

TITLE II[—URANIUM]

Subtitle A—Short Title, Findings and Purpose, Definitions

This title may be cited as the "Uranium Security and Tailings Reclamation Act of 1991".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds for purposes of this title that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 per centum drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901–7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of subtitles B and C of this title to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11(e)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation es-

tablished under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Subtitle B—Uranium Revitalization

SEC. 210. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: *Provided, however*, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this title.

Subtitle C—Remedial Action for Active Processing Sites

SEC. 220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of documentation, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this title and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B) and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a pro-rated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 220.

SEC. 222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this subtitle not more than $300,000,000 increased annually as provided in section 220 based upon an inflation index as determined by the Secretary.

Subtitle D—Imports of Uranium, Enriched Uranium, and Uranium Enrichment Services

SEC. 230. FINDING AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) determine whether any uranium or enriched uranium is being exported by non-market economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 231. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any state agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "state agency", "Federal agency", and "ratemaking authority" have the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 232. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.

(a) Within sixty days after the date of enactment of this subtitle, the United States International Trade Commission, shall initiate an investigation to determine—

(1) the quantities of uranium or enriched uranium being exported from non-market economy countries;

(2) the amount and nature of uranium enrichment services being offered by non-market economy countries; and

(3) whether such uranium, enriched uranium or enrichment services are being offered at prices which represent less than the cost of producing such uranium or enriched uranium or providing such uranium enrichment services.

(b) The Secretary, the Administrator and the Secretary of Commerce shall cooperate fully with the Commission in the investigation and shall furnish them all records, analyses and information in their possession regarding the production costs, sales costs and exports of uranium and enriched uranium, or the provision of uranium enrichment services, by non-market economy countries.

(c)(1) Within one year after the date of enactment of this part and annually thereafter, the Commission shall furnish a report containing the results of the investigation and its determination under paragraph (a)(3) to the President, for the use of the Secretary and Secretary of Commerce, and the Congress.

(2) If the Commission determines that any non-market economy country is exporting uranium or enriched uranium, or providing enrichment services, at prices which represent less than the cost of production, the President, or his designee, within 120 days of receipt of the report from the Commission, shall transmit to the Congress a report on what actions are being taken by the Federal Government to discourage or end such pricing practices, including the status of any negotiations with such country to end such pricing practices.

(d) The Commission shall take such steps as, in its judgment, are necessary, including the classification of information, to assure appropriate protection of any confidential information.

SEC. 233. URANIUM PURCHASES REPORTS.

(a) By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined or,

(2) with respect to enriched uranium, that country where the uranium was mined and enriched, or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 234. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) Within one year of the date of enactment of this subtitle, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this subtitle.

(c) As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 235. UNITED STATES PURCHASE OF ENRICHED URANIUM.

(a) Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce production costs and maintain competitive prices.

(b) If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

The PRESIDING OFFICER. Without objection, the reported committee amendments are agreed to.

Are there further amendments?

AMENDMENT NO. 318

(Purpose: To correct a printing error in the text of S. 210)

Mr. MITCHELL. Mr. President, on behalf of Senator FORD, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. FORD, proposes an amendment numbered 318.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, strike lines 8 through 10, and insert in lieu thereof the following:

"(e) Subsection 905(g)(1) of title 2, United States Code, is amended to include 'United States Enrichment Corporation' at the end thereof."

The PRESIDING OFFICER. Without objection, the amendment (No. 318) is agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, almost one-half of the capital base of the United States electric power industry is invested in 100 uranium-fueled nuclear facilities that now supply 20 percent of the United States' electricity. In addition, our nuclear fleet of 150 uranium-fueled submarines and surface ships must have sufficient uranium to assure an uninterrupted fuel supply.

For more than five years the Committee has labored with this critical matter only to have legislative proposals passed by the Senate on four occasions die in the House. The Congress is long overdue in coming to grips with the fact that the Federal Government's uranium enrichment enterprise is no longer able to effectively compete with its more aggressive counterparts around the world.

Since we began this effort, the character of international markets has changed dramatically. The Soviet Union is now actively dumping uranium and enriched uranium in order to increase their market share. Only last week, the Soviet Union's Techsnabexport announced that it had formed a joint venture with Concord/Nuexco—the Global Nuclear Services & Supply Inc.—to market the full range of nuclear fuel services of the U.S.S.R.'s Ministry of Atomic Power & Industry. Its principal office will be in Washington, DC, although Global Nuclear is being incorporated in Switzerland.

The Soviet Union is clearly bent on becoming a major force in the United States fuel market. Among their announced objectives is greater hard-currency income and an announced intent to capture in excess of 25 percent of the Western world's nuclear fuel market. How they intend to achieve the market share that is their stated objective is not fully understood. But my concern is enhanced by their recent creation of Global Nuclear Services.

The committee amendment thus provides for a study by the International Trade Commission of the uranium and uranium enrichment marketing practices of nonmarketing countries. The committee is not as much concerned for whether or not dumping is occurring, or whether or not economic injury is being incurred, as it is concerned for whether or not their prices reflect true production costs. In this regard, I recognize that it is difficult to determine comparable production costs for such non-market economies to those for market economies.

But, even more importantly, I am concerned with what actions the Administration proposed to discourage marketing practices such as those being promoted by the Soviet Union.

No matter what your vantage point, whether you view this matter from the perspective of the bureaucrat, the budget cruncher, the taxpayer, or DOE's customers, their actions must be viewed as a threat to DOE's enrichment enterprise and the Enrichment Corporation that this legislation would establish. Soviet prices appear to bear no relationship to real production costs. As a consequence, their marketing practices have already—the Soviet's marketing practices—have driven uranium prices to record lows which have led to the closure of many mines and mills in the United States.

The full scope of the threat of the Soviet Union's marketing practices to DOE's enrichment enterprise is unknown, but informed sources estimate that their stockpiles range as high as 500 million pounds. Moreover their estimated annual production of uranium may be as high as 35 million pounds a year. By comparison, the U.S. uranium production last year was about 8.7 million pounds, less than 25 percent of U.S. demand. With little effort the Soviets could dump uranium on the international marketplace in volumes greater than the entire United States production.

The Soviets have made no secret of their efforts to capture a substantial part of the world market in nuclear fuel. Experts believe they could easily export enough enriched uranium to take half of DOE's U.S. market and more natural uranium than all the U.S. production projected for this year.

U.S. utilities need about 40 million pounds of uranium a year to run the reactors that now supply almost 20 percent of our needs for electrical power. Already half of this uranium is imported from abroad. After 1995, with inventories depleted, uranium imports will increase sharply.

Some of these imports will come from countries like Canada, but more will come from other sources like Russia, China, and Africa. It is ironic that the utilities which spend millions to advertise their concerns about our dependence on foreign oil are willing to become so dependent on foreign sources for nuclear fuel.

Utilities talk about the need to buy the cheapest fuel, but they may be "penny wise and pound foolish" in taking this approach. The fuel costs for uranium and enrichment services are only 7 percent of the total cost of nuclear energy. To pay a few cents more for U.S. products seems a small price to pay to reduce long-term security risks.

I fully support Congressional efforts to restructure DOE's enrichment enterprise into a creature that thinks, looks, acts, and responds like a business. Whether the Soviet Union is dumping uranium or not is not the question. The concern is the effect of their pricing practices on domestic uranium producers and the Federal enrichment enterprise which must meet the U.S. uranium enrichment requirements for defense purposes as well as its commercial customers.

In addition, the Enrichment Corporation must be able to respond to the Soviet Union's marketing practices once it is established. For this reason the committee bill grants DOE authority to buy uranium and enriched uranium from the Soviet Union on the same basis as DOE's customers. DOE would thus have the option, which it does not now have, of buying the Soviet enriched uranium being dumped.

If DOE were to elect to purchase Soviet enriched uranium it could reduce its production costs. Some of the cost savings could be passed on to DOE's utility customers—thus reducing domestic enriched uranium prices.

In order to protect the domestic mining industry from a possible side-effect of such purchases, DOE is restricted in its use of natural uranium stocks provided to it by its utility customers. For example, if DOE were to purchase enriched uranium on the world market, any utility owned uranium stocks held by DOE could not be sold; however, DOE could use such stocks for overfeeding purposes and thus could further reduce its costs. Some of these cost savings could be passed on to DOE's customers.

It must be recognized that the success of the Soviet Union's marketing strategy depends, in part, on the apparent willingness of some United States utilities to buy Soviet natural or enriched uranium and enrichment services. There is no common practice in this regard. Some utilities will not buy Soviet uranium. Others restrict their purchases because of recognition that a viable domestic industry is in their interest.

But what is happening is being influenced by an uncertainty regarding approval of such purchases by State regulatory commissions. Spokesmen for utilities have expressed concern that should they purchase domestic uranium or enriched uranium at prices higher than they can obtain their needs internationally that their domestic purchases will be questioned by State regulatory bodies as prudent.

This is a valid concern which is addressed in the committee amendment which directs the Secretary of Energy to encourage State utility authorities to consider the importance of maintaining a viable domestic uranium industry when deciding whether to allow recovery of associated uranium costs through rates charged to customers.

Mr. President, it ought to go without saying that until we can once again assure the future of nuclear power as a viable option in our Nation's energy future, our continuing dependence on imported oil will remain a threat to our Nation's economic health and energy security.

S. 210 is structured to address this concern. I recommend it for your support.

The PRESIDING OFFICER. Without objection, the bill is deemed read three times and passed.

So the bill (S. 210), as amended, was passed, as follows:

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be referred to as the "Comprehensive Uranium Act of 1991".

TITLE I

SEC. 110. SHORT TITLE.—This title may be cited as the "Uranium Enrichment Act of 1991".

SEC. 111. DELETION OF SECTION 161 v.—Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

a. inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101–9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

"a. to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"b. to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"c. to market and sell enriched uranium and uranium enrichment and related services to—

"(1) the Department for governmental purposes; and

"(2) qualified domestic and foreign persons;

"d. to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"e. to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long-term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"f. to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"g. to maintain a reliable and economical domestic source of enrichment services;

"h. to conduct its activities in a manner consistent with the health and safety of the public;

"i. to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"j. to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or Government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use moneys, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized;

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers; and

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; *Provided*, That, this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided in section 1404, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided, however*, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503 d., except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, U.S.C.;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506 c. and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—

"a. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility.

"b. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"c. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"d. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504 b. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504 b. during their term of employment, regardless of any recommendation received or not received under this title.

"e. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"f. Upon expiration of the initial term, such Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"g. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"h. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"i. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in 5 U.S.C. 5314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"j. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such responses shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—

"a. Officers and employees of the Corporation shall be officers and employees of the United States.

"b. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code; Provided, that the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503 d. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"c. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"d. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, martial status, or handicap conditions.

"e. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"f. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"g. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided*, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection a., amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505 a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The cost of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Controller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such terms appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152 or; 153 b. (1) of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility under section 183 of title 35, United States Code with respect to secrecy orders imposed under section 181 of such title.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b. (3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed beginning in fiscal year 1997 to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all state and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. Beginning in fiscal year 1997, the corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"Sec. 1605. Applicability of Antitrust Laws.—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1–7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12–27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"Sec. 1606. Nuclear Hazard Indemnification.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"Sec. 1607. Intent.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"Sec. 1608. Report.—

"a. Three years after enactment of this title the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"Sec. 1701. Establishment.—

"a. Establishment of Fund.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402(j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection (b)(2).

"b. Administration of Fund.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"Sec. 1702. Deposits.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"Sec. 1703. Performance and Disbursements.—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

Sec. 113. Treatment of the Corporation as Being Privately-Owned for Purposes of the Applicability of Environmental and Occupational Safety Laws.—The United States Enrichment Corporation shall be subject to Federal, State, and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651–678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

Sec. 114. Miscellaneous Provisions.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of title 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100–202, is repealed.

Sec. 115. Limitation on Expenditures.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

Sec. 116. Severability.—If any provision of this title, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this Act, or the application of the same shall not be thereby affected.

Sec. 117. Effective Date.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this Act: *Provided, however*, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501(a) of the Atomic Energy Act of 1954, as amended by this Act.

Sec. 118. Payment of Cost of Transfer.—

(a) Notwithstanding section 1401j. of the Atomic Energy Act of 1954 as amended by section 112 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

TITLE II

Subtitle A—Short Title, Findings and Purpose, Definitions

This title may be cited as the "Uranium Security and Tailings Reclamation Act of 1991".

SEC. 202. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds for purposes of this title that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 per centum drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901–7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of subtitles B and C of this title to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11(e)(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U–235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Subtitle B—Uranium Revitalization

SEC. 210. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: *Provided, however*, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided*, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this title.

Subtitle C—Remedial Action for Active Processing Sites

SEC. 220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of documentation, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this title and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B) and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a pro-rated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 220.

SEC. 222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this subtitle not more than $300,000,000 increased annually as provided in section 220 based upon an inflation index as determined by the Secretary.

Subtitle D—Imports of Uranium, Enriched Uranium, and Uranium Enrichment Services

SEC. 230. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this subtitle are to—

(1) determine whether any uranium or enriched uranium is being exported by non-market economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 231. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer, except that for the purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 232. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.

(a) Within sixty days after the date of enactment of this subtitle, the United States International Trade Commission, shall initiate an investigation to determine—

(1) the quantities of uranium or enriched uranium being exported from non-market economy countries;

(2) the amount and nature of uranium enrichment services being offered by non-market economy countries; and

(3) whether such uranium, enriched uranium or enrichment services are being offered at prices which represent less than the cost of producing such uranium or enriched uranium or providing such uranium enrichment services.

(b) The Secretary, the Administrator and the Secretary of Commerce shall cooperate fully with the Commission in the investigation and shall furnish them all records, analyses and information in their possession regarding the production costs, sales costs and exports of uranium and enriched uranium, or the provision of uranium enrichment services, by non-market economy countries.

(c)(1) Within one year after the date of enactment of this part and annually thereafter, the Commission shall furnish a report containing the results of the investigation and its determination under paragraph (a)(3) to the President, for the use of the Secretary and Secretary of Commerce, and the Congress.

(2) If the Commission determines that any non-market economy country is exporting uranium or enriched uranium, or providing enrichment services, at prices which represent less than the cost of production, the President, or his designee, within 120 days of receipt of the report from the Commission, shall transmit to the Congress a report on what actions are being taken by the Federal Government to discourage or end such pricing practices, including the status of any negotiations with such country to end such pricing practices.

(d) The Commission shall take such steps as, in its judgment, are necessary, including the classification of information, to assure appropriate protection of any confidential information.

SEC. 233. URANIUM PURCHASES REPORTS.

(a) By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator: and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined or,

(2) with respect to enriched uranium, that country where the uranium was mined and enriched, or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 234. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) Within one year of the date of enactment of this subtitle, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this subtitle.

(c) As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 235. UNITED STATES PURCHASE OF ENRICHED URANIUM.

(a) Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce production costs and maintain competitive prices.

(b) If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAKING CERTAIN TECHNICAL CORRECTIONS IN THE JUDICIAL IMPROVEMENTS ACT OF 1990

Mr. SYMMS. Mr. President, on behalf of Senator THURMOND, I send a bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1284) to make certain technical corrections in the Judicial Improvements Act of 1990.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, I rise today, along with Senator HEFLIN, to introduce a bill that will make certain technical corrections to the Judicial Improvements Act of 1990, which was passed in the last Congress. This bill will correct some technical drafting mistakes in the Judicial Improvements Act to ensure that the act is properly implemented.

I would like to briefly address one particular provision which deals with teaching income for retired judges and justices. Under law, outside earned income for a judge or a justice may not exceed 15 percent of his or her annual salary. In the Judicial Improvements Act of 1990, Congress allowed teaching income to be exempt from the 15-percent cap for retired judges. This bill will extend the same exemption to retired Justices of the U.S. Supreme Court.

Mr. President, this legislation will make certain technical amendments to the Judicial Improvements Act of 1990. I urge my colleagues to support its passage.

The PRESIDING OFFICER. Are there amendments to the bill?

If there are no amendments, the bill is deemed read a third time and passed.

The bill (S. 1284) was passed, as follows:

S. 1284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDICIAL COUNCILS OF CIRCUITS.

Section 332(a)(1) of title 28, United States Code, as amended by section 323 of the Judicial Improvements Act of 1990, is amended by—

(1) striking "such member" and inserting "such number"; and

(2) striking "services" and inserting "service".

SEC. 2. REVIEW OF DISTRICT COURT ACTION.

Section 474(a) of title 28, United States Code, as amended by sections 103 and 474 of the Judicial Improvements Act of 1990, is amended—

(1) in paragraph (1) by striking "court of appeals for such"; and

(2) in paragraph (2) by striking "a court of appeals" and inserting "a circuit".

SEC. 3. VENUE.

Section 1391(b) of title 28, United States Code, as amended by section 311 of the Judicial Improvements Act of 1990, is amended by striking "if (1)" and inserting "in (1)".

SEC. 4. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, as amended by section 312 of the Judicial Improvements Act of 1990, is amended by—

(1) striking the comma after "title"; and

(2) striking "may may" and inserting "may".

SEC. 5. APPEAL OF ABSTENTION DETERMINATIONS UNDER TITLE 11 OF THE UNITED STATES CODE.

Section 305(c) of title 11, United States Code, as amended by section 309 of the Judicial Improvements Act of 1990, is amended by striking "this title" both places it appears and inserting "title 28".

SEC. 6. OUTSIDE EARNED INCOME LIMITATIONS.

Section 502(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 7 502(b)) as amended by section 601(a) of the Ethics Reform Act of 1989 and section 319 of the Judicial Improvements Act of 1990, is amended to read as follows:

"(b) Teaching Compensation of Justices and Judges Retired From Regular Active Service.—For purposes of the limitation under section 501(a), any compensation for teaching approved under subsection (a)(5) of this section shall not be treated as outside earned income—

"(1) when received by a justice of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

"(2) when received by a judge of the United States retired from regular active service under section 371(b) of title 28, United States Code, for teaching performed during any calendar year for which such judge has met the requirements of subsection (f) of section 371 of title 28, United States Code, as certified in accordance with such subsection; or

"(3) when received by a judge of the United States retired from regular active service under section 372(a) of title 28, United States Code.".

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEMICONDUCTOR INTERNATIONAL PROTECTION EXTENSION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 113, S. 909, a bill regarding semiconductor chips.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 909) to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Are there amendments to the bill? If not, the bill is deemed read a third time and passed.

The bill (S. 909) was passed, as follows:

S. 909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Semiconductor International Protection Extension Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) section 914 of title 17, United States Code, which authorizes the Secretary of Commerce to issue orders extending interim protection under chapter 9 of title 17, United States Code, to mask works fixed in semiconductor chip products and originating in foreign countries that are making good faith efforts and reasonable progress toward providing protection, by treaty or legislation, to mask works of United States nationals, has resulted in substantial and positive legislative developments in foreign countries regarding protection of mask works;

(2) the Secretary of Commerce has determined that most of the industrialized countries of the world are eligible for orders affording interim protection under section 914 of title 17, United States Code;

(3) no multilateral treaty recognizing the protection of mask works has come into force, nor has the United States become bound by any multilateral agreement regarding such protection; and

(4) bilateral and multilateral relationships regarding the protection of mask works should be directed toward the international protection of mask works in an effective, consistent, and harmonious manner, and the existing bilateral authority of the Secretary of Commerce under chapter 9 of title 17, United States Code, should be extended to facilitate the continued development of protection for mask works.

(b) PURPOSES.—The purposes of this Act are—

(1) to extend the period within which the Secretary of Commerce may grant interim protection orders under section 914 of title 17, United States Code, to continue the incentive for the bilateral and multilateral protection of mask works; and

(2) to clarify the Secretary's authority to issue such interim protection orders.

SEC. 3. AUTHORITY TO ISSUE PROTECTION ORDERS.

Section 914 of title 17, United States Code, is amended—

(1) in subsection (a)(1)(B) by inserting "or implementing" after "enacting"; and

(2) in subsection (e) by striking "July 1, 1991" and inserting "July 1, 1995".

SEC. 4. REPORT TO CONGRESS.

Section 914(f)(2) of title 17, United States Code, is amended in the last sentence by striking "July 1, 1990" and inserting "July 1, 1994".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMARKS BY THE PRESIDENT AT THE 100 DAYS EVENT

Mr. SYMMS. Mr. President, I ask unanimous consent that a statement by the President of the United States be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the President's statement follows:

Thank you, good evening. Members of the Cabinet, honored guests. Dr. Benjamin Payton of Tuskegee Institute who brings a lifelong commitment to our Historically Black Colleges, welcome. Governor Campbell, Governor Castle. Drew Batavia, winner of the 1988 Distinguished Disabled American Award, welcome to you, sir. To Robert Egger, founder of the D.C. Central Kitchen, and the 60 other Points of Light who are here tonight, your work inspires the Nation. Mayor Hackett of Memphis, Mayor Myric of Charlotte, County Commissioner Klinger, good to see you all again. I see Paul O'Neill, Chairman of ALCOA, a dedicated advocate for educational excellence. And to the rest of this extraordinary gathering—leaders of businesses, veterans groups, associations, volunteer organizations, education partnerships, and all those who make America the land of opportunity, welcome to the White House.

Over the past 30 months, the world has changed at a dramatic pace. America has been called upon to meet one challenge after another. And meet them we did—each and every one of them. From Eastern Europe, to Panama, to the Persian Gulf, our country stands strong as a champion of freedom.

Ninety-eight days ago, I asked Congress to tackle the urgent problems on the home front with the same energy we dedicated to tackling the crisis on the battlefront. I spelled out my domestic priorities, setting out an ambitious agenda founded upon enhancing economic growth, investing in our future, and increasing opportunity for all Americans. I sent to the Congress literally hundreds of recommendations for legislative change. Then I specifically asked that Congress pass just two laws in a hundred days—a comprehensive anti-crime bill, and a transportation bill.

I thought a hundred days was pretty reasonable. It is now clear that neither will be on my desk by Friday. I am disappointed, but frankly I'm not surprised. Tonight I would like to put this all in some perspective. I haven't asked you here to sit through a litany of programs and policies. We have a long list of legislative priorities already before the Congress, awaiting congressional action. I won't repeat that list here tonight. Rather, I'd like to do something different, and describe to you how I personally see the shared strength and promise of America.

It is hard for the American people to understand why a bill to fight crime cannot be enacted in a hundred days; or why Congress can't pass a highway bill in a hundred days. Most Americans believe fear of crime and violence threatens our most basic freedoms—denies us opportunity.

They also believe we must invest in our future—provide an infrastructure for those who come after us. So they don't understand the complications, the inaction, the bickering, particularly when so many do understand what it takes to solve problems in their own neighborhoods: commitment, compassion, and courage.

I cannot fully explain this inaction to the American people. As I said, I'm disappointed, but not surprised. But I can say this as partial consolation: America's problem-solving does not begin or end with the Congress.

Yes, it would help if Congress would do what the people are asking of them. I'll keep working with the Congress—my hand remains extended. But we cannot let Congress discourage or deter us from meeting our responsibilities.

I believe the people gathered here tonight, under the twilight shadow of Washington's Monument, understand this better than most. You are extraordinary Americans, representing thousands of others. You bring to life the genius of the American spirit, and it is through you and with you that we can solve our most pressing problems. Together we can transform America, and create whole and good communities everywhere. Tonight, all Americans can help lead the way.

A great nation has the courage to be honest about itself. And we are a great nation. I believe that absolutely, as do you. We are indisputably the world's most powerful force for freedom and economic growth. Still, no one can deny that we have enormous challenges. Not all Americans are living the American Dream. Many can't even imagine it.

There are impoverished Americans, the poor and the homeless, the hungry and the hopeless, many unable to read and write. There are Americans gone astray, the kids dragged down by drugs, the shattered families, the teenage mothers struggling to cope. Then there are Americans uneasy, troubled and bewildered by the dizzying pace of change.

For many years I have crisscrossed this Nation. As President, part of my job is going to small towns and big cities, schools, neighborhoods and factories. Those are the places where you discover what's good and right about our country, and what's going wrong, too.

The state of our Nation is the state of our communities. As our communities flourish, our Nation will flourish. So we must seek a nation of whole communities, a nation of good communities—an America, Whole and Good.

What defines such a community? First, it is one that cares for the needs of its young people by building character, values and good habits for life. Second, it's a community that provides excellent schools—schools that spark a lifelong interest in learning. Next, there is opportunity and hope rooted in the dignity of work, and reward for achievement. Fourth, it's where people care about their health and their environment, and where a sense of well-being and belonging is nurtured. Finally, all of its neighborhoods are decent and safe.

Because millions of Americans have chosen to lead the way, these are not just dreams. Thousands of whole and good communities already flourish in America—communities where ordinary people have achieved the American Dream. We should never lose sight of that. America is the most prosperous, productive, enlightened Nation on Earth—a nation that can do anything. And we can do even better.

We should be confident about what lies ahead. America has a track record of success—success shaped with our own hands. Sometimes, in our impatience, we've made mistakes, but when we do, we dust ourselves off, and go at it again. Every American should take pride in this country's fundamental goodness. Each of us must resolve in our own hearts that for all the good we've done, it's time to do better, much, much better.

Conventional wisdom in our day once held that all solutions were in the hands of government: call in the best and brightest and hand over the keys to the national treasury; bigger government was better government; compassion measured in dollars and cents; progress by price tag. We tried that course. As we ended the 70's—our economy strangling on inflation, soaring interest rates, and unemployment—America turned away from government as "the answer."

So conventional wisdom then turned to the genius of the free market. We began a decade of exceptional economic growth and created 20 million new jobs. Yet, many of our streets are still not safe, our schools have lost their edge, and millions still trudge the path of poverty. There is more to be done, and the marketplace alone can't solve all our problems.

Is the harsh lesson that there must always be those who are left behind? America must have but one answer. That answer is No. There is a better way, one that combines our efforts—those of a government properly defined, the marketplace properly understood, and service to others properly engaged. This is the only way to an America Whole and Good.

It requires all three forces of our national life. First, it requires the power of the free market; second, a competent, compassionate government; third, the ethic of serving others—including what I call Points of Light. These three powerful forces create the conditions for communities to be whole and good, and it's time we harnessed all three of them.

In our complex democracy, power is fragmented. That can be frustrating. But on balance it's for the good. And power tends to move toward those who serve the greater good: entrepreneurs, like John Bryant, a young self-starter who has built a multi-million dollar enterprise and now helps rebuild inner city Los Angeles; caring individuals like Mack Stolarski, a retired carpenter who now helps his student apprentices repair homes for the poor and disabled.

And because of the power of the free market, what so much of the world can only imagine, we take for granted: abundant food on the shelves of our supermarkets, and quality products at our shopping centers. Nothing beats the free market at generating jobs, income, wealth, and a better quality of life.

The good news in communities is that the free market is now applying its resources and know-how to our social problems. Many companies, recognizing that tomorrow's workers are today's students, are leaders of a revolution in American education—partners in our exciting America 2000 strategy. Others are crusaders for environmental protection, while still others are innovators from health care to child care.

Transforming America requires not only the power of the free market, but also a dynamic government. To be the enlightened instrument of the people—the government of Jefferson and Lincoln and Roosevelt—and the embodiment of their vision—it must truly be a force for good.

I believe in this kind of government—a government of compassion and competence. And I believe in backing it up with action. Here tonight, for example, is Mrs. Lauren Jackson-Floyd, one of the first Head Start graduates. Now she teaches preschoolers in that same marvelous program. Her success is why we expanded Head Start by almost three quarters of a billion dollars. And last year I signed our child care bill to expand parents' choices in caring for their children.

We fought for a Clean Air Act that puts the free market in the service of the environment, and we won. The Americans with Disabilities Act, the most important Civil Rights Bill in decades, has brought new dignity and opportunity to our Nation's disabled—disability leaders like Justin Dart and Evan Kemp were right here when I signed it.

Jack Kemp and I stood with Ramona Younger in Charles Houston Community Center in Alexandria, Virginia—if the Congress enacts our HOPE Initiative, these public housing tenants can become America's newest homeowners. Dewey Stokes here, President of the Fraternal Order of Police, wants to help make our neighborhoods safer—that's why he supports our crime bill. And if we get a civil rights bill like the one I sent to the Congress, we will take an important step against discrimination in the workplace.

This is not big government—this is good government.

Finally, along with the forces of the free market and the Government, we must add the ethic of voluntary service—Points of Light. That is not a phrase about charity. It is about the light that is within us all. A light that brightens the lives of others and makes whole the lives of those who shine it. As the verse of Randy Travis' song says, "a ray of hope in the darkest night."

Points of Light is a call to every American to serve another in need. But no one of us can solve big problems like poverty or drug abuse by ourselves. Only the combined light from every school, every business, place of worship, club, group, and organization in every community can dissolve the darkness.

Whether a company holds an after-hours literacy program for its workers, a police station counsels tough kids, or third graders phone lonely homebound senior citizens, Points of Light show those in need that their lives matter.

Government, and the market, joined with Points of Light, will overwhelm our social problems. This is how we must guarantee the next American Century. Every person, every business, every school board—our associations, our clubs, our places of worship—we all have the duty to lead.

Only then, can we truly think and act anew. Now Congress, too, must understand the successes and failures of the past and help us forge a certain future for America.

The people gathered here tonight represent those who refuse to rest easy. I look out and see so much reflected in your faces—the strength, the conviction, the commitment. You represent those millions of Americans who use power to achieve a greater good. I know, because you've brought me into your homes and your neighborhoods, your schools and your churches.

Last year I walked through a reclaimed crackhouse in Kansas City with Al Brooks, the leader of an anticrime coalition. I learned more about how we can fight crime in 2 hours than in 2 months of TV news.

Another day I visited D.C. General Hospital, and held a tiny boarder baby in my arms, the child of a cocaine addict. The remarkable dedication of the women who rescued these babies was just as moving. America needs to hear that story, too.

Just a few months ago, I dropped in on a little West Virginia school in a town called Slanesville. The National Teacher of the Year teaches remedial reading there. Her name is Rae Ellen McKee and she's here tonight. Visiting her gave me the opportunity to say to the Nation, "thank God for our teachers."

Just yesterday I spoke before the graduating class of the James H. Groves Adult High School in Sussex County, Delaware. I invited the class to join us tonight. I went there with Governor Castle to honor these men and women who had the courage to go back to school and get their diplomas. They honored us by telling America to be a nation dedicated to lifelong learning.

These are the Americans who love this country for what it is and for what it can become. These are the Americans who make this a nation of boldness—filled with problem solvers—gifted with the American tradition of living up to our ideals. These are the

Americans who prove that no one in America is without a gift to give, a skill to share, a hand to offer.

This is the genius of America—ordinary Americans doing extraordinary things.

The Congress can refer our proposals to its hundreds of committees, tie itself up with debate, and produce complicated, expensive, unworkable legislation. But in the end, we must carry forward the magic of America. We must carry forward what is good, and reach out and embrace what is best. We must do the hard work of freedom. I know you have. I know you will. Through you, our country can become an America Whole and Good. For that our country is grateful, and because of that our country will prevail.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:14 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; and

H.R. 2123. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 142. A concurrent resolution extending an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, UT, and pledging the cooperation and support of the Congress of the United States.

ENROLLED JOINT RESOLUTION SIGNED

At 7:47 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week."

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2038. An act to authorize appropriations for fiscal year 1992 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore (Mr. BYRD) announced that on yesterday, June 11, 1991, during the recess of the Senate, he had signed the following enrolled bills and joint resolution, which had previously been signed by the Speaker of the House:

S. 292. An act to expand the boundaries of the Saguaro National Monument;

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991"; and

H.J. Res. 219. Joint resolution to designate the week beginning June 9, 1991, as "National Scleroderma Awareness Week".

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 12, 1991, he had presented to the President of the United States the following enrolled bills:

S. 292. An act to expand the boundaries of the Saguaro National Monument; and

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1375. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide a remote maintenance allowance to certain officers and employees of the United States assigned to Johnston Island; to the Committee on Governmental Affairs.

EC–1376. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Equal Employment Opportunity Commission, for the period October 1, 1990, to March 31, 1991 to the Committee on Governmental Affairs.

EC–1377. A communication from the Secretary of Energy, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Energy, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1378. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Labor Relations Board, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1379. A communication from the Chairman of the Oversight Board of the Resolution Trust Corporation and the Chairman of the Resolutions Trust Corporation, transmitting jointly, pursuant to law, the semiannual report of the Office of Inspector General, Resolution Trust Corporation, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1380. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, United States Information Agency, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1381. A communication from the Chairman of the National Science Board, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Science Board, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1382. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Housing and Urban Development, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1383. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report on audit resolution followup activity for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1384. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Labor, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1385. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Federal Emergency Management Agency, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1386. A communication from the Chairman of the PCA Retirement Plan, Federal Intermediate Credit Bank of Jackson, transmitting, pursuant to law, the annual pension plan report of the Production Credit Associations Retirement Plan for the plan year ended December 31, 1990; to the Committee on Governmental Affairs.

EC–1387. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for the calendar year 1990; to the Committee on Governmental Affairs.

EC–1388. A communication from the Secretary of Education, transmitting, pursuant to law, the semiannual report on audit followup for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1389. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Annual Audit of the Boxing and Wrestling Commission for Fiscal Year 1990"; to the Committee on Governmental Affairs.

EC–1390. A communication from the Director of the Federal Domestic Volunteer Agency, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Federal Domestic Volunteer Agency, and the semiannual report on audit followup for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1391. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Securities and Exchange Commission, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1392. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Commerce, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1393. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Office of Personnel Management, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1394. A communication from the Director of the Office of Government Ethics, transmitting a draft of proposed legislation to amend section 202 of title 18, United States Code, to provide for Presidential waiver authority of certain conflict of interest statutes; to the Committee on Governmental Affairs.

EC–1395. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Health and Human Services, for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1396. A communication from the Administrator of General Services, transmitting, pursuant to law, the semiannual report on audit followup for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1397. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report on audit followup for the period October 1, 1990, to March 31, 1991; to the Committee on Governmental Affairs.

EC–1398. A communication from the President of the Foundation of the Federal Bar Association, transmitting, pursuant to law, the annual audit report of the Association for fiscal year 1990; to the Committee on the Judiciary.

EC–1399. A communication from the Director of the Administrative Office of the United States Courts, transmitting, pursuant to law, the 1990 annual report of the Director of the Administrative Office of the United States Courts and the March and September proceedings of the Judicial Conference of the United States held in 1990; to the Committee on the Judiciary.

EC–1400. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the annual report of the Endowment for 1990; to the Committee on Labor and Human Resources.

EC–1401. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend programs under the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

EC–1402. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend the authorizations of appropriations for certain youth programs under the Anti-Drug Abuse Act of 1988; to the Committee on Labor and Human Resources.

EC–1403. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of Black Lung benefits for calendar year 1989; to the Committee on Labor and Human Resources.

EC–1404. A communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to improve the supervision and regulation with respect to financial safety and soundness of the Student Laon Marketing Association, and for other purposes; to the Committee on Labor and Human Resources.

EC–1405. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to authorize the Secretary of Veterans Affairs to remove any restrictions and conditions on land conveyed by the VA to Temple Junior College, Temple, TX; to the Committee on Veterans' Affairs.

EC–1406. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the report on the administration of the Montgomery GI bill education assistance program for the period October 1, 1989, to September 30, 1990; to the Committee on Veterans' Affairs.

EC–1407. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the housing loan program for veterans by reducing administrative regulation, enhancing the financial solvency of such program, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 2427: A bill making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102–80).

By Mr. REID, from the Committee on Appropriations, with amendments:

H.R. 2506: A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102–81).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Mike Hayden, of Kansas, to be Assistant Secretary for Fish and Wildlife, Department of the Interior.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

James R. Whelan, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 30, 1994; and

Christopher D. Coursen, of Maryland, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1277. A bill to improve the public safety and quality of marine recreational waters; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. DURENBERGER, Mr. BURDICK, and Mr. CHAFEE):

S. 1278. A bill to authorize appropriations for the Office of Environmental Quality for fiscal years 1992, 1993, and 1994, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CRANSTON (by request):

S. 1279. A bill to amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with medical, therapeutic, rehabilitative, and prosthetic devices, appliances, equipment, and services; to the Committee on Veterans' Affairs.

S. 1280. A bill to amend title 38, United States Code, to improve the management of the Veterans Canteen Service; to the Committee on Veterans' Affairs.

By Mr. RIEGLE:

S. 1281. A bill to provide for immediate delivery of United States Savings Bonds available to the public at the point of purchase; to the Committee on Finance.

By Mr. RIEGLE (for himself and Mr. GARN) (by request):

S. 1282. A bill to improve the supervision and regulation with respect to financial safety and soundness of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Student Loan Marketing Association; to enhance the safety and soundness of the Farm Credit System; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 1283. A bill to authorize extensions of time limitations in certain FERC-issued licenses; to the Committee on Energy and Natural Resources.

By Mr. SYMMS (for Mr. THURMOND (for himself and Mr. HEFLIN)):

S. 1284. A bill to make certain technical corrections in the Judicial Improvements Act of 1990; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1277. A bill to improve the public safety and quality of marine recreational waters; to the Committee on Environment and Public Works.

BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT

• Mr. LAUTENBERG. Mr. President, I rise to introduce the Beaches Environmental Assessment, Closure and Health [BEACH] Act of 1991. I am pleased to be joined by my colleague, Senator BRADLEY. It is similar to legislation introduced in the other body by Congressman BILL HUGHES. The bill will ensure the safety and beauty of coastal beaches across the country by establishing uniform testing and monitoring procedures for pathogens and floatables in marine recreation waters. This bill also requires EPA to establish a nationwide public health standard for determining when States should notify the public of health risks due to pathogen contaminated waters.

Coastal tourism generates billions of dollars every year for local communities nationwide. More than that, our coastal areas provide immeasurable benefits for millions of Americans who want to build sand castles, cool off in the water, take a walk with that special someone, or just relax. In New Jersey, our very important tourism industry relies primarily on the marine environment. In 1989 over 5.7 million people came to spend time on the Jersey shore and spent over $7.5 billion doing it.

Mr. President, we need new uniform Federal criteria for protecting public health at recreational beaches. Swimming in pathogen contaminated coastal waters can cause a number of illnesses including gastroenteritis, hepatitis, and skin and ear infections. According to the Office of Technology Assessment's 1987 report, Wastes in Marine Environments:

> Bathing in sewage-impacted waters is responsible for relatively high rates of gastrointestinal illness in the United States.

The OTA report concludes that the number of outbreaks of water-borne disease has been steadily increasing in recent decades. It also notes that techniques to measure marine water quality probably underestimate the true number of viable pathogens that are entering the marine environment.

EPA must develop new standards because existing EPA guidelines simply fall short. When states use the Federal guidelines, they decide whether their beach waters are safe for swimming based on monthly averages. Waters may appear safe in the long term, but short-term violations of the public health standard go unrecognized.

The Federal guidelines are not useful for decisionmakers who need to decide whether they should allow people to swim at the beach tomorrow or the coming weekend. Using monthly water quality averages to determine if the beach is safe for swimming is like taking a patient's temperature average over a week to see if she is sick. Her average temperature could be just about normal. But in the meantime, she could be dead.

While some States still use the Federal guidelines, others have no monitoring or water quality notification program at all. A draft survey conducted in the fall of 1989 by the New Jersey Department of Health shows that of 23 States and territories surveyed, 8 have no structured statewide water quality monitoring programs; 11 do not have established criteria for determining bathing beach closures and reopenings due to unsatisfactory microbiological water quality; and, 14 do not proactively disseminate water quality information to the general public.

A recent Recreational Beach Closure Study by the Natural Resources Defense Counsel [NRDC] found that a high bacteria level can cause a beach closure in one State while in another State people may be allowed to swim in the water despite equal health risks. This discrepancy among coastal States threatens public health.

The NRDC report contains other important findings:

High levels of bacteria in coastal waters are responsible for the overwhelming majority of beach closures in the United States.

There were 764 beach closures in 1989 in just 10 States reviewed by NRDC.

The EPA recommended guidelines for waters considered safe would result in 19 out of every 1,000 swimmers becoming sick with gastroenteritis.

The guidelines established by the World Health Organization are more stringent than those of the United States.

New Jersey has been aggressive when it comes to protecting public health at the beach. When there have been signs that our beach waters may be unsafe, we have closed our beaches. Other States haven't acted as swiftly or as honestly. Ironically, New Jersey suffers because it does more to protect public health. In some years, annual losses from beach closures in New Jersey have ranged from $800 million to $1 billion.

Mr. President, I introduced a similar bill last Congress because there are currently no minimum public health standards to protect the public from polluted beach waters, and because the lack of minimum nationwide beach water quality standards presents a threat to public health.

Whether they're in the Carolinas, California, New Jersey, or New York, people across the country have a right to know when the water is and is not safe to swim in. Beachgoers should be able to wade or swim in the surf without the fear of getting sick. Going to the beach should be a healthy and rejuvenating experience. A day at the beach shouldn't be followed by a day with the doctor.

It is clear that we need nationwide beach water quality standards to protect public health from pathogen contaminated waters at beaches. This bill will make sure that need is met.

This bill requires the EPA to establish procedures to monitor coastal waters to detect short-term increases in pathogenicity and to set minimum standards to protect the public from pathogen contaminated beach waters. And it will assure that the public is notified when beach waters exceed the standards. Under my bill, when a standard is violated States are required to notify local officials and post signs at beaches to inform the public of the violation and any associated health risks.

I am also concerned that the bacterial indicators recommended by EPA and those used by many States are inadequate and that they do not tell us about the risks to public health. New Jersey is conducting research to see if it can find better ways to measure public health risks from pathogens in marine waters. But more needs to be done. My bill will allow us to build upon existing efforts and to find better indicators to protect public health.

This legislation provides funding to support implementation of the program through a small set-aside from State grants under section 106 of the Clean Water Act.

Mr. President, the bill I am introducing today was approved by the Environment Committee last year.

Mr. President, I urge my colleagues to join me and Senator BRADLEY in recognizing the importance of protecting public health at our Nation's beaches and cosponsor this legislation.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beaches Environmental Assessment, Closure, and Health Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Nation's beaches are a valuable public resource used for recreation by millions of people annually;

(2) the beaches of coastal States are hosts to many out-of-State and international visitors;

(3) tourism in the coastal zone generates billions of dollars annually;

(4) as of the year 2000, as much as 80 percent of the Nation's population may be living within 50 miles of the coast;

(5) increased population has contributed to the decline in the environmental quality of coastal waters;

(6) pollution in coastal waters is not restricted by State and other political boundaries;

(7) each coastal State has its own method of testing the quality of its coastal recreation waters, providing varying degrees of protection to the public; and

(8) the development of implementation of procedures for monitoring the quality of coastal recreational waters and the posting of signs at beaches notifying the public during periods when public health and safety limits and conditions are exceeded would enhance public health and safety.

SEC. 3. COASTAL BEACH QUALITY.

Title IV of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"COASTAL BEACH QUALITY

"SEC. 407. (a)(1) Within eighteen months of the date of enactment of this section, each State adjoining any coastal waters shall submit to the Administrator an inventory of coastal recreation waters within such State.

"(2) The inventory required by this subsection shall identify coastal recreation waters within such State, including at a minimum, coastal waters adjacent to public beaches or swimming areas.

"(3) The inventory shall include a statement and description of coastal waters within such State designated for swimming, bathing, or body contact recreation in standards developed pursuant to section 303 of this Act.

"(4) Each State shall provide for public review and comment on the inventory required pursuant to this subsection and, at a minimum, shall provide for at least one public hearing on the draft inventory.

"(5) The Administrator shall approve the inventory prepared pursuant to this section if the Administrator determines that such inventory is consistent with the requirements of this subsection.

"(6) In a case where a State does not submit an inventory pursuant to this subsection, or such inventory is not approved, the Administrator shall designate coastal recreation waters within such State as soon as practicable, but not later than thirty months from the date of enactment of this section. The Administrator shall provide for public review and comment on the designation of coastal recreation waters and shall provide for at least one public hearing within such State.

"(b)(1) Within twenty-four months of the date of enactment of this section, the Administrator shall publish regulations to protect the health and safety of persons swimming, bathing, or engaged in other body contact activities in coastal recreation waters identified pursuant to subsection (a) of this section consistent with paragraph (2) of this subsection.

"(2)(A) Regulations published pursuant to this subsection shall establish, using the best available scientific information, numerical limits for water pollutants determined by the Administrator to pose a threat to public health and safety as a result of swimming, bathing, or other body contact activities. Numerical limits pursuant to this paragraph shall be sufficient to protect public health and safety as a result of any reasonably anticipated exposure to pollutants in coastal recreational waters. At a minimum, the Administrator shall establish a numerical limit for an indicator of the presence of pathogens in water, using the most accurate available indicator.

"(B) In addition to establishing numerical limits for pollutants in water pursuant to subparagraph (A), the Administrator shall establish uniform assessment and monitoring procedures for floatable materials in water and specify the conditions under which the presence of floatable materials shall constitute a threat to public health and safety.

"(3) Regulations published pursuant to this subsection shall specify methods and other requirements for monitoring of coastal recreation waters to determine compliance with numerical limits and conditions established pursuant to paragraph (2) and shall require States to conduct such monitoring. Monitoring requirements established pursuant to this paragraph shall, at a minimum—

"(A) specify the frequency of monitoring based on the periods of recreational use of such waters;

"(B) specify the frequency of monitoring based on the extent and degree of use during such periods;

"(C) specify the frequency of monitoring based on the proximity of coastal recreation waters to pollution sources; and

"(D) specify methods for detecting short-term increases in pollutants identified pursuant to paragraph (2).

"(4)(A) Regulations established pursuant to this subsection shall require States to notify local governments and the public of any violations of numerical limits or conditions established pursuant to paragraph (2). Notification pursuant to this paragraph shall include, at a minimum—

"(i) prompt communication to a designated official of a local government having jurisdiction over land adjoining coastal recreation waters in which a violation pursuant to this paragraph is identified of the occurrence, nature, and extent of such violation;

"(ii) posting of signs, for the period during which the violation continues, sufficient to give notice to the public of violation of public health and safety standards by such waters and the potential risks associated with body contact recreation in such waters; and

"(iii) in the case of any significant violation, notice by general circulation newspaper serving the area in which the violation occurs and a press release to electronic media providing a clear and readily understandable explanation of the violation and the potential risks associated with body contact recreation in such waters.

"(B) Regulations established pursuant to this subsection shall include a definition of 'significant violation' which reflects the degree of violation of numerical limits or conditions established pursuant to paragraph (2), the length of the violation, and the number of people potentially exposed to waters in violation.

"(5) The Administrator shall review and revise regulations published pursuant to this subsection periodically.

"(c) For the purposes of this section the term 'coastal recreational waters' refers to coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes.

"(d)(1) In the case of a State required to develop an inventory and implement regulations under this section, the Administrator shall reserve each fiscal year 5 per centum of the sums allotted and available for obligation to each such State under section 106 of this Act, or $100,000, whichever amount is the greater, for the purposes of conducting or revising the inventory pursuant to subsection (a) of this section and implementing regulations pursuant to subsection (b) of this section.

"(2) In a case where the Administrator determines that a State can effectively implement the program required pursuant to this section for an amount less than 5 per centum of such sums, the Administrator may reserve less than 5 per centum of such funds.

"(3) In a case where the Administrator determines that a State is not complying with regulations issued pursuant to this section, the Administrator shall withhold 5 per centum of the sums allotted and available for obligation under section 106 of this Act, or $100,000, whichever amount is the greater. Sums withheld under this paragraph shall be reallotted among States complying with regulations issued pursuant to this section and States not covered by this section.

"(4) Each State implementing a program under this section shall provide to the Administrator an annual report on the actions taken to implement the program, violations identified, and the number and type of notifications provided pursuant to this section.

"(e) Not later than 5 years after the date of enactment of this section and biennially thereafter, the Administrator shall provide a report to the Congress which shall—

"(1) describe the number and type of violations of numerical limits and conditions and the number and type of notification actions;

"(2) describe the amount and extent of floatable materials in coastal recreation waters and the trends in the amount and location of such materials;

"(3) provide an evaluation of the State activities to implement this section; and

"(4) make recommendations concerning the need for additional numerical limits or conditions pursuant to subparagraph (b)(2) and other actions needed to improve the program pursuant to this section.

"(f)(1) The Administrator, in cooperation with the Under Secretary, shall conduct a study to provide additional information to the current base of knowledge regarding indicators for detecting in coastal recreation waters the presence of bacteria and virus which are harmful to human health.

"(2) The Administrator shall provide a report of the findings of such study to the Congress within 3 years of the date of enactment of this section.

"(g) There is authorized to be appropriated to the Administrator of the Environmental Protection Agency not to exceed $1,000,000 for each of the fiscal years 1992–1997 for the administration of this section.".•

• Mr. BRADLEY. Mr. President, I rise today to join my colleague Senator LAUTENBERG in introducing the Environmental Assessment, Closure, and Health Act of 1991. I am cosponsoring this legislation because it will reduce the chances that Americans are needlessly exposed to unsafe water at the beach. Americans face hazards enough at home and at work. We must do all we can to ensure that citizens are not exposed to unnecessary risks when on vacation as well. This legislation will help achieve that goal.

Vacationers at the beach, enjoying a few days off should not have to wonder whether the water in which they and their families are swimming could make them sick. They should know that the water is safe. This certainty can only come from a rigorous water quality testing program, and a willingness to tell the public when the water may be unsafe. This legislation would ensure that the water testing programs and beach closing rules nationwide are up to the task.

Every summer, I walk the beaches of New Jersey, and I talk to the people I meet about their concerns. New Jerseyans are worried about their beaches and worried about the safety of the waters in which they and their children swim. Yet New Jersey's rules for testing coastal waters are more stringent than currently required by the EPA. When New Jersey's beaches are open, the water is safe. New Jersey has a comprehensive, effective water testing program. New Jersey does not flinch from its responsibilities to close beaches when, as sometimes happens, it may be unsafe to swim.

Some States are not so forthcoming. Some States do not test coastal waters well enough or frequently enough to ensure that residents and visitors are protected from disease. I am proud to say that New Jersey has gone to great lengths to ensure safety.

Mr. President, I think of this legislation as basic consumer information. As things now stand, each State runs its water testing program in a different way. Information on coastal water quality from the different testing programs can be difficult to make sense of or to compare, even for specialists. This legislation, and the companion measure introduced in the House by Representative HUGHES, will ensure that testing programs in coastal areas nationwide are similar. National testing guidelines and national beach closure standards will make readily comparable information on water quality available to beachgoers. For the first time, Americans will be able to determine which beaches have real problems with dangerous pollution, and they will be able to compare beaches to determine which are the safest.

New Jersey beaches have nothing to fear from these comparisons. New Jersey has, I believe, one of the most effective water testing programs in the Nation. New Jersey tests its water on a weekly basis. Many States test their water less frequently, or average the results of repeated tests, thus obscuring short term, intermittent or weather-dependent contamination. In New Jersey we find out about the short term pollution problems, and we take steps to protect people from possible health risks.

Mr. President, some will complain that rigorous testing will do nothing to clean the water. I think that view is shortsighted. To reduce the contamination of our coastal waters we must know the dimensions of the problem. Where are our beach waters unsafe? When do the unsafe conditions occur? Answers to those questions can be used, as they already have been in New Jersey, to track down pollution sources and eliminate them. Furthermore, these naysayers underestimate the power of publicity. If a beach is closed because of polluted water, or if people stop visiting the beach because of reports that the water is unsafe, efforts to find and eliminate the sources of pollution will redouble. And that is what this legislation is really about: cleaning our beaches, eliminating water pollution, and protecting Americans. The stringent testing and pollution guidelines that will result from the passage of this legislation will lead to real improvement in water quality at the beach.•

By Mr. LAUTENBERG (for himself, Mr. DURENBERGER, Mr. BURDICK, and Mr. CHAFEE):

S. 1278. A bill to authorize appropriations for the Office of Environmental Quality for fiscal years 1992, 1993, and 1994, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL ENVIRONMENTAL POLICY ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing legislation which would amend and reauthorize the National Environmental Policy Act [NEPA]. It is very similar to S. 1089, which passed the Senate Environment Committee last year. I am pleased that Senators DURENBERGER, BURDICK, and CHAFEE have joined me in introducing this bill.

IMPLEMENTATION OF NEPA

Mr. President, the signing of NEPA into law on January 1, 1970 ushered us into the environmental era. NEPA requires Federal agencies to consider to the fullest extent possible the environmental impacts of their proposed activities in their decisionmaking process. Federal agencies are authorized to modify their activities to mitigate environmental impacts and avoid the impacts altogether by not proceeding with the activity. To achieve this substantive goal, NEPA requires the preparation of environmental impact statements for major Federal actions significantly affecting the quality of the human environment. This ensures that agency officials and the public are made aware of the environmental impacts and that the public has an opportunity to comment on and become involved in the decision making process.

The success of NEPA is indisputable. According to EPA testimony at the Superfund Subcommittee's hearing on S. 1089 in 1989:

> [I]n the nearly 20 years since Congress passed NEPA, this law has, on the whole, been an outstanding success in getting Federal decision-makers to consider and document environmental issues early in the planning stages for Federal projects.

Scores of activities have been modified because of NEPA. The environmental impact assessment process required by NEPA is being used by many foreign nations and more than 15 States have adopted similar assessment and review processes.

AMENDMENTS TO NEPA

The bill I am introducing today amends NEPA to strengthen its requirements to address problems which have arisen since the law was last amended.

REINVIGORATION OF THE COUNCIL ON ENVIRONMENTAL QUALITY

First, the time has come to reinvigorate the Council on Environmental Quality to implement its responsibilities under NEPA. The Council serves a critical role in coordinating Federal agency environmental programs and policies and advising the President on the vast range of environmental issues. No agency or department head can perform these functions on his or her own. It is imperative that the President has an effective staff in the Executive Office which can do the job.

Under President Reagan, the Council budget and staff were reduced significantly and the President failed to use the Council in a meaningful way to coordinate his environmental policy. A number of ideas to accomplish this goal were suggested in Blueprint for the Environment, a report prepared by the environmental community for President Bush.

One idea was to eliminate two of the three members of the Council and have all of the Council's authority vested in the Chairman. The bill adopts this approach.

The bill also adopts the Blueprint recommendation that the President annually transmit to Congress a report in which the President proposes his environmental policies for congressional consideration. The bill also extends and increases authorizations for CEQ through fiscal year 1994.

Finally, the bill will strengthen the authority of the Council in dealing with independent regulatory agencies such as the Federal Energy Regulatory Commission and the Interstate Commerce Commission. The bill makes clear that independent regulatory commissions must comply with the regulations implementing NEPA published by the Council on Environmental Quality.

ALTERNATIVES AND MITIGATION

The bill addresses the consideration of mitigation measures and alternatives in environmental impact statements. It reemphasizes the importance of considering a broad range of alternatives in the environmental impact statement. The bill also requires CEQ to issue guidelines to require Federal agencies to review a sample of their EIS's to determine the effectiveness of mitigation measures.

Finally, the bill requires Federal agencies in the EIS to identify the mitigation measures they propose to adopt. This requirement would reverse a Supreme Court decision in Robertson versus Methow Valley Citizens Council. The failure to include such mitigation measures in an EIS defeats both the procedural requirements of NEPA to have the public made aware of mitigation measures the Federal agency will adopt and the substantive requirements of NEPA to take actions to eliminate or reduce the environmental impact. This is hardly an onerous requirement. Under CEQ's existing guidelines, agencies already must prepare a record of decision which includes any mitigation measures the agency will implement.

EXTRATERRITORIAL ACTIONS

The bill clarifies that NEPA applies to all Federal actions, not just those in the United States.

In 1979, President Carter issued Executive Order 12114 to require Federal agencies to take certain international environmental considerations into effect. But the Executive order was not issued under the authority of NEPA so the failure of Federal agencies to comply cannot be challenged in Court, and the other requirements of NEPA, particularly the public participation provisions, are not required for these actions. The Executive order also includes numerous exemptions.

As a result, the environmental impact statement process has rarely been used for Federal actions with extraterritorial impacts. According to a CEQ survey, the total number of actions falling within the Executive order between 1985 and late 1987 was 45 or only 15 per year. This practice is inconsistent with the goals and policies of NEPA.

This is clearly unacceptable. Just 18 months ago, the Congress passed and the President signed into law H.R. 2494. Section 521 of that bill requires the preparation and, with certain exceptions, the public disclosure of environmental assessments on proposed multilateral bank projects before the U.S. could vote in favor of the project.

How can we insist that multilateral banks prepare impact assessments on foreign projects when we fail to require our own Federal agencies to prepare environmental impact statements before taking actions outside the U.S. which may have significant environmental impacts? How can we say that the EIS process has been a major success but then fail to apply that process to extraterritorial actions?

So the bill clarifies that NEPA applies to extraterritorial actions.

Last year, the Justice Department sent a letter saying that this provision was unconstitutional because it infringed on the President's authority to conduct foreign policy.

Mr. President, this argument is without merit. First, the President does not have exclusive authority in the area of foreign affairs. Second, Section 101(b) of NEPA specifically provides that Federal agencies are to apply NEPA, "* * * consistent with other essential consideration of national policy * * *". So NEPA itself is sensitive to foreign policy concerns. And the CEQ NEPA regulations provide that compliance with NEPA is not required where it would be inconsistent with other agency statutory authority.

The bill does not modify these existing provisions. And to supplement these provisions, the bill includes six specific exemptions from the EIS requirement for actions taken to protect the national security, actions taken in the course of an armed conflict, strategic intelligence actions, armament transfers, judicial or administrative civil or criminal enforcement action and votes in international conferences and organizations.

This year, I've added another provision to address this foreign policy concern. The bill gives the President authority to make a finding on a case-by-case basis that it is in the paramount interest of the U.S. to exempt extraterritorial major Federal action from the requirement to prepare an environmental impact statement. When the President makes such a determination, the President must notify the Congress within 30 days of making such a finding and include a summary of the findings in the annual report prepared by the Council.

Mr. President, NEPA itself, as well as the amendments I am proposing today, clearly address any concern about the effect this provision could have on our nation's foreign policy.

GLOBAL ENVIRONMENTAL CONCERNS

The bill clarifies that impact statements must address the cumulative impacts of proposed Federal actions on global climate change, depletion of the ozone layer and transboundary pollution.

The EIS process is rarely used with respect to ozone depletion and global warming. In 1988, CEQ prepared a document that would have required Federal agencies to study the impact of their actions on global climate change. Unfortunately, the Reagan administration, in one of its last acts, decided against issuing this guidance. And more than two years into the Bush Administration, this guidance still has not been issued. According to CEQ Chairman Mike Deland in response to a question I asked him at a Veterans Affairs Appropriations Subcommittee hearing, the Council had no plans to finalize this guidance.

How can the Administration claim to be moving to address global warming and other global environmental issues when we fail to require the most basic requirement to consider these issues in environmental impacts statements?

Mr. President, Federal agencies must address these and other global issues in their environmental impact statements. To fail to do so would be to undercut the whole thrust of NEPA. So the bill requires CEQ to issue regulations to ensure that EISs address global environmental issues.

Mr. President, the U.S. must be a leader in addressing international environmental issues. President Bush and EPA Administrator Reilly both have called for the U.S. to be at the forefront of international environmental challenges. We can hardly be in the forefront with our existing positions on the applicability of NEPA to extraterritorial actions and the failure to consider global environmental concerns in environmental impact statements.

JUDICIAL REVIEW

In the Justice Department letter on NEPA, the Department raised the specter of a floodgate of lawsuits being brought by foreigners to stop U.S. actions. The Justice Department proposed that lawsuits be limited to U.S. residents.

During our hearings on NEPA, we will explore this issue and determine whether any limits on judicial review for extraterritorial actions are appropriated.

CONCLUSION

Mr. President, NEPA is a good and necessary law. The bill I am introducing today will strengthen the NEPA process and the Council on Environmental Quality. I urge my colleagues to join in cosponsoring this legislation. And I ask unanimous consent that a copy of the bill be inserted into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF NATIONAL ENVIRONMENTAL POLICY.

(a) STATEMENT OF GENERAL ENVIRONMENTAL POLICY.—Section 101(b) of the National Environmental Policy Act (42 U.S.C. 4331(b)) is amended—

(1) in paragraph (5) by striking "and" following the semicolon:

(2) in paragraph (6) by striking the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) provide world leadershp in ensuring a healthy and stable global environment.".

(b) ENVIRONMENTAL IMPACT STATEMENTS.—Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) is amended—

(1) by inserting after "major Federal actions" the following: ", including extraterritorial actions (other than those taken to protect the national security of the United States, votes in international conferences and organizations, actions taken in the course of an armed conflict, strategic intelligence actions, armament transfers, or judicial or administrative civil or criminal enforcement actions),";

(2) by striking clause (iii) and inserting in lieu thereof the following:

"(iii) alternatives to the proposed action that achieve the same or similar public purposes, including alternatives that avoid the adverse environmental effects described in clause (ii) and alternatives that otherwise mitigate those adverse environmental effects,";

(3) by striking "and" at the end of clause (iv);

(4) by adding the following new clauses:

"(vi) measures that will be taken to mitigate adverse environmental effects if the proposed action is implemented, including the reasons for selecting such measures, and

"(vii) a description of how the proposed action or chosen alternative and selected mitigation measures conform to the policies of this Act.";

(5) by inserting "and the public" immediately before the second period; and

(6) by replacing the semicolon at the end with a period and inserting the following: "The President may find, on a case-by-case basis, that it is in the paramount interest of the United States to exempt a major Federal extraterritorial action of a department, agency, Federal independent regulatory commission, or instrumentality in the executive branch from the requirements of this subparagraph. No such exemption shall be granted due to lack of appropriation. The President shall notify the appropriate committees of Congress within 30 days of making a finding to exempt a major Federal extraterritorial action from the requirements of this subparagraph;".

(c) FEDERAL AGENCY ACTION REGARDING GLOBAL ENVIRONMENT.—Section 102(2)(F) of the National Environmental Policy Act (42 U.S.C. 4332(2)(F)) is amended to read as follows:

"(F) recognize the global and long-range character of environmental problems and work vigorously to develop and implement policies, plans, and actions designed to support national and international efforts to enhance the quality of the global environment;".

SEC. 2. REPORTS TO CONGRESS AND PRESIDENT'S STRATEGY FOR ENVIRONMENTAL PROGRESS.

Section 201 of the National Environmental Policy Act (42 U.S.C. 4341) is amended by inserting "(a)" immediately before "The President shall" and by adding the following new subsection:

"(b) Not later than January 31 of each year, the President shall transmit to the Congress a report which—

"(1) describes the President's strategy for implementing the policy and objectives set forth in section 101 during that year;

"(2) describes areas of new or heightened environmental concern;

"(3) describes initiatives to strengthen and improve Federal environmental programs;

"(4) recommends priorities for national and international actions to protect the environment;

"(5) analyzes problems associated with the implementation of this act and the effectiveness of measures specified in detailed statements of Federal agencies under section 102(2)(C) to mitigate the adverse environmental impacts of Federal actions; and

"(6) summarizes implementation of section 102(2)(C) during the previous year, including a summary of Presidential findings for the exemption of any extraterritorial actions from such requirements.".

SEC. 3. ELIMINATION OF COUNCIL MEMBER POSITIONS.

(a) CHAIRMAN OF THE COUNCIL.—Section 202 of the National Environmental Policy Act (42 U.S.C. 4342) is amended—

(1) by striking the second and third sentences and the words "Each Member" in the fourth sentence and inserting in lieu thereof the following: "The Chairman of the Council shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The Chairman"; and

(2) by inserting at the end thereof the following: "All authority for exercising the powers, functions, and duties of the Council under this Act shall be vested in the Chairman.".

(b) COMPENSATION.—Section 206 of the National Environmental Policy Act (42 U.S.C. 4346) is amended to read as follows: "The Chairman of the Council shall serve full time and shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).".

SEC. 4. REGULATORY AUTHORITY AND APPLICABILITY.

Section 204 of the National Environmental Policy Act (42 U.S.C. 4344) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and "; and

(3) by adding at the end thereof the following new paragraph:

"(9) to promulgate regulations concerning implementation of the National Environmental Policy Act by all Federal agencies (including Federal independent regulatory commissions). Such regulations shall assure compliance with the statutory requirements of this Act, including the requirement for full consideration of the cumulative environmental impacts of proposed major Federal actions on global climate change, depletion of the ozone layer, transboundary pollution, loss of biological diversity, and other international environmental impacts.".

SEC. 5. REVIEW FUNCTIONS OF THE COUNCIL.

(a) ISSUANCE OF GUIDELINES FOR AGENCY REVIEW OF CERTAIN ENVIRONMENTAL IMPACT STATEMENTS.—Not later than 6 months after the date of the enactment of this Act, the Council on Environmental Quality (hereinafter in this Act referred to as the "Council") shall issue guidelines under which each Federal agency shall review a statistically significant sample of detailed statements prepared by the agency under section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) in which measures were specified to mitigate adverse environmental effects.

(b) CONTENT OF GUIDELINES.—Guidelines issued by the Council under subsection (a)—

(1) shall establish the timing and frequency of reviews to be conducted by agencies under the guidelines; and

(2) shall require that Federal agencies examine—

(A) the accuracy of predictions of adverse environmental effects which were included in such statements, including predictions of impacts on fish and wildlife populations and habitats;

(B) the extent to which measures specified in statements under section 102(2)(C) of the National Environmental Policy Act to mitigate adverse environmental effects were implemented; and

(C) the effectiveness of those implemented mitigation measures.

(c) AGENCY REVIEWS.—Each Federal agency shall carry out reviews in accordance with guidelines issued by the Council under this section, and shall promptly submit to the Council the results of those reviews.

(d) SUMMARY OF RESULTS IN ANNUAL COUNCIL REPORT.—The Council shall include a summary of the results of the reviews carried out by Federal agencies under this section in the annual report of the Council transmitted to the Congress under section 201 of the National Environmental Policy Act (42 U.S.C. 4341).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended by adding at the end thereof the following:

"(e) $3,000,000 for fiscal year 1992, and $3,500,000 for each of the fiscal years 1993 and 1994."•

• Mr. BURDICK. Mr. President, I am pleased to be an original cosponsor of legislation to reauthorize funding for the Council on Environmental Quality and to clarify the very important authorities of the National Environmental Policy Act [NEPA]. I commend Senator LAUTENBERG who chairs the Subcommittee on Superfund, Ocean and Water Protection, for developing and introducing this legislation and for his commitment to overseeing effective NEPA implementation.

NEPA is notable for its clear and succinct statement of purpose and authorities. At the core of NEPA is the premise that thoughtful planning and wise decisionmaking will result in beneficial use, conservation, and preservation of our natural resources for future generations. The process set forth for the assessment of environmental impacts from major Federal actions, has been widely adopted by the States and countries throughout the world. NEPA also created the Council on Environmental Quality, separate and distinct from any other Federal agency and department, to advise the President on environmental policy and to oversee implementation of the Act.

The legislation we are introducing today largely builds on the experience we've had through 20 years of NEPA implementation and emphasizes the Federal Government's responsibility to take into account the global impacts of its actions. It also restructures CEQ, by eliminating two of the three Council member positions. This will enable the chairman to carry out his responsibilities more efficiently and responds to proposals by the administration and environmental organizations.

This measure is similar to legislation considered and reported by the Environment and Public Works Committee last year. Senator LAUTENBERG has been attentive to concerns that were expressed about that legislation and has incorporated appropriate modifications in the bill that is being introduced today.

Again, I commend my colleague from New Jersey, Senator LAUTENBERG, for his leadership on this issue and look forward to working with him as the Committee on Environment and Public Works considers the legislation.•

By Mr. CRANSTON (by request):

S. 1279. A bill to amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with medical, therapeutic, rehabilitative, and prosthetic devices, appliances, equipment, and services; to the Committee on Veterans' Affairs.

CLARIFICATION OF ELIGIBILITY OF VETERAN'S BENEFITS

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1279, a bill to amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with certain medical and other benefits and services. The Secretary of Veterans Affairs submitted this legislation by letter dated May 31, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 31, 1991, transmittal letter and enclosed bill analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. Section 601(6)(A)(i) is amended by striking "and (except under the conditions described in section 612(f)(1)(A)(i) of this title), wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances," and inserting in lieu thereof "medical equipment and prosthetic appliances,".

SEC. 3. Section 614 is amended to read as follows:

§614. Medical equipment and prosthetic appliances; aids for the blind and hearing impaired

(a) The Secretary shall furnish needed fitting and training in the use of any medical equipment or prosthetic appliance (or seeing-eye or guide dog) that the Department furnishes to a veteran. The training (including institutional training) may be furnished in a Departmental facility, or by contract, and may include travel and incidental expenses (under the provisions of section 111 of this title) to and from the veterans home and the medical center or training institution.

(b) The Secretary may furnish any veteran eligible for medical services with special clothing made necessary by the wearing of a prosthetic appliance.

(c) The Secretary may repair or replace any medical equipment or prosthetic appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran which was damaged or destroyed by a fall or other accident caused by a service-connected disability for which such veteran is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation.

(d) The Secretary may provide seeing-eye or guide dogs trained for the aid of the blind to any veteran entitled to disability compensation, and may provide such veteran with devices for assisting in overcoming the handicap of blindness.

(e) The Secretary may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on acount of hearing impairment.

SEC. 4. Section 617 is amended:

(a) by revising the heading to read as follows:

"§617. Home health services"

(b) by striking subsections (b) and (c);

(c) by striking "(1)" after "(a)" in subsection (a);

(d) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (b) and (c); and

(e) in subsection (b) as redesignated, by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

SEC. 5. Section 619 is struck.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 31, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill, "To amend title 38, United States Code, to eliminate duplication and inconsistency in VA programs for furnishing veterans with medical, therapeutic, rehabilitation, and prosthetic devices, appliances, equipment and services." We request that it be referred to the appropriate committee for prompt consideration and enactment.

The VA's authority to furnish disabled veterans with medical, therapeutic, rehabilitative, and prosthetic devices, appliances, equipment and services is found in several different provisions in title 38, United States Code. Congress enacted those provisions incrementally over many years without always considering whether the new provisions were consistent with, or duplicative of existing provisions. This draft bill would eliminate inconsistency and overlapping authority in the Code, clarify more precisely which equipment and services veterans may receive for VA, organize related provisons in a more coherent fashion, and simplify the language used in those provisions.

AMENDMENT OF 38 U.S.C. §601(6)

The draft bill would first simplify the definition of the term "medical services" to state simply that it includes "medical equipment and prosthetic appliances." The term medical services is now defined to include "wheelchairs, artificial limbs, trusses, and similar appliances." The words "artificial limbs" and "trusses" in the definition originated in laws dating back at least to 1876, and the word "wheelchairs" appeared in the law at least as early as 1924. Those terms certainly do not encompass all of the different items of medical equipment, and prosthetic devices that VA now furnishes to disabled veterans. VA furnishes equipment and devices on the basis that the items are appliances similar to wheelchairs, artificial limbs, or trusses. To modernize the language of the law, the draft bill would use the more generic words "medical equipment and prosthetic appliances," which would include, but not be limited to wheelchairs, artificial limbs, and invalid lifts.

The draft bill would also delete from 38 U.S.C. §601(6) language which precludes VA from providing veterans with medical equipment and prosthetic devices as part of outpatient care furnished in preparation for, or to obviate the need for hospital care. The limiting language had its origins in a statutory provision enacted in 1962, when the law authorized VA to furnish nonservice-connected veterans with outpatient care only when necessary to prepare the veteran for inpatient care, or as post-hospital care. Congress apparently added the language to prohibit VA from furnishing equipment and devices to veterans receiving outpatient care in preparation for a scheduled inpatient admission, a quite reasonable restriction. However, in 1973 Congress expanded eligibility to permit the Department to furnish nonservice-connected veterans with outpatient care to "obviate" the need for inpatient care, but did not delete the old restriction.

Continuing the restriction prohibits VA from furnishing veterans with relatively inexpensive medical equipment or prosthetic devices which could alleviate the need for expensive hospital care. For example, a paralyzed wheelchair bound veteran prone to decubitus ulcers cannot be provided an appropriate cushion to relieve pressure areas which, if not provided, would likely result in costly hospitalization for treatment of the ulcers. The draft bill would not change existing language in the law which limits VA to providing only necessary care. That language would control any potential misuse of the broadened authority this draft bill would provide. Thus, the bill would not authorize VA to provide many of the commonly requested devices such as hearing aids, eyeglasses, and automobile adaptive equipment, because those items would not be necessary to prepare a veteran for, or obviate the need for hospital care.

Finally, section 601(6) now defines the term "medical services" as including "special clothing made necessary by the wearing of prosthetic applicance." The draft bill would strike that provision from section 601(6), but amend 38 U.S.C. §614 to specifically authorize VA to furnish veterans with such clothing. As discussed below, the draft bill would amend section 614 to consolidate in that one section the various authorities from VA to furnish veterans with certain specialized items. It would be appropriate to directly authorize the provision of special clothing in that section, rather than indirectly authorize it by including the clothing in the definition of "medical services."

AMENDMENT OF 38 U.S.C. §617

The draft bill would make two changes in section 617(b). First, it would strike subsection (b) in its entirety because it is duplicative of authority which exists elsewhere in the law. Section 617(b) authorizes the Secretary to provide "invalid lifts, or any type of therapeutic or rehabilitative device, as well as medical equipment and supplies" to two categories of veterans: very seriously disabled service-connected veterans receiving compensation under 38 U.S.C. §614(l)–(p), and pensioners receiving increased benefits because they are in need of regular aid and attendance.

Congress enacted the provisions of section 617(b) at a time when the benefits authorized by the subsection were unavailable to the two groups of veterans. Subsequently, Congress liberalized 38 U.S.C. §612 to authorize VA to furnish the two categories of veterans described in section 617(b) with all needed medical services (including invalid lifts, wheelchairs, trusses, and artificial limbs), rendering the latter subsection superfluous. The two groups of veterans are eligible for equipment and therapeutic or rehabilitative devices (including, but not limited to invalid lifts, wheelchairs, and artificial limbs) under both section 617(b) and section 612. The draft bill would simply delete subsection (b).

Section 617(c) authorizes the Secretary to furnish devices to overcome the handicap of deafness to any hearing impaired veteran who is profoundly deaf, and entitled to compensation for the hearing impairment. The draft bill would move the subsection from section 617 to section 614. No substantive change would be made. As was the case with the special clothing benefit discussed above, the proposed amendment would foster consolidation into one provision, all of the various authorities for VA to furnish veterans with specialized types of devices and equipment.

The provisions now in section 617(a) authorize the Secretary to furnish veterans with home health services. Those provisions would remain in section 617 unchanged. Thus, section 617 would address only one subject, home health services.

AMENDMENT OF 38 U.S.C. §619

Section 619 authorizes the Secretary to repair or replace artificial limbs, braces, eyeglasses, and similar appliances which become damaged or destroyed by a fall or other accident caused by a compensable service-connected disability. The draft bill would make section 619 a subsection of section 614. Again, the change would be made as part of the consolidation of various provisions in section 614. No substantive change would be made in the language now included in section 619.

AMENDMENT OF 38 U.S.C. §614

Section 614 now includes two separate provisions. Subsection (a) authorizes the Secretary to furnish veterans with fitting and training in the use of prosthetic appliances. Subsection (b) authorizes the Secretary to furnish service-connected veterans with seeing eye or guide dogs, and other equipment and devices for aiding those veterans in overcoming the handicap of blindness. The draft bill would revise the language of subsection (a) to clarify that training and fitting may be provided for any medical equipment that VA furnishes, not just for prosthetic appliances. The bill would also make minor nonsubstantive wording changes in both subsections to achieve greater clarity.

Finally, as discussed above, the bill would add three new subsections to section 614 to consolidate provisions now in other sections of the Code. A new subsection (b) would authorize the Secretary to furnish special clothing made necessary by the wearing of a prosthetic appliance, a provision now included in section 601(6). A new subsection (c) would authorize the Secretary to repair or replace any medical equipment or prosthetic appliance damaged by a fall or other accident caused by a service-connected disability, a provision now included in section 619. A new subsection (e) would authorize the Secretary to furnish hearing impaired veterans with devices for overcoming the handicap of deafness, a provision now included in section 617(c).

The amendment to 38 U.S.C. §601(6) to eliminate the restriction on furnishing equipment and appliances to nonservice-connected veterans to obviate the need for hospital care would result in an increase in the cost of providing prosthetic services. It would be offset by reduced hospital admissions. Therefore, we estimate that there will be no increase in costs from the proposal. There would be no cost implications associated with other changes made by the bill.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.

ANALYSIS OF PROPOSED BILL

Section 2. Section 2 would amend 38 U.S.C. §601(6)(A)(i), which defines the term "medical services." The term is now defined as including "wheelchairs, artificial limbs, trusses, and similar appliances." VA provides most of the prosthetic devices and medical equipment that VA furnishes to veterans under the words "similar appliances". Section 2 of the bill would strike that quoted language and substitute the clearer, simpler, and more up-to-date words "medical equipment and prosthetic appliances." Under the new definition, VA would continue to furnish equipment including, but not limited to wheelchairs, artificial limbs, trusses, and invalid lifts.

The definition of "medical services" now also includes "special clothing made necessary by the wearing of prosthetic appliances". The draft bill would move that language from section 601(6) to section 614. Section 2 of the bill would strike the language from section 601(6), and section 3 (discussed below) would add a new subsection to 38 U.S.C. §614 to directly authorize the Secretary to furnish such special clothing.

Finally, section 2 of the bill would delete language in section 601(6) which prohibits VA from furnishing medical equipment and prosthetic appliances to nonservice-connected veterans on an outpatient basis to obviate the need for hospital care. That restriction in the law dates from 1962, when the law authorized VA to provide nonservice-connected veterans with outpatient care only to prepare them for hospital care, or if needed following a period of hospitalization. In 1973, Congress authorized outpatient care for these veterans to obviate the need for hospital care, but neglected to strike the old limiting language from the law. As a result, VA cannot provide veterans with relatively inexpensive medical equipment or prosthetic devices which would avoid the need for much more expensive hospital care. Section 2 of the draft bill would rectify that problem.

Section 3. Section 3 would amend 38 U.S.C. §614, to make it the principal section of the Code concerned with medical equipment and prosthetic appliances. It would consolidate in that section various "special authorities" now included in other sections which are concerned with prosthetic appliances and medical equipment. Section 3 would also update and simplify the existing language of section 614.

Subsection (a) of section 614 now authorizes the Secretary to furnish fitting and training in the use of a prosthetic appliance furnished by VA. Under the rubric of that language, VA furnishes fitting and training in the use of all medical equipment it furnishes to veterans. As amended by section 3 of the draft bill, section 614(a) would expressly require the Secretary to furnish fitting and training in the use of any medical equipment, prosthetic appliance, or seeing-eye or guide dog that the Department furnishes to a veteran. Section 3 of the draft bill would not change the authority now in section 614(a) to furnish the training (including institutional training) either in a VA facility, or a contract facility. It would also continue to authorize VA to pay for the travel expenses associated with such training in accordance with the provisions of 38 U.S.C. §111, the basic authority to pay for "beneficiary travel."

The draft bill would create a new subsection (b) in section 614 to authorize the Secretary to furnish any veteran eligible for medical services with special clothing made necessary by the wearing of a prosthetic appliance. Under existing law, the definition of the term "medical services" in section 601(6) includes such special clothing, and the Secretary furnishes the clothing under the general authority in section 612 to provide veterans with medical services. The bill simply moves the authority to section 614 to consolidate in that section all of the various authorities in the Code that are associated with medical equipment and prosthetic appliances.

The draft bill would also create a new subsection (c) in section 614 to authorize the Secretary to repair or replace any medical equipment or prosthetic appliance belonging to a veteran which is damaged or destroyed by a fall or other accident caused by a service-connected disability for which the veteran is receiving (or but for the receipt of retirement pay, would be receiving) disability compensation. This authority is now in 38 U.S.C. §619. Section 5 of the draft bill (discussed below) strikes section 619. The new section 614(c) differs from existing section 619 only in that the words "medical equipment or prosthetic appliance" are substituted for the words "artificial limb, truss, brace, hearing aid, spectacles, or similar appliance."

The draft bill would create a new subsection (d) in section 614 which is substantively the same as the existing section 614(b). It authorizes the Secretary to furnish service-connected veterans with guide dogs and other aids to assist in overcoming the handicap of blindness. Language in the existing subsection (b), which authorizes the Secretary to pay for travel expenses associated with adjusting to a guide dog, is deleted from the new subsection (d), because that benefit is provided in the new section 614(a).

Finally, section 3 of the draft bill would create a new subsection (e) in section 614 to authorize the Secretary to furnish a hearing impaired veteran with devices for assisting in overcoming the handicap of deafness, provided the veteran is profoundly deaf and entitled to compensation on account of hearing impairment. This authority is now in 38 U.S.C. §617(c). Section 4 of the draft bill (discussed below) strikes section 617(c). The bill simply moves the authority to section 614 to consolidate in that section all of the various authorities in the Code that are associated with medical equipment and prosthetic appliances.

Section 4. Section 4 would amend 38 U.S.C. §617 to delete both subsection (b) and subsection (c) of that section. Section 617(b) authorizes the Secretary to provide invalid lifts, and various other types of medical equipment and supplies to two categories of veterans, services-connected veterans receiving compensation under 38 U.S.C. §614(1)-(p), and pensioners receiving increased benefits because they are in need of regular aid and attendance. Congress enacted section 617(b) at a time when the benefits authorized by the subsection were unavailable to the two groups of veterans. Subsequently, Congress amended 38 U.S.C. §612 to authorize VA to furnish all needed medical services to the two categories of veterans described in section 617(b). Thus, the authority in subsection (b) duplicates authority in section 612 to provide medical services as defined in section 601(6). The two groups of veterans are eligible for equipment and therapeutic or rehabilitative devices (including, but not limited to invalid lifts, wheelchairs, and artificial limbs) under both section 617(b) and section 612. The draft bill would delete the duplicative authority.

Section 4 of the draft bill would also strike subsection (c) of section 617, which authorizes the Secretary to furnish hearing impaired veterans with devices to assist in overcoming the handicap of deafness. The subsection is not needed because the authority would be consolidated in 38 U.S.C. §614. Section 3 of the draft bill (discussed above) adds a new subsection (e) to section 614 to authorize precisely the same benefit as is now authorized in section 617(c).

Section 5. Section 5 would strike section 619 from the Code. Section 619 authorizes the Secretary to repair or replace artifical limbs, braces, eyeglasses, and similar appliances which become damaged or destroyed by a fall or other accident caused by a compensable service/connected disability. The section is not needed because the authority for the benefit would be consolidated in 38 U.S.C. §614. Section 3 of the draft bill (discussed above) adds a new subsection (c) to section 614 to authorize the same benefit as is now authorized in section 619.•

By Mr. CRANSTON (by request):

S. 1280. A bill to amend title 38, United States Code, to improve the management of the Veterans Canteen Service; to the Committee on Veterans' Affairs.

VETERANS' AFFAIRS CANTEEN IMPROVEMENT ACT

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1280, a bill to amend title 38, United States Code, to improve the management of the Veterans Canteen Service. The Secretary of Veterans Affairs submitted this legislation by letter dated May 31, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the May 31, 1991, transmittal letter and bill analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1280

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 4205 of title 38, United States Code, is amended by adding the following sentence at the end thereof; "As determined by the Secretary, monies in the revolving fund which are not required for current operations, may be invested and reinvested by the Secretary of the Treasury in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States."

ANALYSIS OF DRAFT BILL

The draft bill would amend section 4205 of title 38, United States Code, to authorize the VA to designate monies in the Veterans Canteen Service Revolving Fund which are not required for current operations and authorize the Secretary of the Treasury to invest and reinvest such monies in United States Securities or in any obligations guaranteed as to both principal and interest by the United States. The amendment is necessary to allow the Canteen Service to participate in programs run by the Treasury to allow Federal agencies with funds available for investment to maximize their earnings from United States securities. The law would clarify previous investment authority provided the VA under Public Law 100-322 and continue reforms of the Service's operations to make it more efficient.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, May 31, 1991.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: We are transmitting herewith a draft bill "To amend title 38, United States Code, to improve the management of the Veterans Canteen Service." We request that the bill be referred to the appropriate committee for prompt consideration.

In 1946, Congress established the Veterans Canteen Service (the Service) in the VA for the primary purpose of providing veterans in VA medical facilities, "at reasonable prices, articles of merchandise and services essential to their comfort and well-being." Congress then made initial appropriations which, with the Service's revenues, were deposited into a Revolving Fund in the United States Treasury to support its activities. The proposed bill would significantly improve the management of the Service by authorizing the Secretary to invest and reinvest monies in the Revolving Fund which are not necessary for current operations in United States securities.

In this regard, the draft bill would continue reforms begun in 1988 when Congress enacted Public Law 100-322, to allow the Service to place Revolving Fund monies in "interest bearing accounts." That law contained several other major reforms of the Service's operating authority, designed to improve its management and encourage it to operate in a more business-like manner. With the consent of the Secretary of the Treasury, the Service has used that authority to place funds in accounts in the Treasury which hold United States securities. The interest earned on these securities is used to support the Service's operations.

However, absent explicit statutory investment authority, the Secretary of the Treasury has declined to allow the Service to participate in the "Federal Investment Counseling Program," under which Treasury officials provide a full-range of advisory services designed to assure the greatest possible return on funds invested by a participating agency in Federal securities. We believe the Service's participation in the Treasury's program will significantly increase the revenues which its funds earn. The proposed legislation will provide the explicit statutory investment authority necessary to participate in the Treasury program as, we believe, was intended by Public Law 100-322.

Funds earned from investments in United States securities would contribute to the Service's Revolving Fund and not require any additional expenditures by the Government.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. Offsetting receipts in this bill would equal the increase in direct spending, resulting in a net zero PAYGO effect. Thus, considered alone, this bill meets the PAYGO requirement of OBRA.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress from the standpoint of the Administration's program.

Sincerely yours,
EDWARD J. DERWINSKI.•

By Mr. RIEGLE:

S. 1281. A bill to provide for immediate delivery of United States Savings Bonds available to the public at the point of purchase; to the Committee on Finance.

UNITED STATES SAVINGS BOND AVAILABILITY ACT

• Mr. RIEGLE. Mr. President, it is no secret that our savings rate in America is low. It is much lower than the rate in many of the countries we compete against in the world economy. If we don't raise our savings rate, many predict that we will not have the investment dollars needed to improve productivity and efficiency. We need to make every effort to raise our savings rate. That is why a recent decision by the Department of the Treasury is so bewildering.

In the name of efficiency, Americans can no longer walk into a financial institution or post office and purchase a U.S. savings bond on the spot. Under a program called the Regional Delivery System, now being implemented by the Treasury Department, a buyer of a savings bond must fill out a request application and wait 3 weeks for the savings bond to arrive. If it is for a gift, the bank can issue a certificate—not the savings bond—that can be placed in an envelope. If the purchaser is "lucky" enough to be located in a Federal Reserve center city or near one of the 25 branches nationwide, then that person can run down to the center or branch and purchase a U.S. savings bond over the counter. To sweeten the deal, the interest begins accruing on the eventually delivered bond as of the first of the month.

There is just one thing wrong with this supposedly well-intentioned program—many people will no longer endure the hassle now being imposed by the Treasury. People will stop purchasing savings bonds! We will have destroyed a basic key to our savings system in America.

When you are very young, you begin to save by putting into a piggy bank. One of the gifts that is most often given to a new baby or at the first birthday is a piggy bank. Children are then taught the benefits of saving. Parents, grandparents, and relatives often give a child a coin to put into their piggy bank. It may sound a little hokey here on the floor of the Senate, but a piggy bank represents the beginning of a lifetime of saving for the future. And U.S. savings bonds have been a vital step in the saving process.

At first, a child might receive a U.S. savings bond as a gift. It is a unique gift to a child. It represents something important and it cannot be instantly used. When it is eventually cashed in, it has increased in value because of something called "interest." A child now has learned the value of deferring immediate gratification and has also learned the value of interest.

When that child begins to earn money by mowing lawns, delivering newspapers, babysitting, or some other chore, the child is taught that part of the money earned should be set aside for a "rainy day," a new bicycle, holiday gifts, or college. And where do most of these kids turn to? They turn to U.S. savings bonds. What a great idea! Our kids now learn not only the value of savings and interest, they also put their money into the future of America.

So why throw a roadblock in such a wonderful way of teaching the savings process to the youth of America? We want our kids to save and buy U.S. savings bonds. We need to keep the system of purchase as easy as possible. We need to keep the amount of the bonds small so that kids can buy them and we must make sure that you can walk into a bank in any town—whether New York City; Saginaw, MI, or Whitefish, MT—and buy a U.S. savings bond on the spot and walk out with the bond in hand.

We need to bring Americans closer to their Government rather than driving a further wedge into the gap that exists. The legislation I am introducing today keeps this on the purchase of U.S. savings bonds a part of our savings system in America.

Who doesn't remember the fable of "The Ant and the Grasshopper"? The ant worked hard to store food for the winter while the grasshopper played. When the fall came and the grasshopper was hungry, the ant inquires, "and what were you doing all summer?" The grasshopper answers, "I had a right jolly time playing my fiddle in the sun." The ant retorts back, "Ho, ho, you did. Well, those that play all summer and don't work deserve to starve in winter. Be gone."

This fable and many other stories are used at home and in school to stress on our children the importance of work and saving. These stories portray why we need to maintain on the spot purchase of U.S. savings bonds.

Mr. President, I ask unanimous consent that the text of my bill appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Savings Bond Availability Act of 1991".

SEC. 2. PURPOSE.

The purpose of this Act is to ensure that United States Treasury bonds remain readily available for purchase by the Public.

SEC. 3. UNITED STATES SAVINGS BOND AVAILABILITY.

The Secretary of the Treasury shall make an adequate supply of United States Savings Bonds available to an issuing agent, qualified under regulations established by the Secretary of the Treasury to issue United States Savings Bonds, for immediate, over-the-counter delivery to the public upon demand at the point of purchase.•

By Mr. RIEGLE (for himself and Mr. GARN) (by request):

S. 1282. A bill to improve the supervision and regulation with respect to financial safety and soundness of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Student Loan Marketing Association; to enhance the safety and soundness of the Farm Credit System; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOVERNMENT-SPONSORED ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT

• Mr. RIEGLE. Mr. President, last fall's Omnibus Budget Reconciliation Act [OBRA] required the Treasury Department to recommend legislation to ensure the safety and soundness of Government sponsored enterprises [GSE's]. Senator GARN and I are introducing that legislation today by request.

Government sponsored enterprises include the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Student Loan Marketing Association, and the Federal Farm Credit System. They were created by Congress to facilitate access to credit by homebuyers, students, and farmers. And they have done an excellent job, aiding millions of families. But, though none are in any imminent danger, they potentially pose substantial risks to taxpayers, over which the Government has little control.

While GSE's are privately owned, and their liabilities are not explicitly guaranteed by the Government, few doubt that we would not back them up if they were in danger of failing. Their congressional charters, exemptions from securities laws, lines of credit with the Treasury, tax exemptions, and their immense importance to the critical markets they serve leave little question about the implicit Government guarantee which the financial markets assume stands behind them. Actions to support the Farm Credit System in 1987 and the deposit insurance funds have reinforced that assumption.

These agencies currently have over a trillion dollars in debt outstanding for which we are potentially liable. But, as documented in studies by the Treasury, the GAO, the CBO, and the Administrative Conference, we have little control over the safety with which they conduct their operations. All of these studies have recommended substantial changes in Federal supervision and capital standards for GSE's.

The Senate recognized the importance of this issue last October by including in OBRA the sense of the Senate that legislation should be reported to the floor by September 15, this year. That will be a tough deadline to meet. Our committee's first priorities this year must be banking reform and RTC funding, and the Treasury delayed our start on this legislation by sending up their proposal a month later than OBRA required. But it is my intention—notwithstanding the committee's hearing agenda, the lateness of the administration's proposal and its complexity—to attempt to meet our deadline if at all possible.

The Banking Committee has been studying this problem for 2 years. We placed requirements for the first studies by Treasury and GAO in the FIRREA thrift legislation and have since held 5 hearings on GSE's. Our interest stems not only from the fact that three of the five GSE's dealt with in this legislation are housing agencies, but also from the roles of each of them as financial institutions and issuers of Federal debt. Other committees have important interests as well, and likely will be working on legislation of their own. We hope to work closely with them, so that the final result shows some consistency in the treatment of GSE's, at a minimum, or as the GAO proposes, puts all GSE's under a single regulator.

Some may ask why we need to do this now, if GSE's pose little immediate risk. But I think Congress was wise to encourage legislation this year, when there is no crisis at hand. If we've learned anything from the series of thrift and bank failures we have had, we've learned that the cost of acting after a problem develops is great. If we act now, while there is no crisis—but when all of these studies tell us we are unnecessarily risking one in the future—we may avoid a large cost later on.

Mr. President, I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991".

(b) TABLE OF CONTENTS.—

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

TITLE I—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE ASSOCIATION

Sec. 101. Findings.
Sec. 102. Definitions.

Subtitle A—Establishment of Financial Safety and Soundness Regulator

Sec. 111. Establishment of the Office of Government-Sponsored Enterprise Financial Oversight.
Sec. 112. Director of the Office of Government-Sponsored Enterprise Financial Oversight.
Sec. 113. Amendment to section 5314 of title 5, United States Code.
Sec. 114. Authority of the Director.
Sec. 115. Personnel.
Sec. 116. Regulations and orders.
Sec. 117. Amendments to Federal National Mortgage Association Charter Act.
Sec. 118. Amendments to Federal Home Loan Mortgage Corporation Act.
Sec. 119. Final reports.
Sec. 120. Funding.

Subtitle B—Capital Levels and Special Enforcement Powers

Sec. 131. Capital adequacy and prompt corrective action.
Sec. 132. Safe harbor.
Sec. 133. Reports to Director.
Sec. 134. Examinations.

Subtitle C—General Enforcement Powers

Sec. 141. Cease-and-desist proceedings.
Sec. 142. Temporary cease-and-desist orders.
Sec. 143. Removal and prohibition authority.
Sec. 144. Suspension or removal of director or executive officer charged with felony.
Sec. 145. Hearings and judicial review.
Sec. 146. Jurisdiction and enforcement.
Sec. 147. Civil money penalty.
Sec. 148. Notice under this subtitle after separation from service.
Sec. 149. Notice of service.
Sec. 150. Subpoena power, etc.
Sec. 151. Public disclosure of final orders and agreements.

Subtitle D—Conservatorship

Sec. 161. Appointment of conservator.
Sec. 162. Examinations.
Sec. 163. Termination of conservatorship.
Sec. 164. Conservator; powers and duties.
Sec. 165. Liability protection.
Sec. 166. Powers of officers not affected.
Sec. 167. Rules and regulations.

TITLE II—PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR THE FEDERAL HOUSING FINANCE BOARD

Sec. 201. Amendment to the Federal Home Loan Bank Act.

TITLE III—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE STUDENT LOAN MARKETING ASSOCIATION

Sec. 301. Findings.
Sec. 302. Definitions.

Subtitle A—Establishment of Financial Safety and Soundness Regulator

Sec. 311. Annual Reports.
Sec. 312. Funding.
Sec. 313. Amendments to the Higher Education Act of 1965.

Subtitle B—Capital Levels and Special Enforcement Powers

Sec. 321. Capital Adequacy and Prompt Corrective Action.
Sec. 322. Reports To Secretary.
Sec. 323. Examinations.
Sec. 324. Safe Harbor.

Subtitle C—General Enforcement Powers

Sec. 331. Cease-and-Desist Proceedings.
Sec. 332. Temporary Cease-and-Desist Proceedings.
Sec. 333. Removal and Prohibition Authority.
Sec. 334. Suspension or Removal of Director or Executive Officer Charged with Felony.
Sec. 335. Hearings and Judicial Review.
Sec. 336. Jurisdiction and Enforcement.
Sec. 337. Civil Money Penalty.
Sec. 338. Notice under this Section after Separation from Service.
Sec. 339. Notice of Service.
Sec. 340. Subpoena Power, Etc.
Sec. 341. Public Disclosure of Final Orders and Agreements.

Subtitle D—Conservatorship

Sec. 351. Appointment of Conservator.
Sec. 352. Examinations.
Sec. 353. Termination of Conservatorship.
Sec. 354. Conservator; Powers and Duties.
Sec. 355. Liability Protection.
Sec. 356. Powers of Officers not Affected.
Sec. 357. Rules and Regulations.

TITLE IV—JURISDICTION OF COURTS IN PROMPT CORRECTIVE ACTION

Sec. 401. Jurisdiction.

TITLE V—FARM CREDIT SYSTEM

Subtitle A—Improvements to Farm Credit System Safety and Soundness

Sec. 501. Clarification of Funding Corporation Authority.
Sec. 502. Access to Association Capital.
Sec. 503. Enhanced Supervision Over Federal Agricultural Mortgage Corporation.

Subtitle B—Farm Credit System Insurance Corporation

Sec. 511. Board of Directors.
Sec. 512. Risk-Based Insurance Premiums.
Sec. 513. Statutory Successor to Assistance Board Agreements.

Subtitle C—Farm Credit System Consolidation

Sec. 521. Consolidation of District Banks.
Sec. 522. Terms of Consolidation.

Subtitle D—Repayment of FAC Debt Obligation

Sec. 531. Repayment of Treasury Interest Payments.
Sec. 532. Capital Preservation Assistance.

Subtitle E—Farm Credit System Bank and Institution Management

Sec. 541. Boards of Directors.

TITLE I—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE ASSOCIATION

SEC. 101. FINDINGS.

The Congress finds that—

(a) The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have important public missions, as reflected in their Federal charters;

(b) Because the continued ability of these enterprises to accomplish their public missions is important to the health of the United States economy, more effective Government regulation is needed to provide sustained outside discipline and thereby to reduce the risk of failure;

(c) The regulatory framework of these enterprises should embody the following principles—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of these enterprises;

(2) the regulator should have sufficient stature to maintain independence from the enterprises and special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the financial safety and soundness of the enterprises; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules that it establishes; and

(d) While the Federal Housing Finance Board has the regulatory authorities necessary to regulate effectively the financial safety and soundness of the Federal Home Loan Banks' operations, its statute should be amended to clarify that financial safety and soundness is the primary mission of the agency.

SEC. 102. DEFINITIONS.

As used in this title—

(a) CAPITAL.—The term "capital" means, as determined in accordance with generally accepted accounting principles, the sum of—

(1) the par value of outstanding common stock;

(2) the par value of outstanding preferred stock;

(3) paid-in capital; and

(4) retained earnings.

(b) CAPITAL DISTRIBUTION.—The term "capital distribution" means—

(1) a dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of either enterprise, except a dividend consisting only of shares of the enterprise;

(2) a payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition of such shares; or

(3) a transaction that the Director determines by order or regulation to be in substance the distribution of capital.

(c) COMPENSATION.—The term "compensation" means any payment of money or provision of any other thing of current or potential value in connection with employment.

(d) DIRECTOR.—The term "Director" means the Director of the Office of Government-Sponsored Enterprise Financial Oversight.

(e) ENTERPRISE.—The term "enterprise" means—

(1) the Federal National Mortgage Association and any affiliate thereof; and

(2) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(f) EXECUTIVE OFFICER.—The term "executive officer" of an enterprise means—

(1) the chief executive officer;

(2) the chief financial officer; or

(3) any other person who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the enterprise whether or not the person—

(A) has an official title;

(B) has a title designating the person an assistant; or

(C) is serving without compensation.

(g) OFFICE.—The term "Office" means the Office of Government-Sponsored Enterprise Financial Oversight.

(h) NEW PROGRAM.—The term "new program" of an enterprise means any purchase, servicing, sale, swap, loan on the security of, or other dealing in mortgages or mortgage-related instruments which differs significantly and materially from existing programs of the enterprise in terms of type of property, term of mortgage, nature of mortgage instrument, type or amount of mortgage insurance, nature of lien, form of securitization, or other significant matter.

(i) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

Subtitle A—Establishment of Financial Safety and Soundness Regulator

SEC. 111. ESTABLISHMENT OF THE OFFICE OF GOVERNMENT-SPONSORED ENTERPRISE FINANCIAL OVERSIGHT.

Effective January 1, 1992, there shall be established in the Department of Housing and Urban Development the Office of Government-Sponsored Enterprise Financial Oversight which shall be a bureau within the Department.

SEC. 112. DIRECTOR OF THE OFFICE OF GOVERNMENT-SPONSORED ENTERPRISE FINANCIAL OVERSIGHT.

(a) IN GENERAL.—The Office shall have a Director who shall be the head of the Office.

(b) APPOINTMENT.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

(c) TERM.—The Director shall be appointed for a term of five years and shall serve at the pleasure of the President.

(d) VACANCY.—A vacancy in the position of Director which occurs before expiration of the term for which a Director was appointed shall be filled in the manner established in subsection (b), and the Director appointed to fill such vacancy shall be appointed only for the remainder of said term.

(e) SERVICE AFTER END OF TERM.—An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

(f) ACTING DIRECTOR.—

(1) Subject to subsection (d)—

(A) the Director may designate who shall act as Director if the Director dies, resigns, or is sick or absent; and

(B) in the event that the Director is unable to make such a designation because of the Director's death, disability, resignation, or removal, the Secretary shall designate an Acting Director.

(2) An Acting Director designated under paragraph (1) shall possess the power to perform the duties vested in the Director.

SEC. 113. AMENDMENT TO SECTION 5314 OF TITLE 5, UNITED STATES CODE.

Section 5314 of title 5, United States Code, is amended by inserting at the end "Director of the Office of Government-Sponsored Enterprise Financial Oversight.".

SEC. 114. AUTHORITY OF THE DIRECTOR.

(a) EXCLUSIVE AUTHORITY OF THE DIRECTOR.—The Director shall have the exclusive authority to make such determinations and to take such actions as are deemed necessary with respect to a specific enterprise regarding—

(1) the denial for reasons of financial safety and soundness of any request for approval under the applicable law and regulations;

(2) an examination;

(3) a decision to appoint a conservator for an enterprise; and

(4) any enforcement action under subtitle B or C, including the final decision in a contested administrative enforcement proceeding.

Nothing in this subsection shall be construed to prohibit the Director from consulting with the Secretary on any matter.

(b) AUTHORITY OF THE SECRETARY.—All other authority vested in the Director, including the authority to issue rules and regulations, shall be exercised by the Director subject to the review and approval of the Secretary.

(c) DELEGATION OF AUTHORITY.—The Director may delegate to Development"; any employee, representative or agent of the Office any authority of the Director.

SEC. 115. PERSONNEL.

The Director shall fix the number of, appoint, set the compensation of, and direct all employees of the Office.

SEC. 116. REGULATIONS AND ORDERS.

(a) AUTHORITY.—The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary or appropriate for carrying out any law within the Director's jurisdiction.

(b) EXEMPTION FROM PRIOR NOTIFICATION TO THE CONGRESS.—The provisions of section 3535(o), title 42, United States Code, shall not apply with respect to rules and regulations under development or review or to be published by the Director pursuant to this Act.

SEC. 117. AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

(a) Section 303(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718(b)) is amended by striking "Secretary of Housing and Urban Development" and inserting instead "Director of the Office of Government-Sponsored Enterprise Financial Oversight".

(b) Section 304(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(b)) is amended—

(1) in the first sentence, by striking the semicolon and all that follows through "Secretary of Housing and Urban Development";

(2) by striking the second sentence;

(3) in the first sentence, by inserting "and the Director of the Office of Government-Sponsored Enterprises Financial Oversight" after "the Secretary of the Treasury" both times it occurs; and

(4) by inserting after the first sentence the following new sentence: "Any obligation that the corporation has issued or is issuing as of the date of enactment of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991, or any obligation of a substantially identical type, shall be deemed to have been approved by the Director of the Office of Government-Sponsored Enterprises Financial Oversight.".

(c) Section 309(h) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(h)) is amended in the first sentence by striking "The" and inserting instead "Except for authority vested in the Director of the Office of Government-Sponsored Enterprises Financial Oversight, the".

(d) Section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking "and all issuances of stock, and debt obligations convertible into stock, by the corporation".

(e) EFFECTIVE DATES.—

(1) The provisions of subsections (a), (c), and (d) shall become effective on January 1, 1992.

(2) The provisions of subsection (b) shall become effective three years after the date of enactment of this Act.

(f) TRANSITIONAL PROVISION.—Any rules or regulations issued by the Secretary pursuant to the provisions of the Federal National Mortgage Association Charter Act shall be effective and enforceable by the Secretary to the extent that such rules and regulations are not inconsistent with the authorities and duties of the Director under this title.

SEC. 118. AMENDMENTS TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

(a) Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended—

(1) in paragraph (1), by striking "The" the first time it appears and inserting instead "Except for authority vested in the Director of the Office of Government-Sponsored Enterprises Financial Oversight, the"; and

(2) by striking paragraphs (3), (5), and (6) and redesignating paragraphs (4), (7), and (8) as paragraphs (3), (4), and (5), respectively.

(b) Section 306(j) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(j)) is amended—

(1) in paragraph (1), by inserting "and the Director of the Office of Government-Sponsored Enterprises Financial Oversight" and "Secretary of the Treasury" both times it occurs; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) Any notes, debentures, or other unsecured obligations of the Corporation that the Corporation has issued or is issuing as of the date of enactment of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991, or any obligation of a substantially identical type, shall be deemed to have been approved by the Director of the Office of Government-Sponsored Enterprises Financial Oversight.".

(c) EFFECTIVE DATE.—The amendments described in subsection (a)(1), (a)(2) (other than the amendment striking paragraph (5)), and (a)(3) and the provisions of subsection (b) shall become effective on January 1, 1992. The amendment in subsection (a)(2) that strikes paragraph (5) shall become effective three years after the date of enactment of this Act.

(d) TRANSITIONAL PROVISION.—Any rules or regulations issued by the Secretary pursuant to the provisions of the Federal Home Loan Mortgage Corporation Act shall be effective and enforceable by the Secretary to the extent that such rules and regulations are not inconsistent with the authorities and duties of the Director under this title.

SEC. 119. ANNUAL REPORTS.

Not later than April 15 of each year beginning in 1992, the Director shall make a written report to the Congress setting out—

(a) the steps the Director has taken and is taking to implement the provisions of this title;

(b) the financial safety and soundness of each enterprise; and

(c) any recommendations for amendment of this title or any other law affecting the financial safety and soundness of the enterprises.

SEC. 120. FUNDING.

(a) ASSESSMENTS, FEES, AND OTHER CHARGES.—The Secretary is authorized to impose and collect assessments, fees, and other charges on the enterprises as necessary or appropriate to carry out the Director's responsibilities and the Secretary's other regulatory responsibilities for the enterprises. Such assessments, fees, and other charges shall be set to meet the full cost to the Federal Government of the services provided by the Director and the Secretary in carrying out such responsibilities.

(b) TREASURY ACCOUNT.—There is hereby established in the Treasury a separate fund into which the assessments, fees, and other charges collected pursuant to subsection (a) shall be deposited and immediately available to carry out the responsibilities of the Secretary and the Director described in subsection (a) without regard to fiscal year limitation. Such amounts deposited in the fund as the Secretary deems necessary can be used for payments to the Department of Housing and Urban Development "Salaries and Expenses" account to carry out the purposes of this section.

Subtitle B—Capital Levels and Special Enforcement Powers

SEC. 131. CAPITAL ADEQUACY AND PROMPT CORRECTIVE ACTION.

(a) CLASSIFICATION ACCORDING TO CAPITAL SUFFICIENCY.—

(1) ESTABLISHMENT OF RELEVANT CAPITAL MEASURES AND MINIMUM RISK-BASED CAPITAL LEVELS.—

(A) ESTABLISHMENT BY DIRECTOR.—To satisfy the criteria specified in subparagraph (B), the Director shall by regulation establish—

(i) relevant capital measures; and

(ii) minimum risk-based capital levels for each such relevant capital measure.

(B) CRITERIA FOR MINIMUM RISK-BASED CAPITAL LEVEL.—The relevant capital measures and corresponding minimum risk-based capital levels established by the Director shall ensure that the total capital of each enterprise—

(i) exceeds the leverage limit specified in paragraph (2); and

(ii) equals, as determined by the Director, the sum of—

(I) an amount of capital sufficient, when considered in conjunction with guarantee fees paid to the enterprise, to enable the enterprise to maintain positive capital to cover for interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Director;

(II) an amount of capital sufficient to protect against management risk, operations risk, and business risk; and

(III) an amount of capital sufficient to provide capital coverage at the margin for proposed new programs or lines of business whose risk characteristics are uncertain.

(2) LEVERAGE LIMIT.—

(A) STATUTORY FLOOR.—For purposes of this section, the leverage limit shall be a level of capital equal to the sum of—

(i) 2.50 percent of total on-balance sheet assets;

(ii) 0.45 percent of total face value of outstanding mortgage-backed securities issued or guaranteed by the enterprise; and

(iii) such other percentage of other off-balance sheet obligations as the Director may establish by regulation.

(B) DISCRETIONARY UPWARD ADJUSTMENT.—The Director may by regulation establish a leverage limit above the level specified in subparagraph (A).

(3) CRITICAL CAPITAL LEVEL.—For purposes of this section, the critical capital level shall be a level of capital equal to the sum of—

(A) 1.25 percent of total on-balance sheet assets;

(B) 0.25 percent of total face value of outstanding mortgage-backed securities issued or guaranteed by the enterprise; and

(C) such other percentage of other off-balance sheet obligations as the Director may establish by regulation.

(4) USE OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—For the purposes of paragraphs (2) and (3), "on-balance sheet assets" and "off-balance sheet obligations" shall be determined according to generally accepted accounting principles.

(5) EFFECTIVE DATES.—

(A) ESTABLISHMENT OF MINIMUM RISK-BASED CAPITAL LEVELS.—The Director shall establish the relevant capital measures and capital levels required under paragraph (1) no later than one year after the date of enactment of this Act.

(B) PHASE-IN FOR LEVELS I AND II.—The provisions of this section that authorize the Director to take action by reason of an enterprise falling within Levels I or II shall become effective three years after the date of enactment of this Act.

(C) PHASE-IN FOR LEVEL III.—The provisions of this section that authorize the Director to take action by reason of an enterprise falling within Level III shall become effective one year after the date of enactment of this Act.

(6) DEFINITION OF CAPITAL LEVELS.—Unless otherwise reclassified pursuant to paragraph (6), for purposes of this section—

(A) LEVEL I.—Level I includes any enterprise that—

(i) maintains capital that is below the minimum risk-based capital level for any relevant capital measure; and

(ii) is not within Levels II, III, and IV;

(B) LEVEL II.—Level II includes any enterprise that—

(i) maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit; or

(ii) is otherwise classified within Level II under the provisions of this section;

(C) LEVEL III.—Level III includes any enterprise that—

(i) maintains capital that is below the leverage limit but that is at or exceeds the critical capital level; or

(ii) is otherwise classified within Level III under the provisions of this section; and

(D) LEVEL IV.—Level IV includes any enterprise that maintains capital below the critical capital level.

(7) RECLASSIFICATION.—The Director may reclassify any enterprise that is not within Level IV to Level III if the Director determines that that enterprise is in an unsafe and unsound condition or engaging in an unsafe or unsound practice.

(b) REGULATIONS AND OTHER AUTHORITY.—

(1) IN GENERAL.—The Director shall promulgate regulations and take such other actions as are necessary to implement the provisions of this section and is authorized to issue orders and take such other actions as are necessary or appropriate to carry out the purposes of this section.

(2) CAPITAL ZONES.—Consistent with the purposes of this section, the Director shall by regulation specify the applicable capital levels for each relevant capital measure in each capital level established by this section.

(3) APPROVAL OF ACTIVITIES.—An enterprise within Level I, II, III, or IV may undertake any activity subject to the approval of the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act only with the additional approval of the Director, as provided in this section.

(c) MANDATORY SUPERVISORY ACTIONS APPLICABLE TO ENTERPRISES WITHIN LEVEL I.—

(1) RESTRICTIONS ON EXPANSION.—

(A) EXPANSION RESULTING IN RECLASSIFICATION.—The Director shall not approve or permit—

(i) any new program, any purchase of mortgage loans for portfolio or securitization, or any other investment or activity, subject to approval by the Director that would result in reclassification of an enterprise within Level I to Level II or III, unless the Director finds that the transaction substantially improves the financial condition of an enterprise involved in the transaction or is consistent with a capital restoration plan approved by the Director and meets the other standards required to be reviewed by the Director in considering such proposals under the applicable laws; and

(ii) any new program, any purchase of mortgage loans for portfolio or securitization, or any other investment or activity, subject to approval by the Director that would result in reclassification of the enterprise to Level IV.

(B) UNSAFE AND UNSOUND PRACTICES OR CONDITION.—The Director shall not approve or permit any new program, any purchase of mortgage loans for portfolio or securitization, or any other investment or activity involving an enterprise within Level I if the Director determines that the enterprise involved in the investment or other activity is engaging in an unsafe and unsound practice or is in an unsafe and unsound condition.

(2) CAPITAL DISTRIBUTIONS.—

(A) LIMITATION.—No enterprise within Level I shall make any capital distribution that would cause the enterprise to be reclassified within Levels III or IV. Such enterprise may make a capital distribution that would cause the enterprise to be reclassified to Level II, if the enterprise provides the Director with written notice pursuant to section 133(d) and the Director has issued a notice of approval.

(B) STANDARDS FOR APPROVAL.—The Director shall approve payment of a capital distribution by an enterprise under this paragraph only if the Director determines that the capital distribution will enhance the enterprise's ability to meet the minimum risk-based capital levels for all relevant capital measures or that the distribution is otherwise in the public interest.

(3) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Director may modify, defer, or remove any mandatory supervisory action applicable under this section to an enterprise within Level I if the Director determines in writing that such action is in the public interest.

(d) PROVISIONS APPLICABLE TO ENTERPRISES WITHIN LEVEL II.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—Every enterprise within Level II shall, within the time period provided in subsection (h), submit to the Director and, after its acceptance, implement a capital plan that meets the requirements of subsection (h) and will restore the relevant capital measures of the enterprise to at least the levels required for classification within Level I.

(B) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

(i) PRIOR APPROVAL REQUIRED.—No enterprise within Level II shall make any capital distribution that would cause the enterprise to be reclassified within Levels III or IV. No enterprise within Level II shall make any other capital distribution unless the enterprise receives the prior approval of the Director.

(ii) STANDARDS FOR APPROVAL.—The Director may approve payment of a capital distribution by an enterprise within Level II only if the Director determines that the capital distribution will enhance the ability of the enterprise promptly to meet the minimum risk-based capital levels for all relevant capital measures or is otherwise in the public interest.

(C) RESTRICTION ON EXPANSION.—The Director shall not approve or permit any new program, any purchase of mortgage loans for portfolio or securitization, or any other investment or activity, subject to approval by the Director by an enterprise within Level II unless the Director finds that the transaction furthers achievement of the capital restoration plan approved by the Director for the enterprise.

(D) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—An enterprise within Level II shall immediately be reclassified to Level III, and shall be subject to all of the provisions applicable to enterprises within Level III, if—

(i) the enterprise does not submit the capital restoration plan required in subparagraph (A) within the time required by the Director; or

(ii) the Director is not satisfied that the enterprise is making every effort in good faith to fulfill completely the capital plan within the schedule approved by the Director.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Director may modify, defer, or remove any mandatory supervisory action applicable under this section to an enterprise within Level II if the Director determines in writing that such action is in the public interest.

(3) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other authority of the Director, the Director may, at any time, based upon a finding that the enterprise is within Level II—

(A) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the enterprise, including off-balance sheet liabilities.

(B) RESTRICT GROWTH.—Restrict or eliminate growth of the enterprise's assets, or require contraction of the assets of the enterprise.

(C) RESTRICT DISTRIBUTIONS.—Restrict the enterprise from making any capital distribution.

(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the enterprise to issue new capital in any form and in any amount sufficient to restore the enterprise to at least the capital levels required for Level I.

(E) RESTRICT ACTIVITIES.—Require the enterprise to terminate, reduce or alter any activity, if the Director determines that the activity creates excessive risk to the enterprise.

(F) LIMIT EXECUTIVE COMPENSATION.—Require the enterprise to reduce or eliminate any or all of the following for any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the enterprise following enactment of this Act—

(i) any bonus;

(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months; and

(iii) any payment that is or would be due under any employment severance contract.

(e) PROVISIONS APPLICABLE TO ENTERPRISES WITHIN LEVEL III.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—Unless an enterprise within Level III has submitted a capital restoration plan acceptable to the Director pursuant to subsection (e), it shall, within the time provided under subsection (h), submit to the Director and, after its acceptance, implement a capital plan that meets the requirements of subsection (h) and will restore the relevant capital measures of the institution to at least the levels required for classification within Level I.

(B) PROHIBITION ON CAPITAL DISTRIBUTIONS.—No enterprise within Level III shall make any capital distribution.

(C) PROHIBITION ON EXPANSION.—No enterprise within Level III shall directly or indirectly engage in any new investment or activity.

(D) LIMITATION ON ASSET GROWTH.—

(i) No enterprise within Level III shall increase its total assets, except as permitted under clause (ii).

(ii) Notwithstanding clause (i), the Director may permit a enterprise within Level III to increase its total assets if—

(I) the Director has accepted the enterprise's capital restoration plan;

(II) any increase in assets is accompanied by an increase in capital in an amount not less than the increase in assets multiplied by the respective relevant capital measures for Level I enterprises; and

(III) the enterprise's capital levels increase at a rate sufficient to enable the enterprise to satisfy the enterprise's capital restoration plan within a reasonable time.

(E) LIMITATION ON COMPENSATION.—An enterprise within Level III may not pay to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the enterprise following enactment of this Act—

(i) any bonus;

(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months;

(iii) any payment that is or would be due under any employment severance contract.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Director may modify, defer, or remove any mandatory supervisory action authorized by this section from an enterprise within Level III if the Director determines in writing that such action is in the public interest.

(3) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other authority of the Director, the Director may, at any time, take any of the following actions based upon a finding that the enterprise is within Level III—

(A) DISCRETIONARY SUPERVISORY ACTIONS PERMITTED UNDER LEVEL I OR LEVEL II.—Take any discretionary supervisory action authorized under subsection (e)(3) in connection with an enterprise within Level III.

(B) LIMIT EXECUTIVE COMPENSATION.—Require the enterprise to reduce or eliminate any compensation to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the enterprise following enactment of this Act if the Director determines the compensation to be excessive.

(C) DISMISS DIRECTORS OR EXECUTIVE OFFICERS.—

(i) Require the enterprise to dismiss from office at the enterprise any or all of the following persons if the person accepted employment, accepted a new position, or renewed any contract for employment in the same position at the enterprise following enactment of this Act and the person has been employed in that position at the enterprise for at least 180 days—

(I) any member of the enterprise's board of directors that was not appointed and is not subject to removal by the President; or

(II) any executive officer.

(ii) The Director may notify the President of any director whom the Director would have required the enterprise to dismiss under clause (i) but for the fact that the director was appointed and subject to removal by the President. The Director shall include in such notification the grounds for removal of that Director.

(iii) Dismissal under clause (i) shall not be construed as removal under section 143.

(D) CONSERVATORSHIP.—Appoint a conservator for the enterprise.

(f) PROVISIONS APPLICABLE TO ENTERPRISES WITHIN LEVEL IV.—

(1) MANDATORY SUPERVISORY ACTIONS.—The Director shall, not alter than 30 days after determining that an enterprise is within Level IV, appoint a conservator for the enterprise and any such conservator shall have full authority, in its sole discretion, to take any actions authorized under subsections (d) and (e) not inconsistent with the powers of the conservator, and to take any other actions authorized pursuant to the provisions applicable to conservators under the applicable laws.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Director may modify, defer, or remove any mandatory supervisory action applicable under this section to an enterprise within Level IV if the Director determines in writing that such action is in the public interest.

(g) CAPITAL RESTORATION PLANS.—

(1) CONTENTS OF PLAN.—A capital restoration plan submitted under this section shall be a feasible plan for promptly restoring the levels of capital for all relevant capital measures of the enterprise to at least the levels required by the subsection pursuant to which the capital restoration plan is ordered. A capital restoration plan must—

(A) specify the levels of capital the enterprise will achieve and maintain;

(B) describe the steps the enterprise will take to restore each of the relevant capital measures for the enterprise to the required levels;

(C) establish a schedule for promptly completing the capital restoration plan;

(D) specify the types and levels of activities in which the enterprise will engage during the pendency of the capital restoration plan;

(E) explain the steps that the enterprise will take to comply with any mandatory and discretionary requirements imposed under the applicable laws; and

(F) be acceptable to the Director.

(2) DEADLINES FOR SUBMISSION OF CAPITAL RESTORATION PLAN.—The Director shall by regulation establish deadlines that provide enterprises a reasonable period of time, but not more than 30 days, to submit a capital restoration plan acceptable to the Director. Such regulation shall provide that the Director may extend such deadline to the extent that the Director determines necessary or appropriate.

(3) AGENCY REVIEW OF CAPITAL RESTORATION PLANS.—The Director shall review and act on a capital restoration plan not later than 30 days after the plan is submitted, except that such period may be extended by the Director.

(h) JUDICIAL REVIEW OF AGENCY ACTION.—

(1) JURISDICTION.—

(A) FILING OF PETITION.—A person aggrieved by an action of the Director under this section may obtain review of that action by filing, within ten days after receiving notice of the Director's action, a written petition requesting that the action of the Director be modified, terminated or set aside.

(B) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the concerned enterprise maintains its home office. For purposes of this subparagraph, the "concerned enterprise" shall mean the enterprise whose classification within a particular zone is the basis for the Director's action of which the person aggrieved complains.

(C) PERSON AGGRIEVED DEFINED.—A "person aggrieved by the action of the Director" means—

(i) the enterprise or company that is the subject of a mandatory or discretionary supervisory action with respect to a mandatory or discretionary supervisory action taken under this section for enterprises within Levels I, II, and III;

(ii) any person dismissed, with respect to an order under this section for the dismissal of a director or executive officer; and

(iii) any person whose compensation, bonus or severance payment has been reduced or eliminated, with respect to an order under this section reducing or eliminating such payments due an executive officer.

(2) SCOPE OF REVIEW.—Action taken by the Director under this section shall be modified, terminated, or set aside only if the court finds, on the record on which the Director acted, that the Director's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

(3) UNAVAILABILITY OF INJUNCTIVE RELIEF.—The commencement of proceedings for judicial review pursuant to this subsection shall not operate as a stay of any action taken by the Director. No court shall have jurisdiction to stay, enjoin or otherwise delay agency action taken under this section pending judicial review of that action.

(4) WITHDRAWAL OF JURISDICTION.—Except as provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or effectiveness of any action of the Director under this section or to review, modify, suspend, terminate, or set aside such action.

SEC. 132. SAFE HARBOR.

(a) VOLUNTARY RATINGS.—Upon request from an enterprise, the Director shall contract with two nationally recognized statistical rating organizations—

(1) to assess the likelihood that the enterprise might not be able to meet its future obligations from its own resources and to express that likelihood as a traditional credit rating; and

(2) to review the rating of the enterprise for one year from the effective date of the rating.

(b) QUALIFICATION FOR SAFE HARBOR.—

(1) DETERMINATION BY DIRECTOR.—If, after receiving a rating from each statistical rating organization described in subsection (a), the Director determines that the enterprise merits the highest investment grade rating awarded by that organization, the enterprise shall be deemed, effective for one year following the date of the Director's determination, to meet the minimum risk-based capital levels for all relevant capital measures for purposes of section 131.

(2) WRITTEN FINDING REQUIRED.—If—

(A) each statistical rating organization described in subsection (a) assigns the enterprise the highest investment grade rating awarded by that organization, and

(B) the Director fails to make the determination described in paragraph (A),

the Director shall make a written finding detailing the reasons for the Director's failure to make such determination.

(c) EARLY TERMINATION OF SAFE HARBOR.—Subsection (b) shall cease to apply at such time as any such statistical rating organization described in subsection (a) notifies the Director, and the Director determines, that the enterprise no longer merits the highest investment grade rating awarded by that organization. The Director shall promptly notify the enterprise that the Director has received the notice described in this subsection.

(d) ASSESSMENTS FOR RATINGS.—The Director shall impose and collect an assessment on an enterprise that requests ratings under subsection (a). Such assessment shall cover the full cost to the Federal Government of obtaining the ratings.

(e) DISCRETIONARY RATINGS.—Nothing in this section shall prevent the Director from contracting with any nationally recognized statistical rating organization to rate an enterprise at any time and for any purpose that the Director deems appropriate.

(f) DEFINITION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—For purposes of this section, the term "nationally-recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers.

SEC. 133. REPORTS TO DIRECTOR.

(a) REPORTS OF CONDITION; FORM; CONTENT; DATE OF MAKING.—

(1) REGULAR REPORTS.—Each enterprise shall make to the Director quarterly reports of condition which shall be in such form, shall contain such information, and shall be made on such dates as the Director shall require.

(2) CERTIFICATION OF REPORTS.—Each report of condition shall contain a declaration by the president, a vice president, the treasurer, or by any other officer designated by the board of directors of the enterprise to make such declaration, that the report is true and correct to the best of his or her knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the enterprise other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(b) ADDITIONAL AND SPECIAL REPORTS.—The Director may require additional reports, in such form and containing such information as the Director may prescribe, on dates to be fixed by the Director, and may require special reports from any particular enterprise whenever, in the Director's judgment, such reports are necessary for the Director to carry out the purposes of this title.

(c) PENALTIES.—

(1)(A) FIRST TIER.—If an enterprise—

(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make any report required under this paragraph, within the period of time specified by the Director, or submits any false or misleading report or information, or

(ii) inadvertently transmits any report which is minimally late,

the enterprise shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected.

(B) The enterprises shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted late.

(2) SECOND TIER.—If an enterprise fails to make any report required under this section within the period of time specified by the Director, or submits any false or misleading report or information, in a manner not described in paragraph (1) of this subsection, the enterprise shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(3) THIRD TIER.—Notwithstanding paragraph (2), if an enterprise knowingly or with reckless disregard for the accuracy of any information or report described in such paragraph submits any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets of the enterprise, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(4) ASSESSMENT AND COLLECTION.—Any penalty imposed under this subsection shall be assessed and collected by the Director in the manner provided in section 147(e)–(g), (i), (j) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty shall be subject to the provisions of such section.

(5) HEARING.—An enterprise shall be afforded a hearing with respect to any penalty assessed under this subsection if the enterprise submits a written request for such hearing within 20 days after the issuance of the notice of assessment. Section 145 shall apply to any proceeding under this paragraph.

(d) CAPITAL DISTRIBUTIONS.—Each enterprise shall make to the Director advance reports of any capital distributions to be declared or paid in such cases and under such conditions as the Director deems necessary, if such form and at such times as it may require.

SEC. 134. EXAMINATIONS.

(a) APPOINTMENT OF EXAMINERS.—The Director shall appoint examiners to examine the enterprises.

(b) EXAMINATIONS.—Any examiner appointed under subsection (a) shall examine such enterprise whenever the Director determines that an examination is necessary to determine the condition of the enterprise for the purpose of ensuring its financial safety and soundness.

(c) TECHNICAL EXPERTS.—The Director is authorized to contract for the services of such technical experts as the Director deems necessary and appropriate to provide temporary technical assistance to any examiner appointed under subsection (a).

(d) POWER AND DUTY OF EXAMINERS.—Each examiner apppointed under subsection (a) shall—

(1) have the power, on behalf of the Director, to make a thorough examination of any enterprise under subsection (b); and

(2) make a full and detailed report of condition of the enterprise examined to the Director.

(e) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE; SUBPOENA POWERS.—In connection with examinations of the enterprises, the Director is authorized to administer oaths and affirmations, examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any enterprise or affiliate thereof, and to exercise such other powers as are set forth in section 152.

(f) PRESERVATION OF RECORDS BY PHOTOGRAPHY.—

(1) IN GENERAL.—The Director may cause any and all records, papers, or documents kept by the Director or in the Director's possession or custody to be photographed or microphotographed or otherwise reproduced upon flim, in a manner that shall comply with the minimum standards of quality approved for permanent photographic records by the National Institute of Standards and Technology.

(2) DEEMED AS ORIGINALS.—Such photographs, microphotographs, or photographic film or copies thereof shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

(3) PRESERVATION.—Such photographs, microphotographs, or reproductions shall be preserved in such manner as the Director shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Director shall direct.

Subtitle C—General Enforcement Powers

SEC. 141. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve upon an enterprise or any director or executive officer thereof a notice of charges if, in the opinion of the Director, the enterprise, director, or executive officer—

(1) is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, director, or executive officer is about to engage, in an unsafe or unsound practice in conducting the business of the enterprise; or

(2) is violating or has violated, or the Director has reasonable cause to believe that the enterprise, director, or executive officer is about to violate——

(A) a law, rule, or regulation;

(B) any condition imposed in writing by the Director in connection with the granting of any application or other request by the enterprise; or

(C) any written agreement entered into with the Director.

(b) PROCEDURE.—

(1) NOTICE OF CHARGES.—Any notice of charges shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the enterprise, director, or executive officer.

(2) DATE OF HEARING.—Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Director at the request of any party served.

(3) FAILURE TO APPEAR CONSTITUTES CONSENT.—Unless the party or parties so served appear at the hearing personally or by a duly authorized representative, such party or parties shall be deemed to have consented to the issuance of the cease-and-desist order.

(4) ISSUANCE OF ORDER.—In the event of such consent, or if, upon the record made at any such hearing, the Director shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Director may issue and serve upon the enterprise, director, or executive officer an order requiring the enterprise, director, or executive officer to cease and desist from any such violation or practice and to take affirmative action to correct the conditions resulting from any such violation or practice.

(c) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority under this section and section 142 to issue any order which requires an enterprise, or any director or executive officer thereof, to take affirmative action to correct or remedy any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such enterprise, director, or executive officer—

(1) to make restitution or provide reimbursement, indemnification, or guarantee against loss if—

(A) the enterprise, director, or executive officer was unjustly enriched in connection with such violation or practice; or

(B) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Director;

(2) to restrict the growth of the enterprise;

(3) to dispose of any asset involved;

(4) to rescind agreements or contracts;

(5) to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(6) take such other action as the Director determines appropriate.

(d) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this section or section 142 includes the authority to place limitations on the activities or functions of the enterprise, or any director or executive officer thereof.

(e) EFFECTIVE DATE.—A cease-and-desist order shall become effective at the expiration of 30 days after the service of such order upon the enterprise, director, or executive officer concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a court of competent jurisdiction.

SEC. 142. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) GROUNDS FOR ISSUANCE; SCOPE.—Whenever the Director determines that any violation, threatened violation, or unsafe or unsound practice, specified in the notice of charges served upon the enterprise, director, or executive officer pursuant to section 142(a), or the continuation thereof, is likely—

(1) to cause insolvency or significant dissipation of assets or earnings of the enterprise, or

(2) to weaken the condition of the enterprise prior to the completion of the proceedings conducted pursuant to section 141(b),

the Director may issue a temporary order requiring the enterprise, or any director or executive officer thereof, to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency, dissipation, or condition pending completion of such proceedings. Such order may include any requirement authorized under section 141(c).

(b) EFFECTIVE DATE.—An order issued pursuant to subsection (a) shall become effective upon service upon the enterprise, director, or executive officer and, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (d), shall remain effective and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until such time as the Director dismisses the charges specified in such notice or unitl superseded by a cease-and-desist order isssued pursuant to section 141.

(c) INCOMPLETE OR INACCURATE RECORDS.—

(1) TEMPORARY ORDER.—If a notice of charges served under subsection (a) of section 141 specifies that the enterprise's books and records are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of that enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under section 141.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings under subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 141 in connection with the notice of charges; or

(ii) the date the Director determines, by examination or otherwise, that the enterprise's books and records are accurate and reflect the financial condition of the enterprises.

(d) JUDICIAL REVIEW.—Within 10 days after the enterprise, director, or executive officer has been served with a temporary cease-and-desist order pursuant to this section, the enterprise, or any director or executive officer thereof, may apply to the United States district court for the judicial district in which the home office of the enterprise is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the enterprise, director, or executive officer under section

141(a), and such court shall have jurisdiction to issue such injunction.

(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Director may, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, apply to the United States district court for the judicial district in which the home office of the enterprise is located, or the United States District Court for the District of Columbia for an injunction to enforce such order, and, if the court finds any such violation, threatened violation, or failure to obey, it shall issue such injunction.

SEC. 143. REMOVAL AND PROHIBITION AUTHORITY.

(a) AUTHORITY TO ISSUE ORDER.—The Director may serve upon any director (other than a director appointed and subject to removal by the President) or executive officer of an enterprise a written notice of the Director's intention to remove such director or executive officer from office or to prohibit any further participation by such director or executive officer, in any manner, in the conduct of the affairs of the enterprise whenever the Director determines that—

(1) such director or executive officer has directly or indirectly—

(A) violated—

(i) any law or regulation;

(ii) any cease-and-desist order which has become final;

(iii) any condition imposed in writing by the Director in connection with the grant of any application or other request by the enterprise; or

(iv) any written agreement between the enterprise and the Director;

(B) engaged or participated in any unsafe or unsound practice in connection with the enterprise; or

(C) committed or engaged in any act, omission, or practice which constitutes a breach of such director's of executive officer's fiduciary duty;

(2) by reason of the violation, practice, or breach described in any clause of paragraph (1)—

(A) the enterprise has suffered or will probably suffer financial loss or other damage; or

(B) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

(3) such violation, practice, or breach—

(A) involves personal dishonesty on the part of such director or executive officer; or

(B) demonstrates willful or continuing disregard by such director or executive officer for the safety or soundness of the enterprise.

(b) SUSPENSION ORDER.—

(1) SUSPENSION OR PROHIBITION AUTHORIZED.—If the Director serves written notice under subsection (a) to any director or executive officer of an enterprise, the Director may suspend such director or executive officer from office or prohibit such director or executive officer from further participation in any manner in the conduct of the affairs of the enterprise, if the Director—

(A) determines that such action is necessary for the protection of the enterprise; and

(B) serves upon such director or executive officer written notice of the suspension order.

(2) EFFECTIVE PERIOD.—Any suspension order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless a court issues a stay of such order under subsection (f), shall remain in effect and enforceable until—

(i) the date the Director dismisses the charges with respect to such director or executive officer; or

(ii) the effective date of an order issued by the Director to such director or executive officer under subsection (a).

(3) COPY OF ORDER.—If the Director issues a suspension order under subsection (b) to any director or executive officer of an enterprise, the Director shall serve a copy of such order on the enterprise at the time such order is issued.

(c) PROCEDURE.—

(1) NOTICE.—A notice of intention to remove a director or executive officer of an enterprise from office or to prohibit such director or executive officer from participating in the conduct of the affairs of the enterprise shall contain a statement of the facts constituting grounds therefore and shall fix a time and place at which a hearing will be held thereon.

(2) DATE OF HEARING.—Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Director at the request of such party and for good cause shown, or the Attorney General of the United States.

(3) FAILURE TO APPEAR DEEMED CONSENT.—Unless such party appears at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such removal or prohibition.

(4) ISSUANCE OF ORDER.—In the event of such consent, or if upon the record made at any such hearing, the Director finds that any of the grounds specified in such notice have been established, the Director may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the enterprise, as the Director may deem appropriate.

(d) EFFECTIVE DATE.—Any such order shall become effective at the expiration of 30 days after service upon the enterprise and the director or executive officer (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a court of competent jurisdiction.

(e) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

(1) participate in any manner in the conduct of the affairs of any institution or agency specified in subsection (f)(1);

(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in paragraph (1);

(3) violate any voting agreement previously approved by the Director; or

(4) vote for a director, or serve or act as a director or executive officer of an enterprise.

(f) INDUSTRYWIDE PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), any director or executive officer who, pursuant to an order issued under this section, has been removed or suspended from office in an enterprise or prohibited from participating in the conduct of the affairs of an enterprise may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

(A) any insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2));

(B) any depository institution or institution treated as an insured bank under section 8(b)(3) or 8(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3),(b)(4)), or as a savings association under section 8(b)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(8));

(C) any insured credit union as defined in section 101(7) of the Fedeal Credit Union Act (12 U.S.C. 1752);

(D) any institution chartered under the Farm Credit Act of 1971;

(E) the Federal Housing Finance Board and any Federal home loan bank;

(F) the Federal National Mortgage Association;

(G) the Federal Home Loan Mortgage Corporation;

(H) the Student Loan Marketing Association;

(I) the Government National Mortgage Association;

(J) any appropriate Federal depository institutions regulatory agency; and

(K) the Resolution Trust Corporation.

(2) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this section which removes or suspends from office any director or executive officer of an enterprise or prohibits such director or executive officer from participating in the conduct of the affairs of an enterprise, such party receives the written consent of—

(A) the Director, and

(B) the appropriate Federal financial institutions regulatory agency of the institution described in paragraph (1) in which such director or executive officer proposes to hold office or in the conduct of whose affairs such director or executive officer proposes to participate,

paragraph (1) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in such written consent. Any agency that grants such a written consent shall report such action to the Director and publicly disclose such consent.

(3) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order described in such paragraph shall be treated as a violation of the order.

(4) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term "appropriate Federal financial institutions regulatory agency" means—

(A) the Secretary and the Director, in the case of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) the Secretary, in the case of the Government National Mortgage Association;

(C) the appropriate Federal banking ageny as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), in the case of an insured depository institution;

(D) the Secretary of the Treasury, in the case of the Student Loan Marketing Association, the Federal Housing Finance Board, and any Federal home loan bank;

(E) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

(F) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. §1752(7)); and

(G) the Oversight Board, in the case of the Resolution Trust Corporation.

(5) CONSULTATION BETWEEN AGENCIES.—The agencies described in paragraph (2) shall con-

sult with each other before providing any written consent authorized by paragraph (2).

(g) STAY OF SUSPENSION OR PROHIBITION.—Within ten days after any director or executive officer of an enterprise has been suspended from office or prohibited from participation in the conduct of the affairs of an enterprise under subsection (b), such director or executive officer may apply to the United States district court for the judicial district in which the home office of the enterprise is located, or the United States District Court for the District of Columbia, for a stay of such suspension or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director or executive officer, under subsection (a), and such court shall have jurisdiction to stay such suspension or prohibition.

(h) DIRECTORS APPOINTED BY THE PRESIDENT.—The Director may notify the President of any director of an enterprise on whom the Director would have served a notice of intention to remove the director or to prohibit the director from participating in the conduct of the affairs of the enterprise under subsection (a) but for the fact that that director was appointed and subject to removal by the President. The Director shall include in such notice the grounds for issuance of the notice of intention.

SEC. 144. SUSPENSION OR REMOVAL OF DIRECTOR OR EXECUTIVE OFFICER CHARGED WITH FELONY.

(a) SUSPENSION.—Whenever any director or executive officer of an enterprise is charged in any information, indictment, or complaint with the commission of, or participation in, a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Director may, if continued service or participation by such director or executive officer may threaten to impair public confidence in the enterprise, by written notice served upon such director or executive officer, suspend such director or executive officer from office or prohibit such director or executive officer from further participation in any manner in the conduct of the affairs of the enterprise. A copy of such notice shall also be served upon the enterprise.

(b) EFFECTIVE PERIOD.—Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Director.

(c) REMOVAL.—In the event a conviction or an agreement to enter a pre-trial diversion or other similar program is entered against such director or executive officer, and at such time as such judgment is not subject to further appellate review, the Director may, if continued service or participation by such director or executive officer may threaten to impair public confidence in the enterprise, issue and serve upon such director or executive officer an order removing him or her from office or prohibiting such director or executive officer from further participation in any manner in the conduct of the affairs of the enterprise except with the consent of the Director. A copy of such order shall also be served upon the enterprise, whereupon such director or executive officer shall cease to be a director or executive officer of the enterprise.

(d) DISCRETIONARY REMOVAL NOT PRECLUDED.—A finding of not guilty or other disposition of the charge shall not preclude the Director from instituting proceedings to remove such director or executive officer from office or to prohibit further participation in the affairs of the enterprise pursuant to section 141(a) or (b).

(e) EFFECTIVE DATE.—Any notice of suspension or order of removal issued under this section shall remain effective and until the completion of any hearing or appeal authorized under subsection (g), unless earlier terminated by the Director.

(f) VACANCIES ON THE BOARD OF DIRECTORS.—

(1) QUORUM.—If, at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an enterprise less than a quorum, all powers and functions vested in, or exercisable by, such board shall vest in and be exercisable by the remaining director or directors, until such time as there shall be a quorum of the board of directors.

(2) ALL DIRECTORS SUSPENDED.—In the event all of the directors of the enterprise are suspended pursuant to this section, the Director shall appoint temporary directors pending the termination of such suspensions or until such time as the terms of the suspended directors expire and their successors take office.

(g) HEARING.—

(1) REQUEST FOR HEARING.—Within 30 days from service of any notice of suspension or order of removal issued pursuant to subsection (a), the director or executive officer concerned may request in writing an opportunity to appear before the Director to show that the continued service to or participation in the conduct of the affairs of the enterprise by such director or executive officer does not, or is not likely to, threaten to impair public confidence in the enterprise.

(2) TIME AND PLACE OF HEARING: HEARING.—Upon receipt of any such request, the Director shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such director or executive officer) and place at which such director or executive officer may appear, personally or through a representative, before the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument.

(3) DECISION OF THE DIRECTOR.—Within 60 days of such hearing, the Director shall notify such director or executive officer whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the enterprise will be continued, terminated, or otherwise modified, or whether the order removing such director or executive officer from office or prohibiting such director or executive officer from further participation in any manner in the conduct of the affairs of the enterprise will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Director's decision, if adverse to such director or executive officer.

(h) RULEMAKING.—The Director is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this section.

SEC. 145. HEARINGS AND JUDICIAL REVIEW.

(a) Any hearing provided for in this subtitle (other than the hearing provided for in section 144)—

(1) shall be held in the Federal judicial district or in the territory in which the home office of the enterprise is located unless the party afforded the hearing consents to another place; and

(2) shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code (5 U.S.C. §§500 et seq.).

(b)(1) After such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this subtitle.

(2) Judicial review of any such order shall be exclusively as provided in subsection (c). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subsection (c), and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

(c)(1) Any party to any proceeding under subsection (a) may obtain a review of any order served pursuant thereto (other than an order issued with the consent of the enterprise, director, or executive officer concerned, or an order issued under section 144) by the filing in the court of appeals of the United States for the circuit in which the home office of the enterprise is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Director.

(2) Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(3) Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall except as provided in the last sentence of subsection (b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(4) Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(d) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

SEC. 146. JURISDICTION AND ENFORCEMENT.

(a) APPLICATION FOR ENFORCEMENT.—The Director may, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the enterprise is located, for the enforcement of any effective notice or order issued under this subtitle or section 131 of subtitle B, and such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION ON MODIFICATION.—Except as otherwise provided in this subtitle no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 147. CIVIL MONEY PENALTY.

(a) FIRST TIER.—An enterprise which, and any director or executive officer thereof who—

(1) violates any law or regulation,

(2) violates any final order or temporary order issued pursuant to section 141, 142, 143, 144, or any final order under section 131 of subtitle B,

(3) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by an enterprise, or

(4) violates any written agreement between an enterprise and the Director,

shall be subject to a civil penalty of not more than $5,000 for each day during which such violation continues.

(b) Second Tier.—Notwithstanding subsection (a), an enterprise which, and any director or executive officer thereof who—

(1)(A) commits any violation described in any clause of subsection (a),

(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of an enterprise, or

(C) breaches any fiduciary duty, and

(2) which violation, practice, or breach—

(A) is part of a pattern of misconduct,

(B) causes or is likely to cause more than a minimal loss to the enterprise, or

(C) results in pecuniary gain or other benefit to such party,

shall be subject to a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

(c) Third Tier.—Notwithstanding subsections (a) and (b), an enterprise which, and any director or executive officer thereof who—

(1) knowingly—

(A) commits any violation described in subsection (a),

(B) engages in any unsafe or unsound practice in conducting the affairs of an enterprise, or

(C) breaches any fiduciary duty, and

(2) knowingly or recklessly causes a substantial loss to the enterprise or a substantial pecuniary gain or other benefit to such director or executive officer by reason of such violation, practice, or breach,

shall be subject to a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

(d) Maximum Amounts of Penalties.—The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

(1) in the case of any director or executive officer, an amount not to exceed $1,000,000; and

(2) in the case of an enterprise, an amount not to exceed the lesser of—

(A) $1,000,000, or

(B) one percent of the total assets of such enterprise.

(e) Assessment.—

(1) Written notice.—Any penalty imposed under this section may be assessed and collected by the Director by written notice.

(2) Finality of assessment.—If a hearing is not timely requested pursuant to subsection (h), the penalty assessment contained in a written notice shall constitute a final and unappealable order.

(f) Authority to Modify or Remit Penalty.—

(1) Prior to Collection Action.—Prior to initiation of an action pursuant to subsection (i)(1), the Director may compromise, modify, or remit any penalty which is or may be assessed under this section.

(2) After Initiation of Collection Action.—Following the initiation of an action pursuant to subsection (i)(1), the Director may compromise, modify, or remit any penalty which is or may be assessed under this section with the prior consent of the Attorney General.

(g) Mitigating Factors.—In determining the amount of any penalty under this section, the Director shall take into account the appropriateness of the penalty with respect to—

(1) the size of financial resources and good faith of the enterprise, director, or executive officer charged;

(2) the gravity of the violation;

(3) the history of previous violations; and

(4) such other matters as justice may require.

(h) Hearing.—The enterprise, director or executive officer against whom any penalty is assessed under this section shall be afforded an agency hearing if such enterprise, director, or executive officer submits a request for such hearing within 20 days after the issuance of the notice of assessment. A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to this subsection.

(i) Collection.—

(1) Referral.—If the enterprise, director, or executive officer fails to pay a penalty that has become final, the Director shall, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, recover the amount assessed by action in the appropriate United States district court.

(2) Appropriateness of penalty not reviewable.—In any action brought under paragraph (1), the validity and appropriateness of the penalty shall not be subject to review.

(j) Disbursement.—All penalties collected under authority of this section shall be deposited into the General Fund of the Treasury.

(k) Regulations.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

SEC. 148. NOTICE UNDER THIS SUBTITLE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise (including a separation caused by the closing of the enterprise) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this subtitle against any such director or executive officer, if such notice is served before the end of the six-year period beginning on the date such director or executive officer ceased to be associated with the enterprise.

SEC. 149. CRIMINAL PENALTY.

Whoever, being subject to an order in effect under section 143 or 144, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in section 143(e)) in the conduct of the affairs of any institution or agency specified in section 143(f) shall be fined not more than $1,000,000 imprisoned for not more than 5 years, or both. Such fine shall be deposited in the General Fund of the Treasury.

SEC. 150. NOTICE OF SERVICE.

Any service required or authorized to be made by the Director under this subtitle may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

SEC. 151. SUBPOENA POWER, ETC.

(a) Powers.—

(1) In the course of or in connection with any administrative proceeding under this subtitle, the Director shall have the power—

(A) to administer oaths and affirmations,

(B) to take or cause to be taken depositions,

(C) to issue subpoenas and subpoenas duces tecum, and

(D) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(b) The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

(c) Rulemaking Authority.—The Director is authorized to make such rules and regulations as the Director determines necessary or appropriate with respect to proceedings, claims, examinations, or investigations.

(d) Enforcement.—The Director, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, or any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith.

(e) Fees and Expenses.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by the enterprises or a director or executive officer thereof may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the enterprises or from its assets.

SEC. 152. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) In General.—The Director shall publish and make available to the public—

(1) any written agreement or other written statement for which a violation may be enforced by the Director, unless the Director, in the Director's discretion, determines that publication would be contrary to the public interest;

(2) any final order issued with respect to any administrative enforcement proceeding initiated by the Director under this subtitle or any other provision of law; and

(3) any modification to or termination of any final order or agreement made public pursuant to this paragraph.

(b) Transcripts of Hearings.—A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

(c) Delay of Publication Under Exceptional Circumstances.—If the Director makes a determination in writing that the publication of any final order pursuant to subsection (a) would seriously threaten the safety or soundness of the enterprise, the Director may delay the publication of such order for a reasonable time.

(d) Documents Filed Under Seal in Public Enforcement Hearings.—The Director may file any document or part thereof under seal in any administrative enforcement hearing commenced by the Director if, as determined by the Director in writing, disclosure thereof would be contrary to the public interest.

(e) Retention of Documents.—The Director shall keep and maintain a record, for not less than six years, of all documents described in subsection (a) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceedings initiated by the Director under this Chapter or any other laws.

(f) Disclosures to Congress.—No provsion of this section shall be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

Subtitle D—Conservatorship

SEC. 161. APPOINTMENT OF CONSERVATOR.

(a) Appointment.—The Director may, without notice or prior hearing, appoint a conservator, which may be the Director, to take possession and control of an enterprise whenever the Director determines—

(1) that the enterprise is not likely to pay its obligations in the normal course of business;

(2) that the enterprise is in an unsafe or unsound condition to transact business, including having substantially insuffcient capital or otherwise;

(3)(A) that the enterprise has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and

(B) there is no reasonable prospect for the enterprise's capital to be replenished without Federal assistance;

(4) that there is any violation of laws, rules, or regulations, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the enterprise's condition;

(5) that there is concealment of books, papers, records, or assets of the enterprise, or refusal to submit books, papers, records, or affairs of the enterprise for inspection to any examiner or to any lawful agent of the Director;

(6) that there is a willful or continuing violation of an order enforceable against the enterprise under 146; or

(7) that the enterprise is classified within Level III or IV by the Director pursuant to section 131 of subtitle B.

(b) Judicial Review.—

(1) In General.—

(A) Not later than 20 days after the initial appointment of a conservator pursuant to this section, the enterprise may bring an action in the United States district court for the judicial district in which the home office of such enterprise is located, or in the United States District Court for the District of Columbia, for an order requiring the Director to terminate the appointment of the conservator.

(B) The Director's decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Stay.—

(A) In General.—The conservator may request that any judicial action or proceeding to which the conservator or the enterprise is or may become a party be stayed for a period of up to 45 days after the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

(B) Director or Federal Agency as Conservator.—In any case in which the conservator is the Director, a Federal agency, or an employee of the Federal Government, the conservator may make a request described in paragraph (a) only with the prior consent of the Attorney General and subject to the Attorney General's direction and control.

(3) Actions and Orders.—

(A) Limitation on Remedies.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of, a conservator.

(B) Enforcement of Orders.—The Director, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, may apply to a court, which shall have the jurisdiction, to enforce an order of the Director relating to—

(i) the conservatorship and the enterprise in conservatorship; or

(ii) restraining or affecting the exercise of powers or functions of a conservator.

(c) Appointment by Consent.—The Director may appoint a conservator for an enterprise if the enterprise, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(d) Exclusive Authority.—The Director shall have exclusive power and jurisdiction to appoint a conservator for the enterprise.

(1) As a conservator, the Director shall have all the powers granted under the applicable law, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators under this subtitle and any other provision of law.

(2) Any other person appointed as a conservator shall be subject to the provisions of this subtitle.

(e) Replacement of Conservator.—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the enterprise's right under subsection (b) to obtain judicial review of the Director's original decision to appoint a conservator.

SEC. 162. EXAMINATIONS.

The Director is authorized to examine and supervise any enterprise in conservatorship as long as the enterprise continues to operate as a going concern.

SEC. 163. TERMINATION OF CONSERVATORSHIP.

(a) General Rule.—At any time the Director becomes satisfied that it may safely be done that it would be in the public interest, the Director may terminate the conservatorship and permit the enterprises to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(b) Enforcement as Final Cease-and-Desist Order.—

(1) Such terms, conditions, and limitations as may be prescribed under subsection (a) shall be enforceable under the provisions of section 146, to the same extent as an order issued pursuant to section 141 which has become final.

(2) An enterprise may bring an action in the United States district court for the judicial district in which the home office of such enterprise is located or in the United States District Court for the District of Columbia for an order requiring the Director to terminate the order.

(3) An action for judicial review of the terms, conditions, and limitations contained in any order may not be commenced later than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

SEC. 164. CONSERVATOR; POWERS AND DUTIES.

(a) General Powers.—A conservator shall have all the powers of the shareholders, directors, and officers of the enterprises and may operate the enterprises in its own name unless the Director, in the order of appointment, limits the conservator's authority.

(b) Subject to Rules of Director.—Any conservator shall be subject to such rules, regulations, and orders as the Director from time to time deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders or in section 165, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to directors, officers, or employees of the enterprise.

(c) Payment of Creditors.—The Director may require the conservator to set aside and make available for payment to creditors such amounts as in the opinion of the Director may safely be used for that purpose. All creditors who are similarly situated shall be treated in the same manner.

(d) Compensation of Conservator and Employees.—Any conservator (other than the Director) and professional employees (other than Federal employees) appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Director may authorize payment at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

(e) Expenses.—All expenses of any such conservatorship shall be paid by the enterprise and shall be a lien upon the enterprise which shall have priority over any other lien.

SEC. 165. LIABILITY PROTECTION.

(a) Federal Agency and Employees.—In any case in which the conservator is the Director, as Federal agency, or an employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) Other Conservators.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

(c) Indemnification.—The Director, with the approval of the Attorney General, shall have authority to indemnify the conservator on such terms as the Director deems proper.

SEC. 166. POWERS OF OFFICERS NOT AFFECTED.

Nothing in this subtitle shall be construed to impair in any manner any power of the President, the Secretary of the Treasury, the Director, or the Attorney General.

SEC. 167. RULES AND REGULATIONS.

The Director may prescribe such rules and regulations as the Director may deem necessary to carry out the provisions of this title.

TITLE II—PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR THE FEDERAL HOUSING FINANCE BOARD

SEC. 201. AMENDMENT TO THE FEDERAL HOME LOAN BANK ACT.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS AS PRIMARY DUTY.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

(i) to supervise the Federal Home Loan Banks;

(ii) to ensure that the Federal Home Loan Banks carry out their housing finance missions; and

(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.".

TITLE III—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 301. FINDINGS.

The Congress finds that—

(a) The Student Loan Marketing Association has an important public mission, as reflected in its Federal charter;

(b) Because the continued ability of the Association to accomplish its public mission is important to health of the United States economy, more effective Government regulation is needed to provide sustained outside discipline and thereby reduce the risk of failure; and

(c) The regulatory framework of the Association should embody the following principles—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of the Association;

(2) the regulator should have sufficient stature to maintain independence from the Association and special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the financial safety and soundness of the Association; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules that it establishes.

SEC. 302. DEFINITIONS.

As used in this title—

(a) ASSOCIATION.—The term "Association" means the Student Loan Marketing Association.

(b) CAPITAL.—The term "capital" means, as determined in accordance with generally accepted accounting principles, the sum of—

(1) the par value of outstanding common stock,

(2) the par value of outstanding preferred stock,

(3) paid-in capital, and

(4) retained earnings.

(c) CAPITAL DISTRIBUTION.—The term "capital distribution" means—

(1) a dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of the Association, except a dividend consisting only of shares of the Association;

(2) a payment made by the Association to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an affiliated company's acquisition of such shares; or

(3) a transition that the Secretary determines by order or regulation to be in substance the distribution of capital.

(d) COMPENSATION.—The term "compensation" means any payment of money or provision of any other thing of current or potential value in connection with employment.

(e) EXECUTIVE OFFICER.—The term "executive officer" of an enterprise means—

(1) the chief executive officer;

(2) the chief financial officer; or

(3) any other person who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the enterprise whether or not the person—

(A) has an official title;

(B) has a title designating the person an assistant; or

(C) is serving without compensation.

(f) SECRETARY.—The term "Secretary" shall mean the Secretary of the Treasury.

Subtitle A—Establishment of Financial Safety and Soundness Regulator

SEC. 311. ANNUAL REPORTS.

Not later than April 15 of each year beginning in 1992, the Secretary shall make a written report to the Congress setting out—

(a) the steps the Secretary has taken and is taking to implement the provisions of this title;

(b) the financial safety and soundness of the Association; and

(c) any recommendations for amendment of this title or any other law affecting the financial safety and soundness of the Association.

SEC. 312. FUNDING.

(a) ASSESSMENTS, FEES, AND OTHER CHARGES.—The Secretary is authorized to impose and collect assessments, fees, and other charges on the Association as necessary or appropriate to carry out the Secretary's responsibilities for the Association. Such assessments, fees, and other charges shall be set to meet the full cost to the Federal Government of the services provided by the Secretary in carrying out such responsibilities.

(b) TREASURY ACCOUNT.—There is hereby established in the Treasury a separate fund in to which the assessments, fees, and other charges collected pursuant to subsection (a) shall be deposited and immediately available to carry out the responsibilities of the Secretary described in subsection (a) without regard to fiscal year limitation.

SEC. 313. AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965.

Section 439 of the Higher Education Act of 1965, as amended, (20 U.S.C. 1087-2) is amended—

(a) in subsection (h)(2), by striking "or the Secretary of the Treasury" in the second sentence;

(b) in subsection (h)(4), by striking "or the Secretary of the Treasury" both times it appears in the first sentence and by striking "and the Secretary of the Treasury"in the second sentence; and

(c) by striking subsection (k) and by redesignating subsections (l) through (q) as (k) through (p).

Subtitle B—Capital Levels and Special Enforcement Powers

SEC. 321. CAPITAL ADEQUACY AND PROMPT CORRECTIVE ACTION.

(a) CLASSIFICATION ACCORDING TO CAPITAL SUFFICIENCY.—

(1) ESTABLISHMENT OF RELEVANT CAPITAL MEASURES AND MINIMUM RISK-BASED CAPITAL LEVELS.—

(A) ESTABLISHMENT BY SECRETARY.—To satisfy the criteria specified in subparagraph (B), the Secretary shall by regulation establish—

(i) relevant capital measures; and

(ii) minimum risk-based capital levels for each such relevant capital measure.

(B) CRITERIA FOR MINIMUM RISK-BASED CAPITAL LEVEL.—The relevant capital measures and corresponding minimum risk-based capital levels established by the Secretary shall ensure that the total capital of the Association—

(i) exceeds the leverage limit specified in paragraph (2); and

(ii) equals, as determined by the Secretary, the sum of—

(I) an amount of capital sufficient to enable the Association to maintain positive capital to cover for interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Secretary.

(II) an amount of capital sufficient to protect against management risk, operations risk, and business risk; and

(III) an amount of capital sufficient to provide capital coverage at the margin for proposed new programs or lines of business whose risk characteristics are uncertain.

(2) LEVERAGE LIMIT.—

(A) STATUTORY FLOOR.—For purposes of this section, the leverage limit shall be a level of capital equal to the sum of—

(i) 2 percent of total on-balance sheet assets; and

(ii) such percentage of off-balance sheet obligations as the Secretary may establish by regulation.

(B) DISCRETIONARY UPWARD ADJUSTMENT.—The Secretary may by regulation establish a leverage limit above the level specified in subparagraph (A).

(3) CRITICAL CAPITAL LEVEL.—For purposes of this section, the critical capital level shall be a level of capital equal to the sum of—

(A) 1.00 percent of total on-balance sheet assets; and

(B) such percentage of off-balance sheet obligations as the Secretary may establish by regulation.

(4) USE OF GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—For the purposes paragraphs (2) and (3), "on-balance sheet assets" and "off-balance sheet obligations" shall be determined according to generally accepted accounting principles.

(5) EFFECTIVE DATES.—

(A) ESTABLISHMENT OF MINIMUM RISK-BASED CAPITAL LEVELS.—The Secretary shall establish the relevant capital measures and capital levels required under paragraph (1) no later than one year after the date of enactment of this Act.

(B) PHASE-IN FOR LEVELS I AND II.—The provisions of this section that authorize the Secretary to take action by reason of the Association falling within Levels I or II shall become effective three years after the enactment of this Act.

(C) PHASE-IN FOR LEVEL III.—The provisions of this section that authorize the Secretary to take action by reason of the Association falling within Level III shall become effective one year after the date of enactment of this Act.

(6) DEFINITION OF CAPITAL LEVELS.—Unless otherwise reclassified pursuant to paragraph (7), for purposes of this section—

(A) LEVEL I.—The Association shall be within Level I if it—

(i) maintains capital that is below the minimum risk-based capital level for any relevant capital measure; and

(ii) is not within Levels II, III, and IV;

(B) LEVEL II.—The Association shall be within Level II if it—

(i) maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit; or

(ii) is otherwise classified within Level II under the provisions of this section;

(C) LEVEL III.—The Association shall be within Level III if it—

(i) maintains capital that is below the leverage limit but that is at or exceeds the critical capital level; or

(ii) is otherwise classified within Level III under the provisions of this section; and

(D) LEVEL IV.—The Association shall be within Level IV if it maintains capital below the critical capital level.

(7) RECLASSIFICATION.—Unless the Association is within Level IV, the Secretary may reclassify it to Level III if the Secretary determines that the Association is in an unsafe and unsound condition or engaging in an unsafe or unsound practice.

(b) REGULATIONS AND OTHER AUTHORITY.—

(1) IN GENERAL.—The Secretary shall promulgate regulations and take such other actions as are necessary to implement the provisions of this section and is authorized to issue orders and take such other actions as are necessary or appropriate to carry out the purposes of this section.

(2) CAPITAL LEVELS.—Consistent with the purposes of this section, the Secretary shall by regulation specify the applicable capital levels for each relevant capital measure in each capital level established by this section.

(3) APPROVAL OF ACTIVITIES.—Whenever the Association is within Level I, II, III or IV, the Association may undertake an activity pursuant to subsections (d), (o), (p) and (q) of section 439 of the Higher Education Act of 1965 only with the approval of the Secretary, as provided in this section.

(c) MANDATORY SUPERVISORY ACTIONS APPLICABLE WHEN THE ASSOCIATION IS WITHIN LEVEL I.—

(1) RESTRICTIONS ON EXPANSION.—

(A) EXPANSION RESULTING IN RECLASSIFICATION.— The Secretary shall not approve or permit—

(i) any investment or other activity subject to approval by the Secretary that would result in reclassification of the Association from Level I to Level II or III, unless the Secretary finds that the transaction substantially improves the financial condition of the Association or is consistent with a capital restoration plan approved by the Secretary; and

(ii) any investment or other activity subject to approval by the Secretary that would result in reclassification to Level IV.

(B) UNSAFE AND UNSOUND PRACTICES OR CONDITION.—The Secretary shall not approve any investment or other activity when the Association is within Level I if the Secretary determines that the Association is engaging in an unsafe and unsound practice or is in an unsafe and unsound condition.

(2) CAPITAL DISTRIBUTION.—

(A) LIMITATION.—When within Level I, the Association shall make no capital distribution that would cause the Association to be reclassified within Levels III or IV. The Association may make a capital distribution that would cause the Association to be reclassified to Level II, if the Association provides the Secretary with written notice pursuant to section 322(d) and the Secretary has issued a notice of approval.

(B) STANDARDS FOR APPROVAL.—The Secretary shall approve payment of a capital distribution by the Association under this paragraph only if the Secretary determines that the capital distribution will enhance the Association's ability to meet the minimum risk-based capital levels for all relevant capital measures or that the distribution is otherwise in the public interest.

(3) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Secretary may modify, defer, or remove any mandatory supervisory action applicable under this section to the Association within Level I if the Secretary determines in writing that such action is in the public interest.

(d) PROVISIONS APPLICABLE WHEN THE ASSOCIATION IS WITHIN LEVEL II.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—When within Level II, the Association shall, within the time period provided in subsection (g), submit to the Secretary and, after its acceptance, implement a capital plan that meets the requirements of subsection (g) and will restore the relevant capital measures of the Association to at least the levels required for classification within Level I.

(B) RESTRICTION ON CAPITAL DISTRIBUTION.—

(i) PRIOR APPROVAL REQUIRED.—When within Level II, the Association shall make no capital distribution that would cause the Association to be reclassified within Levels III or IV. When within Level II, the Association shall make no other capital distribution unless the Association receives the prior approval of the Secretary.

(ii) STANDARDS FOR APPROVAL.—The Secretary may approve payment of a capital distribution by the Association within Level II only if the Secretary determines that the capital distribution will enhance the ability of the Association promptly to meet the minimum risk-based capital levels for all relevant capital measures or is otherwise in the public interest.

(C) RESTRICTION ON EXPANSION.—The Secretary shall not approve or permit any investment or other activity subject to approval by the Secretary by the Association within Level II unless the Secretary finds that the transaction furthers achievement of the capital restoration plan approved by the Secretary for the Association.

(D) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Association shall immediately be reclassified from Level II to Level III, and shall be subject to all of the provisions applicable to the Association within Level III, if—

(i) the Association does not submit the capital restoration plan required in subparagraph (A) within the time required by the Secretary; or

(ii) the Secretary is not satisfied that the Association is making every effort in good faith to fulfill completely the capital plan within the schedule approved by the Secretary.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Secretary may modify, defer, or remove any mandatory supervisory action applicable under this section to the Association within Level II if the Secretary determines in writing that such action is in the public interest.

(3) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other authority of the Secretary, the Secretary may, at any time, based upon a finding that the Association is within Level II—

(A) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the Association.

(B) RESTRICT GROWTH.—Restrict or eliminate growth of the Association's assets, or require contraction of the Association's assets.

(C) RESTRICT DISTRIBUTIONS.—Restrict the Association from making any capital distribution.

(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the Association to issue new capital in any form and in any amount sufficient to restore the Association to at least the capital levels required for Level I.

(E) RESTRICT ACTIVITIES.—Require the Association to terminate, reduce or alter any activity, if the Secretary determines that the activity creates excessive risk to the Association.

(F) LIMIT EXECUTIVE COMPENSATION.—Require the Association to reduce or eliminate any or all of the following for any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the Association following enactment of this Act—

(i) any bonus;

(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months; and

(iii) any payment that is or would be due under any employment severance contract.

(e) PROVISIONS APPLICABLE WHEN THE ASSOCIATION IS WITHIN LEVEL III.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—Unless the Association within Level III has submitted a capital restoration plan acceptable to the Secretary pursuant to subsection (e), it shall, within the time provided under subsection (g), submit to the Secretary and, after its acceptance, implement a capital plan that meets the requirements of subsection (g) and will restore the relevant capital measures of the Association to at least the levels required for classification within Level I.

(B) PROHIBITION ON CAPITAL DISTRIBUTIONS.—When within Level III, the Association shall make no capital distribution.

(C) PROHIBITION ON EXPANSION.—When within Level III, the Association shall not engage directly or indirectly in any new investment or activity.

(D) LIMITATION ON ASSET GROWTH.—

(i) When within Level III, the Association shall not increase its total assets, except as permitted under clause (ii).

(ii) Notwithstanding clause (i), the Secretary may permit the Association within Level III to increase its total assets if—

(I) the Secretary has accepted the Association's capital restoration plan;

(II) any increase in assets is accompanied by an increase in capital in an amount not less than the increase in assets multiplied by the respective relevant capital measures for Level I; and

(III) the Association's capital levels increase at a rate sufficient to enable the Association to satisfy its capital restoration plan within a reasonable time.

(E) LIMITATION ON COMPENSATION.—When within Level III, the Association may not pay to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the Association following enactment of this Act—

(i) any bonus:

(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months; or

(iii) any payment that is or would be due under any employment severance contract.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Secretary may modify, defer, or remove any mandatory supervisory action authorized by this section from the Association within Level III if the Secretary determines in writing that such action is in the public interest.

(3) DISCRETIONARY SUPERVISORY ACTION.—In addition to any other authority of the Secretary, the Secretary may, at any time, take any of the following actions based upon a finding that the Association is within Level III—

(A) DISCRETIONARY SUPERVISORY ACTIONS PERMITTED UNDER LEVEL I OR LEVEL II.—Take any discretionary supervisory action authorized under subsection (e)(3) in connection with the Association within Level III.

(B) LIMIT EXECUTIVE COMPENSATION.—Require the Association to reduce or eliminate any compensation to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the Association following enactment of this Act if the Secretary determines the compensation to be excessive.

(C) DISMISS DIRECTORS OR CHIEF OFFICERS.—

(i) Require the Association to dismiss from office at the Association any or all of the following persons if the peson accepted employment, accepted a new position, or renewed any contract for employment in the same position at the Association following enactment of this Act and the person has been employed in that position at the Association for at least 180 days—

(I) any member of the Association's board of directors that was not appointed and is not subject to removal by the President; or

(II) any executive officer.

(ii) The Secretary may notify the President of any director whom the Secretary would have required the Association to dismiss under clause (i) but for the fact that that director was appointed and subject to removal by the President. The Secretary shall include in such notification the grounds for removal of that director.

(iii) Dismissal under clause (i) shall not be construed as removal under section 333 of this Act.

(D) CONSERVATORSHIP.—Appoint a conservator for the Association.

(f) PROVISIONS APPLICABLE WHEN THE ASSOCIATION IS WITHIN LEVEL IV.—

(1) MANDATORY SUPERVISORY ACTIONS.—The Secretary shall, not later than 30 days after determining that the Association is within Level IV, appoint a conservator for the Association and any such conservator shall have full authority, in its sole discretion, to take any actions authorized under subsections (e) and (f) not inconsistent with the powers of the conservator, and to take any other actions authorized pursuant to the provisions applicable to conservators under the applicable laws.

(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The Secretary may modify, defer, or remove any mandatory supervisory action applicable under this section to the Association within Level IV if the Secretary determines in writing that such action is in the public interest.

(g) CAPITAL RESTORATION PLANS.—

(1) CONTENTS OF PLAN.—A capital restoration plan submitted under this section shall be a feasible plan for promptly restoring the levels of capital for all relevant capital measures of the Association to at least the levels required by the subsection pursuant to which the capital restoration plan is ordered. A capital restoration plan must—

(A) specify the levels of capital the Association will achieve and maintain;

(B) describe the steps the Association will take to restore each of its relevant capital measures to the required levels;

(C) establish a schedule for promptly completing the capital restoration plan;

(D) specify the types and levels of activities in which the Association will engage during the pendency of the capital restoration plan;

(E) explain the steps that the Association will take to comply with any mandatory and discretionary requirements imposed under the applicable laws; and

(F) be acceptable to the Secretary.

(2) DEADLINES FOR SUBMISSION OF CAPITAL RESTORATION PLAN.—The Secretary shall by regulation establish deadlines that provide the Association a reasonable period of time, but not more than 30 days, to submit a capital restoration plan acceptable to the Secretary. Such regulation shall provide that the Secretary may extend the deadline to the extent the Secretary determines necessary or appropriate.

(3) AGENCY REVIEW OF CAPITAL RESTORATION PLANS.—The Secretary shall review and act on a capital restoration plan not later than 30 days after the plan is submitted, except that such period may be extended by the Secretary.

(h) JUDICIAL REVIEW OF AGENCY ACTION.—

(1) JURISDICTION.—

(A) FILING OF PETITION.—A person aggrieved by an action of the Secretary under this section may obtain review of that action by filing, within ten days after receiving notice of the Secretary's action, a written petition requesting that the action of the Secretary be modified, terminated or set aside.

(B) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(C) PERSON AGGRIEVED DEFINED.—A person aggrieved by the action of the Secretary under this section shall mean—

(i) the Association when it is the subject of a mandatory or discretionary supervisory action with respect to a mandatory or discretionary supervisory action taken under this section when the Association is within Levels I, II, and III;

(ii) any person dismissed, with respect to an order under this section for the dismissal of a director of executive officer; and

(iii) any person whose compensation, bonus or severance payment has been reduced or eliminated, with respect to an order under this section reducing or eliminating such payments due an executive officer.

(2) SCOPE OF REVIEW.—Action taken by the Secretary under this section shall be modified, terminated, or set aside only if the court finds, on the record on which the Secretary acted, that the Secretary's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(3) UNAVAILABILITY OF INJUNCTIVE RELIEF.—The commencement of proceedings for judicial review pursuant to this subsection shall not operate as a stay of any action taken by the Secretary. No court shall have jurisdiction to stay, enjoin or otherwise delay agency action taken under this section pending judicial review of that action.

(4) WITHDRAWAL OF JURISDICTION.—Except as provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or effectiveness of any action of the Secretary under this section or to review, modify, suspend, terminate, or set aside such action.

SEC. 322. REPORTS TO SECRETARY.

(a) REPORTS OF CONDITION; FORM; CONTENTS; DATE OF MAKING.—

(1) REGULAR REPORTS.—The Association shall make to the Secretary quarterly reports of condition which shall be in such form, shall contain such information, and shall be made on such dates as the Secretary shall require.

(2) CERTIFICATION OF REPORTS.—Each report of condition shall contain a declaration by the president, a vice president, the treasurer, or by any other officer designated by the board of directors of the Association to make such declaration, that the report is true and correct to the best of his or her knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the Association other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(b) ADDITIONAL AND SPECIAL REPORTS.—The Secretary may require additional reports, in such form and containing such information as the Secretary may prescribe, on dates to be fixed by the Secretary, and may require special reports however, in the Secretary's judgement, such reports are necessary for the Secretary to carry out the purposes of this title.

(c) PENALTIES.—

(1)(A) FIRST TIER.—If the Association—

(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make any report required under this paragraph, within the period of time specified by the Secretary, or submits any false or misleading report or information, or

(ii) inadvertently transmits any report which is minimally late,

the Association shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected.

(B) The Association shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted late.

(2) SECOND TIER.—If the Association fails to make any report required under this section within the period of time specified by the Secretary, or submits any false or misleading report or information in a manner not described in paragraph (1) of this subsection, the Association shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(3) THIRD TIER.—Notwithstanding paragraph (2), if the Association knowingly or with reckless disregard for the accuracy of any information or report described in such paragraph submits any false or misleading report or information, the Secretary may assess a penalty of not more than $1,000,000 or one percent of total assets of the Association, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(4) ASSESSMENT AND COLLECTION.—Any penalty imposed under this subsection shall be assessed and collected by the Secretary in

the manner provided in section 337 (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

(5) HEARING.—The Association shall be afforded an agency hearing with respect to any penalty assessed under this subsection if the Association submits a written request for such hearing within 20 days after the issuance of the notice of assessment. Section 335 shall apply to any proceeding under this paragraph.

(d) CAPITAL DISTRIBUTIONS.—The Association shall make to the Secretary reports of any capital distributions to be declared or paid in such cases and under such conditions as the Secretary deems necessary, in such form and at such times as the Secretary may require.

SEC. 323. EXAMINATIONS.

(a) APPOINTMENT OF EXAMINERS.—The Secretary shall appoint examiners to examine the Association.

(b) EXAMINATIONS.—Any examiner appointed under subsection (a) shall examine the Association whenever the Secretary determines that an examination is necessary to determine the condition of the Association for the purpose of ensuring its financial safety and soundness.

(c) TECHNICAL EXPERTS.—The Secretary is authorized to contract for the services of such technical experts as the Secretary deems necessary and appropriate to provide temporary technical assistance to any examiner appointed under subsection (a).

(d) POWER AND DUTY OF EXAMINERS.—Each examiner appointed under subsection (a) shall—

(1) have power, on behalf of the Secretary, to make a thorough examination of the Association under subsection (b); and

(2) make a full and detailed report of condition of the Association or affiliate examined to the Secretary.

(e) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE; SUBPOENA POWERS.—In connection with examinations of the Association, the Secretary is authorized to administer oaths and affirmations, to examine, and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of the Association, and to exercise such other powers as are set forth in section 341.

(f) PRESERVATION OF RECORDS BY PHOTOGRAPHY.—

(1) IN GENERAL.—The Secretary may cause any and all records, papers, or documents kept by the Secretary or in the Secretary's possession or custody to be photographed or microphotographed or otherwise reproduced upon film, in a manner that shall comply with the minimum standards of quality approved for permanent photographic records by the National Institute of Standards and Technology.

(2) DEEMED AS ORIGINALS.—Such photographs, microphotographs, or photographic films or copies thereof shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

(3) PRESERVATION.—Such photographs, microphotographs, or reproduction shall be preserved in such manner as the Secretary shall prescribe and the original records, papers, or documents may be destroyed or otherwise disposed of as the Secretary shall direct.

SEC. 324. SAFE HARBOR.

(a) VOLUNTARY RATINGS.—Upon request from the Association, the Secretary shall contract with two nationally recognized statistical rating organizations—

(1) to assess the likelihood that the Association might not be able to meet its future obligations from its own resources and to express that likelihood as a traditional credit rating; and

(2) to review the rating of the Association for one year from the effective date of the rating.

(b) QUALIFICATION FOR SAFE HARBOR.—

(1) DETERMINATION BY SECRETARY.—If, after receiving a rating from each statistical rating organization described in subsection (a), the Secretary determines that the Association merits the highest investment grade rating awarded by that organization, the Association shall be deemed, effective for one year following the date of the Secretary's determination, to meet the minimum risk-based capital levels for all relevant capital measures for purposes of section 321.

(2) WRITTEN FINDING REQUIRED.—If—

(A) each statistical rating organization described in subsection (a) assigns the Association the highest investment grade rating awarded by that organization, and

(B) the Secretary fails to make the determination described in paragraph (A),

the Secretary shall make a written finding detailing the reasons for the Secretary's failure to make such determination.

(c) EARLY TERMINATION OF SAFE HARBOR.—Subsection (b) shall cease to apply at such time as any such statistical rating organization described in subsection (a) notifies the Secretary, and the Secretary determines, that the Association no longer merits the highest investment grade rating awarded by that organization. The Secretary shall promptly notify the Association that the Secretary has received the notice described in this subsection.

(d) ASSESSMENT FOR RATINGS.—The Secretary shall impose and collect an assessment on the Association, if it requests ratings under subsection (a), to cover the full cost to the Federal government of obtaining the ratings.

(e) DISCRETIONARY RATINGS.—Nothing in this section shall prevent the Secretary from contracting with any nationally recognized statistical rating organization to rate the Association at any time and for any purpose that the Secretary deems appropriate.

(f) DEFINITION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—For purposes of this section, the term "nationally recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rates for broker-dealers.

Subtitle C—General Enforcement Powers

SEC. 331. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE.—The Secretary may issue and serve upon the Association or any director or executive officer thereof a notice of charges if, in the opinion of the Secretary, the Association or any director or executive officer of the Association—

(1) is engaging or has engaged, or the Secretary has reasonable cause to believe that the Association, director or executive officer is about to engage, in an unsafe or unsound practice in conducting the business of the Association; or

(2) is violating or has violated, or the Secretary has reasonable cause to believe that the Association or the director or officer is about to violate—

(A) a law, rule, or regulation;

(B) any condition imposed in writing by the Secretary in connection with the granting of any application or other request by the Association; or

(C) any written agreement entered into with the Secretary.

(b) PROCEDURE.—

(1) NOTICE OF CHARGES.—Any notice of charges shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the Association, director, or executive officer.

(2) DATE OF HEARING.—Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Secretary at the request of any party served.

(3) FAILURE TO APPEAR CONSTITUTES CONSENT.-Unless the party or parties so served appear at the hearing personally or by a duly authorized representative, the party or parties shall be deemed to have consented to the issuance of the cease-and-desist order.

(4) ISSUANCE OF ORDER.—In the event of such consent, or if, upon the record made at any such hearing, the Secretary finds that any violation of unsafe or unsound practice specified in the notice of charges has been established, the Secretary may issue and serve upon the Association, director, or executive officer an order requiring the Association, director, or executive officer to cease and desist from any such violation or practice and to take affirmative action to correct the condition resulting from any such violation or practice.

(c) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority under this section and section 332 to issue an order which requires the Association, or any director or executive officer thereof, to take affirmative action to correct or remedy any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require the Association, director, or executive officer—

(1) to make restitution or provide reimbursement, indemnification, or guarantee against loss if—

(A) The Association, director, or executive officer was unjustly enriched in connection with such violation or practice; or

(B) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Secretary;

(2) to restrict the growth of the Association;

(3) to dispose of any asset involved;

(4) to rescind agreements or contracts;

(5) to employ qualified officers or employees (who may be subject to approval by the Secretary at the direction of the Secretary); and

(6) to take such other action as the Secretary determines appropriate.

(d) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this section or section 332 includes the authority to place limitations on the activities or functions of the Association, or any director or executive officer thereof.

(e) EFFECTIVE DATE.—A cease-and-desist order shall become effective at the expiration of 30 days after the service of such order upon the Association, director, or executive officer (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Secretary or a court of competent jurisdiction.

SEC. 332. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) GROUNDS FOR ISSUANCE; SCOPE.—Whenever the Secretary determines that any violation, threatened violation, or unsafe or unsound practice specified in the notice of charges served upon the Association, director, or executive officer pursuant to subsection (a) of section 331, or the continuation thereof, is likely—

(1) to cause insolvency or significant dissipation of assets or earnings of the Association, or

(2) to weaken the condition of the Association prior to the completion of the proceedings conducted pursuant to subsection (b) of section 331,

The Secretary may issue a temporary order requiring the Association, or any director or executive officer thereof to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency, dissipation, or condition pending completion of such proceedings. Such order may include any requirement authorized under subsection (c) or section 331.

(b) EFFECTIVE DATE.—An order issued pursuant to subsection (a) shall become effective upon service upon the Association, director, or executive officer and, unless set aside, limited, or suspended by a court in proceedings authorized by subsection (d), shall remain effective and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until the Secretary dismisses the charges specified in such notice or until superseded by a cease-and-desist order issued pursuant to section 331.

(c) INCOMPLETE OR INACCURATE RECORDS.—

(1) TEMPORARY ORDER.—If a notice of charges served under subsection (a) of section 331 specifies that the Association's books and records are so incomplete or inaccurate that the Secretary is unable, through the normal supervisory process, to determine the financial condition of the Association or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of the Association, the Secretary may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under section 331.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings under subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 331 in connection with the notice of charges; or

(ii) the date the Secretary determines, by examination or otherwise, that the Association's books and records are accurate and reflect the financial condition of the Association.

(d) JUDICIAL REVIEW.—Within 10 days after the Association, director, or executive officer has been served with a temporary cease-and-desist order pursuant to this section, the Association, or any director or executive officer thereof, may apply to the United States District Court for the District of Columbia, which court shall have jurisdiction to issue an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the Association, director, or executive officer under subsection (a) of section 331.

(e) ENFORCEMENT.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Secretary may, with the prior consent of the Attorney General and subject to the attorney General's direction and control, apply to the United States District Court for the District of Columbia for an injunction to enforce the order, and, if the court finds any such violation or threatened violation or failure to obey, it shall issue such injunction.

SEC. 333. REMOVAL AND PROHIBITION AUTHORITY.

(a) AUTHORITY TO ISSUE ORDER.—The Secretary may serve upon any director (other than a director appointed and subject to removal by the President) or executive officer of the Association a written notice of the Secretary's intention to remove such director or executive officer from office or to prohibit any further participation by such director or executive officer, in any manner, in the conduct of the affairs of the Association, whenever the Secretary determines that—

(1) such director or executive officer has directly or indirectly—

(A) violated—

(i) any law or regulation;

(ii) any cease-and-desist order which has become final;

(iii) any condition imposed in writing by the Secretary in connection with the grant of any application or other request by the Association; or

(iv) any written agreement between the Association and the Secretary;

(B) engaged or participated in any unsafe or unsound practice in connection with the Association; or

(C) committed or engaged in any act, omission, or practice which constitutes a breach of such director's of officer's fiduciary duty;

(2) by reason of the violation, practice, or breach described in any clause of paragraph (1)—

(A) the Association has suffered or will probably suffer financial loss or other damage; or

(B) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

(3) such violation, practice, or breach—

(A) involves personal dishonesty on the part of such director or executive officer; or

(B) demonstrates willful or continuing disregard by such director or executive officer for the safety or soundness of the Association.

(b) SUSPENSION ORDER.—

(1) SUSPENSION OR PROHIBITION AUTHORIZED.—If the Secretary serves written notice under subsection (a) to any director or executive officer of the Association, the Secretary may suspend the director or executive officer from office or prohibit the director or executive officer from further participation in any manner in the conduct of the affairs of the Association, if the Secretary—

(A) determines that such action is necessary for the protection of the Association; and

(B) serves upon such director or officer written notice of the suspension order.

(2) EFFECTIVE PERIOD.—Any suspension order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless a court issues a stay of such order under subsection (f), shall remain in effect and enforceable until—

(i) the date the Secretary dismisses the charges with respect to such director or executive officer; or

(ii) the effective date of an order issued by the Secretary to the director or executive officer under subsection (a).

(3) COPY OF ORDER.—If the Secretary issues a suspension order under subsection (b) to any director or executive officer of the Association, the Secretary shall serve a copy of such order on the Association at the time such order is issued.

(c) PROCEDURE.—

(1) NOTICE.—A notice of intention to remove a director or executive officer of the Association from office or to prohibit such director or executive officer from participating in the conduct of the affairs of the Association shall contain a statement of the facts constituting grounds therefore and shall fix a time and place at which a hearing will be held thereon.

(2) DATE OF HEARING.—Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Secretary at the request of such party and for good cause shown, or the Attorney General of the United States.

(3) FAILURE TO APPEAR DEEMED CONSENT.—Unless such party appears at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order or such removal or prohibition.

(4) ISSUANCE OF ORDER.—In the event of such consent, or if upon the record made at any such hearing, the Secretary finds that any of the grounds specified in such notice have been established, the Secretary may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the Association, as the Secretary may deem appropriate.

(d) EFFECTIVE DATE.—Any such order shall become effective at the expiration of 30 days after service upon the Association and the director or executive officer (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Secretary or a court of competent jurisdiction.

(e) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

(1) participate in any manner in the conduct of the affairs of any institution or agency specified in subsection (f)(1);

(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in paragraph (1);

(3) violate any voting agreement previously approved by the Secretary; or

(4) vote for a director, or serve or act as a director or executive officer of the Association.

(f) INDUSTRYWIDE PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), any director or executive officer who, pursuant to an order issued under this section or section 334, has been removed or suspended from office in the Association or prohibited from participating in the conduct of the affairs of the Association may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

(A) a guaranty agency as defined in section 435(j) of the Higher Education Act;

(B) any insured depository institution as defined in section 2(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(C) any depository institution or institution treated as an insured bank under section 8 (b)(3) or (b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818 (b)(3), (b)(4)), or as a savings association under subsection (b)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(8));

(D) any insured credit union as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752);

(E) any institution chartered under the Farm Credit Act of 1971;

(F) the Federal Housing Finance Board and any Federal home loan bank;

(G) the Federal National Mortgage Association;

(H) The Federal Home Loan Mortgage Corporation;

(I) any appropriate Federal Depository institutions regulatory agency; and

(J) the appropriate Trust Corporation.

(2) EXCEPTION IF AGENCY PROVIDES WRITTEN CONSENT.—If, on or after the date an order is issued under this section which removes or suspends from office any director or executive officer or prohibits such director or executive officer from participating in the conduct of the affairs of the Association, such party receives the written consent of—

(A) the Secretary, and

(B) the appropriate Federal financial institutions regulatory agency of the institution described in paragraph (1) in which such director or executive officer proposes to hold office or in the conduct of whose affairs the director or executive officer proposes to participate,

paragraph (1) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent. Any agency that grants such a written consent shall report such action to the Secretary and publicly disclose such consent.

(3) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by a director or executive officer subject to an order described in paragraph (1) shall be treated as a violation of the order.

(4) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term "appropriate Federal financial institutions regulatory agency" means—

(A) the Secretary of Education, in the case of a guaranty agency as defined in section 435(j) of the Higher Education Act;

(B) the Office of Government-Sponsored Enterprise Financial Oversight, in the case of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(C) the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), in the case of an insured depository institution;

(D) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

(E) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

(F) the Secretary, in the case of the Federal Housing Finance Board and any Federal home loan bank; and

(G) the Oversight Board, in the case of the Resolution Trust Corporation.

(5) CONSULTATION BETWEEN AGENCIES.—The agencies described in paragraph (2) shall consult with each other before providing any written consent authorized by paragraph (2).

(g) STAY OF SUSPENSION OR PROHIBITION.—Within ten days after any director or executive officer of the Association has been suspended from office or prohibited from participation in the conduct of the affairs of the Association under subsection (b), the director or executive officer may apply to the United States District Court for the District of Columbia which court shall have jurisdiction to a stay of such suspension or prohibition pending completion of the administrative proceedings pursuant to the notice served upon such director or executive officer under subsection (a).

(h) DIRECTORS APPOINTED BY THE PRESIDENT.—The Secretary may notify the President of any director of the Association on whom the Secretary would have served a notice of intention to remove the director or to prohibit the director from participating in the conduct of the affairs of the enterprise under subsection (a) but for the fact that that director was appointed and subject to removal by the President. The Secretary shall include in such notice the grounds for issuance of the notice of intention.

SEC. 334. SUSPENSION OR REMOVAL OF DIRECTOR OR EXECUTIVE OFFICER CHARGED WITH FELONY.

(a) SUSPENSION.—Whenever any director or executive officer is charged in any information, indictment, or complaint with the commission of, or participation in, a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Secretary may, if continued service or participation by such director or executive officer may threaten to impair public confidence in the Association, by written notice served upon such director or executive officer, suspend such director or executive officer from office or prohibit such director or executive officer from further participation in any manner in the conduct of the affairs of the Association. A copy of such notice shall also be served upon the Association.

(b) EFFECTIVE PERIOD.—Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Secretary.

(c) REMOVAL.—In the event a conviction or an agreement to enter a pre-trial diversion or other similar program is entered against such director or executive officer, and at such time as such judgment is not subject to further appellate review, the Secretary may, if continued service or participation by such director or executive officer may threaten to impair public confidence in the Association, issue and serve upon such director or executive officer an order removing him or her from office or prohibiting such director or executive officer from further participation in any manner in the conduct of the affairs of the Association except with the consent of the Secretary. A copy of such order shall also be served upon the Association, whereupon such director or executive officer shall cease to be a director or executive officer of the Association.

(d) DISCRETIONARY REMOVAL NOT PRECLUDED.—A finding of not guilty or other disposition of the charge shall not preclude the Secretary from thereafter instituting proceedings to remove such director or executive officer from office or to prohibit further participation in Association affairs pursuant to subsection (a) or (b) of section 333.

(e) EFFECTIVE DATE.—Any notice of suspension or order of removal issued under this section shall remain effective and outstanding until the completion of any hearing or appeal authorized under subsection (g) unless terminated by the Secretary.

(f) VACANCIES ON THE BOARD OF DIRECTORS.—

(1) QUORUM.—If, at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of the Association less than a quorum, all powers and functions vested in, or exercisable by, such board shall vest in and be exercisable by the remaining director of directors, until such time as there shall be a quorum of the board of directors.

(2) ALL DIRECTORS SUSPENDED.—In the event all of the directors of the Association are suspended pursuant to this section, the Secretary shall appoint temporary directors pending the termination of such suspensions, or until such time as the terms of the suspended directors expire and their successors take office.

(g) HEARING.—

(1) REQUEST FOR HEARING.—Within 30 days from service of any notice of suspension or order of removal issued pursuant to subsection (a), the director or executive officer concerned may request in writing an opportunity to appear before the Secretary to show that the continued service to or participation in the conduct of the affairs of the Association by such director or executive officer does not, or is not likely to, threaten to impair public confidence in the Association.

(2) TIME AND PLACE OF HEARING.—Upon receipt of any such request, the Secretary shall fix a time (not more than 30 days after receipt of such request, unless extended at the request of such director or executive officer) and place at which such director or executive officer may appear, personally or through a representative, before the Secretary to submit written materials (or, at the discretion of the Secretary, oral testimony) and oral argument.

(3) DECISION OF THE SECRETARY.—Within 60 days of such hearing, the Secretary shall notify such director or executive officer whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the Association will be continued, terminated, or otherwise modified, or whether the order removing such director or executive director from office or prohibiting such director or executive officer from further participation in any manner in the conduct of the affairs of the Association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Secretary's decision, if adverse to such director or executive officer.

(h) RULEMAKING.—The Secretary is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes of this section.

SEC. 335. HEARINGS AND JUDICIAL REVIEW.

(a) Any hearing provided for in this subtitle (other than the hearing provided for in section 334)—

(1) shall be held in the District of Columbia unless the party afforded the hearing consents to another place, and

(2) shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code (5 U.S.C. 500 et seq.).

(b)(1) After such hearing, and within 90 days after the Secretary has notified the parties that the case has been submitted to the Secretary for final decision, the Secretary shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this subtitle.

(2) Judicial review of any such order shall be exclusively as provided in subsection (c). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subsection (c), and thereafter until the record in the proceeding has been filed as so provided, the Secretary is authorized to modify, terminate, or set aside any such order. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

(c)(1) Any party to any proceeding under subsection (a) may obtain a review of any order served pursuant thereto (other than an order issued with the consent of the Association, director, or executive officer concerned, or an order issued under section 334) by the filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. A copy of such petition shall be transmitted by the clerk of the court to the Secretary.

(2) Upon receiving a copy of the petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(3) Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Secretary shall (except as provided in the last sentence of subsection (b)(2)) be exclusive to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary.

(4) Review of such proceedings shall be governed by chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

(d) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

SEC. 336. JURISDICTION AND ENFORCEMENT.

(a) APPLICATION FOR ENFORCEMENT.—The Secretary may, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, apply to the United States District Court for the District of Columbia for the enforcement of any effective and outstanding notice or order issued under this subtitle or section 321 of subtitle B, and such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION OR MODIFICATION.—Except as otherwise provided in this subtitle no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 337. CIVIL MONEY PENALTY.

(a) FIRST TIER.—If the Association or a director or executive officer of the Association—

(1) violates any law or regulation,

(2) violates any final order or temporary order issued pursuant to section 331, 332, 333, or 334, or section 321 of subtitle B,

(3) violates any condition imposed in writing by the Secretary in connection with the grant of any application or other request by the Association, or

(4) violates any written agreement between the Association and the Secretary,

the Association, director, or executive officer shall be subject to a civil penalty of not more than $5,000 for each day during which such violation continues.

(b) SECOND TIER.—Notwithstanding subsection (a), if the Association or a director or executive officer of the Association—

(1)(A) commits any violation described in subsection (a),

(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of the Association, or

(C) breaches any fiduciary duty, and

(2) which violation, practice, or breach—

(A) is part of a pattern of misconduct,

(B) causes or is likely to cause more than a minimal loss to the Association, or

(C) results in pecuniary gain or other benefit to such party,

the Association, director, or executive officer shall be subject to a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

(c) THIRD TIER.—Notwithstanding subsections (a) and (b), if the Association or a director or executive officer of the Association—

(1) knowingly—

(A) commits any violation described in subsection (a),

(B) engages in any unsafe or unsound practice in conducting the affairs of the Association, or

(C) breaches any fiduciary duty, and

(2) knowingly or recklessly causes a substantial loss to the Association or a substantial pecuniary gain or other benefit to such director or executive officer by reason of such violation, practice, or breach,

the Association, director, or executive officer shall be subject to a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

(d) MAXIMUM AMOUNTS OF PENALTIES.—The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

(1) in the case of any director or executive officer, an amount not to exceed $1,000,000; and

(2) in the case of the Association, an amount not to exceed the lesser of—

(A) $1,000,000, or

(B) one percent of the total assets of the Association.

(e) ASSESSMENT.—

(1) WRITTEN NOTICE.—Any penalty imposed under this section may be assessed and collected by the Secretary by written notice.

(2) FINALITY OF ASSESSMENT.—If a hearing is not timely requested pursuant to subsection (h), the assessment shall constitute a final and unappealable order.

(f) AUTHORITY TO MODIFY OR REMIT PENALTY.—

(1) PRIOR TO COLLECTION ACTION.—Prior to initiation of an action pursuant to subsection (i)(1), the Secretary may compromise, modify, or remit any penalty which is or may be assessed in this section.

(2) AFTER INITIATION OF COLLECTION ACTION.—Following the initiation of an action pursuant to subsection (i)(1), the Secretary may compromise, modify, or remit any penalty which is or may be assessed under this section with the prior consent of the Attorney General.

(g) MITIGATING FACTORS.—In determining the amount of any penalty imposed under this section, the Secretary shall take into account the appropriateness of the penalty with respect to—

(1) the size of financial resources and good faith of the Association, director or executive officer charged;

(2) the gravity of the violation;

(3) the history of previous violations; and

(4) such other matters as justice may require.

(h) HEARING.—The Association, director or executive officer against whom any penalty is assessed under this section shall be afforded an agency hearing if the Association, director or executive director submits a request for such hearing within 20 days after the issuance of the notice of assessment. A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to this subsection.

(i) COLLECTION.—

(1) REFERRAL.—If the Association, director or executive officer fails to pay a penalty that has become final, the Secretary shall, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, recover the amount assessed by action in the appropriate United States district court.

(2) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any action brought under paragraph (1), the validity and appropriateness of the penalty shall not be subject to review.

(j) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the General Fund of the Treasury.

(k) REGULATIONS.—The Secretary shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

SEC. 338. NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer (including a separation caused by the closing of the Association) shall not affect the jurisdiction and authority of the Secretary to issue any notice and proceed under this subtitle against any such director or executive officer, if such notice is served before the end of the six year period beginning on the date such director or executive officer ceased to be associated with the Association.

SEC. 339. NOTICE OF SERVICE.

Any service required or authorized to be made by the Secretary under this subtitle may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Secretary may by regulation or otherwise provide.

SEC. 340. SUBPOENA POWER, ETC.

(a) POWERS.—In the course of or in connection with any administrative proceeding under this subtitle, or in connection with any examination or investigation under section 324, the Secretary or any designated representative thereof, including any person designated to conduct any hearing under this title, shall have the power—

(1) to administer oaths and affirmations,

(2) to take or cause to be taken depositions,

(3) to issue subpoenas and subpoenas duces tecum, and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Secretary.

The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted.

(b) RULEMAKING AUTHORITY.—The Secretary is authorized to promulgate such rules and regulations as the Secretary determines necessary or appropriate with respect to proceedings, claims, examinations, or investigations.

(c) ENFORCEMENT.—The Secretary, with the prior consent of the Attorney General and subject to the Attorney General's direction and control, or any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States District Court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by the Association or a director or executive officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the Association or from its assets.

SEC. 341. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Secretary shall publish and make available to the public—

(1) any written agreement or other written statement for which a violation may be enforced by the Secretary, unless the Secretary determines that publication would be contrary to the public interest;

(2) any final order issued with respect to any administrative enforcement proceeding initiated by the Secretary under this subtitle or any other provision of law; and

(3) any modification to or termination of any final order or agreement made public pursuant to this paragraph.

(b) TRANSCRIPTS OF HEARINGS.—A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

(c) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Secretary determines in writing that the publication of any final order pursuant to subsection (a) would seriously threaten the safety or soundness of the Association, the Secretary may delay the publication of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Secretary may file any document or part thereof under seal in any administrative enforcement hearing commenced by the Secretary if, as determined by the Secretary in writing, disclosure of the document would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Secretary shall keep and maintain a record, for not less than six years, of all documents described in subsection (a) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceedings initiated by the Secretary under this subtitle or any other laws.

(f) DISCLOSURES TO CONGRESS.—No provision of this subsection may be construed to authorize the withholding or to prohibit the disclosure of any information to the Congress or any committee or subcommittee thereof.

Subtitle D—Conservatorship

SEC. 351. APPOINTMENT OF CONSERVATOR.

(a) APPOINTMENT.—The Secretary shall have exclusive power and jurisdiction, without notice or prior hearing, to appoint a conservator, which may be the Secretary, to take possession and control of the Association whenever the Secretary determines that—

(1) the Association is not likely to be able to pay its obligations in the normal course of business;

(2) the Association is an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

(3)(A) the Association has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and

(B) there is no reasonable prospect for the Association's capital to be replenished without Federal assistance;

(4) there is any violation of law, rule, or regulation, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the Association's condition;

(5) there is concealment of books, papers, records, or assets of the Association, or refusal to submit books, papers, records, or affairs of the Association for inspection to any examiner or to any lawful agent of the Secretary;

(6) there is willful or continuing violation of an order enforceable against the Association under section 203; or

(7) the Association is classified within Level III or Level IV by the Secretary pursuant to section 321 of subtitle B.

(b) JUDICIAL REVIEW.—

(1) IN GENERAL.—

(A) Not later than 20 days after the initial appointment of a conservator pursuant to this section, the Association may bring an action in the United States District Court for the District of Columbia for an order requiring the Secretary to terminate the appointment of the conservator.

(B) The Secretary's decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) STAY.—

(A) IN GENERAL.—The conservator may request that any judicial action or proceeding to which the conservator or the Association is or may become a party be stayed for a period of up to 45 days after the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

(B) SECRETARY OR FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator is the Secretary, a Federal agency, or an employee of the Federal Government, the conservator may make a request described in paragraph (a) only with the prior consent of the Attorney General and subject to the Attorney General's direction and control.

(3) ACTIONS AND ORDERS.—

(A) LIMITATION ON REMEDIES.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of a conservator.

(B) ENFORCEMENT OF ORDERS.—The Secretary, with the prior consent of Attorney General and subject to the Attorney General's direction and control, may apply to a court, which shall have jurisdiction to enforce an order of the Secretary relating to—

(i) the conservatorship and the Association in conservatorship; or

(ii) restraining or affecting the exercise of powers or functions of a conservator.

(c) APPOINTMENT BY CONSENT.—The Secretary may appoint a conservator for the Association if the Association, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(d) POWERS OF CONSERVATOR.—

(1) The Secretary shall have exclusive power and jurisdiction to appoint a conservator for the Association. As conservator, the Secretary shall have all the powers granted under the applicable law, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators under this subtitle and any other provision of law.

(2) Any other person appointed conservator shall be subject to the provisions of this subtitle.

(e) REPLACEMENT OF CONSERVATOR.—The Secretary may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the Association's right under subsection (b) to obtain judicial review of the Secretary's original decision to appoint a conservator.

SEC. 352. EXAMINATIONS.

The Secretary is authorized to examine and supervise the Association in conservatorship as long as the Association continues to operate as a going concern.

SEC. 353. TERMINATION OF CONSERVATORSHIP.

(a) IN GENERAL.—At any time the Secretary becomes satisfied that it may safely be done and that it would be the public interest, the Secretary may terminate the conservatorship and permit the Association to resume the transaction of its business subject to such terms, conditions, and limitations as the Secretary may prescribe.

(b) ENFORCEMENT AS FINAL CEASE-AND-DESIST ORDER.—

(1) Such terms, conditions, and limitations as may be prescribed under subsection (a) shall be enforceable under the provisions of section 336, to the same extent as an order issued pursuant to section 331 which has become final.

(2) The Association may bring an action in the United States District Court for the District of Columbia for an order requiring the Secretary to terminate the order.

(3) An action for judicial review of the terms, conditions, and limitations contained in any order may not be commenced later

than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

SEC. 354. CONSERVATOR; POWERS AND DUTIES.

(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the Association and may operate the Association in its own name unless the Secretary in the order of appointment limits the conservator's authority.

(b) SUBJECT TO RULES OF SECRETARY.—The conservator shall be subject to such rules, regulations, and orders as the Secretary from time to time deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders in section 354, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to director, officers, or employees of the Association.

(c) PAYMENT OF CREDITORS.—The Secretary may require the conservator to set aside and make available for payment to creditors such amounts as in the opinion of the Secretary may safely be used for that purpose. All creditors who are similarly situated shall be treated in the same manner.

(d) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—The conservator (other than the Secretary) and professional employees (other than Federal government employees) appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Secretary may authorize payment of higher rates (but not in excess of rates prevailing in the private sector), if the Secretary determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

(e) EXPENSES.—All expenses of any such conservatorship shall be paid by the Association and shall be a lien upon the Association which shall have priority over any other lien.

SEC. 355. LIABILITY PROTECTION.

(a) FEDERAL AGENCY AND EMPLOYEES.—In any case which the conservator is a Federal agency or an employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code (28 U.S.C. 2401 et seq., 2671 et seq.), shall apply within respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

(c) INDEMNIFICATION.—The Secretary, with the approval of the Attorney General, shall have authority to indemnify the conservator on such terms as the Secretary deems proper.

SEC. 356. POWERS OF OFFICERS NOT AFFECTED.

Nothing is this subtitle shall be construed to impair any powers of the President, the Secretary, or the Attorney General.

SEC. 357. RULES AND REGULATIONS.

The Secretary may prescribe such rules and regulations as the Secretary may deem necessary to carry out the provisions of this subtitle.

TITLE IV—JURISDICTION OF COURTS IN PROMPT CORRECTIVE ACTION

SEC. 401. JURISDICTION.

(a) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—Chapter 91 of title 28, United States Code, is amended—

(1) by adding after section 1505 the following new section:

"SEC. 1510. JURISDICTION FOR CERTAIN CLAIMS AGAINST APPROPRIATE FEDERAL REGULATORY AGENCIES.

"The United States Claims Court shall have exclusive jurisdiction to render judgment upon any claim for damages against the United States by any person who has petitioned for judicial review of an action of the Director of the Office of Government-Sponsored Enterprises Financial Oversight or the Secretary of the Treasury pursuant, respectively, to sections 131(h) and 321(h) of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991, where such action has been, at the conclusion of judicial review proceedings, modified, terminated or set aside by a court of competent jurisdiction. The claim shall be limited to actual damages caused by the action taken by the Director or Secretary that has been modified, terminated or set aside, and shall be filed within 10 days of the final order granting the relief sought in the petition."; and

(2) in the table of sections, by inserting after the item relating to section 1509 the following new item:

"1510. Jurisdiction for certain claims against appropriate Federal regulatory agencies.".

(b) WITHDRAWAL OF JURISDICTION.—Except as provided in section 1510 of title 28, United State Code, no court shall have jurisdiction to hear a claim for damages for agency action under this section.

TITLE V—FARM CREDIT SYSTEM

Subtitle A—Improvements to Farm Credit System Safety and Soundness

SEC. 501. CLARIFICATION OF FUNDING CORPORATION AUTHORITY.

Section 4.9(b) of the Farm Credit Act of 1971 (12 U.S.C. 2160) is amended—

(1) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) shall have the authority, in connection with its duty to establish conditions of participation pursuant to paragraph (2), to gather information from, and monitor the financial condition and performance of, System banks and their related associations, to establish and impose economic incentives designed to encourage compliance with such standards; and"; and

(2) by inserting after paragraph (4) the following: "The economic incentives permitted pursuant to this section may include differential pricing of joint, consolidated or System-wide obligations to the individual banks by the Corporation, premiums imposed by the Corporation on banks that fail to meet established financial condition and performance standards, or such other economic incentives as may be determined appropriate by the board of directors of the Corporation. On behalf of the banks, the Corporation shall be authorized under paragraph (1) to collect, invest, and otherwise handle the flow of funds resulting from the establishment of any such economic incentives.".

SEC. 502. ACCESS TO ASSOCIATION CAPITAL.

Section 5.61(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)(2)) is amended by adding at the end the following:

"(C) CONTRIBUTIONS TO CAPITAL.—Whenever assistance has been provided to any System bank under subsections (a)(1) or (a)(2)(A), the Corporation, in its sole discretion, may determine the amount of additional stock in the bank to be subscribed for by the association stockholders and borrowers from the bank in order to provide capital to meet the capital requirements of section 4.3. The determined amount shall be allocated to each association so that the ratio of—

"(i) such association's stock currently owned plus its additional required subscriptions divided by the total stock currently owned by all associations plus the total required subscriptions of all associations, is equal to the ratio of—

"(ii) the average indebtedness of such association to the bank during the immediate past three fiscal years divided by the average of the total indebtedness to the bank of all associations during such three-year period.

"Any stock required to be purchased under this subsection may be retired, provided that any assistance provided by the Corporation is repaid or any obligation to the Corporation under subsections (a)(1) or (a)(2)(A) is extinguished.

"(D) CONTRIBUTIONS TO INSURANCE FUND.—Whenever the Corporation uses funds of the Insurance Fund pursuant to section 5.60(c)(1), the Corporation, in its sole discretion, may determine the amount of funds to be contributed to the Insurance Fund by the association stockholders and borrowers of the bank whose obligations the Corporation repaid. The determined amount shall be allocated to each association so that the ratio of—

"(i) such association's stock currently owned plus its additional contribution to the Fund divided by the total stock currently owned by all associations plus the total additional contributions to the Fund of all associations, is equal to the ratio of—

"(ii) the average indebtedness of such association to the bank during the immediate past three fiscal years divided by the average of the total indebtedness to the bank of all associations during such three-year period.".

SEC. 503. ENHANCED SUPERVISION OVER FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 8.11(a)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–11(a)(1)) is amended to read as follows:

"(1) AUTHORITY.—Notwithstanding any other provision of law, the Farm Credit Administration shall have the authority to—

"(A) provide for the examination of the Corporation and its affiliates; and

"(B) provide for the general supervision of the safe and sound performance of the powers, functions and duties vested in the Corporation and its affiliates by this title through the use of the authorities granted to the Farm Credit Administration under section 5.17(a)(9) and part C of title V.".

Subtitle B—Farm Credit System Insurance Corporation

SEC. 511. BOARD OF DIRECTORS.

Section 5.53 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–2) is amended to read as follows:

"SEC 5.53. BOARD OF DIRECTORS.

"The Corporation shall have five members. The three voting members, each of whom shall have a financial background and expertise, shall be appointed by the President. The two non-voting members shall be one member of the board of directors of the Farm Credit Administration other than the Chairman, and the Secretary of Agriculture.".

SEC. 512. RISK-BASED INSURANCE PREMIUMS.

Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e) respectively; and by inserting after subsection (a) the following new subsection:

"(b) Within one year of enactment of this subsection the Corporation shall develop and publish a risk-based premium structure, permitting differential premiums based on the relative financial condition of banks, to supersede the premium structure contained in subsection (a)(2).".

SEC. 513. STATUTORY SUCCESSOR TO ASSISTANCE BOARD AGREEMENTS.

Section 5.58(2) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–7(2)) is amended by adding at the end thereof the following:

"The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying such institutions as eligible to issue preferred stock pursuant to title VI.".

Subtitle C—Farm Credit System Consolidation

SEC. 521. CONSOLIDATION OF DISTRICT BANKS.

Section 1.2(b) of the Farm Credit Act of 1971 (12 U.S.C. 2002(b)) is amended to read as follows:

"(b) Farm Credit Districts.—

"(1) Pursuant to the provisions contained in section 302 of the Farm Credit System Financial Safety and Soundness Act of 1991, the farm credit districts in the United States shall be consolidated so as to ensure adequate geographic and crop-based diversity. Such districts, one of which shall include the Commonwealth of Puerto Rico and one of which may, if authorized by the Farm Credit Administration, include the Virgin Islands of the United States, may be designated by number.

"(2) The extension of credit and other services authorized by this Act in the Virgin Islands of the United States shall be undertaken only if determined to be feasible under regulations of the Farm Credit Administration.

"(3) The boundaries of Farm Credit districts may be readjusted from time to time by the Farm Credit Administration, with the concurrence of the boards of the bank in each district involved.

"(4) Two or more districts may be merged as provided in section 5.17(a)(2) of this Act.

"(5) Until the effective date of the consolidation of farm credit districts pursuant to the Farm Credit System Financial Safety and Soundness Act of 1991, there shall be not more than 12 farm credit districts in the United States, which may be designated by number, one of which districts shall include the Commonwealth of Puerto Rico and one of which districts may, if authorized by the Farm Credit Administration, include the Virgin Islands of the United States.".

SEC. 552. TERMS OF CONSOLIDATION.

(a) In General.—Notwithstanding the provisions of section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)), the Farm Credit Bank of each farm credit district and the Federal Intermediate Credit Bank of Jackson shall consolidate pursuant to a consolidation plan agreed on by the Boards of Directors of such banks and approved by the Farm Credit Administration or, if such banks fail to agree, a consolidation plan prescribed by the Farm Credit Administration. Such consolidation plan will ensure that each district has adequate geographic and crop-based diversity.

(b) Special Committee.—Within 60 days of the date of enactment of this title, a special committee, composed of one member elected from each Farm Credit Bank and the Federal Intermediate Credit Bank of Jackson, shall be established for the purpose of developing a consolidation plan of all such banks.

(c) Submission to FCA.—Within 18 months of the date of enactment of this title, the special committee established pursuant to subsection (b) shall submit to the Farm Credit Administration a consolidation plan, together with all information considered necessary by the Farm Credit Administration, for approval.

(d) Expedited Review.—Within 90 days of receipt of the consolidation plan, the Farm Credit Administration shall review such plan and provide the special committee with any changes required to be made to the plan. The special committee shall promptly incorporate all such changes into the plan.

(e) FCA Mandatory Plan.—If within 2 years of the date of enactment of this title, the special committee has failed to comply with the requirements contained in either subsection (c) or (d), the Farm Credit Administration shall prescribe a consolidation plan for the Farm Credit Banks of each Farm Credit System district and the Federal Intermediate Credit Bank of Jackson.

(f) Capital Stock.—Notwithstanding section 1.6 of the Farm Credit Act of 1971 (12 U.S.C. 2014), the number of shares of capital stock issued by the consolidated banks to stockholders and other owners of the institutions involved in the consolidation, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the consolidation plan approved by the Farm Credit Administration, and shall be consistent with section 4.3A of the Farm Credit Act of 1971 (12 U.S.C. 2154a) and the regulations issued by the Farm Credit Administration.

(g) Initial Board.—Notwithstanding section 1.4 of the Farm Credit Act of 1971 (12 U.S.C. 2012), and subject to Farm Credit Administration approval, the initial board(s) of the consolidated banks shall include the chairman of each farm credit district bank at the time of the consolidation. Such initial board(s) shall operate for such term as is agreed to by the members of the board(s) and approved by the Farm Credit Administration, except that such period shall not exceed two years. Thereafter, the board(s) shall be elected and serve in accordance with section 1.4 of the Farm Credit Act of 1971 (12 U.S.C. 2012).

(h) Technical Amendment.—Effective upon completion of the consolidation required by this section, section 1.2(b)(5) of the Farm Credit Act of 1971 is repealed.

Subtitle C—Repayment of Financial Assistance Corporation Debt Obligations

SEC. 531. REPAYMENT OF TREASURY INTEREST PAYMENTS.

(a) Section 6.26 of the Farm Credit Act of 1971 (12 U.S.C. 2278b–6) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Prepayment of Principal and Interest Payment.—Any System institution required to make payments under this section may pay any amount toward satisfaction prior to the due date of such obligation into the Farm Credit Assistance Fund. Such payments and any interest thereon shall be held and used by the Financial Assistance Corporation only for the purpose of satisfying the obligations of the payor under this section.";

(2) in subsection (C)(5)(A), by striking out", on a fair and equitable basis,";

(3) in subsection (c)(5)(B), by striking "when the Farm Credit Administration," and all that follows through "have been fully repaid." and adding the following: "on the maturity of each obligation issued under subsection (a). Each System institution shall pay a portion of the total amount of such interest charges equal to—

"(i) the average performing loan volume of the institution for the preceding 15 years, divided by

"(ii) the average performing loan volume of all of the System institutions for the same period.";

(4) by striking subsection (c)(5)(C);

(5) in subsection (d)(1)(C), by striking "under section 6.7(a)" and inserting instead "or the Financial Assistance Corporation under sections 6.7(a) and 6.24, respectively,";

(6) in subsection (d)(3)(A)(i), by inserting "or upon maturity of an obligation for repayment of interest to the Secretary of the Treasury," after "subsection (a) of this section,"; and

(7) in the second sentence of subsection (d)(3)(B)(iii), by striking "such stock" and inserting instead "the amount of such stock needed to meet the capital requirements established under section 4.3 of this Act after January 1, 1993 through the maturity of the obligations of the Financial Assistance Corporation financing the purchase of such stock.".

(b) Section 6.28(b) of the Farm Credit Act of 1971 (12 U.S.C. 2278b–8) is amended to read as follows:

"(b) Repayment of Interest Paid by Secretary of Treasury.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) of this section shall be repaid by System institutions in accordance with section 6.26(c)(5) of this Act.".

SEC. 532. CAPITAL PRESERVATION ASSISTANCE.

Section 6.9 of the Farm Credit Act of 1971 (12 U.S.C. 2278a–9) is amended by striking subsection (e)(3)(D).

Subtitle D—Farm Credit System Bank and Institution Management

SEC. 541. BOARDS OF DIRECTORS.

Sections 1.4, 2.1, and 2.11 of the Farm Credit Act of 1971 (12 U.S.C. 2012, 2072 and 2092) are each amended by striking "one member" wherever it appears and inserting instead "one-third of the members".

SECTION-BY-SECTION ANALYSIS OF GOVERNMENT-SPONSORED ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1991

TITLE I—IMPROVEMENT OF SUPERVISION AND REGULATION OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE ASSOCIATION

The primary purpose of Title I of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991 (the "Act") is to establish a system of regulation of the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") that embodies the following principles developed in the 1991 Report of the Secretary of the Treasury on Government-Sponsored Enterprises—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of FNMA and FHLMC;

(2) the regulator should have sufficient stature to maintain independence from FNMA, FHLMC and special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the fi-

nancial safety and soundness of FNMA and FHLMC; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules so established.

Title I creates a new separate, arms-length bureau within the Department of Housing and Urban Development ("HUD") that will be responsible for assuring the financial safety and soundness of FNMA and FHLMC. The new bureau, to be known as the Office of Government-Sponsored Enterprise Financial Oversight (the "Office"), will become effective January 1, 1992.

Section 102 is a definitional section. The term "Director" is defined to mean the Director of the Office. The term "enterprise" means the FNMA and FHLMC and any affiliates they may be authorized to establish. The term "Secretary" means the Secretary of HUD. The terms "capital", "capital distribution", "compensation", "executive officer", and "new program" are also defined.

Section 112 provides for the appointment of the Director by the President with the advice and consent of the Senate. The Director serves for a term of five years. Vacancies are to be filled in the same manner as appointments. The Director is authorized to designate who shall act as Director if the Director dies, resigns, or is sick or absent. If the Director does not make such a designation, the Secretary of HUD shall make the designation.

Section 113 amends section 5314 of Title 5 of the United States Code to provide that the Director shall be compensated at Level III of the Executive Service.

Section 114 provides that certain actions of the Director shall be within the exclusive authority of the Director. These actions include case-specific determinations and actions regarding the denial for reasons of safety and soundness of any request for approval of the Director under applicable law or regulations, examinations, decisions to appoint a conservator, and any enforcement action. The Director may nevertheless consult with the Secretary on any matter, including those described above. All other authority vested in the Director, including the authority to adopt rules and regulations, shall be exercised by the Director subject to the review and approval of the Secretary. The section also expressly provides that the Director may delegate any of the Director's authority to any employee, representative or agent of the Office.

Section 115 authorizes the Director to appoint all employees of the Office and fix their compensation.

Section 116 provides the Director with broad authority to issue such regulations and orders as are necessary or appropriate to carry out any law within the Director's jurisdiction. Any regulations promulgated by the Director are to be exempt from the provisions of section 3535(o) of title 42 of the United States Code, which requires the Secretary of HUD to notify certain Congressional committees prior to publication of any proposed or final rules.

Section 117 contains certain conforming amendments to the Federal National Mortgage Association Charter Act (the "Charter Act") to reflect the new grant of authority to the Director to supervise the safety and soundness of FNMA and to coordinate such authority with certain programmatic authority retained by the Secretary. Section 117 amends section 303 of the Charter Act to delete the requirement that the Secretary approve any requirement imposed by FNMA on mortgage sellers to make capital contributions to FNMA. Since the purpose of such a requirement is to accumulate funds for FNMA's capital surplus, this requirement relates to financial safety and soundness and therefore should be taken into account by the Director in establishing and enforcing capital standards for FNMA.

Section 304(b) of the Charter Act is amended by deleting language that limits FNMA outstanding unsecured debt to 15 times FNMA's capital, capital surplus, general surplus, reserves and undistributed earnings unless the Secretary of HUD sets a higher ratio. A sentence limiting unsecured debt to an amount equal to the amount of unencumbered mortgages and certain other liquid investments is also deleted. Both of these provisions impose capital restraints on FNMA that should no longer be necessary given the authority granted to the Director to establish relevant capital measures for FNMA.

Section 304(b) of the Charter Act is further amended to require FNMA also to obtain the approval of the Director whenever it must under current law obtain the approval of the Secretary of the Treasury in connection with the issuance of obligations. Since the issuance of obligations, especially new instruments with unknown risk characteristics, can have a significant effect on the safety and soundness of FNMA, the Director needs to be able to disapprove the issuance of particular obligations to carry out the Director's functions. It is not, however, intended that the Director micromanage FNMA's funding operations; therefore, this amendment provides that any obligation issued or being issued by FNMA on the date of enactment of this Act, or any obligation of a substantially identical type, is deemed approved by the Director. This provision does not override the Director's authority under section 131 as set forth below to limit liabilities of FNMA. These amendments are not intended to affect in any way the existing authority of the Secretary of the Treasury.

Section 309(h) of the Charter Act is amended to reflect the responsibility given to the Director for assuring the financial safety and soundness of FNMA. As amended, the subsection will provide that the Secretary of HUD shall have regulatory and rulemaking authority over FNMA, except for the authority to ensure safety and soundness that is vested in the Director as described above.

Section 311 of the Charter Act is amended to delete a requirement that the Secretary of HUD approve all issuances of stock and convertible debt by FNMA.

All of these amendments except the amendment deleting the statutory capital ratio shall become effective on January 1, 1992, the date the Office is established. The amendment deleting the statutory capital ratio becomes effective three years after the date of enactment, which is the effective date for the minimum risk-based capital levels described below.

Any rules and regulations adopted by the Secretary pursuant to provisions of the Charter Act will be effective and enforceable by the Secretary to the extent they are not inconsistent with the duties and authorities of the Director.

Section 118 contains similar conforming amendments to the Federal Home Loan Mortgage Corporation Act (the "FHLMC Act"). Section 303(b) of the FHLMC Act is amended to reflect the responsibility given to the Director for assuring the financial safety and soundness of FHLMC. As amended, the subsection will provide that the Secretary of HUD shall have regulatory and rulemaking authority over FHLMC, except for the authority to ensure safety and soundness that is vested in the Director as described above.

Section 303(b) of the FHLMC Act is also amended by eliminating a provision authorizing the Secretary of HUD to limit the amount of dividends paid by FHLMC. This authority is included in the more detailed supervisory and enforcement powers granted to the Director as described below. A statutory capital rule similar to the one described above for FNMA is also deleted as unnecessary in view of the explicit authority granted the Director to establish relevant capital measures for FHLMC.

Section 118(b) amends section 306(j) of the FHLMC Act to give the Director concurrent approval authority with the Secretary of the Treasury over the issuance of notes, debentures, and substantially identical types of unsecured obligations. This amendment is intended to have the same effect as the parallel amendment to section 304(b) of the Charter Act in section 117(b)(3)-(4).

The various amendments to the FHLMC Act have the same effective dates as the parallel amendments to the Charter Act, as described above. Any rules and regulations adopted by the Secretary pursuant to provisions of the FHLMC Act will be effective and enforceable by the Secretary to the extent they are not inconsistent with the duties and authorities of the Director.

Section 119 requires the Director to make an annual report to Congress setting out steps taken to implement this Act, the safety and soundness of each enterprise, and any recommended amendments to any law affecting the safety and soundness of the enterprises. These reports will be in addition to reports of the Secretary required under current law. It is intended that the Secretary will report separately on programmatic matters not included in the report of the Director.

Section 120 authorizes the Secretary to assess the enterprises an amount equal to the costs associated with carrying out the Director's responsibilities and the Secretary's regulatory responsibilities with respect to the enterprises. These funds are to be deposited into a new separate fund of the Treasury from which they will be immediately available to carryout the responsibilities of the Secretary and the Director without regard to fiscal year limitations.

Section 131 sets out the new authority granted to the Director to ensure the capital adequacy of the enterprises and to take prompt corrective action in the event an enterprise falls below a relevant capital measure. Under section 131(a), the Director is required to establish relevant capital measures for the enterprises and to establish minimum risk-based capital levels for each measure that meet certain criteria. The minimum risk-based capital levels must exceed the leverage limit set forth in section 131(a)(2) and they must equal, in the Director's opinion, the sum of—

(1) an amount of capital sufficient, when considered in conjunction with guarantee fees paid to the enterprise, to enable the enterprise to maintain positive capital to cover interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Director;

(2) an amount of capital sufficient to protect aganist management risk, operations risk, and business risk; and

(3) an amount of capital sufficient to provide capital coverage at the margin for purposed new programs or lines of business whose risk characteristics are uncertain.

In assessing the impact of the stressful economic environments determined by the Director, the Director will use the most recent generally accepted analytical methodologies to measure the interest rate risk and credit risk presented by the enterprise's method of conducting business.

Section 131(a)(2) sets forth a leverage limit which is equal to the sum of—

(1) 2.50 percent of total on-balance sheet assets,

(2) 0.45 percent of the total face value of outstanding mortgage-backed securities issued or guaranteed by the enterprise, and

(3) such other percentage of other off-balance sheet obligations as the Director shall establish by regulation.

The Director is given the authority to establish by regulation a leverage limit above the specified level.

Finally, section 131(a)(3) provides for a critical capital level that is intended, as a general matter, permit resolution of an enterprise's problems from its own resources. This level shall be the sum of 1.25 percent of total on-balance sheet assets, .25 percent of outstanding mortgage-backed securities, and such other percentage of other off-balance sheet obligations as the Director shall establish by regulation.

"On-balance sheet assets" and "off-balance sheet obligations" are to be determined in accordance with generally accepted accounting principles.

Based on the three capital levels just described, section 131 establishes four different levels into which an enterprise may fall and sets forth specific actions that may be taken by the Director depending upon which level an enterprise is in. The Director is required to promulgate the regulations establishing the minimum risk-based capital levels within one year from the date of enactment. Beginning three years from the date of enactment, the Director may take any action authorized under section 131 (as described in greater detail below) for failure to meet the minimum risk-based capital level. The Director may take any action authorized under section 131 based upon failure to meet the statutory leverage limit beginning one year after the date of enactment. The Director may take any action authorized under section 131 based upon failure to meet the critical capital level beginning January 1, 1992.

Level I is defined to include an enterprise that maintains capital that is below the minimum risk-based capital level for any relevant capital measure and is not within Levels II, III, or IV as described below.

Level II is defined to include an enterprise that maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit, or an enterprise that is otherwise classified within Level II under other provisions of section 131.

Level III is defined to include an enterprise that maintains capital that is below the leverage limit but that is at or exceeds the critical capital level, or an enterprise that is otherwise classified within Level III under other provisions of section 131.

Level IV is defined to include an enterprise that maintains capital below the critical capital level.

Section 131(a)(7) provides that the Director may reclassify any enterprise in Level I or Level II to Level III if the Director determines that the enterprise is in an unsafe and unsound condition or is engaging in an unsafe and unsound practice.

Section 131(b) provides that the Director shall promulgate regulations and take such other actions as are necessary to implement the provisions of section 131. It further provides that the Director is authorized to issue such orders and take such other actions as are necessary or appropriate to carry out the purposes of section 131. Section 131(b) also provides that the Director shall by regulation specify the applicable capital levels for each relevant capital measure to delineate Levels I through IV as described above.

Finally, section 131(b) provides that an enterprise that falls below the minimum risk-based capital levels may engage in an activity otherwise subject to programmatic approval of the Secretary only if it obtains in addition the approval of the Director as specified in section 131. This amendment combined with section 114 as described above gives the Director the exclusive authority to deny permission to engage in such investments for reasons of financial safety and soundness. The Secretary of HUD retains the authority to approve or deny such investments for programmatic reasons.

Section 131(c) sets forth the mandatory supervisory actions that may be taken with respect to an enterprise within Level I. The mandatory actions include restrictions on expansion and capital distributions that would cause the enterprise to fall below Level I. The Director shall also refuse any expansion if the Director determines that the enterprise is engaging in an unsafe and unsound practice or is in an unsafe and unsound condition.

Section 131(d) sets forth the mandatory and discretionary supervisory actions that may be taken with respect to an enterprise within Level II. The mandatory actions include a requirement to submit and implement an acceptable capital plan that will restore the capital of the enterprise to a level sufficient to meet the minimum risk-based capital levels established by the Director, restrictions on capital distributions, restrictions on expansion that are otherwise subject to approval by the Director, and reclassification to Level III for failure to submit an acceptable capital plan or to implement it in good faith to the satisfaction of the Director.

The discretionary supervisory actions include the authority to limit any increase in, or order the reduction of, any liabilities; to restrict or require contraction of the enterprise's assets; to restrict capital distributions; to restrict activities; and to limit executive compensation.

Section 131(e) includes the mandatory and discretionary supervisory actions applicable to enterprises within Level III. The mandatory actions include a requirement to submit and implement an acceptable capital plan if one has not already been filed; a prohibition on capital distributions; a prohibition on expansion; a limitation on asset growth; and a limitation on compensation. The discretionary actions include the ability to impose further limits on executive compensation as well as authority to dismiss officers and directors and the authority to appoint a conservator for the enterprise.

Section 131(f) provides that the Director shall, within 30 days after determining that an enterprise is within Level IV, appoint a conservator for the enterprise. The conservator shall have the authority to take any mandatory or discretionary supervisory actions available for enterprises in Levels II or III and shall also have the powers of a conservator as set forth in section 164.

The Director is given the authority to modify, defer, or remove any mandatory supervisory action applicable to any enterprise if the Director determines it to be in the public interest.

Section 131(g) sets forth the requirements of the capital restoration plan that is required as described above. The Director is generally required to act on a capital plan within 30 days after submission, but the Director is authorized to extend this time period.

Section 131(h) provides that any person aggrieved by an action of the Director under this section may obtain judicial review in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the concerned enterprise maintains its home office. An aggrieved person includes the enterprise that is the subject of a mandatory or discretionary supervisory action under Levels I, II, or III; a person who has been dismissed as provided in this section; or a person whose compensation has been limited as provided in this section.

An action of the Director may be modified, terminated or set aside only if the reviewing court finds, on the record on which the Director acted, that the Director's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. No court shall have jurisdiction to enjoin or otherwise delay agency action pending judicial review. However, petitions under this section will be given expedited review.

Section 132 establishes a safe harbor for enterprises that receive the highest investment grade from two nationally-recognized statistical rating organizations ("NRSRO"). If the Director determines, after receiving ratings from two NRSROs, that an enterprise merits the highest investment grade rating, the enterprise shall be deemed to meet the minimum risk-based capital levels described above for one year following the effective date of the Director's determination. If the Director fails to make such a determination, the Director shall make a written finding setting forth the reasons. The safe harbor will be terminated prior to the end of the one-year period if either NRSRO notifies the Director, and the Director determines, that an enterprise no longer merits the highest investment grade. The cost of the ratings will be covered by an assessment on the enterprise seeking to qualify for the safe harbor. The Director may seek a rating of an enterprise from an NRSRO at any time to assist in carrying out the Director's responsibilities.

Section 133 imposes various reporting requirements on each enterprise that are similar to the reporting requirements imposed on banks under the Federal Deposit Insurance Act ("FDI Act"). Section 133 requires each enterprise to make annual reports of condition to the Director and authorizes the Director to call for such additional other reports as the Director determines to be necessary. The reports of condition shall be certified by an officer of the enterprise as true and correct to the best of his or her knowledge and belief and shall also be attested by at least three directors of the enterprise.

Section 133(c) imposes three tiers of penalties for failure to make reports as required under this section. Section 133(d) also requires each enterprise to make such reports to the Director on the payment of capital distributions as the Director deems necessary.

Section 134 authorizes the Director to appoint examiners who shall have the power to examine either enterprise whenever the Secretary determines that an examination is necessary to determine the condition of the enterprise.

Sections 141 through 144 grant the Director authority to issue cease-and-desist orders or to remove or suspend officers or directors of an enterprise that parallels the authority of the appropriate Federal banking agencies under section 8 of the FDI Act. Section 147 contains authority to impose civil money penalties under three different tiers. These penalties, like the penalties in the FDI Act on which they are modeled, are intended to be compensatory of costs and damages to the Government that are not readily susceptible to measurement. Nonetheless, since the imposition of these civil penalties may potentially preclude a subsequent criminal prosecution based on the same facts under the Double Jeopardy clause of the U.S. Constitution, *see United States* v. *Halper*, ____ U.S. ____, 109 S. Ct. 1892 (1989), the Congress intends the Director and the Attorney General to work together to develop procedures to avoid undesired preclusion of subsequent criminal prosecutions.

Sections 161 through 167 contain conservatorship provisions that parallel provisions of the Bank Conservation Act (12 U.S.C. 200 *et seq.*). Section 161 provides the Director with the authority to appoint a conservator to take possession and control of an enterprise whenever one or more of several circumstances exist, including classification in Level III or Level IV as described above. Section 161 also provides for judicial review of the appointment of a conservator. Section 162 authorizes examinations of enterprises in conservatorship. Section 163 provides for termination of a conservatorship. Section 164 sets forth the powers and duties of a conservator. Section 165 provides limits on the liability of a conservator and permits the Director to indemnify a conservator.

TITLE II—PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR THE FEDERAL HOUSING FINANCE BOARD

Title II contains an amendment to section 2A of the Federal Home Loan Bank Act which makes financial safety and soundness of the Federal Home Loan Banks ("FHLBks") the primary duty of the Federal Housing Finance Board ("FHFB"). The other duties of FHFB, which include ensuring that the FHLBks carry out their housing finance missions, although important, are to be secondary to ensuring that the FHLBks operate in a financially safe and sound manner.

TITLE III—IMPROVEMENT OF SUPERVISION AND REGULATION OF STUDENT LOAN MARKETING ASSOCIATION

The purpose of Title III is to establish a system of regulation of the Student Loan Marketing Association ("SLMA") that embodies the following principles, which track the principles embodied in Title I with respect to the FNMA and FHLMC—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of SLMA;

(2) the regulator should have sufficient stature to maintain independence from SLMA or special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the financial safety and soundness of SLMA; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules so established.

Section 302 is a definitional section that defines the term "Association" to mean the Student Loan Marketing Association and the term "Secretary" to mean the Secretary of Treasury. The terms "capital", "capital distribution", "compensation", "executive officer", and "new program" are also defined.

Section 311 requires the Secretary to make an annual report to Congress setting out steps taken to implement this Act, the safety and soundness of SLMA, and any recommended amendments to any law affecting the safety and soundness of SLMA.

Section 312 authorizes the Secretary to assess SLMA for the costs associated with carrying out the Secretary's responsibilities. These funds are to be deposited into a new separate fund of the Treasury from which they will be immediately available to carry out the responsibilities of the Secretary without regard to fiscal year limitation.

Section 313 contains various amendments to section 439 of the Higher Education Act of 1965 to reflect the new grant of authority to the Secretary to supervise the safety and soundness of SLMA. References to the Secretary in subsections (h)(2) and (h)(4) are deleted. In addition, the reporting requirement contained in section 1087-2 is deleted in view of the new reporting requirements granted to the Secretary as part of the Secretary's supervisory authorities.

Section 321 sets out the new authority granted to the Secretary to ensure the capital adequacy of SLMA and to take prompt corrective action in the event an enterprise falls below a relevant capital measure. Under section 321(a), the Secretary is required to establish relevant capital measures for SLMA and to establish minimum risk-based capital levels for each measure that meet certain criteria. The minimum risk-based capital levels must exceed the leverage limit set forth in section 321(a)(2) and they must equal, in the Secretary's opinion, the sum of—

(1) an amount of capital sufficient to enable SLMA to maintain positive capital to cover for interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Secretary;

(2) an amount of capital sufficient to protect against management risk, operations risk, and business risk; and

(3) an amount of capital sufficient to provide capital coverage at the margin for proposed new programs or lines of business whose risk characteristics are uncertain.

In assessing the impact of the stressful economic environments determined by the Secretary, the Secretary will use the most recent generally accepted analytical methodologies to measure the interest rate risk and credit risk presented by SLMA's method of conducting business.

Section 321(a)(2) sets forth a leverage limit which is equal to the sum of—

(1) 2 percent of total on-balance sheet assets, and

(2) such percentage of off-balance sheet obligations, if any, as the Secretary shall establish by regulation.

The Secretary is given the authority to establish by regulation a leverage limit above the specified level.

Finally, section 321(a)(3) provides for a critical capital level that is intended to, as a general matter, permit resolution of SLMA's problems without creating the potential for significant loss to the taxpayer. This level shall be 1 percent of total on-balance sheet assets, and such percentage of off-balance sheet assets as the Secretary may establish by regulation.

"On-balance sheet assets" and "off-balance sheet obligations" are to be determined in accordance with generally accepted accounting principles.

Based on the three capital levels just described, section 321 establishes four different levels into which SLMA may fall and sets forth specific actions that may be taken by the Secretary depending upon which level SLMA is in. The Secretary is required to promulgate the relations establishing the minimum risk-based capital levels within one year from the date of enactment. Beginning three years from the date of enactment, the Secretary may take any action authorized under section 321 (as described in greater detail below) for failure to meet the minimum risk-based capital level. The Director may take any action authorized under section 321 based upon failure to meet the statutory leverage limit beginning one year after the date of enactment. The Secretary may take action based upon failure to meet the critical capital level beginning January 1, 1992.

SLMA shall be within Level I if it maintains capital that is below the minimum risk-based capital level for any relevant capital measure and is not within Levels II, III, or IV as described below.

SLMA shall be within Level II if it maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit, or is otherwise classified within Level II under other provisions of section 321.

SLMA shall be within Level III if it maintains capital that is below the leverage limit but that is at or exceeds the critical capital level, or is otherwise classified within Level III under other provisions of section 321.

SLMA shall be within Level IV if it maintains capital below the critical capital level.

Section 321(a)(7) provides that the Secretary may reclassify SLMA in Level I or Level II to Level III if the Secretary determines that SLMA is in an unsafe and unsound condition or is engaging in an unsafe and unsound practice.

Section 321(b) provides that the Secretary shall promulgate regulations and take such other actions as are necessary to implement the provisions of section 321. It further provides that the Secretary is authorized to issue such orders and take such other actions as are necessary or appropriate to carry out the purposes of section 321. Section 321(b) also provides that the Secretary shall by regulation specify the applicable capital levels for each relevant capital measure to delineate Levels I through IV as described above.

Finally, section 321(b) provides that when SLMA falls below the minimum risk-base capital levels, SLMA may undertake an activity under subsection (d), (o), (p) or (q) only with the approval of the Secretary, as provided in section 313. This section is not intended to give the Secretary the authority to approve or disapprove SLMA activities for programmatic reasons unrelated to safety and soundness.

Section 321(c) sets forth the mandatory supervisory actions that may be taken with respect to SLMA if it is within Level I. The mandatory actions include restrictions on investments or other activities that are otherwise subject to review by the Secretary and restrictions on capital distributions.

Section 321(d) sets forth the mandatory and discretionary supervisory actions that may be taken with respect to SLMA if it is within Level II. The mandatory actions include a requirement to submit and implement an acceptable capital plan that will restore SLMA to Level I, restrictions on capital distributions, restrictions on investments and other activities that are otherwise subject to approval by the Secretary, and reclassification to Level III for failure to submit an acceptable capital plan or to implement it in good faith to the satisfaction of the Secretary.

The discretionary supervisory actions include the authority to limit any increase in, or order the reduction of, any liabilities; to restrict or require contraction of SLMA's assets; to restrict capital distributions; to require issuance of new capital; to restrict activities; and to limit executive compensation.

Section 321(e) includes the mandatory and discretionary supervisory actions applicable to SLMA if it is within Level III. The mandatory actions include a requirement to submit and implement an acceptable capital plan if one has not already been filed; a prohibition on capital distributions; a prohibition on expansion; a limitation on asset growth; and a limitation on compensation. The discretionary actions include the ability to impose further limits on executive compensation as well as authority to dismiss offiers and directors and the authority to appoint a conservator for SLMA.

Section 321(f) provides that the Secretary shall, within 30 days after determining that SLMA is within Level IV, appoint a conservator for SLMA. The conservator shall have the authority to take any mandatory or discretionary supervisory actions available in Levels II or III and shall also have the powers of a conservator as set forth in section 354.

The Secretary is given the authority to modify, defer, or remove any mandatory supervisory action applicable to any enterprise if the Secretary determines it to be in the public interest.

Section 321(g) sets forth the requirements of the capital restoration plan that is required as described above. The Secretary is generally required to act on a capital plan within 30 days after submission, but the Secretary is authorized to extend this time period.

Section 321(h) provides that any person aggrieved by an action of the Secretary under this section may obtain judicial review in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the concerned enterprise maintains its home office. An aggrieved person includes SLMA if it is the subject of a mandatory or discretionary supervisory action under Level I, II, or III; a person who has been dismissed as provided in this section; or a person whose compensation has been limited as provided in this section.

An action of the Secretary may be modified, terminated or set aside only if the reviewing court finds, on the record on which the Secretary acted, that the Secretary's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. No court shall have jurisdiciton to enjoin or otherwise delay agency action pending judicial review. However, petitions under this section will be given expedited review.

Section 322 imposes various reporting requirements on SLMA that are similar to the reporting requirements imposed on banks under the Federal Deposit Insurance Act ("FDA Act"). Section 322(a) requires SLMA to make annual reports of condition to the Secretary and authorizes the Secretary to call for such additional other reports as the Secretary determines to be necessary. The reports of condition shall be certified by an officer of SLMA as true and correct to the best of his or her knowledge and belief and shall be attested by at least three directors of SLMA.

Section 322(b) imposes three tiers of penalties for failure to make reports as required under this section. Section 322(c) also requires SLMA to make such reports to the Secretary on the payment of capital distributions as the Secretary deems necessary.

Section 323 authorizes the Secretary to appoint examiners who shall have the power to examine SLMA whenever the Secretary determiens that an examination is necessary to determine the condition of SLMA.

Section 324 establishes a safe harbor for SLMA if it receives the highest investment grade from two nationally-recognized statistical rating organizations ("NRSRO"). If the Secretary determines, after receiving ratings from two NRSROs, that SLMA merits the highest investment grade rating, SLMA shall be deemed to meet the minimum risk-based capital levels described above for one year following the effective date of the Secretary's determination. If the Secretary fails to make such a determination, the Secretary shall make a written finding setting forth the reasons. The safe harbor will be terminated prior to the end of the one-year period if either NRSRO notifies the Secretary, and the Secretary determines, that SLMA no longer merits the highest investment grade. The cost of the ratings will be covered by an assessment on SLMA. The Secretary may seek a rating of an enterprise from an NRSRO at any time to assist in carrying out the Secretary's responsibilities.

Sections 331 through 334 grant the Secretary authority to issue cease-and-desist orders or to remove or suspend officers or directors or SLMA that parallels the authority of the appropriate Federal banking agencies under section 8 of the FDI Act. Section 337 contains authority to impose civil money penalties under three different tiers. These penalties, like the penalties in the FDI Act on which they are modeled, are intended to be compensatory of costs and damages to the Government that are not readily susceptible to measurement. Nonetheless, since the imposition of these civil penalties may potentially preclude a subsequent criminal prosecution based on the same facts under the Double Jeopardy clause of the U.S. Constitution, *see United States v. Halper*, —— U.S. ——, 109 S. Ct. 1892 (1989), the Congress intends the Secretary and the Attorney General to work together to develop procedures to avoid undesired preclusion of subsequent criminal prosecutions.

Sections 351 through 357 contain conservatorship provisions that parallel provisions of the Bank Conservation Act (12 U.S.C. 200 *et seq.*). Section 351 provides the Secretary with the authority to appoint a conservator to take possession and control of SLMA whenever one or more of several circumstances exist, including classification in Level III or Level IV as described above. Section 351 also provides for judicial review of the appointment of a conservator. Section 352 authorizes examinations of enterprises in conservatorship. Section 353 provides for termination of a conservatorship. Section 354 sets forth the powers and duties of a conservator. Section 355 provides limits on the liability of a conservator and permits the Secretary to indemnify a conservator.

TITLE IV—JURISDICTION OF COURTS IN PROMPT CORRECTIVE ACTION

Section 401 amends Title 28 of the United States Code to grant the United States Claims Court jurisdiction over claims for damages against the United States where an action of the Secretary has been modified, termianted or set aside by a reviewing court.

TITLE V—FARM CREDIT SYSTEM

Section 501 would clarify the Funding Corporation's current authority under Section 4.9(b) of the Farm Credit Act of 1971 to set the "conditions of participation" by System banks "in each issue of joint, consolidated, or System-wide obligations." Section 501 specifically clarifies the Funding Corporation's authority to obtain information from System banks and associations to monitor their financial performance, to establish financial condition and performance standards, and to institute economic incentives designed to encourage compliance with such standards.

Section 502 would give the Farm Credit System Insurance Corporation the authority to require an assisted System bank's member associations to purchase additional capital in the bank, according to the following formula:

current stock of ind. association plus amount of additional stock to be purchased equals avg. indebtedness of assn. (over last 3 years)

total current stock plus total cap. of all associations required total avg. indebtedness of all assoc. (over last 3 years)

where X equals the amount of additional stock to be purchased by an individual association.

Section 502 would also give the Corporation the authority to require payments to the Insurance Fund from the associations of a bank for whose insured obligations the Corporation has made payments from the Insurance Fund.

Section 503 would give the Farm Credit Administration explicit authority to regulate Federal Agricultural Mortgage Corporation affiliates, and to use its rulemaking authority as a supervisory tool.

Section 511 would create an independent Farm Credit System Insurance Corporation with three voting and two non-voting members. The voting members would have financial expertise and be appointed by the President. The two non-voting members would consist of one member of the board of the Farm Credit Administration who is not its Chairman, and the Secretary of Agriculture.

Section 512 would require the Corporation to develop a method for charging System banks and institutions risk-based insurance premiums. These risk-based premiums would replace the current statutory premium formula.

Section 513 would clarify that the Corporation will be the successor to the Farm Credit System Assistance Board in its agreements with assisted System institutions.

Section 521 would require that the System banks consolidate so as to ensure geographic and crop-based diversity. The Farm Credit System would be charged with developing a plan to implement consolidation; if no plan is developed within two years, the Farm

Credit Administration would be required to develop one.

Section 531 would require System institutions to reimburse Treasury interest paid on Financial Assistance Corporation ("FAC") debt at the time of FAC debt maturity. The repayment would be allocated among System institutions based on their level of performing loans in the preceding 15 years. The FAC Trust Fund would be authorized to reimburse Treasury in the event a System institution does not. Legislation would be clarified to require that all Treasury interest assistance is to be repaid. System institutions would be authorized to prepay their FAC principal and interest obligations into the Farm Credit Assistance Fund.

Section 532 would clarify that FAC debt issued for Capital Preservation agreements is an obligation of the System banks.

Section 541 would require one-third of the directors of System institutions to be outside directors.•

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 1283. A bill to authorize extensions of time limitations in certain FERC-issued licenses; to the Committee on Energy and Natural Resources.

EXTENSION OF TIME ON CERTAIN LICENSES

• Mr. BUMPERS. Mr. President, I am today introducing, along with Senator PRYOR, legislation that would authorize the Federal Energy Regulatory Commission to extend modestly the deadlines in FERC-issued licenses for the development of hydroelectric capacity on two existing dams on the Arkansas River.

Mr. President, for several years Arkansas Electric Cooperative Corp. [AECC] has been diligently pursuing the installation of hydroelectric generation on the Arkansas River. Construction on the Clyde T. Ellis Hydroelectric Generating Station at Lock and Dam No. 13 was started in August 1985 and commercial operation began on December 8, 1988. Immediately thereafter, AECC began the process of securing the necessary permits for the installation of an $85 million hydroproject at Lock and Dam No. 9. Commercial operation is anticipated by October, 1993. AECC is meeting the existing deadlines in FERC-issued licenses for these two projects.

The legislation we are introducing today will allow FERC to extend key deadlines in AECC's licenses for the two remaining projects at Lock and Dam Nos. 2 and 3. For both of these, AECC is required to purchase the necessary property by October 16, 1991, a deadline it will be virtually impossible to meet. The deadline extensions we are proposing are modest ones. AECC will have reasonable extensions of time to purchase property and begin construction, but ultimately will have only a 1-year extension for completing the project at Dam No. 2—(license No. 3033)—and a 3-year extension for completing the project at Dam No. 3—license No. 3034.

Mr. President, in the original licensing and license extension proceedings for these two projects, there has never been an objection filed and FERC has consistently found that development will result in no significant long term environmental impacts. Moreover, as we are all aware, the enactment of the Clean Air Act Amendments of 1990 makes the installation of hydroelectric generation capacity on existing dams—capacity which emits no SO_2, NO_X, CO_2, or other pollutant—an even more attractive option.

On April 17, the Committee on Energy and Natural Resources agreed to this same language as an amendment to the omnibus energy legislation moving through the committee. I simply wanted to introduce this as a free-standing bill for referral to the committee, and I may ask the committee to report this bill separately. It is absolutely without controversy, and clearly is in the public interest.

Mr. President, I ask unanimous consent that an explanation of these provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION

This provision would allow FERC to extend the deadlines for complying with the provisions of FERC License Nos. 3033 and 3034 for a further reasonable period of time. The existing and proposed deadlines would be as follows:

License	Deadline	Existing	Proposed
No. 3033	Land purchase	Oct. 16, 1991	Aug. 10, 1994
	Commence construction.	Aug. 10, 1993	Aug. 10, 1994
	Complete construction.	Aug. 10, 1998	Aug. 10, 1999
No. 3034	Land purchase	Oct. 16, 1991	Aug. 10, 1996
	Commence construction.	Aug. 10, 1993	Aug. 10, 1996
	Complete construction.	Aug. 10, 1998	Aug. 10, 2001.•

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 14, a bill to assist in the restoration of the Chesapeake Bay, and for other purposes.

S. 139

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 139, a bill to amend the Internal Revenue Code to make permanent, and to increase to 100 percent, the deduction of self-employed individuals for health insurance costs.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 387

At the request of Mr. MACK, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 387, a bill to amend title XVIII of the Social Security Act to provide an additional payment under part A of the medicare program for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are medicare beneficiaries.

S. 447

At the request of Mr. THURMOND, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Iowa [Mr. HARKIN], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 447, a bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 659

At the request of Mr. GRAHAM, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 659, a bill to suspend temporarily certain bars to the furnishing of veterans benefits to certain former spouses of veterans and to suspend temporarily a bar to the recognition of certain married children of veterans for veterans benefits purposes.

S. 776

At the request of Mr. KENNEDY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 776, a bill to require that humanitarian assistance to Cambodia be provided through international organizations and private and voluntary organizations and to prohibit assistance to combat forces seeking to overthrow the Government of Cambodia.

S. 790

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 790, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 838

At the request of Mr. DODD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 838, a bill to amend the Child Abuse Prevention and Treatment Act to revise and extend programs under such Act, and for other purposes.

S. 878

At the request of Mr. DODD, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 891

At the request of Mr. MACK, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Idaho [Mr. CRAIG], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 891, a bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests.

S. 922

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 922, a bill to amend the Internal Revenue code of 1986 to exclude from gross income payments made by electric utilities to customers to subsidize the cost of energy conservation services and measures.

S. 1092

At the request of Mr. KASSEBAUM, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1092, a bill to permit national banking associations to establish and operate branches in States other than the States in which their main offices are located, subject to applicable State statutory law.

S. 1093

At the request of Mr. BIDEN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1093, a bill to establish a commission to study the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself.

S. 1234

At the request of Mr. DIXON, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1234, a bill to amend the Internal Revenue Code of 1986 to provide tax relief to utilities installing acid rain reduction equipment.

S. 1261

At the request of Mr. DOLE, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

SENATE JOINT RESOLUTION 39

At the request of Mr. THURMOND, the names of the Senator from Virginia [Mr. WARNER], the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. STEVENS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 39, a joint resolution to designate the month of September 1991, as "National Awareness Month for Children with Cancer."

SENATE JOINT RESOLUTION 61

At the request of Mr. FORD, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. CONRAD], the Senator from South Dakota [Mr. DASCHLE], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Vermont [Mr. JEFFORDS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from Indiana [Mr. LUGAR], the Senator from Maine [Mr. MITCHELL], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Idaho [Mr. SYMMS], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 61, a joint resolution to designate June 1, 1992, as "Kentucky Bicentennial Day."

SENATE JOINT RESOLUTION 72

At the request of Mr. SPECTER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resoluton 72, a joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 136

At the request of Mr. RIEGLE, the names of the Senator from Arizona [Mr. MCCAIN], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resoluton 136, a joint resolution to authorize the display of the POW-MIA flag on flagstaffs at the national cemeteries of the United States, and for other purposes.

AMENDMENT NO. 295

At the request of Mr. DASCHLE, his name was added as a cosponsor of amendment No. 295 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

AMENDMENT NO. 296

At the request of Mr. DASCHLE, his name was added as a cosponsor of amendment No. 296 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

AMENDMENT NO. 300

At the request of Mr. BURNS, the name of the Senator from Arizona [Mr. DECONCINI] his name was added as a cosponsor of amendment No. 300 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

REID AMENDMENT NO. 304

Mr. REID proposed an amendment to the bill (S. 1204) to amend title 23, United States Code, and for other purposes, as follows:

Strike section 137 of the bill.

SYMMS (AND OTHERS) AMENDMENT NO. 305

Mr. SYMMS (for himself, Mr. BOREN, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DECONCINI, Mr. DIXON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. LUGAR, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, Mr. WALLOP, and Mr. SHELBY) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place insert the following new section:

"SECTION . PRIVATE PROPERTY RIGHTS ACT.

"(a) This section may be cited as the "Private Property Rights Act".

"(b) DEFINITIONS.—As used in this section:

"(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the executive branch of the United States Government.

"(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the fifth amendment to the Constitution of the United States.

"(c) PROTECTION OF PRIVATE PROPERTY.—No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

"(d) JUDICIAL REVIEW.—

"(1) Judicial review of actions taken pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this seciton. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

"(2) Nothing in this subsection shall affect any other available judicial review of agency action.

SYMMS (AND OTHERS) AMENDMENT NO. 306

Mr. SYMMS (for himself, Mr. Boren, Mr. Brown, Mr. Burns, Mr. Coats, Mr. Cochran, Mr. Conrad, Mr. Craig, Mr. DeConcini, Mr. Dixon, Mr. Garn, Mr. Grassley, Mr. Hatch, Mr. Heflin, Mr. Helms, Mr. Lugar, Mr. McCain, Mr. McConnell, Mr. Murkowski, Mr. Nickles, Mr. Packwood, Mr. Seymour, Mr. Simpson, Mr. Smith, Mr. Wallop, and Mr. Shelby) proposed an amendment to amendment No. 305 proposed by Mr. Symms (and others) to the bill S. 1204, supra, as follows:

Strike all after the word "SECTION" and insert the following:

" . PRIVATE PROPERTY RIGHTS ACT.

"(a) This section may be cited as the "Private Property Rights Act".

"(b) Definitions.—As used in this section:

"(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the executive branch of the United States Government.

"(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the fifth amendment to the Constitution of the United States.

"(c) Protection of Private Property.—

(1) No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

(2) Upon receipt of guidelines proposed by an agency for compliance with the procedures referenced in paragraph (1), the Attorney General shall, in a reasonably expeditous manner, either approve such guidelines, or notify the head of such agency of any revisions or modification necessary to obtain approval.

"(d) Judicial Review.—

"(1) Judicial review of actions or asserted failures to act pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this section. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

"(2) Nothing in this subsection shall affect any otherwise available judicial review of agency action."

GORTON (AND OTHERS) AMENDMENT NO. 307

Mr. GORTON (for himself, Mr. Hollings, Mr. Danforth, Mr. Exon, and Mr. Bryan) proposed an amendment to the bill S. 1204, supra, as follows:

At the end of the bill, add the following new title:

TITLE II—HIGHWAY SAFETY

Part A—National Highway Traffic Safety Administration Authorization

SEC. 201. SHORT TITLE.

This part may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

SEC. 202. DEFINITIONS.

As used in this part, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer; and

(4) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

(a) Traffic and Motor Vehicle Safety Program.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, and $74,044,106 for fiscal year 1994.

(b) Motor Vehicle Information and Cost Savings Programs.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, and $6,987,224 for fiscal year 1994.

(c) National Driver Register Act.—Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: ", not to exceed $6,131,000 for fiscal year 1992, not to exceed $6,363,978 for fiscal year 1993, and not to exceed $6,605,809 for fiscal year 1994".

(d) NHTSA Highway Safety Programs.—For the National Highway Traffic Safety Administration to carry out section 402 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $126,000,000 for fiscal year 1992, $130,788,000 for fiscal year 1993, $135,757,944 for fiscal year 1994, $140,916,745 for fiscal year 1995, and $146,271,573 for fiscal year 1996.

(e) NHTSA Highway Safety Research and Development.—For the National Highway Traffic Safety Administration to carry out section 403 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $45,869,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 204. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

The Secretary shall expend the sums authorized under section 203(e) as the Secretary deems necessary for the purpose of conducting research or intelligent vehicle-highway systems. The Secretary shall develop a strategic plan with specific milestones, goals, and objectives for that research. The research should place particular emphasis on aspects of those systems that will increase safety, and should identify any aspects of the systems that might degrade safety.

SEC. 205. SIDE IMPACT PROTECTION FOR VEHICLES.

(a) Amendment of FMVSS Standard 214.—The Secretary shall, not later than 12 months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved head injury protection for occupants of passenger cars in side impact accidents.

(b) Extension to Multipurpose Passenger Vehicles.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule to extend the applicability of such Standard 214 to multipurpose passenger vehicles, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

SEC. 206. AUTOMOBILE CRASHWORTHINESS DATA.

(a) Study and Investigation.—

(1) Arrangements with National Academy of Sciences.—The Secretary shall, within 30 days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating, or series of ratings, which will enable consumers to compare meaningfully the crashworthiness of different passenger and multipurpose passenger vehicle makes and models.

(2) Contents of study.—Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger car and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger car and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger car or multipurpose passener vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Report by National Academy of Sciences.—Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than 19 months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Public comment.—Within 60 days after transmittal of the report to the National Academy of Sciences to the Secretary and the Congress under paragraph (3), the Secretary shall initiate a period (not longer than 90 days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles.

(5) Determination by Secretary.—Not later than 180 days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger cars and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b) Rule on Comparative Crashworthiness Rating System.—

(1) Promulgation.—If the Secretary determines that the system described in subsection (a)(5) can be established, the Secretary shall, subject to the exception provided in paragraph (2), not later than 3 years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles. This rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger cars and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) Review by congressional committee.—The Secretary shall not promulgate such rule unless—

(A) a period of 60 calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4); or

(B) each such committee before the expiration of such 60-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) Rule on Providing Crashworthiness Information to Purchasers.—If the Secretary promulgates a rule under subsection (b), not later than 6 months after such promulgation, the Secretary shall by rule establish procedures requiring passenger cars and multipurpose passenger vehicle dealers to make available to prospective passenger car and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger cars and multipurpose passenger vehicles.

SEC. 207. STANDARDS COMPLIANCE.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end of the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than 6 months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

SEC. 208. INVESTIGATION AND PENALTY PROCEDURES.

(a) Investigation Procedures.—Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) Civil Penalty Procedures.—Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

SEC. 209. MULTIPURPOSE PASSENGER VEHICLE SAFETY.

(a) Findings.—The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger cars.

(b) Classification Review.—

(1) Rulemaking proceeding.—In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than 12 months after the date of enactment of this Act, complete a rulemaking proceeding to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified.

(2) Classification consistency.—Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger car every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger car any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

SEC. 210. ROLLOVER PROTECTION.

The Secretary shall, within 12 months after the date of enactment of this Act, complete a rulemaking proceeding to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of passenger cars and multipurpose passenger vehicles.

SEC. 211. REAR SEATBELTS.

The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for each of the fiscal years 1992 and 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

SEC. 212. IMPACT RESISTANCE CAPABILITY OF BUMPERS.

(a) DISCLOSURE OF BUMPER IMPACT CAPABILITY.—The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting immediately after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A.(a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than 180 days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manfacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than 180 days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

(b) AMENDMENT OF BUMPER STANDARD.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger cars manufactured after September 1, 1992.

(2) AUTHORITY TO REQUIRE HIGHER STANDARD.—Nothing in this subsection shall be construed to prohibit the Secretary from requiring under such part 581 that passenger car bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

SEC. 213. CHILD BOOSTER SEATS.

(a) IN GENERAL.—In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger cars. The proceeding shall be initiated not later than 30 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

(b) DEFINITION.—As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

SEC. 214. AIRBAG REQUIREMENTS.

(a) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger cars acquired after September 30, 1991, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger cars acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

(b) AIRBAGS FOR CERTAIN OTHER VEHICLES.—

(1) DEADLINES FOR INSTALLATION.—Passenger cars, and those trucks, buses, and multipurpose passenger vehicles that have a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(A) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(B) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(C) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) TREATMENT OF AIRBAG REQUIREMENTS.—For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of paragraph (1) of this subsection are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

SEC. 215. STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.

Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Congress finds that—

"(1) State motor vehicle safety inspection programs, when properly administered, can reduce the rate of highway traffic accidents by a significant percentage;

"(2) the 1990 amendments to the Clean Air Act will subject approximately 60 percent of the vehicles in the United States to emissions inspection;

"(3) as States plan to implement the requirement for emissions inspections, there is considerable potential for simultaneously and economically implementing effective motor vehicle safety inspection programs;

"(4) the Secretary, as part of the effort to reduce highway accidents, should make every effort to ensure that the potential for effective State motor vehicle safety inspection programs is realized; and

"(5) the Secretary and the Administrator of the Environmental Protection Agency shall coordinate their efforts so as to ensure maximum coordination of motor vehicle safety inspections and required emissions inspections.

"(b) The Secretary shall, within six months after the date of enactment of this section and every year thereafter, submit a report to Congress detailing the efforts of the Secretary to ensure that State motor vehicle safety inspection programs are implemented in the most effective manner possible. The report shall—

"(1) specify Federal manpower allocations for support of State motor vehicle safety inspection efforts;

"(2) specify allocations and expenditures of Federal funds on such efforts;

"(3) describe the extent and effect of the coordination by the Secretary and the Administrator of the Environmental Protection Agency of their respective efforts regarding motor vehicle safety inspection and required emissions inspections, and of the coordination of State motor vehicle safety inspections and emissions inspections;

"(4) list the States that do not have a periodic safety inspection program for motor vehicles that meets the requirements of Highway Safety Program Standard Number 1 and part 570 of title 49, Code of Federal Regulations; and

"(5) include any data, furnished by the States that do operate such safety inspection programs, that concerns the relative effectiveness of their particular programs.".

SEC. 216. RECALL OF CERTAIN MOTOR VEHICLES.

(a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item or replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

SEC. 217. DARKENED WINDOWS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding on the use of darkened windshields and window glass in passenger cars and multipurpose passenger vehicles, including but not limited to the issue of—

(1) the harmonization of light transmittance requirements for multipurpose passenger vehicles with light transmittance requirements for passenger cars;

(2) performance requirements for light transmittance; and

(3) appropriate levels of light transmittance.

The proceeding shall consider the effects of such issues in the context of the safe operation of passenger cars and multipurpose passenger vehicles, as well as on the hazards to the safety of law enforcement personnel as a result of such use of darkened windshields and window glass.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 18 months after such date of enactment.

SEC. 218. GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1991 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all front seat occupants of a passenger car to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger cars in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1990;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1990; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1990; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1991, and $20,000,000 for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

SEC. 219. METHODS OF REDUCING HEAD INJURIES.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider methods of reducing head injuries in passenger cars and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, and to revise the Federal motor vehicle safety standards as appropriate.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not less than 60 days after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

SEC. 220. PEDESTRIAN SAFETY.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

SEC. 221. DAYTIME RUNNING LIGHTS.

(a) RULEMAKING PROCEEDING.—Not later than 12 months after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to authorize passenger cars and multipurpose passenger vehicles to be equipped with daytime running lights, notwithstanding any State law or regulation that affects the use of such lights.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the safety implications of the use of such lights in the United States, including the recommendations of the Secretary concerning whether to require passenger cars and multipurpose passenger vehicles to be equipped with such lights.

SEC. 222. ANTILOCK BRAKE SYSTEMS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding concerning whether to adopt a Federal motor vehicle safety standard requiring antilock brake systems for all passenger cars and multipurpose passenger vehicles manufactured after September 1, 1996.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 223. HEADS-UP DISPLAYS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard requiring that passenger cars and multipurpose passenger vehicles shall be equipped with heads-up displays capable of projecting speed, fuel, and other instrument readings on the lower part of the windshield, enabling the driver to check such readings without looking down.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 224. SAFETY BELT DESIGN.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider whether to amend any existing standard applicable to seatbelts, as published under part 571 of title 49, Code of Federal Regulations, for modification of seatbelt design in order to take into account the needs of children and short adults.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 225. CRITERIA FOR STANDARDS.

Any standard established under a proceeding required by section 210, 217, 219, 220, 221, 222, 223, or 224 shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of that Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

SEC. 226. IMPAIRED DRIVING ENFORCEMENT.

(a) SHORT TITLE.—This section may be cited as the "Impaired Driving Prevention Act of 1991".

(b) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by inserting immediately after section 404 the following new section:

"§ 405. Impaired driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement impaired driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent impaired driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for impaired driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the impaired driving enforcement program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) provides for a program (funded at the level required under paragraph (2)) to conduct highway checkpoints for the detection and deterrence of persons who operate motor vehicles while under the influence of alcohol or a controlled substance, including the training, manpower, and equipment associated with the conduct of such checkpoints;

"(B) provides for a program (funded at the level required under paragraph (2)) to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of the equipment;

"(C) establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(ii) the notice of suspension or revocation referred to in clause (i) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(iii) the State shall provide, in the administrative procedures referred to in clause (ii), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in clause (vi);

"(iv) after serving notice and taking possession of a driver's license in accordance with clause (i), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(v) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering driver's licenses, upon receipt of the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(vi) the suspension and revocation referred to under clause (iv) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with clause (ii);

"(D) requires that any person with a blood alcohol concentration equal to or greater than the following percentage when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol:

"(i) 0.10 percent for each of the first 3 fiscal years in which a basic grant is received; and

"(ii) 0.08 percent for each of the last 2 fiscal years in which a basic grant is received;

"(E) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of alcohol within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of alcohol within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of alcohol shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license; and

"(F) provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines and surcharges collected from persons by reason of their operation of a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(2) REQUIRED FUNDING LEVELS.—The funding level for the program described in paragraph (1)(A), and for the program described in paragraph (1)(B), shall be an amount equal to or greater than—

"(A) the average level of expenditures by the State for such program in its 2 fiscal years preceding the date of enactment of this section, plus

"(B) 2.4 percent of the amount apportioned to the State for fiscal year 1989 under section 402 of this title.

"(3) WAIVER FOR REDUCED FATALITIES.—If the rate of alcohol-related fatalities (as defined in the Fatal Accident Reporting System of the National Highway Traffic Safety Administration) in a State decreases by an average of 3 percent per calendar year for the 5 consecutive calendar years prior to the fiscal year for which the State would receive a basic grant under this section, the Secretary may waive for that State the basic grant eligibility requirements of one subparagraph among subparagraphs (A) through (F) of paragraph (1).

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTING DRIVERS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for and increases its enforcement of an effective system for preventing persons under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to persons under age 21 that are easily distinguishable in appearance from drivers' licenses issued to persons 21 years of age and older.

"(3) DRUGGED DRIVING PREVENTION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance or combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body;

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect two of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances; and

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(4) BLOOD ALCOHOL CONCENTRATION STANDARD.—For purposes of this section, a State is eligible for a supplemental grant (only for any of the first 3 fiscal years in which a basic grant is received) in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title of such State is eligible for a basic grant and in addition such State requires that any person with a blood alcohol concentration of 0.08 percent or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(5) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger areas.

"(6) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(7) SUPPLEMENTAL GRANTS AS BEING IN ADDITION TO ORDER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) EFFECT OF PARTICIPATION IN PROGRAMS UNDER SECTIONS 408 AND 410.—No State may receive a grant under this section for any fiscal year for which that State is a recipient of a grant under section 408 or 410 of this title.

"(h) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptable—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for the fiscal year ending September 30, 1992, and $50,000,000 per fiscal year for the fiscal years ending September 30, 1993, September 30, 1994, September 30, 1995, and September 30, 1996, respectively. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this subsection shall remain available until expended.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 405 of title 23, United States Code (as added by subsection (b) of this section), not later than December 1, 1992. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1994.

(d) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 404 the following new item:

"405. Impaired driving enforcement program.".

PART B—MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION

SEC. 231. SHORT TITLE.

This part may be cited as the "Motor Carrier Safety Assistance Program Reauthorization Act of 1991".

SEC. 232. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) AMENDMENT TO TITLE 23, U.S.C.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Motor carrier safety assistance program

"(a) GRANTS.—The Secretary is authorized to make grants to eligible States for the development or implementation, or both, of programs for—

"(1) the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

"(2) effective enforcement of State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

A State shall be eligible to receive grants under this section only if the State has a plan approved by the Secretary under subsection (b).

"(b) STATE PLANS.—

"(1) SUBMISSION.—The Secretary shall formulate procedures for a State to submit annually a plan where the State agrees to adopt, and to assume responsibility for enforcing—

"(A) Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible States rules, regulations, standards, and orders; and

"(B) State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

"(2) APPROVAL.—Subject to paragraph (3), a State plan submitted under paragraph (1) shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

"(A) designates the State motor vehicle safety agency responsible for administering the plan;

"(B) ensures that the State motor vehicle safety agency and other State or local agencies participating in the plan have or will have the legal authority, resources, and qualified personnel necessary for administering the plan;

"(C) ensures that the State will devote adequate funds for administering the plan;

"(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of a nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;

"(E) provides that the State motor vehicle safety agency will adopt uniform reporting requirements and use uniform forms for recordkeeping, inspections, and investigations, as may be established and required by the Secretary;

"(F) provides that all required reports be submitted to the State motor vehicle safety agency and that the agency make the reports available to the Secretary, upon request;

"(G) ensures State participation in motor carrier information systems, including data bases containing data and information on drivers, vehicle inspections, driver operating compliance with applicable traffic safety laws and regulations, vehicle safety and compliance reviews, traffic accidents, and the weighing of vehicles;

"(H) ensures that commercial motor vehicle size and weight inspection activities will not diminish, the effectiveness of other safety initiatives;

"(I) gives satisfactory assurances that the State will conduct effective activities—

"(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment, and to provide an appropriate level of training to its Motor Carrier Safety Assistance Program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(ii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial driver's licenses;

"(iii) to ensure adequate enforcement of State or local traffic safety laws and regulations that affect commercial motor vehicle safety; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials;

"(J) gives satisfactory assurances that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and to provide training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions or local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety; and

"(K) seeks to ensure that fines imposed and collected by the State will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance.

"(3) ADDITIONAL PLAN REQUIREMENTS.—

"(A) SAFETY AND DRUG ENFORCEMENT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle safety (including commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), exclusive of Federal funds and State matching funds required to receive Federal funding, will be maintained at a level that does not fall below the estimated average level of such aggragete expenditure for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot projects.

"(B) WEIGHT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle size and weighing activities, exclusive of Federal funds, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years. In order to be authorized to use funds under this section to enforce commercial motor vehicle size and weight requirements, a State in its State plan submitted under this subsection shall certify that such size and weight activities will be coupled with an appropriate form of commercial motor vehicle safety inspection and will be directly related to a specific commercial motor vehicle safety problem in that State, in particular that funds for size and weight enforcement activities will be—

"(i) conducted at locations other than fixed weight facilities;

"(ii) used to measure or weigh vehicles at specific geographical locations (such as steep grades or mountainous terrains), where the weight of a vehicle can significantly affect the safe operation of that vehicle; or

"(iii) used at sea ports of entry into and exit from the United States, with a focus on intermodal shipping containers.

"(C) TRAFFIC SAFETY ENFORCEMENT.—The Secretary shall not approve a State plan that provides for funds received under this section to be used to enforce traffic safety regulations applicable to commercial motor vehicles, unless the State certifies in the plan that such traffic safety enforcement will be coupled with an appropriate form of a commercial motor vehicle safety inspection.

"(D) MAINTENANCE OF EFFORT.—The Secretary shall not approve any plan under this section which does not provide that the estimated aggregate expenditure of funds of the State and its political subdivisions, exclusive of Federal funds and State matching funds required to receive Federal funding, for commercial motor vehicle safety programs, including an estimate of expenditure for traffic enforcement activities that were coupled with commercial motor vehicle safety inspections, will be maintained at a level which does not fall below the estimated average level of such expenditures for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs.

"(3) CONTINUING EVALUATION; WITHDRAWAL OF APPROVAL; JUDICIAL REVIEW.—

"(A) EVALUATION.—The Secretary shall make a continuing evaluation of the manner in which each State is carrying out its State plan, based upon reports submitted by the State motor vehicle safety agency and upon the Secretary's own inspection. A written statement of the evaluation shall be prepared every three years, the first of which shall be completed within three years after the date of enactment of this section.

"(B) WITHDRAWAL OF APPROVAL.—After providing a State with notice and an opportunity to comment, whenever the Secretary finds that a State plan is not being followed, or has become inadequate to ensure the enforcement of—

"(i) Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders, and

"(ii) State or local traffic safety laws and regulations applicable to commercial motor vehicles,

the Secretary shall notify the state that approval of the State plan is being withdrawn and shall specify the Secretary's reasons for such withdrawal. The plan shall cease to be an approved plan upon receipt by the State of the notice of withdrawal, and the Secretary shall permit the State to modify and resubmit the plan in accordance with this subsection.

"(C) JUDICIAL REVIEW.—A State may seek judicial review of notice of withdrawal of approval, pursuant to chapter 7 of title 5, United States Code, in the appropriate United States Court of Appeals. The State may retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the approval of the State plan, if the issues involved do not directly relate to the reasons for the withdrawal of approval.

"(4) COORDINATION OF SAFETY PLANS.—The State motor vehicle safety agency shall coordinate the plan prepared under this subsection with the highway safety plan developed under section 402 of this title. Such coordination shall include consultation with the Governor's Highway Safety Representative and representatives of affected industries to promote effective implementation of the purposes of this section.

"(c) FEDERAL SHARE OF COSTS.—By grants authorized under this section, the Secretary shall reimburse a State an amount not to exceed 80 percent of the costs incurred by that State in the development or implementation, or both, of programs as described under subsection (a). In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.

"(d) ALLOCATIONS.—

"(1) DEDUCTION FOR ADMINISTRATION.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds available for that fiscal year. At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials to carry out the purposes of this section.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under subsection (b), the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (h)(3) or for public education under subsection (h)(4), may designate specific eligible States among which to allocate such funds.

"(e) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and one succeeding fiscal year. Funds not expended by a State during those two fiscal years shall be released to the Secretary for reallocation. Funds made available under part A of title IV of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2301 et seq.) which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this section.

"(f) OBLIGATION OF FUNDS.—Approval by the Secretary of a grant to a State under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the costs incurred by that State in development or implementation, or both, of programs as described under subsection (a).

"(g) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.

"(h) FUNDING.—

"(1) AVAILABILITY.—To incur obligations to carry out the purposes of this section, there shall be available to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) not to exceed $70,000,000 for fiscal year 1993, $75,000,000 for fiscal year 1994, $80,000,000 for fiscal year 1995, and $85,000,000 for fiscal year 1996.

"(2) ENFORCEMENT.—Of funds made available under this subsection for any fiscal year, not less than $7,500,000 each year shall be used to pay for traffic enforcement activities focused exclusively upon commercial motor vehicle drivers, if such activities are coupled with an appropriate type of inspection for compliance with the commercial motor vehicle safety regulations. Of the funds made available under this subsection for each of fiscal years 1993 and 1994, not less than $1,500,000 shall be used to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) by Motor Carrier Safety Assistance Program officers and employees, specifically including the cost of purchasing equipment for and conducting inspections to check the curent status of licenses issued pursuant to that Act.

"(3) RESEARCH AND DEVELOPMENT.—Not less than $500,000 but not more than $2,000,000 of the funds made available under this subsection for any fiscal year shall be available for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of this section and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the State costs, or to other persons as determined by the Secretary. The development of the model program and procedures required under section 6 of the Motor Carrier Safety Assistance Program Reauthorization Act of 1991 shall be funded under this paragraph.

"(4) PUBLIC EDUCATION.—Not less than $350,000 of the funds made available under this subsection for any fiscal year shall be allocated among specified eligible States to help educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the States shall consult with appropriate industry representatives.

"(i) DEFINITIONS.—As used in this section, the term—

"(1) 'commerce' means—

"(A) trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside the United States); and

"(B) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A).

"(2) 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in commerce to transport passengers or property—

"(A) if the vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(B) if the vehicle is designed to transport more than 15 passengers, including the driver; or

"(C) if the vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under that Act.

"(3) 'controlled substance' has the meaning such term has under section 102(b) of the Controlled Substances Act (21 U.S.C. 802(b)).

"(4) 'State' means any one of the 50 States, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands.".

(b) AMENDMENT TO SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—

(1) ELIGIBLE EXPENDITURES.—Section 402 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302) is amended by adding at the end the following new subsection:

"(e) After the date of enactment of this subsection, a State with a plan approved under subsection (b)(1) of this section may be reimbursed by the Secretary under this part for expenditures in enforcing State or local traffic laws or regulations designed to promote the safe operation and driving of commercial motor vehicles, or for activities described under section 411(b)(2)(I) and (J) of title 23, United States Code, or both.”.

(2) FUNDING.—Section 404(a)(2) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304(a)(2)) is amended—

(A) by striking “1988 and” and inserting in lieu thereof “1988,”; and

(B) by inserting immediately before the period at the end the following:”, and $65,000,000 per fiscal year for fiscal year 1992”.

(c) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following new item:

“411. Motor carrier safety assistance program.”.

SEC. 233. NEW FORMULA FOR ALLOCATION OF MCSAP FUNDS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation by regulation shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the Motor Carrier Safety Assistance Program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety, including traffic safety enforcement and size and weight enforcement activities that are coupled with motor carrier safety inspections; to increase compatibility of state commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations; and to promote other factors intended to promote effectiveness and efficiency that theSecretary determines appropriate.

SEC. 234. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

(a) FEDERAL REGULATIONS.—Section 12008 of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2707) is amended by adding at the end the following new subsection:

“(1) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

“(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

“(A) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

“(B) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

“(C) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

“(3) DEADLINES.—The regulations required under paragraph (1) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of enactment of this subsection and shall be issued not later than 12 months after such date of enactment.”.

(b) STATE REGULATIONS.—Section 12009(a)(21) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2708(a)(21)) is amended by inserting “and (g)(1)” immediately before the period at the end.

SEC. 235. INTRASTATE COMPATIBILITY.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with the Federal motor carrier safety regulations under the Motor Carrier Safety Assistance Program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 411 of title 23, United States Code, as added by this part, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 226. ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS.

Within 3 months after the date of enactment of this Act, the Secretary of Transportation shall consult with representatives of law enforcement organizations and affected industries, and develop within 12 months after such date of enactment a model program and procedures for Motor Carrier Safety Assistance Program officers and employees to enforce the .04 percent blood alcohol concentration limit established by regulation pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

SEC. 227. FHWA POSITIONS.

To help implement the purposes of this part, the Secretary of Transportation in fiscal year 1992 shall employ and maintain thereafter two additional positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

SEC. 228. DRUG FREE TRUCK STOPS.

(a) SHORT TITLE.—This section may be cited as the “Drug Free Truck Stop Act”.

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

“TRANSPORTATION SAFETY OFFENSES

“SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

“(1) twice the maximum punishment authorized by section 401(b); and

“(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

“(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

“(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

“(2) at least three times any term of supervised release authorized by section 401(b) for a first offense.

“(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

“(d) For purposes of this section—

“(1) the term ‘safety rest area’ has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

“(2) the term ‘truck stop’ means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located adjacent to or within 2,500 feet of the Interstate and Defense System or the Federal-Aid Primary System.”.

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting “409,” immediately before “418,” each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting, immediately after the item relating to section 408, the following:

“Sec. 409. Transportation safety offenses.”

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall imple-

ment the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines referred to in paragraph (2), as promulgated or amended under such paragraph, shall provide that an offense that could be subject to multiple enhancements pursuant to such paragraph is subject to not more than one such enhancement.

SEC. 239. IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES.

(a) RULEMAKING PROCEEDING.—Section 9107 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Public Law 100-690, subtitle B of title IX; 102 Stat. 4530) is amended—

(1) by striking "REPORT ON" in the heading;

(2) by inserting "(a) REPORT.—" immediately before "Not later than"; and

(3) by adding at the end the following new subsection:

"(b) RULEMAKING PROCEEDING.—The Secretary shall initiate a rulemaking proceeding not later than July 1, 1991. Such proceeding shall concern the need to adopt methods for improving braking performance standards for commercial motor vehicles and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to issue as a result of such proceeding regarding improved brake performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceeding required by this subsection not later than April 1, 1992.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 9101(b) of the Truck and Bus Safety and Regulatory Reform Act of 1988 (102 Stat. 4527) is amended by striking "Report on improved" in the item relating to section 9107 and inserting in lieu thereof "Improved".

SEC. 240. COMPLIANCE REVIEW PRIORITY.

If the Secretary of Transportation identifies a pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that such motor carrier receives a high priority for a compliance review.

SEC. 241. REPORT ON TRAINING OF DRIVERS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effectiveness of the efforts of the private sector to ensure adequate training of entry level drivers of commercial motor vehicles. The report shall include recommendations of the Secretary on the feasibility, desirability, and cost effectiveness of establishing mandatory Federal training requirements for all such entry level drivers. In preparing the report, the Secretary shall solicit the views of interested persons.

PART C—TRANSPORTATION EMPLOYEE TESTING

SEC. 261. SHORT TITLE.

This part may be cited as the "Omnibus Transportation Employee Testing Act of 1991".

SEC. 262. FINDINGS.

The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, and trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program of abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

SEC. 263. TESTING TO ENHANCE AVIATION SAFETY.

(a) IN GENERAL.—Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"SEC. 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) TESTING PROGRAM.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) SUSPENSION, REVOCATION; DISQUALIFICATION; DISMISSAL.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law of Federal regulation, alcohol or a controlled substance.

"(b) PROHIBITION ON SERVICE.—

"(1) PROHIBITED ACT.—It is unlawful for a person to use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) EFFECT OF REHABILITATION.—No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c);

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program.

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"(c) PROGRAM FOR REHABILITATION.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently as a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services.

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law of Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"(f) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end the following:

"Sec. 614. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

SEC. 264. TESTING TO ENHANCE RAILROAD SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end of of following:

"(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individual may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

SEC. 265. TESTING TO ENHANCE MOTOR CARRIER SAFETY

(a) AMENDMENT TO COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986.—

(1) IN GENERAL.—The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following new section:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laborary if the individual requests the independent test with 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATION.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) CONFORMING AMENDMENT.—The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(b) PILOT TEST PROGRAM.—

(1) DESIGN AND IMPLEMENTATION.—The Secretary shall design within nine months after the date of enactment of this Act, and implement within 15 months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law of Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) SOLICITATION.—The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) SELECTION.—The Secretary shall ensure that the States selected pursuant to this subsection are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) DURATION; ALTERNATIVE METHODOLOGIES.—The pilot program authorized by this subsection shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) FUNDING.—For purposes of carrying out this subsection, there shall be available to the Secretary, $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 APP. U.S.C. 2304) for fiscal year 1992.

(7) DEFINITION.—For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

SEC. 266. TESTING TO ENHANCE MASS TRANSPORTATION SAFETY.

(a) DEFINITIONS.—As used in this section, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country; and

(3) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

(b) TESTING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall, in the interest of mass transportation safety, issue regulations within 12 months after the date of enactment of this Act. Such regulations shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(c) REHABILITATION PROGRAMS.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in subsection (b)(1) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude a mass transportation operation from establishing a program under this section in cooperation with any other such operation.

(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (b), the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of the test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(2) OTHER REGULATION ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

(f) PENALTIES.—

(1) DISQUALIFICATION.—As the Secretary considers appropriate, the Secretary shall require—

(A) disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) who is determined to have used or to have been impaired by alcohol while on duty; and

(B) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(2) EFFECT ON OTHER APPLICABLE PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

(g) INELIGIBILITY FOR FINANCIAL ASSISTANCE.—A person shall not be eligible for Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this section, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.

SYMMS AMENDMENT NO. 308

Mr. SYMMS proposed an amendment to the bill S. 1204, supra, as follows:

On page 15, strike all afer "thousand" on line 19 and continuing through "thousand" on line 23; and

On page 47, strike "And Nonattainment Areas Over 50,000 Population" beginning on line 17; and strike the language beginning after "State" on line 21 and continuing through "State," on line 24.

SIMPSON (AND WALLOP) AMENDMENT NO. 309

Mr. SIMPSON (for himself and Mr. WALLOP) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the Disadvantaged Business Enterprise program of the Federal Highway Administration (hereafter in this section referred to as the "DBE program"). The study shall include—

(1)(A) a determination of the percentage of disadvantaged business enterprise that have enrolled in the DBE program that have graduated from the DBE program after an enrollment period of 3 years;

(B) a determination of the number of disadvantaged business enterprises that have been enrolled in the DBE program for a period greater than 3 years; and

(C) a determination as to whether the graduation date any of the disadvantaged business enterprises described in subparagraph (B) should be accelerated;

(2) a determination of which State transportation programs meet the requirement under the DBE program for 10% participation by minority-owned businesses and woman-owned businesses by contracting with out of State contractors in lieu of in-State contractors;

(3)(A) a determination as to whether adjustments in the DBE program could be made with respect to—

(i) Federal or State participation in training programs; and

(ii) Meeting capital needs and bonding requirements; and

(B) with respect to subparagraph (A), in the case where adjustments could be made, recommended adjustments that would continue to encourage minority participation in the program and would improve the success rate of the disadvantaged business enterprises;

(4) recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises participating under the DBE program; and

(5) a determination of additional costs incurred by the Federal Highway Administration in meeting the requirement for 10% participation, as described in paragraph (2).

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report on the findings of the study described in subsection (a) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Public Works of the House of Representatives.

MURKOWSKI AMENDMENT NOS. 310 AND 311

Mr. MURKOWSKI proposed two amendments to the bill S. 1204, supra, as follows:

AMENDMENT NO. 310

On page 102, strike item (16) of section 125. ("Section 218 relating to the Alaska Highway").

AMENDMENT NO. 311

On page 38, section 112, TOLL FACILITIES, subsection (b) is amended to read as follows:

SEC. 129. TOLL FACILITIES.

(b) FEDERAL SHARE PAYABLE.—Except as provided in subsection (e), the Federal share payable for any project under this section shall not exceed 35 per centum of the cost of the project for construction of new toll facilities, provided that, for the purposes of subsection (d), the Federal share may be increased by a percentge of the remaining cost that is equal to the percentage that unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, in a state are of its total area, and shall not exceed 80 per centum of the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities, provided that for the purposes of subsection (d) the Federal share may be increased in accordance with the provisions of section 120(a), as amended.

SPECTER AMENDMENT NO. 312

Mr. SPECTER proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place, insert the following:

SEC. . BUDGETARY TREATMENT OF HIGHWAY TRUST FUND.

(a) SHORT TITLE.—This section may be cited as the "Highway Trust Fund Improvement Act of 1991".

(b) EXCLUSION OF TRUST FUND FROM DEFICIT CALCULATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the receipts and disbursements of the Highway Trust Fund allocable to the transportation-related operations of such Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) TRANSPORTATION-RELATED OPERATIONS DEFINED.—For purposes of paragraph (1), the receipts and disbursements allocable to the transportation-related operations of the Highway Trust Fund are the disbursements, and the receipts allocable to such disbursements, under—

(A) paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Highway Trust Fund for the Federal-aid highway program); and

(B) paragraph (3) of section 9503(e) of such Code (relating to expenditures from the Mass Transit Account).

(c) TRUST FUND TREATMENT IN THE CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall include allocations under section 302 of this Act of the outlays and revenue totals of the Highway Trust Fund allocable to the transportation-related operations of such Trust Fund, as described in subsection (b)(2) of the Highway Trust Fund Improvement Act of 1991, but shall not include such totals in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

(d) EXEMPTION FROM SEQUESTRATION ORDER.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the 28th undesignated paragraph (relating to higher education facilities) the following new undesignated paragraph:

"Highway Trust Fund (20-8102-0-7-401; 69-8019-0-7-401; 69-8020-0-7-401; 69-8099-0-7-401);".

(e) APPLICABILITY.—Subsections (b), (c), and (d), including the amendments made by such subsections, shall apply with respect to fiscal years beginning after September 30, 1991.

(f) NOT DIRECT SPENDING.—This section and the amendments made by this section shall not be construed authorizing any direct spending as defined by section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.

REID AMENDMENT NO. 13

Mr. MOYNIHAN (for Mr. REID) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ROAD SEALING ON RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend funds apportioned under this section from the Highway Trust Fund for the purpose of road sealing projects.".

DOMENICI (AND OTHERS) AMENDMENT NOS. 314 AND 315

Mr. DOMENICI (for himself, Mr. SYMMS, and Mr. CRAIG) proposed two amendments to the bill S. 1204, supra, as follows:

AMENDMENT NO. 314

S. 1204, the Surface Transportation Efficiency Act of 1991, is amended by adding the following section in the appropriate place:

SEC. . HIGHWAY CONSTRUCTION TRAINING.

Subsection (b) of section 140 of title 23, United States Code is amended by adding at the end thereof: "Notwithstanding any other provision of law, not to exceed one-fourth of

1 per centum of funds apportioned to a State for the Surface Transportation Program or the Bridge Program, may be available to carry out this subsection upon a request by the State highway department.".

AMENDMENT NO. 315

On page 151, line 10, strike out "and".

On page 151, line 15, strike out the period and insert in lieu thereof a semicolon.

On page 151, between lines 15 and 16, insert the following:

(7) the development of a technology base for Intelligent Vehicle-Highway Systems and the establishment of the capability to perform demonstration experiments, utilizing existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

GORTON (AND ADAMS) AMENDMENT NO. 316

Mr. GORTON (for himself and Mr. ADAMS) proposed an amendment to the bill S. 1204, supra, as follows:

On page 40, line 3, replace the period with a comma and insert "except that, in the case of ferry systems that serve such routes and other routes in an integrated system, such ferry may operate throughout the entire service area of the ferry system."

RIEGLE AMENDMENT NO. 317

Mr. MOYNIHAN (for Mr. RIEGLE) proposed an amendment to the bill S. 1204, supra, as follows:

Add the following new section in the appropriate place:

SEC. . EROSION CONTROL GUIDELINES.

(a) The Secretary of Transportation shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part by this Act.

(b) Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) Guidelines developed under subsection (a) shall be consistent with the program of section 319 of the Clean Water Act and section 6217(g) of the Omnibus Budget Reconciliation Act of 1990.

COMPREHENSIVE URANIUM ACT

FORD AMENDMENT NO. 318

Mr. MITCHELL (for Mr. FORD) proposed an amendment to the bill (S. 210) to establish the United States Enrichment Corporation to operate the Federal uranium enrichment program on a profitable and efficient basis in order to maximize the long-term economic value to the United States, to provide assistance to the domestic uranium industry and to provide a Federal contribution for the reclamation of mill tailings generated pursuant to Federal defense contracts at active uranium and thorium processing sites; as follows:

On page 59, strike lines 8 through 10, and insert in lieu thereof the following:

"(e) Subsection 905(g)(1) of title 2, United States Code, is amended to include 'United States Enrichment Corporation' at the end thereof."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on consent to amendments by the State of Hawaii to the Hawaiian Homes Commission Act, Senate Joint Resolutions 22 through 34.

The hearing will take place on Tuesday, July 23, 1991, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

For further information, please contact Allen Stayman of the committee staff at (202) 224-7865.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on lender liability for environmental clean-up costs related to loan collateral. The hearing will take place on Tuesday, June 18, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Patricia Forbes, Counsel to the Small Business Committee at 224-5175.

SPECIAL COMMITTEE ON AGING

Mr. MITCHELL. Mr. President, on behalf of Mr. Pryor I would like to announce to the public that the Senate Special Committee on Aging has scheduled a hearing to discuss the ethics of health care rationing.

The hearing will take place on Wednesday, June 19, 1991, beginning at 10 a.m. in room 628 of the Dirksen Senate Office Building.

For further information, please contact Portia Mittelman, staff director at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, at 2:15 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 12, 1991, beginning at 9 a.m., in 485 Russell Senate Office Building, on S. 962 and S. 963, legislation to reaffirm the inherent authority of tribal governments to exercise criminal jurisdiction over all Indian people on reservation lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on service-connected compensation cost-of-living adjustment, radiation compensation, and VA hospice-care legislation, on Wednesday, June 12, 1991, at 9:30 a.m., in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, June 12, 1991, at 10 a.m., to conduct a hearing on the lender liability issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, June 12, 1991, at 2 p.m., to conduct a hearing on reauthorization of the Government Securities Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary be authorized to meet during the session of the Senate on June 12, 1991, at 2 p.m., to hold a hearing on S. 654, a bill to amend title 35, United States Code, with respect to patents on certain processes and S. 756, a bill to amend title 17, United States Code, the copyrights renewal provisions, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, at 10 a.m., to hold a hearing on the reauthorization of the Civil Rights Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, to hold hearings on trade in conventional weapons: the international arms bazaar.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TAXATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Taxation of the Committee on Finance be authorized to meet during the session of the Senate on June 12, 1991, at 9:30 a.m., to hold a hearing on a series of miscellaneous tax bills (S. 90, S. 150, S. 267, S. 284, S. 649, and S. 913).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFICITS, DEBT MANAGEMENT, AND INTERNATIONAL DEBT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Deficits, Debt Management and International Debt of the Committee on Finance be authorized to meet during the session of the Senate on June 12, 1991, at 2 p.m., to hold a hearing on the impact of capital flight on Latin American debt and development prospects.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, at 10 a.m., for a hearing on universal access to health care and health care cost containment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Wednesday, June 12, 1991, at 2 p.m., to receive testimony from the Defense Nuclear Facilities Safety Board and the Department of Energy on safety and restart issues, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992–93.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 12, at 10 a.m. to markup fiscal year 1992 authorizations for the State Department/USIA/BIB and ACDA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 12, at 10 a.m. to markup fiscal year 1992 foreign assistance authorization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 12, 1991, at 9 a.m., to receive a briefing on the Persian Gulf war.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 12, 1991, at 2 p.m., to markup fiscal year 1992 foreign assistance authorization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO MARY ANN BARON OF FARMERS HOME ADMINISTRATION

• Mr. FORD. Mr. President, I rise today to recognize Mary Ann Baron of Lexington who has been recognized by the Department of Agriculture for outstanding performance of her duties as Farmers Home Administration Kentucky State director.

The Superior Service Award is the second highest award bestowed by the U.S. Department of Agriculture, and was presented to 57 individuals, 19 groups, and six teams representing USDA employees from all across the Nation.

A native of Adair County, KY, Ms. Baron has been with FmHA for 10 years. She has served previously as an assistant to the Administrator here in Washington, DC, and as director of FmHA's legislative affairs and public information staff from 1984 to 1986. She has been FmHA Kentucky State director since 1987.

For the past 2 years, Kentucky has ranked near the top in national farmer program goal accomplishments. As FmHA State director, Ms. Baron was the first director to conduct farm loan reviews before approval to minimize processing errors and poor quality loans and the first to require farm loans to be reviewed in the State office. As a result, delinquency rates have dropped to 6.3 percent in 1991 from 31.4 percent in 1987.

In addition, the number of Farmers Home possessed properties resulting from borrower inability to repay, has been reduced to 15 farms today from 74 farms in 1987. This has resulted in a saving of over $600,000 for FmHA.

Ms. Baron also initiated a program of incentives to resell housing properties in the FmHA inventory. She was responsible for reducing the number of properties to 66 homes today from 471 properties in 1987.

Mr. President, such accomplishments are only a few examples of the outstanding leadership Mary Ann Baron has provided. Under her direction, FmHA offices in Kentucky have far exceeded national goals set by the agency. I would like to take this opportunity to congratulate Mary Ann and encourage her to continue her remarkable leadership.•

U.S. DEPARTMENT OF AGRICULTURE AWARDS

• Mr. DECONCINI. Mr. President, I rise today to recognize a few public servants who, in my opinion, merit our appreciation. Today the U.S. Department of Agriculture is paying tribute to these individuals for their outstanding service to the Department and their country, and I feel it is appropriate that we do so as well.

Being honored today at the annual U.S. Department of Agriculture Awards Ceremony here in Washington are the following Arizonans:

Receiving a Superior Service Award for outstanding success in providing fishing opportunities in the Phoenix area, especially for the physically challenged are Larry Forbis, group leader, and Donald A. VanDriel, Richard Uberuaga, and Todd Willard, group members of the Boulder Creek-Saguaro Lake Recreation Fisheries Improvement, Forest Service, Mesa, AZ;

Receiving a Superior Service Award for creative research in experimental biology and natural products chemistry leading to biorational, environmentally safe methods for controlling insect pests of agriculture and public health is William S. Bowers at the State Agricultural Experiment Station, Tucson, AZ;

Receiving Distinguished Service Awards for sacrificing their own lives in an attempt to save others during the Dude Wildfire, Tonto National Forest, June 26, 1990, are Joseph L. Chacon and James L. Denney of the Forest Service, Perryville, AZ;

Receiving a Superior Service Award for livesaving actions during the Dude Wildfire, Tonto National Forest, June 26, 1990, are Paul A. Gleason, group leader, and Del B. Starks, Evelyn N. Miller, Paul J. Linse, Rodney L. Goss, James P. Mattingly, Bill C. Moe, David J. Niemi, Bill McGonigle, Bob Kessler, Mike Velasco, Paul Mitchell, and Bob Scopa.

Please join with me in taking this opportunity to commend these fine individuals for their outstanding service to our country. I trust that I speak for the entire U.S. Senate in extending our heartfelt appreciation and gratitude for their unique contributions and efforts.•

EXCERPTS FROM THE COMMITTEE REPORT ON THE FEDERAL TRANSIT ACT OF 1991

• Mr. CRANSTON. Mr. President, I ask that excerpts of the committee report on the Federal Transit Act of 1991 be printed in the CONGRESSIONAL RECORD.

The excerpts follow:

THE FEDERAL TRANSIT ACT OF 1991

Mr. Riegle, from the Committee on Banking, Housing, and Urban Affairs, submitted the following report together with Additional Views (to accompany S. 1194).

The Committee on Banking, Housing, and Urban Affairs, having considered the same, reports favorably a Committee bill (S. 1194) to amend the Urban Mass Transportation Act of 1964 and for other purposes.

LEGISLATIVE HISTORY OF THE ACT

The Committee on Banking, Housing, and Urban Affairs, to which the bill was referred, approved the bill on June 6, 1991 by voice vote and the Committee recommends that the bill as amended do pass.

The Federal Transit Act of 1991 (S. 1194) incorporates proposals developed over a period of more than six months in consultation with the Administration and leading transit authorities from across the country.

On October 26, 1990, Senators Alan Cranston and Alfonse D'Amato, respectively the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs, invited a wide variety of organizations and individuals concerned about mass transit to suggest ways in which federal policy could be improved to respond more effectively to emerging transportation needs. More than 80 responses were received from 27 states and the District of Columbia, including states in every region of the country. Responses were received from state and local transportation authorities, associations of elected officials and transportation agencies, organized labor and private industry. The recommendations were published in January 1991 as the *Report on the Federal Mass Transit Policy—Views and Recommendations* (S. Print 102-6).

On March 13, 1991, the Subcommittee on Housing and Urban Affairs convened a national symposium in Washington to review the Administration's transit legislation and other policy recommendations received by the Subcommittee. Participants in the Symposium included many of the country's top transit experts. Welcoming remarks were offered by Senators Donald Riegle, Alan Cranston, Paul Sarbanes and John Heinz. Keynote addresses were delivered by Richard Daley, Mayor of Chicago, and Kathy Whitmire, Mayor of Houston. Major papers were presented by: Alan Kiepper, APTA chairman and President of the New York City Transit Authority: Michael Meyer, Professor at Georgia Institute of Technology; William Millar, Executive Director of the Port Authority of Allegheny County; and James Cowen, General Manager of Tri-County Metropolitan Transportation. Panels of other transit industry experts reviewed and commented on the papers.

On April 17, 1991, the Subcommittee released a discussion draft entitled the *Metropolitan Transportation Initiative* that outlined a number of legislative proposals the Subcommittee had developed as a result of the national symposium and in consultation with leading transit practitioners. The draft outlined a 4-point program of refinements to current policy that would:

Give each metropolitan area responsibility to develop a long-term transportation strategy that integrates alternate modes of transportation, showing particular attention to transportation needs that affect national objectives;

Assure each metropolitan area of its fair share of federal highway and mass transit assistance up front, and enable the area to select the projects that carry out its transportation strategy most efficiently;

Create a "level playing field" for local choices of transportation projects, removing conditions that create improper biases against transit when it is the most efficient, long-term use of transportation resources; and

Open the way to improved methods of project management and financing so that state and local governments can implement their transportation strategies more quickly and cheaply.

The discussion draft was distributed widely so that recommendations for refinement could be incorporated in the Committee bill.

The Subcommittee on Housing and Urban Affairs held 8 hearings throughout the country between August 1990 and April 1991. The hearings reviewed issues to be resolved in the new transit authorization, including: the nation's changing transit needs; the role of federal, state and local governments; and the impact on transit of the Clean Air Act Amendments and the Americans with Disabilities Act. Included were four days of field hearings. On August 6 and 7, 1990, Senator Alan Cranston chaired two hearings, one in Los Angeles and one in San Jose, California, with witnesses representing state and local governments, UMTA, California DOT, environmentalist and local transit industry officials. On February 12, 1991, Senator Bob Graham chaired a roundtable hearing in Tampa, Florida with witnesses representing Florida DOT, UMTA, the Florida Transit Association, environmentalists and other groups. On April 23, 1991, Senator Dodd chaired a hearing in Bridgeport, Connecticut, with witnesses representing private transit companies, local operators and businesses. These field hearings elicited testimony on ways to mitigate congestion, improve funding, preserve our environment and enhance our nation's transportation policies through better coordination among transportation modes.

The Subcommittee also held 4 hearings in Washington. A hearing on March 15, 1991 received testimony on the Administration's transportation proposals from UMTA Administrator Brian Clymer and several transit operators responding to the Administration's proposal including: Lou Gambaccinni, Southeastern Pennsylvania Transit Authority; Wes Watson, Florida Transit Association; Frank Wilson, Bay Area Rapid Transit District; Peter Stangl, New York Metropolitan Transportation Authority; and Gordon Aoyagi, Montgomery County Division of Transit Services. A roundtable hearing on April 17, 1991 reviewed proposals in the Subcommittee's discussion draft "*Metropolitan Transportation Initiative*"—including a wide range of witnesses including academics to DOT officials and national environmental groups as well as rural and urban transit operators. A hearing on April 18, 1991 received testimony from panels of witnesses regarding rural transit, transit needs of elderly persons and persons with disabilities, and the transit implications of the Clean Air Act amendments. A hearing on April 24, 1991 provided a detailed discussion of ways to improve capital investment in transit, with participants representing labor and metropolitan transportation systems.

Subcommittee staff held on-site policy discussions with transit operators—including operators of rail, bus, and paratransit systems—in New York, Philadelphia, Baltimore, Detroit, Las Vegas, the San Francisco Bay Area, Sacramento, Los Angeles, San Diego, Honolulu and several other communities. Staff reviewed provisions of the Committee bill on numerous other occasions with representatives of transit systems with a wide range of operating characteristics from many regions of the country.

The Committee bill incorporates the best suggestions from all of these hearings and discussions.

NEED FOR THE LEGISLATION

Twenty five years ago, when Congress first acted to strengthen public transit, the consequences of federal neglect had become ominous. Public transit systems were failing across the country. Transit facilities were in disrepair and inefficient. Fares were skyrocketing, ridership was plummeting.

In the intervening years, mass transit has become an increasingly vital source of mobility for communities of all sizes—based on a strong partnership between government and the private sector. Mass transit now serves millions of Americans with a wide array of services—from the heavy rail transit that is expanding in our largest cities, to bus service in our medium-sized cities, to van-based paratransit services that meet special needs in smaller communities.

Despite past improvements, the unmet need for modern, efficient public transit is even greater today than it was 25 years ago. The Surface Transportation Efficiency Act of 1991 now before Congress provides an important opportunity to begin closing that gap. The Committee bill is intended to be a key title in the legislation, fitting well with the work of the Committee on Environment and Public Works and other committees of the Senate.

For the first time in thirty-five years, Congress is able to consider the future of federal transportation policy without the cost burdens of completing the interstate highway system. The nation now has that vital asset. It needs to be preserved.

The interstate commitment was based on the Eisenhower era dream that we could achieve nationwide mobility by building bigger and better roads to accommodate more and faster motor vehicles. We now also know the dream of thirty-five years ago can carry us only so far—and then it creates severe problems. In our major economic and population centers, more highways do not bring mobility—new highways tend to generate new congestion.

As Jessica Mathews, of the World Resource Council wrote. "We now know that new roads generate more traffic than they serve. . . . We now know that we cannot build roads fast enough to meet demand under a highway-only policy." [The Washington Post, May 12, 1991]

The costs of highway construction are far greater than the $129 billion in direct spending on the interstate system.

We pay the cost through increasingly intolerable traffic congestion in the nation. Main roads are choked to capacity in peak hours, and America's workforce spends millions of hours each day in traffic gridlock.

The General Accounting Office (GAO) has noted that congestion costs Americans annually (GAO, May, 1991). According to the Urban Mass Transportation Administration, if just one out of every five single drivers switches to a higher occupancy mode, congestion costs would be reduced by 60%.

We pay the cost through rising and atrocious air pollution in America. Some 112 million Americans live in areas where the air quality standard is exceeded. Two recent studies by the University of Southern California made the shocking finding that "children raised in the South Coast Air Basin already had 10 to 15 percent less lung function by the time they were in the second grade than youngsters growing up in relatively smog-free Houston." [LA Times, April 29, 1991]

We pay the cost through over-reliance on foreign oil. The Department of Energy reported that in the first 11 months of 1989, the cost of imported energy—primarily oil—represented 38.5% of the $102.4 billion trade deficit. Although attempts to increase fuel economy must continue, achieving real reductions in oil dependency will require alternatives to a one-person-per-vehicle transportation system. Each additional person who chooses to commute by car requires an extra 200 gallons of gasoline per year. Increasing transit ridership by 10% in the five largest metro areas would save 85 million gallons of gas a year. A bus with as few as seven passengers is more fuel efficient than the average commuter automobile.

These problems will only worsen if we continue current transportation policies. Although some states may not yet have a highway-related crisis, many do, and the trends are ominous throughout the country.

Continuing with a narrow-viewed highway policy will lead the country up a blind alley. The Senate must find a better path. Improved and expanded public transit must be a larger part of the country's transportation.

The Committee believes that this transportation bill can move the country toward a more balanced, integrated and efficient transportation system. It can help link highways, mass transit, ports, railroads and airlines. It can help move goods more efficiently within urban centers and to distant markets. It can help people move quickly to and from home, jobs and other destinations.

OVERVIEW OF THE COMMITTEE BILL

The Committee bill would make a number of important changes in transportation policy.

First, the bill would provide comparable funding increases for highways and public Transit. Over the past decade, federal aid to public transit was cut from $4.6 billion in fiscal 1981 to $3.2 billion today. After inflation, that's a cut of 50 percent.

The Committee is concerned that the Administration's transportation proposal would expand highway spending by 39 percent but would hold funding for public transit essentially flat. The Administration bill suggests a token increase in the last year of the authorization, but after inflation, mass transit would continue to be cut for five more years.

The Committee has also not accepted the President's scheme for running down the trust fund balance over a five or six year period. The Committee believes it would be unwise to take an approach that could throw transit funding into grave uncertainty within a few years. The Committee bill will provide transit with sources of funding that can be sustained on into the future.

The Committee bill would provide real growth in transit funding—equal to the increase provided for highways. Both the discretionary grant program and the formula grant programs would be funded partly out of the transit account of the highway trust fund and partly out of general funds. This would dramatically increase the payments that many states would receive from the mass transit account.

Second, the bill would open up the highway trust fund so that highway and transit dollars can be used to improve mobility in the most efficient way—whether that is with roadways, transit, or some multi-modal solution.

The Committee recognizes that, in some areas, new roads may be the answer. But in many of the country's most populous areas, mobility would be improved much more efficiently through investment in better mass transit—or perhaps through ramp-metering, HOV lanes, or car pool programs. Metropolitan areas would be able to choose the best use of scarce federal transportation assistance.

The Committee shares the concerns of many who are uneasy about funding flexibility because, historically, the highway interests have had such dominant power in many states. But the Committee believes its bill provides flexibility where it is most needed—in those metropolitan areas that are struggling with severe problems of congestion and air pollution. And the bill does so with adequate protection so that funds will not be drained from basic transit needs.

Third, the Committee bill would help the country get a bigger "bang" of transportation service for every transit buck that *is* made available. One section of the bill would improve full funding contracts to stretch available funding over more projects and enable transit operators to finance and manage long-term projects more efficiently. Another section of the bill would permit operators to enter into long-term purchasing agreements for buses and rail cars to provide fleets of compatible vehicles that can be operated and maintained more efficiently. Yet another section of the bill would provide new authority that is needed for "turnkey" procurement of high technology transit systems.

Fourth, the bill would address the differing needs of mass transit systems across the country. Some cities have a great need to build new transit systems—for them, the bill would improve capital project management. Other cities have mature transit systems and need assistance in operating, modernizing and extending their facilities—for them, rail modernization would be distributed on a more predictable formula. All cities need adequate bus service—for them, funding for bus procurement would be increased. The bill reflects the needs of smaller communities and rural areas—funding for rural transit would be more than doubled.

Fifth, the bill would give priority to maintenance of our existing infrastructure. The Senate's highway title provides protection of the interstate investment and maintenance of our bridges. The public transportation title will also provide for adequate maintenance of our public transportation services.

Sixth, the Committee bill would give metropolitan areas responsibility to develop comprehensive strategies for meeting their long term transportation needs. Integrated transportation planning is especially important in areas with severe air pollution and traffic congestion. But the Committee believes that will only work if metropolitan areas are allocated a fair share of federal transportation aid and are given authority to select projects for new or expanded capacity. Projects will be approved through a comprehensive *local* decision making process in which states and other interested parties participate. This authority to approve capacity expansion projects need not be given to every metropolitan area, but the bill will give that authority where it is needed: in those areas that are trying to carry out a comprehensive strategy for reducing severe congestion and air pollution.

Seventh, the bill would remove the bias against the choice of the most efficient use of federal transportation funds. Federal policy now stacks the deck heavily against public transit. Under the Committee bill, metropolitan areas would have a "level playing field" when they choose among transportation modes. Application procedures will be more standardized.

Extra transit requirements for alternatives analysis and some other application steps would be waived if Section 3 funds would be less than one-third of a project's cost—and federal highway funds could be used to reduce funds required under Section 3.

State and local match requirements would be more uniform across alternative transportation solutions. The bill would apply the highway match requirements to public transit projects—that is a 75/25 match for new capacity; and an 80/20 match for maintenance activities and more efficient use of existing systems.

Finally, the bill would reinforce the Clean Air Act, the Americans with Disabilities Act and other improtant national objectives. The Committee bill would prevent some provisions of the Clean Air Act from having the unintended effect of diverting federal transportation assistance away from areas of the country that have the greatest congestion. The bill would also encourage research, testing, and technical assistance in implementing low-cost transportation demand management strategies that can improve air quality while reducing traffic congestion. And the bill would prevent some requirements of the Americans with Disabilities Act from having the unintended effect of weakening transit systems that are already financially strained.

COMMITTEE DELIBERATIONS

The Committee bill in reporting with amendments to "The Federal Transit Act of 1991" (S. 1194), introduced by Senators Alan Cranston, Donald Riegle and Alan Dixon on May 24, 1991. The Committee bill incorporates proposals in the Administration's "Surface Transportation Assistance Act of 1991" (S. 610). An it includes provisions of "The Federal Mass Transportation Act of 1991" (S. 1160), introduced on May 23, 1991 by Senators Alfonse D'Amato and Arlen Specter.

The Senate Committee on Banking, Housing and Urban Affairs held a mark-up of the bill on June 6, 1991. The Committee adopted by voice vote a package amendment number 17 offered by Senator Cranston. The package included 12 amendments suggested by Senators Donald Riegle, Paul Sarbanes, Alan Dixon, and Bob Graham, as well as by the Administration and others. The Committee adopted by voice vote amendment number 1 offered by Senator Connie Mack to change the census data used in distribution formulas from 10 years to four years by voice vote. The Committee also adopted by voice vote amendment number 5 by Senator Bob Graham to have 1990 census figures applied to fiscal year 1992 formula allocations. The Committee then ordered the bill favorably reported by unanimous voice vote.

EXPLANATION OF THE COMMITTEE BILL

Title and Agency Name Change: The Committee bill would amend the name of the underlying law from the "Urban Mass Transportation Act of 1964" to the "Federal Transit Act".

The Committee bill would amend the name of the Urban Mass Transportation Administration to the "Federal Transit Administration".

Findings and Purposes: The Committee bill would add a new finding that significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

The Committee bill would also adopt the objective of providing State and local governments with the financial resources to help implement national goals related to improved air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

Authorizations: Federal transit funding has been cut from $4.6 billion in 1981 to $3.2 billion today. After inflation, that is a cut of more than 50 percent. During this period, the disparity between transit and highway funding has grown considerably. In 1981, the federal highway program was twice the size of the federal transit program. Today, it is five times as large. The Committee noted that the Administration's proposal would increase highway funding by nearly 40 percent over the next five years but would provide virtually flat funding for transit—which would mean a continued reduction in real terms. The Committee strongly believes that these funding inequities between highway and transit should not be further exacerbated.

The Committee bill would authorize slightly more than $21 billion over the 5-year period covered by the bill. Authorization levels increase at the overall rate proposed by the Administration for total transportation funding—an average annual increase of about 7 percent. Thus, transit programs would receive funding increases comparable to those proposed for highway programs.

UMTA Administrator Brian Clymer, in testimony before the Senate Subcommittee on Housing and Urban Affairs, estimated that the transit need justifies a $7.7 billion annual program. Other estimates, by the American Public Transit Association, indicate that an annual federal transit investment of $11 billion would be necessary adequately to maintain and expand existing service, meet the growing demand for new service and fulfill the requirements of the Americans with Disabilities Act and the Clean Air Act Amendments of 1990.

The Committee recognizes that the authorization levels proposed in this bill will not fulfill the need for transit investment. The recommended levels do, however, reflect a reasonable expectation of the availability of general funds and a responsible plan for spending balances in the transit trust fund. The Committee has also worked to improve programs, throughout the bill, to maximize the benefit of funds that are made available.

The Committee bill proposes two significant changes to spending from the Mass Transit Account of the Highway Trust Fund.

First, the Committee bill would restructure funding sources to support all transit programs with a blend of funding from the trust fund and general funds. Under current law, the section 3 new starts, rail modernization, and bus discretionary programs, the section 16(b)(2) elderly and handicapped transit program and the section 8 planning program are funded from the mass transit trust fund. Sections 9 and 18 formula programs are funded primarily from general revenues. Historically, the formula programs funded from general revenues have experienced larger cuts in the appropriations process than have programs funded from the trust fund. The bill would revise this practice and use the Transit Accounts of the Highway Trust Fund to finance about 60% of the formula grant programs. This change benefits most states by increasing the amounts they receive from the Transit Account and placing formula and discretionary grants under equal budgetary pressures in the appropriations process.

Second, the Committee bill would substantially increase the amount of overall transit funding drawn on the Transit Account of the Trust Fund. As of January, 1991, the mass transit account of the trust fund had an unexpended balance of $7.156 billion and an uncommitted cash balance of $3.57 billion. The Administration's bill proposed shifting funding for mass transit programs entirely to the trust fund. Under that scenario, only $425 million in uncommitted balances would remain in the trust fund at the end of this authorization bill. Congress would then have to scale back mass transit assistance sharply, increase fuel taxes or move mass transit back as a claim on general revenues.

The Committee bill would keep payments from the Trust Fund at a level that permits stable, long-term program operation without depleting the Transit Account. A larger portion of the overall transit program would be funded from the trust fund; the current 43% of the transit program funded from the trust fund would be increased to 53% in fiscal year 1992, and rise to 57% in fiscal year 1996. But, spending from the trust fund would not exceed revenues received from taxes and interest accruing to the trust fund in each year.

MASS TRANSIT ACT—COMMITTEE PRINT

[In thousands of dollars]

	Fiscal year 1991	Administration 1992	Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995	Fiscal year 1996
Sources of funds:							
Soc. 3 capital grants:							
Trust fund	1,200,000	NA	535,000	580,000	680,000	750,000	835,000
General funds	213,000	0	775,000	780,000	798,000	828,900	850,400
Subtotal sec. 3	1,413,100	NA	1,310,000	1,360,000	1,478,000	1,578,900	1,685,400
Formula grants and other							
Trust fund:							
Contract	200,000	NA	1,070,500	1,220,000	1,300,000	1,450,000	1,565,000
Appropriation	0	0	450,000	525,000	550,000	400,000	300,000
General funds	1,581,483	0	990,000	862,000	801,000	981,500	1,160,000
Subtotal formula and other	1,781,483	NA	2,510,500	2,607,000	2,651,000	2,831,500	3,025,000
All grants:							
Trust fund:							
Contract	1,400,000	350,000	1,605,500	1,800,000	1,980,000	2,200,000	2,400,000
Appropriation	0	2,899,499	450,000	525,000	550,000	400,000	300,000
General funds	1,794,583	0	1,765,000	1,642,000	1,599,600	1,810,400	2,010,400
Total FTA funds	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400
Uses of funds:							
Sec. 3 capital grants:							
Rail modernization	455,000	(1)	524,000	544,000	591,440	631,560	674,160
New starts	440,000	300,000	524,000	544,000	591,440	631,560	674,160
Bus	220,000	(1)	262,000	272,000	295,720	315,780	337,080
ADA and clean air	0	50,000	0	0	0	0	0
Subtotal sec. 3	1,115,000	350,000	1,310,000	1,360,000	1,478,600	1,578,900	1,685,400
Formula grants:							
Sec. 9 and 9B:							
Rail modernization	(2)	600,000	(2)	(2)	(2)	(2)	(2)
Bus	1,156,427	1,446,106	1,330,032	1,382,219	1,507,265	1,610,313	1,720,820
Fixed guideway	578,214	419,802	665,016	691,109	753,633	805,157	860,410
Subtotal sec. 9 and 9B	1,734,641	2,465,908	1,995,048	2,073,328	2,260,898	2,415,470	2,581,230
Sec. 16(b) elderly/handicapped	35,000	45,000	58,508	60,705	63,144	67,356	71,856
Sec. 18 rural	65,359	89,000	127,343	132,340	144,313	154,179	164,759
Subtotal formula	1,835,000	2,599,908	2,180,899	2,266,374	2,468,355	2,637,005	2,817,845

MASS TRANSIT ACT—COMMITTEE PRINT—Continued

[In thousands of dollars]

	Fiscal year 1991	Administration 1992	Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995	Fiscal year 1996
Planning and research:							
MPO's	45,000	(3)	52,637	54,635	56,830	60,620	64,670
State program		62,151	11,702	12,141	12,629	13,471	14,371
Transit cooperative		(3)	11,702	12,141	12,629	13,471	14,371
National program	8,000	31,075	35,105	36,423	37,886	40,414	43,114
University centers	5,000	6,000	5,000	5,000	5,000	5,000	5,000
Rural: RTAP	5,000	(4)	5,851	6,071	6,314	6,736	7,186
Administrative expenses	32,583	40,365	47,586	49,373	51,357	54,783	58,443
Interstate transfer	149,000	160,000	160,000	164,843	0	0	0
Total FTA Program	3,194,583	3,249,499	3,820,500	3,967,000	4,129,600	4,410,400	4,710,400

[1] Section 9.
[2] Section 3.
[3] State.
[4] TP&R.

Improving Capital Investment in Transit

Investment in needed transit. A principal objective of the Committee bill is to accelerate efforts to improve transit systems with a national commitment that corresponds to the urgent challenge to increase mobility, clean the air and reduce reliance on imported oil.

Federal support for transit throughout most of the past decade has fallen far short of the need. Federal transit assistance was cut by 50 percent in real terms. Opponents of federal transit assistance have argued that transit should be a state and local responsibility and that the federal interest can be limited to interstate and interregional transportation. The Committee finds that to be specious reasoning. Since interstate highways attract heavy commuter traffic in our major economic and population centers, the ability of federal highways to offer interstate mobility is profoundly degraded when we fail to provide adequate and balanced transportation systems using all modes of transportation, including transit, to relieve congestion. Achieving that integrated transportation system must be the shared responsibility of all levels of government.

Breakdown of existing procedures. Current federal transit procedures are inadequate to support the investment that will be needed over the next decade. The system is breaking down. Problems with the Section 3 new start program are symptomatic of obstacles to sound rail modernization and bus investment as well.

Section 3 new start applications now in preparation lay claim to current funding levels for the next quarter century. The Administration itself supports funding for twelve projects that have already completed alternatives analysis and are in final stages of development. Those projects alone will require total federal assistance of $2.53 billion, or three-quarters of a billion more than the Administration has requested for the next five years. The Administration estimates that forty projects in the new starts pipeline could require federal assistance in excess of $5 billion. Another $13 billion in projects are currently in systems planning.

In recent years, UMTA has tried to cope by both creating administrative hurdles to delay project approval and chopping large projects into small segments that can be accommodated within available funding levels. Both of these mechanisms hinder the expansion of transit and run up long-term project costs. Time is running out on delaying tactics as an increasing number of important transit projects approach the time when construction can begin.

Faced with these obstacles, cities struggling with air pollution and congestion have sought with growing desperation to expedite federal project approval. More and more seek to circumvent UMTA procedures by getting advance earmarking of funds by Congress. At best that can be a solution for only a few projects—not everyone can jump to the head of the line. And advance earmarking works against the effective use of transit funds provided by Congress. Scarce transit dollars that are set aside for one project often sit idle for years while the project clears the hurdles for final approval. In the meantime, funds are denied to meritorious projects that are ready to begin construction.

Important new management tools. The Committee expects the Federal Transit Administration forcefully to resist project proposals that are unsound public investments. But the Committee intends that, during this authorization cycle, the Federal Transit Administration will become a more effective partner for transit and will accelerate sound transit projects efficiently through to completion.

The Committee bill provides the Federal Transit Administration with several important new tools to fulfill this responsibility. The bill has several provisions to improve project management and financing so that transit operators can more quickly and cheaply implement capital investment called for in their transportation strategies. These reforms are intended to benefit all major transit investment, including new start, rail extension, rail modernization and bus investment. Procedural reforms in the Committee bill conform with federal budgetary controls and will make more effective use of scarce federal transit assistance.

In general, the Committee bill enables the Federal Transit Administration and transit operators better to manage the long-term commitments that are required for major transit investment. Several mechanisms are provided or improved as noted in the following sections.

Full Funding Contracts. UMTA administratively has developed full funding grant agreements or full funding contracts (FFCs) with the principal objective of limiting federal obligations with regard to major projects. Under current FFC practice, UMTA and a grantee enter into a contract that (1) obligates a specific amount of federal assistance, often for the first year only, and (2) includes a commitment to obligate additional amounts contingent upon the availability of funds in future years. The contract commits the grantee to complete a project segment within a specified time period, for a specified cost. The grantee is required to complete the project with the grantee's own funds if federal appropriations are not available. FFCs are a useful tool, but they are directed onesidedly to limitation of federal expenditures and are not well designed to enable grantees to manage long-term projects most efficiently. They force grantees to horde federal transit funds both in anticipation of and after receipt of an FFC. FFCs are limited to the remaining authorization in the most recent authorization bill, so they become less and less useful toward the end of an authorization period.

The Committee bill would authorize full funding contracts in statue, as requested by the Administration, with important refinements. The Committee bill would make it clear that the Secretary is responsible for structuring an FFC not only to establish the terms and conditions of federal financial participation in a project and the maximum amounts of federal financial assistance for the project, but also to facilitate efficient and expeditious management of an approved project through to completion in accordance with federal law. The Committee intends that the FTA become a full partner with the grantee in providing improved transit services.

A central objective of the Committee bill is to enable FTA in the future to enter into the longer-term commitments that are needed for grantees to manage major capital investment projects in a more businesslike way than is possible under current federal procedures. Current practice tends to limit federal approval to the smallest feasible project segment. The Committee bill would enable a grantee to get approval for orderly implementation of an optimum economic project segment, when that would in the long run be more cost-effective and provide significant benefits of congestion relief and air pollution control. In no event could federal approval for a fixed-guideway project be given for less than an operable segment.

Under the Committee bill, as under existing law, any federal funding obligation would be limited to amounts that are provided in advance in law. The Committee fully expects and intends the continuation of current practice under which such amounts are provided in advance in appropriations acts, either as obligational limits on contract authority or as appropriations from the Highway Trust Fund or general funds. The Committee bill explicitly provides for that limitation, and nothing in the Committee bill has the effect of permitting obligation of budget authority in excess of that limitation.

Existing law recognizes that orderly development and implementation of major capital investment requires federal commitments in addition to the binding obligation of funds. These commitments have been provided in various forms through letters of intent. The administration has also increasingly relied on full funding contracts, sometimes called "full funding grant agreements", to formalize the necessary commitments, which under current practice may include a commitment to obligate funds in future years subject only to the availability of funds in those years. The Committee agrees with the Administration that the statute should explicitly authorize full funding contracts along with letters of intent.

The Committee bill makes it clear that (1) full funding contracts can obligate specific amounts of budget authority and (2) they may also make conditional commitments to obligate specified additional amounts of budget authority that will be needed in the future to complete the approved project covered by the full funding contract. For example, if a fully approved project is to take six years to complete, the full funding contract could obligate budget authority sufficient for, say, the first three years and include a contingent commitment to obligate in year three an additional amount needed to complete the project.

The Committee notes that contingent commitments explicity authorized in the bill would not be different in kind from the contingent commitments that have been provided under administrative practice in full funding grant agreement. The importance difference is that the Committee bill would (1) permit the contingent commitments to cover a significantly longer period of time to accommodate more effective managment of capital projects within annual budgetary constraints and (2) use a limitation on the volume of outstanding contingent commitments that more reasonably reflects Congressional intent that sound transit projects be developed in a stable, ongoing review process and carried out expeditiously.

Under the Committee bill, federal reimbursement could be made over a longer period than is needed for project construction, if that is needed to complete a large project efficiently. These conditional commitments would be subject only to the future availability of budget authority provided in law. That is, if a future Congress has not provided sufficient budget authority for projects of the type covered by the letter of intent, the federal government would not have a legal obligation to provide the funding. Any contingent commitment, however, would be fulfilled so long as the budget authority has been provided in advance of that future date.

This provision of the Committee bill would provide FTA with a project management tool similar to the one provided to FAA in the Airport Improvement Act of 1987. That act authorizes FAA to support large, multi-year airport projects that could not be accommodated within funding levels available annually. FAA letters of intent now allow airport authorities to begin work in a timely and efficient manner using funds provided locally or borrowed in the capital markets. The letter of intent makes a contingent commitment to provide federal reimbursement over several years. This system gives the FAA the ability to manage a volume of large projects in a sound manner. The FAA letter of intent does not create a legal obligation of federal funding. Instead, it formally states FAA's intention to fund a specific project under specified conditions in the future so long as funds are appropriated and available for the relevant activity.

The letters set out a proposed schedule of federal expenditures based on FAA's estimate of funding that is reasonably likely to be made available in the future. The Committee believes that such a mechanism is even more needed for transit projects, which often require even longer periods of time and larger amounts of financing for implementation.

The Committee is aware that FAA policy limits projected reimbursements, under all outstanding letters of intent, in any given year to 50 percent of funding that is reasonably estimated to be made available in that year. This limitation is used so that in future years the administration would not find its flexibility unduly constrained by contingent commitments made in prior years.

The Committee bill provides that project costs eligible for reimbursement under a full funding contract would include any interest or other financing costs of efficiently carrying out the project or a portion of the project. The bill specifies that eligible financing costs could not exceed the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. This limitation is intended to promote prudent financial management decisionmaking.

The Committee intends that the Secretary administer these provisions, together with other project management reforms provided in the bill, in a way that greatly reduces the need for operators to seek advance earmarking of funds for sound transit projects.

Early systems work agreements. The Committee bill provides for early systems work agreements as an additional mechanism through which FTA could permit a grantee to proceed with procurement of land, long-lead-time system elements for which specifications are determined, and other activities that are appropriate to avoid delays or other inefficiencies in project management that would increase overall project costs.

The Secretary could only enter into an early systems work agreement if a record of decision pursuant to the National Environmental Policy Act of 1969 (NEPA) has been issued on the project and the Secretary determines there is reason to believe (1) a full funding contract for the project will be entered into and (2) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

An early systems work agreement would obligate an amount of available budget authority and would provide for reimbursement of preliminary costs of project implementation specified in the agreement. Such costs could include land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The Secretary would establish in the agreement the effective date after which local costs are eligible for federal reimbursement, and such date could be prior to compliance with NEPA so long as local costs incurred otherwise meet revelant federal requirements.

Any interest or other financing costs of carrying out the early systems work agreement efficiently would be considered eligible project costs, except that eligible financing costs could not exceed costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant failed to implement the project for reasons within the applicant's control, the applicant would be required to repay all federal payments made under the early systems work agreement plus reasonable interest and penalty charges as specified in the agreement.

The Committee intends that these conditions will make the early systems work agreements a valuable tool for reducing the capital costs of transit in many circumstances; but will ensure that these agreements are used only in projects that can reasonably be expected to proceed.

Limitation on letters of intent and contingent commitments. The Committee bill ensures that the volume and content of contingent committees in full funding contracts and early systems work agreements are consistent with clearly expressed Congressional policy. It does so it a way that is a significant improvement over current practice.

Existing statute limits the total estimated amount of future Federal obligations covered by all outstanding letters of intent to the remaining authorization for the relevant activity under section 3, less an amount the Secretary estimates to be needed for other grants. This limitation rests on the assumption that Congressional support for transit is expressed by the total amount authorized in the most recent transit authorization bill, which typically includes 5 years of authorizations.

This measure of Congressional intent has had unintended and preverse consequences that undermine efficient development and implementation of transit service that Congress clearly does support. Under current practice, the limitation equals the total 5-year authorization at the start of the first year; then, with each passing year, the limitation sharply declines until it hits zero later in the authorization period. As a result, a project under consideration in the first year or two of an authorization cycle can easily be accommodated. But sound project proposals coming to fruition in the final two or three years of an authorization cycle, cannot be given equal treatment. Toward the end of an authorization cycle, meritorious projects are often forced to wait for months until a new authorization bill is passed and the window of opportunity springs open once again. Federal transit officials now operate as if Congress is likely to terminate federal transit assistance abruptly at the end of the authorization cycle, although Congress has never indicated an intention to do so. To the contrary, Congress has repeatedly acted in support of transit. The difficulty and cost of local response to urgent tranportation needs are greatly increased by federal programs that arbitarily go through start and stop cycles.

The Committee bill recognizes that Congressional support for transit is expressed not just through reauthorization of transit programs. Important evidence that Congressional intent is to provide stable federal support for capital investment in public transit is the creation of the special Mass Transit Account within the Highway Trust Fund in 1982, financed with dedicated gas tax revenues. As recently as 1990, in the Omnibus Budget Reconciliation Act, Congress increased tax receipts into the Transit Account.

The Committee bill therefore would limit the value of outstanding FTA letters of intent and contingent commitments in full funding contracts to (1) the total amount authorized for Section 3 or (2) 50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund, whichever is greater. The uncommitted cash balance includes the amounts received in the Mass Transit Account from taxes and interest earned in excess of amounts that have previously been obligated or committed. The total amounts covered in letters of intent, full funding contracts or early systems work agreements for a given use (i.e. new starts, rail modernization or bus) would be subject to the total of authorizations for such use, whether provided as contract authority or as authorizations of appropriations. Under this limitation, even in the extremely unlikely case in which a future Congress terminates subsequent transit assistance, Congress would have provided more than enough in the Mass Transit Account to cover all FTA commitments outstanding at that time.

This change in limitation would enable FTA to consider and approve projects much more consistently over time. As an illustration, under current practice, authorization levels in the Committee bill would permit FTA, right after enactment, to issue outstanding letters of intent and full funding contracts for new start projects up to a maximum of almost $3 billion, the total of the 5-year authorization for Section 3 new starts, less what is estimated to be needed for other grants. Over the course of the authorization cycle, the maximum volume cap on project commitments would fall each year to about $2.4 billion by fiscal year 1993, to $1.9 billion by fiscal 1994, to $1.3 billion by the end of fiscal 1995, to $1 billion by fiscal 1996, and to zero sometime during the last year of the authorization. In practice, these illustrative figures would be significantly affected by the actual pattern of FTA commitments.

The following figures illustrating the intended effect of the bill, show that FTA would work under a more stable ceiling as it considers projects that are ready for approval. At the Committee's request, the Administration projected uncommitteed cash balances remaining in the Mass Transit Account for future fiscal year as a result of the recommended authorization levels as follows: $4.1 billion at the end of fiscal year 1992, $4.5 billion at the end of fiscal year 1993, $4.8 billion at the end of fiscal year 1994, $4.9 billion at the end of fiscal year 1995, and $4.5 billion at the end of fiscal year 1996. The Committee bill's limitation on letters of intent and contingent commitments (at the higher of the remaining authorization or 50 percent of the transit account's uncommitted cash balance) would be roughly as follows: starting at almost $3 billion as under current law, and declining as under current law to $2.4 billion by fiscal 1993, but then leveling out at about $2.5 billion in fiscal 1994, $2.5 billion in fiscal 1995, and $2.3 billion in fiscal 1996. Note that the Committee bill does *not* propose that the remaining uncommitted cash balance be allocated among different section 3 programs (ie new starts, rail modernization and bus). The full amount available within the cap would be available for whatever project is under consideration. even more consistent ceiling throughout the authorization cycle. However, the Committee chose at this point the more conservative level of 50 percent.

Advance Construction Contracts. The Committee bill would amend the existing statute to avoid problems now inherent in advance construction contracts, which inappropriately force grantees to bet on inflation. Advance construction contracts (ACCs) were authorized in the 1987 Surface Transportation Act to permit grantees to proceed with approved projects using their own resources. UMTA agrees to reimburse the grantee for expenses and debt service up to the amount of inflation.

The authorization of ACCs has proven to be less useful than intended primarily because existing statute forces grantees to bet that inflation will be higher than their debt costs and unanticipated cost increases. Few grantees are willing to enter into an ACC on those conditions since, if they guess wrong on future inflation, they must cover any losses.

The Committee bill would make the ACC mechanism more workable by limiting federal reimbursement for financing costs to the most favorable interest terms that are reasonably available to the project at the time of borrowing. This provides a powerful incentive for prudent financial management without exposing grantees to undue risks in the event inflation behaves in ways that are not anticipated by market forces at the time of borrowing.

Turnkey Systems Procurement. The Committee bill would authorize the Secretary to approve system procurement on a "turnkey" or "Build-Operate-Transfer" (BOT) basis. Under turnkey procurement, a grantee would contract with a vendor to (1) build a transit system that meets specified performance criteria, (2) operate the system for several years to ensure acceptable performance of the technology, and then (3) transfer the system to the operator. It is a method used increasingly by municipalities for procurement of high technology systems, for example, by U.S. cities for major solid waste and energy projects, by airports for people-mover systems, and by European cities for major transit projects.

Conventional transit procurement regulations, assume that a grantee will do the basic systems engineering itself, setting specifications for each component and assembling the parts into a final operating system of the grantee's own design. Conventional procurement regulations require completion of an environmental impact statement and engineering prior to vendor selection.

These procedures block procurement of automated guideway systems, such as are being considered for Honolulu and Houston. These systems involve a package of several closely integrated technologies and are vendor-specific, that is each vendor typically uses a different technology. As a result, environmental impact analysis and engineering cannot be completed until the technology (and thus, de facto, the vendor) is selected.

The Committee bill directs the Secretary to develop regulations for a turnkey procurement process. The bill would allow the solicitation for a turnkey system project to be conditionally awarded before all Federal requirements have been met so long as the award is made without prejudice to the implementation of those Federal requirements. Under turnkey regulations, therefore, section 13(c) labor protections and other federal requirements would apply to the completed project. Federal financial assistance under the FT Act would be made available when the recipient has complied with relevant Federal requirements.

The Secretary is expected to develop appropriate regulations in a timely manner. In the meantime, while those regulations are being developed, the Secretary would be authorized to select a maximum of 4 projects under this paragraph and temporarily to waive requirements of law to the extent that such waiver is appropriate to achieve efficient and expeditious implementation of those projects.

Multi-year Procurement of Rolling Stock. The Committee bill would authorize a transit operator to enter into multi-year agreements for the purchase of rolling stock, such as buses and rail cars, and replacement parts. The purpose of this reform is to permit a reduction of overall procurement and maintenance costs through greater standardization and more orderly replacement of fleets. The agreements could provide for an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

The Committee considered favorably a proposal to amend existing statute with language explicit authority for "buy-back" procurement, under which an operator could award a contract to other than the low bidder so long as the recipient pays the extra cost with non-federal funds and Federal reimbursement is made on the basis of the low bid. The Committee did not include this amendment after being assured by the Administration that existing law permits operators to achieve this by using negotiated procurement procedures. The Committee is concerned that many transit operators seem unfamiliar with ways in which currently sanctioned procurement procedures can be used to achieve the long term savings of maintaining a standardized fleet of high quality vehicles. The Committee expects the Secretary to inform all operators of these procedures and, if necessary, to streamline the procedures so that they are more workable for more operators.

The Committee bill would also authorize two or more recipients to cooperate for the joint procurement of vehicles. The Secretary is expected to provide streamlined procedures so that rural transit operators and smaller communities can efficiently use such joint procurement procedures.

Commute to Work Benefits

The Committee bill would assert Congressional findings regarding commute-to-work benefits. Under the existing tax code, the use of alternative forms of transportation—such as mass transit, and shared-ride services—is discouraged by inequitable tax treatment. Although employers may provide unlimited tax-exempt parking benefits to employees, transit and vanpool benefits are limited to $15 per month. If transit benefits exceed $15 per month, then the entire amount of benefits (including the first $15) becomes taxable. This tax policy is inconsistent with other national objectives including the need to conserve energy, reduce reliance on energy imports, relieve congestion and reduce air pollution. This section would affirm the need to provide equal benefits to employees commuting via private automobile or public transit.

Rail Modernization Formula: The Committee bill would make two fundamental amendments to the rail modernization program. First, the bill would establish a statutory formula for the distribution of rail modernization funds; under existing law, the program is distributed on a discretionary basis. The creation of a statutory formula will bring a predictability and certainty to the distribution of rail modernization funds that has been absent since the inception of the program. It is expected that the move to guaranteed apportionments will also enable transit properties to (1) gain greater access to private financing and (2) carry out capital projects in a more timely fashion.

Second, the bill would expand the coverage of the rail modernization program to include historic rail systems as well as those "new" fixed guideway systems confronting the need for greater modernization. Historic rail systems are presently the exclusive recipients of rail modernization monies. These systems—generally inherited by public authorities after years of private ownership and neglect—continue to have large capital needs and, in the Committee's estimate, deserve to receive the bulk of federal modernization dollars. Yet many "new" fixed guideway systems are also approaching an age where major capital investments are needed if significant deterioration is to be avoided.

The Administration proposal would have permitted all "new" fixed guideway systems to participate under the rail modernization program. The Committee bill, by contrast, would define "eligible systems" as including only historic rail systems and other fixed guideway systems in revenue service for more than ten years.

The Committee strongly believes that the rail modernization program should remain well-targeted and well-defined. The primary purpose of the program would continue to be to fund large modernization projects for which section 9 funding is inadequate. That purpose would be undermined by allowing the participation of "new" systems that do not have substantial modernization needs. Such systems would most likely use rail modernization funding for routine maintenance activities. The existing distinction between rail modernization and Section 9 activities would, thereby, be lost—weakening the ability of supporters for both programs to argue persuasively for continued or expanded funding.

The Committee has chosen 10 years of revenue service as a convenient proxy for modernization needs. The Secretary would have the discretion to permit fixed guideway systems that have not been in revenue service for such period to participate—on a year-by-year basis—where such systems demonstrate that they have modernization needs that cannot adequately be met by section 9 funding.

The Committee formula adopts, with several modifications the three-tier distribution system recommended by the American Public Transit Association. The Committee notes that APTA conducted extensive negotiations and discussions among all affected transit properties in devising its recommended formula. The new statutory formula would balance the competing needs and claims of historic and "new" fixed guideway systems.

The formula would work as follows:

Tier One—Hold Harmless for Historic Rail Systems. In a given fiscal year, the ten historic systems would receive all the funds up to an appropriation of $455 million, the amount appropriated in fiscal year 1991. The ten historic systems would include those systems that (1) have received rail modernization funding in at least two of the five fiscal years 1986–1990; and (2) received in fiscal year 1991 at least 0.5 percent of the funding made available under the Section 9 rail tier. Systems qualifying under this definition include: Boston, Chicago, Cleveland, Maryland commuter rail, New York City, Northeastern New Jersey, Philadelphia, Pittsburgh, San Francisco and Southwest Connecticut.

Funds would be distributed as follows:

41 percent of the total "hold harmless" amount would be set aside for New York and Southwest Connecticut. These funds would be further divided so that New York would receive 35 percent of the total amount and Southwest Connecticut would receive 6 percent.

2 percent of the total amount would also be set aside for Pittsburgh.

The remainder of the funds would be distributed primarily on an historic share basis, recognizing in a fair and equitable manner the proportion that each historic system received under the program. Each remaining historic system would generally receive, on an annual basis, the higher of (a) its 3-year share (i.e. averaging funds received from fiscal years 1988 through 1990) or (b) its 7-year share (i.e. averaging funds received from fiscal years 1984 through 1990). The Secretary would make such pro rata adjustments as necessary in applying this allocation. Each of these systems would be assured, at a minimum, the amount it would have received under the Section 9 rail tier formula.

Tier Two—50/50 Allocation between Historic Rail Systems and "New" Fixed Guideway Systems. The first $70 million in appropriations above $455 million would be divided on a 50/50 basis between the historic rail systems and those "new" fixed guideway systems experiencing substantial modernization needs—those systems in revenue service for at least ten years. These excess funds would be distributed by the factors contained under the Section 9 rail tier formula.

Tier Three—Distribution By Section 9 Formula. All amounts appropriated in excess of $525 million would be distributed to all historic rail systems and eligible "new" fixed guideway systems by the factors contained under the Section 9 rail tier formula.

The Committee intends that the Secretary, in allocating funds under the revised rail modernization program, continue to take into account the special circumstances of the San Francisco area. The Committee intends that San Francisco's share under the Section 9 rail tier formula equal to the cumulative formula share of the three rail systems currently operating within the area. In addition, the Committee intends that the designated recipient in the San Fransico region—the Metropolitan Transportation Commission—retain the discretion to allocate rail modernization funds among the area's three rail systems as it deems appropriate.

The Committee intends that the Secretary establish guidelines for the expenditures of rail modernization funds that are consistent with the traditional purposes and activities of the program. Such activities have included the replacement, renovation or refurbishing of existing facilities and equipment to achieve appropriate levels of service, safety, capacity or reliability.

OTHER AMENDMENTS TO SECTION 3 CAPITAL GRANTS

Title Change. The Committee bill would rename section 3 of the Federal Transit Act to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program" to reflect the fact that Section 3 Rail Modernization assistance will be allocated by formula.

Grandfathered Jurisdictions. The Committee bill would clarify that all existing letters of intent, full funding grant agreements and letters of commitment that are in effect when this Act is enacted, will remain in effect notwithstanding other provisions of this Act.

The Committee intends that this "grandfather" clause will extend to the Westside Light Project in Portland, Oregon, as identified in section 328 of P.O. 101–516. The Committee directs that the extension of this project to the Transit Center in the City of Hillsboro, Oregon (subject to the regional decision documented in the regions preferred alternatives report) shall proceed under the existing terms and conditions. The Committee understands that progress on the Hillsboro extension will not preclude FTA from approving alternative analysis for other projects in the region.

Innovative Techniques and Practices. The Committee bill would expand eligible activities under the section 3 discretionary program to include projects that introduce innovative techniques and methods to public transportation. This change simply codifies existing practice by incorporating language from section 4(i) of the Act into section 3.

Capital Grants Eligible Activities. The Committee bill would add to the list of eligible activities under section 6, the development of corridors to support fixed guideway systems. Grants could be used for bus service improvements, marketing of bus service, protection of rights-of-way through acquisition, transportation system management improvements (such as dedicated bus lanes, high occupacy vehicle lanes, construction of park and ride lots) and any other improvements that would result in increased transit usage in the corridor.

Overmatch and Fiscal Capacity. The Committee bill would require the Secretary to take account of differences in state and local fiscal capacity if the Secretary gives special consideration in project approval for projects that "overmatch", or exceed the required state and local shares of project costs. The Committee intends to avoid placing distressed communities at an unfair disadvantage in the awarding of federal transit assistance. This change would maintain incentives for states and localities to contribute as much of the project costs from their own resources as is reasonable. The Committee bill also mitigates any inappropriate affects of "overmatch" by permitting highway funds to be used to reduce assistance requested under Section 3, as noted elsewhere in this report.

Capital Grants for Elderly Persons and Persons with Disabilities. The Committee bill would allow public transit agencies to apply for funding under the Section 3 grant program for capital transportation projects that are specifically designed to meet the needs of the elderly and persons with disabilities.

The Federal Transit Act and the Rehabilitation Act have long guaranteed the rights of persons with disabilities and elderly persons to use mass transportation. The recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers. The Federal Transit Act and the Rehabilitation Act have long guaranteed the rights of persons with disabilities and elderly persons to use mass transportation. The recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers that are more stringent than current law and, as a consequence, more costly. The Committee bill would provide public transit agencies with a mechanism to help address the major capital costs associated with ADA compliance.

Allocations. The Committee bill would amend the statutory allocation of Section 3 funds that was established by the Surface Transportation and Uniform Relocation Act of 1987. The 1987 Act mandated that Section 3 grant funds be allocated as follows: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; 10 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities; and 10 percent for a Secretary's discretionary pot to be allocated among the three major activities.

The Committee bill would establish a modified allocation of Section 3 funds; 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities. The Committee has taken such action in recognition of the substantial bus needs anticipated over the coming five year period, particularly given the recent mandates of the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act of 1990.

Local Share. The Committee bill would clarify the existing statutory requirement that 25 percent of the cost of a project approved under section 3 be provided from non-federal sources. Under current practice, UMTA recognizes as non-federal match only those commitments that are made after a project is approved. The section would permit the costs of rolling stock purchased prior to the approval of a section 3 application to satisfy the non-federal share requirement if (1) the stock was purchased with no federal assistance, (2) the stock would not have been purchased except for its planned use on an extension eligible for Section 3 assistance, and (3) the stock is to be used on the extension for which the Section 3 application is being submitted.

The Committee is aware of one fact situation that would be covered by this amendment. In 1989, the Maryland Department of Transportation placed an order for 35 light rail cars for the new Baltimore Light Rail system. The order was intended to supply 27 cars for the operation of the light rail line now under construction (the "main line") and an additional 8 cars for future use on planned extensions to the system. The inclusion of the 8 cars represented commendable foresight on the part of the State: it ensured that the entire rolling stock inventory on the main line and the planned extensions would be compatible and enabled the State to save money by ordering a larger number of cars in advance. All costs for the construction of the main line and the 35 rail cars have been paid entirely with non-Federal funds.

The State expects to file a Section 3 application for the new extensions in late 1991 and recently began to discuss with UMTA the possibility of Federal support. UMTA informed the State that the costs of the 8 cars could not be counted towards the required non-federal share because the order was placed before approval of an application for section 3 funds. A different resolution would have occurred if the State had ordered the rail cars after approval. Then, the 8 cars would be part of the Full Funding Grant Agreement and any funds expended for such cars could count toward the non-federal share.

The Committee has concluded that the costs of purchasing the 8 rail cars should count towards Maryland's satisfaction of the non-federal share requirements under section 3. The expansion of the purchase order in 1989 was a prudent decision that enhanced long-term project management and reduced costs; Maryland should not be penalized for such action.

The Committee notes the narrow scope of this amendment; it would merely clarify, in a limited way, the non-federal matching requirement contained under Section 3. The amendment would not change any requirements governing the eligibility of the extensions for federal funding. Nor does it affect the Secretary's discretion to approve or disapprove a Section 3 application for the extensions. Nor does it change the level of either the federal or the non-federal matching requirement.

CRITERIA FOR NEW STARTS

Elimination of biases. The Committee bill would eliminate biases in federal law that give state and local officials a disincentive against choosing the most effective solutions to local mobility and clean air problems, regardless of the transportation mode. Under current law, most jurisdictions have a strong incentive to choose highway construction rather than other transportation options because federal highway funds are so much easier to receive. Highway projects qualify for a higher federal match, local matching funds may be available only for highway projects, and transit projects have a more burdensome and time consuming approval process. As transit becomes more urgently needed in areas with severe air pollution and congestion, these biases in federal law become even more troublesome.

The Committee bill provides a more "level playing field" by relieving transit application review requirements under certain circumstances. FTA's consideration of local overmatch would be refined and linkage between transportation and air quality would be recognized. Equitable evaluation of each transportation alternative is necessary for flexible use of transportation funding, as provided in the Committee bill and the highway bill reported from the Senate Environment and Public Works Committee.

FTA Review Process. A key barrier to the choice of transit is the current approval process for major transit new start and extensions projects. This process was originally intended to provide information for allocation of scarce federal discretionary grants for transit. Over time, this has evolved into a process that itself serves as a grant rationing device designed to slow down all projects and keep applicants away from the window as long as possible. Under the previous Administration, federal cost-effectiveness thresholds were used to aggressively block construction of fixed guideway projects that the administration philosophically opposed.

Many transit experts have found the transit approval process narrow in scope, overly complex and excessively time-consuming. Federal procedures do not adequately recognize potential benefits of a transit project as reflected in reduced air pollution and energy consumption, increased economic development, improved mobility for transit dependent people, and relief of roadway congestion.

The Committee believes that transit grant approval process should weed out unsound projects without needlessly escalating costs on meritorious projects. Excessive approval procedures erode the buying power of federal assistance, makes it difficult to maintain a local consensus for transit, and discourage localities from carrying out the most effective transportation strategy. The Committee intends that FTA will assess current procedures and reduce unnecessary or excessive reports and requirements in the project development process.

The Committee bill would broaden the criteria used in evaluation of new starts projects to include consideration of a project's social, environmental and economic impacts. Administrative cost-effectiveness analysis has used changes in ridership as a proxy for other benefits derived from transit. The Committee bill would revise federal cost-effectiveness analyses to take explicit account of direct and indirect costs associated with each transportation alternative, including the costs of resulting air pollution, delay caused by congestion, and increased importation of foreign fuel. FTA would also give appropriate recognition to other benefits of transit—such as realistic expectations for economic development, increased mobility for transit dependent persons, and local efforts to support transit through land use and other policies. FTA would be expected to consider a community's efforts to facilitate the development, improvement and use of efficient transportation systems through existing land use policies and projected future patterns of development.

The Committee intends that these added criteria will receive equal consideration as existing indices in determining project worthiness. That is, a project would not have to meet existing criteria before these additional factors would be considered. The Committee further intends that the FTA consider the costs and benefits of transit and other alternatives on a long-range basis.

The Committee bill would adjust the numerical cost-effectiveness threshold used to rate projects so that it reflects inflation and regional differences in land, construction and operating costs. The Committee expects that, until updated indices are available, FTA would reflect inflation adjustments in current indices.

The Committee bill would clarify the meaning of "local financial commitment" and "stable funding sources" to ensure that transit providers can carry through on their commitment to develop and operate a new or expanded fixed guideway system without reducing existing levels of service. To meet the criteria for local financial capacity, a recipient would be required to have reasonable contingency funds available to cover unanticipated project cost overruns; have stable, reliable and available funding sources for the duration of the project timetable; and maintain transit service at existing levels. Determinations of the stability, reliability and availability of local funding sources would be based on existing grant commitments; the degree to which funding sources are dedicated to the project; and any debt obligations which exist or are proposed to fund the project or other transit activities.

The Committee did not include provisions recommended by the Administration to require the assessment of innovative project financing as part of the section 3 project development process. The Committee believes that consideration of alternative financing options is important, but should apply equally to all federal transportation investments. The Committee has, therefore, included these provisions in the transportation planning process described in this bill.

Overmatch policy. Under current practice, UMTA gives preference to applications that have state or local funding substantially above the required non-federal match. That policy is intended to ration scarce Section 3 resources and give preference to projects that are of very high priority at the local level. In practice, however, the policy places relatively poor areas at a disadvantage. The policy also greatly exacerbates the bias against transit projects by driving the required state/local share for transit projects well above comparable shares for highway projects. For highway construction projects the required match is the match, but for transit construction projects the required match is the *minimum* match. A community must often provide a local matching share at least the 25 percent match required in law if its project is to have a chance at approval.

The Committee bill would prohibit FTA from discriminating in the allocation of discretionary funds against communities that can't provide overmatch due to fiscal incapability.

The Committee bill would, however, provide incentives for communities with more available resources to contribute the greatest amount of local share reasonably possible. Project review processes would be expedited for applications that request Section 3 assistance of less than $25 million or less than one-third of the total costs of a project of program of related projects. These limits could be achieved by using higher levels of non-federal funding and allocating other federal transportation assistance to the project, such as federal highway assistance. Federal highway assistance could not be used for the required local match, but it could be used to reduce the need for Section 3 assistance to qualify for expedited project review and approval.

The Committee recommends that FTA, if giving preference to communities that overmatch federal requirements, identify and consider per capita indices of state and local project contributions, in addition to aggregate measures of contributions. This would provide a fairer assessment of the relative level of financial commitment from smaller urban areas.

Linkage with the Clean Air Act. The Committe bill would reinforce the important link between air quality and transportation that is recognized in the Clean Air Act, as amended. The new starts criteria and the limitation of development to one corridor at a time would be waived for transportation control measures required to carry out an approved State Implementation Plan (SIP) in extreme or severe non-attainment areas. In other non-attainment areas, review requirements would be expedited for such transportation control measures required in an approved SIP.

The Committee expects that this section would be implemented through formal public notice and comment procedures. The Committee further expects that this Committee and the House Public Works and Transportation Committee receive advance opportunity to comment on FTA's capital investment policy.

FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE

The Committee bill would establish a higher federal match for those projects that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilites (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The changes apply to projects funded under sections 3, 9, 16(b), and 18. The Secretary would determine the portion or portions of a project eligible for the higher federal match. The current federal match for capital projects is 80 percent under sections 9, 16(b) and 18 and 75 percent under section 3.

Projects eligible for the higher match would include, for example, the procurement of lift-equipped buses and vans; the acquisition of particulate traps; the construction or renovation of bus stops, terminals and transfer stations; or the construction of alternative fuels facilities.

The Americans with Disabilities Act requires the provision of special services and improved access to regular services for persons with disabilities. Under ADA, every transit vehicle, bus and rail car purchased or leased by a transit system must be accessible to persons with disabilities, including people using wheelchairs. Light, rapid and commuter rail systems must carry at least one accessible car on each train within five years. New "key" rail stations must be accessible within three years unless an exception based on high cost is met. Special on call services (complementary paratransit) must be available for those disabled riders who, due to the severity of their impairment, are unable to use a regular fixed-route system, even if it is accessible.

The Department of Transportation estimates the cost for all ADA transportation requirements to be between $850 million and $1.3 billion per year.

The Clean Air Act Amendments of 1990 will also have a major impact on costs of providing transit. The cost direct effect will be on urban bus systems (those bus systems which operate intracity in urbanized areas) which will have to lower their particulate matter emissions and bear the costs of bringing their fleets into compliance with the Act through the use of newer, cleaner technologies.

Estimates of the cost of compliance with the Clean Air Act Amendments vary, depending on the system or technology used. The costs associated with replacing buses upgraded to use clean alternative fuels range from $48,000 per bus for methanol fuel to $64,000 per bus for compressed natural gas. The estimated cost of replacing a bus equipped with particulate traps is $14,000. In addition, the estimated cost for replacing or modifying existing fuel storage systems to meet new federal guidelines runs as high as $1 million per system.

The combined costs to transit systems associated with compliance with the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act will be significant. The Committee notes that the proposal submitted by the Administration contained only $50 million to assist transit providers with compliance with the Clean Air Act Amendments of 1990 and the Americans with Disabilities Act, and proposed reducing the federal share for these projects to 60 percent.

The Committee is aware that many transit systems may have difficulty meeting the costs associated with compliance. The Committee is also aware that the current state of the national economy and the fiscal distress faced by many states and localities may pose added burdens for transit systems already struggling with rising fuel costs and in some cases, reduced services.

The higher federal match included in the Committee bill recognizes the significant fiscal impact that compliance with the new federal laws will entail and attempts to provide transit systems with some assistance in meeting the goals of these federal mandates. The bill also recognizes the importance of transportation demand strategies as noted from section 108 of the Clean Air Act Amendments of 1990 and encourages research and technical assistance for these purposes.

Comprehensive Transportation Strategies

The Committee bill would reform the current transportation planning process to give more attention to intermodal solutions and to give metropolitan planning organizations (MPOs) in certain areas clearer responsibilities for approving projects. The Committee bill requires the development of comprehensive metropolitan transportation strategies by metropolitan planning organizations. The Committee bill is designed to make few significant changes in current practice for areas that are less densely populated and that do not have problems with air pollution.

The existing urban transportation program and planning process largely has been positive. However, the current environment, the nature of growth patterns, and transportation needs in metropolitan areas require a new surface transportation program architecture coupled with an enhanced transportation planning and investment decisionmaking process to address state, regional and local needs within the context of national policy objectives and strategies. The new process should provide for a new, more collaborative decisionmaking arrangement that actively engages the state, public transit operators, and local government officials.

The current Section 8 program follows the practice in the Section 134 metropolitan highway planning requirements for defining the planning area boundary, which is essentially the urbanized area within each metropolitan region. This practice makes sense when the original metropolitan planning requirements were crafted in 1962, but is inadequate today. Since that time, suburbanization and its attendant problems, including degradation of air quality, require an expansion of the metropolitan boundary to enable growth areas in the outer reaches of the metropolitan area to be assessed within an overall transportation and program. The need to include these growth areas was recognized in the recently enacted Clean Air Act Amendments which expanded the non-attainment boundary to include the entire Metropolitan Statistical Area.

The Committee believes that there should be an orderly evolution of a strengthened collaborative metropolitan planning and programming process. Effective collaboration requires full representation and participation of the state, local public officials, and the public transit operator(s) in the process. Because the Committee recognizes that within metropolitan area boundaries, growing suburbanization can lead to imbalances between addressing central city and suburban needs, the Committee has provided for assured representation of central cities on metropolitan planning agency. This special consideration for the needs of central cities should be reflected in the expenditure of funds as well.

In amending Section 8, the intent of the Committee is to provide for an orderly reassessment and redesignation of the planning agency and area by local public officials and the Governors over a reasonable period of time. The Committee recognizes the need for a phase-in process for redesignating Transportation Management Areas which are the larger metropolitan areas and areas which are not meeting ozone air quality standards. However, the Committee intends that the highest priority for redesignation of institutions and area boundaries should be given to the 96 non-attainment areas. In non-attainment areas classified as serious, severe or extreme, redesignation of Transportation Management Areas and their boundaries should occur within two years, with the balance of TMAs designated as soon as practicable but not later than four years after enactment.

Statement of national interest. The Committee bill declares Congressional intent that it is in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through metropolitan areas and minimize transportation-related fuel consumption and air pollution. The Secretary would be required to cooperate with state and local elected officials in metropolitan areas in the development of comprehensive transportation strategies for achieving this objective.

Metropolitan Planning Organizations. The Committee bill would require that an MPO be designated for each urbanized area of more than 50,000 in population, as under existing law. The MPO structure would be determined by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. If an MPO is in a metropolitan area that (1) has population over 250,000, (2) is in non-compliance under the Clean Air Act, or (3) is otherwise eligible for designation as a "transportation management area" as noted below, the MPO will have to include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including, at a minimum, all transportation agencies that were included as of June 1, 1991), and appropriate state officials. For purposes of this section, the term "metropolitan area" means an area for which one metropolitan planning organization is responsible.

Once an MPO is designated, whether under this or earlier provisions of law, the designation would remain in effect until revoked either by agreement among the Governor and the local governments or by other state or local procedures. To accommodate the new responsibilities conferred under the bill, this subsection would permit MPO's to be reorganized and redesignated at any time by agreement among the Governor and local governments representing at least 75 percent of the metropolitan area's population, including the central city or cities, as defined by the Bureau of the Census. The bill requires that an MPO be redesignated within a period of 12 months if the Secretary designates the metropolitan area to be a transportation management area. The Secretary is required to establish appropriate procedures and timetables for MPOs to comply with membership requirements and other provisions in law.

The Committee bill would require each governor, when an MPO is designated or reorganized, to ensure that the MPO is structured to (1) give balanced assessment to all modes of transportation, including roadway and public transit facilities, (2) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area, and (3) otherwise carry out the MPO's responsibilities under federal law. The Governor would have to certify to the Secretary that the requirements of the previous sentence have been met.

Transportation Management Areas. The Committee bill would require the Secretary to designate certain metropolitan areas to be "transportation management areas", within which the MPO will have expanded responsibilities for planning and projects selection. Transportation management areas would include all metropolitan areas that have greater than 250,000 population, or are nonattainment areas under the Clean Air Act, as amended. The Secretary would be required to publish and annually update a list of metropolitan areas that meet those criteria.

The Secretary could also designate additional transportation management areas at the request of the Governor and MPO. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. This would permit local officials in ecologically important areas with smaller populations, such as the Lake Tahoe area in California and Nevada, to have the direct authority they need to carry out a comprehensive, long-range transportation strategy that integrates all modes.

The designation of a transportation management area would remain in effect until revoked by the Secretary. The MPO in a transportation management area is required to carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the state and transit operators. The bill gives such MPOs additional authority and responsibility.

To provide for an orderly implementation of intermodal planning and programming in transportation management areas, the Committee bill provides a transition period. The Secretary would be required to achieve the designation of not less than a minimum number of transportation management areas in each of the next 5 years: by the end of the first year after enactment, 20 percent of the eligible metropolitan areas would have to be designated; by the end of the second year, 40 percent; by the end of the third year, 60 percent; by the end of the fourth year, 80 percent; and all such areas would have to be designated in the fifth year. The bill makes it clear that the Secretary is responsible for exceeding the minimum percentages required for designation. Although the Secretary can make adjustments for compelling local circumstances, the Secretary is expected to begin with designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Committee expects that priority would also be given to metropolitan areas where the MPO is well organized to comply with the requirements of this section and requests such designation. The Secretary would be required to designate all nonattainment areas that are classified under the Clean Air Act, as amended, to be "moderate", "serious", "severe" or "extreme" nonattainment areas for ozone or "serious" nonattainment areas for carbon monoxide within 2 years after the date of enactment of this section.

Metropolitan Area Boundaries. The Committee bill provides that the boundaries of a metropolitan area would be determined by agreement between the MPO and the Governor. To provide for comprehensive, long-range transportation planning, each metropolitan area would have to include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent twenty year period.

The bill makes provision for metropolitan statistical areas that are so large or complex that one MPO would be too unwieldy. The bill, however, would discourage the break up of MPOs that have already been formed. This subsection permits more than one MPO to be designated within a metropolitan statistical area, as defined by the Bureau of the Census, only if the area had more than one designated MPO on January 1, 1991 and the Secretary determines that more than one MPO is needed because of the size and complexity of the area. The bill authorizes the Secretary to require consolidation of MPOs in a metropolitan statistical area if the Secretary does not find that more than one MPO is needed for coherent regional transportation decision making. If more than one MPO is needed, the bill requires that appropriate provision be made to coordinate the metropolitan transportation strategies of all MPOs within the metropolitan statistical area.

The bill requires all areas that are in noncompliance under the Clean Air Act, as amended, to be included within the boundaries of the appropriate MPO's metropolitan area. An appropriate metropolitan area would also have to include any area that the Governor and MPO determine are likely to be significantly affected by air pollution within the foreseeable future, as determined by the Secretary. If more than one MPO has authority within a non-attainment area, appropriate provision would have to be made to coordinate the metropolitan transportation strategies within the whole non-attainment area.

The bill would foster coordination of transportation strategies across multi-state areas. The Secretary would have to establish requirements to encourage Governors and MPOs with responsibility for a portion of a multi-state Metropolitan Statistical Area (MSA) or Consolidated Metropolitan Statistical Area (CMSA) to provide coordinated transportation planning for the entire MSA or CMSA.

The bill would give States consent to enter into interstate agreements or compacts that are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section.

Development of Transportation Strategy. The Committee bill would require each MPO to prepare and update periodically a metropolitan transportation strategy for its metropolitan area. The Secretary would establish procedures according to which the strategy would be prepared. In developing the strategy, the MPO would be required to consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

The Committee bill would specify major elements to be included in a published strategy in contrast to existing statute, which specifies elements of a local planning process. The Committee believes the federal government should direct its attention to the *product* of a local planning process, leaving more discretion to states and localities to define the most appropriate process for arriving at that product.

Each MPO would have to publish the strategy or otherwise make it readily available for public review. The MPO would also have to submit the strategy to the Governor for information purposes. The Secretary would have to establish dates and procedures for the publication and submission of strategies.

In Clean Air Act non-attainment areas for transportation-related pollutants, an MPO would be required to coordinate the development of a metropolitan transportation strategy with the development of transportation measures of the State Implementation Plan required by the Clean Air Act.

Each MPO would be required to provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with a reasonable opportunity to participate in the development of the strategy.

The Secretary would have to assure that each MPO is carrying out its responsibilities under applicable provisions of federal law. At least every three years, the Secretary would be required to provide certification to those MPOs that are complying with requirements of federal law. If the Secretary finds, after reasonable notice and opportunity for hearing, that an MPO is not carrying out its responsibilities under applicable provisions of federal law, the Secretary would have to deny certification. In that case, and until satisfactory corrective action is taken, the Secretary may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or the Federal Transit Act. The Secretary would be specifically prohibited from (1) withholding certification of an MPO on the basis of the MPO's policies and criteria for determining the feasibility of private sector participation in accordance with section 8(e) or (2) otherwise impeding an MPO's implementation of such policies and criteria.

Contents of Strategy. The Committee bill requires metropolitan transportation strategies to be in a form that the Secretary deems appropriate. At a minimum, a strategy would:

(A) Identify transportation facilities (including major roadways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as (i) moving goods within the metropolitan area and among distant markets, (ii) enabling people to move quickly to and from home, jobs and other destinations, and (iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

(B) assess major demands on the metropolitan transportation system, projected over the subsequent 20 year period;

(C) set forth a long-range strategy for meeting metropolitan area personal mobility and goods transportation needs, including state and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity;

(D) explain how proposed transportation decisions will (i) achieve compliance with applicable requirements of the Clean Air Act, as amended, the Clean Water Act and other environmental and resource conservation laws, (ii) further applicable federal, state and local energy conservation programs, goals and objectives and (iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

(E) explain (i) the extent to which state and local policies regarding land use and transportation will affect metropolitan-wide mobility, and (ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

(F) include a financial plan showing how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

(G) project capital investment and other measures necessary to (i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities and (ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

(H) indicate any proposed transportation enhancement activities, as defined in the Clean Air Act.

For metropolitan areas that are not transportation management areas, the bill would permit the Secretary to provide for abbreviated strategies appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. The state would be required to develop a state-wide transportation strategy that takes into account the transportation needs of areas for which no MPO has been designated.

Development of transportation improvement programs (TIP)

The Committee has provided that a Transportation Improvement Program is required to be developed by every Metropolitan Planning Organization. The TIP will include all federally-assisted projects and activities to be carried out within the metropolitan area. Section 8(c) further provides that in transportation management areas—those over 250,000 population and non-attainment areas—projects and activities funded under Section 106 of the Federal-Aid Highway Act of 1991 and sections 3 and 9 of this Act will be selected and approved by parties acting collaboratively through the metropolitan planning process. The projects that are selected through this collaborative process in Transportation Management Areas should reflect the highest priority needs and interests that would be served by using these funds in carrying out comprehensive transportation strategies and meeting national objectives. However, it should be noted that some projects are designated solely to preserve and maintain existing highway and transit facilities and activities, and are largely the programming responsibility of the state or public transit operator. The Committee does not intend for these projects to be subject to the metropolitan selection and approval process. These projects are required, however, to be contained in the Transportation Improvement Program for the metropolitan area.

The Committee intends that projects exempted from the selection and approval process be strictly limited to operations management, maintenance and preservation projects that do not add to the physical design capacity of facilities. Excepted projects would not include, for example, highway projects that provide for additional lanes, auxiliary lanes, or interchanges, rail extensions, new bus facilities, or new or extended bus routes.

The Committee bill would require an MPO, in cooperation with the state and relevant transit operators, to develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years. The program would have to include all projects within the metropolitan area that are proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and the Federal Transit Act. The program would have to conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act, as amended. The program would have to include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticipated to be available within the period of time contemplated for completion of the project. In the case of a major project to expand the transportation capacity, an appropriate range of alternatives would have to have been analyzed in accordance with the National Environmental Policy Act.

The Committee bill would require the MPO to update or reapprove the program annually, although the Secretary could permit less frequent updating for areas that are not designated to be transportation management areas. An MPO would be able to amend the program at any time, provided that the amendment is consistent with the metropolitan transportation strategy.

The Committee bill would require an MPO, prior to approving a transportation improvement program, to provide citizens, affected public agencies, representatives of transportation agency employees, private providers to transportation and other interested parties with reasonable notice of, and opportunity to comment on, the proposed program.

A TIP would have to identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevant programming period.

The Committee bill would require each governor to develop and submit to the Secretary a TIP for areas for which no MPO has been designated. The state TIP would have to cover a period of not less than 3 years and include projects proposed for funding in both metropolitan and non-metropolitan areas under the bridge and interstate assistance programs of the Federal-Aid Highway Act of 1991.

Approval of projects. The Committee bill would give the MPO in a transportation management area authority to approve all projects in the metropolitan area that would expand the capacity of the existing transportation system. The MPO would have to submit to the Governor and the Secretary a list of highway and transit projects and activities that the MPO has approved for funding in the ensuing period, which could not exceed two years. Federal assistance required for the approved projects and activities could not exceed the amount of federal assistance that is made available for capacity expansion within the metropolitan area for the period—either under section 106 of the Federal-Aid Highway Act of 1991 or sections 3 and 9 of the Federal Transit Act.

When submitting a list of approved projects and activities, the MPO would have to certify to the Secretary that the list (A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4) (E) and (B) is consistent with a transportation improvement program that is submitted to the satisfaction of the Secretary under subsection (b)(2).

The Committee bill would prohibit funds under the Federal-Aid Highway Act of 1991 or the Federal Transit Act from being used for any project or activity within a transportation management area unless it is included in the list of projects approved by the MPO. That prohibition would not apply to projects or activities that (A) are necessary to manage, maintain and preserve existing transportation facilities or operations without adding to the design capacity of such facilities, or (B) are part of a program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act, as amended. Planned projects or activities exempted from MPO approval under this section would still have to be included within a TIP.

Recapture. The Committee bill provides that federal highway and transit funds made available in a transportation management area for project selection by an MPO would remain available for a period of 3 years. If the funds are not obligated within that period, the Secretary would be required to recapture the funds and promptly reallocate them among other states according to the formula for the program under which the funds were made available. Funds would be considered to be obligated if they are reserved to help finance a project for which an application is pending under Section 3 of the Federal Transit Act.

Transfer of funds. Funds made available under the Federal Transit Act that are approved by an MPO for a highway project would have to be transferred promptly to and administered by the Federal Highway Administration, in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available under the Federal-Aid Highway Act that are approved by an MPO for a transit project would have to be transferred promptly to and administered by the Federal Transit Administration in accordance with the requirements of the Federal Transit Act.

Intergovernmental cooperation in planning. The Committee bill includes a provision in existing law that authorizes the Secretary to contract for and make grants to states and local public bodies and their agencies for planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section could include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities and equipment. A grant of contract under this section would have to be made in accordance with criteria established by the Secretary.

The Committee bill includes another provision in existing law that requires plans and programs under this section to encourage the participation of the private sector to the maximum extent feasible. A metropolitan planning organization would have exclusive responsibility for determining the policies and procedures necessary to carry out this subsection. If a program involves the acquisition of facilities and equipment that are already being used for mass transportation in urban areas, the program would have to provide that the facilities and equipment be so improved (such as through modernization, extension, or addition) that they will better serve the transportation needs of the area.

Funding for planning and project approval. The Committee bill would allocate planning funds to MPOs by formula with adjustments to take account of past levels of federal assistance and differences in responsibilities for planning. State planning funds would be provided as part of a new Section 26 State Program.

Under a basic formula, 80 percent of the funds available to MPOs would be allocated to states in the ratio that the population in urbanized areas, in each state, bears to the total population in urbanized areas, in all the states as shown by the latest available decennial census. No state would receive less than ½ of 1 percent of the total apportioned under this formula. Funds would be allocated to MPOs within the state, by a formula—developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary—that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act.

The remaining 20 percent of the funds made available to MPOs would be allocated under a supplemental formula for Transportation Management Areas. These amounts would supplement funding for metropolitan planning organizations in transportation management areas. Such funds would be allocated according to a formula that reflects the additional costs of carrying out planning, programming and project selection responsibilities under this section in such areas.

The Committee bill would ensure that each MPO receives no less under the formula than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991, the Secretary could make a pro rata reduction in other amounts made available to carry out the state and national planning and research program.

The federal share for section 8 activities would be 75 percent except where the Secretary determines that it is in the federal interest not to require a state or local match.

Amendments to Section 9 of the Act

Federal Operating Assistance. The Committee bill does not include the Administration's proposal to eliminate federal operating assistance for urbanized areas over 1 million in population.

The Committee heard compelling testimony that this is perhaps the worst time to eliminate federal operating assistance for the nation's large mass transit systems. Economic recession and rising fuel costs have already forced large systems to raise fares and reduce services. Eliminating federal aid would leave transit systems with the same dismal options since states and localities—caught in a fiscal crisis—could compensate for any loss.

Available evidence indicates that raising fares and/or reducing services would force many transit riders to shift to automobile use and thereby increase traffic congestion, energy consumption, and air pollution—in direct contravention of national objectives. Raising fares and/or reducing services would also place the greatest strain on the limited budgets of those populations (elderly, persons with disabilities, inner city poor) who are transit dependent.

The loss of federal aid would have a devastating effect on individual transit properties.

CTA (Chicago) would lose $40 million in federal operating aid. Fare increases of 15 percent would be needed to compensate for the loss.

SEPTA (Philadelphia) would lose $27 million in federal operating aid. SEPTA estimates that fares would need to rise 15% to offset the loss—causing ridership to fall 3% to 4%.

WMATA (Washington) would lose $16 million in federal operating assistance. WMATA has already announced fare increases of 18% over the next two years and anticipates that ridership on existing lines will fall 5%.

MTA (Baltimore) would lose $10 million in federal operating aid. MTA believes that state funds would need to be diverted from system preservation activities to compensate for the loss.

MARTA (Atlanta) would lose $5.4 million in federal operating aid. MARTA estimates that increasing the fare by 10 cents—the value of the federal aid—would decrease annual ridership by 2.6 million passenger trips. A fare increase would also hinder marketing efforts to encourage auto riders to switch to transit.

The loss of federal aid would also impede compliance with the recently-passed Americans with Disabilities Act. The largest portion of estimated costs under the ADA will be for providing complimentary paratransit service—the demand responsible service required for persons with disabilities whose impairment precludes them from using even accessible transit systems. Experts anticipate that operating costs will rise markedly as transit properties increase their provision of paratransit services.

By all accounts, the elimination of federal operating assistance would exacerbate the already weakened condition of large mass transit systems. It would also impede federal efforts to ensure and encourage compliance with a myriad of national objectives. The Committee has concluded that, in today's fiscal, economic, and regulatory climate, the elimination of federal operating assistance would be a hostile and irresponsible act. The Committee firmly rejects that course of action.

Federal Share. The Committee bill would not include the Administration's proposal to reduce the federal contribution for transit projects: from 80% and 60% for rehabilitation projects and from 75% to 50% for new starts and extensions.

Hearings before this Committee and the Joint Economic Committee have outlined the dire fiscal condition of States and localities. It is highly unlikely that State and local jurisdictions can find the funds to replace any lost federal contribution.

The recession has reduced state and local tax revenue—e.g. real estate and sales taxes—that support mass transit operations. New York City taxes for mass transit alone have fallen by $350 million.

State fiscal conditions are the worst in nearly a decade. Falling revenues and spiraling health-care costs have led to severe budget deficits. States are being forced to take desperate action to balance their budgets—including cutting support for mass transit.

Cities are more troubled. Long term trends—cutbacks in federal aid, increased social problems, economic restructuring, demographic shifts—underlie the current crisis. Financial pressures are nationwide: affecting cities as diverse as New York, Bridgeport and Philadelphia in the Northeast, to New Orleans and Jacksonville in the South, to Detroit in the Midwest and Los Angeles in the West.

The Committee strongly believes that, at a time of fiscal crisis and economic recession, the federal government must continue to play a strong role in the expansion, preservation and operation of mass transit.

Allocations. The Committee bill would make a technical correction to the percentage of funds set-aside for small urbanized areas and large urbanized areas. Under existing law, the section 18 and section 9 programs are funded as percentage set-asides from one account. The current set-asides are as follows: the section 9 program for large urbanized areas receives 88.43 percent of the total account; the section 9 program for small urbanized areas receives 8.64 percent; and the section 18 program receives 2.93 percent.

The bill would alter the current system by providing for a separate set-aside for rural transit programs. The section 9 set-asides for large urbanized areas and small urbanized areas would, therefore, be proportionally adjusted to reflect this change. Henceforth, the section 9 program for large urbanized areas would receive 91.1 percent of the funds available for section 9; the section 9 program for small urbanized areas would receive 8.9 percent.

Discretionary Transfer of Apportionment. The Committee bill would permit transit funds to be used for highway purposes under certain circumstances. Section 9 formula funds for capacity expansion could be transferred to highway projects only in transportation management areas—metropolitan areas over 250,000 in population or in non-attainment under the Clean Air Act. Rural transit (Section 18), Elderly and Handicapped transit (Section 16(b)(2)) and Discretionary (Section 3) funds would *not* be eligible for transfer to highway projects.

The transfer of section 9 funds would be subject to the approval of the metropolitan planning organization after appropriate notice and comment from affected transit providers. Basic transit activities—including the sound operation and maintenance of existing transit facilities, the management of ongoing transit operations and investments required to comply with the Americans with Disabilities Act or the Clean Air Act—would have to be provided for adequately before transfer of funds could occur.

Transit funds would be eligible for transfer to highway uses only where the source of State or local share funding is available equally for both highway and transit projects. The Secretary would be required to ensure that either sources of State and local matching funds are equally available for highways and transit, or dedicated sources of matching funds are available for highway and transit projects in a way that avoids any bias against local selection of transit projects. The Committee intends to ensure that decisions to transfer transit funds to highway projects are not made on the grounds that dedicated matching funds are available only for highway projects but not for transit projects.

Elimination of Incentive Tier. The Committee bill would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas. These provisions use the ratio of passenger miles to total operating expenses to allocate a small portion of formula funds. The incentive factors were introduced in the Surface Transportation Assistance Act of 1982 as a means of weighing and rewarding the operating efficiency of bus and rail systems.

The Administration recommended eliminating the incentive tier for three reasons.

First, the techniques used to collect the passenger mile data are difficult to verify and apply consistently among the nation's transit operators. Passenger mile data are not usually collected by transit systems as part of routine transportation operations, in contrast to other data (e.g. vehicle revenue miles) used in the Section 9 formula. In most instances, passenger mile data are obtained by sampling.

Second, the Administration can find no evidence that application of the incentive factors has induced any change in behavior among the transit operators.

Finally, the overall effect of eliminating the incentive tier would be insignificant. Slight percentage losses in some urbanized areas would, with a few exceptions, be more than offset by the increase in the authorized level for Section 9 funding.

Energy Efficiency. The Committee bill would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds. Under existing law, 60% of the Section 9 rail tier pot is allocated on the basis of "fixed guideway revenue vehicle miles". Rail systems have found that this factor has the unanticipated effect of discouraging initiatives that lower energy consumption. A system, for example, that makes energy savings by running shorter trains in off-peak hours would experience a decrease in Section 9 funds due to a decrease in revenue vehicle miles. The decrease would take effect even if the system was still providing the same frequency of revenue service to the same number of riders. The Committee bill would hold harmless those rail systems that demonstrate to the satisfaction of the Secretary the combination of energy savings and continued service described above.

Applicability of Safety Program. The Committee bill would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Certifications. The Committee bill would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates. The bill would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The bill would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currently required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

Finally, the bill would require the Secretary to establish streamlined procedures to govern a recipient's "continuing control" certification with respect to track and signal equipment. Under existing law, a section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that the interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

Program of Projects. The Committee bill would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Continued Assistance for Commuter Rail in Southern Florida. The Committee bill would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 Act to permit a commuter rail line (Tri-County Rail Authority) in south-eastern Florida to continue to receive federal operating assistance under section 9.

The TCRA commuter line was established as a temporary congestion relief measure during reconstruction of a major interstate in south-eastern Florida. To help meet the operating needs of this commuter line, section 329 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 permitted an increase in the Section 9 operating assistance cap for the urbanized areas of Fort Lauderdale and Miami, Florida. The increased operating assistance was specifically limited to commuter rail service "provided as a maintenance of traffic measure" during the reconstruction period.

The TCRA commuter line has proven to be successful and is expected to continue to operate beyond the completion of the interstate reconstruction. Recognizing the permanent status of the commuter line, this amendment would remove the limitations contained in Section 329 to enable TCRA to continue to receive federal operating assistance.

University Transportation Centers

In general.—In 1987 Congress authorized the University Transportation Centers Program to establish and operate transportation centers in each region of the country. The purpose of the centers is to conduct multi-modal research and training on the transportation of people and goods. A national competition established ten centers with the additional participation of 60 universities nationwide.

Over 313 research projects and 15 advanced institutes were established with the help of Federal funds and match funds. The Centers' unique structure fosters cross-university and inter-disciplinary collaboration. State and private sector participation ensures a focus on applied research and pathways for technology transfer.

The Committee bill would amend the responsibilities of university research to include safety issues. The bill would also establish three new lead university centers to accelerate the participation of minorities and women in transportation related professions. The Secretary would consider the commitment of the university to the enrollment of minorities and women when awarding grants.

Currently, one tenth of our nation's workforce is employed in transportation. The Committee believes these new universities would help to ensure the diversity and technical skill of this large workforce as well as continue critical advances in transportation research.

Rulemaking

Section 12(i) of the Urban Mass Transportation Act was added by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) to ensure that major statements of transit policy would be subject to formal rule-making procedures. The Committee bill would prohibit FTA from issuing policy in Circular form that is not subject to formal review procedures. FTA policy statements would also be distributed more broadly and with more appropriate notice than the Circular process would otherwise provide. Since enactment of this provision, several instances of the Administration's non-compliance with congressional intent have arisen. For example, the Third Party Contracting requirements and Cross-Border Leasing guidelines were issued without Federal Register notice and comment. Additionally, the Administration continues to enforce several circulars governing major policy issued prior to passage of the 1987 Act which have never undergone public notice and comment. The Committee bill would clarify that all major statements of policy, except emergency rules, routine matters, or matters of insignificant impact, shall be subject to the process described in Section 12(i) of existing statute.

Transfer of Facilities and Equipment

The Committee bill would allow the Secretary to authorize the transfer of facilities and equipment acquired with funds under the Act to any public body for uses other than mass transportation. Under current law, the transfer of excess property for other public uses is difficult and cumbersome. This provision would simplify the process and allow, for example, the transfer of a surplus bus maintenance facility from a transit authority to a public school district.

The transferred facilities or remaining useful life of the equipment and equipment would have to remain in a public purpose use for a minimum of five years. In addition, prior to making any transfer, the Secretary would first have to make a written determination that there are no other mass transit purposes for which the asset should be used; that the benefit of allowing the transfer outweighs liquidation of the asset and return of the Federal financial interest in the asset; and that there is no Federal use for the asset.

The Committee bill would also allow States the flexibility to the transfer facilities and equipment between the Section 18 rural transit program and Section 16(b) program for the elderly and persons with disabilities. Current law does not allow equipment transfers from one program to the other. Since close to 60 percent of the recipients of Section 16(b) funds operate in rural areas, this provision is designed to maximize the use of equipment for both programs. Under this provision a State could, for example, transfer vans purchased with Section 18 funds to the Section 16(b) program and vice versa. The original program use requirements of Section 18 and Section 16(b) would continue to apply to any transferred equipment.

Elderly Persons and Persons with Disabilities

The Committee bill would clarify existing statute by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The Committee bill would also require an assurance from the state that the state's program of projects provides for the coordination of Section 16(b)(2) transportation services with transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

The Committee bill would authorize assistance under this program to public bodies that are approved by a State to coordinate transportation services for the elderly and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services. For example, Florida has passed a state law that mandates statewide coordination of all transportation services for the disadvantaged. Several of the entities designated by the State to coordinate these activities are public bodies such as county commissions. Although these designated entities must coordinate both funding sources and service provision, current law precludes them from receiving funds under 16(b)(2), thus hindering their ability to fully coordinate these transportation services. Public bodies eligible to receive funding under this section could include, for example, county governments or commissions, county offices on aging, regional planning councils, and metropolitan planning organizations.

The Committee is aware that even with the funding increase for the Section 16(b)(2) program provided by the Committee bill, the capital needs under this program will continue greatly to exceed the available resources. The Committee does not intend to open the Section 16(b)(2) program to public agencies that have access to other transit resources such as the Section 3 and Section 9 programs. The Committee intends that public bodies will use funding under this program in a very narrow circumstance, such as when the public body is approved by the State specifically to coordinate transportation services for the elderly and persons with disabilities. In carrying out this provision, the Committee intends that existing law governing labor protections will continue to apply as appropriate.

The Committee bill would allow the Governor of each State to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to supplement funds distributed under either the Section 18 program or the Section 9 program.

The Committee bill would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The Committee bill specifies that the regulations shall be issued within 60 days of enactment of the bill.

Human Resources Program Support

The Committee bill would authorize the Secretary to retain any funds returned in connection with section 20 of the Act. Section 20 authorizes the Secretary to make grants or contracts for national or local programs that address human resource needs within public transportation activities. These retained funds would in turn be made available for any human resource activities eligible to be funded under section 20.

Report on Safety Conditions in Mass Transit

The Committee bill would require the Department of Transportation to submit a report to Congress on the safety record of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by DOT in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

The Committee directs the Department of Transportation to work closely with the Congress in designing the parameters of this safety study. Some critical design elements of the study (e.g. the time frame to be covered by the study) have been left to future discussions between DOT and by the Committee staff.

The Committee notes that federal safety standards have not been issued for transit programs, leaving this area to State and local control. The Committee believes it is important to assess how effective State and local action has been in protecting transit riders as well as the substantial federal investment in transit facilities and equipment. The DOT study must, therefore, be designed to produce the type of data and information that will assist the Committee in evaluating the effectiveness of current safety measures and programs.

Project Management Oversight

UMTA currently oversees over $33 billion in active grants nationwide. The agency is responsible for ensuring that grantees comply with the UMT Act and uniform grant regulations that apply across the government. These include federal purchasing and contracting standards for recipients of federal funds. In lieu of more direct oversight to ensure compliance, UMTA relies on grantee certification that they comply with all applicable federal requirements. To supplement self-certification and oversee grantees' compliance, UMTA regional offices have a number of monitoring tools including grantee financial and progress reports, site visits, annual audits, and triennial reviews. The 1987 reauthorization act required UMTA to implement the Project Management Oversight (PMO) program. This provision permits UMTA to use up to ½ percent of the funds made available each year to carry out sections 3, 9, 18, Interstate Transfer Projects and the National Capital Transportation Act (authorizing legislation for D.C. Metro) for project management oversight of major capital projects. UMTA currently relies heavily on the use of 12 independent contractors to perform project management oversight of 33 major capital projects. As a condition of receiving federal funding for major capital projects, grantees are required to submit project management plans (PMP) during the grant review process. In addition, each system is required to submit quarterly narrative progress and financial status reports about relevant grant activities once funding is provided.

The Government Accounting Office is currently reviewing UMTA's grants oversight practices. This investigation was prompted by procurement problems at one system studied by GAO and by reports that discretionary grants lacked little if any documentation. Preliminary GAO comments indicate a need for additional grants management oversight.

The Committee bill would increase the percentage of funds reserved for FTA's project management oversight program. The currently ½ percent takedown of funds available under capital grants programs would be increased to ¾ percent. The Committee bill would remove a technical restriction currently limiting the use of "takedown" funds to projects funded under the particular section from which the funds were set aside. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

The Committee intends that the additional resources provided for project management oversight, as well as the additional resources authorized for administrative expenses, will be used by FTA to improve its oversight activities.

Planning and Research

In General.—Transit research has long been a key element of federal support for public transportation. Section 6—Research and Demonstration was one of the first programs established in the Urban Mass Transportation Act of 1964.

Over the past decade, however, federal support for research has been sharply reduced. According to the Transportation Research Board, in the 1970's, UMTA's annual research budget averaged $60 million, or nearly 1.5% of the industry's gross revenues per year. By fiscal year 1986, transit research obligations were approximately $22 million, barely more than one-fifth of 1 percent of estimated industry revenues of $10 billion. The private sector, by contrast, generally devotes 2.8 percent of its revenues to research.

While transit research spending has decreased, the Highway program has increased its research spending. The enactment of the Clean Air Act Amendments, the Americans with Disabilities Act and a reemphasis on safety issues, further increases the demand for mass transit research and planning.

The Committee has attempted to address this urgent need in several ways. The Committee bill would add a new planning and research program—section 26—to the Act. The Committee bill would provide sufficient funding and flexibility to ensure that research results are translated into practice when applicable. The bill folds funding for section 6—research and demonstration, section 8—planning (state planning funds only), section 10—training grants, section 11(a)—university research, and section 20—human resource programs into state and national planning and research programs. Combining program funding would facilitate the provision of training and technical assistance to ensure widespread implementation of workable products and services.

Funding. The bill would set aside 3% of the total mass appropriations for research and *planning*. This action would ensure funding stability and predictability for long-term research and planning projects. Half of the 3% set aside of appropriated funds would be used to establish the state and national planning and research programs. This level of funding for the state and national programs would parallel the highway research program which is also 1.5% of that program's total appropriations. As described above, the other half of the 3% set aside would be used to fund local planning organizations and the Rural Transportation Assistance Program.

State Program. The state program would consist of a new transit cooperative research program designed to address research priorities as determined by public transportation operators, suppliers and others involved in the mass transportation industry. The program is based upon the recommendations of the 1987 report by the Transportation Research Board entitled "Research for Public Transit—New Directions" and is similar to the successful Strategic Highway Research Program (SHRP) established under the Federal Aid Highway Act of 1987. The Transit Cooperative Research Program would focus on identifying and evaluating practical solutions to everyday problems experienced in the operating environment. A governing board would be established through the Transportation Development Corporation. A majority of the board would represent public operators of transportation service. Program management, project implementation and technical support to the board would be provided by the National Academy of Sciences under a cooperative agreement with the Secretary.

The remainder of the state program allocation would be made available to the States on the basis of population for research, training, planning, human resource support and demonstration projects. No state would receive less than one-half of one percent of these allocations. Although the local Metropolitan Planning Organizations would receive their funds as a separate percentage of the total set aside for research and planning, states could use state program funds to supplement the metropolitan planning organizations as well as the transit cooperative research program.

National Program. The national planning and research program would authorize the Secretary to make grants and contracts in accordance with already established research, training and planning sections of the Act.

The Committee bill would require the Secretary to make available a minimum of $2,000,000 per year for the authorization period to provide transit-related technical assistance, demonstration programs, research development, public education and other activities to assist transit providers with the implementation of the Americans with Disabilities Act.

The Committee bill would also require the Secretary, to the extent practicable, to contract with a national non-profit organization with demonstrated capacity to carry out this activity.

The Committee is aware that a program similar in nature to the one contemplated by the Committee bill received funding in fiscal years 1988–1990. The program, Project ACTION (Accessible Community Transportation in Our Nation), was administered by the National Easter Seal Society through a cooperative agreement with UMTA. Project ACTION was designed to improve relations between the transit and the disability communities and to facilitate the development of cooperative tools and techniques for improved access to mass transportation for persons with disabilities.

The Committee believes that the experiences of Project ACTION over the last three years and its demonstrated capacity to develop tools and techniques which help to improve transportation services for persons with disabilities should serve as a model to the Secretary in establishing the program required by the Committee bill.

The National Program would allow the Secretary expedited processing of non-renewable grants less than $100,000 provided these grants are in compliance with labor provisions of the Act.

The Committee is aware of a recent General Accounting Office report (GAO, December, 1989) which noted the need for a more systematic and stable technical assistance program to encourage low-cost traffic management techniques. The Committee believes that the National Program should place a high priority on providing comprehensive research and technical assistance to encourage transportation demand management. To the extent practicable, these efforts should be coordinated with related efforts pursuant to section 108 of the Clean Air Act Amendments of 1990.

The Committee bill would also clarify the purposes of the national research and planning program by establishing a technology development program to focus on incremental improvements to existing technology as well as effective cost sharing programs.

Technical accounting provisions

The Committee bill would make a technical amendment to correct certain administrative difficulties resulting from current accounting and Department of Treasury practices. Older, unobligated appropriations would be merged into the current appropriation for the particular activity. This provision would not affect in any way the availability of funds involved.

GAO REPORT ON CHARTER SERVICE REGULATIONS

The Committee bill would require the General Accounting Office to analyze the impact of the existing charter service regulations on the ability of communities to meet their local transportation needs.

The Committee has mandated this study in response to persistent criticisms of the existing regulations. Prior to 1987, public transit properties were permitted to operate limited charter bus services. These services had to be incidental to the provision of regular mass transit services and were only to be operated within the transit system's service area. As part of the Reagan Administration's "privatization" policies, UMTA issued regulations in 1987 and 1988 establishing a general prohibition on the use of UMTA funded equipment and facilities in charter service operations. Although the regulations establish a number of exceptions to the general prohibition (e.g. permitting incidental charter service where no private charter operator is determined to be "willing or able" to provide the service), transit operators claim that the regulations represent a marked departure from prior practice and significantly impede the ability of communities to meet local transportation needs.

Transit operators specifically contend that the regulations: (1) reduce the quality and quantity of transportation services available to the public; (2) prevent productive and efficient use of federally subsidized equipment and facilities; (3) make the cost of service prohibitively expensive in areas where private charters are located at a great distance from communities requiring service; (4) force community groups to pay noncompetitive rates for service; (5) diminish the ability of public operators to generate community support for transit; (6) impede the ability of local governments to carry out economic development activities; and (7) allow private operators to financially benefit from the use of federally-subsidized vehicles under agreements with public operators where the public operators provide service and the private carrier acts as a broker.

The Committee is concerned that the current regulations may prevent communities from meeting local transportation needs in the most cost efficient and effective manner possible. The Committee believes that a GAO study will provide Congress with objective information on the impact of the charter service regulations and help Congress determine whether the regulations are in need of modification. The GAO would be specifically instructed to examine the impact of the charter service regulations in at least three communities. The Committee recommends that the Comptroller General include a community in the state of Michigan as one of the communities to be analyzed.

GAO STUDY ON PUBLIC TRANSIT NEEDS

The Committee bill would require the General Accounting Office, on a biennial basis, to submit a report to Congress that evaluates the extent to which the nation's transit needs are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns.

The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

The Committee strongly believes that the existing sources of information on transit need are inadequate. It is difficult to determine the level of investment required to maintain, modernize and expand our transit infrastructure. A biennial GAO report would provide Congress with an independent analysis of transit need and provide an objective benchmark for determining whether the nation is adequately investing in its transit infrastructure.

TECHNICAL AMENDMENT TO SECTION 9B

The Committee bill would make a technical amendment to the wording of Section 9B of the Urban Mass Transportation Act to conform with other changes proposed in this bill. Section 9B, as currently written, makes reference to authorization provisions enacted by the Surface Transportation and Uniform Relocation Assistance Act of 1987. Those provisions have been amended by section 35 of this Act.

Use of Census Data.—Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. The Committee bill would require transit programs, where practicable, to utilize more recently available population statistics.

The Committee bill would require that interim population estimates provided by the Secretary of Commerce be used to distribute funds under Section 18 and Section 9 for small urbanized areas. Funds are allocated under these two programs to the state on the basis of the rural or urbanized population in that state. The Secretary of Commerce provides interim estimates of such population distributions on a biannual basis. The formulas for Section 18 and Section 9 for small urbanized areas would be updated every four years so that communities could retain more predictability in planning the use of their formula allocations.

The Committee bill would not require interim formula updates for Section 9 for large urbanized areas because the appropriate data can not be made available. Section 9 funds for areas of population over 250,000 are allocated directly to the urbanized areas. Department of Commerce interim population estimates are available for metropolitan statistical areas, which are defined by entire counties. Urbanized areas are defined on a "block by block" basis and do not necessarily conform to any governmental boundary or jurisdiction. The Commerce Department is, therefore, unable to make interim population estimates based on local governmental data for urbanized areas.

The Committee bill would also require the Secretary to use data from the 1990 census, to the extent practicable, in determining the allocation of funds under Section 9, Section 16(b)(2) and Section 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

The Secretary of Commerce will make a determination on July 15, 1991 whether or not to make statistical adjustments in the Census data to reflect undercounts and overcounts. The Bureau of the Census projects that population data will be available prior to the beginning of fiscal year 1992, regardless of whether or not statistical adjustments are calculated.

Buy America

The Committee chose not to amend section 165 of the Surface Transportation Assistance Act of 1982 to allow the President to waive the Buy America provisions when another country also agreed to relax certain of its restrictive provisions.

The waiver authority was included in the proposal submitted by the Administration. The Committee believes that the Administration already possesses the necessary waiver authority pursuant to the United States-Canada Free Trade Agreement Implementation Act of 1988, as well as the Omnibus Trade and Competitiveness Act of 1988.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. This title would be referred to as the "Federal Transit Act of 1991".

Sec. 2. The Agency Name. The name of the Urban Mass Transportation Administration would be changed to "Federal Transit Administration".

Sec. 3. Amendment to short title of the 1964 Act. The name of the underlying law would be changed from the "Urban Mass Transportation Act of 1964" to the "Federal Transit Act".

Sec. 4. Amendment to Findings and Purposes. This section would amend Section 2(a) of the Federal Transit Act (FT Act) to add a new finding that a significant improvement in public transportation is necessary to achieve national goals for improved air quality, energy conservation, international competitiveness and mobility for the elderly, persons with disabilities and the economically disadvantaged in urban and rural areas of the country.

This section would also amend Section 2(b) to state that an objective of the Act will be to provide State and local governments with the financial resources to help implement the national goals related to improve air quality, international competitiveness and mobility for the elderly, persons with disabilities and economically disadvantaged persons.

Sec. 5. Commute-to-Work Benefits. This section would assert Congressional findings regarding commute-to-work benefits. Although employers may provide unlimited tax-exempt parking benefits to employees, transit and vanpool benefits are limited to $15 per month. If benefits exceed $15 per month, then the entire amount of benefits (including the first $15) becomes taxable. This tax policy is inconsistent with other national objectives including the need to conserve energy, reduce reliance on energy imports, lessen congestion and reduce air pollution. This section would affirm the need to provide equal commute-to-work benefits to transit.

Sec. 6. Capital Grant or Loan Program. The section would rename section 3 of the Urban Mass Transportation Act of 1964 to read "Capital Grant or Loan Program" rather than "Discretionary Grant or Loan Program."

Sec. 7. Capital Grants—technical amendment to provide for early systems work contracts and full funding grant contracts. The bill amends Section 3 of the FT Act to authorize the Secretary to enter into full funding contracts and early systems work agreements with applicants to provide for more efficiency project management.

A full funding contract would be designed to (1) establish the terms and conditions of federal financial participation in a project under this section, (2) establish the maximum amount of federal financial obligation for the project, and (3) facilitate timely and efficient management of the project in accordance with federal law. Budget authority obligated by a full funding contract would be limited by the amount made available in the law for obligation. A contract could either obligate the full amount reported for the project, it could obligate a portion of that amount with a commitment, contingent only upon the future availability of budget authority provided for the relevant program, to obligate additional amounts from budget authority that is made available in law for future years. Budget authority obligated in the future pursuant to a contingent commitment would be limited to amounts specified in law in advance for eligible projects. The total of amounts stipulated in a contract for a fixed guideway project would have to be sufficient to complete not less than an operable segment. Any interest and other financing costs of efficiently carrying out a project or a portion of a project pursuant to a full funding contract would be considered an eligible project cost under the contract, provided that eligible financing costs could not exceed the costs of the most favorable financing terms reasonably available for the project at the time of borrowing.

An early systems work agreement would permit a grantee to proceed with procurement of land, long-lead-time system elements for which specifications are determined, and other activities that are appropriate to avoid delays or other inefficiencies in project management that would increase overall project costs. The Secretary could only enter into an early systems work agreement if a record of decision pursuant to the National Environmental Policy Act of 1969 (NEPA) has been issued on the project and the Secretary determines there is reason to believe (1) a full funding contract will be entered into for the project and (2) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost. An early systems work agreement would obligate an amount of available budget authority and would provide for reimbursement of preliminary costs of project implementation specified in the agreement, which could include land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The Secretary would establish in the agreement the effective date after which local costs are eligible for federal reimbursement, and such date could be prior to compliance with NEPA so long as local costs incurred otherwise meet relevant federal requirements. Any interest or other financing costs of carrying out the early systems work agreement efficiently would be considered eligible project costs, except that eligible financing costs could not exceed costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant failed to implement the project for reasons within the applicant's control, the applicant would be required to repay all federal payments made under the early systems work agreement plus reasonable interest and penalty charges as specified in the agreement.

Limitation on letters of intent and contingent commitments. The bill would limit the total value of outstanding letters of intent and contingent commitments included in full funding contracts to (1) the total amount authorized, either as contract authority or as an authorization of appropriations, to carry out the relevant program under Section 3 or (2) 50 percent of the uncommitted cash balance remaining in the Transit Account of the Highway Trust Fund (which includes the amounts received from taxes and interest earned in excess of amounts that have been previously obligated), whichever is greater. Such commitments could be made for new starts, rail modernization or bus projects. The commitment cap related to the Trust Fund balance would not be split by program category.

Sec. 8. Section 3 Program—Allocations. This section would require the Secretary to allocate Section 3 grant funds in the following way: 40 percent for rail modernization; 40 percent for construction of new fixed guideway systems and extensions to fixed guideway systems; and 20 percent for the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus-related facilities.

Sec. 9. Section 3 Program—Rail Modernization Formula. This section would establish a three-tier distribution system for the allocation of rail modernization funds. The new statutory formula would balance the competing needs and claims of historic and "new" fixed guideway systems. The formula would work as follows:

Tier One—Hold Harmless for Historic Rail Systems. In a given fiscal year, the ten historic systems would receive all the funds up to an appropriation of $455 million, the amount appropriated in fiscal year 1991. The ten historic systems would include those systems that (1) have received rail modernization funding in at least two of the five fiscal years 1986–1990; and (2) received in fiscal year 1991 at least 0.5 percent of the funding made available under the Section 9 rail tier. Systems qualifying under this definition include: Boston, Chicago, Cleveland, Maryland commuter rail, New York City, Northeastern New Jersey, Philadelphia, Pittsburgh, San Francisco and Southwest Connecticut.

Funds would be distributed as follows:

41 percent of the total "hold harmless" amount would be set aside for New York and Southwest Connecticut. These funds would be further divided so that New York would receive 35 percent of the total amount and Southwest Connecticut would receive 6 percent.

2 percent of the total amount would also be set aside for Pittsburgh. The remainder of the funds would be distributed primarily on an historic share basis, recognizing in a fair and equitable manner the proportion that each historic system received under the program. Each remaining historic system would generally receive, on an annual basis, the higher of (a) its 3-year share (i.e. averaging funds received from fiscal years 1988 through 1990) or (b) its 7-year share (i.e. averaging funds received from fiscal years 1984 through 1990). The Secretary would make such pro rata adjustments as are necessary in applying this allocation. Each of these systems would be assured, at a minimum, the amount it would have received under the Section 9 rail tier formula.

Tier Two—50/50 Allocation between Historic Rail Systems and "New" Fixed Guideway Systems. The first $70 million in appropriations above $455 million would be divided on a 50/50 basis between the historic rail systems and those "new" fixed guideway systems experiencing substantial modernization needs—those systems in revenue service for at least ten years. These excess funds would be distributed by the factors contained under the Section 9 rail tier formula.

Tier Three—Distribution By Section 9 Formula. All amounts appropriated in excess of $525 million would be distributed to all historic rail systems and eligible "new" fixed guideway systems by the factors contained under the Section 9 rail tier formula.

Ineligible Systems—Secretary Discretion. The Secretary would have the discretion to permit ineligible fixed guideway systems—those that have not been in revenue service for at least ten years—to participate in the formula program where such systems demonstrate that they have modernization needs that cannot adequately be met by section 9 funding.

Apportionment. In a given fiscal year, the Secretary would be required to apportion rail modernization funds—based on both authorized and appropriations levels—within specified time periods. The Secretary would also be required to publish such apportionments for each program participant within the specified time periods.

Sec. 10. Section 3 Program—Local Share. This section would clarify the existing statutory requirement that 25 percent of the cost of a project approved under section 3 be provided from non-federal sources. The section would permit the costs of rolling stock purchased prior to the approval of a section 3 application to satisfy the non-federal share requirement if (1) the stock was purchased with no federal assistance, (2) the stock would not have been purchased except for its planned use on an extension eligible for Section 3 assistance, and (3) the stock is to be used on the extension for which the Section 3 application is being submitted.

Sec. 11. Section 3—Grandfathered Jurisdictions. This section would clarify that all existing of intent, full funding grant agreements and letter of commitment will remain in effect with passage of this Act.

Sec. 12. Capital Grants—Innovative Techniques and Practices. The eligible activities under the section 3 discretionary program would be expanded to include projects that introduce innovative techniques and methods to public transportation. This change merely codifies existing statute by incorporating language from section 4(i) into section 3.

Sec. 13. Capital Grants—Elderly and Persons with Disabilities. This section would amend Section 3 of the Act to allow public transit agencies to apply for capital funding under the Section 3 grant program for transportation projects that are specifically designed to meet the needs of elderly persons and persons with disabilities.

While current law provides for the rights of elderly and disabled persons to use mass transit, the recently enacted Americans with Disabilities Act of 1990 imposes requirements on transit providers that are more stringent than current law and as a consequence, more costly. This section would provide public transit agencies with a mechanism to help address the major capital costs associated with ADA compliance.

Sec. 14. Advance Construction. Technical amendment related to interest cost. The bill would amend Section 3(1) to make the advance construction mechanism more workable by deleting language that requires grantees to bet on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Sec. 15. Criteria for New Starts. This section would modify existing criteria for new starts. The project evaluation process would be revised to ensure that the project's social, environmental and economic impacts are also given appropriate consideration. Cost-effectiveness measures used in rating projects for selection would have to be adjusted for inflation and to reflect regional differences in land, construction and operating costs. To meet the criterion for local financial capacity, a designated recipient would be required to have reasonable contingency funds available to cover unanticipated project cost overruns: have stable, reliable and available funding sources for the duration of the project timetable; and maintain transit service at existing levels. Determinations of the stability, reliability and availability of local funding sources would be based on existing grant commitments; the degree to which funding sources are dedicated to the project; and any debt obligations which exist or are proposed to fund the project or other transit activities.

The Section 3(i) new starts criteria and the limitation of project development to one corridor at a time would not apply to a project if (a) assistance sought under Section 3 is less than $25 million or 30% of the total costs of the project or an interrelated programs of projects or (b) a project serves as a transportation control measure necessary to carry out an approved State Implementation Plan in extreme or severe non-attainment areas. The Secretary would be required to expedite the UMTA project review process for projects that are transportation control measures necessary to carry out an approved State Implementation Plan in serious, moderate or marginal non-attainment areas.

Sec. 16. Advance Construction. Technical amendment related to interest cost. The bill would amend Section 3(1) to make the advance construction mechanism more workable by deleting language that requires grantees to bet on future inflation. The bill substitutes the requirement that operators obtain the most favorable interest terms reasonably available for the project at the time of borrowing.

Sec. 17. Federal Share for ADA and Clean Air Act Compliance. This section would establish a higher federal match for those projects funded under sections 3, 9, 16(b), and 18 that involve the acquisition of bus-related equipment (e.g. lift equipment, particulate traps) or the construction of facilities (e.g. alternative fuels facilities) required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. The federal match would be set at 90 percent of the cost of such equipment or facilities. The Secretary would determine the portion or portions of a project eligible for the higher federal match.

Sec. 18. Section 9 Formula Grant Program-Discretionary Transfer of Apportionment. This section would amend Section 9 of the FT Act to permit a transfer of transit funds to highway use under certain circumstances. This is comparable to amendments to the Federal-Aid Highway Act that would permit highway funds to be used for transit projects.

Subsection (a) would amend section 9(j)(1) of the FT Act to provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers and (ii) adequate provision is first made for sound operation of existing transit facilities, maintenance of such facilities and their carrying capacity, management of ongoing transit operations, and any program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act as amended.

Subsection (b) would add a new provision to subsection (j) of the FT Act, which would permit Section 9 construction funds to be used for a highway project only if (i) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or (ii) the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Sec. 19. Comprehensive Transportation Strategies. This section amends Section 8 of the FT Act of reform the current transportation planning process to give more attention to intermodal solutions and to give metropolitan planning organizations (MPOs) in certain areas clearer responsibilities for approving projects. It is designed to make few significant changes in current practice for areas that are less densely populated and that do not have problems with air pollution.

Subsection (a) requires the development of comprehensive metropolitan transportation strategies by metropolitan planning organizations.

In general. The subsection declares it to be in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through metropolitan areas and minimize transportation-related fuel consumption and air pollution. The Secretary is required to cooperate with state and local elected officials in metropolitan areas in the development of comprehensive transportation strategies for achieving this objective.

Metropolitan Planning Organizations. The subsection requires that an MPO be designated for each urbanized area of more than 50,000 in population, as under existing law. The MPO structure would be determined by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. If an MPO is in a metropolitan area that (1) has population over 250,000, (2) is in non-compliance under the Clean Air Act, or (3) is otherwise eligible for designation as a "transportation management area" as noted below, the MPO will have to include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including, at a minimum, all transportation agencies that were included as of June 1, 1991), and appropriate state officials. For purposes of this section, the term "metropolitan area" means an area for which one metropolitan planning organization is responsible.

Once an MPO is designated, whether under this or earlier provisions of law, the designation shall remain in effect until revoked either by agreement among the Governor and the local governments or by other state or local procedures. To accommodate the new responsibilities conferred under the bill, this subsection would permit MPO's to be reorganized and redesignated at any time by agreement among the Governor and local governments representing at least 75 percent of the metropolitan area's population, including the central city or cities, as defined by the Bureau of the Census. The bill requires that an MPO be redesignated within a period of 12 months if the Secretary designates the metropolitan area to be a transportation management area. The Secretary is required to establish appropriate procedures and timetables for MPOs to comply with membership requirements and other provisions in law.

When an MPO is designated or reorganized, each Governor is required to ensure that the MPO is structured to (1) give balanced assessment to all modes of transportation, including roadway and public transit facilities, (2) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area, and (3) otherwise carry out the MPO's responsibilities under federal law. The Governor shall certify to the Secretary that the requirements of the previous sentence have been met.

Transportation Management Areas. Certain metropolitan areas will be designated to be "transportation management areas", within which the MPO will have expanded responsibilities for planning and projects selection. Transportation management areas would include all metropolitan areas that have greater than 250,000 population, or are nonattainment areas under the Clean Air Act, as amended. The Secretary is required to publish and annually update a list of metropolitan areas that meet those criteria. The Secretary may also designate additional transportation management areas at the request of the Governor and MPO. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. This would permit local officials in ecologically important areas with smaller populations, such as the Lake Tahoe area in California and Nevada, to have the direct authority they need to carry out a comprehensive, long-range transportation strategy that integrates all modes. The designation of a transportation management area shall remain in effect until revoked by the Secretary. The MPO in a transportation management area is required to carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the state and transit operators. The bill gives such MPOs additional authority and responsibility.

To provide for an orderly implementation of intermodal planning and programming in transportation management areas, the bill provides a transition period. The Secretary would be required to achieve the designation of not less than a minimum number of transportation management areas in each of the next 5 years: by the end of the first year after enactment, 20 percent of the eligible metropolitan areas would have to be designated; by the end of the second year, 40 percent; by the end of the third year, 60 percent; by the end of the fourth year, 80 percent; and all such areas would have to be designated in the fifth year. The bill makes it clear that the Secretary is responsible for exceeding the minimum percentages required for designation. Although the Secretary can make adjustments for compelling local circumstances, the Secretary is expected to begin with designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Committee expects that priority would also be given to metropolitan areas where the MPO is well organized to comply with the requirements of this section and requests such designation. The Secretary would be required to designate all nonattainment areas that are classified under the Clean Air Act, as amended, to be "moderate", "serious", "severe" or "extreme" nonattainment areas for ozone or "serious" nonattainment areas for carbon monoxide within 2 years after the date of enactment of this section.

Metropolitan Area Boundaries. The boundaries of a metropolitan area would be determined by agreement between the MPO and the Governor. To provide for comprehensive, long-range transportation planning, each metropolitan area would have to include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent twenty year period.

The bill makes provision for metropolitan statistical areas that are so large or complex that one MPO would be too unwieldy. The bill, however, would discourage the break up of MPOs that have already been formed. This subsection permits more than one MPO to be designated within a metropolitan statistical area, as defined by the Bureau of the Census, only if the area had more than one designated MPO on January 1, 1991 and the Secretary determines that more than one MPO is needed because of the size and complexity of the area. The bill authorizes the Secretary to require consolidation of MPOs in a metropolitan statistical area if the Secretary does not find that more than one MPO is needed for coherent regional transportation decision making. If more than one MPO is needed, the bill requires that appropriate provision be made to coordinate the metropolitan transportation strategies of all MPOs within the metropolitan statistical area.

The bill requires all areas that are in noncompliance under the Clean Air Act, as amended, to be included within the boundaries of the appropriate MPO's metropolitan area. An appropriate metropolitan area would also have to include any area that the Governor and MPO determine are likely to be significantly affected by air pollution within the foreseeable future, as determined by the Secretary. If more than one MPO has authority within a non-attainment area, appropriate provision would have to be made to coordinate the metropolitan transportation strategies within the whole non-attainment area.

The bill would foster coordination of transportation strategies across multi-state areas. The Secretary would have to establish requirements to encourage Governors and MPOs with responsibility for a portion of a multi-state Metropolitan Statistical Area (MSA) or Consolidated Metropolitan Statistical Area (CMSA) to provide coordinated transportation planning for the entire MSA or CMSA.

The bill would give States consent to enter into interstate agreements or compacts that are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section.

Development of Transportation Strategy. The bill would require each MPO to prepare and update periodically a metropolitan transportation strategy for its metropolitan area. The Secretary would establish procedures according to which the strategy would be prepared. In developing the strategy, the MPO would be required to consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

Each MPO would have to publish the strategy or otherwise make it readily available for public review. The MPO would also have to submit the strategy to the Governor for information purposes. The Secretary would have to establish dates and procedures for the publication and submission of strategies.

In Clean Air Act non-attainment areas for transportation-related pollutants, an MPO would be required to coordinate the development of a metropolitan transportation strategy with the development of transportation measures of the State Implementation Plan required by the Clean Air Act.

Each MPO would be required to provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with a reasonable opportunity to participate in the development of the strategy.

The Secretary would have to assure that each MPO is carrying out its responsibilities under applicable provisions of federal law. At least every three years, the Secretary would be required to provide certification to those MPOs that are complying with requirements of federal law. If the Secretary finds, after reasonable notice and opportunity for hearing, that an MPO is not carrying out its responsibilities under applicable provisions of federal law, the Secretary would have to deny certification. In that case, and until satisfactory corrective action is taken, the Secretary may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or the Federal Transit Act. The Secretary would be specifically prohibited from (1) withholding certification of an MPO on the basis of the MPO's policies and criteria for determining the feasibility of private sector participation in accordance with section 8(e) or (2) otherwise impeding an MPO's implementation of such policies and criteria.

Contents of Strategy. A metropolitan transportation strategy would be in a form that the Secretary deems appropriate. At a minimum, a strategy would:

(A) Identify transportation facilities (including major raodways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as (i) moving goods within the metropolitan area and among distant markets, (ii) enabling people to move quickly to and from home, jobs and other destinations, and (iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

(B) assess major demands on the metropolitan transportation system, projected over the subsequent 20 year period;

(C) set forth a long-range strategy for meeting metropolitan area personal mobility and goods transportation needs, including state and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity;

(D) explain how proposed transportation decisions will (i) achieve compliance with applicable requirements of the Clean Air Act, as amended, the Clean Water Act and other environmental and resource conservation laws, (ii) further applicable federal, state and local energy conservation programs, goals and objectives and (iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

(E) explain (i) the extent to which state and local policies regarding land use and transportation will affect metropolitan-wide mobility, and (ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

(F) include a financial plan showing how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

(G) project capital investment and other measures necessary to (i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities and (ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

(H) indicate any proposed transportation enhancement activities, as defined in the Clean Air Act.

For metropolitan areas that are not transportation management areas, the bill would permit the Secretary to provide for abbreviated strategies appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. The state would be required to develop a state-wide transportation strategy that takes into account the transportation needs of areas for which no MPO has been designated.

Subsection (b) of the bill establishes requirements for transportation improvement programs.

Development of programs. The MPO, in cooperation with the state and relevant transit operators, would be required to develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years. The program would have to include all projects within the metropolitan area that are proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and the Federal Transit Act. The program would have to conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act, as amended. The program would have to include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticipated to be available within the period of time contemplated for completion of the project. In the case of a major project to expand the transportation capacity, an appropriate range of alternatives would have to have been analyzed in accordance with the National Environmental Policy Act.

Periodic review and revision. The bill would require the MPO to update or reapprove the program annually, although the Secretary could permit less frequent updating for areas that are not designated to be transportation management areas. An MPO would be able to amend the program at any time, provided that the amendment is consistent with the metropolitan transportation strategy.

Notice and Comment. Prior to approving a transportation improvement program, an MPO would be required to provide citizens, affected public agencies representatives of transportation agency employees, private providers of transportation and other interested parties with reasonable notice of, and opportunity to comment on, the proposed program.

Priority Projects. The program would have to identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevant programming period.

State programs. The Governor shall, for areas for which no MPO has been designated, develop and submit to the Secretary a transportation improvement program (TIP) covering a period of not less than 3 years. The State TIP would have to be in a form acceptable to the Secretary and include projects proposed for funding in both metropolitan and non-metropolitan areas under the bridge and interstate assistance programs of the Federal-Aid Highway Act of 1991.

Subsection (c) gives MPOs within transportation management areas the authority to approve funding of projects that expand the capacity of the transportation system.

Approval of projects. For projects within a transportation management area, the MPO would submit to the Governor and the Secretary a list of highway and transit projects and activities that the MPO has approved for funding in the ensuing period, which could not exceed two years. Federal assistance required for the approved projects and activities could not exceed the amount of federal assistance that is made available for capacity expansion within the metropolitan area for the period—either under section 106 of the Federal-Aid Highway Act of 1991 or sections 3 and 9 of the Federal Transit Act. When submitting a list of approved projects and activities, the MPO would have to certify to the Secretary that the list (A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4)(E) and (B) is consistent with a transportation improvement program that is submitted to the satisfaction of the Secretary under subsection (b)(2).

Funds under the Federal-Aid Highway Act of 1991 or the Federal Transit Act could not be used for any project or activity within a transportation management area unless it is included in the list of projects approved by the MPO.

The prohibition in the previous sentence would not apply to projects or activities that (A) are necessary to manage, maintain and preserve existing transportation facilities or operations without adding to the design capacity of such facilities, or (B) are part of a program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act, as amended. Planned projects or activities exempted from MPO approval under this section would still have to be included within a TIP.

Recapture. The bill provides that federal highway and transit funds made available in a transportation management area for project selection by an MPO would remain available for a period of 3 years. If they are not obligated within that period, the Secretary would be required to recapture the funds and promptly reallocate them among other states according to the formula for the program under which the funds were made available. Funds would be considered to be obligated if they are reserved to help finance a project for which an application is pending under Section 3 of the Federal Transit Act.

Transfer of funds. Funds made available under the Federal Transit Act that are approved by an MPO for a highway project would have to be transferred promptly to and administered by the Federal Highway Administration, in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available under the Federal-Aid Highway Act that are approved by an MPO for a transit project would have to be transferred promptly to and administered by the Federal Transit Administration in accordance with the requirements of the Federal Transit Act.

Subsection (d) authorizes the Secretary, as under existing law, to contract for and make grants to states and local public bodies and their agencies for planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section could include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities and equipment. A grant of contract under this section would have to be made in accordance with criteria established by the Secretary.

Subsection (e), as does existing law, requires plans and programs under this section to encourage the participation of the private sector to the maximum extent feasible. A metropolitan planning organization would have exclusive responsibility for determining the policies and procedures necessary to carry out this subsection. If a program involves the acquisition of facilities and equipment that are already being used for mass transportation in urban areas, the program would have to provide that the facilities and equipment be so improved (such as through modernization, extension, or addition) that they will better serve the transportation needs of the area.

Subsection (f), would provide for the allocation of planning funds to MPOs. State planning funds would be provided as part of the new Section 26 State Program.

Basic Formula. 80 percent of the funds available to MPOs would be allocated to states in the ratio that the population in urbanized areas, in each state, bears to the total population in urbanized areas, in all the states as shown by the latest available decennial census. No state would receive less than ½ of 1 percent of the amount apportioned under this paragraph, however.

Funds would be allocated to MPOs within the state, by a formula—developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary—that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act.

Supplemental Formula for Transportation Management Areas. The remaining 20 percent of the funds made to MPOs would be allocated to supplement funds for metropolitan planning organizations in transportation management areas. Such funds would be allocated according to a formula that reflects the additional costs of carrying out planning, programming and project selection responsibilities under this section in such areas.

Hold Harmless. To ensure that each MPO would receive no less under the formula than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991, the Secretary could make a pro rata reduction in other amounts made available to carry out the state and national planning and research program.

Matching Share. The federal share for section 8 activities would be 75 percent except where the Secretary determines that it is in the federal interest not to require a state or local match.

Sec. 20. Section 9 program—Allocations. This section would make a technical correction to the percentage of funds set-aside for small urbanized areas and large urbanized areas. Under current law, the section 18 and section 9 programs are funded as percentage set-asides from one amount. The bill provides for a separate set-aside for rural transit programs. This section simply reflects this change by proportionally adjusting the section 9 set-asides for large urbanized areas and small urbanized areas.

Sec. 21. Section 9 Formula Grant Program-Discretionary Transfer of Apportionment. This section would amend Section 9 of the FT Act to permit a transfer of transit funds to highway use under certain circumstances. This is comparable to amendments to the Federal-Aid Highway Act that would permit highway funds to be used for transit projects.

Subsection (a) would amend section 9(j)(1) of the FT Act to provide that, in a transportation management area, formula grants for construction projects could also be used for highway projects; provided that (i) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers and (ii) adequate provision is first made for sound operation of existing transit facilities, maintenance of such facilities and their carrying capacity, management of ongoing transit operations, and any program of investments required to comply with the Americans with Disabilities Act or the Clean Air Act as amended.

Subsection (b) would add a new provision to subsection (j) of the FT Act, which would permit Section 9 construction funds to be used for a highway project only if (i) funds for the State or local government share of the project are eligible to fund either highway or transit projects, or (ii) the Secretary finds that State or local law provides a dedicated source of sufficient funding available to fund local transit projects.

Sec. 22. Section 9 Program—Elimination of Incentive Tier. This section would eliminate the "incentive tier" provisions of the section 9 bus and rail funding formulas. The "incentive tier" provisions—introduced in the Surface Transportation Assistance Act of 1982—now allocate a small portion of formula funds by factors purporting to weigh and reward the operating efficiency of bus and rail systems. The Administration recommended eliminating the incentive tier for the following reasons: (1) the technique used to collect the necessary data—particularly passenger miles—are difficult to verify and apply consistently among the nation's transit operators; (2) there is no evidence that application of the incentive factors has induced any change in behavior among the transit operators; and (3) the overall effect of eliminating the incentive tier would be insignificant.

Sec. 23. Section 9 Program—Energy Efficiency. This section would amend section 9 to prevent a transit recipient that undertakes certain energy efficiency initiatives from losing formula funds. Under existing law, a rail system that makes energy savings by using less equipment (e.g. by running shorter trains)—while still providing the same frequency of revenue service to the same number of riders—would lose funds under the Section 9 rail tier formula. The section would hold harmless those rail systems that demonstrate to the satisfaction of the Secretary the combination of energy savings and continued service described above.

Sec. 24. Section 9 Program—Applicability of Safety Program. This section would apply Section 22 of the Federal Transit Act, which gives the Secretary investigatory powers to ensure safety in mass transit systems, to the section 9 program. The provision is necessary because of the requirement in section 9(e)(1) that only specified sections of the Federal Transit Act apply to section 9.

Sec. 25. Section 9 Program—Certifications. This section would make several amendments to simplify the section 9 grant application process—particularly the existing requirements that recipients self-certify their compliance with various statutory mandates.

Subsection (a) would mandate that all certifications required by law be incorporated into a single document to be submitted annually as part of the Section 9 application. The subsection would also require the Secretary to publish an annual list of all required certifications in conjunction with its annual publication—currently required by Section 9(q)—of information outlining the apportionment of Section 9 funds.

Subsection (b) would require the Secretary to establish streamlined procedures to govern a recipient's "continuing control" certification with respect to track and signal equipment. Under existing law, a section 9 recipient is required to certify that it has or will have "satisfactory continuing control" over the use of its facilities and equipment. Transit operators have found that UMTA's interpretation of this requirement with respect to track and signal equipment imposes unnecessary administrative burdens on transit recipients.

Sec. 26. Section 9 Program—Program of Projects. This section would require a recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under the section 9 program with transportation services assisted by other federal sources. A similar provision currently is in Section 18 of the Act.

Sec. 27. Section 9 Program—Continued Assistance for Commuter Rail in Southern Florida. This section would amend the Surface Transportation and Uniform Relocation Assistance Act of 1987 to permit a commuter rail line (Tri-County Rail Authority) in south-eastern Florida to continue to receive federal operating assistance under section 9.

Sec. 28. Section 11—University Transportation Centers. Section 28(1) would revise the responsibilities of university transportation research to include safety issues. Section 28(2) would delete the current National Advisory Council provision and replace it with a requirement that the results of studies conducted by the Centers be coordinated and disseminated by the Secretary.

Section 28(3) would amend section 11(b)(8) to permit up to 1% of the funds made available under this program by any agency of the Department to be available for the administrative expenses the Department incurs in administering the program. The Secretary intends to delegate the responsibility to administer the program to the Administrator of the Research and Special Programs Administration.

Section 28(4) would add paragraphs (11) and (12) to the end of section 11(b) of the Act. Paragraph (11) allows the Secretary to make available to the University Centers other funds appropriated for transportation research.

In addition, Paragraph (12) would establish three additional National University Centers for transportation management, research and development to accelerate the involvement and participation of minorities and women in transportation related professions, especially in the science, technology and engineering disciplines. These new Centers would meet all of the guidelines and criteria applicable to the other University Centers.

Sec. 29. Rulemaking. This section would require the Secretary to undertake formal rulemaking when proposing or implementing rules governing activities under the Urban Mass Transportation Act. This is intended to prevent the Secretary from implementing policy revisions through routine guidance circulars rather than through formal rules.

Sec. 30. Section 12—Transfer of Facilities and Equipment. This section would amend the general provisions of Section 12 to allow the Secretary to authorize the transfer of facilities and equipment acquired with funds under the Act to any public body for uses other than mass transportation. Under current law, the transfer of excess property for other public uses is difficult and cumbersome. This provision would simplify the process and allow, for example, the transfer of a surplus bus maintenance facility from a transit authority to a public school district.

The transferred facilities and equipment would have to remain in a public purpose use for a minimum of five years. In addition, prior to making any transfer, the Secretary would first have to make a written determination that there are no other mass transit purposes for which the asset should be used; that the benefit of the transfer outweighs liquidation of the asset and return of the Federal financial interest in the asset; and that there is no Federal use for the asset.

Sec. 31. Special Procurement. The bill will amend section 12 of the FT Act by adding a new subsection that authorizes two new refinements to law affecting FTA procurement procedures.

Turnkey System Procurements. This paragraph would promote the adoption of new transit technologies, such as automatically guided rail systems, and make possible lower cost construction of new mass transportation systems through the use of "turnkey" procurement. "Turnkey" refers to a vendor-specific project under which a manufacturer contracts to (1) build a total system that meets specific performance criteria, (2) operate it for a period of time, and then (3) transfer operation to the transit system after reliable performance is assured. The paragraph would authorize the Secretary to allow the solicitation for a turnkey system project to be conditionally awarded before all Federal requirements have been met so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under the FT Act could be made available when the recipient has complied with relevant Federal requirements. The Secretary is expected to develop appropriate regulations in a timely manner. In the meantime, and to assist in the development of those regulations, the Secretary is authorized to select a maximum of 4 projects under this paragraph and temporarily to waive requirements of law to the extent that such waiver is appropriate to achieve efficient and expeditious implementation of those projects.

Multi-year rolling stock procurement. This paragraph would authorize a transit operator to enter into multi-year agreements for the purchase of rolling stock, such as busses and rail cars, and replacement parts. The purpose of this reform is to permit a reduction of overall procurement and maintenance costs through greater standardization and more orderly replacement of fleets. The agreements could provide for an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract. The Committee considered favorably a proposal to amend existing statute with language stating that an operator could award a contract to other than the low bidder so long as the recipient pays the extra cost with non-federal funds and Federal reimbursement is made on the basis of the low bid. The Committee did not include this amendment after being assured by the Administration that existing law permits operators to achieve this by using negotiated procurement procedures.

The paragraph would also authorize two or more recipients to cooperate for the joint procurement of vehicles. The Secretary is expected to provide streamlined procedures so that rural transit operators and smaller communities can efficiently use such joint procurement procedures.

Sec. 32. Section 16—Elderly and Persons with Disabilities. This section would clarify existing FTA practice by specifying that funds provided under the Section 16(b)(2) program will be allocated to the States, who in turn will distribute funds to eligible private non-profit organizations. States would submit a program of projects to the Secretary for approval as is current practice. The section also requires an assurance that the state's program of projects provides for the coordination of Section 16(b)(2) transportation services with transportation services assisted from other Federal sources. This provision is designed to encourage more effective coordination and to avoid duplication of service.

In addition, the section would authorize assistance to public bodies that are approved by a State to coordinate transportation services for elderly persons and persons with disabilities. This provision is designed to support the efforts of States attempting to coordinate transportation services. For example, Florida has passed a state law that mandates statewide coordination of all transportation services for the disadvantaged. Several of the entities designated by the state to coordinate these activities are public bodies such as county commissions. Although these designated entities must coordinate both funding sources and service provision, current law precludes them from receiving funds under 16(b)(2), thus hindering their ability to fully coordinate these transportation services.

The section would allow the Governor of each state to use any funds that remain unobligated from the Section 16(b)(2) program during the final 90 day period prior to the expiration of the grant to be used to supplement funds distributed under either the Section 18 program or the Section 9 program.

The section would also require the Secretary to issue regulations to allow recipients of 16(b)(2) funds to lease their equipment to public transit entities. The section specifies that the regulations shall be issued within 60 days of enactment of the bill.

Sec. 33. Section 18—Transfer of Facilities and Equipment. This section would add a provision to allow States the flexibility to transfer facilities and equipment between the Section 18 and Section 16(b) programs. Current law does not allow equipment transfers from one program to the other. Under this provision a State could, for example, transfer vans purchased with Section 18 funds to the Section 16(b) program and vice versa. The original program use requirements of Section 18 and Section 16(b) would continue to apply to any transferred equipment.

Sec. 34. Section 20—Human Resources Program Support. This section would amend current Section 20, which authorizes the Secretary to make grants or contracts for national or local programs that address human resource needs as they apply to public transportation activities. This section would redesignate the current provision as subsection (a) and add a new subsection (b).

This new subsection would authorize the Secretary to retain any funds returned in connection with these human resource activities in a fund whereby these retained funds could in turn be made available for any human resource activities eligible to be funded under section 20.

Sec. 35. Authorizations.—This section would provide authorization levels for the various programs in the bill. Under current law, section 9 and 18 formula programs are funded primarily from general revenue. The section 3 new starts, rail modernization, and bus discretionary programs, section 16(b)(2) elderly and handicapped transit and Section 8 planning—are funded from the mass transit account of the highway trust fund. Historically, programs funded from general revenues have experienced larger cuts in the appropriations process than have programs funded from the trust fund. This proposal would restructure funding sources to provide greater equity between formula and discretionary programs. All formula and discretionary programs would receive a similar percentage of funds from both the trust fund and general revenues.

Funding for the various programs would, in most cases, be provided as a percentage of total funds available for formula and discretionary programs and the National Capital Transportation Act.

3.0% of total FTA funds would be authorized for planning, programming and research. Those funds would be distributed as follows:

45% would be available for MPOs under section 8(f);

5% would be available for the Rural Transit Assistance Program under section 18(h);

20% would be available for the state research and planning program under section 26(a); and

30% would be available for the national planning and research program under section 26(b).

1.04% of total FTA funds would be authorized for administrative expenses under section 12(a)—providing the Administration's requested amount;

1.5% of total FTA funds would be authorized for elderly and handicapped transportation under section 16(b);

$5,000,000 would be authorized for each of fiscal years 1992 through 1996 for University Transportation Centers under section 11(b);

$160,000,000 would be authorized for fiscal year 1992 and $164,843,000 for fiscal year 1993 for completion of the Interstate Transfer program transit projects;

6% of the remaining formula funds would be authorized for rural transportation under section 18, which would essentially double the funding for these activities;

the balance of formula funds would be available for section 9 formula grants.

Sec. 36. Report on Safety Conditions in Mass Transit. This section would require the Secretary to submit a report to Congress within 180 days of enactment on the safety record of mass transit. The report would include a summary of all passenger-related and employee-related deaths and injuries resulting from unsafe conditions in mass transit facilities. The report would also include a summary of the investigative and remedial actions taken by the Secretary in accordance with the authority provided by Section 22. Finally, the report would make recommendations concerning any legislative or administrative actions that are necessary to ensure that recipients of federal funds will institute the best means available to correct or eliminate safety hazards.

Sec. 37. Section 23—Project Management Oversight. This section would increase the percentage of funds reserved for FTA's project management oversight program. The current ½ percent takedown from all funds available to carry out sections 3, 9, 18, interstate transfer projects, and the National Capital Transporation Act (authorizing legislation for D.C. Metro) would be increased to ¾ percent. A technical restriction would be removed that currently limits the use of these "takedowns" from each eligible program to projects funded under that same particular section. Instead, FTA could aggregate all of these funds for use on projects in any of the eligible programs.

Sec. 38. Section 26—Transportation Planning and Research. This section would clarify the research functions of the agency by adding a new Section 26 to the Act. Subsection (a) would provide for a state research and planning program.

50 percent of the funds authorized under subsection 35(c)(3) of this Act would be available under subsection 26(a)(1) of the FT Act for a transit cooperative research program to be administered by an independent governing board established by the Secretary. The majority of the board members would represent transit operating agencies. The mass transit projects the board approves would be carried out by means of grants or cooperative agreements from the Secretary of the National Academy of Sciences. The transit cooperative research program is intended to be an applied research program that focuses on identifying and evaluating solutions to everyday problems of transit operators.

The other 50 percent of funds would be available to the States on the basis of population for grants or contracts consistent with the purposes of sections 6, 8, 10, 11, or 20 of the Act. No state would receive less than one-half of one percent of the amount apportioned in this section. States could also use a portion of their funds for activities in conjunction with the transit cooperative research program as well with local metropolitan planning organizations.

Subsection (b) would provide for a national research program to be administered by the Secretary. The secretary would be authorized to use the funds for section 35(c)(4) for grants or contracts in accordance with sections 6, 8, 10, 11, or 20 of the Act.

Subsection (b)(2) would require the Secretary to set aside a minimum of $2 million in funds for transit related technical assistance, demonstration programs, research development, technological innovations and public education for the purpose of assisting with implementation of the Americans with Disabilities Act. To the extent practicable, the Secretary would contract with a national non-profit organization with demonstrated capacity to carry out this activity.

Subsection (b)(3) would authorize the Secretary to use up to 25% of the section 26(b)(1) funding for special initiatives. In connection with these initiatives, the Secretary may provide expedited processing governing compliance with the requirements of this Act for nonrenewable grants that do not exceed $100,000.

Subsection (b)(4) would authorize the Secretary to undertake a program of transit technology development in coordination with affected entities. The Secretary would establish an Industry Technical Panel composed of representatives of transportation operators and suppliers. Representatives of the suppliers could compromise a majority. The panel would assist the Secretary in identifying promising areas for technology development and in developing guidelines for project development. The Secretary would also develop guidelines on cost sharing principles for technology development projects.

Subsection (b)(5) would permit the Secretary to use funds under this subsection to supplement funds under the transit cooperative research program, subsection (a)(1) of this Act, in the state program.

Subsection (b)(6) would permit the Secretary to impose an appropriate local share for any grant or contract that gives a clear and direct financial benefit to an entity.

Sec. 39. Technical Accounting Provisions. This section would correct administrative difficulties resulting from current accounting practices. Funds appropriated prior to October 1, 1983, that remain available for expenditure after October 1, 1991, could be transferred to and administered under the most recent appropriation heading for the relevant section.

Sec. 40. GAO Report on Impact of Charter Service Regulations. This section would require the General Accounting Office to submit a report to Congress evaluating the impact of the existing charter service regulations on the ability of communities to meet their local transportation needs. The report would specifically analyze the impact of the regulations on the ability of communities to meet the transportation needs of government, civic and charitable organizations and carry out economic development activities. The report would also analyze the extent to which (1) public transit operators and private carriers have entered into charter service agreements; and (2) private carriers profit from the provision of charter service by public operators. The GAO would be instructed to examine the impact of the charter service regulations in at least three communities. The final report would be due not later than 12 months following enactment of the Act.

Sec. 41. GAO Study on Public Transit Needs. This section would require the General Accounting Office, on a biennial basis, to submit a Report to Congress that evaluates the extent to which the nation's transit are being adequately addressed. The report would include (1) an analysis of the unmet needs for transit; (2) a projection of the maintenance and modernization needs that will accrue over the coming five years as existing transit equipment and facilities deteriorate; and (3) a projection of the need to invest in additional transit facilities over the coming five years to meet changing economic, commuter and residential patterns. The report would also estimate (1) the cost of meeting the needs identified above; (2) the public and private resources that will be available to support public transit; and (3) the gap between transit needs and resources.

Sec. 42. Use of Population Estimates. This section would require more frequent updates of the population statistics used to distribute funds under Section 18 and Section 9 for small urbanized areas. Under current law, all UMTA formula programs use population statistics from the most recently available Federal Census. This section would require the Secretary to use interim population estimates provided by the Secretary of Commerce to update the formulas every four years.

Sec. 43. Section 9B—Technical Amendment. This section would make a technical amendment to the wording of Section 9B of the Urban Mass Transportation Act to conform with other changes proposed in this bill.

Sec. 44. Use of Census Data. This section would require the Secretary to use data from the 1990 census, to the extent practicable, in determining allocation of funds under Sections 9, 16(b)(2) and 18 for fiscal year 1992. The Secretary of Transportation and the Secretary of Commerce would be required to coordinate efforts to expedite the availability of census data in a form that is appropriate for the transit program formulas. The Secretary of Transportation must notify the Congressional authorizing Committees of actions taken under this section within 9 months of enactment of the Federal Transit Act.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, JUNE 10, 1991

1. Bill number: S. 1194.

2. Bill title: Federal Transit Act of 1991.

3. Bill status: As ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs, June 6, 1991.

4. Bill purpose: S. 1194 would provide contract authority and authorize appropriations for various programs of the Urban Mass Transit Administration (UMTA). For urban formula grants, rural transit grants, interstate transfer transit grants and several other UMTA programs, the bill would provide contract authority totalling $6.6 billion and authorize appropriations of $7.0 billion over the 1992–1996 period. For capital grants authorized by Section 3 of the Urban Mass Transportation Act of 1964 (known as the section 3 program), the bill would provide contract authority of $3.4 billion and authorize appropriations of $4.0 billion over the same period.

The bill would also make a number of changes to the funding structure of federal mass transportation grant programs. Under current law, only the section 3 program and the section 9B formula capital grants program are funded with contact authority while all other UMTA programs are subject to appropriations. S. 1194 would establish a dual funding system where by all UMTA programs would receive both contract authority and appropriations. Further, funding for all these programs would come from both the transit account of the Highway Trust Fund and the general fund of the Treasury.

UMTA would receive additional flexibility in managing capital projects under S. 1194. The bill would allow the agency to enter into full funding contracts under the section 3 program that could include contingent commitments to obligate future years' budget authority for specific projects. UMTA could also enter into early systems work agreements that would obligate available budget authority to pay for preliminary project implementation costs in advance of final project approval.

Also included in this bill are provisions that would:

Change the name of the Urban Mass Transportation Administration to the Federal Transit Administration;

Expand the activities eligible for funding under UMTA grant programs; and

Expand the existing transportation planning process established by the 1964 act.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
BUDGET AUTHORITY					
Formula Grants and Other:					
UMTA programs	1,071	1,220	1,300	1,450	1,565
Section 3 capital grants	535	580	680	750	835
Total budget authority	1,606	1,800	1,980	2,200	2,400
AUTHORIZATIONS					
Formula grants and other:					
UMTA programs	1,440	1,387	1,351	1,382	1,460
Section 3 capital grants	775	780	799	829	850
Total authorization level	2,215	2,167	2,150	2,210	2,310
Estimated outlays	710	1,524	2,381	3,020	3,675
Total:					
Budget authority/authorizations	3,821	3,967	4,130	4,410	4,710
Estimated outlays	710	1,524	2,381	3,020	3,675

Total outlays for programs authorized by this bill, including outlays from previous years' appropriations, would grow from $3.6 billion in 1992 to $4.2 billion in 1996.

The costs of this bill fall within budget function 400.

Basis of Estimate: The budget authority equals the contract authority provided in this bill. To estimate outlays from the contract authority, we assume that obligation limitations customarily established in appropriations acts would equal the budget authority. Because these outlays are subject to such limitations and to liquidating appropriations, they are considered discretionary and so are included under authorizations in the above table.

For the spending subject to appropriations, CBO assumed that the full amounts authorized for each year would be appropriated prior to the start of the fiscal year. Outlay estimates are based on historical spending rates.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. While S. 1194 would provide contract authority for mass transportation programs, the outlays for these programs would be considered discretionary, as explained above. Therefore, CBO estimates that enactment of S. 1194 would not affect direct spending or receipts, and pay-as-you-go procedures would not apply to this bill.

7. Estimated cost to State and local governments: Most of the funding provided by this bill is in the form of grants to state and local governments. Several provisions would affect the allocation of funds among the states and alter cost-sharing arrangements for some types of projects. Specifically, the bill would establish a higher federal share for projects that involve the acquisition of equipment or construction of facilities required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act. In addition, S. 1194 would expand the activities eligible for funding under UMTA grant programs. Federal requirements for transportation planning would be expanded upon enactment of this legislation, but funds provided for this purpose would also increase.

8. Estimate comparison: None

9. Previous CBO estimate: None

10. Estimate prepared by: Marjorie Miller.

11. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).●

RECOGNITION OF FARMERS HOME ADMINISTRATION, LONDON, KY

● Mr. FORD. Mr. President, I rise today to recognize the outstanding accomplishments of the Farmers Home Administration District Office in London, KY. The office staff will be in Washington today to receive the Superior Service Award from the U.S. Department of Agriculture for outstanding contributions to rural development in southeastern Kentucky. The members of the group include Kenneth R. Arterburn, district director; E. Gene Bundy, district loan specialist; Mary M. Woods, district loan technician; and Athalene Anders, district office clerk.

As one of the administrators of the largest and most diversified loan and grant portfolios in the State during the past year, the FmHA District Office in London has provided waste disposal system loans and grants, rural rental housing loans, community facilities loans, and two Appalachian Regional Commission grants. The London district office has been instrumental in providing community facility loans for health care facilities, a community building, a fire department, a housing preservation grant, and numerous recreation projects.

Mr. President, I find one of the most distinguishing characteristics of the district to be an outstanding collection record. In considering the high volume of loans and grants the district administers, I am most impressed by such an excellent record. The impressive record is undoubtedly attributable to the hard work and dedication by the members of the district office staff.

The members of the London office have been with Farmers Home Administration for at least 20 years, each dedicating a long and distinguished career of service. The residents of the London area are certainly lucky to have such individuals implementing and admirably working to strengthen the family farm, rural incomes, and rural communities.

As the London District Office is recognized today for its superior service, I commend the outstanding performance of the staff and encourage the continuance of their dedication to the rural communities of southeastern Kentucky.●

FOOD SALES TO THE SOVIET UNION

● Mr. EXON. Mr. President, I was pleased that the President has taken the advice of the United States Senate and extended agricultural export credit guarantees to the Soviet Union. The President acted in a measured fashion which will help encourage continued reform in the Soviet Union and protect American taxpayers from default. It is clear that the Senate resolution expressing support for the credit guarantees played a role in the President's decision.

It is a wise decision. The American farmer will welcome this action and it will give the American agricultural exports a shot in the arm. It is wrong to think of the President's action as extending aid. It is not. It is facilitating trade. This move serves American interests very well.

For quite some time, I have been encouraging the Bush administration to explore a long-term food for oil barter arrangement, where American food and oil production technology can be traded for future Soviet oil production. This spring I explained my proposal to the Soviet Minister of Oil and Gas and the Soviet Minister of Agriculture and received very positive response to the concept and the Senate passed resolution on agricultural export credit guarantees endorsed the use of barter, countertrade and other nontraditional means of finance to expand trade with the Soviet Union.

I was delighted to see an article in the June 12 Journal of Commerce written by Prof. Lawrence M. Lesser, which endorses the very type of arrangement I have been suggesting.

Mr. President, I encourage my colleagues to read this well-written article and ask that the text of Professor Lesser's article be printed in the RECORD.

The article follows:

TRADING U.S. AID FOR SOVIET OIL

(By Lawrence M. Lesser)

President Bush appears poised to grant Soviet President Mikhail Gorbachev's request for $1.5 billion in U.S. agricultural credit guarantees to meet a food crisis in the Soviet Union. If Mr. Bush does so, it will be over the objections of some of his own economic advisers and the Central Intelligence Agency.

Skeptics question whether it is in the U.S. national interest to help the Soviets at a time when their economy has gone into a free-fall and they have done little to help themselves. Complicating the decision-making process is a U.S. law that requires foreign customers for American agricultural commodities to be able to repay their debts to qualify for U.S. export credit guarantees. The United States granted Moscow $1 billion in credit guarantees last December.

Extension of American credit guarantees to the Soviet Union clearly would benefit American farmers, improve the U.S. balance of trade and strengthen Mr. Gorbachev's standing at home. It also might benefit Soviet consumers.

But it is also important to consider what this aid will mean for American taxpayers and what steps can be taken to protect the U.S. treasury. The Soviet Union's inability to pay its creditors is a serious concern, given Moscow's current massive indebtedness to Western governments and corporations.

Recently, the Central Intelligence Agency warned Congress that "the Soviet economy is disintegrating and could be on the way to a disaster of historic proportions." Major international banks have sharply downgraded the Soviet Union's credit rating and refused to provide new loans.

The General Accounting Office recently estimated that total defaults under the agricultural credit guarantee program, including $2 billion owed by Iraq, will cost the United States as much as $6.7 billion. And the Congressional watchdog agency warns that losses may go higher if additional credits are extended to high-risk borrowers, such as the Soviets.

If Mr. Bush approves Mr. Gorbachev's entire request without attaching conditions to protect the U.S. treasury, the level of U.S. credit guarantees outstanding to the Soviet Union alone would represent almost half the total for all countries this year under the export credit guarantee program.

One prudent step Mr. Bush should take is to wait until next month before formally committing the United States. He could then see if the Soviets meet the first interest payment due on the $1 billion in credits Washington extended last December. Another is to release the new credits in phases, a step the administration is considering.

The Soviet Union grows more wheat than any other country in the world. But in spite of an abundant harvest in 1990, less than half of the 235 million metric tons produced actually reached store shelves. Production of many other food items, such as meat, sugar, fruits and vegetables, was down.

In recent testimony before the congressional Joint Economic Committee, George Kolt, director of the CIA's Office of Soviet Analysis, said Soviet consumers faced "greater shortages and higher prices than at any time in the past four decades. Breakdowns in distribution compounded the shortage problem and magnified regional and social inequalities in living standards."

America is the world's largest exporter of agricultural commodities. And the United States has ample supplies to help feed the Soviet people, as well as the technological expertise to overhaul the infrastructure on which Soviet agriculture depends. Americans can teach Soviets how to decentralize, how to privatize and how to install other incentives, such as market pricing, that will make it possible for them to distribute food efficiently.

In addition to wheat, the Soviet Union also is the largest oil producer in the world, surpassing even Saudia Arabia. As a nation with some of the largest proven reserves, including three of the world's largest oil fields, the Soviet Union can offer American firms enormous opportunities for oil and gas exploration.

Like the agriculture sector, the Soviets also face daunting problems with their oil and gas infrastructure. As estimated 9% of all oil production is spilled every year, while ten percent of all natural gas production leaks from defective pipelines.

Given Moscow's lack of cash and need for more efficient ways to distribute its surpluses, there is a unique opportunity here for an accord in which American food and technical assistance could be bartered for Soviet oil. The price of each could be negotiated on the basis of market factors. By sharing U.S. agricultural and energy technology, American firms could help to overhaul outmoded Soviet production and distribution facilities and systems in both industries.

A food-for-oil pact would ease U.S. concerns about Soviet credit-worthiness since Soviet oil production could serve as collateral for new credits. And it would enable the United States to diversify its sources of petroleum, a step Mr. Bush called for earlier this year as part of his National Energy Strategy.

Daily events in the Soviet Union alternately elicit feelings of hope and despair. Mr. Gorbachev's power-sharing pact with the republics, the Soviet parliament's approval of legislation to guarantee freedom of emigration, the renewed impetus toward democracy and a free market economy, and a new willingness to resolve outstanding differences with the United States on arms control, are all positive developments.

But political repression and denial of basic human rights remain of deep concern. Another wave of repression could come at any time, as it did after Mr. Bush granted the Soviets grain credits last December.

Mr. Bush, as he did during the war against Iraq, once again can demonstrate his capacity to lead by proposing a barter arrangement between the United States and the Soviet Union. A comprehensive program of this kind would benefit the economies of both countries, protect American taxpayers and advance U.S.-Soviet relations.•

THE TRANSITION OF EASTERN EUROPE TO FREE MARKET ECONOMIES

• Mr. ROTH. Mr. President, the world's attention over the past year has been focused on Eastern Europe, as formerly Communist nations such as Poland have endeavored to transition to free market economies. The United States has assisted greatly in this move, which captures our imagination and desire to see freedom around the globe, and certainly serves our national interest as well.

Poland faces a major challenge next week in its attempt to shed the burdens of its Communist days when it continues negotiations with foreign financial institutions over its debt repayments. Communist regimes in Poland borrowed $48 billion, and of this, the country now owes approximately $12 billion to commercial banks. Representatives of these institutions will meet in Frankfurt with Polish Government officials to try to reach agreement on rescheduling this private debt.

Western governments took the lead last March in easing this crushing debt burden when they agreed to provide debt relief totaling $17 billion over a period of several years. The agreement with these nations—who acted collectively as the Paris Club—provided that Poland may not offer more favorable terms to any other creditors. Hence it is critical that Western financial institutions also show flexibility and realism in dealing with the Poles.

Mr. President, the course of history depends on the ability of formerly Communist countries to convert to market economies. In Poland's case, this requires a realistic approach to the acute problem of its overwhelming public debt, and I encourage Western commercial institutions to approach the upcoming negotiations in this manner.•

INTERNATIONAL EFFORTS TO PROTECT THE KURDISH PEOPLE

• Mr. KERREY. Mr. President, in the past 72 hours we have immersed the military participants of Operation Desert Storm with an unprecedented homecoming. In Washington, DC, it was one of the largest demonstrations; in New York City they broke all previous records.

The success being celebrated is the military victory over the Iraqi army. American and allied forces drove the Iraqi occupiers out of Kuwait just as they promised to do. It was a very impressive operation and we now welcome home those who impressed us so much.

The language of our speakers describe this as a victory for liberty and freedom. However, as stunning as the military victory was, the fight for freedom has just begun, Reports of ongoing human rights abuses in Kuwait indicate that we need to sustain our concern for the freedom of the Kuwaiti people. Further, as grateful as I am for the safe homecoming of our men and women, the most impressive movement home has been the return of Kurdish refugees to northern Iraq. Mr. President, I hope and pray we do not forget them.

In this morning's Washington Post there is an editorial by Mr. Sadruddin Aga Khan, the executive delegate of the Secretary General for the United Nations interagency humanitarian program for Iraq, Kuwait, and the Iraq-Turkey and Iraq-Iran border areas. I ask that Mr. Khan's text appear at the conclusion of my statement.

Mr. Khan explains the purpose and history of the United Nations "guards contingent" formula being used in Iraq to protect the freedom of the Kurdish people. These 500 U.N. guards are in Mr. Khan's words "to be assigned wherever a U.N. humanitarian presence is needed * * * it is a small step for peace, a tentative but instructive idea of how innovation, even within the United Nations somewhat rigid structures, can unblock the impasse."

These 500 guards operate according to a May 23 U.N. agreement with Iraq and the framework agreement signed in Baghdad on April 18. It is a humanitarian operation which can only be successful if the United States stands watchfully and forcefully behind it. Unfortunately, thus far the voluntary fundraising effort has fallen short of needs. The United States must lead the world to make certain this shortage evaporates. It would be a tragic and bitter end if the freedom of these refugees was sacrificed to complacency.

Mr. Khan's vision for a new kind of response is worthy of our support. His words are more than worthy; they inspire. He says:

> The debate over a right of humanitarian intervention has been given a good airing recently. Compassion and self-interest find temporary common cause in international action to alleviate suffering that knows no frontiers. In a vacuum of authority, responsibility must be assumed, and services disrupted by disasters must be restored. Yet imposed concern remains largely unwelcome. Once again, innovation and flexibility are crucial. Life-saving and face-saving may have to go hand in hand.

Mr. President, not only do we have the opportunity through this effort to finish the job we began, we also have the opportunity to learn how to use force to prevent wars from beginning. In the postcontainment world we must provide the means to make these kinds of operations as big a success as Desert Storm.

The editorial follows:

[From the Washington Post, June 12, 1991]

U.N. PROTECTION BORN OF NECESSITY

(By Sadruddin Aga Khan)

On May 23 the United Nations secured Iraqi agreement to the deployment of up to 500 U.N. guards, to be assigned wherever a U.N. humanitarian presence is needed. This is not a panacea for the tensions and dangers of the region—and certainly not a means to "monitor all of Iraq," as Jim Hoagland writes [op-ed, June 5]. That was never the intention. But it is a small step for peace, a tentative but instructive idea of how innovation, even within the United Nations' somewhat rigid structures, can unblock the impasse.

The world's media spotlight—dazzlingly effective but lamentably brief—has focused on the grim plight of the Kurdish population in northern Iraq, which should not blind us to the needs of the victims of upheaval in other regions. Coalition forces responded first with a military efficiency that is enviable to traditional relief agencies. And since the signing of our framework agreement in Baghdad on April 18, the United Nations has had underway a humanitarian operation designed to bring succor to vulnerable groups throughout the country. The U.N. high commissioner for refugees has already taken over the Zakho transit camp. But security was hard to address within the confines of a humanitarian program.

Recourse to the Security Council was ruled out at the time. The peace-keeping option was tried to no avail. And indeed traditional U.N. peace-keeping, for all its successes, does have one pitfall: It can freeze a situation in an uneasy stalemate, with the underlying issues conveniently shelved by the parties—a "hard and bitter peace," in the words of John F. Kennedy. Just look at the 33 years of dispute over Kashmir or the 27 years of Cyprus's division.

Another approach was needed. That was why we came up with the "Guards Contingent" formula, blending the disparate humanitarian, political and security elements. A novel if still unproven experiment, the guards' basic mandate is to protect the precious human and material assets deployed in the humanitarian operation. They are neither peace-keepers nor policemen where U.N. resources are not involved. There are no guarantees. But they are there to observe, monitor and report. Any security incidents will be rapidly communicated up the chain of command. In the most direct sense, the guards may be a highly visible but symbolic presence—as indeed are peace-keeping operations themselves, where the "blue helmets" protect more by their color than by their dimension. But the guards ensure the international context. They will bear moral witness and help create confidence. As the eyes and ears of the United Nations, their reports can trigger further action. Moreover, bound as they are to the humanitarian program's time frame, a cutoff date prevents the inertia of the situation in Kashmir or Cyprus.

On first sounding out the concepts in Baghdad, I recalled an earlier idea, which we put forward in a 1981 U.N. report on "Human Rights and Massive Exoduses"—for a corps of "humanitarian observers." These observers were "to monitor situations and contribute through their presence to a de-escalation of tensions," as well as to facilitate humanitarian work. In a refugee context, they could contribute to speedy repatriation. Ahead of their time, they never materialized; however, a decade later the guards represent by another name much of that same philosophy.

The debate over a right of humanitarian intervention has been given a good airing recently. Compassion and self-interest find temporary common cause in international action to alleviate suffering that knows no frontiers. In a vaccum of authority, responsibility must be assumed, and services disrupted by disasters must be restored. Yet imposed concern remains largely unwelcome. Once again, innovation and flexibility are crucial. Life-saving and face-saving may have to go hand in hand.

Critics remind us that the United Nations enjoys no reputation for rapid response to crises: Its potential must indeed be better tapped. Nonetheless it may step in where other powers rightly hesitate to tread. The guards' deployment was risky and cannot shoulder a burden it was never intended to bear, but it deserves its niche in U.N. history. Whatever the outcome, we must not fear to improvise. When hundreds face death each day, as parents bury their children on barren mountaintops, we cannot await the ideal solution. Relief from starvation and disease brooks no bureaucracy.

Complex humanitarian and political challenges defy easy solution. There are no quick fixes: An idea such as the guards contingent for our operation in Iraq can only be part of a broader package. In such situations, where distrust, distress and violence feed upon each other in a poisonous circle, the antidote must have multiple ingredients. First, tensions must be lowered, with the parties agreeing to show some restraint and to support, at the very least, the implementation of the humanitarian program. Specific agreements to that effect should be concluded between all concerned. Second, civilian authority should prevail, reflecting the spirit if not the letter of a demilitarized region. Third, tentative or interim security arrangements might be ensured through a tripartite grouping of both sides together with international representatives associated with the humanitarian endeavor. Other assurances or leverage may come from outside. The tissue of confidence must be rewoven thread by thread. One missing strand, one unchecked incident, will unravel the safety net.

We cut some corners in sending in a first guards contingent before the ink was dry—in fact before the agreement was even signed. And as they had to be part of the humanitarian package, their funding is dependent upon voluntary contributions, in cash or in kind. So far the response has fallen short of the needs, estimated at some $35 million till the end of the year—about as much as it costs the coalition every week, according to press reports, to keep its forces in northern Iraq. Give us the means to make this operation a success. As the refugees return down our "blue routes," we must keep up the momentum. Peace comes cheaper than war; it is also a good investment. Solidarity today can reap stablility in a volatile region tomorrow.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows that the effects of Congressional action on the budget for fiscal year 1991 and is current through June 10, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101–508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 3, 1991, there has been no action that affects the current level of spending and revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. AS OF JUNE 10, 1991

[In billions of dollars]

	Revised on-budget aggregates[1]	Current level[2]	Current level +/− aggregates
On-budget:			
Budget authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−.4

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS. AS OF JUNE 10, 1991—Continued

[In billions of dollars]

	Revised on-budget aggregates [1]	Current level [2]	Current level +/ − aggregates
Revenues			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−.4
Direct loan obligation	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,401.1	−743.9
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	
1991–95	1,284.4	1,284.4	
Social Security revenues:			
1991	303.1	303.1	
1991–95	1,736.3	1,736.3	

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level reprsents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $1 billion in budget authority and $0.2 billion in outlays for debt forgiveness for Egypt and Poland; and $0.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the Committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3 billion for the Internal Revenue Service provision in the Treasury-Postal Service Appropriations Bill (Public Law 101–509). The current level of debt subject to limit reflects the lastest U.S. Treasury information on public debt transactions.

[3] Less than $50,000,000.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JUNE 10, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions;			
Revenues			834,910
Permaments appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS Deadline for Desert Storm troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB domestic discretionary sequester	−2	1	
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses: Emergency supplemental for humanitarian assistance (H.R. 2251)			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by Committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

Note. Numbers may not add due to rounding.•

FORCED LABOR IN CHINA

• Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation that will strengthen our current tariff laws with respect to certain imports. These imports are literally made with the blood, sweat, and tears of forced labor. I commend the Senator from North Carolina for making this body aware of this tragic practice.

In some nations in our world, forced labor, using convicts, prisoners of conscience, and other forms of involuntary service, is endemic. Certain of these nations extract through their captive labor supply literally hundreds of millions of dollars' worth of goods and services to sell on the world market. The world community, which embraces the respect for basic human rights, must necessarily shun this heinous activity.

The two bills that are being introduced today will impart upon those nations that would consider using forced labor as an economic tool that the United States will not tolerate the importation of their ill-gotten gain. The second bill distinctly points to China, a nation that documentary evidence has shown exports products made by forced labor.

While other nations throughout the world may allow such products into their nations, these bills will guarantee that such products do not arrive on American soil. However, should any prohibited product be imported into the United States, remedies and damage provisions will allow afflicted parties the right to sue for treble damages.

Mr. President, few among us could ever condone the use of forced labor. Unfortunately, in some nations, such labor is an integral part of the economy. While the United States may not be able to take direct action to affect a change in this practice, we can take steps to make sure that the result of such behavior does not taint our shores. I am pleased to cosponsor this important legislation and I urge the Senate to take action on these bills.•

THE INTERNATIONAL PARENTAL CHILD KIDNAPING ACT

• Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of the International Parental Child Kidnaping Act. This bill amends the criminal code to make international parental child kidnaping a Federal offense.

Over the years, we have witnessed the increased incidence of family dissolution in America which has brought about a host of associated problems. Among these is child kidnaping. While separation and divorce are frequently marked by competing claims for custody of minor children, recent times have seen losing parties resort to self-help by kidnaping their own children.

In terms of international child kidnaping, the situation is particularly grave. Last year, there were nearly 400 new incidents involving American children who were kidnaped to a foreign country by a noncustodial parent. Some progress in this area has been made since the United States signed the Hague Convention in 1980. Among other things, this convention established regulations to facilitate the return of kidnaped children to their custodial parent. However, the policies adopted at the Hague only pertain to the signatory countries. Since many cases of kidnaping do not involve these nations, serious impediments to solving this troublesome issue remain.

The most effective way to deal with international child kidnaping is to prevent its occurrence. By making this inexcusable act a Federal crime, parents will be deterred from kidnaping their children across national boundaries. The bill that Senator DIXON and I are introducing would allow Federal law enforcement officials to become involved in these cases and would strengthen their hands when seeking the extradition of an indicted parent. Furthermore, the bill would send a strong message to other nations that we are very serious about preventing this insidious activity.

It is clear that these missing children must not be ignored. Given the international scope of this form of kidnaping, effective enforcement requires Federal intervention. This is a problem that deserves the immediate attention of Congress, and I urge my colleagues to support this important legislation.•

HAPPY BIRTHDAY, PEZZOO

• Mr. DIXON. Mr. President, once in a while you have the pleasure to rise on a grand occasion for a great friend. And the good news is that on June 30 of this year, Harry Pezzullo will be 80 years old. Mr. President, the Great Pezzoo will be 80 years old June 30 of this year.

Mr. President, Harry Pezzullo, and I have been friends for a long time. Following World War II, Harry Pezzullo, the Great Pezzoo, was appointed golf professional at Mission Hills in Northbrook, IL, a position he held for 25 years with great distinction before becoming head pro at Plum Tree National near Harvard, IL. There, he remained in his profession until he joined JDM Country Club in Palm Beach Gardens, FL, some years ago.

He became a leader in his profession and went on to become president of the Illinois section of the PGA of America, an honor he held for 14 years.

He was elected vice president of the National PGA and served for 2 years, during which time he was named Golf Professional of the Year. Later, he was again selected vice president of the National PGA, and during his 3-year post was named to the PGA Tournament Policy Board.

Mr. President, old Pezzoo was a touring pro when he was 19 years of age. He played in the first tournament that Bing Crosby originated back in the middle 1930's and played on the tour with a lot of famous golf firsts, like Sam Snead and others, that are best remembered from another distinguished era.

But, I am here to tell you, Mr. President, that old Pezzoo can still play. Just think of this: For anyone who plays golf—and I take note of the fact that the President in the presiding chair from time to time indulges in that sport—it is meaningful to observe that the man I am talking about, Pro Pezzoo, can break his age's score every day. Here is an 80-year-old gentleman who can go out there every day and beat his age on the golf course and shoot under 80.

I just want to tell you a couple of remarkable events about Pro Pezzoo. I read here from the Providence Sunday Journal, Providence, RI. My friends, the distinguished Senators from Rhode Island, Senators PELL and CHAFEE, know Pro Pezzoo and probably remember many of the things he has done.

Providence Sunday Journal, May 20, 1984:

> One day this past summer Harry Pezzullo fired a course record 65 over the south course of JDM Country Club, Palm Beach Gardens, FL.
>
> Although noteworthy on a local level, such a feat normally wouldn't make national news * * * except that Harry happened to be well into his 74th year.

Think of it: In his 74th year he shot a 65 at the south course at JDM Country Club.

I had the pleasure of playing that course, and I know this was a phenomenal achievement.

Now, let me tell you another thing. On another occasion on the south course, he shot a 66, the topped it all off with an eagle three at the 506-yard, 17th hole. And on another occasion, on the north course, Pro Pezzoo caused a stir when he double-eagled JDM's 520-yard, sixth hole.

Mr. President, I have played that hole, I have the honor to say, with Pro Pezzoo and others who are friends of the Pro's. The hole has since been eliminated in the reformation of the north course at JDM Country Club. But they used to have a marker at the point on that par 5 where Pro Pezzoo hit his second shot to double-eagle the then existing sixth hole of the north course at JDM Country Club.

On the occasion I last played that hole with him, Mr. President, I had the pleasure of playing with him and his very dear friend and close companion, Perry Como, who plays with him on a regular occasion there at that country club.

This is a charming man, a friendly man, a man who remembers everybody's name, always has a kind word for everybody, a man who has been devoted to his profession and been an outstanding golfer for all of his lifetime, and at the age of 80, Mr. President, can do something tomorrow morning that you and I cannot do and that almost every Senator cannot do, Mr. President.

Think of it. Tomorrow morning, perhaps with some luck, SAM NUNN could break 80. Perhaps with some luck, MALCOLM WALLOP could break 80. Tomorrow morning, Mr. President, with some luck, DON NICKLES could break 80. But, Mr. President, for the other 97 of us in the greatest deliberative body in the world, that pleasure is withheld from us. Day after interminable day, we struggle. We fight, we pray, and yet we are denied the pleasure of shooting 80 or less than 80. But on each and every day, Mr. President, the old Pro Pezzoo takes his 80-year-old body on that golf course and shoots less than 80 strokes.

So, I am delighted, Mr. President, on this occasion to send along to a beloved friend, my very best wishes for a happy birthday on June 30, with this one request: He is welcome to come here anytime and be my guest here around the U.S. Senate if he will only teach me how to break 80 once in a while.•

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Thursday, June 13; that following the prayer, the Journal of the proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein, with the time under the control of the majority leader or his designee.

I further ask unanimous consent that at 10 o'clock tomorrow morning, the Senate resume consideration of S. 1204, the Surface Transportation Efficiency Act, with the Byrd amendments then being temporarily laid aside and Senator DIXON recognized to offer an amendment relating to the numbering of a highway.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. MITCHELL. Mr. President, let me repeat in summary fashion what I earlier stated. There will be no further rollcall votes this evening for the reasons earlier stated. The Senate will return to consideration of this bill at 10 a.m., at which time the Senator from Illinois [Mr. DIXON] will be recognized to offer an amendment relating to the numbering of a highway.

We will then be on the bill at the suggestion of the distinguished Republican leader. It is my hope that the respective majority and minority staffs will work this evening and tomorrow morning to develop a list that will reduce to a finite and specified number the amendments that remain to be offered and that, thereafter, we will proceed to consideration of the bill; that, if we complete action by the time of the dinner in the evening, that will obviously be it for this bill. If not, there will be a window time of 2 hours for the dinner following which we will return until we complete action on this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 9 a.m. tomorrow, Thursday, June 13.

There being no objection, the Senate, at 8:07 p.m., recessed until Thursday, June 13, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 12, 1991:

THE JUDICIARY

ALICE M. BATCHELDER, OF OHIO, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT VICE FREDERICK PIERCE LIVELY, RETIRED.

CLYDE H. HAMILTON, OF SOUTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF STATE

ARTHUR HAYDEN HUGHES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF YEMEN.

DEPARTMENT OF STATE

CHRISTOPHER W. S. ROSS, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

DEPARTMENT OF EDUCATION

JEFFREY C. MARTIN, OF TENNESSEE, TO BE GENERAL COUNSEL, DEPARTMENT OF EDUCATION, VICE EDWARD C. STRINGER, RESIGNED.

CONFIRMATION

Executive Nomination Confirmed by the Senate June 12, 1991:

DEPARTMENT OF COMMERCE

PRESTON MOORE, OF TEXAS, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF COMMERCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

ST. VINCENT'S MEDICAL CENTER CELEBRATES ITS 75TH

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BENNETT. Mr. Speaker, on June 1, friends, leadership, and personnel of St. Vincent's Medical Center met in Jacksonville's Convention Center for a banquet celebrating the 75th anniversary of the beginnings of this center in Jacksonville. It was a great occasion. The excellent principal address was given by Sister Irene Kraus, D.C., currently president of the Daughters of Charity National Health System in St. Louis, MO, and formerly president of St. Vincent's Medical Center, Jacksonville. She was introduced by Sister Mary Clare, who is presently chairman of the board and chief executive officer of St. Vincent's. Sister Irene's able speech is included here, with your permission:

ST. VINCENT'S MEDICAL CENTER

Shakespeare, in his epic work "The Tempest," wrote "What's past is prologue." We've heard the expression many times, but it takes on a special meaning for us tonight as we celebrate St. Vincent's 75 years of service. We're bound to think of the past . . . the past 75 years and all that has been accomplished here . . . but also the 358 years of the existence of the Daughters of Charity. "You can't have the one without the other." If St. Vincent de Paul had not started the Daughters of Charity in 1633, would there have been a day in the spring of 1916 when a 42-bed DeSoto sanitarium, in Jacksonville's Springfield neighborhood, would come under influence of the Daughters of Charity?

Yet, this was not the first time the Daughters of Charity had served in Jacksonville. Actually history records that after the explosion of the battleship "Maine" in a Cuban harbor and the declaration of the Spanish-American War in April 1898, Superiors at Emmitsburg, offered the services of the Sisters to the President of the United States. Twenty Daughters of Charity were sent from Emmitsburg to Camp Cuba Libra in Jacksonville. Over 190 Daughters of Charity served as army nurses in the Spanish-American War, four of whom died from diseases contracted during their service.

Innovation springs from people who dare to take risks, and there were risks for the Daughters when they came to Jacksonville. Some accounts from that era give us a little of the local flavor:

"In 1906," the archives tell us, "Jacksonville had four hospitals; Brewster, County, St. Luke's and the new DeSoto Sanitarium. In 1910 a Doctor Gerry Holden wanted DeSoto to become a Catholic hospital. The Bishop gave his approval. The city had grown in a few years from 28,000 to 70,000. The number of Catholics had grown from 2,000 to 6,000. There were about 5,000 Protestants. Others in the population were unchurched by fair-minded."

At first the Daughters thought it not feasible to accept the DeSoto Sanitarium, as St. Luke's was expanding, but after a visit by Emmitsburg authorities, and after learning that St. Lukes' had no room for the poor, the community purchased the hospital for $76,000. May 1, 1916 the Sisters began their work. The staff consisted of one lay supervisor, one matron, fifteen student nurses, two unskilled workers and five Daughters of Charity. Nine beds were occupied.

The records show that they averaged 22/25 patients at all times. At least four of these were always charity patients. It's even recorded that the heat was prostrating. The Sisters, they said, "felt on fire by day, but nights were cool." Three years later, July 19, 1919, the name was changed to St. Vincent's Hospital.

Taking over DeSoto Sanatorium and renaming it St. Vincent's Hospital was only the beginning of the work in Jacksonville. The hospital had to be cleaned and repaired to bring it up to the standards of the day. The facility was a "rickety old wooden building," as Dr. Ed Morrow Jr. remembered it in the early twenties. As important as cleaning up and fixing up, the sisters had to show the community by their words and deeds, that they were sincere and hard-working people—and that, aside from being Sisters, they were people, too, ready to take on their role and place in the city.

Jacksonville, the archives tell us, was unfamiliar with the Sisters, and townspeople were uncertain how to approach them—with curiosity, amusement, suspicion or straightforwardly. They did not know if they could meet a Sister and be confident of friendship or if they should shun these different-looking people.

The Sisters told of walking in the neighborhood and seeing, well ahead, someone on a front porch or doorstep. By the time the Sisters were walking past that spot, the entire family would have assembled to see the "white wings" go by.

The first chief of the medical staff was Dr. John E. Boyd. He was on the staff of the old DeSoto and was one of its owners. It is said that when the DeSoto Sanitarium started to fail he made several trips to Emmitsburg to urge the Daughters of Chairty to come to Jacksonville. He was the only doctor remembered as having a car in those very early days. Dr Amasa D. Stollenwerck, chief of obstetrics, rode a bicycle every day and the archives tell us Dr. Julian E. Gammon took the streetcar and always had an umbrella tucked under his arm.

Another interesting anecdote tells us that the elevator was manually operated. "You had to pull a rope to pull you up and down, so we used the stairs more than the elevator."

Peter Drucker has written: "Whenever you see a successful business, someone once made a courageous decision." How we thank God that there was a courageous woman who wasn't afraid to make a courageous decision.

Remember as a child that one of the most fascinating projects was to plant something and watch it grow. Placing a sweet potato in water and watching the potato take root was a common experiment. Now I learn that in school science fairs' projects are just a little different. The creativity, imagination, and inquisitiveness of the children is amazing. One project was testing the best types of soil in which to grow plants. One so-called "soil" a child used was popcorn, another "soil" was barbecue ashes, another "soil" was dish soap, and so on until the child finally used regular potting soil. You can imagine the wide variety of successes as well as failures of those "soils," to sustain the seeds planted in them.

Why do I mention this? Because I believe over these 75 years, St. Vincent's roots have found their way deep into the Jacksonville soil. There have probably been times when the popcorn soil or the barbecue ashes soil just didn't work. The novelist Lawrence Durrell says that "We are children of our landscape; it dictates thought in the measure to which we are responsive to it."

St. Vincent's has always tried to be responsive to its landscape. Marian Anderson, a famous American singer, once said that the most significant day in her life was not one of the many days on which she received honors, but rather, the day on which she returned to her mother's Philadelphia apartment to tell her that she no longer had to take in washing. Wouldn't we love to be able to tell those first Sisters that they no longer had to feel "on fire" in the hot summer's heat, because we have air conditioning? Wouldn't we love to show them around St. Vincent's today and tell them that their small investment of $76,000 has now grown to have an asset value of $220 million. I tried to calculate that return on investment and my calculator blew up.

But, that's just the economic side. What has been the return on the investment in terms of the Daughters of Charity mission? The healthcare mission of the Daughters of Charity has responded to a real need within the Jacksonville community . . . a need that has brought the best in technology to northeast Florida, but also a need to make a difference within this society, by its distinctive Judeo-Christian identity . . . a diference which is redemptive. St. Vincent's is not only rooted in its own specific history, but in the overall history of the Daughters and the Church. This identity has a richness, a breadth and depth that cannot be totally grasped at any one point in time. St. Vincent's is challenged today to be true to that identity in its fullness. How does St. Vincent's identity make a difference at this time and in this place? This is a question which its Boards, its Medical Staff, its Administration, its volunteers, all of its 2500+ employees need to answer. As we enter the last decade of the 20th century, government, business, hospitals, etc. are looking forward . . . are forecasting . . . are assessing the environment. The message is clear as Darwin's theory: adapt or perish. Perish has never been an alternative for the Daughters of Charity. We need to build on that sense of giving of self, of commitment . . . we need to build on the dedication of lay women and men who have brought St. Vincent's to where it is today.

If the past is prologue, and if today is almost gone, what will tomorrow bring? What

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

is the shape of things to come? Every organization, and St. Vincent's is no exception, has a distinct culture, which must be managed as it faces the 21st century. What's really going on? Is major change in health care delivery underway? Yes, and the phenomenon involves "resizing" more than downsizing. Demographics, technology, fiscal pressure and public opinion, all will combine to spur local health care reform. St. Vincent's must take the lead in the Jacksonville community. St. Vincent's must look to link up with others—collaborate rather than compete. St. Vincent must work to change public perceptions of hospitals from buildings, full of beds, to a network of centers and services striving to meet local community health needs in the broadest meaning of the term. What the former United States House of Representatives' Speaker, Tip O'Neill said: "All politics are local," may end up being true of health care reform also.

"If one wanders back through the pages of the past, one will discover many places where the course of nations and even the world hinged on an insignificant detail.

"Not too many years ago a man was walking down a street in New York City. Lost in his thoughts, he came to a busy intersection. Unaware that the lights had changed, he stepped into the path of passing traffic. Nearby stood a cab driver who saw the man in danger. At the last moment the driver pulled the man to safety. The world may not remember the name of that cab driver, but it will never forget the man who was pulled to safety that night in New York. In the darkest hours of this century, he pled with his world to die rather than surrender. History still recalls this man's gravelly voice as he stood in the British Parliament and promised England its "finest hour." But on that night in New York the life of Winston Churchill was in the hands of the cab driver."[1]

We are looking to tomorrow. We are trying to capture a vision. We are looking for a road map which will allow our higher purposes to be expressed . . . an outward expression of our inner values as you and I see the dilemmas facing St. Vincent's and all health care. How can we create a high quality, accessible, affordable health care delivery system in the United States and still maintain our value system. Louis Gerstner, Chairman and CEO of Nabisco, Inc. has said: "To turn our public school around we need to adopt that legendary Noah principle: No more prizes for predicting rain. Prizes only for building arks."

We could paraphrase that and say "To turn our health care system around we'll adopt the Noah principle: No more prizes for predicting rain. Prizes only for building arks."

There have been too many predictions of rain—gloom and doom . . . failure and collapse. We need to build arks. We need to take this puzzle of health care that consists of many plots and plans, and put it together. It's always interesting and challenging to work a difficult jigsaw puzzle. Puzzles are time-consuming, sometimes therapeutic, often frustrating, as we try to find one peculiar piece. Doing puzzles is like eating popcorn; you can't put in just one piece and stop; you become immersed in the task of putting the whole thing together. The poet Charles Kettering once said. "You don't buy a fiddle today and play in Carnegie Hall tomorrow."

The leadership imperative . . . hospital repositioning are musts for St. Vincent's. The danger of becoming less enviable is totally unacceptable . . . to become sluggish, unresponsive, ineffective are "no-no's" for St. Vincent's. Good organizational glue is a must as St. Vincent's faces the next ten years. These are not the best of times in U.S. health care, but they're not the worst of times either. We do need reform in the American health system, but there is a lot right in the system. "The spirit, the service and the structure" are what Emily Friedman says are worth saving. "The system's faults are cost, fragmentation, failure of competition, accessibility. We must think about why we're here. One health care system will preserve much of its essential goodness, but it must change the parts that are not working."[2]

Friends of St. Vincent's, as you look to the next century, as you look to St. Vincent's next 75 years, you have an unprecedented opportunity for this organization to excel. Respond aggressively! You are major stakeholders! You have a "can do" spirit . . . a spirit that goes back to 1916 . . . a spirit that has brought us to this Jubilee year.

Actually Jubilee years come from our Jewish heritage. The Jewish law carried the belief that in a jubilee year there should be a release from debt, a freeing from prisoners and a caring for others based on the needs of society to equalize and balance. As you can see, early Judaism had no notion of separation of Church and state. Laws were created to cover both religious and secular practice. For society to succeed, no one should accumulate too much wealth and no one should live in abject poverty. In today's environment, one might construe the concept as a form of socialism, but in the Judaism before Christ it was a method of equalizing society, so every 50 years the law called for a jubilee celebration.

A Rabbi told me that the concept of Jubilee was diminished with the destruction of the temple in Jerusalem by Emperor Titus in the year 70 A.D. Jewish scholars believe that it will return with the coming of the Messiah. The Christian faith picked up on the aspect of Jubilee through the teachings and example of Christ for this reason we celebrate all kinds of Jubilees.

Thus, we are here tonight in a joyous celebration . . . not necessarily to release others (or St. Vincent's for that matter) from debt, although I must admit, the idea is enticing, but certainly the other belief of "jubilee," that of caring for others, based on the need of society to equalize and balance, is what St. Vincent's is all about.

How do we do this? Certainly not by following the "5% principle." In a little book entitled "The Penguin Principles," the author elaborates what he calls the 5 percent principle. It is his conviction that in every group working together on a project, 5 percent are putting forth effort out of love. The other 95 percent are asking "What's in this for me?"

I think we carry out the intent of a jubilee . . . of caring for others . . . by realizing as a Daughters of Charity health care institution, that we are united with many others throughout the United States in a common bond and a common purpose. That we stimulate each other . . . we encourage each other . . . we support each other in numerous ways, thus enabling all to survive. This is best depicted in what I call my goose story: Did you ever notice geese flying in formation? We can learn a strong lesson of leadership and support from them. As each bird flaps its wings by flying in a V-formation, the whole flock adds 71 percent flying range than if each bird flew alone.

Lesson: People who share a common direction and sense of community can get where they are going quicker and easier because they are travelling on the thrust of one another.

Whenever a goose falls out of formation, it quickly gets back into formation to take advantage of the "lifting power" of the bird immediately in front.

Lesson: If we have as much sense as a goose, we will step in formation with those who are headed where we want to go.

When the lead goose gets tired, it rotates back into the formation and another goose flies at the point position.

Lesson: It pays to take turns doing the hard tasks, and sharing the leadership, interdependent with each other.

The geese in formation honk from behind to encourage those up front to keep up their speed.

Lesson: We need to make sure our honking from behind is encouraging—not something less helpful.

When a goose gets sick or wounded or shot down, two geese drop out of formation and follow to help and protect. They stay until the goose is either able to fly again or dies.

Lesson: If we have as much sense as the geese, we'll stand by each other like that.

Yes, as a national health system we have to learn to think as one, yet respect local diversity.

This last decade of the 20th century is presenting us with a golden opportunity to carry out the meaning of jubilee. We have much experience in initiating and developing services and structures, but maybe we're not always as willing to release, relinquish or realign them. Yet a vision may present this concept. A renewed commitment to health ministry will entail significant collaboration among those who share the Church's values.[3] It will call for change. It will cause concern and consternation. We are living in a time of great ambiguity and uncertainty. Margaret Thatcher has said: "Poor in spirit, we suffered from that most demoralizing form of poverty—poverty of conviction. Britain was a country without a cause."

We can never say that. We have had a cause, and a good one at that, for a long, long time.

It is one of life's givens that we take turns at glowing. Eventually, our flame will flicker and peter out. But no matter. Our cause is a good one and the shared and perpetuated memory of its burning is what St. Vincent's is all about.

There will be other jubilee celebrations for St. Vincent's at which probably none of us will be present, but what we do here in Jacksonville in this time and place will not be forgotten.

I'm frequently asked: "What about the Daughters of Charity? Are they going to be around for the next 75 years?" Of course, I'm no prophet. I can't say for sure, but I think I can say we'll be around in some form—maybe not as we know it today. Is the DeSoto Sanitarium still here? Not as it was known then. As I said a few minutes ago, we take turns glowing, but the spirit of the Daughters * * * their work * * * their commitment will live on in Jacksonville through their presence here, as well as

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[1] Fitzgerald, Ernest, A. "Sweating the Small Stuff." Administrative Radiology. May, 1990, p. 10.

[2] Friedman, Emily. "To Save and To Let Go," HMO. Third Quarter, 1990, p.2.

[3] Commission on Catholic Health Care Ministry Report. "Catholic Health Ministry: A New Vision for a New Century." 1988, p. 13.

> through the countless men and women who have joined in their crusade to celebrate a jubilee, by caring for others, thus equalizing and balancing the society of the 21st century.
>
> In the first homily by a newly-ordained bishop he recalled how restaurant personnel frequently introduce themselves by name and say: "I'm Joan and I'll be serving you this evening." "Well," said the Bishop, "I'm Kenneth and I'll be serving you for a long, long time." I would like to say to you tonight, as St. Vincent's shouts out a joyous, "Amen * * * Alleluia," for 75 glorious years, "We're Daughters of Charity, and with God's help we'll be serving you for a long, long time."

TRIBUTE TO CHARLES "CHIP" WRAY

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mrs. BOXER. Mr. Speaker, the U.S. Congress is an appropriate forum in which to offer special recognition of one of the truly outstanding educators in our country, Charles "Chip" Wray.

Some of his beliefs and values are inscribed on the walls of classroom 203 at Redwood High School in Larkspur, CA:

> Those who make peaceful revolution impossible, make violent revolution inevitable.—(John F. Kennedy).
>
> Live each day like it's going to be your last, because someday you're going to be right.—(Leo Buscaglia).
>
> Everyone is bored—before they start doing something.—(A.S. Neill).

For the past 30 years, Chip Wray has been a model of these beliefs to his students. He has, over the years and among other things: created, planned, organized, and taught an environmental education program that is nationally acclaimed; written and piloted a contemporary issues course of study; been selected Marin County Teacher of the Year; been an exchange teacher in England; been president of his teachers' association more times than F.D.R. was President of the United States; been president of the Marin Conservation League; been chairman of the Marin Municipal Water District board; earned a rank of Lieutenant Colonel in the U.S. Army; served as Senator ALAN SIMPSON's aide in Washington during a sabbatical in 1980; acted on behalf of civil rights in El Salvador, where he was arrested and jailed for supporting peasants' rights to their land; led backpack trips to the Sierra and Canadian Rockies; walked the Theakston Trail from Derbyshire to North Yorkshire in England; rebuilt a farmhouse in Sonoma County; initiated and motivated his school's annual blood drive; established a local aluminum recycling program; sustained a successful marriage to his high school sweetheart, with whom he has four children who are all now raising their own families.

Chip Wray has been for literally thousands of students a model of the industrious, personally responsible, moral, and compassionate human being we seek in our society.

There is a wonderful episode in Robert Bolt's dramatization of Thomas More, "A Man for All Seasons," where Thomas encourages young Rich to become a teacher. The worldly and ambitious side of Master Rich responds with some shock and anguish, "But * * * why? That would I achieve? And who would ever know? Thomas replies: "Ah, Master Rich, God would know, the students would know, and most of all, you would know."

I have watched Chip Wray quietly affect the minds and lives of his students and peers throughout his many professional years at Redwood High School, and now I, too, know what Thomas More envisioned as the good teacher.

Chip Wray has earned our deepest respect and admiration.

EGYPTIAN HUMAN RIGHTS VIOLATIONS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BROWN. Mr. Speaker, I would like to call the attention of the Congress to the situation of three Egyptian prisoners of conscience who are being held for their religious beliefs.

The three men, Mustafa Mohammad Said al-Sharqawi, Mohammad Hussein Mohammad Ibrahim Sallam, and Hassan Mohammad Isma'il Mohammad, have each been detained for over 8 months because of their conversion from Islam to Christianity and their nonviolent religious activities.

Mustafa Mohammad Said al-Sharqawi and Mohammad Hussein Ibrahim Sallam were arrested at the end of September 1990 and Hassan Mohammad Isma'il Mohammad was arrested in October 1990. These arrests came after the three men converted to Christianity and spoke to others about their beliefs.

The Government of Egypt, in response to letters from Amnesty International, stated that these three men are being held to protect social peace and national unity. The Government claimed that the three men held meetings in which Islam was compared to Christianity in a manner which could cause civil strife.

Amnesty International disagrees with these Government conclusions, stating that, "These three men have merely exercised their right to freedom of religion and speech, without using or advocating violence." These rights are guaranteed under the International Covenant on Civil and Political Rights, an agreement to which Egypt is a party.

Egyptian courts twice ordered the release of the three men when they were being held under state of emergency legislation. After the second court order, the prisoners' status was changed so that they were being held under the criminal procedure code, which empowers the state prosecutor's office, the Niyaba, to hold a prisoner for 15 days. This may be extended to 60 days by a member of the Niyaba acting as presiding judge. This period expired in March. Several "final hearings" have been scheduled, only to be postponed each time.

Mr. Speaker, I suggest that Congress direct the President and the Department of State to pressure the Egyptian Government to release these prisoners of conscience and to provide them and all other religious converts with the privileges guaranteed by the International Covenant on Civil and Political Rights.

HONORING THE QUEENS COUNCIL ON THE ARTS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to the Queens Council on the Arts. On Sunday, June 9, the Queens Council on the Arts will be holding a 25th anniversary benefit celebration to commemorate a quarter century of outstanding service to the community.

Twenty-five years ago, the council served only a handful of arts organizations. Today, the New York City Borough of Queens boasts nearly 500 of these organizations and hundreds more individual artists. Queens Council on the Arts has dutifully and faithfully provided these members with technical assistance, advocacy, financial support, publications, promotion, and many other services and programs to help them build audiences, gain exposure and funds, and grow artistically. From the borough's major cultural institutions to urban folk artists keeping alive a wealth of ethnic traditions, the Queens Council on the Arts serves all the cultural resources of the borough.

A quarter century of support and leadership have distinguished the Queens Council as a singularly valuable resource for business, governmental agencies, educational institutions, and others. Queens Council fosters partnerships which match needs with resources, and thus has consistently helped the borough more fully enjoy and utilize its cultural resources.

Mr. Speaker, it is organizations such as the Queens Council on the Arts that enrich our communities in every phase of life. I would ask my colleagues to join me in saluting the Queens Council on the Arts and all of its dedicated workers. We wish them continued success in making our community a better place.

CORRECTION OF HOUSE REPORT 102–61

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MILLER of California. Mr. Speaker, H.R. 972 passed the House of Representatives on May 14, 1991. This bill, sponsored by Mr. RICHARDSON, affirms the sovereign right of tribes to exercise criminal misdemeanor jurisdiction over all Indians in Indian country. In 1990, the Supreme Court decision of *Duro* v. *Reina* (58 U.S.L.W. 4643, May 29, 1990) attempted to limit this jurisdiction to tribal members only. The Duro decision created a jurisdictional void for nonmember Indians that jeopardized the public safety on reservations as well as the sovereignty of tribal governments.

In response to the urgent request of tribes and law enforcement officials, the House of Representatives passed H.R. 972. Unfortunately, the urgency of the situation resulted in three minor errors going undetected in House Report 102-61 which was filed by the Committee on Interior and Insular Affairs to accompany H.R. 972. The report should be corrected for the record as follows:

On page two, line four, the words "aiding and abetting" should be deleted. The sentence, as corrected, should read: "A complaint was filed in federal court charging Duro with murder and with aiding and abetting murder under federal criminal law.".

On page seven, lines sixteen and seventeen, the words "enunciated by Mr. Justice Kennedy in the *Duro* decision" should be deleted. The sentence, as corrected should read: "The Committee assertion is based upon two fundamental maxims of Indian law that (i) Congress determined Indian policy and (ii) tribes retain all rights not expressly taken by Congress.".

On page ten, under "25 U.S.C. 1301. Definitions.", the phrase "For the purposes of this title [25 U.S.C. 1301 et. seq.], the term—" should be deleted. The phrase, as corrected, should read: "For the purposes of this subchapter, the term—".

Mr. Speaker, we make these corrections to make clear the committee's acknowledgment of the fact that tribes—first, have always been able to exercise misdemeanor criminal jurisdiction over all Indians on tribal lands; second, that Congress never took the jurisdiction away; and third, that tribes clearly retain this jurisdiction as self-governing entities and as keepers of the peace on their homelands.

UNITED STATES BEGINS ASSISTANCE TO ALBANIA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. HAMILTON. Mr. Speaker, on June 6, 1991, I received a letter from the Department of State outlining the administration's intention to begin an assistance program for Albania with funds appropriated pursuant to the "Support for East European Democracy of 1989." The text of the letter follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, June 6, 1991.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I would like to inform you of our intention to use funds appropriated pursuant to the Support for East European Democracies Act of 1989 and the Foreign Operations Export Financing and Related Programs Appropriations Act of 1990 to provide a modest amount of assistance for Albania. Initially, that assistance program would concentrate on strengthening democratic institutions and meeting humanitarian needs. As the situation evolves, limited technical assistance would be provided to lay the groundwork for economic reform, for example, in providing advice on how other countries of the region are dealing with micro- and macro-level issues as they establish market-based economies.

This assistance would be adapted from the regional programs we are beginning in other countries of the region. We anticipate this would include the following programs for Albania:

Political process; Local Government and Public Administration; Social Process; Rule of Law; Restructuring Agriculture and Agribusiness; Competition policy, laws and regulations; Emergency Medical Supply; Health Care Systems Improvement; Improved Public Environmental Services.

Although we do not have country ceilings in our programs, we would not plan to spend more than $5-7 million for the remainder of FY 1991 in Albania from funds appropriated for East European assistance. Given the difficulty of providing assistance in a country where we have very limited presence and where there are few facilities for advisers, AID representatives etc., we assume any assistance for Albania will be slow to gather momentum. But we think it would be timely to begin with a small amount of assistance this year to demonstrate our support for political and economic reform.

It is our view that the authority to provide this assistance to Albania is contained in the Support for East European Democracies Act of 1989 and the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1990, and that we may use this authority "notwithstanding any other provision of law."

We would be pleased to discuss further any aspect of our proposed assistance to Albania.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

THE JAPANESE MEDICAL MISSION

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mrs. BOXER. Mr. Speaker, on June 20, a team of physicians from Hiroshima, Japan will arrive in San Francisco to participate in the eighth biennial medical examinations for Americans of Japanese and Korean ancestry who survived the atomic bombings of Hiroshima and Nagasaki. I am pleased to have this opportunity to welcome the medical team and recognize their efforts and achievements and to commend and thank their sponsors for their contributions, services, and compassion.

Since 1977, the Japanese Government has financed and sponsored official biennial medical missions for the benefit of American survivors living in the United States who, due to their exposure to radiation in the 1945 bombings, suffer and are threatened by continuing medical problems. Examinations will be held in San Francisco, Los Angeles, Seattle, and Honolulu during June and July. This year's medical mission is sponsored by the Japanese Ministry of Health and Welfare, the Hiroshima Prefectural Medical Association, the Radiation Effects Research Foundation, Hiroshima and Prefecture, the Hiroshima Atomic Bomb Casualty Council, and the city of Hiroshima.

Participating in this year's examinations are Chikako Ito, M.D., team leader, associate director for International Scientific Affairs, Hiroshima Prefectural Medical Association, deputy director, Hiroshima Atomic Bomb Casualty Council Health Management Center; Hideo Sasaki, M.D., associate chief, Department of Clinical Studies, Radiation Effects Research Foundation; Kazuo Nerjishi, M.D., chief, division of internal medicine, Department of Clinical Studies, Radiation Effects Research Foundation; Akihiro Sawamura, M.D., chief of clinical section research associate, Department of Surgery Research Institute for Nuclear Medicine and Biology, Hiroshima University; Kenji Oda, M.D., associate chief, Department of Internal Medicine, Hiroshima City Asa Hospital; Sadamatsu Takayama, M.D., clinical chief, Clinical Laboratory Center of Hiroshima City Medical Association, Tadaaki Watanabe, international relations unit, external affairs section, secretariat, Radiation Effects Research Foundation; Takahura Une, Chief, special measure section, Atomic Bomb Victims' Affairs Division, Hiroshima Prefectural Government; Hiroshi Fujimoto, director, Relief Division, Atomic Bomb Survivors Relief Department, Bureau of Public Health, Hiroshima City; and Katsumi Akama, chief, special measure section, Planning Division, Health and Human Services Bureau, Ministry of Health and Welfare.

More than 200,000 people died In the bombings or shortly thereafter as the result of acute injuries. Today, among the more than 350,000 hibakusha—survivors of the atomic bombings—are approximately 1,000 Americans. Many of the American hibakusha are citizens by birth who were either visiting relatives or attending school in Japan. Others became naturalized citizens or permanent residents after the war. Denied medical assistance by the United States Government, the biennial Japanese medical visits are the only ongoing opportunity for American hibakusha to receive thorough examinations for long-term effects of their radiation exposure. In 1989, the Japanese medical team conducted 406 examinations. This year, it is hoped that over 130 examinations will be conducted in San Francisco alone. The Japanese medical mission receives volunteer support and contributions from dedicated groups and individuals across the country, but more is needed.

METRIC AND OPERATION DESERT STORM

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BROWN. Mr. Speaker, Operations Desert Shield and Desert Storm mark the first strategic deployment of our metric military. All ships were fueled using the metric system of measurement for standardization of ships of different countries. The U.S. Navy used 17 ships in Operation Desert Shield which had been designed in metric. Except in instances where international standards are nonmetric, all Defense maps are also now in metric. Those of us who listened to General Schwarzkopf and others during Operation Desert Shield realize that metric usage is now second nature of our military and an invaluable part of Allied interoperability. Our metric military manuevers were flawless.

Flawless maneuvers are always based on hard work and years of preparation. The Defense Department concluded during the 1980's that interoperability with Allied equipment required a common system of measurement. Since all other industrialized nations had converted to the metric system of measurement, the Department needed to do the same. DOD Directive 4120.18 in late 1978 declared that all future weapons systems would be designed in metric and with the passage of the Metric Usage Act in 1988, the Assistant Secretary of Defense for Production and Logistics requested each of the services to review inch-pound weapon systems programs still in the demonstration validation phase for viable candidates for metric conversion.

It is now time to look to interoperability in U.S. trade as well. More and more nations and companies are requiring that United States exports must be in metric, and Japan in the strategic impediments initiative has cited United States adherence to the inch-pound system of measurements as a nontariff trade barrier. The metric system is inherently easier to use and with practice, easier to understand and cheaper to use. This is one instance where the Japanese are doing us a favor. Let's look for ways to help industry convert to metric as part of our effort to restore America's competitiveness.

HONORING BENJAMIN J. DOROGASKER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to Benjamin J. Dorogasker, who is retiring after 16 years as principal of Public School 117 in Queens County, NY. During his administration the DEAR [Drop Everything and Read] Program became an integral element at Public School 117. He established departmentalization for reading and math among the fifth and sixth grade classes to put special emphasis on these vital skills. This program will be extended to the fourth grade class for the 1991 school year.

Public School 117 is an example of a multicultural school. The student body is represented by children from a great variety of racial, religious, and cultural entities. Twenty-seven different primary languages are spoken among the students.

Benjamin Dorogasker is a fine example of the dedicated teachers and administrators in our public school systems. His hard work and dedication have led to innovative programs that have greatly benefitted his students. On his retirement I ask that my colleagues join me in honoring Benjamin Dorogasker. He will be greatly missed but we wish him the best of luck in all of his future endeavors.

REPRESENTATIVE MILLER HONORS DR. GEORGE DEGNAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MILLER of California. Mr. Speaker, I take a moment today to recognize Dr. George Degnan.

As an entrusted friend and valued adviser to both myself and my father, Dr. Degnan has been instrumental in shaping the health-care system of Contra Costa County for nearly five decades. During his tenure as county medical adviser, he acted as a pioneer in creating our county's services and in his retirement, he has been a relentless advocate for increased and improved availability of health-care for everyone. His commitment over the years continues to provide inspiration to those of us involved with this issue today.

I am enclosing in the CONGRESSIONAL RECORD today a review of this outstanding physician and humanitarian and know that all Members of the House of Representatives will join me in paying tribute to Dr. Degnan.

EX-HEALTH CHIEF STILL FIGHTS FOR MEDICAL CARE FOR THE POOR

(By Ann Wozencraft)

MARTINEZ.—Former county Medical Director George Degnan has been retired nearly 13 years, but his beliefs haven't changed. Not one bit.

As Contra Costa's medical director 29 years. Degnan was instrumental in laying the groundwork for the county's health-care system.

Now 78, Degnan's ideals and opinions still echo the days when he lobbied the county Board of Supervisors to provide health care for everyone, even those without insurance.

"Unless we plan to shoot everyone who's sick, we have to try to rectify the deficiencies in our health-care system," says Degnan. "We have to take care of our neighbor who's suffering, even if he doesn't have a dime."

During his tenure, Degnan campaigned for a prepaid health plan at the county hospital, making it the first such publicly backed health maintenance organization in the country. The county also developed day-care clinics under his guidance for the mentally handicapped. And he established the county's first health-care clinics, in Pittsburg, Richmond and Brentwood, where many low-income families lived.

"We were a county hospital and the poor people we were serving couldn't get here," Degnan says. "I learned through experience that easy access is the way to save money and prevent serious illness. If I had a clinic going, I could see these people early and prevent building beds later. All illnesses, if detected early, save you suffering and money."

Degnan's beliefs are rooted in his Depression-era upbringing. Born in the lumber country of Humboldt County, he was the son of a saw-filer.

"In those years, you didn't have the money to indulge yourself in material things," Degnan says. "You became very aware of the social struggles, that people were out of work and hungry. You came out of the Depression not with bitterness, but with increased sensitivity."

FINISHED SCHOOLING DURING WAR

Degnan's family moved to Richmond. He graduated from Richmond High School, UC-Berkeley and McGill Medical School in Montreal. When he finished his residency at UC-San Francisco, America was at war.

His concern for the needy was solidified during the six years he spent in London as a volunteer surgeon in World War II.

"I arrived in England during the blitzkreig," Degnan says. "To see the way they continued under such stress, when they were tired and hungry and being bombed, was marvelous. For the first time in my life, I knew what it was like to be hungry and cold."

When he returned from war, Degnan decided to forgo private practice and went to the county hospital, believing he could make a difference.

That was 1947, and he was the hospital's only fulltime doctor.

"I put on my old surgical pajamas and never left the hospital for two years." Degnan says. "It wasn't a sacrifice because I knew I was needed there."

Degnan succeeded Edwin Merrithew as county medical director in 1949. During his years at the helm, Degnan gained both friends and foes for his political views.

"I was what you'd call a liberal Democrat," he says, "I still am."

In 1973, the Board of Supervisors fired him, Degnan says, but more than 300 of his supporters packed the supervisors' chambers. He was reinstated a week later, and stayed on another five years.

Degnan says much of his political strength came from poor blacks and Hispanics in West and East County.

"Sometimes I felt like my skin was dark, too," he says. "I understood them because I knew what it was like to be poor and suffering and hungry, I learned that during the war."

Degnan says he stumbled into his political role as a health-care advocate for the poor.

"It wasn't like I went out and said I was going to find a constituency. You just find yourself in the middle of as struggle for social change, and you become part of it," he says. "Politically, I identified with the struggle of the blacks and Hispanics. It was a struggle for equity and fairness."

Now that he's out of the limelight, Degnan says he considers himself a consumer who's concerned where his tax dollars are going.

SPEND WHERE THE PATIENTS ARE

His latest goal: to redirect the funding for a new county hospital. Instead of rebuilding the county hospital in Martinez, Degnan says, it should join forces with county district hospitals such as Brookside in San Pablo and Los Medanos in Pittsburg. Martinez, he says, is not home to the low-income patients the county hospital serves.

"If we're going to spend hundreds of millions of dollars on health care, let's at least spend it where the patients are," he says. "We can strengthen those facilities by putting that money into better diagnostic facilities and high technology."

Communication, he says, is still his biggest obstacle when it comes to the political process.

"I wasn't blessed with much diplomacy," Degnan says. "Outside, I'm cocky and confident. But inside, it still gets to me sometimes."

When he's not advocating for a decentralized county health-care system, Degnan is an avid sailor. He lives with his wife of 36 years, Andree, in a hilltop house in Briones Park. His two sons are doctors, and his daughter is a nurse at the county hospital. He says he has shared with his children his love of medicine and of people.

"I'm not a good doctor if I operate on you and take care of you, and I don't know where you come from, and where you're going," Degnan says. "That's the kind of doctor we should all struggle to be. The greatest medicine you'll ever use is kindness."

THE DEMISE OF THE U.S. TUNA INDUSTRY

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to Miss Teresa Maria Floridi, one of the winners of the Propeller Club of the United States' national essay contest. I think her hard work and dedication deserve to be commended.

I submit for the RECORD the following award-winning essay, by Miss Floridi, entitled "The Demise of the United States Tuna Industry."

THE DEMISE OF THE U.S. TUNA INDUSTRY

Although most tend to think about the positive impacts on ports and waterways, it is the negative impacts that emphasize the importance of ports and waterways on the regional well-being. Nothing is more valuable to a coastal city than its port. When something interferes with its proper functioning, it not only affects the workers but the general public as well. One such example is the demise of the United States Tuna Industry in general and specifically in San Diego, California. The damage from the relocation of the tuna industry to foreign ports from 1980 to 1984 has proved to be and continues to be far reaching as it stems from economical and political issues.

Once the tuna is unloaded on to the city's docks, and processing begins, it becomes a economic commodity for the city. Not only do the tuna companies, and their employees make money but also the city from port and sales taxes, as well as any income generated by the worker's spending. Shipyards also benefit from servicing the various fleets, and oil companies benefit from the fuel supplied to the fleets. One ton of tuna yields sixty cases of tuna, and there are forth-eight cans per case. In 1980, the 200,000 tons of tuna in the United States had an exvessel value of approximately two hundred million dollars. By the time it was processed and packaged for market, the tuna was worth four hundred million dollars. It has stimulated one billion dollars in economic activity besides generating 12,000 jobs and three hundred million dollars in household income in the United States.

During the years 1980 to 1984, there was an increasing trend toward relocating United States tuna operations to other foreign ports such as Puerto Rico and America Samoa, as well as tuna companies selling operations to foreign companies. The total economic impact of this relocation between 1980 and 1984 included a loss of 12,561 jobs, $293,959,000 in household income, and $1,318,747,000 in United States sales. The federal government lost $58,791,000 in income tax, and the state of California lost $7,368,000 in taxes.

The tuna industry has been a major part of San Diego's main port industries since 1919. In the late 1950's there were as many as six canneries, but by the 1960's only one cannery remained. A second cannery was added in 1976, but during the fateful four years, they to relocated out of San Diego. Besides the two main factors that affected the tuna industry in general, foreign competition and environmental pressures, San Diego had a third problem with the rapid development of a coastline for the sole purpose of tourism instead of a balanced one which includes industry.

With the ability to produce a less expensive product, foreign markets have become increasingly popular among United States canneries. United States cannery wages are approximately seven dollars an hour, and labor costs are three to four dollars per standard case. In Thailand wages are forty cents an hour, and in America Samoa wages are three dollars an hour. Labor costs per standard case in Thailand are sixteen to twenty-four cents, and in America Samoa $1.20 to $1.80. Many choose price over the better standards in food inspection available in United States industries. Of the canned tuna sold in the United States approximately ninety-eight percent has been packed in other countries.

Pressures from the government and environmental groups in regards to porpoises is another factor contributing to the downfall of the United States tuna industry. Tuna are naturally attracted to porpoises. They cannot be separated by man. In 1958, the "backdown procedure" developed by Captain Anton Misetich of San Pedro, California enables fishermen to keep the tuna and release the porpoises alive by sliding the porpoises over a small mesh panel of net in the backdown area. Sometimes porpoises are confined in such a way that they can not rise to breathe because of a delay in the backdown process by way of weather, sharks or any other uncontrollable acts. This ends up in the death of che porpoises. Tuna fishermen want to release the porpoises alive otherwise the operations become less efficient. In order to free tangled porpoises, fishermen enter the net just before brailing the tuna from the net. Sharks also present in the net make it dangerous for these fishermen. To date in San Diego, there has been one death, Jerry Correia, from a shark. Foundation, who's goal has been to reduce the number of porpoise deaths, since 1974. In June of 1990, Dr. Joseph at the forty-seventh meeting of the Inter-American Tropical Tuna Commission told members of the government in Washington, D.C., that ". . . if fishing for tunas in association with dolphins were abandoned, the average size of the fish in catch would fall to about eight pounds, and the corresponding yield per recruit would drop by nearly forty percent . . . if fishing for tunas associated with dolphins is discontinued, the yield of yellowfin in the eastern Pacific would fall to about 160 thousand tons after two years, instead of the 310-320 thousand tons currently estimated." Tuna do not associate with dolphins until two years of age, and twenty-six pounds. That means fisherman would be depleting the future sources of more tuna by catching babies. These tuna are usually found beyond the two hundred mile zones allowed by government. United States tuna fishermen can not compete with foreign markets who have less or no restrictions.

In 1990, the porpoise mortality rate of the United States tuna fleets out of the first 17,237 tons caught was zero. Of the following 5,024 there was 231 deaths, and out of the following 2,485 with a total of 24,746 tuna caught there were 451 deaths. 1989 data showed that there were 186 deaths per 1,000 tons of tuna caught. Foreign mortality rates for porpoises in 1989 were 608 deaths per 1,000 tons of tuna. United States' rates for 1990 were 140 deaths per 1,000 tons caught. Not only was it an improvement, but it was three to four times better than the foreign industry.

Despite this knowledge, the tuna industry has been wrongly labeled as porpoise killers. United States tuna canners will no longer buy tuna that is caught with dolphins. This has directly caused the reduction, and in some cases the closing down of tuna operations in the United States. Environmental groups such as Greenpeace have pressured the government to severly restrict the practices of the United States tuna industry even to a point creating redundant and expensive methods. For example, the government wanted fishermen to take the tuna they normally throw back into the ocean and treat them with special chemicals while disposing of them through the sewage system. This unnecessary process would cost millions of dollars that were unaffordable to the * * *.

With twenty percent of the world's production of tuna, the United States is forsaking a major source of revenues. It is the workers and their families who suffer. The future of the United States tuna industry is bleak. Its rapid degression especially in San Diego, California is a senseless waste of a valuable natural resource, the coast. Unless the United States government takes drastic measures to stop the foreign markets' intervention, and recognizes the fact that the fishermen have no choice when it comes to catching tuna in association with dolphins, but that they are trying to find a solution, the tuna industry can not exist.

SALUTE TO ROBERT A. DICARLO, OF WAYNE, NJ, WINNER OF THE ROTARY CLUB'S PAUL HARRIS FELLOW AWARD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to salute an outstanding constituent in my Eighth Congressional District of New Jersey who, for the past decade, has given of himself to his community, State, and Nation, and who has made us all the better for his efforts.

I am speaking of Robert A. DiCarlo, of Wayne, NJ, who will be honored for his great service on Wednesday, June 26, 1991, by the Wayne Rotary Club, which he has served with much distinction these past 10 years. On that day, for his outstanding efforts, Robert A. DiCarlo, will receive the Paul Harris Award, the highest honor a Rotarian can achieve. Considering the scope of community service that Rotary clubs provide around the world, I am certain that you, Mr. Speaker, and our colleagues will agree that the honor being accorded Mr. DiCarlo is one of the greatest magnitude.

Mr. Speaker, I know this event will be a great source of pride to Robert and his loving family: his devoted wife, Charlotte, and their four children, Toni Ann, Debbie, Maria, and Robert II.

Mr. Speaker, Robert A. DiCarlo was born in South Philadelphia, PA, and soon after moved to and was raised in the Riverside section of Paterson. There he attended School No. 21 and graduated from Eastside High School. After graduation he served 2 years of active duty with the U.S. Army, one and half of those years in Munich, pulling the most difficult duty of morning report coordinator for Southern Germany.

Following his work with the Army, Robert held a management position with the Bergen Record for 16 years. He left the Record in 1981 to open his own printing business. He simultaneously attended night school at the Fairleigh Dickinson University at the Teaneck Campus for 4 years.

Beyond Robert's noted professional endeavors have been his numerous vital contributions to his community, for which the Wayne Rotary Club is honoring him. He joined the Rotary Club in 1982 and was elected president in 1989. He has been an integral part of the Wayne Rotary Club, serving as sergeant-of-arms, treasurer, and vice president.

Mr. Speaker, along with his numerous Rotary activities, Robert DiCarlo has been deeply involved in numerous community endeavors. He served as chairman on the Handicapped Children's Committee of the Wayne Elks, and held the position of vice president of the Greater Wayne Area Chamber of Commerce. His hobbies include a wide range of activities from golf to fishing to thoroughbred racing.

Mr. Speaker, I appreciate the opportunity to present a brief profile of a man who has given of himself to his community, his State, and our Nation, and who has immeasurably improved his world through his innumerable contributions, Robert A. DiCarlo, recipient of the Wayne Rotary's Paul Harris Award.

PERMANENT DISPLAY OF THE AMERICAN FLAG AT VIETNAM VETERANS MEMORIAL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. DORNAN of California. Mr. Speaker, yesterday I had the distinct pleasure of testifying before the National Capital Memorial Commission regarding H.R. 662, legislation concerning the permanent display of the American flag at the Vietnam Veterans Memorial.

Given the recent surge in patriotism and pride in the U.S. Armed Forces due to Operation Desert Storm, now is the time for Congress to revisit this very important bill which would honor our fighting men and women from Vietnam. There is simply no good reason why there is still no flag flying over the apex of the Vietnam Memorial.

This issue is not going to go away, Mr. Speaker. Therefore I would like to submit my remarks and ask my colleagues to join me in cosponsoring this legislation.

TESTIMONY OF HON. ROBERT K. DORNAN

Thank you, Mr. Chairman, and members of the National Capital Memorial Commission. It is a pleasure to be here today as representative of the 38th District of California testifying on behalf of H.R. 662, a bill to direct the Secretary of the Interior to display the U.S. flag at the apex of the Vietnam Veterans Memorial.

Mr. Chairman, just this past weekend here in Washington and yesterday in New York, millions of Americans celebrated the great victory of our armed forces in the war to liberate Kuwait. It was an event that unified almost all Americans. One noteworthy aspect of America's reaction to the Gulf war was that even those who opposed U.S. military action were careful not to make the mistake of holding the military responsible for that policy. Thus we had many professing that they "support the troops but oppose the war." We even experienced a new phenomenon—anti-war protestors waving the American flag.

Yet when it comes to Vietnam, waving the flag—indeed, any patriotic act—is still forbidden. Why? Is it that the dead are unworthy of the flag, or that the flag is unworthy of the dead?

Millions of Americans, myself included, believe that the U.S. effort in Vietnam was indeed the "noble cause" President Ronald Reagan said it was, and I have always felt a sense of shame that our country abandoned the people of Indochina to the horrors of communism. Others have diametric viewpoints. But we should all be able to agree that it is petty to hold the flag responsible for what we as *people* do in its name.

Mr. Chairman, America recently celebrated Memorial Day. On that day each year, people fly flags outside their homes and honor those who have given what President Abraham Lincoln called "the full measure of devotion" by putting flags on the graves of our veterans. At the Vietnam Memorial, every day is a Memorial Day. Shouldn't we do at the Vietnam Memorial what Americans instinctively do every last Monday in May and erect Old Glory at the apex, proudly and permanently?

Mr. Chairman, when a U.S. veteran dies, he or she is entitled to both a grave marker and an American flag, which is normally presented to the widow or mother. However, for countless American servicemen who gave their lives in Vietnam but whose remains will never be returned, the Vietnam Memorial represents their final place of memory, it is their grave market so to speak. (I am talking about those brave aviators lost over water or impenetrable jungle or mountainous areas or those missing-in-action fighting men who disappeared without a trace.) No flag graces the final resting place of these men in the jungles of Indochina or the waters of its coast. That is reason enough to support putting a flag at the apex of the black granite part of the memorial, which, in the words of the designer, was intended as "a memorial to the men and women who *died* (emphasis mine) during the war as a whole."

Now I am sure that we will hear today that the Vietnam Memorial has become one of the most popular attractions in Washington, and that this proves the justness of the design. But it is simply unrealistic, indeed it is ludicrous, to believe that the addition of an American flag, under whose colors these brave men and women fought and died, would somehow take away from the experience or lessen the nation's love for this memorial site.

At other memorials and monuments, the flag occupies a prominent position. The Washington Monument is surrounded by 50 flags. The beautiful Iwo Jima Memorial is centered on raising the flag. The memorial to honor our Korean War veteran, which has yet to break ground, will feature 39 men marching toward a flag. The flag adds to these memorials, it does not detract from them.

We will also no doubt hear that the memorial is a work of art that can't be compromised by the placement of a flag at its apex. However, there is absolutely no reason that a flag cannot be placed in such a way as not to interfere with the aesthetic qualities of the memorial. All I ask is that when the whole memorial is viewed from the front, the flag be visible. The flag does not have to dominate the memorial. Its placement could be done in a very tasteful and innocuous way by setting the flag back a short way, as was originally agreed to by all the parties involved.

One last point, identical legislation in previous congresses has attracted over 260 cosponsors, meaning it has broad bipartisan support. And when Mr. Hodel was Secretary of the Interior, he notified Mo Udall, then Chairman of the Committee on Interior and Insular Affairs, that the administration would not object to my bill.

In sum, Mr. Chairman, the only two reasons to oppose placing a flag at the apex are political or aesthetic. And it is my view that the aesthetic argument is nothing more than a red herring to deflect attention from the true motive, which is political. But as we have seen recently, both hawks and doves can claim the flag as their own. It would be a shame if our brave heroes were not properly honored because it was not the "politically correct" thing to do.

HONORING ALAN M. RASHES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Alan Rashes, who is to receive the Conservative Synagogue of Jamaica Estates' 1991 Distinguished Service Award. He has served as the president of the congregation from 1989–91 and is being honored for his longtime commitment to the synagogue.

Alan is remarkable in that he is involved in many different pursuits, yet is able to balance them and give to each so much time and energy. His career in law has spanned both public service and private practice. Following his graduation from Brooklyn Law School, Alan served on the staff of the New York regional office of the U.S. Securities and Exchange Commission, where he rose to become the chief attorney of the branch of legal interpretations. Currently, he is a partner in the law firm of Salon, Marrow & Dyckman.

While law is his occupation, his true love is his family. He, his wife Elaine and their daughter live in Jamaica Estates. Their son and daughter-in-law, Haran and Lauri, reside in Ann Arbor, MI while their other daughter Rachel currently lives in England.

Alan has been active in all aspects of synagogue life, having served as president of the synagogue Men's Club, and in various other offices, culminating in his election as president in 1989. Alan serves as a role model for our youth. He has done much to further the good work that the synagogue does for its members and the community as a whole. On this occasion of honoring Alan, I ask my colleagues in the House of Representatives to join me in congratulating him on his good work and in wishing him the best in the future.

A TRIBUTE TO MARY JO POINDEXTER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BROWN. Mr. Speaker, on June 18, 1991, a good friend and an outstanding educator, Mary Jo Poindexter, will retire after 34 years with the San Bernardino Unified School District. Mary Jo exemplifies all that is excellent in this Nation's teachers: dedication, humor, creativity, and a commitment to teaching the future leaders of our society.

Mary Jo has carried this commitment to education into her community activities as well. She has served as an elected member of the board of trustees, San Bernardino Community College District, since 1979. She is a past president of the Citrus District Home Economics Association and the San Bernardino chapter of the California Teachers Association.

She has lent her expertise as a member of the California State Commissions on Curriculum and Student Affairs, a member of the State Chancellor's Committee on Telecommunications, and a delegate to the California Association of Community Colleges.

Mary Jo's service to her community has reached beyond our educational institutions; she is a past director of the Mental Health Association, the American Red Cross chapter, the Arrowhead United Way, and past member of the Regional Occupation Program, the League of Women Voters' Board, and the Crafton Hills College Foundation.

The San Bernardino Teachers Association has twice recognized Mary Jo's excellence with the presentation of its Monte Award in 1971 and 1991. The League of Women Voters honored her as a "Citizen of Achievement" in 1980. Of course, Mary Jo has received numerous other awards for her contributions to educational excellence and community service, but I don't know if I have ever taken the time to tell her "thank you" for all that she has brought to our schools and our local community.

So I ask my colleagues to join me on the occasion of Mary Jo's retirement to say, "Thank you. Thank you for your years of service. Thank you for the lessons you have passed on to our students. Thank you for you attention to the curriculm we teach those students. And thank you for your countless hours contributed to our community social service organizations. You have given beyond measure. Thank you."

AMERICA SHOULD AID THE VICTIMS OF MT. PINATUBO, PHILIPPINES

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. CUNNINGHAM. Mr. Speaker, this morning, in the Philippines, Mount Pinatubo erupted for the first time in 6 centuries. The 4,795-foot volcano sent ash, steam, and smoke 12 miles high. Local rivers which supply water for drinking and irrigation to the residents nearby are choked with hot volcanic mud.

What we do not know, Mr. Speaker, is the fate of the people of the mountainside village of Kakilingan. This morning's reports indicate that at least some residents of Kakilingan escaped. However, within just a few miles are the more populous towns of Botolan and Olongapo, which have not been evacuated. And several hundred American military personnel still inhabit our own Clark Air Base, virtually in the shadow of the erupting volcano.

Though the number of casualties counted thus far is low, any further volcanic activity could bring a horrible disaster.

The first eruption has been terrible in itself. But experts familiar with the geology of the region say Mount Pinatubo threatens to explode again.

Mr. Speaker, the United States has maintained a special relationship with the people of the Philippines since before they gained their independence.

Should Mount Pinatubo indeed further threaten human life, I would ask that this Congress and the administration step forward, provide aid to the people of the region surrounding the volcano, and help coordinate the good work of international relief agencies.

CONGRESSIONAL SALUTE TO VIRGINIA FETTERLY, RETIRING EDUCATOR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ROE. Mr. Speaker, it is with a great deal of pride and admiration that I rise today to salute an outstanding educator who has truly distinguished herself during the last three decades.

I am speaking of Virginia Fetterly of Bloomfield, NJ, who is retiring this year after 28 years as a guiding force in the Bloomfield, NJ, school system in my Eighth Congressional District. Mrs. Fetterly will be honored by the faculty and staff of Brookdale School for a lifetime of achievement with a luncheon on Friday, June 21, 1991.

Mr. Speaker, I know this event will be a source of great pride, not only to Virginia Fetterly herself, but to her devoted family; her husband, her two children, and her six grandchildren.

Mr. Speaker, Virginia Fetterly has maintained such an active life, it is hard to know where to begin when recounting her numerous achievements. She began her teaching career as a substitute grammar school teacher. During the same time period she taught in the mentally handicapped classes at George Morris School in Bloomfield. Later in her career she would use this experience to participate in the main streaming of neurologically impaired children and to teach children who are hearing impaired.

For 15 years, Mrs. Fetterly taught the first grade in the Brookside School and then moved on to the Brookdale School for 10 additional years where she implemented new and innovative programs in math and reading. Her other exceptional accomplishments include her service on the early childhood committee for 6 years and chairwoman for 2 of those years.

Mr. Speaker, first grade is a very important year for children. Their first formal education starts in that year. The excitement experienced by a child in their first year of learning is immeasurable. Virginia has had the pleasure of sharing this experience with hundreds of children; and the children of Bloomfield have had the opportunity to learn from an individual who shares in their learning experience.

Mr. Speaker, it is clear that Virginia Fetterly has continued to strive for excellence in education, whether it be as a teacher or administrator. In this regard, she has served as an important role model and influence on the youth of Bloomfield and of New Jersey, and has truly made her community and State, and our Nation a better place to live.

NEW CAREERS IN EDUCATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. DORNAN of California. Mr. Speaker, I would like to share with you an innovative program developed under the guidance of the Deputy Assistant Secretary of the Army Patricia Hines. She has sheparded an idea to assist former military members who wish to pursue a career in education.

The Army initiative is called "New Careers in Education" and encourages soldiers to take advantage of the 29 States that now have an alternative certification program for teachers. The Army is working closely with the U.S. Department of Education to provide soldiers with the information they will need to obtain a teaching certificate through one of these programs.

"By opening up the teaching profession to former Army personnel, we hope to increase competitiveness and thereby strengthen the quality of teachers," said Mr. John Roddy, a senior policy analyst with the U.S. Department of Education. "The Army's program in the education program mesh nicely."

This joint effort provides information on teaching as a new career to service personnel transitioning to civilian life. By calling a toll free number in the continental United States (1–800–227–LEAD) and an ETS number in Germany (379–6059/6065), and an autovon number in Korea (738–7336), soldiers can have a packet of information mailed to them on how to enter the teaching profession. The packet also contains information on a free placement service.

The Army's Assistant Secretary for Manpower and Reserve Affairs, Mr. G. Kim Wincup said:

> The Army's program, new Careers in Education, will not only benefit the Army but the Nation at large by enhancing the quality of our country's teachers. We have installed special telephone lines in Korea, Germany, and the United States which will give, for the first time, our soldiers direct access to State-by-State information regarding teacher certification.

The two commanders who have established the first two autovon lines reacted enthusiastically to this initiative. Gen. Robert W. RisCassi, commander, U.S. forces, Korea, said:

> This very important initiative will open up the teaching profession to outgoing members of the military, and it deserves our full suport. Our soldiers are teachers!

In Germany, Gen. Crosbie E. Saint, commander in chief, U.S. Army Europe and 7th Army, said:

> Our soldiers are highly qualified and competent. In fact, we have the most educated force in the history of the Army. I believe, just as soldiers served the nation in uniform, they have great potential to serve as teachers in our nation's schools.

Mr. Speaker, I commend Mr. Wincup, General Saint, General RisCassi and Mrs. Hines on their innovative approach and encourage all our colleagues to support their effort.

HONORING THE 40TH ANNIVERSARY OF LOCAL 463

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to Local 463 of the International Union of Electronic, Electrical, Salaried Machine and Furniture Workers [IUE], AFL–CIO, which is celebrating its 40th anniversary of its founding.

Local No. 463 was started in 1951 by James Trenz, a business agent of the United Electrical, Radio and Machine Workers of America and other concerned trade unionists who sought to combat Communist infiltration into the labor movement. Within 3 years of its formation, local No. 463 tripled its strength by welcoming into its membership other unorganized electronic, machine and sheet metal workers from New York metropolitan area shops. By the mid-1950's this local inaugurated the IUE's first amalgamated-type pension plan with retirement benefits for employees of small firms, severance pay for workers leaving a shop before they have vested and portable pension credits for members moving within the system. Since the 1960's, the local has gained a comprehensive health package. It has also launched successful efforts on behalf of the United Negro College Fund, Deborah Hospital, the Boy Scouts of America and many other nonprofit and human rights organizations.

The mission of this union is personified by the multifaceted career of its dedicated president, James Trenz, who has achieved a national reputation as the Secretary of Labor's appointee to the Minimum Wage Board. He has also served as a member of the New York City Central Labor Council's Executive Board and chairman of its Amalgamated Locals Conference Board.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in recognizing the contributions of local No. 463 to the American Labor movement and to the welfare of thousands of union members and their families over the past four decades.

RADIO FREE EUROPE/RADIO LIBERTY NOMINATED FOR NOBEL PEACE PRIZE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. FASCELL. Mr. Speaker, for decades the U.S. Congress has supported the broadcasting activities of Radio Free Europe and Radio Liberty. These outstanding international broadcasters effectively penetrated the Iron Curtain which Communist dictators attempted to impose on the access of their citizens to outside news and information. Over these decades thousands of dedicated employees played a quiet but important role in making possible the democratic revolutions which have recently swept Eastern Europe and the Soviet Union. When the history of this era is written, I am confident that these U.S. broadcasting services will receive the great credit they so richly deserve.

As the dictatorships have crumbled the democratic leaders who have emerged have paid tribute to Radio Liberty and Radio Free Europe for the support they gave through so many dark years. Today I would like to call to the attention of my colleagues one such tribute to Radio Free Europe/Radio Liberty by Lennart Meri, the Minister of Foreign Affairs of the Republic of Estonia, whose government is still struggling to assure liberty for its people. Following is the text of a communication sent by Minister Meri to the Nobel Committee.

MINISTRY OF FOREIGN AFFAIRS
OF THE REPUBLIC OF ESTONIA,
January 29, 1991.

Mr. GEIR LUNDESTAD,
Secretary, the Norwegian Nobel Committee, Norwegian Nobel Institute, Oslo, Norway.

DEAR SIR: I would be most grateful for your assistance in conveying to the members of the Norwegian Nobel Committee my nomination of Radio Free Europe/Radio Liberty, Inc. for the Nobel Peace Prize this year. This honor would be of lasting benefit to the cause of democracy in the Baltic states and the neighboring region.

I trust that you and the Committee will understand that I and my government work under difficult circumstances, with very limited staff and other resources. I have therefore requested the assistance of RFE/RL, Inc. in providing me with documentation and background information, which I hereby submit with my nomination.

I take the liberty of including various statements about these radio stations made by President Havel, President Walesa, Prime Minister Antall, President Zhelev and other public figures.

Please let me know if any additional information is required.

Sincerely,

LENNART MERI,
Minister of Foreign Affairs.

MINISTRY OF FOREIGN AFFAIRS
OF THE REPUBLIC OF ESTONIA,
January 29, 1991.

To the Norwegian Nobel Committee.

DEAR SIRS: I, Lennart Meri, as the Minister of Foreign Affairs of the democratically elected government of the Republic of Estonia, recommend and appeal to the Norwegian Nobel Committee to confer this year upon Radio Free Europe/Radio Liberty, Inc., of the United States of America, the Nobel Peace Prize.

Radio Free Europe and Radio Liberty are chartered and supported by the United States Congress as a private, non-profit, nonpartisan corporation whose purpose is to encourage and assist the peaceful evolution of democracy in the Baltic states, the Soviet Union and the nations of Eastern and Central Europe dominated in the post-war period by the Soviet Union.

There is abundant evidence—including statements by the freely elected leaders of Czechoslovakia, Hungary, Poland and Bulgaria—that Radio Free Europe and Radio Liberty have made, and continue to make, a unique contribution to the rebirth of democracy in our region of the world, upon which lasting peace depends. It is my firm belief that this contribution, supported by the spirit and the treasure of the American people, conforms to the ideals of Alfred Nobel and is of a magnitude fully deserving of so high an honor as the Nobel Peace Prize.

RFE and RL broadcast a thousand hours of programs each week in 23 languages to Estonia, Latvia, Lithuania, Bulgaria, Czechoslovakia, Hungary, Poland, Romania and the Soviet Union. By this measure alone, RFE And RL are the predominant Western broadcasters to this region. More important, these radio stations are the predominant Western carriers and preservers of the democratic values that have inspired the peaceful revolutions of 1989–90.

It is well known that the tidal wave of democracy that has begun to move through our region of the world reflects the convergence of many complex political and economic forces. Individual personalities have played important roles. But the fundamental forces behind this inexorable and historic movement are the aspirations for freedom and the democratic values of millions of ordinary people. I believe that, more than any other entity, Radio Free Europe and Radio Liberty have helped to keep these aspirations and these values alive through dark decades of repression.

For 40 years, RFE and RL have broadcast news, analysis, commentary, literature, religious services and cultural and historical programs. Through their programs, which for years struggled against illegal jamming by Communist governments, these stations have helped immensely to:

Spread and strengthen democratic ideas and values and to build a sense of common purpose among the peoples of the Baltic states, the Soviet Union and Eastern and Central Europe. RFE and RL continue to play a vital role in explaining the history and aspirations of the Baltic nations to all the peoples of the Soviet Union.

Preserve the histories and cultures and religious faiths of whole nations, who would otherwise have known their national heritage only through the distorting prism of a particular ideology.

Promote free expression through uncensored arts and literature, independent of state control.

Provide a lifeline of information and moral support between the peoples of our region and Western civilization.

Moreover, RFE and RL have pursued these high aims in accordance with admirable standards of fairness, moderation and civility. They have consistently encouraged nations to reclaim their sovereignty and independence by peaceful means.

In doing so, they are helping to create the peaceful revolutions we have witnessed in Eastern and Central Europe and the Baltic states; and they are exerting a powerful influence on behalf of democracy in the Soviet Union.

Although they are supported by the American government and the Congress, RFE and RL are unique among Western broadcasters in their purpose and their orientation. RFE and RL have served not as the voice of a foreign government, but as surrogate or alternative home media for peoples who have been denied the basic human right of free expression. Millions of listeners consider these stations to be their own, giving voice to their own aspirations for freedom and democracy.

As such, these radio stations have constituted—and continue to do so—a form of direct assistance to the Baltic states and other listening nations as we seek, against great odds, to build democratic institutions and the rule of law, and to secure our lasting independence.

Today, RFE and RL are helping to build a foundation of understanding for the immense changes that must take place in our societies during a historic transition to stable democracies and market economies. They contribute to regional harmony and understanding by helping to move news and other information among the countries of the region. They are an important force for the peaceful reintegration of Europe. They provide us with a model for serious, thoughtful journalism as it is practiced in democratic societies.

I and many of my fellow Estonians wish to honor Radio Free Europe and Radio Liberty and the people of the United States for 40 years of work in helping us prepare for the restoration of our democracy, and we wish to encourage them to continue their important work in the years ahead.

This nomination is mine alone. But I have reason to believe that others, including President Vaclav Havel of Czechoslovakia, President Lech Walesa of Poland, Prime Minister Jozsef Antall of Hungary, and President Zhelyu Zhelev of Bulgaria, share my attitude toward the broadcasts that have also served their people.

I appeal to the Nobel Committee to consider this nomiation and wish you the greatest wisdom in your deliberations.

Sincerely,

LENNART MERI,
Minister of Foreign Affairs.

DENIAL OF TAX INCENTIVES FOR RUNAWAY PLANTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. STARK. Mr. Speaker, today I am introducing a bill to deny section 936 tax credits for income attributable to a runaway plant.

I am extremely concerned that our income tax laws are encouraging the artificial migration of jobs to Puerto Rico at the expense of established industrial communities.

Section 936 is a tax incentive to assist economic development in Puerto Rico and the possessions. While I do not doubt that Puerto Rico could use the economic boost, I object to any assistance given at the expense of mainland jobs.

Under current law, a domestic company can set up a 936 corporation to operate in Puerto Rico or the possessions. Income earned by the 936 corporation qualifies for section 936 tax credit which essentially makes the income free from U.S. income tax. In addition, qualified possessions corporations are typically granted full or partial exemption from Puerto Rico income tax under Puerto Rican law if a company states that there will be no mainland job dislocation.

By providing a credit against tax for income earned in Puerto Rico and the possessions, the tax system has lured many major stateside corporations to Puerto Rico. These 936 companies provide direct employment for about 100,000 workers on the island.

The 936 credit is a substantial incentive. According to the most recent Treasury Department report on the operation and effect of the possessions corporation system of taxation, March 1989, the U.S. tax benefits per employee averaged $18,523 per employee for all manufacturing industries in 1983. Although the possessions corporations' U.S. tax benefits vary substantially by industry, the pharmaceutical industry hit the jackpot with $57,761 in tax benefits per employee in 1983.

While the Treasury study does not take into account the effect of the Tax Reform Act of 1986 which reduced some of the tax benefit, the overall cost of the incentive remains very high. The Joint Committee on Taxation estimated the revenue loss of section 936 to be $2.6 billion a year.

A tax incentive this substantial works. U.S. mainland jobs have moved to Puerto Rico. A study entitled "The Impact of Section 936 on Manufacturing Jobs in the Mainland United States: Case Studies," prepared by the Midwest Center of Labor Research, documents thousands of mainland jobs which have been transferred to Puerto Rico; 25 cases of plant closings and major lay-offs were reviewed involving 21 different companies; 13 cases involve a direct and complete transfer of work from the mainland to Puerto Rico. The remainder of cases in the study shows a transfer of jobs to multiple locations including Puerto Rico.

It's time to refine our policy. Mainland workers should not be forced to subsidize Puerto Rico with their jobs as well as their tax dollars. This bill denies the possessions tax credit for any income attributable to a runaway plant.

Under the bill, a 936 company must file a request for 936 status with the Secretary of Treasury prior to commencing operations in Puerto Rico or substantially expanding its operations in Puerto Rico. The Secretary must determine that the operations at the facility will not have a substantial adverse effect on the level of employment at a mainland plant operated by the electing corporation or a related party or supplier.

To assure that the Secretary has adequate information on which to base his decision, the bill provides that notice of each request for 936 status be published in the Federal Register, opportunity for public comment must be provided and notice of the Secretary's determination in each case shall be published in the Federal Register.

In addition, the background file relating to each determination shall be made available to the public.

The Secretary shall revoke the 936 credit at any time within three years of commencement—or expansion—of operations if the Secretary determines that, based on facts and circumstances that become known after the original determination, there is a substantial adverse effect on mainland employment. The effect of this revocation is to treat the runaway plant income as income of the corporation's U.S. shareholders.

The Secretary shall revoke the 936 credit of a corporation at any time there is a misrepresentation or a failure to disclose critical information by the taxpayer in its request for 936 status.

The bill is prospective. It applies to new 936 companies or expansions of current 936 companies after June 12, 1991.

A technical explanation prepared by the Joint Committee on Taxation and the text of the bill follows:

TECHNICAL DESCRIPTION OF H.R. 2632, TO DENY THE BENEFITS OF THE PUERTO RICO AND POSSESSION TAX CREDIT IN THE CASE OF RUNAWAY PLANTS

PRESENT LAW

A domestic corporation may eliminate its U.S. tax on income associated with Puerto Rico or other U.S. possessions by means of the Puerto Rico and possession tax credit under Code section 936. Most so-called section 936 corporations operate in Puerto Rico. In such a case, the income of the corporation typically benefits not only from a U.S. corporate tax exemption through the section 936 credit and the dividends received deduction afforded to its parent U.S. corporation, but also from Puerto Rican tax reduction or elimination under a local law such as the Puerto Rico Tax Incentives Act of 1987.

In order to benefit from the section 936 credit, a domestic corporation must satisfy two conditions. First, the corporation must derive at least 75 percent of its gross income from the active conduct of a trade or business within Puerto Rcio or another U.S. possession during the preceding three years. Second, at least 80 percent of the gross income of the corporation must be derived from sources within Puerto Rico or other possession during that same three-year period. A corporation which satisfies these requirements and elects the benefits of section 936 is generally referred to as a section 936 corporation.

The section 936 credit eliminates U.S. tax on income from the active conduct of a trade or business within Puerto Rico or another possession. It also eliminates U.S. tax on qualified possession source investment income. In addition, the credit may be used to eliminate U.S. tax on up to 50 percent of combined taxable income of a section 936 corporation and its U.S. affiliates attributable to intangible property licensed to the section 936 corporation.

EXPLANATION OF PROVISION

In general

The bill eliminates the section 936 credit for income attributable to new or newly expanded operations at Puerto Rican or other possession facilities unless those operations are determined by the Secretary of the Treasury not to have a substantial adverse effect on employment at U.S. facilities. The bill gives the Secretary a window in which to make that determination (or revoke a previously made determination), starting shortly after the commencement of the local tax incentive application process, and ending three years after commencement of operations. In order to claim section 936 credits for income from expanded operations at an existing facility, a new determination is required when employment at the facility increases by over 10 percent in one year or a new local tax incentive procedure is commenced.

Finally, the bill provides for some degree of public input into the process by which the Secretary would allow section 936 credits to shelter income from new facilities and new expansions of existing facilities. The bill further provides that the results of that process are also to be made open to the public.

Taxation of runaway plant income

The bill provides that income attributable to a disqualified facility (referred to as "runaway plant income") generally is not income of the section 936 corporation but is instead the income of the corporation's U.S. shareholders, with proration of income on the basis of shareholdings. Moreover, if by not treating such income as income of the section 936 corporation the corporation would fail either the 80-percent possession source test or the 75-percent active trade or business test, the corporation will be treated as meeting those tests if it makes a post year-end distribution to the extent necessary to bring its possession source and possession business income to the threshold proportions of its other retained income.

A different rule applies to the extent that shareholders of the section 936 corporation are foreign persons or are not subject to tax on such income. In such a case, the pro rata portion of the runaway plant income that would have been allocated to such persons (if they had been U.S. persons subject to tax on such income) is instead treated (for the purposes of determining the tax liability of the section 936 corporation) as U.S. source income of the section 936 corporation. The section 936 credit cannot offset this runaway plant income. However, such runaway plant income does not enter into the calculation of the 80-percent possession source test or the 75-percent active trade or business test. In summary, the section 936 corporation will be subject to U.S. income tax on runaway plant income that is not allocated to shareholders (because they are foreign or tax-exempt), but such income will not operate to disqualify the corporation as a section 936 corporation.

Determinations that no substantial adverse effect will result

Under the bill, a disqualified facility is a facility at which operations commence with respect to the section 936 corporation after June 12, 1991 unless, among other things, the Secretary of the Treasury determines that operations at the facility will not result in a substantial adverse effect on the level of employment at a facility located in the United States. Impact on a facility is relevant for this purpose if the facility is either operated by the section 936 corporation or a related person, or if it is operated by any other person and an adverse effect arises from a change in a supplier relationship to the electing corporation or a person related to the section 936 corporation. Thus, for example, the bill requires the Treasury to treat a facility located in Puerto Rico as disqualified if its operation is associated with a substantial adverse effect on employment at a U.S. facility that previously made products for or on behalf of an entity under common control with the section 936 corporation.

For purposes of the bill, a section 936 corporation generally is treated as related to another person if such persons are related parties for purposes of sections 267(b) or 707(b)(1) or members of the same controlled group of corporations (as defined in section 1563(a)) except that the bill substitutes a greater than 10 percent test for the 50 percent or 80 percent tests of these sections and includes otherwise excluded foreign affiliates.

In order to avoid disqualified status for a facility, the section 936 corporation must also timely file a request with the Secretary for a determination of the absence of a substantial adverse effect described above. The request must be filed within 90 days after the date on which an application is submitted to Puerto Rico or another possession for local tax incentives for the facility, or (if earlier) at least one year before the date on which operations at the facility commence. The Treasury may, however, treat a late request as timely filed if it determines that reasonable cause for late filing existed.

If Treasury issues a favorable determination regarding the status of a facility, there are two situations under the bill in which the determination will be revoked retroactively. First, the Treasury must revoke the determination at any time within three years of commencement of operations at the facility if, on the basis of the facts and circumstances then known, Treasury determines that no longer would operations at the facility not result in a substantial adverse effect on the level of employment at relevant facilities located in the United States. Second, Treasury must revoke a determination at any time if in connection with the request for the determination, there was a misrepresentation with respect to (or a failure to disclose) any material information by the section 936 corporation or a related person. Either type of revocation applies as if the original determination had never been made. Thus, if a revocation is made, all prior income attributable to the facility is considered runaway plant income.

Expansions of existing facilities

Under the bill, certain substantial increases in employment at existing facilities are themselves treated as separate facilities at which operations with respect to the electing corporation commenced as of the date of the increase. Thus, income attributable to such an increase would be considered runaway plant income, unless a timely application for a U.S. facility impact determination is filed and a favorable determination is made and not revoked.

A substantial increase in employment at a facility occurs, for this purpose, on the last day of a payroll period when the average number of employees performing services at the facility for that period exceeds 110 percent of the average number of employees performing services at the facility during the corresponding payroll period in the prior year. Appropriate adjustments in the application of this rule are to be made in the case of employees not performing services on a full-time basis.

In addition, there is deemed to be a substantial increase for this purpose if there is an expansion in the facility, or the operations at the facility, with respect to which a separate or supplemental application or other request relating to tax incentives for such expansion is made to governmental authorities of the possession.

Public disclosure of the determination process

If a section 936 corporation files a request for a determination that a facility is not to be treated as disqualified, the bill requires that the Secretary publish in the Federal Register a notification of the request. The Secretary is not to make any such determination unless he allows an opportunity for public comment on the request. This requirement is intended to be consistent with the notice and comment procedures of the Administrative Procedures Act, as amended (5 U.S.C. sec. 553). The bill does not require that the Secretary allow an opportunity for a hearing, and the determination is not required to be made on the record within the meaning of the Administrative Procedures Act (*cf.* 5 U.S.C. sec. 554).

If and when a determination is issued, notification of it must be published in the Federal Register. The text of the determination, and any background file document relating to the determination, must be open to public inspection. Before making this material public, the Secretary will delete the types of information relating to national security, trade secrets, and certain other matters that would normally be deleted from the published version of a private ruling. However, there will not be deleted the names, addresses, and other identifying details of the section 936 corporation and of any other person identified in the determination or a background file document.

EFFECTIVE DATE

The bill generally applies to taxable years ending after June 12, 1991. As described above, however, it does not apply to facilities that commenced operations with respect to the section 936 corporation before June 13, 1991, unless the facility is subject to an expansion or employment level increase after June 12, 1991 that is treated as a separate facility as described above. In addition, the time for filing a request for a determination that a facility will not have a substantial adverse effect on U.S. facilities will in no event expire before the date 90 days after enactment of the bill.

H.R. 2632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON PUERTO RICO AND POSSESSION TAX CREDIT.

(a) GENERAL RULE.—Section 936 of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new subsection:

"(i) DENIAL OF CREDIT FOR INCOME ATTRIBUTABLE TO RUNAWAY PLANTS.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDERS.—The runaway plant income of a corporation electing the application of this section for any taxable year (hereinafter in this subsection referred to as the 'electing corporation') shall be included on a pro rata basis in the gross income of all shareholders of such electing corporation at the close of the taxable year of such electing corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such electing corporation ends.

"(B) EXCLUSION FROM THE INCOME OF AN ELECTING CORPORATION.—The taxable income of an electing corporation shall be reduced by the amount which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A).

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

"(i) who is not a United States person, or

"(ii) who is not subject to tax under this title on runaway plant income which would be allocated to such shareholder (but for this subparagraph).

"(B) TREATMENT OF NONALLOCATED RUNAWAY PLANT INCOME.—For purposes of this subtitle, runaway plant income of an electing corporation which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be treated as taxable income from sources within the United States.

"(3) EXCLUSION OF INCOME FOR QUALIFICATION TESTS.—Any gross income taken into account in determining the amount of the runaway plant income of any electing corporation shall not be taken into account for purposes of subsection (a)(2).

"(4) RUNAWAY PLANT INCOME.—For purposes of this subsection, the term 'runaway plant income' means the portion of the taxable income of the electing corporation which is attributable to a disqualified facility.

"(5) DISQUALIFIED FACILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'disqualified facility' means any facility at which operations are commenced with respect to the electing corporation after June 12, 1991 unless—

"(i) the Secretary determines that operations at such facility—

"(I) will not result in a substantial adverse effect on the level of employment at any facility in the United States operated by the electing corporation or a person related to the electing corporation, and

"(II) will not result in such an effect with respect to any other facility in the United States on account of changes in a supplier relationship to the electing corporation or a person related to the electing corporation, and

"(ii) the electing corporation files a request with the Secretary for a determination under clause (i) on or before the earlier of—

"(I) the day 90 days after the date on which an application is submitted to the possession for tax incentives for such facility, or

"(II) the day 1 year before the date on which operations at such facility commence.

The Secretary may treat a request not filed before the time required under clause (ii) as timely filed if the Secretary determines that there was reasonable cause for not filing the request before the time required.

"(B) CERTAIN REVOCATIONS REQUIRED.—

"(i) IN GENERAL.—The Secretary shall revoke a determination under subparagraph (A)(i) at any time before the close of the 3-year period beginning on the date on which operations at the facility commenced if the Secretary determines that, on the basis of the facts and circumstances then known, the requirements of subparagraph (A)(i) are not satisfied.

"(ii) MISREPRESENTATIONS, ETC.—The Secretary shall, at any time, revoke a determination under subparagraph (A)(i) if, in connection with the request for such determination, there was a misrepresentation with respect to (or a failure to disclose) any material information by the electing corporation or a related person.

"(iii) REVOCATIONS RETROACTIVE.—If any determination is revoked under this subparagraph, this subsection (other than paragraph (8) thereof) shall be applied as if such determination had never been made.

"(C) OPPORTUNITY FOR PUBLIC COMMENT.—No determination may be made under subparagraph (A)(i) unless the Secretary allows an opportunity for public comment on the request for such determination.

"(6) EXPANSIONS TREATED AS SEPARATE FACILITIES.—

"(A) IN GENERAL.—For purposes of this subsection, any substantial increase in employment at a facility shall be treated as a separate facility at which operations are commenced with respect to the electing corporation as of the date of such increase.

"(B) SUBSTANTIAL INCREASE IN EMPLOYMENT.—For purposes of subparagraph (A), there shall be deemed to be a substantial increase in employment as of any day at any facility if—

"(i) such day is the last day of a payroll period and the average number of employees performing services at such facility during such period exceeds 110 percent of the average number of employees performing services at such facility during the corresponding payroll period in the preceding calendar year, or

"(ii) there is an expansion in such facility or the operations at such facility with respect to which a separate or supplemental application or other request relating to tax incentives for such expansion is made to governmental authorities of the possession.

Appropriate adjustments in the application of clause (i) shall be made in the case of employees not performing services on a full-time basis.

"(7) SPECIAL RULES.—

"(A) DISTRIBUTIONS TO MEET QUALIFICATION STANDARDS.—Rules similar to the rules of subsection (h)(4) shall apply for purposes of this subsection.

"(B) RELATED PERSON.—For purposes of this subsection, the rules of subparagraphs (D) and (E) of subsection (h)(3) shall apply in determining whether any person is related to the electing corporation.

"(8) PUBLIC DISCLOSURE.—

"(A) PUBLICATION IN FEDERAL REGISTER.—The Secretary shall publish in the Federal Register—

"(i) a notification of each request for a determination under paragraph (5)(A)(i), and

"(ii) a notification of the Secretary's determination in the case of each such request.

"(B) PUBLIC INSPECTION OF DETERMINATION.—

"(i) IN GENERAL.—Notwithstanding section 6103, the text of any determination made by the Secretary under paragraph (5)(A)(i) and any background file document relating to such determination shall be open to public inspection at such place as the Secretary may prescribe.

"(ii) EXEMPTIONS FROM DISCLOSURE.—Rules similar to the rules of section 6110(c) (other than paragraph (1) thereof) shall apply for purposes of clause (i).

"(iii) BACKGROUND FILE DOCUMENT.—For purposes of this subparagraph, the term 'background file document' has the meaning given such term by section 6110(b)(2) determined by treating the determination under paragraph (2) as a written determination."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after June 12, 1991.

(2) TIME FOR FILING REQUEST.—The time for filing a request under section 936(i)(5)(A)(ii) shall in no event expire before the date 90 days after the date of the enactment of this Act.

PUERTO RICAN WORKERS SUPPORT RUNAWAY PLANT LEGISLATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. STARK. Mr. Speaker, today I have introduced legislation to eliminate section 936 tax credits for income earned in a runaway plant. The Tax Code must not provide tax incentives to take jobs from one group of American workers to give them to another group of American workers.

Workers throughout America unite when it comes to plant closures and layoffs.

I would like to share with my colleagues the following letter:

CONCILIO GENERAL DE TRABAJADORES,
April 24, 1991, Rio Piedras, PR.

Mr. JOSEPH M. MISBRENER,
President, OCAW,
Denver, CO.

DEAR BROTHER: On behalf of Concilio General of Trabajadores (CGT) and its eight affiliated unions, which represent 25,000 workers in Puerto Rico, receive our solidarity in your struggle against companies like American Home Products who have destroyed jobs in the U.S. in order to relocate in Puerto Rico for the purpose of avoiding the payment of taxes in both of our countries.

Concilio General of Trabajadores fully supports the efforts of the OCAW and other U.S. unions to obtain legislation to amend section 936 of the U.S. Internal Revenue Code, so that any company would be denied the benefits of 936 where such would result in the relocation of existing work and job losses to workers in the United States.

Enclosed you will find copy of our latest publications, where we denounce the realities about the operations and excessive earnings of these companies in Puerto Rico.

In solidarity,

LUIS AMAURI SUAREZ ZAYAS,
Secretary General, CGT.

TRIBUTE TO JOSEF MESTENHAUSER

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SABO. Mr. Speaker, I would like to take this opportunity to honor Dr. Josef Mestenhauser, a constituent of mine, who has recently received his law degree from Charles University in Prague, Czechoslovakia.

Dr. Mestenhauser's story is one of those truly amazing stories that came about as the Communist stranglehold on Eastern Europe was broken.

It began in 1948 when Josef Mestenhauser was a 22-year-old law student in Czechoslovakia, destined for a bright future. He was a leader in both his law student association and the Czechoslovak National Student Association, and was looking forward to taking a job waiting for him in the foreign service. As an activist in the Nationalist Party, his name was on the ballot for the parlimentary elections scheduled for that spring.

Unfortunately, those elections never came. Instead, just a few months before he was scheduled to receive his degree, Josef was arrested, expelled from school and his entire family placed on the black list. Because he was a student leader and vocal anti-Communist, the new Communist government had labeled him an "enemy of the people."

Luckily, he was able to escape to the West. With the help of an international student organization, he came to the United States to attend a small college in Washington. He then moved to Minnesota to pursue his doctorate in political science and has been living there, in my district, ever since. Dr. Mestenhauser became a U.S. citizen, married, had three children, and is now a professor and director of the Office of International Education at the University of Minnesota.

Meanwhile, as Dr. Mestenhauser was building his new life in America, the Communist government in Czechoslovakia tried him in absentia and sentenced him to 25 years in prison for being an "enemy of the people," a sentence that meant he could never go home.

But the last few years have brought about amazing changes in Eastern Europe. About a year ago, Dr. Mestenhauser's brother called from Czechoslovakia to tell him that the new Czech Government had erased his crimes. This spring he was informed that the new Government was looking for him—they wanted to present him with the degree he had been denied years before.

So, on April 26, 1991—43 years after his education was so abruptly terminated—Dr. Mestenhauser traveled back to Prague and received his law degree from Charles University.

Although Dr. Mestenhauser was happy to have finally received his long-denied degree, his visit home raised deep concerns about the damage done to his native land and his former countrymen by so many years of Communist rule.

Moved by this concern and inspired by Alexander Dubcek's recent visit to Minnesota, Dr. Mestenhauser has joined with others to form the Minnesota-Czechoslovakia Center, committed to helping Czechoslovakia build free institutions and democratize its society.

Mr. Speaker, I would like to congratulate Dr. Mestenhauser on his long-awaited recognition and well-deserved vindication. His new efforts represent an important endeavor on behalf of Czechoslovakian democracy. These efforts should result in great rewards for the Americans involved as well as for Czechoslovakia. I know that every Member of this body joins me in wishing him the greatest success.

REPEAL OF THE BOAT EXCISE TAX IS A JOBS ISSUE, NOT A PARTISAN ISSUE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SHAW. Mr. Speaker, today I testified before the Senate Subcommittee on Taxation in support of S. 649, a bill to repeal the excise tax on boats costing over $100,000. I have a strong interest in the fate of this legislation, as I am the sponsor of companion legislation to S. 649 in the House—H.R. 951. My bill currently enjoys the support of 102 House Members, as well as a substantial number of Ways and Means members, the committee I serve on.

As my colleagues may recall, this 10 percent luxury excise tax on boats costing over $100,000 passed last October, as part of the 1990 Budget Reconciliation Act. This tax was drafted and passed by Congress in haste and in virtual secrecy. There was no research about its impact and no chance for comment by the public, accountants, or tax lawyers who might have pointed out flawed assumptions or other pitfalls of this tax. The marine manufacturers did not testify before Congress and neither did the American worker. Ideally, tax legislation should be prepared during an extended legislative process that involves public hearings and intense analysis. Since Congress was in a frenzy to "soak the rich" and adjourn last year, no analysis was done, and the result is a destructive tax.

If Congress had bothered to consult with the experts, we would have been told that the marine industry declined 42 percent from 1988–90. Anyone with common sense knows that levying a tax when an industry is already hurting is not wise policy. But Congress was not interested in wise tax policy; Congress was interested in making a political statement—soak the rich. Now that the statement has been made, I say let us move on to correct this mistake. Certainly the Senate hearing held today is a step in the right direction, and I commend the chairman, Senator DAVID BOREN, for holding it.

Our Nation's marine industry is an important generator of wealth for our Nation. In 1990, $13.7 billion was spent at the retail level alone on boats and related expenditures. Over 486,000 people are employed in the U.S. boating industry—twice as many as our domestic steel industry. Many of these workers are skilled craftsmen, as boat building is very labor intensive. Hence, when a boat building job disappears or goes overseas, we waste the talents of an American artisan. According to reliable estimates, over 19,000 of these skilled, blue collar workers will lose their jobs primarily because of this 10 percent excise tax.

The boating industry also helps reduce our trade deficit. The industry registered a $249 million trade surplus in 1989, and a $616 million trade surplus in 1990. Import penetration in the U.S. market was under 5 percent in 1989. The reason our marine industry dominates the global boating market is simply because we produce the highest quality boats. An American manufactured boat is synonymous with quality and reliability. I wish we could say that about some of the other durable items this country produces. Some observers contend that the Japanese and Germans see our slumping domestic marine industry as the perfect opening to increase their market share in this country, just as they did with automobiles, electronics, et cetera. I view this threat as yet another unforeseen consequence of this onerous tax.

Some skeptics of this repeal legislation contend that the reason our marine industry is in a depression is solely because of the recession and that the excise tax has had little or no effect on the industry. This reasoning is patently ridiculous. First, and perhaps most important, we can look to other nations which instituted a similar tax and learn from the folly of their ways.

For example, lawmakers in Britain and Italy in the 1970's found that boat sales decreased by double the percentage amount of the excise taxes they levied, and tax revenues decreased when they implemented an excise tax on boats. Hence, from the experience in Britain and Italy we have reason to expect a 20 percent additional decline based on the 10 percent tax in this country. Subsequently, Britain repealed its tax and Italy reduced its tax. Unfortunately for those countries, they devastated their marine industries in the process.

Second, people can easily avoid this tax. They can just not buy a boat. Instead they can spend the money on an European vacation or jacuzzi, or some other big-ticket luxury item which Congress does not presently tax. Another easy way to avoid the tax is by buying a used boat. They can also buy their new boats overseas and just "visit" the United States. This is already happening in the Bahamas. In response to Congress passing the 10 percent tax, the Bahamas in turn reduced their boat taxes to less than 1 percent of a vessel's value.

This move stands to hurt my home State of Florida the most, simply because of the popularity of boating in my State and Florida's proximity to the Bahamas. As the Bahamas are only 50 miles off the coast of Fort Lauderdale, it now makes sense to buy and slip a boat in the Bahamas and use it in the States. This move will lure American boaters, draw boats sales and service, as well as tourism to the Bahamas, and in turn, create jobs for the Bahamas at our expense.

Interestingly, this is not the first time Congress has levied a 10-percent excise tax on boats and, hopefully, not the last time it will repeal such a tax. Congress levied a 10-percent tax on boats to raise revenue for World War I, and then repealed the tax in 1924. In the report language of the repeal bill—H.R. 6715, Report No. 179, 68th Congress—Congress gave its reason for repealing the tax:

> The tax upon the sale of yachts is a great burden to yacht builders of this country, since it forces persons to purchase yachts outside the United States from foreign manufacturers in order to avoid the tax.

This scenario is remarkably similar to what is happening today with the Bahamas.

Finally, boats are a very elastic product. Any increase in price markedly impacts sales—and the price of boats and boating went up dramatically last year, thanks to Congress. I can understand the boaters feeling they were singled out by the Congress last year. Congress not only levied this 10-percent excise tax on boats but also a user fee for all registered boats over 17 feet, new fuel taxes, and a $35 FCC radio fee. Is it any wonder customers are staying away from buying new boats in order to avoid paying any more taxes to the Federal Government?

Of course, the stated reason for this tax was to help reduce our huge Federal deficit. The boat tax was projected to raise $148 million over a 5-year period, according to the Joint Committee on Taxation. In fact, this fiscal year, the tax is expected to raise a paltry $3 million. The tax is then projected to raise $7 million in fiscal year 1992, $42 million in fiscal year 1993, $46 million in fiscal year 1994, and $50 million in fiscal year 1995. Although I admire the often useful work of the Joint Committee on Taxation, their projections are at best an informed guess, and at worst a shot in the dark. From the anecdotal evidence I have seen, no one is selling boats and, therefore, no one is paying the tax. You cannot tax something that does not exist. In the long run, I believe this tax will be a revenue loser.

I contend that this tax will cost the Government more money than it ever hopes to collect because of the hidden cost of the tax. Specifically, I refer to the cost of enforcement by the IRS, the cost of compliance by retailers —higher costs in time, extra paperwork, and perhaps lost business—revenue losses from reduced tariff collections, increased unemployment benefits, and the general "ripple effect" when an industry lays off its workers. I believe that when you add up all these factors, this tax will be a revenue loser.

I am not alone in my assessment. According to the New York Times—January 22, 1991—some tax experts and business leaders say the overall luxury tax may cost retailers and the IRS more to collect than the revenues it brings in. Peter Scott, former general counsel to the IRS, has stated, "The revenue gains from the luxury tax are illusory; businesses and the IRS will spend two or three times more to comply with and collect it than the small amount of revenue it raises."

One more point: Before this tax was passed, the National Marine Manufacturers Association estimated that 8,000 American workers would lose their jobs because of it. That figure has since been revised upward to 19,000. Those 8,000 marine workers were expected to pay $30 million in Federal income tax this year—10 times what the Federal Government expected to raise from this tax. Of course, the Federal Government can now expect to lose even more Federal income tax revenue since 19,000, instead of 8,000, marine workers are projected to lose their jobs.

The evidence is overwhelming: The boat tax is an unmitigated failure and a plague the Congress has visited upon an important American-dominated industry. Instead of raising revenue, it loses it. Instead of making rich people pay more taxes, it throws people out of work. It invites international predatory competitors to prey on our weakened market. It destroys small businesses, of which the majority of boat manufacturers are.

Mr. Speaker, Congress made a mistake in passing this tax. Let us not let class and political warfare disguised as deficit reduction dictate the destruction of jobs, of peoples' futures, and the vitality of the boat building industry in America. This legislation in not about giving a tax break to someone rich who wants to own a yacht; it is about American jobs, pure and simple. Let us treat it as such.

TRADING CAREER FOR NATIONAL DIALOGUE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. EDWARDS of California. Mr. Speaker, I want to bring to the attention of my colleagues a column from the Washington Post by Judy Mann. The column illustrates the seriousness of sexual harassment and discrimination against women in their workplaces. Until we understand the difficulties women face when trying to report harassment and the real harm harassment causes to the integrity of women to whole work environments, we cannot hope to address the issue successfully.

I commend the article to my colleagues.

[From the Washington Post, June 7, 1991]

TRADING CAREER FOR NATIONAL DIALOGUE

(By Judy Mann)

Frances Conley was one of the first fully tenured female professors of neurosurgery in the United States. She was on the faculty of Stanford University Medical School, where she reported to the man who had first hired her there 25 years ago, a man who she says "had tremendous respect for me." In the world of medicine, which is dominated by men, she had broken through the glass ceiling.

Two years ago, her mentor retired, and Conley's supportive work environment changed when he was temporarily replaced by someone Conley describes as "very arrogant. He cannot accept the fact that women were created for anything other than to feed him, clean up after him and provide him with sexual gratification."

On May 22, David Korn, dean of the medical school, informed her that he intended to appoint this person to the position permanently, because the school did not have the funds to continue the nationwide search for an outside replacement. Conley, 50, resigned. After a group of women medical students met with the Faculty Senate, which she heads, to complain about a sexist educational environment, Conley went public. In a newspaper article, she announced her resignation and accused the medical school of tolerating an environment in which she and other women were sexually harassed, humiliated and made to feel inferior.

Conley has not publicly named the person who has replaced her previous boss. At a news conference, Korn identified him as Gerald Silverberg, who has referred reporters inquiries to Spyros Andreopoulos, head of communications for the medical school. He said Silverberg would not make any statements, but he said, "We all agree her concerns about sexism in medicine are very legitimate. As head of the Faculty Senate she started a very constructive process to encourage people to come forth with problems they face in this area."

He said half of the medical school students are women, but only about 15 percent of the faculty is, compared with a national average of 35 percent. He said Korn has recently appointed several women to head key departments and is working on more faculty appointments. Andreopoulos said that part of what Conley has complained about is a matter of attitudes, which are both difficult to define and to change.

He also said that Korn has said publicly he would like Conley to return to Stanford.

Conley said the reaction to her resignation had been unbelievable. Newspapers across the country have covered it and she has been on the morning network talk shows. She described the difficult relationship with her colleague as one that went back to the days when they were residents together. "He would frequently invite me to go to bed with him. He never did it seriously. It was always in front of a crowd and he did it for effect. He was saying, I have to reduce our relationship to one where I am dominant and your are inferior. . . . It is subtle but it is a pervasive attitude problem that is very wearing on a daily basis.

She says that she had discussed the situation with Korn, but she says, "I don't think he heard me. I don't think he understood."

The medical students told her of professors using slides of Playboy centerfolds in the middle of lectures, of "comments being made. Sexual harassment in terms of fondling and feeling that they had no recourse. When I finished that meeting, I felt very guilty. I saw myself as having acted for the last 25 years as a facilitator. I've been fondled in ways that should not have happened to a professional. In the last two months, I've had a colleague say in front of a whole group, 'I can see the outline of her breast under that white coat,' "

She decided to go public after that meeting. "It's as if an abscess has been quietly seething and growing and somebody has suddenly taken a scalpel to it.

"Many people experience it on a regular basis," she says. "I feel that an administration which is already ruled by men, as medicine is, has an obligation to make sure that executive positions are filled with people who have the ability to provide a workplace and a learning environment that is going to be perceived as an equal opportunity for everybody. To put somebody in place who has stereotypical behavior is going to validate that behavior and perpetuate it into the next generation."

She said she had no recourse but to quit. "Part of the problem is I'm a very strong person. I've always had people say, 'You're a strong person who doesn't need help.' In some ways, I've been asking for help for two years."

She says she wants a dialogue, not a lawsuit, "We need to get out in the open what constitutes proper behavior and what is not proper behavior. I'd much, much rather see an open dialogue rather than put it in a system that is argumentative."

SHALLEY JONES: A BANKER WHO HAS NEVER FORGOTTEN WHERE SHE CAME FROM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today one of my constituents Shalley Jones who was recently featured in the Miami Herald upon her installation as president of the National Association of Urban Bankers. The article, "On a Financial Mission, Miamian To Lead Urban Bankers' Group" tells how a 36-year-old wife and mother of two worked her way up from bank teller to become one of the highest ranking black female bankers in south Florida's financial institutions:

To hear Shalley Jones tell it, the nation's banks and thrifts are doing a mediocre job of lending in low-income neighborhoods.

"The fact is that the people in many of these communities, although they deposit money in these financial institutions, are not getting their fair share of the loans," she contends, adding, "That fact has to change."

If Jones sounds like a staunch community activist, it's because she is. On any given day, the 36-year-old wife and mother of two is running between organizations such as the Miami-Dade Neighborhood Housing Services Inc. and Metro-Miami Action Plan.

But she's also a banker. For the past year, as first vice president of Chase Federal Bank in Kendall, she has toiled away to make sure the $1.5 billion thrift "knows and meets the needs of all the communities it serves."

When she's installed Friday as president of the National Association of Urban Bankers at the group's annual conference in Chicago, Jones plans a major push to translate such dual roles into loans to revitalize declining low-income neighborhoods.

That may be a tall order for an organization that has spent most of its 17 years struggling to ensure the growth, and in many cases survival, of blacks in banking—a profession dominated by white men.

And Jones admits that focus must remain a high priority, as financial institutions aggressively shrink their management ranks to preserve thinning profits.

"But our group has the experience, perspective and know-how to be the go-between for the banks and the communities," she says. "It's a huge effort given the contraction the industry is going through, but it can be done."

Jones' commitment to low- and moderate-income neighborhoods came the hard way—she grew up in one, as one of nine children in Goulds in South Dade.

She graduated from the University of Miami, getting by on a combination of "scholarships, grants and work study." Then, she picked up a master's degree in management from Florida International University while working in what she thought was a "temporary job" as a bank teller at Flagler Federal Savings & Loan Association.

Flagler Federal put her in its management training program, and she was hooked.

Tall and articulate, with a disarming smile, Jones has gone from making individual home loans to influencing decisions on multimillion-dollar neighborhood projects.

In addition, Jones' near-religious approach to community involvement, coupled with her status as one of a handful of high-ranking black female bankers at South Florida financial institutions, has kept her in South Florida's housing spotlight.

"The woman is totally committed to affordable housing and the less-fortunate," says Earl Phillips, director of Dade County's Department of Housing and Urban Development. "And as a banker, she has developed the ability to bring together the haves and the have-nots."

Adds Phillips, who has enlisted Jones' help on several projects: "And she never loses sight of where she comes from."

A fact Jones says she uses to help motivate herself.

"I learned a sobering and saddening fact some time ago," she says. "There are a lot of blacks out there with talent who will never get a shot simply because of their skin color."

"Yet this industry, if it's going to do well in the year 2000, must train minorities for senior-level positions," she adds. "That's where the decision-making takes place, and where [blacks] need to be."

I am happy to pay tribute to Shalley Jones by reprinting this article from the Miami Herald. She has served her community well by opening opportunities for those less fortunate.

HONORING MARY B. MILLER, ASSISTANT LIBRARY ADMINISTRATOR

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual, Mrs. Mary B. Miller, assistant library administrator at the east county regional library office. Mary is retiring after 21 years of service with the County of Los Angeles Public Library.

Mary was born in Columbus, OH. She received her bachelor of arts degree in history at Ohio State University and is also a graduate of the Immaculate Heart College School of Library Science. Mary has three children, Katy, Marjorie, and Steve.

Mary began working at the West Covina Library in 1970 as a reference librarian. By 1974 she was promoted to the position of senior librarian, and became the in-charge librarian, responsible for running one of the most influential and important regional libraries.

Advancing in both rank and admiration with the public and her coworkers alike, she was the natural choice for the position of principal librarian when the senior librarian classification was upgraded. She continued to serve West Covina as the city librarian until 1987 when she was once again promoted to the newly created assistant library administrator at the east county regional library office, which oversees West Covina and several other community libraries in the area.

During her tenure as principal librarian, she presided over a major remodeling of the West Covina Library facility, and helped celebrate the addition of the five-millionth book to the collection of the County of Los Angeles Public Library.

Shortly before her promotion to assistant library administrator, Mrs. Miller became a vital member of the team charged with implementing the automated circulation system throughout the county library. The familiar routine of signing book cards was replaced over the next 3 years by a computerized method that was cost effective, convenient, and efficient. A small part of the system's success can certainly be credited to her enthusiasm which never lagged despite occasional setbacks.

Over the years, Mary B. Miller has met many city, county, State, and Federal leaders. She has been active in civic affairs and taken an active interest in her community. She has answered thousands of reference questions and willingly helped all segments of the population.

Mary has served as mentor and as an exemplary role model for the numerous librarians who have worked at the West Covina Library. Truly, the lessons learned from Mrs. Miller's commitment to public service and to library work specifically, are a valuable legacy.

Mr. Speaker, on June 23, 1991, civic leaders and the library community will be gathered to honor Mrs. Mary B. Miller and say farewell to a dynamic individual. I ask my colleagues to join with me in a salute to a fine individual, Mary B. Miller, for her outstanding record of public service to the County of Los Angeles and community of West Covina, and to wish her a long, fruitful, and happy retirement.

WOMEN'S BUSINESS DEVELOPMENT ACT OF 1991

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. LaFALCE. Mr. Speaker, as part of my ongoing commitment to create opportunities for and eliminate barriers faced by women entrepreneurs, I am pleased today to introduce the Women's Business Development Act of 1991.

This act recognizes the ever increasing role and importance of women business owners in the U.S. economy by reauthorizing and refining programs created by the Women's Business Ownership Act, Public Law 100–533, which I introduced in 1988.

Mr. Speaker, my interest in championing the cause of women business owners is not new. Three years ago, as chairman of the Committee on Small Business, I held a series of six hearings on the role of women entrepreneurs, obstacles impeding the growth of their businesses, and the effectiveness of existing programs designed to help them. The committee heard from over 2 dozen witnesses and received hundreds of pages of testimony, statements, and recommendations which we publicized in a report entitled "New Economic Realities: The Rise of Women Entrepreneurs."

Mr. Speaker, the title of this report is exactly right: the contributions to and increasing role of women business owners in the U.S. economy are new economic realities.

This is unmistakably documented in the 1987 Survey of Women-Owned Business released in October 1990 by the Bureau of the Census. Statistics from that report reveal that during the period 1982–87:

The number of women-owned businesses grew four times faster than all businesses;

The number of women-owned businesses increased by 57 percent;

Women are making significant gains in nontraditional sectors such as manufacturing and construction; and

Women own over one-third of the Nation's businesses.

One would think that Government and business would tap into this highly active segment of our economy and do the businesslike thing: give women entrepreneurs fair and equal access to compete in the market place.

Unfortunately, the testimony I heard during the 1988 hearings told me otherwise.

I introduced the Women's Business Ownership Act to implement the committee's findings and recommendations and to address the concerns of women entrepreneurs: access to credit; discrimination in lending; a lack of quality training in the skills needed to run a business; and a need for a congressionally appointed council to ensure that women business owners get the attention and assistance they deserve.

In the last 3 years, I have closely followed the progress of the Women's Business Ownership Act. It has already made permanent and lasting improvements for women business owners. It has, for example, amended the Equal Credit Opportunity Act to combat subtle forms of discrimination in commercial loan transactions.

The Women's Business Ownership Act is also a dynamic law; its benefits are ongoing and programs created by the act are designed to reach and assist new groups of women entrepreneurs on a continuing basis.

Mr. Speaker, these programs work, they serve a useful purpose, and there is a need to continue them. The Women's Business Development Act extends these worthy programs and refines them to make them more accessible and effective.

I would like to take this opportunity to provide a section-by-section analysis of the Women's Business Development Act that includes the rationale and context for its provisions.

Sections 2 and 3 of the Women's Business Development Act deal with demonstration projects created by the 1988 Women's Business Ownership Act. This program provides training, counseling, and technical assistance to women entrepreneurs in the areas of finance, management, and marketing. The projects are financed through matching private sector and Federal funds.

Before deciding to reauthorize this program, I held a hearing in April to determine what tangible benefits this program has produced. I am pleased to report that, during its first 3 years, nine organizations have been funded at 18 training sites around the country, and over 2,000 women have received business training and counseling. Furthermore, a number of new businesses have been started and existing businesses have been expanded—creating new jobs in the process—as a direct result of this program.

Section 2 of the Women's Business Development Act reflects the experience gained in administering the demonstration projects thus far. A 3-year cycle for projecting funding and operations at each training site has been deemed to be more effective than the current 1 year cycle. As part of this longer term planning a training site will, for the outset, be planing for its eventual self-sufficiency as was the intention of the original 1988 law. As a result, I am proposing a 3-year cap on Federal funding per training site to preclude any program from being funded indefinitely by the Federal Government. In addition, the SBA is urged to graduate after 3 years any sites currently operating with Federal funding.

In keeping with the 3-year planning cycle, section 2 of the Women's Business Development Act also modifies the ratio of Federal to private fund distribution over a 3-year period for programs funded in fiscal year 1993 or thereafter. SBA had requested a formula of 3 Federal dollars for 1 private dollar in year 1, a 1-to-1 match in year 2, and 1 Federal dollar for every 3 private dollars in year 3. I have decided to adjust the ratio as follows: 2 Federal dollars for every 1 private dollar in the first year, a 1-to-1 match in the second year, and 1 Federal dollar for every 2 private dollars in the third year. This was done for one basic reason: it was my opinion that awarding first year training sites funding at a 3-to-1 ratio could exhaust available Federal funds to the detriment of sites seeking second and third year funding—or the reverse, whereby once second and third year sites are funded, insufficient moneys remain to fund newcomers at a 3-to-1 ratio.

Related to this, in order to guarantee as much as possible that successful sites continue to operate through the third year, the legislation requires that viable organizations that close shop be prohibited from receiving any advance of Federal funds should that organization be approved to open another training site. Rather, the organization would be required to raise funds for a new site on a 1-to-1 private to Federal dollar match. Although there has not been a problem with sites closing, I believe the objectives of the 3-year cycle will be met better if this safeguard is included. I would also expect the SBA to also address this in its regulations governing the program.

Section 2 of the Women's Business Development Act also allows up to one-half of the private sector matching moneys to be in the form of in-kind contributions that are budget line items such as office equipment, and, with the exception noted above, permits the SBA to disburse up to 25 percent of the Federal share awarded to a training organization after notice of the award has been issued and before private sector matching funds are raised. These amendments are designed to shorten the start-up time for training programs to get underway by easing the requirements on raising matching private funds.

Last, section 2 reauthorizes the demonstration projects for 4 years.

Section 3 of the act authorizes appropriations of $4 million per year to carry out the demonstration projects.

The changes in the demonstration projects mandated by the Women's Business Development Act will affect awards made under this program beginning in fiscal year 1993.

Section 4 of the Women's Business Development Act permanently authorizes the small loan program in which the SBA guarantees loans up to $50,000. Access to credit—even small amounts—is a chronic problem even for successful women business owners. Traditionally, small loans have not been attractive to lenders because creditors deem the return on such loans as not worth the costs of processing them. The 1988 Women's Business Ownership Act instructed the SBA to simplify the forms for SBA-guaranteed loans up to $50,000 and to reduce by half the fee which banks pay the SBA for guaranteeing the loan. According to the SBA, in calendar year 1900, 2,500 miniloans were guaranteed for women and other small businesses for a total of $80 million. This demonstration of high demand for a small guaranteed loan program clearly warrants making it permanent.

Section 5 of the Women's Business Development Act affects the National Women's Business Council. The Council was established by the Women's Business Ownership Act of 1988 to recommend to the President and the Congress specific ways to support women-owned businesses and overcome barriers to full participation by women in the economic mainstream. The Council currently is under the able leadership of the Honorable Patricia Saiki, Administrator of the Small Business Administration, and my former colleague in the House of Representatives. I am confident the Council will be highly productive during her tenure as Chair.

The membership of the Council is drawn from the public and private sectors to bring a breadth of experience and approaches to tackling the problems particular to women business owners. To ensure that the expertise of both private and public sector members of the Council is utilized, the Women's Business Development Act requires that the term of the Chairperson will be fixed at a maximum of 2 years, and that a private sector Council member be designated Chair at least every other term.

Mr. Speaker, I know my colleagues support women-owned businesses. This was demonstrated by the strong bipartisan support for the 1988 Women's Business Ownership Act. Now is the time to renew our commitment to level the playing field for women entrepreneurs. The success of the programs created by the 1988 legislation deserve more than mere acknowledgement, they deserve to be continued as authorized and amended by the Women's Business Development Act.

I look forward to discussing this bill with my colleagues on the Small Business Committee where I expect it will be favorably received, and I hope to bring this legislation to the floor of the House for a vote in the very near future.

A YOUNG AMERICAN'S REFLECTIONS ON CURRENT SOCIAL PROBLEMS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. PORTER. Mr. Speaker, I would like to share with my colleagues the reflections of one constituent after her recent visit to a homeless shelter in Chicago. In her poem, "Take Care of Our Own," Erica Portnoy, an

11-year-old student at the Walt Whitman School, has related her feelings about a myriad of challenging social issues: homelessness, hunger, and poverty. Erica's thoughtful and insightful commentary reminds us of the continuing need to battle these domestic problems, but it also provides a certain reassurance that there is a future generation of leaders, like Erica, who are already demonstrating a concern for the needs of their fellow citizens.

The poem follows:

Take Care of Our Own

(By Erica Portnoy)

Hunger and homeless, living in poverty;
Many are there, but no one will see.
Take care of our own!

Fifteen years old, home alone;
No more school, can not learn,
Empty stomach does burn.
Take care of our own!

Mom's making money, but not enough;
The kids go to bed hungry—bad stuff.
Take care of our own!

Third world nations plead poverty;
While homeless are here, but no one will see.
Take care of our own!

American people are starving,
Young people will die all alone.
We just got to take care of our own.
If we don't do something right now,
Soon more will taste bitter poverty.
So we should first take care of our own . . .

People of the world, with many problems
We should help them out.
Our first responsibility is to take care of our own.

Let's heal our broken soul,
Before accomplishing the world's goal.
Kids:
White—1 in 5 not enough to eat;
Kids:
Black—3 in 5 hang out in the street.
Take care of our own!

In 5 years, expect violence in the streets;
Its not right for American brothers and sisters, with nothing to eat!
Take care of our own!

If you don't have a home,
Your only choice is to roam.
Sell some drugs, easy to pick up a gun;
For the starving, hard to look for fun.
Before it's too late, lets take care of our own!

A CONGRESSIONAL SALUTE TO MR. JOHN SMITH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to John Smith, a good friend of the southern California educational community. Mr. Smith, a long-time resident of the harbor area, will retire after 22 years of service to Mary Star of the Sea Elementary and Junior High School. This occasion gives me the opportunity to express my deepest appreciation for his years of service to Mary Star, and the community.

By virtue of his kindness toward others, his commitment to the needs of his students, and his unflinching dedication to the betterment of mankind, John Smith stands as an inspiration to all those who have ever known him. John came to the United States from Port Elizabeth, South Africa. After quickly falling in love with his adopted country, he became a U.S. citizen. In 1969, shortly after earning his master's degree in English from California State University at Long Beach, John began his teaching career. Originally, John taught Junior High students at Mary Star of the Sea in San Pedro. He later decided to devote his time to the younger children and subsequently has been teaching in the elementary school at Mary Star.

John is known for his love of the United States and for his devotion to his church. He is a devout, gracious man who exemplifies the best traits of a good Christian. He is admired and respected by his students, his fellow teachers and administrators, and the parishioners of Mary Star of the Sea Church Parish.

In this time when economic factors frequently cause qualified candidates to shy away from teaching, it is comforting to see someone as talented as John Smith sacrifice his financial opportunities for the betterment of our young people. His students are better people for having had the privilege of knowing him. He is truly a valuable American citizen.

My wife, Lee, joins me in extending our thanks for John Smith's contributions to the community. Mary Star of the Sea is losing an extremely valuable personality. He is a truly remarkable individual who has devoted his talents and energies to enriching the lives of so many others. We wish John and his wife Cecilia all the best in the years to come.

THE 100TH ANNIVERSARY CELEBRATION OF THE ORANGE MEMORIAL HOSPITAL AUXILIARY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the occasion of the 100th anniversary celebration of the Orange Memorial Hospital Auxiliary.

The Orange Memorial Hospital Auxiliary was founded on June 15, 1891, "to assist and cooperate with the Board of Governors of the hospital"—now known as the Hospital Center at Orange—and has since grown as a dedicated volunteer force to help the hospital meet its challenge in providing care for patients.

Today, more than 200 dedicated men and women living in the Oranges, Maplewood, Milburn, and surrounding towns support the hospital in a united volunteer spirit of commitment and caring.

Among their many efforts, auxilians and volunteers touch the lives of patients and hospital staff through volunteer visiting, oncology support services, tutoring programs to teach English to foreign-speaking staff, assistance in translating vital medical information for non-English-speaking patients, and numerous clinical duties to help alleviate the effects of professional staff shortages.

In addition to patient support service, auxilians sponsored fundraising activities to assist the finance for new hospital construction, advanced medical equipment, and patient support programs.

All members of the auxiliary with its officers Elizabeth McHugh, president; Netta Torlucci, vice president, ways and means; Barbara Wotiz, vice president, membership; Jane Keating, vice president, programs; Betty Lou Wilder, treasurer; Mary Donadio, recording secretary; and Barbara Claycomb, corresponding secretary; are celebrating their 100th anniversary of ongoing service and support to the Hospital Center at Orange in its two units, Orange Memorial Hospital and New Jersey Orthopaedic Hospital.

Mr. Speaker, again I congratulate the volunteers who work so hard to make the Hospital Center at Orange such a great success.

HISTORIC WATERFORD, NY, TO CELEBRATE 175TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SOLOMON. Mr. Speaker, among the many communities in upstate New York which I have the privilege of representing is one which is proudly commemorating the 175th anniversary of its town government this year—the town of Waterford.

Actually, this anniversary is a little deceptive in terms of telling the full story of Waterford's history, which dates back to the very earliest days of America. Indeed, the town was actually the northern most point of Henry Hudson's explorations in 1609, and received its first Dutch settlers in the 1630's. It later played a key role in the development of American commerce, helping to give birth to the American industrial revolution and lying at the gateway to New York's great Erie and Champlain canal system.

Through all of these years, Waterford has always been an active and ready part of every facet of our Nation's history, including the proud participation of its citizens in every struggle for liberty from the American Revolution right up to Operation Desert Storm. Indeed, the timing of this celebration, focusing on a parade and festival on June 15, could not be more appropriate as it is commemorating the best of America at the very time Waterford and other communities across the country are welcoming home America's finest from the Persian Gulf.

I ask my colleagues to join me in congratulating the town of Waterford on this special anniversary, and in thanking the citizens of that historic community for all of their past and continuing contributions to our Nation's freedom, prosperity, and greatness.

INTERNATIONAL PARENTAL CHILD AWARENESS WEEK

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SOLARZ. Mr. Speaker, on June 6, 1991, together with my colleagues, Mr. ACKER-

MAN and Mr. SAXTON, I introduced legislation that would designate the week beginning August 4, 1991 as "International Parental Child Abduction Awareness Week."

In 1988, the last year complete data is available, over 400 American children were victims of kidnappings by their noncustodial parent and were taken from their homes in the United States to foreign lands against their will. Since 1978, there have been over 4,000 reported cases of international parental kidnapping and perhaps thousands more that have not been reported. The horror and terror the victimized parents and children face are indescribable in these traumatic cases. And the tedious and torturous paths these parents and children must take in order to be reunited may last years. Even then, their efforts are too often to no avail.

The United States has now begun to respond to these parents and children who so desperatley need assistance. In July 1988, the United States became a signatory of the Hague International Treaty on Parental Kidnapping. Today, there are over 15 signatories to this treaty, with another five countries slated to sign the next several months.

Under the Hague Convention, member countries agree to return kidnapped children to the country of origin in a timely manner when the children are located. The goal of the Hague Convention is to restore the victimized children to their original homes and families as quickly as possible.

Our adherence to the Hague Convention was a significant development. But more must be done. It is my hope that "International Parental Child Abduction Awareness Week" will energize both the Government and private agencies to combat this growing problem of parental kidnaping.

In conclusion, I would like to bring to the attention of my colleagues a story that I find both poignant and instructive. It involves a constituent of mine, Mr. Lew Smith and his daughter Sabrina, who was kidnapped by her mother over a year ago and taken to France. The story is best told in the words of Mr. Smith:

> Imagine if you can that your child has been kidnapped. There is no ransom note. There is no trail. There are no leads. She or he just cannot be found. You fear that your child is in danger. Harm could come to them at any time. For you, this is an abstraction, a horrible but distant story; perhaps something that you have read about in the newspapers. For me, it has been an indescribable reality.

International parental child abduction is a tragedy we must protect our children and our parents from ever having to experience. Please join me in remembering these victims during the week of August 4, 1991.

EQUAL BUT INVISIBLE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. TOWNS. Mr. Speaker, I rise today with question and concern. American architects who are Native American, Black, and Hispanic are not getting the attention they have rightfully earned and deserve. During a time when the President and many Congressmen feel a civil rights bill is not necessary, many in this field are held back because of the color of their skin.

Although minority participation in architecture is growing, the pace has been too slow and often impeded. Hispanic Americans who make up 8 percent of the population constitute a slim percentage of the 100,000 architects who are American Institute of Architecture members. Less than 1 percent represents the tally for native Americans. Blacks are the largest component of the minority population (12 percent), but only equal 1.1 percent of AIA members.

Minorities in this field are invisible, tucked away so no one can find them. Many possess capabilities which match those who have rebuked them. But because of wrongfully determining factors minorities have never received their chance to display their architectural skills.

Injustice on any level is wrong. I hope my colleagues will join with me in solving this depressing problem.

BROTHER JOHN DRISCOLL: MAKING A DIFFERENCE FOR IONA COLLEGE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mrs. LOWEY of New York. Mr. Speaker, one person can make a difference. The efforts and talents of a single individual can play a decisive role in the life of a community. For proof, one need only examine the career of Brother John G. Driscoll.

In his 20 years as president of Iona College, Brother Driscoll has transformed that school into a vital part of its community and an admirable institution of higher learning. His prodigious and tireless efforts on its behalf have borne fruit many times over, and our community is greatly strengthened as a result.

Brother Driscoll is a man who is perfectly suited for the demanding job he holds. A scholar with a Ph.D. in mathematics from Columbia University, as well as degrees in mathematics and physics from Iona and from St. John's University, he brings a love of learning to his work that has been reflected in the strength of his leadership. As an educator who has taught pupils at all levels, from elementary school to advanced graduate courses, he has a dedication to education that has been the driving force behind the improvements that he has brought Iona. And as a member of the Congregation of Christian Brothers, he is endowed with deeply rooted values that spur his tremendous good work.

In addition to his important work at Iona, Brother Driscoll serves as a trustee or director of such diverse organizations as St. Joseph's Seminary and School of Theology, the New Rochelle Hospital Medical Center, Chase N.B.W. Bank, City Harvest, Inc. of New York, and the Irish American Sports Foundation. He also serves on the board of the World Trade Institute of New York. As a lecturer, he has spoken throughout the United States, as well as in Ireland, Canada, Scotland, Austria, the West Indies, Israel, and England.

The unfailing efforts and countless good works of Brother John G. Driscoll have been recognized with honorary degrees from the College of New Rochelle, St. Thomas Aquinas College, Pace University, and the National University of Ireland, in addition to numerous other awards. I wish to join those who have paid tribute to this remarkable man, and I am sure that all of my colleagues join me in extending to him our best wishes on the occasion of his 20th Jubilee at Iona College.

HONORING LT. COL. ED HIESTAND, USAF RESERVES

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. McEWEN. Mr. Speaker, I rise today to recognize and honor the outstanding service of Lt. Col. Ed Hiestand, USAF Reserves, a navigator of the highly effective C–130 transport planes with the 907th Tactical Airlift Group.

Colonel Hiestand, a temendous asset to the U.S. Air Force who has served for the past 28 years, was activated to full-time active duty status on January 21 of this year. The transport planes of the 907th Tactical Airlift Group were needed to accomplish the historic movement of American troops, equipment, and supplies to the Persian Gulf.

The airlift accomplishments of our Air Force during Operation Desert Shield and Desert Storm are unparalleled in military history, playing a vital role in allowing the American Armed Forces to utterly dominate the fourth largest military in the world. Colonel Hiestand has earned our heartfelt thanks for contributing his invaluable skills to the 907th tag and helping the Air Force accomplish this logistical miracle.

Mr. Speaker, I have the pleasure of considering Ed Hiestand a friend. Along with his service to the country, Ed is a proud father and devoted husband. Ed and his wife, Helen Hiestand, have been leading members of the First United Methodist Church in Hillsboro, OH, for years. His two children, Joe and Janis, have each followed in their father's footsteps, becoming proud members of the Armed Forces Reserves.

Colonel Hiestand's devotion and loyalty to our country can be seen in his distinguished Air Force career. 1990 and 1991 were not Colonel Histand's first years of service to America during wartime. Like many servicemen who took part in Operation Desert Storm, he proudly and honorably served his country during the Vietnam war. He spent 6½ years on active duty as an electronic war officer, and flew on a number of rotations in Southeast Asia during the Vietnam war.

After completing his active duty service in 1970, he entered the Reserves and became a navigator of C–123's in the Buckeye Wing of Clinton County. Due to the introduction of the new C–130's in 1981, Colonel Hiestand was required to learn an entirely new navigation system. His significant peacetime service included running a rotation out of Panama and making Embassy runs out of Howard Air Force Base.

During wartime, Colonel Hiestand has served the United States with distinction and valor. During peacetime, he has personified the vigilant professionalism that protects the freedom and values the American people hold so dear.

Mr. Speaker, Colonel Hiestand's contributions to the Air Force will continue to benefit the Nation well into the 21st century. As the 907th Tactical Air Lift Group is one of the last reserve outfits to leave the Persian Gulf, I'm sure my colleagues join me in commending and thanking Ed Hiestand and the 907th for their service to America, and their dedication to the principles of freedom and democracy.

HONORING JAPANESE-AMERICAN VETERANS IN WASHINGTON, DC

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MINETA. Mr. Speaker, from the Spanish-American War to Operation Desert Storm, Americans of Japanese ancestry have served in our military with distinction, honor, bravery, and dedication. That commitment to our country and its ideals has been sorely tested, not only in battles fought on foreign soil, but also here at home.

Almost 50 years ago, a terrible tragedy occured in this country. In the wake of the attack on Pearl Harbor by the Empire of Japan, President Roosevelt signed Executive Order 9066 authorizing the forced removal of all Americans of Japanese ancestry from the west coast. Many families had only days, sometimes only hours, to gather their belongings and leave for internment camps in remote parts of the country.

In total, 120,000 Americans of Japanese ancestry were confined to internment camps between 1942 and 1946.

No charges were filed. No trials were ever held. These loyal Americans fell under suspicion simply because of their racial heritage, wartime hysteria, and weak political leadership. They lost their homes, they lost their businesses, but above all they lost their most basic human rights.

Despite this treatment at the hands of their own Government, 33,000 Americans of Japanese ancestry served in the United States Armed Forces during the Second World War. These men and women served in the Military Intelligence Service, they served as medics and teachers, they served in the WAC's and in the Army Air Corps. But by far their most celebrated contributions were in the Army, where the all-Nisei 100th Battalion and 442d Regimental Combat Team became two of the most decorated units in American military history.

The 100th Battalion, originally a part of the Hawaii National Guard, left for the European theater in September 1943. Fighting as part of the Allied campaign in Italy, the 1,400 men of the 100th suffered an extraordinary level of casualties.

In just the first month and a half of fighting, 78 of their number were killed and 239 wounded or injured. During the war the 100th ultimately earned 900 Purple Hearts and the nickname "the Purple Heart Battalion."

In June 1944, the 100th merged with the 442d Regimental Combat Team, which was composed of Japanese-American volunteers from Hawaii and the United States mainland.

The 442d suffered 9,486 casualties during the 7 major campaigns it carried out in the European theater. By war's end the 442d had earned 18,143 individual decorations including 1 Congressional Medal of Honor, 47 Distinguished Service Crosses, 350 Silver Stars, 810 Bronze Stars, and over 3,600 Purple Hearts.

The unit was cited seven times by Presidents Roosevelt and Truman with the Presidential Distinguished Unit Citation. The 442d's exploits on the battlefield and their passionate devotion to our cause was a testament to their motto: "Go For Broke."

Mr. Speaker, the incredible sacrifices of the 100th Battalion, the 442d and all the Americans of Japanese ancestry who served this country during the Second World War tell an incredible story of courage and devotion to country in the face of terrible circumstances.

As these men and women were giving their all to defend this country, they carried with them the pain of knowing that many of their friends and families set locked behind barbed wire fences in the United States.

But their story is ultimately one of abiding faith in this country and its ideals. They firmly believed that, although their rights and the rights of their families had been violated, although they were viewed with suspicion and fear, that this country would ultimately act to remove the stain of disloyalty.

The 100th Congress finally did that with the passage of the Civil Liberties Act of 1988, which formally apologized to those Americans of Japanese ancestry who were interned during the war and offered an apology and compensation for the loss of their rights.

Just as the sacrifices of the 100th and the 442d demonstrated the loyalty of Japanese-Americans, the memory of their service was crucial to our efforts to achieve redress for those who were interned. It was in honor of these veterans that the Civil Liberties Act of 1988 was designated H.R. 442 here in Congress. Their extraordinary service will always serve as a shining example of the dedication of Americans of Japanese ancestry to this country and to its most sacred ideals.

That dedication has lived on through the intervening years by Japanese-American veterans who served in Korea, in Vietnam, in Granada, in Panama, and most recently in Operation Desert Storm.

Mr. Speaker, today I am introducing legislation to authorize the construction of a memorial here in Washington, DC honoring the military service of these Americans of Japanese ancestry.

The drive to establish this memorial has been led by the Go For Broke National Veterans Association [GFB–NVA]. Although the name reflects the motto of the 442d Regimental Combat Team, the organization is open to all American veterans and current service personnel of Japanese ancestry, their families, and supporters.

The memorial invisioned by the GFB–NVA will not commemorate any particular war, unit, or service. Its goal is to remind all Americans of the precious nature of liberty, and the tremendous price that has been paid to preserve that liberty for future generations. No Federal funds will be required to build this memorial, which will be financed with private contributions.

Mr. Speaker, this memorial will be a fitting tribute to the heroism of these brave and loyal Americans of Japanese ancestry, and I urge my colleagues to join with me and support this legislation.

TRIBUTE TO GEORGE L. PATMOR

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a longtime friend, George L. Patmor, of Salem, KY, who died April 20, 1991, at Crittenden County Hospital in Marion, KY of an apparent heart attack at age 68.

George Patmor was one of my favorite constituents. He was liked and admired in western Kentucky.

George Patmor was for many years the general manager and part-owner of WMJL–AM radio station in Marion. He had been associated with WMJL–AM for about 13 years.

Patmor was the chairman of the Crittenden-Livingston County Water District, a director of the Kentucky Rural Water Association, and a member of the Governor's Council of Area Development Districts.

Patmor was twice selected Crittenden County man of the year by civic clubs in Marion. He was also a past chairman of the Pennyrile Area Development District, a past trustee of Campbellsville College, a past member of the Crittenden school board and a past member of Soil Conservation District in Crittenden County.

He is survived by his wife, Marian Patmor; three daughters, Mary Ann Broyles of La Grange, KY, Janet Maddux of Salem, and Betty Robinson of Nashville, TN; a son, George LaRue Patmor II of Sturgis, KY; and nine grandsons.

My wife Carol and I extend to the family of the late George L. Patmor our sympathy.

HIGH COST OF MEDICAL EQUIPMENT

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. GEKAS. Mr. Speaker, today I introduced legislation to combat the high cost of durable medical equipment provided by certain health care suppliers. The purpose of my legislation is to encourage the investigation of abuses in the Medicare Program.

In 1990, the people of the United States spent approximately $600 billion on health care, $109.7 billion of which was spent on the Medicare Program alone. Despite these sums of money, more than 30 million people in the United States are still without adequate health care insurance. In the face of escalating health care costs as well as an every increasing demand for Government funds, Medicare must allocate its money as efficiently as possible. These vital resources must be efficiently utilized in an attempt to maximize their effectiveness.

It has come to my attention that certain health care suppliers have been abusing the Medicare system by supplying health care products at an unwarranted profit. These outrageous pricing schemes have been documented in many cases throughout the country. For instance, $10 heating pads are being sold for $66 and, in one case, a $28 foam pad was sold for nearly $1,200. Medicare is responsible for reimbursing 80 percent of the cost, the difference to be paid by the patient or a supplemental insurance company. Many times, these unscrupulous suppliers will not even bother collecting the remaining 20 percent, having already profited sufficiently off the initial 80 percent.

An investigation initiated by the late Senator John Heinz, ranking member of the Special Committee on Aging in the Senate, in cooperation with the Inspector General Office of the Department of Health and Human Services revealed that marketing techniques used in the sale of durable medical products of limited application or poor quality. At the time of his death, Senator Heinz was spearheading an investigation into this outrageous situation. I believe that we owe it to the late Senator, the citizens of Pennsylvania and the entire Nation to end this exploitation of the taxpayers who foot the bill for Medicare. This type of abuse stinks and it has to stop.

I have written to the Health Care Financing Administration, which is responsible for the administration of the Medicare Program, and urged that they create a plan bringing an end to these unfair pricing procedures. Through the introduction of this legislation, I now urge the appropriate House committees to continue current investigations of these abuses and terminate this ethical disease that is crippling America's health care system.

DEBT REDUCTION FOR POLAND

HON. WILLIAM O. LIPINKSI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. LIPINSKI. Mr. Speaker, last fall Congress demonstrated its commitment to Polish economic reform by authorizing a total write-off of Poland's $3.8 billion debt to the United States. Following through on this authority, President Bush in March announced a 70-percent forgiveness of the debt. Combined with the 50-percent reduction granted by the other Paris Club nations, this represents a major step toward freeing democratic Poland of the overwhelming burden of debt left by the Communists.

Despite these steps, we must keep in mind that a sizable portion of Poland's foreign debt is owed not to foreign governments but to foreign banks. In the United States alone, the $3.8 billion debt to the Government is nearly matched by a $3.5 billion debt to commercial banks. In order to continue the building process, the banks must do their share by agreeing to a similar debt reduction plan as the Paris Club's.

Next week, Polish officials and creditor banks will meet in Frankfurt to negotiate debt forgiveness. The importance of these negotiations to Poland's long-term economic growth cannot be understated. Success would be a much needed boost to Poland's efforts to reform its struggling economy, failure a terrible setback.

At a time when Poland is attempting the boldest economic change in newly democratic central Europe, debt forgiveness is essential to the outcome of these efforts. Only then can President Walesa and his Government commit every available resource toward increasing domestic investment and spurring economic growth. The commercial banks must realize that a successful transition to a market economy is not only in the best interest of the Polish people but will undeniably contribute to the democratization of all of central Europe and to the well-being of the West.

A FLEXIBLE STANCE TOWARD POLAND'S OUTSTANDING DEBT IS IN THE BEST INTEREST OF ALL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. LANTOS. Mr. Speaker, on June 18–19, representatives of the Polish Government and the London Club commercial banks will meet in Frankfurt, Germany, for the purpose of renegotiating terms for satisfying Poland's outstanding debt. As Poland struggles to extricate itself from the havoc caused by Soviet-style economics, I urge the representatives of the interested commercial banks to demonstrate flexibility in these talks so crucial to Poland's future.

In the years since Poland democratically elected its Government, bold economic initiatives have been enacted with an astounding degree of success. The Government has created an open economy with a fully convertible currency. It has greatly reduced the country's crippling rate of inflation. Poland's first postwar stock exchange opened in April of 1991. Moreover, severe food and consumer goods shortages have been eliminated.

An essential of this stupefying transition was the decision of Paris Club creditors to forgive half of Poland's $33 billion official debt. I hope the success of the Paris Club talks will set the stage for this month's talks in Frankfurt.

The direction Poland has chosen is clear. The Government of Poland, expressing the will of the Polish people, is striving to create a free market. As a result, Poland is now one of the most promising markets for the West. It is therefore advantageous for all parties concerned to see the burden of Poland's debt substantially lifted.

If given breathing room now, Poland will soon prove a worthy partner of the West. It is my hope that the promise of Poland's future is not snuffed out in the interest of short-term gain. A rigid stance toward Poland's outstanding debt is in no one's interest.

TRIBUTE TO CONGRESSMAN CHARLES BENNETT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. RANGEL. Mr. Speaker, today I want to congratulate our distinguished colleague, CHARLES BENNETT, who is celebrating a landmark achievement, not missing a single legislative vote in over 40 years. This event is the longest in the history of the U.S. Congress and is something that every Member of Congress hopes to achieve. I would like to tell the story of this remarkable accomplishment.

Initially running for a seat in 1941, CHARLIE BENNETT ceased his campaign activities to enlist in the Armed Forces to defend the United States. He courageously led over 1,000 guerrillas in the Philippines, and was awarded the Silver Star and the Philippines Legion of Honor for gallantry in action.

After returning to Florida, Mr. BENNETT successfully ran for Congress and first took office in 1949. In the beginning of his illustrious and continuing term of office, Congressman BENNETT missed several legislative votes and vowed not to repeat the incident. Then on June 4, 1951, after being told by the Speaker, Sam Rayburn, there were no remaining votes on the floor for that session, he left the House to attend a meeting. After leaving, Congressman BENNETT sensed there could be a vote on a minor matter and returned to the House to find that his suspicions were correct, and that he had missed a legislative vote.

That was the last time a legislative vote occurred without a vote from the congressional district represented by Congressman CHARLIE BENNETT.

And today, I honor the man, who has tirelessly served his constituents, overcoming health problems, broken limbs, and even personal tragedy to ensure his district's voice will be heard.

OPPOSITION TO THE KOLBE-ESPY AMENDMENT TO H.R. 2519, THE VA-HUD APPROPRIATIONS BILL

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, last week the House passed the VA–HUD-Independent Agencies appropriations bill for fiscal year 1992. Attached to that measure was an amendment which authorizes a transfer of funds from HUD's flexible subsidy program to the HOPE–1 Home Ownership Program. I did not support this amendment because I have some very serious reservations about the HOPE-1 Program.

Let me be very clear in my objections: I do not oppose efforts to assist public housing residents or low income individuals or families in purchasing homes. I do, however, have some serious reservations about the way the HOPE-1 Program is set up. HOPE-1 would provide funding assistance to tenant associations to purchase their public housing units. It does not, however, provide for a one-for-one replacement of the units that are sold to the resident management associations. Vouchers and certificates are provided to those who are unable to join with other tenants in the tenants' association to purchase the public housing complex. These vouchers or certificates can then be used for a period of 5 years as a subsidy to rent housing elsewhere. There is no requirement that the units that are sold be replaced by either new construction of public housing units or by the renovation or rehabilitation of existing units. If the HOPE-1 Program is successful, what we will likely see in several years is a situation where the Government is all but out of the public housing arena because units currently in existence will have been sold to tenants' associations and no new units will have been brought into the pool of available public housing.

Further, under the HOPE-1 Program, tenant management groups that purchase their dwellings will be eligible to receive an operations subsidy for 5 years. After that, the assumption is that the associations will be self-sufficient enough to carry the full burden of operation and upkeep. Unfortunately, this is not borne out by the economic realities of home ownership, management and upkeep. In order to maintain these units—which are getting older and will need more and more extensive and expensive repairs—the tenant associations will not only have to be concerned with operating the association and upkeep on their properties, but also with operating an endeavor profitable enough to sustain the corporation and the units.

Finally, I am concerned that the funds going to the HOPE-1 Program are coming from a vital public housing program, the flexible subsidy program. This program is designed to assist in the renovation and rehabilitation of existing public housing units. By drawing money from this fund into HOPE-1 we are burning our housing candle at both ends: paving the way for the purchase and non-replacement of public housing units and reducing funds for the renovation of existing units. In Chicago alone there are hundreds of vacant public housing units that are unused because they are in disrepair. Meanwhile, the city's list of persons waiting to get into public housing is in the thousands. How, then, does it make sense to take funds from a program designed to create public housing and put them toward a program that will reduce the number of units available?

In an attempt to better understand this issue, I discussed this amendment with my distinguished CBC colleague, the Honorable LOUIS STOKES, who is the ranking member on the Appropriations Subcommittee which acted on this legislation. It is my understanding from Congressman STOKES that his subcommittee carefully reviewed the funding allocations for all of the HUD programs, including HOPE-1, and after much deliberation decided not to fund the HOPE-1 Program for many of the same reasons I have outlined.

I am a strong supporter of the HOPE-2 and HOPE-3 Programs, as well as the HOME Block Grant Program. HOPE 2 and 3 are designed to assist low-income families with the purchase of housing and the HOME Program is intended to make additional rental or subsidized units available to get homeless people off the streets and out of shelters and into their own residences.

TRIBUTE TO FATHER EDMUND SZLANGA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an outstanding member of the Fifth Congressional District of Illinois, Father Edmund Szlanga, who will be retiring this month after years of dedicated service to the Catholic Church.

Ordained in 1948, Father Szlanga has served in the priesthood for 43 years. During these years, he has been the pastor at St. Bruno and an associate pastor at St. Josaphat, St. Turibus, St. Mary Magdalen, St. Fidelis, and St. Rene. He has also been chaplain of the Alexian Brothers Hospital.

As pastor of St. Bruno for 17 years, Father Szlanga has been a great influence on both the parish and the congregation. He not only was instrumental in building a hall for the parish, but he has been a spiritual leader for many of the parish organizations. His concern for the students and commitment to their education has made the St. Bruno a respected elementary school and an important part of the community.

Father Edmund Szlanga is compassionate, understanding, and encouraging to all. His commitment to his church and his community is impressive and deserving of special recognition and honor. I am sure that my colleagues will join me in expressing congratulations to Father Edmund Szlanga for his many years of selfless dedication, loyalty, and priceless contributions to his community. I wish him well on his retirement and know that his influence will be treasured for many years to come.

INTRODUCTION OF LEGISLATION REGARDING EXPANDING THE COVERAGE UNDER THE ACTIVE DUTY DEPENDENTS' DENTAL PLAN

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BUSTAMANTE. Mr. Speaker, the Active Duty Dependents' Dental Plan [DDP] provides basic preventive dental care for military dependents on a cost-sharing basis. It has enjoyed tremendous support from the uniformed services since the benefit went into effect in 1987. Approximately 70 percent of those eligible are enrolled in the plan.

While a popular benefit, DDP provides only the following services:

Diagnostic, oral examinations and preventive services and palliative emergency care; and basic restorative services of amalgam and composite restorations and stainless steel crowns for primary teeth and dental appliance repairs.

The 1989 Hay-Huggins Benefit Report on Prevalence of Practice indicates that benefits under the DDP are inferior to what is offered in the civilian sector. More than a third of the civilian employers pay the entire premium whereas military members pay 40 percent. Civilian plans provide extended basic restorative care, including root canal therapy, tooth extraction, and bone and gum treatment. Civilian plans also offer major restorative and orthodontia coverage and generally require the same or lower copayments to the limited coverage under the DDP. The limited DDP coverage places the military in the bottom 20 percent of large corporations in this major benefit area.

Under present law, members of the DDP cannot pay more than $10 per month. My bill proposes to increase the monthly premium to $18 per month. Raising the monthly premium to $18 per month will generate enough revenue to cover the cost of expanded dental coverage.

Last month, the surgeons general of the three military services voiced their support for expanding the coverage under the dental plan in testimony before the Senate Armed Services Committee. Representatives of the National Military Families Association have told me that military families have told them that they would be more than willing to pay a higher premium for expanded dental coverage. Their view is shared by the surgeons general of the Army, Air Force, and Navy.

My bill would give the Secretary of Defense the authority to define the benefit under the Dependents' Dental Benefit Plan and require beneficiaries to pay a little extra for a dental benefit which is comparable to private industry. That's a small price to pay for offering our military dependents the type of dental care they should have.

Mr. Speaker, before closing, I wish to thank the National Military Families Association and its representatives Ms. Sidney Hickey and Dorsey Chescavage for their efforts in assisting me in the preparation of this bill. They've done yeoman's work on this issue, and I appreciate their dedication to improving the quality of lives and general welfare of our military personnel and their families.

I urge my colleagues to join me in supporting this measure.

LSU TIGERS WIN COLLEGE BASEBALL WORLD SERIES

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. BAKER. Mr. Speaker, while much baseball attention is today directed to Miami and Denver as new cities for National League baseball franchises, the entire sports world is still focusing on the Louisiana State University campus in Baton Rouge. LSU captured the College Baseball World Series title for the first time on Saturday by defeating Wichita State by a score of 6 to 3. This eventful title culminates a 6-year stretch where the LSU Tigers have appeared in the College World Series five times, but until Saturday, have never captured the national title. S.E.C. Coach of the Year Skip Bertman led the Tigers to 55 wins this year, tying the university record.

LSU won the S.E.C. regular season title for the second straight year. They are the first team to go undefeated through both the NCAA Regional Tournament and the College World Series since 1982. The LSU defense was outstanding, allowing only one error in the final four games, setting a new fielding percentage record.

LSU also showed their powerful offense by setting a CWS record for average runs per game with 12. LSU senior catcher, Gary Hymel, hit four home runs in one World Series, tying a collegiate record dating back to 1963. Chad Ogea was the winning pitcher in two games, including the championship game. LSU, as a team, hit nine home runs during the CWS, tying the record of Arizona State in 1981.

I commend the LSU Tigers for a job well done. By combining recordbreaking pitching, hitting, and fielding, LSU has brought the College Baseball World Series title to Louisiana for the very first time.

FILIPINO INDEPENDENCE DAY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. HUNTER. Mr. Speaker, June 15 is designated Filipino Independence Day, a change from the day so celebrated for some 16 years from July 4, 1946, when the Philippines became a sovereign country. It was during the tenure of President Macapagal of the Philippines in 1962 that the change was made, and July 4 was renamed as Filipino-American Friendship Day. As a matter of fact, there are several days that could be considered Filipino Independence Day, beginning with the defeat of Spanish forces in the Spanish-American War, and continuing through to the defeat of Japanese forces in World War II.

On April 25, 1898, following the destruction of the battleship *Maine* in Havana Harbor, the U.S. Congress declared war on Spain. On May 1, in the battle of Manila Bay, Admiral Dewey defeated the Spanish squadron, and on August 12, Spain sued for peace. In subsequent negotiations, by the Treaty of Paris, signed December 10, 1898, America paid Spain $20 million and received from Spain a protectorate over Cuba, and possession of the Philippines, Puerto Rico, and Guam. The other Marianas Islands, plus the Caroline Islands and the Palaus, had been sold by Spain to Germany the previous September.

During the Spanish-American War, the father of Gen. Douglas MacArthur, Brig. Gen. Arthur MacArthur, arrived in time to take part in fighting, in conjunction with the Filipino Army, against the Spanish forces occupying Manila. After the fall of Manila and the surrender of Spanish forces, Arthur MacArthur was promoted to major general of the volunteers and assigned to command the 2d Division, later assigned to command the Army of the Philippines as military governor of the Philippine Islands. Under his direction, the program of giving the Philippines a framework of education, law, defense, and prosperity was carried out. As Gen. Douglas MacArthur wrote in his "Reminiscences":

> My father felt that sovereignty was the only possible solution for these freedom loving people—sovereignty with a special friendship binding our own country with theirs.

In 1935, Manuel Quezon, president-elect of the about-to-be Philippine Commonwealth, came to Washington and asked General Douglas MacArthur to come to the Philippines and build the defenses of that country. Gen. MacArthur agreed, and went to the Philippines in the fall of 1935, to organize a Filipino Army that was to have 40 divisions by the time the commonwealth achieved independence, which was scheduled for July 4, 1946. Unfortunately, Congress didn't approve the expenditures that would have achieved General MacArthur's plans for defense. As President Quezon stated:

> Defeatists are everywhere. But General MacArthur's faith and hope in the Filipino people have never varied. They have matched even my own faith in my country and in my countrymen.

With a scarcity of United States funds earmarked for the Philippines, the United States and Filipino forces were no match for the Japanese, who attacked with bombers the day after the surprise attack on Pearl Harbor on December 7, 1941. Within a few months, President Quezon and General MacArthur having been ordered to leave the Philippines, our forces there surrendered. On his arrival in Australia to take over command of the Pacific theater ordered by President Roosevelt, General MacArthur gave his famous speech that included the phrase "I shall return" and immediately set about preparing for that return.

Inspired by MacArthur's promise as well as by the colossal cruelty of Japanese forces in the Philippines, guerrilla resistance grew and became more effective as it was supplied by United States submarines. On October 20, 1944, General MacArthur returned to the Philippines in the first landing there, on the island of Leyte. He was accompanied by then President Sergio Osmena, and Gen. Carlos Romulo.

Three days after the initial landing, the capital of Leyte, Tacloban, was declared secure, and General MacArthur turned over to President Osmena the civil government of Leyte. As General MacArthur wrote in his memoirs:

> I called the President to the wrecked and devastated provincial capitol building three days after the landing and formally proclaimed the resumption of constitutional government before a gathering of Filipino citizens. As our forces advance, I shall in like manner restore the other Philippine cities and provinces throughout the entire land.

It could be said that October 23, 1944, marked an independence day for the Filipino people, because on that day their civil government was restored to their elected president on the island of Leyte. The attack on Luzon followed, and when it was secure, on February 27, 1945, full constitutional government was restored to the Filipinos with appropriate ceremonies at Malacanan Palace in Manila. Then, on the date that had been named years before when commonwealth status was conferred on the Philippines, July 4, 1946, the Philippines became a sovereign country. This date, July 4, was celebrated in the Philippines and Independence Day until the administration of President Macapagal in 1962 when June 12 was designated as Independence Day and the Fourth of July renamed Filipino-American Friendship Day.

In World War II, there was no other example to equal the friendship and partnership of the Filipinos and the Americans in resisting the barbaric Japanese occupation of the Philippines. Despite wholesale executions of prisoners and civilians by Japanese troops—40 percent of POW's in Japanese hands were killed or died of disease and starvation, and more than 200,000 civilians were killed in Luzon alone—this resistance never wavered. A number of Americans had joined Filipino guerrilla units when the surrender of American forces seemed imminent; yet, not a single case of Filipinos turning over Americans to the Japanese has been recorded. When General MacArthur was en route to the first landing in retaking the Philippines, he ordered guerrilla units into concerted action. Later, he estimated that Filipino guerrillas has been equal to several divisions of Americans in retaking the Philippines.

Filipinos, who served in years past as members of the Filipino divisions in the American Army, as Philippine scouts, as members of the constabulary, and as guerrillas in World War II, continue to serve in our Armed Forces at the present. Many of them enlist while in the Philippines, serve in our Armed Forces, and later retire in the United States, thus strengthening the historic friendship between the Philippines and the United States.

It is my belief that these Filipinos who serve in our Armed Forces in peacetime, as well as in time of war, should be awarded American citizenship. I have introduced a bill, H.R. 737, to this effect, and regret that the leadership of the House of Representatives and the Senate have not seen fit to consider this legislation. I have also written to President Bush to urge his support. The Filipino people, many of whom now live in the United States, are an increasingly important addition to this great Nation of immigrants. Their qualities of devotion to family, church, and country, their work ethic, their love of freedom and opportunity for all, are a wholesome and important influence on

America, and I would like to see an expansion of citizenship awarded to them.

TRIBUTE TO MICHAEL J. CASTO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Michael J. Casto, of Providence, RI. While working at Roger Williams Park Zoo, in Providence, RI, as an employee for AAA Security Task Force, Michael J. Casto rose above and beyond the call of duty. As a result of Michael Casto's heroics, on Sunday, May 12, a life was saved.

While performing his regular rounds of duty at the zoo gate, Michael J. Casto acted quickly and heroically by administering CPR to an individual visiting the zoo. For his deeds he is being awarded an Outstanding Commendation Award by the American Police Hall of Fame and Museum. This award recognizes service, valor, or a special deed that merits the respect of the community.

In Michael J. Casto's 3 years with AAA Security Task Force, he has always stood out as an employee with a strong sense of responsibility and a desire to help other people in any way possible. Sergeant Casto was promoted to sergeant supervisor in May 1990. He was also name officer of the month for his superior security work in the past.

It is with great pleasure that I salute Sergeant Michael J. Casto for his heroic deed. I extend my best wishes for an equally successful future.

CONGRESSMAN KILDEE PAYS TRIBUTE TO BILLYE G. THOMPSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to a person who has devoted his life to the education of the youth in my hometown of Flint, MI. Billye G. Thompson is retiring after 31 years as an educator and administrator for the Flint Community Schools. Mr. Thompson was honored at a retirement dinner on June 7, 1991.

Billye Thompson graduated from A.M.&N. College—now named University of Arkansas at Pine Bluff—with a bachelor of science degree in mathematics and earned a master's degree in guidance and counseling from the University of Michigan. Mr. Thompson began his career in the Flint community schools in 1960 as a mathematics teacher at Emerson Junior High School. In 1967, he was assigned to Flint Central High School as a personalized curriculum program counselor. He then became one of the first staff specialists in the school district in 1968. This assignment was followed by promotions to assistant principal of Central High School in 1969 and deputy principal of Central High School in 1970. Billye Thompson was appointed principal of Bryant Junior High School in 1975 and will retire as principal of Northwestern High School after serving in that capacity since 1978.

Billye Thompson has also committed himself to the enhancement of his community by his involvement in several organizations. He has served as a member of the executive boards of the National Association for the Advancement of Colored People; the United Way; and the Urban League Board of Directors. He has held the position of president and secretary of Epsilon Upsilon Lambda Chapter of Alphi Phi Alpha fraternity; and served on the Armed Services academy screening committee; and the Flint Youth Leadership Institute. He has also been active in his church as a sunday school instructor, trustee and director.

Mr. Thompson has received the New Flint Human Relations Committee Outstanding Citizen Award in 1979 and the Jack and Jill Family of the Year Award in 1986. There is no question that Flint has been fortunate to have an educator as talented as Billye Thompson. He has been a positive influence on literally thousands of children passing through the doors of the schools where he has worked. His graduates have gone on to become doctors, lawyers and educators throughout this country. It was indeed fortuitous that Billye Thompson decided to move to Flint, MI in 1953. Little Rock, AR's loss has been Flint's gain.

Mr. Speaker, it is indeed an honor and a pleasure for me to rise before the U.S. House of Representatives to pay tribute to Billye G. Thompson. He has embodied the true spirit of education and has left a legacy of excellence. His leaving will create a void in the Flint Community Schools that will not be filled for some time. I urge my colleagues to join me in wishing Billye G. Thompson a fruitful and prosperous retirement. I wish he and his beautiful wife, Laura Jean, a wonderful retirement as they pursue new challenges in their lives.

IN RECOGNITION AND HONOR OF ROBERT E. HAYES

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. REED. Mr. Speaker, I rise today to pay tribute to Robert E. Hayes on the occasion of his retirement and 45 years of dedication and service to the Rhode Island Carpenters Union. Bob carried on a tradition of service begun by his father, who was a union carpenter for over 50 years.

Bob began his career when he was initated as an apprentice in August 1946. He served the union in many positions and was elected president of the Rhode Island Carpenters District Council in 1960. He served in this position until his retirement with the exception of one term.

Bob should take great pride in his accomplishments as president of the union. During his 45 years of service, Bob has also served as an officer for many committees of the Carpenters Union. He also served on committees for the Rhode Island Fire Commission, the Irish Kings, and the Knights of Columbus. In addition to the large amounts of time he has given the union, Bob has also been very active in his community and with his family, wife Dolores, daughter Susan, son-in-law Dennis McCarten, and grandchildren Timmy, Beth, and Katie McCarten.

Mr. Speaker, I ask that you join me, his coworkers, family, and friends in congratulating Robert Hayes for his lifetime of work and dedication and in wishing him and his wife Dolores, health and happiness in the future.

YOUNG CHILD TAX CREDIT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. WOLF. Mr. Speaker, today we have reached majority support for H.R. 1277, the Tax Fairness for Families Act of 1991, and today, I am unveiling an additional family tax relief measure, a young child tax credit of $500 per child. The combination of these measures will provide significant tax relief to families with children. A companion to this young child tax credit measure was introduced last month by Senators GRASSLEY and COATS—S. 1013—who are also both championing an increase in the dependent deduction.

The family tax relief package we are setting out is a progressive measure that will provide substantial tax relief to all families in recognition of the important job they are doing in raising the next generation. The broad bipartisan support for providing family tax relief is an idea whose time has come. There is a healthy dose of common sense coming to the family policy debate and this broad new consensus should bode well for the gathering momentum for tax fairness for families.

This tax credit would be a $500 per child credit for all families with children under 5 whose earned income was under $50,000—the credit would start to phase out at $50,000. This would provide additional tax relief largely to families in the 15 percent tax bracket. This credit builds upon the "wee tot" credit passed last fall which provides up to approximately $355 to families with a child under 1 in a family that earns less than $20,000. This new credit would subsume and expand this credit in amount, age range available and income range available.

The credit is tied to earned income. The full amount of $500 per child is available once a family has earned income of $10,000. The amount remains $500 up to $50,000 income threshold and then starts to phase out and is unavailable at $60,000 of earned income. In combination with the earned income tax credit which will greatly expand over the next several years, this would give lower and middle income families more direct money in their pockets and provide incentives for working families.

This tax credit would complement the $3,500 dependent deduction by providing additional tax relief to families with young children and families whose income falls in the median to below median levels. Those in the $10,000 to $50,000 income range would be provided with the greatest tax relief. For example, a family earning $30,000 with two children under 5 would pay approximately $1,400 dollars less in taxes under the combined measures of increasing the dependent deduction and increasing the young child tax credit—$1,000 tax credit for two children plus $405 increased dependent deduction for two children. This would be approximately $116 more a month for this family.

Together the $3,500 personal exemption and $500 young child tax credit would provide all families with young children approximately $1,000 of tax relief per child. For children 5 years old and over, the $3,500 dependent deduction would still provide substantial tax relief.

$3,500 dependent deduction=
$525 at 15 percent bracket.
$980 at 28 percent bracket.

The bill does not allow those already claiming the dependent care tax credit [DCTC] to also claim the young child tax credit. This "double dipping" provision is already part of the law with the "wee tot" credit. Taxpayers would be allowed to take whichever credit was greater. The bill does not change any of the provisions of the dependent care tax credit. However, by not allowing "double dipping" the costs of the credit will be substantially reduced.

FAMILY TAX FACTS

Present law	H.R. 1277	H.R. 1277 plus credit [1]
$322 (15%)	$525	$525 plus 500 credit equals $1,025
$602 (28%)	$980	[2] $980

[1] For families earning under $50,000.
[2] Most families in this bracket would not be eligible for additional credit.

By providing additional tax relief to families with young children under 5 years old, we will be allowing families with young children to get off to a good start at a time when the demands on parents are the greatest and their resources are most thinly stretched. By providing an increase in the dependent deduction to all families with children we will be starting an important journey back to tax fairness for familes who have been hit hardest by the dramatic erosion in the dependent deduction.

Families today deserve a break—and the best break Uncle Sam can provide Mom and Dad is a tax break targeted to families with children. These two measures combined will return young families to close to the status they had in the Tax Code in 1948. If we reinvest in families we will be amazed by the return on our investment—families have been and always will be the best Department of Health and Human Services and deserve our support. I invite my colleagues to join the effort for family tax relief and help get families back on track by cosponsoring both of these important family tax relief measures.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN EARNED INCOME TAX CREDIT.

(a) General Rule.—Subsection (a) of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(3) in the case of a taxpayer with 1 or more young qualifying children, the supplemental young child credit."

(b) Supplemental Young Child Credit.—

(1) Subsection (b) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(3) Supplemental young child credit.—

"(A) In general.—The term 'supplemental young child credit' means the applicable percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $10,000.

"(B) Limitation.—The amount of the supplemental child credit allowable to a taxpayer for any taxable year shall not exceed the excess (if any) of

"(i) the applicable percentage of $10,000, over

"(ii) the applicable percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $50,000.

"(C) Applicable percentage.—For purposes of this paragraph, the term 'applicable percentage' means 5 percent multiplied by the number of young qualifying children of the taxpayer for the taxable year.

"(D) Young qualifying child.—For purposes of this section, the term 'young qualifying child' means any qualifying child who has not attained age 5 as of the close of the calendar year in which or with which the taxable year of the taxpayer ends. If the taxpayer elects to take a child into account under the preceding sentence, such child shall not be treated as a qualifying individual under section 21."

(2) Paragraph (a) of section 32(b) of such Code is amended by striking subparagraph (D).

(c) Technical Amendments.—

(1) Paragraph (2) of section 32(f) of such Code is amended by adding at the end thereof the following new sentence: "Separate tables shall be prescribed for purposes of determining the amount of the supplemental young child credit."

(2) Subsection (i) of section 32 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) Supplemental young child credit.—In the case of any taxable year beginning after 1992, paragraph (1) shall also apply to the $10,000 amounts and the $50,000 amount set forth in subsection (b)(3); except that 'calendar year 1990' shall be substituted for 'calendar year 1989' in subparagraph (B) of section 1(f)(3)."

(d) Effective Date.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1991.

INTRODUCING BEST-SUPPORTED BALANCED BUDGET AMENDMENT LEGISLATION

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SMITH of Oregon. Mr. Speaker, as we approach the homestretch of the 1991 fiscal year, our Nation is racing toward a record $318 billion budgetary shortfall. That's why 251 of my House colleagues are joining me tomorrow as original cosponsors in introducing the best-supported balanced budget amendment legislation. This measure is very similar to legislation that I helped to author during the 101st Congress, which, as you know, had 250 cosponsors and fell only seven votes short of the two-thirds majority needed for passage.

Mr. Speaker, the numbers don't lie. The Gross interest on the Federal debt has increased by 95 percent—in real dollar terms—over the past decade. The national debt has more than tripled over the same time period. Moreover, the Federal Government has run deficits for 21 years in a row and for 52 of the last 60 years. If I operated my household like the Federal Government, I would be out on the street.

The proposed amendment being introduced tomorrow meets the constitutional standards of simplicity and is supported by an overwhelming majority of Americans. Authors of other proposed balanced budget amendments support my legislation.

Mr. Speaker, I invite you and every House Member to join me, the bill's three additional authors, key supporters from the other body, and various public interest groups in room 210 of the Cannon Building tomorrow at 3 o'clock to announce introduction of legislation that will finally help to restore sanity to the budget process.

Let's act with the courage of Joshua to pass this legislation, send it to the States, and bring us into the long-promised land of a balanced budget.

BUSH ADMINISTRATION'S REAUTHORIZATION BILL FOR HIGHER EDUCATION ACT OF 1965

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. GOODLING. Mr. Speaker, I am introducing, by request, the administration's bill on the reauthorization of the Higher Education Act of 1965. The Higher Education Act expires this September 30, 1991, and must be reauthorized. The programs under the act provide funding for student financial assistance to millions of American students in postsecondary institutions across this country.

Although I have reservations and concerns regarding a number of the provisions contained in this bill including those limiting grant eligibility for certain groups of students in currently eligible income levels, I am pleased the administration has brought such a timely bill before us. Given the magnitude of the programs contained in the Higher Education Act, it is especially important the administration be a partner in this reauthorization.

Currently, the Education and Labor Committee is holding hearings and gathering information for ideas for the difficult decisions we must make for these programs. Since authority for programs under the Higher Education Act expires this September, we must reauthorize these programs in order to ensure continued support and access for students to postsecondary education. I am certain the administration's bill will help us in making informed decisions.

INCREASE MOTORCYCLE SAFETY EDUCATION

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, today I would like to recognize the members of ABATE [American Bikers Aimed Towards Education] based in New York. The organization is dedicated to improving driver education for motorcyclists and educating other drivers about cyclists.

Presently, there are 190,000 motorcyclists registered in New York State, which ranks 12th in the Nation in motorcycle ridership. The road hazards faced by motorcyclists are unique and extremely dangerous. New York also has one of the highest rates of motorcycle accidents and fatalities. I commend the members of ABATE for their efforts to increase public awareness of the need for additional motorcyclists education courses. The New York chapter of ABATE is working to accomplish this through the passage of the rider education bill, a safety and education bill which would mandate a 20-hour course, funded by a $5 increase in the cost of motorcycle registration. This State legislation would give cyclists much increased educational safety programming at nominal costs.

Mr. Speaker, I urge my colleagues to support legislation to increase cyclist awareness, reduce motorcycle accidents, and save motorists' lives.

TRIBUTE TO REV. KARL E. KNISELEY, D.D.

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MOORHEAD. Mr. Speaker, I would like to bring to the attention of my colleagues in the House of Representatives the 50th anniversary of the ordination of the Reverend Karl E. Kniseley, D.D.

Reverend Kniseley was born in Port Royal, PA, in 1917. He attended Susquehanna University, earning his bachelor of arts degree in 1938 and then went on to the Lutheran Theological Seminary in Philadelphia, where he received a bachelor of divinity degree. He later returned to Susquehanna University and earned his doctorate of divinity degree. In 1941 he was ordained by the Pittsburgh Synod of the United Lutheran Church. Through the Second World War, he served as a chaplain in the U.S. Army.

He came to California in 1954 and became pastor at the First Lutheran Church of Glendale. After 25 years at the First Lutheran Church and 40 years of pastorates, he retired in 1979. But after his pastoral retirement, the reverend continues to be active in the community and the church.

Reverend Kniseley served as the national chaplain of the American Legion, as chaplain of the board of regents of Forest Lawn and as the Glendale Police Department chaplain. He has also dedicated his time and knowledge to the Glendale Red Cross, as a member of the board, and to the Boy Scouts of America, as a member of the Verdugo Hills Executive Committee. The wealth of all his accomplishments is far too extensive to list here.

In 1939, Reverend Kniseley married Margaret "Billie" Dunkle. This year they celebrate their 52d anniversary. Karl and Billie are especially proud of their four sons, of which three have earned doctorate degrees and the fourth is a major in the U.S. Air Force.

It is my great pleasure to congratulate Karl, whom I consider a dear friend, to thank him for his great contributions to our community, and to wish him the best of health and happiness in the years ahead.

HONORING PHILIP PINES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. GILMAN. Mr. Speaker, it is with great pleasure that I rise today to congratulate an exceptional resident of my home district upon his election and upcoming induction to the National Hall of Fame of the Trotter.

Phil Pines will be inducted into the Writer's Corner of the Hall of Fame in Goshen, NY, on July 7, 1991. I can think of no one more deserving of this honor. As a writer, administrator, and guiding spirit for the sport of harness racing, his contributions to the sport are innumerable. Phil has been associated with the Trotting Museum and the Hall of Fame of the Trotter since its opening in 1951, and was appointed its director in 1963. He has also served as a past president of The United States Harness Writers Association.

I have had the pleasure of working with and knowing Phil Pines for many years. For Phil, trotting is not as much a sport as it is a passion. His words have left a timeless record of the sport's grace and beauty for contemporary as well as future generations. In his 40 years with the Trotting Museum, Phil has published two definitive books on the subject, The Complete Book of Harness Racing, and Currier and Ives: Trotting. Twice every week, Phil broadcasts a radio program which is heard over a network of stations. He also writes a newspaper column that has been syndicated for over a dozen years. Selections from this column have been published by the Trotting Museum in two selections entitled "Tales of Whoa," and "More Tales of Whoa."

By no means is the Trotter's Hall of Fame the first institution to recognize Phil's renowned accomplishments. To mention just a few, Phil has received several John Harvey awards in recognition for writing and broadcasting about harness racing, and the Golden Pen Award for outstanding promotional work for the sport. He has also received the Harness Youth Foundation's Service to Youth Award. Moreover, this is the second time in a year that Phil has been voted into the hall of fame; last year he was inducted into the Writer's Corner of the Hall of Fame of the U.S. Harness Writer's Association.

While Phil has been busy receiving all of this national recognition, he has remained active in his community. Phil has served as president of the Goshen Chamber of Commerce, of the Goshen Rotary, and the Orange County Museum and Art Organization. Additionally, he serves as a lay preacher in the Goshen Presbyterian Church.

Mr. Speaker, I would like to share with our colleagues a sample of Phil's writing:

> "Harness racing did not begin suddenly. It wasn't invented. It evolved quietly, when America was very young. Farmers, driving trotters on country lanes, challenged one another with a nod of the head which led to a "brush on the road"—a race for a short distance at top speed. That same horse might also pull a plow, take the family to church on a Sunday morning or be raced at a country fair on a Saturday afternoon."

In this article, which appeared in Sports Illustrated magazine on July 17, 1986, Phil Pines has given us not only a picture of a sport; he has given us an intimate picture of America.

I am personally pleased with Phil's long-overdue induction into the hall of fame, for Phil has always been a close and loyal friend. He has never hesitated to be helpful whenever my staff or I have called upon him for advice or assistance in historic matters. Quite often, dignitaries from the administration have visited the Goshen Historic Track, Museum, and Hall of Fame and they have all reported to me that Phil Pines has always rolled out the red carpet for them.

Mr. Speaker, I invite our colleagues to join in saluting this accomplished writer, administrator, citizen, and friend. The sport of harness racing, as well as the 22d District of New York, is all the richer for his presence and contributions.

TRIBUTE TO DONALD FLOYD

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. MOAKLEY. Mr. Speaker, I rise today to pay tribute to Donald Floyd.

Donald Scott Floyd, a retired Air Force lieutenant colonel and Raytheon Corp. executive, died of a heart attack at the age of 67 on May 2, 1991.

Mr. Floyd had a distinguished career in the Air Force, in the Government following his retirement from the Air Force, and with Raytheon. He worked closely with the Members and committees of Congress from 1966 to 1970 in the Office of the Secretary of the Air Force, from 1972 through 1976 in the Congressional Affairs Office of the Secretary of Defense, and from 1979 through 1990 in the Congressional Relations Office of Raytheon in Alexandria, VA.

He served with the Army Air Forces in Europe during World War II and was stationed in Belgium and Germany. He was in the Air National Guard from 1945 to 1949. He received the Legion of Merit, the Air Medal and the Air Force Commendation Medal while serving in the Air Force.

He returned to Belgium in 1976 and served until 1979 as the head of the Planning Section, Defense Support Division, NATO International Staff.

A native of Quincy, MA, Mr. Floyd received a bachelor's degree in business and engineering administration from the Massachusetts Institute of Technology in 1948 and a master's degree in business administration from George Washington University in 1963.

He was a member of the Capitol Hill Club, Theta Chi social fraternity, the Army-Navy Country Club, and the Pentagon Officers Athletic Association.

Survivors include his wife, Evelyn Barry Floyd of Alexandria, VA; a daughter, Sherry Lynn Floyd of Washington, DC; two sons, David Stephen Floyd of Alexandria, VA, and Lawrence Barry Floyd of Merrimack, NH; and three grandchildren, Jessica, Naomi, and Hilary.

TRIBUTE TO JULIE FITZGERALD TO MARK 50 YEARS OF SERVICE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, today I am privileged to acknowledge the accomplishments of a woman who has faced every challenge in her life with energy and perseverance. Ms. Julie Fitzgerald has reached the milestone of a half century of civil service, and she has arrived with her character and smile intact. Through her ambition and resilience she has risen through the ranks, from her first position in 1941 in the Department of the Army to her present-day post as chief of staffing at Westover Air Force Base. Despite her numerous job displacements within the Department of Defense, she was able to adapt and perform with excellence in every post.

Ms. Fitzgerald's ambition has not been self-serving. It was due, in part, to her instrumental role in countering staff reductions at Westover that many employees were spared their jobs. Her caring and wonderful character have enriched the lives of all her friends and coworkers. Julie is highly respected by her coworkers for her vast, technical knowledge of the ever-changing military industry. Yet, it is Julie's persistent smile and her unique ability to retain her optimism that has most characterized her continuing dedication to civil service.

It is particularly rewarding to honor a woman who has repeatedly proven herself to be an invaluable worker. Four performance awards, one Sustained Superior Performance Award, and one Notable Achievements Award have all been bestowed upon Julie in the last 5 years. What is even a greater cause for celebration is that this does not mark the end of a remarkable career but only the beginning of many more productive years. I ask all my colleagues to join me in saluting Julie Fitzgerald for her distinguished career, and to wish her well as she continues her tradition of service.

H.R. 1

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. SCHUMER. Mr. Speaker, today I rise in support of the Brooks-Fish substitute of H.R. 1, the Civil Rights and Women's Equity in Employment Act of 1991. This bill is a significant improvement over the original bill, because it makes it unequivocally clear that employment quotas are every bit as objectionable as employment discrimination.

The distinguished chairman and ranking minority member of the Judiciary Committee wisely took the initiative to quell the misleading and divisive debate over quotas by including a new section 111, which expressly prohibits the use of numerical quotas based upon race, color, religion, sex or national origin.

Some of the debate on the bill has focused upon certain language in section 111 which might, arguably, appear to permit quotas when the job applicant in question is otherwise qualified for employment. As Chairman BROOKS has repeatedly stated, and as detailed in the legislative history of the bill inserted in the RECORD by Chairman BROOKS and Representative FISH, this was clearly not the intent of the drafters. Nothing in this bill should be read to approve racially-based affirmative action programs or plans which, when implemented by an employer voluntarily or otherwise, operate as the functional equivalent of quotas.

It is my hope that the Senate will act promptly and favorably on similar legislation and the President will see the folly of persisting in labeling a piece of legislation which expressly outlaws quotas as a quota bill.

NEW PERSONNEL SYSTEM FOR THE DEFENSE LANGUAGE INSTITUTE

HON. LEON B. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 1991

Mr. PANETTA. Mr. Speaker, on April 10, 1991, I introduced in the House of Representatives a bill to authorize the Secretary of Defense to prescribe regulations to establish a college-style personnel system at the Defense Language Institute Foreign Language Center [DLI].

H.R. 1685 was referred jointly to the Post Office and Civil Service Committee and to the Committee on Armed Services. I want to take the opportunity today to urge my colleagues to examine this long-needed legislation and to join me as sponsors of it. I would also urge the committee to expedite their consideration of the bill, as DLI's employees are most anxious that it pass the Congress this year.

Mr. Speaker, on the day I introduced H.R. 1685, I described at some length the importance of this bill to the DLI community and to the Defense Department's ability to teach foreign languages to its personnel. Following up on that statement, today I would like to enter into the RECORD the following explanatory notes on the legislation, prepared at my request by the Department of Defense for the benefit of all interested parties. As I noted in April, both the Department of Defense and the National Federation of Federal Employees assisted me in drafting this legislation. I intend these valuable notes to be an integral part of the bill's legislative history, incorporating as they do several explanations of policy and commitments agreed upon by both the Department of Defense and the National Federation of Federal Employees. The text of the notes follows:

EXPLANATORY NOTES

BACKGROUND TO THE PROBLEM

The Defense Language Institute (DLI) is an academically accredited institution of higher education operated for the Department of Defense by the Department of Army through its Training & Doctrine Command. As a part of the Federal Government, it is administered under normal military and civil service procedures. DLI currently trains approximately 5,000 students per year from all four military services. For academic and administrative purposes, it is organized into eight separate language schools with approximately 30 language departments. Each school is headed by a Dean and each department by a chairperson. During the past decade, the increased need for military linguists has resulted in a significant increase in DLI's civilian faculty which has nearly doubled to its current workforce of approximately 90 instructional and academic support personnel. DLI recuits nation wide (and in some cases, world wide) for qualified language instructors to meet the needs of the services. The primary prerequisite to faculty hiring is language fluency, with a secondary requirement of a knowledge of foreign language teaching methodology and techniques. Due to the need for instructors in languages essential to the miliary program (e.g., Russian, Korean, Arabic) all instructors hired are fluent in the "target" language, but most lack both experience and professional training in techniques and problems of second language acquisition.

While in-service training classes are provided for new instructors, the language instruction DLI provides should be graduating a higher number of proficient military linguists. While numerous factors contribute to this shortfall, a major contributor to the problem is the civilian personnel management program as it operates under the current civil service system. DLI's faculty are currently selected, appointed, classified and administered under Federal Personnel provisions of Title 5 and Office of Personnel Management (OPM) requirements. Thus, the positions must be classified under the General Schedule, and faculty members recruited for and compensated on the GS salary range under pay administration rules. Under these rules, it is difficult to establish a professional academic atmosphere and climate. The civil service "rank-in-position" system with its prescribed titling practices provides little or no flexibility for rewarding of or recognizing individual qualifications and contributions as is done in standard academic settings. The current system also places limits on the amount of professional training which can be given to correct identified deficiencies.

PROPOSED SOLUTION

The proposed legislation would authorize the Secretary of Defense to prescribe regulations that would establish a college style personnel structure at DLI. He would be permitted to establish a faculty personnel system following academic models rather than the more administratively position oriented structure for Federal employment. He could establish a flexible compensation structure comparable to two-year college systems and those of similar Federal institutions. The mandate that no salary could exceed that of the entry rate at Executive Level V would be retained. The Secretary of Defense could establish a system of providing training enabling the faculty to become fully proficient in the principles, theories and techniques of second language acquisition. A procedure for granting tenure and of terminating nontenured personnel that would follow the example of civilian educational institutions would also be developed. He would be authorized to establish a flexible leave program which would be geared to a teaching environment, and provide means for faculty members to pursue professional level training and development. A similar system has been authorized for other Federal institutions and programs: the U.S. Naval Academy by section 7478 of title 10; the U.S. Naval Postgraduate School by section 7044 of title 10; and the U.S. Coast Guard by section 186 of title 14. The bill, if enacted, would permit the establishment of an educational milieu that would attract outstanding foreign language educators, and facilitate educating a cadre of well qualified linguists to provide world wide services to the United States of America.

CHAPTERS REQUIRING EXEMPTION FROM TITLE V OF U.S. CODE

Chapter	Chapter Title & Sectional Analysis	Reason for exemption
33	Examination, Selection & Placement: Covers competitive service procedures on subject; Rule 6.3 allows OPM to set procedures (OPM has done this) for filling Excepted Service positions.	Need to be able to set own examination criteria and selection and placement procedures for faculty and academic support staff.
41	Training: Includes provisions which preclude the reimbursement in employees for training in non-government facilities which lead to an academic degree.	Need to allow for training leading to a degree—this is essential to the faculty professionalization program.
51	Classification: Establishes 13 "GS" levels; directs OPM to set GS classification standards; OPM standards developed are applicable to both competitive and excepted service positions.	Need to develop faculty levels in lieu of GS levels; need to establish faculty level classification criteria.
53	Pay Rates & Systems: Establishes pay schedules; Subch. III covers ". . . employees, position, etc." subject to Chapter 51 (classification).	Need to develop faculty and staff salary comparable to 2 year colleges.
55	Pay Administration: Sub V. Premium Pay; Establishes authority for overtime pay, and compensatory time off.	Need to establish academic work environment and expectations (linked to Chapter 61).
61	Hours of Work: Establishes a 40-hours work week and requires scheduled tour of duty.	Needed to allow flexibility in establishing academic tours of duty.

POSITION PAPER

1. Context: The Defense Language Institute (DLI) is a professionally accredited institution of higher education operated for the Department of Defense by the Department of the Army's Training & Doctrine Command. As an Army entity, it is administered in accordance with normal military and civil service procedures. DLI is accredited by the Accrediting Association of Schools and Colleges. As DLI is not yet a degree-granting institution, it is recognized under the jurisidiction of the Junior commission as a specialized post-secondary institution.

2. Organization: DLI, under an Army Commandant, is organized for academic purposes into eight resident, foreign language schools with over 30 language departments under the schools. The schools are organized into language teaching departments.

a. School: A school is established to group languages with a common linguistic or cultural heritage. Where the student enrollment is high enough, schools may consist of only one language (e.g., the Korean School). The schools are organized into language-teaching departments.

b. Language-Teaching Department: A Language Department is normally responsible for resident instruction in a single language. Multi-Language Departments are responsible for teaching lower enrollment languages which are linguistically, geographically and/or culturally linked.

c. Current Schools and Departments:

Russian I School: Russian I-A Dept; Russian I-B Dept; Russian I-C Dept; Russian I-D Dept; and Russian I-E Dept.

Russian II School: Russian II-A Dept; Russian II-B Dept; Russian II-C Dept; Russian II-D Dept; and Russian II-E Dept.

Slavic School: Russian A Dept; Russian B Dept; Czech A Dept; and Czech B Dept.

Middle East School: Arabic A Dept; Arabic B Dept; Arabic C Dept; and Multi-Language Dept (Greek, Hebrew, Turkish).

Asian School: Chinese Dept; Persian Dept; and Multi-Language Dept (Japanese, Tagalog, Thai, Vietnamese).

Korean School: Korean A Dept; Korean B Dept; Korean C Dept; and Korean D Dept.

Romance School: Spanish A Dept; Spanish B Dept; Spanish C Dept; and Multi-Language Dept (Dutch, French, Italian, Portuguese).

Central European School: German A Dept; German B Dept; German C Dept; and Polish.

3. Academic Operation: The administrative officers of the Institute have broad responsibilities for establishing policies, goals, and objectives. They maintain the physical plant as well as administer the budgets through a joint military and civilian staff. The faculty and academic staff are fully responsible for the detailed development and implemention of all instructional activities.

4. Faculty: The civilian faculty and academic staff are civic service appointees with salary levels established by a General Schedule grade which is not necessarily related to academic qualifications. The current full-time faculty and academic staff consists of approximately 900 civilian members. Faculty members are hired primarily for their foreign language ability. Academic and teaching qualifications are an important secondary consideration.

5. Faculty Personnel Practices: DLI civilian faculty and academic staff are currently appointed under a Schedule A excepted service authority (as contrasted to the competitive service system), following procedures established by the Office of Personnel Management (OPM). This authority has been granted to DLI because of the language fluency requirements of our positions. OPM is unable to test for qualifying proficiencies, and periodically the DLI must hire non-citizens to attain the required levels of proficiencies; non-citizens may not be hired into the competitive service. Positions are classified in accordance with published OPM standards, with the attendant prescribed General Schedule (GS) and General Merit (GM) grades ranging from GS 05 to GM 15. DLI recruits nation and world wide, determines applicants' qualifications, and currently maintains registers of qualified candidates in 21 separate languages and dialects (inactive applicant files are maintained in 10 additional languages).

6. Problems: The existing civil service personnel system, which is centered on a rank in position concept, has not been adequate to meet DLI needs in the past. The increase in our nation's foreign language requirements has further highlighted systemic shortcomings in the system. Improved technology has made more of the world's communications available while increased military and paramilitary conflicts around the globe (as well as recent treaty initiatives) have made exploitation of these communications critical to our nation's security. As a result, we have seen over the last decade a doubling of foreign language enrollments and an even greater increase in student graduation requirements. The flexibility and the incentives needed to meet these challenges are not available in the current personnel system. Some basic problems associated with the current system are:

a. Classification System: As in all conventional civil service appointments, grade and duties are tied to a specific, functional position which is relatively narrowly defined. In a stable environment this causes little difficulty. However, rapidly changing existing programs and the development of new ones demand a high degree of flexibility in assignment of duties. This flexibility is not present in the current system. The Institute has experience in testing and qualifying faculty, and should have the management authority to establish grading criteria for such positions. Current classification standards are inadequate. DLI is actively moving to become a comprehensive, multi-disciplinary center of excellence. Faculty assignment is critically important in this evolution. Recognition and reward for faculty accomplishments must be based on total performance of required duties which are not easily related to a specific grade level. In addition, as with any academic institute, appropriate, specific higher degree qualifications are essential and must be incorporated into the grading system.

b. Professionalization: Central to the success of any educational institution is a highly qualified faculty. The field of language teaching calls for expertise in two independent areas—foreign language and language-teaching methodologies. The DLI faculty and staff are eminently qualified in the former area. Over 80 percent of the faculty are native speakers of the language they teach. Because of the high language proficiency levels required of our graduates, we must continue to emphasize native speaking ability over teaching proficiency as an entry level requirement. However, recruitment of fluent foreign language speakers results in a faculty with limited formal preparation in instructional techniques. The current faculty training program has been limited to basic training in teaching methodology. Limited tuition assistance for formal education has resulted in a faculty only minimally trained in modern language-teaching methods. The Institute demands faculty with appropriate academic credentials: however current law prohibits government contribution for specific degree attainment and the advertisement of such a policy as a recruitment incentive.

7. Proposed Actions: To correct these shortcomings, the DLI Academic Personnel Management System will be restructured to align it more closely with traditional institutions of higher education and other federal academic institutions.

a. Classification and Qualification System: The first critical element of the proposed system would be a rank-in-person classification and qualification system based on the standard academic model. The goal of the proposed personnel management system is to allow the faculty to function over a wide spectrum of responsibilities from classroom instruction to staff support. A faculty member qualified by education and experience for a specific academic rank would perform the full spectrum of duties for which he/she is qualified. Given the dynamic nature of the environment, this could mean assignments in teaching, supervision, or academic support, depending on mission requirements.

b. Professionalization & Development: Correcting the deficiency in classification and qualifications will require a faculty training program. The program is three-phased: preservice enhancement, in-service remedial, and graduate professional development. Prior to beginning teaching, every teacher will be required to pass an instructor certification program taught by the internal Faculty Training Division. Once an instructor is certified, additional in-service training will be provided by faculty trainers. This will develop or enhance specific skills, e.g., use of the classroom computers, or test-writing procedures. Finally, formal graduate education will be required to fully qualify the faculty as professional educators. This program should provide the opportunity for faculty members to pursue degrees from accredited institutions and would include part-time, tuition-aided instruction for about 20 percent of the faculty and academic staff annually. Courses taken would lead to a Master's in Foreign Language Teaching or other appropriate graduate level degrees. Additionally, up to one percent of the faculty and academic staff per year will be fully funded to pursue graduate degrees in fields which would contribute to DLI's academic mission.

PROPOSED POLICY

The specific policies and procedures regarding the proposed rank-in-person structure follow:

1. Policy: This policy statement applies to all civilian members of the faculty and academic staff of the Defense Language Institute currently employed in the 1700 and 1040 series Schedule A excepted service positions.

2. Status of Civilian Members of the Faculty and Academic Staff: Civilian members of the faculty and academic staff shall be appointed by the Commandant, Defense Language Institute under provisions of the proposed law, and applicable regulations issued by the Office of Personnel Management (OPM), the Department of Defense (DOD), and the Department of the Army (DA).

3. Academic Session: The academic session is of 12-month duration. During this period, all faculty and academic staff are employed in tasks assigned by the commandant, except when absent on approved earned annual leave, leave without pay, or in a long-term training or education program.

4. Academic Ranks: Academic Ranks will be established. The ranks will be based on the educational accomplishment, professional experience, instructional experience, and other related performance and accomplishment criteria. The academic ranks that have been identified for use at the Defense Language Institute are: assistant instructor, instructor, senior instructor, assistant professor, associate professor, professor, senior administrative faculty, and chancellor.

a. Assistant instructor: This is a nontenured, developmental position. The faculty member occupying this position will perform assigned tasks under close supervision and guidance by colleagues of higher academic rank and will be required to satisfactorily complete in-house training courses and university courses in order to advance to the next academic rank.

b. Instructor: This is a non-tenured or a tenured position. The faculty member occupying this position will perform assigned tasks under the supervision and guidance of colleagues of higher academic ranks. The instructor will be required to teach the language portions of any course, maintain course materials, prepare course quizzes and tests, evaluate student performance, and evaluate the basic course components.

c. Senior instructor: This is a tenured position. The faculty member occupying this position will perform assigned tasks with minimal supervision. The senior instructor will be required to teach the language portions of any course, maintain course materials, prepare course quizzes and tests, evaluate student performance, and evaluate basic course components.

d. Assistant professor: This is a nontenured or tenured position for both faculty and academic support personnel.

(1.) Faculty Positions: The faculty member holding the rank of Assistant Professor will independently teach all levels of the foreign language courses. Duties will include the full range of instructional activities.

(2.) Academic Support Positions: The academician holding the rank of Assistant Professor will work in fields such as test development, curriculum, educational technology and/or research.

e. Associate professor: This is a nontenured or tenured position for both faculty and academic support personnel. This is the first academic rank for supervisory and/or managerial responsibility.

(1.) The faculty member holding the rank of Associate Professor will independently teach all levels of the foreign language training courses. The associate professor will conduct area study classes within the assigned school and language-specific, in-house faculty training and will serve as a professional role model for other members of the faculty. In addition, the associate professor will be called upon to teach other faculty in the areas of test and curriculum development.

(2.) The academician holding the rank of Associate Professor will work in fields such as tests and measurements, curriculum, instructional system design, educational technology and/or research, developing course materials, determining a course training plan, training faculty members on the use of the course materials, evaluating student progress, evaluating instruction to improve the training, and recommending changes to courses to meet needs.

f. Professor: This is normally a tenured position. The faculty member or academician occupying this position will perform all duties as described at the associate professor level and will participate in scholarly and administrative activities at a DLI level and in professional activities external to DLI. The professor is accountable for all aspects of instruction and curriculum with national recognition in a specialized field such as teaching methodology, testing, program evaluation, area studies, educational technology or education research.

g. Senior administrative faculty: The employee occupying this position will have the ability to administer educational systems and programs in matters relating to executive of policies, supervision of all employees (professional and non-professional), development of education philosophy, resource planning and reports, revision of courses of study to meet changing needs, procurement of instructional aids, materials and equipment, planning for use of facilities and developing facility requirements.

h. Chancellor: As the senior academic administrator of the Defense Language Institute, incumbent will have overall responsibility for establishment and review of academic programs, policies, and budgets for the largest foreign language instructional program in the Free World, generating 10 percent of all postsecondary foreign language instructional hours taught each year in the U.S. He or she must oversee development of manpower and budget requirements, resource allocations, work force planning, and contracting for services.

6. Appointment Criteria/Promotion Criteria: The criteria for initial appointment, conversion to tenure track and promotion will follow the qualification guidelines established for the aforementioned academic ranks, and placement procedures similar to other federal academic institutes.

7. Salary: The salary of all newly appointed civilian members of the faculty or academic staff will be based on their qualifications for the position being filled. The salary for all new appointees will normally be set at the entry rate for their academic rank with provisions for advanced initial-hire rates based on superior qualifications. The procedures for recommendations for yearly cost of living adjustments and salary increases for faculty and academic staff personnel and will be patterned on those established for comparable federal and academic institutes.

8. Faculty and Academic Staff Professionalization: DLI's goal will be to expand its faculty and academic staff professionalization program to provide educational assistance to the faculty and academic staff in their pursuit of advanced degrees in foreign language teaching. This expansion will provide tuition assistance for courses to correct specific training weaknesses. This aid will be provided in two programs. The first will be partial tuition assistance for not more than 20 percent of the faculty and academic staff to attend courses offered in the local area which would lead to advanced degrees. The second program provides fully-funded graduate education for a highly select group of faculty and academic staff. This program would be limited to one percent of the faculty and academic staff annually. Participants would be selected based on their potential for significant teaching contributions as well as demonstrated abilities and skills. DLI would require these individuals to sign a contract agreeing to continue teaching at the Institute for three years for each year of fully-funded training. If an employee chose to depart prior to this time, he/she would be required to reimburse the government for the cost of the education.

9. Tenure of Employment: Normally, based on projected need and funding levels, new faculty and academic support personnel will be initially given a three-year non-tenured appointment. Procedures governing employee rights, benefits and entitlements during this period of time will basically follow those prescribed by the OPM for term appointments. Based on projected need and funding levels, conversion to tenure track permanent appointments will be conferred upon members of the faculty and academic staff as recognition of continuing significant contributions to the programs of the Institute. Generally the following rules apply:

a. Assistant Instructor: The initial appointment is for not more than three years.

An assistant instructor not selected for higher academic rank by the end of four years of service at the Institute will be reappointed only in exceptional cases as deemed appropriate by the commandant.

b. Instructor: The initial appointment is for not more than three years; reappointment at this rank normally is with tenure. An instructor promoted from within the Institute is usually promoted with permanent tenure.

c. Senior Instructor: The appointment into this position will be from the current faculty at the Institute. There will be no initial hire into this academic rank. This category will be a permanent tenured position for those exceptional employees at the instructor level who cannot progress into the assistant professor level, but who make significant contributions in the teaching area. There will be no requirement for promotion from this rank.

d. Assistant Professor: An assistant professor promoted from within the Institute is promoted with permanent tenure. An initial appointment to civilian faculty at the rank of assistant professor is for no more than three years; reappointment at this rank normally is with tenure.

e. Associate Professor: An associated professor promoted from within the Institute is promoted with permanent tenure. An initial appointment at the associate professor rank may be with tenure. If initial appointment is without tenure, reappointment at this rank normally is with tenure.

f. Professor: A professor appointed from the Institute is promoted with permanent tenure. In the case of an initial appointment to civilian faculty at the rank of professor, the initial appointment will normally not be for more than three years; in exceptional cases, initial appointment may be made with tenure. If initial appointment is for three years, reappointment at this rank normally is with tenure.

g. Senior Administrative Faculty: Same as f. above.

h. Chancellor: Same as f. above.

10. Evaluation & Recognition: The work performance and contributions of all faculty and academic support personnel will be appraised on an annual basis. The results of the appraisal will be used as the basis for training, rewarding, reassigning, promoting and removing employees. Appraisal and recognition procedures, closely aligned to comparable academic institutes will be used.

11. Termination:

a. Reduction-in-force: A lack of federal funds, change in mission, workload, or organization, or other similar and compelling reasons may require a reduction in civilian faculty and academic staff. In such an event, and where possible, 120 days notice of separation through Reduction in Force procedures will be given to the individual(s) affected. At least 60 days' notice will be given.

b. Nonreappointment: The commandant has responsibility for determining whether a civilian faculty or academic staff member's appointment will be renewed. In such case, the department or organization will notify the member affected on the following schedule:

(1) First Appointment Year of Service: If the appointment terminates during or at the end of the first year, notice of nonreappointment will be given at least 7 days in advance of termination.

(2) Second Appointment Year of Service: If the appointment terminates during or at the end of the second appointment year, notice of nonreappointment will be given at least 30 days in advance of termination.

(3) Third or Fourth Appointment Year of Service: Notice of nonreappointment will be given at least 60 days in advance.

c. Separation for Cause: Any member of the faculty or academic staff may be separated for reason of misconduct or inefficiency irrespective of tenure or length of appointment. Such separation will be in accordance with applicable civil service and Department of the Army regulations.

d. Resignation: A civilian member of the faculty or academic staff is expected to give at least 60 days notice of intention to resign.

12. Effective Date of Personnel Actions: Promotions and pay step increases will normally be effected annually. Initial appointments may be made at any time commensurate with Institution requirements.

13. Retirement, Leave, and Health and Life Insurance Benefits: Faculty and academic staff are entitled to civil service benefits such as holidays, leave, retirement and health and life insurance on the same basis as employees of the competitive civil service. The benefits are set forth in detail in the Federal Personnel Manual and the Department of the Army regulations.

14. Academic Work Schedules: Academic work schedules, modeled after comparable work schedules in other federal institutes of higher education, will be developed.

15. Conversion: [Protection of Rights] Conversion to the Academic Personnel Management System established by law will be optional for all civilian faculty and academic staff members hired prior to the implementation of this policy. Those faculty and academic staff members who elect conversion will retain their current salary in the new structure. Members of the faculty and academic staff who do not elect conversion will retain all existing civil service rights and privileges.

NEW PERSONNEL SYSTEM

Cost Estimate: New Personnel System: Section 2191–2193.

A. Background:

The primary justification for the New Personnel System is the need to improve student proficiency results. This can be accomplished by either extending the current instructional process or improving the quality of instruction offered. In choosing between these options, we have selected the latter course of action because of the cost avoidance benefits it offers. Improved quality to be gained by the implementation of NPS will result in additional costs for: professionalization of the faculty and academic staff; revision of salaries; and new administrative requirements. In calculating all costs, the current faculty and academic staff strength of 906 is assumed to remain constant. All computations have been updated and expressed in FY 89 constant dollars.

B. Cost Avoidance Savings:

1. The most important benefit of the New Personnel System is increased student proficiency. While the benefits of increased mission capability are not directly measurable in dollar terms, the need to increase student proficiency clearly exists. The most common suggestion other than the New Personnel System, is to increase course lengths by language categories to obtain increased proficiency by extending time on task. Other government language schools follow this concept and have many courses that are longer than DLI's. To obtain the GOSC-mandated 80 percent proficiency without implementing the New Personnel System, courses must be extended. DLI's best estimate for the required extension of courses, by category, is listed below.

Language category	Student load	Cost per Stu Wk	Course length increase	Total
I	315	$348.81	7	$769,126
II	272	348.81	12	1,138,516
III	1,823	348.81	23	14,625,254
IV	903	348.81	[1] 38	11,969,066
Total annual cost				28,501,962

[1] The General Officer Steering Committee recently approved extending the length of the Arabic Basic Course to 63 weeks as a test for potential implementation of extensions for all Category IV Languages.

Note.—This represents a 16-week increase.

2. Academic Attrition Rates: The improvement in faculty qualifications will also impact on the number of students who attrit from courses due to their inability to meet academic requirements. Upon full implementation of the New Personnel System, it is anticipated that the current attrition rate will be reduced by 2%. Cost avoidance savings for this reduction are reflected below:

	Current year (15.9% academic attrition)	Implementation (13.9% academic attrition)
Cost/Stu Wk for Av Crs	$348.81	$348.81
Student Loss/Yr	520	455
	[1] 16	[1] 16
Total attrition cost	2,902,099	2,539,377

[1] Based on historical factor of students attriting at the 16th week.

Potential Cost Avoidance Savings: $2,902,099 − $2,539,377 = $362,762.

3. By implementing the New Personnel System, total cost avoidance achieved by not extending course lengths and reducing attrition will be ($28,501,962 + $362,726=) $28,864,724.

C. Direct Costs:

1. Faculty and Academic Staff Professionalization: The faculty and academic staff training program represents a capital investment in improving the quality of the faculty and academic staff. The cost of this program includes:

a. Twenty percent of the faculty and academic staff attending a joint Monterey Institute of International Studies (MIIS)/DLI part-time program leading to a Master's degree in foreign language teaching. The cost of MIIS classes is now $800 per course. DLI could pay up to 100% of the tuition costs. The averge cost for this program is estimated to be $570 per course per instructor.

b. One percent of the faculty and academic staff per year pursuing an advanced degree in fields relating to the teaching of foreign languages. The program will pay 100% of the costs for the faculty and academic staff who attend courses full-time. Program costs follow:

Tuition Assistance per course	$570
20% of 906-person faculty	×181
	103,170
12-Course Graduate Program	9,600
Average Faculty Salary	37,497
Per Diem and Travel	15,313
	62,410
No. of employees trained yearly	×9
	561,690
Total Cost of Education	664,860

2. Revised Salary Schedule: Given a faculty and academic staff with higher qualifications, DLI will have to provide a compensation package competitive with the private sector to initially attract and then retain newly trained faculty. Consequently, a full range salary scale, anchored by an entry level GS–09/01 salary, was developed which

should be comparable to salaries for faculty in 2-year colleges. Proposed pay ranges by academic ranks follow:

	Entry	Maximum
Asst. instructor (1%)	$20,195	$24,333
Instructor (4%)	22,367	29,081
Sr. instructor (5%)	29,081	31,297
Asst. professor (55%)	24,705	35,867
Assoc. professor (25%)	26,353	45,377
Professor (10%)	30,887	53,961
Sr. admin. faculty (4 positions)	49,701	76,982
Chancellor (1 position)	71,060	83,600

[1] Current salary limited to $75,500, which is the current rate payable to Level V of the Executive Schedule.

Given that the number of employees per academic rank will be limited to the fixed percentages shown above, the following cost comparison applies:

	Average Salary		Total cost	
	W/O benefits	W/Benefits 17%	W/O benefits	W/Benefits 17%
Proposed system	$32,809	$38,387	$29,725,284	$34,778,583
Current GS system	29,255	34,228	26,505,030	31,010,885
Total	3,554	4,159	3,220,254	3,767,698

These salary costs will be phased in over the first six years of implementation. All personnel will be grandfathered, in Year 1, i.e. remain at current salaries. Appropriate percentages will be promoted to Assistant Professor, Associate Professor and Professor as they complete training and become qualified. Expected yearly increases are as follows:

Year	Increased cost
1	0
2	$751,540
3	1,503,079
4	2,145,419
5	3,006,158
6	3,757,698

3. Awarding of Degrees: Section 2194:

Conferring of degrees upon graduates. Using accreditation and legislative approval as a springboard, DLIFLC will establish a program to award an Associate of Science (A.S.) Degree for foreign language training. As a degree granting institution, DLIFLC will help support competitive recruitment for the military linguist field. Resources to support an A.S. Degree will require manpower and consultant fees to analyze and translate current programs of instruction into academic syllabi following standardized college procedures, create articulation agreements and devise an academically acceptable degree granting structure, and perform credit evaluation and diploma/transcript clerical activities. The following resources will be required to support the A.S. Degree over a six year period:

Year	Cost
1	$31,250
2	63,000
3	125,000
4	125,000
5	125,000
6	125,000

4. Total Cost Estimate: A summary of the annual cost data for the first six years follows:

Year	Salary	Professionalization	Associate degree	Total
1	0	$664,860	$31,250	$696,110
2	$751,540	664,860	63,000	1,479,400
3	1,503,079	664,860	125,000	2,292,939
4	2,145,419	664,860	125,000	2,935,279
5	3,006,158	664,860	125,000	3,796,018
6	3,757,698	664,860	125,000	4,547,558

[1] Fully implemented, recurring annual cost.

D. Cost Estimate Summary:

We feel by professionalizing the faculty and academic staff and retaining quality personnel that we can achieve required student proficiency without increasing course lengths, beyond what is now supported by the GOSC (i.e. Cat. IV—63, Cat. III—47, Cat. II—34, Cat. I—25). All research in and out of the institute supports the belief that instructor productivity will be increased by creating a professional academic staff, and using the team teaching instructional concepts. The total annual cost avoidance savings to be realized through not extending language course lengths and reducing academic attrition is estimated to be $28,864,724. This compares very favorably with the New Personnel System annual cost, of $4,544,324 at full implementation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 13, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 14

9:30 a.m.

Armed Services

Projection Forces and Regional Defense Subcommittee

To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on naval force issues.

SR-222

Finance

Energy and Agricultural Taxation Subcommittee

To continue hearings to examine conservation and renewable energy tax incentives.

SD-215

JUNE 18

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1029, to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System.

SD-366

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on issues relating to interstate transportation of waste.

SD-406

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

Small Business

To hold hearings to examine lender liability for environmental clean-up costs.

SR-428A

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation to modernize the National Weather Service of the National Oceanic and Atmospheric Administration, Department of Commerce.

SR-253

Judiciary

To resume hearings on legislative proposals to strengthen crime control.

SD-226

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on the Peace Corps.

S-126, Capitol

JUNE 19

9:00 a.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To resume hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the B-2 bomber program.

SR-222

Select on Indian Affairs

To hold oversight hearings on the National Native American Advisory Commission.

SR-485

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine dairy supply management options.
SR-332

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 49, to establish an Ocean and Coastal Resources Enhancement Fund and a Coastal Zone Impact Assistance Fund, and to require the Secretary of Commerce to provide States and local governments with block grants from moneys in the Funds.
SR-253

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on S. 481, authorizing funds for research into the desalting of water and water reuse.
SD-406

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine the future of the Soviet economy.
SD-419

1:30 p.m.
Agriculture, Nutrition, and Forestry
To continue hearings to examine dairy supply management options.
SR-332

Joint Printing
To hold hearings on the technological future of the Government Printing Office.
B-318 Rayburn Building

2:00 p.m.
Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 933, to provide fair funds to consumers of natural gas who are found to have been overcharged.
SD-366

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

JUNE 20

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review broadcasters' public interest obligations.
SR-253

1:30 p.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings to examine enforcement and administration of the Foreign Agents Registration Act (FARA).
SD-342

2:00 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To continue hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the Strategic Defense Initiative.
SR-222

Commerce, Science, and Transportation
To hold hearings on the nomination of Dennis A. Yao, of Pennsylvania, to be a Federal Trade Commissioner.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 477, to afford congressional recognition of the National Atomic Museum at Kirtland Air Force Base, Albuquerque, New Mexico, as the official atomic museum of the U.S. Government under the aegis of the Department of Energy, S. 628, to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico, S. 772, to revise title V of P.L. 96-550, designating the Chaco Culture Archaeological Protection Sites, S. 855, to revise the Korean War Veterans War Memorial Act, S. 867, to establish a commission in the Department of the Interior to provide compensation to individuals who lost land or mining claims to the U.S. government for the establishment of the White Sands Missile Range, and S. 1117, to establish the Bureau of Land Management Foundation.
SD-366

JUNE 21

9:00 a.m.
Armed Services
Readiness, Sustainability and Support Subcommittee
To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the Defense Environmental Restoration Account and the service environmental compliance funds accounts.
SR-232-A

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 884, to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing, and related issues.
SR-253

JUNE 25

2:00 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review revenues from additional radio spectrum allocations.
SR-253

2:30 p.m.
Foreign Relations
To hold hearings on the nominations of Mary Ann Casey, of Colorado, to be Ambassador to the Democratic and Popular Republic of Algeria, John Thomas McCarthy, of New York, to be Ambassador to the Republic of Tunisia, Robert H. Pelletreau, Jr., of Connecticut, to be Ambassador to the Arab Republic of Egypt, and Nicholas Platt, of the District of Columbia, to be Ambassador to the Islamic Republic of Pakistan.
SD-419

JUNE 26

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR-418

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 362, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.
SR-485

JUNE 27

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 979, to provide for strong Department of Energy support of research and development of technologies identified in the National Critical Technologies Report as critical to U.S. economic prosperity and national security.
SD-366

JULY 9

2:00 p.m.
Select on Indian Affairs
To hold oversight hearings on the Navajo-Hopi relocation program.
SR-485

JULY 10

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 471, to protect consumers by regulating certain providers of 900 telephone services, and S. 1166, to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call.
SR-253

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine national tourism policy.
SR-253

JULY 11

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on employment on Indian reservations.
SR-485

JULY 15

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings to review the Department of Energy's role in math and science education.
SD-366

JULY 16

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for rail safety programs.

SR-253

JULY 17

9:00 a.m.

Select on Indian Affairs
To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.

SR-485

JULY 23

9:30 a.m.

Rules and Administration
To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR-301

CANCELLATIONS

JUNE 20

9:00 a.m.

Select on Indian Affairs
To hold oversight hearings on the Navajo-Hopi relocation program.

SR-485

POSTPONEMENTS

JUNE 19

2:00 p.m.

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the Corporation for Public Broadcasting.

SR-253

HOUSE OF REPRESENTATIVES—*Thursday, June 13, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As Your love for us, O God, is as wide and as broad and as high as all creation, so may we express our concern for every person whatever their background or circumstance. Teach us that we can grow in our own understanding of ourselves and Your purposes for our lives by having a sensitivity and receptiveness toward those who do not share our traditions. May we be eager to learn from others and to develop an attitude of mutual respect one to another in all we do. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Illinois [Mrs. COLLINS] please come forward and lead the House in the Pledge of Allegiance.

Mrs. COLLINS of Illinois led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 210. An act to establish the U.S. Enrichment Corporation to operate the Federal uranium enrichment program on a profitable and efficient basis in order to maximize the long term economic value to the United States, to provide assistance to the domestic uranium industry and to provide a Federal contribution for the reclamation of mill tailings generated pursuant to Federal defense contracts at active uranium and thorium processing sites;

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; and

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990.

The message also announced that, pursuant to Public Law 96-114, as amended by Public Laws 98-33, 99-161, and 100-674, the Chair on behalf of the majority leader, announces his appointment of Mr. Walker F. Nolan, of Maryland, and Mr. Edwin S. Jayne, of Virginia, as members of the Congressional Award Board.

The message also announced that, pursuant to Public Law 93-29, as amended by Public Law 98-459, the Chair, on behalf of the President pro tempore, appoints Cornelia Hadley, of Kansas, to the Federal Council on the Aging.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce that it will receive up to 10 requests on each side for 1-minute statements.

THE TRUTH ABOUT CRIME LEGISLATION

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, my Republican colleagues have been saying that because Congress has not passed the President's crime bill in 100 days, there have been thousands of rapes, murders, and assaults in our land.

The American people know better, Mr. Speaker. Look at this, four omnibus crime bills passed in the last years, 1984, 1986, 1988, and 1990, 3½ inches of laws, weighing over 7 pounds, thousands of pages all devoted to fighting crime, death penalties, tougher penalties, more judges, FBI agents, DEA agents, more prisons, you name it, for over 8 years it has been put in here.

So Congress has passed the laws. The President administers and enforces them. So if after all this crime legislation there has been an increase in crime on our streets, then maybe we ought to ask the White House why it is not working.

I could ask why the top law enforcement officer is letting this happen after all of this, but I will not; but I will tell you about some other crimes. The first is telling the American people that Congress has not been doing anything about crime.

The second is not telling them that 97 percent of the violent crime committed in this country is not covered by Federal law.

The third and the real crime, Mr. Speaker, is that after getting 7½ pounds of criminal legislation, there is still not 1 page of a national health care proposal from the White House that deals with the real crime, 37 million uninsured and millions more underinsured Americans scared to death about the health care crisis. That is the crime.

WHERE IS THE PRESIDENT'S CRIME BILL?

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, tomorrow is the 100th day that has gone by since the President challenged us to pass crime and transportation legislation within a 100-day period, and nobody seems to know where the President's crime bill is located.

Yesterday at a hearing of the Judiciary Subcommittee on Crime, we were told that the chairman of the Judiciary Committee had divided the crime bill into parts and referred it to the subcommittees of jurisdiction; but the majority staff on the full committee denies that that is the case.

Now, perhaps we ought to get the bloodhounds out to find where the President's crime bill is.

I call upon the chairman of the Judiciary Committee, the gentleman from Texas [Mr. BROOKS], to quit playing games with the American public and to start taking action on a crime bill. If you do not like the President's bill, draft your own, but do not stick the crime bill in the back drawer and expect the American public to ignore the fact that congressional attention to this most pressing issue is not happening. The time to take action is now. The time for the chairman of the Judiciary Committee to announce a timetable is now, and let us get on with it.

CHICAGO BULLS' NBA CHAMPIONSHIP VICTORY

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, the Chicago Bulls are the National Basketball Association world champions. The Bulls from Chicago-town did it by winning convincingly and decisively in Show-town, Bro-town, Mo-town, and finally last night in Tinsel-town.

Led by Michael Jordan, the league's most valuable player and the series most valuable player, and without a doubt the most exciting player in the history of the NBA, along with Scottie Pippen, a superstar of the first order, the tough rebounding of Horace Grant, the great defense of Bill Cartwright and the clutch shooting of John Paxson, and a tremendous showing by the Bulls' bench, starting with Cliff Levingston, Will Perdue, B.J. Armstrong, Scott Williams, Stacey King, Craig Hodges, and Dennis Hopson, they did it with a tenacious defense and an explosive offense. This was NBA basketball at its best.

Unlike the bad boys from Motown, the L.A. Lakers are a class act.

My congratulations to the Lakers and their team leader, Magic Johnson. He was a pleasure to watch, dazzling us with his pinpoint passing and thrilling us with his solid field direction. He and the rest of the Lakers organization should be proud of their achievements. The Bulls-Lakers series will go down as one of the best matchups in the history of the NBA. What a joy to watch Michael Jordan and Magic Johnson at their best.

My congratulations to Bulls owner Jerry Reinsdorf, their coach Phil Jackson, general manager Jerry Krause and the rest of the Bulls' organization for putting this fabulous team together—a job well done. And to my friend, Michael Jordan: You are the greatest. See you on the links.

THE RACE FOR THE CURE

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I rise today in support of a very important event that is occurring this Saturday in Washington, DC. This weekend Washingtonians and visitors from all walks of life are going to participate in the race for the cure—a 5 kilometer run and walk and a 1-mile fun walk to benefit breast cancer prevention.

Over the years I have urged my colleagues to recognize how early detection in breast cancer is the way to survivial for breast cancer victims and their families. This matter is certainly one that should be addressed by all families throughout the country, including the Quayle family who will be leading the race on Saturday.

I encourage all of my colleagues and their staffs and families to join me, the Quayles and Mayor Sharon Pratt Dixon at Freedom Plaza at 8 a.m. this Saturday to run or walk in the race for the cure. In a course of a lifetime, breast cancer will put 1 in every 9 women and their families in a race for their lives. Now is the time to join them in this race.

DON'T SHUT THE DOOR TO EDUCATIONAL OPPORTUNITY

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, we have heard a great deal of rhetoric from the White House lately about domestic priorities and policies. But when is our administration going to do more than talk about solving the problems of middle America?

In my part of North Carolina, working families are worried about how to send their kids to college. During the last decade, student aid programs for middle-class families have been in a holding pattern—and they would have been drastically cut or eliminated if the Reagan administration had had its way. Meanwhile, the cost of a college education has jumped 135 percent in the past decade; the number of students taking out educational loans has doubled; and the amount they are borrowing has risen 75 percent. Today, a student graduating from a public university like UNC—Chapel Hill is likely to get a $7,000 due bill along with that diploma.

What is the response of our administration? Our self-styled "Education President" first proposed drastic cuts in the Pell Grant Program, and is now recommending changing eligibility formulas to cut some 400,000 middle-class students from the program. The Pell Grant Program is not a program for the rich, but it is not a poverty program either. It is the middle- and working-class families, the families earning $25,000 to $35,000 a year, who typically use Pell grants to pay for college.

Congress cannot allow the administration to gut the student aid programs that were designed to help middle-class families send their children to college.

We are working to make college more affordable for middle-class families, to improve the Pell Grant Program and to fund it adequately. As part of that debate, the Postsecondary Education Subcommittee is visiting my district in a few weeks to hear from North Carolina educators and students about student aid problems and other pressing education needs. These are real problems facing middle America, and Congress is working to come up with real answers. I hope President Bush will join in this effort.

□ 1010

ALL I KNOW IS THIS

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker and Members, all I know is this: The President asked us to pass the highway bill and to pass a crime bill within 100 days. We have not passed a highway bill, we have not passed a crime bill, and we are not even in session tomorrow.

Mr. Speaker, all I know is this: The President asked us to pass a highway bill and the crime bill in 100 days. We have not passed the highway bill, we have not passed the crime bill, and we are not even going to be in session tomorrow.

Mr. Speaker, all I know is this: The President simply asked us to pass the highway bill and a crime bill within 100 days. We have not passed a highway bill, we have not passed a crime bill, and we are not even going to work tomorrow.

Mr. Speaker, all I know is this: The President simply asked us to pass the highay bill and a crime bill within 100 days. We have not passed a highway bill, we have not passed a crime bill, and we are not even going to be in session tomorrow.

Mr. Speaker, all I know is the President came and asked us to pass a highway bill and a crime bill within 100 days. We have not passed that highway bill, we have not passed that crime bill, and we are not even going to be in session tomorrow, so I will not even be able to remind us that when the 100-day time arrives and we have not done our job, we have no one to blame but ourselves.

A REVIEW OF THE LAST 100 DAYS

(Mr. REED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, last night the President attacked Congress for not meeting his political laundry list for the last 100 days.

The President continues to audition his themes for next year's election while we here in Congress continue our work on critical issues facing the Nation.

The President said he wanted to be the education President, but it was leaders here in the House—PAT WILLIAMS, DICK GEPHARDT, and STENY HOYER—who introduced a comprehensive education program that would make college a possibility for thousands of middle-class students who can't get a student loan under the current formula or the President's proposal for next year.

The House passed a civil rights bill. The President's contribution? He succeeded in stopping negotiations on that bill between the Business Roundtable and the civil rights community. He opposed the compromise bill passed by the Congress and now he has threatened to veto that legislation.

But I'm happy to review the last 100 days, because there has been a lot of activity inside and outside of the Congress.

More than 163,000 people lost their jobs in the last 100 days as unemployment continued to rise.

Another 3.5 million people couldn't get health care that they needed because they don't have health insurance.

During the past 100 days, as college acceptances arrive at homes across the country, thousands of students were faced with choosing between schools they want to attend—and schools they can afford. For too many students, the choice was no school at all.

Mr. President, you spent the last 100 days waiting for today. The Congress spent the last 100 days passing major legislation and considering proposal to help working families, solve the Nation's health care crisis and provide affordable education assistance for millions of American families.

And millions of Americans spent the last 100 days struggling to make ends meet, to feed the kids, pay for health care, and find affordable housing.

Mr. President, the American people need leadership from the Congress and the President. And there's no time limit on when we can deliver that.

WHY NOT TAKE UP THE PRESIDENT'S CRIME BILL? IT IS TIME

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, one of the previous speakers said that we passed some crime bills in previous years; inferring, therefore, that it was not necessary to take up the President's crime bill.

The American people disagree, and let me just describe one reason why.

Since the Supreme Court's 1972 decision in Furman versus Georgia, which generally invalidated existing death penalty procedures, 41 States have enacted laws to restore the death penalty. Since the Court's 1976 decision in Gregg versus Georgia, it is clear that capital punishment can constitutionally be imposed under certain procedures.

Given the overwhelming public support for capital punishment as the only adequate sanction for the most atrocious crimes, it is intolerable that Federal law now provides no enforceable death penalty for certain acts.

Mr. Speaker, the President's bill establishes constitutionally sound procedures and adequate standards for imposing Federal death penalties which are already on the books, including mail bombing and murder of Federal officials. And it authorizes the death penalty for drug kingpins and for certain heinous acts, such as terrorists, murders of American nationals abroad, killing of hostages, and murder for hire.

Are my Democratic colleagues against the death penalty in these circumstances? If not, why not take up the President's crime bill. It is time.

TRIBUTE TO THE CHAMPION CHICAGO BULLS, 108 TO 101

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I rise today with tremendous pride and enthusiasm for the new champions of the National Basketball Association, the Chicago Bulls. Today, all of Chicago has reason to cheer and shout—after many seasons of being almost champions and nearly victorious, the Bulls have done it. They have won the NBA championship for the city of Chicago, their families, and themselves.

Each member of the Chicago Bulls deserves our full appreciation for playing a long, tough season and for playing well. Not only have they provided excellent role models for our youth, they have brought home a trophy championship that Chicago fans have been hoping and waiting for for 25 years.

I am doubly proud because the Bulls not only have reached the pinnacle of success, but I am proud of them because they play in my district at the Chicago Stadium. Winning this championship has made all of us proud.

You know, Mr. Speaker, the National Basketball Association has certainly provided us with a great season of pleasure because of its many fine teams—especially the Los Angeles Lakers, who with the Bulls gave all spectators an exciting series of championship games. Both of these teams are tremendous. I want, therefore, to express my sincere and great appreciation and regards for the Lakers as a team and particularly to Magic Johnson, who is a wonderful sportsman, a gracious man, and a true professional, as are all the Lakers.

Above all though, I want to say thank you to the entire Bulls team of Horace Grant, Scottie Pippen, Bill Cartwright, Dennis Hopman, Bill Paxson, Cliff Levingston, Craig Hodges, Scott Williams, B.J. Armstrong, Stacey King, Will Perdue, and of course, Michael Jordan for playing great, great basketball and bringing this exciting victory home to Chicago.

Mr. Speaker, I salute them and I take my hat off to them.

RAISING LUXURY TAXES DOES NOT WORK: JOBS ARE LOST

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, during last year's budget debate, Democrats thought they could win political points by writing into the agreement a handful of new luxury taxes to soak the rich.

The plan had a great Robin Hood feel to it. Add an extra 10 percent tax on large boats, expensive cars and furs, and get some good publicity socking it to all those rich people. Too bad they didn't bother to hold any hearings or talk to economists or to people employed in those industries.

These taxes aren't soaking the rich. The boat tax is sinking that industry, and soaking the workers who build boats for a living. Since the tax was enacted, boat sales have fallen by more than 50 percent. Eight thousand jobs have been lost in the boating industry because of the drop in sales.

In my district in Ohio, constitutents who work in the boating industry have urged me to repeal of the luxury tax in order to save these jobs.

Mr. Speaker, thousands of hardworking Americans are finding out exactly what the Democrats mean when they say "tax fairness." I think it's clear that raising taxes doesn't work, and soaking the rich is an idea that's all wet.

SOMETHING REALLY STINKS, AND CONGRESS SHOULD INVESTIGATE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, something really stinks. While the President is banging on Democrats on highway bills and crime bills, they continue to be growing allegations that the Reagan-Bush campaign conspired to hold Americans in continuous hostage bondage in Iran during the 1980 campaign. If that is the case, ladies and gentleman, it is the most deceitful political act in all of American history, and Congress should be demanding the truth.

I say it is time for a full-blown investigation, and this President may not be so crazy about any more crime bills.

Coincidence? Hostages released the day after the President is sworn in? Or a conspiracy, Mr. Speaker?

I think Congress should find the truth to that answer.

A CALL FOR LEADERSHIP BY THE DEMOCRATIC MAJORITY

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, the democratic leadership of this House has begun a barrage of criticism of President Bush because of what they describe as the President's having interest only in foreign policy and too little interest in domestic affairs. Their criticism is based upon concern over the strength of the President's popularity in no small part related to his dynamic leadership in foreign affairs. During his Presidency, America has resurged as the clear leader providing hope for a growth in freedom and sustained peace. While the Democrats try to undermine President Bush's strength by pointing to domestic policy, they choose to ignore the fact that it is Congress that has been dragging its feet on an array of critical domestic policies. Crime legislation has been languishing in democratically controlled committees for years. Where are the bills that would lead to energy independence? Why has not their approach to meeting the health care challenge or to education policy seen the light of day from committees Democrats dominate? America needs more than political talk about Domestic policy. Mr. Speaker, it is time for your democratic majority to either lead or get off the pot.

AFTER 106 YEARS, DENVER MOVES INTO THE MAJOR LEAGUE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Denver's first baseball team was coming around in 1885. It was called the Denvers. Then it became the Bears, and then it became the Zephyrs.

But the bottom line is for 106 years Denver, CO, has been waiting to move into the major league. We are very pleased the formal announcement goes out today, we finally get to move to the plate. It is finally Denver's turn and Miami's turn.

Mr. Speaker, I want to congratulate everybody who really made this happen: Our mayor has been in the bullpen keeping us all warmed up for a long time. That is even a hard word for me to say, "bullpen." I am really glad his leadership and many others were out there and we finally made it.

I hope everybody comes to see us in 1993 so we can finally see baseball played at a mile high in Denver; I think it will be very exciting.

□ 1020

ANOTHER NAIL DRIVEN INTO THE COFFIN OF COMMUNISM

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, another nail has been driven into the coffin of communism. Yesterday the people of Russia, not the people of the Soviet Union, but the people of Russia, voted to reject communism and to vote for a President who himself has resigned the Communist Party and, in the city of Leningrad, the people have voted to reject the idol of Lenin and to restore the name of that city given by Peter the Great 288 years ago, St. Petersburg.

Mr. Speaker, St. Petersburg was built as a window to the West to rival Amsterdam and the great European ports. Now, as that failed ideology of communism is going down the drain of history, St. Petersburg may once again open a window to the West through which democracy and free enterprise may travel in both directions.

This argument about the name was more than a debate about St. Petersburg versus Leningrad. It was a conflict over the soul of the Russian enterprise. On the very same day that Leningrad was being changed to St. Petersburg, Mr. Gorbachev was suggesting that the icon of Lenin remain in place.

Mr. Speaker, I congratulate Mayor Anatole Sobchek and all the people who had courage to reject Leninism and communism. Let us in this Congress continue to work with them.

THE "DON'T BLAME ME" SHUFFLE ON CRIME

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, tomorrow it will be 100 days since we sat here and watched the President of the United States from this podium challenge us to pass legislation concerning transportation and crime, and since then all I have seen is fingerpointing and the "Don't Blame Me" shuffle coming from this Congress. They claim that the President is not offering leadership. They claim the President has no agenda.

Mr. Speaker, how much more leadership can a President provide than coming to this body and challenging us to pass legislation within a given period of time on a specific issue? How much more leadership can he provide?

Mr. Speaker, the people are not being fooled. The people know that they are still victimized by crime, and that this Congress is doing nothing, and that the President of the United States is asking us to act, and we have not acted. The only thing coming out of this Congress has been a barrage of rhetoric trying to blame the President for economic problems brought on by policies that were passed into law by this Congress. It is about time we started to act and started acting with the President to solve this Nation's problem rather than pointing fingers and dancing the shuffle.

THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, later today we will take up the State-Commerce-Justice appropriation bill. In a $21 billion bill it is sometimes hard to keep track of a $1 million item, but I would like to direct some attention to a $1 million item in the bill dealing with the Court-Appointed Special Advocate Program [CASA]. This is a program in which volunteers, not paid people, but volunteers, work one on one with juveniles who are caught up in the court system. Back home in Louisville, and in Jefferson County, we have had excellent luck with our CASA Program. The volunteers there act as friends, and associates and as loving intercessors for these troubled young people.

Mr. Speaker, we have all heard of the thousand points of light. I would like to reserve two of those points of light, one for all of the CASA volunteers in Kentucky an around the country for their excellent work and one to be shared by the gentleman from Iowa [Mr. SMITH] and the gentleman from Kentucky [Mr. ROGERS] who have allowed this program to go forward and receive adequate funding.

I extend my thanks to those gentlemen, and, more importantly than that, tens of thousands of troubled young people in this country extend their thanks to Mr. SMITH and Mr. ROGERS.

THE NEED TO HELP BANKS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise today to express my serious concerns about the current state of the U.S. banking industry. The antiquated laws currently on our books leave taxpayers overexposed, consumers and businesses underserved, and the industry increasingly uncompetitive. As a result, banks are unable to effectively perform their important role in stimulating and sustaining economic growth.

Today, the United States does not have a single bank among the world's 25 largest. Twenty years ago we led the standings with the top 3 and had 7 banks in the top 25. Of course, the question of pure size is not the whole story. But against the backdrop of an economy that is twice the size of our nearest competitor's I wonder if anyone can explain the complete absence of U.S. banks from the list of world leaders?

Surely these statistics tell us something. To me, it is strong evidence that something is very wrong. Would we be comfortable with no aerospace companies in the world's top 25? No pharmaceutical companies? No computer manufacturers? Of course not.

Mr. Speaker, bank failures totaled 198 in the 38 years from 1942 to 1980, but reached 206 in 1989 alone.

Mr. Speaker, I'd like to commend Secretary of the Treasury Brady and the administration for the legislative package that they proposed to Congress.

Thank you, Mr. Speaker.

BREAST CANCER RESEARCH

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, there is an epidemic in this country called breast cancer. By the time we finish these 1-minute speeches, two women in this country will have died of breast cancer. One out of nine women get breast cancer. Every 11 minutes a woman finds out she has breast cancer.

So, Mr. Speaker, what do we want to do about it? We do not view this as a problem.

That is why, Mr. Speaker, I was so delighted to see that my legislation to authorize and appropriate $50 million for breast cancer research to find a cure for breast cancer, which some scientists say, if they had the resources, they could concentrate and within 5 years come up with some remedies; I was thrilled to see that the gentleman from California [Mr. WAXMAN] and the full committee had authorized no less than $50 million for breast cancer basic research. That is minuscule compared to what we do for AIDS, and I support AIDS research, et cetera.

□ 1030

Mr. Speaker, that is only the first step, however. That money must be appropriated, and we must go through the Appropriations Committee. The Senate must put in at least the same amount. The Senate has never put in a line item for breast cancer, and it is about time they did because women and their families will no longer tolerate our lack of commitment.

EXCLUSIONARY RULE WOULD BE KEY ITEM IN PROPOSED CRIME BILL

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, one of the key elements of the President's anticrime package, which comes to fruition tomorrow with his 100-day warning, is the reform of the exclusionary rule. On paper that does not sound very exciting, but nothing is more sickening to the American people than to see on their TV screens or read about a case where an individual caught redhanded in a burglary, a robbery, a rape, or a homicide appears in court and then the case is thrown out because of some technicality in the law, with the judge having no other recourse in his or her own mind but to throw out the case. And then this individual walks out laughing at the whole system and making the American people themselves distrustful of the justice system.

It is not just 100 days we have been working on this; it has been 100 months we have been laboring, trying to reform the exclusionary rule, to give some ability to the police to bring home a criminal to the justice system without worrying about a case being thrown out on some technicality.

Mr. Speaker, it is time, not 100 days but 100 months later, after some of us have been trying to get this done, to have legislation like this come to the floor of the House.

CONFERENCE REPORT ON S. 64, EDUCATION COUNCIL ACT OF 1991

Mr. KILDEE. Mr. Speaker, I call up the conference report on the Senate bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the conference report be considered as having been read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

(For conference report and statement, see proceedings of the House of Wednesday, June 12, 1991, at page 14403.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. KILDEE] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

THE CRIME BILL

(By unanimous consent, Mr. SCHUMER was allowed to proceed out of order.)

Mr. SCHUMER. Mr. Speaker, President Bush gave himself a birthday present last night—he decided it was OK for his administration not to do anything about the pressing problems facing our Nation.

At the top of this list, Mr. Speaker, is crime. The President may feel he has the luxury to do nothing about violent street crime, but the American public is not so lucky.

The President extolling his crime bill is like a street mime extolling his speaking ability—there just isn't anything there. We haven't passed the President's crime bill within his foolish 100-day deadline for the simple reason it isn't worth passing.

Democrats in Congress have a better idea—enact comprehensive anticrime legislation that focuses on preventing crimes from happening in the first place. We need fewer guns, safer schools, and less drugs—the things that will enable the elderly woman on the street to avoid being mugged.

The President has a crime bill that affects virtually no Federal crimes, an Attorney General who can't make a career choice, and an agenda defined by the number of days spent on a bill rather than the number of lives saved on the street.

The Crime Subcommittee is in the midst of crime bill hearings and will generate a truly comprehensive bill in the near future. We would like to have the President join in this debate, but it looks as if he is content to look at the calender and not at the problem.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, within 3 weeks after its introduction we are enacting today a key element of the President's education package.

Mr. Speaker, the conference agreement contains four titles.

Title I authorizes a National Education Commission on Time and Learning to report to the Congress and the Secretary of Education on the quality and adequacy of the study and learning time of elementary and secondary students in the United States.

The Commission would examine issues including the length of the school day and year, the extent and role of homework, and the use of school facilities for extended learning programs.

Members of the Commission would be appointed jointly by the Congress and the Secretary of Education and the report would be due no later than 2 years after the Commission's first meeting.

Title II, Mr. Speaker, authorizes a grant for the national writing project to improve the quality of student writing and the teaching of writing at all grade levels.

Title III authorizes a program in the Department of Education to educate children on the history and principles of democracy in the United States.

Title IV establishes the National Council on Education Standards and Testing.

This Council would report to the Congress, the Secretary of Education and the National Education Goals Panel on the desirability and Feasibility of national education standards and a system of national examinations.

The language of the conference agreement pertaining to this Council is identical to the version approved by the House earlier this week.

Mr. Speaker, I would like to thank all the Members on both sides of the aisle who have helped to put this conference agreement together.

I particularly want to thank Mr. GOODLING for his assistance both on the content of the conference agreement and for helping to expedite its consideration.

He established my credentials with Secretary Lamar Alexander which made it possible for us to proceed in a bipartisan, bicameral cooperation with the executive branch.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

FAILURE OF CONGRESS TO PASS A CRIME BILL

(By unanimous consent, Mr. ROTH was allowed to proceed out of order.)

Mr. ROTH. Mr. Speaker, I have asked for this 1 minute to rebut some of the arguments made in the previous 1 minute speeches.

I have to compliment President Bush. I would not have had the patience that the President exercised last night. When the Commander in Chief gives the U.S. military a clear goal, the result is a 100-hour battle and the war is won, but when he gives the Democrat leadership a clearcut goal of passing two essential bills in 100 days, the result is nothing.

I can see why the President is critical of Congress. Last year this body spent 3 days—October 3, 4, and 5—deliberating the comprehensive crime bill of 1990. After a great deal of debate and amendments, it passed, 368 to 55. The vote was 368 to 55, not even close. The final legislation contained many of the administration's desired reforms.

Mr. Speaker, we could have passed that bill on any day in the last 100 days if we as a Congress had had the will to do so.

The President, 100 days ago—more than 3 months ago—asked for only two legislative bills, and the Congress has passed neither. It's disgraceful. The war which was won in 100 hours, and the Democratically controlled Congress' legislative nonaccomplishment graphically demonstrates the differences between Republican and Democrat leadership.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring the Members living proof that we can do good things in 100 hours if we just work together, instead of 100 days.

Mr. Speaker, I believe that the conference report that we are adopting today, while small in size, may be one of the most important pieces of education legislation to be considered by the Congress this year.

The major title of this legislation creates a National Council on Education Standards and Testing. The creation of this Council is significant for at least two reasons. First of all, it signals the beginning of congressional involvement in the ongoing debate over the creation of national education standards and a national examination system. It is important for Congress to be involved because our constituents can utilize our offices to get their views into this important discussion and because we may be asked some day to fund the development of such standards and tests.

The charge to the Council created by this legislation also adds to its importance. Members of the Council will decide upon the wisdom and feasibility of creating a system of national standards and tests. We will put the issue of desirability on the table and discuss what educational ends are met by such an effort. Besides the political imperatives that have been built up around these ideas, we need to clarify how will they help teachers teach, students learn, and schools become more effective?

I want to thank and commend the chairman of the subcommittee, Mr. KILDEE, for his efforts in putting together this compromise bill and moving it expeditiously to enactment.

Mr. Speaker, I would be remiss if I did not talk about the term effort on the part of the staff from both sides of the aisle, by Jack Jennings, Susan Wilhelm, Jeff McFarland, Damian Thorman, Dr. Hartman, Dr. Buehlmann, and Ms. Selmser. All of them worked together to produce what we have here today.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly concur with the gentleman's comments concerning the tremendous staff work we have had on this bill. We both are really blessed with tremendous staff people. They have done tremendous work on this legislation.

Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI

□ 1040

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to salute the gentleman from Michigan [Mr. KILDEE] and the gentleman from Pennsylvania [Mr. GOODLING] for their work on this bill. Certainly dealing with educational standards and testing on a national basis is very important.

But I would like to momentarily mention one other title in the bill. The gentleman from Michigan [Mr. KILDEE] mentioned that there is a title in the bill dealing with the writing projects. If I understood it correctly from staff today, this program teaches teachers to teach writing to students. I cannot say how important this is. Unless the teachers themselves understand grammar and syntax and know how to spell and know what tense and number are, and know how to parse a sentence, they can hardly teach and train young people to speak and write correctly.

Yesterday's New York Times carried a column, which I ask permission to extend in the RECORD, which takes excerpts from various papers which have been filed by so-called teachers and so-called experts on the subject of rhetoric, and their excerpts are absolutely unintelligible. They have garbled syntax and the grammar is appalling.

Mr. Speaker, I salute both of these gentleman for moving a bill that I hope will help to make America learn how to write correctly and learn how to spell and read. These are very important subjects.

JOHNNY'S TEACHER CAN'T WRITE EITHER

(By Rachel Erlanger)

A report by the Educational Testing Service finds that "students are poor writers, they do not like to write and they like it less as they go through school." One reason students write poorly could be that so many teachers write poorly.

Strunk and White, in "The Elements of Style," tell us to omit needless words and avoid elaborate and pretentious ones. The writer William Zinsser talks of stripping a sentence to its "cleanest components." But neither the professionl literature that finds its way into my mailbox nor the meetings on the teaching of writing I attend show any concern for such matters.

To prepare for a colloquium on freshman writing, I obtained copies of a number of articles on the subject. One, "Rhetoric and Ideology" by James Berlin, a professor of English at Purdue University, came from College English, the magazine of the National Council of Teachers of English. "It is true that some rhetorics have denied their imbrication in ideology, doing so in the name of a disinterested scientism," says Professor Berlin. "More recently the discussion of the relation between ideology and rhetoric has taken a new turn. Ideology is here foregrounded and problematized in a way that situates rhetoric within ideology, rather than ideology within rhetoric."

An article by Ira Shor, a professor at the City University of New York, spoke of the need for "conscientization to counter the interferences to critical thought in daily life."

Among the journals displayed at the colloquium was Notes from the National Testing Network in Writing. This group, a joint project of the City University and the Fund for the Improvement of Postsecondary Education, prides itself on being "the world's largest clearinghouse of information and materials on literacy education and assessment."

Papers abstracted in Notes including "Holistic Evaluation as Empowerment," "Holistic and Performative Assessment of ESL Writing," "Competency Testing as a Catalyst for Attitudinal Change at the University" and "An Interactive Matrix for Evaluating Program Procedures."

Reading these abstracts, and the articles by Professors Berlin and Shor, and countless other articles in the literature on the teaching of basic writing, I am reminded of a sentence in George Orwell's essay "Politics and the English Language": "A mass of Latin words falls upon the facts like soft snow, blurring the outlines and covering up all the details."

Sometimes the writer does not even know the meaning of Latin words he uses. In one City University newsletter, a professor tells us that his students and their ancestors "have been coming to the land now called the United States for millennia."

Sometimes it is difficult to believe the writer is serious, as when Professor Shor speaks of the interdisciplinary approach to the study of the fast-food hamburger. As he put it: "Concretely my class' study of hamburgers not only involved English and philosophy in or use of writing, reading, and conceptual analysis, but is also included economics in the study of the commodity relations which bring hamburgers to market, history and sociology in an assessment of what the everyday diet was like before the rise of the hamburger, and health science in terms of the nutritional value of the ruling burger."

Inevitably, mistakes in syntax creep in. An article by a City University dean, Harvey S. Wiener, speaks of a possible "exchange of teachers."

How can people who write like this teach others to write clearly and concisely? Is it asking too much to expect teachers of writing to heed the rules of rhetoric? Or perhaps we should require them to take a course in basic writing before they teach one.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of the conference report on S. 64, the Education Councils Act of 1991. This conference report contains the provisions of S. 64, as passed by the Senate, and H.R. 2435, the National Council on Education Standards and Testing Act, which passed the House last Monday.

We are able to bring back so swiftly to the House a conference report on this legislation because of the spirit of cooperation which existed between Senators KENNEDY, PELL, HATCH, and KASSEBAUM, and the House Members, Congressmen KILDEE, GEORGE MILLER, GOODLING, and GUNDERSON. We also had great cooperation from the administration, in particular, Secretary Alexander.

The importance of considering this bill so expeditiously is that the National Council on Education Standards and Testing created by this bill must be put into place immediately in order to perform its work by the end of the year. This Council was fashioned by Congressman KILDEE, Secretary Alexander, and Governors Romer and Campbell. Its purpose is to consider both the desirability and feasibility of national education standards and testing. A report is due to the Congress, the Secretary, and the National Education Goals Panel by the end of this year.

Another important component in this legislation is the creation of a national commission to study the amount of time spent on education and spent on study by students. Senator BINGAMAN is to be commended for proposing the creation of this Commission, and Secretary Alexander is to be commended for proposing that this Commission have a broad mandate to review all aspects of the time and study involved in education.

The conference report also authorizes the national writing project which is an exemplary program administered in many States by the University of California at Berkeley. Congressman GEORGE MILLER has been a ceaseless advocate of the writing project and has repeatedly pointed out to us the need to improve the writing ability of American students.

The last component of the conference report transfers the "We * * * the People" Program from the National Bicentennial Commission to the Department of Education. This program is operated by the Center for Civic Education headed by its very dedicated executive director, Chuck Quigley. High school students receive instruction in civics and then compete locally, statewide, and nationally to show their expertise. Evaluations have shown that this program is very effective in heightening the understanding of our Government and politics by young people.

Mr. Speaker, this is a good conference report which we are bringing back to the House. DALE KILDEE has shown himself to be a very skillful legislative craftsman in fashioning all the compromises needed to move this legislation. Congressman GOODLING, as always, has lent his wise advice and support in this endeavor. I urge my colleagues to adopt this conference report.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the conference report on S. 64 that was just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 2608, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 174 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 174

Resolved, That all points of order against consideration of the bill (H.R. 2608) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, for failure to comply with the provisions of clause 2(l)(6) of rule XI and clause 7 of rule XXI are hereby waived.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. MCEWEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all the time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 174 waives all points of order against the bill for failure to comply with clause 2(l)(6) of rule XI, the 3-day layover rule. It further waives clause 7 of rule XXI, which requires relevant printed hearings and reports to be available for 3 days prior to consideration of a general appropriations bill.

The Appropriations Committee ordered the bill reported on June 11. In order to proceed to consideration today, waivers of these two rules were necessary.

Mr. Speaker, H.R. 2608 appropriates $21.5 billion in new budget authority for fiscal year 1992 for the Departments of Commerce, Justice, State, the Judiciary and 21 related agencies. I urge my colleagues to support this rule so that we may proceed to consideration of this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MCEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule before us is a relatively simple rule, especially when compared to what was originally suggested by the Appropriations Committee.

This rule waives the 3-day layover requirements with respect to the committee report and hearings on this bill. Under House rule XI, clause 2(l)(6), a bill cannot be considered by the House "until the third calendar day" on which the report has been available to Members, excluding Saturdays, Sundays and legal holidays.

And under House rule 21, clause 7, it is not in order to consider an appropriations bill until the printed committee hearings and report have been available to members for "at least 3 calendar days, excluding Saturdays and Sundays."

This bill was only reported by the full Appropriations Committee on Tuesday, and printed copies of the report and bill did not become available until yesterday.

Under House rule 11 we could not consider this bill until Friday of this week; and under House rule 21, until Monday of next week.

Because the leadership has scheduled the consideration of this bill for today, the waivers are necessary if we are to proceed.

I would hasten to add that the minority is somewhat concerned over the increasing frequency with which the Rules Committee is granting waivers of the layover requirements for bills and conference reports. So far in this Congress we have granted 23 rules, 6 of which have included specific waivers of the report layover requirements. That comes to 26 percent of all rules.

It seems we are giving Members less and less time to consider the reports on more and more spending, and that does not bode well for a deliberative and fiscally prudent democracy.

So it is with some reluctance that we support these two waivers. This is the fifth appropriation bill this year that has waived the layover requirement when you include the two supplemental appropriations bills we considered earlier in the year.

Mr. Speaker, the real controversy over this rule is not so much in what it includes as to what it excludes. The Appropriations Committee has initially requested protection against points of order against all the unauthorized programs contained in the bill—programs comprising roughly 70 percent of the bill.

But the committee went further and asked the Rules Committee to prohibit any amendments to those unauthorized accounts that would increase them above either the amounts contained in the bill or last year's level, whichever is higher.

The chairman of the subcommittee, Mr. SMITH of Iowa, acknowledged that this request was unprecedented but necessary because otherwise we would be rewarding committees which did not have their authorizations enacted, and penalizing those which did. And I must confess, his argument makes considerable sense both from a procedural and fiscal standpoint.

In previous years, the gentleman simply did not include unauthorized programs in his bills, so there was no need to protect them with a rule or ask for such a restrictive amendment procedure. The programs would later be restored either in conference or in supplements.

The Rules Committee did not want to grant this special amendment restriction both because it was unprecedented and because it precluded the House from making the final determination about priorities and spending levels.

As Chairman MOAKLEY correctly pointed out, the proposed restriction would make it impossible to increase funding for an unauthorized program even if you had off-setting reductions in other accounts, whether authorized or unauthorized. I think such deficit-neutral amendments are fiscally sound and responsible and do allow the House a free rein to alter priorities within a bill.

I do share Chairman SMITH's concern about the prospect of amendments that simply increase spending without providing for offsetting reductions. Since this bill is not up against its allocation ceiling, such amendments are now possible—even under this rule.

So the question becomes one of, "to what extent should the Rules Committee play a role in protecting the House against itself?" And the consensus judgment of the Rules Committee was that we should give the House a chance to act responsibly, and take the risk that it might act otherwise. Such are the perils of representative democracy.

Eventually, though, we will run up against the ceilings set by the recent budget agreements as well as this year's 602(a) and 602(b) allocations. So, theoretically, there is a self-disciplining mechanism already built into the process to protect us against becoming fiscally profligate.

Mr. Speaker, the bill this rule makes in order appropriates approximately $21.5 billion for the Departments of Commerce, State, Justice, and the Judiciary for fiscal year 1992. That's roughly $2 billion more than last year but close to $803 million less than the President's request.

It should be no surprise then, that the administration is concerned about the underfunding in this bill of some of its requests. For example, the $9.3 billion in the bill for the Department of Justice is $486 million below the administration's request. And the administration policy statement expresses the view that this underfunding will significantly impair its efforts in areas like drug law enforcement and combating violent crime.

It is particularly ironic that in the same week we are marking the 100th day of the President's 100-day challenge to enact his antiviolent crime initiative, we are considering an appropriations bill that will actually reduce our ability to combat violent crime.

Mr. Speaker, I don't want to dwell further on the substance of this bill since there will be plenty of time to discuss its specifics during general debate and the amendment process. I do support this rule, with the reservations I previously expressed, so that we can proceed to the bill's consideration and send this on to the Senate and to the President. I urge adoption of the rule and reserve the balance of my time.

STATEMENT OF ADMINISTRATION POLICY

This Statement of Administration Policy expresses the Administration's views on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 1992, as reported by the House Committee.

On the basis on OMB's preliminary scoring, the Committee bill is within the House 602(b) allocation. The House 602(b) allocation is consistent with the statutory spending limits enacted in the Budget Enforcement Act. However, the bill reported by the Committee would significantly underfund several key areas such as programs to combat crime, while providing excessive funding for several lower priority activities, such as EDA and other Commerce and Justice programs.

DEPARTMENT OF JUSTICE

The overall $9.3 billion funding level established by the Committee for the Department of Justice is $486 million below the President's request. This substantially reduced level of funding would seriously undermine Administration efforts to combat and prosecute crime effectively. Key effects of the Committee's reductions would include:

Impairment of drug law enforcement efforts;

Failure to expand efforts to combat violent crime;

Failure to prosecute vigorously in areas of anti-trust law, environmental crime, and white collar crime, including public corruption and bankruptcy oversight;

Delays in the development of an automated and complete felon identification system; and

Inability to expedite deportation of criminal aliens.

DEPARTMENT OF COMMERCE

The Administration strongly objects to over $100 million in reductions from the President's request for the National Oceanic and Atmospheric Administration (NOAA). The reductions to the request would seriously jeopardize NOAA's ability to move ahead with the National Weather Service modernization program. Reductions to the GOES satellite program could result in a lapse in weather satellite coverage with serious implications for public safety. In addition, the Administration objects to the Committee's failure to fund fully NOAA's central role in the interagency U.S. Global Change Research Program. Finally, the Administration strongly objects to the reduction of $28 million from the President's request for the National Institute of Standards and Technology internal research programs.

INTERNATIONAL AFFAIRS PROGRAMS (STATE AND USIA)

The Administration urges the House to provide full funding for requested arrearage payments for the United Nations and international organizations. At a time when the United Nations is playing such an important role in world affairs, the United States must fulfill its treaty obligations to the UN and its affiliated organizations and pay our required share.

SMALL BUSINESS ADMINISTRATION

The Committee's bill does not provide sufficient budget authority to cover the subsidy costs associated with all disaster loans expected to be made through the Disaster Loans Program Account in FY 1992. The bill provides $115 million in budget authority for subsidies that would support a loan level of only $322 million, although the annual average loan level is $365 million. An appropriation of $126 million for loan subsidies would be required to cover a typical year.

FEDERAL COMMUNICATIONS COMMISSION (FCC)

The Committee's bill fails to provide adequate resources to fund the Federal Communications Commission. The bill provides only $68 million in direct appropriations. Without the $65 million in new fees requested by the President, planned staffing would be reduced by two-thirds, and significant furloughs would occur. No new or transfer licenses would be processed, and enforcement efforts would be limited to life-threatening cases.

COMMISSION ON CIVIL RIGHTS

The Committee's funding level of $7.2 million is $3.6 million, or 33 percent, below the President's request. This reduction would severely hamper the operations of this Commission. It would preclude the Commission's initiative to restore the seven regional offices that were eliminated in 1987. The regional offices support the State Advisory Committees that are the "eyes and ears" of the Commission. Funding should be restored to the level requested in the President's budget.

LEGAL SERVICES CORPORATION (LSC)

The Administration objects to the Committee's proposed appropriations restrictions on the use of Legal Services Corporation funds. This provision would require the LSC to abide by any restriction that the House may, in the future, include in H.R. 2039, an authorizing bill currently under consideration. The Administration has begun its analysis of H.R. 2039 to determine whether its provisions are acceptable. Because the restrictions are contingent upon future actions and possible amendments to H.R. 2039, the appropriations language would bind the President with an unknown set of constraints. Moreover, one provision states that H.R. 2039 would be binding if it passed only the House but were not enacted. If H.R. 2039 were to pass the House after enactment of this bill, this provision would unconstitutionally purport to make binding law a bill later passed by only one House, contrary to *INS vs. Chadha.*

CHIEF FINANCIAL OFFICERS ACT

The Administration strongly opposes section 607 of the Committee bill, which would bar the use of funds appropriated in this bill for the implementation of Public Law 101-576, the Chief Financial Officers Act of 1990 (CFOs Act). This law addresses long-standing Congressional and Administration concerns about financial management deficiencies in the Federal Government. These are deficiencies that must be corrected.

In passing the CFOs Act (passed by voice vote without dissent), the Congress found that "[b]illions of dollars . . . lost each year through fraud, waste, abuse, and mismanagement . . . could be significantly decreased by improved management." As a remedy, the CFOs Act: (1) strengthens management capabilities; (2) provides for improved accounting systems, financial management, and internal controls to assure reliable information and deterrence of fraud, waste, and abuse; and (3) provides for reliable financial information—useful to Congress and the Executive Branch—in financing, managing, and evaluating Federal programs. Implementation of the CFOs Act is essential to good government.

Additional Administration concerns with the bill are discussed in the attachment.

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. FUNDING LEVELS

Department of Justice

Law Enforcement Agencies. The Administration strongly objects to a $235 million reduction from the request level for the FBI, DEA, and OCDETF. This reduced level of funding would provide only 100 of nearly 900 special agents requested to continue Justice's mission against major drug trafficking groups, organized crime, and white collar crime. Further, no resources are provided to enforce new arms treaties expected to be completed shortly.

Legal Resources. The Administration opposes reductions totaling $146 million from the requested level for U.S. Attorneys and the Legal Divisions. Such reductions would result in increasing the backlog of unaddressed cases and would preclude increased prosecution of tax fraud, which brings millions of dollars in revenue from settlement of fraud suits in such areas as motor fuel excise taxes and general taxes. Further, additional resources would not be available for the violent crime initiative.

Immigration Service. The Administration strongly objects to a $61 million reduction from the request level for INS. This would severely impair the Administration's ability to add additional immigration judges and legal support to assure prompt deportation of criminal aliens. Funds to deport aliens were cut, which would result in increased costs due to longer periods of detention in the United States. Insepction lines at land border crossings could increase due to the lack of additional inspections. Border patrol resources at the border would not be augmented, and staffing at detention centers would not be adequately increased due to funding reductions.

Grant Programs. While underfunding important anti-crime programs, the Committee has provided funding to lower priority programs that have been recommended for reduction or elimination. For example, the Committee's bill continues funding ($67 million over the President's request) for the Juvenile Justice Program. Continued funding of this program is unnecessary since virtually all States have reported a significant reduction in the number of non-criminal juvenile offenders detained, as recently verified in a GAO report. Additional objections include:

Proposed funding ($12 million over the President's request) for the Regional Information Sharing System, a program that should be funded more substantially from State and local contributions.

Proposed funding of $25 million for Correctional Options Grants to States and localities. During this period of fiscal stringency, it is inappropriate to launch a new program of grants for which virtually no hearing record exists.

Proposed funding of $5 million to reimburse States and localities for the incarceration costs of Mariel Cubans convicted of violating State or local laws.

Finally, the Committee has assumed that $46 million would be available for construction of Bureau of Prisons facilities from the Special Forfeiture Fund of the Office of National Drug Control Policy. The Treasury/Postal Subcommittee has provided only $10 million from this source. As a result, there would be a $26 million shortfall for this purpose.

Department of Commerce

EDA. The Committee bill provides $246 million—as well as $10 million in loan guarantee authority—for the Economic Development Administration (EDA) for regional development, a matter better left to the private sector. The Administration opposes funding EDA, unless funds are to be used solely for close-out costs associated with termination of the agency.

Other Department of Commerce Increases. The Administration objects to funding several programs that have largely met their goal or that fill roles more appropriate to State and local entities. These include the Public Telecommunications Facilities Program (PTFP), National Undersea Research programs, Stuttgart catfish farm, and various fishery grants.

Census. The Administration strongly objects to the Committee's lack of support for the FY 1992 Economic Statistics Initiative. The Committee-reported bill would reduce the President's request for the Economic and Statistics Administration by $5 million and the request for the Bureau of the Census by $12 million. With the exception of funds provided to maintain the quality of the GNP estimates and to improve the coverage of the service sector, the bill would underfund the integrated Government-wide undertaking to improve Federal economic statistics.

National Telecommunications and Information Administration. The Administration strongly objects to the $3 million reduction in the requested appropriation for the National Telecommunications and Information Administration (NTIA). A reduction of this magnitude would make it impossible for NTIA to carry out critical spectrum management tasks. In particular, NTIA would be unable to implement the reallocation of radio spectrum from Federal to private users as would be required by bills pending in both the House and the Senate. An error or delay in reallocating frequencies could cost the Federal government millions of dollars in wasted planning and unnecessary equipment purchases. As a result of delays in reallocating spectrum, introduction of new spectrum-based technologies could stall, and private users of the radio spectrum could lose hundreds of millions of dollars in potential revenues.

National Institute of Standards and Technology (NIST). Reductions to internal research programs would prevent NIST from addressing needed repairs to facilities and from adequately addressing a growing number of important measurement and standards issues that would go unresolved without funding. In addition, a strong internal research program is essential to maintaining the technical knowledge base at NIST required to manage effectively and carry out the new external programs. At the same time as the bill cuts internal research from the President's request, it adds $18 million for NIST's external program, including grants. This program is still young and in an experimental stage, with uncertain potential benefits.

International programs (State and USIA)

Contributions to International Organizations and Conferences. The Administration objects to the Committee mark of $982 million for Contributions to International Organizations and Conferences, a reduction of $346 million from the President's request of $1.3 billion. The Committee's funding level includes only a partial arrearage payment ($157 million) instead of the President's request for full funding authority ($503 million). Full appropriation of budget authority for arrearage requirements would send an important signal to the United Nations and all members that the United States is committed to fulfilling its obligations with respect to these organizations.

State: Salaries and Expenses. The Administration objects to the Committee's $28 million reduction to the President's request. This reduction would hamper the Department's ability to cover growing operations demands and to continue upgrading important communications and information management systems.

Small Business Administration (SBA)

Salaries and Expenses. The Committee mark includes $62 million for Small Business Development Centers (SBDCs), $32 million more than requested in the President's Budget. The Budget proposes to reduce Federal assistance to these centers, which should rely increasingly on non-Federal sources of support.

Pollution Control Equipment Fund. The Committee bill includes $8 million for the Pollution Control Equipment Contract Guarantee Revolving Fund although it is no longer a discretionary account. As a result of the Federal Credit Reform Act of 1990, this mandatory liquidating account has permanent indefinite borrowing authority from Treasury. Therefore, no appropriation is required.

Office of the Inspector General. The Committee mark includes $10 million for SBA's Office of the Inspector General, $3 million less than requested. A level consistent with the President's request is necessary to ensure stepped-up action to prevent fraud, waste, and abuse.

Business Loans Program Account. The Committee-reported bill does not reflect the Administration's proposals to increase guarantee fees on certain loans and to reduce the SBA share of general business loans. Instead, the Committee provides $188 million more than requested for guaranteed loan subsidies. In addition, the Committee provides $25 million for direct loan subsidies, $23 million more than requested. The Budget proposes to substitute general business guaranteed loans, where appropriate, for most categories of direct loans.

B. LANGUAGE PROVISIONS

Commission on Civil Rights. The Committee continues to earmark funding for operations of regional offices and civil rights monitoring activities and to place funding restrictions on the use of consultants, the number of special assistance, and the number of billable days for which a Commissioner can be reimbursed. The Administration opposes this language because it would hamper the Commission's ability to meet its legislative mandate effectively and to operate efficiently.

Federal Communications Commission (FCC): Spectrum Reassignment. The Committee has not included Section 609 of the General Provisions proposed in the President's budget. That section would direct the FCC to move current occupants of 30 MHz of certain parts of the radio spectrum to other locations on the radio spectrum and to reassign the vacated frequencies using competitive bidding procedures.

The Administration objects to the deletion of this proposal because Section 609 would: enable the public to reclaim some of the private benefits derived from the licenses to the exclusive use of the spectrum; improve the FCC licensing process by doing away with costly and inefficient comparative hearings; and end the assignment of licenses by the purely random lottery process.

SBA Salaries and Expenses. The Committee bill would prohibit SBA from adopting, implement, or enforcing and regulation for the Small Business Development Center (SBDC) program or from changing any policy that was in effect on October 1, 1987. The Administration opposes inclusion of this prohibition because new regulations are needed to prevent possible abuses of this roughly $60 million-per-year program. In the absence of such prohibition, SBA would not take any action that would restrict or limit Federal funding of SBDCs. Instead, SBA would act to reduce deficiencies currently plaguing the program. A number of rules likely would be promulgated including: 1) regulations to ensure that individual SBDC's have adequate internal controls and accounting standards to track the receipt and disposition of program income; 2) regulations to ensure consistency of program delivery; and 3) regulations to reduce conflicts between SBDC's.

Securities and Exchange Commission (SEC): Salaries and Expenses. The Committee bill rejects the offsetting (governmental) collection proposals included in the request for SEC salaries and expenses, which were projected to generate revenues of $68 million. The Committee has provided only $157.5 million. When combined with the failure to enact the offsetting collections proposals, this results in a reduction of $68 million, or 30 percent, from the President's request.

C. SCOREKEEPING ISSUES

The Committee-reported bill provides $4.6 million to the National Oceanic and Atmospheric Administration to lease-purchase a Class VII supercomputer. The net present value of this lease-purchase is $22.1 million, requiring a scorekeeping adjustment of $17.5 million.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2608, and that I be permitted to include tables, charts, and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2608) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Kentucky [Mr. ROGERS] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There ws no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1050

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2608, with Mr. BROWN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill this year contains a number of programs that are not authorized; 71 percent of the dollar amount in the bill is for programs that are not authorized, and of course they are subject to being stricken if any Member wants to do so. We felt we should allocate the money anyway under the stringent conditions that we have.

We have an allocation under the budget agreement that was made last fall and the budget resolution passed by the House, as it was amended on the House floor, which in my judgment is not adequate for the domestic side of this bill. Those programs in the bill which fall under the defense function are funded at the budget request. We are not permitted to move that money over to the domestic functions under the budget agreement. The same thing applies for the international programs, except that there they are not only funded at current services levels in most all of the programs, but in addition to that, some extra money is put into some higher priority items.

On the domestic functions, we just did not have the money that is needed, so what we had to do was to fund most programs across the board at 98½ percent of the current services level for most programs. Then with the money that was left, we tried to allocate to relatively few high priority programs. As a matter of fact, I think there were only 9 or 10 programs most of which were in the area of crime and drug law enforcement. In those areas we have a number of programs that have to be annualized, including some new prisons that have to be opened.

There is another area that is a high priority in this country at this time, and that is some additional money is needed for development and advanced technology because we are reducing the defense and energy R&D budgets. There is a need to do more technology development through the National Institute of Standards and Technology. So there is a slight increase in that area.

In addition to that, I mentioned that the budget agreement requires us to fund the estimated subsidy and administrative costs of the loan guarantee programs that are in the bill. That is a substantial amount of money. So we had to include the up front estimated subsidy costs of the credit programs in the bill, although we do not know for sure what they will be. That came I think to an additional $350 million. We had to do that out of the allocation for the domestic functions in the bill. So that appears to be a big increase for SBA, but in fact it is not. It is just a difference in the way we have to keep books and costs under the Credit Reform Act.

I think the bill represents about all we could do under the allocation in the House. They do have a little better allocation in the Senate, and hopefully there are some problems that we can take care of when we get to conference.

Mr. Chairman, I reserve the balance of my time.

Mr. ROGERS. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I rise in strong support of this bill and recommend it to the House for three reasons. I think it deserves Members' support. One is it is fiscally responsible; two, I think it is fair; and three, it needs to be passed because it does fund some very vital programs.

First, let me deal with the fiscal responsibility of this bill. In every sense of those words, it is just that.

If Members have any fears, Mr. Chairman, about whether or not the Budget Enforcement Act has teeth, this bill is Exhibit A that it does have teeth. This committee scoured the budgets of all of the agencies in our bill after many long hearings to bring a bill that meets that austerity test that was forced upon us by the Budget Enforcement Act, the Budget Committee and the 602(b) allocations.

This was below zero based budgeting. We started with an allocation for domestic programs that totaled over $500 million in outlays below the administration request. But for a few exceptions, we have funded no new initiatives.

The bill provides $21.5 billion in total money. That is an increase above current levels, but it is $416 million below the President's overall request.

As Members know, we fund the State Department in this bill, which is in the international account in the Budget Enforcement Act and under a separate cap, but in the domestic program we recommend $15.4 billion in budget authority, and that is close to $400 million under the overall administration request.

We lived within our allocations. I have to tell Members it was an arduous task.

The second reason for supporting the bill, in addition to the first that I mentioned of fiscal responsibility, the second reason is that the bill is fair. Our subcommittee approached the dilemma that we were under of short funding in the fairest way that we knew. Most of the agencies will receive just short of what it will take to keep operations and personnel at this year's level, after adjusting for pay and inflation.

What increases we did provide went largely to what remains the highest priority for our bill, and that continues as a chief concern nationwide, and that is the war on drugs and crime, the Justice Department and the Federal courts. They run the enforcement side of the street in the war on drugs, and their efforts have been tremendous. Arrests, prosecutions, incarcerations, asset seizures all are zooming upward year after year, thanks to some very dedicated people in those agencies and the courts. It is an expensive obligation that we have undertaken, this war on drugs and crime, but an obligation we are compelled to honor.

Third, and finally, Mr. Chairman, my reason for supporting this bill and urging Members to support it is that it funds badly needed Federal programs. In the Department of Justice there are, of course, missions well beyond the scope of the drug war; organized crime, white collar crime, border patrol, and all of these require specialized and the very best trained personnel we can put on the street. State and local law enforcement grants for the front line troops in our cities and our counties and States; 93 U.S. attorneys plotting and coordinating the complex cases all around the country, not to mention the huge amount that we have allocated specifically for the investigations and prosecutions of the S&L crimes, and those are proceeding, even as we speak, in record numbers.

□ 1100

For the Department of Commerce we addressed as best we could their top priorities, and we asked them for their top priorities given the budget constraints, and we were given good advice. We tried to follow it as best we could.

Building on past years, we bumped up our export-promotion efforts in the International Trade Administration. In many of the areas of the Commerce Department, we came up a little thin, to be frank with you, but the constraints on our allocations simply left no choice in our hands.

One particular initiative I want to bring to the Members' attention, and many of our colleagues and, indeed, folks back home have approached this subcommittee about the 1990 census. Compaints have been festering about the accuracy, the length of the form, the complexity of the process, and the enormous cost, $2.5 billion.

This bill, in its report language, includes funding for an independent, back-to-basics review of the decennial census.

We are requesting the Commerce Department to contract with the National Academy of Sciences to form a panel to recommend what kinds of information we should be collecting in the decennial census not only for apportionment but for other purposes and how best to collect it. It will guide the Congress and the administration toward funding a fundamentally better process. I hope that that happens so that the shortcomings of past years are not repealed in the year 2000 and beyond.

Finally, for our international programs, the bill maintains operations for our State Department including overseas operations and Foreign Service Corps and our arm of public diplomacy, the U.S. Information Agency. These areas have fared better due to the separate international cap on discretionary spending, but there is yet much to be done, and justifiably so.

America's long struggle to change world opinion has met with success in Eastern Europe. We now reach into societies viturally ostracized for decades through exchanges, broadcasting, literature, and people. Our investment has paid off, and we must continue with the process, and we do so in this bill.

I ask your support for this bill, because not that it is perfect, but because it takes a fair approach during a very difficult time and addresses priorities we all recognize.

Every member of our subcommittee made valued contributions, Mr. Chairman, and a special gratitude and compliment to our chairman, the gentleman from Iowa [Mr. SMITH], who, as usual, worked very, very hard on this bill for all the Members of this body, and the bill reflects his work.

Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from Iowa for yielding me this time and for his indulgence.

Mr. Chairman, I want to congratulate him and my friend, the gentleman from Kentucky [Mr. ROGERS], my colleague, on a job well done in producing this bill.

In a $21 billion bill, which the chairman brings forth, it is easy to overlook a $1 million item, but I would like to devote a few minutes to that $1 million item which is for the Court-Appointed Special Advocates Program which goes by the acronym CASA.

The CASA Program is very important back in Louisville, Jefferson County. It is a collection of volunteers who work one on one with troubled youth who are caught up in the court system. This program has been a worthy program over the years. It has allowed these young people to have by their side, through the court system, a friend, a benefactor, someone who really cares about them, a CASA volunteer.

Over the years, the Justice Department has been generally unable to find adequate funding for the program, only until the last 2 or 3 years, when I have had the privilege of appearing before the gentleman's committee and testifying in behalf of the CASA Program, only recently have we been able to give CASA line-item status.

I would say that the CASA Program not only is a worthy program but it entitles its main sponsors to what I call the points of light. We are all familiar with the thousand points of light that President Bush has talked about.

I would make a reservation of one point of light for all the thousands of volunteers who have helped the CASA Program. And, then I would like one point of light reserved to be equally shared by my friend, my colleague, the gentleman from Kentucky [Mr. ROGERS], and my friend, the gentleman from Iowa [Mr. SMITH], the chairman of the committee, because they certainly have done wondrous work for the troubled young people of this country caught up in the court system.

I certainly support the overall bill, but particularly am I happy that the two gentleman have been able to bring forth suitable funding for the CASA program.

Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA], a very valued member of our subcommittee who worked hard on this bill.

Mr. REGULA. Mr. Chairman, I rise today in support of the Commerce, State, Justice appropriations bill for fiscal year 1992. Although it was not possible to fully fund the many worthy programs within the subcommittee's jurisdiction, we tried to identify the priority programs and to fully fund those priorities.

The bill funds our law enforcement agencies, providing full funding for their fight against drugs and crime. The bill also provides for the activation of five new prisons and several prison expansions which the Department of Justice identified as a high priority.

Investigations of financial institution fraud continue and the committee has provided $256.7 million for the FBI and the Department of Justice offices charged with the responsibility of rooting out fraud.

The 1990 crime bill initiated several programs to combat child abuse and to help its victims. Although it was difficult to fund any type of new initiative, the committee believed these programs were important enough to include some funds for them. Priority was given to the training of juvenile and family court personnel and improving the investigation and prosecution of child abuse cases. The bill also fully funds the Juvenile Justice and Delinquency Prevention Program.

Also funded by this bill are the numerous agencies involved in trade and promoting U.S. exports. The United States and foreign commercial service of the International Trade Administration was given its requested increase to expand its commercial staff in overseas markets such as Japan, the Pacific rim, Latin America, and the Soviet Union. The Office of the United States Trade Representative was given a slight increase above its request to carry out its important work with the Uruguay round of the GATT and its responsibilities of developing and coordinating United States trade policy.

Also within the Department of Commerce, the committee provides more than the budget request for the industrial technology services of the National Institute of Standards and Technology. Charged with improving the technological competitiveness of the United States, these funds will support industry led research to develop new technologies that U.S. companies need to be competitive.

In the international area, the bill provides $130 million for the Moscow Embassy. In line with the House-passed authorizing legislation, the bill does not address whether the Department should implement the top hat design or the teardown and rebuild plan.

The U.S. Information Agency has been doing vital work in promoting American ideals around the world. Many of the changes in Eastern Europe and the Soviet Union can be attributed to the tireless dedication of the professionals at USIA. Although we were unable to fully fund their request, the committee did provide an amount $34 million above last year's levels.

Educational and cultural exchange programs received a $5 million increase above the request. Time and again I meet foreigners who have benefited from these exchange programs, their views of the United States being irrevocably and positively reinforced or changed. What the Agency does in the upcoming years very well may have profound effects on whether the Soviet Union can successfully make a transition to instituting democratic and free-market principles.

In sum, not everyone will be happy with this bill, but I believe it is a good bill, probably the best that could be done with the resources we had. I encourage my colleagues to support it.

Mr. ROGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. KOLBE], a very valued member of the subcommittee.

Mr. KOLBE. Mr. Chairman, I rise today to discuss the fiscal year 1992 appropriations bill for the Departments of Commerce, State, Justice, and the Judiciary. I am pleased to be a member of the subcommittee that works this bill every year. Because we cover the gambit of issues, from defense spending to domestic discretionary spending to crime and drugs, international broadcasting, weather service modernization, Zebra-Mussels, and the construction of embassies abroad, it is truly an achievement to bring this bill to the floor every year.

I support the actions taken by the chairman of the subcommittee, Mr. SMITH of Iowa, and the ranking minority member, Mr. ROGERS of Kentucky. Because of their diligent work, and their efforts to achieve fairness, I will vote for the bill.

But I cannot lend my support to the current appropriations process.

Before I talk about specific points in this bill, let me say a few words about process. Every Republican member of the House Appropriations Committee recently sent a letter to the chairman of the committee urging his consideration of changes to the process for allocating money to the various appropriations subcommittee.

We all know that the budget of this Nation is the policy of this Nation; it indicates our priorities. Our constituents send us here under the assumption that we will have a say in setting these priorities.

Instead, our priorities are set by 13 men, not 435.

It is truly ironic that the majority party accuses our President of not having a domestic agenda. Yet the President has made crime and drugs in this Nation one of his absolute top priorities.

But the senior members of the Appropriations Committee, sometimes called the college of cardinals cut his request for the subcommittee that funds Federal crime fighting by almost half a billion dollars. And then today majority members come to the floor of this House and accuse the President of having no domestic agenda.

The majority of this House cannot have it both ways. They should either fund the President's priorities and criticize those policies on their merits—or they should consider what happens when 13 senior House Members meet to set their own priorities for this country behind closed doors, out of press scrutiny, and away from public policymaking.

Regarding this bill, again let me stress that the chairman and the ranking minority member, working together with the other members of this subcommittee did the best they could under the circumstances. Because our domestic allocation was so low, they started by funding the domestic accounts at 98.5 percent of the current services level.

We then allocated as much funding as possible to meet increases in those accounts that fight the war on drugs. There are various program increases in this bill for the FBI, DEA, and the Bureau of Prisons. But under our allocation, this wasn't enough. For example, the President's request for additional INS investigators and inspectors along the border where the frontline battles on the war on drugs are fought, was not funded.

And to accommodate what we could in the Department of Justice accounts, other domestic accounts suffered. For example, under this bill the International Trade Administration will not be given sufficient funds to meet its requirements to support either the Uruguay round of the GATT negotiations or the negotiation of the North American Free-Trade Agreement.

Other Department of Commerce accounts will also suffer in this bill due to our low allocation. The National Weather Service modernization, admittedly plagued by problems, will be cut significantly, as will some of the satellite programs in NOAA.

I was pleased, however, that we were able to find an additional $12 million for the Advance Technology Program in the National Institute of Standards and Technology.

To maintain our Nation's competitiveness, our Nation must focus on the promotion of generic technologies that benefit a wide spectrum of industries.

This kind of research is very expensive, and requires resources well beyond those available to most American high technology companies. That is why the ATP Program, which provides competitive private sector grants for generic technology research is so important.

In the international accounts, the subcommittee had more room to work with. As a result, the State Department, USIA, and other international entities will have enough funding to continue current services.

On State Department funding specifically, the subcommittee approved $130 million for the Moscow Embassy but did not specify a course of action.

On this issue, let me just say that I am supporting the quickest, most economical way to provide a secure environment for the diplomatic corps in Moscow.

If we have to tear down the new building and start all over again, fine. If we have to knock off the top two floors and build additional space, that's fine with me, too.

I also supported, in full, the full committee markup, a reduction in funding for the State Department's congressional liaison office.

I hope this action will send a message to State that they need to be more responsive to member inquiries.

On the issue of funding for the USIA, the subcommittee came very close to funding the overall administration request. However, during our hearing on the USIA, it became apparent that a review of our foreign broadcasting priorities, including the broadcasting of U.S. policy positions, is in order.

Indeed, prior to the Iraqi invasion of Kuwait, there was a USIA broadcast that both inflamed Saddam Hussein, and also was not a reflection of official United States policy.

That is why I look forward to the results of an executive branch commission, the Hughes Commission, that will analyze and make recommendatins for U.S. foreign broadcasting.

I am hopeful that these recommendations will include ideas for broadcasting to China, Cuba, the Middle East, and parts of Europe and the Soviet Union.

One final concern I have that we addressed in this bill is funding for the independent counsels. Current law states that to preserve the independence of these entities, they should be allowed to spend whatever resources they see fit.

In the case of Lawrence Walsh, this figure, depending on how you count it, may exceed $30 million. The taxpayers have had enough of this nonsense, and Mr. Walsh should formally end his investigation.

As for future independent counsels, I would recommend that the Judiciary Committee take notice of report language attached to this bill that urges them to consider proposals to rein in on extravagant spending by independent counsels.

Again, Mr. Chairman, I support this bill and urge its adoption. But I also urge the adoption of a more equitable process for distributing this Nation's revenues.

The current system is not representative of the other Members of this body or of the American people.

Mr. ROGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. BROOMFIELD], the distinguished ranking member of the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Chairman, I had originally planned to offer an amendment to this bill which would have cut off funding for Lawrence Walsh's independent counsel office for expenditures beyond those needed to complete his final report, but under the rules of the House such an amendment obviously would not be in order.

Mr. Walsh now has spent 4½ years and more than $25 million of scarce taxpayer dollars since the Iran-Contra investigation began. Yet he is determined to remain on the office dole until someone shuts him down. He will pursue appeals, even though they may take longer and prove more costly than the original trials. He is leaving open the possibility of new indictments.

I believe it is well past time to say enough is enough and send Lawrence Walsh home.

Iran-Contra has been thoroughly examined—by congressional committees, by the independent counsel, and in the courts. Mr. Walsh took his appeal to the Supreme Court, and lost. They sent him home, and we should too.

Yes, Mr. Walsh estimates that he will spend at least another $1.5 million of taxpayers' money next year. And yes, the independent counsel falls under the broad appropriation provided in this bill.

But the funding for the Walsh office comes from something called a permanent, indefinite appropriation.

What that means is that Congress has relinquished its power of the purse. It's our own fault. We have been too eager to make sure that the independent counsel has total, complete, independent autonomy. So, we have gone beyond writing him a blank check—we have handed him the keys to the Treasury.

The result is that the independent counsel is completely free of our scrutiny during the annual appropriations process.

Congress created the independent counsel to prevent an aggressive President from accumulating too much power and to put teeth in the principle of checks and balances.

How ironic it is that this aggressive counsel has no check on his own power. In Mr. Walsh we have a rogue special prosecutor, and Congress doesn't have the power to restrain him.

Mr. KOLBE, a member of the Appropriations Subcommittee, found the same problem. He only tried to find out how Mr. Walsh had used public funds. He got nowhere.

I hope that the Judiciary Committee, which has legislative responsibility in this area, will heed the wise advice of the Appropriations Committee and consider legislation to provide appropriate financial controls and oversight measures over spending by the independent counsels.

It is my hope that the Judiciary Committee will approve legislation I have introduced that institutes a check against endless fishing expeditions by independent counsels. The Independent Counsel Sunset Act automatically terminates an appointment after 2 years, unless an extension is approved.

These reforms will ensure that future independent counsels will pursue unbiased and thorough investigations of criminal activities against senior Government officials in a prompt, responsible, and cost-effective manner.

Finally, I sincerely hope that Mr. Walsh will curb his zeal and proceed diligently in shutting down his office. He has a final report to write. Anything more, at this point, is a frivolous waste of taxpayer dollars and an abuse of the public trust.

Mr. Chairman, I thank the gentleman from Kentucky for yielding this time to me to make this statement.

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Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of full funding for export-promotion efforts.

Mr. Chairman, first, I want to sincerely commend the gentleman from Iowa, Chairman SMITH and his colleague from Kentucky, Mr. ROGERS, on the fine job they have done in putting together this appropriations measure. But in particular, I want to applaud them for the support this bill provides to the export promotion programs of the Department of Commerce.

H.R. 2608 provides $194.9 million for the International Trade Administration. That is an increase of $7.8 million over the level approved last year. As the Government's lead agency for export promotion, it is critical that ITA and its components, including the U.S.-Foreign Commercial Service be adequately funded. This bill does that.

Why should we be concerned about exports? The answer in one word—Jobs. It is estimated that 23,000 American jobs are created for every $1 billion in U.S. exports.

U.S. goods and services have consistently had a broad appeal abroad. But if we are going to translate that appeal into jobs, American firms have to do the planning, market research, develop overseas contacts, prepare their products for export, and make the sale. The ITA and the U.S. and Foreign Commercial Service can be integral to helping American firms do those things.

Each year, trade specialists from the Department of Commerce conduct more than 125,000 individual counseling sessions with American companies considering exporting their products to other countries. As a result, thousands of companies of all sizes are aided in making their first sales overseas.

The International Trade Administration is a vastly more effective agency as a result of its efforts over the last 2 years. The U.S. and Foreign Commercial Service has made significant progress toward implementing the recommendations contained in their strategic review which identified exporter's needs. The funding provided in this bill will help ensure that there is continued progress.

I have seen first-hand the challenges facing American firms as they attempt to do business abroad. I have also seen the positive impact professionals at the ITA and U.S. and FCS can have in assisting U.S. firms to meet those challenges.

Once again, I want to commend Chairman SMITH, Mr. ROGERS, and their colleagues on the Appropriations Committee for their support of Department of Commerce export promotion efforts. At the same time, I would urge House conferees to stand firm in support of this funding level when the bill goes to conference.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 2608, the Commerce-Justice-State appropriations bill for fiscal year 1992. I commend the Appropriations Committee for their efforts, especially the work of subcommittee chairman, NEAL SMITH and ranking member, HAL ROGERS.

As we all know, the National Institute of Standards and Technology is the agency in the Department of Commerce with the unique mission to aid American firms in bolstering their international competitiveness. It is also a world-class center for science and engineering research. NIST is headquartered in my district in Gaithersburg, MD.

Mr. Chairman, the Appropriations Committee has provided NIST with $237.7 million for fiscal year 1992. However, I am concerned about the funding for NIST's intramural programs. The heart of all NIST programs is the core research developed in the intramural area. This core research is directed toward enhancing U.S. competitiveness both nationally and internationally. The authorizing committee's Subcommittee on Technology and Competitiveness concluded in our report that not only are the intramural programs extremely valuable, but their funding levels must be sufficient to allow NIST to fulfill its goals. In addition, the importance of the intramural programs was underscored by several witnesses at our subcommittee hearings.

Perhaps Dr. John P. McTague, vice president of Ford Motor Co. reflected most succinctly the sentiments of the various witnesses when he stated that:

> The NIST intramural research program is a national jewel on which industry justifiably relies. The first priority * * * should be to support NIST's in-house research and services. [A]ny new NIST assignments must also be accompanied by adequate new resources, not at the expense of the laboratory based programs.

Mr. Chairman, I thank the Appropriations Committee for their past contributions and I would urge the committee to continue their full support of NIST and, in particular, the intramural programs.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. WHITTEN] the chairman of the committee.

Mr. WHITTEN. Mr. Chairman, I call attention to the fact that our subcommittee chairman, the gentleman from Iowa [Mr. SMITH], and the ranking minority member, the gentleman from Kentucky [Mr. ROGERS], and members of this subcommittee deserve a lot of credit for their leadership in the difficult job of putting together a good bill. I join with my fellow subcommittee members in support of the bill.

This bill provides increases for the major crime fighting and drug enforcement agencies of the Government—the Federal Bureau of Investigation, the Drug Enforcement Administration, and the prison system. The bill includes increases for the judiciary. While we may not provide all some would like for these important programs, we did the best we could under the budget ceiling. I continue to believe we should handle a national emergency of this sort by taking it out from under budget ceilings as the President has in other areas.

The bill includes funds for economic development and small business. We need these programs to help get out of the recession we are in and to help provide jobs for returning military personnel and defense industry workers.

Mr. Chairman, we also provide increases for the weather service.

Mr. Chairman, this is a good bill, and I urge it be adopted.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

As the ranking Republican on the Science Committee, I stand with some concern about some of the prioritization of the moneys that are within this bill that affect the science community.

For example, in the National Oceanographic and Atmospheric Administration, the programs under the jurisdiction of the Science Committees were cut in this appropriation bill by $176 million, short of the President's request and short therefore also of our committee's authorization.

The fact that the committee is looking for places to cut is not a concern to me, except they also pumped up some other areas that are nonscience. That gives me concern, because in the case of the Weather Service, the modernization program is where they took the big hits. They did so by cutting the new Doppler radar system by $40 million and weather satellites are reduced by $50 million and the new system to process and interpret all the highly advanced raw data is down by $34 million.

In other words, our ability to do environmental monitoring and Weather Service evaluation is being cut very, very seriously in this particular bill, and it is something of real concern.

Now, $31 million is taken out of the global change proposals by the administration, one of the major issues of concern to the administration, and it is cut here.

On the competitiveness side, while there is a 30-percent overall increase provided to the grant programs, the core programs at the National Institute of Standards and Technology are cut, and that is a real concern, because the people at NIST have just told me that if this appropriation is allowed to stand, they are going to have to RIF people in their core programs. These are the experts who allow us to make determinations about the technological developments that are taking place. If you begin to RIF those people, you have a problem.

Now, does that mean that no money is being spent in this area? No. What they have done in this particular bill, they have taken money out of the core programs and allocated it to a whole bunch of essentially targeted programs; so what you have is the National Textile Center, the Integrated Design and Manufacturing Sciences Program, and a number of programs like that which are earmarked in the bill at the expense of the core program. The core program drops, it earmarks the increase. That is no way to run science and research programs. In this particular case, it is being done at really the expense of the programs that are needed to keep this Nation technologically competitive; so I have a real concern about the priorities reflected in this bill.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS].

□ 1130

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Chairman, I rise to engage in a colloquy with the gentleman from Iowa [Mr. SMITH], chairman of the subcommittee.

Mr. Chairman, it is my understanding that in developing the funding levels for the nondrug units in the Department of Justice, the gentleman's intention was to establish levels of funding at 98.5 percent of current services. Is this correct?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, yes, that is correct, 98.5 percent of current services.

Mr. EDWARDS of California. Mr. Chairman, I understand that because of an inadvertent error in the presentation of the Department's budget, the current services estimate for the Antitrust Division was approximately $5 million below what it should have been. Is that the gentleman's understanding as well?

Mr. SMITH of Iowa. Yes, that is my understanding.

Mr. EDWARDS of California. Mr. Chairman, the impact of a $5 million reduction in funding would be truly devastating and would likely lead to substantial staffing cuts that would hamper effective antitrust enforcement. Because the present debate does not permit amendments to the bill on the floor, I would ask whether the gentleman will work with the Senate in conference to correct this shortfall in funding for the important activities for which the Antitrust Division is responsible.

Mr. SMITH of Iowa. Yes.

Mr. Chairman, since it was a mistake—and we would not have done it if it had not been a mistake—we will personally work to see that this error is rectified in some way, if we possibly can, in the conference.

Mr. EDWARDS of California. I thank the gentleman.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the bill and especially in support of funding for export promotion. I commend both the chairman, Mr. SMITH, and the ranking minority member, Mr. ROGERS, for recognizing the important role our Government must play in promoting exports.

The world is changing. Listen to any newscast and you hear the status of world financial markets, the international price of oil—it is the era of internationalism, of a world market, and the successful nations will be those who recognize this and adapt to it.

The U.S. and Foreign Commercial Service is the structure we have to assist U.S. companies interested or engaged in exporting. Their resources are small, too small in fact, when compared to the resources deployed by our trading partners and they need to be increased. This subcommittee recognizes the importance of the U.S. and Foreign Commercial Service and it has funded this organization and the International Trade Administration at the full request, minus the across-the-board cut.

The money in this appropriations bill, and hopefully the addition of a little more in conference, will move the Commercial Information Management System [CIMS], which is a complex computerized market information system, forward. This system has had major problems in the past. I serve as the ranking minority member of the Committee on Government Operations and we have conducted oversight of its effectiveness. The new Director General, Ms. Schwab, has made improving this system a priority and it has paid off.

Eighteen separate export promotion functions are being coordinated under the leadership of our Commerce Secretary, Robert Mosbacher. This administration is showing the commitment necessary to propel us forward in developing and implementing effective export policy. With this legislation, developed by my good friends Mr. SMITH and Mr. ROGERS, Congress is showing the commitment as well.

I urge support for passage of this legislation.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman for yielding.

Mr. Chairman, I would like to address a question to the chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH].

In the last Congress, the gentleman and the committee were willing to work with me and the Bureau in an effort to find an easy transition for the reorganization of the FBI office out in Montana, in Butte, MT. As a novel solution, the committee, the FBI, and my office worked on a test program to shift some additional FBI clerical responsibilities to Montana. It was decided that those additional responsibilities would be handled through a technology information center. The purpose was to take advantage of both the positive economic qualities of living in Montana, and particularly in Butte, and to help alleviate the costly training and turnover problems faced by other urban FBI offices.

The FBI has told me and folks out in Montana as well that the test has been an unqualified success, and it is their intention to continue the technology assistance that the center has provided.

My question to the gentleman is: Is the gentleman aware of this success and does the legislation that we are considering today allow that center in Montana to continue to operate?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, to start with, I am aware of the success at Butte. I have been told it is a very successful test. I assure the gentleman that the FBI has been treated in this bill better than most of the other agencies, so that they have the money to continue current services and this should give them enough money to continue this project.

Mr. WILLIAMS. I thank the gentleman for yielding to me and particularly the gentleman from Iowa [Mr.

SMITH]. I want to congratulate him, and I want him to know how much in Montana we have appreciated his attention to that technology information center in Montana.

Mr. SMITH of Iowa. I thank the gentleman.

Mr. ROGERS. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Chairman, I take this time to address a concern that Americans living abroad have conveyed to me in regard to the rumored closing of the U.S. consul office in Geneva, Switzerland. As we all know, the front line of our trading and international commerce is done, for the most part, by Americans living abroad. Many of our citizens in faraway places need the services of the consulate offices around the world for the purpose of addressing their concerns.

I am advised that there has been no official request by the State Department or the Congress to close the U.S. consul office in Geneva and that there is no information that that is to be forthcoming.

However, letters which I have received from concerned Americans living in and around Geneva, Switzerland, indicate to the contrary. I will read those letters into the record and get permission when the committee goes back into the whole House, to insert copies of those letters into the RECORD.

But it is to be noted by the Members today that certain U.S. officials in Geneva are making statements that the office will close, and there has been no notice to the Congress that there is an intention to close the Geneva office.

Mr. Chairman, statements of this nature are in violation of the policy which must include notice to the Congress of intentions, in order to give this institution the opportunity to act upon that request.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. I thank the gentlemen for yielding.

Mr. Chairman, I rise for the purpose of entering into a colloquy with regard to pages 51 and 52 of the committee report where it is stated that the committee has included $1.4 million for the Commerce Department to enter into a contract with the National Academy of Sciences for the study of decennial census methods.

As you know, the Committee on Post Office and Civil Service has authorizing jurisdiction over the Census Bureau and census programs generally.

We have been carrying out a comprehensive census evaluation of the 1990 census and are planning for the year 2000.

So, in order to clarify the intent of the statements on pages 51 and 52 of the committee report, am I correct in saying that it is not the intent of the Committee on Appropriations, notwithstanding those statements on pages 51 and 52 of the report, to interfere with the appropriate jurisdictions of the authorizing committee?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, it is not our intent to interfere with the jurisdiction of the authorizing committee. I do want to add this, however. We think the authorizing committee has done a very good job with regard to census, and has tried very hard to exercise oversight over the census. We know that the authorizing committee is aware, as we are aware, that the next census has to be a lot better than this one. We have to start immediately to work toward the 2000 census, to get a better method of obtaining a more accurate count. We appreciate what the gentleman is doing in that regard. I think this expresses our great concern that Census Bureau start as soon as possible to get a better method of handling the next census.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Kentucky.

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Chairman, let me commend the gentleman from Ohio [Mr. SAWYER] for the fine work that he and his ranking Republican on the subcommittee, the gentleman from Pennsylvania [Mr. RIDGE], have done in oversight in the recent months of the Census Bureau.

□ 1140

Of course the gentleman from Ohio [Mr. SAWYER] was not around back there in the early 1980's when the planning for the 1990 census took place and was the critical period of time. We are in that critical period of time now on the year 2000 census, and that is why we must act, as the gentleman is doing, expeditiously. There is no intent to interfere with the jurisdiction of the gentleman's subcommittee.

I would say this: As the gentleman from Ohio [Mr. SAWYER] is aware, the Commerce Department has contracted with the National Academy of Science numerous times, even on the census and various other things over the years without the authority of the Congress, and that is within their authority to do so, but there is no intent to interfere with the committee's jurisdiction.

Mr. SAWYER. Mr. Chairman, I thank the gentleman from Iowa [Mr. SMITH], the chairman, and the gentleman from Kentucky [Mr. ROGERS], the ranking member, of the appropriating committee, and I look forward to our genuine teamwork as we seek to accomplish the goals described.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise, today, to thank the committee for reviewing and including Palm Beach County's innovative Substance Abuse Awareness Program as a part of the Correctional Options Grant Program.

Alternatives to incarceration such as the boot camp prison approach have long been discussed as a practical and viable approach to mainstreaming prison populations that are often overcrowded and plagued with drugs.

Palm Beach County sheriff's office has worked relentlessly to address this problem in Florida. I am pleased to see that the committee has seen the merit of this approach as well.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend both the minority members of the committee and the majority members of the committee and the staff on both sides for working on this bill. This has been the most difficult bill we have ever had to try to put together because admittedly we just simply did not have enough time to do the things that need to be done in many of these areas. That is the reason we have had to hold domestic agencies, by and large, to 98.5 percent of current services levels. I think that this is truly a subcommittee bill. It is not the product of any one or any two members, but we have done the best we can to reach consensus on what we could do with the amount of money that was available.

Mr. Chairman, I want to commend all the staff, and the minority and majority members for the work on this bill.

Mr. Chairman, I yield back the balance of my time.

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Again let me say to the Members our thanks to the gentleman from Iowa [Mr. SMITH], our chairman, who has been very fair with every member of the subcommittee on both sides of the aisle and with all Members of this body while attempting a really tight-wire act in trying to find the money for the vital programs in this bill. Came up short here and there, but, by and large, it is a masterful job. So, let me thank the gentleman from Iowa [Mr. SMITH] and all the members of the subcommittee and our staff on both sides.

Mr. Chairman, I yield back the balance of my time.

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 2608, fiscal year 1992 appropriations for the Department of Justice, Commerce, and State, the Judiciary, and related agencies.

This bill provides funding for some of the most important Cabinet agencies in Government. Its scope spans the veritable alphabet soup of independent agencies as well—FTC, FCC, SEC, ITC.

It's an important bill, and in bringing it to us today, Chairman [Mr. SMITH] and the gentleman from Kentucky, [Mr. ROGERS] have done an admirable job under difficult circumstances.

The allocation precluded us from funding the majority of programs at levels as high as we would have liked. But, to the maximum extent possible, the subcommittee has safeguarded our fiscal year 1991 program levels. making adjustments where possible for the administration's highest priorities.

And these are the committee's priorities as well: programs to fight drugs and crime; to bolster exports abroad; and to foster development of emerging technologies, helping us to sharpen this country's competitive edge.

Let me mention some of my other interests and concerns in this bill.

For the Justice Department, the bill provides $9.26 billion, unfortunately a decrease of $486 million below the administration's request, but still $769 million above last year's level. This title includes funding for the work of such important agencies as the Drug Enforcement Administration, the Federal Bureau of Investigation, the U.S. Marshals Service, and the Bureau of Prisons.

With the President's renewed emphasis on fighting crime and waging the war on drugs, our already overstrained prison capacity has been pushed even further. I have been impressed with the dedication of the hard-working professionals at the Bureau of Prisons, and I know they will use well the $2 billion we have provided in the bill.

Let me also iterate my interest in the Assets Forfeiture Program at Justice, which is fast providing itself an effective law enforcement tool as well as a source of revenues for law enforcement efforts.

The Commerce Department appropriation was one area in which I wished we could have provided more funding, but again, our allocation would not allow it. In particular, the request for the National Oceanic and Atmospheric Administration was reduced by $117 million, which could have unwanted consequences for weather service modernization. I am hopeful we can improve upon this provision in conference.

Language was also included providing $1.4 million for a National Academy of Sciences study of the decennial census process. I am confident this will lead to some suggestions for ways in which we can improve the 2000 census. Any error in the census—in design or in implementation—can have dire effects in a host of ways. I commend the gentleman from Kentucky for his insight in identifying shortcomings in the census and developing this useful examination leading toward an improved process.

I am also pleased that the committee was able to locate extra funds for Secretary Mosbacher's important export initiatives, bringing the total for the International Trade Administration to $194 million.

Critical to our competitive posture in the Northeast is this Nation's ability to export goods and services abroad. The Government is undertaking a number of vital export programs, including those at the Small Business Administration and its small business development centers. While it appears that SBA is the big winner in this bill, that is not the case.

Credit reform combined with unapproved legislative proposals to limit access to SBA programs through increased program fees and SBDC matching rates, necessitated provision of $250 million above the request. It is appropriate that we continue solid support of this Nation's small businesses, my continued priority in the Congress.

For the State Department we provided $3.8 billion, $20.6 million less than the request, but $520.6 million more than the current level. These will provide vital support for the conduct of our foreign policy, both here and abroad.

Finally, for the Judiciary, the bill provides $2.4 billion, an increase of $373 million over the current level.

Mr. Chairman, programs funded by this bill have an effect on each and every one of our citizens throughout the Nation. It deserves our support.

Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 2608, the fiscal year 1992 Commerce, Justice, State, and Judiciary appropriations bill. I would like to commend Chairman SMITH, Chairman WHITTEN, and the members of the committee for their hard work in bringing forth this legislation.

This legislation funds many important programs, including several National Oceanic and Atmospheric Administration [NOAA] programs in my congressional district. I would like to take a moment to describe these programs.

The bill appropriates $490,000 for the operation of the Center for Ocean Analysis and Prediction [COAP] in Monterey, CA. The COAP is part of NOAA's Center for Excellence Program and provides our Nation with pertinent marine information for national defense, maritime transportation, fishery management, weather forecasting, coastal zone management, and climate change research. I am very pleased that the committee has included this funding that will ensure the continued operation of this important NOAA Center.

The bill also includes $148,000 for the funding of two central California weather buoys. These provide fishermen and boaters with critically needed data on weather and ocean conditions along the often treacherous central California coast. They have helped to save boaters' lives in the past and their continued deployment will help to ensure mariner safety along the central coast in the future. At this point, I would like to note my concern that this legislation does not include funding for five additional weather buoys off the coast of California. These buoys, which are currently operated by the Minerals Management Service [MMS], are slated to lose their funding at the close of the current fiscal year. I understand that due to the severe budgetary constraints the committee was operating under, it was unable to fund the continued operation of these buoys. I am hopeful, however, that the funding for these important buoys may be obtained in the Senate and I look forward to working with my colleagues in the California delegation toward this goal.

Last, Mr. Chairman, I would like to commend the committee fo increasing the funding for the National Marine Sanctuary Program to a level of $4.75 million for fiscal year 1992. The National Marine Sanctuary Program is our Nation's only marine protection program and has enjoyed enormous success in protecting our unique marine resources and educating the public on the importance of preserving our sensitive marine ecosystems. I am pleased that the committee has included adequate funding for this program to ensure that the NOAA may designate and open new national marine sanctuaries, including the proposed Monterey Bay National Marine Sanctuary, in my congressional district.

In closing, Mr. Chairman, I would like to again thank Chairman SMITH and the members of the committee for their assistance in funding these important projects. I urge my colleagues to support the adoption of this measure.

Mr. SKELTON. Mr. Chairman, I would just like to commend the Appropriations Committee and the Subcommittee on Commerce, Justice, State, and the Judiciary for spelling out specifically that some of the general salary and expense funds that are provided to the SBA should be used to carry out rural initiatives that the Congress authorized In the Small Business Reauthorization and Amendments Act of 1990—Public Law 101–574. As the gentleman knows, when I asked the Small Business Administration to give me an update on their progress with regard to these programs, they said that funds had not been earmarked for them to carry out the law. It is my own feeling that such as earmark is not necessary and that the SBA should have been able to meet the requirements of the law out of the $274,000,000 that we provided them.

I do appreciate the support that the Appropriations Committee has shown in this bill by making it clear to the SBA that Congress is serious about rural small business development efforts and that the SBA should fund those programs that are authorized. I urge my colleagues to support business development in rural areas to vote in favor of this bill.

Mr. BROOMFIELD. Mr. Chairman, I want to express my strong support for the position approved by the Appropriations Committee on TV Marti. I believe there can be no better use of our funds than supporting the export of free information to a country that is not free.

I have been a Member of Congress for 35 years. For 32 of those 35 years, Cuba has been the victim of Castro's tyranny. The Cuban people are long overdue to breathe the winds of freedom that have swept the globe in the last few years. TV Marti is a vital element in our efforts to support the Cuban desire for democracy and freedom.

Opponents of TV Marti cite various studies and viewer estimates, but that is not the real issue—the real issue is whether we will continue to support using the airwaves to provide accurate information to the Cuban people.

We heard many of the same people making many of the same arguments against Radio Marti, but we now know how successful that program has been. We should not pull the rug out from under TV Marti just as there are signs that Castro's reign of terror may be on its last legs.

There is no doubt that Castro's jamming efforts have decreased the number of Cubans that have access to TV Marti. But just because Fidel Castro is so afraid of accurate news getting to his people that he tries to shut out TV Marti, we should not aid his efforts to half the flow of information.

We should ally ourselves with the Cuban people who want free information—not with Castro's information tyrants who want to control the news. We should ensure that TV Marti continues to broadcast and avoid Castro's stranglehold on information.

I hope this body will see the wisdom of supporting the free flow of information to Cuba and defeat this amendment.

Mr. RAHALL. Mr. Chairman, I am pleased to rise in support of the fiscal year 1992 Commerce, Justice, State, and Judiciary appropriations.

While I am not a strong supporter of every program funded in this bill, I will just briefly highlight those that are of importance to my constituency in the Fourth District of West Virginia.

I will lead off with praise and gratitude for the increased funding for the Economic Development Administration. The bill increases funding for the EDA by $69.3 million over last year's level, for a total of $246.3 million for fiscal year 1992.

The bill appropriates $2.7 billion for domestic programs administered by the Commerce Department, out of which the EDA funding will come. This level is $30 million more than current funding and $85 million more than the President requested. The increase reflects funding for programs the President sought to terminate or drastically cut, such as the economic development assistance programs and NOAA programs.

The continued rejection by Congress of President Bush's recommendation, and for 8 years President Reagan's similar recommendations, to cut or terminate the EDA is of personal gratification to me and the people I represent, who depend upon these funds. EDA is a self-help program, which means that States and localities use EDA Federal dollars to leverage other State and local funds for economic development purposes in areas of West Virginia that suffer from chronic unemployment. West Virginia's largest unemployment factor is known as worker dislocation or displacement, which is due in large part to plant closings caused by foreign competition, and more recently certain provisions of the Clean Air Act that affect coal mining; $215 million of the funds appropriated will go for economic development assistance, with a $10 million cap on economic development loan guarantees.

At a time when we are struggling to obtain sufficient funds to meet our crumbling infrastructure needs, EDA funding will help by funding such projects as waste water treatment, business incubators, health care facilities, industrial parks, vocational schools—all of which lead to the creation of new jobs and long-term development opportunities and projects.

The NOAA appropriation includes funding of, among other things, the National Weather Service. With the proposed closing of two weather stations in my district, it is my hope and expectation that, until the Government is absolutely certain that the loss of such weather stations will not affect adversely the ability of airport facilities to operate in a safe manner, these funds can be used to keep those facilities open and operating in the interest of public safety.

Another program of interest to me is the Legal Services Corporation, a Government-sponsored entity that provides pro bono legal services for individuals who are too poor to afford adequate legal assistance of any kind when they need it. The bill appropriates $335 million for LSC in fiscal year 1992, which is $7 million more than last year's level. Much is said and written about the LSC, and the rhetoric is aimed at the complete and total dismantlement of the program. I hope and expect that this will never come to pass, since the services provided to Americans at no cost assures them of the constitutional right to due process and competent counsel in all legal matters that affect them. We take it for granted ourselves—the ability to get a lawyer for our legal problems—but there are millions of Americans who do not and cannot take legal assistance for granted, because they have no spendable income that can be used for that purpose.

Finally, Mr. Chairman, this bill like other appropriations bills that have come before us this year contains language prohibiting the use of funds to implement the Chief Financial Officer Act of 1990. I hope that this reluctance to fund the CFOA will be resolved soon, and to the satisfaction of all since it was intended to help guard against Government waste, fraud, and abuse.

I realize that with the budgetary constraints we find ourselves laboring under, we do well to find funds enough for our domestic needs, and the argument goes that we should not spend those scarce funds on another layer of bureaucracy. Perhaps so. But we should make all efforts to prevent Government waste, fraud, and abuse that leads to further loss of revenues. If the CFOA will help us more in that direction, and if funds can reasonably be found to implement it, it ought to be done.

Mr. Chairman, I reiterate my support for this appropriations bill which contains many programs of value to the economic development and continued well-being of my district, my State, and the Nation. I urge its adoption.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 2608, the Department of Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill for fiscal year 1992. This is the sixth of the 13 annual appropriations bills.

The bill provides $20.653 billion in discretionary budget authority and $20.613 billion in discretionary outlays. I am pleased to note that the bill is $262 million below the level of discretionary budget authority and equal to the discretionary outlays as compared to the 602(b) spending subdivision for this subcommittee. Also, the bill, as reported, is $7 million below the international discretionary outlays and $1 million in defense discretionary outlays as compared to the 602(b) subdivision for this subcommittee.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the Appropriations Committee on its other bills.

COMMITTEE ON THE BUDGET,
Washington, DC, June 12, 1991.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 2608, the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill for Fiscal Year 1992. This bill is scheduled to be considered on Thursday, June 13.

This is the sixth regular Fiscal Year 1992 appropriations bill to be considered. The bill is $262 million on domestic discretionary budget authority below the 602(b) spending subdivision and equal to the outlay subdivision.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

FACTSHEET.—H.R. 2608, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102–106)

The House Appropriations Committee reported the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill for Fiscal Year 1992 on Tuesday, June 11, 1991. This bill is scheduled for floor action on Thursday, June 13.

COMPARISON TO THE 602(B) SUBDIVISIONS

The bill, as reported, provides $20,653 million in total discretionary budget authority, $262 million below the Appropriations subdivision for this subcommittee.

COMPARISON TO DOMESTIC DISCRETIONARY SPENDING ALLOCATION

The bill, as reported, $15,428 million of domestic discretionary budget authority, $262 million less than the Appropriations subdivision for this subcommittee. The bill is the same as the subdivision total for estimated discretionary outlays. A comparison of the bill with the funding subdivisions follows:

[In millions of dollars]

	Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	15,438	15,540	15,690	15,540	−262	....

[In millions of dollars]

	Commerce, Justice, and State, the Judiciary, and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Mandatory[1]	902	890	902	890		
Total	16,330	16,430	167,592	16,430	−262	

[1] Conforms to the budget resolution estimates for existing law.
Note: BA—New budget authority. O—estimated outlays.

COMPARISON TO INTERNATIONAL DISCRETIONARY SPENDING ALLOCATIONS

The bill, as reported, provides $5,000 million of international discretionary budget authority for the State Department and related activities, the same as the Appropriations subdivision for this subcommittee. The bill is $7 million under subdivision total for estimated discretionary outlays.

COMPARISON TO DEFENSE DISCRETIONARY SPENDING ALLOCATIONS

The bill, as reported, provides $225 million of discretionary budget authority for the ready reserve force within the Department of Transportation Maritime Administration, the same as the Appropriations subdivision for this subcommittee. The bill is $1 million under the subdivision total for estimated discretionary outlays.

The House Appropriations Committee reported the Committee's subdivisions of budget authority and outlays in House Report 102-81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

PROGRAM HIGHLIGHTS

The following are the major program highlights for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill for FY 1992, as reported:

[In millions of dollars]

	Budget authority	New outlays
Justice Department:		
Office of Justice Assistance	665	146
General administration	110	99
General legal activities	380	330
Japanese American reparation payments (mandatory)	500	500
Antitrust Division	43	35
U.S. attorneys	721	634
U.S. trustees	68	57
U.S. marshals	314	282
Support of U.S. prisoners	218	131
Organized Crime Drug Enforcement Task Force	363	280
Federal Bureau of Investigations	1,867	1,493
Drug Enforcement Administration	706	530
Immigration and Naturalization, salaries and expenses	947	758
Federal Prison System, salaries and expenses	1,637	1,474
Federal Prison System, buildings and facilities	415	42
Commerce:		
National Institute of Standards and Technology	238	154
National Oceanic and Atmospheric Administration; operation, research and facilities	1,416	867
Bureau of the Census	295	257
International Trade Administration	195	136
Patent and Trademark Office	92	51
Economic Development Administration, programs	215	21
EDA, salaries and expenses	28	25
The Judiciary:		
Court of Appeals, District Courts and other judicial services	1,947	1,792
Defender services	185	176
Court security	83	54
Administrative Office of the Courts	45	40
Federal Judicial Center	19	15
Equal Employment Opportunity Commission	210	186
Legal Services Corporation	335	295
Securities and Exchange Commission	157	143
Federal Maritime Administration	296	164
Small Business Administration, salaries and expenses	221	162
SBA Business Loans Program Account	270	233
SBA Disaster Loans Program Account	115	69
State Department:		
Salaries and expenses	2,022	1,658
Acquisiton and maintenance	553	104
Contributions to international organizations	867	867
Contributions for international peacekeeping activities	109	109
U.S. Information Agency	1,060	764

Mr. LEVIN of Michigan. Mr. Chairman, I want to commend Chairman SMITH for finding the resources to fund the programs of the International Trade Administration, especially given our current fiscal constraints. I particularly applaud the $2.2 million funding increase for the U.S. Foreign Commercial Service.

But I worry about the impact that across-the-board cuts could have on critical export-promotion programs, especially the USFCS.

Exports, especially U.S. manufacturing exports, are critical to this country's future economic well-being. But many of our small- and medium-sized businesses find it difficult to establish a foothold in foreign markets. And in some important markets, there is scant evidence of an American presence of any kind.

I learned this 2 years ago on a congressional study mission to the booming capital cities of Southeast Asia. Everywhere we went, American exporters told the same story: Americans are losing ground. At that time, Indonesia, a country of 180 million with a growing appetite for goods and services, was served by only three FCS officers.

Even today, as the ITA tries to beef up its staffing, the American Government effort pales in comparison to our competitors for Asian markets, particularly the Japanese. In Indonesia, we have only three FCS officers; in Thailand we have only two.

The ITA this year announced a series of programs for Eastern Europe that take a step in the right direction—at least in that part of the world. Through these programs, the Government becomes a facilitator for small- and medium-sized American firms that seek to do business in new markets but may not have the resources to take the first, difficult steps.

The American Business Center, which will be set up in Warsaw, will provide technical business services and temporary office space to the U.S. business community. The consortia of American businesses in Eastern Europe provides grant funds for the formation of consortia of American business in Eastern Europe. The consortia will provide promotional, marketing and trade services to their members.

I introduced legislation last year to create pilot programs that were similar to the ITA initiatives. My bill would have gone further by establishing United States commercial centers in Eastern Europe, Asia, and Central America. Because of the importance of continuing America's import growth—especially in markets like Asia—I plan to reintroduce this legislation shortly.

We must continue to bolster and expand the programs of the ITA. Any such funding is an investment in our country's future.

Mr. GILMAN. Mr. Chairman, I rise to express my strong support for the National Endowment for Democracy.

The National Endowment for Democracy is a privately incorporated nonprofit organization with an independent board of directors. Created in 1983, the endowment works to strengthen democratic institutions around the world through its international grants program.

In March 1991, as a result of a Congressional mandate, the General Accounting Office [GAO] published a review of the endowment's programs and operations, stating that the endowment has not given adequate attention to systematically planning program objectives and program results.

The endowment has responded by initiating the development of a comprehensive program of evaluation that will be integral to all aspects of the endowment operations.

Through the creation of this program, the endowment informs me that they will be able to adequately evaluate and coordinate its programs. Furthermore, the endowment plans to strengthen financial control by improving its audit coverage and devoting increased attention to implementing its monitoring procedures.

Throughout its history, the National Endowment for Democracy has made significant and vital contributions toward the promotion of democracy worldwide. While the GAO report has identified areas needing improvement, the endowment should be allowed to adjust and improve, and not be closed down.

The withdrawal of endowment funds would mean the abandonment of fledgling democracies that depend on the endowment for assistance.

In closing, I would like to quote President Arias of Costa Rica:

> I offer the National Endowment for Democracy and all those involved in its lofty purposes all of my support and solidarity. Only by joining our wills and our efforts throughout the entire world and particularly in the countries of our Americas will it be possible to safeguard and strengthen the principles of peace and justice upon which democracy is founded.

Mr. Chairman, I strongly support the endowment and urge my colleagues to support it as well.

Mr. BACCHUS. Mr. Chairman, I strongly support the $14.2 million in fiscal year 1992 funding for TV Marti that is included in H.R.

2608, the Commerce-Justice-State appropriations bill.

This appropriation for TV Marti is an important step toward ensuring that the democratic movement that has swept Eastern Europe, Latin America, and other parts of the globe reaches Cuba as well. We cannot and must not tolerate one of the world's last totalitarian regimes so close to our own shores.

I am convinced that Fidel Castro will go the way of Ceausescu, Honecker, and other despots if we continue to show and tell the Cuban people that there is a better way. Castro's government is facing greater difficulties than at any time since his revolution of New York's Day 1959. The Soviet Union is reducing oil supplies and monetary subsidies. Trade with Eastern Europe has dried up. The Cuban people are traveling by bicycles and oxen in the cities and rationing food in the countryside. Surely they yearn for freedom and a better standard of living. Surely Castro's grip is slipping.

TV Marti is an integral part of our efforts to hasten Castro's fall from power. It can deliver uncensored news and information across 120 miles of open ocean into Havana. Because of TV Marti, the Cuban people have been able to learn about democratic change elsewhere in the world and about how much better their lives can be if they follow.

Cuba has claimed that it is successfully jamming TV Marti. However, a recently defected Soviet communication technician on assignment in Cuba stated just the opposite. These jamming efforts also are taking up costly resources and making the country's economic hardships even more extreme. These efforts also point out just how isolated and desperate Castro is at a time when the Soviet Union and his former East bloc allies are championing the free flow of ideas and ceasing their attempts to jam Radio Liberty, Radio Free Europe, and VOA broadcasts.

Mr. Chairman, Fidel Castro will fall. The question is when. We must do all we can to make sure that he falls sooner rather than later. We must use every means to increase the pressure on him. We must fund TV Marti.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 2608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE AND RELATED AGENCIES

DEPARTMENT OF JUSTICE

Office of Justice Programs

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, $88,876,000, to remain available until expended, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, including salaries and expenses in connection therewith, $493,000,000, to remain available until expended, of which: (a) $450,000,000 shall be available to carry out subpart 1 and chapter A of subpart 2 of part E of title I of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, as authorized by section 2801 of Public Law 101-647 (104 Stat. 4912); (b) $25,000,000 shall be available to carry out chapter B of subpart 2 of part E of title I of said Act, for Correctional Options Grants, as authorized by section 1801(e) of Public Law 101-647 (104 Stat. 4849); (c) $1,000,000 shall be available to carry out part N of title I of said Act, for Grants for Televised Testimony of Child Abuse Victims, as authorized by section 241(c) of Public Law 101-647 (104 Stat. 4814); and (d) $17,000,000 shall be available to the Director of the Federal Bureau of Investigation for the National Crime Information Center 2000 project, as authorized by section 613 of Public Law 101-647 (104 Stat. 4824): *Provided*, That $25,000 of the funds made available to the State of Arkansas in fiscal year 1992 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, shall be provided to the Arkansas State Police for high priority drug investigations.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $76,000,000, to remain available until expended, as authorized by section 261(a), part D of title II, of said Act (42 U.S.C. 5671(a)), of which $3,500,000 is for expenses authorized by section 281 of part D of title II of said Act.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Victims of Child Abuse Act of 1990, $2,000,000, to remain available until expended, as authorized by sections 218 and 254 of Public Law 101-647 (104 Stat. 4796 and 4815), of which $1,000,000 is for expenses authorized by subtitle A of title II of said Act, and of which $1,000,000 is for expenses authorized by subtitle G of title II of said Act.

In addition, $4,885,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1991, through September 30, 1992, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided*, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1992, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1992, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340) and section 1301(b) of Public Law 101-647 (104 Stat. 4834).

General Administration

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $109,925,000.

WORKING CAPITAL FUND

(INCLUDING TRANSFER OF FUNDS)

Of the total income of the Working Capital Fund in fiscal year 1992 and each fiscal year thereafter, not to exceed 4 percent of the total income may be retained, to remain available until expended, for the acquisition of capital equipment and for the improvement and implementation of the Department's financial management and payroll/personnel systems: *Provided*, That in fiscal year 1992, not to exceed $4,000,000 of the total income retained shall be used for improvements to the Department's data processing operation: *Provided further*, That any proposed use of the retained income in fiscal year 1992 and thereafter, except for the $4,000,000 specified above, shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act.

In addition, for fiscal year 1992 and thereafter, at no later than the end of each fiscal year, unobligated balances of appropriations available to the Department of Justice during such fiscal year may be transferred into the Working Capital Fund to be available for the acquisition of capital equipment and for the improvement and implementation of the Department's financial management and payroll/ personnel systems.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $27,893,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

United States Parole Commission

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $9,855,000.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $379,804,000, of which not to exceed $5,973,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1993: *Provided*, That of the funds available in this appropriation, not to exceed $35,213,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and expenses", General Administration.

In addition, for expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,000,000 to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

In addition, section 245A(c)(7) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1255a(c)(7)), as amended, is further amended by inserting after subsection (B) a new subsection as follows:

"(C) IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES.—Not to exceed $3,000,000 of the unobligated balances remaining in the account established in subsection (B) shall be available in fiscal year 1992 and each fiscal year thereafter for grants, contracts, and cooperative agreements to community-based organizations for outreach programs, to be administered by the Office of Special Counsel for Immigration-Related Unfair Employment Practices: *Provided*, That such amounts shall be in addition to any funds appropriated to the Office of Special Counsel for such purposes: *Provided further*, That none of the funds made available by this section shall be used by the Office of Special Counsel to establish regional offices.".

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $53,045,000 of which an estimated $10,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1992 appropriation of $43,045,000: *Provided*, That fees made available to the Antitrust Division shall remain available until expended, but that any fees received in excess of $10,000,000 in fiscal year 1992 shall not be available for obligation until fiscal year 1993.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, $720,737,000, of which not to exceed $5,000,000 shall be available until September 30, 1993, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs; of which not to exceed $1,200,000 shall remain available until expended for the development of office automation capabilities to the Project EAGLE system: *Provided*, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $67,520,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided*, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $843,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $313,847,000, including purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; of which not to exceed $11,723,000 for the renovation and construction of Marshals Service prisoner holding facilities shall be available until expended, and of which not to exceed $6,000 shall be available for official reception and representation expenses.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $218,125,000, to remain available until expended; of which not to exceed $15,000,000 shall be available under the Cooperative Agreement Program.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $92,797,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; and of which not to exceed $1,008,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $27,343,000, of which not to exceed $19,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act: *Provided further*, That to expedite the outplacement of eligible Mariel Cubans from Bureau of Prisons or Immigration and Naturalization Service operated or contracted facilities into Community Relations Service hospital and halfway house facilities, the Attorney General may direct reimbursements to the Cuban Haitian Entrant Program from "Federal Prison System, Salaries and Expenses" or "Immigration and Naturalization Service, Salaries and Expenses": *Provided further*, That if such reimbursements described above exceed $500,000, they shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $100,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $363,374,000, of which $50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in the succeeding fiscal year, subject to the reprogramming procedures described in section 606 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 3,364 passenger motor vehicles of which 2,299 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,866,832,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1993; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,054 passenger motor vehicles of which 730 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $706,286,000 of which not to exceed $1,800,000 for research shall remain available until expended; and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment, shall remain available until September 30, 1993; and, of which not to exceed $6,000,000 shall remain available until expended for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for a new aviation facility: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 415, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $947,041,000, of which not to exceed $400,000 for research and $17,097,000 for construction shall remain available until expended: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $5,000 shall be available for official reception and representation expenses.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 374 of which 122 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $1,637,299,000: *Provided*, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $40,000,000 for the activation of new facilities shall remain available until September 30, 1993.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $10,221,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $415,090,000, to remain available until expended, of which $3,497,000 shall be available for construction and renovation costs at the Immigration and Naturalization Service Processing Center at El Centro, California: *Provided*, That labor of United States Prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act: *Provided further*, That not to exceed $14,000,000 shall be available to construct areas for inmate work programs.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,248,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. A total of not to exceed $31,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) During fiscal year 1992 with respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading of "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration for fiscal year 1992, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1992—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later.

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

Sec. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

Sec. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

Sec. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

Sec. 106. Pursuant to the provisions of law set forth in 18 U.S.C. 3071–3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

Sec. 107. Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.

RELATED AGENCIES

Commission on Civil Rights

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $7,159,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities authorized by section 5 of Public Law 98–183: *Provided*, That not to exceed $20,000 may be used to employ consultants: *Provided further*, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), and the Americans with Disabilities Act of 1990, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); non-monetary awards to private citizens; not to exceed $25,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, and the Americans with Disabilities Act of 1990, $209,875,000: *Provided*, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

Federal Communications Commission

SALARIES AND EXPENSES

For total obligations of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901–02); not to exceed $450,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $67,929,000 of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1993, for research and policy studies; and of which not to exceed $1,000,000 shall be collected for work performed for agencies.

Federal Maritime Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 U.S.C. app. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $17,317,000: *Provided*, That not to exceed $2,000 shall be available for official reception and representation expenses.

Federal Trade Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $78,892,000 of which an estimated $10,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1992 appropriation of $68,892,000: *Provided*, That fees made available to the Federal Trade Commission shall remain available until expended, but that any fees received in excess of $10,000,000 shall not be available for obligation until fiscal year 1993.

Securities and Exchange Commission

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $157,485,000 of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions; and of which not to exceed $100,000 shall be available for expenses for consultations and meetings with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel or transportation to or from such meetings, and (iii) any other related lodging or subsistence.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100-690 (102 Stat. 4466-4467)), $13,347,000, to remain available until expended: *Provided*, That not to exceed $2,500 shall be available for official reception and representation expenses.

This title may be cited as the "Department of Justice and Related Agencies Appropriations Act, 1992".

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that title I, through page 33, line 12, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order with regard to title I?

Are there any amendments?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $173,942,000, to remain available until expended, of which not to exceed $6,541,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $10,340,000 shall be available for construction of research facilities.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Regional Centers for the Transfer of Manufacturing Technology and the Advanced Technology and State Extension Services Programs of the National Institute of Standards and Technology, $63,713,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,381,550,000 to remain available until expended, of which $542,000 shall be available for operational expenses at the Fish Farming Experimental Laboratory, Stuttgart, Arkansas, and of which $394,000 shall be available only for a semitropical research facility located at Key Largo, Florida; and in addition, $34,858,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. App. 2205(d); and in addition, $69,738,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries". Of the amount appropriated under this heading in Public Law 101-515 and carried over into fiscal year 1992, $995,000 shall be available only for a grant for the construction of facilities for the Seafood Consumer Center, Incorporated, Astoria, Oregon.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 35, line 1 of the bill, strike "$995,000" and insert in lieu thereof "$1,995,000".

Mr. SMITH of Iowa. Mr. Chairman, this just makes a technical correction in a program earmarked in the bill. This does not add or subtract money in the bill. It increases the amount from the carryover of funds which is earmarked for a specific project and I ask that it be adopted.

Mr. ROGERS. Mr. Chairman, I rise in support of the amendment of the gentleman from Iowa [Mr. SMITH].

Mr. Chairman, I understand this has no impact on the bill totals, and we have had a chance to examine it and have no objection.

Mr. WALKER. Mr. Chairman, I move to strike the last word and do so to ask a couple of questions.

Since this is coming out of the operations research and facilities moneys that are in the National Oceanographic and Atmospheric Administration, the gentleman is adding $1 million to an earmarked program. Is that a million dollars then that is coming out of the core research program at NOAA that further diminishes their ability?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. No, Mr. Chairman, it comes out of the unobligated balance carrying over into fiscal year 1992, and the reason for this is that we did not have full information at the time of the committee markup, but there is a contract that cannot be let unless it is let for the contract for the full amount. The grantee cannot let part of the contract.

Mr. WALKER. Mr. Chairman, I undestand that, but my concern is that the gentleman from Iowa [Mr. SMITH] is adding a million dollars out of fairly tight funds.

Mr. SMITH of Iowa. Out of the unobligated balance.

Mr. WALKER. Out of what unobligated balance?

Mr. SMITH of Iowa. The fiscal year 1991 unobligated balance.

Mr. WALKER. So, Mr. Chairman, this is 1991 money that is being transferred over to 1992. It is not coming out.

Mr. SMITH of Iowa. It is an unobligated balance carried over and we need to give NOAA the authority to make the grant and enough funds for the guarantee to enter into the full contract.

Mr. WALKER. However, Mr. Chairman, I have the gentleman's assurance that none of this money will come out of the core programs of NOAA's research.

Mr. SMITH of Iowa. That is correct, Mr. Chairman. This money should come from a wide variety of NOAA programs other than basic research.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Iowa.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. SMITH].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 6209 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), $6,000,000 for projects and grants authorized by 16 U.S.C. 1455, 1455a, and 1455b, notwithstanding the provisions of 16 U.S.C. 1456a(b)(2).

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, as amended, $250,000, to remain available until expended, shall be made available as authorized by said Act.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,281,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $1,000,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100-627), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,996,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $1,400,000: *Provided*, That during fiscal year 1992 total commitments to guarantee loans shall not exceed $14,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,000,000 which may be transferred to and merged with Operations, Research, and Facilities.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $30,611,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $14,913,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $123,009,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $172,357,000, to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $38,921,000.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $194,875,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further*, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $25,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $38,777,000, to remain available until expended: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $40,880,000 of which $24,941,000 shall remain available until expended: *Provided*, That not to exceed $15,939,000 shall be available for program management for fiscal year 1992.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 501, 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for representation expenses abroad; $15,249,000, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $91,887,000 of which $90,340,000 shall be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided*, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $4,318,000.

INFORMATION PRODUCTS AND SERVICES

Notwithstanding sections 212 (a)(1)(B) and (a)(3) of Public Law 100-519, there may be credited to this account not to exceed $1,000,000 for modernization, including operating expenses.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $15,861,000, to remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $22,428,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided*, That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further*, That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances under this heading may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants under the Trade Adjustment Assistance Program, as authorized by 19 U.S.C. 2024, and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $214,923,000: *Provided*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That during fiscal year 1992, the Economic Development Administration shall not make any changes in the individual grant amounts made to university centers in fiscal year 1991 except on the basis of failing to conform to the EDA grant agreements in place for fiscal year 1992 from the grant amounts made to such centers in fiscal year 1991: *Provided further*, That any reduction in an individual grant amount to a university center from the fiscal year 1991 level shall be subject to the reprogramming procedures stated in section 606 of this Act.

ECONOMIC DEVELOPMENT GUARANTEED LOANS

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Public Works and Economic Development Act of 1965, as amended, $1,549,000: *Provided*, That during fiscal year 1992 total commitments to guarantee loans shall not exceed $10,000,000 of contingent liability for loan principal. In addition, for administrative expenses to carry out the guaranteed loan program, $1,614,000 which may be transferred to and merged with the Salaries and Expenses account of the Economic Development Administration.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $28,218,000: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1992, of which no more than two positions shall be designated as National Economic Development Representatives: *Provided further*, That such positions shall be maintained within an organizational structure that provides at least one full-time EDR in each State to which a full-time EDR was assigned as of December 31, 1987.

□ 1150

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WALKER. Mr. Chairman, beginning on page 43, line 5, through page 45, line 10, I raise a point of order that this section of the bill is in violation of clause 2 of rule XXI. It is both appropriations which are unauthorized and also legislation within an appropriations bill.

The CHAIRMAN. Does the gentleman ask unanimous consent that his point of order also lie against the two paragraphs which have not been read yet, the following two paragraphs?

Mr. WALKER. Mr. Chairman, I ask unanimous consent that it lie for all the information regarding the Economic Development Administration from page 43 through page 45, line 10.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Does the gentleman from Iowa [Mr. SMITH] desire to be heard?

Mr. SMITH of Iowa. Yes, Mr. Chairman, I do. We concede that it is not authorized.

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] concedes the point of order is valid.

Does the gentleman from Kentucky [Mr. ROGERS] wish to be heard?

Mr. ROGERS. Mr. Chairman, correct me if I am wrong, but is not the section dealing with the salaries and expenses authorized?

Mr. SMITH of Iowa. Mr. Chairman, the appropriation for salaries and expenses is authorized, but it is within the total paragraph and within the total program. Of course, if they do not have anything to administer, I suppose they will need some salaries and expenses, but not a whole lot.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. WALKER] insist on his point of order?

Mr. WALKER. I do insist on my point of order, Mr. Chairman.

The CHAIRMAN. That is against the third paragraph, as well, part of which is authorized?

Mr. WALKER. I insist on my point of order that that particular paragraph constitutes legislation in an appropriation bill, that in that particular case the "provided" clauses following it are legislation in an appropriation bill, so, therefore, that particular section is also outside the scope of the committee's jurisdiction.

Mr. SMITH of Iowa. Mr. Chairman, if this is the appropriate time, I will offer an amendment to the part that is authorized.

The CHAIRMAN (Mr. BROWN). The Chair must first rule on the point of order.

For the reasons stated by the gentleman from Pennsylvania [Mr. WALKER], the Chair sustains the point of order, and all three paragraphs are stricken.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Iowa: On page 44, line 16, insert the following:

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $28,218,000.

Mr. SMITH of Iowa. Mr. Chairman, this is the part that is authorized permanently, and I ask for a favorable vote on the amendment.

Mr. ROGERS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, let me say this: About 70 percent of this bill is not authorized, and that has been true now for several years. We have the Justice Department and the Federal Judiciary which are not authorized in the bill. We have the Commerce Department, a part of which has not been authorized, and there are various other parts of the bill that are not authorized.

This subcommittee has been asked to go ahead and do what we have to do, and that is to get something out of here even though the authorizing committees have not acted. In the past we got protection from the Rules Committee, realizing that we were trying to do something when it had to be done. The FBI, the DEA, and the Justice Department cannot wait around while we fiddle sticks up here. I would hope that the Members would recognize that.

I understand the rights of the gentleman from Pennsylvania, and that he feels an obligation on this particular EDA section, but I would hope that the Members would recognize what we are trying to do here, and that is to get a bill out of here for programs that are vital to this country when the authorizing committees have not acted.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I am happy to yield to the subcommittee chairman.

Mr. SMITH of Iowa. Mr. Chairman, I would agree with what the gentleman from Kentucky has said, that we would like to have had an authorization. There has been an authorization on the House floor, I think, at least once, if not two or three times, that passed overwhelmingly, but we were not able to get the Senate to agree. So we are including a program that the House has indicated in the past that it supported overwhelmingly.

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I simply take this time today to observe that the objection by the gentleman from Pennsylvania is a delaying tactic which will cause a delay by this committee in funding programs which will ultimately be authorized by the authorizing committee, programs which are very important to States like Arkansas and possibly Kentucky, and other States with which I am not as familiar as I am my own.

The kind of funding that may be in prospect from the action that we would have taken today, but for the objection, would fund programs that offer to create jobs in States where there is high unemployment. While there is always debate on the question of the value of any Federal program, we can demonstrate in Arkansas that never has the Federal Government lost any money by funding economic development programs. Just for the record, the money is spent to invest in industrial parks and in providing utilities for those parks which attract industries that provide jobs, the salaries from which go to repay the Government for its investment.

Mr. Chairman, I would simply like to state that at this time for the benefit of people who might be confused by this tactic. It is an effort to delay action provide jobs to the American people.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this has been an interesting discussion. First of all, I think that we must look at exactly what the amendment is that the gentleman from

Iowa is offering. The amendment is to pay salaries and expenses to an agency that, if the point of order is upheld, as it has already been upheld, does not exist any more. I am talking about what is within the bill.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, that is not all of it. They will need some of it.

Mr. WALKER. They may need some of it.

Mr. SMITH of Iowa. There will be prior grants to administer and other administrative matters.

Mr. WALKER. But the gentleman has offered an amendment for $28 million when the administration zeroed this agency out of its budget presentation. It said the most they would need is $20 million. That was the amount of money they sent up. The gentleman is adding another $8 million to that. He has the figure in there.

All I am suggesting is that since the agency no longer exists and it is not going to have a program, the question becomes: Why would we pay salaries and expenses to people who do not have a job any more? That is a little bit difficult for the American people to swallow when we have multibillion-dollar deficits.

Beyond that, the discussion has been interesting in regard to the prioritization of programs. Let us remember that within this bill we have this program that was funded at around $246 million, which is a program that the administration did not ask any money for other than to close it out, and that was $20 million.

□ 1200

Now, you may say that the administration had the wrong priority, but understand what was not funded in order to do this 246 million dollars' worth of spending. The President's crime program was not fully funded so we could do this $246 million in spending; the President's science programs were not fully funded—and in my opinion were not funded adequately—so we could do this $246 million in spending.

Mr. Chairman, there are a number of things that were high priority items in the minds of many Americans that were dramatically underfunded so that this $246 million could be spent. What I am doing is cutting out a program which the administration regarded as a nonpriority in order to try to get some money in for crime fighting and into science programs.

Mr. Chairman, let me tell Members about a couple of science programs, because I think that is a real question of priorities here.

In the language that I had struck, we are talking about $215 million. That would get us the $176 million that we need for the NOAA program, including $31 million for dealing with global change. I can tell you, if you go across the country, there are many people who are concerned that our global change programs are not doing enough.

This committee is suggesting that even what the administration asked for should be cut. I think that $31 million is better spent for global change than for some of the programs that have been regarded as just outright waste that EDA has been doing.

Beyond that, we need a new doppler radar system for our Weather Service. The Weather Service is attempting to come up with high tech solutions so we can save lives of Americans in severe weather incidents. This committee cut $40 million out of the development of that new radar system.

Mr. Chairman, I would suggest that we might be better off putting that money back in. For the economic development of this country, it would be far better to have the kind of weather forecasting ability that gives farmers and other small businessmen some sense of confidence about weather forecasting, than some of the programs EDA has been doing.

There is a weather satellite program that has had $50 million cut out of it. Those are weather satellites that are absolutely essential to this country's understanding of what is happening.

People watch the weather on television every night. It is one of the main things that news programs run. What this committee is doing is undermining our ability to do that in the future.

Mr. Chairman, we are attempting to find the kind of money that is needed in order to be able to understand the highly advanced raw data that comes down from these satellite programs. This committee cuts that fund by $34 million.

I would suggest that for the economic development of the country, it is better to be able to interpret that weather data than most anything we can do for the long-term economic health of one of our major areas of the economy and one of our major trade areas, our agricultural program.

Mr. Chairman, let us look beyond that. Let us look to competitiveness, and let us look to high technology. I think this country believes that we ought to be doing work in superconductivity, in fiber optics, in new materials, in chemical quality programs, and a number of other items of that type. That is where the real jobs are going to be created, in Arkansas, in Kentucky, in Pennsylvania, and a lot of other places.

What does this committee do to the NIST programs in order to try to deal with some of those issues? It cuts the programs. It cuts the programs in those areas in order to fund a bunch of earmarked programs in other areas. Those earmarked programs are taking away from the core program ability to deal with superconductivity, fiber optics, and a number of other things absolutely essential to our economic competitiveness for the future.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, it is really a question of priorities here. I would simply suggest that if we are going to do the things which are needed in science in order to be technologically competitive, if we are going to be able to do the things with regard to forecasting of weather that allows us to save lives and maintain a strong economy, then we need to find the money for that.

All I am asking is the EDA provide some of that money. EDA is a program where their loan program is heavily in default, where many of the programs have not created the numbers of jobs that were projected; in fact, where the job creation has cost us vastly more than anything that would be regarded as a sensible figure.

Mr. Chairman, let me go back to the original point. The bottom line is if the Smith amendment is adopted, we will be spending money for salary and expenses for a program that no longer exists in the bill. If you want to spend $28 million for salaries and expenses for people that no longer have anything to do, that is your choice. I would suggest it is not a very wise expenditure of funds.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. SMITH].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 11, noes 6.

So the amendment was agreed to.

Mr. BURTON of Indiana. Mr. Chairman, I ask unanimous consent to return to page 34, lines 15 to 20.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. SMITH of Iowa. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this having consulted with the chairman of the subcommittee. I chair the Subcommittee on Administrative Law of the Committee on the Judiciary, which has jurisdiction over the Legal Services Program. In conjunction with many Members concerned with that program, of a variety of views—members such as the gentleman from Florida [Mr. MCCOLLUM], the gentleman from Texas [Mr. STENHOLM], who have been critical of some aspects, and other like myself who have been supportive in other ways, but all of us believing the program should continue—we have begun marking up an authorization bill for the first time in a long time.

Mr. Chairman, this has been a problem not of this subcommittee's making, but of Congress' making, that they had jurisdiction over a program which was not authorized. We are trying to resolve that problem for the subcommittee, which believes and has practiced a regular order.

Mr. Chairman, I just wanted to make clear that we have a markup that has proceeded through subcommittee. We were held up a little bit by the deliberation on the civil rights bill, but at a meeting that will be held soon of the full Committee on the Judiciary, we will be marking up an authorization of Legal Services, with the agreement of all parties, and will be bringing that bill to the floor.

Mr. Chairman, I just wanted to say it is my understanding from conversations with the chairman that his intention would be that in the current bill, if nothing is done further, the money would be governed by existing legal restrictions on how it could be spent.

If in fact the House were then to proceed to authorize a bill, we would be guided by what the House has done. If in fact a bill was enacted into law and signed by the President, obviously that would be controlling.

So if there is no authorization, the existing set of rules and regulations would apply as they exist in statute. If we authorize and it goes through the House, that would supersede that. If in fact we enacted a bill, that would supersede the authorization.

Mr. Chairman, I would ask the gentleman from Iowa if I am correct in my understanding.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman from Massachusetts [Mr. FRANK] is correct. I want to say no one will be more glad than I am to see the gentleman from Massachusetts [Mr. FRANK] and his subcommittee and the Judiciary Committee bring a bill before the House so the House can work its will on this matter. Of course, if the House does work its will on this matter, I would be guided to the extent I possibly can to try to uphold in conference whatever the House does on a Legal Services authorization, whatever that happens to be. That is the position I would take.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, I thank the gentleman. He has been very generous and gracious, and has forborne a lot. We hope finally to be able to live up to our part of the bargain.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Kentucky, the ranking minority member.

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, like the gentleman from Iowa [Mr. SMITH] says, the gentleman from Massachusetts [Mr. FRANK] is making us very happy by relieving us of the obligation we have had over the last several years to authorize the Legal Services Corporation, on which we do not have hearings, and we are not experts in that field. It is too much detail, and we should not be doing that. Thank goodness the subcommittee, and hopefully the full committee and Congress, will enact a bill.

Mr. Chairman, let me ask the gentleman from Massachusetts [Mr. FRANK] just to clarify, and I have conferred with the gentleman from Florida [Mr. MCCOLLUM], the gentleman from Texas [Mr. STENHOLM], and others who are interested in this proposition, am I correct, to restate what the gentleman has said, if the House passes an authorizing piece of legislation on the Legal Services Corporation, our language would be governed by that, and if the House does not pass a piece of legislation, then we would be governed by the last year's regulations?

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, that is my understanding of the chairman's intentions. I think that is a fair way to proceed. If Congress passes the bill, that would take care of it.

Mr. ROGERS. Mr. Chairman, that would supersede everything?

Mr. FRANK of Massachusetts. Yes.

Mr. ROGERS. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. FRANK] for the clarification, and, more importantly, thank him for acting.

Mr. FRANK of Massachusetts. Mr. Chairman, I appreciate that. Let me point out that the subcommittee acted. We were not unanimous in every aspect. We bridged a lot of the gaps that existed. We had a product out of subcommittee that was voiced at subcommittee. Further issues will be debated. My subcommittee will come under a very open rule, in the sense that all issues will be on the floor, and that is my intention.

□ 1210

Mr. ROGERS. Let me clarify just once more.

When does the gentleman expect the full committee to take that up?

Mr. FRANK. Within a month or so.

Let me say in defense of the chairman, and he does not need defense, but explanation, the chairman of the full committee has been, as Members understand, very much occupied with the civil rights bill. This is on our agenda and I would expect sometime within the next month it will be reported out. In other words, it should be able to come to the floor this summer.

Mr. ROGERS. The reason I ask is that by the time we go to conference with the Senate, the other body on this bill, if the committee, and more importantly the House had acted on something, we would have something to be guided by.

Mr. FRANK. I agree with the gentleman, I think that is a useful thing for those who do the scheduling to keep in mind. It would be very helpful for the House at least to have had a chance to authorize before the conference begins.

Mr. ROGERS. I thank the gentleman.

Mr. FRANK. I thank the gentleman.

Mr. RITTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to recognize the very hard work of the chairman of the Commerce, Justice, and State, the Judiciary and Related Agencies Subcommittee, the gentleman from Iowa, [Mr. SMITH] and the ranking Republican member, the gentleman from Kentucky [Mr. ROGERS] in the development of this bill.

This year has been an especially difficult one in which to set priorities among the various programs funded in this bill. The final bill recognizes the very tough budgetary constraints under which we operate this year, while providing essential funding for important governmental operations.

Mr. Chairman, I would like to call attention to the National Institute of Standards and Technology [NIST] program in the Technology Administration in the Department of Commerce which is a critical link in a Federal effort to advance technology in the United States of America.

There can no longer be any doubt that some technologies and industries are critical to our Nation's future. This year the Office of Science and Technology Policy called for a stronger Federal research and development and applications effort in 22 critical technologies. Taking these technologies and turning them into products that people want to buy, and doing it faster, less expensively, and better than our overseas competitors is the lifeblood of our economic well-being and the fundamental underpinning of economic growth, jobs, and standard of living now and into the next century.

The way we do business now will not be sufficient in the future. With technology as the driving force for economic growth and standard of living advance, we need to take the $70 billion that we spend each year in the Federal R&D economy and orient it more to the marketplace, orient it more toward jobs, to our standard of living, toward underpinning those companies that are fighting daily the technology and competitiveness battles with foreign competitors all over the world, and might here with regard to imports, I might add.

Limited investments by the Federal Government can have a tremendous impact in terms of leverage. The Technology Administration is the nucleus of the Federal Government's effort to foster increased cooperation with the private sector in advanced technology. It includes the National Institute of Standards and Technology, the Federal agency best poised to work with industry and problems of competitiveness, and the Federal agency which has the most experience throughout the decades in working with industry to help industry to be more competitive.

The funding level proposed for the Technology Administration in the bill before us would result in the reduction or elimination of important initiatives.

All including a manufacturing initiative which calls for centers to enable American manufacturers to make the the transition to advanced manufacturing practices and processes. This program is extremely important as the United States of America seeks to regain the high ground in manufacturing, in production, in making things and in making them better, in bringing quality products and processes to the world.

Our efforts to distill technological information from Japan would be slashed. We need more, rather than less, technological transfer from Japan to the United States.

Federal technology management programs that try to optimize what we get out of the Federal labs in terms of patents, in terms of relationships with industry, these kinds of programs would be cut.

If I might go back to manufacturing; making things, production, manufacturing, these constitute the crown jewels of an industrial society and of a modern technological society. It is absolutely essential that we change our national pattern of behavior regarding manufacturing. For three or four decades we tended to ignore manufacturing. It was dirty, it had smokestacks, it had pollution. But the Japanese experiment shows that a nation can go from rubble to primacy in a brief period of time in modern society based on making things and making them better. NIST is the primary Federal agency in our Government that deals with manufacturing.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. RITTER] has expired.

(By unanimous consent, Mr. RITTER was allowed to proceed for 2 additional minutes.)

Mr. RITTER. The percentage of investment in our Federal R&D economy in manufacturing is minuscule; yet, manufacturing may well be the key to national wealth creation and prosperity. We need greater national focus on manufacturing; not less.

Let's move on to NIST's core programs. These programs are the very basis of what the National Institute of Standards and Technology does for our country. Such programs will absorb a 1.5-percent cut if we take inflation into account, and that means none of the upgrades of aging facilities and laboratories that are requested by the President, for the Science, Space, and Technology Committee, are going to be funded. This once flagship laboratory of the U.S. Government and of our country working closely with industry right there on the front lines in fighting the battles of global competitiveness is, in many places, declining. It needs upgrading. It needs a surge of modernization and renovation.

None of NIST's important new initiatives in electronics and electrical engineering, manufacturing engineering or measurement standards are going to be funded. This deals a blow to a crucial element of the Federal Government's effort in technology at a time when the Nation can least afford it. These are crucial investments in the future well-being of our economy.

We seem to be able to fund increasing tens of billions of dollars of transfer payments. Forced by largely political considerations. But for these basic seed core investments we are really coming up short.

I would urge, Mr. Chairman, when this bill proceeds to the House and Senate conference that the House strive to maintain an adequate level of funding for this most important endeavor, encompassing the Technology Administration and the National Institute of Standards and Technology.

In closing, I want to express my appreciation for the Appropriations Committee for funding of the new Advanced Technology Program. As one of the founders of this effort, I think it is extremely important in our economic race with some real fast competitors. There's been a good boost there to bring industry together on common ground to solve tough problems. But these investments are still so very small in comparison to the total Federal R&D economy; much more can and should be done to redirect our R&D resources.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. (a) Funds appropriated by this Act to the National Institute of Standards and Technology of the Department of Commerce for the Advanced Technology Program shall be available for award to companies or to joint ventures under the terms and conditions set forth in subsection (b) of this section, in addition to any terms and conditions established by rules issued by the Secretary of Commerce.

(b)(1) A company shall be eligible to receive financial assistance from the Secretary of Commerce only if—

(A) the Secretary of Commerce finds that the company's participation in the Advanced Technology Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided by the Secretary of Commerce to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(B) either—

(i) the company is a United States-owned company; or

(ii) the Secretary of Commerce finds that the company has a parent company which is incorporated in a country which affords the United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those funded through the Advanced Technology Program; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

(2) The Secretary of Commerce may, 30 days after notice to Congress, suspend a company or joint venture from receiving continued assistance through the Advanced Technology Program if the Secretary of Commerce determines that the company, the country of incorporation of the parent company of a company, or the joint venture has failed to satisfy any of the criteria set forth in this subsection, and that it is in the national interest of the United States to do so.

(3) As used in this section, the term "United States-owned company" means a company that has a majority ownership or control by individuals who are citizens of the United States.

This title may be cited as the "Department of Commerce Appropriations Act, 1992".

□ 1220

Mr. SMITH of Iowa. Mr. Chairman, may I inquire, does anyone have an amendment to title III? It is on the judiciary.

If not, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The text of title III is as follows:

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $20,787,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), $3,801,000, of which $1,861,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $10,775,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $9,432,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $1,947,471,000 (including the purchase of firearms and ammunition); of which not to exceed $68,245,000 shall remain available until expended for space alteration projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $1,588,000 to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $185,372,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $70,000,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $82,830,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $44,681,000, of which not to exceed $5,150 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $18,795,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund as authorized by 28 U.S.C. 377(o), to the Judicial Survivors Annuities Fund, as authorized by 28 U.S.C. 376(c), $6,000,000, and in addition, to the Claims Court Judges Retirement Fund, as authorized by 28 U.S.C. 178(1), $500,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,865,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 303. (a) The Judicial Conference shall hereafter prescribe reasonable fees, pursuant to sections 1913, 1914, 1926, and 1930 of title 28, United States Code, for collection by the courts under those sections for access to information available through automatic data processing equipment. These fees may distinguish between classes of persons, and shall provide for exempting persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. The Director of the Administrative Office of the United States Courts, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to information which the Director is required to maintain and make available to the public.

(b) The Judicial Conference and the Director shall transmit each schedule of fees prescribed under paragraph (a) to the Congress at least 30 days before the schedule becomes effective. All fees hereafter collected by the Judiciary under paragraph (a) as a charge for services rendered shall be deposited as offsetting collections to the Judiciary Automation Fund pursuant to 28 U.S.C. 612(c)(1)(A) to reimburse expenses incurred in providing these services.

This title may be cited as "The Judiciary Appropriations Act, 1992".

The CHAIRMAN. Are there any points of order against the provisions in title III?

If not, are there any amendments to title III?

If not, the Clerk will read.

The Clerk read as follows:

TITLE IV—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $272,210,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $70,920,000, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $225,000,000, to remain available until expended: *Provided*, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided*, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $220,000, to remain available until December 31, 1993, as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: on page 57 strike out lines 11 through 19.

Mr. PENNY. Mr. Chairman, the amendment offered by myself and the gentleman from Michigan would eliminate funding of $220,000 for the Christopher Columbus Quincentenary Jubilee Commission. This Commission, which has received nearly $1.3 million in Federal funding to date, is riddled with management and fundraising problems. The GAO issued a report in April 1991, criticizing the Commission. It reported, "(the Commission) has accomplished very little of what Congress envisioned as its mission and its financial condition is precarious".

The Commission was supposed to have raised a majority of its funds from private donations. To date, they have brought in only $888,700. This is only 64 percent of what they have received from Congress.

While I am aware that the Commission has come under new management, I am not convinced that the problems have been resolved. Without funding by Congress this year, the Commission can still perform its functions with private donations and the celebration of the 500th anniversary of the discovery of America by Christopher Columbus will proceed. The GAO reported that, "the celebration will still occur through (the over 470) projects conducted by other organizations."

The conclusions of the April 1991 GAO report are the most damaging:

> The 500th anniversary of Christopher Columbus' first voyage to the new world is no less than 18 months away. To date the Christopher Columbus Quincentenary Jubilee Commission has accomplished very little of what Congress envisioned as its mission and its financial condition is precarious. It has experienced several setbacks including a spate of negative publicity, the withdrawal of the primary corporate sponsor, and the resignation of the director in October 1990 and the chairman in December 1990. What should be the home stretch for the Commission has become rescue operation to salvage whatever benefits are possible in the limited remaining time."

Mr. Chairman, continued funding of this Commission needs to be questioned.

Mr. Chairman, I yield to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I thank the gentleman for yielding and for offering this amendment and for allowing me to offer this amendment with him.

I was very disturbed as I read this GAO report about the tack that the Commission had been taking under the former Chairman.

I have some good news to report in that I talked to the new Chairman just this morning, Mr. Frank Donnatelli, and I have been assured that they are on a new tack, with a "k"; they have got new wind in their sails. In fact, the shot across the bow that we have fired has been well received.

I know that we are going to be hearing from the gentleman from Ohio, and perhaps we could yield to the gentleman from Ohio to receive some type of assurance.

Mr. PENNY. I might suggest that in order to give the gentleman from Ohio enough time to respond to our concerns about the Commission that he might receive his own time in order to make his remarks.

Mr. UPTON. If the gentleman will yield further, as I read this report, I know that the primary objective of the Christopher Columbus Jubilee Commission was to raise funds from private sources, and the GAO report has showed, in fact, that has not occurred. I am hoping that in the next year that if we do withdraw our amendment that the seed money that is provided in this bill will, in fact, enable the Columbus Jubilee Commission to, in fact, get on a new course, a new tack, and in that sense, bring about fiscal responsibility back to where it should have been from the very beginning.

Mr. PENNY. Mr. Chairman, I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, I am aware that there were a lot of allegations which I believe were unproven, but whether they are unproven or not, the fact is the Commission does have new leadership. I know that the gentleman has a lot of constituents that think that Leif Ericsson should be getting the recognition.

Mr. PENNY. The Chairman has identified my ulterior motive.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. PENNY] has expired.

(By unanimous consent, Mr. PENNY was allowed to proceed for 2 additional minutes.)

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Iowa points out a concern some of us had when this Commission was originally empaneled.

Without disparaging Christopher Columbus' role in our history, he, of course, discovered a country that was inhabited already by native Americans and that had been visited long before by Scandinavians. So many of us who voted against that felt that it was rather incongruous to see us decide to spend a bunch of money celebrating the discovery of something that had been discovered long before and even then had been inhabited by native Americans.

I think there is a tendency around here whenever we empanel these kinds of commissions to create a condition in which more money is spent than is necessary.

I do not today intend to redebate the issue whether or not we should have this. It is already underway. But I lend sympathy to the efforts of the gentleman from Minnesota and hope that we can rein in some of this spending.

Mr. SAWYER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition, but in very special gratitude to my colleagues, the gentleman from Minnesota [Mr. PENNY] and the gentleman from Michigan [Mr. UPTON], for their calling attention to a matter of real serious concern in this Congress.

The Commission to which they refer wa established in 1984 to coordinate ceremonies appropriate to the local, national, and international observances associated with the 500th anniversary of Christopher Columbus' arrival in the New World.

The Subcommittee, which I chair, on Census and Population has oversight responsibility for the Commission. I fully understand my colleagues' concerns and express the gratitude of the subcommittee for their raising it.

It is true that the findings of a recent audit by the National Archives and the General Accounting Office indicate the very kind of poor management of financial resources and inadequate financial administrative controls at the Commission that my colleagues described, and, yes, the Commission's position is precarious.

However, I want to express that these management problems occurred under the Commission's former Chairman. An investigation was begun last summer which led to the Chairman's resignation in December 1990, amid a rush of negative publicity. A new Chairman was elected by his fellow Commissioners in February of this year, and he since then has made several staffing changes.

□ 1230

In April, the subcommittee held an oversight hearing to review the commission's financial position and its planned activities for 1992. Those hearings have brought about considerable effort with the Commission staff and leadership and a thorough GAO investigation conducted by the Office of Special Investigations of allegations of misconduct or perhaps even criminal conduct. Those hearings are proceeding now.

We believe we have isolated that problem so that the commission's new leadership, new Chairman, new Executive Director, and new staff with real and needed experience in accounting, fundraising, and management, management that was nonexistent before, a fundraising plan that was nonexistent, but was developed and being implemented in an attempt to resolve the contractual dispute is resolved, clearing the way for other corporations to lend the kind of substantial support that really was intended when all this began. In short, I think it is obvious that the task ahead will not be easy. The Commission's financial condition is precarious. Its image is tarnished, and time is running out.

I would particularly point out that the Commission is actively pursuing those corporate sponsors for its planned activities. Eliminating the Commission's modest annual appropriation right now, however, would seriously impair the Commission's ability to move forward in a fashion we described.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, just so the record is clear, I want to point out that all we have ever appropriated has been a little seed money, $200,000 or $220,000 a year. If there was mismanagement, the money that was wasted or whatever was not appropriated money. The amount of money that has been appropriated would have been necessary under any circumstances to cover the administrative costs of the Commission.

Mr. SAWYER. Mr. Chairman, I thank the gentleman for his comments. The gentleman is absolutely right, and that does not diminish the dismay that many Members feel over the conduct of that management.

However, the absolute loss to the Government of the United States is not enormous. I have confidence in the Commission's new leadership and their ability to plan and carry out a series of programs and activities that will ensure an appropriate role for the United States in an event of international significance.

I would add that the gentleman from Illinois [Mr. ANNUNZIO], who is the original sponsor of the legislation to recognize this important worldwide event, has asked to be associated with these remarks.

I ask Members to vote "no" on this particular amendment.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. SAWYER. I am happy to yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Chairman, I rise to explain to the authors of the amendment and to my colleagues the need to continue the modest funding of this program.

(By unanimous consent, Mr. SAWYER was allowed to proceed for 2 additional minutes.)

Mr. SAWYER. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. RIDGE. Mr. Chairman, as ranking minority member of the Subcommittee on Census and Population of the Post Office and Civil Service Committee no one knows better than I the problems the Christopher Columbus Quincentenary Jubilee Commission has faced. There is no question that in the past the Commission has been riddled with management problems and former officials are under investigations. But what should be emphasized is the fact that the management problems have been in the past and the officials under investigation are former officials.

Mr. Frank Donatelli was named the Chairman of the Commission on February 6 of this year. He began as Chairman of the Commission; he was quickly made aware of the serious difficulties facing the Commission. Most critical is the need for an extensive fundraising campaign. Mr. Donatelli is the new blood and captain of the ship charged with ensuring a successful journey for the Commission. He has not had ample time to implement his plan for the Commission or to raise funds. Mr. Donatelli and his staff at the Commission are dedicating over 85 percent of their time contacting individuals and corporations to solicit funds.

The Commission was created with the idea that the Federal appropriations would provide seed money to enable the Commission to secure private sector sponsors. Mr. Donatelli's plan consists of three key elements. The Commission is in the process of contacting a number of corporations regarding the possibility of their participation as official sponsors of the Commission; the Commission is currently putting together a group of individuals from the private sector who are interested in helping to raise money for the Commission's programs.

This group will be known as the "Columbus 500 Council" and will solicit private donations to support the Columbus Scholars, the National Maritime Celebration, and other programs. In order to both raise money and heighten the national level of awareness for the quincentenary, the Commission has begun a direct mail campaign, aimed at bring information about the upcoming events in 1992 to as many Americans as possible.

Elimination of the funding so desperately necessary to keep the Commission afloat will endanger the success of commemorative activities planned by State and local entities across the land. The benefits both in terms of the cultural and educational gains, as well as the greater understanding of the true significance of Columbus to our history, far exceed the minimal costs involved.

Through my personal knowledge of Mr. Donatelli and his total commitment to the Commission's success, I am confident that his leadership of the Christopher Columbus Quincentenary Jubilee Commission will steer America to the celebration that Congress envisioned when the Commission was established. I urge my colleagues to withdraw this amendment.

Mr. Chairman, at this point I will include for the RECORD a letter from the Chairman, Mr. Frank J. Donatelli, regarding the Christopher Columbus Quincentenary Jubilee Commission.

CHRISTOPHER COLUMBUS
QUINCENTENARY JUBILEE COMMISSION,
Washington, DC, June 13, 1991.
Hon. BENJAMIN A. GILMAN,
Member, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSION GILMAN: It has come to my attention that an amendment has been proposed that could reverse significant accomplishments made by the Christopher Columbus Quincentenary Jubilee Commission since its reorganization of a few months ago.

It gives me great pleasure to report to you that just yesterday, I, on behalf of the U.S. Commission, signed documents that will advance the cause of the commemorative caravels program in the United States and will continue Texaco's support of this Commission. These agreements take decisive steps to settle negotiations between the U.S. Commission and the Spanish Commission and they clarify the respective relationships with Texaco.

This new accord has opened the way for the U.S. Commission's new and aggressive fund raising program to be put into motion. In fact, the Commission is already in direct contact with several major corporations and with a number of prominent philanthropic individuals who have expressed interest in the Columbus Quincentenary.

The resolution of this matter and the Commission's commitment to its eight National commemorative and educational programs give us a clear course for the months ahead. The Commission's difficulties of the past have been put far behind us by these major accomplishments.

Withdrawal of spiritual and financial support by the United States Congress at this time would cause irreversible damage to the rapid progress made during recent months, weeks, and days.

I appreciate your concern for the work and programs of this Commission. It is my hope that you will be able to urge your colleagues to reject the proposed amendment that would put a permanent damper on the Quincentenary year of 1992.

Very truly yours,
FRANK J. DONATELLI,
Chairman.

Mr. SAWYER. Mr. Chairman, I thank my colleague, the gentleman from Pennsylvania [Mr. RIDGE] for his remarks. I would add to that that I am grateful for the bipartisan cooperation with which we pursued this matter of substantial concern, and continue to pursue it today.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I rise in strong support of H.R. 2608, the fiscal year 1992 appropriations bill for Commerce, Justice, State, Judiciary, and related agencies. I also rise in opposition to the Penny-Upton amendment, which would eliminate funding for the Christopher Columbus Quincentenary Commission.

I commend the chairman of the subcommittee, NEAL SMITH, and the ranking member, HAL ROGERS, for their outstanding efforts and leadership in bringing this legislation to the floor. The subcommittee staff also deserves recognition for their tireless efforts on behalf of this bill. I know that many hours of hard work were put into the development of this legislation.

As a result of last year's budget summit agreement, the subcommittee faced a particularly difficult task this year in drafting this bill, which includes funding for a diverse group of programs and agencies. Yet despite the severe budgetary constraints, the subcommittee managed to fund adequately the programs in this bill, provide much-needed increases for some high-priority national programs, and meet its 602(B) allocation.

First, as I noted, I rise in opposition to the Penny-Upton amendment. The funding for the Christopher Columbus Quincentenary Commission is a modest appropriation to defray staff salaries and other operating expenses of the Commission. Private contributions will be used to meet the costs of outreach activities and initial implementation costs of the celebration's projects. During hearings before the Commerce, Justice, State, and Judiciary Appropriations Subcommittee, the new Chairman of the Commission assured us that the Commission is working to increase its private donations in order to address the concerns made about the Commission prior to his appointment. I believe that the Commission is back on track and I urge the rejection of the Penny-Upton amendment. Funding the Commission will enable it and our local communities to move forward in their plans to celebrate the quincentenary of Columbus' voyage.

On another issue, I am especially pleased and appreciative of the $16 million provided for the Asia Foundation, which is authorized at a level of $18 million. The Asia Foundation has a proven track record of stimulating the development of local social, political, and economic institutions that are consistent with local needs throughout the Asia-Pacific region. The funding increase will enable the Foundation to undertake a number of important new initiatives and to continue the successful programs it has already begun in Asia.

The bill also includes $50.3 million for the Coastal Zone Management Program, a vital national program charged with protecting and preserving the treasures of our Nation's coastlines. The level of funding provided in the bill will allow NOAA and the coastal States to meet the enhanced responsibilities and obligations called for in last year's reauthorization of the Coastal Zone Management Act, which was overwhelmingly supported by Congress, and will help ensure that we continue to preserve and protect our Nation's valuable coastal resources.

H.R. 2508 also includes $3 million for the Office of Special Council for immigration-related unfair employment practices and for grants to community-based organizations for Outreach Programs. As a result of employer sanctions imposed in the Immigration Reform and Control Act of 1986, a number of employers have adopted discriminatory practices because they fear being penalized under the employer sanctions provision of the law. The funding provided in the bill will provide much-needed assistance to the victims of discrimination.

Mr. Chairman, these are just a few examples of the important programs included in this bill. Again, I commend Chairman SMITH and the subcommittee for the excellent job they have done in putting this bill together. I urge my colleagues to join me in supporting this legislation.

Mr. Chairman, I rise in opposition to the amendment being offered by the gentleman from Michigan [Mr. UPTON] which would eliminate the $220,000 in fiscal year 1992 funding for the Christopher Columbus Quincentenary Jubilee Commission.

The Christopher Columbus Quincentenary Jubilee Commission was established by Congress in 1984 to organize and coordinate comprehensive programs and major events to celebrate Columbus' discovery of the New World.

As ranking minority member of the House Committee on Post Office and Civil Service and as an ex officio member of the Subcommittee on Census and Population, I am aware of the allegations of misconduct and mismanagement at the Christopher Columbus Quincentenary Jubilee Commission that came to public attention in late November 1990. The subcommittee immediately requested the General Accounting Office [GAO] to conduct an indepth review of the Commission's activities and was directed to investigate these allegations, which arose from media disclosure as well as accusations made from individuals directly involved with the Commission.

The subcommittee conducted a hearing for April 23, 1991, at which time GAO and the current chairman of the Commission, Frank Donatelli testified. Both the GAO and Mr. Donatelli made specific recommendations regarding the directions the Columbus Commission will be taking as well as efforts that must be taken to rectify the problems facing the Commission and the plans to meet the Commission congressional mandate.

While the Office of Special Investigation is continuing to investigate the allegations, no one currently involved with the administration of the Commission is connected with the charges of misconduct. The Commission under its new leadership is vigorously proceeding to create a celebration worthy of the 500th anniversary of Christopher Columbus' maiden voyage to the New World. Negotiations with numerous corporations as well as the governments of Italy and Spain would be undermined by a cut of funding for the Commission at this time.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

□ 1240

Mr. Chairman, I appreciate the good intentions of the gentleman from Michigan [Mr. UPTON] and the problems which Mr. Donatelli must overcome; however, we are confident of the dedication and commitment of the members of the Columbus Commission to its success and that its past difficulties will be overcome.

Mr. Chairman, Mr. Donatelli has submitted to us his letter dated June 13, 1991, and I will ask that a portion of his letter be made part of the RECORD. Mr. Donatelli states in his letter:

> Withdrawal of spiritual and financial support by the United States Congress at this time would cause irreversible damage to the rapid progress made during recent months, weeks and days. We appreciate your concern for the work and program of this Commission. It is my hope that you will be able to urge your colleagues to reject the proposed amendment.

I thank the gentleman again for bringing this measure to the attention of the Congress and we hope by working together we can rectify some of the Commission's prior problems.

Mr. PENNY. Mr. Chairman, will the gentleman yield before he yields back his time?

Mr. GILMAN. I am pleased to yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, with the assurances presented by the gentleman from Ohio [Mr. SAWYER] and others this morning and given the understandings included in that letter from the new chairman of the Commission, the gentleman from Michigan [Mr. UPTON] and I ask unanimous consent to withdraw our amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Minnesota [Mr. PENNY] is withdrawn.

Mr. GUARINI. Mr. Chairman, I rise in opposition to the Penny amendment. As the national chairman of the National Italian American Foundation Columbus 1992 celebration, I would like to bring the following letter to the attention of my distinguished colleagues:

> DEAR MEMBER OF CONGRESS: The National Italian American Foundation wishes to reaffirm its full support of the Christopher Columbus Quincentenary Jubilee Commission and therefore urges opposition to the amendment which would eliminate all funding for fiscal year 1992.
>
> We regret that an effort is being made to defund the Commission as we so rapidly approach the start of the quincentenary. Since 1984, when Congress first created the Commission and called for a national quincentenary celebration, to the present there has been strong and bipartisan support for the commission. It should continue especially now as we approach the justified recognition for Columbus and his enormous impact on world history.
>
> The issues that have been raised about past problems with the Commission are just that. The Commission has an able new Chairman Frank Donatelli. He has taken full command of the Commission and has instituted strong new management practices and has made as his top priority—fundraising to ensure a successful quincentenary. His efforts were recognized by the State-Commerce Subcommittee which produced this legislation and which recommended the Commission be fully funded for fiscal year 1992.
>
> The National Italian American Foundation has worked closely with the Commission since its inception. We have jointly sponsored several national conferences on the quincentenary and its various themes. We in fact have one scheduled for October 4 of this year. The Commission has actively and consistently sought the input of our communities and the others involved and interested in the quincentenary. They have fulfilled their role as the national coordinators.
>
> The Columbus Commission is needed to ensure that State and local quincentenary activities are conducted in a coordinated fashion along the lines called for in the authorizing legislation. The Commission, especially under the leadership of Frank Donatelli, has been especially effective in working with the States and localities.
>
> The Italian American community looks forward with great pride to the Columbus quincentenary. We looked forward with great pride when the legislation authorizing the quincentenary was passed and when Presidents Reagan and Bush named such outstanding individuals to serve on the Commission. We are now at a point of great expectation as the days tick ever closer to the quincentenary knowing that it is being developed as a truly national celebration.
>
> We support full funding for the Columbus Commission so it can continue and finish its important work. We are satisfied beyond a doubt that the Authorizing and Appropriations Subcommittees have closely examined all aspects of the Commission including their past problems. We think that their conclusions speak for themselves and the direction Congress should take is to support the leadership of the subcommittee and endorse the full funding called for in this bill. Let the quincentenary proceed as a celebration for all Americans and a vehicle to promote greater dialogue between peoples and nations in the future.
>
> JENO F. PAULUCCI,
> *Chairman.*
> FRANK D. STELLA,
> *Vice chairman.*
> ARTHUR J. GAJARSA,
> *President.*

Mr. BONIOR. Mr. Chairman, I move to strike the last word. I do so to engage my colleague, the gentleman from Iowa and the chairman of the subcommittee in a colloquy.

As the gentleman knows, the northern border of the United States has experienced a tremendous surge in commercial and commuter traffic in recent years. The enactment of the United States-Canada Free Trade Agreement and, more recently, the imposition of a heavy Canadian sales tax has increased the flow of commerce across the border.

At the Blue Water Bridge in Port Huron, MI, which is the third-busiest crossing point on the United States-Canada border, traffic tieups have become the rule, rather than the exception. The Ambassador Bridge in Detroit, which is our second-busiest crossing point, faces a similar situation.

Despite the recent surge in economic activity, the Immigration and Naturalization Service has not provided any additional inspections staff at our second- and third-largest northern crossing points. In fact, INS staffing has actually decreased at these two border crossing while traffic has increased 20 percent each year for the past 5 years. As a testament to the seriousness of this situation, truck traffic delays at these two crossing points cost U.S. business $17 million each year in lost revenue.

May I ask the gentleman from Iowa [Mr. SMITH] in light of the serious situation on our country's northern border, does the gentleman feel that it is necessary to provide additional Immigration and Naturalization Service staff at these critical border crossings?

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, first of all, I want to say that my colleague has been very forceful in bringing this to our attention. We wanted to do something about it.

As the gentleman knows, in this bill, due to the budget agreement and the budget resolution, it was necessary to keep virtually all the domestic agencies at 98½ percent of current services. It was with the gentleman's problem in mind that we did make the INS one of the agencies that is exempted from that limitation. They are getting the full amount of current services, plus a little bit more.

Now, I do not know that little bit more is going to be enough to relieve all these problems. This program does come under function 750, however. In addition to the Budget Committee not allocating enough for function 750, there was an amendment on the floor, which passed overwhelmingly, that took another $100 million out of function 750 and that reduction virtually left us with an impossible situation in answering the needs the gentleman is interested in.

I agree that the need is there. There is not any question about that. The Justice Department ought to do as much as they can toward relieving the problem.

Mr. BONIOR. Mr. Chairman, as the gentleman from Iowa [Mr. SMITH] knows, I have been working for some time to secure additional INS staff for these two border crossings with my colleague, the gentleman from Michigan [Mr. HENRY] and the entire Michigan delegation. It is unfortunate that these staffs have not been forthcoming. Although the legislation before us today does not specify that additional INS staff will be allocated to the Blue Water Bridge and the Ambassador Bridge, would the gentleman agree that the committee will work to ensure that this problem is addressed this year?

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield further, I agree that more staff is needed at our northern border, and on the southern border, too, for that matter. I assure the gentleman that I will work to bring these matters to the attention of my colleagues during the upcoming conference on this legislation.

Mr. BONIOR. Mr. Chairman, I want to thank the gentleman for his assurances on this. I look forward to working with the gentleman from Iowa and his staff to correct this serious problem. We have got to move forward and secure more staff for the Blue Water Bridge in Port Huron and the Ambassador Bridge in Detroit, to maintain our strong relations with Canada and the economic growth of a large region of our country.

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield further, I might mention that while we did not intend to discuss this, I think I should mention that we are also having a problem with illegal aliens coming across the Canadian border. This is a different situation than we had several years ago, which is one reason why more INS inspectors are needed there. Even though we now have a free-trade zone, a lot of illegal aliens, some of which are citizens of the United Kingdom, find it is easy to get into Canada, and then into the United States. It is easier to come through the northern border than it is the southern border.

Mr. BONIOR. Mr. Chairman, I thank my colleague.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $1,426,000, to remain available until expended.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution as authorized by Public Law 98-101 (97 Stat. 719-723), $1,882,000, to remain available until expended: *Provided*, That in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301).

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $1,059,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by Sec. 5209 of the Omnibus Trade and Competitiveness Act of 1988, $750,000, to remain available until expended.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $1,153,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $21,077,000 of which $2,500,000 shall remain available until expended: *Provided*, That not to exceed $98,000 shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $335,169,000: *Provided*, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) Public Law 101-515 unless paragraph (2) or (3) applies;

(2) authorizing legislation for fiscal year 1992 for the Legal Services Corporation passed by the House of Representatives unless paragraph (3) applies; or

(3) authorizing legislation for fiscal year 1992 for the Legal Services Corporation as enacted into law.

POINT OF ORDER

Mr. BURTON of Indiana. Mr. Chairman, I make a point of order against this section of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BURTON of Indiana. Mr. Chairman, starting at page 59, line 22, through page 60, line 13, I make a point of order against the language in this paragraph in that it is legislation on an appropriation bill and that the funds are unauthorized.

The CHAIRMAN. Does the gentleman from Iowa [Mr. SMITH] desire to be heard on the point of order?

Mr. SMITH of Iowa. Mr. Chairman, I concede the point of order.

The CHAIRMAN (Mr. BROWN). The gentleman concedes the point of order. For the reasons stated by the gentleman from Indiana, the Chair sustains the point of order. The paragraph is stricken, and the Clerk will read.

The Clerk read as follows:

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 101-574, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $221,079,000, of which $61,500,000 is for grants for performance in fiscal year 1992 or fiscal year 1993 for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided*, That not more than $500,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further*, That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further*, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: *Provided further*, That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, nothing herein shall preclude the Small Business Administration from preparing or formulating, but not publishing in the Federal Register, proposed rules, nor shall anything herein apply to uniform common rules applicable to multiple Federal departments and agencies, including the Small Business Administration; nor may any of the funds provided in this paragraph restrict in any way the right of association of participants in such program.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $9,757,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans authorized by 15 U.S.C. 631 note as follows: cost of direct loans, $24,563,000, and cost of guarantees, $245,786,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $69,935,000, and total loan principal any part of which is to be guaranteed of $4,819,000,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $104,410,000, of which not to exceed $104,410,000 may be transferred to and merged with the appropriations for Salaries and Expenses to cover the common overhead expenses associated with implementing the Credit Reform Act of 1990.

DISASTER LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by 15 U.S.C. 631 note, $114,913,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of $344,750,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $76,830,000, of which not to exceed $76,830,000 may be transferred to and merged with the appropriations for Salaries and Expenses to cover the common overhead expenses associated with implementing the Credit Reform Act of 1990.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $14,381,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $8,400,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, $2,021,835,000: *Provided*, That not to exceed $500,000 shall be available either directly or indirectly for the Office of Congressional Relations, any successor organization, or any other organization in the Department of State to carry out the same or similar functions as the office carried out during fiscal year 1991; and in addition not to exceed $523,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (section 118 of Public Law 101–246), and in addition not to exceed $1,013,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246), and in addition not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (section 119 of Public Law 101–246).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $23,037,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,802,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,464,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851) $552,594,000, of which $130,000,000 is available for construction of chancery facilities in Moscow, U.S.S.R., to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided*, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $7,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans as authorized by 22 U.S.C. 2671 as follows: Cost of direct loans, $74,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $223,000. In addition, for administrative expenses necessary to carry out the direct loan program, $145,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $13,334,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $112,983,000.

International Organizations and Conferences

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress $866,774,000, of which not to exceed $117,109,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, $108,856,000 of which not to exceed $39,987,000 is available to pay arrearages.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $5,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

International Commissions

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $11,400,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $10,277,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $9,000 for representation expenses incurred by the International Joint Commission, $4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $12,647,000: *Provided*, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, as authorized by section 403 of Public Law 101-179 and section 105 of Public Law 101-246, $4,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101-246, $16,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, $4,784,000.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $250,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 501. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided, for arms control and disarmament activities, including not to exceed $100,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $43,527,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2883), $212,491,000 of which not to exceed $52,000 may be made available for official reception and representation expenses.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $42,934,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,250,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $681,051,000: *Provided*, That not to exceed $1,235,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further*, That not to exceed $3,500,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further*, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further*, That not to exceed $7,615,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3), and in accordance with the provisions of 31 U.S.C. 1105(a)(25), $4,206,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $178,000,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which: (a) $1,000,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation; (b) $2,000,000 shall be available for cultural and exchange related activities associated with the 1993 World University Games in Buffalo, New York; and (c) $2,000,000 shall be available only for the expenses of Soviet-American interparliamentary meetings and visits in the United States approved by the joint leadership of the Congress after an opportunity for appropriate consultation with the Secretary of State and the Director of the United States Information Agency.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

PAYMENT TO THE EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For payment to the Eisenhower Exchange Fellowship Program Trust Fund to provide for a permanent endowment for the Eisenhower Exchange Fellowship Program, $5,000,000 as authorized by section 5 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101-454).

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $98,043,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $33,288,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided*, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $23,920,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 as authorized by section 209 of H.R. 1415 as passed the House of Representatives on May 15, 1991, by grant to an educational institution in Florida known as the North/South Center, $10,000,000 to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $26,025,000 of which $1,025,000 shall be available for obligation only upon submission of the report required by section 212(b) of H.R. 1415 as passed the House of Representatives on May 15, 1991.

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POINT OF ORDER

Mr. BERMAN. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BERMAN. Mr. Chairman, the section, National Endowment for Democracy, page 77, line 23 through page 78, line 4 is in violation of clause 2 of rule XXI because it constitutes an appropriation on an unauthorized program.

Mr. SMITH of Iowa. Mr. Chairman, I concede the point of order.

The CHAIRMAN (Mr. BROWN). The gentleman from Iowa [Mr. SMITH] concedes the point of order, and for the reason stated by the gentleman from California the Chair sustains the point of order.

Mr. KANJORSKI. Mr. Chairman, I move to strike the last word

Mr. Chairman, this Member from Pennsylvania had an amendment at the desk in relationship to the National Endowment for Democracy.

Mr. Chairman, we had the opportunity to raise the point of order that this was not authorized by the authorizing committee, but we worked very hard on putting together our arguments today to come and face the issue of whether or not we should expend the taxpayers' money in the nature of $26 million to primarily fund four major institutions in the United States: the Republican Party, the Democratic Party, the AFL-CIO, and the National Chamber of Commerce.

A large part of the membership on this side of the aisle and, I may say, on the other side of the aisle addressed this issue not from a partisan standpoint but, finally, from addressing whether or not we are acting in the best interests of the taxpayers of this Nation in spending money on private organizations such as the National Endowment for Democracy. We wanted to take this issue to the floor, not to remove it. The issue on a technicality is being removed by the chairman of the subcommittee who is the authorizing committee for this legislation. By virtue of this objection and point of order, we are going to be denied today the opportunity of having an up or down vote.

I wish to say to the gentleman from California [Mr. BERMAN] that I would hope that this means that he joins what we think is the majority of this House, that the National Endowment for Democracy should no longer be funded. But I would say that that would be optimistic on my part. I would have to asume that he probably has done a vote count in this House and knows full well that if we had taken this issue to the floor and had an up or down vote, finally after 4 or 5 years of trying we would have succeeded and cut back and sent a message to an organization like the National Endowment for Democracy.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired.

(On request of Mr. BERMAN and by unanimous consent Mr. KANJORSKI was allowed to proceed for 1 additional minute.)

Mr. KANJORSKI. I yield to the gentleman.

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I think it is important for the body to know that of course the gentleman who has strong feelings and deeply felt feelings on this subject and a full opportunity to raise this issue in an amendment he made to the authorization bill less than 3 weeks ago, a very lengthy debate, long discussion.

A $30 million authorization was approved. But that authorization bill has not yet passed the Congress, and I think that the appropriators—I would like to see an opportunity for the appropriators to be guided by the appropriations process and for problems that may very well exist with these programs to be worked out between now and such time as the appropriators would meet in conference.

Mr. HOYER. Mr. Chairman, will the gentleman from Pennsylvania yield to me even though I am not in conjunction with the gentleman?

Mr. KANJORSKI. Being the only part of the leadership that is not with us, I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I appreciate the gentleman yielding.

Mr. Chairman, I do not know that I am the only part of the leadership that is not with the gentleman.

But let me say something: This is a very important issue. As all of you know, I am a strong supporter of the National Endowment for Democracy. I have debated that way, spoken that way, and voted that way.

However, there is a related issue here which I think is very important. So that there is no mistake that this message is not sent—and I see the distinguished majority whip, Mr. GRAY, on the floor—unrelated to whether NED ought to be funded or not, that I for one, and I know others would be working on it, that nobody ought to miss the message: Some months ago we appropriated $10 million for the enhancement of democracy in South Africa. This Congress has stood strongly against what is, in effect, a China policy, constructive engagement for South Africa.

I would hope that the message that goes forward from our actions there is that this issue needs to be resolved. And whether it is NED, AID, Secretary Baker's office, whoever it is, or whether it is minority membership on the House committee or the Senate committee, this money needs to get going. And I, and others in this House, am going to be wondering why, when we legally have taken an action that money is not going to South Africa to assist in moving that country to full realization of democracy.

And I want to share very strongly the sentiments of the majority whip and want to tell the majority whip and members of the committee that I am going to be working very, very strongly with them to extricate this part of the issue from what I think is the broader issue as to whether or not we ought to proceed with NED.

I want to say also I intend to work very closely with the distinguished chairman and my good friend and colleague on the Committee on Appropriations, the chairman of the Subcommittee on Foreign Operations. I have been delving into this over the last 24 hours.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has again expired.

(On request of Mr. HOYER and by unanimous consent Mr. KANJORSKI was allowed to proceed for 1 additional minute.)

Mr. KANJORSKI. I yield further to the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding.

Mr. Chairman, I have been delving into this. Obviously, I am a brandnewcomer to the issue and therefore do not pose for holy pictures or any other pictures as an expert on this matter. But as somebody who basically is a strong supporter of NED—I know there are other views on that—but the related issue here is we need to get this resolved. I look forward to working with the gentleman from Wisconsin [Mr. OBEY], the gentleman from Pennsylvania [Mr. GRAY], the gentleman from Iowa [Mr. SMITH], the gentleman from Florida [Mr. FASCELL], and others to see if we can at least resolve that part of the problem.

I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has again expired.

(On request of Mr. OBEY and by unanimous consent Mr. KANJORSKI was allowed to proceed for 2 additional minutes.)

Mr. KANJORSKI. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I would simply like to say that I understand full well what happened here procedurally. But if we had proceeded to a vote, I would most certainly have supported strongly the amendment of the gentleman from Pennsylvania [Mr. KANJORSKI].

I was a short-term convert to NED. I opposed it at first because I thought that it would get us into mischief. I changed my mind when I saw some good work that was being done.

But I was reconverted to my old position, very frankly, by the incredible bureaucratic arrogance and, in my view, the shortsightedness of the people who run NED today.

I think that that agency is out of control. I think they are pursuing their own empire-building agenda rather than pursuing the interests of the United States of America and Uncle Sam. And I frankly doubt that the management problems are going to be corrected unless you have new personnel over there.

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So, Mr. Chairman, I would simply hope that the subcommittee would remember that an authorization is simply a ceiling, it is not a floor, and I would hope that we would see this appropriation reduced significantly in conference because until it is, until we pull their chain, we are not going to have that operation spending money consistent with the interests of the United States. We are going to continue to see them engaged in institutional and ideological empire building which does not serve the cause that I think all of us are interested in promoting.

Mr. GRAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman and my distinguished colleagues, I understand what the gentleman from California has done by raising the point of order. Essentially what has now happened is that that authorization has not been passed for the National Endowment for Democracy, and, therefore, the point of order would remove the $26 million for the National Endowment for Democracy in this piece of legislation.

First of all, Mr. Chairman, I want to compliment the chairman, the gentleman from Iowa [Mr. SMITH], who always does an outstanding job with the appropriation bill, however, with regard to the National Endowment for Democracy I want to say, as one who has generally in the past been a supporter, that I had planned very strongly to support the amendment of the gentleman from Pennsylvania [Mr. KANJORSKY] to cut the National Endowment by $10 million, and the reason was twofold:

As recently as March 1991, the GAO's report said, quote, that NED's funds were being misused, mismanaged and not effectively accounted for, and they listed in that GAO report such abuses as taking grant money to pay personal credit cards, to buy homes, personal homes, as well as not having objectives, and of course I could go on with the other sad list of so-called things to promote democracy, such as funding the opposition of Costa Rica's President Arias as somehow helping to promote democracy. One of the major concerns that I had was the fact that over a year ago this body and the President signed into law an appropriation bill that provided $10 million for the democratization process in South Africa, and NED was supposed to be the subcontractor through AID on that. My colleagues and I who led that trip, and I see the gentleman from California [Mr. DELLUMS] who was a part of that, the gentleman from Louisiana [Mr. MCCRERY] who was a part of that, the gentleman from New Jersey [Mr. GALLO] on the other side of the aisle, and we made the recommendation that, as we are helping democratization in Poland and elsewhere in the world, we also ought to do it there, but here we are almost 14 months later, and that money has not been distributed largely due to a lack of commitment on the part of the National Endowment and that their proposal called primarily for funding of beltway-bandit consultants to go over and teach the people in South Africa about freedom and democracy rather than give it to the groups there.

So, Mr. Chairman, I want to go on record as saying that I understand what the gentleman from California has done, however when it comes back in the conference report, unless there is something done very strongly, I will oppose the conference report, and I think that this body and the American people are tired of money being wasted that basically provides for the political consultants on both sides of the aisle, Democrats and Republicans, to travel and talk to folk about democracy.

Mr. Chairman, I think people know about democracy. It is breaking out all over, and we ought to give it to the people there.

Mr. MCCRERY. Mr. Chairman, will the gentleman yield?

Mr. GRAY. I yield to the gentleman from Louisiana.

Mr. MCCRERY. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. GRAY] for yielding.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from Pennsylvania [Mr. GRAY]. I, too, accompanied the majority whip to South Africa and met with a number of anti-apartheid groups, and I agree that that money should have been distributed in some form to those groups to facilitate the process which is ongoing in that nation to create a constitutional democracy. I think the NED certainly should consider that as one of its prime obligations under its charter and want to encourage the gentleman to continue his efforts to accomplish that.

Mr. GRAY. Mr. Chairman, I want to thank the gentleman from Louisiana [Mr. MCCRERY] because he played an important role in putting together a bipartisan support for those funds over a year ago and simply say that, not only did NED not fulfill the congressional responsibility assigned by the President, but also AID, and I will talk about that at another opportunity.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GRAY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would like to associate myself with the remarks of both gentleman from Pennsylvania.

I planned to support the Kanjorski-Gray amendment, reducing the appropriation by $10 million to $15.8 million for the National Endowment for Democracy. Now that subcommittee chairman, Mr. BERMAN, has stuck the entire appropriation on a point of order, let me explain my concern.

Democracy is a right, a governmental system and a way of life, and democracies continue to develop today at a startling pace at many points on the globe. Like a wave of people at a sports event, the idea of democracy is breathing new hope into the lives of people around the world as one authoritarian regime after another collapses under the weight of its own corruption and inept governmental systems.

The Congress created and has funded the National Endowment for Democracy. By design the Congress has had limited authority over how NED money is expended. However, even the limited lawful direction provided by the committees of Congress in authorization and appropriation laws have been disregarded by the National Endowment for Democracy much to the dismay of this Member.

At a time when our national debt is well over $3 trillion, the financial industry is going through upheaval that will cost billions of dollars, unemployment continues to hover near 7 percent and the homeless continue to inhabit cities whose infrastructures are decaying to the point of danger, we must take special care that the dollars we expend achieve the purposes we intend. Those dollars that don't go to our needs at home must be very carefully spent abroad. Now, more than ever, we need to be certain that the dollars expended are reaching and achieving the purposes envisioned in the basic policy of our programs.

It seems imprudent at this juncture to maintain the significant Federal spending for an organization whose management practices are under serious question. Recently, yet another GAO report on the National Endowment for Democracy identified a number of extremely troubling problems that continue, including misuse and mismanagement of funds, inadequate or absolute lack of evaluation of programs. Most troubling is the fact that the GAO issued a strikingly similar report on the NED detailing the same problem areas, in 1986.

Congress must respond to such a significant short coming in the budget crisis climate today. There are not the available funds to maintain such significant dollar increases as have occurred in recent years for an organization that takes Federal money and doesn't account for it, and that has internal management and fiscal responsibility problems which persist in spite of repeated warnings. Congress needs to force the National Endowment for Democracy to face facts and to correct such issues.

The NED has been since its inception a significant challenge. It is with regret that I observe such shortfalls today. The NED has offered an innovative approach and played an important role over the past 6 to 7 years in numerous locations around the world. But our recognition of the NED success must not make us blind to the serious administrative, accounting and politically explosive misques that have also emerged within the NED. These NED weaknesses must be corrected before full funding and business as usual evolve into major blunders and embarrassment for the United States in our relations with other nations.

As columnist Leslie Gleb said yesterday in the New York Times, American people are not demanding that America withdraw from the world. They want our country to play an active, powerful, and constructive international role. But at this time of Federal fiscal frustration, let's play that role through established congressional channels, where we have control of how our money is spent.

I thank the majority whip, Mr. GRAY for yielding.

Mr. GRAY. Mr. Chairman, I thank the gentleman from Minnesota [Mr. VENTO] and conclude by simply saying that we need to watch this situation. This is an agency that refuses the oversight of Congress. It wants to take taxpayer's money, spend it willy-nilly.

GAO 5 years ago had a very negative report, came back this year with a similar report saying that nothing had been done and, on top of it, just refuses the oversight.

I would just simply say to my colleagues that the American people should know where this money is going to, to hire consultants, the beltway bandits, to go and teach democracy. I do not think we need to teach democracy. People are fighting for it, and they have been dying for it in Poland and elsewhere.

The CHAIRMAN pro tempore (Mr. GEJDENSON). The time of the gentleman from Pennsylvania [Mr. GRAY] has expired.

(By unanimous consent, Mr. GRAY was allowed to proceed for 1 additional minute.)

Mr. GRAY. So, Mr. Chairman, whether it is in South Africa or Poland, I think what we need to do is we want to foster that democratic process or help those groups that are on the scene. We do not need to hire foundations, consultants, to go over and teach folk who have already lost their lives fighting for freedom how to make freedom work. I think that that is one of the things that we need to look at in terms of this agency, and I would just say to my colleagues that this fight will continue when the conference report comes back, and this Member will be prepared to oppose it if we do not see some correction.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I rise to associate myself with the remarks of several of my distinguished colleagues who have spoken on this matter. I certainly would have risen during the course of these deliberations in order to support the efforts of the gentleman from Pennsylvania [Mr. KANJORSKI], and I do so for all the reasons that have been enunciated.

I, too, joined the bipartisan effort a year ago that jouneyed to South Africa and came back. We, on a bipartisan basis, made a recommendation that these $10 million be appropriated.

In the few moments that I have remaining I would like to note that the gentleman from California [Mr. BERMAN] was successful in zeroing out this matter. I would like to at this point assist in making the record as to why this gentleman would have stood strongly in support of the amendment offered by the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. Chairman and members of the committee, in March 1990, the Congressional Black Caucus, along with a number of my other colleagues on a bipartisan basis, successfully secured $10 million for the victims of apartheid in South Africa as part of the fiscal 1991 emergency supplemental appropriation bill.

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These funds were to be distributed by the National Endowment for Democracy [NED] and the South African Council of Churches. To date, 15 months later, not one dime of these emergency funds—and I underscore that, Mr. Chairman—not one dime of these emergency funds has been provided to the black South African organizations we were attempting to strengthen. NED was assumed to have complete control of these funds, and the South African Council of Churches has indeed been excluded completely.

That is not to say, Mr. Chairman, that ADI did not have to assume some of the complicity in this situation. As the gentleman from Pennsylvania [Mr. GRAY] indicated, there will be an appropriate vehicle whereby we can also send a message to AID on its role in this situation. At this moment we choose to seek this time to send our signal to NED.

In addition to what I have just said, Mr. Chairman, NED has chosen to ignore the specific legislative guidelines surrounding this $10 million. For example, they ignored the legislation's specification that the funds be allocated solely to the victims of apartheid. Instead, their proposal would have allocated much of the $10 million to selected American experts on democracy. The gentleman from Pennsylvania [Mr. GRAY] has spoken eloquently and articulately to that issue.

Second, they ignored the legislation's specification that the $10 million be used to provide previously banned organizations with office and communications equipment, vehicles, office space, and so on. Instead, NED encouraged American organizations to apply for funding to hold seminars on political change in South Africa.

Third, they ignored the fact that this $10 million was a part of an emergency appropriation. Not only did they display no sense of urgency in getting these funds to the victims of apartheid, but they also failed to apprise us, the U.S. Congesss, of any factors contributing to such an inordinate delay in the expeditious implementation of this program mandated by the Congress and signed into law by the President of the United States.

It would seem to me that consultation with the Congress of the United States certainly was deemed not to be a priority by this agency, and for this reason, Mr. Chairman, and for the fact that a great deal of concern exists on both sides of the aisle with respect to the accountability for funds appropriated in fiscal year 1991 for victims of apartheid, NED has not complied with the congressional intent on the use of these earmarked funds.

At this point it would seem to me it is appropriate, irrespective of the amendment offered by the gentleman from California, to make a record that says Congress is attempting to send a clear and unequivocal signal to NED in order to protect its institutional prerogatives and its desire to see the administrative agency carry out its responsibility that indeed is mandated by law and dictated by the political situation in South Africa.

It is for these reasons and a number of other reasons that have been articulately and eloquently stated by previous speakers that I would have stood in significant support of the amendment offered by the gentleman from Pennsylvania [Mr. KANJORSKI].

The CHAIRMAN pro tempore (Mr. GEJDENSON). The time of the gentleman from California [Mr. DELLUMS] has expired.

(On request of Mr. WOLPE, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 3 additional minutes.)

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I want to associate myself fully with the remarks of the gentleman from California [Mr. DELLUMS] and those earlier remarks that were offered by the gentleman from Pennsylvania [Mr. GRAY] and the gentleman from Louisiana [Mr. MCCRERY].

I rise, frankly, just to make a generalized kind of critique of NED's performance in other areas. My sense is that they have done some things that are good and other things that are highly questionable over the years, but I have been deeply concerned by the evolution of this whole question of the $10 million that has been appropriated by this Congress on an urgent basis to facilitate and encourage the process of democratization that is underway in South Africa.

I do not know where all of the culpability lies. I think clearly we have had something less than an aggressive effort by NED to move this program forward. The documents that I have seen that outline NED's intentions in terms of a program once it were funded, clearly do not correspond with congressional intent as clearly expressed in law.

I also have very serious concerns about AID's role in this entire affair. The language of the Congress stipulated that NED was one possible transit for these funds, but that there were alternatives, such as the South African Council of Churches, and yet AID has done absolutely nothing to move this process forward. I think they are really giving kind of lip service to our country's professed commitment to end apartheid in South Africa and to play a constructive role in that process.

The gentleman from Louisiana [Mr. MCCRERY] referred back to the bipartisan allegation that we all participated in so many months ago, and I think it was one of the most encouraging and exciting points of my congressional career to see the evolution of a genuinely bipartisan understanding that has allowed us to speak with one voice as it relates to the question of South Africa. One key element of that understanding was the importance of that $10 million program to go forward to assist those political parties that have been banned for so many years, to get about the business of organizing themselves for a new nonracial democratic South Africa. To see NED, to see AID, and to see the bureaucracies undermine that process is, I think, a tragic commentary.

So I just want to express my hope that the dialogue we are having today will be heard by those within the administration and who profess to care, and if it is not heard, then I hope that the efforts that are being made to send a stronger message by using the purse strings we do have some control over will actually be implemented in the weeks ahead.

Mr. DELLUMS. Mr. Chairman, reclaiming my time, I thank the gentleman from Michigan [Mr. WOLPE] for his very cogent remarks and say to him that the journey to South Africa that resulted in this bipartisan effort was one of the most extraordinary events in this gentleman's political life.

I would like to conclude by making just one final comment. It is a comment that I make with some trepidation, Mr. Chairman.

The CHAIRMAN pro tempore. The time of the gentleman from California [Mr. DELLUMS] has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, I make this final comment with some trepidation: When Members of the Congress of the United States act and the President signs into law a measure, then I believe that the Congress of the United States does indeed have an oversight responsibility to see to it that the laws are carried out efficaciously, but I do not believe that any one member of this body or the other body has the right or the prerogative to stop the will of the Congress as it is laid out in law.

I will say to the Members, Mr. Chairman, that if any Member wishes to investigate whether both AID and NED have indicated that one Member of the House or one Member of the other body played a very significant role in slowing down the ability of both to carry out this intent, I would stress that no Member of Congress should have the power to thwart the will of Congress. We operate on the basis of democractic principles here. We operate on the basis of majority convictions. We operate on the basis of rule of law. No one Member of the Congress of the United States, because that particular person in either body is not in full support of what is there, has the right or the prerogative to stop an action based on disproportionate influence. That is one additional item that has been alluded to as the gentleman has attempted to investigate culpability in this matter. I think that is wrong, I think that is inappropriate, and I think that is violative of everything we stand for. I think each one of us must pursue our responsibilities diligently, but I do not think one of us has that right.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I am pleased to yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, on that point, I would like to indicate that the formal hold process is being used regularly by the gentleman from Wisconsin [Mr. OBEY], chairman of the Subcommittee on Foreign Operations, as well as by the chairmen of many other committees of this House.

Mr. DELLUMS. I am sorry, but may I ask, would the gentleman repeat that for me?

Mr. BROOMFIELD. I wanted to indicate that the formal hold process the gentleman was talking about is being used regularly by the gentleman from Wisconsin [Mr. OBEY], the chairman of the Foreign Operations Subcommittee, as well as by the chairmen of many other committees of the House. It is a hold policy that has been used many, many times.

□ 1320

The CHAIRMAN pro tempore (Mr. GEJDENSON). The time of the gentleman from California [Mr. DELLUMS] has expired.

(At the request of Mr. BROOMFIELD and by unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, first I would say that I would be the first to say that the gentleman certainly is correct. What I am suggesting is that chairmen, in the daily conduct of their responsibilities, indeed institutionally, are charged with the responsibility of being held accountable to the membership of those committees. Above and beyond that, no one Member, going directly to an agency, should be able to slow down a process, unless it is fully within the framework of the rules and regulations that guide our daily capabilities, our daily functioning, in the Congress of the United States.

That is the only point this gentleman was attempting to make.

Mr. BROOMFIELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the comment of the gentleman from California [Mr. DELLUMS] very much.

Mr. Chairman, I would like to address the concerns raised by my colleague from Pennsylvania [Mr. GRAY]. The South African program was created in the Supplemental Appropriations Act last year. AID sent a congressional notification on December 3, 1990, and arranged a series of briefings.

Because I had concerns about the proposed program—concerns that were shared by Members that approached me—I sent a letter to AID Administrator Roskens on December 14. This letter detailed my concerns and was in keeping with the informal hold procedure used by chairmen and ranking members of many communities. I ask unanimous consent that my letter be printed in the RECORD at this point.

AID has not moved forward with the South Africa program since the receipt of this letter. I and my staff have had no contact with the former and the current chairmen of the Foreign Affairs Africa Subcommittee or with Mr.

GRAY or his staff on this issue in the over 6 months since I sent the letter.

I review this history because it is important to concerns over the National Endowment for Democracy [NED]. NED did not develop, design or brief the original program. NED is not responsible for where matters stand today. In fact, although I and my staff have had only minimal contact with AID on the issue, NED has been working hard to see if a program can be developed.

NED President Carl Gershman has had extensive contact with my staff to understand my concerns and to try to develop a program which will support democracy in South Africa.

I hope that NED will not be punished for its perceived failings on an issue over which it has no control. The issues of oversight and accountability that have been raised here today are precisely the issue I raised in my letter to AID. I stand willing, as I have been for the last 6 months, to work with Mr. GRAY and all other parties concerned with the proposed South Africa program to work together to provide effective support for democracy in South Africa.

I include a letter to the Administrator of AID for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, December 14, 1990.

Hon. RONALD W. ROSKENS,
Administrator, Agency for International Development, Washington, DC.

DEAR RON: I am writing to express my opposition to moving forward at this time with the Agency for International Development's Transition to Democracy Project in South Africa.

Based upon the documents sent to me and briefings provided to my staff, I am not satisfied that AID's proposed program has been adequately developed or that it will advance the goals of Public Law 100-302, the FY 1990 Dire Emergency Supplemental Appropriation Act. Indeed, I remain unconvinced that the proposed meets AID's own criteria as expressed in the technical guidelines for evaluating proposals.

Specifically, I am disturbed that no assessment of potential grant recipients' qualifications for assistance has occurred. The technical guidelines provided to Congress state that "organizations must have adequate administrative capability and absorptive capacity" and that activities should "build the capabilities of the recipient groups to continue such activities after project completion."

In the cases of the African National Congress and the Action Group for Democracy, apparently neither AID nor the U.S. Mission has made a preliminary examination of administrative capability, absorptive capacity or sustainability issues. AID could not identify what organization would do an assessment of the requirements and capabilities of recipient groups. AID did seem be believe that such an assessment should occur before funds are expended but could provide no details about how the assessment would take place.

A number of other unanswered questions surround the Transition to Democracy Project. In briefing the professional staff of the Committee on Foreign Affairs, AID officials could not answer questions concerning the origin of and reasons for specific funding levels in the proposed program, what criteria were used for selecting U.S.-based grantees, how grants to National Endowment for Democracy affiliates would be expended, or the nature of accountability procedures for recipient organizations.

Until these questions can be answered adequately, I must oppose moving ahead with the Transition to Democracy Program. I share your goal of encouraging negotiations leading to a peaceful transition to a genuine democracy in South Africa and look forward to working with AID in addressing these concerns about the Transition to Democracy Program.

Sincerely,

WILLIAM S. BROOMFIELD,
Ranking Republican Member.

Mr. GRAY. Mr. Chairman, will the distinguished gentleman from Michigan [Mr. BROOMFIELD] yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman from Pennsylvania.

Mr. GRAY. Mr. Chairman, I would like to simply say to the gentleman from Michigan [Mr. BROOMFIELD], as the author of the legislation which was to provide that aid, I would like to just take a moment and explain to him how that came about.

Back in February of last year the minority leader, the gentleman from Illinois [Mr. MICHEL], and the Speaker, asked a bipartisan delegation to go and look at the situation in South Africa. Representatives from that side of the aisle joined Representatives of this side of the aisle.

I, along with the gentleman from New Jersey [Mr. GALLO], who at that time was a member of the Committee on Appropriations, representing the Republican side, led that delegation.

Mr. Chairman, we spent a week or so there and had an opportunity to talk with everyone. We also had an opportunity to stop in Namibia, which was just about to go to the swearing in of their first democratically elected president, a model of democracy, that process there.

As we came back, the delegation bipartisanly said we ought to show bipartisanly for the American people the same kind of thing that we have shown in other places, Poland, and elsewhere in the world, where democracy is beginning to move forward, to provide some assistance.

So I undertook that responsibility, with the support of the gentleman from New Jersey [Mr. GALLO] and others, and the gentleman from Louisiana [Mr. MCCRERY], on that side, to write the legislation that would provide $10 million for infrastructure.

I would say to the gentleman from Michigan [Mr. BROOMFIELD], if he reads it very carefully, it is very, very specific. It says for typewriters, for vehicles, because these were the things that all of the groups told us that we met with, everyone, on all sides of the issue. They said we need to get organized to go sit at the table with the De Klerk government.

We thought these were the kinds of things that we could provide, and that $10 million would be a step in the right direction, even though it was nowhere near what other Western democracies were doing.

Mr. Chairman, I would say to the gentleman from Michigan [Mr. BROOMFIELD] that the bottom line is essentially we are here today, now almost 14 months later, from the time that was written, passed by this body, and it has not occurred, where every other democracy has been shown encouragement.

Mr. Chairman, I will be glad to sit down with the gentleman from Michigan [Mr. BROOMFIELD] and go through my conversations as the person who authorized the legislation, and tell him about my almost weekly contacts with the National Endowment.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. BROOMFIELD] has expired.

(At the request of Mr. GRAY and by unanimous consent, Mr. BROOMFIELD was allowed to proceed for 2 additional minutes.)

Mr. BROOMFIELD. I yield to the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Chairman, I would tell the gentleman from Michigan [Mr. BROOMFIELD] about my almost weekly contacts with AID and NED. In looking at this issue for 14 months, as was my responsibility, I can assure the gentleman that the National Endowment does bear a great deal of responsibility.

Mr. Chairman, as I said earlier, AID has a responsibility. In fact, I was told by the National Endowment that one of the reasons why they had not moved forthrightly on it was because of the gentleman's concern. I said to the director of NED:

> You have just made an eloquent argument to me that you are an independent agency and you must design programs, and therefore you cannot just put something together and sign checks and give it away. But then, on the other hand, you say because of concerns of two Members of Congress, you stopped moving.

Mr. Chairman, I would simply urge that the gentleman from Michigan [Mr. BROOMFIELD] spend more time with those of us who put this in and discuss his concerns with us, and try to work them out. Otherwise, what is the meaning of a vote here? What is the meaning of having 435 Members vote on something, have it signed by the President, and then have any Member, one Member of this body, either from the majority or the minority, be able to stop something from taking place?

Mr. Chairman, that was the excuse used by the National Endowment to me and my office. It was also brought to my attention by AID as well.

I would simply say to the gentleman from Michigan [Mr. BROOMFIELD] that if we are going to promote democracy, let us promote democracy, and provide some help in South Africa, just as we did in Poland. That is the history of that situation. I would share it with the distinguished gentleman from Michigan [Mr. BROOMFIELD], and simply say, if he has the time, I would like to meet with him and try to resolve any concerns that he has.

Mr. Chairman, I was told by NED that one of the delays was in fact responding to the gentleman, the ranking member of the Foreign Affairs Committee.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. BROOMFIELD] has expired.

(By unanimous consent, Mr. BROOMFIELD was allowed to proceed for 30 additional seconds.)

Mr. BROOMFIELD. Mr. Chairman, I merely wanted to indicate to the gentleman from Pennsylvania [Mr. GRAY] that it is AID that has the responsibility to give the funds to NED, because the $10 million is not appropriated to NED. I am willing, obviously, to discuss this issue with the gentleman further.

Mr. GRAY. Mr. Chairman, if the gentleman will yield further, the gentleman from Michigan [Mr. BROOMFIELD] is absolutely correct. It was not appropriated to NED. It was appropriated to AID, with express direction that a subcontract be given to NED, or the South African Council of Churches. AID decided to use NED to be the subcontractor and entered into negotiations with them in May of last year, since the President signed it into law in May. The first proposal that came from NED was not until November of last year, even though we are talking about $10 million that was supposed to be a supplemental appropriation which was to be expended by the first of October of last year.

The CHAIRMAN. The time of the gentleman form Michigan [Mr. BROOMFIELD] has expired.

(At the request of Mr. OBEY and by unanimous consent, Mr. BROOMFIELD was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I requested that the gentleman from Michigan [Mr. BROOMFIELD] yield, since I understand the gentleman mentioned my name earlier in the colloquy with the gentleman from Pennsylvania [Mr. GRAY].

I understand that the gentleman indicated that I and my committee had often engaged in holding one item or another that came from the administration. That is absolutely true. I think the House needs to understand the process.

The administration is given wide latitude by the Committee on Appropriations to bring to the Congress suggestions to change funding patterns so that they wind up spending money for a purpose for which it was not appropriated.

□ 1330

Absent the authority that we give the administration to do that, the administration would be limited to expend that money only for the purpose appropriated or else not to expend it at all. So when they send us a request to spend money for a purpose other than that for which it was appropriated, I think our committee has an obligation to prevent the spending of that money until we have a clear understanding of exactly what it is they intend to do. That is the purpose for well over 90 percent of the holds placed on those funds by our committee or any other committee. It is in the interest of protecting taxpayers' money, seeing to it that it is expended for a proper purpose. And I make no apology for it. In fact, I think we probably ought to do more of it.

Mr. BROOMFIELD. Mr. Chairman, I was not saying that to be critical of the gentleman's effort. I merely used him as an explanation, that others had been using the same process.

Mr. OBEY. I understand that, and I simply wanted the record to be clear.

PARLIMENTARY INQUIRY

Mr. ARMEY. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. ARMEY. Mr. Chairman, I understand that a point of order was raised against the amendment, and my inquiry is: Has the Chair ruled on that parliamentary inquiry?

The CHAIRMAN. The point of order was not against the amendment, which was never offered, but against those provisions in the bill dealing with this subject, and the point of order was upheld. The material is stricken from the bill.

Mr. ARMEY. Mr. Chairman, therefore we are not discussing any amendment. This is a fascinating debate, but I do wonder if there is not a more appropriate time, on perhaps an authorizing thing, to carry out this debate so that we can get it back to the business of the bill.

The CHAIRMAN. The Members are proceeding under their entitlement to strike the last word. While the Chair might want to discourage them, he is precluded by custom from doing so.

Mr. ARMEY. I thank the Chair.

Mr. ALEXANDER. Mr. Chairman, I move to strike the last word.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I had intended to rise in strong support of the Kanjorski-Gray amendment to reduce funding for the National Endowment for Democracy. I am pleased that by another motion this project has been stricken from the bill.

It is right to cut funding for the National Endowment for Democracy for several reasons. First, the proposed funding level for the NED of $26 million is an increase of more than 60 percent since fiscal year 1989. I think one woud be hard-pressed to find that great an increase in many other federally funded programs.

Second, the GAO has reported that the NED "* * * does not have a system to determine whether goals and objectives are being met" and they found instances of "* * * funds being misused, mismanaged, or not being effectively accounted for". It certainly does not seem prudent to increase spending on an organization which exhibits such a lack of oversight.

Finally, we need to ask whether the U.S. Government should be involved in giving taxpayer money to a few select groups so that they can promote their own foreign policy objectives. Nobel peace prize-winner and former President of Costa Rica Oscar Arias complained about NED support for the opposition party in the most recent presidential elections there. I think we should closely consider President Arias's concerns and wonder what NED is doing in Costa Rica, a country which enjoys the strongest democratic traditions in all of Latin America.

Again I am glad to see NED eliminated from this bill and compliment Representatives KANJORSKI and GRAY for their leadership on this issue.

Mr. ALEXANDER. Mr. Chairman, I take this time to commend the gentleman from Pennsylvania [Mr. KANJORSKI] and the other gentleman from Pennsylvania [Mr. GRAY] for bringing matters concerning the National Endowment for Democracy to our attention. As a member of the Appropriations Committee, we review all of the proposals of the administration for funding, and it is simply impossible to know what goes on behind all of these appropriations without looking into some of these matters specifically. It has been helpful to me to experience a debate on the National Endowment.

But I think that it should be stated, in my view at least, that the National Endowment has done a good job. I am not privy to the visit to South Africa, and I am not knowledgeable on the subject that is being debated with reference to the proposed funding for the NED program in South Africa. However, in talking with the NED officials, they represent that it is an AID program, that AID was authorized to spend this money, and that they are sort of caught in the middle. So I hope that Members will hear the other side of this argument at some future time before it is finally resolved.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wanted to point out that I do support the initiative of the gentleman from Pennsylvania [Mr. KANJORSKI].

There are many of us who were not supportive of this when it was conceived in the early 1980's and have not been supportive since. I have no problem trying to nurture the notion of democracy around the world. But taking taxpayers' money in this country to the tune of well over $100 million, giving it to the Chamber of Commerce, the AFL–CIO, the Republican Party, the Democratic Party, and saying, "Go forth and do some wonderful things to nurture democracy around the world," seems somehow inappropriate to me.

We have plenty of nurturing to do here at home. If we want to endow a democracy, this is one that could certainly well afford to be endowed these days, given our deficits that we have. And as we look at the record here, I understand the debate that has gone on, but if we look at the record and see that the National Endowment for Democracy has funded projects to promote democracy in England and France, I mean what is going on? We need to spend American taxpayers' money to promote democracy in England and France? What we need to do is to spend American taxpayers' money to endow democracy in this country.

Mr. ALEXANDER. I would like to point out that it might be useful for all Members to read a memorandum that was forwarded by NED to the Members which sets the record straight on some of these confusing allegations. I believe the NED has denied spending any funds to promote democracy in established democracies, to wit: Great Britain, France, and so on.

But the reason I also took this time today was to comment, and several Members have asked me to comment on the TV Marti amendment which was passed in the subcommittee to deny funds for broadcast television to Cuba, but was overturned by the full committee. I simply wish to report that the full committee has overturned the action of the subcommittee, and that without the support of the Appropriations Committee there is little chance that we could reverse that action at this time.

I would add, however, that yesterday there was a report by the United States Advisory Commission on Public Diplomacy, issued for the current year, and I will just quote briefly from that where it says:

> The Commission finds that TV Marti is not cost effective at the present time when compared with other public diplomacy programs of proven value. The President's report to the Congress in August 1990, found that TV Marti's signal has been consistently and effectively jammed. Moreover, programs that are transmitted from 3:30 a.m. to 6 o'clock a.m. so as not to cause illegal interference with other Cuban telecasts are seen by an audience which is unknown.

I will include the rest of that report for the benefit of the Members, and we can continue this subject at a future time.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I am pleased to yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, I think I too would like to underscore the fact that in regard to the National Endowment for Democracy, Congress really ought to be drawing a lesson in that we should stop this Tinker to Evers to Chance, Mickey Mouse kind of way of setting programs up and directing who should be doing what. When we give the money to AID and then tell AID to find somebody else to do the work, we are really just asking for trouble. If we want NED to do it, give it to NED. If we want AID to do it, give it to AID, but do not set up this confusing situation.

I should also tell the gentleman that although obviously NED has problems, and I have indicated both publicly here on the floor when the authorization legislation was up and in private conversations with the NED people that unless they get their house in order in regard to accountability, nobody can save them.

The CHAIRMAN. The time of the gentleman from Arkansas [Mr. ALEXANDER] has expired.

(On request of Mr. WEISS and by unanimous consent Mr. ALEXANDER was allowed to proceed for 1 additional minute.)

Mr. ALEXANDER. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I have indicated to the NED that they really have to do that, and they tell me they are in the process of doing exactly that at this point.

Yesterday there was a magnificent meeting, a luncheon meeting of the Soviet American Roundtable, and Hendrick Smith, formerly of the New York Times, who is an expert on Soviet society, was saying in response to what could we be doing at this point to foster democracy in the Soviet Union, he said one example is that there is something like 20 or 25 reformers who have been elected as mayors in various cities and who have not the foggiest idea how the democratic process works, or how government works. NED is in there with $300,000 at this point, and they ought to be spending $6 million in 20 cities rather than just in one. The same story prevails in central and Eastern Europe and in countries around the globe. NED gets many more requests for assistance than it can possibly respond to given the resources at its disposal. It is because of the valuable substantive work it is performing which cause me to give it my support. I have the strong expectation that NED will correct the problems which have been brought to public attention.

I thank the gentleman for yielding.

□ 1340

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the last word. I will try to be brief.

Mr. Chairman, I think we need to get back to the central theme of this discussion that has been taking place, and that is why the hold was put on this money, this $10 million. I think it needs to be pointed out that not only the ranking Republican on the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD], but others joined in this effort to put a hold on this money for some very good reasons.

One of the main reasons that I have been opposed to this money going to Africa, South Africa, is because 40 percent of the $10 million approximately is going to go to the African National Congress or the Xhosa organization over there, and only $1 million is going to go to Inkatha or the Zulu party, and there has been a black-on-black civil war that has been going on over there for some time.

We all want to see democracy, peace, and freedom exist in South Africa, and until this black-on-black civil war stops, it is not going to take place.

I think it ill behooves the Congress of the United States to be sending $3.7 million for salaries, typewriters, or for whatever to the ANC and $1 million to the Action Group for Democracy unless they resolve their differences and quit killing each other. Necklacing still takes place. The ANC has not renounced violence, and the civil war, so to speak, goes on.

I believe that the United States of America should help in every way possible to bring about democracy in that country, but I do not think it is appropriate right now for us to be sending $4 million to one of the groups that continues this black-on-black killing, and for that reason I think the hold is justifiable, and it should continue until that is resolved.

Mr. SOLARZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief, but I could not help but respond to the observation that was made by my very good friend, the gentleman from North Dakota, who said that with all the problems we have here at home we have better and more important things to do than to nurture democracy abroad. I fully agree with him. We have an unfinished agenda here at home, and we ought to be dealing more effectively with those problems.

But we are not in the business of nurturing democracy abroad simply for sentimental reasons. We are in the business of nurturing democracy abroad because it is very much in the interests of the United States.

Not since the early part of the 19th century and the Battle of Waterloo has there been a major war in the world between two established liberal democracies. Democracies tend not to go to war. It is dictatorships which tend to go to war.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to the gentleman from Illinois, my good friend.

Mr. HYDE. Mr. Chairman, I could not agree with the gentleman more. I would suggest that had we nurtured democracy in the 1930's in Germany and in Italy, we might have avoided the most unnecessary and bloody war of our century. I thank the gentleman for this insight.

Mr. SOLARZ. Mr. Chairman, I am delighted to find myself for a change in agreement with my friend from Illinois.

But if we are interested in preserving the peace, then we have an interest in promoting political pluralism. If we have an interest in economic prosperity, then we have an interest in promoting democracy, because the democracies are almost invariably associated with market economies, which tend to be an engine of wealth. If we are interested in human rights, we have an interest in promoting democracy, because democracies tend to be much more respectful of human rights than other forms of government.

It is not just a question of expressing and acting upon our values, although that is a part of what we do, with the National Endowment of Democracy. It is also very much a part of how to promote vital American political, strategic, diplomatic, economic, and humanitarian interests.

I have no doubt that over the course of the years the NED has from time to time supported a project that many of us would think is not justifiable, but one does not throw out the baby with the bathwater. There is not a single Federal agency, no matter how important the area of its jurisdiction, that has not from time to time engaged in activities that many of us would wish it has not engaged in, but we do not thereby eliminate the funding for the whole agency when the bulk of what it is doing is worth doing.

That, I believe is the case with the NED.

Mr. KANJORSKI. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to my friend, the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Chairman, I just might point out to my friend, the gentleman from New York, that we are not talking about a Federal agency. We are talking about a private foundation here with taxpayers' money.

I think that we have had a great debate here. I hope we have made the point. But I do want to call attention to the Chair that I now know what General Schwarzkopf has to feel like having had to prepare for battle for 9 months and having his intelligence lined up, had his forces ready to go and getting the final word from the President to march in, and have your opposition surrender without firing a shot, which is a frustrating moment. I think that is what happened here today.

We, in good spirits, say that, and we hope that what has happened here today is a great dialog to get accountability from a private organization using taxpayers' money and not to allow them to get involved in their own self-serving foreign policy considerations.

Mr. SOLARZ. I thank the gentleman for his observation. I fully agree with him that the NED is a private organization, not a Federal one. It was established precisely in the way it was in order to insulate it to some degree from government pressures and from association with the Government. It is based on the same model that has been used by the British, the Germans, and other industrial democracies around the world that have similar foundations.

I think this dialog has been constructive. Hopefully we can move on, improve whatever problems exist, and then do a better job in promoting democracy around the world.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1992".

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 607. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101-576.

AMENDMENT OFFERED BY MR DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota: Add at the end of title VI (the general provisions title) the following:

SEC. . SAVINGS AND LOAN PROSECUTION TASK FORCE.

The Attorney General shall establish within the Justice Department a national savings and loan criminal fraud task force to investigate in an aggressive manner those criminal cases involving savings and loan institutions.

Mr. ARMEY. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. ARMEY] reserves a point of order against the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, let me explain what I hope to accomplish.

I did go to the Committee on Rules with this amendment, and I would hope that my friend, originally from North Dakota, more recently from Texas, would see fit not to raise a point of order. I would like to explain to him what I am intending to do.

This bill contains a substantial amount of money, well over $260 million, for the prosecution of fraud in the area of financial institutions. We have seen in this country, Mr. Chairman, almost unprecedented failure in financial institutions, but most especially in the area of S&L's. We have seen thousands of S&L's fail. We are told that over 60 percent of them involve some kind of fraud.

□ 1350

Mr. Chairman, we are told by those who have studied this that a substantial portion of the failures of S&L's involve fraud. Now, most Members who go home and speak to our constituents know the anxiety, and in many cases, the anger that exists about their having to come up with hundreds of billions of dollars in order to pay for this failure.

What they say is, "We understand the need to do that. We understand that this money goes to make whole the depositors who have money on deposit in these institutions, but we want to make certain that those who were involved in fraud are prosecuted. We want to make certain that those who were guilty of cheating are caught and prosecuted aggressively by the Justice Department."

The fact is we provide the money for them to run the Justice Department. They are organized in a manner that they want to organize, and we provide certain directions in those areas.

I would like to provide greater focus in the area of prosecution of S&L fraud. By "greater focus," I mean I would like the Attorney General to establish in the Justice Department a National Savings and Loan Criminal Fraud Task Force. Yes, they have a task force on the issue of criminal fraud in financial institutions.

Mr. Chairman, we held a hearing in the subcommittee under the jurisdiction of the Committee on Ways and Means a while back on this subject, and it is almost impossible to get information about what they are talking about. First of all, if we ask, "What are you doing, what kind of results are you getting?" Or if we ask about active investigations, they say that they cannot tell us. Then they give homogenized statistics about all financial institutions. I am interested in providing focus on fraud in the area of S&L's. I am interested in seeing that there be a national task force in which there is focus at the Department of Justice in organizing to prosecute savings and loan fraud.

Frankly, I think that we would do well in the Congress to adopt this section at the end of title VI and move ahead and provide some additional strength to the Justice Department to do that.

Mr. Chairman, I would hope my friend will not insist on his point of order, and I hope he will allow this to remain in the legislation and give the assurances to our constituents that, where fraud exists, all Members, Republicans and Democrats, the Justice Department and Congress are determined to find it and to prosecute it and to respond to it the way our constituents expect Members to do so.

POINT OF ORDER

Mr. ARMEY. Mr. Chairman, I desire to be heard on my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ARMEY. Mr. Chairman, I make the point of order that this amendment violates clause 2 of rule XXI which prohibits this in appropriations bills.

The CHAIRMAN. Does the gentleman from North Dakota desire to be heard on the point of order?

Mr. DORGAN of North Dakota. Mr. Chairman, my understanding is the gentleman has not asserted a point of order at this monent, is that correct?

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. ARMEY. Mr. Chairman, it is my understanding that once I stipulate the point of order, I have an opportunity to discuss my point of order.

The CHAIRMAN. The gentleman has stated his point of order. He does have the opportunity to be heard. The Chair thought that he had expressed it.

Mr. ARMEY. Mr. Chairman, I had intended to discuss my point of order and my reasons for holding that.

The CHAIRMAN. The gentleman may proceed.

Mr. ARMEY. Mr. Chairman, let me say first of all I have enormous respect not only for the gentleman from North Dakota, but in particular, for what it is he is attempting to do.

I have a concern, on the other hand, Mr. Chairman, that we would, be doing it in this matter with respect to legislative procedure, encumber the work of the Committee on Appropriations and circumvent the work of several committees, including the Committee on Judiciary, the Committee on Banking, Finance and Urban Affairs, and his own Committee on Ways and Means.

It seems to me that this is a very bold suggestion, certainly one that I would applaud within a more appropriate legislative procedure, but not appropriate for this task.

The CHAIRMAN. The Chair would just like to state that the gentleman should speak rather narrowly to the point of order, not to the merits of the proposal.

Mr. ARMEY. Mr. Chairman, I appreciate the Chair's advice.

Mr. Chairman, very narrowly, let me say I hold a point of order that the gentleman from North Dakota [Mr. DORGAN], for all his good work, all his good intentions, violates clause 2 of rule XXI.

The CHAIRMAN. Does the gentleman from North Dakota desire to be heard on the point of order?

Mr. DORGAN of North Dakota. Mr. Chairman, I indicated in my opening remarks that I understood a point of order could lie on this provision. The gentleman from Texas fully understands the conditions under which this legislation is being discussed on the floor today.

Therefore, I understand the point he makes. I had urged in my comments that he not pursue a point of order, and we would renew that request, because while I understand the technical issue here, I would hate to see the technical issue impede the substance of what he, I think, would like to see the Congress do. What I would like to see the Congress do, and what the American people expect Members to do.

There is a way for Members, I think, to provide greater focus and greater clarity on the prosecution of S&L fraud. One way to do that is to pursue my amendment, and I would again sincerely urge the gentleman from Texas not to pursue a point of order.

The CHAIRMAN. The Chair is prepared to rule.

Does the gentleman from Kentucky wish to belabor the point?

Mr. ROGERS. Mr. Chairman, I wish to be heard on the point of order.

The question is, whether or not there is legislative procedure on an appropriations bill. That is the object of my discussion in these 5 minutes, or the time the Chair allows me.

Mr. Chairman, there is already established in the current law in the Department of Justice a financial institutions fraud unit. It is already there. It is in the law. We appropriate money to it in this bill.

Now, they want to call it a savings and loan criminal fraud unit.

The CHAIRMAN. Would the gentleman merely talk to the merits of the point of order?

Mr. ROGERS. Mr. Chairman, the gentleman from North Dakota spoke broadly about the merits.

The CHAIRMAN. He did, and the Chair is trying to discourage others from making his mistake.

Mr. ROGERS. I insist upon the privilege of doing so.

The CHAIRMAN. The Chair will recognize the gentleman to speak to the point of order.

Mr. ROGERS. The point of order is, whether or not there is legislation on an appropriations bill, and I am saying to the Chairman and to the Members that clearly it is legislation because there is legislation now in the Justice Department by act of this Congress, a financial institutions fraud unit.

How are they doing? In the Justice Department, there are 653 defendants charged by information or indictment. There are 77 of those were board chairman, chief operating officers, and presidents of 117 institutions. Sixty of the defendants convicted were board chairman, CEO's and presidents. Thirty-nine of the defendants were directors and other officers. So the Department of Justice is moving expeditiously under an existing task force for financial fraud.

Now, it is more than S&L's. It is banks and thrifts, and it is credit unions. Some Members want to restrict it only to S&L's. I want them to prosecute anyone in any kind of financial institution, and that is what the Department is presently doing.

Right now, there are pending 7,916 individual fraud cases brought by this task force. Therefore, what the gentleman is proposing is redundant, and the gentleman knows it is in violation of the rule of the House.

The CHAIRMAN. Are there additional Members who desire to be heard on the point of order?

Mr. ECKART. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The Chair would like to advise the gentleman to stick to the point of order.

Mr. ECKART. Mr. Chairman, I thank the Chair for the admonition. Very clearly, the gentleman from North Dakota proposes a narrow focus on existing legislation and existing law. The current task force on financial crimes, and under the rules of the House the gentleman is allowed to narrow the focus or limit the application of a current law provided for examination of financial institutions.

Now, it is distressing to this gentleman that my colleagues on the Republican side seek to avoid an airing of the issue of the savings and loan issue, and after having listened to their interest in a crime bill and moving it forward, they should fully understand that the biggest crime being perpetrated on the American taxpayer today is by the biggest bank heist going on.

The CHAIRMAN. Is the gentleman concluded?

Mr. ECKART. The gentleman is concluded.

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ARMEY. Mr. Chairman, is there something in the rules of the House that I have not found that says that there is more latitude granted to Members who speak in opposition to a point of order than the person who makes the point of order?

□ 1400

The CHAIRMAN. There is nothing in the rules that states that.

Mr. ARMEY. Then, Mr. Chairman, may I be heard on the point of order with as much latitude to speak about the crime bill?

The CHAIRMAN. The gentleman has already been heard on the point of order. The Chair thinks enough Members have been heard.

Mr. ARMEY. Mr. Chairman, may I be heard to speak on the crime bill?

The CHAIRMAN (Mr. BROWN). The Chair is ready to rule.

A point of order has been raised by the gentleman from Texas [Mr. ARMEY] against the proposed amendment of the gentleman from North Dakota on the grounds that it violates clause 2 of rule XXI in that it constitutes legislation on an appropriation bill.

For the reasons stated by the gentleman from Texas and others, the Chair agrees with the point of order and rules that the amendment violates the rules of the House and is therefore not in order.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the Chair for the recognition.

I would like to point out to my friend, the gentleman from Texas, that the other speaker on the gentleman's side did make quite a strong case for what the Justice Department was now doing and went well afield of the narrow question of whether this was legislating on an appropriation bill.

I would like to respond to that. That is the reason I have asked for the 5 minutes.

I do not believe that I know of many in this Chamber who are completely satisfied with the progress and the pace and the record of the prosecution of fraud in the area of S&L's. I am certainly not well satisfied, and by that I am not standing up here beating the Justice Department over the head. It is just that I think we ought to see a kind of a missionary zeal to put in jail those people who have cheated the American people, and frankly, I do not see it.

Now, my friend said that there is in the Justice Department a task force. Yes, there is, a task force on financial institutions. I made that point in my opening remarks. I did it specifically because I believe there ought to be a task force of greater focus and greater clarity. When you start talking about fraud and the prosecution and investigation of fraud, you start getting all these shapeless answers about financial institutions, farm credit, credit unions, banks, savings and loans.

Well, we have not been talking about $500 billion bailouts of any industry at the moment except savings and loans.

The GAO has not offered the studies that demonstrate that in 60 percent of the instances it is fraud in many areas other than savings and loans.

For that reason, I think when we spend $260 million to establish in the Justice Department the muscle to prosecute fraud, what we ought to do is provide some focus and clarity to that kind of prosecution effort.

How do we do it? By establishing a task force on the prosecution of fraud in the S&L area. Now, that is what I proposed, and I regret that a point of order was raised. I understand it and I do not contest that we were attempting to legislate here, but I was hoping we could do that in a way that comports to what all of us believe are our responsibilities to our constituents.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on the savings and loan business, as I have said before, there is existing in the law today, the Congress passed it, a Financial Institutions Fraud Task Force in the Justice Department. That is what this is all about.

In fact, all of us want to get those people in the penitentiary. That is why in our bill we are increasing the money for the Financial Institutions Fraud Task Force. We are increasing the funding over last year and we are putting in a total of $256,743,000 for the various agencies involved in that effort. That includes the Justice Department and all the other agencies that they cooperate with.

There is an overall task force. There is a task force then for different sections of the country. Then there are task forces for different cities in the country. The Dallas Task Force on Financial Fraud, for example, has been one of the most active. They have brought charges against 97 defendants, conducted 21 jury trials, convicted 77 defendants and had only four acquittals. There are several law enforcement efforts going on. There are tax prosecutions of savings and loan fraud. There are forfeiture actions against savings and loans. So there is a multitude of actions. It is costing us over a quarter of a billion dollars in this bill, if the gentleman would recognize that.

Does the gentleman want information about what they are doing? Get a copy of this publication here, "Attacking Financial Institutions Fraud," a report to the Congress published by the Justice Department. It tells you exactly what has been going on, what is going on now. It has intricate details and tables on what prosecutions are taking place and where and for what, so there is a plethora of information available to us. If the gentleman would like this, I will give him a copy, but we are trying to beef up that unit even as it is.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the chairman of the committee.

Mr. SMITH of Iowa. Mr. Chairman, I would just like to point out, we have spent 1 hour and 15 minutes out of 3 hours on this bill on things that are not in the bill.

It is interesting to me to note also that this matter, as well as the other matter that we talked about falls under function 750. We had an amendment on the floor on the Budget Resolution to take $100 million out of function 750. That is the reason we do not have enough money to do all the things everyone wants.

That was the time, if you wanted more done in the Justice area, to oppose that amendment, but not enough people did.

Mr. ROGERS. Well, Mr. Chairman, I thank the gentleman for his comments.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank my friend for yielding to me.

I certainly agree with the gentleman from Iowa that we spend an awful lot of time spinning our wheels on matters that are not really before us, except it is interesting that the gentleman directs his criticism at this side of the aisle when it is one of his colleagues who brought this matter up.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I did not direct my criticism at any side of the aisle.

Mr. HYDE. Well, Mr. Chairman, I just watched the way the gentleman was facing. Perhaps I drew too great a conclusion from that, but it was in response to the gentleman from Kentucky [Mr. ROGERS] that the gentleman said we were wasting a lot of time.

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield again, the gentleman from Kentucky [Mr. ROGERS] voted against that amendment to take the $100 million out.

Mr. HYDE. Well, Mr. Chairman, let me say what I would like to say, and that is in response to the obviously political thrust of this amendment.

First of all, the amendment is incoherent. It says:

> The Attorney General shall establish within the Justice Department a national savings and loan criminal fraud task force.

Does "national" modify "savings and loan" or does it modify "task force?"

If it modifies "savings and loan," you are only hitting the federally chartered savings and loans and leaving the State-chartered institutions alone.

Then it says "to investigate in an aggressive manner." I thought the FBI investigated and the Department of Justice prosecuted; but in any event, I am sure the gentleman gave a lot of thought to this political gesture; but I think he did so in the context of not understanding the present law, because we have established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit. That was done some time ago.

It says: "The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available to investigate and prosecute crimes in or against financial institutions," et cetera, et cetera.

Now, the gentleman merely changes the title of an already existing office which in the existing law has many more details and duties in this field, and so I think to criticize us for raising a point of order on something that was obviously and patently and transparently political, not to say redundant, is a misapplication of logic.

The CHAIRMAN pro tempore (Mr. VALENTINE). The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. ROGERS was allowed to proceed for 2 additional minutes.)

Mr. ROGERS. In closing, Mr. Chairman, I voted against taking the $400 million out of things like the Justice Department and putting it somewhere else.

The gentleman from North Dakota voted to transfer those funds away from the Justice Department when it came up. Now he wants to politically, in my judgment, take advantage of this situation.

Mr. BROWN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I apologize for doing this, but I have been looking for an opportunity to take about 1 minute for a colloquy on behalf of the Science Committee.

I want to ask the chairman if he would respond to a question.

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, I will.

Mr. BROWN. Mr. Chairman, as the gentleman knows, the Committee on Science, Space, and Technology strongly supports increased funding for the advanced technology program under the National Institute for Standards and Technology. The authorization bill passed by the committee earlier this year would have authorized appropriations of $100 million for 1992.

□ 1410

Mr. Chairman, I appreciate the chairman's efforts to increase funding for this important program.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I agree with the gentleman and with his committee on the importance of these programs. That is the reason we did increase the external program of NIST by $12 million. I think we ought to increase them more if we have the money.

Mr. BROWN. Mr. Chairman, the report accompanying the bill indicates that several promising initiatives be considered for funding under the ATP program. While we do not oppose these initiatives, the report language may be inconsistent with the provisions of the authorization for the ATP program. It is the gentleman's intent that any funding by ATP for those initiatives would be governed by the provisions in existing law?

Mr. SMITH of Iowa. The gentleman is correct, that is my understanding.

Mr. BROWN. I thank the gentleman very much for his explanation.

Mr. ECKART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it has been alluded to that further discussion of a matter that is not in the bill is wasting time. Well, if wasting time is trying to protect the taxpayers from another $50 billion being ripped off from the Treasury to finance the mismanagement of a cleanup by a rather inept Justice Department, then I think we are probably making a good investment of time today because the fact of the matter is that the biggest bank heist that this Nation has ever seen has taken place in the last several years in this country.

PARLIAMENTARY INQUIRY

Mr. HYDE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HYDE. Mr. Chairman, should not the debate, even though there is no amendment pending other than striking the last word, be germane to something within the four corners of the bill that is under consideration, or is the gentleman asking unanimous consent to speak out of turn?

The CHAIRMAN. In response to the gentleman's parliamentary inquiry, the Chair will state that based on the breadth of the bill, including Justice Department funding, the Members have rather broad latitude in exploring issues under the conditions that the gentleman is speaking under.

The Chair does not think it is necessary for him to ask to speak out of order at this point.

Mr. DORGAN of North Carolina. Mr. Chairman, I have a parliamentary inquiry: Would that latitude include the discussion about calling amendments patently political and so on?

The CHAIRMAN. The Chair does not regard that as a parliamentary inquiry.

Mr. HYDE. Mr. Chairman, I support the Chair in that ruling.

Mr. ECKART. And this gentleman from Ohio supports the Chair in his ruling.

The CHAIRMAN. The Chair would like to ask the gentleman from Ohio to proceed as quickly as possible so we may get to the end of the bill.

Mr. ECKART. The gentleman from Ohio will do that with a mindful eye toward the 5-minute rule under which he speaks.

The fact of the matter is that this appropriation bill funds money for the Department of Justice and other related governmental offices. And the performance of those governmental offices in the tasks assigned to them pursuant to both authorizations and appropriations is a legitimate subject for debate and discussion.

Mr. SMITH of Iowa. If the gentleman will yield, the gentleman is mistaken, we do not have the Treasury in this bill.

Mr. ECKART. Mr. Chairman, there are legitimate Government agencies in here whose performances are questions as part of the appropriations here.

The fact of the matter is that we have not at the Department of Justice witnessed the kind of appropriate and necessary enforcement needed to make sure that the people who are responsible for the savings-and-loan debacle are in fact cleaning it up the way we want them to.

Within a few months the taxpayers of the United States are going to be asked to send tens of billions of dollars, of more dollars out of their pockets, to an agency that has proven itself incapable of managing the current assets that they have seized from defunct S&L's in order to try to protect those same taxpayers.

Now, it seems to me that is an appropriate part of the discussion of an appropriation bill that is going to spend more taxpayers' dollars.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I would be pleased to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Chairman, let me just say my friend from Illinois, who has left the Chamber, I think disserves the debate on this issue by suggesting that the amendment is patently and transparently political. There is nothing political about this amendment. I fully understand the point he made that there is a Task Force on Financial Institutions and that is precisely why I think this kind of legislation is necessary. There is not adequate and proper when you talk about all financial institutions. We are not providing a $500 billion bailout for all financial institutions. We are doing it for the S&L's. There is an enormous amount of fraud in the area of S&L's.

We are going to be getting a study shortly that describes what I think is some chaos in the Justice Department in the coordination between task forces and so on.

So I think it does not serve well the debate by suggesting this is transparently political. It was, I might say to my friend from Illinois, drafted by the legislative counsel; I suspect drafted well. It does precisely what I would like it to do, what maybe some in this Chamber do not want it to do; that is to provide focus so we can adequately investigate and prosecute those who committed fraud in the S&L's in this country. If there is anybody in this Chamber who does not want to do that, then there is something wrong with their priorities. That is exactly what we ought to do, it is what our constituents expect us to do. It is why I offered this amendment, because if we do not get in on this bill, we will get it some place else. And I hope my friends would be willing to support that effort at an appropriate time.

Mr. ECKART. If I may briefly reclaim my time, I am sorry my colleague from Texas insisted on narrow procedural grounds to not allow the consideration of this amendment which would help protect the taxpayers' $500 billion bailout of a number of financial institutions, the majority of which is in the gentleman's own home State of Texas. If he chooses not to focus on the crimes and wrong-doings of the savings and loan institutions in his home State, that is his business. But the fact of the matter is that taxpayers from my own State are paying for the banks that are being bailed out in his. And I am sorry that he chooses not to allow that amendment to go forward on what amounted to only a faint consideration of procedural grounds.

Frankly, my constituents are not the least bit impressed that procedural grounds or committee jurisdiction is going to allow more billions of dollars to go to folks who committed crimes for which they are not being held accountable.

AMENDMENT OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ARMEY: Page 80, insert after line 17 the following new section:

SEC. 608. Notwithstanding any other provision of this act, each amount appropriated or otherwise made available by this act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 8.16 percent.

Mr. ARMEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ECKART. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded the reading of the amendment.

Mr. ARMEY. I thank the chairman.

Mr. Chairman, without trying to be cute, let me get right to the business of this amendment. I have been here on the floor for 2 hours trying to get to this amendment.

I appreciate the indulgence of the Chair. I might say before I begin to discuss the amendment that I would like to pay my compliments to both the chairman of this subcommittee, to the ranking Republican of the subcommittee and to the entire committee. I know they will feel somewhat unjustly assaulted by this amendment, since I know how hard they worked to appropriate these funds and allocate them within the section 302(b) allocations of the budget agreement.

I also know that they do not and should not be held responsible for the fact that those 302(b) allocations of the budget agreement were too high for what can be afforded by this country.

With those remarks, let me again say, Mr. Chairman, I respect the gentlemen for their fine workmanship and that of their committee.

Nevertheless, Mr. Chairman, we cannot continue to spend as we continue to spend within the guidelines of the 302(b) allocations of the budget agreement if we hope to have, at any time within our lifetimes, a balanced budget for this Government.

Consequently, Mr. Chairman, I have offered an amendment that complies with the research that was done under the direction of the gentleman from Pennsylvania [Mr. WALKER], by the Republican Study Committee, that suggests that if in fact we take the economic forecast projections of the President's budget, we will be able to achieve a balanced budget in this country by the fiscal year 1995 without either raising taxes on the American people or cutting spending by the Government.

The great debate that we have had in this country for the past several years is: Is it necessary to raise taxes more or to cut spending more in order to achieve a balanced budget? The good news, Mr. Chairman, is that it is not necessary to inflict either kind of pain, not on the American people in the form of tax increases or the American Government in the form of spending cuts.

No, Mr. Chairman, all we have to do on this bill and each of the 13 separate appropriations bills is see to it that we have an increase in spending from fiscal year 1991 to fiscal year 1992 of only 2.4 percent. That is to say, for every dollar spent in this appropriations bill in 1991 we would spend $1.024 in 1992.

We get to spend more money; there is not cut here. What we do is cut the rate of increase in spending. That is to say, instead of increasing spending by 10.5 percent, we will increase spending by 2.4 percent.

□ 1420

We will not raise taxes; we will simply cut spending, ask the agencies in each line item appropriation in this bill, in each corner of the bill, to tighten their belt just a little bit, spend more of the taxpayers' money, spend it more wisely. I know that will be difficult for the committee, but I think the agencies can do so, and we will be able to achieve a balanced budget.

I would suggest for those of my colleagues who are on the Committee on Appropriations that we ought to balance the budget, and to those of my colleagues who are committed to the hope that we can do so in a relatively painless fashion I suggest voting for this amendment. That allows us to move in the direction steadily toward a balanced budget by 1995 without raising taxes on the American people and without cutting the spending of the U.S. Government, indeed on the contrary by allowing the spending to go up by a more than generous 2.4 percent.

Mr. SMITH of Florida. Mr. Chairman, I rise against the amendment of the gentleman from Texas [Mr. ARMEY].

Mr. Chairman, just let me say to all of my colleagues who listened to the argument that was just made by the gentleman from Texas [Mr. ARMEY] that it is kind of a siren song that he would like to weave for us. The reality is simple, and it is something that a lot of people overlook in these times when there is not an attempt to keep, and somewhat of a successful attempt to keep, inflation at a lower level, and that is that even last year, and for this year, the inflation rate will be more than 2.4 percent.

In an economy like ours where we have basically an economy limping along at this moment, gaining maybe 1 percent or so in growth rate, and when we have 3, or 4, or 5 percent in inflation, what happens is that there is no corresponding capability of people in general to make more money to keep up even with the low inflation rate.

What happens is that, therefore, with their declining incomes based against inflation, the tax collected on their incomes falls short of what it would have been. Therefore the Government itself is forced into a situation where they have to spend money to buy items to pay salaries, to procure all the things that the Government procures, to do all of the entitlement programs. They have to either raise taxes or they have to look for ways to cut spending.

So, Mr. Chairman, the gentleman from Texas [Mr. ARMEY] says;

> Oh, folks, you don't have to raise taxes, and you don't have to cut spending. Just adopt my amendment which is only a 2.4 percent increase in spending.

However, Mr. Chairman, the bottom line is that, when we do the very thing he wants us to do, he is forcing us to cut programs because the revenue generated is not enough to even take care of that, and the reality is that there is going to be shortfalls when we do what the gentleman wants us to do in programs that are going to be authorized.

This bill, after all, tracks an authorization bill that has passed the House, passed the Senate, been in conference apparently waiting for the signature of the President, so at this point what we are doing is just funding what we have already spoken to in both Chambers and in conference.

This is the same kind of approach that has been taken on many bills, and maybe it is good, maybe we have to be reminded constantly that there are people in this Chamber, in this House, who do not want to keep up with inflation, who want the Government to fall back, who want the ability to spend money to be lower than the demand and the necessity, the sheer, absolute necessity.

The gentleman from Texas [Mr. ARMEY] was up before arguing against and positionng a point of order against the amendment of the gentleman from North Dakota [Mr. DORGAN] on the task force. Whatever the situation regarding the task force, whatever the point of order, the point the gentleman was making was that there needs to be a more dedicated attempt to root out all of the bank fraud, to go faster than they are going on punishing people. The gentleman obviously does not feel that way, but if, in fact, his amendment were adopted, this gentleman then says;

> Well, I'm interested in a crime bill, but not the crime you're interested in, only the crime I'm interested in. But in any event, no matter what I'm interested in, I'm going to have an amendment that cuts money for everybody.

Mr. Chairman, if we cut money, we cannot have a crime bill because, no matter what legislation we pass, it costs money to implement it, and, if the gentleman from Texas [Mr. ARMEY] is going to be here giving us amendments to cut the capability to, first, keep up with inflation, which makes us fall further behind in crime fighting, and then, second, saying, "I want more crime fighting," and then, "I'm going to cut so you'll have less capability to even implement the new legislation," then this country is going to be in a very bad fix.

The bottom line is that this 302(b) allocation to all of the committees hurt across the board already. The gentleman from California [Mr. PANETTA], the chairman of the Committee on the Budget, is here; he adopted a budget that cuts significant dollars in many programs, and we have agreed to that. The budget was passed, and we have kept within that budget, and I say to my colleagues, "It's time to stop these kinds of frivolous attempts to keep the Government from doing its necessary business."

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding, and I am sorry the gentleman from Florida [Mr. SMITH] fled the floor so quickly. I just wanted to correct the record. I found his statement both very entertaining and complimentary, but it was somewhat inaccurate.

This gentleman in the earlier debate regarding the point of order raised against the amendment of the gentleman from North Dakota [Mr. DORGAN] had no discussion of the crime bill because the Chair ruled that this gentleman had no latitude to discuss the crime bill. So, any characterizations of this gentleman's discussion of the crime bill in the earlier debate are totally without foundation other than that, as I said, I found the gentleman from Miami very entertaining and very complimentary, and I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding.

Mr. WALKER. Mr. Chairman, I thank the gentleman from Texas [Mr. ARMEY] for clarifying that. There are just a couple of things that I think would be useful to clarify with regard to the remarks of the gentleman from Florida [Mr. SMITH].

First, Mr. Chairman, the gentleman from Florida [Mr. SMITH] argues that somehow the Government has not been keeping up with inflation and the gentleman from Texas [Mr. ARMEY] would keep us from doing so. Under the budget agreement, that budget agreement which really caused major heartache for all of us, let us understand that between fiscal years 1990 and 1991 we had a 12-percent increase allocated. That is about three times the rate of inflation. So, we have not only been keeping up with inflation, we have been going well beyond the rates of inflation, and that is the reason why we have massive deficits, or one of the reasons why we have massive deficits.

Second, I would point out to the gentleman from Florida [Mr. SMITH] that we have not offered the amendment that the gentleman from Texas [Mr. ARMEY] is offering to this bill on each and every bill. In fact, there have been several bills that have come through here where the amendment has not been offered, and is the issue that we forgot? No. It is that those bills fell within the guidelines. We have at least three appropriations bills before us so far in this Congress where they fell within the guidelines of the 2.4 percent.

Now, if the gentleman from Florida [Mr. SMITH] is right, then we have created a real problem. I do not see the problem. I think we have some appropriations subcommittees that have found a way to live within balanced budget guidelines, and we have recognized that and not offered this amendment.

□ 1430

But where they go above the 2.4 percent, which is necessary to balance the budget, the gentlemen, like the gentleman from Texas [Mr. ARMEY] have come to the floor and have offered an amendment to hold us within that kind of criteria. That is the issue before us here today.

There are a lot of very valuable spending items within this bill. No one would doubt that. The gentleman from Kentucky [Mr. ROGERS] and the gentleman from Iowa [Mr. SMITH] have worked very hard on the bill and they have covered a lot of very important areas. I would not argue that there are not reasons for every bit of the spending they have in there. I may not agree that it is priority spending, but there are reasons for it. But here is the point: If you really believe what you have been saying, that a balanced budget is the number one thing we have to achieve as a Nation—and there are a lot of Members of Congress who say that—then these are your opportunities to put your mouths on the line. I do not know whether that is a good way of saying it, but it is a good way to figure out whether or not what you have been saying is in fact real, because all we are saying in making the point is that there is a way to get to a balanced budget, and that is to limit the amount of Federal spending to 2.4 percent a year for about a 3-year period. There is a way to get there. We do not have to raise taxes, or we do not have to cut social security payments. There is a way there. We can either do it one way or we can listen to all the siren songs of various other Members who will come out here for a long period of time and suggest other ways of doing it, including raising taxes. I think if we prioritize a balanced budget, then what we have to do is vote with the gentleman from Texas [Mr. ARMEY]. If that is not a priority for Members, fine, then they do not vote with the gentleman from Texas, but they vote for other priorities.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, will my good friend, the gentleman from Pennsylvania [Mr. WALKER], concur that if we were to follow his proposal, we would not have a space station?

Mr. WALKER. No. I would say to the gentleman from Michigan that he should notice that we did not offer this amendment to his bill. His bill fell within the guidelines. So we have a space station. We prioritized the space station within his bill, and so we did not offer this amendment because he fell within the guidelines. I congratulate the gentleman from Michigan for that. I thank him for his hard work to move us a little closer to a balanced budget. We are very grateful to the gentleman from Michigan that we were able to have a space station within his appropriation bill.

Mr. TRAXLER. Mr. Chairman, will the gentleman continue to yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I appreciate the gentleman's kindness. It seems to me that this bill is also within the 602(b) guidelines.

Mr. WALKER. The gentleman is right, but 602(b) does not get us to a balanced budget. The 602(b) ends up with massive deficits still on the books.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for three additional minutes.)

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield further, I think we are getting close now to what the real problem is with the amendment and where we are separated by a philosophical gulf here.

Let me suggest to my friends that this bill that the two gentlemen have brought forth from the subcommittee complies and comports with the budget agreement that was reached. The bill, like others that have come before us, is in agreement with the budget agreement of last year. The President and the Congress reached that understanding, and we agreed to certain spending limitations. We built walls for defense, and I am sure the gentleman well appreciates those points.

What has happened, of course, is that in the process of developing the 13 spending bills, each of the bills within the limitations assigned to us within the total budget agreement, there are variations between the Congress and the President in minor areas as to where the spending ought to occur, as to what ought to get funded, or at what level it ought to be funded at.

Again, Mr. Chairman, I appreciate the gentleman giving me a minute of his time, and let me conclude by saying that these variations do not violate the budget agreement. They are the choices in prioritizing where the spending should go.

This bill is well within the budget agreement. It is well within the 602(b) allocation. I commend the gentleman for their efforts on fiscal restraint. The quarrel, it seems to me, that these gentlemen have in offering this amendment to the bill is with the process in which Congress makes determinations, as well as the President.

Mr. WALKER. Mr. Chairman, I want to point out to the gentleman that he is absolutely right. But our quarrel is probably with the administration, too. The administration signed onto the budget deal, so we probably have a quarrel with them as well because they are not really aggressively moving toward a balanced budget. This process is aimed at getting to a balanced budget. Nothing within the budget process is going to get us to a balanced budget. This effort says that if we do more than what the budget process suggested, we might get to a balanced budget, and the gentleman from Texas is offering a figure that will lead us closer to a balanced budget.

I think that is a responsible approach. As I say, the gentleman from Michigan may not want to vote for this amendment. He may feel that there are priorities that include spending deficit money in order to get to those priorities. That is fine, but if we want to get to a balanced budget, we must support the amendment offered by the gentleman from Texas.

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield further for about 30 seconds, I would just point out to the membership and to the offerors and supporters of the amendment that through the points of order that have been offered here on the floor, the full committee here has already taken out 2.8 percent of the bill. So 2.8 percent of the bill has come down as a consequence of points of order, so we are not operating with real new money.

Mr. WALKER. Sure, but the gentleman realizes that in terms of last year's spending, the committee when it came to the floor was at 10.5 percent above last year's spending. So with the fact that they have taken out 2.8 percent, that does not get them down to the 2.4-percent level. It gets a little closer, but it does not get them there.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to point out that not all programs are the same and that not all bills are the same. For example, the science programs the gentleman from Pennsylvania supports and I support are in this bill at more than 2.4 percent over last year's level, and they should be. So not all programs are equal. Also, not all bills are equal.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Yes, but you cut the science programs. One of the problems I have is that the sense of priority shown by the committee was that they put money in other areas and cut the science programs.

Mr. SMITH of Iowa. I am sorry, but I could not hear the gentleman.

Mr. WALKER. I say that you put money into other areas and you cut the science programs.

Mr. SMITH of Iowa. Mr. Chairman, the science program is in this bill at more than 2.4 percent over last year. It is quite a bit more than that over last year's level.

Mr. WALKER. Well, no, in several instances you are below last year.

Mr. SMITH of Iowa. Mr. Chairman, what we have in this bill as a whole is a lot more, and I support it because I think it is important.

Also, all bills are not the same. In this bill we had to annualize a number of the crime, drug law enforcement, and prison programs where program increases were initiated last year. Five new prisons are to be opened. We have to have staff for those prisons. We funded a number of additional agents and support personnel in the FBI and the DEA. We also have five or six drug task force programs that were funded for 2 or 3 months in this fiscal year, that have to be annualized and funded for 12 months in the next fiscal year.

That is the reason it was important when the budget resolution was on the floor that Members should not have voted to reduce function 750 another $100 million. I notice that most of the Members who have been here on the floor this afternoon arguing for more money for S&L fraud investigations and prosecutions voted for cutting function 750 by $100 million. It is inconsistent to be voting on the budget resolution to cut function 750 and then come out here and spend 1½ hours this afternoon complaining because there is not enough money in function 750. We have done the best we could, and we are within our 602(b) allocation.

I will have to say that the pending amendment is consistent. It is across the board. But it is 8.1 percent. It will cut some of the programs in the bill that we need very desperately including drug law enforcement, S&L investigations, and everything else at 8 percent along with everything else. We just should not pass this amendment, and I hope we can get to a vote soon on this amendment because now I feel that everybody knows what it is all about.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, let me say to the gentleman that I appreciate his point of view. I opened my remarks by saying that the committee has done a good job.

There are hard cuts that come with these things that are painful. There are things that are very important to me that would be cut with this amendment, but in the final analysis, if we are going to ever get to a balanced budget, we have got to accept increases in spending that are smaller than we planned on, smaller than we hoped for, and smaller than what is in the bill. Everything gets a 2.4-percent increase in spending instead of on an average a 10.5 increase in spending, and really if we can have the discipline to accept these painful cuts, then maybe we can find in the agencies the discipline to tighten their belts and become more efficient.

Again, Mr. Chairman, let me thank the gentleman and say that I personally appreciate the hard work of the subcommittee chairman, and certainly I want to say this amendment is in no way a criticism of the chairman, the ranking member, the committee, or the quality of their work.

☐ 1440

Mr. SMITH of Iowa. Mr. Chairman, reclaiming my time, I appreciate that. But as I said before, the gentleman from Texas [Mr. ARMEY] is consistent. It is across the board. He is not pretending you can cut some programs and increase others. But we should not pass this amendment.

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose the amendment. My good friend, the gentleman from Texas [Mr. ARMEY], and he is my good friend, comes to this, I am sure, with a clear head and a pure heart, and I admire him very, very much. I rise just to oppose him on this amendment.

If I might engage the gentleman from Texas [Mr. ARMEY] in a colloquy, the amendment of the gentleman, in order to achieve this desired 2.4 percent increase in our overall budget, had to cut every program by 8.16 percent. Is that correct?

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, the increase in spending of 10.5 percent would be reduced by 8.16 percent, leaving a net increase in spending of 2.39 percent.

Mr. ROGERS. Mr. Chairman, reclaiming my time, that was before we cut away EDA, the LSC, the NED, and various other spending totals today. As a matter of fact, on points of order we have stricken $577.7 million from the bill. My calculations are now that in order to get to the 2.4-percent increase in overall spending, all we need to do is cut 5.1 percent off each item.

Mr. ARMEY. Mr. Chairman, if the gentleman will yield further, the calculations of the gentleman from Kentucky [Mr. ROGERS] I am sure are correct, having great admiration for the gentleman's workmanship. The point of the gentleman that this amendment was drafted before the other adjustments in the bill were made is also correct.

But I might further make the observation that this bill will be concluded before the conference, and we all know what that means. You will have an opportunity to repair any serious damage done by this amendment.

Mr. ROGERS. Mr. Chairman, reclaiming my time, I just want to point out to Members and friends who will be voting shortly that if we cut every program 8.16 percent, as the amendment of the gentleman from Texas [Mr. ARMEY] would dictate, we would be cutting even more into the bone of this bill than even the 2.4-percent increase would require.

Mr. ARMEY. Mr. Chairman, if the gentleman will yield further, I believe, the way the amendment is worded, that would not necessarily have to be the case. We would confine the increase in spending to 2.4 percent to every item in the bill, except those which by the actions announced today were considered to be stricken from the bill.

Mr. ROGERS. Mr. Chairman, reclaiming my time, I am reading the amendment. The last line is, "A provision of law is reduced by 8.16 percent." Is that not the wording of the amendment on the table?

Mr. ARMEY. Mr. Chairman, that is correct.

Mr. ROGERS. If we cut 8.16 percent, we are cutting more than would be required to keep the overall increase to 2.4 percent.

Mr. ARMEY. Mr. Chairman, if the gentleman will yield further, given that some articles were stricken from the bill by point of order today, and assuming they will not be reintroduced in the bill when it comes back from conference, the gentleman is correct.

Mr. ROGERS. Mr. Chairman, reclaiming my time, the gentleman from Texas [Mr. ARMEY] has also calculated his amendment using 1991 totals and 1992 totals, which include both discretionary and mandatory items in our bill. But the amendment exempts the mandatory items from the cut. The effect of that is we have to cut more from the discretionary programs than the 8.16 percent. That means that some of the programs are cut very, very severely.

Mr. Chairman, I might point out to Members that before this bill was brought to the floor, the subcommittee cut 1.5 percent from current services on average. We have already cut 1.5 percent off the current services, before the bill was brought to the floor. Why? Because we did not get enough from the 602(b) budget allocation. Why? Because $400 million was taken from this and other accounts earlier on, that the chairman has referred to. So we had to cut it before it came to the floor.

Mr. Chairman, we have already sustained deep cuts. As the chairman said, we are having to open up five new prisons this year. Those are new employees, new spending, that we do not have any control over. We have got to fund it. We cannot control it. There is the annualized pay in the Justice Department that the Congress voted last year and 2 years ago. We have got to fund it. We have no choice. That is new money, and we have to find it somewhere.

Mr. Chairman, we are $500 million below the administration's request for domestic programs. So I think we have already been overly fair.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. ROGERS] has expired.

(By unanimous consent, Mr. ROGERS was allowed to proceed for 2 additional minutes.)

Mr. ROGERS. Mr. Chairman, we are having to cut, and this amendment would further cut, agents we need to infiltrate organized crime, for example, the savings and loan investigations, funds to deport criminal aliens swiftly, weather and disaster forecasts, upon which millions of our constituents rely, research and development work to move our greatest technological breakthroughs to the marketplace, enforcement of rights in the workplace, watchdogging over the ever evolving security markets, and so forth.

Mr. Chairman, that is the kind of moneys that would be coming out of the bill if this amendment is passed.

Mr. Chairman, in closing, we operate under the Budget Enforcement Act. Not everyone likes it, but, like it or not, it is our flight plan for this year and beyond. This bill sticks to the Budget Enforcement Act that passed this body. We stick to it to the letter, and then some.

Mr. Chairman, this amendment would do a great injustice to what is already a fairly treated bill.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to observe that if my calculations are correct, the gentleman from Texas [Mr. ARMEY], who objected to my attempt to provide some greater clarity in the prosecution of S&L frauds, is now proposing an amendment that would cut about $20 million from the amount of money available over in the Justice Department to prosecute fraud.

I know my friend, the gentleman from Illinois [Mr. HYDE] said, well, that is just politics, that the shoes get tight and you start squirming, and so on.

The fact is, it is not politics. We are trying to investigate and prosecute S&L fraud. We need money to do that. We need manpower, and we need a mission to get it done. Our constituents expect it to get done.

The import of the amendment of the gentleman from Texas [Mr. ARMEY] is rather wide. But at least one part of it is to say, at least as I calculate it, that we will take $20 million back from the amount of money now available to prosecute S&L fraud.

Mr. Chairman, does that make a lot of sense? It does not to me.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say, still bleeding from the gentleman's spear in my chest, I do not intend to support the amendment of my dear friend from Texas, Mr. ARMEY. If the gentleman from North Dakota [Mr. DORGAN] would check with me before you throw another spear, I would appreciate it.

Mr. DORGAN of North Dakota. Mr. Chairman, reclaiming my time, I frankly did not care whether the gentleman from Illinois [Mr. HYDE] was going to support the amendment of the gentleman from Texas [Mr. ARMEY], nor did I expect him to.

Mr. HYDE. Why did the gentleman talk about me?

Mr. DORGAN of North Dakota. Because I was talking about the gentleman's comments previously with respect to the politics of an amendment proposed by those of us who want greater clarity on the question of who is prosecuting S&L fraud, and are we doing it aggressively enough.

We raised that question. People say, "oh, that is politics." That is not politics, it is policy. One of the most important policies we are pursuing around here is dealing with massive fraud in the S&L area, and there is no task force in the Justice Department to focus on S&L fraud. Yes, financial institutions, there is a task force entitled that, and we had hearings on it. They had the most shapeless answers in the world. You ask what are you doing in this area? They say in the area of financial institutions. I am interested in the area of S&L fraud. What are we doing to deal with S&L fraud?

Mr. Chairman, I would make the point I observe the amendment of the gentleman from Texas [Mr. ARMEY] in this instance will cut $20 million out of the money available, not only to prosecute S&L fraud, but to prosecute fraud in all financial institutions.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. Let me just note, as we wind this debate up, the national indebtedness of the United States is going up by perhaps $400 billion this year. It is projected at $426 billion next year.

Put that in perspective, and you will see that for the rest of my career and the rest of the lives of the people who are listening today, there will be $70 billion in the budget every single year simply to pay for the interest in this 24-month period increase in the indebtedness of the United States of America.

☐ 1450

It costs us $70 billion a year simply to pay for the interest on a 24-month period of increase in the debt. This fact is so overhwelming it screams to be looked at.

There is an honest attempt here by some Members of this House to come to grips with this deficit problem. Limiting the growth in Federal programs to 2.4 percent certainly is something. There are things I would love to spend money on, many different items, but there are certainly things we can cut down, and there are some sacrifices that have to be made. Limiting the increase in our budget to 2.4 percent is not a major sacrifice, and we are making that sacrifice for future generations. If we do not get a hold of this deficit, there is not going to be any money left because our economy is going to go right down the tubes. Then next year our economic situation is going to be a lot worse and the problems we are talking about are going to be a lot heavier burden on our shoulders.

So with that, I say I support the amendment. I think it is a responsible thing to do, to keep the increase in the budget to 2.4 percent in the various Federal programs we are looking at.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have sat here patiently trying to suppress the urge to enter this debate, but after what has just been said I would like to have an opportunity to lend a few words to the dialog which has taken place on the floor. It is nothing short of amazing to hear the gentlemen on the other side of the aisle, to a Member, get up before this body and defend the super collider which originally was supposed to cost $5 billion, and then reached $12 billion in cost, and they still believe it is something we should continue to invest in; and then last week come before us to defend the space station, which was supposed to cost $40 billion but now may cost over $100 billion, and yet they blithely vote for these projects because they point to the future; while at the same time, the gentlemen on the other side of the aisle engage daily in this debate on who is tougher on crime in America.

Let me tell Members who is tougher on crime. The people are tougher on crime who are willing to fund the Departmentof Justice, who are willing to fund the U.S. attorney's office, who are willing to fund the drug task forces who are trying to rid our streets, our neighborhoods and our schools of drugs.

The amendment offered by the gentleman from Texas takes money away from these agencies which are fighting crime, and instead he is going to now dedicate himself to deficit reduction. I hope the gentleman from Texas [Mr. ARMEY] remembers that debate when we engage ourselves in future Texas projects, way over budget, and when we engage in this debate on who is tougher when it comes to crime and law and order.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DUBIN. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank my dear friend from Illinois for yielding. I just want to say that I was lukewarm about the superconducting super collider when Illinois was in the running, but then the gentleman persuaded me that it was the greatest thing since indoor plumbing. The gentleman has reversed himself, I see, now that Texas is going to get it.

Mr. DURBIN. Reclaiming my time, my esteemed colleague and beloved colleague from Illinois may remember that when we were competing for the project it was at $5 billion, and a third of the cost was supposed to come from overseas. Frankly, let me tell the gentleman that it has run in cost now into the $12 billion range, and there is no contribution coming from overseas.

If the gentleman thinks we are going to give a blank check to this administration for this project or others, he is wrong.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I appreciate the gentleman yielding to me, and I would like to say to so many of my colleagues, gee, fellows, I really did not mean anything personal by it.

Again I thank the gentleman for yielding.

Mr. DURBIN. I yield back the balance of my time.

Mr. BUSTAMANTE. Mr. Chairman, I rise today to speak in opposition to the proposed amendment by my good friend and fellow Texan, Mr. ARMEY. Let me say, that we all recognize the importance of spending cuts, especially in these difficult economic times. We also recognize that no Federal agency should be spared a critical review of its programs with an eye on the need to find present as well as future savings.

Having said that, however, I believe that it is important to keep in mind that across-the-board cuts do not critically assess present or future needs. For instance, if we vote today to eliminate over 8 percent of the State Department budget using this blindfold technique, many important projects which are vital to the future health and well-being of millions of American citizens will be lost.

For example, since my election to Congress, I have worked tirelessly to clean up the Rio Grande River. Two years ago, our Government entered into an agreement with the Government of Mexico to share in the cost of cleaning up the Rio Grande. If we lost our share of the funding for a water treatment facility which is under construction in Nuevo Laredo, Mexico, we may lose the chance to finally make major improvements in the water quality along the border.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 295, not voting 14, as follows:

[Roll No. 152]

AYES—122

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bennett
Bentley
Bilirakis
Bliley
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Erdreich
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Glickman
Goss
Gradison
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hubbard
Hunter
Inhofe
Jacobs
James
Johnson (TX)
Kasich
Klug
Kyl
Lagomarsino
Leach
Lewis (FL)
Luken
Marlenee
McCandless
McEwen
McMillan (NC)
Meyers
Miller (OH)
Moorhead
Neal (NC)
Nichols
Nussle
Oxley
Packard
Pallone
Parker
Paxon
Penny
Petri
Porter
Pursell
Ramstad
Ravenel
Rhodes
Riggs
Roberts
Rohrabacher
Roth
Santorum
Saxton
Schaefer
Schroeder
Schulze
Sensenbrenner
Shays
Shuster
Slattery
Slaughter (VA)
Smith (OR)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Swett
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wylie
Zeliff
Zimmer

NOES—295

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Collins (IL)
Collins (MI)
Conyers
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yatron
Young (AK)
Young (FL)

NOT VOTING—14

Coleman (TX)
Davis
Gaydos
Hopkins
Kleczka
Lehman (CA)
Moakley
Quillen
Rostenkowski
Roukema
Savage
Washington
Waters
Yates

☐ 1513

The Clerk announced the following pairs:

On the vote:

Mr. Quillen for, with Mr. Kleczka against.

Mrs. Roukema for, with Mr. Moakley against.

Messrs. FORD of Michigan, DOWNEY, FAZIO, MRAZEK, and TAYLOR of Mississippi changed their vote from "aye" to "no."

Mr. DORNAN of California changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992".

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PANETTA) having assumed the chair, Mr. BROWN, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2608) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The question is on the passage of the bill.

MOTION TO RECOMMIT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BURTON of Indiana. I am in its present form, Mr. Speaker.

Mr. SMITH of Iowa. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. The gentleman from Iowa reserves a point of order.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BURTON of Indiana moves to recommit the bill, H.R. 2608 to the Committee on Appropriations with instructions to report it back forthwith with the following amendment:

Page 34, beginning line 15, strike "$1,381,550,000" and all that follows through "Florida" and insert the following: "$1,380,614,000 to remain available until expended".

The SPEAKER pro tempore. Does the gentleman from Iowa [Mr. SMITH] still reserve his point of order?

Mr. SMITH of Iowa. At this point I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

□ 1520

Mr. BURTON of Indiana. Mr. Speaker, in this legislation there were two what I would consider to be pork barrel projects that should be removed, and the language that I put in my recommittal motion would remove these projects.

Mr. Chairman, one of these projects is a fish farming experimental laboratory at Stuttgart, AR. The purpose is supposed to be "to enhance and develop commercial aquaculture for catfish."

For this project, Mr. Speaker, there was $542,000 earmarked to be funded by the National Oceanic and Atmospheric Administration in the bill for operating expenses for this catfish farm. This earmark was not requested by the administration, and were it not for this earmark the fish farm would receive no NOAA money in 1992. It should not be in this bill.

In addition to that, there is a semitropical research facility in Key Largo, FL, that is going to cost the taxpayers $394,000. This was to be funded by the NOAA. This has not been requested by the administration. Both of these projects totaling almost $1 million were not requested by the administration. They are earmarked. They should not have been in there. It is legislating on an appropriation bill.

Finally, it is pure pork.

Mr. Speaker, I would urge my colleagues who are concerned about fiscal responsibility to vote for this recommittal motion and to strike this unnecessary spending.

Mr. Speaker, while striking only $1 million by eliminating these two unnecessary projects, we are certainly not going to make a big dent in the deficit this year, but we are facing a $350 billion to $400 billion total deficit before the year is out. At least this is a step in the right direction.

So if my colleagues are concerned about fiscal responsibility and accountability in Government, they really ought to vote for this recommittal motion.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PANETTA). Does the gentleman from Iowa withdraw his point of order?

Mr. SMITH of Iowa. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Iowa. Mr. Speaker, I just want to point out that these two projects, one in Florida and one in Arkansas, have been carried in the bill for many years. They are continuing projects. They, like almost every other program in the domestic functions were cut to 98.5 percent of current services. They were treated just like everything else in the bill. We continued them because we continued virtually all ongoing projects that have been carried in the bill in previous years.

Mr. Speaker, I ask to vote down the motion.

Mr. ALEXANDER. Mr. Speaker, I rise to lead my colleague from Indiana [Mr. BURTON], to a greater understanding of the aquaculture industry in general and of the Fish Farming Experimental Laboratory in Stuttgart, AR, in particular.

The attempt today to eliminate $2.7 million in this bill to build a new laboratory facility to replace one which has become outdated—particularly in light of the enormous growth in the aquaculture industry—is very ill advised.

The Stuttgart Laboratory has been instrumental in building and sustaining an industry providing thousands of jobs and millions of dollars in income.

This industry has expanded to the point where it is a major economic boon to the economy of the lower Mississippi Delta region—an area which desperately needs the jobs and income the industry provides.

Some time ago, this vital facility was lumped in with a list of items which were branded pork barrel spending.

Unfortunately, there apparently was never any investigation done to determine if the laboratory really deserved to be on this list.

It is easily determined that there was no investigation since those who bring this matter up refer to this serious research facility as a catfish farm.

It isn't.

It never has been.

It won't be.

It is a research laboratory where scientists work to increase yields, attain speedier weight gains and control diseases.

All of this research helps the aquaculture industry grow and allows it to remain competitive.

It also means more money for producers and lower cost for consumers.

In Arkansas alone, the aquaculture industry contributes $79 million to the economy.

My opinion is that there is no better expenditure of Federal funds than helping to create jobs, especially in one of the poorest areas of the United States.

The return to the Treasury in taxes paid by the acquaculture industry and those who work in it will far outweigh any cost to the Treasury.

If all Federal expenditures returned as much to the economy as this project does, we would not have a budget deficit, we would have a surplus.

And, the work of the laboratory is utilized in almost every State in the Nation. To be precise, 14,878 producers in 35 States contacted the laboratory for technical assistance last year.

Now, that is much more than a catfish farm—and I hope that those who keep bringing this issue up will take note of these facts.

Are they against job creation?

I would certainly hope not.

If the people who have branded this project as pork barrel would visit it and would take the time to talk with those in the acquaculture industry, they would soon discover the error of their ways.

They have certainly not let facts stand in their way to this point—but that is really not any way to do business.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage. So this is a 15-minute vote to be followed by a 5-minute vote on final passage.

The vote was taken by electronic device, and there were—ayes 151, noes 267, not voting 13, as follows:

[Roll No. 153]

AYES—151

Allard
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goss
Gradison
Grandy
Gunderson
Hamilton
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Oxley
Packard
Paxon
Penny
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Roth
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Sharp
Shays
Shuster
Skeen
Slaughter (NY)
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Swett
Tallon
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Zeliff
Zimmer

NOES—267

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carr
Chapman
Clay
Clement
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Goodling
Gordon
Gray
Green
Guarini
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Ridge
Roe
Roemer
Ros-Lehtinen
Rose
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Shaw
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Tanner
Tauzin
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yatron
Young (AK)
Young (FL)

NOT VOTING—13

Coleman (TX)
Gaydos
Hopkins
Houghton
Kleczka
Moakley
Neal (NC)
Quillen
Rostenkowski
Roukema
Serrano
Synar
Yates

☐ 1542

Ms. WATERS changed her vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PANETTA). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROGERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. The Chair will remind the Members this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 338, noes 80, not voting 13, as follows:

[Roll No. 154]

AYES—338

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Coleman (MO)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha

Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schulze
Schumer
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—80

Allard
Archer
Armey
Baker
Ballenger
Barton
Bentley
Bunning
Burton
Campbell (CA)
Clinger
Coble
Combest
Cox (CA)
Crane
Dannemeyer
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Fawell
Fields
Franks (CT)
Gallegly
Gilchrest
Glickman
Hancock
Hansen
Hefley
Henry
Herger
Holloway
Hubbard
Hunter
Inhofe
Jacobs
Johnson (TX)
Kasich
Klug
Kyl
Lagomarsino
Lewis (FL)
Luken
Marlenee
McCandless
McEwen
Meyers
Miller (OH)
Moorhead
Nichols
Nussle
Oxley
Packard
Pallone
Penny
Petri
Ramstad
Rhodes
Riggs
Roberts
Rohrabacher
Roth
Santorum
Schaefer
Schroeder
Sensenbrenner
Shays
Shuster
Slattery
Solomon
Stump
Sundquist
Swett
Taylor (NC)
Thomas (WY)
Walker
Zeliff
Zimmer

NOT VOTING—13

Clay
Coleman (TX)
Gaydos
Green
Hopkins
Houghton
Moakley
Quillen
Rostenkowski
Roukema
Serrano
Synar
Yatesse

□ 1550

The Clerk announced the following pair:

On this vote:

Mr. Houghton for, with Mr. Quillen against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2622, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1992

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 102–112) on the resolution (H. Res. 176) waiving certain points of order during consideration of the bill (H.R. 2622) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

INTERNATIONAL COOPERATION ACT OF 1991

The SPEAKER pro tempore (Mr. PANETTA). Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2508.

□ 1552

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, with Mr. MCDERMOTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, June 12, 1991, the amendment offered by the gentleman from Illinois [Mr. HYDE] had been disposed of and title V was open for amendment at any point.

There are 2 hours and 3 minutes remaining in debate on all amendments.

Pursuant to the order of the House of Wednesday, June 12, the Chairman of the Committee of the Whole may postpone until later that legislative day recorded votes, if ordered, on any amendment to the bill and may reduce to a minimum of 5 minutes the period of time within which a recorded vote, if ordered, may be taken on all amendments following the first vote in the series.

Pursuant to the order of the House of Wednesday, June 12, only those amendments printed in the CONGRESSIONAL RECORD on or before June 12 are in order.

Are there further amendments to title V?

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to advise the House that it is our intention to continue our work until 6 o'clock tonight and then rise. We will seek to cluster votes as requested, as permitted under the unanimous consent request, and the gentleman from Michigan [Mr. BROOMFIELD] and I request that any vote called for after 5 o'clock tonight be postponed until Tuesday.

The leadership informs us that we cannot finish this bill tonight. I agree, much as I would like to finish it. The leadership informs us that we will be back on the floor on Tuesday, and that we will continue as long as it takes to finish the bill.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I have a concern that if we debate an issue tonight of significance and it is held over until next week, the body may not recall all the nuances of an amendment and we may end up voting blindly. I just wonder if there might be some latitude allowed, especially on the more important amendments?

Mr. FASCELL. Mr. Chairman, I have not made the request yet. I did that because the ranking Republican of my committee asked me if I would consider making the request that any vote after 5 o'clock called for today would be put over until Tuesday. That is fine with me, but I am going to have to leave it up to the wisdom of my colleague over there.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Arizona.

Mr. KYL. Mr. Chairman, as I counted the amendments to title VIII relative to the question of aid to the Soviet Union, there are seven Republican amendments filed and at least two Democratic amendments filed, and I am concerned that on this very important subject, which we probably would not get to until after the end of the 8-hour period and when we would then be in the 5-minute period, that on a question of this importance we ought to have a more thorough debate and an opportunity to consider these amendments in context.

Let me provide one other bit of information here. Those seven amendments, if we took the entire amount of time and had recorded votes on all of them, would consume the entire period of 3 hours and 45 minutes. If we were able to reduce the number of those amendments to no more than two on our side and two on your side and have a period of 20 minutes of general debate per side, we could probably complete those in far less time and still have a good thorough debate and have them all considered at the same time. As a matter of fact, on the Republican side we can reduce the seven proposed amendments down to two, and if one of them would pass, the other would not even be offered.

Therefore, I would ask the chairman of the committee if he would be amenable to a unanimous consent request when we get to that part of title VIII, perhaps next week, that we have a period of 40 minutes of general debate, 20 minutes per side, and limit the amendments to two per side, with 5 minutes for each on each side.

Mr. FASCELL. Mr. Chairman, I just wanted to be sure the gentleman had finished his question before I answered. It is a rather lengthy one.

First of all, as far as modifying the rule is concerned, that would have to be done in the House.

Second, the gentleman is talking about title VIII. That is a long way from where we are now. We have made good progress, and I want to compliment my colleagues on both sides of the aisle because we have been able to consider many amendments. So I am very receptive to the suggestion that nine amendments could be reduced to one. I think that is possible. It would take agreement to determine the length of time for debate.

But the gentleman must remember that he is not the only one with an important amendment. Many Members do not think that amendment is very important, but I know the gentleman does. So we will have to do the best we can when we get there.

Let me suggest that we continue to work, with the idea that we would focus on reducing the number of amendments and getting the principal ideas debated, and then we can see what we can work out on time. But if we do that for the gentleman, we should do the same thing for other Members who have equally important amendments.

Mr. Chairman, I have taken this time because I wanted to bring everybody up to date on how we are proceeding.

□ 1600

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO: On page 384, line 15 insert the following new section and renumber the following sections accordingly:

"**SEC. 5505. ASSISTANCE FOR INDIA**

"(a) ANNUAL CERTIFICATION.—No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology sold or transferred, that India does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that India will possess a nuclear explosive device.

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I wanted to see if we could get a unanimous consent agreement on the consideration of this amendment and all amendments thereto. Is the gentleman from California [Mr. LAGOMARSINO] inclined to consider 10 minutes on that side and 10 minutes on this side on this amendment?

Mr. LAGOMARSINO. Mr. Chairman, reclaiming my time, before we started this debate I was advised that the gentleman from Pennsylvania [Mr. KOSTMAYER] does have an amendment to my amendment. Could we extend that another 5 minutes, say 12½ minutes on each side, just to accommodate his amendment?

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, in the past couple of days we have spent 6 hours of the 8 hours total that we were supposed to use for debate on the foreign aid bill on about 15 or 20 amendments. We have about 60 amendments left to go.

I would just like to say to Members we ought to be concerned about the amendments of other Members, because if we drag this thing on, we are going to have amendments at the end that are not going to get the time they should have. Some of these amendments are very, very important.

Mr. Chairman, I hope that next year the chairman and ranking member will go to the Committee on Rules and try to constrain some of these very time-consuming amendments, so that we do not get to the point where we are today, where we only have 2 hours to debate 60 amendments.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, the gentleman from Indiana [Mr. BURTON] raised a very important point. I agree with the gentleman. We tried to get that kind of rule. Maybe with some help, we will get it next year.

Mr. Chairman, on this particular request, let me just point out that it is better to get an agreement on the limitation of time. That at least gives us a chance.

Mr. LAGOMARSINO. Mr. Chairman, reclaiming my time, I would make the same point.

Mr. KYL. Mr. Chairman, I reserve the right to object.

The CHAIRMAN pro tempore. The Chair would announce that no request has been made.

Mr. FASCELL. Mr. Chairman, if the gentleman will yield further, I have not put the unanimous-consent request yet because there is no point in making it if someone is going to object.

Mr. Chairman, I will now ask unanimous consent that on this amendment and all amendments thereto, the time be limited to 15 minutes on each side.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. KYL. Mr. Chairman, I reserve the right to object.

The CHAIRMAN pro tempore. The Chair notes the reservation.

Mr. KYL. Mr. Chairman, the point I was trying to make before, that I would now make to the distinguished chairman of the committee, the gentleman from Florida [Mr. FASCELL], is that with this kind of an agreement, which I support in principle because it will limit the debate time, by the time we get to the question of providing aid to the Soviet Union, which I think is an important subject and on which there are seven separate amendments, not just my amendment, I think we are going to be out of time.

Mr. Chairman, those amendments are going to be propounded seriatim, 5 minutes of debate time on each. There will not be a coherent debate on the question at large. By each of us taking all the time that we would be permitted under the rule, we could actually consume more time if 15-minute votes were called upon each.

Mr. Chairman, I do not think that is a good idea. I wish if we were going to consider this unanimous consent, which makes sense to me, we could get together with another unanimous consent that would deal with the entire subject of providing aid to the Soviet Union and the conditions that would be attached thereto.

Mr. Chairman, I would ask the gentleman from Florida [Mr. FASCELL] if in the course of the next hour or so we might discuss this so that perhaps when we come back Tuesday, or perhaps before even then, consulting with all of the Members who have filed amendments, we could reach some conclusion on this, and if the chairman would try to work with us to achieve that objective.

The CHAIRMAN pro tempore. The Chair would announce that he would intend not to include the time which has already been taken by the gentleman from California [Mr. LAGOMARSINO]; that the 15 minutes on each side would be additional time.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I would like to say to the gentleman from Arizona [Mr. KYL] one more time, there is no way to make that motion in committee. You have to do that in the House. We are in title V, and the gentleman from Arizona is talking about title VIII; the gentleman is talking about Tuesday, and this is Thursday. I have demonstrated in every way I know how my willingness to cooperate, but I am not about to give the gentleman from Arizona [Mr. KYL] a commitment right now, because I cannot.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida [Mr. FASCELL]?

Mr. BROOMFIELD. Mr. Chairman, reserving the right to object, I want to assure the gentleman from Florida [Mr. FASCELL] that I do agree with his statement that at 5 o'clock there will be no further votes on the bill. Several Members have come over and said the Chairman was not clear whether I accepted his request. I want Members to know that I do accept the request.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I ask unanimous consent that any vote called for after 5 o'clock today be postponed until Tuesday.

The CHAIRMAN pro tempore. The Chair cannot entertain that request in the Committee of the Whole.

There is an existing request for unanimous consent before the Committee. Does the gentleman from Arizona [Mr. KYL] continue with his reservation?

Mr. KYL. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The gentleman from California [Mr. LAGOMARSINO] has 1 minute remaining.

Mr. LAGOMARSINO. Mr. Chairman, yesterday we considered the Hyde amendment to repeal the discriminatory Pressler certification on Pakistan. During the course of debate, it seemed to me that the majority believes that Pressler is an important and effective means to halt nuclear proliferation in south Asia.

It is also quite clear that the issue of nuclear proliferation in the region extends beyond Pakistan. The real reason Pakistan has pursued a nuclear program—even at the expense of substantial American aid—is because of India's far more advanced nuclear program. Pakistan is further pushed by India's repeated refusal to concurrently sign the Nuclear Non-Proliferation Treaty and its arrogant rejection of Pakistani Prime Minister Sharif's recent initiative to convene a regional nonproliferation conference. Clearly, India's intransigence and refusal to seriously cooperate on nuclear nonproliferation is a major problem. Pakistan will take the steps we encourage, India will not.

Because the majority believes the Pressler certification is such a powerful means to influence a country's cooperation on nuclear nonproliferation, the bipartisan amendment CHARLIE WILSON and I are offering would extend—not repeal, not rollback, not modify—but expand the Pressler to include India. This amendments does not change Pressler with regard to Pakistan one bit.

We will be passing a provision in the next en bloc amendment—with the support of Congressman STEVE SOLARZ—stating that Congress recognizes that a successful nuclear nonproliferation policy in south Asia can best be achieved through a regional U.S. policy. Further, during yesterday's debate, Chairman FASCELL speaking in favor of keeping the Pressler certification stated, "It might be wise to consider some regional arrangement." That's exactly what the Lagomarsino-Wilson amendment does. Incidentally, both India and Pakistan consider this a regional issue—why shouldn't we?

Because the nuclear arms race in south Asia is between India and Pakistan, it makes sense for us to treat them equally. This amendment is not anti-India. We will be treating India no differently than we treat Pakistan.

Unilateral arms control does not work. Pakistan has purser a nuclear weapons program because it wants to keep up with India. India back in 1974 exploded a so-called peaceful nuclear device. Can we blame them? India will not agree to any nuclear safeguards. India's conventional military force is many times larger than Pakistans. The Indians even leased a nuclear submarine from the Soviets. India has developed ballistic missiles. India supported and continues to support the Soviet Red Army installed Najibullah regime in Afghanistan.

Congressman STEVEN SOLARZ himself stated back in 1987 in a Washington Post op-ed piece:

> No one knowledgeable about Pakistan thinks there is the slightest chance that Islamabad, if forced to choose between United States aid and moving ahead on its nuclear program would accept safeguards in order to retain American assistance.

It was the democratically elected government of Benazir Bhutto that crossed our nuclear red-line invoking Pressler sanctions. Obviously, India's continued nuclear program is fueling the regional arms race.

Some have unjustly criticized my amendment stating that we cant't turn back history—India's nuclear genie is already out of the bottle and can't be put back in. That is true. However, India claims its nuclear program is totally peaceful. Pakistan shouldn't worry and has no real justification for a nuclear program. If this is so, then the President should have no problem certifying India.

What troubles me—and ought to trouble anyone seriously concerned about nuclear proliferation—is India's continued nuclear program. Experts estimate that if left unchecked, India could have produced as many as 40 to 60 nuclear weapons by the mid-1990's. Further, India feels it can use uranium fuel, which we supplied under International Atomic Energy Agency safeguards for weapons production when their agreeement with us on this fuel expires in 1993. India has already used this fuel and produced plutonium—the stuff bombs are made of. India claims it will have unrestricted use of 1,800 kilos of plutonium, enough for 36 bombs. If pursued, this would be the first time a nonnuclear state has taken material supplied for a peaceful program and "legally"—that's in quotes—diverted it to weapons production.

Further, the leader of the Hindu Nationalist BJP, one of India's largest political parties stated in a Newsweek interview that, "India has no other option but do develop a nuclear deterrent of its own." We cannot ignore—or worse, reward as we are going with $100 million in aid—such bellicose calls. With the growing chaos and violence in India, shouldn't we try to lower nuclear tensions rather than let them run the course of violent Indian politics?

Today, even if we were to determine without any doubt that India had several nuclear weapons, there is no unwaivable requirement for us to terminate our aid. What incentive, what pressure is there on India today to halt nuclear proliferation? Absolutely none. Placing India under the Pressler certification and conditioning our $100 million aid on Indian cooperation on nonproliferation is very fair and reasonable. Just like we say to Pakistan, if India wants to make nuclear bombs and ignore nonproliferation overtures, we won't finance it.

It's time to treat India and Pakistan equally, not favor one and discriminate against the other, which is what we've been doing. Obviously this discriminatory policy has failed. If Pressler is so good for Pakistan, it ought to be just as good for India. Now is the time for the House to declare its opposition to nuclear proliferation in all of South Asia in a nondiscriminatory manner.

Mr. DYMALLY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, yesterday, during the course of the debate on nuclear inspection and Pakistan, the gentleman from Illinois [Mr. HYDE] raised a question about the involvement of African nations in the Persian Gulf effort.

Notwithstanding the less than diplomatic style in which the comments were made, time did not permit me to present a response. Today, Mr. Chairman, I am pleased to take the time to answer the gentleman's inquiry.

Mr. Chairman, aside from the very visible and well compensated contribution, of men and materiel, made by the North African nation of Egypt, the Republic of Senegal sent the largest number of military personnel from sub-Saharan Africa to the Persian Gulf.

On December 15, 1990 President Abdou Diouf dispatched approximately 500 troops to the gulf, consisting of one headquarters and service company, one squadron of troops to man 12 American missile launchers and one infantry company. My colleague should note that Senegal is a predominantly Islamic nation.

On November 15, 1990, a 481 man contingent left Niger to participate in the gulf effort. Working closely with the Saudi Arabians during the early planning phases of Operation Desert Storm. It is important to note Mr. Chairman, that Niger was the first country to send its troops to the theater of hostilities. Again, my distinguished colleague should note that Niger is a predominantly Islamic nation.

The Republic of Sierra Leone responded by sending a military medical unit to the Persian Gulf to assist in the effort. That unit of medical personnel remains, as we speak, to see the Persian Gulf operation through completion. This very significant contribution came on the heels of their commitment and contribution to the peacekeeping efforts in Liberia.

Mr. Chairman, not only have these leaders acted with bravery and integrity, but it is critical to note that those leaders, actively participating in the military operations, took bold and courageous steps—considering their populations are predominantly Islamic. That participation takes on particular significance for Senegal which suffered the highest number of casualties in a single gulf related incident—over 90 soldiers and approximately 12 civilians.

While not every sub-Saharan nation was capable of or equipped to send military personnel to the region, a close scrutiny of the U.N. voting records on the United States led Persian Gulf resolutions will support their dedication to territorial integrity and their commitment to global peace and stability.

It is unfortunate, Mr. Chairman, that we cannot say the same thing about other coalition partners and supporters of the gulf effort when it comes to working together for territorial integrity and regional peace and stability.

Mr. Chairman, in the Committee on Foreign Affairs recommendations to the full House on bilateral aid to Africa, the subcommittee unanimously supported a provision applauding the sub-Saharan nations for their brave and unwaivering support of the United States during this difficult time.

My distinguished colleague might be interested to know that there were more anti-Persian gulf protests and demonstrations in this country—the leader of the coalition forces, than in Senegal, Niger, and Sierra Leone—coalition participants—combined.

Mr. Chairman, the Congress should join calls for commendation of the President, the Secretary of State, the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, the Secretary of State, and the American People in thanking those nations who sacrificed dearly to support our efforts in the Persian Gulf. It is because of the actions of leader willing to brave the threat of unpopular public sentiment, that the world has confidence in the international cummunity's unequiivocal commitment to peace, justice, and territorial integrity.

They deserve our gratitude, appreciation, and commendation.

□ 1610

In my judgment, the gentleman from Illinois may have done a disservice not only to Africa as a whole, but to those countries which participated in the Persian Gulf crisis.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The time of the gentleman from California [Mr. DYMALLY] has expired.

(On request of Mr. LAGOMARSINO and by unanimous consent, Mr. DYMALLY was allowed to proceed for 1 additional minute.)

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. DYMALLY. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, my colleague, the gentleman from California, is exactly right with regard to the tragic loss of Senegalese in the airplane crash. They lost at a higher percentage of their armed forces than any other nation in the Gulf did.

Yesterday the gentleman from California justified cutting Pakistan's aid partly on the basis that the money would be better used in Africa. I would point out to him that if he feels that way he should support this amendment because there would be another $100 million that would not go to India.

Mr. DYMALLY. What the gentleman is doing is through legislative fiat making a criminal out of India. In other words, Pakistan has violated the law, and the gentleman is using legislation to put India in that category, and it is very unusual. It is more. It is unique, very creative, a very innovative type of legislation where a body of legislators would make a country a violator when that country is not a violator. I find it most interesting, unprecedented and probably historical.

Mr. WILSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is really not a lot of point in going into who has been our friend and who has not, because we did a lot of that yesterday. But I would remind the House that Pakistan was a founding member of the Southeast Asia Treaty Organization. They were the base for the U-2 flights during the height of the cold war. They furnished us absolutely essential staging areas to enable the grave and courageous Mujaheddin to wage their heroic war of liberation against the Red army.

There were 30,000, although they were not in combat, there were 30,000 Pakistanis garrisoned in Saudi Arabia to protect their Yemen border during the gulf war, and when we balance that against the actions of India, it is pretty one sided.

India sided with the Soviet Union throughout the cold war. They maintained a military alliance. They produced T-72's and Mig 29's in New Delhi. They bullied their neighbors, Nepal, Pakistan, and Sri Lanka.

All we are asking here is for a matter of very simple equity. We are asking that the same non-nuclear proliferation language that we enforce on Pakistan that we also enforce on India, the same language.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I would just like to ask my friend from Texas to repeat that once again, because I can remember in the past we have constantly heard representatives from Pakistan say, "We will sign the 1968 Nuclear Non-Proliferation Treaty if India does the same." Am I correct in assuming that?

Mr. WILSON. The gentleman is absolutely correct. Pakistan will sign at the same time they sign. They will sign earlier if India promises to sign. And just this week the Prime Minister of Pakistan proposed a nuclear-free subcontinent where they just agreed bilaterally.

Mr. DREIER of California. If the gentleman will further yield, what kind of monitoring do we have of the development of nuclear capability in India today?

Mr. WILSON. None.

Mr. DREIER of California. I thank my friend for yielding.

AMENDMENT OFFERED BY MR. KOSTMAYER TO THE AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER to the amendment offered by Mr. LAGOMARSINO: On line 11 of the matter proposed to be inserted, strike out "does not possess a" and insert "has not developed additional" and on line 11 strike out "device" and insert "devices during fiscal years 1992 and 1993".

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, this is a very simple amendment.

Mr. Chairman, on line 11 delete the words "does not possess a" and substitute the words "has not developed additional". Furthermore, Mr. Chairman, on line 11 make the word "device" plural and add the words "during fiscal years 1992 and 1993".

The purpose of the amendment, Mr. Chairman, is simply to give India an opportunity to comply.

Under the provisions of the amendment offered by my friend from Texas, Mr. WILSON, India would have all of their assistance cut off instantly because in fact they have already developed a bomb. They developed a bomb 10 years ago. This gives them the opportunity not to develop additional nuclear devices. It gives the Government of India the opportunity to comply and places them I think in a position with Pakistan which is genuinely equal and gives both countries the opportunity to demonstrate compliance with our wishes.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, reading the amendment and reading the gentleman's amendment to the amendment, we are not talking about humanitarian aid here, we are talking about military equipment and technology. So by accepting the gentleman's amendment we are then saying that there will be no military technology transfer if India continues to build nuclear warheads?

Mr. KOSTMAYER. The gentleman from Texas is precisely correct. We are not talking about humanitarian assistance. Public Law 480 Food for Peace is already exempt under the law, and this affects only a relatively modest amount, in fact, of military assistance.

Mr. WILSON. Military technology transfers I think is the key thing.

But I would also like to ask the gentleman, he is not saying that India has to destroy their nuclear arsenal, he is simply saying they cannot continue building warheads and receive additional military technology transfers?

Mr. KOSTMAYER. The gentleman from Pennsylvania is saying India should not be penalized for something that happened 10 years ago, but she should cease and desist from developing additional nuclear devices. That is something she can comply with. That is something she should comply with.

Mr. WILSON. I thank the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the last word and to respond to the amendment.

Mr. Chairman, I accept the amendment as well, although I must point out that with the amendment India will be treated much more kindly than Pakistan. There is no such grandfather clause with respect to Pakistan.

But nevertheless, it does put them at least in the future on an equal footing, and I think that is what this should be all about. We should be talking about a regional approach.

We will be passing a provision in the next en bloc amendment, with the support of the gentleman from New York, Mr. SOLARZ, stating that Congress recognizes that a successful nuclear nonproliferation policy in Southeast Asia can best be achieved through a regional United States policy.

□ 1620

I think that is what we should do.

When we were discussing the Hyde amendment yesterday, the gentleman from Florida [Mr. FASCELL], speaking in favor of keeping the Pressler certification which is the view that prevails, stated, "It might be wise to consider some regional arrangement," and that is exactly what the Lagomarsino-Wilson amendment does.

Incidentally, my colleagues, both India and Pakistan consider this a regional issue. Why should we not? Because the nuclear arms race in South Asia, and yesterday my colleague, the gentleman from New York [Mr. SOLARZ], said, "We do not want to start a nuclear arms race," and I submit we already have, or they already have started one, but it does make sense for us to treat them equally.

As I said before, the amendment is not anti-India. We will be treating India no differently than we treat Pakistan, although with the adoption of the Kostmayer amendment, we will be treating India a little bit better, because we will not be looking back, we will be looking forward, which is more than we do with Pakistan.

Unilateral arms control does not work, as the chairman, the gentleman from New York [Mr. SOLARZ], pointed out in a Washington Post piece back in 1987:

> No one knowledgeable about Pakistan thinks there is the slightest chance that Islamabad, if forced to choose between U.S. aid and moving ahead on its nuclear program, would accept safeguards in order to retain American assistance.

And that is exactly the case.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman and the gentleman from Texas and the gentleman from Pennsylvania for their leadership on this issue.

I spent many years in this House working with the Afghan resistance over the decade of the 1980's, and I must say that they had a tremendous impact on the way the Soviet Union ended up seeking to decentralize, seeking an exist from, to some extent, from communism; glasnost and perestroika.

The Afghan resistance was, in many ways, the Achilles' heel of Soviet Communist power in the decade of the 1980's, and they sacrificed themselves. They sacrificed their homes.

There are 3½ million Afghan refugees in Pakistan. They never gave up. They are fighting to this day. The Soviets poured in 1,500 Scud missiles over Afghan villages in the past year.

My colleagues, this successful resistance which ended in the Soviet withdrawal from Afghanistan and some degree of unhinging of Soviet Communist power at home could never have happened without the cooperation of Pakistan.

Pakistan was on the front lines as early as 1980 in helping us and helping the transfer of material assistance into landlocked Afghanistan.

The Members will recall in the early 1980's, and this is after the invasion by the Soviets of Afghanistan, the Soviets were on a roll. Basically their clients had won in Southeast Asia; their clients had won in Angola; their clients had won in Ethiopia; their clients had won in Nicaragua. The Soviets were on the move.

Who was right there facing Soviet power at that point in history? It was Pakistan.

The CHAIRMAN pro tempore. (Mr. MCDERMOTT). The time of the gentleman from California [Mr. LAGOMARSINO] has expired.

(At the request of Mr. DREIER of California and by unanimous consent, Mr. LAGOMARSINO was allowed to proceed for 2 additional minutes.)

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I would simply like to ask my friend, the gentleman from Pennsylvania, in light of the statement he just made so eloquently, it seems to me, can we not then treat India and Pakistan equally as we consider this issue?

Mr. RITTER. If the gentleman will yield further, I would think so. Frankly, I have no real argument with India in this case, but it seems that we are discriminating against Pakistan, an ally with us through the most difficult of times, an ally in a great venture to support the Afghan resistance which ended up as a crucial, historic pressure to encourage change in the Soviet Union.

How can we treat Pakistan so shabbily? I just want to say that it is time that we considered this last decade a little more seriously here in the House and ceased and desisted from picking out Pakistan from amongst so many countries that have nuclear weapons and discriminating against her and her alone.

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the Lagomarsino amendment, even as amended by the amendment offered by the gentleman from Pennsylvania, is entirely unhelpful, and, I regret to say, completely counterproductive. It is offered on the grounds that it would be unfair to discriminate in favor of India against Pakistan by holding Pakistan to a nuclear standard to which we do not hold India.

But I would like to argue that if symmetry is the purpose of this amendment, if the objective of my good friend from California is to apply to others the same standard we apply to Pakistan, why limit it to India? Why not include China?

We all know, for example, that the driving force behind India's nuclear program, sujch as it may be, is its concern about China, which has already gone to war once against India and which has nuclear weapons, some presumably targeted on India. If we add India to the list, and I see some heads shaking on the other side of the aisle, so there may be an amendment at any moment to add China to the list—supposing we add China to the list, why stop there?

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield to the gentleman from Texas [Mr. WILSON], my close friend, my good friend, my colleague from Texas, who singlehandedly is responsible for driving the Red Army out of Afghanistan and whom history will record as the liberator of that troubled land.

Mr. WILSON. Thank you very much. I hope that all of my constituents saw all of that. If they did not, they will see it during the campaign.

But the gentleman is an expert in the field of nuclear nonproliferation and I am not.

But the gentleman brings China to the forefront here. But is it not true that China is one of the five nuclear powers recognized in the nonproliferation act or nonproliferation treaty that was signed, China, the United States, the Soviet Union, Great Britain, and France?

Mr. SOLARZ. The United States, Great Britain, and the Soviet Union are all signatories of NPT. France just agreed to sign it.

China, in fact, is the only one of the countries that acknowledged they have nuclear weapons, that are proud of the fact that they have nuclear weapons, that has not signed the NPT.

Mr. WILSON. There is some list. The gentleman and I explored this one time. The State Department has five countries that are certified as being nuclear powers.

Mr. SOLARZ. I think the gentleman would probably agree that there is a widespread view that, in fact, there are more than five countries that have nuclear weapons. Most people refer to the five members of the nuclear club, but with respect to the Nuclear Nonproliferation Treaty, China is the only country which openly acknowledges and proclaims and boasts of the fact that it has nuclear weapons that has not signed the NPT.

Mr. WILSON. I thank the gentleman.

Mr. SOLARZ. What I wanted to say to my friends on the other side of the aisle who have sponsored this amendment is that if we are going to do this in the name of symmetry, why stop at the Subcontinent? Let us make it global. You know, as I know, that the Pakistanis complain not just that India is not included in the Pressler amendment. They complain bitterly that the so-called Zionist entity, as they put it, the one the United Nations said was guilty of racism, is not included. They want Israel included.

I will be interested to see if anybody offers an amendment to the amendment adding Israel to the list in the name of symmetry.

□ 1630

If this is good not only for Pakistan and India, why should it not be good enough for Israel? Why should it not be good enough for China? In fact, why should it not be global?

I will tell Members why. Back in 1985, when it was adopted by a Senate controlled by the Republicans and a House controlled by the Democrats, accepted by a Republican President, the reason it applied only to Pakistan and not to the other countries was because we felt that with Pakistan we could make a difference. We were in the process of giving them $6 billion over the course of the 1980's. My friends on the other side of the aisle say that this discriminates against Pakistan.

(By unanimous consent, Mr. SOLARZ was allowed to proceed for 3 additional minutes.)

Mr. SOLARZ. Mr. Chairman, the truth is that over the 1980's we repeatedly discriminated in favor of Pakistan.

For example, Pakistan was the only country in the world that violated the Pressler amendment, which prohibits American aid to countries that have unsafeguarded nuclear enrichment equipment, and we gave Pakistan repeated waivers. Pakistan was the only country that violated the so-called Solarz amendment, which prohibited aid to any country in the world that surreptitiously and illegally attempted to export from the United States materials for a nuclear weapons program.

One of their agents was convicted in an American court of law, and in spite of the fact that the law was violated, the President gave them a waiver, so we discriminated once again in favor of Pakistan, and we continued our program of aid to them.

We further discriminated in favor of Pakistan by giving them nearly 60 F-16's. There is not another country in South Asia to which we have sold that kind of advanced equipment.

Now, let me come back to the basic question: Why apply this to Pakistan and not to India? Basically, one reason and one reason only. That is, because with Pakistan we are offering them about a quarter of a billion dollars in aid, and that gives the United States some leverage. It is possible that they may decide that they would rather have the aid, rather than lose it by violating the Pressler amendment. If we apply this to India, are we going to stop India's nuclear program, whatever it may be? Is $22 million in development assistance, which is basically what we are talking about here, going to influence the government of India when it is concerned about the nuclear threat it faces from China? Of course not.

So what will happen? The adoption of the amendment is not going to stop Pakistan's program. It certainly will not stop India's nuclear program. But it will have various adverse consequences for Indo-American relations.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Would not the gentleman from New York agree that his current situation is demeaning to Pakistan and is insulting to Pakistan, if all the other arguments the gentleman has made are correct, and I do not happen to think they are, would the gentleman from New York not confess that this is demeaning, to place the Pakistanis in this situation?

Mr. SOLARZ. I do not think it is any more demeaning to Pakistan than applying the Pressler amendment to them when they are a Muslim country but not applying it to Israel, which is a Jewish state.

Mr. KOSTMAYER. If the gentleman will continue to yield, how does he think the Pakistani Government will feel about the Wilson amendment?

Mr. SOLARZ. I think the Pakistan Government would welcome the Lagomarsino-Wilson amendment, no question about it, because they would be very happy if the United States cut off its aid to India even if it is only development assistance. They would probably calculate if our relations with India deteriorate, that would make it easier for them to get back in our good graces.

(By unanimous consent, Mr. SOLARZ was allowed to proceed for 2 additional minutes.)

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, I listen to the arguments of my distinguished colleague from New York, and he is distinguished, he is one of the great foreign policy leaders in this House.

As he spoke, the phrase went through my mind that we should not let the perfect become the enemy of the good.

As I listened to the gentleman's comments, what came across to me is that the gentleman is saying to reject the Lagomarsino-Wilson-Kostmayer amendment because it is just good symmetry relating to one region. It is not perfect symmetry relating to the whole world. However, should we not make an effort, some effort, even if we cannot be assured a success, to send a message for regional nuclear weapons control in this part of the world?

Mr. SOLARZ. Reclaiming my time, I would say to my very good friend from the State of Washington that if I thought there was any possibility, one chance in a thousand even, that the adoption of this amendment would induce India to refrain from its nuclear program, I would support it.

However, I do not think there is any possibility whatsoever of achieving that. Twenty-two million dollars in development assistance gives the United States virtually no leverage with India on this issue. Its adoption will not bring to an end the Indian nuclear program. It will merely create a big chill on Indo-American relations.

Now, let me say to my friend from Pennsylvania and to my friend from California that it is true that from 1985 on we had the Pressler amendment, and nevertheless, the Pakistanis continued with their nuclear weapons program. Therefore, the argument is advanced that this will not do any good with respect to Pakistan if we continue it. However, the answer to that is that we always kept saying to Pakistan, "Unless you stop your nuclear weapons program, we won't be able to continue our aid."

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLARZ] has expired.

Mr. SOLARZ. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. FASCELL. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. FASCELL. Mr. Chairman, I did not object earlier. However, I rise to strike the requisite number of words.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman from Florida for his graciousness. I will not take the entire 5 minutes, unless some of my friends want to ask questions or engage in a colloquy.

The point I am trying to make is that over the course of the 1980's we constantly said to the Pakistanis, "Unless you stop your nuclear weapons program," and we spelled out what we meant by that, actions that they could have taken very privately, "we will not be able to continue our aid program." But over and over again, when the moment of truth came, we blinked, and the Congress adopted waivers, or the President issued waivers. So the Pakistanis came to the conclusion that this was one big charade. Their leaders would say, "We have no nuclear weapons program." They said it publicly and they said it privately. The truth of the matter is that they were lying. They were lying to the United States then, and they continue to lie to the United States now, because they continue to say that they do not have a nuclear weapons program, when all persons know that they do.

They came to the conclusion that it really did not matter because every time aid was supposed to be cut off, we issued a waiver. Now, finally, the President of the United States has said, "I can no longer issue waivers because it is clear on the basis of intelligence that I have that they are doing precisely what the Pressler amendment is supposed to prevent." So for the first time we said to the Pakistanis, "We are serious now." Some of the Members, for the most understandable reasons, believe Pakistan is an important country, they are good friends of Pakistan. They now offer this amendment, and Pakistan is watching and waiting and hoping that this will be adopted. They are hoping that we will blink. Only if we make it clear to Pakistan that we are not going to blink, that we are going to stand by our principled position, is there any hope.

It may be even that it will not work, and if it does not work, and it is obvious the cut-off of aid did not succeed, at some point we can come back and revisit the question, because it is clearly not doing any good. But to add India to the Pressler amendment purely for the purposes of symmetry will result in a termination of $22 million in development assistance for some very worthy and important humanitarian programs, in a country which has a quarter of a billion people living in absolute poverty. For what? If they want to send a signal to India, adopt a sense of the Congress resolution, urging India not to develop nuclear weapons. But why threaten to cut off the development assistance, particularly when we are not including China or Israel, we are not including South Africa, which is also getting assistance from the United States. Is any person going to suggest that we add South Africa to the list?

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, I think the gentleman from New York is intellectually an inspiration to all Members. However, I think that he is making a speech on yesterday's amendment. Pakistan has been cut off. Pakistan has been cut off, and that is not the point.

□ 1640

I know the gentleman did not mean to mislead the House, but the gentleman does know that there is no humanitarian aid involved in this amendment whatsoever. What we are really talking about is supercomputers, military technology transfer. We are not talking about population programs, as the chairman said by mistake, I am sure.

Mr. SOLARZ. No; it was not a mistake. Perhaps this is a good time to clarify it.

Under the language of the amendment offered by the gentleman from California and the gentleman from Texas, it says that no assistance shall be furnished to India, and then it goes on that no military equipment, no assistance shall be furnished to India unless the President makes essentially the same certification that he has to make with respect to Pakistan.

The phrase "no assistance" includes development assistance. There is $22 million of development assistance in this bill for India. That development assistance I broadly characterized as humanitarian, by which I meant it was for agricultural development, health, and education programs.

Mr. WILSON. No population control programs.

Mr. SOLARZ. No mandatory abortion money in this, but there is development assistance which would be cut off by this amendment if the President cannot issue the certification. And the President will not be able to issue the certification.

So if the whole purpose is simply to send a message, let us do it in the form of some sense-of-Congress resolution.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

First of all, Mr. Chairman, I want to congratulate my colleague, the gentleman from New York [Mr. SOLARZ] because as usual he is doing a very good job of defending India. Without him on the floor, India would suffer greatly, because he is in their corner 100 percent of the time on any issue, regardless of the consequences.

The bottom line is, Mr. Speaker, we have a good friend in that part of the country. It is called Pakistan, and Pakistan has surrounding it China, Russia, India, and other possible adversaries. We know that China, Russia, and India have nuclear capability. As a matter of fact, on the northwestern border there is a possible conflict brewing day in and day out between Pakistan and India which could result in a war, and Pakistan could not defend itself against nuclear attack by India. They do not have the ability to do it, even if they were to use all their F-16's which we have given to them.

Now, it does not seem sensible to me that we should penalize one of our strongest allies in that part of the world, Pakistan, while at the same time reward a country that has not been with us many, many times, in fact most of the time at the United Nations and in other bodies.

So I would just like to say that if we are going to cause Pakistan problems because of the nuclear proliferation issue, then we likewise should apply the same principle to India. To do less would be irresponsible, and it would also show the world that we do not reward our friends, we reward people who many times are not our friends.

So I would just like to say that I think we ought to really think long and hard about this.

The gentleman from New York is, as always, doing his utmost and doing a pretty good job of defending India, but we should be supporting our good friend and ally, Pakistan, who is in jeopardy.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, the gentleman from New York kept mentioning Israel. An important point needs to be made here. Pakistan and India have fought 3 or 4 wars in the last 40 years.

India is 10 times the size of Pakistan. India has a fully developed nuclear program. We are just asking them to slow down a little bit. Israel is no threat to Pakistan, but India certainly is. Nor is, of course, Israel a threat to India, but India perceives Pakistan to be.

I just wanted to get that in the RECORD.

Mr. BURTON of Indiana. Well, Mr. Chairman, I appreciate that. I would just like to add that if the United States was surrounded by countries that had nuclear capability and we did not have that capability, I think that we as a body would want to do something to make sure there was parity for our own security.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman from Indiana yield to me?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, the gentleman from New York has turned this into an argument over Pakistan. This is not an argument over Pakistan. This is a proposal for regional arms control in South Asia. This is the kind of proposal that the President has I think very wisely made in the Middle East.

This gives us a chance to reduce the level of weapons in that part of the world. It ought to be done, and if India does not like it, let them stop building bombs. It is as simple as that. There is no need to make this issue more complex than it is, and I appreciate my friend, the gentleman from Indiana, yielding to me.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for his comments.

Mr. LEVINE of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been listening carefully to this debate. I believe that the gentleman from New York has made some extremely compelling arguments, primarily why this amendment simply would not work. I want to address myself initially to the eloquent comments of my very good friend, the gentleman from Pennsylvania.

I think this is a tough issue. I think that some of the most talented and respected Members of this House have been making credible and thoughtful arguments in support of this amendment.

The fact of the matter is that this is not a comprehensive proposal for regional arms control. I think we need a comprehensive proposal for regional arms control in South Asia, and it would be extremely useful to the interests of the United States and the stability of South Asia if we could go back to the drawing boards and try to come up with a comprehensive proposal for South Asia; but the fact of the matter is, as my friend, the gentleman from New York, emphasized in his last remarks, this is an amendment about India and India alone. This is an amendment about no other country.

The issue with regard to Pakistan has been resolved. For better or worse, it has been resolved. The Pressler amendment remains in force with regard to Pakistan. We can rehash that debate. I am not sure it is constructive to do so.

We are talking about in the name of a symmetry and the name of a symmetry which does not exist and which will not be implemented, adding India to that list, and as soon as you start talking about symmetry between Pakistan and India, questions appropriately get raised with regard to symmetry between India and China. You have a range of other implications that are at stake. If you add India to a Pakistan context, what next with regard to China?

I think it is important just to look at the programs that we would be cutting with regard to India if this amendment were enacted. We would be cutting programs that are extremely important to a country which is the most populous democracy on the globe, a country whose relations with the United States have improved substantially over the last several years, and particularly as the cold war winds down, a country with whom we have the opportunity to substantially improve our relations even further.

We are talking about cutting plant genetic resources, which assist India in preserving its rich and diverse plant genetic resources for use in sustaining advances in agriculture. We are talking about agricultural commercialization. We are talking about technical assistance. We are talking about quality control of health technologies. We are talking about AIDS prevention and control, something absolutely essential in terms of not only India, but the rest of the developing world.

Mr. Chairman, I will yield in a moment, but I just want to complete my point; that is, if this were leverage that might have an impact, it is something that we ought to think about; but as my friend, the gentleman from New York, very cogently emphasizes, we are talking about a modest amount of money, money that is important in terms of development assistance, but money which India would not see as leverage in terms of what we are trying to accomplish here.

I think the intent is understandable, but if we wish to accomplish it, let us go back to the drawing boards with something significant with regard to meaningful regional arms control, not taking this particular singular approach cutting absolutely essential programs in terms of development, assistance and putting on the chopping block potentially improving relations between the United States and India.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to my friend, the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, we would be cutting those programs in Pakistan, too. Pakistan is not much better off than India. There are lots of poor people, perhaps not as many in Pakistan as there are in India, and we would be cutting all those valuable programs, too.

We are not talking about an amendment to cut family planning, God forbid, or other good programs in India. We are talking about an amendment to bring some kind of regional arms control to South Asia. We are talking about fairness. We are talking about equity. That is the issue.

Mr. LEVINE of California. I would say, Mr. Chairman, we are talking about a symmetry and a disproportionate reaction. As my friend, the gentleman from New York emphasized, we are talking about a quarter of a billion dollars to Pakistan in a range of areas, mostly military.

☐ 1650

We are talking about $25 million or $22 million to India, in vitally important programs, including AIDS prevention and control. It is not symmetrical, it will not work and it is not productive.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I really do not like to say what I am going to say, because I revere my dear friend, the gentleman from California, BOB LAGOMARSINO. I think he is one of the most astute Members of Congress, one of the most knowledgeable, and his judgment, I do not think I have ever disagreed with in my 17 years here.

But I really must not, cannot take the approach that he is taking to this situation. In the wake of my fervent advocacy for Pakistan, it may sound incongruous, but I do not mean it to be.

I think the imposition of the Pressler amendment on Pakistan is an outrage, I think it is ineffective, it is a way to alienate and turn away a great ally that has done a great deal for this country; not perfect, but we are not perfect. But I think we are mistreating somebody, and very badly. But, that said, I do not see that we have to turn to India and do the same thing to India. We will not have a diplomat welcome in that part of the world. Just now, we will not have one in Pakistan. I think it is stupid and self-defeating. But why should we do the same thing to India?

The Kostmayer amendment is creative, but it is not going to work either. A country that has developed a nuclear device is not going to give it up. It gives them standing in the club. They are not going to give it up.

Besides, we do not have any way to check on what they are doing and how they are doing it. Besides, why treat India and Pakistan one way and Israel another way?

We ought to treat every nuclear country, every country that has a nuclear device, the same way. And we all ought to get together and have an international regime of control. Now we have that. We have a nuclear nonproliferation treaty. Unfortunately, India has not signed it, and Israel will not sign it. And of course, Pakistan says she will sign it if India signs it.

Now, the only way to have an effective, useful control of nuclear devices is to have a multilateral agreement that everyone agrees to be honest with everyone else and to share what information they have.

Pakistan is as entitled to a nuclear device as Israel, as India. And if you believe in mutual assured destruction, you ought to say that is right, that is the way to keep the peace.

I happen to believe in the mutual assured survival with the SDI. I happen to think we ought to give Pakistan and India and Israel the SDI.

Then you can throw away your nuclear bombs.

But we vetoed that in this Congress. So that is out of the question.

But to impose on India a stricture they cannot possible accept is to turn our backs on that part of the world. I would rather work on getting a little smarter toward Pakistan and getting their cooperation and eliminate the Pressler amendment, but I do not see why we have to dump on everybody in the region and have no relations with anybody.

So with considerable pain, I hate to disagree with my friend, BOB LAGOMARSINO. I guess it is the exception that proves the rule. It is the only time I ever have.

But I do not think it is effective. I do not think India is going to cooperate with us. We just lose any leverage we have with anybody.

We have been foolish vis-a-vis Pakistan; why be foolish vis-a-vis India and the rest of the region?

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my good friend, the gentleman from New York [Mr. SOLARZ], of the lopsided approach to the Southeast Asia region.

Mr. SOLARZ. I thank the gentleman for yielding.

I want to thank my very good friend from Illinois for yielding, and I want to commend him for a truly extraordinary statement. To say that I was surprised to hear him, very painfully, as he indicated, but nevertheless come out in opposition to the amendment offered by this very good friend and my very good friend from California, I must say amazed me. But in a certain sense it did not surprise me, because while the gentleman from Illinois and I have disagreed, I have always noted the fact, I have always admired the fact that he has the courage of his intellectual integrity and of his convictions.

I want to say to the gentleman and also to my friends on the other side of the aisle that I think a very good point has been made, that we ought to think about an approach that we apply globally. I want to suggest—I see the distinguished chairman of the Committee on Foreign Affairs is here—that at some point later this year or, if necessary, at the beginning of the next session, we commence a series of hearings in order to see if we can forge a sensible policy on nuclear nonproliferation.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The time of the gentleman from Illinois [Mr. HYDE] has expired.

Mr. SOLARZ. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois [Mr. HYDE] be allowed to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. FASCELL. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. The gentleman from New York [Mr. SOLARZ] has already spoken on this amendment.

Without objection, the gentleman from New York [Mr. SOLARZ] is recognized for 5 minutes.

There was no objection.

Mr. SOLARZ. I am not going to take the 5 minutes. I will not take 50 seconds. I just want to say in conclusion, particularly to my friends on the other side of the aisle, that the Lagomarsino amendment is strongly opposed by the administration, and I would hope that you would take that into account when determining how to cast your votes.

India is the world's most populous democracy. It is the preeminent power on the subcontinent. It is a good friend of the United States. If we adopt this amendment, it will inevitably be seen in India as a tilt toward China. To adopt this amendment without including China plays right into the hands of the hardliners in Beijing.

Mr. Chairman, I urge the rejection of the amendment, as amended by the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. BROOMFIELD. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California [Mr. LAGOMARSINO].

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I will try not to take the 5 minutes. I think we have had a long and, I think, good debate on this issue.

But what troubles me and should trouble everyone is India's continued nucler program.

Experts say that, if left unchecked, India could have 40 to 60 nuclear weapons by the mid-1990's. Further, India feels it can use uranium fuel which we supplied under International Atomic Energy Agency safeguards, for weapons production when their agreement with us on this fuel expires in 1993. They have already used this fuel and produced plutonium. That is what bombs are made of.

The claim they will have unrestricted use of 1,800, 1,800 kilos of plutonium, enough for 36 bombs.

Further, the leader of the Hindu National BJP Party, one of India's largest poltical parties, stated in a Newsweek interview that India has no other option but to develop a nuclear deterrent of its own. We cannot ignore or, worse, reward as we are doing with $100 million in aid, such calls.

I would also just say that we are talking about a regional thing. India—talking about China, India refused Pakistan's offer to have nonproliferation conferences that included China. If India's program is as peaceful as they claim, especially with the Kostmayer amendment, there should be no problem with the certification.

If not, India should be pressured just like Pakistan.

Now, we have other mechanisms to pressure China. We do not have to give aid to China. We will have debates on that very soon.

Regional agreements can and do work. We have regional agreements ourselves with nations in the southern part of this hemisphere.

Mr. Chairman, I urge my colleagues to vote for the Lagomarsino-Wilson amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER] to the amendment offered by the gentleman from California [Mr. LAGOMARSINO].

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. LAGOMARSINO], as amended.

The question was taken, and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLARZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 242, noes 141, not voting 48, as follows:

[Roll No. 155]

AYES—242

Abercrombie
Alexander
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bennett
Bevill
Bliley
Boehner
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Callahan
Camp
Campbell (CO)
Carper
Carr
Chandler
Chapman
Coble
Coleman (MO)
Combest
Condit
Costello
Coughlin
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Davis
de la Garza
DeLay
Dickinson
Dingell
Dooley
Doolittle
Dreier
Duncan
Durbin
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fawell
Fazio
Fields
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gekas
Geren
Gillmor
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Harris
Hayes (LA)
Hefley
Hefner
Henry
Herger
Holloway
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kildee
Kleczka
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Laughlin
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lloyd
Lowery (CA)
Luken
Markey
Martin
Martinez
McCurdy
McMillan (NC)
Mfume
Michel
Miller (OH)
Miller (WA)
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Myers
Neal (NC)
Nichols
Nowak
Oakar
Ortiz
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Penny
Perkins
Peterson (FL)
Petri
Pickle
Porter
Poshard
Price
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Russo
Sanders
Sangmeister
Santorum
Sarpalius
Saxton
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shuster
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Walker
Weber
Weldon
Williams
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—141

Ackerman
Allard
Anderson
Aspin
Atkins
AuCoin
Bacchus
Bateman
Beilenson
Bentley
Bereuter
Bilbray
Bilirakis
Boehlert
Bonior
Boucher
Boxer
Broomfield
Byron
Campbell (CA)
Cardin
Clement
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (CA)
Coyne
Darden
Dellums
Derrick
Dicks
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dwyer
Dymally
Eckart
Edwards (CA)
Engel
Fascell
Feighan
Fish
Flake
Foglietta
Ford (TN)
Gallo
Gejdenson
Gibbons
Gilchrest
Gilman
Gingrich
Gonzalez
Gray
Hall (OH)
Hamilton
Hastert
Hayes (IL)
Hertel
Hoagland
Hobson
Hochbrueckner
Horton
Hyde
Johnson (SD)
Johnson (TX)
Jones (GA)
Jontz
Kennedy
Kennelly
Klug
Kolbe
Kopetski
Lantos
Leach
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Long
Lowey (NY)
Machtley
Manton
Mazzoli
McCloskey
McCollum
McCrery
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mineta
Mink
Molinari
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nussle
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Pallone
Payne (NJ)
Pease
Peterson (MN)
Pickett
Rangel
Roe
Roybal
Sabo
Savage
Sawyer
Scheuer
Shays
Sikorski
Sisisky
Smith (FL)
Solarz
Stallings
Stokes
Taylor (MS)
Torres
Towns
Vento
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wolpe

NOT VOTING—48

Barnard
Berman
Clay
Clinger
Coleman (TX)
DeFazio
DeLauro
Donnelly
Early
Gallegly
Gaydos
Gephardt
Green
Hansen
Hatcher
Hopkins
Houghton
Jefferson
Johnston
LaRocco
Lehman (FL)
Marlenee
Matsui
Mavroules
McCandless
McDade
Meyers
Miller (CA)
Moakley
Murphy
Orton
Panetta
Pelosi
Pursell
Quillen
Rahall
Rose
Rostenkowski
Roukema
Schaefer
Smith (IA)
Synar
Thomas (WY)
Traxler
Unsoeld
Wise
Wyden
Yates

☐ 1721

The Clerk announced the following pairs:

On this vote:

Mr. Barnard for, with Mr. Berman against.

Mr. Quillen for, with Mr. Miller of California against.

Messrs. BONIOR, DARDEN, and TORRES, Mrs. BYRON, Mrs. KENNELLY, Mr. KENNEDY, Mr. WAXMAN, Mrs. BOXER, and Mr. FOGLIETTA changed their vote from "aye" to "no."

Messrs. BEVILL, RHODES, ABERCROMBIE, STUMP, HALL of Texas, HOYER, BENNETT, MOLLOHAN, and VISCLOSKY changed their vote form "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. MEYERS of Kansas. Mr. Chairman, I was not able to be present for the vote on rollcall 155, the Lagomarsino amendment. Had I been present I would have voted "yes."

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to bring Members up to date, so everyone will have a better idea of the schedule. I intend shortly, with the agreement of the ranking minority member of the committee, to rise and go into the House for the purpose of a unanimous-consent request with regard to any vote that may be requested in the next hour and 2 minutes, that that vote be rolled over until Tuesday, so Members who have obligations can depart.

Mr. Chairman, we would then, once permission is granted, go back into the Committee of the Whole. We think title V is finished. Then, with the concurrence of the gentleman from Michigan [Mr. BROOMFIELD], we would take up the en bloc amendment as the first matter in title VI.

We would then be prepared to begin debate on the Roth amendment, for whatever time may be required.

Mr. Chairman, I do not believe we will get much further than that. It is hard to say. In any event, I am trying to protect the Members in the event a vote is requested.

Mr. Chairman, I would now ask to rise, go into the House, request unanimous consent to roll over any vote, if one is requested, until Tuesday, go back into the committee, and finish the program I have outlined, which should allow us to finish by 6:30.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I concur in the recommendation of the gentleman from Florida [Mr. FASCELL], and thank the gentleman very much for his cooperation.

Mr. PACKARD. Mr. Chairman, I rise today to express my displeasure with the Foreign Assistance Authorization Act for fiscal year 1992. While I support the concept of foreign aid to promote U.S. interests abroad, I object to the amount of appropriations authorized in this bill. This is just another example of excessive spending by Congress. During this time of growing deficits and budget constraints I can not, in good conscience, support legislation that does not work to decrease the Federal deficit. As spending increases and the deficit soars, I am increasingly concerned about the inability of Congress to cut spending. We must start now to reduce the Federal deficit by imposing across-the-board spending cuts. This way we can be sure that no one group will be singled out for spending cuts and the burden to reduce the deficit will be shouldered fairly.

Additionally, I oppose this legislation because of provisions contained in the bill which will draw a presidential veto, including repeal of the Mexico City policy.

I urge my colleagues to oppose passage of the foreign assistance authorization. Let's put together a bill that reflects fiscal and moral responsibility.

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BONIOR) having assumed the Chair, Mr. MCDERMOTT, Chairmam pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Ms. DELAURO. Mr. Speaker, during rollcall 155 I was absent. At the time of the vote I was in Milford, CT, addressing the graduating class of the Milford Police Academy. Had I been here I would have voted "nay."

Mr. Speaker, I ask unanimous consent that this statement appear in the permanent RECORD immediately after rollcall vote 155.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

POSTPONING VOTES IN COMMITTEE OF THE WHOLE ON FURTHER AMENDMENTS TO H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that during further consideration of the bill, H.R. 2508, pursuant to House Resolution 170, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole on a subsequent legislative day any recorded votes that may be ordered on amendments to the bill.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman form Florida?

There was no objection.

REDUCING TIME FOR VOTES POSTPONED ON H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for any such postponed votes after the first in a series of such postponed votes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 392

Mr. PORTER. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan [Mr. PURSELL] be removed as a cosponsor of H.R. 392.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 953

Mr. PORTER. Mr. Speaker, I ask unanimous consent to have my name removed from cosponsorship of H.R. 953.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

INTERNATIONAL COOPERATION ACT OF 1991

The SPEAKER pro tempore (Mr. BONIOR). Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2508.

□ 1728

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, with Mr. MCDERMOTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, the amendment offered by the gentleman from California [Mr. LAGOMARSINO] had been disposed of.

Are there further amendments to title V?

If there are no further amendments to title V, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—SPECIAL AUTHORITIES, RESTRICTIONS, REPORTS, GENERAL PROVISIONS, AND TECHNICAL AND CONFORMING AMENDMENTS

CHAPTER 1—SPECIAL AUTHORITIES, RESTRICTIONS, AND REPORTS

SEC. 601. CONSOLIDATION AND REVISION OF AUTHORITIES AND REQUIREMENTS.

The Foreign Assistance Act of 1961 is amended by striking out existing part III (except as provided in section 642(c) of this Act) and by adding after title V, as added by title V of this Act, the following:

"TITLE VI—SPECIAL AUTHORITIES, RESTRICTIONS ON ASSISTANCE, AND REPORTS

"CHAPTER 1—SPECIAL AUTHORITIES

"SEC. 6101. AUTHORITY TO TRANSFER BETWEEN ACCOUNTS.

"(a) General Transfer Authority.—Subject to subsections (b) and (c), whenever the President determines it to be necessary for the purposes of this Act, not to exceed 10 percent of the funds made available to carry out any provision of this Act—

"(1) may be transferred to, and consolidated with, the funds in the account or fund available to carry out any other provision of this Act; and

"(2) may be used for any of the purposes for which funds in that account or fund may be used.

"(b) Exceptions and Limitations.—

"(1) Transfers not allowed to increase foreign military financing program.—The authority of subsection (a) may not be used to transfer funds for use under chapter 2 of title II of this Act.

"(2) Certain funds may not be transferred.—The authority of subsection (a) may not be used to transfer—

"(A) any funds made available pursuant to chapter 2 of title III (relating to the Overseas Private Investment Corporation);

"(B) any funds made available pursuant to section 1501 (relating to the housing and urban development guarantee program); or

"(C) any funds made available for development assistance or assistance under the Development Fund for Africa.

"(3) Limitation on amount of increase in an account.—Unless otherwise expressly authorized, the total amount in the account or fund for the benefit of which a transfer is made under subsection (a) may not be increased by more than 20 percent of the amount of funds otherwise made available for such account or fund.

"(c) Notification to Congress.—The authority of subsection (a) may be exercised only if the appropriate congressional committees are notified at least 15 days in advance of the exercise of that authority in accordance with the procedures applicable to reprogramming notifications under section 6304.

"SEC. 6102. SPECIAL WAIVER AUTHORITY.

"(a) Foreign Assistance Act and Defense Trade and Export Control Act.—The President may authorize the taking of any action (or the refraining from the taking of any action) under this Act, the Defense Trade and Export Control Act, or any annual (or periodic) foreign assistance authorization or appropriations Act without regard to any of the provisions described in subsection (c) if the President determines—

"(1) with respect to actions under chapter 2 or 5 of title II of this Act, or under the Defense Trade and Export Control Act, that to do so is essential to the national security interests of the United States; and

"(2) with respect to other actions under such Acts, that to do so is important to the national interests of the United States.

"(b) Other Acts.—The President may authorize the taking of any action (or the refraining from the taking of any action) under any other Act without regard to any provision described in paragraphs (1), (2), or (3) of subsection (c) that would otherwise prohibit or restrict the taking (or refraining from the taking) of that action if the President determines that to do so is important to the national interest of the United States.

"(c) Laws Which May Be Waived.—The provisions referred to in subsections (a) and (b) are—

"(1) the provisions of this Act,

"(2) the provisions of the Defense Trade and Export Control Act,

"(3) the provisions of any annual (or periodic) foreign assistance authorization or appropriations Act,

"(4) any other provision of law that restricts the authority to provide assistance, make sales or leases, or take any other action (or refrain from taking any action) under the Acts referred to in paragraphs (1), (2), or (3), and

"(5) any law relating to receipts and credits accruing to the United States.

"(d) Consultation With Congress.—Before exercising the authority granted in this section, the President shall consult with, and shall provide a written policy justification to, the appropriate congressional committees.

"(e) Notification to Congress.—A determination under subsection (a) or (b) shall be effective only if the President notifies the appropriate congressional committees, in writing, of that determination.

"(f) Annual Ceilings.—

"(1) In general.—The authority of this section may not be used in any fiscal year to authorize—

"(A) more than $750,000,000 in sales or leases to be made under the Defense Trade and Export Control Act;

"(B) the use of more than $250,000,000 of funds made available for use under this Act; and

"(C) the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law.

"(2) Financed military sales.—If the authority of this section is used both to authorize a sale or lease under the Defense Trade and Export Control Act and to authorize funds to be used under chapter 2 of title II of this Act with respect to the financing of that sale or lease, then the use of the funds shall be counted against the limitation in paragraph (1)(B) and the portion, if any, of the sale or lease which is not so financed shall be counted against the limitation in paragraph (1)(A).

"(3) Leases.—For purposes of paragraph (1)(A) the value of the defense articles authorized to be leased (in terms of their replacement cost less any depreciation in their value) shall be counted against the limitation in that paragraph.

"(4) Country limits.—(A) Not more than $100,000,000 of the $250,000,000 limitation provided in paragraph (1)(B) may be allocated to any one country in any fiscal year unless that country is a victim of active aggression.

"(B) Not more than $500,000,000 of the aggregate limitation of $1,000,000,000 provided in paragraphs (1)(A) and (1)(B) may be allocated to any one country in any fiscal year.

"(g) Limitation Relating to Transfer Authority.—The authority of this section may not be used to waive the limitations on transfers contained in section 6101.

"SEC. 6103. NONMILITARY ASSISTANCE FOR UNANTICIPATED CONTINGENCIES.

"(a) Authority.—Notwithstanding any other provision of law, the President is authorized to use funds made available to carry out any provision of this Act in order to furnish, for any unanticipated contingency, assistance authorized by any provision of this Act (other than chapters 2 and 5 of title II) in accordance with the provisions applicable to the furnishing of such assistance.

"(b) Annual Ceiling.—The authority of this section may not be used to authorize the use of more than $50,000,000 during any fiscal year.

"(c) Report to Congress.—The President shall report promptly to the appropriate congressional committees each time the authority of this section is exercised.

"(d) Prohibition on Gifts.—Funds used under the authority of this section may not be used to pay for any gifts to any official of any foreign government.

"SEC. 6104. DEMOCRACY CONTINGENCY FUND.

"(a) Authority to Provide Assistance.—The President is authorized to use funds made available under subsection (e) to provide assistance for a foreign country if the President determines that a country—

"(1) has recently emerged or is in the process of emerging as a democracy; or

"(2) has recently emerged or is emerging from civil strife and either has a democratically elected government or is making substantial progress toward a democratic form of government.

"(b) Purposes of Assistance.—Assistance under this section shall be provided—

"(1) in the case of a country described in subsection (a)(1), to encourage and facilitate the process of creating and institutionalizing democracy and to meet economic and political needs; and

"(2) in the case of a country described in subsection (a)(2), to meet the immediate economic and human needs resulting from the civil strife.

"(c) Authorities for Assistance.—Assistance under this section may be provided under the authorities of chapter 3 of title I (relating to economic support assistance) or any other provision of this Act.

"(d) Nonapplicability of Certain Other Provisions of Law.—If the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304, assistance may be provided under this section notwithstanding any provision of law that would otherwise prohibit such assistance, except that this subsection does not apply to a country-specific prohibition that sets forth the conditions under which assistance may be provided.

"(e) Transfer Authority.—The President may use the authority of section 6101 of this Act to transfer funds for use under this section without regard to the 20 percent increase limitation contained in that section. The authority of this subsection may not be used if it would cause the amount of unobligated funds available for use under this section to exceed $100,000,000.

"SEC. 6105. TERMINATION EXPENSES.

"(a) In General.—Funds made available under this Act shall remain available for obligation for a period not to exceed 8 months from the date of any termination of assistance under this Act for the necessary expenses of winding up programs related to such termination. Funds obligated under the authority of this Act prior to the effective date of the termination of assistance may remain available for expenditure for the necessary expenses of winding up programs related to such termination notwithstanding any provision of law restricting the expenditure of funds for assistance for the country or organization whose assistance is being terminated. In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.

"(b) Liability to Contractors.—For the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, the President is authorized to adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor that had been funded with assistance under this Act prior to the termination of assistance.

"(c) Termination Expenses.—Amounts certified as having been obligated for assistance subsequently terminated by the President, or pursuant to any provision of law, shall continue to remain available and may be reobligated to meet any necessary expenses arising from the termination of such assistance.

"(d) Guaranty Programs.—Provisions of this or any other Act requiring the termination of assistance under this Act shall not be construed to require the termination of guarantee commitments under this Act that were entered into prior to the effective date of the termination of assistance.

"(e) Relation to Other Provisions.—Unless specifically made inapplicable by another provision of law, the provisions of this section shall be applicable to the termination of assistance pursuant to any provision of law.

"SEC. 6106. EXEMPTION OF ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS FROM RESTRICTIONS.

"(a) Restrictions Not Applicable.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under title I or chapter 1 or chapter 2 of title V in support of programs of nongovernmental organizations.

"(b) National Interest Criteria.—The President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this section, whether assistance for programs of nongovernmental organizations is in the national interest of the United States.

"(c) Notice to Congress.—Before using the authority of this section to furnish assistance for a program of a nongovernmental organization, the President shall notify the appropriate congressional committees. Such notification shall describe the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance.

"SEC. 6107. EXEMPTION OF TRAINING ACTIVITIES FROM PROHIBITIONS.

"Provisions of this or any other Act shall not be construed to prohibit assistance for any training activity funded under this Act for a country as long as that country has a democratically elected government and the assistance is otherwise consistent with section 2808, section 4402, section 6201(a)(1), section 6201(a)(2), and section 6202.

"SEC. 6108. EXEMPTION FROM PROHIBITIONS FOR ASSISTANCE TO ADDRESS CERTAIN SPECIAL NEEDS.

"(a) Exemption From Prohibitions.—Funds made available under any provision of this Act for activities described in—

"(1) section 1201(d)(4) (relating to child survival activities),

"(2) section 1201(d)(5) (relating to the prevention and control of acquired immune deficiency syndrome (AIDS)),

"(3) section 1201(d)(6) (relating activities to address the special needs of displaced children),

"(4) section 1201(d)(9) (relating to environmentally sound, sustainable resource management), or

"(5) section 1201(d)(12) (relating to more efficient energy systems),

may be used to support such activities notwithstanding any provision of law that restricts foreign assistance to foreign countries, other than provisions described in subsection (b).

"(b) Exceptions.—Subsection (a) does not apply with respect to section 2808 or any comparable provision of law prohibiting assistance to countries that support international terrorism.

"SEC. 6109. ACTIVITIES UNDER CERTAIN OTHER LAWS NOT AFFECTED.

"Unless expressly provided to the contrary, provisions of this Act and other provisions applicable to foreign assistance shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Mutual Educational and Cultural Exchange Act of 1961, the Export-Import Bank Act of 1945, the Agricultural Act of 1949, the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, the Inter-American Foundation Act, the African Development Foundation Act, or the Migration and Refugee Assistance Act of 1962, or commercial export promotion activities of the Department of Agriculture (including the Commodity Credit Corporation).

"CHAPTER 2—RESTRICTIONS ON ASSISTANCE

"SEC. 6201. INELIGIBLE COUNTRIES AND PROJECTS.

"(a) Restrictions.—Except as provided in subsection (b), assistance under this Act may not be furnished to any of the following:

"(1) Communist countries.—A communist country, as designated under subsection (d).

"(2) Human rights violators.—A country described in subsection (e).

"(3) Expropriation of United States property.—A country whose government—

"(A) has—

"(i) expropriated the property of any United States person,

"(ii) repudiated or nullified any contract with any United States person, or

"(iii) taken any other action (such as discriminatory taxes or other exactions) which has the effect of seizing ownership or control of the property of any United States person, and

"(B) has not within a reasonable period of time provided adequate and effective compensation and is not engaged in good faith efforts to negotiate a settlement, if the United States person has exhausted host country legal and other formal remedies.

For purposes of this paragraph, the term 'United States person' means a United States citizen or corporation, partnership, or association at least 50 percent beneficially owned by United States citizens.

"(4) Military coups.—A country whose duly-elected head of government is deposed by military coup or decree unless subsequent to the military coup or decree a democratically-elected government has taken office.

"(5) Nuclear nonproliferation.—A country described in section 6206.

"(6) Competition with United States exports.—Direct support for any project or activity that is specifically designed to increase exports of any agricultural, textile, or apparel commodity from a developing country if such exports—

"(A) would be in direct competition with United States exports, and

"(B) can reasonably be expected to cause substantial injury to United States exporters of the same or substantially similar commodity.

"(7) Countries that export lethal military equipment to countries supporting international terrorism.—(A) A country which provides lethal military equipment to a country, the government of which the Secretary of State has determined is a terrorist government for purposes of section 6(j) of the Export Administration Act of 1979. The prohibition under this paragraph with respect to a country shall terminate 12 months after that country ceases to provide such military equipment.

"(B) Subparagraph (A) applies with respect to lethal military equipment provided under a contract entered into after the effective date set forth in section 1101 of the International Cooperation Act of 1991.

"(b) Exceptions.—

"(1) In general.—Funds may be obligated and expended for assistance restricted by subsection (a), or any similar provision of law, under any of the following circumstances:

"(A) National interest.—The President determines that the furnishing of such assistance is important to the national interests of the United States.

"(B) Alleviating suffering resulting from a disaster.—The assistance is for the alleviation of suffering resulting from a natural or manmade disaster.

"(C) Directly benefiting the poor.—The assistance will be furnished through nongovernmental organizations and will directly benefit poor people in the country.

"(D) Promoting human rights and democracy.—The assistance will be furnished through nongovernmental organizations to directly promote increased respect for internationally recognized human rights and the development of democracy.

"(2) Limitations on use of national interest waiver.—The authority of paragraph (1)(A) may be exercised with respect to the restrictions contained in subsection (a)(5) only if the President also determines that the furnishing of such assistance will further United States nonproliferation objectives.

"(c) Report to Congress.—Assistance restricted by subsection (a), or any similar provision of law, may not be provided under subsection (b) until the President has submitted to the appropriate congressional committees a report with respect to such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance meets the criteria specified in subsection (b). In the case of a report with respect to assistance provided under paragraph (1)(A) of subsection (b), the report shall be submitted, in accordance with the procedures applicable to reprogramming notifications under section 6304, at least 15 days before any funds are obligated for such assistance.

"(d) Communist Country List.—

"(1) Establishment.—The President shall designate those countries that are Communist countries for purposes of subsection (a)(1).

"(2) Publication of list.—The initial list of countries designated pursuant to this subsection shall be published in the Federal Register and shall be provided to the appropriate congressional committees. Thereafter, any additions to or deletions from such list shall be similarly published and provided.

"(3) Removal of countries from the list; exemptions.—The President may remove a country from the Communist country list established pursuant to this subsection, or may exempt a listed country from the application of subsection (a)(1) or other provisions of law that reference subsection (a)(1), if the President promptly reports such removal or exemption to the appropriate congressional committees.

"(e) Human Rights Violators.—

"(1) Ineligibility.—Subsection (a)(2) shall apply to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.

"(2) Matters to be considered.—In implementing subsection (a)(2), consideration shall be given to the following:

"(A) The relevant findings of appropriate international organizations and nongovernmental organizations.

"(B) The extent of cooperation by the government in question in permitting an unimpeded investigation by indigenous nongovernmental organizations, other nongovernmental organizations, and international organizations (such as the International Committee of the Red Cross), of alleged violations of internationally recognized human rights.

"(C) Specific actions that have been taken by the President or the Congress relating to the human rights practices of the government in question.

"(3) Related restrictions on assistance.—Subsection (a)(2) shall be deemed to prohibit, in addition to the furnishing of assistance under this Act—

"(A) sales of defense articles, defense services, or design and construction services under the Defense Trade and Export Control Act;

"(B) licenses under section 38 of the Defense Trade and Export Control Act with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country; and

"(C) licenses required under the Export Administration Act of 1979 for the export of crime control and detection instruments and equipment.

"SEC. 6202. ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

"(a) Prohibitions.—

"(1) In general.—None of the funds made available to carry out this Act, and none of the local currencies generated under this Act, shall be used to provide training or advice, or provide any financial support for police, prisons, or other law enforcement forces of any foreign government or for any program of internal intelligence or surveillance on behalf of any foreign government within the United States or abroad.

"(2) Excess defense articles, etc.—Excess defense articles made available under chapter 3 of title II of this Act, and any other assistance authorized to be provided under this Act without regard to section 7201 (c) or (d), may not be provided to police, prisons, or other law enforcement forces of any foreign government.

"(b) Exceptions.—Subsection (a) of this section shall not apply with respect to—

"(1) international narcotics control assistance;

"(2) assistance, including training, in maritime law enforcement and other maritime skills;

"(3) assistance for a country which has a longstanding democratic tradition, does not have standing armed forces, and does not engage in a consistent pattern of gross violations of internationally recognized human rights;

"(4) assistance in protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs; and

"(5) antiterrorism assistance.

"(c) Exceptions Provided in Other Sections.—Other exemptions from the prohibition contained in subsection (a) are provided for fiscal years 1992 and 1993 in sections 402, 761, 781, and 802(a)(3) of the International Cooperation Act of 1991.

"SEC. 6203. INTELLIGENCE ACTIVITIES.

"No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States. Each such operation shall be considered a significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947.

"SEC. 6204. COUNTRIES IN ARREARS ON ASSISTANCE REPAYMENTS.

"Assistance may not be furnished under this Act to the government of any country which is more than 1 year in arrears to the United States Government on any payment of interest or principal on any loan made or credit extended under this Act or (under the former authorities of section 23 or section 24 of the Arms Export Control Act), unless the President determines that assistance to such government is in the national interest and notifies the appropriate congressional committees of such determination.

"SEC. 6205. FAMILY PLANNING ACTIVITIES.

"(a) Abortions and Involuntary Sterilizations.—Funds made available to carry out title I or chapter 1 or chapter 2 of title V may not be—

"(1) used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions;

"(2) used to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations; or

"(3) used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning.

"(b) Referral.—In order to reduce reliance on abortion in developing countries, funds allocated under title I or chapter 1 or 2 of title V for voluntary family planning projects shall be available only for projects which offer, either directly or through referral to or information about access to, a broad range of family planning methods and services. In using such funds to award grants for natural family planning, no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the first sentence of this subsection.

"SEC. 6206. NUCLEAR NONPROLIFERATION.

"Section 6201(a)(5) applies to the following countries:

"(1) Nuclear enrichment.—A country that, on or after the date of enactment of the International Security Assistance Act of 1977, delivers nuclear enrichment equipment, materials, or technology to a nonnuclear-weapon state or, if a nonnuclear-weapon state, receives such equipment, materials, or technology from any other country, unless before such delivery—

"(A) the supplying country and receiving country have reached agreement to place all such equipment, materials, or technology, upon delivery, under multilateral auspices and management when available; and

"(B) the recipient country has entered into an agreement with the International Atomic Energy Agency to place all such equipment, materials, technology, and all nuclear fuel and facilities in such country under the safeguards system of such Agency.

"(2) Nuclear reprocessing.—A country that, on or after the date of enactment of the International Security Assistance Act of 1977, delivers nuclear reprocessing equipment, materials, or technology to a nonnuclear-weapon state or, if a nonnuclear-weapon state, receives such equipment, materials, or technology from any other country (except for the transfer of reprocessing technology associated with the investigation, under international evaluation programs in which the United States participates, of technologies which are alternatives to pure plutonium reprocessing).

"(3) Illegal exports.—A country that is a nonnuclear-weapon state which, on or after the date of enactment of the International Security and Development Cooperation Act of 1985, exports illegally or attempts to export illegally from the United States any material, equipment, or technology which would contribute significantly to the ability of such country to manufacture a nuclear explosive device, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of a nuclear explosive device. For purposes of this paragraph, an export or attempted export by a person who is an agent of, or is otherwise acting on behalf of or in the interests of, a country shall be considered to be an export or attempted export by that country.

"(4) Nuclear explosive devices.—A country that, on or after the date of enactment of the International Security Assistance Act of 1977—

"(A) transfers a nuclear explosive device to a nonnuclear-weapon state, or

"(B) is a nonnuclear-weapon state and either—

"(i) receives a nuclear explosive device, or

"(ii) detonates a nuclear explosive device.

"CHAPTER 3—REPORTS AND NOTIFICATIONS TO CONGRESS

"SEC. 6301. CONGRESSIONAL PRESENTATION DOCUMENTS FOR ECONOMIC ASSISTANCE.

"(a) Requirement for Submission.—The President shall prepare, and submit to the Congress in a timely manner, annual congressional presentation documents for economic assistance programs under title I and chapters 1 and 2 of title V.

"(b) Materials for Development and Economic Support Assistance.—For assistance under chapters 2 and 3 of title I the documents submitted pursuant to subsection (a) shall include the following:

"(1) The rationale for the allocation of assistance to each country, regional program, or centrally funded program. In the case of economic support assistance, this rationale shall include a justification for the provision of economic support assistance and for the particular use of that assistance.

"(2) A brief description of each country program, regional program, and centrally funded program, including—

"(A) in the case of development assistance, a discussion of how each program supports, as appropriate, the four basic objectives set forth in section 1102 of this Act; and

"(B) in the case of economic support assistance, a discussion of the extent to which each program supports the four basic objectives set forth in section 1102.

"(3) A description of new activities to be undertaken in the coming fiscal year.

"(c) Development Fund for Africa.—The documents submitted pursuant to subsection (a) shall include a description of the progress made during the previous fiscal year in carrying out chapter 1 of title V in three countries in sub-Saharan Africa which represent differing economic situations and levels of progress. The description shall include—

"(1) the nature and extent of consultation to ensure local perspectives, as described in subsections (e)(1) and (f) of section 5101;

"(2) the degree of involvement of local people in the implementation of projects having a local focus;

"(3) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 5101(i);

"(4) program assistance provided, including the amounts obligated, the criteria used for assisting reforms, and the provisions made pursuant to section 5101(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

"(5) a description of the assistance for the critical sector priorities specified in section 5101(i), by sector, including the amounts obligated.

"(d) Other Economic Assistance Programs.—The documents submitted pursuant to subsection (a) shall include for each economic assistance program (other than those programs specified in subsections (b) and (c))—

"(1) a summary of program activities for the previous year; and

"(2) a description of activities anticipated in the current fiscal year and the coming fiscal year.

"(e) Report on Unexpended Balances.—For assistance under chapters 2 and 3 of title I and chapters 1 and 2 of title V, the documents submitted pursuant to subsection (a) shall include—

"(1) an identification of any funds that, as of September 30 of the preceding fiscal year, had been obligated for a period of 2 years or more but had not been expended; and

"(2) a certification that the purposes for which such funds were obligated remain valid.

"(f) Additional Materials.—In conjunction with the submission of the documents pursuant subsection (a), the President shall submit to the Congress a report which sets forth the following:

"(1) The dollar value of all foreign assistance, by category and by country, furnished by the United States Government by any means to each foreign country and international organization—

"(A) from 1946 to the fiscal year immediately preceding the fiscal year in which the report is submitted;

"(B) as obligated during the immediately preceding fiscal year;

"(C) as presented for the fiscal year in which the report is submitted; and

"(D) as proposed for the fiscal year following the year in which the report is submitted.

"(2) A summary of the net aid flow from the United States to each country, taking into consideration the repayments to the United States from previous foreign assistance loans and the debt relief granted by the United States.

"(3) The status of the debt servicing capacity of each country receiving assistance under title I or chapter 1 of title V; and a statement summarizing the debt relief granted to each country by the United States and the purpose for which it was granted.

"SEC. 6302. HUMAN RIGHTS POLICY AND REPORTS.

"(a) Promotion of Human Rights.—The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.

"(b) Conduct of Assistance and Military Sales Programs.—In furtherance of subsection (a), the President shall formulate and conduct United States assistance and military sales programs in a manner which will—

"(1) promote and advance human rights;

"(2) strengthen a relationship between civilian and military sectors appropriate to a democratic system of government; and

"(3) avoid identification of the United States, through these programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

"(c) Matters To Be Considered.—In carrying out subsection (b) and in preparing the annual reports required by subsection (d) and any special report submitted pursuant to subsection (e), consideration shall be given to the following:

"(1) The relevant findings of appropriate international organizations and nongovernmental organizations.

"(2) The extent of cooperation by the government in question in permitting an unimpeded investigation by indigenous nongovernmental organizations, other nongovernmental organizations, and international organizations (such as the International Committee of the Red Cross), of alleged violations of internationally recognized human rights.

"(d) Annual Human Rights Report.—In furtherance of subsections (a) and (b), the President shall transmit to the Congress, not later than February 28 each year, a full and complete report with respect to practices regarding the observance of and respect for internationally recognized human rights in every foreign country. Wherever applicable, such reports shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization.

"(e) Special Reports.—Upon the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President should, within 30 days after receipt of such request, transmit to both committees a special report with respect to the country designated in such request. The report shall set forth—

"(1) all information, which has become available since submission of the last report under subsection (d), with respect to the matters described in subsections (f) (1) and (2);

"(2) the steps the United States has taken to—

"(A) promote respect for and observance of human rights in the country in question and discourage any practices which are inimical to internationally recognized human rights;

"(B) publicly or privately call attention to such practices;

"(C) disassociate the United States, and any United States assistance or military sales provided for such country, from such practices; and

"(3) such other information as the committee may request.

"(f) Information To Be Provided.—Each annual report under subsection (d), and each special report pursuant to subsection (e), shall include—

"(1) all information available about observance of and respect for human rights and fundamental freedom in the country in question, and

"(2) a detailed description of practices by the recipient government with respect to human rights and fundamental freedom, including information provided by appropriate organizations, including nongovernmental organizations.

"(g) Definitions.—For the purposes of this section—

"(1) the term 'assistance' means any assistance authorized by this Act; and

"(2) the term 'military sales' means—

"(A) sales of defense articles, defense services, and design and construction under the Defense Trade and Export Control Act; and

"(B) licenses with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Defense Trade and Export Control Act.

"SEC. 6303. ANNUAL ALLOCATION REPORT.

"(a) Report on Allocations of Assistance.—Not later than 30 days after the enactment of any law appropriating funds to carry out any provision of this Act, the President shall notify the appropriate congressional committees of—

"(1) each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law; and

"(2) the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each such country or organization.

"(b) Exceptions.—Subsection (a) does not apply with respect to—

"(1) funds appropriated under section 1901 or section 1902 for operating expenses of the administering agency for title I; or

"(2) any law making continuing appropriations for a period of less than 90 days.

"(c) Nonwaivability.—The requirement of subsection (a) may not be waived under the authority of section 6102.

"SEC. 6304. NOTIFICATION OF PROGRAM CHANGES.

"(a) Increased Assistance and New Programs.—Unless the appropriate congressional committees are notified at least 15 days in advance, funds appropriated for a fiscal year to carry out this Act may not be obligated for the following:

"(1) Increase in assistance level.—Any assistance under any provision of this Act—

"(A) for a country or international organization for which assistance under that provision was not justified in congressional presentation documents for that fiscal year, or

"(B) in excess of the amount justified in the congressional presentation document and allocated pursuant to section 6303, whichever is greater, for that country or organization under that provision for that fiscal year.

"(2) NEW ACTIVITIES.—Any economic assistance for a program, project, or activity under any provision of this Act—

"(A) which was not justified in congressional presentation documents for that fiscal year; and

"(B) for which assistance was not furnished for the preceding fiscal year.

"(b) CONGRESSIONAL PRESENTATION DOCUMENTS.—For purposes of this section, the term 'congressional presentation documents' means the annual congressional presentation documents for assistance under this Act or the justification documents accompanying a request for supplemental authorizations of appropriations or supplemental appropriations for assistance under this Act.

"(c) APPROPRIATIONS SUBJECT TO REQUIREMENTS.—Subsection (a) applies with respect to all funds appropriated for assistance under this Act (including international narcotics control assistance) other than funds to carry out—

"(1) title III (relating to the Trade Development Agency and the Overseas Private Investment Corporation);

"(2) section 1501 (relating to the housing and urban development guarantee program);

"(3) programs of disaster relief and rehabilitation, including international disaster assistance programs; and

"(4) assistance from the Development Fund for Africa.

"(d) EMERGENCY EXCEPTIONS.—

"(1) WAIVER.—Subject to paragraph (2), the President may waive the requirement of—

"(A) subsection (a),

"(B) any provision that references the procedures under this section, or

"(C) any similar requirement contained in foreign assistance authorization or appropriations legislation to provide a specified period of advance notification to the Congress or congressional committees,

if the President determines that doing so is necessitated by emergency circumstances.

"(2) EXERCISE OF AUTHORITY.—Before exercising the authority of this subsection, the President shall notify the appropriate congressional committees, other specified congressional committees, or the Congress (as the case may be). Any notification under this paragraph shall contain an explanation of the circumstances necessitating the use of the authority of this subsection.

"SEC. 6305. QUARTERLY REPORTS ON OBLIGATIONS FOR DEVELOPMENT ASSISTANCE AND ECONOMIC SUPPORT ASSISTANCE.

"(a) QUARTERLY REPORTS.—At the end of each quarter of each fiscal year, the President shall submit to the appropriate congressional committees a report on the funds obligated during that quarter for development assistance and economic support assistance. These reports shall identify obligations by the beneficiary country, regional program, or international organization and by function.

"(b) CONSULTATIONS.—Within 30 days after the submission of each report pursuant to subsection (a), the administering agency for title I and the appropriate congressional committees shall consult with respect to the obligations for assistance reported for the preceding fiscal quarter. These consultations shall include, as necessary, discussions of the most informative and feasible manner of identifying obligations by function.

"SEC. 6306. FURNISHING INFORMATION REQUESTED BY THE CONGRESS OR THE GAO.

"Funds made available to carry out this Act may not be used to carry out any provision of this Act in any country or with respect to any project or activity, after the expiration of the 35-day period which begins on the date the General Accounting Office or any committee of the Congress charged with considering legislation, appropriations, or expenditures under this Act, has delivered to the office of the head of any agency carrying out such provision, a written request that it be furnished any document, paper, communication, audit, review, finding, recommendation, report, or other material in its custody or control relating to the administration of such provision in such country or with respect to such project or activity, unless there has been furnished to the General Accounting Office or to such committee (as the case may be)—

"(1) the material so requested; or

"(2) a certification by the President that has forbidden the furnishing of such material pursuant to request and the President's reason for so doing.

"SEC. 6307. INFORMATION REQUESTED BY CONGRESS.

"No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Defense Trade and Export Control Act, the annual foreign assistance authorization legislation, or the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, even though such report has not yet been transmitted to the Congress, the appropriate committee, or officer of either House of Congress, as the case may be.

"SEC. 6308. PRESIDENTIAL FINDINGS AND DETERMINATIONS.

"(a) FINDINGS AND DETERMINATIONS TO BE WRITTEN AND SIGNED.—In any case in which the President is required to make a report by any provision of this Act, the Defense Trade and Export Control Act, the annual foreign assistance authorization legislation, or the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, to the Congress or to any committee or officer of either House of Congress concerning any finding or determination, that finding or determination shall be reduced to writing and signed by the President.

"(b) RESTRICTION.—No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

"(c) PUBLICATION IN FEDERAL REGISTER.—Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

"SEC. 6309. REPORTS REGARDING RECIPIENT EXPENDITURES FOR MILITARY PURPOSES.

"At least once every 3 years, the President shall report to the Speaker of the House of Representatives and chairman of the Committee on Foreign Relations of the Senate on—

"(1) the percentage of the budget of each country receiving assistance under title I or chapter 1 or chapter 2 of title V that is devoted to military purposes; and

"(2) the degree to which that country is using its foreign exchange or other resources to acquire military equipment.".

CHAPTER 2—ADMINISTRATIVE AND GENERAL PROVISIONS

SEC. 621. CONSOLIDATION AND REVISION OF PROVISIONS.

The Foreign Assistance Act of 1961 is amended by adding after title VI, as enacted by chapter 1 of this title, the following:

"TITLE VII—GENERAL PROVISIONS

"CHAPTER 1—EXERCISE AND COORDINATION OF FUNCTIONS

"SEC. 7101. DELEGATIONS BY THE PRESIDENT.

"(a) IN GENERAL.—The President may exercise any functions conferred upon the President by this Act through such agency or officer of the United States Government as the President shall direct.

"(b) AUTHORITY TO ISSUE REGULATIONS AND DELEGATE.—The head of any agency or officer exercising functions under this Act—

"(1) may from time to time promulgate such rules and regulations as may be necessary to carry out such functions; and

"(2) may delegate authority to perform any such functions, including, if he or she shall so specify, the authority successively to redelegate any of such functions to a subordinate.

"SEC. 7102. DESIGNATION OF ADMINISTERING AGENCY FOR TITLE I.

"The President shall exercise his functions for administering programs under title I and chapters 1 and 2 of title V primarily through a single agency, which the President shall designate.

"SEC. 7103. AUTHORITY TO ESTABLISH MISSIONS ABROAD.

"(a) AUTHORITY.—The President may maintain special missions or staffs outside the United States in such countries and for such periods of time as may be necessary to carry out this Act.

"(b) CHIEF OF MISSION.—Each such special mission or staff shall be under the direction of a chief.

"(c) SMALLER ECONOMIC ASSISTANCE PROGRAMS.—In the case of smaller programs, assistance under title I and chapter 1 of title V may be administered under the direction of the chief of the United States diplomatic mission by the principal economic officer of the mission.

"SEC. 7104. COORDINATION OF UNITED STATES POLICIES AND PROGRAMS AFFECTING DEVELOPMENT.

"(a) COORDINATION.—The President shall establish a system for coordination of United States policies and programs which affect United States interests in the development of developing countries.

"(b) COORDINATION ABROAD.—The President shall prescribe appropriate procedures to assure coordination among—

"(1) the various agencies of the United States Government having representatives in diplomatic missions abroad; and

"(2) representatives of the United States Government in each country, under the direction of the chief of the United States diplomatic mission.

"(c) NOTICE TO CONGRESS.—The President shall keep the appropriate congressional committees advised of his actions under subsection (b).

"CHAPTER 2—ADMINISTRATIVE AUTHORITIES

"SEC. 7201. ALLOCATION OF FUNDS AND REIMBURSEMENT AMONG AGENCIES.

"(a) IN GENERAL.—The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out this Act, including any advance to the United States Government by any country or international organization for the procurement of commodities, services, defense articles, or defense services. Such funds shall be available for obligation and expenditure for the purposes for which authorized, in accordance with authority granted in this Act or under authority governing the activities of the agency of the United States Government to which such funds are allocated or transferred.

"(b) PROCUREMENT FROM OTHER AGENCIES.—

"(1) AUTHORITY.—Any officer of the United States Government carrying out functions under this Act may utilize the services or defense services and the facilities of, or procure commodities or defense articles from, any agency of the United States Government as the President shall direct, or with the consent of the head of such agency.

"(2) SEPARATE ACCOUNT.—Funds allocated pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

"(c) NONMILITARY ASSISTANCE.—

"(1) REIMBURSEMENT TO AGENCIES.—In the case of any commodity, service, or facility procured from any agency of the United States Government to carry out any provision of title I, chapter 8 of title II, title IV, or chapter 1 or 2 of title V, reimbursement or repayment shall be made to such agency from funds available to carry out that provision.

"(2) AMOUNT OF REIMBURSEMENT.—Such reimbursement or payment shall be at—

"(A) replacement cost,

"(B) if required by law, actual cost,

"(C) in the case of services procured from the Department of Defense to carry out title IV, the amount of the additional costs incurred by the Department of Defense in providing such services, or

"(D) at any other price authorized by law and agreed to by the owning or disposing agency.

"(3) CREDITING OF REIMBURSEMENT.—The amount of any such reimbursement or payment—

"(A) shall be credited to current applicable appropriations, funds, or accounts, from which there may be procured replacements of similar commodities, services, or facilities; or

"(B) shall be deposited into the Treasury as miscellaneous receipts if such appropriations, funds, or accounts are not reimbursable except by reason of this subsection and if the owning or disposing agency determines that such replacement is not necessary.

"(d) MILITARY ASSISTANCE.—

"(1) REIMBURSEMENT TO AGENCIES.—Except as otherwise provided in this Act, reimbursement shall be made to any agency of the United States Government, from funds available for use under title II, for any assistance furnished under title II from, by, or through such agency.

"(2) AMOUNT OF REIMBURSEMENT.—Such reimbursement shall be—

"(A) in an amount equal to the value of the defense articles, the defense services (excluding salaries of members of the Armed Forces), or other assistance furnished, plus

"(B) expenses arising from or incident to operations under title II (excluding salaries of members of the Armed Forces and unfunded estimated costs of civilian retirement and other benefits).

"(3) CREDITING TO APPROPRIATION.—The amount of such reimbursement shall be credited to the current applicable appropriations, funds, or accounts of such agency.

"(e) ESTABLISHMENT OF ACCOUNTS.—

"(1) AUTHORITY TO ESTABLISH; USES.—In furnishing assistance under this Act, accounts may be established on the books of any agency of the United States Government or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States—

"(A) against which letters of commitment may be issued which shall constitute recordable obligations of the United States Government, and moneys due or to become due under such letters of commitment shall be assignable under the last sentence of section 3727(b) and section 3727(c) of title 31, United States Code, and the second and third paragraphs of section 3737 of the Revised Statutes of the United States (41 U.S.C. 15); and

"(B) from which disbursements may be made to, or withdrawals may be made by, recipient countries or agencies, organizations, or persons upon presentation of contracts, invoices, or other appropriate documentation.

"(2) ACCOUNTING FOR EXPENDITURES.—Expenditure of funds which have been made available through accounts established under paragraph (1) shall be accounted for on standard documentation required for expenditure of funds of the United States Government.

"(f) FUNDS ALLOCATED TO THE EXPORT-IMPORT BANK AND THE OVERSEAS PRIVATE INVESTMENT CORPORATION.—

"(1) EXPORT-IMPORT BANK.—Credits made by the Export-Import Bank of the United States with funds allocated to the Bank under subsection (a) of this section shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitation imposed by section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) or related appropriations Acts.

"(2) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Loans, guaranties, or investments made by the Overseas Private Investment Corporation with funds—

"(A) allocated under subsection (a) of this section or transferred from other sources (public or private), or

"(B) received in foreign currency by the Corporation as a result of insurance activities conducted pursuant to section 3203(a) of this Act,

shall not be considered in determining whether the Corporation has made or has outstanding loans, guaranties, or investments to the extent of any limitation on obligations, commitments, and equity investments imposed by or pursuant to this Act.

"(3) CREDIT REFORM.—The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations or loan guarantee commitments, including insurance provided under the Export-Import Bank Act of 1945, made with funds described—

"(A) in paragraphs (1) or (2)(A) of this subsection to the extent that an amount equivalent to their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) is transferred to the associated financing account established pursuant to such Act, if the appropriate congressional committees are notified at least 10 days before any such transfer, or

"(B) in paragraph (2)(B) of this subsection.

"(g) CHARGING TO APPROPRIATIONS.—

"(1) INITIAL CHARGING.—Any appropriation or account available to carry out provisions of title I or of chapter 1 or 2 of title V may initially be charged in any fiscal year, within the limit of available funds, to finance expenses for which funds are available in other appropriations or accounts under those provisions.

"(2) FINAL CHARGING.—As of the end of such fiscal year, such expenses shall be finally charged to applicable appropriations or accounts with proper credit to the appropriations or accounts initially utilized for financing purposes, except that such final charges shall not be required in the case of expenses (other than those provided under sections 1801 and 1802) incurred in furnishing assistance if it is determined that the accounting costs of identifying the applicable appropriation or account to which such expenses should be charged would be disproportionate to the advantage to be gained.

"(3) REQUIREMENTS APPLICABLE ONLY TO ECONOMIC ASSISTANCE ACCOUNTS.—This subsection does not apply with respect to chapter 6 or 8 of title II or to title IV.

"SEC. 7202. GENERAL AUTHORITIES.

"(a) TERMS OF ASSISTANCE.—Except as otherwise specifically provided in this Act, assistance under this Act may be furnished on a grant basis or on such terms, including cash, credit, or other terms of repayment (including repayment in foreign currencies or by transfer to the United States Government of commodities) as may be determined to be best suited to the achievement of the purposes of this Act.

"(b) TERMS AND CONDITIONS.—The President may furnish assistance under this Act on such terms and conditions (consistent with other provisions of law) as the President deems appropriate.

"(c) ADVANCES, CONTRACTS, ETC.—In furtherance of the purposes and within the limitations of this Act, the President may make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with any person, any friendly government or government agency, and any international organization.

"(d) GIFTS.—The President may accept and use in furtherance of the purposes of this Act, money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purpose.

"(e) INSURANCE.—

"(1) FOREIGN PARTICIPANTS.—Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign participants in any program of furnishing assistance administered by such agency while such participants are absent from their homes for the purpose of participation in such program.

"(2) FOREIGN EMPLOYEES.—Any agency of the United States Government is authorized to pay the cost of health and accident insurance for foreign employees of that agency while those employees are absent from their places of employment abroad for purposes of training or other official duties.

"(f) ADMISSION TO UNITED STATES.—Alien participants in any program of furnishing assistance under this Act may be admitted to the United States if otherwise qualified as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General.

"(g) Assistance Authorities.—In furnishing and administering assistance under this Act, the President—

"(1) may issue letters of credit and letters of commitment;

"(2) may collect or compromise any obligations assigned to, or held by, and any legal or equitable rights accruing to him, and may (as the President deems appropriate) refer any such obligations or rights to the Attorney General for suit or collection;

"(3) may—

"(A) acquire and dispose of (upon such terms and conditions as the President deems appropriate) any property, including any instrument evidencing indebtedness or ownership, except that equity securities may not be directly purchased (although such securities may be acquired by other means such as by exercise of conversion rights or through enforcement of liens or pledges or otherwise to satisfy a previously incurred indebtedness), and

"(B) guarantee payment against any such instrument;

"(4) may establish the character of, and decide the necessity for, obligations and expenditures of funds used in making such loans and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to corporations of the United States Government; and

"(5) shall cause to be maintained an integral set of accounts which shall be audited by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions as provided by chapter 91 of title 31, United States Code.

"(h) Claims Relating to Guarantees.—Claims arising as a result of any guarantee program authorized by this Act may be settled, and disputes arising as the result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the President may direct. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

"(i) Financial Transactions With Foreign Governments in Default of Obligations to the United States.—Section 955 of title 18, United States Code, shall not apply to any person—

"(1) who acts for or participates in any operation or transaction arising under this Act, or

"(2) who acquires any obligation issued in connection with any operation or transaction arising under this Act.

"(j) Educational Institutions.—Any cost-type contract or agreement (including grants) entered into with an institution of higher education for the purpose of carrying out programs authorized by title I or chapter 1 or 2 of title V may provide for the payment of the reimbursable indirect costs of that institution on the basis of predetermined fixed-percentage rates applied to the total or an element thereof, of the reimbursable direct costs incurred.

"(k) Multiyear Commitments.—A contract or agreement which entails commitments for the expenditure of funds under chapter 2 or 3 of title I, section 1701, title II, or chapter 1 or 2 of title V may, subject to any future action of the Congress, extend at any time for not more than 5 years.

"SEC. 7203. AUTHORIZED ADMINISTRATIVE USES OF FUNDS.

"(a) Personnel, Printing, Procurement of Supplies, and Other Administrative Expenses.—Funds made available to carry out this Act may be used for the following:

"(1) Compensation, allowances, and travel of personnel, including Foreign Service personnel, whose services are utilized primarily for the purposes of this Act.

"(2) Printing and binding without regard to the provisions of any other law.

"(3) Expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of funds of the United States Government (other than sections 1341, 1342, and 1517 of title 31, United States Code) as may be necessary to accomplish the purposes of this Act.

"(b) Uses of Nonmilitary Assistance Funds.—

"(1) Authorized uses.—Funds described in paragraph (2) shall be available for the following:

"(A) Rent of buildings and space in buildings in the United States, and for repair, alteration, and improvements of such leased properties.

"(B) Expenses of attendance at meetings concerned with the purposes of title I or chapter 1 or 2 of title V, including (notwithstanding sections 1346(a) and 1346(c) of title 31, United States Code), expenses in connection with meetings of persons whose employment is authorized by section 7503.

"(C) Contracting for personal services of individuals engaged primarily in furnishing assistance abroad under title I or chapter 1 or 2 of title V. Such individuals shall not be regarded as employees of the United States Government for the purpose of any law administered by the Office of Personnel Management.

"(D) Purchase, maintenance, operation, and hire of aircraft, except that aircraft for administrative purposes may be purchased only as specifically provided for in an appropriations or other Act.

"(E)(i) Purchase and hire of passenger motor vehicles, subject to clauses (ii) and (iii).

"(ii) Except as may otherwise be provided in an appropriations or other Act, passenger motor vehicles for administrative purposes outside the United States may be purchased for replacement only. Such vehicles may be exchanged or sold and replaced by an equal number of such vehicles.

"(iii) Passenger motor vehicles other than one for the official use of the head of the agency designated under section 7102 may be purchased for use in the United States only as may be specifically provided in an appropriations or other Act.

"(F) Entertainment.

"(G) Exchange of funds without regard to loss by exchange.

"(H) Expenditures (not to exceed $50,000 in any fiscal year except as may otherwise be provided in an appropriations or other Act) of a confidential character other than entertainment. A certificate of the amount of such expenditure, the nature of which it is considered inadvisable to specify, shall be made by the President, and every such certificate shall be deemed a sufficient voucher for the amount therein specified.

"(I) Insurance of official motor vehicles or aircraft acquired for use in foreign countries.

"(J)(i) Rent or lease outside the United States, for not to exceed 10 years (unless a longer period is provided for in advance by an appropriations Act), of offices, buildings, grounds, and quarters, including living quarters to house personnel, and payments therefor in advance for such period as the President may determine.

"(ii) Maintenance, furnishings, necessary repairs, improvements, and alterations to properties owned or rented by the United States Government or made available for use to the United States Government outside the United States.

"(iii) Costs of fuel, water, and utilities for such properties.

"(K) Expenses of—

"(i) preparing and transporting to their former homes (or with respect to foreign participants engaged in any program under title I or chapter 1 or 2 of title V to their former homes or places of burial), and

"(ii) caring for and disposing of the remains of an individual, or the remains of a member of an individual's family, who may die while such individual is away from home participating in activities carried out with funds described in paragraph (2).

"(L) Purchase of uniforms.

"(M) Payment of per diem in lieu of subsistence to foreign participants engaged in any program under title I or chapter 1 or 2 of title V while such participants are away from their homes in countries other than the United States, at rates not in excess of those prescribed by the standardized Government travel regulations, notwithstanding any other provision of law.

"(N) Use in accordance with authorities of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) not otherwise provided for.

"(O) Ice and drinking water for use outside the United States.

"(P) Services of commissioned officers of the National Oceanic and Atmospheric Administration. For the purposes of providing such services, the National Oceanic and Atmospheric Administration may appoint not to exceed 20 commissioned officers in addition to those otherwise authorized.

"(Q) Expenses in connection with—

"(i) travel of personnel outside the United States, including travel expenses of dependents (including expenses during necessary stopovers while engaged in such travel);

"(ii) the transportation of personal effects, household goods, and automobiles of such personnel when any part of such travel or transportation begins in one fiscal year pursuant to travel orders issued in that fiscal year, notwithstanding the fact that such travel or transportation may not be completed during the same fiscal year; and

"(iii) the costs of transporting automobiles to and from a place of storage, and the costs of storing automobiles of such personnel, when it is in the public interest or more economical to authorize storage.

"(R) Assistance for the implementation of programs under the Agricultural Trade Development and Assistance Act of 1954, the Agricultural Act of 1949, and the Food for Progress Act of 1985.

"(2) Funds which may be used.—Paragraph (1) applies to—

"(A) appropriations to carry out this Act (other than title II),

"(B) allocations to any agency of the United States Government, from other appropriations, for functions directly related to the purposes of this Act (other than title II), and

"(C) funds made available for other purposes to the agency designated under section 7102.

"(c) Facilities Abroad.—

"(1) Living quarters, offices, schools, and hospitals.—Notwithstanding any other provision of law, funds available for assistance under this Act may be used in any fiscal year (in addition to funds available for such use under other authorities in this Act)—

"(A) to construct or otherwise acquire outside the United States essential living quarters, office space, and necessary supporting facilities for use of personnel carrying out activities authorized by this Act;

"(B) to construct or otherwise acquire outside the United States schools (including dormitories and boarding facilities) and hospitals for use of personnel carrying out activities authorized by this Act, United States Government personnel, and their dependents; and

"(C) to staff, operate, and maintain such schools and hospitals.

"(2) Disposal.—Overseas property acquired under this subsection (or predecessor provisions of this Act) may be disposed of, and the proceeds of such disposal shall remain available until expended for use for the purposes specified in paragraph (1).

"(d) Education of Dependents.—Funds available for assistance under this Act may be used in any fiscal year to provide assistance to schools established, or to be established, outside the United States whenever it is determined that such action would be more economical or would best serve the interests of the United States in providing for the education of dependents of personnel carrying out activities authorized by this Act and dependents of United States Government personnel, in lieu of acquisition or construction pursuant to subsection (c) of this section.

"(e) Training of Personnel.—

"(1) Payment of costs.—Funds available under this Act may be used to pay costs of training United States citizen personnel employed or assigned pursuant to section 7502(c), through interchange or otherwise, at any State or local unit of government, public or private nonprofit institution, trade, labor, agricultural, or scientific association or organization, or commercial firm.

"(2) Limitation on dual employment.—Such training shall not be considered employment or holding of office under section 5533 of title 5, United States Code.

"(3) Acceptance of certain payments.—Any payments or contributions in connection with such training may, as deemed appropriate by the head of the agency of the United States Government authorizing such training, be made by private or public sources and be accepted by any trainee, or may be accepted by and credited to the current applicable appropriation of such agency. Any such payments or contributions to any employee in the nature of compensation shall be in lieu, or in reduction, of compensation received from the United States Government.

"(f) Personnel Detailed to Administering Agency.—

"(1) Reimbursement of costs.—Funds made available for title I or chapter 1 or 2 of title V may be used to reimburse an agency of the United States Government, an agency of a State government, or an institution of higher education for the full costs of any employee which that agency or institution details or assigns to the agency designated under section 7102 to carry out programs under those provisions that require specialized technical skills.

"(2) Personnel ceilings.—Employees so detailed or assigned shall not be included within any personnel ceiling applicable to any agency of the United States Government during the period of detail or assignment.

"(g) Military Assistance Funds.—Funds made available for the purposes of title II shall be available for the following:

"(1) Administrative, extraordinary (not to exceed $300,000 in any fiscal year), and operating expenses incurred in furnishing defense articles and defense services under chapter 2 or chapter 5 of title II or on a sale or lease basis under the Defense Trade and Export Control Act.

"(2) Reimbursement of actual expenses of military officers detailed or assigned as tour directors in connection with orientation visits of foreign military and related civilian personnel, in accordance with the provisions of section 5702 of title 5, United States Code, applicable to civilian officers and employees.

"(3) Maintenance, repair, alteration, and furnishing of United States-owned facilities in the District of Columbia or elsewhere for the training of foreign military and related civilian personnel without regard to the provisions of section 3733 of the Revised Statutes (41 U.S.C. 12) or other provision of law requiring a specific authorization or specific appropriation for such public contracts.

"CHAPTER 3—SPECIAL REQUIREMENTS AND AUTHORITIES RELATING TO APPROPRIATIONS AND LOCAL CURRENCIES

"Subchapter A—Provisions Relating to Appropriations

"SEC. 7301. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF APPROPRIATIONS.

"(a) Requirement for Authorization.—Funds appropriated for foreign assistance shall not be available for obligation or expenditure—

"(1) unless the appropriation thereof has been specifically authorized by law; or

"(2) in excess of an amount prescribed by law.

"(b) Subsequent Authorizations.—To the extent that legislation enacted after the making of an appropriation for foreign assistance authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall not apply.

"(c) Relation to Other Provisions.—The provisions of this section shall not be superseded except by a provision of law which specifically repeals or modifies the provisions of this section.

"SEC. 7302. AUTHORITY FOR EXTENDED PERIOD OF AVAILABILITY OF APPROPRIATIONS.

"Unless otherwise specified, amounts appropriated to carry out this Act are authorized to be made available, in appropriations Acts, until expended.

"SEC. 7303. REDUCTION IN EARMARKS.

"(a) Proportional Reductions in Authorization Earmarks.—If—

"(1) the amount appropriated for a fiscal year pursuant to any authorization of appropriations provided by this Act is less than the authorization amount, and

"(2) a provision of this Act or the foreign assistance authorization legislation provides that a specified amount of such amount for that fiscal year shall be available only for a specified country, organization, or purpose,

then the amount so specified shall be deemed to be reduced to the amount which bear the same ratio to the specified amount as the amount appropriated bears to the authorization amount.

"(b) Exemptions From Earmark Requirements.—

"(1) Criteria for exemption.—Funds may be made available notwithstanding any provision of law described in paragraph (2) if—

"(A) compliance with such provision is made impossible by operation of law, or

"(B) the President determines, after consultation with the appropriate congressional committees, that the country or organization for whom such funds would have been made available has significantly reduced its military, political, or economic cooperation with the United States during the preceding 12 month period.

"(2) Earmark defined.—The provisions of law to which this subsection applies are any provisions requiring that a specified amount of funds appropriated to carry out any provision of this Act shall be available only for a particular country, organization, or purpose.

"(c) Exceptions for Certain Countries.—Subsections (a) and (b) do not apply with respect to funds specified for Israel or Egypt.

"Subchapter B—Local Currencies

"SEC. 7321. SPECIAL ACCOUNTS FOR AND USE OF HOST-COUNTRY OWNED LOCAL CURRENCY.

"(a) Special Account.—If assistance is furnished to the government of a foreign country under title I or chapter 1 or 2 of title V under arrangements which will result in the generation of local currencies of that country, the President shall—

"(1) require that local currencies be deposited in a special account established by that government;

"(2) enter into an agreement with that government which sets forth—

"(A) the amount of the local currencies to be so deposited, and

"(B) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

"(3) establish by agreement with that government the responsibilities of the administering agency and that government to monitor and account for deposits into and disbursements from the special account.

"(b) Uses of Local Currencies.—As may be agreed upon with the foreign government, local currencies deposited in a special account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

"(1) to carry out title I or chapter 1 or 2 of title V (as the case may be), or

"(2) for the administrative requirements of the United States Government.

"(c) Programming Accountability.—The administering agency shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (b)(1) from the special account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

"(d) Termination of Assistance Programs.—Upon termination of assistance to a country under title I or chapter 1 or 2 of title V (as the case may be), any unencumbered balances of funds which remain in a special account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

"(e) Requirements Applicable Only to Economic Assistance Programs.—This section does not apply with respect to chapter 6 or 8 of title II or to title IV.

"SEC. 7322. USE OF CERTAIN FOREIGN CURRENCIES OWNED BY THE UNITED STATES.

"(a) Authority To Use for Assistance Programs.—Except as otherwise provided in this Act or other provisions of law, foreign currencies described in subsection (b) may be used in providing assistance under title I and chapter 1 and 2 of title V.

"(b) Foreign Currencies Which May Be Used for Assistance.—The foreign currencies which may be used under subsection (a) are any foreign currencies received as a result of the furnishing of assistance under title I or chapter 1 or 2 of title V (or any predecessor legislation authorizing nonmilitary assistance) which are in excess of—

"(1) the amounts reserved under authority of section 105(d) of the Mutual Educational and Cultural Exchange Act of 1961 or any other Act relating to educational and cultural exchanges; and

"(2) the amounts required for payment by the agencies of the United States Government of their obligations outside the United States, as such requirements may be established from time to time by the President.

"(c) PAYMENT OF OBLIGATIONS OF GOVERNMENT AGENCIES.—Foreign currencies described in subsection (b) which are in excess of the amounts described in paragraph (1) of that subsection may be sold by the Secretary of the Treasury to agencies of the United States Government for payment of their obligations outside the United States.

"SEC. 7323. INTEREST ON UNITED STATES OWNED FOREIGN CURRENCY PROCEEDS.

"(a) REQUIREMENT FOR PAYMENT OF INTEREST.—In cases where assistance is to be furnished to any recipient country under this Act on a basis which will result in the accrual of foreign currency proceeds to the United States, agreements with respect to such assistance shall include provisions for the receipt of interest income on the foreign currency proceeds deposited in authorized depositories.

"(b) WAIVER OF REQUIREMENT.—The President may waive any requirement for receipt of such income if the President decides it would not be in the national interest to conclude arrangements for the receipt of interest income pursuant to subsection (a).

"SEC. 7324. USE OF LOCAL CURRENCIES.

"In carrying out programs under this Act, the President shall take all appropriate steps to assure that, to the maximum extent possible, countries receiving assistance under this Act contribute local currencies to meet the cost of contractual and other services rendered in conjunction with such programs.

"SEC. 7325. INTEREST ON LOCAL CURRENCY ACCRUING TO NONGOVERNMENTAL ORGANIZATIONS.

"A nongovernmental organization may invest local currencies which accrue to that organization as a result of assistance provided under title I or chapter 1 or 2 of title V, the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization (including for the establishment of an endowment).

"CHAPTER 4—PROCUREMENT AND DISPOSITION OF COMMODITIES AND DEFENSE ARTICLES

"SEC. 7401. USE OF PRIVATE ENTERPRISE.

"(a) IN GENERAL.—In order to encourage and facilitate participation by private enterprise to the maximum extent practicable in achieving any of the purposes of this Act, the President shall—

"(1) to the maximum extent practicable carry out programs of assistance through private channels and, to the extent practicable, in conjunction with local private or governmental participation;

"(2) utilize wherever practicable the services of United States private enterprise to provide the necessary skills to develop and implement a specific project or program of assistance, and provide where appropriate for the transfer of equity ownership in such project or program to private investors at the earliest feasible time.

"(b) TECHNICAL ASSISTANCE.—In providing technical assistance under this Act, the President shall utilize, to the fullest extent practicable, goods and professional and other services from private enterprise on a contract basis. The facilities and resources of agencies of the United States Government which do not administer programs under this Act may be utilized when such facilities are particularly or uniquely suitable for technical assistance, are not competitive with private enterprise, and can be made available without interfering unduly with domestic programs.

"(c) MILITARY ASSISTANCE.—The Secretary of Defense shall assure that there is made available to suppliers in the United States, and particularly to small independent enterprises, information with respect to purchases made by the Department of Defense pursuant to title II. Such information shall be furnished as far in advance as possible.

"SEC. 7402. PROCUREMENT STANDARDS AND PROCEDURES.

"(a) ESTABLISHMENT OF STANDARDS AND PROCEDURES.—Funds made available under this Act may be used for procurement outside the United States only—

"(1) if the President determines that such procurement will not result in adverse effects upon the economy of the United States or the industrial mobilization base that outweigh the economic or other advantages to the United States of less costly procurement outside the United States; and

"(2) if the price of any commodity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

"(b) BULK COMMODITIES.—No funds made available under this Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

"(c) PROCUREMENT METHOD FOR INSTITUTIONS OF HIGHER EDUCATION.—The President may establish separate procurement standards and procedures for projects under title I and chapter 1 or 2 of title V to limit competition to a selection among institutions of higher education when the projects would benefit substantially from the resources and special capabilities of such institutions.

"SEC. 7403. SHIPPING ON UNITED STATES VESSELS.

"(a) CERTAIN LAWS NOT APPLICABLE.—The ocean transportation between foreign countries of commodities and defense articles purchased with foreign currencies made available or derived from funds made available under this Act or the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 at following), and transfers of fresh fruit and fresh fruit products under this Act, shall not be governed by section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b)), or any other law relating to the ocean transportation of commodities on United States flag vessels.

"(b) SHIPPING DIFFERENTIAL.—For purposes of facilitating implementation of section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b)), funds made available for development assistance, economic support assistance, and assistance from the Development Fund for Africa may be used to make grants to recipients or otherwise pay all or any portion of such differential as is determined by the Secretary of Transportation to exist between United States and foreign-flag vessel charter or freight rates. Grants made under this section shall be paid with United States-owned foreign currencies wherever feasible.

"SEC. 7404. EXCESS AND OTHER AVAILABLE PROPERTY.

"(a) POLICY REGARDING USE OF EXCESS AND OTHER AVAILABLE PROPERTY.—In furnishing assistance under title I, chapter 6 or 8 of title II, title IV, and chapter 1 and 2 of title V—

"(1) excess personal property, or

"(2) if a substantial savings would occur, other property already owned by an agency of the United States Government,

may be utilized wherever practicable in lieu of or supplementary to the procurement of new items for United States-assisted projects and programs.

"(b) SEPARATE ACCOUNT FOR EXPENSES RELATED TO PROPERTY.—

"(1) AUTHORITY TO MAINTAIN ACCOUNT.—The President is authorized to maintain in a separate account funds made available under title I, chapter 6 or 8 of title II, title IV, chapter 1 or 2 of title V. Funds in such a separate account shall (notwithstanding section 1535(d) of title 31, United States Code) be free from fiscal year limitations.

"(2) USE OF FUNDS IN THE ACCOUNT.—Funds in the separate account established under paragraph (1) may be used to pay costs (including personnel costs) of acquisition, storage, renovation and rehabilitation, packing, crating, handling, transportation, and related costs of—

"(A) property classified as domestic or foreign excess property pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following);

"(B) any property available from an agency of the United States Government; or

"(C) other property,

in advance of known requirements for the use of such property in furtherance of the purposes of title I, chapter 6 or 8 of title II, title III, or chapter 1 or 2 of title V (as the case may be).

"(3) USE OF PROPERTY ACQUIRED.—Property acquired pursuant to paragraph (2) may be furnished—

"(A) pursuant to any provision of title I (other than chapter 8 or subchapter A of chapter 9), chapter 6 or 8 of title II, title IV, chapter 1 or 2 of title V (as the case may be) for which funds are authorized for the furnishing of assistance, in which case the separate account established pursuant to this section shall be repaid from funds made available for such provision for all costs incurred; or

"(B) pursuant to chapter 8 of title I, in which case the separate account shall be repaid in accordance with section 1802 for all costs incurred.

"(c) CONDITIONS ON USE OF EXCESS PROPERTY.—

"(1) LIMITATION.—Government-owned excess property may not be made available for use under title I (including under chapter 8), chapter 8 of title II, title IV, or chapter 1 or 2 of title V, unless approval is given and a determination is made in accordance with paragraph (2)—

"(A) before the shipment of such property for use in a specified country, or

"(B) if the property is already in such country, before the transfer of the property.

"(2) DETERMINATION.—A shipment or transfer subject to paragraph (1) may take place only after the Administrator approves the shipment or transfer and makes a written determination—

"(A) that there is a need for such property in the quantity requested and that such property is suitable for the purpose requested;

"(B) as to the status and responsibility of the designated end-user and his ability effectively to use and maintain such property; and

"(C) that the residual value, serviceability, and appearance of such property would not reflect unfavorably on the image of the United States and would justify the costs of packing, crating, handling, transportation, and other accessorial costs, and that the residual value at least equals the total of these costs.

"SEC. 7405. RETENTION AND USE OF CERTAIN ITEMS AND FUNDS.

"(a) RETENTION AND USE OF CERTAIN COMMODITIES AND DEFENSE ARTICLES.—

"(1) AUTHORITY TO RETAIN, TRANSFER, AND USE.—Any commodities or defense articles procured to carry out this Act shall be retained by, or (upon reimbursement) transferred to and for the use of, such agency of the United States Government as the President deems appropriate in lieu of being disposed of to a foreign country or international organization, whenever in the judgment of the President the best interests of the United States will be served thereby.

"(2) LAWS GOVERNING DISPOSAL OF GOVERNMENT PROPERTY.—Any commodities or defense articles so retained may be disposed of without regard to provisions of law relating to the disposal of property owned by the United States Government, when necessary to prevent spoilage or wastage of such commodities or defense articles or to conserve their usefulness.

"(3) PROCEEDS CREDITED TO APPROPRIATIONS.—Funds realized from any disposal or transfer shall revert to the respective appropriation, fund, or account used to procure such commodities or defense articles or to the appropriation, fund, or account currently available for the same general purpose.

"(b) COMMODITIES RECEIVED AS PAYMENT.—Whenever commodities are transferred to the United States Government as repayment of assistance under this Act, such commodities may be used in furtherance of the purposes and within the limitations of this Act.

"(c) FAILED TRANSACTIONS.—Funds realized as a result of any failure of a transaction financed under this Act to conform to the requirements of this Act, to applicable rules and regulations of the United States Government, or to the terms of any agreement or contract entered into under this Act, shall revert to the respective appropriation, fund, or account used to finance such transaction or to the appropriation, fund, or account currently available for the same general purpose.

"(d) DISPOSAL OF DEFENSE ARTICLES.—Funds realized by the United States Government from the sale, transfer, or disposal of defense articles furnished under the former authority of 2 of part II of this Act, and no longer needed for the purposes for which furnished, shall be credited to the respective appropriation, fund, or account currently available for the same general purpose.

"SEC. 7406. LAWS RELATING TO CONTRACTS AND GOVERNMENT EXPENDITURES.

"Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

"SEC. 7407. TRANSPORTATION CHARGES INCURRED BY THE RED CROSS OR PRIVATE VOLUNTARY ORGANIZATIONS.

"In order to further the efficient use of United States voluntary contributions for development and for the relief and rehabilitation of people in friendly countries, the President may use funds made available for assistance under title I or chapter 1 or 2 of title V to pay transportation charges on shipments by the American National Red Cross and by registered United States private voluntary organizations.

"CHAPTER 5—PERSONNEL

"SEC. 7501. STATUTORY OFFICERS IN ECONOMIC ASSISTANCE AGENCY.

"(a) APPOINTMENT.—The President may appoint, by and with the advice and consent of the Senate, 12 officers in the administering agency for title I.

"(b) TITLE.—The President may designate the title of any officer appointed under subsection (a).

"(c) ORDER OF SUCCESSION.—The President may also fix the order of succession among the officers appointed under subsection (a) of this section in the event of the absence, death, resignation, or disability of one or more of those officers.

"SEC. 7502. EMPLOYMENT OF PERSONNEL.

"(a) ECONOMIC ASSISTANCE FUNCTIONS IN THE UNITED STATES.—

"(1) APPOINTMENTS WITHOUT REGARD TO CERTAIN CIVIL SERVICE LAWS.—Of the personnel employed in the United States to carry out title I and chapter 1 and 2 of title V or to coordinate titles I and II, 110 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 of subchapter III or chapter 53 of such title, subject to paragraph (2) of this subsection.

"(2) COMPENSATION.—Of the personnel appointed under paragraph (1), 51 may be compensated at rates higher than those payable for GS–15 of the General Schedule under section 5332 of title 5, United States Code, but not in excess of the rate payable for level V of the Executive Schedule under section 5316 of that title.

"(3) REINSTATEMENT RIGHTS.—Under such regulations as the President may prescribe, any individual employed under paragraph (1) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

"(4) PROVISIONS NOT APPLICABLE TO OTHER NONMILITARY ASSISTANCE PROGRAMS.—This subsection does not apply with respect to chapter 6 or chapter 8 of title II or title IV.

"(b) MILITARY ASSISTANCE FUNCTIONS IN THE UNITED STATES.—Of the personnel employed in the United States to carry out title II or the Defense Trade and Export Control Act not to exceed 8 may be compensated at rates higher than those payable for GS–15 of the General Schedule under section 5332 of title 5 of the United States Code, but not in excess of the rate payable for level V of the Executive Schedule under section 5316 of title 5. Such positions shall be in addition to those authorized by law to be filled by Presidential appointment, and in addition to the number authorized by section 5108 of title 5, United States Code.

"(c) PERFORMANCE OF FUNCTIONS OUTSIDE THE UNITED STATES.—

"(1) AUTHORITY TO EMPLOY OR ASSIGN.—For the purpose of performing functions under this Act outside the United States, the President may—

"(A) employ or assign individuals, or

"(B) authorize the employment or assignment of officers or employees by agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system.

"(2) COMPENSATION.—Individuals employed or assigned under paragraph (1) shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980, or under chapter 53 of title 5, United States Code, or at any other rate authorized by law, together with allowances and benefits under the Foreign Service Act of 1980.

"(3) REEMPLOYMENT RIGHTS.—Individuals so employed or assigned shall be entitled to the same benefits as are provided by section 310 of that Act for individuals appointed to the Foreign Service, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds 30 months.

"(d) CERTAIN FUNDS DEEMED OBLIGATED FOR CERTAIN SERVICES.—Funds provided for in agreements with foreign countries for the furnishing of services under this Act with respect to specific projects shall be deemed to be obligated for the services of personnel employed by agencies of the United States Government (other than the agencies primarily responsible for administering title I or title II of this Act) as well as personnel not employed by the United States Government.

"SEC. 7503. EXPERTS, CONSULTANTS, AND RETIRED OFFICERS.

"(a) AUTHORITY TO EMPLOY.—Experts and consultants or organizations thereof may, in accordance with section 3109 of title 5 of the United States Code, be employed for the performance of functions under this Act.

"(b) MANDATORY RETIREMENT AGE NOT APPLICABLE.—Service of an individual as an expert or consultant under subsection (a) of this section shall not be considered as employment or holding of office or position bringing such individual within the provisions of section 3323(a) of title 5 of the United States Code.

"(c) EMPLOYMENT OF CERTAIN PERSONS WITHOUT COMPENSATION.—Persons of outstanding experience and ability may be employed without compensation by any agency of the United States Government for the performance of functions under this Act in accordance with the provisions of section 710(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)), and regulations issued thereunder.

"SEC. 7504. DETAIL OF PERSONNEL TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

"(a) DETAILS TO FOREIGN GOVERNMENTS.—When consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail or assign any officer or employee of that agency to any office or position with any foreign government or foreign government agency, where acceptance of such office or position does not involve the taking of an oath of allegiance to another government.

"(b) DETAILS TO INTERNATIONAL ORGANIZATIONS.—When consistent with and in furtherance of the purposes of this Act, the head of any agency of the United States Government is authorized to detail, assign, or otherwise make available to any international organization any officer or employee of that agency to serve with, or as a member of, the international staff of such organization, or to render any technical, scientific, or professional advice or service to, or in cooperation with, such organization.

"(c) STATUS OF PERSONNEL DETAILED.—

"(1) RETENTION OF BENEFITS.—Any officer or employee, while assigned or detailed under this section—

"(A) shall be considered an officer or employee of the United States Government and of the agency of the United States Government from which detailed or assigned for the purpose of preserving his or her allowances, privileges, rights, seniority, and other benefits as such; and

"(B) shall continue to receive compensation, allowances, and benefits from funds appropriated to that agency or made available to that agency under this Act, or may be detailed or assigned on a leave without pay status.

"(2) ALLOWANCES.—Any officer or employee assigned, detailed, or appointed under this section, section 7103, section 7505, or section 7506 may receive (under such regulations as the President may prescribe) representation allowances similar to those allowed under section 905 of the Foreign Service Act of 1980. The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 5536 of title 5, United States Code.

"(d) TERMS OF DETAIL OR ASSIGNMENT.—Details or assignments may be made under this section or section 408 of the Mutual Security Act of 1954 in accordance with any of the following paragraphs:

"(1) Without reimbursement to the United States Government by the foreign government or international organization.

"(2) Upon agreement by the foreign government or international organization to reimburse the United States Government for compensation, travel expenses, benefits, and allowances, or any part thereof, payable to the officer or employee concerned during the period of assignment or detail. Such reimbursements (including foreign currencies) shall be credited to the appropriation, fund, or account utilized for paying such compensation, travel expenses, benefits, or allowances, or to the appropriation, fund, or account currently available for such purposes.

"(3) Upon an advance of funds, property, or services by the foreign government or international organization to the United States Government accepted with the approval of the President for specified uses in furtherance of the purposes of this Act. Funds so advanced may be established as a separate fund in the Treasury of the United States Government, to be available for the specified uses, and to be used for reimbursement of appropriations or direct expenditure subject to the provisions of this Act, any unexpended balance of such account to be returned to the foreign government or international organization.

"(4) Subject to the receipt by the United States Government of a credit to be applied against the payment by the United States Government of its share of the expenses of the international organization to which the officer or employee is detailed or assigned, such credit to be based upon the compensation, travel expenses, benefits and allowances, or any part thereof, payable to such officer or employee during the period of detail or assignment in accordance with subsection (c).

"SEC. 7505. CHIEF OF ECONOMIC ASSISTANCE MISSION ABROAD.

"(a) APPOINTMENT.—The chief and his deputy of each special mission or staff carrying out economic assistance programs under title I shall be appointed by the President.

"(b) COMPENSATION AND ALLOWANCES.—Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President deems appropriate.

"SEC. 7506. CHAIRMAN OF OECD DEVELOPMENT ASSISTANCE COMMITTEE.

"(a) APPOINTMENT.—The President may—

"(1) appoint any United States citizen who is not an employee of the United States Government, or

"(2) assign any United States citizen who is an employee of the United States Government,

to serve as Chairman of the Development Assistance Committee (or any successor committee) of the Organization for Economic Cooperation and Development, upon election thereto by members of that Committee.

"(b) COMPENSATION AND ALLOWANCES.—An individual appointed or assigned under subsection (a) may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President deems appropriate. Such individual, if appointed under subsection (a)(1), shall be deemed to be an employee of the United States Government for purposes of chapters 81, 83, 84, 87, and 89 of title 5, United States Code. Such individual may also, in the President's discretion, receive any other benefits and perquisites available under this Act to chiefs of special missions or staffs outside the United States established under section 7103.

"SEC. 7507. ASSIGNMENT OF DOD PERSONNEL TO CIVIL OFFICES.

"Notwithstanding section 973(b) of title 10, United States Code, personnel of the Department of Defense may be assigned or detailed to any civil office to carry out this Act.

"SEC. 7508. DISCRIMINATION AGAINST UNITED STATES PERSONNEL PROVIDING ASSISTANCE.

"(a) ASSIGNMENT OF UNITED STATES PERSONNEL.—The President shall not take into account, in assigning officers and employees of the United States to carry out any assistance program funded under this Act in any foreign country, the race, religion, national origin, or sex of any such officer or employee. Such assignments shall be made solely on the basis of ability and relevant experience.

"(b) UNITED STATES POLICY.—It is the policy of the United States that assistance under this Act should not be furnished to any foreign country, the laws, regulations, official policies, or governmental practices of which prevent any United States person (as defined in section 7701(a)(30) of the Internal Revenue Code of 1986) from participating in the furnishing of assistance under this Act on the basis of race, religion, national origin, or sex.

"CHAPTER 6—MISCELLANEOUS PROVISIONS

"SEC. 7601. DEFINITIONS.

"(a) TYPES OF ASSISTANCE.—For purposes of this Act and the other provisions of law described in subsection (f), the following terms have the following meanings:

"(1) ANTITERRORISM ASSISTANCE.—The term 'antiterrorism assistance' means assistance under chapter 8 of title II.

"(2) ASSISTANCE FROM THE DEVELOPMENT FUND FOR AFRICA.—The term 'assistance from the Development Fund for Africa' means assistance under chapter 1 of title V.

"(3) DEVELOPMENT ASSISTANCE.—The term 'development assistance' means assistance under subchapter A of chapter 2 of title I.

"(4) ECONOMIC ASSISTANCE.—The term 'economic assistance' means assistance under title I, title III, or chapter 1 or 2 of title V.

"(5) ECONOMIC SUPPORT ASSISTANCE.—The term 'economic support assistance' means assistance under chapter 3 of title I.

"(6) FOREIGN MILITARY FINANCING ASSISTANCE.—

"(A) IN GENERAL.—The term 'foreign military financing assistance' means assistance under chapter 2 of title II.

"(B) FOREIGN MILITARY FINANCING GRANTS.—The term 'foreign military financing grants' means foreign military financing assistance provided on a grant basis.

"(C) FOREIGN MILITARY FINANCING LOANS.—The term 'foreign military financing loans' means foreign military financing assistance provided on a credit basis.

"(D) FOREIGN MILITARY FINANCING GUARANTIES.—The term 'foreign military financing guaranties' means foreign military financing assistance provided as guaranties.

"(7) INTERNATIONAL DISASTER ASSISTANCE.—The term 'international disaster assistance' means assistance under chapter 6 of title I.

"(8) INTERNATIONAL MILITARY EDUCATION AND TRAINING.—The term 'international military education and training' means assistance under chapter 5 of title II, and does not include military education and training under chapter 2 of title II.

"(9) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—The term 'international narcotics control assistance' means assistance under title IV.

"(10) MILITARY ASSISTANCE.—The term 'military assistance' means assistance under title II, except as otherwise provided with respect to assistance under chapter 6 of that title (relating to assistance for peacekeeping operations) and chapter 8 of that title (relating to antiterrorism assistance).

"(11) NONMILITARY ASSISTANCE.—The term 'nonmilitary assistance' means any assistance under title I, title III, title IV, or chapter 1 or 2 of title V.

"(b) DEFINITIONS APPLICABLE TO THE ACT GENERALLY.—For purposes of this Act and the other provisions of law referred to in subsection (f), the following terms have the following meanings:

"(1) AGENCY OF THE UNITED STATES GOVERNMENT.—The term 'agency of the United States Government' includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(3) FUNCTION.—The term 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

"(4) GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term 'gross violations of internationally recognized human rights' includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, arbitrary arrest, incommunicado detention, and other flagrant denial of the right to life, liberty, or the security of person.

"(5) INCLUDES.—The term 'includes' means includes but is not limited to.

"(6) OFFICER OR EMPLOYEE.—The term 'officer or employee' means civilian personnel of the United States Government and members of the Armed Forces.

"(7) NONNUCLEAR-WEAPON STATE.—The term 'nonnuclear-weapon state' means any country which is not a nuclear-weapon state, as defined in article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons.

"(8) NOTWITHSTANDING ANY OTHER PROVISION OF LAW.—Unless otherwise expressly provided, the term 'notwithstanding any other provision of law' (and any comparable 'notwithstanding' clause) does not supersede section 1341 of title 31 of the United States Code (commonly referred to as the 'Anti-Deficiency Act'), the Federal Credit Reform Act of 1990, or subsections (c) and (d) of section 7201 of this Act, or any comparable provision of law.

"(9) UNITED STATES.—The term 'United States', when used in the geographic sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and any other territory or possession of the United States.

"(c) DEFINITIONS APPLICABLE PRIMARILY TO NONMILITARY ASSISTANCE.—For purposes of this Act and the other provisions of law referred to in subsection (f), the following terms have the following meanings:

"(1) ADMINISTERING AGENCY.—The term 'administering agency' means—

"(A) with respect to programs authorized by title I and title V, the agency primarily responsible for administering title I (as designated by the President pursuant to section 7102); and

"(B) with respect to programs authorized by chapter 8 of title II or title IV, means the Department of State (or such other agency of the United States Government as the President may designate to administer programs under that chapter).

"(2) ADMINISTRATOR.—The term 'Administrator' means the head of the administering agency.

"(3) AGRICULTURE.—The term 'agriculture' includes aquaculture and fisheries.

"(4) COMMODITY.—The term 'commodity' includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance or assistance under chapter 6 of title II.

"(5) DEVELOPING COUNTRY.—The term 'developing country' includes advanced developing country.

"(6) FARMERS.—The term 'farmers' includes fishermen and other persons employed in cultivating and harvesting food resources from salt and fresh waters.

"(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the same meaning that term is given by section 1201(a) of the Higher Education Act of 1965.

"(7) SERVICES.—The term 'services' include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance or assistance under chapter 6 of title II.

"(d) DEFINITIONS APPLICABLE PRIMARILY TO MILITARY ASSISTANCE.—For purposes of this Act and the other provisions of law referred to in subsection (f), the following terms have the following meanings:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States.

"(2) DEFENSE ARTICLE.—The term 'defense article'—

"(A) includes—

"(i) any weapon, weapons system, munition, aircraft, vessel, boat, or other implement of war;

"(ii) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

"(iii) any machinery, facility, tool, material, supply, or other item necessary for the manufacture, production, processing, repair, servicing, storage, construction, transportation, operation, or use of any article listed in this paragraph; or

"(iv) any component or part of any article listed in this paragraph; but

"(B) does not include—

"(i) merchant vessels; or

"(ii) as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity), byproduct material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.

"(3) DEFENSE INFORMATION.—The term 'defense information'—

"(A) includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service; but

"(B) does not include Restricted Data as defined by the Atomic Energy Act of 1954, and data removed from the Restricted Data category under section 142d of that Act.

"(4) DEFENSE SERVICE.—The term 'defense service' includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, including—

"(A) military education and training, and

"(B) design and construction services (as defined in section 47(8) of the Defense Trade and Export Control Act).

"(5) EXCESS DEFENSE ARTICLES.—The term 'excess defense articles' means the quantity of defense articles owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.

"(6) MAJOR DEFENSE EQUIPMENT.—The term 'major defense equipment' has the same meaning that term has under section 47(6) of the Arms Export Control Act.

"(7) MAJOR NON-NATO ALLY.—The term 'major non-NATO ally' means a country which is designated in accordance with section 48 of the Defense Trade and Export Control Act as a major non-NATO ally for purposes of that Act and this Act.

"(8) MILITARY EDUCATION AND TRAINING.—The term 'military education and training' includes formal or informal instruction of foreign students in the United States or overseas by officers or employees of the United States, contract technicians, contractors (including instruction at civilian institutions), or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, and military advice to foreign military units and forces.

"(9) VALUE.—The term 'value' means—

"(A) with respect to an excess defense article, the actual value of the article plus the gross cost incurred by the United States Government in repairing, rehabilitating, or modifying the article, except that for purposes of section 7201(d) such actual value shall not be taken into account;

"(B) with respect to a nonexcess defense article delivered from inventory to a foreign country or international organization under this Act, the acquisition cost to the United States Government, adjusted as appropriate for condition and market value;

"(C) with respect to a nonexcess defense article delivered from new procurement to a foreign country or international organization under this Act, the contract or production costs of such article;

"(D) with respect to a defense service, the cost to the United States Government of such service; and

"(E) with respect to international military education and training or to services provided under title IV, the additional costs that are incurred by the United States Government in furnishing such assistance.

"(e) DEFINITIONS PRIMARILY RELATED TO INTERNATIONAL NARCOTICS MATTERS.—For purposes of this Act and the other provisions of law referred to in subsection (f), the following terms have the following meaning:

"(1) LEGAL AND LAW ENFORCEMENT MEASURES.—The term 'legal and law enforcement measures' means—

"(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

"(B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control.

"(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term 'major illicit drug producing country' means a country producing 5 metric tons or more of opium or opium derivative during a fiscal year or producing 500 metric tons or more of coca or marijuana (as the case may be) during a fiscal year.

"(3) MAJOR DRUG-TRANSIT COUNTRY.—The term 'major drug-transit country' means a country—

"(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or

"(B) through which are transported such drugs or substances.

"(4) NARCOTIC AND PSYCHOTROPIC DRUGS AND OTHER CONTROLLED SUBSTANCES.—The term 'narcotic and psychotropic drugs and other controlled substances' has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country or countries concerned.

"(5) UNITED STATES ASSISTANCE.—(A) Except as provided in subparagraph (B), the term 'United States assistance' means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

"(i) assistance under this Act (including programs under chapter 2 of title III);

"(ii) sales under the Defense Trade and Export Control Act;

"(iii) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities; and

"(iv) financing under the Export-Import Bank Act of 1945.

"(B) The term 'United States assistance' does not include—

"(i) narcotics control assistance;

"(ii) disaster relief assistance, including international disaster assistance;

"(iii) assistance which involves the provision of food or medicine;

"(iv) assistance for refugees;

"(v) assistance under the Inter-American Foundation Act;

"(vi) development assistance, economic support assistance, or assistance from the Development Fund for Africa that is used for activities which deal directly with the special health needs of children and mothers;

"(vii) development assistance, economic support assistance, or assistance from the Development Fund for Africa that is used for activities aimed at increasing awareness of the effects of the production and trafficking of illicit narcotics on producing and transit countries (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings under section 6304);

"(viii) activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or Executive Order 12333; or

"(ix) commercial export promotion activities of the Department of Agriculture, including the Commodity Credit Corporation.

"(f) LAWS TO WHICH DEFINITIONS ARE APPLICABLE.—Unless otherwise provided, the definitions provided in this section apply with respect to references to assistance under this Act that are contained in this Act, the Defense Trade and Export Control Act, any foreign assistance authorization or appropriation legislation, or any other provision of law.".

CHAPTER 3—TECHNICAL AND CONFORMING PROVISIONS

SEC. 641. SAVINGS PROVISIONS.

(a) IN GENERAL.—All actions taken under the authority of any provision of law repealed or modified by titles I through VI of this Act shall continue in full force and effect until modified by appropriate authority.

(b) CERTAIN PRESIDENTIAL APPOINTEES.—The repeal by this Act of section 624(a), section 624(e), section 624(f), or any other provision of the Foreign Assistance Act of 1961 providing for the appointment of an individual to a position by the President, by and with the advice and consent of the Senate, and the reenactment by this Act of that provision in substantively identical form does not require the reappointment of the individual holding that position on the effective date specified in section 1101 of this Act.

(c) SECTION 124(c) AUTHORITY.—For purposes of section 572 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), section 124(c) of the Foreign Assistance Act of 1961, as in effect before the effective date specified in section 1101 of this Act, shall be deemed to remain in effect on and after that date.

SEC. 642. RETENTION OF CERTAIN PROVISIONS FORMERLY IN THE FOREIGN ASSISTANCE ACT.

(a) ESTABLISHMENT OF ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS IN STATE DEPARTMENT ACT.—The Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes", approved May 26, 1949, is amended by adding at the end the following:

"SEC. 6. ASSISTANT SECRETARY FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS.

"(a) ESTABLISHMENT OF POSITION.—There shall be in the Department of State an Assistant Secretary of State for Human Rights and Humanitarian Affairs who shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, civilians and noncombatants in situations of armed conflict, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy.

"(b) RESPONSIBILITIES.—The Assistant Secretary of State for Human Rights and Humanitarian Affairs shall maintain continuous observation and review of all matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, civilians and noncombatants in situations of armed conflict, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy including—

"(1) gathering detailed information regarding humanitarian affairs and the observance of and respect for internationally recognized human rights in each foreign country;

"(2) making recommendations to the Secretary of State and the Administrator of the administering agency for title I of the Foreign Assistance Act of 1961 regarding compliance with section 6201(a)(2) of that Act;

"(3) as part of the Assistant Secretary's overall policy responsibility for the creation of United States Government human rights policy, advising the Administrator on the policy framework under which assistance under section 1221 of that Act will be developed and consulting with the Administrator on the selection and implementation of programs and activities assisted under that section; and

"(4) performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.".

(b) FEDERAL ACT OF STATE DOCTRINE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no court in the United States shall decline on the ground of the Federal act of state doctrine to make a determination on the merits giving effect to the principles of international law in a case in which claim of title or other right to property is asserted by any party, including a foreign state (or a party claiming through such state), based upon (or traced through) a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law, including the principles of compensation and the other standards set out in section 620(e)(1) of the Foreign Assistance Act of 1961 as in effect before the effective date specified in section 1101 of this Act.

(2) EXCEPTIONS.—This subsection shall not be applicable—

(A) in any case in which an act of a foreign state is not contrary to international law or with respect to a claim of title or other right to property acquired pursuant to an irrevocable letter of credit of not more than 180 days duration issued in good faith prior to the time of the confiscation or other taking; or

(B) in any case with respect to which the President determines that application of the act of state doctrine is required in that particular case by the foreign policy interests of the United States and a suggestion to this effect is filed on his behalf in that case with the court.

(c) ECONOMIC SANCTIONS AGAINST CUBA.—Title V of the Foreign Assistance Act of 1961 (as enacted by section 501 of this Act) is amended by adding at the end a new section 5506 as follows:

(1) After section 5505 insert the following:

"SEC. 5506. ECONOMIC SANCTIONS AGAINST CUBA.".

(2) After the amendment made by paragraph (1), insert the second sentence of section 620(a)(1) of the Foreign Assistance Act of 1961 (as in effect immediately prior to the effective date specified in section 1101 of this Act), with the following amendment: strike out "the preceding sentence" and insert in lieu thereof "section 5505".

(3) After the amendment made by paragraph (2), insert the text of section 620(a)(2) of the Foreign Assistance Act of 1961 (as in effect immediately prior to the effective date specified in section 1101 of this Act), with the following amendments: strike out "no" and all that follows through "nor shall Cuba" and insert in lieu thereof "Cuba shall not"; and strike out "per centum" and insert in lieu thereof "percent".

(d) ACCOUNTING AND VALUATION OF FOREIGN CURRENCIES.—

(1) AMENDMENT TO UNITED STATES CODE.—Subchapter V of chapter 51 of title 31, United States Code, is amended by inserting at the end the following:

"§ 5156. Accounting and valuation of foreign currencies

"(a) Under the direction of the President, the Secretary of the Treasury shall have responsibility for valuation and central accounting with respect to foreign credits (including currencies) owed to or owned by the United States. In order to carry out such responsibility, the Secretary shall issue regulations binding upon all agencies of the United States Government.

"(b) The Secretary of the Treasury shall have sole authority to establish for all foreign currencies or credits the exchange rates at which such currencies are to be reported by all agencies of the Government.".

(2) CONFORMING AMENDMENT.—The table of sections for subtitle IV of such title is amended by inserting after the item relating to section 5155 the following:

"5156. Accounting and valuation of foreign currencies.".

(e) VALUATION OF EXPROPRIATED PROPERTY.—If the President requests such an evaluation, the Foreign Claims Settlement Commission is authorized to evaluate the value of the property which is the subject of an action described in section 6201(a)(3) of the Foreign Assistance Act of 1961 and render an advisory report with respect to the value of such property to the President.

SEC. 643. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date specified in section 1101, be known as the Trade and Development Agency.

(b) Appointment of Present Director Not Affected.—The enactment of this Act shall not affect the appointment of the individual who is the Director of the Trade and Development Program on the effective date specified in section 1101.

(c) Trade and Development Enhancement Act of 1983.—Sections 644, 645, and 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q, 635r, and 635s) are each amended by striking out "Trade and Development Program" each place it appears and inserting in lieu thereof "Trade and Development Agency".

(d) Title 5.—Section 5314 of title 5, United States Code, is amended by striking out
"Director, Trade and Development Program"
and inserting in lieu thereof
"Director, Trade and Development Agency".

(e) Reference in Other Laws.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

SEC. 644. CONFORMING AMENDMENTS.

(a) In General.—Except to the extent that the context requires otherwise any reference in any provision of law enacted before the effective date specified in section 1101—

(1) to credits, assistance, or financing under section 23 of the Arms Export Control Act, or to the "Foreign Military Financing Program" shall be deemed to be a reference to assistance under chapter 2 of title II of the Foreign Assistance Act of 1961;

(2) to chapter 1 of part I of the Foreign Assistance Act of 1961 shall be deemed to be a reference to subchapter A of chapter 2 of title I of that Act;

(3) to chapter 8 of part I of the Foreign Assistance Act of 1961 shall be deemed to be a reference to title IV of that Act;

(4) to chapter 2 of part II of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 2 of title II of that Act;

(5) to chapter 4 of part II of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 3 of title I of that Act;

(6) to chapter 5 of part II of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 5 of title II of that Act;

(7) to chapter 8 of part II of the Foreign Assistance Act of 1961 shall be deemed to be a reference to chapter 8 of title II of that Act;

(8) to section 634A of the Foreign Assistance Act of 1961 shall be deemed to be a reference to section 6304 of that Act;

(9) to section 660 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to section 6202 of that Act; and

(10) to any other provision of the Foreign Assistance Act of 1961 shall be deemed to be a reference to the corresponding provision of that Act as amended by this Act.

(b) Narcotics Control Trade Act.—The Narcotics Control Trade Act is amended—

(1) in section 802(b)(1)(A), by striking out "481(e)" and inserting in lieu thereof "4401(a)";

(2) in section 802(b)(1)(B)(v), by inserting "essential" before "precursor";

(3) in section 802(b)(2)(A), by striking out "481(e)(4)" and inserting in lieu thereof "4401(a)(2)(D)"; and

(4) in section 804, by striking out "481(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(1))" and inserting in lieu thereof "4401(a) of the Foreign Assistance Act of 1961".

(c) Public Law 480.—The Agricultural Trade Development and Assistance Act of 1954 is amended—

(1) in section 304(1), by striking out "104(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(2)), relating to the Child Survival Fund" and inserting in lieu thereof "section 1201(d)(4) of the Foreign Assistance Act of 1961 (relating to child survival activities)";

(2) in section 306(a)(2), by striking out "104(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(2)), relating to the Child Survival Fund" and inserting in lieu thereof "section 1201(d)(4) of the Foreign Assistance Act of 1961 (relating to child survival activities)"; and

(3) in section 414(b), by striking out "481(i)(2)" and inserting in lieu thereof "7601(e)(2)".

(d) Export Administration Act.—The Export Administration Act of 1979 is amended—

(1) in section 5(b), by striking out "set forth in section 620(f)" and inserting in lieu thereof "on the list established pursuant to section 6201(d)"; and

(2) in section 6(k)(2), by striking out "section 502B" and inserting in lieu thereof "sections 6201(a)(2) and 6302(a)".

(e) Title 5, United States Code.—Subchapter II of chapter 53 of title 5, United States Code, is amended—

(1) in section 5314, by striking out "Director, Institute for Scientific and Technological Cooperation.";

(2) in section 5315, by striking out "Deputy Director, Institute for Scientific and Technological Cooperation."; and

(3) in section 5316, by striking out "Additional officers, Institute for Scientific and Technological Cooperation (2).".

(f) Title 10, United States Code.—Title 10, United States Code, is amended—

(1) in section 114 (c)(1) and (c)(2), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(2) in section 130(a), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(3) in section 2208(i)(3), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(4) in the table of sections for subchapter II of chapter 138, by striking out "Arms" in the item relating to section 2305b and inserting in lieu thereof "Defense Trade and";

(5) in section 2305b—

(A) in the section heading by striking out "Arms" and inserting in lieu thereof "Defense Trade and"; and

(B) by striking out "Arms" each place it appears in subsections (a)(1), (b), (c)(1), and (d)(3) and inserting in lieu thereof "Defense Trade and";

(6) in section 2350c(a)(4), by striking out "Arms" each place it appears and inserting in lieu thereof "Defense Trade and";

(7) in section 2350d(e)—

(A) in the subsection caption by striking out "ARMS" and inserting in lieu thereof "DEFENSE TRADE AND"; and

(B) in the text, by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(8) in section 2344(b)(2)(B), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(9) in section 4542(d)(2)(A), by striking out "Arms" and inserting in lieu thereof "Defense Trade and"; and

(10) in section 7307(b)(1)—

(A) by striking out "Arms" and inserting in lieu thereof "Defense Trade and"; and

(B) by striking out "or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.)".

(g) Export-Import Bank Act.—Section 2(b)(6) of that Act is amended—

(1) in the text of subparagraph (B) preceding clause (i), by striking out "Arms" and inserting in lieu thereof "Defense Trade and";

(2) in subparagraph (B)(iii), by striking out "481(h)(5)" and insert in lieu thereof "4402(e)";

(3) in subparagraph (C)(ii), by striking out "481(i)" and insert in lieu thereof "7601(e)";

(4) in subparagraph (E), by striking out "security assistance for purposes of section 502B of the Foreign Assistance Act of 1961" and insert in lieu thereof "assistance under the Foreign Assistance Act of 1961 for purposes of section 6201(a)(2) of that Act"; and

(5) in subsection (G), by striking out "Arms" and inserting in lieu thereof "Defense Trade and".

(h) Anglo-Irish Agreement Support Act.—The Anglo-Irish Agreement Support Act of 1986 is amended—

(1) in section 4(a), by striking out paragraphs (1) through (4) and inserting in lieu thereof the following:

"(1) Section 1501 of the Foreign Assistance Act of 1961 (relating to the housing and urban development guarantee program).

"(2) Section 1502 of that Act (relating to the private sector guarantee program).

"(3) Chapter 1 of title III of that Act (relating to the Trade and Development Agency).

"(4) Chapter 2 of title III of that Act (relating to the Overseas Private Development Corporation), without regard to the limitation contained in section 3201(b)(2)."; and

(2) in section 5(a), by striking out "531(e) and 660(a)" and inserting in lieu thereof "1243 and 6202".

SEC. 645. REPEAL OF OBSOLETE PROVISIONS.

(a) 1988 Drug Act.—The International Narcotics Control Act of 1988 (which is title IV of the Anti-Drug Abuse Act of 1988) is repealed except for sections 4001, 4306, 4308, 4309, 4501, 4702, and 4804. Section 4501(b) of that Act is amended by striking out "4601 of this title" and inserting in lieu thereof "4401(c) of the Foreign Assistance Act of 1961".

(b) 1988 OPIC Act.—The Overseas Private Investment Corporation Amendments Act of 1988 (as enacted by reference by section 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989) is repealed.

(c) 1986 Drug Act.—The International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986) is repealed except for sections 2001, 2010, 2015, 2018, and 2029.

(d) 1986 Assistance Act.—The Special Foreign Assistance Act of 1986 is repealed except for section 1 and section 204.

(e) 1985 Assistance Act.—The International Security and Development Cooperation Act of 1985 is repealed except for section 1, section 131, section 132, section 202(c), section 504, section 505, part B of title V (other than section 558 and section 559), section 1302, section 1303, and section 1304.

(f) 1985 Jordan Supplemental Act.—The Jordan Supplemental Economic Assistance Authorization Act of 1985 is repealed.

(g) 1985 African Famine Act.—The African Famine Relief and Recovery Act of 1985 is repealed.

(h) 1983 Assistance Act.—The International Security and Development Assistance Authorization Act of 1983 is repealed.

(i) 1983 LEBANON ASSISTANCE ACT.—The Lebanon Emergency Assistance Act of 1983 is repealed.

(j) 1981 ASSISTANCE ACT.—The International Security and Development Cooperation Act of 1981 is repealed except for section 1, section 709, section 714, and section 726.

(k) 1980 ASSISTANCE ACT.—The International Security and Development Cooperation Act of 1980 is repealed except for section 1, section 110, section 315, and title V.

(l) 1979 DEVELOPMENT ASSISTANCE ACT.—The International Development Cooperation Act of 1979 is repealed.

(m) 1979 SECURITY ASSISTANCE ACT.—The International Security Assistance Act of 1979 is repealed.

(n) 1979 SPECIAL SECURITY ASSISTANCE ACT.—The Special International Security Assistance Act of 1979 is repealed.

(o) 1978 DEVELOPMENT ASSISTANCE ACT.—The International Development and Food Assistance Act of 1978 is repealed, except for section 1, title IV, and section 603(a)(2).

(p) 1978 SECURITY ASSISTANCE ACT.—The International Security Assistance Act of 1978 is repealed.

(q) 1977 DEVELOPMENT ASSISTANCE ACT.—The International Development and Food Assistance Act of 1977 is repealed except for section 1, section 132(b), and section 133.

(r) 1977 SECURITY ASSISTANCE ACT.—The International Security Assistance Act of 1977 is repealed.

(s) 1976 SECURITY ASSISTANCE ACT.—The International Security Assistance and Arms Export Control Act is repealed except for section 1, section 201(b), section 212(b), section 601, and section 608.

(t) 1975 DEVELOPMENT ASSISTANCE ACT.—The International Development and Food Assistance Act of 1975 is repealed.

(u) 1975 BIB ACT.—Public Law 94-104 is repealed.

(v) 1974 ASSISTANCE ACT.—The Foreign Assistance Act of 1974 is repealed.

(w) 1973 EMERGENCY ASSISTANCE ACT.—The Emergency Security Assistance Act of 1973 is repealed.

(x) 1973 ASSISTANCE ACT.—The Foreign Assistance Act of 1973 is repealed.

(y) 1973 STATE DEPARTMENT ACT.—Section 13 of the State Department Appropriations Authorization Act of 1973 is repealed.

(z) 1971 ASSISTANCE ACT.—The Foreign Assistance Act of 1971 is repealed.

(aa) 1971 SPECIAL ASSISTANCE ACT.—The Special Foreign Assistance Act of 1971 is repealed.

(bb) 1971 FMS ACT.—The Act entitled "An Act to amend the Foreign Military Sales Act, and for other purposes", approved January 12, 1971 (Public Law 91-672), is repealed.

(cc) 1969 ASSISTANCE ACT.—The Foreign Assistance Act of 1969 is repealed except for the first section and part IV.

(dd) 1968 ASSISTANCE ACT.—The Foreign Assistance Act of 1968 is repealed.

(ee) 1964 ASSISTANCE ACT.—The Foreign Assistance Act of 1964 is repealed.

(ff) LATIN AMERICAN DEVELOPMENT ACT.—The Latin American Development Act is repealed.

(gg) 1959 MUTUAL SECURITY ACT.—The Mutual Security Act of 1959 is repealed.

(hh) 1954 MUTUAL SECURITY ACT.—Section 402 and section 417 of the Mutual Security Act of 1954 are repealed.

(ii) 1979 IDCA REORGANIZATION PLAN.—Reorganization Plan No. 2 of 1979 shall cease to be effective on the date specified in section 1101 of this Act.

AMENDMENTS EN BLOC OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc are as follows:

Amendments en bloc offered by Mr. FASCELL:

> Offered en bloc by Mr. FASCELL of Florida as a modification of the amendment printed in the RECORD of June 11, 1991, by Mr. KANJORSKI of Pennsylvania:

Page 128, strike out line 5 and all that follows through line 14 on page 144 (sections 2301, 2302, 2303, and 2304) and insert in lieu thereof the following:

"SEC. 2301. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law and subject to subsection (b), during fiscal years 1992 through 1996 the President may transfer—

"(1) to those member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure,

"(2) to major non-NATO allies on the southern and southeastern flank of NATO which are eligible for United States security assistance, and

"(3) to those countries which received foreign miltiary financing assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,

such excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries. Such excess defense articles may be transferred without cost to the recipient countries.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the miltiary readiness of the United States.

"(c) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer excess defense articles under this section until 30 days after he has notified the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on military readiness of the United States.

"(b) WAIVER OR REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 7201(d) shall not apply with respect to transfers of excess defense articles under this section.

"(e) MAINTENANCE OF MILITARY BALANCE IN THE EASTERN MEDITERRANEAN.—

"(1) UNITED STATES POLICY.—Excess defense articles shall be made available under this section consistent with the United States policy, established in section 5501, of maintaining the military balance in the Eastern Mediterranean.

"(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the 3-year period beginning on October 1, 1991, the ratio of—

"(A) the value of excess defense articles made available for Turkey under this section, to

"(B) the value of excess defense articles made available for Greece under this section closely approximates the ratio of—

"(i) the amount of foreign military financing assistance provided for Turkey, to

"(ii) the amount of foreign military financing assistance provided for Greece.

"(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under this section.

"(f) DEFINITIONS.—As used in this section—

"(1) the term 'made available' means a good faith offer is made by the United States to furnish the excess defense articles to a country; and

"(2) the term 'member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO' means Greece, Italy, Portugal, Spain, and Turkey.

"(g) INELIGIBLE COUNTRIES.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

"SEC. 2302. MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Subject to the limitations in this section, the President may transfer to a country—

"(1) which is a major illicit drug producing country in Latin America and the Caribbean,

"(2) which has a democratic government, and

"(3) whose security forces do not engage in a consistent pattern of gross violations of internationally recognized human rights,

such excess defense articles as may be necessary to carry out subsection (b).

"(b) PURPOSE.—Excess defense articles may be transferred under subsection (a) only for the purpose of encouraging the military forces and local law enforcement agencies of an eligible country in Latin America and the Caribbean to participate cooperatively in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances.

"(c) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a) only if that country ensures that those excess defense articles will be used primarily in support of antinarcotics activities.

"(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a). In accordance with section 4102, the Secretary shall ensure that the transfer of excess defense articles under subsection (a) is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

"(e) DOLLAR LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a) in any fiscal year may not exceed $10,000,000.

"(f) Conditions on Transfers.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(g) Terms of Transfers.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(h) Waiver of Requirement for Reimbursement of DOD Expenses.—Section 7201(d) does not apply with respect to transfers of excess defense articles under this section.

"(i) Notification to Congress.—

"(1) Advance notice.—The President may not transfer excess defense articles under this section until 30 days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

"(A) a certification of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of the value of the excess defense articles to the transferred.

"(2) Committees to be notified.—Notice shall be provided pursuant to paragraph (1) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

"(j) Ineligible Countries.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

"SEC. 2303. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.

"(a) Authority To Transfer Nonlethal Excess Defense Articles and Small Arms.—Subject to the limitations in this section, the President may transfer nonlethal excess defense articles and small arms to friendly countries and to international organizations and private and voluntary organizations for the purposes contained in section 119 of this Act (as in effect immediately prior to the effective date specified in section 1101 of the International Cooperation Act of 1991).

"(b) Limitation on Transfers.—Transfers under this section shall be subject to the limitations contained in section 2101(b).

"(c) Transportation.—The Department of Defense is authorized to transport nonlethal excess defense articles and small arms made available pursuant to this section without charge on a space available basis.

"(d) Waiver of Requirements for Reimbursement of DOD Expenses.—Section 7201(d) shall not apply with respect to transfers of nonlethal excess defense articles and small arms under this section or the transportation of such articles as authorized by subsection (c).

"(e) Notification to Committees of Congress.—The President may not transfer nonlethal excess defense articles and small arms under this section until 30 days after he has notified the Committee on Appropriations of each House of Congress of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States. Transfers under this section shall also be subject to the notification requirements of section 2301(c) of this Act.

"SEC. 2304. ADDITIONAL AUTHORITIES RELATING TO MODERNIZATION OF MILITARY CAPABILITIES.

"(a) Authority To Transfer Excess Defense Articles.—Notwithstanding any other provision of law (except title V of the National Security Act of 1947) and subject to subsection (b), the President may transfer to countries for whom foreign military financing assistance was justified for the fiscal year in which the transfer is authorized, such nonlethal excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries, in accordance with the provisions of this section.

"(b) Limitations on Transfers.—The President may transfer nonlethal excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

"(3) the President determines that the transfer of the nonlethal excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President determines that transferring the articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) Notification to Congress.—The President shall notify the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives 15 days before transferring nonlethal excess defense articles under subsection (a), in accordance with the regular notification procedures of those committees.

"(d) Waiver of Requirement for Reimbursement of DOD Expenses.—Section 7201(d) shall not apply with respect to transfers of nonlethal excess defense articles under this section.

"(e) Annual Report.—Not later than December 15 of each year, the President shall transmit to the committees described in subsection (c) a report with respect to the previous fiscal year which contains—

"(1) a list of the countries to which the President has furnished nonlethal excess defense articles under the authority of this section; and

"(2) the value of the excess nonlethal defense articles that were furnished to each such country.

"(f) Transportation and Related Costs.—(1) Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling, and transportation of nonlethal excess defense articles transferred under the authority of this section.

"(2) Notwithstanding section 7201(d) or any other provision of law, the President may direct the crating, packing, handling, and transport of nonlethal excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance form the International Development Association; and

"(C) the nonlethal excess defense articles are being provided to that country under the authority of this section.

"(g) Ineligible Countries.—Transfers may not be made under this section to any country that is not eligible to receive foreign military financing assistance at the time of the transfer.

"SEC. 2305. ANNUAL CEILING ON TRANSFERS OF EXCESS DEFENSE ARTICLES.

"The aggregate acquisition cost to the United States of excess defense articles ordered by the President in any fiscal year for delivery to foreign countries of international organizations under the authority of this chapter or pursuant so sales under the Defense Trade and Export Control Act may not exceed $250,000,000, excluding—

"(1) any defense articles with respect to which the President submits a certification under section 36(b) of that Act; and

"(2) ships and their onboard stores and supplies transferred in accordance with law.

Page 144, line 15, strike out "2305" and insert in lieu thereof "2506"; and line 21, after "2303," insert "under section 2304,".

Offered by Robert J. Lagomarsino of California:

Page 381, line 7, after "(a) statement of policy.—" Insert "(1) policy toward Pakistan.—

Page 381, line 24, insert the following new section:

"(2) Regional nuclear non-proliferation policy.—The Congress further recognizes that a successful nuclear non-proliferation policy in South Asia can best be achieved through a regional United States policy aimed at securing concurrent agreement by the Governments of Pakistan and India at the Peoples Republic of China on non-proliferation. Such a policy should have as its ultimate goal concurrent accession by Pakistan, India and the Peoples Republic of China to the Nuclear Non-Proliferation Treaty, but should also include as needed a phased approach to that goal through a series of agreements between the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities."

Modification of an amendment offered by Mr. Solomon of New York:

Page 383, line 15: After the period insert the following new sentence:

For the purposes of this paragraph, sections 6109, 4201(b), and 4304 of this act shall be applicable.

Offered by Mr. Traficant of Ohio:

Page 411, after line 14, insert the following:

"SEC. 6207. VIOLATION OF TERMS OF ASSISTANCE.

"(a) Termination of Assistance for Substantial Violations.—Assistance and deliveries of assistance under this Act to any recipient of assistance shall be terminated as hereinafter provided if such recipient uses any assistance provided under this act in substantial violation (either in terms of amounts or in terms of the gravity of the consequences regardless of the amounts involved) of any agreement pursuant to which that assistance was furnished by using (without the consent of the United States) such assistance for a purpose not authorized under such agreement.

"(b) Actions Required for Termination.—Assistance and deliveries of assistance shall be terminated pursuant to subsection (a) if—

"(1) the President so determines and states in writing to the Congress, or

"(2) the Congress so determines by joint resolution.

"(c) Reports to Congress.—The President shall report to the Congress promptly upon the receipt of information that a violation described in subsection (a) may have occurred.

"(d) Period of Termination.—Assistance shall remain terminated in accordance with subsection (a) until such time as—

"(1) the President determines that the violation has ceased; and

"(2) the recipient concerned has given assurances satisfactory to the President that such violation shall not recur.

Modification of the amendment of Mr. Traficant of Ohio:

Page 460, strike out line 21 and all that follows through line 17 on page 461 and insert in lieu thereof the following:

"SEC. 7402. PROCUREMENT.

"(a) Limitations on Procurement Outside the United States.—Funds made available for assistance under this Act may be used for procurement outside the United States or less developed countries only if—

"(1) the funds are used for the procurement of commodities or services, or defense articles or defense services, produced in the country in which the assistance is to be provided, except that this paragraph only applies if procurement in that country would cost less than procurement in the United States or less developed countries;

"(2) the provision of such assistance requires commodities or services, or defense articles or defense services, of a type that are not produced in, and available for purchase from, the United States, less developed countries, or the country in which the assistance is to be provided; or

"(3) the President determines on a case-by-case basis that procurement outside the United States would result in the more efficient use of U.S. foreign assistance resources.

Page 461, line 18, strike out "(c)" and insert in lieu thereof "(b)".

Offered by Ms. Oakar of Ohio:

On page 554, between lines 10 and 11, insert the following new paragraph:

"(d) American University of Beirut.—It is the sense of the Congress that the American University of Beirut (AUB) makes a uniquely important contribution to furthering the American ideals of democracy, humanitarianism, and liberal education in both Lebanon and the Middle East as a whole. The Congress finds that in order to ensure that AUB will be able to revitalize its operations and to continue to contribute to the democratization of the Middle East, it is desirable to establish a program of regular financial support of the university to supplement the assistance it receives under the American Schools and Hospitals program and under paragraphs (b) and (c) of this section. Therefore the Congress directs the Agency for International Development, in consultation with the Department of State and the Office of Management and Budget, to report by no later than December 15, 1991, its recommendations for such a program to provide supplemental financial support to AUB. The report shall be made to the Committee on Foreign Affairs and the Subcommittee on Foreign Operations, Export Financing and Related Programs of the House of Representatives and the Committee on Foreign Relations and the Subcommittee on Foreign Operations of the Senate."

On page 554, line 11, strike out "(d)" and insert in lieu thereof "(e)".

Offered en bloc by Mr. Fascell of Florida as a modification of the amendment printed in the Record by Mr. Owens of Utah on June 11, 1991:

Amend section 870 (entitled "Nagorno-Karabakh Crisis"), as added by the Fascell En Bloc Amendment adopted in the Committee of the Whole on June 12, 1991, to read as follows:

SEC. 870. NAGORNO-KARABAKH CRISIS.

The Congress—

(1) condemns the attacks by internal security forces and the forces of the Azerbaijani government on innocent children, women, and men in Armenian areas and communities in and around Nagorno-Karabakh and in Armenia;

(2) condemns the indiscriminate use of force, including the shelling of civilian areas, on Armenia's eastern and southern borders;

(3) calls for the end of the blockades and other uses of force and intimidation directed against Armenia and Nagorno-Karabakh, and calls for the withdrawal of forces newly deployed for the purposes of intimidation;

(4) calls for an immediate end to deportations of Armenians from Nagorno-Karabakh and the freedom for all refugees to return to their homes;

(5) calls for dialogue among all parties involved as the only acceptable route to achieving a lasting resolution of the conflict;

(6) reconfirms the commitment of the United States to the success of democracy and self-determination in the Soviet Union and its various republics; and

(7) expresses its deep concern over acts of retribution or intimidation against those republics which are seeking greater independence.

Offered by Mr. Porter of Illinois:

Page 614, line 4, after "and" the second time it appears, insert "CERTAIN GOVERNMENTAL AGENCIES AND" and page 615 strike out lines 22 through 24 and insert in lieu thereof the following:

(2) any indigenous nongovernmental organization in the Soviet Union that promotes democratic reform, human rights, the rule of law, or market oriented reforms, and

(3) any governmental agenies in the Soviet Union that promote democratic reforms, human rights, the rule of law, or market oriented reforms, except that funds made available under this section may be expended for technical assistance for such an agency but may not be provided directly to such an agency.

On page 614, line 24, strike "or" and insert ", human rights, the rule of law, or".

Modification of an amendment offered by Mr. Solomon of New York:

Page 644, lines 4 and 5: Delete "IRAN, IRAQ, LIBYA, PAKISTAN, AND SYRIA." and insert in lieu thereof "CERTAIN COUNTRIES."

Page 644, lines 21 and 22: Delete "Iran, Iraq, Libya, Pakistan, or Syria" and insert in lieu thereof "Algeria and Pakistan and such terrorist states as Iran, Iraq, Libya, and Syria".

Page 645, lines 5 and 6: Delete "Iran, Iraq, Libya, Pakistan, or Syria" and insert in lieu thereof "Algeria and Pakistan and such terrorist states as Iran, Iraq, Libya, and Syria".

Modification of amendment by Mr. Herger, offered by Mr. Herger of California:

Page 657, after line 25, in place of the material proposed to be inserted, insert the following:

SEC. 927. HUMAN RIGHTS VIOLATIONS IN INDIA.

(a) Findings.—The Congress finds as follows:

(1) International human rights groups, such as Amnesty International and Asia Watch, have documented numerous instances of human rights violations by Indian security forces against the Indian people, especially in Punjab and Kashmir.

(2) Such abuses reportedly include rape, torture, detention without charge or trial, summary execution, disappearances, and so-called encounter killings.

(3) The Department of State's Country Report on Human Rights Practices for 1990 states with respect to India that "political killing occurs on an increasingly wide scale," and that despite legal safeguards, "there were credible reports of widespread arbitrary arrest or detention". In Kashmir, a widespread breakdown of the legal system is reported to have occurred.

(4) The May 1991 Amnesty International Report on human rights violations in Indian found that serious human rights violations in Punjab have persisted under three governments. It further found that certain Indian security-related laws, severely limit the ability to bring prosecutions against members of security and police forces for human rights violations, and thereby have effectively granted them immunity from prosecution for actions taken on official duty in Punjab, Kashmir, and other areas of civil conflict.

(5) Local rule in Kashmir was suspended in 1990. Local electoral processes and representative government have also in recent years been suspended in other Indian states.

(6) The Executive Branch has proposed an international military education and training program of $345,000 for India for fiscal year 1992.

(b) Statement of Policy.—It shall be the policy of the U.S. Government, and be a guiding principle for the President, that the Government of India should take significant steps to improve human rights in their country, including—

(1) adopting a policy of allowing unrestricted access by internationally recognized human rights monitoring organizations, such as Amnesty International and Asia Watch, to conduct investigations into alleged human rights violations,

(2) fulfilling recommendations of human rights experts on the United Nations Human Rights Committee, who have called for review and revision of security-related laws, whose application has contributed to human rights abuses,

(3) undertaking a process of political dialogue with representatives of a broad spectrum of the Kashmiri community, leading to the restoration of local elections in Kashmir.

(4) making significant progress in curbing human rights abuses committed by its security and police forces.

(c) Use of IMET To Promote Human Rights.—The President shall attempt to ensure that the IMET program for India instills program participants with an enhanced understanding and appreciation of, and ability to apply, internationally recognized human rights and humanitarian standards.

Modification of the amendment offered by Mr. Schumer of New York:

Page 665, after line 2, insert the following new section:

Strike all after the word "Sec." and insert the following: . Japan's Defense of Air Space and Sea Lanes.

(a) Findings.—The Congress finds that—

(1) Japan agreed in 1981 to assume from the United States the defense of its air space and

of sea lanes within 1,000 nautical miles of the home islands;

(2) successful fulfillment of this mission requires extensive early warning and command and control capability, of the sort possessed by AWACS aircraft;

(3) Japan has yet to purchase early warning aircraft with sufficient range to meet the 1,000-mile mission or the refueling tankers needed to support such aircraft;

(4) Japan's current five-year defense plan calls for the purchase of 4 AWACS planes out of the 12 to 14 early warning aircraft planes required for complete fulfillment of the mission; and

(5) as demonstrated by Operation Desert Storm, the global-defense responsibilities of the United States make it difficult and sometimes impossible to deploy United States AWACS aircraft in the East Asian theater.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that—

(1) it strongly urges the Government of Japan to fulfill its commitment to defend its own air space and the sea lanes out to 1,000 nautical miles, and otherwise contribute to the common defense in East Asia;

(2) it encourages the Government of Japan to acquire the necessary early warning and command and control capability at the earliest possible date, for example by purchase of AWACS aircraft and support tankers; and

(3) the President should continue negotiations with the Government of Japan concerning its assumption of the 1,000-mile defense mission.

Offered by Mr. Traficant of Ohio:

At the end of the bill (page 721, after line 16), add the following:

SEC. 1109. GAO STUDY OF IMPACT OF REDIRECTING FOREIGN ASSISTANCE FUNDS TO DOMESTIC PROGRAMS.

(a) REQUIREMENT FOR STUDY.—The Comptroller General of the United States shall conduct a study—

(1) of whether reducing the foreign assistance budget by $3,000,000,000 each fiscal year in order to provide additional funds for programs to assist the domestic economy would significantly harm United States interests abroad; and

(2) on the extent to which such a redirection of funds would help contribute to resolution of America's domestic problems.

(b) REPORT TO CONGRESS.—The Comptroller General shall report the results of the study conducted pursuant to subsection (a) to the Congress within 1 year after the date of enactment of this Act.

Offered by Mr. DURBIN of Illinois and Mr. BERMAN of California:

At the end of the bill (page 721, after line 16), insert the following:

Section 1109. RESTRICTION ON SECURITY ASSISTANCE TO COUNTRIES HAVING AN OFFENSIVE CHEMICAL WEAPONS PROGRAM.—

(a) PROHIBITION.—Except as provided in subsection (b), security assistance may not be provided to any country that—

(1) has an offensive chemical weapons program; and

(2) has not expressed its support for the Chemical Weapons Convention being negotiated in Geneva.

(b) WAIVER.—Assistance otherwise prohibited by subsection (a) may be provided to a country if the President determines, and certifies in writing to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate, that security assistance for that country is vital to United States national security interests.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "security assistance" means economic support assistance, foreign military assistance, and international military education and training.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 10 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

□ 1730

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is the en bloc amendment on which we have worked with proponents and opponents on both sides of the aisle to reach a consensus with regard to the matters covered.

The en bloc includes the following amendments:

1. Lagomarsino—South Asian regional nuclear non-proliferation policy (Title V);
2. Traficant—Violations of terms of assistance (Title VI);
3. Traficant—Procurement (Title VI);
4. Oakar—Sense of Congress on the American University in Beirut (Title VIII);
5. Porter—Technical assistance for any governmental agency or NGO in the USSR that promotes democratic reforms, human rights, market-oriented reforms (title VIII);
6. Owens—Nagorno-Karabakh crisis (modification of amendment adopted in earlier en bloc) (title VIII);
7. Durbin—Restrictions on security assistance to countries having an offensive chemical weapons program/modified (Title XI);
8. Traficant—GAO study on reallocation of foreign assistance to domestic programs (title XI);
9. Kanjorski—Excess defense articles (as modified) (title II);
11. Solomon—Exempts P.L. 480, narcotics assistance, and narcotics-relaed assistance from Pressler (as modified) (title V);
12. Solomon—Revises list of countries in section 910 that must be covered in a presidential certification on arms transfers by the PRC (as modified) (title IX);
13. Schumer—Japan's Defense (title IX);
14. Herger—Human rights in India (as modified) (title IX).

Mr. BROOMFIELD. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Chairman, I rise in support of the en bloc amendments.

Mr. Chairman, the en bloc amendment to title V of H.R. 2508 contains a provision that I offered which serves to clarify the applicability to Pakistan of three sections in H.R. 2508, the Pressler amendment notwithstanding.

Specifically, my provision makes clear that sections 4201(b), 4304, and 6109 in H.R. 2508 are applicable to Pakistan in this instance. Let me describe what each of these sections does.

Section 4201(b) authorizes the President to furnish assistance to any country, notwithstanding any other provision of law, for purposes of controlling narcotics and psychotropic drugs. Thus, Pakistan would be able to receive such aid from the United States.

Section 4304 pemits the provision of economic support funds to any country, notwithstanding any other provision of law, for purpose of aiding efforts to control illegal narcotics. Thus, Pakistan would be able to receive ESF for this purpose, subject of course to the 15-day Presidential notification to Congress that is specified in this section.

Finally, section 6109 declares that the several prohibitions placed on foreign assistance by this act shall not be construed so as to prohibit countries from receiving assistance from the Peace Corps, the Export/Import Bank, the Commodity Credit Corporation, several development foundations, and the several food assistance programs that our Government provides to needy countries in the developing world. Thus, Pakistan would be eligible for United States food assistance.

My provision in the en bloc amendment serves to clarify the fact that, the Pressler amendment notwithstanding, Pakistan would, under the terms of this bill, be eligible for the kinds of United States assistance I have just delineated.

I thank my good friend from New York, Mr. SOLARZ, the chairman of the Subcommittee on Asian and Pacific Affairs, for his help and cooperation in including this provision in the en bloc amendment.

The en bloc amendment also contains a second provision I offered, again to clarify a provision in the bill as it relates to Pakistan.

Section 910 of the bill is entitled, "arms transfers by the People's Repubic of China to Iran, Iraq, Libya, Pakistan, and Syria." The section then goes on to prohibit sales of military equipment to China if there is "convincing, credible evidence" that China is selling or making available technology—for use in missiles and advanced fighter aircraft—to the five countries listed in the title of the section. Section 910 also contains a similar provision with respect to chemical and nuclear technologies that can be used for making weapons.

The problem with section 910 is not with its intent, but with its wording. All Members are concerned with China's military sales to the developing world. But the heading of section 910, and the wording of this section, links Pakistan with Iran, Iraq, Libya, and Syria. The unintended inference of this wording implies that Pakistan is the same kind of country as Iran, Iraq, Libya, and Syria—four countries that have been repeatedly and publicly identified by our Government as terrorist supporting states.

Pakistan is not and has never been a terrorist-supporting state. Quite the contrary. Accordingly, my provision serves to change the heading and the wording of section 910 so as to de-link Pakistan from the other four countries. My provision also adds Algeria—which has just built a nuclear reactor with aid from China—to the applicability of section 910, but does not link Algeria with the four terrorist-supporting states either. Algeria, like Pakistan, does not fit that description.

In other words, my provision maintains the intent of section 910—to pressure China not to make advanced technology with military capability or applicability available to developing countries—but it draws a clear distinction between the countries that are mentioned specifically in the section.

Pakistan and Algeria are not equivalent to the terrorist-supporting states of Iran, Iraq, Libya, and Syria. My provision eliminates the ambiguity on this point that the original heading and wording of section 910 served to create.

Again I thank Mr. SOLARZ, and the chairman of the Committee on Foreign Affairs, Mr. FASCELL, for their help and cooperation on this matter.

Mr. BROOMFIELD. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in support of the en bloc amendment, which includes my amendment addressing human rights problems in India. I offered my amendment because I believe that the human rights abuses by India's security and police forces deserve a strong response by the United States Congress. I want to thank the gentlemen on the committee for working with me on this amendment, which I hope will contribute to improving the human rights climate in India.

I am pleased that, in adopting this amendment, the House is calling upon the Indian Government to end its practice of detaining thousands of people without trial.

The Congress calls upon the Indian Government to investigate all reports of human rights violations by members of the Indian security forces, and to prosecute those found responsible.

I welcome the acknowledgment by the House that this is a serious problem that India must address.

I would prefer that we go even further than my amendment and impose sanctions on India at this time. However, the argument has been made that instability within India makes this an inappropriate time to take such a step.

I, for one, believe instability is no excuse for Indian authorities detaining tens of thousands of its citizens without trial, as has been reported by the New York Times.

Instability is no excuse for Indian security forces opening fire on unarmed crowds, killing scores of innocent civilians, as reported by Amnesty International.

Instability is no excuse for Indian police gang raping hundreds of women and young girls, as reported in the State Department's human rights country report for India for 1990.

Instability is no excuse for 4,000 killings at the hands of the Indian armed forces and police in the Punjab since 1984, as reported by the New York Times.

Instability is no excuse for preventing international human rights groups from investigating conditions, as Amnesty International has reported.

A year ago, the Indian Government announced it was allowing human rights groups such as Amnesty International free access to investigate conditions in India. I know the Indian Ambassador has talked to many of you about this, but the fact is, Amnesty International still has not been allowed to enter the areas where most of the human rights abuses are occurring, and you can verify this by calling Amnesty yourselves.

My amendment places Congress on record demanding the Indian Government to expand access for international human rights monitoring organizations such as Amnesty International and Asia Watch.

I hope the steps we are taking today will finally get the attention of the Indian Government, and ensure that steps are taken to end the torture and killings.

If, next year, we have not seen an improvement in India's human rights record, I will be back urging my colleagues to join me in an effort to make further United States assistance to India conditional on respect for human rights.

However, I am pleased that we have come to an agreement on important policy goals for promoting human rights in India, and for using our IMET Program to improve the human rights practices within India's security forces. I urge the adoption of the en bloc amendment.

Mr. FASCELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the chairman and the committee for including the Schumer amendment with the committee modifications in the en bloc amendments.

In 1981, Mr. Chairman, Japan agreed to assume the defense of its airspace and sea lanes out to 1,000 nautical miles, and they said they were going to buy AWACS, as many as 12 to 14 to do that. Up to now they have not bought any, and they are not living up to their commitment to protect those sea lanes.

In the en bloc amendment is an amendment that I have offered that will urge the Japanese and urge our Government to see that that commitment be revivified. It is quite important. It is important to the defense of the western Pacific and it is important to keeping the AWACS assembly line going. It is important to see that Japan bears a fair share of the defense of their own backyard and yet not have to violate their Constitution.

Quite frankly, Mr. Chairman, I find it unacceptable and even amazing that 10 years after a commitment made by the Japanese they have not lived up to it, and this amendment I hope will importune them to do that.

I thank the chairman and the commmittee for their time and for including this amendment in the en bloc amendments.

Mr. BROOMFIELD. Mr. Chairman, I yield 15 seconds to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding me the time. I just want to thank the committee, particularly the chairman of the subcommittee, the gentleman from New York [Mr. SOLARZ] for accepting my language on South Asian regional nuclear non-proliferation, including Pakistan, India, and China.

Mr. BROOMFIELD. Mr. Chairman, I yield 2 minutes and 45 seconds to my distinguished friend, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I will not be opposing the en bloc amendments, but I will say that there are parts of the en bloc amendments that trouble me.

The gentleman from California [Mr. HERGER] and the gentleman from New York [Mr. SOLARZ] reached an agreement on part of the en bloc amendments which deals with penalties against India for the atrocities taking place in the Punjab and Kashmir. I believe that legislation or amendments that I am going to be proposing next week should be looked upon with favor which would impose penalties and withhold developmental assistance until they make a positive change that is necessary in Punjab and Kashmir and elsewhere in India.

The problem is people are being tortured and women are being raped, and people are being indiscriminately shot down in Kashmir and Punjab and nothing is being done about it. I think sending a resolution that just slaps them on the wrist is not going to do the job.

Let me give an example of what has happened and what is happening in those areas. On February 23 of this year more than 800 Indian troops sealed off and rampaged through the village of Kunan. This lasted from 11 p.m. until 9 a.m. the next morning.

Those troops herded all the men into an icy field, and while these men stood freezing under guard, Indian troops entered the village homes and, at gun point, gang raped 23 of their wives. Local people say that 100 women were molested in some way.

Mr. Speaker, one of the women, Zarifa Bano, was raped by seven soldiers even though she was 9 months pregnant. Four days later she gave birth to a boy whose arm had been broken when one of the soldiers kicked her in the womb after the rape took place.

This goes on daily in Punjab and Kashmir, and we are not doing anything about it. We can do something about it by withholding developmental assistance and any kind of foreign aid to India until they allow Amnesty International and other human rights groups to go into Punjab and Kashmir and to police these atrocities that are taking place.

□ 1740

Mr. Chairman, this en bloc amendment criticizes India for these atrocities, but the fact remains that it does not do anything tangible to change what is going on.

Amnesty International still will not be allowed into Punjab and Kashmir to police these atrocities. The International Red Cross will still not be allowed into Punjab and Kashmir to see what is going on, and women will still be raped, children will still be killed, and men will still be put through all kinds of torture in those areas.

We need to tell the Government of India that human rights in Kashmir and Punjab must be appreciated and realized or else we are going to do everything in our power to bring about some kind of change in our aid program to India.

There has to be a strong signal, and while this en bloc amendment does criticize India for some of these atrocities, there are no teeth in it.

Next week, Mr. Chairman, I hope that my colleagues will look with favor upon amendments I am going to propose which will withhold developmental aid and other foreign assistance until India starts recognizing human rights in Kashmir and Punjab.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I thank the committee for having some patience with me in working out a couple of amendments. I appreciate it very much.

I would like to make just one statement on one of the amendments here today. I am going to ask the committee to fight to keep these amendments in conference and in the bill.

We have over a $300 billion budget deficit which constitutes more than 20 percent of our entire budget. We borrow over 20 percent of our entire budget, so no one knows where that 20 percent is going when we expend that money.

If we could just take this analogy for just a second: We borrow money, for example, from Japan and Germany, and then we take that borrowed money. We give that borrowed money in the form of foreign aid overseas, and I understand the importance of those programs. But the one amendment I have says that if those countries are going to make purchases they should buy those products from America.

It gives an opportunity on a case-by-case basis for small purchases, so it does not become troublesome and bog it down and become too costly for those countries, but my amendment says that if someone is going to buy thousands of bushels of wheat that they do not buy it from Australia, they buy it from America. If they are going to buy trucks, they buy the trucks from America. They do not buy them from Japan.

Because the bottom line is we are borrowing money from Japan and Germany, giving it in the form of foreign aid, and then they are using the borrowed money from America to buy the products from Japan and Germany.

Mr. Chairman, we are getting hit both ways. So I am going to ask the chairman to do what he can to keep the language in the bill.

I appreciate his patience and his perseverance and his tolerance on my three amendments.

Mr. OWENS of Utah. Mr. Chairman, beginning on April 30, Soviet forces and Azerbaijani militia began a systematic campaign of aggression against Armenian villages near the Armenian-Azerbaijani border. These forces were sent, ostensibly, to enforce a Presidential decree issued last July to disarm Armenian militias. They were sent, ostensibly, to conduct "passport control operations" in and around the disputed Nagorno-Karabakh enclave. What occurred, in fact, were brutal and indiscriminate attacks against Armenian-populated villages. What occurred, in fact, was the systematic depopulation of Armenians from areas administered by the Republic of Azerbaijan.

Employing helicopters, tanks, and heavy artillery against populated villages, these operations have resulted in more than 50 deaths and the forced deportation of thousands of Armenians from their homes. Conducted under the pretext of establishing law and order, this campaign is an effort to penalize Armenians for seeking independence, and an effort to depopulate Armenians from Nagorno-Karabakh. If the objective of these operations were to establish public order, then a minimum amount of force would have been used. Villagers would not have been rounded up at gunpoint, many of them beaten and in some cases shot; Azeri Omon, or special forces, would not have been included in the effort. Certainly, villagers would not have been expelled from their homes.

It is no coincidence that Soviet forces have suddenly sided openly with Azerbaijan in armed conflict with Armenians. In contrast to Azerbaijan, which is still governed by the Communist Party, Armenia has begun the process of legal secession from the Soviet Union. The military operations which commenced in April have been used as a means of punishing and intimidating Armenia, while rewarding Azerbaijan.

My amendment today—

Condemns attacks on innocent civilians in Armenian areas and communities in and around Nagorno-Karabakh and in Armenia;

Condemns the indiscriminate use of force, including the shelling of civilian areas, on Armenia's eastern and sourthern borders;

Calls for the end of blockades and other uses of force and intimidation directed against Armenia and Nagorno-Karabakh, and calls for the withdrawal of newly deployed Soviet forces;

Calls for an immediate end to deportations of Armenians from Nagorno-Karabakh and the freedom for all refugees to return to their homes;

Calls for dialogue among all parties involved as the only acceptable route to achieving a lasting resolution of the conflict;

Reconfirms the commitment of the United States to the success of democracy and self-determination in the Soviet Union and its various republics;

Expresses its deep concern over acts of retribution or intimidation against those republics which are seeking greater independence.

A similar resolution sponsored by Senators LEVIN and DOLE, passed the Senate by voice vote. I strongly urge your support.

Mr. BONIOR. Mr. Chairman, I rise to express my strong support for the amendment offered by my distinguished colleague, WAYNE OWENS.

Recently, Azerbaijani and Soviet troops have mounted attacks against Armenian-populated villages subjecting the Armenian people once again to the horrors of oppression. Scores of Armenians have been killed in these attacks, and hundreds remain hostage in Azerbaijan.

These continuing acts of aggression are clearly a part of Moscow's attempts to intimidate republics that have declared their desire for self-determination and independence. We must send a signal to the Kremlin that continued acts of intimidation will not be tolerated.

This amendment condemns the indiscriminate shelling of Armenian communities, and the attacks on innocent men, women and children. It calls for an end to the blockade and other forms of intimidation directed against Armenia.

The amendment calls for a dialogue among all parties to achieve a lasting resolution of the conflict. And it reconfirms our commitment to democracy in the Soviet Union.

Recently, a similar resolution unanimously passed in the other body. I commend my colleague from Utah for his leadership on this issue, and I urge my colleagues to support this amendment.

Mr. DURBIN. Mr. Chairman, I rise today to support the en bloc amendment offered by the distinguished chairman from Florida.

Included in this en bloc amendment is an amendment that Congressman BERMAN and I developed to prohibit the extension of security assistance to those countries that have an offensive chemical weapons program and have not expressed support for the multilateral Chemical Weapons Convention being negotiated in Geneva. This convention would eliminate chemical arsenals in 10 years.

Chemical weapons are not militarily successful weapons. They have limited reliability and little effect against prepared troops. These are weapons of the worst dimension—weapons that prey on the body and psyche of the unprotected, the civilian, the child. I doubt any of us will forget the sight of U.S. troops mummified in protective gear during the Persian Gulf war; the infamous pictures of 1988 showing Kurdish villagers frozen in their tracks at the hand of chemical weapons; or the stories of the Israeli child—suffocated by a gas mask. It is time to rid the world of these weapons. It is time the United States led the way.

As of last August, 22 countries had declared their intention to be original signatories of the

Chemical Weapons Convention. The Durbin/Berman amendment urges security assistance recipients to join the growing number of nations that support this convention.

In March, the Japanese Foreign Minister announced that Japan, the largest donor country in the world, is considering reducing foreign aid to recipient countries producing weapons of mass destruction, among them, chemical weapons. The Durbin/Berman amendment ensures that U.S. tax dollars are not spent to enhance the militaries of foreign governments that perpetuate the existence of chemical weapons.

Recently, the administration reversed its position on two controversial issues within the conference—an encouraging sign that we may have a convention in the near future. The Durbin/Berman amendment expresses the support of Congress for the global acceptance of this convention.

While my original amendment, which enjoyed the support of 18 arms control groups, was stronger, I believe this compromise language will send a strong message that the Congress of the United States is serious about eliminating weapons arsenals everywhere.

It is time Congress called on all nations to commit publicly to becoming an original party to the convention. I thank the gentleman from Florida for including this amendment in the en bloc amendment and I urge its passage.

Mr. KENNEDY. Mr. Chairman, I rise in strong support of the Owens amendment condemning the recent violence in Armenia. As an original cosponsor of a similar resolution, I concur that this amendment is a timely and important statement of United States foreign policy toward the Soviet Union, and I would urge my colleagues to support this measure.

This amendment effectively responds to the crisis in the Azerbaijani-Armenian region by sending a clear message to the Kremlin that the United States deplores the human rights abuses occurring in the Soviet republics. It specifically condemns the indiscriminate use of blockades and other means of violence by the Azerbaijani Government, calls for an immediate end to the deportation of Armenians from Nagorno-Karabagh, and urges the establishment of a dialogue between the conflicting parties within the region. It is a critical message at a time when President Gorbachev is being heralded around the world for his commitment to perestroika.

Since 1988, hundreds of Armenians have been killed and over 300,000 have been forced to flee their homes. As their forefathers in Ottoman Turkey, innocent Armenians have again fallen victim to the violent beatings and senseless killings that marked the Turkish genocide of the earlier part of the century.

Particularly troubling now are new allegations of official Soviet collusion. Reports have surfaced that Soviet tanks came to the aid of Azerbaijani forces as they invaded the subdistricts of Getashen, and Martunashen. This brutal intervention led to the killing of 40 innocent Armenian citizens, the injuring of 300, and the taking of at least 70 hostages.

As a nation trying to establish itself as a democratic and pluralistic society, the Soviet Union must realize what such a responsibility actually means. The Kremlin must understand that a democracy begins with supporting human rights and justice, and not by participating in the crimes that undermine those traditions.

This legislation, however, is not a punishment, but rather an affirmation of our commitment to seeing democracy flourish in the Soviet Union. It is not outside the pale of U.S. authority, because as a world leader, we have an obligation to stand up for human rights and human dignity, for all peoples, at all times.

I would urge my colleagues therefore to stand up for what is right, and voice your convictions on human rights. Support the Owens amendment, and stand up for the Armenian people.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The question is on the amendments en bloc offered by the gentleman from Florida [Mr. FASCELL].

The amendments en bloc were agreed to.

The CHAIRMAN pro tempore. Are there additional amendments to title IV?

AMENDMENT OFFERED BY MR. ROTH

Mr. ROTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROTH: Page 414, line 12, strike out "and"; and 14, strike out the period and insert in lieu thereof "; and"; and after line 14, insert the following

"(3) with respect to each project or other activity for which such funds remain unexpended, the justification for such funds not having been expended.

Page 427, after line 7, insert the following:

"SEC. 6310. REPORTS BY THE INSPECTOR GENERAL REGARDING UNEXPENDED BALANCES.

"(a) COMMENTS ON SECTON 6301(e) REPORTS.—As soon as possible after the submission to the Congress each year of the information regarding unexpended balances required by section 6301(e), the Inspector General for the administering agency for title I shall submit to the appropriate congressional committees—

"(1) the Inspector General's recommendations for reducing the amount of such unexpended balances; and

"(2) such comments as the Inspector General considers appropriate with regard to the justifications provided pursuant to paragraph (3) of that section.

"(c) COMMENTS ON SECTION 7304(b) REPORTS.—As soon as possible after submission of a report pursuant to section 7304(b), the Inspector General for the administering agency for title I shall submit to the appropriate congressional committees such comments as the Inspector General considers appropriate with regard to the determination described in that report.

Page 454, after line 19, insert the following:

"SEC. 7304. DEOBLIGATION OF CERTAIN UNEXPENDED ECONOMIC ASSISTANCE FUNDS.

"(a) REQUIREMENT TO DEOBLIGATE.—Except as provided in subsection (b) and section 6105, at the beginning of each fiscal year the President shall deobligate, and return to the Treasury, any funds that, as of the end of the preceding fiscal year, have been obligated for a period of more than 3 years for development assistance, economic support assistance, assistance from the Development Fund for Africa, or assistance under chapter 2 of title V (relating to the Multilateral Assistance Initiative for the Philippines), but have not been expended.

"(b) EXCEPTIONS.—The President, on a case-by-case basis, may waive the requirement of subsection (a) if the President determines, and reports to the appropriate congressional committees, that—

"(1) the funds are being used for a construction project that requires more than 3 years to complete; or

"(2) the funds have not been expended because of unforeseen circumstances, and those circumstances could not have been reasonably foreseen.

Mr. ROTH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROTH. Mr. Chairman, we all feel that our amendments are important, and I just want to say that I think this is a very important amendment.

We have many people who get up in the well of the House and talk and lament about our deficits and rightly so. When you read this particular bill, you will find that we are talking about $25 billion here in foreign aid. That is a lot of money.

There is more money involved than that, because we have $8.8 billion in the pipeline, authorizations going back as far as 1981.

We are cutting back here at home on Medicare, on housing, on veterans. New York does not have enough money to pay for a victory parade for our soldiers from the Persian Gulf. Bridgeport, CT, is filing bankruptcy. We have all kinds of domestic problems.

Yet, we are increasing foreign aid over the current levels by $1 billion. It is something like right out of 1946 when we had all the money in the world, but the world has changed.

Mr. Chairman, we have to think anew, and we have to act anew.

Yes, there is almost $9 billion in the pipeline that has not even been spent. Yet, we are increasing foreign aid by another $1 billion and cutting back on all of our domestic programs.

Does that make sense to you? I do not think it makes sense to the American people, and I think that is why the American people are so turned off on this Congress.

What I am asking us to do in this legislation is to follow the GAO report. That is our investigative arm, as you know. The GAO has come to us and said that after a 2-year period we should deauthorize these funds that have been authorized in this pipeline.

My amendment, because I know it is hard for people to vote against foreign aid in this body, goes one additional step and says that we will cut it off after 3 years, so that certainly should give everyone an opportunity to vote for this amendment.

We make two exceptions. One is for long-term construction projects, and two for unforeseen delays in completing projects.

I know there are over 900 lobbyists here in Washington, just about every law firm lobbying for foreign aid. I know it is hard to say no, but by golly, when we are making all of these domestic cuts, I think we owe it to our people and our taxpayers to spend this money wisely.

This Congress puts so much money into foreign aid that they cannot spend it fast enough. That is why we have got $8.8 billion in the pipeline. Imagine pushing so much money into the pipeline that it cannot be spent on the other side fast enough, and yet here at home we are wringing our hands lamenting how can we balance the budget. We are living with over a $300 billion deficit.

Is that fair to our kids and to the future of this country? I do not think so. That is why I have sponsored this amendment.

We have a crisis in health care. People tell us every night that we have 32 million people in this country who do not have health insurance. And what is our answer? "Why, we cannot afford it." Our roads, our infrastructure, and the President talked about that last night. What is our answer to the poor highway system? "We cannot afford it." Bridges. "We cannot afford it." And we go down the entire litany.

Here is an amendment where we can save over $2 billion, and we are not going to hurt a single person. We have $8.8 billion in this pipeline. Incidentally, it is growing by over $300 million this year, growing by over $300 million this year, pushing into this pipeline where we cannot find a dime here in America.

This amendment will have conservatively, now, over $2 billion, and I am asking the Members to help me adopt this amendment. You know, at a time when we do have to reiterate, over $300 billion in deficits, at a time when we are cutting back on all of our domestic programs, let us do this one for the American taxpayer. Let us do this one for the American people.

I feel that it is unconscionable to keep $9 billion in a slush fund to be spent at the whim and caprice by a group of bureaucrats. I ask the Members to join me and to restore a modicum of common sense in this area. I ask the Members to join me in support and vote for this amendment.

Mr. STEARNS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Roth amendment.

Earlier this session, the House of Representatives authorized $85 million earmarked for Pakistan to the Kurdish refugees. This money was not, however, included in the final emergency appropriation. Where has it gone?

Well, some of it will be sent to Nepal, Burmese students in Thailand, and other unidentified programs. Most of it, it seems, will pour into the Agency for International Development's pipeline where $8.8 billion dollars is already collecting dust. The General Accounting Office has publicly stated that these funds are excessive, but we seem ready to pump $85 million more into an already backed-up pipeline.

We have too many pressing needs throughout our Nation to leave billions of dollars in an AID slush fund. We should use this money for a purpose we all agree is necessary: reducing the Federal deficit.

If you have any questions on how to vote on the Roth amendment, ask yourself one simple question: Would my constituents rather have $85 million sitting in an account, collecting dust, not knowing when, where or for what it will be spent on, or should we use it to shore up the American economy?

Mr. ARMEY. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I will not take the 5 minutes. I do not often speak on behalf of amendments with respect to foreign aid.

□ 1750

In this case I feel like I should speak and congratulate the gentleman from Wisconsin [Mr. ROTH], who is one of the gentlemen in the body who is always willing to read the fine print, always willing to check the details, and always willing to stand up on behalf of the taxpayer. What he has uncovered here is a practice that we may, in fact, find in other instances, and we ought to look for, which is a practice of holding budget authority over, holding the authority to spend money over from one year to the next. Sometimes that is unnecessary, or sometimes it is necessary, and sometimes it is desirable in the case of multiyear products or in the case where disasters delay the completion of a project. However, we ought not to allow the international aid agencies or any other agency to carry the authority to spend the taxpayers' money over from one year to another without some check, without some balance, without some provision to reclaim that money, and without some oversight requirements that result in their need to come back to Congress and justify any continued holding of the money.

I want to thank the gentleman from Wisconsin for his thoughtfulness in drafting this amendment, to include necessary and desirable exceptions that will afford flexibility when it is justifiable, and for at the same time providing hard requirements on the agencies that will enable the Government and the Congress to reclaim the moneys once authorized for the use either to diminish the national indebtedness or be redirected to some other use of greater urgency. I would stand in support of the amendment and compliment again the framer of the amendment for his judicious hard work.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, as far as the concept of the amendment is concerned, the concept has merit and has some basis for it in terms of wanting to know exactly what is out there and what it is going to be used for. Of course, that is a legitimate question. It is a good oversight question. It is one that was raised by the General Accounting Office, which has issued the report, which is the basis for this amendment.

The language in the amendment which requests the inspector general to continue the study and the work is a good legislative language.

The difficulty comes in the latter part of the gentleman's amendment when he deobligates. Now, can Members imagine what would happen in any other department if we took all the appropriate funds previously approved by the Appropriations Committees and the Congress, and the President signed the bill, for the purposes for which they were designated, and the next day, or 2 years later, or 3 years later, depending whenever the mood struck a Member for whatever reason, they suddenly said, "Sorry, we are taking all the money back." Now, that is what the gentleman is doing with his amendment. That is what the trouble is. It is across-the-board meat ax deobligation on moneys already appropriated and committed to countries for the specific programs and purposes.

Now, if we examine each one and say, "Well, that program is kaput, you don't need that money, we want to recapture that, and we will not let you transfer it to some other program." That is legitimate. Nothing wrong with that. We do that every day. Or if we just say that we will not let them transfer the money, that the program is dead so we will take the money back and put it in the Treasury or whatever, not allow them to draw on the Treasury for that amount of money, that is all right. But we do not willy-nilly, for every single country, every single pipeline, go out there and say, "We will recapture that. Sorry, all that stuff we said about country X and the programs in country X because 3 years have gone by and you have not been able to finish whatever it is you are going to finish, we will terminate it now." That is real enthusiasm that is absolutely destructive of the programs.

Now, what I suggest we do is this instead. The GAO has made the report, and we think it ought to be continued, and we have written legislative language to carry out what the gentleman is talking about in effect. We do not go as far as he does. He wants to cut it all off now without any examination. What we are saying, however, in the bill is. Let GAO continue this work. Let Members hear from AID agency on every single country, on every program. Let that report then be submitted to the Congress for the Committee on Appropriations, the appropriate committees of the House and the Senate, Foreign Relations and the Committee on Foreign Affairs, and then on a case-by-case basis we can make an intelligent decision as to whether or not the funds previously appropriated, committed for a specific program or project to a particular country ought to be deobligated.

I think this is a wrong approach to go out there, swing an ax and say, "Well, it has been 3 years. That is enough. You haven't done it, so we will take it all back." I think a more sensible approach is the one that we have suggested. It is in the bill. We will work with the gentleman on the oversight. I guarantee that because this is an important issue. We will keep the GAO on them. We will keep the inspector general on them. We will keep the appropriate committees of the Congress to examine that piepline on a country-by-country basis. Let the administration come to Congress and tell Congress why it is that after 2 years or 3 years, or whatever the deadline is, they have not been able to expend those funds, and then we in the committees can come back to the Congress and decide whether those funds should be deobligated.

I do not want to suggest that the gentleman amend his amendment or anything like that, but I would suggest under the circumstances a no vote on this amendment. Let Members proceed in the manner that I have just outlined.

Mr. BROOMFIELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I thank my friend from Michigan for yielding and giving me this additional time. No one relishes disagreeing with the chairman of this committee and I am no exception. However, I think that we must say that there are some words in rebuttal, and they are that that is by no means a meat-ax approach, because what we are doing is going further. We are being more liberal than GAO. GAO said after 2 years we should deauthorize the fund. We are saying in this amendment after 3 years.

What we would do if we followed the chairman's suggestion, we would not have the requirement that AID explain why the pipeline funds have not been spent. I think when we take a look at taxpayers paying for these, the dollars of the taxpayers, if they had to vote on this legislation, I am sure that they would say that AID should have to explain after 3 years why these funds have not been spent, and we are not saying that after a certain period of time all the money is deauthorized, because again we have the two exceptions. That is, for construction projects and for unforeseen delays in completing the project.

Also, there is a requirement that AID and the inspector general give Congress an independent analysis of what the foreign aid bureaucrats are doing with the pipeline funds.

Is there anything wrong with asking the people in the agencies, the bureaucrats, to come back to Congress and tell Congress what is happening with these funds? That is all this legislation is doing.

There is also a provision, taking back funds that have been in the pipeline for more than 3 years. GAO said after 2 years we should retract the authorization, and this amendment, the chairman's suggestion would take that out of this particular amendment. This amendment, I think, is important because it shows the American people that all we are spending money on foreign aid, that we are spending it judiciously. I, as a taxpayer, am enraged, and I serve on the Committee on Foreign Affairs.

I am enraged when I see the money we are throwing down a rathole. Here we have $25 billion. We are cutting back on all of our domestic programs, and we are increasing foreign aid by a billion dollars. I mean, it makes no sense whatsoever. When I get around this country and talk to people, I think that they agree that we have to have some common sense restored in foreign aid.

□ 1800

We are just blowing money away. It is one of the reasons I find that the people in America are so upset with Congress. The American people want to help those who are in need, but when you see waste like this, and this is out-and-out waste in this pipeline, then I think that we have an obligation to speak up and have the Congress vote on this amendment.

I hope when the House votes on Tuesday—I wish they were voting tonight—I hope when they vote on Tuesday that they vote for the Roth amendment to show the American people that we are concerned, that we do care.

Again, we have $8.8 billion in the pipeline. We are only cutting $2 billion out.

You know, if we really had some backbone in this Congress, we would cut all $8.8 billion out if we are concerned about our people, but under this amendment we are only cutting $2 billion out, and the reason I cut it down to only $2 billion was so that I could get the votes in this Congress.

I am not going to believe that this Congress is not going to cut this by $2 billion. I just cannot believe that when we have $8.8 billion in the pipeline, so much money we are pushing into this pipeline that we cannot even spend it fast enough on the other side. I just do not believe that the Congress will not do that.

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I thank the gentleman for yielding to me.

I just wanted to ask my distinguished colleague, the gentleman from Florida [Mr. FASCELL], does not this money stay in there indefinitely?

I mean, we talk about 2 years, 3 years, but is it not true that money just stays there forever and ever?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Florida.

Mr. FASCELL. If that is the way it is appropriated. We do that all the time in the Congress. That is not unusual with all agencies.

Mr. STEARNS. Well, I know. But is not that a concept in itself that this money can stay in an account forever and ever, even in military programs, so that the service can build up a surplus and after a while we lose track of it?

Mr. FASCELL. Well, Mr. Chairman, if the gentleman will yield further, I hope nobody loses track of it, but the gentleman raises a very interesting question about the hundreds of billions of dollars that are appropriated to the Department of Defense which remain unexpended. That does not mean they are not committed. If you have a 20-year program, that must be planned for.

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, let me just add a few comments to those made by our distinguished chairman in opposition to this amendment.

I think this kind of an amendment is very sweeping and would hit so far as I know almost every country in the entire bill, with the probable exception of Israel whose aid, of course, is largely cash transfer.

What this amendment will do in effect will be to push the spending faster, and it will decrease careful planning for projects. In almost all of these countries you cannot put through, for example, an infrastructure project in 3 years. Roads take much longer than that. Cement plants take much longer than that. This will very severely hamstring aid in trying to carry out infrastructure projects and many other kinds of projects.

I do not have the position of the administration on this amendment, but it would be quite surprising to me if the administration did in fact support it, because I think it would be very disruptive of the program.

As a matter of fact, in response to a question a moment ago, there are instances in which funds are deobligated. As the committee report makes clear on page 160, in fiscal year 1990, the section 1311 review resulted in approximately $177 million in program funds that were deobligated, and in some instances reobligated, so there is some review here.

I think this amendment would affect almost all aspects of the assistance program, except ESF and cash transfers.

I am struck by the extraordinary reporting requirements that the gentleman calls for, if I understand them correctly, an annual report as to why funds have not been expended. You would have to go into detail with respect to all these projects that AID carries on.

My understanding further would be that the United States Government AID would be required to break all kinds of contracts if this amendment went into effect.

I really do not know what the impact of this amendment would be in scores of countries. Just to come along with an amendment like this without any understanding of how it affects Egypt or how it affects Turkey or how it affects a lot of other countries with whom we have had a very close relationship seems to me to be quite unwise, and I would urge the Members to vote against the amendment.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. Yes, I am happy to yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I thank my friend for yielding to me.

Mr. Chairman, the gentleman had mentioned that all this amendment would do is make and spend the money faster.

Well, Mr. Chairman, let me say this. We in the Congress determine that. We in the Congress still control the purse strings. They are only going to spend it faster if we do not have sufficient oversight.

You see, that is the argument we are making. We in this Congress do not have oversight when it comes to foreign aid. We just push more and more money overseas, try to buy more and more friends, and we end up with more and more enemies.

We have not had really a review of this policy since 1946. We are still in the same old outworn thinking that we had right after the Second World War.

I think this world has changed. I think our country has changed. I think our needs have changed and that is why I think we have to refocus and we have to reconsider what we are doing.

At a time when we are cutting back on all our domestic programs, on welfare, our seniors and our veterans, to say that we are going to spend billions of dollars more on foreign aid just does not make sense to me.

Mr. HAMILTON. Mr. Chairman, I reclaim the balance of my time.

First, of course, I do not disagree with the gentleman with respect to waste or abuse in the program. We are all opposed to that. Nobody favors that.

The fact of the matter is if you appropriate x number of dollars for a certain country, they are going to try to spend that money, and if you only give them 3 years to do it, they are going to do it in a way that is inefficient and wasteful and you are going to create more waste with this amendment than you are going to clean up.

So far as greater oversight of the program, of course I agree entirely with the gentleman with respect to that. We are deficient in many respects in our oversight and we need to improve that; but I must say to the gentleman, this kind of a scattershot amendment, I think, will not lead to efficiencies in the program, but will lead to just the opposite.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. FASCELL. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I am delighted to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentlewoman for yielding to me.

Let me follow up on what the distinguished chairman of the Subcommittee on Europe and the Middle East has just pointed out.

The language that we have in the bill, we call for an identification of any funds, that is as of September 30 of the preceding fiscal year, that have been obligated for a period of 2 years or more and have not been expended, so we shorten the time.

We not only ask for the documents, but an examination, of course, to be had by both the General Accounting Office and we hope the inspector general and the committees, and requesting from the administration an explanation of why after that period of time the necessity for those funds remaining there is valid.

Now, I think that is direct oversight.

The gentleman makes a broad sweeping statement. I know he is opposed to foreign aid of any kind for any reason, has always been. He has been consistent in the Foreign Affairs Committee. He is a valuable member of the Foreign Affairs Committee. He has done bleeding for me.

I do not want to have to make that case right now with respect to assistance, but foreign aid is an absolute essential tool for us, the United States, as we deal with the rest of the world. There is no way for the United States to get off the world and tell everybody else to go fly a kite while we take care of our business.

We are not seeking to buy friends. We are seeking, however, for cooperation. We got excellent cooperation with the President's leadership, for example, in bringing together a coalition on a very important matter in the gulf. It worked out satisfactorily.

One of the reasons for that is because we have maintained a relationship with those countries across the board economically, militarily, politically, and otherwise.

□ 1810

And to cut yourself off for that or to say you cannot afford it is really a very, very narrow interpretation of the interests of this country. We cannot exist as a self-consuming society. We had better be able to export. Fortunately, our balance of trade has turned around for the first time in many many years. We now finally begin to have a surplus. Maybe that will take.

But one of the reasons for that is that people that were trying to help the countries that we are assisting have the economic wherewithal because we have made it possible for them to help themselves. They can buy American products. We can then sell, we can be competitive.

So this is not a one-sided proposition. Foreign aid is not a drunken sailor in a pink Cadillac throwing money at a bunch of people who are ungrateful. Assistance means exactly that; economically to give people the opportunity to help themselves so they can be worthwhile economic partners.

On the military side, we have demonstrated over and over again how important it is to have the military contacts, to provide assistance to those countries who are allies who will cooperate with us on matters of important foreign policy objectives, just like the gulf war.

Now, why would you want to cut off your hands because you have the feeling that in some way, somehow this does not help the United States? And I have not even touched on the humanitarian aspects of this matter. The American people have an outstanding record of assistance to people who are in difficulty, unmatched, I dare say, by any nation of people anywhere. That is foreign aid.

So let us not be too quick here. Yes, we have to have oversight; yes, this is a lot of money; yes, we ought to scrutinize it; and, yes, we ought to reevaluate.

But let me say, let me remind the very able gentleman who serves on our committee that we spent 1 year in reexamination of the policy of foreign assistance in the legislation that is now here, in order to take a look at the 1990's, to take into account the changing conditions in the world, to be sure that our relationships are consonant with what is going on.

This is what we are trying to do. We did it also in 1975.

I still think we ought to vote against the amendment.

Mr. Chairman, I thank the gentlewoman for yielding.

Mr. BROOMFIELD. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. Without objection, the gentleman from Michigan [Mr. BROOMFIELD] is recognized for 5 minutes.

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, I merely want to indicate that the administration is opposed to this amendment.

There has been a GAO review of AID on this pipeline business, and they have found that the bulk of the pipeline, nearly 90 percent of it anyway, is well managed and does not exceed the operating needs. They also cite that this portion of a pipeline represents established commitments under approved project financing plan and is already committed to paper goods and services.

Elimination of these commitments would be highly disruptive to project implementation. Most of the remaining pipeline is needed for closeout of billings, cannot be used for other purposes because of earmarks or other restrictions or the deobligation action is still being negotiated with the host government, and supplies of goods and services become deobligations, as possible.

Moreover, the GAO recognized that some funds in the pipeline are there because of factors beyond the control of AID. For example, unexpected political and economic changes in host countries cause a need to revise program plans, project design and implementation schedule, congressional earmarks and constraints of functional accounts limit the ability to relocate and reobligate funds.

So, basically the administration takes the position it eliminates their flexibility obviously to handle these. I think the gentleman has served a very useful purpose in offering the amendment so that we can discuss it. I think it is a matter that needs a little bit more review. But obviously the administration is looking into it right now.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin [Mr. ROTH].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROTH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to the previous order of the House, the vote is postponed until a subsequent legislative day.

AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Chair would inquire, is the amendment printed in the RECORD?

Mr. TAYLOR of Mississippi. It is, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Mississippi: On page 488, line 10, after the word "articles" insert ", other than construction equipment including, but not limited to, tractors, scrapers, loaders, graders, bulldozers, trucks, generators and compressors."

MODIFICATION TO AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I ask unanimous consent to make a slight technical change to the amendment.

Mr. Chairman, on line 3, before the word "trucks," I ask unanimous consent to insert the word "dump."

The CHAIRMAN pro tempore. The Clerk will report the modification to the amendment.

The Clerk read as follows:

Modification offered by Mr. TAYLOR of Mississippi to the amendment offered by Mr. TAYLOR of Mississippi: in the matter proposed to be inserted by the amendment "dump" before "trucks."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. McCOLLUM. Mr. Chairman, reserving the right to object, I reserve the right on my time to inquire of the gentleman on one aspect because he is making a significant modification, and I just think it helps to clarify the whole amendment a little bit. I am not going to object to his doing that after I get done with this discussion. But I want to be sure that by "construction equipment" in the gentleman's amendment, that he means that type of equipment that is generally used by the military, actually used by them for construction, but not items which could be used, such as jeeps or pickup trucks or those sorts of things. Is that what the gentleman is intending by the language in his amendment and why he is modifying it to say "dump trucks"?

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. Under my reservation, I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding that the administration would like the authority to take jeeps, what are commonly referred to as deuce-and-a-half trucks, and other type vehicles used for transportation of people and have authority to give them to different drug wars around the world. I certainly understand that and want to work with that.

However, I would like to see to it that construction equipment, such as road building equipment in particular, would remain available.

Mr. McCOLLUM. That is the type of equipment, though, actually used by the military in construction? Because you could conceivably use lots of other things. The gentleman has said "such as" in his example. So I am just trying to make sure while he is modifying it for dump trucks we have a clear understanding in the RECORD that he intends by the term "construction equipment" to mean the equipment the military actually uses for construction, which of course graders and bulldozers and such are.

Mr. TAYLOR of Mississippi. That is correct.

Mr. McCOLLUM. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN pro tempore. The amendment offered by the gentleman from Mississippi [Mr. TAYLOR] will be considered as modified.

The text of the amendment, as modified, is as follows:

On page 488, line 10, after the word "articles" insert ", other than construction equipment including, but not limited to, tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators and compressors,"

Mr. TAYLOR of Mississippi. Mr. Chairman, in this bill there is language that would allow the President of the United States to give excess Department of Defense equipment to nations that are on the approved list. Among the things that the Department of Defense owns is a great deal of taxpayer-paid-for construction equipment, I have a bit of trouble with giving that away.

You see, in my home State there are 26 miles of unpaved roads, there are communities that do not have a community water system for either drinking or fire protection services; nationwide there are tens of thousands of bridges that need to be repaired; there are hundreds of thousands of miles of road to be repaired in this country.

Communities in which the governing authorities are suffering from lack of funds, to them the purchase of a backhoe or a bulldozer is as large a purchaser as a destroyer or a B-2 bomber is to this body.

For that reason, I am going to ask the Congress to amend this bill to keep those construction-type equipment and to keep it available for use in this country.

I have no problem with giving the President the authority to transfer M-60's, M-1A1 tanks, bombers, or whatever sort of military equipment that is in excess of what our Department of Defense needs and make it available to our allies. But I do have a problem at a time when our Nation is so horribly in debt, $3.4 trillion, when we are spending $500 million a day on interest on the national debt, when our local communities and States and our cities are financially strapped, with taking things that can be used here through programs that are presently available for use and not making them available.

□ 1820

Mr. Chairman, there are counties in my State, and I presume in every State, that do not own a single backhoe or a single bulldozer, and I think it is inexcusable for this Congress, the elected Representatives of the American citizens, to give this equipment away when there is a need at home.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. MCCOLLUM TO THE AMENDMENT, AS MODIFIED, OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. McCOLLUM. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM to the amendment, as modified, offered by Mr. TAYLOR of Mississippi:

Strike out all of the amendment that follows "pages 488," and insert in lieu thereof the following: Line 8, strike out "The" and insert in lieu thereof "(A) Except as provided in subparagraph (B), the"; and after line 19, insert the following:

"(B) The term 'excess defense articles' does not include any construction equipment (including tractors, scrapers, loaders, graders, bulldozers, generators, compressors, and dump trucks), except to the extent that the President determines that the inclusion of construction equipment in that term is essential to United States national interests or that such equipment is to be provided as humanitarian assistance.

Mr. McCOLLUM. Mr. Chairman, I reluctantly oppose the amendment of the gentleman from Mississippi [Mr. TAYLOR] and the form that it was in, and I offer this substitute because it seems to me very apparent that, while we would like to see more graders and construction equipment going back to our States, all of us understand that there are occasions when the President, in the national security interest of our country, is going to want to allow this excess program to provide this kind of equipment to another country, and the way that the amendment of the gentleman from Mississippi [Mr. TAYLOR] was drafted, he did not allow for any exception to that. Without any exceptions to that means that all construction equipment, all bulldozers, all graders, would be removed from the definition and, therefore, not subject to being given or transferred to a foreign country.

Mr. Chairman, I can think of any number of occasions where it is important that we be allowed to transfer some of that equipment; for example, in the case of Afghanistan, in the situation where we have been supporting the resistance over there. It has been very important upon occasion to have heavy construction equipment to clear passes and so forth. We are not engaged over there directly in a military operation in that country. We cannot send our military to do that. But it has been important in our cause to support the resistance and in the interest of our country that that group have access to that type of equipment in order to clear their roads.

There are occasions in many countries around the world who are our allies and our friends where the need for this kind of construction equipment for some particular purpose is vital in relationship to some interest that we have. Now, not every situation that they are going to plead for a piece of equipment is going to be one of those. As a matter of fact, my understanding is we do not even begin to submit at the present time under this program all of the construction equipment by any stretch of the imagination of foreign governments, and indeed right now much construction equipment does go into the program so the States can acquire it, but to say that no construction equipment of any type may be designated by the President for a foreign country is simply not in our national security interest.

Mr. Chairman, that is why I offer this substitute, to clarify the fact that in general we do support the idea that most of this equipment go to the States or go, not to foreign countries, but that we give the President the right, when he declares and determines that it is in our national security interest, to have this equipment go to a foreign country. Then it can go there, and I believe that that is very important, and there are humanitarian assistance occasions and under other programs as well where that might be the case, but under this program, at this point in time, I submit my amendment is appropriate. It does provide a latitude and a flexibility that the amendment of the gentleman from Mississippi [Mr. TAYLOR] does not.

Mr. Chairman, I urge the adoption of my substitute amendment.

Mr. KANJORSKI. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Florida [Mr. McCOLLUM] to the amendment of the gentleman from Mississippi [Mr. TAYLOR].

Mr. Chairman, I appreciate the regard of the gentleman from Florida [Mr. McCOLLUM] for the HAP program, Humanitarian Assistance Program, and I wish to call my colleagues' attention to the fact that this amendment pending today by the gentleman from Mississippi [Mr. TAYLOR] in no way, to the best of my interpretation and counsel, impacts on the Humanitarian Assistance Program, and then the gentleman from Florida [Mr. McCOLLUM] makes the further argument that for national security purposes in the United States we may have to give a bulldozer, some special object, to one of our friendly allies somewhere in the world, and then to suggest that that is a very small part of the supplies that are given away each year and that most of it ends back in the pipeline of this country.

I rise today in support of the amendment of the gentleman from Mississippi [Mr. TAYLOR] because I am intimately aware of the entire supply system, from the beginning at the Pentagon all the way through the stages where this property becomes excess property, eventually surplus property, and it ultimately gets, down to the level of the State or municipal government use. I can assure the gentleman from Florida [Mr. McCOLLUM], if he is not aware of this fact, that almost 90 to 95 percent of Federal property disappears before it ever gets to the level of the State or municipal use, and when I say "disappears," I mean that somewhere along the line, by some program, whether it is the Humanitarian Assistance Program, whether it is a program under this enabling legislation that we are talking about today, or whether it is a transfer to some Federal agency or some other qualified agency in the program; but before it gets to the State level, most, if not all, of this qualified equipment leaves.

But worse than that, the equipment we are talking about here today is not surplus or not excess property. What we are talking about is class A, usable material worth in many instances hundreds, and thousands, and perhaps even millions of dollars for one piece of equipment. And yet, if we trace the amount of that equipment, heavy construction equipment, that comes through the Federal system, it ultimately ends up on the State or local level in this country. It is a damn shame, and the argument that the gentleman from Mississippi [Mr. TAYLOR] makes is right on that point.

Now we are sure we can frame some sort of protection in this bill that in emergency purposes the President could exact some of this equipment to send to specialized countries, but it is absolutely essential that the Congress recognize what the gentleman from Mississippi [Mr. TAYLOR] is attempting to do here, and it is something that should have been done years ago.

It is no longer 1960 or 1970 when this country is the wealthiest in the world and the big brother to every other nation in the world. It is now 1991. We are the greatest creditor nation in the world. We are handing out billions of dollars; I might say $25 billion in this bill alone in foreign aid, when in 1980 the housing bill of the United States was $32 billion and it is now only $14 billion some 11 years later, whereas foreign aid every year grows by 5, 6, 8 percent, and the argument always being that there is inflation and a greater need.

I think the point that the gentleman from Mississippi [Mr. TAYLOR] makes today, that I want to join in, is finally in 1991 this Congress ought to become aware of the fact that, yes, there is a greater need in the world, and part of that greater need is in the counties of Mississippi, Arkansas, Kentucky, West Virginia, Pennsylvania, and throughout the United States, and it is important that we, for the protection of our people, at least give our people the opportunity to get secondhand or used military equipment because we damn well know that we are not going to get the opportunity under community development or housing programs that exist in this country in 1991 for our communities to buy new equipment.

So, Mr. Chairman, I want to urge my colleagues to support the amendment which the gentleman from Mississippi [Mr. TAYLOR] offered and oppose the substitute offered by the gentleman from Florida [Mr. McCOLLUM].

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, I do not disagree with the gentleman from Pennsylvania [Mr. KANJORSKI] on some of his points, but I think other Federal agencies get a cut under the program, but I think the illustration he gave about the fact that there are other Federal agencies getting a cut under the program, that there is a whole system of process which is very important to understand here. We are not dealing with something, an amendment of this nature, that is as broad as it is and ought to be put in here tonight. We ought to allow this some flexibility, and the gentleman has indicated an emergency situation with the President. I do not even think that word is appropriate. That is why my amendment would allow for the President to designate, if it is of vital interest to the United States, but there be an exception for this purpose.

Mr. KANJORSKI. Mr. Chairman, reclaiming my time for a moment, let me explain the program to the gentleman from Florida [Mr. McCOLLUM] so he will see. The program we are talking about here is equipment that comes right off the first choice of needed battlefield equipment, comes into the second line of the Pentagon, and it can go to foreign nations.

□ 1830

The States of this country and the counties of this country have to wait until it goes down four pecking orders to the Pentagon.

The CHAIRMAN (Mr. McDERMOTT). The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired.

Mr. KANJORSKI. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 2 additional minutes.

Mr. FASCELL. Mr. Chairman, may I inquire, how much debate time do we have remaining?

The CHAIRMAN pro tempore. There are 4 minutes left of the 8 hours of debate.

Mr. FASCELL. Mr. Chairman, I have two speakers over here, the gentleman from Mississippi [Mr. TAYLOR] and the gentlewoman from Ohio [Ms. OAKAR]. May I ask, can the gentleman complete this in 1 minute?

Mr. KANJORKSI. Yes, Mr. Chairman, I can.

Mr. FASCELL. I yield 1 minute to the gentleman from Pennylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, what happens is that the counties and the cities of America get in about the seventh pecking order. After it goes through four pecking orders, the second one of which goes to foreign countries, it has to go down to the bottom of the Pentagon, and then it gets to the Federal agencies of the United States. Then it goes down a further order to another pecking order of special interest groups in the United States and abroad, and then it gets declared. If nobody else wants the equipment, they get the surplus, and then finally the poor counties, cities, and States can go in and get their equipment.

Mr. McCOLLUM. Mr. Chairman, if the gentleman will yield, I understand his grips, but the thing that is being done here is just too darned broad and too sweeping. You are taking it all away and doing just the other side of it. You have got to find some balance, and that is why I offered the amendment I did. We will have plenty of other chances on other bills to come along and do what the gentleman wants to do in some modest and reasonable fashion, but this is a very gutting amendment to the program that is currently the excess program.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired.

Mr. FASCELL. Mr. Chairman, I move to strike the last word, and I yield to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to thank the chairman of this committee, and especially the gentleman from Indiana [Mr. HAMILTON], for including humanitarian assistance in the foreign aid bill for Lebanon. The people there have suffered. There are many, many innocent people in Lebanon who have humanitarian needs and physical needs, and the aid that was put in the bill will go to humanitarian organizations.

In addition, I want to thank the gentleman for accepting my amendment in the en bloc amendments that would take my recommendation to have a study done relative to acknowledging the American University at Beirut, which has served as an intellectual, cultural, and humanitarian institution among the people of that region for 125 years and helped the people to survive.

Mr. Chairman, I am very, very grateful, and I thank the gentleman very much for his help.

Through thick and thin the American University of Beirut has been an anchor of stability in Lebanon. It is one of the finest academic institutions in the world. This amendment is consistent with the Foreign Affairs Subcommittee on Europe and the Middle East's report, which states,

> The subcommittee supports continued funding for AUB from non-ASHA funds. The subcommittee also feels it is incumbent on U.S. AID and State Department officials, together with AUB officials, to explore stable funding options for AUB for the future so that this university and its hospital can continue to perform a key role in the extraordinarily difficult situation in Lebanon.

This amendment is also consistent with last year's foreign operations appropriation's report, which recommended that the Agency for International Development address the American University in Beirut's deficit through ASHA [American Schools and Hospitals Abroad] and non-ASHA AID funds.

My amendment would simply take these recommendations a step further, by requiring AID to make recommendations in writing in the form of a report to Congress.

The American University of Beirut has served as an intellectual, cultural, and humanitarian bridge between the peoples of the Middle East and the United States for 125 years. AUB has consistently worked to foster the tolerance and open dialog that are essential to a democratic society. The American University of Beirut hospital has played an extremely important role in healing the people of Lebanon. During the worst fighting in the last few years, the hospital treated nearly 21,000 of Beirut's injured, from both Christian and Muslim sectors of the city, in 1 year. Currently, the hospital is playing a leading role in providing prosthetic medicine.

Supplemental funding for AUB is needed to allow it to revitalize its operations after more than 15 years of turmoil in Lebanon, to provide leadership in the physical, social, and medical rehabilitation of Lebanon, and to broaden its activities throughout the Middle East to provide the intellectual base on which democratic institutions can be built in that region.

I urge Members to support my amendment.

Mr. FASCELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

In this bill there are two nations that will receive more financial assistance from the United States of America this year than my State. The amount of money in this bill is 5 times the annual budget of the State of Mississippi.

Enough is enough. There was a time when the rest of the world was devastated and we were wealthy and we gave the world our help, but there must also come a time when we start looking out for our own.

I am not asking that we reject the entire package. I am asking that a portion of those things that the President would like to give away to other nations remain in this Nation to address needs in this Nation for people who do not have running water in this Nation, for people who do not live on a paved street and need to have it graded on a regular basis in this Nation.

The need exists. This is not greed. This is just simply looking out for the people we stood in front of last October and said, "We will be there for you if you need us." Those people need us. Those people have real needs. Let us take this equipment that the citizens of the United States of America have paid for and keep it here in America. That is a very simple request. To do what the gentleman from Florida [Mr. McCOLLUM] asks for is to give the President the authority to willy-nilly give this equipment away, in addition to the $25 billion in this bill.

Mr. Chairman, I say to the gentleman from Florida [Mr. McCOLLUM] that that is too much. We have to draw the line somewhere. I think we need to draw the line on this construction equipment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. McCOLLUM] to the amendment, as modified, offered by the gentleman from Mississippi [Mr. TAYLOR].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. STAGGERS) having assumed the chair, Mr. McDERMOTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. RAHALL. Mr. Speaker, I was unavoidably absent for the vote on restricting aid to India unless the President is able to verify that India is not pursuing nuclear weapons capability. If I had been present and voting, I would have voted "no."

LEGISLATIVE PROGRAM

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute.)

Mr. McCOLLUM. Mr. Speaker, I take this time to address the House for 1 minute for the purpose of ascertaining the schedule for next week. I yield to the gentleman from Pennsylvania [Mr. GRAY] for the purposes of explaining the schedule.

Mr. GRAY. Mr. Speaker, if the gentleman will yield, let me say to the gentleman that tomorrow the House will not be in session. There is no legislative business on tomorrow.

On Monday, the House will meet at noon, and there is no legislative business scheduled.

On Tuesday, the House will meet at noon. We will take up the Treasury, Postal Service, general government appropriations bill for 1992. Then we will consider the bill authorizing foreign assistance and related programs for fiscal years 1992 and 1993. We would expect to complete consideration of the foreign assistance bill.

There is one suspension bill scheduled, the Federal Maritime Commission authorization bill for fiscal year 1992.

Then on Wednesday, the House will meet at 10 a.m. and consider the Foreign Operations appropriations bill for fiscal year 1992, which, of course, is subject to a rule.

Then on Thursday, the House will meet at 10 a.m. and bring up H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991.

On Friday, the 21st, the House will meet at 10 a.m., but there is no legislative business scheduled.

Mr. McCOLLUM. Mr. Speaker, I might inquire if the gentleman expects us to be in session late on Tuesday night.

Mr. GRAY. Mr. Speaker, it is our expectation that we will be in session late on Tuesday evening in order to complete consideration of the bill authorizing foreign assistance and related programs for fiscal years 1992 and 1993.

Mr. McCOLLUM. It appears, then, that the gentleman from Florida does not need to make a further comment. So we all know we are going to be in session late Tuesday night, unfortunately, but that is the way we work around here.

Mr. Speaker, I do not have any other questions. I think the gentleman has explained the schedule adequately.

ADJOURNMENT TO MONDAY, JUNE 17, 1991

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GRAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A TRIBUTE TO THE BALTIMORE GAS AND ELECTRIC COMPANY ON ITS 175TH ANNIVERSARY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, I rise to honor the 175th anniversary of the Baltimore Gas & Electric Co. Before the coming of the railroad, before Samuel Morse telegraphed his first message from inside of this building, before the Erie Canal opened its locks, the Gas Light Co. of Baltimore, BG&E's direct predecessor, was lighting the streets of Baltimore. In fact, it was America's first gaslight company.

Although BG&E has had a luminous history, we should not just concern ourselves with their past. The company currently is concerning itself with the energy needs of this country, bringing the central Maryland area natural gas, hydroelectric power and nuclear energy, and in doing so, lessening our dependence on foreign oil. BG&E provides over a million people with reliable energy at prices among the lowest on the eastern seaboard.

However, BG&E's most visionary strides are taking place at the moment. The company has embarked on an extensive conservation program to mitigate the need for additional power generation, searching the horizon for new and better ways to serve its customers.

But these are not the only resources that BG&E provides Maryland. The company not only supports local charities and the arts, but also its employees—over 9,000 strong—comprise one of the largest volunteer forces in the State.

Happy birthday BG&E, and thank you for lighting up our lives!

□ 1840

GENERAL LEAVE

Mr. SERRANO. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and to include extraneous material on the special order given today by the gentleman from Indiana [Mr. HAMILTON].

CONGRESSIONAL INTERNSHIPS

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. RAY. Mr. Speaker, I rise today to highlight some of the fine work done by student interns.

I believe it is important that we give special attention to the young people and future leaders of our nation.

In this House we debate the merits of various educational programs. Many times we cannot see the effect of these programs for years.

However, because of Congressional internships, we have a chance to directly affect the life of a young man or a young woman every day. Every Member of this House can give a young person the opportunity to come to Washington and experience an exciting new world and to be introduced to the legislative process.

Most Americans don't live in big cities. Most Americans are like the folks in my district. They live in small towns and rural places. It is particularly beneficial to these young Americans to learn what life in a big city is like.

Local businesses in the Third District of Georgia have been generous in their support of students wishing to work in Washington. Students from Lagrange, Columbus, and Fort Valley State Colleges leave their homes and come to Washington each year.

As these young students learn their way around the Nation's Capital, they discover the roots of American history. They read the immortal words of Abraham Lincoln inscribed in his memorial. They listen to the debates of our time, here, on the floor of this House. They write their impressions of this, and they take back with them a vision of what has been, and what may be.

I would like to submit for the RECORD two papers. The first was done by one of my current interns, Miss Joanne Phillips of Cochran, GA, and a student of Presbyterian College in South Carolina. It is an enlightening biographical history of some of Georgia's greatest leaders. The second is an impressive look at the current debate over fast-track done by Sherry Young, a student at Fort Valley State College in Fort Valley, GA.

I commend the work of both of these young women, and I commend all of my colleagues who encourage young people to come to Washington to learn, to dream, and to take part in this great experiment in democracy.

CHRONOLOGY OF MEMBERS OF CONGRESS REPRESENTING THE THIRD DISTRICT OF GEORGIA

(By Joanne Phillips)

This paper is a chronology of members of Congress representing the Third District of Georgia. This paper includes a short biography of the forty-six Congressmen that have occupied this seat. This chronology begins in 1799 and continues to the present.

The Third Congressional District of Georgia was first developed in the Seventh Congress. The first occupant was Benjamin Taliaferro. He was born in Virginia in 1750. During the Revolutionary War, he served as a Lieutenant in the Rifle Corps. He moved to Georgia in 1785. He served in the State Senate, and was President. He was a delegate to the State Constitutional Convention in 1798. He was elected as a Republican to the Seventh Congress and served from March 4, 1799–1802. He died in Wilkes County, Georgia on September 3, 1821.

Samuel Hammond was born in Farnham Parish, Richmond County, Virginia on September 21, 1751. He was a soldier in the Continental Army during the Revolutionary War. He was the Surveyor General of Georgia in 1796. Mr. Hammond was a member of the Georgia House of Representatives from 1796–1798, and a member of the State Senate from 1799–1800. He was elected to the Eighth Congress and served from March 4, 1803–February 2, 1805. He served as Civil and Military Governor of the Upper Louisiana Territory. He died in Augusta, Georgia on September 11, 1842.

Peter Early was born in Madison, Virginia on June 20, 1773. He attended Lexington Academy and Princeton College. He graduated from Princeton College in 1792 and began his Law Practice in Wilkes County, Georgia. He was elected to the Ninth Congress, January 10, 1803–March 3, 1807. After his term in Congress, he served as Justice of the Supreme Court and Governor of Georgia from 1813–1815. He was a member of the State Senate from 1815–1817. He died on August 15, 1817 in Greene County, Georgia.

Dennis Smelt was born in Savannah, Georgia in 1750. He participated in the Revolutionary War. He occupied the third district seat during the tenth and eleventh Congresses. This was from September 1, 1806–March 3, 1811. This is all the information found on Congressman Smelt.

William Barnett was born in Amhearst County, Virginia on March 4, 1761. He move to Columbia County, Georgia when he was a young child. During the Revolutionary War, he joined a military compnay under LaFayette. He was present at the surrender of Cornwallis at Yorktown. He returned to Elbert County, Georgia after the war. He was a member of the State Senate. He was elected as a Republican to Twelfth Congress and served from October 5, 1812–March 3, 1815. He died in Montgomery County, Alabama in April of 1832.

Alfred Cuthbert was born in Savannah, Georgia on December 23, 1785. He graduated from Princeton College in 1803. He was the Captain of a Company of Volunteer Infantrymen in 1809. Cuthbert was a member of the State House of Representatives from 1810–1813. He was elected as a Republican to the Thirteenth Congress and served from December 13, 1813–November 9, 1816. He was a member of the State Senate from 1817–1819. He served in the United States Senate from January 12, 1835–March 3, 1843. He died in Monticello, Georgia on July 9, 1856.

Zadock Cook was born in Virginia on February 18, 1769. He moved to Hancock County, Georgia in 1772. He and his family were among the first settlers of Clark County. Cook was a member of the Washington County Militia in 1793. He was a member of the State House of Representatives from 1806–1807 and again in 1822. He was a member of the State Senate from 1810–1814, and from 1823–1824. He was elected to the Fifteenth Congress, and served from December 2, 1816–March 3, 1819. He died in Watkinsville, Georgia on August 3, 1863.

Joel Crawford was born in Columbia County, Georgia on June 15, 1783. He studied law at Litchfield Law School. He began his law practice in Sparta, Georgia in 1808. He moved to Milledgeville, Georgia in 1811. He served as a second Lieutenant in the war with the Creek Indians. Crawford was a member of the State House of Representatives from 1814–1817. He was a Republican elected to the Sixteenth Congress, serving from March 4, 1817–March 3, 1821. He was a member of the State Senate from 1827–1828. He died in Blakely, Georgia on April 5, 1858.

George Gilmer was born in Lexington, Georgia on April 11, 1790. He was a second Lieutenant in the forty-third regiment of the United States Infantry from 1813–1815. He practiced law in Lexington, Georgia beginning in 1818. He was a member of the State House of Representatives in 1818, 1819, and 1824. He was member of the Seventeenth Congress, serving from March 4, 1821–March 3, 1823. He served as Governor of Georgia from 1829–1830. He died in Lexington, Georgia in November of 1859.

Thomas Cobb was born in Columbia County, Georgia in 1784. He studied and then practiced law in Lexington, Georgia. He later moved to Greensboro, Georgia. He was elected to the Eighteenth Congress, and served from March 4, 1823–December 6, 1824. He was elected to the United States Senate to fill the vacancy caused by the death of Nicolas Ware. He served from December 6, 1824–1828. He died in Greensboro, Georgia on February 1, 1830.

John Forsyth was born in Fredericksburg, Virginia on October 22, 1780. He went to the graduate college of New Jersey and graduated in 1799. He practiced law in Augusta, Georgia. He was Attorney General of Georgia in 1808. He was a Republican to the Fourteenth Congress and served from March 4, 1813–November 23, 1818. He was a Republican to the U.S. Senate, serving from November 23, 1818–February 12, 1819. He was Minister to Spain from 1819–1823. He was reelected to the Nineteenth Congress, serving from March 4, 1823–November 7, 1825. Forsyth was Governor of Georgia from 1827–1829. He was a Jacksonian to the U.S. Senate to fill the vacancy caused by the resignation of John MacPherson Berrien. He served from November 9, 1829–June 27, 1834. He was Secretary of State under Presidents Jackson and Van Buren. He died in Washington, D.C. on October 21, 1841.

Richard Wilde was born in Dublin, Ireland on September 24, 1789. He immigrated to the United States in 1897, moving to Baltimore, Maryland. In 1802, he moved to Augusta, Georgia. He engaged in mercantile pursuits while he was studying law. He began his law practice in Augusta. He was solicitor general of Superior Court of Richmond County from 1811–1813. He was elected to the Twentieth Congress to fill the vacancy caused by the resignation of John Forsyth. He served the remainder of this term, but was not reelected in this district. He died in New Orleans, Louisiana on September 10, 1847.

Henry Lamar was born in Clinton, Georgia on July 10, 1798. He practiced law in Macon, Georgia. He was a State Superior Court judge and a member of the State House of Representatives. He was elected as a Jacksonian to the Twenty-First Congress to fill the vacancy caused by the resignation of George Gilmer. He died in Macon on September 10, 1861.

Wilson Lumpkin was born in Dan River, Virginia on January 14, 1783. He moved to Oglethorpe County, Georgia in 1784. He taught school and farmed for a few years before beginning a law practice in Athens, Georgia. He was a member of the State House of Representatives from 1804–1812. He was a member of the Twenty-Second Congress, serving from March 4, 1827–1831. He was Governor of Georgia from 1831–1835. He served in the U.S. Senate from November 22, 1837–March 3, 1841. He died in Athens, Georgia on December 28, 1870.

Thomas Foster was born in Greensboro, Georgia on November 23, 1770. He graduated from Franklin College in 1812. He studied law at Litchfield Law School and began practicing law in Greensboro. He was a member of the State House of Representatives from 1822–1825. He was elected to the Twenty-Third Congress. His term lasted from March 4, 1829–March 3, 1835. He died in Columbus, Georgia on September 14, 1848.

William Schley was born in Frederick, Maryland on December 15, 1786. He moved to Georgia in 1790. He began practicing law in Augusta, Georgia in 1812. He was judge of the Superior Court from 1825–1828. He was a member of the State House of Representatives in 1830. He was a Jacksonian to the Twenty-Fourth Congress, from March 4, 1833–July 1, 1835. He was Governor of Georgia from 1835–1837. After this, he became President of Georgia Medical College. He died in Augusta, Georgia in 1858.

Thomas Glascock was born in Augusta, Georgia on October 21, 1790. He practiced law in Augusta. He was a delegate to the Constitutional Convention in 1798. He was Captain of Volunteers in the War of 1812. He was a member of the State House of Representatives in 1821–1823, 1831–1834, and in 1839. He was Speaker of the House in 1833–1834. He was a Democrat to the Twenty-Fifth Congress, serving from October 5, 1835–March 3, 1839. He died in Decatur, Georgia on May 19, 1841.

Walter Colquitt was born in Halifax County, Virginia on December 27, 1799. He later moved to Mount Zion, Georgia. He attended Princeton College, and began practicing law in Sparta and Cowpens, Georgia. He was judge of the Chattahoochee circuit in 1826 and 1829. He was a Methodist preacher in 1827. He was a member of the State Senate in 1834 and 1837. He was a Whig to the Twenty-Sixth Congress from March 4, 1839—July 21, 1840. He was a Democrat to the U.S. Senate from March 4, 1843–February 1848. He died in Macon, Georgia on May 7, 1855.

William Dawson was born in Greensboro, Georgia on January 4, 1798. He graduated from Franklin College in 1816. He began practicing law in Greensboro in 1816. He was a member of the State House of Representatives. He was a Whig to the Twenty-Seventh Congress, from November 7, 1836–November 13, 1841. He was a judge in the Ocmulgee Circuit Court in 1845. He was a Whig to the U.S. Senate from March 4, 1849–March 3, 1855. He died in Greensboro, Georgia on May 5, 1856.

Absalom Chappell was born in Mount Zion, Georgia on December 18, 1801. He graduated from the University of Georgia Law School in 1821. He practiced law in Sandersville, Georgia. He moved to Forsyth in 1824. He was a member of the United States Senate 1832–1833. He was a member of the State House of Representatives from 1834–1839. He was a delegate to the Knoxville Convention in 1836. He was a Whig to the Twenty-eighth Congress, serving from October 2, 1843–March 3, 1845. He died in Columbus, Georgia on December 11, 1878.

Seaborn Jones was born in Augusta, Georgia on February 1, 1788. He studied law at Princeton College and began his law practice in Milledgeville, Georgia in 1808. He was the solicitor general of Georgia in 1823. He was a Democrat to the Twenty-ninth Congress, serving from March 4, 1845–March 3, 1847. He died on March 18, 1864.

John Jones was born in Rockville, Maryland on April 14, 1806. He practiced medicine in Washington, Tennessee before moving to Monroe, Georgia in 1829. He was a member of the State House of Representatives in 1837. He was a Whig to the Thirtieth Congress, from March 4, 1847–March 3, 1849. He died on April 27, 1871.

Marshall Wellborn was born in Eatonton, Georgia on May 29, 1808. He attended the University of Georgia and studied law. He began practicing law in Columbus, Georgia after his graduation from college. He was a member of the State House of Representatives from 1833–1834. He was Judge of the Superior Court of Georgia from 1838–1842. He was a Democrat to the Thirty-first Congress, serving from March 4, 1849–March 3, 1851. He was a Baptist minister until his death on October 16, 1874.

David Bailey was born in Lexington, Georgia on March 11, 1812. He was elected to the State Legislature before he was twenty-one years old but he could not take this seat because it was a requirement to be at least twenty-one. He was a member of the State House of Representatives from 1835–1847. He was a member of the State Senate in 1838, 1849, 1850, and 1855–1856. He was a delegate to the Democratic County Convention in 1839 and 1850. He served as Secretary of the State Senate from 1839–1841. He was a State's Right's Candidate to the Thirty-second and Thirty-third Congresses, serving from March 4, 1851–March 3, 1855. He died on June 14, 1897.

Robert Trippe was born in Monticello, Georgia on December 21, 1819. He attended Randolph-Macon College and Franklin College. He graduated in 1839 from law school at Franklin College. He began practicing law in Forsyth, Georgia. He was a member of the State House of Representatives from 1849–1852. He was an American Party candidate to the Thirty-fourth and Thirty-fifth Congresses serving from March 4, 1855–March 3, 1859. He was a State Senator from 1859–1860. He died on July 22, 1900.

Thomas Hardeman was born in Eatonton, Georgia on January 12, 1825. He graduated from Emory College in 1845, and began practicing law. He was a member of the State House of Representatives in 1853, 1855, and 1857. He was an opposition candidate to the Thirty-sixth Congress. He served from March 4, 1859–January 23, 1861. He served in the Confederate Army during the Revolutionary War. He was a member of the State House in 1863, 1864, and 1874. In 1872, he was a delegate to the Democratic National Convention. He died on March 6, 1891.

The seat was vacant from 1861–1867 due to the Revolutionary War.

William Edwards was the first person to serve after the war. He was born in Talbotton, Georgia on November 9, 1835. He graduated from Collinsworth Institute in 1856, and began practicing law in Butler, Georgia. He was a member of the State Constitutional Convention in 1857–1858. He was a Republican to the Fortieth Congress, from July 25, 1868–March 3, 1869. He died on June 28, 1900.

Marion Bethune was born in Greensboro, Georgia on April 8, 1816. He practiced law in Talbotton prior to his becoming Probate Judge of Talbot County from 1852–1868. He was a member of the Constitutional Convention of Georgia at the time of the repeal of the ordinance of secession. He was a member of the State House from 1867–1871. He was elected as a Republican to the Forty-first Congress, serving from December 22, 1870–March 3, 1871 to fill the seat that William Edwards was declared ineligible to hold. He died in Talbotton, Georgia on February 20, 1895.

John Bigby was born in Newnan, Georgia on February 13, 1832. He graduated from Emory College in 1853, and began his law practice in Newnan. He was a member of the State Constitutional Conventions in 1867–1868. He was elected to the Forty-second Congress which was from March 4, 1871–March 3, 1873. He was a delegate to the Republican National Convention in 1876. He died on March 28, 1898.

Richard Whiteley was born in County Kildare, Ireland on December 22, 1830. He came to the United States in 1836, and settled in Georgia. He studied law and began his practice in Bainbridge. He was a member of the State Constitutional Convention in 1867. He was elected to the U.S. Senate in 1870 to fill the vacancy caused by the declaration that Nelson Tift was ineligible to fill the seat. Whiteley served as a Republican in the Forty-third Congress, from December 22, 1870–March 3, 1875. He died on September 26, 1890.

Philip Cook was born in Twiggs County, Georgia on July 30, 1817. He graduated from Oglethorpe University in 1837. He practiced law in Forsyth, Georgia in 1841–1842. He was a member of the State Senate from 1859–1860, and from 1863–1864. He was elected as a Democrat to the Forty-fourth, Forty-sixth, and Forty-seventh Congresses. He died on May 24, 1894.

William Smith was born in Augusta, Georgia on March 14, 1829. He practiced law in Albany, Georgia. He was Solicitor General of the Southwest circuit from 1858–1860. He was a Democrat to the Forty-fifth Congress, serving from March 4, 1875–March 3, 1876. He was the President of the Democratic State Convention in 1886. He was a member of the State Senate from 1886–1888. He died on March 11, 1890.

Charles F. Crisp was born in Sheffield, England on January 29, 1845. He moved to Georgia in 1845. He practiced law in Ellaville, Georgia. He was Solicitor General of the Southwestern Judicial Circuit from 1872–1877. He was judge of the Superior Court the southwestern circuit from 1877–1880. He was Democratic gubernatorial convention in Atlanta, in April of 1883. He was a member of the Forty-eighth through the Fifty-third Congresses. He served from March 4, 1883–October 23, 1896, when he died. He served as Speaker of the House during his term.

James Griggs was born in LaGrange, Georgia on March 29, 1861. He graduated from Peabody Normal College in 1881. He taught school and studied law before beginning a law practice in Alapaha, Georgia. He moved to Dawson, Georgia in 1855, and became the Solicitor General of the Pataula judicial circuit in 1888. He was a delegate to the Democratic National Convention in 1892. He was a Democrat to the Fifty-ninth Congress, from March 4, 1896–his death (January 5, 1910).

Elijah Lewis was born in Coney, Georgia on March 27, 1854. He attended business school in Macon before moving to Montezuma in 1871. He was a member of the State Senate from 1894–1895. He was a Democrat to the Fifty-fifth through the Fifty-eighth Congresses. He served from March 4, 1897–March 3, 1909. He died on December 10, 1920.

Seaborn Roddenberry was born in Bainbridge, Georgia on January 12, 1870. He taught at South Georgia College for a year before being elected to the State House in 1892. He was the mayor of Thomasville, Georgia in 1903–1904. He was a Democrat to the Sixty-first Congress to fill the vacancy caused by the death of James Griggs. He served from February 16, 1910–September 25, 1913, when he died.

Dudley Hughes was born in Jeffersonville, Georgia on October 10, 1848. He graduated from the University of Georgia in 1870. He was a member of the State Senate from 1882–1883. He was a Democrat to the Sixty-second Congress, serving from March 4, 1909–March 3, 1917. He died on January 20, 1927.

Frank Park was born in Tuskegee, Alabama on March 3, 1864. He taught school from 1882–1885, before beginning his law practice in Atlanta. He was Chairman of the Democratic Executive Committee on Worth County from 1891–1902. He was the Chairman of the Democratic Executive Committee of the second district of Georgia. He was a Democrat to the Sixty-third Congress to fill the vacancy caused by the death of Seaborn Roddenberry. He served from November 5, 1913–March 3, 1925. He died on November 20, 1925.

Charles R. Crisp was born in Ellaville, Georgia on October 19, 1870. He was the Clerk of the Interior Department in Washington, D.C. from 1889–1891. He was Parliamentarian of the House of Representatives from 1891–1895. He practiced law in Americus before being elected as a Democrat to the Fifty-fourth Congress to fill the vacancy caused by the death of his father, Charles F. Crisp. He served from December 19, 1896–March 3, 1897. He was judge of the city court of Americus from 1900–1912. He was reelected to the Sixty-fourth–the Seventy-first Congresses. He served from March 4, 1913–October 7, 1932. He died in Americus, Georgia on February 7, 1937.

Edward Cox was born in Camilla, Georgia on April 3, 1880. He graduated from Mercer University Law School in 1902. He practiced law in Camilla and was elected Mayor of Camilla in 1904. He was a delegate to the Democratic National Convention in 1908. He was Judge of the Albany Circuit of the Superior Court from 1912–1916. He was a Democrat to the Seventy-second Congress, serving from March 4, 1925–December 24, 1952.

Bryant Castellow was born in Georgetown, Georgia on July 29, 1876. He graduated from the University of Georgia Law School in 1897, and began a practice in Fort Gaines, Georgia. He was Solicitor of the Clay County Circuit from 1900–1901, and Judge of this circuit from 1901–1905. He was a Democrat to the Seventy-third and Seventy-fourth Congresses. He died in Cuthbert, Georgia on July 23, 1962.

Stephen Pace was born in Terrell County, Georgia on March 9, 1891. He graduated in 1914 from the University of Georgia Law School. He was a member of the State House of Representatives from 1917–1920. He was a member of the State Senate from 1923–1924. He was a Democrat to the Seventy-fifth through the Eighty-first Congresses. He died in Americus, Georgia on April 5, 1970.

Elijah Forrester was born in Leesburg, Georgia on August 16, 1896. He began practicing law in 1919 in Leesburg, Georgia. He was Mayor of Leesburg from 1922–1931. He was a Delegate to the Democratic National Convention in 1948 and in 1952. He was a Democrat to the Eighty-second through the Eighty-eighth Congresses. He died on March 19, 1970.

Howard Callaway was born in LaGrange, Georgia on April 2, 1927. He graduated from West Point Military Academy in 1949. He served in Korea as Infantry Platoon Leader and Instructor in tactics at Infantry School. He was President of Callaway Gardens from 1953–1970. He was elected to the Eighty-ninth Congress, serving from January 3, 1965–January 3, 1967.

Jack Brinkley was born in Faceville, Georgia on December 2, 1930. He graduated from Young Harris College in 1949. He was a U.S. Air Force pilot from 1951–1956. He graduated from the University of Georgia Law School in 1959, and began practicing law in Columbus. He was a member of the State House of Representatives from 1965–1966. He was a Democrat to the Ninetieth–the Ninety-seventh Congresses. He served from January 3, 1969–January 3, 1983.

Richard Ray was born in Fort Valley Georgia on February 2, 1927. He served in the U.S. Navy from 1944–1946. He was a farmer from 1946–1950. He was Mayor of Perry from 1964–1970. He served as Administrative Assistant to Senator Sam Nunn from 1972–1982. He was elected as a Democrat to the Ninety-eighth–the One Hundred Second Congresses. He has served from January 3, 1983–the present.

THE NORTH AMERICA FREE TRADE AGREEMENT AND FAST TRACK NEGOTIATING AUTHORITY

(By Sherry Young)

The North American Free Trade Agreement (NAFTA) is a proposed agreement to implement trade between the United States, Canada and Mexico. The Agreement would be considered under a "fast-track" procedure. This procedure has been stated to be the most important issue concerning free-trade negotiations. Fast-track authority means that, if the President has consulted closely with the Congress during negotiations, the Congress agrees to consider legislation to implement the trade agreement under expedited procedures. Fast-track negotiating authority is automatically extended unless at least one house of Congress adopts a resolution disapproving the extension. Such a resolution was considered by Congress and failed to gain a majority in either house. Because of this the President's fast-track negotiating authority has been extended through May 31, 1993 pursuent to his request.

The fast-track procedure is of relatively recent origin. It is directly derived from the 1974 Trade Act which allowed for the Executive Branch to have authority to negotiate with foreign countries, and Congress to implement legislation affecting commerce.

On March 1, the fast track authority under which the Administration had been conducting the current negotiating round of General Agreements on Tariffs and Trade (GATT) expired. The President requested an extension of his current fast-track authority.

On May 1, 1991, President Bush sent a letter to leaders of the U.S. Congress in an attempt to respond to the concerns raised in Congress during the past six months about potential adverse consequences of a Free Trade Agreement with Mexico and Canada. Included in those concerns were questions about environmental destruction and suppression of labor rights.

Noting that the standard of living in Mexico is much lower than that in Canada, critics fear that Mexico's governmental need for improved economics may encourage the country to allow business investments with minimal environmental health and safety regulations.

An added weight to the environmental concerns is that of the maquiladora, a free trade zone that already exists on the border. This zone allows U.S. plant's operating within it to ship it's products to the United States without paying any duties and to market them as if they were goods produced in the U.S. This duty-free transport across the border would apply to products produced in any part of Mexico under the proposed North America Free Trade Agreement. The downside is that these goods are produced without the environmental and worker safeguards required by U.S. law. Making them cheaper for the companies to produce but potentially dangerous to the public's health and environment. Because of the noxious high levels of pollutants coming from the maquiladora zone, Mexico's "New River" is now considered to be the most polluted river in North America.

Suppression of labor rights and standards is also on the list of grievances for those who oppose the fast-track proposal. The American Federation of Labor and Congress of Industrial Organizations say that the U.S.-Mexico free trade agreement would be a disaster for workers in both countries, and it would eliminate jobs in the United States, while perpetuating exploitation of workers and inflicting widespread damage on the environment in Mexico. The beneficiaries would be multinational corporations and large banks.

The problems faced by Mexican workers are demonstrated by the decline in the Mexican minimum wage, which is currently $.59 an hour. The devaluation of the peso has made Mexican wages, in U.S. dollar terms, among the lowest in the world.

DECLINE OF THE MINIMUM WAGE IN MEXICO

Year	Minimum wage (pesos)	Peso-to-dollar rate	Hourly minimum wage (48hr week)
1980	197.70	22.97	1.26
1981	257.30	24.52	1.53
1982	412.00	56.40	1.07
1983	606.70	102.10	0.74
1984	935.70	167.80	0.81
1985	1,456.70	257.90	0.83
1986	2,406.50	611.80	0.57
1987	5,410.90	1,378.00	0.57
1988	10,150.80	2,273.00	0.65
1989	11,439.90	2,461.00	0.68
1990	11,894.00	2,920.00	0.59

Source: Economic Commission for Latin America and the Caribbean.

There have been several studies on the proposed United States-Mexico free trade agreements, ranging from economics to agriculture. Non-supporters grudgingly admit that there will be a small net benefit to the United States, but note that there will also be losses.

Those losses are felt most intensely within the agricultural sector the primary opponent to the Agreement. The Agriculture Department is analyzing the impact of the NAFTA on different agriculture agro-processing sectors and the U.S. economy using different economic models. One productive crop that the Agriculture Department notes may be negatively affected is peanuts.

The Georgia Agricultural Commission for Peanuts has asked U.S. Trade Representative, Carla Hills, to remove peanuts from the negotiations. Carla Hills has refused to do so. Because of her refusal, The Georgia Commission for Peanuts has announced its opposition to the extension of fast-track. They fear that current negotiations will lead to a GATT agreement that would be destructive to the peanut growers and the peanut economy in Georgia.

Other agricultural concerns lie within the cotton, dairy, sugar, wool and textiles industries. Opponents of the negotiations argue that these sectors may be traded away to achieve questionable and unspecified gains.

Proponents of fast-track feel that trade negotiations cannot be handled effectively without its addition. They feel that the fast-track procedure will eliminate delayed implementation of an agreement and prevent any unilateral revision of the agreement by Congress.

Opponents of fast-track say that its extension is not needed. They declare that many successful trade negotiations have been carried out without the use of the fast-track procedure and that its presence in Congress would do more harm than good.

A proposal introduced by Representative Byron Dorgan would have provided for a disapproval of the extension of "fast track" procedures for trade agreements entered into after May 31, 1991.

The bill has acquired approximately one hundred cosponsors. Among these are Georgia Representatives Richard Ray, Lindsay Thomas and Buddy Darden.

In addition to the possibility of simply disapproving the extension entirely, other possibilities for Congressional action which have been mentioned include allowing the extension only for GATT but not for Mexico talks (or vice versa), or allowing the extension for all negotiations but giving more specific guidance concerning the contents of the agreement.

House Resolution 146 was introduced by Representative Richard Gephardt on May 9, 1991. Its intent is to express support for fast-track authority on the expectation that the President will fulfill his commitments regarding labor, environmental, and health concerns in the United States-Mexico trade agreement. It also sets objectives to be achieved in future trade agreements. This resolution was passed by Congress on May 23, 1991 by a vote of 329 to 85.

The House defeated House Resolution 101 on a vote of 192 to 231.

As a result of the recent vote on fast track, the President now has the ability to utilize the fast track procedure in any future trade negotiations.

Opponents claim the fast-track procedure is simply "a fast-track to a dead end." Whether they are right or wrong remains to be seen. Only in the implementation of future negotiations will the truth be truly known.

INTRODUCTION OF THE FREE MARKET ASSISTANCE AND TECHNOLOGICAL INNOVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, I introduce a bill today which encourages U.S. businesses to become more competitive, while providing much-needed aid to firms located in the emerging democracies of Eastern Europe.

Further, and just as important, the bill extends for 1 year two provisions now provided by the Federal Government to promote technological innovation by U.S. firms: The R&E tax credit and the foreign allocation rules.

The bill would establish a 2-year, $2 billion demonstration project to provide companies a special tax benefit. The companies must be willing to donate used or surplus equipment and machinery to privately owned firms in Eastern European emerging democracies.

The U.S. businesses would then be able to upgrade their own equipment or machinery, thereby improving their competitive position in the global marketplace.

One example which comes to mind is in the area of communications. Eastern European nations are in sore need of upgraded telephone systems, while in the United States there is a move to upgrade to the new digital technology from the older analog technology. U.S. communications companies could donate the older technology to firms in the emerging democracies and then upgrade to the newer technology. The older technology is still useful and would provide a significant improvement to firms located in Eastern Europe.

In my bill, the Commerce Department is charged with determining the needs of businesses in the emerging democracies, as well as with the distribution of tax benefits to U.S. companies who would like to fill those needs.

We hear frequent complaints that the United States can no longer compete with other nations—that we can't even compete with the Japanese when it comes to making a VCR. Extension of the R&E tax credit and allocation rule for R&E expenditures is crucial to spurring technological innovation in the United States. It should not be sacrificed at a time when we are encouraging U.S. businesses to become more competitive.

To pay for these provisions, I propose to, first, deny the deduction of losses by those who acquired savings and loan institutions if those losses have been reimbursed by the Government and, second, disallow losses from certain debt pool exchanges.

Below I am including a detailed description of the bill.

FREE MARKET ASSISTANCE AND TECHNOLOGICAL INNOVATION ACT

Purpose:

I. To establish a two-year, $2 billion demonstration project to encourage U.S. firms to donate used equipment to Eastern European firms and replace such used equipment with new equipment.

II. To extend for one year the research and experimentation credit and the rule for allocation of research and experimental expenditures to promote technological innovation by U.S. firms.

III. To pay for the bill by: (1) denying deductibility of losses and expenses by those who acquired savings and loan institutions since January 1, 1981 and who have been reimbursed for those losses by FSLIC, the FSLIC Resolution Fund or RTC, and (2) disallowing losses from certain exchanges of debt pools.

TITLE I

A two-year, $2 billion program to allow charitable deductions for corporate contributions to private businesses in Eastern European emerging free market countries.

Eligible contributions include property and related shipping services and expenses. The property must be used by the donee organization for carrying out a trade or business and cannot be sold or traded by the donee.

Qualified recipients are business organizations which are: organized under the laws of and headquartered in the emerging free market country and conduct substantially all of their activities within such country; majority-owned by individuals who are citizens of and reside in such country or by non-governmental organizations which meet the requirements of qualified recipients; and, not owned or affiliated with the donor.

The Secretary of State designates Eastern European emerging free market countries as those countries moving toward political pluralism, economic reform, respect for human rights, and willingness to build a friendship with the U.S. Designations must be published in the Federal Register.

Deductions of eligible contributions of inventory would get the same deduction allowance given certain contributions to charitable organizations—cost plus one-half of the value in excess of the cost, but not exceeding twice the cost.

The Secretary of Commerce, in consultation with the Secretary of State, shall establish an information collection and dissemination program to facilitate and coordinate free market assistance contributions. The program would collect information about the needs of qualified businesses in such countries.

The Secretary of Commerce allocates Free Market Assistance Contributions (FMAC) to qualified corporations based on the following criteria: need for the proposed assistance within the emerging free market country; date by which the application is received; extent to which the proposed assistance consists of used machinery and equipment; extent to which FMAC amounts have been allocated previously to such corporation or such country; and extent to which small businesses have been involved.

The Secretary of Commerce and Secretary of the Treasury shall issue regulations within 30 days of enactment to implement the program.

TITLE II

One-year extension of the research and experimentation tax credit and the allocation rule for research and experimental expenditures—to promote technological innovation.

The official Joint Tax Committee estimate of the costs of a one-year extension of the R&E tax credit is $1.1 billion over a five-year period. Preliminary estimated costs of a one-year extension of the allocation rule for research and experimental expenditures are $600 million over a five-year period.

TITLE III

Clarifies that acquirers of savings and loan institutions cannot deduct losses or expenses that have been reimbursed by the FSLIC, FSLIC Resolution Fund or the Resolution Trust.

Covers FSLIC financial assistance paid with respect to assets disposed of on or after January 1, 1981.

Preliminary estimates suggest that this title could raise $3.5 billion over five years.

TITLE IV

Disallows losses to be taken by any corporation from the transfer of any debt pool in exchange for a substantially identical debt pool.

A "substantially identical debt pool" is defined as a pool which has the same effective interest rates and maturities, and the same overall risk in terms of nonpayment.

A "debt pool" is defined as any pool of debt obligations involving the obligations of 25 or more persons and are not traded on an established securities market.

Preliminary estimates indicate that this title will raise $500 million over five years.

IN PRAISE OF THE WICHITA STATE UNIVERSITY SHOCKERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, I rise in recognition of the Wichita State University Shocker baseball team, which completed an outstanding season in 1991, finishing in second place in the college world series. This was the team's third appearance in the college world series in the last 4 years.

These fine young men have brought great pride to the University, the community and to Kansas. Since 1978, coach Gene Stephenson has led an excellent coaching staff, culminating with a college world series championship in 1989. This year's team is as follows: Billy Hall, Mike Jones, Jim Audley, Tony Mills, John Lewallen, Jose Ramos, Chris Wimmer, Todd Dreifort, Tommy Tilma, Joey Jackson, Scott McCloughan, Doug Mirabelli, Charlie Giaudrone, Jaime Bluma, Spike Anderson, Kennie Steenstra, Jason White, Tyler Green, Darrin Paxton, Brian Buzard, Steve, Smith, Shane Dennis, Morgan Leclair, Darren Dreifoot, and Brian Morrow. The coaching staff includes Gene Stephenson, head coach; Brent Kemnitz, pitching coach; Loren Hibbs, assistant coach; Greg Miller, assistant coach; and David Chadd, graduate assistant.

The WSU Shockers were ranked No. 1 in the Nation for much of the season and finished with a record of 66 and 13. Billy Hall, who was named All-American, led the nation in stolen bases. Tyler Green, who finished with a 15–0 regular season record, was drafted in the first round by the Philadelphia Phillies. Over the years, many Shocker baseball players have gone on to play in the major leagues, and I'm sure this year's team will have its fair share.

Just as important as the accomplishments of the team on the field, were their accomplishments in the classroom as student-athletes. In fact, 11 members of this year's team made the honor roll at Wichita State.

I'm proud to represent WSU in Congress. My congratulations for yet another fine season to President Warren Armstrong, coach Stephenson, and the 1991 Shocker baseball organization.

RETIREMENT OF BARBARA LEWELLYN CAVAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, today is a special and bittersweet occasion for me and the Committee on Merchant Marine and Fisheries. Our chief clerk, Barbara L. Cavas, is retiring.

Barbara has been on Capitol Hill for over 23 years, has worked with me for over 17 years, and has served as chief clerk of the committee for over 10 years.

Yesterday's committee markup was the last one Barbara will clerk. No longer will we enjoy the clear, measured way she called the roll for recorded votes.

She has done an outstanding job, is intensely loyal, and will be sorely missed.

She has handled the many and often thankless administrative needs of the committee in a highly competent and cheerful way.

I can't tell you how many times members of this committee and people who deal with it have said how well run it is; much of the credit for that goes to Barbara.

She has had much to do with bringing the committee into the computer age.

A particular interest of hers has been refurbishing and beautifying the public spaces of the committee. Through her many friends in the arts community of North Carolina, she obtained the loan of the beautiful paintings for display in our hearing room and elsewhere in the committee premises. Tonight the committee will honor her with a special reception in our beautiful hearing room.

Barbara, you've meant so much to me and the committee. We'll all miss you very much. Thank you and Godspeed.

Mr. THOMAS of Georgia. Mr. Speaker, I had very mixed emotions when I heard that Barbara Cavas, chief clerk for the House Committee on Merchant Marine and Fisheries, would be retiring from her service in the Congress.

While I certainly wish Barbara well in all her future endeavors, which I understand will include traveling, gardening, and spending time with her three grandchildren, I know that everyone here in the Congress will miss Barbara and her dedication to the important work that she does.

I came to know Barbara through my service on the House Merchant Marine Committee from 1983–87. Barbara joined the committee staff in 1981, after spending 7 years working in Chairman WALTER JONES, personal office. Prior to that, she worked for Congressman Joe Kilgore of Texas and Congressman Homer Thornberry of Texas.

When I came to the Congress as a new Member in 1983 and was lucky enough to secure a spot on the Merchant Marine Committee, Barbara was very helpful to me. She took me under her wing and showed me the ropes in the Congress and on the committee level. Barbara has always had good advice for me, and she is someone who I have always liked and trusted. The committee is losing a very gracious lady and an outstanding staff person.

Mr. Speaker, I would like to extend to Barbara, on behalf of the citizens of the First Congressional District of Georgia, my most sincere congratulations and commendations. She certainly leaves behind a legacy of good will and accomplishments, and I wish her well for the future.

AMERICA'S PATRIOT MISSILE MOVES TO GERMANY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, last week we honored the veterans of Operation Desert Storm with a parade down Constitution Avenue. The President and General Schwarzkopf reviewed the troops and nearly a million people turned out to cheer our military. It was a beautiful sight to see our trim fighting men and women. Each one of us stood a little taller viewing our troops who had performed so magnificently in the Persian Gulf.

Included in the parade was a dazzling display of America's military might. As the Stealth bomber flew over Constitution Avenue, everyone, including young and old viewers, cheered wildly.

The hit of the parade after General Schwarzkopf, was the Patriot missile. As the Patriot was towed by, everyone, including Congressmen and Congresswomen, leaped to their feet cheering, whistling and applauding. We all swelled with pride as we remembered the Patriot on television as it defended Israel by knocking down Iraq's terrifying Scud missiles.

Americans were not aware as they watched the Patriot defend Israel that only three Patriots were available at the beginning of Operation Desert Shield and Desert Storm.

So we owe our thanks to the employees of the Raytheon Corp., who rolled up their sleeves and worked to deliver the needed Patriots to the war zone. The President even made a trip to the Raytheon plant to personally thank the workers for their efforts.

Because of Raytheon's workers, America had the Patriot missiles to defend Israel and Saudi Arabia.

Now that is coming to an end. Based on current budget considerations our only ground to air missile assembly line will be shut down by 1992 and the Patriot's hardware will be produced in Germany. Some software already comes from Japan.

How could this happen? Americans think the Patriot is a perfect example of American know-how. It proved that American technology knows no bounds—except for the budget and the actions of Congress.

In the early 1980's Congress induced an effort to persuade NATO allies to become more involved in defense and so we transferred some of our capabilities over to them. About 4 years ago, the Armed Services Committee of the other body initiated a NATO Cooperative Program and at that time Raytheon entered into an agreement with Deutsche Aerospace's subsidiary, Telefunken Systeme Technik.

According to the Washington Post "the German company may ultimately participate in full-scale development and production. The next generation Patriot missile is designed to shoot down 'stealth' aircraft as well as cruise and tactical missiles and will be field tested next month."

Recently Dr. Steve Bryen, former Deputy Undersecretary of Defense wrote in the Wall Street Journal that:

> The Patriot depends upon a number of critical technologies, including advanced radar waveguides, microwave devices, high-speed analog to digital converters, microprocessors precision gimbals for the missile-seeker system, highly miniaturized radio-frequency communications, onboard sensors and advanced signal-processing systems.
>
> For the past decade, sales of such advanced technologies have been restricted to friendly countries that promised they would not resell the high technology to third countries.

On that score we are all right. Approximately 58 percent of the Patriot is subcontracted out, with many parts coming from foreign suppliers. There are some American mom and pop suppliers who will be out of business when the assembly line shuts down. The foreign manufacturers will fare better even though it is American tax money footing the bill.

It is to Raytheon's credit that Raytheon has been trying to raise a public concern for the Patriot and the fact that so many parts come from foreign concerns. When the GAO looked into the allegations it found that Department of Defense takes no special action to maintain visibility into foreign sourcing dependency.

Now doesn't anybody care that the Patriot missile production is moving to Germany while American employees once again are left holding the sack. Americans pay the taxes for these weapons but our workers are not reaping the benefits of jobs and the Treasury loses the taxes. We all lose in this deal.

It is sad to think that if the Mideast erupts again, the coproduced Patriot will be shipped from Germany in defense of Israel—or perhaps Japan, which is licensed to produce the Patriot.

INTRODUCTION OF BILL TO REDESIGN COINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise today to introduce legislation with my good friend and colleague, ESTEBAN TORRES, to redesign the Nation's circulating coins to celebrate the 200th anniversary of the ratification of the Bill of Rights. This legislation is being introduced as a companion measure to S. 198, introduced earlier this year by Senators MALCOLM WALLOP and ALAN CRANSTON. Similar legislation was introduced in each of the two previous Congresses and has been approved numerous times by the other body. The effort to bring about these changes has strong bipartisan support.

The intent of this bill is very specific: It requires a change in the designs of our circulating coins. The bill calls for replacement of the current reverse designs, some of which date to the Great Depression, with themes depicting the bicentennial of the ratification of the Bill of Rights. These themes set forth the ideals which are very timely, not only to celebrate the 200th anniversary of the ratification of the Bill of Rights, but which are themes for which people continue to die around the world. The design changes would be phased in over a 6-year period of time. In honor of the Bicentennial of the ratification of the Bill of Rights, the first coin to be redesigned will display a theme for 2 years commemorating this momentous occasion in U.S. history. Thereafter, the bicentiennial coin will be changed to reflect themes from the Bill of Rights consistent with the new designs on the other circulating coins.

This measure also allows for modifications of the obverses of our five circulating coins. It does, however, require that those great American Presidents currently depicted remain.

My legislation will not change the size, shape, color or denomination of our present circulating coins. It specifically preserves all present inscriptions: "In God We Trust"; "E Pluribus Unum"; "United States of America"; and "Liberty"—as mandated by law.

In addition to the aesthetic and celebratory benefits to this legislation, the bill will raise revenue which will be dedicated to the purpose of reducing the national debt. The U.S. Department of the Treasury has estimated more than $200 million in revenue from the numismatic sales and seigniorage, which is the difference between the manufacturing cost of producing a coin and its face value. Furthermore, because the profits from seigniorage increase the Treasury' cash reserves, borrowing and, consequently, interest payments would be reduced. According to the Treasury, seigniorage could reduce Federal interest costs by an estimated $100 million over the next 6 years.

Mr. Speaker, the designs on our coins depict symbols that speak loudly about us as a people to our Nation and to the world, now and for generations to come. They illustrate our hopes, our dreams, our ideals, and our aspirations. They honor our great leaders, they celebrate our achievements and portray the beliefs that unite us as a nation.

In 1963, I accompanied President Kennedy to Dallas and was with him when he was shot. I was with his wife as the surgeons tried desperately to save him, and it is an experience I can never forget. One of my constituents, who knew the personal pain I was having as well as the pain the National was sharing, asked if a coin could be minted to honor our slain leader. When I returned to Washington, I met with Chairman Patman and suggested a new coin; in a matter of months, we had the Kennedy half dollar, which we still use today.

The Kennedy half dollar honors President Kennedy and has shown the Nation and the world that we loved this man who had awakened this country as no man had before to the vibrancy of our constitutional ideas. We honored a man who had mobilized us to acting on our beliefs, and we sent a message to the world that the message of President Kennedy would live on, and that because we are a strong nation, firmly rooted in a strong Constitution which reserves power in the American people, our Nation would endure intact. In this day, when some would destroy symbols of our patriotism, when indeed some would destroy the Constitution, the Bill of Rights, and the other amendments that have become part of the Constitution, what better symbolic way could we have than to re-dedicate ourselves to our constitutional principles and proudly display images that reaffirm our commitment to our country, our freedom, and our responsibility to democracy as citizens of the leader of the free world.

I urge my colleagues to join Mr. TORRES and me in this effort, to commemorate the 200th anniversary of the ratification of the Bill of Rights and to reaffirm our Nation's commitment to the principles of freedom and democracy on which this Nation was founded.

□ 1850

PUERTO RICAN PLEBISCITE

The SPEAKER pro tempore (Mr. STAGGERS). Under a previous order of the House, the gentleman from New York [Mr. SERRANO] is recognized for 60 minutes.

Mr. SERRANO. Mr. Speaker, I will try to be as brief as possible, but it is with much sadness and a certain bit of anger that I rise before this body today to alert Members to the fact that just yesterday, for the second time this year, the other body took action which in fact kills any possibility for the present future of the Commonwealth of Puerto Rico getting the right to self-determination through a vote. Yesterday a committee in the other body stated that the bill would not be dealt with this year. In doing so, I think it is a reflection of not only one body or two bodies, but certainly of this American society, a society which applauded yesterday the fact that Boris Yeltsin was elected President of Russia in the first ever election held in the Soviet Union and Russia, and continues, as was stated here just a little while ago, to rejoice in our victory in the Persian Gulf, and yet at the same time we refuse to allow the people of Puerto Rico, 3.6 million American citizens, the right to simply determine whether they want to remain a commonwealth of this country, become a 51st State, or become an independent nation.

A recent poll taken on the island indicates that 63 percent of the people want an immediate plebiscite and that the rest of the percentage, most of them want a plebiscite before 1995. Yet, it is sad to see in today's Congressional Monitor statements which claim that part of the problem all of a sudden is that there is a belief that perhaps statehood would be the winning option, and for some people in this society statehood then becomes a problem, a problem of language, a problem of culture, a problem of differences between people.

It is interesting to note that these kinds of problems arise after 93 years of a relationship. Puerto Rico is one of the very few remaining territories in the entire world where the vestiges of colonialism still prevail. In 1899, after almost four centuries of colonialism under Spanish domination, Puerto Rico became a colony of the United States during the Spanish-American War. Following the Spanish-American War, the Treaty of Paris formally freed Puerto Rico from Spanish control and placed it under our jurisdiction. The United States created a new government structured for Puerto Rico, provided by an act of Congress which went into effect on May 1, 1900.

From 1898 to 1902, however, the island of Puerto Rico was occupied and governed by the United States military. It was not until March 2, 1917, that the Puerto Ricans and all other persons born thereafter on the island were granted United States citizenship by the Jones Act.

In 1952, Puerto Rico was given the option to enter into a commonwealth relationship with the United States. Independence and statehood were not options. Puerto Ricans voted for the offered commonwealth status, which granted new, significant, but not total governmental autonomy as a free associated State.

Nevertheless, this status still left the island subject to the power of Congress under the territorial clause. Today, the aspirations of the people of Puerto Rico remain a contradiction in this Nation that prides itself on promoting the cause for self-determination throughout the world. The latest action by this Congress on this crucial matter of self-determination for the island appears to indicate that we prefer as a nation the perpetuation of the colonial status of the island.

It is sad and ironic that on the same day that the President announced the liberation of Kuwait, and the House scheduled a vote condemning the violation of human rights in Cuba, the first vote of rejection was taken by the other body in this Congress, a proposal to grant a political self-determination to 3.6 million United States citizens in the Commonwealth of Puerto Rico.

Consider the fact that that was taking place at the same time that 15,000 United States citizens from Puerto Rico were in the Persian Gulf fighting on behalf of our Nation and honoring their own citizenship to restore the independence of Kuwait. Puerto Rico has waited patiently for a true and fair opportunity to determine its political status. This Nation and the Congress have a duty to provide the people of Puerto Rico the opportunity to determine the political future of their island. Puerto Ricans should have the right to decide whether they want to remain a commonwealth of the United States or become an independent nation or become the 51st State. The self-determination act would simply reaffirm our country's democratic principles by granting the people of the island their rightful voice in determining their own political destiny.

What appeared to be Puerto Rico's opportunity to decide its status once and for all now seems to have lost all momentum completely due to the fears expressed by many people in this society considering the plebiscite bill. These folks have expressed concern about whether Puerto Rico should be made at this time the 51st State. It is important to note that this legislation does not provide solely for the option of statehood for the island. Many Members of this body and Americans in general feel uneasy about the possibility of Puerto Rico becoming a State.

Statehood should not be considered an obstacle. Our role after 93 years of this relationship with Puerto Rico should be to allow the island to vote.

To make statehood an obstacle, to create the feeling that if statehood wins then that would create a problem for many Americans and for this country is to first of all assume that statehood would win, and secondly to actually not honor our commitment to self-determination. If you believe in self-determination, then you deal with the results of a plebiscite. If you believe in self-determination, you do not ask what the results will be before you submit yourself to supporting self-determination.

After all, we now have invited Boris Yeltsin to the White House. We have asked him to come and to share with us that victory. Had his opponent defeated him, would we have then decided that we were only looking for one result in that election and not honored what is and appears to be a fair election? No. If statehood is used as an obstacle for allowing self-determination, then, in fact, we as Americans are acting in the worst way possible. We are acting out of fears. We are wondering whether that congressional delegation would be larger than other congressional delegations. There are people bringing up the issue of language, of culture.

For 93 years Puerto Ricans have spoken a different language. I speak a different language I would say 40 percent if not 50 percent of the time. I speak Spanish and I speak English. That does not make me less of an American. Certainly I feel as American as anyone else, and I speak two languages. But to suggest at this time that because the island primarily speaks a different language other than English is to suggest that perhaps for 93 years we used the people of the island and we never asked them questions of language. After all, when the 15,000 Americans from Puerto Rico were sent to the Persian Gulf, no one in English or in Spanish asked them whether they spoke English or not. Many young men and women who have died for this country, for our country, for our democracy, died and spoke their last words in Spanish.

On the issue of culture, again, for 93 years Americans have been proud of the fact, it seems to me, that the island of Puerto Rico has a separate culture. It is an American culture, but it is a Spanish culture. And for 93 years supposedly that has not bothered us. Now all of a sudden it is going to bother us.

I am submitting that we are not in fact concerned about these differences. What it is we are concerned about is granting self-determination at all.

We are going to have to come to grips with this issue, because our country cannot continue to double talk. Our country cannot outside the Longworth Building exhibit a piece of the Berlin Wall, our country cannot chase Saddam Hussein out of Kuwait, our country cannot continue to pressure Cuba to change its ways, our country cannot be happy about the changes in Nicaragua and at the same time tell 3.6 million citizens in Puerto Rico that they, and only they among all of the people that we talk to on a daily basis, will not be given the opportunity for self-determination.

I find myself in a unique situation. I am the only Puerto Rican Member of Congress. I was born on the island.

When I wear, as I do in my heart, that hat as a Puerto Rican, I want my island to have a vote.

□ 1900

When I wear, as I do on a daily basis, that hat as an American Congressman, I ask: Can we be proud in 1991 to still have a colony in the Caribbean?

We will continue to tell the world to change their ways, and we will continue to influence changes, because we are, after all, the greatest democracy on Earth, and we know that.

We have proven recently that we are the greatest military power. We had Chinese students quoting Lincoln and Jefferson. We have people in Europe using our form of government as an example for changes they want. How is it going to look when, very soon, some of those very people who have now changed their ways begin to question us about 3.6 million American citizens who are held in colonial status?

I would say that it would cost us nothing to allow a plebiscite to take place in Puerto Rico. The results may be statehood, and then we will decide if we want to grant statehood. The result may be a continuation of the Commonwealth, and then we will decide if we want that continuation. The result may be independence, and we would have to deal with that. But the result that we cannot deal with is the result of continuing to neglect what we stand for and to continue to glaringly have in the Caribbean a territory, a colony, which has not been given the opportunity to self-determination.

I suspect that during the next few months, certainly within the next year, the issue of Cuba and Fidel Castro will become a very strong issue in these Chambers, and rightfully so. I suspect that as our work in the Persian Gulf begins to dwindle down a little bit, to some foreign affairs and other things that we have to do, the issue of Cuba will become a very hot issue.

Not far from Cuba there is an American territory; not far from Cuba there is a place where the people have not been allowed to determine their political future.

I am not in any way trying to suggest that the treatment of my country, the island where I was born, is similar to the treatment of Fidel Castro and the Soviet Union toward the people of Cuba, but if we really analyze it in terms of what it is that we tell the world that we live in, that we believe in, it is not that different, because if Fidel will not give his people a chance to determine whether they want him or not, I do not see that as much different if this Congress will not allow the people of Puerto Rico to determine whether they want to continue to be part of this country or not.

It has been rumored in Puerto Rico, strangely enough, that the Statehood Party, which is, I guess, of all the parties the most pro-American party, after all, they want to become part of this Nation forever, may take this case to the United Nations. How embarrassing it would be for us to see, of the three parties, the one that wants to be part of us for the rest of the existence of our democracy to take their case to the United Nations and suggest that Puerto Rico is, indeed, a colony and has not been given a right to self-determination.

How do we deal then with South Africa? How do we deal with Cuba?

The issues before us should not be taken lightly. The Congress should not take this issue lightly.

I will continue to speak on this issue, because it falls on me, by virtue of the place where I was born, not only to represent the South Bronx, the poorest district in the Nation, but to represent, indirectly, 3.6 million people on the island of Puerto Rico. We will continue to press for a plebiscite. We will continue to press for our country to live up to its tradition, and every time that we tell the world how to behave, I will stand up and remind ourselves that we should behave the same way we ask other people to behave.

Let democracy work. Let Puerto Rico take a vote and let us act on that vote. Let us not ignore their right to self-determination, and let our democracy stand not only throughout the world but within our own country.

Mr. Speaker, I hope that we listen to these words today and pay attention to what we have done in the last 24 hours and that we, indeed, deal with democracy and grant the Commonwealth of Puerto Rico their right to self-determination.

ENVIRONMENTAL AND ENERGY STUDY INSTITUTE TASK FORCE REPORT "PARTNERSHIP FOR SUBSTAINABLE DEVELOPMENT: A NEW U.S. AGENDA FOR INTERNATIONAL DEVELOPMENT AND ENVIRONMENTAL SECURITY"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. HAMILTON] is recognized for 60 minutes.

Mr. HAMILTON. Mr. Speaker, I call the attention of my colleagues to a blueprint for congressional action to promote world environmental protection and economic development. An important new task force report, "Partnership for Substainable Development: A New U.S. Agenda for International Development and Environmental Security," has just been released by the Environmental and Energy Study Institute [EESI]. As a member of the task force, I am pleased to commend it to the consideration of Congress.

From the smouldering oil fires in Kuwait to the illegal toxic waste dumps just across the United States-Mexico border, it has become painfully clear that economic development and environmental concerns are closely linked. Progress on the policy agenda set forth in this report would provide the U.S. leadership that will be necessary if meaningful international agreements are to result from the 1992 U.N. Conference on Environment and Development in Brazil.

The United States must begin integrating a concern for environmental sustainability into its policies on world trade, debt, investment, and financial systems, as well as into its development assistance policies. New mechanisms must be devised to assure that U.S. domestic energy policies and international policies on energy efficiency and environmental protection are consistent and properly articulated. The EESI report offers a number of useful proposals for improved coordination of these policies.

As cochairman of the Task Force on Foreign Assistance of the House Foreign Affairs Committee—which completed its report in 1989—I have been particularly concerned about the effectiveness of U.S. bilateral assistance programs in contributing to environmentally sustainable development in the Third World. Two of the recommendations—numbers 1 and 12—in the new EESI report address this issue, and I am particularly interested in working for their adoption. Both of these recommendations call for improved coordination of U.S. aid disbursement for projects that foster sustainable development—economic growth which improves living standards without degrading the environment.

Recommendation one calls for the United States to launch a capacity-building assistance initiative designed to transfer technical, scientific, and planning assistance to the Third World. These transfers would be administered either through the revival of AID's Institute for Scientific and Technical Cooperation or through the creation of an autonomous grantmaking U.S. Foundation for Sustainable Development. Recommendation 12 advocates the formation of a body to better coordinate all major U.S. programs affecting developing countries and to oversee the funding of initiatives that promote sustainable development. The creation of such a high-level body, either as a Cabinet-level council or a special unit in the Executive Office of the President, would address the lack of interagency coordination documented by the Foreign Affairs Committee in its 1989 study. Such an organization would also fulfill another need by serving as a developing clearinghouse to perpetuate a cooperative relationship between the United States and developing countries even after they have graduated from the U.S. aid program.

Very few countries can afford the luxury of offering development assistance. Budgetary restraints have forced cuts in our own aid budget. The United States dedicates a lower percentage of its GNP to foreign aid than any other OECD country. Global deforestation and atmospheric contamination are accelerating as foreign aid allotments shrink. The United States and other aid donors must at the very least assure that our available funds are wisely spent.

The Foreign Affairs Committee study stressed that economic aid to developing countries should focus on four policy objectives: economic growth, environmental sustainability, poverty alleviation, and political, social, and economic pluralism. What we are now seeing is that these goals are compatible and inclusive. The moment has arrived to focus more attention on our responsibilities as stewards of this planet's natural resources in a manner that promotes all four of these goals. The implementation of the EESI task force's agenda would represent a major step toward making sustainable development a primary objective of U.S. foreign policy.

I would also like to acknowledge the other members of the Task Force on International Development and Environmental Security who can provide valuable assistance to congressional Members wishing to follow up on this report: James Gustave Speth, the task force chairman and president of the World Resources Institute; Peter D. Bell, president, Edna McConnell Clark Foundation; Richard Benedick, senior fellow, World Wildlife Fund/Conservation Foundation; Robert O. Blake, senior fellow, World Resources Institute; Deborah Bleviss, executive director, International Institute for Energy Conservation; Thomas Ehrlich, president, Indiana University; BEN GILMAN, U.S. House of Representatives; Jay D. Hair, president, National Wildlife Federation; Cynthia Helms, board of directors chairperson, WorldWIDE.

Other members are: ROBERT KASTEN, U.S. Senate; Thomas E. Lovejoy, assistant secretary for external affairs, Smithsonian Institution; C. Payne Lucas, executive director, Africare; Thomas W. Merrick, president, Population Reference Bureau; CLAIBORNE PELL, U.S. Senate, JOHN EDWARD PORTER, U.S. House of Representatives; John Sewell, president, Overseas Development Council; John J. Sheehan, legislative director, United Steelworkers of America; W. Ross Stevens, environmental affairs manager, DuPont de Nemours & Co.; Russell E. Train, board of directors chairman, World Wildlife Fund/Conservation Foundation; and Michaela Walsh, trustee, Women's World Banking. Project Director Gareth Porter and Project Assistant Derek Denniston are staffing the implementation of this EESI report.

Mr. GILMAN. Mr. Speaker, I am pleased to join with my colleagues who served on the EESI Task Force on International Development and Environmental Security in introducing to the House of Representatives some of the task force's package of policy initiatives. At a moment in history when mankind faces very serious challenges to its ability to sustain the Earth for future generations, the world needs leadership from the United States. The task force's report provides a blueprint for such U.S. leadership. Its recommendations for U.S. initiatives are timely and realistic, and they address a number of issues to which we have paid too little attention in the past.

It is clear the fate of the global environment will be determined by both advanced industrialized countries and developing countries. By early in the next century, the developing countries will use nearly half the fossil fuels consumed worldwide, and they are already the source of most of the world's biological resources. As the task force report has observed, these developing countries are unlikely under current conditions to give international environmental goals high priority. They will do so only if the United States and other industrialized countries forge a global partnership that will not only address global environmental challenges but help them achieve sustained and equitable growth, and alleviate poverty and provide food security for all people.

The major forces that determine the rate of environmental and resource degradation include trade patterns, debt burdens, and flows of financial resources, and population pressures as well as domestic inequalities and government policies. The task force has called for a new partnership between industrialized countries and developing countries to address these issues in tandem.

What the task force is calling for is not a giveaway program or a one-way relationship but a true partnership for the mutual benefit of industrialized and developing countries. The common element in its key recommendations is mutual commitments and benefits: Developing countries must make new efforts to conserve their resources and contribute to global environmental protection, while the industrialized countries must provide increased support of various kinds.

Most of the initiatives the task force is urging the administration to adopt are multilateral plans or programs. They include a global partnership to save tropical forests, a multilateral debt authority, an action plan to raise the status of women in developing countries, a network of energy training and research centers in developing countries and negotiations of greater market access for manufactured and processed exports from developing countries.

However, there are some initiatives that the United States can do on its own through domestic or bilateral policies to foster sustainable development projects, for the adoption of domestic economic incentives through Government policies to encourage energy efficiency, for a National Commission on Environment and National Security and for high-level coordination of all U.S. policies and programs affecting sustainable development.

Mr. Speaker, I am particularly interested in implementing the task force's recommendation for the creation of a National Commission on Environment and National Security. It is increasingly recognized that a new and very serious threat to our well-being and security is emerging: the degradation of the global environment and natural resources.

At the same time, the cold war with the Soviet Union has at least come to an end. Yet there has been no systematic national debate on the implications of this fact, and no congressional committee or executive branch office is charged with examining the changed nature of national security in this light. I plan to introduce legislation in the very near future to create a National Commission on the Environment and National Security to examine environmental problems that affect our security, to reassess the meaning of security, and to make policy and budgetary recommendations to Congress based on its findings. I have been planning on doing this for some years and now with the task force's support I'm certain we will succeed.

A second task force recommendation on which I plan to take the initiative is the adoption by the United States of a coordinated capacity-building assistance initiative. When the Task Force on Foreign Assistance of the House Foreign Affairs Committee, chaired by Representative LEE HAMILTON and myself, looked into the state of U.S. foreign assistance in 1988, we found that there was too little focus in our assistance efforts. There were 33 different objectives in the Foreign Assistance Act, and the U.S. Agency for International Development had a list of no fewer than 75 priorities for development assistance. We concluded that we needed to focus on four goals: economic growth, sustainable development, poverty alleviation, and popular participation or pluralism.

As this task force report observes, one of our comparative advantages in development assistance is the transfer of planning and other techniques, as well as human resource development. We should be applying our own resources more fully to the task of helping developing countries to take sustainable development paths. A number of Federal agencies already have some sort of technical assistance or cooperation relating to sustainable development issues, and we need new legislative authority for those agencies to strengthen and expand those activities. We also need a new institution to be the focal point within our foreign assistance program for capacity-building activities, whether it is something along the lines of AID's Institute for Scientific and Technical Cooperation—which is on the books but has never been implemented—or a new institution based on the foundation model that can give grants to nongovernmental organizations [NGO's] to support sustainable development.

Another issue on which the Hamilton-Gilman Task Force on Foreign Assistance took a strong position was the need for a high-level unit for coordinating all U.S. policies and programs on sustainable development. Currently no agency or interagency group is responsible for devising an overall strategy to support sustainable development that integrates trade, debt, science, technology as well as development assistance policies.

A high-level body, possibly in the Executive Office of the President, should be coordinating all these policies and programs and devising new ones to support sustainable development. This is an issue on which the President himself must ultimately act, but we in Congress can highlight the need in various ways.

Mr. Speaker, I am happy to introduce this entire package of initiatives in support of a partnership for sustainable development to my colleagues in the House. If the global partnership called for by the Task Force is to have any chance of coming into being, it is important that the Congress play its role in urging action on these recommendations—and in taking legislative action on them itself where appropriate. I look forward to working with many of my colleagues on the implementation of these and other recommendations over the next year.

Mr. PORTER. Mr. Speaker, I am pleased to join with my colleague, Representative HAMILTON, with whom I served as a member of the EESI Task Force on International Development and Environmental Security, in introducing the task force's recommendations to our colleagues in the House of Representatives. I am proud to have served with Representative HAMILTON and Representative GILMAN, as well as Senator PELL, and Senator KASTEN on this task force, which was chaired by Gus Speth, president of the World Resources Institute an which included outstanding figures from the environmental, development, population, scientific, and academic communities. I congratulate the Environmental and Energy Study Institute for assembling the task force, facilitating and guiding its work and producing this report.

The EESI Task Force report is, to my knowledge, the first agenda for U.S. action that addresses the broad range of issues and policy instruments that affect the prospects for sustainable development in developing countries and puts forward concrete, realistic policy proposals that we in government can act on immediately. The report makes proposals for policy instruments ranging from bilateral assistance to multilateral financial institutions' programs, from debt management policy to trade policy. The task force report, "Partnership for Sustainable Development: A New U.S. Agenda for International Development and Environmental Security," contains a package of 12 recommendations for U.S. policy which I hope my colleagues will read and support.

Mr. Speaker, these recommendations provide thoughtful, realistic approaches to the interlinked global crises of poverty, economic stagnation, and environmental decay. Congress and the American people are increasingly concerned about the rapid deterioration of the world's natural resources, most clearly represented by the threatened loss of the world's primary forests and the wealth of biological resources that are located within them, and deterioration of natural systems, including the ozone layer that protects us from harmful ultraviolet rays and the stability of the world climate system. But as the task force's report points out, these objectives cannot be achieved without the full cooperation of developing countries.

Nearly all the world's tropical forests and their biological diversity are found in developing countries. Developing countries will consume nearly 40 percent of all energy by the year 2025. Inefficient use of energy in the developing world could cancel out all the reductions in potential greenhouse gas emissions carried out by industrial countries, including the United States, over the next few decades. But developing nations will be unwilling and unable to do their part to solve these environmental problems without assistance from industrial countries in addressing their own economic difficulties and interests.

If the task force report has one theme that should be emphasized, therefore, it is that protection of the global environment cannot be separated from problems of poverty and economic growth in developing countries. What the task force report has done is to focus on a set of social and economic problems that influence whether or not developing countries will be willing and able to participate fully and effectively in global cooperative efforts to halt environmental threats.

Mr. Speaker, I would like to place in the RECORD at this point the summary from the task force report, including its 12 recommendations:

SUMMARY

The Four Horsemen of the modern age have been the Cold War and the nuclear arsenals it has spawned, the widespread suppression of human rights, global poverty and hunger, and humanity's unrelenting assault on the environment. In developments of great historical significance, the Cold War is at last winding down, and democracy is rising around the globe. But no comparable progress has been made in reducing world poverty and reversing environmental deterioration.

Nowhere are these problems more acute than in the developing world. One billion people in developing countries live in poverty and hunger. Forty thousand children die daily from causes related to this deprivation. Meanwhile, expanding populations and inappropriate development are destroying the fragile base of soils, water, forests and fisheries on which the future depends. The deserts are advancing, while the tropical forests, with their immense wealth of life forms, are in retreat. One and one-half acres of these forests disappear every second; scores of species are committeed to extinction every day. Each of these problems is deepened by the addition of almost a billion people in the world's population every decade.

A new era of international cooperation is urgently needed to address these challenges, and the United States should play a major role in bringing it about. The time is ripe for a new U.S. mission internationally, one focused on promoting cooperative action to sustain the earth and its people.

Expanded U.S. cooperation with developing countries should be part of a larger North-South partnership founded on the mutual interests of all countries in economic progress and environmental protection. Leading the way toward such a global partnership for sustainable development is decidedly in the U.S. interest. In a world that is growing ever more interdependent, this country's economic fate is inextricably tied to that of the developing countries. So is the fate of the environmental niche Americans inhabit. The United States can no more keep its climate within the comfort zone without developing countries' cooperation than developing countries can revive their flagging economies and relieve the vicious circle of poverty and resource degradation without America's cooperation.

Given the herculean challenges of the developing countries and the United States' stake in helping to meeting those challenges, our country needs a bold, integrated program to cooperate with and assist developing countries. Unfortunately, the United States lacks such a program. U.S. funding of development assistance has been declining as a proportion of gross national product (GNP) for many years, and serious gaps exist in U.S. policies affecting sustainable development.

It is vitally important to our nation's future that these trends be reversed now and that the United States support initiatives for international cooperation in environment, development and population that match the grave challenges at hand. Major new U.S. initiatives are urgently needed. America's task must be to help stimulate the kind of economic growth that will provide sustainable livelihoods for the poor and to promote concerted actions that conserve the resource base, guard public health, reduce population pressures and mitigate global environmental threats.

Within this framework, our Task Force has developed a broad agenda for U.S. action that we recommend for consideration by the Congress, the administration and the public. Specifically, the Task Force recommends that the United States:

1. Launch a new capacity-building initiative designed to help both low- and middle-income developing countries shift to environmentally and economically sustainable development paths.

2. Support the creation of "sustainable development facilities" within the multilateral development banks to catalyze an increase in the quality and number of projects aimed at conserving natural resources and increasing their productivity.

3. Propose the negotiation of a global partnership to save tropical forests, involving national plans for halting the loss of tropical forests linked to debt reduction and other financial and technological support.

4. Create a multilateral authority to reduce developing country debt—both official and commercial—while promoting policy reforms for sustainable development.

5. Help stabilize world population in the next century at the lowest possible level by sharply increasing U.S. support for meeting the global demand for family planning services.

6. Launch a global initiative to raise the social and economic status of women in developing countries.

7. Urge increased market access for labor-intensive and processed developing country exports in multilateral trade negotiations.

8. Work to make the world trade regime, the General Agreement on Tariffs and Trade (GATT), more responsive to environmental needs and objectives.

9. Adopt strong domestic economic incentives to increase U.S. energy efficiency and reduce U.S. emissions of carbon dioxide and other atmospheric pollutants.

10. Promote the building of a network of centers for training and research on energy efficiency and renewable energy in the developing countries.

11. Create a National Commission on Environment and National Security to reassess "national security" in light of changed political and military conditions and new environmental threats.

12. Establish a high-level body within the federal government to integrate these and other needed initiatives into a coordinated U.S. program of cooperation with developing countries.

Several of these recommendations are relevant to the deliberations leading to the "Earth Summit"—the 1992 United Nations Conference on Environment and Development (UNCED)—and to current international negotiations on various economic and environmental issues. They should be pursued by the United States in these and other appropriate settings as well as through other congressional and presidential actions.

These recommendations represent the task force's efforts to develop realistic approaches to removing or reducing many of the key obstacles to sustainable development worldwide. They are particularly timely in light of the U.N. Conference on Environment and Development, the so-called Earth Summit in Rio de Janeiro, which is now only 1 year away. That conference represents an historic opportunity for the international community to take the first steps toward global cooperation on these interlinked global challenges of poverty, economic stagnation, and environmental decay. If we fail to seize this opportunity, the deterioration of the global environment is bound to accelerate, and the chances of reversing that trend will become very poor indeed.

The U.S. role in preparations for the 1992 conference is crucial to its success. The world naturally looks to us for leadership on these issues, and the United States must respond with some major initiatives that touch on both environment and development issues. The package of proposals contained in our task force report includes a series of such major initiatives that would help to create at the U.N. conference greater optimism and greater willingness to cooperate on the part of other countries, both industrial and developing.

I will not elaborate on each task force's 12 recommendations at this time, though I commend them to the attention of my colleagues. I would like to highlight three of them which I believe are especially important to U.S. international leadership in supporting sustainable development, and which I intend to take an active role in promoting within Congress and the executive branch.

Recommendation number three calls for negotiation of a global partnership to bring deforestation under control. It is now estimated that 40 million acres of tropical forests are being lost annually worldwide—1½ acres every second. Without international cooperation starting very soon, there will be only patches of primary tropical forest remaining by early in the 21st century. The task force proposes that the major industrial nations form a consortium to negotiate directly with tropical forest countries on a package of financial support for national plans aimed at slowing and ultimately halting the loss of their forests. These national plans would specify targets for the preservation and sustainable management of forests over a period of at least 10 years and indicate what policies and programs bearing on deforestation would be undertaken to achieve those targets. In return, the consortium of industrial nations would not only provide support for specific projects and programs, but also more general financial support for a transition to sustainable management of forests. One of the types of financial support contemplated by the plan is relief of part of the debt burden of participating countries, since indebtedness has been a significant source of pressure on developing countries to mine their forests in the past. External support to provide the tropical forest countries with adequate incentives to draw up such plans would require significantly greater commitments of financial resources to this problem by the United States and other industrial countries.

Mr. Speaker, it is vital that the international community undertake a program similar to this one, and that the U.N. Earth Summit Conference provides the opportunity to discuss it. Developing countries have expressed strong reluctance to negotiate an international legal instrument on the world's forests to be signed at the 1992 conference, and I am not suggesting that the United States attempt to rush an agreement or program through in time for that event. Nevertheless, the coming year could be profitably spent in beginning to build consensus among both developed and industrial States on cooperation roughly along these lines. Again, it will be up to the United States to lead that effort. I will be urging the administration to make this concept part of its brief for the Preparatory Committee meetings for UNCED in August and again next March. I will also seek the support of my colleagues in this body for such a plan of action through congressional action.

Recommendation five of the task force report deals with the necessity for the world community to take action now in the coming years to meet the worldwide demand for family planning services, in order to stabilize world population in the next century at 9 to 10 billion people rather than at 14 billion people. The difference between these two scenarios of worldwide population growth could be the difference between a world that still has the capability to solve its development and environment problems and one that has lost the capacity to do so.

The task force report calls for the United States to increase its own funding to support the goal of making family planning services available to 75 percent of the couples in most countries, compared to 50 percent today, by the year 2000. That goal would achieve replacement-level fertility worldwide by 2015 and stabilize world population at the lowest possible level. To do this, the United States needs to be spending approximately $1.2 billion annually for this purpose by the end of this decade. To move deliberately to that goal, our spending for family planning services should increase to at least $500 million within the next 2 years.

I am happy to note that the provisions of the Kostmayer-Morella bill for additional funding in the coming fiscal year are in line with this recommendation, and have been included in the foreign aid bill marked up by the Foreign Affairs Committee. I urge my colleagues to support those provisions as a crucial element in a global sustainable development strategy.

Finally, Mr. Speaker, I wish to draw the attention of my colleagues to recommendation No. 6, which calls for the launching of a "Global Action Plan on the Status of Women." As the report points out, neither major improvements in the control of fertility nor the successful management of local natural resources can take place without raising the social and economic status of women in developing countries. Their marginal economic status in developing countries is closely linked with higher fertility rates.

The international community must do much more to raise the status of women in developing countries through programs that are specifically targeted at giving them their own sources of income.

The EESI Task Force recommends that these programs should be coordinated by a committee that includes representatives of principal development assistance agencies, U.N. agencies, developing countries and nongovernmental organizations. The EESI Task Force proposes that such an action plan should set appropriate targets for antipoverty programs to promote equal participation by women; for more development assistance resources to be directed to literacy and other educational, training, and recruitment programs for women; for the reform of policies and laws discriminating against women; and for increasing lending for microenterprises, which has already improved the economic status of millions of poor women.

Mr. Speaker, I have included language in the foreign operations appropriations legislation that would urge support for such an action plan to be made part of the United States policy. Clearly, the executive branch has the primary responsibility for formulating and carrying out the recommendations in this report, but we in Congress also have a responsibility to be involved in the process.

Again, I congratulate EESI for their role in bringing together the task force and helping to forge a consensus among its membership on a package of strong recommendations for U.S. support for sustainable development. I urge my colleagues to read the report and to give all of its recommendations careful consideration.

Mr. GEJDENSON. Mr. Speaker, I want to recommend to our colleagues that they take a look at a report prepared by the Environmental and Energy Study Institute entitled "Partnership for Sustainable Development."

In a few short pages the report makes clear and cogent recommendations for action that can be taken now to enhance international cooperation in environment, development, and population.

I was particularly impressed with their fourth recommendation on what can and should be done to link resolution of the international debt crisis, the environment, and sustainable development. Specifically, the report proposes the establishment of an International Debt Management Authority to purchase debt on the secondary market in return for commitments from the debtor nations to adopt policies and programs supporting sustainable development.

Although the Reagan administration opposed such a plan in 1988, the Treasury Department under President Bush has shown signs of a willingness to consider these types of new approaches to the debt crisis. Witness, for example, the Enterprise for the Americas Initiative. In that proposal, the Treasury took the significant step of recognizing that official debt owed by these countries to the United States has to be written down and not just endlessly rescheduled. Treasury also proposed directly linking debt to protection of the environment.

Enterprise for the Americas, however, is still a modest proposal as far as debt reduction and environmental protection is concerned. Much more can be done to link these two issues with sustainable development, as the Environmental and Energy Study Institute report illustrates.

Mr. Speaker, with your permission I have attached an excerpt of their report, "Partnership for Sustainable Development." It reads as follows:

The debt of developing countries, which increased from just over $50 billion in 1970 to $1.2 trillion in 1990, has taken a heavy toll on social and economic development and on the environment and natural resources in many developing countries.

The 1980s was a lost decade for less-developed nations with heavy debt burdens. Because of debt obligations, unprofitable investments, rising interest rates and the drying up of commercial bank loans, the $42.6 billion transferred annually from industrialized to heavily indebted developing countries early in the decade had by 1988 turned into a $32.5 billion transfer from the developing countries to industrialized countries. The result has been stunted economic growth and even contraction. Debtor countries grew at 4 percent annually in the 1960s and 1970s, but their annual growth rates in the 1980s averaged 1.5 to 2 percent—less than their population growth. Because of heavy indebtedness in the region, Latin American countries actually suffered a drop in per capita income of almost 1 percent a year from 1981 to 1990.

To repay their loans, heavily indebted countries have to create trade surpluses through increased exports, often at the expense of the natural resource base. Limited economic growth and government austerity measures, two consequences of large debt and adverse capital flows, have put more burdens on the poor and placed new strains on soil, water and fuelwood resources. They also have weakened governmental programs that might have promoted conservation and environmental protection.

Meanwhile, the value of developing country debt held by commercial banks has declined rapidly on the secondary market since the early 1980s. The weighted average of the value of Latin American debt has dropped from 64 percent of its original value in 1986 to 28 percent by 1990. Argentina's debt sold for 66 percent of its book value in 1986, and by 1990 was worth only 13 percent of the original value. Brazil's had declined from 74 percent of original value in 1986 to 22 percent by 1990.

The priority that developing countries place on reducing their debt burdens, the linkage between debt and resource degradation in those countries and the growing secondary market in developing country debt all point toward an opportunity for developed countries to use debt reduction to support sustainable development.

RECOMMENDATION

The United States should propose that a consortium of aid-giving nations establish an International Debt Management Authority to purchase significant debt obligations of selected countries on the secondary market. The authority would negotiate with the debtor countries in question to forgive those debt obligations gradually over a period of years. In return, the countries in question would adopt policies and initiate programs supporting sustainable development. The authority also could negotiate the forgiveness of official bilateral debt where appropriate.

The International Debt Management Authority recommended here would be very similar to the authority suggested by Congress in the Omnibus Trade and Competitiveness Act of 1988. The major difference would be that the policy reforms required for debt forgiveness would emphasize sustainable development. Depending on the nature of the indebted nation's needs, the policies to be encouraged might include implementation of a national plan to control tropical deforestation; appropriate energy pricing and least-cost energy strategies; a strategy for reducing population growth; land tenure reform; measures to raise the legal, social and economic status of women; and manufacturing strategies emphasizing job creation. Debt would be forgiven progressively over a period of five or more years, on the basis of performance on agreed policy commitments.

The needed policy reforms would have to be supported with special sectoral loans and other support through multilateral development banks and development agencies. For this and other reasons, the authority's activities would have to be closely coordinated with those of other international development institutions.

The cost of such an authority would depend on the scope of the program. Japan, the European Community and other OECD members would be expected to provide 75 to 80 percent of its costs (the same percentage contribution they currently make to bilateral development assistance and the World Bank), while the United States could provide the remainder. Purchase of debt on the secondary market provides a high degree of leverage for the amount invested. For example, the authority could buy $100 billion of developing country commercial bank debt (face value) for about $30 billion at current secondary market prices. If spaced over five years, such purchases would not impose an unmanageable burden on participating countries. In this example, the U.S. share would be $1.2 billion annually.

Despite the U.S. Treasury's decision to reject the plan in the 1988 law for an international debt management authority, the time is ripe for this approach. The United States, through the "Enterprise for the Americas" initiative, has offered some reduction in the official indebtedness to the U.S. government. Moreover, the international loan position of the commercial banks, which at one time were vulnerable to big losses from lending to developing countries, has improved dramatically. Banks now have reserved heavily against these losses and are better able to take them either by disposing of their developing country debt holdings through secondary market sales or by write-offs.

Mr. TORRICELLI. Mr. Speaker, it is a privilege to join in this special order to discuss a topic that is literally crucial to the survival of our nation and our planet.

I congratulate the gentleman from Indiana [Mr. HAMILTON], ranking majority member of the Foreign Affairs Committee, for his service on the Task Force on International Development and Environmental Security and for taking the initiative that permits us to have this discussion today. On this as on so many issues, he is a true leader.

Mr. Speaker, I hope we will all draw several conclusions from the task force's report, Partnership for Sustainable Development. The first is that environment and development are complementary, not antithetical, concepts. Perhaps we are finally reaching the point where we can accept this fact.

Development that is not environmentally sound is not sustainable. Indeed, it is not development at all. The record is clear that it leaves countries worse off, at least in some respects, than they were before.

I have the honor to chair the Subcommittee on Western Hemisphere Affairs. Members who have spent any time in the region of the subcommittee's jurisdiction will readily recognize the consequences of environmentally unsustainable development: overexploitation of arable land; expansion of subsistence agriculture into environmentally sensitive areas; destruction of critical habitat to support export agriculture; deforestation and all the problems that go with it, including flooding and the extinction of indigenous species; mass migration to unsustainable urban conglomerations; massive air and water pollution; reappearance of previously eradicated diseases, such as cholera—the list could go on and on.

If this be development, I am not sure Latin America and the Caribbean can stand much more of it.

A second conclusion is that sustainable development and environmental security require cooperative action by all nations, rich and poor. The developed countries cannot expect the poor countries to bear the burden of environmental protection by themselves. The less developed countries cannot expect aid without appropriate environmental and developmental conditions. We must all get together and decide cooperatively what is in our mutual interest and how we will share the costs of achieving our interests.

Third, environmentally sustainable development requires an integrated policy. All the environment and development programs in the world will do no good unless the economic growth and assistance policies of donor and recipient nations alike are environmentally and developmentally conscious.

Finally, this is a matter of national security. We simply can no longer afford the political luxury of posturing against assistance for sustainable development as a foreign giveaway.

Our country has a vital interest in sustainable development. Success is as crucial as it was in the Persian Gulf—and we must be as willing to commit the resources necessary to ensure victory.

Mr. Speaker, we in Congress have a responsibility—not only to vote the necessary funds but, even more important, to exercise the necessary oversight. We must not accept unquestioningly that policies that are advertised to us as promoting sustainable development actually do so. We have to pay more attention to where our foreign aid money goes and what it is used for.

I intend to seek hearings on the Foreign Affairs Committee on this very useful report. Should that not be possible, I would be prepared to hold hearings of the Subcommittee on Western Hemisphere Affairs on the regional implications of the report.

Again, I congratulate the gentleman for his leadership and thank him for giving me this opportunity to share these thoughts with my colleagues.

Mrs. MORELLA. Mr. Speaker, I applaud the efforts of the Task Force on International Development and Environmental Security in recommending a U.S. agenda for sustainable development. The task force lays out a plan for cooperation and assistance with underdeveloped countries. Issues of the environment extend beyond cultural, religious, and racial differences and affect all people who share our world. The United States must assist developing countries in fighting poverty and lowering population levels toward sustainable Earth goals. General security measures must not merely focus on defense initiatives but must encompass protection of the environment.

I support the 12 task force recommendations toward a sustainable Earth. I particularly support the importance of launching a global initiative to raise the social and economic status of women in developing countries. Women are the main providers for two-thirds of the poorest households in developing countries and produce 60 percent of the food grown locally. The education of women in developing countries would give women more options in regard to employment and reproductive health care. With education, women could make better family planning choices, thereby taking a critical step to address the fundamental issues of poverty and overpopulation. In addition, general health care and nutritional needs of families in developing countries would be better met.

It is our obligation as representatives of the United States to pass legislation and oversee implementation in accordance with these 12 recommendations. It is imperative that the United States take the initiative and be a world leader on this issue. Developing countries need our cooperation and assistance to meet these sustainable Earth goals. Developing countries currently account for four-fifths of the world's population and burn one-half of the world's fossil fuels. Furthermore, as the task force states, it is in the economic interests of the United States to follow the task force's guidelines. The recommendations do not stifle growth to allow for environmental benefits. The United States increasingly relies on the environmental and economic policies of developing countries. Global warming does not honor country borders.

In conclusion, the task force's sustainable Earth recommendations present a pragmatic and workable approach to one of the most pressing issues of our century. I urge your support in making them become a reality.

Mr. SCHEUER. Mr. Speaker, the report of the Task Force on International Development and Environmental Security convened by the Environmental and Energy Study Institute under the chairmanship of Gus Speth, provides the Congress with a valuable agenda for U.S. actions to advance the national and global interest in sustainable development.

This blue-ribbon panel of leaders from business, labor, environmental, development and population organizations and a bipartisan group of Members of the House and Senate, has presented a package of twelve recommendations that would, if implemented, help developing countries to improve their management of natural resources and contribute to global environmental protection.

The Task Force report includes several proposals that should be offered by the United States at the Preparatory Committee meetings for the United Nations Conference on Environment and Development to be held in Brazil in 1992. This proposal for a global action plan to raise the status of women in developing countries, is precisely the kind of action that belongs in the Earth Summit Conference's "Agenda 21" of worldwide actions to support sustainable development.

Some of these actions include:

Funding of family planning services worldwide to meet the goal of providing such services to all families who desire it;

A proposed Multilateral Debt Authority to reduce developing country debt burdens in return for commitments to sustainable development policies; and,

A proposed network of Energy Training and Research Centers that would contribute to the ability of countries to use energy resources more efficiently and save them enormous capital for development purposes.

I urge the administration to adopt these proposals as part of the United States position in the coming Preparatory Committee meeting in Geneva in August. It would be a tragic mistake if the United States fails to take advantage of this timely document by incorporating its recommendations into the U.S. position in the UNCED negotiations.

I urge my colleagues to join in supporting these initiatives.

Mr. WYDEN. Mr. Speaker, the Environmental and Energy Study Institute has produced a thoughtful report on sustainable development, complete with a powerful action agenda to promote international growth in a manner consistent with environmental protection.

While each of the 12 points in the plan is important, I would like to focus on one in particular—the need to make the international trading system more environmentally sensitive.

Mr. Speaker, we cannot protect the environment by restricting trade, by refusing to deal with countries that do not meet every point on our checklist of good environmental citizenship, or by pursuing a "limits-to-growth" agenda. Trade will be the most important economic growth issue of the 1990's, and without that growth neither the United States nor any other country will have sufficient resources to protect the environment adequately.

By the same token, as Representative HAMILTON and Representative GILMAN have noted in the past, growth which is not environmetnally sustainable cannot be economically sustainable in the long run. It makes no sense to generate resources in the short term if some of them are not plowed back into the environment to assure its survival in the long term. The environment is part of our global capital stock. It must be nurtured, husbanded and augmented. Just as no business can sell off its capital assets to pay operating expenses and remain viable over time, neither can we cash in the environment for short-term consumption needs and expect our economic system to thrive.

But it is a lot easier for us to agree on that principle among ourselves than to sell it to countries with incomes a mere fraction of ours. Stewardship is an easier concept to accept on a full stomach. One must trust the sincerity of developing country leaders who say they would like to protect the environment but must first protect their people.

However, one must also verify the leaders' assurances that, as their countries develop, they will make environmental protection a priority. It is not acceptable to abuse our common heritage for short-term economic or political gain. My major concern during consideration of fast-track negotiating authority for the United States-Mexico talks was to lock in commitments from both governments that environmental issues would not be subjugated to development efforts, that environmental problems caused by increased trade arising from the agreement would be dealt with in the body of the agreement, and that the two governments would agree on a joint border cleanup plan, complete with a timetable and commitments of resources. So far, the responses of both governments have been somewhat vague, but I intend to hold them to a high standard of enforceable environmental protection before I support any trade treaty.

I want to see Mexico develop. I want to see the rest of Latin America prosper, and Southeast Asia and Africa as well. But I don't believe it is in anyone's interest to buy that development through reckless attrition of our environmental resources. Where trade and the environment come together, the operating phrase need not be hands off, but it should at least be handle with care.

So this is the deal that must be struck. Developed countries will support trade and economic growth in developing countries. In return, developing countries will devote an appropriate level of the resources generated to protect the environment. This is not economic imperialism. It is not a devious attempt to keep poor countries poor. It is an attempt to ensure that future generations in all countries will be able to pursue increased living standards, that they will be able to use the same environmental capital stock that we have, and that they will pass on that stock to their descendants for continued sensible, sustainable use.

Mr. Speaker, some economists are leery about linking environmental issues to international trade. There is absolutely no reason for that. Incorporating environmental protection into trade policy merely internalizes the costs of environmental degradation, a necessary step to ensure the efficient allocation of resources and promote the optimum pattern of long-term international development. We recognize the need to advance the principle of polluter pays for the health of our domestic economy and environment; we should do the same for the international economy. The laws of economics do not disappear when commerce flows across national borders.

The difficulties arise when policymakers try to determine what types of environmental protection are appropriately addressed through trade policy. Some environmental problems are not relevant to international trade and should not be addressed in trade treaties. Some trade distortions are presented as environmental protection measures but are truly nothing more than protectionist stalking horses. And in some cases, a lack of environmental standards can distort trade and arguably be classified as a production subsidy. The problem is to separate the contenders from the pretenders, to figure out a legitimate package of trade policies that promote growth and efficient resource allocation but protect the environment, and to muster the political will among our trading partners to incorporate it into trade agreements.

This is a tough problem. It will require a lot of thought and work by politicians, businessmen and academics. But it is not an insurmountable problem. I am discouraged when I hear Administration officials and members of the business community say we should not pursue trade and the environment because we don't yet know how best to do it. It reminds me of the argument those opposed to arms control made that we should not pursue treaties on intermediate range weapons and cruise missiles because we did not yet know how to verify them. Well, we responded to that by bringing the experts together and working out verification measures that were acceptable to all sides. We were able to do that because we believed that arms control was too important to be ignored.

We can do the same thing with trade and the environment but we have to make a similar commitment of energy, resources and brainpower. And the EESI action agenda is an important beginning.

Mr. Speaker, we need a four step program to develop a workable policy for trade and the environment.

First, we need to develop a body of knowledge. Congress, the Administration, businesses and NGO's must study how various trade laws and barriers affect environmental protection and develop tools for implementing and enforcing a workable trade and environment program. All four groups must have a mandate and develop the expertise to address trade/enviroment relationships.

Second, we must formalize the standing of environmental issues in trade negotiations. This will require an active role for environmental working groups at the talks to work with negotiators to make agreements sensible from trade/environment and international resource allocation standpoints. It will also require the development of a GATT environmental code.

Third, we should identify ways to help developing countries become environmentally responsible as quickly as possible, including direct aid, technology transfer, technical assistance and education programs.

Fourth, we need to improve our domestic performance on environmental protection, energy conservation and sustainable development to give us the authority to insist on improvements in other countries. Self-righteous hectoring and sanctimonious lecturing won't sell well overseas. We need to lead by example.

Mr. Speaker, we should use the Uruguay round negotiations and the U.S.-Mexico talks to break new ground on trade and the environment. The United States should support efforts to reconvene the GATT environmental working group and should expand consideration of environmental issues in the NAFTA talks. The EESI report gives us a good starting point from which to advance trade and environmental issues. We should all make this a priority from here on out.

Mr. YATRON. Mr. Speaker, I join my colleagues in commending the outstanding report of the EESI Task Force on International Development and Environmental Security. The recently released report, "Partnership for Sustainable Development", is unique in that it systematically links environmental and development problems and provides practical and feasible solutions to the American people. It is truly one of the most relevant, thorough, and comprehensive reports on the issue of sustainable development that I have had the opportunity to review.

As chairman of the Foreign Affairs Subcommittee on Human Rights and International Organizations, which has jurisdiction over global environmental problems, I have found this study particularly useful. It will make a valuable contribution to the ongoing debate on these issues. The recommendations of the report are most timely, as the world will witness one of the most important conferences of our time—the 1992 U.N. Conference on Environment and Development [UNCED].

The 21-member task force brought together some of the most distinguished leaders from the business, labor, academic, scientific, environmental, and development communities. It also contained five Members of Congress who are respected for their work in this area.

The report's principal theme is that major new U.S. initiatives are urgently needed to address the global environmental threats to humankind. Climate change, the loss of biological diversity, deforestation, and the deterioration of natural resources cannot be resolved without the full participation of developing countries. Unfortunately with the economic and social needs so overwhelming, developing countries are unable to confront their own environmental problems, and thus cannot play their critical international environmental role. Only by developing a new strategy which combines economic and environmental factors will progress be achieved.

The report provides 12 recommendations to improve U.S. cooperation with developing countries to deal with these global environmental problems. They discuss possible changes in development assistance, debt management, technology transfer, trade, and investment policies. They also detail important initiatives for multinational development institutions, GATT, international research and training centers, and other valuable factors.

I urge all my colleagues to review this most worthwhile report.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. MICHEL, for 5 minutes, today.

Mr. BURTON, of Indiana, for 60 minutes, on June 25, 26, and 27.

Mr. LIVINGSTON, for 60 minutes, on June 19.

(The following Members (at the request of Mr. SERRANO) to revise and extend their remarks and include extraneous material:)

Mr. HOAGLAND, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. JONES, of North Carolina, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RITTER on H.R. 2608 dealing with National Institute of Standards and Technology in the Committee of the Whole today.

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. YOUNG of Alaska.
Mr. VANDER JAGT, in two instances.
Mrs. MORELLA.
Mr. MARLENEE.
Mr. DAVIS.
Mr. PURSELL.
Mr. SMITH of New Jersey.
Mr. CAMP.
Mr. PORTER.
Mr. PACKARD.
Mr. GOODLING.
Mr. RAMSTAD, in two instances.
Ms. ROS-LEHTINEN, in two instances.
Mr. GEKAS.
Mr. SLAUGHTER of Virginia.
Mr. BLILEY.
Mrs. BENTLEY.
Mr. GOSS.
Mr. SANTORUM, in two instances.
Mr. GILMAN, in two instances.
Mr. BARTON of Texas.

(The following Members (at the request of Mr. SERRANO) and to include extraneous matter:)

Mr. ACKERMAN.
Mr. FORD of Michigan.
Mr. CARDIN, in two instances.
Mr. PENNY.
Mr. HOYER.
Mr. MURTHA.
Mr. STARK.
Mr. THOMAS of Georgia.
Mr. BORSKI.
Mr. BOUCHER.
Mr. RANGEL.
Mr. SARPALIUS.
Mr. FAZIO.
Mr. TORRES.
Mrs. MINK.
Mr. SKELTON.
Mr. EVANS.
Mr. KENNEDY.
Mr. BROWN.
Mr. FOGLIETTA.
Mr. BONIOR.
Mr. HAYES, of Illinois, in two instances.
Mr. HOAGLAND.
Mr. RAY.
Mr. MAVROULES.
Mr. CLEMENT.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; to the Committee on the Judiciary.

S. 1284. An act to make certain technical corrections in the Judicial Improvements Act of 1990; to the Committee on the Judiciary.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 111. Joint resolution marking the 75th anniversary of chartering by Act of Congress of the Boy Scouts of America.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a joint resolution of the House of the following title:

On June 12, 1991:

H.J. Res. 219. Joint resolution to designate the week beginning June 9, 1991, as "National Scleroderma Awareness Week."

ADJOURNMENT

Mr. SERRANO. Mr. Chairman, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, June 17, 1991, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1546. A letter from the Administrator, Farmers Home Administration, transmitting the third annual report summarizing the Agency's Housing Preservation Grant Program activities, pursuant to 42 U.S.C. 1490m(j); to the Committee on Agriculture.

1547. A communication from the President of the United States, transmitting amendments to the fiscal year 1992 request for appropriations for the African Development Fund, the Departments of Agriculture and the Treasury, pursuant to 31 U.S.C. 1107 (H. Doc. No. 102–100); to the Committee on Appropriations and ordered to be printed.

1548. A letter from the Department of the Army, transmitting a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter January 1, 1991, through March 31, 1991, pursuant to Public Law 101-165, section 9008 (103 Stat. 1130); to the Committee on Appropriations.

1549. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of June 1, 1991, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 102-99); to the Committee on Appropriations and ordered to be printed.

1550. A communication from the President of the United States, transmitting an assessment of possible additional nuclear risk reduction measures, pursuant to Public Law 101-510, section 1441(c) (104 Stat. 1691); to the Committee on Armed Services.

1551. A letter from the Secretary of the Treasury, transmitting the National Advisory Council on International Monetary and Financial Policies Annual Report for the fiscal year 1989; to the Committee on Banking, Finance and Urban Affairs.

1552. A letter from the Department of Health and Human Services, transmitting the 1989 report on the Consolidated Federal Programs under the Maternal and Child Health Services Block Grant, pursuant to 42 U.S.C. 706(a)(2); to the Committee on Energy and Commerce.

1553. A letter from the Assistant General Counsel, Department of Energy, transmitting a notice of a meeting related to the International Energy Program; to the Committee on Energy and Commerce.

1554. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Arthur Hatden Hughes, of Nebraska, career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Yemen, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1555. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Christoper W.S. Ross, of California, career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Syrian Arab Republic of Seychelles, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1556. A letter from the U.S. Advisory Commission on Public Diplomacy, transmitting its 1991 report on the U.S. Information Agency and the activities of the U.S. Government concerning public diplomacy, pursuant to 22 U.S.C. 1469; to the Committee on Foreign Affairs.

1557. A letter from the Chairman, Board of International Broadcasting, transmitting the semiannual report of activities of the inspector general covering the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1558. A letter from the Deputy Assistant Secretary (Requirements and Resources), Department of Defense, transmitting the 1990 annual report on the financial status of the Military Retirement System, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1559. A letter from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting the semiannual report of activities of the inspector general covering the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1560. A letter from the Secretary of the Treasury, transmitting the semiannual report of activities of the inspector general for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2515, 2526); to the Committee on Government Operations.

1561. A letter from the Administrator, Small Business Administration, transmitting the semiannual report of the inspector general for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1562. A letter from the Executive Director, State Justice Institute, transmitting the Institute's financial statements and schedules, September 30, 1990 and 1989; to the Committee on Government Operations.

1563. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to amend title 28, United States Code, with respect to the admissibility in evidence of foreign records of regularly conducted activity; to the Committee on the Judiciary.

1564. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to provide for recovery by the United States of the cost of medical care and services, and for other purposes; to the Committee on Veterans' Affairs.

1565. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to target the rehabilitation program entitlement to service-disabled veterans rated at 30 percent or more; target eligibility of stepchildren for Survivors' and Dependents' Educational Assistance to natural and adopted children; and for other purposes; to the Committee on Veterans' Affairs.

1566. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Tariff Act of 1930 to modernize and simplify customs procedures, facilitate the entry and clearance of vessels, increase the effectiveness of the Customs Service in commercial matters, and for other purposes; to the Committee on Ways and Means.

1567. A letter from the Secretary of Health and Human Services, transmitting the 1990 annual report of the Federal Advisory Committees which provided advice and consultation in carrying out his functions under the Social Security Act, pursuant to 42 U.S.C. 1314(f); jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2194, a bill to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities, with amendments (Rept. 102-111). Referred to the Committee of the Whole House on the State of the Union.

Ms. SLAUGHTER of New York. House Resolution 176, a resolution waiving certain points of order during consideration of H.R. 2622, a bill making appropriations for the Treasury Department, and United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-112). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS (for himself, Mr. BONIOR, Mr. BRYANT, Mrs. COLLINS of Illinois, Mr. GUARINI, Mr. HENRY, Mr. HORTON, Ms. KAPTUR, Mr. JONTZ, Mr. KOLTER, Mr. LIPINSKI, Mr. PALLONE, Mr. PAYNE of Virginia, Mr. PERKINS, Mr. PICKETT, Mr. QUILLEN, Mr. RAHALL, Mr. SERRANO, Mr. SKELTON, Mr. SLAUGHTER of Virginia, and Mr. SPENCE):

H.R. 2634. A bill to prohibit the importation of foreign-made flags of the United States of America; to the Committee on Ways and Means.

By Mr. MARLENEE (for himself, Mr. YOUNG of Alaska, Mr. RHODES, Mr. HANSEN, Mr. DAVIS, Mr. SKEEN, and Mr. EMERSON):

H.R. 2635. A bill to establish a Commission to study existing laws and procedures relating to mining, other than coal mining, and in particular the effects of existing laws and procedures relating to location and disposition of minerals on public lands of the United States and their effect on the policy statement set forth in the Mining and Minerals Policy Act of 1970, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GONZALEZ (for himself and Mr. TORRES):

H.R. 2636. A bill to modernize U.S. circulating coin designs, of which one reverse will have a theme of the bicentennial of the Bill of Rights; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KOSTMAYER (for himself and Mr. MILLER of California):

H.R. 2637. A bill to withdraw lands for the waste isolation pilot plant, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Energy and Commerce, and Armed Services.

By Mr. SANTORUM (for himself, Mr. RIGGS, Mr. RAMSTAD, and Mr. POSHARD):

H.R. 2638. a bill to amend the Federal Election Campaign Act of 1971 to create a more balanced and fair campaign financing system, and for other purposes; jointly, to the Committees on House Administration, Ways and Means, and Post Office and Civil Service.

By Mr. BOUCHER (for himself, Mr. BLILEY, Mr. BRUCE, Mr. OXLEY, Mr. MCCLOSKEY, Mr. ROGERS, Mr. MURPHY, Mr. WISE, Mr. PERKINS, Mr. HUBBARD, Mr. BEVILL, Mr. RAHALL, Mr. PAYNE of Virginia, Mr. SLAUGHTER of Virginia and Mr. HOPKIN):

H.R. 2639. A bill to reduce the Nation's dependence on petroleum by enhancing the use of coal; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. BREWSTER:

H.R. 2640. A bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies; to the Committee on Ways and Means.

By Mr. CHANDLER (for himself, Mr. ARCHER, Mr. MATSUI, Mrs. JOHNSON of Connecticut, and Mr. GUARINI):

H.R. 2641. A bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 2642. A bill to amend section 547 of title 11, United States Code, to provide that certain withdrawal transactions made by depositors from certain financial institutions not be avoided as preferential transfers; to the Committee on the Judiciary.

By Mr. FAWELL (for himself, Mr. PENNY, Mr. ARMEY, Mr. STENHOLM, Mr. BURTON of Indiana, Mr. COX of California, Mr. HANCOCK, Mr. HASTERT, Mr. KASICH, and Mr. WALKER):

H.R. 2643. A bill to rescind unauthorized appropriations for fiscal year 1991; to the Committee on Appropriations.

By Mr. FAZIO:

H.R. 2644. A bill to grant a Federal charter to the National Academies of Practice; to the Committee on the Judiciary.

By Mr. GIBBONS (for himself and Mr. YOUNG of Florida):

H.R. 2645. A bill to amend the Internal Revenue Code of 1986 to ensure that charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts, and for other purposes; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself, Mr. GUARINI, Mr. SHAYS, Mr. SHARP, and Mr. RHODES):

H.R. 2646. A bill to amend the Internal Revenue Code of 1986 to allow small- and medium-sized manufacturers to expense certain acquisitions of productive equipment; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota (for himself and Mr. BARRETT):

H.R. 2647. A bill to require a feasibility study of a proposed four-lane expressway between Scottsbluff, NE, and Rapid City, SD; to the Committee on Public Works and Transportation.

By Mr. KENNEDY (for himself, Mr. EVANS, and Mr. STAGGERS):

H.R. 2648. A bill to direct the Secretary of Veterans Affairs to establish and maintain certain programs for homeless veterans; to the Committee on Veterans' Affairs.

By Mr. MICHEL:

H.R. 2649. A bill to amend the Internal Revenue Code of 1986 to allow a charitable deduction for corporate contributions to private businesses in Eastern European emerging free market countries, and for other purposes; jointly, to the Committees on Ways and Means, Foreign Affairs, and Energy and Commerce.

By Mr. PANETTA:

H.R. 2650. A bill to amend title 38, United States Code, to establish a grant program to provide assistance to States in providing veterans with advice and assistance concerning veterans' benefits; to the Committee on Veterans' Affairs.

By Mrs. SCHROEDER (for herself and Ms. SNOWE):

H.R. 2651. A bill to amend the Public Health Service Act to provide for the development and operation of centers to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SLAUGHTER of Virginia (for himself, Mr. BATEMAN, Mr. BLILEY, Mr. BOUCHER, Mr. MORAN, Mr. OLIN, Mr. PAYNE of Virginia, Mr. PICKETT, Mr. SISISKY, and Mr. WOLF):

H.R. 2652. A bill to establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson; to the Committee on Post Office and Civil Service.

By Mr. SMITH of New Jersey:

H.R. 2653. A bill to amend the Older Americans Act of 1965 to require the Commissioner on Aging to carry out model volunteer service credit projects; to the Committee on Education and Labor.

By Mr. TORRES:

H.R. 2654. A bill to require the clear and uniform disclosure by depository institutions of interest rates payable and fees assessable with respect to deposit accounts; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. SCHROEDER (for herself and Ms. SNOWE):

H. Con. Res. 166. Concurrent resolution expressing the sense of the Congress with respect to contraception and infertility; to the Committee on Energy and Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

185. By the SPEAKER: Memorial of the Legislature of the State of Hawaii, relative to the outlook for jobs and employment in Hawaii; to the Committee on Education and Labor.

186. Also, memorial of the Legislature of the State of Hawaii, relative to temporary general-fund positions within the Department of Education; to the Committee on Education and Labor.

187. Also, memorial of the General Assembly of the State of Illinois, relative to higher education; to the Committee on Education and Labor.

188. Also, memorial of the General Assembly of the State of Illinois, relative to the centrally controlled government in Belgrade, Yugoslavia; to the Committee on Foreign Affairs.

189. Also, memorial of the Legislature of the State of Nebraska, relative to the business of insurance; to the Committee on the Judiciary.

190. Also, memorial of the Legislature of the State of Louisiana, relative to the desecration of the American flag; to the Committee on the Judiciary.

191. Also, memorial of the General Assembly of the State of Tennessee, relative to traffic and motor vehicle safety; to the Committee on Public Works and Transportation.

192. Also, memorial of the Legislature of the State of Hawaii, relative to Hawaii's garment manufacturing, wholesaling, and retailing industries; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. RAVENEL:

H.R. 2655. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rules XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. MANTON, Mr. SKELTON, Mr. MCNULTY, Mr. BERMAN, Mr. SABO, Mr. DIXON, Mr. STARK, Mrs. MINK, Mr. LAROCCO, Mr. CONYERS, Mr. PALLONE, Mr. TRAFICANT, Mr. BONIOR, Mr. KENNEDY, and Mr. REED.

H.R. 110: Mr. DORNAN of California, Mr. TORRES, and Mr. GILCHREST.

H.R. 311: Mr. BURTON of Indiana and Mr. DANNEMEYER.

H.R. 330: Mr. DIXON, Mr. EDWARDS of California, and Mr. LEWIS of Georgia.

H.R. 431: Mr. CLINGER, Mr. HENRY, Mr. GILCHREST, and Mr. WEBER.

H.R. 537: Mr. ENGEL.

H.R. 642: Mr. CARDIN.

H.R. 652: Mr. WAXMAN.

H.R. 670: Mr. MCNULTY, Mr. JEFFERSON, Mr. CONYERS, and Mr. HUGHES.

H.R. 706: Mr. COLEMAN of Texas and Mr. HUTTO.

H.R. 709: Mr. CONYERS, Mr. ESPY, Mr. VALENTINE, and Mr. JONTZ.

H.R. 784: Mr. ANDREWS of New Jersey.

H.R. 791: Mr. LEWIS of Georgia.

H.R. 842: Mr. TORRICELLI.

H.R. 853: Mr. HAYES of Illinois, Mr. SAVAGE, Mr. LEHMAN of Florida, Mr. ACKERMAN, Mr. KLECZKA, Mr. DE LUGO, Mr. RANGEL, Ms. NORTON, Mr. FORD of Tennessee, Mr. DYMALLY, Mr. OWENS of New York, Mr. MARTINEZ, Mr. FRANK of Massachusetts, Mr. CLAY, Mr. JEFFERSON, and Mr. TOWNS.

H.R. 870: Mr. DE LUGO, Mrs. MORELLA, Ms. NORTON, Mr. VENTO, Mr. WHEAT, and Mr. SOLARZ.

H.R. 871: Mr. DEFAZIO and Mr. NEAL of Massachusetts.

H.R. 872: Mr. DEFAZIO, Mr. DE LUGO, Mr. SOLARZ, and Mr. VANDER JAGT.

H.R. 873: Mr. DEFAZIO, Mr. DE LUGO, Mr. MACHTLEY, and Mr. SOLARZ.

H.R. 919: Mr. HANSEN.

H.R. 967: Mr. MURTHA, and Mr. BARTON of Texas.

H.R. 978: Mr. MOLLOHAN, Mr. JOHNSTON of Florida, and Mr. TORRES.

H.R. 1067: Mr. MCGRATH, Mr. KLUG, Mr. YATES, Mr. HEFNER, Mr. JONES of North Carolina, Mr. CONYERS, Mr. FASCELL, Mr. WEISS, Mr. TAUZIN, Mr. LEACH, Mr. HUCKABY, Mr. BOEHLERT, Mr. WILLIAMS, Mr. HOLLOWAY, Mr. BOEHNER, Mr. RAHALL, Mr. OXLEY, Mrs. COLLINS of Michigan, Mr. LIPINSKI, Mrs. MINK, Ms. HORN, Mr. SKELTON, Mr. BILBRAY, Mr. GOSS, Mr. STOKES, and Mr. LANTOS.

H.R. 1130: Mr. BRYANT, Mr. FROST, Mr. FALEOMAVAEGA, Mr. JEFFERSON, and Mr. STALLINGS.

H.R. 1154: Mr. ENGLISH, Mr. JOHNSON of South Dakota, Ms. SLAUGHTER of New York, Mr. BRUCE, Mr. MORAN, Mr. NEAL of Massachusetts, Mr. REGULA, Mr. KENNEDY, Mr. OBERSTAR, Mr. HOAGLAND, Mr. PRICE, and Mr. DARDEN.

H.R. 1202: Mr. ECKART, Mr. PENNY, Mr. KOLTER, Mr. MFUME, Mr. LANCASTER, Mr. FAZIO, Mr. MOLLOHAN, Mr. JONTZ, Mr. MCCLOSKEY, Mr. LEWIS of Georgia, Mr. VENTO, Mr. KILDEE, Mr. WHEAT, Mr. LEHMAN of Florida, Ms. SNOWE, and Mr. MARTINEZ.

H.R. 1414: Mr. LAROCCO.

H.R. 1456: Mr. MILLER of Ohio, Mr. BRYANT, Mr. SISISKY, Mr. MCMILLEN of Maryland, Mr. KASICH, and Mr. SHUSTER.

H.R. 1468: Mr. LAGOMARSINO.

H.R. 1472: Mr. HORTON, Mr. HOUGHTON, Mrs. PATTERSON, Mr. DOOLITTLE, Mr. BAKER, Mr. BARNARD, Mr. DERRICK, Mr. BROOMFIELD, Mr. GOSS, and Mr. MARTIN.

H.R. 1478: Mr. Holloway.

H.R. 1516: Mr. Rowland, Mr. Kolbe, and Mr. Montgomery.

H.R. 1584: Mr. Roth.

H.R. 1598: Mr. Lent and Ms. Ros-Lehtinen.

H.R. 1655: Mr. Henry and Mr. Thomas of Wyoming.

H.R. 1684: Mr. Frost, Mr. Jefferson, Ms. Norton, and Mrs. Collins of Michigan.

H.R. 1733: Mr. Jontz.

H.R. 1771: Mr. Chapman, Mr. Frank of Massachusetts, Mr. Gunderson, Mr. Jefferson, Mr. Johnston of Florida, Mrs. Meyers of Kansas, Mr. Mrazek, Mr. Peterson of Florida, Mr. Synar, Mr. Towns, and Mrs. Vucanovich.

H.R. 1799: Mr. McDermott.

H.R. 1820: Mr. Swift, Mr. Jontz, Mr. Hutto, and Mr. Mavroules.

H.R. 1860: Mr. Klug, Mr. Sarpalius, Ms. Long, and Mr. Spratt.

H.R. 2027: Mr. Dellums and Mrs. Lowey of New York.

H.R. 2063: Mrs. Morella.

H.R. 2137: Mr. DeFazio, Mr. Payne of New Jersey, Mr. Eckart, and Mr. Klug.

H.R. 2179: Mr. Hochbrueckner, Mr. Mollohan, and Mr. Lewis of Georgia.

H.R. 2188: Mr. Burton of Indiana, Mr. Walsh, Mr. Kolter, Mr. Kleczka, Mr. Dannemeyer, Ms. Molinari, Mr. Edwards of Oklahoma, Mr. Jones of Georgia, Mr. Hertel, Mr. Mavroules, Mr. Sensenbrenner, and Mr. Hayes of Louisiana.

H.R. 2279: Mr. Atkins and Mrs. Unsoeld.

H.R. 2294: Mr. Allard, Ms. Slaughter of New York, Mr. Riggs, Mr. Gordon, Mr. Wilson, Mr. Mazzoli, Mr. Espy, Mr. Roberts, Mrs. Lowey of New York, and Mr. Huckaby.

H.R. 2333: Mr. Penny and Mr. Orton.

H.R. 2361: Mr. Schaefer.

H.R. 2363: Mr. Lightfoot and Mr. Kildee.

H.R. 2389: Mrs. Johnson of Connecticut and Mr. Frost.

H.R. 2391: Mr. Pallone.

H.R. 2392: Mr. Pallone.

H.R. 2455: Mr. Kolter, Mr. Holloway, Mr. Washington, and Mr. Evans.

H.R. 2463: Mr. Stump, Mrs. Vucanovich, and Mr. Emerson.

H.R. 2470: Mr. Klug, Mr. Walsh, and Mr. Solomon.

H.R. 2492: Mr. Traficant.

H.R. 2493: Mr. Fawell, Mr. Armey, and Mr. Schiff.

H.R. 2518: Mr. Conyers.

H.R. 2542: Mrs. Vucanovich, Mr. Rangel, Mr. Hochbrueckner, and Mr. Gallo.

H.R. 2579: Mr. Lewis of Florida.

H.R. 2604: Mr. Armey, Mr. Roberts, Mr. Brewster, Mr. Cunningham, Mr. Cox of California, Mr. Hobson, and Mr. Zimmer.

H.J. Res. 83: Mr. Shuster, Mrs. Roukema, Mr. Inhofe, Mr. DeLay, Mr. Bevill, and Mr. Packard.

H.J. Res. 188: Mr. Bateman, Mr. Tauzin, Mr. Lehman of California, Mr. Yatron, Mr. Wyden, Mr. Livingston, Mr. Gordon, Mr. Annunzio, Mr. Lewis of California, Ms. Pelosi, Mr. Barnard, Mr. Bevill, Mrs. Byron, Mr. Huckaby, Mr. Berman, Mr. Bilbray, Mr. Costello, Mr. Kennedy, Mr. Cardin, and Mr. Wolf.

H.J. Res. 201: Mr. Manton, Mr. LaFalce, Mr. Lancaster, Mr. Dwyer of New Jersey, Mr. Kennedy, Mr. Fuster, Mr. Pursell, Mrs. Unsoeld, Mr. Traxler, Mr. Poshard, Mr. Guarini, Mr. Morrison, Mr. Price, Mr. Hughes, Mr. Ford of Michigan, Mr. Torricelli, Mr. Hefner, Mr. Gonzalez, Mr. Jontz, and Mr. Tallon.

H.J. Res. 228: Mr. Levine of California, Mr. Applegate, Mr. Kasich, Mr. Oxley, Mr. Richardson, Mr. Cox of California, and Mr. Gillmor.

H.J. Res. 235: Mrs. Lowey of New York.

H.J. Res. 242: Mr. Waxman.

H.J. Res. 263: Mr. Bennett, Mr. Kleczka, Mr. Edwards of Oklahoma, Mr. Mavroules, Mr. Gilman, Mr. McGrath, Mr. Bunning, Mr. Traficant, Mr. Smith of Florida, Mr. Abercrombie, Mr. Sensenbrenner, Mr. Perkins, Mr. McNulty, Mr. Eckart, and Ms. Slaughter of New York.

H.J. Res. 264: Mr. Clement, Mr. Scheuer, Mr. Markey, Mr. Cardin, Mr. McNulty, Ms. Norton, Mr. Bilbray, and Ms. Pelosi.

H. Con. Res. 43: Mr. Lewis of Georgia.

H. Con. Res. 122: Mr. Mazzoli.

H. Res. 155: Mr. Tallon and Mr. Sanders.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 392: Mr. Pursell.

H.R. 953: Mr. Porter.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

90. The SPEAKER presented a petition of Filipino-American WWII Veterans Association, Houston, TX, relative to the Filipino World War II veterans; which was referred to the Committee on Veterans' Affairs.

SENATE—*Thursday, June 13, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

*If any of you lack wisdom, let him ask of God, that giveth to all men liberally, and upbraideth not; and it shall be given him. * * * the wisdom that is from above is first pure, then peaceable, gentle, and easy to be intreated, full of mercy and good fruits, without partiality, and without hypocrisy.*—James 1:5, 3:17.

God of all wisdom, almost everywhere one looks in the world he sees crisis: oppression, violence, brokenness, economic uncertainty, poverty, moral and ethical confusion, racial tension, fear. At the center of this maelstrom of crises stands the U.S. Senate. One hundred servants of God, stewards of the people, with the inescapable burden of dealing wisely, constructively, redemptively with this mountain of issues. Meanwhile, their lives, public and private, are under the relentless scrutiny of press and media, the opposition, constituents, and many powerful, conflicting special interests, as well as enemies who would destroy them.

Grant to these, Your servants, and their staffs the wisdom of God in responding to this overwhelming responsibility. And give them humility to acknowledge their need and ask You for wisdom.

In His name Who is the Way, the Truth and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD]. The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 13, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with the time to be controlled by the majority leader or his designee.

Mr. SANFORD. Mr. President, as the temporary designee, I yield myself 5 minutes to make a morning business statement.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

IN REMEMBRANCE OF D-Day

Mr. SANFORD. Mr. President, I rise today, several days late, to correct what I feel was an oversight on the part of the U.S. Senate. In the flurry of excitement and preparations last week for the parade recognizing our Desert Storm troops and celebrating their return home, we failed to pause and remember those brave soldiers who fought so valiantly in another war and another time. We let the anniversary of D-day, June 6, 1944, pass by without so much as a word.

D-day saw the greatest military assault in the history of the world, and we owe it to those who fought to ensure that this massive effort for the sake of freedom is not forgotten. I regret that many of our youth today are not even familiar with the events which took place on this day, a day destined to change the course of history.

D-day was the final product of several years of intense planning and calculations, conversion of our industrial might to a wartime footing, altered strategies, elaborate coordination and Allied cooperation, in determining how to bring down Hitler's Atlantic Wall. A decisive victory here was imperative to ending the Nazi tyranny, and on June 5, in the midst of a gale of "almost hurricane proportions," General Eisenhower was left to make the historic decision to proceed with the attack on June 6. Assured by Captain Stagg and the meteorologic staff that there would be a calm spell in the weather, perhaps lasting up to 36 hours, Eisenhower, alone, silently reviewed his options and finding that "the inescapable consequences of postponement were almost too bitter to contemplate," decided to give the attack order.

General Eisenhower spent June 5 poring over his decision, questioning whether it would succeed or end in disaster. He even scrawled out a note that afternoon, anticipating the possibility of failure, which stated, "If any blame or fault attaches to the attempt it is mine alone." The rest of the evening, up until midnight, he spent with the troops of the 101st Airborne, offering reassurances, giving encouragement, giving a word of praise and a word of cheer and a word of hope to all of them.

Similarly, British Field Marshal Sir Bernard L. Montgomery offered an inspirational message to his troops on the eve of the invasion, saying, "To us is given the honor of striking a blow for freedom which will live in history, and in the better days that lie ahead men will speak with pride of our doings." I am here today to "speak with pride" of these courageous men who deserve to be remembered with gratitude, not only by our generation, but on through the long years of history.

The price paid by these valiant warriors was not cheap. The losses we suffered on D-day alone were enormous: 1,465 soldiers were killed, 3,184 wounded, and 1,928 were reported missing. Estimated casualties including our allies were around 10,000.

But if going to war has ever been justifiable, the invasion of Normandy on June 6, 1944, must stand out as one of the purest, most irreproachable assaults on evil ever undertaken in history. Never before, nor since, has our country been in such complete accord with our allies, banding together to overcome a truly villianous leader. As President Roosevelt said of our soldiers in his D-day prayer, delivered over the radio to all Americans, "They fight not for the lust of conquest. They fight to end conquest. They fight to let justice arise, and tolerance and good will among all Thy people."

And so, Mr. President, as the Desert Storm parade bleachers are taken down, as the tanks pull away and the celebration ends, let us reflect for a moment on conquests past. The cause of the Allies in World War II was just and their liberation efforts were historic. For a brief moment in time, most countries were able to set-aside their differences to fight against a tyranny and for the hope of freedom, human rights, and a new world order.

On D-day, Eisenhower sent out a message of encouragement to his troops, ending his statement with words of hope for the future: "Thus shall we lay the foundation for a lasting peace, without which our great effort will have been in vain."

Out of that ordeal came destruction of Adolf Hitler and his Nazi dictatorship of brutality and arrogance, but out of that ordeal also came the United Nations, which is the foundation for a lasting peace hoped for by General Eisenhower and millions of others around the world who combined to end the Nazi evil.

If we are to have a New World Order Mr. President, we need to nourish the instruments of peace. June 6 is a day in history to remind ourselves of that chance.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WE CAN WORK TOGETHER

Mr. KOHL. Mr. President, last night, the President went to the Rose Garden and favored a select audience with some comments about the Congress. I was not selected to be in the audience so I did not get to listen to the President personally. And no TV station broadcast his speech and, as far as I know, no newspaper ran a complete text. So I am not sure I fully understand what I assume was a very sophisticated and a very subtle message.

But based on the incomplete reports I have received and reviewed, I believe I can say this: I think it would help if the President reviewed his inaugural address and his campaign rhetoric.

The inaugural talked about extending a hand to the Congress and eliminating partisan bickering. The campaign talked about a kinder and gentler America. But the conduct of his Presidency seems to involve a different line of argument: bash the Congress.

I would be the first to say that there are problems in the way the Congress operates. But the President and the Congress are not supposed to be adversaries. We are supposed to be allies in a cooperative effort to address the needs of the American people. If the President can extend $1.5 billion in agricultural credits to the Soviets, if he can argue that we ought to grant China most-favored-nations status—if he can cooperate with people who have been and I am afraid still are our adversaries, then why not cooperate with the Congress?

The President told us that if he could win the war with Iraq in 100 hours, we could pass a highway bill and a crime bill in 100 days.

That is nice rhetoric, but it is bad reasoning.

The war took more than 100 hours. It took more than 100 days. Planning started years ago, an active effort to create options started in August, it took months to get the troops in position—and there a few hundred thousand Kurds who would say that the war is not over yet.

The same thing is true of legislation. We need to think about the President's proposals, we need to consider options, we need to hold hearings, we need to debate various plans—and we need to convince the President not to veto what we do, something he has already threatened.

I believe I heard the President say last night that the election has already started. And I believe I have already heard the Director of OMB say that we cannot deal with the crisis in health care until after the 1992 elections are over—and that is more than a year away. The American people expect more from us. They want more from us, and they deserve more from us.

Politics may be a fun game for the players, but the fans are leaving the stands—they are not watching us anymore.

I think we need a time out. We ought to stop playing politics and start making some policy for this country. I do not think last night's speech contributed to that goal. Perhaps after all of this we can work toward and create a record that the American people can be proud of.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DIXON. Mr. President, I ask unanimous consent to have an object on the floor of the U.S. Senate for a moment. I am advised by the folks here that I need the consent of the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE CHICAGO BULLS

Mr. DIXON. Mr. President, how about them Bulls? How about them Bulls, Mr. President?

This basketball, which I will now treasure for the balance of my lifetime, Mr. President, is autographed by Michael Jordan, Air Jordan.

I come here today, Mr. President, representing the great State of Illinois and the great city of Chicago to express our profound pride in them Bulls. Mr. President, how about them Bulls?

Mr. President, it took them many years to get there, but the Chicago Bulls organization is where it belongs, on top of the National Basketball Association.

As a team, Michael Jordan, Scottie Pippen, John Paxson, Horace Grant, Bill Cartwright, Coach Phil Jackson and supporting cast, came together and took this championship in high style. First they swept the Knicks, won four out of five from the Seventy-Sixers, stomped and swept their old rivals the Pistons, and won four out of five from the Lakers. Mr. President, it can be argued that if not for a pair of fluke three pointers by opposing teams, the Bulls would have swept the playoffs. In short, they simply dominated their opponents.

And how about Michael Jordan? Not enough can be said about this individual—not only a superhuman basketball player but a true class act. When Disney World approached him for the traditional post game plug he turned them down; if his whole team wasn't involved, he wouldn't do it. Michael Jordan won most valuable player for the season and most valuable player for the postseason playoffs, his talent as a basketball player is overwhelming. But more than that, the way he carries himself on and off the court is a source of great pride to the city of Chicago.

And how about last night's game against the Lakers? It was vintage Bulls basketball, tenacious defense, and an outstanding transition game. John Paxson in the clutch shot the lights out, Scottie Pippen shined on breakaways, and Michael Jordan commanded the overall charge.

Mr. President, on behalf of myself, Chicagoans, Illinoisans, and all Bulls fans everywhere, I would like to thank the Chicago Bulls organization. They have provided us with a team of winners and integrity, that we cheer for and be proud of.

I yield the floor to my distinguished friend from Ohio.

Mr. METZENBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois yields the floor.

The Senator from Ohio is recognized.

PRESIDENT GEORGE BUSH

Mr. METZENBAUM. I thank my colleague from Illinois.

Mr. President, two things were happening last night. One was great, one was not so great. The great one was the Chicago Bulls and the magnificent victory. The one that was not so great was the fact that our President last night in the tone of a disappointed schoolteacher scolded Congress for failing to pass a highway bill and a crime bill in 90 days.

Mr. President, before a handpicked crowd of adoring admirers the President lectured us about good government and urged us to find a better way.

I would like to find a better way of doing business myself. But the way I see it, President Bush is the problem, not the Congress of the United States.

One hundred days ago, George Bush threw down the gauntlet and talked tough. If our forces could win the ground war in 100 hours, he said, then surely the Congress can pass this legislation in 100 days.

It was the usual tough talk of our President, a no-action posture on domestic issues we have grown to expect from the White House—nothing positive but just this negativism, this criticism.

The President says pass a crime bill. Maybe we could if President Bush worked with us instead of threatening a veto on behalf of the National Rifle Association. Pass a highway bill. He has threatened to veto that one, too, while the leadership of this Senate has been working diligently morning, noon, and night to try to pass just such a highway bill.

And I do, indeed, believe that it will be passed. As a matter of fact, the only domestic policy action that appeals to the President seems to be the veto. He sleeps at night and dreams about the veto. He wakes up in the morning talking about the veto. He literally breathes the veto. The veto is his constant companion.

I am frank to say that every Member of this body, including this Senator, thinks that the President has a magnificently wonderful wife. I think Barbara Bush is one of the finest ladies that any of us have ever come to know. But I want to say to Barbara Bush, whom I consider a friend, "Be careful, Barbara. The President is going steady with someone else, known as veto." That is his constant companion. He offers no solutions or suggestions. He simply hops his plane, flies somewhere, gives a speech, and hammers home the veto threat. It is a crass, cynical, counterproductive way of doing business.

So what is George Bush concerned about? He wants most-favored-nation status for China. That nation's record on human rights is a tragic and horrible story. Who can forget the courageous young man facing down the gun barrel or a tank in Tiananmen Square? George Bush can. He says if Congress adds any human rights conditions to the bill, he will veto it.

My own bill, S. 55, which would outlaw the use of permanent replacements during a strike, also received the veto threat. That bill is an important piece of legislation for hundreds of thousands of decent working men and women, who have given much of themselves to the employers for whom they have worked over a period of years. But George Bush is not worried about them. He is not worried about their jobs or their pensions. He is not worried about whether they can afford a home or pay to educate their children.

The problem is at home, but George Bush wants to go on the road. Foreign affairs is his specialty. Why is it that George Bush, our President, champions the rights of the trade unionists in Eastern Europe but defends greedy union busters throughout America with his ever-present veto threat?

Take a look at the legislative agenda of the 102d Congress, and you will see the list of bills George Bush has threatened to veto. The civil rights bill. There were so many of us in this body—Democrats and Republicans alike—who want to pass a civil rights bill, and I am hopeful that we still will, but hanging over it all is this constant threat of a veto. The Family and Medical Leave Act—veto threat; cable reregulation, to make it possible for the people of this country to get cable services at a reasonable rate and on a fair basis, and to eliminate some of the monopolistic practices that are taking place—veto threat; housing legislation, defense spending bills, you name it, the list goes on and on. The threats are almost immediate, practically automatic.

In today's Wall Street Journal, one item reads:

> House Democrats intend to introduce legislation that would tighten reviews of foreign acquisitions of defense-related U.S. companies, but Bush officials threaten a veto.

Does the President not know anything other than the threat of a veto, as far as governing this country is concerned? That is the drill around here. Before a bill is even introduced, a veto is threatened, as indicated by the Wall Street Journal today.

Candidate George Bush never missed an opportunity to talk about how he would practice bipartisanship with Congress. President Bush has never missed a chance to snipe at Congress and use his veto pen. From the day he took office, George Bush has taken a hostile attitude toward Congress.

Just listen to some of the bills he vetoed in the last Congress: the civil rights bill, the parental leave bill, Amtrak authorization, minimum wage increase, textile bill, the Orphan Drug Act, and there are more. I fail to understand why George Bush chooses to govern in the negative. He has vetoed more public laws than any other elected President over the same length of time in nearly 40 years. Our President has set a record.

Mr. President, and Mr. President of the United States, as well, there are many serious problems facing this Nation, and in Congress we are working toward solutions. I am not going to say to you that we always have the best answer or the right answer, that we have the correct answer, but I say to you, Mr. President of the United States, that we are prepared to negotiate with you, we are prepared to work with you, we are prepared to see what is reasonable and to throw out what is unreasonable. But we cannot do it just by your threatening a veto. It is necessary that we sit down and work together for this country.

This country is in rough economic trouble, and the savings and loan crisis is exacerbating that problem every day of the week. The threatened bank crisis is not helping the situation. And there is even a potential problem with respect to the insurance industry.

We could be working together to do something positive for this country. We are working on the highway bill, and we want to work together with the President. We are working on the civil rights bill; it is time for negotiations to bring about a solution on that bill. We are working on a crime bill, and we ought to be able to do it together, not in opposition, and to see who has enough votes to override a Presidential veto.

We are working on legislation to ease the health care crisis that millions of Americans are facing. If ever there was a subject that called for cooperation, for negotiation among the administration and the Congress and the medical industry, the doctors, the hospitals, and the health care associations, that is it. We could be saving billions of dollars, if we can bring about legislation in that area.

But, no, the administration is unwilling to sit down to talk and negotiate. Instead of working with us on these bills, George Bush continues to be indifferent and obstinate toward the domestic needs of this country. He only seems interested in problems that begin where the U.S. border ends. If the Chinese Government wants something, they will get it. If the Soviet economy is in trouble, we help them. If the Mexican President wants a free-trade zone, it is his. But whatever the Democratic Congress proposes and passes, the President almost for certain seems ready to veto.

Why the difference between the way you work and treat our international partners, or those who are not even partners of ours but with whom we have a political relationship, and we here in the Congress of the United States, you are not able to sit down and work out positive legislation with us? Maybe it is time for this Congress to start standing up for itself and muster the courage to override the veto.

I have said this publicly before, and I will say it again: in connection with legislation that I have been supporting, do not tell me about the President possibly vetoing. I am not interested in what the President is going to veto. That is his business. It is our business here in the Congress to enact the legislation, and let the President decide for himself what he wants to do. I hope that he will recognize that the country would be much better served without the threat of a veto, and by sending his people down here to negotiate positive legislation to deal with some of the weighty problems facing the people of this country. That, I think, would serve all of this Nation well.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I want to associate myself with the remarks made by the distinguished Senator from Ohio. He said it very well. The Senate does wish to work with the White House. The Senate has a strong desire to work with this particular President. The Senate realizes the agenda that we have before us as a country, and we want very much to have the kind of bipartisan cooperation that is essential if this country is to confront these problems, as we must, successfully.

THE DOMESTIC STRUGGLE

Mr. DASCHLE. Mr. President, last night we heard what sounded suspiciously like the opening salvos of the 1992 Presidential campaign. Unfortunately, those salvos, as fired by the President, were not fired from the high ground of legitimate debate. They were fired again, as were his heaviest salvos in 1988, smack from the middle of the low road.

I had thought, and surely hoped, we had heard enough about Willie Horton. I had thought Willie and the Bush 1988 campaign team efforts to distort and demean the Democratic record—low road tactics that Willie Horton came to symbolize—had been packed away for good.

But to paraphrase Mr. Bush's mentor, "here we go again."

Do not get me wrong. Democrats certainly welcome President Bush to the domestic struggle. He should have joined us long ago.

If President Bush is now prepared to give the domestic struggle the time and attention he gave the war with Iraq, maybe we can be as successful on the home front as we were in the Persian Gulf.

If President Bush will show the same willingness to cooperate, to work with, and, yes, even to lead the Congress as he did his administration and his military generals, I know we will be successful.

There are so many pressing domestic problems that need attention. The administration and Congress should be seeking common ground to meet these needs.

The American people need affordable, accessible health care. More than 90 million Americans have no health insurance or inadequate health insurance. These Americans and their families are concerned about crime in our streets. But they are also concerned about the fact that even a minor illness, or a pink slip, could mean financial disaster for them and their families. Senate Democrats have introduced legislation to address these fears. We are waiting on President Bush. Just last week, much to my disappointment, Budget Director Richard Darman said that we may have to wait until 1992 for the administration to develop a health care plan 1992. That has an interesting ring to it, does it not, Mr. President?

I do not have to remind anyone that we are still in a very deep recession. More and more American workers are struggling to make ends meet. Last week we learned that the unemployment rate had shot up to 6.9 percent; 8.6 million Americans are now out of work. They, too, are concerned about crime. But their biggest concern is just finding jobs good jobs.

Democrats have introduced an anti-recession/economic growth package that addresses these problems. Again, we are waiting on President Bush.

Domestic problems abound, and all of them demand attention.

The United States has one of the highest illiteracy rates of any industrialized country in the world. We have youngsters graduating from high school who cannot afford to go to college and Americans graduating from college who cannot find jobs.

Congressional Democrats are addressing these problems with comprehensive education legislation to ensure that all Americans have access to quality education and with legislation that will spur economic growth.

We need a new civil rights bill, as the distinguished Senator from Ohio indicated. It would be helpful to have the administration working with us, not against us. Time and time again, the President's efforts have been directed at frustrating congressional effort for political gain rather than compromising for responsible progress.

The way President Bush has handled the civil rights bill is a prime example.

Another example is the President's use of the veto pen, as the Senator from Ohio said. Indeed, it seems that President Bush has spent more time in vetoing bills than signing them.

Look at the record. Time and again we have enacted important legislation, only to see it fall victim to the veto pen.

In the last session alone, Congress passed a minimum wage bill; the President vetoed it. Congress passed a family leave bill; the President vetoed it. Congress passed a textile bill; the President vetoed it. And, of course, Congress passed a needed, important civil rights bill, and the President vetoed that, too.

Nor was that the end. There were more vetoes. Many more. In just one session of Congress, there were 21 of them, and threats to veto dozens more, including the clean air bill, Amtrak reauthorization, the 1990 farm bill, and an anti-drug measure, and all sorts of legislation affecting the domestic agenda for which he has no proposals. In this session of Congress, President Bush has threatened to veto a much-needed campaign finance reform proposal, another civil rights measure, family leave, and a multitude of other pieces of legislation that we have a majority in this Senate to support.

So, who is not cooperating with whom?

We are passing a transportation bill this week, and we will get it to the President by the real deadline, October 1, when the current law expires. We will not be rushed into making mistakes by attempting to meet an artificially imposed Presidential deadline. The President would not want that; we do not want it either.

Congress is also already working on a crime bill, and it will be a good one. But this is a complicated issue, and it will require much attention, hearings, and debate. This is the way our system works. I cannot say how long it will take, but I can say it would be easier, and much more productive, if the administration would work with Congress rather than fight us.

It is time, Mr. President, for leadership, not gamesmanship. It is time for cooperation and progress, not partisanship and division.

I make no claim that my party is blameless, or that, among our hundreds in Congress, there are not voices prone to partisan attack where partnership is needed.

But to a President whose voice has led America overseas, I say, why not try the same here at home? Sure, we will disagree at times. But all of us, Democrats and Republicans alike, seek the best for all of our people.

If attacked, we Democrats, like all Americans, will defend ourselves vigorously. But if challenged by our President to join in leading the Nation, we will proudly do so.

I hope that the President of the United States will choose the high ground. I hope he will invite us to join him there. After last night, we are still waiting, but we are ready.

Mr. President, in the last couple of days our leadership has constructed a compendium of legislation the Senate and House have addressed already this year. It is entitled "Setting the Record Straight," and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SETTING THE RECORD STRAIGHT

(Issued by the Offices of House Speaker Thomas Foley, Senate Majority Leader George Mitchell and House Majority Leader Richard Gephardt)

President Bush's 100 day challenge is a cynical attempt to divert attention from the Administration's lack of a domestic agenda.

"I hope it is not just a political gimmick and the beginning of a period of 1992 Presidential campaigns that are centered around Congress bashing." Speaker Foley, 6/11/91

"It is purely arbitrary date picked by the President for what, it now is obvious, was a political reason." Senate Majority Leader Mitchell, 6/12/91

"That is a President who prefers rhetoric to action, symbols to substance, vetoes to progress and campaigning to governing." House Majority Leader Gephardt, 6/12/91

While the Republicans have been engaged in politics, the Democratic Congress has passed meaningful legislation that will effect the lives of working American families:

WHAT THE 102D CONGRESS HAS DONE

Benefits for Persian Gulf Troops and families

Congress passed a comprehensive program to provide benefits for the men and women who served our country by serving in Desert Storm and Desert Shield. They worked to secure our nation's security—it is our nation's obligation to ensure that their futures are secure.

Veterans Benefits

Congress passed legislation which provides a 5.4 percent cost-of-living adjustment (COLA) for veterans' service-connected disablity compensation.

Agent Orange

Congress passed legislation which addresses the concerns of Vietnam Veterans who suffer from the effects of Agent Orange.

Civil Rights

The House has adopted—and the Senate will shortly take up a bill to redress inequities in the legal position of women and minorities who have been victims of workplace discrimination, and it provides new legal remedies against reverse discrimination.

Campaign finance reform

The Senate has passed legislation to end the "money chase" of political campaigns by limiting campaign spending, while at the same time, reducing the disproportionate influence of special interests and the wealthy from the American political process and returning it back to the voter, the House will take up legislation in the near future.

Budget

Congress passed a budget resolution which will strengthen the American family by providing additional resources to enable American children to obtain a better education, families to obtain better health care, and American workers to obtain better skills and/or the retraining to compete in today's marketplace.

Brady Handgun Violence Prevention Act

The House has passed legislation to impose a seven day waiting period for the purchase of handguns. The Senate will consider related legislation as part of a comprehensive crime bill later this month.

Fast Track Legislation

To improve economic growth by removing trade barriers, Congress approved legislation to provide "fast-track" procedures for negotiating GATT and US/Mexico Trade Agreements.

Appropriations

The House has passed five appropriations bills which set the spending priorities for the U.S.; Senate committees have begun consideration of these measures.

THE 102D CONGRESS—CRIME AND TRANSPORTATION

The President's 100-day challenge to Congress to complete action on transportation and crime legislation is playing politics with issues of vital concern to the safety and security of the American people and for the growth of the American economy. To set the record straight, Congressional Democrats are actively and constructively working on both measures.

Crime

President Bush is concerned about crime—and he should be. During his Administration, the horrifying nightmare of drugs continue to destroy American families and kill American children. During his Administration, the United States established a national record for murder, a national record for rape, and a national record for violent crime.

These records come after 12 years of Republican Administrations. A dozen years of tough Republican talk, but little Administration action. The President's crime bill does not put one additional cop on the street. It does not add one new prosecutor. It does not build one additional prison cell.

One the other hand, the Senate Democratic Crime package is tough on crime. It calls for more police on the street, more prosecutors and more prison cells as well as increasing the number of offenses punishable under the death penalty. The Senate Democratic measure assists areas hit hardest by the drug epidemic, strengthens the fight against rural crime, and takes important steps to get guns out of the hands of criminals.

The Administration talks tough. Congressional Democrats are acting not only to get criminals off the streets, but to disarm them.

Transportation

Congressional Democrats are moving legislation forward to combat the ill effects of recession and to spur economc growth. A primary vehicle is the Surface Transportation Efficiency Act, which goes far beyond the scope of the Administration's proposal to simply shift responsibilities to the States. This comprehensive package will chart a course for rebuilding America's infrastructure to promote economic growth.

Senate Democrats will pass a transportation bill in a few days. Democrats would have seen earlier action on the measure had it not been for the efforts led by Senate Republicans to thwart their efforts to bring it to the floor.

The House and Senate will send the transportation legislation to the President by the real deadline—October 1. That's when the current law expires. Even if we sent the bill to the President today, it still would not take effect until October 1. Development of this legislation requires careful thought and planning—it would belie our commitment to middle income Americans who pay the bills to move imprudently to meet this artificially imposed Presidential deadline.

WHAT THE 102D CONGRESS IS DOING

But with our commitment to economic growth and the betterment of the American family, Congressional Democrats will not stop there. In this season of Congress, we also are committed to:

Health

Rising health care costs and the fear of losing health insurance is a growing concern to working Americans and their families.

In the face of this national crisis, Congressional Democrats have waited patiently for the Administration to display leadership on this issue of concern to so many Americans. For 872 days, however, Administration has failed to develop a policy that addresses an issue so vital to the well being of so many Americans. In fact, just last week, OMB Director Richard Darman said that the Administration may not introduce a health care package until 1992.

Senate Democrats recently proposed comprehensive legislation to curb the rising cost of health care services and to assure affordable health care for all Americans. House Democrats, likewise, are working on proposals that address this problem.

Education

The distance between rhetoric and reality in the Administration's domestic policy performances is nowhere greater than in education. After eight years of proposed Reagan-Bush Administration cuts in education funding, the President in September, 1989 outlined a series of goals to reform our education system. But then ignored the problem for the next 18 months.

Democrats have always been committed to ensuring that all Americans have access to quality education. In this Congress, we will pass comprehensive education legislation for elementary and secondary students. Republicans are intent on removing Pell grants from the higher education reauthorization bill. But the Democrats will strengthen higher education grants and loans to allow middle- and lower-income families the resources to afford the college of their choice.

Anti-recession and economic growth

With the second disastrous Republican recession in less than a decade, it is time to put America's economic house back in order. Last month, Congressional Democrats proposed an economic recovery and growth package that moves us in that direction. This proposal includes: tax relief to middle income Americans, investment in the nation's infrastructure, reforms in the unemployment insurance system, improvements in our educational system, a strengthening of the safety net, and an aggressive energy policy.

With this package, Congressional Democrats have again demonstrated that they care about the well being of American workers and their families, in times of recession as well as in times of prosperity—that they will not sit idly by while millions of our fellow citizens are crushed by an economic disaster which was not of their own making.

Family and medical leave

We are moving toward passage of the Family and Medical Leave Act, a measure that enjoys broad public support but has so far been opposed—and last year was vetoed—by President Bush. This bill, offering short-term, unpaid leave for families, would spare many thousands of working parents the painful choice between caring for a family member or other loved ones and losing their job.

Environment

Following on our success in the last Congress in enacting landmark Clean Air legislation, we will move forward in the current Congress on the vital Clean Water Act designed to stem the tide of pollution in our nation's waters.

While the Administration continues to ignore the warnings of international environmental experts about the nature and threat of global climate changes, Congress is already moving to address this most important issue.

Banking

Urgent action is needed to strengthen the banking system. With major failures like the Bank of New England, the Congressional Budget Office now predicts the federal insurance fund will go broke by year end.

Democrats are working on legislation to modernize the laws that govern our financial institutions to strengthen our banks here at home and in international markets. Rebuilding the Bank Insurance Fund (BIF) and a complete overhaul of the deposit insurance system must be the heart of a financial reform package.

When reforming deposit insurance, it is imperative that we avoid another massive taxpayer bailout and accomplish it without undermining confidence in our financial system. Administration proposals to limit deposit insurance and return to an era of financial deregulation will not solve the problem.

Energy

Events in the Persian Gulf have again demonstrated that energy security is essential to both national security and economic growth. We will move ahead in this Congress to pass long-term energy legislation to ensure economic growth and meet social needs—an action plan that conserves and diversifies our sources of energy, reduces our dependence on foreign oil and protects our climate and environment.

The President's long-awaited energy policy was revealed in February, in the third year of his Presidency. This followed a decade of a non-policy and neglect that has resulted in an increase in dependency on foreign oil.

Mr. DASCHLE. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to commend and tell my colleague, the chairman of the Democratic Policy Committee, how much I appreciate, and I think all of us in the Senate appreciate, his leadership in that role, as well as the excellent speech he just made addressing himself to the problems that face this country and the need to move forward on a positive basis. I think he hit the nail on the head and it is a real privilege to have the opportunity to work with him here in the Senate.

Mr. DIXON. I share that view.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator from Ohio suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EDUCATION PARTNERSHIPS

Mr. COCHRAN. Mr. President, one of the key elements of President Bush's national education strategy, America 2000, is a program to encourage formation of partnerships in education. I am certain education partnerships can improve the quality of education in our Nation's schools.

Many States have begun to experiment with partnerships to link local elementary and secondary schools with business and industry, community organizations, and State and local government—with one common goal—to offer students better, innovative, and more challenging educational opportunities.

Education partnerships are a critical component in helping communities reach the national education goals established by the President and the Nation's Governors by the year 2000.

Partnerships have been developed in Mississippi which will help communities meet each of the six national education goals. I would like to highlight a few for the information of the Senate.

Goal 1: Children in America will start school ready to learn.

The Mississippi Department of Human Resources, the CREATE Foundation, and the Jackson Junior League have formed a partnership to adopt Missouri's Parents as Teachers Program. This program supports parents in their role as the child's first teacher and addresses children's overall development during the first 3 years of life.

Goal 2: High school graduation rate will increase to at least 90 percent.

Mississippi's goal is to move from being among those States with the highest dropout rates to the lowest by year 2000, and the Riordan and Ford Foundations, and IBM, in partnership with the State department of education, are helping. Their computer-based Writing To Read Program is being employed statewide to ensure that all children are able to read and write by the second grade. The theory behind this program is to provide students with a solid educational foundation from the beginning so they will be better equipped to continue and finish school.

Goal 3: Every school in America will ensure that all students achieve competency in the five core subjects.

Hughes Aircraft has joined a partnership with Jackson State University and the Mississippi Department of Education to further science instruction in public schools. Middle school teachers are given advanced training in the sciences at Jackson State; Jackson State professors and alumni visit students at their schools to serve as role models, particularly for minority students; and Hughes offers additional staff development for science teachers on the Jackson State campus.

Goal 4: U.S. students will be first in the world in mathematics and science achievement.

The Mississippi School for Math and Science, a model school serving the State's top scholars, is reaching other high schools by participating in Mississippi-2000, a two-way interactive fiber optic data system to teach classes in various parts of the State. In partnership with Mississippi Educational Television, South Central Bell, Northern Telecom, IBM, ADC Telecommunications, and Mississippi State University, teachers from the math and science school teach state-of-the-art courses to students hundreds of miles away.

Goal 5: Every adult in America will be literate.

Mississippi's goal is to be a totally literate State by the year 2000. The new opportunities adult literacy partnership began in 1987 between the Entergy Corp., State and local government, and local schools. Entergy has provided instructional materials and computers; volunteers provide the instruction; and schools provide the location.

Goal 6: Every school will be free of drugs and violence.

Project Aware has provided an innovative approach to educating young people across the state about the dangers of drug abuse. Volunteers from South Central Bell join with inmates from the State penitentiary, imprisoned on nonviolent drug charges to bring information about the consequences of illegal drug use to students. The prisoners are all involved in drug rehabilitation programs and are willing to discuss their experiences as part of their treatment. The teams counsel students over the telephone and at junior and senior high schools.

The Department of Education is in the process of creating a recognition program to spotlight successful partnerships from every State on a regular basis. I think this is an excellent idea.

Restructuring of our educational system will require involvement and commitment from everyone. If we are to meet the challenge of the national education goals by the year 2000, public-private partnerships must be considered by every community as one element to enrich educational excellence in the classroom.

Mr. President, I commend the President and the Secretary of Education for the way in which they are focusing the attention of the country on the importance of reform in our education institutions, inventing the best possible schools, establishing goals that not only should be met but must be met if we are to make available to all of our students throughout this country the opportunities which they very definitely deserve.

Mr. CRAIG addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

THE SOVIET ECONOMY

Mr. CRAIG. Mr. President, anyone who understands the principles of the free market must applaud President Bush's recent overtures to the Soviet Union. One sure way to promote peace and security for America is to encourage market relationships to flourish between Americans and the rest of the world.

One usually does not wage war on a valued customer, or on a reliable supplier.

I think our President recognizes that it is not in our interests to have a crumpling and useless economy in the Soviet Union, and therefore has extended a helping hand.

The current situation in the Soviet Union is hazardous.

As Gorbachev's program of perestroika has progressed, the State-controlled economy of his country has truly crumbled. Without some positive response, there is a real hazard that the Russian people will conclude that the move toward a freer market and toward democracy is responsible for their economic ills and current living conditions.

There is real danger that Russians might come to fear market reforms and demand a return to old-style, Communist "planned/controlled" markets.

That is why I hope we will see a continuation of the administration's efforts to ease trade for the Soviets, and to help relieve the current crisis in the Soviet economy.

But, at the same time, it gives me pause to see our President do all that he can to encourage free markets and democracy on the opposite side of the globe, when we seem bent on destroying both concepts in our own society.

Much of the legislation that passes before us reflects almost a lemming-like behavior: The accumulation of private property and wealth is seen as an evil, a value to be condemned and taxed. Profit is seen as a dirty waste product of industry, rather than a tool that drives the even engine of a free economy. Many in Congress oftentimes feel that profits ought to be taxed away instead of accumulated and invested for the purpose of job creation.

Taxes are an inverse measurement, Mr. President, of our freedom of choice. The more we are taxed the less freedom we have to choose how we will dispose of the very thing that we produce.

It is enlightening to consider that many slaves of early America were allowed to keep 80 percent of that which they produced for themselves, and now the typical American taxpayer is allowed to keep less than 60 percent of that which he produces for himself or herself and their families.

So we look at legislation that over time mandates employee benefits, which dictates to business where they ought to, or more importantly where they will, place their profits, rather than a free approach that is looked at toward expanding jobs and the economy.

"Tax the rich" schemes, Mr. President, which punish the productive use of the successful labors of this country only drive us more toward a controlled State economy.

Our history has been one of individual rights and individual freedom. The act of being able to hold and maintain private property has given this country a tremendous latitude of freedom, a burst of growth in human freedom, of course, and it is what has made the rest of the world want to be like us.

Mr. President, perhaps it is time we stopped and reflected upon the principles that adorn all the buildings and monuments of this great community we call our Nation's Capital, principles which stress freedom, integrity, private ownership, and away from a controlled economy toward a free market economy. That is what spells opportunity in this country.

As we work to promote it for the rest of the world, Mr. President, it is my suggestion this morning that we consider allowing it to abide in abundancy here in this country.

I yield back the remainder of my time.

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

CHICAGO STANDS TALL WITH THE BULLS

Mr. SIMON. Mr. President, I want to join my colleague from Illinois, Senator DIXON, who earlier spoke about the Chicago Bulls. This may be a strange subject to bring up on the floor of the U.S. Senate, but our society is made up of a great many facets, and it is not only the deadly serious, literally deadly serious, things we talk about; it is also symphony orchestras, it is operas, it is movies, it is also athletics.

I note the presence of Senator WIRTH on the floor, and I am sure in Denver they are paying a lot more attention these last few days to athletics because of Denver getting a major league team.

But while I confess I am more of a football fan than a basketball fan, I watched that game last night on television, and it was exciting and it was great to see. But I think as important as anything is the pride that provincially we have in Illinois in the Chicago Bulls. It is also great to see Michael Jordan and the players conduct themselves in a way that we want people to conduct themselves, as heroes for children. And that is what they are.

I sat next to a 10-year-old on the plane coming out here, and he was wearing a Chicago Bulls hat. He actually was from Denver, CO. I said, "Are you a Bulls fan?" And he said, "Yes. Anyone who is for the Lakers is weird." That is what the 10-year-old said. Well, obviously, that is not the fact.

But it is—and maybe I am a little old-fashioned, Mr. President—great to see a Michael Jordan who conducts himself, not only on that basketball court, but conducts himself off the court in a way that gives you great pride.

So I simply want to join my colleague, Senator DIXON, in congratulating the Chicago Bulls. We are very, very proud of them in Illinois.

Mr. President, I am proud to be an Illinoisan and proud to be a Chicago Bulls fan. Through a wealth of offense from 12 players, the Chicago Bulls defeated the Los Angeles Lakers and have given Chicago our first NBA title in our team's 25-year history.

The Chicago Bulls have beaten the rap that they are a one-man team and this morning, no one is more aware of that than the Los Angeles Lakers.

The Bulls' dominance can be reduced to three simple factors: Defense, Michael Jordan and a factor that has surprised many observers, their bench play.

The Bulls were as team-oriented on defense as much as on offense. Head coach Phil Jackson's troops followed a defensive scheme masterfully, they double-teamed effectively on James Worthy, Magic Johnson, Byron Scott and others, and they kept the Lakers away from their perimeter game. The Bulls shut down Earvin "Magic" Johnson. Michael Johnson and Scottie Pippen, through intensive full-court pressure, pushed Magic away from his game plan.

What was different about this season was that as great as Michael Jordan was, his team shared greatness, too. Plainly speaking, the Bulls were unbeatable.

If, Mr. President, it was possible for the legend of Michael Jordan to continue to grow, it has. In the words of a Los Angeles Times writer, Michael Jordan "was elevated from Bunyanesque to Herculean." This championship is a living tribute to a man who has attained all else in basketball.

Scottie Pippen really came into his own and is an MVP in his own right. The point guard duties were executed by John Paxson with brilliance, Billy Cartwright and Horace Grant's play underneath was solid.

This team won a franchise record 61 victories, and believe it or not, this was only the Bulls second division title. This was the first time they had the best conference record; 1991 marks their first conference championship, and the most astonishing achievement, 26 consecutive home wins at a time when they have not had a spare seat in 5 years. I ought to know. I tried to get tickets and like the rest of my colleagues, I was forced to catch the series on television.

On behalf of the city of Chicago, the State of Illinois, and all basketball fans from across the Nation, we salute the Chicago Bulls, the 1991 NBA World Champions.

Mr. WIRTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESIDENT BUSH AND THE S&L CRISIS

Mr. WIRTH. Mr. President, last night the President of the United States criticized the U.S. Congress for our lack of attention to a number of important issues.

As those of us who have been working on this know, we have been working on the highway bill. The filibuster that delayed us, of course, was led by a Member of the President's own party. And we also have been working on crime and civil rights legislation. Some of us believe that we can address these issues with the help of constructive Members on the other side, and not get the crime and civil rights issues all tangled up in politics. We do not need to meet an arbitrary deadline set to score political points for the President.

I could not help but notice last night, that President Bush did not mention one important domestic issue: the S&L crisis. Remember that? I do not see how he could ignore this problem in any discussion of domestic issues when, after all, it is costing us more than $150 billion. Imagine what we could do if we were not spending that $150 billion. If we spent that money instead educating our children, building our bridges and highways, cleaning up the land we live in, fighting drugs, building housing, and so on.

When President Bush took office in January 1990, the S&L rescue was a top priority. He recognized the problem and sent up FIRREA, the bailout bill, and we passed it. They sent it up here and we moved rapidly. Unfortunately, since then there has been a deafening silence regarding this issue.

The S&L problem, however, is not going to go away. Even if President Bush does not mention it, it is out there, it is real, and unfortunately it has suffered from a real lack of attention by the President.

When President Bush came in, he told us it was only going to cost us only $40 billion. We are now up to $130, and counting. We heard yesterday from Mr. Seidman that the costs are going to go up even more dramatically. Senator RIEGLE and I asked Mr. Seidman what costs are coming down the line, and he told us that this year they are going to be in here asking for $50 billion more to bail out S&L losses, $50 billion more in working capital, probably a $20 billion loss for the bank insurance fund and at least $50 billion for the bank insurance fund's working capital, $170 billion in new money being requested, in this year alone, to address problems in the bank and thrift industries.

If things go right, the FDIC will be able to repay the $70 billion for the bank insurance fund—which comes on top of the $130 billion to $155 billion for the S&L's. The FDIC could repay these funds with income from the banking industry and by selling the assets of failed banks. But the example of the past 2 years makes me wonder if things will go right.

What is this administration doing about the S&L crisis? Precious little, Mr. President. Since FIRREA, we have not seen the S&L crisis receive the attention it demands. For example, when they had to set up the RTC oversight board, who was on that board? Three people who do not have very much time to devote to this issue—they have other important time-consuming jobs: the Secretary of the Treasury, the Secretary of Housing and Urban Development, and the head of the Federal Reserve; and then two independent members whom they did not even appoint for at least a year. The President knew for 4 months that Danny Wall was going to be leaving as the Director of the Office of Thrift Supervision, before appointing his replacement, 2 days after a court forced his hand.

The sale of RTC assets has gone on at a snail's pace. We have heard horror story after horror story about what businesses everywhere in the country face, trying to figure out how the RTC operates so that they can obtain simple information or do business with the RTC. We asked the Attorney General, what are you doing in terms of pursuing ill-gotten gain? We got very little response until the Congress passed a package putting more investigators, accountants, and prosecutors on the job and giving them more tools to work with. Clearly putting the S&L rescue on automatic pilot hasn't worked.

If the RTC doesn't operate efficiently, the costs of the S&L rescue will climb. We need to pay more attention to this issue. Several of us have proposed RTC reforms to streamline the confusing organizational move that the President asked for. Let me show you what kind of structure is in place. This chart is not a diagram for a computer, Mr. President. It's not a computer chip. This is the organizational chart for the S&L bailout structure.

This is what the S&L bailout effort looks like. No wonder you cannot do the job. No wonder it too often has seemed like no one was in charge or, worse, that several people thought they were. Let us simplify this.

Mr. MOYNIHAN. It is a memory chip.

Mr. WIRTH. It is not a memory chip. There is no memory, either, down there about the size and scope of the S&L organization. The Senator from New York says it is a memory chip; it is not. It is an organizational chart, believe it or not.

We are saying why not simplify this and make sure decisions can be made?

The point is not this chart. The point is not one incident. The point is the accumulation of inattention to the whole S&L crisis. The problem is getting worse. They are not doing the job that ought to be done. I did not hear the President of the United States talking about this issue last night. I wish he would.

REVIEW OF SHIPPING ACT OF 1984

Mr. INOUYE. Mr. President, we now live in a New World—Asia has risen as an economic giant, Europe is embarking on a new political and economic path. Telecommunications have taken on an increasingly important role in the day-to-day activities of governments and businesses. Companies no longer claim loyalty to any one country; instead, they have offices in many countries and work instead on a global level.

The impact of these changes on the transportation industry, and on the shipping industry in particular, has been dramatic. To keep afloat companies have to be in the right places with the right assets, and, aided by the proper telecommunications systems, they must maintain cohesion between their ships, trucks, trains, and port facilities.

The Shipping Act of 1984 has helped America's shippers to maintain their competitiveness in the global market. The operating differential subsidy, or ODS, which was originally intended to strengthen the U.S. merchant marine industry, has on the other hand weakened it.

This year, as the Shipping Act of 1984 comes up for review, I ask that we give careful consideration to the new global order and its effect on our own shipping industry.

Mr. President, I ask unanimous consent that the text of the speech by Mr. Alex Mandl, chairman and chief executive officer of Sea-Land Services, Inc., be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Alex J. Mandl

Good afternoon. And thank you for the chance to be a part of the South Carolina International Trade Conference's 18th annual meeting.

When the invitation to speak first came in, it took me about 10 seconds to say yes. Charleston. Springtime. And a conference dedicated to some of the industry's most pressing issues. It's a potent combination.

In my time with you today I would like to take a quick tour of the industry. And in the course of that tour I'd like to make a couple of points. One . . . it most definitely is, as the title of this conference says a new world.

Second, this new world demands some new outlooks, some new strategies and some new thinking if the carrier industry is to efficiently meet the needs of you, our shipping customers.

And third, for those new ideas to have any lasting effect in a rough and tumble business, we need some equally new thinking by those who make the rules that govern our segment of this business—at least those of us flying the U.S. flag.

It hardly takes a degree in economics to see that there have been some changes in the world economic order in the past decade or so. Driven by stunning geopolitical and societal events, the balance of economic power has shifted and continues to shift.

Unfortunately, its been a shift away from us here in this room. The U.S. has long ago stopped being the 800 pound gorilla of international trade. We no longer dictate the rules. We no longer dominate the volume of goods moved around the world.

As the U.S. has stepped back, other parts of the world have stepped forward. Asia, driven by Japan's mighty industrial engine, emerged in the 80s as a world economic power. Japan alone represents a 2.8 trillion dollar market. A similar expansion has taken place in Korea, Hong Kong and Taiwan and now China and Southeast Asia are flexing their economic muscles.

Today, Europe is looming as one of the world's most formidable players as we steam toward 1991.

Even recognizing the current slow down, EC economists tell us that European economic growth could rise 6 percent a year through the year 2000.

An area covering only 2 million square kilometers will hold almost 325 million people and offer markets that could exceed 4 trillion dollars. But who could have guessed that The Berlin Wall, the symbol of all that divided nations and ideologies, would end up in pieces in German souvenir shops.

It's no surprise that the world's fastest growing trade lanes are intra-Europe, intra-Asia, Asia-Europe and Europe-Asia.

And these exploding new markets are there for companies willing to invest now for the long term. And increasingly, we're seeing companies who are showing that kind of staying power. I'm sure some of you here today are part of that group.

Years from now the historians and social scientists will still be arguing what fueled the political, social and economic changes of the past decade.

But high on anybody's list is certain to be the information revolution.

Actually, it's not even a revolution anymore. The revolution's over. And information won.

If there are any doubts of the pervasiveness of the revolution, consider just a few statistics.

Telecommunications . . . and I'm talking here about both voice and data . . . from the U.S. to international locations was 1.3 billion minutes in 1980. In 1989, it was 6.7 billion.

And those minutes will jump by 10 percent a year through the 90s.

Some 30 billion minutes of voice traffic crossed the globe in 1990. A 500 percent increase over 1980.

The world market for telecommunications products and services is growing at 12 to 15 percent a year.

Just 10 years ago, faxes were still new, almost a curiosity. Now, there are 4.2 million of them worldwide.

In the U.S. alone, there are 11.6 million electronic mailboxes. By the year 2000 there will be 46 million.

Clearly, there is a lot of communication going on around the globe. And you can bet that it's not to find out how everyone is at grandma's.

When he visited the U.S. in 1989, Poland's Lech Walesa was asked how the upheaval in Eastern Europe happened.

His reply was interesting.

"It's a result of civilization," he said. "Of computers and satellite TV and other innovations that present alternative solutions . . . Is it possible for a new Stalin to appear today who could murder people? It's impossible." What he's saying is that we would know what's going on and quickly put a stop to it.

Just as information in Eastern Europe has been able to stare down dictators, it has ushered in a whole new world where business imagination has combined with an awareness of what technology can do.

And the product of that fusion has been new ways of thinking about customers, markets, productivity and service.

It's changed the way business views the world. And the way the world views business.

There was a time . . . and not too long ago . . . when geography, time zones and national boundaries were fairly significant barriers to commerce.

Businesses had to shape their strategies and aspirations around what those barriers would and would not allow.

Not too long ago the top of the pyramid of international commerce was the multi-national corporation.

A firm that was based in one country with satellite operations around the world.

Today that structure is being replaced by a new form . . . the transnational company.

It's lean, on-line, and dispersed around the globe.

Rather than hierarchies, these global transnationals are information-intensive networks . . . where the components of a product might be built on one continent, assembled to another and marketed in a third.

Many companies are shedding the banner of national identity altogether. Rather than claiming themselves to be German, Japanese, or American, they are global . . . corporate citizens of the world.

And publicly or not, they tend to consider themselves to be independent of the economy of their nominal home base.

In a New York Times article a senior official at Colgate-Palmolive said simply "The United States does not have an automatic call on our resources."

It's a statement backed by the facts. Colgate now sells more toothpaste, soaps, and other toiletries outside the United States than inside.

Consider the fact that both Motorola and Hewlett Packard have claimed that they will not be directly affected if the United States does not grab the lead in high definition television—consumer electronics' new holy grail.

Their point is simple: wherever the technology is developed first, they'll simply put it in their products.

Companies like IBM, Ford, NCR, Motorola and even that quientessential American company, the Stanley Works, now collect some 30 percent or more of their revenues and large chunks of their profit from products produced outside the country.

And that profit is usually coming from high-tech factories that are far more sophisticated than the rudimentary assembly plant operations of earlier overseas expansion.

America is just one example. Overseas holdings are rising rapidly for just about every other industrial country.

The EC's competition commissioner, Sir Leon Brittan in March issued a warning to Japan.

The issue? Japan's investment in Europe is outpacing Europe's investment in Japan.

Now add to that global equation, alliances and joint ventures.

We see them in virtually every industry.

Automobiles, electronics, equipment, shipping . . . it's a very long list.

The world is so complex, and events are moving at such speed, that it makes no sense to go it alone.

As companies divide, spread out, and form new partnerships, efficient transportation becomes paramount.

And until—like on Star Trek we can say "beam me up a container of crank shafts, Scotty", transportation will be central to the new economic order I've just discussed. But micro-managing distribution, companies can use the advantages of lower cost sourcing and labor in remote locations. The enablers? A modern transportation industry and global information technology.

So, this leads to the obvious question:

What does it all mean for the transportation industry? Or more specifically, for carriers and our ability to meet the needs of you, our shippers.

At the most basic level, it means being in the right places with the right assets.

It means a strong presence in ships, ports and port facilities in the trade lanes of America, Europe and Asia.

In the 60s, for example, Sea-Land had eight small ships and a couple thousand 35-foot containers.

We might have operated in five or six ports. We had a presence in maybe nine countries, and we employed all of 350 people.

But like so many of our customers today, our asset deployment today is wide and global.

We operate 80 vessels on five trade lanes and call on some 95 ports. And we have more than 9,000 employees. We have around 150,000 containers and more than 200 offices.

We've built a presence in Europe that's as well known to shippers as names like IBM, Ford or even McDonald's are to their customers.

In Asia, we cover the Pacific—all the markets are served. We even have 10 offices in the People's Republic of China.

But for any transportation company, all of that is merely the price of admission to the big leagues of global service.

More important than physical assets is the infrastructure that ties them all together.

Ships, trucks, trains, port facilities, must come together in a cohesive service offering.

It must be cohesive on a global scale.

And it must go far beyond moving goods from one shore to another. It must have the land system that assures timely delivery door to door.

A German manufacturer waiting for the delivery of raw materials from the U.S. or a load of parts from Hong Kong that go on the production line that night is going to be very demanding of its transportation company.

That transportation company had better be able to track that shipment minute by minute from the time it leaves the supplier to the time it arrives on the customer's loading dock. And it had better have all of the facilities in place to make the trip a smooth one.

You can't do that operating solely from the United States.

And you can't do it sticking to the old paradigms of decades past. You have to take some chances; break the old rules.

Take, for example, vessel rationalization.

There was a time when sharing space on a competitor's ship to serve a customer was as likely as South Carolina and Clemson trading playbooks so both would have a better football team. It just wasn't going to happen.

Today, thanks to some enlightened policymaking that I'll talk about in a minute, it's standard procedure.

For example, out of 89,000 moves by Sea-Land vessels into the Port of Charleston, less than half was strictly our own cargo. The rest was made up of cargo from P&O and Nedlloyd riding on our ships.

Recently, Sea-Land and Maersk have agreed to a comparable alliance in the Asia-North America trade that will give our customers more sailings, wider port coverage and more direct service among key markets.

Talk about breaking paradigms . . . now we are proceeding with a number of projects in the Soviet Union. We will share space on Soviet vessels and connect intermodally with Soviet rail and air services and work to improve the country's transportation system. The centerpiece is a landbridge container service using the trans-Siberian Railway to connect Asia and Europe. It could cut from days to weeks off the Suez Canal route. And, this service could be profitable in 1992.

It's the infrastructure of our company—our organization and our communications network—not its assets that makes this kind of service possible.

And the enabler of that infrastructure is information.

To give you an idea of how seriously we take information technology at Sea-Land, some 500 people . . . or 10 percent of our professional work force . . . are in our Information Services group.

We're spending between 3 percent and 3.5 percent of sales on our information technology budget. Add all the related indirect spending and it's probably more like 4.5 percent—well over $100 million annually.

As our Chief Information Officer, John Parker, is fond of saying, we're moving toward becoming a vast information system on which we hang transportation assets such as ships, containers, trucks, railcars and terminals.

The issue for Sea-Land, like any company today, is to be judged less by what we have and where we are; and more by how quickly and accurately we can gather, process and use information in the name of cost control, productivity, quality and service.

Through information technology, we're working to create a window for our customers on the global transportation pipeline . . . where information is readily available to everyone who needs it . . . from the first stages of manufacturing through the final sale.

Information technology is also the glue that holds together our corporate structure.

In line with our global view and determination to get closer to our customers, we decentralized in 1990.

We cut 12 organizational levels down to 7, and we moved authority and decision making from our headquarters in Edison to divisional offices around the world.

We changed jobs, processes and organizations throughout the company very quickly and all at once. We had to do it fast to meet our customers' emerging requirements.

There's no way we could have pulled it all off . . . and had the most profitable year in our recent history . . . without a world class information infrastructure.

So in the new world, with its new rules of business, global assets and the infrastructure that ties them together are two criteria for success.

But there's also a third.

And here, our world tour heads back to Washington.

Anybody in this business knows it's a tough world out there.

And just as the carriers have changed, so must the policy makers who set the rules that govern whether we can compete effectively. And whether we can continue to give our customers the service that, in turn, helps them compete in their own markets.

We're an industry that has definitely seen two sides of regulatory change. We've seen what it can accomplish when it happens in a careful, thoughtful and productive way.

And we've seen the price that's paid when it doesn't happen at all.

Look at the web of policy that governs this industry, and you quickly see the good, the bad and the absurd.

You'll see, for example, the best in enlightened policy making in the Shipping Act of 1984, which, in my view, has been absolutely fundamental in the ability to meet the demands of our customers in world markets.

It has been the key to a range of service-enhancing innovations, including the ability to share vessels that I talked about earlier. It also provided the momentum behind the expansion of intermodal service by allowing a single through bill of lading.

Prior to the 84 Act it was not a pretty picture. We were struggling along under a patchwork of regulations that were still based on policies set in 1916.

The conference structure was a formidable inhibitor.

Under the old rules, if you wanted to meet a customer demand and the conference vetoed you, you had no choice but to leave the conference.

With much bloodshed, Sea-Land did just that in the Pacific.

And the result was a rate war that was ultimately destructive to the entire industry.

But the 84 Act put a stop to all of that.

I believe it was a masterpiece of compromise. It protected the viability of the conferences, but allowed independent action and service contracts . . . both radical ideas at the time.

The 84 Act allowed the rigidly structured conferences of the past to evolve to the more market-responsive agreements which exist in our major trades today.

It managed to achieve the difficult and fragile balance between the needs of the shipper and the needs of the carrier.

It freed up new innovation and responsiveness.

And it resulted in billions being invested in new ships, ports and terminals . . . meaning more options, and better service for shippers.

The tricky part of change, I believe, is knowing when it has achieved its purpose and recognizing when further change begins to narrow interests.

I think we've reached that critical point with the 84 Act.

We all have a lot riding on the outcome of the Review Commission which has begun the automatic review that was built into the Act when it was passed.

The free marketers who challenge the careful compromises of the 84 Act as anti-competitive are missing the point.

The world is not a free market.

What might work quite well in an academic classroom may not be as neat and tidy when you step out into the real world.

The fact is, many countries have no regard for our notions of competition.

The master stroke of the 84 Act is that it gives the U.S. a solid platform from which to compete internationally, but it gives us the freedom to build and to innovate.

I firmly believe carriers today have the latitude we need to meet the diverse needs of our shipping customers. There is no need to take a dull knife to policy that has worked very, very well.

Let me turn from the 84 Act, a set of policies that has strengthened our industry, to the other side of the coin.

To a policy that is sapping the strength and vitality of the U.S. merchant marine.

I'm talking, of course, about the Operating Differential Subsidy, or ODS program.

It was established by the Merchant Marine Act of 1936 as a way to equalize the labor cost disparity between U.S.-flag carriers and their foreign competition.

As you probably know, in order to qualify for ODS payments, a carrier is supposed to engage in foreign commerce on certain established trade routes, employ U.S. crews and have its vessels built and flagged in the U.S.

All of that sounded reasonable enough when the shipping industry just moved goods across water, and vessels were the core of the business.

But today, there's just one problem.

ODS doesn't work.

As failures go, this one is pretty spectacular.

By just about any measure, ODS has not strengthened the U.S. merchant marine industry. It has weakened it.

Let's start with the subsidized companies themselves.

Twenty years ago there were nineteen subsidized shipping lines.

Now, there are just four.

And it certainly hasn't done anything to ensure the viability of the U.S. flag share of the liner shipping market.

It declined from 30 to 18 percent, as ODS payments increased.

For virtually all subsidized companies, the more than $200 million that is doled out each and every year, has warped their business focus. It's not how to be a stronger world competitor. It's how to keep those subsidies rolling in.

It has forced companies to make operating decisions around the subsidy, and not the realities of the market . . . not a good idea when the market is as unforgiving as the one today.

With transportation now a complex web of logistics assets and facilities covering land and water, vessel operating costs today and just 25 percent of the total cost of service.

By focusing purely on the vessel portion of the business, ODS has encouraged companies to ignore the myriad of other critical factors in the service mix.

And it's hurting more than the subsidized firms.

Continued government inaction in phasing out ODS is creating a negative investment climate for those of us who are unsubsidized.

Investors are hard pressed to make a call on where, how and if subsidies will be part of the investment decision.

In a blatant contradiction of the initial intent of ODS, a number of subsidized firms do not even have ships on the routes where they claim to hold subsidy contract rights.

And one more point.

Subsidized firms are benefiting from government-impelled and military preference programs . . . meaning they are being subsidized twice. This double dipping is still more money simply wasted.

To me, that's a pretty powerful set of arguments.

The cry that goes up in response, of course, is "we can't survive without subsidies. It's going to cost jobs."

Well, let's look at life without subsidies.

I'm not here to tout Sea-Land's performance, though we happen to be a very good example of what happens when an American company steps up to the realities of the global marketplace and respond creatively.

Back in 1986 our revenue base was $1.5 billion. And our earnings had little red brackets around them.

Just five years later, our revenue had doubled to $3 billion. Last year we earned operating income of $130 million. And we're hoping to better that this year.

As I said, we are well along with the job of building a world class infrastructure powered by the most advanced communications.

We field a line up of the most sophisticated customer-service technologies and abilities in the industry.

And most important of all, particularly in relation to the original intent of ODS, we are a viable presence in all of the major international shipping lanes. And that presence is growing at a robust rate.

Importantly, during the recent Sea-Lift in support of Desert Shield and Desert Storm, we carried 40 percent of all containerized cargo that went to Saudi Arabia.

We were proud to do our share and we did that without ODS.

Sea-Land has grown by studying and learning what our customers need.

Any by meeting those needs faster, more completely, and just plain better than the other guys.

It's a straight forward business equation.

And you won't find operating subsidies anywhere in it.

In spite of the failure of ODS on every count, there has still been no meaningful reform . . . although there have been strong statements for change by a succession of administrations.

So ODS continues to limp along and everyone here is paying for its failures with your hard-earned tax dollars.

The subsidized carriers who have used subsidies as a crutch for so long, are now blaming that crutch for their problems.

For example, ODS regulations say that subsidies can only be applied to U.S. built ships.

But, U.S. built ships are expensive.

So the subsidized carriers want that provision dropped. They want their foreign vessels and they want their subsidies.

They also want to eliminate trade route obligations. In other words, give us the taxpayers' money, but don't hold us accountable for how we use it.

And finally, they want to eliminate the waiting period of new vessels becoming eligible for government impelled cargo, while keeping ODS. A sweetening of the double dip.

First of all, let's be clear on a couple of points here.

Contrary to what the subsidized firms would have the world believe, any subsidized carrier can acquire any ship it wants to—foreign built or otherwise.

They just have to forgo the subsidy on the new ship.

Just say no.

No subsidy. No problem. And no roadblock to modernization.

The same holds true for trade routes. Like any other company, subsidized carriers can compete on any trade route they want to. Again, just give up the subsidy.

The third point about waiving the waiting period—is especially interesting.

Sea-Land has long supported the immediate eligibility of new vessels for government impelled cargo.

But the subsidized carriers want the eligibility period waived only for ODS replacement vessels. Not the vessels of non-subsidized carriers.

Somebody please tell me where the equity is in that proposal.

In the face of the compelling arguments against ODS, we have some thoughts on how the U.S. can extricate itself from this mess . . . and in the process help create the stronger Merchant Marine that ODS was intended to create in the first place.

First, do some house cleaning. Terminate all dormant ODS contracts. That will avoid any future reactivation and take the government off the hook for millions still unspent.

Let's put an end to the ghost ships. Major failures to perform contract requirements should result in cancellation of those contracts.

In any business I'm familiar with, that's the way things work.

Second, do not issue any new contracts. Stop spending good money after bad.

Third, phase out existing contracts as they expire. Don't extend or renew them.

We realize that ODS dependency has gone on for so long, that you can't quit it cold turkey.

A phase out will allow time to adjust to the real world.

The strength of these proposals is in their simplicity.

The Department of Transportation has the authority to save the government hundreds of millions of dollars without congressional action. It can—as the shoe commercials say—just do it.

Before ending this assault on ODS, I want to make one point clear. I am not attacking government support . . . as long as that support is effective and truly strengthens the entire merchant marine.

We need effective government backing to compete with heavily supported carriers of other countries . . . and to continue to give our customers the kind of service and flexibility they expect.

Two examples of policy that work are the preference laws for government impelled cargo and the transport of military cargo.

Let's focus on making the process of working with the government easier and more streamlined as a customer.

On creating a closer relationship between carriers and the government to the benefit of both.

On easing the tax burdens that hamper investment in the industry.

Let's stop waste and futility . . . and start thinking about how we can support this industry in ways that really accomplish something. In ways that make economic sense.

There's no doubt that we've seen significant change in the alignment of the world economy.

And there's no doubt we've seen equally important shifts in how carriers and shippers are reacting to that realignment.

What, unfortunately, does remain in doubt is whether the maritime policy structure will allow all of us to meet the challenges and make the most of the opportunities that this new world offers us.

There are some very critical choices coming up in the months ahead.

The 84 Act is under review. And the ODS program limps on.

I hope our choices will show the wisdom not to change what has worked . . . and the will to change what has not.

For those who hope to compete . . . and I mean both the transportation industry and its individual companies and their customers—the new world demands that those choices be the right ones.

DECISION OF BAXTER INTERNATIONAL, INC. TO CANCEL PLANS TO BUILD FACTORY FOR SYRIAN MILITARY

Mr. SPECTER. Mr. President, I am pleased to learn that Baxter International Inc., the world's largest medical supply company, has decided to abandon its plans to build an intravenous fluids factory for the Syrian military. Several experts have claimed that such technology, which already has blatant battlefield applications, could be diverted to making ingredients for chemical and biological weapons. Potential dual-use technologies, such as the fluids factory, should not be provided to any country which belongs to the U.S. State Department Terrorism List or is in a state of war with our ally, Israel.

In July 1990, my office first became involved in the issue of Baxter's relationship with the Syrian military and allegations that they are illegally complying with the Arab boycott. Based upon documents provided to me concerning the boycott issue, I sent a letter, July 18, 1990, to the Commissioner of Internal Revenue to seek clarification whether Baxter properly disclosed its dealings, required under IRS code, with parties involved in the boycott.

I further pursued the issue after investigations were initiated by several Government agencies, including the Department of Commerce, the Department of Justice, and the Securities and Exchange Commission. Subsequently, I was provided with more information on Baxter's alleged activities to get off the Arab blacklist and comply with the Arab boycott. After reviewing the new information, I again called on Baxter to set the record straight and explain its relationship with the boycott office and its dealings with the Syrian military.

I understand that recently the Commerce Department referred the matter to the U.S. attorney's office in Chicago for criminal investigation to determine whether Baxter violated U.S. antiboycott laws and paid a bribe to get off the Arab blacklist. It is my hope that this kind of scrutiny will send a message to other companies participating in the Arab boycott and deter them from such activities. There is no place in the conduct of commerce for corporations engaging in religious discrimination and economic warfare against Jews and Israel. If Arab countries such as Syria, Saudi Arabia, and Kuwait are serious about peace, such practices should be immediately terminated.

I ask unanimous consent that the attached articles detailing the Baxter case be included in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 11, 1991]

BAXTER CANCELS SYRIA PLANT AMID ARAB BOYCOTT DISPUTE

(By Milt Freudenheim)

Baxter International Inc., a leading medical supply company, said yesterday that it had canceled plans to build a factory in Syria because of a "controversy" over its Middle Eastern business dealings.

The controversy developed after Baxter sold a factory in Israel in 1988. Several Federal agencies have investigated accusations by Jewish groups that the sale was intended to get the company off an Arab blacklist of companies doing business with Israel, which would put it in violation of Federal anti-boycott laws.

Baxter, based in Deerfield, Ill, again denied the charges. A spokesman, Les Jacobson, said the Israeli plant was sold, along with factories in New Zealand, Norway and the Philippines, because they did not meet the company's sales and profit standards.

The accusations have become a major public relations problem for the $8.1 billion company, which had ony $1.3 million of its 1990 sales in the Middle East.

The Commerce Department said its office charged with enforcing the anti-boycott laws had investigated Baxter and turned its findings over to the United States. Attorney in Chicago, Fred Foreman, declined yesterday to discuss whether the information had been placed before a Federal grand jury.

Officers of several American Jewish groups praised Baxter's decision to drop the Syrian plant but some still called on the Commerce and Justice Departments to pursue their investigations of Baxter.

Baxter confirmed that "the allegations against the company are under study by the U.S. Government." Vernon R. Loucks, Baxter's chairman, said the company's lawyers had advised Baxter that it "has done nothing wrong." He added, "Baxter will cooperate, as it has all along, with the Government's study."

Dr. Richard Fuisz, a former Baxter executive in the Middle East who sued Baxter after he was dismissed, has made public several 1988 letters signed by G. Marshall Abbey, Baxter's senior vice president and general counsel, in which Baxter appeared to be acknowledging actions contrary to the anti-boycott law.

Mr. Jacobson said, "Mr. Abbey did not write or sign one of the letters released by Fuisz," but he did not say which one. Dr. Fuisz, an American, said a company that trained Saudi military medical personnel to Baxter for $54 million in 1982. Baxter settled one dispute with Dr. Fuisz by paying $800,000 to Leopold Dina Import-Export, a Fuisz-owned company.

Mr. Loucks, Baxter's chairman, said, "The volatile situation throughout the Middle East and controversy surrounding Syria in particular now lead us to change our plan" to open the Syrian factory. The company added in a statement that the plant, which was to make intravenous solutions, had not been built and that no investment was made. Mr. Loucks said Baxter products would still be available in the Middle East through distributors.

FIRST LISTED IN THE 1970'S

Baxter was placed on the Arab blacklist maintained by a committee based in Damascus in the 1970's, when it owned an intravenous plant in Ashdod, Israel, which it sold in 1988. The parent company was removed from the boycott list in 1989 after it agreed to build the Syrian plant in a joint venture with the Syrian Army.

Mr. Loucks told executives of American Jewish groups in letters sent before yesterday's announcement, "We have heard the opinions expressed by you and others."

David A. Harris, executive vice president of the American Jewish Committee, who received one of the letters from Mr. Loucks, praised the Baxter decision. Mr. Harris said there has been charges that the plant, "which was requested by the Syrian military ostensibly for medical purposes, could eventually be diverted" to making ingredients for biological or chemical weapons. Baxter's announcement yesterday "should lay to rest the regrettable controversy," Mr. Harris said.

A SORRY CHAPTER

Elizabeth Holtzman, who, as the New City Comptroller, is trustee for city pension funds that own two million shares of Baxter, said the proposal to build the plant in Syria was "a sorry chapter in Baxter's history."

"Baxter's abandoning the plant is an enormous victory," she added. "I hope this decision will send a signal to other companies that if they participate in the Arab boycott of Israel, they will face the scrutiny of large institutional investors such as the New York City pension funds."

Robert K. Lipton, president of the American Jewish Congress, also welcomed the Baxter decision but added that "this does not in any way clear Baxter of the serious charges now under investigation by the anti-boycott unit of the Department of Commerce and the criminal division of the U.S. Attorney's office in Chicago."

Baxter said it had agreed to build the plant last year, but that its "agreement to work with an agency of the Syrian Government has been controversial." It said Syria was the only Arab country "indicating an active interest in having the plant" at that time. A Baxter representative will go to Syria "in the near future to negotiate termination of the agreement," the company said.

[From the Wall Street Journal, July 25, 1990]

SENATOR SPECTER SEEKS PROBE OF BAXTER INTERNATIONAL

WASHINGTON.—Sen. Arlen Specter asked the Internal Revenue Service to begin an inquiry into possible violations of U.S. anti-boycott laws by Baxter International Inc.

In a letter to IRS Commissioner Fred T. Goldberg last week, the Pennsylvania Republican raised questions about whether Baxter had cooperated illegally with the Arab boycott of Israel or failed to provide required information on tax forms about any Arab requests for participation in the boycott. A spokesman for the IRS, which is required under the Internal Revenue Code to help monitor companies' compliance with U.S. anti-boycott law, declined to comment.

A separate investigation by the Commerce Department into Baxter's Middle Eastern activities is continuing, as is an informal inquiry by the Securities and Exchange Commission into whether Baxter may have violated anti-bribery laws in the Middle East.

[ABC World News Saturday, WJLA TV, Apr. 20, 1991, Washington, DC]

BAXTER INTERNATIONAL

CAROLE SIMPSON: When Baxter International, a hospital supply company, holds its annual meeting Monday in Chicago stockholders will have to deal with a company immersed in allegations of bribery and breaking the law. The controversy mixes market strategy with US foreign policy.

Allan Frank has just completed an ABC News investigation of the story.

ALLAN FRANK: For nearly two decades Arab countries refused to buy hospital supplies from Baxter Travenol because the company had a factory in Israel. The company spent millions of dollars in a failed effort to penetrate the Arab market through Saudi Arabia. Then in 1986 Baxter began negotiating to build a medical plant for the Syrian military.

In 1988, while the deal was being negotiated, the company sold its facilities in Israel, and a year later the Syrian government persuaded the Arab League to remove the company, now called Baxter International, from the blacklist.

Federal investigators in Congress are now examining whether Baxter violated US law to get off the Arab blacklist.

Senator **ARLEN SPECTER** (R.-Pa): It is a very bad practice for any company which solicits business with the Arab countries to get that business at the expense of boycotting Israel. That's unfair, against US law, and that law ought to be very vigorously enforced.

FRANK: The law prohibits American companies from breaking off business with Israel to meet Arab boycott demands. It also forbids companies from providing any information about business with Israel to Arab League members. Yet in a letter to the Syrian Army Baxter's top lawyers wrote, "we have no connections with Israel or Israeli subsidiaries whatsoever."

Richard Fuse is a former Baxter Travenol executive.

RICHARD FUSE: The goal of Baxter Travenol was to get rid of the Israeli plant and to do whatever was necessary to be removed from the boycott list in Damascus.

FRANK: According to Fuse, whatever was necessary included bribery of Syrians. Fuse and an American intelligence official have told ABC News that Baxter made payments of one million dollars or more through intermediaries to Syrian officials, including Defense Minister Mustafa Talas (?). Fuse says he was fired after he refused to bribe a Saudi official, a claim the company denies.

Marshal Abbey, a top Baxter official, says the company did nothing illegal to get off the boycott list.

MARSHAL ABBEY: All I can tell you is I can state categorically that there were no improper payments made here at all to anyone.

FRANK: A Syrian military spokesman says the charges are part of an Israeli effort to discredit Syria in the United States. Baxter insists an investigator it hired found no wrongdoing. But the company refuses to make that investigative report public.

Allan Frank, ABC News, Washington.

[From the Wall Street Journal, Apr. 25, 1991]

BAXTER FAILS TO QUELL QUESTIONS ON ITS ROLE IN THE ISRAELI BOYCOTT

(By Thomas M. Burton)

DEERFIELD, IL.—Confronted with allegations of bribery and illegal actions overseas, Baxter International Inc. last year did what most companies do when they find themselves in such straits: It hired an outside counsel to investigate.

In November, when attorney Stephen Shulman reported his findings, the world's largest hospital supplier announced it had been totally exonerated of the charges, including allegations that it had used illegal means to get itself taken off the Arab blacklist of companies that do business with Israel.

But then Baxter did something that cast doubt on the whole affair. It refused to make the 150-page report available to the public. The result: Baxter is even more on the defensive than ever.

Now, the Commerce Department has referred its own investigation of the matter to the U.S. Justice Department, which is conducting a criminal investigation into whether Baxter violated the U.S. law against complying with the Arab boycott—and paid a bribe to get off the blacklist.

"THE FIRST TIME"

Will Maslow, general counsel of the American Jewish Congress, says, "this is the first time that the Department of Justice has pursued possible criminal penalties under the anti-boycott law." The U.S. Attorney's office in Chicago, which is handling the investigation, declines comment.

Baxter Chairman Vernon R. Loucks Jr. says Baxter learned "that the venue of the investigation has shifted from Commerce to Justice," but says the company hasn't retained a criminal attorney. "We still are unable to determine that anything at all was done improperly," he says.

The Securities and Exchange Commission, meantime, wants to know if Baxter violated the Foreign Corrupt Practices Act by bribing Arabs to get off the blacklist. And Jewish organizations still want Baxter to tell them exactly what it did to get off the blacklist. "Unless they change, I'll do everything I can do to make their lives miserable," vows Rabbi Abraham Cooper of the Simon Wiesenthal Center in Los Angeles. The American Jewish Congress also has blasted the company.

NEW QUESTIONS

The issue drew public attention and intensified government scrutiny last year after an article in this newspaper raised questions about Baxter's handling of the boycott. Since then, issues have continued to arise about Baxter and the Shulman report, including:

A 1983 meeting in Paris at which Baxter officials allegedly arranged to pay a $2.2 million bribe to get off the Arab boycott list. Government investigators are looking into whether the alleged bribe took the form of Baxter waiving a debt due by a company called Saudi Medical Services.

A 1988 letter from a Baxter official to the Syrian Army declaring that the company has "no present intention to make new investments in Israel or to sell new technology to Israeli companies." The company has repeatedly denied promising Arabs that it wouldn't do business with Israel, which is illegal under the anti-boycott law.

Questions about why Mr. Shulman, a senior partner at the law firm of Cadwalader, Wickersham & Taft, failed to interview some key participants in the Baxter affair.

G. Marshall Abbey, Baxter's senior vice president and general counsel who has handled the Arab boycott issue, says the company decided against releasing the Shulman report because it contains business secrets and includes information that might be embarrassing to some individuals outside the company. Why not release the report with those parts edited out? "It would serve no purpose. The people who don't like us now would say, 'Look, you haven't shown us everything,'" Mr. Abbey says.

A PLANT IN ISRAEL

Baxter has never denied wanting to get off the Arab boycott list to take advantage of lucrative Middle East markets. It was placed on the list in the first place because it owned, since 1971, a plant for snythesizing intravenous fluids in Ashdod, Israel. Baxter has repeatedly said it never did anything illegal to accomplish its goal, which it finally achieved in 1989 after agreeing to build an intravenous solutions plant in Syria as part of a joint venture with the Syrian Army. The year before, Baxter had sold the facility in Israel, an event it never publicly announced.

The U.S. anti-boycott law, enacted in 1977, forbids American companies from participating in any foreign boycott or supplying blacklist officials any information that demonstrates cooperation with the boycott. It also would be a violation of the law if Baxter sold the Israeli plant for the sole purpose of getting off the blacklist. The company says that decision was made for unrelated reasons.

Mr. Shulman reviewed the matter for eight months before submitting his conclusions and says that Baxter correctly characterized his report as finding the company innocent of wrongdoing. But he declines to provide details of his investigation and says he doesn't know why the report wasn't released. "That was the company's decision," he says.

Mr. Shulman, who held high-ranking government posts during the Kennedy and Johnson administrations, has had close ties to Baxter officials for nearly 30 years, including Mr. Loucks and Mr. Abbey, and has done legal work for Baxter for almost 20 years.

While the Shulman report was available to all of Baxter's board members, some only read an executive summary presented by management. "There are always certain factions that are hoping to stir things up. It seemed to me it's nitpicking," says one director.

Ralph Falk II, another board member, says "it was pretty much Marsh Abbey" dealing with the Syrians. He says that Mr. Abbey alone made presentations to the board on the Syrian dealings, briefing it "three or four" times over about a year on how the Syrian plant was coming along. Mr. Falk says he can't remember if he ever saw the Shulman report and adds that no board member showed any special interest or concern because "the board as a group is pretty high on our senior management."

One reason the issue won't seem to die has to do with the ceaseless energy by one of Mr. Loucks' biggest opponents: Richard Fuisz, a physician and Washington, D.C., businessman. Dr. Fuisz was ousted by Mr. Loucks from his job as chief executive of a Middle East unit of Baxter in 1982 and has been on the warpath against the company ever since.

Most recently, he has provided outsiders with damaging correspondence between Baxter and Arab officials, including letters written by Mr. Abbey. These letters—on Baxter letterhead, signed by Mr. Abbey and addressed to an official of the Syrian Army—raise new questions about Baxter's forthrightness on the issue because they include detailed information about Baxter's sale of its Israeli operations and its previous dealings with Israeli companies, information that U.S. companies are, under certain circumstances, barred from supplying to boycott officials under U.S. anti-boycott law.

Mr. Abbey concedes writing the letters, but says it's a matter of legal opinion whether they prove Baxter violated any laws. Baxter's defense has been that its communications with the Syrian Army were exempt under a provision of the antiboycott law that allows U.S. companies to share information with their own agents and business partners in the Mideast.

Still, the conclusion of one of its letters to the Syrian Army appears to call into question that defense. Baxter says its officials are "committed to construction in the Arab countries of factories to manufacture medical supplies and look forward to your approval to begin those projects." The obvious question: Why would Baxter be asking the Syrian Army for approval to begin projects in other countries?

Says Mr. Abbey: "I very clearly wanted the Syrians to help us in getting off the blacklist. . . . I don't know why that is sinister."

SEALED COURT RECORDS

The alleged 1983 bribe is mentioned, according to court records, in a 1985 wrongful termination suit that Dr. Fuisz filed against Baxter. Dr. Fuisz contended in court filings that Baxter agreed at the meeting in Paris to effectively pay Saudi Medical Service $2.2 million to get Baxter off the Arab blacklist.

Court documents filed by Dr. Fuisz in the lawsuit in federal court in New York—a suit that was later settled—say that two now-sealed depositions, as well as some court exhibits, confirm that a bribe was made. Baxter concedes that it wanted the records sealed, but says the other side did, too.

John Clements, a former comptroller of Baxter's Middle East unit who attended parts of the Paris meeting, says he also believes the $2.2 million payment was a bribe. He says he concluded this because there was no business reason to reduce Baxter's accounts receivable by $2.2 million. "I'm not wavering on that issue," says Mr. Clements, who has been questioned about the matter by the SEC.

QUIET NEGOTIATIONS

Ghazi Braiche, a former employee of Saudi Medical, says the head of the company, Ahmed al-Sanousi, talked about finding a way to get Baxter off the blacklist. Though he says his knowledge is second-hand, via Mr. Sanousi and others, Mr. Braiche also says that the $2.2 million transferred at this time was a bribe connected with getting off the blacklist. Mr. Sanousi says he doesn't recall any of the events.

Mr. Shulman interviewed Mr. Clements, but did not seek to interview Messrs. Sanousi or Braiche. Mr. Shulman, asked about this, says, "I feel I interviewed everyone who was necessary to do the report."

Mr. Abbey has come under the most fire for his handling of the boycott issue. His dealings in the Middle East were never reported to the rest of the top management in monthly management meetings. He was the architect of the Syrian deal and completed the negotiations very quietly, with the help of just one top aide, John Saboura. Mr. Saboura has since left the company and has refused to be interviewed by the Commerce Department or this newspaper.

In arranging the Syrian venture, Mr. Abbey made several personal visits to Damascus, on one occasion meeting with Gen. Mustafa Tias, Syria's flamboyant minister of defense. Mr. Abbey stopped by the home of Gen. Tias, whom the Wiesenthal Center describes as a noted anti-Semite who wrote a book suggesting that Jews kill Arabs to obtain blood for use in making Passover matzoh.

The corporate counsel and Gen. Tias chatted in the general's study, which was adorned with extensive photos of American starlets and models, including Brooke Shields. "What I really need for my collection," the general remarked, "is an autographed picture of Joan Collins." Mr. Abbey arranged to deliver a signed photo of the star before the Baxter deal with Syria was consummated.

The Simon Wiesenthal Center has attacked Baxter in news releases and articles in the Jewish press for dealing with the Syrian Army band Gen. Tias. "To me the Baxter case is so crucial," says Rabbi Cooper. "The world's largest [medical supply] company needs Mustafa Tias like I need another anti-Semite." Mr. Abbey says his visit was a simple courtesy call to an important government figure.

Baxter is even having trouble giving money away because of the flap. The Jewish Federation of Metropolitan Chicago has been hesitating for months to accept a proposed Baxter contribution of $250,000. Harold Rosen, director of communications for the philanthropic organization, won't say why the federation is taking so long to decide whether to accept the Baxter money. But he says it usually takes "probably not that long" to make a decision, and says he "can't recall any" instances in which the federation has turned down such offers. Baxter offered the money to set up a fund to provide hospital care to Soviet Jewish emigres.

[From Washington Jewish Week, Dec. 6, 1990]

BAXTER PARTNER PROMOTES "BLOOD LIBEL"

(By Larry Cohler)

Baxter International, the world's largest hospital supply firm, confirmed last week that its key partner in a controversial joint venture with Syria is a Syrian general who has authored a book denouncing Jews for murdering Christians to use their blood for baking matzah.

The confirmation has drawn fire from the Simon Wiesenthal Center and added a new twist to the project, which is already the subject of a federal investigation.

That investigation, which centers on charges that Baxter violated U.S. laws prohibiting U.S. firms from cooperating with the Arab boycott against Israel, also saw a new development this week. The Washington Jewish Week has obtained internal documents raising new questions about Baxter's claim that it never pledged to shun business contacts with Israel.

At the same time, however, the president of an Israeli firm said this week that his licensing relationship with Baxter continues undisturbed, although the documents suggest Baxter might have pledged to shun business with the firm.

An expert in anti-boycott law suggested that Baxter might have tried to give Syria the impression in these documents that it was adhering to the Arab boycott while actually flouting it in its relation with the Israeli firm.

In a letter to Baxter's chief executive officer Vernon Loucks last Monday, Rabbi Abraham Cooper, associate dean of the Wiesenthal Center, decried Baxter's business relationship with "the terrorist government of Syria."

In particular, Cooper denounced Baxter's tie to Gen. Mustapha Tlas, Syria's defense minister, author of a book denouncing Jews for murdering Christians to use their blood for baking matzah. Cooper described Tlas as "one of the world's leading anti-Semites who has used his powerful position to promote nothing less than the infamous 'Blood Libel' against the Jewish people."

Tlas, who signed the contract with Baxter, is representing the Syrian Defense Ministry in its joint venture project with the firm to build an intravenous fluids plant in Damascus. Baxter officials say the enterprise will serve both military and civilian needs, but a Baxter spokesman said he did not know in what proportion.

In 1985 Tlas published The Matzoh of Zion, a retelling of a tale in which Damascus Jews were accused of killing two Christians in 1840 and using their blood to make matzoh. The book was distributed in Syria by a publishing firm owned by Tlas.

According to the Wiesenthal Center, which translated and denounced the book in 1986, Tlas wrote of the affair, "From that moment on, every mother was warning her child: Do not stray away far from home. The Jew may come by and put you in his sack to kill you and suck your blood for the matzoh of Zion."

Reagan administration Secretary of State George Shultz and then-Vice President George Bush denounced Tlas's publication at the time.

In the translation provided by the Wiesenthal Center, Tlas says that the true religious beliefs of Jews are characterized by "a black hatred of all humanity and all religious." He then links this to his negative view of Israel's conduct.

"I intend through publication of this book to throw light on some of the secrets of the Jewish religion, based on the conduct of the Jews, their blind fanaticism and the implementation of Talmudic teaching compiled in exile by their elders to distort the basis of Jewish religion as drafted by Moses," Tlas writes, according to the center's translation.

A second edition of the book was published in 1987, according to the center.

In 1986, the Sorbonne in Paris rejected Tlas's doctoral thesis in military strategy after the Wiesenthal Center and the French press protested granting the degree to the publisher of a work widely viewed as anti-Semitic.

In his letter to Baxter, Cooper alluded to Syria's inclusion on the State Department's list of countries sponsoring terrorism and denounced "the virulent hatred of Jews promoted by the key official Baxter International has chosen to do business with."

"Contemporary events in the gulf have taught us it is not enough to draw the line in the sand against terrorist regimes," Cooper wrote. "Isn't it time for Baxter International to draw the line in its own corporate boardroom?"

A Baxter spokesman who was faxed a copy of the Wiesenthal Center letter sent to the Washington Jewish Week declined to comment, saying the Jewish group had not yet directly contacted the firm.

A spokesman for the Syrian embassy said he had heard about the book and was familiar with the protests Jewish groups had raised against it. But, he said, "When there is a contract between a firm and the country of Syria, it's with the country, not an individual."

Tlas's publishing activities were "totally separate from his duties in the government," the spokesman said, and would not interfere with his official work.

The spokesman, who asked that his name not be used, declined to comment on the Wiesenthal Center's account of remarks it said Tlas gave in his official capacity as defense minister in 1974.

In the remarks, Tlas praised a soldier from Aleppo who, during the 1973 Arab-Israeli war, killed 28 "Jewish soldiers," including three "with a hatchet, splitting their heads from their bodies." The soldier killed one with his bare hands, Tlas added "and then ate him in front of his friends."

According to the Wiesenthal translation, Tlas praised him as "worthy of being decorated."

The Wiesenthal Center reported that Tlas's remarks ran in the July 11, 1974 issue of Jerida Rasmiya, the government's publication for official decrees.

The Syrian embassy spokesman suggested there were Israeli officials who might also be regarded by some as anti-Semites since "we are Semites, too." He cited Housing Minister Ariel Sharon, who as defense minister "ordered the ouster of Palestinians from their homes."

Commerce Department officials are currently examining charges that Baxter's agreement with the Syrian Army to build the intravenous fluids plant was part of an illegal scheme to get the firm off the Arab League blacklist of firms doing business with Israel. Baxter's presence on the list, due to a plant it owned in Israel, had barred it from the Arab would for years under the Arab League's boycott of firms maintaining Israeli business relationships.

Baxter was taken off the blacklist soon after reaching the joint venture agreement with Syria last year. The year before, Baxter sold its Israeli plant. Company officials said the sequence of events was unrelated and that it did not violate U.S. laws that prohibit American companies from cooperating with the Arab boycott.

In a one-page release last month, Baxter's board of directors announced that Baxter's management had been exonerated by a special counsel appointed by the board to investigate charges of illegal cooperation with the boycott. The firm refused, however, to release the special counsel's report.

Officials from the Commerce Department and the Securities and Exchange Commission are continuing to investigate the charges, many of which were sparked by Dr. Richard Fuisz, a disgruntled former Baxter employee.

Fuisz, who worked for years in the Middle East before Baxter fired him, brought to light documents that he says appear to contradict Baxter's claim. Fuisz said he procured the documents from the Arab League Boycott, Committee's headquarters in Damascus.

According to the Arab League memorandum, whose authenticity Baxter has not challenged, Baxter asked that it be removed from the blacklist through its Swiss subsidiary, Baxter AG. In support of the request, Baxter's International Medical Technologies subsidiary in the Middle East supplied the boycott committee detailed documentation on the Israeli plant sale, and promised not to deliver modern technology to Israel nor do any other business with Israel, the memorandum says. The memo cites specific documents and declarations its says Baxter has submitted in connection with its request to be removed from the list.

Baxter denies ever having contracted the Arab Boycott Committee directly. But Baxter officials acknowledge that some of the information in the memo is consistent with information it passed onto its Syrian joint venture partner, a defense ministry firm called the Establishment of Blood and Medical industries. This included information on the nature of Baxter's corporate presence in Israel, according to Baxter.

Baxter's spokesman asserts that if local law requires it, as is the case in Syria, U.S. law does not bar a firm from passing on such information as long as it does not pledge to shun business with Israel. Baxter denies making any such pledge.

But a Baxter letter released by Fuisz this week seemed at least to raise questions about this claim.

In the letter, dated June 29, 1988, Baxter senior vice president and chief counsel G. Marshall Abbey pledges to an official in Syrai's Army Supply Bureau that Baxter will strictly examine the use of the Baxter name or technology by Teva Pharmaceuticals, the Israeli firm that purchased Baxter's Israeli plant.

"We state firmly and without reservation that the Baxter group of companies will pursue to the full extent of the law any use of the Baxter name, technology or trademarks" by Teva, the enterprise Teva bought from Baxter, "or any other company that Teva may form," Abbey wrote.

Baxter Spokesman Les Jacobson said he could not confirm or deny the authenticity of the letter. Abbey was out of the office for several days and not reachable elsewhere, he added.

Earlier, Jacobson told the Washington Jewish Week that Baxter, in fact, continued to license Teva's use of Baxter technology in the Israeli plant Teva purchased from Baxter—a relationship he said Baxter would not maintain if it were complying with the Arab boycott.

Asked about the letter's promise to "pursue" any use of Baxter technology by Teva, Jacobson replied that, "As it reads to me, that sentence could be interpreted in different ways."

Jacobson implied that pursuing Teva's use of Baxter technology to "the full extent of the law" might not amount to much if Teva retained the appropriate license and no law had been broken.

In Israel, Teva president Eli Hurwitz confirmed that his firm retained its license to use Baxter technology.

"It's one of the longest term licenses ever signed," he said in a phone interview. "We joke that it's forever or for eternity, which ever comes first."

According to Hurwitz, the licensing agreement includes Teva's right of first refusal for any new technology Baxter might develop in the future.

Asked if the letter might have been subtly worded in order to give Syria the impression that Baxter was not licensing Teva, while actually flouting the Arab boycott, Jacobson refused to comment.

Will Maslow, general counsel for the American Jewish Congress and an expert in anti-boycott law, suggested that Baxter might have been trying to play a double game.

Hurwitz's experience with Baxter, he said, was "directly contrary to the promise [Baxter] made to Syria" in the letter. "But then, who cares about lying to the Syrians?"

Maslow said the pledge in the letter was nevertheless "a clear cut violation" of U.S. anti-boycott law. "What puzzles me is why Commerce is taking so long."

Maslow is acting as pro bono legal counsel for Fuisz on the Arab boycott issue.

The Commerce Department initiated its investigation of Baxter last February after Fuisz disclosed the purported Arab League memo.

Alluding to the United States' recent warming of relations with Syria, climaxed late last month by a summit meeting between President Bush and Syrian President Hafez Assad, Maslow said that any backpedaling on the Commerce Department probe "would be the height of folly."

Commerce Department officials have declined to comment on the investigation while it is in progress.

While he would not challenge or accept the authenticity of the letter Fuisz presented, Jacobson noted that it was notarized by an Illinois notary public on June 27—two days prior to the June 29 date at the letter's head.

Fuisz suggested that this was "a trick" by Abbey to provide him with later deniability, if necessary. "The notary public rarely notices the date, and the Syrians certainly don't."

TRIBUTE TO GEORGE McGOVERN

Mr. DASCHLE. Generally, Mr. President, the fewer words it takes to pay tribute to a person, the more that person deserves tribute.

For those from South Dakota who have watched George McGovern, our tribute takes few words indeed.

George McGovern is a class act.

He wins with class. He loses with class. He thinks and acts and has lived with a stature and integrity and a caring for what is right that makes our small State very, very proud.

And it makes me proud, Mr. President, to thank George McGovern on behalf of my State and my country for the lifetime of service he has given us.

I ask unanimous consent that the Des Moines Register's aptly titled editorial, "Going Out a Winner," be printed in the RECORD at this point, and I commend it to my colleagues. It is a proper tribute to one very fine man.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, May 25, 1991]

GOING OUT A WINNER: NO BID BY MCGOVERN

Home from a heroic stint as a bomber pilot in World War II, George McGovern was teaching history and government in South Dakota Wesleyan University in Mitchell when he griped to a friend about the unhealthy state of South Dakota's one-party politics (Republicans held every significant office, including 108 of 110 legislative seats).

Do something about it, his friend said.

The challenge launched a remarkable career for the prairie populist, who officially ended it Thursday. The former three-term senator said he is dropping plans for a possible presidential bid, deferring to younger, less "battle-scarred" candidates.

Deepest of those scars was that inflicted by Richard Nixon, who carried 49 states (including South Dakota) in burying McGovern in the 1972 presidential race. In the heyday of liberalism (which turned out to be confined largely to his own party), McGovern had won nomination by making sure no other candidate got farther left.

The campaign was a disaster. The personal warmth and honest sincerity that put the senator on a first-name basis with practically every voter in tiny South Dakota wasn't marketable in the national arena. And the effort cost him dearly back home, too. To many, he was no longer "their" George after his flings with national politics in '68 and '72. In 1980 they retired him.

The years and the defeats and the abrasive, disillusioning nature of politics never dulled the passion McGovern felt for the cause of the little guy.

In a recent visit at The Register while he still entertained notions of a '92 bid, McGovern articulated the issues with his usual understated sense of urgency while handling the matter of his candidacy with good humor.

McGovern left his mark. With like-minded Democrats he helped reform the party's nomination process after the 1968 debacle in which Hubert Humphrey, who refused to enter a single primary, grabbed the presidential nomination as his reward for long service. With his political opposite, Senator Bob Dole of Kansas, he championed the food-stamp program and led the battle against hunger in America. Earlier he headed the Food for Peace effort.

McGovern retires now with the best wishes of millions who learned to know him as a geniune and decent human, a politician untainted by the profession's excesses, an idealist uncompromised by expediency—a winner in every important sense of the word.

WARREN PHILLIPS LEAVING DOW JONES AND CO.

Mr. MOYNIHAN. Mr. President, I would like to bring to my colleagues' attention that Warren Phillips will soon be stepping down as chairman of Dow Jones & Co. A noteworthy occasion, as it was under his stewardship that Dow Jones truly gained the renown it enjoys today. But this should come as little surprise to those who are familiar with Phillips' hugely successful career as journalist, editor, and publisher.

Warren Phillips took over as CEO of Dow Jones & Co. in 1975. The company then had revenues of $200 million and profits of $20 million. As he steps down, revenues are $1.7 billion, with profits of more than $100 million. Under Phillips, the Wall Street Journal, published by Dow Jones, saw its circulation rise from 1.4 million in 1975 to 2 million today, and the Journal became the Nation's largest circulation newspaper. In addition, it has become a truly international newspaper with the advent of the Asian and European editions. But sheer numbers shall never quite do justice to the esteem all hold this paper and its publisher in. That is owed in greatest part to the enormous vision and integrity of the man behind them. We are sorry to see Warren Phillips depart, but wish him all the very best.

UNITED NATIONS ASSOCIATION HONORS SENATOR PELL

Mr. MOYNIHAN. Mr. President, I am pleased to bring to the attention of my colleagues an honor recently accorded to the distinguished chairman of the Committee on Foreign Relations. At its annual ball in New York City on May 30, 1991, the United Nations Association of the United States presented Senator CLAIBORNE PELL with the first annual Congressional Award for Commitment to the Principles of the United Nations Charter. UNA-USA chairman and former Deputy Secretary of State John C. Whitehead presented the award to our distinguished colleague from Rhode Island in recognition of his many years of active support for the United Nations.

The chairman of the Foreign Relations Committee has demonstrated a long record of support for U.S. participation in the United Nations, beginning with his involvement as a Foreign Service Officer in the 1945 San Francisco Conference that founded the world organization. In 1959, he was appointed by President Eisenhower as a delegate to the first meeting of the United Nations International Maritime Organization, and in 1979 he was a congressional delegate to the General Assembly. He was appointed numerous times as a Senate adviser to the U.S. delegation for the U.N. Conference on the Law of the Sea. During his tenure as chairman of the Committee on Foreign Relations, he has led the effort to secure full funding of our financial obligations to the United Nations system.

Mr. President, Senator PELL is a distinguished initial recipient of the United Nations Association's congressional award. His record of support for international organizations and the rule of law will help to define the criteria for choosing future recipients of this honor. I join my colleagues in extending sincerest congratulations to the gentleman from Rhode Island on the occasion of this recognition by UNA-USA.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,280th day that Terry Anderson has been held captive in Lebanon.

VICE PRESIDENT QUAYLE'S LEADERSHIP IN SPACE POLICY

Mr. PRESSLER. Mr. President, in this week's edition of Newsweek there was a vitriolic article questioning Vice President QUAYLE's leadership of America's space program. As ranking member on the Senate Science, Technology, and Space Subcommittee, I have spent considerable time working with the Vice President on a number of key space issues and Newsweek's analysis is dead wrong.

On April 20, 1989, President Bush established the National Space Council to develop and implement a comprehensive, visionary strategy for our Nation's space program. President Bush demonstrated the importance he attached to this initiative by appointing Vice President QUAYLE as Chairman of the National Space Council to coordinate our space program.

Two years later we have seen many accomplishments in U.S. space policy due to the leadership of Vice President QUAYLE. I rise to commend the Vice President for his leadership and vision in our efforts in space.

Since the formation of the National Space Council, the Vice President has taken a number of major steps toward the accomplishment of several important goals of our national space activities. He has given much thought and time to his role as head of the National Space Council.

In 1989, I was pleased to work with the Vice President in one of his first actions as head of the National Space Council. The failed commercialization of Landsat threatened to end the continuity of Landsat data that was vital to a number of Federal agencies. The National Space Council conducted a full interagency review which showed that government agencies, and not businesses accounted for the majority of Landsat data sales. The National Space Council further found that it was in the U.S. national interest for a continuation of Landsat-type data. Based on these findings, the Vice President helped to secure government funding for the continued operation of Landsat satellites 4 and 5, as well as funding for the launch of Landsat 6 to occur in 1992.

Later, the Vice President commissioned a group led by Norman Augustine to do a complete review of U.S. space policy. To the surprise of many, the Augustine committee came forward with a number of bold recommendations to change fundamentally the direction of our space program. These recommendations included development of new launch vehicles to reduce dependence on the space shuttle and a reconfiguration of the space station. The Vice President has endorsed the Augustine report, and is taking the initiative to implement these recommendations through the National Space Council. Last month, the Vice President persuaded NASA to endorse a new generation of low-cost space launch vehicles. This rocket, called the National Launch System [NLS], will be built from current propulsion designs and technologies. This new unmanned launch vehicle will greatly reduce launch costs, and will help alleviate the space trucking duties now borne solely by the space shuttle.

Recently, Vice President QUAYLE initiated two significant commercial space policies that were later approved by the President. In September 1990 the National Space Council prepared the commercial space launch strategy which outlined a 10-year blueprint for the Federal Government to take actions to create a free and fair marketplace in which U.S. industries can compete. In addition, it included the need for Government investment in long term R&D aimed at reducing the cost of space transportation. In February 1991 President Bush signed the National Space Council's Commercial Space Policy Guidelines, which will encourage private sector investment in space and the development of new commercial space sector industries, resulting in new markets and jobs.

So, in conclusion, I would like to point out the Vice President's record of leadership in developing U.S. space policy is one of distinction. The Vice President has articulated a clear vision for America's space strategy. It is a vision he is personally committed to pursuing. The Nation's space program has been accustomed to managerial turbulence. Vice President QUAYLE has provided the leadership America needs to solve problems here on Earth through wise policies in space.

I commend Vice President QUAYLE for his superlative leadership in this and other key areas of national public policy.

A TRIBUTE TO THE ASSOCIATION FOR THE ADVANCEMENT OF THE BLIND AND RETARDED, INC.

Mr. MOYNIHAN. Mr. President, for over three decades, the Association for the Advancement of the Blind and Retarded has worked to assist a most deserving group. AABR is a private organization that serves young adults and adults that are afflicted with multiple handicaps, including blindness and severe mental retardation. On July 22, 1991, AABR will celebrate 35 years of dedication to the physically and mentally handicapped at the 18th annual golf tournament and dinner dance.

AABR's exceptional commitment is "to strive, to seek, to find and not to yield." The directors, managers and staff at AABR's facilities teach daily living skills and self confidence to help their clients become integrated into society where they can lead productive, rewarding lives. By providing 24-hour-a-day attention and care, AABR's programs have become hugely successful.

AABR currently maintains 10 intermediate care facilities that support nearly 100 blind and retarded young adults. These facilities are spacious, well-kept residences in communities throughout New York City. In addition, AABR maintains two day treatment centers that serve over 200 individuals.

The enthusiasm and wonderful sense of caring and commitment at AABR should serve as an inspiration to us all. Today, there are far too few programs that provide intensive services to these handicapped individuals, especially once they reach the age of 21. AABR has accepted this difficult, but most rewarding, mission. The staff at AABR performs exceptionally well and, for that, we owe them great thanks.

I would also like to take this opportunity to pay tribute to the Metropolitan Club Managers Association. Since 1974, MCMA has sponsored the annual golf tournment and dinner dance to benefit AABR. Through these annual events, MCMA has become an integral part of AABR's success. The private sector support and encouragement provided by MCMA is most noteworthy and sets a splendid example for others to follow.

There is no doubt that AABR is a true leader in the care and treatment of the neediest of our Nation's citizens. I ask my colleagues to join me in extending best wishes for an enjoyable event and much continued success to AABR and its supporters.

JUNE IS TURKEY LOVERS' MONTH AND ONCE AGAIN NORTH CAROLINA RANKS NO. 1

Mr. HELMS. Mr. President, I am proud to join North Carolina's Gov. Jim Martin in doing a little bragging about the turkey industry in our State. But remember, "bragging ain't bragging if you can prove it—and Jim Martin and I can prove it.

Governor Martin has correctly proclaimed: "We're No. 1." Turkey production in North Carolina again ranks No. 1 in America.

To recognize the importance of the industry to the State and to the agricultural community, Governor Martin officially declared June 1991 as "Turkey Lovers' Month in North Carolina." He did so in conjunction with the National Turkey Federation's celebration of "June is Turkey Lovers' Month."

Mr. President, for many years I've had the feeling that Washington, DC is the turkey capital of the world, but I had another kind of turkey in mind. When it comes to delicious, succulent turkeys—the eating kind—the U.S. Department of Agriculture confirms that more than 58 million turkeys were raised during the past year in North Carolina—the largest number ever produced by any State in a calendar year.

This represents about 20 percent of the total annual U.S. turkey production.

North Carolina's turkey industry generates more than $450 million into my State's economy in jobs alone. In addition, the turkey industry has been, and remains, a vital part of our national economy. Last year it generated nearly $6 billion in product sales.

North Carolina is the leader in production, and also in the industry. Five Tar Heels have served as president of the National Turkey Federation: Wyatt Upchurch, 1990; John Hendrick, 1984; Bill Prestige, 1982; Billy Shepard, 1974; and Marvin Johnson, 1968.

Mr. President, because of the convenience and nutritional benefits, turkey is no longer just a holiday favorite. Thirty years ago, 90 percent of the turkey consumed in this country occurred during the last two months of the year. Today, only 17 percent of the turkey consumed in America is during the Thanksgiving and Christmas seasons. In 1990, the average per capita consumption was approximately 18.2 pounds—and that's a lot of turkey.

So, I reiterate that I'm delighted to join Governor Martin in recognizing—and bragging about—a fine industry, and I am proud of the turkey producers of North Carolina.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business has expired. Morning business is closed.

SURFACE TRANSPORTATION EFFICIENCY ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 1204, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1204) to amend title 23, United States Code, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd amendment No. 295, to allot bonus apportionments based on the level of effort shown by each State.

(2) Byrd amendment No. 296 (to amendment No. 295), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, the order indicates that the distinguished senior Senator from Illinois will be recognized at this point, but he has been generous enough to allow the managers to proceed to a committee amendment, which we will do. I ask his indulgence. We are awaiting our comanager, the Senator from Idaho.

In the meantime, Mr. President, I will not send the amendment to the desk but I will describe it at this point.

Mr. President, this is a series of amendments which are agreed to by the committee and which we think significantly enhance the attractions and the scope of our measure. The first four are bought to us by Dr. Thomas Larson, the head of the Federal Highway Administration. He says these are important to the Administration and should be included. He is quite right, in our judgment, and we offer them accordingly.

The first provides authority for public-private collaboration in transportation research. One of the things we see in our work here on the floor on this bill is the problem of data. What do we know? Who says it? How do they know?

There can be no doubt we have fallen into a lassitude that characterizes public sector disease: It does not matter. It is nobody's money. It is free. It does not matter how rigorously it is used.

Dr. Larson also asked that the International Highway Transportation Outreach Program be authorized, and he made a point which is important in the view of this Senator. A recent meeting of AASHTO officials—American Association of State Highway Transportation Officials—was reported in the Washington Post by Mr. Don Philips, which I put in the RECORD earlier. A group of American highway officials went to Europe and were astounded to find how much more advanced the pavement systems were there. Asphalt had moved into a new level of effectiveness, in terms of the bonding of sand and rock, such that one official from Missouri, Mr. Muri, came back and said, "My God, from a second-ranked nation, we are going to become a fourth-ranked nation if we do not get up to speed". Dr. Larson informed us he arranged that trip. He wants to do more research, and more we ought to do.

Also, we have a transportation, education, and training program for State and local officials. We have been falling behind the curve. And similarly, we reauthorized the National Highway Institute.

Finally, Mr. President, an important provision, we provide $10 million a year of the Highway Trust Fund to be paid to the Interanl Revenue Service to enable them to better collect taxes for the highway trust fund.

As our distinguished chairman has had occasion to note, and my coworker here, the Senator from Idaho, has had occasion to note, it is a little odd for an agency of our Government to pay the IRS to collect more taxes.

But if that is what it takes, that is what it takes. The IRS will be able to provide more manpower and larger resources. The experience of putting more effort into collecting these fuel taxes, and others, is one of large return on the effort. We do know that the evasion of these taxes is a problem. So at the request of the Department, we make that provision.

Then there are further amendments, the first of which provides more details on the Bureau of Transportation statistics. We drafted this measure. We are very much in earnest about establishing a statistical base. One of the problems is that we do not have a clue about productivity and costs because we do not have the data.

The Governmental Affairs Committee staff was very helpful in giving us some advice on how to structure this language and get the kind of a Government agency we want. I thank the staff; of course, I thank the chairman and ranking member for making them available.

In the spirit of our legislation, Senators SARBANES and MIKULSKI have asked if we cannot make possible the movement of toll receipts on and off the particular systems in such a way that the State, in this case Maryland, can optimize its transportation choices and provision thereof. And we very much want Maryland to do with Maryland money what Maryland thinks best.

We have some small changes to the provision by Senator CHAFEE for rubberized asphalt which we think to be a significant innovation. It will solve a problem that is only getting larger. I think the distinguished Presiding Officer will know that not many years ago there was a fire in a tire dump in the State of Virginia which was visible from seven States, and burned on and on and on. We accumulate 250 million of these things every year and finding a disposable, recyclable provision for them is good. I would like to note the tire industry has suggested that they would be happy to see an additional tax placed on tires to facilitate this recycling process.

We have also included a provision directing the Department of Transportation to investigate the use of zebra mussels as construction material. We have an enormous quantity of zebra mussels which are calcium products, potentially useful, that have to be taken out of water systems and disposed of. They are filling up landfills, all over the Great Lakes anyway. Why not use them, if that makes sense?

We have some technical changes in Senator CHAFEE's motorcycle helmet-seat belt provision and Senator LIEBERMAN's wetlands provision. There is a provision requested by Senator CRANSTON, our most revered colleague, to allow States to loan Federal funds to public agencies to build toll roads, if that is their choice. Pricing and cost effectiveness—that is what this bill is about, breaking out of the public sector disease which is so enervative to us.

We would like to include a life cycle cost analysis for the bridge program. This was brought to our attention by former Governor Carey of New York, a former Member of the House. A question again of the analysis of data on how to best use resources to get the most return. With the striking state of American bridge disrepair, it is clear we have not been up to our analytic capacities in this regard.

And then, Mr. President, there are a considerable number of small technical corrections, purely spelling, punctuation, and things of that kind.

AMENDMENT NO. 321

(Purpose: To make technical and conforming changes and for other purposes)

Mr. MOYNIHAN. Mr. President, my indefatigable coworker having arrived, for myself, Mr. SYMMS, Mr. BURDICK, and Mr. CHAFEE I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ROBB). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself, Mr. SYMMS, Mr. BURDICK, and Mr. CHAFEE, proposes an amendment numbered 321.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS].

Mr. SYMMS. Mr. President, the floor manager of the bill, my good friend from New York, has essentially outlined what is in the committee amendment. It is largely technical and conforming. It is in conjunction with things that the administration and the Federal Highway Administration has asked for, that the committee agrees with. I urge its immediate adoption.

Mr. CHAFEE. Mr. President, among the technical changes included in the committee amendment to S. 1204, is a provision which clarifies how State transportation funds may be used to mitigate wetland loss related to or affected by highway construction. The use of these funds for mitigation measures authorized under this bill requires compliance with all applicable Federal laws. The language adopted in the committee amendment is consistent with the intent of the committee report (Rept. No. 102–71) which states that mitigation measures authorized under this bill are, at a minimum, those measures determined by the Secretary of the Army and the Administrator of the Environmental Protection Agency, in consultation with State and Federal advisory agencies to be necessary to ensure compliance with the guidelines promulgated pursuant to section 404(b)(1) of the Clean Water Act.

Further, while funding for wetland mitigation measures may be used in advance of the initiation of highway project construction, these mitigation efforts may not be used to circumvent the Federal environmental requirements applicable to any specific highway project. In addition, in order to make such funds available in advance of specific highway construction activity, States must have a transportation planning process that requires that assessments relative to the environmental effects, the need, and the design of any particular project would be conducted independent of consideration of advance mitigation efforts.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 321) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. DIXON] is recognized.

AMENDMENT NO. 322

(Purpose: To establish procedures for the redesignation of certain Interstate routes)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself and Mr. SIMON, proposes an amendment numbered 322.

On page 31, after line 22, insert the following:

SEC. 139A. REDESIGNATION OF INTERSTATE ROUTES.

(a) Whenever two or more bordering States that are connected by a highway on the Interstate System cannot agree to the number designation of that highway, the Secretary of Transportation shall make that designation upon the recommendation of the committee described in subsection (b).

(b) The Secretary of Transportation shall establish an advisory committee composed of highway, engineering, and traffic safety experts not from the States referred to in subsection (a) to make a recommendation under subsection (a) regarding an appropriate designation of an Interstate route.

Mr. DIXON. Mr. President, as the Senate and my colleagues in their respective offices who are watching this will note, I permitted the clerk to read the whole amendment for a change, Mr. President, because the amendment is delightfully short. It comprises really only one page. I want to explain it once again to every one of the Senators who will ultimately vote on this amendment in short order.

It simply says that when two adjoining States connected by a highway on the Interstate System cannot agree on the number designation, then the Secretary of Transportation shall make the determination about the number designation and he shall do it on the recommendation of a committee.

And the second paragraph is the committee. What is the committee? The Secretary of Transportation shall establish a committee composed of highway, engineering, and traffic safety experts not from the States involved. What could be fairer than that?

I am delighted to have in the Chair, my good friend, the Senator from Virginia, because Virginia and Maryland and the District of Columbia finally resolved the problem recently concerning the numbering of a highway. Mr. President, they did it by finally agreeing.

The absurdity of the existing law, I say to the Chair and to my colleagues in their respective offices is this: We have spent $125 billion on an Interstate Highway System. That is a conservative number. But with the bill we pass here tonight we will spend another $105 billion, and believe it or not we do not provide in this great highway system a method by which two States can resolve their differences about numbering a highway that goes between them.

I assume with the possible exception of Alaska and Hawaii that for the other 48 States these are common problems: highways between these States. Yet when the two States cannot agree on a numbering of a highway, there is no solution; literally none. The law now is, if they cannot agree, they get together a bigger group for all of the States that go to it as well. But if they still cannot agree, there is no solution. How would you like to run everything else in the country like that, Mr. President?

I want to read to my colleagues, because they are familiar with the situation here around the District of Columbia, the Washington Post of June 11. Many here have read it. I show the headline "Vote on Numbering Will Mean a Less Loopy Beltway."

Here, of course, is the beltway. It is a very small picture. I do not know if the camera can get it for the respective offices. But here is the beltway that goes around the District of Columbia. On the Virginia side it was 495. On the Maryland side it was 95. I do not need to tell people from this part of the country and around the District of Columbia what a problem we have with people coming into town that do not know the highways anyway. Up until the other day when people came into town, they looked at the circle on the map that went around the city. One was 495, and one was 95. It was terribly confusing.

I read from the article in the Washington Post. "With the hope of ending 16 years of confusion for drivers"—think of it, confusion for 16 years—"the entire 64-mile Capital Beltway will be numbered as Interstate 495 by fall, a national group of transportation officials decided yesterday. Meeting in Georgia the Executive Committee of the American Association of State Highway and Transportation Officials approved a request by the Maryland, Virginia, and District highway departments to renumber the beltway so the 32-mile section designated as I-95 also will be marked I-495 in Maryland and Virginia."

What do we learn from that part, Mr. President? We learn from that part that for 16 years they could not do it. Why? Because everybody could not agree.

In the second paragraph we learn that meeting in Georgia yesterday the executive committee of this American Association of State Highway Officials approved the request because Maryland, Virginia, and the District of Columbia finally after 16 years agreed. It is a ludicrous situation, Mr. President.

Now I quote from a Senator Denis of Montgomery County, who happens to be a Republican. "It is a victory for common sense." He said, "The amazing thing is that it took so long." That is amazing is it not? "The process was so convoluted. It shows that something done even unwisely in government is difficult to undo." Oh, Senator Dennis, how right you are.

The simple fact is that it took 16 years—and endangered the lives of drivers, and confused millions of people that came to the District of Columbia—to number the highway that went around the District of Columbia because it was in Maryland and Virginia, and everybody could not agree.

There is a whole article here. I could read it all. I want to quote, "Whenever you have signs that assume a certain level of knowledge by the drivers it is going to be confusing." That is the whole object of this article, to explain how terribly confusing it is to drivers who come into an area and are not familiar with it.

The occupant of the chair, my good friend the distinguished Senator from Virginia, could understand when he came into the District of Columbia, as a former great Governor of Virginia, and a Senator from Virginia, how to go around the Capital. My friend who will oppose me shortly, my dear friend from Iowa, he could understand, the senior Senator from Iowa, because he has been here a long time in the House and now in the Senate.

This poor Senator can even understand after being here for more than a decade how to find his way around Washington. My wife always says I do not know it very well, and I come the same route all the time, even if it is longer, because that is the way I know. My wife knows it better because she drives it more.

But the point is for people who come here from out of town, from all over this great Nation of ours to the Capital City, they are confused. What does this article say that I will put in the RECORD in a minute? It says that confusion leads to injuries and to death.

I ask unanimous consent to place this article in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 11, 1991]

VOTE ON NUMBERING WILL MEAN A LESS LOOPY BELTWAY

(By Stephen C. Fehr)

With the hope of ending 16 years of confusion for drivers, the entire 64-mile Capital Beltway will be numbered as Interstate 495 by fall, a national group of transportation officials decided yesterday.

Meeting in Georgia, the executive committee of the American Association of State Highway and Transportation Officials approved a request by the Maryland, Virginia and District highway departments to renumber the Beltway so the 32-mile section designated as I-95 also will be marked I-495 in Maryland and Virginia.

"It's a victory for common sense," said state Sen. Howard A. Denis (R-Montgomery), who has been prodding Maryland officials to make the change. "The amazing thing is that it took so long and the process was so convoluted. It shows that something done even unwisely in government is difficult to undo."

Since 1975, the Washington area's Main Street has been a hybrid. Half of the Beltway between College Park and Springfield, is numbered Interstate 95. The rest is I-495. That throws off drivers trying to figure out, for example, whether they are on the circular Beltway or on I-95, the north-south interstate from Florida to Maine.

"A lot of the out-of-towners saw a circle and couldn't understand why it had two different numbers," said Maryland's chief traffic engineer, Tom Hicks.

Francis B. Francois, executive director of the transportation officials' group, said safety considerations prompted the change.

"Driver confusion is a safety issue," he said. "If someone is traveling at 60 miles per hour and stops to figure out where they are going, that's not a good thing to do."

Drivers will begin seeing the new signs late next month along Maryland's 27 miles between the Woodrow Wilson Bridge and the I-95 spur at Exit 27 near College Park. There are about eight signs at each of the 14 exist that will require changing, he said, a job that will be completed by September.

Virginia traffic engineers will begin determining this week how many signs workers will have to replace in the next three to six months, said Mary Anne Reynolds, a spokeswoman for the Virginia Department of Transportation. The Virginia part of the Beltway that carries the I-95 markings is about five miles, between Springfield and the Wilson Bridge.

The I-95 designation will not be dropped altogether on the Beltway, because drivers heading north from Richmond or south from Baltimore on I-95 still need to know they can continue on that highway through the Washington area.

The new signs will carry both I-495 and I-95 numbers, officials said.

"Whenever you have signs that assume a certain level of knowledge by the drivers, it's going to be confusing," said Betsy Glick, a spokeswoman for the American Automobile Association's Potomac office. "By using uniform signing which will clearly show that the Beltway goes all the way around, it will alleviate a lot of the confusion."

Some confusion still will exist, however.

Maryland's exit numbers on the Beltway correspond to the nearest milepost, making it easy for drivers to figure out the number of miles between exits.

Virginia's exits are numbered consecutively and do not match up to the milepost markers.

Part of the difficulty in trying to change them is that many of the exits are less than a mile apart.

When the Beltway was completed in 1964, it was I-495 all the way around, and all the exits were numbered consecutively, from one to 38.

In 1975, the I-95 numbering was added after transportation officials decided that I-95 would not be built through the District as planned.

Parris N. Glendening, Prince George's County executive, said he did not believe the new labeling will affect traffic congestion on the Beltway, which will remain a problem for policy-makers.

"This is just good old-fashioned common sense in road numbering," Glendening said.

Mr. DIXON. Mr. President, this is so simplistic that it is almost offensive to have to go to this length to go through it. But the plain and simple fact I say to my colleagues is this: If two States cannot agree on numbering, you cannot do anything.

Let me tell you something; you cannot ever do anything. Mr. President, if Virginia and Maryland and the District of Columbia will not agree on how to number the beltway 495 to go around this great capital of the world, you could not have done it. You could not have done it.

I have a two-paragraph amendment, one page in length, on which I am joined by my distinguished colleague, Senator SIMON, in which we just say this: Look, if any two States cannot agree, give it to the Secretary of Transportation for this great Nation who is in charge of all of these highways. Let him give it to a committee on which nobody from either of those two States are involved, make a recommendation, and number it. That is a big deal. It ought not to take any time. There ought not to be any argument.

You say then why is there an argument? I will address that. This is a map. I wonder if the camera can see this: good.

This is a map of a situation like 495, I say to my colleagues, so they will in their offices see this. They will understand it. This is the beltway that goes around another great urban area. This is the area that goes around Rock Island, Moline, and East Moline, IL, and Davenport, and Bettendorf, IA. I know the area well. I used to have five Wendy's stores, one in Davenport, one in Bettendorf, one in Rock Island, and one in East Moline, right there.

This belt line goes around there. Does everybody see that? Could you believe that two great States, my State of Illinois and the State of Iowa, cannot agree on numbering that circle? Well, so help me God, they cannot.

I said last night, some of these things you get; you do not volunteer for them, Mr. President. They come to you. My good friend, the Senator from Iowa, and his colleague, in a moment, are going to oppose me and they are doing what they have to do in representing their State.

My colleague and I have the distinction of representing Illinois. The fact is that it is an argument our States can never solve.

Mr. President, before I introduced this amendment yesterday, we had our Department of Transportation working with the Iowa Department of Transportation all this year to resolve this. They have been doing it for years before that. The Chambers of Commerce on the Illinois side of the river and on the Iowa side of the river have had all kinds of meetings and brought in all their congressional delegation and the Senators from the State. Do you realize that all 22 Members of the House of Representatives and both Senators from Illinois signed a letter to the Secretary of Transportation entreating him to solve this? It cannot be solved. I cannot tell you why.

My friend, the chairman of the Public Works Committee, the distinguished senior Senator from North Dakota, came over to me a while ago and said, "Have you got a silver dollar? Flip it."

I said that is a better solution than the law is now. I would go for a silver dollar flip. What do you think of that? A silver dollar flip is a solution.

It might interest you to know, Mr. President, in the Illinois law, we actually have provisions that when you cannot get agreements on certain things in the legislature, like reapportionment and other things, they draw a number out of a hat and put an extra person on the commission so the Republicans or the Democrats have a majority, and they solve it that way. That would be OK with me, too; any solution is a solution. But this is one of those aberrations that takes place in existing law where a great highway system, the greatest in the world, has a little bitty problem you cannot solve: The numbering of a highway that crosses between the States. Here is your problem. See where this comes along here through Illinois, along the river and crosses the Great Rock River, and it goes over into Iowa, right there is your problem. Because of that, you cannot number this.

I will be frank that there are all kinds of arguments along this highway. The business people say if we get the cars over here, we get more business. They say if you get the cars there, you get more business. Hey, I had five Wendy's stores at one time. I understand the cars that go by the front end of your business. You used to keep track of that to see how many hamburgers you sold. So I understand it. But I also tell you that you have to have a solution.

Mr. President, I tell you this in all sincerity. I do not care if they rule against us, but I am for my side of the argument. I am an old trial lawyer. I tried lawsuits day in and day out, and sometimes I lost. But that was the end of it. I put it away. I went to something else.

Let me say this: I am authorized to say that the Federal Highway Administration has indicated to us by telephone that they would be pleased to see this situation fairly resolved. They do not want to get in the fight with the two States, but they would be delighted to see a resolution to the problem.

I believe this amendment is——

Mr. GRASSLEY. Will the Senator yield for a question?

Mr. DIXON. Sure, of course.

Mr. GRASSLEY. Mr. President, is the Senator saying that the Federal Highway Administration supports his amendment?

Mr. DIXON. They are saying to me that they have no objection to the amendment, and they would like to have a method for resolving the problem, that is correct.

Mr. GRASSLEY. Who does the Senator quote from the Department?

Mr. DIXON. Gene McCormick.

Mr. GRASSLEY. Thank you, Mr. President.

Mr. DIXON. Mr. President, I thank my distinguished friend from Iowa, and I say to him before I yield, because I am interested in hearing from him and my colleague from Illinois, if somebody wants to find another solution, it is OK with this Senator. I do not have any pride of authorship in this two-paragraph, one-page amendment I have here, except I stress that it is fair, reasonable, and somebody will finally get a result here on numbering this highway. I will live with the result, whatever it might be.

I will be delighted to yield the floor. I have indicated earlier that I would accept time limitations. I urge my colleagues to understand that I do not have any fight with my friend from Iowa, or with anybody in Iowa. My concern is to resolve a sticky wicket that will never get resolved until we change this little piece of the law. I urge my colleagues to let common sense prevail and to solve this problem.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. Senator SIMON is recognized.

Mr. SIMON. Mr. President, I am pleased to join my colleague in cosponsoring this. There has to be a practical way of solving these problems, and we do not need endless meetings for a relatively simple problem. I agree with my colleague that there are economic factors at stake as to why neither State wants to give in. Real candidly, I am not sure of the complete validity of the economic assertions on the side of either State.

This legislation is so simple that why it cannot pass unanimously, immediately, I do not know. It says: Whenever two or more bordering States that are connected by a highway on the

Interstate System cannot agree to the number designation of that highway, the Secretary of Transportation shall make that designation upon the recommendation of the committee described in subsection (b).

Here is subsection (b):

> The Secretary of Transportation shall establish an advisory committee composed of highway engineering and traffic safety experts not from the States referred to in subsection (a).

In other words, in this case, the Secretary of Transportation appoints a committee of experts, who are not from Illinois or Iowa, who can make a judgment call. I do not know how you can be more fair than that.

I join my colleague, Senator DIXON, in saying, if someone can come up with an easier or better system, fine. But I think this is eminently sound and sensible. It is better than flipping a coin, in the sense that you are likely to get a little more rational answer, not guaranteed, but it is probable.

Somehow you have to be able to resolve these things. A delegation—I forget where they came from; from the Quad Cities—came down to me, and I was having a town meeting. It was a group of chief executive officers, who ought to be doing something to improve the productivity of their businesses and had to instead come down to talk with me about numbering a highway because of a conflict. Here we are talking this time on the floor of the Senate. This is a practical way of resolving this. I think that this is a practical resolution.

Let me commend my colleague, Senator DIXON, because he came up with this particular suggestion, which I think is an excellent one.

So, Mr. President, I think common sense ought to prevail, and common sense should dictate that we agree to this particular amendment.

The PRESIDING OFFICER. Who seeks recognition?

Is there further debate?

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, the Senate now has before it the Dixon amendment. It is a simple amendment, and very simple to understand, but it is very flawed in its concept and context.

Let me see if I can summarize it succinctly and simply for my colleagues. In the 1950's the plans and the routes were laid out for the Interstate Highway System. They were agreed upon by the States. The States bought into it and the Interstate System started, and for over 30 years now it has been settled policy that these interstates would be numbered accordingly as they were set out at that time unless the States agreed to a change. So we have had numbered interstates now for over 30 years.

The interstate that goes across the Mississippi River from Illinois through Iowa is Interstate 80. It crosses the Mississippi River, by Bettendorf and Davenport. I wish I had a map here to show you. Nevertheless, Interstate 80 comes across and, as you know, it is an east-west interstate across the country. There is a small spur that connects on the Illinois side that comes around the west side of the city of Davenport, connecting back up to Interstate 80. That is called Interstate 280.

Thirty years ago, when Interstate 80 was laid out and everyone agreed to its route, Illinois agreed and Iowa agreed. At that time, business people in Iowa started saying, "Well, OK; we should build a gas station here. We will build a motel here. We will build a restaurant here by these exchanges," because of the traffic level on the road. So for 30 years, we have had economic development in Iowa along that route, Interstate 80.

Now, the Chamber of Commerce of Rock Island, IL, comes along and says, "We do not like that. We want to change it all. We want to change the routing of Interstate 80 and name it something else so that the traffic flow east-west, west-east, coming through there will not take the old route through Iowa; it will take another route through our State." That is the essence of it.

For 30 years, businesses in Iowa have built their businesses along this route because they relied upon the governments, the governments of both States—no one is denying that—agreeing upon the routing of Interstate 80. And now along comes the Chambers and local governments in Illinois saying, "We want to change it." Economically, I guess I say I cannot blame them for trying.

But should it be up to us, in the Congress of the United States, after 30 years, to say to the businesses in Iowa, "Tough luck. You built your businesses. You invested along that route. Now we may change it on you." That is what the Dixon amendment is asking us to do here in the U.S. Senate.

It is an economic argument, pure and simple. I can understand the citizens of Rock Island wanting to do that. But it is not fair to the citizens of Iowa and the businesses in Iowa who have relied upon this routing. As I said, it has been there for 30 years. It has been well-settled policy for 30 years. That really is the essence of the Dixon amendment.

I do not think there is any further explanation needed. I have a whole speech here I can give on it. But that is really the essence of it. What the Dixon amendment says is we do not like the way it is, and we want to throw it up to some other body to make a decision as to which would be the best route.

The law is very clear on this. The changing of any designations of interstates have to be agreed upon by the States involved. And if Iowa does not agree to change it, it will not be changed. Now, if Iowa were to agree and Illinois agreed, they could change it.

So I ask again my colleagues who may come in to vote on this issue and say, "Well, this is just an issue between Illinois and Iowa; we do not have any stake in it. Maybe I will vote for this person because he is a friend of mine, because he is a friend of that person," that kind of thing, let me be very frank Mr. President: This could have ramifications for every State in the Nation.

Let us say, Mr. President, your own State of Virginia. I do not know all the exchanges and stuff that go on between Virginia and North Carolina, or Virginia and Maryland, or Virginia and West Virginia, or other States that border Virginia.

But let us say North Carolina came along and said, "We want to change a designation of an interstate here going across the border," and you have businesses in Virginia that for 30 years have built their businesses along that interstate. Well, under the Dixon precedent, if it were to pass, it could be thrown up to some other arbitrator or some other body to decide what to do, to change it, and all those businesses in Virginia would be out the door.

So that is really what the essence of this amendment is, and it could have a dire impact on businesses in every State in this Nation.

I think our present policy is well-settled for over 30 years, that prior to changing any designations of interstates that cross from one State to another, both States have to agree on it. That is the fair way to do it. It is the only way to do it. It has been settled policy for over 30 years. We ought not to change it at this time.

With that, Mr. President, I yield the floor.

Mr. GRASSLEY. I am not sure the debate today, Mr. President, does much to raise the stature of the U.S. Senate in the eyes of the people of the United States, because in a very real sense, I am not speaking to you as a U.S. Senator, I am speaking more, I presume, like the President of the Davenport Chamber of Commerce, just like my colleague from Illinois has to speak to us today like the President of the Moline and Rock Island Chambers of Commerce.

I suppose that it is very difficult when constituents in Illinois come to town meetings, as Senator SIMON said, and brings this issue to them. But there is probably some times that we, as U.S. Senators, have to tell our constituents that there are processes for working these situations out, and particularly in this instance, there has been a 34-year process for solving these problems, and sometimes they take a long time, but the problems are solved.

But sometimes we ought to just say to our constituents, "You know, this is not something the U.S. Congress ought to be dealing with." We have situations like $300 billion deficits that we have to deal with, and we have problems like a national highway bill that is before us that affects 50 States, not just 2 States.

But since the issue has been brought up, I do not have much alternative but to state a case for my constituents. I think that it is important that the case be stated clearly that this is an economic issue and not one of safety; or if it is one of safety in Illinois today because of exchanges, then that safety problem is going to be transported to an exchange and a safety problem in my State of Iowa. So the same traveling public is going to be faced with the same safety problems.

The question is, if there is a safety problem in Illinois today, tomorrow it is going to be a safety problem in Iowa.

But this is not a safety problem, or we would be representing highway engineers from Illinois or highway engineers from Iowa. We would not be quoting chambers of commerce or local politicians; we would not be acting as spokesmen for our respective chambers of commerce if this was not just simply an economic argument.

I do not know whether the U.S. Senate—I guess I believe the U.S. Senate is not the place to solve a dispute between the Chambers of Commerce of Davenport, IA, and the Chamber of Commerce of Rock Island and Moline and other cities on the Illinois side of the Mississippi River.

There has been a process in place for 34 years, and it has worked pretty well. Otherwise, there would be a lot of Senators from other States here, as the Senator from Illinois is here, trying to have the U.S. Senate solve a problem like this. They have been solved before, and they will be solved in the future. At least, I do not remember any other instance where the U.S. Senate has either tried to solve a question of the numbering of highways, or even change a system that would respond to a specific problem.

So obviously, I strongly oppose the Dixon amendment that would change the procedure, and I would like to state at the outset what this amendment is not about. It is not about establishing a so-called fair process for decisions on the redesignation of interstate route numbers, because that process has existed for a long, long time, 30-some years, and will exist for a long time in the future. And it is not about trying to set up an impartial process whenever two bordering States cannot agree to the numbering designation of an Interstate System.

Mr. President, these concerns are—I guess I will politely call them red herrings. I think that what this amendment is about is economics and money, pure and simple.

In the spring of 1990, representatives of the Illinois Quad City Chamber of Commerce began an attempt to rename the interstate that surrounds and passes through the Quad City area of Iowa and Illinois. The map has laid that out very clearly, as Senator DIXON has shown the Members of this body on that map. Presently the interstate that goes north of the Quad Cities is named I-80. The interstate that goes south of the Quad Cities to Illinois is named I-280. There is a central route through the Quad Cities named I-74. At the time of the effort to rename the interstates, the Chamber of Commerce would have renamed the routes the following way: I-280 would have been named I-80 South and the present I-80 would be named I-80 North.

The proposal has been changed slightly over the past year. Now the State of Illinois wants to rename the northern route through I-74 and the southern route through Illinois I-80, but the effect is very much the same.

The reason there was difference in this approach between 1990 and 1991 is because the Illinois side of the river ran up against the policy set by the American Association of Highway Directors and Transportation Officials that said we were not going to have any more split numbers like I-80 North, I-80 South, we were just going to have numbers. So they came back, then, with a rearrangement of these numbers to I-74 and I-80 so they could get around that policy.

A change in that did not do it, so they come to their U.S. Senator. The thought behind this proposal is that by renaming the interstate routes, traffic would then move to the south into Illinois and away from Iowa. That was and is the stated intent of the renaming of the interstate routes in the Quad Cities. There is no other reason. It is simply a matter of local economics.

I would justify this statement by referring to some of the leaders in the Quad Cities and how they assess the intent of the effort. I would like to give a quote from Mayor Schwiebert, the mayor of Rock Island, IL:

> More motorists driving through the Illinois Quad Cities will spur the development of motels and restaurants along what is now I-280.

Another quote:

> A decision to switch the highway signs would have a significant impact on the Illinois Quad Cities economic development potential.

That was from Ken Schloemer, with the Moline, IL, Zoning Board of Appeals.

Ed Winborn, chairman of the Bi-State Regional Commission said, "This is a very divisive issue." I guess we have proven that here today, between the Senators from Illinois and the Senators of Iowa. I go on to quote the chairman of the Bi-State Regional Commission:

> It is an out-and-out attempt to steal away 20 to 30 percent of business from Iowa Quad Cities. It's literally highway robbery.

Larry Reed, executive director of the Davenport Chamber of Commerce, said:

> If you divert some portion of that traffic from I-80 to I-280, all you've done is taken and added some business to the Illinois side of the river and you've done it at the expense of the Iowa side of the river.

That would bring me to, I think, a more important point. This area of the Quad Cities of the two States was very much hurt during the agricultural depression of 1980's. There was a tremendous amount of manufacture of heavy equipment, Caterpillar, John Deere farm equipment, International farm equipment, Case farm equipment, and a lot of these plants are just simply closed now.

Let me tell you what happened on the Illinois and Iowa sides as a result of this economic depression. We had a tremendously high degree of cooperation between the Illinois side of the river and the Iowa side of the river on economic development. How are we going to cooperate to increase jobs? There was just a high degree of cooperation for economic development. In fact, every year I hold an economic development summit, where I bring Federal officials out to Iowa. We did this in Quad Cities in 1987, in conjunction with Illinois as well. Since then I have held four others in four other cities in Iowa. But that is one example of the cooperation of these States on economic development. On both sides of the river the business leaders, community leaders, political leaders, are in this to sink or swim together, to create jobs, to bring about economic development. And there is this high degree of cooperation.

This is one little fly in the ointment that brings too much dissension when there should be a great deal of cooperation. That has already been demonstrated there.

It seems to me this is one of those things that can be worked out other ways, if there is a need to work it out, although I said there has been no question about this for 34 years. Or maybe it is just one of those things where every city has some advantage over another, and in other respects other cities have other advantages. So, consequently, you live with your weaknesses and you live with your strengths. Cities have some strengths and some weaknesses and then other cities have other strengths and weaknesses.

But, in this particular area there is a great deal of balance and there is going to be more balance as we continue this cooperation. But this is not an example of the kind of cooperation that has existed on economic development over a long period of time:

> This effort would be one more bit of divisiveness at the time the Quad City cooperation would help both sides of the river. The Quad Cities should be building bridges, not building walls.

That is from the Iowa side of the river, the Quad City Times. It seems to me they express it very well.

As these quotes show, this is an attempt to move economic development benefits from the State of Iowa to the State of Illinois. In fact, the quotes of the proponents of this plan state quite openly that this is the reason. The American Association of State Highway and Transportation Officials is responsible for numbering the interstate system. It has been that way for 34 years. The State highway agencies——

Mr. DIXON. Will my colleague yield at that point?

Mr. GRASSLEY. Yes, I will yield.

Mr. DIXON. Will my colleague concede the fact that this State highway group that he has just cited cannot change the number of any highway unless the two States impacted by an intersecting highway agree? Will he agree that is the state of the law?

Mr. GRASSLEY. Yes. I will agree that is the policy. And that brings up a very good point that legitimately ought to be addressed. That point is that you are talking about initial efforts that have been made here. There are still processes that can be made. I can quote letters from the American Association of State Highway and Transportation Officials where they are willing to work to try to find solutions to this problem. So this process has not been worked out to where there is no hope.

Mr. MOYNIHAN. Will the Senator from Iowa yield for one moment just for a comment?

Mr. GRASSLEY. I will yield.

Mr. MOYNIHAN. I would like to report to the Senate that the latest news is that the respective State National Guards of Illinois and Iowa have disengaged and have withdrawn to 20 miles within their respective lines. This seems an appropriate moment to consider whether we cannot postpone the resolution of this subject to another time and, perhaps, place.

We do have large issues. Not that this is a small one. It can lead to a lot of troubles. But in the main, Americans have been able to handle these things. By and large, cross one State on one numbered road, you find the same number on the other side of the line.

But when my colleagues have said enough, I must tell them that I will move to table.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, this is a classic situation where, when the political figure is asked a question on an issue of where he stands, he says, "Well, half of my friends are for it and half of my friends are against it, and I am for my friends."

I think that is the situation that Senator MOYNIHAN and I find ourselves in, Mr. President. These people are all our friends. They have a legitimate dispute. But for the Senate to try to change the method at this point, as our colleagues from Illinois are suggesting—and they may well be right in the way they would like to get the road designated, but there is obviously some concern on the part of the Iowans—it seems to me that it is inappropriate for us in the Senate to take that position.

I suggested to Senator DIXON earlier that maybe what we could do is let the States agree that whoever wins the football game next fall between the University of Illinois and the University of Iowa, decide it. He thought he would rather do it with the Chicago Bulls. So I can see that solution is not going to work. I think Senator MOYNIHAN and I have no choice but to go ahead and move to set this aside for now and hope these two States can settle it.

(Mr. SHELBY assumed the chair.)

Mr. DIXON. If my colleague will accommodate me. I understand what the outcome is going to be if the managers are opposed, but I want to be heard in conclusion on this issue and then we can vote on it and the Senate can work its will. I did not want to take up too much time, but I did want to conclude——

Mr. SYMMS. I still have the floor. Let me conclude. I want to say there is no Senator—and I wish I could somehow accommodate Senator DIXON—there is no Senator I am more fond of. I talked with him last night and I wish that somehow we could accommodate the Senators from Illinois on this issue. But I do not see how, as a manager of the bill, we can do that when the other two Senators obviously are so strongly opposed to what is going on. It has nothing to do with personalities, but is a matter of settling the issue. I think most of us in the Senate do not have a dog in this fight, as our former majority leader Howard Baker would say, but it is here, it is before us and we are going to have to vote on it. It seems to me the only logical thing to do is let the Senators from Illinois be heard and let all Senators vote however they wish on the issue.

I only remind my colleagues, we will be changing the method of naming roads and it does leave a group of people in a certain State the opportunity to feel like they have been cut out of an economic opportunity by Uncle Sam in Washington if this amendment should be accepted. I do not think it would be the end of the world if it is accepted, but I will join with Senator MOYNIHAN to move to table when the time comes, with all due respect to my colleagues.

I yield the floor.

Mr. MOYNIHAN. The Senator from Virginia would like a moment to make a general announcement.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, over the past several days, a group of us in this legislation, including our distinguished chairman and the leadership of the Senate, have been meeting to see whether or not we can come forward with some resolution of this most difficult issue of the apportionment.

The chairman and I have just left this meeting, and the purpose for my seeking recognition is in an effort to move this bill along. I simply say, at 1:30 today, those Senators who worked with Senator BENTSEN and myself, the Senator from Florida, the Senator from Missouri and many others, will be meeting in room 232-A of the Russell Building. The Senators must be present if they want to continue to express their interest along the lines we have espoused thus far, because the leadership of the Senate has made it clear this bill has to move forward and I would like to have my good friend from Texas join me. The purpose of rising, I say to my friend from Texas, was simply to say room 232-A at 1:30.

Mr. BENTSEN. Let me emphasize, we are talking about the donor States. I do not know if it was clarified. But I will say to those Members listening or staff watching the television broadcast, it is essential that they be there and be represented if we are going to try to move this bill forward.

Mr. WARNER. That is correct. I thank my colleagues.

The PRESIDING OFFICER. Is there further debate?

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I sense that the managers are going to suggest to my colleagues that they oppose my amendment and will move to table. I am concerned only about the fact that as colleagues and friends, so many here shrink from the task often that ought to be done.

I appreciate the fact that this is an argument between two States, but I state for the record that I have two people for whom I have the highest personal regard on the other side of this argument, the senior Senator from Iowa, who happens to be a Republican, and my friend from this side, the distinguished Senator from Iowa, who has worked very closely with me on this side of the aisle. But the fact is, and everybody here knows it, the vote to table this amendment is a vote for chaos, absolutely a vote for chaos. May the record show that. If that is a demonstration of our fundamental responsibility to discharge our duties as U.S. Senators, then I weep for the performance of those duties from time to time in this Chamber.

Everybody in this Chamber knows, the two Senators from Iowa know and the managers know, that you cannot renumber a highway now that runs between two States unless the two States agree. Now somebody might say that is funny; it makes no difference. I say to my dear friends, see this interchange right here between Illinois and Iowa, people coming along that interchange, when they get to that interchange traveling on 89, turn off and go around and stay on 80 instead of staying on the road. That is how it happens. They slow down from 65 to 15 or 10. There are accidents. People are killed. People are hurt.

Sure I can see there is an argument between Illinois and Iowa and, Mr. President, let me say what I said earlier, if we are wrong, they ought to rule against us. This is not an argument about whether we are right or wrong or they are right or wrong. This is an argument about the fact that the law does not find an answer. The law is chaos, but we will vote, I think, in a moment, Mr. President, for chaos. Oh, I weep for that. I do not care if I am right or wrong. If I am wrong, they are going to rule against me.

This is a simple amendment. It says it goes to the Secretary of Transportation who gives it to a committee. Nobody from Illinois or Iowa is on that committee. Then they rule, and that is binding. And if we are wrong, we are wrong. And I want them to rule against us.

May I say that, Mr. President? Rule against us, but, my God, rule.

I see in the balcony representatives of the media in this area who just wrote an article the other day in the Washington Post. It took 16 years—16 years—for Virginia and Maryland and the District of Columbia to renumber the belt line that goes around this city that we all drive on. Sure, everybody in here knows how to get along that belt line, and everybody in that balcony knows how to get around that belt line. But does somebody from Kentucky, or Nevada, or California, or Texas, or Minnesota, or Louisiana know how to get around that belt line? No. And you know what happens? They get killed, they get hurt, they make mistakes and nobody cares. My God.

Thank you, Sandy, My Sandy writes—oh, how true—numbering ought to be logical and generally reduce congestion and confusion for drivers. That is a good thought, I say to Sandy. Thanks for giving that to me. May the record note, numbers ought to be logical and generally reduce congestion and confusion for drivers. Thanks, Sandy.

My friend from Iowa says that has been the law for 34 years. So they say if it is a bad law, do not change it. That is his point. Listen to this. Here is Sandy. Thanks Sandy Chiu for this.

But if a mistake is made, or traffic patterns change, or a better solution is found, nothing can be done to correct it. That is right, Sandy. When they vote them in, and they table my amendment, that will be the state of the law, Sandy.

I stress that more than economics are involved, and interchanges are dangerous. This interchange is dangerous. It requires a 90-degree turn in a high-accident location and requires drivers to drop highway speed from 65 miles to 10 or 15 miles an hour.

I recognize what is going to happen to this amendment. But I will tell you something. When we are finished we will not have solved a problem that exists all over America to change the number of any highway where it goes between two States. That will be the case in the law, that any time two States cannot agree, there is no solution. That is a pretty dumb state of the law, pretty dumb. But I presume that is what will occur. I only say it may be a small matter in a $105 billion highway bill. But I bet you one thing. If we ran everything in the country the way we are going to deal with this issue, this country would be in pretty sorry shape.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. The Senator from New York only would note that the English word "chaos" is derived from the Greek word "gas."

The real dispute among us is how to allocate the gasoline tax without in any way meaning to minimize the importance of the Senator's statements and his colleague's statement. Even so, Mr. President, on behalf of myself, and my associate, comanager, I move to table the amendment.

The PRESIDING OFFICER. The question is on the motion.

Mr. DIXON. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from the State of New York to lay on the table the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is absent on official business.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—72

Adams
Baucus
Biden
Bingaman
Bond
Bradley
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Daschle
Dole
Domenici
Durenberger
Exon
Garn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Helms
Inouye
Jeffords
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Reid
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Warner
Wellstone

NAYS—26

Akaka
Bentsen
Boren
Breaux
Conrad
Cranston
DeConcini
Dixon
Dodd
Ford
Fowler
Glenn
Heflin
Hollings
Johnston
Kohl
Levin
Metzenbaum
Nunn
Riegle
Robb
Sasser
Shelby
Simon
Wirth
Wofford

NOT VOTING—2

Pryor
Wallop

So, the motion to lay on the table the amendment (No. 322) was agreed to.

Mr. SYMMS. Mr. President, I take the floor to describe in part an amendment Senator MOYNIHAN is preparing to propose to alert our colleagues so they will please look at this amendment because I think it is a very important amendment.

The administration has been very interested in having a National Highway System, and the committee has been in no way hostile to the administration's request to have a national highway system. It was only a matter of two things: flexibility in the bill as well as how much money there was available.

We think we have come up with an amendment that should be very consistent with the amendment Senator BREAUX and Senator DURENBERGER have been working on, and also consistent with what the administration has been working on.

Mr. President, if the Senator from New York would like, I will read what is in this amendment so Senators can be alerted to what we are proposing here this morning. I want to quote from the amendment:

> (a) The National Highway System shall be established to provide an interconnected system of principal arterial routes to serve major population centers, ports, airports, international border crossings, and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel. The National Highway System shall consist of the Interstate System, all roads functionally classified as non-Interstate freeways and expressways, and all roads functionally classified as urban and rural principal arterials (including toll facilities), as of June 1, 1991.
>
> (b) Each State shall expend at least 20 percent of apportionments provided by section 103(b)(1) for the Surface Transportation Program on projects on the National Highway System. Amounts authorized by section 103(b)(1) of this Act do not include any amounts transferred to the Surface Transportation Program from the Interstate Maintenance Program.
>
> (c) On September 30 of the years 1992, 1993, 1994, 1995 and 1996, the Secretary may designate additional mileage for the National Highway System: *Provided*, That such additional mileage is consists of segments of the Interstate System, or segments functionally classified as non-Interstate freeways or expressways, or urban or rural principal arterials (including toll facilities).
>
> (d) If a State certifies to the Secretary that apportionments required to be spent for projects on the National Highway System pursuant to subsection (b) are in excess of amounts needed to adequately maintain National Highway System routes within the State, and the Secretary accepts such certification, the State may use such excess apportionments for any project eligible under the Surface Transportation Program. The Secretary shall develop and make available to the States guidelines for determining what shall constitute adequate maintenance for the purposes of this subsection.

Mr. President, this language comes right out of the request by the administration; this is the administration's language. It is consistent with what Senator DURENBERGER and Senator BREAUX have been so interested in.

I have encouraged the floor manager, Senator MOYNIHAN, to move ahead with this. We are not in any way trying to preclude the efforts of our colleagues in this respect. We have waited here for 3 days for Senators to come in and offer amendments.

In my judgment, this amendment offers a very good compromise between those people in this entire debate—that has been going on for 2 or 3 months—to maintain the flexibility for the States, give us a National Highway System of some 180,000-plus miles and, if you calculate out how much money would then be spent, it would amount to somewhere in the neighborhood of 36 percent would be spent on this 5 percent of the highways.

I know from looking at most of the States in the country this would not interfere too much with their flexibility, but it would still keep us dedicated toward a national highway system and, in the long-range view, the efficiencies this country could enjoy by having a national highway system that would add to and be consistent with what we have benefited from the interstate program.

That is essentially what the amendment would do. So I urge all Senators to look at this amendment. If they have suggestions, bring them to the floor. And I think in due time the floor manager may choose to introduce this amendment. Personally, I think this is a very, very good starting point. I think it is something that the administration would look favorably upon, and it would give us a position in this bill to work favorably in the future to improve the efficiencies of the National Highway System.

Mr. President, I yield the floor.

Mr. REID and Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, the Senator from Nevada wishes to speak.

Mr. REID. I have an amendment to offer, and I know you want to get them all out of the way.

Mr. MOYNIHAN. That is fine.

If the Senator will be kind enough to let me just make a few comments.

Mr. REID. Yes.

Mr. MOYNIHAN. Mr. President, the amendment that the Senator from Idaho discussed on the National Highway System will be offered very shortly. I would just like to give to the Senate a sense of what we are doing here.

There now exists, Mr. President, a highway system in the United States which is called, very simply, the principal arterial system. Now there are urban roads and there are rural roads and there are variations, but all comprise the principal arterial system. It is made up of the Interstate System plus some 140,000 miles of other roads. They are well known.

Here is a map for Senators who would like to see them. These roads began, many of them, as Indian trails; probably most of them as Indian trails. They were, in most cases, the way West and South. I am sure the Natchez Trace is on there, and in New York State, the Western Turnpike that went out of Albany, where the Conestoga wagons traveled. Conestoga is a town on the way, parallel to the Erie Canal. And railroads too. These are historic routes that Americans have made across their country. They are not a very large portion of the road system. In mileage terms, we have altogether—to be more precise than probably possible 3,876,871 miles of road so designated in our country.

This system that we propose will be made up of 184,871 miles, 4.8 percent of public road mileage. Call it 5 percent. And to that 5 percent, we allocate about 36 percent of the moneys in this bill.

The great bridges that cross the Black Warrior River, or should, the Mississippi, the Missouri, the Ohio, are all on this system, and they are the ones you really have to take care of. You do. You make a first claim on the State highway department. So, including bridge funds, we will give 36 percent of this money toward 5 percent of the roads.

This matters to the administration and it matters to the managers of this bill. But we are not quite ready to offer the measure.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. MOYNIHAN. Mr. President, I apologize for that interruption. The Senator does yield the floor.

We will be offering this amendment shortly now, but the distinguished Senator from Nevada, our colleague on the committee, is seeking recognition and has an amendment, and we look forward to hearing it.

AMENDMENT NO. 323

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Nevada [Mr. REID] proposes an amendment numbered 323.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

> On page 31, line 5, before the period, insert the following: ", unless such highway or bridge capacity expansion project conforms with the applicable State implementation plan of the State approved or promulgated under section 110 of the Clean Air Act (42 U.S.C. 7410), as described in section 176(c) of the Clean Air Act (42 U.S.C. 7506(c))".
>
> On page 34, line 12, before the period, insert the following: ", unless such lanes conform with the applicable State implementation plan of the State approved or promulgated under section 110 of the Clean Air Act (42 U.S.C. 7410), as described in section 176(c) of the Clean Air Act (42 U.S.C. 7506(c))".

Mr. REID. Mr. President, the amendment that is now before the body would allow the addition of capacity, that is the addition of lanes to interstate highways and bridges with interstate maintenance funds where these projects are part of the program to achieve the air-quality goals required under the Clean Air Act.

Without these projects, an area like Clark County, which is in the Greater Metropolitan Las Vegas area, simply cannot meet the clean air rules as we established them in the establishment of the clean air amendments last year.

Mike Naylor, the planner who is most involved in the clean air work in the Las Vegas, testified to the Environment and Public Works Committee that adding capacity to the Spaghetti Bowl Interchange was the only way left for Las Vegas to come into compliance with the Clean Air Act amendments.

Under the amendment that is now before this body, no capacity could be added that did not comply with the clean air goal, and no State would get additional funds for using its interstate maintenance portion this way.

It is in keeping with the overall goals of the bill that is now pending before the Senate. The types of projects about which I have spoken are so large in costs that the States need flexibility to use interstate maintenance funding for these purposes if it becomes necessary.

These projects, Mr. President, can be done with Surface Transportation Programs funds under the bill as it is now written, and up to 20 percent of interstate maintenance funds can be transferred into the STP fund. However, to go beyond 20 percent takes approval by the Federal Highway Administration. For approval, the State must show that all maintenance needs have been accomplished.

Therefore, the State of Nevada would have to show that, for example, I–80, which is a rural area road traveled by about 3,000 vehicles a day, is in effect perfect in maintenance before the State would be allowed to use these Surface Transportation Program moneys to widen I–15, which passes through Las Vegas and is traveled by about 135,000 vehicles a day; 3,000 vehicles, 135,000 vehicles. They, in effect, would have to show that they do not need the funds for the I–80 repair.

Mr. President, in a State like Nevada, with a large urban area and lots of rural, low-volume miles, the bill sets up a tradeoff between air quality and maintenance. The bill does not give us a choice. We must fix the pavement on I–80. We are not saying we will not maintain I–80 properly, but there must be some discretion given the State.

The Federal Highway Administration is directed by the bill to set standards to which we will have to comply anyway, regardless. So we need the flexibility to do both, and so do other States: Virginia, Florida, Texas, Colorado, to name only a few.

Surface Transportation Program funds must cover primary, secondary, and urban needs. Nevada has a primary road, U.S. 95, that is almost 500 miles long, connecting Las Vegas and Reno.

Our surface transportation funds must be used on this road that stretches the equivalent of the distance between Washington, DC, and Boston, MA.

Mr. President, there simply is not enough in the surface transportation moneys to take care of everything.

Along U.S. 95, there are also about 20 Federal installations. U.S. 95 must be maintained for national defense needs. This is something that our bill does not address. Nowhere, for example, is the Secretary of Defense consulted, even though this highway system that we have was originally envisioned by President Eisenhower to be part of our national defense system. So we must still recognize the importance of these roads to national defense.

The amendment, I want everyone to recognize, takes no money from other States. The amendment does not add money to the bill. The amendment does not transfer money from one program to another. It simply allows States flexibility in using funds to meet the clean air needs set by the Federal Government.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I rise in support of the amendment of the senior Senator from Nevada.

The Environment and Public Works Committee is to be commended for the innovation it has exhibited in the development of this highway bill.

While I do not support every change proposed by the committee, there is no doubt that the bill provides increased flexibility for State and local planning agencies, especially as transportation relates to clean air concerns.

Under the committee's bill, there is one section, however, where some much needed flexibility is missing. In 1981, Congress expanded the existing interstate maintenance category, then called the 3–R Program, to create the current 4–R Program.

While the 3–R Program funded the resurfacing, restoring, and rehabilitating of the interstates, the 4–R Program added reconstruction to the eligible list of projects. Under the highway bill reported by the Environment and Public Works Committee, however, the "fourth R," reconstruction, is largely eliminated.

Specifically, the committee proposal eliminates the ability to fund projects which increase the capacity of the interstates under the interstate maintenance category.

As the senior Senator from New York describes quite eloquently in his introduction to the committee's report on S. 1204, two factors, clean air and flexibility, were among the highest priorities of the committee as it drafted this legislation.

To quote from the committee report on the subject of clean air:

> The Committee's concern with traffic congestion is necessarily associated with environmental issues, especially those addressed by the Clean Air Act Amendments of 1990, which occupied the Committee for much of the preceding decade. . . .

On the subject of flexibility the floor manager of S. 1204 is equally clear:

> The moment calls for flexibility. No one state or city is exactly like another. Our job must be to facilitate and reward the best mix of transportation modes suited to specific jurisdictions. . . .

The amendment offered by the senior Senator from Nevada addresses both of the committee's concerns: it corrects the lack of flexibility in the interstate maintenance category by permitting the funding of added capacity, but it only does so if such added capacity is consistent with an approved clean air plan.

Mr. President, the lack of highway capacity on the major highways in Nevada is our single greatest congestion and clean air problem.

The two major urban areas in Nevada are moving forward with plans to address the congestion and clean air problems of the State through alternatives to highways, including a greater use of mass transit.

The mass transit system in Washoe County, where Reno is located, is a model system for a community of its size. In Clark County, where Las Vegas is located, voters recently approved a quarter percent increase in the sales tax to be earmarked solely for transit.

Nevertheless, even full implementation of such alternatives will not solve Nevada's transportation problems. Nevada's interstates are old, having been built in the 1960's, and are in need of repairs.

In many areas, Nevada's interstates operate far beyond capacity. The condition of our interstates is a hazard, both in terms of safety and in terms of air quality. The safety problem may be partially addressed without adding new capacity, but the air quality problem cannot.

As Mr. Mike Naylor, of the Clark County Health District, testified before the Environment and Public Works Committee earlier this year, if Clark County is to meet its clean air targets, it must get the cars on the interstates moving. Clark County cannot do this without added capacity.

In the past, several of Nevada's most important highway projects have been funded from the 4–R Program, and many of these projects involved added capacity.

Most recently, the State was successful in securing funding under the Interstate 4–R Discretionary Program for a reconstruction of the Spring Mountain Interchange on I–15, a project that is essential to both the congestion and clean air management plans of Clark County.

To provide a prospective example of the need for this amendment, one of the most important projects in southern Nevada today is the interchange at the intersection of I–15 and U.S. 95, an interchange we refer to as the Spaghetti Bowl.

The estimated cost of this project is at least $65 million—an amount equivalent to Nevada's total yearly Federal aid allocation in recent years.

The Spaghetti Bowl is already operating beyond capacity, and the situation will only get worse.

If this project is to be financed, the State of Nevada will need to draw on a variety of funding sources, and needs the flexibility to use a portion of its interstate maintenance funds for this important project.

Effectively, the bill as reported by the committee places 16 percent of the State's allocation off limits to the Spaghetti Bowl project.

Mr. President, the title of the committee's bill is "The Surface Transportation Efficiency Act of 1991." I would hope that the reference to efficiency applies both to the efficiency of the movement of goods and people and to the efficiency of our Federal highway dollars.

Limiting the use of interstate maintenance funds to preclude added capacity reduces the States' ability to choose the most efficient highway projects.

The point at which an interstate needs major repair would seem to be the most efficient time to make decisions regarding the future of that interstate. The States need to be allowed to choose the most efficient alternative.

By encouraging States to rebuild interstates without adding capacity, when added capacity is clearly needed, the committee's bill could, in the end, waste valuable Federal highway dollars.

The most admirable quality of the committee's bill is its assertion that decisions on project priorities are best established at the State and local level. I agree.

The Surface Transportation Program contained in the bill allows almost complete discretion to the State and local governments.

While I understand, and support, the provision which requires a certain amount of funding to be used solely for the maintenance of the interstates, we still need to provide the State and local governments the flexibility they need to spend these funds in the most efficient manner possible.

Mr. President, I think it is important to mention two things that this amendment does not do. First, it does not change in any way the allocation of funds between the States, an issue which has dominated most of the debate on the highway bill.

Each State will receive the same apportionment, but will be allowed more flexibility in deciding how these funds will be spent.

Second, the bill does not divert any funds away from the interstate program. Interstate maintenance funds will still be spent where they belong—protecting our investment in the Interstate System.

I speak with some experience and background on our State's own highway program. The Nevada State highway program is managed by a State board of transportation commission. On that commission are three elected officials: The Governor of our State, the attorney general, and the State comptroller.

I was privileged to serve for a decade as a member of that transportation commission. I know first hand the kind of attention, the kind of detail, the very thoughtful consideration made in terms of each of the projects which is considered and approved by that commission.

Nevada, as in every State, does not have enough money to do all of the things that it needs. Therefore, it requires a prioritization. That is a process which is done on an ongoing basis year after year, both in terms of short-term projects, as well as long-term projects. Let me implore my colleagues to provide transportation boards, such as exist in Nevada and other States, the necessary flexibility that they need to make the decisions that are right for each of the States and our local communities that are affected by those decisions.

Mr. President, the interstate maintenance category is important and should be protected. We should not, however, lose sight of the purpose of the Interstate System. The idea is not simply to repair the potholes and fix the cracks on every mile of the interstate pavement. The idea is to preserve and enhance the transportation system provided by the Nation's Interstate System. In many cases, this does involve repairing pavement, but in other cases it may also involve increasing capacity. A well-paved interstate with cars at a standstill is clearly not in the national interest. Without this amendment, this is the kind of situation which my constituents in Nevada may face in the very near future.

Mr. President, I urge my colleagues to vote in favor of this amendment. I thank the Chair, and I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. GORE). The senior Senator from Nevada.

Mr. REID. I commend my colleague from Nevada for his fine statement and direct a question to him. As a member of the highway board, in effect, what kind of decisions did the highway board have to make as to what would take place in the State of Nevada?

Mr. BRYAN. If I may respond, Mr. President, to my senior colleague, there are many factors that were taken into consideration. But, clearly, there had to be a ranking or a priority and among those priorities would be how the system was being used: The amount of traffic, amount of travel, any safety problems that might be involved; frankly, the cost of the project.

It was always our purpose to make sure that we were able to maintain the existing system. That was always a very important priority. Then we had, frankly, to make a decision among all the competing requests. Each of the counties had their own project, as my senior colleague well knows, and then we had to make a tough decision. Frankly, not everybody was pleased with those decisions. I would say it was a very thoughtful process, as I characterized it, and one in which great attention was given.

I believe the process we used, if I might respond to my senior colleague, deserves the support of every Member of the U.S. Senate because it was not an indifferent or cavalier approach. It was very thoughtful and our three top elected officials in our State—as I pointed out earlier for those who may not be familiar, the Governor, the attorney general, and the comptroller are the three elected officials on that board—serve on that board.

Mr. REID. If I could direct another question to Senator BRYAN. Also because of the clean air amendments having passed, this highway board that he sat on for a decade is now going to have to take into consideration the problems caused by the clean air amendments, and in southern Nevada we have a problem. The amendment that is now pending before the Senate would allow the State of Nevada to meet some of those demands. If the amendment is not agreed to, those opportunities will not be available, is that not right?

Mr. BRYAN. The senior Senator from Nevada is quite correct. The two metropolitan areas in our State, as the senior Senator from Nevada knows very well, the trucking meadows in northern Nevada, and the metropolitan Las Vegas areas are in nonattainment zones. The primary cause of the nonattainment is emissions from the automobile. In order to reduce those emissions, it makes sense in terms of achieving the objectives of the Clean Air Act, provisions which the senior Senator of Nevada, as a member of the committee, was initimately involved in drafting in the last session and was strenuously supported for those changes to the Clean Air Act which toughens the standards. I was happy to support his efforts and others on the committee. But, in order to reach the kind of clean air standard that is set, we are going to have to move traffic more efficiently. And one of the ways in which we can do so, in addition to the public transit which I know is very much encouraged by this legislation and which Nevadans have responded both in northern Nevada several years ago by developing a reasonably comprehensive bus system and as recently as last fall, as the distinguished Senator knows, approved in Clark County by a vote of the people, we are going to have added capacity on some of those thoroughfares that are part of the Interstate System in both southern Nevada and northern Nevada, or our hands are going to be tied.

So it is going to be critical. The highway board, to respond directly to his question, is not unmindful of that challenge and they are going to have to look at these clean air provisions to make sure the highway program is designed in such a way that it facilitates sustaining that standard.

Mr. REID. I thank the Senator very much. I will indicate and repeat that this amendment does not transfer any money from one program to another. It does not add money to the bill. It does not take money from any State. I ask my colleagues to join in supporting this legislation to allow the State of Nevada, and some other States, to be able to comply with the Clean Air Act amendments.

Mr. MOYNIHAN. Mr. President, we have frequent occasion in this Chamber to refer to the wisdom of the founding statesmen who drew up the American Constitution in Philadelphia in 1787. As I listened to the two Senators from Nevada, I was, once again, persuaded of the wisdom of the Founders who provided that each State should have only two Senators. If there were four Senators from Nevada with as much eloquence and charm and intelligence and experience, I think the rest of us would be effectively reduced to a permanent minority in this body.

They make an exemplary case, a persuasive case with respect to their State's own specifics. Not for nothing did the population of Nevada increase by one-third in the last decade. If I knew that I would be represented by two such Senators if I moved there, a case could be made for moving there to be represented by two such exemplary legislators. And yet in this one instance, the committee is constrained to feel we have to stick with our legislation. Over and over we have heard that the Interstate System is crumbling. It has to be true, if that many people say so.

We asked ourselves, Why? How could it be crumbling? The first dollar of the highway trust fund goes to maintaining the Interstate System. But in the 1980's half of that maintenance money went to adding capacity. We do not want to say you cannot do that.

Prof. Stephen Morrison in our hearings invoked the image from the Field of Dreams, the fellow in the Iowa cornfield that built the ball park. He said, "If you build it, they will come." You build that extra lane, and it will fill up. You may be sure. But that is your choice under our program.

What we have to say is that the money set aside for interstate maintenance, that 60 percent, has to go to maintenance. There is too much testimony about the ever increasing and rather mindless increase of capacity where you simply have congestion as a result of a bad pricing system. Think rationing, think market systems, think how to get more out of what you have rather than just mindlessly adding to it. We have learned in 35 years that adding capacity does not produce much.

We have in the surface transportation sector a cost share. Half the money goes there. That money can be used for anything you think best. If you want to add new capacity, the cost share is 75 to 25. The trust fund puts up 25 cents on every dollar, not the 80 percent put up for other purposes. But the money is there. We want you to use it as you think best.

I think there can be no question that in Nevada you are going to have to redesign parts of the Interstate System. That goes with growth. We all have those spaghetti bowls.

The city of Albany is like an old piece of velvet—covering up those great 18th-century streets, brilliant architecture of the early Republic, the old Van Rensselaers, the Dutch founders.

The Interstate System went in there and smashed, and crashed. What Nelson Rockefeller did not destroy, the Interstate System completely mopped up for him. There is the mall that someone described as the "architecture of coercion." They took the great Hudson River and put 98 lanes of 7-story high Interstate System in front of it, whirling around, more like a tornado than a spaghetti bowl. It just never stops.

I wrote to say, "How could you have done that to our river and our capital?" The Secretary of Transportation wrote back and said, "How very nice of you. I really much appreciate your inquiry, and you are quite right. It was extraordinary and it won a prize for design." That is called public sector disease. It is the cost of free money.

So to say, sir, with great respect, Mr. President, having acknowledged that the case has been formidably presented, I say to our friends that the bill as reported has a distinct provision that interstate maintenance money must be used for maintenance. The temptation to add capacity and neglect maintenance is too much in evidence.

We have had a Senator on this floor in this debate describe a situation where driving along an interstate highway he said, "My God, I have had a flat tire." He pulled over on the interstate and found his tire was fine. Interstate have deteriorated where you think your tire blew out because of the conditions of the paving.

I am joined by my comanager, the Senator from Idaho, and when the Senators from Nevada feel they have made their case in sufficient detail, we will have to move to table.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I appreciate very much the kind comments of the senior Senator from New York. It was my desire, after he had completed his commendation of the two Senators from Nevada, to figure out some parliamentary maneuver so I could interrupt him at that time because I knew what was coming next.

I would just remind Members of this body that the problems that have been outlined by the Senator from New York were taken into consideration prior to offering this amendment. As a member of the committee I sat through litrally days of hearings held by the Senator from New York, as chairman of the subcommittee, which committee put its stamp of approval on this legislation. There is no question that the maintenance of the Federal highway system is important.

But I stress to this body that we have a situation in Nevada which I think that is unique. There are some of other States, I have outlined what States they are, but, that is, a rural highway with 3,000 vehicles a day traveling over it; in southern Nevada, I-15, 135,000 vehicles each day.

We have been told by Nevada's leading expert, Mike Naylor, that the only way we can comply with the clean air amendments is by adding capacity in certain areas of that interstate.

With the amendment that we have offered, we are not taking money from any other State. We are not transferring moneys and programs. We have in this amendment taken into consideration that no State will be harmed, that it will not add any money to the bill. I repeat, it will not transfer money from one program to another; simply that this amendment allows States in an effort to comply with the Clean Air Act to add moneys, spend more money out of the surface transportation program, and not take it from the maintenance program.

We hope the Senate will agree that that amendment is in keeping with what we are trying to accomplish with this surface transportation bill. This bill does not stand alone. It is important that we have a sound surface transportation program in this country.

But also there are other things that we have done in this body, the other body, that the President has signed, that has a direct impact on the folks back home. One of those is the clean air amendments that we passed last year. As a result of those clean air amendments, the documents set down in those clean air amendments, we have to comply with them. We have been told that we, the State of Nevada, cannot do that unless we add the capacity, especially at the so-called spaghetti bowl, that, by the way, is already built.

So I ask Members of this Senate to closely look at this legislation. Look at it because it is important not only to the State of Nevada. It is important to the States of Texas, Florida, Virginia, Colorado, just to name a few of the States that would benefit from this legislation.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Nevada.

Mr. BRYAN. I thank the Chair.

The distinguished Senator from New York has through his erudition and charm informed, delighted, and entertained his colleagues and the Nation for many years. I am very grateful for his personal reference to both my senior colleague and to me.

I must say that I find myself, perhaps to his surprise and other colleagues, in remarkable agreement with some of the statements that he has made. I believe that some of the designs in a less-enlightened period in our Nation, in which cities have been carved in half, in which extraordinarily irreplaceable unique natural beauty has been destroyed, is a legitimate concern and a criticism.

He has cited in his own State, Albany. Senator REID and I have described the Washoe Valley in our own State in which through that magnificent open field this highway is cut right through the middle of it. Today that would not be possible because of the requirements of the National Environment Policy Act which was not then in force.

I can recall as an undergraduate at the University of Nevada in Reno for decades the argument was put forth as to where to put the Interstate System. I say to my friend and the distinguished chairman, if that had been taken literally just a few hundred yards to the north of where it is presently situated, much of the delightful old part of the city of Reno adjacent to the University of Nevada, my old alma mater, would not be there.

So I do not disagree with the premise upon which he approaches it. I think one distinction I will make—and I will yield the floor, because others seek to be recognized—this issue that Senator REID and I are pushing today, we are not talking about new interstate highway construction; we are talking about a system in place that, because of the enormous investment, simply cannot be replaced.

I am sure if the distinguished senior Senator from New York has his choice, he would love to replace that monstrosity he described in Albany. But the reality there is it would be an enormous investment, and it probably will not take place.

So in that city, as well as others across the country, we will have to function with that. So we are not talking about constructing new interstates which carve out these delightful scenic vistas, or doing great violence to old communities and tear neighborhoods apart, and all of the things the Senator has spoken to. We are talking about a system that is in place and needs expansion and additional land.

As Senator REID has so precisely pointed out, what we seek to do is provide the flexibility to help us achieve a goal that I know the Senator supports, and each Member of this Chamber supports, and that is to clean up the Nation's air.

The point we seek to make in this amendment is that we are inhibited and limited in doing so, if this amendment is denied to us, because in many urban areas that is the most effective way to do it, notwithstanding a substantial investment in public transit. And I understand the Senator's keen interest in it. I share his enthusiasm. But for us in Nevada, even the most comprehensive, realistic public transit system will not enable us to meet our clean air standards, and expanding the capacity in critical areas of our State will be a substantial help. That is why we ask the support of the amendment offered by my senior colleague.

Mr. MOYNIHAN. Mr. President, once again I thank the Senator from Nevada with what I hope they recognize as a measure of reluctance, simply because of the respect in which they are held, the affection and respect of the body. Even so, on behalf of the Senator from Idaho and myself, I move to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. The yeas and nays are ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is absent on official business.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The result was announced—yeas 62, nays 36, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—62

Adams
Baucus
Bentsen
Biden
Bradley
Breaux
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Dodd
Durenberger
Garn
Gorton
Gramm
Grassley
Harkin
Hatch
Helms
Hollings
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Pell
Rockefeller
Roth
Rudman
Sarbanes
Simon
Smith
Specter
Stevens
Symms
Thurmond
Wellstone
Wofford

NAYS—36

Akaka
Bingaman
Bond
Boren
Brown
Bryan
Bumpers
Daschle
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Fowler
Glenn
Gore
Graham
Hatfield
Heflin
Inouye
Kerrey
Mack
McCain
Packwood
Pressler
Reid
Riegle
Robb
Sanford
Sasser
Seymour
Shelby
Simpson
Warner
Wirth

NOT VOTING—2

Pryor
Wallop

So the motion to table the amendment (No. 323) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 325

(Purpose: To impose length limitations on certain commercial motor vehicles)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendments of the Senator from West Virginia will be temporarily set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. LAUTENBERG, Mr. CHAFEE, Mr. ADAMS, Mr. GORE and Mr. SANFORD, proposes an amendment numbered 325.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, line 8, strike the quotation marks and the second period; and on page 129, immediately after line 8, insert the following:

"(4) Nothing in this subsection shall be construed to allow the operation on any segment of the National System of Interstate and Defense Highways of any commercial motor vehicle combination prohibited under section 411(j) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311(j)).".

(c) Section 141(b) of title 23, United States Code, is amended by adding at the end the following new sentence: "Each State shall also certify that it is enforcing and complying with section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311(j)).".

SEC. 138A. VEHICLE LENGTH RESTRICTION.

Section 411 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311) is amended by adding at the end the following new subsection:

"(j)(1) No State shall allow by statute, regulation, permit, or any other means, the operation on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, pursuant to subsection (e) of this section, of any commercial motor vehicle combination with two or more cargo carrying units (not including the truck tractor), whose cargo carrying units exceed, as determined by the Secretary—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation authorized by statute or regulations of that State on or before June 1, 1991; or

"(B) the length of the cargo carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, continuing lawful operation (including continuing seasonal operation) in that State on or before June 1, 1991.

"(2) For purposes of this subsection, the length of the cargo carrying units of a commercial motor vehicle combination is the length measured from the front of the first cargo carrying unit to the rear of the last cargo carrying unit.

"(3) Commercial motor vehicle combinations whose operations in a State are not prohibited under paragraph (1) of this subsection may continue to operate in such State on the highways described in paragraph (1) only if in compliance with, at the minimum, all State statutes, regulations, limitations, and conditions, including but not limited to routing-specific and configuration-specific designations and all other restrictions in force in such State on June 1, 1991. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of any commercial motor vehicle combination subject to this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of this section and of section 412 and section 416 (a) and (b) of this Act. Any State further restricting or prohibiting the operations of commercial motor vehicle combinations shall advise the Secretary within 30 days after such action and the Secretary shall publish a notice of such action in the Federal Register.

"(4) Within 60 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a list of length limitations, as determined by the Secretary, applicable to commercial motor vehicle combinations operating in each State on the highways described in paragraph (1). The list shall indicate the applicable State statutes and regulations associated with such length limitations. The list shall become final within 60 days after publication in the Federal Register. Commercial motor vehicle combinations prohibited under paragraph (1) may not operate on the National System of Interstate and Defense Highways and other Federal-aid Primary System highways as designated by the Secretary. The list may be combined by the Secretary with the list required under section 127(d) of title 23, United States Code.

"(5) Nothing in this subsection shall be construed to allow the operation on any segment of the National System of Interstate and Defense Highways of any longer combination vehicle prohibited under section 127(d) of title 23, United States Code.".

"(6) Nothing in this subsection shall be interpreted to affect in any way the operation of commercial motor vehicles having only one cargo carrying unit. Nor shall this subsection be interpreted to affect in any way the operation in a State of comemrcial motor vehicles with two or more cargo carrying units if such vehicles were in actual, continuing operation (including continuing seasonal operation) in that State on or before June 1, 1991, authorized under State statute, regulation, or lawful State permit.

"(7) As used in this subsection, 'cargo carrying unit' means any portion of a commercial motor vehicle combination (other than the truck tractor) used for the carrying of cargo, including a trailer, or the cargo carrying section of a single unit truck.

On page 128, on lines 3 through 4, strike "2311, 2312, and 2316 of title 49, United States Code Appendix" and insert in lieu thereof "411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311, 2312, and 2316)".

Mr. EXON. Mr. President, today I offer an amendment to S. 1204, the Surface Transportation Efficiency Act of 1991 to freeze the length of longer combination vehicles, commonly known as LCV's at limits currently permitted by the States. Joining me as sponsors of this amendment are Senators LAUTENBERG, CHAFEE, ADAMS, SANFORD, and the Presiding Officer, Senator GORE. LCV's are large trucks that can be any combination with two or more trailers or semitrailers which operate on the Interstate System. Currently, 15 States allow triple trailer combinations; 17 States allow twin 48's; and 20 States allow Rocky Mountain doubles.

The debate over the size of LCV's revolves around the weight and length limitations for these large trucks—and more specifically, the safety of these large vehicles sharing our Nation's roads and highways with other motorists. Concerns are being raised that without limiting the maximum length of commercial motor vehicles that shippers of lightweight commodities might be able to transport materials in longer trucks while still adhering to the maximum gross vehicle weight limits permitted by State regulation.

The length limitations of LCV's falls within the jurisdiction of the Commerce Committee. My amendment is similar to a provision offered by Senator LAUTENBERG during the recent markup of the highway bill. The Environment and Public Works Committee, which has jurisdiction over the weight limitations of LCV's, has included a provision freezing the gross vehicle weights of LCV's at current levels.

In addition to what is already in the bill to freeze weight, my amendment would freeze the length of LCV's to the limits currently permitted by the States. It authorizes the Secretary of Transportation to publish a list of the permissible length limitations of each State and the combinations of specific trailer combinations in lawful operation as of June 1, 1991. This amendment is not a preemption of any existing State authority but rather addresses an issue that the 1982 act was silent on.

The concern over the length limitations relates to the ability of the longer vehicles to maneuver safely on roads, intersections, and the on/off ramps of an Interstate System that was generally designed for shorter vehicles. These larger trucks pose potential hazards to other motorists on the road. Many fear the use of tripletrailers because these longer trucks do not perfectly trail in line with the tractor and tend to swerve into adjacent lanes when making turns. These larger combination trucks also disproportionately contribute to the destruction of highway shoulders and curbs.

Mr. President, I am sure that the motoring public is certainly with us on this amendment. I submit for the RECORD a list of groups opposed to longer combination vehicles and urge my colleagues to follow the overwhelming public outcry calling for a halt to the expansion of these large trucks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

GROUPS OPPOSED TO LONGER COMBINATION VEHICLES

TRUCKING GROUPS

Haulers Against Longer Trucks (HALT) (intermodal truckers).
International Brotherhood of Teamsters.
Owner Operator Independent Drivers Association.
The Survival Coalition (TL Truckers).

INSURANCE GROUPS

American Insurance Association.
Alliance of American Insurers.

PUBLIC INTEREST GROUPS

National Taxpayers Union.
Union of Concerned Scientists.
Campaign for New Transportation Priorities.
Consumer Federation of America.
Surface Transportation Policy Project.

ENVIRONMENTAL GROUPS

Sierra Club.
Friends of the Earth.
National Wildlife Federation.

HIGHWAY SAFETY GROUPS

American Automobile Association.
Advocates for Highway and Auto Safety.
Center for Auto Safety.
Citizens for Reliable and Safe Highways.
League of American Wheelmen.
Bicycle Federation.

LABOR

United Transportation Union.
Railway Labor Executives Association, representing among others: Brotherhood of Locomotive Engineers, Transportation and Communications International Union, Brotherhood of Railroad Signalmen, and International Association of Machinists & Aerospace Workers.

RAIL SUPPLIERS, PARTNERS AND SHIPPERS

Railway Progress Institute.[1]
Railway Systems Suppliers Incorporated.[1]
Railway Supply Association.[1]
American Railway Car Institute.[1]
Railway Engineering-Maintenance Suppliers Association.[1]
American Farm Bureau Federation.
National Association of Railroad Passengers.

STATE AND LOCAL GOVERNMENT ORGANIZATIONS

American Assoc. of State Highway and Transportation Officials[2] (AASHTO's policy required a two-thirds vote of state DOT's).

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[1] These rail supply associations represent some 900 companies and their employees who are opposed to LCV's.

[2] Opposed to truck size and weight increases in the 1991 highway bill.

National Conference of State Legislatures.
National Association of Governors Highway Safety Representatives.
International Association of Chiefs of Police.
The California Legislature.
The Connecticut Legislature.
City of Chicago and 101 other Municipalities and Local Government Associations in the Chicago area (list available upon request).

Mr. EXON. Mr. President, I have discussed this amendment with the floor managers of the bill. As far as I know, they are prepared to accept it. In the interest of conserving time, therefore, I will not be asking for a rollcall vote. I know that at least Senator LAUTENBERG, who has taken a leading role in this matter, also wishes to be recognized.

Mr. SYMMS. Will the Senator yield for a question?

Mr. EXON. Yes.

Mr. SYMMS. Just to clarify a point, Mr. President, on pages 70 and 71 of the report—and I cited an example of a place in Idaho, but I want to ask the authors of the amendment if they did not intend this to be true in any other situation in the United States which would be similar.

> This subsection is not intended to disallow use of particular configurations of LCV's consistent with all other restrictions under this new subsection on the segment of I-90 near Wallace, Idaho, upon its completion.

The reason I bring that up is that the situation is this: That I-90 is in the completion stages, and now the traffic is routed through the town. But in the future, when the road is open, then the traffic will go on through the interstate, and not come through town, where the triple trailers and the LCV configurations are allowed.

Of course, as the Senate knows, our committee has jurisdiction over weight, not over length, and this amendment deals with length. But would it not be the Senator's intention that once this is grandfathered in place, where these LCV's and weight limitations are now being used, that in instances where interstates had not yet been open, that you would not expect, then, that those trucks will have to get off the interstate and detour around and get back on it; that they would be expected to stay on the interstate?

Mr. EXON. Mr. President, in response to the very legitimate question of the Senator from Idaho, I simply say that his interpretation of our intent and the way the law is written follows exactly what was done in his committee and what I understand is the desire of the particular segment of Interstate System that the Senator from Idaho referenced, so we are exactly on the same track.

Mr. SYMMS. Right. Not only what we referenced in the committee, but I think it should be clear here on the floor, in any other case in the country where there happens to be a small section of interstate that is in the completion stages, and most trucks are not running on it now but it is expected they would be allowed to run on that portion or those connecting parts in the future.

I just want to set that clear for the record so we will not have some problem here in 2 years where we have to come back and somebody has gone to court and said they cannot run the triple trailer through this section.

Mr. LAUTENBERG. If the Senator from Nebraska will permit me to respond, the preference, obviously, is to keep things as they are. But if the question is when you have an incomplete section between two lengths of the interstate——

Mr. SYMMS. Correct.

Mr. LAUTENBERG. Where the LCV's are permitted on either side, it would seem to me unfair and unwise to try to eliminate that section from being used. But I think we have to be very clear that this permission extends only to those sections where that is so.

Mr. SYMMS. Correct.

Mr. LAUTENBERG. If that is the case——

Mr. SYMMS. That is the intent of our report language in the committee. I wanted it included in the amendment of the Senator here and to say it on the floor so there is no misunderstanding about what the intention of the committee is with respect to the grandfathered rights.

I thank my colleague.

Mr. EXON. I hope we have successfully answered the Senator's question and concern. We may well be readdressing this matter at some time in the future. If we can include some additional report language when we finish this bill with regard to consultation with the House of Repesentatives, I will certainly be glad to take a look at anything further, on the suggestion of the Senator from Idaho.

Mr. SYMMS. I thank my colleague.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Senator from Nebraska for his statement. We will work with that report language. But for the record I indicate that my understanding of the bill is exactly that of the Senator from Idaho, we are clear on that, and as clarified—not that it needed to be clarified—but as illustrated by the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in support of this amendment by my friend and distinguished colleague from Nebraska. Senator EXON'S amendment complements section 138 of S. 1204, which freezes the use of longer combination vehicles, based on weight.

I did not include a length limitation in my amendment in order to avoid jurisdictional disputes between committees. I commend the Senator from Nebraska for taking the initiative to address the length issue at this point. It certainly clarifies our mutual intent.

The States of Nebraska and New Jersey have very different transportation needs. But we do agree on a lot of things, and we certainly agree on this: Automobile drivers in our States do not want to be forced to share the road with trucks weighing 70 tons and measuring more than 100 feet long. Those are the trucks we are dealing with in this amendment.

In this reauthorization we are making major policy decisions about our surface transportation systems. We are making judgments about how much we need to spend to maintain the interstate transportation system. We are making decisions about what our commitments to safety should be. This amendment is appropriate in both of those respects.

Like the amendment already included in the bill, it would freeze, to the exact conditions that existed as of June 1, 1991, the use of LCV's. It would require the DOT to compile a list of those conditions so everyone will know what rules we're playing by. It puts up a stop sign in front of the big rigs and says, no more.

The reasons for doing this are clear: safety; and the wear and tear that widespread use of these trucks would impose on our National System.

Let me discuss the safety aspects first. Last month, the Environment and Public Works Committee held a hearing on LCV's. At that hearing, we heard some compelling statistics:

That, in car-truck crashes, the driver of the car is almost 40 times more likely to be killed than the truck driver;

That, based on experience in Oregon, LCV's are 5 times more likely than single-trailer trucks to jackknife, or separate in an accident;

That the rear trailers of LCV's routinely sway several feet from side to side, out of the control of even well-trained drivers;

That LCV's operate now, under choices made by the States, mostly on the safest of roads;

But, that 90 percent of the LCV accidents occur on the less than ideal roads, according to the National Highway Traffic Safety Administration;

That, according to the DOT, the last trailer of a triple is 3.5 times more apt to roll over in a sharp turn than a single trailer; and

That, according to a 1985 report of the Secretary of Transportation:

> Most interchanges on the Interstate system cannot safely accommodate LCV's * * * if the longer combinations were to travel on the arterial highway system in most parts of the country, they would have significant problems making turns without hitting objects beside the road and severely disrupting traffic flow.

We also heard that LCV's pay far less in user fees than the actual costs they impose on the highway system. It could be less than 40 percent of the actual costs.

A Triple A Foundation survey of truck divers found that more than 80 percent said that doubles and triples are less safe than single-trailer trucks.

We heard from the Teamsters, representing the largest group of truck drivers in the country. They do not think that LCV's are safe, and they support this amendment.

Mr. President, the comments of the truck drivers are something that we have to listen to. They are trained professionals. They take pride in their work. And, they do not think that these trucks are safe.

There is also a split in the trucking community.

A group of small companies have banded together in what they're calling the Survival Coalition to fight broader use of LCV's; the owner-operator independent drivers have also weighed in against the expanded use of LCV's.

As I said, we have heard from the public at large. National surveys have shown that more than three-quarters of the American people don't want to share the roads with the big rigs.

Mr. President, there is a diverse community supporting this amendment:

The American Automobile Association;
International Association of Chiefs of Police;
Fraternal Order of Police;
Teamsters;
Citizens for Reliable and Safe Highways;
National Coal Association;
Owner-Operator Independent Drivers Association;
National Grange;
American Soybean Association;
American Insurance Association;
Advocates for Auto and Highway Safety; and many others.

When we look at all of this, I think the conclusion is clear: We should stop the spread of LCV's. That is what this amendment does, and I urge my colleagues to support it.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Nebraska.

Mr. EXON. I thank my colleague and good friend from the State of New Jersey. We worked hand in hand on this. This is a matter of clarification. To prove we are working hand-in-hand, the Surface Transportation Act of 1991, properly, was reported out of the Committee on Environment and Public Works of the Senate, and the Committee on Environment and Public Works has clear jurisdiction over the weights of trucks. The lengths of trucks, though, come under the jurisdiction of my Surface Transportation Subcommittee over in Commerce.

So I think the Senator from New Jersey has very adequately pointed out that we are, indeed, working in total harmony on this, both with regard to weights and as regards to length of trucks.

I hope the amendment will be accepted. I state again, I have no need nor do I intend to call for a rollcall vote if, as anticipated, the managers of the bill are in a position to accept by voice vote the amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, it is very obvious the votes are here to have this amendment agreed to. I just want to make a point to all my colleagues so they understand exactly what it is we are doing in this bill.

If Senators are interested in the truck issue, if they look in the committee report on page 69, this amendment deals with truck lengths. It will grandfather in current use of triple trailers in the States where they use them and on the road systems that they use them. The committee language deals with the LCV's with respect to weights.

The point I want to leave with my colleagues is that what this means is that we are limiting expanded productivity from the trucking industry in the country.

Everyone in this country is impacted by trucks. I know my good friend from New Jersey talks about the high percentages of people who are opposed to big trucks on the roads on which they drive. I think you can turn the question around and ask those people: Would you be willing to pay a much higher price for the products you use because 85 percent of everything in this country that is transported for the consumers of the country at one point or another is on a truck?

So what we are doing is limiting the efficiencies. The Senator from Nebraska offered the amendment because he wants to protect what efficiencies are now there. I do not mean to say this in a fashion that sounds as though he is trying to limit it, but what is happening is the Congress is seeking to limit future increased productivity by the trucking industry in this country to improve the ability of us to move goods and services with more efficient truck links and sizes and weights that would comply with the interstate or with the highway program. I think we need to understand that is what is happening.

I am not going to ask for a vote. I am not going to oppose the amendment. I know where the votes are. But I think we need to understand that the American people have enjoyed great benefits from a much-improved truck efficiency over the past 25 or 30 years, and the National Highway System, the Interstate System, has greatly enhanced efficiencies in the trucking industry to make it much easier for products from the fields, the farms, the factories, the mines and so forth to get to the urban areas. A great bulk of the reason that we have the consumerism in the country that we enjoy and the great stores that have massive numbers of items for Americans to shop from——

Mr. MOYNIHAN. Apples.

Mr. SYMMS. Apples, of course, and potatoes and other great products.

Mr. LAUTENBERG. Blueberries.

Mr. SYMMS. Blueberries. They get there because of an efficient transportation system.

I just say that I understand we are grandfathering in what we now do, but we are also saying at the same time that it will not expand, get any more efficient than these other States. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Might I respond, lest the distinguished Senator from Nebraska or I or the manager of the bill be thought of as encouraging higher prices for the consumer. I think the record ought to reflect that we are, as the distinguished Senator from Idaho said, freezing the use of LCV's where it is. The cost efficiency cited by the Senator from Idaho doesn't come without imposing costs elsewhere. The consumer does not get off without some cost to our highways due to overweight trucks that abuse the condition of the roads. That is a cost to consumers as well. And it's the average consumer who pays gas taxes that offset the costs imposed by these big rigs.

I have to say it is somewhat unfair to suggest or at least intimate that as a result of this amendment, the consumer is going to get stuck. They are not going to get stuck. What we are going to get is safety on our roads. That is important. A bargain at the supermarket that is offset by a loss of life or a permanent injury certainly is not much of a bargain at all.

This is a very good amendment. I again commend my colleague for offering it. I encourage, as he has, the managers to accept it on a voice vote. I think he is most generous in that because the votes are there to adopt this. I ask the managers of the bill if we can just go ahead and do it.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I listened very carefully to my friend from Idaho and my friend from New Jersey. Let me say I hope we can move ahead in an expeditious fashion. To use the phraseology of the President, I hope we can get moving on this in the next 10 minutes and bring it to fruition.

Suffice to say this is not an anticonsumer bill in any way, shape or form. We can ask a question of the people of the United States in any fashion we wish, but if you ask them whether or not, because of "increased efficiency" of trucks, they would like to see a mile and a half truck traveling down the Interstate Highway System, I think the answer would be, we do not. I hope the managers of the bill at this point will accept my previous request for a voice vote. I yield the floor.

Mr. MOYNIHAN. Mr. President, I urge the adoption of the amendment.

• Mr. WALLOP. Mr. President, I would like to take this opportunity to thank my colleague, Senator LAUTENBERG, for including a provision in this highway bill which is of great importance to my State.

Under the Lautenberg amendment, a special exemption from the 80,000 pound gross vehicle weight limit applicable on interstate highways which has been in place in Wyoming since 1985 will now be made permanent. Longer combination vehicles with a gross weight of up to 117,000 pounds, will continue to operate, provided they comply with the conditions that may have been in effect in 1956.

Wyoming's State law in 1956 prohibited the issuance of overweight permits except for vehicles hauling "single items of machinery or equipment which cannot be readily dismantled or divided * * *." Most Western States, on the other hand, have the grandfather rights to issue permits to trucks hauling divisible loads well in excess of 100,000 pounds.

As a result, Wyoming was economically isolated. Carriers operating longer combination vehicles were forced to reduce their loads upon entering the State. Shippers exporting or importing products were forced to ship at weights well below the more efficient weight limits of surrounding jurisdictions. Some regional carriers found it more economical to avoid Wyoming altogther, despite the additional miles traveled using alternative routes, leaving Wyoming virtually an island unto itself.

Wyoming's exemption, or demonstration project, was therefore inaugurated to document the "benefits to the economy of the State of Wyoming" of allowing 117,000 pounds longer combination vehicles, already legal on State roads, to operate on interstate highways as well. A 1988 report issued by the Wyoming Highway Department showed that heavier combination vehicles used significantly less fuel and made far fewer trips than would have been required by smaller vehicles moving the same amount of cargo. Freight rates and transportation costs were therefore lowered, and the economy of the State, not to mention the efficiency of our transportation system, was vastly improved.

Mr. President, I have received letters from companies in Wyoming, South Dakota, Colorado, and Kansas, citing the cost effectiveness and benefits of this weight exemption. Had we failed to make this provision permanent, several companies would have been forced to cease operations in Wyoming, contracts and jobs would have been lost and the other potential impacts are enormous and frightening to consider.

I appreciate Senator LAUTENBERG's assistance and cooperation in ensuring that Wyoming's trucking industry is competitive with the surrounding States and Canada and a fair and equitable market system prevails in the West.•

Mr. SANFORD. Mr. President, I rise today to speak in support of the amendment offered by Senator EXON which serves to set length restrictions on the oversized combination trucks which presently rule our highways and interstates. The American public is tired of being frightened and endangered by these longer combination vehicles, and tired of paying to repair the damage to our roads caused by these vehicles. I support this most important piece of legislation in the name of motorist safety as well as the preservation of passable roads, bridge, and thoroughfares.

LCV's such as triple trailer trucks and twin 48's have been shown to be over involved in crashes and highway fatalities. These facts cannot be ignored. The Insurance Institute for Highway Safety has found that LCV's are 2 to 3 times over involved in all types of crashes. The fatal accident involvement rate of double trailers has been found to be 58 percent higher than single trailers. In my own State of North Carolina, the overturn rate for double-28's is 4.3 times the average truck overturn rate. The unwieldy size of these vehicles, as well as articulation joints which connect each trailer make them inherently unstable, resulting in jackknifing and crack-the-whip or rear amplification accidents. Their extreme length and variable weight, depending upon load, contribute to uncertain braking capability. Their length also increases the time and distance necessary for other motorists to pass, as well as increasing the difficulty and danger of freeway merging and lane changes. The dangers inherent to these big rigs far outweigh any advantage in hauling capacity. Plain and simple, the safety of the American motorists is endangered by these vehicles. It is the duty of this body to accept the responsibility for that safety.

The degradation of the Interstate Highway System caused by these LCV's is another factor which must be considered. In this time when our infrastructure is literally crumbling beneath us, and we struggle to find the funds to keep the Interstate System functional, we must realize the extreme wear and tear which these oversized vehicles cause. These LCV's fail to pay their fair share for the damage they initiate, leaving the American driving public to pay the tab. Road, bridges, and entrance and exit ramps all suffer under the extreme weight and size of these vehicles. The nationwide operation of dual trailer trucks would put more than 6,000 rural Interstate Highway bridges at risk of deterioration so severe as to require replacement—at a cost of $7.7 billion. Many such structures were simply not designed to accommodate the 80,000 to 125,000 pound trucks that commonly roll over their length. In addition, if the longer combinations were to travel on the arterial highway system in most parts of the country, they would have significant problems making turns without hitting objects beside the road and severely disrupting the flow of traffic.

I submit that we should no longer allow these longer combination vehicles to dominate our highways, endangering the safety of other drivers, and destroying our Nation's roads.

For these reasons, I again express my support for this amendment calling for a freeze on the length of longer combination vehicles. In fact, it is my opinion that this amendment does not go far enough in making a strong statement to those who would continue to make use of longer combination vehicles. Let these parties be hereby warned that it is my intention to see that a phase out of these hazardous vehicles is enacted. If individual States refuse to heed the intention of this amendment, and fail to phase out oversized trucks on their own in upcoming years, stronger actions can and will be taken at the next highway reauthorization. You may be assured that I intend to monitor and pursue this issue.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 325) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNHIAN. Mr. President, in just a moment, I will send to the desk and ask for consideration an amendment which will address the question that has concerned us all at various levels and various degrees. In 1988, the report of the National Commission on Infrastructure came to use—we, of the Senate, having created the Commission—and spoke of massive disinvestment in infrastructure in this country. We also had the international banks for settlements speak to the same point in a report a few days ago from Switzerland.

In the report of the committee on this legislation, we say there is no doubt that we are disinvesting; that constant 1982 dollars, highway investment peaked at $40 billion in 1965 and it is running $10 billion a ¼ level. We said that for the next 5 years, we cannot spend what we do not have. It still leaves the question, can we not do more in some way?

A number of investment firms are interested. Mr. Dan Flanigan who has been active in these matters has been interested, and other advisers, financiers. One of the proposals that has come along has to do with the possibility of creating a type of infrastructure security which would permit the investment of pension funds in funds utilized to design plans and construct infrastructures in the United States. That is to say, use this to flow pension moneys into infrastructure.

I note just as an aside that in our neighbors to the north, the Canadian Social Security System as established in the 1960's was meant to be partially funded, as ours is now, and throw out surpluses. Those surpluses are borrowed by the Provincial governments for purposes of building infrastructure. They issue bonds, the bonds have revenue and they pay back into the system. It is a very attractive arrangement.

Whether we can do it with our private pension funds is a very good question. This 6-month commission consisting of two Members appointed by the majority leader, one by the minority leader, two by the Speaker and one by the minority leader in the other body and one by the President of the United States, is asked to inquire into the matter and give us their professional judgment. This is a good measure. It may be something large will come of it.

AMENDMENT NO. 326

Mr. MOYNIHAN. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. EXON). The clerk will report. The amendments of the Senator from West Virginia will be set-aside for the purpose of considering the amendment just offered by the Senator from New York.

The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes amendment numbered 326.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert in the appropriate place the following new section:

SEC. . INFRASTRUCTURE INVESTMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established the Commission to Promote Investment in America's Infrastructure (hereafter referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of 7 members appointed as follows:

(A) Two members appointed by the Majority Leader of the Senate;

(B) Two members appointed by the Speaker of the House of Representatives;

(C) One member appointed by the President of the United States;

(D) One member appointed by the Minority Leader of the Senate; and

(E) One member appointed by the Minority Leader of the House of Representatives.

(2) Individuals appointed to the Commission shall have appropriate backgrounds in finance, construction lending, actuarial disciplines, pensions, and infrastructure policy disciplines.

(c) FUNCTION OF COMMISSION.—It shall be the function of the Commission to conduct a study for the purpose of determining the feasibility and desirability of creating a type of infrastructure security which would permit the investment of pension funds in funds utilized to design, plan, and construct infrastructures in the United States. The Commission can include recommendations as to private sector as well as other recommendations for innovating public policy alternatives to assist infrastructure investment at all levels of government.

(d) REPORT.—Within 180 days following the date of the enactment of this Act, the Commission shall report its findings and recommendations to the Congress and to the President of the United States.

(e) EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(f) COMMISSION STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(1) appoint and fix compensation of an executive director, a general counsel, and such additional staff as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent for the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(g) AUTHORIZATION.—There is authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary for the Commission to carry out its functions.

(h) TERMINATION.—Effective 180 days following the date of submittal of the report under subsection (d), this section shall be deemed repealed.

Mr. SYMMS. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 326) was agreed to.

Mr. SYMMS. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, on behalf of my comanager, may I state that the bill is open to amendment. If there are Senators who have some urgent need to offer amendments, they are welcome to come to the floor at this time.

We are moving steadily. I report that progress is to be seen on all fronts. The Committee on Banking, Housing, and Urban Affairs will be here, I am advised, at 3 o'clock to offer the mass transit provisions which we marry; we make the highways and mass transit into surface transportation.

Mr. SYMMS. Mr. President, to add to that, there has been a great deal of discussion, many Senators have asked this Senator about what has happened with respect to the amendment that Senator MOYNIHAN and I were proposing earlier with respect to a National Highway System. This discussion has seemed to have generated some interest. I think our colleagues who are interested in this are coming closer to getting an amendment worked out that we hope could be added to this bill.

But I say also that once that is added to the bill and once the transit section is added to the bill, if the money can be agreed upon from the proposed Byrd amendment that is pending before us, this bill could be passed rather rapidly. So if Senators do have amendments that they want to get in the bill, now is a good time to offer them or they may miss the train.

Mr. MOYNIHAN. Mr. President, seeing no Senator seeking recognition at this point, I would suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I had intended to come over to speak in support of the amendment that was just introduced and rapidly accepted and agreed to by our colleague from Nebraska, the senior Senator, Mr. EXON. So that acknowledging that there is an opportunity to speak on the floor now, I thought I would take this moment to speak, if I may, in gratitude for the wisdom of the Senate in adopting this amendment, since I no longer have to speak in supplication asking the Senate do that.

This amendment I think will strengthen the amendment introduced in committee by the Senator from New Jersey [Mr. LAUTENBERG] which I was privileged to cosponsor and which was adopted at markup by the Environment and Public Works Committee.

This amendment will ensure that large, twin-tandem trucks and triple-tandems are not allowed in States that do not currently allow them even if the trucks are carrying light loads.

Mr. President, this is an issue and a problem that has troubled me for a long time. I am very privileged to be here at this moment as we attempt to protect people in States like mine in Connecticut who really do not want these larger trucks on our highways and cannot afford to have them.

The safety record of longer vehicles makes it clear why their use should not be expanded. In those States where they are used, the rate of trailer separation in accidents for triple-tandem trucks is almost five times higher than for single-trailer units.

In the State of Washington, for instance, the rate of separation for doubles was 25 times higher than for singles. In Oregon, from 1985 to 1990, the rate of trailer separation in accidents was almost five times higher for the triples than for single trailers. Triple trailers also jackknife more than the single-trailer trucks.

Compared with their numbers on the road, trucks with the double trailers are much more likely to be in crashes than are tractors pulling only one trailer. Crashes of these double trucks are much more likely to involve jackknifing then crashes of the single-trailer, rigs, which suggests what we felt in Connecticut when we were forced to adopt or accept the tandems after the Surface Transit Act of 1982—that the instability of the double trailer is a factor in their higher crash risks. That, in fact, is the conclusion reached by the Insurance Institute for Highway Safety in cooperation with the State Police in the State of Washington.

The Congressional Office of Technology Assessment recently concluded:

> Most research shows that the accident rate of multitrailer trucks—most of which are western (twin) doubles, since they are allowed nationwide—to be higher than that of conventional trailers-semitrailers.

The University of Michigan Transportation Research Institute, which is one of the leading research facilities in this field, has found that the crack-the-whip effect, which is the sway of the rear trailer on these doubles and triples, is 3½ times greater for triples than for singles.

In a March 1991 report, the Department of Transportation's Office of Motor Carriers concluded:

> Small tractors steering movements or braking applications, particularly in a lane change, are magnified by a second trailer and can reach uncontrollable levels, producing considerable and subsequent rollover.

Mr. President, if I may be personal and in that sense somewhat parochial about it, putting these monster rigs on the Connecticut highways, regardless of whether they are carrying light or heavy loads, would be a recipe for disaster. Unlike many of the States where the trucks now operate, Connecticut has heavily congested roads, numerous and frequent on and off ramps, many bridges and curves and other impediments to safety. In this transportation environment, the tandems and the trailers certainly represents a threat to public safety.

The International Brotherhood of Teamsters, representing those who actually drive these trucks, testified before our committee that they strongly oppose any expansion in the use of these larger trucks. That is because they are concerned about the safety of their drivers.

According to the OTA study, the drivers of double and triple trailers experience greater fatigue and mental strain, probably stemming from concerns about the instability caused by the greater number of articulation points on the truck.

OTA also reports that the American public has expressed almost universal opposition to any increased use of these longer trucks, and the trucks already on the road frequently overwhelm motorists.

Such concerns, I think, will become increasingly important in the coming decades, particularly as the population of older drivers grows. Research and survey and accident data suggest that older drivers have relatively more difficulty interacting with trucks and have the strongest negative emotional reactions to them.

Besides safety, Mr. President, there is the question of costs. It is clear that we are going to need massive new expenditures for roadway upkeep, if these larger trucks are allowed on the road. OTA tells us we are going to need to redesign and reconstruct significant portions of the roads where they are used, especially interchanges and bridges, lane widening, and a provision of climbing and passing lanes will probably be necessary.

While those needs will increase, the fees paid by the longer trucks will not be sufficient to cover the increased costs. The Federal Highway Administration has found that, in general, State permit fees for overweight vehicles do not cover the cost of administration and highway damage.

Mr. President, in my previous capacity as attorney general of Connecticut, I attempted to thwart the entry of the first generation of tandem trucks—smaller than the ones that exist in many States, which are banned under this Lautenberg amendment and strengthened by Senator EXON—from the Connecticut highways. Unfortunately, that legal effort was unsuccessful because of the existence of the Federal law that essentially preempted our ability to control the safety of our citizens on our highways.

I am privileged to be here today to express my gratitude to the Senator from Nebraska, the Senator from New York, and all our colleagues, who have just voted to support this amendment, so we can stop any movement to allow the larger tandem trucks on roads in our country where they are not allowed now.

That is basically, when it comes to Connecticut, a way of allowing the people of Connecticut to determine what is best for their safety.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I rise today in strong support of the Surface Transportation Efficiency Act of 1991. I commend my colleague, Senator BURDICK of North Dakota, the chairman of the Environment and Public Works Committee, for his leadership in bringing this bill to the floor.

This bill is a remarkable and responsible piece of legislation that addresses our Nation's surface transportation needs. But as I have listened to the debate here on the floor, Mr. President, I must say I have been somewhat disappointed. One would almost forget that this is the United States of America. As this debate has gone on, we have heard endless discussion that this bill does not suit the interests of Missouri; this bill does not suit the interests of Virginia; this bill does not suit the interests of Texas.

There has been very little discussion, except from those who have brought this bill forward, that this bill was designed to meet the national interests of the United States. What we are trying to craft is a national surface transportation policy. That is what this debate should be focused on.

From its earliest days, the Federal highway program was envisioned as a means to create and maintain a national transportation system. The idea was to unite a nation through a system of roads and bridges, free for all to use, established in the national interest and maintained for the common national good.

And, indeed, that is what our National Highway System has achieved.

As the road system was being built, it was recognized that low-population States, States with smaller tax bases than their urban neighbors, would require more Federal assistance to build and maintain their component of that national system. The National Highway Program was never intended as a central pot of money for individual States to squabble over. Yet, that seems to be where this debate is headed.

Some here, including my friends from Virginia, Missouri, and Texas, have argued over and over that there is a great principle at stake, and they assert that the great principle is that each State ought to get back approximately what it puts in.

I would simply ask if my friends from Missouri, Virginia, and Texas want to apply that standard to other Federal programs. Should that be the way that we structure the National Defense Program of our country? Is that what we should do in structuring the S&L bailout in this country?

Suppose we said that defense contracts should be allocated on a per capita basis? That is really what we hear my friend from Virginia arguing: We ought to give back basically what was put in by the State of Virginia. If we applied that standard to defense, we would get an interesting result. In my State, defense contracts amount to $155 per capita. In Virginia, contracts amount to $1,300 per capita.

I would suggest to my friend from Virginia, if we are going to apply the standard that he proposes with respect to highways or defense, the State of Virginia is going to be a significant loser.

Suppose we decide that we should apply this same standard to the S&L bailout. I would say to my friend from Texas that his State ought to get back approximately what it has sent in. If we apply that standard to the S&L bailout, quite a different result would obtain.

So far, American taxpayers have paid $80 billion in deposit insurance for the State of Texas—$80 billion—or $3,500 for every man, woman, and child in the State of Texas. Meanwhile, the people of my State have paid $150 per person. We are not very happy about that, Mr. President. The folks in North Dakota would be a lot better off if we just shelled out the S&L money on a per capita basis.

I submit to you that it is senseless to hold the Federal Highway Program to this type of standard. We must not forget that we need each other. Let us take a look at my own State of North Dakota. We are a perfect example.

North Dakota is a producer State. We produce food. In fact, we produce 87 percent of the Nation's durum, which is used to make pasta, and we produce energy. We are the ninth largest oil-producing State in the Nation. We export that oil and our coal and our electricity to the rest of the Nation.

We also have two huge strategic air command bases in my State, each with a missile wing. Let us suppose North Dakota decided that we are only going to grow our per capita share of wheat. The other States will have to grow their own food. We are only going to produce our per capita share of power; you other States will have to figure out a way to generate your own electricity. And we are going to keep our per capita share of nuclear missiles; you other States will just have to get busy and start digging some holes for your own missiles. I know this is senseless; just as senseless as doling out highway money based on population.

Mr. President, we are a nation. We support each other. We depend on each other. And we decide how to spend our Federal dollars and work our Federal programs for many, many reasons. This is done for the common good of this Nation.

Sometimes population is part of that equation. But it is not the sole standard by which Federal programs are regulated, and it should not be.

My State of North Dakota has just 639,000 people, with 0.16 miles of road per person. In Texas, there are 0.02 miles of road per person; in Virginia, 0.01 miles of road per person. There are more people in one big city in Texas or Virginia than live in all the vast prairies of my State. Yet Virginians and Texans need the highways in North Dakota, even if they never personally travel them.

Mr. President, we all need a national road system. We need the durum wheat from North Dakota, the oranges from Florida, the cotton from Mississippi, the peanuts from Georgia, the furniture from North Carolina, the paper from Washington, the milk from Wisconsin, and the apples from New York.

We share our abundance through a national transportation system, and commerce cannot thrive without a reliable national transportation system.

That is really what this debate is all about. And that is why I commend the chairman of the committee and the chairman of the subcommittee, the distinguished Senator from New York, who have labored mightily to bring to this floor a package that is a policy for a national transportation system. That is what this country requires.

It would be a grave mistake for us to balkanize, and for us to be so concerned about the individual State interests that we forget the larger national interests. And that is what this debate really ought to be focused on.

Again, I want to commend the chairman of the committee, my colleague from North Dakota, Senator BURDICK, and the very distinguished chairman of the subcommittee, the Senator from New York, for producing a legislative package which I believe is in the national interest, something that will serve this country well in the years ahead.

I thank the Chair, and I yield the floor.

Mr. MOYNIHAN. Mr. President, before my colleague and friend leaves to do other matters, may I thank him for his generosity to this Senator and to his colleague, our revered chairman, Senator BURDICK, but thank him most of all for speaking to the national interest in this system.

The Senate was created to represent the interests of individual States. By definition, surface transportation has to reflect geographical size and population size. Those are the two things that are excluded from representation in the Senate. And reaching agreement on these matters is institutionally difficult for us unless we step back for just a moment and say we are also U.S. Senators and not just Senators from New York, North Dakota, or what have you.

I think we are on the edge of a successful effort here. It takes us out of the interstate era into a new one. As the Senator knows, part of the genesis of our system occurred when President Eisenhower, in 1919, was given a convoy of trucks by road to take from Fort Meade, in Maryland, to San Francisco. The exercise assumed that military action had destroyed the railroads: get from the east coast to the west coast by road. And President Eisenhower found he could not. Two months later he got to San Francisco Bay, but they worked like soldiers under wartime conditions, and they made 7 miles an hour.

Well, we have done all that. Now we have the more complex system, not defense related, but actually related to the economy, as the Senator said. And in that regard, we are not doing very well. We have a bad case of public sector disease. Productivity in transportation has been growing at 0.2 percent. That is no growth at all. It would take 350 years to double. If American agriculture performed like that, we would still have 95 percent of the American people on the farm instead of 4 percent.

So I want to thank him and wish to express the sincere hope that many Senators were listening and will respond in that spirit.

Mr. CONRAD. Mr. President, I will respond by saying to our colleague from New York that I very much commend him for not only his leadership in crafting this bill but his leadership on the floor in reminding our colleagues that really what we are about is trying to craft a national system of surface transportation for this country and that we are the United States of America. As we have listened to this debate, one might almost forget that this is not just a body made up of people who are solely concerned about the interests of their own States. If we fall into that trap, we will regret it.

I again commend the Senator from New York for his able leadership.

Mr. MOYNIHAN. I thank my colleague.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business.

The PRESIDING OFFICER (Mr. DODD). Is there objection? Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the Chair.

(The remarks of Mr. KERRY, pertaining to the introduction of Senate Joint Resolution 160 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGES OF THE FLOOR

Mr. KERRY. Mr. President, I ask unanimous consent that Mark Melloy, of my staff, be permitted access to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S CHALLENGE

Mr. KERRY. Mr. President, I will take a moment also, if I may, to make a few comments regarding the President's speech last night and where we are legislatively and where we are in this country. The President issued a challenge after the Desert Storm conflict, at a moment when he deservedly came to receive the acclaim of the Congress and the American people for real leadership.

I stood with pride, along with everybody else, and listened with pride to his expression of America's sense of accomplishment. And there has been, since Desert Storm, in this country an enormous outpouring of a desire to get on with it; to get on with the serious business that faces this Nation. It has almost become cliche to talk about how, if we are a country that can get 500,000 troops to the desert within the shortest span of time in history, we ought to be a country that can also get people who are addicts, or who are homeless, off our streets here in America.

But we are not even talking about it. We are not even talking about it seriously. And I resent the notion that there are these artificial 100-day challenges that are used to obscure the last 870-some days of an administration that has wanted to deal in rhetoric rather than reality. At least to this Senator there is a perception that we are increasingly becoming two Americas, and Americans are becoming sensitive to that: The America the politicians talk about and then the America that we really are, that people have to live through every day, which they know is different from the one the politicians talk about.

The credibility gap between us and them, between the people we are supposed to represent and those of us who are doing the representing, is growing. I respectfully suggest the kind of speech we hear that attempts to say that Congress somehow has not been serious about its work in the past months and did not pass these two bills is exactly the kind of divisiveness that only plays to further enhance the cynicism in this country. It makes it harder to govern, and it makes it harder to pass legislation. It is not constructive.

If we want to talk about real leadership, if we want to talk about promises and challenges, what happened to the challenge that came from this President to make America No. 1 in education, to improve the math and science scores of our kids, to guarantee that we were going to have real programs that dealt with our teachers who are diminished in their ability to come out of higher education and go into teaching? Let us put that to test, if we really want to judge the last 828 days.

What happened to the war on drugs? We lost the drug czar, Bill Bennett. I have not heard from him publicly in months. We have more addicts, we have more heroin in our streets than ever before. Maybe 20 percent of the addicts in this country get treatment. If we want to be serious about governing then let us talk about treatment on demand for American citizens so every single citizen in this country who wants treatment, who needs treatment, has the treatment available. But we do not do that, do we, Mr. President? No, we do not do that because we are all locked up in this little game about politics, that involves this famous pledge and we are not willing to find revenue.

Not withstanding the fact we will not find revenue, we are willing to live with the phoniest budget process we have ever worked under, and now we have created this constraint for ourselves of a 60-vote majority all the time so the very Constitution of our forefathers put together by which we are supposed to make these decisions is no longer even the way we operate.

I think there are a lot of real tests of leadership. If the President wants 100-day tests, which he evidently likes, the original 100-day test being that of Franklin Roosevelt, then measure what he brought before this country for it to do versus the crime bill and the transportation bill that has been offered by President Bush.

What about the crime bill? We have already passed three crime bills in the last few years that I have been here. Notwithstanding the strengthening of sentencing, notwithstanding the additional money that we put in on the Senate floor, way above and beyond what the President asked for at any point in time, there is more crime than ever in our streets because we really do not have the resources, because we really have not made the commitment.

The Senator from Louisiana is going to speak on the bill so I will conclude my comments. But I suggest that dispassionate, honest measurement would suggest we would be far better off with less challenges of 100 days and more cooperative moments of 10 hours or 100 minutes, in which we are really sitting down and discussing the agenda for this country.

Anybody who measures the crime bill that was sent here by the President knows we have been busy inserting what we believe to be a real response to crime.

We have been busy dealing with one of the most significant banking crises in history, notwithstanding the administration's unwillingness to do what it said it would do on bifurcation of loans, to do what it said it would do on appraisals, and a whole host of other things that could be done to spur this economy along.

So I respectfully suggest we would be a lot better off if we limited the politics and get on with the business of legislating and governing. I think the American people would be a great deal happier with the process if we did that.

[Applause in the gallery.]

The PRESIDING OFFICER. The galleries will please remain silent during debate on the floor.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Mr. BREAUX. Mr. President, I would like to speak on the pending measure, the Surface Transportation Efficiency Act, and bring to the attention of my colleagues who may be monitoring the debate on the floor of the Senate what is happening with at least one aspect of the bill.

I commend the members of the Environment and Public Works Committee for the work they have put into this legislation, and especially the senior member from the State of New York, for the good work that he has done in bringing this transportation program to the Senate floor as well as the distinguished chairman of the full committee, Senator BURDICK from North Dakota, and also Senator SYMMS, for the work they have done in trying to put together a very complicated surface transportation system which is being perceived, hopefully, as fair to every State. Indeed, that is a tremendous challenge, to make citizens of my State, Louisiana, agree with the citizens of New York and the citizens of Maine and the citizens of Florida, and indeed all 200 million-plus Americans, that a program that divides up money is somehow fair to everybody. That is a real, serious challenge.

Let me make just a comment about an amendment that Senator DURENBERGER and myself have prepared. We are right now, as a matter of fact, negotiating and trying to get an agreement on it.

The legislation the committee has brought to the floor is a major departure from previous highway programs and highway legislation. I think we can all agree with that. There have been some innovative programs, some innovative steps made in the product that they have brought to the floor to try to really put together a transportation program, knowing that what transportation needs are in the 1990's are certainly different from what the transportation needs were in 1930.

Obviously, mass transit, magnetic levitation rail systems, other subway systems are all very important. Still, there is a very small percentage of the people in this country who in fact use mass transit. The number I have seen is somewhere between 2 and 3 percent. That is important. It is important to this country and we ought to have a transportation system that adequately addresses the needs of mass transit.

But, all of us have highways that are falling apart. All of us have bridges that are falling apart. All of us have highways and bridges on the interstate and primary system, the network of roads in this country that were built in the fifties and sixties, that are literally crumbling under the very cars and trucks that are using those systems. There is not a Member of Congress who can say the highways in his or her State do not need help; do not need restoration; do not need resurfacing; do not need attention.

This country has a $205 billion investment in surface transportation, roads and highways in this country. It is very important that this Congress and our Federal Government assure that those investments are being taken care of.

The simple truth is they are not. Not enough work is being done to maintain those highways. Not enough work is being done to ensure the safety of the bridges that literally control the lives of millions of Americans every day, as we drive across them.

It is with some concern that I look at the highway bill and see the creation of a new surface transportation program that takes 50 percent of the money in the entire highway bill and puts it into a surface transportation program with absolutely no requirement that any of that money, which is half of the money of the whole program, be used for restoration or for resurfacing or for rebuilding or for reconstruction of that $205 billion transportation network that is in grave need of maintenance.

The States could use it. They might use it, but they do not have to. And the history of the National Highway Transportation System clearly shows that the States, indeed, are not using enough of their Federal funds in order to maintain the system of highways that the Federal Government paid for and sponsored with the Federal highway gas tax that everybody is paying.

Mr. President, when I look at the Department of Transportation and they tell me they could use $40 billion a year on maintenance of these highways, I am disturbed when I see that half of this money in this bill is put into a category for which there is no requirement that any of it be used to maintain the highways. I am fearful, Mr. President, that unless we change this legislation just a little, we will have done very little to guarantee the highways in America will be fixed, and be maintained, and will be repaired, and will be resurfaced, and will be reconstructed.

Therefore, Senator DURENBERGER and I, with the support of a large number of organizations in this country, have prepared an amendment. The amendment is very simple. The amendment simply says that that new pot of money, the new program, the surface transportation program, which the committee bill puts half of all the money into, that 25 percent of the money in that pot will be used for the purpose of solving the needs of the National Highway Transportation System.

We do not change the formula that Senator SYMMS and Senator MOYNIHAN wrote into the legislation as to what the money can be used for. In fact, on page 13 of their bill, they talk about projects eligible. Those are the same projects eligible under the Durenberger-Breaux amendment. It says it shall include construction, reconstruction, rehabilitation, resurfacing, restoration, mitigation of damage to wildlife, habitat and ecosystems caused by a transportation project, so on, operational improvements for highways, including interstate highways, and bridges, including bridges on public roads of all functional classifications.

We are saying that half of the amount of money that is put into this new surface transportation program, that is just one-fourth of it, be used for the purposes I just mentioned. They can use the remaining three-fourths for all mass transit if they so desire; they can use it all for mag levitation, if they so desire. At least a small portion of it shall be used for the National Highway System. That means that we are stating as a Congress that there ought to be some way to ensure that roads are functional and that they will be repaired.

I am just very concerned that in the absence of this amendment, we will have done nothing to ensure that the States will be maintaining the roads like we all would like to see them maintained.

We also talk about the National Highway System and we clearly point out in our amendment that the National Highway System is a system that will be designated by the States in consultation with their regional and local officials and with the approval of the Secretary of Transportation. Therefore, we maintain the Federal-State partnership. The State comes up to the National Highway System within their State in consultation with local officials and the Federal road is protected because it has to meet with the approval of the Secretary of Transportation.

Mr. President, under our amendment, we will be guaranteeing even less than has been guaranteed through 1985 and 1989, the last 4 years of the program, to be used for highways. We will be guaranteeing less than was required before. If anybody thinks that we have done a good job of repairing the roads, every Member of this body has some horror story about a highway, a road, a bridge in their State that is not working, that is dangerous, that is falling apart and is in desperate need of repair.

The only thing that this amendment says is that you take 25 percent of that whole pot of which half the money is already placed in, and use it for the purposes spelled out in the Moynihan bill dealing with highways. I think they have listed everything that is important. When they talk about construction, reconstruction, and rehabilitation, and resurfacing, and restoration and other items that the Moynihan bill has set out we do not have any objections to that.

We do not change the formula. The formula of 80 to 20, or 75 to 25, according to the type of work that is being done, is maintained. We do not change that in any sense, nor do we attempt to change it. We do not want to change it. At least we are saying this country has a $205 billion investment and it is crumbling and it is falling apart.

In many areas it is not working. Yet, people continue to pay now a 14-cent gas tax. They would like to know that when they pay that tax to drive on that road in their truck or their car that at least a portion of it will be required to be spent on ensuring that the roads work. I think that this is what we are attempting to do.

I will just close by reading the list of people and organizations who have contacted us officially listing their support for the concept of a National Highway System: National Governors Association, they are concerned about the quality of highways in their States; the Highway Users Federation; American Association of State Highway and Transportation Officials; American Automobile Association; the American Road and Transportation Builders Association; the American Trucking Association; the Association of Builders and Contractors; the Farm Bureau; Associated General Contractors of America; the National Chamber of Commerce; National Grange Organization; the Petroleum Institute of America; representing elected officials, Governors, people who drive over roads, people who drive the roads, people who are concerned as I, Mr. President, that the transportation system of highways that we have be protected and continue to be improved.

With that, Mr. President, I will just conclude by saying we are working on the amendment. We discussed it with the distinguished chairman. There still are some ripples, as we say, in it. Hopefully, as time passes, we will reach an agreement.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, before my able and learned friend from Louisiana has to go off to meetings, may I just thank him for his comments and say there is very little that we would disagree about, if anything.

When you talk about the largest public works program in history, which was begun properly in 1947 but really began to accelerate in 1956 with the trust fund gasoline tax, we talk about an enormous expenditure. In this program, the system is relatively new—some are 3 years old—and at the same time speak of it as crumbling. I do not disagree with my colleague, but I say that is called public sector disease. You can put an unlimited amount of money into something and it still will not work.

It is equally public sector disease when, as the Senator says quite accurately: "The Department of Transportation says that $40 billion, or $200 billion over 5 years, is required to meet the needs of the existing Interstate System. Even with these staggering needs, S. 1204 goes in the opposite direction."

A good example of public sector disease is when the Department of Transportation says we need $200 billion for one purpose and then actually proposes about $60 billion and does not notice that there is any contradiction because no statement of need is relevant to resources available. That is public sector disease. You lose all capacity to compute.

You can say we need $200 billion and then propose $60 billion and then propose to explain where you are going to get the other $140 billion. Anyone in the private sector who is truly responsible would say if you needed $200 but only had $60, well, we will make do with $60. But in the public sector these fantasies can go on. No one thing has to connect with another.

So why are our roads crumbling after we have just built them? Because they have not been built well. Our highway officials are just finding how very much ahead of us the Europeans are. Why? Because the money is free. If it only lasts 5 years, well, there will be more money. We have been saying over and again in this bill there is no such thing as a free lunch and there is no such thing as free way.

We had in the Washington Post an article about the group of highway officials who came back from Europe stunned by what they saw. The head of the Missouri Department of Transportation said from a second-rate nation we are going to fourth rate. That is a public sector disease. We are trying to do better.

The Senator from Idaho and I are trying to get more out of it. We are trying to talk cost-effectiveness and productivity and accountability, and I love it when the Department of Transportation says we need twice as much as we have. But so what? Nobody is accountable. It is not anybody's money. If you waste it, no one will know.

It is not a good arrangement.

I have a feeling that nobody understands when on our side of the aisle we try to talk price and productivity, but I believe we do.

The Senator from Kansas is on the floor, not just the Senator from Kansas but the Republican leader. We are honored to see him come forward and engage in our marrying enterprise.

Mr. DOLE. I thank my colleague from New York.

AMENDMENT NO. 327

Mr. DOLE. Mr. President, I have been discussing with both the managers of the bill the last couple of days a particular not problems but circumstance we have in the State of Kansas.

We currently spend about $23 million per year on bridge programs. Under the bill, that amount would increase to $73 million. While we appreciate the increase, we cannot spend this amount. What we would like to do is to be able to transfer up to 60 percent of the bridge funds to other accounts. But we limit that and it would only be available to States which receive large increases in the bridge program which they cannot spend.

So we limit the amendment to only the States which receive over 50 percent more money than they received in the previous year. This will limit the application, but I think other States may find the same problem; where they do not have a lot of need for bridge money, they do have a lot of need for road money, and we would like to be able to transfer up to 60 percent of the apportionment of bridge program funds.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. MOYNIHAN. Mr. President, I believe we have to set aside the pending amendment.

Mr. DOLE. I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside.

The clerk will report. The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 327.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

Sec. 108. BRIDGE PROGRAM.

(g) Transfer of Funds.—

Up to sixty (60) percent of the apportionment of Bridge Program funds are eligible to be transferred to either the Surface Transportation Program or the Interstate Maintenance Program if apportionment of bridge funds exceed bridge funds obligated in the previous year by more than fifty (50) percent. These transferred funds may be programmed in any area of the state and are not subject to the requirements of distribution specified in Section 106(b)(1).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, we support the amendment on this side. I think the amendment of the Senator is very consistent with what Senator MOYNIHAN just finished saying. This will give the State of Kansas, which is very flat, few streams, and therefore very few bridges, the opportunity to use this money to fix the roads that are in disrepair. That is essentially all it is about, and I support it. It gives more flexibility, and that is the purpose of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I am in an enviable situation of having the Republican leader as a captive audience for the next 45 seconds. I want to say again we appreciate his amendment. We agree with it. This is what we would like to do—let States make the optimal use of limited resources.

All resources are limited, and in this case probably more limited in recent years. The spending on highways peaked in 1965 at $40 billion a year in 1982 dollars. It is now down to $10 billion.

So you have to get more out of that $10 billion. One of the reasons our highways are crumbling is when we have given interstate moneys for maintenance the States have taken in the last 5 years half that maintenance money and built new capacity. That is what is rewarded in this public sector: the photograph, the ribbons, getting yourself a contractor.

There are no photographs of good maintenance, and therefore where there is no pricing system that tells you what you get back, the reward is to use it less than optimally. We are just trying to see if we cannot get some pricing concepts into our system.

May I thank the minority leader for listening. He is gracious about it, as always. We certainly commend him for his amendment, and without objection, if I may, I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 327) was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. I thank both managers of the bill for their consideration.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, if anybody on the floor has an amendment that he or she would like to offer, then I will not take the time of the Senate. I have not spoken on this bill, and as you and my colleagues know, there has been a lot of backroom maneuvering. I do not mean that in a pejorative sense or in a derogatory sense. A lot of people with a deep and abiding interest in this bill are trying to protect their States, their State highways, and the people of their States.

Arkansas is a donor State. It has been for many years. I have never been rhapsodic about the fact that we were a donor State considering the fact that we are probably 46th or 47th in per capita income in the Nation. We are not one of the more affluent States. But we have always made monumental efforts through the gasoline tax to keep our highways in as good condition as we could, and even build new ones. We were one of the first States to finish our Interstate System as a result.

Mr. President, going back to my days as Governor of the State of Arkansas, when we were looking at formulas, we always assumed that if Arkansas got 1 percent of the Federal largesse, that was about right, because we had 1 percent of the people in this country.

But in Arkansas, a State that is not very affluent, we pay 1.4 percent of the total that goes into the trust fund. So you can see that we, on a per capita basis, are making a four-tenths of a percent greater effort than the rest of the Nation. And in the past—again not in a derogatory sense—what we have effectively done is help Idaho, Wyoming, Montana, Nevada, and many other Western States which had very significant interstate systems but not very many people who bought gasoline to pay for them.

As I say, ever since I was Governor, I never liked the allocation, but we never really raised that much cain about it. But now, as strongly as I feel about this bill, I am not at all sure, even with some of the compromises being talked about, that those compromises are going to deal with the basic problem. The basic problem is the allocation system.

Under the allocation system of today, as it has been since the early 1980's and before, what was good in 1980 in the allocation system is not necessarily good in 1992, or 1996.

The reason for my resentment about the way this system has worked in the past is that Arkansas is also a State that uses more gasoline per vehicle than any State in the Nation. And we have the 16th largest highway system in the Nation to maintain.

Having said all of that, if I have the opportunity to vote for the so-called FAST bill, I will vote for it. I am not optimistic at all about the chances of its passage. I think if we had to choose between the so-called Moynihan bill and the FAST bill, the Moynihan bill would prevail. I simply feel States like mine, which have been donor States for a very long time, have been mistreated. I think we are about to reach a compromise here, which is going to be good in one sense because it is going to give Arkansas $50 million a year more than we would otherwise get. However, this compromise is, as it has been said, the tail wagging the dog. We are adding money on the tail but we are not dealing with the dog and the way the dog is constructed, namely the allocation system.

Senator BYRD has an amendment which I think has been temporarily laid aside, a first and a second-degree amendment. When Senator BYRD first mentioned this proposal in the caucus last Tuesday, he looked at me and he said, "For example, under my amendment, Arkansas will get $27 million a year more." That is a good way to get my attention. He got my attention.

I thought knowing the effectiveness of Senator BYRD, he is probably going to get this amendment passed. And if there was nothing else before this body, that amendment would in my opinion be adopted. I could go home and tell the people of my State, "Well, we got at least $27 million more a year than we were going to get."

Now, under the so-called Byrd-Bentsen-Mitchell compromise, it looks as though Arkansas could get around $50 million a year more. You do not have to be a rocket scientist to know I am going to vote for that.

But the point I wanted to make is twofold: No. 1, there is a budget problem. The compromise includes $8.2 billion more that is going to have to come out of the highway trust fund. Because the highway trust fund is a part of the consolidated budget of the U.S. Government, the $8 billion, under the budget agreement, is going to have to come out of other domestic discretionary spending.

People in this body may very well be asked to make a decision on that $8 billion. For example: Do you think highways are more important than Head Start? Do you think highways are more important than education or the environment, or immunization of children?

I was over at the White House this morning, Mr. President, and President Bush made a beautiful speech about the problems of immunization.

I do not want to go too far afield here.

But you see, this is one of the things I always complain about. It is always a matter of priorities. Do you know that we lost more children to measles last year than men in combat in the Persian Gulf? There were 27,600 cases of measles last year that were entirely preventable, and 89 children died whose lives could have been saved. How could they have been saved—with another $100 million in the immunization program.

President Bush, to his credit, has asked for an increase of $40 million in the immunization program. I applaud that. But I can tell you that is not going to get the job done.

The only reason I digress by talking about immunization programs is that later on, members of the Appropriations Committee are going to have to pick and choose. Can we find enough in domestic discretionary spending under our budget proposal to provide this $8.2 billion so that my State can get almost $50 million more a year for our highways which God knows we need desperately? And many other States are going to benefit similarly under this compromise amendment.

Those are the decisions we will have to make. They are not going to be easy.

I will be very pleased initially to be able to say to the people of my State, "You know we have been able to get around $50 million a year more, nearly a quarter of a billion dollars, over a 5-year period." But I just want to reiterate that the basic problem is the allocation formula problem.

There is one other point I want to make. With the utmost respect for my very distinguished colleague and dear friend, Senator BYRD, there is one thing about Senator BYRD'S amendment I wish would be changed.

In the first part of the compromise which is currently on the table, the $4.1 billion is going to be allocated based mostly on local effort. Arkansas has just passed a 5-cent gas tax increase. We are going to have, we do have right now, one of the highest gas taxes in the Nation. Under the Byrd amendment, we are going to be rewarded because we have made a local effort.

We are trying mightily, for a poor State, to maintain the national average in gasoline taxes. But as I understand the Byrd amendment, you only get rewarded if your gas tax exceeds the national average. This means, Mr. President, from the State of Connecticut, that Connecticut's gas tax may not be up to the national average while Arkansas' gas tax is 10 cents over the national average. Over the next 5-year period, the States which are under the national average could raise their tax and therefore reduce Arkansas' advantage under the Byrd amendment. That means we could get a $27 million bonus the first year, but not necessarily as much the second year because, as other

States raise their taxes, they raise the national average and that gives Arkansas a smaller advantage unless we continue to raise our gas taxes also.

That is a problem.

The other problem I have with the amendment is that it does not take into consideration the diesel tax. So that means, all the taxes you collect from truckers, virtually all of whom use diesel fuel, will not be considered in the formula.

In addition, we have a fairly substantial motor vehicle tax in our State. We get no credit for that—only gasoline sales. I am not squawking too loudly about that, because as I pointed out a moment ago, Mr. President, we use more gasoline per vehicle in my State than any State in the Nation. That is one of the reasons we fare so well under the Byrd proposal.

But I also think it would be fitting and proper to include some other local effort: motor vehicle registration fees, diesel tax, all of those things that States use to build highways.

I believe it is true, Mr. President, that if you take the national average of the non-Federal effort on highways for every dollar of money spent on highways by the States, with no Federal assistance, only 60 cents of every dollar comes from the gasoline taxes. Most people assume that all highways are built with gasoline taxes, when, in truth, only 60 percent of the State's share used to build highways comes from gasoline tax. The rest comes from diesel tax and motor vehicle taxes, as well as other kinds of small taxes.

I am not going to offer an amendment to change the formula of the Byrd amendment, but it would not hurt my feelings any if we changed it to include other types of local effort.

Well, Mr. President, I am only speaking because there is not an amendment pending. I do not want to burden the Senate and take time. But I have not spoken on this subject, which I feel strongly about, because the State of Arkansas is a donor State and has been for a long time.

I will conclude by saying that I just came from a meeting of several Senators to discuss how we are going to resolve this problem, and possibly get this bill passed tonight. My position was that I preferred the FAST bill. If it is offered, I will vote for it. It will probably be defeated, and then I am going to vote for the Byrd-Mitchell-Bentsen compromise.

Well, I guess that just about sums up what I wanted to say about this issue. As I say, and it bears repeating, it does not deal with the fundamental problem of the allocation formula in this country, which in my opinion, needs a drastic overhaul. And in fairness to the Moynihan bill, I believe there is a provision in there that provides for a study of the allocation formula, which is going to come back to us—is it 2 years?

Mr. MOYNIHAN. Yes.

Mr. BUMPERS. We have a study back on the allocation formula.

I thank the Senator from New York for his indulgence, and welcome any comments he may have on what I just said.

Mr. MOYNIHAN. Mr. President, my first comment is that, once again, the Senator from Arkansas brings that range of experience and depth of intellect to something that is at once complex and at once elemental.

There is no question about the facts. At some measure, people choose modes of living; and some live in automobiles, and some live otherwise. Exactly what accounts for the high level of consumption in Arkansas, I do not know. I wish we knew more.

Amazingly, there is no data. We establish in our bill a Bureau of Transportation on Statistics to get the basis for an allocation formula that is not just historic. When we included rural postal routes in 1916, I assure you the Senators from Arkansas were for that. The Senators from New York probably did not know whether that was necessary. But years change, and it is still there.

We have no rationale for the allocation formula we adopt in this bill, save that it is the existing one. It is what is in place. We hold people harmless and propose to provide moderately increased amounts of moneys. I hope that we can move into the post-interstate era, and start thinking about these things with some purpose and some data at hand before we come to the floor in those last minues, everybody with his own chart or table.

And I only plead to my friend from Arkansas that as important as the allocation formula is, it is inconsequential alongside the question of what do we get for the money we spend.

We have a real case of public sector disease in surface transportation. We have had no growth in productivity in 15 years; all of the rewards of doing the wrong thing. People have been talking about the crumbling Interstate System. How could the Interstate System be crumbling? Most of it is not 15 years old.

Well, because the moneys provided for maintenance are not being used for that. Half are being used to add new capacity. Why do you add new capacity? Because you have a ribbon-cutting ceremony that way. Nobody ever got a medal for maintenance. Air crews do, but highways do not.

We have no pricing system, no accounting system, no accountability system. It is a real case of public sector disease. That is what we are trying to cure in this bill. Whether we will succeed or not, I do not know. I would not even say that the odds are high. But we could not allocate our resources much worse than we have been doing, particularly now that the good times are over and the resources are running low.

The Senator says that he will vote for the FAST bill, and I would understand perfectly that he did. He would do it in response to the equitable outcomes for his own State. But as he would note, the administration sent us a transportation bill that was, in fact, an energy policy. The more gasoline you consume, the more money you get. It should be just the other way around.

When we started the Interstate System, we were the world's largest exporter of oil. We are now on the edge of importing half our oil. It is those matters that are addressed in the bill.

I hope that, on the balance, they make up for any injustice that it perpetuates through these formulas. I do not question the need for revision, but not to revise in order to reward the highest level of consumption of imported petroleum.

I see the Senator nodding. I am sure he agrees. Let us see if we can work together in the years ahead.

Mr. BUMPERS. I thank the Senator for his comments.

Mr. President, I thought I might have left a couple of items dangling a moment ago, and I want to be sure that they are correct in the RECORD.

First, I talked about this $8.2 billion compromise, I pointed out that under the budget agreement, the $8.2 billion, while it comes out of the trust fund, is part of the consolidated budget, so we must find that $8.2 billion somewhere else in the domestic discretionary spending program.

As I also said a moment ago, that is going to require some very, very tough choices. As this body knows, domestic discretionary spending is the area, in the past 10 years, in which we have penalized ourselves and we have short changed education, health care, law enforcement, and the environment. As you know, Mr. President, over the past 10 years, spending in these nondefense discretionary programs has gone from 24 percent of the budget to 11 percent of the budget.

Do you want to know why we are not as competitive with the Japanese? Do you want to know why crime is on the increase? All you have to do is to look and see what has happened to the budget insofar as the money we spend on ourselves. Entitlements have gone up. Defense has gone up 110 percent. Foreign aid has gone up 40 to 50 percent. But the money we spend on ourselves to make us a great people has gone up 0.75 percent and declined as a percentage of the budget from 24 to 11 percent. And yet, if we adopt this amendment—and I am going to vote for it because I am willing to face the appropriations process later and decide whether we can do it or not—all we are doing here, if we adopt this Byrd-Mitchell compromise, is saying that the Appropriations Committee should do its best to find $8.2 billion to fund it. I sit on the Appropriations Committee, and I can tell you I do not look forward to that chore.

But, having said that, the other thing I want to point out is that if the $8.2 billion proposal becomes law, my State will get more money back for every dollar it puts into the highway trust fund than it has received in the past. I can tell you it will warm the cockles of the hearts of the Arkansas Highway and Transportation Department and the people of Arkansas, who want good roads and really have been stretching out to get them to receive a fairer return on our trust fund contributions.

I applaud the Senator from New York for his monumental efforts on this bill. We had disagreements on the allocation perhaps, but there is a lot more to that. I do not know; maybe there were monumental efforts in the committee to do something about it. It just did not turn out. But all this goes without saying. I have the utmost respect for the distinguished chairman of this subcommittee. I appreciate his efforts, and perhaps saner heads will prevail tonight and we will get a bill out of here. I hope so.

I yield the floor, Mr. President.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANFORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent to set aside the pending Byrd amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 327, AS MODIFIED

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Dole amendment No. 327, adopted earlier this afternoon, be modified with the language which I now send to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment (No. 327), as modified, is as follows:

At page 30, following line 19, add the following:

"(g) TRANSFER OF FUNDS.—Up to sixty (60) percent of the apportionment of Bridge Program funds are eligible to be transferred to either the Surface Transportation Program or the Interstate Maintenance Program if apportionment of bridge funds exceed bridge funds obligated in the previous year by more than fifty (50) percent. These transferred funds may be programmed in any area of the state and are not subject to the requirements of distribution specified in section 133(b)(1) of title 23, United States Code.

Mr. MOYNIHAN. I thank the Chair.

I move to reconsider the vote and I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that it be in order to proceed with an amendment and that we lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 328

(Purpose: To amend the Urban Mass Transportation Act of 1964, and for other purposes)

Mr. CRANSTON. Mr. President, I now send to the desk an amendment that includes as a title in this bill the language of S. 1194, the Federal Transit Act as reported by the Committee on Banking, Housing, and Urban Affairs. I ask unanimous consent that the amendment be agreed to and considered original text for the purpose of amendment.

The PRESIDING OFFICER. Is there objection. If not, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself, Mr. RIEGLE, Mr. D'AMATO, Mr. SARBANES, Mr. DODD, Mr. DIXON, and Mr. KERRY, proposes an amendment numbered 328.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 328) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I am pleased to offer this amendment together with my colleagues Senators DON RIEGLE, AL D'AMATO, PAUL SARBANES, CHRIS DODD, ALAN DIXON, and JOHN KERRY.

Our amendment would offer in all but two respects the language of the Senate-reported Federal Transit Act of 1991 (S. 1194) as a new title III in the highway bill that is now before the Senate.

Our amendment would change the Senate-reported language in two places to remove conditions on the funding flexibility of transit funds if a metropolitan area chooses to use the funds for roadway projects. These changes were arrived at in agreement with Senators SYMMS, CHAFEE, BURDICK, MOYNIHAN, RIEGLE, and D'AMATO.

Let me now describe the measure that we bring before the Senate.

First, the committee-reported transit bill would be amended in the section on Metropolitan Transportation Strategies that provided exceptions to an MPO's ability to transfer funds to roadway projects. The only exception remaining would be for projects that the Secretary determines are mandated by the Americans With Disabilities Act. That, of course, is a necessary exclusion.

That section would also be amended to clarify that nothing in this section confers on a metropolitan planning organization the authority to intervene in the management of a transportation agency. Again, that is a necessary clarification to ensure that the management of transit agencies and other agencies are not subjected to undue political influences as a result of the strengthened planning authority established in this bill. The intent of both committees, I believe, has always been to provide funding flexibility for capital investment decisions.

Second, the committee-reported bill would also be amended in the section providing for discretionary transfer of apportionment in the formula grant program. The limitations on the use of transit construction for highway projects would be dropped so long as a determination is made by the Secretary that appropriate provision is made for investments mandated by the Americans With Disabilities Act.

I am pleased to have been able to arrive at this accommodation with Senator SYMMS and other Senators. I believe these changes are appropriate clarifications and make the highway and transit titles compatible with respect to funding flexibility. I believe these changes clear the way for adoption of the transit title to this important bill.

Mr. President, this Federal Transit Act is a bipartisan bill. It was reported unanimously from the Committee on Banking, Housing, and Urban Affairs. I believe it is the most important transit bill in many years.

In recent years, public transit has become increasingly important in virtually every part of the country. Federal transit assistance serves millions of Americans with a wide array of services—from the heavy rail transit that is expanding in our largest cities, to bus service in our medium-sized cities, to van-based paratransit services that meet special needs in smaller communities.

Despite significant advances in recent years, the unmet need for modern, efficient public transit is even greater today than it was in the past.

Senate action on the surface transportation bill gives us a great opportunity to begin closing that gap. For the first time in 35 years, we are finally free to decide the future of Federal transportation policy without the cost burdens of completing the Interstate Highway System. The Nation now has that vital asset.

We also know that in our major population centers we cannot continue trying to achieve nationwide mobility by building bigger and better roads to accommodate more and faster vehicles. In many areas, more highways simply do not bring mobility—new highways tend to generate new congestion.

Continuing a highways-only policy will burden us with increasing intolerable traffic congestion, with atrocious and worsening air pollution, with overreliance on foreign oil.

Continuing with a narrow-viewed highway policy will lead us up a blind alley. The Senate must find a better path.

I am confident that a new transportation bill can move the country toward a more balanced, integrated and efficient transportation system. We can do a better job of linking highways, mass transit, ports, railroads, and airlines. We can move goods more efficiently within urban centers and to distant markets. We can help people move quickly to and from home, jobs, and other destinations.

And I believe that this bill—together with the work of the Environment and Public Works Committee, which I praise—steps up to that challenge.

The Subcommittee on Housing and Urban Affairs, developed this bill on a bipartisan basis for several months. Earlier this year, we invited policy recommendations from transportation leaders across the country. We convened a national symposium on public transportation. We have held a total of nine hearings in Washington and elsewhere.

Many experts responded with very thoughtful advice. The committee print now before us has many provisions that were developed by my colleague AL D'AMATO. The bill would make a number of important changes in transportation policy.

First, the bill will provide comparable funding increases for highways and public transit. That is urgently needed after a decade in which transit was cut by 50 percent in real terms. Both the discretionary grant program and the formula grant programs will be funded partly out of the transit account of the highway trust fund and partly out of general funds. That responds to the concerns of many States who have complained that they were paying into the transit account but getting little or nothing back.

Second, the bill opens up the highway trust fund so that highway and transit dollars can be used to improve mobility in the most efficient way—whether that is with roadways, or transit, or some multimodal solution. These sections were refined, as I indicated, in discussions with the floor leaders of this legislation in the last few hours.

Third, the bill makes sure we get the most bang of transportation service for every transit buck that is made available. The bill improves full funding grant agreements to stretch available funding over more projects and enable transit operators to finance and manage long-term projects more efficiently. The bill also will permit operators to enter into long-term purchasing agreements for buses and rail cars to provide fleets of compatible vehicles that can be operated and maintained more efficiently. In addition, the bill will provide new authority that is needed for turnkey procurement of high technology transit systems.

Fourth, the bill addresses differing needs of mass transit systems across the country—providing valuable reforms affecting new starts, system extensions, rail modernization, bus procurement and paratransit services. The bill doubles the section 18 rural transit program.

Fifth, the bill gives metropolitan areas responsibility to develop comprehensive strategies for meeting their long term transportation needs. For the first time, we will closely link transportation planning with budgeting of scarce resources.

Sixth, the bill removes the bias against the choice of transit when it is the most efficient use of Federal transportation funds. The bill provides a more level playing field between transit and highways.

And finally, the bill reinforces the country's ability to achieve the Clean Air Act, the Americans With Disabilities Act and other important national objectives.

The bill reflects the suggestions of many transit leaders across the country. It breaks some important new ground to provide for more effective mass transit.

The transit title included in our amendment is fully compatible with the highway bill now before the Senate. Combined, the highway and transit titles form an historic piece of transportation legislation—a sound framework for a national transportation policy to meet the country's needs over the next decade.

Now we need to get it enacted. I urge my colleague to adopt this amendment.

Now it is the turn of AL D'AMATO to speak on this. Before he does so, I would like to thank him for his wonderful, bipartisan cooperation on this measure. Al and I worked together on the housing bill and the result was a landmark housing piece of legislation that will help many Americans in the course of the not-to-distant future. Now we have worked together, again successfully, on a very, very important transit bill that I think will improve the lives of every single American.

Mr. D'AMATO. Mr. President, the Senator from California has been much too gracious, because I think the record will demonstrate the fact that he and staff have worked for many, many days, many weeks, many months in tireless effort to put together a package with limited resources that really attempts to treat those areas that have been neglected.

I rise, along with the chairman of the Banking, Housing, and Urban Affairs Committee, in support of, S. 1194, The Federal Transit Act of 1991, an amendment to S. 1204. The Federal Transit Act of 1991 is a bipartisan bill which reauthorizes the Federal transit programs for 5 years, fiscal years 1991-96, for a total of $21 billion. S. 1194 was reported out of full Banking Committee by voice vote on June 6, 1991. As you know I introduced S. 1160 on May 23, and am glad to see the main features of my legislation retained in the bill we are now bringing to the floor.

This amendment represents a continued and enhanced commitment by the Federal Government in supporting our transit infrastructrure nationwide. This legislation does not represent drastic changes in program structure or purpose but it does make a number of positive changes to existing programs. Changes that are intended to make the transit programs more workable. In view of the fact that the funding levels in this amendment fall far short of actual needs, the focus on refinement and improvement in current program structure are ever more important.

Local matching shares have been preserved at their current levels. This is vital to States who now are hard pressed to come up with more local dollars for their projects. New starts have been funded, demonstrating our commitment to continue this widely supported program at increased levels. Transit is the Nation's clean air solution and this bill makes it more available. As you know, the administration bill largely would have turned off the tap for new starts with the exception of three projects, and some minimal funding for others.

The Elderly and Handicapped Program has been doubled from $35 to $59 million which will increase mobility for our disabled seniors. The rural program also has been doubled from $65 to $127 million, which will assure continued transit service in areas like Jamestown, Watertown, Oneonta, and Ithaca, NY. These programs will continue to grow over the life of the bill. Moreover, we have preserved operating aid for larger cities which will help reduce pressures to raise fares and cut service.

This amendment also highlights predictability by relying more on formula and less on discretionary funding. It also includes the President's planning and research proposal which will increase the focus on research and technology development with coordination of the private sector, the academic community and the State and local governments.

Mr. President, this legislation also provides for further pursuit of ways to improve safety on our transit systems. I am still not satisfied with the level of safety found in some of our systems, be it in terms of crimes committed against transit riders or in terms of inadequate equipment or operating procedures which potentially jeopardize transit riders. This amendment requires the Secretary of Transportation to work with the Banking Committee in making recommendations to Congress on the need for legislative or administrative action necessary to pursue the elimination of hazards that pose the potential for death or injury to transit users.

Extensive negotiations between committee members have resulted in compromises on tough issues including turning the section 3 rail modernization program from a discretionary program into a formula program. The transit industry has demanded more predictability and equity from this program, and a formula approach accomplishes that goal.

The established formula was based on a combination of historic averages and rail tier formula factors. The historic averages, unfortunately, represent the skewed distribution patterns that were criticized under the discretionary program. The rail tier formula factors represent a statutory formula prescribed by Congress that distributes funds under a service based needs formula.

Under this formula distribution of funds the dollars flow where the service is located. Accordingly, New York qualifies for 41 percent of the rail modernization funds since it represents 41 percent of the service nationwide. I refer to a chart that illustrates how this formula would distribute funds nationwide. Also, I refer to a letter, sent to all full Banking Committee members, from UMTA Administrator Brian Clymer stating the administration's position on and the fairness represented by use of a service based formula.

I am proud to continue my active role in the reauthorization of programs that I helped to develop back in 1982. The cornerstone of the 1982 reauthorization was my proposal to set aside one penny from the gas tax revenue and dedicate it to a special transit account of the highway trust fund. This generates approximately $1 billion annually for the transit account.

Last fall, under the Budget Reconciliation Act, Congress authorized a new 5 cent gas tax which took effect December 1, 1990. Two and a half cents was set aside for deficit reduction. Two and a half cents was allotted to the highway trust fund of which one-half cent, 20 percent, is dedicated to the mass transit account generating another half a billion dollars a year to the transit account. But, we cannot spend this additional half a cent without violating the Budget Enforcement Act which counted the revenue as part of the overall domestic discretionary cap for fiscal year 91–93.

Mr. President, the infrastructure needs of our transit systems nationwide are greater than available Federal dollars. Thus, our limited Federal resources are critical to maintaining control of our systems. Federal investment here promotes job creation and economic stimulus. In addition, it also helps in addressing critical congestion and pollution problems, reduce our dependence on imported oil and increase productivity. Federal spending on transit is not a one-way street.

Mr. President, I ask my colleagues to consider this bipartisan bill in the context of the many important economic and environmental concerns addressed by the Federal investment in transit.

Let me thank the fine staff of the chairman of the subcommittee: Don Campbell, Bruce Katz, Eileen Gallagher, Nancy Smith, Chandra Williams, and Kris Warren who have worked diligently throughout this process.

I am going to simply emphasize several points.

No. 1, there are at least 20 cities that can say thank you for this bill which preserves operating assistance totaling more than half a billion dollars a year that would have been lost. Whether it is the smaller transit properties such as Buffalo, or Baltimore, or Atlanta, or St. Louis, they cannot afford to lose that operating assistance.

Six million dollars may not seem like a great deal of money, but if we see the problems that urban America is having we begin to recognize those are important dollars. Without those dollars, these places have to curtail services, in some places drastically.

They do not have the ability to increasingly raise their fares because that means less riders. So I think one of the great things we do is preserve the $500 million in operating assistance.

This bill saves large cities such as New York and others by preserving the current matching formulas. We are talking about tens and tens of millions of dollars.

Again, if we are going to call upon the cities to make investments, preserving the 80–20 match, the 4-to-1 match is important. It is the difference between capital programs carried out and having no capital improvements. If we double the match, which is what the administration asked for, we are talking about incredible fare increases and service cuts.

Finally, our bill places the rail modernization program on a formula basis. Why is that important? Because for the first time, it assures predictability in annual funding levels. So the old rail systems that have to make improvements can count on the moneys and do not have to guess whether or not they are going to win a competition, or guess whether the discretionary funds are going to be there. It is an assured flow of moneys.

I again thank the chairman for recognizing our problems with the high growth areas. How do we deal with them? So there were amendments that came through on this bill during the committee process which begin to address those areas, whether they are in California, whether they are in North Carolina, whether they are in the State of Florida. So we addressed the annual census to pick that up, after 4 years. I think that certainly makes sense.

Finally, if I might be somewhat parochial as it relates to the trade-in funds that New York in its battle with Westway, which was very contentious at times—this bill provides the opportunity for our city to drawdown on those moneys over a 2-year period of time. We desperately need that ability. I thank the committee. I thank the Senate for giving us that opportunity. That is $180 million, that is $90 million a year that New York will now be able to avail itself of.

It is a good bill. It is an environmentally sound bill. It moves to give people an opportunity to get out of the automobile and to use mass transit wherever possible.

I conclude by thanking Senator CRANSTON and, again, the wonderful professional staff on both sides who have done a magnificent job, and by asking unanimous consent to have printed in the RECORD a letter from Brian W. Clymer, the administrator of the Urban Mass Transportation Administration and a table detailing the impact of formulizing the rail modernization program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION, URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, DC.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: As you prepare to mark up transit reauthorization legislation, I strongly urge you to retain a cornerstone of the administration's bill—placing the rail modernization program within the section 9 formula. Distribution of these funds under a responsible service-based formula will build predictability into a formerly discretionary program. Grantees will be better able to plan projects and maximize the use of Federal dollars.

The administration's proposal would allocate funds to those cities with rail needs under the existing section 9 Program. I believe that an equitable allocation should tie funding to rail service factors. Formulas based on historic shares received of this formerly discretionary program will result in skewed distributions of funds.

Our proposal would allocate $600 million to the section 9 formula program. These funds would be allocated by the rail tier factors in the current section 9 formula: 60 percent fixed guideway revenue vehicle miles and 40 percent fixed guideway route miles. These statistics come directly from our section 15 Uniform System of Accounts and Record Keeping. This would have the effect of providing funds for rail modernization needs of the traditional rail modernization cities and other cities with newer rail systems from an expanded formula program.

Equity and predictability are best served by allocation of the rail modernization program by the section 9 formula. This important program affects the distribution of close to half a billion dollars in Federal funds each year. Under separate cover the Department is responding more broadly to issues raised by S. 1194. I am available at your convenience to discuss this matter in more detail.

Sincerely,

BRIAN W. CLYMER.

FISCAL YEAR 1992 SECTION 9 BUDGET PROPOSAL: IMPACT OF FORMULIZING THE RAIL MODERNIZATION PROGRAM

Urbanized area	Fiscal year 1991 apportionment	Fiscal year 1992 budget proposal	$455 million allocated in rail tier only	Percent of $455 million allocation
Amounts apportioned to urbanized areas over 1,000,000 in population:				
Atlanta, GA	$22,343,334	$31,863,660	$6,469,016	1.4
Baltimore, MD	20,642,361	26,425,165	3,952,051	0.9
Boston, MA	50,575,603	91,169,651	26,563,818	5.8
Buffalo, NY	8,392,562	10,210,106	625,859	0.1
Chicago, Illinois-Northwestern Indiana	137,406,291	223,159,694	59,186,345	13.0
Cincinnati, Ohio-Kentcky	9,097,063	9,538,387	40,253	0.0
Cleveland, OH	17,648,107	22,489,675	2,619,950	0.6
Dallas-Fort Worth, TX	18,805,228	21,334,213	267,910	0.1
Denver, CO	13,275,466	15,057,541	462,497	0.1
Detroit, MI	27,268,011	30,374,989	0	0.0
Fort Lauderdale-Hollywood, FL	11,225,455	16,768,843	3,412,500	0.8
Houston, TX	22,594,304	25,700,065	1,703,444	0.4
Kansas City, Missouri-Kansas	6,235,678	7,129,214	39,036	0.0
Los Angeles-Long Beach, CA	106,615,205	115,001,779	4,455,034	1.0
Miami, FL	19,464,084	25,925,105	3,466,041	0.8
Milwaukee, WI	12,138,530	12,919,235	0	0.0
Minneapolis-St. Paul, MN	14,061,217	15,859,357	655,706	0.1
New Orleans, LA	11,727,452	13,232,494	768,850	0.2
New York, NY-Northeastern New Jersey	425,521,644	727,899,602	0	0.0
New York, NY			183,831,897	40.4
Northeastern New Jersey			31,698,072	7.0
Philadelphia, Pennsylvania-New Jersey	80,043,195	132,603,547	36,325,251	8.0
Phoenix, AZ	9,270,985	10,419,045	0	0.0
Pittsburgh, PA	24,202,491	32,035,186	4,388,165	1.0
Portland, Oregon-Washington	13,054,659	15,913,247	1,353,409	0.3
St. Louis, Missouri-Ilinois	14,403,567	16,597,796	483,114	0.1
San Diego, CA	19,061,383	24,886,985	3,412,500	0.8
San Francisco-Okland, CA	67,019,402	106,829,068	27,168,126	6.0
San Jose, CA	15,630,955	21,903,658	3,413,500	0.8
San Juan, PR	10,234,154	11,546,226	268,189	0.1
Seattle-Everett, WA	26,169,084	36,965,762	7,485,265	1.6
Washington, D.C.-Maryland-Virginia	53,280,862	85,644,379	22,124,294	4.9
Total	1,287,591,244	1,937,403,671	436,639,093	96.0
Amounts apportioned to urbanized areas 200,000 to 1,000,000 in population:				
Akron, OH	3,511,158	4,053,538	20,113	0.0
Albany-Schenectady-Troy, NY	4,806,657	5,330,100	0	0.0
Albuquerque, NM	2,946,212	3,382,889	0	0.0
Allentown-Bethlehem-Easton, PA–NJ	2,398,645	2,704,094	0	0.0
Ann Arbor, MI	2,251,736	2,585,980	0	0.0
Augusta, Georgia-South Carolina	1,123,057	1,267,285	0	0.0
Austin, TX	5,753,743	6,177,385	0	0.0
Bakersfield, CA	1,916,172	2,185,083	0	0.0
Baton Rouge, LA	2,131,846	2,305,700	0	0.0
Birmingham AL	3,404,131	3,804,615	0	0.0
Bridgeport, CT	3,830,331	5,760,445	1,159,324	0.3
Canton, OH	1,296,785	1,491,013	0	0.0
Charleston, SC	1,745,149	1,897,286	0	0.0
Charlotte, NC	3,187,722	3,340,309	0	0.0
Chattanooga, Tennessee-Georgia	1,655,987	1,964,300	54,578	0.0
Colorado Springs, CO	1,958,401	2,182,173	0	0.0
Columbia, SC	1,784,327	2,012,316	0	0.0
Columbus, Georgia-Alabama	1,186,855	1,353,129	0	0.0
Columbus, OH	7,285,229	7,969,834	0	0.0
Corpus Christi, TX	1,830,738	2,080,945	0	0.0
Deverport-Rock Island-Moline, Iowa-Illinois	1,906,626	2,170,955	0	0.0
Dayton, OH	7,781,096	12,810,651	3,058,689	0.7
Des Moines, IA	1,900,218	2,155,158	16,761	0.0
El Paso, TX	3,737,677	3,612,665	0	0.0
Fayetteville, NC	879,283	1,017,999	0	0.0
Flint, MI	2,236,629	2,570,416	0	0.0
Fort Wayne, IN	1,761,632	2,022,252	10,251	0.0
Fresno, CA	2,851,273	3,169,268	0	0.0
Grand Rapids, MI	2,583,412	2,942,832	0	0.0
Greenville, SC	1,257,773	1,448,861	0	0.0
Harrisburg, PA	1,648,810	1,888,660	14,310	0.0
Hartford, CT	4,927,972	5,374,763	0	0.0
Honolulu, HI	12,913,320	12,014,343	453,754	0.1
Indianapolis, IN	5,316,472	5,978,513	69,442	0.0
Jackson, MI	1,305,606	1,493,984	0	0.0
Jacksonville, FL	4,149,330	4,570,311	0	0.0
Knoxville, TN	1,502,697	1,716,333	0	0.0
Lansing, MI	1,923,295	1,214,554	0	0.0
Las Vegas, NV	2,604,578	2,744,844	0	0.0
Lawrence-Naverhill, Mass.-New Hampshire	2,206,235	3,550,928	814,925	0.2
Little Rock-North Little Rock, AR	1,859,682	2,057,642	0	0.0
Lorain-Elyria, OH	818,692	959,509	0	0.0
Louisville, Kentucky-Indiana	6,944,701	7,402,659	0	
Madison, WI	2,868,774	3,524,418	254,105	0.1
Melbourre-Cocoa, FL	1,507,956	1,642,454	0	0.0
Memphis, Tennessee-Arkansas-MIssissippi	5,837,446	6,345,610	0	0.0
Mobile, AL	1,583,218	1,766,468	0	0.0
Nashville-Davidson, TN	3,268,854	3,504,213	0	0.0
New Haven, CT	4,130,578	6,020,632	1,163,221	0.3
Newport News-Hampton, VA	2,001,411	2,165,972	0	0.0
Norfolk-Portsmouth, VA	5,302,120	6,034,409	2,508	0.0
Ogden, UT	1,678,679	1,824,432	0	0.0

FISCAL YEAR 1992 SECTION 9 BUDGET PROPOSAL: IMPACT OF FORMULIZING THE RAIL MODERNIZATION PROGRAM—Continued

Urbanized area	Fiscal year 1991 apportionment	Fiscal year 1992 budget proposal	$455 million allocated in rail tier only	Percent of $455 million allocation
Oklahoma City, OK	3,249,927	3,753,340	0	0.0
Omaha, Nebraska-Iowa	4,006,420	4,533,718	0	0.0
Orlando, FL	5,155,015	7,250,131	1,215,019	0.3
Oxnard-Ventura-Thousand Oaks, CA	1,959,519	2,231,130	0	0.0
Penascola, FL	1,174,968	1,347,072	0	0.0
Peoria, IL	1,612,266	1,866,356	0	0.0
Providence-Pawtucket-Warwick, R.I.-Mass	10,422,120	15,817,957	3,412,500	0.8
Raleigh NC	1,324,768	1,506,906	0	0.0
Richmond, VA	4,195,491	4,476,213	0	0.0
Rochester, NY	5,383,740	6,059,798	0	0.0
Rockford, IL	1,235,748	1,418,683	0	0.0
Sacramento, CA	7,230,384	9,561,816	1,148,041	0.3
St. Petersburg, FL	5,668,094	6,319,730	0	0.0
Salt Lake City, UT	6,938,862	7,125,718	0	0.0
San Antonio, TX	11,443,148	12,238,432	11,274	0.0
San Bernardino-Riverside, CA	4,881,729	5,485,598	0	0.0
Sarasota-Bradenton, FL	1,696,323	1,960,479	0	0.0
Scranton-Wilkes-Barre, PA	2,465,672	2,799,900	0	0.0
Shreveport, LA	1,667,104	1,878,113	0	0.0
South Bend, Indiana-Michigan	1,552,676	1,752,639	0	0.0
Spokane, WA	3,050,764	3,400,955	0	0.0
Springfield-Chicopee-Holyoke, Mase, CT	4,456,020	4,968,679	0	0.0
Syracuse, NY	3,909,949	4,352,973	0	0.0
Tacoma, WA	4,510,346	5,468,112	338,766	0.1
Tampa, FL	4,664,385	5,238,277	0	0.0
Toledo, Ohio-Michigan	3,506,241	3,928,357	0	0.0
Trenton, New Jersey-Pennsylvania	2,688,616	3,632,391	495,230	0.1
Tucson, AZ	4,217,721	4,678,448	0	0.0
Tulsa, OK	2,702,736	3,068,265	0	0.0
West Palm Beach, FL	2,783,332	3,181,966	0	0.0
Wichita, KS	1,988,304	2,246,033	0	0.0
Wilmington, Delaware-New Jersey-MD	2,725,178	3,080,937	0	0.0
Worcester, MA	2,033,367	2,328,533	0	0.0
Youngstown-Warren, OH	1,885,910	2,197,864	0	0.0
Total	287,587,769	333,722,644	13,712,812	3.0
Over 1,000,000 in population	1,287,591,244	1,937,403,671	436,639,093	96.0
200,000 to 1,000,000 in population	287,587,769	333,722,644	13,712,812	3.0
50,000 to 200,000 in population [1]	159,989,481	176,287,375	4,648,095	1.0
National totals	1,735,168,494	2,447,413,690	455,000,000	100.0
Their rail numbers in total are [1]	5,545,604	11,852,777	4,648,095	1.0

[1] There are only four urbanized areas (all in Connecticut) out of 258 in the 50,000 to 200,000 population size category which have rail factors: Danbury, Norwalk, Stanford, and Waterbury.

Note.—
(1) Comparison of fiscal year 1991 apportionment to fiscal year 1992 budget proposal; and
(2) Effects of $455 million added to formula (rail tier exclusively).

Mr. CRANSTON. Mr. President, I once again thank Senator D'AMATO very much for his work, and for those remarks, and for his commitment to this bill.

I want to ask the Senator from Idaho, I have one amendment we can adopt, and it will clear the air. I thank him for the great work he has been doing on the transportation situation.

Mr. DIXON. Mr. President, at the outset, I congratulate the distinguished Senator from California [Mr. CRANSTON] for his leadership in bringing this amendment to the Senate floor. I also congratulate the distinguished Senator from New York [Mr. D'AMATO] for his numerous contributions to this legislation. Both of my colleagues have worked hard to craft the sound, thoughtful, innovative bill that is now before the Senate, and I want them both to know that I am proud to be joining them as a coauthor of the amendment.

Mass transit has a critical role to play in an overall transportation strategy. Transit increases mobility, supports economic growth and development, and helps cities cope with their air pollution problems.

Major cities like Chicago, New York, San Francisco, and Philadelphia, simply could not function without their transit systems. And more and more cities, like St. Louis, Los Angeles, and Miami, to cite just three of the many examples, have come to the realization that they must have comprehensive transportation strategies that include a growing role for mass transit in order to cope with growth and increasing congestion.

There is a lot in this bill, Mr. President. Rather than attempting to cover all of its provisions, however, I would like to focus on just a few.

First, I would like to say a word about blending. Blending is a funding strategy for Federal transit assistance that I authored in the 1986–87 reauthorization bill. To understand what blending is all about, you first have to understand that, unlike highway assistance, Federal transit assistance comes from both the highway trust fund and general revenues.

In the past, general revenue money has gone solely to the formula program, and trust fund money has gone solely to the Major Capital Discretionary Grant Program. Given the pressure that the Federal budget has been under, what one might expect would happen did happen. General revenues for the formula program fell, while trust fund money for the Discretionary Program was more stable. The result was that the formula assistance that transit systems across this country count on for support was steadily eroded.

Blending changes that by funding both major transit programs out of both major revenue sources. Blending, therefore, has two major benefits: First, it ensures that every transit system in this Nation gets some trust fund money; and second, it restores the formula program to its position as the most important source of Federal transit assistance, and reverses the former steady erosion of that program.

I am very pleased, therefore, that this bill adopts the blending approach. I think it is a financing mechanism that will help guarantee a more fair and stable structure for Federal transit assistance in the future.

I also want to say a word about some of the changes the bill makes in what is known as the new start area—the financing of new fixed guideway transit systems. The bill very creatively sets up a contracting process that is budgetarily responsible, but which enables us to take advantage of the increasing surplus in the mass transit account of the highway trust fund to build more transit systems faster. The new mechanism is an innovative approach to dealing with the fact that there are a lot more transit projects out there than there is money to finance them under the current approach. That is because our current financing approach reserves the full amount to cover the project cost up front, even though the project may take many years to build. And what that means is that once a few projects are approved, the entire amount available for new starts is used up for the entire 5 years of the authorization bill, even though the projects may take many years longer than that to complete.

The amendment now before us takes advantage of that fact, and enables us to put more projects into the pipeline, thus enabling more projects to be built more quickly while not increasing the authorization levels. It is a change that makes sense, and one that helps maximize the benefits of scarce Federal transit dollars.

It is also important to note, Mr. President, that the transit provisions, like the highway provisions now before us, allow flexible use of transit funds for highway projects in appropriate circumstances. Additionally, transit matching ratios and other program features are designed to be as similar to their highway counterparts as possible, in order to ensure to the greatest degree possible that transportation decisionmakers make allocation decisions between highway and transit projects based on a level playing field.

This amendment also makes major changes in the planning area. Under both S. 1204 and the transit provisions, metropolitan planning organizations [MPO's], will play a much more important role in the transportation project decisionmaking process. For the first time, MPO's will be able to initiate projects, and not just approve projects initiated elsewhere. Further, the greatly increased flexibility in the use of Federal transportation funding means that MPO's will have a lot more to do, and a lot more critical decisions to make. The planning provisions are sensitive to the major changes being proposed in Federal transportation assistance, and are designed to ensure that MPO's are able to meet their new responsibilities in a way that is responsive to the interests of the States, local governments, and other current or future MPO members.

Finally, before I close, I want to say a word about allocation formulas in the transit programs generally, and about the new rail modernization allocation formula in particular.

Transit allocation formulas are designed to provide transit assistance to where the need is greatest, and where the likelihood of being able to provide cost-effective assistance is best.

As is obvious, we do not have anywhere near as much money as is needed to fully meet the demand for increased transit service. In 1981, we provided almost $4.7 billion in Federal transit assistance; Federal highway programs were funded at about $9 billion that year. We are now talking about a bit more than a $3 billion transit program for this year, and if the bill is fully funded—unfortunately, not a very likely possibility—we get back to about $4.6 billion in fiscal 1996. Meanwhile, highway assistance for that year, fiscal 1996, will be over $20 billion.

Since we cannot fully meet all needs, if we are to be responsive to the legitimate concerns of American taxpayers, we must use the money we do have in the most effective way we can.

That particularly applies to the new allocation formula for the Rail Modernization Program. Historically, the Rail Modernization Program has helped cities with major established transit systems to make the large expenditures necessary to maintain those systems. We could not afford to duplicate these systems if they were allowed to deteriorate to the point where complete replacement was necessary. The most cost-effective thing to do, therefore, has been to attempt to maintain the huge investments these cities have already made in their transit infrastructure.

The new allocation formula is based on that premise, but it also acknowledges the fact that there are now more major transit systems than there used to be, and that the newer systems will begin to need rehabilitation assistance in the foreseeable future.

The result is a three-tiered approach to rail modernization assistance. The first tier is hold harmless funding to the old rail cities, based on their historic share of rail modernization assistance. The second tier, splits the funding provided between the newer transit systems and the old ones, and the third tier provides assistance to all the major transit systems based on a portion of the section 9 program formula.

Now there are some who may argue that it is unfair to create a hold harmless for the older cities that have been the exclusive recipients of rail modernization assistance up to now. In my view, however, that is simply the most cost-effective alternative to pursue. It makes no sense to disinvest in older systems that carry the most riders in order to spread assistance more thinly across more systems, and not prevent deterioration anywhere.

Further, the hold harmless concept is commonly used around here in many other program areas. Finally, the formula does attempt to accommodate the interests of the newer major transit systems. As transit assistance grows, the newer systems will get increasing benefits.

I would not argue that this formula is perfect. However, I do want to point out to my colleagues that this three-tiered approach was recommended to the Senate by the American Public Transit Association, which represents all the major transit systems across the country, after extensive negotiation and thought. It is a fair, equitable approach, and I recommend it to my colleagues.

I simply want to say in conclusion, Mr. President, that I wish we were doing more. The case for significantly higher levels of transit assistance than we are providing here is a very strong one. This amendment, however, is a good one. It is budgetarily responsible. It increases transit spending at the same percentage highway spending is increased. It will help us meet transit needs in a responsible, efficient way over the next 5 years, and I strongly recommend its adoption by the Senate.

HIGH-SPEED/MAGNETIC LEVITATION TRAINS

Mr. ADAMS. Mr. President, as we debate the crucial issue of national surface transportation policy, I would like to highlight the importance of high-speed trains. It is important that when the Federal surface transportation law bill finally reaches the President's desk, this year's reauthorization must address not only current transportation problems, but also should lay a strong foundation for new transportation modes, such as high-speed trains. Because of the Federal deficit, we are all concerned about the costs of new programs. Nonetheless, we must encourage some programs, such as surface transportation generally and high-speed train development, in particular.

I want to commend Senator MOYNIHAN and the rest of the committee for the excellent work that they have done in this area. However, the high-speed rail section of the committee's bill calls for a grant to construct only one prototype system. We need a more aggressive construction timetable than that. We need to begin preliminary work on at least several systems over the next 5 years if high-speed trains are going to be more than a mere curiosity of our new national transportation policy.

Last year, with my colleagues' assistance, I was able to obtain $500,000 for a study on preliminary corridor design and other work for a high-speed train's system in the Northwest. I am happy to announce that Washington State has appropriated $1 million as a matching share for this important undertaking. At the very least, I expect the final study will recommend that a high-speed train should connect the three major metropolitan areas of the Pacific Northwest: Portland, Seattle, and Vancouver, Canada.

In order to be successful, high-speed trains must be connected in an intermodal network with other mass transportation systems. In the Seattle area, the train could be connected through a mass transit network to Sea-Tac, the region's international airport. More than 20 percent of the air traffic at the airport, which is suffering from severe congestion, flies to Portland, OR, a mere 172 miles away. The high-speed train could also be connected to a proposed commuter train, which will connect Washington's two largest cities, Seattle and Tacoma, and other points in between. The high-speed train should also connect with the Seattle regional mass transportation plan, Vision 2020, which will be before the area's voters next year.

We have seen how the hub-and-spoke system has revolutionized airline route planning in this country and throughout the world. High-speed trains need to be planned as part of a vast intermodal mass transportation system as well. As I have mentioned, I hope that one day high-speed trains can connect the three jeweled cities of the Pacific Northwest.

Foreign countries have already taken the lead in developing high-speed trains. The Bullet train in Japan and the TGV high-speed train in France are old news. In June 1993, if construction schedules hold true, for the first time in 8,000 years, England will be physically connected with the European Continent. The transportation system that will accomplish this linkage will be high-speed trains through a $15 billion English Channel tunnel or chunnel, which already has been drilled through both sides. The French National Railway System has announced a $100 million development program for high-speed trains capable of commercial speeds of 186 miles an hour. The French Transportation Ministry has pledged $38 billion to build and equip 14 new TGV trains over the next 25 years. This program will provide France with 3,000 miles of high-speed track by the year 2005.

New transportation initiatives and solutions to current transportation problems are expensive and raise concern about increasing the Federal deficit. However, good transportation systems increase national productivity and wealth. Therefore, the development of high-speed trains, better highways, and transit systems should be viewed as an investment in America's future that will provide benefits far in excess of our investment.

Mr. SASSER. Mr. President, I rise today in support of the Federal Transit Act of 1991, the mass transit portion of the Surface Transportation Assistance Act.

I believe that this legislation has many laudable provisions that will contribute to the betterment of this Nation's mass transit system in all areas. Our transit needs are substantial and this bill goes a long way in better meeting them through more equitable distribution of funds and by recognizing the important role that localities should play in making transit decisions.

Increasing the responsibilities of metropolitan planning organizations [MPO's] allows local areas to determine their particular needs and develop plans to meet them. With the greater complexity of transit decisions today, expanding the role of the MPO is critical to making sure that all transportation options are considered. This bill requires MPO's to develop metropolitan transportation strategies that consider environmental, energy, and land use effects. Such considerations will add to a more balanced approach to transit projects.

In addition to improved transit decisionmaking, this bill redistributes funds in a more equitable way. In particular, the legislation designates necessary capital grant funds to the Nation's bus system. Buses serve the most transit needs in the majority of areas and they have not had adequate and steady access to capital grants. This bill doubles the percentage earmarked for section 3 capital grants for buses from 10 to 20 percent. This increase makes progress in returning to a commitment to buses. In the past, buses have received as much as one-third of capital grants.

Moreover, this bill provides for fair and stable funding for all modes of transportation. While rail systems enjoyed almost exclusive access to the funds of the mass transit account of the highway trust fund in the past, bus systems have been on constant edge to the appropriations process. This bill changes that imbalance throughout the mass transit program. It equally distributes general funds and trust funds. As a result, the section 9 formula funds for buses, and all other programs such as the section 18 Rural Program, will be funded by both general funds and from the mass transit account. This means that bus systems will share the benefit from the more constant funding mechanism of the trust fund.

I also believe that the amendments added to the bill in committee add another layer of equity to the formula funds. Formula funds are calculated based on vehicle miles traveled, population and population density. The two amendments to the bill provide for the use of updated census and population data. This means that funding will better match need because as populations change, so too do transit needs.

Another improvement in the distribution of funds is the rightly provided resources to rural areas and elderly and handicapped programs. Mass transit is very important in rural areas for people without independent means of transportation. Without essential transit services, these people can be isolated. This is particularly true for elderly and disabled individuals.

Mr. President, the purpose of a Federal mass transit program is to provide mobility to all of our Nation. I believe that this legislation will serve this Nation well to better meet our transit needs. I urge the Senate to swiftly pass this measure.

Thank you, Mr. President.

Mr. RIEGLE. Mr. President, I rise today in support of S. 1194, the Federal Transit Act of 1991. This bill, which was reported out of the Banking Committee this past Thursday, is a critical component of our national transportation strategy. S. 1194 was developed not only on a bipartisan basis by the members of the Banking Committee, but also in consultation with the Bush administration. Thus, this bill represents a package which best accommodates the needs of all interests.

Today the Congress is faced with the challenge of developing a new strategy to meet the Nation's transportation needs for the 1990's, as well as into the next century. The Eisenhower administration embarked upon a strategy of linking all of the States and major cities into a national Interstate Highway System. Since that time, the interstate has made an indelible imprint on key aspects of American life from commerce, to land use patterns, to mobility. In the 1960's, the Urban Mass Transit Act breathed new life into distressed urban areas, reduced congestion and provided mobility to millions of persons—such as the elderly, disabled and poor—who otherwise would have no means of transportation. The goals set forth in each of these policies were successful in meeting the demands of postwar growth on the Nation.

Today we find ourselves facing new challenges. The environment is of greater concern than ever before. Congestion has become so great that countless people find themselves sitting in traffic rather than spending time more productively at work or home. The Persian Gulf crisis once again reminded us that if we do not reduce our dependence on foreign oil, we will jeopardize our economic well being. Finally, if we want to remain a world economic power, we must invest in public infrastructure. Investment in our transportation infrastructure will contribute to the efficient movement of people, goods, and services.

In order to meet the needs I have outlined, it is critical that we have a coordinated transportation policy. When the Committee on Environment and Public Works reported out the highway bill it made a strong statement about the importance of transit by making half of its $89 billion highway program available for transit. The bill recognizes that transit and highways should not be competing entities. They should be viewed as complementary elements in our national network. I commend the committee for taking such a comprehensive view of the Nation's transportation needs.

S. 1194 does a good job of addressing the transit needs faced by our Nation. The bill would commit $21 billion to transit systems over the next 5 years, a significant increase over current funding levels. The bill meets the needs of both urban and rural communities:

For large cities with older rail systems, modernization funds will now be allocated on formula basis rather than a discretionary basis.

For large cities experiencing rapid growth and congestion, the bill will modify the criteria used to award new start grants which take into consideration a project's impact on the community and allow systems to enter into long-term contracts for large projects.

For communities that rely solely or primarily on buses to meet their transit needs, such as my home State of Michigan, the bill provides a larger share of resources for capital projects and a more stable source of funding. This provision was of particular importance to me as the bill was being considered in the Banking Committee. It is critical that the needs of buses are properly addressed in the reauthorization.

The bill more than doubles the resources available for senior citizens, handicapped persons, and rural transit.

The bill will help communities cope with the new demands of the Clean Air and Americans with Disabilities Act of 1990.

The bill will grant transit systems the flexibility to design strategies to meet the unique needs of each community.

As we consider S. 965 and S. 1194, we have the opportunity to commit our Nation to a coordinated Federal transportation policy which achieves the objectives I have outlined. Creation and implementation of such a policy will require a high degree of cooperation between all transportation interests. I urge my colleagues to support S. 1194 which, I believe, will improve the quality of life for Americans today and into the next century.

Mr. AKAKA. Mr. President, as the Senate considers the mass transit title of S. 1204, the Surface Transportation Efficiency Act of 1991, I would like to commend the Senate Banking Committee, and specifically the Subcommittee on Housing and Urban Affairs, for the significant innovations incorporated in this measure. I believe that the Federal Transit Act of 1991, as this title is called, is a well-crafted, innovative blueprint that will ably guide the development and operation of transit systems in this Nation for years to come.

Having said this, I would like to address the distinguished floor manager and a principal author of the mass transit amendment, Senator CRANSTON, on an issue of some importance to Hawaii, Texas, and possibly his own State of California.

As my friend knows, Senator BENTSEN, Senator INOUYE, and I recently sent a letter to the chairman of the Banking Committee, Senator RIEGLE, drawing attention to a provision in the bill that would allocate all section 9 bus and rail funds on a formula basis and eliminate the section 9 incentive tier. As you know, the incentive tier provisions use the ratio of passenger miles to total operating expenses to allocate a small portion of formula funds; they were first introduced in the 1982 highway reauthorization as a means of rewarding the operating efficiency of transit systems.

In our letter, we pointed out that, as a result of these changes, almost all section 9 recipients would receive additional funds—all, that is, except for Honolulu and El Paso, which would lose a total of perhaps a million dollars. I understand that Los Angeles and a number of other communities would be adversely affected by the elimination of the incentive tier as well. Believing that it is unfair to penalize communities simply for being more efficient than others, we asked that the committee include a hold harmless provision in the leadership package to ensure that those cities which currently benefit from the incentive tier allocation receive at least the same amount of funds that they receive in the current fiscal year. We understand that a similar hold harmless provision was included with regard to section 8 planning funds.

Mr. President, I would ask my friend from California whether our request has been accommodated in the committee package.

Mr. CRANSTON. Mr. President, I fully understand the concerns raised by my friend from Hawaii. I want to assure him that the committee seriously considered the request that he and Senators INOUYE and BENTSEN made to Chairman RIEGLE earlier this week to include a hold harmless provision regarding the section 9 incentive tier funding. Indeed, the committee considered not only a hold harmless proposal, but also the possibility of reinstating the Incentive Tier Program in modified form to accommodate them. However, we determined that neither alternative was feasible, given concerns expressed by a number of Members who feared that such action would run counter to the committee's original purpose in eliminating the incentive tier.

Mr. President, the committee decided to eliminate the incentive tier provisions for three reasons. First, the techniques used to collect the data upon which the incentive formulas are based are difficult to verify and apply consistently among transit operators. Second, in the decade the provision has been in place, the Urban Mass Transit Administration has found no evidence indicating that the incentive tier has induced operators to be more efficient. Finally, the overall financial effect of eliminating the incentive tier, however its negative effect on individual cities such as Honolulu and El Paso, would be insignificant, and more than offset by the increase in the authorized levels for section 9 funding.

Mr. AKAKA. I appreciate the answer and explanation provided by the distinguished Senator from California. I am disappointed in his reply, of course, but I appreciate his taking the time and effort to consider our request seriously. I know he did his best to help us. Nevertheless, I do not believe that this is the end of the road for us. I understand that there is strong sentiment in the House to retain the incentive tier section in its present or modified form. I would pose this question to my colleague: If the House adopts a transit bill with the incentive tier intact, and insists in conference that the provision be retained in some form or another, would you and other Senate conferees be willing to protect the interests of Hawaii, Texas, and other States who currently benefit from the program?

Mr. CRANSTON. Mr. President, I can assure the junior Senator from Hawaii that I will strongly consider during conference provisions that retain some form of the section 9 incentive tier. I believe that the Federal transit program should continue to reward those transit properties that demonstrate operating efficiency and I will work closely with House Members and the administration to devise such a reward system.

Mr. AKAKA. In behalf of Senator INOUYE and Senator BENTSEN, I thank the Senator from California. I know he is a man of his word and will do his best to accommodate our interests in conference.

Mr. SASSER. Mr. President, I would like to inquire with the distinguished Senator from California [Mr. CRANSTON] about regulations of the Urban Mass Transportation Administration pertaining to the procurement of used or rebuilt equipment for rail systems. Opportunities exist throughout the country to rehabilitate passenger cars and locomotives and put them to good use. It is my concern that UMTA's regulations prohibit this activity.

For instance, UMTA regulations state that they encourage the purchase of Federal excess and surplus property whenever such use is feasible and reduces project costs. However, the regulations do not specify that used or rebuilt equipment qualifies under the terms "excess and surplus." Furthermore, UMTA regulations do not address the procurement of used and rebuilt rail equipment from sources other than the Federal Government.

I would appreciate clarification on UMTA's procurement regulations. Does UMTA prohibit the purchase of used or rebuilt equipment and is the source of the equipment a factor? Does excess and surplus property include used or rebuilt equipment? Is procurement of such equipment limited to that of the Federal Government? If not, is purchase of such property permitted to the same degree that it is for Federal property?

Mr. CRANSTON. Mr. President, in response to Senator SASSER's questions, I am informed by UMTA that there are no prohibitions on the procurement of used and rebuilt equipment. Excess and surplus property does indeed include used and rebuilt equipment. Moreover, it is my understanding that UMTA regulations include the procurement of such property from sources other than the Federal Government and that they are encouraged to the same extent.

Mr. SASSER. Mr. President, I would like to thank Senator CRANSTON for his clarifications on UMTA regulations. I am encouraged to hear that UMTA does not prohibit the procurement of used and rebuilt equipment, and that items not procured from the Federal Government are treated the same as those that are.

Mr. SANFORD. Mr. President, I would like to rise today to make a few comments as the Senate considers the Federal Transit Act as an amendment to the Surface Transportation Efficiency Act of 1991.

I would first like to say that I believe the need to improve our public transportation system is readily apparent and that I am glad the Senate is addressing this important issue. Our roadways are becoming more congested, our skies more polluted, and our country more dependent on foreign oil. Public transportation offers a strong opportunity for this country to reverse these detrimental trends.

For quite some time now, I have been concerned with the programs of the Urban Mass Transit Authority and have felt that Congress must work to restructure these programs to better meet the varied public transportation needs of this country. While tremendous needs are found in large urban centers, our Nation's smaller cities and rural areas face heavy transportationu burdens as well.

To provide an example, over the past years less than 3 percent of UMTA funds have been allocated to rural areas despite statistics which indicate much greater transportation needs in these areas. In fact, studies show that the gap between need and available services are greatest in nonurbanized areas, and that total transit service can meet only 10 percent of the trip needs of the transit dependent in rural areas. Clearly, more transit funding must be made available to assist our country's rural residents and communities.

Thus, I am greatly pleased that this legislation will double the amount of funding for the section 18 program for nonurbanized areas. While this new money still will not meet all the needs of rural America, it takes a great step toward reprioritizing our public transit funding.

I am also very glad that the Federal Transit Act of 1991 increases funding for the section 16 program for the elderly and handicapped by two-thirds as this program greatly helps meet the needs of our Nation's transit dependent particularly in rural and small urban areas.

The legislation before us also doubles the amount of section 3 money available for the replacement, rehabilitation, and purchase of buses. Given the fact that over 98.6 percent of transit systems across the Nation rely solely on buses, I believe this change moves the section 3 program toward greater equity by allowing more States to qualify for more of the section 3 money.

Finally, this legislation would now use the mass transit account of the highway trust fund to finance about 60 percent of UMTA's formula programs which have primarily been funded from general revenues in the past. I have been greatly disturbed by the return my State has received in the past on funds from the mass transit account, and I believe the financing changes included in this bill will greatly improve our return on Federal gas tax dollars.

I would like to commend my colleagues on the Senate Banking Committee, particularly the distinguished Housing and Urban Affairs Subcommittee Chairman Senator CRANSTON, for their willingness to pull together legislation which meets the varied needs of the different parts of this country, and I would like to complement him on producing a bill which is more fair and more equitable than the Senate has seen in the past.

However, I would be remiss if I did not add that while this transit bill is a tremendous improvement over the current structure of UMTA programs, there are still tremendous inequities with the program. The majority of transit funding will still go to a small number of States, and States like my own will still be forced to subsidize the transit system in our large urban areas.

In no uncertain terms, there is more work to do before we have established a public transportation policy which fairly and effectively meets the transit needs of each and every sector of our population. However, this legislation is certainly a step in the right direction and is a more equitable proposal than the Senate has seen before, and for this I am encouraged.

Mr. PACKWOOD. Mr. President, I would like to take a moment of my colleagues' time to express support for the Federal Transit Act of 1991 which will be incorporated into S. 1204, the Surface Transportation Efficiency Act. Mass transit is an important component in solving a number of energy and transportation problems we are having in this country. It is time for the United States to develop a comprehensive energy policy which encourages increased energy efficiency in the various transportation options.

In my own State of Oregon, the Banfield light rail project, better known as Max, was completed in 1986. During its first year, Max carried twice as many riders as originally projected. Since its development, ridership on the line has grown steadily at about 14 percent a year providing environmental and economic benefits along the transit line.

A key component of this project was development and implementation of a comprehensive transportation and management plan. The State of Oregon has provided incentives to the local communities and metropolitan planning organizations [MPO] to enact these plans. These plans provided transit options which allowed Portland to set its own vision of how it wanted to grow, balancing the need for both highway projects and mass transit. I appreciate the cooperation of the Senate Banking Committee for accepting an amendment that I cosponsored that would mandate comprehensive transportation and management plans as one of the criteria for consideration of new transit projects. This change, supported by the Tri-County Metropolitan Transportation District of Oregon [Tri-Met] and the State of Oregon, will provide a better assessment of the potential benefits of our transit investments.

I am also pleased that the Federal Transit Act includes language that protects all existing letters of intent and full funding agreements from the provisions in the bill. Tri-Met is currently negotiating a full funding agreement with the Urban Mass Transit Administration [UMTA] to extend the Max system to the westside of Portland. It is my understanding that this legislation was not intended to change any of the previous commitments or agreements with respect to funding agreements. This should allow the Westside Transit System to proceed on schedule, helping solve the congestion and traffic problems currently experienced by residents of the westside of Portland.

I would like to commend the chairman and ranking member of the Housing and Urban Affairs Subcommittee for their efforts in developing a comprehensive solution to our transit problems and achieving bipartisan support for the Federal Transit Act.

SECTION 3 GRANT ELIGIBILITY

Mr. SASSER. Mr. President, I would like to confirm with Senator CRANSTON and Senator D'AMATO, the managers of the bill, my understanding about the eligibility of activities for grants from section 3 new starts allocations.

My concern is that the capital start-up costs for new rail service on the corridor connecting the population centers of Wilson County and Davidson County, TN, should be eligible for a new starts grant. Although there is an existing right-of-way in this corridor, it is not being used for commuter rail service.

The Metropolitan Transit Authority [MTA] in Nashville is currently evaluating the possibility of offering commuter rail service on this existing right-of-way. While the development of this innovative service has not yet reached final design, the MTA provided service on a demonstration basis last month that was met with considerable support.

At present, the MTA believes that the most cost-effective service deployment would be to allow the short line Nashville Eastern Railroad to continue ownership so that the right-of-way may be used for a combination of commuter passenger and freight services. Providing such commuter service would require capital investment in rail improvement and coach and locomotive acquisition or leasing. I believe that these startup costs should qualify under eligible activities for section 3 new starts.

The Nashville metropolitan area has grown considerably in population over the last decade and its growth is expected to continue. With this growth has come added congestion on its roadways and highways. Moreover, it is listed as a nonattainment area under the Clean Air Act, as amended. Commuter rail service could substantially meet the increasing transportation needs of its growing population and curb pollution through the use of this innovative service. This project is important to the mobility, efficiency, and productivity of the Nashville metropolitan area and its economy.

Is it the understanding of the managers of this bill that this cost-effective project of the Nashville MTA will be afforded full consideration under section 3 new starts?

Mr. CRANSTON. Mr. President, in response to Senator SASSER's concern for the eligibility of the Wilson and Davidson Counties corridor for section 3 new starts grants, it is my understanding that the Urban Mass Transportation Administration [UMTA] should consider the application of the MTA for section 3 new starts grant funding for the startup costs of providing commuter rail service.

Mr. D'AMATO. Mr. President, I too am informed by UMTA that they will indeed provide the Nashville MTA full consideration for section 3 grant funding for the project described by the Senator from Tennessee. This eligibility for funds will fall under the section 3 new start allocation.

Mr. SASSER. I appreciate the comments made by Senators CRANSTON and D'AMATO regarding the eligibility for section 3 new starts grants for the project being considered by the Nashville MTA. I believe that their clarifications on the eligibility of new starts grants for the MTA are clear—the capital startup costs for new rail service on the Wilson and Davidson County corridor should be eligible for section 3 new start grant allocations.

UMTA RAIL MODERNIZATION PROGRAM

Mr. SPECTER. I commend both the Banking, Housing, and Urban Affairs Committee and the Environment and Public Works Committee for their efforts to forge this landmark legislation we are considering today. While I support the great majority of what the bill contains, I am expressing my concern over the section of the bill revamping the existing Rail Modernization Program. This program traditionally has been intended to help rehabilitate the Nation's oldest rail systems and has enabled transit facilities relied upon by hundreds of thousands of persons daily and initially built without Federal funds to be rebuilt following decades of neglect. Two of the systems still facing significant rail modernization needs are located in my State: Pittsburgh and Philadelphia.

While rail modernization projects until now have been funded through a discretionary grant program, the bill proposes a historic share calculation factored over a 3- and 7-year period as the basis for allocating funds. I believe that a more thorough snapshot of historic share would take into account all rail modernization efforts dating back to the Surface Transportation Act of 1978 which formally established the Rail Modernization Program. Further, the bill places an arbitrary cap on Pittsburgh's funding level which is well below its historic share. Pittsburgh is the only rail modernization system in the country which is treated in this manner.

It is my understanding that this action could cause a severe setback to an important rail modernization project ready to move ahead in the Pittsburgh area. This project is the culmination of an exhaustive planning and project development process intended to restore a vital rail network serving Allegheny County's South Hills community.

My late distinguished colleague, Senator Heinz, took a leadership role in fighting for transit funding, with a particular interest in the Rail Modernization Program. We remain committed today in working to ensure his efforts are continued. While I am not proposing an amendment to the pending Senate legislation, I nonetheless remain extremely concerned about this inequity and ask the distinguished chair and ranking member of the Housing and Urban Affairs Subcommittee if they will work in conference to gain the necessary funding for Pittsburgh's final large rail modernization project.

Mr. WOFFORD. I join my colleague Senator SPECTER in objecting to the funding formula devised for the Rail Modernization Program.

I strongly support this amendment's goal of a balanced integrated and efficient transportation system. This funding formula, however, does not do justice to Pittsburgh. The proposed level of funding for Pittsburgh is more than 70 percent below its historic share of the Rail Modernization Program dating back to 1978. This is unfair to the people of my State.

I intend to fight for a workable funding arrangement for the completion of Pittsburgh's essential modernization project. I ask that this oversight be rectified in conference.

Mr. CRANSTON. I understand the concerns of the Senators in regard to this matter and appreciate their comments. The subcommittee worked long and hard to fashion an agreement regarding the formula distribution of rail modernization funding. No doubt, our efforts will not be sufficient to address all the project needs in each of the cities. In specific regard to Pittsburgh, I appreciate the desire of the gentleman from Pennsylvania to see that the Pittsburgh project moves forward in a timely manner. I commit to work closely with the Senators to ensure that the needs of the historic systems located in their State are fully taken into account when conferees determine the final rail modernization formula.

Mr. D'AMATO. I too appreciate my colleagues' concerns and will join my colleagues in pursuing a remedy in conference to best accommodate Pittsburgh's share of rail modernization funding to a level needed to undertake the area's final large rail modernization project.

AMENDMENT NO. 329

(Purpose: To permit mass transportation providers to coordinate and assist in the delivery of meal service to home-bound persons)

Mr. CRANSTON. Mr. President, I send to the desk a package of noncontroversial amendments that refine the amendment we just adopted. The amendment has been cleared on both sides of the aisle. I will explain it in a moment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 329.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. 16. MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.

Section 16 of the Act (49 U.S.C. App. 1612) is amended by adding at the end the following:

"(g) MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.—In order to carry out subsection (a), the Secretary shall authorize mass transportation service providers receiving assistance under this section or section 18(a) to coordinate and assist in providing meal delivery service for homebound persons on a regular basis, if the activities authorized do not—

"(1) conflict with the provision of mass transportation services; or

"(2) result in a reduction of service to mass transportation passengers.".

At the appropriate place in the bill, insert the following:

SEC. 317. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 317 of the bill is amended by:

(1) on line 7 by striking "or construction";

(2) on line 8 by striking "or facilities";

(3) on lines 10–11 by striking "or facilities";

(4) on line 14 by striking "or facilities".

On page 21, line 3, after "(C)", strike "may" through "community" and insert the following: "shall identify and consider transit supportive existing land use policies and future patterns, and consider other factors including".

Mr. CRANSTON. Mr. President, the package amendment includes three amendments which I believe are cleared and are acceptable to both sides.

The first one is offered by Senator DOLE. It would allow vehicles under either the section 16(b)(2) program for the elderly and persons with disabilities or the section 18 rural transit program to be used to provide meal delivery services to homebound persons. This service could be provided only if they do not conflict with the provision of general mass transit services or if they do not result in a reduction to services to mass transit passengers.

The second amendment, which I offer on behalf of the administration, clarifies the circumstances under which the higher Federal match will be used. As reported by the Banking Committee, the Federal Transit Act provided for a 90-percent Federal match for the acquisition or construction of bus-related equipment or facilities related to compliance with the Clean Air Act or the Americans with Disabilities Act.

This amendment would limit the higher Federal match to the acquisition of bus-related equipment only and would not include the construction of facilites.

The third amendment was offered by Senators ADAMS, GORTON, HATFIELD, and PACKWOOD. It would ensure that the Secretary consider a community's transit supportive land use policies and patterns when assessing the merits of a new start project.

I ask unanimous consent that these amendments to be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 329) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS addressed to Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I want to first thank Senators CRANSTON and D'AMATO for their cooperation.

When this title first was shown to me, I was very concerned about what I considered to be the lack of flexibility in the transferability of transit formula funds. We worked very hard on the highway side of this bill to made a very flexible bill with part of these funds that will be used in the urban, congested areas.

I think Senators CRANSTON and D'AMATO deserve the commendation of the rest of us in the Senate to be willing to then redefine the definitions in the language in their bill to be more in conformance with the highway side of the bill with respect to transferability. I hope that when we finally accomplish all this and present a bill to the President that it will include similar flexibility between the surface transportation program funds and the section 9 formula grants.

I just want to thank my colleagues for their efforts, and I hope that they can give us some assurances—I know they cannot make any promises. But we all have to go through a conference. I hope we can end up with flexibility in the programs.

Mr. CRANSTON. If the Senator will yield, I simply will say I will do my best to see that we keep on the track that we embarked upon with your advice.

Mr. D'AMATO. A certainly am looking toward keeping that flexibility. It is important in both projects. We have it in the highway bill and now in the transit bill. I think it makes great sense.

Mr. SYMMS. I thank my colleagues.

Mr. CRANSTON. Mr. President, I would like to thank, as Senator D'AMATO did before me, the staff for their truly brilliant and very diligent work on this: Don Campbell, the staff director of the Subcommittee on Housing and Urban Affairs, who did the same superb job on this measure that he did on the housing measure in the last Congress. Others who played a very significant part in this included, among others: Bruce J. Katz, senior counsel; Eileen Gallagher, legislative assistant; Nancy Smith, counsel; Chandra Williams, legislative aide; Kris Warren, office manager; Pam Ray-Strunk, Republican staff member; and Ann Miano of the Republican staff.

I thank them very much for making it possible for us to move as swiftly and effectively as we did.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for 4 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of S. 1290 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BREAUX. Mr. President, I made remarks a few minutes ago about the Durenberger-Breaux amendment, and during the course of those remarks I listed a number of organizations which support the Durenberger-Breaux amendment.

One of them that I listed, and apparently the information we had at that time has been shown to be inaccurate, was that of the Associated General Contractors of America. They apparently did not support the Durenberger-Breaux amendment, but they do not support it because it does not go far enough. They are totally opposed to any diversion of the highway trust fund for nonhighway purposes.

Of course, the Durenberger-Breaux amendment at least tries to maintain some connection between the highway trust fund being used to repair, maintain, and protect the highway system in this country by requiring that 25 percent of the funds be used for the purposes of improving the National Highway System.

So while we are moving in that direction far more than the committee's bill does, it is important to note that the Association of General Contractors does not support our amendment because it does not go far enough. I want the RECORD to show that.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

ORDER OF PROCEDURE

Mr. HATFIELD. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. HATFIELD. I thank the Chair.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 1291 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition?

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I have an amendment to offer, and it has been cleared on both sides. I do not see Senator MOYNIHAN or his staff here, although I know it is cleared. I wish to alert one of them to come to the floor so they could acknowledge that, and I appreciate it. Then I will offer the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to temporarily lay aside the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 330

(Purpose: To make clarifications concerning the application of certain regulations)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 330.

At the appropriate place in the bill, insert the following new section:

SEC. . REGULATORY INTERPRETATION.

Section 635.410 of title 23, Code of Federal Regulations, and any similar regulation, ruling, or decision shall be applied as if to include coating.

Mr. PACKWOOD. Mr. President, the amendment I offer is a noncontroversial amendment that intends only to clarify the intent of Congress in dealing with the buy America provisions of the Surface Transportation Assistance Act of 1982 concerning steel materials. The intent of the buy America provisions is to ensure that only American-source products are used.

My amendment seeks to rectify the problem with the Federal Highway Administration's interpretation of the buy America regulations. The FHWA does not include the coating of steel in their interpretation.

Epoxy coating of steel clearly falls within the buy America provision determination because the physical form of steel rebar is changed during the epoxy coating process. The steel is made larger in diameter by the addition of the coating and the composition of the entire product is altered. Therefore, epoxy coated rebar fits within the buy America provisions of the act both as an integral part of the steel production and as an item manufactured in the United States.

This amendment is important to the American firms who are presently at a competitive disadvantage in the Federal Highway Administration's interpretation of the regulation. Mr. President, all this amendment does is clarify the original intent of Congress.

Mr. President, the amendment has been cleared on both the majority and minority side. I know of no objection to it. I ask for its immediate adoption.

Mr. SYMMS. Mr. President, I compliment the Senator from Oregon for bringing up this amendment. I think it is important that if our trading agreements with our best trading partners, like Canada, in this instance, are going to work and have a lasting impact and we will really want to ultimately realize the kind of North American trade zone we would all like to have, we must do things like the Packwood amendment outlines so we can keep the playing field level.

I support the amendment, and I thank him for bringing it to our attention.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 330) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, I rise today in support of S. 1204, the Surface Transportation Efficiency Act of 1991. The bill is a forward looking and much needed piece of legislation which will go a long way toward building and maintaining the roads and bridges of America as we head into the 21st century.

This is the first surface transportation bill to be considered by Congress since 1986 and the only piece of legislation which will even come close to meeting the President's 100-day deadline for the crime and transportation legislation. The credit for this legislation and its prompt consideration belongs to the floor managers, Senator MOYNIHAN and the senior Senator from Idaho, STEVE SYMMS. I would like to thank both of them for their hard work.

This legislation has many positive features. I would like to address a few of those.

Without a doubt, the most important aspect of S. 1204 is its flexibility. As a member of the House Committee on Public Works and Transportation, I spent much of the last session of Congress listening to testimony from State transportation officials. What I heard them saying was that they need flexibility; they do not need Federal strings tied to the highway trust fund moneys. It is time to turn more of the surface transportation program over to the States. This bill will effectively move us in that direction.

The State matching requirements of this legislation recognize the difficult financial position of many States by enacting an 80–20 match, 80 percent to be provided by the Federal Government, largely through the highway trust fund, and 20 percent to be provided by the States. This is a step toward greater responsibility for the States—the 1986 bill provided a 90–10 match, without going to the 60–40 or even 75–25 extremes contained in other proposals, including the President's. The 80–20 recognizes those responsibilities and the dual relationship that we have had in transportation both at the State and Federal level.

Across America, bridges are beginning to crumble. A small wooden bridge connecting the community of Atlanta, ID to the State capital of Boise is currently not being used. It cannot be used. It is supported by only two of seven pilings, with the other five dangling free. No relief is in sight.

Along the State's principal north/south link, Highway U.S. 95, a single bridge near Riggins, ID, connects much of Idaho's population. Its condition is in serious question, but because of the lack of funds provided for bridge replacement and rehabilitation, it is not slated for action until 1995.

Similar problems exist throughout the Nation and need to be addressed. S. 1204 provides a large part of the solution by allowing States the flexibility to spend more money on bridges and expanding what has been a very effective timber bridge program which demonstrates the flexibility beyond just the matching, beyond the State and Federal relationships that I talked about earlier.

Funding for highway running through national forests and other Federal lands is doubled in the bill. This will increase and improve access to our Nation's public lands for millions of Americans and help get timber and other valuable natural resources to the people and businesses that need them.

I am most pleased about the inclusion in this legislation of Senator SYMMS' National Recreational Trails Trust Funds Act and Private Property Rights Act. I was cosponsor of both bills. when originally introduced and believe they are important parts of S. 1204.

The bill has many other important provisions including program efficiencies, a repeal of speed limit sanctions on the States and others too numerous to mention here. Suffice it to say that they are all part of what will prove to be a most efficient and effective surface transportation program for our Nation.

Even with my support of S. 1204, I must mention a few concerns about the legislation which should be dealt with in conference committee. These include the helmet and seatbelt provisions and long-combination vehicle size freeze contained in the bill. These are significant infringements on the rights of States to regulate safety within their own borders and I am opposed to their inclusion in S. 1204.

In addition, I was concerned about the so-called visual pollution provisions which would severely impact the billboard industry. Fortunately, yesterday we were successful in striking those provisions from the legislation and I hope they will not return during the conference deliberations.

Finally, Mr. President, I would once again like to thank Senators MOYNIHAN and SYMMS for their fine leadership on this important legislation and express my strong support for S. 1204 as it moves toward final passage.

Mr. SYMMS. Mr. President, will my colleague yield?

Mr. CRAIG. I am happy to yield to my colleague from Idaho.

Mr. SYMMS. Mr. President, I thank my colleagues for those very generous remarks. I say to him I think that essentially everything that he outlined I agree with, but I do think that all Senators need to be aware that there is some back room dealings going on with respect to the allocation of the money in this bill.

And I would also say to my colleague and others that I think that once those people come out of the back room and come forward with their program, that it will deem us all well, in a very slow, deliberate, step-by-step fashion, to see exactly how these formulas will be changed. Because, as the Senator mentioned, we have very carefully crafted formulas in this bill to protect those very geographically large States with small populations and difficult terrain and high Federal patterns of ownership. I would hate to see that upset too much in the back room deliberations. I urge my colleagues to watch that with great caution.

Mr. CRAIG. I thank my colleagues for those comments.

I think what is important for all of us and the Senate to recognize is that we are dealing with the reauthorization of a national—I repeat a national—transportation program. We have operated under that concept for a good number of years and we, by that, provided one of the most efficient and effective transportation systems that the world has ever seen. For us to break into regionalism, or even into a State-by-State allocation today, would destroy the concept for which we are striving—and I know my colleague from Idaho and from New York worked so very hard to craft—the concept that all benefit in a national program. Commerce that flows through Idaho, flows into Oregon, flows to the coast, flows east to the Mississippi. That is what speaks to a national transportation system.

What benefits one, benefits all. If we get involved in the game of trading off one against the other, ultimately, our national system will result in a fragmented program that will not have the kinds of efficiencies that my colleague from Idaho has worked so hard to craft in S. 1204.

What that, Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. Mr. President, the task currently before the Congress is not merely to decide how best to spend $105 billion over the next 5 years but, rather, to design a highway program which will be looked back upon some 20 years from now with the same pride that we now look back on the foresight of the creation of the interstate highway program.

In my opinion, there are three major problems which we must address in this bill if history is to view our actions as beneficial and providential rather than as shortsighted and stifling. Furthermore, if we are to avoid the projections that our gross national product will be reduced by 3.2 percent, disposable income by 5.9 percent and employment by 2.2 percent should we fail to upgrade our transportation system by 1995, we must address these problems immediately or we will have driven one more nail into the coffin of domestic competitiveness.

The first problem with which we must deal, and perhaps the worst of our Nation's infrastructure problems, is the state of our bridges. Studies show that out of the 576,665 bridges in this country, 225,826 are classified as deficient. Of those, three-fourths are classified as functionally obsolete and the rest are classified as structurally deficient. What that means is that 29 percent of our Nation's bridges cannot safely serve the system of which they are an integral part and that another 10 percent of our bridges are restricted to light vehicles only, closed, or require immediate rehabilitation to keep them open.

Particularly in rural areas, the poor conditions of these bridges have strong effects on daily life and safety. A striking example of this situation came to my attention through a letter sent to me last August by Mrs. Sandra Bowers of Princeton, AL, who wrote to me about the closing of the bridge over Paint Rock River in Jackson County. Following is a paragraph from her letter:

> Yesterday, the State of Alabama Highway department closed the bridge to our home. We have no other outlet. Our house is a mile from the bridge. My daughter is unable to attend school as we are trapped. Even though we (and other property owners) asked that they not barricade the road and agreed to travel at our own risk over the bridge until a solution can be found, they did put up a barricade. Our County Commissioner was going to seek a legal exemption for us so we could cross at our own risk, but this did not occur.

Mr. President, none of the available statistics describing the poor state of our Nation's infrastructure and illustrating the need for drastic improvements cannot convey what is conveyed in that letter—the sense of urgency with regard to this situation and the fact that, for many people, particularly those in rural areas, this situation is real, desperate, life-altering and life-threatening.

I wish I could say that our bridges were the only problem but as we know, that is not true. Our second major problem is that, like our bridges, much of the almost completed 43,000-mile Interstate highway System has not been properly maintained. Consequently, much of the system already needs an overhaul, with estimates of the needed reconstruction, rehabilitation, restoration, and resurfacing for our countrry's roads and bridges running as high as $750 billion. Without these repairs and a commitment to maintaining this system, we are doomed to continue wasting unnecessary hours stalled in traffic, reducing our working hours and our economic production while wastefully burning gasoline.

Third, as we approach the 21st century, we must recognize the increased role which mass transit, intelligent vehicle highway systems, and perhaps magnetic levitation trains will play in our Nation's transportation infrastructure in years and decades to come. It is important that we invest now in the necessary resources to keep current mass transit systems operating and expanding, while also making available the necessary funds for researching and developing technologies which may one day hold the answers for our transportation needs.

At present, many of the key issues regarding this transportation bill remain undecided and it appears unclear what amendments will be offered with regard to some of those issues. However, I want to describe three important features which I believe should be contained in any final bill not only because they are best for the State of Alabama but also because I believe they are sound public policy.

The first critical feature which should be present in any final bill is a National Highway System. Any wholesale abandonment of this concept would, in my opinion, be flawed and untimely. The need for maintenance of interstate highways as well as principal arterials cannot be minimized nor can the fact that the majority of travel occurs on these roads be overlooked. Therefore, any attempt merely to give States the option of spending money on these highways, with no requirement or guarantee that the existing Federal highways will be preserved should be rejected, especially in light of the fact that the condition of one third of these Federal highways are classified as either fair or poor. In my judgment, we must ensure that some portion of this $105 billion go toward the maintenance of our Federal roads.

Second, we must have in this bill a continued Federal commitment to our Nation's infrastructure rather than trying to reduce that commitment as in the administration's proposal. While I would agree that all levels of government need to increase their investment in transportation, now is hardly the time to shift the burden for transportation infrastructure to the States by requiring that they pay 40 percent rather than 25 percent of the costs of regional and local roads. At a time when most States are faced with fiscal problems of their own, increasing the State and local share to 40 percent for highways is inappropriate and I, therefore, believe that the existing 75-25 Federal-State match should be continued.

Third, I believe that the funding formula should be changed to reflect the fact that interstate highway construction now has been largely completed and that growing States need more of the money that they contribute back to address their needs today and to plan for meeting their needs during this decade. I am not recommending that every State receive out of the system exactly the amount it puts into it. However, there can and should be more equity in the funding and this could be accomplished by adjusting the allocation formula accordingly.

Mr. President, I have outlined some of the problems facing our highway and bridge program in this country and some of the proposals which I believe will help solve these problems. I hope that many of my colleagues will be able to support my findings and opinions and that we can move quickly to reauthorize this vital piece of legislation.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from Minnesota [Mr. DURENBERGER].

Mr. DURENBERGER. Mr. President, my colleague from Louisiana has indicated on several occasions earlier in the day that he and I intend to offer an amendment with regard to a National Highway System, and I think time may be fairly close for doing that. I think we have had a lot of discussions with various people who have an interest in this. Hopefully, those discussions will lead us to a conclusion that every Member of this body can agree on.

Before we offer our amendment, I would like to say how much each of us, the people who are on the floor right now and the proponents of this amendment, all Members of the Environment and Public Works Committee, wish to express our respect for the chairman of the subcommittee, Senator PAT MOYNIHAN.

Many lament the bureaucratization of the Senate. They lament the fact that we spend all our time imitating the executive branch rather than debating and setting broad outlines for national policy. But I cannot ever recall saying that about PAT MOYNIHAN. Every time he brings an issue to the floor, the fundamental policy debate is substantially advanced. To me he is a credit to the historic traditions in the role of this body, and I rise to thank him for the role model he always is to all of us.

I also want to commend STEVE SYMMS, who has been both the chair of the subcommittee and the ranking member of our subcommittee. He gets better at either or both all the time. His very valuable contributions, particularly to rural States, to all of our rural States, and particularly to his own State of Idaho, are all over the bill before us.

Of course, I recall sitting with STEVE SYMMS in a small room back here in the Capitol with all of our Republican colleagues a few years ago when we got a rather direct and forceful pitch from then-President Ronald Reagan trying to get 1 of 11 of us to switch our vote and sustain his veto on the current highway bill.

All of us knew, all of us know today that Ronald Reagan was and is STEVE SYMMS' hero. It took quite a tough Senator from Idaho to look the President, his hero, in the eye and say, "No, I cannot do it. The interests I am here to represent, the interests of the people of Idaho come first." I will never forget that experience.

I just want to say STEVE SYMMS, too, made a very valuable contribution to the bill before us. I doubt the farsightedness of a PAT MOYNIHAN would have been as successful if it had not been supported by the courage of a STEVE SYMMS. So I commend him for his work on this bill as well.

As I made the decision to propose this amendment, I began with a question I often ask myself on these issues and that is, in this particular case, why is the Federal Government in the transportation business? Why do we collect billions of dollars in gasoline taxes at gas pumps all across America, bring all of that money to Washington, DC, and then send it back to the States? Why does the National Government go through the time-consuming effort of writing a 200-page or a 500-page bill every 4 years?

At this point in our political development, on both sides of the aisle, we all believe the best answers to public problems are found closest to the source of those problems. The presumption is the closest level of government does the best job. Referring problems to another level of government has to be justified by the value that would be added.

So why is the National Government involved in highways and mass transit? What is the national purpose to be served by the bill before us?

Article I, section 8 of the Constitution enumerates the powers of the Congress. The second clause appears to be the rationale for this bill. The Congress is empowered by the Constitution to regulate interstate commerce.

In our historic interpretation of the interstate commerce clause, we have taken it as our duty to promote a productive and internationally competitive national economy.

Our national purpose, therefore, in collecting all of these gas taxes at all of these gas pumps and redistributing 105 billion dollars' worth of them every one of these 5-year periods to the States is to provide a transportation system which promotes interstate commerce. And that is the standard against which we should measure this bill.

Since 1806, when Thomas Jefferson signed the first Federal highway program into law, we have been working on what is called the National Highway System, a network of roads to move people and goods to promote interstate commerce. For 150 years, the Federal Government made investments in highways all over America.

As our people spread out and our economy matured in this century, we felt the need at the national level to go beyond our incremental efforts. So in 1956, we specifically created the gas tax to pay for highways and embarked on a massive interstate highway program.

At the time, President Eisenhower said America needed to free itself from what he called the "antiquated shackles of our secondary roads." And that, Mr. President, is what we have been doing progressively for the last 35 years.

This is the result: We have 44,000 miles of interstate highways. They represent only 1 percent of all of the roads in America, but this 1-percent carries 22 percent of our traffic.

It is this network of roads on which the pending bill is focused. States are required to spend a large proportion of their allotments on maintaining this system. Under the proposal the Senator from New York has brought to us, once the States have serviced the Interstate System, they have fulfilled their national obligation. Under the bill before us, the rest of their allocation can be spent on whatever they want. They have total flexibility. That, Mr. President, is the problem with the bill before us, and the reason for the amendment the Senator from Louisiana and I intend to offer.

I believe the bill before us shortchanges the national purpose we are trying to serve, and that must be corrected. That is the position of the President of the United States, and I believe it is the position of the majority of our colleagues on this floor.

The basic point is that this, labeled "interstate," picture of America is not the real National Highway System. The real National Highway System in this country is right up here. That is the real National Highway System. The blue lines on this map are the Interstate System of 44,000 miles, and the red lines are the principal arterial routes, the Feeder System to the Interstate System. These arterials are 141,000 miles of additional roads which do a lot of America's transporting.

As you can see, the interstates and the arterials together are still only 4 percent of all the roads in America today, but they carry 40 percent of the traffic in this country and they carry 75 percent of the commerce.

The bill before us is designed to support the Interstate System. The amendment which my colleague from Louisiana and I will bring is designed to support the real system, the one that exists in all 50 of our States. I believe it is clear which course better serves the national interest.

The amendment we intend to bring will do two things: It will establish a National Highway System. Basically, it will set up a procedure for drawing a map just like the one with the blue and the red lines. And it will be a map of the key feeder routes in America. The States will take the lead in that process, which is something that the Senator from New York feels strongly about, and so does the Senator from Louisiana. The States will take the lead in the process, with the approval of the Secretary of Transportation, and together they will identify what highways make the greatest contribution to the Nation's transportation needs.

Second, the amendment requires that the States spend at least—well, I wanted to say at this point 30 percent, Mr. President, and I was informed that we had to bring it down to something less than 30 percent because there were a lot of people in a few States, at least, in the western part of this country that could not tolerate that.

So we said, well, maybe it ought to be 25 percent; that is 25 cents out of every $1 of discretionary funds. Of every $1 of nationally collected money sent back to the States, only 25 cents, we said, would have to be spent on this National System that carries 75 percent of our traffic.

Even that was not enough to satisfy the concerns of some of our colleagues, so over the course of the day, my colleague from Louisiana and I have discussed moving down another legitimate notch, I guess, and get down to 20 percent of the flexible allotment on the system. In case anybody thinks that is 20 percent of $105 billion, it is not. It is 20 percent of the 50 percent which goes to the States in their discretionary account.

As a matter of fact, if we offer our amendment at 20 percent, it will total $23 billion over 5 years—$23 billion over 5 years. And that figure, Mr. President, includes both the 20 percent of the discretionary fund and the proportion of the nondiscretionary which is allocated to the interstate part of this system.

So that is only $23 billion out of $105 billion of these nationally collected moneys to go to a national system.

I really hope we can persuade all of our colleagues that 20 percent of 50 percent is not too great an amount of nationally collected dollars with which to maintain a national system.

Mr. President, we are indebted to the President of the United States and to the Secretary of Transportation for contributing the concept of the National Highway System to this debate.

We are also clearly grateful to a number of our colleagues who have expressed concerns about how the program should be structured to deal with the needs of individual States. Over the course of the last 2 days, I would say, the amendment has substantially grown to accommodate the interests, particularly the interests of some of the Western States that may have long interstates but do not have quite as many of the principal arterial roads. We built into this amendment a wide variety of flexibility so that those special needs can be accommodated.

So I say to all of my colleagues who have contributed to the amendment that I trust we will be submitting soon, and hopefully will be accepted by the managers of this bill, we are all very grateful for their input, and it certainly has made it a stronger amendment.

Mr. President, at this point I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, last evening and early this morning, I indicated that the schedule for this evening would include a period of time during which there would not be rollcall votes to accommodate our Republican colleagues who had a long-established function this evening which many Senators wished to attend, and as has been our practice we are, of course, prepared to accommodate that request.

Following consultation with Senator DOLE and a number of other Senators, I now wish to announce for the information of all Senators there will be no rollcall votes between 7:30 and 9:30 this evening. There will be that period of time.

We hope that we will be able to proceed with this bill during that time. I do not know what the status will be. I think we are very close with respect to proceeding on the formula, and I do not know what the status is of the discussions now underway with respect to the other major amendment that is under consideration.

But the possibility of rollcall votes prior to 7:30 remains. If we can expand that window at any time, if we make some now unanticipated breakthrough on the bill in either of these areas, I will make that decision and announce that immediately. But as of now, the period will be between 7:30 and 9:30.

Mr. SYMMS. Will the leader yield for a comment?

Mr. MITCHELL. Certainly.

Mr. SYMMS. Mr. President, I might just say, it appears we are very close to settling the issue, or maybe we are very close to settling the issue on the National Highway System. If that issue is settled, there are really no other amendments that I see around that anyone is ready to offer.

I think this Senator has one amendment to put this bill in conformance with the Budget Act which should be accepted, because we have been advised that part of the National Trails Act is out of conformance with the House. It is a very small issue. That will probably be accepted by the committee.

I would say, as one Member who has not been in the negotiations, that I hope the leader and others that have been could get those numbers out and not expect us to be prepared to vote on it in a very short time afterward, because I think that is really what the guts of the whole fight is about.

Mr. MITCHELL. If I may respond, I have no idea on what basis the Senator has any inclination of an effort to require people to vote before there has been ample time for debate.

Mr. SYMMS. I would just be interested to know what the Senator might anticipate would happen. May I should have put it that way.

Mr. MITCHELL. We have been at this now for a few days and we are making some progress. I hope we can reach agreement. I want to assure the Senator and every Senator, consistent with what I hope has been every action I have taken, that every Senator will have ample opportunity to review the matter, to debate the matter fully, to express his or her view. We are not going to rush into a situation where any Senator feels that he or she has not had that full opportunity. I know it is very important to every Senator, and every Senator is going to have that chance.

Now, that means we are going to be here tonight. I want to repeat that. We want to move forward on this bill and Senators should be prepared for a very long and late session this evening, if that proves to be necessary. That will be the judgment, of course, of individual Senators. But we are not going to foreclose any Senator, shut off any Senator, cut off any Senator, or deprive any Senator of the full opportunity to consider this matter, which is of importance to every State, and to debate it thoroughly.

Mr. CHAFEE. You are going to finish the bill tonight; is that the idea?

Mr. MITCHELL. We hope very much to, Mr. Chairman. [Laughter.]

The first week here I learned that everyone has been, is, or will be a chairman.

Mr. CHAFEE. Or hopes to be.

Mr. MITCHELL. If I could say to my distinguished friend from Rhode Island, I, obviously, cannot predict what is going to happen. That may prove to be impossible, but that is certainly my intention.

I thank my colleague very much.

Mr. SYMMS. I thank the leader.

Mr. WARNER. Mr. President, before the leader leaves, I wonder if the leader and the managers of the bill would enable the Senator from Texas and myself to discuss a subject in his presence. Would that be appropriate? The reason is to keep the leader and other Senators informed. Senator BENTSEN and I would hope to give an update to as many Senators as possible from the donor States who are interested.

I yield to the Senator from Texas.

Mr. BENTSEN. I say to my friend Virginia that we are awaiting the numbers, which are quite important, to try to make a decision in achieving the compromise that we, hopefully, will be able to gain. My understanding is that the numbers are on the way.

Mr. WARNER. Mr. President, I think we could also acquaint those with the knowledge that we have a proposed draft amendment that we hope to share with them so that they could look at that. It represents a work product of some several Senators over a period of days. Perhaps more details could be forthcoming by protocol from our distinguished leader.

Mr. MITCHELL. If I may respond, numbers are on the way. We hope that that does mean the same thing as when we are told a Senator is on the way and that they are going to be here promptly.

We expect that to be the case. We had hoped to actually have them already. And as soon as they are available, they will be made available for distribution to as many Senators as possible to review and then we hope we can proceed to them.

I want to especially thank my colleagues from Virginia and Texas for their cooperation in this matter.

Mr. WARNER. The sole purpose in seeking recognition was to use this system in the most expeditious way to alert Senators that Senator BENTSEN and I will make ourselves available to respond to questions at the earliest possible time.

Mr. GRASSLEY. Mr. President, I am pleased to cosponsor the amendment by Senator DURENBERGER that would establish a National Highway System. This amendment would dedicate 30 percent of Surface Transportation Program authorizations to the National Highway System.

Mr. President, the distinguished senior Senator from New York provided an interesting, detailed history of the Federal highway program in his comments included in the committee report that accompanied S. 1204, the Surface Transportation Efficiency Act of 1991. It was fascinating reading.

He began with Thomas Jefferson, and the first Federal highway program in 1806. And he took us on an engrossing journey that brings us to today's consideration of the bill before us.

In his comments, the Senator from New York refers to the year 1916, when Congress enacted a permanent Federal roads program. The main focus of this program was the farm-to-market road.

Mr. President, a lot of things have changed since the year 1916. But one thing has stayed the same. We still have farmers and we still have markets. In fact, we have a lot more than just farms and farm markets. There is an ever-expanding need for a National Highway System to meet the many and varied demands of our diversified economy.

Mr. President, what is the National Highway System? It is a network of primarily existing major highways throughout the country. The National Highway System would include the Interstate System and would connect major population centers, rural areas, major ports, airports, and international border crossings. The National Highway System would receive targeted Federal funds.

The National Highway System was the No. 1 priority of the administration's surface transportation reauthorization proposal. In fact, Department of Transportation Secretary Sam Skinner has stated that a Presidential veto of his legislation is likely if it does not include a National Highway System as proposed in the amendment of Senator DURENBERGER.

The idea of a National Highway System is critical to maintain the integrity of an efficient transportation system throughout the United States. I believe it is essential to dedicate a substantial portion of Federal highway dollars into a system that will meet national needs. A National Highway System would connect those highways that serve national commerce, travel, and defense needs.

The National Highway System under our amendment would ultimately include about 4 percent of total public highway mileage in the country. However, it would carry about 40 percent of total vehicle miles traveled in both urban and rural America, and would carry 75 percent of intercity truck travel. This system would help to ensure the swift movement of interstate commerce, enhancing our economic efficiency and international competitiveness.

Mr. President, the vision of Dwight Eisenhower is realized every day in our country. Whenever we drive on the Interstate System, we should praise the foresight of this great man. President Eisenhower's vision of the Interstate System has revolutionized our country.

However, the Interstate System was established more than 35 years ago and does not comprehensively reflect today's transportation needs. We need to build on the vision of President Eisenhower. We need to build the National Highway System.

Since 1940, new population and production centers have emerged, and travel patterns have changed. The adoption of a National Highway System would recognize these changes.

Under this amendment, all interstate and principal arterials would be eligible for National Highway System funding for a 2-year interim period. During that period, the States, working in conjunction with the Department of Transportation and metropolitan planning organizations, would define a final National Highway System.

Mr. President, flexibility and national purpose are not diametrically opposed to one another. They can work hand-in-hand. The flexible nature of the Surface Transportation Program will only work to better enhance the National Highway System, the National Highway System will give a national focus to the flexible funding decisions on the part of the States and metropolitan planning organizations.

Mr. President, I believe we need to maintain the integrity of our national transportation system. The adoption of this amendment is critically important if we are to achieve this objective.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter received from the director of the Iowa Department of Transportation expressing his support for the establishment of a National Highway System.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IOWA DEPARTMENT
OF TRANSPORTATION
Ames, IA, June 13, 1991.

Hon. CHARLES GRASSLEY,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: I am writing to reinforce my support for the identification of a National Highway System and the establishment of a National Highway Program in the reauthorization bill currently before Congress.

While S. 1204 does provide for the Secretary of Transportation to submit to Congress a proposal for a National Highway System, we continue to believe that a separate National Highway Program must be a central component of this bill. A National Highway Program will provide the national focus necessary if we are to have a truly National Transportation System providing for the interstate and interregional movement of goods and people.

As the construction of the interstate is nearing completion, much attention has been focused on how to divide the federal trust fund dollars among the competing transportation needs. Congress must continue to recognize the importance of the Interstate Highway System and those highways of national significance. The size of the system has also generated considerable discussion between the Iowa DOT and the Federal Highway Administration. While we are not in total agreement, we continue to make progress in identifying the routes in Iowa which should be a part of the National Highway System. However, the size of the system is secondary and should not detract from the primary issue—the establishment of a National Highway Program.

Thank you for your continuing efforts to establish a National Highway Program.

Sincerely,

DARREL RENSINK,
Director.

UNUSED OBLIGATION AUTHORITY

Mr. REID. In the committee report on S. 1204, under the section-by-section analysis, section 104, on page 15, the third paragraph of that section states that States with large unobligated balances would be given priority for redistributed obligation authority. In markup, I offered an amendment to change that, and the amendment was accepted. Therefore, is it the Senator from New York's opinion that that paragraph was left in the report by accident, it is a typographical error and it should have been deleted?

Mr. MOYNIHAN. That is the opinion of the Senator from New York. Unused obligation authority is to be redistributed first to prevent lapses of authority not intended by States, and then to States that are ready to spend the money—States with projects ready to go.

Mr. REID. I thank the Senator from New York for clarifying this point.

BROWNSVILLE RAILROAD RELOCATION PROJECT

Mr. BENTSEN. Mr. President, I would like to take this opportunity to engage in a colloquy with my distinguished colleague and chairman of the Senate Environment and Public Works Committee, Senator BURDICK, regarding a project of great importance to this Senator—the Brownsville Railroad relocation project.

I ask the Senator, the committee has essentially agreed to a bloc grant approach to the majority of surface transportation projects, leaving significant discretion on specific project funding to the States; is that correct?

Mr. BURDICK. The Senator, the distinguished chairman of the Finance Committee, is correct.

Mr. BENTSEN. As my esteemed colleague knows, I wrote him and the distinguished ranking member of the Committee, Senator CHAFEE, on May 17, 1991, requesting a specific reauthorization for the ongoing Brownsville Railroad relocation project in Brownsville, TX, a project that has been in process for many years and which is still several years away from completion. This particular project is the single most important health, safety, and economic development transportation project in Brownsville and, if taken to completion, will dramatically improve surface highway and rail transportation in and through this important southeast Texas city. I am particularly interested in this project because it will significantly improve the safety of downtown Brownsville where, currently, hundreds of trucks and trains are moving through the most populated portions of the city, often loaded with hazardous materials. The relocation project will allow commerce from neighboring States in Mexico to flow through the Port of Brownsville, connecting to more efficient highway and rail routes north of the city, leading to the Midwest and other States in the country.

I am informed that this type of railroad-highway relocation project is an eligible cost item in the bill that is before the Senate. Is that correct?

Mr. BURDICK. The Senator from Texas is absolutely correct. The Brownsville relocation project is a worthwhile project and would be eligible for funding under the provisions of the committee reported bill. Railroad relocation projects like the one currently under construction in Brownsville is clearly an authorized activity under the bill. As the Senator from Texas knows, I gave his request for categorical authorization for the Brownsville project every possible consideration and believe that it is a project with considerable merit. I join the Senator in urging that funding be provided to continue this important surface transportation initiative in his state.

Mr. BENTSEN. I thank the distinguished floor manager for his confirmation and for his words of support for this important project in my State. His comments will be very helpful as we continue to pursue funding for the Brownsville Railroad relocation project.

SECTION 111 OF S. 1204

Mr. INOUYE. Mr. President, I rise to seek clarification of the provision in section 111(b) which would amend section 204 of title 23 of the United States Code as it relates to Indian reservation road programs and park roads and parkway programs. The amendment proposed in section 111(b)(2) would add at the end of subsection (a) of section 204, new language to provide that "no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project."

It is my understanding that the law does not currently require State concurrence in the selection and planning of Indian reservation road programs or park roads and parkway programs. The report which explains the intent of section 111 states that—

> The current federal lands highway program is reduced from four categories to three categories by combining the public lands highways and forest highways into one public lands highway program. The park road and parkways and the Indian reservation roads categories will remain unchanged.

The report language appears to be at odds with the language in the bill. Is it the intent of this bill that the Secretary of the Interior or the Indian tribes will now have to seek the concurrence of the State in the selection and planning of Indian reservation roads or park roads and parkways or will these programs continue to be administered as they have under current law?

Mr. MOYNIHAN. Mr. President, the provisions in section 11(b)(2) were added because the public lands highways and the forest highways programs are being combined into one public lands highway program category. The provisions requiring State concurrence in the selection and planning of projects is only intended to apply to this new, combined program. It is not intended to apply to the park road and parkways, and the Indian reservation road programs. Those programs will continue to be administered as they have been under current law.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 332

Mr. STEVENS. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 332.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

"SEC. . NATIONAL DEFENSE HIGHWAYS.

(a) Upon certification by the Secretary, after consultation with the Secretary of Defense, that a particular highway or portion of such highway, located outside the territory of the United States, is important to the national defense, up to $20,000,000, as determined by the Secretary, shall be made available for the purposes of this section in fiscal year 1993, 1994, 1995, and 1996 from the Interstate Construction Program funds authorized under section 103(b)(5) of this Act.

"(b) Funds made available under this section shall be available only for the reconstruction of any highway or portion thereof certified under subsection (a), and shall remain available until expended."

Mr. STEVENS. Madam President, I am grateful to the managers of the bill for the consideration of this amendment. The Alaska Highway has been discussed on the floor before on this bill. It stretches over 1,500 miles from Dawson Creek into Alaska. It was constructed on an emergency basis using Defense funds in 1942, and the Defense use of the highway is still appropriate. We still maintain four major bases in Alaska which are accessed by road. This is the only road that would give them access from the continental 48 States, as we call them. Eighty percent of those who use this connection through Canada are Americans using their private automobiles.

I have a letter from my good friend, the Ambassador from Canada. We call him our southern neighbor, Madam President. He is as concerned as am I about the funding for the reconstruction of the Alaska Highway. Ambassador Burney pointed out that, in January 1977, a bilateral agreement was signed. This agreement stated that Canada would arrange the reconstruction to a jointly agreed standard and that the United States would pay Canada the cost of reconstruction. That has not been done. This amendment that I have offered will, I hope, yield some funds from the Interstate Highway System. Alaska is not in the Interstate Highway System, but this is an international connection to our highway system.

Nearly $200 million is needed for the repair of the highway. The Ambassador has informed me that a 300-mile segment of the road in Canada will have to be closed if the repairs are not effected, and they would have to begin almost immediately. Under my amendment, the Secretary of Transportation, in consultation with the Secretary of Defense, would designate international highways important to our national defense and up to $20 million could be used for the reconstruction of such highways. I have, obviously, particularly in mind the Alaska Highway, the ALCAN as we call it.

I point out to Senators that this amendment does not mandate any money. This is discretionary authority to the Secretary to allocate funds that have not been used by States which have allocations under the interstate highway fund. It may get us the funds, Madam President. It does not mandate them. I see no way under the current system to mandate them.

I appreciate the consideration of my friends. I ask unanimous consent that the letter from the Ambassador of Canada be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CANADIAN EMBASSY,
Washington, DC, June 6, 1991.

Hon. TED STEVENS,
U.S. Senate Office Building, Washington, DC.

DEAR SENATOR STEVENS: Since we spoke in April on the matter of adequate funding for the reconstruction of the Alaska Highway, we have continued to pursue our concerns with the Administration, and have also raised them with Members of the House of Representatives. As I understand that you and your colleagues will be considering this further, I would like to stress the importance Canadian authorities attach to this matter of adequate funding and to point out the benefits for U.S. and Alaskan interests.

The United States and Canada have cooperated on the Alaska Highway since its inception. In the 1970s, the U.S. Government initiated discussions with Canada on the reconstruction of two portions of the Alaska Highway that cross Canada's Yukon Territory (Haines Road and the North Alaska Highway). In January 1977, a bilateral agreement—the Shakwak Agreement—was signed. This agreement stated that Canada would arrange the reconstruction to a jointly agreed standard, and that "the United States will pay to Canada the cost of reconstruction out of funds appropriated for that purpose by the Congress of the United States . . ." Canada has fulfilled its obligations.

During the last 13 years, American funding has been provided originally from the Federal Highway Administration and more recently from the State of Alaska. Canada has spent $60 million on maintenance costs alone. As a result, the reconstruction of the Haines Road is now essentially complete. But the North Alaska Highway remains largely unreconstructed. The lack of previously agreed American funding has halted reconstruction and has increased Canadian maintenance and repair costs. There is now growing concern about the safety of the road, and this has implications for load and speed limits, and even possible closing some eight years out.

I need hardly remind you of who benefits from this road link—your State. Eighty percent of this traffic is U.S. origin. Notwithstanding this, we have a shared interest in the safe flow of commercial and tourist traffic in this area.

Therefore, I very much hope that you will succeed in persuading the Congress to appropriate the remaining $21 million from the original authorization, and to establish a dedicated fund in the 1991 Surface Transportation Assistance Act to enable the United States to meet its financial obligation in the 1977 agreement to complete the reconstruction of the Alaskan Highway.

This is a worthy example of neighbours working together and the task should be completed.

Yours sincerely,

D.H. BURNEY,
Ambassador.

Mr. STEVENS. I urge adoption of the amendment.

Mr. MOYNIHAN. Madam President, it is always a pleasure to accommodate the senior Senator from Alaska, and particularly in a joint enterprise with the Government of Canada. Ambassador Burney is well known in our Chamber. We have no objection. We accept the measure on this side.

The PRESIDING OFFICER. Is there further debate? The Senator from Idaho.

Mr. SYMMS. I join with the floor manager of the bill to say I support the amendment. I have had the opportunity to visit Alaska on a couple of occasions, and the distance to the lower 48, as the Senator from Alaska says, is long. Once you get to Alaska, it is a long way to wherever you want to go. Alaskans have unique problems in this country with respect to conditions and roads. I hope that we will be able to accomplish the goals of this amendment. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 332) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 333

(Purpose: To impose on refiners a clear gasoline requirement)

Mr. MOYNIHAN. Madam President, I send an amendment to the desk on behalf of Senator DOLE and ask unanimous consent that again we lay aside the pending Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, this amendment would simply provide that no refiner may enter into the common carrier pipeline system any gasoline that would preclude the addition of a legally waivered fuel or fuel additive unless the gasoline contains a legally waivered fuel or fuel additive in quantities sufficient to meet the requirements of regulations issued pursuant to section 211 of the Clean Air Act. It refers to ethanol in pipelines.

The PRESIDING OFFICER. The clerk will report this amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. DOLE, proposes an amendment numbered 333.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 131, after line 22, insert the following new section:

SEC. 140. CLEAR GASOLINE REQUIREMENT.

No refiner may enter into the common carrier pipeline system any gasoline that would preclude the addition of a legally waivered fuel or fuel additive unless the gasoline contains a legally waivered fuel or fuel additive in a quantity sufficient to meet the requirements of regulations issued pursuant to section 211 of the Clean Air Act (42 U.S.C. 7545).

Mr. MOYNIHAN. Madam President, I believe this amendment is acceptable.

Mr. SYMMS. It is acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 333) was agreed to.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 334

Mr. MOYNIHAN. Madam President, I offer an amendment for myself and Mr. DOLE. I think Mr. SYMMS would like to join me. It instructs the Director of the Bureau of Transportation Statistics and other officials to study the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs. This is another example of the absence of a data base on which to make judgments in this area.

Much of the difficulties we have had in recent weeks in this bill go to the fact that the data are so uncertain, nonexistent or controversial, if you will, to put it that way.

Mr. MOYNIHAN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself, Mr. DOLE, and Mr. SYMMS, proposes an amendment numbered 334.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Sec. 115(d) is amended by adding the following new paragraph:

(10) STUDY OF STATE LEVEL OF EFFORT.—(A) Not later than 3 months after the date of enactment of this Act, the Secretary and the Director of the Bureau shall undertake a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

(B) Such study shall include collection of data relating to State and local revenue collected and spent on surface transportation programs. Such revenue shall include income from fuel taxes, toll revenues including bridge and ferry tolls, sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and other appropriate State and local revenue sources as the Director of the Bureau deems appropriate.

(C) Not later than 9 months after the date of enactment of this Act, the Secretary and the Director of the Bureau shall provide a written report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives detailing the findings of the study. Such report shall include recommendation on the most appropriate measure of State level of effort in funding surface transportation programs and comprehensive data by State on revenue sources and amounts collected by States and local governments and devoted to surface transportation programs.

Mr. MOYNIHAN. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 334) was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. I would like to thank Senator MOYNIHAN and the rest of the committee on his excellent work on the Surface Transportation Efficiency Act of 1991. I especially support his effort to develop a new approach to solving the transportation congestion problems that have become endemic on our urban interstate highways and other primary routes.

As he is aware, highway planners and transit officials in Washington State and across the Nation are particularly interested in HOV/bus-on-freeways system. HOV lanes may not work everywhere, but they are an especially effective option in increasingly congested urban centers.

Studies have shown that HOV systems are working. For example, a Federal Highway Administration study shows that the HOV lanes in the Seattle area carry four to five times the amount of passengers, not cars, as normal lanes. These figures are impressive. In most cases, HOV systems are by far the quickest and most economical way to fight traffic congestion.

Due to the novelty of the concept, HOV lanes were often underused when they first implemented in this country. Today, ask any of the drivers in the Washington, DC, area that pick up their neighbors on the I-395 corridor if they appreciate the HOV lanes. They will tell you that the public wants them and that the HOV concept works.

Because HOV lanes are so important, I would like to clarify a few aspects in the committee's bill. Provisions in the Surface Transportation Program in section 106 and in the definitions contained in section 131 concerning the term "carpool project" make eligible for funding certain programs and projects for carpools and vanpools. Does this also include motorist and transit-related passenger information programs and ride-sharing services?

Mr. MOYNIHAN. Yes, that is the intent of the committee.

Mr. ADAMS. S. 1204 contains provisions in the surface transportation, bridge and interstate maintenance programs which offer an 80-percent Federal match for new construction which is not primarily intended to accommodate single occupant vehicles at peak rush hour periods. Is it the committee's intent that this construction would include HOV facilities and that such facilities should be designed for use by vans, public and private transit vehicles, and intercity buses, in addition to automobiles?

Mr. MOYNIHAN. Yes, the intent of the committee is to include all the modes of transportation which the Senator just mentioned.

Mr. ADAMS. Secton 115 of the bill authorizes a new highway research program to undertake data collection and analysis activities. Does the committee intend that one of the features of this program will be to gather and make available on a regular basis statistical information on HOV lanes and miles which are planned, under construction, and in operation, including cost and patronage data, in metropolitan areas throughout the United States?

Mr. MOYNIHAN. Yes, one of the areas that the committee expects the Bureau of Transportation statistics to explore is HOV usage and mileage.

Madam President, seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MOYNIHAN. Madam President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MRS. WALTER BISHOP OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, I rise today with great pride to pay tribute to an outstanding and distinguished daughter of South Carolina who also happens to be my sister, Mrs. Martha Thurmond Bishop.

Martha Bishop is a woman of character, courage, and compassion, who has been a positive influence in the lives of countless young South Carolinians through her years of teaching and volunteer service. She has also been an inspiration to all who know her, especially this Senator.

Martha graduated from Winthrop College in Rock Hill, SC, in 1930, with a degree in home economics. Until her retirement in 1976, she taught home economics, holding positions with the South Carolina Public Schools, the Connie Maxwell Children's Home and Lander College. During World War II, she worked with the National Youth Organization teaching young people how to combat food shortages.

Martha has always been an active and conscientious woman, serving a variety of educational and community organizations, including the PTA, the YMCA, and the United Way. She is currently serving on the board of the Bowers-Rodgers Home for Abused Children in Greenwood, SC.

She has also played a very active role in her church, First Baptist of Greenwood. She has been a member of First Baptist for over 55 years and has served as a Sunday school teacher, a leader of the church's mission auxiliary and a member of many church committees. In recognition of her leadership and dedication, she was elected as the first woman deacon in the church's history.

Martha recently received several awards in recognition of her selfless devotion to others and her great contributions to education in our State. The South Carolina Mother's Committee named her "South Carolina Mother of the Year," an honor which is especially meaningful because our mother, Gertrude Strom Thurmond, was Mother of the Year in 1947.

Martha's students and many friends hold her in high respect for her professional achievements, but I know that she believes her best time has been spent as a mother. She has always taken her duty to her family very seriously and her four boys have grown into outstanding adults under her careful and loving guidance.

Martha was also honored by her alma mater, Winthrop College, which presented her with its highest alumna honor, the Mary Mildred Sullivan Award. The Sullivan Award is presented annually to a distinguished graduate of Winthrop who has shown a strong commitment to serving others.

Finally, the South Carolina Commission on Women honored Martha with their Pioneer Woman of Achievement award. The commission cited her contributions to the lives of women in South Carolina and her service as a role model for young women, as well as the enduring value of her achievements.

Mr. President, although I admit to a certain amount of bias, I believe Martha Thurmond Bishop to be one of the finest women I know. She is renowned for her kindness and delightful personality. She was a devoted wife to her husband, the late Walter Bishop and an outstanding mother to her four sons; Dr. Walter Grady Bishop, Judge William Thurmond Bishop, James Allen Bishop and Dr. John Barry Bishop.

Martha Thurmond Bishop has met the formidable challenges of working and raising a family with energy and grace. Excellence in all things is her standard, and her family and friends, especially her brothers, sisters and children, are very proud of her and happy to see her many contributions recognized.

Mr. President, I ask unanimous consent that news articles from the Greenwood Index-Journal, The York Observer and the Greenville News concerning the recognition accorded her follow these remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Greenwood (SC) Index-Journal, Apr. 18, 1991]

SOUTH CAROLINA COMMISSION ON WOMEN HONORS BISHOP

Martha Thurmond Bishop of Greenwood, S.C.'s "Mother of the Year," was selected by the South Carolina Commission on Women to receive a Pioneer Award as a part of the Commission's Woman of Achievement Awards Program. Mrs. Bishop was presented with her award at a recent luncheon in Columbia honoring this year's award winners.

The Woman of Achievement Award is made to South Carolina women who have impacted on the lives of women at the community, state and national level and who have served as role models for young women.

Bishop was honored for long-time community service combined with a career in teaching and raising a family. The widow of Dr. Walter G. Bishop and mother of four sons, Bishop is retired from teaching, she remains active in her church, the Colonial Dames, the Greenwood Medical Auxiliary, Cateechee Club, Tulip Garden Club and the Greenwood Republican Women's Club. She serves on the Board of Directors of the Bowers-Rodgers home.

Other honorees for the Woman of Achievement Award were Dr. Joan Altekruse, Anne Springs Close, Doris Glymph Greene, Ida Crawford Stewart and Ruby Middleton Forsythe.

Dr. Janet Sipple of Lander College was one of the nominees for the 1991 award.

[From the Greenville News, Apr. 3, 1991]

THURMOND'S SISTER NAMED MOTHER OF THE YEAR

COLUMBIA.—Sen. Strom Thurmond's spry, 81-year-old "younger" sister upstaged the venerable lawmaker Tuesday when the Legislature honored her as South Carolina Mother of the Year.

Martha Thurmond Bishop of Greenwood accepted the honor with poise and grace in a brief speech to state senators.

"Motherhood is a challenge, a responsibility and a job," she said.

"Children are gifts from God, to be loved, to be nurtured and to be inspired," she said.

Thurmond, R-S.C., beamed with pride over his sister's recognition by the South Carolina Mother's Committee.

"She's an outstanding lady. The whole Thurmond family's proud of her," the 86-year-old senator said.

"Everything she's done has been exemplary. She's about as near perfect as any woman I know," Sen. Thurmond said.

Sen. John Drummond, who served with Mrs. Bishop's husband in World War II, sponsored a resolution in honor of "so distinguished a daughter of South Carolina."

Mrs. Bishop was salutatorian at Edgefield High School and Winthrop College, where she earned a degree in home economics.

She married the late Dr. Walter Bishop of Greenwood and raised four sons.

One son, W. Thurmond Bishop, is a U.S. Bankruptcy Court judge in Columbia.

During the war, Mrs. Bishop remained active in her community by teaching, canning and preserving fruits and vegetables to help families cope with shortages, according to the resolution.

Mrs. Bishop taught in the public schools and at Lander College until her retirement in 1976.

"She's spent a large part of her life helping other people," Thurmond said as he introduced his sister outside the Senate chamber.

In her speech to the Senate, Mrs. Bishop noted, "I don't see too many women" in the chamber.

"Maybe they are home mothering their children. There's no higher calling than that," Mrs. Bishop said.

Sen. Sherry Martschink, R-Mount Pleasant, is the only woman among the state's 46 senators.

Mrs. Bishop took the hoopla in stride.

Her brother tried to stay in the background and let Mrs. Bishop take center stage.

When Drummond, D-Ninety Six, introduced Mrs. Bishop, Thurmond stood discretely to her side, head bowed.

Later, like a seasoned politician, Mrs. Bishop handled a question about whether she had outshone her famous brother—for at least one day.

"No, not really," she said as Thurmond listened nearby.

[From the Greenwood (SC) Index-Journal, May 12, 1991]

A MOTHER'S DAY VISIT WITH MARTHA THURMOND BISHOP

(By Alice Hite)

The parenting philosophy of South Carolina's "Mother of the Year" includes a tremendous amount of love and prayers.

Title-holder Martha Thurmond Bishop of Greenwood said, "Motherhood is a challenge, a responsibility and a joy. Children are gifts from God and are to be nurtured, loved and inspired."

She wouldn't want to be known as the Emily Post of Greenwood but she also believes acquiring and practicing manners and social graces are important.

Usually soft-spoken and unassuming, Bishop, a retired Lander College home economics teacher, becomes demonstrative on the subject.

"Oh yes, young people need to know etiquette," she said, stressing the affirmative. "This knowledge is essential to guide them in their personal and professional lives."

Bishop also taught a mini-course in social guidance at Lander.

Since winning the state's tribute to a mother in early April, Bishop competed for the national title in St. LOUIS, Mo. April 27 and garnered the Pioneer Award presented by the S.C. Women's Association and a distinguished alumni award presented by Winthrop College in Rock Hill.

With vivid blue eyes twinkling, Bishop, the widow of Dr. Walter G. Bishop Sr. who practiced in Greenwood for 50 years and mother of four sons and grandmother of nine, reflected on motherhood, family, career, and community activities that lead to the state honors.

A native of Edgefield, she and her twin, Mary Thurmond Tompkins, share a politically illustrious brother, Sen. Strom Thurmond.

Bishop refrains from being identified as "Strom Thurmond's sister." "Oh, I'm extremely proud of my brother but I want to be known and remembered in my own right," she said.

Since her husband's death seven years ago, Bishop has on occasion accompanied the senator on official trips overseas. "Strom is so thoughtful and so good to his family, we are constantly in touch," she said.

Recalling her youth in Edgefield, Bishop said their home was always filled with activity. Her father, John William, was a solicitor and district attorney. Winning state awards is not uncommon for the Thurmond women. Bishop's mother, Gertrude Strom Thurmond, was S.C. Mother of the Year in 1947.

"I suppose my interest in the social graces began at an early age," she smiled. "My father was always bringing home business acquaintances and friends for dinner—it seemed we were continually entertaining."

"My mother didn't seem to mind. I remember she would run upstairs about the time my father would be coming home to see if she could preview how many people he was bringing home.

"Our house was a like a dormitory."

Besides her sister and brother, Strom, the Thurmonds had two other sons. Being surrounded by a rich family life, Bishop said, gave her a strong foundation for her career accomplishments and personal life as a wife and mother.

She recalls her famous brother as always having a project of some sort going. "Strom was always active and sometimes, he would scare us the way he would ride horses bareback with no bridle or saddle."

Bishop grew up instilled with a deep sense of honesty and integrity crediting her parents love and teaching. "We were taught thriftiness and, I remember my mother's favorite saying was, 'nothing succeeds like success.'"

On rearing her four sons, Bishop said, perhaps her strongest attribute was, "I gave them my time."

Bringing up her boys didn't always run smoothly. "Oh, they weren't perfect and neither were we," she laughed. "But we never had any real problems."

Firm discipline with a soft stroke was practiced in the Bishop household. "Our boys were taught to work and they were given an allowance which was adhered to."

Her children were given freedom at the same time love and nurturing resulting in individual self-esteem, she said.

Bishop described her efficient method of keeping up with each son's clothes as sometimes going awry. "I labeled and taped name tags in clothing, but, sometimes they would get all mixed up anyway.

"My boys grew up with horses to ride and gained a respect for nature and the outdoors—they went to camp and some became counselors," said one of the original members of the YMCA board of directors who currently serves on the board of the Bowers-Rodgers Home for abused, abandoned, or neglected children.

"When we were little girls, Mary and I had a pony named 'Dixie' and a cart that we could ride in," she said. "We took a prize one time for Dixie and her buggy."

Prize-winning and awardtaking seems to have followed Bishop throughout her professional and personal life.

She was one of the first recipients of the Lander College medallion for distinguished service.

Her love of the arts and music was also passed down to her children. She wasn't a "pushy" mother, either, she said. "I would open doors for them and encourage them but if they weren't interested, they could quit."

Now she is a doting grandmother with four girls and five boys.

"You might say, I got some girls back," she laughed.

Bishop's sons are Walter G. Jr. and John Barry, doctors, Thurmond is a federal judge, and James Allen, is an administrator in the Georgia Dept. of Labor.

"I would like to brag about my sons but I'm not," she said.

Competing for the national title as "U.S. Mother of the Year," was an experience Bishop said she will never forget. She added, she was honored to represent the state. A Nebraska mother won.

The competition wasn't conducted as a pageant but included interviews and delivering a three-minute speech on her life.

"That took some condensing," she smiled.

The trip to St. Louis for the contest was another highlight in Bishop's life.

Bishop has the distinction of being the first woman deacon at First Baptist Church. She has served in numerous capacities president of the Women of the Church, Sunday School teacher. She has also been a member of the Committee of Doctrine, Chancel Committee, and Pulpit Committee.

"The routine on Saturday mornings at our home included preparations for church the next day—polishing shoes to wear and studying Sunday School lessons," she said.

A major part of her life has been spent teaching young people beginning with teaching at Orangeburg High School, Connie Maxwell Children's Home and concluding her professional career with 18 years at Lander.

Bishop continues to hear from her former students.

One, a teacher at Greenville Technical College, recently wrote, "You taught me in the seventh grade. I can't tell you how much I appreciate the social graces you helped me acquire. With this honor, you've helped make South Carolina history."

Another, now living in Clemson, won an oratory contest while being instructed by Bishop that earned her a scholarship to Erskine College. "I almost didn't compete because my mother made me wear a dress I didn't like." The former student wrote, "You happened to comment to me that the dress I was wearing looked very nice—and, I thought, well, if Mrs. Bishop thinks it's pretty, it must be."

Bishop has boxes of cards and letters from well-wishers throughout the state. "I've tried to answer them all with personal notes—I want them to know I remember."

Representing the state as Mother of the Year has also meant a lot of traveling. But this Mother's Day weekend she intends to see a grandchild graduate from Davidson College. First Lady Barbara Bush is scheduled to speak at the commencement.

Although she might not be in town on Mother's Day, Bishop has made her mark. As part of a campaign by the American Mothers, Inc., sponsors of the national competition, she has been contacting churches in the area with bell towers to "Ring the bells for all mothers at noon on Mother's Day."

[From the York Observer, Apr. 20, 1991]

WINTHROP ALUMNA HONORED

Martha Thurmond Bishop is the 1991 recipient of the Mary Mildred Sullivan Award given to distinguished Winthrop College alumni.

The award was presented by President Anthony DiGiorgio at a special ceremony during alumni weekend festivities Saturday morning in Byrnes auditorium. DiGiorgio said the award recognizes her service to her community, her church and her state.

The Sullivan Award has been presented annually since 1940, recognizing an alumna who has demonstrated a strong commitment in serving others. It is the highest award that the school can give to a former student.

Bishop, a sister to U.S. Sen. Strom Thurmond, H.S.C., graduated from Winthrop in 1930 with a B.S. degree in home economics. After graduation she taught home economics at Connie Maxwell Children's Home and at Lander College. She retired from teaching in 1976, but her work at Lander earned her two medallions for outstanding service from the college.

During World War II, Bishop worked with the National Youth Organization, demonstrating methods to help families meet war shortages, such as canning and preserving. She was on the board of directors of the Greenwood YMCA when the first YMCA building was built in 1947. She served on the board for many years and she presently serves on its advisory board.

A member of the first Baptist Church in Greenwood, Bishop was the first woman to serve as a deacon in that congregation. She is also director of the Women of the Church and a Sunday school teacher.

Bishop currently serves on the Board of Directors of the Bower-Rodgers home, a shelter for abused children in Greenwood. She has co-chaired the March of Dimes campaign and has served on the United Way Board of Directors. She was named South Carolina's 1991 "Mother of the Year."

Bishop also was recently awarded the Woman of achievement Award by the South Carolina Commission on Women.

RUSSIAN AND INDIAN ELECTIONS REPRESENT ESSENCE OF DEMOCRACY

Mr. PELL. Mr. President, two historic elections are occurring this week—in the Russian Republic of the Soviet Union, and in India. In style and in substance, the two elections are worlds apart. But at their core, both elections represent the essence of democracy. In Russia and India, countries with imperialist legacies, the elections symbolize the population's basic desire for leadership that represents the will of the people.

In the Russian Republic, where democracy is being reborn after more than 70 years of Communist rule, voters went to the polls yesterday to choose their first elected President. Leningrad voters further broke with their Communist past yesterday by renaming their city St. Petersburg, the name that the westward-looking Tsar Peter the Great gave it nearly 300 years ago.

Boris Yeltsin, who for the last year has served as the Chairman of the Russian Legislature, apparently has won more than 57 percent of the vote in the Presidential election. Mr. Yeltsin has been described as a populist, charismatic leader. He appears to be the choice of the Russian people, and he appears already to have had some success in reaching agreement with the Soviet Central Government on the many pressing issues facing the entire Soviet Union. I hope that in his new role, he will continue to work for a responsible future of the entire Soviet Union. This will be crucial for the prospects for Western aid. Where Yeltsin is heading will make a diference.

In India, with its 40-year tradition of democratic elections, voters will go to the polls on Saturday for a final round of balloting in parliamentary elections. The election has been tumultuous and marred by violence, culminating in the assassination of Rajiv Gandhi. Tragically, with this loss, there appears to be no candidate with a national claim to popular leadership. I sincerely hope that the final stage of the election will pass without incident. I also hope that India will reembrace its nonviolent tradition, and that the leadership that does emerge will move quickly to reaffirm India's proud claim to be the world's largest democracy.

SADRUDDIN AGA KHAN'S LEADERSHIP CREATES NEW WAYS FOR U.N. HUMANITARIAN PROTECTION

Mr. PELL. Mr. President, in an article in the Washington Post, June 12, Prince Sadruddin Aga Khan, the former U.N. High Commissioner for Refugees who currently serves as the United Nations Secretary General's Executive Delegate for Humanitarian Programs in the Persian Gulf region, sets forth the elements of an innovative program that did much to provide security as well as humanitarian aid for Kurdish and other refugees in Iraq and on the Iraq-Turkey and Iraq-Iran borders.

The challenge facing the international community in this region was immense, and the obstacles for a time seemed insuperable. There was concern that a traditional U.N. peacekeeping operation, aside from facing possible opposition and veto in the Security Council, would, as Sadruddin writes, "freeze a situation in an uneasy stalemate with the underlying issues conveniently shelved." The examples of Kashmir and Cyprus need no elaboration.

In his role as the U.N. Executive Delegate for this problem, Prince Sadruddin was able to draw on his unparalleled record of experience in solving humanitarian problems. What he proposed was what became known as the "guards contingent," U.N. personnel with the mandate of protecting the people and the material resources involved in a humanitarian operation.

This concept of humanitarian observers echoes an earlier proposal that Sadruddin elaborated in a 1981 U.N. report on "Human Rights and Mass Exoduses." These observers are not peacekeeping troops or policemen. But they can provide a moral authority that is present "to observe, monitor, and report," and thereby can stabilize a situation and provide significant protection for vulnerable groups.

The very modesty of the proposal is part of its attraction. Rather than confronting a nation-state with the challenge to its sovereignty that is inherent when U.N. military forces are deployed, and rather than attempting the uphill political battle of pushing an authorization for such forces through the Security Council, here is an approach that is at its essence on a human scale—constructive and nonconfrontational.

Such a plan may not offer a complete solution, but it can be an important part of a solution. It provides a degree of assurance that humanitarian assistance reaches those that need it most. And it raises the threshold, as it were, between peace and violence.

It can also be cost-effective, particularly compared to the high costs of comprehensive peacekeeping operations.

This article is a welcome reminder of the skill and experience that Prince Sadruddin brings to the enormous challenges that he has taken on throughout his career. He served as U.N. High Commissoner for Refugees for 12 years, and more recently directed the U.N. humanitarian programs for Afghan refugees in Pakistan. No one has had more experience in resolving the humanitarian issues that confront us throughout the globe. His success in helping devise an effective solution in Iraq is simply the latest accomplishment in an illustrious career.

The nations of the world would do well to give the most serious consideration to Prince Sadruddin as a future Secretary General of the United Nations. It is a position he would fill with enormous distinction.

Mr. President, I ask unanimous consent that the article by Sadruddin Aga Khan "U.N. Protection Born in Necessity" that appeared in the June 12 Washington Post be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 12, 1991]

U.N. PROTECTION BORN OF NECESSITY

(By Sadruddin Aga Khan)

On May 23 the United Nations secured Iraqi agreement to the deployment of up to 500 U.N. guards, to be assigned wherever a U.N. humanitarian presence is needed. This is not a panacea for the tensions and dangers of the region—and certainly not a means to "monitor all of Iraq," as Jim Hoagland writes [op-ed, June 5]. That was never the intention. But it is a small step for peace, a tentative but instructive idea of how innovation, even within the United Nations' somewhat rigid structures, can unblock the impasse.

The world's media spotlight—dazzlingly effective but lamentably brief—has focused on the grim plight of the Kurdish population in northern Iraq, which should not blind us to the needs of the victims of upheaval in other regions. Coalition forces responded first with a military efficiency that is enviable to traditional relief agencies. And since the signing of our framework agreement in Baghdad on April 18, the United Nations has had underway a humanitarian operation designed to bring succor to vulnerable groups throughout the country. The U.N. high commissioner for refugees has already taken over the Zakho transit camp. But security was hard to address within the confines of a humanitarian program.

Recourse to the Security Council was ruled out at the time. The peace-keeping option was tried to no avail. And indeed traditional U.N. peace-keeping, for all its successes, does have one pitfall: It can freeze a situation in an uneasy stalemate, with the underlying issues conveniently shelved by the parties—a "hard and bitter peace," in the words of John F. Kennedy. Just look at the 33 years of dispute over Kashmir or the 27 years of Cyprus's division.

Another approach was needed. That was why we came up with the "Guards Contingent" formula, blending the disparate humanitarian, political and security elements. A novel if still unproven experiment, the guards' basic mandate is to protect the precious human and material assets deployed in the humanitarian operation. They are neither peace-keepers nor policemen where U.N. resources are not involved. There are no guarantees. But they are there to observe, monitor and report. Any security incidents will be rapidly communicated up the chain of command. In the most direct sense, the guards may be a highly visible but symbolic presence—as indeed are peace-keeping operations themselves, where the "blue helmets" protect more by their color than by their dimension. But the guards ensure the international context. They will bear moral witness and help create confidence. As the eyes and ears of the United Nations, their reports can trigger further action. Moreover, bound as they are to the humanitarian program's time frame, a cutoff date prevents the inertia of the situation in Kashmir or Cyprus.

On first sounding out the concepts in Baghdad, I recalled an earlier idea, which we put forward in a 1981 U.N. report on "Human Rights and Massive Exoduses"—for a corps of "humanitarian observers." These observers were "to monitor situations and contribute through their presence to a de-escalation of tensions," as well as to facilitate humanitarian work. In a refugee context, they could contribute to speedy repatriation. Ahead of their time, they never materialized; however, a decade later the guards represent by another name much of that same philosophy.

The debate over a right of humanitarian intervention has been given a good airing recently. Compassion and self-interest find temporary common cause in international action to alleviate suffering that knows no frontiers. In a vacuum of authority, responsibility must be assumed, and services disrupted by disasters must be restored. Yet imposed concern remains largely unwelcome. Once again, innovation and flexibility are crucial. Life-saving and face-saving may have to go hand in hand.

Critics remind us that the United Nations enjoys no reputation for rapid response to crises: Its potential must indeed be better tapped. Nonetheless it may step in where other powers rightly hesitate to tread. The guards' deployment was risky and cannot shoulder a burden it was never intended to bear, but it deserves its niche in U.N. history. Whatever the outcome, we must not fear to improvise. When hundreds face death each day, as parents bury their children on barren mountaintops, we cannot await the ideal solution. Relief from starvation and disease brooks no bureaucracy.

Complex humanitarian and political challenges defy easy solution. There are no quick fixes: An idea such as the guards contingent for our operation in Iraq can only be part of a broader package. In such situations, where distrust, distress and violence feed upon each other in a poisonous circle, the antidote must have multiple ingredients. First, tensions must be lowered, with the parties agreeing to show some restraint and to support, at the very least, the implementation of the humanitarian program. Specific agreements to that effect should be concluded between all concerned. Second, civilian authority should prevail, reflecting the spirit if not the letter of a demilitarized region. Third, tentative or interim security arrangements might be ensured through a tripartite grouping of both sides together with international representatives associated with the humanitarian endeavor. Other assurances or leverage may come from outside. The tissue of confidence must be rewoven thread by thread. One missing strand, one unchecked incident, will unravel the safety net.

We cut some corners in sending in first a guards contingent before the ink was dry—in fact before the agreement was even signed. And as they had to be part of the humanitarian package, their funding is dependent upon voluntary contributions, in cash or in kind. So far the response has fallen short of the needs, estimated at some $35 million till the end of the year—about as much as it costs the coalition every week, according to press reports, to keep its forces in northern Iraq. Give us the means to make this operation a success. As the refugees return down our "blue routes," we must keep up the momentum. Peace comes cheaper than war; it is also a good investment. Solidarity today can reap stability in a volatile region tomorrow.

EXTENDING AN INVITATION TO THE INTERNATIONAL OLYMPIC COMMITTEE

Mr. SIMPSON. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 46, submitted earlier by Senators GARN and HATCH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 46) extending an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, Utah, and pledging the cooperation and support of the Congress of the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution

Mr. GARN. Madam President, today, along with my colleague Senator ORRIN HATCH, I have submitted a Senate concurrent resolution which extends an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, UT, and pledging the cooperation and support of the Congress of the United States.

On June 15, 1991, in Birmingham, England, the International Olympic Committee will select, from among six candidates, the site for the 1998 winter Olympic games. Salt Lake City, UT, is the United States' only candidate for that honor.

In its effort toward being the site selected for this prestigious honor, Salt Lake City, indeed the State of Utah, has made an unprecedented commitment to putting in place the finest infrastructure ever offered for a winter games bid. Olympic village is situated at a modern university within 15 minutes of an international airport. One 12,500-seat arena is completed and another, much larger, arena will be finished by November 1991. The people of Utah, in a referendum, have committed more than $50 million toward funding the bobsled/luge run, additional ski jumps and a speed skating oval. Completion of these projects is scheduled for the end of 1993.

The theme of Salt Lake City's bid has been the athletes. The benefit of the winter sport training center to the world-class athletes who will be competing in the 1998 Winter Olympic Games will be tremendous. That benefit will be felt by those athletes who come after the Olympics, as well. The close proximity of all the resources Salt Lake City has to offer makes this training center a valuable asset to the world of sports, continuing long after the games are over. I believe the several members of the International Olympic Committee that have visited Salt Lake City would agree with me.

In addition to the outstanding facilities available to the Olympic athletes, there is Utah's snow. Being an avid skier myself, I can personally attest to the incredible snow which falls on Utah's ski slopes every winter.

We all know of the spirit of the Olympic games, of bringing together the world's greatest amateur athletes in an effort to better understand other nations and their people. Inherent in the Olympic spirit is the determination to make the world a better place in which to live, for now and for future generations. I can think of no better place to bring these people together than Salt Lake City. I hope the U.S. Senate and the International Olympic Committee will agree.

Mr. HATCH. Madam President, on Saturday, June 15, the International Olympic Committee will meet in Birmingham, England, to choose the site for the 1998 winter Olympics. Salt Lake City, UT, is one of the cities being considered to host this prestigious sporting event and is, I believe, one of the best possible sporting venues in the world.

Today Senator GARN and I have submitted a concurrent resolution expressing the Senate's support of Salt Lake City's bid for the 1998 winter games. Last night, the House of Representatives agreed to a concurrent resolution encouraging Salt Lake City's effort to secure the Olympic bid. As the International Olympic Committee members cast their votes for the 1998 Olympic venue, they should know that the U.S. Congress fully supports Salt Lake City's efforts and favors Salt Lake City as the Olympic choice for 1998.

Salt Lake City possesses the best transportation infrastructure, accommodations, and top-flight sports facilities ever offered by a winter Olympic site. Additionally, the region's central location and easily accessible international airport make Salt Lake the most attractive candidate for the games.

Madam President, Salt Lake City and surrounding areas in Utah are well-suited to host the Olympics. Many winter athletes already train there. The U.S. Ski Team is headquartered there. For several years, most of America's top skiers have trained in Utah. They realize that Utah provides some of the best natural geography and most livable cities in the world for athletic pursuits.

Additionally, the people of Utah have long demonstrated their unequalled support for winter sports. They have voted to fund publicly world-class sporting facilities and have continually demonstrated their desire to make Utah the winter sports capital of the world.

If Salt Lake City hosts the 1998 winter Olympics, many others will also learn what Utah has to offer to athletes, businesses, and families. Nowhere else in the world can one find such friendly, outgoing people in a region that is so profoundly blessed by natural beauty.

Adoption of this concurrent resolution today will demonstrate to the world that Congress supports Utah and America in this Olympic effort.

As one who represents the great people of Utah, I can say with confidence that we are prepared to host the Olympics, that we are proud to live in Utah, and that we welcome the world with open arms to experience firsthand the many wonders of our beautiful State and this great Nation.

Mr. MOYNIHAN. Madam President, speaking as a Senator from New York, I would simply like to note with great satisfaction the proposal that the winter games be held in Salt Lake City. They were held in Lake Placid in 1978, if I recall, and were a great success and a great joy. I wish all the Olympiads the joy of it.

The PRESIDING OFFICER. Without objection, the preamble is agreed to and the concurrent resolution is agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 46

Whereas the International Olympic Committee will meet on June 15, 1991, at Birmingham, England, to consider the selection of a site for the 1998 winter Olympic games;

Whereas Salt Lake City, Utah, has been selected by the United States Olympic Committee as the United States candidate for the 1998 winter Olympic games;

Whereas it is the consensus of the Members of Congress of the United States that the designation by the International Olympic Committee of Salt Lake City, Utah, as the site of the 1998 winter Olympic games would be a great honor for all the people of the United States; and

Whereas the people of Utah, who symbolize the heart of America's pioneer spirit, and who have for a number of years fully supported the effort to bring the winter Olympic games to the United States, have fashioned their Olympic bid with the goal of establishing the world's finest winter sports center based upon Olympic ideals: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the International Olympic Committee be advised that the Congress of the United States would welcome the holding of the 1998 winter Olympic games in Salt Lake City, Utah, the site so designated by the United States Olympic Committee; and be it further

Resolved, That the Congress of the United States expresses the sincere hope that Salt Lake City, Utah, will be selected as the site for the 1998 winter Olympic games, and pledges its cooperation and support of their successful fulfillment in the highest sense of the Olympic tradition.

Mr. SIMPSON. Madam President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO AMEND PROVISIONS OF TITLE 18, UNITED STATES CODE, RELATING TO TERMS OF IMPRISONMENT AND SUPERVISED RELEASE FOLLOWING REVOCATION OF A TERM OF SUPERVISED RELEASE

Mr. SIMPSON. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 188, regarding the Sentencing Commission. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection it is so ordered. The clerk will read as follows:

A bill (S. 188) to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of supervised release.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Madam President, I rise to urge my colleagues to support this important bill, S. 188, which will implement various technical and clarifying proposals related to the revocation of supervised release and probation. This important measure is cosponsored by Senator BIDEN and Senator KENNEDY. These proposals were suggested to me by the U.S. Sentencing Commission with the desire that they might be promptly enacted so that the supervised release component of sentences will function as Congress intended.

Regarding the history of the U.S. Sentencing Commission, in 1984, I worked with Senator BIDEN, Senator KENNEDY, and other colleagues on the Judiciary Committee and in the Senate to formulate the Sentencing Reform Act which was enacted into law as part of the Comprehensive Crime Control Act of 1984. The Sentencing Reform Act focused on two major problems in the Federal criminal justice system: First, the disparity in sentences imposed on individuals convicted of similar crimes; and second, the actual time served by those convicted of crimes which was often much less than the sentence imposed. In an effort to address these problems, the Sentencing Reform Act created the U.S. Sentencing Commission. Its purpose is to formulate guidelines to be used by judges in the sentencing process. As a result of the Commission's efforts, people now convicted of similar crimes will serve similar sentences and the sentences imposed will reflect the actual time that must be served.

Despite the success of the Sentencing Commission and its guidelines, steps must be taken to ensure that it is free to carry out its duties and responsibilities. The legislation I am introducing today will enhance the Commission's ability to carry out its mandate.

Briefly, this legislation would make the following changes to current law. First, it would clarify that Federal courts retain the flexibility to order an additional period of supervised release following the imposition of a term of imprisonment for a violation of a condition of supervised release. This measure would also grant the Sentencing Commission greater flexibility in drafting sentencing guidelines for the sanctioning of offenders who, while on supervised release, are found in possession of a controlled substance. This greater flexibility will enable the Commission to draft guidelines and policy statements that best achieve the goals of consistency and proportionality that the Sentencing Reform Act was intended to cover.

Finally, this bill provides that decisions to revoke supervised release should be based upon sentencing guidelines and policy statements issued by the Commission specifically for that purpose. The effect of this change would be to settle a split among the Federal courts on the issue of whether the guidelines applicable to initial sentencing of defendants also apply to probation revocation decisions.

In closing, the technical changes embodied in this legislation are consistent with original congressional intent under the Sentencing Reform Act. I believe this legislation will further the goals of the Sentencing Reform Act to provide uniformity in sentencing as well as assure that sentences will be served in their entirety.

For these reasons, I strongly urge my colleagues to support this important measure.

Madam President, I ask unanimous consent that an explanation of the provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF PROVISIONS

The purposes of this legislation are to clarify the statutory provisions relating to revocation of probation and supervised release to ensure that they work within the scheme of the Sentencing Reform Act of 1984 as intended. The bill would: (1) make more explicit the intent of Congress in the Sentencing Reform Act that, when revoking a probationary sentence, the guideline range operative at the time the defendant was sentenced to probation is no longer applicable; rather the court is constrained only by the maximum statutory penalties for the offense and any Sentencing Commission guidelines or policy statements specifically applicable to probation revocation; (2) clarify the circumstances mandating revocation of probation and supervised release for possession of a controlled substance or firearm, and ensure that any defendant committing such violations of supervision is required to serve a term of imprisonment; (3) authorize a court upon revocation of supervised release to imprison the defendant up to the maximum statutory period of supervised release (but not exceeding five years for a Class A felony, three years for a Class B felony, two years for a C or D felony, and one year in any other case); (4) expressly authorize a court to order an additional period of supervised release to follow a period of imprisonment when supervised release is revoked; and (5) provide authority for a court to adjudicate violations of supervised release for which a summons or warrant was timely issued, even though the term of supervised release expired before the court could act on the alleged violation.

SECTION 1. IMPOSITION OF SENTENCE

Under subsection (a)(4) of 18 U.S.C. §3553, a court currently is required to consider guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. §994(a)(1). Additionally, under subsection (a)(5) of 18 US..C. §3553, a court currently must consider policy statements issued by the Commission pursuant to 28 U.S.C. §994(a)(2). Current law, however, does not expressly command court consideration of guidelines or policy statements governing violations of probation and supervised release that derive from Commission authority under 28 U.S.C. §994(a)(3).

Section 1 of the bill corrects this oversight by amending 18 U.S.C. §3553(a)(4) to require court consideration of Commission guidelines or policy statements pertaining to violations of probation and supervised release. The amendment thereby strengthens and clarifies the Sentencing Reform Act principle that all court decisions affecting the imposition or modification of sentence are to be structured by the standards of the Act and by Sentencing Commission guidelines and/or policy statements relevant to the particular sentencing determination.

SECTION 2. TECHNICAL CORRECTION TO MANDATORY CONDITIONS OF PROBATION

Section 2 of the bill makes a technical correction in 18 U.S.C. §3563(a)(3), relating to the mandatory condition of probation prohibiting a defendant from possessing controlled substances. The amendment substitutes the more technically precise term "unlawfully possess a controlled substance" for the existing phrase "possess illegal controlled substances".

SECTION 3. REVOCATION OF PROBATION

a. Clarification of Imposable Sentence.

In general, 18 U.S.C. §3565 currently permits courts to respond to violations of conditions of probation in a variety of ways, including revocation of probation and imposition of "any other sentence that was available under subchapter A at the time of the initial sentencing." 18 U.S.C. §3565(a)(2). Ignoring the context of the Sentencing Reform Act as a whole (including the specific directive to the Sentencing Commission to issue guidelines or policy statements for revocation of probation and supervised release, 28 U.S.C. §994(a)(3)), several courts of appeals have narrowly interpreted the phrase "any other sentence that was available under subchapter A at the time of the initial sentencing" to mean a sentence within the guideline range applicable to the initial sentencing decision. *See United States* v. *Smith*, 907 F.2d 133 (11th Cir. 1990); *United States* v. *von Washington*, 915 F.2d 390 (8th Cir. 1990); *United States* v. *White*, 925 F.2d 284 (9th Cir. 1991); *United States* v. *Alli*, —F.2d—, 1991 WL 47409 (4th Cir. 1991).

The effect of these decisions is to severely restrict the discretion of the court to sanction serious violations of probation conditions. This construction of the applicable statutory language means, for example, that in the case of a defendant sentenced to probation under an initial guideline range of 0 to 6 months imprisonment, the court would generally be limited upon revocation of probation to a maximum sentence of 6 months imprisonment, regardless of the seriousness of the violation.[1] Because the guidelines applicable at a defendant's initial sentencing permit a probation sentence, absent a departure decision by the court, only when the bottom of the range does not exceed six months, this interpretation of the statute will result in an inadequate sanction for probation violations in many cases.[2] *See United States* v. *Alli, supra* (Norton, J., dissenting).

In contrast, the policy statements issued by the Sentencing Commission effective November 1, 1990, provide ranges of imprisonment that more adequately accommodate the varying seriousness of probation violations. Unfortunately, full implementation of these policy statements presently is frustrated by the narrow statutory interpretation adapted in these several circuits.

Section 3 of the proposed legislation addresses this problem—a problem that has grown increasingly serious with several other circuits having followed the interpretative decision first adopted by the Eleventh Circuit in *Smith, supra*. The legislation amends the language in section 3565 by striking the phrase "any other sentence that was available under subchapter A at the time of initial sentencing." As amended, section 3565 would permit a court, upon revocation of probation, to "resentence the defendant under subchapter A." The purpose of this amendment is to clarify Congressional intent under the Sentencing Reform Act of 1984 that, upon revocation of probation, a defendant may be resentenced to any authorized sentence up to the statutory maximum(s) for the offense for which the defendant was initially sentenced to probation. Within these statutory constraints, the court's discretion would be guided by any guidelines or policy statements issued by the Sentencing Commission, pursuant to 28 U.S.C. §994(a)(3), for probation revocation and resentencing determinations.

b. Mandatory revocation for controlled substance or firearm possession.

Section 3565(a) currently mandates revocation of probation in the case of any defendant who is found by the court to be in the possession of a controlled substance. The same provision purports to require that the defendant be resentenced "to not less than one-third of the original sentence." While the probable intent of this provision was to require imposition of an imprisonment term of at least one-third of the original term of probation, the existing language is ambiguous.[3] Moreover, even if the provision is consistently construed to have this meaning, the "one-third" minimum requirement arbitrarily varies the sanction according to the length of the initially-imposed term of probation, instead of rationally relating the punishment to the nature and seriousness of the violation and other relevant considerations. Recognizing these problematic aspects of the current statutory language, the Senate approved a provision in its version of the 1990 Crime Control Act (S. 1970, 101st Congress) that would have eliminated the one-third minimum requirement; however, this provision was not included in the enacted version of that legislation.

Section 3(b) of the proposed legislation clarifies this potentially problematic language. It also combines into one new subsection the provisions mandating revocation of probation for violations relating to controlled substance or firearms possession. Substantively, the amendment essentially carries forward the provision in S. 1970 of the last Congress relating to mandatory revocation of probation for controlled substance possession. Under the provision, revocation of probation would continue to be mandated in the case of any defendant who unlawfully possesses a controlled substance while on probation. The length of the required term of imprisonment imposed upon resentencing would be structured by the guidelines or policy statements issued by the Sentencing Commission for such determinations.

Similarly, the proposed legislation carries forward present law policy of mandating revocation of probation and a sentence to a term of imprisonment, structured by Sentencing Commission guidelines or policy statements, in the case of a defendant who violates probation by possessing a firearm. Significantly, the proposal also closes a gap in the current statutory provision mandating revocation for firearm possession. Under current law, revocation is mandated only "if the defendant is in actual possession of a firearm." The amendment strikes the word "actual," and is thereby intended to cover both actual and constructive firearm possession. In view of the danger to society inherent in firearm possession by those probationers prohibited by law or their conditions of probation from having a firearm, no sound reason exists for mandating revocation and imprisonment in the case of a defendant found with a firearm on his person, while not imposing such sanctions on the defendant found to have a firearm in close proximity (for example, in a jacket in his closet).

In addition, the proposal more closely correlates the circumstances under which revocation for firearm possession is mandated with the circumstances under which probationers are prohibited from possessing a firearm. Under current law, it is discretionary with the sentencing court whether to prohibit a defendant from having a firearm as a condition of probation. *See* 18 U.S.C. §3563(b)(9). Whether or not such a condition is imposed, a defendant on probation is always subject to the prohibition against committing another Federal, State, or local crime. *See* 18 U.S.C. §3563(a)(1). While a first blush the current provision in Section 3565(b) appears to mandate revocation whenever a probationer is found to have actually possessed a firearm, it is doubtful whether probation could be revoked if no condition of probation has been violated. Consequently, under current law, it would appear that revocation for actual firearm possession is mandated if either the mandatory condition under section 3563(a)(1) or the discretionary condition under section 3563(b)(9) is violated.

The proposed legislation more clearly states the circumstances under which firearm possession by a probationer would lead to mandatory revocation and a sentence of imprisonment. Revocation would be mandated if the defendant violates probation by possessing a firearm in violation of Federal law,[4] whether or not the court had imposed the discretionary condition under section 3563(b)(9) prohibiting firearm possession. If the court did impose such a condition, and the defendant violated it, revocation would also be mandated, even if the violation would not have constituted a Federal offense.[5] On the other hand, the proposal would not mandate revocation if the court had not imposed a discretionary condition prohibiting firearm possession and the defendant's possession of a firearm violated State or local law (but not Federal law). Because of the wide variation in conduct relating to firearm possession proscribed by State and local law, it seems preferable to leave to court discretion (guided by Sentencing Commission guidelines or policy statements) whether revocation is warranted under such circumstances.

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[1] Footnotes at end of article.

Finally, proposed section 3(b) would substitute language identical to that contained in section 3(a) of the bill for the problematic phrase "any other sentence that was available under subchapter A." As indicated *supra*, this phrase has been construed by several courts of appeals to restrict the available revocation sentence to a sentence within the guideline range applicable to the initial sentence. The proposed replacement language will ensure greater flexibility for courts to impose an appropriate sentence following revocation.

In keeping with the procedures and standards applicable to revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure and pertinent case law, it is intended that determinations of unlawful possession of a controlled substance or a firearm are to be made by the court based upon a preponderance of the evidence. It is not necessary that the defendant actually have been convicted of unlawfully possessing a controlled substance, or a firearm, as the case may be.

SECTION 4. SUPERVISED RELEASE AFTER IMPRISONMENT

a. Technical and Conforming Amendments.

The bill effects a technical and conforming change in the existing language in 18 U.S.C. §3583(d), relating to mandatory revocation of supervised release for possession of a controlled substance. The amendment conforms the language to the analogous provision in section 3565, relating to mandatory revocation of probation for controlled substance possession, as such provision is amended by Section 3(b) of this legislation.

The proposal also substitutes the term "defendant" for the term "person" throughout section 3583(e) to conform to usage of the term elsewhere in the sentencing provisions of title 18.

b. Maximum Period of Imprisonment Upon Revocation of Supervised Release, Class A Felony Offenses.

Under current law, a defendant convicted of a Class A felony (an offense for which the maximum term of imprisonment is life imprisonment or death) may be sentenced to a term of supervised release of up to 5 years (longer, in the case of some controlled substances offenses). If such term of supervised release subsequently is revoked due to defendant violations, the defendant may be required to serve an additional period of imprisonment equal to all or part of the supervised release term. In comparison, for Class B, C, and D felonies, the maximum period of additional imprisonment that may be ordered upon revocation of supervised release is always at least one year less than the maximum term of supervised release that may be imposed for that class of offense (*i.e.*, for Class B felonies, maximum supervised release term=5 years, maximum period of re-imprisonment=3 years; for Class C and D felonies, maximum supervised release=3 years, maximum re-imprisonment=2 years).[6] For Class E felonies and Class A misdemeanors, the maximum term of supervised release is the same as the maximum period of re-imprisonment; *i.e.*, 1 year.

These "caps" on re-imprisonment time following revocation of supervised release were enacted as part of the Sentencing Act of 1987 (Sec. 25, P.L. 100-182, Dec. 7, 1987), concurrently with extension of the maximum imposable terms of supervised release from three to five years for Class A and B felonies, and from two to three years for Class C and D felonies (Sec. 8 of Sentencing Act of 1987). No cap was placed on the re-imprisonment time for Class A felonies, however.

The proposed legislation rewrites section 3583(e)(3), pertaining to revocation of supervised release, to enhance the clarity of the subsection and to impose a limit of five years on the period of additional imprisonment that can be ordered upon revocation of supervised release in the case of Class A felonies. In part, the five-year cap on re-imprisonment time for Class A felonies addresses a concern voiced by some that authorization of a subsequent period of supervised release following revocation of supervised release and re-imprisonment (*see* proposed section 3583(h)) would lead to unduly lengthy periods of supervision and re-imprisonment. The caps on total re-imprisonment time following revocation of supervised release, made applicable by this legislation to all offenses for which supervised release is authorized, together with the crediting toward the cap of all time in official detention (*see* 18 U.S.C. §3585(b)), should serve to alleviate these concerns.

c. Mandatory Revocation of Supervised Release for Controlled Substance or Firearm Possession.

Section 3583(g) currently mandates revocation of supervised release and a prison term of at least one-third the term of supervised release if a defendant is found to possess a controlled substance. In contrast, there is no comparable provision in current law mandating revocation of supervised release for firearm possession.

The proposed legislation remedies this omission by mandating revocation of supervised release if the defendant possesses either a controlled substance or a firearm. The language of the amended subsection 3583(g) parallels that in amended section 3565(b), pertaining to mandatory revocation of probation for such violations. At the same time, the minimum period of re-imprisonment required upon mandatory revocation of supervised release is repealed. The guidelines or policy statements issued by the Sentencing Commission can more rationally structure appropriate sanctions for controlled substance and firearm violations of supervised release than can a statutory minimum that arbitrarily varies with the length of the supervised release term.

(d) Additional Term of Supervised Release Following Revocation of Supervised Release.

Current statutory law is silent on whether a court, upon revoking a term of supervised release, may order an additional period of supervision to follow the period of re-imprisonment imposed. Addressing the issue, the United States Court of Appeals for the Ninth Circuit has held that present section 3583 provides distinct, mutually exclusive alternatives. Consequently, "a court may not revoke a person's supervised release, order a term of incarceration *and* then order another term of supervised release." *United States* v. *Behnezhad*, 907 F.2d 896, 898 (9th Cir. 1990). At the same time, the court observed that "there would be great virtue and much benefit to all concerned if courts were given more flexibility in this area." *Id.*, at 900.

Proposed section 3583(h) expressly authorizes a court, within limits, to order an additional period of supervision following revocation of supervised release and re-imprisonment. To ensure that revocation remains an available sanction whenever a defendant is serving a supervised release term, the legislation empowers a court to order an additional term of supervision following incarceration *only* if the defendant has served less time in prison for previous supervised release violations than the maximum authorized period of re-imprisonment for the applicable class of the offense for which the defendant was originally sentenced (*i.e.*, the "cap" on re-imprisonment has not been reached). For example, if a defendant convicted of a Class C felony was required to serve two years in prison following revocation of supervised release, no additional term of supervised release would be authorized because the two-year cap on re-imprisonment for Class C felonies would have been reached. In contrast, if a defendant convicted of a Class B felony was revoked and ordered to serve a two-year prison term, an additional period of supervised release could still be ordered because the three-year cap on re-imprisonment time for Class B felonies would not have been reached.

Under the legislation, the maximum length of additional supervised release term may not exceed the maximum period of supervised release authorized by statute for the offense, less any term of imprisonment imposed upon revocation. For example, in the case of a Class C felony for which the maximum supervised release term is three years, a defendant who is revoked and re-imprisoned for 18 months could be ordered to serve as much as 18 additional months on supervised release (36-month maximum term of supervised release −18 months imprisonment=18 months possible re-release supervision). If the same defendant was again revoked, he could be re-imprisoned for not exceeding six months (24-month cap −18 months previously-served imprisonment=6 months allowable imprisonment) and if so imprisoned, could not thereafter be placed on supervision (because the two-year imprisonment cap would have been reached). Thus, under the proposal, a defendant would always be credited for incarceration time against both the cap on re-imprisonment and the maximum authorized period of supervised release. However, the defendant would not be credited for actual time spent on supervision (*i.e.*, "street-time") prior to a violation or revocation. The latter policy of not crediting "street-time" reflects the need to provide strong incentives to encourage compliance with applicable supervision conditions throughout a required period of supervised release. It also reflects the practical difficulty in many cases of determining precisely when a violaction occurred. This difficulty is compounded in the case of multiple violations.

Under the Sentencing Reform Act scheme, supervised release functions as the rough equivalent of parole under the former sentencing system, insofar as providing a supervised transition for a defendant from prison back into society. Congress envisioned that supervised release would serve multiple sentencing purposes of protecting the public, deterrence of further criminal activity and rehabilitation. *See* 18 U.S.C. §3583(c). When revocation of supervised release is warranted, provision for an additional period of supervision to follow any necessary period of imprisonment continues to promote these purposes. Absent authorization of an additional supervision component, courts may be faced with a Hobson's choice between under-punishment (continuing a defendant on supervision who merits a more severe sanction) and over-punishment (re-imprisonment for a longer period than otherwise necessary to sanction a supervised release violation). This provision of the legislation provides courts with the clear statutory authority to avoid choosing among these equally unsatisfactory extremes.[7] Instead, the court will have sufficient flexibility to both punish supervised release violations and provide an additional supervision component, the need for which may be all the greater because of the defendant's violation(s).

As one means of responding to supervised release violations, current law permits a court to extend the length of a supervised release term to the maximum term authorized for the class of the offense. Recognizing this existing authority, this legislation provides comparable flexibility for a court to re-imprison a defendant for the maximum term authorized for the class of the offense. Limiting the re-imprisonment period to the maximum of the term of supervised release actually imposed would reduce court flexibility in sanctioning serious violations and create anomalies vis-a-vis cases in which the term had previously been extended to the statutory maximum.

(d) Delayed Revocation of Supervised Release.

Under existing 18 U.S.C. §3565(c), a court has authority to revoke probation after the term of probation has expired in the limited circumstances where a warrant or summons alleging a violation was filed prior to the end of the probation term. In such a case, the court has continued jurisdiction to revoke and resentence for a "reasonably necessary" period beyond the expiration of the probation term.

In contrast, existing statutory law is silent in respect to court authority to adjudicate alleged violations of supervised release and, if warranted, revoke supervised release after the term of supervised release has expired. The proposed legislation fills this gap in current law by providing continued court jurisdiction to adjudicate alleged supervised release violations and revoke supervised release if a warrant or summons was timely filled before the end of the supervised release term. The proposed language parallels the existing statutory provision for delayed probation revocation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2. REVOCATION OF PROBATION.

Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "of" and inserting "or"; and

(2) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A".

SEC. 3. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) in paragraph (3) by striking "supervised release without credit" and inserting "supervised release authorized by statute for the offense of which the defendant was convicted without credit"; and

(B) by redesignating paragraph (5) as paragraph (4); and

(2) by striking subsection (g) and inserting the following:

"(g) POSSESSION OF CONTROLLED SUBSTANCES.—If the defendant is found by the court to be in the unlawful possession of a controlled substance, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense of which the defendant was convicted, less any term of imprisonment that was imposed upon revocation of supervised release.".

Mr. SIMPSON. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ENERGY AND WATER APPROPRIATIONS BILL

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of Calendar No. 117, H.R. 2427, the energy and water appropriations bill, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

NATIONAL FOREST SYSTEM MONTH

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 159 designating National Forest System Month; that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that the preamble be agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The joint resolution was deemed read a third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 159

Whereas 1991 marks the 100th anniversary of the National Forest System with the establishment of the first forest reserve in 1891, the Yellowstone Park Timber Land Reserve;

Whereas the establishment of this first forest reserve marked a fundamental change in

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FOOTNOTES

[1] Although the issue has not yet been adressed by the appellate courts, it would appear that violations arising out of controlled substance possession, for which section 3565(a) mandates revocation and a minimum sentence of "not less than one-third of the orginial sentence," should be excepted from the rule of these several cases. On the other hand, firearm violations, for which section 3565(b) mandates revocation but no minimum imprisonment sanction, would appear to be within the scope of these case holdings because that subsection employs a statutory phrase identical to the language in section 3565(a)(2) construed by these several courts of appeals.

[2] It may even produce the anomalous result of a zero imprisonment sanction for a probation violation for which imprisonment is clearly warranted or even mandated. Consider, for example, a defendant with an initial guideline range of 0-6 months whom the court sentences to three years probation with a condition of 6 months intermittent confinement in the local jail on weekends and a condition prohibiting firearm possession. If, after satisfying the intermittent confinement requirement, the defendant violates probation by possessing a firearm, revocation would be mandated under section 365(b), but because the defendant must be credited with six months' time spent in offical detention under 18 U.S.C. §3585, no additional imprisonment sanction could be imposed (under the statutory construction adopted by the several appellate courts).

[3] Arguably, the phrase could be interpreted to mean one-third of the minimum or maximum of the guideline range applicable at the initial sentencing decision. It is also conceivable that some courts will find the language sufficiently ambiguous to be unenforceable as a mandatory provision.

[4] For example, under 18 U.S.C. §922(g)(1), it is unlawful for a person convicted of a crime punishable by imprisonment for a term exceeding one year (a felony under Federal law) to posses a firearm; it is also unlawful for any unlicensed person to possess certain, more dangerous firearms. *See, e.g.*, 26 U.S.C. §5861, 18 U.S.C. §922(o).

[5] If the defendant has been sentenced to probation for a misdemeanor it would not necessary violate Federal law for the defendant to possess a handgun, but such possession could be in violation of the section 3563(b)(9) discretionary condition, if applicable.

[6] The maximum term of supervised release may be greater for some controlled substance offenses, but the maximum periods of re-imprisonment remain as stated.

[7] A plausible argument can be made that Congress did not intend revocation of supervised release to extinguish the entirety of a defendant's remaining supervised release term. Rather, it may have been envisoned that revocation of supervised release would operate similarly to revocation of special parole terms (as such terms were authorized prior to the Omnibus Anti-Drug Act of 1986 for certain defendants convicted of conntrolled substance offenses). Under that approach, a defendant could be reparoled if the defendant served in prison less than the entire special parole period.

United States conservation policy towards the administration of public lands;

Whereas the purpose of the National Forest System is to conserve a portion of America's forests for the people of the United States, recognizing the important environmental and economic values in holding such public lands in trust and managing them for the greatest good;

Whereas the National Forest System is one of the few examples in the world where a public effort is being made to manage natural resources in an economically efficient, environmentally sound, and socially responsible manner;

Whereas the National Forest System has introduced new ideas for sound resource management, such as multiple use, sustained yield, and preservation of both wilderness areas and wild and scenic rivers; and

Whereas the 191,000,000 acres of National Forests, National Grasslands, and experimental forests that now make up the National Forest System stretch from Alaska to the Commonwealth of Puerto Rico and from California to Maine: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of June 1991 is designated as "National Forest System Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate activities and programs.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar No. 181, James R. Whelan, to be a member of the Board of Directors of the Inter-American Foundation;

Calendar No. 182, Christopher D. Coursen, to be a member of the Advisory Board for Cuba Broadcasting.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

INTER-AMERICAN FOUNDATION

James R. Whelan, of Virginia, to be a member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 1994.

EXECUTIVE OFFICE OF THE PRESIDENT

Christopher D. Coursen, of Maryland, to be a member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1993.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. SIMPSON. Madam President, I thank the senior Senator from New York for his courtesy, and I certainly join in the excitement of the proposal that the winter Olympics be held in Salt Lake City, UT; the State of Utah is our neighbor. I think that would be a joyous experience.

Mr. BENTSEN. Madam President, I ask unanimous consent that I might engage in a colloquy with my colleague from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Mr. BENTSEN. Madam President, we have now been advised that we have received the numbers concerning the situation on trying to work out a compromise with the donor States, and the Senator from Virginia and I are urging those Senators of donor States to join us at 6:45 in room 5-126, and I think that is urgent. We would like to push on with this bill tonight, and I think these numbers are meaningful and important.

Mr. WARNER. Madam President, I join my distinguished colleague, and we convened our group at the specific request of the majority leader, the managers of the bill, and others, to gain an expression of the degree of support for a proposal which will be laid before the group at this time.

So I join my distinguished colleague from Texas in noting the urgency and timeliness of this meeting, which is a bare 20-plus minutes away.

Mr. BENTSEN. Thank you, Madam President.

AMENDMENT NO. 303, AS MODIFIED

Mr. SYMMS. Madam President, I have a modification to amendment No. 303 of the bill, dealing with the National Trails Act.

I send the modification to the desk and ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The modification is as follows:

Viz: In amendment No. 303, make the following change:

On page 3, line 2, strike "(1)".

On page 3, strike all after and including the semicolon on line 37, through line 8 on page 4.

On page 4, line 9, strike "(d)" and insert "(c)".

Mr. SYMMS. Madam President, the purpose of this amendment is twofold. Inadvertently, we had trampled on the jurisdiction of two other committees—the Finance Committee and the Agriculture Committee. This amendment puts the National Trails Act section of the bill in conformance with the wishes of the Finance Committee and the wishes of the Agriculture Committee. It removes the portion of the National Trails Act that dealt with the refundability of gasoline taxes of off-road vehicles which, technically, though very miniscule, was a tax increase, and this keeps this bill from being blue slipped.

Mr. MOYNIHAN. Madam President, this is a small technicality, but it could lead to an enormous amount of grief. I thank the Senator for having spotted and resolved it.

Mr. SYMMS. I thank my colleague.

Mr. MOYNIHAN. Madam President, as we move with great deliberation, and some considerable speed, toward the conclusion of our work, the meeting of Senators has been convened. There will not be, for the moment, many Senators available for floor purposes. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE MAJORITY AND REPUBLICAN LEADERS

The PRESIDING OFFICER. The Chair, on behalf of the majority leader and the Republican leader, pursuant to Public Law 100-418, announces the appointment of the Honorable Bill Graves, as a representative from State or local government, to the Competitive Policy Council, vice the Honorable Mike Hayden, resigned.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 335

Mr. SYMMS. Madam President, I send an amendment to the desk on behalf of Senator ADAMS and Senator GORTON.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for Mr. ADAMS (for himself and Mr. GORTON), proposes an amendment numbered 335.

Mr. SYMMS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place in title III the following new subsection:

"**SEC. . FERRY ROUTES.**

Section 9 of the Act (49 U.S.C. app 1607a) is amended by adding at the end thereof the following new subsection:

"(r) FERRY SERVICES.—A vessel used in ferryboat operations funded under this section that is part of a State-wide ferry system may from time to time be operated outside of the urbanized area in which service is provided to accommodate periodic maintenance so long as the mass transportation service funded under this section is not thereby significantly reduced."

Mr. CRANSTON. I would like to engage the senior senator from Washington in a colloquy on his amendment regarding section 9 funding for ferries. What is the purpose of the amendment?

Mr. ADAMS. Washington State operates a large ferry system throughout the Puget Sound region. Most of its ferry trips begin or end in the urbanized area that includes Seattle, Tacoma, Everett, and Bremerton, but some of them travel between nonurbanized areas. Under current UMTA policy, ferries that have been constructed or refurbished with section 9 funds can only be used on runs serving the urbanized area.

Washington State periodically needs to rotate its ferries out of service for maintenance. This amendment would permit us to substitute a ferry that was constructed or refurbished with section 9 funds on a run between nonurbanized areas during such a maintenance rotation.

Mr. CRANSTON. How often would such a substitution occur?

Mr. ADAMS. Since most of our ferries have not been constructed or refurbished with section 9 funds and most of our ferry runs serve urbanized areas, we believe that such substitutions would be infrequent.

Mr. CRANSTON. I thank the Senator for his explanation of the amendment.

Mr. SYMMS. Madam President, the amendment is simply to give the same flexibility in the transit section of the bill that was adopted today to the ferries which are very important in the transportation of people in the Seattle-Puget Sound area with respect to the transit fund transfer ability that we did yesterday with the surface transportation funds program that is in the highway part of the act. That basically puts it into conformity and gives those people flexibility to use those ferries which, incidentally, carry enormous population.

Mr. MOYNIHAN. Madam President, if I may say, they are certainly mass transit in a very agreeable form. I cannot imagine anything more agreeable than crossing Puget Sound or, for that matter, leaving lower Manhattan and getting off at Staten Island.

I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 335) was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the pending amendment is continued to be set aside.

AMENDMENT NO. 336

(Purpose: To require research on the use of rubber from scrap tires in the construction of federally assisted highway projects)

Mr. SYMMS. Madam President, I send an amendment to the desk on behalf of the ranking member of the committee, Senator CHAFEE.

I ask the amendment be read. It is self-explanatory.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for Mr. CHAFEE proposed an amendment numbered 336.

Section 127 of the bill is amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall, in cooperation with the Administrator of the Environmental Protection Agency, conduct a program of research to determine—

"(1) the public health and environmental risks associated with the production and use of asphalt rubber pavement;

"(2) the performance of the asphalt rubber pavement under various climate and use conditions; and

"(3) the degree to which asphalt rubber pavement can be recycled.

The research program required by this subsection shall be completed not later than three years after the date of enactment of this Act. The Secretary is authorized to use funds pursuant to sections 103(b) and 115 (making amendments to section 307 of title 23, United States Code) to carry out the research required by this subsection.".

Mr. SYMMS. Madam President, I have no debate. The Senator from New York may want to make comment.

Mr. MOYNIHAN. Madam President, I simply want to support this proposal by Senator CHAFEE, and I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 336) was agreed to.

Mr. SYMMS. Madam President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONGRATULATING THE CHICAGO BULLS ON WINNING THE 1991 NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 140, a resolution congratulating the Chicago Bulls Basketball Team submitted earlier today by Senators DIXON and SIMON, that the resolution and preamble be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 140) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 140

Whereas for the first time in the 25-year history of the Chicago Bulls franchise, the Bulls have won the National Basketball Association Championship;

Whereas the Bulls posted a 61–21 record in the regular season, the best in franchise history, and tied an NBA playoff record with 15 wins and only two losses;

Whereas head coach Phil Jackson implemented a quick smothering defense which the Bulls used to hold playoff opponents to a record low 91.5 points a game;

Whereas NBA regular season and playoff most valuable player Michael Jordan once again showed his tremendous basketball ability both offensively and defensively;

Whereas Scottie Pippen, Horace Grant, John Paxson, Bill Cartwright and every Bulls player coming off the bench played vintage Bulls basketball, displaying quick athleticism, tenacious defense, clutch outside shooting, and an outstanding transition game to overwhelm the Los Angeles Lakers in the NBA final in five games; and

Whereas the Bulls utilized a total team effort in winning their first NBA championship: Now, therefore, be it:

Resolved, That the Senate congratulates the Chicago Bulls for winning the 1991 National Basketball Association championship.

Mr. MOYNIHAN. I thank the Chair.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair.

Mr. President, the central issue to the debate over the bill which is before us today is one that hinges upon fairness. Fairness, like beauty, is in the eye of the beholder, but each of us has our own view of what constitutes a fair apportionment of the highway funds.

While the distribution of Federal funds is always controversial, this highway bill has intensified our provincial instincts.

The Federal Government has long recognized the importance of transportation infrastructure, and has a long history of building a national system of roads and highways.

As the senior Senator from New York has pointed out, as far back as 1806 Congress provided for the construction of a toll road, called the National Pike, or Columbia Road.

But even after the Federal Government eventually began collecting transportation-related fees and taxes, for a long time there was no direct relationship between these fees and expenditures on highways.

In 1956, however, Congress established the highway trust fund. This fund was to be financed by highway user fees, primarily the Federal gas tax, and was to be used for highway construction and improvement.

In addition to providing a mechanism to keep track of the Federal Government's recently accelerated investment in highways, the existence of the highway trust fund increased the political acceptability of increases and additions to highway user fees.

The concept of the 1956 trust fund was a simple one—motorists would be willing to pay gas taxes and other highway user fees if they could be assured that these taxes would be used for highway improvements. That original concept of 1956 continues to this day.

Today, each time a motorist fills up his or her gas tank, 10 cents of the Federal gas tax is credited to the highway account of the highway trust fund.

In so doing, Mr. President, a political compact was forged between the Federal Government and motorists from whom the taxes are collected.

While this concept is reasonable, the reality is completely different.

Since I came to the Senate I have been trying to come to grips with the arcane and misleading bookkeeping that the Federal Government uses to administer the highway trust fund.

While I cannot claim to be an expert on the intricacies of the Federal budget process and the convoluted world of Federal highway finance, I can come to only one inescapable conclusion.

Every time a motorist pulls up to a gas pump, a crime is committed. Americans pay Federal gas taxes with the expectation that those taxes will be used to finance improvements on our roads.

But as our roads crumble, billions of dollars of user fees, primarily gas taxes, that are ostensibly dedicated to their repair, are being held back by the Federal Government in an effort to hide from the American people the true size of the Federal deficit.

If an attorney misuses his clients' trust fund, he can be disbarred. If a guardian breaks his fiduciary duty to his or her ward, he or she can be criminally prosecuted. As in many other cases, however, the Federal Government is exempt from that kind of action.

The fundamental dishonesty of this practice is offensive in and of itself, but it is especially distasteful in light of the need for highway improvements. Every State has an acute need for highway improvements, and no State has all the resources needed to realize those needs.

A study last year released in Nevada shows what I am sure is a typical situation. Over the next 10 years, Nevada needs to spend $6.37 billion on transportation improvements.

Unfortunately, the projected revenue for transportation improvements is only $2.53 billion—nearly $4 billion short of what is actually needed.

Nevadans, however, will pay for these improvements one way or the other—either through increased traffic and safety problems due to a deferral of much needed projects, or through increased State spending on highways.

Mr. President, I do not contend that the release of the surplus in the highway trust fund would, in and of itself, solve all of our transportation problems. While the surplus is substantial, it is not nearly enough to meet all of our transportation needs.

What I am suggesting, however, is that these funds are needed desperately by all the States, and that the dishonesty of the Government's treatment of the highway trust fund diminishes the credibility of each of us as Members of Congress, and to the Federal Government in general.

As anyone who shares my interest in this issue can attest, simply determining the true size of the surplus in the highway trust fund can be a daunting task.

At the end of 1991, the cash balance of the highway account of the trust fund will be more than $11 billion. To put this amount into perspective, until just a few years ago, $11 billion would have been enough to finance the entire Federal highway program for a full year.

The duplicity and the dishonesty surrounding the trust fund go far beyond the relationship between the Federal Government and thousands of motorists that travel across the highways each year. Every year, the Federal Highway Administration apportions between the States highway funds that have been authorized to be spent for the coming fiscal year.

But the process does not stop there, however. In addition, the Federal Highway Administration establishes so-called obligation limitation, an artificial device used to control spending out of the trust fund. In most cases, the obligation limitation is lower than the authorization, causing each State to build up balances in their Federal highway account funds, funds which have been promised to the States, but which they will not be allowed to spend. At the end of fiscal year 1990, for example, in Nevada, we held a $40 million balance with the Federal Highway Administration. California's balance was close to $600 million.

The Federal Government, which collects these gas taxes from motorists with the understanding that they will be spent on highways, simply refuses to release the funds to the States.

Earlier this year, I introduced legislation which would have required that Federal highway spending levels be established in accordance with the balance in the highway trust fund. In addition, my legislation removes the obligation limitations which currently prohibit States from spending Federal highway dollars that they have been promised.

Quite simply, my legislation would have required the Federal Government to administer the trust fund in accordance with ordinary business practices. While I realize that common business practices are somewhat foreign to the Federal Government, I consider this to be a reasonable approach.

In sum, the provisions of my legislation would require highway funding of more than $2 billion more each year for the next 5 years than the levels of spending provided in the bill before us today.

While the pending legislation does provide substantial increases in highway funding, an action that meets with my full support, it is simply not adequate to make good on the Federal Government's commitment to American motorists.

Under S. 1204, the cash balance of the trust fund will increase to record levels.

Mr. President, I understand, as we meet this evening, that negotiations on this bill are still underway, and that part of these negotiations includes possible increases in funding for our highways. I am hopeful that such an increase will bring the funding levels more into line with the commitment we made to the American public when we first established the highway trust fund more than three decades ago.

Yesterday, I supported an amendment offered by the senior Senator from Pennsylvania to take the highway trust fund off budget. The amendment offered yesterday would have been an important step forward in restoring honesty to the Federal budget process, and would have ended the irresponsible practice of using the trust fund's balance to hide the true level and the true amount of the Federal deficit.

It was my intention to offer my trust fund legislation as an amendment to this pending legislation. Following yesterday's vote, however, it is clear where the will of the Senate lies. Because of that, I will refrain from offering my amendment at this time.

I assure the Senate, however, that this is not an issue that will go away, and I will continue in my efforts to reform the Federal highway trust fund budgeting process and make sure American motorists receive the benefit of the taxes they pay.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. MOYNIHAN. The distinguished chairman of the Committee on Banking, Housing, and Urban Affairs would like to speak at this point.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

(The remarks of Mr. RIEGLE pertaining to the introduction of S. 1296 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, this afternoon I spoke on this highway bill. I think that I misspoke in one significant way, and I want to correct the RECORD. I hope the way I correct it is accurate, though I cannot swear that it will be.

This afternoon, in talking about the so-called Byrd-Mitchell-Bentsen proposed compromise, I said that we are going to take, under that amendment, an additional $8.2 billion. We are going to distribute the first $4.1 billion under the first Byrd amendment, and we are going to distribute it based on the gasoline tax in each State. In other words, if a State like Arkansas, has a gas tax in excess of the national average, we would benefit and we would get additional money under the Byrd amendment, an additional part of the $4.1 billion.

The second part of that is an additional $4.1 billion, and that will be distributed to all the so-called donor States, like Arkansas, who traditionally and consistently over the years have paid in more to the highway trust fund than we get back. I am not going to belabor that further now, although I have been indignant about Arkansas' donor status for a long time, but I will come back to the subject in just a moment.

This afternoon, I pointed out that I thought the amendment, which is going to be offered by Senator GRAHAM, had a lot of merit because it deals with the fundamental problem of the formula under which highway trust funds are distributed. I consider the formula to be fatally flawed. If you come from a State like mine that is 46th or 47th in per capita income and contributes 1.4 percent of the total trust fund while accounting for only 1 percent of the Nation's population and, you only get back 72 percent of what you paid in, it is not difficult to be indignant.

With the utmost respect to the Senators in the donee States, my State has no business, just as the Senator from Texas feels his State has no business, with tremendous highway problems therein, contributing to other States. We are not a rich State. So the amendment of the Senator from Florida is a good amendment because it changes the basic formula, and that is the fundamental flaw in the way highway trust funds are distributed. But I intend to support the Byrd-Mitchell compromise because my State, quite frankly, is going to do much better under that.

This afternoon, and this is the thing I wanted to correct the record on, Mr. President, I said that $8.2 billion has to be appropriated. That is still true. That is not a bird nest on the ground. That has to go through the appropriations process. But I was laboring under the assumption this afternoon that, if we took that $8.2 billion and appropriated it for highways, it might very well be coming out of education funds, childhood immunization funds, Meals on Wheels, home health care, and a host of other programs that I care very deeply about. If I had been forced to make a choice between those programs and highways, a choice I did not want to make, I probably would have opted for these other domestic programs.

Now I was told, in a meeting that the Senator from Virginia, the Senator from Texas, and others of us just attended, that this is not the case. The Byrd-Mitchell compromise was crafted because the Budget Committee actually left room for $8.2 billion more of the highway trust funds to be spent.

Now the Appropriations Committee not only can appropriate that money and give it to the States, as I just pointed out a moment ago, and give it to States like Texas, Arkansas, and Virginia, but we cannot use it for any other purpose. We could distribute it under a different formula but the money, the $8.2 billion under that compromise proposal—cannot be spent for anything but highways.

Senator GRAMM makes a point that under the Byrd-Mitchell proposal we are going to be paying in $81 million over the next 5 years, and spending $96 billion.

Well, he maintains that is not fiscally responsible, and in a sense, I suppose you could say that. It is not good to spend more than you are taking in. But I daresay every Senator in this body has made a speech within the last 6 months saying we are going to start taking more money out of that trust fund? It cannot be used for anything but highways. It will create jobs. It will help get us out of this recession. And the fact that we are spending money that cannot be spent for anything else over the next 5 years makes eminent good sense.

There was a suggestion that we should draft some language about how the formula is going to work. As I said, the first $4.1 billion is going to help my State because my State has a gasoline tax higher than the national average, so under this formula, we would benefit considerably.

If your State has a gasoline tax higher than the national average, you will get a good return from the Byrd proposal. I am happy my State is going to benefit from that. The second $4.1 billion is also going to help my State because under this proposal, money allocated to all the donor States, like my State, which have traditionally paid in a lot more to the highway trust fund than they get out. The second formula is going to be distributed on a computerized model so that every donor State will get back the same percentage.

Without this formula requiring the same percentage of return for each donor State, Texas might get 92 percent back, and Arkansas might get 95 percent back. But when this money is finally allocated, both Texas and Arkansas are going to get the same percentage. Is that not correct?

Mr. BENTSEN. That is correct. That is the objective of the compromise. We have sent them back to work their computers and come back with those numbers to achieve that objective.

Mr. BUMPERS. I thank the Senator from Texas. That was my understanding. I am glad to have it verified by him.

Those of us from donor States who have been meeting from time from time over the past week, and feel it is time to change this allocation formula, Mr. President, we have not complained too loudly. I have not much liked it, but we did not complain as long as we were building that Interstate System.

My good friend from Montana is here on the floor. Montana has been a big recipient of trust fund payments contributed by States like Texas and Arkansas and Virginia. During construction of the Interstate System, we did not squawk because Montana had a lot of interstate highway miles to build, and it did not have very many people buying gasoline to help them do it. So they were a big donee State. It is sort of all for one, one for all. We were happy to help out.

But now the Interstate System is finished and it is irrational for people in poorer States like mine to pay these enormous sums of money into the highway trust fund and not get it back.

I will close with this point, Mr. President. When this next 5-year highway reauthorization bill ends, we are still going to be saddled with the same formula that I consider to be fatally flawed insofar as Arkansas is concerned. I know there are a number of Senators on the floor who share my feeling on that.

So, Mr. President, I do not know whether I will be here in 1996 or not. But I can tell you one thing. If I am here in 5 years, I will be right here, fighting this same fight to change the fundamental policy of allocating highway trust funds so that States like mine are not required to continue to pay for the highway systems of wealthy States. Arkansas is not an affluent State. The Congress has no business requiring poorer States like mine to assist other States that are a lot richer than we are under the current allocation formulas.

Mr. President, I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I congratulate the Senator from Arkansas for his statement. He has eloquently stated what we have suffered and shared together insofar as donor States for a long time. The objectives that started out as making us donor States have largely been fulfilled. Those States that have sparse population and vast territories to cover we quite understand have to be donee States. We even understand it after the interstate is completed because of the maintenance problems on that kind of highway with the few taxpayers that they have.

We are trying to reduce the disparities. We are looking at a situation where some of these States have a very substantial amount of population, have no deserts to cross, no mountains to climb, relatively inexpensive to build highways, and have a high per capita income. Yet, they are very substantial donee States. Obviously the formula is out of date and very unfair.

So what I am now suggesting in an amendment is that we have a study made by the General Accounting Office and, in turn, in conjunction with Bureau of Transportation Statistics, to examine the highway system, and 2 years from the date of enactment of this bill to come back with their recommendation as to what a fair and equitable apportionment formula for the allocation of the Federal aid highway funds would be, one that directs those highway funds to the places of greatest needs for highway maintenance and enhancement based on the use of those highways, the extent of those highways, their present use and their increase in use.

The result of that study would then be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994, and then be considered by those committees as they reauthorize this at the end of 1996.

Mr. President, this has been examined, as I understand it, by the manager for the minority.

Mr. WARNER. Mr. President, will the Senator yield? I would like to be added as a cosponsor of that amendment. I think in fairness, Mr. President, the Senator from Texas should note that the GAO has already made a study which was in the possession of the Congress of the United States at the very time that the committee devised this formula. For the record, I voted against this bill in committee.

So it really would be an updating of the work which they have already performed and which they already said this very formula is out of date. I put into the RECORD last night a letter from the GAO reciting once again, currently, the dissatisfaction with the formula that is found in the committee bill.

So I congratulate my good friend and working partner on this matter from the State of Texas and hopefully this will lead to a better bill 5 years hence.

Mr. BENTSEN. I thank the distinguished senior Senator from the State of Virginia. I am delighted to have him as a cosponsor. Senator SANFORD from North Carolina is also listed as a cosponsor.

AMENDMENT NO. 337

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for himself, Mr. WARNER, Mr. SANFORD, Mr. FORD, and Mr. BOND, proposes an amendment numbered 337.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ALLOCATION FORMULA STUDY.

The General Accounting Office in conjunction with the Bureau of Transportation Statistics created pursuant to section 115 of this Act, shall conduct a thorough study and recommend to the Congress within two years after the date of enactment a fair and equitable apportionment formula for the allocation of Federal-aid highway funds that best directs highway funds to the places of greatest need for highway maintenance and enhancement based on the extent of these highway systems, their present use, and increases in their use.

The results of this study shall be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994, and shall be considered by these committees as they reauthorize the surface transportation program in 1996.

Mr. SYMMS. There is no objection to the amendment on this side of the aisle.

Mr. FORD. Will the Senator yield? I would like to be added as a cosponsor, and I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I am delighted to have the distinguished Senator from Kentucky. I have discussed this with the manager of the bill for the majority. He advises me that it is acceptable.

Mr. SANFORD. Mr. President, I am pleased to join with my colleague from Texas, Mr. BENTSEN, in sending to the desk an amendment he and I have been working on over the course of the last few days.

As I have said many times on this floor over the past week, the current formula for the distribution of highway funds bears little relationship to the transportation needs being faced by many States, including those such as North Carolina. The formula contains factors that have been a part of this apportionment scheme since as far back as 1916, before significant automobile travel had even begun. It is high time that these irrelevant factors, such as land area and rural postal miles, be eliminated from the formula.

I had hoped that such factors would be changed before this bill reached the Senate this year. Indeed, I was encouraged by the work the General Accounting Office did in 1986 to develop a formula that more accurately distributes funds to where the needs really are. Unfortunately, the Committee on Environment and Public Works ignored those recommendations.

As such, I believe it is imperative that the Senate adopt this amendment. What the amendment does is two things: First, it requires the GAO, this time in conjunction with the Bureau of Transportation Statistics that is created by this bill, to do a complete and thorough study, and based on that study, to recommend a new formula that will fairly and equitably distribute highway funds to where the highway enhancement and maintenance needs are the greatest.

Second, it requires that the relevant congressional committees give due consideration to this recommended new formula before any further highway legislation is developed. I think it is crucial that we not go through the process we are currently engaging in ever again. It is imperative that we look anew at a new highway formula and I hope that use of GAO recommendations and the process spelled out in this amendment will be a way in which we arrive at a consensus as to what that formula should be and what factors should be included in it.

I urge my colleagues to support our amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 337) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

REGARDING FEASIBILITY STUDY AND COST ANALYSIS FOR ALTERNATIVE, FUTURISTIC MODES OF TRANSPORTATION IN YELLOWSTONE, YOSEMITE AND DENALI NATIONAL PARKS

• Mr. WALLOP. Mr. President, I would like to call my colleagues' attention to a very important provision of this highway bill, section 125, which I sponsored to authorize $300,000 for a feasibility/suitability study and cost analysis for alternative, futuristic modes of transportation in national parks.

It was my original intention to have this study focus on three national parks—Yellowstone, Yosemite, and Denali. I think the study would be more beneficial if it concentrated on the most heavily traveled parks with the least efficient forms of access. Yellowstone, Yosemite, and Denali certainly fall in that category. However, when the Senate Environment and Public Works Committee filed its report language on S. 1204, the Surface Transportation Efficiency Act, it failed to specify these three national parks. Because there is little likelihood that $300,000 will be sufficient to study the problems of mass transportation in all our national parks, I would respectfully ask the subcommittee chairman and ranking members of the committee if they would allow this study to focus on the three parks I originally referenced?

Those findings could then be used to explore broader solutions to exacerbated road conditions and congestion in the remainder of our parks system.

Mr. President, this study, to be done by the Secretary of Transportation in consultation with the Secretary of the Interior, has the strong backing of the National Park Service. As pointed out in its letter to me dated April 19, the Park Service has been concerned with the impact of automobiles on park resources for many years and is deeply interested in how to minimize these impacts while continuing to provide access to visitors. This study should consider the economic and technical feasibility, environmental effects, projected costs, benefits, and suitability of futuristic modes of transportation such as air trains, magnetic levitation trains, monorails or other modes of transportation capable of being constructed without the use of major roadways. Sources of private capital for the construction of such transportation modes and related infrastructure, providing greater ingress and egress to Yellowstone, Yosemite, and Denali should also be fully examined.

We are moving ahead to the 21st century. We would be remiss in our duties if we did not plan accordingly. If we are to preserve our natural resources and avoid imposing restrictions on ever-increasing visitor trends in our park system, we must avail ourselves of new concepts and opportunities which allow us greater freedom to move within their boundaries. I trust my colleagues will join me ensuring that three of our most fragile ecological wonders—Yellowstone, Yosemite, and Denali—survive the adoration being heaped upon them.

Mr. SYMMS. I agree and the Park Service should focus on these three parks.

Mr. MOYNIHAN. I concur. •

AMENDMENT NO. 338 TO AMENDMENT NO. 300

(Purpose: Technical amendment to amendment No. 300 as offered and adopted to S. 1204)

Mr. SYMMS. Mr. President, I ask unanimous consent to send an amendment to the desk, that it be in order to amendment 300, which is a conforming amendment of the previously adopted amendment by Senator DOLE and Senator BURNS; that it might be accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], Mr. DOLE (for himself, and Mr. BURNS), proposes an amendment numbered 338 to amendment 300.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amendment No. 300 is amended as follows: On line 12, after "custom harvesting" insert the following new phrase: "and to vehicles used to transport livestock feed,".

Mr. SYMMS. I ask unanimous consent that the amendment be considered adopted.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Will the Senator from Idaho kind of tell me what is going on? There are a lot of quiet things being done during this window.

Mr. SYMMS. We adopted an amendment earlier which dealt with licensing of farm vehicle drivers and so forth and it needs a technical amendment to correct an amendment.

Mr. FORD. I understand the technical amendment is to the farmers and off-highway use. I have no objection.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MOYNIHAN. Mr. President, I believe shortly the able and learned Senator from Minnesota will be seeking recognition with regard to a very important part of our bill, the President's proposal, having to do with the National Highway System."

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

AMENDMENT NO. 339

(Purpose: To provide for a National Highway System)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BREAUX, Mr. GRASSLEY, Mr. GORTON, Mr. BROWN, Mr. LUGAR, Mr. DOMENICI, Mr. SIMPSON, Mr. BAUCUS, and Mr. BURNS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself, Mr. BREAUX, Mr. GRASSLEY, Mr. GORTON, Mr. BROWN, Mr. LUGAR, Mr. DOMENICI, Mr. SIMPSON, Mr. BAUCUS, and Mr. BURNS, proposes an amendment numbered 339.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. TECHNICAL AND CONFORMING AMENDMENTS.

(a) On page 96, line 9, strike "intercontinental" and insert in lieu thereof "interconnected".

(b) On page 74, line 12, after the word "arterials" insert the words "and designated as a part of the interim or permanent National Highway System."

SEC. 2. NATIONAL HIGHWAY SYSTEM.

On page 96, at the end of section 130 add the following new paragraphs and designate subsections accordingly.

"(b) During the two-year period prior to the submission of the proposed National Highway System to Congress, the interim National Highway System shall consist of the Interstate System and such urban and rural principal arterials (including toll facilities) as designated by each State. Each State shall expend at least 17.5 percent of the amounts authorized by section 103(b)(1) of this Act for each of the fiscal years 1992 and 1993 on such interim National Highway System.

"(c) final National Highway System submitted to Congress by the Secretary shall be designated in accordance with guidelines issued by the Secretary which provide for equitable allocation of mileage among States. The final system shall be designated by each State in consultation with regional and local officials, with the approval of the Secretary. Ninety days after submission of the proposed National Highway System to Congress, each State shall expend at least 17.5 percent of the amounts authorized by section 103(b)(1) of this Act for each of the fiscal years 1994 through 1996 on the system so designated in the report to Congress or on such system as is modified by an Act of Congress. Amounts authorized by section 103(b)(1) of this Act do not include any amounts transferred to the Surface Transportation Program from the Interstate Maintenance Program, or any other program.

"(d) If a State certifies to the Secretary that apportionments required to be spent on the National Highway System pursuant to this section are in excess of amounts needed to adequately maintain the National Highway System routes within the State as determined by the Bridge Management System and Pavement Management System under section 135(a) of title 23, as amended by this Act, the State may transfer up to 20 percent of these amounts for any project eligible under the Surface Transportation Program."

Mr. DURENBERGER. Mr. President, I want to take a few minutes to explain the content and purpose of this amendment that I spoke earlier in the afternoon about, the rationale for a National Highway System. During the course of the time between those remarks and now, we have had an opportunity to discuss the appropriate content of this amendment, and I want to particularly thank the managers of the bill and other members of the Environment and Public Works Committee, particularly, the senior Senator from Montana, Senator BAUCUS, and others, for their help and final design of the amendment.

What the amendment does that is significant is that it designates, first, an interim National Highway System, which exists, of the current Interstate System which is shown on this map in black, 44,000 miles of highway in this country which carry about 22 percent of the highway travel in the country, plus the principal arterial system in the Nation; and the two of those in combination are about 185,000 miles of the National Highway System, carrying about 40 percent of our highway travel and about 75 percent of the goods that are shipped in interstate commerce in this country.

It begins with the designation of the interim National Highway System and provides a foundation funding—I must call it that, since we have compromised from our original recommendation that the amount of money committed during this period of time, which was originally proposed to be 30 percent of the surface transportation discretionary fund, is now 17.5 percent. So I will call it a foundation or a minimal funding. It also includes a provision that 20 percent of that money might be transferable within a particular State, given that particular State's needs. It also maintains, in addition, the full funding of the Interstate Maintenance Program, as originally provided in S. 1204.

Third, it allows all of the States of this country a greater role in designating a final National Highway System, which will come about 2 years after the enactment of this legislation.

It provides that each State, in consultation with local and regional officials, shall designate the National Highway System in conformity with guidelines set by the Secretary of Transportation and with the Secretary's final approval.

Finally, Mr. President, it provides for equitable allocation of mileage among the States and, particularly, addresses the concern that I spoke of earlier from the States with large land masses, but fewer population.

Mr. President, I want to leave my colleagues with five thoughts on why it is important that the Senate approve this amendment.

The first is that the Durenberger-Breaux amendment serves the national transportation purpose better than the Moynihan bill did in its original form. Interstate commerce, whether we are moving goods or people, simply means getting people from point A to point B. Some of that trip usually is on an interstate highway. But unless you are carrying something from a factory located at an entrance ramp to a retail outlet at an exit ramp, there is always a noninterstate portion of your trip. So supporting the noninterstate part of the system are all of the red lines on this map, in effect, the feeder system.

Why should a farmer or a small business person in Minnesota care about what kind of roads there are in Rhode Island, New York, or California? Simply because they have a right to expect that Minnesota goods, or commodities, or Minnesota families have an efficient way to arrive where they are sending their goods or where they are going on the east or west coast. If the system is not there to complete the trip from A to B, then it costs Minnesotans in transportation costs and inconvenience.

The second reason is that the feeder network today is where the problem is. President Eisenhower said we need to be free from the shackles of our secondary roads. Today we need to be freed from the bottlenecks preventing us from getting on the Interstate System that we are so proud of.

The most serious problem of the nineties is not congestion on the interstates; it is congestion getting to and from those interstates.

Third, funding the National Highway System is fairer to all taxpayers. People do not pay their Federal gasoline tax so that the Federal portion of their trip will go smoothly. People want to get themselves or their goods from point A to point B. It is the National Highway System that does that, not just the interstate.

As I have pointed out, the National Highway System moves 75 percent of the goods in America. People paying a national tax have a right to expect that the National System will do its job. The American taxpayer had a role in building all of these roads in the system—the arterial as much as the interstate—and they have an interest in maintaining that investment.

The fourth reason is that we are not imposing a difficult burden on the States of this country. The requirement in this case for 17.5 percent spending on the system is much less than what the States have spent over the last 5 years. All we are doing is establishing a floor for spending on the system below which we should not fall. The level we have chosen is below, substantially below, current spending. So this is not something the States cannot accommodate.

Fifth, and finally, Mr. President, we get the best system for the American people when we have direction with flexibility. It seems to me that the irony of this whole debate is that it has been the majority party which is calling for flexibility in a Federal program, and the Republican President who wants more central control. We all support flexibility, because it creates efficiency and responsiveness in government services. But it is our view that 50 good State plans do not add up to a National Transportation System. We need a National Highway System and the funds to back it up to do that.

Mr. President, in our view, a fully funded National Highway System is the linchpin in the Surface Transportation Efficiency Act of 1991. It would ensure that a minimal portion of the highway trust fund will be spent on the rehabilitation of those highways that are most critical to interstate travel and commerce.

I expect that the highway mileage designated by the States and the Secretary will reflect both a national purpose as well as individual State priorities.

We must dedicate a minimal amount of funds, Mr. President, to the National Highway System. We must aim to provide support for a balanced transportation system. The comparison of funding for the National Highway System to funds for mass transit misses a major point that is important to us all. The Federal Government's role in surface transportation is primarily to facilitate interstate commerce, that is, the movement of both people and goods between regions of the country. In other words, the roads outside our individual States are important to our constituents.

Interstate commerce is certainly affected by travel within regions of the country. Is there anyone here today who has not seen trucks caught in bumper-to-bumper traffic on urban highways or been in traffic with trucks? The Federal Government cannot lose sight of our primary mission, because the efficient movement of interstate commerce directly affects the way we live, and what we pay for goods moved by trucks.

Today the efficiency and productivity of our Nation's highway system is at stake. We cannot simply rely on the other body to provide the national view. It is imperative that the U.S. Senate not forfeit this opportunity to provide support for a balanced National Transportation System.

Mr. President, I recognize the difficulties associated with trying to reach an agreement that is amenable to all 50 States. I also recognize the concerns some Senators have expressed for their States. I believe the minimal funding of an existing map and the increase of miles should answer the concerns of those States and allow them to continue working with the Secretary to achieve a final product that achieves the national goal. In my view, S. 1204 needs this minor modification to become an excellent guidepost for the transportation infrastructure in the coming century.

Mr. President, the Federal purpose in transportation does not begin at the entrance ramp and end at the exit ramp to the interstate, and neither should the funding.

The gas-tax payers of the Nation deserve a National Highway System. It is our purpose to give them just that.

I urge my colleagues to support this amendment.

Mr. SYMMS. Mr. President, first I pay tribute to the Senator from Minnesota. He has worked at this on the committee consistently like a tenacious bulldog all year so that we would have a National Highway System in the highway bill, and his persistence and tenacity are noted. I appreciate them. His colleague, who no longer is on the committee, Senator BREAUX, also was very persistent with this committee to get this done.

I also thank my colleague from Montana on the committee for his differing viewpoint with the Senator from Minnesota because he provided a catalyst that made this amendment, I think, livable for a lot of the rest of us who are somewhere in the middle on this issue.

This is a very important issue to the President. I know they are having a celebration for the President tonight, but there is nothing that the Senator from Minnesota could have done that will make the President any happier than to find out that this amendment is going to be part of this bill. It will make Secretary Skinner very happy. It makes Dr. Larsen enormously happy. And the reason for it is that Dr. Larsen, who is a very noted and respected highway engineer, views this as a stepping stone to better efficiencies in a National Highway System.

The manager of the bill, the chairman of the subcommittee, Senator MOYNIHAN, deserves great commendation on this because he has persisted with the idea that if we can start into this thing and walk a little bit first before we try to run we will end up with a better National Highway System than just jumping in headlong with a massive amount of money and not quite knowing where we are going, and I compliment our colleague from New York for his contributions to this.

Throughout the whole thing, I believe that we have achieved a compromise that is very acceptable to this Senator. It has the framework of providing an excellent National Highway System which is consistent with the bill to improve transportation efficiencies, improve the movement of commercial goods and services, as well as people in this country, on our highway system, and I am happy that finally we have achieved the point where we are about to pass this amendment and have it behind us.

I yield the floor, and I compliment my colleagues.

Mr. MOYNIHAN. Mr. President, I rise to join with Senator SYMMS in expressing the gratitude which, I think, is owed by the Senate to the Senator from Minnesota. He has understood this issue from the first. And he has been patient with the committee, which voted out a measure that did not include the National Highway System. We did not because the system itself has not been specified.

There is now an existing principal arterial system which includes the Interstate and the other arterial roads of the Nation. They add up to some 184,871 miles—the administration hopes to bring that down to 150,000, with another 15,000 the Secretary could add at his discretion. We thought it would be best if we said to the Secretary could come to us in 2 years' time and tell us exactly what you want and then we will know what we are asked to deal with. But in the meantime the efforts that were associated with concentrating on the arterial might have been set back, and now we have a National Highway System.

We have thanks to the Senator from Minnesota but thanks also to the Senator from Montana, who has very strongly held views, informed views, representing his State. It certainly has the longest border with Canada of any State—probably the level of density, you know, typical of the high plains and they have different needs.

We have worked it out. The two of them worked it out. We are capable of reasoning together. As Lyndon Johnson used to say when he was trying to make you shut up and do exactly what he intended to be done and he called that reasoning, a reasonable man would do what he wanted to do or else God help.

Here we are. And may I say before closing that I agree that the President will think of this as a birthday present and probably appreciate Senator DURENBERGER's efforts.

And now if Senator DURENBERGER would just please come down, go down to the first floor of the Capitol, and get those 20-odd Senators who are now raging in disagreement over how to allocate an additional $8.2 billion, if he can get them to agree and come up here and move the amendment, move third reading, then the President really would have had a birthday present. But at least this is a good beginning and augers well perhaps of what is yet to come.

So, Mr. President, I certainly want to associate myself with this measure, and I think I understand that the Senator from Louisiana wishes to speak on the measure, and he is on the way.

That being the case, perhaps we could put in a quorum or perhaps the Senator wishes to extend his remarks.

Mr. DURENBERGER. If our colleague will yield, Mr. President, I express my appreciation to my colleagues, the authors of this measure, the Senator from New York and the Senator from Idaho, for their very kind compliments.

I know the Senator from Idaho was here earlier. But the Senator from New York was not when I complimented each of them on their accomplishments in this bill. I also indicated the pride I have in having served with them now for about 10 years in this committee and approved three bills and this is by far the one of which I will be the proudest.

Before he gets here, I really do need to say that without JOHN BREAUX, the Senator from Louisiana, this amendment and this bill would not have accomplished both the ends that the Senator from New York intended for it and the ends that those of us who made the amendment intended for it because it is his contribution that really brought in the States. I was prepared to offer an amendment that gave the Secretary of Transportation all the authority to do all of this, and it was he who reminded me of the genius of this new approach. The designation of highways, the discretion and the flexibility as well as the sense of direction that we give to the States in this country makes it very, very important that the States be the principal authors, if you will, of the system that we intend to approve 2 years from now as the National Highway System. And so it was really his contribution.

And also I must say as I said earlier, it is the majority party here that had flexibility where some of us, including the President, were those who were for centrality and purpose, but it was JOHN BREAUX, who was the first Democrat, the first Member of the majority party who recognized the value in this amendment, to sign on as the chief Democratic cosponsor. So it could not, as I am sure everyone acknowledges, have come to pass without his contributions as well.

I too am tempted to comment on my colleague's remarks that this is the most wonderful birthday present that we could give the President. I am not sure whether that elevates the status of what we are doing here to something beyond what I thought we were trying to accomplish. But, regardless, I know that the President does approve this measure and this particular amendment. I am given to believe that it is a very crucial part of what he wants to see in a final product, and I trust that having accommodated that and this approach, we might be more persuasive for the President to support what the Senate is doing.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is an amendment by the Senator from Minnesota [Mr. DURENBERGER], amendment No. 339.

Mr. BREAUX. Mr. President, I will not take too long, but I take the floor to comment on the amendment and to extend my thanks for the good courtesies of the distinguished ranking minority member, Senator SYMMS, and for his leadership on this highway program, this surface transportation program. Our work together goes back a long ways prior to our membership in the Senate. I think his good work in this area is really exhibited by the product before the Senate today, along with the distinguished chairman of the subcommittee who, while not on the floor at this time, the product of his work and his tireless effort in developing a national surface transportation program is certainly before the body; his visionary outlook on what the transportation needs of this country are, at a time when we need people with vision in order to put together a national transportation system that works nationwide, not just in one State but in all 50 States.

A lot of work needs to be done to ensure that Americans can move from coast to coast and State to State and within our States in a safe, quick, and efficient manner. Unfortunately, after all of these years, we still have not achieved that result, even from the days of the covered wagon to the days of the jet airplanes to the days of rapid rail transportation systems and the splendid Interstate System we have.

Much needs to be done. I would only say we are making progress, and this product certainly is an example of that.

Mr. President, I think all of us are concerned about something this amendment addresses tonight. There is not a Member among us who cannot point to problems their highway systems have between their State boundaries; the highways are breaking; bridges are falling down; they are unsafe in many sections of this country.

Numerous accidents and, subsequently, deaths and injuries unnecessarily are caused in America because of the condition of our interstates and major highway roads, and much needs to be done to correct that. The States have done a lot of work, a lot of good work.

But I am concerned by the information presented to us by the Congressional Research Service in their report to the Congress on maintaining these highways. It is pretty clear that the CRS report convinces me that we were right with our concerns that the roads were not being maintained. The CRS report in their summary talks about this concern by saying, "close examination of the spending"—that is, what the States are getting—"indicates that most Federal money is used for new construction or capital replacement rather than for maintenance, and this may conflict directly with congressional intent as expressed in various legislative reports."

I think it is very clear that is a fact and that is correct. We are not spending enough of the money that comes to the National Treasury to maintain, to repair, to reconstruct, to resurface, and to rebuild the highways of the Nation. And as a result of that, they are in deteriorating condition and getting worse.

It is incredibly important, as we embark on new modes of transportation and new ways of improving the transportation system with the magnetic levitation trains, with rapid transportation systems, with metro systems, that we also do not forget the $205 billion investment that this Nation has in concrete, in the highways, in the Interstate System, in the primary roads and secondary roads on which most people still commute.

The information I have is only about 2.5 to 3 percent of the people that do commute in this country do so by rapid transit. Most still have to rely on the highways which in fact are crumbling beneath our tires.

Therefore, Mr. President, I was concerned with the initial committee bill which came to this floor through the Environment and Public Works Committee which said that for the first time we were going to create a new category, Surface Transportation Program, in which we would put 50 percent of all of the money into that program. We would give the States ultimate and total flexibility on how to spend it. Fifty percent of the total money could be spent for mass transit; 50 percent of the money could be spent for rail systems; 50 percent could be spent for a magnetic levitation train system; and none of that 50 percent would have to be spent for maintenance of the system that is falling apart.

So, Mr. President, my colleague, Senator DURENBERGER, and I recognized this as a problem and therefore we worked with the committee members to try and construct something that would ensure at least a portion of this 50 percent, or half of the entire program, would be used for maintenance, would be used for rebuilding what is crumbling, would be used to maintain and if need be to resurface or to reconstruct an interstate or a Federal-aid highway.

Therefore the amendment now before the Chamber and this body in fact would reserve a small portion of the 50 percent for the States to use on the National Highway System.

I think, Mr. President, that is very important to note, that with that small percent we are talking about probably only $21.9 billion of the total amount of $105 billion authorized by the bill will be spent on maintaining and resurfacing this $205 billion investment that is out there in the United States.

What we have pursued in this legislation and through this amendment is to say that the States should be involved in coming up with this new highway system that we are going to be working with for the next several years. They should do it in consultation with regional and local interests in their State, but they also should do it with the approval of the Secretary of Transportation.

Some have objected to that concept. Mr. President, we are talking about a Federal-aid highway system. We are not talking about a Louisiana highway system. We are talking about a national transportation system that connects all 50 States. No one State should be able to decide how and where, in and of themselves, they want to participate in a national system. No State by itself decides what type of clean air bill they are going to have. No State decides in and of itself what type of clean water bill they are going to have. And, therefore, no State unilaterally should decide what type of national transportation system the rest of the Nation is going to have.

It is a cooperative, a Federal-State system, to build a national transportation system.

Indeed, there is nothing wrong with the Secretary of Transportation being in on the process. In fact, it would be wrong if he or she were not in on developing that system. This amendment would require that, as the States recommend this new system to the Congress, that it should be in consultation with and with the approval of the Secretary of Transportation.

One of our colleagues from the other side of the aisle who made a very good point—Senator CHAFEE—in floor discussions, privately was telling me that he understood one of the reasons why the Secretary of Transportation should be involved in approving a State's recommendation.

Suppose my State of Louisiana wanted to build a north-south road running up the eastern side of my State and our neighboring State to the north, Arkansas, wanted to run it down the western side of their State. So we would have two interstate systems being built that would not connect without somebody saying: No; we perhaps should make them connect and maybe put it in the middle or put it on the right. But, let us get together and have a national highway that you do not have to get off of at the border of Louisiana and Arkansas and go down a dirt road and connect it again and get back on this so-called Interstate System.

It makes good sense to me. I think it is good government. I think it is reflective of the system we operate under. It is part of our amendment, and I think the Senator from Minnesota [Mr. DURENBERGER] did an outstanding job in crafting and working with the Members on his side to get them to accept the concept, working with Members also on our side, to come up with an improvement to the legislation.

We are not going to mandate all the roads be repaired. But I think we are going to go a long way toward ensuring this money. And bear in mind, it is from people who drive on highways. That is where it is coming from: People who drive cars and trucks, large and small, vans; people who pay a gas tax. Their money is being used to maintain this transit system.

No one argues that some of it should not be used for mass transit, but no one argues none of it should be used for maintaining the roads. This gives us a requirement, small as it may be, this in fact will be done.

So, with the cooperation of the good ranking chairman of the committee, without whose agreement this could not be reached—and I understand his view of a transportation system—I know this bill would not be as effective as ultimately it may be.

We have to think beyond concrete; we have to think beyond just cement. I think the chairman of the subcommittee, the Senator from New York, has brought that to our attention in a way only he is capable of doing before this body.

I think we have a good compromise. I enjoyed working with my colleague, Senator DURENBERGER. At the appropriate time he would want to urge its adoption. And I enthusiastically support the compromise.

Mr. DURENBERGER. Mr. President, I intend to urge the adoption of the amendment, but I want to pay special compliments to two people who carried the largest part of the load on this amendment over the week or so that we have been here on the floor, in one way or another, in advance of that, as well. And that is Sue Pihlstrom, from my staff, and Marcia Jones on JOHN BREAUX'S staff.

They did a lot of the work of educating everybody in the body on the subject, and did all of the work that was necessary to coordinate this with the administration.

I am certainly grateful to them.

Mr. President, I urge the adoption of the Durenberger-Breaux amendment.

Mr. BAUCUS. Mr. President, I rise today, in a spirit of compromise, to support the amendment offered by the Senator from Minnesota.

It is no secret I would prefer a highway bill without any mention of a National Highway System. In the committee report, Senator REID and I filed supplemental views commending the committee leadership for omitting a National Highway System from the legislation reported to the floor.

As initially drafted by the administration, this proposal would devastate my home State of Montana.

Also, I am not alone in believing a vast National Highway System would be environmentally destructive. It would reduce the flexibility S. 1204 allows the States to increase mass transit spending in heavily polluted areas. And this flexibility is truly the hallmark of S. 1204.

Yet I also realize the administration and many Members of this body believe strongly in the National Highway System concept. So, in the best tradition of this institution, we got together and worked out a compromise we could all live with.

This is far from the National Highway System Administration initially proposed:

The State would be required to spend only 17.5 percent of its total surface transportation funds on the National Highway System;

The initial National Highway System will be selected by the States from our existing network of interstate and principal arterial roads;

After 2 years, in close consultation with the States, the administration would select those roads designated for the National Highway System from our existing network of interstate and principal arterial roads; and

Each State would enjoy 20-percent flexibility to move funds away from the National Highway System, if that State certified the maintenance needs of its National Highway System roads are adequately met.

This all adds up to a balanced, carefully crafted compromise; a compromise that will work well for Montana and every other State in the Union. I firmly believe the Senate must hold the line against any attempt to expand this position at conference.

In closing, Mr. President, I want to thank the committee and subcommittee leadership for their role in working out this compromise. In addition, I commend the Senator from Minnesota [Mr. DURENBURGER] and the Senator from Louisiana [Mr. BREAUX] for their calm and reasonable approach to what could have been a difficult floor fight.

The PRESIDING OFFICER. There being no objection—is there further debate?

Mr. MOYNIHAN. Mr. President, can we have a voice vote?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 339) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 340

Mr. DURENBERGER. Mr. President, I send an amendment entitled the Durenberger safety amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The Durenberger amendment will be reported.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 340.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 23, insert after section 402 "; section 152, except repavement;"

On page 102, line 4, strike line 4 and renumber accordingly.

On page 110, line 11, insert: (19) Section 152 is amended by striking subsections (d) and (e) and by renumbering the remaining sections accordingly.

Mr. DURENBERGER. The only rationale for the Federal Government to be involved in the transportation decisions of the States is to pursue national purposes. Otherwise, there is no reason for us to bring gas tax revenues all the way to Washington and send them back.

There can be no more important national purpose than protecting public safety. I believe the package before us takes a backward step in safety, and unless we change it, we will be sending exactly the wrong signal to the States: That the Federal Government thinks our roads are safe enough.

By repealing the Hazard Elimination Program, discontinuing categorical spending, and reducing the Federal share for safety projects, we send the message that the status quo is OK.

In my opinion, we fall short of our goal to ensure safe roads to the driving population. If our hope is to have safe roads, we need to better articulate that concern. We cannot guarantee drivers will not have accidents, but we should do everything we can to assure the drivers do not suffer unnecessary death and injury because of hazardous situations that could have been located and repaired.

In my involvement with health care issues, I have seen the long term care cost associated with young people being severely injured in such accidents. Not only is the cost reflected in outright care costs, but also in lost productivity of the person and the major care-giver, which typically is a family member. That does not begin to measure the cost of broken lives and human suffering.

We need to be sure we send the message to the States that safe roads are not an option; they are required. And that is the reason for my amendment. Safety is the last place we want to be unclear or to economize. A vital national purpose is at stake. So are thousands of lives.

I ask my colleagues to support this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, this is a worthy amendment, one in a long sequence which the Senator from Minnesota has offered in this area. On our side we are happy to support it.

Mr. SYMMS. We support the amendment, also.

The PRESIDING OFFICER [Mr. KOHL]. Is there further debate on the amendment?

Mr. DURENBERGER. I urge the adoption of the amendment.

Mr. BRYAN. Can I request an explanation of the amendment? I do not quarrel with the basic proposition that safety ought to be of paramount concern, but I confess I did not understand the full purpose for which the amendment is offered.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, let the record show that I have explained the purpose of the amendment, and I might as well explain it to all my colleagues in case others were not as thoughtful as the Senator from Nevada to be here.

The amendment retains the Hazard Elimination Program. Identical to current law, the States would continue to maintain surveys of all public roads to identify hazardous locations or elements which may constitute a danger to motorists and pedestrians, assign priorities for their correction, and establish and implement a schedule of projects for their improvement.

Second, the amendment proposes to make the Hazard Elimination Program eligible under the safety belt and motorcycle helmet provision's highway safety programs. Currently, S. 1204 includes only section 402 highway safety programs and section 130 rail-highway grade crossings.

With that explanation, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 340) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, once again thanks to the Senators from Minnesota and Louisiana for their very fine work.

This brings us, Mr. President, to perhaps the close or near close of the substantive provisions of the bill. We can only hope that the negotiations over supplemental funding will come to some conclusion.

In the meantime, we have a few not unimportant amendments which I would like to offer.

AMENDMENT NO. 341

Mr. MOYNIHAN. Mr. President, on behalf of Senator DOMENICI, I have a measure that would allow States to fund nonmetropolitan planning groups with 0.5 percent of funds available. These are rural areas, Indian regions. It is entirely agreeable to the managers. It is optional funding. It is State money. If they think this is best done, we think it ought to be done. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. DOMENICI, proposes an amendment numbered 341.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 1204 is amended by adding at the end of section 115 entitled "Research and Data Collection", the following new subsection:

"(e) Section 307 of title 23, United States Code, is amended by inserting new paragraph (2) to read as follows:

"(2) In addition to the percentage provided in paragraph (1) of this subsection, not to exceed one-half of one per centum of sums apportioned under sections 104 and 144 shall be available for expenditure upon request of the State Highway Department to rural planning organizations designated by the State as being responsible for assisting the State in carrying out the provisions of section 135 of this title.

Mr. MOYNIHAN. Mr. President, this is a straightforward amendment that allows States, at their option, to use planning money in nonmetropolitan areas where they have sufficient purpose to satisfy themselves.

Mr. SYMMS. We have no objection to the amendment.

Mr. MOYNIHAN. I believe there is no ojection on either side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 341) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 342

(Purpose: To exclude areas non-contiguous with the continental United States from certain provisions)

Mr. MOYNIHAN. Mr. President, on behalf of the senior Senator from Hawaii, our beloved Senator INOUYE, I send an amendment to the desk, the purpose of which would exempt the noncontiguous States from the requirement that 75 percent of Surface Transportation Program funds be distributed according to population. This, again, is a matter that, in certain specific States, provisions of the bill do not accommodate to the needs of these States. The purpose of the amendment is to let the States function most effectively.

I ask unanimous consent that the pending amendment be set aside, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. INOUYE, proposes an amendment numbered 342.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 10, strike out the semicolon and "or".

On page 16 strike out lines 11 and 12.

On page 18, between lines 2 and 3, insert the following new subparagraph:

"(C) The requirements of subparagraph (A) shall not apply to any State which is noncontiguous with the continental United States.".

Mr. SYMMS. We support the amendment on this side.

Mr. MOYNIHAN. As we do on this side. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 342) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, there does not appear to be any Senator to offer amendments. To the best of my knowledge, the remainder of the amendment process is near its conclusion, and we wait only word of agreement on supplemental funding. How soon that will be, we do not know. We are in a period set aside for the President's celebration. It is to extend until 9:30. I do not know that there is any need to stand in recess. I think I will simply suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, part B of the pending legislation creates a dedicated, consistent source of funds for helping States provide and maintain recreational trails.

The National Recreational Trails Fund Act should serve two key purposes: First, it will give States some much needed funds with which to provide Americans with recreational trail opportunities, closer to their homes, and second, it should encourage a spirit of cooperation among diverse trail users while also making funds available to provide for innovative trail sharing experiences.

In this day and age of reduced resources but increasing demand for recreation, we must be sure to get the biggest recreational bang for every dollar spent. This can be done, in part, by promoting trails which accommodate as many diverse trail uses as possible. Just because one person rides, while another hikes, doesn't mean that they cannot share the same trail. Jeanette Fitzwilliams, a member of the board of both the American Hiking Society, and the Rails-to-Trails Conservancy, recounts an incident when hiking one time, when she looked up the trail and saw an all-terrain vehicle rider coming down the trail. The rider also saw her, and stopped to let her pass. The two exchanged pleasantries and went on their way. Ms. Fitzwilliams was favorably impressed with the rider, and later wrote concerning the need for funding diversified-use trails:

> It is no longer possible for every type of user to have a trail for his exclusive use. All types of users are entitled to trails. The challenge is not only to see to it that the terrain is suitable to the use, but to develop understanding and cooperation among all users, something that is targeted by the Recreational Trails Fund Act.

I might mention that, in Idaho, horseback riders and hikers have coexisted on certain trails in the Sawtooths for over a half century now without a single reported accident or mishap. The key to compatible trail use seems to be courtesy more than anything else. If, through trail-use education, we can promote more of this kind of user-to-user courtesy, it may be possible to meet the recreational demands of two trails, using funds economically on just one trail.

Through new and improved recreational trails, we can reduce the tensions which have developed when more Americans than ever before have sought to use trails in increasingly diverse ways. The improved trail system plus increased communications prompted by representative trail advisory committees at the Federal and State levels should increase the quality and the quantity of opportunities for all trail activities. These advisory committees are structured to function by concensus as much as possible. In order for a State to remain eligible for fund moneys after 3 years, a trail-user advisory committee must exist within the State. Many such committees already exist, and it is not anticipated that duplicate committee structures would be necessary to satisfy the eligibility requirement as long as the complete diversity of trail use within the State, including equestrian, motorized and nonmotorized recreational trail users are represented. If for some reason an existing committee is not representative of such diverse trail interests, its membership may need to be altered to do so.

It should be noted, Mr. President, that this bill adheres to the general user-fee structure of the highway trust fund. It does not rely on the revenues paid in by highway users, but rather, earmarks only those revenues paid by recreational trail users. For instance, the average snowmobiler now pays $11.25 annually into the highway trust fund in fuel taxes used in his or her sport, and yet receives absolutely no benefits, since snowmobile use on highways is typically neither desirable nor permitted. With most all-terrain vehicles, the same is true. By including part B in this act, we are more perfectly applying the user-fee concept to the Federal fuel taxes paid in association with these fuel uses.

It is not the intent of this legislation, Mr. President, to create additional trail administration bureaucracy. In fact, as purely a funding mechanism, the Trails Fund Act seeks to avoid inserting itself into the middle of already existing trail planning and maintenance structures. Maximum flexibility is left with the States, the Governor in particular, to determine which State agency is best qualified to administer the fund with the least overlap and duplication with current grant administration. In many cases, State agencies which already administer land and water conservation funds are fully equipped to handle Trails Fund Act moneys as well. In other cases, another agency may be more practicable. For instance, the Wallop-Breaux fund enjoys enthusiastic support from both the angling and boating communities because of it focus on cooperation between administering agencies and enthusiast groups who participate in project design and selection as well as in project implementation through volunteered labor and moneys.

The Trails Fund Act, true to the form of the underlying highway bill, tries to minimize Federal intervention in State trail planning and fund administration, allowing the moneys to be used and administered through the mechanism that makes the most sense in that State.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise simply to say that the hour of 9:30 has come and passed now and we are out of the window that had been created for the persons attending the President's occasion this evening.

If there are Senators who have amendments of which I am not aware, any that we have not reached agreement on—there is one that Senator DOMENICI will come forward with shortly and that is a good amendment and has been agreed on or will be. If there are other Senators who have concerns, we wish we could hear from them. As far as we know, we are at the end of the substantive matters dealing with our bill.

One of them is a provision in the bill that provides $750 million for a magnetic levitation project to be built somewhere in the United States through competition between States or localities, or combinations thereof, to be awarded by the Secretary of Transportation. This will be the first time that we have proceeded directly to the development of a technology that was invented in the United States. Two American physicists working at the Brookhaven National Laboratories in eastern Long Island patented this quite extraordinary proposal in 1964.

Magnetic levitation is a new mode of transportation, never before conceived. It works on the principle that magnets both attract and repel and affect a train-like vehicle which floats in a trough and moves on air being elevated by magnetic fields and moves forward by those magnetic fields. It is almost certainly going to have a major role in 21st century transportation technology.

It has the great feature of being frictionless and, therefore, the energy efficiencies are very considerable with the advent of techniques for the transmission of power at very highly efficient levels—again a new technology. We look forward to real events of this kind.

It is very much characteristic, however, that this technology, this science—well, let us call it technology—the science of mechansim I suppose it is understood having been invented here. The first development took place abroad both in Japan and in West Germany. And now German Government-sponsored agencies have put in large development efforts—and you have developmental tracks where full-scale models run repeatedly. It is quite an astonishing experience.

This technology moves efficiently, at about 240 miles an hour, easily moves at 300, which is more than the effective rate of movement of airplanes, in innercity transport right now. Its most effective use is intercity routes where the airspace does not admit to much more traffic.

Alternately, as within cities, you have an instant communication, a 4-minute trip from Union Station, just off Capitol Hill, to Dulles Airport makes it entirely feasible. It is being done now in Japan where a farebox mag-lev system will be in place. It is being built right now in an actual working commuter railroad or commuter mag-lev.

We do not have yet a proper name for this, but we will no doubt work one out.

It is troubling that for the first time since the development of the railroad—which did develop in England, in what is now Belgium, and developed there before it appeared here. Since that time all major innovations in transportation technology have originated in the United States or appeared here simultaneously with the development elsewhere.

The steamboat, Mr. Fulton's *Clermont*, appears as the first steam transportation of a waterborne transportation in the world; the Hudson River.

The automobile was well advanced in this country by the 1890's and mass production first appeared here in the first decade of the 20th century.

The airplane was being developed in Europe but the first flight was the Wright Brothers in South Carolina. The jet engine was a British development, but it was in the situation of World War II the first jet planes were made here.

We have been at the very edge of or the leading edge of development in transportation technology for two centuries. And now we face the prospect of moving back. Others are moving into technologies we may have invented but we have not developed. Others are moving to the refinement of technologies already well in place but for which there are new, wider limits being discovered.

The fast trains that have been developed in Germany and France and Italy, earlier in Japan, they have no equivalent here. We are doing well in the Amtrak corridor from Washington to Boston, still basically with a much earlier technology. We do not see enormous changes in a century.

In 1895, in the East Albany yards of the New York Central Railroad, Engine 999 was built, which later that year, as part of the Empire State Express between Batavia, NY, and Buffalo, reached 111.5 miles per hour, the fastest man had ever traveled on Earth. You can work on that machine, and it has been worked up to 160 miles. Better, but not fundamentally different.

Yet still those new trains are that much more efficient and are in use all over Europe, all over Japan. Not here. And this new technology is not yet in place as a working transportation system anywhere.

It is not too late for us to do it best first. Not first. That no longer is possible. But best first, or first best, at some level of economic competitiveness. We have the engineering. We have the advantage of the work that has been done in Europe and in Japan.

Our engineers would now be working on the third generation of this technology of these component parts with the advantage of what has been learned from the development that has taken place in Europe and in Japan.

But yet with it, this is an opportunity to start leading again. Not every technology, because it is fascinating, is necessarily effective.

I think of the supersonic air transport. The development of the supersonic plane, like all major passenger planes in the United States in the last 50 years, was developed first by the Defense Department. It had military usage. All our large, wide-bodied jets and so forth were developed as transport planes for the military. And the time came when they had developed a supersonic plane. Its features were great speed, but its limitations were very small capacity. And in the end the Defense Department, Pentagon you might say, made the judgment it was well and good to get troops anywhere in the world in 4 hours but if only 100 of them were on board when you arrived, maybe sacrifice time for quantity, and in the early 1960's the Pentagon decided not to go forward with military development.

The question then was: Should there be civilian development? Vice President Johnson was then chairman of the Space Committee under President Kennedy and we entered into a long period of very intensive discussions.

The then Secretary of the Air Force, later Secretary of Defense, was our technical adviser, you might say. The Secretary of Labor was a member of the committee. I would occasionally represent him at the meetings of the group, which President Johnson attended with great care and concern.

In the end, the decision was made here in Congress not to go forward, as much on environmental ground as any others; the fear of what would be the effects on, well, goose eggs in the Arctics of polar flights.

The British and the French went ahead anyway. The Concorde developed. A technical marvel, but not an efficient form of transportation. I do not think they have been successful. I think none are being built any longer. I do not speak with certainty of that. But they are not the characteristic mode of flight today. They are a very special niche some people find useful, but in the main too expensive, too limited in the load.

The airbus is the more characteristic and more effective mode of transportation.

So we did not lose from having decided not to develop a supersonic commercial airplane. But we were in a position to choose.

That is the difference between then and now. We had the technology. We made the judgment not to use it. That is a perfectly good and proper assessment of cost and benefits.

But as for mag-lev, as for high speed trains, we do not have those options because we have not developed the technology.

This provision in this bill moves us in that direction. We can say with confidence this will be done. I think Americans will be interested. I know States and cities will compete. I know the Presiding Officer's own State is interested in this, as are many. And out of this first beginning we may go on to yet more impressive events.

In that regard, we are very much in the debt of the Senator from South Carolina, the junior Senator, Mr. HOLLINGS, whose Committee on Commerce has jurisdiction in these matters, which the Committee on Environment and Public Works shares. And in that respect we have decided that when we go to conference with this legislation the Commerce Committee should appoint conferees for this section of the bill.

MAG-LEV

Mr. HOLLINGS. Mr. President, I would like to take this opportunity to enter into a colloquy with the manager of the bill, Senator Moynihan for the purpose of discussing the bill's approach to mag-lev technology development.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Thank you, Mr. President. I was prepared to offer an amendment to the highway bill to further the development of mag-lev and high-speed rail technology. As the Senator knows, the Commerce Committee has a jurisdictional interest in this area. Though, in many respects I agree with the intent of his measure, I have reservations about committing $750 million for mag-lev during this reauthorization cycle. In lieu of offering a counterproposal on this issue, I would ask for a commitment from the Senator to work toward a comprehensive solution on this issue with the relevant Congressional committees in conference. Additionally, I think it appropriate that members of the Commerce committee be appointed as conferees on this matter.

Mr. MOYNIHAN. I thank the chairman of the Commerce Committee, Senator Hollings, and I appreciate his willingness to withhold his amendment on this issue in order to move forward with consideration of this bill. I have no objection to the appointment of such conferees and welcome the opportunity to work with him and other interested Members toward a comprehensive measure to further the development of mag-lev technology.

MAG-LEV AND HIGH-SPEED RAIL

Mr. EXON. Mr. President, any long term solution to our transportation problems needs to include a comprehensive Federal policy for the development of high-speed rail and magnetic levitation transportation [mag-lev].

First of all, I want to commend both Senators HOLLINGS and MOYNIHAN for their tremendous interest in, and efforts to promote mag-lev development in this country. To date, several ongoing efforts have been initiated to facilitate the development of mag-lev technology. In 1988, the Federal Railroad Safety Act of 1970 was amended to enable the Federal Railroad Administration to initiate research on the safety of high-speed systems. More recently, the national mag-lev initiative was established to conduct research on mag-lev technology development and the feasibility of its commercial development. A part of this effort by the Department of Transportation and the Army Corps of Engineers includes working together to determine what role mag-lev technology will play in our future transportation network.

Mr. President, one of the goals of the Commerce Committee for the 102d Congress was to work with other interested congressional committees to develop and approve during this Congress a comprehensive bill to further steel-on-wheel high-speed rail and mag-lev technology and development. Earlier this week, a symposium was held for pertinent committee staff to discuss a number of issues, including the benefits of developing an American based technology versus purchasing existing technology, the role of high-speed ground transportation in our energy and transportation policies, and options for financing high-speed ground transportation projects.

Mr. President, the process of developing concensus legislation in this area has not yet been achieved, however, currently there is a provision in the highway bill which calls for $750 million to be spent out of the highway trust fund over the next 5 years for mag-lev development. I have concerns about this level of funding as well as such a significant amount of funding being allocated for mag-lev, to the exclusion of high-speed steel-on-wheel options.

While many members of the Commerce Committee are concerned about the level of funding in your bill, we are equally concerned with the jurisdictional issues. However, I feel confidant that the agreement reached between Senators HOLLINGS and MOYNIHAN to address these concerns will serve the desired goals of all interested parties and lead us forward as we pave the way for these transportation technologies.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is it necessary, if the Senator from New Mexico has an amendment that is acceptable to the manager, that I set aside the pending amendment?

The PRESIDING OFFICER. It is.

Mr. DOMENICI. I ask unanimous consent that the pending amendment be temporarily set aside for the purpose of offering an amendment which the managers are aware of.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 343

(Purpose: To provide funding for Indian Reservation Roads)

Mr. DOMENICI. Mr. President, I send an amendment to the desk for myself and Senator INOUYE, the chairman of the Committee on Indian Affairs, Senators MCCAIN, SIMON, BINGAMAN, DECONCINI, DASCHLE, MURKOWSKI, WELLSTONE, and CONRAD, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. BINGAMAN, Mr. DECONCINI, Mr. DASCHLE, Mr. MURKOWSKI, Mr. WELLSTONE, and Mr. CONRAD, proposes an amendment numbered 343.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 4, delete "$2,370,000,000" and insert in lieu thereof: "$2,320,000,000".

On page 5, line 5, delete "$2,460,000,000" and insert in lieu thereof: "$2,410,000,000".

On page 5, line 6, delete "$2,600,000,000" and insert in lieu thereof: "$2,550,000,000".

On page 5, line 7, delete "$2,840,000,000" and insert in lieu thereof: "$2,790,000,000".

On page 5, line 8, delete "$3,050,000,000" and insert in lieu thereof: "$3,000,000,000".

On page 6, line 11, delete "$150,000,000" and insert in lieu thereof: "$200,000,000".

On page 37, at the end of section 111, add a new subsection "(d)":

"(d) INDIAN RESERVATION ROADS PLANNING.—

Two percent of funds allocated for Indian reservation roads shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or Metropolitan Planning Organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary."

Mr. DOMENICI. Mr. President, this amendment is an Indian reservation road amendment. I want to first thank the distinguished Senator from New York, the chairman of the subcommittee which produced the bill that is here on the floor, because the bill has $150 million a year for the next 5 years for Indian roads in the United States. And the amendment which I sent to the desk will make that $150 million, $200 million. And the distinguished Senator from New York has concurred and agrees to accept the amendment.

Why do I thank the Senator from New York? Because, essentially, even if the Senator from New Mexico had not sought additional money, the Indian people of the United States would have been in the debt of the distinguished Senator from New York because he had added $70 million to the annual allocation to the Indian road system of the United States. It had been $80 million for the last 5 years. Incidentally, prior thereto, it had been little or nothing, such that the 20,000 miles of Indian roads in the United States are without a doubt the worst 20,000 miles under any unit of Government's jurisdiction in the United States.

The surveys would indicate that the Indian people are traveling on nonroads, for the most part. Very few of them are up to any kind of standard that we would travel on. Yet the Indian people paid gasoline taxes, they have trucks and cars, and all the other kinds of things that we have. And we seek for them a better life.

In some cases, we say let us have economic development and some prosperity on Indian land for the Indian people. We all admit without roads there would not be any prosperity for any of us, and how can we expect them to have economic prosperity and development when they have hardly any roads to travel on?

What we are doing tonight is we are saying we are going to set aside $200 million a year. We are taking it out of the bridge fund so it will not affect the allocation formulas that are being debated and discussed and worked on by various Senators.

This $200 million did not just come out of the sky. As a matter of fact, the Bureau of Indian Affairs has, for a long time, been evaluating the road system. They recommended $225 million a year for the next 5 years for Indian roads. When we go from $80 million to $200 million, it is a great victory for the Indian people of our country.

I thank all those Senators who are cosponsors. In particular, Senator INOUYE, who is the chairman of the committee. I serve with him on that committee, the Committee on Indian Affairs. Because obviously he has been doing a lot for the Indian people. He does not have any resources; he does not have any money. Tonight we are taking a giant step in the direction of giving them, the Indian people, a chance to have some real roads, some real contacts, some real avenues of economic prosperity and development with this amendment, which I hope we will adopt and then the House will go along with, because we must do at least this much for the Indian people, or they will be going backward, not forward.

Frankly, the needs survey that outlines the inadequacy of this system, rating the condition of these roads, found that only 11 percent of the paved roads and none of the unpaved roads were in good condition. Conversely, 53 percent of the paved roads and a staggering 90 percent of the unpaved roads were rated as poor.

That is in the 20,000 miles—some of which are more like trails—of roadway that are in Indian Country, U.S.A.

To summarize, I rise to offer an amendment on behalf of myself and the distinguished chairman of the Select Committee on Indian Affairs, Mr. INOUYE, along with Senators MCCAIN, SIMON, BINGAMAN, DECONCINI, DASCHLE, MURKOWSKI, and WELLSTONE.

Mr. President, this amendment addresses a funding deficit that has existed for much too long. The problem to which I refer is the inadequate level of funding that has been provided to address the road needs of the Indian people of this country.

The amendment we are offering is quite simple. It strives to finally provide the Indian people with the necessary level of funding to upgrade their deteriorating and inadequate road system. The amendment raises the $150 million per year provided under the Moynihan bill to $200 million per year.

The level of funding contained in this amendment is based on a survey that was performed to determine the needs of the Indian people. The part of the Indian reservation roads system [IRR] that was examined in this survey is comprised of about 20,000 miles of roadway under the jurisdiction of the Bureau of Indian Affairs.

This needs survey outlines the inadequacy of this system. In rating the condition of these roads, it found that only 11 percent of the paved roads and none of the unpaved roads were in good condition. Conversely, 53 percent of the paved roads and a staggering 90 percent of the unpaved roads were rated as poor.

The needs survey explains that this problem has been developing over the past 60 years because funding for Indian roads has been woefully inadequate.

The amendment does one further thing. It provides a set-aside of 2 percent for those tribal governments that wish to engage in transportation planning. As more tribal governments establish strong highway departments, it is imperative that we provide the necessary funds to allow them to engage in credible transportation planning. The set aside is only available to those tribes that wish to engage in this activity.

Mr. President. It is time to correct this situation. Therefore, I urge the Senate to provide the funding that the Indian people have deserved for so very long.

I ask unanimous consent that a resolution from the Western Nation of the Navajo Nation regarding their needs on roadways be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas: 1. The Agency Roads Committee of the Western Navajo Agency is a recognized Local government body by the Navajo Nation Council, and designated to consider and make recommendations to appropriate entities regarding roads needs and related matters, and

2. The Agency Roads Committee has been informed that a proposed Senate Bill 515 will be introduced to both Houses of Congress for consideration, and

3. This Senate Bill 515 is in the best interests of roads development within the Indian Country, which has for many years been underfunded and caused continuously acute growth in economic and other essential amenities within the Indian communities. Now therefore be it

Resolved That: 1. The Agency Roads Committee of the Western Navajo Agency do hereby strongly support and urges all members of Congress to positively consider this Senate Bill 515 which will provision and increase in funding of $80 million to $225 million per year for road development within Indian Country.

2. This funding increase will be a historical event for the Indian communities because it has been long overdue and it is without a doubt in the best interest of the Native Americans communities.

The PRESIDING OFFICER. Is there further debate? The Chair recognizes the Senator from North Dakota.

Mr. CONRAD. I rise to commend my colleagues from New Mexico for sponsoring this amendment. I am proud to join him as a cosponsor. But I would also commend the chairman of the subcommittee, the distinguished Senator from New York, for his understanding in this matter.

Let me say, I have four reservations in my State. They are in the worst economic shape of any area in my State. We have unemployment levels that are up to 80 percent. The economic hardship could not be overstated.

One element of that hardship is the fact that the roads in Indian country are in abysmal condition; absolutely abysmal condition. They are in that condition because there is not the source of revenue, there is not the source of funding necessary to make those roads decent and effective, and as a result, the whole economic infrastructure of Indian country suffers.

So I conclude by again commending the distinguished Senator from New Mexico. What he is doing is precisely what is required. It is supported by the evidence. It is supported by the studies.

I again thank the Senator from New York, the distinguished chairman of the subcommittee, for supporting us in this effort.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, when I thanked my friend, the distinguished chairman, Senator MOYNIHAN from New York, I did not see the ranking Republican on the floor. He is here now: Senator SYMMS from Idaho. I want to thank him, also, with reference to raising the allocation for Indian roads in the bill that is pending, that is at the desk, from what it was before to the $150 million, which we have now raised to $200 million with the Domenici amendment.

But I think Senator SYMMS, too, joined in a committee work in raising that Indian allocation. I thank him for that.

Mr. MOYNIHAN. Mr. President, I accept the very pleasant remarks on behalf of both of us, although Senator SYMMS will speak for himself, and do very well. But I thank Senators DOMENICI and CONRAD. And to make the point this bill is a bipartisan bill, I referred to my colleague here as my comanager. This bill came out of my committee 15 to 1. We have a committee that works that way, and we are very happy to accept this amendment. I know the Senator will wish to urge it.

Mr. SYMMS. Mr. President, I say to my colleague, Senator MOYNIHAN, it is nice for me, once, to be in the 15, also.

I, too, want to thank Senator DOMENICI for his kind words. I add to that if Senators who come from those Government-owned States in the West inspect this bill, I think they will see the committee very carefully looked at those formulas to protect those States that have land-in-holdings that are held by the Federal Government, and tried to make a very equitable rationing of that money.

I appreciate the great interest the Senator from New York has had, and his understanding of these different, unique problems different States have.

I have no objection to the amendment, and I support the amendment. I thank Senator DOMENICI for bringing it here.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Hawaii.

Mr. INOUYE. On behalf of the Select Committee on Indian Affairs, Mr. President, I wish to first commend my colleague from New Mexico for his leadership, and to thank Senator SYMMS and Senator MOYNIHAN for their sensitive consideration of this measure.

The PRESIDING OFFICER. Is there further debate? If not the question is on agreeing to the amendment.

The amendment (No. 343) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, we are considering this week a surface transportation reauthorization proposal which is historic. This bill is designed to serve the transportation needs of our country as we move beyond the interstate construction era. In doing so, it will contribute to our Nation's economic growth and competitiveness by raising the level of public investment in our future.

The bill reflects the unanimous belief that the Federal Government should increase its commitment to the development and rebuilding of our infrastructure. This bill, as did the administration's original proposal, substantially increases the authorization levels of the Federal-aid highways programs. From 1992 through 1996, the committee bill would authorize $90.7 billion.

Improvement in the quality and productive utilization of our infrastructure clearly contributes to the quality of life for our citizens. In particular, rehabilitation and improvement of our National Highway system is critical to improving interstate travel and commerce. Investments in our highways pay back by reducing vehicle operating costs and travel time. Such returns on investment translate ino real reductions in the costs of doing business for many years to come, improving our global competitive position.

The administration recommended and the committee bill adopts the philosophy that States and localities should assume greater responsibility in the planning and designation of local priorities, and provides greater flexibility in their choices of transportation projects. The administration proposed a greater funding match by State and local government, but this was not adopted in the committee.

While none of us enjoys standing up to propose a larger share requirement of our fiscally troubled State governments, the day may come when we must ask for a greater contribution in order to provide adequate resources for our infrastructure. Reflecting appropriate fiscal responsibilities, State and local governments have been accounting for a larger share of public contributions to our national infrastructure over the decade of the 1980's. Now that the Interstate System is essentially completed, local and State governments have strong incentives to undertake an increased commitment to the upgrading and maintenance of our system of roads. Federal dollars must be used in a way that stimulates greater State, local, and private investment.

The committee bill appropriately reflects an emphasis on improving the facilities and efficiency of existisng resources, recognizing the fact that more is not necessarily better. Through technologies such as Intelligent Vehicle Highway Systems [IVHS], increased utilization of HOV lanes, study and development of multimodal systems, and with an acknowledgement that transportation needs differ dramatically throughout the country, this bill offers the opportunity for significant progress in preparing our Nation's transportation infrastructure for the future.

Finally, the Environment and Public Works Committee has reported a bill which recognizes the fiscal constraints of our budget agreement.

Mr. President, this is not a perfect bill. It is a bill, though, which balances the many competing transportation interests for the greater good and serves well as a basis for our consideration this morning.

Mr. GRASSLEY. Mr. President, I would appreciate the opportunity to join in a colloquy with my esteemed colleague from the State of Idaho, Senator SYMMS, regarding a transportation corridor of great importance to the Midwest, the Avenue of the Saints. The Avenue of the Saints is a four-lane highway corridor that will connect St. Louis, MO, and St. Paul, MN.

Mr. SYMMS. Mr. President, I would be pleased to accommodate the Senator from Iowa.

Mr. GRASSLEY. Let me begin by complimenting my friend from Idaho for his bold leadership as the ranking member of the Water Resource, Transportation and Infrastructure Subcommittee of the Senate Committee on Environment and Public Works. I commend him for his efforts.

I remind by colleague that a study committee was commissioned by Congress to study the feasibility and necessity of constructing a four-lane highway from St. Louis, MO, to St. Paul, MN. This study was released in March of 1990. Mr. President, I would like to submit for the record a letter from the Chairman of the study committee, to Thomas Larson, Administrator of the Federal Highway Administration, presenting the results of the study. I would also like to submit a letter from Secretary of Transportation Sam Skinner endorsing the findings of the study committee.

I further remind my colleagues that during a meeting we had last month, I asked that the Environment and Public Works Committee consider the Avenue of the Saints for a demonstration project or other special consideration. At the time I stressed that I support the idea of a "clean" surface transportation bill without special treatment to individual projects. However, I asked that if there were demonstration projects, that the Avenue of the Saints be one of those projects.

I petitioned all of the Republican members of the Senate Environment and Public Works Committee as well. The junior Senator from Iowa, Senator HARKIN, personally petitioned his Democratic colleagues on behalf of this important project.

Mr. SYMMS. I would like to say to the Senator from Iowa that I recall this meeting and I am aware of the importance of the Avenue of the Saints to the transportation needs of the Midwest.

As the Senator from Iowa knows, there are no demonstration projects contained in the Surface Transportation Efficiency Act of 1991, S. 1204. The Senate Environment and Public Works Committee reported out a "clean" bill.

I would like to stress to my colleague, however, that S. 1204 is very good news for the Avenue of the Saints. The Surface Transportation Program gives enormous discretion to States and metropolitan planning organizations to make transportation decisions. When you briefed me on the Avenue of the Saints, you mentioned that the Iowa Department of Transportation and the Governor of Iowa have publicly stated that the Avenue of the Saints is the No. 1 transportation project for the State of Iowa. They will have the discretion to allocate the needed moneys to make the Avenue of the Saints a reality.

Mr. GRASSLEY. I thank my colleague. If I might inquire about his approach toward demonstration projects as they might relate to action on the part of the House of Representatives.

While I commend the committee for its reporting out a "clean" bill absent of special ocnsideration for individual projects, I note that Members of the leadership on the House side have expressed publicly that they do not necessarily share the Senate committee's enthusiasm for passing a bill free from demonstration projects. In fact, Congressman ROBERT ROE, chairman of the House Public Works and Transportation Committee, has stated that he will support demonstration projects as part of the House committee bill.

I would ask the Senator from Idaho what might be the attitude of the Senator toward the inclusion of Senate demonstration projects in the legislation should the House bring to the conference committee a bill that contains House demonstration projects.

Mr. SYMMS. I appreciate the Senator's interest in this important highway project, and I can assure the senior Senator from Iowa that the Avenue of the Saints will be on our list of projects deserving special consideration if and when we discuss demonstration projects with the House. I believe the highway program and the Nation would be better served if we stopped skewing the funding formulas by diverting money to projects selected by Members of Congress. However, if the House insists on demonstration projects, you can be sure the Senate conferees will put forward the interests of the Senator from Iowa and others who have been so supportive of our efforts to move this important legislation forward.

Mr. GRASSLEY. I thank my friend and colleague for his cooperation.

Mr. SYMMS. I ask unanimous consent that a letter from C.I. MacGillivray to Thomas D. Larson and a letter from Secretary Skinner be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IOWA DEPARTMENT
OF TRANSPORTATION,
March 26, 1990.

THOMAS D. LARSON,
Administrator, Federal Highway Administration

DEAR MR. LARSON: This letter transmits the final report for the "St. Louis to St. Paul Corridor Feasibility and Necessity Study" and a recommendation of the best route for this corridor. These States items were prepared for the FHWA in response to a congressionally mandated study which was funded in the 1989 Transportation Appropriations Act.

Congress stipulated that this study be done in cooperation with the states of Iowa, Minnesota and Missouri. These states formed a steering committee, along with assistance from the states of Illinois and Wisconsin. All states participated fully and equally in all meetings, study directional decisions and other study activities. This group selected a private consultant in the Spring of 1989 to provide an impartial and objective study. Federal Highway Administration staff were involved in all meetings. The states cooperated with the FHWA and the consultant by providing direction and technical data. In addition, the states implemented community involvement through distribution of newsletters and public information meetings.

We conclude and recommend that:

1. The consultant's report satisfactorily completes their contract, and the firm is complimented for a job well done in terms of accuracy, completeness, comprehension, while completing the job on schedule and within budget.

2. Route B, as analyzed in the report, is the best route for a four-lane roadway between St. Louis and St. Paul. Route B is the only route economically feasible from the standpoint of national transportation service. Route B provides the greatest margin of overall benefits at the most reasonable cost as indicated by the Benefit/Cost Ratios, and is the outstanding route based on the key Travel Efficiency Feasibility Test Indicators.

3. Four lane highway development in the designated corridor is needed, warranted and justified. When constructed, it should be built to expressway standards as described in the report.

The following table shows the feasibility indicators for the four final route options:

ECONOMIC FEASIBILITY INDICATORS *

[Benefit-Cost Analysis for the Expressway Option]

Route	National perspective[1]	National and regional perspective[2]	National, regional, and local perspective[3]
B	11.3	1.4	2.8
C	0.8	0.9	2.2
D	0.7	0.7	1.6
E	0.3	0.3	0.8

*From "St. Louis to St. Paul Corridor Feasibility and Necessity Study—Final report," by Wilbur Smith Associates, 1990.

[1] Includes reduction in travel time, vehicle operating costs and accidents. See consultant report, page 5–3 for explanation, and table 7–13 for data.

[2] The regional perspective includes the road user benefits considered in the national decision plus the economic benefits associated with the improved competitive position of the region. See consultant report, page 5–4 for explanation, and table 7–13 for data.

[3] The local perspective includes the road user benefits, and economic benefits associated with improved competitive position and travel expenditures. See consultant report, page 5–4 for explanation, and table 7–13 for final report.

The consultant's study indicates that three of the four finalist route options have considerable benefits if constructed, however, it clearly indicates that Route B under all scenarios is the most feasible route. The necessity of constructing a four lane expessway is substantiated by the travel efficiencies and local economic development predicated for Route B. A positive benefit-cost ratio indicates that a four-lane highway along Route B would be a wise public investment. Implementation of this beneficial highway would be greatly enhanced with federal support.

The states of Illinois and Wisconsin preferred Route D. They believe the greater cost of this route could be outweighed by the increase in both travel and local development benefits. The consultant points out, however, that these benefits are of local significance, are transfer benefits at the national level, and that they would not be considered relative to a route's feasibility from the national perspective.

We believe that Route B would provide a much needed missing link in the nation's arterial system, it would spur the economic development of regions within the corridor, and would result in overall travel efficiency for the corridor, region and the nation. Sections of all of the other final route options considered would also provide many benefits at the state and local levels, warranting a place in their programs.

Finally we conclude that a major north-south arterial would be consistent with the intent of the proposed National Highway System. We support the initiatives of AASHTO and the FHWA in proposing the NHS for the 1992 Surface Transportation Act and support the concept of expanded federal funding for financing the NHS. This would allow the states to decide the appropriate use of these funds.

Respectfully submitted:

For the Committee:

C.I. MacGillivray, Chairman Director, Planning & Research Division Iowa Department of Transportation

Committee members: Don Hiatte, Division Engineer, Planning, Missouri Highway & Transportation Department; C.I. MacGillivray, Director, Planning & Research Division, Iowa Department of Transportation; Merritt Linzie, Director, Office of Highway Programs, Minnesota Department of Transportation.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, July 26, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for your letter concerning the proposed Avenue of the Saints. I understand the concern you expressed for this project as you discussed it with Tom Larson at the appropriations hearing and as underscored in your letter to me.

As you pointed out, the Federal Highway Adminstration (FHWA) was to ". . . include recommendations concerning . . . the best route for such a highway . . ." in the report. In fact, the report did include a recommendation. I am writing to assure you that our recommendation is for Route B, based on the overall benefit/cost ratio in the technical data submitted with the FHWA's report.

What seems to have caused confusion is Tom's timely observation that we do not have an authorized Federal-aid highway program beyond next year. A project such as the Avenue of the Saints is an example of the type of highways to be included in a system of national significance, a Federal highway program envisioned for post-Interstate reauthorization. He also mentioned that this proposed system may include more than just the one route in this important corridor. Let me reinforce Tom's assurances, though, that his observations should not be construed as a lack of support for the development of Route B, such as the Iowa Department of Transportation's present efforts to improve segments of the route.

I hope this clarifies the Department's position. I look forward to working with you as we approach surface transportation reauthorization. I appreciate your dedicated concern for all of America's transportation needs.

Sincerely,

SAMUEL K. SKINNER.

Mr. MOYNIHAN. Mr. President, the Senate has now been on the bill for 12 hours. We are patient, and yet I know Senators would like to see the matter concluded. We are not aware of more than two other amendments that might be offered. Senators are not urged to think up amendments for amendments' sake, but if there are those forthcoming in any event, the sooner we learn of them, the sooner we might be able to manage them.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator PACKWOOD be added as an original cosponsor of the Domenici amendment providing $200 million a year for Indian roads.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

Mr. MOYNIHAN. Mr. President, I do not see any Senators seeking recognition and, accordingly, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I had an amendment that would have dealt with grade crossings. Candidly, we have done a little survey, and I can recognize that some of my colleagues are more persuasive up to this point than I have been. My hope is that when we get through the conference, we can do something on the grade-crossing problem.

Candidly, what is happening is we were having a decline in railroad grade-crossing deaths and then, in the last 3 years, it has gone back up. I fear, without setting aside some finding, the reality is highway departments are not going to spend money on railroad grade crossings. So I hope that we can address this.

I add a second part of this, and that is, if we are eventually going to have high-speed trains, we clearly have to deal with this grade-crossing problem. So I will not pursue my amendment this evening, but I hope my colleagues, Senator MOYNIHAN, Senator SYMMS, and the other conferees, will keep in mind this very real problem as they go into conference. I hope something can be worked out.

Mr. PELL. Mr. President, I want to add my support to the very fine efforts of Senator SIMON to promote high-speed rail and safe grade crossings as a part of this bill.

This is an issue that I have been pushing in the Northeast corridor for 30 years and I truly believe high-speed rail is more important today than at any other time in our Nation's history.

Crowded airports, clogged roads, and choking air pollution around many major cities would all benefit from a renewed national commitment to high-speed rail.

Senator SIMON's amendment represents a sincere effort to give high-speed rail the high priority it deserves. I honestly believe we have not reached the full potential of steel wheels and steel rails.

I know that right now 22 States are the subject of some type of high-speed rail study. This level of interest seems to beg us to take a very close look at high speed rail funding in this country.

I know also that in my own State of Rhode Island we have had several fatalities at grade crossing over the years.

It has been plain to me for many years that high-speed rail could solve many of our transportation-related problems. However, in recent years, it has also become increasingly clear that high-speed rail is a competitiveness issue as well.

Among the Pacific rim countries, Japan has held long-term dominance in the field of high-speed rail. In Europe, France, and Germany have made substantial investments in high-speed rail. But the great economic power of North America, the United States, has not answered the challenge in high-speed rail. As we work to compete against Asia and Europe in the next century, we are placing ourselves at a grave disadvantage if we do not make a substantial investment right now in high-speed rail.

I know that some of my colleagues share in this support of high-speed rail, Senator SIMON, Senator LAUTENBERG of the Appropriations Committee and the distinguished manager of the bill, Senator MOYNIHAN, are just a few.

Final approval of the Surface Transportation Act will continue and I hope that when this bill leaves the floor, the managers can get together with the House of Representatives and Senator SIMON and work out some type of plan for bringing high-speed rail to our current transportation system.

I would be happy to help Senator SIMON and the managers of the bill in whatever way I can in bringing this about.

I thank Senator SIMON and the managers of the bill for their courtesy here this evening.

Mr. President, I would like to compliment the Senator from Illinois on both parts, the high-speed rail part and the grade crossings. Citizens are killed on grade crossings. I think the full extent of steel wheels and steel rails has not yet been reached. I think it has great merit. I hope it will be kept in mind in the conference, and I hope, as years go by, his amendment will come to reality.

Mr. SIMON. I thank my colleague from Rhode Island for whom I have great respect.

Mr. MOYNIHAN. Mr. President, I would like to thank the Senator from Illinois for his consideration of the restraints we placed on the bill generally. We have heard him and we are very much aware if we move to a high-speed rail technology, this issue suddenly appears. His statement about death rates was new information to this Senator when it was brought to him by the Senator from Illinois. We are mindful of this consideration and concern. It will no doubt come to us in conference. We are forewarned and forearmed by his statements and by the Senator from Rhode Island.

Mr. SIMON. Mr. President, I thank the chairman of the subcommittee for his kindness in considering this.

AMENDMENT NO. 344

(Purpose: To modify the schedule for storm water permit requirements under the Federal Water Pollution Control Act)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk that basically delays the certain compliance deadlines imposed by the Clean Water Act which is part of the jurisdiction of our committee in municipalities where they cannot be met. I do this for Mr. CHAFEE.

The PRESIDING OFFICER. Without objection, the pending amendment will be laid aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. CHAFEE, proposes an amendment numbered 344.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The bill is amended by adding at the end thereof the following new section:

"SEC. . STORM WATER PERMIT REQUIREMENTS.—(a) Notwithstanding the requirements of sections 402(p)(2) (B), (C) and (D) of the Federal Water Pollution Control Act, the Administrator of the Environmental Protection Agency shall not—

"(1) require any municipality with a population of less than 100,000 to submit any part I general permit application or individual application (as described in a rulemaking published in the Federal Register on November 16, 1990) for a storm water discharge associated with any airport, powerplant or uncontrolled sanitary landfill owned or operated by the municipality prior to May 18, 1992 or any part II general permit application for such discharge prior to May 18, 1993, unless such permit is required by sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act;

"(2) require any municipality with a population of less than 100,000 to submit any permit application for a storm water discharge associated with any industrial activity other than an airport, powerplant or uncontrolled sanitary landfill owned or operated by the municipality prior to October 1, 1992, unless such permit is required pursuant to sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act, and any deadlines established pursuant to regulation or Public Law 102–27 associated with such permit application requirements shall be delayed until after such date;

"(3) enforce the requirements of any permit issued to a municipality with a population of 100,000 or greater solely for storm water discharges, other than permits associated with industrial activities owned or operated by the municipality and permits required by sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act, prior to October 1, 1992.

"(b) For purposes of this section an uncontrolled sanitary landfill is a landfill or open dump, whether in operation or closed, which does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act.

"(c) This section shall not be interpreted, construed or applied to affect any permit requirement or application deadlines for a storm water discharge established pursuant to sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act or any permit for a storm water discharge associated with an industrial activity not owned or operated by a municipality.

"(d) The Administrator shall modify permit application deadlines applicable to storm water discharges associated with industrial activities owned or operated by municipalities with populations of 100,000 or greater to assure that such deadlines are coincident with application deadlines for systemwide permits required for such municipalities and associated with storm water discharges from other than industrial facilities.".

Mr. MOYNIHAN. Mr. President, this is simply a situation the committee has to face that certain storm water deadlines are not being met, cannot be met. We want to go forward on the basis of a practical schedule which will be developed.

Mr. SYMMS. We agree with the amendment.

The PRESIDING OFFICER. Is there further debate? The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I just want to say we have been waiting a long time for the storm water permit program to be established by EPA, and I think this is a very worthy amendment that the Senator from New York has proposed. I enthusiastically support it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 344) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I ask unanimous consent that I be added as a cosponsor of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, seeing that no Senator is seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment on behalf of Mr. INOUYE, and Mr. AKAKA which establishes a discretionary amount in the interstate fund for the completion of the fund; that it is necessary to provide for contingencies not now known but which may yet appear in these final 4 years of the interstate construction program. All projects have been approved. The one in Hawaii is well underway. The one in Boston is authorized. We will see what happens. But in any event, this is prudent management.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

AMENDMENT NO. 345

(Purpose: Relating to a set-aside for Interstate discretionary projects)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. INOUYE, and Mr. AKAKA, proposes an amendment numbered 345.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, line 20, strike the period and insert "; DISCRETIONARY PROJECTS".

On page 73, after line 23, insert the following "(d) SET ASIDE FOR INTERSTATE DISCRETIONARY PROJECTS.—

"Before any apportionment is made under section 103(b)(5) for a fiscal year beginning after September 30, 1991 the Secretary shall set aside $200,000,000. Such funds shall be available for obligation by the Secretary under the following priorities:

"(1) FIRST.—For high cost projects which directly contribute to the completion of a segment of the interstate system which is not open to traffic;

"(2) SECOND.—For projects of high cost in relation to a State's total apportionment of funds; and

"(3) THIRD.—For projects with respect to which the Secretary may make payments under section 115 of title 23, United States Code.".

Mr. INOUYE. Mr. President, I thank my dear friend from New York for his very gracious consideration of this measure.

There is a footnote in history that most Americans are not aware of. Hawaii became a State in 1959 and all the time we were a territory of the United States, although the people of Hawaii paid gasoline taxes into the highway fund, because we did not fit the definition of an Interstate Highway System, we did not benefit. So in all of the discussion we have been hearing about donor and donee States, we were absolutely the supreme donor State until 1962

Mr. President, I believe that this measure will give Hawaii and opportunity to receive some equity from this program because it does not guarantee that our program projects will be completed, but with this discretionary fund being available, and the Secretary looking over it, we may have a possibility of that. For that, I thank you very much.

Mr. President, this amendment would reestablish the Interstate Construction Discretionary Program provided in the bill by setting aside $200,000,000 of the interstate construction funds for discretionary purposes.

This amendment merely restores the provisions of the Interstate Construction Discretionary Program of current law, although at a lower set-aside level. This amendment is also an effort to restore equity to States, such as Hawaii, which gave up large amounts in the initial years of our interstate construction project so that other States could more efficiently use those funds. There have been many statements made on this floor that the Interstate Construction Program is complete.

I am here to report to you that this simply is not the case. Yes, most States have completed their Interstate Construction Program, but many States have done so with the assistance of those of us still in the process of completing our segments.

Let me explain this point. Under current law there is a $300,000,000 set-aside of funds in the Interstate Construction Program for discretionary purposes.

These discretionary funds are allocated in addition to a State's annual apportionment of interstate construction funds. This set-aside is designed primarily to insure the most efficient use of interstate construction funds by allowing the Secretary of Transportation to allocate these funds, under strict criteria, to those States which are able to execute contracts on a ready-to-commence project. A second component of the discretionary set-aside is the reallocation of funds which would have been apportioned to a State like Hawaii, but were instead returned to the Secretary of Transportation because we could not efficiently use those funds at the time they were apportioned.

States which returned funds to the Secretary usually did so because they may have been in a situation where the environmental impact statement had not yet been completed, a lawsuit was pending or other circumstances were present which prevented the project from moving forward.

Hawaii confronted these obstacles as we began H-3. Consequently, Hawaii returned over $325 million to the Secretary of Transportation to reallocate funds to those States who were able to utilize this money, but we did so with the clear understanding that as our project was able to move forward, we too would benefit from the discretionary program. We assumed that the funds we gave up, would ultimately be returned to us in an equally expeditious manner.

S. 1204 would eliminate this discretionary program which is simply inequitable to those States who have already foregone funds so that other States could complete their program.

Mr. President, there may be Senators who do not care about the interstate program because their State has already completed their construction program.

I say to those Senators, that it is entirely possible that their States have completed their program through the generosity of States like Hawaii. For that reason I ask for their support.

In closing, Mr. Chairman, I point out that this amendment proposes no additional funding, rather it creates a set aside within the interstate construction funding levels provided by S. 1204.

I urge my colleagues to support this amendment.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The junior Senator from Hawaii.

Mr. AKAKA. Mr. President, I thank the manager from the State of New York for his work on this highway bill. It has been tremendous. I have seen him here many, many hours working diligently to get this bill passed. I commend him and his staff, and ranking members and members of the committee for moving this bill.

Mr. President, I rise in strong support of the amendment offered by my senior colleague from Hawaii, Senator INOUYE, that would retain the existing Interstate Construction Discretionary Program, but in smaller form than currently. This amendment would assign $200 million to this discretionary pot, which could then be used by the Secretary of Transportation to fund those remaining Interstate projects that can most easily use the funds.

Mr. President, this amendment will simply allow Hawaii to compete for some of the $200 million in discretionary funds provided for in the amendment, and thus give the State a fighting chance to complete the highway at the earliest possible time. If successful in securing some of these funds, the State may be able to spare Oahu's long-suffering commuters another 3, 4, or 5 years of rapidy increasing traffic congestion and rush hour delays, as well as finish a highway planned more than 20 years ago but plagued by lawsuits, court injunctions, exhaustive environmental reviews, and other delays beyond the State's control.

Mr. President, one of the reasons why we have not completed the interstate is because we were not eligible for interstate funds when the program began in 1956; it was not until 1960, well after Hawaii achieved statehood, that we were able to compete for interstate moneys. If we had been eligible for funding at the inception of the program, we would certainly be finished today.

In addition, during the mid-1980's when work on the highway was held up by court injunctions and other delays beyond the State's control, Hawaii returned more than $325 million of its interstate apportionments so that other States could benefit from these funds through the Interstate Discretionary Program. Many of my colleagues hail from States which directly benefited from Hawaii's contribution to the discretionary program. I believe my colleague mentioned some of them.

Mr. President, we do not hold this against any other States. We agree that it was in the best interest of this country that those funds previously apportioned to us that we could not immediately use be redistributed among States that could use the money more immediately. This is only reasonable. All we are asking for from our colleagues is fair treatment. This amendment would simply give those States which still have significant, uncompleted interstate segments the same opportunity to compete for discretionary funds as other States have enjoyed in completing their interstate segments.

As the Senator stated, Hawaii has a highway there that is underway and needs to be completed. These funds will certainly help us to complete that highway. I urge the Senator, the chairman, the committee, and the Senate to look upon this amendment favorably.

Thank you, Mr. President. I urge my colleagues to support this amendment.

Mr. MOYNIHAN. Mr. President, I thank our colleague, our junior Senator, for his gracious words. Both of the Senators have been characteristically forbearing. This interstate project goes to Hawaii as a matter of right. Whatever is required, we do not want them to spend more money than need be, but what money needs to be spent must be spent. It is their entitlement. It will make it possible for the Federal Government to keep the contract with the people of the State.

We certainly support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. Mr. President, I think this is a very practical amendment because it is always difficult at the end of a program—we are in this bill coming to the end of the construction of the interstate—actually to know exactly how much money it is going to take to finish off these projects. I personally have visited the project that the Senators from Hawaii are interested in. It is very expensive property. It is an expensive piece of road, not a long stretch of interstate but a very important one to get the people from the windward to the leeward side of the main island where Honolulu is and from the Marine base on the other side of the hill.

So I support the project. We have made it possible here on this Senate floor that that project could be completed. There were very contentious debates in past bills. I support what the Senators from Hawaii are trying to do. I think this is a good solution. It will give us the flexibility that is needed to complete these projects. I think it is a good idea.

Mr. MOYNIHAN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 345) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 346

(Purpose: To require a report on the use of oxygenated fuels by certain cities)

Mr. SYMMS. Mr. President, I send an unprinted amendment to the desk on behalf of the Senator from Illinois, Senator SIMON, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for Mr. SIMON, proposes an amendment numbered 346.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REPORT ON THE USE OF OXYGENATED FUELS IN CERTAIN CITIES AND METROPOLITAN STATISTICAL AREAS.

Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, and in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Congress a report on the feasibility and effectiveness of requiring, during the period from October 1 through March 31, in all cities and metropolitan statistical areas (as established by the Office of Management and Budget) with a population of 250,000 or more, the use of oxygenated fuels (with a percentage of 2.7 or greater).

Mr. MOYNIHAN. Mr. President, we must have order. Even though there are not many Senators here, the Senator needs to be heard.

Mr. SIMON. I thank my colleague. I have not had a chance to talk directly to the Senator, but to his staff. This is an amendment that calls for a study of whether we should require some standards in terms of air pollution in communities of 100,000 or more. It is simply a study. I think it would be a very helpful thing.

Mr. SYMMS. If the Senator will yield, what is in the text of the amendment—after we worked it over for the Senator—is to keep it consistent in the bill for cities of 250,000 and 2.7. If the Senator accepts that—I thought the Senator understood me on that.

Mr. SIMON. At 10:20 in the evening I am willing to compromise and accept that amendment. I think if it applies practically to cities of 250,000, eventually it will apply to cities of 100,000. It is a study only. It think it will get at what we want. As far as the change in the standards, I agree with that.

Mr. SYMMS. I thank the Senator.

Mr. MOYNIHAN. Mr. President, we completely support the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment offered by the Senator from Illinois.

The amendment (No. 346) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Once again, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader is recognized.

Mr. DOLE. Mr. President, using motor fuels tax rates to measure the so-called level of effort bonus is absurd and illogical. In Kansas, about 80 percent of the revenues used in the State 5-year highway construction program come from State sources. Yet, according to the level of effort calculation, Kansas is not making a level of effort above the national average.

The three major sources of revenues in the Kansas State highway fund are the sales tax, motor fuels tax, and vehicle registration tax. Motor fuel taxes only makes up 33 percent of the total State revenues in our State dedicated to highways.

It is unfair to penalize States like Kansas that dedicate large portions of their own revenues to the road construction programs, by a calculation that fails to recognize other State revenue sources and their true level of effort.

There is no recognition of a variety of State revenue sources, including vehicle registration taxes, sales taxes on vehicle parts, truck fees, bonds, interest, State general fund spending, severance taxes, or other miscellaneous sources.

States that divert general highway funds to other sources are numerous. Some of the categories that States use highway revenues for include: General fund, State fiscal agencies, natural resources, wildlife, agriculture, environment, ports, tourism, arts, and aeronautics.

This begs the question: If States divert highway funds to our sources, should that be a part of the equation? In my view, it should not be.

States will only be encouraged to raise motor fuels taxes in order to get favorable treatment under the level of effort bonus. This will cause serious problems for certain highway users, such as the trucking industry. In other words, people are going to start gaming the system. Raise your gas tax and you will have a level of effort according to the formula in that bill that is being worked on, and lower all the other taxes that probably should not be lowered.

We exclude tolls. Are States like New York expected to disregard $1 billion a year in toll collections?

States use an average 36.1 percent of Federal apportionments to fund their States construction programs. Three States are 0 to 20 percent. Ten States are 20 to 30 percent. Kansas is about 24 percent Federal money. That is all we get, about 24 percent. Twenty States get 30 to 40 percent. Ten States get 40 to 50 percent. Seven States get 50-plus percent.

In other words, there are 7 States that get more than 50 percent of Federal apportionments to fund their State construction programs, while States like my own get about 24 percent. And I am certain there are others who even get less. As I said, three States get 0 to 20 percent.

Mr. President, I know we have discussed this in meetings off of the floor, and I wanted to include this information in the RECORD now, because I doubt that we are going to be able to complete action on this bill this evening.

I ask my colleagues or their staff members to check their State and see if there are other sources of revenue going into highway construction other than gas tax. If there are, then we ought to give them some credit for it. Check some of the States who get a lot of credit for gas taxes that use gas taxes for other than highway construction. If so, they should not get as much credit.

It seems that we ought to have a fair system. I hope that we will take a look at our level of effort. In my view, it will have an impact on a number of States. The thought had not even occurred to me until one of my staff suggested that, in Kansas, it is not all gas tax. It comes from general revenues and other tax sources. I wanted to include this in the RECORD, and I thank my colleagues for listening.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent to set aside the pending amendment in order that I may send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 347

(Purpose: To provide for the establishment of a youth jobs highway beautification program)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 347.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. —. YOUTH JOBS HIGHWAY BEAUTIFICATION PROGRAM.

(a) AUTHORITY.—A State may use not to exceed 0.2 percent of the amounts appropriated to such State under section 104 of title 23, United States Code, to establish a State program to employ eligible economically disadvantaged individuals during the employment period to perform highway landscaping and beautification activities.

(b) ELIGIBLE ECONOMICALLY DISADVANTAGED INDIVIDUALS.—To be eligible to be employed under a State program established under subsection (a) an individual shall—

(1) have an income, or be a member of a family with a family income, that is below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) for and individual or a family of similar size; and

(2) be a resident of the State.

Preference shall be given to individuals meeting the requirements of this subsection who are between the ages of 18 and 20.

(c) EMPLOYMENT ACTIVITIES.—Individuals may be employed under a State program established under subsection (a) to perform highway landscaping and beautification activities within the State that may include—

(1) activities directed at improving the scenic landscaping at highway rights-of-way and rest areas;

(2) trash pick-up and collection activities along roadsides;

(3) participation in programs related to traveler information (including signage); and

(4) other appropriate activities.

(d) ADMINISTRATION.—

(1) STATE CONTRIBUTION.—To be eligible to use the amounts referred to in subsection (a) to establish a state program, a State shall agree, with respect to the costs incurred by the State in carrying out such program, to make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount equal to 5 percent of such costs.

(2) LIMITATION.—A State shall not use in excess of 5 percent of amounts made available to such State under subsection (a) to administer the State program.

(3) FEDERAL OVERSIGHT.—The State official responsible for administering the program established by the State under subsection (a) shall annually prepare and submit to the Secretary of Transportation a report containing a description of such program, including—

(A) the costs incurred in implementing such program;

(B) the number of individuals employed under such program;

(C) the types of activities performed by such individuals.

(e) NONDISPLACEMENT AND GRIEVANCE PROCEDURE.—The grievance procedures and nondisplacement requirements contained in sections 176(f) and 177(b) of the National and Community Service Act of 1990 shall apply to State programs established under this section, insofar as they are applicable, except that all references to this title in such sections shall be deemed to be a reference to this section.

(f) For the purposes of employing individuals pursuant to a program established under subsection (a), each State shall give preference to individuals who were formerly employed by such State, and who suffered loss of employment, within the previous year for reasons other than cause.

Mr. METZENBAUM. Mr. President, this amendment would help provide needed jobs for young people—disadvantaged young people living below the poverty line.

It is an amendment that will give them a small slice of this $90 billion highway pie.

It permits, but does not require, each State.

It does not direct the State to take any action unless the State wishes to do so.

And it permits it to spend up to two-tenths of 1 percent of its share of highway money to put some poor kids to work.

I will be the first to admit this amendment does not do enough.

In the context of highway bill, we are talking about a minuscule amount of money—about $31 million next year.

It is enough money to hire approximately 6,400 persons each summer—about 130 in each State.

These young people would be put to work picking up roadside trash, planting trees and other landscaping work, and generally working to make our highways more attractive.

This amendment is intended to create new jobs.

Therefore, it makes clear that States shall not replace existing workers or positions with people hired pursuant to this youth jobs program.

Insofar as it is applicable, the amendment incorporates provisions from the National and Community Service Act of 1990, to protect current employees from displacement.

I say insofar as it is applicable because, for example, sections 177(b)(2) and 177(b)(3)(B) of that act would not likely apply to program established by my amendment.

I might say, Mr. President, I worked out that language in connection with a Member of the Senate who had indicated that he had some concerns and reservations as to the applicability of that other act.

Mr. President, I believe it is a worthy amendment. We are going to help a group that is suffering from unemployment in excess of 50 percent, a group of young kids who need our attention.

And we are going to make our streets and highways more attractive.

I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I have voiced some of these concerns. I have some real reservations with this amendment. It may not be such a major contentious issue that it is worthy of a big floor fight here tonight and a record vote on the amendment, but there are a couple questions I think Senators need to realize.

First, this entire highway program has been a program that has been tried to be based on the fact that we are making capital improvements for transportation. In the process, it is true that some people get employment. But I think we should also recognize that is what you can see. What it is you cannot see when you tax people and take their money and spend it on highways or transit projects is what would the money be spent on had we not taxed the public and not spend the money on these projects we are spending on. It is the old rule. It is always easiest to see when you spend the Government's moneys where you spent it. What you do not ever know and what you cannot see is where the money would have been spent had you not taken it from the hard-working taxpayers to build projects that we thought were necessary.

This amendment of the Senator from Ohio violates the basic principle that we have operated under with our highways programs because this is clearly just a jobs program—to hire some young people.

The latter part of the amendment, the last section says, if I understand it correctly, that those people, those young people, cannot be hired to displace someone who maybe was unemployed from a State job. So we may find that rather than hiring youths we are hiring unemployed State workers to fill this.

Would the Senator not agree with me?

Mr. METZENBAUM. If there are displaced workers, people who have been caused to be unemployed, and these jobs are open and those unemployed workers want to take jobs at this lower figure that, I assume, will be paid to these kids, then, yes, they would have some preference.

Let us assume a State worker, a regular worker on the whole is making $12 an hour. Let us assume these kids are getting $6 an hour. It would mean that the unemployed, $12-an-hour worker would have a right to take one of those jobs if he or she wanted to do so.

I do not think that is likely to occur. But some were concerned there would be unemployed workers who would be out of work and would be replaced by young people, and I said I do not think you can get them at the same rate of wage, and we finally came to agreement they could get the job, but it would have to be at the same rate as the kids would take a job.

Mr. SYMMS. Mr. President, I thank the Senator for his response.

I just want the record to show that I have grave reservations about this amendment. I actually do not favor the amendment. It may be that it is not going to be the end of the world on this bill or it may be that this amendment will have a long process to go through before it gets there to final passage. But I just wanted the Senator from Ohio to realize that there is not a unanimous acceptance of his amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this was an amendment that was discussed in the Environment and Public Works Committee by the distinguished Senator from Ohio, and, as I recall, was either voted down or he withdrew it for further consideration. I am not just clear. In other words, whether it did not prevail, whether it was rejected—I believe the Senator withdrew it if I am correct.

Mr. METZENBAUM. May I respond?

Mr. CHAFEE. Yes.

Mr. METZENBAUM. Mr. President, the Senator from Rhode Island is partially correct. I was not in the committee meeting at that time. It was my understanding that when the amendment was offered it was asked, is there any objection?

There were no objections except for the Senator from Rhode Island who did object. And then the amendment was withdrawn. It was my understanding, further, that the Senator from Rhode Island had objections to the fact that it provided in the original amendment that was in the committee that the employees would have to be hired on the basis of the provisions of the Davis-Bacon Act and other acts that provide for prevailing wages.

Knowing of that concern of the Senator from Rhode Island, this amendment has eliminated those provisions entirely. It was my understanding—although I am frank to say I did not speak directly with the Senator from Rhode Island, but the Senator from Rhode Island did not have further objections to this amendment in view of the fact we had taken out the requirement pertaining to the Davis-Bacon and other minimum wage laws.

Mr. CHAFEE. Mr. President, I say to the distinguished Senator from Ohio he is quite correct, that I did have concerns, and the amendment was withdrawn. As I recall, it was presented by another Senator on behalf of the Senator from Ohio who could not be there at the time.

My objections were as follows: that in our State we have a bottle bill, if you would, in which those who purchase cans and bottles pay a little extra, and that money goes into a cleanup fund for our State along our highways instead of the normal return system.

Under the system we have in our State, those moneys are used for the training of school youngsters, in other words, who are in effect reformatory, to go out along our highways under supervision and to clean up along the highways along the same lines that the Senator from Ohio has discussed.

In his original measure, he had a requirement that all those who participated in this work should be entitled to all the benefits of a regular State employee—vacations, so forth.

So I raised several questions. I do not plan to be facetious, but we just did not think that having a provision that those in our reformatories should be allowed vacation time for their work was quite proper. So I believe it is my understanding that that has all been eliminated.

Am I correct, that this is optional on the States, they can do it or they cannot do it? It is up to them, is that correct?

Mr. METZENBAUM. The answer to that is yes, the Senator is right.

Mr. CHAFEE. Second, what kind of benefits, and so forth, are provided is up to the State. It is not mandated by this law.

Mr. METZENBAUM. The Senator from Rhode Island is correct.

Mr. CHAFEE. Under those conditions, it seems to me that it is perfectly acceptable, and, as I understand it, they can take whatever the percentage, certainly a very modest percentage, of highway funds and use it for essentially summer employment for youngsters to go out and work along the roads.

I think it is a fair deal, Mr. President.

Mr. METZENBAUM. Mr. President, I thank the Senator from Rhode Island for his understanding and support. And I thank the Senator from Idaho for indicating he has some reservations but not to stand in the way of the adoption of the amendment.

I think, Mr. President, it may be fair to act upon the amendment.

The PRESIDING OFFICER. Is there further debate?

If not the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 347) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 348

(Purpose: Truck Investigation)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 348.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. INVESTIGATION AND REPORT.

(a) The Secretary of Transportation shall conduct an investigation into the feasibility of prescribing rules with respect to multilane, limited access, Federal-aid highways to do the following:

(1) Prohibit trucks weighing in excess of 10,000 pounds gross weight from using the furthest left lane.

(2) Restrict all such trucks to the furthest right lane, except that such trucks may use the lane adjacent to the furthest right lane to pass.

(b) In conducting the investigation described in subsection (a), the Secretary of Transportation shall consider innovative ways to separate truck traffic from other vehicle traffic on highways taking into consideration the effect on safety, congestion management, other relevant issues, and the cost of each such innovation.

(c) The Secretary of Transportation shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report setting forth the findings of the study conducted under subsection (a), within one year from the date of enactment of this Act.

Mr. METZENBAUM. Mr. President, this amendment directs the Secretary of Transportation to undertake a study of the feasibility of prescribing rules to restrict commercial trucks weighing in excess of 10,000 pounds gross weight to the right lanes of highways with three or more lanes traveling in each direction.

I am frank to say that originally I had hoped to offer an amendment to provide for a rule, to direct the Secretary of Transportation to put in place a rule. But some questions have been raised with respect to the amendment and so we ask in this amendment only that a study be made, the extent of that study to be determined solely by the Secretary of Transportation.

The Secretary would examine innovative ways to separate heavy trucks from other vehicular traffic on highways, taking into consideration the effect on safety, congestion, management, cost, et cetera.

I, for one, feel these behemoths of the highway that come roaring down next to passenger automobiles are often quite frightening; sometimes one on the right side, sometimes one on the left side. There may be a better way to handle that traffic. I am not sure it is there.

Several States have already taken action in connection with this subject. Maryland bans trucks from the left lanes of eight or more lane freeways. California bans trucks from six or more lane freeways. Trucks are prohibited from the center lanes on parts of the New Jersey Turnpike. And nearly all States ban trucks from the left lanes on hills.

This is obviously a safety issue—nothing more, nothing less. The motoring public traveling in passenger vehicles will be safer if their cars are separated from heavy trucks. But is it feasible? Will it work? I think that is the reason we need a study.

There is also a cost issue. In California they build the pavements in the right lane much thicker, and then require the trucks to use that lane, but you have much less pounding on all the other lanes that are on the highway.

This system permits the State to build tough pavements that trucks need, and prevents the trucks from wrecking the pavement in the lanes where the passenger cars travel.

I believe it is a sensible amendment and I urge its adoption.

Mr. SYMMS. Mr. President, the Senator from Ohio will think the Senator from Idaho is here only to be an obstructionist to his efforts and his ideas tonight, which are very noble. But I would first like to say this is only a study, and it is the wish of this Senator that the Secretary will make it a very brief study and not an expensive study.

Let me tell you why. No. 1, the States today have total authority over their highways in terms of controlling truck traffic on those highways. It seems to me in my own State, for example, when the right lane of the interstate became worn out, the State decided to ask the trucks to drive on the left lane across I-84 in southern Idaho to wear it down even with the right lane so when they went in for reconstruction it was more practical for the State to reconstruct and rebuild the freeway.

I think we should not in any way interpret this amendment of the Senator from Ohio, who is quite correct in trying to do things that would improve safety and traffic flowing together of trucks and automobiles to make it better for the traveling public—he is quite correct in being interested in that subject—but we should not interpret this amendment in any way to interfere with the practical usage and efficiencies of these lanes.

I think, in this Senator's opinion, having had some considerable experience in trucking myself, it would be very impractical, unless there is a reason, such as the Senator pointed out, that you have built a heavy lane on one side of the road where heavy trucks could drive under a very heavy reinforced road. There may be some practical reasons for having the Secretary take a look at this, I concede that to my colleague.

But for the main part, when we start talking about trucks in the 10,000 and 20,000 pound weight, which are relatively light trucks, we should recognize that in the flow of traffic, if you think that somehow you can have them all drive in one lane and not make it more or less inconvenient for the traveling public, I just do not think that is a practical solution.

So I hope that they will look at this. I will accept the amendment. But I have to say to my colleague, as I have told him in private, I am a little less than enthusiastic about it. But I compliment him that he is willing to have a study and not try to have a rule on this very issue. So maybe in a year, when the study comes back, we may have some information—and this Senator will have an open mind—we will look at it and I may change my mind. I would like the Senator from Ohio to know that.

Mr. FORD. Mr. President, I would just like to make an observation. I am not going to object to the amendment. But since we have had the window, we have a new highway system on this bill, we have increased the research, the moneys that can be spent on urban and rural areas, we have a $31 million summer employment program, we are getting in heavy trucks on one side of the road and heavy studies. We do not know how much it is going to cost. There is no telling how much this study will cost. There is no direction in it.

So I just say to my colleagues, it appears we are going to have one whale of a conference as it relates to this when we go to the highway bill. It may take 100 days to work out the conference let alone get to the bill.

So I just want to say that you are beginning to let this thing roam and take anything on the legislation just to kind of keep people moving along. But we have not seen the long night yet. And so I just want to caution you and make an observation of what this highway bill is beginning to look like.

Mr. SYMMS. Will the Senator yield?

Mr. FORD. I am delighted to yield.

Mr. SYMMS. Mr. President, I appreciate the comments of my colleague from Kentucky. If we continue with having these amendments offered, we may have to hire three or four extra people to pick up all the amendments that we spill between here and the other side of the Capitol.

Mr. FORD. I thank my colleague.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM. Mr. President, I would just like to make a response to my friend from Kentucky. This is not something that just came up within the last hour or so. We have been working on this for several days. I think we just worked it out this evening.

Mr. FORD. I understand that. But I am just making an observation that in the last 2½ to 3 hours what has been developing on the highway bill, it is becoming something other than a highway bill.

We find the distinguished minority manager gave a scenario here where my State is going to lose money under the so-called amendment to the funding because we do not have the national average of gasoline taxes. We have decided to go to a $600 million bond issue. That is our way we are going to fund our highway program and we are not included in the formula. We are included in the formula as it relates to individual incomes. But you begin to look at the problems we have.

But I am going to support the bill. I have some qualms about it. I would like to get it out of the way tonight. If we were not going to have people talk for a long period of time, we could be out of here by 11:30. But, nevertheless, there are a lot of things here we are swallowing, and I see all of these amendments go on and little things being done. Maybe it is time I started looking after my interests a little bit, too, instead of helping try to get this highway bill through.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 348) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 349

(Purpose: To assist certain States in obtaining rail passenger service)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. BOREN, and Mr. COHEN, proposes an amendment numbered 349.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . SECTION 18—GRANTS TO OFFSET AMTRAK LOSSES.

Section 18 of the Act (49 U.S.C. App. 1614) is amended by adding at the end the following:

"(i) AMTRAK LOSSES.—The amounts apportioned under subsection (a) to Maine, South Dakota, and Oklahoma may be used by such State to offset operating losses incurred by Amtrak in any calendar year as a result of providing passenger rail service to such State on the basis of an application pursuant to section 403 of the Rail Passenger Service Act (45 U.S.C. 563), and in conjunction with cost-sharing under subsection (b) of such section. Not more than 50 percent of the State's share of the operating losses incurred by Amtrak in a State may be offset with funds available under this section.".

To amend title 23, United States Code, and for other purposes. On page 13, line 18, after the comma, add the following: "and operating cost for passenger rail for States without Amtrak service as of the date of enactment of this Act."

Mr. NICKLES. Mr. President, I ask unanimous consent that Senator BOREN and Senator COHEN be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I rise today to offer an amendment that would assist in the completion of our Nation's passenger rail system by allowing all of the contiguous States to receive Amtrak service. Currently, only three of these States, Oklahoma, Maine, and South Dakota, do not have Amtrak. Like the Interstate System which is 99.3 percent complete, we must complete the extension of passenger rail service to all States.

For several years myself along with other members of the Oklahoma delegation have encouraged Amtrak to resume service to our State. While Amtrak has stated a desire to return to Oklahoma, they have been unwilling to fund any service that they project to lose money. Of course, a majority of Amtrak's routes lose money and in fact Oklahoma and Maine are projected to lose a lot less than most of them.

While I support Amtrak's efforts to reduce their need for a Federal subsidy, I believe that as long as the railroad receives Federal funds from every State, that every State should be served. It gets back to the same basic argument that the highway donor States, including Oklahoma, have been making that we should receive the benefits of our contributions. In fact, since Oklahoma lost Amtrak service in 1979, we have contributed approximately $85 million to subsidize passenger rail in other States.

Amtrak has indicated that they would service the remaining States if those States would help subsidize their initial service under their 403(b) program; 403(b) requires a State to subsidize Amtrak service at a minimum of 45 percent of the first years operating loss and a minimum of 65 percent for each year thereafter. Unfortunately, Oklahoma is unwilling to participate in 403(b) since we would then be the only State that was required to help pay for its initial Amtrak service. This is simply unfair. Oklahoma, Maine, and South Dakota should be treated the same as all the other States and have their initial service subsidized.

Therefore, my amendment would address this situation in a manner that Amtrak finds acceptable. The amendment allows Oklahoma, Maine, and South Dakota to use funds from the mass transit account to meet their obligation under 403(b) of the Amtrak Act. These funds would require a 50 percent match and would only apply to these three States that do not currently have passenger rail service.

In this manner Amtrak is not required to accept the total loss and create a negative impact on their Federal subsidy need, and Maine, Oklahoma, and South Dakota would be able to utilize a fairer percentage of the mass transit funds that they contribute. This flexibility is tied into the flexibility already allowed under the provisions of the legislation to help States meet Amtrak capital needs.

Mr. President, I encourage my colleagues to accept my amendment and help Oklahoma, Maine, and South Dakota, all predominantly rural States, help meet their transportation needs. With the continued loss of rural bus service, essential air service, and the lack of adequate roads, the addition of passenger rail service in these areas is important to the citizens of these States.

Mr. President, presently in the Amtrak we have three States in the lower 48 who are not participants or do not currently have Amtrak service. They are Oklahoma, Maine, and South Dakota.

Mr. President, the amendment that we have before us right now would allow States to use some of the money, either from the highway trust fund or from the portion of the fund dealing with mass transit in the rural areas, to offset part of the operating losses that would allow these States to enact and have Amtrak service.

Mr. President, this is an amendment we have been negotiating and working on for some time. I wish to thank my friends and colleagues, Senator SYMMS, Senator MOYNIHAN, Senator MITCHELL, Senator CRANSTON, and Senator D'AMATO, for their cooperation in working this out. I think it is a good step. It will enable these three States, at long last, if those States so desire, to make that option. It gives them that flexibility to use some of the funds that they are receiving, either from mass transit or the highway fund, to partially offset the losses under Amtrak so they can begin Amtrak service.

I might mention, Mr. President, our State has been donating about $7 million a year, we figure, on a per capita basis to help subsidize Amtrak except we have not had Amtrak service in my State. We estimate the total contribution of Oklahomans since 1979, when we lost Amtrak service, to equal about $90 million. Again, this amendment will allow us to begin receiving Amtrak service if our State makes this contribution. I hope and expect they will.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I want to compliment my colleague from Oklahoma, Senator NICKLES, for all of his hard work and leadership on this matter. It has been a privilege to work with him. This is a matter the people of Oklahoma feel strongly about. There is widespread interest in restoring Amtrak service. As Senator NICKLES has indicated, we are one of only three States in the Union now without this service.

We have contributed an immense amount of money to this system, almost $90 million. It is an important transportation system in our country. We simply want our own opportunity to participate in it. This is a good amendment.

I want to also express my appreciation to the managers of the bill for their help and their support for this proposal. It gives maximum flexibility to the State government in Oklahoma for the utilization of the funds, as outlined by my colleague from Oklahoma, and allows them to make the decision. It does then provide some assistance with Federal dollars that are due back to the State of Oklahoma through the funding formula, giving us the right, if we so desire, to use some of these funds, matched with State-collected funds, to help restore Amtrak service to the State. It is something that should be done. It makes sense. I urge the adoption of the amendment.

Mr. COHEN. Mr. President, I am very pleased to join my colleague from Oklahoma, Senator NICKLES, in offering an amendment to help bring passenger rail service to those States that do not currently have Amtrak service.

My home State of Maine is diligently working to get Amtrak service to run from the south station in Boston, MA to Portland, ME. Maine is one of only three States that does not have Amtrak service at this time. Interest in bringing passenger rail service to Maine has grown dramatically over the past few years as State and local officials look for an energy-efficient, environmentally benign alternative to congestion on the interstate corridor north of Boston. In this era of highway and airport gridlock, passenger rail service has become much more than simply a convenience for our traveling public. Amtrak service would decrease our Nation's dependency on foreign oil, reduce pollution, and reduce wear and tear on Maine's heavily traveled roads.

Amtrak has estimated that, based on three daily round trips, the service would carry some 223,000 passengers, total 13.5 million passenger miles, and generate passenger revenues of $2 million annually.

The cost of bringing this service to my State is high. Amtrak estimates that $30 million is needed for right-of-way and facility improvements to upgrade the railroad, and an additional $19 million is needed for passenger cars and locomotives.

Should an 80-mph, 2½ hour service between Boston and Portland be created, Amtrak estimates the operating losses in the first year to be about $3.4 million. Under section 403(b) of The Rail Passenger Service Act, States seeking Amtrak service are responsible for at least 45 percent of the loss in the first year and at least 65 percent in the years thereafter. The 5-year surface transportation reauthorization measure that is presently being considered by the Senate will give the State of Maine the option of spending its Federal funds on the surface transportation programs of its choice. It is my hope that this flexibility will help bring Amtrak service to Maine.

The amendment we are offering today will enable States, such as Maine, that do not have Amtrak service to apply for funds under The Urban Mass Transportation Act to help offset the operating losses incurred by Amtrak in any calender year as a result of providing passenger rail service.

With Maine's capital improvement costs to initiate service amounting to nearly $50 million, I believe this amendment is an important step in helping to make passenger rail service a reality for the people of Maine. I hope that my colleagues will join us in supporting this amendment.

Mr. MOYNIHAN. Mr. President, the amendment is acceptable on this side.

Mr. SYMMS. We accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 349) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, we are coming to the end of our deliberations today with our work not finished. I was thinking about today and the days that preceded it, and there came to mind a passage from the novel "Coningsby," by Benjamin Disraeli, that was published in 1944. It is a passage I think some Senators will find resonant tonight. The Duke is telling the young Lord about going out into public affairs and what he can expect. He said:

> In a couple of years or so you will enter the world. * * * It is a masquerade; a motley, sparkling multitude, in which you may mark all forms and colours, and listen to all sentiments and opinions; but where all you see and hear has only one object, plunder.

We see it all around us, do we not? We brought to this body, by a 15-to-1 vote, a fine bill. It has been the result of 4 years' reflection, inquiry, and I presume to say, study. We thought our way through a new era of transportation, and we thought we had something the Nation would benefit from. We are in a situation where we are, indeed, needful. As we have fallen on ways and patterns that have not been particularly productive.

And then we break into that less seemly of Senate conduct where the interests of the whole are subordinate to the interests of the lesser entity. We were designed to be that way. There is nothing to be done about it. But we have been known to rise above such measures and maybe we will now. We failed today. We failed last week when we tried to bring up this measure. Senators would not have it; they were not getting enough, picking out one item in a hugely varied system of public expenditure in which one Senator's State benefits from this program, another from that program—hugely varied.

There are some consistent patterns. The ideas that we pay taxes for this and do not get back exactly that—it is not possible to have a commonwealth on that basis. It may yet prove, Mr. President, that it is not possible to have a surface transportation program.

The Senator from Idaho, the Senator from Rhode Island, the Senator from North Dakota, the Senator from New York, said all through Tuesday that a vote on cloture to bring this bill up would be a vote on whether there would be a bill. There does not have to be a bill. We can all go home and explain that to our Governors, our legislatures, our contractors and trade unions. There is no reason there has to be a highway program. Thomas Jefferson had one in 1806. It took 110 years before we resumed the practice. It might be that a century of relaxation might concentrate our minds.

I cannot speak for anyone but this Senator, but I want to say we cannot even work out a time agreement on our having failed today. Our having failed today is an ominous event, and those who think they will get more by being more difficult may end up by getting nothing; nothing. That is what some will deserve, in the judgment of this Senator, meaning no individual in particular.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Mr. CHAFEE, the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first let me refer back to the Disraeli situation. I am an admirer of Disraeli, as are many here. One of the things I remember about Disraeli, who as you all know was one of the great witnesses, great intelligentsia of Great Britain, whose wife many thought was not very intelligent. As a matter of fact, she admitted that she never could remember who came first, the Greeks or the Romans. They said to Disraeli, how can you stand going home to this woman who was older than Disraeli, not very attractive, and clearly not the brightest woman in England? He said when I dual with the greatest minds in Europe all day long, I do not want to go home and have to dual with some genius. And indeed he did not have to with Mrs. Disraeli.

I would like to just briefly touch on one more anecdote about Disraeli, for which we seem to have plenty of time here tonight. A woman had the unique privilege in two successive evenings of sitting next to Gladstone and sitting next to Disraeli. So they asked her—what a unique experience, I mean, who has ever sat next to the two most brilliant men in England—what was it like?

She said after an evening of sitting next to Gladstone at dinner, I came away believing that the most brilliant man in the British Empire was Gladstone. The following evening I sat next to Disraeli, and I came away from that experience thinking that the most brilliant woman in the British Empire was me.

I would like to just encourage the distinguished Senator from New York about this legislation. He seems to me to be a little gloomy. This is a wonderful bill we have. Yes, it has been chipped away at. But very much modestly. This bill deals with $110 billion, and to suggest when you have $110 billion on the floor that people are not going to be trying to get their part, I think is disingenuous.

But nonetheless, I believe that the essential part that the Senator from New York has worked so hard on for so many years has been preserved, namely the flexibility that goes to the States for about 50 percent of this total program. The States still have that. Yes. It has been chipped away at a little bit, but modestly.

But the essential element that the Senator from New York and the rest of us who have worked on this, the distinguished Senator from North Dakota, the Senator from Idaho, and myself and others, the Senator from Montana who is not here this evening at this time, who has worked so hard on it—and I want to particularly pay tribute to the Senator from New York who has been the leader of the band of us. This bill provides that 50 percent of the money can be used for what the States wish. If they want to use it for highways, fine. If they want to use it for mass transit for subways, for buses, that is up to the States. That is a tremendous achievement.

The very name of the bill is the Surface Transportation Efficiency Act. It is not a highway bill. It is to move people and goods in the most efficient fashion that we can devise. That is what it is all about.

So I do not think the Senator from New York should feel discouraged. When you have this vast amount of money, yes, Senators are going to be up getting their share for this or that or whatever it might be. But basically the form of the legislation has been preserved. So I think he should charge on, and feel satisfied.

I do not know whether we are going to finish this tonight. Frankly, if I had my druthers, we would put it over to Tuesday, only working on this remaining Byrd provision and consider the rest done. There are no more amendments. We have taken care of the amendment that dealt with how to apportion the section of what we call the STP, the 150 percent. That was a long debate that took up most of the afternoon negotiations with the administration. That has been settled.

So the only thing left is what to do with the extra amount—when you consider $110 billion—a relatively small amount that Senator BYRD has discovered that we are now deciding how to apportion.

I think if we bring that up tonight there would be incredible debate. We do not know the figures. We do not know what is there. I think that should come to our staffs. We have tomorrow that can be considered, Monday, and then when we come in Tuesday we can look at it and decide how to proceed, restricting the amendment solely to what we might call the Byrd proportion.

But to the Senator from New York, I say you have done a wonderful job. You should be satisfied, happy, and pleased with what has been accomplished.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Rhode Island. He is no stranger to adversity and combat. It is quite entirely true that the Senator from Idaho and I have remarked that no provision that has come to the floor as an amendment, with one or two exceptions, has gone to the substance of our bill. We have had some enhancement, slight variance, but the bill is virtually intact in the manner in which it has reported from the committee. But the other matters are not resolved and we will not vote tonight. We will vote some tomorrow, apparently, and Monday and Tuesday. I hope that process comes to an end. I hope those Senators who feel strongly about it also might feel strongly about the bill itself. That is all.

Mr. SYMMS. Mr. President, I, too, want to join in with my colleague from Rhode Island in encouraging our friend from New York that all is not lost. I also say that in this Senator's opinion—and I have been here on this floor last week, all of this week, helping bring this bill to final passage—it appears to me that the best thing this Senate could do tonight could be to recess, come back tomorrow, see where we are. And if we are not ready to vote on it tomorrow, we could come back on Tuesday, and then say the only issue left, as the Senator from Rhode Island pointed out, is to fight over the money.

That is what I have told many groups that I have met with earlier this year, that we probably would be able to resolve most of the issues in the transportation bill except one, without a big fight, free-for-all at the OK corral, if you will. And that will be on the apportionment of how the funds are allocated out. That is exactly where we are now.

It seems to this Senator that this bill would be better served, and the Senate would be better served if we could get our leaders to come in here and recess us until tomorrow. I mean that is what I would like to see happen.

I think the Senator from Kentucky gave us some very constructive and friendly criticism earlier this evening when he suggested that we are starting to take on a few amendments that we will probably have to lose between here and the conference. I think he is making a very good recommendation to us. We have about reached the point where we ought to settle the money, pass this bill up or down, and then let Senators realize what the Senator from New York said when he makes the observation that we do not have to have a national highway program. He is quite right. All we would have to do is just return all these funds, repeal the tax, close down the Federal Highway Administration, close down any national perspective, and let every State fix their own highways.

The chances are with the national hand that has been played in it and with AASHTO that the roads in general would meet at the State lines, and there will not be too much of a problem. We are not past that stage in this. So it could happen.

For States like mine, it would put a tremendous burden on them. For states like Montana, it would put a tremendous burden on them.

The National Highway System has made it possible to have good roads clear across the country. Without the resources from some of the more wealthy areas in the country to make it a national system, it would not have been possible to develop the road network we have today in this country. I think it would be unfortunate if it happened, but it could happen. So I hope our colleagues will settle this issue, and I also again appeal to the leadership to recess the Senate at 11:20 tonight. We will probably accomplish nothing of any benefit between now and tomorrow morning.

I urge my colleagues to get the leaders here on the floor, and let us get the Senate in recess.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

AMENDMENT NO. 350

(Purpose: To include as eligible expenses in the Surface Transportation Program capital costs related to the purchase of alternative fuel school buses.)

Mr. NICKLES. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself, Mr. DOLE, Mr. DOMENICI, and Mr. BOREN, proposes an amendment numbered 350.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) On page 14, after line 15, insert the following new paragraph (10):

"'(10) incremental costs attributable to the use of alternative fuels by school buses, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas): *Provided*, That, any conversion using funds authorized by this paragraph comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990: *And provided further*, That, for purposes of this paragraph, "alternative fuels" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; and electricity;"; and

(b) On page 14, line 17, delete "(10)" and insert "(11)".

Mr. NICKLES. The amendment I offer tonight is on behalf of myself, Senator DOLE, Senator DOMENICI, and Senator BOREN.

Mr. President, this amendment allows States to use their discretionary Surface Transportation Fund Program funds for the incremental purchase costs of alternative fuel for schoolbuses, conversion of schoolbuses to dedicated alternative fuels or natural gas with diesel combination bus conversion, and for purchase and installation of the refueling equipment.

All the language that we have would be consistent with compliance of the Clean Air Act, which previously has been passed, and is also consistent with many of our efforts to increase the use of alternative clean fuels in vehicles, particularly in fleet vehicles such as schoolbuses. It makes common sense, and I think it will help clean up the environment and help reduce our dependency on oil as well.

The States must match the grants with a 20-percent contribution, as with all other eligible uses of Surface Transportation Program funds, other than new road construction.

Any schoolbus conversions to use alternative fuels using funding provided by this amendment would have to meet the requirements for warranty and safety for alternative fuel conversions established under the Clean Air Act Amendments of 1990.

It also gives specific eligibility to conversions to dual fueling with diesel and natural gas to permit conversions of the current, and in many cases relatively new, diesel schoolbuses with clean burning natural gas. The definition of qualifying alternative fuels is taken from the section 4101 of S. 1220, the National Energy Security Act of 1991, Calendar No. 106.

The flexibility in use of the Surface Transportation Program funds is needed to encourage States to move to alternative fuels in their schoolbus fleets to meet Clean Air and energy security goals. In addition, this flexibility will permit the States to assist school districts in complying with the mandate in S. 1220, the National Energy Security Act of 1991, as reported by the Committee on Energy and Natural Resources, that all school districts in metropolitan areas of 250,000 or more that have a fleet of 20 or more vehicles must purchase increasing percentages of alternative fueled vehicles beginning in 1995.

The flexibility for use of the Surface Transportation Program funds is needed to encourage school districts to begin converting or purchasing vehicles in the 1992 fiscal year, rather than wait for Clean Air Act and possible alternative fuel conversion mandates beginning in 1996. Early conversions will not only reduce air pollution and petroleum imports immediately but will also provide funding and planning flexibility to the school districts during the transition to the 1996 mandate for purchases of new vehicles.

Inclusion of capital expenses for alternative fuel schoolbuses in the Surface Transportation Program options is consistent with the declared policies of S. 1204 to "facilitate innovation * * * and energy efficiency, productivity and accountability in transportation modes through Federal and State initiative."

Furthermore inclusion of capital expenses for alternative fuel schoolbuses in the Surface Transportation Program options is also consistent with other eligible programs such as capital costs for mass transit including publicly owned intracity bus facilities and transportation control measures listed in the Clean Air Act. Moreover, these alternative fuel schoolbus expenses are at least as related to highway use as other eligible expenses in the Surface Transportation Program, such as purchase of historic buildings and canals and creation of bicycle trails on abandoned railway corridors.

By encouraging the demand for alternative fuel vehicles, this amendment is also consistent with the provisions in S. 1204 that encourage the commercialization of advanced technology in movement of passengers in the Intelligent Vehicle-Highways Systems Act and the Magnetic Levitation Rail Program funding.

School districts throughout the country are financially strapped. At the same time, schoolbus fleets present one of the best opportunities for alternative fuel fleet programs: generally centrally fueled, usually short range, parked overnight in central location, large vehicles without heavy-duty load requirements. These school districts need additional resources to finance the relatively high up-front capital costs of refueling pumps, conversion costs, and incremental purchase price of buses.

Without the flexibility this amendment would give the State to assist the school districts in overcoming the high initial costs, the school districts cannot take advantage of the long-term cost savings that could be realized by using compressed natural gas or liquefied petroleum gases in their schoolbuses. The funding flexibility also will help ensure that school districts will have adequate funding to avoid safety shortcuts that might be forced on them under the mandatory purchase program if adequate funding were not available.

Finally, the Oklahoma Conservation Commission, which is in its second year of managing a natural gas conversion program for the Tulsa school district, has calculated the annual fuel savings from the conversions to about $1,000 per bus per year. The conversions are about $3,000 per bus, and special arrangements were made to acquire refueling systems. AGA estimates that, excluding land acquisition costs, high speed natural gas refueling facilities now cost about $3,000 per vehicle. With a useful life for schoolbuses of at least 10 years, the long-term paybacks are excellent. However, assistance is needed for the up-front capital costs, particularly for the refueling systems.

Mr. SYMMS. Mr. President, this amendment has been examined by the majority and minority, and it is acceptable.

The PRESIDING OFFICER. Is there further debate?

Mr. FORD. Mr. President, will the Senator from Oklahoma yield for a question?

Mr. NICKLES. I will be happy to.

Mr. FORD. As I understand his amendment, it is taking highway funds and converting schoolbuses with highway funds to use alternate fuels.

Mr. NICKLES. The Senator is correct. It allows the States to use discretionary authority to make the conversion, if they so desire.

Mr. FORD. What is the discretionary authority? What bothers me, as I said, is we have changed the highway system, and we have a summer youth employment program, and we have increased research and development as it relates to the urban and rural areas, and now we are getting into converting of vehicles for alternate fuels, which will be natural gas, in the Senator's particular case.

I wonder if we really are having a highway bill, or are we beginning to lay on amendments that do almost everything? My friend from Idaho does not want to object, and I do not want to either, but we are beginning to look like we are having a Christmas tree rather than a highway bill.

I would hope we would have somebody left to lay blacktop and concrete and do those things that a highway bill is supposed to do.

I hear all of these eloquent speeches and quotes from place and history here tonight. I will tell you, I am here to see that Kentucky gets as big a share of the highway program as it possibly can. It costs more money to build highways through Appalachia than any place in the United States. I think we are entitled, if you are going to have some help, to as much help there.

You begin to pick away at all these opportunities, and it does not seem to me that we have a real highway bill. We have lost the intent of the highway program and a 5-year program.

No one is more interested in alternate fuels than I am, but we have other programs to do that. The distinguished Senator from Oklahoma is on the Energy Committee, and we are trying to set up programs for alternate fuels, clean coal technologies, and all of these things; and now we are digging into the highway bill to allow more money to be spent, and it is diverting the intent of the gasoline tax that we are charging in one of our amendments that will come in, Senator BYRD's amendment, and then the Mitchell amendment, as it comes behind it to try to allocate the funds.

So I am not going to object. This is the second time I have said this tonight, Mr. President. We are beginning to have a Christman tree rather than a highway bill.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 350) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I want to say that I appreciate the comments of the distinguished Democratic whip, and what I would appeal to my friend from Kentucky to do, as the No. 2 leader of the majority here in the Senate, is get the Senate out on recess, and it will save us a lot of problems here tonight.

If I can have the attention of the Senator from Kentucky, what I just said is that I appreciate the comments of the Senator from Kentucky, and I agree with the Senator from Kentucky. While he was off the floor a moment ago, I thanked him for what he had said earlier. As the Democratic whip in this matter, majority whip, I urge the Senator to get the leader to get us out in recess, and it will save us a lot of trouble.

Mr. FORD. Mr. President, let me say to the distinguished ranking member of the committee, the majority leader is going to run this Senate the way he wants to. A lot of people that are involved in holding it up are not Democrats. The majority leader will do the job he has been elected to do, and no one is going to do a better job than he does.

The majority leader has as much patience as anybody I have ever known.

Mr. SYMMS. More.

Mr. FORD. And the patience he has is not necessarily because of Democrats. I just want the distinguished ranking member and manager of the bill on the floor to know that the majority leader is doing the best job he can. He has been meeting with the Republican leader. He has been talking with Republican Senators. So let us not get too excited and start pushing.

We have come a long way, and we will go a lot further, and this will be the first all-night session we have this year if we stay around. So 1 out of every 6 months the Senator ought not to be too unhappy with that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I see the Senator from Rhode Island [Mr. CHAFEE] in the Chamber, and I wonder if he might be willing to engage with me in a brief discussion regarding the bill's provisions on seatbelts and motorcycle helmets?

The PRESIDING OFFICER. The Senator from Rhode Island is being addressed by the Senator from Wisconsin.

Mr. KOHL. I wonder if the Senator from Rhode Island will engage in a brief discussion.

Mr. CHAFEE. I am glad to do so.

Mr. KOHL. As the Senator from Rhode Island knows, I had planned to offer an amendment to strike subsection (a) of section 122. I hope that that will not be necessary.

Mr. President, let me first explain to my colleagues what this provision does. Section 122 requires a State that does not have both a mandatory seatbelt law and a mandatory motorcycle helmet law in effect in fiscal year 1994 to set aside 1.5 percent of its section 104(b)(1) funds in fiscal year 1995 to be used only for certain programs. Programs that could be funded with these set-aside funds include motorcyclist and occupant safety programs, other eligible programs under section 402, rail-highway grade crossing projects under section 130, and the hazard elimination program. By fiscal year 1996, this set-aside would be increased to 3 percent of a State's section 104(b)(1) funds.

Mr. President, let me say at the outset that I wear a seatbelt. I believe in seatbelts. And most State legislatures have adopted mandatory seatbelt laws. In fact, 39 States have mandatory seatbelt laws, Wisconsin being one of them.

Let me also say that I do not ride a motorcycle. But many people in Wisconsin do. In 1989, there were 161,000 motorcycles registered in Wisconsin. But if I did ride one—and it would of course be a Harley-Davidson—I would wear a helmet. I, personally, believe in motorcycle helmets.

But I also believe in States' rights. And that is really what this issue is all about: 24 States have adopted universal mandatory helmet laws; but 26 State legislatures have declined to do so. Some, such as Wisconsin, used to have mandatory helmet laws but no longer do.

I am not here to debate whether or not mandatory seatbelt or helmet laws make sense, or whether or not people should be forced to wear them. I am only here to debate whether or not the Federal Government should dictate State law in this area. Because that is what this bill is attempting to do—to coerce 32 States into passing mandatory seatbelt and motorcycle helmet laws.

I will admit that it is gentle coercion. No State would lose money under this provision. No State would be forced to pass a seatbelt or helmet law, but it appears to be coercion nonetheless.

If the Senator from Rhode Island would be willing to do so, I would like to ask him a few questions about the potential impact of this provision on any State.

As I understand the bill, it would require a State without both a mandatory helmet law and seatbelt law by fiscal year 1994 to set-aside, in fiscal year 1995, 1.5 percent of its section 104(b)(1) funds. That set-aside would be increased to 3 percent in fiscal year 1996. The section 104(b)(1) funds are only funds allocated to States under the Surface Transportation Program, not the Bridge or Interstate Maintenance Programs, is that correct?

Mr. CHAFEE. Yes. The Senator from Wisconsin is correct in that, the set-aside fund would solely come out from what we call the STP fund, the surface transportation fund, the 50 percent of the funds that are considered discretionary.

Mr. KOHL. I thank the Senator from Rhode Island.

In looking at this chart of spending under the Moynihan bill, Wisconsin is expected to receive about $234 million under the Surface Transportation Program in fiscal year 1996. Therefore, if Wisconsin had not enacted a mandatory helmet law by then, Wisconsin would have to set aside 3 percent of its STP funds—or approximately $7 million—for eligible safety programs.

Now, Wisconsin this year got about $3.9 million from the Federal Highway Administration under the Rail-Highway Crossings Program, about $3.6 million under the Hazard Elimination Program, and about $200,000 under the section 402 Program. I would ask the Senator from Rhode Island whether it is his impression that Wisconsin would have to spend an additional $7 million in these programs above and beyond the $7.7 million that they now spend if they did not have both a helmet and seatbelt by fiscal year 1995?

Mr. CHAFEE. The answer to the question is, no, they would not have to spend the additional amount. They would solely have to spend the 3 percent of the surface transportation fund which, in this case, the Senator cited the illustration would be $7 million. In other words, they would not be required to spend the other funds that the Senator previously listed.

Mr. KOHL. I thank the Senator from Rhode Island.

From my conversation with the distinguished Senator from Rhode Island earlier today, I gather that the legislation requires States to fund the section 402 program, the rail-highway crossing program and the hazard elimination program out of their Surface Transportation Program funds—rather than the present system where these funds are earmarked and allocated under each of these programs. Is that correct?

Mr. CHAFEE. Yes, the Senator is correct.

Mr. KOHL. If that is correct, then a State that has to earmark 1.5 percent or 3 percent of its STP Program funds for these programs could simply substitute these funds for funds that it might otherwise allocate to these programs under the STP Program. Am I correct?

Mr. CHAFEE. The Senator is correct.

Mr. KOHL. If that is indeed how this provision would work, then I am more comfortable with it. I would not be comfortable with it if I thought that Wisconsin would have to dedicate $7 million more to these programs than the $7.7 million they now spend. While I believe strongly in safety programs, at some point this type of set-aside becomes not only coercive, but fiscally irresponsible. I would expect that Wisconsin would have a difficult time spending $14.7 million prudently on safety programs in a single year.

With this understanding, Mr. President, I will not offer my amendment. I will say that I would prefer to see this provision deleted entirely, since I truly believe that the Federal Government should not attempt to force States to act on an issue that is best left to the States to decide.

The Senator from Rhode Island, the author of this provision, argues that this amendment will save lives. He argues that this amendment will reduce insurance premiums. He may be right. But these are arguments that can just as easily and just as persuasively be made in State legislatures around this country. And they are arguments that ought to be made in State legislatures. And they are arguments that have been made in State legislatures.

And State legislatures have acted. Forty States have mandatory seatbelt laws and 24 have comprehensive, mandatory motorcycle helmet laws. Perhaps more will act. I am not here to judge the wisdom of any State legislature. But I do believe that this is a decision that ought to be left to the States—not dictated from Washington.

Mr. President. I want to thank the distinguished ranking member of the Environment and Public Works Committee, Senator CHAFEE, for his clarifications on this issue, and I yield the floor.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Wisconsin for the thoughtful consideration he has given to this whole matter, and he has pointed out, quite rightly, that what takes place under the bill that we have does not require training funds or safety funds to be in addition to those that are already expended by the States under the law as it presently exists. Those expenditures for rail crossings, whatever they might be for safety count toward the sums that are allocated for safety under the legislation we have.

So I appreciate the perceptive views he has given.

Let me say one thing in conclusion, Mr. President. The Senator states that I have observed that this would reduce insurance premiums. I am not sure I ever said it would reduce insurance premiums. I hope that it would hold them steady or reduce the rate of increase that is occurring in the insurance premiums.

The argument that comes up here—and particularly in the health bill—for motorcyclists is the following: Motorcyclists say they have the right to ride the motorcycles—they are Harley-Davidsons—with the wind blowing through their hair, without a helmet; if they get into an accident that is their business. If, indeed, it were their business, we would not be here on this present matter we are discussing.

The trouble is it is not their business. It ends up being a cost to the citizens of the United States of America, not of Wisconsin, not the citizens of Wisconsin, or Illinois, Kentucky, or Rhode Island, or wherever it might be. Through Medicaid, the citizens of the Nation end up paying half or more of the bills of these individuals who are terribly injured in motorcycle accidents.

There is no question that those who ride without helmets suffer vastly more severe injuries than those who have helmets. And what happens? They end up comatose in the State hospitals with Medicaid picking up 50 percent or more of the bill. That is why we came forward with this legislation.

I appreciate the observations of the Senator from Wisconsin on it. I am thankful he has brought these views to the attention of the body as a whole.

Mr. FORD. Mr. President, did I understand the distinguished Senator from Rhode Island to say to the Senator from Wisconsin that if they had not passed the helmet law under this provision they would have to set aside $7 million-plus from the highway funds?

Mr. CHAFEE. No. It is not a dollar amount. It is a percentage amount.

Mr. FORD. It is 3 percent, is it not? And his figure would be $7 million-plus.

Mr. CHAFEE. For safety purposes, safety education; safety purposes for whole series of measures other than motorcycle training or education.

Mr. FORD. But still the same question: If they receive x number of dollars, if they have not passed a helmet law, then they must set aside 3 percent of their Federal highway money?

Mr. CHAFEE. Three percent of a certain section of their highway money, yes.

Mr. FORD. Which is roughly 50 percent of what they get. In this case, it would cost Wisconsin in excess of $7 million. Either they could use it in some other way or they would lose it from their highway funds. So the $7 million, without the legislatures in Wisconsin or Kentucky or Montana passing a helmet law, then it gets back to that old 10 percent, that if you did not have the billboards down, or you did not do certain safety factors, then you got your highway funds cut.

So we are now getting back into the same old rut we were in early on when it was a carrot and the stick. You got to keep the money if you were good folks. And if you were not complying with Federal law, then you lose a pretty significant amount of money. Three percent is $7 million, under the figures of the distinguished Senator from Wisconsin, and that bothers me some if that is true. And the Senator says it is true.

Mr. CHAFEE. Let me just explain. The funds are not deprived from you. The funds must be used for safety purposes. And I must say the interpretation of safety is pretty broad.

For example, the funds can be used for railroad crossing improvements. The funds can be used for education. As the Senator from Wisconsin pointed out, as the law currently exists, Wisconsin is required to spend money in a whole series of safety ways under the current law. Those laws now will be changed. So, as a result, Wisconsin will come out with less dedicated to safety, even if they do not observe these provisions, than they would under the current law.

Mr. FORD. But the law says if you do not pass the helmet law, then 3 percent of the highway money—that is, certain categories must be dedicated to purposes at the discretion of the State as it relates to safety. So you would not put any rules or regulations on how Wisconsin spent that 3 percent, which is approximately $7 million. They are free to do what they want to do without a helmet law. They would just have to spend it on safety.

Can they then have, where you lose your license for driving while intoxicated, can you use that money to set up a school to rehabilitate the driver?

Mr. CHAFEE. Yes, you can use it for that. You can use it for motorcycle training.

I must say, the coercion part—I will be perfectly candid with the Senator from Kentucky—I started out in the committee trying to have an amendment that would be extremely persuasive toward the States to enact both seat belt and helmet laws. And indeed the original approach I had was a similar one that we used for raising the drinking age to 21, which, as the distinguished Senator being here at the time recalls, said if you do not enact it by x number of years, 4 years, whatever the years were, you would lose 4 percent, 5 percent of your total highway funds. That was very persuasive. Every State in the Nation thus enacted the drinking limit age law to 21.

That was the approach I took. But a kinder and gentler staff persuaded me that was not the way to go, and instead said at the end of 4 years the State, if they had not enacted a seat belt and helmet law, would have to dedicate 1.5 percent of its funds to safety, and at the end of 1 more year 3 percent of its funds for safety. But the definition of safety is extremely broad.

Mr. FORD. But under the present rules, you are now allocated a certain amount of funds for the safety provisions. You are eliminating those. So you do not get the money. But if you fail to pass the helmet law, then you are forced to use a portion of that money in the area of safety which has been eliminated under the formula.

Mr. CHAFEE. That is correct.

Mr. FORD. I thank the Senator.

Mr. ROBB. Mr. President, in order to save time, I rise to explain an amendment I am still in the process of clearing on both sides and hope to be able to offer very shortly. This amendment is designed to improve intergovernmental cooperation by shifting control of part of America's transportation infrastructure away from Washington and bringing it closer to the people.

I had occasion this past weekend to give the first Elmer Staats lecture to the Academy of Public Administrators about the need to make government work better. I believe that can best be done by revamping the division of labor between the States and the Federal Government, in order to put power and responsibility at the level of government most able to identify and satisfy the needs of the people.

Transportation planning needs to be done with a comprehensive view. Sometimes that will be the State level; sometimes the region; sometimes the metropolitan level. I do not believe that we should specify from on high a one-size-fits-all governmental solution. One size simply does not fit all.

The debate here this week makes that clear.

Cities and States may currently receive Federal funds to help with their transportation projects. But many problems and projects fall between those levels, and require the cooperation of various cities and towns within a metropolitan area which crosses State lines.

Kansas City, for example, lies within both Kansas and Missouri; similarly, the transportation problems of New York City cannot be solved without including the Connecticut and New Jersey suburbs in the planning.

To address these interstate transportation issues, jurisdictions often enter into interstate compacts.

The purpose of these interstate planning organizations is to create regional transportation networks in areas where those are appropriate, and to allow cities and suburbs to work together to solve transportation problems cooperatively and comprehensively.

Many people in America have already benefited from the work of such interstate organizations. Citizens of the New York area know the Port Authority of New York and New Jersey. People in Nevada and California know the Tahoe regional planning compact. Mr. President, even the Members here have been served by such a compact, if they have ever ridden Metrorail or Metrobus; the Washington Metropolitan Area Transit Authority is an interstate success story.

Unfortunately, under current law, organizations created by interstate compacts must get a special congressional dispensation before they are eligible for the highway trust fund benefits they need. The amendment I am proposing would be permissive, empowering States and neighboring cities to reach solutions which cross State lines, giving many of our major urban areas the tool they need to begin seriously addressing their growing gridlock. The goal of transportation is to keep America moving, not to bog our Nation down.

This amendment eliminates the unnecessary baby steps currently required to give metropolitan-level interstate organizations the power to solve the problems they are uniquely positioned to solve.

It lets urban regions get down to work, and keeps us all moving.

When I offer this amendment, I would urge my colleagues to support it.

If there are no questions, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I have an amendment I would like to explain. I believe it is going to be cleared by both sides. If it is not, obviously I will not offer it. But since the hour grows late, I would like to explain my proposed amendment so, if it is offered, we can have it approved with a minimum use of time.

The purpose of my amendment would be to allow States to use a portion of their highway moneys to help control highway-related pollution emissions. For instance, in Phoenix, AZ, we have a brown cloud problem which violates no ambient air quality standards, but is an environmental matter of great concern to my State and the 2.5 million residents of the Phoenix area.

Indications are that highway dust and other road-related conditions are the cause of this problem. This amendment would simply give the States the flexibility to use congestion mitigation and Clean Air Act compliance moneys, authorized by this legislation, to address urban haze problems.

It just would give the States that have unique problems, and there are others that have this haze problem, the flexibility under this act. I believe it is acceptable on this side. I hope it will be on the other side, and I will be able to offer it tonight, as my colleague from Virginia just did.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

AMENDMENT NO. 351

Mr. SIMPSON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for himself and Mr. WALLOP proposes an amendment numbered 351.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 138 of S. 1204, the Surface Transportation Efficiency Act of 1991, as reported, is amended as follows:

(A) On page 127, line 22, after "1991", insert the following: ", except in Wyoming in which additional vehicle configurations not in actual operation on June 1, 1991, may be authorized by State law, unless otherwise decided, not later than the general election date in 1992, provided such vehicle configurations do not exceed 117,000 pounds gross vehicle weight and comply with the single axle, tandem axle, and bridge formula limits set forth in 23 U.S.C. 127(a).

Mr. SIMPSON. Mr. President, this amendment that I present, which has been cleared and accepted by both sides of the aisle and the floor managers, is an amendment technical in nature. It would amend section 138 of the bill to allow the State of Wyoming to go forward to vote on a referendum next year for an activity that otherwise would be prevented by this bill.

I appreciate the floor managers' consideration of our special situation to allow my State to go forward with this referendum. It would not be fair to pass a Federal law that steps in and prevents a State decision that has been in the works for years. This is the purpose of the amendment.

Mr. BURDICK. Mr. President, we have no objection to the amendment.

LCV PROVISION

Mr. SIMPSON. Mr. President, I ask whether the distinguished Senator from New Jersey [Mr. LAUTENBERG] would be willing to discuss the meaning of some of the provisions of S. 1204 dealing with the freeze on truck weights for longer combination vehicles in section 138.

First of all, I want to thank Senator LAUTENBERG for his willingness to work with me and for the State of Wyoming with regard to our truck weight situation. Five years ago, in the 1987 highway bill, we worked together on a provision which allowed Wyoming to test the success of allowing trucks weighing up to 117,000 gross vehicle pounds to operate on our interstates. It has been a very successful test indeed. We have seen new industries come into Wyoming, jobs created, payrolls expanded by millions, and a tremendous volume of goods transported across our State.

I appreciate the fine and dedicated efforts of Senator LAUTENBERG to ensure that this truck weight is permanently allowed for Wyoming. Without the increased weight allowance, Wyoming is an island State surrounded on all sides by States which have higher trucks weight allowances that we would otherwise without this provision. In Wyoming, where 60 percent of our communities are served only by highway transportation, it is imperative that we keep ourselves equal to our neighbors. Our trucking industry is vitally important to us in Wyoming. We have no barges. Only this week did Amtrak reestablish passenger service along the southern border after an 8-year absence. And many communities struggle to keep adequate air service. Our highways are our link to the rest of the Nation. It has been a long road to protect Wyoming's transportation needs, and I appreciate the continued consideration and acknowledgment by Senator LAUTENBERG.

With regard to this provision in the current highway bill, it is my understanding that it is the Senator's intention to prevent the expansion of operations of particular types of longer combination vehicles in States where they are not currently allowed, but that it does not make illegal or take away any existing rights for the current types of longer combination vehicles operations. Is this correct?

Mr. LAUTENBERG. Yes, it is. It is a freeze on current operations.

Mr. SIMPSON. The trucking industry is very concerned with the language of the amendment which states these longer, combination vehicles must have been in actual, continual operation in order to qualify under your amendment. I am concerned about the status of many of the operations in Wyoming that are not particularly actual and continual, but are vital to our productivity and movement of commerce. For instance, loads that are transported under the authority of single-trip permits include Peacekeeper missiles, bridge girders, oil rigs, cracking towers, pipes, some steel products, boilers, tanks, beams, large and heavy construction equipment. Is it the intention of the Senator's amendment to prohibit these operations because they were not, indeed, in actual and continual operation on June 1, 1991?

Mr. LAUTENBERG. No, Mr. President, that is not my intent. I do not intend to stop or thwart the productivity of this Nation's transportation sector. If these loads are transported on one trailer, then they would not be subject to this amendment. Further, I would note that military cargoes, such as missiles, receive general exemptions as a matter of national security.

Mr. SIMPSON. But many of these products are moved on more than one trailer pulled by the same cab—they are called Jeeps. They are not triples, but they are multiple trailers that can be disconnected, but that lay over one-another and operate as one unit. I have a diagram here for the Senator's reference. They are imperative for hauling products to and from certain mines to either the interstates or railroad connections, they haul heavy equipment to new sites, they haul steel products to build new buildings. I believe that the Senator's amendment prohibits these operations because single-trip permits would be denied them as more than one trailer is used. Is that the Senator's intention?

Mr. LAUTENBERG. I do not believe that these vehicles that the Senator from Wyoming has described would be subject to the LCV restrictions in the bill, and they could continue to operate as the Senator has described. I do want to make it clear that it is the intent of my amendment to preclude the trucking industry from obtaining individual single-trip permits for separate trailers and then using those to justify triple trailer operations in States where that is currently not allowed. It is the intent of my amendment to preclude that sort of a use of single-trip permits.

Mr. SIMPSON. I appreciate the opportunity to discuss this with the Senator from New Jersey and to have some clarification on the matter. If, upon continued review by the Federal Highway Administration, it is determined that these operations would be precluded under the bill, would the Senator be willing to make the appropriate changes in the bill?

Mr. LAUTENBERG. We will be going to conference with the House on this legislation. If there are unintended impacts, I assure the Senator that I will continue to work with him to address those problems.

Mr. SIMPSON. I thank the Senator again for his consideration, not only of Wyoming, but also of the manner in which we haul and move products in the West.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 351) was agreed to.

Mr. SIMPSON. I thank the senior Senator from North Dakota for his courtesies. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the role.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, since my days as a member of the Louisiana State Legislature, one of my highest priorities has been the creation of a north-south highway in Louisiana. A highway that would make it possible to travel on an interstate-quality road all the way from New Orleans to my hometown of Shreveport and beyond.

Well, 24 years have passed and my dream is slowly becoming a reality. I-49, as originally authorized, is almost complete. The rural portions of the highway are open and we are currently finishing up the urban areas in Alexandria and Shreveport. But this is only part of the dream. In order to make I-49 a truly interstate highway and to foster continued growth along it, it needs to be extended to Kansas City, MO, where it will meet with I-29 and I-35. By so doing, we will have a continuous interstate-quality road system from the Gulf of Mexico to the Canadian border. This highway will directly service citizens in 11 States of America's heartland and will be the nearest interstate-quality road for 20 percent of our Nation's population. This road will also benefit 14 military installations in the region and will thus serve national defense needs.

During consideration of the Federal Aid Highway Act of 1987, I offered an amendment on the Senate floor to authorize the Department of Transportation [DOT] to conduct a feasibility study on this proposed extension. This study, which was approved by DOT in 1988, states that the proposed highway will greatly enhance public safety. To quote the 1988 Department of Transportation study:

> The existing north-south highways in this region are primarily two-lane facilities with high traffic volumes, insufficient passing sight distance and undesirable alignment. The mountainous terrain in sections of the study corridor restrict normal traffic flow. Motorists must negotiate 90 degree turns, steep inclines and contend with segments of highway that have a narrow surface width of 10 feet per lane and no shoulders. Motorists' safety is a major issue on these existing north-south routes, over 800 personal injury accidents and thirty-four fatalities occur annually.

I applaud the efforts of the committee to bring this bill to the Senate floor in such a timely manner. I only wish something could have been done to assist those few areas of the country that still have gaps in the interstate system. For example, since the Shreveport-Kansas City extension has not yet been constructed, the project will be penalized under S. 1204. Under S. 1204, it not only fails to receive the 90–10 Federal funding that has previously been available for other similarly situated highways, it also would not receive the 80-20 funding proposed in S. 1204 for existing roadways—roadways which may simply benefit a State or local community but which may not have any overriding national impact.

And while I realize there must come a time when we say, "Enough is enough. The Interstate System is complete," I do not believe that such a decision should be made at the expense of saving lives and improving our national transportation needs. Surely, there is something we can do to permit the completion of this remaining gap in our Federal highway system—a gap which is multistate in nature, has been the subject of a recently completed DOT approved feasibility study and which would meet the current requirements for inclusion in the Interstate System.

In closing, Mr. President, I want to reiterate that the construction of this north-south highway has been a very high priority of mine for over two decades. I hope you agree with me that this project is meritorious and in the national interest and I hope the managers of the bill will use their best efforts in seeing that this project is fully considered during the conference with their House counterparts.

Mr. DASCHLE. Mr. President, I rise in support of S. 1204, the Surface Transportation Efficiency Act of 1991. I commend my distinguished colleagues, Senator BURDICK, the chairman of the Environment and Public Works Committee; Senator MOYNIHAN, the chairman of its Transportation Subcommittee; and Senator SYMMS, the ranking minority member of the subcommittee, for their work in developing this innovative legislation. They recognized the critical importance of addressing our enormous backlog of highway and bridge improvement needs for the next 5 years and understood that basic fairness required development of a bill that accommodates the differing interests of urban and rural States. Without their vision and hard work, we would not have reached this point in the legislative process.

At this time, I also would like to thank Senators BAUCUS and REID for their outstanding leadership during the long process of formulating a compromise on a strong surface transportation bill that reflects the unique circumstances of rural America. I have enjoyed working with them, with the committee leadership and with their staffs to ensure that rural States receive a fair shake in the allocation of funds under this bill.

Mr. President, the Surface Transportation Improvement Act will mean a strong future for infrastructure development in our country. It will generate substantial momentum for the improvement of the road and bridge systems that are the lifeline for businesses, recreation, international trade and for economic development in each and every State.

S. 1204 attacks this urgent challenge by preserving much of the current Federal-State funding match, increasing the Federal investment levels for our roads and bridges and providing needed flexibility for States to make their own choices about needs and priorities. This important mix of increased investment and flexibility clearly recognizes that we have a national interest in maintaining the highway system throughout the country, whether those roads and bridges be in urban or rural areas.

Certainly, I do not suggest that S. 1204 represents the perfect highway bill for rural States. I would have preferred to have seen a number of provisions of S. 823, legislation I cosponsored with other western Senators, incorporated into this legislation. For example, I favor better compensation for States with adverse weather conditions, a stronger funding formula for maintenance of roads through Federal lands, and bonuses for States that pay a higher percentage of State funds out to highway projects.

I also would like to have seen a grandfather of discretionary bridge projects that have already begun construction under the expiring authority. In South Dakota, a bridge at Forest City is heavily reliant on Federal aid provided under the Discretionary Bridge Program last year. I hope that the issue of specific bridge projects will be revisited in conference with the House and that the Forest City bridge will be recognized as an unfinished priority that merits completion.

Even without these provisions, S. 1204 is a substantial improvement over the legislation that was initially considered by the committee and a vast improvement over the administration's bill. Because of concerns raised by a coalition of Senators from rural States, Senators MOYNIHAN and BURDICK held 2 days of hearings on competing highway proposals. At that time, the secretary of the South Dakota Department of Transportation testified on behalf of 10 Western States and raised several concerns about the effect of the committee bill, S. 965, on rural States. The committee subsequently agreed to amend several provisions in the bill that were problematic for South Dakota and other Western States. Adoption of these amendments by the committee has resulted in a bill that represents a more balanced approach to surface transportation priorities.

Mr. President, S. 1204 represents a comprehensive, fair, and equitable plan for addressing national infrastructure needs. Our country's economy and future competitiveness require a strong investment in the future of our surface transportation network. S. 1204 represents that investment, and I urge its adoption by the Senate.

Mr. SIMPSON. Mr. President, over the past 5 years, the Strategic Highway Research Program [SHRP] has spent millions of dollars to increase our knowledge on the performance of critical aspects of the Nation's highway transportation system. I want to note the special accomplishments of a particular portion of the program, the asphalt research program. Under this research program, the Western Research Institute of the University of Wyoming has conducted important analysis and modeling of the expected performance of asphalts and asphalt-aggregate mixtures.

This research is important because it will lead to the selection of reliable road construction materials that better withstand climate conditions and load burdens. This is no small research matter. We have all experienced the kidney jarring rides of deteriorating roads, including everything from interstate highways to urban streets and rural roads.

In section 115 of this bill, we recognize the importance of SHRP by taking its laboratory findings and evaluations and advancing to the next stage. It is clear that in order to define performance of pavements we need to take the data from actual roadway performance—as acquired from the long-term pavement performance program of SHRP—and compare it with the laboratory data to ensure the actual performance can be predicted from laboratory data. By directing the Federal Highway Administration to initiate a long-term pavement performance program, or maintain the LTPP initiated by SHRP, this provision ensures that actual field performance data will be available together with the original materials. This is not the case today and represents a major shortcoming in our existing highway performance prediction capabilities.

In order to correct this deficiency, we have directed the Federal highways to initiate a multiyear program that capitalizes on the outstanding fundamental research undertaken by SHRP. Specifically, Federal highways will initiate a fundamental research program which assures that laboratory research continues and that the research data are compared with LTPP data. Further, these research methods are to be translated into methodology to select high quality construction asphalts.

From this work, we will reap such benefits as the development of an ability to select materials to build roadways that will have predictable performance characteristics. We will be able to avoid selecting materials that deteriorate quickly. This is important because if we are able to minimize the need for constant maintenance, this Nation we can build roads in a more cost-effective manner and an overall higher quality of roadway structure can be achieved. This provision will also serve to improve the existing roadway surface so as to reduce the increasing liability of the State and Federal Governments for the dangers posed to motorists from poor road surfaces.

This provision directs that a 1-mile test strip be implemented to be able to demonstrate the advantages of the use of shale-oil modified asphalts under extreme climate conditions. I certainly would encourage the Administrator to look at the possibilities of laying this test strip in Yellowstone National Park.

Because of the importance of this research, we have directed the Administrator of the Federal Highway Administration to rely on a not-for-profit organization that has extensive expertise and past experience in this highly specialized field. The University of Wyoming's Western Research Institute is such an organization. The Western Research Institute has developed the specific technical capability in this area over the past several years. I strongly encourage the Administrator to avail himself of this valuable expertise and knowledge to ensure that we avoid any duplication of effort and maximize the return on our limited highway research resources.

Mr. COCHRAN. Mr. President, after reviewing the Surface Transportation Efficiency Act as reported from the committee, and listening to the debate that has transpired over the past few days, I have a few concerns with the bill and some observations to make regarding its approach to meeting future transportation needs.

I am particularly concerned with the prospect that, while it purports to give more flexibility to State and local decisionmaking in the use of Federal funds, its approach to meeting future transportation needs may in fact be biased toward mass transit and other nonhighway programs and may bring about a shift in policy away from basic highway, road, and bridge needs.

While consideration of the current reauthorization legislation is occurring at a time when the Interstate System is declared to be, if not actually, completed, that event should not cloud our judgment or deter us from continuing to commit Federal highway funds to a national highway program—a program that combines the soon to be completed Interstate System with other important primary and arterial highways.

As the construction of the Interstate System draws to an end, Mr. President, we ought to, as the committee's bill proposes, look to improve the "efficiency of the surface transportation system." However, in doing so, we ought first to recognize that the meaning of the words "transportation system" and "efficiency", when used together, may be given quite different meanings in different parts of the country.

In Mississippi, for instance, the phrase transportation system is usually translated to mean "highways, roads and bridges," and the word, "efficiency," when used in the context of transportation means to build more of each, as well as to improve and repair existing ones. With few exceptions, I expect that interpretation would hold up in most of rural America.

Mississippi, as do all States, continues to benefit enormously from the development of the Interstate System, and its citizens fully appreciate the efficiency that the Interstate System provides in terms of getting working people to and from their jobs and in providing shipping routes for every imaginable commodity and product that may result from their labor at those jobs.

Mr. President, the Interstate Highway System has probably contributed more than any other Federal program to economic development in rural areas, and there is little disagreement as to the importance of the system. Mississippians are as proud as other Americans of the return they have realized on the investment of their hard earned gasoline tax dollars in interstate highways over the past 35 years.

Mississippians also realize that there remains a very large network of primary and arterial highways that require four lanes where there are now two lanes and very costly bridge repairs and improvements to bring them up to date. If the completion of the Interstate System requires that we refocus our priorities, then the top priority for my State is the unfinished work on a long list of other highway and bridge projects.

Mr. President, I do not believe that S. 1204 is the answer to improving the efficiency of the transportation system in my State or in other States that must depend on highways as their surface transportation system.

While its apparent shift in emphasis away from more investment in highway and bridge needs is sufficient reason to oppose this bill, the basic unfairness it perpetuates in the inequitable and outdated formula for apportioning Federal funds is even more troubling. States that have historically contributed more into the highway fund than they have received in return will find no relief in this legislation.

According to the Mississippi Highway Department, since 1956, Mississippi has paid $24 million dollars more into the fund than it has received from the fund to meet its highway needs. In each of the years from 1987 through 1991, or during the current program, Mississippi donated more into the fund than it received from the fund. In 1991, the State will receive only 72 cents for every dollar it pays into the fund.

The committee bill will not only fail to correct this inequity for Mississippi and the other States that have been historic donors to the fund, but it will also, as other Senators have pointed out, perpetuate the existing inequitable and antiquated apportionment formula for another 5-year program.

Mr. President, there is a better solution to this Nation's surface transportation needs. S. 1121, the Federal Aid to Surface Transportation Act, or FAST proposal, which I have cosponsored, will provide for a fair and equitable apportionment of Federal assistance to the States. More importantly, it will authorize funding for a national program that provides State and local flexibility for transfers among the categories.

Mr. President, in 1982, we began referring to "highway bills" as "surface transportation" bills, and this year we have added the word "efficiency" to the title of the bill. In my view, improvements in surface transportation efficiency and improvements in highways go hand in hand in rural America. I urge my colleagues to adopt a bill that acknowledges that fact.

Mr. KOHL. Mr. President, I would like to point out for my colleagues a provision in this bill which is very important to the way we oversee our Nation's transportation system, and plan for its future. I had the pleasure of working with Senator MOYNIHAN to develop guidelines for a new Bureau of Transportation Statistics which we are creating with this legislation.

I believe that the new statistical agency we have created will provide policymakers and transportation officials with invaluable information about the quality of our highway system, the demand for different modes of transporation, and the research necessary to prepare for the 21st century.

The annual report, called for in this legislation, will provide an ongoing review of our current system and the information for planning the transportation system of the future. The study by the National Academy of Statistics will provide the necessary vision to assure that this statistical agency can anticipate the information needs of policymakers and administrators.

This bill is also sensitive to the need for protecting the confidentiality of those individuals or companies providing information for statistical purposes. There is a careful balance drawn here between protecting that confidentiality and maintaining open and public access to Government information.

Through working with the Federal statistical community I have learned that there are a number of provisions necessary for a strong and independent statistical agency. Those provisions are included in this bill.

This is an historic bill in many dimensions, not the least of those is the awareness of the need for good information to develop good policy. It has been my pleasure to work with Senator MOYNIHAN to make this happen, and I commend him for his excellent leadership in developing this bill.

TRIBUTE TO DAVID SAKS

Mr. PRESSLER. Mr. President, today I pay tribute to Mr. David Saks. Because of the leadership efforts of David Saks, America's telecommunications systems will be fully accessible to the Nation's 3 million hearing aid wearers. In 1973, as founder and director of the Organization for the Use of the Telephone [OUT], David Saks conducted an all-out effort to make telephones compatible with hearing aids.

His first action was a letter-writing campaign which persuaded AT&T to reverse its plan to manufacture telephones that would be incompatible with hearing aids. AT&T also agreed to retrofit coin-operated phones to make them compatible with hearing aids.

In the early 1980's, OUT and other consumer and professional organizations worked for passage of legislation known as the Telecommunications for the Disabled Act of 1982.

But this law, which guaranteed telephone-hearing aid compatibility in some key settings, was only a start. In 1987, I introduced S. 314, the Hearing Aid Compatibility Act. As a result of David's continuing efforts, the legislation was unanimously agreed to by the Senate and became law in 1988. The first phase of the act required that all corded telephones in the United States be hearing aid compatible by August 16, 1989. In addition, cordless telephones must be hearing aid compatible by August 16, 1991. I am pleased to have had the opportunity to work closely with David to achieve this goal.

Last month, I awarded David the Meritorious Service Award at the Tenth Annual Communication Awards of the National Council on Communicative Disorders. He received this award for helping me and many others to understand the devastating human consequences that can result from a communication impairment. Thanks to David's efforts, no longer will America's 3 million hearing aid wearers be "telephone deaf."

Mr. President, I ask unanimous consent to have printed in the RECORD remarks given at the awards ceremony to which I have referred.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL ON COMMUNICATIVE DISORDERS AWARDS CEREMONY, MAY 8, 1991

STEPHANIE BEACHUM: To present our first award, we are pleased to have the Honorable Larry Pressler, South Dakota's senior senator. Currently serving his third term in the U.S. Senate, Senator Pressler is recognized as an advocate for people with disabilities. Particularly important to us and to our first honoree is Senator Pressler's sponsorship of the Hearing Aid Compatibility Act of 1988—the act which will ultimately make all telephones useable by people who wear hearing aids. Please welcome the Honorable Larry Pressler.

LARRY PRESSLER: Because of the efforts of David Saks, America's telecommunications systems will be fully accessible to the Nation's 3 million hearing aid wearers. As founder in 1973 and director of the Organization for the Use of the Telephone, David Saks conducted an all-out effort to make telephones compatible to hearing aids. The first action was a letter-writing campaign which persuaded AT&T to reverse its plan to manufacture telephones that would be incompatible with hearing aids. AT&T also agreed to retrofit coin-operated phones to make them compatible. In the early 1980's, the Organization for the Use of the Telephone and other consumer and professional organizations worked for passage of legislation known as the Telecommunications for the Disabled Act of 1982. But this law, which guaranteed telephone-hearing aid compatibility in some key settings, was only a start. David's continuing efforts culminated in the passage of the Hearing Aid Compatibility Act which became law in 1988. The first phase of the act required that all corded telephones in the United States be hearing aid compatible by August 16, 1989. Cordless telephones must be hearing aid compatible by August 16, 1991. I am pleased to have had the opportunity to work with David to achieve this goal. He helped me to understand the devastation that can result from a communication impairment. Thanks to David, no longer will America's three million hearing aid wearers be telephone deaf. Please join me in welcoming Mr. David Saks.

MESSAGES FROM THE HOUSE

At 11:15 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 111. Joint resolution marking the 75th anniversary of chartering by act of Congress of the Boy Scouts of America.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 26. An act to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes;

H.R. 1720. An act to amend the St. Elizabeths Hospital and District of Columbia Mental Health Services Act to permit the Secretary of Health and Human Services to enter into an agreement with the Mayor of the District of Columbia with respect to capital improvements necessary for the delivery of mental health services in the District, and for other purposes; and

H.J. Res. 207. Joint resolution commemorating the 75th anniversary of the chartering, by an act of Congress, of the Boy Scouts of America.

ENROLLED JOINT RESOLUTION SIGNED

At 7:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 111. Joint resolution marking the 75th anniversary of chartering by act of Congress of the Boy Scouts of America.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore [Mr. AKAKA].

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 26. An act to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1720. An act to amend the St. Elizabeths Hospital and District of Columbia Mental Health Services Act to permit the Secretary of Health and Human Services to enter into an agreement with the Mayor of the District of Columbia with respect to capital improvements necessary for the delivery of mental health services in the District, and for other purposes; to the Committee on Governmental Affairs.

H.J. Res. 207. Joint resolution commemorating the 75th anniversary of the chartering, by an act of Congress, of the Boy Scouts of America; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTION SIGNED

The ACTING PRESIDENT pro tempore (Mr. AKAKA) announced that on today, June 13, 1991, he had signed the following enrolled joint resolution which had previously been signed by the Speaker of the House:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1408. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on mobilization of local equipment and presuppression needs for wildfire protection; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1409. A communication from the Assistant Administrator of the Environmental Protection Agency (Office of Pesticides and Toxic Substances), transmitting, pursuant to law, a report on the total number of applications for conditional registration of certain pesticides; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1410. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, and the Committee on Labor and Human Resources.

EC-1411. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a Presidential determination regarding the end strength level of the United States armed forces in Europe for fiscal year 1991 and an explanation of the need for such determination; to the Committee on Armed Services.

EC-1412. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the Secretary of Defense and the Secretary of Transportation to establish conditions for personnel with specialized skills to be deployed overseas without completing a twelve-week training period; to the Committee on Armed Services.

EC-1413. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 6958(c) of title 10, United States Code, to eliminate the requirement that an enlisted nominee to the Naval Academy must have served at least one year as an enlisted member of the date of entrance to the Naval Academy; to the Committee on Armed Services.

EC-1414. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on the SSN-21 *Seawolf* attack submarine; to the Committee on Armed Services.

EC-1415. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision to convert the vehicle preparation function at Oakland Army Base, California to performance by contract; to the Committee on Armed Services.

EC-1416. A communication from the Deputy Assistant Secretary of Defense (Requirements and Resources), transmitting, pursuant to law, a report on the actuarial status of the Military Retirement System for fiscal year 1990; to the Committee on Armed Services.

EC-1417. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers, and Logistics), transmitting, pursuant to law, a report on the decision to convert the transient aircraft maintenance function at McChord Air Force Base, Washington to performance by contract; to the Committee on Armed Services.

EC-1418. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the disposal of certain strategic and critical materials from the National Defense Stockpile and to amend the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.); to the Committee on Armed Services.

EC-1419. A communication from the Acting Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on financial analysis methodology for return on investment studies; to the Committee on Armed Services.

EC-1420. A communication from the Principal Deputy Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, a report on the maintenance of firefighting and other emergency services at military installations in the United States; to the Committee on Armed Services.

EC-1421. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend the Securities Exchange Act of 1934 to extend the regulatory authority of the Secretary of the Treasury under the Government Securities Act of 1986, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-1422. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Budgeting for Federal Deposit Insurance"; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC-1423. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-1424. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the administration of the Deepwater Port Act for fiscal year 1990; pursuant to 33 U.S.C. 1519, referred jointly to the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works.

EC-1425. A communication from the Assistant Vice President of Government and Public Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report to Congress on the potential for service to the State of Maine; to the Committee on Commerce, Science, and Transportation.

EC-1426. A communication from the Secretary of Transportation, transmitting, pursuant to law, a draft of proposed legislation entitled "the Federal Railroad Safety Authorization Act of 1991"; to the Committee on Commerce, Science, and Transportation.

EC-1427. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1428. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, the annual report of the Council for fiscal year 1990; to the Committee on Energy and Natural Resources.

EC-1429. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1430. A communication from the Acting Principal Deputy Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report entitled "A Review of the U.S. Army Corps of Engineers Selection and Evaluation Process for Water Resources Development Projects; to the Committee on Environment and Public Works.

EC-1431. A communication from the Assistant Secretary of Environment, safety, and health of the Department of Energy, transmitting, pursuant to law, an annual report in compliance with section 120 of the Comprehensive Environmental Response, Compensation and Liability Act for 1990; to the Committee on Environment and Public Works.

EC-1432. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the fiscal year 1989 report on the Consolidated Federal Programs under the Maternal and Child Health Services Block Grant; to the Committee on Finance.

EC-1433. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to amend the Tariff Act of 1930 to modernize and simplify customs procedures, facilitate the entry and clearance of vessels, increase the effectiveness of the Customs Service in commercial matters, and for other purposes; to the Committee on Finance.

EC-1434. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to June 6, 1991; to the Committee on Foreign Relations.

EC-1435. A communication from the Acting Chairman of the United States International Trade Commission transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1990 through March 31, 1991.

EC-1436. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the semiannual report of the Inspector General and the semiannual report on the Status of Management Decisions and Final Actions Regarding Audit Recommendations for the National Endowment for the Arts; to the Committee on Governmental Affairs.

EC-1437. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, a draft of proposed legislation to amend the District of Columbia Public Works Act of 1954, as amended, to require Federal agencies to reimburse the District of Columbia for water and sewer services; to the Committee on Governmental Affairs.

EC-1438. A communication from the Administrator of the U.S. Environmental Protection Agency transmitting, pursuant to law, reports entitled the "Office of the Inspector General Semiannual Report to the Congress" and the "Management's Semiannual Report to the Congress on Audits" for the period October 1, 1990 through March 31, 1991; to the Committee on Governmental Affairs.

EC-1439. A communication from the Federal Co-chairman of the Appalachian Regional Commission, transmitting, pursuant to law, a revised semiannual report of the Office of Inspector General, Appalachian Regional Commission, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1440. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1990; to the Committee on Governmental Affairs.

EC-1441. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Board for International Broadcasting, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1442. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Consumer Product Safety Commission, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1443. A communication from the Administrator of the Small Business Administration transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Small Business Administration, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1444. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of the Treasury, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1445. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Commerce, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1446. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Agency for International Development, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1447. A communication from the Public Printer of the United States, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Government Printing Office, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1448. A communication from the Attorney General of the United States, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Justice, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1449. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, National Aeronautics and Space Administration, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1450. A communication from the Director of Administration, Graduate School, USDA, transmitting, pursuant to law, the annual report on the pension plan of the Graduate School, USDA, for the plan year ended December 31, 1990; to the Committee on Governmental Affairs.

EC-1451. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the third annual report on Indian Sanitation Facility Deficiencies; to the Select Committee on Indian Affairs.

EC-1452. A communication from the Secretary of the American Battle Monuments Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-1453. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the annual report of the Board of Directors of the Federal Bureau of Prisons for 1990; to the Committee on the Judiciary.

EC-1454. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Health Care for the Homeless Program for calendar year 1989; to the Committee on Labor and Human Resources.

EC-1455. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the Longshore and Harbor Workers' Compensation Act for fiscal year 1990; to the Committee on Labor and Human Resources.

EC-1456. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the management of the Veterans Canteen Service; to the Committee on Veterans' Affairs.

EC-1457. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend expiring laws authorizing the Department of Veterans Affairs to establish nonprofit research corporations, to contract for alcohol or drug treatment services, to make State home grants, to contract for the care of United States veterans in the Philippines, to furnish adult day health care services, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 533. A bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes (Rept. No. 102-82).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 249. A bill for the relief of Trevor Henderson.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title and an amended preamble:

S. Con. Res. 12. Concurrent resolution to express the sense of the Congress that the civil rights and civil liberties of all Americans, including Arab Americans, should be protected at all times, and particularly during times of international conflict of war, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works:

Mike Hayden, of Kansas, to be an Assistant Secretary for Fish and Wildlife, Department of the Interior.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Saundra Brown Armstrong, of California, to be United States District Judge for the Northern District of California;

Timothy K. Lewis, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania; and

William L. Osteen, Sr., of North Carolina, to be United States District Judge for the Middle District of North Carolina.

By Mr. BENTSEN, from the Committee on Finance:

Alixe Reed Glen, of the District of Columbia, to be an Assistant Secretary of Health and Human Services.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN:

S. 1285. A bill to provide for the establishment of industrial recapitalization funds by industries which were injured by unfair import competition, and for other purposes; to the Committee on Finance.

S. 1286. A bill to amend title 18, United States Code, and the Export Administration Act of 1979, with respect to the prosecution of illegal boycotts against nations friendly to the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 1287. A bill to amend the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); to the Select Committee on Indian Affairs.

By Mr. SMITH (for himself, Mr. McCAIN, and Mr. BROWN):

S. 1288. A bill to rescind unauthorized appropriations for fiscal year 1991; to the Committee on Appropriations.

By Mr. BIDEN (For himself and Mr. SPECTER):

S. 1289. A bill to amend the provisions of the Higher Education of 1965 relating to treatment by campus officials of sexual assault victims; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 1290. A bill to amend the Internal Revenue Code of 1986 to reduce the OASDI tax rate and to increase equally the hospital insurance tax rate; to the Committee on Finance.

By Mr. HATFIELD:

S. 1291. A bill to amend title 35, United States Code, to impose a 5-year moratorium on the granting of patents on invertebrate or vertebrate animals, including those that have been genetically engineered, in order to provide time for Congress to fully assess, consider and respond to the economic, environmental, and ethical issues raised by the patenting of such animals; to the Committee on the Judiciary.

By Mr. GLENN (for himself, Mr. METZENBAUM, Mr. AKAKA, Mr. SASSER, Mr. LIEBERMAN, and Mr. GORE):

S. 1292. A bill to amend chapter 35 of title 5, United States Code, to provide notification for Federal employees subject to a reduction in force, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KERREY (for himself and Mr. EXON):

S. 1293. A bill to amend the Agricultural Act of 1949 to provide for discretion in the establishment of feed grain acreage bases; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FOWLER (for himself, Mr. BURNS, and Mr. HEFLIN):

S. 1294. A bill to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LAUTENBERG:

S. 1295. A bill to authorize the Secretary of the Department in which the Coast Guard is operating to convey the Cape May Point Lighthouse to the State of New Jersey; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE (for himself, Mr. SARBANES, Mr. KENNEDY, Mr. BYRD, Mr. ADAMS, Mr. DODD, Mr. MOYNIHAN, and Mr. LEVIN):

S. 1296. A bill to provide an optional program for supplemental unemployment compensation, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. HATFIELD, Mr. ADAMS, Mr. BINGAMAN, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CONRAD, Mr. GLENN, Mr. GORTON, Mr. HATCH, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. RIEGLE, Mr. ROTH, Mr. SANFORD, Mr. SHELBY, and Mr. STEVENS):

S.J. Res. 160. Joint resolution designating the week beginning October 20, 1991, as "World Population Awareness Week"; to the Committee on the Judiciary.

By Mr. INOUYE:

S.J. Res. 161. Joint resolution to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in the District of Columbia or its environs, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DIXON (for himself and Mr. SIMON):

S. Res. 140. Resolution to congratulate the Chicago Bulls on winning the 1991 National Basketball Association Championship; considered and agreed to.

By Mr. GARN (for himself and Mr. HATCH):

S. Con. Res. 46. Concurrent resolution extending an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, UT, and pledging the cooperation and support of the Congress of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN:

S. 1285. A bill to provide for the establishment of industrial recapitalization funds by industries which were injured by unfair import competition; to the Committee on Finance.

ESTABLISHMENT OF INDUSTRIAL RECAPITALIZATION FUND

• Mr. LIEBERMAN. Mr. President, today, I am introducing legislation that would create an industrial recapitalization fund [IRF] for companies essential to national defense and security interests that have won an antidumping or countervailing duty case. This legislation would permit firms that have won a dumping suit to put income from sales of the merchandise or a competitive line of merchandise, which gave rise to the action, into the IRF for a period of 5 years.

Income deposited in the fund is not subject to taxation but is available only for withdrawal into qualified investments in capital plant and equipment. Withdrawals may be made for a period up to 12 years from the date of the fund's formation. For tax basis and depreciation purposes, investments in plant and equipment using fund moneys are discounted by the amount of fund moneys applied. Unqualified withdrawals are taxed on a specific recapture basis.

This proposal is not a replacement for vigorous enforcement of our antidumping laws. It is a tool for firms to create a level playing field against foreign competitors. Two prominent Connecticut companies, Torrington Co., a leading manufacturer of ball bearings, and Smith Corona have been injured by the dumping practices of their foreign competitors. Torrington won a major dumping case a couple of years ago, but that victory did nothing to redress the financial damage that Torrington suffered as a result of the dumping practices that gave rise to the case in the first place.

It is important to point out that when a company wins an antidumping case, it does not receive any compensation. The only action taken is the imposition of tariffs on the company guilty of the dumping violation. The injured company, as a result of the dumping violation, has already lost its market share.

This legislation attempts to right this wrong by giving our manufacturers an opportunity to pick up lost ground. But it does so in a way that encourages firms to make investments in future productive capacity. This is not a tax shelter. Companies are penalized if they withdraw funds deposited in the IRF for purposes other than investments in new plant and equipment. It is in our interest to encourage firms to make this type of investment since it will ultimately make them more competitive.

We need to help America's manufacturers if we are to get our economy moving strongly ahead. One important way to do this is to cut the cost of capital for manufacturing firms, and that is particularly important for firms that have suffered as a result of the dumping practices of foreign competitors. The IRF makes capital less expensive for such companies, keeping them competitive in the international marketplace.

We can no longer afford to permit our companies to be victimized by unfair trade practices. Free trade only works if it is reciprocal. Our antidumping laws are written to promote fairness in trade, but they do nothing to address problems that have arisen as a result of the loss of a market share. We can't afford to permit American companies to cede domestic markets to their foreign competitors, as the result of unfair trade practices. If we stand aside and let these companies sink, we are not promoting free trade, we are killing off American manufacturing.

I ask unanimous consent that a copy of the bill and a bill summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF INDUSTRIAL RECAPITALIZATION FUNDS.

(a) IN GENERAL.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

"PART VIII—INDUSTRIAL RECAPITALIZATION FUNDS

"Sec. 530. Establishment of industrial recapitalization funds.
"Sec. 530A. Industrialization recapitalization agreements.
"Sec. 530B. Fund requirements.
"Sec. 530C. Taxability of fund.
"Sec. 530D. Definitions; records and reports.

"SEC. 530. ESTABLISHMENT OF INDUSTRIAL RECAPITALIZATION FUNDS.

"(a) ESTABLISHMENT OF FUNDS.—If an eligible corporation enters into an agreement with the Secretary of Commerce described in section 530A, such corporation may establish an industrial recapitalization fund (hereinafter in this part referred to as a 'fund').

"(b) ELIGIBLE CORPORATION.—For purposes of this part, the term 'eligible corporation' means any corporation—

"(1) engaged in the active conduct of a trade or business in an essential industry, and

"(2) which has filed a petition under section 702 or 732 of the Tariff Act as an interested party described in section 771(9)(C) of the Tariff Act which resulted in the commencement of an investigation leading to the imposition of additional duties under section 701 or 731 of the Tariff Act, or a suspension agreement.

"(c) Essential Industry.—For purposes of this part, the term 'essential industry' means a domestic industry which produces component products classified under Standard Industrial Classification Code 36741 or without which machine tools necessary to support the national defense could not be produced.

"SEC. 530A. INDUSTRIALIZATION RECAPITALIZATION AGREEMENTS.

"(a) In General.—An agreement is described in this section if—

"(1) the Secretary of Commerce determines that such agreement will assist in acquiring new, or modernizing, plant and equipment in the United States for an essential industry which—

"(A) the International Trade Commission, through a final determination of material injury, found had been injured by subsidized (or less than fair value) sales of imported merchandise, or

"(B) the Secretary of Commerce, through a final determination, found forced sales of less than fair value where the difference between foreign market value and the United States price exceeded 50 percent ad valorem from 1 or more countries; and

"(2) subject to the provisions of this part, the agreement provides criteria for deposits into, investment of amounts in, and withdrawals from, a fund.

"(b) Secretarial Authority.—The Secretary of Commerce may set such other terms and conditions with respect to any agreement as are necessary to carry out the purposes of this part. Such terms and conditions may be set by regulation or included in an agreement.

"SEC. 530B. FUND REQUIREMENTS.

"(a) Deposit Requirements.—

"(1) Amounts may be deposited into a fund during each of the 5 taxable years immediately following the taxable year in which an agreement described in section 530A is entered into.

"(2) The amount deposited for any taxable year shall not exceed the lesser of—

"(A) the amount provided in the agreement, or

"(B) the amount determined under paragraph (3).

"(3) The amount determined under this paragraph is the sum of—

"(A) that portion of the taxable income of the corporation maintaining a fund for such year (computed as provided in chapter 1 but without regard to the carryback or carryover of any net operating loss or net capital loss and without regard to this section) which is attributable to the production and sale by an essential industry in the United States of a product classified in the same 5-digit Standard Industrial Classification as the imported merchandise which has been determined to be subject to the imposition of duties under section 701 or 731 of the Tariff Act, or the suspension agreement, in a case in which such person was a petitioner,

"(B) amounts allowable as a deduction to the taxpayer under section 167 (or as amortization in lieu of depreciation under any other provision) for such taxable year with respect to eligible plant and equipment,

"(C) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from the sale or other disposition of any such eligible plant and equipment, or insurance or indemnity attributable to any such eligible plant and equipment, plus

"(D) the receipts from the investment or reinvestment of amounts held in such fund.

"(4) The amount deposited into a fund for any taxable year following the 5 taxable-year period referred to in paragraph (1) shall not exceed the amount specified in paragraph (3)(D).

"(5) The Secretary may not require in an agreement described in section 530A deposits in any taxable year in excess of 50 percent of the amount described in paragraph (3)(A).

"(b) Requirements as to Investments.—

"(1) Except as provided in this subsection, amounts in a fund shall be kept in the depository or depositories specified in the agreement and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary of Commerce.

"(2) Assets in a fund may be invested only in interest-bearing securities issued by the United States Government.

"(c) Withdrawals.—

"(1) The agreement under section 530A shall provide that only qualified withdrawals may be made from a fund.

"(2) For purposes of this part, the term 'qualified withdrawal' means a withdrawal made in accordance with the terms of the agreement, but only if it is for—

"(A) the acquisition, construction, reconstruction, modernization or refurbishment of qualified plant and equipment, or

"(B) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, reconstruction, modernization, or refurbishment of qualified plant and equipment.

"(3) Under joint regulations, if the Secretary of Commerce determines that any substantial obligation under any agreement under section 530A is not being fulfilled, the Secretary may, after notice and opportunity to be heard, treat the entire fund (or any portion thereof) as an amount withdrawn from the fund in a withdrawal which is not a qualified withdrawal.

"SEC. 530C. TAXABILITY OF FUND.

"(a) Nontaxability for Deposits.—

"(1) For purposes of this title—

"(A) taxable income (determined without regard to this section) for any taxable year shall be reduced by an amount equal to the amount deposited into a fund for the taxable year out of amounts described in section 530B(a)(3)(A),

"(B) gain from a transaction referred to in section 530B(a)(3)(C) shall not be taken into account in computing taxable income if an amount equal to the net proceeds (as defined in joint regulations) from such transaction is deposited in the fund,

"(C) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account in computing taxable income,

"(D) the earnings and profits of any corporation (within the meaning of section 316) shall be determined without regard to this section,

"(E) in applying the tax imposed by section 531 (relating to the accumulated earnings tax), amounts held in the fund shall not be taken into account,

"(F) all allowable deductions under this section are also allowed as deductions for the determination of adjusted current earnings in the computation of the alternative minimum tax, and

"(G) for purpose of computing the commission payable to a foreign sales corporation such commission shall be determined without regard to this section.

"(2) Paragraph (1) shall apply with respect to any amount only if such amount is deposited in the fund pursuant to the agreement and not later than the time provided in joint regulations.

"(b) Establishment of Accounts.—

"(1) Within a fund established pursuant to this part, 3 accounts shall be maintained—

"(A) the capital account,

"(B) the capital gain account, and

"(C) the ordinary income account.

"(2) The capital account shall consist of—

"(A) amounts referred to in section 530B(a)(3)(B),

"(B) amounts referred to in section 530B(a)(3)(C) other than that portion thereof which represents gain not taken into account by reason of subsection (a)(1)(B),

"(C) the percentage applicable under section 243(a)(1) of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (a)(1)(C)) be allowed a deduction under section 243, and

"(D) interest income exempt from taxation under section 103.

"(3) The capital gain account shall consist of—

"(A) amounts representing capital gains on assets held for more than 1 year and referred to in subparagraph (C) or (D) of section 530B(a)(3), reduced by

"(B) amounts representing capital losses on assets held in the fund for more than 1 year.

"(4) The ordinary income account shall consist of—

"(A) amounts referred to in section 530B(a)(3)(A),

"(B)(i) amounts representing capital gains on assets held for 1 year or less and referred to in subparagraph (C) or (D) of section 530B(a)(3), reduced by

"(ii) amounts representing capital losses on assets held in the fund for 1 year or less,

"(C) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (E)) received on assets held in the fund,

"(D) ordinary income from a transaction described in section 530B(a)(3)(C) other than amounts to which paragraph (2)(B) applies, and

"(E) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph.

"(5) Except on termination of a fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

"(c) Tax Treatment of Qualified Withdrawals.—

"(1) Any qualified withdrawal from a fund shall be treated—

"(A) first as made out of the capital account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the ordinary income account.

"(2) If any portion of a qualified withdrawal for qualified plant and equipment is made out of the ordinary income account, the basis of such plant and equipment shall be reduced by an amount equal to such portion.

"(3) If any portion of a qualified withdrawal for qualified plant and equipment is made out of the capital gain account, the basis of such plant and equipment shall be reduced by an amount equal to such portion.

"(4) If any portion of a qualified withdrawal to pay the principal on any indebtedness described in section 530B(c)(2)(B) is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) shall be applied, in the order provided in joint regulations, to reduce the basis of plant and equipment owned by the person maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

"(5) If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (d)(3)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in joint regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under such joint regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

"(d) TAX TREATMENT OF NONQUALIFIED WITHDRAWALS.—

"(1) Except as provided in subsection (e), any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

"(2) Any nonqualified withdrawal from a fund shall be treated—

"(A) first as made out of the ordinary income account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the capital account.

For purposes of this subsection, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that (i) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced qualified plant and equipment, and (ii) any amount treated as a nonqualified withdrawal under the second sentence of subsection (c)(4), shall be treated as withdrawn on a last-in-first-out basis.

"(3) For purposes of this title—

"(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

"(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 1 year, and

"(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

"(i) no interest shall be payable under section 6601 and no addition to the tax shall be payable under section 6651,

"(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (4)) from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and

"(iii) no interest shall be payable on amounts referred to in clauses (i) and (ii) of paragraph (2).

"(4) For purposes of paragraph (3)(C)(ii), the applicable rate of interest for any nonqualified withdrawal shall be the rate established in section 6621(a)(2).

"(5)(A) The applicable percentage of any amount which remains in a fund as of the close of the 10th, 11th, or 12th taxable year following the taxable year in which an agreement was entered into shall be treated as a nonqualified withdrawal in accordance with the following table:

"If the amount remains in the fund at the close of the—	**The applicable percentage is:**
10th taxable year	20 percent
11th taxable year	60 percent
12th taxable year	100 percent.

"(B) The earnings of a fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount remaining in the fund for such taxable year.

"(C) For purposes of subparagraph (A), an amount shall not be treated as remaining in a fund as of the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

"(D) If the Secretary determines that the balance in a fund exceeds the amount which is appropriate to meet the fund's program objectives, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

"(6)(A) In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (5)), the tax imposed by chapter 1 shall be determined—

"(i) by excluding such withdrawal from gross income, and

"(ii) by increasing the tax imposed by chapter 1 by the product of the amount of such withdrawal and the highest rate of tax specified in section 11.

With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year to which section 1201(a) applies, the rate of tax taken into account under the preceding sentence shall not exceed 34 percent.

"(B) If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under chapter 1 for any taxable year preceding the taxable year in which such withdrawal occurs—

"(i) such portion shall not be taken into account under subparagraph (A), and

"(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 for the taxable year in which such withdrawal occurs.

"(C) Any nonqualified withdrawal excluded from gross income under subparagraph (A) shall be excluded in determining taxable income under section 172(b)(2).

"(e) CORPORATE REORGANIZATIONS.—Under joint regulations, if a transfer of a fund occurs from one person to another person in a transaction to which section 381 applies, such transfer shall not constitute a nonqualified withdrawal.

"SEC. 530D. DEFINITIONS; RECORDS AND REPORTS.

"(a) DEFINITIONS.—For purposes of this part—

"(1) The term 'Tariff Act' means the Tariff Act of 1930, as amended.

"(2) The term 'eligible plant and equipment' means any plant and equipment which is used by an industry (as defined in section 771(4) of the Tariff Act) for the production of a like product (as defined in section 771(10) of the Tariff Act).

"(3) The term 'joint regulations' means regulations prescribed under subsection (b)(2).

"(4) The term 'qualified plant and equipment' means new or modernized plant and equipment which will be used by an industry (as defined in section 771(4) of the Tariff Act) for the production of a like product (as defined in section 771(10) of the Tariff Act) or a product determined by the Secretary of Commerce to be competitive with such like product.

"(5) The term 'United States' means, when used in a geographical sense, each of the 50 States, the District of Columbia, and Puerto Rico.

"(b) RECORDS; REPORTS; CHANGES IN REGULATIONS.—

"(1) Each person maintaining a fund under this part shall keep such records and shall make such reports as the Secretary or the Secretary of the Treasury shall require.

"(2) The Secretary of the Treasury and the Secretary of Commerce shall jointly prescribe all rules and regulations, not inconsistent with the foregoing provisions of this part, as may be necessary or appropriate to the determination of tax liability under this section.

"(3) If, after an agreement has been entered into under this section, a change is made either in the joint regulations or in the regulations prescribed by the Secretary of Commerce under this section which could have a substantial effect on the rights or obligations of any person maintaining a fund under this section, such person may terminate such agreement.

"(c) DEPARTMENTAL REPORTS AND CERTIFICATION.—

"(1) For each calendar year, the Secretary of Commerce shall provide the Secretary of the Treasury, within 120 days after the close of such calendar year, a written report with respect to the funds under the Secretary's jurisdiction.

"(2) Each report under paragraph (1) shall set forth the name and taxpayer identification number of each person—

"(A) establishing a fund during such calendar year;

"(B) maintaining a fund as of the last day of such calendar year;

"(C) terminating a fund during such calendar year;

"(D) making any withdrawal from or deposit into (and the amounts thereof) a fund during such calendar year; or

"(E) with respect to which a determination has been made during such calendar year that such person has failed to fulfill a substantial obligation under any fund agreement to which such person is a party.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter F is amended by adding at the end thereof the following new item:

"Part VIII—Industrial recapitalization funds."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2. COORDINATION AND COLLECTION OF ANTIDUMPING AND COUNTERVAILING DUTIES.

(a) REPORTING REQUIREMENTS.—Section 736 of the Tariff Act of 1930 (19 U.S.C. 1673e) is amended by adding the following subsections:

"(d) REPORTING REQUIREMENTS.—

"(1) SEMIANNUAL REPORTS TO CONGRESS.—The Secretary of Commerce shall submit semiannual reports to Congress identifying the total volume (and value) of imports subject to antidumping or countervailing duties, and the total cash deposits collected. Each such report shall contain an attested statement from the Secretary confirming that the correct amount of cash deposits have been collected. The report shall confirm that any entries subject to antidumping and countervailing duty orders which have been liquidated without assessment of such duties have been reliquidated pursuant to section 520(e) or returned to an unliquidated state pending completion of an administrative review.

"(2) QUARTERLY REPORTS.—The Customs Service, after consulting with the Department of Commerce as to the accuracy and completeness of the data, shall send quarterly reports to importers of record. The quarterly report shall list by antidumping and countervailing duty order, and by foreign producer, the entries made, including:

"(A) the value of the entries,

"(B) the duty deposit rates, and

"(C) the estimated duty paid.

The list is to be updated quarterly.

"(e) TRANSMITTAL OF QUARTERLY REPORT TO THE SECRETARY.—The quarterly report under subsection (d)(2) shall be transmitted to the Department of Commerce and made part of the appropriate administrative record. The parties shall be provided access to the confidential portions of the quarterly list under administrative protective order pursuant to section 777. The data contained in the quarterly report is to be compared to the Department of Commerce statistics. In the event there are any discrepancies between the data reported in the foreign producers questionnaire responses and the Customs data, the matter shall be referred to the Customs investigations unit. The Customs investigation unit shall issue a report within 90 days indicating the reasons for any discrepancies. Entries determined to be made at the wrong cash deposit rates, and entries incorrectly liquidated without assessment of estimated duties, shall be referred to Customs for reliquidation pursuant to section 520(e). In addition, the Customs investigations unit shall report any instance or occurrence in which the discrepancy may have resulted from a violation of section 592 for appropriate action by the Customs Service."

(b) RELIQUIDATION OF ENTRIES.—Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end the following new subsection:

"(e) RELIQUIDATION OF ENTRIES TO ASSESS ANTIDUMPING OR COUNTERVAILING DUTIES.—Notwithstanding section 514(a), the appropriate Customs officer shall reliquidate any entry necessary to correct the failure of the Customs Service to assess and collect an antidumping or countervailing duty that was properly assessed on such entry pursuant to section 736(a) but not assessed and collected in the initial liquidation. Any reliquidation required under the preceding sentence must occur within 18 months of the liquidation coming to the attention of the Commerce Department and an assessment rate pursuant to section 751 being established."

SECTION-BY-SECTION ANALYSIS

SECTION (1). ESTABLISHMENT OF INDUSTRIAL RECAPITALIZATION FUNDS

Present Law

There are currently no provisions of U.S. law which establish an industrial recapitalization fund or allow tax deferral for new investment by a U.S. industry that has been injured by unfair import competition.

Explanation of provision

Subsection (a) outlines the provisions of an eligible corporation to establish an industrial recapitalization fund. Subsection (b) sets the requirements for a said corporation to enter into an agreement with the Secretary of Commerce. Subsection (c) outlines said criteria for which such corporation may establish an industrial recapitalization fund.

SECTION (2). INDUSTRIALIZATION RECAPITALIZATION AGREEMENTS

Explanation of provision

Section (2) establishes, for the first time, a fund for the purpose of assisting an essential industry harmed by unfair import competition with capital expansion in an effort to regain industrial base and consequent lost market share. Subsection (a) sets out the requirements for entering into an agreement with the Secretary of Commerce to establish an industrial recapitalization fund, a statement of the purpose of such a fund, and the Secretary's responsibilities in connection with the fund. Deposits and withdrawals from the fund would be subject to conditions and requirements established by the Secretary by agreement or regulation. Subsection (b) outlines the Secretary's authority with respect to the setting of other terms and conditions to any agreement. Subsection (c) provides a definition of "essential industry" for purposes of this Act and conformity with the Canadian Free Trade Agreement.

SECTION (3). FUND REQUIREMENTS

Explanation of provision

Subsection (a), Deposit Requirements, limits the amount deposited in the fund for any of the first five taxable years after an agreement has been entered into to a sum not exceeding the total of:

(a) that portion of taxable income which is attributable to the production and sale by an essential industry in the U.S. of a like product to a class or kind of imported merchandise which has been determined to be subject to the imposition of duties under section 701 or 731 of the Tariff Act of 1930, as amended,

(b) the amount allowable as a deduction under section 167 of Internal Revenue Code of 1986, with respect to eligible plant and equipment.

(c) if the transaction is not taken into account for purposes of subparagraph (A), the net proceeds from the sale or other disposition of any such eligible plant and equipment, or insurance or indemnity attributable to any such eligible plant and equipment, and

(d) the receipts from the investment or reinvestment of amounts held in such fund.

The subsection also limits the deposit in any taxable year following the 5th taxable-year period referred to in subparagraph (D) above.

Subsection (b), Requirements as to Investments, requires the segregation of amounts in the fund to be subject to certain requirements imposed by the Secretary. Investment of fund assets must be made in interest-bearing securities issued by the United States Government.

Subsection (c), Withdrawals, sets out the purposes for which a withdrawal may qualify as a "qualified withdrawal" and also provides that the Secretary may treat the entire fund or portion thereof as a nonqualified withdrawal upon determining that a substantial obligation under the agreement is not being fulfilled. A withdrawal is qualified if it is for the acquisition, construction, reconstruction, modernization or refurbishment of qualified plant and equipment or for the payment of the principal on indebtedness incurred in connection with the acquisition, etc. of qualified plant and equipment.

SECTION (4). TAXABILITY OF FUND

Explanation of provision

Subsection (a), Nontaxability for Deposits, provides for the nontaxability of deposits into the fund by subtracting the amount deposited from taxable income, not realizing gain on certain transactions if an amount equal to the net proceeds from the transaction is deposited, not considering the earnings from the investment of amounts in the fund, and not considering the amounts in the fund when determining the earnings and profits of the corporation for tax purposes.

Subsection (b), Establishment of Accounts, requires that three accounts be maintained within the fund including a capital account, a capital gain account and an ordinary income account. The capital account is to consist, for example, of an amount equal to the depreciation of eligible plants and equipment and amounts of gain realized on the sale of such eligible plants and equipment. The capital gain account consists of amounts representing long-term capital gains reduced by long-term capital losses. The ordinary income account shall consist of an amount of taxable income attributable to the production and sale of products of a like kind to imported merchandise subject to the payment of dumping duties [determined to be subject to duties under section 701 or 731 of the Tariff Act of 1930] short-term capital gain, and interest and other ordinary income received on assets held in the fund.

Subsection (c), Tax Treatment of Qualified Withdrawals establishes a priority rule requiring that qualified withdrawals be treated as first made out of the capital account, then out of the capital gains account, and lastly out of the ordinary income account. Additionally, it provides for the adjustment of basis of plant and equipment purchased with funds withdrawn from the capital gain or ordinary income account. The section provides that if any portion of a qualified withdrawal is used to pay principal on any indebtedness and is made from either the ordinary income or the capital gain account, then the money shall be applied to reduce basis of plant and equipment owned by the person maintaining the fund.

The section also sets out the method in which any gains realized on property sold, the basis of which was reduced under the section, should be treated.

Subsection (d), Tax Treatment of Nonqualified Withdrawals. Nonqualified withdrawals do not receive the favorable tax treatment of qualified withdrawals. This subsection provides that nonqualified withdrawals are to be treated as withdrawn first out of the ordinary income account, second out of the capital gain account, and third as out of the capital account and treated as withdrawn on a first-in-first-out basis, with certain exceptions. Nonqualified withdrawals are treated as ordinary income, or ordinary gain realized during the taxable year in which withdrawal was made, depending on which account was credited with the withdrawal. The subsection also details the various kinds of tax treatment these withdrawals receive.

A time limit for the maintenance of a fund is also established. Starting in the tenth year after the agreement, a percentage of the amount remaining in the fund is taxed as a nonqualified withdrawal. Twenty percent of the amount remaining in the fund after 10 years is treated as a nonqualified withdrawal, then 60 percent is taxed in the eleventh year, and finally, 100 percent of the amount left in the fund after 12 years is treated as a nonqualified withdrawal. However, if an amount has been committed through a binding contract as a qualified withdrawal, but is remaining in the fund at the end of the taxable year, that amount will be treated as withdrawn. Furthermore, any excess funds which the Secretary has determined exceed the amount appropriate to meet the fund's program objectives will be treated as a nonqualified withdrawal, unless appropriate program objectives are developed within 3 years to dissipate such excess.

Nonqualified withdrawals are to be taxed at the highest marginal rate. However, if any portion of a nonqualified withdrawal is attributable to deposits made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax for any taxable year preceding the taxable year in which such withdrawal occurs, such portion will not be subject to taxation.

Subsection (e), Corporation Reorganizations, provides that a transfer of a fund from one person to another person as a result of a corporate reorganization, such transfer shall not constitute a nonqualified withdrawal. If the transaction results in the transfer of an eligible corporation, a majority of whose shares are held by non U.S. persons, any and all withdrawals will be treated as having been non-qualified and the resultant tax liability must be paid at the time of the transaction.

SECTION (5). DEFINITIONS; RECORDS AND REPORTS

Explanation for Provision

Subsection (a), Definitions, provides the definition of certain key terms used in the section. Most importantly, an "eligible corporation" must first be certified as a member of a domestic industry essential to the national security interests of the U.S. and have filed a petition under section 702 or 732 of the Tariff Act as an interested party described in section 771(9)(C) of the Tariff Act of 1930 which has resulted in the commencement of an investigation leading to the imposition of additional duties under 701 or 731 of the Tariff Act.

Subsection (b), Records; Report; Changes in Regulations, requires each person maintaining a fund to keep such records as the Secretary or the Secretary of the Treasury may require. The Secretary of Commerce and the Secretary of the Treasury are required to jointly prescribe rules and regulations appropriate to determine tax liability under the section. The section also provides that a person may terminate an agreement if a change is made in the joint regulations which could have a substantial effect on the rights or obligations of that person.

Subsection (c), Departmental Reports and Certification, requires the Secretary of Commerce to provide an annual report to the Secretary of Commerce to provide an annual report to the Secretary of the Treasury identifying each person who established a fund during the taxable year, maintained a fund at the end of the taxable year, terminated a fund during a taxable year, made withdrawals or deposits during the taxable year, or who has been determined to have failed to fullfill a substantial obligation under a fund agreement.•

By Mr. LIEBERMAN:

S. 1286. A bill to amend title 18, United States Code, and the Export Administration Act of 1979 with respect to the prosecution of illegal boycotts against nations friendly to the United States; to the Committee on Banking, Housing, and Urban Affairs.

ILLEGAL BOYCOTT PROSECUTION ACT

• Mr. LIEBERMAN. Mr. President, I rise today to introduce a companion bill to one already introduced by my friend and colleague from New York, Representative CHUCK SCHUMER. The bill, the Illegal Boycott Prosecution Act of 1991, would make it even more difficult for American companies to be in compliance with the secondary and tertiary boycott of Israel.

Currently, a company that is in violation of the law—that is, it complies with the boycott—is initially investigated by the Department of Commerce, which normally prepares a case for civil consent settlement. By changing the law so that the violation would also be in violation of title 18 of the criminal code, the Department of Justice could become involved with the prosecution of a case from the beginning, not after a referral from the Department of Commerce as is presently the case. This would mean that an investigation would be conducted and evidence gathered in such a way as to permit the Department of Justice to properly execute criminal proceedings.

This bill does not relieve the Department of Commerce of its responsibility to enforce the law. It simply makes the Department of Justice a more active player in the prosecution of a case.

The secondary and tertiary boycotts of Israel are anticompetitive and violate all international efforts to create a more open, global economic climate. At a time when we are encouraging every nation—from the Soviet Union, to the countries of Eastern Europe, to the People's Republic of China—to create a free market environment, we cannot sit back and do nothing about the pernicious practice of the Arab boycott. This bill would make progress toward achieving the estimable goal of ending the boycott.

I ask unanimous consent a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illegal Boycott Prosecution Act of 1991".

SEC. 2. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Chapter 45 of title 18, United States Code, is amended by adding at the end the following:

"§971. Illegal boycotts

"(a) Whoever knowingly violates the regulations prescribed under section 8 of the Export Administration Act of 1979 shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) It shall be the duty of the Secretary of Commerce promptly to inform the Attorney General of any information within the possession of the Department of Commerce relating to a possible violation of this section.".

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 45 of title 18, United States Code, is amended by adding at the end the following new item:

"971. Illegal boycotts.".

SEC. 3. EXPORT ADMINISTRATION ACT AMENDMENT.

Section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410) is amended by adding at the end the following:

"(j) REFERRAL TO ATTORNEY GENERAL OF POSSIBLE ANTIBOYCOTT VIOLATION.—The Secretary shall promptly inform the Attorney General of any information within the possession of the Department of Commerce relating to a possible violation under subsection (a) or (b) of the regulations issued under section 8 of this Act.".•

By Mr. McCAIN (for himself and Mr. INOUYE):

S. 1287. A bill to amend the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); to the Select Committee on Indian Affairs.

TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT ACT

• Mr. McCAIN. Mr. President, I am introducing today on behalf of myself and Senator INOUYE the Tribal Self-Governance Demonstration Project Act.

In 1988 the Congress authorized the Self-Governance Demonstration Project [SGDP] under title III of the Indian Self-Determination and Education Assistance Act Amendments—Public Law 100-472. Title III authorizes participating tribes, under an annual funding agreement with the Secretary of the Interior, to plan, consolidate, and administer programs, services, and functions administered by the Bureau of Indian Affairs and to redesign programs, activities, functions, or services and reallocate Federal funds.

Funds for the annual agreements are allocated out of agency, area, and central office accounts to the tribe on the basis of what that tribe would have received in funds and services in the absence of the agreement. The tribe can choose to contract for some or all of the services and programs provided by the Bureau of Indian Affairs.

The potential advantages of a self-governance demonstration project are twofold. The first is the flexibility that the tribe has to redesign programs to meet the needs of the tribe and use the funds where it determines they are needed, with two restrictions. First, funds that are received by a tribe on a competitive basis—that is Indian Child Welfare Act—must be used for that purpose. Second, certain transfers intended for trust protection services must receive approval.

The second potential advantage is that the Congress has appropriated funds for tribes to study whether they want to participate in the project and additional shortfall funds for those tribes that do participate. The shortfall funds are intended to cover start-up expenses of the project and shortfalls in program funds occasioned by the inability to split out funds from programs on a precise basis. The purpose here is to give the participating tribe its share of all BIA funds to see if the tribe can more effectively design and deliver services to its members in a way more responsive to direct input from the members.

Seven tribes signed compacts for fiscal year 1991. The Office of Self-Governance anticipates contracting with at least 6 more tribes this year. To date 28 tribes have received planning grants.

The bill I am introducing today makes the following four basic changes to the original law:

First, the demonstration period would be extended by an additional 3 years. Although the SGDP was authorized in 1988, the first compacts were not signed until 1990. Under current law, only 3 years would be left in which to test the SGDP. The tribes should be afforded a reasonable amount of time in order to determine whether this form of government to government relationship with the United States is an option that the Congress should make available on a permanent basis.

Second, the current number of authorized tribal participants would be increased from 20 to 30. This increase is necessary in order to allow those tribes which are seriously considering participation in the SGDP the freedom to do so without their decision being voided by an arbitrary limitation that was established nearly 3 years ago. Furthermore, the participation of an additional number of tribes will provide all tribes and the Congress a broader sample for examining the strengths and weaknesses of the SGDP.

Third, the bill would require that all tribes electing to participate in the SGDP must first go through the planning process. During this process, each tribe would receive a planning grant to conduct budgetary and legal research, conduct internal Government planning and organization preparation, and develop a negotiating process. While there is some disagreement about the intent of the original language on this point, I believe it is especially important during the demonstration phase that each participating tribe experience the entire program. Their experiences will be important to the Congress when it eventually begins to assess the overall strengths and weaknesses of the SGDP, and whether a planning grant should be a requirement if the SGDP is made available on a permanent basis.

Fourth, the bill would authorize $700,000 for planning and negotiation grants for 10 additional tribes under this bill. The appropriations for the first 20 tribes are already covered under previous appropriations acts. Each of the 10 tribes would receive approximately $50,000 for planning and $20,000 for negotiation. These figures are based on the experiences of the current self-governance tribes.

Finally, Mr. President, I want to commend Secretary Lujan and Assistant Secretary Brown for the time and attention they have committed to the self-governance demonstration project. The program was essentially dormant until Secretary Lujan raised this issue to the highest levels within the Department and supported Dr. Brown in his efforts to remove those obstacles which would have otherwise frustrated the tribes in their efforts to demonstrate the potential value of a self-governance compact.

Mr. President, I ask unanimous consent that a copy of the bill, and a copy of the progress report on the tribal self-government project as submitted by the Department of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Self-Governance Demonstration Project Act".

SEC. 2. EXTENSION OF TIME FOR TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT.

Section 301 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) (hereafter in this Act referred to as the "Act") is amended by deleting "five" and inserting in lieu thereof "eight".

SEC. 3. INCREASE IN NUMBER OF TRIBES PARTICIPATING IN PROJECT.

Section 302(a) of the Act is amended by deleting "twenty" and inserting in lieu thereof "thirty".

SEC. 4. COMPLETION OF GRANTS AS A PRECONDITION TO NEGOTIATION OF WRITTEN ANNUAL FUNDING AGREEMENTS.

Section 303(a) of the Act is amended by deleting "which—" and inserting in lieu thereof "that successfully completes its Self-Governance Planning Grant; such annual written funding agreement—".

SEC. 5. ADDITIONAL FUNDING FOR SELF-GOVERNANCE PLANNING GRANTS

Title III of the Act is amended by adding at the end thereof the following new section:

"SEC. 307. For the purpose of providing planning and negotiation grants to the ten tribes added by section 3 of the Tribal Self-Governance Demonstration Project Act to the number of tribes set forth by section 302 of this Act, there is authorized to be appropriated $700,000.".

U.S. DEPARTMENT OF THE INTERIOR,
Washington, DC, April 1, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a progress report, with attachments, as called for by Title III—Tribal Self-Governance Demonstration Projects, Section 305 of P.L. 100-472, the Indian Self-Determination and Education Assistance Act Amendments of 1988. Future reports will be based on mutually determined baseline measurements jointly developed by the Secretary and participating tribes and shall separately include the views of the tribes as well as the relative costs and benefits of the Tribal Self-Governance Demonstration projects.

An identical letter, with the enclosed report and its attachments, is being sent to the Honorable Thomas S. Foley, Speaker of the House of Representatives.

Sincerely,

CHARLES E. KAY
(For John E. Schrote, Acting Assistant Secretary, Policy, Management and Budget).

PROGRESS REPORT: TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

(October 1990 to March 1991)

INTRODUCTION

This progress report covers activities between October, 1990 and March, 1991. To date, 28 tribes have received planning grants. These planning grants are to conduct budgetary and legal research, conduct internal government planning and organizational preparation and develop a negotiation process. Attachment One shows the funding history by tribe since the inception of the program in 1988.

Seven tribes are currently administering compact agreements. The seventh compact, which is with the Absentee-Shawnee Tribe commenced on January 1, 1991.

This report covers the following items: activities of the Self-Governance Demonstration Project Council, distribution of supplemental funding, planning and negotiation grants for FY 1991, establishment of a self-governance office, FY 1992 negotiations plans and the baseline measures report requirement.

SELF-GOVERNANCE DEMONSTRATION PROJECT COUNCIL

On August 3, 1990 an Order of the Secretary established a Council to provide policy guidance for the Self-Governance project. This Council is chaired by the Assistant Secretary—Indian Affairs and includes the Counselor to the Secretary, the Deputy Assistant Secretary for Indian Affairs, the acting Deputy Commissioner, and a representative from the Solicitor's office. The Council met three times to discuss distribution of the $3 millin supplemental shortfall funding to the tribes and the formation of a Self-Governance Office which will administer the negotiation process of new and current self-governance tribes and award new planning grants.

SUPPLEMENTAL FUNDING

For FY 1991, the Congress added $3 million as supplemental funding for the self-governance tribes. This supplemental funding is to cover program shortfalls and start-up costs of those compact agreements that will commence this fiscal year In January, the Self-Governance Project Council approved the dispersal of the following amounts:

Quinault	$494,700

Jamestown Klallam	255,000
Lummi	557,048
Hoopa Valley	520,625
Cherokee	321,052
Absentee-Shawnee	100,000
Mille Lacs Band	0
Subtotal	2,248,425
Undistributed	751,575
Total	3,000,000

A determination has yet to be made regarding the Mille Lacs Band's funding and a decision is pending regarding additional funding for Absentee-Shawnee. Once the amounts are set for these two tribes, a final distribution will be made to the seven tribes.

PLANNING AND NEGOTIATION GRANTS (FY 1991)

On February 11, 1991, the BIA announced the availability of $581,000 to continue the Self-Governance Demonstration Planning Grant program for FY 1991. Of this amount, the Congress earmarked $125,000 for the Lummi Tribe in Washington for continuation of its educational component relative to its Self-Governance Demonstration Project. The remaining funds will allow for the awarding of six negotiation grants, not to exceed $20,000 each, as well as for $336,000 in FY 1991 to the ten grantee tribes competing for continuation Self-Governance Planning Grants. At their option, tribes in the continuation category can elect to move into the negotiation stage instead of planning for an additional year. A model compact has been developed to expedite future negotiations. A copy is attached.

OFFICE OF SELF-GOVERNANCE

Steps have been taken to establish an Office of Self-Governance within the Department which will have responsibility for administering the Self-Governance Demonstration Project. More specifically, the office will:

Advise the Assistant Secretary—Indian Affairs on self-governance and self-determination issues and developed related policy and program proposals;

Consult with tribes on self-governance and self-determination issues and negotiate with those tribes that wish to start or continue their self-governance compact agreements;

Monitor and evaluate self-governance demonstration projects;

Oversee the development and implementation of self-determination regulatory processes; and

Assist in improving the prospects of success for self-governance and other self-determination agreements.

Mr. William Lavell, former Associate Solicitor-Indian Affairs, has been appointed director of this office. Mr. Lavell has been involved with this Self-Governance Demonstration project from its inception and is providing capable leadership to the project due to his wide range of Indian legal experience. In addition, five of the remaining seven authorized positions are being filled. Funds from the unfilled positions are being used to reimburse persons being detailed from area and agency offices. The reason for this action is that there is an immediate need for staff who are familiar with the circumstances of the local Bureau offices and the tribes involved. Finally, office space has been secured and office equipment has been ordered.

FY 1992 NEGOTIATION ACTIVITY PLANS

Negotiations activities have begun within the Department. Background data is being collected and arranged in a usable format. A meeting with local BIA officials and representatives from participating tribes is scheduled for the last week of March. Negotiating tribes may submit their applications for grants at any time prior to August 31. The actual number of such tribes will not be absolutely certain until that date.

For tribes wishing to commence operations under a Compact by October 1, the Agreement must be entered into by no later than July 1 to allow for the ninety (90) day review period by Congressional committees. These negotiations will begin in April.

Tribes which plan to have an initial Compact commencing on January 1, 1992 must have entered into the Agreement by no later than October 1 to allow for the ninety (90) day review period.

Renewal negotiations will also be scheduled to begin in April.

BASELINE MEASUREMENTS REPORT

The enabling legislation for the Tribal Self-Governance Demonstration Project, Title III, Section 305 of P.L. 100-472, contained requirements for semi-annual reports to Congress concerning the relative costs and benefits of the project based on mutually determined baseline measures. A task force comprised of representatives from the first six self-governance compact tribes and the Bureau of Indian Affairs was established to standardize the Baseline Measures overall process. In January, 1991, a draft of report requirements was presented to Director Lavell that established a format for future reports. A copy of the base line measures format is attached for your review. A detailed schedule is found on page 5 of this document. The initial report on Baseline measures is expected by April 15.

SELF-GOVERNANCE PROJECTS

Tribe	Planning grants—Fiscal year—				Compacts—Fiscal year—	
	1988	1989	1990	1991[1]	1991	1992
Appropriation	$1,000,000	$1,200,000	$1,184,000	[1] $581,000		
Absentee Shawnee	0	0	0		$484,000	
Cherokee	0	0	50,000		5,487,700	
Cheyenne River	0	50,000	50,000			
Duck Valley	0	25,000	39,830			
Duck Watger Shoeshone	0	0	49,971			
Ely Colony	0	27,500	35,700			
Flathead	76,287	76,287	[2] 20,000			
Grand Traverse	0	0	49,054			
Hoopa Valley	100,000	100,000	[2] 20,000		1,333,300	
Jamestown Klallam	100,000	100,000	[2] 20,000		872,200	
Kawerak, Inc	0	0	50,000			
Leech Lake	0	42,662	50,000			
Lummi	100,000	100,000	[2] 20,000		2,541,300	
Makah	0	0	49,877			
Menominee	0	43,660	0			
Mescalero	a100,000	0	100,000			
Mille Lacs	100,000	100,000	[2] 20,000		500,300	
Port Gamble	0	49,936	50,000			
Quinaull	100,000	100,000	[2] 20,000		4,375,400	
Red Lake	100,000	97,263	[2] 20,000			
Rosebud	100,000	100,000	[2] 20,000			
Sac and Fox	0	0	46,676			
Shoshone Bannock	0	0	50,000			
Siletz Tribe	0	0	50,000			
Sisseton Wahpeton	0	0	50,000			
Tanana Chiefs	0	0	48,440			
Three Affiliated	0	48,706	0			
Tlingit-Haida	100,000	100,000	[2] 20,000			
Total	976,287	1,161,014	999,548		15,594,200	

[1] 1991 planning grants have not been awarded yet.

[2] $20,000 amounts are for negotiations costs, all other funds are awarded as planning grants, except where noted.•

By Mr. SMITH (for himself, Mr. McCAIN, and Mr. BROWN):

S. 1288. A bill to rescind unauthorized appropriations for fiscal year 1991; to the Committee on Appropriations.

SPENDING PRIORITY REFORM ACT

• Mr. SMITH. Mr. President, Senator Everett Dirksen once said: "A billion here, a billion there, and pretty soon you're talking about real money."

Today I am introducing, with my colleagues Senators BROWN and McCAIN, the Spending Priority Reform Act of 1991. The legislation includes 325 projects, totaling $1,064,646,000, that were inserted in the fiscal year 1991 Appropriations Acts. Each project was funded by circumventing the established Congressional budget process. This bill would, quite simply, rescind any unobligated funding for each of those projects. It is our modest attempt to save some of the "real money" of which Senator Dirksen so often spoke.

More importantly, however, the bill calls attention to a serious problem with the manner in which the Federal Government spends the American taxpayers' hard earned dollars. As the legislation clearly demonstrates, too often those tax dollars are spent without regard for national priorities or merit.

Mr. President, not every project included in the bill is bad and not every project is good. They are all, however, very unfair. When Members of Congress can add projects—good or bad—without hearings, or in a closed-door conference, that is unfair. It is unfair to those worthy programs that compete for funding, and it is unfair to the American people, who elected us to make spending decisions based on merit.

If Members of Congress are unwilling to play by the rules, then we need to change the rules, or provide a mechanism to enforce them. While the Spending Priority Reform Act of 1991 will not change or enforce the rules, it will effectively highlight the need for that change. If enacted, it will also save the taxpayers a considerable amount of money.

Mr. President, I urge my colleagues to cosponsor this important legislation, and send a message to the American people that Congress is willing to add some fairness and sanity to the budget process.•

• Mr. McCAIN. Mr. President, I am proud to join Senator SMITH in cosponsoring the Spending Priority Reform Act of 1991. This is a significant piece of legislation that illustrates both procedural flaws as well as waste in congressional budgeting and spending decisions.

This legislation clearly establishes that, despite the claims of supporters' of last year's budget, the tough spending choices clearly were not made.

While taxes were increased and Medicare benefits were cut, Congress nonetheless managed to waste $1,064,646,000 on 325 projects. It is wasteful spending like this that makes Americans wonder what the priorities of their legislators truly are.

Let me now take this opportunity to discuss some of the unique aspects of this bill.

The Spending Priority Reform Act of 1991 employs a flexible, objective test to impartially determine what is "pork". Criteria used to test various projects include whether specific projects were properly authorized, competitively bid upon, or subject to a committee or subcommittee hearing.

This legislation does not pass judgment on the merits of particular projects nor does this legislation politically target specific Members of Congress.

The goal of this legislation is to ensure that the legally established procedures are adhered to when the Congress develops a budget and adopts appropriations bills.

In order to restore public confidence in Congress, we must ensure that established procedures for obtaining Federal funding are followed.

This legislation would help restore public confidence in the integrity of Congressional processes by rescinding any unobligated funding for the 325 projects listed in the bill.

While it is clear that rescinding $1,069,646,000 will not solve our budgetary problems, it is not an insignificant sum of money.

It serves to highlight the need for the substantive budget reform contained in S. 196, the Legislative Line Item Veto Act of 1991 and S. 809, the Tax Fairness and Accountability Act of 1991.

Mr. President, I would like to thank Senator SMITH for introducing this important legislation, and ask other Senators to join us in bringing sanity, public confidence, and responsibility back to the congressional budget process by cosponsoring this bill.•

By Mr. DURENBERGER:

S. 1290. A bill to amend the Internal Revenue Code of 1986 to reduce the OASDI tax rate and to increase equally the hospital insurance tax rate; to the Committee on Finance.

MEDICARE SOLVENCY AND SECURITY ACT

Mr. DURENBERGER. Mr. President, I rise to introduce the Medicare Solvency and Security Act of 1991. Enactment of this legislation is of critical necessity if we are going to ensure the fiscal integrity and financial soundness of the hospital insurance—Medicare—trust fund.

Mr. President, recently our distinguished colleague from New York [Mr. MOYNIHAN] elevated the level of debate about the future retirement needs of our children when he offered an amendment on the Senate floor to reduce the payroll tax and return the Social Security System to a pay-as-you-go system. Although I, along with the majority of my colleagues, opposed this proposal, I welcomed this idea because it has given us the opportunity to reexamine the philosophical underpinnings of the 1983 Social Security compromise and to focus on the broader issue of redefining income security for the elderly.

Along those lines, I would note that the Social Security check that comes in the mail promptly every month represents but one pillar of the Government's commitment to retirement income security. There is another pillar basic to retirement security—and that is the freedom from the fear that a retiree won't be able to be treated by a hospital for a serious illness because he or she lacks health insurance. When we adopted Medicare in 1965 we ended that fear.

Mr. President, for the past several years, it has become increasingly clear that the Medicare hospital insurance trust fund is headed for real trouble. Budget Director Richard Darman has estimated that the unfunded liabilities in the HI Program could be as high as $250 billion. And the financial crisis facing the HI Program is not decades away, but just a few short years away—conceivably beginning as early as 1996. And unless we begin to address the crisis facing the trust fund, it will surely be in bankruptcy within 14 years—before a single member of the baby boom enters retirement!

Just last month, the Board of Trustees of the Federal Hospital Insurance Trust Fund issued its 1991 annual report on the state of the Medicare trust fund. The trustees, who includes the Secretaries of Treasury, Labor, and Health and Human Services, took special note of the financial crisis facing Medicare and flatly asserted: "Corrective action will be needed very soon in order to avoid the need for potentially precipitous changes later." The legislation I am introducing today responds directly to the trustees' recommendations.

Under this legislation, the 7.65-percent payroll tax paid by employers and employees would neither be increased nor decreased. Instead, beginning in the year 2000, the old age survivors and disability insurance [OASDI] portion of the payroll tax would be reduced from 6.20 to 5.90 percent. The 0.30 percent reduction in the employer-employee share of the OASDI tax would then be reallocated to the HI portion of the tax, with the result that the HI tax would rise from 1.45 to 1.75 percent. A further 0.25 percent reduction in the OASDI tax would occur in 2007 with a concomitant increase in the HI portion of the tax. Thus by the year 2007, the OASDI portion of the payroll tax paid by employers and employees would be 5.65 percent, and the HI portion would be 2 percent.

Mr. President, I want to emphasize that this small shift in the payroll tax will not endanger the Social Security trust fund. In fact, these tax rates were arrived at after consultation with the professional actuaries at the Social Security Administration and the Health Care Financing Administration who advised that these rates would provide safe reserve margins for both the OASDI and the Medicare hospital insurance trust funds.

According to actuarial estimates, if this legislation is adopted, by the year 2015 there will be a more than 4-year contingency reserve margin available for paying Social Security benefits. And the medicare hospital insurance trust fund will always have a cushion of at least 6 months of benefit payments. If we do nothing, we would probably have a slightly larger—(5-year)—Social Security reserve available in 2015, but we will assuredly have a bankrupt Medicare trust fund. That is just not acceptable.

I would urge my colleagues to join me in this effort to assure the workers who are today paying Medicare taxes that Medicare will be able to provide comparable, and affordable, benefits when they retire.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Medicare Solvency and Security Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) thirty-three million Americans depend on health services financed through the Federal Hospital Insurance Trust Fund;

(2) under current policies, the unfunded liabilities of the Federal Hospital Insurance Trust Fund are estimated to approach $250,000,000,000;

(3) the Board of Trustees of the Federal Hospital Insurance Trust Fund has urged the Congress to take early action to remedy the financial shortfall facing the hospital insurance program;

(4) the Federal Hospital Insurance Trust Fund could experience a deficit beginning as early as 1996; and

(5) unless the Congress takes immediate action, the Federal Hospital Insurance Trust Fund will likely become insolvent shortly after the turn of the century.

SEC. 3. REDUCTION IN OASDI TAX RATE AND INCREASE IN HOSPITAL INSURANCE TAX RATE.

(a) OASDI TAXES.—

(1) TAX ON EMPLOYEES.—The table in section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for old-age, survivors, and disability insurance) is amended to read as follows:

"In the case of wages received during:	The rate shall be:
1991 through 1999	6.20 percent
2000 through 2006	5.90 percent
2007 and thereafter	5.65 percent."

(2) TAX ON EMPLOYERS.—The table in section 3111(a) of such Code (relating to rate of tax on employers for old-age survivors, and disability insurance) is amended to read as follows:

"In the case of wages paid during:	The rate shall be
1991 through 1999	6.20 percent
2000 through 2006	5.90 percent
2007 and thereafter	5.65 percent."

(3) TAX ON SELF-EMPLOYMENT INCOME.—The table in section 1401(a) of such Code (relating to rate of tax on self-employment income for old-age survivors, and disability insurance) is amended to read as follow:

"In the case of a taxable year		Percent:
Beginning after:	And before:	
December 31, 1990	January 1, 2000	12.40
December 31, 1999	January 1, 2007	11.80
December 31, 2006	....	11.30."

(b) HOSPITAL INSURANCE TAX.—

(1) TAX ON EMPLOYEES.—Section 3101(b) of the Internal Revenue Code of 1986 (relating to rate of tax on employees for hospital insurance) is amended—

(A) by striking "and" at the end of paragraph (5), and

(B) by striking paragraph (6) and inserting the following new paragraphs:

"(6) with respect to wages received during the calendar years 1986 through 1999, the rate shall be 1.45 percent;

"(7) with respect to wages received during the calendar years 2000 through 2006, the rate shall be 1.75 percent; and

"(8) with respect to wages received after December 31, 2006, the rate shall be 2.00 percent."

(2) TAX ON EMPLOYERS.—Section 3111(b) of such Code (relating to rate of tax on employers for hospital insurance) is amended—

(A) by striking "and" at the end of paragraph (5), and

(B) by striking paragraph (6) and inserting the following new paragraphs:

"(6) with respect to wages received during the calendar years 1986 through 1999, the rate shall be 1.45 percent;

"(7) with respect to wages received during the calendar years 2000 through 2006, the rate shall be 1.75 percent; and

"(8) with respect to wages received after December 31, 2006, the rate shall be 2.00 percent."

(3) TAX ON SELF-EMPLOYMENT INCOME.—The table in section 1401(b) of such Code (relating to rate of tax on self-employment income for hospital insurance) is amended to read as follow:

"In the case of a taxable year		Percent:
Beginning after:	And before:	
December 31, 1985	January 1, 2000	2.90
December 31, 1999	January 1, 2007	3.50
December 31, 2006	....	4.00."

By Mr. HATFIELD:

S. 1291. A bill to amend title 35, United States Code, to impose a 5-year moratorium on the granting of patents on invertebrate or vertebrate animals, including those that have been genetically engineered, in order to provide time for Congress to fully assess, consider, and respond to the economic, environmental, and ethical issues raised by the patenting of such animals; to the Committee on the Judiciary.

MORATORIUM OF PATENTS ON ANIMALS

Mr. HATFIELD. Mr. President, I think most everyone has been reading the media regarding the owls, the northern spotted owl, that we have been dealing with in the Pacific Northwest, and now the listing of salmon species as it relates to a possible threatened or endangered species of the Columbia River.

We have had, of course, much publicity on this from my home State of Oregon, and we are awaiting administrative and judicial decisions which could throw the economy in our region into a very serious tailspin.

But in the end, there may be no other choice but to make some drastic changes in order to save the fish and the birds and the people of the Pacific Northwest, my own State of Oregon, particularly.

Mr. President, I have not come here today to talk about the spotted owl or the Columbia River salmon, however important these problems are. With each passing day, Americans in all States are confronted by new environmental concerns, often accompanied by economic or ethical dilemmas which threaten our way of life.

Mr. President, today I am here to make the point once again that Congress must act now if it is ever going to have the opportunity to examine the effects genetically engineered animals will have upon our environment and our economy. I have to wonder how, on the other hand, we can be obsessed with viability of a naturally occurring species, and on the other hand not even seek to understand what a manmade animal might do to our environment.

Therefore, I am once again introducing legislation to place a 5-year moratorium on the patenting of life. The moratorium is intended to stop the race to develop new genetically altered animals for profit; stop it long enough for us to get some idea of what effect these experiments might have on our world.

To some extent, this legislation only addresses a symptom of what may be a much more fundamental problem. Certainly, the idea of ownership of an entire, unique species of life brings a whole new arena of power to the private sector.

With this issue, we are confronted by increased industrial competition for control and ownership of the gene pool of animal species, which in turn created the possibility of corporate monopoly of the animal's genetic code. This prospect disturbs me deeply.

And the patenting of newly created animals is not our only dilemma. If the granting of patents encourages the unfettered development of these animals, then my legislation is effective in providing Congress with the opportunity to assess and consider the possible economic, environmental, and ethical ramifications of genetically altered species.

In only 4 years, the Patent Office has received 145 applications for genetically altered animals. Yet no real progress has been made toward creating an appropriate regulatory system to monitor these inventions.

By leaving this up to officials at the U.S. Patent Office, we have effectively abandoned the responsibility to deal with the results of such genetic engineering. The Patent Office is not staffed by scientists, yet, by fait accompli we are placing them in the position of being the only Federal agency with authority over these newly created species.

This legislation is not an attempt to halt the promising field of genetic engineering. I want to be very clear on this point. The various techniques of biotechnology, when used responsibly, have enormous potential in a number of areas including pharmaceutical agricultural products. However, genetic engineering now allows us to take human genetic traits and insert them into the permanent genetic code of animals. We are also gaining the increased ability to mix and match the genetic traits of animals, insects, and plants, creating new and different species. To suddenly and unconditionally grant patents for the development of any and all of these genetic creations is irresponsible and imprudent.

Genetic engineering in animals is a vast field of technology.

Not only can genes be transplanted from one species to another. Human genes may also be transplanted into animals. This kind of research—which I do not necessarily oppose—cries out for some modicum of ethical oversight. The idea of patenting animals should force an examination of whether or not such a practice is ethical—and if it is, man's right to refashion the animal kingdom in order to meet industrial needs. Animals, after all, are more than just instruments of commerce.

Once these animals are created in the laboratory, I believe it is important to test them fully to ensure that they will not have harmful impacts upon other species by spreading disease or causing environmental destruction. Science tells us that biological systems can be fragile. If newer, superior forms of animals are created, we may face the possibility of causing the destruction of the natural species.

That is what we are doing today and are concerned about in the problem of the salmon. It is the wild species of salmon, not the hatchery salmon, that we are deeply concerned about in the Columbia.

Mr. President, the preservation and protection of native gene pools, and therefore rare species, is what the Endangered Species Act is all about. Any artificially produced species should not be released, if it will threaten the already fragile world of the natural species. Any artificially produced species are very, very important to consider as to their utilization and their future.

Traditionally, the patent and copying laws have been statutory protections assuring that rights and privileges owned by the public are not given over to private ownership. Under this rule of law, living things were held not to be patentable as being in the public ownership. Congress allowed the patenting of certain plants twice, once in 1930, and again in 1970. However, in 1980, the Supreme Court, in a 5-to-4 decision—Chakrabarty versus Diamond—held that microoganisms were patentable if they had been genetically altered. The minority in that decision maintained that the patenting of microorganisms should not be allowed without a clear signal from Congress that this was the statutory intent. Unfortunately, the patent office has unilaterally extended the holding in Chakrabarty to allow, for the first time, the patenting of the entire animal kingdom, with the possible exception of man himself. This represents a vast, unique and deeply troubling usurpation of congressional authority, as a political question. Moreover, it denies the public the traditional legislative process for the protection of their rights.

With the U.S. Patent Office potentially on the verge of unleashing more than 100 man-made animal species into our world, I am greatly troubled that the economic, social, environmental, and ethical impacts of animal patenting have yet to receive our thoughtful consideration. We know very little about the regulatory system which should oversee the development and introduction of these new creatures.

Congress should recognize its responsibility to give careful consideration of all these issues before it allows a rush of new species of creation and creatures into our world. My legislation to put in place a 5-year moratorium would allow for that kind of examination.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated April 5, 1991, and a letter of support from the American Humane Society.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE HUMANE SOCIETY
OF THE UNITED STATES,
Washington, DC, June 12, 1991

Hon. MARK HATFIELD,
Hart Building, Washington, DC.

DEAR SENATOR HATFIELD: On behalf of The Humane Society of the United States and its 1.4 million constituents, we applaud your legislative initiative and fully endorse your bill to impose a 5-year moratorium on the granting of patents on invertebrate and vertebrate animals, including those that have been modified by biogenetic engineering.

In order for society to reap the full benefits of advances in genetic engineering biotechnology, the social, economic, environmental, and ethical ramifications and consequences of such advances need to be fully assessed. Considering the rapid pace of developments in this field, which will be spurred on by the granting of patents on genetically altered animals, a 5-year moratorium on the granting of such patents is a wise and necessary decision. A moratorium will enable Congress to fully assess, consider, and respond to the economic, environmental, and ethical issues raised by the patenting of such animals and in the process, establish the United States as the world leader in the safe, appropriate, and ethical applications of genetic engineering biotechnology for the benefit of society and for generations to come.

Yours sincerely,

DR. MICHAEL W. FOX,
Vice President,
Farm Animals and Bioethics.

DEPARTMENT OF COMMERCE,
PATENT AND TRADEMARK OFFICE,
Washington, DC, April 5, 1991.

Hon. MARK O. HATFIELD,
U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: Thank you for your letter regarding the current prospects for animal patenting in the United States. Set forth below are the answers to your specific questions. Although many of the questions you raise are difficult to answer with any degree of specificity, we have tried to be as responsive as possible. Because your letter was co-signed by Congressman Benjamin Cardin, we have also forwarded the same response to him directly.

Questions and Answers:

1. The current number of animal patents pending. There are 145 pending applications for a patent that contain one or more claims directed to an animal.

2. The number of animal patents likely to be issued during the coming year and the next two years.

It is difficult to predict the number of animal patents that are likely to be issued in any given period. At the time the first animal patent was issued to the President and Fellows of Harvard College (U.S. Patent No. 4,736,866, issued on April 12, 1988), we identified 21 pending applications directed to an animal. Today, almost three years later, some of those applications are still pending, some of those applications have been abandoned but are the subject of continuing applications, and some of those applications have been abandoned and are not the subject of a continuing application. A continuing application is a new application filed by the applicant to retain the benefit of the filing date of the earlier application and, typically, to either add subject matter to the earlier application or to continue the prosecution of the same invention disclosed in the earlier application.

We can predict that some patents will be granted in the next two years, but we have no actual experience in this area to form the basis of a numeric prediction. In fiscal year 1990, 66% of all applications in which a final decision was rendered matured into a patent, whereas 38% of the applications in the biotechnology patent examining group that were finally disposed of matured into a patent. Clearly, our experience to date in the patenting of animal inventions has not followed either one of these patterns.

3. In general, the kinds of animal inventions for which patents are being sought. (For example, the approximate percentage of applications for patents on animals intended for use in either agriculture, aquaculture, the pet industry, or research. Where you are aware of patent applications for animals whose nature has already been disclosed to the public, please provide full information on the proposed animal invention.)

By statute (35 U.S.C. 122), applications for patents are kept in confidence by the U.S. Patent and Trademark Office (PTO) and no information concerning the same is given without authority of the applicant or owner. We estimate that about 80% of the applications are directed to animals that have utility in medical applications, and the majority of the remainder are directed to agricultural animals.

In most patent systems outside the United States, including Europe and Japan, applications which are filed in those countries are published eighteen months after they were first filed anywhere in the world. The PTO has not made an effort to collect patent applications directed to animals that have been published throughout the world. However, a report entitled "New Developments in Biotechnology: Patenting Life", issued by the Office of Technology Assessment (OTA) in April 1989, listed several animal applications that had been published by the European Patent Office. A copy of the OTA Report Brief is enclosed.

4. An explanation of the delay in issuing additional patents on animals.

The delay in issuing additional patents on animals can be attributed to a number of factors. First, some of the delay can be attributed to the general problem that the PTO has experienced in addressing the growing inventory of pending applications in the area of biotechnology. Second, due to the sensitivity of the issue of patenting of animals, both the PTO and applicants for animal patents are taking care in drafting claims and making decisions on patentability. Third, in some cases, it has been observed that while a claim to an animal is initially presented for examination, some applicants appear to decide that adequate protection can be obtained without a claim directed to the animal itself. Finally, it can be speculated that some applicants may not wish to have a patent granted until such time as regulatory approval for commercial marketing of the transgenic animal can be foreseen.

More than half of the 145 pending applications have been examined by the PTO, and the applicants have been informed of the results of that examination. Some of the remaining applications are continuing applications that claim inventions that were examined in earlier applications.

5. A discussion of any unique issues that patenting of animal inventions might pose under the Patent Law. These include, for example, disclosure requirements, methods of deposit, scope of patent claims, and distinctions between human beings and human genes as subject matter for patents.

The issues typically encountered in the examination of an application involving a claim to an animal are essentially the same as those that are addressed in the examination of inventions of other life forms such as microorganisms and plants. No issue has been encountered to date that is unique to the patenting of animal inventions.

6. Any analysis done by the PTO of alternatives to patents as means of protecting inventiveness in the area of animal engineering. These might include restricted patent holder's rights patterned on plant breeder's rights, use of copyright or trademark law, or direct research subsidies for biotechnology companies doing desired research.

The PTO has not considered or conducted any analysis of alternatives to patents as a means of protecting innovation in the fields of transgenic and other animals that are the products of human engineering.

7. Any efforts by the PTO, alone or in conjunction with other agencies, to press for the extension of patent rights to animals in countries outside of the United States.

The PTO, either alone or in conjunction with the efforts of other agencies such as the U.S. Trade Representative, has pressed for a broad range of protection for innovation throughout the world. This broad range of protection includes products and processes of biotechnology, including animals. As noted in the recent Report on National Biotechnology Policy issued by The President's Council on Competitiveness (February 1991), improvements in intellectual property laws in other countries are clearly needed: "The Administration is committed to pursuing the protection of intellectual property as a top priority in the Uruguay Round of the GATT negotiations." The United States is also supporting a provision in the proposed Patent Law Treaty now under consideration in the World Intellectual Property Organization that would make patent protection available in all fields of technology. In addition to these multilateral efforts, the United States is actively pursuing patent protection for biotechnological inventions in the context of all our bilateral negotiations.

Although a study of the practices in other countries has not been undertaken by the PTO, we are aware that France has recently issued a patent to an animal. Japan also has recently completed examination of two patent applications directed to animals, and has published these examined applications for opposition—a step that precedes the granting of a patent under Japanese law. The Technical Board of Appeal of the European Patent Office has recently decided that the European Patent Convention that excludes animal varieties from patent protection does not exclude the patenting of animals as such.

I hope these responses adequately address the issues you raise. Please feel free to contact me personally if you desire additional information.

Sincerely,

HARRY F. MANBECK, Jr.,
Assistant Secretary and Commissioner of Patents and Trademarks.

Enclosure.

[OTA Report Brief, April 1989]

PATENTING LIFE

Creating and patenting living organisms is one new development in biotechnology. While many issues in biotechnology are new, the concept of patents is not. Now the two subjects have merged into an important policy issue: In protecting intellectual property, should bioengineered life forms be patentable?

First outlined in the Constitution, a patent is a grant issued by the U.S. Government giving the patent owner a temporary right to exclude all others from making, using, or selling the invention during the term of the patent. A patent does not give its owner any affirmative rights to make, use, or sell the invention. As with other forms of property, the right to make, use, or sell a patented invention may be regulated by Federal, State, or local law.

Under U.S. patent law, inventors have long been able to obtain a patent for any new, useful, and nonobvious process, machine, manufacture, composition of matter, or improvement thereof. Although patents on biotechnological processes have been permitted for years, until recently patent applications on living organisms per se were not permitted on the grounds that such inventions constituted "products of nature" and were not statutory subject matter.

In 1980 the Supreme Court, in the case of *Diamond* v. *Chakrabarty*, ruled that a living micro-organism is patentable under U.S. law as a "manufacture" or "composition of matter" (35 U.S.C. 101). This decision and subsequent actions by Congress and the executive branch provided economic stimulus to patenting of micro-organisms and cells, which in turn provided stimulus to the growth of the biotechnology industry in the 1980s. Subsequent to the *Chakrabarty* decision, the U.S. Patent and Trademark Office (PTO) held that plants (1985) and nonhuman animals (1987) constituted patentable subject matter.

To date, plants are the sole life form for which Congress has expressly permitted intellectual property protection. In 1930, Congress enacted that Plant Patent Act to extend patent protection to new and distinct asexually propagated varieties other than tuberpropagated plants. In 1970, Congress enacted the Plant Variety Protection Act, providing patent-like protection for asexually reproduced plants. Today, these two Federal statutes, the 1985 PTO decision, and recognized trade secret law, provide a variety of protections for inventions that constitute plant life.

PTO's 1987 policy statement that nonnaturally occurring nonhuman animals constituted patentable subject matter initiated broad debate and the introduction of legislation concerning the patenting of animals. In April 1988, the first U.S. patent on an animal was issued to Harvard University for transgenic nonhuman mammals genetically engineered to contain a cancer-causing gene (U.S. Patent No. 4,736,866). Currently, 44 patent applications on animals are pending at PTO.

Most potentially patentable animals are likely to be transgenic animals produced via recombinant DNA techniques (see box A). It is anticipated that animals useful in research (particularly mice) will be developed first, with subsequent research focusing on cattle, swine, goats, sheep, poultry, and fish. Although federally funded research efforts could lead to patented animals, the patentability of an animal does not affect the manner in which the animal would be regulated by a Federal agency. The largest economic sectors likely to be influenced by animal patents are the different markets for agricultural livestock and some segments of the pharmaceutical industry, although it is difficult to predict the effect of patenting across the diverse sectors of these industries.

Ethical claims for and against the patenting of animals have been raised. Many of these arguments focus on the consequences that could occur subsequent to the patenting of animals (e.g., the creation of new and useful products v. the creation of excessive burdens on the family farmer). Other arguments focus on inherent rights (e.g., rewarding innovation and entrepreneurship v. promoting a materialistic conception of life). Most arguments center on issues that existed prior to the current patenting life debate e.g., animal rights, the effect of technology on American agriculture, the distribution of wealth, international competitiveness, the release of novel organisms into the environment).

The patenting of living organisms presents a unique administrative problem in that it is the only known art where patent enablement (the requirement that a patent application specify in clear, concise terms how to make and use the invention in the best mode contemplated) in some instances cannot be accomplished by words alone. This has led to the deposit of micro-organisms and plants for patent purposes. To date, no animal has been deposited, and the sole U.S. patent on an animal was supported by the deposit of relevant genes (in cell culture) intended for transfer into an animal.

Differences exist among nations regarding intellectual property protection of biotechnological inventions, including the issue of what constitutes patentable subject matter. Although the United States is the only country to date that has issued a patent on a transgenic animal, at least nine patent applications on animals are pending with the European Patent Office (see box B).

In 1989, Congress faces three policy issues relevant to the patentability of life forms:

Should the patenting of animals be permitted by the Federal Government? Options include enactment of a moratorium or prohibition on such patents, enactment of a statute specifically providing for such patents, amending the patent law to address animal patents, or the enactment of an animal variety protection statute modeled after the existing plant variety protection statute.

Is the current statutory framework of intellectual property protection for plants appropriate? Options include directing the Secretary of Agriculture to report on the effect of the farmer's crop/seed exemption under the Plant Variety Protection Act of 1970 or to report on the impact that plant protection has on germplasm exchange.

Is the current system of patent enablement adequate for biological material? Options include the enactment of a statute providing the PTO Commissioner with authority to set conditions for the deposit of biological material.

BOX A—WHAT IS A TRANSGENIC ANIMAL?

A transgenic animal is one whose DNA, or hereditary material, has been augmented by adding DNA from a source other than parental germplasm, usually from different animals or from humans. The most common scientific technique for producing a transgenic animal is microinjection, which is accomplished by injecting purified copies of the gene of interest into a fertilized animal egg.

BOX B—PATENTING OF ANIMALS: NINE PENDING APPLICATIONS

Under U.S. law, the contents and status of a patent application are maintained in confidence by the Patent and Trademark Office (35 U.S.C. 122). Such is not the case with patent applications filed in Europe, which are published 18 months after the date first filed. Nine applications claiming animals have been filed with the European Patent Office (EPO), and each has also been filed with the U.S. Patent and Trademark Office. Of the nine applications, six are from U.S. inventors, and one (from harvard College) has received a U.S. patent.

The applications generally cover methods for creating transgenic animals, methods for producing animals that express biological substances, and the final product of both methods (i.e., the animals). The nine applications have priority dates ranging from June 1984 (Harvard College) to April 1987. The titles of the nine applications and the applicants:

Title: *Method for Transferring Organic or Inorganic Substances to Egg Cells or Somatic Cells of Animals and Compositions for Use Therein.* Applicant: Transgene (Bad Soden, West Germany).

Title: *Peptide Production.* Applicant: Pharmaceutical Proteins Ltd. (Cambridge, Great Britain).

Title: *Transgenic Animals.* Applicant: Luminus PTY Ltd. (Adelaide, Australia).

Title: *Expression of Heterologous Proteins by Transgenic Lactating Mammals.* Applicant: Immunex (Seattle, WA).

Title: *Method for Producing Transgenic Animals.* Applicant: President and Fellows of Harvard College (Cambridge, MA).

Title: *Transgenic Mammal Containing Heterologous Gene.* Applicant: The General Hospital Corp. (Boston, MA).

Title: *Transgenic Animals Secreting Desired Proteins Into Milk.* Applicant: Integrated Genetics, Inc. (Framingham, MA).

Title: *DNA Sequences To Target Proteins to The Mammary Gland for Efficient Secretion.* Applicant: Baylor College of Medicine (Houston, TX).

Title: *Procedure for Transplanting a Donor Bovine Embryo Into a Recipient Ovocyte, and Bovine Embryo Created by This Procedure.* Applicant: N.L. First, F. Barnes, R.S. Prather, and J.M. Robl (Madison, WI).

Source: Office of Technology Assessment, 1989; adapted from "Patenting of Life Forms," European Patent Office, 1988.

By Mr. GLENN (for himself, Mr. METZENBAUM, Mr. AKAKA, Mr. SASSER, Mr. LIEBERMAN, and Mr. GORE):

S. 1292. A bill to amend chapter 35 of title 5, United States Code, to provide notification for Federal employees subject to a reduction in force, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEE REDUCTION-IN-FORCE NOTIFICATION ACT

Mr. GLENN. Mr. President the legislation I am introducing today would make reductions in force [RIF's] in the Federal Government more fair and equitable by requiring that Federal employees be given at least 60 days written notice before being separated from their jobs by a RIF. I am pleased to have Senators METZENBAUM, AKAKA, SASSER, LIEBERMAN and GORE as original cosponsors of the bill.

Under current law, there is no statutorily mandated RIF notification period for Federal employees. However, under Office of Personnel Management [OPM] regulations, agencies are required to notify employees at least 30 days in advance of a RIF action.

Four decades ago when this 30-day notification period was established, we had a very different kind of work force where basic education and general job experience were often sufficient for employment. However, in the job market of the 1990's where specialized education and skills are often prerequisites for new employment, 30 days seems hardly sufficient.

This legislation is modeled after the Worker Adjustment and Retraining Notification Act—Public Law 100-379—introduced by my distinguished colleague from Ohio, Senator METZENBAUM in the 100th Congress. That law requires private firms with 100 or more employees to provide at least 60-day advance notice of an impending closure or mass layoff affecting 50 or more workers. While the Federal Government has a long history of demanding from the private sector that which it will not ask for itself, we should remember that we enacted the Worker Notification Act to reduce the human crisis of unemployment and displaced workers. At a time when the Department of Defense expects to close bases, it is only fair that we ask the same of ourselves and move promptly pass this legislation.

By extending the RIF notification period to 60 days, Federal agencies cannot only give the employee time to prepare and to search for a new job, but the agency can also give itself the time to better manage the RIF process. The agency can prepare for the layoffs with such tasks as bringing personnel records up to date and creating employee placement and counseling services. It is critical that such programs be in place before the layoff when the employee needs the assistance the most. In addition, 60-day notice would give employees the opportunity to retire or to voluntarily separate from the agency, therefore reducing the impact of the RIF's.

Finally, it is my hope that extending the RIF notification time might encourage each agency to better assess its personnel needs before resorting to RIF's. RIF's should be the last resort for any agency. Layoffs create many problems such as low morale and increases use of sick leave among employees, as well as the expenses of severance pay, administrative costs, unemployment insurance, and training costs for replacement employees. When the General Accounting Office [GAO] examined the many RIF's of 1981, it found that 17 percent of the positions RIF'd were refilled with new hires within a year.

Mr. President, I introduce this legislation as a Senate companion bill to H.R. 1341, the Federal Employee Reduction-In-Force Notification Act. I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Reduction-in-Force Notification Act".

SEC. 2. NOTICE REQUIREMENTS.

Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided under subsection (e), an employee may not be released, due to a reduction in force, unless—

"(A) such employee and such employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (2), at least 60 days before such employeee is so released; and

"(B) if the reduction in force would involve the separation of fifty or more employees, the requirements of paragraph (3) are met at least 60 days before any employee is so released.

"(2) Any notice under paragraph (1)(A) shall include—

"(A) the personnel action to be taken with respect to the employee involved;

"(B) the effective date of the action;

"(C) a description of the procedures applicable in identifying employees for release;

"(D) the employee's ranking relative to other competing employees, and how that ranking was determined; and

"(E) a description of any appeal or other rights which may be available.

"(3) Notice under paragraph (1)(B)—

"(A) shall be given to—

"(i) the appropriate State dislocated worker unit or units (referred to in section 311(b)(2) of the Job Training Partnership Act); and

"(ii) the chief elected official of such unit or each of such units of local government as may be appropriate; and

"(B) shall consist of written notification as to—

"(i) the number of employees to be separated from service due to the reduction in force (broken down by geographic area or on such other basis as may be required under paragraph (4));

"(ii) when those separations will occur; and

"(iii) any other matter which might facilitate the delivery of rapid response assistance or other services under the Job Training Partnership Act.

"(4) The Office shall prescribe such regulations as may be necessary to carry out this subsection. The Office shall consult with the Secretary of Labor on matters relating to Job Training Partnership Act.

"(e)(1) Subject to paragraph (3), upon request submitted under paragraph (2), the President may, in writing, shorten the period of advance notice required under subsection (d)(1) (A) and (B), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

"(2) A request to shorten notice periods shall be submitted to the President by the head of the agency involved, and shall indicate the reduction in force to which the request pertains, the number of days by which the agency head requests that the periods be shortened, and the reasons why the request is necessary.

"(3) No notice period may be shortened to less than 30 days under this subsection.".

SEC. 3. APPLICABILITY.

The amendment made by section 2 shall apply with respect to any personnel action taking effect on or after the last day of the 90-day period beginning on the date of enactment of this Act.

By Mr. FOWLER (for himself, Mr. BURNS, and Mr. HEFLIN):

S. 1294. A bill to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RECREATIONAL HUNTING SAFETY AND PRESERVATION ACT

• Mr. FOWLER. Mr. President, I rise today with my colleagues from Montana and Alabama to introduce the recreational Hunting Safety and Preservation Act of 1991.

Before there was such a thing as history, hunting was a ritual imbued with respect for nature. Hunting is an important tradition in this country—and, traditionally, lawful hunters have been a major force in conservation efforts.

We can all think of many cases in which sport hunting organizations have led the way in efforts to preserve wildlife and wildlife habitat—forests, wetlands, waterway corridors, prairies, and other homes to native birds and animals. Lawful hunters have been important allies in our efforts to preserve and improve our natural environment, including our wildlife heritage.

Yet a handful of zealous self-styled animal advocates and antihunters are organizing concerted and deliberate efforts, throughout the country, to disrupt lawful hunting activities. Their militant tactics range from verbal abuse to, increasingly, violent confrontation.

Mr. President, we should not allow this harassment to dictate our national traditions, or our national environmental policies. Nor can we allow a lawful activity, but one that requires extreme safety precautions, to degenerate into a truly dangerous situation both for hunters and protestors.

This legislation is modeled after the best features of similar laws which already exist in 41 States. It will prohibit knowing and intentional harassment of hunters on national forest lands. It provides for civil penalties, injunctive relief, and civil lawsuits.

As chairman of the Forestry and Conservation Subcommittee, I think it is necessary to provide some national consistency, and to leave no question about the application of State laws on Federal lands. With the variance in State laws, we must leave no doubt about the protection of hunters on our national forests.

Today, sport hunting is a highly regulated activity that is a critical component of wildlife management. Unfortunately, we have lost much of the wide-open space we once enjoyed. Habitats have dwindled, and many natural predators, regrettably, have disappeared. As a result, hunting is essential to maintain healthy population levels for many species.

License fees and excise taxes from over 16 million lawful hunters generate more than $3 million a day for wildlife habitat and management. Because of these efforts, Americans enjoy increasing numbers of deer, turkey, bear, elk, upland game birds, antelope, and many nongame species.

So it is a serious mistake in my opinion to brand hunters as somehow enemies of wildlife or enemies of the environment. I also think it is most highly regrettable to see fanaticism of the few overwhelm lawful and responsible conduct for the many.

There is plenty of room for debate and disagreement in this country. But the firing line is not the proper forum. Let's draw the distinction between democracy and anarchy. Let's channel legitimate debate through appropriate channels.

Meanwhile, let's support the lawful right of hunters to their place in the great outdoors and pass this legislation.•

• Mr. BURNS. Mr. President, I rise today on behalf of myself and Senator FOWLER to introduce the Recreational Hunting Safety and Preservation Act of 1991.

America's cherished system of hunting, long admired by people throughout the world, is being seriously threatened by the tactics of a small, but well-organized group of antihunting activists.

Because of the dramatic increase in the numbers and nature of well orchestrated attacks against hunters, 41 States have enacted laws outlawing deliberate acts that disrupt lawful hunts.

Unfortunately, much more remains to be done to reverse these alarming trends. The Federal Government, which owns over 30 percent of my home State of Montana and more than one-third of the land in the United States, needs to protect hunters on Federal lands from the harassment of antihunting saboteurs.

These saboteurs have decided not to try and change the laws or beliefs of Americans but instead have charted a confrontational path of harassment, intimidation, and obstruction aimed at legitimate and law abiding sport hunters.

Therefore, last year I introduced S. 2880, along with 10 other Senators, to protect the American hunter. This year Senator FOWLER and I are introducing a similar piece of legislation.

This bill simply says that any person who knowingly acts with intent to obstruct, impede, or otherwise interfere with the conduct of a lawful hunt on land affected with a Federal interest may be assessed a civil penalty, injunctive relief, and civil law suits.

I would like to give you a few reasons for the need to protect hunters.

Harassment of legitimate and lawful hunting is on the rise. Harassment is an unreasonable interference with hunting. Harassment is being done by groups whose true goals are to end all use of animals, including the use of animals in medical research and testing; the raising and eating of meat; the wearing of fur, leather, wool, and silk; the circus and rodeo; the keeping of pets; and the many varied uses of animal products in industrial processes.

The groups who pursue these goals are not content with the normal mechanisms offered for debate in our free society.

Hunting is a traditional and beneficial recreation, both for the hunter and for the management of wildlife populations. Nearly one-half of the hunting that takes place in this country today is done on Federal public lands.

The 18 million licensed hunters in the United States have been the major financial supporter of wildlife conservation. Over the last 50 years hunters have contributed over $2.5 billion toward wildlife conservation through excise taxes, duck stamps, and license fees. This bill will continue this tradition by contributing all moneys collected as fines to the North American waterfowl management plan and the Pittman-Robertson Act. Both of these programs acquire lands to protect wildlife habitat.

Under the combination of revenue from hunting and management of populations through hunting, wildlife is more varied and abundant today than at any time since the pioneering era.

Even though 41 States have enacted hunter protection laws, it is not clear that those laws would always apply on Federal lands. Even if the State laws applied on Federal lands, this legislation would add some unique approaches and avenues that would aid significantly in the control of harassment.

Senator FOWLER and I are trying to prevent any accidents from occurring on the Nation's Federal lands. For example, back in March of 1990, a legal bison hunt was being carried out just outside of Yellowstone National Park. A member of the Fund for Animals tried to disrupt the hunt by placing his body between a hunter and a buffalo during the hunt.

Now Mr. President, you don't have to think too hard to figure out that is an extremely tense and dangerous situation for all parties involved. Therefore, it is the goal of myself and Senator FOWLER to avoid a potential life treatening confrontation between the two groups and help protect both groups.

When a person buys a State hunting license, he or she deserves the opportunity for a quality outdoor experience and should not be subjected to harassment by others.

Hunting is a legitimate, lawful sport and compatible with good management and conservation practices when done properly. Therefore, it is the role of the Federal Government to do what it can to protect the rights of law-abiding citizens engaged in a government-sanctioned sport and to protect the activists as well.

I look forward to working with Senator FOWLER to pass this bill this year and ask my colleagues to join us in this effort.●

By Mr. LAUTENBERG:

S. 1295. A bill to authorize the Secretary of the department in which the Coast Guard is operating to convey the Cape May Point Lighthouse to the State of New Jersey; to the Committee on Commerce, Science, and Transportation.

CAPE MAY POINT LIGHTHOUSE PRESERVATION ACT

● Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation to authorize the Secretary of Transportation to transfer the Cape May Point Lighthouse to the State of New Jersey. This mirrors legislation sponsored by my good friend and colleague from New Jersey, Representative BILL HUGHES. That House measure has been incorporated into the Coast Guard authorization bill that has already been approved by the House Merchant Marine and Fisheries Committee.

The Cape May Point Lighthouse is recognized by both the State of New Jersey and the Federal Government as a historically significant structure. The original lighthouse was built in 1823 and was the second in New Jersey. In 1857 the Army Corps of Engineers began construction of the current structure and its light has guided navigators since 1859. It is one of the oldest active lighthouses in the Nation.

In 1986 the Coast Guard leased the lighthouse to the State of New Jersey which in turn subleased the structure to the Mid-Atlantic Center for the Arts to operate it as a museum of lighthouse and maritime history. The Center assumes responsibility for restoration, maintenance, interpretation and operation of the lighthouse. This relationship has proved successful and resulted in the reopening of the lighthouse to the public after more than a century.

The Cape May Point Lighthouse is currently in need of major repairs, the most important of which is repair of a leaking roof and the lantern room. The Mid-Atlantic Center for the Arts has applied to the State of New Jersey for historic preservation funds, but has been told that the project is ineligible for New Jersey State Preservation funds, since the lighthouse is owned by the Federal Government.

The legislation that I am introducing today will help ensure that tourists can continue to enjoy the lighthouse and learn more about maritime history in southern New Jersey. The bill would transfer ownership of the structure from the Coast Guard to the State of New Jersey. This transfer would allow the Mid-Atlantic Center for the Arts to receive preservation funds from the New Jersey State government. Furthermore, the transfer would not affect the lighthouse's mission as a navigational aide because it assures the Coast Guard full access to the structure in order to maintain navigational activities.

The transfer of the lighthouse to New Jersey is widely supported in Cape May County, New Jersey, where the structure is located. The transfer also enjoys the support of the State of New Jersey. I ask that a letter of support from Scott Weiner, Commissioner of the New Jersey Department of Environmental Protection be included in the record following my statement.

I want to thank Senator HOLLINGS, Chairman of the Commerce, Science and Transportation Committee with whom I've worked closely on this legislation. It's my understanding that the distinguished Chairman will be introducing a Coast Guard Authorization bill tonight that includes the text of my legislation. I'm grateful to the Chairman for his efforts and hope my colleagues will support this important effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The Act may be cited as the "Cape May Point Lighthouse Preservation Act of 1991".

SEC. 2. CONVEYANCE OF LIGHTHOUSE.

(a) AUTHORIZATION.—The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(b) DESCRIPTION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this Act.

SEC. 3. TERMS AND CONDITIONS.

(a) IN GENERAL.—The conveyance of property pursuant to section 2 shall be made—

(1) without the payment of consideration; and

(2) subject to such terms and conditions as the Secretary may consider appropriate.

(b) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property pursuant to this Act shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey.

(c) AIDS TO NAVIGATION.—Any conveyance of property pursuant to this Act shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(1) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(2) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(3) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(4) the United States shall have the right, at anytime, to enter such property without notice for the purpose of maintaining navigation aids; and

(5) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(d) LIMITATION ON OBLIGATIONS OF STATE.—The State of New Jersey shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this Act.

SEC. 4. DEFINITION.

For purposes of this Act—

(1) the term "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey; and

(2) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
Trenton, NJ., March 21, 1991.

Capt. THOMAS E. BERNARD,
Commander, 5th Coast Guard District,
Portsmouth, VA.

DEAR CAPTAIN BERNARD,

I recently learned of the initiative of the Mid-Atlantic Center for the Arts (MAC) to transfer the ownership of the Cape May Point Lighthouse from the U.S. Coast Guard to the State of New Jersey, Department of Environmental Protection.

As Dr. Zuckerman reflected in his February 25, 1991, letter to you, the U.S. Coast Guard and MAC have enjoyed a productive and mutually beneficial working relationship since 1986. The benefactors of the diligent work by MAC at the lighthouse have been the visitors to Cape May. The public now has the opportunity to learn about those remarkable treasures and our Cape May Point State Park has also benefited from this additional attraction in the area.

I am in support of the transfer of the lighthouse to the Department, including the necessary provisions to continue your access to maintain the aid to navigation.

Your prompt consideration of this request would be most appreciated. As Dr. Zuckerman explained in his letter to you, the New Jersey Historic Trust has given MAC until June to resolve this issue. If there is any assistance I may provide to expedite the transfer, please feel free to call on me.

Very truly yours,
SCOTT A. WEINER,
Commissioner.●

By Mr. RIEGLE (for himself, Mr. SARBANES, Mr. KENNEDY, Mr. BYRD, Mr. ADAMS, Mr. DODD, Mr. MOYNIHAN, and Mr. LEVIN):

S. 1296. A bill to provide an optional program for supplemental unemployment compensation, and for other purposes; to the Committee on Finance.

UNEMPLOYMENT INSURANCE REFORM ACT

Mr. RIEGLE. Mr. President, I am rising at this time to indicate that I will shortly send to the desk and thereby introduce the Unemployment Insurance Reform Act of 1991. I do this in behalf of a number of Senate colleagues, including Senator SARBANES, Senator KENNEDY, Senator BYRD, Senator ADAMS, Senator DODD, Senator MOYNIHAN, and Senator LEVIN. As time allows, we will be seeking and adding additional cosponsors.

As all too many of my constituents in Michigan know from firsthand experience, our unemployment insurance system is broken and needs fixing. The Democratic leadership of both Houses recognized this fact the other week, when it announced its agenda for economic recovery and growth. Senators MITCHELL, FORD, and BENTSEN, and Representatives FOLEY, GEPHARDT, and ROSTENKOWSKI stated that it is time for Congress to tackle the following three problems in the unemployment compensation system:

First, the adequacy of the duration of benefits for the long-term unemployed; second, the availability of sufficient administrative funds to the States; and third, to deal with the troubling reduction in the proportion of unemployed workers who actually qualify for and thus receive unemployment benefits.

The bill I am introducing with my colleagues today tackles each of these problems. It is the product of a task force of 15 Democratic Senators, which I was privileged to chair. I believe it offers a sound and balanced solution to the problems outlined by the leadership of the Congress that I just referenced.

Mr. President, the unemployment insurance system is the Federal Government's No. one antirecession program. It is our principal means of redressing the human costs of the recession, and for stabilizing the economy. The system, as it is presently operating, is failing the Nation on both counts.

For example, during the fall and winter, unemployed people in Michigan and across the country stood in long lines. In many cases they waited 6 to 8 weeks to receive benefits because States did not have sufficient administrative resources to handle the increased number of unemployment claims.

Now, for these same unemployed persons, now that their regular benefits are ending, they find either they cannot obtain extended benefits or their extended benefits are being terminated prematurely. All this in the face of a continuing recession, where there is no job to return to and no alternative job to be taken.

Just this week in Michigan, the Michigan Employment Security Commission announced that the payment of extended unemployment compensation benefits will terminate next week. Michigan's unemployment rate is still nearly 10 percent, but in my State alone, some 48,000 workers will have their unemployment benefits terminated at that time. It makes no sense at all for our society's front line of defense against a recession to be shutting down while we still are very much in the middle of the recession.

That same absurd situation exists in States like Massachusetts and West Virginia. These States, too, will soon be terminating payment of extended benefits, even though they have double-digit rates of unemployment. Massachusetts, for example, has an unemployment rate in excess of 12 percent. In response to the fundamental flaws in the extended benefit program, my bill established a 1-year, federally financed program of supplemental benefits based on States' total unemployment rates.

States would have the option of participating in this program in place of the extended benefits program. Workers in States with elevated levels of unemployment would be eligible for between 7 to as much as 26 weeks of additional benefits.

In addition to providing this immediate relief for the long-term unemployed, this bill would make permanent repairs to the extended benefit program so we do not encounter the same problems in the next recession. Specifically, it would change the program's trigger so the payment of extended benefits would be based upon a State's total unemployment rate. The current trigger is based on what is known as the insured unemployment rate, which corresponds essentially to the number of unemployed workers who are currently collecting basic unemployment benefits.

A declining proportion of the unemployed has been qualifying for benefits owing to changes in the labor market and the program over the past 10 or 15 years.

As a result of these changes, the insured unemployment rate has become an increasingly inappropriate trigger for the extended benefit program. It no longer accurately reflects the degree of stress in the labor market. So this bill provides States with 2 years to legislate the change to a trigger based on the total unemployment rate.

Administrative funding is another area in which the unemployment system has malfunctioned during this recession. When massive layoffs took hold last fall and this winter, State agencies could not cope. Their budgets were actually shrinking as case loads were rising sharply.

It is not uncommon for people to wait in line several hours to file, and then wait another 6 to 8 weeks to begin collecting their first unemployment checks.

Needless to say, for someone who has lost his income and is trying to make rental payments or home ownership payments or car payments, this is just an unworkable situation.

This problem arises due to the Federal Government's thoroughly irrational way of funding administrative expenses. The committees involved appropriate administrative funding based on projections of unemployment a year in the future.

We all know that economic forecasting is a most imperfect science. Indeed, it may be that it is more an art than a science. The unemployment rate simply cannot be reliably predicted that far into the future. For this reason, Congress has had to legislate a supplemental appropriation in 10 of the last 18 years, but only after some degree of disruption in the administration of the program.

Such a system is all the more irrational and inefficient when one considers that UI program more than finances its own administration expenses. Last year, employers, and indirectly, employes, paid taxes into the fund for the purpose of funding administrative expenses in an amount $1 billion in excess of the amount that Congress actually appropriated for this purposes. This $1 billion surplus that was built up merely served to mask the size of the Federal budget fiscal deficit.

Our bill responds to this problem by creating a contingency reserve fund on each appropriation bill. $30 million would be appropriated for the purpose of administrative funding for every 100,000 unemployed people above the projections of unemployment assumed in the President's budget.

The bill makes a number of other important changes. I ask a comprehensive outline of the bill's provisions be printed in the RECORD following my statement.

For now, I will highlight only one other provision concerning the eligibility of ex-military service personnel for unemployment benefits. This is really an astonishing fact, but it is a fact.

Under the current law, returning veterans of Desert Storm, whether servicemen or servicewomen who have just fought in that war, as well as any other of our military personnel, when they return home, if they are unable to find work and are unemployed, they are only eligible for a maximum of 13 weeks of regular unemployment benefits. And they do not qualify to receive $1 of that 13 weeks of benefits until they have gone through a 4-week waiting period. By contrast, civilians are eligible for 26 weeks of benefits, with perhaps a 1-week wait in most situations.

So this bill also eliminates the second-class treatment for our military service personnel. It would make them eligible for the same amount of benefits and on the same terms as civilians.

Mr. President, the time has come to repair the Nation's central safety net program. This bill is a responsive, commonsense approach to the problems confronting many Americans as a result of the recession, and I strongly urge my colleagues to support the legislation.

I simply conclude by saying that in the unemployment compensation fund today, in the overall, there is a positive balance in excess of $6 billion. That money has been paid in precisely for the purpose of having that money available to pay out in the form of unemployment compensation benefits to our unemployed workers. It is the height of irony that this year the projected income into the unemployment insurance fund will actually be an amount greater than the payments that are being paid out in the middle of this recession. So the unemployment compensation fund itself will actually add to its surplus over the course of this calendar year, in part because of these fundamental defects in the system that I just enumerated.

So it is essential that this program be changed, and I think the money is there with which to correct these deficiencies. I am hopeful that we can move with some speed on this because, as I say, in my own State alone, we will have 48,000 workers within the next 7 days who will lose their unemployment benefits because this system is not functioning correctly. I thank the Chair and yield the floor and thank again, my colleague from New York.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

OUTLINE OF THE UNEMPLOYMENT INSURANCE REFORM ACT OF 1991

(1) *Supplemental Unemployment Insurance* (extended UI benefits for workers who have exhausted their basic 26 weeks of benefits in states experiencing elevated levels of unemployment).

(a) *Structure of Program.*

A temporary federally-financed Federal Supplemental Compensation program is established, in which states may opt to participate in place of the Federal-State Extended Benefit program. The schedule of benefits would be based on a state's seasonally-adjusted, three month average Total Unemployment Rate [TUR] as follows:

Duration of supplemental benefits

TUR:	*Weeks*
6 percent	7
7 percent	13
8 percent	20
9 percent	26

Payment of benefits to first tier of states (7 weeks for states with unemployment between 6% and 7%) is contingent upon the national unemployment rate reaching 7%.

(b) *Effective Date.*

Reachback to workers exhausting benefits as of January 1, 1991 (i.e., workers who lost their jobs around July 1, 1990).

(c) *Duration of Program.*

One year from date of enactment.

(d) *Cost.*

The cost of the supplemental benefit program is estimated by CBO to be $860 million in FY 1991 and $2,150 million in FY 1992.

(2) *Reform of Extended Benefits Program* [restore program's capacity to be responsive during (future) recessions].

(a) States are provided two years in which to modify the trigger which determines state eligibility for payments of benefits under the Federal-State Extended Benefit program. The new trigger would be: 1) 7% seasonally-adjusted, three month average Total Unemployment Rate and 120% of the average during the same three month period of the previous two years; or 2) 8% seasonally adjusted, three month average Total Unemployment Rate. CBO estimates the cost of this proposal to be $400 million in FY 1993; $355 million in FY 1994; $170 million in FY 1995: and $120 million in FY 1996.

(3) *Administrative Expenses* (ensure uninterrupted availability of sufficient funds to administer program in the event unemployment rate exceeds rate assumed by appropriation).

(a) *Contingency Reserve Fund.*

A Contingency Reserve Fund for administrative expenses is established on regular appropriations bills as a matter of policy. The Fund would provide an additional $30 million appropriation for every 100,000 person increase in the average weekly insured unemployment level (including a pro rata amount for smaller increments in excess of 100,000) above the level assumed in the President's budget proposal for any given year. Such appropriations would be classified as emergency expenditures under budget rules.

(4) *Eligibility.*

(a) Ex-service personnel benefits—Ex-military service personnel are made eligible for the same 26 weeks of benefits after a 1-week waiting period as civilian workers. Currently, military personnel leaving service are eligible for 13 weeks of unemployment benefits after a 4-week waiting period. The rationale for this difference was based on the belief that military personnel tend to know when they are to leave service and have time to look for employment before they leave. However, with the cutbacks in the size of the military, many service personnel leaving the military will be faced with essentially involuntary job loss and therefore should be treated in the same way as others who lose their jobs. Cost: $615 million over 6 years: $25 million in FY 91; $115 million in FY 92; $115 million in FY 93; $120 million in FY 94; $120 million in FY 95; $120 million for FY 96.

(b) State option for school employees: States are provided the option to pay benefits to non-professional employees (support staff) of educational institutions between academic years or terms if they are eligible otherwise. Cost: estimated to be less than $500,000 per year.

(c) Inclusion of most recent completed quarter of work history—States are required to implement a procedure to consider a worker's most recent completed quarter of work history in determining eligibility.

Mr. MOYNIHAN. Mr. President, I think we are all very much in the debt of the chairman for bringing forward this matter at a time of decent urgency. I do share his view. I hope it proceeds directly to enactment.

By Mr. KERRY (for himself, Mr. HATFIELD, Mr. ADAMS, Mr. BINGAMAN, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. CHAFEE, Mr. CONRAD, Mr. GLENN, Mr. GORTON, Mr. HATCH, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. RIEGLE, Mr. ROTH, Mr. SANFORD, Mr. SHELBY, and Mr. STEVENS):

S.J. Res. 160. Joint resolution designating the week beginning October 20, 1991, as "World Population Awareness Week"; to the Committee on the Judiciary.

WORLD POPULATION AWARENESS WEEK

Mr. KERRY. Mr. President, on behalf of myself and Senator HATFIELD, I would like to introduce a joint resolution regarding world population.

Mr. President, during the past year, we focused a lot of appropriate attention on the problems of rain forest deforestation, on natural resource depletion, on Third World debt, and on hazards such as environmental destruction that are present to the welfare of people of the world. All of these problems, we have all learned over the course of time, are not just problems that are self-starting. They are not problems exclusively as a consequence of development policy or exclusively as a consequence of businesses dumping effluent into a river. All of them are closely related to population growth. All you have to do is go, as I know the Presiding Officer of the Senate has done on occasion, to almost any country in the world other than the industrial nations, but even industrial nations today which were very recently less developed nations, and you can see the consequences of this kind of rampant population growth.

Today the world's population exceeds 5 billion people, and if population growth continues at its current rate, that will double in about 40 years, maybe less. Most of those additional 5 billion people are going to live in Africa, the Indian subcontinent, the Middle East, and in Latin America, precisely those areas which are least able to accommodate that kind of population growth.

If the United States is going to do something, as we want to do, as we express ourselves continually as being willing to do to try to have an impact on these kinds of problems, then we have to first recognize the extraordinary strain that increasing population places on the already scarce resources of so many parts of this globe.

Last year, World Population Awareness Week educated Americans from Hawaii to Maine about the consequences of rapid population growth in the developing world. There were hundreds of university seminars, public library exhibits, and many community events held in relation to this week, and I think everybody judged them to be extremely valuable. People became aware of the linkage that they had not particularly thought of previously.

It is my belief and the belief of other colleagues that we must reaffirm that particular educational effort. The American people must continue to learn about population growth and understand exactly how it affects peace and prosperity throughout the world. Population growth is not unlinked to the money that we spend on defense. It is not unlinked to any of the foreign aid on which we expend the hard-earned dollars of the taxpayers of this country. There is a direct linkage to the conflict in which many of our sons and daughters have lost their lives around the globe. And it seems to us that we ought to be aware of the extraordinary social costs of not being sensitive to this.

Infant mortality rates and the death rates among mothers could be significantly decreased if voluntary—and I emphasize voluntary—child spacing and maternal health programs were expanded. Half of the women of reproductive age in the developing world have expressed a desire, in various samplings of polls and so forth, to control the size of their families, but they lack the means or they lack the ability to be able to gain access to family planning.

The great effort that we are expending, and it is an increasing effort, on environmental issues is going to be tragically wasted if we ignore the fact that the world's population is growing at an absolutely unsupportable rate. Ethiopia's population is expected to increase fourfold over the next several decades while India's is expected to grow by 1 billion people, the size of China today. Even El Salvador, a country the size of Massachusetts, is expected to have a population twice that size or more about 30 years from now.

The resolution I am introducing today will designate the week from October 20 through October 26, 1991, as World Population Awareness Week.

In the past, many countries, including Turkey, Brazil, Bangladesh, Tunisia, Zimbabwe, Costa Rica, Indonesia, Colombia, China, and Nigeria have joined with the United States during this week to actively educate their people about the dangers of unrestricted population growth. The expanded number of educational activities and events to be held during this week this year will enhance the American public's understanding of how population growth directly affects the people living in the Third World and, indeed, the people living in the United States of America.

Mr. President, I urge my colleagues to join with me in support of this week of awareness in education as they did last year. I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 160

Whereas the population of the world today exceeds 5,000,000,000 and is growing at an unprecedented rate of approximately 90,000,000 per year;

Whereas virtually all of this growth is occurring in the poorest countries, those countries least able to provide even basic services for their current citizens;

Whereas the demands of growing populations have contributed substantially to enormous environmental devastation and pose threats of even greater harm to the world;

Whereas one-half of the 10,000,000 infant deaths and one-quarter of the 500,000 maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded;

Whereas research reveals that one-half of the women of reproductive age in the developing world want to limit the size of their families but lack the means or ability to gain access to family planning;

Whereas the global community has for more than 20 years recognized that it is a fundamental human right for people to voluntarily and responsibly determine the number and spacing of their children and the United States has been a leading advocate of this right;

Whereas the demands of growing populations force many countries to borrow heavily and sell off their natural resources to cover the interest on their debt;

Whereas selling off natural resources in such circumstances often causes irretrievable losses, such as the destruction of the tropical rain forests at a rate of 50,000 acres per day;

Whereas the reliance of a rapidly growing world population on burning fuels is a critical factor in the emission of carbon dioxide into the atmosphere, which many scientists believe has already catalyzed a warming of the Earth's climate;

Whereas pollution is damaging the ozone layer to such an extent that within 40 years the amount of ultraviolet light reaching our planet is expected to increase by as much as 20 percent; and

Whereas in 1990, the President proclaimed "World Population Awareness Week" nationally, and 38 State Governors proclaimed "World Population awareness Week" in their respective States, to call attention to the consequences of rapid population growth, and the Congress also passed a resolution to that effect: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 20, 1991, is designated as "World Population Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Mr. HATFIELD. Mr. President, I am pleased today to join my colleague Senator KERRY in introducing a joint resolution declaring October 20 through 26, 1991, as World Population Awareness Week. This joint resolution seeks to raise awareness of our rapidly increasing world population, thereby creating greater discussion and possible solutions to the problems which accompany overpopulation. The rapid rate at which our population is growing will have critical and far-reaching effects on all of humanity as well as the environment.

World population is increasing at a shocking rate. There are presently 5.3 billion people in the world, and each day adds an additional 250,000. By the year 2000, less than a decade away, the world will have approximately 1 billion more people. Even with the percentage of population growth decreasing, the absolute number of people which are added to our planet each year is not. The rate of growth 30 years ago was greater, but the population was smaller, adding 60 million each year. In the early 1980's, the number rose to 80 million, and today is 90 million. This astronomical growth cannot continue without taking a grave toll.

Overpopulation is tied to nearly all societal problems. In our cities, it has led to poor housing, unemployment, overcrowded schools, and lack of water and energy. Many city governments can no longer cope with the pleas for roads, lighting, drainage, health, and education. Cities such as Rio de Janeiro cannot provide safe housing for all of their people. There, it is estimated that 3 million out of 10 million people live on dangerous, eroded hillsides. Overcrowding, air pollution, and water contamination lead to medical ailments. The air in Mexico City was recently declared unfit to breathe, and residents drink, bathe, and wash in water contaminated by sewage and industrial waste.

Environmental problems must be solved in conjunction with overpopulation. Areas of overpopulation are most likely to misuse land and resources in order to survive. In Bangladesh, over 100,000 lives were lost due to the recent cyclone. However, much of the suffering could have been prevented. In an attempt to sustain their overpopulated nation, they cleared the forests—removing the natural barrier which would have protected many from the disaster.

The developing world will bear the greatest burden. Africa, Asia, and Latin America will experience 95 percent of future population growth. These are nations of people who already are struggling to feed their children and keep their homes; who spend much of their lives surrounded by civil war and strife; and who suffer early deaths due to malnutrition and largely preventable diseases. The future is bleak for these people who will share even fewer resources among their growing populace.

This legislation draws awareness to a concern which is shared by other Members of Congress and the administration. Last year, President Bush and 38 State Governors issued a proclamation to declare World Population Awareness Week as a time to consider the consequences of rapid population growth. Activities were organized in every State in response to the declarations. With the support of Congress, I would like to see those events again this year during a second World Population Awareness Week.

This legislation, Mr. President, is an important step in solving world population problems. We simply cannot afford to ignore the consequences of rapid population growth. I hope our colleagues will join us in supporting the declaration of World Population Awareness Week.

By Mr. INOUYE:

S.J. Res. 161. Joint resolution to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in the District of Columbia or its environs; to the Committee on Energy and Natural Resources.

MEMORIAL TO JAPANESE-AMERICAN WAR VETERANS

• Mr. INOUYE. Mr. President, today I rise to introduce legislation which authorizes the "Go For Broke" National Veterans Association to establish a memorial to Japanese American War Veterans in the District of Columbia or its environs.

On January 28, 1943, with the approval of President Franklin D. Roosevelt, Secretary of War Henry L. Stimson initiated a plan which allowed Americans of Japanese ancestry to volunteer for military service. This action was necessary because soon after December 7, 1941, Japanese Americans found their 1-A classification (acceptable for military service) being changed to 4-C (alien ineligible for military service) or 4-F (unfit for military service) by the Selective Service System. Although rumors were rampant during the early days of World War II, history now clearly shows that there was no evidence of sabotage or espionage activities connected with any Japanese American. Their only crime was that they were born to parents of Japanese ancestry.

As many are aware, large numbers of Japanese Americans were denied their civil rights, deprived of their worldly goods and humiliated by unjust incarceration. Nevertheless, when these young men heard of the War Department's plan in 1943, they volunteered in droves from behind the barbed wire encircled relocation camps. From behind the barbed wire, these men stood tall to provide their loyalty as Americans. They willingly took the oath to defend a nation that had denied them certain rights that are accorded by our Constitution.

Over 20,000 Japanese Americans would eventually serve in the United States military against the enemy in the European and Pacific theaters of World War II. Japanese Americans serving in the 442d Infantry Regimental Combat Team received over 18,000 individual decorations ranging from the Congressional Medal of Honor to the Purple Heart. Many military historians have indicated that the 442nd Infantry Regimental Combat Team was "the most decorated unit in the history of the United States."

The loyalty and sacrifice of these gallant men are beyond question—it is part of the noble military history of our Nation. I urge my colleagues to support the authorization of the establishment of a Japanese American War Veterans memorial.

I hope that with this memorial, the lessons learned during the extraordinary and dark chapter in our Nation's history will not be forgotten. The memorial is an indication to those Japanese American war heroes who gave their lives that their sacrifices were not in vain.

Mr. President, I ask unanimous consent that the text of the joint resolution be placed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 161

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. MEMORIAL FOR JAPANESE-AMERICAN WAR VETERANS.

(a) IN GENERAL.—The Go For Broke National Veterans Association is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor Japanese-American War Veterans.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

SEC. 2. PAYMENT OF EXPENSES.

The Go For Broke National Veterans Association shall be solely responsible for the acceptance of contributions for, and payment of expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

SEC. 3. DEPOSIT OF EXCESS FUNDS.

If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b) or upon expiration of the authority for the memorial under section 10(b) of such Act there remains a balance of funds received for the establishment of the memorial, the Go For Broke National Veterans Association shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of such Act.•

ADDITIONAL COSPONSORS

S. 102

At the request of Mr. COHEN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 102, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of title IV student loans while completing accredited resident training programs.

S. 239

At the request of Mr. SARBANES, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 280

At the request of Mr. DOLE, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of non-deposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 701

At the request of Mr. COATS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $3,500, and for other purposes.

S. 756

At the request of Mr. DECONCINI, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 756, a bill to amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

S. 765

At the request of Mr. BREAUX, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 840

At the request of Mr. DURENBERGER, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 840, a bill to amend the Internal Revenue Code of 1986 to provide a simplified method for computing the deductions allowable to home day care providers for the business use of their homes.

S. 860

At the request of Mr. DOLE, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 860, a bill to support democracy and self-determination in the Baltic States and the republics within the Soviet Union.

S. 895

At the request of Mr. PRESSLER, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's disease or related organic brain disorders.

S. 914

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processess of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 1028

At the request of Ms. MIKULSKI, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Rhode Island [Mr. CHAFEE], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KERRY], the Senator from North Carolina [Mr. SANFORD], the Senator from New Jersey [Mr. BRADLEY], the Senator from Vermont [Mr. JEFFORDS], the Senator from Hawaii [Mr. AKAKA], the Senator from Iowa [Mr. HARKIN], the Senator from Illinois [Mr. SIMON], the Senator from Tennessee [Mr. GORE], the Senator from Oregon [Mr. PACKWOOD], the Senator from Hawaii [Mr. INOUYE], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1028, a bill to authorize increased funding for international population assistance and to provide for a United States contribution to the United Nations Population Fund.

S. 1103

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1103, a bill for the relief of the estate of Dr. Beatrice Braude.

S. 1195

At the request of Mr. DODD, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1195, a bill to authorize the establishment of a memorial on Federal land in the District of Columbia to honor individuals who have served as volunteers in the Peace Corps.

S. 1249

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1249, a bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing.

S. 1261

At the request of Mr. DOLE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1263

At the request of Mr. DIXON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1263, a bill to amend title 18 of the United States Code to punish as a Federal criminal offense the acts of international parental child kidnaping.

SENATE JOINT RESOLUTION 142

At the request of Mr. SHELBY, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Alaska [Mr. STEVENS], the Senator from Virginia [Mr. WARNER], the Senator from Missouri [Mr. BOND], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kentucky [Mr. FORD], the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. THURMOND], the Senator from Georgia [Mr. FOWLER], the Senator from Colorado [Mr. BROWN], the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. SYMMS], the Senator from Ohio [Mr. GLENN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Florida [Mr. MACK], the Senator from Georgia [Mr. NUNN], the Senator from Michigan [Mr. RIEGLE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from North Carolina [Mr. SANFORD], the Senator from Hawaii [Mr. AKAKA], the Senator from Nevada [Mr. REID], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Alabama [Mr. HEFLIN], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Tennessee [Mr. GORE], the Senator from Arizona [Mr. DECONCINI], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Dakota [Mr. DASCHLE], the Senator from South Dakota [Mr. PRESSLER], the Senator from New York [Mr. D'AMATO], the Senator from Nebraska [Mr. EXON], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 142, a joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week."

SENATE JOINT RESOLUTION 159

At the request of Mr. SIMPSON, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Georgia [Mr. FOWLER], the Senator from Washington [Mr. ADAMS], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Florida [Mr. MACK], the Senator from Kentucky [Mr. FORD], the Senator from California [Mr. SEYMOUR], the Senator from Tennessee [Mr. SASSER], the Senator from Utah [Mr. HATCH], the Senator from Missouri [Mr. BOND], the Senator from Iowa [Mr. GRASSLEY], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. SYMMS], the Senator from South Dakota [Mr. PRESSLER], the Senator from New York [Mr. D'AMATO], the Senator from Arizona [Mr. DECONCINI], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 159, a joint resolution to designate the month of June 1991, as "National Forest System Month."

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE CONCURRENT RESOLUTION 46—RELATIVE TO HOLDING THE 1998 WINTER OLYMPIC GAMES IN SALT LAKE CITY, UTAH

Mr. HATCH (for himself and Mr. GARN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 46

Whereas the International Olympic Committee will meet on June 15, 1991, at Birmingham, England, to consider the selection of a site for the 1998 winter Olympic games;

Whereas Salt Lake City, Utah, has been selected by the United States Olympic Committee as the United States candidate for the 1998 winter Olympic games;

Whereas it is the consensus of the Members of Congress of the United States that the designation by the International Olympic Committee of Salt Lake City, Utah, as the site of the 1998 winter Olympic games would be a great honor for all the people of the United States; and

Whereas the people of Utah, who symbolize the heart of America's pioneer spirit, and who have for a number of years fully supported the effort to bring the winter Olympic games to the United States, have fashioned their Olympic bid with the goal of establishing the world's finest winter sports center based upon Olympic ideals: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the International Olympic Committee be advised that the Congress of the United States would welcome the holding of the 1998 winter Olympic games in Salt Lake City, Utah, the site so designated by the United States Olympic Committee; and be it further

Resolved, That the Congress of the United States expresses the sincere hope that Salt Lake City, Utah, will be selected as the site for the 1998 winter Olympic games, and pledges its cooperation and support of their successful fulfillment in the highest sense of the Olympic tradition.

SENATE RESOLUTION 140—CONGRATULATING THE CHICAGO BULLS FOR WINNING THE NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Mr. DIXON (for himself and Mr. SIMON) submitted the following resolution; which was considered and agreed to:

S. RES. 140

Whereas for the first time in the 25-year history of the Chicago Bulls franchise, the Bulls have won the National Basketball Association Championship;

Whereas the Bulls posed a 61–21 record in the regular season, the best in franchise history, and tied an NBA playoff record with 15 wins and only two losses;

Whereas head coach Phil Jackson implemented a quick smothering defense which the Bulls used to hold playoff opponents to a record low 91.5 points a game;

Whereas NBA regular season and playoff most valuable player Michael Jordan once again showed his tremendous basketball ability both offensively and defensively;

Whereas Scottie Pippen, Horace Grant, John Paxson, Bill Cartwright and every Bulls player coming off the bench played vintage Bulls basketball, displaying quick athleticism, tenacious defense, clutch outside shooting, and an outstanding transition game to overwhelm the Los Angeles Lakers in the NBA finals in five games; and

Whereas the Bulls utilized a total team effort in winning their first NBA championship: Now, therefore, be it:

Resolved, That the Senate congratulates the Chicago Bulls for winning the 1991 National Basketball Association Championship.

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

INOUYE AMENDMENT NO. 319

(Ordered to lie on the table.)

Mr. INOUYE submitted an amendment intended to be proposed by him to the bill (S. 1204) to amend title 23, United States Code, and for other purposes, as follows:

On page 35, line 19, following the comma insert the following: "and (v) the annual impact of inflation costs in excess of that provided in prior Interstate Cost Estimates and the annual impact of a State's consumer price index in each of fiscal years 1993, 1994, 1995 and 1996, as published by the Bureau of Labor Statistics of the Department of Labor.".

INOUYE (AND AKAKA) AMENDMENT NO. 320

(Ordered to lie on the table.)

Mr. INOUYE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by them to the bill S. 1204, supra, as follows:

On page 72, line 20, strike the period and insert "; DISCRETIONARY PROJECTS".

On page 73, after line 23, insert the following:

"(d) SET-ASIDE FOR INTERSTATE DISCRETIONARY PROJECTS.—

"Before any apportionment is made under section 103(b)(5) for a fiscal year beginning after September 30, 1991 the Secretary shall set aside $200,000,000. Such funds shall be available for obligation by the Secretary under the following priorities:

"(1) FIRST.—For high cost projects which directly contribute to the completion of a segment of the interstate system which is not open to traffic;

"(2) SECOND.—For projects of high cost in relation to a State's total apportionment of funds; and

"(3) THIRD.—For projects with respect to which the Secretary may make payments under section 115 of title 23, United States Code.".

MOYNIHAN (AND OTHERS) AMENDMENT NO. 321

Mr. MOYHIHAN (for himself, Mr. SYMMS, Mr. BURDICK, and Mr. CHAFEE) proposed an amendment to the bill S. 1204, supra, as follows:

Insert the following on page 62, line 23 after the period:

(f) COLLABORATIVE RESEARCH AND DEVELOPMENT.

Section 307 of title 23, United States Code, is amended by adding subsection (g) as follows:

"(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—For purposes of encouraging innovative solutions to highway problems, and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments; foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the States of the United States. In carrying out this section, the Secretary may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a). The average Federal share in these agreements shall not exceed 50 percent except, where there is substantial public interest or benefit, the Secretary may approve a higher Federal level of participation. Cooperative research and development agreements shall recognize all directly related costs to the non-Federal partners including personnel, travel, hardware development, etc. The research, development, or utilization, of any technology pursuant to an agreement under the above provisions, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended.".

Insert the following at an appropriate place.

SEC. . INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Chapter 1, of title 23, United States Code is amended by adding the following new section at an appropriate place:

"SEC. . INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

"(a) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the domestic highway community of technological innovations abroad that could significantly improve highway transportation in the United States, to promote United States highway transportation expertise internationally, and to increase transfers of United States highway transportation technology to foreign countries. Such activities may include:

"(1) develop, monitor, assess, and domestically disseminate information about foreign highway transportation innovations that could significantly improve highway transportation in the United States.

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange.

"(3) inform other countries about the technical quality of American highway transportation goods and services through participation in trade shows, seminars, expositions and other such activities.

"(4) offer those Federal Highway Administration technical services which cannot be readily obtained from the United States private sector to be incorporated into the proposals of United States firms undertaking foreign highway transportation projects. The costs for assistance shall be recovered under the terms of each project.

"(5) conduct studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development as of the date of enactment, and in Greece and Turkey.

"(b) Cooperation.—The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the United States Government, State or local agency, authority, association, institution, corporation (profit or nonprofit) foreign government, multi-national institution, or any other organization or person.

"(c) Funds.—The funds available to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The funds shall be available for promotional materials, travel, reception, and representation expenses necessary to carry out the activities authorized by this section. Reimbursements for services provided under this section shall be credited to the appropriation concerned.".

Insert the following new section in an appropriate place:

Sec. . Education and Training Program.—Chapter 1 of title 23, United States Code is amended by adding the following new section at an appropriate place.

"SEC. . EDUCATION AND TRAINING PROGRAM.

"(a) Authority.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) Grants and Contracts.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support services that will—(1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with specific road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; (2) identify, package and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and (3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance program centers. The Secretary shall provide technical and financial support for the centers.".

Insert at the appropriate place the following new section:

SEC. . NATIONAL HIGHWAY INSTITUTE.

Section 321 of title 23, United States Code is amended to read as follows:

"SEC. 321. NATIONAL HIGHWAY INSTITUTE.

"(a) Establishment and Authority to Conduct Training.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute hereinafter referred to as the "Institute". The Institute shall develop and administer, in cooperation with the State transportation or highway departments, and any national or international entity, training programs of instruction for Federal Highway Administration, State and local transportation and highway department employees, State and local police, public safety and motor vehicle employees, United States citizens and foreign nationals engaged or to be engaged in highway work of interest to the United States. Programs may include, but are not limited to courses in modern developments, techniques, management, and procedures, relating to highway planning, environmental factors, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance, contract administration, motor carrier activities and inspection. The Secretary shall administer the authority vested in the Secretary by this title or by any other provision of law for the development and conduct of education and training programs relating to highways through the Institute.

"(b) Set-Aside.—Not to exceed one-fourth of 1 percent of all Surface Transportation Program funds apportioned to a State under this title shall be available for expenditures by the State highway department for payment of not to exceed 75 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) Federal Responsibility.—Education and training of Federal, State and local highway employees authorized by this section shall be provided (1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or (2) in any case where education and training are to be paid for under (b) by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, individuals, and the Institute: *Provided*, That private agencies and individuals shall pay the full cost of any education and training received by them.

"(d) Training Fellowships; Cooperation; Collection of Fees.—The Institute is authorized, subject to approval of the Secretary, to engage in all phases of contract authority for training purposes authorized by this section including but not limited to the granting of training fellowships. The Institute is also authorized to carry out its authority independently or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other national or international entity, or person. The Institute is authorized to establish and collect fees from any entity and place them in a special account for the purpose of this section.

"(e) Funds.—The funds required to carry out this section may be from the sums deducted for administration purposes under 104(a). The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this section. The sums provided pursuant to this subsection may be combined or held separate from the fees or memberships collected and be administered by the Secretary as a fund which shall be available until expended.

"(f) Definition.—The term 'national and international entity' as used in this section is defined to mean any government or nongovernment, public or private, profit or nonprofit body, institution, corporation, agency, association, authority, State, country, province, city, county, local jurisdiction, or individual.".

Beginning on page 58, line 4, strike all until the end of page 60, line 7, and insert in lieu thereof the following, while renumbering the succeeding paragraph of section 115(d) accordingly:

(1) Bureau of Transportation Statistics.—There is established within the Department a Bureau of Transportation Statistics (hereafter referred to as the "Bureau"). The Bureau shall be responsible for—

(A) compiling, analyzing, and publishing a comprehensive set of transportation statistics which should provide timely summary in the form of industry-wide aggregates, and multiyear averages, and totals of some similar form which include information on—

(i) productivity in the various portions of the transportation sector;

(ii) traffic flows;

(iii) travel times;

(iv) vehicle weights;

(v) variables influencing traveling behavior including choice of mode;

(vi) travel costs of intracity commuting and intercity trips;

(vii) availability and number of passengers served by mass transit for each mass transit authority;

(viii) frequency of vehicle and transportation facility repairs and other interruptions of service;

(ix) accidents;

(x) collateral damage to the human and natural environment; and

(xi) and the condition of the transportation system, all of information which shall be suitable for conducting cost-benefit studies, including comparisons among modes and intermodol transport systems.

(B) The Director of the Bureau of Transportation Statistics, in cooperation with the States, shall pursue a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. This effort shall—

(i) be coordinated with the efforts undertaken pursuant to section 307(b)(3) of title 23 to develop performance indicators for the national transportation system;

(ii) assure that data and other information are collected in a manner to maximize the ability to compare data from different regions and time periods; and

(iii) assure that data are quality controlled for accuracy and are disseminated to the States and other interested parties.

(C) promulgating guidelines for the collection of information by the Department required for statistics under this paragraph to assure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis;

(D) coordinating the collection of information by the Department for developing such statistics with related information-gathering activities conducted by other Federal agencies;

(E) making readily accessible the statistics published under this paragraph; and

(F) identifying missing information of the kind identified under subparagraph (A) (i) through (xi), reviewing these information needs at least annually with the Advisory Council on Transportation Statistics, and making recommendations to the appropriate Department of Transportation research officials concerning extramural and intramural research programs to provide such information.

(2) Nothing in the provisions of paragraph (1) shall authorize the Bureau to require the collection of any data by any other Department, or to establish observation or monitoring programs.

(3) Information compiled by the Bureau of Transportation Statistics shall not be disclosed publicly in a manner that would reveal the personal identity of any individual,

consistent with the Privacy Act of 1974 (5 U.S.C. 552a), reveal trade secrets and commercial or financial information provided by any person to be identified with such person.

(4) DIRECTOR OF TRANSPORTATION STATISTICS.—The Bureau shall be under the direction of a Director or Transportation Statistics (hereafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The term of the Director shall be 4 years. To begin within 180 days of enactment of this act. The director shall be a qualified individual with experience in the compilation and analysis of transportation statistics. The Director shall report directly to the Secretary. The Director shall be compensated at the rate provided for at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) TRANSPORTATION STATISTICS ANNUAL REPORT.—On January 1, 1992, and each January 1 thereafter, the Director shall submit to the President a Transportation Statistics Annual Report (hereafter referred to as the "Report"). The report shall include, but not be limited to those items identified in subparagraph (A)(i) through (x). The Report shall also include documentation of the methods used to obtain and assure the quality of the statistics presented in the Report and recommendations in improving transportation statistical information.

(6) CONTINUING PERFORMANCE OF THE FUNCTIONS OF THE DIRECTOR PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this Act.

(7) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—The Director shall appoint an Advisory Council on Transportation Statistics, comprised of no more than 6 private citizens who have expertise in transportation statistics and analysis (except that at least one of such appointees should have expertise in economics) to advise the Director on transportation statistics and analyses, including whether the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information. The Council shall be subject to the provisions of the Federal Advisory Committee Act.

(8) STUDY OF DATA NEEDS.—(A) No later than 1 year after the start of Bureau operations, the Secretary of the Department of Transportation in consultation with the Director of the Bureau and the Assistant Secretary designated as Chief Information Resources Officer, shall enter into an agreement with the National Academy of Sciences for a study, evaluation, and report on the adequacy of the data collection procedures and capabilities of the Department. No later than 18 months following an agreement, the National Academy of Sciences shall report its findings to the Secretary and the Congress. The report shall include an evaluation of the Department's data collection resources, needs, and requirements, and shall include an assessment and evaluation of the following systems, capabilities, and procedures established by the Department to meet those needs and requirements:

(i) data collection procedures and capabilities;

(ii) data analysis procedures and capabilities;

(iii) the ability of data bases to integrate with one another;

(iv) computer hardware and software capabilities;

(v) management information systems, including the ability of management information systems to intergrate with one another;

(vi) Department personnel; and

(vii) the Department's budgetary needs and resources for data collection, including an assessment of the adequacy of the budgetary resources provided to the Department and budgetary resources used by the Department for data collection needs and purposes.

(9) The report shall include recommendations for improving the Department's data collection systems, capabilities, procedures, data collection, and analytical hardware and software, and for improving its management information systems.

On page 42, line 23, before the period insert the following: ", except that revenues collected from such tolls in excess of revenues needed to recover the local share of construction and acquisition costs including debt service and the actual costs of operation and maintenance shall be used for: (1) any transportation project eligible under this title, or (2) costs associated with transportation facilities under the jurisdiction of said non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of said facilities".

Beginning on page 91, section 127 of the bill is amended to read as follows:

"SEC. 127. USE OF ASPHALT RUBBER PAVEMENT.—(a) Beginning on the date three years after the date of enactment of this Act, the Secretary of Transportation shall make no grant to any State under title 23 of the United States Code, other than projects or grants for safety where the Secretary determines that the principal purpose of the project is an improvement in safety that will result in a significant reduction in or avoidance of accidents, for any year unless the State shall have submitted to the Secretary a certification that the asphalt pavement laid in the State in such year and financed in whole or part by such grants shall satisfy the minimum utilization requirement for asphalt rubber pavement established by this section. The Secretary may modify the minimum utilization requirement for asphalt rubber pavement during a phase-in period, if the Secretary determines that such phase-in period is necessary to develop production and application facilities for asphalt rubber pavement. Such phase-in period shall not extend beyond the date six years after the date of enactment of this section. The Secretary may increase the minimum utilization requirement for asphalt rubber pavement to be used in federally assisted highway projects to the extent it is technologically and economically feasible to do so and if an increase is appropriate to assure markets for the reuse and recycling of scrap tires.

"(b) The Secretary may set aside the provisions of this section for any three-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to paragraphs (1) and (2), that there is reliable evidence indicating—

"(1) that manufacture, application or use of asphalt rubber pavement substantially increases risks to human health or the environment as compared to the risks associated with conventional pavement;

"(2) that asphalt rubber pavement cannot be recycled to the same degree as conventional pavement; or

"(3) that asphalt rubber pavement does not perform adequately as a material for the construction or surfacing of highways and roads.

"(c) Any determination made to set aside the requirements of this section may be renewed for an additional three-year period by the Secretary, with the concurrence of the Administrator with respect to determinations made under subsections (b)(1) and (b)(2). Any determination made with respect to subsection (b)(3) may be made for specific States or regions considering climate, geography and other factors that may be unique to the State or region and that would prevent the adequate performance of asphalt rubber pavement in such State or region.

"(d) The minimum utilization requirement for asphalt rubber pavement in federally assisted highway projects shall be not less than an average of 6 pounds of rubber derived from scrap tires for each 1 ton of finished asphalt pavement used in Federally-assisted highway projects in the State. The Secretary may grant a State credit toward the minimum utilization requirement for volumes of asphalt rubber pavement used in other road and construction projects and for asphalt rubber pavement containing rubber at rates less than or greater than 6 pounds per ton, provided that the total amount of rubber used in asphalt pavement containing rubber in the State in any year is at least equivalent to the amount that would be used if 100 per centum of the pavement used in federally-assisted highway projects in the State contained 6 pounds of rubber per ton of finished pavement.

"(e) The Secretary shall establish a minimum utilization requirement for asphalt rubber pavement less than the minimum otherwise required by subsection (d) in a particular State, upon the request of such State and with the concurrence of the Administrator of the Environmental Protection Agency, if the Secretary determines that there is not a sufficient quantity of scrap tires available prior to disposal in the State to meet the minimum utilization requirement established by subsection (d) and each of the other recycling and processing uses, including retreading, for which scrap tires are required.

"(f) For purposes of this section—

"(1) the term 'process' means the utilization of tires to reclaim material or energy value;

"(2) the term 'recycle' means to process scrap tires to produce usable materials other than fuels;

"(3) the term 'asphalt' rubber pavement' means any hot mix asphalt paving mixture which contains rubber derived from scrap tires, is produced using the wet or dry process and is used for a pavement base, surface course, or stress absorbing membrane interlayer;

"(4) the term 'stress absorbing membrane interlayer' means a process of spray applying asphalt rubber pavement prior to the overlayment of conventional asphalt pavement to reduce reflective cracking and to waterproof the roadway.".

At the appropriate place insert the following new section:

SEC. . USE OF ZEBRA MUSSELS IN INFRASTRUCTURE.—(a) Within 180 days of the date of enactment of this Act, the Secretary of Transportion shall begin studies to determine the feasibility of utilizing zebra mussels, Dreissena polymorpha, in aggregate or other materials used to construct transportation infrastructure. Within three years of the date of enactment of ths Act the Secretary shall submit a report to the Congress on the feasibility of utilizing zebra mussels in aggregate or other materials used to construct transportation infrastructure. The Secretary shall continue feasibility studies beyond this date if necessary to determine long-term performance of materials incorporating zebra mussels.

(b) If the studies required under section (a) demonstrate the feasibility of using zebra mussels as a construction material, beginning four years after the enactment of this Act, the Secretary of Transportation shall make no grant to any state under title 23 of the United States Code, other than projects or grants that will result in a significant reduction in or avoidance of accidents, for any year unless the state shall have submitted to the Secretary a certification that zebra mussels have been utilized in construction of transportation infrastructure in all applications in which any increase in cost due to using zebra mussels is equal to or less than the cost of disposal of the zebra mussels in conformance with all applicable environmental regulations. The Secretary may establish a phase-in period, not to extend beyond the date seven years after the date of enactment of this Act, if the Secretary determines that such a phase-in period is necessary to establish technology or production facilities for utilizing zebra mussels in transportation infrastructure applications.

(c) The Secretary may set aside the provisions of this section for any three-year period on a determination that there is reliable evidence indicating—

(1) that zebra mussels do not perform satisfactorily as a material for the construction or surfacing of roads or other infrastructure construction applications; or

(2) that utilization of zebra mussels results in increased risk to the safety of motorists, construction workers, or maintenance personnel.

(d) Any determination made to set aside the requirements of this section may be renewed for an additional three-year period by the Secretary. Any determination made with respect to subsection (c) may be made for specific states or regions considering climate, geography, and other factors that may be unique to the state or region.

(e) The Secretary, at the request of a State, may exclude a certain percentage of the federally assisted highways in such state from these requirements, if the Secretary determines that there is not a sufficient volume of zebra mussels in the waters within or contiguous to the state to constitute a nuisance.

On page 84, strike lines 24 through page 85, line 13, and insert in lieu thereof:

"(b) STUDY.—The Secretary shall conduct a study of restrained and unrestrained individuals injured in motor vehicle crashes and of helmeted and nonhelmeted motorcyclists injured in motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in: the severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; and mortality and morbidity outcomes. Of the amounts authorized to be appropriated for fiscal year 1992 to carry out the requirements of this section, not less than $5,000,000 shall be available until expended to carry out this subsection. The Secretary shall report the results of this study to Congress not later than 40 months after the date of enactment of this Act. Approval by the Secretary of Transportation of the payment of such sums shall establish a contractual obligation of the United States to pay such sums."

Beginning on p. 14, line 24, strike all from the beginning of such line through the end of line 15 on page 15, and insert in lieu thereof the following:

"Surface Transportation Program funds may be used—

"(A) as part of a highway construction project, or as a separate effort, to mitigate wetland loss related to highway construction; or

"(B) to contribute to statewide efforts to conserve and restore wetlands adversely affected by highway construction

if such efforts comply with all applicable requirements of and regulations under federal law, including but not limited to the National Environmental Policy Act, the Endangered Species Act, and the Federal Water Pollution Control Act. These efforts may include the development of statewide wetland conservation plans, and other State or regional efforts to conserve and restore wetlands. Contributions toward these efforts may occur in advance of specific highway construction activity only if the State has a transportation planning process that precludes the use of such efforts to influence the environmental assessment of the highway construction project, the decision relative to the need to construct the highway project, or the selection of the project design or location.".

Strike all from the beginning of page 7, line 18 through the end of page 8, line 9, and insert in lieu thereof the following:

(12) HIGHWAY USE TAX EVASION PROJECTS.—(A) For highway use tax evasion projects $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996: *Provided*, That these sums shall be available until expended and may be allocated to the Internal Revenue Service of States at the discretion of the Secretary: *and provided further*, That these sums shall be used only to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff (only for purposes under this paragraph), supplement motor fuel tax examination and criminal investigation, develop automated data processing tolls, evaluate and implement registration and reporting requirements, reimburse State expenses that supplement existing fuel tax compliance efforts, and analyze and implement programs to reduce tax evasion associated with other highway use taxes.

(B) The Secretary shall report on October 1 and April 1 of each year to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the expenditure of all funds under this paragraph, including expenses for the hiring of additional staff by any federal agency and any expenditures for outside consultants.

Strike all on page 102, lines 8 and 9.

On page 38, line 12 after the period insert the following:

A State may loan all or part federal funds made available pursuant to this section to a public agency constructing a toll facility: *Provided*, That such loan may be made only after all federal environmental requirements have been complied with and permits obtained. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not less than five years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose eligible under this title. The Governor of each State making a loan pursuant to this section shall establish procedures and guidelines for making such loans.

Add the following on page 36, line 9 after the period:

Unobligated balances of funds allocated for Forest Highways may be obligated for Public Lands highways.

On page 36, line 24 after "amended" insert the following:

(A) by striking 'construction and improvements thereof' and inserting in lieu thereof 'planning, research, engineering and construction thereof'; and (B).

On page 57, line 23 after "in paragraph (1)" insert "and inserting in lieu thereof 'by the State highway department only'".

On page 9, beginning on line 3, strike "section 135" and insert in lieu thereof "section 125".

On page 115, line 18, after the period, insert the following:

Section 104 of title 23, United States Code, is amended by inserting subsections (a)(2), (a)(3), (b) and (c) of such section as those subsections existed in title 23, United States Code, immediately prior to enactment of Public Law 101-516.

On page 13, line 15 strike "and" and insert in lieu thereof a comma. On page 13, line 15 after "printing of" insert "and application of calcium magnesium acetate on".

On page 54, line 13, before the semicolon, insert "through a process that includes consultation with local elected officials with jurisdiction over transportation".

On page 53, line 7, after the period, insert "The Bridge Management System shall include provisions for life-cycle cost analysis where appropriate.".

On page 87, line 22, insert "and the Secretary finds" after "Secretary".

On page 88, line 15, strike "was" the two places it appears and insert in lieu thereof "is".

On page 89, line 3, strike "other environmental laws as" and insert "all other applicable environmental laws which shall be"

On page 89, line 9, strike "under this section" and insert "in advance of Federal approval or authorization"

On page 89, lines 10 and 11, strike "including" and on line 12, insert "," after "to construct the project".

On page 89, line 12 strike "specific" and insert "project design or".

DIXON (AND SIMON) AMENDMENT NO. 322

Mr. DIXON (for himself and Mr. SIMON) proposed an amendment to the bill S. 1204, supra, as follows:

On page 31, after line 22, insert the following:

SEC. 139A. REDESIGNATION OF INTERSTATE ROUTES.

(a) Whenever two or more bordering States that are connected by a highway on the Interstate System cannot agree to the number designation of that highway, the Secretary of Transportation shall make that designation upon the recommendation of the committee described in subsection (b).

(b) The Secretary of Transportation shall establish an advisory committee composed of highway, engineering, and traffic safety experts not from the States referred to in subsection (a) to make a recommendation under subsection (a) regarding an appropriate designation of an Interstate route.

REID AMENDMENT NO. 323

Mr. REID proposed an amendment to the bill S. 1204, supra, as follows:

On page 31, line 5, before the period, insert the following: ", unless such highway or bridge capacity expansion project conforms with the applicable State implementation plan of the State approved or promulgated under section 110 of the Clean Air Act (42 U.S.C. 7410), as described in section 176(c) of the Clean Air Act (42 U.S.C. 7506(c))".

On page 34, line 12, before the period, insert the following: ", unless such lanes conform with the applicable State implementation plan of the State approved or promulgated under section 110 of the Clean Air Act (42 U.S.C. 7410), as described in section 176(c) of the Clean Air Act (42 U.S.C. 7506(c))".

INOUYE (AND AKAKA) AMENDMENT NO. 324

(Ordered to lie on the table.)

Mr. INOUYE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by them to the bill S. 1204, supra, as follows:

On page 35, line 6, after "Massachusetts" insert "and Hawaii".

On page 35, line 24, before the colon, insert "and Hawaii".

On page 36, line 3, strike the period before the ending quotation mark and insert "; *Provided further*, that Hawaii shall be apportioned $205,000,000 for the fiscal year 1992.".

EXON (AND OTHERS) AMENDMENT NO. 325

Mr. EXON (for himself, Mr. LAUTENBERG, Mr. CHAFEE, Mr. ADAMS, Mr. GORE, and Mr. SANFORD) proposed an amendment to the bill S. 1204, supra, as follows:

On page 129, line 8, strike the quotation marks and the second period; and on page 129, immediately after line 8, insert the following:

"(4) Nothing in this subsection shall be construed to allow the operation on any segment of the National System of Interstate and Defense Highways of any commercial motor vehicle combination prohibited under section 411(j) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311).".

(c) Section 141(b) of title 23, United States Code, is amended by adding at the end the following new sentence: "Each State shall also certify that it is enforcing and complying with section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311(j)).".

SEC. 138A. VEHICLE LENGTH RESTRICTION.

Section 411 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311(j) is amended by adding at the end the following new subsection:

"(j)(1) No State shall allow by statute, regulation, permit, or any other means, the operation on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, pursuant to subsection (e) of this section, of any commercial motor vehicle combination with two or more cargo carrying units (not including the truck tractor), whose cargo carrying units exceed, as determined by the Secretary—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation authorized by statute or regulations of that State on or before June 1, 1991; or

"(B) the length of the cargo carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, continuing lawful operation (including continuing seasonal operation) in that State on or before June 1, 1991.

"(2) For purposes of this subsection, the length of the cargo carrying units of a commercial motor vehicle combination is the length measured from the front of the first cargo carrying unit to the last cargo carrying unit.

"(3) Commercial motor vehicle combinations whose operations in a State are not prohibited under paragraph (1) of this subsection may continue to operate in such State on the highways described in paragraph (1) only if in compliance with, at the minimum, all State statutes, regulations, limitations, and conditions, including but not limited to routing-specific and configuration-specific designations and all other restrictions in force in such State on June 1, 1991. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of any commercial motor vehicle combination subject to this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of this section and of section 412 and section 416(a) and (b) of this Act. Any State further restricting or prohibiting the operations of commercial motor vehicle combinations shall advise the Secretary within 30 days after such action and the Secretary shall publish a notice of such action in the Federal Register.

"(4) Within 60 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a list of length limitations, as determined by the Secretary, applicable to commercial motor vehicle combinations operating in each State on the highways described in paragraph (1). The list shall indicate the applicable State statutes and regulations associated with such length limitations. The list shall become final within 60 days after publication in the Federal Register. Commercial motor vehicle combinations prohibited under paragraph (1) may not operate on the National System of Interstate and Defense Highways and other Federal-aid Prima System highways as designated by the Secretary. The list may be combined by the Secretary with the list required under section 127(d) of title 23, United States Code.

"(5) Nothing in this subsection shall be construed to allow the operation on any segment of the National System of Interstate and Defense Highways of any longer combination vehicle prohibited under section 127(d) of title 23, United States Code.".

"(6) Nothing in this subsection shall be interpreted to affect in any way the operation of commercial motor vehicles having only one cargo carrying unit. Nor shall this subsection be interpreted to affect in any way the operation in a State of commercial motor vehicles with two or more cargo carrying units if such vehicles were in actual, continuing operation (including continuing seasonal operation) in that State on or before June 1, 1991, authorized under State statute, regulation, or lawful State permit.

"(7) As used in this subsection, 'cargo carrying unit' means any portion of a commercial motor vehicle combination (other than the truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo carrying section of a single unit truck.

On page 128, on lines 3 through 4, strike "2311, 2312, and 2316 of title 49, United States Code Appendix" and insert in lieu thereof "411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311, 2312, and 2316)".

MOYNIHAN AMENDMENT NO. 326

Mr. MOYNIHAN proposed an amendment to the bill S. 1204, supra, as follows:

Insert in the appropriate place the following new section:

SEC. . INFRASTRUCTURE INVESTMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established the Commission to Promote Investment in America's Infrastructure (hereafter referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of 7 members appointed as follows:

(A) 2 members appointed by the Majority Leader of the Senate;

(B) 2 members appointed by the Speaker of the House of Representatives;

(C) 1 member appointed by the President of the United States;

(D) 1 member appointed by the Minority Leader of the Senate; and

(E) 1 member appointed by the Minority Leader of the House of Representatives.

(2) Individuals appointed to the Commission shall have appropriate backgrounds in finance, construction lending, actuarial disciplines, pensions, and infrastructure policy disciplines.

(c) FUNCTION OF COMMISSION.—It shall be the function of the Commission to conduct a study for the purpose of determining the feasibility and desirability of creating a type of infrastructure security which would permit the investment of pension funds in funds utilized to design, plan, and construct infrastructures in the United States. The Commission can include recommendations as to private sector as well as other recommendations for innovating public policy alternatives to assist infrastructure investment at all levels of government.

(d) REPORT.—Within 180 days following the date of the enactment of this Act, the Commission shall report its findings and recommendations to the Congress and to the President of the United States.

(e) EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(f) COMMISSION STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(1) appoint and fix compensation of an executive director, a general counsel, and such additional staff as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates not in excess of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent for the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(g) AUTHORIZATION.—There is authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary for the Commission to carry out its functions.

(h) TERMINATION.—Effective 180 days following the date of submission of the report under section (d), the section shall be deemed repealed.

DOLE AMENDMENT NO. 327

Mr. DOLE proposed an amendment, which was subsequently modified, to the bill S. 1204, supra, as follows:

At page 30, following line 19, add the following:

"(g) TRANSFER OF FUNDS.—Up to sixty (60) percent of the apportionment of Bridge Program funds are eligible to be transferred to either the Surface Transportation Program or the Interstate Maintenance Program if apportionment of bridge funds exceed bridge funds obligated in the previous year by more than fifty (50) percent. These transferred funds may be programmed in any area of the state and are not subject to the requirements of distribution specified in Sec. 13(b)(1) of title 23, United States Code.

CRANSTON AMENDMENT NO. 328

Mr. CRANSTON proposed an amendment to the bill S. 1204, supra, as follows:

At the end of the bill add the following:

TITLE III—FEDERAL TRANSIT ACT OF 1991

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Federal Transit Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 301. Short title; table of contents.
Sec. 302. Change of agency name.
Sec. 303. Amendment to short title of the 1964 Act.
Sec. 304. Findings and purposes.
Sec. 305. Commute-to-work benefits.
Sec. 306. Capital grant or loan program.
Sec. 307. Capital grants; technical amendment to provide for early systems work contracts and full funding grant contracts.
Sec. 308. Section 3 program—Allocations.
Sec. 309. Section 3 program—Rail modernization formula.
Sec. 310. Section 3 program—Local share.
Sec. 311. Section 3—Grandfathered jurisdictions.
Sec. 312. Capital grants—Innovative techniques and practices.
Sec. 313. Capital grants—Elderly persons and persons with disabilities.
Sec. 314. Capital grants—Eligible activities.
Sec. 315. Criteria for new starts.
Sec. 316. Advance construction; technical amendment related to interest cost.
Sec. 317. Federal share for ADA and Clean Air Act compliance.
Sec. 318. Capital grants—Deletion of extraneous material.
Sec. 319. Comprehensive transportation strategies.
Sec. 320. Section 9 program—Allocations.
Sec. 321. Section 9 formula grant program—Discretionary transfer of apportionment.
Sec. 322. Section 9 program—Elimination of incentive tier.
Sec. 323. Section 9 program—Energy efficiency.
Sec. 324. Section 9 program—Applicability of safety provisions.
Sec. 325. Section 9 program—Certifications.
Sec. 326. Section 9 program—Program of projects.
Sec. 327. Section 9 program—Continued assistance for commuter rail in southern Florida.
Sec. 328. Section 11—University transportation centers.
Sec. 329. Rulemaking.
Sec. 330. Section 12—Transfer of facilities and equipment.
Sec. 331. Special Procurement.
Sec. 332. Section 16—Elderly persons and persons with disabilities.
Sec. 333. Section 18—Transfer of facilities and equipment.
Sec. 334. Human resources program support.
Sec. 335. Authorizations.
Sec. 336. Report on safety conditions in mass transit.
Sec. 337. Section 23—Project management oversight.
Sec. 338. Section 26—Planning and research.
Sec. 339. Technical accounting provisions.
Sec. 340. GAO report on charter service regulations.
Sec. 341. GAO study on public transit needs.
Sec. 342. Use of population estimates.
Sec. 343. Section 9B—Technical amendment.
Sec. 344. Use of census data.

SEC. 302. CHANGE OF AGENCY NAME.

(a) IN GENERAL.—The Urban Mass Transportation Administration is hereby redesignated as the "Federal Transit Administration".

(b) CONFORMING AMENDMENTS.—Titles 5 and 49, United States Code, are amended by striking "Urban Mass Transportation Administration" wherever it appears and inserting "Federal Transit Administration".

(c) OTHER REFERENCES.—Any reference in any other provision of law to the "Urban Mass Transportation Administration" shall be deemed to refer instead to the "Federal Transit Administration".

SEC. 303. AMENDMENT TO SHORT TITLE OF THE 1964 ACT.

(a) IN GENERAL.—The Urban Mass Transportation Act of 1964 is amended by striking the first section and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Federal Transit Act'.".

(b) OTHER REFERENCES.—Any reference in any other provision of law to the "Urban Mass Transportation Act of 1964" shall be deemed to refer instead to the "Federal Transit Act".

SEC. 304. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) of the Federal Transit Act (hereafter referred to in this Act as the "Act") (49 U.S.C. App. 1601(a)) is amended—

(1) in paragraph (2), by striking "and" after "basis";

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) that significant improvements in public transportation are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.".

(b) PURPOSES.—Section 2(b) of the Act (49 U.S.C. App. 1601(b)) is amended—

(1) in paragraph (2), by striking "and" after "private";

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to provide financial assistance to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.".

SEC. 305. COMMUTE-TO-WORK BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

(4) current Federal law allows employers to provide only up to $15 per month in employee benefits for transit or van pools;

(5) the current "cliff provision", which treats an entire commuter transit benefit as taxable income if it exceeds $15 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy "levels the playing field" between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.

SEC. 306. CAPITAL GRANT OR LOAN PROGRAM.

The heading of section 3 of the Act (49 U.S.C. App. 1602) is amended by striking "DISCRETIONARY" and inserting "CAPITAL".

SEC. 307. CAPITAL GRANTS; TECHNICAL AMENDMENT TO PROVIDE FOR EARLY SYSTEMS WORK CONTRACTS AND FULL FUNDING GRANT CONTRACTS.

Section 3(a)(4) of the Act (49 U.S.C. App. 1602(a)(4)) is amended—

(1) by inserting "(A)" after "(4)";

(2) in the fifth sentence, by inserting "not less than" after "complete";

(3) by adding after the fifth sentence the following:

"(B) The Secretary is authorized to enter into a full funding contract with the applicant, which contract shall—

"(i) establish the terms and conditions of Federal financial participation in a project under this section;

"(ii) establish the maximum amounts of Federal financial assistance for such project; and "(iii) facilitate timely and efficient management of such project in accordance with Federal law.

"(C) A contract under subparagraph (B) shall obligate an amount of available budget authority specified in law and may include a commitment, contingent upon the future availability of budget authority, to obligate an additional amount or additional amounts from future available budget authority specified in law. The contract shall specify that the contingent commitment does not constitute an obligation of the United States. The future availability of budget authority referred to in the first sentence of this subparagraph shall be amounts specified in law in advance for commitments entered into under subparagraph (B). Any interest and other financing costs of efficiently carrying out the project or a portion thereof shall be considered as a cost of carrying out the project under a full funding contract, except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The total of amounts stipulated in a contract for a fixed guideway project shall be sufficient to complete not less than an operable segment.

"(D) The Secretary is authorized to enter into early systems work agreements with the applicant if a record of decision pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary determines there is reason to believe—

"(i) a full funding contract will be entered into for the project; and

"(ii) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

The early systems work agreement shall obligate an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of project implementation, including land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The interest and other financing costs of carrying out the early systems work agreement efficiently shall be considered as a cost of carrying out the agreement, except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant fails to implement the project for reasons within the applicant's control, the applicant shall repay all Federal payments made under the early systems work agreement plus such reasonable interest and penalty charges as the Secretary may establish in the agreement.";

(4) by inserting "(E)" before "The total estimated";

(5) in the sentence that begins "The total estimated"—

(A) by inserting "and contingent commitments to incur obligations," after "Federal obligations";

(B) by inserting "early systems work agreements and full funding grant contracts," after "all outstanding letters of intent,"; and

(C) by inserting "or 50 percent of the uncommitted cash balance remaining in the mass transit account of the Highway Trust Fund, including amounts received from taxes and interest earned in excess of amounts that have been previously obligated, whichever is greater" after "section 3 of this Act"; and

(6) in the sentence that begins "The total amount covered", by inserting "and contingent commitments included in early systems work agreements and full funding grant contracts" after "by new letters issued,".

SEC. 308. SECTION 3 PROGRAM—ALLOCATIONS.

Section 3(k)(1) of the Act (49 U.S.C. App. 1602(k)(1)) is amended to read as follows:

"(1) IN GENERAL.—Of the amounts available for grants and loans under this section for fiscal years 1992, 1993, 1994, 1995, and 1996—

"(A) 40 percent shall be available for rail modernization;

"(B) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(C) 20 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.".

SEC. 309. SECTION 3 PROGRAM—RAIL MODERNIZATION FORMULA.

Section 3(k) of the Act (49 U.S.C. App. 1602(k)) is amended by adding at the end the following:

"(3) RAIL MODERNIZATION FORMULA.—

"(A) HOLD HARMLESS FOR HISTORIC RAIL SYSTEMS.—

"(i) IN GENERAL.—Of the amounts available under paragraph (1)(A), the Secretary shall, in each of fiscal years 1992 through 1996, reserve for grants to historic rail systems $455,000,000 or the amount approved in an appropriations Act, whichever is less.

"(ii) SPECIFIC ALLOCATIONS.—The Secretary shall initially allocate—

"(I) 41 percent of the amount reserved in clause (i) to those two historic rail systems with shared responsibility for the operation and preservation of a regional commuter rail line that, taken together, would receive 49 percent under the apportionment formula specified in section 9(b)(2) if such formula was applied, solely for the historic rail systems, to the total amount available for allocation under this paragraph, with 14.63 percent of the amounts so allocated being reserved for the smaller of the two historic rail systems as measured by fixed guideway route miles; and

"(II) an amount equal to 2 percent of the amount reserved in clause (i) to that historic rail system that received funding for rail modernization under this section for only 2 of the 5 fiscal years 1986 through 1990.

"(iii) GENERAL ALLOCATIONS.—The Secretary shall allocate all amounts described in clause (i) that remain after making the allocations specified in clause (ii) so that each historic rail system, other than those specified under such clause, receives the higher of—

"(I) an amount that bears the same ratio to the total amount available for allocation under this subparagraph as the total amount of funding for rail modernization activities received during fiscal years 1984 through 1990 by that historic system bears to the total amount of funding for rail modernization received during fiscal years 1984 through 1990 by all historic rail systems, or

"(II) an amount that bears the same ratio to the total amount available for allocation under this subparagraph as the total amount of funding for rail modernization activities received during fiscal years 1988 through 1990 by that historic system bears to the total amount of funding for rail modernization received during fiscal years 1988 through 1990 by all historic rail systems.

The Secretary shall make such fair and equitable adjustments to the amounts received by historic rail systems under this clause as are necessary for the practicable administration of the program. Notwithstanding the allocations that would otherwise result under this clause, an historic rail system shall not receive less than the amount the system would receive if the apportionment formula specified under section 9(b)(2) were applied, solely for the historic rail systems, to the total amount available for allocation under this clause.

"(B) REMAINDER.—

"(i) INITIAL ALLOCATION.—After reserving amounts for historic rail systems as required by subparagraph (A), the Secretary shall allocate any amounts remaining available under paragraph (1)(A) that exceed the allocations made under subparagraph (A), but that do not exceed $525,000,000, as follows:

"(I) 50 percent shall be allocated among historic rail systems in accordance with the apportionment formula specified under section 9(b)(2); and

"(II) 50 percent shall be allocated among all other eligible systems in accordance with the apportionment formula specified under section 9(b)(2).

"(ii) SECOND ALLOCATION.—Any amounts available under paragraph (1)(A) in excess of the amounts allocated under subparagraph (A) and clause (i) of this subparagraph shall be made available to all eligible systems in accordance with the apportionment formula specified under section 9(b)(2).

"(C) APPORTIONMENT.—(i) On October 1 of each fiscal year, the Secretary shall apportion any amounts made available or authorized to be appropriated for that fiscal year (and any fiscal years remaining in the authorization period identified under paragraph (3)) among all eligible systems in accordance with the provisions of this paragraph. The Secretary shall publish apportionments of such authorized amounts on the apportionment date established by the preceding sentence.

"(ii) The Secretary shall apportion any amounts provided or approved for obligation in an appropriations Act to carry out paragraph (3)(A) for any fiscal year in accordance with the provisions of this paragraph not later than the 10th day following the date on which such funds were appropriated or October 1 of such fiscal year, whichever is later. The Secretary shall publish apportionments of such appropriated amounts on the apportionment date established by the preceding sentence.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'historic rail system' includes those rail systems that (I) received funding for rail modernization under this section for at least 2 of the 5 fiscal years 1986 through 1990, and (II) receive in fiscal year 1991 at least 0.5 percent of the total amount of funding made available under section 9(b)(2); and

"(ii) the term 'eligible systems' shall include, for a given fiscal year, all historic rail systems and all other fixed guideway systems placed in revenue service more than 10 years prior to such fiscal year. The term 'eligible system' may include, for a given fiscal year, a fixed guideway system not eligible under the preceding sentence if such system, prior to the beginning of such fiscal year, demonstrates to the satisfaction of the Secretary that the system has modernization needs that cannot be met adequately with amounts received under section 9(b)(2) of this Act. A fixed guideway system shall be considered to be placed in revenue service for purposes of this clause if a minimum operable segment of such system was so placed.".

SEC. 310. SECTION 3 PROGRAM—LOCAL SHARE.

Section 4(a) of the Act is amended by inserting at the end the following new sentence: "The remainder so provided may include the cost of rolling stock previously purchased if the applicant demonstrates to the satisfaction of the Secretary that—

"(1) such purchase was made solely with non-Federal funds;

"(2) such purchase would not have been made except for use on a planned extension that is eligible for assistance under section 3; and

"(3) the rolling stock so purchased is to be used on the extension for which the Federal grant is being requested.".

SEC. 311. SECTION 3—GRANDFATHERED JURISDICTIONS.

Section 3 of the Act is amended in subsection (a)(4), by adding after the second paragraph the following new paragraph:

"All existing Letters of Intent, Full Funding Agreements and Letters of Commitment, issued prior to the enactment of the Federal Transit Act of 1991, shall be continued in force.".

SEC. 312. CAPITAL GRANTS—INNOVATIVE TECHNIQUES AND PRACTICES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by inserting before the semicolon the following: ", including grants to States and local public bodies for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services".

SEC. 313. CAPITAL GRANTS—ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by striking subparagraph (E) and inserting the following:

"(E) mass transportation services which are planned, designed, and carried out to meet the special needs of elderly persons and persons with disabilities, with such grants and loans being subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under this section; and".

SEC. 314. CAPITAL GRANTS—ELIGIBLE ACTIVITIES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by adding at the end the following:

"(F) the development of corridors to support fixed guideway systems, including bus service improvements, marketing of bus service, protection of rights-of-way through acquisition, transportation system management improvements such as dedicated bus and high occupancy vehicle lanes and construction of park and ride lots, and any other improvements that the Secretary may determine would result in increased transit usage in the corridor.".

SEC. 315. CRITERIA FOR NEW STARTS.

Section 3(i) of the Act (49 U.S.C. App. 1602(i)) is amended to read as follows:

"(i) NEW START CRITERIA.—

"(1) DETERMINATIONS.—A grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may not be made under this section unless the Secretary determines that the proposed project—

"(A) is based on the results of an alternatives analysis and preliminary engineering;

"(B) is cost-effective;

"(C) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

"(2) CONSIDERATIONS.—In making determinations under this subsection, the Secretary—

"(A) shall consider the direct and indirect costs of relevant alternatives;

"(B) shall account for costs related to such factors as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to implement each alternative analyzed; and

"(C) may consider other factors including the current state of land use in the community, the degree to which the project increases the mobility of the transit dependent population or promotes economic development, and other factors that the Secretary deems appropriate to carry out the purposes of this Act.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary shall issue guidelines that set forth the means by which the Secretary shall evaluate cost-effectiveness, results of alternatives analysis, and degree of local financial commitment for the purposes of paragraph (1).

"(B) COST-EFFECTIVENESS.—Cost-effectiveness thresholds shall be adjusted to account for inflation and to reflect differences in local land costs, construction costs, and operating costs.

"(C) FINANCIAL COMMITMENT.—The degree of local financial commitment shall be considered acceptable only if—

"(i) the proposed project plan provides for the availability of contingency funds that the Secretary determines to be reasonable to cover unanticipated cost overruns;

"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project.

"(D) STABILITY ASSESSMENT.—In assessing the stability, reliability, and availability of proposed sources of local funding, the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which funding sources are dedicated to the purposes proposed; and

"(iii) any debt obligations which exist or are proposed by the recipient for the proposed project or other transit purposes.

"(4) PROJECT ADVANCEMENT.—No project shall be advanced from alternatives analysis to preliminary engineering unless the Secretary finds that the proposed project meets the requirements of this section and there is a reasonable chance that the project will continue to meet these requirements at the conclusion of preliminary engineering.

"(5) EXCEPTIONS.—

"(A) IN GENERAL.—A new fixed guideway system or extension shall not be subject to the requirements of this subsection and the simultaneous evaluation of such projects in more than one corridor in a metropolitan area shall not be limited if (i) the project is located within an extreme or severe nonattainment area and is a transportation control measure, as defined by the Clean Air Act, that is required to carry out an approved State Implementation Plan, or (ii) assistance provided under this section accounts for less than $25,000,000 or less than ⅓ of the total cost of the project or an appropriate program of projects as determined by the Secretary.

"(B) EXPEDITED PROCEDURES.—In the case of a project that is (i) located within a nonattainment area that is not an extreme or severe nonattainment area, (ii) a transportation control measure, as defined in the Clean Air Act, and (iii) required to carry out an approved State Implementation Plan, the simultaneous evaluation of projects in more than one corridor in a metropolitan area shall not be limited and the Secretary shall make determinations under this subsection with expedited procedures that will promote timely implementation of the State Implementation Plan.

"(C) EXCLUSION FOR CERTAIN PROJECTS.—That portion of a project financed with highway funds made available under the Federal-Aid Highway Act of 1991 shall not be subject to the requirements of this subsection.

"(6) PROJECT IMPLEMENTATION.—A project funded pursuant to this subsection shall be implemented by means of a full funding contract.".

SEC. 316. ADVANCE CONSTRUCTION; TECHNICAL AMENDMENT RELATED TO INTEREST COST.

Section 3(*l*)(2)(B) of the Act (49 U.S.C. App. 1602(*l*)(2)(B)) is amended by striking all after "greater than" and inserting "the most favorable interest terms reasonably available for the project at the time of borrowing.".

SEC. 317. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 12 of the Act (49 U.S.C. 1608) is amended by inserting at the end thereof the following new subsection:

"(k) FEDERAL SHARE FOR CERTAIN PROJECTS.—The Federal grant for a project to be assisted under this Act that involves the acquisition or construction of bus-related equipment or facilities required by the Clean Air Act or the Americans with Disabilities Act of 1990 shall be 90 percent of the net project cost of such equipment or facilities attributable to compliance with such Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs attributable to equipment or facilities specified in the preceding sentence.".

SEC. 318. CAPITAL GRANTS—DELETION OF EXTRANEOUS MATERIAL.

Section 4 of the Act (49 U.S.C. App. 1603) is amended—

(1) by inserting at the end of subsection (a) the following: "If the Secretary gives special consideration to projects that include more than the minimum non-Federal share of the net project cost required under this subsection, the Secretary shall give reasonable consideration to differences in the fiscal capacity of State and local governments."; and

(2) by striking subsections (b) through (g) and subsection (i) and redesignating subsection (h) as subsection (b).

SEC. 319. COMPREHENSIVE TRANSPORTATION STRATEGIES.

Section 8 of the Act (49 U.S.C. App. 1607) is amended to read as follows:

"SEC. 8. COMPREHENSIVE TRANSPORTATION STRATEGIES.

"(a) METROPOLITAN TRANSPORTATION STRATEGIES.—

"(1) IN GENERAL.—It is in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. The Secretary shall cooperate with State and local officials in metropolitan areas in the development of comprehensive transportation strategies for achieving this objective.

"(2) METROPOLITAN PLANNING ORGANIZATIONS.—

"(A) IN GENERAL.—A metropolitan planning organization shall be designated for each urbanized area of more than 50,000 in population by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. In those metropolitan areas eligible for designation as transportation management areas in accordance with subparagraph (D), the metropolitan planning organization shall include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area, (including, at a minimum, all transportation agencies that were included as of June 1, 1991) and appropriate State officials. For purposes of this section, the term 'metropolitan area' shall mean an area for which one metropolitan planning organization is responsible.

"(B) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this or earlier provisions of law, shall remain in effect until revoked by agreement among the Governor and the affected units of general purpose local government, or as otherwise provided under State or local procedures, except that a metropolitan planning organization (i) shall be redesignated within a period of 12 months if the metropolitan area is designated as a transportation management area under subparagraph (D), and (ii) metropolitan planning organizations may be reorganized by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population including the central city or cities, as defined by the Bureau of the Census, as appropriate to carry out the provisions of this Act. The Secretary shall establish practicable procedures and timetables that the Secretary determines to be appropriate for metropolitan planning organizations to meet the requirements of subparagraph (A).

"(C) RESPONSIBILITY OF THE GOVERNOR.—When a metropolitan planning organization is designated or reorganized, the Governor shall ensure that the metropolitan planning organization is structured to—

"(i) give balanced assessment to all modes of transportation, including roadway and public transit facilities;

"(ii) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area; and

"(iii) otherwise carry out the metropolitan planning organization's responsibilities under Federal law. The Governor shall certify to the Secretary that the requirements of this subparagraph have been met.

"(D) TRANSPORTATION MANAGEMENT AREAS.—The Secretary shall publish and annually update a list of those metropolitan areas that—

"(i) have populations of more than 250,000; or

"(ii) are nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.).

The Secretary shall designate such areas to be transportation management areas. The Secretary may designate additional metropolitan areas to be transportation management areas upon the request of the Governor and the metropolitan planning organization. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. The designation of a transportation management area shall remain in effect until revoked by the Secretary. The metropolitan planning organization in a transportation management area shall carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the State and transit operators and have such additional authorities and responsibilities as are specified in this Act.

"(E) TRANSITIONAL PROVISION.—The Secretary shall designate as transportation management areas—

"(i) not less than 20 percent of the metropolitan areas on the list in subparagraph (D) within 1 year after the date of enactment of this section;

"(ii) not less than 40 percent of such areas within 2 years after the date of enactment of this section;

"(iii) not less than 60 percent of such areas within 3 years after the date of enactment of this section;

"(iv) not less than 80 percent of such areas within 4 years after the date of enactment of this section; and

"(v) all such areas thereafter.

To the extent the Secretary deems practicable after taking into account local circumstances, the Secretary shall exceed the percentages required in this subparagraph and give priority to designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Secretary shall designate all nonattainment areas that are classified under the Clean Air Act as moderate, serious, severe, or extreme nonattainment areas for ozone or serious nonattainment areas for carbon monoxide within 2 years after the date of enactment of the Federal Transit Act of 1991.

"(3) METROPOLITAN AREA BOUNDARIES.—

"(A) IN GENERAL.—For the purposes of this Act, the boundaries of any metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent 20-year period.

"(B) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within a metropolitan statistical area, as defined by the Bureau of the Census, if—

"(i) more than 1 metropolitan planning organization was designated within such area on January 1, 1991; and

"(ii) the Secretary determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization appropriate.

If more than 1 metropolitan planning organization has authority within a metropolitan statistical area, appropriate provision, as determined by the Secretary, shall be made to coordinate the metropolitan transportation strategies within such urban area.

"(C) INCLUSION OF CLEAN AIR NONATTAINMENT AREAS.—Any area that—

"(i) is found to be in nonattainment for any transportation-related pollutant under the Clean Air Act; or

"(ii) is determined by the Governor and the metropolitan planning organization to be likely to be significantly affected by air pollution within a reasonable period of time shall be included within the boundaries of the appropriate metropolitan area, as determined by the Governor and the metropolitan planning organization. If more than one metropolitan planning organization has authority within a nonattainment area, appropriate provision, as determined by the Secretary, shall be made to coordinate the metropolitan transportation strategies within such nonattainment area.

"(D) COORDINATION IN MULTI-STATE AREAS.—

"(i) IN GENERAL.—The Secretary shall establish such requirements as the Secretary deems appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Bureau of the Census, to provide coordinated transportation planning for the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area.

"(ii) COMPACTS.—The consent of the Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

"(4) DEVELOPMENT OF TRANSPORTATION STRATEGY.—

"(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update periodically, according to a schedule that the Secretary determines to be appropriate, a metropolitan transportation strategy for its metropolitan area as provided in this section. In developing the strategy, the metropolitan planning organization shall consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

"(B) PUBLICATION OF STRATEGIES.—A metropolitan transportation strategy shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish as appropriate for the publication and submission of metropolitan transportation strategies to carry out this section.

"(C) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In nonattainment areas for transportation-related pollutants, the metropolitan planning organization shall coordinate the development of a metropolitan transportation strategy with the process for development of the transportation measures of the State Implementation Plan required by the Clean Air Act.

"(D) PARTICIPATION BY INTERESTED PARTIES.—Prior to approving a metropolitan transportation strategy, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with a reasonable opportunity to participate in the development of the strategy, in a manner that the Secretary deems appropriate.

"(E) CERTIFICATION OF COMPLIANCE.—The Secretary shall assure that each metropolitan planning organization is carrying out its responsibilities under applicable provisions of Federal law. The Secretary shall, not less frequently than every 3 years, provide certification to those metropolitan planning organizations that, in the opinion of the Secretary, are carrying out applicable requirements of Federal law. If the Secretary finds, after reasonable notice and opportunity for hearing, that a metropolitan planning organization is not carrying out its responsibilities under applicable provisions of Federal law, the Secretary shall deny certification and, until corrective action satisfactory to the Secretary is taken, may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or this Act. The Secretary shall not (i) withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization for determining the feasibility of private enterprise participation in accordance with section 8(e), or (ii) otherwise impede a metropolitan planning organization's implementation of such policies and criteria.

"(5) CONTENTS OF STRATEGY.—A metropolitan transportation strategy under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum—

"(A) identify transportation facilities (including but not necessarily limited to major roadways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as—

"(i) moving goods within the metropolitan area and among distant markets;

"(ii) enabling people to move quickly to and from home, jobs and other destinations; and

"(iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

"(B) assess major demands on the metropolitan transportation system, projected over the subsequent 20-year period;

"(C) set forth a long-range strategy for meeting metropolitan area personal mobility and goods transportation needs, including State and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity; and

"(D) explain how proposed transportation decisions will—

"(i) achieve compliance with applicable requirements of the Clean Air Act, the Clean Water Act, and other environmental and resource conservation laws;

"(ii) further applicable Federal, State and local energy conservation programs, goals and objectives; and

"(iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

"(E) explain—

"(i) the extent to which State and local policies regarding land use and transportation will affect metropolitan-wide mobility; and

"(ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

"(F) include a financial plan that demonstrates how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

"(G) project capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

"(H) indicate as appropriate proposed transportation enhancement activities.

"(6) ABBREVIATED STRATEGIES FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under paragraph (2)(D), the Secretary may provide for the development of abbreviated metropolitan transportation strategies that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas.

"(7) STATEWIDE STRATEGY.—The State shall develop a statewide transportation strategy, in a form acceptable to the Secretary, that shall take into account the transportation needs of areas for which no metropolitan planning organization has been designated.

"(b) TRANSPORTATION IMPROVEMENT PROGRAMS.—

"(1) DEVELOPMENT OF PROGRAMS.—

"(A) IN GENERAL.—The metropolitan planning organization, in cooperation with the State and relevant transit operators, shall develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years.

"(B) CONTENTS.—The program shall—

"(i) include all projects within the metropolitan area proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and this Act, except as provided in clause (iii);

"(ii) conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act; and

"(iii) include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticipated to be available within the period of time contemplated for completion of the project and, in the case of a major project to expand the transportation capacity, an appropriate range of alternatives has been analyzed pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

"(2) PERIODIC REVIEW AND REVISION.—The metropolitan planning organization shall update or reapprove the program not less frequently than annually, except that the Secretary may provide for a less frequent updating for areas that are not designated to be transportation management areas, as the Secretary determines to be appropriate. A metropolitan planning organization may amend the program at any time, if the amendment is consistent with the metropolitan transportation strategy.

"(3) NOTICE AND COMMENT.—Prior to approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(4) PRIORITY PROJECTS.—The program shall identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevant programming period.

"(5) STATE PROGRAMS.—The Governor shall develop and submit to the Secretary, in a form acceptable to the Secretary, a transportation improvement program covering a period of not less than 3 years for areas for which no metropolitan planning organization has been designated and shall include in such program the projects proposed for funding in both metropolitan and nonmetropolitan areas under sections 108 and 109 of the Federal-Aid Highway Act of 1991.

"(c) PROJECT SELECTION WITHIN TRANSPORTATION MANAGEMENT AREAS.—

"(1) APPROVAL OF PROJECTS.—For projects within a transportation management area, the metropolitan planning organization shall submit to the Governor and the Secretary a list of highway and transit projects and activities that the metropolitan planning organization has approved for funding in the ensuing period, which shall not exceed 2 years. The list shall specify for each approved project the programmatic source of Federal assistance available for approval by the metropolitan planning organization. Federal assistance required for the approved projects and activities shall not exceed Federal assistance made available for project selection by the metropolitan planning organization for that period under section 106 of the Federal-Aid Highway Act of 1991 and sections 3 and 9 of this Act. When submitting a list of projects and activities under this paragraph, the metropolitan planning organization shall certify to the Secretary that the list—

"(A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4)(E); and

"(B) is consistent with a transportation improvement program that is submitted to the satisfaction of the Secretary under subsection (b)(2).

"(2) REQUIREMENT OF APPROVAL.—Notwithstanding any other provision of law, no project or activity to be carried out with Federal participation pursuant to the Federal-Aid Highway Act of 1991 or this Act may be approved within a transportation management area unless it is included in the list of projects approved by the metropolitan planning organization under paragraph (1).

"(3) EXCEPTIONS.—(A) Paragraph (2) shall not apply to projects or activities that in the determination of the Secretary, are mandated by the Americans with Disabilities Act of 1990.

"(B) Nothing in this section confers on a metropolitan planning organization the authority to intervene in the management of a transportation agency.

"(4) RECAPTURE.—Amounts made available under the Federal-Aid Highway Act of 1991 or this Act for project selection by a metropolitan planning organization in a transportation management area shall remain available for a period of 3 years following the close of the fiscal year for which such funds are made available to the metropolitan area. The Secretary shall recapture any funds not obligated during such period and reallocate the funds nationally as soon as practicable according to the formula for the program under which the funds were made available. For the purposes of this paragraph, funds shall be considered to be obligated if the funds are reserved to help finance a project for which an application is pending under section 3.

"(5) TRANSFER OF FUNDS.—Funds made available for a highway project under this Act shall be transferred to and administered by the Federal Highway Administration in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of this Act.

"(d) GRANTS.—

"(1) ELIGIBILITY.—The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof, or enter into agreements with other Federal departments and agencies, for the planning, engineering, design, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include—

"(A) studies relating to management, operations, capital requirements, and economic feasibility;

"(B) evaluation of previously funded projects; and

"(C) other similar or related activities preliminary to and in preparation for the construction, acquisition or improved operation of mass transportation facilities and equipment.

"(2) CRITERIA.—A grant, contract or working agreement under this section shall be made in accordance with criteria established by the Secretary.

"(e) PRIVATE ENTERPRISE.—The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban areas, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(f) USE FOR COMPREHENSIVE PLANNING.—

"(1) IN GENERAL.—The Secretary shall ensure, to the extent practicable, that amounts made available under section 21(c)(1) for the purposes of this section are used to support balanced and comprehensive transportation planning that takes into account the relationships among land use and all transportation modes, without regard to the programmatic source of the planning funds.

"(2) FORMULA ALLOCATION TO ALL METROPOLITAN AREAS.—The Secretary shall apportion 80 percent of the amounts made available under section 21(c)(1) to States in the ratio that the population in urbanized areas, in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this paragraph. Such funds shall be allocated to metropolitan planning organizations designated under section 8(a)(2)(A) by a formula, developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary, that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act. The State shall make such funds available promptly to eligible metropolitan planning organizations according to procedures approved by the Secretary.

"(3) SUPPLEMENTAL ALLOCATION TO TRANSPORTATION MANAGEMENT AREAS.—The Secretary shall apportion 20 percent of the amounts made available under section 21(c)(1) to States to supplement allocations under subparagraph (B) for metropolitan planning organizations in transportation management areas. Such funds shall be allocated according to a formula that reflects the additional costs of carrying out planning, programming, and project selection responsibilities under this section in such areas.

"(4) HOLD HARMLESS.—The Secretary shall ensure, to the maximum extent practicable, that no metropolitan planning organization is allocated less than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991. To comply with the previous sentence, the Secretary is authorized to make a pro rata reduction in other amounts made available to carry out section 21(c).

"(5) FEDERAL SHARE PAYABLE.—The Federal share payable for activities under this paragraph shall be 75 percent except where the Secretary determines that it is in the Federal interest not to require a State or local match.".

SEC. 320. SECTION 9 PROGRAM—ALLOCATIONS.

Section 9(a) of the Act is amended—

(1) in paragraph (1), by striking "8.64" and inserting "8.90"; and

(2) in paragraph (2), by striking "88.43" and inserting "91.10".

SEC. 321. SECTION 9 FORMULA GRANT PROGRAM—DISCRETIONARY TRANSFER OF APPORTIONMENT.

Section 9 of the Act (49 U.S.C. App. 1607a) is amended—

(1) in subsection (j)(1), by inserting after the first sentence the following: "In a transportation management area designated pursuant to section 8(a)(2)(D), grants for construction projects under this section also shall be available for highway projects if—

"(A) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers; and

"(B) in the determination of the Secretary, appropriate provision is made for investments mandated by the Americans with Disabilities Act of 1990."; and

(2) by adding at the end of subsection (j) the following:

"(3) Grants for construction projects under this section may be available for highway projects only if funds used for the State or local share portion of such highway projects are eligible to fund either highway or transit projects, or, when in the determination of the Secretary there exists under State or local law a sufficient amount of funds from a dedicated source which is available to fund local transit projects.".

SEC. 322. SECTION 9 PROGRAM—ELIMINATION OF INCENTIVE TIER.

Section 9 of the Act (49 U.S.C. App. 1607a) is amended—

(1) in subsection (b)(2), by striking "95.61 per centum of the" and inserting "The";

(2) in subsection (b), by striking paragraph (3);

(3) in subsection (c)(2), by striking "90.8 per centum of the" and inserting "The"; and

(4) by striking subsection (c)(3).

SEC. 323. SECTION 9 PROGRAM—ENERGY EFFICIENCY.

Section 9(b) of the Act (49 U.S.C. 1607a(b)) is amended by adding at the end the following:

"(3) If a designated recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce equipment use but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under paragraph (2)(B) shall not be reduced as a result of such actions.".

SEC. 324. SECTION 9 PROGRAM—APPLICABILITY OF SAFETY PROVISIONS.

Section 9(e)(1) of the Act (49 U.S.C. App. 1607a(e)(1)) is amended in the first sentence by striking "and 19", and inserting "19, and 22".

SEC. 325. SECTION 9 PROGRAM—CERTIFICATIONS.

(a) ANNUAL SUBMISSIONS.—Section 9(e)(2) of the Act (49 U.S.C. App. 1607a(e)(2)) is amended by inserting after the first sentence the following: "Such certifications and any additional certifications required by law shall be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall annually publish a list of all required certifications in conjunction with section 9(q).".

(b) STREAMLINED PROCEDURES.—Section 9(e)(3) of the Act (49 U.S.C. App. 1607a(e)(3)) is amended by adding at the end the following: "The Secretary shall establish streamlined administrative procedures to govern compliance with the certification requirement under subparagraph (B) with respect to track and signal equipment used in ongoing operations.".

SEC. 326. SECTION 9 PROGRAM—PROGRAM OF PROJECTS.

Section 9(f) of the Act (49 U.S.C. App. 1607a(f)) is amended—

(1) at the end of paragraph (3), by striking "and";

(2) at the end of paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) assure that the proposed program of projects provides for the maximum feasible coordination of public transportation services assisted under this section with transportation services assisted by other Federal sources.".

SEC. 327. SECTION 9 PROGRAM—CONTINUED ASSISTANCE FOR COMMUTER RAIL IN SOUTHERN FLORIDA.

Section 329 of the Federal Mass Transportation Act of 1987 (101 Stat. 239) is amended—

(1) in the first sentence, by striking all that follows "year" and inserting a period; and

(2) in the second sentence, by striking all that follows "service" and inserting a period.

SEC. 328. SECTION 11—UNIVERSITY TRANSPORTATION CENTERS.

Section 11 of the Act (49 U.S.C. App. 1607c) is amended—

(1) in the third sentence of subsection (a), by inserting "safety," after "engineering,";

(2) by striking paragraph (7) of subsection (b) and inserting the following:

"(7) PROGRAM COORDINATION.—The Secretary shall provide for coordination of the research, education, training and technology transfer in the research centers, the dissemination of the results of the research, and a clearinghouse between the centers and the transportation industry. The Secretary shall review and evaluate the programs carried out by the grant recipients at least annually.";

(3) by striking paragraph (8) of subsection (b) and inserting the following:

"(8) ADMINISTRATION.—Up to 1 percent of the funds made available from any source to carry out this subsection shall be available to the Secretary for the administrative expenses in connection with the performance of such administrative responsibilities."; and

(4) by adding at the end of subsection (b) the following:

"(11) AVAILABILITY OF RESEARCH FUNDS.—Notwithstanding any other provision of law, funds appropriated or otherwise made available to the Department of Transportation in any Act for the purpose of transportation research may, at the discretion of the Secretary, be made available to one or more of the transportation research centers for the conduct of research compatible with the research conducted in such centers pursuant to authorizations under this Act or from the Highway Trust Fund.

"(12) NATIONAL CENTERS.—To accelerate the involvement and participation of minorities and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants to colleges or universities to establish three additional National Centers for Transportation Management, Research, and Development. The National Centers shall give special attention to the design, development, and implementation of research, training, and technology transfer activities to increase the number of highly skilled minorities and women in the work force. The Centers shall meet all guidelines and criteria applicable to Centers under this subsection. In awarding the grants, the Secretary shall consider the commitment which the college or university demonstrates to enrollment of minorities and women.".

SEC. 329. RULEMAKING.

Section 12(i) of the Act (49 U.S.C. App. 1608(i)) is amended by adding at the end the following:

"(3) LIMITATION.—The Secretary may not use any other method to propose or implement rules governing activities under this Act except as provided under this subsection.".

SEC. 330. SECTION 12—TRANSFER OF FACILITIES AND EQUIPMENT.

Section 12 of the Act (49 U.S.C. App. 1608) is amended by adding at the end the following:

"(l) TRANSFER OF CAPITAL ASSET.—

"(1) AUTHORIZATION.—If a recipient determines that facilities and equipment acquired with assistance under this Act no longer are needed for their original purposes, the Secretary may authorize the transfer of such assets to any public body to be used for any public purpose, with no further obligation to the Federal Government, on condition that any such facilities (including land) remain in public use for a period of not less than 5 years after the date of the transfer.

"(2) DETERMINATION.—Before authorizing a transfer under paragraph (1) for any public purpose other than mass transportation, the Secretary shall first determine that—

"(A) there are no purposes eligible for assistance under this Act for which the asset should be used;

"(B) the overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

"(C) in the case of facilities (including land), the Secretary determines through an appropriate screening or survey process that there is no interest in acquiring the asset for Federal use.

"(3) DOCUMENTATION.—Where the Secretary finds that a transfer is warranted, the Secretary shall set forth in writing the rationale for the decision that the transfer is appropriate under the standards in paragraph (2).

"(4) RELATION TO OTHER PROVISIONS.—The provisions of this section shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 331. SPECIAL PROCUREMENT.

Section 12 of the Act (49 U.S.C. App. 1608) is amended by adding at the end the following:

"(m) SPECIAL PROCUREMENT INITIATIVES.—

"(1) TURNKEY SYSTEM PROCUREMENTS.—

"(A) IN GENERAL.—In order to advance new technologies and lower the cost of constructing new mass transportation systems, the Secretary may allow the solicitation for a turnkey system project to be funded under this Act to be conditionally awarded before Federal requirements have been met on the project so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under this Act may be made available for such a project when the recipient has complied with relevant Federal requirements.

"(B) INITIAL DEMONSTRATION PHASE.—In order to develop regulations applying generally to turnkey system projects, the Secretary is authorized to approve not to exceed 4 projects for an initial demonstration phase. The results of such demonstration projects shall be taken into consideration in the development of the regulations implementing this subsection.

"(C) TURNKEY SYSTEM PROJECT DEFINED.—As used in this subsection, the term 'turnkey system' means a vendor-specific project under which a recipient contracts with a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time.

"(2) MULTIYEAR ROLLING STOCK PROCUREMENTS.—

"(A) IN GENERAL.—A recipient procuring rolling stock with Federal financial assistance under this Act may enter into a multiyear agreement for the purchase of such rolling stock and replacement parts pursuant to which the recipient may exercise an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

"(B) CONSORTIA.—The Secretary shall permit 2 or more recipients to form a consortium (or otherwise act on a cooperative basis) for purposes of procuring rolling stock in accordance with this paragraph and other Federal procurement requirements.".

SEC. 332. SECTION 16—ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

Section 16 of the Act (49 U.S.C. App. 1612) is amended—

(1) by striking "elderly and handicapped persons" each time the phrase appears and inserting "elderly persons and persons with disabilities";

(2) in subsection (b)(2), by striking "to private nonprofit corporations and associations" and all that follows through "inappropriate," and inserting "to the Governor of each State for allocation to private nonprofit organizations and public bodies approved by the State to coordinate transportation services to elderly persons and persons with disabilities for the specific purpose of assisting such organizations and public bodies to provide transportation services to elderly persons and persons with disabilities,";

(3) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(4) by inserting after subsection (b) the following:

"(c)(1) Funds made available for purposes of subsection (b) may be used for transportation projects to assist in the provision of transportation services for elderly persons and persons with disabilities which are included in a State program of projects. Such programs shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Federal sources.

"(2) Sums made available for expenditure for purposes of subsection (b) shall be apportioned to the States on the basis of a formula administered by the Secretary which shall take into consideration the number of elderly persons and persons with disabilities in each State.

"(3) Any amounts of a State's apportionment under this subsection that remain available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts shall be available to the Governor for transfer to supplement funds apportioned to the State under section 18(a) or section 9(d).

"(4) The Secretary shall, within 60 days following the enactment of the Federal Transit Act of 1991, promulgate regulations to allow vehicles purchased under this section to be leased to local public bodies and agencies for the purpose of improving transportation services designed to meet the special needs of elderly persons and persons with disabilities.".

SEC. 333. SECTION 18—TRANSFER OF FACILITIES AND EQUIPMENT.

Section 18 of the Act (49 U.S.C. App. 1614) is amended—

(1) by striking subsection (g) and redesignating subsection (h) as subsection (g); and

(2) by adding at the end the following:

"(h) TRANSFER OF FACILITIES AND EQUIPMENT.—In addition to the transfer authority under section 12(k), in administering this section, the State may transfer facilities and equipment acquired with assistance under this section or section 16(b) to any recipient eligible to receive assistance under this Act if the equipment or facilities continues to be used in accordance with the requirements of this section or section 16(b), as appropriate.".

SEC. 334. HUMAN RESOURCES PROGRAM SUPPORT.

Section 20 of the Act (49 U.S.C. App. 1616) is amended—

(1) by inserting "(a) IN GENERAL.—" before the first sentence; and

(2) by adding at the end the following:

"(b) USE OF FUNDS.—The Secretary is authorized to retain any funds returned to the Secretary in connection with a grant or contract under subsection (a), and such funds may continue to be used for the purpose of subsection (a).".

SEC. 335. AUTHORIZATIONS.

Section 21 of the Act (49 U.S.C. App. 1617) is amended to read as follows:

"SEC. 21. AUTHORIZATIONS.

"(a) Formula Grant Programs.—

"(1) From the trust fund.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $1,070,500,000 for the fiscal year 1992, $1,220,000,000 for the fiscal year 1993, $1,300,000,000 for the fiscal year 1994, $1,450,000,000 for the fiscal year 1995, and $1,565,000,000 for the fiscal year 1996, to remain available until expended.

"(2) Authorized to be appropriated from the trust fund.—In addition to the amounts specified in paragraph (1), there are hereby authorized to be appropriated from the Transit Account of the Highway Trust Fund to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $450,000,000 for the fiscal year 1992, $525,000,000 for the fiscal year 1993, $550,000,000 for the fiscal year 1994, $400,000,000 the fiscal year 1995, $300,000,000 for the fiscal year 1996, to remain available until expended.

"(3) From general funds.—In addition to the amounts specified in paragraphs (1) and (2), there are hereby authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $990,000,000 for the fiscal year 1992, $862,000,000 for the fiscal year 1993, $801,000,000 for the fiscal year 1994, $981,500,000 for the fiscal year 1995, and $1,160,000,000 for the fiscal year 1996, to remain available until expended.

"(b) Section 3 Discretionary and Formula Grants.—

"(1) From the trust fund.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $535,000,000 for the fiscal year 1992, $580,000,000 for the fiscal year 1993, $680,000,000 for the fiscal year 1994, $750,000,000 for the fiscal year 1995, and $835,000,000 for the fiscal year 1996, to remain available until expended.

"(2) From general funds.—In addition to the amounts specified in paragraph (1), there are hereby authorized to be appropriated to carry out section 3 of this Act, $775,000,000 for the fiscal year 1992, $780,000,000 for the fiscal year 1993, $798,600,000 for the fiscal year 1994, $828,900,000 for the fiscal year 1995, and $850,400,000 for the fiscal year 1996, to remain available until expended.

"(3) Contractual obligations.—Approval by the Secretary of a grant or contract with funds made available under subsection (a)(1) or (b)(1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project. Approval by the Secretary of a grant or contract with funds made available under subsection (a)(2), (a)(3) or (b)(2) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project only to the extent that amounts are provided in advance in appropriations Acts.

"(c) Set-Aside for Planning, Programming and Research.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), an amount equivalent to 3.0 percent of funds made available or appropriated under subsections (a) and (b), and appropriated under the National Capital Transportation Act of 1969 shall be made available until expended as follows:

"(1) 45 percent of such funds shall be made available for metropolitan planning activities under section 8(f);

"(2) 5 percent of such funds shall be made available to carry out section 18(h);

"(3) 20 percent of such funds shall be made available to carry out the State program under section 26(a); and

"(4) 30 percent of such funds shall be made available to carry out the national program under section 26(b).

"(d) Other Set-Asides.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), of the funds made available or appropriated under subsections (a) and (b) and appropriated under the National Capital Transportation Act of 1969—

"(1) not to exceed an amount equivalent to 1.22 percent shall be available for administrative expenses to carry out section 12(a) of this Act and shall be available until expended;

"(2) not to exceed an amount equivalent to 1.5 percent shall be available for transportation services to elderly persons and persons with disabilities pursuant to the formula under section 16(b) of this Act, to be available until expended; and

"(3) $5,000,000 shall be available for the purposes of section 11(b) relating to university transportation centers for each of fiscal years 1992 through 1996.

"(e) Completion of Interstate Transfer Transit Projects.—Of the amounts remaining available each year under subsections (a) and (b), after allocation pursuant to subsections (c) and (d), for substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, there shall be available $160,000,000 for fiscal year 1992 and $164,843,000 for fiscal year 1993.

"(f) Set-Aside for Rural Transportation.—An amount equivalent to 6 percent of the amounts remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), and (e), shall be available pursuant to the formula under section 18, to remain available until expended.

"(g) Section 9 Funding.—The funds remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), (e), and (f), shall be available under section 9.".

SEC. 336. REPORT ON SAFETY CONDITIONS IN MASS TRANSIT.

Section 22 of the Act (49 U.S.C. App. 1618) is amended—

(1) by inserting "(a) In General.—" after "Sec. 22."; and

(2) by adding at the end a new subsection as follows:

"(b) Report.—The Secretary shall, within 180 days after the date of enactment of this subsection, make a report to Congress to include—

"(1) actions taken to identify and investigate conditions in any facility, equipment, or manner of operation as part of the findings and determinations required of the Secretary in providing grants and loans under this Act;

"(2) actions taken by the Secretary to correct or eliminate any conditions found to create a serious hazard of death or injury as a condition for making funds available through grants and loans under this Act;

"(3) a summary of all passenger-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(4) a summary of all employee-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(5) a summary of all actions taken by the Secretary to correct or eliminate the unsafe conditions to which such deaths and injuries were attributed;

"(6) a summary of those actions taken by the Secretary to alert transit operators of the nature of the unsafe conditions which were found to create a serious hazard of death or injury; and

"(7) recommendations to the Congress by the Secretary of any legislative or administrative actions necessary to ensure that all recipients of funds under this Act will institute the best means available to correct or eliminate hazards of death or injury, including—

"(A) a timetable for instituting actions,

"(B) an estimate of the capital and operating cost to take such actions, and

"(C) minimum standards for establishing and implementing safety plans by recipients of funds under this Act.".

SEC. 337. SECTION 23—PROJECT MANAGEMENT OVERSIGHT.

Section 23(a) of the Act (49 U.S.C. App. 1619(a)) is amended—

(1) by striking paragraphs (1) through (5);

(2) by striking "½ of 1 percent of—" and inserting "¾ of 1 percent of the funds made available for any fiscal year to carry out sections 3, 9, or 18 of this Act, or interstate transfer transit projects under section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under any such section.".

SEC. 338. SECTION 26—PLANNING AND RESEARCH.

The Act is amended by adding at the end the following:

"SEC. 26. PLANNING AND RESEARCH PROGRAM.

"(a) State Program.—The funds made available under section 21(c)(3) shall be available for State programs as follows:

"(1) Transit cooperative research program.—50 percent of that amount shall be available for the transit cooperative research program to be administered as follows:

"(A) Independent governing board.—The Secretary shall establish an independent governing board for such program to recommend mass transportation research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) National academy of sciences.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) State planning and research.—The remaining 50 percent of that amount shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act.

"(A) Apportionment formula.—Amounts shall be apportioned to the States in the ratio which the population in urbanized areas in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section.

"(B) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under this subsection to be used to supplement funds available under subsection (a)(1), as the State deems appropriate.

"(b) NATIONAL PROGRAM.—

"(1) IN GENERAL.—The funds made available under section 21(c)(4), shall be available to the Secretary for grants or contracts for the purposes of section 6, 8, 10, 11, or 20 of this Act, as the Secretary deems appropriate.

"(2) COMPLIANCE WITH ADA.—Of the amounts available under paragraph (1), the Secretary shall make available not less than $2,000,000 to provide transit-related technical assistance, demonstration programs, research, public education, and other activities that the Secretary deems appropriate to help transit providers achieve compliance with the Americans with Disabilities Act of 1990. To the extent practicable, the Secretary shall carry out this subsection through contract with a national nonprofit organization serving persons with disabilities with demonstrated capacity to carry out these activities.

"(3) SPECIAL INITIATIVES.—Of the amounts available under paragraph (1), an amount not to exceed 25 percent shall be available to the Secretary for special demonstration initiatives subject to such terms, conditions, requirements, and provisions as the Secretary deems consistent with the requirements of this Act, except that the provisions of section 3(e)(4) shall apply to operational grants funded for purposes of section 6. For nonrenewable grants that do not exceed $100,000, the Secretary shall provide expedited procedures governing compliance with requirements of this Act.

"(4) TECHNOLOGY DEVELOPMENT.—

"(A) PROGRAM.—The Secretary is authorized to undertake a program of transit technology development in coordination with affected entities.

"(B) INDUSTRY TECHNICAL PANEL.—The Secretary shall establish an Industry Technical Panel consisting of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in the identification of priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

"(C) GUIDELINES.—The Secretary shall develop guidelines for cost sharing in technology development projects funded under the section. Such guidelines shall be flexible in nature and reflect the extent of technical risk, market risk, and anticipated supplier benefits and pay back periods.

"(5) SUPPLEMENTARY FUNDS.—The Secretary may use funds appropriated under this subsection to supplement funds available under subsection (a)(1), as the Secretary deems appropriate.

"(6) FEDERAL SHARE.—Where there would be a clear and direct financial benefit to an entity under a grant or contract funded under this subsection or subsection (a)(1), the Secretary shall establish a Federal share consistent with that benefit.".

SEC. 339. TECHNICAL ACCOUNTING PROVISIONS.

Notwithstanding any other provision of law, any funds appropriated before October 1, 1983, under section 6, 10, 11, or 18 of the Act, or section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, that remain available for expenditure after October 1, 1991, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 340. GAO REPORT ON CHARTER SERVICE REGULATIONS.

The Comptroller General of the United States shall submit to the Congress, not later than 12 months after the date of the enactment of the Act, a report evaluating the impact of existing charter service regulations. The report shall—

(1) assess the extent to which the regulations promote or impede the ability of communities to meet the transportation needs of government, civic, and charitable organizations in a cost-effective and efficient manner;

(2) assess the extent to which the regulations promote or impede the ability of communities to carry out economic development activities in a cost-effective and efficient manner;

(3) analyze the extent to which public transit operators and private charter carriers have entered into charter service agreements pursuant to the regulations; and

(4) analyze the extent to which such agreements enable private carriers to profit from the provision of charter service by public transit operators using federally subsidized vehicles.

The report shall also include an assessment of the factors specified in the preceding sentence within the context of not less than three communities selected by the Comptroller General.

SEC. 341. GAO STUDY ON PUBLIC TRANSIT NEEDS.

The Comptroller General of the United States shall, on a biennial basis, submit a report to the Congress evaluating the extent to which the Nation's transit needs are being adequately addressed. The report shall include:

(1) An assessment of the unmet needs for transit, as reflected by the unmet, existing maintenance, and modernization needs of transit systems throughout the Nation.

(2) A 5-year projection of the maintenance and modernization needs that will result from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed-guideway systems.

(3) A 5-year projection of the need to invest in the expansion of existing transit systems to meet changing economic, commuter, and residential patterns.

(4) An estimate of the level of expenditure needed to satisfy the needs identified above.

(5) An examination of existing Federal, State, and local resources as well as private resources that are or can reasonably be expected to be made available to support public transit.

(6) The gap between the level of expenditure estimated under paragraph (4) and the level of resources available to meet such needs identified under paragraph (5).

SEC. 342. USE OF POPULATION ESTIMATES.

(a) URBAN MASS TRANSIT PROGRAM.—Section 5(a) of the Act (49 U.S.C. App. 1604(a)) is amended—

(1) in paragraph (1)(A)(i), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce";

(2) in paragraph (2)(A)(i)(1), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce"; and

(3) in paragraph (2)(A)(ii)(1), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

(b) BLOCK GRANTS.—Section 9(d)(1) of the Act (49 U.S.C. App. 1607a(d)(1)) is amended by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

(c) FORMULA GRANT PROGRAM FOR AREAS OTHER THAN URBANIZED AREAS.—Section 18(a) of the Act (49 U.S.C. App. 1614(a)) is amended in the second sentence by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

SEC. 343. SECTION 9B—TECHNICAL AMENDMENT.

Section 9B(a) of the Act (49 U.S.C. App. 1607a–2(a)) is amended by striking "subsections (b) and (c) of".

SEC. 344. USE OF CENSUS DATA.

For fiscal year 1992, the Secretary of Transportation shall use data from the 1990 Federal census, to the extent practicable, in determining the allocation of funds under sections 9, 16(b)(2), and 18 of the Act. The Secretary of Transportation and the Secretary of Commerce shall coordinate efforts to expedite the availability of census data for such use and to ensure that census data is collected and prepared in a form that is appropriate to the needs of the Department of Transportation. The Secretary of Transportation shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of actions taken pursuant to this subsection not later than 9 months following the date of enactment of this Act.

CRANSTON AMENDMENT NO. 329

Mr. CRANSTON proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. 16. MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.

Section 16 of the Act (49 U.S.C. App. 1612) is amended by adding at the end the following:

"(g) MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.—In order to carry out subsection (a), the Secretary shall authorize mass transportation service providers receiving assistance under this section or section 18(a) to coordinate and assist in providing meal delivery service for homebound persons on a regular basis, if the activities authorized do not—

"(1) conflict with the provision of mass transportation services; or

"(2) result in a reduction of service to mass transportation passengers.".

At the appropriate place in the bill, insert the following:

SEC. 317. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 317 of the bill is amended by:

(1) on line 7 by striking "or construction";

(2) on line 8 by striking "or facilities";

(3) on lines 10–11 by striking "or facilities";

(4) on line 14 by striking "or facilities".

On page 21, line 3, after "(C)", strike "may" through "community" and insert the following: "shall identify and consider transit supportive existing land use policies and future patterns, and consider other factors including".

PACKWOOD AMENDMENT NO. 330

Mr. PACKWOOD proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REGULATORY INTERPRETATION.

Section 634.410 of title 23, Code of Federal Regulations, and any similar regulation, ruling, or decision shall be applied as if to include coating.

INOUYE (AND AKAKA) AMENDMENT NO. 331

(Ordered to lie on the table.)

Mr. INOUYE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by them to the bill S. 1204, supra, as follows:

On page 5, strike line 19 and insert "$1,950,000,000 for fiscal year 1993, $1,768,000,000 for fiscal year 1994, 1995,".

On page 35, line 6, after "MASSACHUSETTS" insert "AND HAWAII".

On page 35, line 24, before the colon, insert "and Hawaii".

On page 36, line 3, strike the period before the ending quotation mark and insert "; *Provided further*, That Hawaii shall be apportioned $205,000,000 for the fiscal year 1992.".

STEVENS AMENDMENT NO. 332

Mr. STEVENS proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill insert the following new section:

"SEC. . NATIONAL DEFENSE HIGHWAYS.

(a) Upon certification by the Secretary, after consultation with the Secretary of Defense, that a particular highway or portion of such highway, located outside the territory of the United States, is important to the national defense, up to $20,000,000, as determined by the Secretary, shall be made available for the purposes of this section in fiscal year 1993, 1994, 1995, and 1996 from the Interstate Construction Program funds authorized under section 103(b)(5) of this Act.

"(b) Funds made available under this section shall be available only for the reconstruction of any highway or portion thereof certified under subsection (a), and shall remain available until expended."

DOLE (AND OTHERS) AMENDMENT NO. 333

Mr. MOYNIHAN (for Mr. DOLE, for himself, Mr. PRESSLER, and Mr. GRASSLEY) proposed an amendment to the bill S. 1204, supra, as follows:

On page 131, after line 22, insert the following new section:

SEC. 140. CLEAR GASOLINE REQUIREMENT.

No refiner may enter into the common carrier pipeline system any gasoline that would preclude the addition of a legally waivered fuel or fuel additive unless the gasoline contains a legally waivered fuel or fuel additive in a quantity sufficient to meet the requirements of regulations issued pursuant to section 211 of the Clean Air Act (42 10 U.S.C. 7545).

MOYNIHAN (AND OTHERS) AMENDMENT NO. 334

Mr. MOYNIHAN (for himself, Mr. DOLE, and Mr. SYMMS) proposed an amendment to the bill S. 1204, supra, as follows:

Section 115(d) is amended by adding the following new paragraphs:

(10) STUDY OF STATE LEVEL OF EFFORT.—(A) Not later than 3 months after the date of enactment of this Act, the Secretary and the Director of the Bureau shall undertake a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

(B) Such study shall include collection of data relating to State and local revenue collected and spent on surface transportation programs. Such revenue shall include income from fuel taxes, toll revenues including bridge and ferry tolls, sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and other appropriate State and local revenue sources as the Director of the Bureau deems appropriate.

(C) Not later than 9 months after the date of enactment of this Act, the Secretary and the Director of the Bureau shall provide a written report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives detailing the findings of the study. Such report shall include recommendations on the most appropriate measure of State level of effort in funding surface transportation programs and comprehensive data by State on revenue sources and amounts collected by States and local governments and devoted to surface transportation programs.

ADAMS (AND GORTON) AMENDMENT NO. 335

Mr. SYMMS (for Mr. ADAMS, for himself and Mr. GORTON) proposed an amendment to the bill S. 1204, supra, as follows:

Insert at the appropriate place in title III the following new subsection:

"SEC. . FERRY ROUTES.

Section 9 of the Act (49 U.S.C. app 1607a) is amended by adding at the end thereof the following new subsection:

"(r) FERRY SERVICES.—A vessel used in ferryboat operations funded under this section that is part of a Statewide ferry system may from time to time be operated outside of the urbanized area in which service is provided to accommodate periodic maintenance so long as the mass transportation service funded under this section is not thereby reduced."

CHAFEE AMENDMENT NO. 336

Mr. SYMMS (for Mr. CHAFEE) proposed an amendment to the bill S. 1204, supra, as follows:

Section 127 of the bill is amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall, in cooperation with the Administrator of the Environmental Protection Agency, conduct a program of research to determine—

"(1) the public health and environmental risks associated with the production and use of asphalt rubber pavement;

"(2) the performance of the asphalt rubber pavement under various climate and use conditions; and

"(3) the degree to which asphalt rubber pavement can be recycled.

The research program required by this subsection shall be completed not later than three years after the date of enactment of this Act. The Secretary is authorized to use funds pursuant to sections 103(b) and 115 (making amendments to section 307 of title 23, United States Code) to carry out the research required by this subsection.".

BENTSEN (AND OTHERS) AMENDMENT NO. 337

Mr. BENTSEN (for himself, Mr. WARNER, Mr. SANFORD, Mr. FORD and Mr. BOND) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. 17. ALLOCATION FORMULA STUDY.

The General Accounting Office in conjunction with the Bureau of Transportation Statistics created pursuant to Section 115 of this act, shall conduct a thorough study and recommend to the Congress within two years after the date of enactment a fair and equitable apportionment formula for the allocation of federal-aid highway funds that best directs highway funds to the places of greatest need for highway maintenance and enhancement based on the extent of these highway systems, their present use, and increases in their use.

The results of this study shall be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994 and shall be considered by these committees as they reauthorize the surface transportation program in 1996.

DOLE (AND BURNS) AMENDMENT NO. 338

Mr. SYMMS (for Mr. DOLE, for himself and Mr. BURNS) proposed an amendment to amendment No. 300 to the bill S. 1204, supra, as follows:

Amendment 300 is amended as follows:

On line 12, after "custom harvesting" insert the following new phrase: "and to vehicles used to transport livestock feed,".

DURENBERGER (AND OTHERS) AMENDMENT NO. 339

Mr. DURENBERGER (for himself, Mr. BREAUX, Mr. GRASSLEY, Mr. GORTON, Mr. BROWN, Mr. LUGAR, Mr. BAUCUS, Mr. BURNS, Mr. SIMPSON, and Mr. DOMENICI) proposed an amendment to the bill S. 1204, supra, as follows:

SECTION 1. TECHNICAL AND CONFORMING AMENDMENTS.

(a) On page 96, line 9, strike "intercontinental" and insert in lieu thereof "interconnected".

(b) On page 74, line 12, after the word "arterials" insert the words "and designated as a part of the interim or permanent National Highway System.

SEC. 2. NATIONAL HIGHWAY SYSTEM.

On page 96, at the end of Section 130 add the following new paragraphs and designate subsections accordingly:

"(b) During the two year period prior to the submission of the proposed National Highway System to Congress, the interim National Highway System shall consist of the Interstate System and such urban and rural principal arterials (including toll facilities) as designated by each State. Each State shall expend at least 17.5 percent of the amounts authorized by section 103(b)(1) of this Act for each of the fiscal years 1992 and 1993 on such interim National Highway System.

(c) Final National Highway System submitted to Congress by the Secretary shall be designated in accordance with guidelines issued by the Secretary which provide for equitable allocation of mileage among States. The final system shall be designated by each State in consultation with regional and local officials, with the approval of the Secretary. Ninety days after submission of the proposed National Highway System to Congress, each State shall expend at least 17.5 percent of the amounts authorized by section 103(b)(1) of this Act for each of the fiscal years 1994 through 1996 on the system so designated in the report to Congress or on such system as is modified by an Act of Congress. Amounts authorized by section 103(b)(1) of this Act do not include any amounts transferred to the Surface Transportation Program from the Interstate Maintenance Program, or any other program."

"(d) If a State certifies to the Secretary that apportionments required to be spent on the National Highway System pursuant to this section are in excess of amounts needed to adequately maintain the National Highway System routes within the State as determined by the Bridge Management System and Pavement Management System under section 135(a) of title 23, as amended by this Act, the State may transfer up to 20 percent of these amounts for any project eligible under the Surface Transportation Program.

DURENBERGER AMENDMENT NO. 340

Mr. DURENBERGER proposed an amendment to the bill S. 1204, supra; as follows:

Page 78, line 23, insert after section 402 "; section 152, except repavement;"

Page 102, line 4, strike line 4 and renumber accordingly.

Page 110, line 11, insert: (19) Section 152 is amended by striking subsections (d) and (e) and by renumbering the remaining sections accordingly.

DOMENICI AMENDMENT NO. 341

Mr. MOYNIHAN (for Mr. DOMENICI) proposed an amendment to the bill S. 1204, supra, as follows:

S. 204 is amended by adding at the end of section 115 entitled "Research and Data Collection", the following new subsection:

"(e) Section 307 of title 23, United States Code, is amended by inserting new paragraph (2) to read as follows:

"(2) In addition to the percentage provided in paragraph (1) of this subsection, not to exend one-half of one per centum of sums apportioned under section 104 and 144 shall be available for expenditure upon request of the State Highway Department to rural planning organizations designated by the State as being responsible for assisting the State in carrying out the provisions of section 135 of this title.

INOUYE AMENDMENT NO. 342

Mr. MOYNIHAN (for Mr. INOUYE) proposed an amendment to the bill S. 1204, supra, as follows:

On page 16, line 10, strike out the semicolon and "or".

On page 16 strike out lines 11 and 12.

On page 18, between lines 2 and 3, insert the following new subparagraph:

"(C) The requirements of subparagraph (A) shall not apply to any State which is noncontiguous with the continental United States.".

DOMENICI (AND OTHERS) AMENDMENT NO. 343

Mr. DOMENICI (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. SIMON, Mr. BINGAMAN, Mr. DECONCINI, Mr. DASCHLE, Mr. MURKOWSKI, Mr. WELLSTONE, Mr. CONRAD, and Mr. PACKWOOD) proposed an amendment to the bill S. 1204, supra, as follows:

On page 5, line 4, delete "$2,370,000,000" and insert in lieu thereof: "$2,320,000,000".

On page 5, line 5, delete "$2,460,000,000" and insert in lieu thereof: "$2,410,000,000".

On page 5, line 6, delete "$2,600,000,000" and insert in lieu thereof: "$2,550,000,000".

On page 5, line 7, delete "$2,840,000,000" and insert in lieu thereof: "$2,790,000,000".

On page 5, line 8, delete "$3,050,000,000" and insert in lieu thereof: "$3,000,000,000".

On page 6, line 11, delete "$150,000,000" and insert in lieu thereof: "$200,000,000".

On page 37, at the end of Section 111, add a new subsection "(d)":

"(d) INDIAN RESERVATION ROAD PLANNING.—Two percent of funds allocated for Indian reservation roads shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistanct Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or Metropolitan Planning Organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary."

CHAFEE (AND SYMMS) AMENDMENT NO. 344

Mr. MOYNIHAN (for Mr. CHAFEE, for himself, and Mr. SYMMS) proposed an amendment to the bill S. 1204, supra; as follows:

The bill is amended by adding at the end thereof the following new section:

"SEC. XX. STORM WATER PERMIT REQUIREMENTS.—(a) Notwithstanding the requirements of sections 402(p)(2) (B), (C) and (D) of the Federal Water Pollution Control Act, the Administrator of the Environmental Protection Agency shall not—

"(1) require any municipality with a population of less than 100,000 to submit any part I general permit application or individual application (as described in a rulemaking published in the Federal Register on November 16, 1990) for a storm water discharge associated with any airport, powerplant or uncontrolled sanitary landfill owned or operated by the municipality prior to May 18, 1992, or any part II general permit application for such discharge prior to May 18, 1993, unless such permit is required by sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act;

"(2) require any municipality with a population of less than 100,000 to submit any permit application for a storm water discharge associated with any industrial activity other than an airport, powerplant or uncontrolled sanitary landfill owned or operated by the municipality prior to October 1, 1992, unless such permit is required pursuant to sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act, and any deadlines established pursuant to regulation or Public Law 102-27 associated with such permit application requirements shall be delayed until after such date;

"(3) enforce the requirements of any permit issued to a municipality with a population of 100,000 or greater solely for storm water discharges, other than permits associated with industrial activities owned or operated by the municipality and permits required by sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act, prior to October 1, 1992.

"(b) For purposes of this section an uncontrolled sanitary landfill is a landfill or open dump, whether in operation or closed, which does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act.

"(c) This section shall not be interpreted, construed or applied to affect any permit requirement or application deadlines for a storm water discharge established pursuant to sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act or any permit for a storm water discharge associated with an industrial activity not owned or operated by a municipality.

"(d) The Administrator shall modify permit application deadlines applicable to storm water discharges associated with industrial activities owned or operated by municipalities with populations of 100,000 or greater to assure that such deadlines are coincident with application deadlines for systemwide permits required for such municipalities and associated with storm water discharges from other than industrial facilities.".

INOUYE (AND AKAKA) AMENDMENT NO. 345

Mr. MOYNIHAN (for Mr. INOUYE, for himself and Mr. AKAKA) proposed an amendment to the bill S. 1204, supra, as follows:

On page 72, line 20, strike the period and insert "; DISCRETIONARY PROJECTS".

On page 73, after line 23, insert the following:

"(d) SET-ASIDE FOR INTERSTATE DISCRETIONARY PROJECTS.—

"Before any apportionment is made under section 103(b)(5) for a fiscal year beginning after September 30, 1991 the Secretary shall set aside $200,000,000. Such funds shall be available for obligation by the Secretary under the following priorities:

"(1) FIRST.—For high cost projects which directly contribute to the completion of a segment of the interstate system which is not open to traffic;

"(2) SECOND.—For projects of high cost in relation to a State's total apportionment of funds; and

"(3) THIRD.—For projects with respect to which the Secretary may make payments under section 115 of title 23, United States Code.".

SIMON AMENDMENT NO. 346

Mr. SYMMS (for Mr. SIMON) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REPORT ON THE USE OF OXYGENATED FUELS IN CERTAIN CITIES AND METROPOLITAN STATISTICAL AREAS.

Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, and in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Congress a report on the feasibility and effectiveness of requiring, during the period from October 1 through March 31, in all cities and metropolitan statistical areas (as established by the Office of Management and Budget) with a population of 250,000 or more, the use of oxygenated fuels (with a percentage of 2.7 or greater).

METZENBAUM AMENDMENT NOS. 347 AND 348

Mr. METZENBAUM proposed two amendments to the bill S. 1204, supra, as follows:

AMENDMENT NO. 347

At the appropriate place, insert the following new section:

SEC. . YOUTH JOBS HIGHWAY BEAUTIFICATION PROGRAM.

(a) AUTHORITY.—A State may use not to exceed 0.2 percent of the amounts appropriated to such State under section 104 of title 23, United States Code, to establish a State program to employ eligible economically disadvantaged individuals during the employment period to perform highway landscaping and beautification activities.

(b) ELIGIBLE ECONOMICALLY DISADVANTAGED INDIVIDUALS.—To be eligible to be employed under a State program established under subsection (a), an individual shall—

(1) have an income, or be a member of a family with a family income, that is below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) for an individual or a family of similar size; and

(2) be a resident of the State.

Preference shall be given to individuals meeting the requirements of this subsection who are between the ages of 18 and 20.

(c) EMPLOYMENT ACTIVITIES.—Individuals may be employed under a State program established under subsection (a) to perform highway landscaping and beautification activities within the State that may include—

(1) activities directed at improving the scenic landscaping at highway rights-of-way and rest areas;

(2) trash pick-up and collection activities along roadsides;

(3) participation in programs related to traveler information (including signage); and

(4) other appropriate activities.

(d) ADMINISTRATION.—

(1) STATE CONTRIBUTION.—To be eligible to use the amounts referred to in subsection (a) to establish a State program, a State shall agree, with respect to the costs incurred by the State in carrying out such program, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to 5 percent of such costs.

(2) LIMITATION.—A State shall not use in excess of 5 percent of amounts made available to such State under subsection (a) to administer the State program.

(3) FEDERAL OVERSIGHT.—The State official responsible for administering the program established by the State under subsection (a) shall annually prepare and submit to the Secretary of Transportation a report containing a description of such program, including—

(A) the costs incurred in implementing such program;

(B) the number of individuals employed under such program;

(C) the types of activities performed by such individuals.

(e) NONDISPLACEMENT AND GRIEVANCE PROCEDURE. The grievance procedures and nondisplacement requirements contained in sections 176(f) and 177(b) of the National and Community Service Act of 1990 shall apply to State programs established under this section, insofar as they are applicable, except that all references to 'this title' in such sections shall be deemed to be a reference to this section.".

(f) For the purposes of employing individuals pursuant to a program established under subsection (a), each state shall give preference to individuals who were formerly employed by such state, and who suffered loss of employment, within the previous year for reasons other than cause.".

AMENDMENT NO. 348

SEC. . INVESTIGATION AND REPORT.

(a) The Secretary of Transportation shall conduct an investigation into the feasibility of prescribing rules with respect to multi-lane, limited access, Federal-aid highways to do the following:

(1) Prohibit trucks weighing in excess of 10,000 pounds gross weight from using the furthest left lane.

(2) Restrict all such trucks to the furthest right lane, except that such trucks may use the lane adjacent to the furthest right lane to pass.

(b) In conducting the investigation described in subsection (a), the Secretary of Transportation shall consider innovative ways to separate truck traffic from other vehicle traffic on highways taking into consideration the effect on safety, congestion, management, other relevant issues, and the cost of each such innovation.

(c) The Secretary of Transportation shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report setting forth the findings of the study conducted under subsection (a), within one year from the date of enactment of this act.

NICKLES (AND OTHERS) AMENDMENT NO. 349

Mr. NICKLES (for himself, Mr. BOREN, Mr. COHEN, Mr. MITCHELL, and Mr. DASCHLE) proposed an amendment to the bill S. 1204, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . SECTION 18—GRANTS TO OFFSET AMTRAK LOSSES.

Section 18 of the Act (49 U.S.C. App. 1614) is amended by adding at the end the following:

"(i) AMTRAK LOSSES.—The amounts apportioned under subsection (a) to Maine, South Dakota, and Oklahoma may be used by such State to offset operating losses incurred by Amtrak in any calendar year as a result of providing passenger rail service to such State on the basis of an application pursuant to section 403 of the Rail Passenger Service Act (45 U.S.C. 563), and in conjunction with cost-sharing under subsection (b) of such section. Not more than 50 percent of the States share of the operating losses incurred by Amtrak in a State may be offset with funds available under this section.".

To amend title 23, United States Code, and for other purposes "On page 13, line 18, after the operating cost for pasasenger rail for States without Amtrak service as of the date of enactment of this Act."

NICKLES (AND OTHERS) AMENDMENT NO. 350

Mr. NICKLES (for himself, Mr. DOLE, Mr. DOMENICI, and Mr. BOREN) proposed an amendment to the bill S. 1204, supra, as follows:

(a) On page 14, after line 15, insert the following new paragraph (10):

"'(10) incremental costs attributable to the use of alternative fuels by school buses, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas), provided that, any conversion using funds authorized by this paragraph comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990; and provided further that, for purposes of this paragraph, "alternative fuels" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; and electricity;"; and

(b) On page 14, line 17, delete "(10)" and insert "(11)".

SIMPSON (AND WALLOP) AMENDMENT NO. 351

Mr. SIMPSON (for himself and Mr. WALLOP) proposed an amendment to the bill S. 1204, supra, as follows:

Section 138 of S. 1204, the surface transportation efficiency act of 1991, as reported, is amended as follows:

(a) on page 127, line 22, after "1991", insert the following: ", except in Wyoming in which additional vehicle configurations not in actual operation on June 1, 1991, may be authorized by state law, unless otherwise decided, not later than the general election date in 1992, provided such vehicle configurations do not exceed 117,000 pounds gross vehicle weight and comply with the single axle, tandem axle, and bridge formula limits set forth in 23 U.S.C. 127(a).

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 1269, the Renewable Hydrogen Energy Research and Development Act of 1991.

The hearing will take place on Tuesday, June 25, 1991, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Paul Barnett.

For further information, please contact Paul Barnett of the committee staff at 202/224-7569.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation will be holding a hearing on the agriculturally derived renewable fuels—current status and prospects for the future. The hearing will be on Thursday, June 20, 1991, at 9 a.m., in SR-332. For further information please contract Ray Dobert of the subcommittee staff at 224-2321.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on enforcement and administration of the Foreign Agents Registration Act [FARA] on Thursday, June 20, 1991, at 1:30 p.m., in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 14, 1991, at 10 a.m. to hear and consider the nominations of Alixe Reed Glen to be an Assistant Secretary of Health and Human Services and Mary Catherine Sophos to be a Deputy Under Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance be authorized to meet during the session of the Senate on June 13, 1991, at 2:30 p.m. to hold a hearing on renewable and conservation energy tax incentives.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 13, 1991, at 9:30 a.m., to hold a hearing on oversight of enforcement of antidumping and countervailing duties.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, June 13, 1991, at 10 a.m. to conduct a hearing on the Export-Import Bank.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate, Thursday, June 13, 1991, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Aging of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate, Thursday, June 13, 1991, at 10 a.m. for a hearing on nursing home reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 13, 1991, at 9:30 a.m. on the nomination of Carolyn R. Bacon of Texas, Martha Buchanan of Texas, and Sheila Tate of Virginia to the Board of Directors of the Corporation for Public Broadcasting [CPB].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet in open session on Thursday, June 13, 1991, at 2 p.m., to receive testimony on chemical defense and chemical demilitarization issues, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992-93.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 13, 1991, at 10 a.m. for a hearing on reauthorization of the Office of Educational Research and Improvement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on the Armed Services be authorized to meet on Thursday, June 13, 1991, at 10:30 a.m. to consider the nominations of Gen. Gordon R. Sullivan, USA, to be Chief of Staff of the Army, and Lt. Gen. Carl E. Mundy, Jr., USMC, to be Commandant of the Marine Corps.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, June 13, 1991, at 1:30 p.m., to hold a joint hearing with the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee, on standards for forensic DNA analysis.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 13, 1991, at 9 a.m. on the nomination of James H. Quello of Michigan to be a member of the Federal Communications Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 13, beginning at 9:30 a.m., to hear testimony on municipal pollution control proposals included in legislation to reauthorize the Clean Water Act (S. 1081) and related bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ENCOURAGING ECONOMIC GROWTH IN POLAND

• Mr. BIDEN. Mr. President, I was pleased to learn this morning that the World Bank has decided to extend substantial loans to the nations of Eastern Europe, reaching a 1991 level of approximately $3 billion in assistance to that region. I congratulate the World Bank on its decision; loans to Eastern Europe at this time are likely to yield significant financial benefits to Eastern Europe and its trading partners in the future.

The World Bank was particularly farsighted in granting a significant portion of the funds to Poland. Under an ambitious and difficult economic reform program, Poland has made some of the most significant gains in economic progress of any nation in the region. A fair portion of the World Bank funds will go specifically toward privatizing Polish industries. Privatization is critical not only to establish private ownership and encourage entrepreneurship, but also to create an environment secure enough for foreign enterprises to be willing to invest.

The international effort to assist Poland in its move to a free market reached a high point earlier this spring when the Paris Club decided to forgive much of Poland's government debt. This decision, I might add, followed a letter from myself, Senator BRADLEY, and Representatives ROSTENKOWSKI and LEACH, encouraging President Bush to take the lead in urging other creditor nations to forgive the debt hampering Poland's development. I am pleased the World Bank will strongly support this effort, which will help Poland to establish an effective, prosperous free market democracy that will be a fast friend to the United States.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Bob Redding, a member of the staff of Senator FOWLER, to participate in a program in Indonesia, sponsored by the Indonesian Government from August 19 to September 1, 1990.

The committee has determined that participation by Mr. Redding in the program in Indonesia, at the expense of the Indonesian Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Ann Hardison, a member of the staff of Senator BOB GRAHAM, to participate in a program in China, sponsored by the United States-Asia Institute, from August 6–16, 1990.

The committee has determined that participation by Ms. Hardison in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Saul Singer, a member of the staff of Senator CONNIE MACK, to participate in a program in China, sponsored by the United States-Asia Institute, from August 6–16, 1990.

The committee has determined that participation by Mr. Singer in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Nancy Norell, a member of the staff of Senator JAMES A. MCCLURE, to participate in a program in China, sponsored by the United States-Asia Institute, from August 6–16, 1990.

The committee has determined that participation by Ms. Norell in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Julie Dammann, a member of the staff of Senator CHRISTOPHER S. BOND, to participate in a program in China, sponsored by the United States-Asia Institute, from August 6–16, 1990.

The committee has determined that participation by Ms. Dammann in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Mike Harper, a member of the staff of Senator NANCY KASSEBAUM, to participate in a program in China, sponsored by the United States-Asia Institute, from August 6–16, 1990.

The committee has determined that participation by Mr. Harper in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States.•

HARRODSBURG

• Mr. MCCONNELL. Mr. President, as you may know, from time to time I like to bring to the attention of my colleagues a story which illustrates Kentucky's great historic tradition. Today, I would like to insert into the RECORD a statement about a town that embodies that tradition: Harrodsburg.

Harrodsburg was Kentucky's first settlement, and the sense of history in the town is "almost haunting." A collective spirit that values things past prevails in this small town of 8,790 people. But Harrodsburg residents would reject descriptions of their town as stagnant, politically passive, or stuck in the pages of history.

Harrodsburg boasts central Kentucky's major tourist attractions which include the country's oldest restored Shaker village, Old Fort Harrod, and the Beaumont Inn. Beaumont Inn was built in 1855 and is furnished with antiques. It was originally a girl's school, and later a women's college before being purchased by former student Anna Bell Goddard in 1917. Converted later to an inn, it has been passed down from generation to generation.

A newer attraction is the Blue Ribbon Deli, Main Street's only restaurant. It has around just 7 years, but it is already as popular as some of the town's historic landmarks. It's the place where "the morning coffee club"—a group of business people and local leaders—meets every day to solve the world's problems before 9:30 a.m. About 90 regulars leave their own coffee mugs there, hanging on nails with name tags beneath them. People stop by with such reliability that the mugs serve as message boxes also.

Many sites in Harrodsburg are listed on the National Register of Historic Places. Visits to Harrodsburg's famous landmarks, old and new, generated $29.7 million for the tourism industry in Mercer County last year.

Mr. President, I am inserting this article into the RECORD because I believe that Harrodsburg exemplifies the unity, and historic pride and tradition, which is still existent in much of Kentucky today. Industrialization and change present a challenge to the town, but they do not detract from its nostalgia or historical charm.

The article follows:

HISTORY IS PERSONAL IN KENTUCKY'S FIRST SETTLEMENT

(By Jim White)

Amid 200-year-old buildings and farmland lined with black fences, people whose local lineages predate the Civil War go about their daily business almost like exhibits in a living museum.

Harrodsburg was Kentucky's first settlement, and "the sense of history here is almost haunting," said Harrodsburg High School principal Kearney Lykins, who moved to town two years ago. "You can feel it."

Residents can recite the history of the area's major tourist draws—Old Fort Harrod, The Beaumont Inn, Shakertown, and folks are particularly adept at working into virtually any conversation the declaration that "Harrodsburg is the first permanent English settlement west of the Allegheny Mountains."

But historical knowledge goes beyond the trivia of travel brochures and rote descriptions of the town's famous treasures. In Harrodsburg, history is personal.

Last November, a fire destroyed an 1884 livery stable in the middle of downtown. As residents gathered on Main Street to watch the building burn, librarian Carolyn Sue Patterson recalled, a sense of immense loss and shock struck the whole town. "Some even cried," she said.

Indeed, some people believe that the town's proud heritage—and pressure to live up family names and traditions—was behind an alarmingly high suicide rate in Mercer County from 1963 to 1982, when the rate of suicides per 100,000 people was 21.9. The state rate for the same 20-year period was 12.2.

"This is a very traditional community, very family centered, and some of these families go back generations," said Delmer Odel, of Comprehensive Care in Mercer County. "When people have trouble in their families, or if they run the risk of embarrassing their family, the impact of that is probably more profoundly felt here than in less traditional communities."

In typical Harrodsburg fashion, however, support groups were formed, town meetings were held and the suicide rate has steadily dropped since 1983. That's another characteristic of Harrodsburg—a powerful community unity and singleness of purpose.

Despite its history, Harrodsburg doesn't exist in a vacuum and never has, its residents say. There's an industrial park on the north end of town and about 1,900 people work in a plant of one kind or another.

Some of the industrial newcomers are Japanese engineers and managers at Hitachi Automotive, Harrodsburg's largest manufacturing employer. At first there was concern that the plant might cause some resentment in the town that doesn't forget its past. Sixty-six Harrodsburg men were killed or captured by Japanese forces on Manila during World War II; the survivors were forced on the infamous Bataan death march. The huge Army tank that sits on a hill at the edge of town as a memorial to those men overlooks the Hitachi plant now.

But Japanese employees say that, after meeting with local officials and residents, they were accepted into the community like all newcomers. Besides, Hitachi wasn't the first manufacturer to break ground in Harrodsburg. Some residents were apprehensive when Corning Glass Works arrived in 1952.

"They said that the yankees were coming," said Hank Ide, a Japanese Hitachi employee who lived in Harrodsburg for six years.

There are many who say Harrodsburg is slow to change, but most residents would correct them by saying the town is cautious, not slow. With much of Harrodsburg listed on the National Register of Historic Places, and tourism industry that generated $29.7 million in Mercer County last year, it's no wonder they're cautious with their surroundings.

Many longtime residents lament the county's shift from an agrarian to an industrial economy. But as long as Ralph Anderson is around, working farms will never become extinct in Mercer County. Anderson, son of a Harrodsburg farmer and owner of Belcan Engineering Inc. in Cincinnati, has purchased about 3,100 acres of farmland in the county and plans to do nothing but farm it, preserve it, and let people come see it.

"I just believe farmland should stay farmland," said Anderson, who calls his spread Anderson Circle Farm.

When it comes to politics, residents seem to prefer stability, of the conservative Democrat variety. The county is dry and labor unions are scarce. Mayor Charles Carr has been in office for almost 20 years. And Mercer County Judge-Executive I.C. James III, who belongs to an old political family, has held the office for 11 years. He was sheriff for 12 years before that.

The most divisive issue to hit the town in recent years—where to put a bypass to ease traffic on U.S. 127—didn't cause residents to forget their civility or the common good. The proposed routes were discussed at public forums. No one picketed local government buildings. No one printed up T-shirts with anti-bypass slogans. And in March, when state highway officials made their final decision—that the bypass would run around the east side of town—even opponents of that route showed support for the road. Construction is scheduled to begin in 1993. "Everyone agreed that a bypass was needed and everyone knew that somebody was going to have to sacrifice for it," Carr said.

Harrodsburg residents reject descriptions of their town as sleepy, politically passive, or stuck in the pages of its history. Residents are quick to point out Hitachi, or their new 40,000-volume state library, to illustrate the town's progressiveness. And residents will also tell you that they are concerned with the same things and face the same contemporary problems that folks do in communities all over the country.

Indeed, downtown retailers worry about a slowdown in business, and people are concerned with the increasing exodus of younger generations, problems facing many Kentucky towns. Last year, the conviction of several men who ran a cocaine ring in Mercer County was sobering proof that Harrodsburg is as much a part of today's world as it is a monument to the past.

Still, the town has a feel all its own. "It's a haven from the rest of the world," said Frances Keightley, a local historian. "Life here is relaxed, and easy, and the people are friendly. I don't mean to say that it's not progressive, but there's an element here, a collective spirit, that values things past."

Everybody's right: Harrodsburg was indeed the first permanent English settlement this side of the Allegheny Mountains. And it served as the foremost western outpost for pioneers for many years. Daniel Boone occupied a cabin there periodically. Today, Old Fort Harrod State Park stands in the middle of town, a replica of the original fort built by James Harrod and his men in 1774.

Other tourist attractions include "The Legend of Daniel Boone" outdoor drama, an action-packed depiction of frontier life in Kentucky; the country's oldest restored Shaker village (located 7 miles from Harrodsburg in Mercer County); and numerous historic homes and buildings.

There's also the Beaumont Inn, built in 1855 and furnished with antiques. The Inn was originally a school for "young ladies," and later a woman's college before being purchased by Anna Bell Godddard, a former student, in 1917. It was converted to an inn soon after and has been passed down from generation to generation ever since. It is now owned by Goddard's grandson, T.C. "Bud" Dedmon, who is 75, and is managed by his son, Charles.

Establishments don't have to be 200 years old to be special in Harrodsburg. The Blue Ribbon Deli, Main Street's only restaurant, has been around just seven years and is already as talked about as some of the town's landmarks.

It's the place where the morning coffee club—a loose group of business people and local leaders—meets every day to solve the world's problems before 9:30 a.m. About 90 "regulars" leave their own coffee mugs there, hanging on nails with name tags underneath. People stop by with such reliability that the mugs double as message boxes.

"If you want somebody to get your message, just drop it in their mug," said owner Sue Gilvin. "They'll get it before the day's out."

The Blue Ribbon is where Harrodsburg native Faith Burns, an attorney with the Department of Natural Resources in Frankfort, practices "dish therapy" at the end of bad days.

"I'll come in, go in the back and start doing dishes," she said. "Some days you just can't get anything accomplished but when you do dishes, you can actually see what you've accomplished."

And it's where Bob Victor, the new administrator at the James B. Haggin Memorial Hospital, got a free dinner after hours last year. All he had to do in exchange for the meal was read a part in a rehearsal of Agatha Christie's story "Ten Little Indians" for the local theatre group, which was rehearsing at the Blue Ribbon and came up one person short. Victor ended up playing the role in the production.

"That meal turned into a five-month commitment," he said. "But it was a good meal."

Residents of Harrodsburg say they have accepted the fact that their town is changing, but most agree that change doesn't necessarily mean nostalgia and historic preservation have to go. Indeed, three new additions to the town will make sure of that. They are Dan Kidd, Executive Director of the Chamber of Commerce; Robyn Cutter, head of the Harrodsburg First downtown revitalization project; and Jacie Bellar, head of the Tourism Commission.

The threesome, hired within a month of each other last winter, are eager to preserve what Harrodsburg's got and promote the town vigorously.

"We believe this place has a lot of potential to do even more," Bellar said.•

EXPLANATION OF ABSENCE FROM A BUSINESS MEETING OF THE COMMITTEE ON FINANCE ON JUNE 13, 1991

• Mr. GRASSLEY. Mr. President, this morning I was unavoidably absent from a business meeting of the Committee on Finance because I was debating on the floor of the Senate an amendment by Senator DIXON to rename an interstate highway passing through Iowa which I believed would hurt my State. I was needed on the floor to oppose this amendment. I authorized Senator PACKWOOD, the ranking minority member of the committee to vote my proxy in favor of the two nominees being considered by the committee.•

DESTRUCTALL, INC.

• Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky businessman for his commitment to the business community and the environment. I would like to insert into the RECORD his story, told in the June 3, 1991 issue of the Lexington Herald-Leader.

Ralph Lyons knew that a firm's trash could provide its competitors a wealth of information. Discarded documents, printer ribbon cassettes and microfilm can reveal too much about a company's operations. So Lyons opened Destructall, Inc. to ensure that confidential documents stay out of the wrong hands.

This document destruction business is flourishing beyond his expectations. Lyons and his two employees can shred 1,500 to 2,000 pounds of paper an hour, but, he said, that is not enough to keep up with the demand.

Most of Destructall's shredded material is recycled at paper mills and Lyons is arranging with a Cincinnati company to recycle the plastic materials.

If a company gives Destructall its nonconfidential waste paper to be recycled, Destructall will destroy the confidential documents for free. Lyons, who was a recycling coordinator at IBM, will also give free advice to a customer on starting a recycling program.

I commend Ralph Lyons for the fine business example he has set for Kentucky and for his exemplary environmental concerns. Mr. President, I submit this statement for publication in the RECORD because I believe Ralph Lyons possesses the ingenuity and the perseverance which may serve as an inspiration to all of us.

The article follows:

[From the Lexington (KY) Herald-Leader, June 3, 1991]

FIRM'S FAST START IS A MATTER OF RECORD

(By Sonya Turner)

Destructall Inc. of Lexington is not a new remodeling business staffed by mallet-wielding professional wrestlers. Nor is it the latest therapy program for aging demolition derby drivers.

Destructall Inc. is Ralph Lyons' brainchild to destroy confidential documents for corporate clients.

Lyons knew that one firm's trash could be a gold mine for its competitors. Discarded documents, printer ribbon cassettes and microfilm can reveal too much about a company's operations. So Lyons opened Destructall on May 1 to ensure that precious documents stay out of the wrong hands.

"I think sometimes people can be very careless about the disposing of records and things," Lyons said. "People have told me that they have seen their competitors digging around in their trash."

Lyons and his assistant can destroy records at the clients' site with their mobile shredding unit, or they can collect the records and bring them back to their offices on Palumbo Drive.

But why the name Destructall? Lyons, who left IBM after 25 years to become a self-employed trash collector, said he wanted to stress that his company destroys all types of documents, not just paper.

"Some people are under the impression that we're in scrap metal," he said.

But Lyons has no plans to diversify into junk yards. The document destruction business is blossoming beyond his expectations, he said.

While other businesses around town do have shredding operations, Destructall is the only one that specializes in it. Lyons and his two employees can shred 1,500 to 2,000 pounds of paper an hour, but that is not enough to keep up with demand, he said. Getting more employees and equipment is in the works.

The amount of documents to be destroyed is almost infinite, he said. All companies that keep records need to worry about their disposal, Lyons said. Some of his clients are bankers, accountants, attorneys and veterinarians.

"We try to tailor our service to the customer's need," he said. "We take the truck out, load it ourselves and bring it back here. If they have records stashed on the second floor, we don't tell them they have to carry it, we do it ourselves."

Security and confidentiality are crucial in Lyons' line of work. Destructall's offices are wired with security alarms and large motion detectors. Microfilm, ribbon and videotape are diced to the point that not even a square inch of material is left intact.

Customers can watch the shredding process through a window in Destructall's facility. And most documents get destroyed the day they are collected, he said.

Most of Destructall's shredded material is recycled at paper mills. Lyons said he was arranging with a Cincinnati company to recycle the plastic materials.

In fact, if a company gives Destructall its non-confidential waste paper to be recycled, Destructall will destroy the confidential documents for free. Lyons said the money he gets from selling the paper to the mills is enough to cover the cost of shredding the other documents.

Lyons, who was recycling coordinator at IBM, also will give free advice to a customer on starting a recycling program.

"I think we need to protect the environment. We've abused it long enough. Industry needs to be more environmentally aware of producing products that can be recycled. I think there's going to be a revolution where industries are going to be held accountable for the products they produce."

Respect for the environment was a way of life when Lyons was growing up the sixth of 11 children on a farm near Carlisle in Nicholas County. The farm also was where Lyons learned his business philosophy.

"My father was a very successful farmer," he said. "He believed in hard work, and he also believed that if you're going to do anything, do it right the first time. I'm accused a lot of being a perfectionist because I expect people to live up to what ought to be done. I think it's very important that you have pride and strive to maintain the highest quality possible."

Lyons almost never left the farm. When he graduated from Nicholas County High School, he was sure he wanted to be a farmer. But his brother was applying for jobs in Lexington, so Lyons decided to tag along.

The first place they stopped was IBM. His brother applied at several other companies, but Lyons decided he really wasn't interested.

To his surprise, he was hired four weeks later to work on IBM's assembly line. He worked various line jobs, then went into nonproduction work. By taking advantage of IBM's training and management programs, Lyons worked his way up to the position of staff assistant to management. Among other things, he arranged for the destruction of confidential documents and established a recycling program for the IBM Lexington site.

After 25 years, Lyons decided to leave IBM when the products division was sold and became Lexmark International Inc. IBM offered its departing employees money, resume consultation, job search assistance and entrepreneur classes.

"I told some people when I left IBM, 'I'm not sure I can even fill out an application because I've only filled out one in my life,'" Lyons said.

The idea for Destructall hatched from his recycling experience at IBM. The company was spending extra money to send its confidential documents out of town to be destroyed. Lyons knew there was a better way and began plotting Destructall's debut in the Lexington business scene.

"I put four or five months of work into (planning) before I ordered the first piece of equipment," he said.

Lyons cannot say enough good about the training and support he received from IBM throughout his career.

"I honestly don't feel that I would have had the background to go into this business if it hadn't been for IBM," he said. "I wanted to get out into business for myself and just try it. I was lucky enough to have the opportunity."•

BALANCING ENERGY AND ENVIRONMENTAL CONCERNS ARCTIC NATIONAL WILDLIFE REFUGE

• Mr. JOHNSTON. Mr. President, one of the most positive developments in public policy over the last 30 years is the increasing concern about preserving the quality of our environment. As a nation, we have adopted increasingly stringent requirements of development activities to protect all aspects of the environment.

The first and second generation steps were relatively easy. Now we have arrived at the point where we are forced to recognize that energy and environmental issues are inextricably intertwined. Further, they are directly related to national security and foreign policy. An appropriate balance must be maintained among all these factors. The economic consequences of each initiative must be considered. There is growing recognition that environmental sensitivity and economic growth, fueled by energy, go hand in hand. We no longer have the luxury of trying to have one without the other.

The noted columnist, Charles Krauthammer, recently wrote about the need to make intelligent choices among varying environmental and developmental actions.

I commend his essay "Saving Nature, But Only for Man" to my colleagues.

The essay follows:

[From Time Magazine, June 17, 1991]

SAVING NATURE, BUT ONLY FOR MAN

(By Charles Krauthammer)

Environmental sensitivity is now as required an attitude in polite society as is, say, belief in democracy or aversion to polyester. But now that everyone from Ted Turner to George Bush, Dow to Exxon has professed love for Mother Earth, how are we to choose among the dozens of conflicting proposals, restrictions, projects, regulations and laws advanced in the name of the environment? Clearly not everything with an environmental claim is worth doing. How to choose?

There is a simple way. First, distinguish between environmental luxuries and environmental necessities. Luxuries are those things we must have regardless. Then apply a rule. Call it the fundamental axiom of sane environmentalism: Combatting ecological change that directly threatens the health and safety of people is an environmental necessity. All else is luxury.

For example, preserving the atmosphere—stopping ozone depletion and the greenhouse effect—is an environmental necessity. In April scientists reported that ozone damage is far worse than previously thought. Ozone depletion not only causes skin cancer and eye cataracts, it also destroys plankton, the beginning of the food chain atop which we humans sit.

The reality of the greenhouse effect is more speculative, though its possible consequences are far deadlier; melting ice caps, flooded coastlines, disrupted climate, parched plains and, ultimately, empty breadbaskets. The American Midwest feeds the world. Are we prepared to see Iowa acquire Albuquerque's climate? And Siberia acquire Iowa's?

Ozone depletion and the greenhouse effect are human disasters. They happen to occur in the environment. But they are urgent because they directly threaten man. A sane environmentalism, the only kind of environmentalism that will win universal public support, begins by unashamedly declaring that nature is here to serve man. A sane environmentalism is entirely anthropocentric: it enjoins man to preserve nature, but on the grounds of self-preservation.

A sane environmentalism does not sentimentalize the earth. It does not ask people to sacrifice in the name of other creatures. After all, it is hard enough to ask people to sacrifice in the name of other humans. (Think of the chronic public resistance to foreign aid and welfare.) Ask hardworking voters to sacrifice in the name of the snail darter, and, if they are feeling polite, they will give you a shrug.

Of course, this anthropocentrism runs against the grain of a contemporary environmentalism that indulges in earth worship to the point of idolatry. One scientific theory—Gaia theory—actually claims that Earth is a living organism. This kind of environmentalism likes to consider itself spiritual. It is nothing more than sentimental. It takes, for example, a highly selective view of the benignity of nature. My nature worship stops with the April twister that came through Andover, Kans., or the May cyclone that killed more than 125,000 Bengalis and left 10 million (!) homeless.

A nonsentimental environmentalism is one founded on Protagoras' maxim that "Man is the measure of all things." Such a principle helps us through the thicket of environmental argument. Take the current debate raging over oil drilling in a corner of the Alaska National Wildlife Refuge. Environmentalists, mobilizing against a bill working its way through Congress to permit such exploration, argue that we should be conserving energy instead of drilling for it. This is a false either/or proposition. The country does need a sizable energy tax to reduce consumption. But it needs more production too. Government estimates indicate a nearly fifty-fifty chance that under the ANWR lies one of the five largest oil fields ever discovered in America.

We have just come through a war fought in part over oil. Energy dependence costs Americans not just dollars but lives. It is a bizarre sentimentalism that would deny ourselves oil that is peacefully attainable because it risks disrupting the calving grounds of Arctic caribou.

I like the caribou as much as the next man. And I would be rather sorry if their mating patterns are disturbed. But you can't have everything. And if the choice is between the welfare of caribou and reducing an oil dependency that gets people killed in wars. I choose man over caribou every time.

Similarly the spotted owl. I am no enemy of the owl. If it could be preserved at no or little cost. I would agree: the variety of nature is good, a high aesthetic good. But it is no more than that. And sometimes aesthetic goods have to be sacrificed to the more fundamental ones. If the cost of preserving the spotted owl is the loss of livelihood for 30,000 logging families, I choose family over owl.

The important distinction is between those environmental goods that are fundamental and those that are merely aesthetic. Nature is our ward. It is not our master. It is to be respected and even cultivated. But it is man's world. And when man has to choose between his well-being and that of nature, nature will have to accommodate.

Man should accommodate only when his fate and that of nature are inextricably bound up. The most urgent accommodation must be made when the very integrity of man's habitat—e.g., atmospheric ozone—is threatened. When the threat to man is of a lesser order (say, the pollutants from coal- and oil-fired generators that cause death from disease but not fatal damage to the ecosystem), a more modulated accommodation that balances economic against health concerns is in order. But in either case the principle is the same: protect the environment—because it is man's environment.

The sentimental environmentalists will call this saving nature with a totally wrong frame of mind. Exactly. A sane—a humanistic—environmentalism does it not for nature's sake but for our own.•

DANGEROUS SUPREME COURT RULING

• Mr. SIMON. Mr. President, both the House and Senate are expected to act soon on legislation to overturn the recent Supreme Court ruling upholding the Government's ban on abortion counseling at federally funded family planning clinics.

I will do all I can to see that the Senate affirms the right and the responsibility of family planning clinics to provide quality and comprehensive counseling to their patients.

Central to this decision is the philosophy that if you have money, you can buy access to quality health care; if you are poor, your health care options are limited and may well be life-threatening. This is not a philosophy nor a government policy with which I want to be associated.

I have written my weekly column for newspapers in my State on this ruling. I ask to have it reprinted in the RECORD.

The article follows:

THE GAG RULE'S HARMFUL CONSEQUENCES

The appalling 5-4 decision by the U.S. Supreme Court to muzzle what doctors can tell patients in family planning clinics is not only a violation of free speech; ironically, it probably will result in more abortions unless Congress acts to reverse the decision.

Physicians in clinics are under instructions not to mention the abortion option when advising patients.

Some family planning clinics feel they must close, rather than try to live with a decision they believe is harsh and unworkable.

Let's take three examples:

A 16-year-old girl comes in and says she has been raped.

A 14-year-old reports that she believes that she is pregnant because of her father's sexual acts.

A 25-year-old woman with a serious diabetes problem is pregnant, and giving birth could mean extremely complicated health problems for the mother, including blindness, and life-threatening difficulties for the baby.

In all three cases, under the Supreme Court decision, the doctor is prohibited from mentioning the legal option of abortion.

In an eloquent defense of free speech three decades, ago, Justice William O. Douglas said that the "right of the doctor to advise his patients according to his best lights seems so obviously within First Amendment rights as to need no extended discussion."

There clearly has been a restriction free speech in this case.

But there is an ironic twist.

We lack a great deal of knowledge about what discourages abortions, but we do know some things that do. One of those is to provide information about birth control.

If, as a result of this court decision, clinics close and birth control information is not available to these women—often young women—who are poor and frequently poorly educated, then there will be more unwanted pregnancies and more abortions.

The nation would be much ahead if, instead of the current emotional debate, we could a little more calmly answer this question: Are there things that both sides could agree upon that would discourage unwanted pregnancies?

There are.

For example, there are about 1 million teenage pregnancies each year, about 400,000 of them ending in abortions. We know that teenage girls who drop out of school are much more likely to become pregnant, and that teenage boys who drop out are more likely to cause pregnancy.

We also know what can reduce the dropout rate:

Help young people as soon as they have trouble in school. Don't wait until they're sophomores in high school.

Help parents who cannot read and write, who cannot help their children.

Have intensified preschool programs in disadvantaged areas. Of the present preschool programs, those who need it the most are the least likely to receive help.

Make Head Start available to all who are eligible. Now about one-fifth of children eligible for Head Start receive it. We know it pays off, yet we are doing little to expand the program.

These suggestions are just in one area. Helping with programs like these may not be as emotionally satisfying as carrying placards or attending a rally, but will do a great deal more good.

Another example: How many churches and synagogues offer sex education programs? Raising the question is delicate, I know, but it can help to provide real answers.

We ought to be looking for real answers.•

CORRECTION OF SENATE REPORT 102-63, THE COMPREHENSIVE URANIUM ACT OF 1991 (S. 210)

• Mr. JOHNSTON. Mr. President, on May 23, 1991, I submitted on behalf of the Committee on Energy and Natural Resources Senate Report 102-63, to accompany S. 210, the Comprehensive Uranium Act of 1991. Unfortunately, the report contained an error.

On page 18 of the report, there is a list of the so-called active uranium mill sites that contain mill tailings generated under Federal contracts. One such mill, the Grants Mill in Grants, NM, was inadvertently omitted from the list printed in the committee report.•

PRISONERS OF CONSCIENCE IN MYANMAR

• Mr. KERRY. Mr. President, in the wake of the large-scale civil unrest that rocked Myanmar, formerly known as Burma, in 1988, the successive military dictatorships in that nation have ruthlessly suppressed all political opposition. The detention of prisoners of conscience is particularly disturbing, especially when they ardently have advocated nonviolent forms of protest.

When the streets of Burma erupted in largely peaceful demonstrations calling for the end of the one-party military rule in early 1988, they were met with violence. The brutal repression by Gen. U Ne Win's regime resulted in the death of thousands who had called for a neutral, caretaker government to assume control until free elections could be held. The will of the people ultimately proved stronger than the general, who was forced to resign in July 1988. Unfortunately, his successor, U Sein Lwin, proved himself to be just as ruthless, deliberately killing thousands more.

On September 18, 1988, a military-controlled government headed by the State Law and Order Restoration Council [SLORC] was established. The SLORC, too, suppressed peaceful street demonstrations with violence, and declared martial law—greatly restricting the population's freedom to assemble. However, the SLORC pledged to carry out economic and political reforms, and subsequently legalized the formation of political parties. As a result, during the following year over 200 political parties, headed by a varied group of leaders, were registered.

Among the emerging democratic leaders is Aung San Suu Kyi, the daughter of the late leader of Burma's independence movement. She has struggled peacefully against the oppression of a military government that has shown no qualms about violently suppressing demonstrators. Aung San Suu Kyi was arrested in July 1989 for her role in the democracy movement, and is still in government custody under house arrest.

Yet, despite the fact that she was under house arrest, her party, the NLD, won 80 percent of the votes in last year's elections. However, SLORC refuses to relinquish power to the democratically elected NLD, and Aung San Suu Kyi remains in custody. Aung San Suu Kyi has continually insisted that protest gatherings be nonviolent, describing her party's workings as "no more violent than is necessary in banging the keys of a typewriter."

The United States should support human rights and democracy in Myanmar and elsewhere. Certainly one of the pillars of the New World Order must be an international respect for these inalienable rights. We must mobilize the world community to protect the rights of all peoples to choose their own government, and we must speak out against injustice everywhere.•

COMMEMORATING BALTIC FREEDOM DAY

• Mr. DIXON. Mr. President, June 14, 1991, marks the 50th anniversary of the beginning of mass deportations of Baltic citizens from Estonia, Latvia, and Lithuania. On June 14, 1941, the Soviet Union began mass deportations of Estonian, Latvian, and Lithuanian, men, women, and children to Siberia. On this night alone 60,000 citizens were taken from their homes, torn away from their families, and transported in cattle cars to Siberian prison camps.

Fifty years has passed since the Soviet Union began its massive deportation of Baltic citizens; the atrocities continue. In 1990, the Baltic Republics once again declared their independence from the Soviet Union. Yet, we have all had to watch in horror as the brutal Soviet Army rolled its tanks into Latvia and Lithuania killing and injuring hundreds of unarmed civilians, and seizing buildings and property.

The United States has never recognized the forcible incorporation of Estonia, Latvia, and Lithuania into the Soviet Union. We must continue to do all we can to put an end to Soviet aggression toward the Baltic States.

I stand today in solidarity with the brave people of the Baltic States in their quest for freedom, on this, the 50th anniversary of the Soviet Union's unprovoked deportation of thousands of Baltic citizens. We must never forget the suffering of those Baltic citizens in 1941, and we, as American citizens, must continue to do all we can to ensure that the door never closes on the Baltic States' dream of freedom and independence from the Soviet Union.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of Rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Wallace Henderson, a member of the staff of Senator JOHN BREAUX, to participate in a program in China, sponsored by the Chinese Government from August 19-31, 1991.

The committee has determined that participation by Mr. Henderson in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for G. Robert Wallace, a member of the staff of Senator MALCOLM WALLOP, to participate in a program in China, sponsored by the Chinese Government from August 19–31, 1991.

The committee has determined that participation by Mr. Wallace in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Mary Wakefield, a member of the staff of Senator QUENTIN N. BURDICK, to participate in a program in China, sponsored by the Chinese Government from August 19 to 31, 1991.

The committee has determined that participation by Ms. Wakefield in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Ashley O. Thrift, a member of the staff of Senator ERNEST F. HOLLINGS, to participate in a program in China, sponsored by the Chinese Government from August 19 to 31, 1991.

The committee has determined that participation by Mr. Thrift in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Robert Dove, a member of the staff of Senator BOB DOLE, to participate in a program in China, sponsored by the Chinese Government from August 19 to 31, 1991.

The committee has determined that participation by Mr. Dove in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for James Wholey, a member of the staff of Senator BOB DOLE, to participate in a program in China, sponsored by the Chinese Government from August 19 to 31, 1990.

The committee has determined that participation by Mr. Wholey in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Mike Tongour, a member of the staff of Senator ALAN K. SIMPSON, to participate in a program in China, sponsored by the Chinese Government from August 19 to 31, 1990.

The committee has determined that participation by Mr. Tongour in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.

The select committee has received a request for a determination under rule 35 for Anne Caldwell, a member of the staff of Senator RICHARD SHELBY, to participate in a program in China, sponsored by the Chinese Government from August 19 to 31, 1990.

The committee has determined that participation by Ms. Caldwell in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States. This trip was previously approved by the committee but the committee delayed formal notification of its approval pending resolution of additional matters.●

POLISH FREE MARKET ECONOMY

● Mr. MURKOWSKI. Mr. President, next week is a critical time for Poland and for all of us who support that country's efforts to reach its goal of establishing a free market economy and join the Western family of nations. Polish Government officials will begin negotiations with representatives of foreign banks, including some American institutions, to reschedule its foreign debt.

The Marxist regime formerly in power borrowed extensively on the international market, and this burden on the government of President Lech Walesa could cripple Poland's efforts to transition to a free market economy.

Western governments have taken the lead in assisting Poland to overcome its debt, which amounts to approximately $48 billion. Last March Western nations agreed to a rescheduling package which provides relief totaling $17 billion, or 50 percent of the outstanding debt to foreign governments. President Bush subsequently forgave 70 percent of Poland's debt to the United States.

The agreement reached with Western governments stipulates that Poland may not offer better terms to its other creditors. Hence, it is critical that private institutions also offer favorable terms to Poland.

Mr. President, the developments in Poland have stirred the world, as repression has been replaced with freedom, and a Communist regime has given way to a capitalist economic system. Yet Poland is by no means out of the woods. Hence, I call on Western financial institutions to be flexible in negotiations and supportive of Poland's attempts to deal realistically with its debt problems.●

TRIBUTE TO DR. EDUARDO J. PADRON

● Mr. GRAHAM. Mr. President, I rise today to salute and applaud the many contributions of Dr. Eduardo J. Padron to the south Florida community and to the American educational system. I also recognize the Spanish American League Against Discrimination [SALAD] for honoring Dr. Padron at tonight's Leadership Award Dinner.

Dr. Padron is truly a worthy recipient of this prestigious honor. Dr. Padron is the vice president and chief executive officer of the Mitchell Wolfson New World Center Campus of Miami-Dade Community College, where he has developed and implemented the most successful and innovative urban center of education in the Nation. He is thoroughly committed to improving the education of underprepared and disadvantaged students, as can be seen by his service to the National Commission on Improving Minority Education where he serves as a board member. Eduardo has always gone the proverbial extra mile in his quest to improve the quality of America's educational system.

Eduardo's commitment to his community does not simply end at work. He is dedicated to promoting harmony between the diverse ethnic groups in the south Florida community. He has worked tirelessly over the past 20 years with approximately 50 local community organizations. He serves currently as a cochair of the board of directors of Greater Miami United, is involved with the Community Relations Board and has recently been appointed to the board of directors of the United Way of Dade county.

Dr. Padron has also worked to bridge the gap between the private and public sectors. He has recognized the need for a cooperative effort between both groups as vital to the continued progress of the south Florida community.

I have always treasured his friendship and valued his input on matters of education, and other interests of importance to the south Florida community. Mr. President, I am pleased to honor Dr. Eduardo J. Padron today and wish him continued health and success.●

TRIBUTE TO THE NASA STS-40 SPACE SHUTTLE MISSION

• Mr. DOMENICI. Mr. President, today I have the opportunity to shine a light of recognition on the achievements of two natives of the great State of New Mexico. Astronaut Sidney M. Gutierrez and Dr. Andrew Gaffney are busy today pioneering the frontiers of space and science aboard the shuttle *Columbia* as it circles the Earth on a 9 day mission designed to study the life sciences and the effects of space travel on the human body.

Lt. Col. Sidney Gutierrez' hometown is Albuquerque where he graduated from Valley High School in 1969. He studied aeronautical engineering at the U.S. Air Force Academy and returned to New Mexico in 1978. After an assignment with the 7th Tactical Fighter Squadron at Holloman Air Force Base in Alamagordo, Colonel Gutierrez went on to become an astronaut in 1985. He has since prepared and practiced for his current mission as the pilot of the *Columbia*.

Dr. Andrew Gaffney is a long way from his hometown of Carlsbad, NM, while he conducts life science experiments aboard the *Columbia* as a payload specialist. Dr. Gaffney graduated from Carlsbad High School in 1964 and earned a medical degree from the University of New Mexico in 1972. Fifteen years of experience in cardiac research and operation of electrocardiographs qualify him to study human cardiovascular adaptation to space flight.

What is the future of human space exploration? How hospitable of an environment does space provide for the human body? What are the hurdles that we face as we consider the possibilities of extended stays in space, and how can we overcome them? These are questions that are being answered by this shuttle mission as it studies the adaptability of the human body to life in space. Their critical contributions are another feather in the cap of America's space and science communities and a tribute to the hard work of dedicated people throughout our space program. Their achievements serve as inspiration to the American community of scientists and technicians. They are fine role models for the future scientists of America, who are still in high schools and grade schools around the Nation dreaming of the contribution that they too will someday make to the fields of science and space exploration.

To Lieutenant Colonel Gutierrez and Dr. Gaffney, I say thank you. The wealth of information that you bring with you is invaluable. America and your home State of New Mexico are proud of you and we are waiting, along with your families, for your safe return with the rest of the *Columbia* crew. I offer my congratulations in advance and my appreciation for a job and service very well done.•

S. 909—THE SEMICONDUCTOR INTERNATIONAL PROTECTION EXTENSION ACT OF 1991

• Mr. LEAHY. Mr. President, semiconductor chips are the basic building blocks for high-technology products. They are critical to the economic prosperity and national security of the United States. As we approach the 21st century, nearly every American industry depends, directly or indirectly, on the semiconductor industry.

The semiconductor industry is a catalyst for economic growth and a source of high-quality jobs. In my own State of Vermont, more than 7,500 people are directly employed by the semiconductor industry, and more than 600 companies supply goods and services to the semiconductor industry. Chips manufactured in Vermont are used in computers and other electronic products that are sold throughout the world.

The semiconductor industry is the product of American ingenuity. The transistor and the integrated circuit are American inventions. As our scientists and engineers develop innovative new technologies, they simultaneously challenge the Congress to support them with laws that ensure that the fruits of their labors are not appropriated by others.

Senators BROWN, DECONCINI, HATCH, SIMON, GRASSLEY, SPECTER, HEFLIN, and KOHL accepted this challenge by joining me in cosponsoring S. 909, the Semiconductor International Protection Extension Act of 1991. As unanimously reported by the Judiciary Committee, this legislation would ensure that the Semiconductor Chip Protection Act [SCPA] continues to be an important tool in promoting international comity in the protection of intellectual property. I am pleased that S. 909 was unanimously passed by the Senate, and I look forward to prompt consideration of this legislation by the House of Representatives.

Last year, the Subcommittee on Technology and the Law held a hearing on the semiconductor industry. Research and innovation are essential to the life and health of the American chip industry. According to the late Dr. Robert N. Noyce, coinventor of the integrated circuit and president and chief executive officer of Sematech, "U.S. semiconductor manufacturers spend a higher percentage of their sales on R&D than any other industry * * *."

When piracy threatened research and innovation in the design of semiconductor chips, we passed the Semiconductor Chip Protection Act of 1984. (See Pub. Law No. 98-620, title III.) That 1984 law protects the chip designs that American engineers and enterprises develop. It created the first intellectual property right outside the traditional categories of patents, trademarks, and copyright principles in 100 years.

We wanted assurances that U.S. manufacturers would receive reciprocal protection abroad. Congress decided to empower the Secretary of Commerce to extend interim protection to chip designs of nationals of foreign countries that are "making good faith efforts and reasonable progress * * *" toward reciprocal protection of chip designs owned by U.S. nationals (17 U.S.C. 914).

The original authority of the Secretary of Commerce to issue interim protection orders expired in 1987. Three years after enactment of the SCPA, the Senate passed by a vote of 96-0, a bill to extend the Secretary's authority to issue interim orders until July 1, 1991. See Public Law No. 100-159.

This carrot and stick approach—we protect your country's work so long as you make speedy progress toward laws protecting ours—has been effective. The Commerce Department reports that interim protection has been extended to 19 nations, 17 of which have already enacted legislation substantially similar to the SCPA.

The provision establishing the Secretary's interim order authority under section 914 of the SCPA has been the mechanism for protecting the vast majority of foreign semiconductor chip designs. Many successes of the SCPA may be vitiated if Congress allows the Secretary's authority to issue interim orders to expire in July. By holding foreign nations to the July 1991 deadline, Congress might undermine efforts underway in those countries that have not yet chosen to seek interim protection, including South Korea, Hong Kong, Taiwan, Poland, and Czechoslovakia.

The bill we passed yesterday would grant deserving nations additional time to finalize and implement the mechanisms through which they protect semiconductor chip designs. This extension would enable the Secretary of Commerce to issue interim protection under section 914 through July 1, 1995.

In addition to extending the period within which the Secretary may grant interim protection orders under section 914 of title 17, S. 909 includes a technical clarification of the Secretary's authority to issue such interim protection. Specifically, section 914(a)(1)(B) of title 17, United States Code, is amended by inserting "or implementing" after "enacting." The provision clarifies that a foreign nation remains eligible to receive interim protection under section 914 while it works toward implementing legislation substantially similar to the SCPA. Mr. Leslie J. Hart supported the technical clarification when he testified on behalf of the Semiconductor Industry Association at the May 1, 1991, hearing held by the House Subcommittee on Intellectual Property and Judicial Administration. According to Mr. Hart, "It is important that a foreign country expeditiously implement a chip protection law after enactment. Mere passage of a statute without meaningful and effective implementation is inconsistent with the rational for interim order of protection under the SCPA."

Congressman BILL HUGHES, chairman of the Judiciary Subcommittee on Intellectual Property and Judicial Administration, introduced the companion bill, H.R. 1998. Congressman HUGHES was joined by Congressman MOORHEAD, ranking minority member of the subcommittee. The House bill is also cosponsored by Congressman EDWARDS (from California), MINETA, FRANK, and KOPETSKI. The House bill was favorably reported by the Subcommittee on Intellectual Property and Judicial Administration on May 1, 1991.

I am pleased that the ranking minority member of the Technology Subcommittee, Senator BROWN, the chairman and ranking minority member of the Patents Subcommittee, Senators DECONCINI and HATCH, as well as our Judiciary Committee colleagues, Senators SIMON, GRASSLEY, SPECTER, HEFLIN, and KOHL joined me in cosponsoring S. 909.

Mr. President, this bill was unanimously passed by the Senate. It has the support of the administration, the semiconductor industry, and the intellectual property community. I look forward to working with the administration to ensure that the Semiconductor Chip Protection Act continues to be an important tool in promoting international comity in the protection of intellectual property.

In closing, I would like to thank the following staff members for their fine work on this legislation: John Bliss on Senator BROWN's staff; and Michael Remington of Congressman HUGHES' staff. Finally, I would like to thank my own staff on this legislation: Craig Schiffries, and my chief counsel, Ann Harkins.•

• Mr. BROWN. Mr. President, as ranking member of the Subcommittee on Technology and the Law of the Senate Judiciary Committee, and as an original cosponsor of this legislation, I am pleased that S. 909 has passed the Senate by unanimous consent.

This is a fine bill. The administration is unopposed to it. The American semiconductor industry is firmly behind it, as are intellectual property experts. Indeed, we understand it has met with no opposition. A companion bill, H.R. 1998, has been favoraby reported out of the House Subcommittee on Intellectual Property and Judicial Administration, and awaits scheduling for a full committee markup.

S. 909 extends for 4 years the authority of the Secretary of Commerce under the Semiconductor Chip Protection Act of 1984 to issue interim protection, under certain conditions, to U.S. nationals of foreign countries for semiconductor chip designs first commercially exploited outside the United States.

It also would require the Secretary of Commerce, in consultation with the Register of Copyrights, to update previous reports submitted to Congress concerning actions taken under this section and to inform Congress about the current status of international recognition of semiconductor chip design protection.

Mr. President, it is important that the Senate has acted so quickly because the Secretary's authority to issue interm protection expires on July 1, 1991. In 1987, Congress had previously extended for a 3-year term the Secretary's interim protection authority. Senator LEAHY'S 1987 interim protection extension bill, S. 442, is nearly identical to the current measure, and passed the Senate by a vote of 96-0 and by voice vote in the House.

Extension of the Semiconductor Chip Protection Act of 1984 is as laudable an objective now as it was in 1987. Congress adopted the 3-year transitional period to encourage foreign nations either to enact laws that protect semiconductor chip designs owned by U.S. nationals or to enter into an international treaty that similarly protects U.S. chips.

Since enactment of the Semiconductor Chip Protection Act of 1984, foreign countries have made significant progress in enacting acceptable chip protection laws. Nineteen countries have earned interim protection for their chip designs through section 914. More importantly, most of these countries have enacted legislation substantially similar to the Semiconducter Chip Protection Act of 1984.

The United States has met with less success in its efforts to establish a fully satisfactory international agreement for chip protection. The World Intellectual Property Organization, known as WIPO, completed its Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits on May 26, 1989. However, the United States voted against the treaty because it provided a less than adequate and effective level of chip protection.

Negotiations during the Uruguay round of the General Agreement of Tariffs and Trade have also failed thus far to achieve a consensus on standards on chip protection. In addition, the recent suspension of the Uruguay round raises legitimate concerns as to whether a chip protection agreement will be reached in that forum in the near future.

Thus, given this mixed measure of success, extension of the Commerce Secretary's interim protection authority plays an even more important role in the administration of the Semiconductor Chip Protection Act of 1984 and the development of adequate and effective international standards for chip protection.

Enactment of this legislation would serve to continue to promote the rapid growth of sound and balanced foreign laws on chip protection that will not create trade problems. Moreover, this bill would provide an important incentive for the development of a multinational system for the protection of semiconductor chips that is based on widely accepted national standards. Finally, the reporting requirement contained in this bill would afford Congress the reasonable oversight necessary to ensure continued progress toward bilateral and multilateral protection for semiconductor chip designs.•

AMERICANS WHO ARE MAKING A DIFFERENCE

• Mr. COATS. Mr. President, it is always inspiring to hear of Americans who are making a difference in the lives of needy people around them. This is especially true, however, when these exceptional individuals have overcome great social, financial, or physical obstacles in their own lives before dedicating themselves to the service of others.

The Achievement Against the Odds Award is a program of the National Center for Neighborhood Enterprise, sponsored by the Sears-Roebuck Foundation and the Allstate Foundation. The purpose of the award is to recognize the achievements of low-income Americans who have used self-help approaches to gain empowerment.

Bob Woodson, president of the National Center, is this Nation's foremost advocate of empowerment. Under his leadership, the National Center has long highlighted positive models of success among low-income and minority families. He has repeatedly pointed to the importance of empowering people instead of breeding dependence upon Government programs. It has been largely through his leadership that programs like tenant management and home ownership are on the national agenda.

This year's deserving recipients represent a variety of backgrounds and services, but they share one attribute—they have all faced adversity and triumphed. The 1991 Achievement Against the Odds awardees are Consuelo Santos Chavez, San Antonio, TX; Ethel Branch-Cooper, Philadelphia, PA; Rev. Robert Turner Penton, Sr., Fircrest, WA; Rev. Marcus C. Riggins, Patterson, NJ; Jonathan Richard Wade, Clearwater, FL; Sara Maxime Waller, Ivanhoe, VA; and Darryl R. Webster, Washington, DC.

The following speech was delivered by Wayne E. Hedien, chairman and chief executive officer of Allstate Insurance Co., on April 25, 1991, in Washington, DC, at the Second Annual Achievement Against the Odds ceremony. His remarks reflect the pride and commitment of these extraordinary honorees.

The speech follows:

I'm very happy to be here on behalf of Sears and Allstate. You know, our support of this program reflects a tradition of community involvement that goes back a long time.

More than 50 years ago, Sears Chairman Robert E. Wood said, "Business must account for its stewardship, not only on the balance sheet, but also in matters of social responsibility."

Today, that principle is expressed in dozens of ways. For almost 75 years the Sears-Roebuck Foundation has been responsive to the changing needs of our Nation's communities. The Foundation has sponsored everything from "Mr. Roger's Neighborhood"—the longest running children's show on PBS—to "Generations Together"—a program to prepare senior citizens to work in the day-care industry.

Sears has a special interest in programs addressing work force readiness because, obviously, the continued prosperity for our Nation will always be impacted by the quality of our work force.

Allstate and the Allstate Foundation are similarly active. Our efforts are focused on establishing Allstate as a leading advocate of safety, good health, and property protection. We've been committed to safer cars and safer highways since the 1950's. Allstate has long been a leader in promoting seat belt laws, better bumpers, air bags, and campaigning against drunk driving.

We've also looked for ways to expand our commitment to promoting healthy lifestyles. Allstate's support of the U.S. Olympic Committee, the Healthy American Fitness Leaders Program, and sponsorship of the National Employee Health and Fitness Day have helped create the awareness that a healthy lifestyle is good for our country as well as our citizens.

And turning to property protection, I think it's fair to say that housing and neighborhood economic development have been at the top of Allstate's community agenda for many years. In terms of ongoing programs, one of Allstate's longest standing relationships is with neighborhood housing services—working in communities around the country to revitalize neighborhoods.

Our involvement in the housing issue has grown steadily. In fact, we've invested millions of dollars and thousands of hours of our people's time working in neighborhood revitalization programs.

And in those neighborhoods there are ordinary people doing extraordinary work. Achievement against the odds is a special program because it focuses on the people in those neighborhoods.

Will Rogers once said, "We can't all be heroes—somebody has to sit on the curb, and clap as they go by."

But tonight we turn the tables. Some of the most important people in America * * * the kind who are used to *leading* the parades * * * have lined up to applaud the extraordinary accomplishments of so-called ordinary people.

To me, that says a lot about these leaders * * * about the heroes they're honoring * * * and about the country itself.

Tonight, after all, is about the triumph of dedication over despair. About the ability of commitment to overcome conventional wisdom.

For instance, we all know that high school dropouts rarely return. Well, one of tonight's winners not only went back to get his diploma, he went on to get a masters degree.

We also know that violent criminals rarely are rehabilitated, and usually end up back behind bars. But another of our honorees * * * convicted of murder in an argument over drugs * * * studied for the ministry, and was ordained while in prison. After his parole, he did end up back in jail—but this time as chaplain.

Each of our award winners has a similar story to tell. And all of them, it seems to me, are part of a distinguished tradition in America—of heroes who've had to overcome setbacks on their way to success as individuals—and as Americans.

Maybe my favorite example is the politician most people described as ugly and inarticulate. He failed in his first bid for elective office at age 23.

During his 30's, he lost three different times for Congress. In his 40's, he lost a bid for the Senate, for the Vice Presidency, and for the Senate again.

And 2 years after that last defeat, at the age of 51, he was elected President of the United States.

His name was Abraham Lincoln.

But his story didn't end there. Having overcome adversity, Lincoln * * * like tonight's honorees * * * used his achievements and influence to improve the lives of others.

That, too, is an important part of the American ideal. In this country, we believe each of us not only has the opportunity * * * we have the obligation * * * to contribute to the common good.

In other words, Will Rogers was wrong. In America, all of us can be heroes.

In the words of Martin Luther King, another American hero who overcame the odds, "Everybody can be great, because anybody can serve * * * you only need a heart full of grace, a soul generated by love."

Our award winners certainly fit that description. When you hear their stories, and speak with them in person, you quickly realize they're proud of what they've done. But none of them has been motivated by personal recognition.

What they want, instead, is to share their success.

What they want, more than anything, is for their stories to become the rule * * * rather than the exception.

That's a tall order. The odds against achieving that goal are pretty formidable, too.

But if we all follow the lead, and the example, of tonight's achievers * * * it's an American dream that could still come true for a lot of other people.

So, on behalf of Sears and Allstate, let me congratulate the magnificent seven who are being honored tonight.

HONOREES

CONSUELO SANTOS CHAVEZ, SAN ANTONIO, TX

Ms. Chavez dropped out of school in the sixth grade, and at age 28 was divorced with two kids, living on welfare and food stamps. For 22 years she has been a foster parent for the Texas Department of Human Resources and was awarded "Parent of the Year" by the Bexar County Child Protective Services Board.

ETHEL BRANCH-COOPER, PHILADELPHIA, PA

Ms. Cooper has sacrificed her own personal life for her community. Her efforts include fighting the drug war on the streets and instituting a neighborhood crime watch program. Currently she is president of the United Morton Homes Tenant Council.

REV. ROBERT TURNER PENTON, SR., FIRCREST, WA

Despite being a high school dropout from a dysfunctional family, Rev. Penton turned his life around. He joined the Job Corps to complete his high school education. Recently he received his Master of Divinity and is considering a Doctorate in Divinity. He has also devoted his life to help others less fortunate.

REV. MARCUS C. RIGGINS, PATERSON, NJ

After spending 16 years in and out of prison, Rev. Riggins was sent to jail one last time—on murder charges following an argument over drugs. In prison, he turned to religion and was ordained as a minister. Today he is chaplain of the Passaic County Jail, which houses 1700 men and women.

JONATHAN RICHARD WADE, CLEARWATER, FL

A good part of Mr. Wade's life was spent using and selling drugs. But today, he is a positive role model for others. Having conquered his addiction, he is now a chemical dependency counselor for the Largo correctional center in Florida. He also plans to attend the University of South Florida.

SARA MAXINE WALLER, IVANHOE, VA

This woman, with only a ninth grade education, was elected president of the Ivanhoe Civic League to help turn around the depressed former mine community. Ms. Waller has since received her High School Equivalency Diploma and is now pursuing a degree in sociology.

DARRYL R. WEBSTER, WASHINGTON, DC

Once an at-risk student who disliked school, today Mr. Webster is a graduate student at Catholic University of America in Washington, DC. He is devoted to helping the community and has instituted programs to teach youth to say no to drugs and to develop entrepreneurial skills. His home is open to abused and neglected children who have no place to go.●

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the past several days, and more immediately for the past several hours, there have been a series of meetings involving the leadership on the Republican side and on the Democratic side, the managers of the bill, and several others with a particular interest in various aspects of this legislation, in an effort to reach agreement, both on the substance of the formula for allocation and the process by which we may finally dispose of the pending bill.

It had been my hope that we could complete action on the bill this evening, but that now, for reasons I will momentarily describe, will not be possible.

During the most recent meeting, I presented to our colleagues a proposed unanimous-consent agreement under which the Senate would take up a modification of the pending Byrd amendment tomorrow and dispose of that tomorrow, and then identify all remaining amendments to the bill and take them up and dispose of them on Monday, to be followed Monday evening by final passage of the bill.

In that way, it was my hope that the Senate could complete action on this bill by Monday evening so that we could then proceed to the crime legislation.

The distinguished Republican leader is here, and I will momentarily yield to him for any comment he wishes to make, but he indicated, after consulting with his colleagues, that they are not prepared to agree to the procedure which I have just described at this time, wishing the opportunity to consult with the remainder of their colleagues at a meeting of Republican Senators tomorrow morning.

Therefore, since it is not possible either to proceed to completion of the bill this evening or to get an agreement on proceeding to the bill at some definite date following this evening, I believe that the best alternative is to conclude consideration of this matter at this time to permit our colleagues on the Republican side to have their meeting tomorrow morning and then for the Senate to come in at a time when that meeting will be completed, at which time they will be in a position to respond to the suggestion for disposition of this matter.

Mr. President, I yield now to the distinguished Republican leader and invite him, if I have misstated anything, to correct it and, if not, to make any comments he may wish to make.

The PRESIDING OFFICER [Mr. BRYAN]. The Republican leader is recognized.

Mr. DOLE. Mr. President, I think the majority leader has correctly stated the facts. The facts are that everybody would like to complete this bill. I think the RECORD should reflect that this has been an effort by the two managers, Senator MOYNIHAN and Senator SYMMS, to do so. I know they would like to complete action on the bill.

The point I made in the meeting with a number of Senators earlier, I think it was about 12:30, was that it would be heard to notify everyone on this side, and I assume the same would be true on the other side at this hour, and have them fully understand the amendment that the distinguished chairman of the Appropriations Committee, Senator BYRD, will offer.

It occurred to me, to make certain everybody understood precisely what they were going to be voting on and had an opportunity to look at the numbers, question the numbers, question the methodology, whatever, that we should have a Republican conference. We will have at 10 o'clock in the morning. This Senator cannot be present. I have a longstanding commitment in my State. Senator SIMPSON, the assistant Republican leader, will be there as well as the Senator from Mississippi, Senator COCHRAN, the conference chairman, at which time they will discuss the proposed amendment, which will soon be modified, I understand.

So we will have the latest opportunity then to take a look at the amendment, to be pending and modified by Senator BYRD.

It is very important, and I urge my colleagues who still may be around in their offices or members of their staffs that they should be in S-230 at 10 a.m. We will have someone in to explain the amendment. We will have the Federal highway people in so they can ask any questions, if they have questions about their State and how the State might fair in the amendment. That information will be available.

Following that conference, which I hope will not take more than 1 hour, if there can be some agreement about the vote on the Byrd amendment, we will have no objection. We will try to work that out with the distinguished majority leader. The Senator from Wyoming has already indicated his willingness to try to work it out so that we can complete action on the bill, hopefully on Monday; if not, by Tuesday noon. I think that is the majority leader's wish.

So the RECORD should reflect that it is not an effort to delay. I think there are some questions by some Members on each side. It seems to me that, since about 30-some Members on our side have not had a chance to review the information, it is best we have a conference. I want to thank the majority leader for consenting to that procedure.

Mr. MITCHELL. Accordingly, Mr. President, there will be no further rollcall votes this evening. Since the meeting of Republican Senators will occur at 10 and is expected to last about an hour, when we recess tonight, I will seek consent that the Senate return to session at 11:00 a.m. on tomorrow morning, about which time we hope to have a response from our colleagues and then be in a position to make a decision on how best to proceed.

Mr. President, I thank all my colleagues for their patience. It has been a very difficult experience, and I regret that we have gone so long into the evening without having votes and announcing that there are no more votes. I am sure my colleagues understand the circumstances in which this has occurred.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The senior Senator from West Virginia is recognized.

AMENDMENT NO. 296, AS MODIFIED

Mr. BYRD. Mr. President, I modify my amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. BYRD. Mr. President, the modification that I have sent to the desk entails the substance of the discussions that we have been having. For those Senators who have been available in those meetings, they will understand what is included here. The fact I have modified it at this point does not prevent any further modification on my part as long as I have the right to modify it.

I do ask unanimous consent that the second-degree amendment, as modified, which really is a substitute for the second-degree amendment, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 296), as modified, is as follows:

In the amendment, strike out "OF EFFORT APPORTIONMENT BONUSES" and all that follows through "available until expended." and insert in lieu thereof the following:

OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years beginning with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall, subject to the availability of appropriations, provide each State in which the rate of tax on gasoline, as of August 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title for each of fiscal years 1993, 1994, 1995, and 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall, subject to the availability of appropriations, provide each State with a bonus apportionment equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of August 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment provided any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposable income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate allocations under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the allocations to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 of the following new item:

"Sec. 159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to be available for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following years:

(A) For fiscal year 1993, $390,500,000.

(B) For fiscal year 1994, $943,000,000.

(C) For fiscal year 1995, $1,138,500,000.

(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(c) ALLOCATION OF ADDITIONAL AMOUNTS UNDER THE MINIMUM ALLOCATION FORMULA.—(1) In addition to the amount which would be allocated among the States in such fiscal year under section 157(a)(3) of title 23, United States Code, but for the enactment of this subsection, the Secretary of Transportation shall, in accordance with paragraph (2) and subject to the availability of appropriations, allocate among the States an additional amount for each of the following fiscal years out of the Highway Trust Fund (other than the Mass Transit Account):

(A) For fiscal year 1993, $390,500,000.

(B) For fiscal year 1994, $943,000,000.

(C) For fiscal year 1995, $1,138,500,000.

(D) For fiscal year 1996, $1,638,500,000.

(2)(A) The additional amount provided under this subsection for a fiscal year shall be allocated only after bonus apportionments under section 159 of title 23, United States Code, to the extent of their availability, have first been made to the States.

(B) The additional amounts which are provided under this subsection for a fiscal year shall be allocated in the same manner as funds which would be allocated among the States in that fiscal year under section 157(a)(3) of title 23, United States Code, but for the enactment of this subsection, except that, for purposes of calculating the minimum percentage for a State under this subparagraph, the total apportionments of that State shall be considered to include the amount of bonus apportionment, if any, provided to that State under section 159 of that title for that fiscal year.

(B)(i) Section 157(a)(3) of title 23, United States Code, is amended by inserting "(other than bonus apportionments under section 159)" after "apportionments in each such fiscal year".

(ii) The amendment made by clause (i) shall take effect on October 1, 1992.

(C) The additional allocation under this subsection shall be subject to the provisions of section 157 of title 23, United States Code, which are applicable to minimum allocations under that section, except that the second sentence of section 157(b) of such title (relating to exemption from obligation limitations) shall not apply.

(D) Additional amounts allocated under this subsection shall be available for a fiscal year to the extent and in the amount provided in an appropriation Act.

(d) RESTRICTION ON AVAILABILITY OF BONUS APPORTIONMENTS AND ADDITIONAL ALLOCATIONS.—(1) For each of fiscal years 1992, 1993, 1994, 1995 and 1996, the Secretary shall distribute the limitation imposed by section 104(a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated (no limitation for the bonus apportionments under section 159 of title 23, United States Code, and for additional allocations under section 140(c) of this Act until 100 per centum has been distributed for the current fiscal year's apportionments and allocation) for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year.

(2) If the provision of apportionments under section 159 of title 23, United States Code, or additional allocations under subsection (c), or both, in any fiscal year would cause the total obligational authority for Federal-aid highway programs for that fiscal year to exceed the limitation applicable to such authority for such fiscal year, then there shall be a pro rata reduction for that fiscal year of the aggregate of apportionments under section 159 of that title and allocations under subsection (c) to the extent of such excess.

(3) Whenever the amount of funds made available for a fiscal year by appropriation is insufficient to cover the aggregate of apportionments undersection 159 of title 23, United States Code, and the additional amounts allocated under subsection (c), then—

(A) 50 percent of the amount of such insufficient appropriations shall be deducted from appropriations that would otherwise be received under section 159 for that fiscal year, and

(B) 50 percent of the amount of such insufficient appropriations shall be deducted from the appropriations that would otherwise be received under subsection (c) for that fiscal year.

(e) INAPPLICABILITY OF OBLIGATION LIMITATION TO EMERGENCY RELIEF.—Limitations in section 104 of this Act shall not apply to obligations for Emergency relief pursuant to section 125 of title 23, United States Code.

(f) DEFINITION.—For purposes of this section, the term "State" has the meaning given to such term in section 101 of title 23, United States Code.

Mr. DOLE. Mr. President, I would like to print in the RECORD at this point two documents. One is State highway funding sources because I made the point that, in addition to the gas tax, we ought to consider other revenues that go into building highways in my State, Nevada, and other States because I think we may be shortchanged if we consider only the gas tax.

I will print in the RECORD a list of the States, how much Federal aid, how much vehicle registration, sales tax, truck tax, bonds, general funds, interest, miscellaneous.

I ask unanimous consent that it be printed in the RECORD. As well, as the other point I have made that a number of States take gas tax money and use it for other purposes. They are still given credit if they pay a high gas tax, and they get a better return than some States who do not distribute their gas tax for other purposes. Some put it in the general fund, some use it for agriculture, parks, alcohol, and drug abuse. I ask unanimous consent that that information be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE HIGHWAY FUNDING SOURCES

[In percent]

State	Federal aid	Motor-fuel taxes	Vehicle registrations	Sales tax on Veh.-Pts.	Miscellaneous truck fees	Bonds	General fund	Interest	Miscellaneous
Alabama	51.4	33.5	9.3		1.0	1.8		1.0	2.0
Alaska	60.0						40.0		
Arizona	17.9	16.6	4.1		4.8	35.4			21.2
Arkansas	31.1	44.2	14.0		7.3				3.4
California[1]	44.0	27.0			15.0				14.0
Colorado	54.8	30.5	3.2		3.2		5.3		3.0
Connecticut[2]	23.2	25.4	8.9			30.7		2.2	9.6
Delaware[1]	27.6	29.8	9.6						33.0
District of Columbia[1]	33.6	16.6	8.0			30.8	10.0		1.0
Florida	28.3	35.8	21.9		.8			0.5	12.7
Georgia	46.0	36.0							18.0
Hawaii	44.2	20.0	3.5		5.5	17.6			9.2
Idaho[1]	51.8	29.0	8.0		1.2				10.0
Illinois	27.6	29.2	30.2			5.1	2.1		5.8
Indiana	48.0	26.8	7.2			18.0			
Iowa	40.0	28.2	19.3	9.7	0.2			0.8	1.8
Kansas	24.4	24.8	19.8	14.7					16.3
Kentucky	17.8	29.3	4.9	19.2	1.3	17.3			10.2
Louisiana[1]	54.0					28.0	18.0		
Maine	24.8	46.6	19.3		0.8				8.5
Maryland	38.8	16.3	5.3	12.6	0.2	11.3		0.9	14.6
Massachusetts	55.0	45.0	(3)						

STATE HIGHWAY FUNDING SOURCES—Continued

[In percent]

State	Federal aid	Motor-fuel taxes	Vehicle registrations	Sales tax on Veh.-Pts.	Miscellaneous truck fees	Bonds	General fund	Interest	Miscellaneous
Michigan	34.6	34.3	22.9				2.0	1.0	5.2
Minnesota	26.2	35.4	23.2					1.0	14.2
Mississippi	32.0	47.0	9.0		2.0			3.0	7.0
Missouri	30.7	32.2	21.1	11.4	0.2			0.6	3.8
Montana	39.3	43.0		2.8	8.0			1.6	5.3
Nebraska	31.6	43.8	6.2	10.1	0.3				8.0
Nevada	32.0	38.0	10.0		3.0	10.0			7.0
New Hampshire	31.0	42.0	18.0		4.0				5.0
New Jersey	35.0	11.5					53.5		
New Mexico	31.7	35.5	8.4	8.7	11.8			1.2	2.7
New York	45.0					23.0	27.0		5.0
North Carolina	22.5	54.0	20.4		0.1			2.4	0.6
North Dakota	46.1	31.7	15.0		2.8				4.4
Ohio	46.0	42.0			0.5	9.5			2.0
Oklahoma	47.0	48.0	0.2				1.9		2.9
Oregon	25.3	39.0	9.8		25.9				
Pennsylvania	30.0	39.0	20.0		3.0	3.0			5.0
Rhode Island	56.0					12.0	32.0		
South Carolina	32.3	62.0	5.7						
South Dakota	43.4	39.6	2.1	12.3	0.5			1.7	0.4
Tennessee	34.0	44.0	15.0						7.0
Texas	34.7	38.1	21.7					0.5	5.0
Utah	31.9	48.4	5.5		3.6		5.8		4.8
Vermont	37.6				1.1				[4]61.3
Virginia	17.2	35.4	8.5	15.2					[5]23.7
Washington	55.0	30.0	13.0						2.0
West Virginia	32.6	36.8	9.7	17.6	0.4				2.9
Wisconsin	20.1	49.5	16.8			5.4			7.2
Wyoming	33.6	13.7	12.3					1.5	[6]38.9

[1] Fiscal year 1989 data.

[2] Connecticut: funding sources for State Transportation Fund.

[3] Massachusetts: 45 percent=combined state motor-fuel tax and vehicle registration fee revenues.

[4] Vermont: represents funds from State Transportation Fund.

[5] Virginia: includes ½ percent general sales and use tax.

[6] Wyoming: includes 36.9 percent mineral royalties and severance taxes.

Notes: National average Federal share: 36.1 percent. National average State motor-fuel taxes share: 34.6 percent. Included in the "miscellaneous" category are such items as tolls, fines, special fuels taxes, use taxes, severance taxes, and cigarette taxes.

Source: 1991 State Funding, Methods Analysis and Update. Prepared by: Transportation Road Information Program.

STATE DIVERSIONS OF HIGHWAY FUNDS

The list of examples of "other" sources receiving highway funds varies dramatically, from general fund "loans" to funds for the arts or aeronautics. "Other" diversions include the following:

General Fund (DC, FL, MD, NC, OK, PA, TN & VT)
State fiscal agencies (AR, NC, PA & VA)
Natural resources (FL, MI, MN, NV & TN)
Wildlife, fisheries (MS, NV, OR, SD & WA)
Agriculture (AL, CA, NC & TX)
Environment (CA, MD, NC, VT and VA)
Parks/recreation (CA, IA, MI, NV, OH, OR & WI)
Justice/Attorney General (CA, NV, NH & VA)
Public transportation (FL, IA, MA, NJ & SC)
Aeronautics (MS & NV)
Ports (FL, LA, NE & NJ)
Tourism (NM, ND & UT)
Alcohol & drug abuse (NH)
License plate fund (NE)
Vehicle registration/regulation (KY & ME)
Carrier enforcement (NE)
Public safety (ME)
Motorcycle rider safety (NM & TN)
Arts (TN)
Reserve for emergencies (CA)
Flood control (LA)

Source: 1991 State Funding Methods Analysis & Update.

Prepared by Transportation Road Information Program.

Mr. DOLE. Mr. President, I urge my colleagues to carefully look at this. If we want a fair distribution, then it seems to me when we talk about effort, it ought to be the effort that goes into highways. If it is a gas tax, if that is all the State does, that is the effort, but if it is sales tax, or if it is general fund, or if it is other taxes or automobile registration, that ought to be considered part of the effort. And then if a State collects a gas tax and spends it for other purposes other than highways, the effort ought to be reduced by that much.

I guess that if every Senator would take a look at these two areas, they might be in a position to better understand how the formula works. I have a feeling they might be a little better off if they consider the total effort, not just the gas tax, but the total effort, and then also consider how much of that gas tax in some States will be spent for agriculture, wildlife, whatever, if that amount were deducted.

ORDER FOR CONSIDERATION OF S. 1241

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 110, S. 1241, a bill to control and reduce violent crime, following the disposition of the pending bill, S. 1204.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Friday, June 14; that, following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that the Senate then resume consideration of S. 1204, the Surface Transportation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate now stand in recess as under the previous order until 11 a.m. on Friday, June 14.

There being no objection, the Senate, at 1:10 a.m., recessed until, Friday, June 14, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 13, 1991:

INTER-AMERICAN FOUNDATION

JAMES R. WHELAN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 1994.

EXECUTIVE OFFICE OF THE PRESIDENT

CHRISTOPHER D. COURSEN, OF MARYLAND, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 1993.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

THE INTRODUCTION OF THE DOMESTIC ENERGY RESOURCES ACT OF 1991

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. BOUCHER. Mr. Speaker, I am pleased to join with my colleague from Virginia, Mr. BLILEY and 14 of our colleagues in introducing the Domestic Energy Resources Act of 1991. It will make coal a fundamental component of the National Energy Strategy. Specifically, the legislation will expand coal use by creating markets for electric vehicles, encouraging research into coal-derived liquid fuels for diesel locomotives, promoting the creation of nonfuel uses of coal, encouraging the cofiring of coal and various waste products and spurring the commercialization of coal liquid refinery operations.

Coal is our Nation's most abundant fossil fuel. The magnitude of this resource, coupled with the multiple uses for coal and coal-derived products, guarantees that coal will be a major component in the Nation's energy supply pattern for the foreseeable future. An expansion of coal use offers the most immediate means of significantly lessening our dangerous dependence on foreign petroleum.

Presently, the United States imports approximately one-half of the oil it consumes. Sixty-three percent of total U.S. oil consumption is used in the transportation sector. Clearly, the development of a vehicle which displaces oil use in transportation should be a major goal of our energy independence efforts. Electric vehicles offer that promise. In view of the fact that 58 percent of the Nation's electricity needs are met with coal, these vehicles have the advantage of using a fuel that is abundant and domestically produced.

The Domestic Energy Resources Act will create an electric vehicle market by requiring owners of fleets of 20 or more automobiles to substitute electric cars for at least 50 percent of their new car purchases. This requirement becomes effective when electric cars become comparable to conventionally fueled cars in terms of cost, acceleration, service warranties and parts availability, range, and accessibility to refueling. They must be capable of being recharged from residential power sources.

The primary impediment to mass-produced electric vehicles is the lack of sufficient energy storage in present generation batteries. To assist domestic automakers in making a breakthrough in battery technology, the act provides a ready market for electric vehicles once the performance targets are met. This assured market will provide a substantial incentive to the United States Advanced Battery Consortium, a cooperative effort among the "Big Three" automobile manufacturers, the Federal Government and major battery producers, to invest in battery research. A revolutionary innovation in battery technology will not only provide our Nation with an opportunity to wean ourselves off the dependency on foreign oil, but will provide the domestic automobile industry a unique product to sell in the global marketplace, thereby positively affecting the trade balance.

The Domestic Energy Resources Act also proposes a coal research and development program to create super clean coal-water slurries and other liquid fuels derived from coal to fire diesel railroad locomotives. The railroad industry provides a potentially large market for expanded coal use.

Under the coal refinery provisions of the legislation, a research, development, demonstration and commercialization program will be established for producing transportation fuels, boiler fuels, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products from coal.

The legislation will expand nonfuel uses of coal by funding research into better coke production methods and methods to create useful chemicals from coal.

Finally, the act initiates a federally supported research effort for the joint combustion of coal and various waste products for the generation of electricity. Exploiting the energy potential in municipal waste satisfies the dual objectives of efficient use of resources and reduction of the amount of waste destined for our Nation's overburdened landfills.

The Domestic Energy Resources Act of 1991 will make domestically derived coal a key component to the National Energy Strategy, augmenting our energy security in an environmentally sensitive manner.

DOMESTIC ENERGY RESOURCES ACT OF 1991

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. BLILEY. Mr. Speaker, the solution to this Nation's overreliance on foreign oil lies in the mountains of Virginia, the fields of Indiana, and the plains of Wyoming. Of course, I am referring to this Nation's most abundant fuel source, U.S. coal. More than one-quarter of the world's known coal lies within the U.S. border and can be found in 38 of our 50 States. Known reserves would meet our current needs for hundreds of years. Furthermore, the 140,000 American men and women who work in the U.S. coal industry have made it the most productive in the world.

Today, we join to place coal as the cornerstone of our strategy to ensure a secure national energy future. The Domestic Energy Resources Act of 1991 will give a boost to trends and technologies that will allow U.S. coal to play a more dominant role in our energy mix.

Today, 55 percent of our electricity is generated from the use of coal. The most efficient use of coal in the future is through continued use in the generation of electricity. This legislation will bring coal use into the transportation sector initially by advancing the technology for electric vehicles by devoting resources and focus to the U.S. advanced battery consortium. Once a reliable form of the technology is perfected, this legislation will take steps to create a market for these electric vehicles.

Finally, this legislation will also add momentum to a number of other promising technological developments such as coal-fired locomotives, clean coal/waste energy program, and a coal refinery program.

Mr. Speaker, I want to commend my colleague from Virginia, Mr. BOUCHER for his leadership on this issue. I urge my colleagues to support this important legislation.

IN RECOGNITION OF THE MIAMI CUBAN/LATIN JEWISH COMMUNITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, in the 1960's, thousands of Cubans and Latin Jews sought refuge in Miami in search of independence and freedom. According to Dr. Ida Sheskin, professor of geography at the University of Miami, Miami's Cuban/Latin Jewish community is 15,000 strong and growing. And, members of this community are becoming more involved in Miami's organized Jewish community through the Cuban/Latin Division of the Greater Miami Jewish Federation.

The Cuban/Latin Division of the Greater Miami Jewish Federation was formed in 1967 in response to the flourishing local Cuban/Latin community. To address the needs and interests of those who are involved, the division is divided into two separate committees, the Cuban Hebrew Committee and the Latin Hebrew Committee. The Latin Hebrew Committee includes Argentina, Chile, Colombia, Mexico, Peru, Venezuela and Central America.

Dr. George Feldenkreis, who is president of the Cuban Hebrew Committee, brings the community together through a variety of educational, social and fundraising activities. Under Dr. Feldenkreis' direction, the Cuban Hebrew Committee held a solidarity rally at the Cuban Hebrew Congregation, Temple Beth Shmuel, to show the community's support for the people of Israel and for United States troops in the gulf. More than 500 Cuban Jews attended the rally, raising in excess of $200,000 for "Israel in Crisis," the fed-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

eration's emergency cash drive to address the critical situation in Israel.

The Cuban Hebrew Committee is working to gather a delegation for Miami's Mega Mission II, a week-long journey to Israel scheduled for October 22–29, 1991. Last year, participants in the Cuban/Latin Division were among the nearly 800 members of Miami's Jewish community on the federation's first mission to Israel, Miami Mission 1000.

The committee meets each Wednesday to discuss ways to work with the Greater Miami Jewish Federation to increase involvement of the Cuban Hebrew community by facilitating a greater understanding of the importance of federated giving. Plans are presently underway for the committee to tour the Greater Miami Jewish Federation's family of local agencies to observe children developing an appreciation and awareness of Jewish values at day school, to watch elderly and homebound individuals receive hot kosher meals and to observe Jewish refugees from the Soviet Union learn to speak English.

Once the Latin Hebrew Committee is complete, similar programs will enable the Federation to embrace members of Miami's Latin community who were previously unaffiliated.

I take great pleasure in recognizing the members of the Cuban Hebrew Committee: Ralph Adouth, Margot Backer, Abraham Baikovitz, Roberto and Estrella Behar, Yoshua and Lillian Sal Behar, Jaime Borenstein, Oscar and Rosita Boruchin, Dr. Isaac and Matilde Cohen, Eugenua Credi, Jose and Sol Credi, Mario and Polita Chyzyk, Sholem Epelbaum, Robert Steve and Eve Feig, Oscar and Ellen Feldenkreis, Rabbi Nesim Gambach, Salomon Garazi, Sergio and Sofia Grobler, Jose Heres, Aron Kelton, Sabeto Garazi, Marcos Kerbel, Eva Kokiel, Rabbi B. Konovitch, Rebeca Kravec, Rachel Lapidot, Zolia Levin, Yacoby and Francis Lubin, Ofelia Lurie, Juan Matalon, Joseph Nahoum, Nieves Olemberg, Dr. Felix Reyler, Josseph Roisman, Rabbi Dow Rozencwaig, Elsa and Isaac Silberberg, Bertha Sklar, Saul Srebnick, Jaime Wenguer, Alan and Ruth Zelcer and Loby Zelcer.

BY HELPING POLAND, WE ARE HELPING OURSELVES

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. KOPETSKI. Mr. Speaker, I rise to commend the President for his recent decision to forgive 70 percent of Poland's $3 billion in outstanding debt to the United States. The people of Poland and their newly elected representatives have shown great courage and determination in their tireless quest for a democratic government and a free market economy. The President was right to offer Poland help on behalf of the American people.

However, more remains to be done if Poland, long burdened by the effects of communism and Soviet control, is to become an economically viable capitalist entity. Poland remains saddled with $48 billion in foreign debt incurred by its former Communist regime. Although the United States and other creditor nations have been generous in granting concessions, Poland still owes $12 billion to commercial banks. The economy is such that the Government of Poland has been unable to service even the interest on this debt since 1989.

Poland's leaders have already met with representatives of its creditor banks to reach a new and mutually acceptable agreement on the terms of Poland's outstanding commercial debt. I am urging these institutions to show Poland the same flexibility that has already been shown by its creditor nations concerning the requirements of debt-repayment.

Poland has come so far in such a short time. Watching Poland change is inspiring to all of us who believe in the virtues of democracy and the benefits of a free market economy.

In addition, it is clear that as Poland succeeds, so will the rest of the capitalist world. A free and open Polish economy offers abundant opportunity for businesses and investors from all nations, including our own. I hope the commercial banks realize that by helping Poland, we are helping ourselves.

INTRODUCTION OF LEGISLATION TO AMEND THE OLDER AMERICANS ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing legislation to amend the Older Americans Act of 1965. The legislation will require the Commissioner of the Administration on Aging to carry out a model volunteer service credit project. The program was previously approved by Congress as a discretionary program, but has not been implemented to date.

The service credit program allows seniors to provide a volunteer service within their communities, accumulate credits for the services, and cash in the credits in order to receive the services of another volunteer when needed.

A service credit volunteer program is currently underway at the Greater Southeast Center for Aging in Washington, DC. Initiated about 7 years ago, more than 800 seniors over the age of 60 teach their peers to read, drive them to and from doctor's appointments, help with chores around the house and assist in the care of the frail elderly.

Seniors are a great source of volunteer power. A recent nationwide study commissioned by Marriott Senior Living Services and the Administration on Aging found that 41 percent of the Nation's seniors volunteered in the previous year and contributed a total of over 3.5 billion volunteer hours. An additional 37 percent of the Nation's 37.7 million seniors indicated interest in volunteering as well.

The majority of seniors in our Nation could also require the services of a volunteer at some point in their lives. As health care costs climb and funding for supportive services is increasingly competitive, we need to help implement creative methods to ensure that seniors have access to the assistance they may require.

The Service Credit Program guarantees individuals that they are eligible to receive transportation, homemaker, and respite care services when needed. The program would be particularly important for individuals who do not qualify for Medicaid or Medicare services yet are unable to pay for these costly benefits.

Mr. Speaker, the Service Credit Program provides seniors not only with supportive services, but also with the security of knowing that they will be assisted and encouraged to live independent and fulfilling lives. I urge my colleagues to support the legislation.

ROLAND PARK—A BEAUTIFUL COMMUNITY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CARDIN. Mr. Speaker, today I rise to pay tribute to the Baltimore community of Roland Park as it celebrates its centennial from June 19 to 23.

Developed from the imagination of famed architect Edward Henry Bouton, Roland Park is known for its magnificent homes, tree-lined streets, and distinctive architecture. Walking through the neighborhood, you notice the great variety of rambling shingle-style roofs and fanciful turrets. Because the residents had to build their own homes, no two are exactly alike. However, since there were Roland Park design restrictions, the neighborhood evolved into a coherent wholeness.

The community is proud that this was one of the first areas in the country to be a planned community. Roland Park has served as a model for the development of suburban communities all over the country. As it celebrates 100 years of pride, the Roland Park community of Baltimore should be recognized as a great suburban experiment that was developed through the imagination of Bouton. He imagined that neighborhoods should be more than a place to live. The homes should not just stand, but should become part of the landscape. Streets were not merely something to drive on, but a viewing platform for the person walking by.

Bouton's vision came true with the help of fellow architects such as George Kessler who envisioned a romantic view of the community. He believed the streets should follow the lines of the land and have trees planted in a naturalistic manner.

Roland Park is known for being an esthetically forward-looking community. A place where the city meets the suburbs.

"WHY I AM PROUD TO BE AN AMERICAN" ESSAY WINNERS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. FORD of Michigan. Mr. Speaker, I want to share with my colleagues four essays on

"Why I Am Proud To Be an American." The essays that follow are the best essays written this past school year by sixth graders from Hale Creek Elementary School in Romulus, MI. I again want to congratulate William Baker, Lucas Clark, Kimberly Goodwin, and Michele Ochs on their fine work.

Why I'm Proud To Be an American

(By William Baker)

I think how wonderful it is that I am an American, living in America, I know that I have the rights that were given to me a long time ago by the Bill of Rights. It has made this a free country for me to live in. I have freedom of speech, freedom of the press and freedom of religion in America. I am proud to be an American, because I am treated fairly, it is my right.

Sometimes I wonder, what it would be like if I were not an American? Would I have freedom of speech? Would I have freedom of the press? Could I have the religion of my own choosing? I may not even be allowed to have a say in the government. I may not be treated fairly or justly.

In America, I have the right to be my own person. I am free to choose my own lifestyle. I am free to choose my own occupation. I can be anything from a taxi-driver to the president of the United States, if that is what I choose to be. I am free and if I have a dream, I can make it come true in America. Only in America is everyone created equal and treated that way, regardless of race, color, or creed. With a lot of hard work, and determination there isn't anything I cannot achieve in America. America is the land of opportunities and it is up to me to take advantage of them.

I am proud to be an American, because we live in a caring country too. Our government helps everyone, from the young to the elderly, from the strong to the disabled. We help people with food, housing, medical treatments, employment and education. In America there are programs to help people with just about any problems that can occur. We not only help the people of our country, we help other countries as well. We send food, medical supplies, learning supplies, teachers and doctors to help the people of other countries have a better life. If we didn't care we wouldn't help so many people. I cannot explain how great America is in just a few words. You have to live here to really enjoy the beauty of this country and its people.

There is a variety in America. We have mountains, flatlands, oceans, deserts, warm and cold climate states too. There is something for everyone here in America. We have welcomed many to our country who were looking for freedom and a caring country. America is the country they always dreamed of living in.

I feel that we the younger generation are the future of America. I intend to do my very best to help assure it will be a great future. I am very grateful to be able to go to school and learn, and have the opportunity to better myself and my life. I feel as a member of the generation coming up, it is up to me to learn now because later may be too late. We have the knowledge of modern technology today, that we didn't have a few years ago, and it is all to our advantage. We need to look to our future and help make sure it is a great future for all. As Patrick Henry once said, "I regret that I have but one life to give to my country." I want to be the best that I can be, not only for myself but for my country as well. Thanks America! Keep up the good work.

Why I am Proud To Be an American

(By Lucas Clark)

There are many reasons to be proud to be an American, but the main reason is the freedoms that our constitution guarantees us. Freedom of speech is one. We can express our opinion of our officials, laws and any other subject without fear of punishment.

We also have the right to vote for the people and laws that govern us. If we don't like something, we can protest peacefully.

We can decide for ourselves what we want to be in life. We can live where we want to live, go where we want to go and do what we want to do within the laws that protect everyone.

We can choose our own religious beliefs and worship in the church of our own choice.

Americans help people all over the world. We help people to gain their freedom, like we just did in Kuwait. When there are earthquakes, floods or any other disasters, the Americans always help out no matter what country is affected, even those that have been our enemy.

When our own people need help, we are very generous in giving money or just a helping hand. This makes me proud of our country.

In our country anything is possible for any man. America is known as "The Land of Opportunity." Many people come to our country to take advantage of our system of government and our economy. With hard work and determination, success is possible for many people.

I am proud of the beauty of our country. The mountains, forests, the lakes and the oceans are all part of its beauty. However, the real beauty of America is in the many people of different races and religions who live within its boundaries.

There are many different kinds of people in the United States, but no matter what the nationality or heritage, we all have the same rights. We are all Americans!

Why I Am Proud To Be An American

(By Kimberly Goodwin)

I am an American. I am proud to be a citizen of America. No matter what race, black, white or yellow, everyone is free. We have the freedom to live where we wish, our religion and most important our education.

In 1787, James Madison wrote the Constitution. John Hancock wrote a document called the Bill of Rights which consists of 7 articles and 25 amendments. This was made to make everyone equal and gave us the right to vote. It didn't make blacks and whites equal, it helped establish the grounds that would take place in the future.

July 1863 was the crucial Civil War. This was a war between the North and the South, this was made to make everyone free including blacks. Abraham Lincoln made a speech, the Gettysburg Address, to declare the battle ground for the Civil War.

Lincoln also signed a document, the Emancipation Proclamation, to free the slaves.

Many things have happened since then. Many famous people that made America a great place in which to live. Thomas Edison for inventing our lights, the Wright brothers for inventing our planes, Henry Ford for inventing our cars and, of course, Alexander Graham Bell, who prepared the world for teenagers by inventing the phone. Many others have made America a great country. Our presidents, from George Washington to George Bush, have been America's backbone and have made America what it is today.

In the most recent war we showed someone that he could not come in and take something that wasn't his. Our Troops of Desert Storm were great! They hung in there and gave it all they got. This had to have been scary for them (as it would have been for anyone) but they did it! The men and women who have fought and those who have died for America have bought freedoms that our forefathers designed for us when they wrote the Constitution and the Bill of Rights.

The men and women in our military make me proud. They leave their families, jobs, and homes to protect all of us. Some of them never came home and this makes us really sad for their families. But we remember them in our hearts.

Another thing that makes me proud is saluting the flag each morning. It stands for liberty, justice, and most important, freedom. We have a lot of people here from other nations who came just to be free to own cars, speak as they wish, or have their choice of religion. So they came to America to work and raise families where they can also be free.

These are some of the reasons I am proud to be an American.

Why I Am Proud To Be An American

(By Michele Ochs)

I am proud to be an American because we enjoy many freedoms that other countries don't have.

In America we have the freedom to choose our religion. In some countries it is against the law to even be religious. Our founding fathers came to America because in England they were not allowed to practice their religion freely.

As an American I have the right to vote for who I want. We vote for our president and our representatives who run our country. If we don't agree with the way that things are done we also have the right to protest. I am glad that I live in a democratic society.

I can live wherever I want to live. In South Africa the blacks are told where to live and they are not allowed to own property either.

I can also choose what career that I want.

Being an American gives me the freedom to take my vacation anywhere that I want. In Russia they are not allowed to travel freely. Even when Americans' travel in Russia they can only go where the Russian government tells them that they can go.

In America I can buy anything that I can afford. In many Communist countries they have to stand in long lines just to buy bread and eggs and many times they don't have what they need. I can go to McDonalds and buy a Big Mac, fries and a Coke for $3.00, in Russia it would cost over $20.00.

I know that America is not perfect, we have a crime problem and problems with drugs, but it is the only country I want to live in. I am very proud to be an American.

KATHERINE WANSLEY: A LADY OF GREAT ACHIEVEMENTS

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. VANDER JAGT. Mr. Speaker, each of us in this body, our fellow elected officials all over the country—at every level—and all of us as human beings believe that we want to be "one of the ones to try to help."

Of Katherine Wansley, who retired following 35 years of service in the clerk's office of Muskegon County it can truly be said that she helped. The accolades which have been heaped upon her as she announced her formal retirement, so that she can continue to contribute to the life and growth of the community to which she has meant so much, demonstrate that her efforts have not gone unnoticed or unappreciated.

So often, of course, we are so busy with the board issues we face that we must rely on the assistance of fellow-workers to bring that help down to the person-to-person level where it counts. And we always hope that those on whom we rely for such help are as sensitive and dedicated as we want to be. We want the people whom they serve to be able to say that they were helped, that they were served. That can be said, in a special way, of Katherine Wansley's work.

As Katherine continues to find ways to serve, and now she can devote more time to the church for which she credits her strength and success, I am pleased to bring to the attention of my colleagues an article on Katherine which appeared in the Muskegon Chronicle earlier this year. Congratulations Katherine:

CLERK RECORDS LAST DAY OF WORK

(By Loretta Robinson)

Katherine Wansley of Norton Shores is retiring as a deputy clerk at the Muskegon County Clerk's office after 35 years and she's ready to set the record straight.

"Muskegon County is a great place," she said, and now that she's ready to make it even a better place to live.

"That's one of my goals," Wansley said, "being one of the ones to try to help."

After more than three decades of helping applicants with forms for marriages, births and even gun permits, the grandmother of five submitted her final forms for retirement this week to her employers.

She is now "laying the ground work" for days filled with travel, adventure, crafts, grandchildren and more civic, church and community involvement.

Wansley's last work day is today and she'll celebrate with colleagues, friends and family at a retirement party this afternoon at the Muskegon County Building.

A resolution from the Muskegon Board of Commissioners will also be presented to her this week in recognition of her public work and a retirement party is being planned for her by family members and friends in March at Greater Harvest Baptist Church.

Over the years, Wansley has seen many changes at the county building.

"I've worked under six county clerks," she said. "I was the second black in the entire county building. I guess I paved the way for many after that. Margaret O'Neal was the first.

"We didn't have copiers. Everything had to be written or typed out. If somebody couldn't leave a document, we would have to write or type it out, word for word.

"Birth certificates only cost $1," she recalled. "Now they're $10. Marriage license, $2. Now they're $20. And death certificates were only $1. Now they're $10."

There are some changes she said she would have liked to have seen before her retirement but she's still hoping to see during her lifetime.

"I would like to see more blacks and other minorities hired in prominent positions at the county building," she said.

She also looks forward to the day when Martin Luther King's birthday will be initiated throughout the county building, she said, "rather than just district and circuit court. It's a shame we don't have that."

One of her proudest job accomplishments, she said, is when she suggested telephone tapes be made available to the public with basic information for licenses for marriages, divorces, etc. The county clerk office incorporated her idea and rewarded her for the suggestion.

Wansley is the widow of James C. Wansley and mother of three sons. She is a native of Mississippi who moved to Illinois at the age of 2. In 1938 she moved to Muskegon to live with her sister.

She graduated from Muskegon High School in 1940 and Muskegon Business College in 1955 while working as a part-time secretary for First Baptist Church. She later obtained part-time work in the register of deeds office at the Muskegon County Building.

Wansley was later offered a full-time position in the county clerk office by Eugene R. Bergeron and has remained there.

When her husband died in 1989 after a long illness, she said she put the wheels in motion for retirement.

"She's been here for so long, it won't seem like the same without her," said Muskegon County Clerk Ruth Stevens.

Probate Court Judge Neil G. Mullally said, "In my years as a practicing attorney and judge, I've always found her to be very cordial, helpful and professional in her work. I've always appreciated her commitment to the community, her church and her dedication to the betterment of people and her fellow citizens."

Wansley doesn't know what her future will hold, she said, "but God has kept me all these years. I'll just put my trust in him. He'll work it out. Every night I ask him to hold my hand, please don't turn it loose. You don't need anyone but God."

The local civic worker is a member and board director of the Urban League, Urban League Guild, Democratic Party and former third chairperson of the Black Women's Political Caucus. She's a former member of the Muskegon Senior Services, United Way's Allocation and Review Board, Community Action Against Poverty and Muskegon County Legal Secretaries Association.

TIME FOR TRUE CAMPAIGN FINANCE REFORM

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. SANTORUM. Mr. Speaker, today I introduced a reform package which takes seriously our mandate to clean up campaign finances. It is time to take campaign finance reform seriously without burdening the taxpayer with more taxes or debt, and without violating the public trust. It is time for Congress to deliver on its promises to implement reforms which empower voters to play a greater role in electing responsive representatives.

True campaign finance reform empowers challengers and voters. Public financing strips both of their ability and motivation to participate in the electoral process.

One lesson we have learned over the past 30 years is that the further Government removes itself and the decisionmaking process from citizens, the more detached, disenfranchised and disenchanted citizens become. Public finance of campaigns will burden the voter with more taxes or debt, and have no meaningful impact in election outcomes; it will reduce the incentive of politicians to be responsive to their constituents; it will discourage individuals from participating in campaigns; and it will give incumbents an even greater advantage, thereby discouraging challengers and removing choice from the voter. We need an active, not apathetic citizenry. We need true campaign finance reform.

The Campaign Finance Fairness and Reform Act of 1991 I introduced today is true reform because it empowers the individual. It does this by balancing the funding stream, making incumbents and challengers more responsive to constituents, removing the advantages of incumbency, and cleaning up campaign financing.

Public financing will not create the reform-minded "citizen Congress" that the public wants, but bureaucrats who are unaccountable to their constitutents. At a time when we are asking our seniors and veterans to tighten their belts, how can Members of Congress propose to loosen their belts to add financial fat for their reelection efforts? Estimates are that television vouchers and mail discounts could amount to $76,000,000 for Senate campaigns alone. Public financing may end up costing the taxpayer hundred of millions of dollars in any given election cycle.

We cannot afford to play around with taxpayer money or trust. We need to empower the voter, and we cannot afford to play games with campaign finances. We need to truly reform the system, and to this end I have introduced the Campaign Finance Fairness and Reform Act of 1991. I ask for my colleagues' support of this important measure.

HONORING MARIA KAKOURIS SOMOZA, A SUPER TEACHER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring to the attention of the House of Representatives and the American public the hard work and commitment of Ms. Maria Kakouris Somoza, a Dade County school teacher. Unfortunately, today's teachers rarely receive the recognition they deserve for their accomplishments.

When I hear of educators in south Florida who are making a difference, I am proud to know that it is the children of our community who are benefiting. The Miami Herald has a continuing series profiling teachers who make outstanding contributions to their schools. Featured in the May 19, 1991, issue of the Herald was the story of Ms. Maria Kakouris Somoza:

Maria Kakouris Somoza believes in the power of the stage.

Being involved in theater helped her overcome shyness as a kid, and now she's using the same formula to build the confidence of students she works with at St. Thomas Episcopal School. It works. Just ask the children.

"She helps me feel confident and better about myself," said Cristina Sotolongo, 10. "If something is hard, she helps me with it and I know I can learn it."

"She has a nice way of correcting you when something's wrong," said Sarah Baker, 10. "She's funny about it. She doesn't come in and use a big red pen."

Somoza, 37, is a resource teacher at the school, 5692 SW 88th St., working on special events with the kids. She feels it's her job to help them excel by using the performing arts as a platform.

"The performances help establish good self-images for these students," Somoza said. "By the time they leave here, they've had a taste of it all, and they're comfortable with it."

Thursday, Somoza and two other teachers were helping a group of fourth-graders prepare for "Florida Day," a celebration based on the history of the state. Somoza put together a musical play based on their textbook. She also produces plays for the other classes, getting every child involved.

"She wants everyone to shine," said principal Laura Walker. "She gives them all a chance to be in the spotlight, and that helps the kids mature."

Somoza's own abilities and background help her communicate with the kids. She's a master of facial expressions and accents, with her own storehouse of jokes that keep the children loose before they perform.

"She's a wonderful model for them," Walker said. "Having her is a blessing for us."

Somoza, a native Miamian, attended Coral Gables High. She has a degree in speech and hearing therapy from Marquette University and a master's degree in deaf education from the University of Miami.

She taught in the Dade Public School System for six years, then worked in Greece setting up an education program for American dependent children abroad.

Somoza returned to Miami in 1984, and her son Kosta was enrolled at St. Thomas, which now has 383 students in prekindergarten through sixth grade. Somoza said she got a job because she "was hanging around the school so much."

She started teaching fifth and sixth grade in 1985—and took on the responsibility for producing plays and special events. After a few years of doing it all, the strain took its toll.

Walker didn't want to lose her, so the school created the resource teacher position for her. Now, Somoza teaches at St. Thomas two days a week, which gives her time to pursue her own interest in art.

Working with the kids, though, is what keeps her smiling.

"I think I get more out of it than they do," she said. "It's great to watch these students develop and see them learning to respect themselves and one another. Hopefully, one of them will save me a seat at the Academy Awards one day."

I am proud to have Ms. Maria Kakouris Somoza as a teacher in Dade County. She is a perfect model for our young students and perfect model for our country.

TRIBUTE TO FRANK J. BARRANCO

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CARDIN. Mr. Speaker, today I rise and pay tribute to Frank J. Barranco, who has dedicated 30 years of his life to television news.

Frank has worked as a television photographer for 30 years. His career is extraordinary. He has covered the White House, Congress, and other major political elections. He is dedicated, hard working, and skillful with the camera.

Frank was present at the canonization of the first American born saint in 1975 at Vatican City. He was part of the White House press corps during the Nixon administration where his colleagues praised his work. Because of his exceptional talent, Frank was chosen 2 years in a row to judge the White House press photographers work—an unprecedented feat.

However, Frank's most memorable trait is his sense of humor. Long hours are not a stranger to people in the news business, but Frank always kept the crew laughing to make the time seem shorter. Most people do not stay in a profession for 30 years unless they truly enjoy their work. Frank Barranco truly enjoys his work.

ROMULUS JUNIOR HIGH SCHOOL BAND RECEIVES HIGH HONORS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. FORD of Michigan. Mr. Speaker, I would like to call your attention to the recent accomplishments of the Romulus Junior High School Symphonic Band. Romulus Junior High School is located in the 15th District of Michigan, which I represent.

The symphonic band performed at the State Band Festival on May 4 and received first division superior ratings from each of the four judges at the festival. The symphonic band was in the class "A" junior high school band classification.

Earlier, on March 16, the Romulus group received all first division ratings at the district band festival. This qualified the young musicians for the State Festival.

The Romulus Junior High School Band, under the leadership of band director, Richard Kruse, was one of only three class "A" bands to earn all first division ratings at the State Festival in Michigan this year. Individual judges' grades included 19 "A"s and one "B+," an all time Romulus school system record. Judge Richard Blatti of Ohio State University commented "on an excellent performance and on a fine tradition of excellence at Romulus." He also congratulated the community for "keeping such a fine director here for so many years." Judge Warren Newell of Otsego commented, "This is a super band. Few junior high bands play as you do. A truly musical group. My pleasure."

The Romulus Chamber of Commerce had honored Director Richard Kruse earlier with a gala "Person of the Night" at the Romulus Marriott on March 1. Over 160 people representing the Romulus Board of Education, central office administration, building administrators, teachers, parents, former students, friends, chamber members, city officials and State Representative James Kosteva presented an overwhelming program of community support and recognition to the Romulus Band program.

The Romulus Junior High School Symphonic Band has achieved first division ratings over the past 12 years because of the concern, sacrifice, and outstanding support from the Romulus Board of Education. These members are: Daniel R. Bales, president; Edward Wilkerson, vice president; Howard Kesner, secretary; Sandra Langley, treasurer; Kenneth Berlinn, trustee; Mary King, trustee; and Pat Patterson, trustee.

The band has also received the help and special support provided by Superintendent Dr. William Bedell. Additional encouragement and expertise has been forthcoming from Dr. Terrel LeCesne, assistant superintendent for administrative services; Joel Carr, assistant superintendent for finance and operations; Art McPharlin, assistant to superintendent; Jesse Meriweather, principal; Mel Kimborough, assistant principal; and the junior high school teaching staff.

Mr. Speaker, I want to take this opportunity to express my congratulations to the Romulus community and this fine band. The members of the symphonic band who performed at the State Festival and who have made us all so proud are:

Flute: Julie Yonts, Dawn Howell, Laura Brown, Cassandra Donaldson, Becky Testa, Cassandra Jackson, Tammy Pollard, Kim Mientkiewicz, Tammy Ritter and Pal Lecroix.

Clarinet: Gretchen Spencer, Stephanie Clemons, Latanya Massey, Jessica Marz, Misty Fabrizio, Colleen Coleman, Brian Steffani, Laura Olson, Jennifer Villereal, Kristi Hardrick and Susan Sherbrook.

Oboe: Michelle Slawinski.

Bassoon: Stephanie Vit.

Alto Clarinet: Chrissy Scibert and Sonia Dillard.

Bass Clarinet: Erica Wesley and Sara Poletti.

Alto Sax: Jaime Luczak, Jason Chmura, Kim Swanson, Amanda Harden and Michelle Dick.

Tenor Sax: Gerald Luster.

Baritone Sax: Sean Foch.

Coronet: Rogjett Peterson, Tracy Blizman, Allen Chiu, Christine Moe, Tonya Frye, Kirsti Cole, Jaime McCraw, Hope Debord, Shannon Stewart, Star Haury, Travis Hall and Joy Wagner.

French Horn: Liesa Gardner, Christine Blair, Kristen Gagnon, Adreanna Laws and Larry Poletti.

Trombone: Raphael Crawford, Jon Webb, Kalani Mitchell and Richard Baldwin.

Baritone: Bobby Parker, Carl Blanton, Tanya Damron, and Jennifer Stouse.

Tuba: Natasha Carson, Jeremy Richardson, Wendy Kelsey and Kelly Copeland.

Percussion: John Pitel, John Harris, Anthony Reed, Jennifer Mckinney, Erica Gambril and David Wilkerson.

A SALUTE TO A JOB WELL DONE

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. SANTORUM. Mr. Speaker, I rise to draw attention to the grand success of the playground improvement project which took place in the Borough of Dormont, within my congressional district, on June 5–9, 1991.

The Borough of Dormont is a small municipality located immediately south of Pittsburgh, PA. Because the borough's tax base has declined, the Dormont Parks Improvement Commission was well aware that it would need to call upon the spirit of voluntarism, not public moneys, in order to provide better playground facilities for the town's children.

As a result, the Commission created the playground improvement project, an entity comprised of concerned citizens determined to improve the quality of Dormont Park facilities without burdening the borough's resources. Under the dedicated leadership of Carolyn Lyle and Mary Ann Shiring, and with the assistance of dozens of volunteers, this group guided the construction of a 25-year-long superplayground, designed by architects with input from local children. Thanks to superb planning, the actual building was completed in 5 days, with time left over for a closing celebration on the final evening. I was greatly privileged to participate in the construction work, along with members of my staff.

I believe the Dormont playground improvement project is worthy of special attention because it illustrates so clearly the ability of caring citizens to come together on a volunteer basis for the good of their community. For this reason, on behalf of the U.S. Congress, I wish to thank every person who took part in this project. They have made a visible difference not only in the borough's facilities, but in its spirit.

RECOGNIZE THE MUSICAL AND PHILANTHROPIC ACCOMPLISHMENTS OF LOU RAWLS

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. HAYES of Illinois. Mr. Speaker, I want to take this opportunity to pay tribute to a unique American vocalist, performer, and philanthropist whose roots trace back to my congressional district.

Lou Rawls was born and reared in what is now the First Congressional District of Illinois, which is the oldest majority black congressional district in the United States. Harboring a sincere conviction for worthwhile contributions to mankind and society, Lou Rawls once stated, "in order to enjoy life, you have to put something into life." As we all probe his musical and philanthropic accomplishments, it is uncontested that Lou Rawls not only placed energies on his musical career, but unselfishly gave of his time and resources to catapult the lives of young Americans from poverty stricken areas. Unquestionably, Lou Rawls' music and philanthropic motives illuminate his concerns for humanity, while encouraging and inspiring the beneficiaries of his lyrics and community service.

Lou Rawls began his singing career at a local church choir at the age of 7. After graduating from Dunbar Technical High School, Rawls joined a touring gospel group, the Pilgrim Travelers, which profoundly influenced his performance style. Lou Rawls later served as a background vocalist for the late Sam Cooke, but his performing career blossomed in 1959 at Pandora's Box Coffee Shop in Los Angeles. In a poetic fashion, he recreated the mood of poverty, despair, and occasional joy and elation of the world African American people knew in the United States through the fifties and sixties. Such tunes as "World of Troubles," "Dead End Street Monologue," and "Tobacco Road" caught on to audiences across this Nation.

Lou Rawls' jazz performances have not been confined to American stages. Since 1980 he has presented a series of worldwide concerts for American military bases including Korea, Japan, and the Philippines. In 1967 when the envelope for a Grammy Best Rhythm and Blues Vocal Performance was opened, his single "Dead End Street" proved to be the winner. Also, his jazz craftsmanship exhibited in "Natural Man" claimed another Grammy in 1971 for Best Rhythm and Blues Performance.

Lou Rawls' dedication to the United Negro College Fund deserves as much recognition as does his music. Through "Lou Rawls Parade of Stars" telethon, qualified and needy youngsters are helped to attend this Nation's private, historically black colleges and universities. Mr. Speaker, Lou Rawls once stated, "I never got a college education, but I sure know the value of one." I believe that these words echo his commitment to the education of African-American youth and reinforce the United Negro College Fund's "A Mind is a Terrible Thing to Waste" motto.

The city of Chicago renamed S. Wentworth Avenue "Lou Rawls Drive," and is preparing to feature Lou Rawls in its July 21, 1991 park concert titled "Bring it Back Home." I ask that all of my colleagues in the Congress join me in paying tribute to this great American.

CONGRATULATING DR. L. EDWARD ELLIOTT

HON. GARY CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CONDIT. Mr. Speaker, later this month the American Optometric Association will hold its 94th Annual Congress in Dallas, Tex. I am pleased to report that on Tuesday, June 25, 1991, Dr. L. Edward Elliott of Modesto, CA., will be sworn in as the association's 70th president. I would like to take this moment to congratulate Dr. Elliott on achieving this high honor, and to commend him for his professional and civic leadership.

Dr. Elliott is a native of Turlock, CA., and is a graduate of the University of California at Berkeley and the university's School of Optometry. He is a past president of the California Optometric Association and the San Joaquin Optometric Society. He has served on the AOA's board of trustees since 1894 and has held a number of association liaison posts.

In addition to his professional involvement, Dr. Elliott has been active in civic affairs. He is a Lion's Club trustee and has served on the Stanislaus County Master Plan for Special Education Committee, the Stanislaus County Health Advisory Committee and the Modesto City Schools Health Advisory Committee.

The AOA is the professional society for this Nation's 28,000 optometrists. In his role as president, Dr. Elliott will lead the association as it works to improve vision care in the United States.

Dr. Elliott has distinguished himself as an outstanding leader. I'm confident that he will have a successful term as president of the AOA. I join his many friends and professional colleagues in wishing him well.

TRIBUTE TO RABBI DR. SIDNEY SOLOMON

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to call the House's attention to the 25th anniversary of the ordination of Rabbi Dr. Sidney Solomon, a man who has spent a quarter of a century as a vibrant and important member of not only the New York Jewish community but also the world community at large. Ordained as a Rabbi at the Jewish Theological Seminary in 1966, Rabbi Solomon has compiled and continues to compile a distinguished record as an ambassador for American Jewry abroad, as a local and National leader furthering humanitarian and religious causes at home, and as a civic leader helping to bridge religious gaps and increase interfaith cooperation within New York City.

Dr. Solomon wasted little time establishing himself as an effective and constructive leader upon his ordainment; indeed, while serving as a captain in the Air Force from 1966 to 1968, Rabbi Solomon coordinated Jewish chaplaincy activities throughout Alaska for all branches of the military. Rabbi Solomon's efforts while in the military mirrored what he would accomplish in the next 3 decades as a civilian. Rabbi Solomon has proven himself to be a theological jack-of-all-trades. On the one hand, Rabbi Solomon has been a vigorous and persistent worker on the local level. Whether as an executive director of the United Synagogue of America, a position Rabbi Solomon held from 1979 to 1983 and one which involved his directing the administrative and programmatic services for the 135 congregations within the New York region, or as the Rabbi for the Jewish Center of Kew Gardens Hills in Queens

County, NY, an institution which, under his direction the past 8 years, has seen its membership grow by 188 familes, Sidney Solomon has proven himself to be a highly effective administrator.

Yet Rabbi Solomon is more than just a competent administrator; rather, he is a man of vision who has served both as a spokesman for American Jewry and as a citywide leader. Rabbi Solomon's position as chairman of the UJA Operation Moses, a daring mission that saw 24,000 Ethiopian Jews airlifted to safety in Israel, was the highlight of a career that saw the Rabbi serve as a spokesman for Soviet Jewry and, through the United Jewish Appeal, as a spokesman for Jewish people throughout the world. Rabbi Solomon, trained as a scientist and a graduate of the University of Pennsylvania 30 years ago with a degree in civil engineering, has been an active civic leader as well. When many predicted a New York City fraught with paralysis and polarization in response to the unrest that occurred in 1987 after the racial attack in Howard Beach, NY, Rabbi Solomon was moving to head off this outcome by organizing the Queens Interfaith Prayer Vigil for Community Harmony and Reconciliation. Furthermore, Rabbi Solomon has served as a member of the Martin Luther King Jr. Memorial Commission of Queens, and as a member of the Queens Interfaith Hunger Network.

Mr. Speaker, I salute Rabbi Sidney Solomon. A religious, civic, and National figure, Sidney Solomon is a man whose silver anniversary as a Rabbi merits recognition from this Congress. Dr. Solomon is a credit both to his family of six and to my district, and I believe his outstanding accomplishments merit National recognition. I call on all my colleagues in the House of Representatives to join me in honoring Rabbi Dr. Sidney Solomon for his lifetime of remarkable achievements.

BALTIC FREEDOM DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. HOYER. Mr. Speaker, on June 14 of this year, we celebrate Baltic Freedom Day, the anniversary of the terrible deportations of 1941 when thousands of Estonians, Latvians, and Lithuanians were shipped by Stalin to Siberian exile, and for many, to their deaths. On the night of June 14, 1941 alone, more than 60,000 persons were loaded into cattle cars and shipped to labor camps in Siberia.

For years since, Baltic Freedom Day could only be openly celebrated in the West. Under the yoke of communism, the people of Estonia, Latvia, and Lithuania could only share Baltic Freedom Day with us in their hearts. Five years ago, at least a dozen Baltic political prisoners celebrated Baltic Freedom Day in Soviet prison camps or internal exile.

This year however, the Baltic people have new hope. Changes in the Soviet Union have given them the opportunity to challenge the hand of force and the powers of repression. Their own bravery, the persistant efforts of their countrymen and countrywomen outside the homeland, the steadfast nonrecognition policy of the United States, and, to give credit where due, the liberalized policies of President Gorbachev have made it possible for the Baltic peoples to look forward to regaining their freedom and rejoining the European community of free nations.

As I have mentioned on this floor in the past, the Soviet parliament has already overwhelmingly rejected the treacherous treaty between Stalin and Hitler that erased the independence of the three Baltic States. In 1990, the people of the Baltic States freely and democratically elected leaders who have either declared the restoration of independence, as in the case of Lithuania, or in the case of Latvia and Estonia, pledged to work for independence.

But reaction does not recede willingly. This year has seen a cruel backlash against the Baltic struggle for freedom. Peaceful political activity has been met with brutal force. In January, tanks and armed soldiers moved against peaceful demonstrators in Vilnius, Lithuania, killing at least fourteen. A week later, rogue black beret police in Riga, Latvia went on a shooting spree and killed five persons. With a delegation of other Members, I visited Riga and Vilnius, as well as Tallinn, the following month. The pain, the sorrow and the tension were still palpable.

I would note also that one of my companions on that delegation was our distinguished colleague, Dennis Hertel, cochairman of the Congressional Ad Hoc Committee for the Baltics and Ukraine, and the sponsor of this year's Baltic Freedom Day resolution.

The outrages and violence, incidentally, are continuing, only with less notice. Last month, at least 2 persons were killed and 24 injured as black beret gangs attacked defenseless customs officers at border posts between Lithuania and Latvia. Attacks also occurred against Estonian border posts. Meanwhile the Moscow Procuracy, theoretically the highest investigatory body in the Soviet Union, released a report claiming that the Lithuanian people themselves were at fault for the Vilnius killings in January.

Mr. Speaker, on May 7, 1991, the President of Lithuania, and the Prime Ministers of Estonia and Latvia testified at a Helsinki Commission hearing on the hopes that their people place in our support for their struggle. We must not let them down. My colleagues and I who visited the Baltic States in February 1991, have introduced legislation that would help strengthen the Balts in their peaceful efforts toward freedom. House Joint Resolution 179 calls upon the United States to establish a permanent presence in the Baltic States, to send U.S. humanitarian aid and other economic assistance directly to the Baltic States, and to recognize the parliaments of Estonia, Latvia, and Lithuania as the legitimate, democratically elected representatives of their people. In addition, House Joint Resolution 179 calls upon the United States Government to propose and support the granting of observer status to the Baltic States within the Conference on Security and Cooperation in Europe, the Helsinki Process, that today is inspiring the rebirth of democracy throughout Europe. I am pleased to note that this resolution now has 95 cosponsors, and hopefully it will soon be passed.

Mr. Speaker, in the past, Baltic Freedom Day commemorated a tragedy. It is still appropriate to remember the tragedies of the past. But let us use this opportunity, not only to remember the lost freedoms of the past, but to work for the Baltic freedom of the future, the very near future.

JAMES P. DOODY OF EASTCHESTER: A RECORD OF SERVICE AND CITIZENSHIP

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mrs. LOWEY of New York. Mr. Speaker. Today I rise to honor a good friend and leader in the Westchester community, the Honorable James P. Doody of Eastchester, NY. Jim Doody's dedicated public service as supervisor of the town of Eastchester and throughout his legal career exemplifies the commitment to citizenship which is so important to the governing of our Nation.

Mr. Doody has always worked hard, and he has never forgotten the dictum that "of those to whom much is given, much is expected." His bachelor's degree from Fordham University and his law degree from the prestigious Columbia University Law School prepared him for a career of public service rooted in a deep desire to serve his community and his Nation. In recognition of his service and his commitment to important ideals, Jim Doody was recently honored by the Westchester Irish committee. That honor reflects his dedication to the vibrant Irish community of Westchester and to the principles for which it stands. It is a tribute that Jim Doody fully deserves.

While pursuing his career in law, Jim Doody has found time to be a devoted parent. He has been very active in local and national Parent-Teacher Associations, and has always been a vocal and effective advocate for educational excellence and opportunity. He is a member of charitable and religious organizations, including the Rotary Club and the Knights of Columbus. And his dedication to community improvement made him an outstanding community president of the Bronxville Manor Civic Association.

Mr. Doody's desire to serve motivated him to seek public office. His interest in the youth of America and his service to the Parent-Teacher Association made him a valuable trustee and President of the Board of Education of the Tuckahoe Union Free School District. And his record of loyalty and devotion to community inspired the citizens of Eastchester to elect him to the position of town supervisor, an office in which he has served with distinction since 1984. In that capacity, Jim Doody has stood up time and time again for his community and for principle.

It has been my privilege to work with Jim Doody on many projects over the years. In each endeavor, he has been an articulate and effective participant in working toward important goals. Without a doubt, he is making a difference for the people he serves. The people of Eastchester are fortunate to have benefitted from his leadership.

INTRODUCTION OF BALANCED BUDGET AMENDMENT

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. STENHOLM. Mr. Speaker, I am very pleased to come to the House floor today on behalf of 256 of my colleagues to introduce the balanced budget amendment to the Constitution. The large number of cosponsors for this amendment represents a record level of bipartisan cosponsorship for any balanced budget amendment.

This amendment is essentially the same amendment that this body nearly passed last summer. It is very similar to the amendment introduced by Senator SIMON in the other body which has already been approved by the Judiciary Committee last month.

Mr. Speaker, we have a serious deficit problem. When I introduced the balanced budget amendment last Congress, the national debt was $2.8 trillion. When this body considered my amendment last summer, the debt had increased to $3.1 trillion. The national debt now stands at $3.4 trillion. Outlays will exceed revenues by at least $318 billion this year, making this the 22d consective year in which we have had a budget deficit. It will cost us $190 billion this year just to pay the interest on this debt.

This amendment will not solve our deficit problem by itself. That is not what it was intended to do. This amendment will give us a necessary tool to balance the budget—the very same tool which Thomas Jefferson recommended to us more than 200 years ago. It will give us a constitutional reason to find the guts to make the tought choices necessary to balance the budget. Too often, we have avoided making tough choices and taken the easy way out by borrowing more money. By raising the threshold of difficulty for deficit spending, this amendment would force the President and Congress to set priorities.

The public is frustrated with a budget process that can't stop record deficits, year after year. That is why public support for the amendment reached a stunning 5-to-1 margin last fall. Frustration with the budget process has been growing within this body as well. That is why this amendment has been cosponsored by 15 of my colleagues who have not cosponsored any balanced budget amendment and by 29 new Members of this body.

History has proven that statutes and procedural requirements have failed. We have voted over 500 times to waive the Budget Act in the 12½ years I have been here. We passed a statute in 1978 when our debt was $776 billion. We tried again in 1979 when the debt was $828 billion and in 1982 when the debt was $1.1 trillion. The debt was $1.8 trillion when we passed Gramm-Rudman in 1985, and had increased to $2.3 trillion when we passed Gramm-Rudman II in 1987.

Amending the Constitution is a very serious step that should never be taken lightly. I certainly do not. But neither can deficit spending be taken lightly any longer. Our deficit spending has become an intractable, institutional problem. A change of constitutional dimensions is needed now. Deficits will not go away until the Government changes its attitude toward spending. This amendment will take us one giant step closer to such a goal.

NATIONAL VETERANS SERVICE OFFICE PROGRAM

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. PANETTA. Mr. Speaker, I rise today to introduce legislation to assist our Nation's veterans in obtaining the benefits to which they are rightfully entitled. My bill would establish a grant program to assist State governments in providing veterans with advice and assitance concerning State and Federal veterans programs and benefits.

As members of this body know all too well, congressional offices shoulder an awesome responsibility in assisting constituents in their day-to-day dealings with the agencies of the Federal Government. Such constituent services have become a vital function of every congressional office and have greatly improved the popular perception of government in general. At the same time, considerable expertise is required to advise veterans on the complexitites of Veterans' Administration programs and to offer counsel in preparing or appealing claims. One is left with the impression that there are literally hundreds, if not thousands, of veterans in every congressional district who are altogether unaware of services and benefits they may have earned based upon their military service.

In discussions with veterans' officials in my home district, it was stated time and time again that benefits are continually denied as a result of poorly prepared claims. Outreach efforts by the Veterans' Administration to alert veterans to changes in regulations or new programs are simply too limited to satisfy the present need. With the recent increase in the number of veterans as a result of Operation Desert Storm, existing outreach efforts will be increasingly less able to meet the present needs for counseling and assistance.

My home State of California is one of but a handful of States to offer veterans, through a network of county veterans' service offices, advice and assistance concerning veterans' programs. County offices around the State are open to advise veterans of benefits for which they may be eligible and to assist in preparing or appealing claims. Serving as an advocacy agency, county veterans' service offices offer hope to veterans in approaching the formidable bureaucracy of the Veterans' Administration.

Despite recent reductions in State funds, the results of California's program have been dramatic: Veterans long disenchanted with the Veterans' Administration have found new hope in seeking medical care and other services they have rightfully earned. Moreover, county offices work closely with local veterans service organizations to provide a broad range of services, including job information and counseling, outside of those sponsored by the Veterans' Administration.

Mr. Speaker, it is time that we expand upon the example of my home State and provide veterans with an easily accessible counseling network to assist them in dealing with the ever-changing laws and regulations affecting their lives. Accordingly, I am today introducing legislation which would provide a 3-year authorization for matching Federal funds to assist States in providing these needed services. Under my plan, matching funds would begin with an 80 to 20 percent Federal-State contribution, decreasing to a 50 to 50 percent match after 3 years. The higher Federal contribution in the early years would encourage those States presently lacking veterans' service programs to initiate such services while assisting other States in strengthening existing programs.

To be eligible for matching funds under the program, State governments will be required to submit a grant request to the Veterans' Administration. Requests must include a detailed description of services to be offered and plans for coordinating efforts with local veterans' service organizations. The actual delivery of services to veterans under the program will be managed at the local level where it will be tailored to local needs and resources.

Mr. Speaker, we, as a nation, owe a special debt of gratitude to the men and women who have served in our defense. The many veterans' programs enacted by Congress underscore this unique commitment. It is time that we act to ensure that veterans receive the benefits to which they are entitled by law and which they so justly deserve. I urge my colleagues to join me in cosponsoring this important legislation.

For the convenience of my colleagues, the text of the bill is included here:

H.R. 2650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 3 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"*247. Assistance to States in providing veterans information and assistance services*

"(a) The Secretary shall establish a program to provide assistance to State governments in providing funding for programs of veterans' services established by a State (or by units of local self-government of the State) for the purpose of advising and assisting veterans to matters concerning veterans' benefits.

"(b)(1) Assistance under this section shall be provided by grants made under submission to the Secretary of an application for such a grant. Any such application shall describe the State's existing program of veterans' services (or describe the State's proposal for a program of veterans' services) for which the grant assistance is requested, shall specify the amount of grant assistance requested, and shall be in such form and contain such additional information as the Secretary may require. The application shall also include a plan for coordination of the State veterans' services assistance program with the activities and programs of local veterans' service organizations.

"(2) The State plan included in the application must show to the satisfaction of the Secretary—

"(A) that the actual delivery of services to veterans under the program will be managed at the local level;

"(B) that local authorities will determine the details of the advice and assistance to be provided to veterans under the State program; and

"(C) that local authorities will assume a portion of the costs of the administration of the program.

"(c) A condition of approval of a grant under this section shall be that—

"(1) during the first fiscal year for which funds are available for grants under this section, the State to which the grant is made shall match the grant by an amount equal to one-fourth of the grant;

"(2) during the second fiscal year for which funds are available for grants under this section, the State to which the grant is made shall match the grant by an amount equal to one-half of the grant; and

"(3) during the third and subsequent fiscal years for which funds are available for grants under this section, the State to which the grant is made shall match the grant by an amount equal to the amount of the grant.

"(d) The Secretary shall prescribe regulations to be used in evaluating applications for grants under this section and to be used in the administration of the program established by this section.

"(e) There is authorized to be appropriated to the Department for grants under this section the sum of $12,500,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, and $7,500,000 for fiscal year 1994.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"247. Assistance to States in providing veterans information and assistance services.".

GERBER PRODUCTS CO.: A WORLD LEADER BUILT ON "HEART, FEELING AND SUBSTANCE"

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. VANDER JAGT. Mr. Speaker, "Every mother knows Gerber. She knows it well and she believes in its quality."

And soon that will be as true in Vienna, Austria as it is today in Vienna, MD, or Vienna, SD, or Vienna, WI.

With a commanding 72 percent of the domestic baby food market—and a corporate image and identity which must be the envy of companies many times its size—the Gerber Co., based in Fremont, MI, of the Ninth Congressional District, which I have the honor to represent, might rest on its laurels. But that isn't what Gerber has ever been about.

From the time when Dan Gerber rose to the occasion of providing his family with a "better way to strain peas" to today's efforts to provide nutritional meals for newborns to toddlers, Gerber continues to lead, to innovate, to reach out to new markets.

And the newest and biggest market yet becomes available next year as the European Common Market opens itself to international business, and more American companies are able to take advantage of the openings presented by the falling of barriers in Eastern Europe.

Under the leadership of chairman, president and CEO, Alfred A. Piergallini, the Gerber name, which is the source of such pride to the folks of Michigan—and the foundation on which young families have based their nutritional needs in the United States for more than 50 years—is fast becoming a household name around the world.

As the Nation's economy recovers from the doldrums we have experienced, and as our own State of Michigan seeks to expand its markets for everything from automobiles to chemicals, it is encouraging to watch the aggressive, yet responsible growth at Gerber and to take pride in a company and a community so dedicated to the values which have carried it through since that 1928 request to Dan Gerber from his frustrated wife.

I offer for my colleagues' review an article on Gerber's successes of the past, and its plans for an even brighter future, which appeared in North Force magazine's recent edition:

GERBER

At Gerber Products Company, a little complacency would be understandable. After all, the company is the long-reigning dominant force in the U.S. baby food industry, currently commanding a 72 percent market share. It enjoyed record sales in fiscal 1990 of $1.136 billion, a gain of ten percent over the previous year, and achieved earnings of $94.5 million, also a record.

It is diversified, but has forayed only into areas where it can leverage its traditional strengths. It is one of Michigan's largest multinational corporations and boasts one of the world's most familar and trusted corporate symbols. With 12,000 employees worldwide and 1,200 employees at its plant and corporate headquarters in Fremont, Gerber is one of outstate Michigan's largest employers.

Any notion of complacency is dispelled immediately, however, by the first five words of Gerber's 1990 annual report: "Leading is action—not position."

Indeed, Gerber Products' current management team is hardly content to dwell on past successes; it has set an ambitious course for continued growth.

"I want to transform Gerber Products Company from a solid performer to an aggressive competitor," said Gerber Chairman, President and CEO Alfred A. Piergallini. "This is done by setting demanding goals for ourselves and our respective operations; the kind of goals that forces an organization to innovate."

Piergallini is relatively new to Gerber, having joined the company as COE and president in April, 1989, but the spirit of innovation is not. Gerber's very roots are embedded in the efforts of one man, Dan Gerber, who steered his company, the former Fremont Canning Co., into the manufacturing of baby food in 1928 after his wife asked him to find a better way to strain peas for their infant child.

Gerber Products Co. has been finding "better ways" to do things ever since.

Technological continuum. Lately that commitment has emerged most visibly in the company's process technology, its approach to human resource management and its product development and marketing strategies.

Technologically, Gerber Products Division, which manufactures Gerber baby food products, has made impressive strides in producing products faster, with less waste, more quality assurance and at less cost.

"We're looking at manufacturing improvement in two ways," said Bill Rottman, vice president for manufacturing and logistics. "One is utilization of computers for better technology. Secondly, we are developing our people to work not only at a higher technical level, but also to work more productively with each other. We're incorporating more employee involvement in quality control and productivity."

Ever-improving automation has been a way of life on Gerber production lines for decades. Rottman noted that when he joined the company loading cases off the end of the line in 1957, the run was about 350 jars a minute. Today, Rottman oversees high-speed, dedicated lines capable of producing 1,500 jars a minute. Computerization, he says, is just another step in the technological continuum and one that Gerber first took long before many others.

"We have been using statistical process control (SPC) in our fill control for 15 years," said Rottman. "In that respect, we were probably a leader in using computer technology but we didn't realize it."

Project teams. As much of a challenge as integrating the new technology has been furnishing workers with the skills and motivation to make best use of it. This has involved ongoing training for Gerber employees, but not only in operational skills. The company has taken the initiative to establish a more participatory environment throughout the corporation and has created vehicles for employees at every level to become more personally involved in decision making.

"We decided several years ago that we had reached the limit of improving ourselves with the existing system at the time, which relied on professional and manager skills," Rottman told *North Force* Magazine. "We switched that philosophy to include more participation from everybody as a partner in the operation. We focused on specific goals in productivity, quality and efficiency, identified the people involved in those operations and brought their skill level up to the point where they could participate effectively with the rest of the people on the team. We've been doing that for the last four or five years, and it has taken a lot of education and training.

At any given time, Gerber Products Division has from eight to 14 interdisciplinary "project teams" in place at its manufacturing plants in Fremont, Asheville, North Carolina and Fort Smith, Arkansas. He added that some of these even include Gerber's suppliers and its customers.

Fremont vs. Chicago. That Gerber has so easily embraced the concept of "bottom-up" management as opposed to a more autocratic "top-down" structure may be a factor of its environment. In Fremont (population: 3,800) Gerber executives shop at the same markets, bowl on the same lanes and attend the same high school football games as the hourly workers. The small-town atmosphere of Fremont has imbued the corporation with a sense of family that has stood the firm well throughout its 62-year history.

There have been points during the growth of Gerber Products Co. when moving the corporate headquarters from Fremont was considered. In the late 1950s, for instance, when the company was interested in expanding its international presence and needed to build a new corporate base, a consultant was hired to study locations.

"The consultant suggested that Chicago would be a good fit because of transportation and other reasons but Mr. Gerber said "Thanks very much but I think we'll build it right over there, as he pointed out the window," said Robert L. Johnston, vice chairman of Gerber Products Co. "He was very dedicated to this community."

Johnston, a Los Angeles native who has been with Gerber for 35 years, admits that it's unusual for a $1 billion multinational firm to find happiness in a rural Michigan town of 3,800 but there are plenty of good reasons for Gerber to be where it is.

"The reason the baby food plant has stayed here is purely strategic. With the products we make, we don't want long term runs for transportation," he said. Most of the fresh fruits and vegetables processed in the Fremont plant are grown within a 100-mile radius of the plant. All of the peas Gerber uses in its products distributed throughout the world, some 7.3 million pounds, are grown in Michigan.

Over the course of a year, the Fremont plant will also process 60 million pounds of apples, 8.4 million pounds of peaches and 8.8 million pounds of pears, as well as significant tonnages of carrots, squash, green beans, blueberries, cherries, plums and wheat.

"As far as why the corporate office has remained in Fremont, there have been some trade-offs but generally we can function quite well here," said Johnston. "The work force here is of very high quality. It is a dedicated group of people. They used to blow the whistle when they needed people to come in to help process peas. People would give up whatever they were doing and come in to help out. That's pretty hard to walk away from."

There have been disadvantages, said Johnston, in recruiting executive level management. Although Gerber has traditionally promoted most of its management from within, he said, the company is now filling more positions from outside to stimulate a flow of new ideas and attitudes.

"Sure, there are some who wish it could be Chicago but there are also many who are very glad to be here in a small-town environment, who love the quality of life and who take full advantage of it," Johnston said.

New global opportunities. Although many of the values and characteristics of small-town life are reflected in Gerber's corporate image, a leisurely pace is not one of them. Piergallini's progressive market strategy has the firm poised to capitalize on opportunities emerging under the new global economic order.

"Obviously everybody's very interested in Europe because in 1992 the barriers are coming down," said Johnston. "With trade barriers coming down, you won't have to have a plant in France, one in Italy, one in Spain and one in Germany you will be able to do business for all of Europe from one central plant, if you can find the right alliance."

At present, most of the Gerger products distributed in Europe are manufactured in the U.S. Interestingly, there are different recipes for different cultural tastes, said Johnston.

Gerber has established beachheads in newly accessible Eastern European markets as well. New export trade to Poland totalled over $3 million in fiscal 1990 and new business is being developed in Czechoslovakia and Hungary.

In the Middle East, new ventures are being studied in Turkey, Greece and Saudi Arabia. Pacific Rim markets targeted by Gerber include Thailand, Indonesia and Malaysia. An already strong presence in Latin America is being strengthened by growing joint venture operations in Costa Rica, Puerto Rico and Mexico.

The Canada-U.S. Free Trade Agreement has benefited Gerber by allowing the company to consolidate more of its manufacturing capacity for Canadian distribution in the U.S. where production costs are lower.

"Superbranding." Domestically, Piergallini has championed superbranding" as a major component of the firm's overall marketing strategy. This concept involves making maximum use of Gerber brand recognition in marketing the company's wide array of products which include children's clothing and food products for toddlers.

Said Johnston, "Superbranding makes it easier for us to do business with vendors because there is critical mass behind the product. They like to do business with us because we establish these products as Gerber's and every mother knows Gerber. She knows it well and she believes in its quality."

Given its dominance of the U.S. baby food market, the question arises as to where Gerber finds room for any more significant growth for its mainstay product line. The answer, according to Johnston, lies in a target market broadened at either end. Gerber is now marketing infant formula for newborns under a licensing agreement with Bristol-Myers and is also promoting a new line of foods for older children.

"Gerber is the only baby food company that can actually start from birth, if necessary, and take a child through the age of three to five," said Johnston. "Our products can provide a nutritional alternative to table food or fast food."

Acquisition of new product lines will continue to be a part of Gerber's growth, Johnston said, but acquisitions from now on will be evaluated on the basis of how well they "fit" the company, not just on their profitability or glamor. In recent years, Gerber has been in more of a divestive mode, shedding a trucking firm, a line of sleepwear, a network of day-care centers and a line of humidifiers and vaporizers as it redefined its corporate objectives.

"Could we have gotten to be bigger? Yes, with a lot less candor and integrity we could have done it. Many other 62-year old companies have grown to be a lot larger than Gerber," Johnston told *North Force* Magazine. "But I think our company is where it needs to be right now and where we want it to be. Gerber is looking ahead to growth but it is going to be done with a lot of heart and a lot of feeling and substance. That's our heritage."

AMERICAN DOLLARS FOR THE SOVIET UNION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. ANDERSON. Mr. Speaker, I stand to voice my opposition to any United States monetary aid to the Soviet Union. Mikhail Gorbachev informs us that perestroika has now entered its critical phase, and I quote, "is entitled to expect large-scale support to assure its success." Allow me to say this unequivocally: The Soviet Union is entitled to nothing, especially not hard-earned American tax dollars.

For years, Mr. Gorbachev has deftly walked the fence between reformist and reactionary factions in his country. But as the Soviet economic crisis deepens, half-hearted reforms will no longer suffice. In an attempt to prop up the failing Soviet economy, Mr. Gorbachev is expected to request a 5-year, $250 billion aid package from the group of seven Western economic powers during their July summit.

Advocates of granting aid to the Soviet Union insist that Gorbachev is the key to stable relations between the two superpowers and that this aid will assist us in encouraging him to adopt economic reforms. Pundits also warn us that a country with over 10,000 nuclear warheads cannot be allowed to collapse. While it may be in our geopolitical interest to see President Gorbachev remain in power, I believe we should not base our entire Soviet policy on the political survival of any one individual.

Mr. Gorbachev has orchestrated great changes in the Soviet Union, but he did so as an astute political realist rather than a free-market reformer. There is no compelling evidence that Gorbachev desires further economic reform. Granting aid will only prolong resistance to the inevitable forces of change. The Soviet people clamor for democracy and an economic system able to fulfill not only their needs but their dreams. Let us not thwart them by propping up an inefficient and repressive system.

Because of our strict budgetary restraints, we have had to make some very difficult choices in defining our national priorities. It is clearly wrong to cart off our taxpayers' money so that the Soviets can avoid such choices. Mr. Gorbachev knows what it will take to revitalize the Soviet economy, and it's not Western aid. Under Gorbachev, Soviet military spending has increased, the budding democracies of the Baltics have been violently repressed, and the Soviet people suffer acute shortages of the most fundamental goods and services. No amount of aid will be enough until the strangulating Socialist policies are dramatically changed.

Mikhail Gorbachev is in a desperate position and he knows it. His thinly veiled threats and efforts to extort unconditional aid clearly illustrate his resistance to the measures necessary to rekindle the Soviet economy. Communism has failed. Let us allow Mr. Gorbachev to decide if he will truly reform the Soviet Union or go down with a ship that even a flood of American dollars won't save.

TRIBUTE TO BARBARA CAVAS

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. DAVIS. Mr. Speaker, I rise today to extend my sincere thanks and best wishes to Barbara Cavas who is retiring as chief clerk of the Committee on Merchant Marine and Fisheries. Barbara joined the committee in 1981, bringing extensive congressional experience with her, and for the past 10 years has provided our committee with stability and continuity. Barbara consistently handled the myriad of day-to-day details necessary to the successful functioning of our committee. Under her watchful eye, hearings and markups were run smoothly and efficiently. Barbara possesses that rare combination of skills which allows her to get a job done, and done well, while still maintaining a sense of balance. As a result, she has trained an extremely capable and effective staff. This is a legacy that will serve our committee well in future years.

Barbara also had the task of ensuring that all of us Members, the counsels, and professional staff carried out our official duties. She provided all of us, on both sides of the aisle, with the support necessary to accomplish our tasks. I would like to express the gratitude of all of us who benefited from her willing assistance.

In private life Barbara enjoys gardening, travel, and, most of all, her three grandchildren. I am certain she and her husband, Peter, are looking forward to the opportunity to devote more time to these activities.

Today, the Merchant Marine and Fisheries Committee will gather to pay tribute to Barbara. We are deeply grateful to her for her many years of dedicated service. We wish her good health, good luck, and great happiness in her well-deserved retirement. I would like her to know that she will be missed by all who have had the opportunity to work with her.

SALUTE TO CHAIRPERSON CHERYL SCHNEIDER OF HAZELTINE'S GOLF COMMITTEE FOR SUCCESSFUL U.S. OPEN GOLF CHAMPIONSHIP

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. RAMSTAD. Mr. Speaker, major events, like the U.S. Open Golf Championship don't just happen. They are the product of tireless planning and countless hours of hard work by dedicated people.

Mr. Speaker, I rise to salute one of those dedicated people, Cheryl Schneider, chairperson of Hazeltine's Golf Committee, the host golf club of the 1991 U.S. Open.

Cheryl's commitment to both excellence and golf has produced a tournament without parallel. Her 3 years of selfless service as chairperson has created a tournament that golf fans the world over can enjoy whether they're at the course or sitting glued to their television sets.

Why has Cheryl Schneider given so generously of her time in attending meetings, checking details, entertaining representatives from future U.S. Open courses, doing everything it takes to create a successful U.S. Open? The answer is a simple one, which Cheryl Schneider says best in her own words: "We have a love affair with golf. We care deeply about the game of golf."

Mr. Speaker, I salute the dedication, leadership and hard work of Cheryl Schneider. I also salute each of the other 3,500 hard-working volunteers who have worked to make the 1991 U.S. Open an unprecedented success. I believe I speak for the entire Congress and golf fans everywhere when I offer them our thanks and congratulations.

CONGRATULATIONS TO CONGRESS' LATEST GRADUATE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. STARK. Mr. Speaker, On June 8, 1991, one of our colleagues, Congressman BEN NIGHTHORSE CAMPBELL, received his high school diploma. BEN had completed the academic requirements for a General Equivalency Diploma [GED] and a bachelor of arts from San Jose State University and did graduate work at San Jose and at Meiji University in Japan. But he did not have a high school diploma. BEN had dropped out of high school in 1951 to join the Air Force.

After all these years and many accomplishments, BEN still felt it was difficult to encourage young people to stay in school and get their diploma when he had not done so. I applaud BEN's decision to go back to his high school and graduate. I think this action does what BEN hoped it would—inspire others. In a way more effective than any words BEN could speak, this step attests to his belief that education is a life long activity. It is never too late to go back to school and complete what you started.

I would like to congratulate BEN. He has earned lots of admiration throughout his life and I believe getting his diploma ranks right up there with his other achievements. I hope many young and not so young people will think about following his example.

CELEBRATION OF LIES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. GILMAN. Mr. Speaker, in Tuesday's June 11, 1991 Washington Post there was an article written by Lodi Gyari, the Dalai Lama's special envoy and president of the International Campaign for Tibet. He asks us to deny most-favored-nation status [MFN] to the People's Republic of China [PRC] "or at least strictly" condition it. I want to call my colleagues attention to the article as they consider extending MFN status to the People's Republic of China.

Sometimes it is easy for us to forget the victories we achieved over totalitarian nations by using economic instruments such as denying MFN. The results of our action has not isolated anyone but has brought the offending nations closer to the rest of the civilized world. As a result of such economic pressure, South Africa, Nicaragua, and the eastern block are all acting more appropriately toward their neighbors.

It appears that the leaders of most Communist systems around the world are beginning to understand that their time is limited. Albania is becoming a bit more realistic, North Korea is getting nervous, even Vietnam to some small degree is reaching out. However, in the PAC it seems that they still believe they can have their cake and eat it too. And they are right. Unspeakable repression goes on there as industrialized nations continue to do business with the People's Republic of China, bankrolling its inefficient centralized economy.

I urge my colleagues to think seriously about extending MFN to the People's Republic of China. In the long run our Nation's and the international community's long-term security will benefit if we take strong action against the repressive regime in Beijing.

Accordingly, I invite my colleagues to read Mr. Gyari's article and request that it's full text be printed at this point in the RECORD:

[From the Washington Post, June 11, 1991]

CELEBRATION OF LIES

(By Lodi G. Gyari)

China is often its own worst enemy. It spent months planning lavish celebrations in Lhasa to mark the 40th anniversary of its rule of Tibet, but the ceremonies only antagonized and humiliated an already bitter Tibetan population. Western countries boycotted the event. The celebration may be a blessing in disguise, for the world is now more focused on the deplorable situation in Tibet and is laboring to determine the best method of assisting Tibet in its struggle for freedom and democracy.

To prepare for the anniversary, Beijing imposed a 22-hour-a-day curfew to ward off demonstrations, and completely banned the foreign press. China drastically increased military presence and undertook strict security measures to protect top Communist Party officials coming from Beijing. Holding celebrations in such an atmosphere is a political oxymoron, the reality of which is apparently lost on Beijing.

That China would highlight its misrule of Tibet as its most-favored-nation trading status comes up for review has baffled seasoned Tibet and China watchers. Are they really so brazen as to celebrate what can only be classified as wanton destruction of Tibetan civilization? Or are they just reaffirming their military might and their dogmatic resolve as if their repressive rule is the only future for Tibet?

Because China's claim to Tibet is self-created and self-serving, and because Tibetans have always kept the stakes of the struggle high by doggedly rejecting China's claim, Beijing has allowed few discordant voices to surface. There was one high-level party member who spoke out against Tibet's colonization. Nearly a decade before his death, which triggered the Tiananmen uprising, Hu Yaobang visited Tibet and declared China's rule over it a travesty. He called for 85 percent of the Chinese to return to China, realizing that Tibet's economy, much less its culture, could not be managed by Chinese settlers.

If there is any aspect of China's occupation of Tibet that Tibetans could celebrate, it is the appraisal and vision of Hu Yaobang. Unfortunately, Hu's recommendations were not implemented, and he was later purged, partly because of his Tibet visit. To date, Beijing's reformers have never been able to effectively rescue Tibet policy from the hard-liners. Today, Chinese students and leaders in exile are taking a fresh look at their country's effect on Tibet, and many support self-determination for Tibet. But nearly all of them are still battling with the legacy of intense Communist indoctrination.

Beijing's hard-liners are not about to get out of the business of repressing the Chinese or the Tibetan people. So far the United States has all but abdicated its significant and unique potential to help China peacefully democratize and, at a bare minimum, to help Tibet maintain its separate identity. It is one of today's greatest ironies that many of Beijing's leaders were the ones who imported and imposed a Western ideology on their country, and now rely on the West for their survival. They took Marxism down an extreme and brutal path at home, exported it to Tibet, and virtually annihilated an ancient civilization. They are being propped up by the foreign exchange flow into China, which they use in part to subsidize the military occupation of Tibet.

Beijing's propaganda about the celebrations reached an unprecedented volume and concentrated on bold claims of rapid economic development of the country. But when the Chinese boast of building thousands of miles of roads, Tibetans see the roads used principally for military purposes and to extract natural resources. When they boast of the number of schools built, Tibetans watch their children learning Chinese language and ideology. When they tout the number of hydroelectric stations built, Tibetans see apartments of Chinese immigrants brightly lit up and Tibetan homes dark.

These are not easy issues. Tibetans may be receiving some benefits from Chinese colonialism, but the question remains—at what cost?

Mao Zedong said that "power comes from the barrel of a gun," and the Chinese seem intent on continually proving that point in Tibet. But as in Poland during the 1980s, repession in Tibet now only seems to create more martyrs, strengthen Tibetan resistance and bring international scrutiny. The hardliners in Beijing are unable to come up with any meaningful option for solving the problems in Tibet. While Chinese thinking stagnates, the world community's continues to evolve. Following the Dalai Lama's successful visit to Washington and his meeting with President Bush, Washington policy makers are doing some rethinking, and Beijing's sacred cow status is beginning to slip.

It is time for the West to pressure China to fundamentally change its policy in Tibet. Our main goal is the same as every other oppessed people: survival. We first need to stop Beijing's economic inducements for Chinese to move to Tibet. Jobs, housing, medical care and education are now often provided to Tibetans, if at all, only after the Chinese settlers have been taken care of. We must find ways to hold Beijing accountable for blatant human rights abuses—beatings and shootings of demonstators, arbitary arrests, imprisonment and torture. We further need the help of the West to end the envionmental exploitation of our lands.

Ultimately a peaceful solution to Tibet must come from open dialogue and direct negotiations. In the past, the Chinese have tried to reduce the issue of Tibet to the return and position of the Dalai Lama. The solution of Tibet does not lie with the Dalai Lama's return. He has always said that his own status is virtually irrelevant; it is the rights of the 6 million Tibetans and the survival of Tibetan civilization that are the issue.

The West has a crucial role to play in helping the people of China and Tibet regain their humanity. Denying or at least strictly conditioning MFN will weaken the hard-liners and give much needed hope to those fighting for freedom and democracy. We believe that the Chinese and the Tibetan people can live in harmony, as they once did. With the breakup of the Communist empire and the advent of the Asian democracy movement, we are not talking about if Tibet will regain its freedom, but when and how.

TRIBUTE TO DR. FERDINAND R. McNABB

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly outstanding individual in mid-Michigan, Dr. Ferdinand McNabb of Ithaca, MI. Dr. McNabb is going to be inducted posthumously into the Harness Racing Hall of Fame later this month. I am sure that you will concur with me it is fitting for Dr. McNabb to receive this honor.

Dr. McNabb was a renowned veterinarian in the Ithaca area. His love for horses prompted him to raise horses for harness racing. In 1952, Dr. McNabb's horse, Hillsoto, was the national harness racing champion.

His successes in harness racing are not limited to himself. He was very instrumental in bringing the interest of harness racing to mid-Michigan. Many people in the Ithaca area got involved in harness racing because of Dr. McNabb.

Dr. McNabb had a vision for Ithaca. He wanted to bring harness racing to the area as a major economic industry. He believed the horses could have a major role in making the economy of Ithaca and the surrounding area thrive. He was visionary and an entrepreneur who acted to make his dreams a reality. When he passed away he left the city of Ithaca land for a fairground and $50,000.

Mr. Speaker, I know you will join me in commending Dr. McNabb. He will be honored later this month because of his dedication to harness racing and for his devotion to his community.

TOWN OF BEL AIR CELEBRATES FLAG DAY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mrs. BENTLEY. Mr. Speaker, tomorrow is Flag Day in our country. Last Saturday, June 8, 1991, I was privileged to attend the town of Bel Air's Flag Day ceremony in honor of the June 14 holiday. The event is held each year in front of the Bel Air Town Hall on the Saturday morning before Flag Day, and has been chaired for the past several years by William A. Humbert.

This year, more than in any year since the Vietnam war, Flag Day truly will take on special meaning as a result of the U.S. victory in Operation Desert Storm. Because of the war, Americans increasingly have looked to the flag as a symbol of the courage and strength displayed by those who helped confirm our country's role as a world leader.

The small-town spirit displayed by those who attended the affair epitomizes the essence of Flag Day. In attendance were members of American Legion Post 39, chapter 30 of the Disabled American Veterans, area Boy Scouts, as well as local public officials. Father Sam Young, of St. Margaret's Church in Bel Air, led the assembly in a prayer.

Bel Air High School's Band, led by Wes Lockhart, stirred the audience with such works as the Star Spangled Banner, Emblem of Unity, March America, You're a Grand Old Flag, and Battle Hymn of the Republic. The Counterpoints singers, under the direction of Ed Herbold, performed their patriotic renditions of America You Have Given Me Riches, My Country 'Tis of Thee, God Bless America, and America the Beautiful.

Col. Jan A. Van Prooyen, who served as the chief of the Army's Nuclear Chemical Division in Europe from August 1990 until this May, delivered a thoughtful keynote address. He discussed the significance of our flag in light of the recent Persian Gulf conflict and past military conflicts.

Colonel Van Prooyen's words are a reminder of the symbolic importance of the most easily identifiable emblem of our great Nation:

ADDRESS BY COL. JAN. A. VAN PROOYEN

I'm happy to be here because it's a great day to be an American and an especially great day to be an American soldier. I believe that our military success in removing Iraqi forces from Kuwait revived the American spirit, the American pride, and America's confidence in itself. For many reasons, that spirit, that pride, that confidence had not been visible in recent years. But it has been evident and openly displayed in recent months—before, during, and certainly following Operation Desert Storm. That national spirit will likely reach a climax this weekend as our soldiers, sailors, marines, airmen and coast guardsmen, march through Washington, DC and New York City led by Gen. Norman Schwarzkopf. I earnestly hope that the euphoria and sense of patriotism sweeping the country can be kept alive. The world urgently needs America's leadership. That leadership can only be provided if Americans maintain their pride, spirit, and their confidence in their country and its leaders.

It is very fitting that we celebrate Flag Day today—on June 14, 1777 Congress adopted the first official flag to symbolize the United States of America. June 14th is also our Army's birthday. For our Army its's number 216 and counting. For Old Glory it is 214 years of flying high. And how appropriate it is that these two birthdays are celebrated on the same day. For throughout our long and proud history, the Army and the flag have constantly been together. Soldiers have long protected the flag from danger and destruction. Likewise, the flag has inspired soldiers and our Army to accomplish feats that might have seemed impossible. History gives ample testimony to that relationship of mutual support.

In war, our servicemen and service women have carried the flag to far away places. They've carried it to places like San Juan Hill, Flanders, Corregidor, Khe Sahn, and Kuwait City. Whether in the steaming jungles of the South Pacific, the stormy beaches of Europe, or the torrid desert of Southwest Asia, the American soldiers, sailors, airman or marine has risen to the challenge. That's why we gather here today . . . . that's why we gather here today.

What is it about our flag? What does it mean to us, Why do soldiers protect it on the field of battle? Why do we Americans swell with pride and patriotism when we watch old glory ripple gently in the breeze?

The answer is contained in our hearts and in our spirit. The bright colors and striking design of the American flag stand—our land . . . . our people . . . . our Government . . . . our ideals . . . . and our very heritage.

Indeed, the flag is the embodiment of our country. It is General Washington, and the cold, starving soldiers at Valley Forge. It is President Lincoln at Gettysburg hoping to bind the Nation's wounds. It is the unknown soldier resting peacefully in Arlington National Cemetery knowing that he did not die in vain.

When we began our fight for freedom, at Lexington, Massachusetts on April 19, 1775, America was simply a group of disorganized colonies.

What we did have was just a group of farmers, merchants, craftsmen, and others banded loosely together in local militias. Hardly a force that would instill fear in the British Army.

That group of unorganized colonials kindled a fire that started * * * but * * * through the land declaring freedom and justice for all men and women.

When Wahington first saw the flag being flown above his Army he was struck by its beauty and symbolism. He is reported to have said:

"We take the stars from heaven, the red from our mother country, separating it by white stripes, thus showing that we have separated from her, and then the white stripes should go down to posterity representing liberty."

As we celebrate our grand old flag's birthday today, let us remember that past. It's filled with a heritage of achievement and honor that we all can be proud of. Our army and our flag are an undeniable part of that heritage.

The beauty and the meaning of our flag still exist today. They exist because—as Operation Desert Storm has surely demonstrated—Americans are still willing to serve their Nation. That beauty and that meaning still exist because our citizens are firm in their commitment to our Constitution and they exist because Americans believe in freedom, democracy, and human dignity. They exist because people like you love their country.

This day, let us remember how much the flag means to this Nation. It has truly been the fuel for the fire of freedom and an inspiration for Americans * * * our history. The flames of that fire continue to burn today. And if we remain strong, the winds of adversity will never extinguish them.

One of my favorite verses is the last stanza of the Star Spangled Banner. For me, it simply and eloquently expresses the meaning of this very special day. I'd like to conclude with that verse.

Blest with victory and peace may the heav'n rescued land
Praise the power that hath made and preserv'd us a nation.
Then conquer we must, when our cause it is just,
And this be our motto—"In God is Our Trust!"
And the Star-Spangled Banner in triumph shall wave o'er the land of the free and the home of the brave!

Thank you very much.

INTRODUCTION OF THE MINERAL POLICY REVIEW COMMISSION ACT OF 1991

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. MARLENEE. Mr. Speaker, I rise today on behalf of myself and numerous other Members of this body to introduce the Mineral Policy Review Commission Act of 1991.

Early in the development of our Nation we saw the lure of mineral exploration and development play a crucial role in the development of our Nation. That lure was predominantly in the Northwest, in States like Montana, California, Idaho, Nevada, and Alaska. In Montana we are proud of our mining industry and the part it played in the westward movement of so many of our Nation's early settlers.

So important was mining to our emerging Nation that in 1872, Congress sensed its need to protect the public interest and passed the general mining law that is still in use today.

Currently the 1872 mining law is under tremendous criticism. Those critics claim that just because the mining law is nearly 120 years old, that it is outdated. Some would even say that we need to throw it out and begin with a totally new law. Well I don't agree with them.

The mining law has worked for almost 120 years and has provided tremendous benefits for our Nation. Those who advocate change do not have the slightest clue what effect these changes would ultimately bring.

Although some environmental groups and their supporters continue to state it, I do not agree with their contention that the mining law of 1872 is "based on outdated notions of property ownership * * *". Indeed, the right to private property is as cherished in the Constitution as the rights of free speech, religious expression, and personal ownership of firearms.

Nonfuel mineral production in Montana in 1990 was valued at $573.8 million. This ranks Montana 20th nationally in terms of nonfuel mineral production. There are currently more than 70,000 active unpatented mining claims in Montana. In 1989, mining exploration resulted in direct expenditures of more than $26 million on some 600 active exploration projects. Mining provides employment for approximately 4,000 people in Montana with an annual payroll of $140 million. As you can see mining is extremely important to the economy of Montana. Broad, sweeping changes to the existing mining law could have very serious impacts on the economies of Montana and many other States. One of my main concerns with major changes to the law is that we simply don't know what the real impact will be. There are a lot of discrepancies in the information that has been put out concerning the impact of some of the proposed changes.

Some would have you believe that a $100 holding fee on all mining claims will produce $97.5 million to the U.S. Treasury. No so. I am told over half of the claims filed today would be dropped rather than pay a $100 holding fee.

I am very concerned as to what effect we will have on the small miners and entrepreneurs if we enact wholesale changes to the law.

This is the reason I am introducing my bill today. I believe rather than rushing in and completely reforming the mining law it would be to our benefit to conduct a comprehensive study of all laws, policies, and practices relating to the exploration, disposition, and development of our mineral resources. Let's find out what problems do occur and which of those can be corrected administratively and which require a change of law.

My bill creates a commission to do this study. The commission will be made up of those individuals, both inside the Government and from the private sector, who have the broadest expertise in our mining laws and policies. When the commission's report is received, Congress can then determine which changes might be most appropriate for the mining law.

My bill provides a reasonable alternative to broad mining law reform. This is not a delaying tactic. This is a reasoned approach to move the discussion forward for updating the mining law. This process will bring private interests and government together to determine which parts of the existing law are most appropriate to update, and how to most effectively amend the law.

I hope and pray that my colleagues here in the House who truly believe in equal justice for all and fair treatment will join me in support of this legislation.

AID TO EL SALVADOR

HON. MIKE KOPETSKI

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. KOPETSKI. Mr. Speaker, today I rise to discuss an issue of great importance that was not a part of the debate over H.R. 2508, the foreign assistance authorization for fiscal years 1992 and 1993. I am referring to aid to El Salvador. To encourage continued United Nations mediated negotiations, the House leadership has decided to postpone a decision on Salvadoran aid until later this year.

This week, Salvadoran President Cristiani is in Washington. It is vitally important that Cristiani know that the Congress and the American people continue to watch the negotiations. More importantly, President Cristiani, America continues to follow developments in El Salvador. Certainly, the U.N. mediated negotiations have made progress in the United States must ensure that all agreements are implemented and not allowed to exist as hollow pledges aimed at securing additional U.S. assistance.

Mr. Speaker, I am concerned that the extreme right of El Salvador is conducting a campaign of violence and terror that threatens democratic participation in El Salvador and the difficult task of the U.N. negotiator. Let me share with you two recent alarming examples that I believe the United States must denounce.

First, the brutal murder of Isaac Matinez, a trade union leader and candidate for the democratic convergence in the March 1991 elections. Isaac Martinez disappeared on May 13 and his body was discovered the following day in a trash dump in the village San Jacinto. His body showed various signs of torture, reportedly cigarette burns and machete wounds. Perhaps most telling Martinez' thumbs were tied behind his back, a technique traditionally used by Government security forces in El Salvador.

Second, as was reported in the May 25, 1991 Washington Post, a leaflet was distributed to restaurant and shop owners in San Salvador. This leaflet, a copy of which I would like to enter into the RECORD, is a telling sign of climate that many face in El Salvador. Agreements reached through the United Nation negotiations will be useless if ordinary Salvadorans fear that participation in the democratic process will bring harm to themselves and their family members. The leaflet, distributed by a group calling itself the Salvadoran Anticommunist Front states, "We demand that you refrain from providing services to foreigners or nationals," from the United Nations, International Red Cross, or Doctors Without Borders. Failure to comply, according to the leaflet would result in sanctions, "* * * against your business, your person or your family."

Mr. Speaker, I am greatly disturbed by these incidents. Last evening, I along with Congressman JOHN W. COX, JR. hand-delivered a letter to the United States Ambassador to El Salvador William G. Walker, requesting that he investigate these incidents. Congressman Cox and I also delivered a copy of this letter to President Cristiani. Thirty-Four Members of Congress joined us in requesting that Ambassador Walker investigate these incidents.

I encourage all Members of Congress to read this letter, a copy of which is submitted for the RECORD. Additionally, I urge all Members to join me in continuing to follow the developments at the negotiating table and in El Salvador.

[Translation of flyer distributed to shopkeepers in San Salvador]

SALVADORAN ANTI-COMMUNIST FRONT

As of this day, we demand that you refrain from providing services to foreigners or nationals who belong to the following organizations:

The United Nations.

UN Observer Group for Central America.

Doctors of the World.

Doctors Without Borders.

International Committee for the Red Cross.

UN High Committee on Refugees.

If you disobey, you will be collaborating with foreigners who conspire with communism in order to take control of our national territory and you will deserve the punishment that the Front decides against your business, your person and your family.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 12, 1991.

Ambassador WILLIAM G. WALKER,
American Embassy,
El Salvador, San Salvador,
APO Miami.

DEAR AMBASSADOR WALKER: As you know, the Congress continues to follow the United Nations mediated Salvadoran peace negotiations, hopeful that they may bring a negotiated political solution to the 11 year old civil war in El Salvador. Today, we are writing to request that you conduct an official inquiry into two incidents that, in our opinion, threaten democratic participation by all citizens in El Salvador.

First, we are concerned about the brutal and suspicious death of Isaac Martinez. Mr. Martinez was a trade union leader and candidate of the Democratic Convergence in the March 1991 elections. Mr. Martinez's body was found in a trash dump in the village of San Jacinto on May 14, 1991. His body showed various signs of torture, reportedly including cigarette burns and machete wounds. Martinez' thumbs were also tied behind his back, a technique traditionally used by the government security forces in El Salvador.

Second, as reported in the May 25, 1991 *Washington Post*, a leaflet was distributed to restaurant and shop owners in San Salvador. The leaflet, distributed by a group calling itself the Salvadoran Anticommunist Front stated, "We demand that you refrain from providing services to foreigners or nationals," from the United Nations, International Red Cross or Doctors Without Borders. The leaflet went on to state that failure to comply would result in sanctions, ". . . against your business, your person or your family."

We believe that these two incidents must be thoroughly investigated and denounced by the United States. While progress may be taking place at the negotiating table, the ongoing human rights abuses in El Salvador must not be brushed under the table or tolerated in any way. The United States must continue to speak out for human rights in El Salvador and support the U.N. mediator in his difficult task. Any negotiated agreements will be weakened if Salvadorans fear that becoming involved in the political process will bring harm to themselves and their families. We fear that these incidents are ominous signs that the extreme right is attempting to sabotage the ongoing negotiations.

Ambassador Walker, we appreciate your consideration of this request and look forward to a timely reply. In closing, we appreciate this opportunity to work together to bring peace to El Salvador.

Sincerely,

Mike Kopetski, George E. Brown, Jr., David E. Bonior, Ronald V. Dellums, Jose E. Serrano, Harley O. Staggers, Jr., Glenn Poshard, James A. Traficant, Jr., John W. Cox, Jr., Matthew F. McHugh, Nancy Pelosi, Neil Abercrombie, Barney Frank, Donald M. Payne, Constance A. Morella, James L. Oberstar.

John M. Spratt, Jr., Rick Boucher, Richard E. Neal, Ron Wyden, Marty Russo, Mel Levine, Les AuCoin, John Bryant, Jack Reed, Barbara B. Kennelly, Rick Santorum, Edolphus Towns, James H. Scheuer, Cardis Collins, Terry L. Bruce, Peter DeFazio, Lane Evans, Joseph P. Kennedy, Jolene Unsoeld, John Joseph Moakley.

Members of Congress.

FIGHT AGAINST AIDS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. MURTHA. Mr. Speaker, today, the New England Journal of Medicine, the premier medical journal in the Nation, reported that the U.S. Army has successfully completed its first round of testing on a vaccine for the HIV virus, the virus which causes AIDS. The Walter Reed Army Institute of Research reports that volunteers with early signs of AIDS who received the vaccine did not experience a progression of their illness.

This isn't a cure for AIDS yet. But it's a significant step, and it could lead to further advances in our fight against this deadly disease. Since 1988, the Army has requested $54 million for AIDS research, but Congress has put an additional $100 million in the research program. Since I first learned of the potential of this research from our former colleague Jack Marsh, who at that time was Secretary of the Army, I've thought this was an outstanding program. I've pushed for it in the Defense Appropriations Subcommittee, and I'm pleased to report this breakthrough today. I want to salute the Army researchers who have been working diligently on this vaccine, and wish them even more success as we continue our fight against AIDS.

BULLS BRING JOY AND A CHAMPIONSHIP TO ALL OF CHICAGOLAND

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. PORTER. Mr. Speaker, the celebration that started in Chicago last night following the Bulls' championship victory continues this morning, as the citizens of the entire Chicagoland area savor the feelings of pride and exultation that come with the NBA title. Chicago fans haven't had an occasion to cheer like this since the 1985 Bears won the Super Bowl, and Michael Jordan and company have given us plenty to cheer about this time.

Air Jordan led the Bulls to their first NBA title in the team's 25-year history with his 30 points, accompanied by Scottie Pippen with a game-leading 32. John Paxson's 20 points were especially important, since he knocked down many of them in the final minutes of the game to ensure the Bulls' win.

The Bulls' championship season is not only satisfying for the obvious reason that everyone likes their home team to win. It is also significant because the Bulls set out to prove, especially in the series they swept from the Detroit Pistons, that Chicago's style of aggressive, sportsmanlike play could prevail over the bad boys bruising tactics. This was something that hung over the Bulls and their fans after being eliminated repeatedly by Detroit in the semifinals, but this year we were not to be denied.

It is also satisfying because, as Michael Jordan said last night, it should "remove the stigma of being a one-man team." This was truly a team victory. Jordan, who throughout the playoffs demonstrated his leadership and willingness to share scoring opportunities, said that "my teammates have stepped up, and the stigma is removed." Anyone who saw the television coverage of Michael Jordan holding the championship trophy with tearful eyes could not fail to be moved by the emotion of that moment. It obviously meant so much to him, his team, and every Bulls' fan.

There should be no doubt that the Bulls are a balanced, seasoned team of champions who will be a force to be reckoned with for many seasons to come. Here's to the NBA champions—long may they reign.

AMERICAN FLAG FIDELITY BILL

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. STAGGERS. Mr. Speaker, I rise today along with 20 of my colleagues—Mr. BONIOR, Mr. BRYANT, Mrs. COLLINS of Illinois, Mr. GUARINI, Mr. HENRY, Mr. HORTON, Ms. KAPTUR, Mr. JONTZ, Mr. KOLTER, Mr. LIPINSKI, Mr. PALLONE, Mr. PAYNE of Virginia, Mr. PERKINS, Mr. PICKETT, Mr. QUILLEN, Mr. RAHALL, Mr. SERRANO, Mr. SKELTON, Mr. SLAUGHTER, and Mr. SPENCE—who support the concept that the American flag is a sacred symbol of our country that should be produced by American workers, in America.

This is not a new concept, I have introduced this legislation previously when I found that an increasing number of American flags were being produced in foreign countries and imported into our country. There is a substantial increase in the number of foreign-made American flags coming to our shores, in 1989–90, approximately 475,000 imported flags arrived on our shores. In the first 3 months of this year alone, more than 7 million foreign-made American flags, have been imported.

I became involved in this issue when I discovered that some foreign companies have produced American flags as well as labels that say "made in the U.S.A.," this scam then advised distributors in this country that they could simply attach the label once the flags and labels arrived here in the United States.

As a result of the heat which this legislation produced, the Department of Commerce now keeps some accounting of the number of American flags produced abroad and imported into the United States. The number of foreign-made American flags is rising rapidly. However, it is time to ensure that a sacred American symbol be produced in our country, by our workers. I urge you protect the integrity of the American flag by supporting our legislation.

Remember, if you support our bill, you will not be left to wonder in the future if the flag you face when you pledge allegiance is an American flag. It will be. If you don't, you better check the label.

CALL FOR HEARINGS ON H.R. 1413

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. JENKINS. Mr. Speaker, H.R. 1413 reflects the growing awareness and concern by the public, the administration, commentators, and Congress that our Nation's tax revenue estimation process is so seriously flawed that it may be doing critical harm to our Nation's economy.

Not only does this vital subject impact the economic basis upon which our Congress enacts legislation, it therefore directly and indirectly impacts the financial well-being of every taxpayer.

H.R. 1413 calls for the repeal of the tax expenditure provisions within the Budget Act of 1974. No repeal can occur, of course, without the appropriate congressional hearings. At such hearings, and interested and knowledgeable parties will have the opportunity to present their views by written and/or oral testimony.

These hearings are of momentous importance. Businesses, the professions, academia, governmental authorities and individuals are urged to offer their testimony so that our Nation may profit from their expertise and experience. It is my strong view that such hearings are imperative and should be scheduled as soon as possible.

Mr. Speaker, I urge my colleagues to cosponsor H.R. 1413 introduced by Congressman SCHULZE and myself.

ARRIVAL OF THE 100TH DAY AND NO CRIME BILL

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. RAMSTAD. Mr. Speaker, today, is a sad day for the 102d Congress. Ninety-nine days ago, as we celebrated the end of the war in the gulf, President Bush said it's time to get going on the domestic front.

He said that if our outstanding men and women in the Persian Gulf could win a ground war in 100 hours then surely the Congress can get a crime bill to this desk in 100 days.

I'm sorry to report, Mr. Speaker, that the 100 days will be up tomorrow, and no crime bill has been sent to 1600 Pennsylvania Avenue. In fact, in this House, the President's package still has not been referred to a single subcommittee.

Mr. Speaker, let there be no mistake. The American people must know that the leadership from the other side of the aisle is responsible for this inaction. Not only have they refused to discuss the President's comprehensive crime bill, they have yet to draft their own alternative crime bill.

This illustrates the majority's lack of leadership on the crime issue. In fact, there is apparently some confusion in the Democratic leadership over the issue of whether the President's bill has been referred to any subcommittees. This referral, of course, is needed so that hearings can be held on the legislation.

Just yesterday, Mr. Speaker, I asked the chairman of the Subcommittee on Crime and Criminal Justice why the chairman of the Full Judiciary Committee hadn't referred the bill. I was relieved to hear his response that the bill had been referred. This information was news to all the Republicans on the subcommittee. Unfortunately, one gets a different answer if one asks the staff of the full committee. To this hour, they tell me, the bill has not been referred.

Mr. Speaker, to clear up this confusion, I have a simple solution: Refer the bill to the subcommittees and let's get to work.

The need for swift passage of a crime package is clear when we look at the amount of crime that happens on our streets every 100 days. It's estimated that during that period there are 6,500 homicides; 40,500 rapes; 332,000 robberies; and 1,400,000 assults. Can the need for this legislation be more clear?

Mr. Speaker, the President's legislation is not a panacea, but with it's passage we will reduce crime. Let's not wait another 100 days, let's get to work now. We can't afford to wait any longer.

TRIBUTE TO DR. JACK C. HUGHSTON

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. RAY. Mr. Speaker, Dr. Jack C. Hughston of Columbus, GA, from the Third District of Georgia, was recently honored by the Medical Association of Georgia for his outstanding achievements in sports medicine.

He was awarded the Hardman Cup Award at the Association's 137th annual meeting. The Hardman Cup is named after Dr. Lamartine Griffin Hardman, the Governor of Georgia from 1926–30, and is presented to cite an outstanding contribution in surgery or medicine.

Dr. Hughston is a founder of clinics geared for crippled children in Columbus and Cordele, and he has founded an orthopaedic clinic and a sports medicine hospital in Columbus. Dr. Hughston is past chairman of the first "Committee on Sports Medicine" of the American Academy of Orthopaedic Surgeons.

I congratulate Dr. Hughston for this award, and I wish him the best of luck as he continues to search for improved treatments in sports medicine.

[From the Columbus (GA) Ledger-Enquirer, June 6, 1991]

HUGHSTON HONORED FOR WORK IN THE SPORTS MEDICINE FIELD

Dr. Jack C. Hughston of Columbus was honored recently by the Medical Association of Georgia for his outstanding achievements in sports medicine.

Hughston, founder of clinics for crippled children in Columbus and Cordele, Ga., and of Hughston Orthopaedic Clinic and Hughston Sports Medicine Hospital in Columbus, received the Hardman Cup Award in Savannah during the 137th annual meeting of the association.

The award presentation cited Hughston's contributions to sports medicine, including chairmanship of the first Committee on Sports Medicine of the American Academy of Orthopaedic Surgeons, and his urging of improved equipment and rule revisions to make sports safer.

The Hardman Cup is named after Dr. Lamartine Griffin Hardman, a former Georgia governor (1926–30), and is only presented to cite an outstanding contribution in surgery or medicine.

A FOND FAREWELL TO BARBARA CAVAS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. YOUNG of Alaska. Mr. Speaker, tonight the Merchant Marine and Fisheries Committee is paying tribute to Ms. Barbara Cavas, our chief clerk. After a long and successful career in the House, Barbara has decided to give up bill forms, reports, and markups and trade them in for travel, gardening, and grandchildren. We will all miss her.

Barbara has worked for a number of our colleagues in the House, including our former colleagues, Homer Thornberry and Joe Kilgore of Texas, the second largest State. For the last 10 years, she worked for my chairman, the Honorable WALTER JONES, as chief clerk on the committee, having transferred to that job from Mr. JONES' personal staff. She has run a tight ship on the committee, ensuring that hearings and markups flow smoothly, that members' questions are answered, and that the committee staff does its best work. I've described our committee's staff as the best on the Hill, and that is in no small way due to Barbara's diligence.

Mr. Speaker, we often forget that so much of what we do in this body is the result of a lot of dedicated effort by hard working, professional staff. Barbara is one of those staffers, and the committee will not be the same without her.

DREW MICHAEL JOHNSON NATIONAL POSTER CHILD FOR MDA

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. BAKER. Mr. Speaker, it is my special pleasure to announce that Drew Michael Johnson, a resident of Zachary, LA, has been selected as the national poster child for the Muscular Dystrophy Association.

We are all especially proud of Drew who is 6 years old, and determined to make the most of his life. Drew was diagnosed as having Duchenne muscular dystrophy at the age of 2. He is able to walk most of the time but has to use a wheelchair on occasion. Drew's interests include swimming, T-ball soccer, playing in his treehouse, going to MDA summer camp, and playing with his dog Whitney Houston and his cat CC, two of his best friends.

Drew is the son of Sam and Teri Johnson, who are very supportive of MDA and its work. They participate in MDA-sponsored parent support group, and they try to keep a hopeful attitude for themselves and for Drew.

Drew will make his national debut on TV during the 1991 Jerry Lewis Telethon broadcast on Labor Day. Viewers may catch the telethon on WVLA, KLFY, KNOE, WNOL, KTBS. His schedule also includes MDA fundraisers and meetings, working with Jerry Lewis, and a visit with President Bush. We all look forward with proud and eager anticipation to seeing Drew on TV.

As Jerry Lewis said, "Drew represents our hope for tomorrow in helping the more than a million Americans with neuromuscular diseases." I, along with my fellow Louisianians wish Drew nothing but the best in the future. We are proud to have him as the national poster child for MDA.

THE PROBLEM OF HOMELESS VETERANS

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. KENNEDY. Mr. Speaker, I am introducing legislation which I feel takes important strides to address a most serious problem facing our country, and that is, the problem of homeless veterans.

Sadly 225,000 Americans who served our country sleep each night in doorways or on grates, struggle each day to find food or clothes, and suffer other day-to-day indignities of life on the streets. These veterans represent 30–50 percent of the adult male homeless population in this country. Yet, America and the veterans service system have failed to fully address their needs. Although the Department of Veterans Affairs have a few excellent programs for homeless veterans, their resources are limited and most homeless veterans have fallen through the cracks in the system. The legislation that I am introducing gives homeless veterans somewhere to turn. The comprehensive service program for homeless veterans bill is an improved version from the previous Congress. It is a leaner bill; one that draws on the diverse resources found in the community.

The comprehensive service program for homeless veterans addresses three fundamental needs. First there is $12 million to establish 25 drop-in service centers to provide health and mental health care, job training and placement assistance, benefits counseling, legal assistance, meals and hygiene facilities. Second, the bill provides $9 million to establish transportation and outreach services through the use of 20 mobile support teams. Third, the bill provides $15 million to provide 50 transitional group homes in order to ease the homeless veteran back into mainstream society with intensive rehabilitation and counseling.

At least 35 percent of the services provided under this bill will be contracted to nonprofit community agencies. These agencies will be required to match Federal money by at least 25 percent in order to stretch limited Federal dollars and to secure a commitment by the agencies for quality services.

Homeless veterans are not looking for a hand-out, they are looking for a helping hand. Although many struggle with complex problems such as mental illness and substance abuse, solutions to their problems are within our reach. I urge my colleagues to lend their support to this legislation and send a signal to homeless veterans that we have not forgotten them. The text of the legislation follows this statement.

H.R. 2648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Service Programs for Homeless Veterans Act of 1991".

SEC. 2. DROP-IN SERVICE CENTERS.

(a) ESTABLISHMENT.—(1) The Secretary of Veterans Affairs shall provide, directly or by contract, for the establishment of not less than 25 outreach service centers for homeless veterans in areas where there is a significant number of homeless veterans. Each such center—

(A) shall be in an appropriate location convenient to places where such veterans congregate;

(B) shall provide the services specified in subsection (c) on an unscheduled basis; and

(C) may be used as the center for homeless veterans outreach staff from nonprofit organizations, the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies or organizations.

(2) The Secretary may not enter into a contract under this section or section 4 with any contractor unless—

(A) the contractor agrees to provide at least an amount equal to 25 percent of the amount needed to provide materials and services under the contract concerned, with such amount being provided with public or private funding or in-kind with volunteer or other personnel; and

(B) the Secretary has determined that the contractor has the capacity to carry out such agreement.

(b) STAFFING.—(1) The Secretary shall ensure that not less than seven full-time equivalent employees are assigned to each such center. Such employees shall be in addition to individuals employed by the Department on the date of the enactment of this Act and may include personnel provided through contract with community service providers that have a demonstrated expertise in working with homeless veterans.

(2) Employees assigned or detailed to each such center shall include (on a full- or part-time basis) medical and psychiatric care professionals and case managers.

(c) SERVICES.—Each center established under subsection (a) shall provide case management, health care, mental health and employment counseling services, social services, hygiene facilities (including showers and laundry facilities), benefits assistance, legal assistance, transportation assistance, meals, and such other services as the Secretary determines necessary to meet the needs of the veterans served by the center.

(d) CONTRACTING.—(1) At least 35 percent of the centers established under this section shall be established through contracts entered into by the Secretary with nonprofit private providers.

(2) The Secretary shall provide—

(A) that all applications by such providers are made to the Department of Veterans Affairs office located in Washington, D.C.; and

(B) that all awards under this section are made through such office.

(3) No contract may be awarded under this section unless appropriated funds are available to the extent necessary for such purpose.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section not more than $12,000,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 3. MOBILE SUPPORT TEAMS.

(a) IN GENERAL.—The Secretary shall provide, directly or by contract, not less than 20 mobile support teams to provide services through medically equipped vans in areas with a high percentage of homeless veterans and in rural areas without adequate access to medical services of the Department of Veterans Affairs.

(b) SERVICES.—Such teams shall provide clinical care, case management, monitoring services, meals, benefit assistance, and needed transportation services for homeless veterans.

(c) CONTRACTING.—(1) At least 35 percent of the teams provided under this section shall be provided through contracts entered into by the Secretary with nonprofit private providers.

(2) The Secretary shall provide—

(A) that all applications by such providers are made to the Department of Veterans Affairs office located in Washington, D.C.; and

(B) that all awards under this section are made through such office.

(3) No contract may be awarded under this section unless appropriated funds are available to the extent necessary for such purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section not more than $9,000,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 4. TRANSITIONAL HOUSING.

(a) IN GENERAL.—(1) The Secretary shall provide for not less than 50 transitional group homes whose only residents are homeless veterans. In providing for such group homes, the Secretary shall, to the maximum extent practicable, establish, or provide for the establishment of, such homes within areas that are primarily residential.

(2) To provide such housing, the Secretary may—

(A) lease or purchase property or contract with nonprofit organizations with a demonstrated expertise in working with homeless veterans; and

(B) use residential housing located on the grounds of a medical center of the Department directly or by lease to such nonprofit organizations.

(b) IMPLEMENTATION.—In carrying out such program, the Secretary shall provide—

(1) that the manager of the housing is a veteran and resides therein;

(2) that residents of such housing have access to job training services, substance abuse rehabilitation, health care, mental health services, case management, benefits assistance, and transportation;

(3) that such residents—

(A) are employed at least 18 hours a week or are involved in job training; and

(B) if necessary, maintain involvement with a counseling program that may include a substance abuse rehabilitation program;

(4) that—

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited; and

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(5) that the veterans residing in the housing made available under this section pay rent to the extent of their ability to pay; and

(6) that such housing is in compliance with State and local housing codes and regulations.

(c) CONTRACTING.—(1) At least 35 percent of the group homes provided under this section shall be provided through contracts entered into by the Secretary with nonprofit private providers.

(2) The Secretary shall provide—

(A) that all applications by such providers are made to the Department of Veterans Affairs office located in Washington, D.C.; and

(B) that all awards under this section are made through such office.

(3) No contract may be awarded under this section unless appropriated funds are available to the extent necessary for such purpose.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 5. EVALUATIONS AND REPORTS.

(a) EVALUATIONS.—The Secretary shall, during fiscal year 1992, carry out an evaluation of the programs carried out under sections 2, 3, and 4.

(b) REPORTS.—Within 60 days after the end of fiscal year 1992, the Secretary shall transmit to the Congress a report containing the findings and conclusions made by the Secretary as a result of the evaluation carried out under subsection (a).

SEC. 6. ADDITIONAL AUTHORITY.

(a) DONATIONS.—The Secretary may accept services and equipment (including motor vehicles) donated for the purposes of carrying out sections 2, 3, and 4.

(b) CONTRACTING.—The Secretary may enter into agreements with nonprofit organizations by which the Department of Veterans Affairs would pay for services performed, under the direction of such an organization, by residents of the housing funded under section 4 or by homeless veterans who utilize the service centers established under section 2.

SEC. 7. DEFINITIONS.

In this Act:

(1) The term "Secretary" means the Secretary of Veterans Affairs.

(2) The term "veteran" has the same meaning given such term by section 101(2) of title 38, United States Code.

HUMAN RIGHTS ABUSES IN NORTHERN IRELAND

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. MAVROULES. Mr. Speaker, I rise today to express my concerns about the alleged human rights abuses in Northern Ireland. The June Amnesty International report on the United Kingdom has documented a number of unlawful assaults and abuses afflicted on the Irish people, involving ill-treatment of suspects, unfair trials, killings of unarmed suspects without warning, and misuse of national security as justification for arrests. Three hundred and thirty-nine people, mostly Irish Catholics, have been killed by security forces since 1969.

As my colleagues are aware, Northern Ireland has been subject to communal violence and sporadic unrest dating back to the 1920s. From 1969 to 1989, over 2,800 people were killed in this violence. These proud people have lived with this unrest for 70 years—is it also necessary that the Irish now live in danger and fear of the security forces as well? The purpose of these forces is to reduce violence and to ensure the stability of the government. But as Thomas Jefferson once noted, echoing John Locke, government exists to protect the rights of the people. For the people of Northern Ireland, these rights have been all but extinguished.

Mr. Speaker, it is my hope that my colleagues will join me in further examining the plight of the Irish. This strong, remarkable people, with a commitment to freedom and an exceptional record of public service in our own country, deserve our attention. I look forward to working with my colleagues in reviewing these recent allegations.

SALUTE TO OMAHA NATIVE WILLIAM BIGGS

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. HOAGLAND. Mr. Speaker, I would like to salute William L. Biggs as he completes his tenure as international president of Lions Club International. I am proud that he is a citizen of the Second Congressional District of Nebraska.

His service during 1990–91 as international president has been a fitting testament to a lifetime of service to Lions Clubs International and numerous other community groups. During the past 2 years, since stepping in on short notice to succeed the late Mathew Seishi Ogawa, his leadership has contributed greatly to strengthening the commitment of Lions worldwide to community service. Thanks to his visionary leadership and selfless dedication, the 1,370,000 members in 40,000 Lions Clubs around the world are responding to his call to answer the need of humanity.

I would particularly like to commend Bill's championship as international president on efforts to expand the Lions-Quest positive youth development program, for which Lions was a 1989 recipient of the President's Award for Private Sector Initiatives. As a result of his strong support and sponsorship of the Lions-Quest programs, over 2 million youngsters a year in 22 countries are developing the skills necessary to resist drug use and to become healthy, responsible citizens.

Bill is also to be congratulated for the inauguration of the new Sight First Program to eliminate preventable and curable blindness. Over 65 years ago, the indomitable Helen Keller personally challenged Lions to become "knights of the blind in the crusade against darkness." Ever since then, Lions worldwide have improved the quality of countless lives through many diverse services to the sight impaired. The goal of Sight First—to conquer blindness—is a daunting one, but Lion's success in this area gives us all hope and encouragement.

"Unity of Purpose" and "We Serve" ideals have been watchwords of Bill's outstanding year as president. Moreover, he represents the best example of his message. His lifetime of service to make this world a better place for this, and all succeeding generations, has resulted in a lasting positive mark on Lionism and the millions of human beings, young and old, who have been touched by the compassionate outreach of a Lions member.

We can all be proud of Bill's record of accomplishment and service. His determination to carry out the responsibilities of Lions Club International president are an inspiration to us all. I wish him and his wife, Dr. Bette, congratulations and all the best for the future.

HAPPY 40TH ANNIVERSARY TO PHIL AND BETTY BINZEL

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. MCEWEN. Mr. Speaker, as we deal with the problems of the world, it is appropriate on occasion to take a minute to acknowledge the achievements of our leading citizens. On Sunday, June 16, 1991, Dr. and Mrs. Philip E. Binzel of Washington Court House, OH, will celebrate their 40th wedding anniversary.

Phil Binzel is a native of Bowling Green, KY, with two ties to Congress. His uncle, Louis E. Miller, served in the 78th Congress, and his mother, a teacher, had a student named WILLIAM H. NATCHER, who has represented Bowling Green in the House of Representatives since 1953.

Elizabeth Ann Hasslacher Binzel was raised in Scarsdale, NY, the daughter of an engineer who, among other things, worked with the Bell Laboratory rocket team during World War II. She met Phil when she accompanied her college roommate, Phil's sister, home to Bowling Green during a school vacation.

They were married in 1951 while Phil was in medical school. Dr. Binzel served his internship and residency in Cincinnati before settling in Washington Court House in 1955, where he has been a general practitioner for 36 years. He has also taken a very active interest in government, and served on the city council.

Perhaps it is fitting that their anniversary is on Father's Day. During their 40 years of marriage, Betty and Phil have raised six children. The success of their marriage is reflected in the fact that they instilled in each of their children the importance of an education, and provided them with the support and encouragement to choose their own path in life. Today, Mary Binzel Black is a teacher living in Santa Maria, CA; Ed Binzel is an executive with Rally's Inc. in Louisville, KY; Kathy Binzel Bringardner is a nurse in Gettysburg, PA; Bill Binzel is in Washington, DC, and is an attorney for a Banking Subcommittee of the House of Representatives; Rick Binzel is a professor at the Massachusetts Institute of Technology in Boston; and Nancy Binzel Littke, who served in my office is working for a transport company outside of Pittsburgh, PA.

Although they are scattered throughout the country, the family will be reunited for the first time in many years this weekend in Washington Court House to celebrate the anniversary. The presence of the eight grandchildren, J.T., Elizabeth, Shelley, Karen, Patrick, Allison, Eric, and Steven, should insure a lively reunion.

To Betty and Phil, I send my congratulations and best wishes for a very happy 40th anniversary, and for many more to come.

J.D. AND MARY SUMNER PRESENT 50TH WEDDING ANNIVERSARY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CLEMENT. Mr. Speaker, I rise to pay tribute to two dear friends who today clebrate their 50th wedding anniversary—J.D. and Mary Sumner.

On June 14, 1941, J.D. Sumner, a talented and aspiring young musician, married the lovely Mary Agness Vanadore in Wimauma, FL.

During the past half century J.D. and Mary have managed the family business, forming an unique partnership based on a strong love and traditional family values. Mr. Speaker, I often remark that I believe that many of the problems in our country today stem from a lack of family values. I wish every family in our Nation held the values that J.D. and Mary Sumner display and could know these warm, wonderful people who are true role models for young people today.

J.D. Sumner is probably the most well known gospel music singer in history. But he has not achieved such enormous success in his industry alone. Throughout the years Mary Sumner has been an integral part of J.D.'s career, managing the family business.

The success of J.D. Sumner in the gospel music industry is legendary. He has written more than 500 gospel songs with more than 400 of them being recorded. The Grammy Award winner is a lifetime member of the Gospel Music Association and is listed in the Guiness Book of World Records as having the lowest bass voice. J.D. established the prestigious National Quartet Convention and helped begin the Gospel Music Association and the Dove Awards.

J.D. will be the first to tell you that he could never have achieved these great accomplishments without the help of his family and the support of his loved ones.

I want to pay tribute today in the U.S. House of Representatives to J.D. and Mary Sumner and their family—daughters Shirley Enoch of Nashville and Francis Dunn of Memphis, their two grandchildren and one great grandchild.

I ask my colleagues to join me in recognizing the achievements of this family, to join me in a salute to the American family unit they personify and to join me in wishing J.D. and Mary Sumner a happy and wonderful golden wedding anniversary.

NEEDED: SOUND HEALTH POLICY, NOT HYSTERIA, ON AIDS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, one of the most discouraging examples of bad politics overruling good science was the recent refusal by President Bush to support his Secretary of Health and Human Services, Dr. Louis Sullivan, in the latter's effort to bring rationality to our immigration policy involving people with AIDS and the HIV virus. Because AIDS and the HIV virus are not transmitted through casual contact, Congress in last year's immigration bill repealed an earlier amendment that mandated that these conditions be used to exclude people from visiting or immigrating to the United States. Instead, Congress wisely decided to leave the decision as to what illnesses should be the basis for a medically dictated exclusion from the United States to Dr. Sullivan and the health professionals working under him.

In pursuit of this mandate, Dr. Sullivan proposed perfectly sensibly that there be no exclusion on medical grounds for people with AIDS. Many of us agree that it would be reasonable to use the law's ban on people coming to this country who have become public charges with regard to any serious illness that had a high likelihood of leaving people dependant on public support. The exclusion of public charges has been a part of immigration law for a long time and if it is applied in a nondiscriminatory manner, it expresses a reasonable public policy. But to single out AIDS for an exclusion while other illnesses that can reduce people to the status of public charge are not covered perpetuates ignorance and bigotry.

Excluding people with the HIV virus from coming to the United States is not only unjustified; it is a throwback to earlier days when we did not have a national policy which understood AIDS well. And this bodes ill for our efforts to combat this disease.

In the Boston Globe for Saturday, June 8, Max Essex, chairman of the Harvard AIDS Institute and of the VIII International Conference on AIDS which is scheduled to be held at Harvard in June 1992, eloquently explains why the Bush administration has made a very bad mistake in allowing politics to overrule health care policy in this instance. This very conference—a critical element in the fight against AIDS—is in jeopardy because of President Bush's unwillingness to stand behind his Secretary of Health and Human Services. I hope that the arguments made by Dr. Essex and other experts will prevail in persuading the President that science ought to prevail in this instance.

[From the Boston Globe, June 8, 1990]

NEEDED: SOUND HEALTH POLICY, NOT HYSTERIA, ON AIDS

(By Max Essex)

Ten years ago this month the Centers for Disease Control received the first reports of the illness which was later identified as AIDS. In the decade since, the epidemic has burgeoned, with an estimated 1.5 million

HIV-infected people in the US and 8-10 million worldwide. At the same time, strides have been made in understanding the disease, the virus which causes it (HIV), and how it is transmitted. These scientific advances have been nothing short of stunning in scope and importance.

But even the most far-reaching discoveries of medical science are useless unless coupled with enlightened public policy. It is unfortunate that despite 10 years and more than 100,000 American deaths from AIDS, our national leaders seem to have learned little.

This was made clear last week when members of the Bush administration moved to block travel and immigration to the US by people infected with HIV.

This is a particularly disheartening act on the part of the administration, for both Louis Sullivan, secretary of health and human services, and James Mason, assistant secretary for health, had recommended removing HIV from the government's list of casually contagious diseases which trigger travel and immigration restrictions. It is appalling that the administration ignored the expertise of its own public health specialists, issuing an interim list which contains HIV.

This action has been taken despite the fact that, as public health experts worldwide agree, restricting entry of HIV-infected people does nothing to protect the American people.

The Centers for Disease Control came to this conclusion after conducting a nationwide survey of public health officials, and Mason has declared that unrestricted travel by HIV-infected individuals imposes no significant additional risk of infection to the US population.

Rather than protecting the American people, these travel restrictions convey an inaccurate message about the way in which HIV is transmitted, giving credence to the mistaken and destructive notions that the threat of AIDS comes from abroad, or that the disease can be spread by casual contact. By contributing to misinformation, the very restrictions which are supposedly meant to defend the American public pose a threat to their health.

These restrictions also send another damaging message to the American public and to the world—the message that it is acceptable to discriminate against people with HIV. This is simply bad public policy, which encourages the prejudice and ignorance that have consistently impeded attempts to eradicate AIDS. Across the world, those infected with the AIDS virus must add discrimination to the burden they carry, often losing jobs, homes, and health-care benefits if their status becomes known. To encourage and sustain this cruel and groundless prejudice is a brutal and unconscionable act which should be repudiated by all Americans.

Within our borders, it has taken years for us to begin to understand that people with AIDS are not "other" than ourselves. Ryan White is a national hero now, but it was only a few years ago that he was refused the right to go to school and shunned by his fellow townspeople. Do we really want our government to impose similar treatment on others who are just as deserving of our respect and support?

Outside the United States, the highest rates of infection are in countries with black and hispanic populations. Given past performance, we must assume that the new rules banning entry into the US will be arbitrarily enforced on racial grounds. How will we explain such apparent bigotry to the rest of the world at a time of increasing international cooperation?

Instead of feeding prejudice and misinformation, the administration should respect the advice of medical experts and the directives of Congress, as expressed in the Immigration Act of 1990, and allow this decision to be made by the public health officials who are most qualified to do so. In this way, they could actually protect the public health rather than further endangering it.

In the first years of the AIDS epidemic, when we had the opportunity to prevent its lightening-like spread, the government played politics with health policy. The tragic results of this benighted behavior on the part of our elected officials will be with us for decades to come. Instead of learning from this disaster, however, members of the Bush administration again would put political considerations ahead of sound public health policy.

Everyone who wants to see AIDS defeated should use the 60-day period of public comment to oppose the reintroduction of entry restrictions for people with HIV. We must fight for a sane and rational public health policy, not the public health hysteria espoused by this administration.

JUNE IS TURKEY LOVERS' MONTH

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. PENNY. Mr. Speaker, the turkey industry in Minnesota is very important to the State's economy and to the turkey industry nationwide. To recognize this industry, I would like to join Minnesota Gov. Arne Carlson in proclaiming June 1991 as "Turkey Month" in Minnesota. This effort is in conjunction with the National Turkey Federation's campaign to celebrate "June is Turkey Lovers' Month."

According to 1990 USDA figures, over 46 million turkeys were raised during the year in Minnesota, the second largest turkey producing State in the country. Minnesota's production represents 16 percent of the total U.S. turkey production. In addition, Minnesota's turkey industry generates an on-farm value of production of over $298 million for approximately 500 farms and 275 growers. The State's turkey industry employs over 57,000 people in the State.

Not only is Minnesota a national leader in producing turkeys, but Minnesotans are industry leaders as well. More Minnesota turkey producers have served as presidents of the National Turkey Federation than any other State. Those presidents include: John Wickliffe, 1989; Vance Larson, 1986; John Holden, 1985; Glen Harder, 1977; Lloyd Peterson, 1970; Glen Thurnbeck, 1960; and Graydon McCulley, 1949.

The per capita consumption of turkey is rising rapidly in the State and in the Nation as health conscious consumers become aware of turkey's naturally healthy benefits, and use it as an ingredient, not just a meal. In fact, in 1990 over 41 percent of American households reported serving turkey on a regular basis, up from 25 percent just 5 years ago. In addition, restaurant servings of turkey are up 11 percent since 1988, more than all other meat servings.

I am proud of the accomplishments of the Minnesota Turkey Research and Promotion Council and appreciate the many benefits this growing industry is providing the State and the Nation. Hats off to Minnesota's, and the Nation's, turkey farmers.

INTRODUCTION OF THE EMPLOYEE BENEFITS SIMPLIFICATION ACT OF 1991

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CHANDLER. Mr. Speaker, in recent months, Congress has appropriately increased its attention to the crisis this country faces in providing its citizens with adequate and affordable health care. Unfortunately, Congress has, at the same time, largely ignored a growing problem of equally significant social consequence; that being reduced retirement security for American workers. In fact, it is fair to say that Congress has actually contributed to this problem by enacting, with amazing regularity, complex and, ultimately, costly legislation that threatens the integrity of our private pension system. The result of this legislative paradox is fewer pension plans which, in turn, means reduced pension coverage for the American worker.

Last year, in response to this alarming trend, Senator PRYOR and I introduced the Employee Benefits Simplification Act. No action was taken on our bill and, unfortunately, the trend has only continued, with pension plan terminations outpacing the growth of new plans. For that reason, I am pleased today to join with Representatives ARCHER, MATSUI, JOHNSON of Connecticut, and GUARINI in introducing a revised version of this legislation, and in urging its speedy consideration.

Since the Employee Retirement Income Security Act [ERISA] was enacted in 1974, various revenue acts have amended retirement plan provisions of the Internal Revenue Code. Specifically, since 1980, an average of one statute per year has been enacted to change the laws governing private pension plans. In virtually every instance, the driving force behind this legislation was Congress' now-common tendency to raise Federal revenue at the expense of the private pension system and, ultimately, the retirement security of the American worker himself.

The effect of this legislation on workers' pension coverage is clearly being felt. Internal Revenue Service [IRS] determination letter statistics for fiscal year 1990 show that gross terminations of defined benefit [DB] pension plans reached their highest level in history for the second year in a row.

Nearly 1.8 million American workers were adversely affected by the cancellation of over 16,000 plans last year. This is in addition to the nearly 16,000 plans terminated last year. Both the figures for 1989 and 1990 are more than double the average annual rate of termination applications received by the IRS since ERISA became fully effective in 1976. And the termination figures for defined contribution [DC] pension plans are equally alarming.

Unfortunately, the numbers for new pension plan creations are not nearly as impressive. In 1989, the IRS reported initial determination letter applications, an indicator of DB plan creation, at 5,461, the lowest number in history. The new plan figures for 1990 are just as dismal.

Mr. Speaker, the Employee Benefits Simplification Act of 1991 seeks to reverse the disturbing trends reflected in these statistics. It does so through a number of provisions aimed at reducing the complex regulation and administration that currently burdens the sponsors of private pension plans. These include safe harbors for section 401(k) deferred compensation plans that will eliminate needless and expensive testing; simplified distribution rules that allow employees to rollover any portion of a distribution; new rules for leased employees; and, clarification of the manner in which benefit limit rules apply to State and local government.

Also retained from last year's bill are provisions that will standardize most of the rules governing plans for self-employed individuals, so-called Keogh plans. This will provide consistency of treatment for small businesses. The bill further encourages small employer pension plans by allowing expanded participation in salary reduction arrangements for simplified employee pension plans [SEPs]. Fairer treatment is accorded handicapped employees by a provision permitting plans to continue contributions on behalf of all disabled participants without violating contribution limits under current law.

In addition to these provisions retained from last year's bill, this legislation also includes several new provisions which address problems relating to regulations recently proposed by the Treasury Department. While I recognize that the issuance of these regulations is mandated under current law, I fear that implementation in their current form will actually do more harm than good.

Mr. Speaker, in crafting this legislation, my primary priority has been to simplify pension rules while retaining the flexibility necessary to encourage employers to offer and maintain retirement plans for their employees. While the Employee Benefits Simplification Act addresses a complex and confusing area of the law that is greatly in need of reform, the goal of the legislation is much simpler—increased retirement security for American workers.

I urge my colleagues to join this effort to strengthen our private pension system by cosponsoring the Employee Benefits Simplification Act of 1991.

"THE KIDS' SUPERINTENDENT"—ALWAYS INSTRUMENTAL IN EDUCATION: DR. GEORGE BELL RETIRES

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. PURSELL. Mr. Speaker, I bring to your attention today the retirement of my good friend, Dr. George R. Bell, Superintendent of the Northville Public Schools.

Since beginning his career in education 40 years ago, George Bell has been firmly committed to the proposition that schools exist to serve kids. He has served as a school administrator of unparalleled integrity and credibility, earning the respect and admiration of students, parents, and all levels of staff. Through George's visionary leadership and ability to face constant change with an air of confidence and a sense of humor, he has provided unprecedented years of success to education in Michigan.

As the Kids' Superintendent George Bell has provided a communicative style instills one to believe in and work hard for a standard of excellence. Conducting successful bond and millage elections, receiving the continuous support of voters, George Bell has consistently provided improved learning opportunities for kids.

While providing a conducive environment for children to learn in our public schools in Michigan, George and his wife Ruth also share a love of outdoor sports, as well as talents in music. His early career position in education was as Director of Bands and Orchestras in Wayne, Michigan. Since those early years, George has progressed through school administration positions, and Ruth now directs early childhood education programs.

Northville and Michigan students will miss Superintendent George Bell, and his colleagues will find his tireless efforts and enthusiasm impossible to match. Mr. Speaker, I send my best wishes to George Bell and his family and hope that retirement will continue to bless their lives with love and happiness.

A TRIBUTE TO THE HEBREW DAY INSTITUTE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mrs. MORELLA. Mr. Speaker, I want to share with my colleagues a tribute to the Hebrew Day Institute of Rockville, MD, in commemoration of their CHAI or 18th anniversary this year. The Hebrew Day Institute was founded in 1973 by a small group of parents committed to excellence in Jewish and secular education. Beginning with only 15 students, HDI celebrates its anniversary with 250 students in Nursery school and kindergarten through sixth grade and 54 teachers and staff. HDI's diverse student body includes students from Israel, Iran, and the Soviet Union.

The institute provides a unique educational experience which enables students to learn traditional secular studies and also provides a Hebrew/Judaic program including the study of the Hebrew Language, the Torah, and prayers and their interpretation. The focus on the needs of individual students, combined with a program which promotes pride and joy in the Jewish Heritage, has truly distinguished HDI over the last 18 years.

HDI's strength has centered around its ability to develop Jewish scholarship and a sense of tolerance and caring for other people. It is clear that students from the Hebrew Day Institute will be our future Jewish leaders. I applaud the efforts of the Hebrew Day Institute and wish them congratulations and best wishes on their anniversary.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. LEVINE of California. Mr. Speaker, all of us who have been working over the years to secure the right of Soviet Jews and other persecuted minorities to emigrate freely from the Soviet Union enthusiastically welcomed glasnost and economic reform in that country. The dramatic emigration of hundreds of thousands of Soviet Jews to Israel is nothing short of exhilarating.

However, with the atmosphere in the Soviet Union of volatile and violent political instability, economic collapse, the resurgence of the Soviet right, and a proliferation of anti-Semitic scapegoating, the need to assist Soviet refugees has become extremely urgent.

Already we are beginning to see disturbing signs in Soviet emigration policy. There are longer delays in processing and arbitrary denials by the OVIRS of exit visas to Soviet refugees already accepted to the United States. There is a re-emergence of visa refusals on the basis of traditional impediments such as alleged access to state secrets or eligibility for military service.

One victim of these regressive policies is Mr. Moses Iskin. Mr. Iskin has been trying to emigrate from the Soviet Union to join his family in the United States since 1979. He has been refused an exit visa because it is believed that he had access to secret information in his job as a top physicist in the defense industry working at the Admirality Plant as the head of the physical laboratory. In 1972, the work of the laboratory changed and is no longer considered secret. Mr. Iskin has not been exposed to secret information for over 15 years. At least four of Mr. Iskin's coworkers have already been permitted to emigrate.

Mr. Iskin applied to the General Director of the Admirality Plant four times, the Ministry of Shipbuilding three times, the Visa Department of the U.S.S.R. and the Commission on Human Rights of the Leningrad Soviet each one time. He has also appealed to the President of the Soviet Union. On his last appeal to emigrate, Mr. Iskin was told that he would have to wait until 1993 before applying again.

To make matters worse, Mr. Iskin suffered a heart attack and spent several weeks in the hospital in 1977. This past May he underwent heart surgery and has since not been able to resume work. As a consequence of his continuing refusals and separation from his children, Mr. Iskin is under a great deal of stress and his case has become extremely urgent.

On behalf of the congressional call to conscience vigil for Soviet Jews, I strongly urge the Soviet authorities to reconsider this humanitarian case and permit Mr. Iskin to emigrate as expeditiously as possible so he may be reunited with his children in the United States.

TRIBUTE TO DON MOORE, VENICE, FL

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. GOSS. Mr. Speaker, I am proud today to pay tribute to a feisty, straight-shooting, and incredibly committed journalist in Venice, FL. Don Moore, an editor of a local newspaper in my Southwest Florida district, has proven that David can meet Goliath and actually come out on top, even when Goliath is an entrenched Federal bureaucracy.

As a candidate for Congress in 1988, I came across Don Moore on the campaign trail. At the time, he had only one issue in mind to discuss: He wanted to know what I would do for a Venice veteran who had been injured during secret World War II chemical gas tests. At the time, it didn't seem like there was much we could do—the Department of Veterans Affairs had denied this man's claims and seemed uninterested in changing their policy.

But Don Moore refused to give up—and he pressed the issue. Upon further digging, my staff and I found a much bigger story than we'd originally thought. Turns out there were some 1,700 naval trainees involved in these classified tests during World War II—people who had clearly been exposed to some very serious health risks.

Mr. Speaker, that was more than 2½ years ago. Today, after countless hours of hard work, a private relief bill, two hearings in the House Judiciary Committee's Subcommittee on Administrative Law—and after more than 60 articles by Don Moore, the immoveable has actually moved. The VA has just announced that it will be changing its policies—and it will finally be recognizing the victims of these gruesome tests.

Of course now that the decision has been announced, all the national media have jumped on this "human interest" story. But Mr. Speaker, Don Moore has shown the difference between just reporting a story and actually going out on a limb for something important that you believe in. I am very proud to say that none of this could have ever happened were it not for Don Moore—and the hundreds of veterans and their families who stand to benefit from this case owe him a real debt of gratitude.

KIDS WHO CARE

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. BARTON of Texas. Mr. Speaker, in my district there is a group of extraordinary young people who are using their talents to expand their cultural horizons and promote a positive message to kids of all ages. They are members of "Kids Who Care," a Fort Worth-based touring company, comprised of people ages 7 to 17, designed to reach out into the local and international community by providing live theater to new audiences and by training gifted advanced and beginning performers. Their performance of "The Me You Cannot See" includes a strong antidrug and profamily message.

During the summer, students from across the city are joined by foreign students from Italy, Germany, Hungary, and Indonesia through Sister Cities International. Three weeks of intensive training and rehearsal are followed by a 1 week performance tour of the Dallas-Fort Worth metroplex and a Showcase performance at the Scott Theater in Fort Worth. Professional performers join "Kids Who Care" on-stage for the Showcase.

"Kids Who Care" enhances our ability for future international, educational and artistic exchanges, trains future performers and audiences, and provides positive self-esteem and leadership training for its members. "Kids Who Care" sends a clear message that kids are important and dreams can become tangible realities.

This group of talented young people will be performing at the Kennedy Center as part of the Texas Festival on June 15 on the Grand Foyer stage at 3:10 p.m. I would encourage my colleagues to see this fine group.

ILIMA INTERMEDIATE, KEOLU ELEMENTARY AND WAIALUA ELEMENTARY SCHOOLS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mrs. MINK. Mr. Speaker, I rise today to pay special tribute to the outstanding efforts of three schools in the Second Congressional District in Hawaii who have gone the extra mile in combating the terrible threat of drugs. Ilima Intermediate in Ewa Beach, Keolu Elementary in Kailua, and Waialua Elementary in Waialua were each selected by the U.S. Secretary of Education, the Honorable Lamar Alexander, as winners in the Drug-Free School Recognition Program and were among only 56 schools in the Nation to receive this great honor.

To be considered for the program, each school had to have a drug prevention program in place for 2 or more years and show success in monitoring the decrease of drug and alcohol use, enforcing a no-use policy, training staff, providing positive role models, teaching a no-use drug prevention curriculum and actively involving students, parents and the community in the drug-free school effort.

The winners in the recognition program were selected by a steering committee appointed by the Secretary of Education which consisted of drug and alcohol prevention experts, parents, educators and law enforcement officials following a review of the schools and onsite visits to see the Drug-Free Programs in action.

For the small State of Hawaii, which faces the same awful problem of drug use among children that has plagued so many communities across the country, the distinction of having not just one, but three of its schools recognized for their commitment to fighting drugs is quite a remarkable achievement. I would especially like to congratulate the principals of each school for their hard work and dedication to this important effort. From Ilima Intermediate, I commend Principal Merle Iwasama. From Keolu Elementary, recognition goes to Principal Christine Urban, and from Waialua Elementary, congratulations to Sharon Nakagawa.

Each of these administrators has taken on the responsibility of providing their students with the resources for a quality education as well as promoting a healthy and drug-free environment where learning can take place.

I must also give particular recognition to the many students who have helped to make the Drug-Free Program work at Ilima, Keolu and Waialua. Without the commitment of these outstanding boys and girls, the programs could never have been so successful. It is my great hope that the steps that each child has taken in ridding their schools of the horrible menace of drugs will set them on a healthy and productive path for the rest of their lives.

I am very proud, Mr. Speaker, to pay tribute to these three schools which are fine examples to the rest of the Nation of the dedication of Hawaii's teachers and students to the future of learning in this country. I truly hope this is the start of making all of our schools drug-free.

Congratulations to each and every student, parent, teacher and staff member of Ilima Intermediate, Keolu Elementary, and Waialua Elementary Schools on a job well done.

TEXAS FESTIVAL ARTISTS AT THE KENNEDY CENTER

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. SARPALIUS. Mr. Speaker, from June 11 to June 22, there will be a Texas Festival at the Kennedy Center. I must congratulate the planners at the Kennedy Center for their good taste in recognizing the intrinsic worth of Texas culture and in showcasing aspects of Texas life in music, dance, film, and theater. I would also like to recognize several artists who hail from my district, the 13th District of Texas.

Joe Ely, a very popular and successful singer/songwriter/musician, was born in Amarillo, TX, although he eventually grew up in Lubbock, TX. He has carved out his own niche in music. His songs, though basically rock and roll, contain elements of his background singing in West Texas honky-tonks that give him a unique appeal, as well as critical acclaim.

The Playboys II, a reorganization of members of the original Bob Wills Texas Playboys, also will be performing. One of the Playboys II members is Eldon Shamblin, who joined Bob Wills' band in the late 1930's and was later referred to by Rolling Stone magazine as "the World's best rhythm guitarist." Shamblin is from Amarillo, TX, and joins the band in bringing to Washington classics from one of most famous country and western bands ever.

I commend this festival to all those persons not fortunate to be Texans.

PROGRESS IN INTERNATIONAL COOPERATION: THE 7:10 GREECE-TURKEY FOREIGN ASSISTANCE RATIO

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. MAVROULES. Mr. Speaker, by maintaining the 7:10 ratio of aid to Greece and Turkey in the fiscal years 1992–93 foreign assistance authorization, the House has signaled that the strife of regional powers continues to weigh heavily on the U.S. foreign policy agenda. Moreover, the stability of Mediterranean nations is essential to American support of these allies. As the gulf war victory has demonstrated, U.S. capabilities to sustain the security and freedom of emerging states are stronger than ever. But the United States obligations to younger nations such as Kuwait and Saudi Arabia do not undermine the necessity for the United States to continue to be a steadfast friend to matured and established nations such as Greece and Cyprus. Most importantly, these two countries have continually been loyal U.S. allies.

Yet again, Greece has proven her willingness to support the self-determination and security of sister nations through her cooperation with the United States during the gulf war. Much of Greece's support was sustained through her participation as a NATO ally. Greece's strategic position as a midway power between American bases in Europe and those positioned for Operation Desert Shield and Operation Desert Storm provided central facilities for United States military efforts.

Greece took part both by contributing her own military facilities and by allowing for easier execution of United States operations. Two Greek frigates were involved in the multinational naval force in addition to numerous merchant ships which provided protective equipment, and Greek minesweepers assisted in the Mediterranean defense mechanism. Furthermore, extensive air and maritime surveillance operations as well as air and naval facilities helped ensure the security of the entire allied effort. Without the ready diplomatic clearances and landing and flyover rights provided by the Mitsotakis government, the multinational forces would have been severely handicapped. Meanwhile Greek hospitals stood by to treat casualties.

Above all, Greek allegiance extends beyond this short-term engagement. Greece has been a loyal and constant advocate of national self-determination and freedom. What more appropriate country to uphold these values than the very nation in which they originated? In light of the considerable support of Greece during the gulf war and her consistent endeavors to maintain international freedoms, it is more important than ever that the United States strongly promote Greek efforts to improve her own state.

An original motivation of the earmarked assistance ratio was to assure that the sovereignty of Cyprus was restored. The traditional and ethnic ties between Greek populated Cyprus and the mainland underscores the interests of each to reach a peaceful agreement with the Turkish occupied side of the island. Turkey and Greece, both adherents to the NATO doctrine to settle disputes by peaceful means, must work harder than ever to show that such ideas remain viable in the modern global world. In addition, the precedent of successful U.N. actions that was set by its involvement in the gulf war remains significant to the future of Cyprus. In his meetings with United Nation Secretary-General Javier Perez de Cuellar, President Vassiliou of Cyprus will test this rejuvenated and valuable United Nation role in effectively solving regional conflicts.

President Vassiliou of Cyprus met with President Bush last month to discuss reunification of the island. For this reason, the maintenance of the 7:10 ratio becomes a more imminent step to secure the future of a unified Cyprus. Without the pressure of earmarked military aid, Turkey may continue to neglect to address the issue of Cypriot independence. By breaking the 7:10 ratio, the security of the Mediterranean region would be greatly impeded. Moreover, the constraints of the assistance ratio to Turkey represents the type of peaceful economic coercion which is beginning to dominate the new world order.

Indeed, it becomes appropriate to draw a parallel between the struggle of Kuwait to ensure her security and that of Cyprus. The restoration of a democratic and safe nation is central in both cases. The revival of the roles of the United Nations and the NATO alliance provide an opportunity for regional disputes to seize the leading place on the international foreign policy agenda. Without the cooperation and commitment of nations to resolve regional disputes, global stability is jeopardized.

The United States Congress should also illustrate its willingness for allied cooperation and peaceful solutions by helping to resolve the conflicts of Greece and Turkey. Moreover, Cyprus should not be left as a helpless pawn of international manipulations because it remains the right of every country to be free and secure. The maintenance of the 7:10 ratio is the first step.

SUSQUEHANNA RIVER BASIN FLOOD WARNING SYSTEM

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. GEKAS. Mr. Speaker, I would like to commend my colleagues on the Appropriations Committee for their inclusion of $687,000 for funding of the Susquehanna River Basin Flood Warning System under the National Weather Service in the fiscal year 1992 appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies. My thanks also to the House of Representatives which today approved this funding in its passage of the appropriations bill.

Funding for the Susquehanna River Basin Flood Warning System is a necessary element toward protecting the health and safety of the residents of central Pennsylvania, including my 17th Congressional District, a district of 6 counties which are all bounded by the Susquehanna River.

After years of deadly flooding in the Susquehanna River basin, most notoriously the massive Hurricane Agnes flood of 1972, it was determined that an updated flood warning system was critically needed it weather forecasters and emergency personnel were to be able to appropriately determine and react to flood stages. Beginning in 1985 this Member of Congress, in conjunction with Congressman JOSEPH MCDADE from Pennsylvania as well as other Pennsylvania delegation members, has been able to get the Congress to appropriate over $9.1 million for the startup, development, and operation and maintenance of a modern and highly effective flood-warning system for the entire Susquehanna River basin. The system includes manual and automated gage equipment to measure rainfall and stream levels, and computers, telephone hookups and new weather transmitters to analyze the information.

There should be no doubt in any mind that this state-of-the-art flood forecasting system is absolutely essential to central Pennsylvania. A study several years ago by the National Weather Service of 16 States in the Northeast showed that Pennsylvania ranked first in total flood damages and total number of flood related deaths during the period of 1955 thorugh 1985—the period before the flood warning system was in place. The National Weather Service's own cost/benefit update cites an annual flood damage savings of $13.2 million and a 20-year savings of $264 million. Certainly, this represents an extremely significant economic reason for the system.

It has been incumbent upon this Congressman from central Pennsylvania, indeed on the entire Congress, to reserve this deadly statistic. In fact, with the implementation of this flood warning system I believe that such a reversal has occured.

Let me again express my thanks to all those who have helped get funding for the flood warning system, especially to Congressman MCDADE and our late Senator John Heinz. Hopefully, as with all insurances, we will never see the system tested to its fullest; but, those who live along the Susquehanna River basin can rest easy knowing that the system is there, is working, and is doing the job for which it was intended.

WASHINGTON, DC, VA REGIONAL OFFICE EMPLOYEES PROVIDING IMPROVED SERVICE TO VETERANS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. EVANS. Mr. Speaker, last month, I had the opportunity to visit the Washington, DC, VA regional office. During this visit, I learned regional office employees, by using a team-like centralized approach for initial claims processing, are now providing a significantly quicker response to claims for VA benefits.

Prior to regional office reorganization, begun in October, 1989, the first step in claims processing, either establishing a claims folder for a claimant or arranging for transfer of a previously established claims folder to the Washington regional office, was decentralized and known as Correspondence Activity. Before reorganization and using a team-like approach, approximately 2,500 items, each representing a veteran or beneficiary waiting for a response, were pending in the Washington regional office. Some items had been pending for more than 30 days.

Today, as a result of using a centralized approach known as Stage 1, employees process all work as a team, are trained to work in all relevant areas and process all items within 2 workdays of receipt. This is a remarkable improvement in the service provided to VA benefit claimants.

During my visit to the regional office, I had the opportunity to personally thank several stage 1 employees for providing better service to veterans. All Washington regional office stage 1 employees have contributed to improved service for veterans and are deserving of public recognition for their collective accomplishments. To all Washington regional office employees, and particularly stage 1 employees Larry Berman, Rita O'Neal, Charles Cook, Michelle Hill, Tonona Tyson, George Byrd, Rosa Harrison, Rodney Smith, Karen Toland, and Wayne Haggens, thank you and keep up the good work for America's veterans.

TRIBUTE TO NORMAN LOUDENSLAGER

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to my dear friend, Norman Loudenslager, on the occasion of his retirement from the International Association of Machinists and Aerospace Workers.

Mr. Loudenslager has served with distinction as a member of the International Association of Machinists and Aerospace Workers for over 40 years. His outstanding leadership propelled him through the ranks, first as steward, chief steward, trustee, secretary-treasurer, and job evaluation representative of Local Lodge 1717, and then as steward, vice president, and president of Local Lodge 648. After serving as vice president and secretary-treasurer of District Lodge 1, Norman was elected business-representative in 1969, and currently serves as directing business representative.

Throughout the years, Mr. Loudenslager has maintained an active interest in politics. He is a member of the Planning Committee, Democratic leader of the 25th Ward, and State Coordinator of the Machinists Non-Partisan Political League. In addition, Mr. Loudenslager has served as a delegate to the 1972, 1976, 1980, 1984, and 1988 Democratic National Conventions, and is currently the treasurer of the Democratic County Executive Committee of Philadelphia.

His reputation as an active humanitarian has been recognized in his being named the 1980 "Man of the Year" by the Philadelphia Athletic League [PAL] and as a recipient of the prestigious Spirit of Life Award from the City of Hope.

I recall telling Norman over breakfast at Kellis Restaurant in Philadelphia that I was considering the possibility of running for the U.S. House of Representatives in 1982. While other friends thought a campaign against the incumbent Republican was possible, but a long shot, I did not have to convince Norman that I could win. Norman's assurance that I was the one to beat my opponent inspired me to run. I am personally grateful to Norman for his encouragement and support.

In addition, Mr. Loudenslager should be praised for his fair and equal treatment of all public officials. Unlike other labor union leaders, he does not dictate a litmus test for special Democratic friends.

Indeed, Mr. Speaker, mere words are not sufficient to praise Norman Loudenslager for his work and dedication. I join his wife, children, and grandchildren as well as the working families of Philadelphia in thanking and commending him for his many years of outstanding service.

And thank you, Mr. Speaker, for this opportunity to bring to the attention of this People's House some of the many accomplishments of Norman Loudenslager, a true man of the people.

CRIME AND RANDOM VIOLENCE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. BROWN. Mr. Speaker, the war on crime receives a lot of attention here in Congress. On almost a daily basis, one of our colleagues stands here on the floor of the House and urges us to take action against crime, to pass laws which will make our citizens safer and help keep our young people away from drugs.

We talk about "big" solutions to this overwhelming problem, and propose grand schemes which sound good to the voters back home. Seldom, however, do we talk about the individual tragedies and the personal upheavals brought about by crime and violence in our society.

Recently, a 16-year-old student from my district brought the personal tragedy of crime directly to my attention.

She described what crime and random violence is doing to our community with such starting clarity and honesty, that I would like to share her words with you. I believe she speaks not only for her entire school, and for her entire community, but for all of us who feel frightened, frustrated and angered by crime and violence.

Her name is Chantal Schulz, and she is a student at Rubidoux High School in Riverside, CA. Last March, a friend and classmate of hers, Phillip Aaron Kevelier, was shot and killed while he was making a call from a public phone booth. The police have described this tragedy as a case of being in the "wrong place at the wrong time." The police suspect that gang members were involved in the drive-by shooting, which accidently struck Phillip in the chest.

I would like to quote from a letter which Chantal wrote and distributed. She writes:

> What is going on, why is it that the adults that run this country are not doing anything to stop this? I have just heard on the news that an enlisted man, on leave, had returned home after 6 months service, only to be shot down outside his home by a drive-by shooting. * * * The politicians don't seem to feel it is politically in their favor to stop it. The war in another country, is another thing.
>
> We stop people in other countries from being murdered. We cannot allow innocent people over there to be shot down! We send over our troops, our money, and even risk upsetting our relations with other people. We even try to interfere with other countries when they try to put down trouble in their own country. We win the war in the desert, even give it a name, "Desert Storm." * * *
>
> We won that one, but what about the storm needed here at home? Do they feel, these adults, if we win the wars overseas, we win the next election? Publicity if given to "wars," well we have one right here. We have children being killed in this country. I have now seen death. * * *

Mr. Speaker, Chantal Schulz is right. Our soldiers in Saudi Arabia were safer than our children are playing on their own streets. Our Nation demonstrated, without question, that when we have the will to put down oppression and violence, we succeed. Chantal Schulz is right to ask, "Where is the will to fight the war raging on the streets of America?"

Mr. Speaker, I have taken Chantal Schulz's words as a personal challenge. A challenge to work even harder to put a stop to the crime and violence which are destroying our communities and stealing the very youth from our children. A challenge to come up with real solutions to the problems of drug use, proverty, and violence.

I urge my colleagues to take Chantal's words to heart as well. For the future of our country, we cannot afford to ignore her warning.

THE TRUTH-IN-SAVINGS ACT OF 1990

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. TORRES. Mr. Speaker, today I am introducing legislation that was passed unanimously by the Subcommittee on Consumer Affairs and Coinage, of which I am Chairman. The Truth-In-Savings Act of 1990, is modeled on previous legislation that has been approved by both the House and Senate several times.

The Truth-In-Savings Act include several important provisions designed to ensure that consumers are provided with clear and understandable information about the fees, yields, terms and conditions that are advertised for deposit accounts by financial institutions. In particular, section 7(a) of the bill will ensure that the yield information disclosed by depository institutions actually allows consumers to comparison shop. It requires banks and other depository institutions to pay the stated interest rate on the full amount on deposit each day. Although the bill does not prescribe any particular balance calculation method, whatever method used must ensure that consumers receive the interest they are promised on the full balance in the consumers account each day.

The bill would also require that each advertisement, announcement or solicitation by a depository institution that mentions a specific rate of interest payable on an account include: the annual percentage yield [APY] in greater prominence than any other stated rate and the period it is in effect; any minimum balance and time requirements to earn the advertised rate of interest; any initial deposit requirements; annual rates of simple interest; a statement that regular fees or other conditions could reduce the yield; and a statement that a penalty is required for early withdrawal.

Finally, the Truth-In-Savings Act of 1990 requires institutions to make a fee schedule available to persons on request and to potential customers before an account is opened. Individual and class actions could be brought under the bill only by account holders, and not by the general public.

I am fully aware that this piece of legislation does not completely address all of the problems consumers are currently facing regarding financial institutions. For example, I understand there are concerns that the bill does not apply to mutual funds. Although I would very much like to incorporate all financial mediums (agents) in the bill, to broaden the scope of the legislation would create jurisdictional problems which could fatally delay its passage.

I firmly believe that enactment of this legislation is already long overdue. I urge my colleagues to support swift passage of this bill.

UNITED KINGDOM HUMAN RIGHTS VIOLATIONS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to commend Amnesty International for its recent report addressing human rights violations in Northern Ireland by the United Kingdom. Its documented citings have moved me to convey my concerns to my fellow members, and urge them to unite in protest against such blatant violations of Democracy.

The extent of abuse by the United Kingdom security forces in Northern Ireland is well documented; however, of even greater concern is the extent of abuse within England, and the implications for the English justice system. Two cases, in particular, come to mind: The Guildord Four and the Birmingham Six. In both, a group of Irish men were imprisoned for alleged bombings. After spending the best years of their lives in prison, both groups have finally been released. It has been determined that they were imprisoned unjustly and were coerced by British security forces to confess to crimes they had never committed.

A similar battle is raging in the United States with the case of Mr. Joseph Doherty, a citizen of the United Kingdom and the Republic of Ireland. Doherty has been held in U.S. prisons for almost 8 years without being charged or convicted of any crime in the United States. More importantly, in this time, Doherty has never been granted a hearing to determine if his request for political asylum should be granted. I have voiced my opposition to such blatant violations of human rights by signing on to the *Amicus Curiae* brief which has been filed with the U.S. Supreme Court.

I strongly oppose the attempt by any government to deny the rights of an individual to a free and fair trial. As a proponent of Democracy, the United States has an obligation to condemn violations by other nations, and ensure that they do not occur in our own. The U.S. has an even greater obligation when these instances are committed by such a close ally. Once again, I ask my fellow Members of Congress to express their opposition to any further human rights violations in the United Kingdom, and to support the just cause of Mr. Joseph Doherty.

REMARKS BY GEN. JACK N. MERRITT, USA (Ret.)

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. SKELTON. Mr. Speaker, recently I spoke on the floor about the ill-advised force structure cuts in the American military. I continue to be convinced these cuts are ill-advised. Desert Storm should be a lesson of the uncertainty in this world and the need for a strong national security. I congratulate Gen. Jack N. Merritt, USA (retired), president of the Association of the U.S. Army [AUSA], for his recent editorial in the AUSA News that is parallel to my recent speech. The following is the editorial from General Merritt from the June 1991 publication.

WHEN JOHNNY COMES MARCHING HOME

(By Gen. Jack N. Merritt, USA, retired)

The war—the incredibly short, successful war—is over. Soldiers are coming home to joyous receptions which properly recognize their accomplishments over the past nine months. The United States armed forces demonstrated clearly in the Gulf that the investments of the last decade produced much more than the aberrant $200 hammer and $700 toilet seat. In fact, it is clear that we did what we set out to do; that is, build a modern, trained military force founded upon the idea of excellence.

And, it is equally clear that the decisions to invest in our military forces were wise ones. While our immediate concerns for most of the past decade have been the Soviet Union and the Warsaw Pact, we have also known that there were other potential challenges awaiting. So, just as forces were beginning to call for dismantlement of our defenses with the demise of the Warsaw Pact, Iraq invaded Kuwait.

But now the war is over and somehow it has become, in the minds of many, "the war to end all wars."

As our troops come home to gala receptions in cities large and small, Congress is considering a defense budget that calls for rapid dismantlement of the military force we have taken a decade to build. The problems lie not only with overall reductions, but also with the speed with which they are to be executed.

For the Army, the rapid reductions mean that officers and noncommissioned officers, who have clearly demonstrated performance that meets this Army's exacting standards, are going to be eliminated either by raising retention standards or by the more direct solution of elimination boards.

It isn't the Army leadership which is at fault—they must obey the law. But, the Congress and the Administration, not willing go breach the budget agreements arrived at before the war, are willing to let our soldiers and families pay the price.

And, by the way, there is likely to be a long-term impact on the readiness of the Army by reducing too rapidly—an effect we have seen after Korea and Vietnam.

The need for a robust and ready military has not disappeared. If you survey the world today, it is hardly a model of peace and stability. In fact, an immediate by-product of the total collapse of the Soviet Union and the bi-polar world is the instability we are seeking.

We may not be able to predict the next crisis; but, as the historian Toynbee once said, "History is one damned thing after another," and surely another crisis will present itself.

Now, there is no doubt we are going to reduce the armed forces, although it is a little recognized fact that defense budgets have been decreasing for the last six years. But the question is how we reduce them.

Do we have due regard for the splendid human beings and their families who have, so recently, demonstrated their dedication and competence? And, shouldn't we preserve the capabilities of our military over the near term as we shape a smaller force?

As the Congress considers the 1992 Budget, there is no evidence that anyone involved was witness to Desert Storm.

The first to pay for this blindness will be our soldiers and families—and, when the next crisis challenges the peace and well-being of the world, we may all be sorry.

RETIREMENT OF HENRIETTE AVRAM

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. FAZIO. Mr. Speaker, as chairman of the Subcommittee on Legislative Appropriations, one of the pleasures of the task is to get to know the many dedicated individuals who make the legislative branch of Government run.

During the past 10 years as chairman of the subcommittee, I have been impressed by the number of highly talented individuals who work among us. I speak today about one of these individuals.

I have just learned from the Librarian of Congress, James H. Billington, that one of the Library of Congress' most respected officers has announced her intention to retire at the end of 1991 after 26 years of service at the Library of Congress. Henriette Avram, the Associate Librarian for Collections at the Library of Congress, is known worldwide as the person who made the exchange of automated bibliographic information a reality. Mrs. Avram has been director of the largest department in the Library of Congress—over 1,700 positions in 34 divisions—since 1983. She has been at the helm of the department that acquires materials for the Library's collections and catalogs and preserves them. The cataloging information provided by the Library of Congress to other libraries in the U.S. and abroad in machine readable form saves librarians in the United States over $370 million in cataloging costs annually.

Mrs. Avram came to the Library of Congress following work as a programmer and systems analyst at the National Security Agency, the American Research Bureau, and the Control Data Corporation. Her first assignment on the analysis of cataloging information led to the development of a national and international standard for the electronic exchange of bibliographic records. This standard, known domestically as MARC [Machine Readable Cataloging], led to Mrs. Avram being affectionately called Mrs. MARC.

Mrs. Avram has advanced library cooperation by her efforts to help develop library networks across the country and has served as Chair of the Library's Network Advisory Committee since its inception.

Mrs. Avram serves on the board of directors for EDUCOM, the Association for Library Collections and Technical Services, and the Commission on Preservation and Access. In addition to her active involvement with the American Library Association and other professional organizations in the United States, she has worked extensively with the International Federation of Library Associations, including serving as its vice-president and a member of its executive board.

In the course of her distinguished career, Mrs. Avram has been recognized with virtually every honor that can be bestowed on a librarian, including the American Library Association's most distinguished awards: the 1971 Margaret Mann Citation in Cataloging and Classification, the Melvil Dewey Award in 1981 for creative professional achievement of a high order, the 1988 Joseph W. Lippincott Award for distinguished service to the profession of librarianship, and the John Humphry/Forest Press Award of 1990 in recognition of significant contributions to international librarianship. In 1987 the International Federation of Library Associations and Institutions named her to its select group of Honorary Fellows. The Special Libraries Association recognized her achievements in the field of special librarianship with its Professional Award in 1990; similarly she received the Association of College and Research Library's Academic/Research Librarian of the Year Award in 1979. Other honors have included the Library's Superior Service Award in 1968, the 1974 Federal Women's Award, the Library and Information Technology Association Award for Achievement in 1980, and recognition as one of three senior government managers who received the 1989 Executive Excellence Award for Distinguished Executive Service.

I am sure my colleagues join me in thanking Mrs. Avram for her distinguished contributions to the Library of Congress and to the world of librarianship and wishing her the very best.

J. RAYMOND JONES: A REVOLUTIONARY POLITICIAN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. RANGEL. Mr. Speaker, it is with deepest sympathy that I announce to my colleagues the death of a noble man. The death of J. Raymond Jones, at age 91 on June 9, 1991, is not only a personal loss to me, but also a severe loss to the city of New York, and to all those involved in politics. It is rare that so many have benefited from the political ingenuity, the commitment to service, and the vision of one man. He has been called a "true political pioneer," a "master statesman," and a "distinguished man dedicated to public service." He truly personified all of these characteristics.

In a political career spanning more than five decades, J. Raymond Jones foresaw the potential power of African Americans in city, State, and Federal politics. In the 1920's he founded the Carver Democratic Club, and worked steadily to build a formidable political organization in Harlem. In the 1940's and early 1950's, Mr. Jones advised the late Congressman Adam Clayton Powell in his early career, and supported Mr. Powell's rise to political prominence in Harlem.

Mr. Jones also served as New York City Mayor William O'Dwyer's personal secretary in the 1950's, but the "Harlem Fox's" vision was always ahead of its time. In 1961, he backed the upstart candidate Robert F. Wagner for mayor of New York City, who went on to defeat the Democratic organization's candidate. With the help of Mayor Wagner, Mr. Jones was able to win the highest position within the Manhattan Democratic County Committee—known as the Tammany Club—an organization previously run only by whites. Mr. Jones held this position from 1964 to 1967. Mr. Jones officially retired in 1967, but his influence and guidance in the city's political agenda would continue for the next 20 years.

Even in political clashes and fallouts, J. Raymond Jones managed to come out on top, and to teach us all a few things in the process. He cultivated a group of politicians that pierced every aspect of city politics including Congressman Adam Clayton Powell, former Manhattan Borough President Percy Sutton, U.S. District Court Judge Constance Baker Motley, Court of Appeals Judge Fritz Alexander, former State Senator Basil A. Patterson, former Secretary of Housing and Urban Development Robert Weaver, Federal Customs Court Judge James Watson, New York State Criminal Court Administrative Judge Edward Dudley, State Appellate Division Judge Harold Stevens, State Civil Court Judge Herbert Evans, New York Fire Commissioner Robert Lowery, New York City Mayor David Dinkins, and myself. We were all in many ways proteges of Raymond Jones. Mr. Jones, in his autobiography the "Harlem Fox," described the methods he used to develop his proteges.

> I started my proteges in positions of low responsibility such as Election District Captains, and then, when they had shown an understanding of how the political system worked and a willingness to contribute to the party, they would be sponsored for offices such as State Assemblyman, City Councilman, State Senator, judges of all ranks, and so on. The objective behind this was to develop in the individual a sense of responsibility to the party and its constituency, and with it to provide public exposure. In this manner the aspiring politician or officeholder enlarged his [or her] constituency and enhanced his [or her] reputation not only among Black voters, but also among the white electorate.

This approach showed Mr. Jones' unselfish commitment, and tradition of training younger politicians. It is a philosophy that helped safeguard the next generation and maintained high standards of excellence. From J. Raymond Jones we learned the ropes of politics as we learned to make practical our ideals. In another excerpt from his autobiography, Mr. Jones shared his vision of coalition politics. It is as applicable today as it was at the time he wrote it.

> In these days we are faced with a conservative reaction, the sort of backlash about which President Lyndon Johnson always warned me. This development calls for careful planning and subtle maneuvers by Black and other minority leaders. It will not do to overemphasize race. Rather, sophisticated and persuasive strategies, though difficult, must be found to make all constituents see that only through collaborative action will common problems be resolved. It is not an easy task, yet there is no other viable alternative. My approach in New York over the years to strategize, securing influential jobs and offices at all levels, is an approach that I believe could be emulated with great profit for all.

Mr. Jones is survived by his daughter, Ms. Dorothy Bryan in upstate New York, and a legacy of those whom he helped shape for public office. To miss J. Raymond Jones, as we all will, is really not enough. To read about him, as political strategists both black and white will inevitably do, may not capture the depth and essence of the man's contributions. The true testimony to the Virgin Islands born "Harlem Fox" will be in the continuation of his vision. He set the stage so that true representative politics in the big city could be just that. He taught communities how to organize themselves, and to hold their politicians accountable. He taught other politicians to be fearless of challenges, to be honest, blunt, and diligent in their community service.

INTRODUCTION OF LEGISLATION TO ESTABLISH A COMMISSION TO COMMEMORATE THE 250TH ANNIVERSARY OF THE BIRTH OF THOMAS JEFFERSON

HON. D. FRENCH SLAUGHTER, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise today to introduce legislation that would establish a commission to promote and commemorate on April 13, 1993, the 250th anniversary of the birth of Thomas Jefferson. It is indeed an honor to remember and to recognize one of the most significant figures in American history.

Thomas Jefferson was one of our most distinguished Founding Fathers. He was a delegate to the Second Continental Congress in Philadelphia and the author of the Declaration of Independence. Mr. Jefferson was a man of principle. He considered himself a philosopher and had the highest regard for democratic ideals.

Thomas Jefferson was blessed with many talents. He was an innovator, a farmer, and a writer. He was also accomplished in music and became a prominent patron of the arts.

Thomas Jefferson was one of Virginia's finest leaders. He served as a delegate to the Virginia House of Burgesses and later became Governor. While serving his State, Mr. Jefferson authored the famous Virginia Statute for Religious Freedom. At this time, Mr. Jefferson also displayed his ability as a master architect. He was the builder of Monticello and the designer of numerous State buildings such as the Virginia State Capitol.

Thomas Jefferson became one of America's exceptional leaders. He exemplified his extraordinary skills as a statesman serving as Ambassador to France during a critical time in our Nation's history. He was a Congressman, our Nation's first Secretary of State, and our second Vice President.

In 1801, Thomas Jefferson became President of the United States. During his Presidency, Mr. Jefferson's accomplishments included the Louisiana Purchase, which doubled the size of our country.

Finally, Thomas Jefferson understood the importance of learning. He was a proponent of public education, and he considered his final important accomplishment the founding of the University of Virginia.

Our Nation has been fortunate to have such brilliant leaders. The legislation introduced today will focus attention and thought to Thomas Jefferson's legacy of excellence. A commission created to promote and coordinate activities related to Mr. Jefferson's life will advance the important goals of ceremony with those of scholarship and education.

With this legislation, historic locations will be honored, special individuals and organizations will be recognized, and at least one international symposium will be sponsored. The bill also will encourage the participation of civic, patriotic, and historic organizations as well as State and local governments.

I urge my colleagues to support this legislation. By studying the life of Thomas Jefferson, one is learning not only about an individual, but the birth of a nation.

BALTIC FREEDOM DAY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CARDIN. Mr. Speaker, today I rise in recognition of Baltic Freedom Day. This day—June 14—marks the 50th anniversary of the beginning of mass deportations of citizens from Estonia, Latvia, and Lithuania. On the night of June 14, 1941, more than 60,000 people were taken from their homes, separated from their families, and transported in cattle cars to the Siberian camps where many of them perished.

It is a matter of great sadness and urgency that as we stand here today, 50 years later, the horror stories continue. Earlier this year, Soviet troops were sent in tanks to Lithuania and Latvia, killing and maiming hundreds of civilians. The brave people of these countries have conducted a tireless struggle for peace and freedom, only to face the continuing Soviet repression. The buildings that the Soviets seized in January have not been returned, and recently, the Soviet Black Berets have violently seized and destroyed at least 12 Lithuanian and Latvian customs posts, injuring and killing unarmed customs officials.

On behalf of the approximately 1 million Lithuanians, 90,000 Latvians, and 26,000 Estonians throughout the United States, I call on all Americans to remember the atrocities that still continue in the Baltics. Let us not permit another Baltic Freedom Day to pass without helping the people of those countries celebrate their return to the family of free democratic nations.

FREEDOM IN YUGOSLAVIA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CRANE. Mr. Speaker, I would like to take this opportunity to share with you two documents relating to the atrocities of the Communist authorities of Serbia perpetrated against prodemocracy Serbs.

I urge my colleagues to read the following "Resolution of the Committee for Political Freedom in Yugoslavia" and "Declaration of the Executive Committee of the Serbian Renewal Movement" as prepared by Serbian prodemocracy representatives in Yugoslavia and the United States. I believe Members of Congress will find these documents extremely enlightening.

RESOLUTION OF THE COMMITTEE FOR POLITICAL FREEDOM IN YUGOSLAVIA

Whereas, on March 9, 1991, an attempt was made in Belgrade, Serbia, to conduct a peaceful political rally under the auspices of the Serbian National Renewal Movement;

Whereas, the leader of the Serbian National Renewal Movement, Vuk Draskovik, was first lured to the Presidency of the Government under the pretext of holding political discussions and then arrested by secret police officers;

Whereas, the Vice-President of the party, Professor Jovan Marjanovic, the renowned writer Borisav Mihajlovic-Mihiz, and scores of others were arrested by the secret police as part of a broad and unconstitutional sweep of opposition activists;

Whereas the mandate given by the Serbian people in the December 1990 elections was plainly for a system based on law and respect for human rights and not for a return to the arbitrariness, brutality and terror of the past;

Be it, therefore, resolved by the Committee for Defense of Political Freedom in Yugoslavia:

(1) That the promise solemnly made to the Serbian people that they shall no longer be beaten must be kept not only in Kosovo but even more faithfully and unconditionally in their capital of Belgrade;

(2) That the unjustified and unprovoked use of force against citizens of Serbia exercising their fundamental right of peaceful assembly calls into question the legitimacy of the authorities which ordered it and is herewith unequivocally condemned;

(3) That the Government of Serbia is urged to appoint a Committee of Inquiry composed of representatives from the government, the opposition, and neutral bodies for the task of determining the identity and assessing the responsibility of those who ordered and carried out the Belgrade Massacre;

(4) That those deemed responsible be swiftly prosecuted and adequately punished according to the law;

(5) That the Government of Serbia is called upon immediately to release all those who were illegally detained for exercising their constitutional and internationally recognized human rights and to publicly and unequivocally commit themselves to scrupulously respect those rights and to refrain from further harassment of peaceful opposition activity in the future; and

(6) That Professor Mihailo Markovic, Dr. Jovan Raskovic, Dr. Radovan Karadzic and other prominent intellectuals and public figures are called upon to take a stand in regard to these events, to disassociate themselves from the unpardonable use of force against their unarmed fellow citizens in the exercise of their right to peaceful assembly, and to join the Committee in demanding from the present Government of Serbia thorough and impartial inquiry followed by full accountability under the law for those found responsible.

DR. MILOSH B. KOSTICH.

DECLARATION OF THE EXECUTIVE COMMITTEE OF THE SERBIAN RENEWAL MOVEMENT

The large-scale police and military repression of hundreds of thousands of peaceful participants assembled in Belgrade, Yugoslavia, on March 9, 1991 who are members of the Serbian National Renewal Movement clearly demonstrates that the people of Serbia reject the neo-bolshevik dictatorship. Clearly the current regime had to employ the most excessive and violent measures in order to ensure its own political survival.

The vicious unleashing of a special police force against the assembled citizens of Belgrade and from other parts of the country has left a tragic balance of two dead and several hundred wounded. The responsibility for the Belgrade Massacre lies squarely with the Milosevic Government which ordered it and the federal government of Yugoslavia which dispatched its armed units to carry it out.

After being lured to a government building, supposedly to discuss the political issues raised by the opposition, the leader of the Serbian Renewal Movement, writer Vuk Draskovic, was arrested by secret police operatives in the presence of government ministers.

Other prominent opposition figures, such as Movement's Vice-President Professor Jovan Marjanovic, writer Borisav Mihailovic-Mihiz, and about 15 others, were physically beaten and then arrested.

It is clear that by the unleashing of massive violence on unarmed participants in the largest demonstration that has taken place in Belgrade in over 50 years, the Communist authorities of Serbia have shed whatever traces of legitimacy they may have gained as a result of the highly contested and suspiciously one-sided elections they held in December of 1990. By the forceful methods it employed to disperse a peaceful assembly of concerned citizens, Milosevic's regime has unambiguously identified itself, to the extent that it enjoys any legitimacy, as the heir to the repressive traditions of the forty year dictatorship of Josip Broz Tito. It has also thus disqualified itself to speak in the name of the Serbian people and their exemplary democratic traditions or to represent them in any significant way.

Divided by the frontiers artificially drawn by Communist conquerors after World War II between five different republics of Yugoslavia, the Serbian people now find themselves trapped between the hammer of Bolshevism in Serbia personified by Slobodan Milosevic and the anvil of increasingly aggressive neo-fascism in Croatia, led by Tito's former general, Granjo Tudjam.

Overshadowing discussions over the future of Yugoslavia is the fundamental issue of securing the fruits of liberty and democracy for its most numerous ethnic group, the Serbs, who fought for those values alongside the Western Allies and the United States in both world wars.

We, therefore, urge the United States Government to immediately undertake through diplomatic channels to make it clear to Slobodan Milosevic that his authorities must immediately release all the unlawfully detained members of the opposition Serbian Renewal Movement and others who were jailed for political reasons, refrain from limiting peaceful political activity or harassing those who take part in it, and undertake to respect the democratic process and the fundamental rights of all citizens of Serbia. We urge members of Congress to pass an appropriate resolution showing solidarity and support for the people of Serbia who are fighting for democracy. Finally, we urge the media to draw the obvious conclusion from Saturday's tragic events and to cease the persistent victims of the regime's manipulation and repression, with the neo-bolshevik government of Slobodan Milosevic.

KOSTA BULATOVIC, V.P.
RADMILO RONCEVIC, V.P.

LAWRENCE LIVERMORE NATIONAL LAB READY TO TAKE ON NEW CHALLENGES

HON. FORTNEY PETE STARK

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, June 13, 1991

Mr. STARK. Mr. Speaker, I often suggested to the Department of Energy, and to my fellow colleagues, that we must transition Lawrence Livermore National Laboratory [LLNL] away from its emphasis on nuclear weapons work toward critical civilian research programs. The DOE has acknowledged our declining need for nuclear weapons production and now even some of DOE's most accomplished physicists are saying the design of our nuclear warheads has reached a pinnacle. We can modernize them no further.

Still, we cannot afford to loose the resources we've invested so heavily in for so many decades. We cannot afford to disband these experts. I propose as a logical progression for this great national asset, that our experts use their extraordinary knowledge and unsurpassed skills to more fully take on our Nation's economic, health, environmental, and technological challenges.

Each of LLNL's achievements in nondefense areas strengthens my conviction that this is the optimal direction for the lab. Its success in this area would be certain.

LLNL's impressive advancements in the areas of magnetic fusion energy [MFE] and inertial confinement fusion [ICF] are great examples of the lab's ability to serve our national interests in civilian-directed research areas.

As a long-time supporter of these two programs, I was pleased that the Energy and Water Developent Act for fiscal year 1992 recommended, and the House approved, funding for the MFE at the amount requested by the DOE and ICF above DOE's budget request.

I realize that the ICF program has a dual role as a defense and an energy program. Still, the potential it shares with the MFE program to provide inexpensive electrical power without significant pollution is invaluable. This can go a long way toward dealing with environmental problems like global warming and acid rain.

Another example of how successful Lawrence Livermore Laboratory can be in the civilian research arena, is its recent development of a technique that will likely be successful in capping the oil-well fires in Kuwait.

I believe that with continued funding of its fusion research efforts, Lawrence Livermore Laboratory may also hold the key to reducing the environmental damage caused by our use of fossil fuel resources.

Finally, I'd like to share with you an article from earlier this month which again confirmed my belief that Lawrence Livermore National Laboratory can successfully overcome some of our biggest environmental hurdles. Having initiated legislation to tax the use of chloroflurocarbons [CFC's] and discourage their use, because of their destructive effect on the ozone, I was delighted, but not surprised to learn that LLNL is researching an aerogel material that could repalce CFC-based foams, without threatening the ozone.

[From the New York Times, May 8, 1991]

NEW MATERIALS TO KEEP THE REFRIGERATOR COOL

(By John Holusha)

Researchers are experimenting with a new class of ultralight materials called aerogels that could one day replace polyurethane foams. These foams provide insulation and help hold up refrigerators and freezers, but are considered harmful to the environment.

Today's refrigerators consist of a metal outside cabinet and a plastic interior. In between is the polyurethane foam, which does more than help keep the contents cool.

"The thin steel outer shell provides nothing but some protection against mechanical damage and an esthetically appealing surface to hang the paint on," said Carlo Schwinn, the manager of process engineering at White Consolidated Industries, at a recent conference in New York. "All of the beef is in the foam sandwich between the inner and outer shell."

But that "beef" includes chlorofluorocarbon gases that have been linked to the decay of the protective ozone layer in the atmosphere. The foams are poured as liquids into a refrigerator cabinet and then gases are used to make the liquid bubble up and fill all the voids with foam. Over the years an appliance is used, the gases tend to leak into the atmosphere. For that reason, most of the world has agreed to stop the production of chlorofluorocarbons by the year 2000.

In the interim, the refrigeration industry will most likely use a less damaging version of the chemicals, known as hydrochlorofluro-carbons, as refrigerants and as foaming agents. But some of the most likely candidates have drawbacks. Some are flammable and others are aggressive solvents that might attack the plastic inner cabinet. They also have a degrading effect on the ozone, although much less than cholorofluorocarbons, or CFC's, and will almost certainly be phased out as well.

A BETTER INSULATOR

That may be where aerogels come in. They have no ozone-depleting potential, are nonflammable and have twice the insulating value of CFC-based foams. And they are rigid enough to support a refrigerator cabinet; some aerogels can support 1,600 times their own weight.

They are also the world's lightest solids, consisting of 90 percent empty space; they are only four times as dense as dry air. Some are nearly transparent and look like "frozen smoke," said Sangeeta D. Ramamurthi, a scientist at Battelle Memorial Institute in Ohio, where the materials are being developed. Research into aerogels is also under way at the Lawrence Livermore National Laboratory in California.

Until now the gels have been scientific curiosities, and were used largely to detect high-energy particles, emitted from atomic accelerators. High-energy particles racing through the gel give off a bluish light similar to the blue glow seen in pools of water storing nuclear power plant fuel.

Dr. Ramamurthi said the gels she is experimenting with are based on ceramic materials. They have insulation properties, as measured in "R" values, of 8 to 15 compared with 7.6 for CFC foams when they are new and 3.6 once the gas has leaked out. R values are a measure of a material's insulating ability, with higher numbers representing reduced heat transmission.

The transparent silica gel is prepared by mixing a silicon-alcohol compound with methyl alcohol, water and a small amount of ammonia hydroxide. All are clear liquids in the unreacted state. When mixed, they form a thick, viscous mass, not unlike Jell-O. It takes about 2 minutes for the gel to form.

In the reaction, silicon atoms break the chemical bonds of the compound and form a spidery network of silicon dioxide molecules connected to each other throughout the gel. Inside are millions of tiny pores formed by the silicon dioxide in the water and alcohol mixture.

The trick is to find a way to drive off the liquid without destroying the fine network of solid material that has been formed. Simply heating the gel would cause it to collapse.

The answer is to increase the pressure on the gel so the alcohol does not boil in a conventional sense and then increase the heat to drive it off, a process known as supercritical drying.

The size of parts that can be formed by the gels is limited by the size of the pressure cookers, known as autoclaves, now available. "Right now we can do parts that are 3 inches by 3 inches," Dr. Ramamurthi said. Battelle is installing a pilot plant that can handle piece 6s by 13 inches.

SOME DRAWBACKS

Scientists acknowledge that the gels may have some drawbacks compared with polyurethane foams, despite their insulating properties. Since they have to be treated under heat and pressure, they would have to be formed as panels and then sandwiched inside refrigerator and freezer walls. That is more difficult than just pouring liquids.

The aerogels may have applications beyond appliance insultation. Since the silica gel is transparent, it could be used to replace air in the space between a home's inner and storm windows.

Other gels not as transparent as silica but which have higher R values may be the better choice where the ability to transmit light is not an advantage. Indeed, researchers at Livermore have produced opaque black gels made almost entirely of carbon atoms. They conduct electricity and may find applications in the electronics industry.

The porous nature of the materials may be used as well. Dr. Ramamurthi notes that ceramic materials can withstand far higher temperatures than the plastics often used in filtration. "Polymers can only the used to 180 to 200 degrees centigrade," she said. "These materials could go as high as 500 degrees."

There is also interest in using them in the space program. One possible use would be to capture small meteors that otherwise would be smashed to dust against a more substantial material. And their light weight makes them attractive as a construction material in space, since it would cost less to lift them into orbit.

TRIBUTE HONORING CLARE SKIPWORTH BURGESS UPON HER RETIREMENT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to someone very special to me, Dr. Clara Skipworth Burgess. After more than 30 years of dedication to this Nation's most valuable asset and resource, our children, Dr. Burgess, or "Skip" is celebrating her retirement later this month. Please join me in praise and warm wishes for her on this occasion.

Mr. Speaker, Clara Burgess was born in Newburgh, NY, on November 3, 1930. She was the only child of Mr. and Mrs. Luther Skipworth. After graduating with both a bachelor's and master's degree from Hunter College, she received her Ph.D. from Fordham University. She also attended Morgan State University, New York University, the Dalcroze School of Music and the New School for Social Research.

Dr. Burgess completed her impressive dissertation on "Early Childhood Education in Mainland China," which involved 4 weeks of intensive research in China as a guest of the People's Republic of China. Mr. Speaker, this is particularly extraordinary, as Dr. Burgess was with the second research team of this kind permitted on the Chinese mainland after President Nixon opened relations with China in 1974.

Dr. Burgess served on the New York City Board of Education from 1954–91. She was a kindergarten teacher at my elementary school, PS 43, in Community School District Seven, and later became principal of CES 236, in Community School District Nine, both in the South Bronx. Along the way, she devoted time to young teachers as a teacher trainer, served as supervisor and evaluator for the Headstart Program, and spent many additional hours as curriculum consultant, program evaluator, center director, dance and piano instructor, recreational counselor and teacher in charge. Her extensive involvement in extracurricular and after hours activities demonstrates her strong commitment and dedication to her students. She has also been an instructor at the City College of CUNY and at Marymount Manhattan College.

Dr. Burgess has been recognized for her exemplary achievements by many groups. She was the recipient of a Ford Foundation Fellowship and the New York State Merit Scholarship; she is a member of the Alpha Kappa Alpha Sorority, through which she received awards for local and regional service to the sorority and exemplary service to humankind, and was the AKA representative to the U.N. Non-Governmental Organizations Panel: "The International Importance of Early Childhood Education," the U.N. Decade for Women Conference in Nairobi, Kenya. She received a foreign fellowship and spent 10 weeks in Ghana, West Africa, and is listed in Marquis' Who's Who of American Women.

Mr. Speaker, Dr. Burgess is clearly an outstanding individual who has spent her life not only teaching in the classroom, but inspiring children to help others in the community. She instilled values and ideals important in the development of young minds, and was an encouraging, positive role model. I am proud to have known her for so many years. She has always impressed me with her sensitivity toward the needs of all of the members of our community. I am privileged to have been touched and influenced by her devotion and commitment to learning.

Mr. Speaker, please join me in wishing her warmest congratulations on her retirement, and thanking her for her tremendous contributions to our community.

THE CAPTIVE NATIONS WEEK RESOLUTION, THEN AND NOW

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CRANE. Mr. Speaker, each year since 1959, Congress has declared the third week in July as Captive Nations Week to remind us of the plight of those nations that have lost their independence to Communist aggression.

In recent years, several of these countries have realized their dream of self-determination, and while I know we were all glad to witness their liberation, it is important that we not forget those nations still held captive by their Communist conquerors. Indeed, our focus on the seriousness of this issue played an important role in bringing about the independence of captive nations in the past and must continue if we wish to witness further victories.

Former Ambassador to the Bahamas and current chairman of the National Captive Nations Committee [NCNC], Lev E. Dobriansky, has worked for many years to keep the issue of captive nations a high priority for the United States. In light of the upcoming observation of the 32d Captive Nations Week, I submit the first in a three-part series, written by Ambassador Dobriansky, "The Captive Nations Week Resolution, Then and Now," to my colleagues and urge them to read and consider his conclusions.

THE CAPTIVE NATIONS WEEK RESOLUTION, THEN AND NOW

(By Lev E. Dobriansky)

The dramatic events in Eastern Europe, Central Asia and elsewhere in 1986–90 have once again focused attention on the elements of the longstanding Captive Nations Week Resolution.[1] In this period, columnists, correspondents, commentators, editorials, reporters and others, in their coverage of events, have touched at one time or another on these elements. Several comments have been directly expressed to me. As a matter of fact, their observations and analyses have already given rise to a spectrum of thought bearing on the resolution, undoubtedly with more to come as further developments unfold. The emerging spectrum ranges from the notion of no more captive nations to full vindication of the resolution and, by those who have long understood it, activist ideas for its continued implementation.

What is most revealing, and yet intriguing, in all of this supposed revival is the conspicuous lag in understanding of the resolution and the concepts used to report and explain the unravelling realities in Central Europe, within the Soviet Union and elsewhere, including Nicaragua. From a global viewpoint and concentrating on the most essential area, namely the Soviet Union, it can be held that misleading concepts still prevail, not only in media coverage but also in editorials, columns, and official and academic output. Here are a few examples among too many: "The Soviets", "Soviet people," "The Soviet nation", "The national legislature in Moscow", "national constitution", "the nationality question", "100 nationalities", "ethnic unrest" and so forth. Fortunately, the pungency and sting of certain events have impelled a number of correspondents to employ concepts readily found in the congressional resolution.

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[1] E.G., Richard Grenier, "Naughty Empire losing its captives", The Washington Times, March 21, 1990.

The aim of this article is to assess the emerging spectrum of views in the light of a fairly extensive and diverse background dealing with the resolution and its manifold implementation. Needless to say, a comprehensive volume or two could be written on the subject. Within the compass of this short analysis, the best, essentialist approach would be in the mode of then-and-now. For, as will be seen, many of the problems encountered thirty years ago still remain; a number of the myths in the earlier period continue to hold sway in several quarters; and a variety of false observations and conclusions are drawn today as they were when Congress passed the resolution and the upheaval began. Plainly, it is not my aim here to evaluate the underlying reasons for the discrepancies between objective events and subjective perceptions, for the lags in thought, policy and action. That would engender in itself a study over a broad plane of cultural habits to politics.

A BEGINNING WITHOUT END

By way of perspective, it can be easily maintained that the Captive Nations Week Resolution enjoyed a beginning without end. Details of its origin are compactly available in one of the author's books.[2] Here, it is sufficient to point out that on a first try in 1957-58 a similar resolution calling for Captive Nations Days failed to pass the Judiciary Committee in the House of Representatives.[3] That would have been the end of the beginning. Objections centered on the time element, and some members did not comprehend the resolution. Then and now, far too many of our people have persisted in misidentifying the Soviet Union with Russia. Ergo, the USSR is made up of Russians or Soviets.

For a second try on the resolution, it became evident that a concentrated educational effort was necessary. A striking basis for this already existed. With an eye on realities today in the Soviet Union, can you imagine the ludicrousness of an official plan to eliminate all Voice of America non-Russian langauge broadcasts to the Soviet Union in 1958? At the time, this was being spearheaded by the director of the United States Information Agency. As a faculty member then of the National War College, I had easy access to him, former Ambassador Allen, and endeavored to persuade him otherwise. But with a fixed predilection for "large states and nations" as the waive of the future (he served in Yugoslavia and India) the director was adamant in pressing for just English and Russian broadcasts. I argued that nothing could serve Moscow's russification policies better, but to no avail.

There was no alternative but to go public. With the assistance of Representatives Michael Feighan and Edna Kelly, I managed to obtain a full-scale hearing before the House Foreign Affairs Commitee.[4] The outcome was successful in thwarting this ill-conceived project. Although numerous earlier examples of misdirected thought and policy could have been drawn upon, because of its recency, the contents of these hearings were fully utilized in our educational effort on the resolution.

After several months of such effort, the resolution came into official being. It was in the form of a week's commemoration and at this time advanced on the Senate side. Thanks to the forward-looking leadership of Senators Javits, Douglas, Thurmond, Dodd, Dirksen and others listed in my book, the resolution unanimously passed the Senate and quickly there-after the House, due to the equal leadership of Speaker McCormack and Representatives Flood, Feighan, Bentley, Derwinski and others on the celebrated list. Senator Douglas of Illinois, for whom I had the privilege to draft his speech, spoke eloquently about the resolution and as an original sponsor carried many colleagues with him.[5] Later, in July, 1959, President Eisenhower signed the resolution into Public Law 86-90, designating the third week of July as Captive Nations Week. He was the first to proclaim the Week. Then and now, every president since July, 1959, has annually proclaimed the Week, and in major cities throughout the United States, as well as in foreign countries, it has been appropriately observed.

Shortly, as we'll see, the reaction from Moscow was swift and vicious. No sooner had the then—Vice President Nixon arrived in Moscow for the U.S. cultural exhibit, Khrushchev instantly pounced on him, denouncing the resolution with four-letter words. A glimpse of reaction examples from the captive world is enough to indicate the fundamental truths contained in the resolution. However, these reactions also produced problems for the Week's tradition and implementation. Here at home, appeasers of various types, who would bury truths at graded prices, also attacked the resolution as "provocative", "destabilizing for normal relations", "Cold War rhetoric" and so forth. Others saw it as the usual interference of Congress in foreign policy matters, as though we're not a democracy. In 1961, George Kennan conditioned his acceptance as ambassador to Yugoslavia on President Kennedy's promise not to issue the annual proclamation. The President, nevertheless, did thanks to Chicago's Mayor Daley's intervention. And still others misrepresented it all as "an emigre activity", imputing a sort of alien intrigue, despite the facts that the initiator of the resolution and those involved were and are American-born and, as the Week's tradition evolved, Americans of all heritages participated in the commemorations. Again, then and now these baseless criticisms have surfaced with characteristic symptoms of misunderstanding or calculated motivation.

Before depicting the nature and significance of the resolution, it should be noted that another intense, educational campaign was necessary to counter these specific views and allegations. Notable was a task concerning an early release of the Foreign Affairs journal, timed with the summit meeting that September. It accommodated Nikita Khrushchev's article in which the Russian dictator primarily blasted the resolution. At the request of Senator Dirksen of Illinois, I prepared questions and rebuttals on the Red Chairman's arguments. These were raised by the Senator at a tea reception for the Russian leader in the Senate Building. All the Senators received was a numbing repetition of "nyets". All this and more served our educational purposes. In short, during this feverish, post-resolution period, congressional support by knowledgeable members were superb. For example, affording ample circulation, Representative Bentley of Michigan supported a piece on Soviet Russian Strategy,[6] and Representative Flood of Pennsylvania advanced one on Moscow's vulnerabilities.[7] Later, a national Catholic periodical published an article on "The Myth of Soviet Unity"[8] a presentation preceded earlier in the decade on the predicted erosion of Moscow's inner empire, namely the Soviet Union.[9]

CONCEPTUAL FRAMEWORK VINDICATED

Now, it's easier to talk with pride and fulfillment about the resolution than it was then. Concrete events now in Central Europe, within the Soviet Union, in Asia, Africa and Central America objectively and completely vindicate its conceptual framework. The resolution withstood the Kennan fables on "the peoples of Russia" and the insular containment policy in the '50s and '60s, the unstructured detentism of the '70s, and ignorant disparagers of the evil empire concept in the '80s. Of course, some of its ingredients germinated years before 1959. Just a couple of examples: Representative Kersten of Wisconsin, who led the famous Select Committee to Investigate Communist Aggression and Takeovers, sponsored an analysis of the non-Russian nations in the U.S.S.R.[10] and the then—Senator John F. Kennedy underwrote a lecture on strategy toward that empire.[11] As we'll observe, the resolution's realistic applicability, by means of strategy, policy and operation, was not only for the then as it is for the now, but also for the definitely uncertain future.

A careful reading of the resolution will clearly show the grounds of its complete vindication by events and developments in the captive world. Originated as S.J. Res. 111, passed on July 17, 1959, and signed into Public Law 86-90, the law has remained in force to the present day precisely because of its realistic, conceptual framework and outlook. With ease and real conformation, its dominant concepts relate to these upsurging events, They are: "national independence", "the democratic process", "interdependency of peoples and nations", "imperialistic and aggressive policies of Russian communism", "a vast empire", "threat to the security of the United States and of all the free peoples of the world", "religious freedoms", "individual liberties", "powerful deterrent to war and one of the best hopes for a just and lasting peace". Then and now—even more so now and in the future—these concepts have been fully applicable, notwithstanding current hopes and notions about the end of the Cold War, the fading of the military threat from the Soviet Russian empire, and secure, sovereign national freedom in Central Europe.

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[2] "The Vulnerable Russians", Pageant International Press, New York 1967.

[3] Captive Nations Day, letter to President Eisenhower, Congressional Record, August 3, 1958, pp.A 7229-30.

[4] "Hearings on the Voice of America", Statement, House Committee on Foreign Affairs, The Ukrainian Bulletin, Nov. 1-15, 1958, N.Y.; also Review of United States Information Agency Operations, Hearings, House Committee on Foreign Affairs, Washington, D.C. 1959.

[5] "Resolution on Captive Nations Week", Congressional Record, June 22, 1959, pp. 10359-60.

[6] "Author of Captive Nations Week Resolution Points Way to Defeat Russian Cold War Strategy and Tactics", CONGRESSIONAL RECORD, Sept. 4, 1959, pp. A7753-55.

[7] "The Vulnerabilities of Russian Communism", an address, CONGRESSIONAL RECORD, Sept. 15, 1959, pp. A8253-55.

[8] *The Sign* National Catholic Magazine, May, 1960, pp. 32-34.

[9] "The Soviet Centrifuge", *Human Events*, July 22, 1953.

[10] "Kersten Resolution: 100 Million Non-Russians in the U.S.S.R., Our Natural Allies." CONGRESSIONAL RECORD, May 9, 1951.

[11] "Western Psychological Strategy Toward the U.S.S.R." CONGRESSIONAL RECORD, August 4, 1952.

WHY DOES OUR HEALTH CARE SYSTEM COST SO MUCH? THE PROBLEM OF PHYSICIAN REFERRALS FOR PROFIT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. STARK. Mr. Speaker, the United States has the most expensive health care system in the world. One reason it costs us so much is that many procedures provided to patients are not needed.

Studies have shown that as many as 25 percent of procedures provided to patients in this country are not needed.

Unfortunately, one of the reasons some physicians perform unnecessary procedures is that they earn a higher profit as a result. This is particularly true in the case of physicians who invest in facilities to which they can refer patients for specialty care.

For the last 3 years I have been working to ban referrals by physicians to diagnostic laboratories, imaging centers, and other health facilities which a physician owns or in which they have invested. I have done so because investment is directly linked to increased unnecessary use of expensive health care technology.

As the inspector general of the Department of Health and Human Services put it: "We have found a remarkable effect on utilization of services attributable to physician ownership."

In 1989 Congress responded by banning referrals of Medicare patients to clinical laboratories owned by physicians. Further studies are underway to determine whether referrals to other types of services owned by physicians should be banned.

I believe that all referrals by physicians with an ownership interest should be banned. Each day I receive more examples of how the profit motive interferes with proper medical judgment.

The following example from the Advanced Imaging Center of Marietta, GA, illustrates the problem. In these documents doctor owners of the center are being urged to order more scans in order to increase the annual distribution of profit to each doctor.

This is the kind of thing that is going on all over the country. The sad thing is that we are quickly getting to the point where each of us is going to have to wonder if we are getting a service because we need it or because it would fatten our physician's dividend check.

ADVANCED IMAGING CENTER,
Marietta, GA, June 7, 1991.

DEAR SHAREHOLDER: We are pleased to distribute your 1991 first quarter dividends on your share(s) of Advanced Imaging Center.

We are diligently striving to increase our volume. As an increase of 1 MRI scan a day would increase our distribution $50,000 and the addition of 1 MRI and 1 C.T. Scan a day would increase the distribution total by $80,000.

Thank you for your continued support.

ADVANCED IMAGING CENTER,
Marietta, GA, October 4, 1990.

DEAR SHAREHOLDER: I am pleased to send you the enclosed check for your third quarter dividends on your share(s) of Advanced Imaging Center.

We are continuing in our efforts to increase the volume of studies performed and therefore increase the dividends paid by us. Our calculations for the third quarter indicate that if we could have increased our MR studies by one a day dividends would have increased by 100%. Also in addition to the one MR scan if we could have added one CT scan a day for the quarter dividends would have been 150% higher.

Thank you for your continued support.

THE 100TH ANNIVERSARY OF THE PUERTO RICAN FLAG

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. SERRANO. Mr. Speaker, I rise today to share with you and my distinguished colleagues the celebration of the 100th anniversary of the creation of the Puerto Rican flag. This flag reflects the rich history of the Puerto Rican culture.

Mr. Speaker, at the end of the 19th century, both the Caribbean islands of Cuba and Puerto Rico were under Spanish rule. During this time, a group of Puerto Ricans residing in New York City decided to form and organize the sección Puerto Rico del Partido Revolucionario Cubano which fought for the independence of Cuba and supported independence for Puerto Rico. In 1849, the Cuban flag was designed by Venezuelan Gen. Narciso López, who died in Havana the following year in an attempt to liberate Cuba.

In 1891, 100 years ago, Antonio Velez Alvarado, a member of the Sección Puerto Rico in New York, used this design in creating the Puerto Rican flag. Because of the strong feeling of compassion between Puerto Ricans and Cubans, the Puerto Rican Assembly in New York decided to adopt a flag very similar to the Cuban flag. The composition is exactly the same as the Cuban flag, with five horizontal stripes, a triangle, and a star. The Three colors of the flag link three points of the triangle representing liberty, equality, and Fraternity. The triangle is blue, and the stripes are red and white. The red stripes symbolize blood, vital to nurturing the three powers of republican government: the legislative, executive, and judicial; the blue triangle represents the republican government formed of the three branches; the two white stripes represent the rights and the liberty of the individual. The single star in the center of the flag is a symbol for the unique identity of the island of Puerto Rico.

In 1952, this flag was declared the official flag of Puerto Rico by the Commonwealth Legislative Assembly to represent the Estado Libre Asociado or Free Associated State, known as the Commonwealth of Puerto Rico.

Mr. Speaker, the 100th anniversary of this important symbol represents the strong feeling of pride associated with the Puerto Rican culture. Since its declaration as the official flag of Puerto Rico, it has been flown in demonstration of loyalty, patriotism, and love for Puerto Rico. I invite you and my distinguished colleagues to share in this celebration.

POSTAL MONOPOLY: PAYING MORE FOR LESS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CRANE. Mr. Speaker, on the heels of the 4-cent hike in postage this year, one should expect a more efficient postal system, right? Wrong. Studies show that it takes 22 percent more time to deliver first class mail today than it did in 1969. One has to wonder why there is a continued need for postage hikes if the system remains sluggish and inefficient. The postal monopoly prevents competition and has proven costly to the American taxpayer.

The solution to the inefficency of the U.S. Postal Service is to break the monopoly and to privatize the industry by opening the Service up to outside competition. The Government operated system is already beginning to lose its stronghold over the system with the widespread use of the fax machine and express mail services. These alternatives have proven to be more efficient and less costly in the long run.

By privatizing the Postal Service, the addage given to the USPS by James Bovard, "slower is better," can be eliminated and people will be able to stop paying "more or less." The taxpayer should not be the victim of an unorganized and inefficient bureaucracy. Therefore, I urge my colleagues to take note of the following article by Walter E. Williams, titled "Postal Monopoly: Paying More for Less," which was featured in the Richmond Times-Dispatch on May 2, 1991.

[From the Richmond Times-Dispatch, May 2, 1991]

POSTAL MONOPOLY: PAYING MORE FOR LESS"

(By Walter E. Williams)

Here's the challenge. I herein wager the U.S. Postal Service $10,000 that I can deliver a piece of mail from New York to Washington faster than they can, on my 21-speed bike. "There you go again, Williams," you say, "picking on government again."

According to "Slower is Better," written by James Bovard for the Cato Institute, the Postal Service would be mistaken to accept my challenge. Bovard says the Postal Service considers it a success to deliver mail from New York City to next-door Westchester County in two days. In fact, it takes 22 percent more time to deliver a first-class letter now than it did in 1969.

But that's only part of the story; there are some other goodies to feast upon as you cough up 4 cents more. Last November the Postal Service refused to release a $23 million study that revealed how many letters postal employees throw away or lose each year. Among findings of previous inquiries: A Rhode Island carrier was arrested after 94,000 letters were found buried in his yard. Three tons of undelivered mail was found in the home of a Boulder, Colo., mailman. A Postal Inspection Service audit found properly addressed mail dumped in the trash at 76 percent of offices visited; and between October 1989 and March 1990 almost 1,000 postal employees were arrested for stealing, delaying or destroying mail.

Dissatisfied with the government postal monopoly, many people have switched to the excellent services of Federal Express. As a result the Postal Service began a competing service—Express Mail. In just the second quarter of 1990 Express mail failed to deliver 10 percent of all letters; on top of that, over 16 percent were delivered late. Swimming champion Mary Meager had two Olympic Gold medals vanish (stolen by a postal employee?) when her parents Express Mailed them to her. Isn't that great for $8.75? But, worse yet, $8.75 probably doesn't cover Express Mail's cost. Taxpayers are being forced to subsidize the Postal Service's competition with Federal Express.

The answers for increasing costs for increasingly shoddy services are easy. Eighty-three percent of the USPS budget is wages. Each employee costs over $43,000 a year, which is more than double that of similar workers in private industry. That's because they have a friend in Congress in the person of William Clay, D-Mo., chairman of the House Post Office and Civil Service Committee, who preaches, "Anything the postal unions want, I want."

Another part of the problem is the postal monopoly making it illegal for anyone else to deliver first-class mail. The Postal Service's argument is that if competition were allowed, private companies would skim off lucrative city mail delivery and people in the sticks wouldn't be served. Balderdash! People in rural areas receive newspapers. The people who deliver the newspapers could also deliver the mail. Right now the Postal Service contracts with private carriers for a lot of rural delivery; plus it pays them less.

We must eliminate the postal monopoly. After all, what's wrong with private delivery? The Postal Service's days are numbered anyway as fax machines and modems become less costly. Already its share of parcel post is a mere fraction of what it was.

While we await the demise of the government mail monopoly, you might want to tell Postmaster Anthony Frank whether you agree with him. In 1989 he said the Postal Service is "the most efficient and most loved American institution," adding that it is "better than 95.5 percent perfect." How do you like that for bureaucratic arrogance?

IN SUPPORT OF REPEAL OF THE BOAT USER FEE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. RINALDO. Mr. Speaker, with the approach of hot summer weather, I am calling on my colleagues to support the repeal of the Federal fees that recreational boaters must pay before they can enjoy our Nation's waterways.

As a cosponsor of H.R. 534, I am hopeful that Congress will act expeditiously to repeal the onerous Federal fee schedule assessed against all owners of recreational boats 16 feet or longer. The new fees, which range from $25 to $100 per year, affect an estimated 4.5 million boat owners nationwide.

In my judgment, this is a tax on boaters, plain and simple. To call it a user fee is misleading and inaccurate because the money goes to the U.S. Treasury, and boaters get absolutely no benefit from the so-called user fee they are required to pay.

The boat use fee was enacted as part of last year's massive budget agreement legislation with few Members of Congress knowing that it was included. There was very little debate or study about the impact of such a fee.

With the passage of time, we see now that serious questions remain about how effectively such fees can be collected and enforced. Currently, the Coast Guard is responsible for both collecting the boat use fee and citing violators.

This is not the best use that we can make of the Coast Guard and its limited resources. The Coast Guard's main mission is to protect our coasts and to interdict smuggling operations. In my judgment, Congress should not transform it into a tax collection agency, which is what this boat use fee accomplishes.

Do we want the Coast Guard to devote its manpower to licensing and collecting fees from 4.5 million boats nationwide, in places where the Coast Guard does not now have offices?

In addition, the $127 million the boat use fee is expected to generate for the Treasury is going to have little effect in reducing the massive Federal deficit, which is headed toward $300 billion.

This onerous fee is just another way to tax the middle-class family that tries to get away from it all in a fishing boat or with some water skiing on the weekend. The family with a 20-foot boat did not create the Federal deficit, and they shouldn't be required to pay for it with this special tax on their recreational activity.

BALTIC FREEDOM DAY

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. BATEMAN. Mr. Speaker, in a historic address 40 years ago, British Prime Minister Harold Macmillian referred to the "winds of change" that were liberating the African people from the colonial empires of Europe. Today, that same turbulent force is sweeping over yet another colonial empire, one that has endured for hundreds of years within Europe itself. The Soviet Empire, built upon the Russian dominions that preceded it, is undeniably reeling from the winds of change inspired by the great events of 1989. That bold desire of freedom from totalitarianism, and the right of self-determination, brought the people of Eastern Europe to their feet in defiance of oppression. Like their neighbors to the west, the Baltic nations of Latvia, Lithuania, and Estonia, could not help but think that their time of liberation had also arrived. They too, could not help but feel the winds of change at their backs, emboldening their cause and strengthening their collective resolve.

Yet, Mr. Speaker, freedom has not yet prevailed in those troubled European nations. Indeed, the Kremlin responded with violence and martial occupation, crushing the peaceful opposition in Lithuania with tanks and black-bereted commando forces. Nearly a score of unarmed citizens were massacred. This assault was not simply waged against the people of Lithuania, but clearly against all those who cherish their independence. With the slight regard for world opinion, Moscow resorted to violence rather than humane discourse and reconciliation.

Watching the tanks roll through the streets of Vilnius, those of us who had begun to have confidence in the serious restructuring of the Soviet Union, had to be aghast at the cold rapidity of the Kremlin's violent response. However, the relationship that may exist between the political survival of Mikhail Gorbachev and any progress of domestic reform have caused some in the West to turn a blind eye to the reversal of glasnost and perestroika. The President, however, during his State of the Union Address, appalled by the Vilnius outrage, clearly spoke his conscience and unequivocably endorsed independence for the Baltic States.

Sadly, the Vilnius massacre was only the latest of several tragedies to befall the people of the Baltic States under Soviet occupation. In fact, 50 years ago today, Soviet troops began the mass deportation of Baltic citizens to the forbidding terrain of the Siberian frontier. In their places, hundreds of Russian colonists were settled through Stalin's policy of "Russification." Yet today, the margin of support for independence, expressed in the recent national referendums, was overwhelming, despite the heavy Russian population. The simple fact remains that the people of Latvia, Lithuania, and Estonia demand to be free.

Therefore, Mr. Speaker, I urge my colleagues to join me in recognizing today, June 14, 1991, as Baltic Freedom Day, in tribute to those who strive for the very rights that so many of us take for granted. America cannot afford to stand silent when others embark on the same course as did our forefathers, risking their lives, their fortunes, and their sacred honor on behalf of freedom.

HONORARIA WITH FULL PUBLIC DISCLOSURE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 1991

Mr. CRANE. Mr. Speaker, once again I draw your attention to the issue of congressional honoraria. Many involved in the current debate seem to question the integrity of those Members of Congress who receive additional income. Personally, I resent the implication that earning honoraria is not honorable. Moreover, retaining the ability to earn honoraria can save the taxpayers some money. Instead of receiving congressional pay raises at taxpayer expense, Congress should be allowed to earn honoraria with full public disclosure. With full public disclosure, the American voters can be the final arbitrators of whether the honoraria received is appropriate.

I urge my colleagues to read the following Washington Times article, taking note of columnist and taxpayer Alan Keyes' warning against this self-defeating sham.

[From the Washington Times]

WHAT THE MARCHING IS ALL ABOUT

(By Ben Wattenburg)

It's patriotism season, with a kicker. The parades have begun, and this year we'll have substance along with the salutes.

Normally, during this time, there are four occasions for parading: Armed Forces Day, Memorial Day, Flag Day and Independence Day.

This year, on June 8, there will be the addition of the "National Victory Celebration." The NVC, in Washington, is expected to yield "the largest military victory parade since World War II."

Moving the White House and the Lincoln Memorial, and ending up at the Pentagon, will be Patriot missiles, Apache, Blackhawk and Harrier aircraft, 11 military bands and 10,000 troops, representing every unit that took part in Desert Storm.

At the head of what has been called "the mother of all parades" will be Stormin' Norman himself, Sir Schwarzkopf.

Parades can often tell us what's going on in a nation's mind, the meaning to be devined only by learned seers. This year, I decree, the true meaning of all the footstomping and flag-flying will be (and should be) that Americans are damn proud of themselves.

I further decree that the parades should symbolize victory not only in the Gulf war, but in the Cold War. (How come we missed a celebration for that? Can you imagine Ronald Reagan not declaring a Cold War Victory parade in 1990?)

Cliches may be even better indicators than parades. The difference between this parade season and the last one can be seen by the change in buzz-phrases. Last year, it was being said that "America was in decline." This year we're talking about a "New World Order."

There is a relationship between the two phrases: If America is in decline, there won't likely be a useful New World Order.

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It is a grand old debate, elucidating the idea that at certain times in history one nation has stood out as the engine of global activity, often to the benefit of the global community.

Understanding where the engine is, what fuels it, and in which direction it is pushing us, gives us a sense of how the world works. Sensing that, we have a better chance to judge whether we want to try to change it, and how.

The war of the Gulf revealed, once again, that great things are more likely to happen, for everyone, and by everyone, when there is a leader. That happened in World War II, in the Cold War and in the Gulf. In each case, many nations participated, and the enterprises were led by America. That's the message the bands should be blaring.

America in decline wouldn't have done it, and couldn't have done it.

Only a global community with leadership allows us to think about a New World Order. The NWO is not substantive, at least not yet. It is only a moment—defined by negatives, not positives; defined by opportunities, not realities.

We have a world that is, finally, unthreatened by totalitarians of the right (fascists, Nazis); unthreatened by totalitarians on the left (communists, Soviets); less threatened by bandit states. Churchill said if we could get through those messy parts of the 20th century, we could enter "the broad sunlit uplands."

The parades are saying that, thanks to America, such a relatively unthreatening situation now exists, for the first time in a long time. That gives us an opportunity to let the blessings of free politics, free markets, free speech and free science hold sway. As and if that happens, the human condition can improve in ways yet unknown and untold.

The parades tell us to seize the moment. If we use it wisely, we have the opportunity to let the sunlight in.